UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS
SECOND SESSION

VOLUME 126—PART 2

JANUARY 31, 1980 TO FEBRUARY 12, 1980
(PAGES 1379 TO 2732)

GENERAL SERVICES ADMINISTRATION
LAW
LIBRARY
JUN 3 1983
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1980

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

SENATE—*Thursday, January 31, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Thanks be to Thee, O Lord, for work to do, for the will to work, and strength with which to work. Compensate all who work here with the inner satisfaction of tasks well done, a Nation well served and peace advanced among the nations.

Hear our prayer for those who toil for the comfort and safety of others in mine or mill, in factory or on farm, in public buildings, on rail, at sea or in the air. Honor the endeavors of all in the learned professions and those with technical competence. Bind together in one great united corps all who work at every level of endeavor to advance the common welfare and further Thy coming kingdom. Hear our prayer in the name of the Carpenter who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 31, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 7½ minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SMALL BUSINESS—A VITAL SECTOR

Mr. ROBERT C. BYRD. Mr. President, the White House Conference on Small Business ended last week, issuing a list of 60 proposals. These proposals will form the basis for the report from the conference to the President and Congress which is due within 60 days from the end of the conference. I look forward to receiving the report, and I commend the small business community for its participation in, and the President for his sponsorship of, this important conference.

Over the last few years, I have observed with great interest and approval the crystallizing into a political force of a group whose traditions and spirit have always been a part of the fabric of our society. I speak of the entrepreneur, the risk taker, the small-business person.

Historically, policymakers and business people alike tended to view the interests of "business" as monolithic. We assumed that what was good for General Motors was good for Joe's machine shop. The position of business on an issue was generally developed and presented by groups such as the National Chamber of Commerce, the National Asssociation of Manufacturers, or the Business Roundtable. These organizations do represent the interests of business well and have been consistently forceful, articulate, and helpful participants in the debate over national issues.

Nevertheless, their policy machinery has been heavily influenced by larger firms whose interests are not always consistent with those of Joe's machine shop.

For example, small business does not have access to large credit and equity markets to finance its undertakings. Tax provisions can have vastly different effects on small and large firms. Government regulations and paperwork requirements affect them differently. Antitrust law and competition policy can put them on opposite sides of the fence.

Groups such as the National Federation of Independent Business, the National Small Business Association, the National Association of Small Business Investment Companies, the National Venture Capital Association, and other national groups, together with some excellent and well organized regional small business associations have added immeasurably to the substance of the debate. They have helped the Congress to recognize that the small business sector had been neglected in most policy debates.

The Senate Select Committee on Small Business has chronicled the movement's growth in its annual report for 1978. I ask unanimous consent that the appropriate section of the annual report for 1978 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

C. PROGRESS OF THE PRIVATE SECTOR SMALL BUSINESS MOVEMENT

At the same time a solid small business infrastructure has been developing in the private sector. This is reflected in the growth of the largest national small business groups. The National Federation of Independent Business (NFIB) had less than 100,000 members in 1953. By the end of 1970 the number had grown to 260,000, and during the 1970's, the total more than doubled to 550,000 in 1978.

During the same twenty-five year period, the National Small Business Association (NSBA) grew from 20,000 to 50,000 members. In addition, NSBA organized a coalition of trade associations which are predominately made up of small businesses. The coalition currently lists over 2¼ million active business members, and has a coordinating mechanism in Washington, D.C., called the Small Business Legislative Council.

There was similar activity at the regional level. The annual Small Business Week Presentation in May of each year is an opportunity for the regional organizations to inform the Congress of specific small busi-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ness problems and to discuss their recommendations for solutions. In 1970, only one regional association, the Smaller Business Association of New England (SBANE), was involved. In 1978, there were nine active regional associations which came to Washington not only for Small Business Week, but are frequent visitors throughout the year.

There was similar growth among organizations vertically organized by particular trades or industries. For example, the National Association of Wholesaler-Distributors currently is made up of 108 national associations. Recently this national group continued its growth with the addition of thirty State task forces, dealing primarily with product liability problems.

Several years ago, four of the national and four of the regional organizations began coordinating their efforts as the Council of Small and Independent Business Associations (COSIBA).

Mr. ROBERT C. BYRD. During the past two Congresses, the small business groups have won significant victories. Due to their mobilization of their memberships, committee calendars are filled with bills that address regulatory reform, product liability issues, small business tax reform, and other small business initiatives.

Congress has been hard at work for the past 5 years, on behalf of the Nation's 14 million small business owners. We have:

Cut corporate income taxes for companies earning less than $100,000 by $2 billion annually;

Reduced capital gains taxes from 49 to 28 percent, resulting in the flow of over one-half billion dollars of fresh capital for new ventures;

Tripled the exemption from Federal estate and gift taxes for all heirs, greatly lessened the tax burden on surviving spouses, and permitted payment of estate taxes on farms and small businesses over a 15-year period;

Drastically reduced paperwork in certain areas; established a Paperwork Commission whose 2-year study resulted in elimination of over 400 Federal forms; eliminated Federal reporting in some areas and consolidated other reporting; for example, from quarterly to annual reporting of social security earnings, saving a pile of paper over 2 miles high every year.

Recognized the importance of small business and the free enterprise system by recommending, through Senate Resolution 105, the White House Conference on Small Business.

As leader of the majority party in the Senate, I intend to work to insure that this movement does not fade away after making some important, though limited, inroads. Senator NELSON, as chairman of the Select Committee on Small Business, has been a persistent and forceful champion of small business interests. We will continue to demonstrate our commitment to the small business community—the backbone of the American economy and the heart and soul of the free enterprise system.

We will push for increased Government procurement from this sector. We will insure that the major source of technological innovation gets its fair share of Government research and development money. We will review the impact of Government patent policy on small business; we will consider regulatory reform legislation.

If the economy demands passage of a tax cut this year—I am not sure that it does, but it should remain as an option, depending on the future economic indicators—it should be a tax cut which is consistent with the needs of small business.

In short, we will insure that small business remains a vital sector in our economy.

Mr. President, I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized for not to exceed 7½ minutes.

BOY SCOUTS OF AMERICA CELEBRATE 70TH ANNIVERSARY

Mr. STEVENS. Mr. President, the week of February 3–9, 1980, celebrates the 70th anniversary of the Boy Scouts of America and the 50th anniversary of Cub Scouting. Cub Scout packs and Boy Scout troops all over America will be celebrating these events at this time.

This year will be a year of emphasis "Scouting—the better life." Councils all over America are looking for community leaders who were former youth members. Many of us have seen public service announcements on television spotlighting Jimmy Stewart, former President Gerald R. Ford, and others.

These individuals were former Scouts and speak well for this program. Many of us in the Senate today were former Boy Scouts. We take great pride in this organization. Over the years the Boy Scouts have helped to mold many great leaders. It has done it with goals in mind of character building, citizenship training, and physical fitness. Which of us cannot agree that the world would be a better place if everyone practiced the Scout oath:

> On my honor I will do my best, to do my duty to God and my country and to obey the Scout Law; to help other people at all times; to keep myself physically strong, mentally awake, and morally straight.

On this, the 70th anniversary of the Boy Scouts of America, I believe we should all give thanks to the volunteers of yesterday and today that keep this great organization a viable force for good in our country.

DEFENSE SPENDING: FORD VERSUS CARTER

Mr. STEVENS. Mr. President, earlier in the week the House minority leader, Congressman JOHN RHODES and I went before the American people to respond to the President's state of the Union message. Perhaps the most vital issue discussed was that of the defense capability of this Nation: Are we adequately prepared, militarily, to enforce the doctrine espoused by the Carter administration in the region known as the Persian Gulf?

Congressman RHODES and I stated unequivocally that in our opinion we were not presently capable, neither by means of conventional forces (including the Reserve), or by means of strategic force capability to carry out the commitment implied in the President's address.

The Carter administration says it will increase defense spending in order to fulfill this military obligation to the Persian Gulf region. But, in fact, what the President proposes under the "guise" of increase is simply no more than an attempt to redress the large portion of defense programs he himself chose to cut in the past.

Mr. President, it is my belief that the American people will not support the interpretation given to this budget by the President. But beyond that, I cannot understand why the President's national security adviser, Zbigniew Brzezinski, went on national television and implied that Republicans were responsible for present defense incapability. He has been quoted as stating that there had been "8 years of sustained Republican neglect for the requirements of defense."

This, simply, is not correct.

The Ford administration had a strong record on defense spending. In fact, had the Congress approved, or President Carter continued, the programs that President Ford set in motion, we would not be in the unfortunate military posture in which we find ourselves today.

At the breakfast that the Republican leadership had this morning with the President and his staff, including Mr. Brzezinski, I raised the issue that Republicans take umbrage at the implication that it was our party, particularly our leader in the White House, who were responsible for neglecting the requirements of our defense needs.

Brent Scowcroft was Assistant to President Ford for National Security Affairs and in a letter to the editor of the Wall Street Journal he does a fine job of setting Mr. Brzezinski straight. I ask unanimous consent that his letter be printed in the RECORD.

There being no objection, the letter was order to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 28, 1980]

REPUBLICANS DIDN'T NEGLECT DEFENSE

(By Brent Scowcroft)

The outrageously inaccurate statement by Zbigniew Brzezinski in his interview with Karen House and Thomas Bray (WSJ, January 15, 1980), that there had been "eight years of sustained Republican neglect for the requirements of defense," impels me to offer a few facts to set the record straight.

A detailed recital of the Nixon administration's battles with a Democratic Congress for a strong defense budget, in the shadow of Vietnam and the Democratic slogan of "reordering national priorities," is beyond the scope of this brief letter. Suffice it to say that virtually without exception the military programs to which the Carter administration is turning in its latter day conversion to a strong defense posture were conceived and developed during those eight years of Republican "neglect."

But let us look in more detail at the Ford years. Contrary to Brzezinski's imaginative claims, the upward trend in real defense expenditures began, not with the Carter administration, but with President Ford. He inaugurated the real growth in budget authority in FY 76 and in budget outlays in FY 77. Moreover, the three defense budgets thus far in the Carter administration have slashed the Ford budget projections for those three years by a total of more than $38 billion. Candidate Carter, indeed, had promised a cut of $5 billion to $7 billion in the defense budget. His administration spokesmen had been proudly proclaiming fulfillment of that promise as a result of cuts made in the Ford budget for FY 78—until such claims proved no longer fashionable.

The story is the same with respect to specific defense programs. President Carter canceled the B–1 bomber and the neutron bomb and closed the Minuteman missile production line. He delayed or stretched out the programs for the MX missile, for all three versions of the cruise missile and for the Trident submarine. Dr. Brzezinski points with pride to an increase in the naval shipbuilding program to a total of 95 ships over the next five years. That is indeed an improvement over the Carter administration's earlier program of 83 ships, but it is still a far cry from the Ford program of 157 ships over the same period. The list does not end here, but this sample suffices to illustrate the point.

Such disregard for the facts comes with particular ill grace at the very time the administration is seeking bipartisan support in coping with the current crises. Surely even in a presidential election year there ought to be some limits to the manipulation of history for partisan purposes.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point an article entitled "How 'Real' Is the Defense Increase?" which addresses questions raised by Senator BELLMON, our ranking Republican on the Budget Committee, concerning the reality of the President's proposed defense budget and whether it can meet the objectives he has set forth in his recent state of the Union message.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

How "Real" Is the Defense Increase?

(By William Kucewicz)

WASHINGTON.—In his State of the Union address last week to Congress, President Carter proposed a "strong" defense budget for fiscal year 1981 to counter the growing military threat from the Soviet Union. The budget, published yesterday, calls for a "real" increase in military expenditure next year, after adjusting for inflation, and projects further spending boosts in the following four years.

But under Mr. Carter's program, the United States next year will expend no more on defense than it did in 1977 as a percentage of gross national product, labor force or net public spending and only slightly more as a share of total federal outlays. At best, the new proposal will redress a small portion of the genuine spending and procurement cuts made by the Carter administration and Congress in the Ford administration's defense program.

Proposed Department of Defense outlays in fiscal 1981, beginning next Oct. 1, are set to rise by $4.6 billion, or 3.3%, in constant 1981 dollars to $142.7 billion. Total obligational authority, all of which will not necessarily be spent next year, rises by $8.1 billion, or 5.3%, in constant dollars to $158.7 billion.

CARTER'S REMARKS

These funds, President Carter maintains, will be sufficient to bolster U.S. defenses now that "the Soviet Union has built a war machine far beyond any reasonable requirements for their own defense and security." As he noted in his written State of the Union message, "In contrast our own defense spending declined in real terms every year from 1968 through 1976. We have reversed this decline in our own effort. Every year since 1976 there has been a real increase in our defense spending. . . . With the support of the Congress, we must and will make an even greater effort in the year ahead."

But the President's claim that his 1981 defense budget represents a "real" increase in spending is based on assumptions about inflation that may or may not turn out to be true. The budget estimates that inflation in goods and services purchased by the military will be about 8.5 percent, compared to an overall rate of inflation currently of more than 13 percent. If the inflation rate turns out to be higher than allowed for in the defense budget, the "real" increase in defense spending could turn out to be a decrease unless additional appropriations are made.

In terms of gross national product, the 1981 defense budget will equal an estimated 5.2 percent. This percentage is slightly above 5.1 percent in 1980 and 5.0 percent in 1979, when President Carter chose to allow the rate of general economic growth to outpace the expansion in defense outlays, but is unchanged from the level of 1977. Spending during all four of these years, as former Council of Economic Advisers Chairman Paul W. McCracken pointed out on this page yesterday, is still well below historic standards. The defense buildup of the early 1960s required 8.0% to 9.0% of GNP and a similar level was reached during the Vietnam era.

The use of other measurements shows a like pattern. As a share of total federal outlays, the Defense Department takes 23.2 percent in 1981, up fractionally from 22.7 percent in the previous year and 22.8 percent in both 1977 and 1978. But this figure is actually less than the 1979 level of 23.3 percent.

Social spending continues to dominate the federal budget. About 45 cents of each tax dollar next year will go to income-transfer payments to individuals. This is more than the percentage spent on defense in the 1960s. Grants to states and localities will absorb 15 cents of every dollar in 1981, with an additional 9 cents paying the net interest on the national debt and the remainder parceled out to other federal operations.

As a portion of net public spending, including state and local governments, the 1981 defense budget will equal 15.6 percent, unchanged from 1977 and marginally above the current year's 15.3 percent. These levels are just over half the amount allotted to defense in the 1960s. In terms of labor force, defense operations will employ 4.8 percent of the nation's workforce next year against 4.7 percent this year and 4.9 percent in both 1977 and 1978. This figure too is below the ratio of the Sixties.

By contrast, Soviet military spending last year was about 50 percent higher than U.S. expenditure, with Moscow's outlays reaching the equivalent of $165 billion, according to a new study by the Central Intelligence Agency (which in the past has been notorious in underestimating the pace of the Soviet military buildup). The agency reckons that Soviet spending on military activities in the period 1970–'79 accounted for 11 percent to 12 percent of the country's GNP, which is calculated to be about 60 percent that of the U.S.

The CIA report also said that Moscow's emphasis was on strategic-weapons procurement during the time that the new Strategic Arms Limitation Treaty was being negotiated. The level of Russian expenditure for strategic forces, excluding nuclear weapons for regional conflict against Europe or China, measured in dollars was "two and two-thirds times that of the United States and nearly three times the U.S. level in 1979."

U.S. military planners are concerned about the "nuclear window" opening in the early 1980s, when the United States will be in an inferior nuclear position to the Soviet Union for the first time in spite of current efforts to boost procurement.

Outlays, before adjusting for the rate of inflation, show unsubstantial growth in several key areas for 1981. Operation and maintenance will rise by 13.5 percent to about $46.4 billion; such an increase will not provide sufficient spare parts to halt the current cannibalization of operational aircraft for parts or supply the $29 billion, estimated by knowledgeable observers, needed by the Army and Navy to beef up their war stocks to 30-day capacity. Procurement will receive a mere 10.3 percent boost to about $30.5 billion before inflation, which often runs 20 percent or more in highly sophisticated systems. Research and development fares slightly better with a 14.8 percent rise to $14.8 billion.

In addition to an optimistic forecast of rate of inflation, the budget assumes a favorable settlement of the dispute over decoupling military from civilian pay increases. A hefty rise in inflation could add substantially to payroll and pension costs, which account for nearly half the defense budget.

Neither does the new budget adequately provide for rising fuel costs; it is estimated that the 1980 budget will have to be increased between $1.7 billion to $2.4 billion largely because of higher oil prices. Defense Secretary Harold Brown, previewing the 1981 budget, said that it was "pre-Afghanistan"; but the administration will not necessarily request supplemental defense funding this year or next in light of the Soviet aggression in western Asia, he added.

Over the next five years, the Carter administration envisions a constant rate of 4.6 percent in defense-spending growth, totalling $90 billion. But critics argue that this rate of growth is far too small to adequately counterpoise the Soviet military buildup.

REPUBLICAN FIRE

Indeed, the Carter defense budget almost surely will draw considerable Republican fire. The last defense budget submitted by the Ford administration had called for even sharper increases in spending than the Carter administration has delivered. Thomas C. Reed, former Secretary of the Air Force, estimates that the Ford program would have added $50 billion to defense spending over four years compared to what the Carter administration has spent.

"The new Carter projections will not catch up to the now too-low Ford (defense spending) projections until 1985," says John Lehman, chairman of the defense panel of the Republican National Committee. Brent Scowcroft, President Ford's assistant for National Security Affairs in a letter to the editor in yesterday's Journal, sharply attacked Carter administration assertions that Republicans had neglected defense spending. And Donald Rumsfeld, President Ford's Secretary of Defense, has said the Carter administration's five-year plan for fiscal years 1978–'82 would leave a shortfall of $83.8 billion in budget authority.

Given the degree of the shortfall in defense spending in recent years, analysts such as Mr. Lehman are urging a boost of 20 percent or more in real terms in 1981 and growth of 10 percent per annum compounded over the next five years. But if such expansion were approved, the federal deficit would widen enormously, exacerbating the problem of inflation, unless the government was willing to trim social service spending. Such a shift in federal priorities does not appear likely in an election year.

RECOGNITION OF SENATORS LEVIN AND HAYAKAWA

Mr. STEVENS. Does the Senator from California seek some of the leadership time?

Mr. HAYAKAWA. The Senator from Michigan (Mr. Levin), my good friend and colleague, and I wish to introduce a resolution. I yield to Senator Levin.

Mr. STEVENS. I yield to the Senator from California the remainder of our time.

Mr. LEVIN. I thank the Senator from California.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan and the Senator from California are recognized for a total of 15 minutes, plus whatever time has been yielded by the acting minority leader.

SENATE CONCURRENT RESOLUTION 72—SUBMISSION OF A CONCURRENT RESOLUTION URGING INTERNATIONAL PRESENCE IN THE KHMER REFUGEE ENCAMPMENTS

Mr. LEVIN (for himself, Mr. Hayakawa, Mr. Baucus, Mr. Danforth, Mr. Sasser, Mr. Glenn, Mr. McGovern, and Mr. Lugar) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 72

Whereas the Government of the Kingdom of Thailand has demonstrated to the world its humanitarian convictions by opening its borders and providing asylum and assistance to the Khmer people who have been victims of war, famine, and oppression in Kampuchea;

Whereas the international community owes a great debt of gratitude to the Government of the Kingdom of Thailand for its compassionate actions on behalf of the Khmer people;

Whereas hundreds of thousands of Khmer have fled their homes in Kampuchea seeking security, food, and medical assistance;

Whereas many of these refugees have settled temporarily in encampments along the border between Thailand and Kampuchea where food, water, and medical care have been made available to them;

Whereas the security of the refugees in these encampments is continually threatened because of the unrest and the lack of an international presence in that border area;

Whereas armed conflict within these encampments has forced many refugees, often in fragile physical condition, to flee in fear for their physical safety;

Whereas food which is being provided by international organizations for humanitarian relief to refugees in these encampments may not be reaching those with the greatest need because of a lack of supervision of its distribution;

Whereas the Government of the Kingdom of Thailand has requested the United Nations to provide international observers in the area of the border between Thailand and Kampuchea, but no action has been taken; and

Whereas the international community, acting through the United Nations, has an obligation to provide such assistance to the Government of the Kingdom of Thailand as may be necessary in support of its efforts on behalf of the Khmer people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President, acting through the Permanent Representative of the United States to the United Nations, should request the United Nations to establish under its auspices an international presence in the encampments of Khmer refugees along the border between the Kingdom of Thailand and Kampuchea for the purposes of—

(1) promoting security and stability for the refugees in encampments along the border between Thailand and Kampuchea;

(2) overseeing the distribution of food and water to insure that they are equitably distributed to those refugees for whom they are intended;

(3) demonstrating that the assistance which is being provided to refugees in such encampments by the United Nations and other international agencies is solely for humanitarian purposes; and

(4) encouraging all nations in the region to respect the use of the border area between Thailand and Kampuchea as a sanctuary for those Khmer who are in need of humanitarian assistance.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. LEVIN. Mr. President, I recently returned from visiting a number of Cambodian refugee camps in Thailand and along the Thai-Cambodian border. During a portion of that visit, I joined the distinguished Senator from California (Mr. Hayakawa), who is a member of the East Asia and Pacific Affairs Subcommittee of the Foreign Relations Committee. Senator Hayakawa and I share, along with others in this body, a deep concern about the plight of those Cambodians who have been forced to flee their war-ravaged country.

As a result of what we saw in the border refugee camps, Senator Hayakawa and I are submitting today a resolution, together with Senators Baucus, Danforth, Glenn, McGovern, Lugar, and Sasser, which we hope will make some contribution to the safety and well-being of those refugees.

Mr. President, although overshadowed by events in other parts of the world, the problems of Cambodian refugees in the Thai-Cambodian border region remain very serious. As many as a million refugees have fled their homes and temporarily resettled in Thai refugee camps and in the border area. The Thai Government has generously opened its border to all Cambodians who have sought entry, and those who are now living in camps within Thailand are receiving minimally adequate food, water, and medical care, and have found safety from the fighting within their country. However, the hundreds of thousands of refugees in border encampments are still plagued by an insecure food and water supply and by fear for their physical safety.

Let me give some examples of the problems faced by these refugees. Several days before my visit to the border, an armed clash occurred in the Nong Samet border camp. While the genesis of the fighting was somewhat unclear, the outcome was not: the entire population of the camp, estimated to be as many as 200,000 persons, were forced to flee, though many were in fragile physical condition. Some fled to camps further into Thailand, others to nearby border camps, and others simply scattered into the forests surrounding Nong Samet. Even a week after the attack, I was not permitted to enter the Nong Samet camp itself, because the situation there was still considered insecure.

There are other problems in the border camps as well. During my visit, the International Committee on the Red Cross, which supplies food to the Non Mak Mun border camp, decided to cut off temporarily its food deliveries to that camp. Two reasons were given for that decision: First, that a food convoy was attacked by camp residents before it could make its deliveries, and, second, that too much of the internationally supplied food was being routinely raked off and resold for the personal enrichment of those who controlled the camp.

I believe that the chaotic situation in these camps is largely attributable to the lack of an outside, international presence to monitor activities within the camps. In the refugee camps within Thailand, the U.N. agencies supplying food do monitor its distribution, to insure that it reaches those for whom it is intended, and that it is fairly distributed. In the border camps, however, the U.N. simply drops the food off at the camps, and leaves it to the internal leadership to handle distribution. I have described some of the results of that policy.

Mr. President, the Thai Government is familiar with and concerned about the problems in the border camps. The Thais requested a U.N. presence, in the form of observers, in those camps, in the hope that that would alleviate some of the problems they have experienced.

Incidentally, I note in this morning's newspaper a reference again to fighting in those border camps.

Despite this request from the government most directly affected, the U.N. has not acted. Therefore, the resolution being submitted today by Senator Hayakawa and me and others asks the President to ask the United Nations, in turn, to establish an international presence in the border camps.

Such a presence, I believe, would fulfill four major purposes. First, it would help to promote the security and stability of the refugees in the border camps. Second, it would help to insure that internationally supplied food delivered to the camps reaches free of charge those refugees who are most in need of it, as is the intention of the donors, who are providing funds to purchase the food. Third, it would demonstrate to the international community that the assistance which is being provided to refugees in the border camps is solely for humanitarian purposes. Fourth, it would encourage the Heng Samrin regime and the Vietnamese troops to respect the use of the border area as a sanctuary for those Cambodians who are in need of humanitarian assistance.

I know that Senator Hayakawa shares my appreciation for the support we have received for this effort from many of our colleagues and others who are concerned about the Cambodian refugee situation. I hope that this resolution can be acted upon speedily both in this body and in the House, where it is being introduced by Congressman ZABLOCKI of Wisconsin, so that we will send a strong signal of concern to the U.N., and we hope it will result in prompt, quick, and decisive action.

I thank the Senator from California for his work in this effort.

Mr. HAYAKAWA. I thank the distinguished Senator from Michigan.

Mr. President, I am happy to join in the resolution asking for a United Nations presence, especially at the border between Cambodia and Thailand, to protect that area from bandits, from fights between conflicting factions among the Cambodian people themselves, and to see that the food delivered by humanitarian organizations throughout the world will be delivered.

Senator LEVIN and I took separate trips to the Pacific, and we met at a refugee camp at Khao i Dang, where there were 110,000 refugees.

A matter of some amazement to us was that the camp we visited on January 10 had just been begun at the beginning of December, with the result that we were there at the end of the 6th week of its formation, and what had been accomplished in that time was remarkable.

The humanitarian organizations referred to are the United Nations High Commission on Refugees, Food for the Hungry, CARE, the International Rescue Committee, the Red Cross. Many other organizations are supplying food and medical care, nurses, and physicians, and all kinds of volunteers were helping out.

Senator LEVIN and I came to similar conclusions as to how these camps need to be protected.

In addition to the camps inside the border, there are others right on the border, some of which Senator LEVIN visited. The ones inside the border are in very much better shape.

At Sakaeo there are 31,000 refugees who have been there since October. Khao i Dang, as I said, had been founded only 6 weeks before we got there. The fact that they could set up such organized, well-run camps in so short a time says quite a bit about the organizational capacity of the United Nations High Commission and the Government of Thailand, as well as the refugees themselves, who are organized in democratic groups for the purpose of self-government and to discuss camp problems.

One of the most surprising things to me, after hearing about the tremendous starvation and misery of the refugees, is the number of lively, apparently healthy children. Within a few weeks of being fed regularly, they are jumping up and down, playing on stilts, flying kites, and racing around as children do. It was very moving to see what results can come from such efforts in such a short time.

Of course, there also were infirmaries and hospitals to take care of the very ill. At Sakaeo, some of the people who came to the camp in October were dying, and they died. However, by the time we were there, the daily death rate had gone down steadily, week by week, so that when we were there on June 10, there had been only an average of less than one death a day since the begininng of 1980, which means that those who were weak and dying all died, but the remainder are in pretty good health.

In order to safeguard the conditions not only within these camps inside Thailand but especially in the semiorganized and unorganized settlements along the Thai-Cambodian border, it is important that we get a response from the United Nations to the resolution that Senator LEVIN and I are introducing.

Thailand had made the request 6 weeks before we had been there that the U.N. have presence on that border. If the Cambodian people are going to survive, most of them are going to have to survive in Cambodia.

According to the ones that Senator LEVIN and I talked to, the vast majority of them want to get back inside Cambodia. They are people who regard themselves as Cambodians. On top of that there are millions who remain in Cambodia who are starving, according to all the accounts that we have received.

Is the food that is being collected throughout the world going to Cambodia and to the people there, or is it not?

Some organizations say that it is getting there, and some say it is not. Some say that it is being stolen by officials and stored to feed their armies. Others say that it is stolen by racketeers for sale in black market operations.

But the most important danger facing the refugees in these border areas is the fighting, the piracy, the thievery, and the disorder that exists there. The mere presence of a U.N. monitoring group will do much, in Senator LEVIN's opinion as well as my own, and as well as that of the Thai Government, to restore some order there and maintain the peace and most of all save lives.

As Senator LEVIN has said, it could be anything from observers to a peacekeeping force. I doubt very much that the United Nations could send a peacekeeping force, namely an armed force, but they have the power to send in observers, and they should do so.

That action on the part of the Secretary General, as Senator LEVIN has learned, would not be subject to a Russian veto. That is just the sending in of observers. Therefore, they should do it for the reasons we gave for security needs and also for food distribution.

What happens is that a number of thieves in those camps take off with a portion of that food, and it does not go at all to the people for whom it is intended.

In other camps, there is outright murder, rape, and violence inflicted upon the refugees. International organizations are powerless very often to distribute food in the border camps, but what very often happens, therefor, is that some of these international organizations set up food depots on the border so that people from within Cambodia can come and take away with them as much as they can load onto a bicycle or water buffalo or small cart to take back to their own homes and feed their own families, and the amount of food given to any one applicant is limited so that it does not go into the market.

But this is not a very satisfactory way of distributing that food which has to get through there somehow. This is why the U.N. observer force is very, very necessary.

Up to this time, as we learned, the United Nations has not responded to the request of the Thai Government for an observer force.

Why has not the U.N. responded? We are left in the dark about that.

Senator LEVIN met with the Prime Minister of Thailand as did I, and we met with the Foreign Minister. They are both waiting for an answer and they both believe that the U.N. should get moving and the United States should help in getting them to move.

I believe, Mr. President, that this resolution going forward from this body to the United Nations as the sense of the U.S. Senate may be of help to Thailand in getting those observers. It will certainly be a help to the refugees at the border who are under such great danger right now.

It may be possible in one way or another to save enough Cambodians so that the Khmer culture can survive.

This is the thing that worried me most of all as a student of culture and civilization. There is danger that the Khmer culture itself is in danger insofar as people are being transferred from Thailand to third countries whether the United States, Brazil, Argentina, Germany, France, Canada, or Australia. If the Khmer people are spread around far enough, in a generation or two there will no longer be a Khmer culture.

One of the things we wish to see is enough of a peace or enough of a stalemate established within Cambodia so that the Khmer people can go back to Cambodia and preserve that ancient culture of theirs which I admire as a matter of great value.

But the most immediate thing, of course, is the safety of the refugees themselves and the guarantee of the delivery of food to those starving people.

Mr. President, the Senator from Michigan and I thank you for the opportunity of presenting our case. We urgently ask action on the part of the entire Senate in support of our resolution.

I thank the Chair.

RECOGNITION OF SENATOR LEAHY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. Mr. President, the Senator from Vermont is on his way to the Chamber.

ROUTINE MORNING BUSINESS

Mr. PROXMIRE. Mr. President, while waiting for the Senator, I ask unanimous consent that the Senate may have a brief period for morning business of not to exceed 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BACKWARD, CHRISTIAN SOLDIERS

Mr. PROXMIRE. Mr. President, year in and year out some of the most thoughtful analysis on the American political scene comes from James Reston of the New York Times. His recent column with the catchy title "Backward, Christian Soldiers!" is typical of Reston's uncommon commonsense.

Our Nation was built on debate. In the clash of ideas, the interests of our citizens are served. Without tension between opposing philosophies and programs there can be no real basis for choice—the free choice that is the cornerstone of American freedom.

It is important, then, that we pay heed to James Reston's call for a thorough-going debate on the national issues of the day. We must be able to test, poke, and probe among the solutions posed to our domestic and international problems.

In particular, we cannot be mesmerized by the Afghanistan invasion, as significant as it is, to the exclusion of the effects our reaction will have on the domestic economy. Reston notes:

> It could be that the threat to the security of the United States lies not in the Soviet invasion of Afghanistan but in the weakness of the American economy, the decline of the American dollar, the reduction of American industrial productivity, and the ensuing lack of faith among the allies in the American economic system.

Mr. President, consider how different the Afghanistan invasion would appear to us and to our vital interests if we were not dependent on Middle East oil. It would still be a tragedy for the Afghan people, a stark violation of international law, and evidence of the perfidy of Soviet leadership, but U.S. economic interests, the vital interests spoken of by the President, would not be paramount.

Thus it is long past time that we should be engaging in the kind of national debate that centers on the American economy, the implications of drastic increases in defense spending and its possible consequences for more inflation, and the American economic position in the world.

In the long run, we must rely on U.S. strengths in the economic sphere to protect our interests, militarily and politically.

I ask unanimous consent that the Reston article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"Backward Christian Soldiers!"

(By James Reston)

Washington, January 29.—Everything is now going Jimmy Carter's way. He began by proclaiming "Onward Christian Soldiers" but has changed his mind. The Iowa kitchen votes have driven Ronald Reagan to the conservative right, and Senator Kennedy to the left, leaving the decisive middle ground to the President. Here he is now clearly in control.

But Mr. Kennedy, desperate to rescue his stumbling bid for the Presidency, has at least finally made clear why he is challenging Mr. Carter for the White House. He opposes Mr. Carter on both domestic and foreign policy, and insists that the President is asking the wrong question about the security of the nation.

Kennedy may not have the right answer, but he has at least asked the question Lincoln asked long ago. Almost precisely 143 years ago, when he addressed the Young Men's Lyceum in Springfield, Ill., on Jan. 27, 1837, Lincoln put this question:

"At what point," he asked, "shall we Americans expect the approach of danger? By what means shall we fortify against it? Shall we expect some trans-Atlantic military giant to step the ocean and crush us at a blow? Never!

"All the armies of Europe, Asia, and Africa combined, with all the treasure of the earth (our own excepted) in their military chest, with a Bonaparte for a commander, could not by force take a drink from the Ohio or make a track on the Blue Ridge in a trail of a thousand years.

"At what point then is the approach of danger to be expected? I answer: if it ever reach us, it must spring up amongst us; it cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of free men, we must live through all time or die by suicide."

When Mr. Carter ran for the Presidency in 1976, he insisted on Lincoln's theme. We were to be faithful to the ideals of the Republic, and we were to have a Government "as good as the American people." The allies would agree, he insisted, with our moral principles, and it would be a mistake to assume the hostility of the Soviet Union.

Now he has switched. Having signed a strategic arms agreement with Leonid Brezhnev in Vienna last sumer, he now feels deceived by the Soviet invasion of Afghanistan, and has proposed what he calls a "prudent and responsible budget" that would increase military spending substantial, and unfortunately raise the danger of inflation during the rest of the 1980's.

One is reminded, while going through this latest Carter budget, of Malcolm Muggeridge's essay on the difference between political propaganda and political facts. He called it "Backward, Christian Soldiers." "Such a vast accumulation of lies and slanted information," he remarked "Such contradictory conclusions and conflicting evidence! How will it ever be all disentangled? A resident newspaper correspondent in Moscow was asked by a wide-eyed visiting leftist, when Stalin's purges were in full swing, how far the court proceedings were to be believed. Everything was true, he replied, except the facts . . ."

The chances are that Kennedy has been overwhelmed by events in Iran and Afghanistan, but at least he has raised the question of whether the threat to the nation comes from abroad or whether, as Lincoln suggested, that it lies within ourselves. And he is probably right in suggesting that at least the question should be debated.

It could be that the threat to the security of the United States lies not in the Soviet invasion of Afghanistan but in the weakness of the American economy, the decline of the American dollar, the reduction of American industrial productivity, and the ensuing lack of faith among the allies in the American economic system.

Kennedy is probably a vanishing political figure, even in the coming primary elections in New England, but Carter cannot ignore his challenge to debate the issues of the budget, and even if the President refuses to do so, the Congress will certainly insist.

Senator Kennedy has at least proposed alternative policies that are worth debating.

An immediate six-month wage-price freeze, followed by mandatory wage-price controls.

Immediate gas rationing to help free the nation from dependence on Middle East oil.

Immediate establishment of a United Nations commission to investigate Iranian grievances against the deposed Shah Mohammed Riza Pahlevi, to begin work as soon as the American hostages in Iran are freed.

There is a bit of a conflict in the White House over all this. Some of President Carter's most intimate advisers have been trying to persuade him that he should not pay too much attention to his present success, but remember why he got to the White House in the first place—by arguing for a series of policies which in the struggle of the last few years, he has tended to abandon.

EXIMBANK PRENOTIFICATION OF FINANCING OF AIRCRAFT SALES TO THE UNITED KINGDOM

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2 (b) (3) (i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $86,800,000 and a financial guarantee of $74,400,000 to assist the export of five new McDonnell Douglas DC–10–30 jet aircraft and related spare parts to Laker Airways (International) Ltd., a privately owned company headquartered in the United Kingdom. Total estimated U.S. export value is $228,000,000. Section 2(b) (3) (i) of the act requires the Bank to notify the Congress of proposed loans and financial guarantees or combinations thereof in an amount of $100,000,000 or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

The Bank's direct credit will cover 38.1 percent of the transaction, and its financial guarantee will cover an additional 32.6 percent. The Export-Import Bank credit will bear interest at the rate of 8.375 percent per annum, repayable in 20 semiannual installments beginning not later than September 15, 1980.

The interest rate the Export-Import Bank will provide 8⅜ percent. That means a substantial subsidy to Laker Airways, in effect, by the American taxpayer. That is little more than half the prime rate, and it is something we should begin to be concerned about.

Mr. President, I ask unanimous consent that the letter from Eximbank and accompanying information pertaining to this transaction be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Export-Import Bank
of the United States,
Washington, D.C., December 19, 1979.

Hon. William Proxmire,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washinton, D.C.

Dear Mr. Chairman: In accordance with Section 2(b) (3) (i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

JOHN L. MOORE, Jr.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., December 19, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b) (3) (i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to the United Kingdom:

A. Description of Transaction:

1. Purpose:

Eximbank is prepared to extend a direct credit of $86,800,000 and to issue a guarantee with respect to $74,400,000 private financing to Laker Airways Limited. The purpose of this Eximbank financing is to facilitate the purchase in the United States by Laker Airways of five new McDonnell Douglas DC-10-30 jet aircraft and related spare parts. The engines for the aircraft are manufactured by General Electric Company. The total U.S. export value for this transaction is estimated to be $228,000,000.

2. Identity of the Parties:

Laker Airways, headquartered in the United Kingdom, is a private company wholly owned by Sir Freddie Laker and his wife. Its current fleet of six DC-10-10s, five BAC-1-11s and two B-707s is used to offer low-fare air passenger service from London to New York and Los Angeles. Since its inception in 1977, Laker Airways has risen to rank eighth among North Atlantic carriers in total 1978 scheduled and charter traffic.

3. Nature and Use of Goods and Services:

The principal goods to be exported from the U.S. are five wide-bodied commercial jet aircraft to be used by Laker Airways on both its existing and expanded routes. The airframe components will be manufactured by McDonnell Douglas Corporation of Long Beach, California. The engines for the aircraft will be manufactured by General Electric Company's jet aircraft engine division in Cincinnati, Ohio. In addition, other U.S. firms will furnish spare parts.

B. Explanation of Eximbank Financing:

1. Reasons:

The Eximbank credit and financial guarantees totalling $161,200,000 will facilitate the export of $228,000,000 of U.S. goods and services. Sales, profits and employment for U.S. aircraft manufacturers and their subcontractors are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40% of total U.S. aircraft sales. Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80% of the world market for commercial jet aircraft.

McDonnell Douglas estimates that the export of these aircraft will provide 6,635 man/years of work for McDonnell Douglas and its sub-suppliers. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

Laker Airways has undertaken an expansion of its current fleet in order to extend its low-cost air passenger service on flights from London to 37 European cities and the Far East. The export of the five U.S. aircraft which are the subject of this letter will have been achieved in the face of competition from the A-300 jet aircraft manufactured by the European consortium, Airbus Industrie. Laker Airways has already announced intentions to purchase some A-300 aircraft and they had the option to increase that order in lieu of purchasing these U.S. aircraft. Airbus Industrie offered ten-year financing at very competitive fixed interest rates. The Eximbank financing, therefore, appears to have been a decisive factor in winning this sale for the U.S. suppliers.

2. The Financing Plan:

The financing plan for the total U.S. procurement supported by Eximbank is as follows:

	Percent of U.S. costs	Totals
Cash payment	18.4	$42,000,000
Eximbank credit	38.1	86,800,000
Supplier financing (without Eximbank guarantee)	10.9	24,800,000
Private financing (to be guaranteed by Eximbank)	32.6	74,400,000
	100.0	228,000,000

(a) Eximbank Charges:

The Eximbank credit will bear interest at the rate of 8.375 percent per annum, payable semiannually. Eximbank will charge commitment fees of ½ of 1 percent per annum on the undisbursed portion of the Eximbank credit and ⅛ of 1 per cent per annum on the undisbursed portion of the private financing guaranteed by Eximbank. A guarantee fee of ½ of 1 percent will be charged on the amount of the private financing guaranteed by Eximbank which is disbursed and outstanding. The Eximbank financing will be secured by mortgages and restrictive covenants.

(b) Repayment Terms:

Aggregate disbursements under the Eximbank credit, the supplier financing and the private financing will be repayable in 20 equal semiannual installments beginning 6 months after the mid-delivery point of the aircraft but not later than September 15, 1980. The supplier financing and private financing will be repaid from the earlier maturities and the Eximbank credit will be repaid from the later maturities.

C. Additional Information:

Attached is certain additional information on Eximbank activity in and economic data on the country involved in this transaction.

Sincerely,

JOHN L. MOORE, Jr.

Attachments (2).

EXIMBANK EXPOSURE IN THE UNITED KINGDOM (AS OF OCT. 31, 1979)

	Outstanding	Undisbursed		Outstanding	Undisbursed
Direct loans	$209,477,454.02	$223,181,679.72	Insurance:		
CFF loans	115,200.00		Medium term	1,413,228.46	5,747,100.09
Financial guarantees	6,075,000.00	44,628,000.00	Short term	84,694,976.42	0
Bank guarantees and other	4,901,152.77	11,670,642.00	Total for the United Kingdom	306,677,011.67	285,227,421.81

Defaults and reschedulings: Loan No. 4097 rescheduled Nov. 3, 1977, in the amount of $1,619,998.84. This loan was paid in full Jan. 17, 1979. No other defaults to date.

UNITED KINGDOM

Area and population: Area—244/km². Population (mid-1978)—55,900,000. Working population (end 1978)—26,400,000. Population density—229/km².

Scurces and applications of national product

Uses (1978)	Percent	Sources (1977)	Percent
Consumption	60	Agriculture	3
Government	20	Industry	37
Capital formation	18	Services	60
Stocks, exports, imports	2	Total	100
Total	100		

	1976	1977	1978	1979(E)	1980(P)
GDP:					
Billions of dollars (nominal)	$221	$246	$308	$342	$305
Rate of change (real) (percent)	3.6	1.4	3.3	1.0	−2.0
Fiscal and monetary data:					
Government deficit (billions)	$12.3	$7.8	$16.1	$17.4	NA
Deficit as percent of GNP	5.5	3.2	5.2	4.5	NA
Increase in money supply (percent)	8.6	8.0	13.6	NA	NA
Price data (percent increase over preceeding year):					
CPI	16.5	15.9	8.3	17.5	14.0
WPI	17.3	19.8	9.1	12.2	18.0

	1976	1977	1978	1979(E)	1980(P)
Labor data (in percent):					
Wages (weekly rates)	16.5	10.3	14.6	NA	
Unemployment	5.3	5.7	5.7	7.0	7.0
Industrial production (average change)	2.0	3.7	3.8	2.1	−1.2
External debt (millions): Outstanding public debt	$14.2	$18	$15.8	NA	NA
Balance of payments data (billions):					
Exports	$45.9	$56.1	$68.0	$81.6	
Imports	−52.4	−59.2	−70.3	−82.7	
Trade balance	−6.5	−3.1	−2.3	−1.1	
Current account balance	−2.0	0.7	0.8	0.4	
Capital account	−4.6	12.2	3.0	NA	
Overall balance	−6.6	12.9	−2.2	NA	
Reserve data:					
Official reserves (billions)	$3.4	$20.1	$16.0		
Gold ($430/oz)	$9.0	$9.6	$9.8		
Cover for months of imports	2.6	5.5	3.9		

EXIMBANK PRENOTIFICATION OF FINANCING OF AIRCRAFT SALES TO BELGIUM

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $62,287,200 and a financial guarantee of $31,143,600 to assist the export of the U.S. components of two new McDonnell-Douglas DC-10-30 jet aircraft, spare engines and related parts and services to Sabena, the wholly owned national airlines of the Kingdom of Belgium. Total export value will be $103,812,000. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees or combinations thereof in an amount of $100,000,000 or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank's combined loan and financial guarantee participation do not exceed $100,000,000 but the Bank has issued a preliminary commitment of up to $50,417,100 to cover the purchase of one additional DC-10-30 aircraft with related spare parts. Furthermore, Sabena has indicated plans to purchase one additional McDonnell-Douglas DC-10-30 for which it may submit an application for financing to Eximbank at a later date. The total Eximbank financing contemplated therefore exceeds $100,000,000 and the Bank has complied with the spirit of section 2(b)(3)(i) by submitting a prenotification.

The Bank's direct credit will cover 60 percent of the transaction and the financial guarantee will cover another 30 percent. The Eximbank credit will bear interest at the rate of 8.375 percent per annum and be repayable in 20 semiannual installments beginning March 31, 1981. If the preliminary commitment is converted to a loan application, it will bear interest at the appropriate Exim rate at that time and be repayable in the same manner as the direct credit. It means a subsidy by the American taxpayers while, at the same time, our farmers and other small businessmen are paying twice that or more in interest.

Mr. President, I ask unanimous consent that the letter from Eximbank and accompanying information pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Export-Import Bank of the
United States,
Washington, D.C., December 19, 1979.

Hon. William Proxmire
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

John L. Moore, Jr.

Export-Import Bank of the
United States,
Washington, D.C., December 18, 1979.

Hon. Walter F. Mondale,
President of the Senate,
U.S. Capitol,
Washington, D.C.

Dear Mr. President: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank, hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Belgium.

A. Description of Transaction.—

1. Purpose: Eximbank is prepared to make a credit of $62,287,200 and a financial guarantee of a commercial loan of 31,143,600 (Commercial Loan) available to SABENA to facilitate the purchase in the United States by SABENA of the U.S. components of two new McDonnell Douglas DC-10-30 jet aircraft, spare engines and related parts and services. The total U.S. export value for this transaction is estimated to be $103,812,000.

In addition to the aircraft proposed for sale in this transaction, Eximbank has issued a preliminary commitment to SABENA in which it has indicated the terms and conditions under which it will be prepared to extend up to $50,417,100 of additional financing to SABENA to assist it in the purchase of one McDonnell Douglas DC-10-30 jet aircraft and related spare parts to meet its needs for increased traffic on its routes and replacement of its Near and Far Eastern fleet. The total U.S. export value for these additional purchases is estimated to be $56,019,000. Furthermore, SABENA has indicated plans to purchase one additional McDonnell DC-10-30 for which it may submit an application for financing to Eximbank at a later date.

The Eximbank Credit and Guarantee for this transaction, together with the Eximbank financing contemplated in the preliminary commitment, would fall within the purview of cases to be referred to Congress under Section 2(b)(3)(i) of the Eximbank Act.

2. Identity of the Borrower: SABENA Belgian World Airlines is the national airline of Belgium and is wholly owned by the Kingdom of Belgium. Its routes are worldwide with its principal ones being within Europe and to Africa and the Far East. Eximbank has dealt with SABENA since 1966 and all loan repayments have been made on a timely basis.

The Kingdom of Belgium will unconditionally guarantee repayment of the Eximbank Credit and the Commercial Loan.

3. Nature and Use of Goods and Services: The principal goods to be exported from the United States at this time are two commercial jet aircraft to be used by SABENA to replace aging equipment at its operations in Africa and the Near East, and to service new routes in these areas being considered by the airline. Delivery of the aircraft is scheduled for August and September of 1980. The additional aircraft covered by the preliminary commitment will be exported in 1981 and will be utilized primarily for routes to SABENA's South East Asia, Far Eastern and Mideastern destinations.

B. Explanation of Eximbank financing.—

1. Reasons: Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S. aircraft sales. Over the next two to three years several large foreign airlines will be undertaking major reequipment programs, and most airlines choosing a particular aircraft type will continue with future purchases of the same models to maintain fleet continuity. During these next few years there will be intense competition from foreign aircraft and engine manufacturers and they will be supported by subsidized export credit from government sources. Eximbank believes it must be sensitive to purchasers' needs during this period of new product selection to insure that U.S. aircraft and engine manufacturers are able to offer attractive financing which helps them to sustain their position as a leading U.S. export sector.

Eximbank is prepared to extend financing to SABENA for ninety percent of the U.S. costs of the DC-10 aircraft in order to meet government-supported subsidized financing offered in support of a competing European Airbus proposal.

McDonnell Douglas estimates that the export of these two DC-10 aircraft will provide 1,176 man/years of work for Douglas Aircraft, and other McDonnell Douglas subsidiaries. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

2. The Financing Plan: The financing plan for the total U.S. procurement supported by Eximbank is as follows:

	Percent of U.S. costs	Amount
Cash payment----------	10	$10,381,200
Commercial loan (covered by the Eximbank guarantee)-----	30	31,143,600
Eximbank credit-------	60	62,287,200
Total -----------	100	103,812,000

(a) Eximbank Charges: The Eximbank credit will bear interest at the rate of 8.375% per annum. Eximbank will charge a commitment fee of ½ of 1% per annum of the undisbursed amounts of the Eximbank Credit and a guarantee commitment fee of ⅛ of 1% per annum on the undisbursed amount of the Commercial Loan. Eximbank will also charge a guarantee fee of ½ of 1% per annum on the outstanding balance of the Commercial Loan by SABENA.

(b) Repayment Terms: Aggregate disbursements under the Commercial Loan and Eximbank Credit will be repaid by SABENA in a repayment schedule of 20 equal semiannual installments beginning March 31,

1981. The Commercial Loan will be repaid from the first through the seventh installment of and the Eximbank Credit will be repaid from the seventh through the twentieth installment of the schedule.

Attached is certain additional information on Eximbank activity in and economic data on the country involved in this transaction.

Sincerely,

JOHN L. MOORE, Jr.

Attachments.

EXIMBANK EXPOSURE IN BELGIUM (AS OF OCT. 31, 1979)

	Outstanding	Undisbursed
Direct loans	$65, 287, 020. 00	0
CFF loans	16, 826. 99	
Financial guarantees	7, 973, 795. 46	0
Bank guarantees and other	0	0
Insurance:		
Medium term	820, 761. 55	17, 838. 45
Short term	23, 800, 071. 95	0
Total for Belgium	97, 898, 475. 95	17, 838. 45

DEFAULTS AND RESCHEDULINGS

In the past ten years there have been no defaults or rescheduling of Export-Import Bank direct credits for U.S. export sales in Belgium.

BELGIUM

Area: 31,000 sq. km.

Population: 9.8 million (mid-1977).

Growth rate: 0.2 percent.

Population density: 317 per sq. km.

SOURCES AND USES OF NATIONAL PRODUCTS

Sources (1977)	Percent	Uses (1977)	Percent
Agriculture	2	Consumption	61
Industry	38	Government	17
Services, includes government	60	Capital formation	21
		Exports less imports GNP	1
GDP	100	GNP	100

	1976	1977	1978	1979 (est.)
GNP data:				
Billions (nominal, at BF30/dollar)	$88. 2	$95. 7	$101. 9	$111. 3
Growth rate (real) (percent)	5. 8	1. 2	2. 0	3. 5
Per capita (nominal)	$9, 100	$9, 700	$10, 300	$11, 300
Fiscal and monetary data:				
Government deficits, includes investments (billions at BF30/dollar)	$4. 4	$5. 4	$6. 3	$7. 0
Deficits as percent of GNP	4. 9	5. 6	6. 1	6. 3
Increases in money supply (percent)	13. 1	9. 1	6. 2	[1] 5. 5
Price data (percent):				
Consumer price increases	9. 2	7. 1	4. 5	6. 0
Wholesale price increase	7. 1	2. 4	−2. 0	[2] 6. 7
Labor data (percent):				
Wage increase (hourly)	11. 5	9. 1	6. 8	6. 0
Unemployment	5. 8	6. 7	7. 1	[3] 7. 1
Productivity increases (manufacturing)	9. 7	7. 6	4. 3	4. 5
Balance of payments data (Belgium and Luxembourg) (billions):				
Exports, f.o.b	$27. 0	$33. 4	$40. 0	$43. 0
Imports, f.o.b	27. 6	34. 7	41. 0	44. 5
Trade balance	−0. 6	−1. 3	−1. 0	−1. 5
Current account balance	−0. 3	−0. 4	−0. 6	0. 2
Capital account flows (net)	−0. 3	0. 7	0. 3	0. 4
Overall balance	−0. 6	0. 6	−0. 3	0. 6
External financial position (billions at BF30/dollar):				
Net foreign assets of banking system	$4. 6	$3. 8	$2. 2	[4] $1. 8
Reserve data (billions):				
Foreign exchange	$3. 5	$4. 0	$4. 0	[5] $5. 9
Gold (market prices)	$5. 3	$6. 3	$8. 2	[5] $12. 1
Cover for months of imports	3. 0	3. 1	3. 0	3. 8

[1] January to June.
[2] January to August.
[3] July.
[4] June.
[5] September.

UNFOUNDED CONSTITUTIONAL OBJECTION TO THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, today I would like to take time to consider a treaty that has been held captive by the Senate for 31 years. I refer, of course, to the Genocide Treaty.

During those years, opponents of the treaty have raised a myriad of objections, scrutinized every article and questioned every syllable. These opponents have been thorough and exhaustive in their search for grounds to support their objections. But no substantive grounds exist for these objections. This statement is amply supported by the American Bar Association's recent reversal of its stand on the treaty and subsequent overwhelming vote to support it.

But the treaty's support extends beyond the ABA. A wide range of political, religious, and public interest groups have endorsed the treaty and urged its ratification. These groups include the American Civil Liberties union, the National Council of Churches and the AFL–CIO. This treaty has been held captive by the Senate for 31 years, Mr. President. This treaty has the support of the American Bar Association, as I said, the support of every major group and organization in this country, including all of our church groups, Protestant, Jewish, Catholic, and other church organizations; the support of every President since Harry Truman, Republican and Democrat alike. I do hope at long last the Senate will act on the Genocide Convention.

Despite this broad and overwhelming support, a few groups continue to raise constitutional and philosophical objections to the treaty. During the next few days I will concern myself with these objections. But let me say at the outset that the treaty's detractors have found no haven in the Constitution.

One of the more specious arguments against the treaty is that it unlawfully deprives individual States of a field of criminal jurisprudence by placing genocide within the domain of Federal law.

This argument is easily rebutted by a classic Supreme Court case involving a migratory bird treaty between the United States and Great Britain. The Court held in *Missouri* v. *Holland,* 252 U.S. 416 (1920), that—

> If the treaty is valid there can be no dispute about the validity of the statute under Article I, Section 8 as a necessary and proper means to execute the powers of government. It is not sufficient to rely upon the States. The reliance is vain and were it otherwise the question is whether the United States is forbidden to act.

Article I, section 8 empowers Congress "to define and punish offenses against the law of nations." We can see then that the treaty and the implementing legislation it requires in no way infringe upon the powers of the individual States.

Based on its constitutional validity and the broad support it enjoys, I urge my colleagues to approve the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT—S. 1648

Mr. ROBERT C. BYRD. Mr. President, in order to accommodate Mr. SASSER, who could not be here today and who does have an important amendment to S. 1648, the ADAP bill, I last night entered into an agreement, and I did not have authority from Senator CANNON to make the agreement that I did. I could not reach Senator CANNON at the time. Inasmuch as Senator CANNON has reluctantly been willing to act on ADAP today, but without final action, so as to allow Mr. SASSER to attend a funeral this afternoon and be here next week to offer his, Mr. SASSER's, amendment, Mr. CANNON, reluctantly but very graciously, agreed not to proceed to final action today, which would thus shut out Mr. Sasser from offering his amendment.

I got an agreement last night that was not wholly in accord with Senator CANNON's wishes. So, discussions today, I think, have led me to feel that the following request would correct the matter:

I ask unanimous consent, Mr. President, that when the Senate returns to Calendar Order No. 445, S. 1648, following the action on the military pay bill next week, that will be Monday or Tuesday or thereabouts, the only amendments in order at that time will be the Sasser amendment No. 897, as printed—that will protect Mr. SASSER so he will have an opportunity to offer his amendment—with no amendments, and a possible Cannon amendment, with 30 minutes equally divided, be in order, and then passage.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I have the same difficulty that I had last night with regard to my ability to contact the distinguished Senator from Oregon (Mr. PACKWOOD) who is ranking Republican. I am pleased to see this modification, which is also at Senator PACKWOOD's request, with regard to the amendability of the Sasser amendment and the ability of Senator CANNON to offer an amendment on his behalf, joined by Senator PACKWOOD, if necessary. This does not mandate the Cannon amendment, but it makes it possible for the Cannon-Packwood amendment to be offered if they decide to do so.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished assistant Republican leader for his assistance in working out this agreement, which protects Mr. SASSER and, at the same time, also protects Mr. CANNON, who is chairman of the committee and manager of the bill, and who went out of his way to accommodate Mr. SASSER. I am glad he did. I think that, under the circumstances, he ought to have done so and he did.

UNANIMOUS-CONSENT AGREEMENT RELATING TO VISIT BY MEMBERS OF EUROPEAN PARLIAMENT

Mr. ROBERT C. BYRD. Mr. President, under the rules of the Senate, rule XXXIII, elected national members of foreign legislatures are permitted the privilege of the floor when brought on the floor by a Member of this body. There has been recently established, of course, to every Senator's knowledge, the European Parliament, and some of the newly elected members of the European Parliament are visiting in the Capitol today. Senator BIDEN wanted to bring them on the floor. Some of them are national members of their own legislatures, but some of them are not. They are all elected members of the European Parliament.

I ask unanimous consent that, under those circumstances, these members who are elected members of the European Parliament, although they may not, some of them, be elected members of their own national legislature, be permitted to come on the floor with Senator BIDEN later this afternoon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is terminated.

RECOGNITION OF SENATOR LEAHY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont is recognized for not to exceed 15 minutes.

PRAISE FOR THE CANADIAN GOVERNMENT

Mr. LEAHY. Mr. President, I rise this morning to express my deep appreciation for the courageous humanitarian actions of the Government of Canada, Ambassador Kenneth Taylor, and the Canadian diplomatic staff in Iran.

The heroic action of our Canadian friends on behalf of American citizens is warmly welcomed in the United States. It is truly rare today—in this troubled world when nations seldom risk their own interests to help another country—to witness such unselfish kindness.

There is much talk among Americans today centering on a bitter theme—that the United States has few friends left in this world that it can count on. Recent events, including the taking of the hostages in Iran and the Soviet invasion of Afghanistan, have to some degree supported this position. We take it for granted that our allies cannot be expected to make sacrifices to help us free the hostages. But the Canadian Government, and Canadian diplomats, have shown us that we do have allies, we do have friends.

Mr. President, these American citizens have been under the protection of the Canadian Ambassador for nearly 3 months. Ambassador Taylor, his colleagues, and staff have risked their own lives in providing this sanctuary. Our citizens—those here at home, those recently freed, and those still held captive—recognize this noble humanitarian action.

As a Vermonter, living along the Canadian border with many Canadian friends, I have always felt the special bond that we have with our northern neighbor. In fact my wife's family is Canadian and, her relatives live primarily in the Province of Quebec. So, for that reason, too, I feel a special kinship. But all Americans must share this feeling now.

As a Senator from Vermont, I speak only to express what we all feel, not only gratitude but also at last a sense of cautious optimism. For this we thank our friends and allies, and especially the brave and courageous country of Canada.

Mr. President, I yield whatever time I have left to the majority leader.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. I thank the distinguished Senator. Mr. President, I yield the time back.

REQUEST FOR THE "OFFICIAL SENATE THERMOMETER"

The ACTING PRESIDENT pro tempore (Mr HEFLIN). The Chair would like the Sergeant at Arms to bring forth the official Senate thermometer. [Laughter.]

Mr. LEAHY. Mr. President, this would be considered a heat wave in Vermont. I find it very comfortable here in the Chamber. I know in the few years I have been here it seems often that the Senate Chamber is chilled almost unbearably during the summer and heated unbearably during the winter. Now we seem finally to have moved it around the other way. I just assumed under one of the special orders that the temperature was just dropped to make me feel a lot more comfortable.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. LEAHY. I yield to the Senator from Alaska.

Mr. STEVENS. I was just admiring the majority leader's sweater and vest today, and thought this was a great temperature. I would urge the present occupant of the chair to obtain the thermometer and see if we cannot come to an accord that, perhaps, this is the time of year to visit his part of the country and enjoy the warmth and hospitality and spirit of the South. But this is a very comfortable Chamber for an Alaskan Senator.

Mr. LEAHY. I must admit that it is comfortable for a Vermonter as well.

The ACTING PRESIDENT pro tempore. The Chair cannot help but observe that the Senator from Vermont's hands have been in his pockets most of the time. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, the chill falls alike on the just and unjust. The important thing is to keep the temperature down, be well-clothed, and conserve energy.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3236, which the clerk will report.

The second assistant legislative clerk read as follows:

> A bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1646

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 1646 proposed by the Senator from New York (Mr. Javits).

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Boren). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Mr. JAVITS. I yield myself 10 minutes, Mr. President.

Mr. President, I think if Members would hopefully be listening to this debate now, we can very easily explain exactly what we are doing.

What I am trying to do, Mr. President, is to marginally restore the family disability payments for certain brackets of people based upon their prior earnings. The brackets in question are average indexed monthly earnings (AIME) as defined according to law from approximately $600 to $1,000.

The reason for my seeking to change this is that, as one analyzes the figures—I put the relevant table into the Record last night—one will find that those people take twice the replacement income percentage reduction that others are asked to take once we get over the very lowest brackets, which are not germane because of their present high replacement rates. Those lowest brackets are average earnings of $135 a month up to and including $300 a month.

The AIME brackets from $400 to $600 and the brackets from $1,100 to $1,700 get about the same treatment under both the committee bill and my amendment. But the brackets from $600 to $1,000 take a double beating. That is, they are reduced twice as much as the percentage of the others.

That is an inequity. There is not an adequately persuasive reason for it. I am seeking to correct the inequity, as I say, by somewhat restoring those brackets so that they take the same kind of a cut which the other brackets take, which is only fair.

The principal argument made against it by HEW and by our very distinguished and very able colleague, Senator Long, is, "Well, it costs money."

I realize it costs money, Mr. President. It costs, for 5 years, $153 million. That is a lot of money. But when we compare it to what we are trying to do and how much we are doing, we find it is not a great deal of money for this reason: The committee bill seeks to cut these disability payments, for the 5-year period, $909 million. My amendment would reduce that cut from $909 million to $756 million.

The Senate has indicated that it is not disinterested. On the contrary, it is very interested in the possibility of some restoration. There is a real feeling expressed here that the proposed cut is too deep. That was shown last night by a tie vote on Senator Metzenbaum's amendment which would have, if passed, cut, not as mine does, $153 million, but rather $805 million, and would have reduced the amount of the aggregate reduction by the Finance Committee from $909 million to $104 million, deducting $805 million.

Compare that, which half of the Senate went for, including me, with what I am trying to do, which reduces what the committee cuts from $909 million to $756 million, a difference of $153 million. As compared with Senator Metzenbaum's amendment, it is a savings of $652 million in the 5-year period.

I submit, Mr. President, first, that there is an inequity here, that the middle class, which we are always talking about, earning $600 to $1,000 average earnings (AIME) on which the disability payment is based, is being hit harder than any other group, including both the lower group, up to $600 a month, and the higher group, from $1,100 to $1,700 a month.

That seems very unfair and completely arbitrary.

Second, the amount of the reduction which is being made by the Committee on Finance—which, remember, still will have to be negotiated with the other body—is not materially impaired. It is reduced from $909 million in the Finance Committee bill to $756 million for the 5-year period. Having been around here for a day or two, just as Senator Long has, we know that we shall work out some kind of compromise with the House. Senator Bellmon, last night, tried to meet the House figure, which is a small matter of adding about another $500 million to the cut made by the Committee on Finance, and the Senate voted him down very decisively.

On the other hand, in seeking to restore practically the whole Senate cut, all but $104 million, the Senate was evenly divided.

That seems to indicate, certainly, an interest here among Senators—knowing the situation of their constituents—in some kind of fair compromise. I am not trying to split it 50–50 or anything remotely like that, and I am not trying to do it arbitrarily, which is very often done around here. We shall let them do that in conference.

What I am showing to my colleague—and the matter has not been raised before—is a real inequity. Perhaps the people who drafted the Finance Committee's ideas had a figure in mind that they wanted to reduce these aggregate payments by and wanted to find some way to do it. I do not think they found a totally fair way to do it. I think we have found a fair way: To have everybody, including the much-talked-about middle class—to wit, with earning between $600 to $1,000 a month average—get the same break and the same kind of cut in percentage that everybody else is getting. That does equity and does not materially impair the amount of the reduction which the Committee on Finance is making.

Mr. President, I believe, for those reasons, that, as a matter of equity and nondiscrimination and in order to preserve, as far as we can, the money savings which are made by the Committee on Finance, this amount should be adopted.

I reserve the remainder of my time.

Mr. LONG. Mr. President, I yield myself 8 minutes.

Mr. President, the Senator from New York said he hopes people are listening in their offices; I hope everybody is listening, wherever they may be, because the word should go out—and I hope the enterprising media people who are here, especially those able representatives of the press, will send out the word—that the Senate has embarked on a spending orgy. The Senate has completely disregarded its previous commitment to try to balance the budget and it has gone wild to try to take these out-of-control spending programs and make them still further out of control.

Mr. President, we on the Committee on Finance were assigned our share of the burden of trying to balance the budget, trying to stop some of the needless spending in Government so that we could keep this Government from going so deeply into debt, because we know that is one of the big items contributing to inflation that the people of this Nation are suffering, namely the great big Federal deficit we have been sustaining.

We on the Finance Committee, Mr. President, have tried to do our part. We brought a bill forth, as we were required to do under the budget resolution, to make savings and reduce waste. In the program for aid to families with dependent children, we have proposed savings as part of another bill amendments relating to child support and other areas involved and so far, we have been somewhat successful. We have passed our amendments through the Senate.

We have reported out a bill, Mr. President, which is on the calendar, to tighten up on some of the ripoffs on the unemployment compensation program. That bill will help the budget.

Then we reported this bill to the calendar, Mr. President, on disability insurance. The House courageously—and I believe in answer to the public will, because every Member over there has to run for office this very year—has sent us a bill. Imagine; those courageous Members of the House brought a bill before that body and sent it here, this very bill, to reduce the spending in this disability area by $2.7 billion over a 5-year period, a saving of about $600 million a year on the average over that period.

They did that because, Mr. President, of all the big spending programs, the very big spending programs, this is the one that is most out of control. Secretary Califano courageously faced up to it and did what he could administratively. Secretary Harris is doing what she can do to limit the unintended spending in this area.

Mr. President, this program was supposed to cost one-half of 1 percent of payroll and it is costing 2 percent of payroll. It is costing almost $16 billion a year, because we have four times as many people on the rolls as we anticipated. That is because, in administering the program, as a matter of compassion, a great number of people have been allowed on the rolls who are not totally and permanently disabled—contrary to what was originally intended by Congress when Senator Walter George offered that amendment out here on the floor, some years back, when I was junior Senator from Louisiana. Well-intentioned people, their humanitarian instincts coming to the fore, have seen fit to find a lot of people disabled on a total and permanent basis when, actually, those are handicapped and partially disabled, but not disabled in the sense that Congress originally intended when it passed the program. So we are trying to get this matter under control.

Yesterday, the Senate voted to overrule its Presiding Officer, to run roughshod over its Parliamentarian, to break through a unanimous-consent agreement to vote on an amendment so that some people need have no waiting period any longer to get on the disability rolls.

You wonder what in the world the Senate is doing. A unanimous-consent agreement is a solemn compact among Senators that only the matters in that bill are going to be considered, and the Senate just ran roughshod over its Parliamentarian and a fine, respected Presiding Officer (Mr. STEVENSON), in order to break its own unanimous-consent agreement and rule that something was germane that the Parliamentarian properly advised was not germane, an amendment that reduced the waiting time in the law. That will cost $3 billion when fully implemented, because once you start calling off the waiting period for some disabled persons, there is no way you can tell the rest of the totally and permanently disabled that some will have to wait while others can go right up and get their checks immediately.

It was only by a tie vote, Mr. President, that we succeeded in keeping the Senate from voting to say that the payments under disability would be every bit as much as 100 percent of what the person was making when working. The payments under disability are not taxable and a person, sitting there at home, does not have to buy new clothes and does not have transportation expenses. So it would have been like paying 130 percent of what the man had been making to pay 100 percent of wages when he is disabled and does not have to go to work or pay taxes on the income.

Most of these people are also covered for major medical insurance under medicare, so that takes care of the medical expenses. So when one pays the whole salary, tax-free, it is like paying about 130 percent of what he would have been making otherwise.

Mr. President, there is another item of responsibility of the Finance Committee in connection with the budget resolution. We are going to have to recommend that revenue sharing to the States be reduced and we expect to offer this amendment to the countercyclical revenue sharing bill. It may be that the Senate is just in no mood to think about reducing excessive spending. It may be that the Senate is just in no mood to cut back on something that could be reduced somewhat. It may be that the Senate is just going to insist on more big spending ideas, busting the budget and running this Nation very deeply into debt, over a trillion dollars in this one fiscal year, for all I know. But, Mr. President, we do look for some signals and some signs of what the Senate wants to do.

I hope, Mr. President, that the time is beginning to arrive when Senators will have a return of fiscal conscience and begin to think in terms of fighting inflation and balancing the budget, because the people in this Nation are interested in that, even if Senators are not.

Mr. President, the Senator from New York would like to help middle-income people and I applaud him for his noble desire to do that. On the other hand, Mr. President, the Finance Committee bill makes all the sense in the world. In this area in which the Senate would like to legislate, there is what would be considered a bulge in the benefit structure for family benefits.

Strangely, under the existing law, the middle-income people do better, in relative terms, than do the low-income people, or those further up the ladder, when comparing family benefits to a worker's basic benefits.

So when the Senate Finance Committee undertook to look at the bill, we said, we think the disability benefits should not be more than 85 percent of what the predisability earnings were. Then we said that the family should not receive more than 60 percent above the worker's basic benefit.

That is a consistent, logical, equitable, fair way to determine the benefits. It is more fair, more proper, more just, and more equitable than the existing law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. I yield myself 2 additional minutes.

So, Mr. President, the Senator seeks to restore the pattern that existed prior to the Senate bill. In doing so, he would maintain an inequity that exists in the law which should be corrected.

The Senate level of benefits is fairer. If we are going to pay this higher level of benefits to those in the middle brackets, how would we excuse giving them a better break than the low-income people?

If one group gets a better break under the formula than another group, should it not be logical that it be the poor, or near poor, rather than the middle income? Logically, it should.

Mr. President, we have a good formula. It was carefully considered. It would save more than what the Senator is suggesting. This amendment would cost $153 million more over the next 5 years than the bill recommended by the committee.

Mr. President, where the committee came out with a bill that would be a revenue gainer over the next 5 years of about $914 million, this amendment, when added to the Bayh amendment which has already been adopted, would convert this bill from one which would have gained revenue for the Government, by the overhaul and the various changes made in the law, to one that loses revenue for the Government by about $79 million over that same period of time.

I hope, Mr. President, the Senate will give some sympathy and some encouragement to those committees which are trying to obey the budget resolution, trying to obey that resolution the Senate voted for.

I myself offered the amendment to get us to a balanced budget. I was not even the one who started it. Senator DOLE, the great Republican leader from Kansas, offered an amendment that said we were going to balance the budget. So the Senator from Louisiana said, "Fine, let us get with it," and I offered an amendment to the Dole amendment saying, "Bring us a balanced budget."

I would hate to think, having voted to say that we want a balanced budget, that the Senate is now going to bust the budget with these social welfare programs, because we know we will have to spend money on such other things as more military equipment, Mr. President.

It just seems to me, if we want to be responsible, we should stay with the formula the Finance Committee proposes, because it is a good formula, makes good logical sense. There are no inequities in it. In fact, it is a better formula than that which exists in the present law.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, Senator LONG is always a joy to listen to until we begin to analyze his arguments.

I listened very carefully to all his arguments, Mr. President. I heard a denunciation of the Bayh amendment, which carried. I had nothing to do with that, particularly. I did not propose it. And the Metzenbaum amendment, which almost carried. And Senator DOLE's brilliance as Republican leader, to which I subscribe.

But I have yet to hear an answer to the argument made by me, Mr. President, as to why the amendment should be passed in common equity, and why it far from financially wrecks this bill.

I am not looking for a better break in relation to present benefit levels for these middle-income recipients of disability; only for an even break.

I think the appropriate figures showing the difference from present law is the most eloquent testimony as to why, in common elementary fairness, this amendment ought to be carried.

Under the first three brackets, namely, the working poor—I am all for them—where they get higher benefits than prior earnings, they are irrelevant for comparisons.

For $135 per month AIME, the present

law will give them 136 percent of their average earnings. But, under the Finance Committee bill, they would get 90 percent. I let that stand.

Similarly, for $200 per month AIME, they now get 132 percent. Finance cuts it to 88 percent. Again, I do not change that.

Now, for $300 a month AIME, they would get 85 percent under the Finance bill. Today, they get 104 percent. Again, I do not change it.

But let us go down here to $600. If they had average earnings of $600 a month, at present they get 88 percent of earnings. The Finance Committee is going to give 81 percent of the earnings.

Let us say that is a difference in round figures of 6 percent. But, for the very next bracket, $700 a month, they get 88 percent of average earnings, but the Finance Committee gives 77 percent, or an 11-percent cut, Mr. President.

So we go on down the line. The same is true for $800. The same is true for $900. Then, to a lesser degree, for $1,000 average earnings a month.

That is what I am complaining about. That is where the inequity occurs, and that is where it ought to be corrected.

Under my amendment, it is corrected; and the difference from present law comes down to 6 percent, just like it does for the other brackets.

Mr. President, what Senator Long did not tell us is what about those "rich," those who earned an average of $1,100 to $1,700 a month? Their cut is only about 6 percent under the committee bill.

What about the people who earned less than that? Their cut is twice that, at certain levels.

That is what I am complaining about and correcting. That is what I call an even break. Everybody takes the same rap when there is difficulty, as there is today.

I recognize it. I recognize it in my amendment, and I recognize it as an equity proposition.

The distinguished Senator speaks of a spending orgy, Mr. President.

We are elevated by the people to this high office to use our heads and keep cool. There is a lot of preachment on this floor about going to get them, for this, that, and the other things, even about war, Mr. President, and that sometimes sways an audience.

But, Mr. President, if we are just an audience, we all ought to be fired.

Mr. President, we are supposed to see the equities and to realize what is going on.

Senator Long cannot convince us why—and if he can, I am deeply disappointed in a body in which I have now served for 24 years—this amendment "will break the budget."

We cannot drag every cow in here from every other bill and every other monetary matter to try to defeat this amendment. There is no use shooting a cannon at gnats, Mr. President.

It is a matter of elementary fairness. The Senate already has evidenced its view that it is sympathetic to something being done. This seems to me to be a matter of elementary fairness, as I have just pointed out, based on the fact that the middle-income people—not the higher and not the lower—are being asked to take double the cut that the others are, the higher and the lower. I do not think that is fair, and I believe it should be corrected.

I ask unanimous consent that the names of Senator Ribicoff and Senator Metzenbaum be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the Senator said that the Bayh amendment has nothing to do with the argument I made. The Senator voted for the Bayh amendment. What I am saying is that Senators who voted for the Bayh amendment should keep in mind that they have started us down a road on which there is no turning back.

You cannot have some of these totally and permanently disabled people required to wait the 5 months to get the benefits and then have others who do not have to wait the 5 months, when those people are totally and permanently disabled, and they are critical cases. You cannot have it both ways.

When the Senate voted for that, it added another spending aspect to this program which is going to cost almost as much as the whole program was supposed to cost. The whole program should not be costing more than $4 billion, as intended by Congress. That one proposal will eventually lead to a $3 billion increase in the program.

I would think that Senators having voted for it, at some point, their appetite for spending would begin to subside. I hope so.

Senator Javits, the great Senator from New York, and the Senator from Louisiana are not differing at all about what the basic benefit should be, and his amendment does not have anything to do with that. We are not arguing about that here. What we are debating here is a provision that the Finance Committee recommended, which says that the family benefits should not be more than 160 percent of what the basic benefit is. So that, if you look at the basic benefit, about which we are not arguing at this moment, there should be a limit on what the family benefit would be, and that should not be more than 60 percent above the basic benefit. That type of limitation exists in other areas of the law, and it makes sense.

The House did not go that far. The House said that the family benefit should not be more than 50 percent above the basic benefit. So the Finance Committee is substantially more liberal in its recommendation than was the House of Representatives, where every Member will have to run for office this year. They said it should not be more than 50 percent above the basic benefit.

The logic of the Senator's argument must rely upon an inequity that exists in present law. The Senator wants to build on that inequity, and the Senate Finance Committee said there is no point in doing that.

This does not affect anybody who is on the rolls today. Not one soul on the rolls will be cut because of this recommendation by the Finance Committee. This will apply only to people who begin getting checks in the future.

It is a matter of saying that here is an inequity that does not make any sense. None of these people, obviously, is envied by any of us, because they have a disability.

On the other hand, as between those who would be benefited, and those who would not be benefited, this would increase the size of additional benefits for dependents in the case of middle-income workers, but would not provide any increase for the lower income group, and that does not make sense.

The Senate Finance Committee said that the benefit for the family should not exceed the basic benefit by more than 60 percent. It is the same pattern the House followed when they said it should not exceed it by more than 50 percent. We have been generous in this area.

I hope very much that the Senate will sustain the committee's recommendation and that it will not vote for the amendment by the Senator from New York.

Mr. JAVITS. I yield myself 1 minute.

Mr. President, I have yet to hear the justification for why the income people in the middle should take the rap for the income people at the top. That is the whole essence of this case.

I deeply believe that the Senate should right this inequity and then let the committees in conference work out what they are going to keep in, what they are going to put out, and what the aggregate saving will be. There is a lot of yardage there. This inequity should not persist.

Mr. President, I ask unanimous consent that the name of the Senator from California (Mr. Cranston) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the Record a chart that shows how the benefits would be computed.

There being no objection, the chart was ordered to be printed in the Record, as follows:

Basic monthly benefit of a disabled worker	Maximum additional benefits for dependents					
	Present law		Committee bill		Javits amendmend	
	Amount	Percent	Amount	Percent	Amount	Percent
$283	$184	65	$169	60	$169	60
$305	221	72	182	60	195	64
$369	317	86	221	60	270	73
$395	325	82	237	60	275	70
$433	339	78	260	60	282	65
$487	366	75	292	60	292	60

Mr. LONG. Mr. President, I point out how this works. If we look at the family benefits under the committee bill—what the family benefit is, compared to what the basic benefit is—no matter whether one is at the $283 basic monthly benefit or the $487 basic disability benefit, what the family receives is, in all cases, 60 percent more than the basic benefit for the worker.

Under the Javits amendment, it would be, at the lower level, 60 percent, then 64 percent, then 73 percent, then 70 percent, then 65 percent, and then 60 percent, as shown in the chart.

I would not care to try to go out among people and try to explain to them why one worker's family in the middle-income bracket gets 73 percent above the basic benefit and the family of a man who is making much less than that gets only 60 percent above the basic benefit. I would not want to try to explain that to the poor and explain why some workers' families get as much as 73 percent and others as little as 60 percent above the basic benefit.

It makes better sense to me to agree on one pattern of benefits, one schedule of benefits, that is logically based on what the worker was making in the past, and to show him a schedule by which he can compute it for himself and by which it works out the same for everybody.

If you are not going to pay them all the same relative level of benefits, the only logical way to do it would be to pay more benefits to the people on the bottom, not those in the middle; and the Senator would pay his increase in benefits to those in the middle. It does not make any sense. We have a better schedule in the committee bill.

The only logic of it would be that that bulge, that inconsistency, that inequity is in present law, and we say that it should be wiped out. That change would not apply to anybody getting a check now; nobody's check will be cut. It is only for those who go on the rolls in the future. We should wipe out that inconsistency and inequity. It costs a great deal of money to maintain that inconsistency and inequity in the law.

Mr. JAVITS. Mr. President, I doubt that Senator Long and I are going to persuade each other. I hope I can persuade the Senate.

I reserve the remainder of my time.

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. LONG. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, we are in about the same position we were in yesterday, in discussing the Metzenbaum amendment, which was rejected by a tie vote—47 to 47, as the Senator from Kansas recalls.

I certainly appreciate the efforts of the distinguished Senator from New York to provide a compromise between the Metzenbaum approach and the Bellmon approach to the family benefit limit. I know of no one in the Senate who is more concerned about this program and the benefit levels than is the Senator from New York, and he was so concerned long before the Senator from Kansas became a Member of the Senate.

As I indicated yesterday, I tried to provide a looser cap in the Finance committee, but I did not have the votes. Efforts were made to tighten the cap as well, but there were not the votes for that. So, after considerable discussion, and at the suggestion of the chairman, a compromise was reached.

I suggest that the table to which the Senator from Louisiana just referred does indicate the need to oppose the Javits amendment. I understand the concern of Senator Javits, but I still believe that the situation we came up with in the committee was a fair compromise. We probably could spend hours trying to massage the formula, but there appears to be no particular reason for this bulge in the present law, and we just tried to smooth that out.

It is true that middle-class families are having their benefits cut more than some others. But that reason is apparent in the table which has been made part of the Record, because they are treated more favorably—and I use that term with reference to all others—than some other families under current law.

We still have this monitoring provision in the bill, and if we learn later, after some experience with the program that there should be some changes, I am certain the Finance Committee and the Social Security Administration will work together to come up with a more appropriate formula.

I suggest that it is not easy to make any cuts in any benefit anyone receives from any Federal program. This is one of those very difficult choices but there has been, I think, a reasonable effort made to find the best solution and I support the committee position.

Mr. JAVITS. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. JAVITS. I yield myself 2 minutes.

Mr. President, I appreciate Senator Dole's argument, and I appreciate Senator Long's argument. I think we have been together for enough time to understand each other on what part is hyperbole and that is true of me as of them and every politician.

Mr. President, I look across the table of numbers which I put in on the maximum family benefit. These are official figures; they are not mine. And look at the $700, AIME figure. That person under present law gets $613 a month, or 88 percent of his average earnings. The Finance Committee gives that person $538 a month or 77 percent of his present earnings, an 11-percent cut. My amendment gives that same person $569 a month, $30 more, and gives him 81 percent of his average earnings.

I look down at the $1,100 bracket. He is getting $814.10 a month now, 74 percent of his average earnings. The Finance Committee is going to give him 68 percent or $743.40.

Mr. President, I do not change that. So that fellow gets cut 6 percent. The fellow who is earning $700 a month gets cut 11 percent. Why? That is what I am trying to correct. That is why I have proposed this amendment.

Mr. LONG. Mr. President, I yield myself such time as I may require.

Mr. President, no one gets cut at all. Everyone who is on the roll will continue to get what he is getting. If he is getting something because someone made an error he still gets it. If he is getting something because Congress made an error he still gets it. No one takes a cut.

All we say is that for the future we write a law that makes a lot better sense than the old law, and by writing a law that makes a lot better sense we take some ripoffs out of the law in some cases. We make the law more uniform. We make it more fair. We try to compute it based on what the average index monthly earnings are and then having computed what the basic benefit is we then say that the family benefit will be 60 percent above the basic benefit.

It is consistent all up and down the line. That is for the new people coming on the rolls.

No one gets cut. It is just that we had a formula that is faulty. It has inequities in it and it is unfair. It is unfair to the people who are making less than those middle-income people. So what we say is that we will have a system that is fair, consistent, uniform, and that is how we will compute the benefit for the future.

Those on the rolls will keep getting what they are getting. If it were an inequity they will get the benefit of it or get hurt by it as the case may be.

For the future we are going to try to be more uniform and fair, and in doing so we will save money unless we agree to the Javits amendment.

The Senator's argument is no better than existing law because he is basing it on the theory that the inequity, the inconsistency in existing law should be maintained. Implicit in that is the theory that the bulge which favors this particular group should be maintained for the future. It does not make any good sense. Therefore, the amendment should not be agreed to.

Mr. JAVITS. Mr. President, 1 additional minute.

Mr. President, I just gave an example of the $700 average earnings individual who gets hit hard prospectively, of course, prospectively. I do not think any of us misunderstood that.

Let us look at the $600 fellow. The $600 fellow is getting $526 a month; that is 88 percent of his average earnings. The Finance Committee is going to give him $487.40. That is 6 percent less.

I am not complaining about all those adjustments. I am complaining about the particular change from present law. What I am complaining about is the way it is changed. I think it is wrong. I think it is inequitable, and I think it is discriminatory.

Mr. LONG. Mr. President, keep in mind that the man is not going to get cut at all. He is going to continue to get exactly what he is getting now. When new people come on the roll they are going to have a consistent formula rather than an inconsistent formula. When we are talking about the amount of money they get, keep in mind they do not pay any taxes on this money. They pay no social security tax and pay no income tax on the money. They have no work expenses while they are out of work. So they do not have to buy as much clothes as they would have to have. They do not have as much transportation expense. And they also have medicare coverage available to them when they are not on these rolls and are on the disability rolls. So they are getting a lot of benefits that they do not have when they are working.

I believe we have made our position clear. No one gets cut. We simply have a consistent formula for the future. We wipe out an inequity that never did make any sense. In doing so, we save quite a bit of money. We should be doing those kind of things all through the social welfare programs where inequities or inconsistencies or illogical things exist that do not make any sense. We could save the taxpayers billions of dollars a year, and we will do that if the Senate wants us to do it. If the Senate does not want us to do it it can keep adopting amendments as this is where every time the House committee and Senate committee comes up and says here is something that does not make any sense, here is where we can save $150 million or $200 million at a whack. If they want to keep voting us down a while we will have to give up and just forgo our efforts to try to contain spending, balance the budget, reform by spending less rather than reform by spending more.

But I hope, Mr. President, that the Senate will see that the committee has considered the matter and it has done the best it could to work out something in the Nation's interest, and I hope that the committee will be sustained and, therefore, the amendment will not be agreed to.

Mr. JAVITS. Mr. President, just to conclude the debate, we are now in the argument that this is breaking the budget and is going to bankrupt the United States and probably change our form of government and cause the Soviet Union to run us over instead of Afghanistan.

Mr. President, I am ready to vote. I think the Senate should vote this elementary fairness, and I am ready to yield back the remainder of my time.

● Mr. RIBICOFF. Mr. President, I support the amendment offered by the distinguished senior Senator from New York. The committee's cap disproportionately reduces the replacement rates of middle- and middle-to-low-income people. The Javits amendment is a very narrowly targeted amendment that alleviates this inequity.

In 1980, the Javits amendment will cost only $4 million. Over the next 5 years the total cost resulting from the Javits amendment is $153 million.

But more important than costs, caps and formulas, we are talking about benefits to people—disabled people who were once working in the mainstream of the U.S. economy. These are people who paid their income and social security taxes but now because of their disabilities they are no longer able to work.

The committee's bill inequitably cuts the benefits of these middle-income people.

The Javits amendment corrects this inequity at a very low cost, and I urge my colleagues to support this amendment.●

● Mr. CRANSTON. Mr. President, I have outlined my objections to section 101 of H.R. 3236 during consideration of the Metzenbaum amendment to this bill. As I stated then, there is a group of individuals which is receiving benefits at a rate in excess of their average lifetime earnings, but why is it necessary to reduce drastically the benefits for all post-1968 disability claimants after January 1, 1980, when all of these people are not part of the problem.

I believe that Senator Javits has done a tremendous job of fine tuning the formula proposed by the Finance Committee, and am pleased to be a cosponsor of his amendment.

At the Finance Committee hearings on H.R. 3236 and H.R. 3234, Social Security Commissioner Ross presented data showing predisability income replacement levels under current law, the House-passed formula, the advisory council formula, and others. From those data, and data prepared by the Paralyzed Veterans of America in its testimony it is clear that only individuals and families with average indexed monthly incomes at or below $250—for individuals—and $300—for families—could possibly receive benefits in excess of their average indexed monthly incomes. The Finance Committee bill formula, although it concentrates so-called reform at the lower end of the benefit structure, also would have the effect of drastically reducing benefits for workers in the middle ranges of the benefit scale, and only minimally affecting those at the high, and lower, middle portions of the scale.

The Javits amendment would reduce the disproportionate burden placed on the shoulders of the middle group. Yet where the problem is the largest, the Finance Committee formula would continue to apply.

Mr. President, I believe that this compromise represents a very reasonable response to the concerns expressed by the Finance Committee, and urge the Senate to adopt the Javits amendment. I congratulate my friend from New York for his leadership in devising and proposing this compromise.●

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), the Senator from South Dakota (Mr. McGovern), the Senator from Rhode Island (Mr. Pell), the Senator from Tennessee (Mr. Sasser), the Senator from New Jersey (Mr. Williams), and the Senator from Colorado (Mr. Hart) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. Durkin), and the Senator from New Jersey (Mr. Williams), would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell), would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Rhode Island (Mr. Chafee), the Senator from Mississippi (Mr. Cochran), the Senator from Arizona (Mr. Goldwater), the Senator from Indiana (Mr. Lugar), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Pryor). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 50, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—34

Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Burdick
Cranston
Culver
DeConcini
Durenberger
Ford
Hatfield
Heinz
Huddleston
Jackson
Javits
Leahy
Levin
Magnuson
Metzenbaum
Moynihan
Nelson
Packwood
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stone
Tsongas
Weicker

NAYS—50

Armstrong
Bellmon
Bentsen
Boren
Byrd,
  Harry F., Jr.
Byrd, Robert C
Cannon
Chiles
Church
Cohen
Danforth
Dole
Domenici
Eagleton
Exon
Garn
Glenn
Hatch
Hayakawa
Heflin
Helms
Hollings
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Long
McClure
Melcher
Morgan
Muskie
Nunn
Percy
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—16

Baker
Chafee
Cochran
Durkin
Goldwater
Gravel
Hart
Kennedy
Lugar
Mathias
Matsunaga
McGovern
Pell
Sasser
Williams
Young

So Mr. Javits' amendment (No. 1646) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time will the quorum be charged?

Mr. HELMS. Mr. President, I withdraw that request.

The PRESIDING OFFICER. The request has been withdrawn.

The Chair recognizes the Senator from South Carolina (Mr. Thurmond).

UP AMENDMENT NO. 941

(Purpose: Relating to inclusion in wages of FICA taxes paid by small business employers, State and local governments, and nonprofit organizations)

Mr. THURMOND. Mr. President, I send an amendment to the desk for myself and Senators Helms, Hatch, and Armstrong, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond), for himself, Mr. Helms, Mr. Hatch, Mr. Armstrong, Mr. Dole, and Mr. Pressler proposes an unprinted amendment numbered 941.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 106, strike out lines 9 through 21 and insert in lieu thereof the following:

Sec. 507. (a) Section 209(f) of the Social Security Act is amended to read as follows:

"(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 (A) for wages paid for domestic service in a private home of the employer, or (B) if such employer is a 'small business concern' as that term is employed in the administration of section 7(a) of the Small Businss Act (relating to business loans), or (C) if such employer is a State or political subdivision thereof, or (D) if such employer is a private nonprofit organization, which is exempt from income tax under section 501(a) of the Internal Revenue Code of 1954, or (2) of any payment required from an employee under a State unemployment compensation law."

(b) Section 3121(a)(6) of the Internal Revenue Code of 1954 is amended to read as follows:

"(6) the payment by an employer (without deduction from the remuneration of the employee) —

"(A) of the tax imposed upon an employer under section 3101 of this Code (i) for wages paid for domestic service in a private home of the employer, or (ii) if such employer is a 'small business concern' as that term is employed in the administration of section 7(a) of the Small Business Act (relating to business loans), or (iii) if such employer is a State or political subdivision thereof, or (iv) if such employer is a private nonprofit organization, which is exempt from income tax under section 501(a), or

"(B) of any payment required from an employee under a State unemployment compensation law;".

Mr. THURMOND. Mr. President, this amendment would modify section 507 of the pending bill, pertaining to the computation of social security (FICA) taxes. The amendment is three-pronged, providing that employers who are small business concerns, State or local governments, or nonprofit entities may elect to pay both employer and employee shares of the FICA tax without being penalized for so doing by having to pay a greater tax.

Section 507 of the pending bill, to which this amendment is directed, makes a major change in social security tax law by altering a policy that has been in effect since the inception of the social security program some 40 years ago. It concerns us greatly that this change is being proposed by the Finance Committee without the benefit of any Senate hearings, at which the groups affected could testify as to the adverse impacts of this recommended modification. Furthermore, while I understand and share the concern that the members of the Finance Committee have for maintaining the solvency of the social security trust fund, the more I have studied this matter, the stronger is my conviction that the proposed change is both ill-conceived and also likely to be counterproductive on these particular matters.

THE FICA TAX OPTION

Mr. President, under the social security law, employers and employees share equally in the FICA tax obligation. At the same time, employers have always had the option of paying both the employer and employee portions of the tax from the employer's own funds, without any withholding from the employee's gross wages. Prior to the 1977 amendments to the Social Security Act, very few employers had elected to bear the entire FICA tax burden. However, with the substantial tax increase put into effect by the 1977 amendments, more and more employers have discovered and taken advantage of the provision in the law which allows employers to assume the entire FICA tax obligation.

While the actual computations are a bit complicated, basically the procedure calls for employees to forego a portion of a scheduled salary increase, or reduce their gross wage, by an amount equal to the FICA tax that otherwise would be withheld from the employee's gross pay. Workers generally gain an immediate benefit in slightly higher take-home pay, because, under the progressive income tax rates, less State and Federal income tax is required to be paid. Employers also realize a payroll cost savings of approximately 6 percent, because the social security tax is based on a lower level of gross pay.

In other words, both employer and employee can receive a significant financial benefit when they jointly agree for the employer to assume the entire FICA tax obligation, under a procedure similar to that which I just described.

Mr. President, this procedure is now and always has been perfectly legal. It is not a devious method of dodging taxes. It is a legitimate, smart business practice by which employers and employees who so choose can reduce their social security tax burden. Mr. President, I ask unanimous consent to include in the Record at this point an excerpt from the New York Times of April 10, 1979, which describes the operation and benefits of this alternative FICA tax procedure, and also a table illustrating the procedure.

There being no objection, the material was ordered to be printed in the Record, as follows:

SOCIAL SECURITY: EASING THE BITE

Now that workers and employers alike have digested the latest increase in the Social Security tax, word comes that they may be a way to reduce the bite of this levy.

The solution is to have the employer pay the worker's share of the so-called FICA tax as well as its own, instead of splitting the cost. Although it sounds as if this approach would be more expensive for employers, it actually saves them money because it avoids the current situation in which employers wind up paying FICA tax on FICA tax. FICA stands for Federal Insurance Contributions Act.

Despite the appeal of such a payroll system, it has not been widely embraced by business.

"There's a long-standing provision in the Social Security Act that permits the tax to be computed in this fashion, but very few employers have implemented it, mainly because no one knew anything about it," said Michael F. Klein, a partner with the accounting concern of Price Waterhouse & Company.

Traditionally, he said, most companies have computed the Social Security tax on the basis of the employee's gross salary. But since the gross salary includes the Social Security tax to be paid by the employee (and withheld by the employer), this approach results in both the employer and the employee paying a tax on a tax.

An alternate plan, which Price Waterhouse calls a "net salary arrangement," would have the employer pay the worker's tax. The result is that the Social Security tax is simply based on the employee's salary "net" of any FICA levy. The employee's take-home pay remains the same, while his taxable income declines slightly, and the employer can reap dramatic tax savings.

Mr. Klein cites the case of a $10,000-a-year worker whose employer switches to a net pay approach. The employee's taxable income would drop by $38 a year even though his take-home pay remains constant, and the company can pare its tax expense by $78.

The tax savings for a large employer can be enormous. Los Angeles County, for example, is considering a plan prepared by the Management Improvement Corporation of America that is said to have the potential of saving $5.9 million in FICA taxes during the first year of operation.

FICA ILLUSTRATION

[Based on married employee, 4 dependents]

	Employee pays ½, employer pays ½	Employer pays full cost
Weekly salary	$300.00	$281.61
Employee FICA [1]	18.39	0
Employer FICA	18.39	34.53
Federal income tax [2]	30.90	28.80
State income tax	9.58	9.50
Employee take-home pay	241.13	243.31
Total employer cost	318.39	316.14

[1] In order to initiate the FICA plan the employee's gross salary is reduced by 6.13 percent. This is offset by the employer paying both halves of FICA.

[2] For computing income tax the value of the employer-paid FICA (½ of the $34.53) must be added back to salary as a taxable fringe benefit. Thus taxes are computed on the basis of $298.88 ($281.61+17.27).

Based on a firm with 100 employees in the above situation: The employer's annual savings will be $11,700. The employees' total annual increase in take-home pay will be $11,136. This plan . . . can provide additional operating capital for business. This plan . . . can provide the worker a benefit in his battle against inflation.

THE FINANCE COMMITTEE AMENDMENT

Mr. THURMOND. Mr. President, because this alternative FICA tax procedure results in slightly less tax money paid into the social security trust fund, the Society Security Administration has convinced the Finance Committee to recommend to the Senate that this long-standing provision be drastically altered. The committee, in section 507 of the pending bill, proposes to make financially unattractive the option of employer-payment of all FICA tax.

The committee recommends that Congress simply enlarge the definition of "employee compensation" (wages) subject to FICA tax, so that it includes any portion of the tax paid for the employee by the employer. This will, in effect, result in a levy of FICA tax on FICA tax. In dollars and cents terms, it will result in still another social security tax increase on employers who are using the alternative procedure.

Mr. President, the idea of treating the FICA tax paid for wage earners by their employers as part of the total taxable compensation of the employee is a novel idea in social security tax law. There is no debate over the fact that such payments are includable in the employee's gross income for both Federal and State income tax purposes.

However, when the original Social Security Act was written in 1939, such payments were specifically excluded from the definition of compensation for FICA tax purposes. The legislative history of this issue suggests that the decision to exclude such employer FICA tax payments from FICA taxable compensation was a deliberate one, because Congress also chose to exclude employer payments for employee pension or annuity plans, sick pay, life or health insurance, death benefits, unemployment compensation tax, and other such employee benefits from the FICA tax. Simply because employers have only recently started taking advantage of this option in significant numbers is not sufficient reason, in our opinion, to alter this longstanding policy, especially without the benefit of any Senate hearings.

Just a few days ago, on January 14, the U.S. Supreme Court let stand a decision by the U.S. Court of Claims that held meals regularly given to workers should not be considered "wages" subject to social security taxes. The logic of that court ruling is readily applicable here. Why should employer payments of FICA taxes for their workers be treated as a part of the workers' wages for FICA tax purposes? The concept is unsound, as well as unfair.

CONCERNS OF SMALL BUSINESS

Mr. President, as presently written, section 507 will be especially costly and detrimental to small business concerns which are presently paying both portions of the FICA tax, or are planning to adopt this procedure. The amendment we are offering would exempt small business concerns, as that term is employed in the Small Business Act for business loan purposes, from the changes made by the bill. The reasons for a "small business exemption" should be readily apparent. The 6- to 7-percent savings which a small business concern can achieve by electing the alternative FICA tax method may well be the margin of survival to a struggling business in today's inflationary climate.

Just 2 weeks ago President Carter sent an elaborate message to Congress, recommending a number of new initiatives, including special tax incentives, to help small business. The White House Conference on Small Business, billed as a major undertaking by the Federal Government to address small business problems, has just recently concluded.

Mr. President, this FICA tax option is one very good means—already written into law—of helping small business cope with the spiralling cost of social security taxes. Why we should even be discussing the prospect of taking this cost-saving measure away from small business is beyond me. Payroll taxes are already the most expensive tax for labor-intensive small business, and this FICA option is a perfectly legitimate way of holding down a payroll cost burden that will become even greater under the presently scheduled social security tax increase between now and 1987.

Mr. President, the small business category, as defined by the SBA and in this amendment, includes the vast majority of farmers. Farmers have been especially hard hit by rising production costs, coupled with low market prices. They certainly need the benefit of the modest savings available to those who wish to pay both shares of the FICA tax. In this regard, I call the Senate's attention to language in a resolution recently adopted by the American Farm Bureau Federation, which states as follows—I should like both the managers of the bill to hear this particular point by the Farm Bureau:

> Employers who choose to pay the employee's share of the FICA tax should be allowed to do so without that portion being considered additional income to the employee.

This language is a new addition to Farm Bureau's position on social security issues, added at their recent annual meeting in Arizona. Thus, enactment of section 507 would be directly contrary to the recommendations of the Nation's largest farmer organization. Mr. President, I ask unanimous consent that a telegram from Mr. Harry S. Bell, president of the South Carolina Farm Bureau, expressing their opposition to section 507, be printed in the Record at this point.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

December 6, 1979.

Hon. Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: It is our understanding that the Senate Finance Committee has added a Section 507 to H.R. 3236 which will rescind provisions of the Social Security Act that some farmers have been able to use to the benefit of themselves as well as their employees. I would urge that when considering H.R. 3236 you oppose Section 507 of that legislation.

Sincerely,

Harry S. Bell.

Mr. THURMOND. Mr. President, there is another problem with small business concerns that should be mentioned at this time. A number of small employers have, for years, found it easier for themselves and more acceptable to their workers for the employer to take care of the entire FICA tax payment. For these employers, whose motives for using the FICA tax alternative are primarily concerned with administrative convenience and employee acceptance, rather than payroll cost savings, the Finance Committee recommendation will result in another social security tax increase. The committee has recognized the need for a special exception in the case of domestics in private homes, but they have failed to take note of other small employers—farmers, small retail merchants, and others—who have traditionally paid all required FICA tax for the same reasons as employers of domestics in private homes. This amendment would prevent these small business firms from having to pay additional FICA tax.

STATE AND LOCAL GOVERNMENTS

Mr. President, our amendment also will permit State governments and political subdivisions thereof to have the benefit of a FICA tax option without incurring an additional FICA tax penalty.

Mr. President, I want the managers of the bill to hear this provision I am giving now, because I think it is very important. It has come to our attention that at least one State government employer, the State of Texas, and an increasing number of local governments have adopted a system of paying FICA taxes for their employees. This system helps these governmental entities achieve a modest payroll cost savings, thereby avoiding the need for further increases in their tax levies. The National Association of Counties and many individual local governments have expressed their opposition to section 507 of this bill. Mr. President, I ask unanimous consent that a letter from the executive director of the Association of Counties and several letters from affected local governmental leaders be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

National Association of Counties,
Washington, D.C., January 24, 1980.

Hon. Russell B. Long,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

Dear Senator Long: With regard to H.R. 3236 which the Senate is presently considering, we would like to draw your attention to section 507 of the Senate version as reported out of the Finance Committee. This provision would eliminate the local option for public employers to pay the employees' share of Social Security taxes, as is presently allowed. NACo supports retention of this option on the following grounds:

1. On general principle, NACo stands for local decision-making on issues of this nature. County governments, their elected representatives, and their employees should be allowed to exercise the option as to whether they want to adopt this policy. At present only a few counties have changed to the employer payment policy which has been allowed for forty years, but the decision should remain optional.

2. A local decision in this area would involve all parties affected through the normal local collective bargaining process. Employers as the duly elected representatives of the public, and employees through their local union or bargaining representative would be free to make a decision based on their own locally determined best interest.

3. Maintaining this option would be a further incentive for public employers to remain in or opt in to the Social Security system. Quite a few counties and other public employers have recently withdrawn or have withdrawal notifications pending. The incidence of these significantly accelerating withdrawals is likely to increase as the rates and tax ceilings are raised in future years. NACo policy, as stated in the American

County Platform "... supports efforts by Congress to improve the Social Security system so that withdrawals will be less necessary or attractive, but the option to withdraw should remain as is under current law."

4. Any loss in revenues caused by retaining the option should more than be made up by the incentive for and the increased likelihood that public employers will remain in the system.

5. The small decrease in individual retirement benefits under this option is offset by the increased take home pay which the employee receives. It is our position that public employers and employees would be in the best position to determine what is in their best interest, as is currently allowed.

6. NACo strongly supports continuity of federal policies that affect county procedures, policies, and systems, unless there are clear and overriding reasons to change. It would be expensive and time consuming for those counties which have already converted to the employer payment option to have to change back again.

7. Retaining or striking section 507 will neither save nor cripple the Social Security system. In these times of fiscal stringency, county employers and employees must be concerned with the best possible benefits and coverage for the price. The Social Security system must be made attractive and competitive with other options, which it is in increasing danger of not being.

While we understand and sympathize with the Senate Finance Committee's concern over the soundness of the Social Security system, we believe that section 507 would not be in the best interest of local decisionmaking principles for employers and employees, the likelihood of participation by public employers in the Social Security system, nor the fiscal integrity of the system itself. We would appreciate your assistance on the Senate floor in restoring this local option for public employers.

Sincerely,

BERNARD F. HILLENBRAND,
Executive Director.

GOVERNMENTAL AFFAIRS CONSULTANT,
Summerville, S.C., January 4, 1980.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: I am writing to ask you to oppose the passage of certain recommendations of the Senate Finance Committee with reference to H.R. 3236 now pending before the United States Senate (Calendar No. 438). These proposals are apparently the result of language suggested by Social Security Administration and represent yet another administrative encroachment upon private business and local government.

Present tax law enables the employer to pay both the employee and employer share of F.I.C.A. Tax. By doing this, the employer can achieve a savings of approximately three-fourths of one per cent of his gross payroll costs without any reduction of the employee's take-home pay. As a matter of fact, the employee usually enjoys a slight increase in take-home pay. All of this is possible because the employee, under existing law, is able to avoid paying FICA tax on the FICA tax itself. There may also be a very slight reduction in state and federal income tax which further benefits the employee.

Through the use of this option the employer is able to obtain other valuable economic benefits. These include a potential reduction of over 6% in workmen's compensation premiums, pension expense and other salary-based fringe costs.

The Report of the Senate Finance Committee on H.R. 3236 would remove this option by making it applicable only to domestic servants as a result of new language inserted in Section 209(f) of the Act which amends Section 3121(a)(6)(A) of the Internal Revenue Code. This change would work a severe hardship on public sector employers, farmers and private business. The Town of Summerville, for example, can save over $7,000.00 per year through use of existing provisions of the law. This equates to almost two mills of ad valorem property tax. I know of two private businesses in this area which also have the plan under active consideration. Both have less than 50 employees and stand to lose over $3,500 each if this amendment is passed.

It seems unwise to enact legislation which will deprive local governments, small business and farm employers of this option. This is particularly true when these elements of our economic structure are facing both the expense of inflation and the threat of recession. The argument has been advanced by the Committee that this change is needed to prevent potential losses of Social Security Revenue. These estimates have been based on the faulty assumption however, that *all* employers in the United States will immediately utilize this option. That assumption is ridiculous. Many employers are too small to gain significant benefit from this alternative. Many others would fail to use the idea simply because of a lack of awareness. Finally, others would reject this option solely on the basis of its complexity. Furthermore, any small decrease in FICA Revenue which might occur would be easily offset by the stiff rate and ceiling increases scheduled over the next several years. In short, the proposed change to the present law seems unnecessary, unjustified and, in view of present economic conditions, ill-advised.

I hope it will be possible to eliminate the change entirely. If that is not possible, however, perhaps the amendment could be modified so as to exclude the public sector, small business and farmers from the proposed limitations. Another option, although not a particularly desirable one, would be to provide some type of grandfather clause to protect those who implement the system during the next several years.

It is essential that the present proposal be stopped or at least modified. I urge you to voice your opposition to this act and to actively solicit the support of your colleagues in opposing this measure.

Thank you for your interest and your help.

Sincerely,

JOHN F. WILBANKS.

DECEMBER 6, 1979.

Hon. SENATOR STROM THURMOND,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: This letter is to express my personal concern in regards to imminent action, by the Senate, on H.R. 3236.

As Mayor of the City of Union, and as President of the Municipal Association of South Carolina, I am particularly opposed to Section 507 of that Bill.

Those municipalities, and business employers who practice sound fiscal management, and who have taken advantage of provisions of the Social Security Act which have existed for forty years, would be severely penalized for their efficiency if this Bill is passed with Section 507.

The only acceptable alternative, to me, would be to include Senator Helms' amendment which provides for a "Grandfather Clause" protecting those who now use the FICA tax option, and a time-phased (several years) elimination of the option.

I hope that you will consider my opinion in your deliberations on this Bill.

Most sincerely,

JAMES W. BLACKWOOD, Sr.,
Mayor.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Washington, D.C., January 25, 1980.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
Washington, D.C.

DEAR SENATOR LONG: Section 507 of H.R. 3236, which the Senate is presently considering, would remove the approximately 6 percent tax saving that accrues to an employer who pays the FICA tax for his employees. The County of Los Angeles, and the National Association of Counties oppose this provision, which would eliminate an option which has been available to employers for 40 years, and which has become increasingly important to county governments. Not only does the present law permit a saving which is important to counties, and their taxpayers, during a period of fiscal stringency, but it provides an incentive for counties to remain with the Social Security system rather than set up their own retirement plans. As you are aware, withdrawal of governments at all levels from Social Security has been increasing in recent years, and this poses a major problem for the system.

To underline the importance of retaining the present law to counties, I would like to cite actual cases. Santa Clara County, California, is presently paying the FICA tax on behalf of its employees. It adopted this approach in 1978, in the wake of Proposition 13. This county has 9,800 employees, who had an average salary in 1978 of $15,000 per year. It was not in a position to grant a wage increase, for fringe benefits and other costs would have risen proportionately. By keeping salaries and picking up the FICA tax payment the employee would normally have made, in lieu of a wage increase, this county was able to increase its employee takehome pay by 7 percent. Part of this increase came from the tax saving of $112 per employee that the county achieved by paying the entire FICA tax. The total saving for 9,800 employees amounted to $1.1 million in 1978.

Our County is not presently paying FICA taxes on behalf of its employees, but is well along in its evaluation of the advantages of conversion to this option. Los Angeles County is a large employer, and estimates its savings would be $9 million a year, or $25,000 a day, from conversion.

Clearly, these tax savings are important to county governments. Moreover, they are important to the Social Security System itself, for they tend to bind our counties to the system and provide a disincentive to withdrawal. Section 507 is a pennywise and poundfoolish provision, for the system would lose far more from withdrawals than it would save by eliminating the present tax saving. According to Social Security Administration data, a total of 28 counties with 26,113 employees has voluntarily terminated their relationship with the system as of September 30, 1979. A reflection of the accelerating rate of withdrawal is the fact that the number of employees represented by state and local governments pending withdrawal today is almost equal to the total that have withdrawn in the last twenty years.

A recent study by Martha Derthick of the Brookings Institution shows that a worker who came under Social Security in 1937 and paid the maximum tax for the next thirty years would have paid a total of only $2,637.60 if he retired at the end of 1967. By comparison, a worker who entered in 1968 and pays at the maximum rate will have paid $27,512.25 after only 20 years, assuming that scheduled increases in the tax rate and wage base are not changed. Increasingly, county governments are considering whether they can do better by investing such a large sum in a private pension plan, or whether they can achieve an earnings replacement rate at least as good as Social Security at lower cost by some other means. County governments have an obligation to ther taxpayers and employees to explore such alternatives.

It is in the long-term interest of the Social Security system, therefore, to allow such a modest tax incentive as that which Section 507 would repeal, to continue. It is sometimes implied by the proponents of Section 507 that the system is being harmed by the drain of the tax saving on the OASDI trust fund. But this is simply not the case, for while it is true that tax payments are somewhat lower, employee wage credits and therefore benefit payments are also lower. This is because by law, FICA tax payments made by an employer on behalf of an employee are excluded from the definition of "wages" for FICA purposes. The employee receives a somewhat lower retirement benefit, but this is offset by the increased take-home pay he receives in the near term.

In conclusion, Senator, I would like to strongly urge you to co-sponsor and support the amendments offered by Senators Thurmond and Helms to either strike Section 507, or exempt State and local governments and other public entities from its provisions. Please vote for the Helms-Thurmond amendments when they are offered on the Senate floor.

Sincerely yours,

JOSEPH M. POLLARD,
Legislative Coordinator.

BOARD OF CHOSEN FREEHOLDERS,
Mount Holly, N.J., January 24, 1980.

Attention Paul Suplizio, Washington Representative.

DEAR MR. SUPLIZIO: Enclosed is a certified copy of Resolution No. 43 which was adopted by the Burlington County Board of Chosen Freeholders at their meeting held Wednesday, January 23, 1980, which is self-explanatory.

Sincerely yours,

CHARLES T. JULIANA,
Clerk/Administrator.

Enclosure.

RESOLUTION

Whereas, under the United States Social Security Act of 1939 there is a provision which permits employers to pay the entire Social Security tax for employees and thereby receive a small tax saving when they do so; and

Whereas, this provision of the Social Security Act has been in effect for forty years and provides legitimate incentives for cost reduction in a time when government and all employers are using every effort to fight inflation; and

Whereas, there is an Amendment pending in the Congress to make this employer option economically unattractive by expanding the definition of employe income to include any portion of the employe tax liability paid by the employer; and

Whereas, such an Amendment would increase the strain on the budgets of State and local governments and in general would hurt the Nation's small businessmen and farmers; and

Whereas, there is an organization which has been formed known as Coalition to Save our FICA Taxes located at Suite 310, 5001 Seminary Road, Alexandria, Virginia 22311; and

Whereas, this organization has organized a national campaign to notify the respective Senatorial and Congressional Delegations urging them to support the employer's Social Security option which is now under attack; now, therefore, be it

Resolved by the Board of Chosen Freeholders of the County of Burlington that this Board supports the employer's option to pay the entire Social Security tax for employees under the Social Security Act of 1939 and supports efforts to prevent the repeal or the alteration of such Amendment; and, be it

Further resolved that it is urged that all residents of the County of Burlington write their United States Senators and Members of Congress from their districts urging them to support efforts to preserve this employer's option; and, be it

Further resolved that copies of this Resolution be forwarded to the United States Senators of the State of New Jersey, members of the Congressional Delegation for Burlington County and the Coalition to Save our FICA Taxes.

Mr. THURMOND. Mr. President, the opponents of our amendment will no doubt attempt to convince the Senate that allowing this FICA tax option to continue will hasten the demise of the social security trust fund. Let me assure other Senators that bankrupting the trust fund is certainly not our goal. To the contrary, if we were convinced that the committee's recommendation was absolutely necessary to save the social security system, or avoid further tax increases, we would probably support their efforts. However, in their zeal to "save social security," the committee has overlooked a far greater threat to this program—that of voluntary terminations by the non-Federal public sector and other employers for whom participation in the system is optional.

Increasingly, municipalities, counties and States are finding social security to be a poor economic choice as far as a retirement program for their employees, and they are filing to withdraw from the system. Recent data from the Social Security Administration reveal that the number of applications for withdrawal within the next 2 years is nearly one-third the number of employers who voluntarily terminated in the prior 20 years. Even more telling is the fact that the number of employees represented by State and local governments pending withdrawal today is almost equal to the total that have withdrawn in the last 20 years. Mr. President, I ask unanimous consent that several tables prepared by the Social Security Administration that summarize the status of voluntary terminations be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COALITION TO SAVE OUR FICA TAXES,
Alexandria, Va., January 29, 1980.

DEAR SENATOR: We would like to bring to your attention the attached information, provided by the Social Security Administration, which documents public sector withdrawals from the Social Security system. As you know public sector entities participate voluntarily in social security.

A reflection of the accelerating rate of withdrawal is the fact that the number of employees represented by state and local governments pending withdrawal today is almost equal to the total number of employees withdrawing in the last twenty years.

State and local governments are increasingly asking whether they can do better by investing the funds contributed to Social Security in a private pension plan, or whether they can achieve an earnings replacement rate at least as good as social security at lower cost by some other means.

In recent letters to the Senate both the National Association of Counties and the County of Los Angeles have strongly supported retention of the local option for public employers to pay their employees share of social security taxes, as an incentive for these employers to remain in or opted into the Social Security system.

The cost of this incentive is far less than the potential revenue loss from withdrawal. For example, the revenue loss if the state of Texas were to withdraw its 160,000 employees (most of whom would be fully vested by Social Security benefits) would be one hundred and fifty to two hundred million dollars a year. On the other hand, the tax savings to the state for paying its employees FICA tax is about fifteen million dollars a year. Section 507 of H.R. 3236, which would remove this incentive is therefore a penny-wise and poundfoolish measure.

We urge you to support removal of Section 507 from H.R. 3236 when the bill is considered on the Senate floor.

Sincerely,

PAUL SUPLIZIO,
Washington Representative.

SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., November 30, 1979.

Mr. E. MITCHELL JOHNSON,
Management Improvement Corp. of America, Durham, N.C.

DEAR MR. JOHNSON: Social security coverage is voluntary for both tax-exempt organizations and state and local entities. I am enclosing a list of all state and local entities that have filed with the Social Security Administration to terminate their social security coverage. A Voluntary Termination Summary, which is also enclosed, summarizes the statistics in the list. Some of the effective dates of termination on the enclosed list are in the future because a notice of intent to terminate must be filed at least 2 years in advance of the desired termination date.

The list is annotated to show those entities that have withdrawn their notice of intent to terminate. The Office of Insurance Programs has advised me that they began to show withdrawals of notice to terminate about three years ago. Before that time, the list was purged periodically. Therefore, not all of the 157 state and local entities that have filed to terminate and have then withdrawn their notice to terminate are shown.

I am unable to furnish you with a list of tax-exempt organizations that have filed to terminate their social security coverage. Although the Freedom of Information Act requires a Federal agency to make its records available to the public, the act exempts certain classes of records from this requirement. One exemption pertains to matters that are specifically exempt from disclosure by statute.

A tax-exempt organization's formal request to terminate social security coverage is originally filed with the Internal Revenue Service. Information relating to this type of request is considered to be tax return information as defined by the Tax Reform Act of 1976 (26 U.S.C. 6103). Therefore, under the circumstances of your request, 26 U.S.C. 6103(a) precludes us from disclosing this information to you.

If you do not agree with this decision, you may request that it be reviewed. Any appeal should be mailed within 30 days of receipt of this letter to the Deputy Commissioner for Programs, 6401 Security Boulevard, Baltimore, Maryland 21235. Please mark the envelope "Freedom of Information Appeal."

Sincerely,

PAUL A. SCHUETTE,
Director, Office of Information.

Enclosures.

VOLUNTARY TERMINATION SUMMARY AS OF SEPTEMBER 30, 1979

Total requested to date (withdrawals not included—896 entities)

1. Entities already terminated (September 1959–June 1979)—674

2. Entities pending termination (September 1979–December 1981)—222

3. Approximately 25 percent of all requests have been received within the last 2 years.

Terminations through September 1979 involved approximately 111,988 employees.

Pending terminations involve approximately 98,118 employees.

Terminations—Three most active States: California, Louisiana, and Texas (81 percent of all entities terminated).

Terminations pending—Three most active States: California, Georgia, and Texas (62 percent of all entities pending termination).

Based on percentage of each State's total political subdivisions (entities) that are pending termination, Georgia and Louisiana are the most active:

State	Active political subdivisions pending termination	Percent of the State's total active political subdivisions
Texas	47	2.6
California	54	2.2
Louisiana	12	2.6
Georgia	40	3.8

VOLUNTARY TERMINATIONS—SEPTEMBER 1959–SEPTEMBER 1979

State	Number of entities terminated	Approximate number of employees
Alaska	1	45
California	257	37,124
Colorado	18	876
Delaware	1	1
Georgia	14	12,349
Illinois	1	1
Indiana	11	20
Kansas	2	67
Kentucky	3	54
Louisiana	195	45,246
Maine	9	692
Maryland	1	5
Massachusetts	1	10
Michigan	1	3
Missouri	8	34
Nebraska	2	18
Nevada	8	239
New Mexico	2	297
North Carolina	1	20
North Dakota	2	28
Oklahoma	2	19
Tennessee	7	150
Texas	95	12,578
Utah	1	1

VOLUNTARY TERMINATIONS—SEPTEMBER 1959–SEPTEMBER 1979

State	Number of entities terminated	Approximate number of employees
Washington	30	2,040
Interstate instrumentalities	1	71
	674	111,988

VOLUNTARY TERMINATIONS PENDING—SEPTEMBER 1979–DECEMBER 1981 AS OF SEPTEMBER 30, 1979

State	Number of entities	Approximate number of employees
Alaska	11	17,156
Arizona	1	75
Arkansas	1	132
California	53	12,802
Colorado	8	1,275
Florida	3	1,386
Georgia	38	17,338
Kansas	2	2,707
Louisiana	12	9,000
Maine	5	65
Maryland	1	4,237
Michigan	4	413
Mississippi	2	476
Missouri	10	5,405
Nevada	3	46
Oklahoma	10	528
Pennsylvania	1	19
Texas	47	23,636
Utah	4	977
Washington	5	439
Interstate instrumentality	1	6
	222	98,118

Mr. THURMOND. The point is, Mr. President, that the "employer pay option" is not a real threat to the social security system. Increasing voluntary terminations, however, could bring about the demise of the system in short order, and this option provides a substantial incentive for these State and local governments to stay in the system. Depriving this category of employers of a legitimate cost savings tool will only compound the problems facing the trust fund.

THE NOT-FOR-PROFIT SECTOR

Finally, Mr. President, our amendment will permit nonprofit institutions and organizations to continue to have a FICA tax option without penalty. Not-for-profit organizations (under section 501 of the Internal Revenue Code) are literally being crushed by growing FICA taxation. Because these entities pay no income tax, they cannot offset higher FICA taxes against income, thus reducing the amount of income tax payable, as a private business would. These entities pay no income tax, and, therefore, FICA tax increases hit them doubly hard. At one major university, FICA tax payments have increased by 250 percent since 1974.

For tuition to be prohibitively high, for a little less cancer research to be performed, for an emergency room to be understaffed, for a youth organization to have to operate without a program director, for a museum to close, or for a church to curtail its outreach program, ought not to be allowed to occur due to an unnecessary FICA tax increase.

Mr. President, the American Hospital Association, which represents some 6,100 institutions, has circulated a letter to each Senator, stating that they believe section 507 "would substantially increase hospital personnel costs" and be "contrary to the objectives of the voluntary effort to contain health care costs." I ask unanimous consent that the full text of this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN HOSPITAL ASSOCIATION,
Washington, D.C., January 29, 1980.

DEAR SENATOR: The Senate will soon consider H.R. 3236, a bill to amend the Social Security Act with regard to disability insurance programs, as reported by the Finance Committee, which added Section 507 to the bill. Section 507 would eliminate the option that employers have had since the inception of the Social Security program to achieve savings by paying the employees' share of the FICA tax liability.

Current law enables hospitals, including many financially troubled institutions, to achieve significant savings by exercising this option. For example, a hospital with 500 employees can potentially save about $500,000 over a ten-year period. Such savings, in turn, are passed on to all purchasers of hospital care, including the Medicare and Medicaid programs.

Our Association, which represents 6,100 institutions, believes that Section 507 would substantially increase hospital personnel costs, which comprise an average of over 50 percent of hospital expenses. Under the section's provisions, many hospitals would be faced with significant increases in their charges. Therefore, we believe that Section 507 is contrary to the objectives of the Voluntary Effort to contain health care costs and is inconsistent with federal policy to promote cost containment in the health care delivery system. It is our firm view that the section should not be enacted.

We therefore urge that you support an amendment to strike Section 507, or—in the event such an amendment is not offered—to vote in favor of an amendment sponsored by Senators Thurmond, Helms, and Armstrong to exempt certain nonprofit organizations, including hospitals, from the provisions of Section 507.

Sincerely,

LEO J. GEHRIG, M.D.,
Senior Vice President.

CONCLUSION

Mr. THURMOND. In summary, Mr. President, our amendment takes note of special problems which section 507 will create for small business concerns, State and local governments, and nonprofit entities. None of these groups have had an adequate opportunity to state their case in either Senate or House hearings, and the House has not even considered this issue. All three groups have serious concerns with this section of the bill. At a time when there is a growing feeling that something must be done to relieve the increasingly heavy FICA tax burden, it simply makes no sense to deprive these employers of a perfectly legitimate cost savings procedure. Mr. President, I urge the Senate to adopt this amendment.

Mr. HELMS. Mr. President, will the Senator yield some time to me?

Mr. THURMOND. I am pleased to yield to the able and distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. President, I am pleased to join with the distinguished Senator from South Carolina in cosponsoring this amendment.

Overall, I am mindful of the improvements H.R. 3236 will bring about in administering the social security system—which is constantly beset with problems.

However, I confess I do have concerns about section 507 of the bill, which is why I am delighted to join the distinguished Senator from South Carolina in the sponsorship of his amendment.

As the Senator said, section 507 modifies the provisions of the existing law so that after 1980 any amounts of employee social security taxes paid by an employer will be considered to constitute wages and will, therefore, be subject to social security taxation.

This provision would, as the Senator has eloquently stated, effectively preclude employers from paying FICA taxes on behalf of their employees.

Small business employers, farmers, State and local governments, and private nonprofit organizations have found it beneficial to pay their workers' share of the social security tax. This procedure is obviously helpful to the employers. Especially among farmers, there is reason to believe that a significant number have traditionally assumed the entire FICA tax liability as a matter of convenience and simplicity. For all of these employers, section 507 of this bill inevitably will result in an additional social security tax increase because it expands the term "wages" to include employee FICA tax paid by the employer.

The Thurmond-Helms-Armstrong amendment simply expands the categories of employers in section 507 that would be permitted to maintain the option of paying their employees' FICA taxes. The exempt employers are, in addition to domestic servants, as follows: Small business, as defined in the Small Business Act; State or political subdivisions thereof; and private nonprofit organizations.

As one might expect, Mr. President, this amendment has the endorsement of a countless number of small businesses across the country. The amendment is supported by the American Hospital Association. At its 1980 annual meeting, the American Farm Bureau Federation adopted a resolution stating that employers who choose to pay the employees' share of the FICA tax should be allowed to do so without that portion being considered additional income to the employee. And, the National Association of Counties has also endorsed the amendment.

Both the State of North Carolina—which is currently studying the feasibility of the so-called FICA II system—and the North Carolina League of Municipalities have contacted me to express their opposition to section 507 and to offer their support for the Thurmond amendment.

The concerns of all of these affected groups are certainly legitimate and worthy of our consideration. I have concluded, therefore, that the full impact of section 507 ought to be studied further by the Finance Committee which—I understand—did not hold hearings on the subject. After all, why should we not provide the farmers, the small businessmen, State and local governments, hospitals and other nonprofit organizations an opportunity to be heard on this issue? It is only fair.

I have already introduced an amendment that would delete section 507 altogether and I intend to call up this amendment No. 1442 if, for whatever reason, the Thurmond amendment is not agreed to. I might add at this point that I believe Senator THURMOND might be willing to consider laying aside his amendment if the managers of the bill would indicate their willingness to delete section 507 in order to give this issue further consideration. Unless the managers are willing to do this, then I feel that the Senate has no choice but to vote to include the additional exemptions as provided by Senator THURMOND's amendment.

At any rate, I strongly urge my friend from Louisiana, the distinguished chairman, and other members of the committee to take another look at this controversial provision. It should be noted this particular section has not passed the House of Representatives. To my knowledge, it has not been considered in the other body.

The entire matter of social security funding undoubtedly is going to be reexamined in light of current reports indicating that the trust fund is once again confronting an uncertain financial picture. Surely the concerns of the committee, the Social Security Administration, and the affected taxpayers with regard to section 507 could be more fully addressed in the context of an overall study of social security system funding.

A factual assessment of the issues raised by employer payment of FICA taxes on behalf of employees ought to evaluate the following two main points:

First. What will be the impact on social security trust funds and employee benefits if the alternative method of paying the FICA tax is retained for various categories of employers? (The frequently cited figure of $6.5 billion potential loss to the trust funds is based upon the extreme example of all employers in the country shifting to the alternative method of paying the tax. Compared to this figure, the loss projected by the Finance Committee—$30 million next year—is negligible. Of course, the Thurmond amendment would not permit all employers to use the alternative payment method. At any rate, what the figure would realistically be expected to be at different points in the future is not provided. Yet, such information is crucial to legislating in this area. Another glaring omission is the net effect on the trust funds due to the reduction in future benefit liabilities.)

Second. Will removal of the alternative payment incentive contribute to further withdrawals from the system, which have increased at an alarming rate in recent years? (A reflection of the accelerating rate of withdrawal is the fact that the number of employees represented by State and local governments pending withdrawal today is almost equal to the total number of employees withdrawing in the last 20 years. State and local governments are increasingly asking whether they can do better by investing the funds contributed to social security in a private pension plan, or whether they can achieve an earnings replacement rate at least as good as social security at lower cost by some other means. In recent letters to the Senate both the National Association of Counties and the County of Los Angeles have strongly supported retention of the local option for public employers to pay their employees share of social security taxes, as an incentive for these employers to remain in or opted into the social security system.)

Mr. President, I want to emphasize again my belief that passage of section 507 will work a hardship on public sector employers, farmers, and small businessmen. And it seems unwise to this Senator to deprive local governments, small business and farm employers of this alternative FICA option without first examining the issue in more detail.

It may be that the distinguished Senator from South Carolina would be willing to lay aside his amendment in order to have a vote on amendment No. 1442, but we will discuss that a little later on.

I believe Senator THURMOND is exactly right in the points he has made with reference to the impact section 507 would have.

I have suggested privately to my friend from Louisiana that it may be the course of wisdom to do as my amendment No. 1442 suggests, to strike the provision, take a look at it, and study the impact.

I am not certain how much consideration was given the impact by the committee. Certainly, it would do no harm to let the various affected parties come in and make the committee aware of it.

I offer this amendment not in criticism of the distinguished chairman. I do so in constructive good faith. I hope he will consider it.

I ask the Senator from South Carolina if he would be interested in laying aside his amendment temporarily, at least, so that amendment No. 1442 might be considered by the Senate.

Mr. THURMOND. Mr. President, in response to the able Senator from North

Carolina, I would be willing to lay aside my amendment temporarily in order that the Senator from North Carolina might have a vote on his amendment to eliminate the entire section 507.

Mr. HELMS. Exactly.

Mr. THURMOND. My amendment applies only to the three fields I mentioned—the three fields of small business, State and local governments, and nonprofit entities.

I feel that it would be preferable, however, if the entire section 507 were eliminated. I understand that hearings will be held next month by the Finance Committee on the financing of the social security system. They could take up the entire matter.

I think that if we would eliminate the entire section 507 at this time, it would be the best procedure, in view of the fact that the Finance Committee is going to hold these hearings next month on the financing of the social security system.

Mr. President, I ask unanimous consent that my amendment be laid aside temporarily, until the distinguished Senator from North Carolina can get a vote on eliminating section 507 in its entirety.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. I thank the able Senator.

AMENDMENT NO. 1442

(Purpose: To retain the rights of employers to pay certain FICA taxes for employees)

Mr. HELMS. Mr. President, I call up amendment No. 1442.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 1442.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 106, strike lines 7 through 24.

Mr. HELMS. Mr. President, I really have nothing further to say.

I ask unanimous consent that the names of Senator THURMOND, Senator ARMSTRONG, and Senator HATCH be added as cosponsors of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, if I may, I should like to bounce the ball to the distinguished Senator from Louisiana and the distinguished Senator from Louisiana and the distinguished Senator from Kansas, who are the managers of this bill.

Mr. LONG. Mr. President, as they say in Kentucky, a difference of opinion is what makes horseracing.

I cannot agree with this amendment. I heard our good friend from South Carolina say that the Finance Committee should consider this amendment in connection with a bill to finance the social security program. Mr. President, this amendment is not here to finance the social security program. This amendment is here to keep the system from going broke.

Some years ago, someone found what we regard as a loophole in the law. It is there, and I am not criticizing anybody for taking advantage of a provision of the tax law. They have every right to do it; and so far as I am concerned, more power to them.

There are a lot of good tax lawyers in this country and a lot of successful accounting firms which are getting rich, and that is the free-enterprise system. They have found a way to save somebody some money in taxes, and they get rich at it.

This firm, a very good firm, I am sure, operating in North Carolina, the Management Improvement Corp. of America, has a very fine officer named Jane L. Martin, who has been very active and successful in promoting this approach to social security taxes.

I hold here a copy of a copyrighted publication by that group, entitled "Payroll Tax Alternative Using FICA II." I will read one or two sentences from it:

> For example, with a $10 million payroll under the FICA-taxable base of $22,900 in 1979, the employer savings will be $75,000 in the first year alone. And this annual savings will almost triple over the next eight years under the present law. Clearly, employers can substantially reduce their payroll costs.

Mr. President, there is no doubt about it. Ms. Jane L. Martin is adivising these people correctly, in this copyrighted publication the firm is sending out, that if they will do what this firm is advising them to do—the Management Improvement Corp. of America and its associates—then a company with a $10 million payroll would save $75,000 in the first year, and further on down the road, they would save three times that much. They would save a quarter of a million dollars by taking advantage of this loophole. I call it a loophole because it is something that Congress never intended. We never intended to leave the employers the option to reduce their social security taxes by 5 percent, just by the way they go about paying the tax.

This is what it amounts to using round numbers: Let us assume that the employee part of the tax would be $1,000. Let us assume he is making about $20,000 a year. So the employer says, "Instead of paying you $20,000, I'll pay you $19,000, and I'll pay that tax for you." So the employee gets exactly the same amount of money he was getting before, but the employee's social security tax has been reduced and the employer's social security tax has been reduced by about 6 percent of that $1,000. They have each saved about $60 a year, by making that deal.

Mr. President, right now, not many people are doing this. My good friend from South Carolina said that this is going to hurt farmers and small business. Our estimate is that by closing this loophole, in the first fiscal year in which it is applied, only $30 million is involved, in a big country like this, with more than 200 million people. So one can see that not many people are taking advantage of it yet. But anybody has the right to do it. Individual employers can do it; corporations can do it; just anybody can do it. If everybody did it, it would cost the social security fund $6.5 billion a year.

We are in danger of going broke the way it is now. That is with the $6.5 billion coming into the fund. If we let everybody take advantage of this—and here is the Management Improvement Corp. of America spreading these good publications around, and there is no doubt they are right about it—one wonders what is the matter with the employers if they do not go along with this.

The first year, anybody who has a $10 million payroll saves $75,000; and a few years down the road, he saves a quarter of a million bucks. If you have some old-fashioned firm that is doing business the way Congress intended business should be done, they had better be fired and the Management Improvement Corp. of America hired. Those folks will save you a quarter of a million dollars just because they are smart. They figured out this loophole.

Of course, the other firms are not going to go broke. They will adopt the same idea. H. & R. Block is not that bad. They have the ability to read. Even though that publication might be copyrighted, I know from my studies in law that you cannot copyright an idea. So H. & R. Block will get into it, and everybody will get into it, unless we change this law. It will cost us $6.5 billion a year.

I see the Senator from Wisconsin in the Chamber. He and I have had some differences about whether we should go into the general fund to finance social security with the income tax money rather than finance it by the payroll tax, the way we have done up to this point.

If we do not do something about this loophole, it makes no difference what we do—we are not going to finance social security.

All these working people are paying in their money and they are being told about all the social security benefits they will get; but if we do not close this loophole, at the time they become 65 the social security system will not have enough money to pay out all the benefits they are entitled to.

This is a small drain on the Treasury at this point, a very small drain, involving less than $30 million. But this thing will grow by leaps and bounds if we do not plug the loophole. It is different from some other tax loopholes with which we have been involved. I fail to see any redeeming social grace in this one.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. NELSON. The Senator is making a very good speech. I have an appointment for a few minutes, and I will return as soon as I leave that meeting. I just want to reinforce something the Senator has said, if he will yield to me for that purpose.

Mr. LONG. I yield the Senator from Wisconsin such time as he may require.

Mr. NELSON. I say to the distinguished Senator from North Carolina that, on the issue itself, I suppose I would disagree. I am not convinced that it is a good principle to adopt. I think it is not a good one.

However, the problem is that we have not had hearings. I say to the distinguished chairman, as chairman of the Social Security Subcommittee of the Finance Committee, that I had the dubious political honor—it was a great responsibility and a great honor, but it was a dubious political honor—to manage the social security tax increases on the floor of the Senate in 1977.

I have not gotten any letters of congratulation yet, and that was 3 years ago.

I say to the chairman and to the distinguished Senators from North Carolina and South Carolina that I would be perfectly happy to have a hearing on this issue. I am going to have a hearing in February anyway on the status of the fund and some other items.

The reason I say that is that because of the inflation, which was not anticipated by the actuaries, the fund is in a serious problem which we hope is temporary, and will be if the inflation comes down.

But the fact is that as of January 1, the OASI fund had only 23 percent of annual payout on hand.

We took the position in the Finance Committee, and Congress has for years, that the fund should not be allowed to get below 75 percent of the annual payout on hand, starting the fiscal year, nor in excess of 150 percent of payout. This year it is down to 23 percent. That is a very risky place for it to be. The next year it will be 14 percent, the next year 6 percent, the next year 83 percent. We start with zero based upon projections by the administration, which I will say quite honestly to Senators I believe are a bit on the optimistic side.

So anything that takes any dollars out of the fund in any way poses a very serious problem.

I think that we can meet the transition and go on through 1985; but what happened, as I think the Senator knows, is that when we levied the increases in the base, and when we increased the tax, we based our assumptions about the fund and the assumptions made by the actuaries who anticipated about—I have forgotten exactly—a 5-percent, I believe, inflation rate or thereabouts, and it has gone up above 10, and as it goes above 10, that increases the benefits for the retirees who are tied into the social security system, as the Senator knows.

So, I think it would be a very dangerous thing to do, a very dangerous threat to the fund, to allow this to continue because, as Mr. Driver, the Commissioner, in a letter written to me the other day, says it would cost the fund a huge amount of money; yes, $6.5 billion if everyone adopts. Even if only half the people adopt it, we are talking about a cost to the fund, a loss of $3.2 billion.

I do not know of anyone in this body, or the other body, who would want to face the proposition of levying tax to meet the anticipated cost to the fund.

If someone will come to the Chamber with a proposal to raise the $6 billion so that 3 years further down the line we are sure this is paid for, I will honor the Senator, I will praise the Senator, and vote against the proposition, because I do not think with a tax increase going into effect in January of this year, a tax increase in January, 1981, and a tax increase automatic in 1985, any of us really is prepared to increase that tax.

But we will be stuck to do it if we add any more expenses to this fund.

So I think it is an important point that the Senators from South Carolina and North Carolina raised, and I think it is a valid point to have hearings on. I will be glad to do that, but I simply hope that we will not adopt it in the Chamber. That is all.

Mr. LONG. Mr. President, if I understand what the Senator is saying, he does not mean we should strike the committee amendment out of the bill, does he?

Mr. NELSON. No. I am hoping we will leave the bill as is.

Mr. LONG. Yes.

Mr. NELSON. Leave the bill as is, and I am prepared to take testimony if it is desired on the proposition, but to amend the bill now exposes us to a potential deficit loss of $6.4 billion, and I do not know where we are going to get the money. I do not know what we are going to do about the money to meet the outgo in 1983 when there will be zero left in the OASI. You can borrow from the DI, and you can borrow from the HI because they will have some money in them. I was going to put the amendment in here to borrow. But it was said, no, do not borrow from any one of these funds. So they cannot get any agreement on that.

So I just hope that the Senators from South Carolina and North Carolina will bring the matter to my subcommittee, and we will be happy to give it the hearing.

Mr. President, I ask unanimous consent that the letter from the Commissioner of Social Security, Mr. Driver, be printed in the appropriate place in the Record, and, also, I ask unanimous consent that the status of the trust funds, as projected by the administration, be printed in the Record so that it will show the status of these funds and the necessity for getting more money into the fund, not adding any burden to them.

There being no objection, the material was ordered to be printed in the Record, as follows:

Social Security Administration,
Washington, D.C.

Hon. Gaylord Nelson,
Chairman, Subcommittee on Social Security, Committee on Finance, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I would like to provide the Administration's position on certain amendments that we understand may be proposed when H.R. 3236 is considered by the full Senate.

A Senate Finance Committee amendment to H.R. 3236 (Section 507) would largely eliminate the provision on the social security law which excludes any employer payment of an employee share of social security taxes from the definition of wages for social security taxing and benefit purposes. The Committee amendment would limit use of this provision to employers of domestics, effective after 1980.

The Administration supports the Senate Finance Committee amendment because it would eliminate a loophole in current law which reduces revenues to the social security trust funds and decreases the employee's social security protection. When an employer pays the employee share of social security tax, the amount of compensation subject to social security taxes is lower than it would be if the employee paid his or her share, and the combined employer and employee taxes are lower. While we do not know how many employers are paying their employee's social security taxes, we do know there is widespread interest in the practice. The potential loss to the social security trust funds is a matter of grave concern. For example, if all employers had used the loophole in 1979, the loss to the social security trust funds would have been $6.5 billion.

Payments of an employee's social security taxes can impair the employee's future benefits. While the employer saves money, the amount of the employee's earnings covered by the social security is lowered and future social security benefits decreased. Further, the reduction in the employee's earnings will result in reduced benefits under other employee benefit plans related to earnings, such as pension plans and profit-sharing plans. The net effect in many cases is that employers save money at the expense of their employees and the social security trust funds.

The proposed amendments involve striking the Committee amendment, exempting particular groups of employees or employers from the effect of the Committee provision, and delaying the effective date. The Administration strongly objects to any amendments that would strike the Senate Finance Committee amendment or modify its effect by exempting any category of employees or employers other than domestic employees. Continuing the exclusion for domestic workers is intended to encourage domestics and their employers to comply with social security reporting requirements. Compliance with reporting requirements for domestic employees is often lax, primarily because of the small amounts of wages that are involved in domestic employment. Removing the exclusion for domestic employees could result in a situation where many domestic employees would have no social security coverage at all, because no wages would be reported. We do not believe that a similar situation exists for other categories of employees or employers and are concerned that additional exclusions will undermine the intent of the Committee amendment and leave a loophole in the social security law to the detriment of employees and the social security trust funds. The result of leaving a loophole in the law could be an increase in social security tax rates for everyone in order to offset the loss to the social security program.

The Administration is sympathetic to the fact that many employers who are already making use of the present law provision could need a period of time to comply with the change in the law. Therefore, we would not oppose an amendment providing a "phase-out" period for those employers who are already using this provision. We will be glad to assist in working out any details of a "phase-out" amendment.

Sincerely,

William J. Driver,
Commissioner of Social Security.

STATUS OF SOCIAL SECURITY TRUST FUND RESERVES

Calendar year [1]	OASI [2]	DI [3]	HI [4]	OASDHI [5]	OASDI [6]
1980	23	35	54	29	24
1981	14	43	55	24	18
1982	6	58	72	22	12
1983	0	76	88	21	8
1984		96	102	21	5
1985		117	113	23	3

[1] Start of year balance.
[2] Old age and survivors insurance trust fund.
[3] Disability insurance trust fund.
[4] Health insurance trust fund.
[5] Combined OASI, DI, and HI trust funds.
[6] Combined OASI and DI trust funds.

Mr. NELSON. I thank the Senator. I know I interrupted his dialog. I do have a meeting to get to at lunch, but I will try to get back here if there is anything further.

Mr. LONG and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Louisiana.

Mr. LONG. Mr. President, the proposal of the Finance Committee to close this loophole does not go into effect until January of next year. I will be glad to hear witnesses talk about the matter, if they want to, between now and then. But it is the point of view of the committee that this is a loophole that is going to grow very rapidly as more and more employers take advantage of it.

It has a potential revenue loss to the social security fund of $6.5 billion a year. We should close it off just as rapidly as we can, consistent with appropriate considerations.

But, from the point of view of the administration, it is a loophole that should be closed immediately. From the point of view of the Finance Committee, it is a loophole that should be closed immediately.

I hope that the House of Representatives will look at it the same way.

Of course, Senators have made some good speeches for their side of the argument; but I am not convinced at all. It seems to me that this is a loophole that is not costing us much right now, about $30 million a year, but it is going to cost us a great amount of money in a hurry if we do not close it.

It seems to me the sooner we do it the better off we are all going to be.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am willing to yield to the distinguished Senator from Kansas in just a moment, but I think the point should be made that it is not the small business people, the farmers, and others affected by this section, who have caused the calamity in the social security program.

As a matter of fact, over a period of 20 years or more, Congress has been rearranging the deck chairs on the *Titanic*, bringing in people and giving them coverage when there is no way that they could even approximate paying their way in the program. That is the reason the program is in a calamitous situation today.

This amendment prevents a tax increase from being imposed on the small business people of this country—and we all profess to be strongly in their support—and the farmers, the municipalities, and so forth.

Having said that, Mr. President, I yield to my friend from Kansas for any comments he may have.

Mr. DOLE. I thank the distinguished Senator from North Carolina.

I have listened to the Senator from Wisconsin, and share his view. But it seems to me, if this is not going to take effect until January of 1981, why not delete it and have the hearings? Why do we have to do it the other way around? We finally repealed the carryover basis which we stuck in the Tax Reform Act of 1976 without any hearings, but it took 4 years to undo that monster.

Why should we close off the option with section 507? Why not delete the section, have the hearings, maybe take care of at least what Senator THURMOND has been speaking about? This option has been available for 40 years, and it has not been a loophole up to now.

I cannot remember what the chairman used to say. I think it was one man's loophole is another man's incentive, or something to that effect. The option could become very costly. I agree with the Senator from Wisconsin that $6.5 billion is costly. My point is, however, that we will have almost a whole year before the provision takes effect. We are going to be having hearings on social security financing in any event. That agreement was reached last year before we adjourned. Therefore, it seems to me, we could properly decide this issue at that time.

As I understand the genesis of this, it came from the administration at the last moment. There was not much discussion on it in the committee. Maybe it is totally justified. However, since it is not effective for 11 months, I would certainly urge my colleagues to vote to support the Helms amendment, and then we can have some hearings and maybe do just what we have now in the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the figure of $6.5 billion has been mentioned. I want to say that, in my judgment, this is misleading. That figure assumes every employer in the Nation would adopt the procedure of paying employees' FICA taxes. This is simply not going to happen.

While payments into the trust funds are slightly reduced for each employer who pays the entire FICA tax, future benefit payment—that is, the contingent liabilities of the trust funds—are reduced proportionately, because employer payments do not count as employee wage credits.

Employees, in exchange for slightly lower future social security benefits, receive an immediate gain in slightly higher take-home pay, which they can spend, or invest for retirement as they choose.

I also call attention to the fact that removal of the FICA tax alternative will deprive State and local government employers, along with nonprofit entities, of a cost-savings incentive to remain in the social security system and will actually hasten withdrawals from it. The cost of this incentive is far less than the potential revenue loss from withdrawal. For example, the revenue loss if the State of Texas were to withdraw its 160,000 employees—most of whom would be fully vested in the system—would be some $150–$200 million a year. On the other hand, the tax savings from the FICA alternative is some $15 million per year. Section 507 of H.R. 3236, which would remove this incentive for staying in the system, is, therefore, a penny-wise and pound-foolish measure.

The actual revenue loss to the trust fund due to the alternative FICA tax procedure is presently "negligible," according to the Social Security Administration's own estimates and statements.

A more realistic figure of the expected future reduction in trust-fund income is shown on page 93 of the committee report. The estimates shown in this table, while only a guess, because no one knows for sure how many employers may eventually choose the alternative of paying all FICA taxes, show a decrease in annual revenues of $100 million by fiscal year 1984. That is far, far less than the $6.5 billion figure cited by the opponents of this amendment.

Mr. President, I think it only makes sense, since this will not go into effect until next year, that we strike this section 507 and leave the law as it is. We are not asking for any deductions, we are not asking for any special favors here for these groups that are covered by my amendment here, the small-business people, the State and local governments or the nonprofit entities. We are merely asking that the law be left like it is until hearings can be held. Is that not the position of the distinguished Senator from North Carolina?

Mr. HELMS. Absolutely correct.

Mr. THURMOND. If that is the case, why go in and include this section 507 in the bill before we have hearings? Let us leave it out of the bill. Keep the present law, hold the hearings, and then we we can act wisely and justly on the recommendations of the Committee on Finance as to what should be done.

Mr. President, in view of that I feel that section 507 should be stricken from the bill and remain stricken until the hearings are held, and then we can act, I think, with more expertise.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the Senator from South Carolina is absolutely correct. There are going to be a lot of local and State governments withdrawing from social security if section 507 is retained, and while I know the motivation of the committee and understand it, I do not think the committee is thinking this thing through. I urgently advise all Senators to seriously consider the impact on the social security fund that would result if section 507 is retained.

Certainly unless and until hearings are held so that the situation can be studied carefully, I believe the penny-wise and pound-foolish application is self-evident.

Mr. President, I have a copy of a letter dated January 24, 1980, written by Bernard F. Hillenbrand, executive director of the National Association of Counties. Let me just read one paragraph. He says:

> Maintaining this option would be a further incentive for public employers to remain in or opt in to the Social Security system. Quite a few counties and other public employers have recently withdrawn or have withdrawal notifications pending. The incidence of these significantly accelerating withdrawals is likely to increase as the rates and tax ceilings are raised in future years. NACo policy, as stated in the American County Platform ". . . supports efforts by Congress to improve the Social Security sys-

tem so that withdrawals will be less necessary or attractive, but the option to withdraw should remain as is under current law."

That pretty well states the intent of the local governments if this section 507 remains in the bill.

Mr. President, I ask unanimous consent that the full text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., January 24, 1980.
Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: With regard to H.R. 3236 which the Senate is presently considering, we would like to draw your attention to section 507 of the Senate version as reported out of the Finance Committee. This provision would eliminate the local option for public employers to pay the employees' share of Social Security taxes, as is presently allowed.

NACo supports retention of this option on the following grounds:

1. On general principle, NACo stands for local decision-making on issues of this nature. County governments, their elected representatives, and their employees should be allowed to exercise the option as to whether they want to adopt this policy. At present only a few counties have changed to the employer payment policy which has been allowed for forty years, but the decision should remain optional.

2. A local decision in this area would involve all parties affected through the normal local collective bargaining process. Employers as the duly elected representatives of the public, and employees through their local union or bargaining representative would be free to make a decision based on their own locally determined best interest.

3. Maintaining this option would be a further incentive for public employers to remain in or opt in to the Social Security system. Quite a few counties and other public employers have recently withdrawn or have withdrawal notifications pending. The incidence of these significantly accelerating withdrawals is likely to increase as the rates and tax ceilings are raised in future years. NACo policy, as stated in the American County Platform ". . . supports efforts by Congress to improve the Social Security system so that withdrawals will be less necessary or attractive, but the option to withdraw should remain as is under current law."

4. Any loss in revenues caused by retaining the option should more than be made up by the incentive for and the increased likelihood that public employers will remain in the system.

5. The small decrease in individual retirement benefits under this option is offset by the increased take home pay which the employee receives. It is our position that public employers and employees would be in the best position to determine what is in their best interest, as is currently allowed.

6. NACo strongly supports continuity of federal policies that affect county procedures, policies, and systems, unless there are clear and overriding reasons to change. It would be expensive and time consuming for those counties which have already converted to the employer payment option to have to change back again.

7. Retaining or striking section 507 will neither save nor cripple the Social Security system. In these times of fiscal stringency, county employers and employees must be concerned with the best possible benefits and coverage for the price. The Social Security system must be made attractive and competitive with other options, which it is in increasing danger of not being.

While we understand and sympathize with the Senate Finance Committee's concern over the soundness of the Social Security system, we believe that section 507 would not be in the best interest of local decision-making principles for employers and employees, the likelihood of participation by public employers in the Social Security system, nor the fiscal integrity of the system itself. We would appreciate your assistance on the Senate floor in restoring this local option for public employers.

Sincerely,
BERNARD F. HILLENBRAND,
Executive Director.

Mr. HELMS. I would urge not only the distinguished managers of the bill but all Senators to consider the exceedingly adverse impact this is almost certain to have if section 507 is not eliminated, certainly so long as may be necessary for the committee to study it carefully.

For that reason, Mr. President, I would want the Senate to vote on this question. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I now yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I just want to underscore the point the Senator made again, and it seems to me that we are not going to make any final decision, in any event, today.

Mr. HELMS. Correct.

Mr. DOLE. That is going to be a year away. It just seems to me the better part of procedure is to have the hearings before you make the decision. Now you are going to get the verdict before the trial.

Mr. HELMS. Right.

Mr. DOLE. You are going to get hung today and you have not even had a hearing. Once you get the weight of the bureaucracy behind this, once they win—which they will if this provision is not deleted—you may as well not have any hearings. You are not going to win. You would have a slim chance of changing it once section 507 becomes law.

It seems to this Senator, just as a matter of equity, without any discussion of the merits of what you would like to do eventually, that we ought to strike section 507. We have a year's time. We can have hearings sometime next month or the month after.

I assume that sometime this year there will be another bill on this floor that affects social security, so there will be an opportunity to offer this provision after the hearings. But I hope those who would like to have the evidence presented before they make a judgment would permit us to do that in the Finance Committee. The evidence may clearly indicate that we should do precisely what is now being suggested in section 507. But it strikes me as a little unfair to the people you represent in North Carolina, in South Carolina, and others all across this country—farmers and small businessmen, in particular—to have had a verdict rendered this morning without a hearing. That is not the way we should proceed.

Mr. LONG. Mr. President, I yield myself 2 minutes.

Mr. President, when we discussed this matter in the Finance Committee we shared a unanimous view. Nobody objected to closing this loophole. The longer we wait, the more people there will be who will be taking advantage of the loophole and the more resistance there will be to closing the loophole.

As it stands now, only a few employers are taking advantage of it, as evidenced by the fact it is only costing us $30 million a year. But, in due course, if you wait a year, you will have maybe two or three times that many employers taking advantage of it, and it will be more difficult to close the loophole.

Here is a hearing held over in the House. You can sit down and read everything that was said at the hearing, Mr. President, in an hour. No problem at all. There it is. It is a brief document. And more than half of what is in there is just publications, memoranda, and letters, things of that sort.

But they had Mr. Lawrence H. Thompson come in and testify that the loophole ought to be closed, on behalf of the administration and the Department. They had Mr. Robert Myers—a really great witness, in my judgment. We have hired him many times as a consultant to the Finance Committee to help us work on social security bills, and things of that sort. He is a great actuary. He was with the social security program for many, many years. He is very strongly in favor of closing the loophole, basically, for the simple reason that it is a threat to the solvency of the social security fund. It ought to be closed.

It is all right with me to sit down and let people talk about it for an hour or two.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOLE. Was that a Senate hearing?

Mr. LONG. No; that was a House hearing. But just because you are a Senator does not mean that you cannot read a House document.

Mr. DOLE. I agree. But I do not always agree with the House. They were not very alert. If you had a Senate hearing, Senator HELMS would have been there, Senator THURMOND would have been there, and Senator LONG would have been there. We cannot run over there every day.

Mr. LONG. Mr. President, I yield myself 1 more minute.

Mr. President, my thought is that the Senate should just do what is right. Just do right. If you are in doubt, just do right.

This loophole is a threat to the social security system. We just say: Let us close off this loophole. These people can go ahead and take advantage of it for the remainder of this year. But next year it is not going to be there, if the majority of the committee has its way, if the President has his way, and if the administration has its way. All the people who are very worried about the solvency of the social security program, if we have our way, we are going to close this social security tax loophole, because it is threatening the social security system.

It may be that it takes longer to convince other people than it does to convince some of us.

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. LONG. Mr. President, I yield myself 1 more minute.

But, Mr. President, I, for one, can sit there and listen until I am blue in the face and nobody is going to change my mind about this thing. This is a loophole we are going to have to close sooner or later. If you have to close it, you might as well go ahead and do it now when less people are using it.

I have heard the arguments here, Mr. President, but I do not see any redeeming grace to this loophole. It was not intended. Congress could not have wanted an open loophole costing $6.5 billion in tax revenues and hope to keep this program solvent.

Once people start taking full advantage of it and you start having people promote it to their clients so they take advantage of it, you just will have to close the loophole. That is all we are suggesting.

I yield myself 1 more minute.

It may be that there will be information presented on this subject at the hearing but, Mr. President, as one who has been around here a long time—for 31 years—let me predict, with confidence, that the committee can do all the hearing it wants to or it can do as little as it wants to—by the time we get through with the hearing, our opinion will be just exactly the way it was before we started the hearing. And all those who asked to hold hearings, are they going to come? Maybe the Senator from South Carolina, who is very concerned about it, will come to the hearings. Maybe the Senator from North Carolina, who is very concerned about it, will come to the hearings, but they are not going to change their mind. I am not going to change their minds, because they have convinced me right now that they are against the committee amendment.

Those men do not change very easily. I know them. They are pretty tough cookies when they make up their minds about something, especially when they have a constituent who is very much involved. They are very tough to change. I do not think we are going to change them, just like they will not change the majority of our committee.

Mr. DOLE. Mr. President, I think what they are worried about is execution before the trial. You like to believe that the evidence will be presented before judgment. Maybe we could look at that. I do not know. Maybe there is no reason to delay it.

But the chairman has used the word "loophole" consistently. I do not know what a loophole is. But, apparently, when you help some small farmer or some small businessman, that is a loophole. When you help big business, that is a tax incentive. But I trust that the Senator from North Carolina would persist.

Mr. LONG. Mr. President, every Senator here, including my good friend from Kansas, has a way of offering amendments that have not had hearings, if he thinks he could make a good case and he thinks the case is there.

Mr. President, we reported this bill out back in November of last year. We got the unanimous-consent agreement to vote on the bill and to limit ourselves to germaneness on November 20 of last year. Nobody came to me and asked for any hearing until now. Now, here it is, months later, and somebody comes up and says: "Oh, my goodness. Don't do anything before you hold hearings."

Well, Mr. President, a hearing has been held over on the House side. For the life of me, I do not see what there is to hold a hearing about. Everything that can be said for the other side, I think has been said. We have had about as much discussion here on the Senate floor as there was when the House held their hearing.

So, Mr. President, it seems to me we ought to go on ahead and vote and let the Senators' consciences be their guide, which is what I think we will do.

Mr. HELMS. Mr. President, if no one else has any desire to speak, I yield back the remainder of my time.

M. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Indiana (Mr. LUGAR), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. METZENBAUM). Are there other Senators desiring to vote?

The result was announced—yeas 42, nays 45, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—42

Armstrong
Bayh
Bellmon
Bentsen
Bumpers
Cohen
DeConcini
Dole
Domenici
Durenberger
Durkin
Garn
Glenn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Magnuson
Mathias
Morgan
Pressler
Roth
Schmitt
Schweiker
Simpson
Stevens
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—45

Baucus
Biden
Boren
Boschwitz
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Danforth
Eagleton
Exon
Ford
Huddleston
Inouye
Jackson
Javits
Johnston
Long
Matsunaga
McClure
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stennis
Stevenson
Stone
Tsongas
Weicker
Williams

NOT VOTING—13

Baker
Bradley
Chafee
Cochran
Goldwater
Gravel
Hart
Kennedy
Lugar
McGovern
Sasser
Stafford
Young

So Mr. HELMS' amendment (No. 1442) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Several Senators. Third reading.

UP AMENDMENT NO. 941

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina has 7 minutes remaining. The Senator from Louisiana has 30 minutes remaining.

Who yields time?

Mr. THURMOND. Mr. President, if the distinguished manager wants to yield back his time, I will yield back my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 941) of the Senator from South Carolina. All time has been yielded back. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Indiana (Mr. LUGAR), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 60, nays 27, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—60

Armstrong
Bayh
Bellmon
Bentsen
Biden
Bumpers
Byrd,
Harry F., Jr.
Church
Cohen
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Garn
Glenn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Magnuson
Mathias
Matsunaga
McClure
Melcher
Morgan
Nunn
Pressler
Pryor
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—27

Baucus
Boren
Boschwitz
Burdick
Byrd, Robert C.
Cannon
Chiles
Cranston
Danforth
Eagleton
Exon
Jackson
Johnston
Long
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Stennis
Stevenson
Williams

NOT VOTING—13

Baker
Bradley
Chafee
Cochran
Goldwater
Gravel
Hart
Javits
Kennedy
Lugar
McGovern
Sasser
Young

So Mr. Thurmond's amendment (UP No. 941) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

CORRECTION OF THE RECORD—UP AMENDMENT NO. 939

Mr. DOLE. Mr. President, in reading the daily edition of the Record of last night's proceedings, I noted a printing error. On page 1249 of yesterday's Record unprinted amendment No. 939 appeared. Unprinted amendment No. 939 is my MediGap amendment to the unprinted amendment No. 938 of Senator Baucus. In the third line of section 2(B) (ii) the word "continuing" appears. That word should have been "counting". The phrase should read "In counting such days" not "in continuing such days" as it appears in the Record.

Mr. President, I ask unanimous consent that the permanent Record be corrected to substitute the word "counting" for the word "continuing" in unprinted amendment No. 939. I note, Mr. President, that the official copy of the bill correctly uses the word "counting" and is thus consistent with the change I propose in the permanent Record.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, and I am not going to object, but I suggest to my good friend from Kansas that hereafter when he wants to correct the permanent Record, he simply prepare a memorandum and send it down there and save us the time of listening to all this because he knows we are going to give him consent, and we will. We always try to give the Senator consent if he wishes to correct something as he properly should.

And I congratulate the Senator for finding that error in the Record and seeing that those who read the Record can have no doubt about this particular matter.

Mr. DOLE. That is right. The reason I did it publicly is the Baucus amendment was a matter of some controversy, and I indicated to Senator Baucus that I discovered this error myself in reading the Record. So I just wanted to make certain that I did it openly in case someone was listening in the Senate offices.

Mr. LONG. Mr. President, reserving the right to object, and I shall not object, let me urge that all Senators hereafter should read this Record and see that not only what they said was correctly quoted but to see what other people say was correctly quoted and that the amendments were properly numbered because it would be very bad at some point in the future if people would have a serious misunderstanding that something happened because of a technical error.

I congratulate the Senator. He is doing a duty that many Senators fail to do.

Mr. DOLE. I thank my distinguished chairman.

Mr. LONG. Most Senators do not read the Record. If they do, they only read what they said. They do not read what the other Senator said.

Mr. DOLE. That may be what the Senator from Kansas was reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I rise to apologize for not reading the Record and in support of H.R. 3236, the Disability Insurance Reform Amendments of 1979.

The legislation is an important reform in our Federal disability programs. One of the problems with existing law is that there is no incentive for the disabled to return to productive employment. In fact, the current program is a disincentive to work. If a worker who has become disabled attempts to return to work, the worker loses all the benefits provided under the disability insurance program. The most important loss is medicare health insurance. At the same time, few employers want to hire a disabled worker because of support costs such as medical insurance.

Other problems exist in the disability determination process and in the vocational rehabilitation program. The determination process is the procedure by which disability status is decided. The vocational rehabilitation program is our rather limited effort to teach new skills to disabled workers.

These are some of the issues addressed by H.R. 3236. I am particularly interested in the work incentives provided by the legislation. In fact, when it appeared that the bill was stalled in the House of Representatives, I introduced legislation, S. 1643, which separated out the work incentive provisions in H.R. 3236. My intention was to amend any available piece of legislation to insure passage of the provisions. Fortunately, the legislative process moved forward, and we are now able to act on the entire bill.

The bill before the Senate today has several sections, and I would like to comment on the major provisions.

The first, and most controversial matter, is the cap on the auxiliary, or dependent benefits under social security. The bill is one of those bittersweet pieces of legislation which requires the Senate to reconcile social concerns with economic reality. The disability insurance program is funded from one of the trust funds established by the Social Security Act. Demographic and economic factors have disrupted the financial stability of all of the trust funds. To maintain the solvency of the trust funds, we have two choices. One, we can increase the tax rate on workers who provide the revenue for the trust funds. This, we have done. Second, we can limit the benefits allowed under the program. We should not limit the primary benefits of our retirement and disability insurance programs. On the other hand, we do have to make a decision on what we can afford in the way of auxiliary benefits. This is the bitter decision which we have to make in H.R. 3236.

The second major section is the work incentives which are designed to encourage beneficiaries to attempt to return to work and leave the disability rolls. My interest in this matter was prompted by the work of the Control Data Corp., in developing innovative work support systems for the severely disabled. When the Senate Finance Committee held hearings on H.R. 3236, Gary Lohn from Control Data presented testimony on their endeavor, known as project homework. I ask unanimous consent to have Mr. Lohn's testimony included in the Record at this point.

The work incentives section has six features. These features are:

Authorize the Social Security Commissioner to develop and carry out demonstration projects designed to encourage work activity by disabled beneficiaries.

Provide that extraordinary expenses needed to permit a severely disabled person to return to work would not be counted as a part of the amount of earnings (current substantial gainful activity (SGA) level is $280 per month) that cause the person to lose benefits.

Extend the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period, the individual would not receive benefits if he earned over the SGA amount, but would retain his eligibility for benefits if he finds he must return to the disability rolls.

Allow disabled widows and widowers to have the benefit of the trial work period.

Extend medicare coverage for an additional 36 months to beneficiaries who have gone back to work but have been suspended or terminated from benefit status as a result of substantial earnings.

Eliminate the second 24-month waiting period for medicare which a beneficiary presently must undergo if he tries to return to work but then finds he must return to the disability rolls.

The passage of the work incentive provisions will have two beneficial results. First, it would be a positive step toward saving taxpayer's money in that social security disability benefit payments would be reduced and disabled workers returning to productive employment would again be contributing to general tax revenue through their earnings. Second, and more important, the incentives would make it possible for disabled people to work and, consequently, increase their self-esteem, independence, and sense of self-worth.

A third objective of the bill is to improve the disability determination process. Currently, the determination process is a joint Federal-State effort. There is some concern that at the State level there is not a uniformity of decisions, nor is there a consensus on the criteria used to determine disability by the Senate agencies.

The committee provisions would improve the Federal management and control over the State operations. Performance standards would be established by HEW. Also, the committee would reestablish the review procedure used by the Social Security Administration to insure a prompt and proper determination process. These changes represent important improvements in the administration of the disability insurance program.

The committee has also liberalized the vocational rehabilitation provisions in existing law. There is some concern, and confusion, over the cost/benefit ratio of vocational rehabilitation expenditures. Data reported to the commerce indicated a very limited benefit to cost ratio for rehabilitation programs. However, other data indicated a very positive response. The committee has wisely decided not to limit the program. In fact, the committee has agreed to allow the continuation of disability benefits to an individual in a rehabilitation program even though the disabled worker may have been determined to have medically recovered. The continuation of benefits would permit the worker to complete the program and return to work.

There are two Federal programs on disability, social security disability insurance and supplemental security income. The first is an insurance program, funded by a payroll tax on workers. The second is a welfare program funded from general tax revenue. The House of Representatives has approved legislation to improve both programs, but in the process made the SSI program more liberal than the disability insurance program. Separating the two programs is a mistake, and the Finance Committee correctly decided to maintain the same standards for both programs.

The committee bill contains one last provision on which I would like to comment. For several years, the Social Security Administration has tried to change the deposit period for social security payments by State and local governments. The change as proposed by the Administration would have created administrative difficulties for local governments. The committee has provided for a reasonable deposit period, and I would hope that the House would accept the committee proposal.

On the whole, the disability amendments bill is a worthwhile bill, and I wholeheartedly support this measure.

Mr. President, I ask unanimous consent that a statement by Gary H. Lohn, vice president, public affairs, Control Data Corp., Minneapolis, Minn., be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Gary H. Lohn

Mr. Chairman and Members of the Senate Finance Committee:

I thank you for allowing me to address this session on such an important and critical issue; the rehabilitation of this nation's severely disabled population.

I am Gary H. Lohn, Vice President of Public Affairs for Control Data Corporation in Minneapolis, Minnesota. I am accompanied by Kenneth L. Anderson, Manager of Control Data's homebound employment program, Homework. As you know, there is an increasing taxpayer resistance to government spending which is adversely impacting the required public funding. There is, in addition, the increasing competition for the existing dollars as advocates for a number of movements sharpen their lobbying skills. The result is an on-going struggle for dollars to support the programs that can help handicapped persons achieve their greatest potential and independence.

As that public sector funding fails to increase (or even keep up), a larger role emerges for the private sector. As a recent Health, Education, and Welfare report indicates: "The private sector role in developing and providing services must have greater recognition as federal and other government funding becomes more restrictive." The time is long overdue for a more aggressive partnership between the public and private sector in order to address major societal problems.

One of Control Data's primary business strategies is to identify societal problems and address them as business opportunities. Control Data adopted this strategy some twelve years ago. It has been pursued vigorously and has proven sound. Although we undertake some social programs because they are "the right thing to do", we view the major, unmet needs of society as opportunities for business, generating profits and providing jobs. Some examples of Control Data's programs that address major social needs include: (1) Building manufacturing facilities within deteriorating inner cities and creating new employment opportunities. (2) Providing computer technology and managerial resources to improve the delivery of health care services on Indian Reservations. (3) Providing computer-based education programs to prepare young, disadvantaged, unemployed persons to get and keep a job.

More recently Control Data has become involved in developing special programs for persons who are severely disabled. It is Control Data's extensive involvement with these programs that has permitted us to become aware of the disincentives facing persons who are severely disabled. But who want to and who are qualified to work.

The central program is Homework and is based on Plato computer-based education. It is important to note that Plato is a computer-based interactive educational network system that allows students to learn at their own pace. Students interact with the system through a special terminal with a keyboard and a TV-like screen.

The screen presents lessons stored in the computer in the form of graphs, drawings, text and photographs. Audio features allow material to be presented in this mode. There is the potential for many modifications to adapt Plato for use by persons whose disabilities vary over a wide range. One of the most important features of Plato is the ability for students to communicate with one another—that is, peer interchange whereby they can readily help each other. Instructors also communicate with students and vice versa. Instructors and students involved in the same course can be located in different parts of the country.

The objective of the Homework program is to provide training and employment alternatives to the severely disabled homebound population. Currently, there are more than two million Americans classified as being homebound because of a severe mental and/or physical disability.

Homework evolved within Control Data Corporation because we have many severely disabled homebound employees. Tragically, this same group of people has a wide range of unused skills and capabilities. Therefore, a project was created to identify training and job opportunities for them using a Plato terminal.

The first Plato terminal was installed in August 1978 in the home of one of the first twelve homeworkers selected. The initial work identified for the homeworkers to perform was designing, developing and evaluating educational courseware. Depending on their interest, experience and skill, each participant was trained to perform one of these three functions via the Plato terminal. The end product of Homework is educational courseware to be marketed by Control Data and delivered via the Plato system.

Control Data has expanded homebound employment during 1979, making additions to the types of work performed that will include computer programming, remote student tutoring and other functions.

Homework brings the Plato terminal into the home—providing training and education as well as a means of communication for the disabled person. A counselor participates in the computer network along with the other employees. It is truly a network of disabled persons with varying disabilities learning different skills at different rates but sharing the learning experience.

Homework is not intended to be restricted to Control Data employees. With progressive legislative change, Homework will become an employment alternative for the disabled population throughout the nation. In fact, other major employees have contacted us to assist them in developing a program like Homework for their disabled population.

Control Data's experience with Homework is most encouraging. Some of the benefits are as follows:

Health care costs for the Homework participants have decreased 50 percent to 75 percent. Physicians of Homework participants are telling their patients that because of Homework, regular visits to the doctor are no longer necessary. A physician from Dayton, Ohio stated:

"I think Homework is a tremendous program . . . Control Data has given my patient something I never could—a new interest in life and a new meaning. She is gloriously happy that there is a possibility to make her own way in the world again, and be independent of government and insurance company handouts."

Self-concept and confidence level have increased substantially.

Improvement in family relations have occurred.

Higher level of self-care is realized.

Enhanced intellectual and cognitive functioning is apparent.

These preliminary findings parallel the results from a seven year study on homebound rehabilitation sponsored by the Federation of the Handicapped and funded by the Department of Health, Education and Welfare.

Our major problem with the Homework program relates not to the ability or enthusiasm for work, but to the impact this program has on individual insurance benefits, both public and private. As we initiated the Homework program we sought and received cooperation from private insurance carriers to safeguard the Homework participants from losing their benefits. However, current Social Security legislation prohibits this same flexibility within the public sector. Because of the tremendous anxiety felt by each Homework participant over the thought of losing his or her Social Security benefits. Control Data has guaranteed to reimburse each participant his or her total Social Security disability insurance benefit should it be discontinued as a result of the individual's participation in Homework.

Obviously, this program cannot significantly impact the 2.8 million Social Security Disability Insurance recipients with these restrictions. The disincentives for both the disabled person and a private employer are too great.

When I speak of disincentives, I mean the barriers or obstacles that prevent a disabled person receiving Social Security Disability Insurance benefits from becoming employed. These substantial barriers include:

The fact a disabled person is only allowed to earn a maximum of $280 per month (the amount defined as substantial gainful activity) before his/her benefits are jeopardized.

The fact a disabled person has only one trial work period in his/her lifetime.

The fact a disabled person must wait two consecutive years after becoming eligible for Social Security Disability Insurance benefits to be eligible for Medicare.

The fact a disabled person who attempts employment, and, after losing his Social Security benefits plus Medicare, fails to remain employed, must again go through the same two year wait for Medicare.

And finally, even if all the above conditions were remedied, a disabled person in need of special attendant care, or medical services such as prostheses still probably could not afford to work unless the costs directly related to maintain him/her were exempt from actual earnings when figuring substantial gainful activity.

Control Data is pleased to see the Congress address the many disincentives now inherent to Social Security law. We are convinced that changes must be bold and far-reaching. Based on our experience, we would suggest that the following provisions be included in legislation enacted by the Congress:

1. Substantial Gainful Activity Demonstration Projects as identified in HR. 3236, H.R. 3464 and S. 1643 should be broad enough to include a cooperative partnership between the public and private sector in addressing Substantial Gainful Activity levels and trial work periods. Participation of the private sector and disabled individuals must not only be encouraged, it should be driven with attractive incentives for all parties included.

2. The amount of money people can earn without losing their Social Security benefits should be at least at the level currently proposed in H.R. 3464. H.R. 3236 should contain similar language.

3. Control Data believes that the risks are too great for a severely disabled person to seek employment unless there is legislation introduced that addresses an offset of earned income with Social Security Disability Insurance benefits. While the specifics of such an offset are beyond the scope of this discussion, some meaningful level is required.

4. Extraordinary work expenses due to a severe disability must be excluded from earnings when figuring Substantial Gainful Activity. Examples of these work expenses include attendant care services, medical equipment, protheses and similar items and services which are essential in carrying out not only his/her employment responsibilities, but also his/her normal daily functions.

5. The waiting period for Medicare eligibility (currently two consecutive years after financial eligibility is determined) should be non-consecutive and made shorter than the two years now required and proposed. For those who have previously qualified for Social Security Disability Insurance and Medicare, and have subsequently returned to work only to fail, the waiting period for reinstatement of both Social Security Disability Insurance and Medicare should be reduced to zero. This would significantly reduce the risks facing a disabled person seeking to at least try meaningful employment once again.

It is apparent that Social Security legislation being considered by this Committee does contain many salient components that will provide the incentives for persons severely disabled to seek and retain meaningful employment. However, we recognize that the Congress may not be ready at this time to incorporate all the necessary changes into one major bill. As an interim measure, we are pleased to support legislation such as S. 1643 authored by Sen Durenberger of Minnesota which proposes cooperative research and demonstration projects. We feel such legislation should explicitly state its legislative intent to not merely allow, but encourage private sector participation in these research and demonstration projects. We are convinced that within a few years of experience with these cooperative research and demonstration projects, sufficient knowledge will be gained to provide the valuable data required to consider permanent legislative changes.

Mr. Chairman, thank you for opportunity to present Control Data's views on this critical issue.

The PRESIDING OFFICER. Is there further amendment to be proposed?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time does the Senator suggest the absence of a quorum.

Mr. DOLE. Equally.

Mr. LONG. Mr. President, I ask unanimous consent that the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 942

(Purpose: To provide for review by the Secretary of decisions made by administrative law judges under the disability program)

Mr. LONG. Mr. President, on behalf of the Senator from Oklahoma (Mr. BELLMON) I send an amendment to the desk and ask that it be stated.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I do not think the Senator from Oklahoma will object to our agreeing to his amendment. I am told this is an amendment we could very well agree to.

Mr. DOLE. Mr. President, as far as the Senator from Kansas is concerned, I do not object.

Mr. LONG. If the Senator does not object, I suggest we agree to it.

Mr. DOLE. Has it been offered?

Mr. LONG. Yes. If the Senator will be kind enough to join me in offering the amendment on behalf of the Senator from Oklahoma, because he wanted to offer the amendment, I am told, I am happy to offer it, and I do not know of anyone in the Senate or on our committee who objects to someone agreeing to his amendment. I thought I would go ahead and offer it for him rather than wait to bring him in here.

Mr. DOLE. We are attempting to contact the Senator. I was going to suggest that to save him a trip to the Chamber, that we could offer it.

Mr. LONG. If he wishes to come speak to it, he may, but he can speak to it subsequently or put it in the RECORD, however he wishes. In view of the fact that we are going to accept it, I wish to offer the amendment.

Mr. President, I ask that the clerk simply read the full amendment because the amendment itself is explanatory.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

On page 58, after line 25, insert the following:

"(g) The Secretary of Health, Education, and Welfare shall implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act; he shall report to the Congress by January 1, 1982 on his progress, in his report, he shall indicate the percentage of such decisions being reviewed and describe the criteria for selecting decisions to be reviewed and the extent to which such criteria take into account the reversal rates for individual administrative law judges by the Secretary (through the Appeals Council or otherwise), and the reversal rate of State agency determinations by individual administrative law judges.'".

On page 59, line 1, strike out "(g)" and insert "(h)".

On page 59, line 15, strike out "(h)" and insert "(i)".

On page 67, line 16, strike out "(h)" and insert "(i)".

● Mr. BELLMON. Mr. President, this amendment requires the Secretary of Health and Human Services to implement a procedure for reviewing a sample of decisions made by administrative law judges. The decisions to be reviewed under this mandate are ones in which administrative law judges have reversed State denials. My amendment will strengthen one of the weakest links in the disability adjudication process, and also help insure the equitable treatment of claimants.

Mr. President, there is almost no disagreement that the appeals process in the disability program is costly and time consuming. Disability cases that go up through the whole appeals ladder take more than 1 year to process. This has led to serious complaints that the social security hearing process is slow and inefficient. This is partly due to the increased number of appeals cases filed each year which lead to backlogging in the appeals process.

The number of disability cases appealed has dramatically risen over the years. As the Committee on Finance's background report on the program points out, there were only 43,000 hearing requests in 1970. But in the first 8 months of 1979, 206,000 cases had been received for a hearing.

While much of the increase in the number of appeals can be attributed to the overall growth of the disability program, there is considerable evidence that there are other factors involved as well. Cases that are appealed to the administrative law judge level have a very high probability of being reversed in favor of the claimant.

Mr. President, the reversal rate has increased from 39 percent of all cases heard by the administrative law judges in 1969 to better than half, or 52 percent of all cases heard in 1978.

What concerns me, Mr. President, is that if a claimant knows he or she has nothing to lose by appealing a case all the way through the appeals process, and has in fact better than a 50 to 50 chance of having his or her case reversed favorably, then this will undoubtedly add to the number of cases appealed. It may be that, instead of insuring justice, the hearing process may be rewarding persistence.

Much of the problem has to do with the administrative law judge decision-making process itself, which is highly individualized. The judges are independent and differ in their procedural methods on hearings. According to the Finance Committee's report, the judges develop and decide cases in very different ways, some relying heavily on consultative medical examinations and others not, and some using vocational specialists a great deal in deciding cases while others do not. This has led to a great degree of variation in reversal rates among judges. Some have become known as "easy" judges, others as "hanging" judges. There seem to be more "easy" judges than "hanging" judges, however. The Finance Committee report points out that 87 percent of the judges reversed 46 percent or more of the cases they heard. This seems to be an exceptionally high number of judges who reverse, on the average, almost half the cases that come before them.

These data indicate why the judges are considered by many experts to be the weakest part of the process. When you consider the individualized and independent style of the judges, combined with the highly subjective nature of many disability cases, there is the great potential for widely varying decisions and high reversal rates. Contributing to this are the factors which the judges must take into consideration when deciding a case. The use of vocational factors in considering a case makes the decision very subjective and heavily dependent on the individual judge's views. This has led to variations in reversal rates among judges and has brought concern that claimants are being treated differently.

The Social Security Administration has attempted to improve the situation by issuing a set of "vocational regulations" as guidelines for deciding cases. As yet, this has not had any effect on slowing the increase in reversal rates. Indeed, the rate has continued its upward climb. More regulations are not going to do the job. We need a method to review the decisions made by the judges so that there is greater consistency among different judges and better assurance that disability awards are not being granted inappropriately in a large number of cases.

The variations in reversal rates promotes inequitable treatment of claimants, Mr. President. It means that if you happen to get assigned to a judge who is lenient, you stand a better chance of getting a favorable decision than if you get one of the tougher judges. This is not fair or equitable.

The Secretary already has authority to review and reverse both determinations made at the State level and decisions by Federal administrative law judges. By regulation, the Secretary has set up an appeals council to handle this responsibility. This council reviews cases appealed beyond the ALJ level by applicants who are turned down by ALJ's. Until 1975, the appeals council also reviewed a selection of ALJ decisions that were not appealed. In other words, the council selected and reviewed some decisions in which ALJ's reversed State denials. The appeals council could reinstate the State decision if it found the ALJ's reversal to be inappropriate.

The appeals council stopped making these so-called "own motion" reviews in 1975, apparently because of workload problems.

Nearly a year ago former Social Security Commissioner Stanford Ross testified that HEW intended to reinitiate these "own motion" reviews of ALJ decisions. Unfortunately, our checks with HEW indicate that there has been no real movement on getting these reviews going. This amendment will require them to get on with the reviews.

Mr. President, the Finance Committee has recognized the need to review State agency decisions on disability cases to help insure that claimants are being treated equitably and consistently, and to promote accuracy among the State agencies responsible for making disability determinations. This bill now before us has in it a provision requiring the Secretary of HEW to review 15 percent of State agency decisions in 1981, 35 percent in 1982, and 65 percent in subsequent years. My amendment will require the Secretary of Health and Human Services to set up procedures to review a sample of decisions made by administrative law judges, when those decisions are in favor of the claimant. This will help insure that claimants have their eligibility determined on objective factors rather than by the luck of the draw as to whether they get an "easy" or a "hanging" judge. The amendment also requires the Secretary to report to Congress in 2 years on how this review process is working.

The bill as it now stands recognizes the need to review initial disability determinations by the States. I think the evidence shows that the hearing process at the administrative law judge is an even more questionable part of the system that needs careful monitoring. I urge approval of the amendment.●

Mr. LONG. Mr. President, I believe everyone understands what the amendment is.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I have no objection to the amendment. I am happy to vote for it, and I believe the Senator from Kansas feels the same way about it.

Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendment to be proposed?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DOLE. Mr. President, I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 742

Mr. BELLMON. Mr. President, I have introduced an amendment which has been printed. It is No. 742. I had intended to call up the amendment, but I have had some private discussions with the members of the Committee on Finance and I am assured there will be further consideration of this subject including hearings, within a short time. In order to help inform the Senate about the problem, I will make this statement for the RECORD.

Mr. President, this amendment deals with an issue in the bill that has not caused a lot of controversy or much discussion among disability beneficiaries or those concerned with the benefit aspects of this bill. But the section my amendment addresses, section 304, has caused quite a lot of consternation among State officials concerned with the administration of this program.

My amendment would prevent a far-reaching change in the Federal-State relationships that the House-passed bill and the Finance Committee's reported bill would both make. The committee has endorsed provisions of the House bill that would put an end to State management discretion in handling the disability determination aspects of the program. Indeed, if the language in the reported bill is enacted into law, it is safe to predict that very few States will be performing these responsibilities a few years from now. The States will quickly hand their role over to the Federal Government and we will wind up with a far more expensive system as a result.

The Finance Committee's report says and I quote:

> Significant improvements in Federal management and control over State performance are necessary to ensure uniform treatment of all claimants and to improve the quality of decisionmaking . . . (Page 55, Report No. 408)

Mr. President, let me read excerpts from section 304 of the bill which states what HEW may do. Section 304 provides that HEW through regulations may specify, and again I quote:

> The administrative structure and the various units of the State agency responsible for disability determinations . . . rules governing access of appropriate Federal officials to State offices . . . the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency . . . and any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determination.

Mr. President, if HEW is going to give directions in all these details what room is left for management discretion and ingenuity by the States? I do not think our colleagues on the Finance Committee intend this but it almost looks as if we are deliberately equipping HEW to coerce the States into turning over their role in disability determinations.

It appears that former Commissioner Ross of Social Security Administration was not at all accurate when he testified to the Finance Committee that the States and SSA were in general agreement on what they were trying to do. He went on to say that the Social Security Administration did not want to diminish the State's role in any way, but wanted the States to have the resources and support to play a major role, and that this section was not a way of achieving backdoor federalization. Mr. President, it does exactly that. Senator DURENBERGER was correct when he voiced his concern in the Finance Committee that these standards in and of themselves will force federalization on some States.

Section 304 of the bill clearly would give this Federal Government almost total control over the State units performing disability determinations. It appears there would be no area of a State's personnel, fiscal, or procurement systems which could not be addressed by the standards HEW would establish.

My amendment would have no effect on that part of the committee bill which provides for Federal reviews of State agency determinations. It would affect only that part of section 304 which would introduce a heavyhanded Federal regulatory approach in place of the present contractual relationship between HEW and the States.

Federal-State relationships, in disproving the problems, do not all come from the States' side of the relationship. Indeed, State officials maintain that many of the problems which have arisen in the past are due directly to the Social Security Administration itself, and the inflexible administrative concepts that it forces on the States. These officials say that the Social Security Administration does not really negotiate contracts, but rather maintains a "take it or leave it" attitude.

I have received a letter commenting in some detail on this matter from Mr. Lloyd Rader, the director of the Oklahoma Department of Institutions, Social and Rehabilitative Services, outlining his serious concerns about section 304 of the bill. He states that if section 304 were to be enacted, Oklahoma would probably have no choice but to withdraw from the disability determination process. Mr. Rader's letter gives a clear explanation of the problem and reasons for this amendment, and I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF INSTITUTIONS
SOCIAL AND REHABILITATIVE SERVICES,
Oklahoma City, Okla., November 6, 1979.

Hon. HENRY BELLMON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR BELLMON: It has come to our attention today, through a recent Senate Finance Committee Press Release, reporting the work of that Committee on H.R. 3236, the '"Disability Insurance Amendments of 1979," that the Committee adopts, apparently without change, certain House-passed language relating to the disability determination process for Titles II and XVII of the Social Security Act. As you know, this Department determines the disability of Oklahomans for these programs on behalf of the Social Security Administration under an Agreement authorized under current law. That law would change if this bill passes, and not for the better. We have discussed our concerns about Section 8 of H.R. 3236 with Mr. Fulton and other members of the staff of the Senate Budget Committee on several occasions. We wrote the enclosed letter to Senator Boren, early in October to alert him to our concerns. We would now ask your help in challenging this section on the floor of the Senate because we strongly feel that the solution to the particular problems the Senate and the House of Representatives are addressing is not to be found in greater and greater Federal control.

Section 8 of the bill directs the Secretary to develop "regulations or other written guidelines . . . specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the Disability Insurance Program throughout the United States." These guidelines may include mandating a specific structural organization, directing the specific relationship between a disability unit and other State organizations performing services for that unit, the physical location, personnel standards, and even pay scales of the employees of the unit. Conceivably, there is no area of a State's personnel, fiscal or procurement systems which could not be altered by these standards. In the name of "uniform administration," a very flimsy mask indeed, the bill effectively federalizes the entire process and in so doing totally preempts State laws under which these units are supposed to function like all other State agencies.

The history of the relationship between the Social Security Administration and the States, in this area, has seen a progressive deterioration specifically because of the Federal attempt, through its contracts with the States, to unilaterally preemp any kind of State control over these units. Frankly, and quite to the contrary of Mr. Ross' recent testimony, the contract mode, if it has failed, has failed only because of SSA's consistent, dogged, obstreperousness. Repeated attempts of State representatives to work out problems in the contract have been uniformly met with a "take it or leave it" attitude on the part of SSA representatives and an absolute refusal to even try to achieve a mutually agreed upon resolution. Had the Social Security Administration ever attempted to negotiate with the States the broad standards of service to the disabled on which we definitely agree, instead of wrapping inflexible, day-to-day administrative structures around us contractually, the current estrangement between the States and SSA would not exist. Enclosed, by way of example, is a letter we recently received from Mr. David Pingree, Secretary of the Florida Department of Health and Rehabilitative Services. He clearly shows that Florida now is one of 29 States in the Union which have refused to sign SSA's Agreement because of continuing Federal attempts to preempt and indeed wreck State attempts to organize and supervise the administration of its own governmental functions. Section 8 of H.R. 3236, rather than removing the Federal entanglement, in day-to-day affairs, would clearly exacerbate that relationship, and render State participation in the disability determination process a complete nullity.

We signed this year's Agreement with the Social Security Administration, but only after long deliberation and discussion about the restrictions SSA forced upon us. Our decision was ultimately based on our overriding concern for the disabled citizens of Oklahoma, who, under the Oklahoma Constitution, our Department is charged to serve. If H.R. 3236 passes the Senate with Section 8 intact, I cannot see Oklahoma participating in the process any further. The complete disregard of State's concerns or interests in the program, evidenced first by the Social Security Administration, and now, potentially, by the Congress, can only hurt these same disabled citizens of Oklahoma and will only swell the Federal bureaucracy, which some would argue is already overstuffed.

Any help which you could give us in modifying or deleting this onerous provision, would be sincerely appreciated.

Very truly yours,

L. E. RADER,
Director of Public Welfare.

Mr. BELLMON. Mr. President, I have heard also from the Council of State Administrators of Vocational Rehabilitation on this matter. They have deep concerns about interference by HEW with the ability of a State to organize and manage its disability determination agency. They also are concerned that section 304 provides for no State input in the HEW regulation and rulemaking process beyond that given to any other group, even though the State agencies have had long periods of experience in the social security disability process. I ask unanimous consent that a letter from the Council of State Administrators for Vocational Rehabilitation be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COUNCIL OF STATE ADMINISTRATORS
OF VOCATIONAL REHABILITATION,
Washington, D.C., December 14, 1979.
Hon. HENRY L. BELLMON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BELLMON: We appreciate this opportunity to respond to an invitation from your staff to give our reactions to and concerns over Section 304, of the Senate version of H.R. 3236, amending the Social Security Disability Insurance and SSI Disability Benefit Programs.

This organization, which is composed of the chief administrative officials of the State Rehabilitation Agencies responsible for administration of the State-Federal Rehabilitation Program in each of the states, finds itself in opposition to Section 304 for the following reasons:

1. It abandons the concept of the Federal-State partnership by agreement under which the Social Security Disability Program has functioned and substitutes regulations and other guidelines promulgated unilaterally by the Secretary as the sole basis for continued State Agency participation in the disability adjudication process.

2. It provides that the Secretary can unilaterally end participation by a State Agency on the basis of a finding that it has failed to adhere to his regulations and rules with no recourse other than the Secretary and with no provision to utilize State Agency personnel—the largest reservoir of disability development and adjudicative expertise available to the Disability Program.

3. The examples of matters which may be covered by the Secretary's regulations provide for what appear to be unwarranted invasion of and interference with the ability of a state to organize and manage its Agency, provide for its internal relationships, and distribute its components in a manner best calculated to result in effective and efficient operation in the light of the agency's experience and knowledge of its area.

4. It does not provide for any degree of State Agency input in the regulation and rule-making process, other than that afforded to any interested person or group, despite long State Agency experience in the Social Security Disability process.

5. The possibility that the Secretary could remove a significant number of State Agencies from the disability process on a unilateral basis poses a threat to the orderly continued operation of the Disability Program, since it does not appear that the Social Security Administration has the personnel with experience to carry it on successfully without great disruption and disadvantage to the persons it was designed to serve.

We hope, of course, that the powers vested in the Secretary by Section 304, if enacted, would be exercised with restraint and discretion and with full and meaningful consultation with State Agencies. However, the Section, as presently written, does not contain any such limitations.

We, therefore, have grave reservations with respect to its possible enactment.

Sincerely,
JOSEPH H. OWENS, Jr.,
Executive Director.

Mr. BELLMON. Finally, Mr. President, the possibility exists that the Social Security Administration could remove a significant number of State agencies from the program on a unilateral basis. This would be a great threat to the smooth operation of the disability program, since it is unlikely that SSA has the experienced personnel to perform these functions itself without great disruption and harm to the persons it was designed to serve.

Mr. President, we have a choice today between retaining a strong role for the States in the DI program or allowing a federalization of the program to take place. In my view, the choice is clear. We must keep a strong State role in this program. We have seen from experience that federalizing programs is not a cure-all and does not insure that a program will be any better run or administered. Despite the moans and groans from the Social Security Administration about lack of uniformity in State administration of the program, there is no assurance that federalization would bring improvement. Make no mistake about it Mr. President, the provisions contained in section 304 can be used to coerce many of the States into handing over disability determinations to the Social Security Administration. The present Federal-State relationship should be maintained. HEW has ample leverage to deal with poor-performing States without the heavy-handed authority that would be added by section 304.

Mr. President, based on assurances that this matter will be further considered by the committee in an orderly and, hopefully, prompt fashion, I will therefore not call up the amendment.

DISABILITY INSURANCE TERMINATION

● Mr. BIDEN. Mr. President, I voted to support the amendment offered by Senator BAYH to eliminate the 5-month waiting period that terminally ill persons must now endure before they can begin to collect disability benefits.

Under present law, there exists a 5-month waiting period which must be completed before an individual may receive disability benefits. This is in addition to the period of time which they must wait until the initial disability determination is being made. Although such a waiting period may be justified in cases of individuals whose disabilities are of a long-term nature, the individual suffering from a terminal illness surely does not have the time to wait 5 months.

Catastrophic illness imposes a tremendous financial burden on both the person and his or her family. Most of these persons have some sort of cancer. The American Cancer Society estimates that the average cost of a terminal illness is about $15,000. This cost can easily reduce a middle-income family to poverty, especially if the family has little or no health insurance.

It is estimated that if this amendment is approved it will provide approximately $1,620 to each disabled worker. This amount may seem insignificant but it can be very important to the worker and his or her family.

Terminal illness extracts a great emotional toll on both the individual and the family. Though there may be little that we can do to relieve the emotional strain through legislation, we can definitely help alleviate some of the financial hardship. To do anything less would be cruel.

I find it ironic that we earlier debated the Percy amendment and almost everyone agreed how terrible it was that aliens were getting into this country and were receiving SSI without having paid taxes. Now we have an amendment here to give disability payments to persons who have paid their taxes, who have contributed to the social security system and we are telling them that they must wait 5 months before they can receive their benefits. You may die in the next 5 months, you may incur catastrophically high medical bills, you may be facing the prospect of leaving your spouse with a huge debt to pay off once you are gone but you are just going to have to wait 5 months like everyone else before you get your benefits. Mr. President, I am glad that my colleagues here in the Senate voted to eliminate this inequity and supported the Bayh amendment.●

Mr. DOLE. Mr. President, H.R. 3236 was a very difficult bill to pass. It is much more difficult to cut spending programs than it is to increase spending. Many Members of this body have performed as statesmen during the consideration of this bill. A lot of tough votes were cast. I thank my colleagues for their responsibility. Particularly, I would like to congratulate the chairman.

The only thing more difficult than voting on the side of fiscal restraint is to stand on the floor of the Senate and argue against the efforts of colleagues to increase spending and decrease savings. The chairman has done just that for 3 days. He has held the line for fiscal restraint. I applaud him for his courage.

I would also like to thank the members of the Finance Committee staff, particularly Mike Stern, Joe Humphreys, Bob Lighthizer, Linda McMahon, and Sheila Burke, for their hard work on this bill.

Mr. President, this measure will not just cut benefits, and I hope it will not be cited for that alone. The work incentives and administrative changes in the bill will improve the DI and SSI programs immeasurably and help to bring many handicapped individuals into the mainstream of our economic and social life where they belong. The bill is an important contribution to efforts to improve the lives of the disabled, and I am happy to have participated in the process to bring it about.

● Mr. DECONCINI. Mr. President, H.R. 3236 posed an array of complex and perplexing issues and I did not arrive at my decision to vote against final passage lightly. The bill which the Senate has agreed to contained a number of beneficial revisions in the disability program. Against these however, must be weighed those provisions which substantially slashed benefit levels in an era of burgeoning inflation. These provisions, Mr. President, retroactively change the rules governing the benefits that would be available to those who are currently contributing to the system.

Millions of Americans in covered employment are continuing to pay an ever higher proportion of their income in payroll taxes. They have a right to expect that we, who are the fiduciaries of their interests in the benefits to which they are presumptively entitled under current law, will act to insure that that interest is effectively protected. And this, Mr. President, is where, in my estimation, the legislation which we have passed today is fatally deficient. The changes it mandates in benefit levels are not inconsequential; they will impinge acutely on those families who are forced through misfortune to turn to our social insurance system from assistance.

For example, the average American family, with a 40-year-old employee earning $250 per week, a spouse and two children, under the current system would be entitled to a weekly disability benefit of $184, this constitutes a stringent budget for four persons, especially with two growing children.

But under the bill that we passed today, that already meager benefit level would be reduced to approximately $161 per week. This is a loss of $23 per week. To a family of this size this cut does not represent the loss of extravagances but of basic fundamental needs, such as food, shelter, and clothing.

I am well aware of the need for greater fiscal stringency and of how imperative it is that we bring this inflation under control. However, it is unreasonable and inequitable to wage this battle at the expense of the most vulnerable members of our society—the handicapped.

The savings achieved by this bill amount to $74 million over 5 years. In fiscal 1977, according to estimates by the HEW Inspector Generals Office, between $5.5 and $6.5 billion were lost due to fraud abuse and mismanagement by that Department alone. This is the kind of waste on which we must concentrate our efforts to bring Federal spending under control, not by breaking faith with the disabled.●

The PRESIDING OFFICER. Are there further amendments? If not, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment as amended, and third reading of the bill.

The amendments were ordered to be engrossed for a third reading, and the bill to be read the third time.

The bill was read the third time.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. LONG. I yield back the time.

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. Bradley), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), and the Senator from Tennessee (Mr. Sasser) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Bradley) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Rhode Island (Mr. Chafee), the Senator from Mississippi (Mr. Cochran), the Senator from Arizona (Mr. Goldwater), the Senator from Indiana (Mr. Lugar), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER (Mr. Stewart). Is there any Senator in the Chamber who has not voted who desires to vote?

The result was announced—yeas 87, nays 1, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—87

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
McClure
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—1

DeConcini

NOT VOTING—12

Baker
Bradley
Chafee
Cochran
Goldwater
Gravel
Hart
Kennedy
Lugar
McGovern
Sasser
Young

So the bill (H.R. 3236), as amended, was passed.

Mr. BELLMON. Mr. President, I would like to have the attention of both floor managers of the bill which we just passed.

Mr. President, as the floor managers of this bill know, I have been a supporter of changes in the Nation's welfare laws ever since I came to the Senate. Two years ago, I joined with six of my colleagues in sponsoring a proposal to make major changes in our welfare programs. Our bill was S. 2777, introduced in March 1978. I was very pleased last year when the Carter administration scrapped its 1977 welfare proposal and submitted a revised proposal very similar to S. 2777.

I was further encouraged when the House acted last fall on the new Carter proposal and adopted it with relatively modest changes.

I remain very hopeful that the Senate will have the opportunity to take up a major welfare bill this session. It seems to me that a fairly broad consensus has evolved about what ought to be done. There is no longer the kind of division between the various advocates of welfare reform that there was back in the early 1970's when the Nixon administration's family assistance plan was rejected.

From what I know of his views, I think the chairman of the Finance Committee and I are relatively close together in what needs to be done to the welfare system. We have differences of opinion on a few issues, but we both agree that management must be tightened and that all reasonable steps should be taken to get recipients off the welfare rolls and onto payrolls.

First question: With these points in mind, I would like to ask the distinguished chairman of the Finance Committee what the plans of his committee are relative to taking up the House-passed bill and other welfare reform proposals.

Mr. President, I earlier talked to both Senator Dole and Senator Long about this matter. I would like to ask them when we could expect some welfare reform legislation to come to the floor. If they can tell me and the Senate something about their plans and also about the timetable, I would appreciate it. This session will go by fairly rapidly, from all appearances, and it seems that the later we get into the session, the less opportunity we will have to give consideration to welfare reform.

So I should like, if the floor managers will agree, to have an update on where we are on welfare reform.

● Mr. LEVIN. Mr. President, I share the sentiments which have been expressed by my colleagues (Mr. Bellmon and Mr. Javits). I am concerned with the incremental and piecemeal approach we seem to be taking to welfare legislation in the Senate.

The Senate recently passed a bill dealing with child welfare and foster care program but which also includes some major provisions on AFDC. Our colleagues in the House have taken a different approach in dealing with welfare legislation—they passed a single bill, patterned after the Carter administration's proposal, on November 7.

Mr. President, a major focus of public policy has been the elimination of poverty in America. Since the mid-1960's, there have been protests by officials and the public alike over the "welfare mess". Proposals have been advanced and introduced as legislation to reform the present system—none has so far passed the Senate. but the debate over welfare reform continues.

President Carter characterized the Federal Government's failure to deal with comprehensive reform of our welfare system in his May 23, 1979 message to Congress on the subject. He said:

> I recognize that welfare reform is a difficult undertaking; no legislative struggle in the last decade has provided so much hopeful rhetoric or so much disappointment and frustration.

In his January 23 state of the Union address to a joint session of Congress, he said:

> Our current welfare system is overdue for serious reform; the system is wasteful and

> not fully effective. He went on to say: last year the House passed the Social Welfare Reform Amendments Act, which addresses the major problems in our cash assistance programs. This year, we must continue this momentum toward welfare reform. I am determined to do whatever I can to help enact the two bills needed for the most comprehensive reform of the welfare system in our history.

Mr. President, our current welfare system is a collection of overlapping and ill-coordinated programs designed to aid the poor. If current policy is allowed to continue, the programs that are designed to assist the poor will continue to be complex both for welfare recipients and program administrators. Benefits, regulations, and eligibility will continue to vary from State to State and from program to program. The fiscal burdens of States and localities will continue to vary widely depending on their financial resources and the priority they give to helping the low-income population. Much of the poor population will not be covered by any Federal cash assistance program, and many of the groups who are covered will continue to experience a high incidence of poverty because of the low benefits paid by some States.

A public welfare study conducted by the Subcommittee on Fiscal Policy of the Joint Economic Committee concluded as follows:

> Instead of forming a coordinated network in pursuit of well-defined goals, our Federal, State and local income maintenance programs are an assortment of fragmented efforts that distribute income to various persons for various purposes, sometimes on conflicting terms and with unforeseen effects.

It was further determined that:

> The habit of approaching problems in isolation has led to fragmented and inconsistent legislation and administration.

Mr. President, my belief that the welfare reform bill should be considered by Congress as a comprehensive measure is not solely based upon my concerns that the proposal would serve to assist welfare families in the 13 States where the minimum level of support in AFDC and food stamp benefits combined is less than 65 percent of the poverty standard. My State of Michigan, for instance, also needs a comprehensive welfare reform measure such as the one which recently passed the House.

Mr. President, Michigan has focused its welfare reform efforts in two areas: The development of a uniform national family policy and a more equitable Federal-State sharing of the country's welfare burden. In so doing, the State is attempting to address concerns also frequently expressed at the Federal level. Specifically, welfare reform legislation such as H.R. 4904 could significantly reduce error rates by standardizing the treatment of income and resources for the two largest welfare programs, AFDC and food stamps. Second, the oft-criticized antifamily bias of the programs would be greatly reduced by mandating both a national minimum benefit level and coverage of intact needy families through the AFDC-unemployed parent program.

The minimum benefit would insure an adequate level of assistance to needy families throughout the country. AFDC-unemployment parent coverage helps eliminate inequitable treatment of different categories of needy families and removes the need for wage earners to leave their families, and, thus, also removes a significant disincentive for employment. Refinements of eligibility criteria in the unemployed parent program would address specific problems found in Detroit and other urban centers. For example, removal of the work history requirement would enable young families with no work history due to the extraordinarily high unemployment rates in the inner cities to obtain needed assistance.

Provisions to increase fiscal relief and reexamine the matching formula for assistance programs simply recognize economic reality. Michigan is currently in a serious recession, approaching double-digit unemployment rate even as the national rate declines slightly. Yet we continue to be a net contributor to the Federal Treasury, even in a time of recession. Yet its matching rate is determined by the economic conditions that existed 3 years ago. These reforms are needed now, not several years down the road.

Mr. President, House bill, H.R. 4904, contains features which have received bipartisan support in the Senate in the past. It is my hope that the distinguished Chairman of the Finance Committee might indicate what the prospects are for a comprehensive welfare reform bill being sent to the floor this session.●

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. BELLMON. Yes.

Mr. JAVITS. Mr. President, seven Senators have joined in a letter to Senator Long relating to this bill and also to H.R. 3434 because of our concern that these bills would foreclose the likelihood of any effort to do better than we have on welfare legislation. This is a matter of crucial impact, as the Senators know, on large cities, and I represent the largest in the county. Indeed, if there is one single cause for New York's near bankruptcy in 1975, it is the amount that it has to deal with in welfare. Other cities and towns in New York are also feeling the tremendous burden. Those Senators signing this letter were myself and Senators Bellmon, Tsongas, Hart, Cohen, Percy, Levin, and Hatfield.

It is very significant, Mr. President, that this does not represent any ideological division. These are Senators of very different views on legislation generally, but we all could come together on this basic proposition. So I join Senator Bellmon, Senator Levin, and the other Senators whose names I have read in making this request of Senator Long and Senator Dole.

The House passed H.R. 4904 last November and we have every right to expect that, with over a year to deal with this critical matter, it will have hearings and that we can get something done on it before the end of this Congress.

Mr. LONG. Mr. President, the Senator from New York (Mr. Moynihan) has been holding some hearings on welfare in his subcommittee, which has that subject matter under its jurisdiction. He has some more hearings scheduled in early February.

The Senate Committee on Finance is going to hold hearings on welfare and we shall cover the area that the Senator has mentioned, because this is a very important matter. It is of tremendous significance and importance to every State and every segment of the Nation and, in due course, we shall make our recommendations from the full committee.

I am not in a position to say the precise day that we shall be holding these hearings, because the first order of business is for us to dispose of the windfall profit tax and this pending measure.

After we finish the matters that we have in conference we will try to finish the health insurance bill, which has been the subject of hearings and we have been in markup on that for some time. I hope that as soon as we can process the windfall profit tax measure, which I hope will be within the next 10 days, I hope it will not take us more than a few weeks to report our views with regard to health. After that, Mr. President, I hope to move on to the welfare area. There may be some revenue bills that are of significance.

Mr. BELLMON. If the Senator will yield, as far as the Senator from Oklahoma is concerned, we can put the windfall profit tax off until very late in the session. That will be of great service to me.

Mr. LONG. I do not blame the Senator for feeling that way; I know a lot of Senators do. Of course, if we do not pass a windfall profit tax, the President is going to withdraw his decontrol plan and we shall be left with the mess we had in 1978, prior to the time the President sent down his proposed decontrol plan. But as far as the Senator from Louisiana is concerned, I definitely plan to participate in hearings on welfare and to help put forth the best bill that we think we can recommend.

I think we all ought to understand one another, that there is always a difference of opinion about some of these measures. Some years back, someone asked me for my definition of tax reform. I said my definition of tax reform is whatever can muster 51 votes in the U.S. Senate. If you can get 51 Senators to vote to pass it, obviously, they think it is a reform because they would not vote for it if they did not think it is a change for the better.

My version of a welfare reform program is a "something-for-something" program. To me, the greatest reform we need in welfare is to pay people to do something, rather than paying all that money out for people to do absolutely nothing; pay people to be useful citizens, to put their hands on the ladder and start climbing up that ladder, rather than paying people to sit there and vegetate. I think there is a tremendous amount that can be done in that area and a lot has been done.

May I say, Mr. Lloyd Rader, out in the State of Oklahoma, has some fine ideas and if permitted to do so by the Federal bureaucracy, he could show that a lot can be done and should be done by the local or State bureaucracy.

In my judgment, we ought to emphasize moving people into the mainstream, reducing dependency, rather than increasing it. In the judgment of this Senator, it is not going to require a huge amount of money. We ought to see that the money can be spent the way it ought to be spent; to improve people's lives, to achieve their hopes and ambitions, to reduce dependency, rather than increasing it.

I shall certainly consider the views of all other Senators and I shall invite the Senate now for when, in fact, in due course, I hold the hearings; I want to invite the Senator from New York now. I know it is not necessary, but just to avoid any misunderstanding, I am inviting the Senator from New York now to come and be a witness at those hearings and, if he wishes, to interrogate some of the witnesses.

Mr. JAVITS. If the Senator will yield to me, I hope we can do as well as we did this morning, but at that time, I hope I win.

If the Senator will give me just one word, which is important—I am very strong for the working poor and I think, from what the Senator says and from what I know of his reputation, so is he.

I cannot tell the Senator how important it would be if we could do a welfare reform for the working poor. Aid for the working poor would have a beneficial side effect for our cities.

All I ask the Senator is, let us move on it, that is all. We shall deal with his views, mine, and everybody else's, and I shall more than happily accept the invitation to be a witness. I hope it comes very soon.

Finally, before I yield the floor, I would like to digress a moment to say a few words about the bill we just passed. I felt I had to vote for passage of the committee bill, as amended, even though most reluctantly. The bill contains many positive provisions including those increasing incentives for beneficiaries to return to work and improving the administration of the program.

I believe, however, that the reductions in benefits through changes in the family cap provision and the 5-year dropout provision are ill-advised. I voted for the Metzenbaum amendment which would have largely restored the cuts due to the family cap change. I also sponsored my own amendment which would have restored large cuts in the family disability benefits for lower middle income individuals. Much to my regret, both amendments were defeated.

My vote in favor of final passage of the bill should be viewed as a statement that in conference with the House, the Senate should hold firm to its comparatively limited benefit reductions.

Mr. LONG. Let us understand that we are going to have hearings on welfare reform and welfare. It may not be what I think is welfare reform, it may not be what any Senator thinks is welfare reform, but it is going to be what 51 Senators think is welfare reform.

I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I reiterate the views expressed by the chairman of the committee and the other Senators. I do agree that we ought to finish legislation on the catastrophic health insurance proposal, which has wide support in the committee. It is the result of nonpartisan support, however one views it. It seems to me that there is some hope for an agreement on that.

Then, as far as this Senator is concerned, welfare reform would be coming along sometime thereafter. There are different approaches and some have more merit than others, at least in the eyes of those sponsors of the different versions. We believe the block grant approach has a lot of appeal. We hope to persuade other Senators to that view. But certainly, there are many options that we shall be considering.

I say for the Republicans on the committee that we want to assure Republicans and Democrats of our interest in welfare reform and willingness to consider it at the earliest possible time.

Mr. LONG. May I say to the Senator that I really do hope that the Senate will do better than it has done on this bill just passed with regard to attendance. The Senate is going to have some very fine and useful, thoughtful speakers, with a lot of good information to bring to this Senate.

It is a shame sometimes when we do the best we can to educate the Senate that we have to do it with very few Senators here and have to count on Senators absorbing something by word of mouth, not even getting it all, just a 30-second explanation of an amendment when they come to vote.

I hope we will be able to command better attendance on the Senate floor when we debate the welfare issue because we deserve a debate that would be in all respects a credit.

Mr. President, I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I join the distinguished chairman of the committee in the comments he made earlier about the success of certain programs which are being operated in Oklahoma by what we used to call the Welfare Department. It is now called DISRS—the Department of Institutions, Social and Rehabilitative Services. Mr. Lloyd E. Rader has been our Welfare Director—that is the way we think of him—for almost three decades. He has done a remarkable job in moving people off welfare rolls and on payrolls in spite of some very obvious impediments put in place by the Federal bureaucracy which I hope we will be able to remove when we get into a reform bill.

Mr. President, I urge, again, that we act on welfare reform in a very expeditious manner because if there is one thing the citizens of this country are fed up with, it is paying people for not doing anything.

I believe that we in the Senate have both the knowledge and the will to make changes in our welfare system so it can provide adequate help to people who are not able to help themselves, and at the same time bring an end to this business of subsidizing indolence. We can and we must make certain that people who can contribute to their own livelihood are required to do that.

Mr. LONG. I thank the Senator.

Mr. President, I look forward to the day when we will have the bill before us and will be discussing it.

Between now and then, however, if our plans can be assured, we are going to be here with a major health bill. I hope it will point us to what will be in the best interests of the Nation.

We will have something that is broader, I hope, than just a catastrophic illness insurance bill. But I hope it will at least cover catastrophic illness.

We will certainly try to provide the best answers in both areas.

Mr. President, I move that the Senate insist on its amendments to the bill H.R. 3236, I ask for a conference with the House thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. EXON) appointed Messrs. LONG, TALMADGE, RIBICOFF, NELSON, BAUCUS, DOLE, DANFORTH, and DURENBERGER conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill H.R. 3236 be printed as amended by the Senate.

Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

> An Act to amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes.

SOCIAL SECURITY AMENDMENTS OF 1979

Mr. ROBERT C. BYRD. Mr. President, in the last 10 years, the cost of the social security disability insurance program—the Nation's largest disability benefit program—has jumped fivefold, from $3.3 billion to $16.1 billion. The number of recipients under the program grew from 750,000 in 1970 to almost 4.9 million in 1978; since then, the benefit rolls have remained fairly constant. In the next decade, it is projected that the cost of the program under current law will almost double to $30 billion.

In the 1950's, the Congress made the disability insurance program self-financing by enacting a relatively small tax on employers and employees. In recent years, Congress has been increasingly concerned with the size, cost, and financing of the program. Three years ago, Congress passed the social security disability amendments which helped to shore up the nearly bankrupt disability trust fund by scheduling significant increases in the social security tax rates.

The legislation passed by the Senate today, the Social Security Disability Amendments of 1979, is intended to insure the future financial viability of the disability trust fund. The bill alters the program so that it will adhere more closely to the original intent of Congress.

The legislation moderately reduces future benefits, while at the same time extending those benefits which are intended to give people the ability to return to work. The reasoning behind these benefit changes is twofold. In the present system, some recipients under the disability insurance program have received more income from their benefits than they received while in the work force. In addition, the present system discourages some recipients from trying to return to work by completely cutting off benefits as they seek employment. Disabled individuals often have higher medical costs than the general population. The bill limits the loss of medical and social service benefits as recipients return to work.

The legislation passed today encourages a balanced approach to disability insurance by tightening benefits, establishing work incentives, and improving the program's administration. I commend all members of the Finance Committee for their commitment to reforming the program. I would like to offer special thanks to Senator LONG, chairman of the Finance Committee, and Senator DOLE, ranking minority member, for their astute floor management of the bill.

VISIT TO THE SENATE BY A DELEGATION FROM THE EUROPEAN PARLIAMENT

Mr. BIDEN. Mr. President, I am pleased to rise today because I have the distinct honor and privilege of introducing to my colleagues in the Senate a delegation from the European Parliament.

As many know, the European Parliament was popularly elected throughout nine countries in Europe this past year, and the face and the character of the parliament was changed as a consequence of that. It is a very important body.

I would like to thank both the majority leader and the minority leader for recognizing this and getting unanimous consent for us to greet and to allow on the floor of the U.S. Senate, for the first time in my knowledge, representatives of a parliamentary body that is not exclusively a national parliamentary body.

It is quite an exception. But it is quite an exceptional group of people here today. They represent seven of nine countries, and the entire political spectrum of the parties within their countries.

I again thank the Senate for giving me this privilege and honor of being able to introduce them because I believe it is a landmark occurrence to be able to welcome a parliamentary body that is of consequence and does represent nine European countries.

Mr. President, I submit for the RECORD the names of the representatives from the European Parliament who are with us today.

DELEGATION FROM THE EUROPEAN PARLIAMENT

Mrs. Eva Wilhelmsson Gredal (Denmark), Chairman of the Delegation.

Mr. Vincenzo Giummarra (Italy), Vice Chairman of the Delegation.

Mr. Guido Fanti (Italy), Member of the Communist and Allies Group.

Mr. Mario Zagari (Italy), Vice President of the European Parliament.

Mr. Erwin Lange (Federal Republic of Germany), Member of the Socialist Group.

Mr. Heinrich Aigner (Federal Republic of Germany), Member of the Group of the European People's Party.

Mr. Harry Notenboom (Netherlands), Member of the Group of the European People's Party.

Mrs. Louise Moreau (France), Member of the Group of the European People's Party.

Mr. Maurice Faure (France), Member of the Socialist Group.

Sir David Nicolson (United Kingdom), Member of the European Democratic Group.

Mr. Dario Antoniozzi (Italy), Member of the Group of the European People's Party.

Mr. Niels Haagerup (Denmark), Member of the Liberal and Democratic Group.

Mr. Sergio Pininfarina (Italy), Member of the Liberal and Democratic Group.

Mr. Alan Tyrrell (United Kingdom), Member of the European Democratic Group.

Mr. Roland Boyes (United Kingdom), Member of the Socialist Group.

Mr. Karl Von Wogau (Federal Republic of Germany), Member of the Group of the European People's Party.

Mr. William Newton Dunn (United Kingdom), Member of the European Democratic Group.

Mr. Erdmann Linde (Federal Republic of Germany), Member of the Socialist Group.

Miss Sile De Valera (Ireland), Member of the Group of European Progressive Democrats.

Mr. Johen Van Minnen (Netherlands), Member of the Socialist Group.

So, Mr. President, I present to the Chair and the Members of the U.S. Senate the members of the European Parliament who are here.

[Applause, Senators rising.]

RECESS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate stand in recess for 3 minutes to give our colleages an opportunity to greet the members of the European Parliament.

There being no objection, the Senate, at 2:07 p.m., recessed until 2:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. EXON).

AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1648, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1648) to provide for the improvement of the Nation's airport and airway system, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 2, line 22, strike "and";

On page 2, beginning with line 23, insert the following:

That such airports can replace the moneys they otherwise would have received as Federal assistance under this Act by renegotiating rates and charges paid by air carriers for the use of such airports; and

On page 6, line 25, beginning after the period, strike through and including page 7, line 4;

On page 7, beginning with line 8, strike through and including line 11;

On page 7, line 12, strike "(9)" and insert "(8)";

On page 7, line 17, strike "(10)" and insert "(9)";

On page 7, line 20, strike "(11)" and insert "(10)";

On page 7, line 23, strike "(12)" and insert "(11)";

On page 8, line 1, strike "(13)" and insert "(12)";

On page 8, line 4, strike "(14)" and insert "(13)";

On page 8, beginning with line 11, strike through and including line 13;

On page 8, line 14, strike "(16)" and insert "(14)";

On page 8, line 19, strike "(17)" and insert "(15)";

On page 8. line 24, strike "(18)" and insert "(16)";

On page 9, line 4, strike "(19)" and insert "(17)";

On page 9, line 6, strike "(20)" and insert "(18)";

On page 9, line 9, strike "(21)" and insert "(19)";

On page 9, line 16, strike "(22)" and insert "(20)";

On page 9, line 20, strike "(23)" and insert "(21)";

On page 9, line 23, strike "(24)" and insert "(22)";

On page 10, line 1, strike "(25)" and insert "(23)";

On page 10, line 3, strike "(26)" and insert "(24)";

On page 10, line 3, after "means" insert "(A)";

On page 10, line 6, after "assistance" insert "for a public airport or (B) any private owner of a public-use airport which submits to the Secretary, in accordance with this Act, an application for financial assistance for a reliever airport";

On page 10, line 11, strike "(27)" and insert "(25)";

On page 10, line 13, strike "(28)" and insert "(26)";

On page 10, line 17, strike "(29)" and insert "(27)";

On page 10, line 20, strike "11" and insert "12";

On page 12, line 20, strike "or block grants";

On page 12, line 22, strike "$750,000,000" and insert "$825,000,000";

On page 12, line 23, strike "$1,150,000,000" and insert "$1,425,000,000";

On page 12, line 25, strike "$1,600,000,000" and insert "$1,975,000,000";

On page 13, line 1, strike "$2,100,000,000" and insert "$2,575,000,000";

On page 12, line 2, strike "$2,650,000,000" and insert "$3,225,000,000";

On page 13, line 9, strike "after September 30, 1981";

On page 13, line 11, strike "described in" and insert "that is ineligible to receive such Federal assistance under the provisions of";

On page 14, line 12, strike "$1,650,000,000" and insert "$2,750,000,000";

On page 15, beginning with line 5, strike through and including line 13;

On page 15, line 14, strike "(d)" and insert "(c)";

On page 16, line 12, strike "paragraphs (3) and (4) of subsection (a) of this section" and insert "subsection 6(a) and 7(a) of this Act";

On page 16, line 15, strike "paragraph" and insert "subsection";

On page 16, line 17, strike "section" and insert "subsection";

On page 16, line 18, strike "section" and insert "subsection";

On page 16, line 20, strike "subsection" and insert "subsections";

On page 16, line 24, strike "section" and insert "subsection";

On page 16, line 25, strike "section" and insert "subsection";

On page 17, line 2, strike "such" and insert "this";

On page 17, line 3, strike "(e)" and insert "(d)";

On page 17, line 12, strike "(a), (b), (c)," and insert "(a) and (b)";

On page 17, line 13, strike "7(d)" and insert "7(c)";

On page 17, line 13, strike "section" and insert "Act";

On page 17, line 22, strike "7(d)" and insert "7(c) of this Act";

On page 18, line 5, strike "paragraph (5) of subsection 15(a)" and insert "subsection 9(a) of this Act";

On page 18, line 8, strike "section 8(b)(3) of this Act" and insert "sections 6 and 7 of this Act";

On page 18, line 18, strike "described in" and insert "that are ineligible to receive Federal assistance for such purposes under the provisions of";

On page 19, line 2, after "each" insert "eligible";

On page 19, line 4, strike "fifty thousand" and insert "50,000";

On page 19, line 6, strike "fifty thousand" and insert "50,000";

On page 19, line 9, strike "four hundred thousand" and insert "400,000";

On page 20, line 1, strike "a" and insert "an eligible";

On page 20, line 7, strike "title" and insert "Act";

On page 20, line 14, strike "a" and insert "an eligible";

On page 22, line 11, beginning with "commercial" strike through and including "23" in line 16, and insert in lieu thereof the following: primary airports; and (V) airports that are ineligible to receive Federal assistance under the provisions of sections 23(a) or 23(b)

On page 25, line 14, after "projects" insert "at eligible airports";

On page 25, line 17, after "of" insert "eligible";

On page 25, line 18, strike "$150,000,000" and insert "$225,000,000";

On page 26, line 1, strike "commercial service" and insert "public";

On page 26, line 2, strike "are not eligible to receive assistance from a participating State under this Act—" and insert "that received Federal assistance for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended—";

On page 26, line 16, beginning with "(i)" strike through and including "and" in line 21, and insert in lieu thereof the following: the sum (I) the United States share of the costs of such high priority projects at such airport up to an amount equal to five times the minimum amount apportioned to such airport for fiscal year 1980 under section 15 (a)(3) of the Airport and Airway Development Act of 1970, as amended, and (II) such additional funds as the Secretary, in his discretion, considers appropriate;

On page 27, beginning with line 5, insert the following:

(C) In the case of eligible airports other than reliever or commercial service airports, no less than $275.000.000 of the funds apportioned to the States pursuant to paragraph (3) of this subsection and the funds apportioned to the discretionary fund of the Secretary pursuant to paragraph (4) of this subsection shall be distributed to such public airports during the period from October 1, 1980 to September 30, 1985.

On page 27, line 14, strike "(C)" and insert "(D)";

On page 27, line 16, strike "enplanes more than .25 percent of the total number of passengers enplaned annually at all commercial service airports" and insert "is ineligible to receive such Federal assistance under section 23(a) or 23(b) of this Act";

On page 28, line 6, strike "or block grant";

On page 28, line 20, strike "enplanes more than, 25 percent of the total number of passengers enplaned annually at all commercial service airports" and insert "is ineligible to receive such Federal assistance under the provisions of sanctions 23(a) and 23(b) of this Act";

On page 29, line 4, beginning with "that" strike through and including the word "plan" in line 17, and insert in lieu thereof the following: that the Secretary make the waived amount available for an approved project-grant to the sponsor of another eligible public airport that is part of the same geographical area as the airport of the sponsor making the waiver

On page 30, beginning with line 23, strike through and including page 36, line 7;

On page 37, line 8, strike "AND BLOCK GRANT";

On page 37, beginning with line 10, strike through and including line 13, and insert in lieu thereof the following:

SEC. 11. (a) SUBMISSION.—Subject to the provisions of this subsection, (1) any public agency, or two or more public agencies acting jointly, or (2) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit

On page 38, beginning with line 1, strike through and including line 14;

On page 38, line 16, strike "or block grant";

On page 38, line 25, strike "(1) PROJECT GRANT APPLICATIONS.—";

On page 39, line 1, strike "(A)" and insert "(1)";

On page 39, line 4, strike "(i)" and insert (A)";

On page 39, line 7, strike "(ii)" and insert "(B)";

On page 39, line 15, strike "(iii)" and insert "(C)";

On page 39, line 19, strike "(iv)" and insert "(D)";

On page 39, line 21, strike "(v)" and insert "(E)";

On page 40, line 1, strike "(vi)" and insert "(F)";

On page 40, line 4, strike "(B)" and insert "(2)";

On page 40, line 12, strike "(C)" and insert "(3)";

On page 40, line 14, strike "(i)" and insert "(A)";

On page 40, line 16, strike "(ii)" and insert "(B)";

On page 40, line 17, strike "(iii)" and insert "(C)";

On page 40, line 23, strike "(D)" and insert "(4)";

On page 41, line 3, strike "(E)" and insert "(5)";

On page 42, line 1, strike "(F)" and insert "(6)";

On page 42, line 2, strike "(i)" and insert "(A)";

On page 42, line 14, strike "(ii)" and insert "(B)";

On page 42, line 15, strike "(i)" and insert "(A)";

On page 42, line 19, strike "(G)" and insert "(7)";

On page 42, line 20, strike "(i)" and insert "(A)";

On page 43, line 14, strike "(ii)" and insert "(B)";

On page 43, beginning with line 19, strike through and including page 44, line 23;

On page 44, line 24, strike "(d)" and insert "(c)";

On page 45, line 4, strike "participating States and";

On page 45, line 9, strike "participating State or";

On page 45, line 10, strike "(e)" and insert "(d)";

On page 45, line 23, strike "or block grant";

On page 50, line 25, strike "and";

On page 51, line 2, strike the period and insert a semicolon and the word "and";

On page 51, beginning with line 4, insert the following:

(13) in the case of a primary airport, the airport operator or owner will provide restroom facilities that (A) are available to the public without any charge or free and (B) are maintained in a condition of cleanliness commensurate with the public health standards of the unit of general local government in which such airport is located.

On page 52, line 9, strike "or block grant";

On page 52, line 12, strike "or block grant";

On page 52, line 21, strike "(1)";

On page 52, line 22, strike "and (2) will not be accompanied at an airport described in sections 23(a) or 23(b) of this Act,";

On page 56, line 7, after "than" insert "the greater of (A) $200,000 or (B)";

On page 57, line 11, strike "(a) PROJECT GRANT AGREEMENTS.—";

On page 57, beginning with line 24, strike through and including page 58, line 4;

On page 58, line 5, strike "(c) PROJECT GRANT AND BLOCK GRANT AGREEMENTS.—";

On page 58, line 7, strike "or block grant";

On page 58, line 15, strike "or block grant";

On page 64, line 3, beginning with "The" strike through and including line 7;

On page 66, line 5, strike ".25" and insert ".5";

On page 66, line 7, after "airports" insert "or (2) after September 30, 1982, at any airport that enplanes more than .25 percent of the total number of passengers enplaned annually at all commercial service airports";

On page 68, beginning with line 3, insert the following:

(e) Notwithstanding any contract which is in existence on the effective date of this Act and which restricts the airport sponsor's ability to raise or impose charges on any air carriers, any airport which is not an eligible airport under this Act may negotiate rates and charges with any air carrier for the purpose of replacing revenues that otherwise would have been available to such airport from the Trust Fund were it not for the amendments made by this Act. Any revenues that result from such renegotiation shall be used only for capital and operating expenses of such airports.

On page 70, beginning with line 1, insert the following:

REPORT TO CONGRESS ON AIRPORT AND AIRWAY TRUST FUND

SEC. 25. On or before the third day of January of each year, the Secretary shall transmit a report to the Congress describing the status of the revenues and expenditures of the Airport and Airway Trust Fund and its authorized programs and operations under this Act during the preceding fiscal year.

So as to make the bill read:

S. 1648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Airport and Airway System Development Act of 1979".

DECLARATION OF POLICY

SEC. 2. The Congress hereby finds and declares—

That the safe operation of the airport and airway system will continue to be the highest aviation priority;

That continuing airport and airways improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

That this Act should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports, for points where scheduled commercial air service is provided;

That aviation facilities that receive assistance under this Act should be constructed and operated with due regard to providing substantial relief from current and projected noise impacts on nearby communities;

That certain airports that have the ability to finance their capital and operating needs without Federal assistance should no longer receive Federal assistance under this Act;

That such airports can replace the moneys they otherwise would have received as Federal assistance under this Act by renegotiating rates and charges paid by air carriers for the use of such airports; and

That the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program.

DEFINITIONS

SEC. 3. As used in this title—

(1) "Air traffic hub" means all of the commercial service and reliever airports determined by the Secretary to be serving the same geographical area.

(2) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(3) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards;

(ii) the construction of physical barriers and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public-use airport; and

(iii) the preparation of plans and specification, including field investigations incidental thereto;

(B) the soundproofing of any school or hospital, or of any publicly owned health facility, operating as such at the time of the enactment of this Act, or, when specifically approved by the Secretary, operating as such subsequent thereto, and located in an area proximate to the airport in which the noise levels caused by the operation of a public-use airport are not compatible with the operations of such institutions;

(C) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) noise suppressing equipment for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport;

(v) noise monitoring equipment; or

(vi) aviation-related weather reporting equipment;

(D) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in paragraph 3(A) or 3(C) of this section or to remove or mitigate or prevent or limit the establishment of airport hazards; and

(E) any acquisition of land or of any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public-use airport.

(4) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(5) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes airport system planning.

(6) "Airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports.

(7) "Annual expenditure program" means a program for the utilization of funds pursuant to a consolidated improvement plan.

(8) "Commercial service airport" means a public airport which is determined by the Secretary either to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, or to enplane annually 10,000 or more passengers.

(9) "Consolidated improvement plan" means a 3-year plan for development and planning projects at one or more airports.

(10) "Eligible airport" means an airport that is eligible to reecive Federal assistance under the provisions of this Act.

(11) "Government aircraft" means aircraft owned and operated by the United States.

(12) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(13) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the United States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(14) "Primary airport" means a commercial service airport which is determined by the Secretary to have enplaned .01 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(15) "Primary hub" means an air traffic hub, the commercial service airports of which are determined by the Secretary to have enplaned .5 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(16) "Projects" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(17) "Project costs" means any costs involved in accomplishing a project.

(18) "Project-grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(19) "Public agency" means a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or Guam or any agency of any of them; a municipality or other political subdivision; a tax-supported organization; or an Indian tribe or pueblo.

(20) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(21) "Public-use airport" means any public airport or any privately owned reliever airport which is used or to be used for public purposes.

(22) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a primary airport.

(23) "Secretary" means the Secretary of Transportation.

(24) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this Act, an application for financial assistance for a public airport or (B) any private owner of a public-use airport which submits to the Secretary, in accordance with this Act, an application for financial assistance for a reliever airport.

(25) "State" means a State of the United States or the District of Columbia.

(26) "Trust Fund" means the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, as amended.

(27) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 12 of this Act which is to be paid from funds made available for the purposes of this Act.

NATIONAL AIRPORT SYSTEM PLAN

SEC. 4. (a) FORMULATION OF PLAN.—The Secretary shall review and revise as necessary the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe and efficient system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) developments forecasted in other modes of intercity transportation.

(b) In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(c) The Department of Defense shall make military airports and airport facilities available for civil use to the extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which military airports and airport facilities will be available for civil use.

NAVIGATION AIDS

SEC. 5. The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)) shall be charged to appropriated funds available to the Secretary for that purpose pursuant to section 7(a) of this Act. Nothing in this Act shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

AIRPORT IMPROVEMENT PROGRAM

SEC. 6. (a) AIRPORT GRANTS; OBLIGATIONAL AUTHORITY.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project-grants in accordance with the provisions of this Act in aggregate amounts of not less than nor more than $825,000,000 for fiscal year 1981; $1,425,000,000 for the fiscal years prior to October 1, 1982; $1,975,000,000 for the fiscal years prior to October 1, 1983; $2,575,000,000 for the fiscal years prior to October 1, 1984; and $3,225,000,000 for the fiscal years prior to October 1, 1985.

(b) No obligation for airport development shall be incurred by the Secretary after September 30, 1985: *Provided*, That nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 9(a) of this Act after such date.

(c) No obligation shall be incurred by the Secretary for airport development at any airport that is ineligible to receive such Federal assistance under the provisions of sections 23(a) or 23(b) of this Act.

(d) No obligation shall be incurred by the Secretary for airport development at a privately owned reliever airport unless—

(1) such airport is in a primary hub area,

(2) the Secretary finds that such airport plays an essential role in the national airport system plan, and

(3) the Secretary receives appropriate assurances that such airport will continue to function as a reliever airport during the economic life of any facility at such airport that was developed with Federal financial assistance under this Act.

AIRWAY IMPROVEMENT PROGRAM

SEC. 7. (a) AIRWAY FACILITIES AND EQUIPMENT; OBLIGATIONAL AUTHORITY.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), the Secretary is authorized to make expenditures from the Trust Fund in aggregate amounts of not less than nor more than $$400,000,000 for fiscal year 1981; $850,000,000 for the fiscal years prior to October 1, 1982; $1,400,000,000 for the fiscal years prior to October 1, 1983; $2,000,000,000 for the fiscal years prior to October 1, 1984; and $2,750,000,000 for the fiscal years prior to October 1, 1985. Amounts appropriated under the authorization in this subsection shall remain available until expended.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312(c) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section 312(c). For research, engineering and development, and demonstration projects and activities under such section 312(c), there is authorized to be appropriated from the Trust Fund $9,000,000 for fiscal year 1981; $95,000,000 for fiscal year 1983; $100,000,000 for fiscal year 1983; $105,000,000 for fiscal year 1984; and $110,000,000 for fiscal year 1985. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) OTHER EXPENSES.—The balance of the moneys available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient condition. Eligible maintenance expenses are limited to costs incurred in the field and exclude the costs of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (1) and (2) of this subsection may not exceed $350,000,000 for fiscal year 1981; $375,000,000 for fiscal year 1982; $400,000,000 for fiscal year 1983; and $425,000,000 for fiscal year 1984; and $450,000,000 for fiscal year 1985. No part of the amount appropriated from the Airport and Airway Trust Fund in any fiscal year for obligation or expenditure under clause (2) of this subsection shall be obligated or expended which exceeds that amount which bears the same ratio to the maximum amount which may be appropriated from the Airport and Airway Trust Fund in any fiscal year for obligation or expenditure under clause (2) of this subsection shall be obligated or expended which exceeds that amount which bears the same ratio to the maximum amount which may be appropriated under clauses (1) and (2) of this subsection for such fiscal year as the total amount obligated in that fiscal year under subsections 6(a) and 7(a) of this Act bears to the aggregate of minimum amount made available for obligation under each such subsection for such fiscal year. If in fiscal year 1981, or in any subsequent fiscal year, the total amount obligated under subsection 6(a) or obligated under subsection 7(a) of this Act in such fiscal year is less than the minimum amount made available for obligation under such subsections for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under subsection 6(a) or made available under subsection 7(a) of this Act for such fiscal year and the total amount obligated under this subsection for such fiscal year.

(d) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

(2) Amounts equal to the minimum amounts authorized for each fiscal year by section 6 or sections 7 (a) and (b) and the third sentence of section 7(c) of this Act shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts transferred to the Trust Fund by subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 (relating to aviation user taxes) may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection 7(c) of this Act.

(4) No provision of law, except for a statute hereafter enacted which expressly limits the application of this paragraph (4), shall impair the authority of the Secretary to obligate to an eligible airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to subsection 9(a) of this Act, in addition to the minimum amounts authorized for that fiscal year by sections 6 and 7 of this Act.

APPORTIONMENT OF FUNDS

SEC. 8. (a) For each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary in accordance with subsection (b) of this section: *Provided*, That in any apportionment for a fiscal year beginning after September 30, 1981, the Secretary shall not apportion any funds to airports that are ineligible to receive Federal assistance for such purposes under the provisions of sections 23(a) or 23(b) of this Act.

(b) On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To the sponsor of each eligible primary airport, as follows:

(i) $6 for each of the first 50,000 passengers enplaned at that airport;

(ii) $4 for each of the next 50,000 passengers enplaned at that airport;

(iii) $2 for each of the next 400,000 passengers enplaned at that airport; and

(iv) $.50 for each additional passenger enplaned at that airport.

(B) The Secretary shall not apportion more than $10,000,000 under paragraph (1) of this subsection to an airport sponsor for any airport for any fiscal year.

(C) In no event shall the total amount of all apportionments under paragraph (1) of this subsection for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an eligible primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(D) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this Act, the total amount of all apportionments under paragraph (1) of this subsection for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an eligible primary airport under paragraph (1) of this subsection proportionately so that such 50 percent amount is achieved.

(2) PRIMARY HUBS.—

(A) For each primary hub as follows: $.50 for each passenger enplaned at each commercial service airport which is a part of the air traffic hub.

(B) The Secretary shall not apportion more than $5,000,000 under paragraph (2) of this subsection to any primary hub for any fiscal year.

(C) In no event shall the total amount of all apportionments under paragraph (2) of this subsection for any fiscal year exceed 20 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each air traffic hub under paragraph (2) of this subsection proportionately so that such 20 percent amount is achieved.

(D) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this Act, the total amount of all apportionments under paragraph (2) of this subsection for such fiscal year shall not exceed 20 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment of each air traffic hub under paragraph (2) of this subsection proportionately so that such 20 percent amount is achieved.

(3) APPORTIONMENTS TO STATES, PUERTO RICO, AND INSULAR AREAS.—

(A) To the several States and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands for eligible airports other than: (I) reliever airports which are public airports and which are part of a primary hub; (II) commercial service airports which are part of a primary hub; (III) primary airports; and (IV) airports that are ineligible to receive Federal assistance under the provisions of sections 23(a) or 23(b) of this Act:

(i) $75,000,000 for fiscal year 1981; $80,000,000 for fiscal year 1982; $85,000,000 for fiscal year 1983; $90,000,000 for fiscal year 1984; and $95,000,000 for fiscal year 1985 shall be apportioned as follows:

(I) Puerto Rico, and Insular Areas. One percent of such amounts to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(II) States. One-half of the remaining 99 percent in the proportion which the population of each State bears to the total population of all the States and one-half of the remaining 99 percent in the proportion which the area of each State bears to the total area of all the States. As used in paragraph (3) of this subsection, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(ii) In addition $150,000 shall be apportioned to each State for each commercial service airport located within the State which is included for the purpose of apportioning funds under paragraph (3)(A) of this subsection.

(B) In no event shall the total amount of all apportionments under paragraph (3) of this subsection for any fiscal year exceed 20 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such year reduce the apportionment to each State and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, under paragraph (3) of this subsection proportionately so that such 20 percent amount is achieved.

(C) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this act, the total amount of all apportionments under for such fiscal year shall not exceed 20 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each State and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands, under paragraph (3) of this subsection proportionately so that such 20 percent amount is achieved.

(4) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), and (3) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary for such projects at eligible airports as the Secretary considers most appropriate for carrying out the purposes of this Act: *Provided*, That—

(A) In the case of eligible reliever airports, no less than $225,000,000 of the funds apportioned to primary hubs pursuant to paragraph (2) of this subsection and the funds apportioned to the discretionary fund of the Secretary pursuant to paragraph (4) of this subsection shall be distributed to such reliever airports during the period from October 1, 1980 to September 30, 1985.

(B) In the case of public airports that are not primary airports and that received Federal assistance for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended—

(i) the Secretary shall promulgate regulations identifying high priority projects that would significantly increase the safety or capacity of such airports, and

(ii) during the period from October 1, 1980 to September 30, 1985, the Secretary shall make available to each such airport an amount from the discretionary fund that equals the sum of (I) the United States share of the costs of such high priority projects at such airport up to an amount equal to five times the minimum amount apportioned to such airport for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended, and (II) such additional funds as the Secretary, in his discretion, considers appropriate;

(C) In the case of eligible public airports other than reliever or commercial service airports, no less than $275,000,000 of the funds apportioned to the States pursuant to paragraph (3) of this subsection and the funds apportioned to the discretionary fund of the Secretary pursuant to paragraph (4) of this subsection shall be distributed to such public airports during the period from October 1, 1980 to September 30, 1985.

(D) After September 30, 1981, no funds from such discretionary fund shall be distributed to any airport that is ineligible to receive such Federal assistance under section 23(a) or 23(b) of this Act.

(c) All apportionments for any fiscal year under this section shall be based on the number of passengers enplaned during the preceding calendar year.

USE OF APPORTIONED FUNDS; MISCELLANEOUS CONDITIONS

SEC. 9. (a) DURATION OF AVAILABILITY.—Each amount apportioned under sections 8(b)(1), (b)(2), and (b)(3) of this Act shall be available for obligation by project-grant agreement, as the case may be, during the fiscal year for which it was first authorized to be obligated and the 2 fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 8(b)(4) of this Act.

(b) MISCELLANEOUS CONDITIONS.—

(1) The following conditions apply to apportionments made under section 8(b)(1):

(A) Funds apportioned to a sponsor under section 8(b)(1) of this Act may be used at any public airport of such sponsor which is in the national airport system plan, except that after September 30, 1981, no fund may be used at an airport that is ineligible to receive such Federal assistance under the provisions of sections 23(a) or 23(b) of this Act.

(B) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for an approved project-grant to the sponsor of another eligible public airport that is part of the same geographical area as the airport of the sponsor making the waiver.

(2) The following conditions apply to apportionments made under section 8(b)(2):

(A) Prior to the distribution of any funds apportioned under section 8(b)(2) of this Act, the sponsor of each eligible commercial service airport and the sponsor of each reliever airport which is a public airport, whose airports are a part of the same primary hub, shall have submitted jointly to the Secretary a consolidated improvement plan and an annual expenditure program. In addition, such sponsors must certify that: (i) there is in existence a current airport system plan for such hub prepared by the public agency responsible for airport system planning for such hub; and (iii) the consolidated improvement plan and the annual expenditure program are consistent with such system plan, were prepared in cooperation with the public agency which prepared such system plan, and are consistent with the objectives of this Act as stated in sections 2 and 10 of this Act.

(B) Funds apportioned under section 8(b)(2) of this Act shall be distributed by the Secretary pursuant to project-grant agreements, in accordance with the annual expenditure program.

(c) NOTICE OF APPORTIONMENT.—The Secretary shall give notice to primary airport sponsors, the Governor of each State, or the chief executive officer of the equivalent jurisdiction, the sponsors of commercial service airports which are part of primary hubs, and the sponsors of reliever airports which are public airports and are part of primary hubs, as the case may be, as soon as possible after April 1 of each year of the estimated amount of the apportionment to be made on October 1 of that year.

TRANSPORTATION PLANNING

SEC. 10. It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

SUBMISSION AND APPROVAL OF PROJECT-GRANT APPLICATIONS

SEC. 11. (a) SUBMISSION.—Subject to the provisions of this subsection, (1) any public agency, or two or more public agencies acting jointly, or (2) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project-grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project or projects proposed to be undertaken. No project-grant application shall propose airport development or airport planning except in connection with public airports included in the current national airport system plan prepared pursuant to section 4 of this Act.

Nothing in this subsection shall authorize the submission of a project-grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(b) Approval.—

(1) No project-grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is consistent with the objectives of this Act as stated in sections 2 and 10 of this Act;

(B) the project is substantially consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this Act;

(C) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this Act;

(D) the project will be completed without undue delay;

(E) the sponsor which submitted the project-grant application has legal authority to engage in the project as proposed; and

(F) all project sponsorship requirements prescribed by or under the authority of this Act have been or will be met.

(2) No project-grant application for airport development may be approved by the Secretary unless the sponsor or a public agency or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project-grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; and (C) high intensity runway lighting, when it is determined by the Secretary that any such items are required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project-grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this Act shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project-grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6) Hearings.—

(A) No project-grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(7) Air and water quality.—

(A) No project-grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality implementation plans. In any case where such plans have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from that Administrator. Notice of certification or refusal to certify shall be provided within 60 days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project-grant application on compliance during construction and operation with applicable air and water quality standards.

(c) Acceptance of Certification.—In determining compliance with the requirements of this Act and other Federal laws, the Secretary shall, to the greatest extent practicable consistent with the objectives of this Act or such other Federal laws, accept conclusionary certifications from sponsors that they have complied or will comply with all of the statutory, regulatory, and procedural requirements that are imposed in connection with a block-grant or project-grant under this Act or other Federal laws. Acceptance by the Secretary of certification from a sponsor may be rescinded at any time.

(d) Requirement of Notice.—Each sponsor to which funds are apportioned under section 8(b)(1) of this Act must notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project-grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

UNITED STATES SHARE OF PROJECT COSTS

Sec. 12. (a) General Provision.—Except as otherwise provided in this section, the United States share of allowable project costs payable on account of any project contained in an approved project-grant application submitted in accordance with this Act shall not exceed 90 percent of the allowable project costs.

(b) Projects at Certain Primary Airports.—In the case of primary airports enplaning .25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project-grant application shall not exceed 75 percent of the allowable project costs.

(c) Projects in Public Land States.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) of this section shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in the State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (1) the percentage share determined under subsection (a) of this section, or (2) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970, as amended.

PROJECT SPONSORSHIP

Sec. 13. (a) Sponsorship.—As a condition precedent to approval of an airport development project contained in a project-grant application submitted under this Act, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier, authorized by certificate or exemption to engage directly in air transportation pursuant to section 401, 402 or 418 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classifications or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-base operators making the same or similar uses of such airport utilizing the same or similar facilities;

(2) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(3) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(4) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(5) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(6) the airport operators or owners will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights

in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(7) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(8) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this Act or under the Federal Airport Act or the Airport and Airway Development Act of 1970, as amended, shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(9) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(10) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(11) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United State share of the cost acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe;

(12) revenues generated by the airport will be used for capital and operating expenses of the airport; and

(13) in the case of a primary airport, the airport operator or owner will provide restroom facilities that (A) are available to the public without any charge fee and (B) are maintained in a condition of cleanliness commensurate with the public health standards of the unit of general local government in which such airport is located.

To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements in regard to the airport to which the project relates as are consistent with the terms of this Act and as the Secretary considers necessary. Among other steps to insure compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this Act, the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (6) of this subsection.

(b) CONSULATION.—In making a decision to undertake any airport development project under this Act, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

GRANT AGREEMENTS

SEC. 14. Upon approving a project-grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the project-grant application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this Act and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this Act, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project-grant application for a project which will not be completed in 1 fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 8(b)(1) of this Act for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. In and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Thereafter, in the case of a project for airport development, the amount stated in the accepted offer as the maximum obligation of the United States may not be increased by more than 10 percent. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

PROJECT COSTS

SEC. 15. (a) ALLOWABLE PROJECT COSTS.—Except as provided in section 16 of this Act, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 20(b) of this Act;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement; and

(4) it has not been included in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—

(1) Notwithstanding the provisions of subsection (c) of this section, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project-grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958, as amended, all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft providing scheduled service, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or bewteen terminal facilities and aircraft.

(2) No more than the greater of (A) $200,000 or (B) 60 percent of the sums apportioned under section 8(b)(1) of this Act to the sponsor of an eligible primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. No more than $200,000 of the sums apportioned under section 8(b) (2) and (3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Notwithstanding any other provisions of this Act, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(4) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

PAYMENTS UNDER GRANT AGREEMENTS

SEC. 16—The Secretary, after consultation with the sponsor with which a project-grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time.

If the Secretary determines that the aggregate amount of payments made under a project-grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project-grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

PERFORMANCE OF CONSTRUCTION WORK

SEC. 17. (a) REGULATIONS.—The construction work on any project for airport development contained in an approved project-grant application submitted in accordance with this Act shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS' PREFERENCE.—All contracts for work on projects for airport development approved under this subchapter which involve labor shall contain provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans.

(1) A Vietnam era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions.

(2) Disabled veteran is defined in section 2108(2) of title 5 of the United States Code. However, this preference shall apply only where individuals are available and qualified to perform the work to which the employment relates.

USE OF GOVERNMENT-OWNED LANDS

SEC. 18. (a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this Act at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national airport system plan, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of 4 months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the Bureau of Sport Fisheries and Wildlife; or within any national forest or Indian reservation.

FALSE STATEMENTS

SEC. 19. Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this Act;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this Act; or

(3) knowingly makes any false statement or false representation in any report required to be made under this Act;

shall, upon conviction thereof, be punished by imprisonment for not to exceed 5 years or by a fine of not to exceed $10,000, or by both.

ACCESS TO RECORDS

SEC. 20. (a) RECORDKEEPING REQUIREMENTS.—Each recipient of a grant under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this Act to insure that such requirements are kept to the minimum level necessary for the proper administration of this Act.

(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this Act. The Secretary may require, as a condition to receipt of a grant under this Act, that an appropriate audit be conducted by a recipient.

(c) AUDIT REPORTS.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this Act relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than 6 months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) WITHHOLDING INFORMATION.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

GENERAL POWERS

SEC. 21. The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this Act, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secertary's powers and duties under this Act.

CIVIL RIGHTS

SEC. 22. The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this Act The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

NONPARTICIPATING AIRPORTS; WAIVER OF CERTAIN OBLIGATIONS

SEC. 23. (a) No obligation for airport development shall be incurred by the Secretary (1) after September 30, 1981, at any airport that enplanes more than .5 percent of the total number of passengers enplaned annually at all commercial service airports or (2) after September 30, 1982, at any airport that enplanes more than .25 percent of the total number of passengers enplaned annually at all commercial service airports.

(b) For any fiscal year beginning after September 30, 1981, any airport that otherwise would be eligible to receive Federal assistance for airport development under this Act may elect not to receive such assistance; *Provided*, That—

(1) Such airport shall not be eligible to receive assistance for airport development

under this Act for that fiscal year or any subsequent fiscal year, and

(2) Any airport that elects not to receive such assistance during a fiscal year shall notify the Secretary of such election at least 60 days prior to the commencement of that fiscal year.

(c)(1) The Secretary shall issue criteria and requirements pursuant to which the sponsors of airports described in subsections (a) and (b) of this section may, at their option, terminate any existing assurances, requirements, or contractual obligations with the United States that arose from the acceptance of Federal assistance under, or that are contained in grant agreements, deeds, or other instruments of conveyance issued pursuant to, this Act, the Federal Airport Act of 1946 (49 U.S.C. 1101 et seq.), the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) or the Surplus Property Act of 1944.

(2) If the sponsor of an airport, pursuant to paragraph (1) of this subsection, elects to terminate a financial obligation owed to the United States, the Secretary is authorized to settle such obligation in an amount not exceeding the maximum obligation stated in the existing agreement, less any payments made thereon.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, neither the sponsor of an airport nor the Secretary may terminate any assurance specified in paragraphs 1 through 13 of section 13 of this Act or in paragraphs 1 through 10 of section 18 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718).

(d) No State or political agency of one or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to (1) the operating safety of an airport subject to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432), or (2) any assurance, obligation, or requirement from which an airport sponsor has been released by the Secretary under this section.

(e) Notwithstanding any contract which is in existence on the effective date of this Act and which restricts the airport sponsor's ability to raise or impose charges on any air carriers, any airport which is not an eligible airport under this Act may renegotiate rates and charges with any air carrier for the purpose of replacing revenues that otherwise would have been available to such airport from the Trust Fund were it not for the amendments made by this Act. Any revenues that result from such renegotiation shall be used only for capital and operating expenses of such airports.

REPEALS; EFFECTIVE DATE; SAVINGS PROVISIONS; AND SEPARABILITY

SEC. 24. (a) REPEAL.—Except as otherwise provided in this Act, sections 1 through 30 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701–1730), are repealed as of the close of September 30, 1980.

(b) EFFECTIVE DATE.—The provisions of this Act are effective as of the close of September 30, 1980.

(c) SAVINGS PROVISIONS.—

(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction under any provision of the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act, as amended, which are in effect at the time this Act takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this Act, amounts apportioned before October 1, 1980, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended, and which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act, to the same extent as though that Act had not been repealed.

(d) SEPARABILITY.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances is not affected thereby.

REPORT TO CONGRESS ON AIRPORT AND AIRWAY TRUST FUND

SEC. 25. On or before the third day of January of each year, the Secretary shall transmit a report to the Congress describing the status of the revenues and expenditures of the Airport and Airway Trust Fund and its authorized programs and operations under this Act during the preceding fiscal year.

The PRESIDING OFFICER. Debate on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. PACKWOOD), with 30 minutes on any amendment, except an amendment by the Senator from Oklahoma (Mr. BELLMON), on which there will be 1 hour, and with 20 minutes on any debatable motion, appeal, or point of order.

The Chair recognizes the Senator from Nevada.

Mr. CANNON. Mr. President, I move that the committee amendments to S. 1648 be adopted en bloc and be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, the Senate today will consider an important piece of legislation in the Airport and Airway System Development Act. This bill provides for dramatically increased spending for navigational aids and other equipment which is directly related to the safety of the air transportation system (such equipment may well have averted the tragic accident in San Diego in 1978); the bill provides substantially increased funding for the system's 4,000 smaller airports which are not capable of financing their own safety and capacity improvements; and, just as important as these spending increases, the bill eliminates funding eligibility for those airports who do not require Federal assistance.

The expenditure levels established by S. 1648 together with the existing aviation trust fund surplus of almost $3 billion will permit the Finance Committee to consider a substantial tax reduction to balance the fund by 1985. The Commerce Committee has recommended that the Finance Committee reduce the ticket tax from 8 percent to 2 perecnt, which would represent an annual saving of over a billion dollars for air travelers—a badly needed deflationary pressure in the fuel-intensive airline business.

In its entirety, this legislation presents my colleagues with an attractive package to support. S. 1648 will improve safety, increase assistance for those who need it, eliminate financial assistance for those who do not, and provide overall expenditure levels which will allow a much needed tax reduction.

Certainly the most controversial feature of this program is the "defederalization" of the Nation's largest 72 air carrier airports. I am rather pleased, frankly, that this provision is controversial. Taking Federal aid away from anyone, even businesses with multimillion-dollar revenues, gets people's attention. And we in the Senate get the opportunity to show through our actions what we all say in our speeches—that we are for less Federal spending, less Government involvement in our people's lives and business, and that Federal aid should be restricted to those who are not capable of helping themselves.

So, the question is one of financial capability. Defederalization applies to the largest 72 airports in this country. As already noted, we have over 4,000 public airports and over 500 air carrier airports. The smallest airport to be defederalized handles over 1½ million passengers a year—enplaning and deplaning—and is worth over $100 million annually in passenger revenues for the airlines. Gloomy forecasts are projecting that the whole airline industry's profit for this year may be $100 million—I hope that does not prove true, but it is indicative of the extreme economic importance of even the smallest of the top 72 airports.

The other important point to consider is that airports are monopoly landlords, while airlines are tenants with no alternative housing if they wish to serve those lucrative markets. Yet, the Airport Operators Council would have the Senate believe we need, in essence, rent control legislation to protect the landlords from the tenants.

The committee cannot swallow that argument. Airlines cannot exist without large airports and the reverse is equally true, which creates the ideal arena for business negotiation to determine the needs of the market.

Defederalization is the cornerstone of this bill and its elimination or weakening is a fatal blow to this legislation.

I urge my colleagues to support the committee in passage of this progressive and needed legislation. The committee position on this legislation has a broad base of aviation industry support including:

The Air Transport Association;

The Association of Local Transport Airlines;

The Commuter Airline Association;

The Aircraft Owners and Pilots Association;

The Airline Pilots Association; and one of the largest airports to be defederalized is Los Angeles International, and one of the smallest to be defederalized is Omaha's Eppley Field.

Mr. President, I have some technical amendments. However, I will defer to the Senator from Oregon, so that he may make a statement on the bill.

Mr. PACKWOOD. Mr. President, we are taking up legislation today that marks another milestone in Commerce Committee efforts to reduce taxes and the interference of the Federal Government. S. 1648, the Airport and Airway Development Act, eliminates the top 72 large and medium hub airports from Federal funding. Its companion legislation, S. 1649, referred to the Finance Committee, proposes a reduction in the airline passenger ticket tax from the current 8 percent to 2 percent in order to deplete the huge, almost $4 billion surplus in the Aviation Trust Fund.

Ten years ago, Congress first passed the airport development aid program (ADAP) to assist airports in meeting their safety and capacity needs. Ten years later, an assessment of the program shows that it has been remarkably successful in upgrading the top airports, but the program has failed to get funds out to the small commercial service, general aviation, and reliever airports. Our priorities have shifted. Safety and capital development funds are needed for the smaller airports and to upgrade reliever airports with necessary safety equipment so that they can siphon off traffic from the large hubs. S. 1648 meets those requirements. By eliminating the top 72 airports from Federal funds eligibility, the focus of the program will necessarily be on the small and general aviation airports.

The smallest of the top 72 airports means $100 million in gross revenues to the airlines. In the past 10 years, commercial service passenger traffic has grown 90 percent, most of this concentrated at the top 72 airports. Federal funds at these airports have averaged only about 10 percent of the overall capital and operating costs of the airport. Airline passengers and airport users have paid for the remaining costs. There is no reason why these very busy and financially successful airports cannot make up that 10 percent by directly assessing the airlines serving their airports without the intervention of the Federal Government. Language to renegotiate current contracts is contained in the bill, and the airlines support the legislation. By permitting a one-to-one relationship between airports and the airlines serving it, airline passengers will be saving money because they will not be paying for money that sits idly in a trust fund, or for unnecessary projects.

Arguments that if the airports raise landing fees, airlines will move to another airport are sheer folly because all defederalized airports will be raising landing fees, and the airlines need to serve these airports which enplane the greatest number of passengers. These 72 airports are moneymakers for the airlines. Additionally, it is not the airlines who will have to pay for the increased landing fees. It is the airline passenger because this cost will be passed on. But with a 6-percent reduction in the airline ticket tax, even accounting for a small, perhaps 2-percent assessment on the cost of the ticket by the airlines to pay for airport capital improvements, passengers will still be saving approximately $1 billion annually over the next 5 years.

Let me cite some figures. Over the past 10 years Portland has generated approximately $113 million for the aviation trust fund. It has received $28 million back from the Federal Government. Not a very good rate of return for its investment. If the airlines had to assess each passenger to recover that $28 million, it would cost $1.50, compared to the approximate $6 each enplaning passenger at Portland has been paying into the trust fund. This would have saved Portland passengers in 1978 alone approximately $6,478,409, or more than $60 million over the life of the program. These figures convinced me that defederalization was good for Portland airline passengers, and I am assured by those airlines now serving Portland that they will support our airport in its efforts to improve its facilities in future years. Portland's two reliever airports and one general aviation airport will still be eligible for Federal funds under this legislation. Furthermore, I am confident that Portland will be supported in its efforts to purchase still a third reliever airport soon because reliever airports are a priority.

For those who think some of the larger airports have fared better. I can assure them that they have not. The Boston airport received only $22 million during the past 10 years while contributing over $375 million. Chicago O'Hare received a paltry $43.9 million compared to the more than $1 billion it generated for the trust fund. Omaha, Nebr., received a little more than $11 million compared to the $50 million its passengers contributed to the trust fund. Those figures have convinced Omaha that it wants out of the Federal program. The price is too much, not to mention the manhours and dollars spent just assuring that it get any Federal funds.

Norfolk, Va.'s airport has complained that it cannot be defederalized. It needs only to convince the airlines to pay $6 million over the next 10 years to match what it received during the past 10. That, by the way, amounts to only 81 cents per passenger. Under deregulation, Norfolk now boasts of nine new flights a day with industrial officials predicting that Norfolk will continue to experience a boom in air travel. These new flights can easily help to offset that 81 cents per passenger under the old enplanements formula.

I hope Senators will check the figures on their airports and be convinced that the legislation the Commerce Committee is recommending is sound, in the best interests of airline passengers, does not jeopardize safety at these large and medium hub airports and will shift the focus where it is needed to be in the 1980's—on the long-neglected smaller airports in our States.

Mr. President, this committee started last year with deregulation of the airlines. We had a fight with some of the airlines we were trying to deregulate. Today, most of them, I think, are rather satisfied with deregulation.

This bill today marks a further effort toward deregulation, as Senator Cannon has said, with defederalization of the top 72 airports that have been dependent upon Federal grants for some of their operational expenses. Those 72 airports are very strong, viable airports. The smallest of the 72 generates more than $100 million in revenues to the airlines that serve it.

I emphasize that: The smallest of the 72 that are being removed from the Federal program generates more than $100 million in revenues to the airlines serving that airport. That is ample enough for that airport to negotiate with the airlines to make up for the slight drop in revenue that they have received previously from the airport development fund.

We have had many contacts from airport managers, port district managers, if they run an airport, and boards of directors who are worried about their funds, even though, without exception, revenues generated at these 72 larger airports that are paid into this airport development fund are more than the airports get back. They are all net losers.

Yet, on occasion, we run into this bird-in-the-hand concept, money is coming from the Federal Government, and some airports are reluctant to give it up, for fear that they will not be able to replace it. That fear is unfounded.

The argument has been raised that some of these airports have signed long-term contracts with the airlines so that they can expand their facilities. Airports fear they cannot get out from under these contracts, and if they lose Federal funds, they feel that they will be stuck. That is not true.

There is a section in this bill which reads as follows:

> Notwithstanding any contract which is in existence on the effective date of this Act and which restricts the airport sponsor's ability to raise or impose charges on any air carriers, any airport which is not an eligible airport under this Act may renegotiate rates and charges with any air carrier for the purpose of replacing revenues that otherwise would have been available to such airport from the Trust Fund were it not for the amendments made by this Act. Any revenues that result from such renegotiation shall be used only for capital and operating expenses of such airports.

Mr. President, it is absurd to say that the city of New York and the city of Los Angeles and their airports cannot negotiate sufficiently with the airlines that serve those cities to get the revenues they need to make up for the slight drop in funds they will be losing from this airport development fund.

Those airlines are not going to quit serving Los Angeles, New York, Chicago, and other big cities. That is where they make the bulk of their profits. There will be no loss of revenue to those airports, and the exchange they will get is the freedom to negotiate whatever they can with the air carriers. They will be out from under a Federal grant program about which many of them have complained to us from time to time with respect to the burdens and restrictions, when it represented only about 10 percent of their funds.

So I very strongly urge the Senate to concur with Senator Cannon and me in the passage of this bill and to defeat any efforts to put back into the Federal regulatory system these 72 top airports. They will survive; they will prosper without that Federal assistance.

UP AMENDMENT NO. 943

(Purpose: To require the Secretary of Transportation to conduct a study of the advisability of repealing section 1113 of the Federal Aviation Act)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes unprinted amendment numbered 943.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

"SEC. 26. The Secretary shall conduct a study of airports that will be ineligible to receive Federal assistance under the provisions of section 23(a) or 23(b) of this Act to determine the advisability of repealing section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. 1513) in order to permit such airports to replace the moneys they would otherwise receive as Federal assistance under this Act by imposing a tax, fee, or head charge. The Secretary shall transmit such study, along with any recommendations for legislative or other action, to the Congress not later than 9 months after the enactment of this Act.".

Mr. PACKWOOD. Mr. President, I propose an amendment to S. 1648 which will direct the Secretary of Transportation to conduct a study of the need for lifting the prohibition against the head tax, or passenger facility charge, for those 72 airports scheduled for defederalization. The study will have to be completed within 9 months from date of enactment, before any airports become ineligible for Federal funds. Head tax studies conducted in the past have never considered a reduced ticket tax coupled with air carrier industry support for defederalization. The head tax was disallowed by Congress in 1973.

I wish to make it clear to the Federal Aviation Administration, who will be conducting the study, that independent financial consultants familiar with airport financing must assess the capability of the top 72 airports to meet their financial requirements under defederalization. It is imperative that the FAA give us a careful accounting of the financial status of each airport and, if necessary, its recommendations for insuring that the operating costs of these airports is met beyond defederalization. Lifting the head tax prohibition might be one of their recommendations.

If it is determined that some airports will be unable to meet their capital development costs because of air carrier refusal to cooperate, Congress will want to know what projects are in jeopardy and what impact this may have on aviation safety and interstate commerce.

I might say here that I will be very surprised if the airline industry refuses to cooperate with these airports that are attempting to make up the difference in funds that they may lose or that they have been guaranteed in the past under this bill and I think I can say, as a member of the Commerce Committee and one who has looked at aviation closely, that our committee would be very disappointed in the airline industry if, in bad faith, they refused to negotiate on these contracts. That would not serve their interests wisely. It certainly would not serve the interests of this country.

My amendment will provide Congress with the necessary information to evaluate and conduct responsible oversight of the program just 9 months after enactment of S. 1648.

I am offering this amendment because of a concern which many of you share—whether or not all of the top 72 airports will be able to make up the money they will lose under defederalization. I have studied the program carefully and am personally satisfied that defederalized airports can make it and that the program is sound. However, as a prudent measure, I am offering this amendment as a protection for those airports, such as Portland, which are scheduled for defederalization. Senator CANNON has indicated to me that he will accept my amendment and you might be further interested to know that it is endorsed by the American Association of Airport Executives (AAAE).

That concludes my statement.

UP AMENDMENT NO. 944

(Purpose: To require the reports of the Secretary of Transportation and the Comptroller General to provide additional information to the Congress)

Mr. CANNON. Mr. President, I support Senator PACKWOOD's amendment and I am offering a perfecting amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. CANNON. Mr. President, I yield back my time.

Mr. PACKWOOD. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes unprinted amendment numbered 944 to the unprinted amendment numbered 943.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the first sentence, strike "The Secretary shall conduct a study" and insert "The Secretary and the Comptroller General shall conduct separate studies"

In the first sentence, strike "the advisability of repealing section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. 1513) in order to permit such airports to replace the moneys they would otherwise receive as Federal assistance under this Act by imposing a tax, fee, or head charge." and insert "the ability of such airports to replace the moneys they would otherwise receive as Federal assistance under this Act.".

Immediately after the first sentence, insert the following new sentence:

Such studies shall:

(1) include determinations by the Secretary and the Comptroller General as to the ability of such airports to replace such Federal assistance by renegotiating rates or charges imposed upon air carriers utilizing such airports;

(2) include determinations by the Secretary and the Comptroller General as to the advisability of repealing section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. 1513) in order to permit such airports to replace such Federal assistance by imposing a tax, fee, or head charge;

(3) include determinations by the Secretary and the Comptroller General as to the ability of such airports to replace such Federal assistance from other resources;

(4) identify any airports which the Secretary or the Comptroller General concludes would not be able to replace such Federal assistance, identify what specific airport development projects such airports would be unable to fund, and include the data which led the Secretary or the Comptroller General to reach such conclusions; and

(5) include such recommendations for legislative or other action as the Secretary or the Comptroller General determines to be necessary.

In the last sentence, strike "The Secretary shall transmit such study, along with any recommendations for legislative or other action," and insert "The Secretary and the Comptroller General shall each transmit their respective study".

Amend the section heading to read as follows:

REPORT TO CONGRESS ON ABILITY OF NONELIGIBLE AIRPORTS TO FUND AIRPORT DEVELOPMENT

Mr. CANNON. Mr. President, I have discussed this amendment with Senator PACKWOOD, and this would do two things.

First, the amendment would require studies on the head tax question by the General Accounting Office as well as the Department of Transportation. Personally, I am not convinced we need the studies. A number of them have already been done with results showing that even airports at the 500,000 annual enplanements level can make it without a head tax and the airports removed from the program under S. 1648 are well above that level. However, I support the amendment because I do want to alleviate the concerns which some of my colleagues continue to express. By requiring the GAO to do a separate study, we will introduce an independent effort and correct a situation where in effect, the only result we would have would be that of DOT studying its own program.

In addition, my changes would require the agency to provide to the Congress the specific findings, including financial data, of each individual airport assessed by the study to require the financial assistance or a head tax. Thus, Senator PACKWOOD's amendment will not only insure our oversight of this matter, which we plan in any event, but more importantly it will greatly assist the oversight effort by providing updated analyses and results which will describe any problem airports; or else further document why these airports are financially capable. Thus, not only will oversight be insured but it will also be factually detailed and meaningful.

I state for the record that if either study, oversight hearings, or unexpected events of the future change the justification for defederalization at each of these 72 airports, the committee will step in and provide swift and appropriate legislative action.

At the present time we are certainly taking the legislative action demanded by the facts—to eliminate Federal funds for those eminently capable of meeting their own needs.

I support the amendment with the perfecting amendment.

Mr. PACKWOOD. Mr. President, let me emphasize again my firm agreement with the Senator from Nevada that the airports in this country be adequately funded. No one has done more to see that that funding is adequate than has Senator CANNON. I think no one could accuse him of supporting any program or plan or effort which would cut back aviation safety.

I am confident, as he is, that every one of these 72 airports will do better once they are out from under the ADAP program.

But we have offered my amendment and his perfecting amendment, to try to assure everyone in this Senate that they have our promise that no airport is going to be worse off than it is under the present program.

They will have the opportunity, if this study says that a head tax is needed and the Congress agrees to levy it. I doubt that that is what is going to be the conclusion of the study or not. I will wager that by the time this study is done most of the airports will have decided that they will not need the head tax and they will be able to raise the money anyway, but I would not want to prejudge the study at this time. I certainly support the perfecting amendment offered by the Senator from Nevada.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PACKWOOD. As am I.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the perfecting amendment of the Senator from Nevada.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Oregon, as amended.

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. KASSEBAUM. Mr. President, as a member of the Aviation Subcommittee, I am pleased to rise in support of S. 1648, the Airport and Airway System Development Act. As you know, it was reported out of the commerce committee without a negative vote, because it shifts the emphasis of the Federal airport funding program away from the large, well-equipped airports to the long-neglected smaller airports throughout the country. This legislation marks a new beginning in Federal assistance to airports and focuses on the priority for the 1980's, which I believe is important, and that is upgrading reliever and small airports.

As everyone knows, S. 1648 provides that large and medium hub airports will no longer be eligible for Federal assistance after fiscal year 1982. These airports are proven revenue raisers and the airlines have indicated a willingness to renegotiate contracts with airport managers so that ADAP funds can be replaced. It is important to note that these large airports will still receive some forms of Federal assistance paid for out of the trust fund for radar, instrument landing systems, air traffic control and so forth.

However, my primary interest in this legislation is that it correctly addresses problems in the current program by putting the smaller airports at the top of the priority list for airport funding. It also recognizes that the large airports no longer must depend upon Federal assistance to meet their capital improvement costs. In the past, the Federal program has been aimed at improving the busiest airports and the Federal Aviation Administration has dedicated the bulk of the discretionary fund to funding the major airports.

The smaller airports in our States have tried time and time again to attract funds for their projects—completing all the forms, fulfilling the necessary environmental impact requirements. But most have still been denied financing. It is frustrating for them and it is frustrating for those of us in Congress who have tried to help them get more money. But, in the past, the FAA has looked at how much money they had to spend each year, reviewed the priorities, and invariably decided that the priorities were at the largest airports because that is where most of the people were flying. Meanwhile, small airports continue to operate with substandard facilities, increasing the risk daily for the growing number of passengers utilizing those airports.

This is a particular problem in Kansas and in the Western States where there is less concentration of people and the dependence upon general aviation air travel is greater. In Kansas, for instance, we have 71 airports serving a little over 2 million people. Only one of our airports is classified as a medium hub airport—Kansas City—and it will be defederalized.

There are 11 other air carrier airports which are able to attract modest Federal funds because of the enplanements formula apportionment, but all of them depend upon the Secretary's discretionary fund to help them make up the money they need to complete costly projects. If they cannot get discretionary funds, projects must be delayed. Many have been delayed far too long. The remaining 56 other Kansas airports are so far down the priority list because of the way the program is now structured, that they have little chance to attract any funds for improvements. That causes me great concern. These small airports are general aviation airports. Many do not have control towers, adequate lighting, radar, and runways. This is true of many commuter airports also. In States like Kansas, general aviation travel is very important to the business community and the economy. It saves time, permits utmost utilization of top and midlevel management, and increases productivity. Ninety percent of all air travel in this country is on general aviation planes. And 90 percent of that travel is for business purposes.

Because of the tremendous growth in the general aviation fleet and the use of general aviation aircraft, I am very concerned about the lack of proper facilities at the small airports. The general aviation manufacturers in my State meet strict Federal Aviation Administration standards in the construction and engineering of their planes. Yet, these same planes are often forced to fly into unsafe airports. That does not make good sense.

So, Mr. President, the funding of our national airport system at this point is seriously out of balance. The Congress must correct this problem by shifting our priorities. S. 1648 does that. By fiscal year 1984, this legislation provides that all funds available from the trust fund for airport and airway development will flow into small airports.

This is a responsible approach to meet the challenges presented by the changes in American aviation I spoke of, and I urge my colleagues to support it.

HELIPORTS

Mr. President, under the current criteria established by the Federal Aviation Administration, heliport and helicopter development is eligible for Federal funding, both under the planning grants program section and under the airport development aid program. However, in order to be eligible for such Federal aid, a heliport must be identified in the national airport system plan, meaning that it is of sufficient national interest to warrant consideration for Federal funds. At the present time, only nine heliports are identified in the NASP and only two have received funds under the planning grants program.

Because helicopters are quieter, safer, and less costly to operate and maintain than ever before, they have a legitimate place in the national air transportation system. I would encourage communities to explore the possibilities for heliports and helicopters in their transportation systems, and I would hope that the Federal Aviation Administration would work with cities in identifying these needs and in the use of flexible criteria for inclusion of heliports in the national air transportation system program.

Mr. DOLE. Mr. President, I join with Senator KASSEBAUM in encouraging the development of heliports in our air transportation system. The helicopter's already extensive role will undoubtedly grow in coming years, and we should facilitate that growth.

I am particularly excited about the prospects of enhanced helicopter use in commuter transportation. Access to inner city heliports from our major airports can speed travel and save fuel. They are already used in several cities, but the potential is largely dormant.

Helicopters are also useful in rural

areas for medical trips and other services requiring the specific advantages of the helicopter. I urge the Federal Aviation Administration to play an active role in this development.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I have a series of technical amendments that I want to call up.

UP AMENDMENT NO. 945

(Purpose: To grant greater flexibility to certain airport sponsors in allocating airport revenues)

The first amendment provides for those legitimate instances where sponsors receive Federal revenues even though funds are used for other purposes. For example, this would apply to most port authorities which sell consolidated bonds for all transportation modes or where a given sponsor operates more than one airport and cross-subsidizes the smaller airports.

I send the amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 945.

Mr. CANNON. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, strike lines 1 through 3, and insert

(12) revenues generated by the airport (other than an airport operated by an airport sponsor in a single State that operates other transportation facilities within such State and has borrowed development funds for such airport and other transportation facilities in the form of consolidated revenue bonds) will be used for the capital and operating expenses of the airport except that nothing in this subparagraph shall be construed as restricting an airport sponsor that operates more than one airport from allocating revenues from any such airport for the operating and capital expenses of another such airport; and

Mr. CANNON. Mr. President, this amendment provides in essence that the revenues generated by the airport other than an airport operated by an airport sponsor in a single State that operates other transportation facilities within a State, and where the State has borrowed development funds for that airport and other transportation facilities in the form of consolidated revenue bonds, that the funds will be used for the capital and operating expenses of the airport, except that nothing in this amendment or in this paragraph shall be construed as restricting an airport sponsor that operates more than one airport from allocating revenues from any such airport for the operating and capital expenses of another such airport.

Mr. President, that simply is to insure that the moneys generated for the airport facility be used for the purpose for which it was intended and not that it be used to support office buildings or other facilities that a municipal body may have and for which they may desire to divert the funds.

Mr. President, I am prepared to yield back the time on that amendment.

Mr. PACKWOOD. I am prepared to yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

UP AMENDMENT NO. 946

(Purpose: To permit the Secretary of Transportation to continue the current mechanism for apportioning Federal assistance among the smaller airports in the State of Alaska)

Mr. CANNON. Mr. President, the second technical amendment recognizes the particular unique situation that exists in the State of Alaska, given the critical role which air transportation plays for the citizens of that State. The administration of ADAP moneys would continue as under the old act with no decrease in apportioned funds. That applies to the entire State of Alaska.

We have previously treated Alaska separately, the Alaskan airports separately, with respect to the apportionment of funds and the availabilty for the airports.

I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 946.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, between lines 20 and 21, insert the following new paragraph:

(5) Notwithstanding paragraphs (1), (2) and (3) of this subsection, the Secretary may apportion funds for eligible airports in the State of Alaska in the same manner in which such funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event may the total amount apportioned for such eligible airports pursuant to this paragraph in any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of the Airport and Airway Development Act of 1970.

Mr. CANNON. Mr. President, I have already explained that amendment to my colleagues. I am prepared to yield back the time on the amendment.

Mr. PACKWOOD. I yield back our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

UP AMENDMENT NO. 947

(Purpose: To promote the safe operation of the airport and airway system)

Mr. CANNON. Mr. President, the third technical amendment places greater emphasis on maximizing the use of safety facilities, and specifically makes reference to runway grooving, precision approaches, and other improvements directly related to safety.

The amendment would provide that the act should be administered in a manner to maximize the use of safety facilities with highest priority for commercial service airports, including but not limited to the goal of installing, operating, and maintaining a precision approach system and a full approach lighting system for each primary runway, grooving or friction treatment of all primary and secondary runways, nonprecision approaches for all secondary runways, and identifier lights, and so on.

Mr. President, we think this is a very important amendment from a safety standpoint.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 947.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 14 and 15, insert the following new paragraph:

That this Act should be administered in a manner to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining a precision approach system and a full approach light system for each primary runway, grooving or friction treatment of all primary and secondary runways, a nonprecission instrument approach for 11 secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas.

At the end of the bill, add the following new section:

STANDARDS FOR RUNWAY FRICTION

SEC. 27. The last sentence of section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)), is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof "and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

Mr. CANNON. I have already explained what it does. I am prepared to yield back our time.

Mr. PACKWOOD. I yield back our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

UP AMENDMENT NO. 948

(Purpose: To assure that facilities that receive Federal assistance are available for public use on fair and reasonable terms and without unjust discrimination)

Mr. CANNON. Mr. President, the fourth technical amendment provides for assurance that facilities that receive Federal assistance are available for public use without unjust discrimintion, and makes clear there will be no antitrust immunity implied by this legislation beyond that which may already exist under the antitrust laws.

We have had some charges of unfair discrimination at some of the overcrowded airports in the past, in the discrimination of different types of users, and so on.

The technical amendment here would simply make it absolutely clear that there is to be no discrimination.

Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. Cannon) proposes an unprinted amendment numbered 948.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 10 and 11, insert the following new paragraph:

That all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958 (49 U.S.C. 1302 and 1303), as amended by the Airline Deregulation Act of 1978, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and the prevention of unjust and discriminatory practices;

On page 47, line 9, insert ", 416" immediately after "402".

On page 68, line 13, strike "AND".

On page 68, line 14, insert "; AND APPLICABILITY OF ANTITRUST LAWS" immediately after "SEPARABILITY".

On page 69, following line 24, insert the following new subsection:

(e) APPLICABILITY OF ANTITRUST LAWS.—Nothing in this Act shall relieve any person (including any owner or operator of any airport or any public agency acting in that capacity) from the operation of the antitrust laws, including the Sherman Act, the Clayton Act, and the Federal Trade Commission Act, each as amended, and the Federal Aviation Act of 1958, as amended.

On page 67, between lines 19 and 20, insert the following new paragraph:

(4) Notwithstanding paragraphs (1) and (2) of this subsection, any airport that received or receives Federal assistance under this Act, the Federal Airport Act of 1946, the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) or the Surplus Property Act of 1944, either before or after the date of enactment of this paragraph, shall be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier, authorized by certificate or exemption to engage directly in air transportation pursuant to section 401, 402 or 418 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar use of such airport utilizing the same or similar facilities.

Mr. CANNON. I have already explained what the amendment does, and I am prepared to yield back my time.

Mr. PACKWOOD. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. CANNON. Mr. President, I have just submitted four technical amendments that have been acted on.

A parliamentary inquiry, Mr. President. Would it be proper to ask to reconsider the amendments en bloc?

The PRESIDING OFFICER. By unanimous consent.

Mr. CANNON. Mr. President, I ask unanimous consent that I may be permitted to move the motion to reconsider en bloc.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. CANNON. Mr. President, I move to reconsider en bloc the votes by which the amendments were agreed to.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that I may move to lay on the table that motion.

The PRESIDING OFFICER. The motion to table is for all of the amendments?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. One motion is sufficient.

Hearing no objection, the motion to table is agreed to.

Mr. CANNON. Mr. President, I have one further technical amendment, which we are awaiting Senator Javits on.

In the meantime, I see Senator Levin here. I think he has an amendment. We could perhaps proceed with his amendment now.

Mr. LEVIN. Mr. President, I thank my friend from Nevada, and commend him and the members of his committee for the tremendous work which they have done on this bill.

AMENDMENT NO. 730

(Purpose: To establish conditions relating to grants from apportioned funds)

Mr. LEVIN. Mr. President, I call up my amendment No. 730 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. Levin), for himself, Mr. McGovern, Mr. Pressler, Mr. Riegle, and Mr. Tsongas, proposes an amendment numbered 730.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, insert the following between lines 7 and 8:

"(3) The following conditions apply to apportionments made under section 8(b) (3):

"(A) Authorization

"(A) AUTHORIZATION FOR STATE PARTICIPATION.—Upon application to the Secretary, a State may be authorized to receive a block grant from funds apportioned under section 8(b) (3) of this Act. Such a grant shall be conditioned on a requirement that such State grant funds to airport sponsors and subject to the same grant conditions and sponsor assurances as the Secretary imposes in making grants to such sponsors under this Act.

"(B) FINDINGS.—The Secretary may make a block grant under this Act upon finding that—

"(i) the applicant State has an agency or organization capable of administering a block grant;

"(ii) the State has adopted a State airport system plan consistent with such criteria as the Secretary may require;

"(iii) the State has submitted a prioritizing development plan consistent with the State's airport system plan; and

"(iv) the State has certified that—

"(I) it will enforce compliance with assurances received from those to whom it distributes funds apportioned under section 8(b) (3) of this Act and that it will report to the Secretary any noncompliance with such assurances;

"(II) its legislature has authorized the appropriation of State funds for the development of general aviation airports in such State during the period for which funds are sought under this section; and

"(III) it has given notice to sponsors of airports located within the State that it intends to apply for a block grant under this amendment.

"(C) DETERMINATION OF RESOURCES.—The Secretary shall make a determination with regard to clause (i) of subparagraph (B) upon consideration of the resources available to the applicant States' designated agency or organization, in accordance with such regulations as the Secretary may prescribe.

"(D) REVOCATION.—The Secretary may revoke a grant upon finding that the State has not fulfilled the conditions of this paragraph or the certification given pursuant thereto or has used such funds for administrative purposes.".

On page 7, strike lines 8 through 11 and substitute:

"(8) 'Block grant' means a grant of funds to a participating State for distribution by such State for projects contained in its approved annual expenditure program.".

On pages 7 through 10, redesignate paragraphs (8) through (27) as paragraphs (9) through (29) and insert the following after redesignated paragraph (14):

"(15) 'Participating State' means a State authorized by the Secretary to receive a block grant from funds apportioned under section 8(b) (3) of this Act.

On page 28, line 6, strike (linetype) and substitute "or block grant".

On page 29, line 19, insert "(or block grant to a State)" after "sponsor".

On page 38, strike the linetype on lines 1 through 14 and substitute the following:

"(2) BLOCK GRANT APPLICATION.—Subject to the provisions of this paragraph, the designated public agency of any participating State may submit to the Secretary an application for a block grant, in a form and containing such information as the Secretary may prescribe. No block grant application shall propose airport development or airport planning except in connection with public-use airports included in the State's current State airport system plan or in the national airport system plan. In the case of public-use airports which are not public airports, no such development or planning may be proposed except in connection with reliever airports included in the current national airport system plan prepared pursuant to section 4 of this Act.".

On page 38, line 16, strike "or block grant [linetype]" and substitute "or block grant".

Beginning on line 19, page 43, strike the linetype through line 11 on page 44 and substitute the following:

"(2) BLOCK-GRANT APPLICATIONS.—

"(A) Except as otherwise provided, no block-grant application may be approved by the Secretary which does not condition receipt of such grant on the requirement that the State approve projects funded with such grants subject to the same conditions and requirements as would apply to the Secretary under this Act in approving project grant applications.

"(B) The provisions of subsection (b)(1)(B) of this section shall not be applicable to the approval by a State of a project for airport development at a public-use airport which is not a public airport. No project for airport development at such airport may be approved by a State unless such State is satisfied that good title to the landing area of the airport or site therefor is held or will be acquired by the applicant for funds from such grant.".

On page 45, line 23, strike "or block grant [linetype]" and substitute "or block grant".

On page 52, lines 9 and 12, strike "or block grant [linetype]" and substitute "or block grant".

Beginning on line 24, page 57, strike the linetype through line 6 on page 58 and substitute the following:

"(b) BLOCK-GRANT AGREEMENTS.—The Secretary, after entering into a block-grant agreement with a State, shall make payment to such State, of the United States share of the allowable project costs of projects contained in the approved prioritizing development plan. Such payment may be effected through a letter of credit system.".

On page 58, lines 7, 8, 15, and 16, strike "or block grant [linetype]" and substitute "or block grant".

On page 64, line 3 through 7, strike the linetype and substitute the following: "The Secretary may require appropriate audit and examination by participating States of any books, documents, papers, and records of any recipient of funds from a block grant apportioned to such States under this Act.".

Mr. LEVIN. Mr. President, I ask unanimous consent that Senators MCGOVERN, PRESSLER, RIEGLE, and TSONGAS be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, the amendment which I offer today would give the various States the option to participate in the administration of airport development grants for smaller airports. If a State exercises this option, block grants would be issued to the State agency which administers air transportation to be distributed to the smaller airports in the State according to the State's air transportation system development plan, which must be approved by the Secretary of Transportation.

We believe that our amendment will allow for a funding mechanism for small airports which will be more responsive to the unique interests and needs of the particular airports and communities involved in our States across this Nation.

This amendment would restore the approach which the administration requested in the original bill. This approach to the funding of small airports has been tested during a demonstration program which began in Arizona, Michigan, Pennsylvania, and South Dakota in fiscal year 1977 and concluded last September. The results of the demonstration program were so successful that the Federal Aviation Administration felt it advisable to include the State administration proposal in its proposal for ADAP reauthorization, S. 1581. I have today received a letter of support from Secretary of Transportation Goldschmidt.

I ask unanimous consent that the full text of the secretary's letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 31, 1980.

Hon. CARL LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: As you know, the Administration's proposed airport and airway legislation would allow part of the airport development program to be administered by qualified states.

The amendment which you have proposed to S. 1648, which will allow for a broader state role in the airport development program when certain conditions are met, is consistent with our objectives. We feel it is entirely appropriate that states with necessary expertise be given the opportunity to make some investment decisions regarding the development of certain smaller airports, airports that are generally of greater concern to the states than to the Federal government.

As your proposal is clearly consistent with our own, I assure you that we support your proposed amendment to S. 1648.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this letter for the consideration of the Congress.

Sincerely,

NEIL GOLDSCHMIDT.

Mr. LEVIN. A portion of that letter, Mr. President, read as follows:

> The amendment which you have proposed to S. 1648, which will allow for a broader state role in the airport development program when certain conditions are met, is consistent with our objectives. We feel it is entirely appropriate that states with necessary expertise be given the opportunity to make some investment decisions regarding the development of certain smaller airports, airports that are generally of greater concern to the states than to the Federal government.
>
> As your proposal is clearly consistent with our own, I assure you that we support your proposed amendment to S. 1648.
>
> The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this letter for the consideration of the Congress.

In his testimony before the Subcommittee on Aviation, FAA Administrator Langhorne Bond said:

> The proposal would allow those states with demonstrated capability to participate on a voluntary basis, in the administration of airport grants for smaller airports within their boundaries. This would allow states to take the lead in the allocation of airport project funds at the smaller airports and should assure a system which is more responsive to state and local needs.

It is vital to note that this amendment will not require participation by any State. It is also critical to note that this amendment does not affect the amount of dollars received by any State. What this amendment does do is give the option to participate to those States which wish to and whose plan satisfies FAA standards. And it will have no impact on those States who decide not to become involved in this program. There has always been great enthusiasm among the States for this type of program. In fact, when the demonstration program began, 20 States applied for the four available slots. Many more States have indicated their desire to participate.

In the final report on the FAA State demonstration program, the FAA concluded that "the States administered the demonstration program with enthusiasm and success."

Mr. President, at this point I would like to quote from a letter received by me from the department of aeronautics of the city of Flint, in my home State of Michigan. The director of that department wrote that:

> The dramatic reduction in the time needed to get airport programs underway must be considered. In this case, it was demonstrated that the overall process was cut in half in time value.

Mr. President, under this demonstration program which this amendment would incorporate in the bill, the amount of time that it took for these applications to be disposed of was cut in half when we included State administration of the program. There were some weaknesses pointed out in the demonstration program, but this proposed amendment takes care of those weaknesses. For instance, the report pointed out that the participating agency would need to have sufficient "manpower to advise and assist sponsors periodically to inspect construction activity."

There may indeed be situations in which a State will require additional capacity in employment of one kind or another if it is to assume this expanded role.

To guarantee that the State agencies that wish to opt into the administration of the program have sufficient resources to fully manage the program, our amendment requires that the Secretary of Transportation develop regulations which specify that certain standards be fulfilled before the State agency is granted funds.

I understand that some people have said that this proposal could give the Governors of certain States reason to apply for the State's block grant for reasons closer to their personal political interest rather than to the improvement of the State's air transportation system. To the contrary, this amendment specifies that the State legislatures must approve the appropriation of necessary State matching funds. So that guarantee is written into this amendment. And, equally important, the Secretary of Transportation must find that the agency to which the funding will go is capable of administering the program and the Secretary must approve, or at least the FAA must approve, the State plans before these funds are distributed to the State for administration according to those plans.

The legislature must decide, in each State, if the State wishes to go ahead and develop whatever resources will be necessary to meet the Federal requirements. None of the money granted to the State by the FAA can be used for administrative costs.

Our amendment does not increase the authorization levels for any airports anywhere. It does not change the dollars going to any State. It only revises the mechanism by which smaller airports apply to receive their funding. So that the States which are closer to the problems faced by the airports can administer the distribution of these funds if they so desire and if they qualify.

Instead of working with a State airport development agency to develop projects and then applying for grants from the FAA, which is what the bill provides, our amendment will take out the Federal step and allow the State agency to distribute funding to airports contained in its State development plan.

I look at the concept in this way. I believe that it should be the role of the FAA to oversee the national air transportation system. I believe that it should be the States' role to oversee the development of the State aviation system, a major part of the national system, but more related to the particular needs of the States. Our amendment provides for the necessary coordination between the States and the Federal Government by requiring that States which participate in the administration option must file system development plans with the Secretary of Transportation before the block grant application is considered and funding delivered to the States.

Our amendment will affect the administration dollars only for those very small commercial airports which service less than 200 passengers each day. So many will benefit and, as is too rare in legislation, none are hurt in the process. It is a voluntary program which States can opt into or out of, and which affects in no way the amount of money being distributed to the States or as to which State gets how much. The decision whether to participate is left up to the State.

The States are strongly in support of this amendment. The National Governors Association has written to me in support of the amendment. They said:

> The current airport development program lacks sufficient flexibility to target funds to areas of greatest need and does not recognize the Governor's role and responsibility for overall economic development within each State. Coordination between planned small airport improvement and industrial and community development can and should be improved. Adoption of the Levin amendment will help States coordinate these functions.

Some say that this amendment does not have the support of the owners of private and corporate aircraft. To find out why, the National Association of State Aviation Officials polled members of the business group which has opposed the amendment.

In Virginia, Wisconsin, Minnesota, Michigan, and New Jersey, they found that many members of the National Business Aircraft Association are actually in strong support of the concept of State administration.

The survey, conducted by the National Association of State Aviation Officials, recently found that of 32 businesses surveyed in Virginia, all supported the State administration proposal. In Wisconsin, only 1 of 31 businesses opposed the proposal. Many of these companies are members of that same National Business Aircraft Association.

Some of the businesses which have expressed their support to me are the 3M Corp., whose representative sits on the board of the NBAA, Kellogg's, Outboard Marine, Kimberly Clark, Pabst Brewing, and the Philip Morris Co. A number of other companies who are members of NBAA have also expressed their support of the State administration program which this amendment will restore to the bill.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. LEVIN. Mr. President, I do want to save a few minutes for Senator PRESSLER who is, I understand, on his way to the Chamber now.

Mr. President, we often talk of a partnership between the States and the Federal Government. In this amendment, we do something about that in a way which, as a Senate, we can uniquely support. We do not have to get involved in who is going to get how much money in this amendment, which States will benefit, which States will lose, and whether small communities will gain at the expense of larger communities. None of that is present in this amendment. None of that is affected by this amendment.

Mr. President, all that is affected by this amendment is the administrative decision, a decision as to who best can administer grants for small airports in a State.

The point of this amendment is that where a State voluntarily decides that it can best do it, this amendment would then give the State the right to administer the program, or at least the possibility of administering the program, if the FAA approves their overall plan for their airports.

This amendment does much for State-Federal cooperation. I hope the Senate will adopt it.

Mr. CANNON. I yield myself 5 minutes, Mr. President.

Mr. President, in the bill as introduced, we had included a provision for a State's role in the administration of ADAP funds. With the exception of the State aviation organizations, there was very strong opposition to this provision on the part of all interested parties. The arguments are persuasive. First, it would introduce another level of bureaucracy into the ADAP process which would add to the existing level of unresponsiveness already in the system.

Also, there are considerable differences amongst the 50 States with respect to the interest, capacity, and expertise needed to undertake airport development. This makes a uniform program across State lines almost impossible.

Finally, the principal feature of the legislation, the removal of the large and medium hub airports from the ADAP program is a major change which will affect airports at which 85 percent of all enplanements take place. While the rationale and merits of "defederalization" are clear, it nonetheless is a significant order of change and we did not want to add a forced relationship to what already is a major philosophical shift in the program.

Most important though, is the fact that the States have yet to convince even one of the user groups, they claim they will help, that the State involvement will be a positive addition to the program. Therefore, I believe we should charge the State aviation directors with the task of proving their ability to help airports and win the support of at least some of the user organizations. Presently the States are willing to politically beat the same groups they claim to want to help by being added to the program. I cannot believe that kind of shotgun wedding will improve the working of the ADAP program.

Mr. President, let me say that the last thing we need is 50 FAA's throughout this country of ours trying to develop an airport system that is truly a national airport system and/or an international airport system.

Let me recite for my colleagues the groups that are opposed to this amendment, and these are the people who are the users of the airports and in a posititon to know best.

The Airport Operators Council; the American Association of Airport Executives; the Air Transport Association; the Commuter Airline Association; the General Aviation Manufacturers Association; the Airline Pilots Association; the National Business Aircraft Association; the National Air Transportation Association; and numerous individual airport sponsors who have contacted the committee.

So I would say, Mr. President, that this move is a move on the part of the aviation authorities of a small number of States trying to get their finger in the pie and say, "We want to determine how, when, and where this money is going to be spent and develop our own national aviation system."

It is obvious from the list of people that I read that those are the groups of people directly affected with the operation of these airports.

So, Mr. President, I urge my colleagues to oppose the Levin amendment.

I may say that this same proposition has been considered over a period of years by the Aviation Subcommittee. We have rejected it during all of the period of time that I have been on the subcommittee when it has been advanced by people who felt they should advance it or that they had something to be gained by advancing it.

One other point, Mr. President, on the Levin amendment, was made by witnesses opposed to a State role in our hearings last September. Under such a provision the State could reprioritize the allocation of funds within a State at its own discretion regardless of what the Federal intent was. This creates a rather sizable temptation for playing local politics with the money, again at the expense of the safety intent which we are trying to address in this bill.

I hope my colleagues will reject the amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. Mr. President, will the Senator yield?

Mr. LEVIN. Mr. President, I yield to the Senator from South Dakota as much time as he needs. I do not have much time left.

The PRESIDING OFFICER. The Senator from Michigan has a minute and a half remaining.

Mr. LEVIN. I wonder if the Senator from South Dakota needs additional time. He has a perfecting amendment, and if he needs additional time, perhaps the Senator from Nevada can help him out.

UP AMENDMENT NO. 949

(Purpose: To perfect amendment No. 730 by permitting an airport sponsor to waive Federal assistance if such assistance is awarded to another eligible airport within the same State)

Mr. PRESSLER. Mr. President, I thank the Senator from Michigan for introducing this amendment, which I fully support.

South Dakota was one of the four chosen States which successfully participated in the block-grant demonstration program in 1977 and 1978. The overwhelming support and satisfaction with this program warrants its authorization in the Airport and Airway System Development Act. The South Dakota airport operators, as well as airport managers in larger States, found the block-grant concept enabled more adequate funding of priority projects and the more efficient expenditure of funds. The demonstration program proved that State and local governments can better respond to the needs of smaller airports.

As a member of the Aviation Subcommittee, I feel that the purpose of S. 1648 is the development of our Nation's airports—with safety highlighted as our highest aviation priority. Therefore, my major concern is that adequate funding is available for small-airport safety. There are numerous small airports which provide essential air service in rural areas. Without the necessary funding, these airports will not be able to finance extended runways, navigational aids, fire and rescue equipment, or develop terminal facilities.

It is for this reason that I am offering a perfecting amendment to Senator Levin's amendment.

Mr. President, I submit this perfecting amendment and ask for its immediate consideration. I have discussed this with Mr. Levin and his staff.

The PRESIDING OFFICER. The Chair advises the Senator that the perfecting amendment is not in order until all time has been used on the previous amendment, except by unanimous consent.

Mr. PRESSLER. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. Pressler) proposes an unprinted amendment numbered 959 to amendment numbered 730.

Mr. PRESSLER. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4 of the amendment, strike lines 6 and 7 and substitute the following:

On page 29, strike lines 18 through 22, and insert the following: that, at the election of the sponsor, the Secretary either—

(i) make the waived amount available for an approved project grant to the sponsor of another eligible public airport within the same State as the airport of the sponsor making the waiver; or

(ii) supplement by the waived amount any block-grant made to the State in which the airport of the sponsor making the waiver is located for use at any eligible public-use airport included in the national airport system plan and identified in such State's airport system plan for purposes consistent with such State's prioritizing development plan."

Mr. PRESSLER. Mr. President, this amendment will permit an airport to waive Federal assistance under the agreement that such assistance is awarded to another airport within the same State. If a larger airport does not have specific need for all of its funds, it may make the assistance available to another airport or may supplement the block grant within its State. This will strengthen the assistance to smaller airports. I ask the acceptance of this perfecting amendment, for it will give airports the option to delegate unused funds to other airport projects within the State.

Again, I thank the Senator from Michigan for his fine work, and the chairman and the ranking member. With the block-grant concept and this additional provision, we shall be forming a unified State effort to provide the safest, most efficient airway system for our air traveling public.

Mr. CANNON. Mr. President, I have never heard of an airport waiving any of its eligible funds in the past and I seriously doubt if they would in the future. I have no objection to this particular amendment, even though it is an amendment to the Levin amendment, which I am opposed to, with or without this amendment.

Mr. PACKWOOD. Mr. President, I agree with the chairman and I accept this amendment.

Mr. LEVIN. Mr. President, I am happy to accept the perfecting amendment to my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Michigan is so modified by the amendment offered by the Senator from South Dakota.

Mr. CANNON. Mr. President, I yield whatever time the Senator from Oregon needs on the Levin amendment.

Mr. PACKWOOD. Mr. President, I hope that we shall not adopt the amendment of the Senator from Michigan. We have developed, over the years, in the FAA, a good working relationship with most of those smaller airports that would now have to deal with State aviation authorities instead of the FAA. Some States do not have State aviation authorities. Some, frankly, have very bad ones. A few have good ones.

This is a perfect example of the statement that if something works, don't fix it. The small airports, which are to be the beneficiaries, apparently, of the amendment, do not want the amendment. They are satisfied with the situation the way it is. The FAA is satisfied with the situation the way it is. There is no need to upset an established relationship that works well and to the satisfaction of every single party concerned with it. So I strongly urge the Senate to reject the amendment of the Senator from Michigan.

Mr. LEVIN. Mr. President, do I have any time left?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CANNON. Mr. President, I am prepared to yield back my time.

Mr. LEVIN. I was going to use my last minute, if I may, Mr. President, to address some of the points of the Senator from Nevada.

First, on the question of whether or not this adds a level of bureaucracy, I suggest it is quite the opposite: It moves bureaucracy closer to the problem when we allow the States to administer these programs.

Second, will it destroy the national system? Quite the opposite. The FAA supports this amendment. They are in charge of the national system. Not only did the FAA support it but we have the National Association of State Aviation Officials, the National Association of State Highway Officials, and the National Governors Association, of course, which also support it.

This only applies to the smallest airports, only the very smallest airports, which are more part of a State network than they are part of a national network, although they are part of both.

Finally, Mr. President, the term, "shotgun wedding," was used, and it seems to me exactly the opposite is true. This is a voluntary association. States can either opt in or opt out of it. If they decide to opt in, they are subject to the approval of the national Government to make sure that Federal standards are, indeed, maintained.

I thank the Chair and I thank my friend from Oregon.

Mr. CANNON. Mr. President, I have only one or two comments.

I was interested to hear that the Highway Association supports this. I am wondering what interest the Highway Association has in support of funds for the safety of airports.

The suggestion that FAA supports this amendment did not particularly impress me. You must recall that it was FAA that authorized the statues in the Atlanta Airport, which was evidence of extremely poor judgment with respect to using air safety funds for the providing of esthetic articles, including statues, in the Atlanta Airport. So I am not particularly impressed by FAA apparently being in support of this amendment.

I read earlier that most of the organizations that are directly involved in the use of these airports are opposed to this particular amendment.

I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER (Mr. RIEGLE). All time is yielded back. The question is on agreeing to the amendment of the Senator from Michigan as modified by the amendment of the Senator from South Dakota.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Arkansas (Mr. PRYOR), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. BUMPERS) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Indiana (Mr. LUGAR), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 50, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—37

Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Chafee
Cohen
DeConcini
Dole
Durenberger
Hatfield
Hayakawa
Heinz
Helms
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Leahy
Levin
McClure
Matsunaga
Morgan
Nelson
Nunn
Percy
Pressler
Proxmire
Riegle
Sarbanes
Schweiker
Simpson
Stafford
Thurmond
Wallop
Warner
Williams

NAYS—50

Armstrong
Baucus
Bayh
Bentsen
Biden
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Danforth
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hatch
Heflin
Hollings
Jackson
Javits
Kassebaum
Laxalt
Long
Magnuson
Mathias
Melcher
Metzenbaum
Moynihan
Muskie
Packwood
Pell
Randolph
Ribicoff
Roth
Schmitt
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Weicker
Zorinsky

NOT VOTING—13

Baker
Bradley
Bumpers
Cochran
Goldwater
Gravel
Hart
Kennedy
Lugar
McGovern
Pryor
Sasser
Young

So the amendment of the Senator from Michigan (No. 730), as modified, was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 950

(Purpose: To establish the number of passengers enplaned at an airport in calendar year 1978 as the base for determining whether an airport shall be eligible for Federal assistance)

Mr. CANNON. Mr. President, I have one other technical amendment on which I have been waiting for Senator JAVITS.

The final technical amendment I am offering establishes airport enplanements in fiscal year 1978 as the base for determining an airport's eligibility for Federal assistance. In other words, if that base is fixed, we would know at that point which airports were and which were not eligible for Federal assistance, rather than having an airport fluctuating up and down, as they have in the desk.

I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 950.

Mr. CANNON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, line 6 and line 9, strike "annually" and insert in lieu thereof "in fiscal year 1978 as computed by the Federal Aviation Administration and set forth in appendix A of this Act."

At the end of the Act, insert the following:

Appendix A—Passengers enplaned at major commercial service airports in fiscal year 1978

Airport	*1978 PAX enplanements*
1. Chicago, IL	22, 165, 600
2. Atlanta, GA	17, 499, 034
3. Los Angeles, CA	15, 658, 256
4. New York, NY (JFK)	12, 071, 256
5. San Francisco, CA	9, 813, 302
6. Dallas/Ft. Worth, TX	9, 687, 196
7. Denver, CO	8, 760, 407
8. New York, NY (LGA)	8, 463, 697
9. Miami, FL	7, 887, 028
10. Washington, DC (DCA)	7, 007, 999
11. Honolulu, HI	6, 909, 850
12. Boston, MA	6, 689, 515
13. Detroit, MI	4, 907, 399
14. Houston, TX	4, 769, 963
15. Pittsburgh, PA	4, 753, 036
16. St. Louis, MO	4, 671, 134
17. Philadelphia, PA	4, 586, 318
18. Las Vegas, NV	4, 243, 550
19. Seattle/Tacoma, WA	4, 236, 375
20. New York, NY (EWR)	4, 171, 450
21. Minneapolis, MN	3, 996, 127
22. Cleveland, OH	3, 502, 562
23. Tampa, FL	3, 309, 164
24. New Orleans, LA	3, 127, 159
25. San Diego, CA	3, 031, 288
26. Phoenix, AZ	2, 947, 174
27. Kansas City, MO	2, 768, 998
28. Ft. Lauderdale, FL	2, 710, 725
29. San Juan, PR	2, 639, 432
30. Orlando, FL	2, 430, 753
31. Memphis, TN	2, 263, 393
32. Portland, OR	2, 076, 413
33. Salt Lake City, UT	2, 005, 933
34. Baltimore/Washington, MD	1, 761, 545
35. Buffalo, NY	1, 731, 085
36. San Jose, CA	1, 616, 456
37. Indianapolis, IN	1, 566, 916
38. Washington, DC (IAD)	1, 537, 169
39. Cincinnati, OH	1, 516, 210
40. Charlotte, NC	1, 476, 538
41. Kahului, HI	1, 473, 582
42. San Antonio, TX	1, 457, 999
43. Windsor Locks, CT	1, 455, 512
44. Milwaukee, WI	1, 434, 528
45. Sacramento, CA	1, 310, 723
46. Oakland, CA	1, 309, 652
47. Columbus, OH	1, 269, 290
48. Orange Co., CA	1, 131, 295
49. Nashville, TN	1, 130, 971
50. Anchorage, AK	1, 125, 403
51. Albuquerque, NM	1, 106, 236
52. Lihue, HI	1, 090, 307
53. Burbank, CA	1, 043, 550
54. Louisville, KY	1, 039, 362
55. Oklahoma City, OK	1, 033, 101
56. Dayton, OH	967, 803
57. Reno, NV	965, 221
58. Tulsa, OK	936, 662
59. Ontario, CA	924, 156
60. Omaha, NB	906, 222
61. Rochester, NY	895, 422
62. Norfolk, VA	882, 698
63. Palm Beach, FL	873, 076
64. Jacksonville, FL	856, 424
65. Syracuse, NY	856, 008
66. Dallas, TX (DAL)	835, 968
67. Tucson, AZ	831, 196
68. El Paso, TX	828, 557
69. Raleigh, NC	785, 669
70. Houston, TX (HOU)	771, 829
71. Birmingham, AL	769, 232
72. Albany, NY	700, 414

Hub classifications were determined by each airport's percentage of the total enplaned revenue passengers in all services and all operations. Classifications are based on 280,117,872 total enplaned revenue passengers.

The percentage and number of enplaned passengers in the hub classifications are as follows:

Large hub 1.00 percent or more, 2,801,179 or greater.

Medium hub, 0.25 percent to 0.99 percent, 700,295–2,801,178.

Small hub, 0.05 percent to 0.24 percent, 140,059–700,294.

Non hub, less than 0.05 percent, 140,058 or less.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. I know the Senator from New York is seeking time.

Does the Senator from Nevada yield to the Senator from New York?

Mr. CANNON. Yes, I yield to the Senator from New York.

Mr. JAVITS. I claim the time in opposition unless Senator PACKWOOD does. But it does not matter. That is fine.

Mr. President, we have had only this opportunity to examine this amendment. So I am going to state what it reads to me and the implications of it. But I will seek enlightenment from the managers of the bill because this is a matter of first impression to me and my staff, and we think we should oppose it, but we do not know.

My question is this:

Is it a fact that by substituting a list of fixed airports which are eliminated because of the one-half of 1 percent enplanement tests, such airports will be ineligible for ADAP funds during this bill's authorization? Therefore, if an airport which is, let us say for the sake of debate, near the bottom of the list slips down before September 30, 1982, to a lower enplanement level that airport will be barred from participation in this program notwithstanding the fact that such an airport is no longer considered a medium hub airport. The provision as originally carried in the bill was entirely satisfactory to us because if an airport slipped down it would regain its eligibility. But according to the present amendment, as I hope the Senator might, if I am wrong, enlighten us on that score.

I say to Senator CANNON that if I am correct my ox would be gored in this matter, because airports No. 61, No. 65, and No. 72 are Rochester, Syracuse, and Albany respectively in New York and this may very well happen. We hope not, but it may happen.

Mr. CANNON. Let me answer, and I think I understand the Senator's question, and I hope I can answer it satisfactorily to him.

If an airport were in that group of 72 and some of the Senator's airports are, this would be the base period. So those airports would be defederalized.

Mr. JAVITS. That is right.

Mr. CANNON. What does that mean? That means that they have to go out and negotiate with the air carriers to make up the loss of funds.

Let me tell the Senator what that amounted to. In Albany, N.Y., this would be a net savings of $2.57 per passenger that goes through Albany as a result of the ticket tax reduction. In other words, Albany has consistently paid in more money into the trust fund than they have received back and their percent of recovery in Albany, and that happens to be one of the higher ones, is 41.7 percent.

If they dropped down to where they got below the number 72 on here, at a later point in time, which, as the Senator said, they might well do, they would still not be eligible to come in under the ADAP distribution formula. They would still be excluded. They would be defederalized, but they would be expected to make up whatever loss of revenue they had from the airports from the air carriers that are using the airport.

Traffic, I am told, is going up at Albany rather than down.

The others were at Syracuse and Rochester; is that correct?

Mr. JAVITS. Yes.

Mr. CANNON. Syracuse only got 17.4 percent back as did Rochester. For each dollar they paid into the trust fund they only got a return of 17.4 percent.

So, they would only be recovering $1.07 a passenger. That is all it means to them.

So the Senator can see that the system is weighted rather heavily against Syracuse and Rochester, and Albany, of course, recovers a higher percentage, but not up to 50 percent.

Mr. JAVITS. The difficulty with the Senator's explanation is that it concedes my point. We are better off having the option which is what we have under the bill than we are being frozen out; in other words, we have the option under the bill rather than just being frozen out if our share of enplanements go down.

I mentioned this to Senator PACKWOOD. I think that is pretty simplistic. People know just as well as the Senator whether they are in or out on the definition which is in the bill. But if the Senator wanted to name the airports, I would not object if this were, say, a 2-year proposition. But I cannot see it as a permanent proposition for the whole life of the bill.

And that is the reason for my objection.

Mr. CANNON. There is no option retained in here for anyone. The bill does not retain an option for anyone, except those airports not on the list. The cutoff point, the period for determination would be the 1978 period.

We did, in the Packwood amendment, which has already been adopted today, provide for a study and require the GAO and the FAA to make a study to determine what the impact is, to study the issue of head tax, to study the issue of the impact under this and come back to us within a period of 9 months to give us a report as to what the effect is.

If we get an effect that we do not anticipate, Senator PACKWOOD and I have already said that we would conduct an oversight action and come to the Senate with legislation to correct the imbalance, if any.

Mr. PACKWOOD. Mr. President, if I might give assurances to the Senator from New York, Albany is not defederalized unitl after fiscal year 1983.

Mr. JAVITS. It is on this list of 72. Why would it not be?

Mr. PACKWOOD. Because the first 40 go after fiscal year 1981 and the second 32 go after fiscal year 1982.

I think I can assure the Senator, and Senator CANNON and I have made this promise, that to the extent that we can deliver on that promise no airport is going to be hurt by this defederalization. All of them, every airport in the 72 pays more into the ADAP fund than they get back.

The question comes, will they be able to negotiate with their airlines to make up for the difference of the slight drop in revenue that some of them experience?

There is a 9-month study, in the amendment to which Senator CANNON referred, on whether or not we should allow a head tax to be imposed if necessary for them to find the funds.

With as much assurance as I can make in this business, I think I can assure the Senator from New York that the Albany Airport will not go down in funds that it needs. It will get them from a slightly different source, but it will not go down.

Mr. JAVITS. What will be the different source?

Mr. PACKWOOD. They will renegotiate their contracts with the airlines as all these other airports are going to do. Because the ticket tax is being dropped from 8 to 2 percent, the airlines are going to have more money. In section 23 of the bill, there is a provision that any contracts that have been signed that are long-term contracts can be renegotiated for replacement of ADAP funds.

The only situation where you could be in a difficult situation is if you were close to the bottom of this list and losing passengers.

The airlines were saying "Your town is going downhill and it is not worth it and we are going to get out anyway." But that is not Albany's situation. Albany is a strong airport and it is going up.

Mr. JAVITS. The difficulty, Senator, is I can hardly see the reason for it except that you like to write in the names and freeze the situation as of now without doing what you had in the original bill, which made sense, and that is to take account of economic vicissitudes.

So I would like to know why should we agree to a list rather than a formula?

Mr. PACKWOOD. When the Senator says a list, what we have done is taken a certain number of claimants and put the cities beside them that happen to fit the number.

Mr. JAVITS. It is a list, that is what it is. It is a list.

Mr. PACKWOOD. Yes; it is a list, I cannot quarrel with that.

Mr. JAVITS. Why should we have that instead of a formula which can take account of the economic vicissitudes? Why the list?

Mr. PACKWOOD. Simply because if you are going to have a 1- or 2- or 3- or 4-year program you have got to have some certainty in that whether you are a small airport or a medium-size airport, and by that we mean one of the top 72, as to whether or not you are going to be in the list or out of the list, as you call it. You cannot be slipping back and forth, in this year and out next year.

Mr. JAVITS. Why not? If the criterion of the bill is the number of passengers you emplane why should you not be slipping in and out?

Mr. PACKWOOD. Because if you are in the list you renegotiate contracts with the airlines and they pay you more money. Then if you slip below and you come in back for the ADAP funds, you would be getting more money than you need.

Conversely, if you are the other way round, if you are below the list you have a guarantee of ADAP funds.

If you have a floating list and your passenger traffic goes up, you will move up to a place where, you will be dropped from the ADAP program and have to negotiate higher fees with the airlines. You have to have a fixed cutoff some place.

Mr. JAVITS. You have the fixed cutoff because the word in the bill is "annually."

Mr. PACKWOOD. No, I mean a number cutoff as to which airports are in and which are out.

Mr. JAVITS. I think by giving it this rigidity all you are doing is making a guarantee to the people who are not federalized. This is far from a universally popular bill because many of these airports feel that the ticket saving upon which a lot of this is based is going to go right back to the airlines which have had big increases in fuel costs. Therefore, the airlines are not going to want to increase the price of a ticket and they are going to use these funds for their own purposes.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. JAVITS. If I may finish this point, so I thought the bill as it stood was perfectly fair. Now you have got a flat list which guarantees against defederalization of many airports and guarantees defederalization for others without, it seems to me, any basic principle involved. The basic principle is contained in section 23(a) of the bill.

Mr. CANNON. Well, first let me correct the Senator on one point. The reduction of ticket tax does not go to the airlines at all. They have nothing to do with that. That is a reduction that goes to the passenger, and the passengers of your cities save very substantial amounts of money as a result of this reduction. That goes to the passenger though and not to the air carriers.

Now, the air carriers have flexibility with respect to pricing. They can use their pricing mechanism to take care of fuel costs where the board permits.

Mr. JAVITS. And to sop off the tax.

Mr. CANNON. And to pay the fee that they renegotiate to pay to those respective airports.

The point is, your airports have been paying into the system, as I pointed out to you earlier, much, much more money than they ever received out of it, or ever would receive out of it. I do not think that is in their best interests.

Now, on the further point as to why we do not take an annual basis, the reason why we do not take the annual basis is that after we had this traffic we found there were about four different formulas, and the uncertainty of whose formula you were using, were you using the FAA's, were you using the CAB's, or whose, meant you would have a great deal of uncertainty, and we, therefore, changed it to take a fixed period of time, and by taking that fixed period the airports will know whether they were in or whether they are out.

As Senator Packwood assured you, and as I will assure you, we are going to keep a very close watch on this. The study is for the sole purpose of determining how this is working and whether they are able to satisfactorily supplant their revenues. Most of them say they can with no problem at all.

Mr. JAVITS. Mr. President, if I may just complete this argument, obviously, without any preparation by any other Members, opposition to this amendment would fare very poorly, and I know that.

At the same time, I think I should, and I do, record my opposition to what is called a technical amendment, which is what is proposed here, but has a very real substantive purpose which I have described. I have not had a chance to talk to Albany, Rochester, or Syracuse, or any other airports, and I doubt that other Senators have, unless they were privy to what is called a technical amendment.

I have raised the issue, and that was my purpose. We are going to hear about this thing if it is wrong, which is also my purpose, and I wish to be recorded as voting "no" on this amendment because I just think it is not a technical amendment. It is a very substantive amendment, and that the airports should have had an opportunity to know what was cooking and to be heard on it. As far as we are concerned, the way this bill read is the way it was supposed to be. Beyond that point, as I say, I think anything I do would be of no avail.

I will say, of course, that I respect the assurances and the expressions of solicitude for the economic viability of the airports which my colleagues set forth.

But I do make my point, with due respect to my colleagues, and not challenging for a moment the good faith of such distinguished Senators as Senator Cannon and Senator Packwood, but I do not consider that this is a technical amendment. I do consider that it is a very substantive one on which we should have had some idea in advance so that we would have known what to do about it, at least to consult the people who would be affected and who were named in this list, in my case these three airports.

Mr. President, that is my statement on this matter, and when the vote is put I will vote "no."

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PACKWOOD. I am prepared to yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

UP AMENDMENT NO. 951

Mr. PRESSLER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. Pressler) proposes an unprinted amendment numbered 951.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 20, insert "the same state or" immediately after "part of".

Mr. PRESSLER. Mr. President, my amendment seeks to permit an airport to share Federal assistance with other airports in the same State. It is similar to the amendment which I offered earlier today and which was incorporated into Senator Levin's unsuccessful block grant amendment.

Mr. President, I wish to stress the importance of keeping funds within the State. My major concern is that adequate funds be available to be used in rural areas.

As a member of the Aviation Subcommittee, I feel that the purpose of S. 1648 is the development of our Nation's airports—with safety highlighted as our highest aviation priority. Therefore, my major concern is that adequate funding is available for small airport safety. There are numerous small airports which provide essential air service in rural areas. Without the necessary funding, these airports will not be able to finance extended runways, navigational aids, fire and rescue equipment, or develop terminal facilities.

Although this bill before us pertains mostly to large air carrier airports, I will take this time to point out my concern also for the small air carrier and general aviation airports. I will be calling for hearings before the Senate Aviation Subcommittee on the general question of safety and management of these smaller airports. Although there is no one solution for the many problems facing these smaller units, these hearings are intended to elicit testimony from a wide range of knowledgeable parties. It would be most useful to hear from pilots, airport managers, aircraft manufacturers, governmental officials, and Transportation Safety Board. In this way we can best fashion legislation most beneficial to serving our rural and smalltown areas.

Mr. President, the amendment which I am offering today will permit an airport to waive Federal assistance under the agreement that such assistance is awarded to another airport within the same State. If a larger airport does not have specific need for all of its funds, it may make the assistance available to another airport or may supplement the block grant within its State. This will strengthen the assistance to smaller airports. I ask the acceptance of this perfecting amendment, for it will give airports the option to delegate unused funds to other airport projects within the State.

I wish to thank the distinguished ranking member and the chairman of the Commerce Committee for their consideration of this amendment. And also their staffs who greatly assisted in this matter.

Mr. CANNON. Mr. President, this amendment is similar to the amendment, a perfecting amendment to another amendment that was defeated earlier. It is acceptable. I think this is what we intended. We already had in the language that if it is waived by an airport it could be used within the same geographical region. This would limit it to the same State. I think it makes a good amendment and I am prepared to accept it.

Mr. PACKWOOD. Mr. President, I agree with the amendment. I am prepared to yield back the remainder of our time.

Mr. CANNON. Mr. President, I yield back the remainder of our time.

Mr. PRESSLER. Mr. President, I ask unanimous consent that I may have printed in the RECORD several letters from my home State of South Dakota relating to the importance of funds to small airports.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SIOUX FALLS, S. DAK.,
December 13, 1979.

Hon. LARRY PRESSLER,
U.S. Senator,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR PRESSLER: The Senate will be taking up the post-1980 Federal Airport Aid Program contained in Senate Bill 1648 within the next few weeks. The Senate Subcommittee on Aviation has eliminated the provision for state administration of block grants for airport development from the bill. The Subcommittee did this on the basis of testimony from industry organizations which stated there was no support for state administration because it would add another layer of government.

This is an error on the part of the Subcommittee. Our city is the owner of Joe Foss Field Municipal Airport and we support the concept of block grants and the state administration of these grants for airport development. Both Senate Bill 1648 and the so-called administration bill H.R. 3745 contained provision for state administration of block grants for airport development.

In South Dakota and in a majority of the other states there already exists state agencies with the necessary expertise to administer such a program. State administration of block grants would provide the necessary flexibility in each state to direct airport development funds to airports where they are most needed. State and local governments have a better understanding of the aviation needs within their area than any federal agency. We also believe that if state construction standards were to be used the cost of individual projects could be reduced.

Sincerely,

RICK W. KNOBE,
Mayor.

WATERTOWN MUNICIPAL AIRPORT,
November 14, 1979.

Senator LARRY PRESSLER,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PRESSLER: I am writing you in regards to action taken by the Senate in late October on 1980 discretionary funding which resulted in no discretionary money being bugeted for the 1980 construction season. I would like to request that you please reconsider this decision once again. Airports like, Watertown, South Dakota, need the discretionary funds to help complete the projects requested in 1980. Such projects are much too large for local funding, only.

I would like your support in sending to the Senate Commerce Committee a simple companion bill to H.R. 2440 which would allow for discretionary money in 1980. Also, I would like to see you support Senate Bill 1648 for the state's role in airport funding.

Thank you for your reconsideration and support for these bills and the future of South Dakota airports.

Sincerely yours,

BERNARD LETZE,
Airport Superintendent.

BROOKINGS, S. DAK.,
November 20, 1979.

Representative JAMES ABDNOR,
Longworth House Office Building,
Washington, D.C.

DEAR JIM: It has been brought to my attention that "political maneuverings" have put the 1980 Discretionary Funding Program for the Air Carrier Cities in South Dakota in a precarious position.

Each and every day, it becomes more apparent that the role of the airplane is becoming more important as our "mass transit system" in South Dakota.

For that reason, I join in urging your support of a simple companion bill to H.R. 2440. I would also remind you that we will continue to support the State role that was killed in Senate Bill 1648.

By copy of this letter to Senators McGovern and Pressler and Representative Daschle, I am urging that they join in this effort to protect and fund our airport projects.

Kindest regards,

ORRIN P. JUEL,
Mayor.

RESOLUTION NO. 1348

Whereas, the South Dakota Airport Sponsors have worked in conjunction with the South Dakota Division of Aeronautics in securing airport project grants since the conception of the Federal Airport Aid Program, and;

Whereas, the Division of Aeronautics has provided assistance to South Dakota Airport Sponsors with administration, programming and engineering of projects, and;

Whereas, the South Dakota Division of Aeronautics was selected as one of four states in the Nation to participate in a State Demonstration Program to administer and issue grants for General Aviation Airport Development, and;

Whereas, this 2 year Demonstration Program proved to be very successful and with no federal involvement the program ran smoother with less red tape and delays, and;

Whereas, the South Dakota Division of Aeronautics has completed a State Aviation System Plan to provide guidance for airport development in the state through 1996, and;

Whereas, the Post-1980 ADAP Legislation currently being considered by Congress allows for State administration of the program on an optional basis for all airports other than primary hubs and primary airports, and;

Whereas, the Division of Aeronautics is willing to administer the Federal Airport Program in an effort to simplify and improve the program for the Airport Sponsors in South Dakota;

Now therefore be it resolved, that the City of Pierre, South Dakota is in support of the State Block Grant Program for all airports in South Dakota other than Primary Hubs but including primary airport that enplane less than 0.2%.

RAPID CITY, S. DAK.,
November 14, 1979.

Hon. LARRY PRESSLER,
U.S. Senate,
Dirksen Building
Washington, D.C.

DEAR SENATOR PRESSLER: Recent action by Congress, particularly the Senate, has prevented any discretionary money for the next airport construction year which began October 1, 1979. Such action is detrimental to airport construction, which is already suffering due to shortage of funds. Aviation cannot hope to keep pace with the demands placed on it, if this kind of action continues. Therefore, I would ask your support by contacting the Senate Commerce Committee and persuading them to pass a simple companion bill to HR 2440, which would provide discretionary money for FY 1980 airport construction.

In another Congressional action, the State role was killed in Senate bill 1648. This action is in direct conflict with a resolution passed by the South Dakota Airport Managers' Association through the South Dakota Municipal League last month. Since Congressman Jim Abdnor is a member of the Aviation Subcommittee of the House Public Works Committee, we need Jim and you to be aware of and support the State Block Grant Program for airports.

I know the above is brief, but I trust your support on these two items could make the difference and help aviation grow in South Dakota.

Sincerely,

ARTHUR P. LACROIX,
Mayor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota (Mr. PRESSLER).

The amendment was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, it is my understanding that the only amendment remaining in the Sasser amendment, which is a printed amendment, and that no other amendments would be in order, with the possible exception of a Cannon amendment which may or may not be offered. But those will not be offered until after the end of the day on Monday.

Senator BELLMON had a printed amendment. I believe, with a 1-hour time limit. I am advised that he does not intend to offer the amendment, but he does want to come over and speak on it.

Therefore, Mr. President, I suggest the absence of a quorum, without having the time charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair would inquire who yields time.

Mr. PACKWOOD. Mr. President, I yield 6 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 6 minutes.

Mr. BELLMON. Mr. Pesident, I am stongly opposed to the passage of this bill before we adopt a budget resolution for 1981. I would like to explain why.

The Senate decided—when we passed the debt limit bill last year—that we should adopt a fiscal 1980 budget which included fiscal years 1981 and 1982. The Senate will recall that the Second Budget Resolution would lead to a balanced budget in fiscal year 1981, and I for one am not ready to abandon a balanced budget for next fiscal year. In my opinion, inflation is the No. 1 domestic problem facing us today. It has major impact, as well, on our ability to meet our commitments abroad. In that context, and in the context of constituent demands for less—rather than more—Government, the promise of a balanced budget is one promise to the taxpayers of this country that I feel we should keep.

Mr. President, estimated expenditures under S. 1648 would exceed the congressional budget by $200 million in fiscal year 1981—and by $987 million over the next 5 years. In addition, Mr. President, S. 1648 assumes a tax cut of over $1.1 billion in fiscal year 1981. That means if we enact this bill, we either have to cut other spending—and/or raise other taxes—by $1.3 billion as compared to the budget just to stay even, when we add up the deficit or surplus next year.

The Senate voted Monday to increase veterans benefits. We voted yesterday to reduce savings in the social security disability program. Today, we are being asked to increase spending for air transportation. For that matter, we are being asked today to pass a piece of legislation that assumes a tax cut—a tax cut for purchasers of airline tickets. Let me ask my colleagues, Mr. President, how does the need for this increased spending stock up against the need for increased defense spending, for instance? For that matter, if we are to consider a tax cut in fiscal year 1981, how does a cut in airline ticket taxes compare to a cut in social security taxes, on our list of priorities?

I submit, Mr. President, that we would make different decisions about relative priorities of various programs if we simply hold back and consider all of these priorities at one time when working on our budget resolution. I submit further, Mr. President, that we are supposed to do that in the context of the Budget Act which we passed and which we have been operating under since 1974. The Senate will have an opportunity in the next 2 months to look at the fiscal year 1981 budget in the first concurrent resolution on the budget. I feel very strongly that we should wait to consider this bill—and any other bill. Unfortunately, we have already passed the two I mentioned, but those also should have been held back and we should also hold the line on any other bills which increase spending or decrease revenues in fiscal year 1981 until we consider the entire picture of spending and revenues.

I have here a copy of the "On Capitol Hill" column from this morning's Washington Post. That article begins:

> The Senate had a chance to practice fiscal discipline yesterday on disability benefits, but as usual it charged off in the other direction.

I ask unanimous consent that the entire text of that article be printed in the RECORD at this time.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

ON CAPITOL HILL

The Senate had a chance to practice fiscal discipline yesterday on disability benefits, but as usual it charged off in the other direction.

The House last year approved an administration bill estimated to save $2.6 billion over five years by reducing disability benefits as a means of encouraging the handicapped to get off the rolls and back to work. The Senate Finance Committee slimmed the saving to an estimated $914 million.

When that bill went to the floor yesterday, Sen. Birch Bayh (D-Ind.), whose wife recently died of cancer, offered an amendment waiving the normal five-month waiting period for disability benefits if two physicians certify that a person has a terminal illness and is expected to die within a year. That was adopted, 70 to 23, and cut the expected saving over five years to $74 million.

Sen. Edmund S. Muskie (D-Maine), Budget Committee chairman, protested in vain that the Bayh amendment was a budgetbuster, and was unfair to persons who had, say 15 months to live. Muskie had no more luck earlier when he tried to hold the dike against a 15 percent cost-of-living increase in GI Bill benefits for Vietnam veterans.

Then the Senate went on to an amendment by Sen. Howard Metzenbaum (D-Ohio) to wipe out almost all reductions in benefits. That plus the Bayh amendment would have put disability costs $731 million higher over five years, instead of saving money.

The Metzenbaum amendment, pushed by a coalition of disabled and elderly persons who have fought the bill, failed on a tie vote, 47 to 47. Administration spokesmen had mentioned a possible veto if the amendment were approved.

The Senate did approve, 90 to 0, an amendment on a rather remote subject. It provides that persons who sponsor immigrants by agreeing to see that they do not become public charges must carry out that pledge. Courts have ruled such a requirement not now enforceable.

Mr. BELLMON. Mr. President, yesterday—at least—arguments for increased spending, or reduced savings, were made in the name of the totally disabled. Members know that some of us on the Budget Committee disagreed with the decisions of the Senate on some of the amendments to the disability bill which would increase spending. In all candor, I can understand the emotional appeal some of those amendments have. But, considering this bill at this time presents us with a very different set of issues; namely, shall we make our decisions about spending for air transportation for the next 5 years before we consider any other spending or taxing priorities?

When the Budget Committee considered the waiver resolution on this bill, I made substantially the same argument I am making now. The proponents of S. 1648 argued then—and I am sure they will argue now—that the House bill is likely to be very different from this legislation; that the Finance Committee wants this bill passed before they consider the air ticket tax legislation; and that, therefore, it is imperative that we pass this bill quickly.

I was not persuaded then of the need for immediate action and I am less persuaded now. Other demands, such as demands other than those for air transportation fundings, have increased in the interim and not decreased.

It will be harder, if anything, to balance the fiscal year 1981 budget than we thought it would be when the Budget Committee acted on the waiver on this bill.

Inflation is, if anything, higher than we had anticipated.

The trend in Federal spending is up, not down.

The desire or the will of the Senate to hold the line on spending, which was fairly evident last year, seems to have eroded sharply during our Christmas recess.

If we are ever to reduce inflation, and bring Federal spending under control, we must desist in this piecemeal policymaking and put our priorities in order, and make spending and tax decisions within the context of those priorities.

For that reason, Mr. President, I urge the Senate to refuse to take final action on this legislation until after the first concurrent resolution on the budget for fiscal year 1981 has been adopted.

Mr. President, I ask unanimous consent that a table showing the action we took when we adopted the budget resolution for fiscal year 1980, indicating the path we set for ourselves to get the budget in balance, be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET BALANCE

[The following table illustrates the relationship between estimated spending under S. 1648, as reported by the Commerce Committee and the targets in the Second Resolution]

	Fiscal year 1981		Fiscal year 1982		Fiscal year 1983		Fiscal year 1984	
	BA	O	BA	O	BA	O	BA	O
Second Resolution	1.441	0.504	1.457	0.926	1.471	1.172	1.487	1.314
S. 1648	1.665	.581	1.520	1.098	1.600	1.345	1.730	1.541

As the table illustrates, S. 1648 would cause spending for air transportation (in function 400 of the budget) to exceed the targets for fiscal year 1981 by $0.2 billion—and taking into account fiscal year 1985 estimates, the 5-year overage would be $1.119 billion in BA, and $0.987 billion in outlays.

Mr. CANNON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, I say to my colleague that I share his concern about the situations respecting the budget. I just want to make two or three points.

First, the trust fund has a $3 billion surplus at the present time. We are trying, by a reduction of the ticket tax and the expenditures for air safety items, to get that trust fund down to where it is a balanced fund rather than one with a tremendous surplus.

I would also point out that airport funding, the ADAP funding, goes down over the life of the program. For this year it was $825 million. In 1983, it goes down to $550 million, which is $275 million less. In 1985, at the end of the 5-year program, it is down to $650 million, or $175 million less.

The Senator implied that we might have to increase taxes as a result of this. The ticket tax that supports the trust fund cannot, by law, be used for any other purpose. So there is no question of having to increase taxes to take care of this kind of an expenditure. I can assure my colleague that what we are trying to do here is to insure that the safety needs of the airports throughout this country in our national transportation system are met so that we do not have the kinds of things occur which occurred in San Diego not too long ago because of the overcrowded condition that exists in this country's airports, particularly due to the lack of safety facilities.

Again I say to my colleague that I am very sympathetic to the point he is making, but I do think we have made a good case. I would say the Budget Committee did not support the Senator in the position which he has advanced here on the floor.

Mr. BELLMON. Will the Senator yield?

Mr. CANNON. I yield.

Mr. BELLMON. I would not quarrel with the last statement the Senator made. I wonder, if we reconsidered the waiver in light of what happened this week, if the Budget Committee would have taken a different tack. But that is all water under the bridge.

The point I would like to make is that there does not seem to me to be such a great urgency about this program that it could not be held and considered when we consider the overall spending plans of the Government at the time we deal with the budget resolution. Frankly, I expect to be supportive of this bill if it is dealt with in a timely way so that we consider this priority along with others. But I am terribly concerned, when we take these bills up one at a time—and they are all meritorious bills—and we have no chance to evaluate our total spending plan. Therefore, we wind up, in my opinion, with a much larger surplus, or perhaps with the inability to have a balanced budget, which we might be able to achieve if we would wait until we deal with the resolution and then put all our spending into the limits we set. My opposition is not on the merits of the bill but, rather, on the timing of taking up not only this but other bills such as the two we have already dealt with this week. We are going to find ourselves having spent hundreds of millions and perhaps billions of dollars more than we have anticipated and, therefore, will have tied our hands and made it impossible for us to balance the budget and begin to control inflation. That is my whole point. I do not mean to disagree that action should be taken to improve airport safety, but it seems to me that these bills should be considered after we know what our spending limits are.

Mr. CANNON. I would say that the taxes end in June, which is one of our problems, and we had to take timely action.

Mr. President, may I ask what the parliamentary situation is? I understand there are no further amendments except the Sasser printed amendment, which is defined in the unanimous-consent agreement, and a possible Cannon amendment. If that is the situation, this matter then goes over until Monday evening. Do I understand that correctly?

The PRESIDING OFFICER (Mr. BAUCUS). That is the unanimous consent agreement, yes.

Mr. CANNON. And no other amendments are in order?

The PRESIDING OFFICER. That is correct.

INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on S. 1300 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 19, 1979.)

Mr. CANNON. Mr. President, I am pleased to submit the conference report on the International Aviation Competition Act of 1979 to the Senate for its consideration. This legislation will go far to institutionalize a basic policy for conducting aviation bilateral negotiations.

The legislation starts out with a clear, pro-competitive statement of policy which will guide the CAB in international route and rate matters. It also provides competitive goals for our bilateral negotiators and international aviation policymakers at the Department of State, Department of Transportation, and the CAB.

Changes are made to the agreements and tariff sections of the Federal Aviation Act which bring the international aviation sections into harmony with the competitively-oriented domestic policies in those areas. In addition, needed modifications are made to the Federal Aviation Act and the Fair Competitive Practices Act to streamline the ability of the United States to react to any discriminatory practices against U.S. international airlines by a foreign government.

A pro-competitive change has been made to the "Fly America" provision which also gives our negotiators more flexibility as well. In those instances where a foreign government is willing to agree to a liberal, competitive bilateral, our negotiators will have the ability to trade the fly America provision.

As a result of the unfortunate experiences this past year with the prolonged United Airlines strike and the DC-10 grounding, we have included an emergency cabotage provision which will permit, under certain conditions, foreign airlines to carry U.S. domestic traffic. This should help relieve the inconvenience suffered by the innocent traveling public during such emergencies. The language adopted by the conferees requires the Board to find that the award of such cabotage rights during a labor dispute will not result in an undue advantage to either management or labor involved in the dispute. Clearly in normal strike circumstances, meeting the public's transportation needs would not in and of itself be providing any advantage to labor or management. Further, we expect the Board determinations which are required before the award of cabotage rights to be made quickly and without procedural delays.

Finally, the most significant provision of the legislation establishes a zone of reasonableness within which carriers can exercise pricing flexibility. This parallels the domestic pricing provision. To insure some protection for the consumer against fares which are unreasonably high, we have included a reasonable degree of CAB discretion over fares. The Board will exercise discretionary review over fares in international markets they select which collectively account for up to 25 percent of total international passengers. This limited measure of discretionary power for the Board is aimed specifically at existing fares which are too high. This will allow the Board to single out fares that are unreasonably high and to establish a zone in such markets at a lower level.

In view of the urgency of the fuel cost problem, time is clearly of the essence and we have imposed a 6-month deadline on the Board for completing the ratemaking proceeding. Given the complex nature of the task, this timespan is unquestionably short and will tax both the Board and the participants to their fullest. Recognizing this, we have given the Board procedural flexibility to meet the deadline. This will be the Board's only opportunity to exercise review over fares before the carriers get ratemaking flexibility and we are making it clear to both the Board and the participants that any new procedures necessary to meet the 6-month deadline are permissible.

I want to note that the Senate hearings focused on the urgent need for fare flexibility for passengers. That focus did not intend to ignore similar circumstances in all-cargo service. In hearings on H.R. 5882 before the Aviation Subcommittee of the Transportation and

Public Works Committee, the Board noted that the main concern in cargo is that the carriers have flexibility upward to cope with rapidly escalating fuel and other cost increases. The Board promised "* * * to come up with some way in which we could make more automatic that kind of upward increase that we would consider would be administratively workable."

I hope that the Board will act promptly to utilize its present authority to create such a workable rate zone, and preclude the necessity for further legislation to accomplish that result.

Finally, I am disturbed by recent reports of CAB action disapproving international fare increases with an advance interpretation of this conference report that is clearly contrary to the intent of the conferees. I plan to question Chairman COHEN about this problem at this confirmation hearing Monday, and plan to carefully evaluate future action that may be necessary to stop this perversion of intent.

I hope the Senate will act favorably on the conference report.

Mr. LONG. Mr. President, the conference report on S. 1300, the International Air Transportation Competition Act, refers to "turnaround service" with respect to the new restrictions which have been placed on Love Field. I would like to make sure that I understand accurately what is meant by this term. "Turnaround service" means that service does not go beyond the contiguous States but turns around at an out-of-State point or terminates there. Of course, since subsection (c) also specifically authorizes service between Love Field and one or more points in the State of Texas, such flights could operate through Love Field to other points in Texas, or through a point within the contiguous States to other such points, before turning around. Also, there is no intent to limit flights by a carrier serving Love Field which does not serve Love Field at all, such as New York-Miami. Is that correct?

Mr. CANNON. The Senator is absolutely correct.

Mr. MAGNUSON. I am concerned about a possible ambiguity in the statute and in the conference report, at page 22, in the statement about the "Seattle, Wash.-Japan common fares investigation." Does this refer to the Pacific Common Fares Investigation?

Mr. CANNON. Yes. This is a priority case already argued to the Board. It is complete except for the final Board decision now targeted for February 29, 1980. It is a fare structure case, not a fare level case, but it may necessitate new fares being filed in several Pacific markets, including the Seattle-Tokyo market. In at least some of these markets, changes in fare structure will necessarily result in changes in fare levels as an incidental effect of any relief the Board may order.

Mr. MAGNUSON. Assuming the Board's decision finds the existing fare structure unlawful, how would the lawful fares be established under this new law?

Mr. CANNON. The conferees intend that the lawful fares would be the product of two distinct decisions of the Board. The fare structure issues will be decided in the common fares case. The Board retains under the new law all its powers to fashion appropriate relief if it finds the existing fare structure unlawful, and to insure that future tariffs in these markets comply with its fare structure decision. The fare level issues, however, must be decided by different means. For example, the Board can also establish the standard foreign fare level in affected markets such as Seattle-Tokyo if, under new section 1002(j) (8), it finds unjust or unreasonable the Seattle-Tokyo fares in effect on October 1, 1979.

Mr. MAGNUSON. But the Board's decision under section 1002(j) (8) could not in itself lower the existing fare level immediately in the Seattle-Tokyo market?

Mr. CANNON. That is correct. Any immediate reduction in the Seattle-Tokyo fare level will occur, if at all, only as the result of the Board's decision and the relief it selects in the common fares case. A lower fare level would be only the incidental effect of a lawful new fare structure, assuming the Board finds the existing structure unlawful and orders relief that produces that result.

Mr. MAGNUSON. How then would the lawful fare level be established for the Seattle-Tokyo market?

Mr. CANNON. Under new section 1002 (j) (8), the Board must establish the standard foreign fare level for the Seattle-Tokyo market if it finds that the Seattle-Tokyo fare in effect on October 1, 1979, is unjust or unreasonable. This would not, in itself, reduce the Seattle-Tokyo fare level even if the standard foreign fare level established by the Board turns out to be lower than the existing fare. But it would provide the benchmark by which future fare increases—including increases in new fares that may result from the common fares case—would be tested under the new act for justness and reasonableness. For example, if a new and lower Seattle-Tokyo fare results from the common fares case, the justness and reasonableness of future increases proposed for that fare would be judged against the zone created by the adjusted standard foreign fare level, not against the Seattle-Tokyo fare level in effect on October 1, 1979.

Mr. MAGNUSON. What happens in the opposite case? In other words, what if the Board under section 1002(j) (8) finds the existing Seattle-Tokyo fare level to be unjust and unreasonable, but the relief ordered in the common fares case does not result in a reduction of the present Seattle-Tokyo fare?

Mr. CANNON. In that event, the standard foreign fare level established under section 1002(j) (8) would act in combination with related new sections of the law to limit future fare increases in the Seattle-Tokyo fare until, in effect, costs catch up with the present fare. But the Board would still be able to monitor and enforce compliance with its fare structure decision in the common fares case, and this might incidentally affect the Seattle-Tokyo fare level for reasons other than justness or reasonableness.

Mr. MAGNUSON. Is this what the conferees intended with the provisions of the new law and the statement in the conference report?

Mr. CANNON. Yes. The conferees recognized that the common fares case is close to decision. We intended, first, that the fare level provisions of the new law not be cited to interfere with the Board's fare structure decision or the fare structure relief the Board may order. Second, we intended to acknowledge that fare structure changes ordered by the Board may have the incidental effect of changing existing fare levels in markets such as Seattle-Tokyo. Third, we intended to make clear that if the Board does establish a standard foreign fare level in markets such as Seattle-Tokyo, that fare level and not the level of fares in effect on October 1, 1979 will determine, together with the related provisions of the new act, the justness and reasonableness of future fare increases or decreases filed in such markets. In short, the fares in markets such as Seattle-Tokyo must ultimately be the product of both the fare structure case now pending before the Board and the fare level provisions of this act.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Without objection, the conference report is agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the conference report was agreed to .

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN SUPPORT OF S. 1900—NATURAL DISASTER ASSISTANCE

Mr. HEFLIN. Mr. President, shortly after the southern part of my home State of Alabama was devastated by Hurricane Frederic, I proposed legislation which would give special tax treatment to farmers who suffered loss because of hurricanes and other types of natural disasters in certain circumstances. The bill I proposed would be of great benefit to persons engaged in the production of fruits and nuts who sometimes spend a lifetime nurturing a fruit or nut orchard only to have it destroyed by a sudden and uncontrolled act of nature.

I have heard from a large number of organizations and associations who represent fruit and nut growers from all around this country and the support for this measure is truly remarkable. From macadamia nut growers in Hawaii to peach growers in Georgia, the response has been the same. These farmers who spend a lifetime bringing trees to fruition only to lose them due to a natural calamity certainly deserve our support.

Mr. President, I ask unanimous consent that the following Members be added as cosponsors to S. 1900:

Senator INOUYE, Senator GOLDWATER, Senator DURKIN, Senator LUGAR, Senator TALMADGE, Senator MATSUNAGA, Senator ROBERT BYRD, Senator COCHRAN, and Senator STEWART.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I hope that more of my colleagues will join as cosponsors of this measure in the weeks to come. Since it is impossible for these farmers to obtain crop insurance or insure their trees, either through commercial or governmental agencies, it is imperative that we pass this legislation, which will soften the blow of natural disasters when they do occur and help these farmers get back on their feet.

I thank the Members who have decided to cosponsor this measure and I hope that with their help, we shall be able to move this measure through the Senate expeditiously.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business; that Senators may speak therein up to 5 minutes each; and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS OF CITIZEN REGENTS OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. JACKSON. Mr. President, I send to the desk two joint resolutions and ask for their immediate consideration.

The PRESIDING OFFICER. Does the Senator wish the joint resolutions to be considered en bloc?

Mr. JACKSON. Yes.

The PRESIDING OFFICER. The joint resolutions will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 137) to provide for the appointment of William G. Bowen as citizen regent of the Board of Regents of the Smithsonian Institution.

A joint resolution (S.J. Res. 138) to provide for the appointment of Carlisle H. Humelsine as citizen regent of the Board of Regents of the Smthsonian Institution.

The PRESIDING OFFICER. Without objection, the joint resolutions will be considered en bloc, will be considered as having been read the second time at length, and the Senate will proceed to their consideration.

Mr. JACKSON. Mr. President, under the statute, the two individuals here are recommended by the Board of Regents. They come from the public at large, to serve for a specified term as members of the Board of Regents of the Smithsonian Institution.

I introduce this joint resolution on behalf of Senator GOLDWATER and Senator MORGAN. It has been cleared on both sides of the aisle, and there is no objection.

The joint resolutions (S.J. Res. 137 and S.J. Res. 138) were considered, ordered to a third reading, read the third time, and passed, as follows:

S.J. RES. 137

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which was caused by the death of Dr. John Nicholas Brown, of Rhode Island, on October 9, 1979, be filled by the appointment of William G. Bowen, citizen of New Jersey, for the statutory term of six years.

S.J. RES. 138

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the resignation of Thomas J. Watson, Junior, of Connecticut, on October 12, 1979, be filled by the appointment of Carlisle H. Humelsine, citizen of Virginia, for the statutory term of six years.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 10:10 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 267. Concurrent resolution expressing appreciation to the Government of Canada for its support and assistance in securing the safe release of American Embassy personnel from Iran.

At 2:02 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970.

ENROLLED BILL SIGNED

At 5:08 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill:

S. 423. An act to provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution for minor disputes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 267. Concurrent resolution expressing appreciation to the Government of Canada for its support and assistance in securing the safe release of American Embassy Personnel from Iran; to the Committee on Foreign Relations.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. HEFLIN) announced that on today, January 31, 1980, he signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

H.R. 4320. An act to consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2879. A communication from the Assistant Secretary of the Navy for Manpower, Reserve Affairs, and Logistics, transmitting, pursuant to law, notification of a study made for conversion to contractor performance of a function presently being performed by the Department of Defense; to the Committee on Armed Services.

EC-2880. A communication from the Assistant Secretary of the Navy for Manpower, Reserve Affairs, and Logistics, transmitting, pursuant to law, notification of a study made on conversion to contractor performance of a function presently performed by the Department of Defense; to the Committee on Armed Services.

EC-2881. A communication from the Comptroller General transmitting, pursuant to law, a report entitled "XM1 Tank's Reliability is Still Uncertain"; to the Committee on Armed Services.

EC-2882. A communication from the Deputy Assistant Secretary of the Army for Installations and Housing, transmitting, pursuant to law, the annual report of Army contracts for military construction awarded without formal advertisement; to the Committee on Armed Services.

EC-2883. A communication from the Secretary of Defense transmitting, for informational purposes, a copy of the FY 1981 Department of Defense Annual Report; to the Committee on Armed Services.

EC-2884. A communication from the Deputy Secretary of the Department of Energy, transmitting, pursuant to law, the third annual report on the electric and hybrid vehicle program; to the Committee on Commerce, Science, and Transportation.

EC-2885. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for programs for the National Bureau of Standards; to the Committee on Commerce, Science, and Transportation.

EC-2886. A communication from the Chairman of the United States Water Resources Council, transmitting a draft of proposed legislation to authorize appropriations through fiscal 1982 and to authorize supplemental appropriations for fiscal 1980; to the Committee on Environment and Public Works.

EC-2887. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, notice of a proposed new system of records for the Air Force; to the Committee on Governmental Affairs.

EC-2888. A communication from the Acting Commissioner of Immigration and Naturalization, transmitting, pursuant to law, 679 reports on third and sixth preference visa petitions; to the Committee on the Judiciary.

EC-2889. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, notice that the Department does not intend to submit an annual report to the Congress relative to emergency medical services; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Res. 351. An original resolution authorizing additional expenditures by the Committee on Foreign Relations for inquiries and investigations (Rept. No. 96-563). Referred to the Committee on Rules and Administration.

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 352. An original amendment authorizing additional expenditures by the Committee on Environment and Public Works for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. BAYH, from the Select Committee on Intelligence, without amendment:

S. Res. 354. An original resolution authorizing expenditures by the Select Committee on Intelligence. Referred to the Committee on Rules and Administration.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 355. An original resolution authorizing additional expenditures by the Committee on Banking, Housing, and Urban Affairs for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 294. A resolution relating to official expenses payable or reimbursable from a Senator's office expense account (Rept. No. 96-564).

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Special Annual Report of the Committee on Environment and Public Works (Rept. No. 96-565).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. Res. 357. An original resolution authorizing expenditures by the Select Committee on Indian Affairs for inquiries and investigations. Referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RANDOLPH (by request):

S. 2243. A bill amending the John F. Kennedy Center Act; to the Committee on Environment and Public Works.

By Mr. JOHNSTON:

S. 2244. A bill to establish the Tensas River National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. JACKSON (for himself, Mr. Morgan, and Mr. Goldwater) (by request):

S.J. Res. 137. A joint resolution to provide for the appointment of William G. Bowen as citizen regent of the Board of Regents of the Smithsonian Institution. Considered and passed.

S.J. Res. 138. A joint resolution to provide for the appointment of Carlisle H. Humelsine as citizen regent of the Board of Regents of the Smithsonian Institution. Considered and passed.

By Mr. BOREN (for himself, Mr. Bumpers, Mr. Pryor, Mr. Bellmon, Mr. Zorinsky, Mrs. Kassebaum, and Mr. Tower):

S.J. Res. 139. A joint resolution to require continuation of rail service by the Chicago, Rock Island, and Pacific Railroad through August 31, 1980; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 414

At the request of Mr. Bayh, the Senator from Tennessee (Mr. Sasser) was added as a cosponsor of S. 414, a bill to amend title 35 of the United States Code; to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes.

At the request of Mr. Dole, the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Montana (Mr. Baucus), and the Senator from California (Mr. Hayakawa) were added as cosponsors of S. 414, supra.

S. 616

At the request of Mr. Dole, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 616, a bill to amend the Internal Revenue Code of 1954 to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations.

S. 736

At the request of Mr. Dole, the Senator from Florida (Mr. Stone, and the Senator from Nevada (Mr. Laxalt) were added as cosponsors of S. 736, A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes.

S. 1215

At the request of Mr. Schmitt, the Senator from Virginia (Mr. Warner) was added as a cosponsor of S. 1215, A bill entitled the "Science and Technology Research and Development Utilization Policy Act".

S. 1435

At the request of Mr. Nelson, the Senator from Alabama (Mr. Heflin), and the Senator from Maine (Mr. Cohen) were added as cosponsors of S. 1435, A bill to amend the Internal Revenue Code of 1954 to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 1543

At the request of Mr. Nelson, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 1543, A bill relating to tax treatment of qualified dividend reinvestment plans.

S. 1900

At the request of Mr. Heflin, the Senator from Arizona (Mr. Goldwater), the Senator from New Hampshire (Mr. Durkin), the Senator from Indiana (Mr. Lugar), the Senator from Georgia (Mr. Talmadge), the Senator from Hawaii (Mr. Matsunaga), the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Mississippi (Mr. Cochran), the Senator from Alabama (Mr. Stewart), and the Senator from Hawaii (Mr. Inouye) were added as cosponsors of S. 1900, A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of casualty losses in the case of fruit or nut trees.

S. 2040

At the request of Mr. Nelson, the Senator from Vermont (Mr. Leahy), and the Senator from Tennessee (Mr. Sasser) were added as cosponsors of S. 2040, a bill to amend the Small Business Act to increase assistance to small businesses in exporting.

S. 2136

At the request of Mr. Nelson, the Senator from Arkansas (Mr. Bumpers), and the Senator from New Mexico (Mr. Schmitt) were added as cosponsors of S. 2136, a bill to amend the Internal Revenue Code of 1954 to reduce the rate of tax on corporations.

S. 2152

At the request of Mr. Nelson, the Senator from Arkansas (Mr. Bumpers), and the Senator from New Mexico (Mr. Schmitt) were added as cosponsors of S. 2152, a bill to amend the Internal Revenue Code of 1954 to provide a doubling of investment tax credit for used section 38 property by raising the $100,000 limitation on such property to $200,000.

S. 2168

At the request of Mr. Nelson, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 2168, a bill to amend the Internal Revenue Code of 1954 to permit an electing small business corporation to have 35 shareholders and to issue certain additional stock.

S. 2220

At the request of Mr. Nelson, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 2220, a bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from the gross estate of a decedent of a portion of the value of certain interests in a farm or trade or business if the spouse or children of the decedent materially participate in such farm or trade or business.

SENATE JOINT RESOLUTION 115

At the request of Mr. RIEGLE, the Senator from Missouri (Mr. EAGLETON), the Senator from Nebraska (Mr. EXON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of Senate Joint Resolution 115, a joint resolution designating July 1980 as "National Porcelain Art Month."

SENATE RESOLUTION 344

At the request of Mr. CHILES, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of Senate Resolution 344, a resolution commending the Government of Canada for its actions with respect to certain U.S. citizens in Iran.

AMENDMENT NO. 730

At the request of Mr. LEVIN, the Senator from South Dakota (Mr. PRESSLER), the Senator from Michigan (Mr. RIEGLE), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of amendment No. 730 proposed to S. 1648, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

AMENDMENT NO. 1442

At the request of Mr. HELMS, the Senator from Colorado (Mr. ARMSTRONG), the Senator from Utah (Mr. HATCH), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of amendment No. 1442 proposed to H.R. 3236, a bill to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for for other purposes.

AMENDMENT NO. 1646

At the request of Mr. JAVITS, the Senator from Ohio (Mr. METZENBAUM), the Senator from California (Mr. CRANSTON), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of amendment No. 1646 proposed to H.R. 3236, a bill to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program. and for other purposes.

SENATE CONCURRENT RESOLUTION 73—SUBMISSION OF A CONCURRENT RESOLUTION WITH RERESPECT TO IMPLEMENTING THE OBJECTIVES OF THE INTERNATIONAL YEAR OF DISABLED PERSONS

Mr. DOLE (for himself, Mr. STAFFORD, Mr. WILLIAMS, Mr. RANDOLPH, Mr. MCGOVERN, and Mrs. KASSEBAUM) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 73

Whereas a new era in recognition of human rights and universal respect for these rights has begun;

Whereas the United Nations General Assembly has declared 1981 as the International Year for Disabled Persons;

Whereas the United States has made great strides during the last decade in improving the lives of 35 million American citizens with physical and mental disabilities;

Whereas there is still much to be done towards opening doors for disabled persons; and

Whereas the United States recognizes the need for further progress in strengthening public understanding and awareness of the needs and aspirations of disabled persons: Now, therefore be it

Resolved by the Senate (the House of Repsentatives concurring), That it is the sense of the Congress that the President should take all steps within his authority to implement, within the United States, the objectives of the International Year of Disabled Persons (1981), as proclaimed by the United Nations General Assembly Resolution 31/123 of

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

INTERNATIONAL YEAR OF DISABLED PERSONS

● Mr. DOLE. Mr. President, in conjunction with last year's United Nations General Assembly Proclamation of 1981 as the "International Year of Disabled Persons," I would like to submit this concurrent resolution, expressing the sense of the Congress with respect to implementing the objectives outlined for the International Year of Disabled Persons. With an ever-increasing focus on human rights, it is my hope that this resolution will give added impetus to policy initiatives that will expand education and employment opportunities for our country's mentally and physically handicapped citizens.

U.S. COUNCIL FOR IYDP

In response to this United Nations proclamation, and with the support of several major national organizations, as well as the U.S. Government, the U.S. Council for the International Year of Disabled Persons was established last July. Mr. David T. Kearns, president of Xerox Corp., was named chairman of the Council, and Mr. Alan A. Reich, chairman of the People-to-People Committee for the Handicapped, serves as its president. The Senator from Kansas is privileged to have been asked to serve as a member of the Council's honorary committee.

PREPARATION FOR IYDP

The purpose of the U.S. Council is to improve the lives of America's physically and mentally disabled people, of which there are about 35 million, through an active public awareness campaign to strengthen understanding and support for the needs and aspirations of our Nation's handicapped citizens. The Congress of the United States should study potential actions which it can take in support of these same goals, and initiate legislative proposals which will enhance opportunities for this very significant segment of our population.

COMPLEXITIES IN ADAPTATION

In order to play a more active role in the world around them, certain adaptations have to be made by handicapped individuals and by those people who deal with them in the course of their activities. Additionally, their adjustment process becomes more complex, because certain environmental barriers must be overcome, and the degrees of reasonable accommodation necessary to accomplish this purpose are so diverse, depending upon the nature of the handicap in question.

ROLE OF CONGRESS

To this end, Members of the Congress of the United States have initiated legistive proposals that will assist disabled individuals in their struggle to cope with their environment and to communicate with, and contribute to, the society in which they live. In anticipation of this special year in 1981, I ask Congress to continue the work that it has begun in this area, and to consider how it might be helpful in further alleviating the additional and environmental barriers that handicapped individuals must struggle against. Additionally, we should explore preventive measures wherever possible to help eliminate accidents and debilitating disease that can have such grave consequences.

PROGRESS IN REHABILITATION

Under the Rehabilitation Act of 1981, great strides have been made in giving legal justification and assistance to the cause and claims of handicapped persons, as they attempt to integrate themselves in the sphere of employment. Previously, they had no recourse in law to any of the unfair practices and prejudices which they encountered in their attempts to adapt to the context in which they live and try to work.

Although sections 503 and 504 especially have contributed much toward aiding handicapped individuals, there is still a lot of progress to be made in this area. Medical rehabilitation should continue to be followed up by educational and psychological rehabilitation, because these processes complement each other. Once these individuals are then physically and psychologically able to be reabsorbed into a more active role in their society, we should do everything possible to make it easier for them to cope and lead productive lives again. We, as legislators, should concentrate our efforts toward improving upon the steps we have already taken during the last decade.

ENLIGHTENMENT IN ATTITUDES

People and businesses alike are becoming more comfortable in their dealings with individuals who suffer from physical and mental disabilities. Their usefulness in the employment area has been recognized to a greater extent than in the past, and they have come a long way toward overcoming certain lingering misconceptions. However, we cannot drop the ball here, and must continue to focus on ways that we may be of further assistance in implementing the goals of the International Year of Disabled Persons.

RECOGNITION OF BASIC HUMAN RIGHTS

It is among the undisputable, inalienable rights of our Constitution that all citizens should be entitled to life, liberty, and the pursuit of happiness, but it happens all too frequently that certain individuals are prevented from achieving these possibilities because of superficial barriers.

In the case of disabled persons, attitudinal barriers within our society have all too often constituted the most difficult barrier to overcome. These people must constantly wage a battle for acceptance within our society. In this era of attention to human rights, we should recognize the right that disabled persons have to educational and employment opportunities without their having to contend with unfair practices and misconceptions.

CIVIL RIGHTS IMPLICATIONS

Although it appears self-evident that handicapped persons should be entitled to the same rights as everybody else under our constitution, unfortunately their acceptance is not readily achieved and discriminatory practices continue to exist. While differences in race, creed, color, religion, and sex have been dealt with previously under the Civil Rights Act, there is currently an attempt to include the category of persons who are physically and mentally disabled under the provisions of the Civil Rights Act of 1964. Further, it is unfortunate that the realities of our society should require such a step to be necessary. But, until recent years, handicapped persons had very limited protection under the law. Their efforts to lead productive lives to the extent that they are entitled to and able to do so, were constantly thwarted by unnecessary barriers.

AMENDMENT TO THE CIVIL RIGHTS ACT

As a cosponsor of S. 446, I urge my colleagues to take action which will facilitate implementation of the basic concepts laid out in this amendment to the Civil Rights Act, and, with a special year to look forward to in 1981, to initiate measures which will provide every available mode of assistance within our power to aid the disabled in their social integration. We must recognize the valuable contributions that our handicapped citizens can make to the work force, instead of all too often shoving this significant segment of our population aside, due to underlying misconceptions about their abilities. S. 446 is one way of paving the path for the year that will focus on this group of citizens internationally.

INTENT OF RESOLUTION

In looking forward to 1981, the United States can once again assume a leadership position by establishing innovative policies to assist the disabled within our society. Current legislation is a start, but we should continue to generate awareness and understanding of the problems of the handicapped, along with an active interest in solving these problems. We should be anticipating how best we can focus on and fulfill the special needs of our disabled citizens, even before the International Year of Disabled Persons actually takes place. It has been my experience that, unless the awareness level of the public is raised, merely to pass laws in favor of handicapped interests will not ultimately accomplish integrative goals. Doors will only open to disabled individuals when minds are opened to receive them with full acceptance and recognition of their capabilities as active, participating members of our society and the work force. For this reason, I hereby submit this resolution to the Congress of the United States.●

SENATE RESOLUTION 351—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 351

Resolved, That, in holding hearings, reporting such hearings, making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, the Committee on Foreign Relations is authorized from March 1, 1980, through February 28, 1981, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employee personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $1,885,300, of which amount not to exceed $70,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 352—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 352

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, the Committee on Environment and Public Works is authorized from March 1, 1980, through February 28, 1981, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,828,000, of which amount (1) not to exceed $70,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 353—SUBMISSION OF A RESOLUTION AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. CHILES submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 353

Resolved, That the Special Committee on Aging, established by section 104 of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, is authorized from March 1, 1980, through February 28, 1981, in its discretion to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as a standing committee may provide such assistance under section 202(j), of the Legislative Reorganization Act of 1946, as amended.

SEC. 2. In carrying out its duties and functions under such section and conducting studies and investigations thereunder, the Special Committee on Aging is authorized from March 1, 1980, through February 28, 1981, to expend $342,600 from the contingent fund of the Senate, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than April 30, 1981.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at annual rate.

SENATE RESOLUTION 354—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. BAYH, from the Select Committee on Intelligence, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 354

Resolved, That the Select Committee on Intelligence, in carrying out the duties and functions prescribed by S. Res. 400, Ninety-fourth Congress, agreed to May 19, 1976, as amended, is authorized from March 1, 1980, through February 28, 1981, to make expenditures from the contingent fund of the Senate not to exceed $1,856,000, of which amount not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 2. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

Sec. 3. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 355—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. Res. 355

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1980 through February 28, 1981, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis, the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $1,193,000.

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 357—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MELCHER, from the Select Committee on Indian Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. Res. 357

Resolved, That in carrying out the duties and functions imposed on it by section 105 of Senate Resolution 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended and in exercising the authority conferred on it by such section, the Select Committee on Indian Affairs is authorized from March 1, 1980, through January 2, 1981, in its discretion (1) to make expenditures from the contingent fund to the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services or personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $525,300.00 of which amount not to exceed $20,000.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1964, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 2, 1981.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, there has been a change in the room number from 424 RSOB to 6226 DSOB for the hearing on February 5, at 9:30 a.m. of the Select Committee on Small Business. The subject of the hearings are on the effect of the decision of the United States Steel Corp., to shut down several of its plants. The hearings will focus on the impact of the closings on the communities and their small businesses. Those interested in further information should contact the committee staff at 224–5175.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on S. 2164 and S. 2165, to protect the confidentiality of certain export information required by the Bureau of the Census for statistical purposes. The hearings will be held on February 20 and 21, 1980, at 10 a.m. in room 3302 Dirksen Senate Office Building.

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce the Select Committee on Small Business will hold a joint public hearing with the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources in Boston, Mass., on Friday, February 29, 1980. The hearing which will be held in Faneuil Hall will convene at 10 a.m. and adjourn at 1 p.m.

The hearing will explore the potential impact to the New England fisheries of the recent governmental decision to allow offshore drilling on Georges Bank. Further information can be obtained from the committee's offices, room 424D, Russell Senate Office Building, Washington, D.C. 20510, telephone (202 224–8497.●

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a hearing on the fiscal year 1981 Department of Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold an executive session to receive a briefing by the Central Intelligence Agency and the Department of State on the situation in El Salvador.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SHARING THE BURDEN OF THE GRAIN EMBARGO

● Mr. CHURCH. Mr. President, I recently had the honor of delivering the concluding address at the annual gathering of the National Association of Wheat Growers.

The convention came on the heels of President Carter's announcement of the embargo on grain sales to the Soviet Union. In my address, I stated that:

> The President, in the face of Russian aggression, could not continue to do "business as usual" with the Soviet Union.

However, I also said that:

> If it serves the national interest to invoke the "food weapon" against the Soviet Union, then the nation, as a whole, should bear the burden.

I therefore proposed a series of steps to make whole the American farmers affected, in order to insure that the burden of national policy is more equally shared. I am now preparing legislation to implement these proposals.

Mr. President, so that my colleagues may review the program I intend to introduce, I ask that the text of my address be printed in the Record.

The text follows:

Let Justice Be Done

It is an honor to appear tonight before members of such an outstanding organization as the National Association of Wheat Growers. I am particularly pleased to be invited to participate in the celebration of your 30th year of service to 16 member states and more than 60,000 of the most efficient food producers of the world—the American wheat farmer.

I would speak to you tonight from two perspectives; first, from my perspective as Chairman of the Senate Foreign Relations Committee; second, from my perspective as the senior Senator of one of the leading wheat-growing states of the Union.

As we enter the Eighties, the world confronting us is profoundly different from the one we faced at the beginning of the Seventies. During the last decade, the old economic order has been shaken to its very foundation by the emergence of history's most formidable—some would say ruthless—cartel. OPEC turned oil into an economic weapon of astonishing proportions. The damage inflicted upon the oil-consuming nations has nearly overturned the international monetary system, as we have known it.

That system, in 1970, was solidly supported by a seemingly indestructible American dollar. Today, the dollar totters precipitiously with every passing breeze of uncertainty. Barely a day passes without questions arising as to the ability of the dollar to continue its role as the linchpin of the system. The current frenzy in the global gold markets illustrates both the shaky state of the monetary system and the temper of the times.

Led by a devastating ten-fold increase in the price of oil, world-wide inflation, which had begun to accelerate as the Seventies approached, skyrocketed by the end of the decade, with prices more than doubling.

The impact of OPEC resulted in tremendous distortions in the world's trading accounts. The industrialized and developing nations alike racked up tremendous deficits, while struggling to meet their escalating oil import bills.

The United States, which had almost consistently registered trade and current account surpluses during the 1960's had amassed record trade and current account deficits by the close of the 1970s seriously calling into question, for the first time, the power and prestige of the United States as the world's economic leader.

Against this gloomy setting, one bright spot shone out. While American automakers and steel producers were losing ground to Japanese and Koreans in world markets, the American farmer was playing a vital role in helping to contain the U.S. trade deficits by expanding agricultural exports. In 1979, these exports totaled $32 billion, and accounted for an agricultural trade surplus of almost $16 billion. While the export performance of most sectors went from bad to worse, our agricultural sector saw its exports increase by 550 percent since 1970. Current estimates suggest that future market prospects for expanded U.S. agricultural exports are equally promising—doubling by 1985 and tripling by the 1990s. Clearly the American farmer has a crucial role to play in restoring the U.S. economy to a position of strength, not only by providing food to more than 200 million Americans, but by continuing to make an expanding positive contribution to the U.S. trade balance.

Unlike many other American businessmen, our farmers had their eyes open to opportunities afforded by the export market. The production of 1 out of every 3 acres harvested by American farmers is for export. One dollar out of every five of gross farm sales comes from exports. As wheat growers who export more than half your crop, I hardly need belabor the point.

However, the very success of the American farmer in making the United States the most important food-exporting nation of the world gave us an economic weapon of our own, for retaliating against a foreign power whose actions posed a potential threat to our security.

Perhaps it was inevitable that this weapon would eventually be invoked. Its use came sooner than expected, with the Russian invasion of Afghanistan.

The potential threat to our security posed by this blatant act of Soviet aggressiveness has little to do with Afghanistan itself. But the hard fact is that Russian occupation of this poor, barren country will place Soviet troops within striking distance of the Persian Gulf, where the great oil fields of the Middle East are concentrated.

These fields are indispensable to the United States and the industrialized economies of the Western world. They are, in a word, a vital interest that we cannot permit the Russians to seize.

In the days of Adolph Hitler, the world learned that a policy of appeasement leads to calamity. If the first act of aggression can be taken with impunity, it will be followed by others, until war is finally forced upon us.

So, when the Soviet Union invaded Afghanistan, President Carter had to ask himself the painful question: Can the United States, in the face of such a provocation, continue to do business as usual with the Russians? His answer was "No," the necessary answer in my opinion.

The second question followed upon the first. What retaliation is available, short of war? The President found his answer in the action he announced a few days ago. He would:

(1) Halt further export of high-technology equipment to the Soviet Union.;

(2) Deny the Russians access to American fishing waters; and

(3) Impose an embargo on all American grain sales above 8 million metric tons, the minimum level called for by treaty.

In other words, some 17 million tons of grain, mainly corn and wheat, destined for the Soviet Union, would be cut off. The embargo would also apply to future crops, until lifted. Plainly the President had invoked the "food weapon."

Will these measures force the Russians to withdraw from Afghanistan? The answer, in my judgment, is that they won't. But the Russians will feel the pinch. They will have to pay a price for their aggression beyond mere verbal rebuke.

The day he delivered his message to the American people, I was asked by the White House for my advice on the contemplated embargo. I responded that it should not be invoked, unless other wheat exporting countries first agreed that they would not step in to fill the gap. Our NATO allies, Canada and Australia have agreed to do this, Argentina being the only hold-out.

I also suggested that the embargoed grain acquired by the government be converted into gasohol. I thought, then, and think now, that farmers, given the choice, would prefer to see the grain used for needed fuel here at home, than to fatten Russian cattle.

So concludes my testimony as Chairman of the Senate Foreign Relations Committee. Now let me speak to you from the perspective of the senior Senator from Idaho.

After years of encouraging agricultural production for export, the embargo has the effect of declaring about 15 percent of the export market "out of bounds." Manifestly, if our public policy is to be fair, the American farmer should not be singled out to pay for the Russian seizure of Afghanistan. If it serves the national interest to invoke the "food weapon" against the Soviet Union, then the nation, as a whole, should bear the burden.

As measured by this standard, the program so far announced by the Administration is woefully inadequate!

To be sure, is has been announced that the 17 million tons of grain, or whatever amount ends up being purchased by the government, will not be sold on the market. This may have averted an immediate collapse in the price of wheat, but a surplus of this size, as long as it may be used for PL–480 sales abroad, can replace commercial sales and thus depress the price of wheat in the long run.

For this reason, I would favor sealing off this surplus grain for two uses only, famine relief and conversion to fuel.

Secondly, the Administration has announced that the loan rate on the '79 wheat crop will move up from $2.35 to $2.50 a bushel, and that the payment to farmers holding grain in the on-farm reserve storage program will be increased from 25 cents per bushel to 26.5 cents per bushel.

This is totally unacceptable! No one can confidently predict that the government's embargo will not drive the price of wheat down to, or even below, the loan rate. Given today's cost of production, $2.50 wheat would spell disaster for the wheat growers of this country.

If this is all the Administration has to offer in the way of protecting the farmers against the adverse effects of this grain embargo, then it is squarely up to Congress to see that justice is done.

Here are the elements of a hold-harmless program that I would regard as adequate and fair:

(1) First of all, the President should immediately raise the loan rate on wheat to what the market price was the day before the embargo was announced. This, I am told, would amount to about $3.80 per bushel. If this sounds excessive, just remember that the parity price for wheat today is $6.12 per bushel.

(2) Next, the Congress should provide by law that the purchased grain will be stored and sealed for only two uses: famine relief and conversion to alcohol for fuel.

(3) Third, an adequate set-aside program should be announced as soon as possible, designed to bring future grain production into line with anticipated demand. And that demand should take into full account our future need for alcohol. So, for wheat already planted, the set-aside should not require that it be plowed under. The excess, as far as the coming harvest is concerned, could also be purchased and stored for conversion into gasohol. Why pay to plow it under when we know we will need the fuel?

The time is long overdue for a crash program to produce gasohol in quantities large enough to matter, if we are ever to reduce our dangerous dependency on costly foreign oil.

Here, again, the Administration declines to take the lead. Its newly-announced gasohol goals fall short of the legislation already in conference between the two houses of Congress.

As to this, I can personally testify, since I authored the gasohol provisions in the Senate's version of the pending bill.

The Administration calls for $300 million a year in Federal loan guarantees to stimulate the construction of new alcohol plants. The Senate bill would provide $400 million annually.

The Administration sets a goal of 500 million gallons of alcohol production by 1981, up from 80 million at the present time. The Senate bill seeks nearly a billion gallons, twice as much, by 1982.

Whatever the goal may be, however, we all must recognize that the conversion of so much grain into alcohol will require long-term storage on the farm.

It follows that on-farm storage capacity in this country must be expanded. This may require government loans at an interest rate sufficiently low to promote the building of new storage facilities on the scale required, coupled with increased rentals of, say, 30¢ a bushel per year, to compensate the farmer for furnishing the necessary storage facilities for government use.

I do not present this plan as springing full-blown from the brow of Zeus. I want to hear from you, and all other American family farmers, as to how it might be improved. We need to work together to fashion a workable program.

There will be some who will object that such a program is too ambitious and expensive. They would prefer to see the farmers take a beating, and they will pressure the government relentlessly to use the embargoed grain to keep down prices for the American consumer in the supermarkets. They will argue that such a policy will confer the most good on the greatest number.

But they are wrong. The best policy is a just policy, one that does not single out a particular group to carry the load for the rest of us.

The best policy would spread the costs of a national embargo upon the nation as a whole, so that all taxpayers, including the farmers, would carry their proportional share.

The best policy would strive to keep American agriculture prosperous, so that the production of food and fiber continues to be our strongest asset in the global marketplace.

The best policy would recognize that the American farmer is still the housewife's best friend. In 1960, the average American consumer spent 28.5 percent of his income on food. By 1978, despite the inflation, the percentage had dropped to 19.2 percent.

Nobody, anywhere in the world, gets a better bargain on the food they buy than the American people.

Let's hope the politicians have sense enough to save the goose that lays these golden eggs.●

EARL SMITH, "THE ANGRY MAN," WILL BE MISSED

● Mr. CHILES. Mr. President, many people talk a lot about the mess of bureaucratic redtape and how it entangles peoples' lives and frustrates them. Once in a while there comes someone who does something about it.

Such a man was Earl Smith of Holmes Beach, Fla. At past age 70, Earl Smith set up a free counseling clinic to share his knowledge and experience with the elderly people of his community who were losing their war with medicare. In a couple of years he helped turn the tide of battle for thousands who were being shortchanged, ignored or, at best, delayed interminably. He gave unselfishly of his time and himself, even after surgery and dependence on a pacemaker.

And he became an angry man. He did not like the way Florida's carrier was handling medicare claims. He was upset by the lack of responsiveness from Government officials. He could not understand why he was not able to draw the attention of elected officials to the problem to the degree he felt was essential. I know of his impatience and anger because he pointed some of it at me. And as a result and with information supplied by him, I was able to get the General Accounting Office involved in a large-scale investigation of the medicare system.

A week ago, Earl Smith's heart gave out. It is a great loss to his family and the community, but we will continue the effort he started, I hope to a successful conclusion.

Mr. President, I ask that a story from the Anna Maria Islander telling more of Earl Smith's work and his life be included in the Record at this point.

The article follows:

"Mr. Medicare," Earl Smith, Dead

(By June Alder)

Holmes Beach.—Two years ago February a lanky former Vermont hospital administrator named Earl Smith hung up his shingle at the Manatee Beach pavilion to begin a free twice-a-week Medicare counseling clinic.

Since then he has become "Mr. Medicare" to thousands of senior citizens whom he has helped get a fair shake from the federal Medicare program. And his crusade against Medicare system ripoffs has attracted national attention.

On Tuesday morning his shingle came down and it won't go up again.

The redoubtable 73-year-old Smith, who couldn't be stopped by heart trouble (perhaps brought on by his "mad as hell" fight with the Medicare powers-that-be) and didn't slow down even though 1978 surgery left him dependent on a pacemaker, died of a massive heart attack Monday morning.

The end came as he was waiting in a parked car at the Cortez Plaza for his wife to return from shopping.

Smith knew he hadn't long to be around, and that's why in the past few months he became increasingly frustrated with his agonizingly slow progress in getting a national investigation launched into what he believed is a Medicare scandal of country-wide proportions.

Smith didn't start out as a crusader. Because of his background as a hospital administrator in Vermont, he found himself called upon to help several elderly neighbors with their Medicare forms.

More and more people came to him for assistance and he got permission from the local Kiwanis Club to set up shop in a corner of the Manatee Beach pavilion. Word of mouth publicity and stories in The Islander attracted people with Medicare problems from all over Manatee and Sarasota counties to his clinics on Tuesday and Friday mornings.

Soon he discovered there was more to the problems than just confusing forms. In his filing system—several big cardboard boxes—he amassed hundred of documents detailing how Blue Shield of Florida was denying legitimate Medicare claims.

Smith's persistence paid off in payments of thousands of dollars in benefits to retirees. But he didn't stop there. He bugged Blue Shield officials and local, state and national legislators, traveling at his own expense to Tallahassee and other points in Florida in an effort to get at the heart of the Medicare mess.

Last year he was a star witness at hearings in St. Petersburg conducted by U.S. Sen. Lawton Chiles, chairman of the Senate Committee on Aging. As a result, Chiles asked for an investigation by the federal government's General Accounting Office.

But progress was too slow for him. In order to keep the pressure on, the blunt-speaking Smith fed information to The Islander which published scores of stories about his findings. Area dailies largely ignored his crusade. But last fall, The St. Petersburg Times picked up his story and ran a half dozen feature articles not only on Smith but the evidence he had of Medicare patients being ripped off.

In November Smith was telephoned by David Rosenbaum, Washington bureau chief of the New York Times, who spoke to him about a series of articles being planned on Medicare snafus.

Unfortunately, Smith didn't live to see everything he'd worked for accomplished. But if the Medicare program eventually is reformed, the nation's retirees will have a good deal to thank Smith for.

One thing's for sure—Smith will be sorely missed on Anna Maria Island by everyone who knew him, particularly those to whom he became a counselor and champion on their behalf with Big Government.

Smith, who resided at 209-83rd St. in Holmes Beach, came to the Island about five years ago. Born in Oaklawn, R.I., on June 26, 1906, he owned an advertising agency in Pawtucket for 20 years and ran a resort in Norton, Vt., several years before he became a hospital administrator, first at the Brightlook Hospital in St. Johnsbury and then at the Copley Hospital in Morrisville.

Surviving are his wife Cathleen; two sons, Bob Smith, Holmes Beach and Earl Smith, Hartford, Conn.; two daughters, Barbara Schmidt, Glenhead, L.I., N.Y.; and Jean Atkins, Indianapolis, Ind.●

LEGISLATIVE VETO

● Mr. SCHMITT. Mr. President, sometime ago an editorial was published in a leading business newspaper, Advertising Age, which was critical of the legislative veto.

The editorial presents a misunderstanding of the legislative veto concept that has been amply rebutted by a letter to the editor from Mr. William R. Hesse, executive vice president of the American Association of Advertising Agencies. Mr. Hesse correctly points out that the legislative veto is designed to restore responsibility for lawmaking to elected officials in the Congress and as such has broad business, professional, and constituent support. It is not a procedure for encouraging special interests to derail needed Federal regulation, but a much-needed device to restore our constitutional system of checks and balances to a regulatory apparatus that has grown beyond the ability of the Congress to control and has moved under the influence of other special interests.

Because the original editorial from Advertising Age was placed into the Record by the distinguished Senator from New York, Mr. Javits, I ask that Mr. Hesse's response to the editorial be printed in the Record.

The response follows:

Response of William R. Hesse

To the Editor: Re: The editorial on Congress and due process. One must wonder first at the headline, "Should Congress veto due process? Move against FTC is risky." Of course, we do not deny your right to say it as you wish, and would encourage you to be forthright as you always are. However, it seems that due process can be identified in a number of ways. Frankly, it may be in the eye of the beholder.

We think that it could be identified as established by the Constitution, i.e., that the laws of the land be provided in the main by Congress. At the very least, Congress should have the right to review—the essence of the one-house veto—which certainly fits in well with the notion of checks and balances. As you know, this is one idea for legislation that has been well "test marketed" in 12 states and in well over 100 acts of Congress in fairly recent times.

When one cuts to the core of the matter, one comes to the question, should the laws that affect the societal and economic life of this nation be made by the elected Congress or should that privilege be delegated to a regulatory body which is insulated from the political process of election by the people?

The regulatory agencies appear to be working outside the system more and more each day. They are not only not accountable to Congress itself, but also to the public whom they have so "diligently" sworn to protect. Regrettably, they are coming closer and closer to becoming the self-appointed guardians of public morals.

I do not believe that the Four A's have had more than a small part in the stirring in this country which has caused the House of Representatives to clearly favor some control over FTC acts, with the Senate moving inevitably in that direction.

Frankly, it has to be a broad constituency who have convinced their elected representatives that the FTC has overreached and indeed needs to have checks and balances to prevent regulatory overkill. This balance is presumed to be restored by a mechanism like the one-house veto.

For one to believe that this ground swell of opinion on the part of a broad constituency is solely that of the lobbyists favoring business is simply a statement of semantics that overreaches.

It would seem that one must examine one's own views to see who, in fact, is out of step with the American people today, the Congress or the FTC. Our dependence on the public's appraisal of the ideas of their elected representatives has stood the test of time and shows that due process has indeed worked.

I haten to add that the Four A's, under no stretch of the imagination, is urging that the Federal Trade Commission be abolished. It is simply that we feel it is high time that regulatory bodies reflect more the views of the people than their own rather narrow legal views.

PRESCRIPTIONS FOR POLICY ACTION

● Mr. JAVITS. Mr. President, it is always encouraging to know that we have leaders in this country, both in the public and private sectors, to speak with conviction and candor.

Felix Rohatyn, a partner in the New York investment firm of Lazard Freres and the architect of New York's Municipal Assistance Corporation, is such a New Yorker. He has spoken his mind in brilliant fashion in an article which appeared in the Washington Post. There he sets forth a set of tough-minded recommendations for action which merit our closest consideration.

As Mr. Rohatyn rightly stresses, the economic and defense posture of the United States cannot be as credible to our trading partners and allies overseas if we do not act to reduce drastically our energy consumption, to break the economic vise of OPEC, and to strengthen the dollar.

The hard truth, and Mr. Rohatyn puts it bluntly, is that double-digit inflation is not abating, nor is a meaningful reduction in energy consumption realistic with the policies we now have in place. He warns us that we cannot conduct a policy of "business as usual" at home during this period of disruption and turmoil abroad, that we cannot expect to finance a rearmament program simply by increasing spending, that we cannot expect our international security posture to be sound if it is built on a shaky economic base.

While Mr. Rohatyn's solutions are certainly open to debate, no one can question his willingness to confront the issues nor the rightness of the demand that the present and future leaders of this country must be heard on these issues.

Mr. President, I ask that Mr. Rohatyn's article be printed in the Record.

The article follows:

[From the Washington Post, Jan. 30, 1980]

What We Should Do

(By Felix G. Rohatyn)

The president's State of the Union message was less noteworthy for what it said—i.e., that we will draw the line at Soviet expansionism in the Persian Gulf—than for what it neglected to say. In many ways, what was not covered was more important. For instance:

(1) In 1980, our payments to OPEC for imported crude will be running at the rate of nearly $100 billion per annum. This compares to about $6 billion before the 1973 embargo. Over the next five years, the United States will pay out about $500 billion dollars for a product it burns into the atmosphere every day.

The value of all companies listed on the New York Stock Exchange is approximately $900 billion. The idea that over the next five years we would mortgage to OPEC half the productive capacity of this country, built up over 200 years, to pay for oil is obviously absurd. This situation is as dangerous to our system, and as unacceptable to our security, as would be a Soviet presence in Saudi Arabia.

(2) Domestic inflation and our economic posture are a basic factor in our international security posture. Our economy is the foundation upon which our security is built. This foundation is shaky. The United States cannot finance a rearmament program of the type envisaged by the administration by simply increasing its budget deficit. The United States cannot hope to convince OPEC to hold on to its dollars if we continue to give in to runaway inflation that has two main components: energy consumption and government spending.

The United States is not a credible partner, economically or militarily, unless it takes concrete action to reduce drastically energy consumption and to strengthen its currency. Coming off the high end of a business cycle with a $40 billion deficit is not reassuring.

(3) There are only two ways to reduce domestic energy consumption both drastically and soon: gasoline rationing or increasing the price of gas with a substantial tax. Ultimately, both may be needed. With the additional financing requirements for defense, a gas tax seems to be the most logical answer.

Of all the presidential candidates, only Rep. John Anderson has had the courage to advocate what many see as only common sense. A 50-cent-per-gallon gas tax would raise approximately $55 billion per annum, could reduce consumption by about 10 percent and is an absolute minimum. A $1-per-gallon tax, phased in over three years, would be more appropriate. In Europe, gasoline taxes amount to $1.50 to $2 per gallon, with a per-gallon price at the pump of $2.50 to $2.70. Europe's per-capita consumption is 40 percent that of the United States', not only because people drive less but because long ago they switched to small, fuel-efficient automobiles.

The proceeds of the gas tax should be used partly to fund increases in defense spending, partly to lower taxes on business in order to increase capital investment and productivity and partly to help lower-income groups by financing mass transit and lowering Social Security taxes.

(4) A significant gas tax would do more to strengthen the dollar and give OPEC long-term confidence in our currency than any other single economic action available to us. It should set the stage for a dialogue with OPEC aimed at changing our payments for oil from freely convertible dollars to long-term bonds guaranteed by the U.S. government. The proceeds on these bonds could be used only to purchase American commodities or manufactured goods over a period of years as the bonds mature.

As an inducement to such an arrangement, we should be willing to commit part or even all of our current gold reserves. At current market prices, the United States has approximately $250 billion worth of gold; sitting on a mountain of gold will do us no good if our economy collapses. We should be willing to commit the only commodity we have that has risen in value as much as oil as part-payment for oil, if OPEC will accept long-term bonds, with limited convertibility, for the balance.

If such an arrangement were negotiated with one or two members of OPEC, such as Saudi Arabia and Kuwait, others might follow later. The producers must understand that we will be driven to much harsher choices if the bankruptcy of our society is the only alternative.

(5) Our commitment to protect the oil resources of the Middle East benefits Europe and Japan at least as much as it benefits us. They should, therefore, pay their fair share. As part of the mutual security arrangements with Egypt, Israel, Saudi Arabia and Jordan, any American troops stationed there should be evenly matched by European forces financed by Europe and Japan.

The U.S. nuclear umbrella must stay over Europe, but the free ride on the ground must stop.

(6) Committing large sums for training young blacks, Puerto Ricans and Chicanos is meaningful only if jobs are available to them once they are trained. This is not the case. We have accepted the notion that we are a service economy instead of a manufacturing economy. This is highly questionable.

We need a balanced economy, both services and manufacturing—with the emphasis, however, on manufacturing. This is the best way to provide employment opportunities to the minorities and the underprivileged. Such a policy may require certain limitations on free trade, which can be a price worth paying. Free trade, in any case, is something we practice while others only preach it.

(7) The economic forces being generated in the United States will increasingly divide the country between haves and have-nots. The region where most of our oil and gas are produced will now be the recipient of most of our defense contracts. In addition to the severance taxes charged by the oil-producing states to the consuming states, there will be the drain of tax dollars to Georgia, Texas and California for defense. Half this country—the half where the sun shines—will produce oil and guns; the other half—the urban areas of the Northeast and Midwest—will produce unemployment and slums.

The windfall profits tax could not be applied to the oil-producing states themselves because of congressional resistance. At a minimum, a certain proportion of defense contracts as well as subcontracts of the synfuel programs should be mandated to the urban, impacted areas of the Northeast and Midwest. If we are to survive as a Union of states, then there has to be a balance as to burdens and benefits.

(8) This country faces major challenges in the coming decade without a foundation of consistent domestic or foreign policy for a base. Double-digit inflation is not abating, nor is a meaningful reduction of energy consumption taking place. The wage-price guidelines are as irrelevant to wages and prices as the windfall profits tax is irrelevant to production and consumption of energy.

Wage and price controls are not a long-term solution, but a 6-to-12 month wage-price freeze should be considered to provide a relatively stable pause during which the administration and Congress can debate and arrive at a sensible, interrelated set of policies for the 1980s.

Policy is a fabric, a tapestry in which all strands are interwoven, linked to each other, clearly describing a basic posture and direction. We have no such tapestry. The State of the Union message concentrated on what might happen but is not likely to—i.e., Soviet expansion into the Middle East oil fields. It ignored that which is inevitable but which we have no answers for—i.e., reducing energy consumption and paying for what we use, reducing inflation and paying for defense, protecting the dollar and giving a future to the young black, keeping this Union viable and united.

Those are some of the inevitables we face, and those are only a few. What is certain is that we are living at the end of an era: the era of Keynesian economics, growth with limited inflation, cheap and plentiful energy, U.S. economic domination of the Western world. If we are to be in control of our destiny as a viable democracy in a state of transition, it cannot be done with business as usual at home.

The American voter is usually far ahead of his leaders. He is entitled every four years to his most precious right: namely, to ask those who propose to lead just what it is they propose to do. The answers, so far, both by Republicans and Democrats, have not been inspiring.

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I submit for the Record the three notifications I have just received.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., January 14, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-26, concerning the Department of the Army's proposed Letter of Offer to Denmark for defense articles and services estimated to cost $8.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

Attachments.

[Transmittal No. 80–26]

Notice of Proposed Issuance of Letter of Offer

(Pursuant to Section 36(b) of the Arms Export Control Act)

(i). Prospective Purchaser: Denmark.

(ii). Total Estimated Value:

	(In millions)
Major Defense Equipment*	$7.8
Other	.9
Total	8.7

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii). Description of Articles or Services Offered: Sixty two (62) M220A1 TOW guided missile launchers and eight hundred and forty (840) BGM–71A TOW guided missiles.

(iv). Military Department: Army (UBG).

(v). Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi). Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii). Section 28 Report: Cast not included in Section 28 report.

(viii). Date Report Delivered to Congress: January 14, 1980.

Defense Security Assistance Agency,
Washington, D.C., January 28, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–31, concerning the Department of the Army's proposed Letter of Offer to Lebanon for defense articles and services estimated to cost $10.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

Attachments.

[Transmittal No. 80–31]

Notice of Proposed Issuance of Letter of Offer

(Pursuant to Section 36(b) of the Arms Export Control Act)

(i). Prospective Purchaser: Lebanon.

(ii). Total Estimated Value:

	(In millions)
Major Defense Equipment*	$9.7
Other	1.0
Total	$10.7

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii). Description of Articles or Services Offered: Seventy (70) M113A2 armored personnel carriers and four (4) M577A2 command post carriers.

(iv). Military Department: Army (UNQ).

(v). Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi). Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None

(vii). Section 28 Report: Case not included in Section 28 report.

(viii). Date Report Delivered to Congress: January 28, 1980.

Defense Security Assistance Agency,
Washington, D.C., January 28, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–40, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $12.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Attachments.

Ernest Graves,
Director.

[Transmittal No. 80–40]

Notice of Proposed Issuance of Letter of Offer

(Pursuant to Section 36(b) of the Arms Export Control Act)

(i). Prospective Purchaser: Coordination Council for North American Affairs (CCNAA) pursuant to P.L. 96–8.

(ii). Total Estimated Value:

	(In millions)
Major Defense Equipment*	$10.8
Other	1.2
Total	12.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii). Description of Articles or Services Offered: Forty-nine (49) TOW launchers, one thousand thirteen (1013) TOW missiles, forty (40) practice TOW missiles, technical assistance, repair parts and associated equipment.

(iv). Military Department: American Institute in Taiwan (AIT) for the U.S. Army (XXF)

(v). Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None

(vi). Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None

(vii). Section 28 Report: Included in report for quarter ending 31 December 1979.

(viii). Date Report Delivered to Congress: January 28, 1980.●

RULES OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. RANDOLPH. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, I submit for the Record the rules of the Committee on Environment and Public Works for the second session of the 96th Congress.

The rules follow:

Rules of the Committee on Environment and Public Works

Rule 1. *Regular Meeting Days.*—The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 A.M., except that if there be no business before the Committee, the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman, after consultation with the ranking Minority Member. Subcommittee meetings shall be called by the Chairman of the respective subcommittee, after consultation with the ranking Minority Member. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

Rule 3. *Open Committee Meetings and Legislative Mark-up Sessions.*—Meetings of the Committee, including hearings and legislative mark-ups, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the Committee determines by record vote of a majority of the members of the Committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 7(b) of rule XXV of the Standing Rules of the Senate (as amended by Senate Resolution 9, 94th Congress).

Rule 4. *Presiding Officer.*—(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside;

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside;

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

Rule 5. *Quorums.*—(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in subsection (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting; Polling.*—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the Ranking Minority Member, Members who are unable to be present and whose vote has not been cast by proxy may have their positions recorded on any vote on the same business day so long as the vote will not change the outcome.

Rule 7. *Public Announcement of Vote.*—Whenever the Committee by rollcall vote reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

Rule 8. *Announcement of Hearing.*—The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time and subject matter of any hearings to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

Rule 9. *Statements of Witnesses at Hearings.*— (a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness not read his written testimony and to confine his oral presentation to a summary of his statement.

Rule 10. *Regularly Established Subcommittees.*—The Committee shall have six regularly established Subcommittees as follows:

Subcommittee on Environmental Pollution.

Subcommittee on Water Resources.

Subcommittee on Transportation.

Subcommittee on Regional and Community Development.

Subcommittee on Resource Protection.

Subcommittee on Nuclear Regulation.

Rule 11. *Subcommittee Membership.* Following consultation with the Majority Members and the Ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rule 10.

Rule 12. *Budget Waiver Resolutions.* Whenever a resolution waiving a section of the Congressional Budget and Impoundment Control Act is required by the reporting of legislation by the Committee, the vote to report the legislation shall also be considered a vote to report the required waiver resolution.

Rule 13. *Environmental Impact Statements.*—No project or legislation proposed by the Administration shall be approved or other action taken on such project or legislation unless the Committee has received an environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act.

Rule 14. *Naming of Public Facilities.*—No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents or former Vice Presidents of the United States, or former Members of Congress over 70 years of age.*

Rule 15. *Committee Resolutions.*—(a) The Chairman, after consultation with the ranking Minority Member, is authorized to certify and pass on Committee resolutions for review of flood control and river and harbor reports and resolutions for studies of public building projects, and forward the resolutions to the appropriate Federal agency.

(b) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

Rule 16. *Broadcasting of Hearings.*—Public hearings of the Committee, or any Subcommittee thereof, may be televised or broadcast, or recorded for television or broadcast, upon notification in advance to the Chairman through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on the dais, nor with the orderly process of the hearing.

Rule 17. *Amendment of Rules.*—The rules may be added to, modified, amended or suspended by a majority of the Committee Membership.●

BLACK HISTORY MONTH

● Mr. DOLE. Mr. President, recently, the Chief Executive declared the Month of February as Black History Month. All citizens of every race, creed, and color should make a special effort to participate in the unique opportunities for growth and appreciation of black history during this month. It is a chance for all of us to seek to learn more about our forgotten history, and our forgotten Americans.

Mr. President, black history is American history—we cannot separate the two. One of the first Americans to die for our independence was a black American. He was a merchant seaman named Crispus Attucks, and he was murdered by the British at the Boston Massacre, just as protests against British tyranny were beginning to mount in the colonies. Salem Poor was a black American patriot who fought in the battle of Bunker Hill. He was praised by 14 officers of the Continental Army, who sent a petition to the legislature on his behalf. Poor later served at Valley Forge and at White Plains.

Mr. President, this great city, the Nation's Capital in which we preside, was first surveyed by a black man. In March 1792, Benjamin Banneker was commissioned by the Secretary of State to prepare plans for the city of Washington and the District of Columbia.

VITAL INVENTIONS

It is unfortunate but true that a majority of Americans are unaware, almost completely uninformed, of the black man's involvement in American life and the prodigality of his contributions to our Nation. Even such a mundane symbol of our present urban society, the automatic traffic light, was made possible by a black man. Without the order and rein this invention imposes on the automobile, our vast network of urban transportation would be impossible. Yet most people are unaware that the traffic light, upon which so many drivers each day unthinkingly depend, was invented by a black man, Garrett M. Morgan. America is also indebted to Mr. Morgan for his invention of the gas mask, which has saved thousands of lives both in war and in industry.

---

* Amended to include former Vice Presidents of the United States on October 7, 1977..

The American railroad in America is indebted to Andrew J. Beard, also a black American, for his invention of the "Jenny coupler" an automatic device which secured railroad cars together. His device saved many crippling injuries and lives.

In earlier times, before black scientists and technicians had achieved the wide research participation in Government and industry they hold today, black Americans were already having a large effect on daily life through their inventions. In 1883, Jan Matzeliger was granted a patent for his lasting machine which could turn out a complete shoe. Many homes in America were kept warmer by the invention of Granville T. Woods. In 1884, he received the first patent on an improved steam boiler furnace.

CONTRIBUTIONS TO MEDICINE

Mr. President, there have been many black contributions to the field of medicine. One of the most noted of the early practitioners was Dr. Daniel Hale Williams, who performed the first successful open heart surgery in 1893 at Provident Hospital.

Many lives have been saved by the genius of Dr. Charles Drew, who was a pioneer in blood preservation, and founded the first blood bank. Dr. Drew discovered the techniques of preserving blood plasma for use in emergencies.

For many years, the accomplishments of many great black citizens have gone unrecognized, but this month, Mr. President, we must reopen the pages of American history and discover Frederick Douglas, George Washington Carver, Booker T. Washington, Phillis Wheatley, Harriet Tubman, Mary McLeod Bethune and the other black citizens who helped make this Nation great. And not just those who became famous, symbolizing the achievements and contributions of all. There were those nearly anonymous soldiers and sailors, those who fought and came back, too often unappreciated, and those who were the casualties of our wars for freedom and democracy. The victims and the dreams: The men and the women, the Martin Luther Kings, the Hiram Revels, the Blanche K. Bruces and many, many more.

This month has been designated as a special time for us to learn about black history and celebrate the benefits and contributions of black Americans to our society. It is the hope of the Senator from Kansas that this opportunity will grant us all, white and black, brown, red and yellow, a greater appreciation for this vital segment of our heritage.●

SIXTY-SECOND ANNIVERSARY OF UKRAINIAN INDEPENDENCE

● Mr. DOLE. Mr. President, on January 22, 1918, Ukraine was proclaimed a republic, marking its independence after centuries of oppression and persecution by the czars of Russia, and following the fall of the provisional government in Petrograd, during the tumultuous days of the Russian revolution.

The Soviets recognized the new republic, for a short time. After a series of developments, Soviet troops were to restore Soviet authority in the Ukraine in 1919, in a pattern that has become painfully familiar and of which we are reminded today by the recent events in Afghanistan. On December 30, 1922, the process was completed by the formation of the Union of Soviet Socialist Republics which encompassed the Ukraine, along with Russia, White Russia, and Transcaucasia in a federation.

It is a tribute to the spirit of independence and to the uncommon courage of the Ukrainian people that their struggle for freedom and political self-determination has remained alive throughout centuries of repression. While the Ukrainian people fought alongside the Soviets against the common enemy, the Nazi army, during World War II, anti-German Ukrainian guerrillas continued to resist Soviet rule long after the end of the Second World War. The toll was high. It is estimated that about 2 million Ukrainians were killed. The Stalin years are remembered for the loss of an entire generation of Ukrainian intellectuals and creative talents who fell victim to the cruel persecutions that marked that era. The now legendary brutality of this dark period of U.S.S.R. history has given way to a more insidious policy of erasing the Ukraine culture and ethos, designed to institutionalize the process of Russification. It is ironic to note here the parallel existing between the policy of the Soviets and the beliefs held by Peter the Great, early in the 18th century, when he advocated the desirability of mixing Ukrainians and Russians, in the determination to subjugate Ukrainian national identity. The then successful policies of the English vis-a-vis Ireland was cited as an example to strengthen that view.

In pursuing their "Russification" effort, the Soviets have suppressed the Ukrainian language, requiring that all lecture materials in institutes of higher learning be in Russian. Religion, the last storehouse of folk customs and ethnic identity of the Ukrainian people, has been attacked in similar fashion. Strict supervision of religious activities has led to the destruction of both the Ukrainian Orthodox and the Ukrainian Catholic Churches. Severe restrictions thwart church attendance and the observance of religious holidays. The clergy is being decimated by arrests and persecutions, as well as by the policy of not allowing new priests to replace old ones.

As if familiarity with suffering had made them immune to it, the Ukrainian people have continued their struggle for self-determination. Many have joined the ranks of Ukrainian dissent in an effort aiming at the preservation of their 1,000-year-old heritage and culture.

The Ukrainians have become among the most outstanding advocates of human rights, forming one of the largest groups created to monitor the principles of human rights violations under the Helsinki Accords. The inevitable result of their degree of activity and outspokenness has also contributed to their accounting for the largest numbers of martyrs of the Soviet regime. Vins and Moroz have come to swell the ranks of recent emigres. Their names, as well as those of Rukendko, Stus, Romaniuk, Matusevych, Marynovich, and Lukyanenko remain symbols of the struggle for human rights. Yet, they represent but a handful of the many Ukrainians who continue to fight and to suffer for their rights, and thus deserve our praise and high respect.

The recent invasion of Afghanistan serves as a reminder of the importance of our support and recognition of the efforts of the Ukrainian people. It is only through our renewed and strengthened insistence upon respect for human rights and self-determination that we can demonstrate significantly and effectively our seriousness on this matter which, ultimately, affects the course of universal history.

I ask that the text of a letter I received from Dr. Anthony Zukowsky, honorary president of the Ukrainian Congress Committee of America, be printed in the RECORD.

The letter follows:

UKRAINIAN CONGRESS COMMITTEE
OF AMERICA, INC.,
Belfield, N. Dak., January 14, 1980.

Re January 22nd—Ukrainian Independence Day.

Hon. ROBERT DOLE,
U.S. Senator,
Washington, D.C.

DEAR SENATOR DOLE: We would like to call your attention to the January event which Ukrainians all over the free world, including the United States, will celebrate—the Independence of Ukraine.

January 22nd will mark the 62nd anniversary of the Proclamation of Independence of Ukraine and the 61st anniversary of the Act of Union, whereby all Ukrainian lands were united into one independent and sovereign nation. Both the Independence of Ukraine and the Act of Union were proclaimed by a duly elected parliament (Central Rada) in Kiev, capitol of Ukraine, on January 22nd, 1918, and on January 22nd, 1919.

This sovereign Ukrainian state was immediately recognized by a large number of nations including France and England. Diplomatic relations were established with them. Recognition was also granted by Soviet Russia. Despite the fact that the Soviet government had officially recognized Ukraine as an independent and sovereign state, Ukraine was attacked both by their military aggression and by subversion from within.

For 3½ years the Ukrainian people waged a gallant struggle in defense of their country, alone and without aid from western nations, but were ultimately overpowered by a numerically stronger and better equipped Russian Bolshevik aggressor. They destroyed the Ukrainian National Republic and created a Communist puppet government known as the Ukrainian Soviet Socialist Republic (Ukr.S.S.R.)

The entire history of Soviet dominated Ukraine is a ghastly record of inhumanity, outright persecution, terror, and genocide. Russification and denationalization plus violation of human rights on a scale not known in the history of mankind has occurred.

In summary, the colonial rule of Soviet Communism in Ukraine can be characterized by the following:

A. During the sixty years of Moscow rule in Ukraine, literally millions of Ukrainians have been annihilated by man-made famines, deportations, and executions.

B. Both Ukrainian Orthodox and Ukrainian Catholic Churches have been ruthlessly destroyed and their clergy and faithful have been arrested and persecuted.

C. All aspects of Ukrainian life are rigidly controlled and directed by Moscow.

D. Permanent violation of Human and National Rights was instituted in Ukraine.

Arrests, trials and convictions of thousands of Ukrainians charged with "anti-Soviet propaganda and agitation" have been made. Many have been tortured upon incarceration in concentration camps and confined to psychiatric asylums where drugs and chemicals are forcibly administered. Despite the Implementation of the Helsinki Accords, Soviet repression has intensified in Ukraine. New arrests of innocent people have been made by the Russians. Also, many murders by the Soviet Secret Police (KGB) have been committed, e.g. Mrs. Ala Horska, poet and literary critic in Kiev, and last year, murder by the KGB of Ukrainian composer Volodimir Iwasiuk in Lwiw, Ukraine, and others. Unfair trials and harsh sentences have been given to members of the Ukrainian Helsinki Accord Monitoring Groups.

Russian enslavement of Ukraine has brought much suffering to the people of Ukraine. In 1919–1920 Ukraine was the first victim of Russian Communist aggression. Thereafter, with the passive indifference of the western world, communist expansion has occurred, with the disappearance of many free countries, most recently—the invasion and occupation of Afghanistan. This gives the world its latest warning of Russian imperialism, which poses the greatest threat to the free world.

In spite of this oppressive yoke, Ukrainians have never accepted a foreign domination and are continuing to struggle for Human Rights and National Rights as well as Independence. The new breed of adamant fighters for Freedom, and Human and National Rights gives us hope that Ukraine will be free again.

At this time we would like to express our sincere thanks and appreciation to the President of the United States, to the U.S. Government, and to all members of the U.S. Senate and Congress for their untiring efforts of bringing to our Great Country many freedom fighters and dissidents from Soviet prisons and giving them asylum. God bless you all.

The Ukrainian people in the free world are celebrating the memorable January 22nd as their greatest Holiday. For many years the 22nd of January has been proclaimed in our American cities and states from coast to coast as Ukrainian Independence Day.

Therefore, it is in the spirit of liberty, faith, and justice that the American people and especially the U.S. Congress join the Ukrainians all over the world in giving moral support to the Ukrainian people in their struggle for Human Rights and National Independence of Ukraine.

We very much appreciate your support and concern for the welfare of the Ukrainian people.

Sincerely,

Dr. Anthony Zukowsky,
Honorary President.●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that four such notifications were received on January 2, 1980, one on January 7, 1980, and three on January 10 and 14, 1980.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications are as follows:

Defense Security Assistance Agency,
Washington, D.C., January 2, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs for major defense equipment tentatively estimated to cost in excess of $25 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

Defense Security
Assistance Agency,
Washington, D.C. January 2, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs for major defense equipment tentatively estimated to cost in excess of $7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

Defense Security
Assistance Agency,
Washington, D.C., January 2, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs tentatively estimated to cost in excess of $25 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

Defense Security
Assistance Agency,
Washington, D.C., January 2, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Reliations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The American Institute in Taiwan is considering an offer to the Coordination Council for North American Affairs for major defense equipment tentatively estimated to cost in excess of $25 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Director.

Defense Security
Assistance Agency,
Washington. D.C., January 7, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Reliations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Director.

Defense Security
Assistance Agency,
Washington, D.C., January 24, 1980.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Reliations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

Ernest Graves,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 10, 1980.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 10, 1980.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Central European country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERNEST GRAVES,
Director.●

EAST ASIAN TRADE

● Mr. BENTSEN. Mr. President, earlier this month I led a joint Economic Committee study mission to Hong Kong, Korea, the Philippines, and Taiwan for the purpose of determining how this country can improve its competitive position in East Asia, the world's fastest growing trade area.

The unique concept of a congressional committee traveling abroad to meet formally with the American business community and hear firsthand about the problems they encounter in international trade was originally proposed by the U.S. Chamber of Commerce, with the support and assistance of the State Department.

The Joint Economic Committee is in the process of preparing a full report on the results of our trip, but I believe I can speak for all members of the delegation when I say our mission was an enlightening and, in many respects, alarming experience. I would like to take this opportunity to share with my colleagues some of our most compelling impressions and recommendations as to how the United States can compete more effectively in world trade.

Mr. President, the crisis of trade is not a problem for the future. It is already upon us. With our intense concern about domestic economic problems, access to energy, and strategic competition with our adversaries, we tend to overlook the fact that much of the world is already engaged in a war of trade; intense, cutthroat competition for global markets is a fact of life.

In many respects our commercial relations with East Asia illustrate both the problems and the potential of economic interdependence. Our two-way trade with the region now equals and may soon surpass that with Western Europe. Real GNP in East Asia has been growing at 7 percent annually; trade has been increasing at the rate of 20 percent a year. Over 3 million jobs in this country are directly or partially dependent on our exports to East Asia.

East Asia is clearly a region of vast and expanding economic opportunity for those nations willing and able to compete successfully for international markets.

It is, however, difficult to escape the impression that the United States is approaching the tough, competitive environment of East Asian trade with the same misty idealism, unilateral restraints, lack of coherent strategy, and adversary relationship between business, government, and labor that has gradually diminished our competitive position for most of the past decade.

For the first 10 months of 1979 our accumulated trade deficit with Taiwan, Korea, Hong Kong and the Philippines was $3.7 billion. We had a $7.4 billion deficit with Japan alone. Fifty-five percent of our global trade deficit was incurred in East Asia.

The United States has fared poorly in the competition to win major projects in the region and our share of the burgeoning East Asia market has declined from over 40 percent in the 1960's to approximately 33 percent today. Much of our toughest trade competition emanates from East Asia. If projected into the future these trends could have profound consequences for our economy, our currency, and our position of free world leadership.

Most nations of the world, the United States being the notable exception, have recognized and accepted the iron link between international trade and domestic prosperity. In the capitals of our competitors the Minister of Trade frequently stands at the right hand of the President; government and business and labor work together as partners in the effort to offset spiraling energy costs through export earnings and emerge as winners—or at least survivors—in the high stakes war of trade.

Long accustomed to being the predominant economic power in the world, a nation with a history of economic self-sufficiency and a tendency to view foreign trade as a luxury rather than a necessity, the United States has been slow to adjust to the tough, competitive world of trade. Our most effective economic asset, the world's largest and most accessible market, is the primary target of an integrated, well-financed, and highly successful export effort on the part of our competitors.

The United States, by way of contrast, shackles its exporters with a host of disincentives and self-imposed restrictions that belie our professed commitment to export promotion. We can see today a startling example of the different priority accorded to trade by this country and many of our best and closest friends in the world. The United States has clearly demonstrated that, in exceptional circumstances, we remain prepared to sacrifice our economic or trade interests to political objectives. In the present instance, that is an attitude I commend.

However, even issues as clear cut as the Iranian situation and the Soviet invasion of Afghanistan apparently do not provide sufficient justification to slake the thirst for international markets so evident among some of our "friendly" competitors. Economic self-interest has become the overriding foreign policy consideration of some industrialized nations that deem trade a matter of survival, make rhetorical gestures toward geopolitical concerns, and then resume predatory trade policies.

Mr. President, I am completely and totally convinced that, even with our unique and lonely responsibilities in the world, American business and industry can compete successfully in the international marketplace. But we can compete only if our Government will provide the sort of support and encouragement enjoyed by our competitors. No American business, no matter how efficient or aggressive, can be expected to compete successfully against the economic resources of a major trading nation.

During our mission to East Asia I met personally with hundreds of talented, dedicated U.S. businessmen who constitute our front line troops in the competition for international markets. It quickly became apparent that in their efforts to promote American exports our people abroad have all the advantages of an Afghani partisan facing a Soviet armored brigade.

An effective American commercial presence overseas is obviously vital to our ability to export. Yet it is becoming increasingly difficult and inordinately expensive to recruit and station qualified American businessmen abroad. In the past the obvious disadvantages of an overseas assignment—uprooting the family, finding alternative schooling for children, the impact of an alien culture, the additional expense involved—were at least partially offset by financial incentives, the prospect of a comfortable existence, and the glamour of life abroad.

But today, despite recent efforts at reform, our tax law is written and administered in a manner that strips away the incentives and actively discourages overseas service. Consider, Mr. President, the fact that the United States is the only major trading nation in the world to tax the income of its businessmen abroad; we are the only major trading nation to tax their schooling and housing allowances as income; we are the only major trading nation to tax incentive bonuses and cost-of-living allowances.

It is small wonder the number of American businessmen stationed overseas is steadily diminishing at precisely the time we most urgently require an effective commercial presence abroad.

There can no longer be any question that sections 911 and 913 of the internal revenue law stand as powerful and effective deterrents to the presence of American businessmen in vital foreign markets and have a particularly adverse and chilling impact on our small, independent businesses seeking export opportunities.

With the unique tax penalties we have inflicted on our people abroad, it now costs an American firm $100,000 per year to station a representative with a $32,000 base salary in East Asia. The same firm could purchase the services of a German, French, or Australian national for about $65,000 and that is precisely what is taking place.

Given the cost factor involved, some American firms active in East Asia specify that American nationals can only be hired as a last resort. The exporter who insists on American representation for his product in foreign markets must immediately accept a higher cost of doing business and a significant competitive disadvantage imposed by our tax law.

Mr. President, this situation simply makes no sense. In our rush to tax income earned abroad we are inhibiting our export potential, surrendering important markets to the competition, and contributing directly to our balance-of-trade problems.

Members of the JEC study mission are unanimously committed to eliminating the adverse impact of sections 911 and 913 on American businessmen abroad. Americans living overseas and working to promote U.S. exports should receive tax treatment no less favorable than that accorded to their competitors. The unilateral disadvantages imposed on our people abroad by sections 911 and 913 of the tax law must be eliminated.

Another disincentive to U.S. exports that delights and amazes our competitors is the Foreign Corrupt Practices Act. The FCPA, Mr. President, is remarkable legislation: Everyone agrees with its noble intent while acknowledging that it does not work as envisioned and serves only as a massive handicap to American exports.

With the Foreign Corrupt Practices Act the United States has sought to establish new standards of morality on the international marketplace; we have, to a significant degree, set out to impose our standards of conduct on the rest of the world.

This development gives rise to two problems: The rest of the world apparently could not care less, and the strictures of the FCPA are so complex, confusing, and ill administered as to give rise to what can only be called preemptive capitulation on the part of our businessmen—and customers—abroad. Confronted with the lack of predictability inherent in the administration and enforcement of the FCPA, it is frequently easier and less costly for U.S. firms to avoid or minimize their relationships in countries where traditional business practices might put them at odds with domestic enforcement agencies.

The onerous, cumbersome recordkeeping and reporting requirements of the act also constitute a heavy burden for U.S. firms abroad striving to succeed in an extremely competitive environment. During our mission to East Asia we heard numerous reports of Asian businesses and government officials terminating relationships with U.S. firms because of the provisions of the FCPA.

Mr. President, I am not an apostle of the lowest common denominator in international trading practices, but I must sincerely question the extent to which the Foreign Corrupt Practices Act has deterred unsavory and illegal actions worldwide. It seems to me that the most significant impact of this legislation can be seen not in higher moral standards or less corruption but in lost U.S. business abroad.

My strong preference would be for a more broadly based attack on corrupt practices, perhaps through a multilateral agreement with our trading partners and provision for cooperative enforcement, as recommended by Senator PROXMIRE. I intend to join in urging the administration to take this approach. Concurrently, I believe we should also be looking for ways in which the administration of the FCPA can be streamlined and made predictable and consistent, thereby diminishing its adverse impact on our exporting community.

Another serious inhibition to U.S. exports is the overseas impact of domestic antitrust legislation. Our experience in East Asia reinforced the widely held belief that the Webb-Pomerene Act, which has been in existence longer than the Senator from Texas, simply does not work as intended.

Rather than limit domestic antitrust laws in their application to foreign markets, Webb-Pomerene is so confusing, dated, and ambiguous that it actually discourages the formation of U.S. consortia that can compete for major international contracts.

Together with Senator DANFORTH I have submitted legislation (S. 864) that would amend Webb-Pomerene, clear up some of the ambiguities in the act, and permit it to serve its intended purpose. After our study mission to East Asia, however, I am inclined to the position that the ultimate improvement in Webb-Pomerene might well be its repeal and replacement with language to the effect that U.S. domestic antitrust laws are not intended to affect transactions in non-U.S. markets.

Can you imagine, Mr. President, our competitors in overseas markets worrying about their domestic antitrust legislation as they assemble massive, integrated joint ventures, with the cooperation of the public and private sectors, to bid on lucrative international contracts? The very idea is laughable; most of our competitors actively encourage such consortia because they accurately perceive that they are a potent weapon in the war of trade.

If we are to meet the challenge of trade in the future, repeal or drastic revision of the Webb-Pomerene Act is an urgent priority. I have been a strong and consistent supporter of domestic antitrust laws, but I fail to see any justification for hobbling American exporters with phony antitrust concerns every time a major international contract comes up for bidding.

During our stay in East Asia, committee members were also impressed by the extent to which our laws and regulations—regulation K in particular—preclude the establishment in this country of trading companies with the same strengths and broad scope of export-sustaining activities that have contributed so significantly to the commercial success of nations like Japan. We returned to this country determined to investigate legislation that will strengthen the operation of existing trading companies and permit their closer affiliation with financing institutions.

More effective U.S. trading companies able to perform a wide variety of services to potential clients would provide an excellent vehicle to enable small and medium-size firms in this country to compete successfully for international business.

The trading company concept has vast potential for increasing U.S. exports, 85 percent of which are currently controlled by 5 percent of our exporting firms, without costing the taxpayer a cent. Trading companies have worked remarkably well for nations like Japan and Taiwan, and there is no good reason why we should not learn from their success.

Finally, Mr. President, improved financing for U.S. exports is an essential element in any coherent trade strategy for the future. The Exim Bank currently supports a much smaller percentage of U.S. exports than comparable institutions of most of our major competitors. A major reason for the U.S. loss of a $2 billion Egyptian telecommunications contract last year was the lack of adequate, low-cost financing.

The nations of Western Europe and East Asia have demonstrated that they are prepared to work with industry, to go out and buy business, to meet and beat the competition. U.S. industry simply lacks comparable support and resources. When the Japanese can finance a billion dollar project at 7.5 percent and the best we can offer is 9.5, it is not difficult to guess where the business will go.

One problem that arose frequently during our mission was the fact that our commercial competitors in the region have quick and ready access to low-cost financing for design and feasibility studies while U.S. exporters generally do not.

Aid funding for such studies is extremely limited and, with the exception of an Exim Bank direct-loan program in the Philippines, U.S. businessmen anxious to get in on the ground floor of a major project by conducting a feasibility or design study really have no alternative but to obtain funding at commercial rates. Several instances of significant projects lost to American business because of problems in obtaining funds for feasibility studies were cited to committee members.

Given the obvious competitive advantages accorded to the country that gets involved early on and writes the specifications for a project, there can be little doubt that additional low-cost funding for feasibility and design studies would pay handsome dividends in our export performance. I plan to contact both AID and the Exim Bank to see what can be done to make substantially more resources available for this purpose at rates comparable to those offered by our competitors.

Several American businessmen in the region also cited the current controversy over availability to the press of shippers export documents under provisions of the Freedom of Information Act as another example of how the United States is hobbled with unilateral constraints in trade. They suggested that many of these documents contain privileged commercial information that can provide a significant advantage to our competitors who do not publicize such material.

I am pleased to learn that Senators Ribicoff and Percy will soon be holding hearings on legislation designed to resolve this problem in a manner that protects both the confidentiality of commercial information and the provisions of the Freedom of Information Act.

Mr. President, I do not pretend that the measures I have outlined—amendments to sections 911 and 913 of the tax code, changes in the Foreign Corrupt Practices Act, repeal or drastic revision of the Webb-Pomerene Act, legislation to encourage more efficient and effective U.S. trading companies, readily available funding for feasibility studies, and additional resources for the Eximbank—consitute an adequate or comprehensive response to the crisis of trade facing this country.

We will continue to have trade problems—and deficits—until we can control inflation in America, decrease Government spending as a proportion of GNP, encourage savings and investment, and strengthen the supply side of our economy. We will continue to have trade problems—and deficits—until we fully recognize the vital importance of exports and replace the adversary relationship between Government, labor, and business with the sort of cooperative, mutually supportive attitude that prevails elsewhere in the world.

However, to the extent that we can move forward with specific remedies to the specific problems I have outlined, we can improve our competitive position substantially.

We can signal American industry, and our competitors, that the United States recognizes the importance of international trade, the realities of the marketplace, and is prepared to bring the full resources of the world's largest economy to bear on the problem. We can demonstrate, as we enter the decade of the eighties that when it comes to trade the United States of America means business.●

NEW YORK CITY

● Mr. JAVITS. Mr. President, the Banking Committee, under the able and dedicated leadership of Senator Proxmire, has just completed 2 days of oversight hearings on New York City at which the central question before the committee was what is New York City doing for itself to put its fiscal house in order and to achieve financial independence by 1982.

I feel the testimony demonstrates that New York City is doing everything possible to correct its own past errors and to assure itself of a healthier financial future. The city is now operating its financial affairs in accordance with the most stringent financial standards of any municipality in the country. Moreover, the mayor's recent decision to accelerate the balancing of the budget a year ahead of schedule is a courageous move—one that will require awesome economies on top of past sacrifices for the people and government of New York City.

In a provocative article which appeared contemporaneously with these hearings in last Sunday's New York Times magazine, my always perceptive and distinguished colleague from New York, Senator Moynihan has, and I think rightly so, turned the question around. Citing most revealing statistics, he has asked what should Congress and the Federal Government be doing for New York City. He has shown that in 1978 alone, out of New York City there was paid some $46 billion in taxes and yet into the city came only $35 billion in Federal outlays.

He points out that any furor over Federal assistance to New York City obscures the more significant point that over the past 3 years, Federal aid to New York City, in constant dollars, has actually declined and that New York City, and the Northeast region as a whole, are and continue to be shortchanged in terms of Federal aid by the way the Federal-State cost-sharing formulas which govern Federal outlays are written.

Senator Moynihan's point is well taken: New York City does not get its fair share of Federal assistance and this has in an important way contributed to the problems the city is now struggling—magnificently—to overcome.

For example, more than 30 percent of the Nation's mass transit users are New Yorkers, yet New York received less than 10 percent of the available Federal mass transit operating assistance. As a consequence, New York's Metropolitan Transit Authority faces a staggering operating deficit and New Yorkers are forced to pay more of the cost to operate their subways and buses than any other comparable group in the country.

Welfare assistance is another critical area where Federal reimbursement formulas—out of step with economic realities—are unfairly burdening New York's finances to the point of overload. I have introduced legislation to redress this discrimination.

In short, I believe with Senator Moynihan that we must correct this situation.

But, however my colleagues may ultimately come out on this question, there is certainly no easy answer to Senator Moynihan's forcefully stated argument and I therefore commend his article to my colleagues for their most serious and close consideration.

I ask that it be printed in the Record.

The article follows:

What Will They Do for New York?

(By Daniel Patrick Moynihan)

A long Presidential campaign, with many contenders, is just the setting in which New Yorkers might hope to place an issue on the national political agenda.

The issue is New York.

This will not seem new. Any big state, or, for that matter, any little one, has interests that set it apart, and candidates try to respond. But the issue of New York is different. It is regional, affecting much of the Northeast to a degree that will grow more pronounced as Federal spending on energy and arms increases, two areas of the budget in which expenditures are almost wholly concentrated in the South and West. It is ideological, in the sense that a great political tradition is at stake. And it is cultural. Our greatest city is at stake. When the French historian Fernand Braudel sought to describe what Venice meant to the Mediterranean world of the 15th and 16th centuries, he wrote: "Venice dominated the 'Interior Sea' as New York dominates the Western world today." If that city should enter a protracted crisis and decline, so will this nation and so will the West.

To be dealt with, the issue must be understood. The Carter Administration has actually reduced Federal aid to New York City. But this is trivial compared with the Administration's inability to grasp the problems of this city and state.

To borrow from Daniel Bell's concept of a postindustrial society, the issue of New York has to do with the management of a post-New Deal political economy.

The term "political economy" has fallen out of use somewhat, and I would like to revive it. The men of the 18th century who wrote our Constitution considered themselves, and were, students of this subject, which for them meant developing government policies for the promotion of the wealth of the government and the community as a whole.

The issue of New York involves relations with the Federal fisc that make it ever more difficult for the public and private sectors of our city and state economy to operate successfully. In the simplest terms, we pay too much out and get too little back. That is why the city almost went bankrupt in 1975. That is why something similar is almost certain to happen again in the next few years. And again after that. And then yet again. Until we face the issue.

Why not do so now, when it is still a relatively simple issue with relatively simple solutions? And before the brutal foreign-policy crises of the 1980's strike with their full force.

A final preliminary. I am not writing about all the problems of New York. I deal only with those the Federal Government helps to bring about, and which, accordingly, the Federal Government can help resolve.

Now to the essentials.

First. New York has a mature public sector. A long half century and more of innovation, much of it beginning here and thereafter mandated from Washington, has brought us to the point where just about any service a modern society can afford we do provide. (That we don't always do a good job at it is beside the point. We pay enough to get the best.)

Consider the following: New York State established a disability-benefits system under Gov. Thomas E. Dewey in 1949. Just about any resident of New York State who has a job and becomes disabled, in circumstances that have nothing to do with his or her job, can receive weekly payments—sometimes full salary—for up to six months. (Four other states and Puerto Rico have since adopted similar plans.) The program has been around so long that New Yorkers themselves—even the 5.7 million persons covered—no longer think of it as a notable benefit, and Presidential candidates can call for improvement in national health care as if the New York program didn't exist. But it does, and it costs New York employers $389 million a year that employers in Texas definitely do not pay.

Second. because ours is so mature a public sector, no national social program is likely to add to what we already have. For example, early in the Carter Administration, the Secretary of Health, Education and Welfare and the Vice President jointly announced a Presidential proposal for a national system of allowances to help families with the cost of adopted children. Fair to breathless, Secretary Califano presented the proposal to a Senate hearing I happened to chair. "The Administration initiative," he informed us, "will begin the vital task of protecting thousands of American children who are, unfortunately, at severe risk under present welfare programs." Impressed, I sent a note to a New York official who was present. Could it be that the Feds have come up with an idea we have missed? The answer came back: New York enacted adoption allowances in 1968.

Third. New York can no longer support this public sector at the level it now does. Moreover, the effort to do so is making things worse, as taxes take their toll on the private sector. Herewith Roy W. Bahl of the Maxwell School at Syracuse University in a recent study of New York State's economy: "By 1975, New York had become a vastly overdeveloped public sector: a per capita income 11 percent above the national average to support a level of per capita expenditures 57 percent above the national average and far and away the heaviest tax burden in the nation."

This tax burden, now compounded by energy costs, has brought on a near collapse of manufacturing in some regions of what, until just yesterday, was the nation's leading industrial state. In seven years, starting in 1969, New York City lost 400,000 jobs south of 59th Street. If the economy of the state had grown at the national rate since 1960, we would today have 2.7 million more jobs than we do.

Instead, we have had a huge and unprecedented out-migration. A middle-level executive in Manhattan may increase his real income a third simply by taking the same job in Houston. (A family on welfare would lose a third of its income.) A million persons have left New York State in this decade alone. This should be seen for what it is, a massive flight of capital.

Now to work worthy of a President.

The principal problem of the political economy of New York is that we pay much more to the Federal Government than we get back. We pay almost 12 percent of Federal taxes; we get back about 8 percent in Federal outlays. For 1978, $46 billion in taxes, returned $35 billion in outlays, a deficit of $11 billion. (These numbers can get rather too familiar. A billion minutes ago St. Peter was 10 years dead.)

There are two reasons for this gap. First, Federal social policies from the time of the New Deal have been designed to transfer resources from "high" income areas such as New York to "low" income areas such as Mississippi. The New Deal, in particular, took up the regional problem of the South, which had tormented American politics since the Civil War. Let us be clear that the policies of favoring the South were in great measure first advocated by New Yorkers: Mississippians rather opposed them and are hardly to be held accountable.

Second, Federal outlays in areas such as defense and public works are incredibly biased against New York (and, generally speaking, the Northeast). This is a bias as old as the original 1899 Rivers and Harbors Act, and as new as the Houston Space Center.

A general proposition about the political economy of New York is that the Federal money we do receive is "soft," compared with the relatively "hard" money that goes South and West. We get food stamps; they get infrastructure. Lewiston, Idaho, is a seaport; New York Harbor is silting up. The Army Corps of Engineers is cloning the Mississippi, building a canal from Mobile Bay on the Gulf of Mexico to Pickwick Pool on the Tennessee, leading thence to the Ohio. Farther west, the corps holds Congressional authority to turn Dallas—300 miles upriver from Galveston—into a seaport. The Erie Canal is just about defunct.

Part of the problem—the part of the problem not attributable to our own previous indifference—is that the public-works programs of the Federal Government were first designed to support the westward movement and then, following the Civil War, to help rebuild the South. The momentum of such longterm enterprises can be considerable, so that even efforts at redress somehow fail. Thus, Federal water programs are traditionally concerned with agriculture, flood control and power generation. The Bureau of Reclamation will build systems to water cattle or wash coal, but never simply to supply water for humans to drink. (New York City is building its third water tunnel entirely on its own, just as it built the first two, only the third is just about stalled for lack of funds.) The Water Supply Act of 1958 was supposed to be a general-use, nationwide program. So far, $1.4 billion has been spent, not one cent of it in New York State.

But it is defense that has been our undoing. In 1978, California received $16 billion in defense contracts; New York, $5 billion. The $11 billion difference is the reason the Governor of California sits on a $7 billion or $8 billion surplus each year. (The much-proclaimed Proposition 13 "tax revolt" in California was not at all what it seemed. It was a revolt against local-government taxes. Property values, and hence taxes, were rising rapidly with the booming California economy, while the Governor sat on a vast, unallocated surplus.) In 1978, New York received $1.1 billion in research and development contracts from the Defense Department; California received $5.5 billion. We have just as many Ph.D.'s, just as many community colleges training technologists. These are jobs worth fighting for.

I have hoped to make the point that we are dealing here with structural problems: the intentional bias of Federal-state cost-sharing formulas in social programs; the frontier heritage of Federal public works; the legacy of three Pacific wars in the pattern of defense spending.

It follows from this that there needs to be a structural response. May I offer the parallel of the stock-market crash of 1929 and the Depression that followed. This was a crisis of the business economy, and a serious one indeed. Many foresaw the end of private enterprise. The response of Herbert Hoover, then in office, was energetic and, by previous standards, bold. But nothing radical was done. This is to say, in the etymology of the term, nothing that went to the root of the matter. This awaited Franklin D. Roosevelt (albeit, he came to office deploring Mr. Hoover's excessive efforts!). Three years into the Roosevelt Administration, the securities markets had been transformed, the banks insured, farm prices supported, Social Security established, unions recognized, unemployment legislation enacted.

The list isn't that long actually. The New Deal was pretty much in place by 1935. (The famous "Hundred Days" of F.D.R. refers to the length of time Congress was in session his first year in office.) But the changes, while few, were structural and fundamental and there has not been a serious crisis of the private sector of the economy since.

The crisis of the public sector also began in New York, with the near bankruptcy of the city in 1975, following a frenetic expansion. Once again an incumbent Republican President, in this case Gerald Ford, responded with energy and even boldness. Aid was increased, loans were guaranteed, new controls put in place. But nothing radical was done. This, presumably, was to await a Democratic Administration.

As a candidate in 1976, Jimmy Carter encouraged just this impression. A month before the election he told the Northeastern governors at Hartford that "42 years ago, a Democratic candidate" running for the Presidency "saw that the poverty of the South was the greatest long-term obstacle the nation had to overcome." Now it was a Southerner's turn, he said, "to restore prosperity to the Northeast, to follow Franklin Roosevelt's example and rebuild the region that now demands our help."

Somebody has to say it, and it might as well be a Democrat. Three years have gone by, and it is as if Herbert Hoover had been succeeded—by Herbert Hoover.

I do not say this in denigration. I admire and like our President. It is just that he has achieved nothing radical, nothing that changes the political economy, nothing that affects the structural relations that have given rise to the issue of New York. Nor—and this is chilling—has he really tried.

Even in traditional terms he has failed. The Carter Administration has actually reduced the amount of Federal aid going to New York City, our most vulnerable jurisdiction.

One would give more credence to the charge by Senator Edward M. Kennedy that President Carter had turned "thumbs down on the people of New York" if in that same statement, made in December, the Senator had not likened the President to his two predecessors, saying, "I believe that 12 long years of Republican Administrations is enough, and it's time we put in a real Democrat."

Senator Kennedy's charge doesn't fit the facts at all. In the eight Nixon-Ford years, Federal aid, in constant 1980 dollars, rose $1,739,000, a real increase of 95 percent. Aid doubled. The problem was that almost all this aid (revenue sharing being the conspicuous exception) followed the New Deal formula whereby upward of half the cost of any new Federal program, in New York, is paid by the state or by the state and a unit of local government. The Republican aid was generous, but it was not radical. It only swelled our public sector, raised our taxes, and indeed brought on the first collapse.

Let me not appear too harsh to either Mr. Carter or Mr. Kennedy. The President almost certainly thinks he has increased aid to the city (although his budget director, James T. McIntyre Jr., noted recently that last year's budget had "radically lowered expectations").

As for Senator Kennedy, the danger—and it is that—of his position is that it reinforces the autotherapeutic illusion among Democrats that Republicans nearly starved the city into bankruptcy in 1975. This was the conceptual foundation of the 1975 "settlement" which avoided bankruptcy at that time. The settlement made sense if one assumed that a Democratic Administration would come to office shortly and, on a tide of Federal money, all boats would rise, including our grounded scow. This myth began with us. But as a candidate, Kennedy should know that at least some of us no longer think we can afford such self-delusion.

The year 1976 held some promise, however. The Democratic platform called for full Federal assumption of welfare costs, state and local. As a candidate, Mr. Carter absolutely committed himself to assuming at least the local cost. Now this would be a change in the political economy. A change of Rooseveltian order.

New York State has 1.2 million persons on welfare. Their living allowance has not been increased since 1974, with the effect that their purchasing power has been cut nearly in half. Literally. The suspicion that New York City has filled its rolls with able persons is nonsense. A third of the children born in the city now are born out of wedlock. Such children, with their mothers, make up the overwhelming portion of the welfare population, and they are truly dependent. Nor does the notion hold up that this is a problem peculiar to cities. Nassau County on Long Island, with 1.4 million suburbanites, spends half its budget on welfare and Medicaid and enjoys the distinction of being the highest-taxed community in the highest-taxed state in the nation.

Mr. Carter has broken his welfare promise. That is what hurts. It is not that he has tried and failed: he has not tried. Which means he has not understood. He brought into his Cabinet Washington lawyers who saw their task as picking up where Lyndon B. Johnson left off and finishing the New Deal. The President's latest welfare "reform" proposal would establish a minimum family payment—where?—in 13 Southern and Southwestern states. Texas, slithering in oil revenues, would have any increases in its welfare payments paid by the Federal Government. New York would get a token 5 percent increase in Federal participation. Leaving 1.2 million people stranded still.

Medicaid is another such situation. The distribution formula is based on the Hill-Burton Act of 1946, which began Federal aid to hospital construction. A colleague has described it as "the South's compensation for the Civil War." But this is not quite fair. In 1946, Alabama needed an advantage, and besides, relatively small sums were involved. But Medicaid costs are vast, and the bias has become ruinous to New York, which not only has a vast welfare population, which by Federal law is entitled to Medicaid, but a vast illegal-alien population (a Federal responsibility also!), which we try to take care of because this is our social inheritance. (Other than New York City, only one city in the nation has more than two municipal hospitals, Los Angeles, which has three. New York has 17.)

To change the Medicaid formula would change the political economy. But this is not what has come out of Washington. Instead, the President sends us the Vice President with $30 million to enable Brooklyn Jewish Hospital to keep from going bankrupt for another three years. But three years from now? Will the illegal aliens it cares for be eligible for Federal reimbursement? Will the reimbursement formula represent true costs? If not, nothing has changed. If the political economy that has brought us to the verge of bankruptcy is still in place, then the cycle of crisis and bare recovery will persist.

The shame of it all is that not that much is required—just as Roosevelt didn't do that many things, but the things he did were radical. So it is with the crisis of the public sector. A few basic changes would set things right. And—Republicans and Governor Brown please take special note—no increase in the overall public sector is required. All that is required is for New York to get its proportional share of Federal outlays, thereby reducing its own. The problems of city and state would not disappear, but the Federal Government would no longer be part of the problem.

The list of specifics could go on a bit further: under the 1975 Education for All Handicapped Children Act, the Federal Government required that extensive services be provided such children and began by putting up 12 percent (sic) of the cost, leaving New York with yet another increase in a huge education budget; because of a peculiarity of the law, twice as many Vietnam-era veterans in California go to college as in New York; New York's parochial schools, which once educated one child in four and now one child in six, are prevented from receiving even state aid by the Supreme Court. A bill for tuition tax credits would have passed in 1978 save for the adamant and not wholly attractive opposition of the Administration. As Bishop Edward D. Head of Buffalo—where half the Catholic high schools have closed—recently put it, parochial schools in New York are "dropping like leaves from a tree." As they drop, the public sector must pick up their students, and this, too, is the doing of the Federal Government.

What has been so disappointing about the Carter Administration is that there has been no one who could see this issue in conceptual terms—in terms, that is, of a change in the political economy. All of the numbers I have used here are official; but let me say right off that they are incomplete. We haven't anything like the data base we want. For three years I have been talking to Cabinet officers about this, asking their departments' help. (You never do anything about a problem in Washington until you learn to measure it.) I have been met with incomprehension and near total failure to respond. It is as if someone called at the Labor Department in 1934 suggesting that the Bureau of Labor Statistics begin measuring unemployment on a regular basis (which it did not then do), only to have Madame Perkins ask, "Why on earth would anybody want to keep count of the number of persons out of work?"

Just as indifference to social dislocation would have led to class bitterness during the Depression, so will regional bitterness arise unless something is done about the political economy of the Northeast. Take those Vietnam veterans. For three years, Senator Jacob Javits and I have been trying to get the law changed to give veterans in New York (and Pennsylvania and many other states) a better chance for college. We have not had any success.

Take defense. I have pleaded with Secretary of Defense Harold Brown that regional disparities would one day politicize the department's appropriations. On April 3, 1979, he wrote me: "How can New Yorkers, of all people, be thought so parochial as to view national defense as a local public-works program?"

He got a for instance this September. The Senate had voted a 3 percent increase in defense spending, which the Administration had requested as vital to national security. The day after the Senate voted, the House voted. The measure lost; the Democrats in our delegation voted 23 to 2 against it. This was largely a vote on political principles (which I respect even if I do not share). But wait until the next bankruptcy crisis. To vote against defense will be an act of regional vengeance.

But I go on. In sum, I plead that the issue of New York be seen as basically regional and fundamentally systemic.

The nation needs a policy for it. A post-New Deal policy. The man who persuades us that he has thought this through is likely to get our votes. I have to say I fear the moment was lost in the first two years of the Carter Administration, and that foreign crises will now take over. But even so, the man who manages to win the election (including you, Mr. President) and actually does something will be remembered, not only by us but by history.●

SPECIAL INTERESTS AND THE FTC

● **Mr. METZENBAUM.** Mr. President, in recent years, Federal regulatory agencies have come under fire from the public. However, this honest concern about excessive regulation should not be used by powerful special interests as a smokescreen for eliminating regulations which they may not like but which are beneficial to American consumers.

Unfortunately, this is precisely what is happening with the current attack on the Federal Trade Commission—an agency whose efforts are aimed at strengthening competition, which is the backbone of our market economy.

It will be the free enterprise system itself that will lose out if Congress shackles the FTC in response to antiregulatory rhetoric.

I ask that an editorial on this subject which appeared in the Chicago Sun-Times on November 18, 1979 be printed in the RECORD in its entirety.

The editorial follows:

CONSUMERISM, R.I.P.

Hold on to your pocketbooks, consumers. Congress is falling for the moneyed charm of the special-interest groups.

Last Friday, the House defeated President Carter's hospital cost-containment bill, an anti-inflation weapon that could have saved the public millions of dollars.

The day before, the House voted to prohibit the Federal Trade Commission from making undertakers itemize funeral prices.

The House soon will pass a bill that subjects every action of the FTC, the government's most aggressive pro-consumer agency, to a congressional veto. No other federal agency labors under such constraints.

And the Senate will consider proposals to reduce the FTC's ability to stop antitrust violations and regulate advertising, and to prohibit it from studying (let alone regulating) a host of businesses, including the insurance and used-car industries.

There may be more. "If one special interest—the morticians—gets an exception, then we know every other special interest will come to Congress and try for the same thing," said Rep. Bob Eckhardt (D-Tex.).

They'll get a better reception than they would have a few years ago. In 1975 both houses voted to create a Consumer Protection Agency that the Ford administration opposed. Last year the House killed a similar proposal that the Carter administration supported.

Why the change? Money is the big reason. In 1975, corporations and trade associations were just setting up the Political Action Committees authorized by a 1974 law. By 1978, more than 1,200 such committees showered $21.3 million on congressional campaigns.

Candidates look to the moneybags, rather than the increasingly weak political parties, for election help. Once elected, they look again to the moneybags, rather than the weak White House and congressional leadership, for voting instructions.

Federal regulators, to be sure, have contributed to their own undoing. The public resented some of their well-intentioned moves, such as the seat-belt interlock on 1974 cars and the attempted ban on saccharin. Special-interest groups have exploited these resentments.

It's true that government in recent years did go on a regulation binge, churning out many that are unnecessary and inflationary. These should be rooted out.

But, actually, many special interests like some of the most inflationary regulations: those that limit competition and keep prices high. Truckers and railroads have been fighting deregulation for years.

Voters have to figure out which kind of regulation their representatives favor. That takes some effort, but it's worth it.●

UKRAINIAN INDEPENDENCE

● Mr. RIEGLE. Mr. President, January 22 marked the 62d anniversary of Ukrainian independence. That event occurred early in the life of the modern Soviet State, but the subsequent conquest of the Ukraine by Russia proved to be a portent of Russia's relations with her neighboring States.

The people of the Ukraine lost overt control over their nation, but have retained the spirit of independence. Michigan has a large Ukrainian community which embodies the spirit and determination of Ukrainian people everywhere. Recently, I received a letter from Dr. Anthony Zukowsky, president of the Ukrainian Congress Committee in Detroit. The letter describes the struggle of the Ukrainian people for dignity and human rights. I would like to insert this letter following my remarks, and add my voice in praise of the self-determination of the Ukrainian people.

The letter follows:

JANUARY 22, 1980.

Hon. DONALD RIEGLE,
U.S. Senator,
Washington, D.C.

DEAR SENATOR RIEGLE: We would like to call your attention to the fact that Ukrainians, all over the free world, including the United States, will celebrate the Independence of Ukraine, in January.

January 22nd will mark the 62nd Anniversary of the Proclamation of the Independence of Ukraine and the 61st Anniversary of the Act of Union, whereby all Ukrainian lands were united into one independent and sovereign nation. Both the Independence of Ukraine and the Act of Union were proclaimed by a duly elected parliament (Central Rada) in Kiev, capital of Ukraine, on January 22, 1918 and January 22, 1919.

This sovereign Ukrainian state was immediately recognized by a large number of nations, including France and England. Diplomatic relations were established with them. Recognition was granted, also, by Soviet Russia. Despite the fact that the Soviet government had officially recognized Ukraine as an independent and sovereign state Ukraine was attacked, both by military aggression and by subversion from within.

For three and one-half years the Ukrainian people waged a gallant struggle in defense of their country, alone and without aid from Western nations, but were ultimately overpowered by a numerically stronger and better equipped Russian Bolshevik aggressor. They destroyed the Ukrainian National Republic and created a Communist puppet government known as the Ukranian Soviet Socialist Republic (Ukrainian S.S.R.).

The entire history of Soviet-dominated Ukraine is a ghastly record of inhumanity, outright persecution, terror and genocide. Russification and denationalization plus violation of human rights, on a scale not known in the history of mankind, has occurred.

In summary, the colonial rule of Soviet Communism in Ukraine can be characterized by the following:

A. During the sixty years of Moscow rule in Ukraine, millions of Ukrainians have been annihilated by man-made famines, deportations and executions.

B. Both Ukrainian Orthodox and Ukrainian Catholic Churches have been ruthlessly destroyed and their clergy and faithful have been arrested and persecuted.

C. All aspects of Ukrainian life are rigidly controlled and directed from Moscow.

D. Permanent violation of Human and National Rights was instituted in Ukraine. Thousands of Ukrainians have been charged with "anti-Soviet propaganda and agitation", tried and convicted. Many have been tortured, incarcerated and confined in psychiatric asylums where drugs and chemicals are forcibly administered. Despite the Implementation of the Helsinki Accords, Soviet oppression has intensified in Ukraine. New arrests of innocent people have been made by the Russians. The KGB, Soviet Secret Police, has committed many murders. Mrs. Ala Horska, poetess and literary critic, was murdered in Kiev. This past year, music composer, Volodimir Iwasiuk was murdered in Lwiw, Ukraine. Members of the Ukrainian Helsinki Groups were tried and given harsh sentences.

Russian enslavement of Ukraine has brought much suffering to the people of Ukraine. In 1919–1920 Ukraine was the first victim of Russian-Communist aggression. Since then, with passive indifference to the Western world, they have subjugated other countries. The recent invasion and occupation of Afghanistan is the latest warning, to the world, that Russian Imperialism poses the greatest threat to all.

In spite of this oppressive yoke, Ukrainians have never accepted this foreign domination and are continuing their struggle for Human Rights, Freedom and National Independence. A new breed of adamant fighters for Human and National Rights gives us hope that Ukraine will be free again.

We would like to express our sincere thanks and appreciation to the President of the United States, to the U.S. government and to all members of the Senate and Congress for their untiring efforts in bringing many freedom fighters and dissidents, from Soviet prisons, to our great country and giving them asylum here. God bless you all!

The Ukrainian people, in the free world, are celebrating the memorable January 22nd as their greatest holiday. For many years, the 22nd of January has been proclaimed, Ukrainian Independence Day, in American cities and states from coast to coast.

Therefore, it is in the common spirit of liberty, faith and justice that the American people, and especially the U.S. Congress, join Ukrainians all over the world in giving moral support to the Ukrainian people in their struggle for Human Rights, Freedom and National Independence.

We appreciate, very much, your support and concern for the welfare of the Ukrainian people.

Sincerely,
DR. ANTHONY ZUKOWSKY,
President.●

RECESS UNTIL 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 5 p.m.

There being no objection, the Senate, at 4:17 p.m., recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RANDOLPH).

The PRESIDING OFFICER (Mr. RANDOLPH). Is there further morning business?

FURTHER THOUGHTS ON THE BUDGET

Mr. HARRY F. BYRD, JR. Mr. President, this is the fourth day that I have commented in the Senate on budget recommendations submitted to the Congress Monday. President Carter's proposals include an increase of $16 billion in spending for the current year and a further increase of $52 billion for 1981, for a total increase of $68 billion.

The budget also calls for a deficit of $16 billion in the next fiscal year. Such a deficit in 1981 would break the law.

Two years ago the Congress passed my proposal to prohibit Federal deficits in fiscal 1981 or any year thereafter. President Carter himself signed the measure into law. Thus the President's proposed budget, if put into effect, would be illegal.

I think an overwhelming majority in the Congress and the Nation agree that increased outlays for defense are essential, but three-fourths of the spending increases proposed by the President are outside the defense area.

True enough, some of these spending increases are unavoidable. For example, social security benefits will rise automatically, largely because of inflation but also because of increasing numbers of retirees with higher incomes.

However, much of the proposed increase in spending is nonessential. One of the prime examples is in the food stamps program.

Under the law, the ceiling for spending for food stamps this year is $6.2 billion. But the Congressional Budget Office estimates that unless benefit formulas are changed, spending could go to $8.7 billion in the current year and on up to nearly $10 billion in 1981.

The Carter budget simply acquiesces in the increase. It calls for removal of the spending ceilings and boosting the outlays for food stamps to the figures projected by CBO.

This will mean $6 billion in additional spending in the 1980 to 1981 period—just for this one program.

It is interesting to recall that food stamps began in 1964 on a national basis at a cost of $31 million. The growth of this program is symptomatic of how the budget gets out of hand: starting on a small scale, new programs quickly mushroom out of control.

The Nation cannot afford continuation of the uncontrolled growth of spending programs.

In my judgment, it is the duty of the Congress to get hold of these programs and bring them under control in the name of fiscal responsibility.

If the Congress and the President are to obey the law, the 1981 budget must be balanced. The law requires it.

I end as I began:

Public Law 95–435 approved October 10, 1978 decrees that "beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts."

There are only 18 words. Will the Congress comply?

The PRESIDING OFFICER (Mr. Johnston). The Chair recognizes the Senator from West Virginia (Mr. Randolph).

AMERICAN STEEL INDUSTRY PROBLEMS ARE CRITICAL—U.S. ECONOMY SUFFERS—JOBS LOSS IS ALARMING

Mr. RANDOLPH. Mr. President, earlier today the American Iron and Steel Institute reported on current problems of the steel industry and a 10-year forecast of what might transpire if these problems remain uncorrected.

The 100-page white paper, entitled "Steel at the Crossroads," covers the industry's recent history, its problems and its prospects for the next decade. It is an alarming and challenging report.

Lewis W. Foy, chairman of the Bethlehem Steel Corp. and chairman of the AISI, told a press conference that "America needs a strong, healthy steel industry."

I thoroughly agree. I believe that if the steel industry's problems remain uncorrected, and the present trend of declining production and increased imports is allowed to continue, our U.S. economy faces a permanent recession affecting all basic industries.

The report contends that unless policies that are adopted encourage modernization and expansion of the Nation's steelmaking capacity, the present trend of lost markets and growing foreign entry will continue. The white paper contains detailed analysis of the factors involved, and suggests the changes that are needed to correct the slide. The AISI report is the result of a year-long study.

In the worst case, the report says that if the steel industry's problems are not corrected, the entire U.S. economy could be placed in a state of permanent recession affecting all basic industries.

As a Senator from West Virginia, the second-largest coal producing State in the Union, and as chairman of the 38-member Senate Steel Caucus, I am particularly concerned with the outlook for the metallurgical coal market in West Virginia and in other areas. An estimated 9,500 coal mining jobs have been eliminated over the past 2 years because of declining steel production. Approximately 35,000 steel jobs have been lost in recent months because of plant closings across the Nation.

Now, the steel industry, as the able majority leader (Mr. Robert C. Byrd) knows, who is in the Chamber at this time, is the second largest employer, with about 449,000 workers. The report concludes that as many as 90,000 additional jobs will be lost over the next 8 years if the present situation is not reversed. There are about 15,000 steelworkers in my home State of West Virginia.

To avoid this potential economic catastrophe, the steel industry is calling for decisive Government action, in three distinct policy areas, in order to promote steel's revitalization.

The steel industry urges:

Policies that would encourage and permit steel companies to achieve competitive rates of return accompanied by provisions for accelerated capital recovery.

Modifications of Government-mandated regulatory programs (notably environmental) that would reduce non-income-producing capital demands.

Firm assurances that imported steels, either by excessive volumes of unfair pricing, will not disrupt the domestic steel market, particularly during the industry's revitalization effort.

These policies will assist the industry to generate an average of $7 billion a year in 1978 dollars for capital expenditures, including: $4.4 billion for modernization and replacement of facilities, $500 million for capacity expansion, $800 million for environmental and health-related demands, and $1.3 billion for nonsteel and other requirements, such as debt service. Annual average capital expenditures for all these purposes were $3.2 billion (1978 dollars) in the 1959 to 1968 period, and actually fell to $2.9 billion in 1969 to 1978.

Revitalization of the domestic steel industry will take a 25-year effort, with the initial phase beginning immediately. During the first 5 to 8 years, there will be substantial capital outlays, but most of the benefits—in terms of improved productivity, increased energy efficiency, et cetera—will not be realized until after the initial phase is completed.

Therefore, during these early years the domestic steel industry will be especially vulnerable to market disruptions that could impede its generation of capital, even with policy improvements in the capital recovery and environmental areas. Unless the Government provides firm assurances against such market disruptions (either by excessive volumes or unfair pricing), companies in the American steel industry may not be in a financial position to pursue a soundly based revitalization effort.

Temporary, short-term measures to cope with serious market disruption need not be part of a long-term trade policy, but can help reestablish a satisfactory business environment for steel while long-term trade policy is evolving.

The American steel industry has already spent huge sums and implemented far-reaching and effective programs to protect the environment and reduce hazards. Although environmental benefits have been obtained, these expenditures have diverted capital from income-producing and cost-reduction applications. Meeting environmental standards has also had an inflationary impact by significantly increasing operating costs of producing steel.

In view of the great progress that has been made, and at tremendous cost, the industry urges that the regulatory framework be modified to mandate only those requirements that are demonstrably necessary to protect public health.

A modernized domestic steel industry would yield important benefits in the conservation and optimal use of energy, and thus contribute to the Nation's energy goals. The domestic steel industry is, by its very nature, a large consumer of energy (about 4 to 5 percent of total domestic consumption), and has long been committed to diligent energy conservation efforts. Only far-reaching modernization, however, can produce further energy economies of real significance.

SENATE RESOLUTION 356—AUTHORIZATION FOR SENATE EMPLOYEES TO TESTIFY AND PRODUCE DOCUMENTS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 356), authorization for Senate employees to testify and produce documents in the case of Fitzgerald v. Butterfield.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, this resolution would, under Senate Rule XXX, authorize three Senate staff employees—Richard Kaufman of Senator Proxmire's Joint Economic Committee staff, Ronald L. Tammen of Senator Proxmire's personal staff, and David Julyan of Senator Leahy's staff—to testify and produce certain documents in the case of *Fitzgerald* v. *Butterfield*, Civil Action, 74–178, pending in the U.S. District Court for the District of Columbia.

By authorizing the testimony of the Senate staff aides, the Senate would not be taking sides in this case. In fact, both plaintiff Fitzgerald and defendant Nixon seek essentially the same testimony from these Senate aides; Nixon by subpoena of the three aides and Fitzgerald through voluntary appearance of Mr. Kaufman.

The case involves an important interest of the Senate—its ability to obtain candid testimony of witnesses in Senate hearings and the rights of its witnesses to testify without fear of reprisal. This resolution would allow relevant testimony important to the adjudication of the dispute between the parties, and which is sought by both plaintiff and defendant Nixon.

Senate legal counsel will represent the Senate aides during their testimony and will protect the privileges of the Senate.

I ask unanimous consent that this resolution be adopted.

The PRESIDING OFFICER. Without objection, the resolution (S. Res. 356) is agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 356

Whereas, in the case of *A. Ernest Fitzgerald* v. *Alexander P. Butterfield, et al.*, (C.A. No. 74–178), pending in the United States District Court for the District of Columbia, subpoenas dated August 27, 1979 have been issued by the court and served upon David Julyan, Richard Kaufman, and Ronald L. Tammen, employees of the Senate, by counsel for defendant Richard M. Nixon, directing them to appear and give testimony and produce documents, papers, or records;

Whereas, plaintiff A. Ernest Fitzgerald, through his counsel, has informed the Senate Legal Counsel that he may seek the voluntary testimony at trial of Richard Kaufman.

Whereas, by the privileges of the Senate of the United States no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate.

Whereas, by the privileges of the Senate of the United States, and by rule XXX of the Standing Rules of the Senate, no officer or employee of the Senate is authorized to produce any information, documents, papers or records of the Senate but by order of the Senate and information secured by officers or employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate.

Whereas, when it appears that testimony of an officer or employee of the Senate is needful for use in any court for the promotion of justice and, further, that such testimony may involve documents, papers and records under the control of or in the possession of the Senate and communications, conversations, and matters related thereto, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it

Resolved, that David Julyan, Richard Kaufman and Ronald L. Tammen are authorized to testify at depositions or at trial in the case of *A. Ernest Fitzgerald* v. *Alexander P. Butterfield, et al.* (C.A. No. 74–178), and to produce documents described in the subpoenas issued to them, except concerning matters for which, on behalf of the Senate, the Senate Legal Counsel or his representative, advises are privileged from disclosure.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand recessed until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL MONDAY, FEBRUARY 4, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand recessed until the hour of 12 noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. PELL ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. PELL be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF SENATE RESOLUTION 109 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of Mr. PELL, the Senate then proceed to the consideration of Senate Resolution 109.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:09 p.m., the Senate recessed until Friday, February 1, 1980, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES—*Thursday, January 31, 1980*

The House met at 11 a.m.

The Reverend Donnell R. Harris, senior minister, Montgomery Hills Baptist Church, Silver Spring, Md., offered the following prayer:

Be still and know that I am God.—Psalms 46: 10.

Our Father, we ask Thy blessing upon our Nation and upon these who are its elected Representatives. In these perilous times, we are conscious of our weakness and our need. Let Thy Spirit rest upon this body, we pray. May those to whom has been entrusted so great a responsibility be strengthened to perform their tasks with wisdom, integrity, courage, and humility. Grant that they may have the vision to see their duties, not from the narrow perspective of special interest, but from the larger view of national and world need. When the burdens weigh heavily upon them, may they learn to be still and find renewed strength in knowing Thee, who art our refuge. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 423. An act to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5288. An act to amend title 38, United States Code, to improve and modernize the vocational rehabilitation program provided veterans under chapter 31 of such title, to improve the veteran's educational assistance program, and for other purposes.

A TRIBUTE TO CHARLIE VANIK

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOTTL. Mr. Speaker, now that one-half of the Czech Caucus has decided to retire, I feel it is only fitting that we pay tribute today to my colleague, Hon. CHARLES A. VANIK, of Cleveland.

CHARLIE first came to Congress in 1954, and quickly began to make his mark.

He has been the champion of the little guy and has worked hard and long to protect the oppressed, the downtrodden, and the average American.

He has labored for the consumer, for a clean environment, and has distinguished himself by authoring many progressive bills and amendments here in the House of Representatives.

During his long history of public service, he has also distinguished himself as a school board member, State senator, municipal judge, and as a Member of this august body for 26 years.

We will all miss him dearly, and I am sure all of you join with me, as well as all greater Clevelanders, to wish CHARLIE, his lovely wife, Betty, and his two wonderful children, the best of everything life has to offer.

BOYCOTT WILL PLACE A HEAVY BURDEN ON AMERICAN OLYMPIC TEAM

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, on Tuesday I introduced a resolution calling for the support of the House for alternative national athletic games to be held here in the United States in the event that the U.S. Olympic Team does not participate in the summer Olympics in Moscow. I fully support the President's call for a boycott of the Moscow games unless the Soviet Union withdraws its troops from Afghanistan. However it is apparent that this boycott will place a heavy burden on the American Olympic Team.

These athletes have trained for years in order to represent their country in the 1980 summer Olympics. I feel that their sense of dedication and patriotism should be honored. The best way to do this would be to hold national athletic games here in the United States where our U.S. Olympic Team could show its skill and training in competition with world class athletes from other countries that wish to participate. If our Olympic athletes cannot compete in Moscow then they should be given the chance to exhibit their skills to the American people.

I call the attention of the House to President Carter's January 20 telegram to the U.S. Olympic Committee. In this telegram the President called attention to the idea of alternative games and stated:

> The United States is prepared to lend its full support to any and all such efforts.

I agree with the President and I hope that there are other Members who will join me in sponsoring this Resolution which expresses the sense of the House that alternative games for our U.S. Olympic Team are in the best interests of the United States. We truly owe the team our support.

IN SUPPORT OF THE PRESIDENT'S $158 BILLION DEFENSE BUDGET

(Mr. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LLOYD. Mr. Speaker, 1 minute is not enough time to express myself on the subject of national defense. I will state, however, that I support the President's $158 billion defense budget.

I applaud the fact that the administration realizes that at long last the Nation's capability has declined to unacceptable levels.

For the past 5 years we have watched the decline in spite of what our military leaders were saying, but saying for the record only. No amount of urging by Congress to the executive branch seemed to make much difference.

I even thought Congress itself might be the problem. But I look back and find that we have been consistent in our efforts to fund an effective defense, often I might add above that requested in the budget.

In committee I have reviewed Pentagon defense programs managed by indecision and vacillation—the product of erratic guidance.

We in Congress could see what was happening. The Army, Navy, Marine Corps, and Air Force could see their capabilities eroding. Why, I asked myself could not the Secretary of Defense?

The taxpayer deserves positive leadership. If it cannot be provided by appointed officials, Congress must accept that responsibility. I intend to do so.

□ 1110

THE 1980 FREE WORLD OLYMPIC GAMES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, if the 1980 Olympics are not removed from Moscow, I firmly believe the United States should host or co-host a "1980 Free World Olympic games" by whatever name. Furthermore, I believe the opportunities to host these events could, with great benefit, be shared throughout the country—at locations in the central, west, east, and southern parts of this Nation—with either consecutive or simultaneous timing. The activities associated with the hosting and attendance of these international sports spectaculars offer the probability of being the greatest display of American unity, pride, initiative, and resolve since the American Bicentennial.

Lincoln, Nebr., the all-American city has exceptional, new university sports facilities. It has hosted the National Junior Olympics 4 years (and 3 of the past 4 years), two recent AAU championship events, regional NCAA basketball championships this year, the NCAA gymnastics championships in April, has over 3,000 available onsite rooms for athletes, and has a great reputation in hosting international visitors. Therefore, after consulting with Lincoln and University of Nebraska officials, I have, today, informed the U.S. Olympic Committee that Lincoln, Nebr., is the first to proudly volunteer to host some of the events for a 1980 Free World Olympic games.

Mr. Speaker, we have taken the first step. We have the T-shirts all ready.

A GENERAL TAX CUT OR A WINDFALL FOR THE FEDERAL GOVERNMENT?

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, conferees are toiling toward agreement on energy windfall tax legislation. Without this bill, we are told that oil companies will reap unconscionable profits. But with this bill, if we are not careful, the Federal Government may reap an unconscionable windfall.

Either way, Americans will pay more for gasoline, for other energy products, and for everything else that depends on energy. The windfall tax will move a portion of these higher prices out of the coffers of the oil companies. That much has been agreed. But we seriously disagree on what should be done with the vast sums this tax will generate. We are talking about amounts that will increase the size of the Federal Government in relation to the economy to a level even beyond that which occurred at the height of World War II.

We would be making a grave mistake if we let these revenues be sucked into Government programs—be they energy programs or other shining baubles crafted during a highly political year. This money is coming out of people's pockets, and that is where it should be returned.

Since no one can accurately predict how many hundreds of billions of dollars decontrol of oil will generate in revenues, we should divide the receipts in terms of percentages rather than specific dollar amounts. Poor people will be hardest hit by energy prices and they have the least ability to absorb the impact. I agree with my colleagues who suggest dedicating 30 percent of the windfall revenues to the poor. But the remaining 70 percent should not be a windfall for the Government. It should go back to the taxpayers who are already paying record levels of their income in taxes.

We are facing a choice between a general tax cut and a windfall for the Federal Government. I urge the general tax cut.

TRIBUTE TO JAMES W. LEA ON HIS RETIREMENT AS CLERK TO OFFICIAL REPORTERS OF DEBATES

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

GENERAL LEAVE

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the topic I am about to address.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BAUMAN. Mr. Speaker, those of us who have been associated with the House of Representatives over the years in one capacity or another, either as a Member or as a member of the staff, know that we form rather close friendships with many people, people who are unsung and unknown by the general public.

Today I want to call the attention of the House to the fact that one of these servants of the House of Representatives will be retiring today. This is his last day of almost 25 years of service to the Members of this body—a longer career, I might add, than most of us have had here.

I am referring to Mr. James Lea—Jimmy Lea—who is the clerk of the Official Reporters of Debates.

I have the honor to represent Mr. Lea in the Congress of the United States. He is a resident of Prince Frederick in Calvert County, Md., the land of the fiddle and the flask, as we say in southern Maryland, the land where people love to go fishing and crabbing, and Jimmy is one of the true sons of that great area of my State.

Jimmy's wife Betty, and family, I know, will be glad to have him around the house—at least for awhile.

I think the more important thing is

that we honor a man who has worked hard for us and a man who has had a distinguished military career in the Seabees where he was under fire quite often in the Second World War. More often he has been under a crossfire here in the House of Representatives.

Mr. Speaker, Jimmy deserves our thanks for his help and for listening during so many long hours to the stuff we say and then getting all straight in the RECORD. Certainly he has earned the accolades of the Members of the House of Representatives, so today I think it is appropriate that we all commend Jimmy Lea.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio, who has certainly given Mr. Lea a lot of trouble over the years.

Mr. ASHBROOK. Mr. Speaker, for that I apologize.

I certainly want to add my comments to what the gentleman from Maryland (Mr. BAUMAN) has so ably said. The tendency is to criticize people who work for the Government, the so-called public servants.

I think in Jimmy Lea we have an example of the highest quality of public service. His work has been beneficial to all of us in this House.

While I can understand the lure of going back to such a wonderful place as Calvert County, Md., I for one will miss him. I hope his next years are much more enjoyable than these last 25 have been. I am sure, though, that he thinks those have been enjoyable, too, just as our lives have been made more agreeable by his presence, his assistance, and his friendship.,

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I support the remarks made by the gentleman from Maryland (Mr. BAUMAN).

I would also like to say that Jimmy Lea is probably better known than most Members of the Congress because he has the best seat in the House and he is on television most of the time—and he handles it very well.

Jimmy Lea has certainly been kind to all of us. He has had a lot of patience and we are going to miss him.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I thank my friend, the gentleman from Maryland, for yielding, and I thank him for taking this opportunity to pay tribute to a truly dedicated friend.

All of us who as freshmen at one time came into this body needed lots of help and we remember the times when Jimmy Lea helped us a great deal. We have watched him steer young Members away from making mistakes. That is not always easy. He is truly a friend of every Member here, and he has done a great service to his country. His leaving will be our loss. We are very sorry and sad to lose him, but we wish him well in whatever his new pursuit might be.

Mr. Speaker, I might add in closing, Jimmy, you are one "Jimmy" that we hate to see leave Washington.

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, will miss Jimmy Lea. Jimmy Lea is a neighbor of mine in southern Maryland. Certainly I have enjoyed his friendship over the years.

I also have had the experience of Jimmy's running me down on the highway as we travel back and forth. I will miss that and the many other happy experiences or happier experiences with Jimmy.

Certainly I wish to express the appreciation of the body to the distinguished gentleman from Maryland (Mr. BAUMAN) for taking this opportunity to pay this tribute to one whom I consider to be one of the greatest employees that this body has ever had.

Jimmy, we certainly are going to miss you.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, I thank the gentleman from Maryland for yielding.

Mr. Speaker, I would like also to join with the gentleman in congratulations to Jimmy Lea.

When I was a new Member in the 94th Congress and having shared that experience with other new Members at that time, we found Jimmy Lea was very helpful to all of us. On behalf of the newer Members of the Congress, I would like to thank him for his wise counsel and friendship and wish him well and good health for the future.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the chairman of the Committee on Public Works and Transportation.

Mr. JOHNSON of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, Jimmy Lea not only helped us when we first arrived here as freshmen, but he has helped us through all the times we have been here. He has improved with age, in wisdom, friendship, and in his capacity to help all.

Jimmy Lea, we hate to see you go. You have been one of the finest employees of the House of Representatives. Your contribution has been of the highest.

Jimmy, I wish you the best on your retirement.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I would like to echo the remarks of all of the Members here in the House of Representatives concerning Jimmy Lea. I speak as a new Member of the House of Representatives and he certainly has helped all of us greatly.

● Mr. VANIK. Mr. Speaker, I was sad to learn today that Jimmy Lea, chief clerk and Official Reporter of Debates, is retiring after 25 years of service to the House. I have known Jimmy Lea during all of this time and have enjoyed our relationship in many special ways. Jimmy would tell me when my speeches were too long or too futile. He also advised me on many occasions to correct remarks that would have otherwise been left to haunt and torment me.

During his tenure, Jimmy has been dedicated to the Congress in all of its functions. He was always concerned about the image of the House and how it would appear to those who observed our work. He cared about the institition and every person in it.

I wish Jimmy Lea good health and a happy retirement. His work in the Congress was important and well done.●

● Mr. THOMPSON. Mr. Speaker, for the last 25 years I have had the pleasure of working with a distinguished and loyal servant of this Chamber, Mr. James Lea. On this day of his retirement, I would like to express my gratitude, and the gratitude of my colleagues on the Committee on House Administration, for his loyal and conscientious service. Jimmy is a House institution, and we will miss him. We wish him long life and good health in his retirement, and hope that he will return and visit with his friends and supporters in the Chamber whenever he can.●

● Mr. McCLORY. Mr. Speaker, Jimmy Lea has been not only a most valuable part of this House of Representatives, he has also been a good friend during my years of experience here.

Mr. Speaker, I join with the remarks of my colleagues and wish personally to extend to Jimmy Lea and his family my hope that he will enjoy good health, happiness, and rewarding activity in the years ahead.●

● Mr. ZABLOCKI. Mr. Speaker, I want to join my colleagues in extending warmest personal congratulations and best wishes to Jimmy Lea on the eve of his retirement as one of the most valued recording clerks of this body. Jimmy has distinguished himself over the past 25 years as a professional, nonpartisan public servant and he merits our collective appreciation for his efforts.

Mr. Speaker, during most of the 32 years that I have spent in the House of Representatives, Jimmy Lea was always available and willing to help whenever his services were required. Unfortunately, staff members like Jimmy do not always receive the public recognition that is clearly due them. All of us who serve here, however, are aware of the pressures and the ever-increasing volume of legislation we are called upon to handle. It is a privilege, therefore, to honor those who have performed their duties faithfully and with dedication over an extended period of time.

I hope that Jimmy can now enjoy some good hunting and fishing—where the "call of the House" and the long hours of "special orders" can no longer be heard. To him, his wife, Betty, and his four sons, I want to express my best wishes and the hope that they may all enjoy the benefits of a retirement which Jimmy so richly deserves.●

Mr. BAUMAN. Mr. Speaker, I yield back the balance of my time.

A CALL FOR INCREASED FUNDING OF FREE WORLD RADIO TRANSMISSIONS

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EVANS of Delaware. Mr. Speaker, as a former Delaware Chairman of Radio Free Europe, I am deeply disappointed that the President, in his 1981 budget, plans no significant increase in the budgets for Radio Free Europe, Voice of America, and Radio Liberty.

One of the problems we have had in our dealings with other nations is that we are often misunderstood by their populations. The citizens of countries where freedom of the press is denied by their governments, rely on information from outside to gain knowledge of world events. When this information is not available it makes it easier for anti-American propaganda to be disseminated and accepted as truth.

Currently, Voice of America is trying to recruit persons able to speak the numerous and difficult Moslem languages of the Middle East so that we may better reach that important area. Radio Free Europe and Radio Liberty need additional funds to construct new transmitters, in order to reach more people behind the "Iron Curtain." With these objectives in mind, I cannot support the language in President Carter's budget which states these activities "are proposed to continue at essentially current levels in real terms through 1983." We need to strengthen and improve the programs of Voice of America, Radio Free Europe and Radio Liberty, and I intend to push for a fiscal year 1981 budget which reflects this need.

□ 1120

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, yesterday I was unavoidably detained at the tourist caucus briefing when the House considered House Concurrent Resolution 267, rollcall No. 17. I would request the record to show that had I been present I would have voted with the majority of the Members of the House to express my appreciation to Canada.

REPUBLICANS SUPPORT CONFERENCE REPORT ON H.R. 2440

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, the House Republican Policy Committee has voted to strongly endorse the conference report on H.R. 2440—the Aviation Safety and Noise Abatement Act of 1979, thereby giving strong bipartisan support to this legislation. The bill represents a realistic, workable compromise arrived at the balancing environmental, energy, and economic considerations to assure that noise will be reduced and safety enhanced at our Nation's airports.

It is important to note that for 68 percent of the noncomplying fleet, the conference report imposes requirements which are as strict as, or stricter than, the current FAA regulations. The imposition of the standards was deferred only for two-engine aircraft—constituting 32 percent of the noncomplying fleet. The deferral serves the purpose of encouraging airlines to purchase new, stage 3, aircraft rather than retrofitting current airplanes. Because stage 3 planes are 25 percent more fuel efficient and less polluting, this has beneficial effects from both an energy and environmental standpoint. In addition, regulations requiring early retrofit could result in the airlines retiring two-engine aircraft from their fleets rather than incurring the expense of retrofit. If this occurs, small- and medium-sized communities would be in danger of losing regular service.

In light of these circumstances, the House Republican Policy Committee found the waiver provisions of the conference report to promote noise reduction, a cleaner environment, energy efficiency, and service to our small communities.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement: We will take up the conference report on H.R. 2440, Aviation Safety and Noise Abatement Act of 1979; following that, we will return to the consideration of H.R. 5980, Antirecession Fiscal Assistance (Countercyclical). The chairman expects to be able to finish at a reasonable hour. If the bill is finished at a reasonable hour, that will conclude the program for the week, and there will be no Friday session. If it is not finished by the hour of 6 o'clock, there will then be a Friday session.

CONFERENCE REPORT ON H.R. 2440, AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979

Mr. ANDERSON of California. Mr. Speaker, I call up the conference report on the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule and House Resolution 511, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 19, 1979.)

The SPEAKER. The gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report that the conference on aviation noise and airport development legislation has developed a compromise bill which will make a strong contribution to our efforts to reduce aviation noise and improve aviation safety. The conference bill is supported by the administration and a substantial portion of the aviation community. The conference bill is also supported by State and local government agencies in noise-impacted areas, including the Los Angeles City Council and the Massachusetts Aeronautics Commission.

The conference substitute establishes new programs to deal with the problem of aviation noise. These programs are long overdue. Aviation noise is having a serious impact on more than 6 million residents and more than $3 billion of property near airports. The problem is growing worse as airline operations increase under deregulation.

The conference bill establishes the first comprehensive Federal program to deal with the problem of noncompatible land use around busy airports. I have long believed that a land-use program is the most important method we can use to attack the noise problem.

Controlling aircraft noise at the source is difficult because of the long economic life of aircraft, the limited improvements which technology permits, and the increase in airline operations which occurs as the demand for air service increases. For these reasons, aircraft noise standards cannot be the only solution. Although aircraft noise control is necessary to prevent us from falling even farther behind, there must also be planning to insure that land around airports is not used for purposes incompatible with existing and projected noise levels.

The conference bill adopts a comprehensive program to deal with the land use problem. The program includes development of a uniform system for measuring aircraft noise, the preparation of noise exposure maps and other plans to limit noncompatible land uses, and the funding of noise abatement programs under these plans. All these programs are voluntary and are designed to help airport operators and local governments meet their responsibilities, rather than to impose land use controls by the Federal Government.

The conference bill authorizes funding of $15 million for noise abatement planning and funding of at least $25 million for noise abatement programs. The funding for programs can go either to airports or to units of local governments around airports.

Although these funding levels are relatively modest, they are an important first step in getting the program in place. We will be considering funding levels which are more compatible with the scope of the problem when we consider renewal of the airport development program early next year.

The conference bill also authorizes important aviation safety programs, including authorization of the $207 million fiscal 1980 discretionary programs for airport development. These programs will benefit airports of all sizes, in all areas of the country. The conference bill authorizes an additional $44 million for development at air carrier airports and $13 million for development at general aviation airports. The latter is particularly important since it will permit improvement of reliever airports near congested air carrier airports, thereby helping to prevent a recurrence of the tragic San Diego midair collision between air carrier and a general aviation aircraft.

The conference substitute also makes some modifications in the Federal Aviation Administration's regulations controlling aircraft noise at the source. I am pleased to report that these modifications are considerably more limited than those in the Senate bill.

The Senate bill would have permanently waived by any new requirement for replacement or retrofit of two- and three-engine aircraft and even for some of the older four-engine aircraft. The conference bill is very different.

The conference bill has no waivers for four-engine aircraft, the noisiest aircraft in the fleet.

For three-engine aircraft the conference bill is stricter than FAA requirements. Present FAA requirements allow three-engine aircraft to be operated through 1985 if a stage 2 replacement aircraft is purchased. The conference bill keeps the 1985 date, but requires purchase of a stage 3 aircraft, the quietest aircraft under present technology.

In sum, Mr. Speaker, for three- and four-engine aircraft, 68 percent of the present noncomplying fleet, the conference bill imposes requirements which are as strict, or stricter than current FAA regulations.

The conference bill grants some waivers for two-engine aircraft. The bill permits two-engine aircraft with more than 100 seats to be operated through 1986 and two-engine aircraft with less than 100 seats to be operated through 1988. The waivers end if the aircraft is sold.

These are limited extensions. Current FAA regulations allow two-engine aircraft to operate through 1985 if a stage 2 replacement aircraft is purchased.

The extensions in the conference report are designed to encourage the purchase of stage 3 aircraft, which furnish much more noise reduction than retrofit to stage 2 levels. In addition, stage 3 technology provides energy efficiency gains of 25 percent or more. Thus, the brief extension of the deadlines in the conference bill will promote both noise reduction and the more efficient use of energy.

Additionally, since two-engine aircraft provide important service for small communities, the waivers will result in small communities receiving better service than would be provided if there was strict adherence to the FAA regulations.

I have some additional comments on the intent of specific provisions of the conference bill.

Section 302 of the bill requires the Secretary of Transportation to commence a rulemaking proceeding to require aircraft used for international operations by U.S. and foreign air carriers to comply with the noise standards imposed for domestic operations, at a phased rate of compliance "similar" to that in effect for domestic operations. This provision is designed to bring the international fleets of air carriers into compliance by 1985, or by the later dates allowed for some two-engine aircraft. However, the schedule for compliance between now and 1985 need not be the same for domestic and international operations. International operations are not presently subject to any U.S. noise requirements and the international carriers are entitled to a reasonable period of notice before they are required to comply.

With respect to the airport development provisions of this bill, some concern has been expressed that even though the bill increases ADAP funding, there will be limited ADAP discretionary funds available during fiscal year 1980. One cause of this problem is that the ADAP program is only authorized through fiscal year 1980, and accordingly 1979 and 1980 entitlement funds for air carrier airports, which ordinarily can be carried forward for 2 fiscal years, will have to be spent in fiscal year 1980. This will lead to an artificially high demand for entitlement funds and draw down the amounts available for discretionary funding.

A partial solution to this problem would be to amend the ADAP law to provide that funds apportioned to air carrier airports in fiscal years 1979 and 1980 would be available for obligation during the fiscal year in which those funds were first authorized to be obligated and for the 2 fiscal years immediately following. Passage of such legislation, which is before the Congress, would prevent an artificially high demand for the obligation of apportioned funds in fiscal year 1980, which in turn would result in increased funds being available for discretionary funding. I am confident that legislative action will be taken on this matter in a timely fashion.

Finally, I wish to clarify several matters with respect to the Love Field provision.

The report refers to "turnaround" service between Love Field and points within the four contiguous States. This restriction is intended to limit flights serving Love Field, and only those flights, to the State of Texas and the four contiguous States, but is not intended to limit the number of cities served on such flights, so long as these cities are in those five States. Also there is no intent to limit flights by a carrier serving Love Field which do not serve Love Field at all, such as a New York-Miami flight. Finally, the prohibition in section 503(c)(1) against an air carrier providing through service or ticketing with another air carrier or foreign air carrier only applies with respect to a carrier's Love Field service and does not affect its usual ticketing, scheduling and ratemaking practices at other points on its system.

In conclusion, Mr. Speaker, I believe that the conference has come up with a good bill which will help reduce aviation noise and promote aviation safety. I urge adoption of this important legislation.

□ 1130

Mr. SNYDER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 2440, the Aviation Safety and Noise Reduction Act of 1979, and urge my colleagues to support this very important piece of legislation. I would also like to point out that this legislation is supported by the chairman and ranking minority members of both the full Public Works and Transportation Committee and Aviation Subcommittee. In addition, because of the efforts made by the House and Senate conferees to reach a compromise acceptable to all sides on this issue, the Secretary of Transportation has indicated that he will recommend to the President that he sign this legislation if passed in its present form.

A major provision of the bill would repeal the existing discretionary fund prohibition for fiscal year 1980 in the airport development aid program (ADAP) and thereby make available for obligation approximately $240 million for the development of our Nation's air carrier and general aviation airports. This amount represents approximately one-third of the total ADAP authorization for fiscal year 1980 and is absolutely critical to assure that our airports can continue to cope with the increase in traffic associated with deregulation. Moreover, newer projects designed to upgrade existing reliever airports in the wake of the tragic San Diego midair collision would also be accomplished as part of the discretionary authorization.

In addition, the bill contains measures designed to reduce aircraft noise on the ground by providing $40 million for planning grants and the implementation of noise compatibility programs. In this fashion, local airport operators and communities will be able to take a larger role in assuring that effective noise reduction measures are taken at a local level.

As many of my colleagues are aware, the most controversial aspect of this legislation concerns the issue of waivers from the FAA's so-called "fleet noise rule," which requires turbojet aircraft used in air carrier service to comply with FAA noise standards by adhering to a phased compliance schedule. In this way, part of the fleet is required to be in compliance by 1981, another part in 1983 and the remainder in 1985. The effect of these rules is to require the airlines to retrofit their airplanes at a cost in excess of $250,000 each, thereby making the aircraft slightly quieter but also wasting fuel as a result of the added weight of the retrofit kits.

While I have always been opposed to the FAA's retrofit requirement, I do recognize that many people who live near major metropolitan airports are severely impacted by aircraft noise and do deserve some measure of relief. Therefore, compromise language has been approved by the conferees which would retain existing compliance requirements for the four-engine airplanes (which comprise approximately 30 percent of the noncomplying fleet) and actually strengthen existing regulations for three-engine aircraft (which comprise approximately 38 percent of the noncomplying fleet).

However, the two-engine fleet (DC-9, BAC-111, 737) would be granted up to 3 additional years to comply, depending on the seating configuration of the airplane.

Those aircraft with 100 seats or less would have until 1988 to comply—since these are the aircraft which regularly serve small communities and which might otherwise be retired from the airline fleet if the airlines were required to retrofit them in the next few years. Those two-engine aircraft with more than 100 seats would have only until 1985 to comply with the noise standards. Neither of these extensions would, however, apply if the aircraft were sold after January 1, 1983. Existing regulations permit these aircraft to be flown until January 1985 under an approved replacement plan.

Finally, the conference substitute contains a new technology waiver provision which encourages the airlines to purchase new, quieter, and more fuel-efficient "stage 3" aircraft. By ordering one of these replacement airplanes, the airlines will be able to use an older three-engine aircraft until 1985 and an older two-engine aircraft (more than 100 seats) until 1986.

This provision is a most important feature of this legislation since it strengthens the existing FAA regulations which allow carriers to operate aircraft beyond the interim compliance dates if complying replacements airplanes are on order. In order to receive an extension from the FAA under existing regulations, it is only necessary that a carrier order a complying stage 2 replacement airplane, rather than a more sophisticated and newer technology stage 3 aircraft. Not only does a stage 3 aircraft provide far more significant noise reduction benefits, but it is more fuel-efficient and has fewer noxious air emissions than existing engines. Because of the benefits associated with the purchase of stage 3 aircraft, section 303 of this bill would require any such replacement aircraft to comply with stage 3 requirements in order to take advantage of compliance extensions provided.

While it is true that this provision may slightly increase the noise levels in the short run, it will unquestionably provide for significant noise reduction in the long run by encouraging the purchase of stage 3 replacement aircraft, rather than stage 2 aircraft. Such a difference is crucial, especially when you consider that any new aircraft purchased today will be flown for approximately 20 years before being retired from the airline fleet.

I am firmly convinced that replacing today's older aircraft with new technology stage 3 aircraft will, in the long run, provide the greatest measure of noise relief to those people living around major metropolitan airports and hope that the carriers take advantage of the new technology incentives provided.

In conclusion, Mr. Speaker, this legislation attacks the aircraft noise problem both in the air by assuring a quieter airline fleet and on the ground by encouraging local airport operators and governments to take meaningful steps to assure compatible land use. In addition, it authorizes approximately $240 million for important airport safety projects that must continue to be funded to meet the needs of the air transportation system in the future. It is a good piece of legislation and represents an acceptable compromise to all those who have been deeply involved in this issue.

I urge my colleagues to approve the conference report.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, I am concerned. I have the gentleman's explanatory data here, and I will have to say that on paper it looks very good for those small communities which are plagued by noise, those small communities which have had anti-airport, anti-noise lawsuits brought, which have had air operation suspended and flights and business curtailed and which have tried to alleviate severe noise problems.

Mr. Speaker, I am very concerned on this, because while it does look good on paper, those communities most plagued by the noise problem which have made efforts in cooperation with the airlines, to upgrade their aircraft and address the noise problem have done so in good faith and in keeping with the spirit of the law and in respect for the well-being of the surrounding population. This conference report, however, would seem to me to throw all of the good out of the window, give everybody a 1-year delay and let them go on up to 1986 to obey the law, and in so doing, allowing a backward step for those communities and those airlines who have not really made an attempt to solve the noise problem.

☐ 1140

I would say to the gentleman that first, that is the Delta argument. They are the ones who have been able to get pretty much into compliance. I assume that is what the gentleman is making reference to. The rest of the air carriers have not. In regard to the two engines, which is where the real extension is, and the under 100 seats, we do not have on line a domestic-built aircraft to comply to stage 3 and, in conjunction with the need for the same service is why we have given that extension.

Mr. ANDERSON of California. Mr. Speaker, I yield 4 minutes to our chairman of the Committee on Public Works and Transportation, the gentleman from California (Mr. Johnson).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the conference report on H.R. 2440.

Last November, when I requested that the Committee on Public Works and Transportation be allowed to go to conference with the other body I stated then that I felt the conferees would be fair, that they would work diligently with the other body on this matter, that the conferees would bring back to this floor a bill this body could accept and that the President could sign into law. May I say that as a result of the work of my fellow conferees on the House side and the chairman of the Senate conferees, the able Senator from Nevada, and his colleagues, such a resolution has been reached.

The conference report before us today has the support of the Secretary of Transportation, the Director of the Office of Management and Budget and will be signed into law by the President of the United States.

Once again, hard work, negotiation, and fair play brings us a bill that all can support. I strongly urge its adoption.

The conference bill includes important programs for funding noise abatement programs for airports and for new airport safety projects. These programs were included in the noise bill which the House passed in the last Congress. There is general agreement in the aviation community that these programs are a critical element in solving the airport noise problem. I am very pleased that it now appears possible to enact these long overdue programs into law.

The most controversial issue in noise legislation has been the issue of waiving or extending the deadlines for compliance with FAA regulations which require the retrofit or replacement of aircraft which are already in the fleet, and which met all Federal standards when they were purchased.

The Senate bill would have made substantial modifications to the FAA's program, including a permanent exemption for two- and three-engine aircraft and other provisions which would have waived noise requirements for many four-engine aircraft until the late 1980's or beyond.

The conference bill is very different. For three-engine aircraft and narrow-bodied four-engine aircraft, which together are 68 percent of the current noncomplying fleet, the conference bill imposes requirements which are as strict or stricter than current FAA regulations. The only extension of compliance dates in the conference bill is for two-engine aircraft. These extensions are limited, and are designed to encourage purchase of a new technology stage 3 replacement aircraft.

Stage 3 aircraft will bring much greater relief from noise than retrofit to stage 2 levels, which is required by present FAA regulations. Stage 3 aircraft are also 20 to 25 percent more energy efficient than stage 2 aircraft. Additionally, two-engine jet aircraft are the major aircraft used by certificated airlines to serve small communities. If retrofit of these aircraft is required, the fuel inefficiency and cost of retrofit may lead the airlines to retire these aircraft from the fleet rather than retrofit. If this occurs, the biggest losers would be the small- and medium-sized communities now served by these aircraft.

Mr. Speaker, the conference has come up with a good compromise which will promote noise reduction, energy efficiency, and small community service. I urge the House to enact this important legislation.

The Secretary of Transportation,
Washington. D.C., January 28, 1980.

Hon. Harold T. Johnson,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

Dear Mr. Chairman: I would like to take this opportunity to let you know my views on the Conference Report on H.R. 2440, the Aviation Safety and Noise Abatement Act, a matter which will be before you shortly. The Conference Report differs significantly from earlier aviation noise legislation and represents a compromise worked out through the efforts of the leadership of the Senate Commerce and House Public Works Committees. This compromise meets most of my concerns in this area and I would like to share with you my reasons for supporting the Conference Report.

The focal point of debate on this legislation has been proposed legislative extensions of deadlines for compliance with noise rules. Earlier legislation included various waivers from the noise standards which set no definite time limit for the replacement or retrofit of noncomplying aircraft. Under that legislation, many aircraft would be able to fly without modification well into the next decade. By contrast, the Conference Report would extend the useful life of noncomplying aircraft only for limited time periods, and even then only under certain circumstances.

The Conference Report provides no waivers for four engine aircraft. As to three engine aircraft, the Conference Report would extend the current compliance date from January 1, 1983 to January 1, 1985, but only if the operator of the aircraft gains the approval of this Department for a plan to replace the aircraft and, by January 1, 1983, has entered into a contract for delivery of a quiter, "stage 3" replacement aircraft by January 1, 1985.

Compliance for two engine aircraft seating over 100 passengers could be extended to January 1, 1986 under certain conditions and, for two engine aircraft seating up to 100, the outside extension date would be January 1, 1988. Again, let me emphasize there are various restrictions on the two engine exemptions, including a requirement that if such an aircraft is sold, it must be brought into compliance by the new owner before it can be operated again.

Further, earlier legislation provided that any aircraft exceeding prescribed noise standards by 5 decibels or less would be deemed in compliance with the standards. The Conference Report includes no such exemption.

We are concerned that section 302 of the Conference Report, regarding aircraft engaged in foreign air transportation, could be subject to interpretations which would impose impossible or unreasonable compliance deadlines on aircraft operators engaged in foreign air commerce. However, we have concluded that the provision is not intended to establish a specific timetable for compliance. Rather, the provision sanctions rulemaking action by the Department to set compliance dates for aircraft engaged in foreign commerce.

As to the budgetary aspects of the Conference Report, there has also been an important shift. Earlier legislation would have authorized $75 million in fiscal year 1980 for certain airport noise compatibility programs. The Conference Report includes no such authorization. Also, while earlier legislation would have added $87 million to the 1980 authorization for air carrier airports, the Conference Report would add only $44 million for that purpose.

Lastly, in reviewing the Conference Report I particularly noted the following statement, made in reference to legislative efforts to relax present noise rules: "This legislation is intended to be the final resolution of this issue, except for extraordinary and unanticipated circumstances." This strong commitment by the Congress to rules which will reduce aircraft noise at its source is very important to me. I believe this commitment will have the significant result of causing those affected to get on with the job of meeting aviation noise rules and providing relief to the millions of Americans who live near airports.

Considering this Congressional commitment, coupled with the significant substantive changes that have been made to this legislation, I would recommend to the President that he sign the bill reported by the Conference.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of this letter for the consideration of the Congress.

Sincerely,

NEIL GOLDSCHMIDT.

JANUARY 29, 1980.

Hon. NEIL GOLDSCHMIDT,
Secretary of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for your letter supporting the conference report on H.R. 2440, the Aviation Safety and Noise Abatement Act.

I greatly appreciate your efforts in helping us to resolve these difficult issues in a mutually acceptable manner. As you know, we went into conference with a wide divergence of views on a number of issues, especially the question of whether the FAA aircraft noise regulations should be modified. In the conference we worked in a spirit of cooperation and accommodation which enabled us to reach a solution acceptable to all but one of the conferees. Our discussions with you were of great assistance in finding this solution, and I particularly appreciate your flexibility and creativity in helping us to accommodate differing points of view. As a result, we have developed a bill which will play an important role in our efforts to reduce aviation noise and promote aviation safety.

Again, my thanks for your support.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

Mr. SNYDER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding.

First of all, I would like to thank the conferees for the work they have done in improving slightly the unacceptable bill that was attempted to be foisted upon us by the other body some months ago. Some weeks ago I objected to the rule governing this report because of the report itself but, even more, because of the manner in which it was brought up by the House. I did not think at that time the House had had a proper opportunity to discuss this before we were asked to vote upon it.

However, this conference report, despite all of the claims of those people who are supporting it, does cause greater problems than presently exist for those people living around airports, because it breaks faith with those people most affected by the noise. It does have extensions on it, although it promises them some long-term relief. I think we ought to recognize that and look at that for what it really does.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, I commend the gentleman for his remarks. I would like to associate myself with those remarks.

Mr. Speaker, the conference report on H.R. 2440 is not an adequate solution to aircraft noise abatement. I strongly urge that it be rejected. While I do want to give credit to the House conferees for their efforts in gaining certain concessions from the Senate conferees, the plain fact is that they are not enough.

I happen to represent a district where people are keenly aware of the problem through sad experience. We have the impact of Baltimore-Washington International Airport and Washington's National Airport. I have been in constant contact with the community associations and people that live near these airports. I can tell you that the problem has become worse over the years.

The State of Maryland too is opposed to the weakened aircraft noise standards that would be prescribed by the conference report. It would allow noise pollution by most two-engine airplanes serving metropolitan airports to continue until 1988. This is intolerable.

We must press for full implementation of the Federal Aviation Administration fleet noise rule and I urge my colleagues to vote against the conference report.

Nobody objects to the presence of air transportation facilities that are an economic boon to our area, but it is very clear to me that aircraft noise can and must be reduced with comprehensive standards strictly enforced.

Failure to reduce aircraft noise levels means not only inconvenience and aggravation for the people affected. It means losses of property value running to billions of dollars nationally.

Mr. Speaker, I have spent literally years attempting to persuade the Federal Aviation Administration to enforce tough standards against noise levels that are hurting my constituents. Other Members of this House have similar problems.

We must not reverse our efforts to solve this difficult pollution problem.

Mr. LUNGREN. I thank the gentlewoman for those comments.

I would like to point out that although the conference report does suggest those people who move into airport areas that are affected by noise will be precluded from suing airports and those entities which operate those airports in the future, the fact of the matter is, it is the people that live around airports right now that are being affected and that are bringing the lawsuits and that, for instance, in the State of California have been given the right to receive money damages. As a result, I believe the cost to the municipalities will be greater if they continue to operate these airports in the coming years when we do allow the extension of the waivers of existing law. As a result, I think we are going to find that there will be greater requests by municipalities for assistance by the Federal Government to bail them out because of lawsuits that will be brought. This is a cost which will be borne directly by the taxpayers of the United States, and we will have to deal with that as Members of the Congress.

If I could sum it up in just a few words, I would say that the difference between this bill and the bill that was brought to us by the other body is merely the difference between rape and seduction. In the previous instance we had a situation where it was an absolutely unacceptable bill that really did not recognize the difficulties existing at the present time. It was an absolute violation of the rights of many people. This conference report is somewhat of an improvement, but it attempts to entice many of us who have complaints, because it gives us some benefit but, in the overall, it is going to really affect in a very deleterious manner those people who live around airports for a significant period of time, and I believe for an unacceptable period of time.

I urge a "no" vote on this conference report.

Mr. ANDERSON of California. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Speaker, I take this time to endorse the conference report and congratulate the committees on the work they have done.

Mr. Speaker, the bill we are considering would amend the authorization levels which were in effect when we enacted the Department of Transportation Appropriation Act for fiscal year 1980 (Public Law 96-131). I believe it would be helpful to discuss the relationship between the funding levels prescribed in the DOT Appropriation Act and the authorization levels contained in H.R. 2440.

Section 302 of the DOT Appropriation Act places an obligation limitation of $640 million on the airport development aid program. In addition, this limitation specifically directs that $30 million of the $640 million is to be added to both air carrier and general aviation discretionary funds. Because these limitations are less than the $667 million authorized in H.R. 2440, it will be necessary for the H.R. 2440 authorizations to be prorated downward. The same percentage reduction would be made for both the general aviation and air carrier authorizations. I would also contemplate that the $30 million in discretionary funds, added by Congress during the appropriations process, would remain available for discretionary purposes.

Mr. ANDERSON of California. Will the gentlemen yield?

Mr. DUNCAN of Oregon. I yield to the gentlemen from California.

Mr. ANDERSON of California. I agree with the statement of the gentleman from Oregon that, if enacted, the airport development amounts contained in H.R. 2440 would have to be prorated downward. In fact, that coincides with points raised during my floor discussion with the chairman of the Subcommittee on Transportation and others on June 28, 1976.

Of course, Congress can authorize expenditures in excess of obligational limitations. If we wish to fund the programs at the levels specified in H.R. 2440, a modification to the Appropriation Act obligation limitation would permit such increased funding. The additional funds could then be used to increase the funding levels which are otherwise reduced on a prorata basis, as described by the gentleman from Oregon.

Mr. DUNCAN of Oregon. I would like to ask the chairman if the conferees intend the authorization maximums, which have been created by H.R. 2440, to supersede the fiscal year 1980 appropriations for these program areas already approved by Congress?

Mr. ANDERSON of California. Not at all. The chairman is making reference to the bill's change in the authorization for "not less than" to "not less than or more than," which applies to airport grants, F. & E., and R. & D. These maximums are prospective authorization ceilings for the funds to be made available for an individual fiscal year. However, they do not, and are not intended to, preclude the Appropriations Committee from making appropriations which include both the maximum authorization for that individual fiscal year plus additional funds authorized, but not expended, in previous years. For example, the F. & E. authorization for fiscal year 1980 is "not less than or more than $250 million." The DOT fiscal year 1980 appropriation for F. & E. is a total of $293 million, which represents $250 million authorized for fiscal year 1980 plus a reappropriation of $43 million available for obligation and expenditure in fiscal year 1980, but which was authorized in previous years.

The law is clear on this point by referencing the authorization maximum for an individual fiscal year, which is not the same as the total appropriation ceiling in a fiscal year that may account for authorizations accumulated from several fiscal years.

The conferees are in complete support of the fiscal year 1980 appropriation levels.

□ 1150

Mr. SNYDER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. WYDLER), my friend—but misguided today.

Mr. WYDLER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I ask the Members to reject this conference report; defeat it; send it back to the conference and let them strike out the part of it that is bad and was not passed by the House. The noise provisions were stuck in by the Senate for the benefit of the few negligent airlines for those few of them that did not want to comply with noise regulations. This part of the conference report is just to bail them out.

Let us not let them get away with this. Let us make them comply just like other airlines have complied with the noise rules and regulations that they have had long warning of, and for which they have the technology available to comply if they want to comply. The only reason they do not do it is because they do not want to do it.

The airlines have been resisting noise reduction for the last 15 years in our country. I have seen it year after year. There are some airlines that are going to stonewall it right to the end. If we give them this extension, they will be back for other extensions as other problems arise for them in the years ahead. Once we start down this road, there is probably no place we can stop.

So, I say that the same people who are now telling us that this is a reasonable compromise were the people who were selling us the last compromise that they now say was not reasonable. The only reason they say this one is reasonable is because they figure it is about as much as they can get for the time being.

The conference report is not good for the American people. It is not fair to the citizens who have to suffer from the jet noise. All we are doing is giving a few of the airlines that made up their minds they were not going to comply and were going to come to the Congress instead and get the Members to just give them more time. It is going to relieve them of the burden that they were given many years ago by the President of the United States with due and adequate warning, that on certain dates they could use existing technology to get their airplanes into compliance with the rules and regulations.

They made up their minds that they would not do that, but throw the problem to us and that we would bail them out. I hope that no Member of the House is going to buy this compromise. It is no better than the last one. It is just a device to give those selfish and negligent airlines, that did not want to give people who object to the noise a form of relief to which they are not entitled.

So, I hope the Members of the House will reject this conference report and send it back, and let them strike out this provision, which is totally unnecessary, in the legislation; and let us get those parts of the legislation which are good for the country enacted. I think if we do that, that we will perform a service to our country. I ask every Member to vote no on the conference report.

Mr. ANDERSON of California. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I would first like to commend our House conferees on the great job they did in conference. They began facing a horrendous Senate bill and won a compromise more than half way. If today's vote were a vote between what went into conference and what came out of conference, I would be urging my colleagues to vote for the conference report.

That is not, however, what today's vote is all about. Today we face the choice between passing and rejecting the conference report. That means we face the choice of whether to stick with the existing jet noise rules or to allow them to be delayed and diluted by this conference report.

There are a wide variety of provisions in this conference report, some good and some bad. But the main purpose of this particular bill is to roll back noise standards for jet aircraft. Other provisions in this bill which may be desirable can be or already are included in other legislation.

The central provision is section 304, which delays the compliance deadlines for two-engine jets. Existing standards for two-engine jets were promulgated late in 1976 and set a deadline of only 1983. In other words the airlines had over 6 years to bring their two-engine fleets into compliance. Now halfway through that period, this legislation comes along and would change the rules of the game by allowing over half the two-engine fleet a delay of 5 extra years and the other two-engines a delay of 2 extra years. That can only mean more noise over a longer period of time from the two-engine fleet.

And the two-engine fleet is a significant part of our national noise problem. They account for 32 percent of our noncomplying fleet and for 41 percent of U.S. landings and takeoffs. They are just as noisy as a noncomplying 727 on approach, which is where the noise impact is greatest.

It has been suggested that the rollback of noise compliance standards for the two-engine jets is somehow a "small community service exemption." To hold out the promise to those concerned about the serious problems of small community service that this provision will in any way help solve their problems would be a cruel hoax. I would point out to my colleagues that the only place section 304 mentions small community service is in the title of that section. One of our House conferees in fact tried to put a requirement into this section, that in order to receive the noise exemption a carrier would actually have to keep that aircraft in small community service for a specified portion of its operations. But the conference completely rejected that.

There is nothing in this conference report which would prevent an airline from taking its 5-year exemption for a two-engine jet and then never once flying it to a small community. There is no small community service incentive whatsoever in this bill. Airlines will continue to put their aircraft on routes where they can get the most return, just as they have in the last several years, whether or not we require those aircraft to comply with the noise standards.

There may be some feeling that two-engine jets fly mostly to small communities where noise is not a problem. That is simply not true. In fact, 66 percent of all two-engine takeoffs and landings are at large- and medium-hub airports, which represent only the largest 14 percent of U.S. air carrier airports. And let us look at some of the most noise-impacted airports in the country: at La Guardia Airport about 34 percent of jet operations are two-engine; at Logan Airport that figure is about 32 percent; at Atlanta it is over 40 percent; at San Jose it is about 38 percent.

The argument has been made that the new technology provision, section 303, will cause noise impact reductions greater than the noise increases resulting from the two-engine exemptions. That argument is based, however, on the highly unlikely assumption that the mere existence of section 303 will cause airlines to purchase large numbers of new technology aircraft which they would not have otherwise purchased. The truth of the matter is that airlines buy new aircraft when three conditions are met:

First. When the new aircraft offer significant improvements in productivity;

Second. When new aircraft are available which are properly sized for the airline's routes; and

Third. When capital is available.

When those three conditions are met, the airline is going to purchase a new aircraft, with or without enactment of section 303. And when one or more of those conditions are not met, section 303 will not change that fact and will not result in the purchase of a new aircraft. I am in favor of new technology aircraft and I have nothing against section 303. But we have to face the fact that it will provide very little new incentive for new aircraft purchases over what already exists. What section 303 offers as incentive is possible avoidance of retrofit costs in return for a decision to buy a new technology replacement aircraft. But the cost avoidance we are offering is only 1 percent or less of the cost of the replacement aircraft. That is not going to swing many decisions.

The bottom line on this conference report is that the negative impacts of the two-engine noise compliance rollback will far outweigh the positive effects of the new technology waiver. The net effect of passing this legislation will be more noise impact over a longer period of time.

The FAA has recently forecast a 25-percent increase in the number of jet operations at U.S. airports during this decade. There will be more than enough of a growing noise problem in the coming years without our voting to further rollback noise standards. We should not be contributing further to the problem.

This conference report is definitely better than the Senate bill, but it is still worse than what would exist if we defeat it. Three key criticisms of the Senate bill remain true of the conference report:

It is still inequitable to those airlines who have made good faith efforts to comply with the noise standards and it still rewards those who have been dragging their feet;

It is still a complex and controversial piece of legislation which has not been considered by this House and which has not had the benefit of public hearings on either side of the 96th Congress; and

It is above all else a bill that will increase jet noise impact.

I urge you to vote "no."

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to my colleague from California.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman for yielding to me, and I compliment him on his statement. I urge a "no" vote on the conference report.

Mr. Speaker, today marks the first time in this Congress, that the House will be considering relaxing Federal noise abatement standards for jet planes. We will also be considering for the first time a provision which will "regulate the access to public areas" by restricting solicitation of funds at airports by religious and and other nonprofit groups. I oppose both of these provisions in this bill and urge all my colleagues to consider the liberties and health of our country by joining me in opposing it.

Congressman Norman Mineta and I represent the area where San Jose Municipal Airport is located. Ninety-five percent of its traffic is with two- and three-engine planes. I would like to take this time to praise Mr. Mineta for his hard work to defeat this conference report. Both Congressman Mineta and I know that rolling back the current deadlines for two-engine jets, until January 1, 1988, would set off a frenzy in the San Jose area. To continue with the nerve racking noise situation at San Jose Municipal for local residents is totally unacceptable. Every city has its noise pollution problems. We have all read about scientific studies which have tested animals under the exposure of high decibel levels of noise. By intensifying and continuing with these noise levels will increase a variety of abnormal emotional, mental, and psychological behaviors.

Supporters of the bill say that most two-engine jets are owned by regional airlines and that forcing these airlines to bear the extra costs will only cut back service to small communities. That is not an acceptable response. If that is the price we as legislators must ask the public to pay, then let us pay it. All environmental improvements have their costs. It is absurd to sacrifice the emotional and physical health of our local communities for the luxury of extra airplane service. We have just entered the 1980's, so let us send out a message to every community that Congress wants to improve their neighborhood, by reducing pollution.

Section 501 of the bill would empower the Administrator of the FAA to require permits for religious and nonprofit groups who solicit contributions or distribute literature in FAA-operated airports. This provision poses serious constitutional problems. Members of religious groups and nonprofit organizations are protected by the first amendment, whether we approve of the views they espouse or not. Constitutional law is clear in stating that any regulation of the time, place or manner of the activities of such groups can only be as broad as necessary to fulfill a compelling goal. No compelling goal has been demonstrated in this instance; the section was added to this legislation without any hearings being held to determine the necessity or desirability of including such a provision.

In addition the effect of this provision would be selectively felt. While it would regulate the activities of religious or nonprofit groups in Federal airports, it would not affect political or commercial groups. Such selective requirements and regulation are clearly unconstitutional.

Aside from anyone's feelings on the merits of the rest of this bill, I believe that this provision alone is sufficient to cause our rejection of this conference report. I hope that my colleagues will agree that this onerous provision has no place in this legislation.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, I want to join the gentleman in his remarks. I think this is nothing more than a proposal to reward those airlines that do not comply.

Mr. Speaker, probably every Member of this House regularly uses Washington National Airport. As a representative of thousands of northern Virginians who live beneath your flight paths, I urge you to reject the most recent incarnation of H.R. 2440, which in spite of all its revisions, still waives important air noise reduction standards.

Do not be fooled. H.R. 2440 will prolong the serious health impact and economic burden on my constituents and on millions of Americans who live near airports.

Numerous studies have documented the effect on health, and particularly hearing, that long-term exposure to airplane noise can have. These studies have also revealed high levels of stress and tension among airport area residents subject to earsplitting overflights. Public health demands strict adherence to noise reduction standards.

The technology to meet these standards is available and affordable. Some responsible airlines have already made the nominal investment in public health, and have significantly reduced the noise output of their fleets.

But by the terms of the conference report, other airlines who have deliberately avoided the nominal cost of noise reduction could escape the standards, and escape their responsibilities as corporate citizens. Two-engine aircraft with more than 100 seats could be exempt from noise reduction requirements until 1986. Three-engine aircraft could be exempt until 1985. And two-engine planes with less than 100 seats could avoid the standards until 1988.

The conference report makes it possible for the planes that cause 70 percent of the noise to escape noise reduction standards. But it makes no provision for my constitutents to escape the noise, or its harmful effects.

H.R. 2440, as it is now written, also represents a waiver of the legislative process. This House has never approved or even debated legislation altering air noise standards.

When we considered the "real" H.R. 2440, it was a bill authorizing $10 million for airport improvements. I joined with the vast majority of the House in supporting that legislation.

Airport development funds are still in the bill, along with some other worthwhile provisions I could support. But I must oppose this attempt to cover the onerous provisions of the new H.R. 2440 with a few good sections.

A basic objection to this legislation remains that the House has never before considered a waiver of air noise standards. We are presented here with a fait accompli in the form of a nonamendable conference report dealing with major health and transportation policy. The integrity of the legislative process, and of a cooperative, two-House Congress, demands rejection.

Before your next flight over my constituents, I urge you to make an important contribution to the reduction of the intolerable noise burden they and millions of other Americans endure. I urge you to reject the conference report on H.R. 2440 and preserve air noise reduction schedules now in effect.

Mr. SNYDER. Mr. Speaker, I yield 3 minutes to the son of the signer of the report, the gentleman from California (Mr. GOLDWATER).

☐ 1200

Mr. GOLDWATER. Mr. Speaker, wisdom often rests in the House, not in the other body.

Mr. Speaker, the major problem with this conference report is section 304, which significantly delays and weakens existing FAA noise regulations for two-engine jet airliners. Two-engine jet aircraft currently make up 32 percent of the noncomplying fleet. Their percentage of takeoffs and landings, and, therefore, their percentage of noise, is greater than 32 percent, since they generally make many very short trips instead of a few long ones. For example, at Atlanta Airport they account for 41 percent of the takeoffs and landings.

Although section 304 is entitled "Small community service exemption," there is no requirement that these noncomplying aircraft be used in small communities. In fact, most of these aircraft fly half or more of their flights to large cities with serious noise problems.

The only problem I have with this whole approach to noise is with regard to repercussions of a mandated rollback of noise regulations. The 6 million citizens of this country who are heavily impacted by noise at our airports have been counting on the benefits of the FAA fleet noise rule since it was promulgated in 1976. If Congress now grants exemptions to negate this Federal rule, it is very clear that these citizens will turn to their local governments to solve the problems which the Federal Government continues to ignore.

Recent court decisions have ruled that a community may establish its own noise regulations at an airport it owns and operates. In fact, a recent court decision in California for the first time made an award finding Los Angeles International Airport liable for mental anguish and nuisance. This opens a Pandora's box for further regulation at the local level and a constriction of air commerce.

Mr. Speaker, not only does this bill weaken existing regulations in FAR 36, but it also places a greater burden on the local government. I feel that now is the time when the Federal Government with FAA leadership should be stepping very forcefully into this whole question of noise. We are seeing an increase in the use of the airways and an increase in the traffic density at our hubs, and there is an increase in noise as a result of it.

Many airport operators have stated that a weakening of Federal noise standards would result in a series of local, uncoordinated noise regulations and operational restrictions at numerous airports. This would obviously be to the detriment of an efficient, standardized national air transportation system. The ultimate cost to the airlines of many local, nonuniform airport operational restrictions will be greater than the cost to comply with the fleet noise rule. This cost will certainly be unfair to the carriers who heeded the 1976 rule and laid out substantial sums of money to insure that their fleets will comply by the specified date. These aircraft, too, would be bound by the local operational restrictions.

Mr. Speaker, I am going to vote against this bill, although I do recognize it is a great improvement over what originally came out of the Public Works Committee and certainly what came out of the other body.

Mr. ANDERSON of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. AMBRO).

Mr. AMBRO. Mr. Speaker, I have never appreciated my friend, the gentleman from New York (Mr. WYDLER), more than when his own colleagues on the minority side said that he was misguided. And I must tell the Members that I subscribe, for the most part, to his comments and to the remarks of our colleagues, the gentleman from California (Mr. LUNGREN), except to disagree with him when he says that this is the difference between rape and seduction; this is not; this is the difference between multiple rape and rape. It is unfortunate that time and tide around here have a way of making purple become yellow, bad become good, and no become yes.

Consider that over the ensuing weeks between the time of the adoption of the rule which was passed by three votes and today, we have been bombarded by a lot of nonsense from self-interest groups who tell us that this outrageous piece of nonsense is a good bill. In the 2 minutes given me it is difficult to rebut but separate the ADAP portion from this bill and let us concede that that portion is all right and let us just talk about the noise portion. The proponents tell us that the bill will encourage the production and purchase of the quietest aircraft within the new extended time frames. That is nonsense. The two noisiest aircraft in our fleet, two-engine jet DC-9 and the BAC-111, cannot be replaced. The fact of the matter is that there are no new planes in production or even on the drawing board that would replace those two now in service. From the moment of the prototype, design, manufacture, and introduction to scheduled service of an aircraft there is a 5-year leadtime. This means that not only will he not have compliance within the period called for in the existing Federal Aviation Regulation 36 in 2 years, we will most assuredly not have compliance even in the next 5 years, more like 8 years.

The proponents, as we have heard, have said that diminishing aircraft noise, which is what FAR 36 does, will cause a decrease in service to small communities. Nonsense. The decrease in service is the result of the carriers' demanding more lucrative routes. That is the only reason why they are pulling out, and under deregulation, which is vaunted around here as a great piece of legislation has instead resulted in making a wasteland of small and medium hubs. So this is a bill that is an outrage. Not only because it comes before this House through a procedural subterfuge, having been tacked on to a most needed and noncontroversial aviation development bill but because, since this is now a conference report, it denies us the opportunity to adequately debate, amend, modify, revise or change a single word. If someone offers a motion to recommit with instructions to take out the noise portion, we should vote for it and if not or should vote against the bill if we have any concern for millions of Americans who are adversely impacted by aircraft noise.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. Porter).

Mr. PORTER. Mr. Speaker, the merits of H.R. 2440 as presented by the conference committee are so thin as to warrant its rejection on that basis alone, and I will address those arguments shortly. But the procedural aspects of this conference report deserve particular attention and particular condemnation and whether the merits are appealing or not, every Member should reject the report because of how the matter comes before this legislative body.

Mr. Speaker, I have never considered or heard testimony or debate on this matter. But that is not because I was just sworn in as a Member of Congress a week ago. Neither you, Mr. Speaker, nor any other Member of the House has considered it either. It has, in fact, never been before the House at all. The innocuous bill on airport development that left this Chamber earlier in the session has come back in entirely new clothes. And they are ugly, out-of-style clothes indeed. Because what the bill now does, in addition to addressing some aspects of airport development, is to undo almost 11 years of effort to curb aircraft noise. The changes now before us for the first time come without benefit of hearings, discussion, debate, amendment, or any other of the protections and procedures of a deliberative legislative body.

This is not legislating. This is not deliberating. This is a naked attempt to circumvent the legislative process to serve the interests not of all the people of our country, but of a segment of a particular industry. And it is wrong. I urge each Member who cares about the integrity of our democratic system to reject this shell game.

The merits, of course, lead to the same conclusion. Eleven years ago, in 1969, the Congress authorized noise standards for commercial aircraft. The standards were to come into effect over a 16-year period, until 1985. The airline industry has had years and years to comply. Now, at the eleventh hour, the rules are proposed to be changed, so that 70 percent of the fleet can continue to bombard our ears with the cocaphony that jitters the nerves and impairs the hearing of our citizens.

The argument is made that somehow a waiver of noise standards for two- and three-engine aircraft will lead to greater noise abatement. What nonsense. The technology to meet present standards is available and affordable. Retrofitting of aircraft not in compliance should go forward at once and this conference report rejected. Our commitment to those who live in and about our major airports, our commitment to the quality of life, and our commitment to the integrity of the legislative process should not be allowed to be weakened.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. Gingrich).

Mr. GINGRICH. I appreciate my colleague's yielding.

Mr. Speaker, let me just say that while this conference report is not as disastrous as it was, it currently only alerts neighborhoods to protect themselves because we are failing to do so. It breaks our bond with complying airlines. It is a major step toward, I think, the disintegration of our national airline policy. The legal implications of neighborhood control are ominous. This bill tells airport neighbors they have been very patient and to drop their patience because we will not protect them. It says to industry, in the future if we pass a bill you do not like, do not make the wise, patriotic decision to obey the law. Instead invest your resources in changing the law. I think that is a fundamental disaster for this Congress.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the full Committee on Public Works and Transportation, the gentleman from Ohio (Mr. Harsha).

Mr. HARSHA. Mr. Speaker, I urge my colleagues to approve the conference report on the Aviation Safety and Noise Abatement Act of 1979, H.R. 2440. This bill recognizes that aircraft noise must be reduced, but at the same time assures that incentives will be provided for airlines to purchase quieter, new technology aircraft, and, most importantly, continue to serve the Nation's small communities. This is not a bailout to some airlines as some would have you believe. All airlines will have to comply with these deadlines. We are trying to find a workable solution that will neither force the airlines into bankruptcy nor force them to deprive small communities of the vital service that they need. They all will have to comply sooner or later. We provided incentives in this legislation to encourage the airline operators to purchase aircraft that are even less noisy than the FAA rule requires.

I would like to discuss the controversial part of this legislation for just a moment, Mr. Speaker, the issue of extending existing noise compliance deadlines. As we have heard from the gentleman from Kentucky, extensions which were finally included in the conference bill make no change in existing FAA regulations insofar as they apply to four-engine aircraft, and they make those requirements even stronger where they apply to three-engine aircraft. These account for 68 percent of the noncomplying airline fleet. In those limited areas in which the conference bill does extend the compliances, it does not do away with the regulation but merely extends the compliance date for a reasonable period of time. This only applies to two-engine aircraft. These extensions have been carefully structured so as to assure the continuation of small community service while encouraging the airlines to purchase the quietest, cleanest, and most energy-efficient aircraft available under present technology. Rather than constituting a significant rollback of FAA regulations, the conference bill serves to strengthen weaknesses in existing regulations while recognizing that the goal of long-term noise reduction will not be served by a wholesale retrofitting of the entire fleet.

I know that many Members are interested in retaining certificated air service in small communities which also benefit from this legislation. As a matter of fact, many of you have introduced bills already because of the Airline Deregulation Act where the small community service has already been curtailed, but had we not made the modest extensions of time in this legislation, more small communities would be denied service. We want the small communities to continue to have this vitally needed service.

The airlines have said that if they were forced to retrofit their two-engine fleet to comply with the existing regulations, that is, to comply with the dates of the existing regulations, some aircraft would be simply retired from the fleet rather than retrofitted at a cost of about $250,000 per aircraft. Certainly, airline managements faced with the prospect of retrofitting an airplane nearing the latter part of its useful life and used primarily in low-profit small community routes would have to consider whether to retain these aircraft in their fleet. In addition to the cost of retrofitting, the carrier will also have to consider the increased fuel consumption associated with adding the weight of a retrofit kit to an airplane. As a matter of fact, it has been estimated that if the entire two- and three-engine fleet were retrofitted, the airlines would be forced to use an extra 12 million gallons of fuel annually.

□ 1210

If we were to add to the skyrocketing increases in the cost of fuel, it becomes readily apparent that the airlines would retire many of these two-engine planes thereby depriving small communities of viable service.

Mr. Speaker, the conferees in both the House and the Senate deliberated many hours before agreeing on compromise language which was acceptable not only to the administration but to the entire aviation community. I believe this legislation achieves some important goals by encouraging local communities to do all that they can to reduce aircraft noise while stimulating the airlines to buy newer, quieter and more fuel-efficient aircraft.

The bill not only recognizes the importance of small community service but also assures that at least for fiscal year 1980, adequate funds will be available to do those projects necessary to increase system capacity while maintaining the highest degree of safety in air transportation.

For the foregoing reasons, Mr. Speaker, I urge my colleagues to support the conference report. I reserve the balance of my time.

Mr. ANDERSON of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Ms. Ferraro).

Ms. FERRARO. Mr. Speaker, we have all seen some version of the perils of Pauline. There she lies upon the railroad tracks as a train comes looming down upon her. We watch in close anticipation, but we all know that Pauline will be saved. This noise bill reminds me of that same situation. Except in this case, it is Geraldine upon the runway as the airplanes rush down upon her. Unlike Pauline, I have no great confidence in my being saved. On the contrary, if this conference report is approved, if this bill is made law, Geraldine and 6 million Americans who live near airports will have been run over by noisy airplanes.

I have two very basic objections to this bill. The first is the way it has been rammed through on its legislative way to the floor. The second is that on its merits it is poor legislation.

For the benefit of my many colleagues who still do not understand how this bill came into being, let me assure you that you are not alone. For openers, there have been no public hearings—repeat, none—on the noise abatement provisions of this bill in either House of the 96th Congress. The House Subcommittee on Aviation held hearings and markup on H.R. 3942, the Aviation and Safety Noise Reduction Act of 1979, and that bill was reported out of the full Public Works Committee before dying in Rules. But the approach adopted in that bill was totally different from that taken in the Senate provisions which have been incorporated into H.R. 2440.

In the Senate, Chairman CANNON based the Senate provisions on hearings held in the 95th Congress. After all, how much can things have changed in a couple of years since airline deregulation.

H.R. 2440's roller-coaster legislative history is probably familiar to most of you by now. For the rest of you, let me recap some of the highlights.

H.R. 2440 passed the House, by a voice vote, under suspension, on October 22, 1979. At that point it was an innocuous little bill on airport development. During the conference with the Senate, however, the legislation was transformed into a loud and ugly bill aimed at gutting FAA regulations on airport noise. The protest against the conference report could be heard even above the din of jets flying overhead into Washington National Airport, so the conferees reconvened, and made some changes.

The conference report was brought to the floor at the end of the first session, and its supporters sought unanimous consent to waive the 3-day layover rule on conference reports. Objection was heard, so the sponsors went to Rules, pleaded urgency, and brought the bill back to the floor with a rule waiving the layover period. When the rule passed by only three votes, the bill's supporters pulled the bill from the floor, to try yet another day.

Well, folks, yet another day is here, and the important thing is not how shoddy the legislative process has been, but what a predictably poor bill has been produced. Let me quickly review some background on aviation noise legislation and regulations.

The first attempt to deal with aviation noise pollution through Federal legislation was the Aircraft Noise Abatement Act of 1968, which gave the FAA the authority to regulate aircraft noise. In 1976, regulations were issued which require all jets in the U.S. fleet to meet minimum noise standards in stages by 1985.

Under this program, 50 percent of wide-bodied four-engine aircraft and 50 percent of all two- and three-engine aircraft must be in compliance by January 1, 1981. The remaining 50 percent of these aircraft must be in compliance by January 1, 1983. For four-engine, narrow-bodied aircraft, the schedule is 25 percent compliance by January 1, 1981, an additional 25 percent compliance by 1983, and compliance for the final 50 percent by January 1, 1985. Aircraft can be brought into compliance through retrofitting or re-engining, or be retired from the fleet by January 1, 1985. The FAA regulations provide that the 1981 and 1983 compliance dates may be extended if a carrier has submitted a plan for replacement of noncomplying aircraft, as long as the new aircraft is to be delivered no later than January 1, 1985.

These regulations attempted to improve the quality of life for the more than 6 million American citizens who live on the fringes of our Nation's large airports. They also gave the airlines plenty of leadtime to retrofit or replace their planes. Well now, these 6 million people have been patient and though they wanted immediate relief, they agreed to wait for the deadline dates to take effect.

Unfortunately, not all interested parties are being as reasonable. As the deadline dates get close, we find the airlines unwilling to keep their end of the bargain.

The proposed extensions of the deadlines for meeting noise reduction standards are being justified on the basis of costs to the airlines of compliance. But when we allow the airlines to delay reduction of noise levels, we also sentence my constituents and the 6 million other Americans who live near airports, to that much longer exposure to noise levels that have been proven to be damaging to their health. When we ask ourselves, "What can we fairly and reasonably demand of the airlines in terms of how soon we force them to reduce noise levels," we must also ask ourselves the other side of that question; namely, "What can we fairly and reasonably expose our constituents to in the way of continued hazardous noise levels?"

I want to address myself to the comments of my colleague from Kentucky.

In 1978, Congress deregulated the domestic airline industry. It was done to promote competition—to get the Government out of the business of regulating to allow the industry to exercise the basic principles of free enterprise. While it is true that some communities have lost air service since deregulation, it is not because of the issue over noise, but simply because it is more lucrative for airlines to operate out of the bigger population centers. Now the bill we are considering today will waive established noise compliance standards for two-engine, narrow-body jet aircraft so that we can induce the airlines to promote air service to smaller communities. The fact is, quite simply, that we around the large airports are being made to suffer because of deregulation. My colleague from Kentucky says we will be better off without them rather than FAR–36; 34.5 percent of the aircraft that service LaGuardia airport are narrow body, two-engine jet aircraft. Narrow body, two-engine jet aircraft also represent 10 percent of the traffic at JFK International and 32 percent of the traffic at Newark International. So the issue is more than small community air service, because these same jets also fly into our Nation's biggest and busiest airports—62,594 flight operations per year at the New York metropolitan airports. The point is that we are allowing the airlines to force us into noisy airplanes with threats of reduced service to small communities, a problem caused by deregulating the industry for their benefit.

Now do not tell me that you can not hear the difference between a two-engine airplane that has been retrofitted and one that has not. Let me tell you that in my district, the Lexington School for the Deaf has advised me that airport noise and its environmental pollution are having adverse effects upon the deaf. You need not hear a difference. You can feel it, when you have such volume of flights. I would ask unanimous consent at this point to include the Lexington School for the Deaf's letter in my remarks.

There is substantial noise impact involved if we approve this conference report. In testimony before the 95th Congress, the Port Authority of New York-New Jersey testified that FAR–36 would reduce the number of people in the noise impact areas around Kennedy and La Guardia Airports by about one-half. The port authority has stated that H.R. 2440 invalidates those estimates.

Finally, I have been told this is a good compromise. I feel, quite simply, there is no need for a compromise at all. The airlines have been winners in the 96th Congress on more than one occasion. They defeated the age 60 pilots bill because it would have cost them money to retain experienced pilots past the age limit. They have, in addition to domestic deregulation, a bill in conference calling for international deregulation and fuel passalong. Today's legislation is just another bill that will add to their profits at the expense of the consumer.

We are concerned with airport development, but we cannot allow this noise provision to slip by. If you look at the record, we have been pretty good to the airlines. This is one time we should say "No." I urge that you defeat this conference report. I urge defeat of the bill. I urge retention of the current FAA regulations so that my people can live in peace and quiet.

LEXINGTON SCHOOL FOR THE DEAF,
June 12, 1979.

Hon. THOMAS P. O'NEILL,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: The Lexington School for the Deaf is located in the Ninth Congressional District of New York, adjacent to a large metropolitan airport, LaGuardia. Geographic proximity, as well as our work with people with hearing impairments, have made us keenly aware of the problems associated with airport noise.

People exposed to noise levels over 85 decibels for a period of time are known to suffer a temporary threshold shift in hearing. These persons need to have at least 14 hours of non-exposure time. In our Hearing and Speech Center we provide a Hearing Conservation Program in order to prevent ongoing progressive loss because of such work exposure.

Recent research also documents the effects of airport noise on individuals in communities near the airport. These include hearing loss for susceptible persons, tinnitus, and somatic illnesses.

At the Lexington School for the Deaf, we are sufficiently protected against airport noise while indoors. However, outdoor activities must halt during periods of airplane noise and students have to turn their hearing aids off. Oral conversation stops for a minute or two as planes descend in their flight path. Thus, environmental noise has well-documented deleterious effects on hearing sensitivity and should be reduced rather than escalated.

Please do not support H.R. 3942, the Aviation Safety and Noise Reduction Act which, despite its title, allows for a greater degree of latitude for airlines to comply with noise standards.

Thank you for your cooperation.

Sincerely yours,

Leo E. Connor,
Executive Director.

[The Port Authority of New York and New Jersey]

Release—January 17, 1980

The enclosed letter, urging defeat of the present bill as drafted by the House Senate Noise Conference, was sent to all members of Congress today by Alan Sagner, Chairman of The Port Authority of New York and New Jersey. In addition, the Chairman sent a Port Authority analysis of the Conference Committee report.

The Port Authority of N.Y. & N.J.,
New York, N.Y., January 16, 1980.

To all members of Congress:

Thanks to the effort of many parties, significant concessions have been won in the House-Senate noise bill conference. They are not enough.

Full implementation of the present Federal Aviation Administration/Department of Transportation fleet noise rule still represents a distinct advantage over the proposed legislation in terms of quiet to our communities.

As now written, the bill could allow the continued operation of most two-engine aircraft into metropolitan airports until 1988. This is bad news for airport neighbors around LaGuardia and Newark International where there is a heavy concentration of these aircraft.

The conference report urging the FAA to consider exempting four-engine aircraft when retrofit or replacement would cause hardship for "smaller" carriers is a threat to anticipated noise improvement around Kennedy International and Newark International.

The Port Authority continues to oppose the legislation. Our Aviation Department has prepared the enclosed analysis of the legislation's impact around the New York/New Jersey airports. It speaks for itself.

We urge you to work for the defeat of this still-retrograde measure.

Sincerely,

Alan Sagner,
Chairman.

Analysis of the Conference Committee Report Covering Fleet Noise Rule Change

FOUR-ENGINE AIRCRAFT

In that the proposed measure legislates the commencement of FAA rulemaking requiring aircraft in international service to meet FAR 36 schedules at a phased rate of compliance comparable to domestic carriers, it represents a gain since the fleet noise regulation merely indicated that it was the government's intention to take action.

However, the advantage is undermined by language—not in the legislation—but in the conference report giving guidance to the FAA in determining compliancce. It states: "In evaluating carrier compliance with the four-engine requirements of FAR 36, the FAA is urged to give consideration to hardship situations involving smaller carriers where the carrier is making a good faith compliance effort but needed technology is either delayed or unavailable and rigid adherence to compliance deadlines could work financial havoc and deprive the public of valuable airline service."

This would permit the FAA to bypass interim (1981, 1983) and end-date (1985) deadlines for carriers that are viewed as "smaller" in the name of Congressional intent. Since an international carrier deadline would be similar to the deadline for domestic four-engine aircraft operators, it is clear that all "smaller" carriers operating four-engine equipment could seek waiver authority from the Secretary of Transportation.

THREE-ENGINE AIRCRAFT

Under the present regulation half the three-engine fleet must meet FAR 36 by 1981, the remainder by 1983. However, if, "under an approved plan," Stage III "quiet" replacement aircraft were ordered and scheduled for delivery by 1985, the non-conforming aircraft would continue to be flown until its replacement was on line. The legislation carries forward this provision.

The diluting element here is a "trade-off" section that allows for leniency in qualifying aircraft as FAR 36–complying. (Aircraft must not exceed specified take off, landing and sideline limits, according to weight, to be noise certificated.) Apparently 41 American Airlines' 727's and approximately 100 other 727's spread among other carriers in the fleet can be outfitted with a kit, at a cost of $40 thousand per aircraft, which would qualify them under the trade-off interpretation. It must be acknowledged, however, that from a noise definition point of view these aircraft, if outfitted with the $40 thousand kit, will be identical to those B–727's which were qualified as FAR 36 under trade-off provisions permitted prior to the fleet noise regulation. Aircraft service to any of our three ariports by any of these aircraft would be marked by slightly higher landing noise levels than 727's complying with FAR 36 without trade-offs.

TWO-ENGINE AIRCRAFT

Two-engine aircraft, which under the regulation had to meet the same '81–'83 schedules for "two- and three-engine" aircraft, are now bound by provisions that include a "Small Community Service Exemption." The requirements are:

Two-engine jets with 100 seats or fewer will be exempt until January 1, 1988, unless they are sold by the present owner after January 1, 1985, the present compliance date.

Two-engine jets with more than 100 seats will be exempt until January 1, 1985, unless sold after January 1, 1983.

Airline operators may continue to fly any two-engine jet until January 1, 1986 if they have ordered now, complying aircraft by the existing compliance date of January 1, 1983.

The seating configuration as at December 1, 1979 is to be controlling except that the Secretary of Transportation is given latitude to accept, in individual cases, to fix on a seating configuration that existed at an earlier time. Over half of the 136,000 two-engine movements to and from our three airports (comprising 9.6 percent of KIA's total, 34.5 percent of LGA's and 32 percent of NIA's) in the first six months of 1979 were conducted by aircraft with 100 seats or less. With the latitude granted the Secretary, the way is paved for most (if not all) of the present fleet of two-engine aircraft to continue to fly into each of our three facilities until January 1, 1988—some five years beyond the present deadline.

NOISE IMPACT

In testimony for Congress last year, we said that a FAR 36 fleet at LaGuardia by 1983 (composed of a mix of retrofitted and replacement aircraft) would reduce the number of people in the noise affected areas identified by FAA noise contours by about one-half. We indicated that these residents (including some 30 percent who fall into the category of "highly annoyed") should experience a significant reduction in their feelings of disturbance. We expected by 1985 that the number of people in the noise impact area around Kennedy would also be reduced by approximately one-half, with the number of people in the severe noise impact zone reduced to one-third of their present number. We anticipated corresponding noise benefits at Newark International.

With the loopholes in the compliance schedules that the compromise legislation permits, these assessments no longer hold. In the case of LaGuardia and Newark approximately one-third of their operations could possibly continue to be non-FAR 36 aircraft up until 1988. The areas disadvantaged most would be those overflown by landing aircraft.

The two- and three-engine exemptions have a lesser effect at Kennedy where they constitute a lower percentage of movements and where the four-engine aircraft are the dominant source of noise exposure to the surrounding environment. Here the opening permitting "smaller" carriers to continue to operate up to and through the 1985 deadline represents a potentially major departure from the degree of benefit that would prevail under an FAA regulation requiring "a phased rate of compliance comparable to domestic carriers." This disbenefit would also apply to Newark where a significant portion of the operations are and will continue to be four-engine.

While soaring fuel costs may speed attrition of present noisy, fuel-inefficient aircraft and perhaps offset the leeway that the legislation permits, it is likely that the conference measure will significantly set back the timing and magnitude of noise improvement anticipated around the Port Authority airports in the 1980's as compared with the fleet noise rule which has been in place since late 1976. Thus, although the conference report is a vast improvement over the Cannon bill it does have the effect of substantially diluting the fleet noise rule deadlines.

A detailed breakdown prepared by Aviation Economics of the two-engine fleet, by carrier and aircraft seating, as well as related footnotes, is attached.

Also attached is a chart comparing the Fleet Noise Rule, Cannon Bill and the legislation that emerged from the House-Senate Conference.

(1) Aircraft are available for sale. Carrier plans a general phase-out, replacing aircraft with DC–9's.

(2) Aircraft are gradually being replaced by 727–200 advanced aircraft on NY-Canada routes. Former seating was 90–94.

(3) Ten DC–9–30's formerly operated on shuttle services at 107 seats.

(4) Delta has ordered retrofit kits for 44 aircraft, but aircraft are to be sold or phased out at a rate of about six per year.

(5) Four of Piedmont's 737–200's meet FAR 36.

(6) Five of Air Florida's 737–200's meet FAR 36.

(7) Two of UAL's 737's reportedly meet FAR 36, but twenty aircraft are slated for disposal this year. Seating had been 93 prior to recent increase.

(8) TWA's DC–9–10's are being sold off. Five have recently been sold and the remainder (8) will be disposed of as new 727–200's are delivered.

(9) EAL replacing DC–9–10's with 727–200's.

2-ENGINE JET AIRCRAFT OPERATED AT PORT AUTHORITY AIRPORTS (EXCLUDING DC-9-50 AND A-300B)

Aircraft type	Airline	Seats	Number of aircraft	1978 regional departures
BAC-111	U.S. Air	74	31	10,814 (1)
DC-9-30	Air Canada	101	43	4,070 (2)
DC-9-30	Eastern	97	58	20,203 (3)
DC-9-30	Delta	88	44	3,112 (4)
DC-9-30	U.S. Air	100	41	8,484
737-200	Piedmont	94	31	4,096 (5)
737-200	Air Florida	115	14	NA (6)
737-200	United	103	59	8,628 (7)
DC-9-10	TWA	83	8	4,323 (8)
DC-9-10	Republic	75	20	1,243
DC-9-10	Ozark	80	7	105
DC-9-30	Republic	100	27	1,441
DC-9-30	Air Jamaica	96	1	10
DC-9-30	Ozark	100	26	579
DC-9-10	Eastern	67	7	1,148 (9)
Total			417	[1] 68,256

[1] 21.7 percent of total.

FAR 36 COMPLIANCE

Aircraft	FAA Fleet Noise Rule—12/76	Cannon bill 11/79 title III (part of H.R. 2440 before conference)	House-Senate conference report—12/79
Domestic 2-engine (i.e., DC-9, BAC-111, B737).	50 percent—1981, 100 percent—1983 except that they can continue operate until stage III replacement is delivered if not later than 1985.	Exempted all 2-engine aircraft permanently if within 5dB of any FAR 36 certification point limit. (Interpreted to exempt all 2-engine aircraft with possible exception of BAC-111's.) Permitted DOT Secretary to issue "non-public interest" (good cause) waivers.	Airline operators may continue to fly any 2-engine jet until Jan. 1, 1986, if they have ordered new, complying aircraft by the existing compliance date of Jan. 1, 1983. 2-engine jets with 100 seats [1] or fewer will be exempt until Jan. 1, 1988, unless they are sold by the present owner after Jan. 1, 1983, the present 100 percent compliance date. 2-engine jets with more than 100 seats [1] will be exempt until Jan. 1, 1985.
Domestic 3-engine (i.e., 727).	Same as above	Exempted all 3-engine aircraft permanently if within 5dB of any FAR 36 certification point limit. (Interpreted to permanently exempt all 727's.) Permitted DOT Secretary to issue "non-public interest" (good cause) waivers.	Same as fleet noise rule provision except that permits trade-offs. Interpreted as exempting 141 727's after equipped with $40,000 kits that leave the aircraft noisier on landings than full treated retrofitted 727's, but as noisy as some certificated 727's.
4-engine domestic (i.e., 707, DC-8, 747).	Older 747's—½ by 1981; 100 percent by 1983. Others, 25 percent by 1981; 50 percent by 1983, 100 percent by 1985.	Permitted 4-engine aircraft to operate beyond 1985—until replacement is delivered as long as is contracted for by Dec. 31, 1984. Permitted DOT Secretary to issue "non-public interest" (good cause) waivers.	Same as Fleet Noise Rule except that permits Secretary to exempt "smaller" carriers in hardship situations.
International	If ICAO does not require Annex 16 compliance by 1985 comparable to domestic then DOT intends to set date for such compliance.	Mandates that DOT set date for such compliance except that permitted DOT Secretary to issue "non-public interest" (good cause) waivers.	Carries through fleet noise rule intentions except that permits Secretary to exempt "smaller" carriers in hardship situations.

2Seiate 1ng/79 to b controlling except if DOT Secretary chooses earlier date in aircraft's history.

Mr. ANDERSON of California. I yield 1 minute to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, before we act on the conference report on the Aviation Safety and Noise Abatement Act of 1979, I would like to point out to our colleagues that one section of the report, in attempting to deal with an annoying problem, oversteps the bounds of good legislation.

Section 501 of the conference report would require the Administrator of the Federal Aviation Administration to develop regulations that would put restrictions on individuals and on religious and nonprofit organizations who solicit funds or distribute materials in the two airports operated by the FAA—Dulles and National Airport.

While some of the guidance given to the Administrator of the FAA seems desirable, the delegation to the Administrator of broad powers to set the time, place, and manner of soliciting activities is too broad to be consistent with our most basic first amendment rights.

I question whether the registration requirements are in accord with our traditions of allowing, and indeed encouraging, exercise of first amendment rights to free speech and free exercise of religion.

Not only is section 501 limited to religious and nonprofit groups, but of course it is limited to two of our Nation's airports. This offends the concept of equal protection since political groups are not included and since religious and nonprofit groups at other airports are not affected.

If the House of Representatives today passes this conference report because a majority of us believes in the soundness of its other provisions, then we must insure that the questions I have raised are fully addressed when the FAA, as required by section 501, submits proposed regulations to the Congress.

Mr. ANDERSON of California. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, there is no doubt that this conference report is a vast improvement over the original Senate amendments. Many Members of the House worked long and hard to limit the damage those amendments would have wreaked upon the present noise regulations.

Nevertheless, the conference still represents a major step backward in the Government's already modest program to reduce aircraft noise.

The fleet noise rules promulgated by FAA should be fully implemented now, without further delay.

These regulations were a result of thorough study and analysis. They have been phased in over a period of many years to give carriers plenty of time to comply. It is unacceptable to allow carriers who have not made an attempt to follow the law to come to us now and ask for exemptions.

This is especially unfair to those responsible carriers who took steps to insure that their fleets would meet Federal standards. They are being put at a competitive disadvantage, punished for obeying the laws. Shall we now reward those who spend their energies attempting to thwart the law and penalize those who comply? It simply makes no sense.

For cities and residents surrounding airports, passage of this conference report means several more years of being subjected to incessant, unacceptable levels of aircraft noise.

We made a commitment to these people in the 1960's—that we would work to decrease these noise levels—we must not break that promise now.

The most egregious provisions of this conference report relate to extensions of deadlines for 2-engine aircraft with less than 100 seats. The present noise regulations would have required these aircraft to meet the noise standards by 1983. This conference report would extend this deadline for 5 years, until 1988. Although originally this was thought to apply to only a small number of aircraft, I am now informed that about two-thirds of the 600 aircraft, 2-engine fleet, have less than 100 seats and would thus be allowed to continue their noisy operations until 1988.

Kennedy, LaGuardia, and Newark Airports all report that over half of the 136,000 2-engine movements to and from these three airports in the first 6 months of 1979 were conducted by aircraft with 100 seats or less.

Hundreds of thousands of citizens would be adversely impacted by such a waiver of regulations. We must not tolerate further delays in our attempt to control disruptive and intolerable levels of aviation noise.

Mr. ANDERSON of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, I rise in strong opposition to this conference report. I recognize that it is a much better piece of legislation now than the original bill that the Senate took to conference, and for that I commend the able and effective conferees from this House who have worked so hard and who have accomplished so much.

But I still feel very strongly that this legislation is unacceptable, Mr. Speaker, for the simple reason that any weakening of the current FAA minimum standards for airplane noise is totally unacceptable.

I represent a district, Mr. Speaker, which includes the areas most severely affected by noise from Boston's Logan International Airport. People in those neighborhoods and from similarly affected areas throughout the country have continuously appealed to us for noise relief programs. We promised 3 years ago that certain noise standards would be met in this country within the next few years.

By the time these standards are presently scheduled to go into effect, the people who daily suffer from the impact of airplane noise will already have waited many long years for the relief we promised. Now, with this conference report, we are saying that those years were not long enough; we are asking those people to wait just a few more years.

Airport noise, Mr. Speaker, is not a minor matter. Well-documented studies attest to its serious disruptive effects on people and on communities—emotional, physical, economic, and environmental effects. Those are the effects that the several million people living near airports in this country are subjected to every day and every night. For them, even 1 more month is too long, Mr. Speaker, let alone 1 more year, or 2 more years.

It is on behalf of the people in my district and on behalf of the people in all such districts, Mr. Speaker, that I oppose this delay so strongly. I oppose this conference report, Mr. Speaker, and I urge all of my colleagues to vote no.

Mr. DONNELLY. Mr. Speaker, today we are debating an important, but very unusual, conference committee report. Important, in that what we decide will directly affect the daily lives of more than 6 million Americans who live near airports. These citizens have been subjected to unremitting aircraft noise day and night since the airlines began using jet powered aircraft.

What is unusual, Mr. Speaker, is that the main provisions of this legislation have never been debated before this House. We have in front of us, Mr. Speaker, an instrument of subterfuge. A bill which has emerged from the shadows of a conference room designed to achieve the goals of a single vested interest group. I speak of the airlines who have stalled for the last 3 of 4 years and elected not to comply with noise abatement steps aimed at the source of the noise problem, the jet engine itself.

This group, faced with certain defeat before the House, took their cause to the Senate and was successful in convincing their Senate supporters to insert amendments to H.R. 2440. As we know, this bill in its original form was a good bill, a well-meaning bill, a bill that appealed to airport operators. Consequently, this would be an inducement for some Members whose airports badly needed discretionary funds contained in the House passed H.R. 2440.

So, what we have here, Mr. Speaker, is an attempt to "end run" the House of Representatives in the adoption of this conference report. Let us look carefully at this so-called compromise.

The Federal Aviation Administration adopted rules that required all U.S. air carrier aircraft to meet minimum noise emission standards in stages by 1985. The larger four-engine planes would have to conform to these standards by January 1, 1985, while the smaller two- and three-engine planes would be required to meet the noise standard by January 1983. This rule was adopted in 1976 and gave the airlines 9 years to convert their four-engine planes and 7 years to do the smaller ones.

The supporters of the new H.R. 2440 would have you believe that the FAA rule would make the airlines retrofit aircraft that just rolled off an assembly line the week before the rule was to become effective. Nothing could be further from the truth. A brief look at the four-engine aircraft will reveal why.

There are three types of four-engine aircraft being flown by U.S. airlines today; DC-8's, Boeing 707's, and the jumbo 747's. The DC-8's and the 707's, the majority of them, were built more than 15 years ago and will never be in service when January 1, 1985, rolls around.

The 747 fleet is equipped almost exclusively with new technology engines that already meet the noise emission standards. So by compromising on the four-engine issue, the offending airlines have not given up a thing. What they really want is what they have got—the exemption for the two- and three-engine jets that comprise the majority of the U.S. air fleet. Not every airline is trying to foist this problem onto the American people and those who have complied should be commended not penalized for their expenditures.

What happens if H.R. 2440 is passed? The offending airlines will have been rewarded for their stonewalling on the issue and the complying airlines will have borne the expense of their efforts. And, of course, the public will still have the noise.

If the Congress allows this travesty of the legislative process to pass, the pressure will be applied to cities and towns surrounding airports to provide noise relief. What will develop then, is a crazy-quilt pattern of local regulations that will cripple airline travel in this country.

I urge we reject the conference report on H.R. 2440 on the grounds that the Senate has circumvented the House on a matter of the utmost importance. I urge the Members who are genuinely concerned with the well-being of millions of Americans to vote against this legislation, legislation which will allow thousands of aircraft a year to pass over their homes screeching and roaring. In conclusion, Mr. Speaker, I would hope that the airlines who oppose the noise rule would clean up their act and face up to the issue of aircraft noise and its ill effects. It is long past the time when foot dragging can be tolerated and I hope that the airlines will take the steps necessary to correct the problem, rather than evade it by the tactics we see before us in this conference report.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I wish to associate myself strongly with the views expressed by the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. Speaker, I rise in opposition to the conference report on H.R. 2440, the so-called noise bill.

When we last considered H.R. 2440, it was a noncontroversial Airport and Airway Development Act which had passed the House by a voice vote. In October, the Senate, in a transparent effort to circumvent the will of the House, substituted legislation which nullified the FAA's airline fleet quieting regulation and then called for a House-Senate Conference to resolve the "differences."

While the conference committee did modify the Senate "noise" language, the House is still being asked to grant significant waivers to the 1976 fleet noise rule, without having the opportunity for a complete debate of this controversial legislation.

In 1976, after 7 years of extensive study and debate, the Federal Aviation Administration concluded that it was "economically reasonable and technologically practical" to require that all older generation aircraft be retrofitted or replaced so that there would be a noise-certified fleet by 1985.

The FAA ruling represented a compromise—the airlines did not get all they wanted, while noise impacted communities were told to wait 9-long years for relief. Further compromise at the 11th hour would be indefensible.

If Congress grants exemptions to negate this Federal rule, it is clear that noise beleaguered citizens will turn to their local government to solve the problems which the Federal Government has ignored.

Recent court decisions have already ruled that a community may establish noise regulations at an airport it owns and operates. Airport operators have repeatedly stated that a weakening of Federal noise standards will result in a series of local, uncoordinated noise regulations and operational restrictions at numerous airports. In fact, Delta Airlines has testified that the ultimate cost to the airlines of the proliferation of local, nonuniform airport operational restrictions will be greater than the cost of complying with the fleet noise rule.

Any further delay in agressively implementing effective noise standards would be an affront to the 6 million Americans—living in the shadow of airports from John F. Kennedy International to Chicago's O'Hare and Los Angeles International—whose quality of life and very health are seriously threatened by excessive aircraft noise, and to those carriers—Delta, Continental, North Central and United—who, in good faith and enlightened corporate decisionmaking, have undertaken the costs of complying with the FAA rules.

I urge my colleagues to reject this conference report.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker, I rise in opposition to the conference report on H.R. 2440, the Aviation Safety and Noise Abatement Act. I urge my colleagues to vote against this report because the provisions on aircraft noise abatement are unacceptable.

Two major airports—National and Dulles—are located in the district that I represent. Many of my constituents are greatly disturbed by aircraft noise associated with these airports. One potential source of relief for them is the FAA noise abatement regulations which set a sequence of deadlines for the airlines to have their aircraft in compliance with noise reduction standards. To relax these deadlines is to condemn citizens living under the flight paths to more years of unnecessary harrassment.

While recognizing that the conference report compromise offered to the House today is better than earlier versions, I think that it still goes too far in postponing the noise reduction deadlines. The FAA regulations are reasonable and were set through responsible consultation with the affected parties. The airlines should be required to proceed according to the original schedule. Any postponement is unwarranted and unfair to noise-affected citizens. I hope the House will decide against accepting this conference report. It would have been better legislation without the noise provisions.

□ 1220

Mr. ANDERSON of California. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I support the conference report. The administration supports the conference report. I firmly believe that this conference report will result in getting less noise impact on the American people than any other proposal, including the existing FAR–36 regulations.

The reason this conference report will result in less noise is that instead of forcing the carriers to retrofit their aircraft in the short term, which would result in a minimum reduction of noise, the end result of this legislation will be a movement by the airlines to the stage 3 aircraft which have a significant, not a minimal, noise reduction.

If what we are trying to accomplish, and I am trying to accomplish, and I believe this House is trying to accomplish, is to significantly relieve the American people of the impact of aviation noise, then the way to do it is to get major and significant noise reductions and not merely minimal and cosmetic reductions because of some concept of inflexibility because some regulations have already been written, even if those regulations do not do as effective a job as the conference report solution.

What we are doing through this conference report will bring on stream the most quiet aircraft that technology can provide and the result will be that the American people who today are suffering from aviation noise will achieve a significant, and not an insignificant or cosmetic reduction in the consequences of noise emitted by aircraft today.

This conference report, by providing the two-engine aircraft a short-term extension so that the quietest third stage aircraft can replace them, will not only provide service for the small airports around America during this period of time, but in the major hub airports, such as Atlanta, Chicago, and so forth, there will result an increase in operations of the least noisy aircraft in the near future, rather than the continuation of flight of retrofitted aircraft which have only minimal noise reduction.

The SPEAKER pro tempore. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. SNYDER. Mr. Speaker, I yield an additional 2½ minutes to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I say that if we are really serious about wanting to reduce noise in a meaningful way, that the way to achieve significant and meaningful long-range reduction of noise is neither to maintain the present FAR–36 inflexibility nor to have gone along with the original terrible Senate bill in this matter, but rather to adopt this conference report, which will meaningfully and eventually reduce noise in a very important and significant way.

For that reason, I would like to engage in a colloquy with the chairman of the committee, if the gentleman will respond. I would like to ask if the gentleman will discuss the question of finality of this issue with me.

One of the points that was addressed in the conference report was the question of waivers from the FAA regulations, which has been debated for years and which we are now on the verge of resolving, I believe, in a manner fair to both the airlines and homeowners affected by aircraft noise. In other words, it should be clearly understood that this legislation is intended to be the final resolution of the problem. The airlines should begin immediately to take all necessary steps to comply with the deadlines for bringing their fleets up to stage 2 and stage 3 levels. The airlines should not expect further waivers from the Congress.

I would like to ask the distinguished chairman of the Aviation Subcommittee to comment on whether the views I have just expressed reflect his understanding and the intention of the conferees.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield.

Mr. ANDERSON of California. Mr. Speaker, I am in complete agreement with the statement of the gentleman. Barring extraordinary and unforeseen circumstances, we do not expect to grant any further waivers. The airlines should be on notice that we expect them to comply and that we will not be sympathetic if the carriers delay compliance and then come back and argue that waivers are needed because there is not sufficient time to purchase retrofit kits or buy replacement aircraft. The airlines should begin complying now. They should comply on a phased basis to insure that there will not be last minute shortages of equipment or airline capital which would prevent timely compliance.

Mr. LEVITAS. Mr. Speaker, I thank the chairman for those statements, and I might say the views just expressed by the gentleman from Georgia and the gentleman from California were echoed during the conference by the chairman of the conference for the other body, Senator CANNON. I think we can clearly view this measure as the final resolution of this issue and that the airline companies and the airline manufacturers better get on with the job of compliance in accordance with this conference report.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume in conclusion.

Mr. Speaker, I just would like to make one or two comments about some of the remarks that have been made. It has been referred to as a 5-year extension of a 5-year waiver. Under no circumstances is there a 5-year waiver in this bill. The longest extension given for two-engine aircraft under 100 seats is 3 years and that is the longest one. There is no extension on the four-engine aircraft. There is no extension on the three-engine aircraft.

The only difference for the three-engine aircraft is that we make them go to stage 3, which is quieter than retrofit, more energy efficient, and less polluting.

For the two-engine aircraft under 100 seats, there is a 3-year extension for two-engine aircraft over 100 seats there is a 1-year extension provided they do not retrofit, but they go to stage 3 aircraft.

It has been referred to as a bailout. I do not understand that, because what we say to them is, "Don't spend $250,000-plus, to retrofit and use more fuel and make more noise and make more pollution. We will give you 1 year or up to 2 years on the three-engine aircraft if you will go to stage 3 aircraft and spend $30 or $40 million."

Now, how in the world you can say that you are reducing noise by inducing someone to spend $250,000 and on the other hand not reducing noise by spending $40 million for a 1- to 2-year extension, is beyond me.

Mr. Speaker, this is a good bill. This conference report really does things for people who live around an airport. Yes, it is going to do it a year later or 2 years later, but it is going to do a heck of a lot more for them than it ever would have done under FAR–36 and it deserves to be supported.

● Mr. BIAGGI. Mr. Speaker, as one fully committed to aircraft noise abatement, I must rise to express my total opposition to this conference report which serves to impede the limited progress this Nation has been making in this important area.

I represent the borough of Queens in New York City. It is the home of two of America's largest airports—John F. Kennedy and La Guardia. For the thousands of residents living near the airport or worse, directly in flight paths of airlines, noise pollution has resulted in untold suffering. For the first time there was some hope on the horizon for these people. The Federal Aviation Administration had promulgated noise abatement regulations which stated that the most commonly used aircraft had to achieve substantial noise abatement levels by the absolute latest—1983.

The Senate attached to the House bill a series of provisions specifically in the noise abatement area.

Two engine planes with 100 or fewer seats would have until 1988 to comply with FAA noise abatement standards.

Two engine planes with more than 100 seats would have until 1985 to comply.

These provisions alone are grounds to oppose this conference report. Their practical impact is that some 500 aircraft with over 10,000 daily operations will be able to gain a substantial delay in achieving noise standards which many other aircraft have already complied with.

What about the people whose homes feel the impact of these daily flights? What relief do they have? This Nation has been abysmally slow in addressing the aircraft noise issue. The impact of excessive noise on the lives of persons in and around airports is intense and constant. It poses a hazard to health and property. It is far more than just an annoyance—it is dangerous. As the borough president of Queens, Donald Manes, described in a letter he sent to me in opposition to this legislation, "The many communities surrounding John F. Kennedy Airport and La Guardia Airport suffer under the unhealthy and unattractive impact of aircraft noise pollution."

Why is it that the wisdom of American technology, which can produce such magnificent jets, cannot make these jets quieter. What makes retrofitting of jet engines such an impossible task? Perhaps the real question we should ask is—what makes Congress so accepting of the dilatory tactics of the airlines in escaping their responsibilities to achieve noise abatement.

To add insult to injury this legislation also contains a provision which bars persons living near airports from recovering damages on account of airline noise if they bought property after enactment of this legislation and had knowledge of the noise risks. With the housing shortage facing many of our major cities—are we to assume that people are going to necessarily choose to live near an airport. What about the family that can only obtain housing near an airport on account of either availability or because the cost is low. Is it fair to impose such a provision on those persons. I say it is patently unfair.

It is my firm conviction that adoption of this conference report is a step backwards in the fight against aircraft noise pollution. I oppose the report and feel we have a fundamental responsibility to relieve those Americans injured by the constancy of aircraft noise.●

● Mr. WOLFF. Mr. Speaker, I rise today in opposition to the conference report on H.R. 2440, the Aviation Safety and Noise Abatement Act.

I, along with many of my colleagues, have fought long and hard for the noise abatement measures that are making great progress in securing a quieter fleet of airplanes. In 1969, with my active support, Congress passed the Aircraft Noise Abatement Act giving the FAA authority to control aircraft noise. The FAA issued regulations which would provide for a retrofitted, reengined or replacement aircraft on a schedule which would have insured a quiet fleet by 1985.

The conference report before us today would dilute these standards, and extend the period of time that our citizens must endure airplane noise. My congressional district is very close to two major airports: La Guardia and Kennedy. I feel that the people of the Sixth Congressional District of New York have suffered enough from noisy planes. They have been patient enough. Now is not the time to take a major step backwards in controlling an intolerable and unhealthy problem for many of our citizens.

Some airlines can meet the FAA's schedule of noise standards. This legislation is for those airlines which spent their time trying to get around the law—rather than working to comply with the noise standards. What about the airlines which worked to comply? They, along with any other business subject to health and safety regulations can learn the obvious lessons from this: If you do not want to comply with the Federal regulations, try Congress. With this legislation Congress is contradicting itself—first we give the FAA authority to promulgate to control noise, then we decide to change the regulations that the FAA has come up with. This is just another in a series of legislative efforts leading Congress into the regulatory business. Congress could soon become a duplicate FAA, ICC, DOT, et cetera. Our responsibility in the Congress is to see that regulatory agencies are carrying out the intent of Congress when regulatory authority was given to them—not make the regulations ourselves.

I object to this conference report for other reasons as well, reasons which I expressed when the House debated the rule for its consideration. The House had passed only the provisions in this legislation for the much-needed reauthorization for the Airport and Airway Development Program (ADAP) and had no provisions dealing with easing noise standards. Another piece of legislation on aircraft noise standards was being considered in committee, and was to be debated by the House. The other body added these provisions in conference, circumventing thorough House consideration.

Now the Members of the House can only vote the conference report up or down. We will not have the opportunity to debate and amend the sections of the bill to which we might object. I feel that my opportunity to represent the interests of my constituents has been frustrated and bypassed by the maneuver of the other body in adding these provisions in conference. Now I can only vote against the conference report, the defeat of which would also deny needed ADAP funds to airports. I urge my colleagues to join with me in defeating the conference report.●

● Mr. DIXON. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2440.

I represent an area which is gravely impacted by aircraft noise from nearby Los Angeles International Airport. Over 290,000 persons in my district and adjoining areas have their work, school, and play activities disrupted, and their health and property values threatened, as a result of aircraft noise.

While we recognize and to a degree accept this reality as part of the price we must pay for our system of advanced aviation, it is incumbent upon us, as public officials, to seek to reduce this noise burden on local communities. In response, Congress and the Federal Aviation Administration have together forged a mandate, a timetable, to insure that the interests of airport communities are considered and respected.

Despite claims to the contrary, this bill would weaken that mandate and result in a net increase in airport noise, to the detriment of some 6 million Americans. The entire history of this legislation exhibits a desire, by any parliamentary means available, to effect a waiver of existing noise standards. Still, its proponents bring this report before the House with the impression that it somehow represents a long-range breakthrough in the fight against noise pollution. They claim that the report would enact strict or stricter noise standards for 68 percent of the Nation's air fleet.

First, the 68 percent figure just mentioned conveniently ignores the obvious implication; namely, that the bill weakens standards for the remaining 32 percent of our Nation's air fleet. This alone should be cause for concern. Even more disturbing, I have real cause to question the optimistic claims made by the bill's supporters. Under the bill, two-engine jets with under 100 seats would receive an additional 3 years in which to comply, while those with over 100 seats would receive an additional year. Both the latter two-engine jets, as well as all three-engine aircraft, would be allowed a limited "new technology" waiver. None of these provisions, in my opinion, would be effective in reducing airport noise, nor, I might add, in providing service to smaller communities affected by airline deregulation. Unless the Federal Government intervenes to set guidelines, the purchase of new and quieter aircraft, and the decision to maintain or extend service to the smaller airports will be made solely on the basis of economic factors, such as the greater energy efficiency of the newer aircraft. Thus, the only incentive for airlines provided in this bill will be an incentive to continue to disregard the concerns of airport area residents.

Further, the manner in which this legislation has been thrust upon us continues to concern me. Although this is a conference report, this is the first time the full House has considered the question of noise control waivers.

Moreover, neither House has held hearings on the issue this session. As one who has received petitions from over 1,000 affected airport area residents, I cannot associate myself with an attempt to deny their spokesmen, as well as spokesmen for 6 million other Americans, the opportunity to be publicly heard on this crucial issue.

Mr. Speaker, I urge the defeat of this conference report.●

● Mr. CORMAN. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2440, the Airport and Airway Development Act. With this conference report we surrender the goals set in 1969, when the Congress approved legislation recognizing the need to guard the quality of life of more than 6 million Americans living in areas severely impacted by airport noise. The aircraft fleet noise standards established by the Federal Aviation Administration in 1976 were reasonable and attainable. Several airlines have gone far toward meeting those requirements at considerable expense. Yet today we punish those carriers who relied on our previous decisions and worked to meet our goals. Today we reward those carriers who care the least about aircraft noise and the resulting degradation of life for our citizens living in areas around airports across the Nation.

The district which I represent borders Burbank Airport in California, a medium-sized airport nestled among the communities of the San Fernando Valley which handles mainly regional commercial and private aircraft. It will be precisely this kind of airport and its surrounding communities which will pay for the compromises to which we agree today with the acceptance of the conference report before us. This airport and its surrounding citizenry are already embroiled in a controversy about airport noise. This legislation does neither party any favors by allowing aircraft owners to continue using noisier aircraft than would be allowed under the 1976 standards. Instead, this bill will invite retaliation against the airport in the way of mandatory curfews and commercial flight cutbacks.

This conference report is shot full of the kind of waivers, exemptions, extensions, tradeoffs, and loopholes that convinces industry to fire engineers and hire lawyers. For example, I understand that a provision of this conference report allows airports to avoid filing otherwise required environmental impact statements if the airport strengthens or lengthens its runways to allow stage II aircraft to use it. This might mean that a medium-size airport like Burbank Airport could allow aircraft as large as a 747 to land with some runway modifications with absolute disregard to the effect on the environment of the surrounding area.

Mr. Speaker, this is the kind of legislation that overtaxes our existing regulatory monitors and creates a need for more and bigger government watchdogs. In this conference report we sacrifice the comfort and health of millions of Americans living near airports for the special interests of a few airlines. With this conference report we approve a piece of legislation for which the Congress becomes notorious rather than respected.

I urge the defeat of the conference report to accompany H.R. 2440.●

The SPEAKER pro tempore (Mr. Murtha). All time has expired.

Mr. ANDERSON of California. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 122, not voting 27, as follows:

[Roll No. 18]

YEAS—285

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Beard, Tenn.
Bedell
Benjamin
Bereuter
Bethune
Bevill
Blanchard
Boggs
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Findley
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hutto
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Latta
Leach, La.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Obey
Pashayan
Patten
Pepper
Perkins
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Regula
Reuss
Rhodes
Richmond
Ritter
Roberts
Robinson
Rose
Rostenkowski
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—122

Ambro
Annunzio
Ashbrook
Aspin
Badham
Bauman
Beard, R.I.
Beilenson
Bennett
Biaggi
Bingham
Boland
Bonior
Brodhead
Broomfield
Burgener
Burton, Phillip
Carney
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Dannemeyer
Daschle
Deckard
Dellums
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Early
Edgar
Edwards, Calif.
Erdahl
Fary
Fazio
Fenwick
Ferraro
Fish
Fisher
Florio
Ford, Mich.
Frenzel
Garcia
Gibbons
Gilman
Gingrich
Goldwater
Gradison
Gray
Hall, Ohio
Harris
Heckler
Holt
Holtzman
Hopkins
Hughes
Hyde
Jeffries
Kastenmeier
Kildee
Kostmayer
Lagomarsino
Leach, Iowa
Lent
Lungren
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Mottl
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patterson
Paul
Pease
Petri
Peyser
Porter
Rangel
Ratchford
Rinaldo
Rodino
Roe
Rosenthal
Roth
Roybal
Russo
Sabo
Scheuer
Sensenbrenner
Shannon
Simon
Solarz
Stark
Studds
Thompson
Van Deerlin
Vanik
Vento
Weaver
Weiss
Wilson, Bob
Wolff
Wolpe
Wydler
Yates
Zeferetti

NOT VOTING—27

Addabbo
Anderson, Il.
Barnes
Burton, John
Crane, Philip
Diggs
Dingell
Flood
Jeffords
Leath, Tex.
Long, Md.
McCormack
McKay
Miller, Calif.
Murphy, Ill.
Myers, Pa.
O'Brien
Pursell
Runnels
Santini
Shumway
Stokes
Treen
Waxman
Wilson, Tex.
Winn
Wyatt

☐ 1240

The Clerk announced the following pairs:

On this vote:

Mr. Santini for, with Mr. Addabbo against.

Mr. Myers of Pennsylvania for, with Mr. Stokes against.

Until further notice:

Mr. Barnes with Mr. Leath of Texas.

Mr. McCormack with Mr. Treen.

Mr. Waxman with Mr. Wyatt.

Mr. John L. Burton with Mr. Philip M. Crane.

Mr. Dingell with Mr. Anderson of Illinois.

Mr. Diggs with Mr. O'Brien.

Mr. Miller of California with Mr. Shumway.

Mr. Murphy of Illinois with Mr. Pursell.

Mr. Charles Wilson of Texas with Mr. Runnels.

Mr. McKay with Mr. Jeffords.

Mr. Wynn with Mr. Long of Maryland.

Messrs. RANGEL, BEARD of Rhode Island, MAZZOLI, DOWNEY, ROE, DOUGHERTY, and DORNAN changed their votes from "yea" to "nay."

Mr. HANSEN and Mr. EDWARDS of Oklahoma changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF WILLIAM G. BOWEN AS CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. THOMPSON. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 493) providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 493

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the death of Dr. John Nicholas Brown of Rhode Island on October 9, 1979, be filled by the appointment of William G. Bowen of New Jersey for the statutory term of six years.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, as the senior House Member on the Smithsonian Board of Regents, and on behalf of the other House Members, Mr. MINETA and Mr. CONTE, I have introduced this joint resolution to carry out the statutory requirements of 20 United States Code 43, which provides for the election of citizen regents to the Board of Regents of the Smithsonian. The law calls for nine citizen regents—two from Washington, D.C., and seven from various parts of the country—but no two from the same State.

Two vacancies have recently opened among the citizen regents. The first was occasioned by the death of Dr. John Nicholas Brown on October 9, 1979, and the second was occasioned by the resignation of Thomas J. Watson, Jr., on October 12, 1979. Thereafter, a search committee was established to locate qualified candidates whose interests, fields of experience, and abilities could contribute to the principal goal of the Smithsonian, which is the increase and diffusion of knowledge for all mankind. The search committee recommended Dr. William G. Bowen, president of Princeton University, and Mr. Carlisle H. Humelsine, chairman of the board and chief executive officer of the Colonial Williamsburg Foundation.

The resolution presently under consideration would elect William G. Bowen to the Board of Regents. Dr. Bowen is a well-known university administrator, and a highly regarded economist. He was a professor of economics at Princeton from 1958 to 1965. He served as director of graduate studies for the Woodrow Wilson School of Public and International Affairs between 1964 and 1966. He served as provost to the university from 1967 to 1972 when he became president of the university. Dr. Bowen was a trustee of Denison University from 1966 to 1975, and served on the center for advanced study in the behavioral sciences from 1973 to 1977. The list of his accomplishments and publications is impressive and I believe that he is eminently qualified.

Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CARLISLE H. HUMELSINE AS CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. THOMPSON. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 494) providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 494

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the resignation of Thomas J. Watson, Junior, of Connecticut, on October 12, 1979, be filled by the appointment of Carlisle H. Humelsine, of Virginia, for the statutory term of six years.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. THOMPSON) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, this resolution will provide for the election of Mr. Humelsine to fill the second vacancy on the Board of Regents of the Smithsonian Institution. Mr. Humelsine served as director of personnel at colonial Williamsburg from 1945 to 1946, and has been president and chief executive officer of the Colonial Williamsburg Foundation, as well as having served as chairman of the board. He was the Director of the Office of Departmental Administration of the State Department from 1946 to 1947, its Executive Secretary from 1947 to 1950, and served as a Deputy Under Secretary of State in 1950.

He has served as chairman and board member of many foundations, commissions, museums and galleries, and is highly qualified to serve the goals of the Smithsonian.

Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two joint resolutions just passed, House Joint Resolution 493 and House Joint Resolution 494.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1250

RECESSION AND TARGETED FISCAL ASSISTANCE

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5980) to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5980, with Mr. GEPHARDT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, January 30, 1980, section 1 was open to amendment at any point. Are there any further amendments to section 1?

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE: Page 64, beginning on line 19, strike out all of section 502 through line 20 on page 69 and insert in lieu thereof the following:

"SEC. 502. ALLOCATION TO UNITS OF LOCAL GOVERNMENT.

"(a) IN GENERAL.—There shall be allocated for each unit of local government, from the amount available for allocation under this section (in accordance with section 501(c)), an amount determined to be allocable to such unit under subsection (b).

"(b) Determination of Allocable Amount.—

"(1) In General.—For the purposes of subsection (a), but subject to the limitations and adjustments required by paragraph (2), the amount allocable to a unit of local government under this subsection is the amount which bears the same ratio to the amount available for allocation under this section (in accordance with section 501(c)) as the revenue sharing amount for such unit of local government bears to the sums of such amounts for all units of local government.

"(2) Minimum allocable amount; reallocation.—

"(A) Limitation.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government if the allocable amount determined under paragraph (1) with respect to such unit is less than $800.

"(B) Adjustment.—The allocable amount of each unit of local government which is not subject to the limitation contained in subparagraph (A) shall be increased by an amount which bears the same ratio to the sum of the allocable amounts which, as a consequence of subparagraph (A), may not be allocated, as the allocable amount determined under paragraph (1) for such unit bears to the sum of the allocable amount determined under such paragraph for all the units of local government which are not subject to such limitation.

"(c) Definitions of Revenue Sharing Amount.—For purposes of this section, the revenue sharing amount of any unit of local government is the amount determined under section 108 of this Act with respect to such unit for the most recently completed entitlement period, as defined in section 141 (b) of this Act.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas.

There was no objection.

Mr. WYLIE. Mr. Chairman, I listened for 3 hours yesterday to the debate on this bill, and I must say that there is a considerable amount of confusion over the amount of money which each of the various subdivisions might get.

There is obviously going to be a considerable amount of discretion left to somebody to distribute these funds. I thought that today I would offer a clarifying amendment, and I thought a clarifying amendment like mine might be welcome at this point. The present formula, as I say, is very confusing.

What my amendment does is to substitute the general revenue-sharing formula for the formula in the bill for the targeted assistance program.

My amendment is one that has been found workable. It is in place at the present time. It has been the source by which something like $50 billion have been distributed to various political divisions over the United States since 1973.

Now, I might say that the present formula for the targeted assistance program fails to reward those cities who have managed themselves well. As a matter of fact, it encourages, it seems to me, mismanagement among cities. For example, Columbus, Ohio, which is my city and which has been managed very well, would not come in for one red cent under this bill. As a matter of fact, even though there were $50 million added yesterday, so that the sum now is $200 million in the bill, Columbus still would not qualify for one red cent.

As a matter of fact, Franklin County, which makes up most of my district, would not qualify for funds, and Madison County to the west would not qualify for funds.

Some 2,000 political subdivisions over the United States would qualify for funds, but 37,000 political subdivisions would be left out, and Columbus is one of those.

As I say, I think the formula leaves too much to chance. The general revenue-sharing formula is tried and found true. It is a precise formula, and all cities that I mentioned, among the 37,000 political subdivisions left out, would qualify.

It seems to me that the representatives from the rural and suburban areas would be opposed to this bill in its present form, because none of them, or almost none of them, would qualify.

There are many specific programs on the books at the present time for distressed cities. I refer to the CETA program, the community development block grant program, the UDAG program, but it seems to me as if the more distressed a city becomes, the more money it gets. There is no reward for local effort or tax effort in this formula that is now before us.

As I say, my amendment would clear up the confusion. It would be clear and precise, and I urge adoption of my amendment.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

I would like to ask a couple of questions about the nature of the gentleman's amendment.

As I understand it, the amount that would be apportioned under the targeted fiscal assistance part of this bill, if his amendment were to be adopted, would be predictable and understandable. That is, we would get a printout that would tell us just how much would go to each local governmental unit. Is that correct?

Mr. WYLIE. That is correct. It is based on the formula for general revenue-sharing distribution, which is in place at the present time, which has been in place now for about 7 years.

The amount which each community would get would be clearly and precisely predictable, which is not the case under the present amendment, as the gentleman has pointed out so many, many times during the course of this debate.

Mr. KINDNESS. If the gentleman would yield further, if I understand the thrust of his amendment correctly, it would then provide for the distribution of funds based on current information, that is, the problem that we have in the bill at the present time with targeted fiscal assistance, as will be highlighted by the explanation——

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Wylie) has expired.

(At the request of Mr. Kindness and by unanimous consent, Mr. Wylie was allowed to proceed for 3 additional minutes.)

Mr. KINDNESS. Mr. Chairman, if the gentleman will yield further, the present wording of the bill for targeted fiscal assistance really will not help those situations where there has been a recent series of plant closings, for example, as in the case of Youngstown, Ohio.

The gentleman from Ohio (Mr. Williams) has an amendment to address to that point, but at least this gentleman's amendment would help to serve the problems of local governments in areas like that, much better than the current language of the bill.

Mr. WYLIE. No question about it.

I have two thoughts in mind in offering my amendment.

As I was reading through the report, I notice these words: "The unemployment rates for even the largest cities are subject to sizable estimation errors."

As I say, I heard the debate here yesterday.

The gentleman from North Carolina attempted to offer an amendment in clarification, but it seems to me as if it only added to the confusion as to how much money might be distributed to the various subdivisions which would qualify under this.

For example, I am not real sure how much New York City qualifies for. It is somewhere between $20 and $25 million according to figures supplied by Treasury.

☐ 1300

But, in any event, the second reason is it goes to selected areas which are so-called "distressed cities," and we have already on the books several programs for distressed cities. We keep pouring money into the so-called distressed cities areas. But there is too much discretion left in the Secretary of the Treasury and the Treasury Department for distribution of these funds and the amount of funds which will be distributed to those distressed areas.

The third reason I am offering this amendment is very provincial, I might say. The citizens of Columbus continue to send much more money over to Washington, than they get back more so than most other areas and, in this case, they would send money over for a program for it would not get back one red cent. I think it is time to even things out a little bit.

Mr. KINDNESS. If the gentleman will yield further, I think I see his point. In another portion of the State of Ohio, as another example, we have had in my home county rather high unemployment on a chronic basis, but now we are confronted with the steel mills, the automobile facilities, and that sort of thing, and are facing some pretty serious times with the downturn in those industries. Nothing could be afforded to local governments to help in their distress arising out of those circumstances under the targeted fiscal assistance provisions of this bill, and those are real problems. They are just as real as the problems of New York, Newark, or any other place that has been mentioned in the debate. Certainly they are just as real as the problems of any of those communities in the State of California that are going to come in for about a quarter of the funds under this targeted fiscal assistance.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. Kindness and by unanimous consent, Mr. Wylie was allowed to proceed for 1 additional minute.)

Mr. WYLIE. I yield to the gentleman.

Mr. KINDNESS. I seem to recall that the State of California voters passed or adopted proposition 13 not all that long ago so as to reduce the ability of those who govern in that State to take taxation out of the pockets of the people. Now we are being asked to shovel some from other States' taxpayers to California. I think the gentleman's amendment makes a great deal more sense than that.

Mr. WYLIE. I thank the gentleman and believe the gentleman's district would qualify for money under this general revenue-sharing formula which would be predictable, as I say. But the linchpin of the general revenue-sharing formula is the fact that there is a part of that formula based on local tax effort and local effort by the community whereas, under this formula, no such effort is rewarded.

So I think my amendment is much better. It does clarify the situation. It eliminates any ambiguity. We all know how much we are going to get under this $200 million new program. I thank the gentleman very much for his contribution.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(At the request of Mr. Devine and by unanimous consent, Mr. Wylie was allowed to proceed for 2 additional minutes.)

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Ohio.

Mr. DEVINE. I thank the gentleman for yielding. I would like to compliment the gentleman from Ohio that shares the other portion of Columbus, Ohio, with this Member, recognizing that we have mutual problems as they relate to this legislation and other legislation.

It seems to me that the bill, as written and offered to the House, is purely a political type of document during a Presidential year and is designed to assist areas where it may be helpful politically. It seems further to me that the gentleman in the well takes a reasonable position in applying a formula that was totally acceptable under the general revenue-sharing provisions.

I would implore all Members, if they have not done so, to go to the managers' table on either side and ask them to advise them of what it does to their own community, and they will find out what an inequitable share goes to the major cities such as New York City, and they might find that even their own community or principal city in their community is excluded from this legislation.

Again I commend the gentleman for his initiative in offering this amendment. I support it.

Mr. WYLIE. I thank the gentleman very much for his support and for his associating himself with my amendment and his excellent remarks. I think he has made a fair characterization of the bill as it is now constituted.

Mrs. SNOWE. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I am happy to yield to the gentlewoman.

Mrs. SNOWE. I, too, rise in support of the gentleman's amendment. I think it is a much fairer way of distribution of the moneys involved in the targeted fiscal assistance program. In fact, as the gentleman mentioned, the revenue-sharing program allocations of money involved are based on population, tax efforts, and also per capita income. It seems to me that it is a much fairer and much more equitable distribution of money as opposed to the demonstrated invalid, unsubstantiated, unreliable employment figures which they have used in the bill in allocating the moneys involved under the targeted fiscal assistance.

So I, too, wholeheartedly support the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(By unanimous consent Mr. Wylie was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, I want to recognize the significant contribution of the gentlewoman from Maine and appreciate it very much. She is a very valuable member of this committee and knows of where she speaks. I do want to thank her very much for her worthwhile support.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I strongly oppose this amendment. I have a high regard for Mr. Wylie, but he understands my position. This amendment would take title V of H.R. 5980, a prudent and well-balanced program of targeted fiscal assistance to communities most in need of these funds, and instead would make title V an add-on to general revenue sharing. That is not the aim of this legislation; it is not the desire, I believe, of this Congress. This amendment would completely destroy the purpose of the targeted fiscal assistance program and it should be defeated. I would urge a no vote on this amendment.

Mr. HORTON. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

I want to agree with the statement that was made by the chairman of the full committee (Mr. Brooks), and associate myself with his views. I certainly can understand the position of the gentleman from Ohio (Mr. Wylie) in offering this amendment, because under the targeted fiscal assistance program, as we have been informed by the Treasury printout, the gentleman's particular city, Columbus, Ohio, and county, would not receive anything. I do not criticize any Member for trying to get money that is going to be distributed under a Federal program, for his district, and I can certainly understand the gentleman's idea of putting it under revenue sharing.

I feel very strongly that revenue sharing does have a good formula, that revenue sharing is a good way to distribute funds. Hopefully we will renew and extend the revenue-sharing program.

But, in essence, what the gentleman from Ohio (Mr. Wylie) is proposing is adding $200 million to the general revenue program. That just overlooks the purpose of targeted fiscal assistance. Targeted fiscal assistance is to go to those communities that have a chronic need or have a chronic problem with regard to unemployment, that have a no-growth area. Those are the areas where there has been very high unemployment for many years, and that is why New York, Detroit, Buffalo, Los Angeles, and these other areas are involved.

This is a one-shot program. The $200 million will be paid in April of this year. There will not be any renewal. There is no proposal for any additional payments.

To take the amendment of the gentleman from Ohio (Mr. Wylie) would be to completely overlook the purpose of targeted fiscal assistance and, therefore, I strongly oppose the amendment and urge its defeat.

Mr. KINDNESS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment that is before us now may not serve the purpose of targeted fiscal assistance. The distinguished chairman, the distinguished, patient chairman of the committee, has just pointed out that the amendment offered by the gentleman from Ohio (Mr. Wylie) would, indeed, destroy the purpose of targeted fiscal assistance in the bill. I think that brings us a little closer, perhaps for the first time, to an understanding of what is the purpose of targeted fiscal assistance in this bill.

I am still not absolutely certain, but what I am beginning to understand is that the purpose of targeted fiscal assistance is political satisfaction of some kind.

☐ 1310

I may be a little slow to understand, but I believe that is what it is. It is interesting to note that Columbus, Ohio, the home of the gentleman who is the author of the amendment, is disqualified under the formula for targeted fiscal assistance, not because of the level of income or any of the other factors except that Columbus does not qualify because the unemployment figure for the city of Columbus is a little low. The unreliable unemployment figures we have been talking about are used as the basis for disqualification of Columbus, Ohio.

How reliable are the unemployment figures for some of the cities that fall over the line and do qualify for some participation in targeted fiscal assistance? They are not a bit more reliable. They are just as subject to error as the figures relating to Columbus, Ohio, but in the one case they fall over the line as estimated, and thus Columbus does not qualify and a lot of other places are in the same category. In other circumstances, the unreliable figures fall over the line and those localities do qualify.

The gentleman from Ohio has offered an amendment that at least makes much more sense than that; and certainly as related to his home city of Columbus. I think what we are talking about in the times that face us today, with an economic downturn, is trying to help local governments and State governments to meet the obligations that they need to meet to serve the needs of their people. That is why we are here debating any kind of bill of this nature, and this bill simply does not do it as to the targeted fiscal assistance portion, at least.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I will yield to my colleague from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding. The language of the report points out what the gentleman says, that this is not really a targeted fiscal assistance formula because it says on page 4, and I quote:

> Unemployment rates, as used in the current administration and Senate bills and in the earlier ARFA program, do not provide an appropriate measure of recession. Unemployment rates are also deficient as a measure of a community's fiscal stress resulting from long-term economic decline.
>
> The national unemployment rate could be used to trigger a countercyclical assistance program since it is generally regarded as a reliable measure. However, this rate is not comparable over time because of the labor force's changing composition (a larger proportion of women and teenagers) and other noncyclical factors, such as the expansion of unemployment insurance and welfare programs, increases in the minimum wage, and the increasing number of multiworker families. These factors have contributed to increasing the rate that might be considered a "full employment" level. It should be recognized, also, that unemployment rates tend to "lag" economic cycles—that is, they do not rise significantly until well into the downturn . . .

My amendment would correct that, as the gentleman has pointed out. The money would go based on a formula which has been determined to be clear and precise, and would be distributed fairly to the communities, and those communities could put it into a targeted fiscal assistance program in their own community if they saw fit.

Mr. KINDNESS. I appreciate the gentleman's comment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would point out that the formula takes into consideration not only high unemployment, but also low economic growth. In other words, in order to qualify for targeted fiscal assistance an area has to have high unemployment, low economic growth, and also has to have low per capita income. The areas the gentleman is talking about do not meet those qualifications and unfortunately are not able to qualify.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. KINDNESS was allowed to proceed for 1 additional minute.)

Mr. KINDNESS. I thank the gentleman from New York for his observation, but it does occur that in this observance that—and we have a multiplicity of cases to deal with, of course, because the rules are so funny—but in the case of Columbus, Ohio, it is only the one factor that disqualifies it, and that is the low unemployment figure—the unreliable, inestimable figure that apparently we consider so unreliable for other purposes, but we do consider reliable enough to disqualify Columbus and a lot of other places.

Mr. Chairman, I would urge support of the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WYLIE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 19]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1330

The CHAIRMAN. Three hundred and ninety-four Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. WYLIE) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 221, not voting 28, as follows:

[Roll No. 20]

AYES—185

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Bevill
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carter
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Findley
Flippo
Forsythe
Fountain
Frenzel
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harsha
Hefner
Hillis
Hinson
Holt
Hopkins
Hubbard
Hutto
Hyde
Ireland
Jeffries
Jenkins
Jones, N.C.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lee
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
McEwen
Madigan
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Panetta
Pashayan
Patterson
Paul
Petri
Pickle
Porter
Preyer
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stump
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Whitley
Whittaker
Wilson, Bob
Winn
Wylie
Young, Alaska
Young, Fla.

NOES—221

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hance
Harris
Hawkins
Heckler
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mavroules
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Pa.
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Pease
Pepper
Perkins
Peyser
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Solarz
Spellman
St Germain
Stack
Stark
Stewart
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
White
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—28

Addabbo
Anderson, Ill.
Barnes
Buchanan
Burton, John
Crane, Philip
Diggs
Fish
Flood
Foley
Harkin
Ichord
Jeffords
Kemp
Leath, Tex.
McCormack
Miller, Calif.
Murphy, Ill.
Runnels
Santini
Shumway
Stokes
Symms
Treen
Whitehurst
Wilson, C. H.
Wilson, Tex.
Wyatt

☐ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Addabbo against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. DERRICK

Mr. DERRICK. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. DERRICK: Page 51, strike out line 6 through line 9, and insert in lieu thereof the following:

of the greater of—

"(i) the national per capita income, or

"(ii) the per capita income of the population of the State within which such unit is located.

as determined by the Bureau of the Census for general statistical purposes (for the most recently completed calendar year for which data is available) and reported to the Secretary.

Page 68, strike out line 1 through line 5, and insert in lieu thereof the following:

excess of 130 percent of the greater of—

"(i) the national per capita income, or

"(ii) the per capita income of the population of the State within which such unit is located,

as determined by the Bureau of the Census for general statistical purposes (for the most recently completed calendar year for which data is available) and reported to the Secretary.

Mr. DERRICK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DERRICK. Mr. Chairman, first, I yield to the committee chairman.

Mr. BROOKS. Mr. Chairman, I would like to say to the Members of the House who are here that it is the hope of the committee that we can finish this bill this afternoon and if we can do that it is my understanding that there probably will be no session tomorrow and those who have commitments in their district can head for those areas tonight.

Mr. DERRICK. Mr. Chairman, my amendments have the full endorsement of the administration and their intent is to bring greater national balance to the determination of which localities are eligible for assistance under both title 4 and title 5 of the bill.

Quite simply, the amendments permit such determination of eligibility to be based on the use of either the national per capita income figure or the State per capita income figure, whichever is higher, rather than solely on the State per capita income figure as proposed in the bill.

Under both titles of the bill, State per capita income figures are used to determine if local government units are eligible for fiscal assistance. In the countercyclical title of H.R. 5980, localities with a per capita income level equal to or greater than 140 percent of the State per capita income rate are not eligible for fiscal assistance during periods of recession. A similar provision in the targeted fiscal assistance program limits eligibility to localities with income levels that are less than 130 percent of the State per capita income.

The use of State income levels which vary widely from State to State represents a very serious bias against States with high poverty and low per capita income. For 31 States with income figures below the national figure. States such as Ohio, Texas, Rhode Island, Maine, Wisconsin, Missouri, Arizona, Indiana, Florida, and Pennsylvania will be adversely affected by the use of State income figures. The use of widely varying income ceilings will mean that localities in the poorest States will be excluded.

When the choice is given between using the State per capita income or the national per capita income in determining eligibility, a greater national balance is provided.

I urge my colleagues to adopt the amendments.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask if I understand correctly the thrust of the two amendments of the gentleman together really makes one basic change and that is using the

State per capita income, rather than the national figures.

Mr. DERRICK. Well, not exactly; it gives the option of using one or the other. The gentleman is correct, they do basically the same thing. There is no difference.

Mr. KINDNESS. Is there any other effect of the two amendments?

Mr. DERRICK. No, sir, that is all it does, to my knowledge.

Mr. KINDNESS. I note that the administration is supporting this amendment.

Mr. DERRICK. Yes.

Mr. KINDNESS. Does the gentleman know if the administration has any more magic figures they are going to produce for us by way of amendments? They seem to be still adjusting their thinking on this. Is this the only one they intend to propose?

Mr. DERRICK. I am not aware of any figures the administration has, but if they are provided to me, I will certainly share them with the gentleman.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. WYDLER TO THE AMENDMENTS OFFERED BY MR. DERRICK

Mr. WYDLER. Mr. Chairman, I offer an amendment to the amendments.

The Clerk read as follows:

> Amendment offered by Mr. WYDLER to the amendments offered by Mr. DERRICK: In the matter proposed to be inserted on page 68 of the bill by the amendment of the gentleman from South Carolina strike out "130 percent" and insert in lieu thereof "135 percent".

Mr. WYDLER. Mr. Chairman, this is truly a rather small amendment without a great deal of complications. I do not think it does any major harm to the legislation.

I had hoped that the chairman of the committee and the gentleman from South Carolina would accept this amendment. It provides for only a minor change in one of the factors which relate to the eligibility under the targeted fiscal assistance program. There are many jurisdictions in this country, both large and small, that have very slow growth in real wages and salaries and fairly high rates of unemployment locally, who will not be getting any funding under this title. This amendment simply seeks to address that concern.

The amendment would increase the per capita income limitation of 130 percent of the State average as presently contained in the bill to 135 percent of the State average. The gentleman's amendment which is an excellent one, I think, goes part of the way in an effort to address this problem. His amendment would provide for greater flexibility in the use of these numbers by allowing the limitation to be guided by either the State or national per capita income average, whichever is greater. But that statement may not address the needs of a fairly small number of communities which I described before. The Senate provision on this matter contains a limit of 150 percent of the national average. The comparable provision in the countercyclical title is 140 percent of the State average. This change I am proposing would not even go that far, but would help address the needs of certain high tax, high cost of living States.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. Yes; I yield to my colleague, the gentleman from New York.

Mr. HORTON. Mr. Chairman, I think the gentleman from New York (Mr. WYDLER) and the gentleman from South Carolina (Mr. DERRICK) have both offered good amendments which the minority would be willing to accept. I think that they help the legislation.

I personally feel they are good amendments. I would urge that they be accepted.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. Yes; I would be delighted to yield to my colleague, the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I have discussed the amendment of the gentleman from South Carolina with him. I find no objection to it, but I would say that for the amendment of the gentleman from New York (Mr. WYDLER), I have the same feeling. It raises the figure a bit, but for the antirecession legislation it is already at 140 percent. If we could stay at 135 percent, we are still better off.

Mr. Chairman, I would have no objection to either amendment.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I hate to differ with my chairman and with my distinguished colleague in the well, because the gentleman and I have worked so well together on our subcommittee. But this amendment would bring a lot of rich areas into the program. As I see it, this amendment will bring into the program the gentleman's county, which I understand is not a fiscally distressed area and has some of the richest communities in the country. Is that not right?

□ 1340

Mr. WYDLER. Yes; I do not accept the gentleman's premise. I am not exactly sure about the factual statement the gentleman is giving us either. He may be right; we are not sure. My area is on the borderline.

Mr. FOUNTAIN. Mr. Chairman, I am just thinking about all the other Members of Congress who are on the borderline. If we attempt to amend this bill in order to benefit each Member's district—just like the Matsui amendment yesterday would have raised the wage and salary growth rate to 250 percent of the national average rate rather than 150 percent—if we are going to do that, we might as well do away with the targeted fiscal assistance concept of this bill.

Mr. WYDLER. Mr. Chairman, I would agree with the gentleman. There are arguments on all sides of this issue. The number, 130 percent, is arbitrary; I am sure the gentleman realizes that. There is nothing particularly scientific about it.

This number would, as the gentleman explained, protect my jurisdiction and others which are similarly fixed and which are really in need of assistance under the program and as a practical matter have been getting assistance and need to retain some part.

Mr. Chairman, I thank the gentleman from Texas (Mr. BROOKS) for accepting the amendment and the gentleman from New York (Mr. HORTON), and I hope the House does the same.

Mr. KINDNESS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I hope that it will not take 5 minutes for me to say that I see no reason to oppose either of these amendments, in that they make as much sense as the rest of the targeted fiscal assistance provisions.

We do not know the effect of the amendment or the amendment to the amendment except in general theory as it has been described to us. But this really does point out that we do not know what we are dealing with, and it does point out also that the administration is still providing adjustments to its previous thinking that gave rise to this targeted fiscal assistance. It does prove that the administration is still moving its position in response to certain pressures that are being exerted to say, "Give me some, too."

That is what we are concerned with here. I think it is regrettable that the targeted fiscal-assistance provisions of the bill are not yet written. I do not know if there is any more to be done to it or if the administration will give us any more guidance or thoughts, but I wish, if it does have any more adjustments to propose, it might come up with one that will help people in our part of Ohio, for example, where we have steel mills, automobile manufacturing facilities, and paper mills, and where we have problems.

Mr. DERRICK. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman, may I advise the gentleman from Ohio (Mr. KINDNESS) that my amendment does help his State and the area that he represents.

Mr. KINDNESS. Mr. Chairman, that is news to me, and I certainly would hope that would be the case. The fact is that the printouts we have do not tell us anything.

Mr. DERRICK. We are particularly concerned about the gentleman's constituents.

Mr. KINDNESS. I am most grateful. I am most grateful for that, particularly on behalf of those people who are likely to be unemployed very soon as a result of the incremental pricing mechanism that was included in the energy bill last year and the regulations which have come out now that natural gas is to be incrementally priced, whatever that means, with 10 pages of statutory language.

We are going to have older paper mills that will actually have to close down and go out of business if they do not get a hardship exemption under that incremental pricing mechanism, and people will be out of work. Hundreds of people will be out of work as a result of something we did in Congress. The bureaucrats did not do it. We wrote it right here or, if not here, in conference with the other body, as a matter of fact, and nobody knew what it meant at the time it was passed. Now we will find out.

I ask, why do we not do something about the problems that give rise to the unemployment that we are trying to offset with targeted fiscal assistance and countercyclical fiscal assistance? That is our problem. We are creating problems, and instead of dealing with those problems or eliminating them, we are trying to pour money on them. We are trying to help local governments and State governments by pouring on tax dollars that we do not even have yet.

Mr. Chairman, this amendment and the amendment to the amendment probably ought to pass because apparently they provide for targeted fiscal assistance to go to more places. Anything that goes in that direction probably makes a certain amount of sense because of the basic inequities involved in the targeted fiscal assistance provisions. But I would like to suggest that we ought to consider next somewhere along the way eliminating the targeted fiscal assistance provisions of the bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Wydler) to the amendments offered by the gentleman from South Carolina (Mr. Derrick).

The amendment to the amendments was agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from South Carolina (Mr. Derrick), as amended.

The amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. WILLIAMS OF OHIO

Mr. WILLIAMS of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Williams of Ohio: Page 68, strike out line 6 and everything that follows through line 17 and insert in lieu thereof the following:

"(2) Excess unemployment factor.—

"(A) In general.—Except as provided in subparagraph (B), the excess unemployment factor for a unit of local government is a percentage equal to the average annual employment rate for such unit for the calendar years ending on December 31 of 1975, 1976, 1977, and 1978 minus—

"(i) 4.5 percent, in the case of a unit of local government located in whole or in part in a standard metropolitan statistical area; or

"(ii) 4.0 percent, in the case of a unit of local government not located in whole or in part in such an area.

but shall not be less than zero.

"(B) Exception.—If the Secretary determines, upon request by a unit of local government and after consultation with the Secretary of Labor, that the unemployment rate for a unit of local government has substantially increased, or can reasonably be expected to substantially increase, as a consequence of the closing of major industrial facilities, the excess unemployment factor for such unit is equal to the unemployment rate for such unit for the most recent period after such closing for which data can be made available minus—

"(i) 4.5 percent, in the case of a unit of local government located in whole or in part in a standard metropolitan statistical area; or

"(ii) 4.0 percent, in the case of a unit of local government not located in whole or in part in such an area,

but shall not be less than zero.

Mr. WILLIAMS of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WILLIAMS of Ohio. Mr. Chairman, I offer this amendment today because I believe it is vital to the survival of many towns and cities in the Nation.

H.R. 5980 affords us the opportunity to mitigate the effects of a recession nationally and an opportunity to aid those concentrated and limited areas where depression will set in as result of a major industrial facility shutdown.

The purpose of this amendment is to allow the targeted fiscal-assistance program to take into account—in the fund-allocation process—recent excessive increases in unemployment rates due to the closing of a major industrial facility. My amendment establishes this objective by including a special provision that gives the Secretary of the Treasury the authority to use a different rate than the average of the annual rates for the fiscal years ending September 30, 1975, 1976, 1977, and 1978.

In computing a local government's excess unemployment factor, the Secretary of the Treasury may, upon request of a unit of local government, and after consultation with the Secretary of Labor, use, for a particular unit of local government, an unemployment rate for the most-recent period after such closings may have occurred. This most-recent rate would replace the use of the average rate in the computation of excess unemployment. All local governments would be eligible to utilize this provision.

In short, this amendment would assure that a local unit of government will not be penalized in receiving its allocation of funds because of statistical criteria which may be as much as 5 years old—and therefore irrelevant in the face of a newly darkened factory.

The recent steel mill closings are going to have a tremendous impact on people and their communities.

When the national economy begins its recovery, Youngstown and her sister steel cities will be left behind as literally thousands of jobs will have disappeared forever. There is no prospect for the afflicted steelworkers to return to their old jobs.

Let me offer one example of the effects of these closings on a community.

In my district there is a small town of 4,000 people—McDonald Village. As a result of the United States Steel closings, the town is going to lose approximately 72 percent of its operating budget. This will mandate a cutback in services and personnel. The street, water, and recreation departments will be drastically affected and there is no guarantee that the level of police, fire, and ambulatory services can be maintained at its present efficient level. The contributions to the capital improvements fund will be wiped out.

A proud and independent town, whose citizens have worked hard to insure that they have a good and decent place to live, will be forced to give up some of their well-deserved pride and independence.

And, while it will not happen tomorrow, the village of McDonald may be forced to fold—but only if we do not act.

It would be unconscionable if this House would not provide the much-needed assistance to places like McDonald. Aliquippa, Gary, Ind., and all the other towns.

It would be an abdication of our public duty and a violation of our public trust if we allow these local governments to forgo the provision of essential public services to their citizens as they face the difficult and trying days ahead.

I do not pretend for a moment that H.R. 5980 offers any basic solution to the structural problems besetting the steel industry which appears to be on the brink of a headlong retreat. However, speedy adoption of my amendment and the entire bill will help alleviate the horrendous problems where some local governments are going to suffer a double strain—a general recession on the one hand, and sudden catastrophic change on the other.

Mr. Chairman, I strongly urge my colleagues to support this amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I am happy to yield to the chairman of the committee.

Mr. BROOKS. Mr. Chairman, I understand that the gentleman's amendment would provide for taking into account recent excessive increases in unemployment rates due to closing of major industrial facilities and that his amendment would give the Secretary of the Treasury the discretion upon request to use the most recent unemployment rate for certain communities.

That provision would be consistent with the general purpose of title V, the targeted fiscal assistance, and I certainly would have no objection to the gentleman's amendment. I think it is reasonable, and I accept it.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I am happy also to accept the amendment. The gentleman from Ohio (Mr. Williams) has talked to me about it.

I know of the condition that exists in the gentleman's district with unexpected high unemployment because of the closing of an industry. The targeted fiscal assistance program should take that into account.

Mr. Chairman, I think the gentleman's amendment is a good one. It contributes to the program, and I urge its adoption.

Mr. WILLIAMS of Ohio. Mr. Chairman, I thank the gentleman.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I would support the gentleman's amendment, too, but I want to raise a question or perhaps two questions.

No. 1, what does the gentleman describe as a "major industry facility"?

And, No. 2, would the gentleman want to play around with some language which would include layoffs in certain facilities beyond a certain point of duration?

I am looking at my city of Baltimore, where 450 employees of Armco Steel are on indefinite layoff, where Anchor Post has 420 layoffs due to a plant closing, and where in a General Motors plant in my city 2,200 people are on indefinite layoff. These people suffer just as much if that indefinite layoff is extended for a year or more as do those people who are unemployed as the result of the closing of a plant.

So, Mr. Chairman, would the gentleman contemplate in any way some revision to deal with indefinite layoffs beyond a certain point of duration?

Mr. WILLIAMS of Ohio. Mr. Chairman, I do not have any particular problem with that. As has been stated earlier, this amendment is offered to deal with the closing of facilities. Indefinite layoffs would certainly have the same impact.

Mr. MITCHELL of Maryland. Mr. Chairman, the gentleman would assume that the Secretary of the Treasury would interpret an indefinite layoff from a plant as being covered under his amendment?

Mr. WILLIAMS of Ohio. Mr. Chairman, this amendment gives the Secretary of the Treasury the authority to determine, upon application by local governments, the procedure and gives the Secretary the discretion to use the most recent data. So the Secretary would have the discretion to utilize the most recent data upon request of the local government.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for his explanation.

Mr. Chairman, I rise in support of the Antirecession and Targeted Fiscal Assistance Act of 1979. Although economists are anticipating further recessionary trends, many cities and rural areas have been sustaining this stagnation for an inordinate period of time. For this reason, H.R. 5980 would ameliorate the financial burden incurred by State and local governments in providing social services and community support programs. Unless municipalities receive some kind of fiscal relief from spiraling costs, many disadvantaged citizens will pay unfairly for economic difficulties not of their making.

Let me emphasize to my colleagues that H.R. 5980 is an abundantly reasonable bill. The triggering mechanism contained in the antirecession section of the measure requires that the Nation suffer both two consecutive quarters in real wage decline and a decline in the real gross national product. A community, in order to receive Federal assistance under the provisions of this bill, must need help very badly indeed.

The targeted fiscal assistance section of this legislation is a one-time grant to areas of proven structural unemployment and historically poor growth rates. As this requirement in the bill clearly indicates, the needs of regions with so abysmal an economic outlook undoubtedly require healthy injections of Federal aid to expedite their recovery. Thus, H.R. 5980 recognizes that different geographic areas experience certain economic conditions at different periods. To this extent, the bill has evolved considerably from its predecessors.

For my colleagues whose primary objection to the bill is its possible cost, let me hasten to add that H.R. 5980 is a great deal less expensive than countercyclical measures passed in previous Congresses. It does not require any additions to either the Federal, State, or local bureaucracy. The mechanisms for its implementation already exist.

This measure is not audacious; it is not costly. In fact, it does nothing to disturb the status quo. It is for this reason that I have minor misgivings about this bill. Unfortunately, the funding levels set by the Antirecession and Targeted Fiscal Assistance Act may only succeed in sustaining poverty in areas designated to receive fiscal assistance, thus needlessly prolonging their distress. An even more substantial injection of Federal aid may enable municipalities to "turn the corner" in providing services and revitalizing pockets of poverty.

We must also recognize that, while this kind of backup assistance is desperately needed, it is only a stopgap measure, a symptomatic response to critical human and economic problems. Lest we forget, this bill should be viewed only as a beginning. As American industries—and the metropolitan and rural areas that embody them—begin to mature, we must continue to reevaluate our capacity to nurture and sustain human resources through further legislation.

Despite these minor flaws, I give my wholehearted support for this measure. Yet, I recognize that there are many Members of this body whose constituents are generally more affluent than my own, and who question the philosophy embodied in this kind of legislation. I ask you to suspend for a moment your concern for the whole union and think in terms of pure economic self-interest; do any of us here believe that our Nation's wealth could have been fostered without the regions which share a disproportionate burden of the means of production? Shall we be so miserly as to deny long-term prosperity to ourselves in the name of short-term fiscal prudency? It seems only logical that the more prosperous communities share the responsibility in supporting areas which maintain our farms and our factories.

But most importantly, passage of H.R. 5980 would substantively demonstrate to local governments that the Federal Government and the Congress is vitally concerned with their resiliency in the ongoing struggle against the ever-increasing cost of providing social services. It would demonstrate to the ever-increasing ranks of the unemployed that the fundamental interest of the Congress is not in trivial penny pinching and short-sighted approaches to economic theory, but in human hope—the hope of all those who are attempting to carve out from the edifice of American institutions the dreams and aspirations of each of our constituents. If we but look at indefinite layoffs in my city, you will see the need for this legislation.

Here are some facts about unemployment in my city.

Re employment reductions in the city of Baltimore from 1977 to present

The following information pertains to companies with 100 or more employees:

INDEFINITE LAY-OFFS

Eskay Co.: An undisclosed number.

Good Humor Co.: An undisclosed number.

Silbers Bakery Co.: An undisclosed number.

Samuel Issac's and Son Apparel: 70 out of 270 employees.

Bernard Land and Sons: 60.

Mern Manufacturing Co.: 85.

Atlantic International Lumber Co.: 550.

Ft. McHenry Lumber Co.: 150.

Baltimore Business Forum (Paper Co.): 690.

Imperial Paper Co.: 150.

Sunpapers (A. Abel Co.): 50.

News American Co.: 50.

Graphics Manufacturing: 75 out of 225 employees.

Lever Bros. Chemical Co.: 50.

Owens of Illinois: 60 out of 205 employees.

Armco Steel Co.: 450 out of 1,700 employees.

Anchor Post Co.: 420 (closing).

National Can Co.: 184 (closing).

Metal Masters Co.: 130 (moving).

Western Electric Co.: 100.

Bethlehem Steel Shipyards: 500 since 1976.

General Motors Co.: 2,200.

Maryland Drydock Co.: 1,000 (some have been rehired, however).

Also: Samuel Kirk Pewter merged with Steiff & Co.: Undisclosed layoffs.

Mr. Chairman I urge the passage of H.R. 5980.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I would like to express some concern about the limitation of this amendment to industrial facilities. I recognize that in the gentleman's district that may be the major problem he is faced with.

☐ 1400

On the other hand, for example, in New York City, hospitals are major employers and are having major cutbacks in both voluntary and city-owned hospitals in order to shrink the number of beds that we have, which are excessive at the present time, but those will cause very substantial layoffs and could cause unemployment.

I was wondering whether the gentleman could consider striking the word "industrial" from his amendment. It would continue to protect him and it would protect those of us who find major layoffs as a result of closing other types of facilities in our communities.

Mr. WILLIAMS of Ohio. So far as striking the word "industrial," I do not feel that I can accept that. I simply want to point out to the gentleman that all local governments are eligible to use this option as it relates to their particular situation.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WILLIAMS) has expired.

(On request of Mr. GREEN and by unanimous consent, Mr. WILLIAMS of Ohio was allowed to proceed for 3 additional minutes.)

Mr. GREEN. If the gentleman will yield further, my understanding is that the Secretary has that discretion under the gentleman's amendment only if an industrial facility is involved. And if that is the case, then that is not going to help people where there is a closure of another kind of majority facility, such as a Government operation of some sort, which can also create major unemployment in a community and creates exactly the same kind of situation that the gentleman is concerned about in his community.

Mr. WILLIAMS of Ohio. Once again, my amendment deals specifically with the problem of a major industrial facility shutdown. It is important to note that the initiative in using this option comes from the local unit of government. The Secretary will respond on the basis of local conditions and the attendant data.

Mr. GREEN. If the gentleman will yield further, I acknowledge what the gentleman is saying. But I would point out that the bill at the present time is limited to major industrial facilities. If a Government base, a military base, for example, shuts down and creates major unemployment, that would not be covered by the gentleman's amendment. I do not have that kind of situation in my community but others will face it, and I was just wondering if the gentleman, by striking "industrial," would not help other communities which may cause different types of major facilities being closed other than industrial facilities.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I certainly recognize the problem that the gentleman from New York has indicated, but it seems to me that this amendment is attempting to encompass those situations in which there is much unemployment as a result of a closure of an industrial unit which creates a severe problem in that particular area.

New York City already gets a major portion of this targeted fiscal assistance. The unemployment that is referred to by way of closure of hospitals, and the like, let us say in the New York City area, would certainly qualify that area not only under targeted fiscal assistance but also under countercyclical revenue sharing in the event of a national recession. I do not see any need for us to make any specific changes in this amendment.

So it seems to me that this is an amendment designed precisely to cover a situation which has not been covered and which ought to be covered under the targeted fiscal assistance.

Mr. WILLIAMS of Ohio. I thank the gentleman.

Mr. HALL of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from Ohio.

Mr. HALL of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Williams amendment to permit the targeted fiscal assistance program to react to recent high unemployment in an area due to the closing of major industrial facilities.

As H.R. 5980 is presently written, funding for the targeted fiscal assistance program would be allocated by multiplying the average unemployment rate for a particular locality for the last 4 fiscal years, less 4.5 percent, by the amount of general revenue-sharing funds that the area receives. Unfortunately, this funding allocation mechanism fails to take into account recent dramatic increases in unemployment in a community which have resulted from the closing of key plant facilities.

As my colleague from Ohio (Mr. WILLIAMS) pointed out, recent plant closings like the steel mill closings in Youngstown have a devastating impact on a locality. The targeted fiscal assistance program should be flexible enough to respond to such sudden and sharp employment disruptions.

In many cases, the average unemployment rates for the past 4 fiscal years simply do not accurately reflect the real need of a community. The Dayton, Ohio, area which I represent had an unemployment rate of 4.1 percent in 1978. However, in 1979, unemployment at times reached as high as 8.3 percent.

The Dayton area, like others in the Northeast and Midwest, has been losing manufacturing jobs. Last year, the Frigidaire Division of General Motors closed in Dayton, and other GM divisions have laid off employees. There is concern that some other major industrial sources of employment may be lost in the near future.

The Williams amendment would allow local governments to request the Secretary of the Treasury to use the unemployment rate for the most recent period after major industrial closings have occurred as the trigger mechanism for the targeted fiscal assistance program. After consultation with the Secretary of Labor, the Secretary of the Treasury would have the authority to use this more relevant unemployment data instead of the unemployment rate average for 4 fiscal years.

I believe that Federal funds under the targeted fiscal assistance program should be directed to the areas that have the greatest need. The Williams amendment will help to make the program more responsive and enable it to address the sudden job losses that have taken place recently in cities like Youngstown and Dayton.

I commend the gentleman for his excellent amendment, and I urge my colleagues to support it.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WILLIAMS) has again expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. WILLIAMS of Ohio was allowed to proceed for 2 additional minutes.)

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, certain members of the Subcommittee on Trade had a hearing in Youngstown at the request of the gentleman from Ohio, and obviously there is a problem there. The gentleman from Ohio has come up with an ingenious solution which will not solve all of the problems but at least will be of some great help. I think he has done a good job. I hope the gentleman's amendment is adopted.

Mr. WILLIAMS of Ohio. I thank the gentleman.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Chairman, as I have stated previously, I support the gentleman's amendment. I think it makes eminently good sense. But it has occured to me, as a result of the dialog here on the floor, that the results of the gentleman's amendment may be a little unclear as it applies to some areas, and I would like to get some legislative history, hopefully, to clarify that.

As the gentleman from Ohio (Mr. HALL) has pointed out, in his district in Dayton, Ohio, there are some severe layoff problems from plant closings, and there are units of local government within that same county, not necessarily within the city of Dayton, that is the home of a lot of people who work in the plants that have been closed, or did work there.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WILLIAMS) has again expired.

(On request of Mr. KINDNESS and by unanimous consent, Mr. WILLIAMS of Ohio was allowed to proceed for 3 additional minutes.)

Mr. KINDNESS. If the gentleman will yield further, is it the intent of the gentleman's amendment that all of those local units of government that are affected, indeed, by such plant closings could make application to the Secretary for the exercise of the discretion that is contemplated and thus perhaps several municipalities might make such applications and the Secretary would exercise his discretion to see where the harm lies primarily?

Mr. WILLIAMS of Ohio. That is exactly right.

Mr. KINDNESS. So it would not necessarily be restricted to the geographic location in which the plant that closed down is itself located?

Mr. WILLIAMS of Ohio. That is correct. The Secretary would consider the impact of a particular plant shutdown as it affects each local jurisdiction. That is, of each local unit of government which wishes to utilize this option.

Mr. KINDNESS. I think the gentleman's amendment is liable to do a whole lot more good than the targeted fiscal assistance provisions would otherwise do, and I therefore, as a minority of the minority, would support the amendment.

Mr. WILLIAMS of Ohio. I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Ohio. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman for offering this amendment. While it does not immediately affect the community that I represent, it certainly does affect his community and it could affect many in northern Ohio, as well as other States; and it seems to me that one of the weaknesses of the present system is that it is based on such a long period of time before you can become eligible for the assistance that, by the time you get it, most of the harm has been done and you cannot undo it.

So I strongly support what the gentleman is trying to do and hope that our colleagues will do likewise.

Mr. WILLIAMS of Ohio. I thank the gentleman for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WILLIAMS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: Page 51, line 24, insert immediately before the period the following: "and for unincorporated areas of such county".

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, this is basically a perfecting amendment to the amendment that was offered by the gentleman in full committee and which was accepted by the full committee. I would urge its adoption. I certainly would be willing to accept it.

Mr. McCLOSKEY. I thank the gentleman.

Mr. Chairman, I might just briefly explain the amendment. It recognizes the problem that in many counties of the United States there are unincorporated areas of high unemployment and low income which cause those areas to be unable to maintain a tax base capable of permitting them to incorporate as cities. Therefore, under the formula they are penalized because, as unincorporated areas, they may not qualify for these funds to be allocated, even though they happen to be the areas in the county that caused the full county to qualify for the funds in the first place.

What the perfecting amendment does is to provide that these unincorporated areas may have money spent in them or on their behalf by county governments, even though they are not actually units of local government. The amendment is proposed because of the specific situation that the gentleman from California (Mr. ROYER) and I share of two unincorporated areas in San Mateo County, Calif., the North Fair Oaks and East Palo Alto areas. Upon reviewing some of the other 57 counties of California we find that many of them have similar situations, however, and we presume the situation exists in many other States as well.

I appreciate that the ranking minority member will accept the amendment.

□ 1410

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Texas.

Mr. BROOKS. I say to my distinguished friend and member of the committee, who has contributed so much to the committee's effectiveness, I have no objection to the amendment. I think it deals with a problem acute to this part of the country, but may well affect other parts of the country. I see no objection to the amendment.

Mr. McCLOSKEY. I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. SNOWE

Mrs. SNOWE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SNOWE: Page 66, after line 15, insert the following new paragraph:

"(3) MAXIMUM ALLOCABLE AMOUNT; REALLOCATION.—

"(A) LIMITATION.—If, for any calendar quarter, the sum of the allocable amounts under paragraph (1) of the units of local government in any State exceeds 12.5 percent of the amount available for allocation under this section, then the allocation of each such unit shall be reduced by an amount which bears the same ratio to the amount of that excess as the allocable amount of such unit under paragraph (1) bears to such sum of the allocable amounts of the units of local government in such State.

"(B) REALLOCATION.—Any amounts which, as a consequence of the subparagraph (A), may not be allocated within any State or States shall be allocated among the units of local government in other States in proportion to the sum of their allocable amounts under paragraphs (1) and (2), except that no such allocation shall be increased in a manner which would result in an allocation exceeding the limitation imposed by subparagraph (A).

Mrs. SNOWE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maine?

There was no objection.

Mrs. SNOWE. Mr. Chairman, the amendment that I have before the committee today seeks to restore some of the equity and balance in the national distribution of moneys under the targeted fiscal assistance program.

At present a large share of these moneys will be directed to the States of New York and California. In fact, $60 million of the $150 million will go to the communities in these States.

I know that yesterday an amendment was passed which seeks to increase the ceiling to $200 million. Under this cap, they would receive no more than 12½ percent of the moneys allocated to any particular State. Therefore, New York and California and others would not be able to receive any more than $25 million. Out of the money appropriated under the $150 million ceiling, $28 million would go to the city of New York. It is not a question of need. It is a question of a skewed formula which initially was devised to pump as much money into these States as possible. All this amendment attempts to do is place a 12½-percent limitation on the total amount of money which may go to any individual State.

The only two States to experience reduced allocation are New York and California. All other States would benefit through the utilization of this device.

Further, I would point out that oftentimes in the past, in aid programs of this type, the Congress has seen fit to place similar limitations on the amount of money going to any particular State.

Most recently, the local Public Works Act, which was adopted in 1976 and reauthorized in 1977, contained a 12½-percent limitation.

That program was also intended to assist communities suffering from the recessionary effects of high unemployment rates. Since that is ostensibly a purpose of this program, too, it makes good sense to include a similar limitation here.

Some will contend this amendment is unfair; that this amendment takes away from those places, namely New York and California, which need this allocation the most.

I think a number of things can be pointed out in rebuttal to those arguments. First, as I have stated, the formula as it presently exists is biased or skewed to New York and California.

I would ask my colleagues to look at how this formula was constructed. In the main, these allocations are based upon local unemployment rates. The GAO, the President's own Commission on Unemployment and Unemployment Statistics, and various studies and reports that the Congress has commissioned have all told us time and again, repeating the same old message, that local unemployment rates are of very little utility in devising an allocation seem to funnel money to local governments.

Let us make the point clearer. We are not helping the unemployed. We are helping governments, and there is very little correlation between the unemployment rate existing in a community and the financial distress of that government. Besides, these moneys are not even earmarked for the benefit of the unemployed.

Given all this, we have here before us today a program which by and large uses unemployment rates to determine local allocations.

It is a fact that large, urban States have a higher rate of unemployment than smaller, more rural States.

We have been told one reason for this is the methods of computation are better and more refined in the urban areas. Smaller, more rural States have their proportionate share of unemployment, too; but these unemployed are not necessarily reflected in the statistics that are gathered.

What this amendment attempts to address is the imbalance between New York and California and the rest of the country.

Is anyone going to get up in the well of the House and tell this body that New York and California, with 18 percent of our national population, should get 40 percent of this money?

Eighteen percent of the population and 40 percent of the money. I just cannot buy that.

That 40 percent of the problems in this country reside in New York and California?

That 40 percent of the money in this allocation should go to New York and California?

That in the proposition 13 State, California, a State whose coffers were just literally overflowing with billions of existing revenue; that more should be sent there?

I say no, and I think in the interest of fairness and equity that as long as this body is going to consider programs like this, we should insure that every State and region gets a fair share of the allocation.

I might say again, because I think it is an important point to emphasize here, is that although unemployment figures are used in the computations for the allocations of this money there is absolutely no guarantee that the money is going to be used by the various governments for the creation of programs to increase employment in their areas.

It does not have a guarantee for creating jobs in a given area that is suffering from high unemployment.

I think that is one of the deficiencies of the program.

If we have "X" amount of money involved in a particular program, it seems to me it has to be fairly distributed throughout the country. I realize that we cannot give money to every community and unit of government in this country, but I am concerned when I look at the distribution sheet that we have in front of us, given to us by the Department of the Treasury, that shows that California and New York would receive the greatest proportion of the money involved.

The CHAIRMAN. The time of the gentlewoman from Maine (Mrs. Snowe) has expired.

(At the request of Mr. Kindness and by unanimous consent, Mrs. Snowe was allowed to proceed for 3 additional minutes.)

Mrs. SNOWE. It is not an antiurban bill. My amendment is not an antiurban argument here this morning. My concern is the way this money is being distributed throughout the country.

Now, recently we just had an amendment that we considered, and it was rejected, to replace the unemployment statistics with revenue-sharing formulas, which it seems to me to be a more valid allocation of money; because you are basing it on population, per-capita income, and tax effect.

There is no indication of this. There is no reason to use unemployment statistics, which has been demonstrated time and again, they are unreliable. That is why I think that we do have a formula here that certainly is slanted to the most urban areas. So that is my concern. That is why I am saying that if we only get so much money, let us see most of the States get their fair share based on what we have available to us.

Mr. KINDNESS. Mr. Chairman, will the gentlewoman yield?

Mrs. SNOWE. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentlewoman for yielding.

The problem that is addressed by this amendment is one that I think disturbs or concerns a great many of the Members, and I note that there are 33 States that, as an example of disproportionate use of the targeted fiscal assistance funds, 33 States that would receive less money than Puerto Rico, as an example.

Mrs. SNOWE. That is correct.

Mr. KINDNESS. Those States include some very interesting States, such as—you can run down the list—from Alabama through Oregon and Tennessee and Washington, West Virginia, Wisconsin, and Wyoming.

If I understand the thrust of the amendment correctly, every State would potentially be somewhat more equitably treated; and, would be somewhat better off with respect to targeted fiscal assistance if this amendment is adopted. It would be a modification that simply levels off the great peaks and shoves a little bit more down in the valley. Is that the overall thrust of the amendment?

Mrs. SNOWE. That is exactly correct. I am glad the gentleman brought that point up for clarification.

Under the 12½-percent limitation, every State expects to gain. I think California would perhaps lose a couple of million dollars, and certainly New York would stand to lose more; but every other State would seem to gain because the money that is loosened up or given or redistributed back to the other States, all of the States would receive their proportionate share. The 12½-percent limitation increases the ceiling based on the $200 million allocation to $25 million, so no State could receive any more than $25 million.

Mr. KINDNESS. But at the same time, this amendment would not make any community or State for that matter eligible for targeted fiscal assistance that is not otherwise eligible before the passage of the amendment?

Mrs. SNOWE. That is correct.

Mr. KINDNESS. It changes the ground rules not one bit?

Mrs. SNOWE. Not at all.

The CHAIRMAN. The time of the gentlewoman from Maine (Mrs. Snowe) has expired.

(At the request of Mr. Weiss and by unanimous consent, Mrs. Snowe was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentlewoman yield?

Mrs. SNOWE. I yield to the gentleman from New York.

☐ 1420

Mr. WEISS. I thank the gentlewoman for yielding.

Would the gentlewoman explain to me again, is the limitation of 12.5 percent on a particular locality, or a particular State, or both? How does that work?

Mrs. SNOWE. Just the State itself. In other words, if we have the $200 million allocation as we have just approved yesterday, what we are saying is the State of New York, for instance, would not receive any more than $25 million.

Mr. WEISS. If the gentlewoman would yield further, if we had a State with a number of major cities that were in distress, all of the cities in distress would be lumped together and the State would still be limited to that 12.5 percent no matter how many cities were in distress; is that right?

Mrs. SNOWE. That is not necessarily correct. If you had only $200 million, I am saying that they are going to receive their same proportionate share, except they are under a cap limitation.

Mr. WEISS. But, again, assuming that the 12.5 percent is $25 million for the State, and if we get six major cities in a particular State that are in great distress, the maximum amount that would have to be divided among those six cities would be the $25 million; is that right?

Mrs. SNOWE. That is correct.

Mr. WEISS. If the gentlewoman would yield for one more question, I noted that earlier the gentlewoman's amendment called for a 10-percent limitation and now it has been moved to a 12.5-percent limitation. Am I correct in assuming that the 12.5-percent limitation makes sure that only the States of New York and California are covered by this limitation?

Mrs. SNOWE. No, not at all. The reason I use the 12.5 percent is to be consistent with Federal law. I decided to use it because local public workers programs use the same 12.5-percent limitation. It was not to particularly cover New York and California. As the gentleman can see, I would have to come up with a very strange percentage, based on what New York and California receive, to cover a lot of other areas. I mean, the gentleman is receiving such a greater amount by comparison.

The CHAIRMAN. The time of the gentlewoman from Maine has again expired.

(At the request of Mr. Weiss and by unanimous consent, Mrs. Snowe was allowed to proceed for 30 additional seconds.)

Mrs. SNOWE. I yield to the gentleman.

Mr. WEISS. Would the gentlewoman tell me if, in fact, there are additional States besides New York and California that would be affected by this limitation?

Mrs. SNOWE. Not at all. They all stand to be beneficiaries because it would be freeing up some money going to New York and California. But the point I think I would like to make here is that no other State even comes close to receiving what New York and California receive.

Mr. WEISS. Only New York and California would be limited by this percentage?

Mrs. SNOWE. California to a limited degree, and New York to a greater extent.

The CHAIRMAN. The time of the gentlewoman from Maine has again expired.

(At the request of Mr. KINDNESS and by unanimous consent, Mrs. SNOWE was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. Mr. Chairman, will the gentlewoman yield?

Mrs. SNOWE. I yield to the gentleman.

Mr. KINDNESS. There is another factor involved in this that I think I understand and wonder whether this is the same shared understanding. The unemployment figures which we have been talking about in terms of their unreliability all through the debate on this matter are an underlying cause for part of the existing outsized or inequitable benefit afforded to the larger urban areas. The reliability of those figures on the low side seems to be the problem with less urbanized areas. The reason for the use of the 12.5-percent cap in the local Public Works Employment Act, was to provide an equitable offsetting of that unreliable factor in the unemployment compensation figures. Is that the gentlewoman's understanding?

Mrs. SNOWE. That is absolutely correct. I think the GAO report brought that out very well.

In addition to that, as I mentioned in my original statement, the statistics available for rural areas or rural States in general are not very accurate and reliable, and it is very difficult to ascertain. In many instances they do not use the unemployment figures, or they do not have available to them those people who do not receive unemployment compensation, so they do not compute those individuals into the configuration of the unemployment statistics.

Mr. CORMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am shocked at the philosophy just expressed, not shocked that philosophy is expressed, because it is frequently on the other end of the Capitol, but never in this body. We represent people. We do not represent States. Those Senators represent the States.

It is not States that are out of work, it is not States that are going hungry. It is people. If the people have no voice here, they have no voice in the Federal Government.

I yield back the balance of my time.

Mr. KINDNESS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to express very quickly my support of the amendment that is offered here. I would urge that the Members consider that we are not talking about putting anyone to work with the moneys that are involved in this targeted fiscal assistance matter. What we are really talking about, and I regret the gentleman from California has disappeared from the floor, but we are not talking about helping the unemployed with this targeted fiscal assistance, we are talking about helping local governments and State governments to meet their requirements, to provide services to people. It is a very indirect relationship to unemployment that is involved in this matter.

But what we would seek to have done if this amendment is adopted is to provide some essential fairness to what is a very loosely structured and uncertain type of benefit that is being distributed. There ought to be some degree of equity for people who pay taxes. People are the ones who pay the taxes, after all not States. I think we have too often in matters of this sort overlooked the fact that there are people on both ends of this scale, people who are unemployed and have problems in that respect, and they are certainly a concern to all of us, and not as a matter of statehood or which State gets it. But there are also people paying taxes, and they do not pay those taxes as States either.

I would urge the adoption of the amendment.

Mrs. SNOWE. Mr. Chairman, would the gentleman yield?

Mr. KINDNESS. I yield to the gentlewoman from Maine.

Mrs. SNOWE. I think the gentleman is making a very important point that I would like to further underscore. I am just citing two States involved here to show how the formula has been slanted and skewed. We need to have a more even national distribution.

The fact of the matter is if we are looking at the score sheet and seeing that two States are receiving 40 percent of the money. Something has to be wrong.

I am not saying that New York and California do not have severe economic problems, high unemployment, but other States of a lesser size experience the same kinds of economic distress. I think that is the issue here.

I am not antiurban. A lot of the other urban areas are receiving substantial amounts of money, more than my own State of Maine. That is fine. I do not care who is getting the money; I just want to know how it is being distributed. I have a concern here that we do not seem to have a regard about the fairness involved. The State of Maine, the State of Ohio, and every other State, make substantial tax efforts and contributions as well, and I think that factor has to be pointed out and we have to make sure that we are just evenly distributing this money in an equitable manner. Then whoever gets it, is fine with me.

Mr. KINDNESS. The gentlewoman has made the point very clear. I would urge the adoption of the amendment on the basis of the essential equity that is involved in it. It is to correct an existing inequity.

Ms. FERRARO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

As I speak with Members about the need for countercyclical and targeted fiscal assistance, I repeatedly hear the suggestion by implication or otherwise that this bill, and this issue, represent another attempt by the large cities to keep their hands in the Federal Government's pockets, and to reap large benefits with no strings attached. I have also heard my colleagues suggest, quite openly, that they feel comfortable in opposing this measure because their districts will not be eligible for large sums under the formula in the bill. Unfortunately, many Members see this as an opportunity to cast an antispending vote.

The merits of the bill and the methodology of any rationale behind H.R. 5980 have been clearly articulated by the distinguished committee chairman and the bill's sponsors. There is no need for me to repeat those facts and figures. Rather, I would like to make a point which is relevant, but has not been openly discussed, although it was alluded to in debate yesterday between the gentlelady from Massachusetts and the gentleman from Ohio.

I find that I must be a bit parochial, and a little defensive about this issue. The inference that H.R. 5980 is another bailout of New York, or any other large city, is wrong. I would like to remind my colleagues that the ratio of taxes paid by the citizens of New York to the Federal Government and the outlays spent in our State is not a 1-to-1 ratio. In fact, in 1978, the difference between the taxes paid and the outlays spent in the State was $11 billion.

We may have 18 percent of the population and we may have 40 percent of the money under the formula, but that $11 billion deficit is roughly equal to two and a half times what the State of Oklahoma contributed to the Federal Treasury in 1977. Or, three times the total taxes paid by the State of Maine that year.

If my colleagues would like to examine legislation in terms of a right to allocations of Federal dollars as contingent upon the proportion of contributions to the Treasury, I personally would be delighted. But, Mr. Chairman, I do not adhere to that analysis of legislation. I find no inherent right to the largess of the Federal Government. In fact, if that were the case, I would carefully pick and choose among my votes to insure that no agricultural funds, or no public works money, or no defense contracts went to any State in a proportion larger than their share of Federal taxes.

I suspect that this philosophy, if widely used, would lead to the demise of the family farm—to the denial of necessary irrigation projects—and to the closing of manufacturing plants in many of our smaller States and localities. I further suspect that many of my colleagues, on both sides of the aisle, would resent that method of voting.

Those who would resent it would do so because it would stop the types of outlay windfalls I just described. And, those who would complain bitterly, are those who are suggesting to me that they will oppose this legislation, and support this amendment to restrict the share of any one State.

This type of parochialism and legislating with blinders is irresponsible. I would not support a cap on the amount of grain price supports that Iowa, Nebraska, or Kansas receive. Agricultural aid goes where it is needed, and so, too, should antirecessionary assistance be targeted to those areas in the greatest need.

We only have to look at the daily papers to see the predictions of a deepening recession. Past experiences have shown us what the effect of such a recession will be on our Nation's cities. Moreover, we can predict, with a degree of certainty, which municipalities will be hardest hit. We cannot look these economic realities in the face and then ignore them.

Increased unemployment and sharp reductions in Government services seem a high price to pay for one antispending vote. New York and Newark and Philadelphia and all of our other large cities do not have their hands in the till. In fact, given the statistics, I suspect that Caribou, Maine, and Muskogee, Okla., are getting more for their tax money than our larger cities.

To support a cap on the amount of funds that any one State receives, and to do so because of the fear that another smaller State will not receive enough is a vote based on false premises. I urge my colleagues who have been using the argument that H.R. 5980 is a bailout for the cities and that this amendment corrects that, to legislate responsibly and with respect for the facts. To do so will lead us to defeat this amendment and to proceed with the passage of this important bill.

☐ 1430

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment would distort the program and severely penalize the large States and great cities of this country.

The program is designed to help local governments in fiscal distress. If cities are in trouble, they should be treated equally regardless of the State in which they are located. But, with this amendment cities in large States would receive a greatly reduced allocation, no matter how severe their problems. If there are several large cities in distress in one State, as is the situation in New York State, then that allocation would be further reduced.

I do not think we should discriminate against any State or group of States. The bill now tries to be fairly neutral, to have an even-handed approach and give all of this country an opportunity, where they have fiscal distress and severe difficulties, to get some compensation and to overcome those problems.

Now, I think that this amendment would destroy that neutrality and it should be defeated.

Mrs. SNOWE. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the Chair recognizes the gentlewoman from Maine for 5 minutes.

There was no objection.

Mrs. SNOWE. Mr. Chairman, I do not intend to belabor the point here, but when talking about discrimination, I look at the sheet before me, and I think we have got it in reverse. New York and California are used in citing the example of inequitability of the formula utilized in allocating the money because it is evident, by the amounts they are allocated. They receive a disproportionate share. I think we should be concerned about the way the taxpayers' dollars are expended.

As to the equitability and fairness and the reasonableness involved in the determination of how our money is spent, I have not heard anybody here say today that unemployment figures are unreliable and that they are justifiably used in distributing our money. I have not heard anybody make that point today because I do not think we can make that point. That is why the revenue-sharing formula becomes very important, because it is based on a more fair way of determining how we can allocate our money.

I have before me a GAO report that goes on at great length and detail about how unsubstantive and undocumented unemployment figures are. This is not an antiurban sentiment as there are other major communities receiving a fair share. But there are two States that happen to be the major beneficiaries now in a disproportionate manner of the $150 million appropriated, and now up to a $200 million, allocation as approved yesterday. That is all fine, but there are other States in this country that are also suffering economically.

Whether my State is suffering or not is not the question at hand. I mentioned that to the administration last January and February when I introduced my alternative to the administration's countercyclical proposal. I was concerned about the way the money was being distributed.

Mr. HORTON. Mr. Chairman, will the gentlewoman yield?

Mrs. SNOWE. Certainly.

Mr. HORTON. Mr. Chairman, the gentlewoman's proposal, though, is not to change the formula. What she is attempting to do is put a cap on the amount of money which can go to any one State. This would cause injustice as far as those areas that have distress are concerned. It is not just high unemployment figures that would trigger the payments. That is one of the factors in the formula, but low economic growth and low per capita income are also involved in the computation with regard to eligibility.

The gentlewoman does not attempt to solve that problem with her amendment. All her amendment does is put a cap on and penalize areas that do qualify. The gentlewoman says they cannot get any more than 12.5 percent. The gentlewoman is not really solving the problem. She is creating a different problem, and that does bring about discrimination.

Mrs. SNOWE. The gentleman from Ohio (Mr. WYLIE) attempted to resolve that problem, but the House did not support his amendment.

Mr. KINDNESS. Mr. Chairman, will the gentlewoman yield?

Mrs. SNOWE. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I think we are almost behaving like we are in "Alice in Wonderland" or someplace. I thought I heard the gentleman from New York say—or infer, I should say—that these factors such as income level and growth are more reliable factors than the unemployment figures. I know that it is difficult for anyone to say that with a great deal of conviction. I would certainly think so, at any rate.

We do not have the census of 1980 completed so as to have anything like reliable figures. We are talking about unemployment figures, first of all, as being unreliable. That is nothing as compared to what we are going to find with respect to those growth and income figures once the 1980 census has been completed.

I really think that we have got to say that those two factors just have not been attacked like the unemployment figures have been attacked and analyzed very carefully. I get a little concerned that we constantly hear lectures directed to us from those who would spend the taxpayers' dollars, the taxpayers of this Nation, for purposes that some think are just great and are equitable and all this. Well, we are basing it on very uncertain information.

We have problems in a lot of areas of this country that are spread out. They are just not as concentrated as in a lot of urban areas, but to those people who are unemployed it is just as difficult, just as difficult to make a living and to get along and put food on the table and all that. But, that has nothing to do with targeted fiscal assistance.

I think the amendment that is before us makes a great deal of sense. At least, we can try to improve upon the equitability of a program that does not make a great deal of sense to begin with.

Mrs. SNOWE. I thank the gentleman.

☐ 1440

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maine (Mrs. SNOWE).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. KINDNESS. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 21]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1450

The CHAIRMAN. Three hundred and ninety-eight Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentlewoman from Maine (Mrs. SNOWE) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 188, not voting 30, as follows:

[Roll No. 22]

AYES—216

Abdnor
Alexander
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Butler
Byron
Campbell
Carter
Cavanaugh
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Findley
Fithian
Flippo
Florio
Foley
Forsythe
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gingrich
Ginn
Goodling
Gradison
Gramm
Grassley
Guarini
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holland
Holt
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kazen
Kelly
Kindness
Kogovsek
Kramer
Latta
Leach, Iowa
Leach, La.
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
McClory
McCormack
McDade
McDonald
McKay
Madigan
Marks
Marlenee
Marriott
Martin
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Obey
Paul
Perkins
Petri
Pickle
Porter
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Roberts
Robinson
Roe
Roth
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Synar
Tauke
Taylor
Trible
Udall
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—188

Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burgener
Burlison
Burton, Phillip
Carney
Carr
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conable
Conyers
Corman
D'Amours
Danielson
Dannemeyer
Davis, S.C.
Dellums
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Ford, Mich.
Ford, Tenn.
Fountain
Garcia
Gephardt
Giaimo
Gilman
Glickman
Goldwater
Gonzalez
Gore
Gray
Green
Grisham
Gudger
Hall, Ohio
Hanley
Harris
Hawkins
Hefner
Heftel
Hollenbeck
Holtzman
Horton
Howard
Jacobs
Jenrette
Johnson, Calif.
Jones, Tenn.
Kemp
Kildee
Kostmayer
LaFalce
Lagomarsino
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Lowry
Lundine
Lungren
McCloskey
McHugh
McKinney
Maguire
Markey
Matsui
Mattox
Mavroules
Mikulski
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Calif.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Peyser
Preyer
Price
Pritchard
Pursell
Rangel
Ratchford
Reuss
Richmond
Rodino
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Scheuer
Shannon
Simon
Solarz
Solomon
Stark
Steed
Stratton
Studds
Swift
Thomas
Thompson
Traxler
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waxman
Weaver
Weiss
Wilson, C. H.
Wirth
Wolff
Wolpe
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—30

Addabbo
Anderson, Ill.
Barnes
Boggs
Burton, John
Crane, Philip

Diggs
Fish
Flood
Hagedorn
Harkin
Hopkins
Jeffords
Jones, N.C.
Leath, Tex.
McEwen
Mathis
Miller, Calif.
Murphy, Ill.
Ritter
Runnels
Santini
Shumway
Stewart
Stokes
Treen
Whitley
Wilson, Bob
Wright
Wyatt

☐ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Hagedorn for, with Mr. Addabbo against.

Mr. Hopkins for, with Mr. Diggs against.

Mr. Runnels for, with Mr. Stokes against.

Mr. PEPPER changed his vote from "aye" to "no."

Mr. LUKEN changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BROOKS. Mr. Chairman, I ask unanimous consent that debate on this section and all amendments thereto end at 4 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Chairman, reserving the right to object, the gentleman from Texas has asked for a limitation on debate on all amendments. Are there amendments to the gentleman's knowledge on that side?

Mr. BROOKS. I do not know of any.

Mr. KINDNESS. Does the gentleman on this side know of any amendments pending?

Mr. HORTON. I do not know if there are any that are pending. I am sure there are Members who have amendments on this side. I think the gentleman from Pennsylvania (Mr. WALKER) has one.

Mr. KINDNESS. Mr. Chairman, but the gentleman from New York does not have any?

Mr. HORTON. I do not know of any.

Mr. KINDNESS. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

I would point out to the gentleman that I do plan to offer an amendment to strike the Davis-Bacon provisions in the bill, which is likely to be a reasonably controversial kind of amendment.

I would suggest that the time limitation might have an impact there, if the gentleman has some additional amendments to offer.

Mr. KINDNESS. Mr. Chairman, further reserving the right to object, I have three amendments at least in addition to that that have yet to be considered. I have been patiently awaiting the opportunity to present them.

I would urge the gentleman to at least withhold his request at this point until we get into some of the substantive matters of the bill.

Mr. BROOKS. Mr. Chairman, I would hope that the gentleman would realize that since we have been debating this for about 3 days now, we have heard from the gentleman from Ohio at considerable length and while I would like to hear from the gentleman for another hour, would the gentleman be just as happy if we make it 4:30? I think that would give the gentleman plenty of time to get these amendments discussed. We can vote them up or down. If we want them, we can vote them up; If we do not want them, we can defeat them; but we are not just going to sit around here on a snowy day and waste time until 8 o'clock tonight and go home in the snow. Let us finish it now. There is no point in dallying.

Mr. KINDNESS. Mr. Chairman, further reserving the right to object, I certainly had contemplated that we would be finished by 5 o'clock, if the gentleman did not take too much time opposing amendments that are yet to be offered. That being the case, it seems to me there is very little difference and, therefore, there is no need to limit the debate whatsoever. If 5 o'clock sounds reasonable, that is all right.

Mr. BROOKS. We may be going until 5, if there is a 4:30 cutoff, if we have a record vote at the end of that, the gentleman can understand.

I would just say that 4:30 is plently of time to lay out the facts if we want to talk about them and for the Members honestly to decide yes or no on each amendment.

☐ 1510

Mr. Chairman, there is not that much left in this bill, and I do not want to delay the Members. There is no reason for us to sit around here until 7 or 8 o'clock tonight and work tomorrow on this.

Why does the gentleman not just let us finish the bill now? The Members can vote for it or not. The Members can make up their minds, and if they are not for the bill, they can vote against it.

Mr. KINDNESS. Further reserving the right to object, Mr. Chairman, earlier today we were informed by the Speaker's office that 6 o'clock is what we are talking about as the adjournment time. I see no reason to attempt to cut off debate when the matter is proceeding reasonably, especially after the last amendment.

Mr. BROOKS. Mr. Chairman, if the gentleman will yield further, I will ask him if the gentleman would object to 5 o'clock?

Mr. KINDNESS. That would be better.

Mr. BROOKS. Mr. Chairman, I withdraw my previous unanimous consent request, and I ask unanimous consent that all debate on section 1 and all amendments thereto end at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair will proceed under the 5-minute rule.

The Chair recognizes the gentleman from Pennsylvania (Mr. WALKER).

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 57, beginning on line 20, strike out all of section 406 through line 6 on page 58.

Page 73, beginning on line 3, strike out all of section 505 through line 14.

Conforming amendments:

Page 42, line 2, strike out "section 412" and insert in lieu thereof "section 411".

Page 55, insert "and" at the end of line 15 and strike out lines 16, 17 and, on line 18, redesignate paragraph (5) as paragraph (4).

Page 58, line 7, redesignate section 407 as section 406.

Page 60, line 11, redesignate section 408 as section 407.

Page 61, line 6, redesignate section 409 as section 408.

Page 61, line 18, redesignate section 410 as section 409.

Page 62, lines 2 and 9, strike out "409" and insert in lieu thereof "408".

Page 62, line 10, redesignate section 411 as section 410.

Page 62, line 20, redesignate section 412 as section 411.

Page 63, line 21, strike out "section 404, 405, 406, and 409" and insert in lieu thereof "sections 404, 405, and 408".

Page 64, line 16, strike out "section 511" and insert in lieu thereof "section 510".

Page 70, insert "and" at the end of line 23 and strike out lines 24 and 25 and, on page 71, line 1, redesignate paragraph (5) as paragraph (4).

Page 73, line 15, redesignate section 506 as section 505.

Page 75, line 20, redesignate section 507 as section 506.

Page 76, line 5, redesignate section 508 as section 507.

Page 76, line 16, redesignate section 509 as section 508.

Page 76, line 23, strike out "508" and insert in lieu thereof "507".

Page 77, line 1, redesignate section 510 as section 509.

Page 77, line 11, redesignate section 511 as section 510.

Page 78, line 10, strike out "sections 503, 504, 505, and 508" and insert in lieu thereof "sections 503, 504, and 507".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, the amendment that I bring to the House at this time is the amendment to strike the Davis-Bacon provisions which are contained within this bill.

I do this, Mr. Chairman, because I think that this committee, above all other committees of the House, has always paid a great deal of allegiance to the General Accounting Office. We have quoted it time and time again in our reports when we bring legislation to the floor, and we make very important points based upon General Accounting Office studies.

Mr. Chairman, I think that a General Accounting Office study needs to be considered as we consider this bill. That is a rather massive document in which the General Accounting Office said the Davis-Bacon Act should be repealed. The reasons for calling for that repeal were very clear in the report. They said that not only should the act be repealed but, they said, we ought to repeal the provisions in 77 related statutes which involve federally assisted construction projects, including the past programs that we had in the countercyclical area.

I think it is very important, then, that we consider the repeal of the Davis-

Bacon provisions. They tell us in this report why Davis-Bacon should not be used.

The GAO report says:

> In comparing prevailing wage rates paid to workers on private construction projects in 30 localities throughout the Nation with those issued by Labor on Federal or assisted construction projects, we found that in 12 locations rates were too high, and, as a result, the wage costs paid on the projects averaged 36.8 percent more than comparable wage costs at rates prevailing in the locality.

That quotes the General Accounting Office.

It also goes on to say that the people who are most opposed to repealing Davis-Bacon may not have much of a case in what they are saying. We have heard a great deal from the unions about how badly they would be hurt if in fact we were to repeal the Davis-Bacon provisions.

The General Accounting Office looked at that subject, and the General Accounting Office said this:

> Repeal will not economically affect construction workers.

They said:

> Labor concludes its comments . . . by stating: ". . . the costs of the repeal of Davis-Bacon would be very onerous and fall directly upon the four million persons attached to the industry, particularly women and minorities."

But the General Accounting Office, about that quote, said:

> We believe that Labor is overstating the hypothetical impact of repealing the act. Labor provided no documentation or support that the costs would be onerous or fall heavily on women and minorities. To the contrary—

The report indicates, the repeal—

> could benefit women and minorities.
>
> The fact that an estimated 3 million construction workers who work on projects not covered by Davis-Bacon are among the best paid workers in the country indicates to us that construction workers do not need the "special protection" Labor deems so essential.

It makes clear, however, that using Davis-Bacon provisions in favoring a few workers is extremely costly to the taxpayers.

I am quoting again the General Accounting Office. It says:

> Thus, the Davis-Bacon Act—which affected less than an estimated 1 million workers in 1977 (about 1 percent of the total workforce)—may be costing the taxpayer several hundred million dollars annually.

So much for Davis-Bacon overall. I think that the General Accounting Office makes it clear that this is a very bad-news kind of act, and it goes on and proves it.

But what does Davis-Bacon mean specifically concerning the bill we are considering here? I think if we take some of the facts given in that report and translate them in this bill, we come up with some even more disturbing facts.

The 36-percent figure mentioned previously in that GAO report represents the increase incurred because of the Davis-Bacon Act, and countercyclical involves the sum of $1.25 billion. Potentially all of that $1.25 billion could be used for construction. This means that out of the $1.25 billion, using the 36 percent GAO figure, $450 million would be needlessly wasted. Even if only one-third of the $1.25 billion were used for construction, there is still a waste of $149.9 million.

Mr. Chairman, using those above figures, it is easy to determine the number of jobs lost. According to the Bureau of Labor Statistics, the average construction worker in 1978 made $318.32 in weekly earnings. The average number of hours worked per year, according to a CMA study, is 1,700. Therefore, on the basis of $149.9 million lost, we have 11,109 jobs lost.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

Mr. WALKER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

Mr. PEYSER. Mr. Chairman, reserving the right to object, it seems to me that if we are on a time limitation now until 5 o'clock, we ought to have some understanding that if each Member who is going to get up and then extend his time and extend his time again, the other Members who want to speak will not get an opportunity. There are a number of Members here who are not going to be able to speak.

I would like to suggest to the gentleman from Pennsylvania (Mr. WALKER) that if he wants 2 more minutes or something like that, perhaps we can let it go, but I just do not think we can let every Member take 5 minutes and get another 5 minutes or we are not going to get the chance to hear all the Members.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, if the gentleman from New York (Mr. PEYSER) would just permit the gentleman to have 5 minutes more, I will state that I was going to rebut his material in just about a minute and 30 seconds, so we will not really lose much time. Let us allow him to have his time.

Mr. PEYSER. All right. Mr. Chairman, I will withdraw my objection, but I will say that if we start getting these requests extension for time, I will simply object from this point on. If the gentleman does not need the entire 5 minutes, it would be better if he completed his presentation in 3 minutes. But we will let it go.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, I thank the gentleman from New York (Mr. PEYSER) for making his point. I will certainly try to take less than 5 minutes. I did want to get the meat of the debate in the RECORD since I have spent considerable time preparing the amendment. I think the House does deserve a chance to hear what we have put together on this amendment.

To continue, Mr. Chairman, on the basis of $149 million in wasted funds, 11,000 jobs would be lost. This is based on the average construction worker's making an average annual salary of $13,500.

Using a lower average salary of $10,000, the number of jobs lost would be about 15,000.

This above information does not even take into account the other problems with Davis-Bacon. Davis-Bacon restricts the amount of training that can be done on Federal projects. Davis-Bacon only allows a certain ratio of apprentices, usually 3 journeymen to 1 apprentice. Any other apprentices must be paid the journeyman's wage. Usually in a recessionary time the unskilled workers are the first to be laid off.

Because of the Davis-Bacon restrictions on apprentices, these unskilled workers will be particularly hurt if we do not repeal this section of the bill.

I think there is a quote that the Members may be interested in from the Lincoln Review, which is a publication that is published for minority Americans, in which it says:

> The Davis-Bacon Act has negative effects on minority contractors, minority home buyers and minority communities. Therefore, it is in the best interest of minorities that Davis-Bacon should be repealed.

It says that the people at the low end of the economic scale, and especially minorities, will be the most devastated by the Davis-Bacon Act provisions, because by these provisions we clearly say that we do not care about those who need the most help in a recessionary time.

The New York Times for these reasons has editorialized against Davis-Bacon provisions.

We cannot erase this whole law in this bill, but we can assure that more jobs are not lost and more taxpayer dollars are not needlessly wasted. By adopting my amendment we can keep the Davis-Bacon provisions from causing more harm.

□ 1520

A failure to adopt these amendments will send a clear message that we do not care about creating jobs to end recession. Instead, we care only about expending taxpayer dollars for maximum political clout. Such an uncaring message is not worthy of this body. Such a message will tell those suffering the ravages of recession that we put politics and pressure ahead of the taxpayer. Such a message should not be sent.

I urge the adoption of this amendment so that we can say clearly that in this bill we want people to have a chance to work.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to any attempt to delete the Davis-Bacon protections for H.R. 5980. This is but another in a long series of failed efforts in the Congress to deprive America's workers of the much needed wage protections provided by the Davis-Bacon Act of 1931. Almost all of these attacks have been based upon allegations that the Davis-Bacon Act is inflationary. The only "authority"—and I put "authority" in quotes—for this attack on the Davis-Bacon Act is the GAO report entitled "The Davis-Bacon Act Should Be Repealed."

But an examination of the GAO report demonstrates that it is based upon a statistically unsound study and is really nothing more than a string of conclusory statements unsupported by documentation. The conclusions of the GAO are grand but the reasoning used to arrive at the conclusions is hardly believable. Essentially, the GAO concludes that the Davis-Bacon Act has resulted in increased costs for federally financed construction and has, therefore, had an inflationary effect on the economy. When stripped of its rhetoric, the GAO based its conclusion on a sample of 30 wage determinations issued by the Department of Labor ("DOL") in 1976.[1] It is from a reexamination of these wage determinations in 30 locations that the GAO concludes that Davis-Bacon adds $500 million to construction costs each year. But what the GAO does not tell us is that the 30 determinations were taken from 18,000 wage determinations actually issued by the Labor Department in 1976.

In 18 of the locations, GAO determined that the Labor Department determination was actually lower than the average wage being paid. In the other 12 instances, GAO determined that the DOL wage determination was higher than the average and it was from these 12 surveys alone that GAO based its estimate that $513 million is added to Government construction costs. Moreover, the GAO itself admits that it is not valid to draw any conclusions from this minuscule sample of all wage determinations. The GAO said of its own study:

> We recognize that our sample size was insufficient for projecting the results to the year's universe of construction costs with statistical validity.

Yet the GAO then goes on to make sweeping conclusions based upon its "insufficient" study.

There is even less support, if that is possible, for the GAO's finding that the act's recordkeeping requirements add $200 million to the annual cost of construction. This conclusion is based exclusively on a 1972 survey conducted by the associated general contractors (AGC), one of the leading opponents of Davis-Bacon today. How did the AGC arrive at its conclusion that the reporting requirement adds $200 million to construction? It sent a questionnaire to 10,000 contractors asking them to estimate how much the reporting requirement added to their costs. The AGC received responses from only 276 employers and, in the end, based its conclusion on only 41 of the responses. That this survey is from a biased source is self-evident.

The GAO report also sweepingly concludes that the Labor Department has engaged in 50 years of maladministration of the act and further finds that the act is incapable of proper administration. Again, the GAO rested its broad conclusion on a minuscule sample of real projects, representing about two-tenths of 1 percent of such project decisions issued by the Department between January 1 and June 30, 1976.

The GAO criticizes the Labor Department because some of its wage determinations were not based on actual wage surveys. The GAO fails to point out that the Labor Department maintains a continuous listing with contracting agencies, employers, and labor organizations which provide it with constant updated economic information on the wages in various communities. Indeed, the decision to forgo full wage surveys for every determination—of which there are approximately 18,000 every year—has been endorsed by the Council on Wage and Price Stability which noted that each wage survey costs between $200 and $400 per employer, and which found that the Department's policy has resulted in great savings of administrative costs.

Finally, many Government agencies have rejected the GAO report including the Labor Department, HUD, and the Office of Management and Budget ("OMB"). By letter of February 1979, the OMB transmitted its opinion of the Davis-Bacon report to the GAO and said:

> The findings contained in the draft report are similar to views expressed in previous GAO reports which have criticized the interpretations and implementing regulations made by the Department of Labor. However, *we have not concluded that the public interest would be served by repeal of the Davis-Bacon Act, and therefore do not endorse your recommendation* (emphasis added).

This body should likewise reject unsubstantiated conclusions that the Davis-Bacon Act is inflationary. Rather, it provides a vital and needed protection to this Nation's construction workers and I strongly urge you to do as you have many times in the recent months and reject any attempt to delete Davis-Bacon protections from H.R. 5980.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment and decry this terrible attack on the most noteworthy and beneficial piece of legislation signed by the great Herbert Hoover on behalf of working people and the free enterprise system of this country.

Mr. THOMPSON. His last monument.

Mr. FORD of Michigan. An outstanding monument to Herbert Hoover and still on the books It is the last remnant of his great service to this country.

Mr. THOMPSON. The only thing that deserves to stand in this bill.

Mr. FORD of Michigan. It is a shame, but coming from this side of the aisle you would think it was partisan.

Mr. THOMPSON. Yes, you would.

Mr. FORD of Michigan. Mr. Chairman, we are considering today a bill which will authorize a program of Federal assistance during economic recessions and a program of targeted fiscal assistance. These Federal funds will be funneled to State and local governments where wages have dropped dramatically and to targeted areas where unemployment rates have reached disproportionately high levels as compared to surrounding areas. Therefore the purpose of H.R. 5980 is to create a pool of Federal funds which can be targeted into areas of acute economic instability when the need for such assistance may arise. Flattening out the cyclical nature of the economic slumps occurring in certain areas of the Nation will be the positive consequence of H.R. 5980.

Like H.R. 5980, one of the primary purposes of the Davis-Bacon Act is economic stabilization. The Davis-Bacon Act is essentially a promise by the Federal Government that federally assisted construction projects will not interfere in the local free market. The free market mechanism establishes the prevailing wages and prices in an industry and the prevailing wages vary from community to community. In the construction industry, the Davis-Bacon Act prevents the Government from undercutting these prevailing wage standards which the market has set. By assuring that unscrupulous contractors do not undercut local wage levels, the Davis-Bacon Act prevents the disruption of the prevailing wage standard.

Depressing wages is obviously harmful to workers but it also undermines the incentive to responsible contractors to train new journeymen and to create a nucleus of skilled workers who form the economic backbone of a community. In a particular locality, the free market will establish wage scales which allow for sufficient training of new journeymen, the retention of quality craftsmen, and the development and growth of a stable community. The Davis-Bacon Act, by preventing wage cutting on Government projects, insures that this wage structure will not be disrupted because of unfettered bidding on Government projects. The act stabilizes the standard of living of construction workers and consequently it stabilizes the communty as a whole. In addition, it protects the good labor relations practices of fair contractors. So workers, contractors and communities alike need the protection of the Davis-Bacon Act.

It should be clear to us all, therefore, that the failure to retain the Davis-Bacon protections in a bill designed to provide countercyclical assistance to slumping States and localities would be the height of irony—and also a tragedy. It is doubly important that the stabilizing protection of the Davis-Bacon Act be included in H.R. 5980 because the very importance of both is economic stabilization. Our purpose is to strengthen the economic base of targeted communities, not to disrupt them. I urge you in the strongest terms to oppose the Walker amendment for these reasons.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

---

[1] Department of Labor's response to GAO report, p. 26.

Mr. Chairman, the last time I took the well after the gentleman from New Jersey (Mr. THOMPSON) spoke, he was trying to unionize medical doctors and I was trying to save patients from such an ill-fated development. Now I find myself agreeing with him on his position on Davis-Bacon, which merely shows you that politics make strange bedfellows.

I would like to point out to my good friend, the gentleman from Pennsylvania, that there are a couple of basic issues involved here.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New Jersey.

Mr. THOMPSON. You did say that politics make strange bedfellows?

Mr. DERWINSKI. Yes. That is why I will now support you.

Mr. Chairman, if I may address this specific issue, we have had a number of piecemeal votes on Davis-Bacon amendments. I think it is fairly clear that the House will not sustain these amendments. I think it would be best if we could follow the normal legislative procedure, have a committee study the entire act. But a piecemeal attack on Davis-Bacon I do not believe is either practical or commendable to the legislative procedure.

I noticed the great fervor with which my friend, the gentleman from Pennsylvania, embraced the GAO report. Then I noted the gentleman from New Jersey picked it apart. GAO reports are wonderful documents if you agree with them. When you do not agree with them, you logically reach other conclusions.

Then I would like to point out that the question of the figures and the facts the gentleman uses are somewhat debatable. If I listened carefully, the GAO report said that it "may" be that the application of Davis-Bacon reaches a higher cost level. The language was "may"; it was not "absolutely," it was not "definitely," it was "may."

So when you use what may be dubious figures, you reach dubious conclusions.

Last but, not least, I would like to inject one argument of why we should debate the entire Davis-Bacon Act rather than this piecemeal approach. The gentleman made reference to apprentices. Apprentices are in a training process. When they finish acquiring their skill, then they become master craftsmen. It is obvious that if you go to people who are less trained, when you abolish the prevailing wage approach of Davis-Bacon, you do get people who are not as skilled.

□ 1530

You have then the hidden cost in the possible lack of skill of the craftsmen involved. That is why the entire act, rather than this piecemeal approach, should be developed. I suggest the rejection of this amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The Davis-Bacon provision simply requires that prevailing wages be paid workers employed on construction projects that may result from this program. This is commonly accepted statutory language which this Congress has enacted over and over again, and applies to all grant-in-aid programs.

There is no reason countercyclical and targeted fiscal assistance should be singled out for any exemption or that the workers on projects financed by this program should be paid less than they would receive on other Federal, State, local or private construction projects.

The amendment should be defeated.

I yield back the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the Walker amendment because I believe it is applicable in an important way to H.R. 5980 the countercyclical act that we have before us. I believe that the General Accounting Office report is far more thorough on this subject than my colleague from New Jersey (Mr. THOMPSON) indicated.

His attempt was to downgrade the report by saying there was no statistical backup, when, in fact, there is extensive backup in this report as to why this particular law, which has been on the books, the Davis-Bacon Act, since 1931, does damage to the ability of the Federal Government to get building projects at a reasonable price. The 1931 Davis-Bacon Act badly distorts the ability of the Federal Government to get good prices in purchasing of this type of work.

I believe that it is very applicable when we are talking about this countercyclical measure, especially because, as the General Accounting report shows very clearly and with statistics, it is very damaging to the hiring of minorities and youth in these types of projects, and that it is a law that is outdated by many, many years. Whereas, it might have applied in 1931, it is not applicable in today's market.

I hope that my colleagues can be persuaded to review the recommendations in the General Accounting Office report, because I think they are statistically backed up, and I think that it does make eminent good sense to support this particular amendment.

Let us review the well supported and documented points emphasized by the General Accounting Office in its 275 page report. The General Accounting Office recommended that the Davis-Bacon Act be repealed, citing the following three basic reasons: First, there have been significant changes in the economy since 1931 when the act was passed, for example, there was a depression, and no minimum wage or unemployment compensation laws existed; second, the Department of Labor has yet to develop an effective program to issue and maintain accurate wage determinations, and it may be impractical—if not impossible—to do so; for example, about one-third of the area and project determinations reviewed by GAO were not based on surveys of wages paid to workers in the locality, but on union-negotiated rates; and third, the act is inflationary and results in unnecessary construction and administrative costs of several hundred million dollars annually—including payment of wages significantly higher than the prevailing rates in many instances.

The Walker amendment is a "pro-jobs" effort. Rather than taking money out of our employment effort by creating a few high paying jobs, it is my view that we ought to get as many Americans as possible working again. Your aye vote on this amendment will be a vote for the most jobs for the money.

It has been nearly 50 years since we really reviewed this law, to see if it should apply in a bill like this, and this does not repeal the whole Davis-Bacon Act. It merely says as it applies to this particular act, which has the stated purpose of providing "fiscal assistance during economic recessions."

Now, my colleague says there is unsupported documentation. That is exactly the reverse of the fact. There are substantial examples in this report of how this law adds very substantially and on an unwarranted basis to the high cost of the program. Let me share a few of those examples with the Members.

These are examples of the inflationary impact of the Davis-Bacon Act:

First. A builder in Wisconsin stated that during the construction of a 12-unit housing project, bricklayers were paid $11 an hour versus the average $6-an-hour wage. This added $10,000 to the cost of the project.

Second. In Alabama, electricians working on a HUD project were paid 27.9 percent higher than the actual prevailing wage, making a total cost of $70,536 higher—just for the electricians.

Third. In Vernon, Conn., a low-moderate income rental housing complex was built and the contractor stated that it cost $36,000 additional for the compliance with Davis-Bacon requirements.

Fourth. Many small contractors who have contacted the National Association of Home Builders and Contractors state that it costs 2–20 percent more for a project just because of the paperwork requirements—never mind the additional wage costs.

Fifth. In Modesto, Calif., during the construction of a 114-unit garden apartment complex project, the hourly wage rate was 25 percent higher and added an additional $2.5 million to the cost of the construction. In addition, it took 100 percent of two employees' time just to deal with the Department of Labor in meeting their requirements.

The above information was received from Debbie Miller, in the Office of Statistics, National Association of Builders and Contractors, per Bob Bannister. All the above instances are dated June 1979 or later. These comments were taken by actual letters on file at the National Association of Builders and Contractors and can be promptly verified.

Now, I think we ought to realize that this act, passed clear back in 1931 does not apply to today, and additionally is creating mounds of costly paperwork which alone is a monumental task for the Department of Labor and everybody else.

The U.S. Chamber of Commerce reports that Davis-Bacon adds $2.8 billion to the cost of private construction each year. Davis-Bacon reduces the number of contractors who will competitively bid on Federal construction projects and disrupts local wage structures. Davis-Bacon impedes the hiring of youth and minorities and imposes burdensome, expensive recordkeeping requirements on contractors.

In fact, the opposite intent of the original Davis-Bacon Act is now occurring. Imported wages are not only driving up construction costs but are also taking work away from local contractors and labor. In other words local small businesses. Local contractors are reluctant to bid on projects with unrealistically high Davis-Bacon rates primarily because of the accompanying morale problems. Employees on such jobs receive greater wages than their equals who were not so fortunate as to be assigned to the Federal project. Also, the return to previous wages may result in a decline of worker productivity and possibly agitation for union wages. The itinerant wage of the 1970's has replaced the itinerant laborer of the 1930's. Let us not let this happen in the 1980's.

The purpose of Davis-Bacon was to protect local contractors and labor. The market has proven more effective in fulfilling the goals of Davis-Bacon than has the elaborate and expensive structure constructed by the Department of Labor. Local interests are best served when prevailing wage determinations are set so low as to be disregarded. Contractors will include within their bids the actual prevailing wage. In these situations the contracts usually go to local contractors.

The CHAIRMAN. The time of the gentleman from California (Mr. Rousselot) has expired.

(By unanimous consent, Mr. Rousselot was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

The author of the amendment.

Mr. WALKER. I thank the gentleman for yielding.

I just thought that given the economic arguments that the gentleman is putting forward that maybe he would agree with me that I was shocked to hear our colleagues on the other side embracing the economic policies of Herbert Hoover.

Mr. ROUSSELOT. That was a little shattering, especially when the Members realized which two Members were saying it.

Mr. WALKER. It seems to me that since this bill represents part of the administration's economic package, that maybe we have found out where they are getting their economic thinking from downtown.

Mr. ROUSSELOT. These gentlemen talked about how great this Hoover law was, and these same two Members are usually on the House floor deploring with great alarm anything that is connected with former President Hoover. They usually attack everything that Herbert Hoover did. That is why it shocks me that they would use Mr. Hoover's act as a crutch.

Mr. WALKER. I thank the gentleman.

Mr. ROUSSELOT. They tried to repeal everything that Herbert Hoover ever did.

I really believe that they do not want to return to Hooverville-type construction.

I am surprised at my colleagues doing that, absolutely shocked. They have repealed everything else he has done, and now they want to go back 50 years ago. It is absolutely shocking, especially my colleague from Michigan (Mr. Ford).

Mr. WALKER. If the gentleman will yield further, it seems to me the shape of the economy of the country right now shows they are going back to those days.

Mr. ROUSSELOT. We just cannot afford that kind of backward thinking; it is absolutely disastrous.

I hope my colleagues will find it in their hearts to reverse a 50-year-old law that is outdated and outworn. Let us go into the modern age and force the Department of Labor to really do its job, which it has not done, according to this General Accounting Office report.

I urge my colleagues to support this rational amendment to repeal a 50-year-old law that just is really out of date and has become too expensive for the Federal Government.

Mr. BEARD of Rhode Island. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I believe that this way of legislating is not proper, by continuing to offer amendments where there is a committee that in June of 1979 had a day's hearing, and I was requested as chairman of the Subcommittee on Labor Standards by many Members to hold hearings on this legislation; and in the hearings there was just no support. There was not sufficient support on this floor for repealing of this act.

Let me talk to my colleagues just briefly, not as a Congressman now, but as a former blue collar worker.

If we did not have Davis-Bacon, we would be working for next to nothing. Millions of men and women in this country depend on this type of legislation.

Talk about President Hoover. This might have been the high point of his career, maybe the only good point of his career, as far as I am concerned. I would not want to see this repealed, nor will it be repealed as long as I am chairman of that committee. From what I can figure from the sense of this House and the sense of the American people, the legislation for repeal should just draw dust and continue to draw dust as far as I am concerned.

I would hope my colleagues, each and every time these ridiculous amendments come up just to make the PAC's look good or certain people that support people who go for these repeals, just strike them down. I just feel it is ridiculous, it is not the way to legislate. There was no support, and that is the end. Let us vote this amendment down.

☐ 1540

Mr. Chairman, I am strongly against any legislation that would effect repeal of the Davis-Bacon Act. In June 1979, the House Subcommittee on Labor Standards, of which I am chairman, held a full day of hearing on the question of whether or not this legislation should be repealed.

We heard detailed testimony from all sides, and at the end of that hearing I was still not convinced that the Davis-Bacon Act should be repealed. I believe that the Davis-Bacon Act remains as viable today as it was when it was enacted in 1931 to protect the living standards of American workers in the construction industry and to provide and insure that wages in the local community will not be depressed by the importation of lower paid help, which in our very mobile society could be brought in from distant areas.

The Davis-Bacon Act requires that contractors on Federal projects pay their workers wages that are then prevailing for specific crafts in the local area. This act does this and nothing more; and helps maintain an adequate living standard in the local community. At the hearings in June, there was much criticism as to the manner in which the Davis-Bacon Act is implemented and in the manner in which prevailing wages are determined; but if this shortcoming exists, it does not merit repeal of this very important act, which has protected the American worker since 1931.

The Subcommittee on Labor Standards in its oversight jurisdiction is considering the manner and methods by which the Labor Department administers this act, and we will continue dialog with industry, labor and Government to make this act a more efficient piece of legislation.

I strongly urge the membership to vote against this harmful amendment to H.R. 5980.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the distinguished gentleman from Pennsylvania (Mr. Walker), Even if one could justify this program, it makes absolutely no sense to unnecessarily inflate it. And requiring that wages, paid to those working on construction projects authorized as a result of this bill, be no lower than those paid in the nearest major metropolitan area will do just that.

With the inflation rate having risen at a rate of 13.3 percent last year at the same time purchasing power was decreasing 4.5 percent, it absolutely behooves us to cut Federal spending as much as possible. For it is Federal spending, and particularly the extent to which it exceeds income, that leads to expansion of the money supply and it is a rapidly expanding money supply that helps produce inflation. Thus, acceding to the wishes of a special interest group—organized labor—is not only unfair to the

American taxpayer, but the American consumer as well. Davis-Bacon adds millions of dollars each year to the cost of Federal and federally sponsored construction to the extent that even the General Accounting Office (GAO) has advocated its repeal.

Much as I oppose a special interest getting a special favor, simple fairness obligates me to note that organized labor is neither the only nor the biggest beneficiary of this legislation. Inasmuch as no one even knew which communities would be targeted until a week ago and given the fact that countercyclical assistance has been relatively ineffective in the past, one has to wonder just what it is proponents of this bill want to forestall. Is it a recession which may or may not come, or is it the possibility of a loss at the polls next November? One has to suspect, since the data base is so suspect, that the latter is of primary concern.

If we want to help out areas hard hit by unemployment, the way to do it is not to soak up private investment capital that could otherwise be used to build new plants and develop new jobs. Nor does it make sense to require wage rates be paid in excess of those which might otherwise prevail; all that does is discourage construction firms from hiring people they otherwise might. In short, this bill is the epitome of illogic and, when all is said and done, deserves to be rejected.

In the meantime, however, I urge adoption of the amendment offered by the gentleman from Pennsylvania (Mr. WALKER). It would make a bad bill better.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 266, not voting 38, as follows:

[Roll No. 23]

AYES—130

Abdnor
Andrews, N.C.
Anthony
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Bowen
Breaux
Broomfield
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carter
Chappell
Cheney
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derrick
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Fenwick
Forsythe
Fountain
Gibbons
Gingrich
Goldwater
Goodling
Gramm
Grassley
Gudger
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hansen
Hefner
Hightower
Hinson
Holt
Huckaby
Ireland
Jeffries
Jenkins
Johnson, Colo.
Kelly
Kindness
Kramer
Latta
Leach, Iowa
Livingston
Loeffler
Long, Md.
Lungren
McClory
McDonald
Marriott
Martin
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Neal
Nelson
Paul
Porter
Preyer
Quayle
Rhodes
Roberts
Robinson
Rose
Roth
Rousselot
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shuster
Smith, Nebr.
Snowe
Solomon
Spence
Stangeland
Stenholm
Stockman
Stump
Tauke
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Winn
Young, Fla.

NOES—266

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Harsha
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hyde
Ichord
Jacobs
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Snyder
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stratton
Studds
Swift
Symms
Synar
Taylor
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—38

Addabbo
Anderson, Ill.
Barnes
Boggs
Brown, Ohio
Burton, John
Carney
Crane, Philip
Dellums
Diggs
Flood
Frenzel
Grisham
Hagedorn
Hawkins
Hillis
Hopkins
Hutto
Jeffords
Jones, N.C.
Leath, Tex.
Lee
Lott
McEwen
Mathis
Miller, Calif.
Murphy, Ill.
Runnels
Santini
Shumway
Stokes
Treen
Whitley
Wilson, Bob
Wolff
Wright
Wyatt
Zeferetti

□ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Hopkins for, with Mr. Addabbo against.

Mr. STAGGERS and Mr. NICHOLS changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: Page 65, strike out line 16 and everything that follows through line 3 on page 66 and insert in lieu thereof the following:

"(A) LIMITATION.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government if the allocable amount determined under paragraph (1) with respect to such unit is less than $800.

Mr. KINDNESS. Mr. Chairman, I would like to inform our colleagues that it seems to me that the debate need not be very long on this amendment, and those who want to stay around for the purpose of concluding this matter rather promptly I think would find it to be valuable and time-saving to do that.

This amendment reduces the minimum allocation available under the targeted fiscal assistance to local governments, regardless of where they are located, to $800. At the present the bill sets a minimum allocation amount of $6,000 for local governments that are located within standard metropolitan statistical areas and a $3,000 level for local governments located outside of SMSA's. The effect of these restrictions is to tie targeted fiscal assistance to governments which would otherwise qualify, but do not meet the local allocation amount. Who is to say that $3,000 for a small town would not be of the same proportional benefit to that community as $30 million might be to the city of New York.

Similarly, there are many small primary suburban governments located in standard metropolitan statistical areas to which $5,000 would be of benefit. Yet the current bill would exclude them. We are not talking about making governments eligible if they do not otherwise meet the eligibility criteria. The amendment does not do that. It only affects the cutoff. The cutoff right now differs between the two types of local governments. If the amount that would be payable is less than $6,000 or $3,000, then they just do not receive it. This amendment would make the amount $800 for all local governmental units if they are eligible under the formula, the criteria in the bill otherwise. The governments would still have to meet the per capita income restriction, the unemployment levels, and wage and salary grade levels that determine eligibility for all governments. This amendment simply seeks to address the imbalance created between large and small governments in this bill.

Why $800? Though the figure ostensibly seems small, it actually is not all that small, as I previously said. In some small community budgets $800 could be put to very good use. In fact, I would trust the expenditure of that amount of money in a small community more readily than I would trust the expenditure of $30 million in a large city that would receive that amount. But $800 is a good level to set as a minimum payment since it corresponds with the minimum yearly payment in the general revenue sharing program. They might even be able to use the same computer programing to figure out who gets it and who does not. Hundreds of millions are paid out in the general revenue sharing program which expends $7 billion a year, though not to nearly as many small communities as come under this amendment. Given a much smaller slice of the pie of the funds to be distributed, many others would be helped, and I do not think we should turn our backs on them simply because we want to help the larger cities.

I think this is a good amendment; I think it is a fair amendment; and I hope that my colleagues will support it. It does not pose great technical problems in its application because, as I say, the concept is already at work in the general revenue sharing allocations, and I would urge the adoption of the amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment because it runs exactly opposite to the purpose of title V of this bill. The title V program is called targeted fiscal assistance because it is designed to direct funds authorized to those areas which are most in need. To drop the minimum of $6,000 for communities in standard metropolitan statistical areas, and $3,000 for those outside SMSA's, and make the figure $800, will spread the funds, as the author of the amendment said. But it will spread the program around to so many communities that the purpose of title V will be totally lost. I would urge defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 12; noes 28.

So the amendment was rejected.

• Mr. KEMP. Mr. Chairman, I want to place into the public record my reasons for this vote, for it would be easy to vote for this countercyclical aid bill, especially as a New Yorker. Indeed, I understand well that there are times when the Federal Government must "come to the rescue," particularly to help our cities and States.

This is why I have supported emergency aid for New York City—once under President Ford and again under President Carter. I was also an original sponsor of revenue sharing, and in 1979 strongly supported my colleague BARBER CONABLE's amendment to restore more than $765 million in Federal revenue sharing funds to New York. I am also a cosponsor of Senator MOYNIHAN's "water reform bill," which provides New York City and New York State with additional funding for a third water tunnel for New York City. And I also voted this afternoon against the amendment of the gentleman from Maine, which restricted the aid available for New York.

So the issue before us is not philosophical, but practical. How best can the Federal Government help New York? If programs like countercyclical aid are the right answer, then they will get my support. But I believe the facts show that they are not.

In 1980 the economic distress throughout New York remains alarming. Families and businesses continue to leave New York in droves. Since 1970 New York has lost more than half million residents and hundreds of thousands of jobs. Between 1970 and 1977 New York City alone lost over 600,000 jobs, and the city's economic forecast remains dismal.

My own district in Buffalo has been battered by a rash of major plant closings. Just this fall Bethlehem Steel laid off hundreds of workers. And for those workers who have managed to keep their jobs? Most have not seen their incomes rise in real terms for 10 years. What we are seeing in New York and particularly in Buffalo is not a cyclical downturn. It is an economic debacle—and a debacle brought about for some clearly recognizable reasons.

The primary reason for New York's economic problems is that the State fares so badly with Federal tax and spending policies. Why, after all, is New York losing so many people and jobs? The answer: New Yorkers are being forced to bear one of the most crushing tax burdens in the Nation. My Buffalo constituents face the third highest per capita tax burden of any major U.S. city, while residents of New York City face the highest of all. Compare New York's per capita income with North Carolina's. Before taxes: New York, $7,547; North Carolina, $5,935. But with higher incomes New Yorkers are also in higher tax brackets; in addition they pay far higher State and local taxes. As a result a comparison of real, after-tax income tells quite a different story. New York, $3,979; North Carolina, $4,509. It is little wonder then that New Yorkers leave—reluctantly—for States where their standard of living can be enhanced, and the cost of doing business will not make their products uncompetitive. And I am not just referring to the Sunbelt, for New Yorkers are leaving in large numbers for their lower-tax neighbors in the Northeast as well.

But not only do New Yorkers pay the highest taxes—they get a miserably poor return for their effort as well. New Yorkers pay almost 12 percent of Federal taxes, but get back only 8 percent in Federal outlays, despite the efforts of many of us in Congress to get New York its fair share. New Yorkers still face a vicious circle. They play a Federal game they can never win, for the more they send to Washington, the less they get back. And yet their representatives in Washington continue to say the answer is higher Federal spending, which consequently means higher taxation.

An October 1979 General Accounting Office report tells exactly how tax rates affect New York City. GAO concludes:

New York City's tax structure is fundamentally undermining its ability to collect enough tax revenues.

The city's business and personal taxes have seriously damaged the economy, particularly the manufacturing sector.

Higher personal tax rates, at all levels, are forcing individuals and businesses to locate elsewhere.

And these high marginal tax rates do not just send businesses and higher income individuals scurrying out of New York. Their effects on the poor are far more brutal. When a high level of transfer payments—such as New York generously provides—is combined with a tragically high rate of inflation and personal income taxation, individuals' incentives to leave the welfare system for employment are almost completely destroyed. A family of four living at the poverty level in New York would, given continued 12½ percent inflation, be in the 46-percent tax bracket by 1989. This is not an argument against the safety net of social services. It is an argument against imposing criminally high marginal tax rates on the earnings of the poor. What we have got is not a Federal policy that helps low income New Yorkers up the ladder of economic opportunity. It is a policy that insures that they never get off the bottom rung.

While New Yorkers gain the least from spending programs, they gain the most from tax rate reduction. This is why I have for years proposed an across the board reduction in Federal income tax rates, and why I support the efforts to reduce New York State income and property taxes as well. I also believe that we must cut the progressivity of the income tax rates by 50 percent in the next 5 years, index income and capital gains tax rates, adjust inventory appreciation and capital depreciation for inflation, and provide incentives for hiring youth and minority unemployed. I want to reduce the tax wedge between an individual's effort and his or her reward to get our State economy moving again.

It seems clear then that countercyclical aid, which requires higher spending and borrowing and contributes nothing—indeed undermines the fight for tax reduction—does not provide a solution to Buffalo's and New York's economic decline or even to their fiscal stress. But as a practical matter we need to ask as well: Is it an acceptable short-run palliative?

If I believed that this bill would attack the causes or even relieve the symptoms of New York's economic distress I would vote for it. If Congress would agree to combine this short-term aid with such necessary long-term measures as tax rate reduction and regulatory reform, I would vote for it. Indeed, I would vote to give State and local governments far more aid, secure in the knowledge that soon it would no longer be needed. But I cannot take the step—however much easier it would be—of offering false promises to New York, of voting for a bill that can only worsen the State's economic condition.

For countercyclical aid not only fails to attack the underlying causes of New York's decline; it actually exacerbates them. By tying aid to the "tax effort"—which after all is just another name for the tax burden—it forces out beleagurered State and local governments to continue the very policies that are destroying their revenue base. When you subsidize something, you get more of it; and the Federal Government is subsidizing taxing and spending. For far too long New York has been deceived by the allure of Federal funds that are available if only the State will make a greater tax and spending "effort." We cannot afford to go any further down that road.

We have heard that New Yorkers, after all, would get a large share of this aid. But it is time we admit that we never win at the Federal spending and taxing game, that we pay in the end for everything we get—and then some. We can no longer afford to ignore the Federal sleight of hand, which gives to New York with the right hand what it surreptitiously—through our highly progressive tax structure and the inflation that pushes individuals into higher and higher income tax brackets—takes back with the left.

In short, I must refuse to mislead New York and Buffalo. I want to see New York State grow. I want to see New York resume its deserved place as the hub of American industry, commerce, and innovation. I want to see families, jobs, and businesses coming to our great State. That is what I suggest really means "loving" New York.●

● Mr. EVANS of the Virgin Islands. Mr. Chairman, I rise in support of H.R. 5980, a bill to authorize a program of fiscal assistance during economic recessions, in addition to a program of targeted fiscal assistance to States and United States territories.

Much credit should be given to Committee Chairman Brooks and Subcommittee Chairman Fountain, as well as the ranking Republican Congressmen Horton and Wydler, who insured the reporting of this bill to the House floor.

My district, the United States Virgin Islands, is subject to the fiscal problems associated with economic downturns, just like any other State and territory. We are hit severely by a high unemployment rate, coupled with an extremely low per capita income level.

Under H.R. 5980, the territories and Puerto Rico will be entitled to a 1-percent set-aside to assist us in our ever constant struggle against these inevitable fiscal difficulties.

Accordingly, I urge my colleagues to pass this important piece of legislation.

Thank you.●

● Mr. COUGHLIN. Mr. Chairman, control of deficit spending, already recognized by Republicans should become the first priority of the Democratic Congress and administration as well. Unfortunately, the fires of inflation will be further fueled should H.R. 5980, the antirecession and targeted fiscal assistance bill, be approved. Any proposal to transfer money from a shaky U.S. Treasury to more solvent States and local governments is ill conceived at best. Antirecession fiscal assistance and targeted fiscal assistance addresses a symptom of the very problem they compound.

Antirecession or countercyclical fiscal assistance has been severely criticized in the past for reliance on unreliable and uneven unemployment data. Although an attempt is made to adopt the gross national product/wage-salary data as the trigger for a national program and the State allocations, localities still receive money based upon unemployment statistics. The General Accounting Office and the President's Commission on Unemployment Statistics have indicated that local unemployment rates are unfair to many areas.

Over and above the question of data reliability, is the one of demonstrated correlation between level of employment and ability of cities to raise revenues. The percentage of change in unemployment rates from 1973 to 1976 for 42 large cities, compared with the percentage of change in revenue obtained from their own sources, produced so low a coefficient of correlation (−0.11095) as to be insignificant. Economists argue that States and localities are not seriously injured by recession and the unemployment associated with it since: First, many localities do not depend on cyclically sensitive revenues; and second, States and local governments are not responsible for the type of public services for which recession demand increases. Hence States and local governments do not raise taxes, cut employment and services, or delay public works projects, all of which would hamper national recovery efforts.

Targeted fiscal assistance could be little more than a bribe to localities in order to garner political support. There is no hard evidence to explain the purpose of the program. In addition, there is no guaranty that these funds will be "targeted" to areas of true need since their disbursement is based on unemployment rates which, as just discussed, have no correlation to the ability to raise revenues and provide services.

Although at first it may not seem as appealing as the actual cash handout planned, a better application of up to $1.25 billion would be to reduce the deficit. The American taxpayers know that by solving the problem of inflation, one also eliminates its symptoms.●

The CHAIRMAN. Are there additional amendments to section 1? If not, the Clerk will designate section 2.

Section 2 reads as follows:

Sec. 2. Title II of the Public Works Employment Act of 1976 is repealed.

The CHAIRMAN. Are there amendments to section 2? Hearing none, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1610

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Gephardt, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5980) to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes, pursuant to House Resolution 506, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. KINDNESS. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Kindness moves to recommit the bill, H.R. 5980 to the Committee on Government Operations with instructions to report it back forthwith with the following amendment: Page 41, line 18, strike out "$1,000,000,000" and insert in lieu thereof "$525,000,000".

Mr. KINDNESS. Mr. Speaker, the motion to recommit with instructions seeks to put back to the level of authorized funding for the countercyclical assistance portion of this bill—seeks to put it back to that level I should say.

Mr. Speaker, originally the bill had proposed $525 million in authorized funding for the countercyclical assistance. We have spent most of the time talking about targeted fiscal assistance. Some of us are concerned that the targeted fiscal assistance is all that is going to get any attention in this measure, but the fact is that the purpose of this legislation was supposedly to provide countercyclical fiscal assistance in the event recession brings local and State governments to the point where they have to have some help from Uncle Sam to meet their ordinary needs.

In the committee, Mr. Speaker, a motion was made to amend that authorized level of funding to increase it to $1 billion. The simple fact is the budget resolution that this House has approved only provides $525 million for countercyclical fiscal assistance. This bill contains an authorized level of $1 billion. I do not know how you do that kind of magic. I suggest that you cannot. It is going to be suggested to you: well, it is not going to fall in this fiscal year anyway. The fact is whether the money is actually expended in this fiscal year or not, it is an irresponsible act for this House to authorize funding at a level in excess of what we have already decided in a rather specific move when considering the budget resolution. We said: $525 million for countercyclical fiscal assistance, and that is it.

Now, Mr. Speaker, to say in this bill: $1 billion, requires some resolution with the budget resolution. How do you resolve such a conflict? I do not know. I wish the chairman of the Budget Committee, the gentleman from Connecticut were here at the moment. I am sure it would be of some concern to him that this authorization level is higher than the budget resolution.

Mr. BAUMAN. Mr. Speaker, would the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to agree with the gentleman from Ohio in what he says. If this Congress is ever going to demonstrate any fiscal responsibility, if we have any faith in the so-called budget system that is supposed to impose upon us self-discipline, this is a key vote.

Now this program has been rejected in the past by such stellar leaders of this House as the gentleman from Texas (Mr. BROOKS) who unfortunately had to bring this bill before us now. The gentleman has had to go to the Rose Garden and come back and change his position.

Mr. Speaker, if we are going to be able to fund defense and all the other programs, why restart a program that has failed in many instances? We are redistributing money out of the pockets of the taxpayers. This bill, if we vote for it, is a cool billion added to the deficit. If we mean anything about the rhetoric we use in our campaign, the gentleman from Ohio has shown us the way in his leadership and I would encourage support for his motion to recommit and I would further encourage a vote against this bill if, in fact, the gentleman's motion fails. The gentleman has shown us the way and if we mean what we say, here is our chance to show it.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman and I plead for commonsense to prevail at least on this one occasion while we are considering this bill. It is not going to kill the program. We will even be told all the moneys cannot be expended in fiscal year 1981. If that is so, then let us do what is called for by the budget resolution.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, we did discuss this in the full committee. I think it is a fact there is no way, especially now that the figures for the fourth quarter are in for last year, there is no way that the countercyclical program could go into effect until after the end of the fiscal year 1980. In other words, no money could be expended under this program until we get to fiscal year 1981. What this bill is providing is an authorization of $1 billion.

Mr. KINDNESS. To obligate funds.

Mr. HORTON. No, it does not obligate funds.

Mr. BROOKS. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, this looks like an easy vote to save $500 million, but that is not what it will do at all. The $525 million in the budget resolution is based on current forecasts of the severity of a possible recession that is likely to trigger payments under the antirecession program late in fiscal year 1980.

If those forecasts are accurate, fine. Spending will not go above $525 million, but economic forecasting is not an exact science. Things could get worse than we expect. In that case we would still need and still have the authority to provide the additional spending needed if the $1 billion ceiling is retained. Of course, that action would require appropriations so the spending will not be automatic. It will have to go to the Committee on Appropriations. We still get an opportunity to vote on it, to make a decision then. There may be a third budget resolution.

Mr. Speaker, let me bring up one additional current fact. The Congressional Budget Office under the function of 850, where this $525 million was anticipated, has anticipated and projected the estimated outlays for title IV—that is the antirecession measure—as a maximum of $195 million in fiscal year 1980 and a maximum under title V—the bill originally said $250 million, but we agreed yesterday on $200 million so the maximum that is now anticipated that could be spent in fiscal year 1980 is $395 million. There is no problem with that. You leave the authority there for Congress to utilize if it needs it. You are operating within the current budget, and that is the way we should be operating.

□ 1620

I would tell you that I think it is highly desirable to protect ourselves against the possibility of a severe recession and retain the billion-dollar ceiling. We are not going to trigger any of the antirecession money until two consecutive quarters show a decline in wages and salaries. It means that it is most unlikely that any payment could be made at all under antirecession until very, very late in the last quarter, possibly the last month of the 1980 fiscal year, and it is more likely that those payments would occur in fiscal year 1981, which begins October 1.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from California.

Mr. ROUSSELOT. Well, if we do not need it until late this year, why are we doing it now?

The gentleman originally called this bill a snake. What happened to make it a nonsnake?

Mr. BROOKS. Well, I was talking about revenue sharing, if the gentleman will recall.

Mr. ROUSSELOT. Yes.

Mr BROOKS. And there is a distinct difference between the antirecession provision we are talking about now and general revenue sharing. General revenue sharing would give funds away to everybody with an empty sack.

Mr. ROUSSELOT. I think it was countercyclical aid, if I recall the gentleman's comment, because I always pay attention when the gentleman makes a comment. The gentleman said a snake is a snake.

Mr. BROOKS. I will tell the gentleman, there are some kinds of snakes like copperheads that will kill you; rattlesnakes that will kill you; coral snakes that will kill you; cottonmouth moccasins that will kill you; but garden snakes are harmless; black chicken snakes are just lovely. They eat rats. They are wonderful. They make great pets.

Mr. ROUSSELOT. The gentleman is going to lose his garden snakes and his rattlers.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I think the important point here to make is that this is a bill authorizing $1 billion. It does not appropriate any funds. It would have to go to the Appropriations Committee for appropriation and that could not possibly happen until fiscal year 1981.

Mr. BROOKS. Mr. Speaker, the gentleman is absolutely correct.

Mr. Speaker, I ask for a "no" vote on this motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KINDNESS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the final passage of the bill, following the vote on the motion to recommit. Members will record their presence by electronic device.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 178, nays 215, not voting 41, as follows:

[Roll No. 24]

YEAS—178

Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Bowen
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carter
Cavanaugh
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gibbons
Gingrich
Ginn
Glickman
Gradison
Gramm
Grassley
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Heftel
Hinson
Holt
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Lewis
Livingston
Loeffler
Long, Md.
Lujan
Lungren
McClory
McDonald
McKay
Marlenee
Marriott
Martin
Mazzoli
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Pashayan
Paul
Pease
Petri
Porter
Preyer
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Symms
Synar
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Whitehurst
Whittaker
Whitten
Wilson, Tex.
Winn
Wirth
Wylie
Young, Alaska
Young, Fla.

NAYS—215

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Carney
Carr
Chappell
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gaydos
Gehpardt
Gilman
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Heckler
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Lowry
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wolpe
Wydler
Yates
Yatron
Young, Mo.
Zablocki

NOT VOTING—41

Abdnor
Addabbo
Anderson, Ill.
Barnes
Boggs
Brown, Ohio
Burton, John
Burton, Phillip
Crane, Philip
Dicks
Diggs
Dingell
Flood
Giaimo
Goldwater
Grisham
Hagedorn
Hawkins
Hillis
Hopkins
Jeffords
Jones, N.C.
Leath, Tex.
Lott
Madigan
Mathis
Mattox
Miller, Calif.
Murphy, Ill.
Runnels
Santini
Shumway
Stokes
Stump
Treen
Whitley
Wilson, Bob
Wolff
Wright
Wyatt
Zeferetti

☐ 1640

The Clerk announced the following pairs:

On this vote:

Mr. Hagedorn for, with Mr. Addabbo against.

Until further notice:

Mrs. Boggs with Mr. Abdnor.
Mr. Hawkins with Mr. Shumway.
Mr. Wolff with Mr. Hillis.
Mr. Santini with Mr. Grisham.
Mr. John L. Burton with Mr. Goldwater.
Mr. Barnes with Mr. Brown of Ohio.
Mr. Diggs with Mr. Lott.
Mr. Giaimo with Mr. Madigan.
Mr. Jones of North Carolina with Mr. Treen.
Mr. Whitley with Mr. Bob Wilson.
Mr. Miller of California with Mr. Jeffords.
Mr. Stokes with Mr. Philip M. Crane.
Mr. Dingell with Mr. Anderson of Illinois.
Mr. Mathis with Mr. Hopkins.
Mr. Murphy of Illinois with Mr. Stump.
Mr. Wright with Mr. Wyatt.
Mr. Phillip Burton with Mr. Mattox.
Mr. Dicks with Mr. Leath of Texas.
Mr. Zeferetti with Mr. Runnels.

Mrs. HOLT, Messrs. HUGHES, PREYER, and BOWEN changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KINDNESS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. In accordance with the previous announcement of the Chair, under clause 5, rule XV, the Chair will reduce to 5 minutes the time for a recorded vote on the passage of the bill.

The vote was taken by electronic device, and there were—YEAS 214, NAYS 179, not voting 41, as follows:

[Roll No. 25]

YEAS—214

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Beard, R.I.
Bedell
Benjamin
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Byron
Carney
Carr
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Gilman
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Hall, Ohio
Hanley
Harkin
Harris
Heckler
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Livingston
Lloyd
Long, La.
Lowry
Luken
Lundine
McCloskey
McDade
McEwen
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mikulski
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Stewart
Stratton
Studds
Swift
Thompson
Traxler
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wolpe
Wydler
Yates
Yatron
Young, Mo.
Zablocki

NAYS—179

Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Beilenson
Bennett
Bereuter
Bethune
Breaux
Brinkley
Broomfield
Broyhill

Burgener
Butler
Campbell
Carter
Cavanaugh
Chappell
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Ga.
Fenwick
Findley
Fithian
Flippo
Foley
Forsythe
Frenzel
Fuqua
Gibbons
Gingrich
Ginn
Glickman
Gradison
Gramm
Grassley
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Heftel
Hightower
Hinson
Holt
Hubbard
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Levitas
Lewis
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
McKay
Marlenee
Marriott
Martin
Mazzoli
Mica
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Paul
Pease
Petri
Pickle
Porter
Preyer
Pritchard
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Roberts
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Steed
Stenholm
Stockman
Symms
Synar
Tauke
Taylor
Thomas
Trible
Udall
Volkmer
Walker
Watkins
Whitehurst
Whittaker
Wilson, Tex.
Winn
Wirth
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—41

Abdnor
Addabbo
Anderson, Ill.
Barnes
Bevill
Boggs
Brown, Ohio
Burton, John
Burton, Phillip
Crane, Philip
Diggs
Flood
Giaimo
Goldwater
Grisham
Hagedorn
Hawkins
Hillis
Hopkins
Jeffords
Jones, N.C.
Leath, Tex.
McCormack
Madigan
Mathis
Mattox
Miller, Calif.
Mottl
Murphy, Ill.
Runnels
Santini
Shumway
Stokes
Stump
Treen
Whitley
Wilson, Bob
Wolff
Wright
Wyatt
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Hopkins against.

Mr. Zeferetti for, with Mr. Hagedorn against.

Mrs. Boggs for, with Mr. Mattox against.

Mr. Wolff for, with Mr. Bevill against.

Mr. Hawkins for, with Mr. Runnels against.

Until further notice:

Mr. Barnes with Mr. Anderson of Illinois.

Mr. Diggs with Mr. Goldwater.

Mr. McCormack with Mr. Madigan.

Mr. Stokes with Mr. Shumway.

Mr. Mottl with Mr. Treen.

Mr. Giaimo with Mr. Bob Wilson.

Mr. Miller of California with Mr. Abdnor.

Mr. Jones of North Carolina with Mr. Brown of Ohio.

Mr. John L. Burton with Mr. Grisham.

Mr. Murphy of Illinois with Mr. Hillis.

Mr. Whitley with Mr. Jeffords.

Mr. Leath of Texas with Mr. Philip M. Crane.

Mr. Mathis with Mr. Wyatt.

Mr. Wright with Mr. Stump.

Mr. Santini with Mr. Phillip Burton.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of House Resolution 506, the Committee on Government Operations is discharged from further consideration of the Senate bill (S. 566) to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 566, and to insert in lieu thereof the provisions of the bill, H.R. 5980, as passed, as follows:

That the Act of October 20, 1972, entitled "An Act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes", is amended—

(1) by striking out the text of section 101 and inserting in lieu thereof the following: "This title and titles IV and V may be cited as the 'State and Local Fiscal Assistance Act of 1972'."; and

(2) by adding at the end thereof the following new titles:

"TITLE IV—FISCAL ASSISTANCE DURING PERIODS OF RECESSION

"SEC. 401. FINANCIAL ASSISTANCE AUTHORIZED.

"(a) PAYMENTS TO STATE AND LOCAL GOVERNMENTS.—The Secretary of the Treasury (hereinafter referred to in this title and title V as the 'Secretary') shall, in accordance with the provisions of this title, make payments to State governments and units of local government for each eligible calendar quarter to help counter the effects of an economic recession.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) DURATION OF AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated for each eligible calendar quarter which is 1 of the 4 succeeding calendar quarters (beginning with the calendar quarter which begins on October 1, 1979), for the purposes of payments under this title, an amount not to exceed the amount determined for such quarter under paragraph (3). Any amount so appropriated for any such calendar quarter shall remain available for making payments with respect to such quarter until expended.

"(2) LIMITATION ON TOTAL AMOUNT.—The total amount which may be appropriated pursuant to this subsection for the 4 quarters described in paragraph (1) shall not exceed $1,000,000,000.

"(3) QUARTERLY APPROPRIATION LIMITS.—The amount which may be appropriated pursuant to this subsection for any eligible calendar quarter shall not exceed the product of the economic decline factor for such quarter multiplied by $15,000,000.

"(c) DIVISION BETWEEN TERRITORIAL, STATE, AND LOCAL GOVERNMENTS.—One percent of the amount appropriated under subsection (b) for any calendar quarter shall be allocated to territorial governments under section 412. From the remainder of the amount so appropriated, one-third of such remainder shall be allocated to State governments under section 402 and two-thirds of such remainder shall be allocated to units of local government under section 403.

"(d) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CALENDAR QUARTERS.—An eligible calendar quarter is—

"(A) any calendar quarter which is 1 of 2 consecutive calendar quarters—

"(i) during each of which the aggregate real wages and salaries are less than the aggregate real wages and salaries of the calendar quarter immediately preceding the first of such 2 quarters; and

"(ii) which are immediately preceded by, concurrent with, or partially preceded by and partially concurrent with, 2 consecutive calendar quarters during each of which the real gross national product is less than the real gross national product of the calendar quarter immediately preceding the first of such 2 quarters; and

"(B) any calendar quarter following a calendar quarter which meets the requirements of subparagraph (A) which is—

"(i) not a calendar quarter during which the aggregate real wages and salaries equals or exceeds the adjusted base period amount; and

"(ii) not a calendar quarter following a quarter described in clausee (i) of this subparagraph.

"(2) AGGREGATE REAL WAGES AND SALARIES.—Aggregate real wages and salaries during any period are the total amount of wages and salaries received during such period, as determined by the Secretary during such period, as determined by the Secretary of Commerce for the purpose of computing the gross national product, deflated by the personal consumption expenditure implicit price deflator developed by the Department of Commerce.

"(3) REAL GROSS NATIONAL PRODUCT.—The real gross national product is a measure of the value of the volume of national production in constant dollars, as determined by the Department of Commerce.

"(4) ECONOMIC DECLINE FACTOR.—The economic decline factor for any eligible quarter is determined by—

"(A) subtracting the aggregate real wages and salaries for such quarter from the adjusted base period amount;

"(B) dividing the amount determined under subparagraph (A) by the adjusted base period amount; and

"(C) multiplying the resulting fraction by 1,000, and rounding the product to the nearest whole number.

"(5) BASE PERIOD AMOUNT.—The base period amount is the sum of the aggregate real der subparagraph (A) by the adjusted base period divided by two.

"(6) ADJUSTED BASE PERIOD AMOUNT.—With respect to any eligible calendar quarter, the adjusted base period amount is—

"(A) the base period amount plus three-tenths of 1 percent of such amount in the case of the first eligible calandar quarter following the national base period; or

"(B) the adjusted base period amount for the preceding quarter (as computed under subparagraph (A) or this subparagraph) plus three-tenths of 1 percent of such amount, in the case of any succeeding eligible calendar quarter.

"(7) NATIONAL BASE PERIOD.—The national base period is the 2 consecutive calendar quarters immediately preceding the first of the calendar quarters which meets the requirements of paragraph (1)(A). Only one national base period shall be established with respect to each series of consecutive eligible calendar quarters.

"SEC. 402. STATE GOVERNMENT ALLOCATION.

"(a) ALLOCATION OF FUNDS.—For each calendar quarter for which funds are available under this title, the Secretary shall allocate to each eligible State government an amount which shall bear the same ratio to the amount available for allocation under this section for that quarter (in accordance with section 401(c)) as the product of—

"(1) the economic decline factor for such State, multiplied by

"(2) the tax effort factor of such State government,

bears to the sum of such products for all eligible State governments.

"(2) Definitions.—For purposes of this section—

"(1) Eligible state government.—

"(A) In general.—A State government is an eligible State government under this section for a calendar quarter if—

"(i) such quarter is an eligible State quarter; and

"(ii) the adjusted base period amount for such State exceeds the aggregate real wages and salaries of such State for that calendar quarter.

"(B) Eligible state quarter.—A calendar quarter is an eligible State quarter with respect to a State if—

"(i) such quarter is an eligible calendar quarter as defined in section 401(d)(1); and

"(ii) such quarter—

"(I) is 1 of 2 consecutive calendar quarters, occurring within 1 year prior to the beginning of the first eligible calendar quarter (as defined in section 401(d)(1)) or during any such eligible calendar quarter, during each of which the aggregate real wages and salaries of such State are less than the aggregate real wages and salaries of such State during the calendar quarter immediately preceding the first of such 2 quarters; or

"(II) is a quarter following a quarter which meets the requirements of subclause (I) of this clause.

"(2) Economic decline factor.—The economic decline factor for a State for a calendar quarter is a number equal to the number of dollars by which the adjusted base period amount for such State exceeds the aggregate real wages and salaries of such State for that quarter.

"(3) Tax effort factor of state governments.—The tax effort factor of a State government is (A) the total taxes taken into account with respect to such State government under section 109(c)(2) of this Act for the most recent reporting year (as defined in subparagraph (B) of such section), divided by (B) the personal income for such State for such year as determined by the Department of Commerce for national income accounts purposes.

"(4) Base period amount.—The base period amount of a State is the sum of the aggregate real wages and salaries of such State during its base period divided by two.

"(5) Adjusted base period amount.—With respect to any calendar quarter, the adjusted base period amount of a State is—

"(A) the base period amount of such State plus three-tenths of 1 percent of such amount, in the case of the first calendar quarter following the base period of such State; or

"(B) the adjusted base period amount of such State for the preceding quarter (as computed under subparagraph (A) or this subparagraph) plus three-tenths of 1 percent of such amount, in the case of any succeeding calendar quarter.

"(6) State base period.—The base period for any State is the 2 calendar quarters immediately preceding the first of the 2 consecutive calendar quarters described in paragraph (1)(B)(ii). Only one base period shall be established for any State with respect to each series of consecutive eligible calendar quarters (as defined in section 401(d)(1)).

"(7) Aggregate real wages and salaries of a state.—The aggregate real wages and salaries of a State is the total real wages and salaries taken into account with respect to such State under section 401(d)(2) for each calendar quarter.

"Sec. 403. Allocation to Units of Local Government.

"(a) Determination of Allocable Amounts.—

"(1) County area allocable amount.—For each calendar quarter for which funds are available under this title, the Secretary shall determine for each eligible county area an allocable amount which shall be an amount which bears the same ratio to the amount available for allocation under this section for that quarter (in accordance with section 401(c)), as the product of—

"(A) the excess unemployment factor for such county area for such quarter, multiplied by

"(B) the county area revenue sharing amount,

bears to the sum of such products for all eligible county areas for such quarter.

"(2) Unit of local government allocable amount.—

"(A) Indian tribes and Alaskan native villages.—If within a county area there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then the allocable amount for such tribe or village for any quarter shall be an amount which bears the same ratio to the total amount to be allocated for such quarter in such county area as the population of that tribe or village within that county area bears to the population of that county area, determined in accordance with section 109(a) (1) and (7) of this Act.

"(B) Units of local government.—The allocable amount for a unit of local government within a county area for any quarter shall be an amount which bears the same ratio to the amount remaining for allocation for such quarter in such county area (after subtraction of the allocable amount determined under subparagraph (A)) as the revenue sharing amount of that unit of local government bears to the sum of the revenue sharing amounts of all units of local government within that county area.

"(b) Allocation Based on Allocable Amounts.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall allocate to each unit of local government, Indian tribe, and Alaskan native village an amount equal to the allocable amount determined under subsection (a) with respect to such unit, tribe, or village.

"(2) Limitations.—

"(A) Per capita income limitation.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government if, for the most recently completed calendar year for which data are available, the population residing within the jurisdiction of such unit had a per capita income equal to or in excess of 140 percent of the greater of—

"(i) the national per capita income, or

"(ii) the per capita income of the population of the State within which such unit is located,

as determined by the Bureau of the Census for general statistical purposes (for the most recently completed calendar year for which data is available) and reported to the Secretary.

"(B) Minimum allocation.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government, Indian tribe, or Alaskan native village if the allocable amount determined with respect to such unit, tribe, or village for such quarter is less than $1,500.

"(3) Distribution of unallocated amounts.—The Secretary shall add any amounts which, as a consequence of paragraph (2), remain unallocated (to units of local government, Indian tribes, and Alaskan native villages in any county area) to the allocation of the county government for such area, for use in or on behalf of such areas of the county as may otherwise be eligible, and for unincorporated areas of such county.

"(c) Definitions.—For purposes of this section—

"(1) Eligible county area.—A county area is an eligible county area for a calendar quarter if the excess unemployment amount for such county area for such quarter equals or exceeds one-tenth of 1 percent.

"(2) Excess unemployment amount.—The excess unemployment amount for a county area for a calendar quarter is equal to a percentage which is (A) the unemployment rate in such county area for such quarter (as determined by the Secretary of Labor and reported to the Secretary), minus (B) the unemployment rate for such county area for the comparable predecline quarter, but shall not be less than zero.

"(3) Excess unemployment factor.—The excess unemployment factor for a county area for a calendar quarter is the product of the excess unemployment amount for such county area for such quarter multiplied by the employment adjustment factor for such county area for such quarter.

"(4) Employment adjustment factor.—The employment adjustment factor for a county area for any quarter is—

"(A) 20 percent in the case of a county area in which the unemployment rate for such quarter (as determined by the Secretary of Labor and reported to the Secretary) is less than 3 percent;

"(B) 40 percent in the case of a county area in which such unemployment rate equals or exceeds 3 percent but is less than 4 percent;

"(C) 60 percent in the case of a county area in which such unemployment rate equals or exceeds 4 percent but is less than 5 percent;

"(D) 80 percent in the case of a county area in which such unemployment rate equals or exceeds 5 percent but is less than 6 percent; or

"(E) 100 percent in the case of a county area in which such unemployment rate equals or exceeds 6 percent.

"(5) County area revenue sharing amount.—The county area revenue sharing amount is the sum of the amounts determined under section 108 of this Act with respect to the units of local government within such county area for the most recently completed entitlement period, as defined in section 141(b) of this Act.

"(6) Unit of local government revenue sharing amount.—The revenue sharing amount of a unit of local government is the amount determined under section 108 of this Act with respect to such unit for the most recently completed entitlement period, as defined in section 141(b) of this Act.

"(7) Comparable pre-decline quarter.—The comparable pre-decline quarter with respect to any quarter is the same 3 months of the 4 consecutive calendar quarters ending with the earlier of—

"(A) the 2 calendar quarters which comprise the national base period (as determined under section 401(d)(7)); or

"(B) the 2 calendar quarters which comprise the State base period (as determined under section 402(c)(6)), if any, of the State within which such county area is located.

"Sec. 404. Statement of Assurances.

"Each State and unit of local government may receive payments under this title only if it has filed with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than 90 days after the date of enactment of this title. The Secretary may not require any State or unit of local government to file more than one such statement during each fiscal year. Each such statement shall contain—

"(1) an assurance that the State or unit of local government will—

"(A) use fiscal, accounting, and auditing procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States); and

"(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

"(2) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title;

"(3) an assurance that the requirements of section 405 will be complied with;

"(4) an assurance that the requirements of section 406 will be complied with; and

"(5) an assurance that the State or unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

"SEC. 405. NONDISCRIMINATION.

"(a) PROHIBITION.—

"(1) IN GENERAL.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

"(2) EXCEPTIONS.—

"(A) FUNDING.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this title.

"(B) CONSTRUCTION PROJECTS IN PROGRESS.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) ENFORCEMNET AND REMEDIES.—The provisions of subsection (a) of this section shall be enforced by the Secretary in the same manner and in accordance with the same procedures as are required by sections 122, 124, and 125 of this Act to enforce compliance with section 122(a) of this Act. The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this title as the Attorney General has under sections 122 (g) and (h) and 124(c) of this Act with respect to funds made available under title I of this Act. Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of subsection (a) of section 122 of this Act, including the rights provided under section 124(e) of this Act.

"SEC. 406. LABOR STANDARDS.

All laborers and mechanics employed by contractors on all construction projects, 25 percent or more of the cost of which are paid out of payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"SEC. 407. GOVERNMENTAL DEFINITIONS AND RELATED RULES.

"(a) STATE.—The term 'State' means any of the several States.

"(b) UNITS OF LOCAL GOVERNMENT.—The term 'unit of local government' means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means, except for purposes of sections 403(a) and (b) and 408, the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions."

"(c) CERTAIN AREAS TREATED AS COUNTIES.—In any State in which any unit of local government (other than a county government) constitutes the next level of government below the State government level, then, except as provided in the next sentence, the geographic area of such unit of government shall be treated as a county area (and such unit of government shall be treated as a county government) with respect to that portion of the State's geographic area. In any State in which any county area is not governed by a county government but contains two or more units of local government, such units shall not be treated as county governments and the geographic areas of such units shall not be treated as county areas.

"(d) TOWNSHIPS.—The term 'township' includes equivalent subdivisions of government having different designations (such as 'towns'), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

"(e) UNITS OF LOCAL GOVERNMENT LOCATED IN LARGER ENTITY.—A unit of local government shall be treated as located in a larger entity if part or all of its geographic area is located in the larger entity.

"(f) ONLY PART OF UNIT LOCATED IN LARGER ENTITY.—If only part of a unit of local government is located in a larger entity, such part shall be treated for allocation purposes as a separate unit of local government, and all computations shall, except as otherwise provided in regulations, be made on the basis of the ratio which the estimated population of such part bears to the population of the entirety of such unit.

"(g) BOUNDARY CHANGES, GOVERNMENTAL REORGANIZATION, ETC.—If, by reason of boundary line changes, by reason of State statutory or constitutional changes, by reason of annexations or other governmental reorganizations, or by reason of other circumstances, the application of any provision of this section to units of local government does not carry out the purposes of this title, the application of such provision shall be made, under regulations prescribed by the Secretary, in a manner which is consistent with such purposes.

"(h) TREATMENT OF THE DISTRICT OF COLUMBIA.—For purposes of this title the District of Columbia shall be treated as a county area which has no units of local government (other than itself) within its geographic area.

"SEC. 408. PAYMENTS.

"(a) IN GENERAL.—From the amounts allocated to State governments, units of local government, and Indian tribes and Alaskan native villages under sections 402 and 403, the Secretary shall—

"(1) with respect to the two eligible calendar quarters described in section 401(d)(1)(A), pay not later than 120 days after the conclusion of the second of such quarters; and

"(2) with respect to each eligible calendar quarter described in section 401(d)(1)(B), pay not later than 120 days after the conclusion of such quarter,

to each State government, unit of local government, and Indian tribe and Alaskan native village which has filed a statement of assurances under section 404, an amount equal to the amount allocated to such government, unit, tribe, or village under section 402 or 403.

"(b) ADJUSTMENTS.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments under this title or under title V.

"SEC. 409. WITHHOLDING.

"Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State government or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State government or unit of local government filed under section 404, the Secretary shall notify that State government or unit of local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

"SEC. 410. REPORTS.

"(a) QUARTERLY REPORTS.—The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which payments are made under the provisions of this title. Such report shall include information on the amounts paid to each State government and unit of local government and a description of any action which the Secretary has taken under the provisions of section 409 during the calendar quarter.

"(b) ANNUAL REPORT.—The Secretary shall report to Congress as soon as is practical after the end of each fiscal year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to State and units of local government under the provisions of this title and any actions with which the Secretary has taken under the provisions of section 409.

"SEC. 411. ADMINISTRATION.

"(a) RULES.—The Secretary is authorized to prescribe, after consultation with the Secretary of Commerce, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules shall be prescribed by the Secretary not later than 90 days of the date of enactment of this title.

"(b) PROCEDURE FOR CONGRESSIONAL VETO.—

"(1) TRANSMISSION TO CONGRESS.—The Secretary shall transmit to the Secretary of the Senate and the Clerk of the House of

Representatives a copy of any rule promulgated with funds appropriated under this title or relating to funds appropriated under this title.

"(2) RESOLUTION OF DISAPPROVAL.—Such rule shall not take effect, if—

"(A) within the 45 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the rule promulgated by the Secretary of the Treasury with respect to , such rule having been transmitted to the Congress on '. the blank spaces therein being appropriately filled; or

"(B) within the 30 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 15 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(3) TAKING EFFECT OF RULES.—If, within the 30 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule, and neither House has adopted such resolution, the rule may take effect. If, within such 30 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect prior to the date which occurs after the 45 calendar days of continuous session of the Congress after the date of the promulgation of such rule.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) continuity of session is broken only by adjournment of the Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 15, 30, and 45 calendar days of continuous session of the Congress.

"(5) EFFECT OF INACTION OR REJECTION OF RESOLUTION.—Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

"SEC. 412. ALLOCATION FOR PUERTO RICO, GUAM, THE NORTHERN MARIANA ISLANDS, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.

"(a) ALLOCATIONS.—

"(1) IN GENERAL.—For each calendar quarter for which funds are available under this title, the Secretary shall allocate to each territorial government an amount equal to the product of the amount available for allocation under this section multiplied by the applicable territorial percentage.

"(2) APPLICABLE TERRITORIAL PERCENTAGE.—For the purposes of this subsection, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(3) DEFINITIONS.—For purposes of this section—

"(A) The term 'territorial government' means the government of a territory.

"(B) The term 'territory' means Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and the Virgin Islands.

"(C) The term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"(4) APPLICATION OF GENERAL PROVISIONS.—The provisions of sections 404, 405, 406, and 409 shall apply to the funds authorized under this section.

"(b) PAYMENTS TO LOCAL GOVERNMENTS.—The governments of the territories are authorized to make payments to local governments within their jurisdiction from sums received under this section as they deem appropriate.

"TITLE V—TARGETED FISCAL ASSISTANCE

"SEC. 501. FINANCIAL ASSISTANCE AUTHORIZED

"(a) PAYMENTS TO LOCAL GOVERNMENTS.—The Secretary of the Treasury shall, in accordance with the provisions of this title, make payments to units of local government.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of making payments under this title $150,000,000 for the fiscal year ending September 30, 1980, except that, if the national rate of unemployment for the first quarter of such fiscal year (as determined by the Secretary of Labor and reported to the Secretary) exceeds 5 percent, then the amount authorized to be appropriated for such purpose for such fiscal year shall be $200,000,000.

"(c) DIVISION BETWEEN TERRITORIAL AND LOCAL GOVERNMENTS.—One percent of the amount appropriated under subsection (b) shall be allocated to territorial governments under section 511 and the remainder of the amount so appropriated shall be allocated to units of local government under section 502.

"SEC. 502. ALLOCATION TO UNITS OF LOCAL GOVERNMENT.

"(a) IN GENERAL.—There shall be allocated for each eligible unit of local government, from the amount available for allocation under this section (in accordance with section 501(c)), an amount determined to be allocable to such unit under subsection (b).

"(b) DETERMINATION OF ALLOCABLE AMOUNT.—

"(1) IN GENERAL.—For the purposes of subsection (a), but subject to the limitations and adjustments required by paragraph (2), the amount allocable to an eligible unit of local government under this subsection is the amount which bears the same ratio to the amount available for allocation under this section (in accordance with section 501(c)) as the product of—

"(A) the excess unemployment factor for such unit of local government, multiplied by

"(B) the revenue sharing amount for such unit of local government,

bears to the sums of such products for all eligible units of local government.

"(2) MINIMUM ALLOCABLE AMOUNT; REALLOCATION.—

"(A) LIMITATION.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government if the allocable amount determined under paragraph (1) with respect to such unit—

"(i) is less than $6,000, in the case of any unit of local government which is located in whole or in part in a standard metropolitan statistical area; or

"(ii) is less than $3,000, in the case of any unit of local government which is not located in whole or in part in such an area.

"(B) ADJUSTMENT.—The allocable amount of each eligible unit of local government which is not subject to the limitation contained in subparagraph (A) shall be increased by an amount which bears the same ratio to the sum of the allocable amounts which, as a consequence of subparagraph (A), may not be allocated, as the allocable amount determined under paragraph (1) for such unit bears to the sum of the allocable amounts determined under such paragraph for all the units of local government which are not subject to such limitation.

"(3) MAXIMUM ALLOCABLE AMOUNT; REALLOCATION.—

"(A) LIMITATION.—If, for any calendar quarter, the sum of the allocable amounts under paragraph (1) of the units of local government in any State exceeds 12.5 percent of the amount available for allocation under this section, then the allocation of each such unit shall be reduced by an amount which bears the same ratio to the amount of that excess as the allocable amount of such unit under paragraph (1) bears to such sum of the allocable amounts of the units of local government in such State.

"(B) REALLOCATION.—Any amounts which, as a consequence of the subparagraph (A), may not be allocated within any State or States shall be allocated among the units of local government in other States in proportion to the sum of their allocable amounts under paragraphs (1) and (2), except that no such allocation shall be increased in a manner which would result in an allocation exceeding the limitation imposed by subparagraph (A).

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE UNIT OF LOCAL GOVERNMENT.—A unit of local government is an eligible unit of local government if—

"(A) the unemployment rate for such unit for the most recent calendar year for which data are available (as determined by the Secretary of Labor and reported to the Secretary) exceeds, by one-tenth of 1 percent or more—

"(i) the average unemployment rate for all units of local government located in whole or in part in standard metropolitan statistical areas for such calendar year, in the case of a unit of local government located in whole or in part in such an area; or

"(ii) the average unemployment rate for all units of local government not located in whole or in part in such areas for such calendar year, in the case of a unit of local government not located in whole or in part in such an area;

"(B) such unit of local government is located in a county for which the rate of growth in real wages and salaries (as determined by the Secretary of Commerce for the purpose of computing the gross national product and reported to the Secretary) for the most recent 3 calendar years for which data are available (expressed as a percent) does not exceed 150 percent of the national rate of growth in real wages and salaries (as so determined) for such calendar years (expressed as a percent); and

"(C) the population residing within the jurisdiction of such unit did not, for the most recently completed calendar year for which data are available, have a per capita income equal to or in excess of 135 percent of the greater of—

"(i) the national per capita income, or

"(ii) the per capita income of the population of the State within which such unit is located,

as determined by the Bureau of the Census for general statistical purposes (for the most recently completed calendar year for which data is available) and reported to the Secretary.

"(2) EXCESS UNEMPLOYMENT FACTOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the excess unemployment factor for a unit of local government is a percentage equal to the average annual unemployment rate for such unit for the calendar years ending on December 31 of 1975, 1976, 1977, and 1978 minus—

"(i) 4.5 percent, in the case of a unit of local government located in whole or in part in such an area, or

"(ii) 4.0 percent, in the case of a unit of local government not located in whole or in part in such an area,

but shall not be less than zero.

"(B) Exception.—If the Secretary determines, upon request by a unit of local government and after consultation with the Secretary of Labor, that the unemployment rate for a unit of local government has substantially increased, or can reasonably be expected to substantially increase, as a consequence of the closing of major industrial facilities, the excess unemployment factor for such unit is equal to the unemployment rate for such unit for the most recent period after such closing for which data can be made available minus—

"(i) 4.5 percent, in the case of a unit of local government located in whole or in part in a standard metropolitan statistical area; or

"(ii) 4.0 percent, in the case of a unit of local government not located in whole or in part in such an area,

but shall not be less than zero.

"(3) Revenue sharing amount.—The revenue sharing amount of any unit of local government is the amount determined under section 108 of this Act with respect to such unit for the most recently completed entitlement period, as defined in section 141(b) of this Act.

"(4) Unemployment rates.—The unemployment rate for a unit of local government for any period shall be the rate of unemployment in the jurisdiction of the unit during the appropriate period. as determined or assigned by the Secretary of Labor and reported to the Secretary, and, in the case of a unit for which the Secretary of Labor cannot determine an unemployment rate for any period, the Secretary of Labor shall assign such unit the unemployment rate of the local government within the jurisdiction of which such unit is located, unless—

"(A) the Governor of the State in which such unit is located has provided the Secretary of Labor with an unemployment rate for such unit; and

"(B) the Secretary of Labor finds such unemployment rate provided by the Governor has been determined in a manner consistent with the procedures and methodologies used by the Secretary of Labor in determining such rates, in which case the Secretary of Labor shall assign such unit the rate provided by the Governor.

"Sec. 503. Statement of Assurances.

"Each unit of local government may receive payments under this title only if it has filed with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than 90 days after the date of enactment of this title. The Secretary may not require any unit of local government to file more than one such statement. Each such statement shall contain—

"(1) an assurance that the unit of local government will—

"(A) use fiscal, accounting, and auditing procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States); and

"(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

"(2) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title;

"(3) an assurance that the requirements of section 504 will be complied with;

"(4) an assurance that the requirements of section 505 will be complied with; and

"(5) an assurance that the unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

"Sec. 504. Nondiscrimination.

"(a) Prohibition.—

"(1) In general.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a unit of local government, which government or unit receives funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this title.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Enforcement and Remedies.—The provisions of subsection (a) of this section shall be enforced by the Secretary in the same manner and in accordance with the same procedures as are required by sections 122, 124, and 125 of this Act to enforce compliance with section 122(a) of this Act. The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this title as the Attorney General has under sections 122 (g) and (h) and 124(c) of this Act with respect to funds made available under title I of this Act. Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of subsection (a) of section 122 of this Act, including the rights provided under section 124(e) of this Act.

"Sec. 505. Labor Standards.

All laborers and mechanics employed by contractors on all construction projects, 25 percent or more of the cost of which are paid out of payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"Sec. 506. Government Definitions and Related Rules.

"(a) State.—The term 'State' means any of the several States.

"(b) Units of Local Government.—The term 'unit of local government' means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes).

Such term also means the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

"(c) Certain Areas Treated as Counties.—In any State in which any unit of local government (other than a county government) constitutes the next level of government below the State government level, then, except as provided in the next sentence, the geographic area of such unit of government shall be treated as a county area (and such unit of government shall be treated as a county government) with respect to that portion of the State's geographic area. In any State in which any county area is not governed by a county government but contains two or more units of local government, such units shall not be treated as county governments and the geographic areas of such units shall not be treated as county areas.

"(d) Townships.—The term 'township' includes equivalent subdivisions of government having different designations (such as 'towns'), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

"(e) Units of Local Government Located in Larger Entity.—A unit of local government shall be treated as located in a larger entity if part or all of its geographic area is located in the larger entity.

"(f) Only Part of Unit Located in Larger Entity.—If only part of a unit of local government is located in a larger entity, such part shall be treated for allocation purposes as a separate unit of local government, and all computations shall, except as otherwise provided in regulations, be made on the basis of the ratio which the estimated population of such part bears to the population of the entirety of such unit.

"(g) Boundary Changes, Governmental Reorganization, Etc.—If, by reason of boundary line changes, by reason of State statutory or constitutional changes, by reason of annexations or other governmental reorganizations, or by reason of other circumstances, the application of any provision of this section to units of local government does not carry out the purposes of this title, the application of such provision shall be made, under regulations prescribed by the Secretary, in a manner which is consistent with such purposes.

"(h) Treatment of the District of Columbia.—For purposes of this title the District of Columbia shall be treated as a county area which has no units of local government (other than itself) within its geographic area.

"Sec. 507 Payments.

"Not later than the earlier of—

"(1) 90 days after the date of enactment of an appropriations Act making appropriations pursuant to section 501; or

"(2) April 1, 1980,

the Secretary shall pay to each unit of local government which has filed a statement of assurances under section 503, an amount equal to the amount allocated to such unit under section 502.

"Sec. 508. Withholding.

"Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that unit of local government filed under section 503, the Secretary shall notify that unit of local government that further payments will not be made under this title or under title IV until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

"Sec. 509. Reports.

"The Secretary shall report to Congress as soon as is practical after the end of the fiscal year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to units of local government under the provisions of this title and any actions with which the Secretary has taken under the provisions of section 508.

"Sec. 510. Administration.

"(a) Rules.—The Secretary is authorized to prescribe, after consultation with the Secretary of Commerce, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules shall be prescribed by the Secretary not later than 90 days of the date of enactment of this title.

"(b) Procedure for Congressional Veto.—

"(1) Transmission to Congress.—The Secretary shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated with funds appropriated under this title or relating to funds appropriated under this title.

"(2) Resolution of disapproval.—Such rule shall not take effect, if—

"(A) within the 45 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the rule promulgated by the Secretary of the Treasury with respect to   , such rule having been transmitted to the Congress on   , the blank spaces therein being appropriately filled; or

"(B) within the 30 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 15 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(3) Taking effect of rules.—If, within the 30 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule, and neither House has adopted such resolution, the rule may take effect. If, within such 30 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect prior to the date which occurs after the 45 calendar days of continuous session of the Congress after the date of the promulgation of such rule.

"(4) Definitions.—For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of the Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 15, 30, and 45 calendar days of continuous session of the Congress.

"(5) Effect of inaction or rejection of resolution.—Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

"(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

"Sec. 511. Allocation for Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and the Virgin Islands.

"(a) Allocations.—

"(1) In general.—The Secretary shall allocate to each territorial government an amount equal to the product of the amount available for allocation under this section multiplied by the applicable territorial percentage.

"(2) Applicable territorial percentage.—For the purposes of this subsection, the applicable territorial percentage of a territory is equal to the quottient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(3) Definitions.—For purposes of this section—

"(A) The term 'territorial government' means the government of a territory.

"(B) The term 'territory' means Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and the Virgin Islands.

"(C) The term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"(4) Application of general provisions.—The provisions of sections 503, 504, 505, and 508 shall apply to the funds authorized under this section.

"(b) Payments to Local Governments.—The governments of the territories are authorized to make payments to local governments within their jurisdiction from sums received under this section as they deem appropriate.".

Sec. 2. Title II of the Public Works Employment Act of 1976 is repealed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5980) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 566

Mr. BROOKS. Mr. Speaker, pursuant to House Resolution 506, I move that the House insist on its amendments to the Senate bill, S. 566, and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. Brooks, Fountain, Fascell, Moorhead of Pennsylvania, English, Aspin, Weiss, Synar, Horton, Wydler, Brown of Ohio, and Mrs. Snowe.

There was no objection.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent for the Record to show on H.R. 5980 that I was called away from the floor on business during the 5-minute vote on this bill and that if I had been present I would have voted favorably for passage of H.R. 5980.

The SPEAKER pro tempore. Is there objection to ther request of the gentleman from Washington?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I have asked for this time for the purpose of determining the schedule. I would ask the acting majority leader if he is in a position to explain the schedule for the balance of the day, the week and the month, and the schedule for next week.

☐ 1650

Mr. DANIELSON. If the gentleman will yield, the close of this bill is the conclusion. We have completed the legislative business of the House for this week.

The program for the House of Representatives for next week, the week of February 4, 1980, is as follows:

On Monday, February 4, the House will meet at noon.

There are no bills under suspension.

There is a Consent Calendar.

We will also take up:

H.R. 5507, relating to treatment of retirement benefits under Federal employment insurance law. This is a closed rule with 1 hour of debate.

On Tuesday, February 5, the House will meet at noon.

There are two bills under Suspensions and the Private Calendar.

All recorded votes will be postponed until the end of all suspensions.

The bills under suspension are:

H.R. 5036, to convey land in Colorado to the Ute Mountain Tribe; and

H.R. 5278, to authorize investigations of certain water resource developments.

In addition we will take up:

H. Res. 533, to extend filing date for final report of the Select Committee on Committees; and

H.R. 4788, Water Resources Development Act of 1979, and hope to complete the consideration.

On Wednesday, February 6, the House will meet at 3 p.m.

We will consider:

H.R. 2551, Agricultural Land Protection Act, subject to a rule being granted; and

H.R. 3591, temporary reduction of duty on titanium sponge, subject to a rule being granted.

On Thursday and Friday, February 7 and February 8, the House will meet at 11 o'clock.

Under consideration will be:

H.R. 2609, increasing appropriations ceiling for the Colorado River Basin Salinity Control Act, subject to a rule being granted; and

H.R. 3275, to amend Small Reclamation Projects Act of 1956, subject to a rule being granted.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days, except Wednesday and, of course, conference reports may be brought up at any time.

If there is any further program, it will be announced later.

Mr. DEVINE. A further inquiry of the gentleman from California. Seeing the Water Resources Development Act is scheduled for Monday, I would presume that the Members can expect that a record vote may be taken on that bill at that time. There is no indication of suspending votes on that day; is that correct?

Mr. DANIELSON. If the gentleman will yield further, there is no such indication. The gentleman has stated it correctly.

Mr. DEVINE. One other question of the gentleman from California: There has been a strong rumor floating around the House today that there is a strong likelihood that there will be no session next Friday. Is the gentleman in a position to respond to that, please?

Mr. DANIELSON. I am not in a position to respond directly. The calendar is as I have read it. The House, if it moves diligently with its business, conceivably could conclude on Thursday, but I have been informed and believe that in the event we do not conclude the calendar by Thursday night, there will be a session on Friday.

Mr. DEVINE. It would be very helpful to the Members in arranging their schedule if earlier in the week we could determine the schedule.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I would like to ask the acting majority leader a question, and I preface it by the observation that the answer really does not make any difference to the gentleman from Maryland, because he is here all the time anyway, but you folks on that side changed the rules of the House a few years ago to accommodate the Members who would like to remain in their districts on a Monday. The bills that are listed here on Monday, thanks to the diligence of the gentleman from Pennsylvania (Mr. EDGAR), are going to cause any number of rollcall votes on Monday, yet the bills listed for Tuesday are all, shall we say, in the hierarchy of values, less important.

Why not bring those bills up on Monday, put the votes over until Tuesday and fight all day on Tuesday about the water resources? It seems to me that the schedule—I was going to use a euphemism—but it seems to be backwards as far as the listings for Monday and Tuesday.

Perhaps the gentleman may be able to respond—and I know the leadership leaves early at the end of the week. It is logical. I know I am accused quite often of not indulging in logic, but it seems to me it appeals to me.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from California.

Mr. DANIELSON. I say, as far as the gentleman from Maryland (Mr. BAUMAN) is concerned, we wish to cater to the fact that he is here at all times and makes some merit in that presence.

Mr. DEVINE. Mr. Speaker, I yield back the balance of my time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO MONDAY, FEBRUARY 4, 1980

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, February 4, 1980.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1300) entitled "An Act to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes".

SALT WITHOUT DÉTENTE

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. SEIBERLING. Mr. Speaker, in today's Washington Post there is an article about how the national intelligence estimates indicate that, without the ceilings in SALT II, the Soviets could have 14,000 nuclear warheads by 1989, whereas if the SALT limitations were in effect they would only have 6,000. This simply emphasizes the importance, whether or not we can resolve the Middle East crises, of trying to reach some kind of a meaningful arms control agreement. It is in our interest as well as the Soviet interest to put a curb on the proliferation of strategic nuclear weapons.

On Tuesday in the Washington Post there was an article by a Paul Warnke, the former chief negotiator and director of the Arms Control Agency showing how, as détente fades, the urgency of arms control increases and that while détente should remain a long-range goal, control of strategic nuclear weapons is an immediate necessity.

Mr. Speaker, I include the article in the RECORD following these remarks, as follows:

SALT WITHOUT DÉTENTE

(By Paul Warnke)

For some SALT critics, the gloom caused by the Soviet invasion of Afghanistan appears lightened by their belief that it shows that they've been right, that "the Russians can't be trusted" and that strategic arms control doesn't belong in the real world. Some suggest that this egregious Soviet conduct requires a drastic change in our foreign policy and new people to conduct it. Their mistaken assumptions are that SALT rests on trust, that SALT supporters blindly believed the Soviets to be a bunch of Boy Scouts and that pursuit of nuclear arms control is inconsistent with a sound defense policy.

I would be surprised if many who have dealt closely with the Russians are all that surprised by recent developments—appalled, of course, and perhaps disappointed, but certainly not startled. Soviet incursions into neighboring states have had the periodicity of a plague of 12-year locusts—Hungary in 1956, Czechoslovakia in 1968 and now Afghanistan.

Nor does this new proof that Soviet military power remains a threat to world peace mean that arms control efforts should be abandoned. Instead, the current crisis confirms the wisdom of trying, through strategic arms limitations, to lessen the risk that U.S.-Soviet confrontations will lead to mutual nuclear devastation.

Admittedly, it is uncongenial to try to reach agreements with a government that often sets its own international rules. But if we are to get anywhere in controlling nuclear arms, we must not continue to confuse SALT with détente, as do the advocates of "linkage." Détente connotes a lessening of frictions, of dangers to world peace. As détente fades, the urgency of arms control increases. We can only guess whether prompt approval of SALT II and active negotiations on theater nuclear forces and other SALT III issues would have forestalled the present crisis. But we should know that without the SALT II treaty we are now less secure. Détente should remain a long-range goal. But control of strategic nuclear weapons is an immediate necessity.

Disputes about Cubans in Africa and about Soviets in Cuba and Afghanistan show that the differences between the United States and the Soviet Union are serious and continuing. We have regrettably little in common. What we do share, and what makes nuclear arms control feasible, is a common interest in survival and in avoiding nuclear weapons proliferation. Because of this common interest, SALT negotiations could start the year after Soviet force ended the Prague Spring and while Soviet-supplied weapons were killing Americans in Vietnam.

Whether the present Soviet aggression is a response to a particular concern or part of an overall design does not affect the seriousness with which it must be treated. No state is entitled to seek perfect security for itself at the sacrifice of that of another. And if conduct of this kind goes unchallenged, a limited original purpose may be converted into something more ambitious.

The Soviet leadership seems to be losing sight of the cardinal rule of superpower competition—that neither side improves its own security by endangering that of the other. Pursuit of a plan to bring the Persian Gulf states under Soviet control would constitute a direct and massive threat to our interests. In contrast, we have very wisely made it clear that our new relationship with the People's Republic of China will not evolve in a way that threatens the security of the Soviet Union.

At best, the world is in for a troubled time. At worst, the crises will be played out with no controls over nuclear weapons, with each side trying to gain greater strategic nuclear strength, and thus posing a greater threat to the other's security. For both, the cause of national survival would be best served by prompt entry into force of the SALT II treaty and renewed efforts to obtain more sweeping controls on nuclear arms. But "linkage" here seems destined to conquer logic.

Recognizing that we cannot trust the Russians (and with no reason to believe that they trust us), we still need to avoid the immense risks of further nuclear escalation. The real world needn't include nuclear anarchy.

In his State of the Union address, President Carter cited the need "in a time of great tension" to observe the mutual constraints of SALT I and SALT II. In fact, since October 1977, when the SALT I Interim Agreement expired, there have been no formal controls over offensive nuclear weapons. Each country then announced separately that it intended to do nothing in contravention of SALT I limits. These undertakings have been honored.

Important SALT principles have been fully worked out and could be implemented and verified without a ratified treaty. (The U.S.-Soviet treaty limiting nuclear weapons tests to yields of 150 kilotons is treated as binding although the Senate has never acted on it.) A U.S. statement could detail our intention to abide by these key principles provided that the Soviet Union does the same.

Continued in the reciprocal restraints should be the freeze on ICBM silos, the most deadly and yet the most vulnerable of the nuclear weapons delivery systems. In matching statements, the sides would commit also to freeze the maximum number of multiple independently targetable reentry vehicles (MIRVs) on any type of existing missile, to flight-test no more than one new ICBM and to limit the new missile to 10 MIRVs. Of crucial importance, each country should state also its intention to refrain from concealment measures or other interference with national technical means of verification.

This approach would leave us free to proceed as planned with the moderization of each part of our nuclear deterrent triad. It would, of course, leave us far short of the benefits of the full SALT II treaty, such as the equal ceilings and sub-ceilings that would require actual reduction in existing Soviet forces, and the chance for speedy negotiation of tighter controls.

As with a formal SALT treaty, there could be no guarantee that the Soviets would live up to their commitments. But our national technical means of verification would tell us if they were not, and would also tell us if they were interfering with those means and trying to conceal nuclear weapons developments.

To support SALT is not to suggest that it is the panacea for all international problems. And to continue to pursue strategic arms control is not to condone Soviet misbehavior. But the new realism doesn't require that we emulate the Roman *andabata*, who was thrust into the combat arena fully armed and armored but sealed sightless in his helmet.

STATEMENT OF HON. AUGUSTUS F. HAWKINS ON THE 1980 ECONOMIC REPORT AND BUDGET MESSAGE OF THE PRESIDENT

(Mr. HAWKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAWKINS. Mr. Speaker, the President's Economic Report and budget message are insensitive to the domestic needs and capabilities of the economy and the American people. They are irresponsive to the new burdens imposed upon us by the worsening worldwide situation which requires a much stronger economic performance. Finally, the economic report and budget message are in flagrant violation of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978.

The President's proposals continue the failed and discredited effort to get a "trade-off" between unemployment and inflation. And still more importantly, these proposals continue to restrain real economic growth and hold very high the persistent idleness of workers and other production facilities.

This persistently low growth in economic strength, punctuated by frequent recessions, is the greatest of all economic weaknesses and waste. It is the great enemy to our total power, in view of developments in Iran, Afghanistan, and potentially elsewhere in the world. It does severe damage to almost all at home, especially the poor and otherwise neglected and underprivileged. It kills productivity growth. It weakens the dollar overseas, aggravates inroads from overseas upon our domestic markets, augments the rise in gold prices, and makes impossible any convincing movement toward a balanced Federal budget. It ignores recent findings of the Joint Economic Committee and the House Committee on Education and Labor.

The intent of the President was indicated in the fall of 1978, when he announced a program to remedy the weakness of the dollar, the soaring gold prices, and inflation in general, by reducing the rate of real economic growth and courting recession. Shortly thereafter, in his economic report and budget message a year ago, the President set the goal of reducing the real economic growth rate from 5.3 percent in 1977 and 4.4 percent in 1978 to only 3.2 percent in 1979, only 2.2 percent in 1980, and only a 3.8 percent annual average for 1979–83 inclusive. The goal was to increase unemployment from 6 percent in 1978 to 6.2 percent in 1979, and yet to achieve the Humphrey-Hawkins goal of 4 percent by 1983. The productivity goal was an average of only 1.5 percent for the period as a whole, compared with 2 to 3 times as high in earlier periods when the economy was doing well. The goal was to reduce inflation from 7.7 percent in 1978 to 7.5 percent in 1979. Toward trying to achieve a balanced Federal budget rather rapidly, the goal was for only a 2.5 percent real increase in the budget during 1979, and only 1.4 percent as the average for 1979–83 inclusive.

In vivid contrast with these official goals at the start of 1979, the needed goals, conservatively estimated in accord with the Nation's needs and capabilities and the Humphrey-Hawkins Act, were for a real economic growth rate of about 5.6 percent in 1979, and slightly lower as the average for 1979–83 inclusive; productivity growth averaging about 4 percent throughout; inflation reduced to 5 percent in 1979 as a first step toward getting it down to the Humphrey-Hawkins goal of 3 percent in 1983; and sizable real increases in the Federal budget, with accent upon priority needs, to provide needed stimulus to the economy, carry out the intent of Humphrey-Hawkins that the budget be supportive of the act's other goals, and begin successfully the attempt to balance the budget in 1983 through proper economic growth instead of attempting unsuccessfully to balance it at the expense of the real economic performance. All of these needed goals were consistent with results during comparable earlier periods when we did even near to our best.

Most of the actual results during 1979 were even worse than I had predicted in early 1979 in consequence of the President's program.

The real economic growth rate was only 2.3 percent above 1978 in 1979, and only 0.8 percent from fourth quarter 1978 to fourth quarter 1979. Merely avoiding or postponing an absolute recession is a deplorably inadequate result, considering the costs of stagnation measured against full performance. From 1953 through 1979, in consequence of stagnation and recession, we have forfeited 7.1 trillion 1978 dollars worth of GNP.

The productivity growth rate from fourth quarter 1978 to fourth quarter 1979 was minus 1.3 percent.

The President admits that consumer price inflation was 11.4 percent higher in 1979 than in 1978. In fourth quarter 1979, the annual rate was 13.3 percent for consumer prices and 14.5 percent for prices of finished products, excluding food.

The Federal deficit is now estimated at $28 billion for fiscal 1979 and $40 billion for fiscal 1980, representing a sharp deterioration from the President's earlier projections. The dollar is still very weak, gold prices much higher than a year ago, and "foreign competition" still unchecked.

To be sure, the unemployment rate was held to 5.8 percent in 1979 and 5.9 percent in December, compared with the President's goal of 6.2 percent for the year. But the actual rate was extraordinarily high for the fourth year of a so-called recovery, and higher than during the trough of some of the recessions since 1953. The chronic rise in unemployment to date has caused us to forfeit more than 81 million man-, woman-, and teenage-years of employment opportunity, with disproportionate impact upon the disadvantaged, whites as well as blacks and other minorities.

The 1980 economic report and budget message refer, at times, to "forecasts," rather than "goals." But when the word forecast is used instead of the word goal, the administration's resort to forecasts rather than goals violates a central aspect of the Humphrey-Hawkins Act, unless the forecasts are regarded as goals. For the requirement for goals in the act is for the very purpose of substituting, for the bleak economic outlook which would result without counteraction, the affirmative policies and programs to do the best we can to overcome foreseeable difficulties and to do our best. When the administration accepts a 1-percent recession for 1980, and indeed continues policies consistent with that end, instead of formulating new policies in a vigorous attempt to reverse the course, it is doing something which no administration under the Employment Act of 1946 has ever done before and something in absolute violation of the Humphrey-Hawkins Act.

Now in early 1980, ignoring the lesson of experience, the economic report and budget message propose a real economic growth rate of minus about 1 percent from first quarter 1979 to first quarter 1980; only 1.7 percent for 1981 over 1980, and apparently less than 3 percent average for 1980–83 inclusive. The productivity growth goal runs at the abysmally low average of 1.5 percent annually throughout. Inflation, over the 12 months of the year, is projected at 10.4 percent for 1980. On a year-over-year basis, it is projected at 11.8 percent for 1980, 9.2 percent for 1981, and 7.4 percent for 1983, on the way toward 6.1 percent for 1985. The inflation reduction goals of Humphrey-Hawkins—to 3 percent in 1983 and toward stability later on—are completely ignored. The unemployment rate goal is 7.5 percent for 1980, 5.6 percent for 1983, 4.8 percent for 1984, and 4 percent at long last in 1985. Total budget outlays for fiscal 1980 are proposed at a level above 1979 of about 14 percent or barely above the current rate of inflation, and for fiscal 1981 proposed at about 9 percent above 1980, or less than the President's projected rate of inflation. Thus, in real terms, the budget would have no stimulative effect, and allowing for a real annual rate of about 3 percent in national security outlays, domestic high priority programs are reduced in the overall, and dangerously cut in some instances.

In vivid contrast, in accord with our needs and capabilities—as revealed by relevant past experience—and the provisions of Humphrey-Hawkins, and allowing for the poor performance in 1979, the appropriate goals now should be for real growth of 6.1 percent in 1980 and an average of 5.9 percent during 1980–83 inclusive; for productivity growth of 4 percent annually or better throughout; to reduce inflation to 5 percent in 1980 and 3 percent in 1983 through the meaningful programs set forth in Humphrey-Hawkins but not yet invoked; to utilize a stimulative, substantial increase in the Federal budget to help reactivate the economy and avert recession; and to reduce unemployment to 5.5 percent in 1980 and 4 percent in 1983.

As in 1979, the results of the administration's policies, if approved by the Congress, are highly likely to be even worse than administration goals. The growth rate is likely to be lower; inflation higher; the unemployment rate higher; the productivity growth rate about the same; and the Federal budget deficit much larger. His goal of reducing the deficit to $16 billion by fiscal 1981 is hardly plausible; and 4 percent unemployment cannot be reached even by 1985 under policies avowedly geared to the goal of 5.6 percent unemployment in 1983 and which is more likely to be 6.5 percent in 1983 under policies the President is now setting in motion.

In doing what he is now doing, the President claims that the Humphrey-Hawkins Act authorizes him to modify its timetables, and he now extends the goal for the reduction of unemployment to 4 percent from 1983 to 1985, and the goal for the reduction of inflation to 3 percent from 1983 to 1988. But this attempted modification of the act by the President is not authorized by the act, and is another flagrant violation of the act. These are three reasons why this is the case:

First. The act requires the President, in his 1980 economic report, to review progress under the act and, if necessary, propose corrective actions to achieve the goals within the original timetables (sec. 104). The President has not done this.

Second. The act requires that, if such corrective action is necessary, the President shall utilize reservoir, or last-resort, employment projects, if such be necessary, as a part of such corrective action, to meet the original timetables of the act (sec. 206(c)). The President has made no attempt to do this.

Third. Even if the above two steps were taken, as mandated by the act, the President would not then be authorized to change the original timetables. He is authorized only to recommend modifications of the timetables, in which event Congress may take such action as it deems desirable (sec. 104) to accept or change the President's recommendations (sec. 304).

More importantly, even without the desirable mandates of the Humphrey-Hawkins Act and the Employment Act of 1946, it is disconcerting and even frightening that the administration takes the position that this Nation with all its endowments, and in the face of all its challenges, domestic and international, can do not better than to take more than 5 years to reduce unemployment from 5.9 percent at the end of 1979 to 4 percent in 1985 as a whole, and to take more than 8 years to get inflation down to 3 percent. The several times since the end of World War II when we did greatly better than this does not justify this resignation to so costly and dangerous a performance during the years ahead.

The folly of such a course is fully recognized by the Joint Economic Committee, charged with evaluating and, if need be, suggesting revisions in the President's economic program. The "Mid-Year Review of the Economy," issued by that committee on August 9, 1979, thoroughly repudiates the current approach of the President in the following language:

> The enormous benefits to be gained by the whole nation from rapid economic growth have united the Joint Economic Committee Majority and Minority . . . This Committee believes that we must and can produce our way out of our economic problems.
>
> First, policies which produce slow growth will not also produce price stability. A slow-growth scenario for the 1980's implies a concomitant rapid rise in the cost of living. The fight against inflation can be won only by policies which increase production . . . A stagnating economy means more doubt-digit inflation . . . It means a reduced standard of living . . . Policies which lead to slow growth will lead to many and unnecessary cruel hardships for disadvantaged Americans.

It is absolutely clear that the administration's policies are in conflict with the above finding of the Joint Economic Committee. For the administration, in accepting recession for 1 year and contriving several additional years of stagnation, is explicitly doing this on the ground of the "trade-off" between unemployment and inflation, discredited by experience and prohibited by the Humphrey-Hawkins Act.

Further still, the House Committee on Education and Labor, charged under the Humphrey-Hawkins Act with the responsibility to conduct a study and submit a report to establish a full employment goal—as distinguished from the act's interim goal of 4 percent by 1983—issued this report in late 1979. It recommended a full employment goal of 3 percent, and the lead paragraph of its findings and recommendations reads as follows:

> The goals and timetables set forth in the act are both reasonable and essential, and should not be modified. The act should be observed and its objectives brought to fulfillment within the timetables in the act. But the national programs and policies thus far initiated by the President in his 1979 Economic Report and Budget Message, and thus far adopted by the Congress, are not at all in accord with the explicit requirements of the act, and indeed move in opposite directions.

Clearly, the serious difficulties imposed by OPEC price increases, especially in early 1979 and in some earlier years, do not negate the validity of the above conclusions. The chronic rise in the rate of inflation since 1966 got started long before the OPEC price actions in 1979 or earlier and has not abated. The underlying rate of inflation, excluding the impact of OPEC actions, is now more than three times what it was during earlier periods when we came close to a full economy, for example 1947–53 and 1961–66. Indeed the OPEC actions make it even more imperative that we utilize, as we are not now doing, the very strong anti-inflation program set forth in the Humphrey-Hawkins Act.

Above all, as fully developed in the House committee report, the Humphrey-Hawkins Act was sound in proscribing the use of the thoroughly discredited "trade-off" between unemployment and inflation as a means of combating inflation. And as I have already stressed, the unfolding international situation and the greatly enlarged defense budget make it even more vital that we combat inflation and build our supporting economic strength, not by continued economic slowdown, but rather by policies and programs effectively used to help achieve the 1983 goals and timetable for the reduction of unemployment, which necessarily include relevant annual growth goals for expansion of real production and productivity. The energy problem may make this more difficult, but also makes it more essential. It is also doable with an adequate energy program including conservation and development, and other national policies to encourage shifts in the composition of GNP to save energy and in line with priorities of need.

But despite all of this, the just-issued 1980 economic report and budget message of the President continue to cling to the dangerous notion that the way to strengthen the U.S. performance at home and abroad, and to overcome inflation, is to persist in defying all relevant experience by holding back the growth of output and jobs, and in so doing, the future prospects of the economy and the American people.

Although the President is not directly responsible for Federal Reserve Board policies, no administration should fail to exert the influence within its power upon Fed policies because they so powerfully affect the economy and all the people. The current Fed policies are recession producing. With regard to current levels of interest, these policies are a calamity for housing and small business, and a terrible burden on working and other families squeezed by falling real incomes, rising borrowing to make ends meet, and fantastic credit costs. That the administration approves rather than challenges Mr. Volcker means only that both are victims of the same misguided economics.

A CALL FOR BROAD PUBLIC DEBATE ON NATIONAL SERVICE

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, I am today introducing a concurrent resolution calling upon President Carter to establish a high-level commission to examine various options in the area of national service. In view of the President's announcement last week that he will seek the reinstitution of draft registration for young people, I believe it is essential to begin the process of evaluating exactly what kind of service we may require of our youth. Assuming registration is resumed, it makes sense to examine thoroughly and without delay the full range of service options available to the Congress before it becomes necessary to begin actual induction.

Let us not kid ourselves, and let us not deceive the American people. The reinstitution of draft registration during peacetime is nothing less than the first step toward reinstitution of the draft. We must recognize that the draft is on the way back, and that registration is only its first incarnation. I am not suggesting that a peacetime draft will follow peacetime registration by next week or even within a few years. What I am saying is that registration alone accomplishes very little that can not otherwise be acomplished short of registration. Secretary of Defense Brown said as much in congressional testimony last summer. The only reason to begin registration, it seems obvious to me, is to prepare for the draft. We should not give the impression to people that we are somehow going to limit this to peacetime registration.

We should recognize that registration in preparation for the draft may become a self-fulfilling prophecy. That is, once we begin registration, we should be honest in acknowledging that it is a first step on the road toward the draft. By reviving registration, we may be guaranteeing the need to revive the draft, whether during peacetime or during wartime.

The prospect of a draft during wartime stirs little controversy. During peacetime, however, a draft would greatly concern me and my constituents. But regardless of when a draft comes, the fact is that peacetime registration guarantees that it will come. We need to prepare ourselves for that eventuality. We need to lay out in concrete terms exactly what the draft will mean in terms of service opportunities and in terms of who will be required to serve. We should not wait complacently, leaving such momentous decisions to chance, to tradition, or to the exigencies of the moment. We should devise in advance the best possible strategy for providing meaningful service opportunities for our people, whether mandatory or voluntary, civilian or military, which will give useful service experiences for our young people while contributing to a stronger America which is able to meet social challenges at home and military threats from abroad.

My resolution does not advocate any one approach to service over others. It merely states that the commission should "examine alternative national service programs, the role of women in any national service program, the necessity for drafting individuals into any national service program, and the role of military and civilian service in any national service program." This commission should be comprised of members representing military and civilian service agencies and groups, as well as young people whose age group is most likely to be affected by any requirement to serve. I believe the commission should hold public hearings in an attempt to garner public attention and to stimulate a national debate on the subject of national service. Finally, I believe the commission should be established quickly and should conclude its work in the shortest possible time-frame so its recommendations can contribute to the formulation of policies in this area. I have, therefore, included in the resolution a provision which would terminate the commission 1 year after its first meeting or 18 months after its establishment, whichever occurs first.

As we in the Congress begin to grapple with the wide spectrum of issues and concerns which have arisen as a result of the taking of American hostages in Iran and the Soviet invasion of Afghanistan, we should be prepared, it seems to me, to carefully weigh the costs and benefits associated with a broad national service program which may include military and civilian alternatives. It may very well be that the Nation should first embark upon an expanded and intensified service program which would stress volunteerism in both military and civilian sectors.

Frankly, that approach is preferable to me, since it is in keeping with the principles of a free society during peacetime. Should the current unsettling international situation degenerate into direct military involvement for this country—and I pray that will not happen—I believe this country must be prepared to move quickly toward mandatory service. Right now, however, there is no clear consensus as to just what type of service should be required, nor do we yet know, for that matter, whether women will or should be required to serve in some capacity.

It is with the goal of carefully evaluating all possible service options and of stimulating a broad national debate on the subject that I have introduced this resolution. I call upon the President to respond favorably to this proposal, and I would be grateful for the support of my colleagues in this important effort.

The text of my resolution is as follows:

H. Con. Res. —

Whereas there are enormous needs for manpower which are not being met;

Whereas a national service program of voluntary or mandatory service may help the United States to better meet needs in the United States for manpower and foreign challenges to the United States;

Whereas national service can help an individual to build strong character and to develop a sense of accomplishment and purpose;

Whereas the decision of President Carter to reinstitute registration for possible military service has increased the interest in national service programs; and

Whereas a full national debate on alternative national service programs should precede the taking of any actions to draft individuals into military service: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, the President should establish a commission on national service which should examine alternative national service programs, the role of women in any national service program, the necessity for drafting individuals into any national service program, and the role of military and civilian service in any national service program.

SEC. 2. Any commission established by the President under this resolution should be—

(1) composed of members representing military and civilian service agencies and include members who are 18 to 25 years of age;

(2) empowered to conduct public hearings and to focus public attention on the issue of national service; and

(3) directed to complete and submit to the President and the Congress a final report on its findings not more than one year after the first meeting of the commission or 18 months after the establishment of the commission, whichever occurs first.

CANADIAN AMBASSADOR KENNETH TAYLOR SHOULD BE RECOGNIZED FOR HIS VALIANT EFFORTS

(Mr. **AKAKA** asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, yesterday I introduced a resolution with 34 of my colleagues which would authorize President Carter to present on behalf of the Congress and the American people a specially struck gold medal to Canadian Ambassador Kenneth Taylor. As a representative of the Canadian Government and its foreign service, I think Ambassador Taylor should be recognized for his valiant efforts to secure the safe return of six American Embassy officials in Tehran. Ambassador Taylor and his Embassy staff risked their own safety to provide our citizens with a sanctuary in which to hide from the militant Iranian students who stormed and captured the U.S. Embassy in Tehran on November 4. They took the necessary measures to close the Canadian Embassy in Iran in an effort to facilitate the safe return of the six American Embassy officials.

Ambassador Taylor exhibited great bravery as he remained in Iran to oversee the successful execution of the Canadian and U.S. Governments' plan of escape. It should be noted that Ambassador Taylor and three members of his staff were the last Canadian Embassy officials to leave Iran. By the time of their departure from Tehran, the Americans were safe. It can be assumed that had this plan of escape been discovered, Ambassador Taylor, as the official representative of the Canadian Government in Iran, would have risked his personal safety and well-being.

I do not mean to equate six American lives with a single gold medal. But we, as Americans, will never be able to sufficiently express our gratitude to this courageous Canadian diplomat and his staff—let us at least make this symbolic gesture of our gratitude to Ambassador Kenneth Taylor.

I urge my colleagues to join me in cosponsoring this bill.

PERSONAL STATEMENT

(Mr. **WEAVER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, in the CONGRESSIONAL RECORD of January 29, 1980, during the debate on the public works bill, my words were transcribed incorrectly. I did not say, in relation to the Elk Creek Dam project, that the local irrigation district voted against it. I said nothing of the kind. I did say the irrigation project had been killed, but did not mention anything about a vote by the irrigation district. The audio record bears me out. What the irrigation issue involves, I would now like to explain:

The Elk Creek Dam was originally authorized in 1962 as part of a three-dam system in the Rogue River basin of southern Oregon. An integral component of that dam was to have been the Bureau of Reclamation's Medford irrigation project, which was to supply water to farmers in Sam's Valley. Very little of the water would have been directed into the mainstream of the Rogue River. There has been serious question about the quality of the water emanating from the Elk Creek watershed. Detailed studies have been undertaken to investigate the contention that releases from the dam would be highly turbid. These problems continue. Over the past decade a variety of reclamation ideas have come and gone to solve the cost-benefit, temperature, and turbidity problems. At one point it was even proposed to have very little of Elk Creek directed into the Rogue River. An answer satisfactory to the concerned parties; the timber industry, fishermen, and the land management agencies which surround the project, has yet to be reached.

Since authorization, however, events have rendered infeasible that portion of the dam project that would have diverted those potentially turbid waters for use in irrigation. Past studies by the Bureau of Reclamation revealed that the local irrigation district had inadequate capacity for the repayment of the expenditures required to develop the irrigation system. Therefore, further studies of that proposal were terminated and the Corp of Engineers removed the irrigation component as part of the Elk Creek project.

One of the primary components of the Elk Creek dam was to be an irrigation system that is now infeasible. Thus, the benefits of the project as a whole are much reduced. As it now stands the potentially turbid waters from the Elk Creek basin will be released directly into the main stem of the Rogue. This could be disastrous for the salmon and steelhead fishery, to say nothing of its $97 million dollar cost to the taxpayer.

PERSONAL EXPLANATION

(Mr. **DELLUMS** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, unfortunately I missed one of the rollcall votes on the legislation just passed. It dealt specifically with a motion to strike the Davis-Bacon provision from the legislation.

If I had been present, I would have opposed the amendment.

CANADA—AN EXAMPLE OF FRIENDSHIP AND LOYALTY TO THE WORLD

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise in order to join in the outpouring, the chorus of American voices expressing gratitude to Canada, its Government officials, and people for their loyal and courageous action on behalf of defending the American personnel who were able to escape the clenches of the bandits that have terrorized the American Embassy and its property in Iran. It is not surprising to me, for Canada, over the course of years, has shown a great adherence to friendship and the real ties of loyalty to the United States of America.

There have been, of course, the traditional rivalries that exist between neighbors, but it has been in such sharp contradiction with what we find is the case with our southern neighbor. Destiny has fated that the United States be adjoined by two nations, Canada to the north and the Republic of Mexico to the south. Within the last two Presidencies of the Mexican Government we have had a virulent, vehement, anti-American consistent course of policy. The preceding President, Echevarr'a of Mexico, was bitterly anti-American. His entire family, his father-in-law, his son, and his wife, were outspokenly and very unfairly critical of the United States of America, definitely pro-Russian, pro-Communist.

The succeeding and actual President today in Mexico, President Portillo, also manifests a very stern anti-American attitude and course of policy.

The U.S. press, self-centered as it is, very seldom takes note of some of the most important and transcendental occurrences in the republic to the south of us. The fact is that Mexico has insisted on being a very bad neighbor for the last 8 or 10 years. The Mexican press, which is not free, which is literally a controlled press, has vituperated editorially in the news columns daily for 8 years against the United States. Never once have I noted in the last 8 years one single complimentary or favorable note toward the United States in the Mexican press. I think we should not lose sight of this while we are in a chorus thanking Canada. I think it is the proper thing to do. But I think we should not lose sight of the fact that we have a vulnerability to the south of us; we have things that are happening not only in the Mexican Republic but further south, through the Central American portion of this hemisphere, and on down through Panama and South America. We have things happening that are not reported generally, that have great potential for mischief to the United States.

The Mexican President, for example,

just less than 2 weeks ago was talking in favor of, and his representative in the United Nations clearly voted as one of two against the United States on such a critical issue as the international banditry; the takeover of the American Embassy, and the imprisonment of the American diplomatic personnel that continues to this date.

Canada, in and by itself, has done one single act of heroism, but it has done no more, no less than what every single civilized nation should have forceably done by now. The United States is finding that, just as in the case of Mexico, the absence of its so-called allies, the Germans, the French, the Japanese, is absolutely deafening by its silence. Germany has never lost sight of its vital concern with reunification and is now playing West against East, but always with the singleminded purpose of reunification. That never gets printed in the American press.

So, when Canada does what it does, it reflects also England and its present leadership, which has also shown a solidarity to the United States that I think recommends our felicitations and our thanks and gratitude. England, under Mrs. Thatcher, has clearly adhered solidly and loyally to the United States. We, in turn, have not done so good by England. We still refuse to do anything really strong in controlling the armament that goes to the terrorists that are killing and maiming children, women, and men in England and Ireland. I think that the least we could do would be to rectify that.

But, more importantly, Canada through the year—and this is the reason it was no surprise to me to learn that they had done what they have done with respect to those six personnel—Canada through the years has been most helpful. For example, the apprehension of James Earl Ray in the case of the murder and the assassination of Martin Luther King would not have been possible had it not been for the brilliant work and cooperation of the Canadian officials who really did a tremendous job in that case.

More recently, they were the reason that Kristina Berster, a member of the terroristic group, the Baader-Meinhof terroristic gang of Germany, was apprehended as she was attempting to cross the Canadian border into the United State with a forged Iranian passport, because we have never ceased our formal diplomatic connections with whatever it is remains in Iran. Again, I think this is hard to understand. The least we should do since the international outlawry reflected in the takeover of our Embassy, something that has not happened since the Middle Ages and is really an act of war, the least we should have done immediately was to have interned the Iranian diplomatic personnel, who still exist in the hundreds in the United States, and not continue to permit the entrance into the United States of Iranian terrorists, secret agents and others who are up to no good in this country.

I think in view of what Canada has done, the least we should do, if it takes Congress to lead the way, why, we should do it in the Congress, but we should do something in the direction of controlling this flow. It took the Canadians to detect Kristina Berster, who obviously was on her way to the Lake Placid Olympic Games for some mischief in our country.

□ 1710

Now, I think that this record should be filled out, the record of extreme cooperation on the part of the Canadians. It pretty well shows the evidence at the time which has maintained the rule of international terrorism activity in our country. But, I do think we have a responsibility in our own country; that is, to do everything possible ourselves that we can and should do in order to really act to bring about not only the rectification of the act, the outlawries, but the release of the hostages. We are going to ultimately have to do that ourselves.

The United Nations has proven the limitations of that organization. We have had to do what we should have done on day one, and that is to immediately intern all the Iranian diplomatic personnel, and all of their satraps, and everything that goes with it, kit and baggage, just like a war, because their act was an act of war.

THE DRAFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

Mr. PAUL. Mr. Speaker, in the near future we must vote, listening to our consciences, on the reinstitution through financing of the Selective Service System, which is really arbitrary selection for involuntary service.

There has never been a draft in all of history that was fair or universal. All attempts at making the draft equitable have used arbitrary and discriminatory power tactics that defy every percept of liberty. Conscripts are the ultimate victims of government's rejection of our heritage of individual rights.

The inconsistency of supporting the draft, and then talking about "equal justice under the law," or the fact that we have been "endowed by our Creator with certain and precise inalienable rights, and among these are life (and) liberty," should be obvious to everyone.

Unless we resolve this conflict, a free America cannot endure.

It is no accident that the 20th century American Government, which has had a careless disregard for personal and economic liberty in all other areas, has at the same time endorsed the ultimate abuse of liberty—the arbitrary sentencing of young boys—and now girls—to die in carelessly caused foreign wars. We cannot continue with this destruction of the greatest ideal ever known to man: liberty. Our short experience with freedom has proven its value not only in the freeing of man's mind and creative genius, but in providing the vehicle—the market economy—that offers the only hope for starvation and poverty in unfree societies.

When professed constitutionalists support conscription, claiming that this one exception is necessary to preserve freedom, they sacrifice the foundation on which all freedom rests.

We cannot argue against a command economic order with any believability if we give Government the power to send boys and girls to die on foreign battlefields against their will. How can we argue against an OSHA regulation when total authority over innocent life—to the point of taking that life—is granted to the State? Is it any wonder, with this disregard for natural rights and the Constitution, that we send our youth to die in undeclared, illegal, wars fought without purpose and without the goal of victory? Without a better understanding and defense for individual rights we can expect to lose the battle to preserve a free society. Accepting Government authority over even a single innocent life destroys the foundation on which freedom rests.

Survival of the Nation rests on the resolution of this conflict.

It is a credit to the economic interventionists, the modern liberals, that most of them deny to the State, control over individual lifestyles. Generally, they defend personal liberty rather well. They do not, however, realize how destructive their disregard for economic freedom is to the legal system that protects civil liberties. Their arbitrary separation of economic and personal liberty helps bring about the most vicious violations of civil liberties: conscription. The liberals must come to realize that liberty is indivisible, if they want to win the battle against conscripted armies and unnecessary wars.

Preservation of our constitutional freedoms is also threatened by some conservatives, with their intransigence against personal liberty and their demand for statutory authority to impose death sentences on innocent young people.

Selective Service is nothing more than the deciding of who shall die and who shall live. All the justifications and rationalizations about fighting for noble causes cannot change this fact. When we vote for registration and/or conscription, we start the process of sentencing, through Government power, some young people to death. These are not murderous criminals, but innocent victims. How can anyone with a sense of morality participate in this crime against our children?

Even if we could distribute the death sentences without discrimination, it would still remain a crime against God and men. But equal distribution of the risk of death and suffering is impossible. The attempts of some proponents of the draft to make it universal, both military and civilian, cannot correct these inequities. Even the thought of universal conscription should chill any freedom-loving person.

The plain truth is that some will be sentenced to die and others will not. Nobody wants to think in these terms, but we have no choice. How does one ration death? A Government that believes it can ration gasoline may be tempted to believe it can ration death as well. Our gasoline allocation system has led to gasoline lines; a conscription system will cause lines to Canada, Mexico, and South America. It is tragic to think that other countries can offer more freedom and security than America.

The problems the egalitarian conscriptors face are many. Should only boys go, or girls as well? This question alone can rip America apart. Many Christian faiths teach that it is not the responsibility of women to bear arms, to preserve and protect their homes. Soldiering, they believe, is a moral responsibility of men.

Are students exempt or not? The mood now is against a student exemption, but given a shortage of M.D.'s and other professionals, and the arbitrary nature of conscription, those who promote the draft will surely reason that exemptions are not only wise, but absolutely necessary. I can conceive of some student exemptions even being mandated.

Why does one with less than 20/40 vision escape the death sentence? Flat feet used to save the young from the rigors of foreign battle. What other silly medical exemption will preserve one life over another?

Age discrimination is the worst inequity of all. Why does the 45-year-old who has lived well and never served get off scot-free, staying home to reap the profits of military expenditures? How can anyone send an 18-year-old to death in a no win foreign war and allow a war profiteer who never served to live in luxury?

It is obvious we do not need the 32 million people between the ages of 18 and 26. No matter how big a war is, only a fraction die. The question is, which fraction, and who shall choose. Selection must be arbitrary. The use of the Selective Service is the use of force and the threat of violence, methods incompatible with a free society.

The obvious frustration has lead to the ultimate in so-called fair solutions—the lottery. I cannot believe that conservatives who want to close the gambling houses would resort to gambling to choose who is to die and who is to live.

Can we permit the lottery to be used to relieve politicians of their guilt for an arbitrary choice on who shall risk his or her life? Universal service and the lottery are symbolic of the prodraft people's desire to ration death sentences and escape the responsibility for it.

Religious exemptions have existed in the past, and will, I am sure, continue. Why is the Mennonite's refusal to fight honored, and the Baptist's met with a jail sentence? Are rights relative? If so, relative to what? They cannot be, if we believe in equal justice before the law.

Conscription must, of necessity, be selective and arbitrary. To argue otherwise defies logic. The selecting must be beneficial to one and deadly to another. Since conscription is the ultimate tax—the tax where your life is taken and used, maimed, or even destroyed—its discriminatory distribution means we must reject the entire notion.

Conservatives properly defend the American citizen's right to own property, to be free in the marketplace, and to keep and bear arms. They fight to prevent Government's registering of their firearms, rightly claiming that registration can only lead to confiscation. I am baffled, however, about those who abhor gun registration and yet practically beg the Government to register and confiscate their kids. If we were forced to put relative values on these rights—and I do not believe we can—I would reverse this order of priority.

Amnesty for our recent draft dodgers established a fact: Disobedience to draft laws preserves life, with punishment unlikely; obedience to draft laws can risk one's life, with the rewards for service being society's rejection, possible physical injury, and perhaps even death. This recent history cannot be erased. Today, just as many conservatives, as liberals have plans to protect their children by finding a safe haven for them. Of all the reasons why a draft cannot be fair and equitable, amnesty exemption is the most repulsive to one who loves freedom and understands the need for society to be guided by constitutional law, not ruled by men.

The state of marriage and the state of pregnancy raise many questions. Does a married man or married woman have more right to life than an unmarried boy or girl? According to most laws on conscription, they do. Justification for this defies logic, and destroys the concept of equal rights. Marriage can be authentic or merely legal. Many "paper" marriage contracts were drawn up in the past to escape the draft. Young women, if there is a marriage exemption, would flock ill advisedly to the altar. If married women are taken, can they be taken if pregnant? Should expectant mothers be treated differently from expectant fathers? Pregnancy in the first month is difficult to diagnose, so the cost of induction and discharge, or providing care, could be astronomical. How do you keep married women from getting pregnant? Or unmarried drafted girls? Social acceptability of the unmarried mother, coupled with the advantage of escaping conscription, would provide a great incentive for getting pregnant. The heavy tax of conscription would prove a handsome subsidy to the obstetrician.

Discrimination by numbers will occur in spite of all the attempts to make the draft equitable. If 100,000 draftees are needed, or even 1 million, why must 32 million register and become victims of civil rights discrimination? Why must the noncommitted be subject to exams, testing, comparisons, and perhaps training, even if rejected for some reason? The mere thought of instituting a fair draft boggles the mind.

Two bad Supreme Court cases, in 1918 and 1968, claimed the draft was constitutional. In the 1968 case, United States against O'Brien, Earl Warren said that the power "to classify and conscript for military service is beyond question." This is the same Earl Warren who, as California attorney general, helped intern Japanese Americans in concentration camps, and defended this action. Warren was a man notorious for ignoring the Constitution if it conflicted with his political views.

But the primary responsibility for interpreting the Constitution lies with Congress. We cannot avoid this responsibility by shoving it on the Court. These two court decisions, which clearly violate the 13th amendment, must be changed. The Constitution clearly forbids conscription.

For those who are prolife, an analogy of the rights of the unborn to the rights of the teenaged draftee is worth considering. If rights are universal, these two groups should be treated equally. The life of the unborn and the life of the 18-year-old should both receive equal protection under the law. The Dred Scott case said there was a relative value placed on life. It took a war and decades of struggle to erase this inconsistency. The Roe against Wade case also said there was a relative value placed on life—in utero life being less valuable than extra-utero life. A decade of struggle has not yet erased this inconsistency, but if we are to survive as a free Nation, this decision must also be reversed. Without its reversal, the relative value placed on life will lead to infanticide, euthanasia, and human experimentation. History has proven this, and consistent conservatives have supported this view.

The relative value placed on human life by conscription is not unlike the examples above, which are arbitrary and discriminatory. Good conservatives fight for the right of even an unwanted, deformed, unborn child to live. Yet, some in this group seal this same child's fate through a lottery system that issues death sentences to be carried out on distant foreign soil for causes unknown to most, and without victory as the goal—all this in total disregard of the individual's wishes.

The sacrifice and risk of innocent life must be done only with the consent of the individual, or life, freedom, liberty, natural rights, and equal protection under the law become hollow words with forgotten meaning. There is no philosophic defense for any part of freedom if we concede the right of the State to impose this maximum tax.

The preservation of a society founded on the principle that rights come from God cannot be saved with a remedy based on state power over the individual. Freedom is at stake, and our decision here in Congress will be the determining factor.

● **Mr. PHILIP M. CRANE.** Mr. Speaker, the Selective Service System died on June 30, 1973. Conservatives, such as myself, joined with liberals in the coalition to end peacetime conscription. In times of peace the draft imposes unnecessary restrictions on the freedoms of the draftee and his family.

Since that time I have consistently been in the vanguard of the national debate to maintain the All-Volunteer Force. No one in Congress has a better voting record in support of a U.S. defense capability superior to all others than do I. That is still my position. But I do not believe peacetime conscription is an ingredient of that. Moreover, I believe it to be inconsistent with the ideals of a free society.

At the time we ended the draft, however, I reminded my liberal friends that they must be prepared to increase defense spending, owing to the increased manpower costs invloved in a volunteer military. As the song says, freedom is not free.

There is a fundamental injustice in going back to conscription. The American tradition is founded on an attachment to the principle of individual freedom. Imposition of a draft is contrary to that principle. It violates the spirit of the 13th amendment—protection against involuntary servitude.

Another question is who will shoulder the economic burden. Conscription is a device for shifting much of the manpower cost of protecting this Nation from the backs of the protected (the civilian population) to the protectors (the draftees) who can be paid less in conscription than they could earn in the private sector. If the draftee is paid a fourth of what he might otherwise earn in the job market, he is in effect assuming a 75-percent tax burden. It seems to me that those of us outside the military have the responsibility of assuming these costs, not those we have asked to serve.

Then there is the unfair method in which draftees are selected. Conscription must—if it is to most effectively serve the national interest—be inequitable. How could anyone evaluate the loss to our national security by putting an Albert Einstein in uniform for 2 years?

With the All-Volunteer Force, the quality of U.S. military forces is directly related to the amount taxpayers are willing to pay to enjoy their precious security of life, liberty, and property. That is a question of national priorities. We do not draft policemen and firemen. We hire dedicated, professional career people. The same principle, short of a crisis, applies at the national level.

The question then arises, do we have such a crisis? President Carter certainly implies that we do. He has stated that "we must pay whatever price is required to remain the strongest Nation in the world." The first obligation of any administration is to guarantee the security of the Nation.

Yet his words belie his actions:

First. President Carter slashed $5 billion from President Ford's last budget proposal for defense causing great injury to our naval capability;

Second. President Carter cut $57 billion from President Ford's recommendations for defense spending for the years 1979–83;

Third. President Carter killed the B–1 bomber program;

Fourth. President Carter killed the funding for the nuclear carrier;

Fifth. President Carter shelved the development and deployment of the neutron warhead; and

Sixth. President Carter has delayed progress on the cruise missile, trident, and the MX mobile missile programs.

President Carter now seems to be resurrecting involuntary conscription as a smokescreen to hide his own inadequacies and mistakes.

Let us not give up on concepts as important as voluntarism and freedom so long as we still possess other options. If we get our national priorities straight, we can still guarantee the security of life, liberty, and property in a way consistent with our highest ideals.●

GENERAL LEAVE

Mr. PAUL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1720

CONGRESSIONAL INITIATIVES TO HELP RESTORE SAVING AND INVESTMENT OPPORTUNITIES FOR THE AMERICAN PEOPLE AND A STRONG ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, the decline of savings and investment in our Nation is a matter of grave concern as it relates to the future of our economy and the well-being of the American people, at this time and for years ahead.

Today, I was privileged to present my views on this issue before the Ways and Means Committee and would like to share them with all my colleagues:

Testimony of Congressman Jack Kemp

Mr. Chairman and members of the committee, I appreciate this opportunity to testify on the problem of declining saving and investment in the United States. Our presence here today is heartening evidence that Congress is beginning to recognize what Americans have known for some time through hard experience: a declining rate of saving and investment spells disaster for capital formation, productivity, job creation, economic growth, and price stability.

Many of those appearing before this committee today have been concerned with this problem for many years. Congressman Bud Brown and his Republican colleagues at the Joint Economic Committee have worried for a long time about the low savings rate, and the definitive JEC analysis of the savings problem in March 1978 was heavily influenced by their thinking. Senator Bentsen, Congressman Moore and others must be commended for their efforts in bringing the savings issue before Congress. The distinguished chairman of this committee, Mr Ullman, recently proposed a Value-Added Tax package intended to address the same problem. Back in 1975, I introduced a comprehensive bill to encourage capital formation, saving, job creation and productivity, known as the Jobs Creation Act. More recently, Senator Roth and I introduced a simpler—and I think much more effective—bill to achieve the same purpose, the Kemp-Roth bill.

We are all familiar with the frightening savings statistics, so I will not belabor them except to make two points. First, the growth of productivity and real wages depends largely on the capital invested per worker. The growth of the capital-to-labor ratio and growth of productivity have declined in lockstep, from an average annual increase of 3 percent in the 1950s and 1960s, to about 1 percent in the 1970s. Productivity dropped almost 1 percent last year, for only the second full-year decline since 1947. Bill Butcher of Chase Manhattan Bank estimates that this "productivity gap" is costing the average American family about $4,000 in real income every year, compared with the income that would have resulted from a 3 percent annual growth in productivity.

Second, the greatest pool of savings available for investment today is personal income. In fact, all saving is taxed at least once as personal income. The personal savings rate fell last year to a 30-year low of 4.5 percent. And last November, the savings rate fell to the lowest level recorded since the government began keeping monthly records in 1959—3.3 percent.

Even so, our savings rate may even be negative by some more comprehensive measure. While Americans are keeping the bare minimum of liquidity in their bank accounts, they seem to be massively liquidating other assets in an effort to stay afloat.

There are basically two explanations offered for the alarming decline in our national saving and productivity since about 1967. The first explanation, with which I disagree, is that a lot of unrelated things just went wrong at once—one of them being that Americans simply lost the will to save. I hope it will not be considered partisan of me to quote President Carter as an example of this view. "Too many of us now worship self-indulgence and consumption," he said. "The productivity of American workers is actually dropping, and the willingness of Americans to save for the future has fallen below that of all other people in the Western world."

Scientifically, the idea that the savings rate is not much affected by government policy is known as Denison's Law. I have a great respect for Edward Denison's work in this field. But he was also honest enough to admit in his most recent study that he finds the cause of more than half the decline in productivity a complete mystery.

The second explanation for our declining savings rate is one which I strongly believe. To quote Michael Boskin of Stanford, one of our foremost authorities on savings: "A variety of . . . estimation methods all lead to the conclusion that private saving is indeed strongly affected by changes in the real after-tax rate of return . . . (This) has drastic implications for the effect of tax policy on income, welfare, and income distribution."

Savings responds to incentives. If this finding has drastic implications for our tax policy, it's only fair. Our tax policy has had drastic implications for our savings. It takes a lot to prevent 220 million Americans from saving and investing in the future of their families and their country. The fact that they are not doing so is a measure of the brutal disincentives for saving in this country.

Americans have not suddenly given up on providing for the future. But neither are they stupid. Three ill-advised government policies—devaluation of the dollar, an outdated income tax code, and government controls on interest—have ganged up to penalize saving and investment, and to subsidize consumption and debt.

Everyone who earns income faces the same choice between current consumption and future consumption. Should I spend my income now, or invest it to increase my future income? The choice is governed by the relative price of the alternatives. The cost of spending your income today is the extra buying power you could have had by saving and investing that income as interest. The lower the return on saving, the lower the cost of consumption. When the return on saving is negative, consumption is subsidized.

Merely by itself, inflation is antithetical to saving. It reduces the value of money relative to the things money can buy. As inflation rises, those with foresight and the necessary wherewithal try to dump their currency for commodities which are a better store of value: stronger currencies or precious metals or artwork. Everyone else is left holding a lot of extra paper, not worth saving.

Combined with controls on interest income, inflation is deadly to saving. Because of Federal Reserve Regulation Q, which limits passbook interest to 5½ percent, anyone who puts money into a passbook account can count on losing 7 percent of his or her savings at today's inflation rate, before paying taxes on the interest. Like every attempt to control prices below market, Regulation Q has not succeeded in holding down the price of borrowing. It has created a shortage of saving. The net flow of funds into thrift institutions last year was down 10 percent from 1978.

Combined with inflation, our tax code—which was designed for an economy with little or no inflation—is biased against saving and in favor of debt and consumption. To make money by saving, you have to get a nominal rate of return which is sufficient not only to overcome inflation, but to overcome the tax rate on that nominal income. Suppose inflation is 10 percent, and you are lucky enough to get 11 percent return on your money. In the 30 percent tax bracket, your after-tax return is only 7.7 percent, or a 2.3 percent real loss of income.

Suppose, on the other hand, you are willing to borrow money at 11 percent when inflation is 10 percent. In the 30 percent tax bracket, you can deduct the interest from your taxable income and receive a 2.3 percent real subsidy for going into debt.

If you do save, the tax code rewards you for investing in debt rather than production. In the 50-percent tax bracket, you need a nominal return on taxable investment of 14 percent to equal the after-tax return of a 7-percent tax-free municipal bond. No 14-percent business investment is as safe as a 7-percent municipal bond. That is why, in higher tax brackets, much money is being saved, but neither invested in productive enterprises nor taxed by the government.

The after-tax rate of return on personal savings is not only too low; it diminishes further every year, because inflation pushes taxpayers into higher tax brackets on the same real income.

Our current low rate of savings and investment, then, is both a direct result of specific government policies and a disaster for our economic future. What can we do in Congress to reverse the decline in savings?

To ecourage saving, we must increase the real, after-tax return on saving.

The most effective single step would be to end inflation. Our policy should be to support the dollar's value at home and abroad with monetary policy to lower tax rates across the board, and to remove all controls on income—especially Regulation Q. Inflation will continue at a double-digit rate as long as we continue to do the reverse.

It is heartening to note that hearings are already under way before the House Banking Committee on a plan to repeal Regulation Q, which was approved last year by the Senate. I strongly urge that Congress remove this senseless penalty on small savers.

A number of other plans have been proposed to encourage saving, and I would like to mention a couple of them here:

Excluding all or part of interest income from taxation. Excluding, say, the first $100 of interest earned on savings would help millions of families which pay a high cost for having to keep some cash on hand. This $100 is the highest-taxed income they earn, because it is added on to their wages and salaries and taxed at the tax bracket rate. It may even boost them into a higher tax bracket. This plan would have almost no impact on the rate of saving, though, because it would encourage little saving which does not already take place. The tax rate on increased savings—on the 101st dollar—would remain the same.

Excluding all interest income from taxation would certainly encourage an increase in saving, but only by removing it entirely from the tax base. If we were going to exclude something from taxation, it would make more sense to abolish the direct taxation of capital—that is, estate taxes and capital gains taxes—rather than the income produced by that capital. This would both promote capital formation and provide an expanding source of income tax revenue.

Rollover. According to this plan, interest earned from saving is not taxed as long as it is reinvested—"rolled over"—in the account. The idea that "we won't tax your saving as long as you can't use it," makes sense for those who have enough spare cash that they won't need to draw on saving in rollover accounts for years. But for the average American, a rollover account would make more sense in the context of pension reform, rather than as a measure aimed primarily at promoting saving.

Pension reform can be greatly benefiicial to saving and investment. The work of Martin Feldstein and others, strongly suggests that the rapid growth of Social Security on a pay-as-you-go basis has played a large role in reducing private savings, and, probably, contributions to private pension plans. But this is a complex and controversial issue which is not likely to yield a short-term solution .

Value-added Tax. The Value-Added Tax is often described as a method of "taxing consumption" so as to relieve the burden of taxation on capital. By itself, a VAT reduces the incentives for saving and consumption to exactly the same degree. Since the difference between saving and consumption is only a matter of time—saving equals future consumption—any across-the-board increase in the absolute cost of consumption also reduces the real value of saving.

The VAT's effect on the relative prices of saving and consumption depends on which other taxes it would replace. Corporate tax reductions, while desirable from the standpoint of capital cost recovery, do not address the central problem of personal saving. Replacing the payroll tax with a VAT would have a negative economic impact, because the VAT would have to be levied on more workers at higher salaries than the payroll tax, if used to reduce income tax progressivity, an across-the-board VAT would increase incentives for higher-income taxpayers. But those in the lowest—or no—tax brackets would suffer a loss of real income. Exempting food and other necessities from the VAT would reduce this adverse impact, but only by destroying the VAT's neutrality between consumption and saving in favor of consumption again. The main problem facing low-income Americans is not that they have too little income to save, but that their efforts to earn or save added income are taxed at marginal tax rates that start at about 65 percent. This is the combined disincentive effect of giving up transfer payments and paying taxes, for almost every household below about $10,000 a year. A VAT would only further increase those high marginal tax rates at low incomes.

This narrows the choice down to basically two alternatives—either the sort of marginal tax-rate reduction for saving proposed by Bud Brown, or an across-the-board cut in marginal tax rates for all income.

Congressmen Brown and Rousselot and Senator Roth have proposed to tax investment and savings income separately from other personal income at reduced marginal rates, instead of tacking interest and dividends onto other income and then taxing them at the tax-bracket rate. I understand Bud Brown has also introduced legislation which would effectively reduce marginal tax rates on all interest and dividend income by 25 percent. I would strongly support either of these proposals, if it were not possible to enact what I believe is the most effective encouragement for saving—lowering marginal tax rates on all personal income across the board.

I believe the argument is even stronger for cutting all income tax rates than for cutting tax rates on saving and investment alone. Marginal income tax rates govern not only the tradeoff between saving and consumption, but the tradeoff between work and leisure. Before income can be saved, it must be earned. Allowing continually rising tax rates on wages and salaries only diminishes the earning of income which could be saved. With human capital stifled by high disincentives, the best capital plant and machinery in the world is just a lot of junk.

Our plan to encourage saving should not mean penalizing consumption. We want both consumption and saving to increase, because together they equal production. We do want to increase saving more than consumption, however. Cutting income tax rates does both—it increases the reward of work relative to leisure, and increases the reward of saving relative to consumption.

The last time this country cut tax rates across-the-board, the savings response was enormous. The highest savings rates since the Second World War occurred from 1964 to 1967, resulting from the Kennedy investment tax credit of 1962 and the Kennedy 25 percent cut in income tax rates of 1964 and 1965. An across-the-board cut in income tax rates, along with a capital cost recovery bill, could duplicate the flood of saving produced by the Kennedy tax cuts.

At the same time we must restore a monetary standard which makes the dollar once again as "good as gold." Then we can once again achieve full employment without inflation.●

INTELLIGENCE ON OUR MISSING IN ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 30 minutes.

Mr. GILMAN. Mr. Speaker, on behalf of our Task Force on the Missing in Action, chaired by the distinguished gentleman from New York (Mr. WOLFF) and including Mr. LAGOMARSINO of California, Mr. DORNAN of California, Mr. MICA of Florida and myself, I rise to call to the attention of this body a stellar example of cooperation with the Congress by an executive branch agency—the Defense Intelligence Agency (DIA), under the direction of Lt. Gen. Eugene Tighe, and the International Security Agency (ISA), represented by Brig. Gen. T. C. Pinckney. These offices of the Defense Department have performed outstanding service for the Subcommittee on Asian and Pacific Affairs, and its adjunct, the Foreign Affairs Task Force on American Prisoners and Missing in Southeast Asia.

The subcommittee and the MIA task

force, chaired by the gentleman from Ohio, TENNYSON GUYER, have jurisdiction in the Congress for oversight of the task of obtaining an accounting for the some 2,500 remaining American casualties of the Indochinese war whose fate is still unknown. Since 1977, in cooperation with the National League of Families of Missing Americans, we have continued to press for a full accounting. Part of our task has been to evaluate countless reports coming from the Vietnamese and Laotian refugees, among others that there are still Americans alive in Indochina, or that the Vietnamese have been withholding remains of Americans. To assess the validity of these reports has been a difficult task, one which requires professionalism and detachment, coupled with a positive attitude and an open mind.

During the last year, the Defense Department, in response to congressional encouragement, has reorganized its POW/MIA responsibilities, with striking results. General Tighe's DIA has devoted extensive, painstaking attention to the pursuit and evaluation of refugee reports, and the ISA has been extremely supportive in this task.

As a result, we have recently obtained, what those of us have been involved in this issue, consider virtually incontrovertible evidence that Vietnam has, indeed, retained and stored for some future date or purpose approximately 400 American remains. We carried this information to Hanoi on January 15. While the Vietnamese have been disappointingly negative in response, we do not consider our task in presenting this information to them a failure.

To the extent that any of our efforts have been, or will meet with success, we must give much of the credit to General Tighe, to General Pinckney and to Adm. Jerry Tutlle of DIA all of whom have had personal responsibility for the evaluation of this important information. Mr. Speaker, these officers and gentleman deserve our commendation which we wish to express to our colleagues here on the floor today.

□ 1730

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I would be pleased to yield to the gentleman from California who also serves on our task force.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding. I just wish to associate myself with the gentleman's remarks and especially to use this occasion to commend General Pinckney and even more especially Admiral Tuttle for his very fine work that he has been carrying on for sometime now.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supporting remarks and for his supporting work through the responsibilities of our committee.

Mr. Speaker, I yield back the balance of my time.

A COMMISSION ON MORE EFFECTIVE GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. BOLLING) is recognized for 60 minutes.

Mr. BOLLING. Mr. Speaker, today I did something I do not do very often. I introduced a bill. It is H.R. 6380, a Commission on More Effective Government.

Mr. Speaker, I have not had very many special orders over time but I have taken this special order because I want to be able to record the fact that I am very serious about the establishment of this Commission.

It has been a very long time since the United States made an effort to reorganize its governmental structure and I think it is urgent that we do so in the near future. This is a very serious proposition. Within the next few days I will send a letter to each Member of the House asking for cosponsors and including with that letter a copy of the legislation and the explanation.

The bill establishes an 18-member Commission on More Effective Government. The purpose of the Commission is to make a comprehensive study of all aspects of the Federal Government. Briefly, the Commission's chore is to find out in what arenas government operates effectively and in which it does not and to report recommendations to the Congress on "how to make government work."

The Commission is to be guided by a declaration of policy. This declaration states:

> It is the policy of Congress to develop a blueprint for better government in the United States, to set in motion processes by which the Federal Government can more effectively and responsively serve the people . . . and can more rationally meet its present and future challenges, both national and international, and to encourage and justify the full restoration of public confidence in government at all levels.

SCOPE OF THE COMMISSION STUDY

The mandate for the Commission's 2-year study is extremely broad. The Commission is to look at the whole as well as the functioning parts of the Federal Government. It is to study the organization, operation, and functioning of all aspects of the Federal Government and to determine if current programs and institutions and presently established patterns of actions are adequate to the needs of the situation at hand or are failing to cope with those needs, not only for the present but for the changing circumstances of the foreseeable future.

The Commission is required to recommend ways to promote economy, efficiency, and improved service in all departments, agencies, establishments, and instrumentalities of the executive branch of the Government. Specific emphasis is to be given to "defining and limiting executive functions, activities, and services, eliminating those which are duplicative or overlapping, consolidating those of a similar nature, and abolishing those not necessary to the efficient conduct of government."

The Commission is also required to study the extent to which Federal, State, and local governments are contributing to the well-being of American society and its individual citizens. The Commission is to focus particularly on the manner in which these various units of government interrelate and to recommend changes in the relationships which would maximize the level and quality of all government service to the people. Commission recommendations to accomplish these goals may include "specific proposals for changes in Federal laws, regulations, and administrative practices along with suggestions for actions to be taken by State and local governments—and for methods of encouraging such governments to take the suggested actions."

COMPOSITION OF THE COMMISSION

The Commission is intentionally designed to derive its membership from a wide variety of sources and is equally balanced between public officials, both elected and appointed, and leaders from the private sector. Members of the Commission are to be chosen from among persons with a broad knowledge and understanding of America, its history, and its problems as well as having particular knowledge and expertise in the major areas of the Commission's study.

The 18-member Commission is bipartisan and includes independents. Seven members will be from one of the major political parties, five from the other major political party, and six will not be affiliated with either party. The term "affiliated with either party" is commonly used in legislative measures of this type. The concept, however, has never been precisely defined. It is commonly held that the term does not mean one who is registered either as a Democrat or Republican. The more accepted definition is one who has held a significant office or has been actively and substantially engaged in services on behalf of a political party. A definition of the term is more properly left to the discretion of the committee of jurisdiction which might wish to establish guidelines for appointments of independent commissioners in its committee report.

Six members of the Commission will be appointed by the President, three from the executive branch and three from private life—two independents and one from the opposite political party of the President. The Speaker of the House also will appoint six members, three Members of the House—two majority and one minority—and three from private life—two independents and one from the minority party. The President pro tempore of the Senate will have six appointments, three Members of the Senate—two majority and one minority—and three from private life—two independents and one minority. A breakdown of party ratios appears in the table below.

PROJECTED COMMISSION COMPOSITION

	Democrat	Republican	Independent
Democratic President [1]	3	1	2
Speaker [2]	2	2	2
President pro tem, Senate [2]	2	2	2
	7	5	6
Republican President [1]	1	3	2
Speaker [2]	2	2	2
President pro tem, Senate [2]	2	2	2
	5	7	6

[1] Ratio changes with the party of the President. These figures assume all executive appointees are of President's party.

[2] Ratio for appointees from the House and Senate always stays 2–2–2 regardless of party in power.

The Commission is to be chaired by a person elected from among the members. A vice chairman also will be elected. Provisions for a quorum, filling vacancies, and compensation of members are detailed for the Commission. Compensation of members will be granted only to those members from the private sector and only when they are acting in their official capacity. Compensation is based on the rate of pay of level III of the executive schedule—$213.04 daily based on an annual salary of $55,400.

COMMISSION STAFF

The Commission is granted authority to appoint necessary staff without regard to civil service laws and regulations. Services of consultants or other contract or part-time personnel also may be obtained at a daily rate of pay not to exceed the maximum basic pay for a GS–18—$192.72 daily based on an annual salary of $50,112.50. Members of the Commission or advisory councils, staff of both the Commission and councils, and consultants are exempted from Federal conflict of interest statutes, restrictions on employment, services, or payment of claims. This provision allows the recruitment on a short-term basis of the best available talent who because of their professions could not otherwise accept appointment. Both paid and unpaid individuals would be covered.

ADVISORY COUNCILS AND COMMITTEES

The Commission may establish advisory councils and committees as it deems necessary to provide specialized assistance to complete its task. Members of advisory councils and committees are to receive, as appropriate, travel expenses and per diem while assisting the Commission. Per diem for these persons is provided under authority of 5 U.S.C. 5703 at a rate of $35 per day. However, other sections of title 5 allow per diem of up to $50 per day for regular Government employees depending upon the cost-of-living index for the particular city involved. It is unclear whether or not the additional amount would be accorded to advisory council members on official business.

POWERS OF THE COMMISSION

The Commission is granted the usual authorities provided such entities, including: The power to hold hearings, take testimony, sit and act at such times and places as it deems appropriate, have printing and binding done, and enter into contracts or other arrangements as the Commission or any member authorized by it deems advisable. Contractual arrangements are exempted from Federal statutes requiring formal advertising and thus competitive bidding for services or supplies in excess of $2,500.

Additional powers are also granted the Commission. It may secure directly from any office, department, agency, establishment, or instrumentality of the Government such information, suggestions, estimates, and/or statistics as required. The Commission also may request on a reimbursable basis that facilities and services be made available as well as personnel be detailed from any Federal agency. Authority to use the frank is provided. Federal agencies and offices also are specifically prohibited from imposing any restriction on the Commission with respect to the scope, direction, or conduct of its activities or to require that the Commission submit any report or recommendation to an agency or officer for comment, review, or approval.

REPORTING REQUIREMENTS AND EXPIRATION DATES

The Commission is required to submit its final report to the Congress no later than 10 days after the 98th Congress convenes (1983). Interim reports may be submitted as the Commission deems appropriate.

The Commission expires 90 days after submitting its final report (1983).

EXPENSES OF THE COMMISSION

Such sums as are necessary are authorized to be appropriated for the Commission which leaves the actual amount to the discretion of normal appropriations process.

H.R. 6380

A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of government in the United States and of restoring public confidence in government at all levels

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF POLICY

SECTION 1. It is the policy of the Congress to develop a blueprint for better government in the United States, to set in motion processes by which the Federal Government can more effectively and responsively serve the people for whom it was created and can more rationally meet its present and future challenges, both national and international, and to encourage and justify the full restoration of public confidence in government at all levels.

ESTABLISHMENT OF COMMISSION

SEC. 2. For the purpose of carrying out the policy set forth in section 1, there is hereby established a commission to be known as the Commission on More Effective Government (in this Act referred to as the "Commission").

IMPLEMENTATION OF POLICY BY COMMISSION

SEC. 3. (a) In carrying out the policy set forth in section 1, the Commission shall consider and study—

(1) the organization, operation, and functioning of the Federal Government in all of its aspects and in the face of all forseeable situations and needs, giving particular attention to the extent to which the Government under its present programs and institutions and its presently established patterns of action is failing to cope with such situations or effectively meet such needs, or is incapable of meeting or unprepared to meet the demands and challenges which have arisen or may arise therefrom: and

(2) the nature and extent of the total governmental contribution to American society and to individual Americans which is being made by the Federal Government, by State governments, and by local governments, respectively, the nature and extent of the specific contribution being made by each, and the relationships between all such governments in the process of making such contributions, giving particular attention to the extent to which such contributions would be greater or would be more efficiently made if they were differently distributed among the various governments involved or if the relationships between such governments were differently structured.

(b) On the basis of its consideration and study under subsection (a)(1), the Commission shall recommend ways of promoting economy, efficiency, and improved service in the transaction of the public business, in all of the departments, agencies, establishments, and instrumentalities of the executive branch of the Government, by defining and limiting executive functions, activities, and services, eliminating those which are duplicative or overlapping, consolidating those of a similar nature, and abolishing those not necessary to the efficient conduct of government, all with a view to carrying out the policy set forth in section 1 in as effective and expeditious a manner as is possible.

(c) On the basis of its consideration and study under subsection (a)(2), the Commission shall recommend ways of improving the relationships between the Federal Government and the various State and local governments and the distribution of governmental functions, activities, and services among them, including specific proposals for changes in Federal laws, regulations, and administrative practices along with suggestions for actions to be taken by State and local governments (and for methods of encouraging such governments to take the suggested actions), all with a view to maximizing the contributions made, individually and collectively, by the governments involved.

ORGANIZATION OF THE COMMISSION

SEC. 4. (a) The Commission shall be composed of eighteen members as follows:

(1) Six appointed by the President of the United States, three from the executive branch and three from private life.

(2) Six appointed by the Speaker of the House of Representatives, three from the House of Representatives and three from private life.

(3) Six appointed by the President pro tempore of the Senate, three from the Senate and three from private life.

Members of the Commission shall to the maximum extent possible be chosen from among persons who have particular knowledge and expertise in the major areas of the Commission's consideration and study, but persons with a broad general knowledge and understanding of America, its history, and its problems shall be preferred over those whose knowledge and experience in the areas involved is excessively specialized.

(b)(1) Of the three members appointed by the President from private life under subsections (a)(1), one shall be from the major political party which is not the party of the President and two shall be individuals not affiliated with any political party.

(2) Of the three members appointed from the House of Representatives under subsection (a)(2), two shall be from the political party which is the majority party in the House and one shall be from the other major political party; and of the three members appointed from private life under such subsection, one shall be from the political party which is the minority party in the House

and two shall be individuals not affiliated with any political party.

(3) Of the three members appointed from the Senate under subsection (a)(3), two shall be from the political party which is the majority party in the Senate and one shall be from the other major political party; and of the three members appointed from private life under such subsection, one shall be from the political party which is the minority party in the Senate and two shall be individuals not affiliated with any political party.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members, and shall adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of it operations, its organization, and it personnel.

(d) Ten members of the Commission shall constitute a quorum.

(e) Any vacancy in the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(f) An individual who is appointed to the Commission in the status of a Member of Congress or in the status of a person in the executive branch of the Government, and who thereafter ceases to have such status, shall nevertheless continue as a member of the Commission and shall (if he has returned to private life except for his membership on the Commission) be treated as an individual appointed from private life for purposes of compensation under section 5.

COMPENSATION OF COMMISSION MEMBERS

SEC. 5. (a) The members of the Commission who are Members of Congress or who are in the executive branch of the Government shall serve on the Commission without any compensation in addition to that received for their services as Members of Congress or in the executive branch. The members of the Commission from private life shall each be paid compensation at a rate equal to the rate of basic pay in effect for level III of the Executive Schedule when engaged in the performance of the duties vested in the Commission.

(b) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

COMMISSION STAFF

SEC. 6. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable to assist in the performance of its duties, without regard to the civil service laws and without regard to the provisions of title 5 of the United States Code (or of any other law) relating to the number, classification, or compensation of employees. The Commission may also procure, without regard to the civil service laws and such title 5, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(b) Service of an individual as a member of the Commission (or of an advisory council or committee under section 7) or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States.

ADVISORY COUNCILS AND COMMITTEES

SEC. 7. The Commission may establish (without regard to the Federal Advisory Committee Act) such advisory councils and advisory committees as it may deem appropriate to provide specialized assistance in the performance of the duties vested in the Commission by this Act. Members of such advisory councils and committees, while attending meetings of such councils or committees or while otherwise serving at the request of the Commission away from their homes or regular places of business (unless otherwise eligible for travel and subsistance expenses under chapter 57 of title 5, United States Code), may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

POWERS OF THE COMMISSION

SEC. 8. (a) The Commission or any member authorized by the Commission may, for the purpose of carrying out this Act, hold such hearings and sit and act at such times and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements (with or without consideration or bond, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)), make such expenditures, and take such other actions as the Commission or such member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

(b) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Government such information, suggestions, estimates, and statistics as the Commission may require for the purpose of this Act; and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

(c) Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission or to detail any of the personnel of such agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this Act.

(d) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) No officer or agency of the United States shall have the authority to impose any restriction upon the Commission with respect to the scope, direction, or conduct of its activities, or to require that the Commission submit any report, recommendation, or other matter to any such officer or agency for approval, comment, or review before submitting such report, recommendation, or other matter to the Congress.

REPORTS; EXPIRATION

SEC. 9. (a) The Commission shall from time to time submit to the Congress such reports as it may deem appropriate with respect to its activities under this Act. Within ten days after the Ninety-eighth Congress is convened and organized, the Commission shall submit to the Congress its final report with respect to such activities, including all of its findings and recommendations.

(b) Ninety days after the submission to the Congress of its final report under subsection (a), the Commission shall cease to exist.

EXPENSES OF THE COMMISSION

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

A TRIBUTE TO HON. DANIEL J. FLOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentlemen from Pennsylvania (Mr. MOORHEAD) is recognized for 60 minutes.

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise to note with regret the resignation today of the distinguished gentleman from Pennsylvania, the Honorable DANIEL J. FLOOD. He officially resigned today as a Member of this body. I rise to make note of this in sadness, in compassion, in understanding, and in recognition of what he has done for his district, for this House, and for our country during his long years of service.

I would like to say a few words about DANIEL FLOOD.

He was a Member of this body for many, many years. He was a colleague of mine for many years. He worked long and hard for those many years.

There are those in this House who would like to believe that we know how to take care of our districts. Most of us do as good a job as we can in keeping Federal money, services, and construction projects flowing homeward. Yet, few among us are as successful in helping our districts as DANIEL FLOOD was successful in helping his. I say this knowing full well that as I stand here I stand among some of the most dedicated district-helpers anywhere. Nonetheless, DAN FLOOD was tops in this kind of endeavor.

There are few would question that DANIEL FLOOD was a distinctive Member of the Congress. He dresses flamboyantly. He has a famous mustache. He has a dramatic way of speaking which makes one sit up and take notice. He is a character, a person with a Shakespearean manner and background.

He combined this talent with a keen knowledge of the legislative process.

When he managed an appropriation bill on the floor as chairman of the Subcommittee on Labor-Health, Education, and Welfare he was always well prepared. He knew his subject matter thoroughly. He knew the House of Representatives. He cared about the people who would benefit from his legislation. He fought hard for them.

As a supreme legislator he had the head to contrive, the heart to care, and the hand to execute.

This institution will miss DAN FLOOD. He did well by his district. He played the game hard. He was dedicated. He was committed. He worked hard, did his homework. These things, too, it is important not to forget.

To DAN and his beautiful Catherine I wish the best of health and happiness.

DANIEL J. FLOOD of Wilkes-Barre, Pa., resigned today.

The Congress of the United States will never be quite the same again.●

Mr. ERTEL. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD of Pennsylvania. I yield to my colleague from Pennsylvania (Mr. Ertel).

Mr. ERTEL. Mr. Speaker, I thank the gentleman for yielding.

On this occasion of the retirement of Congressman Dan Flood, Pennsylvania loses its most senior Congressman, a man who was a legend in his own day.

Prior to my entering into the U.S. Congress I knew of Dan Flood as did every Pennsylvanian. His flare and style were well known. When I arrived here and met Dan Flood I soon learned the fabled, widely held image was accurate. To Dan, all the world was a stage and regardless of his physical condition the show went on.

Never once did I hear him complain, even when I knew he had to be hurting. One only had to observe Dan Flood on the floor handling the HEW appropriation to realize how truly masterful he was as a floor manager. His knowledge, personality and style always carried the day. People came to watch the legendary Dan Flood. His was not only a legislative act but a truly dramatic performance. With Dan Flood's leaving the Congress, an era has ended. The show has closed.

● Mr. LEDERER. Mr. Speaker, I rise today to pay homage to our retiring colleague from Pennsylvania, Congressman Daniel J. Flood, who today leaves the Congress after 16 terms.

Dan Flood leaves this body after a long career of service to the people of the 11th District of Pennsylvania and to the people of the Commonwealth of Pennsylvania and country as well. His service runs from the Second World War through the decades of modernization in this country and the world. Dan Flood as "The Chairman" has been a constant in these times providing leadership through his articulate and fiery presentation of the issues.

As a fellow Pennsylvanian, I know the admiration with which his constituents see him, and the things he has done for us all. I am honored to stand here today in the presence of the full body of Members to join you in honoring Congressman Dan Flood of Pennsylvania. As many have done here today, I wish him the best as he leaves us to fill out his active career of service.

I thank him for his concern for myself and my constituents.

Mr. Speaker, we have had the privilege to serve with a great Pennsylvanian.●

● Mr. ZABLOCKI. Mr. Speaker, a very few people, "here and there" in different walks of life, have that extra something—a spirit, an elan, a style—that sets them apart from the ordinary among their colleagues.

Dan Flood has been one of these extraordinary persons among us.

He not only has applied hard work and intelligence and expertise to his legislative duties throughout the years, but he has done so with a dash and sparkle lifting him above the daily routine.

He has brought humor and drama to the staid Halls of Congress. And he has demonstrated immense courage in the face of failing health and other difficulties in recent years.

Dan, you will be missed here. But I know you are looking forward to relaxation and enjoyment with your beloved wife, Cathy. We wish you well.

● Mr. GAYDOS. Mr. Speaker, I rise to express my sincere respects to the Honorable Daniel J. Flood, who has so capably represented the 11th District of Pennsylvania since 1944.

During my term in Congress, beginning in 1968, I have come to know Dan as an individual with great compassion for both the workingman, the senior citizen, and those many other persons who too often find their interests not fully considered in the Congress of the United States. Additionally, Dan has been a rock-ribbed supporter of the American educational system. In his capacity as chairman of the Appropriations Subcommittee on Labor-HEW, he has continuously supported legislation and the necessary funding to insure that the safety and health of the American worker, the educational needs of the young Americans, as well as the needs of the senior citizens are properly supported by the Federal Government.

I can remember well, just a few years back, when funding for the Occupational Safety and Health Administration was fair game for those Members who were so critical of its activities. But I knew that I could always rely on Dan's support in defeating those various crippling amendments that were offered during the floor debate on the Labor-HEW bill.

As Dan retires from Congress, he can look back and realize that through his steadfast support of the Occupational Safety and Health Act, 60 million American workers have been and will continue to be protected from workplace safety and health hazards.●

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I yield back the balance of my time.

□ 1700

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Pennsylvania (Mr. Moorhead).

The SPEAKER pro tempore (Mr. Atkinson). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

JIMMY DURANTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on January 29, the beloved comedian, Jimmy Durante, died at the age of 86, and the death of this fine man leaves a tremendous void on the Board of Villa Scalabrini, the Italian Old Peoples Home located in North Lake, Ill. In his memory, there will be a special mass at Villa Scalabrini on Saturday, March 1, at 3 p.m.

For many years, Jimmy served as honorary chairman of the Villa Scalabrini Development Fund and helped to raise thousands upon thousands of dollars in order to complete phase I and phase II of the home. Villa Scalabrini is one of the outstanding homes for senior citizens in America, and has its own geriatrics department. This has been an ambitious undertaking in our community and I had the honor to work with Jimmy as chairman of the development fund while he served as honorary chairman.

Jimmy Durante was a man of legendary generosity and unassuming personal modesty, and he won the hearts of the people at Villa Scalabrini as he did everywhere. For years he headed our programs known as the Cavalcade of Stars, which over 5,000 people attended annually, in order to raise the necessary funds to make the Villa a reality.

Villa Salabrini today is a $20 million institution and we are in the process of completing the phase III expansion. When phase III is completed, the Villa will house over 300 elderly people, thus enlarging its capacity to serve the Italian American senior citizens in the Chicagoland area.

Jimmy Durante, whose Italian emigrant parents lived in Manhattan when he was born, began his astounding entertainment career of over 60 years at the age 17. Rising quickly to genuine stardom, he remained a beloved national celebrity for half a century, entertaining at clubs, playing the piano, and singing and dancing in the old vaudeville tradition, making records, doing Broadway musicals, and going on to highly popular radio and television programs. In addition, he made 29 movies. He always softpedaled his own abilities, but it is reported that he may well have won more major awards and trophies than any other show business personality during his long career.

Nicknamed "the Schnoz" because he used his famous nose frequently as a stage prop, Jimmy has also been called "a true artist" because he did not depend on professional gag or song writers for his comedy routines, but on his own talent and ability. He never had an enemy in the world, was loved as much offstage as when he was performing, and never felt he had to resort to insulting humor or off-color jokes to get a laugh.

His generosity with panhandlers was well known, and he did untold numbers of benefit shows, working long and hard for charitable causes involving Americans of all ethnic backgrounds. Preferring to be called "Jimmy," he was intensely loyal and faithful to his family and friends through the years, and he was one of the most charitable persons I have ever known.

During a visit at Villa Scalabrini one afternoon as we were inspecting the progress being made on expanding the facility, with his usual wit and good humor, he said to me in his raspy voice, "Frank, this is not an old people's home—it's a country club!"

On behalf of the Board of Villa Scalabrini, Father Pierini, the Sisters of St. Charles, the Scalabrini Fathers, and myself and Mrs. Annunzio, we extend our deepest sympathy to his beloved widow, Marge, and to his daughter, Cece.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I was absent yesterday attending a meeting of the Tourism Caucus downtown and was not recorded on rollcall No. 17, House Concurrent Resolution 267, expressing appreciation to the Government of Canada and its people for its support and assistance in securing the safe return of American Embassy personnel from Iran.

Had I been present I would, of course, have voted in favor of adopting the resolution.

This resolution represents in a small way the profound, deeply heart-felt gratitude of the American people for the Canadian Government and the Canadian people. We are especially grateful for our Canadian neighbors and friends in this instance. The lives of our citizens were in jeopardy in Tehran and the Canadian Ambassador, his staff, and the Canadian Government came to their rescue at considerable personal risk for the Canadian Embassy staff. This is true friendship. It is an example of nobility in public service for which the American people will be eternally grateful.●

CUSTOMS COURTS ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, today I am introducing a bill which provides for significant and much needed reform of the laws governing the U.S. Customs Court. Government decisions in the area of international trade can, and do, have an important impact upon the American citizenry. Today, more and more individuals are seeking review of these decisions in the Federal courts, especially the Customs Court and the Court of Customs and Patent Appeals. Over the years many complex questions have been raised concerning the jurisdiction of the Customs Court, its scope of review, and the type of relief the court may award. Periodically, Congress has addressed these issues and has altered the court's status, jurisdiction and powers in a manner intended to solve a specific problem or to meet a specific need at a particular time. This approach has resulted in making the statutes governing the court's jurisdiction and remedial powers awkward and uncoordinated.

For many years, the primary jurisdictional statutes involved with international trade litigation remained relatively unchanged despite the fact that those cases had become increasingly complicated. With the passage of the Trade Agreements Act of 1979 the U.S. Customs Court received added responsibilities with respect to international trade litigation. However, the act failed to establish the manner in which international trade actions are to be commenced and the time limits within which such actions are to be filed. As such, the law governing the Customs Court has not kept pace with the problems posed by modern-day international trade litigation.

Furthermore, the jurisdiction of the district courts over international trade matters is defined so as to encompass cases which should philosophically be within the jurisdictional ambit of the U.S. Customs Court. The result has been inconsistent judicial decisions concerning the primary jurisdictional statutes. As such, litigants proceed with some degree of uncertainty when choosing a forum for judicial relief.

If an improper forum is chosen, that may well result in a holding that the plaintiff is before the wrong court. With the costs of litigation today, such a holding can effectively preclude any judicial relief for some people.

Furthermore, the type of relief available depends greatly on the plaintiff's ability to persuade a court that it possesses jurisdiction over a particular case. Thus, some individuals will obtain relief which is denied others, who by chance select an improper forum in which they institute suit. Clearly, a judicial system which perpetuates such a result is unfair.

The Customs Courts Act of 1980 is designed to eliminate many of the problems faced by litigants in international trade cases before the various Federal courts. This bill expands the Customs Court's substantive jurisdiction and type of relief it may award. Furthermore, the court will be granted the same powers of relief given other article III courts.

In so doing, the Customs Court Act of 1980 will create a comprehensive system of judicial review of civil actions arising from import transactions, utilizing the specialized expertise of the U.S. Customs Court and Court of Customs and Patent Appeals to insure a national consistency in the judicial decisionmaking process. As such, this bill will assure better access to the courts for such civil actions by more clearly defining the division of jurisdiction between the district courts and the Customs Court.

The bill also addresses itself to the status of the chief judge of the Customs Court. Presently, the law provides that the President shall appoint "from time to time" one of the Customs Court judges to serve as chief judge. Today's legislation would alter the present statute to accord the chief judge a position analagous to that of the chief judge of other courts of national jurisdiction.

Finally, in order to reflect the expanded jurisdiction of the court, this legislation would change the name of the U.S. Customs Court to the U.S. Court of International Trade. This designation is more descriptive of the court's clarified and expanded jurisdiction and its new judicial functions and purposes relating to international trade.

It is my hope that the Congress will take action on this much needed legislation in the very near future. I will certainly do all that I can to bring this about.●

OBSTETRIC CARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, I am today introducing a bill which could, if passed, help to insure that women will be able to make more informed decisions about the use of drugs and procedures during pregnancy and delivery, and which could help prevent injury to untold numbers of infants.

Our growing experience with the adverse effects of obstetric-related drugs, which often do not become apparent until long after the drugs have been administered to the mothers, has made us more sensitive to the need for legislation which could help prevent these tragic occurrences.

The bill I am introducing today would do three things. First, it would require States to provide women access to their obstetric medical records and current information on obstetrical procedures. Second, it would require the dissemination of information on the effects and risks of drugs and devices on the health of women who are pregnant or in labor, and of prospective and developing children. Third, it would provide for a study on the delayed long-term effect on child development of obstetrical drugs and procedures administered to or used by women who are pregnant or in labor.

The tragic and devastating effects of the use by mothers of the drug diethylstilbestrol—DES—on their offspring are well known. This is just one example of the kinds of potentially harmful effects the careless use of drugs may have. The fact of the matter is that health professionals have all too little information on the hazards or potential hazards of the use of obstetric drugs and procedures.

I call the attention of my colleagues to a report issued by the General Accounting Office on September 24, 1979, entitled "Evaluating Benefits and Risks of Obstetric Practices—More Coordinated Federal and Private Efforts Needed." This report confirms that, with few exceptions, drugs and procedures employed in obstetric care have never been properly evaluated and found to be in the best interest of mothers and their babies.

Mr. Speaker, I was first made aware of the need for this kind of legislation by my courageous and persevering constituent, Mrs. Estelle Cohen, who herself had a tragic experience in the case of a child of her own. Mrs. Cohen has become a knowledgable and dedicated opponent of the use of harmful or possibly harmful drugs and procedures before, during and after childbirth.

Mrs. Doris Haire, president of the American Foundation for Maternal and Child Health, who has also been trying for years to call attention to the need for this kind of legislation, made significant contributions to the writing of this bill. Senator JAVITS of New York, a member of the Subcommittee on Health and Scientific Research of the Senate Committee on Human Resources, helped call attention to questionable obstetrical practices in the United States by conducting hearings on the subject in April 1978.

I have written to my distinguished colleague, the Honorable HENRY WAXMAN, chairman of the Subcommittee on Health and the Environment, to urge that his subcommittee hold hearings on this vitally important subject. There is so much information that needs to be developed and so many questions that need to be answered about just what effects the use of certain drugs and procedures have on the fetus and mother. The futures of our newborn may be inadvertently altered for the worse in ways we have not yet even begun to comprehend. We must begin to take a systematic look at this area.

Following is the text of the bill and an article published in the September 14, 1978 issue of the Co-op City News, published, in my congressional district, about Mrs. Cohen's experience. It is a poignant story, and I hope my colleagues will read it.

This is a matter of grave importance, and I hope it will receive the attention it deserves:

H.R. —

A bill to amend title V of the Social Security Act to require States to provide women access to their obstetric medical records and current information on obstetrical procedures, to amend the Federal Food, Drug, and Cosmetic Act to require the dissemination of information on the effects and risks of drugs and devices on the health of pregnant and parturient women and of prospective and developing children, and to provide for a study on the delayed long-term effect on child development of obstetrical drugs and procedures administered to or used by pregnant and parturient women

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, access of women to their obstetric (and their infants') medical records and provision of current information regarding obstetrically related drugs and procedures.

SECTION 1. (a) Section 505(a) of the Social Security Act (42 U.S.C. 705(a)) is amended (1) by striking out "and" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon, and (3) by adding after paragraph (15) the following new paragraphs:

"(16) provides that the State has a law under which any health care practitioner or provider of services (as defined in section 1861(u)) who furnishes health services in the State to a woman during pregnancy or parturition must provide the woman, upon her request with—

"(A) the opportunity to inspect and copy any medical records which the practitioner or provider maintains relating to the condition or treatment of the woman and her infant during the pregnancy, parturition, and post partum, and

"(B) a reasonable explanation of any portion of such medical record which is not comprehensible to a layperson,

and under which there are appropriate procedures (as determined by the Secretary) to ensure the provision of the opportunity for inspection and explanation specified in subparagraphs (A) and (B); and

"(17) provides that the State has a law under which any health care practitioner or provider of services (as defined in section 1861(u)) in the State who performs a medical procedure on, or administers a drug or medical device to, a woman during pregnancy or parturition must (except under emergency and other extraordinary circumstances established by the Secretary)—

"(A) inform the woman, before performing the procedure or administering the drug or device, of the side effects, risks, contraindications, and effectiveness, with respect to the health of the woman and of her prospective children, of the procedure, of not performing the procedure or administering the drug or device, and of performing other medically recognized procedures (and of administering other drugs or devices) instead of the procedure, drug, or device involved, and

"(B) after being so informed, receive her consent to the performance of the procedure or administration of the drug or device.".

(b)(1) Except as otherwise provided in paragraph (2), the amendments made by the subsection (a) shall apply on and after August 1, 1980.

(2) In the case of any State plan which the Secretary of Health and Human Services determines requires State legislation in order to meet the additional requirements imposed by section 505(a)(16) and (17) of the Social Security Act, the State plan shall not be regarded as failing to comply with those requirements until the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

INFORMATION FOR PREGNANT WOMEN ON SIDE EFFECTS, RISKS, CONTRAINDICATIONS, AND EFFECTIVENESS OF DRUGS AND DEVICES

SEC. 3. (a) Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding after paragraph (t) the following new paragraph:

"(u)(1) If it is a drug or device distributed or offered for sale in any State and intended for the use of any woman during pregnancy or parturition, unless its label or a written insert accompanying the drug bears an explanation, meeting guidelines established by the Secretary under subparagraph (2), of the side effects, risks, contraindications, and effectiveness of the drug or device on the health of women during pregnancy and parturition and on the health of prospective and developing children.

"(2) The Secretary shall, by regulation, establish guidelines with respect to the explanation of the side effects, risks, contraindications, and effectiveness of drugs and devices intended for the use of women during pregnancy or parturition.".

(b)(1) Subparagraph (1) of section 503 (u) of the Federal Food, Drug, and Cosmetic Act (added by subsection (a) of this section) shall apply only to drugs distributed in commerce on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall establish the guidelines required under section 503(u)(2) of the Federal Food, Drug, and Cosmetic Act (added by subsection (a) of this section) not later than the first day of the third month beginning after the date of the enactment of this Act.

STUDY OF DELAYED LONG-TERM EFFECTS OF OBSTETRICAL DRUGS AND PROCEDURES ON MATERNAL HEALTH AND CHILD DEVELOPMENT

SEC. 4. (a) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall arrange, in accordance with subsection (b), for the conduct of a study (hereinafter in this section referred to as the "study") to determine the long-term side effects, risks, contraindications, and effectiveness of the use of obstetrical drugs, devices, and procedures with respect to maternal health and child development, including child development through the age of seven years. The study shall be developed and carried out in consultation with behavioral psychologists, pediatric neurologists, obstetricians, and other appropriate professionals and knowledgeable consumer representatives whose expertise would enhance the conduct of the study.

(b)(1) The Secretary shall provide for the conduct of the study by a public or nonprofit private entity under an arrangement whereby the actual expenses incurred by the entity conducting the study will be paid by the Secretary.

(2) The arrangement entered into under paragraph (1) shall require that the study be designed and completed and reports thereon be submitted within such period as the Secretary may require to meet the requirements of subsections (c) and (d).

(c) The design of the study shall be completed not later than six months after the date of the enactment of this Act and the study shall be completed, and the final report described in subsection (d)(3) submitted, not later than eight years after the date the design of the study has been completed.

(d) The Secretary shall provide to the appropriate committees of Congress—

(1) a preliminary report on the design of the study, after the development of the study design and before the study itself has been undertaken;

(2) a report on the progress of the study, including any preliminary results of the study, not less often than once every Congress during the period the study is being undertaken; and

(3) a final report on the results of the study, including any recommendations for legislative or administration action on the State or Federal level.

(e)(1) There are authorized to be appropriated for the fiscal year ending September 30, 1981, such sums as may be necessary to carry out the study. Sums appropriated to carry out the study shall remain available until expended, but in no case shall they remain available after the submission of the final report described in subsection (d)(3).

(2) The authority of the Secretary to enter into any contract for the conduct of the study shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

Resident Wins Drug Reform

(By Patrick McDonnell)

On July 12, 1951, a proud Estelle Cohen left Columbia Presbyterian Hospital with a "beautiful" and seemingly healthy baby boy, born several weeks before her due date.

The child, Ben, was born early because Mrs. Cohen was given an injection of the hormone drug Pitocin, which artificially starts labor.

Mrs. Cohen hadn't sought the early birth, but the obstetrician had insisted. "And I figured the doctor knew best," the Co-op City resident explains.

Today, 27 years later, Mrs. Cohen thinks differently.

Her son, Ben, was born with brain damage which Mrs. Cohen believes was brought on by the injection of the labor-inducing Pitocin (oxytocin)—commonly called "Pit."

LONELY CRUSADE

Mrs. Cohen's life has since been dominated by her son's inability to lead a normal life, and she and a few others have waged a lonely crusade to inform the public about the dangers of Pitocin and other drugs given to pregnant women by physicians.

Finally, on Sept. 1, largely through Mrs.

Cohen's efforts, a new law became effective in New York State, requiring that physicians or nurse-midwives warn expectant mothers of possible harmful effects of obstetric drugs on the mothers and their babies.

The bill was ceremoniously signed into law by Gov. Carey last Tuesday, at a meeting in New York attended by Mrs. Cohen and Bronx State Sen. Abraham Bernstein, the bill's sponsor. Mrs. Cohen had first informed Sen. Bernstein three years of the potential harm of obstetric drugs.

AMERICAN HEROINE

Doris Haire, president of the American Foundation for Maternal and Child Health and an outspoken critic of many current obstetrical practices, called Mrs. Cohen "one of America's heroines," and said the new bill would "dramatically" alter the way pregnant women were treated by doctors.

Because New York is a major center for medical education, Mrs. Haire said in an interview, the "ripple effect" of the new law may soon be felt throughout the United States and abroad.

Mrs. Haire noted that the new regulation also requires that physicians inform expectant mothers that the delayed, long-term effects of certain drugs on human development are unknown.

Labor-stimulating drugs such as Pitocin may cause brain damage in infants by sparking stronger, longer and more frequent uterine contractions, thus decreasing the ability of the fetus to restore its supply of needed oxygen. If the fetus is deprived of oxygen long enough, brain damage can result.

The severe contractions may also result in brain damage to the infant by causing cerebral homorrhaging in the fetus.

Mrs. Haire and her group also note that the strong contractions often present during induced labor make it more likely that mothers will need pain-killing drugs—which can further harm infants, depressing their respiratory ability.

NO EXACT STATISTICS

Although no precise figures are available documenting how widely labor-inducing drugs are used, it was estimated in 1975 that labor in one of ten births in the United States is induced—or actually started—by drugs, usually Pitocin. In addition, it was estimated that in one-fifth of all births, labor is stimulated—or speeded up—by drugs, and Pitocin is the most widely used labor-stimulant.

Mrs. Haire and her group concede that at times there are clear medical reasons for the use of labor-inducing drugs, such as when the mother has diabetes or toxemia or other conditions that may result in the death of of the fetus if the pregnancy is continued.

Regarding labor-stimulation, Mrs. Haire and Mrs. Cohen point to warnings by many experts that labor should be stimulated only when uterine contractions are too weak or infrequent to result in the normal progression of the fetus through the birth canal. Ironically, one factor that may hamper the fetus' progression is the presence of pain-relieving medication in the mother.

EXPERT SPEAKS

Dr. Caldeyro-Barcia, president of the International Federation of Gynecologists and Obstetricians, has said that if labor were induced and stimulated only when it was absolutely necessary, these practices would be used in only about three percent of all U.S. births—instead of the estimated 20 percent of the births that may now involve elective induction and drugs-stimulated labor.

These procedures are used so often, Dr. Caldeyro-Barcia was quoted as saying on April 9, 1975, "Because the doctor wants to finish earlier so he can do something else, or because he wants to go away for the weekend—all at the expense of the fetus."

An editorial in the prestigious British medical journal, The Lancet, on Nov. 16, 1974, stated: ". . . Induction on the grounds of social convenience is a pernicious practice which has no place in modern obstetric care. The mother's holiday, the calls of the obstetrician's private practice, must not influence, for the sake of even a few days, an event which for the child may affect the outcome of its entire life."

In a recent interview with the News, Mrs. Cohen, who works for obstetrical reform with an almost religious fervor, recalled the birth of her abnormal son, Ben, and the subsequent events that resulted in her current obsession with the issue.

ROUTINE VISIT

On July 10, 1951, she says, she went for a "routine visit" to her obstetrician at Columbia Presbyterian Medical Center; it was still several weeks before she was due to give birth.

The doctor, to whom she had been referred by her regular obstetrician, who was on vacation, informed her that she should return in two days and have labor "induced."

"I didn't even know what induction meant at that point," says Mrs. Cohen, a roundfaced, brown-eyed woman who is now 57.

"I wasn't in any hurry to have the baby, I wasn't impatient . . . Some women, they feel very uncomfortable at that stage of pregnancy and they want their labor to be started artificially. I don't mind waiting until my time came . . . There wasn't a single sign of imminent labor."

Mrs. Cohen already had one son—who is now a 29-year-old department store executive—and that birth had gone smoothly.

SHE WAS AFRAID

When Mrs. Cohen went home after conferring with the obstetrician, she says she was "upset and frightened."

"I had a feeling there was something wrong that the doctor wasn't telling me," she explained.

Years later, Mrs. Cohen says, she discovered what the doctor was allegedly holding back from her: That he was a research obstetrician and he was then experimenting with a new method of administering the labor-inducing drug Pitocin.

On the afternoon of July 10, Mrs. Cohen says, her husband Irving, an auditor, called the obstetrician.

"The doctor said I might have the baby on the street. He asked my husband if he wanted his wife to have her baby on the street? . . . He told my husband not to interfere."

MAKES DECISION

Mrs. Cohen then made the decision that has haunted her the rest of her life: She agreed to have labor induced, as the doctor had ordered.

"In my day," she recalls, "the doctor's word was law. The women of my generation never questioned a doctor's motives. It was taken for granted that what the doctor advised must be the right thing . . . We were wrong."

On July 12, 1951, Mrs. Cohen says she entered Columbia Presbyterian and she was given the Pitocin intravenously by an assistant. Her obstetrician, she was informed, was busy with another patient.

For a long time after the injection, she says, there were only faint contractions. "But suddenly I had a contraction so painful and sustained—it was completely different from my first birth. I expected pain, but not that . . . I was convinced that I'd never leave that hospital alive."

LEAVES HOSPITAL

But her beautiful baby Ben was born, weighing a healthy six pounds, ten ounces. Five days later, Mrs. Cohen left Columbia Presbyterian with her "seemingly beautiful" child.

Before Ben was one year old, however, she began to notice that something was wrong with him.

"It was during that time after the war when everybody was having babies," says Mrs. Cohen, who then lived in Washington Heights.

"We'd all meet in the park, and Ben was different from all the other children. There were one or two retarded kids . . . But there weren't any other children like Ben."

Doctors told Mrs. Cohen they were baffled by Ben's problem, and they could find no physiological damage.

As Ben grew older, he had difficulties relating to other children.

RAN OTHER WAY

"Every day, there must have been 75 kids playing on 170th Street near our house," Mrs. Cohen recalls. "But Ben just couldn't seem to understand how to play. To the other children, and to my older son, it was easy to learn that when you hit the ball you were supposed to run to first base. But when Ben hit the ball, he'd run the other way."

School was another obstacle for Ben.

"He didn't want to go to kindergarten. I had to drag him out of bed every morning and dress him from scratch. At first, I even had to carry him there. It looked awful, a mother carrying a great big kid to school."

Ben spent his entire first week of kindergarten "spread-eagled on the floor," refusing to participate, says Mrs. Cohen.

BUTT OF JOKES

In elementary school in Washington Heights, she says, "he was the butt of the jokes of every tease in the class." His adjustment problems were exacerbated by his hyperactivity and by his occasional violent temper tantrums—sometimes aimed at his parents and other times at his classmates.

As doctors still insisted there was no physiological damage, Mrs. Cohen began to blame herself for her son's ailments.

"Every day I used to ask myself, 'What did I do to this poor boy to bring this on?' I felt very guilty."

Years later, Mrs. Cohen's guilt was replaced by rage when she obtained a copy of an official Columbia Presbyterian Medical Center report, dated Dec. 8, 1955, which concluded that her then four-year-old son may have sustained damage to his central nervous system—although the mother was never informed of this fact.

HE'S UNPREDICABLE

Ironically, Mrs. Cohen thinks it may have been easier for her if Ben were born completely retarded. "Life would have been more predictable if he were retarded. As it was, the only thing that was predictable about Ben was that he was unpredictable."

Such unpredictability was illustrated by his frequent, sudden outbursts of temper, as well as by the occasional good marks he received in school, especially in science courses.

Finally, when Ben was 9, it was diagnosed that he had suffered brain damage, probably at birth. Ben's particular ailment warps his sense of time and space, as well as making it difficult for him to grasp concepts and think abstractly.

LEARNING DISABILITY

Ben's problem, which used to be referred to as "minimal brain dysfunction," is nowadays grouped under the catch-all phrase of "learning disability." Some 10 million children in the United States are thought to be suffering learning disabilities to some extent, many of them more subtle than Ben's.

Although there is little definitive proof, Mrs. Cohen and others contend that expectant mothers' increasing reliance on drugs has contributed to the postwar explosion of children with learning disabilities.

The learning problems are generally

thought to be brought on by brain dysfunction, which experts believe can be caused by, among other factors, poor diet, injury or illness of the mother during pregnancy, and inadequate oxygen during birth—which can be an effect of unnecessarily-used obstetric drugs.

Consequently, Mrs. Cohen believes her crusade against the liberal use of obstetrical drugs has ramifications far beyond her own personal cause.

"We're part of an enormous problem," she says. "We don't even know how many kids are walking around with damaged brains brought on by these drugs . . . It's easy to see the problem in my Ben, but how many other kids are going around with much more subtle damage because of the drugs? What right have we to reduce someone's intelligence by even one iota by using these drugs?"

OTHER HARMFUL DRUGS

Besides the damage done by medications given to mothers during childbirth, Mrs. Cohen notes that abnormalities have resulted in children when expectant mothers took other drugs, such as Diethystilbestrol (DES), which was prescribed to prevent miscarriages, and Thalidomide, a tranquilizer.

In addition, Mrs. Cohen says, the accepted obstetrical practice in the United States of keeping women lying on their backs during labor and delivery has been criticized by many experts, who maintain that lying on one's side, sitting or squatting during childbirth is healthier for both the mother and the fetus.

But before Mrs. Cohen ever became aware of these larger issues, her son attended several different schools, until his inability to adjust persuaded her to withdraw him from George Washington High School while he was in tenth grade.

Three years earlier, in 1966, Mrs. Cohen read a magazine article entitled "Babies by Appointment?" which first led her to suspect that she had been a "guinea pig" for a research obstetrician.

ALWAYS CONTROVERSIAL

The article stated that Pitocin, the drug Mrs. Cohen had been given to induce labor, had always been controversial—not "absolutely safe and routine," as she says the doctor assured her. The article further explained how the prolonged contractions brought on by Pitocin may "clamp down on the blood vessels of the placenta, thus depriving the fetus of oxygen-carrying blood for longer periods than with a slower labor."

Mrs. Cohen was outraged.

In testimony presented last year to the Obstetrics and Gynecology Committee of the Food and Drug Administration, Mrs. Cohen related her reaction to this new found information: "I began to ask many questions. I began to suspect that a frightening situation existed in obstetrics, that people who were supposed to be protecting the welfare of our children were not aware of what was developing in our school population.

MALPRACTICE SUIT

In 1969, Mrs. Cohen started the process of filing a malpractice suit against Columbia Presbyterian Medical Center and the obstetrician who delivered her son.

In October, 1975, a jury in Manhattan State Supreme Court ruled that there was no malpractice.

Shortly before that verdict, Mrs. Cohen says, she and her husband turned down an offer from hospital attorneys to settle for $100,000 in damages.

Mrs. Cohen rejected the cash settlement, she says, because she was "absolutely convinced" of the suit's justice, and had she accepted the money she probably would have been obligated to remain silent about her complaint.

"I think that would have choked me," Mrs. Cohen says.

SHE'S ENCOURAGED

Despite her frustrating experiences, Mrs. Cohen was cheered by her successful effort to have the obstetrical-warning bill passed—even though she warns that the new law "is only a start."

She says she would like to see the movement culminate in a realization on the part of all parents that, "The protector of the child are its mother and father—not the medical profession." ●

TRIBUTE TO ANTHONY MORGANO—MANAGER, ILGWU, TRENTON-WILMINGTON DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

● Mr. THOMPSON. Mr. Speaker, on February 12, we will celebrate Abraham Lincoln's birthday and like every other year this President is honored. There are a multitude of others in the Nation, less known to us, who will also mark some milestone or other on that particular day.

I want to talk about one of those other Americans.

His name is Anthony Morgano—better known as "Tony," and at present, he is manager of the Trenton-Wilmington district of the International Ladies' Garment Workers' Union.

I want to talk about Tony Morgano because February 12 is his day, too.

His day of retirement.

Tony, as some of my colleagues already know, is a very political person; not the armchair-philosopher type we see so much of these days, but rather as an active participant in the entire political process; within his community, State, and Nation. Moreover, his participation in politics extended over some 40 years of American history. Beginning with Franklin Roosevelt, this son of an immigrant carpenter and garment worker has actively taken part in no less than 11 Presidential campaigns. Along with this activity, Tony Morgano has worked to elect many U.S. Senators, Congressmen—including myself—State assemblymen, and a score of community candidates through 4 decades and in three major States of this Nation.

Yet Tony's concern for and work within our free elective system did not extend to everyone. He has always embraced a strong belief that with elected responsibility comes duty—a duty to serve the interests of the citizens who are left without the advantages given those of influence and power. Tony would ally with and help only those he felt were willing to work hard at improving the condition of life for the average worker and citizen.

Perhaps this was so because Tony Morgano's formal education was in the "hard knocks" school of the great depression years. He did not begin his association with the Garment Workers' Union as an administrator but as a factory worker, surrounded by the heat, the steam, and the din of industrial pressing machines.

Nineteen hundred and thirty-three was not a good year to be a young man of 21 years.

It was not long before his union took notice of this young member and what they decided was to take him out of the factory and put him out in the field as an organizer.

Working as a union organizer in those days often meant real physical dangers; one might be beaten up by goons or even shot at or shot down on a picket line.

You were often subject to false arrest and in many towns the police considered you as part of the criminal element itself—as Tony found out at Archibald, Pa., in 1936. It was in this dismal and rough coal town that Tony earned his union's confidence. Through a long and bitter strike with the police and the sheriff's deputies allied against him, Tony held his strike line and helped his union establish its first strong roots in Pennsylvania. Out of that strike and others this young man fought in, grew a union apparel industry in Pennsylvania that is now some 75,000 strong.

Now it is all history and the young man is young no more—he has reached that point in life where reflection begins for some and perhaps reproachment for others.

Anthony Morgano need not reproach himself nor seek absolution for the past deeds of his life and work. It was work well done and done in a just cause—it was a life well fulfilled; as a worker, as a union leader, as a husband and father—as a human being.●

SUBCOMMITTEE ON CRIME TO HOLD THIRD HEARING ON H.R. 4973, CORPORATE CRIMINAL LIABILITY FOR KNOWING COVERUP OF HAZARDOUS PRODUCTS AND BUSINESS PRACTICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, on Monday, February 4, 1980, at 9:30 a.m. in room 2237, Rayburn House Office Building, the Subcommittee on Crime of the House Committee on the Judiciary will hold its third in a series of hearings which began last November on H.R. 4973. This bill, sponsored by Honorable GEORGE MILLER of California and now cosponsored by 55 colleagues of both parties in the House, creates corporate criminal liability for knowing coverups of serious dangers associated with products or business practices.

The witnesses on February 4 will consist of two panels. The first panel, representing the Interfaith Center on Corporate Responsibility, will include Father Michael Crosby, project coordinator, National Catholic Coalition for Responsible Investment, Milwaukee, Wis.; Tim Smith, executive director, Interfaith Center on Corporate Responsibility, New York, N.Y.; and Patricia Young, board member, Interfaith Center on Corporate Responsibility. The second panel will consist of Ralph Nader, public citizen, Washington, D.C.; Mark Green, executive director, Congress Watch, Washington, D.C.; and Dr. Sidney M. Wolfe, director, Health Research Group, Washington, D.C.

All interested persons or organizations wishing to submit testimony for the record of the hearings on H.R. 4973 or desiring further information should address their communications to the Subcommittee on Crime, Committee on the Judiciary, 207E Cannon House Office Building, Washington, D.C. 20515. Telephone: (202) 225-1695.●

VETERANS' ADMINISTRATION BUDGET FY 1981

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, on Monday, January 28 the President sent to the Congress the administration's proposed budget for fiscal year 1981. Included in that request were $22.7 billion in authority and $21.7 billion in budget outlays for the Veterans' Administration to conduct veterans benefit programs and services during the next fiscal year. It is certainly too soon to make any formal assessment of the impact of these figures. The House Committee on Veterans' Affairs and the House Appropriations Committee will have that opportunity in the next few months. Even so, there are certain trends and several striking irregularities within the administration's VA budget proposal which should be identified at this point.

In total, the Veterans' Administration fiscal year 1981 budget shows an increase of $985 million in outlays over fiscal year 1980. While certainly a sizable amount, the increase remains only 7 percent more than the fiscal year 1980 budget whereas the entire Federal budget, under the President's proposal, grew by 9 percent. Total outlays for veterans benefits and services have again slipped as a percentage of the total Federal budget from 4 percent of the total in 1979, 3.7 percent in fiscal year 1980, and now to 3.5 percent projected by the administration for fiscal year 1981. All of us in Government have been trying to hold the line on Federal spending, but it appears again this year that the American veteran is being asked to carry more than his fair share of the load.

While the veteran's dollars shrinks, the veteran population has grown to over 30 million men and women. This record population, in turn, has created a record demand for services that has put extreme stress on the ability of the VA to maintain the quality and quantity of veterans programs as prescribed by law with existing resources.

Of major concern are continued reductions in personnel planned through 1980 into 1981 within the Veterans' Administration which could seriously hinder the operation of the administrative functions of the Agency. The Department of Veterans Benefits estimates a workload of 2,710,621 cases during 1981, ranging from veterans compensation claims, education applications, home loan guarantees, pensions, survivors benefits, clothing allowances, and other requests for administrative action. This represents an increase of nearly 13,000 cases in one year, and yet, current projections show a reduction of over 1,000 personnel within the Department of Veterans Benefits over the 2-year period, 1980–81. This reduction in force was planned to effect cost savings and improve efficiency with the advent of the on-line capability of the target data processing system. Target has yet to become fully operational or reliable, and, at this point, with the computer system far behind schedule, and with reductions in personnel already taking place, remaining employees are forced to work long overtime hours, at great cost, and with large-scale disruption to the day-to-day operation of veterans claims processing. The VA plans to come to the Congress this year for a supplemental appropriation request to retain 464 positions within the Department of Veterans Benefits, but that increase is planned only as a temporary stopgap measure to tide the system over while further work on the target system proceeds. The House Committee on Veterans Affairs plans to monitor this situation very carefully.

The administration has again proposed legislation designed to effect "cost savings" from reimbursement to the Federal Government by insurance carriers, employers, and other non-Federal sources for the cost of medical care and treatment to certain veterans with non-service-connected disabilities in VA medical facilities. Mr. Speaker, such third-party reimbursement legislation has been before the Congress for 10 years. During that time, cost savings estimates from OMB and CBO have ranged wildly and differed by hundreds of millions of dollars. From this history it is difficult to say if anyone can actually determine the economic impact of this legislation. Some would suggest it could result in additional costs and not savings. Neither the House Committee on Veterans' Affairs nor the Senate Committee on Veterans' Affairs, up to this point, has given any serious consideration to the implementation of such a plan.

In addition, all major veterans' organizations have analyzed the proposal and rejected it. In our view, supposed cost savings, if any, would be swiftly offset by increased administrative and cost accounting procedures, and would result in an increased financial burden on the American taxpayer in premium payments to support the program in the private sector. Quite frankly, Mr. Speaker, it is difficult for me to understand why the administration would introduce this proposal again, except to achieve another phony cost reduction line item in the VA budget to offset the positive proposals contained in the fiscal year 1981 budget request.

Our most immediate concern again this year is the maintenance of the VA hospital system and medical services programs. Once again, OMB has not shown adequate sensitivity to the medical needs of the American veteran or the demands placed upon the VA to maintain the quality and quantity of veterans' health care. Increases in medical care funding in the new proposed budget amount to $300 million, or 39.4 percent of the necessary funds required just to keep pace with the 13 percent rate of inflation last year. In other words, the medical care budget is nearly one-half billion dollars ($461 million) short of maintaining parity with current economic trends. The proposed budget also calls for a reduction of 1,600 hospital beds throughout the medical system raising that total to almost 7,000 hospital beds eliminated over a 2-year period and over 12,000 beds reduced since 1975.

Faced with these reductions, the Veterans' Administration has been forced to put an artificial ceiling on its inpatient and outpatient load projections for 1981. Showing only moderate increases, the 1981 patient levels are rated not on the number of eligible veterans the VA should be able to admit and treat, but are based on only the number of veterans they are physically able to treat with the resources available to them. This fact has been well documented in hearings before the House and Senate Veterans' Affairs Committees by VA Administrator Max Cleland.

In other words, eligible veterans have been, and will continue to be, under this new budget proposal, screened for treatment—some admitted under the system and others turned away to go begging for medical care. In response to this fact, the President's proposed 1981 budget calls only for an increase of 50 full-time medical care personnel for new programs, and 26 additional positions within the Department of Medicine and Surgery. Clinical staff education programs have been cut by $1 million, and domiciliary care down by one-half million dollars and 45 FTEE. Even the long-awaited readjustment counseling program for Vietnam era veterans, once a top priority, would only receive funds for five additional counseling centers leaving that new and highly innovative program still underfunded and understaffed.

Every estimate available to us shows the demand for VA medical care tripling in the next 15 years to meet the increased needs of 13 million World War II veterans, 6 million Korean conflict veterans, and 9 million Vietnam era veterans. Even now, the demand on the VA medical system has exceeded the premedicare years as older veterans return to the health care system provided for them by a grateful Nation. If the Veterans' Administration is not able to meet that demand now, how can it possibly be equipped to meet the needs of the American veteran in the future?

The Congress has spoken clearly on

this issue. Last year the House and Senate authorized the funds to reinstate 3,800 full-time medical personnel within the Department of Medicine and Surgery during fiscal year 1980. The Congress also required OMB, through a provision of Public Law 96-151, to use those funds only for that purpose. However, while those personnel are being replaced within the system, at the same time, OMB has directed the Veterans' Administration to absorb 40 percent of the annual Federal pay raise this year out of in-house funds, supplies, equipment, travel, drugs, and research. Twenty percent of the pay raise has come from the general medical care account—supplies and operating funds. Another 40 percent has been siphoned from the medical and prosthetic research account which had already been severely limited by straight-line budgets over the past several years. Regardless of minimal increases in these two areas planned for 1981, both vital functions of the VA medical system will suffer serious disruption this year.

For the past 2 years the Office of Management and Budget has thwarted the will of the Congress and used personnel authorizations for general operating expenses within the Veterans' Administration. This year, specifically directed by law to expend $76.3 million for personnel, OMB just dug deeper into existing Department of Medicine and Surgery funding to accomplish the same goal. From an accounting standpoint, the personnel are in place, but in essence, half of the 1980 appropriation, designed as a much needed across-the-board increase for the VA medical system, has again gone for other purposes. How can VA medical professionals maintain the quality of modern medical treatment without adequate administrative support, proper supplies and equipment? And how can the VA research program continue its remarkable record of scientific, medical, and prosthetic research and still serve as an incentive to attract and retain qualified medical personnel without adequate funds and facilities?

According to a provision of Public Law 96-22, the Veterans' Administration has just submitted for review by the House Committee on Veterans' Affairs a long overdue and extensive 5-year construction, renovation, and remodeling plan for VA facilities around the country. While we applaud and encourage this effort, we are concerned that new facilities, envisioned by this plan, will be of little use without the adequate personnel and funds to operate them effectively. Already the 1981 budget calls for the transfer of 244 full-time medical personnel in direct patient care positions from existing hospitals to new medical facilities. We intend to monitor this trend to insure that the VA does not spread its already limited resources too thin.

I acknowledge that most of this discussion has been critical. In that respect, I would fully expect the House Committee on Veterans' Affairs to hold hearings on the subcommittee and full committee level on these and other matters of concern in the near future. But while we have been critical, this criticism has only come from a concern for the maintenance of the integrity and continued success of veterans programs and services as we have known them and as we expect them to be in the future. Along these lines there is much in the 1981 proposed budget that will be beneficial to the veterans of this country.

The budget calls for a 13-percent increase in compensation and DIC payments for service-connected disabled veterans and the survivors of those who have died as a result of service-connected causes. Also, the administration has included funds for a 10-percent increase in education and training benefits under the GI bill for Vietnam era veterans and increases in certain other readjustment and rehabilitative services. The VA has stepped up its 5-year medical facilities construction plans by increasing the 1981 portion of that building schedule from $416 to $616 million. This plan will include six new nursing homes in fiscal year 1981. We are encouraged that the VA is starting to plan and build now to provide treatment and extended care for the expected increase in older veterans entering the system during the 1980's and beyond. Coupled with that effort, the budget alloted $2.4 million and 62 FTEE for additional specialists in geriatrics, spinal cord injury, and new substance abuse programs. We find these planning initiatives farsighted as long as they do not detract from or disrupt ongoing programs and services. There are great challenges ahead for the Veterans' Administration. But neither the VA nor the American veteran should have to go begging. Our goal on the House Committee on Veterans' Affairs will be to insure that the Veterans' Administration, now entering its 50th year of service to the American veteran, can maintain an equitable balance between benefits, programs, and increased development of services and facilities.●

□ 1740

A TRIBUTE TO WALTER KAITZ, GENERAL COUNSEL AND EXECUTIVE SECRETARY OF THE CALIFORNIA COMMUNITY TELEVISION ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. VAN DEERLIN) is recognized for 45 minutes.

Mr. VAN DEERLIN. Mr. Speaker, one of the most spectacular industrial trends of recent years has been the growth and spread of cable television. Nearly 15 million American homes now enjoy the multichannel availability of cable—most of them as a supplement to conventional over-the-air television.

CATV appeared first as a master antenna service providing TV in areas which—usually because of hilly terrain or other geographical factors—were denied over-the-air signals. Its birth, not surprisingly, was in mountainous Pennsylvania. Today cable is something quite different. Its ability to bring in distant signals by wire, microwave and satellite have transformed a "mom and pop" industry into a prospective rival to the three major broadcast networks.

Every burgeoning industry develops its own giants of leadership. My reason in taking the floor this evening is to honor one of those giants, Walter Kaitz of California. Mr. Kaitz died on December 29, at age 63.

As executive director of the California Cable Television Association, he had taken on the government-related problems of a fledgling industry, guided it through the uncertainties of regulations at all government levels and—in less than two decades—established the Nation's biggest and most sophisticated trade association of its kind.

The organization has grown so much under his tutelage that a recent cable industry get-together in Anaheim drew nearly 4,000 professional participants.

Not only a model manager for his association, Walter Kaitz was also a skilled legislative advocate. With his son Spencer, he was largely responsible for the passage of landmark legislation in the California Legislature. As chairman of the House Communications Subcommittee, I can personally testify to the long shadow he cast over deliberations on broadcasting matters in the U.S. Congress. It goes without saying, Mr. Speaker, that his was a beneficient influence.

I would like to offer my deepest sympathy to his immediate family—including especially his wife and partner, Dorothea. Also to his extended family, the people of the cable television industry, who have lost a great friend and unusual leader.

Mr. Speaker, I yield to my colleague, the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

It has been my privilege to know few men as kind, warm, gracious, honest, and energetic as Walter Kaitz. He was so decent and compassionate, full of life's vigor, with an enormous dedication to his family, his country, and his profession.

All who met Walter cared for him.

Walter Kaitz was, of course, general counsel and executive-secretary of the California Community Television Association, which he served with distinction for nearly 20 years. We were good friends from my days in the State legislature in Sacramento, and we worked closely together after I came to Congress. I was so pleased to see him and join with hundreds of others in honoring him at the Western Cable Show in Anaheim last December.

Walter Kaitz built the CCTA into the strongest and most effective State association for cable television in the Nation. His weapons were the strength of his convictions, his honesty, his leadership, and his desire to serve the public's interest. In seeking new laws which recognized cable's reality, he never demanded, but sought to educate and persuade. Walter Kaitz made the institutions of government work, and work fairly.

Walter nearly gave his life for his country in Patton's army in World War II. His heroism and perseverance were legendary. He was an inspiration to his comrades.

From such experiences came Walter's profound love for our country and its dedication to freedom, justice, and humanity. Walter valued these principles more than any other.

At Walter's funeral, his son Spencer read a journal entry which captured his father's life:

> He was a gentleman of exalted virtues and greatly loved and respected, an eminently worthy man.

I am certain that his wife, Dorothea, Spencer, and all the children take great comfort from Walter's life. To the entire family, I wish to extend my condolences.

Mr. VAN DEERLIN. Mr. Speaker, I yield to another colleague, the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I thank the gentleman very much for yielding.

Mr. Speaker, on December 29, 1979, a great man died. His name was Walter Kaitz. I am proud to say that he was a close personal friend of mine for nearly 20 years. He was best known for his firm and inspired leadership of the California Cable Television Association. Under his direction, the CCTA became the most highly organized and influential State cable association in the country. In recognition of this accomplishment, the National Cable Television Association has renamed its annual award to the outstanding State leader in Walter's honor. He was able to witness the first "Walter Kaitz" award presentation just a few days before his death.

Walter's accomplishments in the cable television area, as extensive as they were, are not the main reason I wish to honor him today. His professional success is merely a reflection of an extraordinary self-confidence and self-determination that resulted in Walter reaching much, much greater levels of success.

Walter was born to a life of poverty. After years of struggle he was awarded a scholarship to Harvard University, became a soldier, fought for our country in World War II, completed law school, was married and became a father. His was the classic "rags to riches" phenomenon. However, the most admirable thing about Walter was his ability to always maintain his perspective and his compassion for those who were not as fortunate as he. Being a lawyer myself, I am happy to say that he was a magnificent lawyer. We used to joke about opening a law firm together when both of us would have retired.

Walter was a devoted family man, involving his family in his personal as well as his business pursuits. He leaves four children; Spencer, Carolyn, Patty, and Gwendolyn, all of whom are, or soon will be, professional people, and his devoted and loving wife Dorothea.

No doubt Walter will be sorely missed by all who knew him. I feel a great personal loss in his passing. His family has lost a loving and devoted father and husband, the cable industry has lost a dynamic leader, and California has lost an exemplary citizen. He will long be remembered.

Mr. VAN DEERLIN. Mr. Speaker, I thank the gentleman.

I yield to another of our California colleagues, the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding, and I want to thank him for taking this special order so that we all may join in commemorating the loss of a great citizen.

Mr. Speaker, the cable television industry lost one of its most eloquent and effective leaders recently. Only days after he received a thunderous standing ovation at the industry's western show in Anaheim, Calif., Walter Kaitz, the executive secretary of the California Cable Television Association died at the age of 63. The applause for Kaitz in Anaheim began as he entered the room and never stopped until he rose to speak at the podium. He had come from his hospital bed to attend the annual trade show that had grown to the second largest in the industry under his leadership. He was at the podium to receive yet another honor from the industry he had served for 20 years. As the applause subsided, Walter Kaitz learned that the National Cable Television Association's annual award given for outstanding contribution to the industry made through a State or regional cable association was to be renamed the Walter Kaitz Award. It was his industry's last formal recognition of his work.

His labors on behalf of the cable television spanned three decades during which time he often found himself setting the pace for the rest of the industry. He was the first full-time professional staff member of any State cable association. He is singularly responsible for raising the profile of the cable industry among California State legislators, and for creating an organization that will continue his emphasis on broad participation in government affairs. His acknowledged expertise and energy spilled over to such an extent that he became a national spokesman for cable to many communications policymakers here in Washington, and in the Congress particularly.

Walter Kaitz worked hard at everything he did including fulfilling his family responsibilities. Instead of allowing his work to keep him from his loved ones, he brought them into his work here where they prospered. His son, Spencer, followed Walter into the legal profession and then as a full partner in the administration of the California cable television.

To my mind, a man achieves greatness, whatever his calling, when he enjoys the love of his family and respect of his peers. Walter Kaitz achieved both.

Walter was a good friend when I served in the State Senate in California and that friendship continued after my election to the Congress.

He will be missed, indeed.

□ 1750

Mr. VAN DEERLIN. Mr. Speaker, I thank the gentleman from California (Mr. LAGOMARSINO).

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my brief remarks today will be devoted to the late Walter Kaitz, a friend, a constituent, and a businessman and resident of the district that I am privileged to represent in the Oakland, Calif., area—a friend whom I met when I entered politics 10 years ago.

Walter pre-dated me in the political arena by some 20 years. He began as the first legislative aide that the California State Legislature ever hired.

He was a man who brought joy and friendship to his work. He brought honesty and honor and dignity to the profession of political advocacy. He was perhaps an inspiration and a motivating force behind the growth of the cable television industry and the benefits which that industry will bring to many people throughout the country.

Mr. Speaker, I will miss him, his colleagues will miss him, and I am sure that he will be remembered. His honor will be brought back to us many times through the members of his family who will stay on after him and will perpetuate the work and the good name of Walter Kaitz. We will miss him.

Mr. VAN DEERLIN. Mr. Speaker, I thank the gentleman from California (Mr. STARK).

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. VAN DEERLIN. Finally, Mr. Speaker, I yield to another of Mr. Kaitz's honored friends who knew him in the California Legislature, the gentleman from California (Mr. FAZIO).

Mr. FAZIO. Mr. Speaker, California lost one of her finest sons with the death of Walter Kaitz. Although Walter spent his early life in the Northeast, most of his adult life was devoted to serving the interests of Californians.

From South Boston, to Harvard College, to the front lines in Europe in World War II, Walter headed West to attend Berkeley Law School. He then became the first legislative assistant ever hired by the State legislature. He spent the last 30 years working with the legislature in one way or another, most recently as director of the California Cable Television Association. During those 30 years, Walter Kaitz built a solid reputation based on his personal integrity and forthrightness. He heralded a new era of legislative advocacy that rested on expertise on the issues and honest persuasion at a time when the standard operating procedure too often involved the frequent use of less laudable tools. He set an unmistakable example for other attorneys and advocates to follow. The legislative process was improved by his example.

Those of us lucky enough to have known Walter will all miss him. To his family, to whom he was devoted, I send my deepest sympathy.

Mr. VAN DEERLIN. Mr. Speaker, I thank the gentleman from California (Mr. FAZIO).

● Mr. MINETA. Mr. Speaker, the late Walter Kaitz in whose honor I stand today was an outstanding citizen whose achievements will be remembered for years to come.

Born in South Boston, Walter rose to success, most notably in his years working with the California State Assembly and finally in his tenure as director of the California Cable Television Association.

Anyone associated with Walter knew him as a man of some contradiction. He was always devoted to his causes, but always kept an open mind regarding other people's views. He was fiercely proud, yet maintained a sense of humility. He was forceful and ambitious in his career pursuits, yet never lost sight of the importance of a full family life.

Walter was a man whose personality and values enriched all of us who knew him. His death is a great loss. Yet, in the true Walter Kaitz fashion, I am confident that he would expect his family, friends and the cable industry to continue working and enjoying life as he did while he was with them.●

● Mr. COELHO. Mr. Speaker, I rise today to honor the memory of Mr. Walter Kaitz of California who passed away on December 29.

Walter Kaitz will be remembered for a number of accomplishments during his long career as the executive secretary of the California Cable Television Association. As the industry spokesman to the California Legislature since 1959, his reputation for honesty and personal integrity was legend. He began with the cable industry when it was still in its infancy, and was a significant force in raising its political sophistication both in California and around the country. His personal manner and ability to engender trust made many friends for cable television when it had few friends among the State and national communications policymakers who would decide its fate. Kaitz's reputation among cable executives quickly spread beyond Sacramento and California to Washington where his ability to articulate the cable industry's point of view was put to frequent and good use.

Walter Kaitz was one of the original grassroots lobbyists. He was imbued with politics and politicians and understood their needs and their motivations. In 1952 he became the first legislative assistant ever hired by the California Legislature, and he used that position to get a close-up view of legislative politics. When he agreed 7 years later to provide a "bill watching" service for the fledgling cable industry, he began his role as professor of practical politics for cable executives. He turned the cable association board of directors meetings into a series of political seminars aimed at assuring that his members became involved in the process of politics. One industry observer recalls of those days, "When you joined the California board, you started your political education."

His family remembers him as a devoted husband and father. His friends in the Congress and the California Legislature remember him as an able and effective advocate. His employers remember him as an industry leader. All of them remember him as a friend. Such a legacy any man would be proud to leave behind.●

GENERAL LEAVE

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order, the life, character, and public service of the late Walter Kaitz.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATION TO AMEND AGRICULTURAL ACT OF 1949

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, today I am introducing legislation that would require the Department of Agriculture to implement a land diversion program this year for corn and other feed grains. I am hopeful that my colleagues will join me in support of this bill so that we can assure the American farmer that he alone will not have to bear the cost of the administration's action to embargo additional grain sales to the Soviet Union.

In the days following the embargo, the administration gave repeated assurances to farmers that the necessary steps would be taken to make certain that farmers would not unduly suffer from the drop in commodity prices that was anticipated because of the embargo. However, because commodity prices have dropped significantly since imposition of the embargo, and because there is very little on the horizon to indicate that market prices will improve markedly for some time, the administration has failed miserably, I believe, in making good on its promise to sustain farm income.

During the weeks that have passed since the January 4 embargo, considerable fanfare has been made by Department of Agriculture officials and others that prices for grain futures contracts traded on the Chicago Board of Trade have generally improved since their initial plunge and that today commodity prices are nearly the same as preembargo levels. What disturbs me is that few USDA officials seem to understand that price improvement for futures contracts on the Chicago Board of Trade often is not fully reflected in the prices which farmers receive at their local country elevator.

For example, on the day before the embargo, corn was trading at $2.86 per bushel on the Chicago Board of Trade. However, in LeMars, Iowa, the price was a full 80 cents a bushel lower because of inadequate facilities for transporting the grain to the marketplace. As of yesterday, corn was at $2.73 on the Chicago Board of Trade, but just $1.90 at the LeMars elevator, and thus the difference in the two prices, or the so-called basis, is even wider today than before the embargo due to the heightened uncertainty and further clogging of our transportation system brought on by the embargo.

My point is not simply that the basis is growing ever wider—that fact is more an indication of the serious transportation problem which plagues our agricultural economy. Rather, I want to get across to USDA officials and others that the cash price which farmers receive for their commodities is drastically low, that prices remain far below the already low preembargo levels, and that price improvement on the Chicago Board of Trade often gives little indication of price relief for farmers. Moreover, farmers will not consider the embargo crisis to be over just because prices return to preembargo levels that were far below their cost of production. Farmers have a right to expect, based on the administration's assurances, that prices will be supported at a level that would reflect the likely seasonal level had the embargo not been imposed.

It is obvious, Mr. Speaker, that the administration has not made good on its promise that farmers will not have to bear an inequitable share of the burden imposed by the embargo. The bill I am introducing today would be a significant first step in addressing the shortcomings of the administration's current efforts to sustain commodity prices.

My proposal would assist farmers by curbing production to a level that would prove manageable given our current transportation and storage capabilities, while assuring that we have sufficient stocks for domestic and export use. More importantly, however, this land diversion program would be a truly effective method of providing producers with a reasonable return for their efforts.

Mr. Speaker, I sincerely regret that the economic plight of the farmer has once again made it necessary for me to urge USDA to ask farmers not to produce at the maximum potential so that commodity prices may be sustained at reasonable levels. As we all know, farmers do not like to have the Government involved in dictating agricultural policy, and they would much prefer that economic conditions would allow them to plant to their full potential and sell their crops for a reasonable price in the marketplace. But the embargo and other factors have made this goal unattainable.

I might add, at this point, that had the administration many months ago undertaken a massive alcohol fuels production program, as was urged by myself and several of my colleagues, farmers could now be benefiting from the rewards of the marketplace and there would be little need for the Government and farmers to worry about excessive grain stocks, depressed prices, and inadequate transportation network—and a farm fuel crisis.

Mr. Speaker, in the course of the next few days I also intend to introduce legislation that would increase the loan rate to farmers for keeping their grain in storage, as well as providing additional funds to farmers for storage facilities. Like the land diversion measure which I am introducing today, I am confident that these measures will win the full support of my colleagues.

The text of the bill follows:

H.R. 6382

A bill to amend the Agricultural Act of 1949 to establish a land diversion payment program, applicable with respect to the 1980 crop of feed grains

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 105A(f) of the Agricultural Act of 1949 (7 U.S.C. 1444c(f)) is amended—

(1) in the first sentence of paragraph (2) by striking out "(2) The" and inserting in lieu thereof the following: "(2) (A) Except as provided in subparagraph (B) for the 1980 crop of feed grains, the"; and

(2) by adding after such paragraph the following new subparagraph:

"(B) (i) The Secretary shall establish and announce, not later than March 1, 1980, a program under which a land diversion payment shall be made by the Secretary to a producer of feed grains if such producer is eligible for such payment under this subparagraph. Such program shall apply only with respect to the 1980 crop of feed grains.

"(ii) A producer of feed grains shall be eligible for a land diversion payment under this subparagraph if such producer devotes to approved conservation uses, in accordance with a land diversion contract entered into by the Secretary with such producer, an amount of cropland equal to 20 per centum of the acreage planted to the 1980 crop of feed grains of such producer. Such payment shall be computed by multiplying (I) the payment rate, as set forth in clause (iii), by (II) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield, by (III) the total acreage diverted to such uses. Payment under this subparagraph shall be made only if such total acreage diverted is, in accordance with such procedures as the Secretary shall by regulation prescribe, certified to the Secretary not later than July 1, 1980.

"(iii) For purposes of computing any amounts payable under this subparagraph, the payment rate for corn shall be $1.25 per bushel, and the payment rate for all other feed grains shall be such rate as the Secretary determines to be fair and reasonable in relation to such payment rate for corn.".●

FLORIDA'S LESSONS FOR AMERICA

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, it was with great pleasure that I attended, last Friday evening, a dinner at which the International Center of Florida in Coral Gables honored the recipient of the Bill Pallot International Achievement Award, the Honorable Maurice Ferre, the very able and distinguished mayor of Miami, in recognition of the magnificent contribution that Mayor Ferre has made toward making Dade County a great international center.

On that occasion a featured speaker was William F. Seawell. chairman of the board of Pan American World Airways, who spoke about the importance of Dade County as an international center of tourism, trade, and finance. Mr. Seawell pointed out that the Miami International Airport is the second-busiest airport in the Nation. He emphasized not only the remarkable growth of Dade County as a center of tourism, trade, and finance, but the magnificent prospect of the area assuming an ever-greater importance in the world in these meaningful areas. We, who live in Dade County, are proud of our progress and dedication through many great institutions, such as the International Center, toward enlarging our role in the affairs of the world. Pan American World Airways, too, has made a most-important contribution to the present growth and enlarging sphere of Dade County, along with the help of other great carriers.

I would like our colleagues and fellow citizens to know of the prospects of our Dade County area in these important spheres of the world in future days. I am pleased, therefore, to include in the body of the RECORD the able address of this outstanding American, chairman William F. Seawell:

FLORIDA'S LESSONS FOR AMERICA

Thank you, Mister Steinhoff, Mayor Ferre. Ladies and gentlemen.

I feel honored to be asked to address the annual Bill Pallot Award dinner of the International Center of Florida. For nearly a decade, this Center has pointed the way that Florida should be taking to secure a better, more prosperous existence for its people and its communities.

The ICF has played a leading role in alerting this state to the need for balanced economic and social growth; and to the contributions that international trade can make toward achieving such growth.

You have helped turn Florida into one of the most outwardlooking states of the Union—a state that now looks to Caracas and London, as well as to New York and Chicago, for its opportunities. During the 1970s, Florida benefited from your international view of this state's destiny. I hope that, in the 1980s, the entire nation will benefit from a similar broad view of our nation's place in world commerce.

And I am also honored to be part of this tribute to Mayor Ferre.

In his person and his policies, he embodies the new Florida. In less than three years, his campaign to create a Trade Fair of the Americas has helped make it one of the most important international trade shows in the United States.

And his support was essential to establishment west of the airport of a free trade zone that, even before its completion, promises major tangible benefits to this region's economy.

These two great projects serve to further remind the world of South Florida's commitment to furthering international trade and finance to the benefit of all who live and do business here, and of their customers.

As much as any other person in recent years, Mayor Ferre is responsible for a new era of prosperity, of homes, of jobs and of opportunities for personal achievement in this most dynamic of American states. He richly deserves the award you are giving him tonight. I can think of no one who has done more to merit it.

The playwright Ibsen once called those persons in the right who are most in league with the future.

Because of Florida's assets and outlook, and because of the work of many people in this room, Florida today is in league with America's future. You are, I hope, what America is still about. You are, I hope, what America's economic and social values will again come to be in the years ahead. For, while some of your assets are unique to South Florida, you have some important general lessons to teach the rest of the country.

The most important lesson is that no community need ever accept poverty, stagnation, drift or decline. It is within the power of every community, and of every living institution, to adapt creatively to change and to renew itself. This is what Metropolitan Dade County has done.

Only two decades ago, most Americans viewed Miami and Miami Beach as cities whose best days were behind them.

Miami had an aging downtown area, built up for the most part during the land boom of the '20s.

Miami Beach was being overtaken by newer resorts abroad, made newly accessible by jet travel, that offered the glamor of a foreign ambiance.

Dade County's economy was heavily dependent on two cyclical, boom-and-bust industries: tourism and construction.

These two industries were especially hard-hit during the 1974–5 recession, when unemployment in Dade County exceeded the national average.

It was obvious that Southern Florida had gone as far as it could with the economic base that had brought it prosperity and popularity during the previous half-century.

The time had come to adapt, to renew, and to build a new Metropolitan Dade with a more-balanced economic base. The time had come to test the spirit that had built up this region once, to see if it could do so again.

That spirit had two foundations. The first can be summed up in the popular Florida slogan of the 1930s: If you have oranges, make orange juice.

You became a state of great promoters. You had sun, so you made suntans popular. You had grapefruits and oranges, so you made us vitamin C conscious. You had land and forests, so you made millions yearn for a home in Florida.

And second, you realized very early in your history that newcomers were important to Florida. Moreover, your people had the vision and self-confidence to welcome newcomers as contributors to your region's welfare, and as men and women who would become good Floridians while, in the tradition of the American melting pot, subtly influencing this area's personality.

We Americans pride ourselves on being a cosmopolitan, open society. We are, after all, either immigrants ourselves, or descendants of some 50 million people who came here from every land seeking personal freedom and the opportunity to work and make something of their lives. But, even in America, Florida is unique.

If people have anything to contribute, they are truly welcome here. I think its symbolic of your openness, your willingness to afford opportunities to newcomers, and your confidence that this region will benefit from what newcomers have to offer, that 12 of your 17 Senators and Representatives in Congress were born outside this state, including all three Congressmen from Dade County: a Baptist from Alabama, a Jew from Alabama, and an Italian-American Protestant from Long Island. By this truly splendid standard of openness, tonight's guest of honor may be Florida's most typical citizen.

And so, in the 1970s, this region of promoters, and of open opportunities, looked around to see what "oranges" you had to be the basis of a newly dynamic Metropolitan Dade with a broad-based economy.

I think it fair to say that the answer was first thought of and put into practice by Coral Gables.

Until years ago, Coral Gables was content to be a stable, prosperous residential community with an attractive downtown "Miracle Mile" retail area. After Castro's takeover in Cuba, Coral Gables became the Latin American regional headquarters of some major multinational corporations. It liked what was happening to it and began, during the 1970s, its effective on-going campaign to become the headquarters of companies that wanted to do business with our neighbors to the south.

Today, Coral Gables is justifiably the

host to a hundred multinational company's, America's "world city," and the home of the International Center of Florida.

Coral Gables had learned—as the rest of Metropolitan Dade came to learn—that in the new economic world of global markets bound together by increasing dependence on other nations' goods and services, and sustained by revolutionary advances in transportation and telecommunications, multinational enterprises and international trade were inevitable growth sectors.

During the 1970s, revenues of multinational enterprises grew nearly 15 percent a year.

International trade reached $1.5 trillion—one-fourth of the $6-trillion gross world product. Many countries, such as Japan, depend on trade, not only for prosperity, but for survival, with international trade amounting to more than 80 percent of the country's gross national product, and accounting for a majority of its jobs.

The United States is probably less trade-conscious than is any other free world nation. At $150 billion, international trade amounts to only 6 percent of our $2-trillion-plus gross national product; but that figure compares to less than 2 percent of our GNP at the start of the 1970s.

Until recently, when we mentioned multinationals, we meant U.S.-based companies with facilities abroad. But, attracted by our political stability, our undervalued dollar, and our large domestic market, foreign-based multinationals have been increasing their investments in our country at a rate, during the past decade, of more than 20 percent a year.

I need not dwell on what your international approach has done for this area in the past few years:

Metropolitan Dade has become our national gateway to Latin America; our second-greatest international port for the movement of freight by air, and of people by air and sea; and our second-largest center of Edge Act banks that perform international banking services for those engaged in foreign commerce.

The Miami skyline is being made over with new high-rise office, apartment and hotel buildings—many of them financed by investments from abroad with funds provided by the nearly 20 foreign banks that now have offices here.

Miami Beach has revived as a popular year-round resort by becoming a major destination for overseas visitors from Latin America and Europe.

And, finally, Dade County has the broad-based economy is sought, with thousands of new manufacturing and service enterprises, large and small, representing many industries, attracted here from other states and from abroad by the opportunity you offer as a focal point for commerce between the United States and Latin America and, increasingly, between Europe and Latin America.

In consciously promoting multinational business opportunities in Metropolitan Dade, you used many of the same assets with which you attracted domestic visitors and investors: climate; land; skilled, productive workers—especially in the resort, construction and retail industries; safe and pleasant living and working conditions; and a hospitable attitude toward promotors and enterpreneurs.

To these you added the undervalued dollar, easier access to the enormous U.S. market and the glamor of foreign travel as incentives to overseas visitors and investors.

In all of these attractive assets, you had competition from other parts of the country.

But, as Coral Gables first realized, and as many prospective residents and investors came to recognize, you had two assets that were unique.

First was the genuine bicultural ambiance that has grown up in Metropolitan Dade since the first Cuban emigres came 20 years ago.

There is a special atmosphere about a region where two cultures meet that encourages social liveliness, cultural richness and economic creativity. One such place is the Rhineland, where German and Latin culture meet. Another today is Dade County, where North American and Latin American culture join.

Not only Latin Americans, but Europeans, can feel especially relaxed and at home here, whether they come to open factories, to work, to vacation, to retire or to invest in the new Florida.

The Cubans came because Miami was close, but they remained because Miami was hospitable. Their contributions have been enormous: as citizens; as a skilled bilingual work force; as professional people with contacts throughout the Americas and the Spanish-speaking world; as owners of new restaurants, speciality shops and retail outlets; as bankers, financiers and export-importers; and as owners of factories that provide tens of thousands of jobs for South Florida residents.

Your second unique advantage, which you emphasize in promoting this area, is your integrated transportation system centered around the Port of Miami and, especially, Miami International Airport.

Miami International makes it easier for any person or company doing business around Latin America to live in Miami than in any single Latin American city, and still have easy personal access to the entire continent. Miami International is served by more passenger and air cargo carriers than is any other airport in the Americas; it is today one of the world's great centers of international travel—right up there with New York, London and Hong Kong. It is a place that helps unite Miami with the rest of the world, and makes your new international outlook possible and easy to come by.

My company, Pan Am, is proud of the role we have played in developing Miami as an international transportation center, and are glad that our merger with National enlarges our presence here.

We began here in Miami 53 years ago, and have been here ever since.

From here, we learned to fly the oceans; to work with manufacturers to develop longer-range, safer, faster and more comfortable aircraft; and to work with communities—like Miami—to develop routes and schedules that best serve your needs.

We built the airport that later became Miami International, and have worked actively with airport authorities and with other carriers to improve its operations and help make it the major international hub it has become.

We have been generous to our competitors, sharing our knowledge and experience with them; training their pilots and support personnel; encouraging them to expand their services so that the flying public can be better served by the entire airline industry.

We led in the creation of a more open and competitive industry, with less restrictive regulations, and hope to see a more competitive industry in the international sphere.

We pioneered in tourist class and discount fares to attract more passengers, and are developing a more fuel-efficient fleet to better serve those passengers at reasonable cost despite the ten-fold increase in our fuel costs during the past decade. Fuel has replaced labor as our greatest single expense involved in providing you with service.

More than three decades ago, we concluded that dividing markets between domestic and international no longer made sense. We encouraged other airlines to apply for international routes—little knowing it would take us nearly 35 years to obtain the domestic routes we needed to meet our new competition and, incidentally, to give Miami a truly integrated transportation system. And, despite what you have read in the papers, every Pan Am employee, old and new, intends to work to give you such a system.

As you know, we are competing for the London-to-Miami route, which the British will permit only one U.S. carrier to have.

We think we deserve it for two good reasons.

One, the men and women of National did a darn good job of serving Miami-London, and deserve to develop that route even further as part of the newly merged carrier.

And two, just as Eastern worked with Miami to attract travelers here from the Northern United States, we have worked with Miami to attract travelers here from Europe and Latin America. With our experience, outlook, route structure and access to London-Heathrow Airport, we are the one competitor who can pledge to integrate Miami-London with a route network that can best serve the new, internationally-minded Miami of today—a network that will more conveniently connect Miami with all Europe, Latin America and the United States and facilitate Miami's rise as the great port for commerce between Europe and Latin America.

If I have spoken too long on this subject, it is because I am angry at those who oppose Pan Am because we "are not a Miami company."

In the first place, we are a Miami company, and have been so since 1927. We will be even more of a Miami company with the merger.

More important, that is just the kind of argument Miami and the United States can no longer afford at a time when—as you in this audience well know—we must think of larger markets and opportunities, of exports and imports, in order to survive and to prosper. You cannot appeal to the newcomers you need while discriminating against them. "Buy Miami" and "Buy American" are unworthy slogans that simply won't work any more. It is to the credit of the ICF and of the Coral Gables Chamber of Commerce that they think broadly of this region's role, rather than in terms of local businesses that fear new competition.

Moreover, these slogans are not needed.

During the 1970s, Miami proved it can define its attractive assets, pull its act together, and compete with anyone or anyplace in the world.

In the 1980s, I would like the entire United States to learn the larger lessons of what you are accomplishing here. I think it is important that our country do so.

Miami knows, and our country should know, that we must be "in league with the future." We must think largely of our role in the family of nations; be comfortable with people of all races and cultures; be confident of our ability to go out into the world to affirm our interests and the things we believe in, and to trade and create wealth for the benefit of our customers, ourselves, our communities and our country.

Miami knows, and our country should know, that for us to compete in the world, we must get our house in order. We must find out what our export markets need from us, and serve them as creatively as we serve our domestic markets.

We must again think of ourselves as the best producers of the world's goods and services. During the 1970s, we gave great weight to the concerns of consumers, of environmentalists, and others.

But Miami knows, and our country should know, that without productivity, we will no longer have the wealth to apply to these concerns. With productivity, we can provide consumers with safe, reliable products; clean up the environment; and apply a portion of the wealth created to social welfare problems. Without productivity, we can have none of these things.

Miami knows, and the country should know, that the best way to show concern for the poor is to provide them with jobs so that they can be proud workers able to support themselves and their families; and that the best way to provide jobs is to encourage people to take risks, to invest time and money in now and improved enterprises, and to see tangible rewards as a result. Metropolitan Dade provides such an atmosphere. It is a region that works for those who are willing to work, and to create wealth and jobs.

I am optimistic that these lessons are being learned.

Thanks to the good work of institutions like the ICF, the country is thinking international. We have, for the first time, a set of multinational trade regulations that the trading world has pledged to live with. We now have the opportunity to trade on an equal basis with other nations in most of the world's markets—provided we think internationally, and go after those markets.

And thanks in part to the excesses of the anti-productive forces in American life, we are again thinking like a nation of doers; a nation that thinks of reasons to create new energy, industries and jobs, rather than of reasons not to.

We will learn those lessons because South Florida is an excellent example of America's good aggressive attributes;

An active, vigorous, self-confident, imaginative and creative people who seek opportunities to do things.

If we in this audience believe in anything, it is that a free economic system supported by free men and women trying to make something of their lives can compete with any other nation in the world because we have something very worthwhile to offer. If anyone doubts it, let him walk around Miami.

You have the future of America here in this great state. And it works—if America will only grab it.

Thank you.●

ADDRESS BY SAM BRENNER, FORMER MAYOR OF SURFSIDE, AT VETERANS' DAY CEREMONY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, Mr. Sam Brenner, former mayor of Surfside, Fla., delivered a thought-provoking address on November 11, 1979, to those present at the Veterans' Day Ceremony at Veterans' Park in Surfside in Dade County. We all honor those who keep dreaming of the day when there will be world order and international as well as local crime will be restrained and punished. How tragic that we still live in a lawless world. If an individual murders another, he is ultimately held liable in the court where the crime occurred but if a nation, as did brutal Russia recently, bursts upon the borders of another nation and murders its people, destroys its property, and subjugates the population, under the present legal order of the world, there is no restraint or punishment which can be imposed. So I commend this devoted friend, Sam Brenner, that he has not lost his ideal of the happy day when there will be adequate curbs upon and redress for international as well as local crime.

I include the eloquent address of Mr. Brenner in the RECORD. Reading it will give encouragement, I hope, to many others to keep ever alive the flame of a similar faith:

THE LAST CALL

(Address by Sam Brenner)

As I gaze over all of you, ever so fondly, I think to myself, what clever business people all of you are. Not one of you would buy a car and drive it out on the street, unless it had insurance, for fear of scratching a fender. Yet, as clever as all of us are, we will build the world's great cities with all their gigantic skyscrapers and raise our families with tender loving care, having no real insurance that it all won't be blown to smithereens; other than that stupid idea that there is some insurance in the stockpiling of more and more nuclear bombs, when in reality all it does is plunge us upon that course, which is hell-bent for destruction!

Now how smart can we be?

"Oh once more ye laurels and once more!" as the poet John Milton cried upon his blindness, begging to see once more, so do I lament our blindness, as I come here to hear once more, the bugle call for peace. To me it is a clarion call for peace in addition to a tribute to our departed soldiers, invoking memories that they too once—

Lived and were loved, felt dawn, saw sunset's glow.
We are the mourners; look at us, across the world we go
Lovingly laden with flowers
Alike for the friend and the foe

On all the battlefields of time, tally the toll for us. Mourn not for us when we are dead, count the many millions instead, who died, on all the battlefields of time.

I come here to lament upon our blindness, and that once more we may yet have a last chance for survival. For we are blind to the solution of lasting peace.

With what exultation and considerable fanfare we celebrate peace treaties and SALT agreements! Under the circumstances of our times they are exceedingly vital and we must have them—yet I cannot help feeling that within the din and the clamour there is a certain amount of chloroform to anesthesize us and shroud the real issue of lasting peace.

"The risk of war has grown despite the talks" is pointed out to us in a recent Miami Herald article by James McCartney.

"Anybody who is complacent about the dangers of nuclear war is not looking at the facts," he quotes Shulman. "The deployment of weapons is moving much faster than the negotiating process." Shulman is not alone in his belief. "War is the probable outcome of the newly unrestrained arms race of the super powers," says Professor Kistiakowsky of Harvard University, one time science adviser to President Eisenhower.

Professor Richard Falk of Princeton University, a specialist in international law, told a nuclear war conference in Washington recently, "I am reluctant to sound like an alarmist, yet I feel a gloomy apprehension that we are entering a period in the history of the world that poses a greater danger of nuclear war than any we have known."

The talks have been in many ways, a cover for a continuing arms race in which each side has deployed thousands of new nuclear warheads, with greater destructive power, and also has developed and deployed new and more sophisticated delivery vehicles."

What is a peace treaty between armed camps anyway?

We know that at best an armed truce is nothing more than a temporary stay of execution. And the world is full of armed camps! Upon the slightest provocation there can be an all out nuclear holocaust. And as desirable as SALT II is, and we must have it, wars can start with whatever amounts of weaponry exist at the disposal of nations and can escalate into greater conflict. So the madman of war is far from being put into the straight jacket where he belongs.

What are we blind to?

We are blind to the fact that there is no excuse for us to be living in the dark ages, in the stone age of international law and order, at a time when the technology of a nuclear age is running rampant all over us. And we are in jeopardy to its threat of world holocaust!

We must be in step. We cannot let the destructiveness of the nuclear age outdistance the age of international law and order. We need not be afraid to talk to the Russians to create a true world order, protecting all nations regardless of their race, color, creed, or form of government. It is to their benefit as well as ours. There is no excuse for our liability to have the forces of destruction outdistanced by the forces of construction, which "a time like this demands".

We are blind to the fact that there is no excuse for us having to live in dread of a moment which James McCartney depicts in the Miami Herald of May 13.

"From somewhere in Russia a giant missile roars out of an underground silo and speeds into the atmosphere in a great arc at 17,000 miles per hour.

Twenty five minutes later its nose cone re-enters the atmosphere, over the Eastern United States, 6,000 miles away and automatically fires 10 nuclear warheads at separate targets.

Three one-megaton bombs go for New York, two each for Philadelphia and Washington, and one each for Boston, Baltimore and Pittsburgh.

A few minutes later, more than 4.5 million Americans are dead, more than 9 million others are injured and still more millions will die or be permanently maimed in weeks ahead from the fallout."

What madness has befallen us? We cannot go on like this!

"Is this the dream he dreamt who shaped the suns.

And marked their ways upon the ancient deep?"

This wasn't man's dream either!

Is this why we learned to read and write and taught our children how to walk?

What manner of mankind are we that we preserve species of animals from becoming extinct, yet we do not preserve our own homo sapiens? Is it the past that has thrown a curse upon us, then let us forget the past if it has become a breeding ground for revenge, and a seed for vengeance and future wars. What psychological link that chains us to the past must we shatter to be free and rid of its animosities?

The problems of economics that are inherent in our times are bad enough to plunge us into wars without having to augment them with past hatreds.

We are going to form a world order and rebuild the world into what it should have been when we were born to it. No! We're not going to lie down and die. We're not going to shut the barn after the horse has been stolen. We're not going to wait until our Biscayne Boulevards become bombed out Hiroshima streets!

Whose voice shall you heed, theirs or mine? Those who claim wars are inevitable, that we must have a nuclear war before we can have another short lived peace? Whose voice shall you heed, theirs or mine? We shall build a new world order, with proportionate representation for all nations within that order. We shall start with a new set of axioms. We shall paraphrase Sir Walter Scott and say,

Breathes there the man with soul so dead
Who never to himself hath said
This is my own my blessed world
Whose heart hath ne'er within him burned
As lands were ravaged and people pillaged.

This is the burning issues of our times and by far greater than the things with which we concern ourselves. As important as those things are, yet this is the priority: that along with all the other nations we must relinquish an adequate proportionate percentage of our fighting force, towards the creation of a heterogeneous peace-keeping force, diminishing the weaponry of the nations accordingly and in stages, until the preponderance of the worlds might is in the hands of an impartial peace keeping body. This body is to supervise the dismantling of all nuclear bombs, and then diminish its own might when it no longer becomes necessary to have such a powerful force—due to lack of usage, there being no power of confrontation among the nations.

And we shall recognize in our new set of axioms that while there exists any nation upon the face of the earth that has access to a fighting force of capital arms the world is at war and there is no peace.

Peace! Peace! What is the axiom for peace?

Peace is when the preponderance of the worlds might is in the hands of an impartial body, duly and proportionately representative of all the nations.

"What hath God wrought?" Samuel Morse cried out in glee upon his wireless invention! "What has man wrought?" we all must cry out, in pain and dreadfullness upon another invention, the atomic bomb, which has brought us into this nuclear age. Look at what the nations have devised and done!—as a result of having the sovereignty to arm and wage war! They have forfeited and lost that sovereignty forever.

The wherewithal with which to wage war must be made inaccessible to the nations! And the benefits derived by all will be innumerable. What is the real cause of inflation if not the international nuclear arms race, with its equivalent of 30,000 pounds of dynamite already waiting and escalating for every man, woman and child out there in launching ships and submarines in the seas.

Yet, We shall succeed for "Necessity is the mother of invention".

We have the U.N. Let's use it. Let's restructure it equitably and proportionaly and make it work, with checks and balances like our own form of government. We are blind to the fact that we have an example of a world order right at our feet. It's like John Keats said, "I cannot see what flowers are at my feet;" neither can we see "what flowers are at our feet." We are blind.

We live in a world order right here in Miami. We have a melting pot of all nations. They do not have fighting forces of their own. If they did they would be constantly at war with each other. We have a peace keeping force of many nationals in our police department and army. Although most of them are Baptists, they don't overwhelm the minorities because they have been trained by a constitution which protects all of the inhabitants. All I ask is to blow that up on an international scale. The U.N. cannot be subordinate to any nation or groups of nations; those nations must be subordinate to the U.N.

World Federation is a must in this race between time and the tinder box of the nuclear bomb. The fuse has been ignited by the very fact that those bombs are staring at us, out from the sea, and on launching pads. Have you ever known Man not to use newly improved weapons of war when it becomes expedient for him to do so, for whatever reason? Didn't we do it? Rest assured it will be done to us unless we act to extinguish that fuse around the world through an equitable system of world order for all peoples. And there must be this higher authority, this world order which is father protector to all peoples and to which we can look for protection and prevention of war in this lawless jungle of nations. We can no longer live in a world where nations are wild beasts roaming the jungles of nationalism.

We must clear those jungles and tame the wild beasts. Man has become the greatest predatory beast of all times. And to counteract this we must rebel against the old fashioned ideas of the sovereignty of nations to wage war, and relinquish that sovereignty provided all nations do the same. And we and all the nations will do it, because it is for the benefit of all the nations.

We are the people; we are our own eternity. Yet we are like one lost among the seedlings of a thousand eras with ideas that cannot bloom, that cannot take hold until we rid ourselves of the shortcomings of the past.

We need men and women whose hearts and souls thirst and hunger for the building of the U.N. into a true impartial world order for the protection of all nations, regardless of their race, color, creed and form of government.

Blow the bugle in this greatest clarion call of all times, in a last call for peace through world order. And rouse these men from their graves who in their hearts fought for that peace, that they may march again, together with us for this purpose.

And lest we act together in a last call for this world order, a nuclear Holocaust will descend upon us.

And let us not deceive ourselves, for we are still here—

As upon a darkling plain
Where ignorant armies clash by night.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Jones of North Carolina (at the request of Mr. Wright), after 2 p.m. today, on account of official business.

Mr. Hagedorn (at the request of Mr. Rhodes), from 2:30 p.m. today, on account of official business.

Mr. Thompson, for February 4 and February 5, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Erdahl) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 10 minutes, today.
Mr. Gilman, for 30 minutes, today.

(The following Members (at the request of Mr. Moakley) to revise and extend their remarks and include extraneous material:)

Mr. Bolling, for 60 minutes, today.
Mr. Moorhead of Pennsylvania, for 60 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Nelson, for 5 minutes, today.
Mr. Rodino, for 5 minutes, today.
Mr. Bingham, for 5 minutes, today.
Mr. Thompson, for 5 minutes, today.
Mr. Conyers, for 5 minutes, today.
Mr. Alexander, for 5 minutes, today.
Mr. Roberts, for 5 minutes, today.
Mr. Van Deerlin, for 45 minutes, today.
Mr. Bedell, for 5 minutes, today.
Mr. McKay, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Erdahl) and to include extraneous material:)

Mr. Moore.
Mr. Gilman.
Mr. Derwinski in two instances.
Mr. Dornan in two instances.
Mr. Lujan in two instances.
Mr. Evans of Delaware.
Mr. Ashbrook in three instances.
Mr. Corcoran.
Mr. Hollenbeck.
Mr. Stanton.
Mr. Gilman.
Mr. Abdnor.
Mr. Pursell.
Mr. Petri.
Mr. Rudd.
Mr. Findley.
Mr. Lee.

(The following Members (at the request of Mr. Alexander) and to include extraneous material:)

Mr. Solarz in four instances.
Mr. de la Garza in 10 instances.
Mr. Nolan.
Ms. Mikulski.
Mr. Stokes.
Mr. LaFalce.
Mr. Mathis.
Mr. Fauntroy.
Mr. Simon.
Mr. Glickman.
Mr. Coelho.
Mr. Ratchford.
Mr. Lowry.
Mr. Hawkins.
Mr. Lloyd.
Mr. Atkinson.
Mr. Markey in five instances.
Mr. D'Amours.
Mr. Bedell.
Mr. Cavanaugh.
Mr. Edwards of California.
Mr. Peyser.
Mr. Alexander in two instances.
Mr. Donnelly.
Mr. Dodd.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 546. An act for the relief of Beatrice Braude; to the Committee of the Judiciary; and

S. 1798. An act to reduce regulation of and increase competition in the household goods moving industry, and for other purposes; to the Committee on Public Works and Transportation.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bill of the Senate of the following title:

S. 423. An act to provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution for minor disputes.

ADJOURNMENT

Mr. FAZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until Monday, February 4, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3347. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the 1979 report on human rights conditions in 154 countries, pursuant to sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

3348. A letter from the Secretary of Defense, transmitting the annual report of the Department of Defense; to the Committee on Armed Services.

3349. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1981, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, and for other purposes; to the Committee on Armed Services.

3350. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting notice of the Air Force's intention to omit the clause authorizing the Comptroller General to examine certain records which would otherwise be required to be included in a contract with the University of Philippines of the Philippines for performance at Clark Air Force Base, Philippines, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

3351. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Naval and Marine Corps Reserves, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3352. A letter from the Commissioner of Education, Office of Education, Department of Health, Education and Welfare, transmitting proposed final regulations for Assistance to States for Education of Handicapped Children, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3353. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain military equipment to Saudi Arabia (Transmittal No. 80–41), pursuant to section 813 of Public Law 94–106, as amended; to the Committee on Armed Services.

3354. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Saudi Arabia (Transmittal No. 80–41), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3355. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $2742.93 in excess royalty payments to ARCO Oil and Gas Co.; $4,402.85 to Chevron U.S.A. Inc.; and $23,380.20 to Exxon Co., U.S.A.; pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3356. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $19,780.23 in excess gas royalty payments to Marathon Oil Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3357. A letter from the Director, Office of Personnel Management, transmitting a report on actions on positions in grades GS–16, 17, and 18 during calendar year 1979, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

3359. A letter from the Comptroller General of the United States, transmitting a report on the effect of water supply on meeting energy development goals (CED–80–30, January 24, 1979); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

3358. A letter from the Comptroller General of the United States, transmitting a report on the joint tactical information distribution system (PSAD–80–22, January 30, 1979); jointly, to the Committees on Government Operations and Armed Services.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOLLING:

H.R. 6380. A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of government in the United States and of restoring public confidence in government at all levels; to the Committee on Government Operations.

By Mr. ABDNOR:

H.R. 6381. A bill to amend the Milwaukee Railroad Restructuring Act to direct the Interstate Commerce Commission to order directed service over certain lines of the Milwaukee Railroad located in the State of South Dakota; to the Committee on Interstate and Foreign Commerce.

By Mr. BEDELL:

H.R. 6382. A bill to amend the Agricultural Act of 1949 to establish a land diversion payment program, applicable with respect to the 1980 crop of feed grains; to the Committee on Agriculture.

By Mr. DONNELLY:

H.R. 6383. A bill to designate Building No. 1 at the Veterans' Administration Medical Center in Brockton, Mass., as the Everett E. Crosier Center; to the Committee on Veterans' Affairs.

By Mr. DUNCAN of Tennessee:

H.R. 6384. A bill to improve the intelligence system of the United States, and for other purposes; jointly, to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence.

By Mr. EVANS of Delaware:

H.R. 6385. A bill to amend section 662(a) of the Foreign Assistance Act of 1961 to provide that the reports of the President to Congress under such section on certain activities by the Central Intelligence Agency be submitted only to the Committee on Intelligence of each House of Congress; jointly, to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence.

By Mr. KASTENMEIER (for himself and Mr. RAILSBACK):

H.R. 6386. A bill to authorize appropriations for the Legal Services Corporation for fiscal years 1981, 1982, and 1983; to the Committee on the Judiciary.

By Mr. LAFALCE:

H.R. 6387. A bill to amend the Internal Revenue Code of 1954 to provide that, for purposes of the Federal estate tax, amounts contributed to certain cemetery companies may be deducted from the gross estate; to the Committee on Ways and Means.

H.R. 6388. A bill to amend the Internal Revenue Code of 1954 to provide that, for purposes of the Federal estate tax, amounts contributed to certain cemetery companies may be deducted from the gross estate; to the Committee on Ways and Means.

By Mr. MOORE (for himself, Mr. MATHIS, and Mr. LOTT):

H.R. 6389. A bill to amend the Internal Revenue Code of 1954 to provide that certain evergreen trees more than 3 years old will be treated as timber; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 6390. A bill to amend the Atomic Energy Act of 1954, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. NOLAN:

H.R. 6391. A bill to make emergency operating loans available to certain producers; to the Committee on Agriculture.

H.R. 6392. A bill to provide for the establishment of a board which will establish and administer agricultural production and marketing programs, and for other purposes; jointly, to the Committees on Agriculture, Foreign Affairs, Interstate and Foreign Commerce, and Ways and Means.

By Mr. PEYSER:

H.R. 6393. A bill to amend the Internal Revenue Code of 1954 to exclude $500 of interest on savings from the gross income of each individual who has attained age 65; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 6394. A bill to improve the Federal judiciary machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHEUER:

H.R. 6395. A bill to amend the Consumer Product Safety Act to modify certain post-employment restrictions applicable to officers and employees of the Consumer Product Safety Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. SEIBERLING:

H.R. 6396. A bill to amend the Internal Revenue Code of 1954 to provide individuals a refundable income tax credit for 50 percent of the amount of energy saved during the taxable year with respect to the principal residence of the taxpayer; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 6397. A bill to amend the Internal Revenue Code of 1954 to exempt from the motor fuels excise tax any alcohol fuel made from alcohol produced from coal; to the Committee on Ways and Means.

By Mr. WALGREN:

H.R. 6398. A bill to promote highway safety, to reduce highway fatalities and injuries, to minimize property damage by encouraging the safe operation and maintenance of commercial motor vehicles, to minimize dangers to the health of operators when operating commercial motor vehicles, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BROWN of Ohio (for himself and Mr. Rousselot):

H.R. 6400. A bill to amend the Internal Revenue Code of 1954 to provide for a 50-percent maximum rate of income tax for individuals, to provide for a separate computation of such tax on personal service income and nonpersonal service income, and for other purposes; to the Committee on Ways and Means.

By Mr. NOLAN:

H.J. Res. 495. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

By PHILIP M. CRANE:

H. Con. Res. 270. Concurrent resolution expressing the sense of the Congress that the President should call upon the International Committee of the Red Cross to visit and account for the U.S. citizens being held hostage in Iran; to the Committee on Foreign Affairs.

By Mr. PANETTA:

H. Con. Res. 271. Concurrent resolution expressing the sense of the Congress that the President should establish a commission to examine national service programs; jointly, to the Committees on Armed Services, Education and Labor, and Foreign Affairs.

By Mr. BOLLING (for himself and Mr. Quillen):

H. Res. 552. Resolution providing funds for the Committee on Rules; to the Committee on House Administration.

By Mr. DUNCAN of Tennessee:

H. Res. 553. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. FOLEY (for himself and Mr. Wampler):

H. Res. 554. Resolution to provide funds for the expenses of the investigations and studies to be conducted by the Committee on Agriculture; to the Committee on House Administration.

By Ms. OAKAR:

H. Res. 555. Resolution expressing the sense of the House of Representatives that if the United States does not participate in the 1980 summer Olympic games, athletic games should be held in the United States for the participation of athletes from the United States and from other other countries, to the Committee on Foreign Affairs.

By Mr. SMITH of Iowa:

H. Res. 556. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Small Business; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LaFALCE:

H.R. 6399. A bill for the relief of Hyon Cha Wienke; to the Committee on the Judiciary.

By Mr. YOUNG of Missouri:

H.R. 6401. A bill for the relief of Oazi Saleem; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1129: Mr. Dougherty.

H.R. 1200: Mr. Rahall.

H.R. 1785: Mr. Whitley, Mrs. Byron, Mr. Breaux, Mr. Barnes, Mr. Maguire, Mr. Jones of Tennessee, Mr. Patten, Mr. Quillen, Mr. Mazzoli, Mr. Murphy of Illinois, Mr. Stokes, Mr. Mavroules, Mr. Seiberling, Mr. Bailey, Mr. Evans of Delaware, Mr. Quayle, Mr. Rinaldo, Mr. Kramer, and Mr. Hanley.

H.R. 1850: Mr. Fazio.

H.R. 3368: Mr. Bereuter.

H.R. 3789: Mr. Daschle.

H.R. 4253: Mr. Dougherty.

H.R. 4513: Mr. Nolan and Mr. Pepper.

H.R. 4786: Mr. Oberstar.

H.R. 5616: Mr. Waxman.

H.R. 5697: Mr. Lungren.

H.R. 5795: Mr. Waxman.

H.R. 5961: Mr. Minish and Mrs. Spellman.

H.R. 6060: Mr. Lungren.

H.R. 6070: Mr. Rudd.

H.R. 6206: Mr. Abdnor, Mr. Buchanan, Mr. Chappell, Mr. Coughlin, Mr. Murphy of Illinois, Mr. Panetta, Mr. Slack, Mr. Traxler, Mr. Findley, Mr. Robinson, and Mr. Young of Alaska.

H.R. 6244: Mr. Drinan, Mr. Edwards of California, Mr. Johnson of California, Mr. Conte, Mr. Stark, Mr. Lagomarsino, and Mr. Lungren.

H.R. 6316: Mr. Evans of Georgia, Mr. Regula, Mr. Hance, Mr. Lujan, Mr. Lagomarsino, Mr. Bafalis, Mr. Kogovsek, Mr. Devine, Mr. Dannemeyer, Mr. Winn, Mr. Kelly, Mr. Emery, Mr. Walker, and Mr. Broomfield.

H.J. Res. 276: Mr. Bauman, Mr. Bedell, Mr. Bereuter, Mr. Corrada, Mr. Dan Daniel, Mr. Evans of the Virgin Islands, Mr. Florio, Mr. Hefner, Mr. Horton, Mr. Hughes, Mr. Jeffords, Mr. Lagomarsino, Mr. Lundine, Mr. Mathis, Mr. Scheuer, Mr. Simon, Mr. Snyder, Mr. Stokes, Mr. Tauke, Mr. Whitehurst, Mr. Wolpe, Mr. de la Garza, and Ms. Mikulski.

H.J. Res. 372: Mr. Eckhardt, Mr. Wirth, Mr. Stratton, Mr. Panetta, and Mr. Coelho.

H.J. Res. 463: Mr. Akaka, Mr. Albosta, Mr. Ambro, Mr. Archer, Mr. Bafalis, Mr. Bereuter, Mr. Brown of Ohio, Mr. Brown of California, Mr. Bowen, Mr. Brodhead, Mrs. Collins of Illinois, Mr. Conte, Mr. Corman, Mr. Courter, Mr. D'Amours, Mr. Dodd, Mr. Dougherty, Mr. Duncan of Tennessee, Mr. Emery, Mr. Fary, Mrs. Fenwick, Mr. Findley, Mr. Fisher, Mr. Florio, Mr. Ford of Michigan, Mr. Fuqua, Mr. Ginn, Mr. Gramm, Mr. Green, Mr. Gudger, Mr. Hance, Mr. Harris, Mr. Heftel, Mr. Hollenbeck, Mr. Hubbard, Mr. Leach of Louisiana, Mr. Lehman, Mr. Leland, Mr. Lewis, Mr. Long of Louisiana, Mr. Luken, Mr. Lundine, Mr. Lungren, Mr. Lujan, Mr. McCloskey, Mr. McHugh, Mr. Markey, Mr. Shelby, Mr. Pashayan, Mr. Patterson, Mr. Paul, Mr. Price, Mr. Robinson, Mr. Sebelius, Mr. Simon, Mr. Stanton, Mr. Symms, Mr. Thomas, Mr. Thompson, Mr. Udall, Mr. Vander Jagt, Mr. Walgren, Mr. Williams of Ohio, Mr. Winn, and Mr. Bob Wilson.

H. Con. Res. 257: Mr. Whitehurst, Mr. Lent, Mr. Rousselot, Mr. Cleveland, Mr. Carter, Mr. Moorhead of California, Mr. McDonald, Mr. Lungren, and Mr. Wydler.

H. Res. 267: Mr. Dougherty.

H. Res. 547: Mr. Zablocki, Mr. Evans of Georgia, Mr. Kindness, Mr. Winn, Mr. Patten, Mr. Lloyd, Mr. Luken, Mr. Dougherty, Mr. Dornan, Mr. Applegate, Mr. Fazio, and Mr. Whittaker.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4788

By Mr. ERTEL:

(Substitute amendment for the amendment offered by Mr. Fithian.)

—Page 171, after line 25, insert the following:

(e) The following projects are not authorized after the date of enactment of this Act:

(1) the navigation project on the Illinois Waterway, Illinois and Indiana, authorized by section 101 of the River and Harbor Act of 1962 (Public Law 87-874);

(2) the flood control project for the Big Blue River, Wabash River Basin, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742);

(3) the portion of the Norfolk Harbor and Thimble Shoal Channel, Virginia, improvement project (authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1250)) identified in paragraph 2(2)(b) of the report of the Chief of Engineers, Department of the Army, dated February 19, 1954 (Senate document numbered 122, Eighty-third Congress, second session, pages 1 and 2) as "an anchorage 38 feet deep and 1,500 feet square, an anchorage 35 feet deep and 1,500 feet square, and an anchorage 20 feet deep, 1,000 feet wide, and 3,000 feet long, opposite Lambert Point and south of Craney Island.";

(4) the project for Cascadia Dam and Reservoir, South Santiam River, Oregon, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193);

(5) the flood control projects for South Plymouth and Genegantslet Lakes, Susquehanna River Basin, authorized by section 10 of the River and Harbor Act of December 22, 1944 (58 Stat. 893);

(6) the projects for West Oneonta Lake, Davenport Center Lake, and Copes Corner Lake, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1573);

(7) the project for improvement of the Chester River, Pennsylvania, authorized by the first section of the River and Harbor Act of March 2, 1919 (40 Stat. 1277);

(8) the project for the Connecticut River, above Hartford, Connecticut, authorized by the first section of the River and Harbor Act of July 3, 1930 (46 Stat. 919);

(9) the project for Sixes Bridge Dam and Lake, Maryland, authorized by section 85 of the Water Resources Development Act of 1974 (88 Stat. 36);

(10) Salt Creek Lake, Salt Creek, Ohio, authorized by the Flood Control Act of 1962 (76 Stat. 1188);

(11) Lincoln Dam and Reservoir, Wabash River, Illinois, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1081);

(12) Helm Lake, Skillet Fork of the Little Wabash River, Illinois, authorized by section 203 of the Flood Control Act of 1968 (83 Stat. 742-743);

(13) the project for Coney Island Creek, New York, authorized by the River and Harbor Act of August 30, 1935 (49 Stat. 1030).

(f) No Federal money may be authorized for planning or implementation of the Northfield Mountain Water Supply Project, Massachusetts, or the Miller's River Basin Water Supply Project, Massachusetts.

(g) The Secretary of the Army, acting through the Chief of Engineers, shall review and restudy the following projects and report to Congress not later than June 30, 1981, the costs of such projects, including the cost-benefit ratio, as of the date of the submission of such report, as well as the other results of such review and restudy together with recommendations, including, but not limited to, recommendations concerning the continued authorization of such projects;

(1) the Lafayette Lake Dam and Reservoir project, Wabash River, Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298); and

(2) the project for Elk Creek Lake, Rogue River Basin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1192).

EXTENSIONS OF REMARKS

OLYMPIC GAMES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. DERWINSKI. Mr. Speaker, May I point out that for many years the issue of the Olympics being held in Moscow has been protested by the members of the Estonian American National Council. The Estonian community in the free world has objected to the Soviets hosting the games on behalf of those non-Russian peoples being held captive of communism in the U.S.S.R. The invasion of Afghanistan is further evidence of their plea that has continually been disregarded by the International Olympic Committee. I wish to insert into the RECORD a statement by the Estonian American National Council which directs attention to the plight of the Estonians in the Soviet Union.

In addition, following that message, I would like to include an article that appeared in the January 29 Christian Science Monitor, by David K. Willis. Mr. Willis points out the fervor that has been restored to Baltic nations as a result of recent diabolical actions by the Kremlin. These reports follow:

Statement of the Estonian American National Council

OLYMPIC GAMES 1980

As part of the Olympic Games in Moscow, a Yachting Regatta will be held in Tallinn, capital of the Soviet-occupied Republic of Estonia.

The Soviet Russian rulers in Estonia are using this event for their political propaganda purposes.

Most countries of the free world have never recognized the forcible annexation of the three Baltic States, Estonia, Latvia and Lithuania, by the Soviet Union. This illegal act took place in 1940 as a result of the notorious pact between Stalin and Hitler.

Since then Soviet Russia has made efforts to cover up this international crime. By bringing the Olympic Regatta to the territory of an occupied country, the Russians intend to give the impression that conditions there are quite "normal" and the incorporation of Estonia into the Soviet Union a generally accepted fact.

During the period of Estonia's freedom, Estonian athletes participated under their national colors in Olympic Games and other international contests. If Estonia would be a free country, all the people would have greeted with pleasure the Olympic Regatta in Tallinn, a well-known center of yachting on the Baltic Sea. However, under present circumstances the Estonians look at this event with mixed feelings nor dare they express freely their thoughts about it.

As a commendable example of understanding of the Estonian problem, we quote in English translation the following passage of an article in the Norwegian yachting magazine "Seilsport" (No. 2—1977):

"Should or ought Norwegian yachting sportsmen or those from other free countries take part in a sporting contest with the Russians on occupied Estonian territory in 1980? If Germany had won the last war, what would the Norwegians have said and thought when German-arranged winter Olympics had been held in Oslo? Would not a participation in Tallinn be a mockery against all freedom-loving people over the whole world, and especially against the occupied Estonians?

"Should not the Norwegian yachting sportsmen and organizations show a straight-forward adherence to leading principles of life among free people and abstain from participating in Tallinn, and preferably take the initiative to a similar attitude among yachting sportsmen of other countries?"

The Estonian community in the free world is appealing to all concerned to realize under what conditions the Olympic Regatta is being held in Estonia and to refrain from any acts which would damage the justified claims for freedom of the Estonian people or the international status of the Republic of Estonia.

[From the Christian Science Monitor, Jan. 29, 1980]

Fresh Burst of Baltic Nationalism Hits Kremlin

(By David K. Willis)

A new stirring of nationalist feeling inside Soviet Baltic states has generated two new public criticisms of the Kremlin on extremely sensitive issues here.

An open letter to Leonid Brezhnev in his capacity as chairman of the Presidium of the Supreme Soviet (nominal parliament), and to UN Secretary-General Kurt Waldheim, condemning the Soviet invasion of Afghanistan.

The letter drew a parallel with the Soviet troops that marched into the Baltic states in 1940. It was signed by five Estonians and 25 Lithuanians and Latvians.

An appeal to the International Olympic Committee and the national Olympic committees of the United States, Canada, Britain, and other states, asking that the 1980 summer games be moved outside the Soviet Union.

No nation at war should take part in the games, the appeal said, since the Olympics symbolize peace. Also, for nations that do not accept the annexation of the Baltic states by Moscow in 1940, holding the Olympic regatta in Tallinn (the capital of Estonia) "tramples on the principles of the Olympic Games."

The two documents, both dated Jan. 28, were released by Estonian scientist Jurii Kukk. They follow similar appeals on Afghanistan and the Olympics by exiled Nobel Peace Prize winner Andrei Sakharov and other dissidents here.

They are part of a fresh burst of nationalism in the Baltic following the signing of a so-called Baltic charter by 45 people last August. The "charter" called for full independence for the Baltic states (which were separate nations between the two world wars) and disclosure of secret clauses in the Molotov-Ribbentrop Pact of 1939, which led to annexation by Moscow.

On Christmas Eve several hundred people in the Estonian university town of Tartu staged a demonstration calling for independence. The four Estonian signers of the "charter" have been fired or threatened with losing their jobs.

The men—Mart Niklus, Erik Udam, Enn Tarto, and Endel Ratas—all signed the two latest statements.

So did Mr. Kukk, who resigned from the Communist Party last May after being a member for 12 years. He had spent almost a year working in a laboratory for "interfacial electrochemistry" near Paris. "When I returned, my social views had changed very much," he said.

He is a relative newcomer to dissident activity. He has now asked the Supreme Soviet to annul his Soviet citizenship. Reluctantly, he thinks he will have to apply to live abroad.

The open letter on Afghanistan said the Soviet Union used the Soviet-Afghan friendship treaty as the reason for armed intervention. But the Soviets had not explained which Afghan government asked for the troops. Nor had the Afghans complained to the United Nations about any "external threat."

Besides, it went on, the intervention contradicted a 1933 Soviet-Afghan agreement that defined "aggression" as the entry of troops from any country. In fact, no other Afghan neighbor had sent troops.

The Soviets sent soldiers into the Baltic states in 1940 under similar friendship treaties: "That's why Estonian, Latvian, and Lithuanian people know the aims and results of such action," the statement said.

The statement urged Mr. Brezhnev to withdraw Soviet troops immediately and unconditionally.

The letter to the International Olympic Committee objected to the Olympic regatta being held in Tallinn because it put in doubt "the right to self-determination" by Estonians. Baltic people, the statement said, felt it "fitting and reasonable" that under present conditions, the games should be held outside the Soviet Union.

Mr. Kukk reported that both he and Mr. Niklus, who live in Tartu, had been kept under surveillance since news of their dissident activities first appeared in this newspaper. It was later broadcast by the "Voice of America" in all three Baltic languages.

KGB agents had accompanied the two men on a train journey to Vilnius Jan. 17, and kept watch outside their apartments.

"There's great interest in Tartu in the Baltic charter, which we also call the Baltic appeal," he said. "Throughout the Baltics people know about it and support it."●

TRIBUTE TO JOHN J. CAVANAUGH

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 29, 1980

● Mr. ALEXANDER. Mr. Speaker, I join with a number of my colleagues in regrets that our good friend and able colleague from Nebraska (Mr. CAVANAUGH) has decided to retire from public life.

Few Members make their mark in a short period of time in the Congress, but JOHN CAVANAUGH quickly became respected for his diligence in his committee responsibilities and for his frankness in speaking his mind.

I had occasion to work with JOHN CAVANAUGH in the Banking Committee on a piece of temporary legislation that is vitally important to my State of Arkansas. While JOHN and I share the view that the issue of usury is one best determined by the various States, we both recognized that the restrictive ceiling that exists in my State's constitution was clearly a drain on the economy of Arkansas and that without some measure of relief our State could not compete in the present national economy. For that reason, JOHN joined us in support of this most important legislation to the people of Arkansas.

I know the people of Nebraska are disappointed that their two-term Representative has decided to retire after such a brief stay in the Congress, but I know that they, as we do, respect that decision. The people of the second district of Nebraska will be hard pressed to find a Representative who will look after their needs and interests as ably and effectively as has JOHN CAVANAUGH.

We regret his decision, Mr. Speaker, but we wish him well in his future endeavors.●

CANADIAN COURAGE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1980

● Mr. ASHBROOK. Mr. Speaker, this week America heard the news of the incredible escape of six employees of the American Embassy in Tehran and how the Canadian Embassy gave them sanctuary and then aided their escape from the country. The tremendous courage and daring of the Canadian staff coupled with the great unselfishness they displayed by placing their own lives in jeopardy is the most inspiring saga to come out of the tragedy of Iran.

The reports are not all in, but what is known shows that Canadian Ambassador Kenneth Taylor secretly housed six members of the American Embassy plus a number of other Americans since the first days of the hostage crisis. Over the long weeks of uncertainty the Canadian diplomat and his staff prepared to aid the Americans in leaving the country. At any point word could have slipped out as to what they were doing and the angry mobs in the street could have stormed their Embassy taking them hostage or taking vengeance on them. Throughout the Canadians acted admirably keeping the Embassy open until the safest possible moment to leave the country. All this time they helped other Americans leave openly.

Prime Minister Joe Clark also showed great courage. In the middle of a close election fight for the survival of his Government he could have chosen to turn out the Americans rather than risk his nation's diplomats. Had the sanctuary been discovered he might have faced the wrath of the voters and been driven from office. Instead he oversaw the project with the assistance of External Affairs Minister, Flora MacDonald. At incredible political risk they stayed with the project to its successful conclusion.

Many times Americans assume that other nations will help us out and be on our side no matter what we do. As we have seen over the past few years our own inability to come to the aid of our friends in Nicaragua, Iran, Taiwan, Rhodesia, and elsewhere has eroded the good will that many once felt for this country. Too many times American Presidents have thought first about how the Communists or other enemies might react before coming to the aid of an ally. The display of unselfishness by the Canadians showed a moral commitment and a bravery that should serve as an example to us all. I hope that this incident awakens some in the White House and Foggy Bottom to realize that there is still room for Canadian style courage in confronting the problems of the world.●

SUGGESTED STATEMENT ON OUTDOOR ADVERTISING ASSOCIATION OF AMERICA

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. LLOYD. Mr. Speaker, it is with pleasure today that I advise you of a significant contribution to energy conservation. The Outdoor Advertising Association of America has solicited the cooperation of the entire outdoor industry and they have placed across our country's great highways, thousands of signs which depict a picture of the Ayatollah Khomeini with giant letters stating "Fight Back Drive 55."

This billboard editorial campaign, representing over a million dollars worth of free advertising space and copy, has been contributed by the outdoor advertising industry without one Federal dollar being expended.

The public response has been phenomenal, and it is obvious that throughout America the motorists are being reminded to slow down. It is my pleasure to share this information with my colleagues and at the same time extend a congressional thank you to the outdoor advertising industry and particularly to the Outdoor Advertising Association of America.●

OUR NATION'S STRENGTH LIES IN A DECENT FARM PROGRAM AND A SOUND ECONOMY

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. NOLAN. Mr. Speaker, when the Carter administration took office in January 1977, the Nation's farmers were facing crisis times. By the hundreds, they called the new Secretary of Agriculture to warn him of pending economic disaster unless the administration lived up to its campaign promises and established farm commodity price supports at cost of production.

But the Carter administration refused to listen. Its meager proposals for the 1977 farm bill were greeted with dismay by most Members of Congress from farm districts. Congress proved willing to improve the farm bill to a greater extent than the President, but his repeated veto threats resulted in minimal changes.

In the meantime, the purchasing power of farmers in 1977 dropped to its lowest point since the depression of the 1930's. Such low-farm income led to massive unrest among farmers who came to Washington in great numbers to protest and to work for a better agricultural program. But again, the President's threat to veto any major changes prevented Congress from passing a decent farm bill. About all the farmers managed to obtain was an emergency farm credit program to keep them hanging on, either until their income improved or until the loans came due.

Now, in 1980, the final year in this administration's term, the Department of Agriculture is predicting a 20-percent drop in net farm income if no production shortfalls occur abroad. USDA expects 1980 net farm income—in 1967 dollars adjusted for inflation—to reach only $10.5 billion—the lowest level since 1967. This at a time when inadequate farm income has caused total farm debt to reach record heights.

In an analysis made after the recent embargo on grain sales to the Soviet Union, USDA predicted a bleak year for corn producers if a diversion program is not implemented this year. In addition, USDA's figures show a $14 drop in net returns per acre for wheat-growers this year as compared to 1979. Livestock producers also stand to lose because the cheap grain is causing heavy livestock to be brought to market, thus resulting in lower prices.

While the futures market is registering higher grain prices at the moment, the current returns to farmers are much less. Record 1979 grain production and large carryover stocks depress the markets even though world stocks are not sufficient to meet a major shortfall in production. Possible shortfalls in the future, however, do not bolster today's market prices because uncertainty is already factored in. An absolute rise in commodity prices occurred over the past year, but the increase was too small to compensate for a 14-percent annual inflation rate in the production costs of farmers.

If President Carter's first term in office is any indication of the future, 4 more years will lead to the ruination of agriculture. Will farmers and the American public allow this to happen? Even now the President is getting people to ignore his abdication of leadership on the domestic front by wrapping himself in the red, white, and blue. As the famous showman George M. Cohan once said, "Many a bum show has been saved by the flag."

Whatever their views on foreign policy, farmers recognize that the Carter administration's agricultural policy is sadly lacking. Today, therefore, I am introducing two pieces of legislation to improve farm income and to restore a balanced economy.

NINETY PERCENT OF PARITY RESOLUTION

The first measure, a joint resolution of the House of Representatives, establishes the price support levels for milk, wheat, corn, soybeans, and cotton at 90 percent of parity; raises the release and call levels in the farmer-held reserve to 100 percent and 110 percent of parity respectively; and, prohibits the Commodity Credit Corporation from selling any of its stocks at prices less than 110 percent of parity (the latter provision would prevent the CCC from depressing market prices by dumping commodities it may acquire, whether because of commitments to buy embargoed grain or for other reasons).

ECONOMIC RECOVERY ACT

The second measure, the Economic Recovery Act of 1980, implements the economic goals and policies specified in the Humphrey-Hawkins Full Employment and Balanced Growth Act. The Economic Recovery Act establishes a National Board of Agricultural Governors made up primarily of farmers but including consumer, labor, and business representation. The Board will establish and administer agricultural production and marketing programs including the following:

First, pegging farm commodity prices at parity or comprehensive cost of production, whichever is less;

Second, announcing annual national production goals which are consistent with conservation programs;

Third, establishing acreage allotments or marketing quotas subject to producer referendums;

Fourth, maintaining a system of grain reserves; and

Fifth, preventing cheap agricultural imports from undercutting the U.S. price structure.

I have introduced both of these measures in previous sessions of Congress. The Carter administration opposed the legislation as did most of the members of the House Agriculture Committee. The measures did not stand a chance of passing on the House floor, but their introduction served as a rallying point for farmers and led to minor improvements in the farm bill.

Despite the dire predictions for dramatically lower farm income in 1980—if no production shortfalls occur abroad—the prospects for passing an adequate farm bill are not any brighter in Washington today than they were a year ago. The President's recent increases in the loan rates on wheat and corn, which were a result of the embargo, are hopelessly inadequate.

EMERGENCY OPERATING LOAN ACT OF 1980

Farmers, meanwhile, are facing a rapid increase in their production costs which, when coupled with high interest rates, is making it extremely costly just to get this year's crop in the ground. Rural banks are tightening up on loans or refusing to make them. If farmers are able to obtain loans, the high interest rates make the loans difficult to repay, given today's low market prices. The cost of repaying interest alone now amounts to around $42 per acre in southern Minnesota.

I cannot overemphasize the gravity of the situation among our farmers. New and young farmers are particularly hard hit by the high interest rates because they do not have enough equity in their operations, or else they are renters, and they have nothing to fall back on when low commodity prices reduce their cash flow.

Since the prospects for obtaining a timely improvement in farm income remain uncertain, I am introducing the Emergency Operating Loan Act of 1980. This bill provides low-interest operating loans—at 3.5 percent—the amount not to exceed $110,000 per farmer, in order to finance the 1980 crops and to purchase feed for livestock. The program is to be administered through the county Agricultural Stabilization and Conservation Service (ASCS) offices because the Farmers Home Administration does not have the personnel to issue the loans in time to meet the urgent needs of spring planting.

The need for low-interest operating loans for this year is immediate and I urge my colleagues to act upon this bill and similar measures as quickly as possible.

WHAT DOES THE FUTURE HOLD?

I have introduced the 90 percent of parity resolution, the Economic Recovery Act and the Emergency Operating Loan Act together because we cannot afford to overlook the pressing need to raise farm commodity price supports if family farmers and particularly our young farmers are going to survive. Despite the odds, I intend to continue working for a better farm program not just for farmers, but for the Nation because the entire economy will be seriously undermined by a collapse in agriculture.

Since 1980 is an election year, now is the time for farmers to push again for a better farm program. Both the Democratic and Republican Party platforms endorse parity for agriculture and it is time for the candidates' actions to at least reflect a willingness to proceed in the direction recommeded in the platforms adopted by the people assembled in their party conventions. Over the past few years, the sheer logic and justice of the farmers, cause has forced President Carter to repeatedly make grudging concessions, small though they were. It is time for the administration to be nudged again.

WE IGNORE DOMESTIC POLICY AT OUR OWN PERIL

Recently, President Carter has been getting farmers and the public to forget our serious domestic economic problems in agriculture and business by diverting public opinion toward his foreign policy gestures. I have learned not to trust the President's judgment on farm and economic policy—he is 4 years too late—and I do not trust his judgment on foreign policy. He is leading us into an economic disaster at home and he may be leading us into a military quagmire abroad from which there will be no return.

Clearly, we ignore domestic policy at our own peril and we would do well to remember George Washington's warning to "Guard against the postures of pretended patriotism." Over the long haul, the real strength of our Nation is going to be determined by the extent to which we are able to restore a balanced economy, fair competition, and economic justice for and within agriculture and other sectors of the economy.●

REPEAL OF THE HUGHES-RYAN AMENDMENT

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. EVANS of Delaware. Mr. Speaker, I am today introducing legislation to repeal the so-called Hughes-Ryan amendment which presently requires the President to notify eight separate congressional committees regarding specific covert intelligence activities undertaken by the U.S. Government.

This legislation, enacted in 1974 during the height of our anti-intelligence witch hunt, following disclosures of CIA activity in Chile, forces the President to provide a possible 195 Members of the House and Senate with "a description and scope" of covert operations. With this type of widespread access to sensitive information by Members and staff, the chances for leaks are too great. Apparently the intelligence agencies of the U.S. Government agree with me, since recent reports indicate that covert operations have come to a virtual standstill because of the fear of disclosure represented by the Hughes-Ryan amendment.

My legislation would continue congressional oversight over covert activities, but it would limit disclosure of covert activities to the Select Committee on Intelligence of each body. Although I would prefer to see these committees reflect the bipartisan nature of intelligence by having an equal number of Republicans and Democrats as members, I nontheless still feel that they are the proper oversight committees for such intelligence actions. I personally would willingly give up my right to receive regular briefings on covert activities if I was on either the Foreign Affairs, Armed Services, or Appropriations Committee in order to lessen the chance of a leak of such sensitive information.

Mr. Speaker, we live in a tough world, like it or not. Unlike President Carter, I was not shocked when the Soviets invaded Afghanistan. I know and so do most Americans that the Soviet Union has as its goal the destruction of freedom throughout the world. Sometimes that goal is accomplished through overt military action, as in Afghanistan. More often, however, this goal is sought through covert actions away from the glare of the world spotlight. Just this week it was disclosed that the United Nations is infested with some 300 Russian spies, including a special assistant to the Secretary-General Kurt Waldheim. The Russians make no bones about their intelligence activities. Yet this Nation goes about naively believing that it can protect freedom here and abroad without covert activities. It simply cannot be done. Our foreign policy must reflect and deal with the world as it is, not as we would want it to be.

I urge my colleagues to act swiftly to untie the hands of our intelligence agencies before it is too late.●

LAWRENCE M. ROBERTS—VOICE OF THE LONG BEACH BROADCASTER, 1955-79

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. ANDERSON of California. Mr. Speaker, for many years the Long Beach local of the American Postal Workers has boasted of the quality and popularity of its union publication, the Long Beach Broadcaster. The articles and editorials of the Broadcaster have spread vital information and provocative opinion throughout Long Beach and across the country, making it one of the best local union publications in the Nation. Today, I am proud and pleased to announce that on February 9, in Long Beach, a testimonial dinner will be held in honor of the man most responsible for this great success, longtime Broadcaster Editor Lawrence "Larry" Roberts.

I take this time to share with my colleagues Larry's accomplishments both as a postal service employee and as one long dedicated to the welfare of his union and the community. Through his work on the Broadcaster and in the community he has clearly demonstrated citizenship worthy of our recognition.

Larry Roberts was born in San Francisco and later moved to Long Beach, where he graduated from Polytechnic High School as a California Scholarship Society sealbearer. After serving 4 years in the Army, he joined the Postal Service to begin a civil service career that lasted 32 years. At the time of his retirement, August 31, 1979, he held major responsibilities in processing bulk mail. In his position as a level six bulk mail technician, he directed activities responsible for moving more than 1 million pieces of mail every 5 days.

Larry Roberts' involvement with the postal workers' union extended well beyond his work with the Broadcaster. He was president of the National Postal Union's Press Association. He was also a member of the union's legislative committee, and at every NPU convention he was either chairman or assistant chairman of the National Press and Publicity Committee.

In addition to the countless hours he devoted to the Broadcaster, Larry Roberts joined his wife, Katie, in various community projects. He still assists her in her duties as advisory committee member to the West Long Beach Facilities Center, and as a member of the Westside Neighborhood Center board of directors. Together, they now dedicate time to the mini-market program, which transports eggs and produce to Long Beach from a farmer's market and sells these goods to senior citizens at cost.

It will be difficult indeed to find someone who can match the talents and the dedication that Larry Roberts has displayed as editor of the Broadcaster. Ironically, now that he leaves, the value of his contributions are being most appreciated.

My wife, Lee, joins me in congratulating Larry for his fine career with the postal service and the Broadcaster. It has been enjoyable for us to have worked with him over the past years. We send our best wishes for a future of added success and happiness to Larry and Katie and to their son, Bruce and their daughter, Hilary.●

WE CANNOT POSTPONE THE FIGHT AGAINST INFLATION AND UNEMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. HAWKINS. Mr. Speaker, the recently released Economic Report of the President and the fiscal year 1981 budget message violate the letter and spirit of the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1978 and postpone the battle to beat inflation and achieve full employment.

The economic report proposes a postponement in the timetables for the achievement of the interim goals of 4 percent unemployment and 3 percent inflation by 1983, as required by Humphrey-Hawkins Act; a clear signal of the inadequacies of the administration's current anti-inflation policies. Despite this, the Economic Report and budget make it perfectly clear that this administration will continue to pursue the very same programs which have proven to be disastrous in reducing inflation and unemployment.

It is truly a sad commentary on our Government that this administration has taken the position that America can do no better than take 5 years to reduce unemployment from 5.9 percent to 4 percent, and 8 years to get inflation down to 3 percent. This position is defeatist in attitude, and economically unsound for both domestic and international reasons. I urge my colleagues to consider the results of such defeatism. I am sure that many will agree that we cannot and must not allow this to happen.

In the next few weeks, our Joint Economic Committee will be reviewing the President's Economic Report and our Budget Committees will be reviewing the budget message. Let us exercise our mandated prerogatives, as partners with the Executive in developing this Government's economic policies, to recommend policy alternatives to those proposed by the administration and to instead work toward achievement of the mandated inflation and unemployment goals within the law's required timetables.

I have below an editorial from the January 24 Washington Post, written by Mr. Hobart Rowen, which urges the administration to stop looking for excuses and start shaping meaningful policies. I hope you will find it useful in determining your own position on these important issues.

NO EXCUSING INFLATION

(By Hobart Rowen)

Jimmy Carter's failure to perceive the overwhelming nature of the inflation problem—and even worse, his failure to give real battle to inflation—have from the start weakened his presidency.

Inflation "czar" Alfred E. Kahn, still loyally hanging in there, confessed in November that if Carter fails to be renominated or reelected, it can be explained by the massive inflation that pervades the economy.

Thus, it seems to me, it will do the president little good to attempt to lay the blame for inflation, as he tried on "Meet the Press" last Sunday, wholly on OPEC.

Asked how he would respond, had he been campaigning in Iowa, to a charge that in his three years, inflation had risen from 4.8 percent to 13 percent, Carter said that "all of the increase(s) for practical purposes since I have been in office have been directly attributable to increases in OPEC oil prices."

That is a plain misstatement of the facts. In Carter's first two years, oil-price increases were about the same or less than the rest of the Consumer Price Index. Then there was an explosion of energy prices last year, the full effects of which have not yet worked their way through the economy.

The excessive greed of the oil cartel compounds an inflationary situation that has deeper roots. But the chief mistake of the past three years was Jimmy Carter's belief, supported by all his economic advisers, that inflation was a secondary problem. They proceeded blissfully to ignore the growing inflationary menace and added to the inflationary fuel by pushing farm prices higher and abandoning any serious effort to moderate wages and prices in the private sector. Nor was there any real efforts to diminish the use of higher-priced imported oil or do battle with OPEC.

As Sen. Kennedy enjoys pointing out, a president who now shudders, as we all do, at the inflationary effect of a $20 billion extra cost for oil imports in 1980 had no qualms about accepting the inflationary thrust of domestic oil price decontrol, which according to current estimates will add around $30 billion to consumers' cost for oil by the end of 1981.

Businessmen and ordinary citizens got the message: with no anti-inflation program at the White House or the Federal Reserve in force, there was little point in saving dollars that would depreciate in value. So a spending boom got under way, housing prices soared, mortgage rates skyrocketed. It was better to be in debt than have money in the bank.

President Carter never got serious about inflation until a huge U.S. trade deficit helped collapse the dollar in 1978. Bereft of any policy of his own Carter had to accept a much tighter monetary posture at the Federal Reserve, later strengthened under a new chairman, to fight the inflation battle for him.

At the White House, Carter aides say that even if the president unintentionally exaggerated the situation on "Meet the Press," the general idea of what he was trying to convey—that inflation during his term of office comes primarily from energy—is still right.

What the figures show, instead, is this: the Consumer Price Index, as the "Meet the Press" questioner indicated, rose from 4.8 percent in 1976 to 13.1 percent in 1979.

Stripping energy out of that index, inflation in all the other components—food, home purchased, mortgages, other interest rates, etc.—rose from 4.6 percent to 10.9 percent. Thus, the overall three-year increase has been dominated by non-energy factors. Last year, thanks to OPEC, there was a shift. The rise in the CPI from 9.0 percent in 1978 to 13.1 percent in 1979 was dominated by energy—perhaps 3 out of 4 additional points can be traced to that one factor.

To be sure, there are also indirect costs stemming from higher energy prices. The most generous pro-Carter calculation I have seen pinpoints direct and indirect energy costs at perhaps 60 percent of the total rise in the overall index. Says George Perry at Brookings: "If we never had had OPEC, we wouldn't have had the speed-up in the price index we're having now."

Inflation this year will continue its march forward, helped by OPEC, Carter's decontrol of oil, still-surging interest rates and high unit-labor costs. These pressures will be supplemented by the new military buildup, forced by the Soviet Union's aggression in Afghanistan.

It's time for Carter to stop looking for excuses and start shaping some sort of meaningful anti-inflation economic policy.●

MATHIS LAUDS DR. JOE BURNSIDE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. MATHIS. Mr. Speaker, Dr. Joe Burnside of the University of Georgia Cooperative Extension has been named "man of the year" in service to Georgia agriculture, an award he justly deserves.

Coordinator of agriculture and forestry at the Rural Development Center at Tifton, Ga., Dr. Burnside is the man responsible for the Sunbelt Agricultural Exposition, the most successful farm show ever held in the South. The event drew 140,000 visitors in 1978 and 175,000 in 1979.

Dr. Burnside was named to this high honor by the Progressive Farmer and is being featured in the February issue of the magazine.

The magazine rightly gives him the title, "Mr. Expo."

In the 9 years Dr. Burnside has been at the Rural Development Center, he also organized and conducted a series of fact finding tours for Georgia farmers, allowing them to see agricultural successes around the United States and other parts of the world.

Dr. S. E. Younts, vice president for services at the University of Georgia in Athens, Ga., said Dr. Burnside's personal concept of agriculture is "deep and comprehensive." Although a trained scientist in animal nutrition and biochemistry, Dr. Burnside possesses a detailed understanding of all agriculture disciplines.

Dr. Burnside, as his colleagues accurately point out, has done more to raise the level of expectations in the whole of agriculture in the Southeast during the decade of the seventies than any other single individual.●

PRODUCTIVITY: A NATIONAL PRIORITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. LAFALCE. Mr. Speaker, for far too long, productivity was considered a rather esoteric concept, which was relegated to the footnotes in economic textbooks. Decades of steady productivity gains lulled business leaders, economists, and labor leaders into a false sense of security.

However, during the 1970's, the rate of productivity growth steadily declined year by year, to the extent that 1979 experienced an absolute decline in productivity. 1979 also saw intensified interest in every aspect of productivity, as economic experts began to analyze productivity and explain why this country has declining productivity and why our Western competitors have healthy productivity rates.

The latest analysis was delivered to a joint session of the American Economic Association and the American Finance Association on December 28, 1979, by the distinguished Comptroller of the Currency, John C. Heimann. The Comptroller has delivered a ringing call for more emphasis on the importance of productivity and more intense efforts to counter declining productivity. Among his suggestions are an improved and simplified depreciation allowance schedules and meaningful tax incentives for the encouragement of research and development. Since small businesses are responsible for the majority of breakthroughs in the area of technological innovation, it may very well be advisable to target those tax incentives to small businesses. I have introduced H.R. 5313, the Small Business Research and Development Incentive Act, in order to achieve that goal.

The title of the Comptroller's remarks is "The Capital Shortfall: Policy Suggestions." I hope that all of my colleagues will carefully read those remarks as part of an ongoing attempt to increase our understanding of this important economic indicator.

The address follows:

THE CAPITAL SHORTFALL: POLICY SUGGESTIONS BY JOHN G. HEIMANN, COMPTROLLER OF THE CURRENCY

INTRODUCTION

This season of the year is a traditional time for reflection and prediction. We look back over the events and lessons of the past and, simultaneously, gaze into our clouded crystal balls and try to predict the future. The end of 1979 gives rise to more than the usual amount of indulgence in the popular exercise known as "putting things in proper perspective". 1979 has been an unusually eventful year; it also marks the transition between decades, always a time for prognostication; and it celebrates the fiftieth anniversary of one of the most crucial periods in modern economic history. The temptation for retrospectives on the Crash of '29 and the Great Depression has proven irresistible. Even this scholary assembly could not resist holding a session this morning with the epigraph: "To mark the fiftieth anniversary of the onset of the Great Depression". I, too, have fallen victim to the urge to take the historical perspective.

INFLATION AND THE NEED FOR CAPITAL INVESTMENT

The dubious distinction of being named "economic watchwords of the Seventies" would, of course, go to *inflation* and *energy*.

Various pundits and students of the subject have offered different explanations for the price inflation experience of the 1970's. Some have seen the genesis in excessively stimulative fiscal and monetary policy in the joint pursuit of the War on Poverty and the war in Vietnam. Some have faulted the conduct of monetary policy in general. Others have pointed to the unusually synchronous business cycle expansions of major industrial countries in the early Seventies as overheating world demand, particularly for raw materials, and thus permitting inflation. The depreciation of the dollar in the foreign exchange markets following the adoption of the floating rate regime in the early part of the decade is seen as another piece of the puzzle, as U.S. import prices were bid up in dollar terms causing direct inflationary pressure and a lessening of the restraining influence of imports on prices of substitute domestic items. Some provocative research indicates that the experiment with wage-price controls in the early Seventies itself contributed to the succeeding round of inflationary steam. The dramatic oil price increases from mid-decade on are, of course, identified, in the popular mind at least, as the most potent source of inflationary pressure over this period. There is undoubtedly some truth in each of these, as well as other explanations that have been offered.

A classic definition of inflation is too much money chasing too few goods. This definition implies two possible remedies—less money or more goods. Given our druthers, we would almost all agree to more goods as the preferable remedy.

While there is lively debate on details, more goods and services come from applying greater quantities of labor and/or greater quantities of capital and/or improved technology to the various production processes. And, despite some serious bumps along the way, the 1970s have indeed witnessed a fairly substantial increase in the volume of goods and services produced by the U.S. economy. Measured in dollars of constant purchasing power, GNP this year will come in at a level close to one-third higher than ten years ago.

This was accomplished in part through a truly phenomenal increase in labor input, which resulted from the coming of age of the bumper crops of the post-war baby boom and a significant increase in labor force participation rates. To give some sense of the magnitude of these effects, consider that in the decade of the Seventies the U.S. labor force expanded by about twenty million people; the expansion of the labor force for the preceding two decades combined amounted to only eighteen and a half million.

The Seventies were also a period of substantial increase in capital input. Capital investment over the decade aggregated 1.85 trillion in 1972 dollars, over 3 trillion in dollars of 1978 purchasing power. Although displaying more variability in the Seventies than in earlier decades, the ratio of gross private domestic investment to GNP has been about the same on average in this decade as in the Fifties and Sixties.

Given these increases in inputs, the increase in output has seemed less than satisfactory. The problem can be seen in the slowed rate of productivity improvement in our economy in recent years. From 1948 to 1967 output per unit of labor input expanded by an average annual compound growth rate of 3.2 percent. From 1967 to 1978 this rate was almost halved, averaging only 1.7 percent per year. Indeed, productivity change was actually negative during the sharp 1974–75 recession and again this year.

This means that our real standard of living has been increasing at a slower pace in recent years than we expected on the basis of earlier experience. Resistance to accepting this has added upward pressure on nominal wage rates in excess of productivity growth, thereby raising unit labor costs and putting inflationary pressure on prices.

Historically, one of the most powerful engines of productivity growth has been capital deepening—increases in the capital/labor ratio. The capital/labor ratio expanded by only 13 percent during the Seventies. Over the preceding decade it had risen by 21 percent.

It is a fascinating exercise to calculate future investment needs consistent with various capital/labor ratios. We can expect an influx of about seven and three-quarters million more workers between now and 1984, as the tail end of the baby boom generation reaches maturity and enters the labor force. Simply equipping those workers at current levels, that is covering depreciation and giving the new workers the same amount of capital to work with that today's workers use on average, will require over the next five years a flow of gross nonresidential investment of about $840 billion, again measured in dollars of 1978 purchasing power. This is about $168 billion a year, roughly three-quarters of the gross volume of nonresidential investment we actually accomplished in 1978. And remember, ignoring embodied technological progress, this $168 billion per year does not buy us any improvement in productivity; it just keeps us even.

Achieving again the 2 percent level of average annual growth in capital per worker we enjoyed during the great American growth spurt of the Sixties would require an average annual investment flow of $246 billion between now and 1984, fully 10% more than the actual volume of investment we accomplished last year. Note that this figure of $246 billion per year is at 1978 prices; pick whatever rate of inflation you think is most likely over the next five years and increase the nominal flows accordingly.

This sort of calculation tends to understate the need for capital widening expenditures to sustain productivity levels. It ignores the composition of the labor force, the fact that additions to the labor force come mostly in the form of young, inexperienced workers and women returning to the labor force in mid-life. One might therefore expect the need for higher capital/labor ratios just to hold labor productivity constant. Additionally, it ignores the composition of investment, the fact that expenditures for pollution abatement and similar purposes, which have been running above one-eighth of nonresidential investment, contribute nothing to our measured indices of output, which is not to say that they have no value. Again, one would expect higher levels of capital investment required for any level of labor productivity.

The capital demands of other national goals in such areas as energy independence, environmental improvement, and improvements to our defense posture add further sizeable numbers to the investment flows which will be "needed" in the coming years. Discussions of capital needs and investment flows often lead to discussion of the financial system and proposals for its reform if we are to achieve our capital investment needs.

THE ROLE OF THE CAPITAL MARKETS

The capital markets, of which you are students and practitioners, perform two important economic functions. By far the larger in terms of volume is intermediating the change of ownership of existing assets. The significance of this for economic growth is that by providing broad and deep opportunities for exchange of existing assets, i.e., liquidity, the financial markets encourage flows of new capital investment. This is the link to the second key function, to channel the resources not consumed, savings, into new capital assets, investment.

How well can we expect the financial system to perform these functions, and especially the latter one, in the face of the heavy capital investment needs of the Eighties? I think the lessons of recent history are reassuring, for the capital markets have proven resilient and adaptable.

In my view public policy should focus on where the problem is, and in my view the problem is not in the financial sector. In the face of some substantial regulatory constraints and hidden or explicit efforts at government credit allocation, the private financial sector has found its way to satisfying market demands.

The Seventies have been a period of high and variable inflation. A reflection of this, although also representing a change in bank pricing practices, has been the behavior of the prime rate. In the two decades of the Fifties and Sixties combined, the prime rate changed a total of 32 times. In the single decade of the Seventies, the prime rate has changed about 132 times.

Not unexpectedly, the variability of interest rates reflected by the behavior of the prime has increased the demand for liquidity and for devices to hedge against interest rate risk. The capital markets have proven highly adaptable in creating financial instruments to satisfy these demands. If adequate incentives exist to create demand for capital assets in the amount of the needs to meet our social goals, I am confident the financial system can accomplish the channeling of real resources, just as it successfully met the demand for liquidity and hedging in this decade.

The liquidity of an asset like real estate, for example, has been enhanced by developments in the mortgage market. In 1978 new residential mortgage debt outpaced the value of new residential construction by $22.5 billion. This means that some $22.5 billion of the increased value of existing residential real estate was converted to cash by the mortgage market last year.

In its turn the mortgage instrument itself has become more liquid by innovations such as the Ginnie Mae pass-through certificate, mortgage backed bonds, and so forth. Total outstandings of Ginnie Mae certificates, for example, grew from $450 million in 1970 to $77 billion in mid-1979. The fact that government had a hand in standardizing the underlying mortgages in the Ginnie Mae pool probably speeded the development of this innovation, but the private financial community is ultimately responsible for its widespread acceptance.

The tax exempt mutual bond fund, which came into existence only in this decade, has enormously improved the liquidity of state and local debt from the perspective of the household sector. The municipal bond fund industry had net assets of less than $30 million in mid-1976 and over $3⅓ billion today.

To give just one more example, the money market mutual fund, one of the more commented upon financial innovations of this decade, certainly has increased the already high liquidity of traditional money market instruments. It does this by reducing the minimum denomination of a bank CD, for example, from $100,000 to as low as $500 for participation in a fund. The private financial community has shown an exemplary responsiveness to profit incentives—today there are over 75 funds with aggregate net assets of over $44 billion. Three-quarters of the growth in assets has occurred within the last twelve months. The largest fund, managed by Merrill Lynch, was started in 1975. It now has approximately $7.8 billion under management. If it were a commercial bank, which it is not although it provides some bank-like functions, it would be the nineteenth largest bank in the United States ranked by asset size, all within five years.

These examples strike me as convincing evidence that the financial industries are quite capable of creating attractive media for channeling the flow of investment resources. As we contemplate the massive volume of business capital we "need" in the first half of the Eighties and beyond, I think we should focus on the issue of incentives to stimulate investment rather than the capability of the financial system to channel it.

Public policy should not try to achieve the real investment we need through further tinkering with the financial manifestations of real investment. Indeed, given the adaptability of the financial system and the limits of our own knowledge, I think it is better public policy at this juncture to remove some existing constraints on the performance of financial institutions rather than to add new ones.

Witness, for example, the phenomenal success of the depository industries with the money market CD. This relaxation of the Reg Q constraint attracted $9.1 billion in the first month. A record $32.4 billion worth of money market CDs were sold in October of this year. Over $240 billion worth are outstanding only 18 months after this instrument was first introduced. I think the free flow of capital is worth not only preserving but enhancing, and I therefore support efforts to phase out, in a prudent way of course, the regulatory mechanisms that constain it.

All of which is not to say that there is no role for public policy in helping to achieve our capital investment needs. On the contrary, I think this is a true challenge, which will require the best minds in government, private industry, and academia.

SOME POLICY OPTIONS

Clearly the most important policy measure we can adopt to spur investment is restoring a sense of stability through macroeconomic management. Higher amplitude business cycles increase perceptions of risk and therefore add a premium to required rates of return. High rates of inflation combined with progressive income taxation raise required rates of return on investment more than proportionately. Variable rates of inflation add a risk premium to required rates of return, therefore rationing out some projects which, but for this, would be attractive. In short, a stable macroeconomic environment encourages investment activity.

Beyond this I think there are some specific policy areas where investment incentives can be enhanced. I offer these proposals not for the sake of advocating them in detail, but rather to stimulate thinking about the specific steps which should be taken on the investment front.

I am concerned with the incentive for risk-taking in our economy. In 1970 American corporations raised 15.6 percent or their net new financing through equity issues. This amounted to $6.8 billion. In 1978 American corporations raised only 4.1 percent of their net new financing in the form of equity, amounting to only $4.7 billion. For the sake of comparability, note that when the 1970 and 1978 figures are recast in dollars of equal purchasing power, the equity raised in 1978 is worth only about 40 percent of that raised in 1970. Turning to the smaller business sector, in 1970 there were 198 stock issues, which raised $375 million, for companies with net worth of less than $5 million. In 1978 there were only 21 stock issues for companies in this size class, which raised only $129 million. The 1978 performance was actually an improvement over some of the years in mid-decade, perhaps as a result of the capital gains tax liberalization in the 1978 Tax Reform Act.

A modest proposal in this area might be to permit a deferral of taxation on realized capital gains on securities and real business assets if the proceeds are promptly reinvested in a suitable way. We have just such a mechanism in place in the personal income tax treatment of sales of residential property. If the proceeds of sale of a principal residence are reinvested in another home within eighteen months, taxation of any capital gain that may have been realized on the sale is deferred. Perhaps an analogous rule for common stock or real business assets would give greater incentive for risk-taking. Certainly, it will improve liquidity.

There is growing recognition of the need to do something about the double taxation of corporate income distributed to stockholders as dividends. Discussion of this subject has not yet resulted in a solution which is at once practical and politically acceptable.

New policy measures are also needed in the area of depreciation accounting for both balance sheet and tax purposes. We cannot ignore the mounting evidence of capital-intensive companies' self-liquidation through payments of taxes and dividends which exceed true economic profit because historical cost depreciation vastly understates replacement value. This problem is, of course, a product of inflation. A related problem with regard to inventories has been ameliorated by appropriate choices of FIFO or LIFO accounting. I am confident that within the realm of what the Treasury can afford there exist useful ways to reflect more accurately the true depreciation experience of American companies.

One possibility is to permit each corporation to choose its own depreciation schedule. Once having chosen a schedule, of course, the firm would have to stick with it over the life of the asset; it could write off the asset only once. Presumably, each firm would attempt to choose that depreciation schedule which maximized its long-run after-tax profitability. Moreover, the firm should be required to use the same depreciation schedule in reporting its income statements and balance sheets to stockholders that it uses for tax purposes. This would provide market discipline to encourage the firm to reflect true economic depreciation and not just short-run tax or earnings management considerations. Such treatment of depreciation would surely enhance incentives for investment as well as provide internal cash flow to finance it.

Research and development expenditures can have tremendous pay-offs in terms of improving the productivity of existing capital and labor combined in new and more efficient ways. It can also give rise to new or improved products which add enormously to our economic well-being. R&D expenditures in the U.S. has lagged relative to other industrial countries. The share of patents issued by the U.S. government to residents of foreign countries has risen from about twenty percent in the 1960s to over thirty-five percent in recent years.

The truly successful innovation which results from R&D activity often spreads so rapidly that some of the profits are earned by entities other than the one which bore the expense. The excess of total benefit over the benefit which can be captured by a private firm making an R&D investment tends to restrain the amount of privately financed R&D below socially optimal levels. This point is perhaps even more true at the basic research stage than at the development and implementation stage. This argues for government involvement in encouraging research activities. One possibility here would be to give firms an added incentive by permitting research expenditures to qualify for the investment tax credit.

At this juncture in economic history the energy field is clearly a prime candidate for increased R&D activity. I would expect increases in the price of energy to provide incentives for private sector exploitation of new opportunities at the development and implementation stage. However, in view of the private sector's difficulty in supporting optimal levels of basic research, I think the government should provide substantial financial support, especially in the areas of energy conservation and substitution, new energy sources and technologies. The results of basic research are, of course, very difficult to predict, but historical experience, in terms of new products and indeed whole new industries, suggests the likelihood of high social rates of return.

In discussing public policy it is often as important to note what we should not do as it is to suggest what we ought to do. One thing we should not do, as I mentioned earlier, is to hamper artificially the ability of a financial industry to fulfill its role in the capital allocation process, as we seem to have done with some of our regulation of depository institutions. The efforts of the marketplace to find its way around these constraints represent dead-weight losses.

Another thing we should not do is to hamper arbitrarily the free flow of capital from any source. In 1977, for example, net foreign investment in the U.S. added $19.6 billion to gross private domestic investment; in 1978, it added $23.5 billion. These flows of net foreign investment represented the equivalent of almost one-third of savings from the household sector in those years, and boosted gross private domestic investment by about 6.5 percent. The American tradition of permitting relatively free inflows of foreign capital has served us well over our history and should not be jettisoned.

Finally, while a pro-investment effect is a favorable aspect of a policy proposal, it is not dispositive. Our society has other goals to satisfy. In particular, it might not be worthwhile to sacrifice substantial equity aspects of our progressive tax system for marginal gains in efficiency. It all depends on the relative magnitudes of the effects and our willingness to trade off among competing goals. This is where the role of careful, dispassionate, and disinterested analysis is most crucial.

CONCLUSION

Vast flows of new capital investment will be needed to achieve our economic and social goals in the coming years—especially increased productivity and sustainable improvements in our standard of living. Providing proper incentives to achieve the necessary levels of investment is a topic of vital concern. The academic community has much to contribute in formulating these incentives, and I commend this to you as a subject worthy of your research efforts and public advocacy.●

DEATH OF A CASTRO DREAM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. DERWINSKI. Mr. Speaker, things have changed in the U.S. Mission to the United Nations since Andy Young left. Georgie Anne Geyer, columnist appearing in the Los Angeles Times, made that point in an article recently entitled, "In the U.N., the Death of a Castro Dream". She describes the defeat of Castro's plans to preside over the U.N. Security Council by virtue of a Cuban seat on the Council.

There has been a change among some of the so-called nonalined nations too, perhaps an awakening to the realities of today's world. More of the nonalined nations may be becoming aware that Cuba is the Soviet Union's voice and vote in the U.N. for Cuba to have a seat on the Security Council is to give the Soviet Union still another voice and vote.

Ms. Geyer's article from the Los Angeles Times of January 16, 1980, is reprinted below:

[From the Los Angeles Times, January 1980]

IN THE U.N., THE DEATH OF A CASTRO DREAM

(By Georgie Anne Geyer)

In the staggeringly high drama of Iran and Afghanistan, another diplomatic drama of substantial importance has passed largely unnoticed. But when the final score on that battle was tallied this week, it was clearly the United States and the world's democracies that had won, and Cuba and the Soviet Union that had lost.

Here is some of the rare heartening news that we've been missing in the last four months:

Since September, the Cubans have tried, using every trick in the book, to win the important seat on the U.N. Security Council. They pulled out the stops. Their foreign minister, Isidoro Malmierea, took up residence in New York during these months and has been present at the assembly during every vote, as well as having lobbied Third World countries for the last two years.

What has been the cadence of the drama? The General Assembly has voted an unprecedented 154 times on the issue. Cuba led its democratic opponent, Colombia, on all but one vote, but never actually obtained the required two-thirds vote.

Then, on Friday, "Afghanistan" had its first small welcome revenge. Colombia led on the next-to-last ballot, 72 to 71—for the first time. At least 10 Third World nations had switched from Cuba to Colombia and, over the weekend, it was clear that a number of African states were also going to switch.

The Castro dream of not only having the important Security Council seat for two years but also serving as president of the council during this critical month was dead.

Cuba, reading the writing on the wall, withdrew Monday. So did Colombia. Mexico then got the seat. Colombia, which has comported itself with a consistent diplomatic dignity, refused to let Cuba dictate the conditions but withdrew anyway.

There are several important things to be noted in this unprecedented four-month-long marathon, not the least of which was that it was brilliant and utterly dogged diplomacy by the three or four American U.N. diplomats and one Colombian woman diplomat that brought it off. Though enormously outnumbered by the Cubans, this small band showed, in much the same manner as the British Rhodesian settlement showed, what creative diplomacy can be.

The Americans pulled out all the ideological stops, reminding the Third World countries coolly that Cuba will never vote for the "nonaligned" but for the Soviet Union. Indeed, the U.S. mission to the United Nations has grown noticeably unsentimental about the Cubans since the departure of Ambassador Andrew Young.

But basically what happened was that the "nonaligned" countries, which Cuba is supposed to head for the next three years of the 95-member nonaligned movement, themselves were apprehensive and even angry. Knowing that Cuba will always and ever vote whatever way the Soviet Union tells it to, they reacted against the heavy handed Cuban tactics, and many said they even feared the manner in which Cuba would handle a meeting on the Afghanistan invasion. And, of course, Cuba has not even called a nonaligned meeting on Afghanistan.

Indeed, the styles became increasingly evident and dramatic as the near-continuous balloting—sometimes as many as six ballots in one day—went on and on, even carrying the General Assembly past its scheduled mid-December closing date.

When the Cuban delegate gave Cuba's most important speech on Dec. 28, it was pedestrian, obdurate and threatening. When the Colombian spoke the same day, it was eloquent, flexible and reasonable—but strong.

"The Cubans represent a legitimate bloc in the assembly," the delegate said, "but so do we."

And indeed they do. And, for the first time, that bloc has seriously and successfully asserted itself.

Though in the shadow of the mammoth tragedies of Iran and Afghanistan, the defeat of the Cubans still looms as important. It was a major loss for them and a major win for us, to put it crassly, and it shows what determined, finely honed diplomacy can still do in today's troubled world.●

A TRIBUTE TO A NEWSPAPERMAN

HON. BILL RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. RATCHFORD. Mr. Speaker, I rise today to pay tribute to a gentleman of my district who has served his community faithfully and selflessly through a 42-year career as a reporter and editor of the News-Times, of Danbury, Conn.

Bill Lauf retired last month as the Sunday editor of that newspaper, but his byline will continue to be seen over his regular "Looking Outdoors" columns that delight and inform the paper's readers. Old newspapermen never retire, it seems; they merely take their typewriters home with them and, with time to reflect a little more, sometimes write a little less.

In his long and distinguished career, Bill has never covered Washington and his name may be unfamiliar to my colleagues in this body. But he is a familiar, respected figure in his home town of Danbury and in the surrounding communities of western Connecticut. His readers know spring has arrived when Bill Lauf heralds the opening of the trout season; they know autumn is upon them when he writes of his childhood adventures stalking small game through knee-high leaves in the woods.

In many ways, Bill is of the old school in journalism and in outdoorsmanship. He writes in a clear and unaffected style about subjects he knows through a lifetime in woods and streams; there is much love and nobility in his plain prose. And his respect for the outdoors and the creatures that inhabit our world is evident in every column that bears his name; he never kills what he or is family does not eat, and the land or the lake he leaves behind is never the poorer for his visit.

But the outdoors is not the only subject in which Bill is or has been expert. He has covered just about every beat there is on a small newspaper. When he was based in Texas and then stationed in North Africa during World War II, he sent periodic dispatches to the paper he had joined just a few years before. When he returned, he was given the job of city hall reporter, and in time promoted to wire editor and then suburban editor. In 1972, when the executives of the News-Times decided to launch a Sunday newspaper, it was to Bill Lauf whom they turned to organize and direct their new project.

If Bill has enjoyed a special relationship with the subjects of his work and with his readers, his relationship with his colleagues has been equally special. They know him as a man of patience and perceptiveness, a rare newspaperman whose soul and vision have never been corrupted by his work. At a party in his honor last weekend, they gave him a desk and a typewriter and they thanked him for his dedication, his humility, for being always and truly himself. I share in their tribute to Bill Lauf and I eagerly await the output of his homebound but decidedly unretired typewriter.●

A TESTIMONIAL TO HOWARD B. McMULLAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. STOKES. Mr. Speaker, I would like to take this opportunity to salute and congratulate Mr. Howard B. McMullan, founder and chairman of the board of McMullan Realty, Inc. in Cleveland on his pending retirement.

"Mac", as I know him, and I worked together several years at the Carmack Realty Co. During those days, I was a young struggling lawyer with little or no legal business. On days when the real estate business was also lean, "Mac" and I used to spend long hours talking.

As a result of this, he and I became very close friends. As his real estate clients began to grow, he also helped my legal business grow by referring many clients to me. I shall always remember his interest in helping me as a young lawyer.

"Mr. Mac", as he is referred to by his associates, has been one of the stalwarts of the real estate industry and the Cleveland business community since the 1950's. During his successful business career, he has won the respect of his colleagues and the members of the Cleveland community at large. After he begins his retirement, there undoubtedly will be an unmistakable void within the real estate community in Cleveland.

He has been more than the usual "run of the mill" businessman. Rather, he has managed an exemplary business in Cleveland and systematically expanded it to become one of the largest black-owned firms in Cleveland. As a token of their admiration, the staff, sales associates and brokers of McMullan Realty, Inc. are honoring "Mr. Mac" at a testimonial dinner.

At this time, I would like to join the friends and associates of Mr. McMullan in their salute and farewell by entering his biography into the RECORD. The achievements listed in his biography stand as a monument to his determination and contributions to the people of Cleveland.

BIOGRAPHY OF H. B. MCMULLAN

Howard B. McMullan was born on June 14, 1913 in Frost, Texas.

He spent his early years in Frost and Pelham, Texas, then to move to Corsicana, Texas where he graduated from high school. Remaining in Texas, he attended Texas College in Tyler.

He married Abna Waters in 1938 in Corsicana.

His selling abilities began to show when he went into the insurance business with Universal Life of Memphis, Tennessee.

He sold insurance throughout, Texas, Arkansas, Missouri, Oklahoma and Tennessee.

Mr. McMullan became a licensed real estate broker in Tulsa, Oklahoma in 1949 where he opened AABA Realty, named after his wife with an extra "A" added to be listed first in the telephone book.

In 1951 McMullan joined Dunbar Life Insurance Co. in Cleveland, Ohio as Assistant Agency Director. In this position he traveled throughout the State of Ohio and Northern Kentucky.

In 1953 McMullan became a licensed real estate agent in the state of Ohio. He joined John Carmack Realty.

After Mr. Carmack's demise in 1960, "Mr. Mac", as he is fondly called, became a broker and ran Carmack Realty for a period of time.

In late 1960 Mr. McMullan joined forces with Dennis Wheeler, another real estate broker, an formed Dennis Wheeler and McMullan Realty.

McMullan Realty, Inc. was founded in 1962 at 8810 Quincy Avenue.

It was later moved to 2330 East 105th Street in 1963. The main office was moved to its present location 17017 Miles Avenue in 1970. 2330 East 105th was very active branch office until it was destroyed by fire in 1974.

Despite having a paralyzing stroke in 1964, this did not deter Mr. McMullan from pressing forward in building a progressive real estate organization.

Mr. McMullan is a member of the Cleveland Association of Real Estate Brokers. Cleveland Area Board of Realtors, Phi Beta Sigma Fraternity, Texas College Alumni and Parkwood CME Church.

Mr. and Mrs. McMullan will be retiring in the Dallas-Fort Worth area of Texas sometime during the spring of 1980.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes on Monday, January 28. Had I been present I would have voted as follows:

Rollcall No. 8, "Yes."●

YEAR OF THE COAST

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. LOWRY. Mr. Speaker, 1980 has been hailed as the "Year of the Coast" by President Carter and by a variety of environmental groups. Collectively, they wish to draw attention, not only to the considerable esthetic beauty of this portion of our environment, but also to its tremendous economic importance. Until recently, development pressures in this area have been intense since 53 percent of the population lives within a 50-mile-wide strip along the coast. Until 1972, there was little planning or management in the coastal zone at the State level and none at all at the national level. However, with the passage of the Coastal Zone Management Act, some order was brought out of this chaos. The CZMA has provided grants to coastal States to develop and administer State coastal plans for balancing the competing interests along their coasts. It also has provided funds to mitigate the onshore impact of coastal energy facilities. Washington was the first of 19 States and territories to develop an approved plan.

The CZMA has had a number of successes over the past 8 years, but as Mr. STUDDS leads the Oceanography Subcommittee in reauthorization hearings, a number of improvements need to be considered. Prof. Marc Hershman of the University of Washington has noted the jurisdictional conflicts which arise from acts like the CZMA which call for a balancing of competing interests. The conflicts result in delays which invite rash solutions like "fast track" legislation. He outlines various schemes by which such conflicts may be reduced, and these should be considered very seriously.

Another area of concern is the provision for the balancing of interests by State plans. Are all interests equal, or are some interests more equal than others? Nowhere does CZMA resolve that issue. Yet it seems that some areas clearly need special protection. Estuaries, for example, are among the most biologically productive of all habitats: An enormous number of species are dependent upon the estuary for development during their life cycle or for the production of the food that the animal eats. These species include a variety of commercially important fish and shellfish. Unfortunately, these highly productive areas are also unusually sensitive to many kinds of pollution. The marshes and estuaries should not be seen as wasteland to be filled in, but as a significant resource which we must defend vigorously for our own benefit.

Another environment which deserves greater attention is the barrier island. These transient islands provide important protection for the mainland from hurricanes, tsunamis, and erosion. By their very nature, they are shifting habitats on which no prudent investor should build. However, two-thirds of eastern barrier islands have been disturbed and, overall, 14 percent of their land is urbanized compared to only 3 percent of the mainland. I do not advocate the forced removal of existing development, but ought the Federal Government encourage new development by providing cheap insurance through the Federal Emergency Management Agency? Does this Agency combat the goals of the CZMA by actually encouraging the loss of life and property due to construction in these inherently dangerous areas? How can all levels of government cooperate to insure the safety of our citizens?

Dorothy Morrell of the Washington Enviromental Council has advocated a number of worthwhile improvements in CZMA. She suggests that a State's program should contain a stronger permitting system to control development, or else the State should be empowered to acquire land or development rights in important areas. Furthermore, greater provision must be made for citizen participation, from the very earliest stages of planning, to the continued implementation of the program.

The national observance of the "Year of the Coast" will focus our attention on CZMA, our only tool for management in this vital, life-sustaining area. The public interest and debate that it generates will lead to a strengthening of the act for the public good.●

THE CASE PROGRAM

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. LUJAN. Mr. Speaker, it has been brought to my attention by several people in my home district who are in the construction business or who are contractors, that theft of construction equipment has become an ever increasing problem.

I did a little research on my own and have discovered that, indeed, this is a major problem, and not just in New Mexico. This is a national problem which runs into the loss of hundreds of millions of dollars worth of equipment.

According to the Associated General Contractors, there was something in the neighborhood of $700 million worth of construction equipment stolen last year from members of its organization. This does not even take into account all the subcontractors and independent, small builders who are not members of the AGC. In all likelihood, the true amount of construction equipment theft is in the billion dollar range.

Before my colleagues take my comments to mean that I am seeking a

Federal solution to this growing problem, let me state that my reason for speaking to the issue is exactly the opposite—I would seek solution in the private sector and at the local law enforcement level. What we do not need is the Congress and the long arm of some Federal regulatory agency presenting one of the typical Federal solutions which become another never-ending, expensive program which solves nothing and costs the taxpayers billions.

In fact, while this problem has not received the attention it should have from either the construction equipment industry or law enforcement agencies—no one had any type of program to combat the theft until about 6 months ago—there is now a concerted effort being made to stop construction equipment theft. My efforts to find out more about this have been aided immeasurably by the J. I. Case Co. of Racine, Wis., which has the first and only construction equipment theft prevention program in the industry.

The Case program, which is primarily an educational program for law enforcement agencies, and owners, operations and dealers of construction equipment, has already brought about some very positive results. The company, which I understand is the second largest construction equipment company in North America—and possibly in the world—has been working closely with law enforcement agencies at all levels, including the FBI, to help them understand the scope of the problem and to teach them about construction equipment. Until the J. I. Case program law enforcement people were very much in the dark about what this type of equipment looked like, much less where identification numbers could be located on the equipment.

In addition, the Case company has been very public with its program, offering it to the rest of the industry no questions asked. In fact, Caterpillar Co. and John Deere Co. have both requested and received from Case the entire program. In addition, a number of construction-related associations have begun using the program to help stop construction equipment theft.

The point I am trying to make is simply that the best way to solve most of the problems we face is to leave them in the hands of the experts in the private sector rather than having the Federal Government always stepping in and spending billions while solving nothing.●

SUNSET LEGISLATION: A PRIORITY FOR THE OVERSIGHT CONGRESS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. COELHO. Mr. Speaker, the 96th Congress has been called the "Oversight Congress." For that reason, improved performance of oversight should be one of our major legislative goals for this second session. Through improved congressional oversight, unnecessary and inefficient Government programs will be weeded out and our national resources can be more effectively allocated to our national needs.

I have, therefore, cosponsored the Long-Derrick bill, H.R. 5858, the Sunset Review Act. This legislation promises a dynamic approach to a better program review, which, I might add, is fully compatiable with the existing legislative process. A cogent explanation of the problems and the sunset prescription appeared recently in the Washington Star in a guest editorial by the author of H.R. 5858, the Hon. GILLIS LONG.

Mr. Speaker, I commend this article, which follows, to the attention of my colleagues. I urge wide cosponsorship of this important legislation, which I consider a high priority for action in the 96th Congress.

[From the Washington Star, Jan. 5, 1980]

MAKING SUNSET LEGISLATION WORK

(By Rep. Gillis W. Long)

The tale is a familiar one. Congress passes "sweeping" legislation to deal with a "pressing" social problem. Several years later the people intended to be served by the program are no better off. State and local governments are still trying to complete a myriad of forms and to comply with a plethora of regulations. While many federal programs work well, it is examples such as these that are on the public mind today. This view of government-as-bungler has spawned Proposition 13 and similiar calls to restrict federal spending.

A deeper reading of public sentiment reveals that the outcry is not as much against big government as it is against inefficient government. Citizens are willing to pay taxes if they feel their dollars are being well spent. Congress is in much the same position. Well-intentioned legislation is adopted only to be lost or misinterpreted farther down the pike. As Congress moves onto the next issue, it too often forgets to check back on laws it enacted previously.

Hoping to get a better handle on both the budget and program performance, many members endorsed the idea of "sunset" legislation. The essence of the sunset principle is that Congress should reexamine programs, and, if they no longer justify continuance, should terminate them.

The rub in getting sunset legislation to work is to encourage congressional committees to review programs under their jurisdiction. The original sunset proposal included an "automatic termination" procedure to serve as a prod to committees. If a committee failed to conduct a review of a program required under a preset 10-year schedule, or Congress failed to act on the review, the program would be "automatically" terminated.

Predictably, such a procedure set off alarm bells in many quarters. Civil rights groups worried about the protection of constitutional rights. Business worried that abrupt changes in tax laws could create economic instability. Pensioners worried that programs which they paid into for years would be ended. The result was a list of exemptions that rivaled the inclusions.

Automatic termination is not the only or best way to encourage committees to take a second look at programs. The key to making sunset legislation work is to provide committees with the incentives to conduct reviews as part of their regular legislative duties. What is needed is not just more review but better organized review.

A first step would be the adoption of an agenda for "sunset reviews" at the start of each Congress. The agenda would include the programs or provisions of tax law that committees intend to re-examine during that Congress. The agenda would allow committees to target their reviews toward those parts of the budget most in need of scrutiny.

The agenda should also include a directive to each committee to report legislation that would continue, modify or terminate the programs it had examined. If the program was operating well, Congress would vote to continue it. If the program needed change, Congress could vote to improve it. If the program has outlived its usefulness, Congress could vote to end it.

This procedure would effectively link the reviews conducted by committees to legislative action during the same Congress. The performance of committees will be twice checked by the full Congress under this process—when the sunset agenda is adopted in the first session of Congress; and when committees report legislation based on their reexaminations in the second session. These features serve as major incentives for committees to conduct meaningful reviews of programs in their jurisdiction.

Most important, no program or tax provision would terminate automatically. Committees will have the opportunity to conduct a thorough study, and congress will retain the prerogative to vote on the committee recommendations.

This is a sensible approach to sunset legislation. It grafts the principle of sunset review onto a workable and realistic procedure. In the long run, it is only through this kind of reexamination that Congress will begin to have an impact on the quality and efficiency of government.●

CONSUMER PRODUCT SAFETY ACT AMENDMENT OF 1980

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. SCHEUER. Mr. Speaker, I have introduced today a bill to amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission (CPSC). Currently, Commission employees are subject to the postemployment restrictions of both the recently passed Ethics in Government Act and section 4(g)(2) of the Safety Act passed in 1972. Section 4(g)(2) was one of the first efforts to deal with the issue of post-Government employment conflicts of interest. Unfortunately, the focus of section 4(g)(2) is different from that of the more recent Ethics in Government Act. Specifically, section 4(g)(2) places limitations on the company from whom a former CPSC employee can receive compensation. It does not address, as the Ethics in Government Act does, the nature of the work the employee did at the Commission or the nature of the work done in post-Commission employment.

This focus of section 4(g)(2) results in a number of inequities. For example, an accountant at CPSC with no regulatory responsibility cannot, under section 4(g)(2), go to work for a manufacturer regulated by the Commission. Also, a CPSC attorney who leaves to join a private law firm cannot represent such a manufacturer in an antitrust, securities, or tax matter. If one of his partners or associates represents a manufacturer subject to the act in a securities or tax matter, he cannot share in the partnership income derived from that representation. All of these restrictions apply even if the former employee does absolutely no CPSC related work and the manufacturer has no pending or past matter at CPSC.

Further, section 4(g)(2) makes it difficult for the CPSC to attract and hold competent, qualified people. A qualified accountant, choosing between employment at the Commission or some other regulatory agency subject only to the Ethics in Government Act, would likely choose the other agency—all other things being equal.

Under this bill, Commission employees would be subject to the same post-employment restrictions under the Ethics in Government Act as are other regulatory agency personnel. Briefly, the Ethics Act prohibits any former employee from acting as an agent, attorney, or making oral or written communications to his former agency on any matter in which the employee was personally and substantially involved. The act also prohibits, for a period of 2 years, a former employee from representing any person on a matter which was pending under the employee's official responsibility. Finally, the act prohibits former employees above pay grade GS-17 from representing anyone in a formal appearance before his former agency for 1 year.

Thank you, Mr. Speaker.●

BELENKO'S DECISION FOR FREEDOM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. DORNAN. Mr. Speaker, the cold war has heated up once again. Those who were blind to the deadly nature of the struggle must now somehow cope with the reality of the massive Soviet assault on Afghanistan, the brutal employment of poison gas, and the consummate arrogance of the leadership of a militaristic, totalitarian political order. The brutality of communism is explainable in simple terms; it is the logical consequence of unrestrained centralized power, armed absolutism, annointed with a messianic ideological mission.

Whittaker Chambers understood the nature of the current struggle. Many of our leaders have failed its significance, largely because they have been mentally trained to think in categories that have little or nothing to do with the true nature of the struggle. The American political elite is dominated largely by talented men with legal and managerial skills; but our political analysis is largely quantitative and too often superficial. The heart of the current struggle, as Chambers knew, was a struggle for man's soul. I am not making that claim. The Communists are making that claim. It is they, not the gentleman from California, who claim a special knowledge of the course of history. That is why the story of Viktor Belenko has a special meaning. His defection points up the vulnerability of our adversaries: the inability to cope with simple, unadorned truth. The stale, dry categories of Marxist-Leninist ideology are ritualistically dragged out to answer every conceivable social, economic, and even psychological problem, and hence they answer virtually nothing. Empty chants.

I ask my colleagues to read this portion of a selection from Reader's Digest on Belenko's decision for freedom:

Belenko's Decision for Freedom

DEADENED HOPE

Ludmilla cried every day their first week or so in Chuguyevka. Salsk, which she so despised, seemed glittering and glamorous in comparison with this village of 2000 souls, isolated in forests not far from Korea to the south and Manchuria to the west. The streets were unlighted and unpaved, the frame houses were unpainted, the outhouses and open garbage pits in their yards buzzed with flies and crawled with worms.

A few days after Belenko reported, base commandant Lt. Col. Yevgeny Ivanovich Shevsov and the chief political officer convened all pilots in a secret meeting. To Belenko, their candor bespoke desperation.

"Drunkenness is widespread and constant," they said. "Several times the soldiers have refused to eat their food. They are writing to their parents about what a horrible situation we have here, and the organs of State Security have been investigating."

The collapse of morale and discipline and the resultant chaos were outgrowths of a massive and urgent military buildup progressing throughout the Soviet Far East. In the previous two months the number of officers and men at Chuguyevka had quadrupled, and more were arriving weekly. But no provisions had been made to expand housing, dining or other facilities.

Nearly 200 men were jammed into barracks marginally adequate for 40. There were two water faucets in each barracks; the toilet was outside. The men received a change of underwear once a week and were allowed to go into the village for a bath every ten days, there being no bathhouse on the base. Comparable congestion in the mess hall made cleanliness impossible.

Except for a television set, no recreational facilities of any kind were available. The men were forbidden to listen to records or a transistor radio, to draw pictures of women, to read fiction, to lie or sit on their bunks during their free time (there was no place else to sit), to drink. But drink they did, in staggering quantities, for alcohol intended for the planes was the one commodity available in limitless amounts.

Belenko was sent to a training center near Moscow for a few weeks' intensive study of the MiG-25. When he returned in mid-June, he found that dysentery had disabled 40 percent of the regiment, two soliders had committed suicide and at least 20 had deserted. The men were verging on open mutiny. Moscow was incensed, and Commandant Shevsov was terrified when he learned that the regional political officer was flying in to lecture the officers.

Shevsov announced that a pilot from each squadron would have to speak at the scheduled assembly, present an assessment of the regiment's problems and then propose solutions.

Belenko was the fifth member of the regiment to speak. "We must consider our problems in light of the principles of Marxism-Leninism," he began. "These principles teach us that man is a product of his environment. If we examine the environment in which we have placed our men, we can see the origins of our problems.

"On the *kolkhoz* [collective farm] I have seen livestock housed better than our men are housed. I have seen pigs fed better than our men are fed. There is no place for our men to wash themselves. That and the filthy mess hall are why we have so much dysentery. There is no place for our men to play, and they are forbidden to do almost anything that a normal young man would want to do. We have created for them an environment from which any normal person would want to escape, and so they try to escape through alcohol.

"We must change that environment. First, we must build decent barracks, a decent mess hall, a decent latrine and a bathhouse with hot water. We should build a football field and a library so the men can improve their professional skills. And if they want to read detective stories, why not let them? It's better than having them drink alcohol."

The visiting political officer, who had been taking notes, rose, his face fixed with a waxen smile.

"Comrade officers, this nas been a productive gathering. But to you, Comrade Belenko, I must say a few words frankly. You do not ask, 'What may I give to the Party?' You ask the Party to give, give, give. You do not understand that our country cannot build complex aircraft, modern airfields and barracks all at the same time, and your priorities are exactly the reverse of what they should be. You spoke of the principles of Marxism-Leninism. I urge you to restudy these principles until you understand that the Party and the people are one and that, therefore, the needs of the Party always must be first."

The faintest of hopes sparked by Belenko's speech evaporated. Nothing would be done.

Worse, Ludmilla announced that she would leave him in October; they had tried their best; they had failed; it was pointless to try anew. Her parents were overjoyed by the prospect of having her and Dmitri with them; after she left, it would be best for all if Belenko never saw her or Dmitri, who would only be confused by his reappearance.

DECISION FOR FREEDOM

Conditions at Chuguyevka were typical of those throughout the Far East. Reports of desertions, suicides, disease and alcoholism were flooding into Moscow from bases all over. In late June, Shevsov convened the officers in secret to convey grave news. All the reports had caused such concern in Moscow that the minister of defense himself was coming to the Far East and to Chuguyevka.

The career of every officer would depend on the minister's impressions; to make a good impression, it would be necessary to build a paved road from the base to the helicopter pad where he would land, four miles away. The regiment would begin work on the road tomorrow.

It was never clear just where the order originated; certainly Shevsov had no authority to initiate such a costly undertaking. In any case, everybody turned to road building.

It's unbelievable. For the cost of this we could have built everything—barracks, mess hall, everything.

But the crowning order was yet to come. Within a radius of about a mile, the land around the base had been cleared of trees to facilitate takeoffs and landings. The minister, it was said, was a devotee of nature. He would want to see green trees as he rode to the base. Therefore, trees would have to be transplanted from the forests to line the road.

You can't transplant trees here in the middle of the summer! Everybody knows that!

But transplanted they were, hundreds of them, pines, spruces, poplars. By the first week in July they were dead.

Dig them up and replace them. So they did, with the same results.

Do it again. He may be here anytime now. So again trees were imported by the hundreds. Again they all died. Finally acknowledging that nature would not change its ways for them, someone had an idea. Leave them there, and just before he arrives, spray them with green paint. We'll drive fast, and he won't know the difference.

But a reprieve came in early August. Illness had forced the minister to cancel his inspection.

To fly well, a pilot must practice regularly. His skills, like muscles, grow flabby through disuse. But because of fuel shortages and preoccupation with the road, they had flown little since May.

The second day after they resumed, a pilot suffered vertigo as he descended through clouds. In his disorientation he panicked and ejected himself. Scrub one MiG-25 and the millions of rubles it cost.

Another pilot allowed a MiG to careen off the runway. A civilian bus was passing, and like a great steel knife, the wing of the MiG sheared off the top third of the bus, killing ten of the passengers.

The crashes might have occurred even if the pilots had been flying regularly. But Belenko didn't think so. It was murder.

That night he knew it was futile to postpone a decision any longer. A fever of the spirit possessed him, and only by a decision could he get relief.

For me, there can be no purpose or meaning to life under this system. Is there freedom in the West, in America? I know they have lied about everything else.

On a navigation map Belenko drew an arc from Chuguyevka representing the maximum range he could attain. Within the arc he discerned only one airfield large enough to accommodate a MiG-25, the military field at Chitose on the Japanese island of Hokkaido. *All right. It has to be Chitose.*

WE WILL GET YOU BACK

Barely maintaining airspeed, Belenko slid the MiG-25 downward. Finally, he saw an airfield—not Chitose, but the commercial airport at Hakodate, 90 miles to the southwest. The runway was shorter by a third than any on which he had ever landed a MiG-25, and he knew it would be impossible to stop on the field. But maybe he could keep the plane and himself largely intact.

He touched the runway at 220 knots. As he deployed the drag chute and repeatedly slammed down the brake pedal, the MiG bucked and vibrated. Tires burning, it screeched and skidded, ran off the end of the field, knocked down a pole, and finally stopped 800 feet off the runway. The front tire had blown, but that was all. The tanks contained enough fuel for about 30 more seconds of flight.

The Japanese quickly summoned an official who spoke Russian. "Tell me how it happened. Did you lose your way?"

"No, I did not. I flew here on purpose. I am asking political asylum in the United States. Place guards around the aircraft and call the Americans immediately."

The next day in a Tokyo naval prison where Belenko was lodged for his own safety, a Japanese announced, "There is an American here who wishes to speak with you."

The Dark Forces. What will they do with me?

The American, dressed in a three-piece gray suit, a white shirt with a button-down collar, a striped tie and black shoes, offered his hand when Belenko entered the office of the base commandant. "My name is Jim and I represent the U.S. government," he said in flawless russian. "It is a pleasure to meet you and an honor to inform you that the President of the United States has granted your request for political asylum. You have nothing to worry about. As soon as the necessary bureaucratic procedures are completed, you will fly to the States. It won't be long."

Later a package and note were delivered to him: "It was nice talking with you. I hope these books help you pass the time. Best regards, Jim."

The package contained two books: a collection of the works of Aleksandr Solzhenitsyn and *The Great Terror* by Robert Conquest, both in Russian. Anyone caught reading either in the Soviet Union could expect a minimum prison sentence of three years. Drawn by the lure of the forbidden, Belenko read curiously at first, then passionately, then as a man possessed.

All his intellectual life he had detected symptoms of a sickness in Soviet society, signs that something was fundamentally wrong. Yet he never discerned any logic in all the failures, stupidities, cruelties and injustices he observed. Now Solzhenitsyn, a Russian viewing Soviet society from within, and Conquest, an Englishman analyzing it from without, independently and in separate ways, gave him the understanding he had always sought.

Belenko was one escapee the Russians had to get back. Not only was he probably the most knowledgeable Soviet military officer to flee since World War II; he was by Soviet definition the quintessence of the New Communist Man. To admit otherwise would be be to admit that the Party had been ludicrously wrong, that the whole concept of the New Communist Man might be a myth. Thus, Belenko became the only defector about whom the Russians publicly had only good to say. And they quickly amassed all their propaganda and diplomatic resources in a massive effort to recapture him.

On the third day, the Japanese Foreign Office official who accompanied him from Hakodate came to the prison. "The Soviet Union is exerting enormous pressure upon us," he said. "They do not believe that you are acting voluntarily. They are accusing us of keeping you by use of force and narcotics. It would be a great service to Japan if you would meet with a Soviet representative and disprove their accusations."

As Belenko entered the conference room that afternoon, a KGB officer, who posed as a first secretary of the Soviet embassy in Tokyo, jumped up and started his spiel.

"The Soviet government knows that what happened was not your fault. We know that you did not voluntarily land your plane in Japan, that you lost your way and were forced down. We know that the Japanese have drugged you with narcotics. I have come to help you return to your own people, to your loving wife and son, to your relatives. Your wife, your father, your mother, your aunt have joined in sending a collective letter to you."

How could they get them together so quickly, from the Donbas, Siberia, the Far East? It's preposterous. And I don't care anyway.

As the KGB officer started to read the letter aloud, Belenko stood up and looked him in the eyes with unflinching contempt. "Wait a minute," he interrupted. "I am here voluntarily. Nobody has used force or given me any drugs. I on my own initiative have requested political asylum in the United States. Excuse me. Our conversation is ended."

"Traitor!" shouted the KGB officer. "You know what happens to traitors! One way or another we will get you back!"

A SPECTACULAR SHOW

Belenko's departure for the United States did nothing to reduce Soviet pressures on Japan; they were merely refocused on recovery of the MIG-25 before the Americans could study it. Surveillance flights by Soviet fighters and seizure of Japanese fishing craft and their crews at sea were frequent. Moscow threatened economic retaliation and hinted at dire consequences unless the Japanese gave in at once.

In their threats and insolence, the Russians had provoked the Japanese government, with widespread support from the citizenry, into a posture of defiance. The Japanese decided to make the MIG-25 available to the Americans for at least 30 days, provided the specialists who came to inspect it wore civilian clothes and acted as consultants working under their supervision.

Flying toward what he envisioned as the lair of the Dark Forces, Belenko knew little of the international storm he was precipitating. In his psychological approach to America, he was continuing the intellectual quest which had driven him much of his life. He had to understand the underlying order, causes, purpose of the world he was entering. But he was so inured to deceit that he was skeptical of everything.

They landed at Dulles Airport near Washington, D.C., in darkness and drove for about an hour until the car turned into a long driveway. The headlights illuminated an imposing southern mansion. After entering, Jim pointed to a bedroom and told him to sleep as long as he wished.

Belenko awakened at midmorning and went to the dining room. There Jim introduced him to Peter, one of the three Americans who were to affect his future most significantly. Peter was a devout Catholic, the father of eight children, an accomplished linguist and one of the best clandestine officers the United States had. Next Belenko met his "baby-sitter," Nick, a Marine sergeant the same age as he. Born of Russian parents, Nick was to be in the next weeks companion, guide, friend and, though it was not put that way, bodyguard.

As Belenko had only one set of clothes, they drove to a shopping center outside a small Virginia town and headed toward a clothing store. But Belenko insisted on inspecting a supermarket on the way. He noticed the smell or rather the absence of smell; then he explored in astonishment. Mountains of fruit and fresh vegetables; a long bin of sausages and cold cuts; an equally long shelf of cheeses; milk, butter, eggs, more than he had ever seen in any one place; the meat counter, at least 20 yards long, with virtually every kind of meat in the world—wrapped so you could take it in your hands, examine and choose. Long aisles of frozen foods, every kind of juice and much else that he did not recognize. Nobody doled any of this out. It was all there for anybody to select.

If this were a real store, in less than an hour a woman could buy enough food to feed a whole family for two weeks. But where are the people, the crowds, the lines? Ah, that proves it. This is not a real store.

As Peter and Nick steered him back toward the clothing store, Belenko bolted into a shop offering televisions, stereos, radios and calculators. Several color-television sets were tuned to different channels, and the brilliance and clarity of the hues as well as the diversity of the programs amazed him. But he was not fooled. A color-TV in the Soviet Union cost a worker approximately five months' wages, and because of difficulties with transistors and solid-state circuitry, the quality was poor. Obviously this was another showplace of the Dark Forces.

He had to appraise the clothing store only a minute or so to realize it also was a fake. Here were perhaps 300 suits, along with sports jackets, overcoats, hanging openly on racks, piles of trousers and shirts lying on counters, ties within the reach of anybody passing; even the shoes were out in the open—and all this was guarded by only a few clerks.

"I congratulate you," Belenko said en route back to the mansion. "that was a spectacular show you put on for me."

Nick laughed, but not Peter, "Viktor, I give you my word that what you've just seen is a common, typical shopping center. There are tens of thousands of them all over America."

"Can the average American worker buy what we saw there? Can he buy a color-television set?"

"Yes, if he's willing to pay more than for a black-and-white set. I would guess more families have color sets than not. But don't take my word. Wait until you travel and see for yourself."

The Dark Forces, they are not stupid. They would not tell me I could see anywhere what I saw today unless that is true—or unless they intend to imprison me or kill me. But if they're going to kill me or imprison me, what do they care what I think?●

DR. MELVIN A. EGGERS

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. LEE. Mr. Speaker, colleagues, I take this opportunity to extend my congratulations for the recent recognition afforded a constituent, Dr. Melvin A. Eggers, chancellor of Syracuse University. Dr. Eggers was selected as "Businessman of the Year" by the combined Newhouse daily newspapers of Syracuse, N.Y., the Sunday Syracuse Herald-American.

Seldom does a member of the academic community in any city of America receive recognition outside the academic circle itself. This award represents a fitting tribute to Dr. Eggers, as well as a significant recognition of the skills needed to operate and maintain the high standards of so complex a business as Syracuse University. My congratulations, therefore, are extended as well to the newspapers for their insight.

Nine years ago when institutions of higher education throughout America were sailing toward narrow financial straits, Dr. Eggers assumed the helm of Syracuse University. That highly respected school was in no different straits. Because of his magnificent leadership, he has presented university trustees with seven consecutive balanced budgets and has concluded a $35 million capital fund drive which will help make possible the now-under-construction Carrier Dome sports complex. Clearly, if Dr. Eggers decides ever to leave Syracuse University, we can use his skills in the Nation's Capital, the home of only mythical balanced budgets.

Syracuse University continues to grow and to provide a sound foundation for the growth of new generations of Americans. Dr. Melvin Eggers has contributed one of the university's most important factors: A stability available only with a strong financial underpinning. My sincerest congratulations are extended to him with this honor.●

RETIREMENT OF LEO PANDO

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. LUJAN. Mr. Speaker, after 34 years of service, Leo Pando, one of New Mexico's most able public officials is concluding his career. Leo has worked in behalf of the people of New Mexico in the State land office since 1945; a career that spanned the terms of seven State land commissioners. His devotion and enthusiam toward his work has won him the gratitude and respect of all who have come in contact with him. As director of the surface division in the State land office, Leo was responsible for the leasing of 9 million acres of land held in trust for New Mexico schools and 19 other institutions.

In his capacity as surface division director Leo Pando was instrumental in assisting the many ranch families in New Mexico with State grazing leases. His work brought him in contact with three generations of New Mexico families. The current State land commissioner, Alex Armijo, commented on Leo Pando's career saying: "During my 30 years in public office, I have had very few employees who are dedicated as he is."

Having grown up in the same neighborhood with Leo, I know this to be the case. On behalf of all the people of New Mexico, I take this opportunity to thank him for a job well done and wish him good fortune in the years to come.●

POTASSIUM IODIDE PILLS

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Ms. HOLTZMAN. Mr. Speaker, one of the most serious and far-reaching consequences of an accident at a nuclear powerplant would be the release of radioactive iodine, which concentrates in the thyroid gland and creates a high risk of thyroid cancer. The risk can be reduced by more than 90 percent, however, if potassium iodide is taken within 1 hour of exposure. The potassuim iodide is absorbed by the thyroid which then becomes incapable of absorbing the radioactive iodine. Potassium iodide is not expensive to produce. Studies have shown that even a very large population, such as New York City's, can be at least partially protected at a very low cost by the production and stockpiling of potassium iodide pills.

Dr. Leonard Solon, director of New York City's Bureau for Radiation Control, has recommended that the city stockpile 30 million doses to be distributed to New Yorkers in the event of a serious accident at the Indian Point nuclear plants in Westchester County. He has developed a proposal for the distribution, inspection, and public education necessary for such a program.

I commend to my colleagues' attention an article about Dr. Solon's proposal that appeared in the January 28, 1980, edition of the New Yorker. The text of the article follows:

POTASSIUM IODIDE PILLS

Leonard Solon, a physicist, a Ph.D. in radiological health, and the director of the Bureau for Radiation Control of the city's Health Department, was rummaging around in his office the other day for some glass vials of potassium-iodide pills. Unable to find them, he described the pills instead—"white, round, a little like an aspirin." Dr. Solon has recommended that the city stockpile thirty million vials, each containing fourteen of the pills, for immediate distribution to New Yorkers in the event of a serious accident at Indian Point, the nuclear power complex in Westchester County. Last week's earthquake in Westchester, within five miles of Indian Point, which is situated just three thousand feet from a major branch of the Ramapo Fault system, made recommendations for dealing with such an accident especially pertinent.

But why potassium iodide?

"As a scientist. I address the public-health question," he said. "To put it theoretically, I wouldn't have distributed potassium iodide at Three Mile Island if I'd known that what happened was all that was going to happen, but you can't know that in advance. If there should be any such accident at Indian Point, we'd have to institute distribution here in the city, even if the meteorological conditions at the moment might seem to make it unnecessary."

Dr. Solon's concern is volatile iodine-131 and iodine-133, which are among the earliest radionuclides released into the air after a nuclear accident and are among the most serious, because they concentrate in the thyroid and represent a potential threat of thyroid cancer, among other illnesses.

Chemically, the thyroid gland does not distinguish between radioactive iodine and stable iodine, so if a stable iodine such as that in potassium iodide is administered, it will block or dilute the radioactive iodine and lessen its effect. Taken within one hour after exposure, potassium iodide will prevent more than ninety per cent of the radiation danger to the thyroid. Taken from three to four hours after exposure, it will still reduce the risk by fifty per cent.

The Three Mile Island affair was, in Dr. Solon's words, "a marvelous prophylactic," and soon after it occurred his bureau began to draft a proposal for stockpiling, which is now being considered by city officials. It suggests that enough doses—of a hundred and thirty milligrams for adults and a minimum of sixty-five milligrams for children under one year—be stockpiled so that each person in the city could take a dose every day for anywhere from ten to fourteen days. On an average working day, there are eight million people in the city. Ten million of the ten-to-fourteen-day series of doses would be kept on hand in Health Department District Health Centers and in nearly one thousand pharmacies. The health centers would distribute the doses free, and the pharmacies would agree to sell the series to the public for about a dollar. Other places where the doses would be kept on hand would be firehouses, police stations, hospitals, factories, and office buildings. Post-emergency distribution would involve twenty million additional series of doses. The pills, manufactured by Wallace Laboratories, cost forty-one cents per series. The total price tag for such preparedness would be thirteen million dollars, to cover public education, the training of workers in the distribution centers, transportation, and inspection of the dosage units.

Opposed to this is a horrific cost if the city's people are exposed without such protection. Dr. Solon's proposal notes, "If the eight million residents of New York City were exposed to an average of ten rem per person during a nuclear accident, 172 cases of thyroid cancer and a total of 496 persons with thyroid nodules could result in the first five years. If the average person lived forty years after the accident, the accident would be responsible for 3,968 persons with nodules distributed as follows: 1,243 cases of thyroid cancer and a total of 2,725 persons with benign nodules. Thus, the minimum cost of care of the thyroid glands of New York City residents after a serious nuclear accident would include $19.2 billion for outpatient prevention and follow-up, $128 million for removal of 13,760 cancerous nodules, and $163 million for removal of 25,920 benign nodules." This, of course, is only the cost in dollars.

The special group established by the Nuclear Regulatory Commission to investigate the Three Mile Island accident recently urged that evacuation plans be set up for any city within thirty miles of a reactor, and we asked Dr. Solon whether that recommendation would affect his proposal.

"Evacuate New York?" he said. "You can't even evacuate New York on Labor Day. As a boy from the South Bronx, I know. The N.R.C.'s radius of concern used to be five miles. Then it became ten, then thirty. Realistically, in the event of a major release from a thousand-electrical-magawatt reactor, which is the current output of the reactors we're building, I think we're talking about the potential of volatile-iodine dispersions of up to one hundred miles from the plant. Where you make the decision to evacuate is arbitrary. At some point, you say that the danger is sufficiently reduced, but there isn't anything magical about thirty miles. It's not pi, or e or c, the speed of light. Furthermore, there are other emissions to worry about. Strontium-90, cesium-137, krypton-85, and a large number of other hazardous radionuclides would be released in a Class Nine accident—that is, a meltdown—but you can't do very much about them. You can do something about iodine-131 and iodine-133, and they also happen to be of dominant concern because their half-lives are only eight days and one day, respectively; they are abundant in spent reactor fuel; and they tend to attack a single body organ. Protection against them would accomplish a great deal."

We asked Dr. Solon about the probability of a serious accident.

"It's a little like car insurance and automobile accidents," he answered. "The Probability of an accident for any one car is small, but if everybody drives, in the course of a year there will be a certain number of accidents—hence the need for insurance. If nuclear power plays a dominant role in energy generation in the United States for the next three decades—which appears likely—there will be an accident. I would say you would have to view the occurrence of a bad accident in some plant as certain."

Dr. Solon continued, "The decision on our potassium-iodide proposal is a political and economic decision, in the last analysis. Within the over-all matrix, the fiduciary matrix is something even a physicist can understand. The decision is up to the people who have the money or can appropriate it. There is also a judgment implied by the proposal. By passing it, will the city be creating certain amount of concern or apprehension which is going to be unpopular with the utilities that are representing nuclear energy as the wave of the future and a safe kind of energy option? The Nuclear Regulatory Commission is supposed to be looking after public health, and to a substantial degree it does. But built into the structure of the federal bureaucracy is a certain feeling of promoting nuclear energy and not implying a lack of safety. I think it unlikely that suitable solar or fusion sources will be developed in the near future, and, knowing the American temperament, I doubt if we'll ever see the kind of conservation that would obviate the use of nuclear power. As long as we have to live with it, we should make it as safe as possible."

In the proposal, notice was assiduously taken of the multibillion-dollar costs in energy, job losses, and the work of decommissioning and decontamination if Indian Point were to be shut down or relocated. We asked Dr. Solon for his personal views on Indian Point.

"Indian Point should never have been built so close to the city," he said. "It shouldn't be there. I say close the damn thing down, but do it thoughtfully."●

REAR ADM. LEE E. LANDES

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. PURSELL. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the contributions to this Nation of my friend and constituent Rear Adm. Lee E. Landes. Admiral Landes recently retired from the Naval Reserve after 37 years of outstanding service.

From the time of his promotion to rear admiral in 1973 until his retirement in 1979, he was National Director of the Defense Logistics Agency units of the Naval Reserve. His superior performance has been recognized repeatedly by commendations from the Secretary of the Navy, Commander of the Naval Supply Systems, and the Legion of Merit medal from the President of the United States.

Admiral Landes developed the concept of Defense Logistics Agency support and implementation of support by Naval Reserve units. This has been an invaluable contribution to the defense readiness of this Nation.

His civic contributions are extensive, particularly his work with education and youth, which has certainly added to the growth and development of Michigan's youngsters.

Personally, Admiral Landes has been a friend and adviser to me during my years in public service. As a member of my academy selection board, he helps assure a continuance of our military leadership. To find such compassion, humor, and knowledge, as exemplified by Lee, in our future leadership will insure the strength and excellence of America.

Those who know Admiral Landes sum up his career quite adequately: "He is truly twice a citizen." Let me extend, in behalf of the 96th Congress, my heartfelt congratulations and best wishes to Rear Adm. Lee Landes for 37 years of naval and civic service.●

JUDGE GAVE UP THE WRONG TASK

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Ms. HOLTZMAN. Mr. Speaker, Judge Marion Callister, who last fall refused to remove himself from consideration of a case challenging the equal rights amendment despite the fact that he was a high-ranking officer of the Mormon Church, has been relieved of his church position. This in no way removes the appearance of bias, and Judge Callister should remove himself from the case. If he does not, the Justice Department should appeal his refusal.

I commend to my colleagues' attention an editorial on this subject by John P. MacKenzie which appeared in the New York Times on January 29, 1980. The text of the editorial follows:

The Judge Gave Up the Wrong Task

Until last fall, Marion Callister of Boise, Idaho, was a high-ranking officer of the Mormon Church, which is working intensely to defeat the Equal Rights Amendment. He was, and still is, the United States district judge in a lawsuit that could kill the proposed amendment. Last November, amid debate over the propriety of his sitting in the case, he escaped the wrong horn of the dilemma: He was relieved of his church position. It would have been more sensible for him to quit the court case, for that is the only way he can cure the appearance of bias.

The Church of Jesus Christ of Latter-Day Saints strongly regards the E.R.A. as contrary to its view of proper family life and the role of women. The church also reveres the Constitution and thinks Congress desecrated it by extending the E.R.A. ratification deadline to 1982. Judge Callister has been one of about 150 regional church representatives. To liken the post to that of an archbishop is inexact but does convey a sense of the rank.

The suit, brought by Idaho and Arizona, asks the court to nullify the ratification extension and to validate the votes of states that want to rescind previous approval of the amendment. The Justice Department argues that the suit is premature and that it raises political, not legal, questions.

At the end of the year, three months after rejecting a Justice Department motion to disqualify himself, but while critics of that decision were contemplating their next move, Judge Callister disclosed that the church had released him from his duties as regional representative. Since the church is silent on its reasons, it is fair to infer that someone thought it wise to relieve the judge of a seeming conflict of interest. But at the very least, the appearance of a conflict remains.

The law recognizes the need sometimes to challenge a judge when no personal criticism or invasion of conscience or privacy is intended. Congress provided in 1974 that a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Litigants concerned about conflicts of interest need not bear the near-impossible burden of proving actual bias. They need only show that their fears have a *reasonable* basis.

It is reasonable for an outsider to expect a respected Mormon official to accept, even to promote, his church's policy of opposing the E.R.A. In a memorandum explaining his refusal to step aside, the judge emphasized that nobody claimed he had lobbied openly on the subject. He thus raised the possibility that he had worked against the amendment privately. The church does not dispute that at least some regional representatives have very actively opposed the amendment.

Judge Callister misconstrued the Government's motion asking for his disqualification. He said it "essentially avers that any lay member of the church would be disqualified to sit on this case by reason of his membership in the church. . . . The challenge is based solely on the teachings of the church to which I belong." That was not the Justice Department's claim nor the complaint of women's groups trying to join in the case. The challenge was neither a forbidden "religious test" for officeholding nor an attack on the church.

The judge has reminded the litigants that any decision he makes is reviewable by higher courts. But that is only a partial remedy. The women's groups fear, reasonably, that an adverse decision this spring would cripple their lobbying in state legislatures which sit only every two years.

The E.R.A. backers are not entitled to a judge favorably disposed to their cause, but they are entitled to one who meets the law's standards as to the appearance of impartiality. It is not the judge's integrity that is being questioned, only the appearance of his impartiality. He should step aside without having to be asked. If he does not, the Justice Department should again ask him to do so.●

RODINO AMENDMENT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. DODD. Mr. Speaker, On Wednesday, January 30, 1980, the House of Representatives passed, with my support, the Rodino amendment to H.R. 5980, the antirecession targeted fiscal assistance bill. The Rodino amendment adds a much-needed $50 million to the $150 million already included in H.R. 5980.

For Connecticut, passage of the Rodino amendment results in a 32.28 percent increase in funds over the amount not covered by the amendment—from $1,469,763 to $1,944,130. For the Second District, the amount authorized rises from $206,073 to $272,050.

This assistance is particularly important in light of the increased emphasis lately on defense and energy concerns. In the administration's fiscal year 1981 budget, less than 25 percent of the $616 billion are "relatively controllable expenditures," and 60 percent of these are defense expenditures.

While there is no doubt that increases in those areas are necessary, we must not lose sight of the pressing economic problems facing our cities and towns, particularly in the mature economy of the Northeast United States which will be exacerbated by the predicted 1980 recession, in which unemployment will rise to 7.5 percent.

This aid will offset the loss of local tax revenues caused by the recession and thereby reduce the need to cut back on vital services provided by local governments.

Finally, I would like to commend my colleagues for their foresight in recognizing that those programs which contribute to the growth and prosperity of urban and rural communities need to be protected, especially during times of economic hardship.●

THE SOMALI REFUGEE TRAGEDY

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. PETRI. Mr. Speaker, in one of my first speeches in the House of Representatives, I noted that I had served as a Peace Corps volunteer in the Somali Democratic Republic. I know my experience there was worthwhile personally, and I hope it was beneficial to the Somalis I came in contact with. Since then, I have tried to maintain ties with Somalia.

I am deeply saddened by the tragic, overwhelming refugee problem confronting the country today. Somalia, according to the United Nations High Commissioner on Refugees, has the largest refugee camp population in the world. In mid-January 1980, that small country of 3.4 million people has 474,000 refugees in camps. The Somali Government itself estimates that, for every one refugee in camps, two others roam the countryside in need of food, clothing, and medicine. That means there are almost 1.5 million refugees, or over one-third of Somali's total normal population. No other nation on Earth has such a high proportion of refugees in country.

These statistics are more appalling when one realizes that the vast majority of the refugees are women and children. Again, according to the UNHCR, of the 474,000 refugees in camps, 153,000 are children under the age of 6. A total of 420,000 are women and children under the age of 15. The refugees are both ethnic Somalis and Oromo from southern Ethiopia.

It is inexplicable to me that a tragedy of such proportions is virtually unknown in the United States. Outside of a few newspaper articles, and a statement submitted on December 5, 1979, in the CONGRESSIONAL RECORD by Senator KENNEDY, there has been little, if any, awareness of the magnitude of the need, the immediacy of the problem, and the potential for thousands, if not tens of thousands, of deaths in the near future, unless something is done.

First, it is clear that Somalia is in danger of being overwhelmed by the flood of refugees. Both the UNHCR and UNICEF vouch for the statistics on the number of refugees in camps and the overwhelming majority of young children and women.

Two respected Swedish professors of international law, Dr. Goran Melander and Dr. Peter Nobel, recently visited Somalia. Their findings, in October were as follows:

> More than 350,000 refugees from Ogaden and other areas of almost entirely Somali and rural origin are receiving emergency assistance in camps located in five regions. Most of them are children. A carefully administered registration routine lends high credibility to refugee statistics. An estimate, hitherto undisputed, indicates another 650,000 refugees in Somalia outside the camps. Little is known about their situation. The needs of encamped refugees are urgent. Serious shortage is recorded, notably for food, medicine and shelter. For programs aiming at rehabilitation and self-support for the refugees, there are no means available. The Somali Government has committed itself on a high level manifest in the establishment of qualified and efficient legal and administrative machineries for dealing with the refugee problems, as well as in a generous sharing of land and meager resources with the refugees.
>
> There is no sign of a decrease in the daily rate of newly arriving safety seekers, which is probably near to 1,000. Having a larger refugee population registered in camps than any other country in the world and making the greatest possible efforts to meet this unending and tremendous problem, Somalia has to this day not received more than small and hopelessly underproportioned shares of help from the international community.

Second, there can be no doubt, but that Somalia is incapable of providing the basic needs for these refugees. It is an incredibly poor country with a per capita income of $70. In October 1979, the Somali Government requested $71 million in bilateral or multilateral assistance to feed, clothe, shelter, and provide medicine to a registered refugee population of 350,000. Even if all that assistance were immediately forthcoming, it would be inadequate, since the refugees continue to stream into Somalia at the rate of 1,000 per day. This accounts for the rapid rise in refugee camp population to 474,000 by mid-January 1980.

Rations for the refugees are inadequate. The ideal daily ration is supposed to be 100 grams of rice, 200 grams of millet or sorghum, 60 grams of sugar, 60 grams of oil, 100 grams of bread, 60 grams of powdered milk, and a little tea. One who served in the Peace Corps with me visited Somalia in October and found that, at the camp he visited, the ration was only one-third of that. Food is distributed every 2 days, and, because of the lack of storage facilities, the meager reserves are frequently wiped out by heavy rains.

Medicine, bandages, everything from aspirin to antibiotics are in short supply or nonexistent. Dr. Kevin Cahill, one of two WHO International professors of medicine, health assistant to Gov. Hugh Carey, and member of the board of directors of Catholic Relief Services, who recently visited Somalia, said he worked with a young Somali doctor who served 50,000 "sick, frightened, homeless people," without surgical equipment and "grossly inadequate drugs and medical supplies." Dr. Cahill reported that one camp he visited had a death rate of 2,000 in the prior 2-week period. The danger from large numbers of deaths due to epidemics like cholera is ever present.

I believe that it is possible to prevent the tragedy from developing into the African equivalent of Cambodia. There is a willingness on the part of Somalia to help the refugees. They are welcomed, not turned away by pirates or at gunpoint. Prompt effective relief in the form of food and medicine should insure that a vast majority of the refugees, although homeless, will still survive.

Several steps are being taken to assist Somalia.

First, I am pleased to learn that the House Foreign Affairs Subcommittee on Africa, under the chairmanship of Congressman Stephen Solarz, will conduct hearings on the refugee problem in Africa and the Somali situation in particular. I believe these hearings will help to prompt emergency relief for Somalia.

Next, I understand that Africare, an organization which specializes in providing medical assistance to developing nations in Africa, is sending a team to Somalia in early February to study that country's needs. Given their excellent record with regard to the Sahel relief program, I believe that Africare's assistance will be efficient, direct, and meaningful.

Third, a group of former Peace Corps volunteers and others have formed the U.S. Committee for Somali Refugee Relief. Their purpose is to raise money to purchase medicine for the refugee children.

They will be holding a fund raiser in Washington, D.C., on Wednesday, April 23, at the Capital Children's Museum. I and several other Members of Congress, as well as various religious, business, and labor leaders, are serving as honorary sponsors of this event. This committee, a tax-exempt organization, is also planning a series of fund raisers in other cities, including Boston, Chicago, New Orleans, and Los Angeles, as well as a nationwide mailing solicitation.

Obviously, more can and should be done. The most immediate need is for medicine. I urge our pharmaceutical companies to consider donating to the U.S. Committee for Somali Refugee Relief vitally needed antibiotics and other drugs on the Somali Government's request list. Some of our airlines and shipping companies could provide, on a space available basis, the means for transporting these medicines, either directly to Somalia, or at least as far as Rome, where Somali Airlines could pick them up for the last leg to Mogadishu. Other companies might donate blankets, clothing, tents, and material needed to provide shelter. There is a need for education materials for the 95,000 school age children in the refugee camps. Books and pencils could be provided by school supply houses. And certainly, in our country, where we have a surplus of food, grain, and dry milk, more should be done to get that surplus where it can do the most good—into the Somali refugee camps.

What is needed at the moment is public awareness of the extent of the Somali tragedy and the plain inability, despite the best efforts of Somalia, to cope with over 1.5 million refugees. I hope that the hearings of the House Subcommittee on Africa and the efforts of religious organizations, the U.S. Committee for Somali Refugee Relief, Africare, and other Americans in churches and synagogues, schools, senior citizen centers, labor unions, businesses, and fraternal organizations, will prompt people to give generously to avert the deaths of thousands of people from starvation and disease. Unlike the Cambodian situation, where the United States is involved in bringing refugees to live in the United States, Somali refugees do not wish to emigrate. They need food, medicine, and shelter to survive in Somalia, and eventually return to their homeland.

What is also needed is a sense of urgency. The refugees do not have the luxury of time and it would be a senseless catastrophe if, due to bureaucratic delays, vital food and medicine, although destined for Somalia, did not reach there in time to do the most good.

Finally, the relief effort for Somalia should be based on the purely humanitarian grounds that there are women and children in dire need and we have the means and will to help. But there are also political considerations. Two years ago, before Russian tanks rolled into Afghanistan, the Somalis were fighting 10,000 to 20,000 Cuban proxy troops and the Ethiopian Army, equipped with $1 billion in the latest Russian equipment, directed by three top-level Soviet generals.

We have also seen Russian equipment from Ethiopia, ferried into Yemen, threatening our vital oil supplies in Saudi Arabia by subversion. There is much impartial evidence that the flood of refugees has been caused by indiscriminate bombing by the Ethiopian Air Force of innocent civilians, poisoning of water holes and strafing of the nomads' livestock. Foreign doctors and observers in Somalia have reported women and children with napalm burns. The nomadic refugees themselves have related stories of such atrocities. What appears to be happening is a concerted, brutal campaign to drive the civilians out of the disputed area adjacent to Somalia and thus deprive the guerrillas there of a population base as support. The tragically large proportion of women and young children in the refugee camps further supports this conclusion.

Whether or not we decide to support Somalia politically, it is clear that, on purely humanitarian grounds, we must support Somalia in its effort to provide the 1.5 million refugees with food, shelter, clothing, and medicine. We should also consider directing America's surplus grain, and our surplus dry milk supplies, to the people of this needy area.●

WILDERNESS TIMETABLE NEEDED

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. RUDD. Mr. Speaker, I am pleased to join with my colleague from Washington, Tom Foley, the distinguished chairman of the Agriculture Committee, in cosponsoring H.R. 6070, the National Forest Multiple-Use Management Act of 1980.

This legislation would set definite time limits within which the Congress would have to act on the 15 million acres of proposed wilderness designations within the national forest system recommended last year by the administration under the RARE II process. After the time limits expire, the administration would be required to return all lands not designated by Congress as wilderness to nonwilderness multiple use.

Under H.R. 6070, the 15.4 million acres of public lands recommended for wilderness designation would be protected and managed as wilderness until January 1, 1984, by which time Congress would have to act on all the President's recommendations.

Additionally, by January 1, 1985, the administration would have to submit its recommendations on any lands of the 11 million acres which are presently under further study for wilderness designation and any other lands within the RARE II process. Congress would then have 2 years, until January 1, 1987, to act on these recommendations during which time the areas recommended for wilderness would be managed as wilderness.

Again, failure by Congress to approve the President's recommendations would mean the lands not approved would revert to nonwilderness multiple use.

In my view, these are very generous timetables. Indeed, I would personally favor much more restrictive time limits to expedite consideration of appropriate wilderness designations.

However, this legislation can serve as a needed vehicle to speed up action on RARE II wilderness decisions. Its adoption would insure that the administration will be unable to achieve through further study and incessant delays what Congress may be unwilling to grant—that is, massive new wilderness areas. The effective net result under current protracted considerations of the administration's recommendation is that the land proposed for wilderness is managed under restrictive wilderness requirements almost indefinitely.

Due to the large amount of land under Federal control and the likelihood that this acreage contains vital minerals and other resources, it is alarming, indeed, to hear environmental extremists who wish to foreclose almost all mineral exploration and development on these lands.

It remains my position that continued multiple use is the only acceptable public policy to accommodate the many needs and desires of all our people.

The expansion of wilderness designations would further damage oil and gas exploration and development, timbering, livestock grazing, recreation, and other needed uses of these public lands in every State.

As a matter of principle, I think that both the administration and the Congress should evaluate the wilderness areas in question with a special concern about our Nation's energy requirements. It would be foolhardy to set strict limits on the use of massive amounts of public lands which contain important minerals badly needed for our country's continued economic stability and prosperity.●

BANKRUPTCY OF THE MILWAUKEE RAILROAD IS DAMAGING TO STATE OF SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. ABDNOR. Mr. Speaker, today I have introduced legislation to undo some of the grievous harm which was done the interests of South Dakota through enactment of the Milwaukee Railroad Restructuring Act (MRRA).

The bankruptcy of the Milwaukee is the single most pressing issue facing my State. We stand to lose in excess of 90 miles of rail. That is more than any other State, as well as a greater percentage of our total rail trackage than any other State.

The situation facing South Dakota prior to enactment of the MRRA was bad, but following enactment it is worse.

While many of my colleagues lauded passage of the MRRA as a very positive act as far as the interests of shippers and employees are concerned, in reality the effect is quite the reverse. In order to win the right for employees and some shippers in the western States to submit a plan to take over the Milwaukee, the directed service protections of existing law were traded off. Furthermore, the right and responsibility of the Interstate Commerce Commission to approve rail abandonments before they could become effective was repealed as well.

Directed service protections had provided for up to 240 days of continued rail service after the time the Milwaukee ceased to serve any particular line, and the leadership of the Interstate and Foreign Commerce Committee argued passage of the MRRA would save the cost of such service. Congressman MADIGAN estimated that figure at $150 million.

No one could say for certain whether the employee-shipper ownership plan (ESOP) would be found feasible. I believe everyone hoped that it would. South Dakota's Governor and State rail director were warning that the plan would be infeasible, however; and that, indeed, was the finding of ICC, based upon overwhelming evidence and the recommendations of well qualified consultants.

Thus, the net result of the MRRA was the loss of directed service and the speeding of abandonments. There were no benefits to South Dakota shippers—only losses.

Now the Governor and the legislature are faced with a greatly constricted time frame to develop the State's plans to preserve service on those lines which are essential to the future of our economy. It is a monumental task, but one to which they by necessity are dedicated.

The Governor has submitted a plan to the legislature to establish a State Rail Authority to enable the acquisition of and continuation of service on the essential lines which the Milwaukee will no longer operate. I am confident the legislature will act on this proposal very soon. The State has little choice; but, on the other hand, there is just not an opportunity within the time frame afforded by the MRRA for the State to implement its plan.

Employees and shippers from other States were given an opportunity to submit their plan, and shippers in other States and on other railroads are allowed to benefit from directed service. Why should South Dakotans not be given the same consideration? How can this discrimination be justified? Is it too much to ask that the State of South Dakota be given a realistic opportunity to salvage by its own means service on those lines which are vital to the well being of our agriculturally based economy?

The responses to these questions should be obvious, but unless Congress acts with dispatch, it is highly unlikely the proper answers can be given.

What the State needs is time—not a lot of time but just a few months. I am not asking for an indefinite extension of service at Federal expense but, rather, a limited reprieve within the time frame provided by the ICC's directed service authority prior to enactment of the MRRA.

The measure I have introduced today would simply reinstate the authority of the ICC to direct service on essential lines of the Milwaukee Railroad in South Dakota. The provision of such service on any particular line would be conditioned upon: First, the establishment of a State Rail Authority; and second, upon the good faith efforts of the State to acquire and maintain service on such a line. In no case would directed service extend beyond the 240-day period provided in law prior to enactment of the MRRA.

The text of the bill follows:

H.R. 6381

A bill to amend the Milwaukee Railroad Restructing Act to direct the Interstate Commerce Commission to order directed service over certain lines of the Milwaukee Railroad located in the State of South Dakota

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 18 of the Milwaukee Railroad Restructuring Act (P.L. 96-101; 96 Stat. 746) is amended—

(1) by striking out "Until" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, until"; and

(2) by adding at the end thereof the following new subsection:

"(b) The Commission shall order directed service under section 11125 of title 49 of the United States Code over any line of the Milwaukee Railroad located in the State of South Dakota over which operations are discontinued at any time after the occurance of an event described in section 22(b) of this Act, if—

"(1) prior to the date of enactment of this subsection, the State of South Dakota creates a State rail authority (or similar State agency) which has the authority to acquire and operate or provide for the operation of railroad lines in such State; and

"(2) such State rail authority or other agency notifies the Commision that it plans to acquire and operate the line over which operations have been discontinued."

Mr. Speaker, again, I believe enactment of this measure is little to ask. It is only fairness, and I hope my colleagues can appreciate how absolutely vital the preservation of rail service is to the future of my State. They may be assured the Governor and the South Dakota Legislature recognize the urgency, and I sincerely hope the Congress will act to give the State the consideration it deserves in struggling to address this grave matter.

The following is a news report from the Thursday, January 17, 1980, edition of the Sioux Falls Argus-Leader with respect to the Governor's proposal. The article, encaptioned "Rail Plan Has $15.3 Million Price Tag," is by Mr. Chuck Raasch:

RAIL PLAN HAS $15.3 MILLION PRICE TAG

(By Mr. Chuck Raasch)

PIERRE, S.D.—It could cost as much as $15.35 million to pay for Gov. William Janklow's proposed state rail plan the first year, with the money coming out of local, state and federal pockets.

Janklow told state legislators Wednesday that he wanted to create a state rail authority that would have $25 million bonding authority to buy and fix 429 miles of lines the state would own, with other money doled out to local railroad authorities if they wanted to buy lines.

There are 2,791 miles of track in South Dakota, some of which already is idle and waiting to be torn up. Janklow said 1,537 miles would be here a year from now if the state did nothing for a year.

It was the remaining 1,254 miles Janklow addressed in a special speech Wednesday. The scrap value of all that track is about $25 million, which is why Janklow proposed the bonding limit at that amount.

However, he said it didn't mean the state would buy all 1,254 miles.

Janklow wants the state rail authority to buy 429 miles of track in eastern South Dakota that he calls a "core system."

Those tracks must be saved to assure future access to markets in the south, east and west for South Dakota's farm commodities, Janklow said. Especially important is the western access, he said.

The core system, owned directly by the state, would be Milwaukee Road lines from Aberdeen through Wolsey, Mitchel and Yankton and on to Sioux City, Iowa; from Chamberlain through Canton and to Spencer, Iowa; and a line from Canton to Sioux Falls.

Janklow refused to say how much the 429-mile core would cost the state. He said if he quoted a figure, it might hamper negotiations with the railroad.

The remaining 825 miles would be available for purchase by regional rail authorities. The state authority would provide money to buy the lines and the regional groups would ease into the repayment program until it assumed all repayment costs after seven years.

According to intensive state studies, 342 miles of the remaining 825 could be profitable, Janklow said. But State Rail Director Jim Myers said no preference would be given to one of those lines because the $25 million bonding authority provides enough money to buy track in either category.

To pay for the plan, Janklow would tax 2 cents a bushel on all grain shipped in the state, as well as put a similar tax on other commodities, such as lumber.

That would raise $4.6 million in the year beginning July 1, rail officials estimate.

The 429-mile core system would generate $1.25 million in revenue, they figure. Janklow also expects $5 million in federal railroad aid next fiscal year.

The governor also proposed that half of the state gasoline tax rebates now paid to non-users of state roads be kept for the railroad program. that would raise $3.5 million, but only if the fuel tax were raised 2 cents.

The rebate currently is paid to people, mainly farmers and ranchers, who buy gas but don't drive on state roads.

A final $1 million would come from the state general fund that Janklow tentatively had earmarked to state aid to education because of the uncertainty of $3.8 million in federal revenue sharing money.

It now appears the Congress will approve that additional $3.8 million, which will allow the $1 million for the railroads, $1 million for an addition to the state's unobligated cash balance and $1.8 million to offset a projected shortfall in state revenue.

The $15.35 million in costs will include $4 million to pay principal and interest on the bonds, $4.7 million to operate the state-owned core system, $6.25 to improve track and $400,000 for administration.

Janklow's plan requires regional rail authorities to fix 2 percent of their track each year.

In addition, the state would buy about 160 railroad cars, which Janklow said could ship 5 percent of the state's grain each year.

These cars, financed through the $8 million bonding authority, could be either hopper cars or boxcars, the governor said.

Once the state and local authorities buy the lines, contracts could be set up with railroads operating in the state or with special short-line haulers that specialize in that work, Janklow said. The state and the rail authorities would not actually run the trains, he predicted.●

THE PENCIL PROBLEM—1990

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. STANTON. Mr. Speaker, a constituent and longtime friend of mine recently brought to my attention the excerpted remarks of Monte Throdahl, senior vice president for Monsanto. Mr. Throdahl recently addressed a Washington, D.C., conference on toxics control. The following, entitled: "The Pencil Problem—1990," is taken verbatim from his prepared text. I know that my colleagues will agree that while it is an exaggeration to the point of outrage, it does make a point.

THE PENCIL PROBLEM—1990

This is the story of the U.S. pencil industry. Remember, we are looking back from our vantage point of 1990. It's strange to think that, back in 1979, just anyone could use a pencil any way they wanted to.

You see, it all started when the Occupational Safety & Health Act carcinogen policy went into effect. The graphite in the pencil leads always contained a residue of crystalline silica. And there was at least one animal test and an in-vitro test indicating that crystalline silica produced tumors, so the material became regulated as a carcinogen. There was no alternate for pencils, so exposure had to come down almost to zero. Workers were put into protective clothing, and that solved the problem initially.

But then the Environmental Protection Agency, acting under the Clean Air and Clean Water Acts which soon had their own carcinogen policies, required drastic reduction in emissions and effluents. The control technology was quite expensive, and only the largest manufacturers could afford it. This caused a flurry of antitrust suits in the early '80s when there were only three pencil makers left in the country. One of the three was split into smaller companies, but they soon went out of business since they were unable to afford increasingly stringent workplace and pollution control requirements. Then foreign pencil manufacturers began to threaten to dominate the pencil market, and our government, in an abrupt about-face, allowed a merger of the two remaining companies to meet overseas competition.

The Consumer Product Safety Commission then became concerned with what the newspaper headlines were calling the "pencil problem." Rubber erasers could be chewed off and choke small children. The sharp points of pencils could also be dangerous. There were residual solvents in the paint used on pencils, and pencil-chewing seemed to be a more widespread habit than anyone had realized. Printing a legend on each pencil that said: "This Pencil Could Be Hazardous To Your Health" did not seem to affect consumer pencil habits, a Harvard study indicated. In fact, the study found additional potentially harmful uses, such as stirring coffee. This led FDA to declare that harmful substances could be dissolved out of the pencil into the coffee, and thus pencils violated food additive laws, including the Delaney amendment.

Trying to salvage its business, the pencil company began making pencils without paint, without erasers, and with only soft leads so they would not hold a sharp point. But consumers were outraged, and sales declined.

Then someone invented a machine that could measure crystalline silica below the part-per-trillion level, and workplace, air emission, water effluent, and waste-disposal regulations required that the best practicable technology be used to reach this low level. The pencil company was threatened with financial ruin because of the large sums needed to purchase new control equipment. there were those that wanted to ban pencils entirely under the Toxic Substances Control Act, but the government decided that pencils were necessary, particularly since they were used to write new regulations. Besides, the Senators from the state where the pencil company was located declared that pencils were as American as baseball, and should not be replaced with ball-point pens.

So the government bailed out the pencil company with a large, guaranteed loan—called a Chrysler loan in those days. But, of course, that was only a temporary measure and to protect the pencil business, the government eventually nationalized it.

It is comforting to know, after all, that society is being protected against a danger that was so obvious we didn't even notice it for many, many years. There are still those who complain about paying $17 for a pencil, but your really can't put a price tag on health or safety.●

WHY ISRAEL WILL NOT TALK TO THE PLO

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. SOLARZ. Mr. Speaker, I would like to call to the attention of my colleagues the following outstanding article, written by Michael Bavly, which appeared recently in the Christian Science Monitor.

This essay, written prior to the seizure of the U.S. hostages in Iran, is even more relevant now. In light of recent events in Iran and Afghanistan, a reliable U.S. ally in the Middle East is of more importance than ever before.

As Mr. Bavly convincingly argues, recognition of the PLO, a murderous terrorist organization committed to the destruction of Israel by its very character, can only undermine the Camp David peace process and contribute to further instability in the Middle East. It is essential that the United States honor its commitment to Israel not to recognize the PLO.

I insert the following article from the Christian Science Monitor, January 29, 1980, at this point in the RECORD:

WHY ISRAEL WILL NOT TALK TO THE PLO

(By Michael Bavly)

(NOTE.—Michael Bavly, Consul General of Israel in New England, wrote the above article before the seizure of the U.S. hostages in Iran and the events in Afghanistan. In his view, the PLO's role and public pronouncements since then strengthen the position expressed therein.)

Ambassador Andrew Young's resignation has long been a closed chapter. But the questions which were raised still linger: What is wrong in talking to the Palestine Liberation Organization? Doesn't the PLO represent the Palestinians? How can there be peace in the Middle East without the PLO? The answers to those questions depend on understanding the PLO and its aims.

The PLO is a loosely grouped body of more than a dozen different factions, strongly supported by the Soviet Union. Some of these were created and are financed by various Arab countries, sometimes combining their efforts and sometimes fighting each other. It took its present form in 1964 with the adoption of the Palestinian National Covenant.

Yet, even before that date, the "Fedayeen," as they were known then, killed hundreds of Jewish civilians. The PLO is thus by no means a result of the 1967 Arab-Israeli war. This must be borne in mind when it is suggested that "all the PLO wants is the West Bank and Gaza." From 1948 to 1967 the West Bank and Gaza were under Arab control. That did not prevent the killing.

Two major factors distinguish the PLO from all other "freedom movements": its particular brand of terrorism and its political aims. The PLO has yet, after all these years, to attack a military target. Schools, civilian aircraft, marketplaces, children's playgrounds—but *never* an army unit or a military facility.

Another unique PLO feature: in the last ten years the PLO, while murdering 640 Jews and wounding 3,300, has also murdered 350 Arabs and wounded 2,000 in Judea, Samaria, and Gaza. This is a grim record for a "national liberation movement."

Yet what is much more ominous and fundamental is the political aim of the PLO, which is unique in that it totally denies the right of its adversary (i.e. Israel) to exist in *any* form, behind *any* boundaries, on *any* territory. A look at some of the articles of its covenant will make this clear. First, to whom does Palestine belong?

Art. 1: "Palestine is the homeland of the Palestinian Arab People and an integral part of the Great Arab Homeland . . ."

Art. 2: "Palestine with its boundaries that existed at the time of the British Mandate is an integral regional unit."

Art. 3: ". . . when the liberation of its homeland is completed [the Palestinians] will exercise self-determination solely according to [their] own will and choice."

Thus Palestine—the whole of it—belongs only to the Palestinian Arabs and they alone have the right to determine its future. What is the aim of the PLO? As Art. 15 states, it is ". . . a national duty . . . to purge the Zionist presence from Palestine." This is but one of the many clear calls in the covenant for liquidation of Israel.

How will this proposed liquidation be achieved? Art. 9 states that "armed struggle is the only way . . ." And Art. 21 reads: "The [Palestinians] . . . reject every solution that is a substitute for a complete liberation of Palestine . . ."

Could Israel have any hope whatsoever? Consider Art. 19: "The partitioning of Palestine in 1947 and the establishment of Israel is fundamentally null and void . . ." Or Art. 20: "The claim of a historical or spiritual tie between Jews and Palestine does not tally with historical realities . . . Judaism . . . is not a nationality . . ." No right to a state, no justification for a state.

Could the Jews at least remain as a "tolerated minority" in the "secular democratic Arab state" to be created after the destruction of Israel? According to Art. 6, "Jews who were living permanently in Palestine until the beginning of the Zionist invasion will be considered Palestinians" (1968 version).

The "Zionist invasion" is not dated from 1967 nor even from the creation of Israel in 1948: ". . . the aggression against the Arab nation and its land began with the Zionist invasion of Palestine in 1917" (Resolutions of the 1968 PLO Congress). About 95 percent of the Jews living today in Israel would therefore have to leave.

However, is all this not merely "battle rhetoric"? Isn't the PLO now ready for a "ministate" in Judea, Samaria, and the Gaza Strip?

That the PLO covenant is not mere rhetoric is proved daily by the PLO actions. The covenant itself has been reapproved, expanded, sometimes radicalized (but never moderated) in every Palestine Congress since 1964, the most recent in August of 1979. As for the "mini-state," one quote will suffice: "Our people will continue to fuel the torch of the revolution with rivers of blood until the whole of the occupied homeland is liberated . . . not just a part of it" (Yasser Arafat, March 12, 1979).

Is there any possibility of reaching a settlement without the PLO? The answer lies in understanding the distinction between the Palestinians and the PLO. This distinction has been blurred recently. It should not be, for the only responsible solution to the Palestinian problem lies in maintaining this vital distinction.

While there can be no total peace in the Middle East unless the Palestinian question, among other important questions, is solved, there will be no peace whatsoever if the PLO has its way. The influence today of this self-appointed body is akin to the influence and the power of a hijacker over a plane. He is no pilot. He is unable to fly, but he has a gun. He can, for a time, lead the plane away from its given path. He can endanger the lives of the passengers.

What is the solution? Should one negotiate or is it our duty not to negotiate with those who have hijacked the Palestinian cause nor give them the recognition which they seek by their crime?

The United States is committed not to negotiate the Palestinian issue with the PLO unless it recognizes Israel's right to exist. This commitment, forming part of the Camp David agreements, is not a "promise made to cater to Israel's whim" but an American interest anchored in the realization that the PLO, in its present policies and avowed aims, is a danger to the whole Middle East and a front for the Soviet penetration of the area.

What is more, as Israel takes even higher security risks, the U.S. will not do anything which will sabotage the peace process, a peace which is terms of Israeli security, replaces the territories given up. To invite the PLO to subvert the peace is to make Israel—the U.S.'s strongest ally in the Middle East—endanger its own existence. It is to silence any alternative voice to the PLO among the Palestinians themselves; it is to encourage a further isolation of President Sadat, the only Arab leader who dared take the peace road.

How, then, should we proceed?

First, we have to conclude the Palestinian autonomy negotiations now being held. This transitional positive first step will enable the Palestinians living in Judea, Samaria, and Gaza to enjoy, for the first time in their history, the right to govern their own lives, a right which they were never given, be it under the Ottomans, the British, the Jordanians, or the Israelis.

Unlike the PLO solution of "all or nothing" (ending with nothing), autonomy holds a much better promise for the Palestinians. Israel is committed to help solve the Palestinian question. It seeks the Palestinians' participation in the negotiations. But their absence will not prevent Israel and Egypt from achieving a just and equitable solution to their plight, a solution then presented to their free vote—not to a PLO veto. This solution will be consistent with the rights and security of Israel and all other interested countries in the area. We have, therefore, to encourage the Palestinian moderates and not to silence them by negotiating with those who refuse any moderation.

Thus, Israel will not speak to any organization that aims at its destruction and adopts a policy of terror against innocent civilians—speak either directly or through intermediaries (whatever their color—which has nothing to do with it), nor would anyone who seeks the good of Israel or the Palestinians. We have gone a long way in the last two years. We have a long way still to go—but with good sense we shall reach peace.●

VINCENT THOMAS, 1907-80

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. ANDERSON of California. Mr. Speaker, I was deeply saddened to learn today of the untimely passing of one of the South Bay's most dedicated men—former State Assemblyman Vincent Thomas. I spent many years working side by side with Vincent in many levels of government. But the California State Assembly was where Vincent Thomas felt he could do the most good, not only for his constituents of the 52d District, but for all those residing in the entire South Bay area.

Knowing that their interests were being heard and attended to, Vincent Thomas was voted into office for 19 consecutive terms, those 38 years being the longest period of office for anyone in the history of the State of California. Vince was elected to the assembly in 1940, having advocated secession of the harbor area from the city of Los Angeles, a position he continued to hold and fight for. He was also a strong advocate of the San Pedro fishing industry, and it is with his help that this aspect of life in the South Bay community continues to flourish and grow.

During his extensive tenure, Vincent Thomas was elected minority leader of the State assembly; he served in that post for 2 years. In 1977 he was appointed assistant speaker pro tem; and was known by all as the "Dean of the Legislature."

Such honors could only be brought upon a man whose entire life was devoted to enriching the living standards of his community. Thus, it was no great surprise to me when the bridge linking San Pedro to Long Beach was named after him. Mr. Speaker, Vincent Thomas was the only living politician to have a bridge named after him in California; this attests not only to his own character, but to the many kinds of bridges that he built with so many people during his lifetime. The great bridge that bears his name is not just a massive monument to him. It is a functional, practical example of his efforts to make the South Bay a better place to live, as it daily serves large numbers of people, simplifying and speeding their getting to and from work or shopping.

Even before his entrance into politics, Vincent Thomas was people oriented. Having graduated from San Pedro High School in 1928, he received his B.A. in psychology in 1932 from the University of Santa Clara. While there he was not only a football player, but also an instructor and sports coach. Later, he studied law at both the University of Santa Clara and Loyola University.

Vince was an amateur boxer. He always maintained an involvement in the area of sports; were it not for his love of boxing, the boxing museum in the harbor area would probably not exist today. It is the attraction it is, due to the extensive time and effort Vincent Thomas apportioned for its development and subsequent founding.

Mr. Speaker, my wife Lee and I have known the Thomas family for many years. Our deepest sympathies are extended to his wife Mary, and his children, Vincent Junior and Mary Virginia. The loss of this man leaves the entire South Bay community with a void that cannot be filled, and we shall truly miss him.●

TREATMENT OF SOVIET SCIENTISTS

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. HOLLENBECK. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

OPENING REMARKS OF HON. HAROLD C. HOLLENBECK, FOR THE HEARING ON THE HELSINKI SCIENTIFIC FORUM AND EAST-WEST SCIENTIFIC COOPERATION—JANUARY 31, 1980

Thank you Mr. Chairman. I commend you, Chairman Zablocki, Chairman Fascell and my colleague, Dick Ottinger, for getting this hearing organized. At this crucial time in East-West relations, it represents the Congress' first attempt to look at where we are going in East-West scientific exchange.

I join my colleague, George Brown, in emphasizing that the Scientific Forum to be held in Hamburg, Germany, has become all the more important in light of recent events. It is a multilateral forum designed under the auspices of agreements to assure Cooperation and Security in Europe. There we can perhaps bring pressure to bear individually upon those nations who violate the very essence of scientific and technological cooperation, exemplified Mr. Chairman, by the arrest and exile of Andre Sakharov. Andre Sakharov is not only a great scientist, he has also spoken out long and hard on the human rights of all men and scientists in particular. He spoke strongly for the tremendous need to pursue every avenue toward more stable and peaceful relationships between the U.S. and the Soviet Union. His arrest is a direct snub at all attempts to reduce the level of conflict between the East and West.

I strongly support the resolution which we introduced. It expresses our great displeasure with the actions of the Soviet government but leaves it up to the Soviets, through genuine attempts to resolve our differences, as to whether scientific or technological cooperation can proceed on a broader basis in the future.

Mr. Chairman, you noted that the Scientific Forum deals not only with the substance of science but also with the process of scientific exchange and the condition of science and scientists in individual nations. As such, I believe the examination of human rights of scientists should be central to the discussions occurring at the Forum. The human rights of scientists have long concerned me. It is not restricted, nor should it be, to just a few well known names such as Dr. Sakharov. Human rights violations have occurred to many others and throughout the world. With your permission, as an example of the broader reach of this problem, I would like to introduce into the record a letter we recently wrote to Roman A. Rudenko, Procurator General of the U.S.S.R. It concerns the worsening condition of Yuri Orlov and Sergei Kovalev. This letter follows by not quite a year a letter we wrote to the President of the Soviet Academy of Science concerning Orlov urging his release.

Our recent letter which also calls for the release of Andre Sakharov was signed by 8 of our Subcommittee members and comes in response to the letters from many of America's distinguished scientists, including 11 nobel laureates. They have written us over the past months urging us to communicate our concerns to officials of the Soviet Union with regard to Orlov and other imprisoned scientists. At this point, I am submitting for the record copies of our letter, the letters of American scientists, as well as the letter we wrote last year. I think they will be instructive to Forum delegates, other Members of Congress, and the Public.

In ending I would just like to restate, what seems to me a central conclusion, contained in these letters. It goes to the core of the discussion today as well as to the future of East-West scientific cooperation. I quote:

"Communication while vital to the long run health of science is not beneficial per se, but only if it involves exchange between equals, and only if it strengthens research opportunities beyond the immediate exchanges. Acquiescense in the violation of scientists' human rights is unacceptable as a price of scientific exchange."

I would emphasize, as you did, in our resolution that we cannot acquiesce in the violation of the human rights, for example when Dr. Sakharov and his wife are exiled, or when Yori Orlov is imprisoned and confined to solitary confinement and hard labor. On the other hand, we must in all instances be open to any geniune signals from the Soviets that they do seek to improve the conditions of their outspoken scientists and do genuinely welcome greater freedom of expression within their societies and will respect national borders. In short, they must show us that they are ready and do seek to abide by the principles of the Helsinki Final Act, in Europe and elsewhere.

Thank you Mr. Chairman.●

ENERGY: HARBINGER OR FIASCO?

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. GILMAN. Mr. Speaker, I rise to draw to the attention of my colleagues a matter of utmost significance; the pressing energy issues that are crippling our domestic economy, and at the same time eroding our ability to protect our foreign interests.

Energy, that fast developing acronym for anything from gas line headaches and an empty wallet to complete resignation of our economic strength. Currently, America's per capita gasoline consumption is 4½ times that of France and more than 7 times that of Japan. Fifty percent of our consumption is devoted to transportation, mostly by private cars and freight. Our homes, too, have been traditionally heated by oil.

As a result of the recent tragic events in Iran, uncertainty of the situation in the Middle East, the OPEC cartel's greed and unwillingness to set a reasonable price ceiling, and last, but not least, our inability to formulate a better allocation network and to expand our refining capacity, the market for both gasoline and home heating fuel has become highly unpredictable. The bottom line for the 1980's is simply this: Energy will be neither cheap nor secure.

Under normal circumstances, energy prices—like any other commodity—should rise smoothly to levels that reflect the incremental cost to society to produce and secure additional sources of energy. Or, it should decline in price according to the laws of supply and demand. However, the energy market situation is highly complex and confusing.

Case in point, most attempts to analyze or explain the gasoline and home heating fuel shortages during 1979 have been incapable of delineating the causes for the shortages without, in the same breath, assigning blame to one culprit or another. This has done very little in terms of providing an accurate assessment of what the next year may have in store. Consequently, we now have discovered that as a result of the mild winter, and increased output of Saudi Arabian oil by 1 million barrels per day—for whatever reason—the home heating fuel shortage we witnessed during the fall is now closer to a glut, even if only temporary. But, oddly enough, the price of home heating fuel is climbing once again and little is being done to prevent it. In fact, according to a recent GAO report, January 22, 1980:

> The Department of Energy has not analyzed the market situation to determine why prices increased and whether the increases were justified and equitable. The Department's lack of response to price increases is particularly distressing in view of the severe economic hardships home energy bills pose.

The home heating oil report goes on to claim that—

> When heating oil was removed from price controls in July 1976, the Federal Energy Administration, predecessor agency to the Department of Energy, promised to Congress that it would monitor heating oil prices from Sept. 1976, through March 1977, to insure that any increases were necessary and reasonable. The Department monitored the prices through the 1977-78 winter heating season; however, since then it has not determined whether heating oil prices are equitable.

Furthermore, the Department of Energy has refused to become actively involved in insuring that workable competition exists in the refining sector of the oil industry.

This inattention and laxity is highly advantageous to the major oil companies whose fourth quarter reports are now out and reflect the unbelievable profits gained during the third quarter. These profits severely affect all low- and middle-income groups. At the same time that oil companies are reporting record billion dollar earnings, we have been informed that the $1.6 billion that Congress appropriated for energy assistance will hardly be sufficient to cover the increased energy costs for this winter alone. In my own congressional district in New York State, the price of home heating fuel has risen once again and is now over 90 cents per gallon. It is difficult to understand the reason for such price increases in view of the present mild winter which has created a temporary surplus.

The experts caution us that we are entering a decade of potentially chronic supply shortages and spiralling prices, both of which will primarily result from external causes. The present heating oil situation is more the result of corporate greed and Government inability to keep their profiteering in check. This distinction must be made quite clear to the American people as it is the consumer who is being exploited while being asked to make substantial sacrifices.

According to the House Commerce, Consumer and Monetary Affairs Subcommittee, the American consumers have quite likely been overcharged some $3 billion for both heating fuel and diesel fuel. The subcommittee's most recent report claims that—

> Domestic oil refiner's profits increased by more than 800 percent for heating fuel and 700 percent for diesel fuel during this 13 month period (September 1978–September 1979).

The subcommittee finds blame for these "unconscionable price and profit margin increases" to be largely the responsibility of the Council on Wage and Price Stability land, of course, the Federal Department of Energy.

It is time for Congress to undertake whatever steps are necessary to insure that those companies which are taking ruthless advantage of our fuel shortages are brought within Federal price controls and that the true and starker realities of the energy crisis are presented in such a manner that they can be effectively and equitably approached.

Mr. Speaker at this point in the RECORD, I am inserting an editorial which appeared in the Washington Post on January 21, 1980, which accurately portrays what we, as a nation, might be up against in the years to come.

[From the Washington Post, Jan. 21, 1980]

A FUTURE WITHOUT AN OIL "CUSHION"

The 1970s were particularly unkind to American consumers of fuels and power, but those years were only prologue: the 1980s will be harsher by far. Indeed, the crossover into a world of permanent petroleum shortages, once predicted to occur in the mid- to late-1980s is now at hand, foreshadowing oil-driven economic crises, social unrest and the growing possibility of military action—the time-honored remedy of nations whose peacetime policies have failed.

It is now recognized that an energy transition with profound implications for our society began in the 1970s. But what is so striking—and less widely recognized—about the transition is that it occurred despite the existence of chronic, large surpluses of oil production capacity. Whatever its outcome, the Iranian revolution has eliminated those surpluses, thereby removing a strategic cushion that has insulated consumers against exogenous shocks for more than two decades.

The golden era of surplus-producing capacity began in 1947, as production from rich pre-war finds in Venezuela and the Middle East began to be felt in the world markets. As a result, oil prices were distinctly favorable to consumers—so much so, in fact, that the real price of crude oil (the price adjusted for inflation) dropped 50 percent between 1948 and the 1973 oil embargo. Those surpluses and price declines were attributable to the continued success of the petroleum industry in its exploratory activities.

Immense new reserves were added to the world's total each year, with the bulk of the new supplies to be found in the nations that now make up OPEC. Those additions followed a pattern set in the early days, a pattern decreeing that most production comes from relatively few large fields and that peak producing capacity occurs early in the exploitation life of the field.

Those surpluses served to buffer the impact of political instability on world markets beginning in the early 1950s and extending through the Arab-Israeli war of 1973. They existed until the Iranian revolution, when the disappearance of Iran's share of OPEC production—20 percent—was offset by increased production from other nations. Without this response, the relatively minor disruption of petroleum markets in the United States would have been transformed into chaos.

For the past two or three years, it has been evident that forces were at work that would eliminate this strategic cushion of surplus-producing capacity by the mid- to late-1980s. That date has been advanced by the Iranian revolution. Indeed, that crossover may be occurring now. For it is probable that the revolution's political fallout will be in the form of reduced investment in new capacity by other Middle East nations, a development for petroleum supply that will transcend the loss of Iranian output.

The leadership of Saudi Arabia, Kuwait, the United Arab Emirates and perhaps Iraq will go slow on expansion plans largely as a result of internal political pressures created in the wake of the revolution. This in turn will virtually guarantee that OPEC producing capacity will not expand beyond present levels and may even contract during the next five to 10 years. In the past few weeks, there have been unmistakable manifestations of the trend that is precipitating the "crossover"—in Kuwait, the UAE, Iraq and Saudi Arabia, where officials either have been noncommital about their plans or have announced production cutbacks.

The consequences of these trends are not difficult to predict. During the decades of sustained surpluses, we had first a 25-year period in which prices in real terms declined and then the sharp upward movement that came about as a result of the economic and political pressures arising from the Arab embargo of 1973-74. Following the embargo from 1974 until 1978, the old surplus-enforced pattern of declining costs reasserted itself, with the result that the real price of petroleum at the beginning of 1978 in real terms was significantly below the price at the beginning of the 1973-74 embargo period.

The Iranian revolution has caused a spiking in price that has paralleled the spiking that occurred during the 1973-74 embargo. Will we see a repetition of the downslide in real prices in the years to come? The answer almost certainly is no, because the major factor contributing to falling prices—chronic and sustained surpluses—has disappeared. In fact, it is fair to predict that from this time forward, at least during the 1980s, we shall see constant upward pressure on price.

But price impacts will not be the most serious consequences of "crossover." Rather, the enormously disruptive effects of even relatively small supply interruptions, interruptions that are almost inevitable during the 1980s, will contribute to widespread uncertainty and, during times of crises, to severe economic disruption. As these periods of oil-driven economic crisis occur, there will almost certainly be a spillover into social unrest and, with it, the growing possibility of military action.

Mr. Speaker, I urge my colleagues to take a close look at this problem so that we can work together to prevent artificially created price hikes and spot shortages.●

AMERICAN CITIZENS ABROAD

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. ALEXANDER. Mr. Speaker, I would like to continue with the issues as presented by the American Citizens Abroad.

CONGRESSIONAL REPRESENTATION FOR AMERICANS ABROAD

SUMMARY OF THE PROBLEM

Nearly two million American citizens live outside of the United States. While recent legislation has finally granted overseas Americans the right to participate in Federal elections, many of those abroad feel cut off from their local communities at home and do not exercise their franchise. Further, while problems of major concern to overseas Americans, including taxation of those abroad, are frequently addressed by the Congress, there is no representation from the overseas community to protect their interests.

ACA'S QUESTION

Why are overseas Americans not given their own representation in the Congress?

THE PRESIDENT'S REPLY

The President stated that "A nonvoting representative in the Congress for all Americans living in foreign countries has been suggested by some. The constitutional basis for representation in the Congress for the District of Columbia, Guam and the Virgin Islands are those clauses of the Constitution granting to Congress power over the District of Columbia and the territories of the United States. To create a representative in the national legislature of individuals in areas of the world over which the United States has no sovereignty would alter the basic scheme of national representation as it presently exists."

Beyond stating what was already obvious to nearly everyone, the President did not have any further recommendation as to whether or not such representation for overseas Americans was desirable.

ACA'S RENEWED QUESTION

ACA asks once again, why do overseas Americans not have their own representative in the Congress?

During the last fews years, representation in the Congress in the form of non-voting delegates has been granted to inhabitants of: American Samoa with a population of 32,000 and 1 delegate; Virgin Islands with a population of 110,000 and 1 delegate; and Guam with a population of 115,000 and 1 delegate.

Those living in Puerto Rico are granted a Resident Commissioner with similar stature in the Congress to the non-voting Delegates.

The overseas American community has a total population over fifty times larger than that of the residents of American Samoa. The problems faced by overseas Americans involve the clash of sovereignties between the United States and more than 150 other nations.

The Constitutional niceties of justifying creation of a representative for those living abroad could be met creatively by any number of artifices. An uninhabited island belonging to the United States could be defined as the territorial attachment of those abroad. Some other form of justification could equally easily be found.

What needs to be answered is the very simple query: Do overseas Americans deserve their own voice in the Federal legislature, or not?

We ask the President to address this question.

TRANSMISSION OF CITIZENSHIP TO CHILDREN BORN ABROAD

SUMMARY OF THE PROBLEM

Some children born abroad to an American citizen parent automatically acquire American citizenship at birth. Some children do not. The deciding criteria is whether or not both parents are Americans, or whether in the case where only one parent is American this parent has previously lived in the United States for a requisite period of time.

If both parents of a child born abroad are American citizens, the child will be American at birth if either of the parents has ever "had a residence" in the United States prior to the child being born abroad. If only one parent is American, this parent must have previously lived for ten years in the United States, five of which after the age of fourteen. Failing this previous residency test, the parent cannot transmit citizenship to his child and the child may well be born with no nationality at all. It is much easier for an illegitimate child to have American citizenship. When the father does not recognize the child, he will automatically be American if his American citizen mother has previously lived for one year in the United States.

ACA'S QUESTION

ACA asked why there are different categories of rights for American citizens living overseas in terms of when children born overseas can have American citizenship at birth. Why do not all Americans abroad, as individuals, have the same rights to give their children their most precious human right, their nationality?

THE PRESIDENT'S REPLY

"Section 301 of the Immigration and Nationality Act imposes limitations on the ability of United States citizen parents to transmit citizenship to children born abroad. This is particularly true in cases involving one citizen parent and an alien spouse. In such an instance, the citizen parent must have been physically present in the United States for ten years, at least five of which were after the age of fourteen. The Congressional purpose in enacting these restrictions was to prevent the perpetuation of successive generations of absentee United States citizens whose ties and loyalty to the United States might be questionable. That underlying goal of the transmission of citizenship requirement is reasonable and the means chosen to attain the goal are rational."

Nevertheless, the President did support some redress for those abroad. Under "Recommended Action", the President stated: "In the last session of Congress, a bill (S. 2314) was introduced which would reduce to two years the period of residence in the United States necessary to transmit United States citizenship to a child born abroad. That bill was supported by the Administration. The Administration will support a slightly revised version which is expected to be introduced in the current session of Congress."

ACA'S RENEWED QUESTION

Americans living overseas have a number of questions concerning U.S. laws governing transmission of citizenship to children born abroad.

First, we are not sure where the President, or the various branches of his Administration, really stand on what is the appropriate amount of prior residence that should be required of an overseas American parent with an alien spouse. Last year, in addition to commenting favorably on S. 2314 which would reduce prior residency to only two years, the Carter Administration also commented favorably on a different bill that would have done away with any prior residency requirement for citizenship transmission abroad. Has the President or his various Departments now taken a new position, or is this just an invitation to the Congress to propose new legislation that the President feels would have the greatest chance of success in the present Congress?

Second, an even more basic question needs to be asked. Why does the location of a child's birth make so much difference under American law. In many cases it could be possilbe for the mother to be flown at great expense and great inconvenience and possible danger to the unborn child, to the United States for the birth. In such circumstances the child would be an American citizen. No matter what the loyalty of the parents might be, the fact that he was born within the specially defined latitudes and longitudes would suffice for him to be American. Is there some metaphysical force that provides special loyalty guarantees when the birth takes place within the United States? The question might sound absurd, but the law leads to such a conclusion.

Third, a child born abroad with one American parent surely has greater chances of being a loyal American citizen than one born with no American citizen parents. Our law gives full citizenship rights to children of casual tourists visiting the United States even for only one day. If this child goes abroad he remains an American all his lifetime. And, if he should ever meet a similar one-day visitor child abroad and marry, his children will also be American citizens. This seems bizarre.

Fourth, the United States has signed the Universal Declaration of Human Rights. Article 15 of this Declaration states: "(1) Everyone has the right to a nationality." Since signing this Declaration, the United States has not adapted its legislation to bring itself into conformity with this promise. It would be humiliating to the United States if one of its citizens were forced to appeal to the International Court of Justice to force the United States to recognize the nationality of a child born to an American.

Fifth, the present law creates obstacles to American citizens being willing to move abroad to promote American goods and services in the export markets. Recently ACA was contacted by a naturalized American citizen who was sent to Europe by his American company employer. This company helps medium-sized American corporations develop markets abroad for their products and services. Because the naturalized American employee has not lived for ten years in the United States, and because he has an alien spouse, his soon-to-be-born child will have no rights to American citizenship. Yet the only reason that he is abroad, rather than in the United States, is to build U.S. trade.

Sixth, it is unbecoming to the United States to have its citizens abroad suffer the anguish of having children born abroad who are "Displaced Persons". An American citizen, born in New York, asked ACA for help in a case involving his young son. The child was born in Belgium of an American father and a British mother. Because of the unfortunate laws of the three countries involved, the child was born stateless. He is a refugee. How this protects the United States is unclear.

Defining the right to a nationality as one of the most precious of all Human Rights because it brings with it the protections of a sovereign state, ACA asks the President to indicate why some Americans should be denied the right to transmit their American citizenship to their children when they are born abroad? We take small comfort in the President's assurances that the present law is reasonable and rational. It is also the cause of intolerable Human Rights tragedies.

We ask for redress. And, we ask that the President consider recommending legislation to the Congress that would give to each individual American citizen, without regard to his choice of a spouse, the same right to transmit American citizenship to his children no matter what latitude or longitude the child may be in when he breathes his first breath.

We justify this request also for the international competitive consequences that it would have for Americans abroad. A number of other countries, notably France and West Germany, already have such enlightened laws. Curiously, the United States, from 1791 to 1940, also permitted its overseas male citizens to transmit citizenship to children at birth without a prior residency requirement. U.S. law has grown much more harsh in the last few decades. Does anyone know why? Can we afford the luxury of this discrimination any longer? Will this unfortunate legislation prevent talented Americans from being willing to move abroad to help their country? Many questions need to be answered.●

SENATOR KENNEDY SPEECH SPELLS OUT ALTERNATIVES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. SIMON. Mr. Speaker, on Monday, Senator EDWARD KENNEDY addressed a group at Georgetown University. This speech was a major campaign address that put the Senator's positions on both domestic and international issues squarely before the public. The Senator has approached some very tough issues with strong policies and courage. He offers solid alternatives to the present national malaise on such critical issues as inflation and energy. Although I do not agree with every point made by the Senator, I would urge my colleagues to read this careful and thoughtful speech. It is the best speech so far in this political year, deserving of attention by those who agree and those who disagree.

ADDRESS OF SENATOR EDWARD M. KENNEDY

Five days ago President Carter announced a doctrine—a doctrine that would define the area of the Persian Gulf as an American vital interest and that could commit the American people to military intervention in defense of this area.

The question that requires careful consideration is what does this Carter Doctrine mean for the world—and for our own country.

Many Americans feel that once the President of the United States has made an assessment and set a course, the rest of us should stand silent in the ranks even if we have a different view of the national interest. That is not the lesson of our liberty—or the heritage of our history.

Forty years ago, when the Nazis swept across the Low Countries and France, a far more urgent threat to our security, there was no suspension of the public debate—or the presidential campaign. If we could discuss foreign policy frankly when Hitler's panzers were poised at the English Channel, surely we can discuss foreign policy when the Soviet Union has crossed the border of Afghanistan.

If the Vietnam war taught us anything, it is precisely that when we do *not* debate our foreign policy, we may drift into deeper trouble. If a President's policy is right, debate will strengthen the national consensus. If it is wrong, debate may save the country from catastrophe.

So I make no apology for raising questions about the Carter Doctrine. The exercise of dissent is the essence of democracy. Whether we are citizens or candidates, we have not only the right but the obligation to deal with issues that may shape—or shatter—our future.

All of us condemn the brutal Soviet invasion of Afghanistan. This wanton act of aggression has aroused the conscience of America—and of all the world. It must be met with an appropriate response by the United States and all our allies.

But is this really the gravest threat to peace since World War II? Is it a graver threat than the Berlin Blockade, the Korean War, the Soviet march into Hungary and Czechoslovakia, the Berlin Wall, the Cuban Missile Crisis, or Vietnam? Exaggeration and hyperbole are the enemies of sensible foreign policy.

In fact, the Russians have dominated Afghanistan not for four weeks, but for 22 months. Years ago, Afghanistan passed under Soviet influence. It passed behind the Iron Curtain, not in 1980, but in 1978, with hardly a word of regret from the Carter Administration. When two Marxist regimes in Kabul failed to put down Afghan resistance, the Russians decided to install a third regime and to put down the insurgency themselves. Afghanistan, as they saw it, was slipping away.

President Carter confessed that he was "surprised" by their action. For many, months the Administration had ignored the warning signals. The American Ambassador to Afghanistan was killed in Kabul last February while Soviet military advisers looked on. We were aware well in advance that the Russians were massing their forces. But the Administration said virtually nothing until after the invasion, when they drew a line in the dust that was already rising from the tread of Soviet tanks.

Afghanistan is 7,000 miles away. Only 90 miles from our shores Moscow had already seen a Carter line that did not hold. Last fall, the President said Soviet combat troops in Cuba were unacceptable. But soon he changed his mind. He charged up the hill—and then charged back down.

Theodore Roosevelt once warned: "Don't bluster, don't flourish your revolver, and never draw unless you intend to shoot."

The false draw in Cuba may have invited the Soviet invasion of Afghanistan.

This is a real crisis, but it is also part of the recurrent condition that has periodically disturbed the peace for a third of a century. It must be countered. But it must not become so consuming that we lose sight of more vital interests. For example, this nation has an important stake in the independence of Yugoslavia. If President Tito were to die while we were preoccupied in the Persian Gulf, the Soviets could be tempted to launch an attack on Yugoslavia—a country that President Carter as a candidate declared he would not defend.

A measured response to the potential threat in the Persian Gulf must reflect certain principles that will prove less hazardous and more effective than a unilateral and unlimited American commitment.

First, this is not just our problem. It is a greater problem for nations that have a greater dependence on Middle East oil. We must seek their views and act in concert. We cannot impose policies on NATO and Japan; but together, we can set a common policy. This is even truer of the Islamic states, the countries that could be most menaced by Soviet adventurism. It is impractical to rely on a doctrine that requires us to stand astride the Persian Gulf solely on our own.

Second, we must not discount condemnation of Soviet aggression by the international community. This is important, but not because the Russians are moved by world opinion. They are not. It is important because the Soviet Union now finds itself estranged from the Third World—a result that will gravely handicap the Russians in lands they have previously regarded as their private hunting ground. This reaction runs deep in the Moslem world, where Arab nationalism and Moslem religious feeling can become a powerful force against Soviet ambition.

Third, American naval and air forces should be strengthened in the area. We must recognize, however, that such forces alone cannot secure control of a great land mass. But an enlarged presence, including carefully selected military facilities, could have a deterrent effect on the calculations of the Kremlin. And with our allies, we should increase military aid to nations that may have to face the Soviet threat.

Fourth, the greater threat to these nations is often internal decay and subversion, not external aggression. Military aid is not enough. We must also provide economic assistance and political support. Nations in the area must be strengthened against subversion from the PLO and other Soviet surrogates. And we must help Pakistan help the million refugees who are pouring across the border from Afghanistan.

Fifth, mutual assistance must be mutual. In return for strengthening their defense, the oil producing states should assure a more certain oil supply at reasonable prices. We should negotiate an arrangement that enhances both their national security and the energy security of NATO, Japan, and the Third World.

Sixth, we must not over-react to the present crisis in ways that undermine the security of Israel. That democracy is our most stable and dependable ally in the Middle East. We must not barter the freedom and future of Israel for a barrel of oil—or in a foolish effort to align the Moslem world with us, whatever the cost. Indeed, Egypt and Israel together already constitute a bulwark against Soviet expansion—and the cornerstone of the wider alliance we must seek.

Even as we take these steps, even as we express our abhorrence of the aggression in Afghanistan, let us not foreclose every opening to the Soviet Union. This is not the first abuse of Soviet power, nor will it be the last. And it must not become the end of the world. Ten months after the Cuban missile crisis—a far greater threat to American security than Afghanistan—the United States Senate ratified the nuclear test ban treaty by an overwhelming vote. The task of statesmanship is to convince the Russians that there is reason for fear, but also reason for hope, in their relations with the United States.

America should be not only a powerful military force, but a continuing force for arms control. We should not hesitate to stand for human rights, including the most basic of all human rights—the right to survive and to live in peace, free from the fear of nuclear war.

Nor does a regional crisis justify a reflex decision to spend many billions more on defense systems that have no relevance. Afghanistan highlights the necessity for improving our conventional forces and increasing our military readiness, but it is hardly an excuse for haste on nuclear weapons like the M-X missile. Needless weapons drain the resources to pay for needed ones.

Above all else, we must realize that symbols are no substitute for strength. And in the State of the Union message President Carter offer a new symbol. He requested funds for computer runs to register young Americans for the draft. He said this step could "meet future mobilization needs rapidly, if they arise." But draftees, who take six months to train, would be a very slow deployment force. Registration now would save only 13 days in the event of mobilization. If registration and the draft were essential in a real emergency, there would be no dissent from me or most Americans. But I oppose registration when it only means reams of computer prints-outs that would be a paper curtain against Soviet troops. If the President wants a peacetime draft, he should say so. But I oppose the peacetime draft—and I also oppose the President's plan for registration—which is the first step in that direction. We should not have taken this step across the threshold of Cold War II. We should not be moving toward the brink of sending another generation of the young to die for the failures of the old in foreign policy.

Exaggerated dangers and empty symbols will not resolve a foreign crisis. It is less than a year since the Vienna Summit, when President Carter kissed President Brezhnev on the cheek. We cannot afford a foreign policy based on the pangs of unrequited love.

In the same spirit of realism, we must deal with the crisis in Iran. It is now 86 days since our diplomats and our embassy were seized. We cannot afford a policy that seems headed for a situation of permanent hostages. The time has come to speak the truth again: This is a crisis that never should have happened. In the clearest terms, the Administration was warned that the admission of the Shah would provoke retaliation in Tehran. President Carter considered those warnings and rejected them in secret. He accepted the dubious medical judgment of one doctor that the Shah could be treated only in the United States. Had he made different decisions, the Shah would doubtless still be in Mexico, and our diplomats would still be going about their business in Tehran.

The Administration continues to call for economic sanctions. I oppose them. They will only propel Iran toward the Soviet orbit. They will do nothing to free the hostages. Eighty-six days is enough. It is time to bring the hostages home. The Administration should now support a United Nations commission to investigate Iranian grievances, similar to earlier commissions on other countries. The commission on Iran should be established immediately, but it should begin its work only when every American hostage has come back safely to our shores. Let no one doubt that America will never yield to blackmail, and that harm to even a single hostage will bring swift retaliation. But let no one doubt that America is ready for a negotiated solution to this impasse.

The 1980 election should not be a plebiscite on the Ayatollah or Afghanistan. The real question is whether America can risk four more years of uncertain policy and certain crisis—of an Administration that tells us to rally around their failures—of an inconsistent non-policy that may confront us with a stark choice between retreat and war. These issues must be debated in this campaign.

The silence that has descended across foreign policy has also stifled the debate on other essential issues. The political process has been held hostage here at home as surely as our diplomats abroad. Before we permit Brezhnev and Khomeini to pick our President, we should pause to ask who will pay the price.

The Carter Doctrine offers defense contractors a bright future of expansion and profit. But the middle class, the blue-collar workers, minorities, and every victim of discrimination by race or sex or age—they all face the bleak prospect of higher taxes, higher interest rates and higher inflation. The young will pay a further cost in registering for the draft. And, as the President's budget makes clear, programs of social benefit and justice will once again be postponed. If the principle of sacrifice is to prevail, let it apply as well to the oil companies and all the other elements of the military-industrial complex.

Last week, we heard a State of the Union message that left behind the problems this President was elected to resolve. The Administration, but not the nation, has turned away from those problems and from the people who live with them every day—people out of work or about to lose their jobs, families who cannot buy a home, parents who cannot send sons and daughters to college, the sick who cannot pay their bills for health and the elderly who must now choose between heat in their apartments and food on their tables.

When the unity of our present fear fades, when the crowds stop cheering and the bands stop playing, someone has to speak for all the Americans who were ignored in the State of the Union address.

It is their Union too—and the state of their lives deserves to be addressed.

If my candidacy means anything, it means a commitment to stand and speak for them. So let me tell you what we did not hear from the President last week: Inflation will continue. Unemployment will go up. Energy prices will rise to even higher levels. The cost of home heating oil has soared to 95 cents a gallon; and now we discover that Exxon has registered the first four billion dollar profit in the entire history of industrial corporations.

And these domestic concerns are not merely matters of social justice; they are also at the center of our foreign crisis. Iran and Afghanistan demonstrate a fundamental truth of the American condition. We are perilously dependent on OPEC oil.

A house weakened in its own foundation cannot stand. Unless we put our energy house in order, our strength and credibility will continue to fall; the world will grow steadily more dangerous for our country and our interests.

The Carter Administration has accepted our petroleum paralysis. They talk of sacrifice—but it is an unequal sacrifice founded on unfair prices that bring hardship to our people. The President's decision to decontrol the price of oil will cost the average family a thousand dollars each year throughout the decade of the 1980's. We all remember the Democratic presidential candidate in 1972, whose campaign was assailed because he proposed assistance of a thousand dollars a year for every person in poverty. How then are we to regard a Democratic President in 1980, who wants to do the opposite, who wants to take a thousand dollars a year from every family and transfer it to the oil conglomerates?

We must cure our addiction to foreign oil.

Not only does the administration claim we face the gravest crisis since World War II, they also claim they are making hard decisions to meet the crisis. Long before Afghanistan, they proposed a stand-by gasoline rationing plan—and that is all they proposed today. The time for a stand-by plan is over. The time for a stand-up plan is now.

We must adopt a system of gasoline rationing without delay—not rationing by price, as the Administration has decreed, but rationing by supply in a way that demands a fair sacrifice from all Americans.

I am certain that Americans in every city, town, and village of this country are prepared to sacrifice for energy security. President Carter may take us to the edge of war in the Persion Gulf. But he will not ask us to end our dependence on oil from the Persian Gulf. I am sure that every American would prefer to sacrifice a little gasoline rather than shedding American blood to defend OPEC pipelines in the Middle East.

Just as energy insecurity weakens our national security, so inflation weakens our position in the world. Our goods have been priced out of the international marketplace. The value of the dollar has plummeted.

The numbers have nearly lost their capacity to shock. Twelve straight months of inflation over 10%. Wild gyrations in the price of gold. Interests rates at 15%. Unemployment at 6%. And now recession is just around the corner.

The fact is, America did not elect Gerald Ford in 1976. But under a Democratic administration, we have had three more years of Republican inflation, three more years of Republican interest rates, and three more years of Republican economics.

As a candidate, President Carter taunted President Ford in 1976 because the misery index—the sum of the inflation rate and the unemployment rate—had reached a level of 13%. Today that index stands at 19%.

These statistics are familiar. But one new fact sums up all the current chaos in our economy. The President who promised a balanced budget as a candidate four years ago now proposes a budget with a deficit of $16 billion for the coming year. If you do a little arithmetic, if you take this new deficit and add it to other Carter deficits of the past three years, you will discover an extraordinary thing—the total federal deficit during the Carter Administration will go down in the economic record book as the largest deficit of any presidential term in the history of America.

During this campaign, I have called for long-term steps to combat the fundamental causes of inflation—to foster more competition, more investment, and more productivity in our industry, and more emphasis on our foreign trade. They are obvious measures—measures that must be adopted now if we are to succeed in righting our capsized economy.

Potentially one of the most important short term weapons against inflation is voluntary restraint. But President Carter has hardly touched that weapon. He waited 21 months to set guidelines on wages and prices. And inflation is actually worse since his guidelines were put in place than it was before. The Administration's anti-inflation policy has the same credibility with major corporations that the Administration's foreign policy has with the Soviet Union.

The time has come for a frank admission that under this President, the voluntary guidelines have run their course and failed.

Inflation is out of control. There is only one recourse: the President should impose an immediate six month freeze on inflation—followed by mandatory controls, as long as necessary, across the board—not only on prices and wages, but also on profits, dividends, interest rates, and rent.

The only way to stop inflation is to stop it in its tracks. Only then can we break the psychology of inflation that runs through every aspect of our economy and erodes our power in the world.

Today, I reaffirm my candidacy for the Presidency of the United States. I intend to stay the course. I believe we must not permit the dream of social progress to be shattered by those whose promises have failed. We cannot permit the Democratic Party to remain captive to those who have been so confused about its ideals.

I am committed to this campaign because I am committed to those ideals.

I am committed to an America where the many who are handicapped, the minority who are not white and the majority who are women will not suffer from injustice, where the Equal Rights Amendment will be ratified, and where equal pay and opportunity will become a reality rather than a worn and fading hope. I want to be the President who finally achieves full civil rights—and who passes an economic bill of rights for women.

And I am committed to an America where average-income workers will not pay more taxes than many millionaires, and where a few corporations will not stifle competition in our economy. I want to be the President who at last closes tax loopholes and tames monopoly, so that the free enterprise system will be free in fact.

And I am committed to an America where the state of a person's health will not be determined by the amount of a person's wealth. I want to be the President who brings national health insurance to safeguard every family from the fear of bankruptcy due to illness.

And I am committed to an America where the cities that are the center of our civilization and the farms that are the source of our food will be preserved and strengthened. I want to be the President who halts the loss of rural land to giant conglomerates and who declines to accept urban slums, unequal schools, and an unemployment rate in the inner city that approaches 50 percent.

And I am committed to an America that will safeguard the land and the air for future generations. I want to be the President who stops the seeding of the earth with radioactive wastes from nuclear plants—and who refuses to rely on a nuclear future that may hazard the future itself.

And I am committed to an America that is powerful enough to deter war—and to do the work of peace. I want to be a President who does not rush to a helter-skelter militarism or a heedless isolationism, who improves our military without gilding our weapons, who lifts at least a little the nuclear night that hangs over the world and who makes the world itself a little safer for both diversity and democracy.

And for all these commitments, I have only just begun to fight.

I am convinced that the people are not selfish or hopeless—and that government is not helpless to serve the public interest. I am convinced that we as a people are ready to sacrifice—to give something back to our country in return for all it has given to us.

It is easy to preach sacrifice, while practicing the politics of symbols. It is easy to bend to the prevailing political breezes. All politicians are tempted to do this at times.

But as I said a year ago, sometimes a party must sail against the wind. Now is such a time. We cannot wait for a full, fair wind or we will risk losing the voyage that is America. A New England poet once wrote: "Should the storm come, we shall keep the rudder true."

Whatever comes in the voting this year, or in the voyage of America through all the years ahead, let us resolve to keep the rudder true.

CONCLUSION

The plan would reduce gasoline consumption by 24 percent, or the equivalent of the 1.7 million barrels of oil per day now imported from the Persian Gulf.

In general the plan follows the basic proposal developed in 1979 by the Department of Energy and now being revised in accord with recommendations of Congress.

Ration checks would be distributed in an amount sufficient to reduce gasoline consumption by 1.7 million barrels a day. Approximately half of the reduction would be achieved in the first year, and the remainder would be phased in over a two-year period.

The ration checks would be distributed by mail to eligible individuals and businesses, who would redeem the checks for gasoline coupons at designated locations such as banks and post offices.

The coupons would be used to purchase gasoline. They could also be bought and sold freely on a white market at whatever price the market sets.

A percentage of the total national allocation would be placed in a "National Ration Reserve" for emergency purposes.

Allocations to each state would be based on the historical use of gasoline in the state.

A percentage of the amount allocated to each state would be set aside for a "State Ration Reserve," to be distributed at the state's discretion for hardships and other special cases.

Supplemental allotments would be issued by DOE for priority activities, including law enforcement, fire, mail, ambulances, defense, public transportation, sanitation, snow removal, telecommunications, energy production and conservation, agriculture, and off-highway vehicles.

The plan differs from the DOE proposal in two significant respects:

(1) Ration checks would be issued to individuals on the basis of driver's licenses. The DOE proposal relies on motor vehicle registrations. Under both the Kennedy plan and the DOE proposal, eligibility of commercial firms would be based on motor vehicle registration.

(2) "Energy conservation" activities would be included as an additional category in the list of supplemental allotments. The DOE proposal includes only "energy production" activities in the energy area.

U.S. OIL IMPORTS—JANUARY 1980

	Barrels per day
Persian Gulf:	
Iran	0
Saudi Arabia	1,350,000
United Arab Emirates	290,000
Iraq/Kuwait/Qatar	100,000
Subtotal	1,740,000
Non-Persian Gulf:	
Algeria	551,000
Indonesia	413,000
Libya	712,000
Nigeria	894,000
Venezuela	580,000
Bahamas	142,000
Canada	422,000
Mexico	450,000
Netherlands Antilles	242,000
Puerto Rico	60,000
Trinidad/Tobago	200,000
Virgin Islands	403,000
Other	893,000
Subtotal	5,962,000
Total imports	7,702,000

Source: Department of Energy; Congressional Research Service.●

HARASSMENT OF PILOT WORKFARE PROJECTS ENDS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. FINDLEY. Mr. Speaker, I would like to share a letter that I received from the Food Research and Action Center (FRAC), in which FRAC finally announces it has dropped its efforts to block the pilot workfare projects under the food stamp program, which are being conducted under an amendment I authored.

Meantime, the House Agriculture Committee has voted a 1-year extension of the workfare pilot project program. Seven more projects are authorized, and communities considering becoming new pilot projects will be free of the FRAC-inspired harassment some of the original seven suffered.

I am asking the General Accounting Office to continue its look into FRAC activities to see if FRAC has committed additional abuses of its Federal funding.

This experience shows a need for considerable improvement in the way in which the Community Services Administration makes grants and its followup with its grantees. My first complaints to CSA about FRAC were met only with minimal corrective action. It took several communications from me to cause CSA to recognize the gravity of FRAC's misuse of Federal funds, and take corrective action.

FRAC persists in the view that workfare harms welfare recipients, even though the preliminary results of the workfare pilot projects prove just the opposite. My hope is that the successful conclusion of the pilot projects will convince enough people that workfare not only gives welfare recipients pride and valuable work experience, but also spurs them to find regular jobs on their own, adds a new resource to local government, and reduces welfare costs.

Following is the text of the letter FRAC sent to me:

DEAR MR. FINDLEY: Last month, Ronald Pollack from our staff met with you and Dale Burman to discuss your concerns about FRAC's mailing last year on the workfare pilot projects. In the course of that meeting, Mr. Pollack indicated that we will circulate a public statement—to the persons who received the mailing of January 9, 1979—setting forth our acknowledgment that the exhortations in that mailing were improper.

Recently, the Director of CSA ordered that we circulate her own criticism of our mailing. To fulfill her directive as well as our promise to you, we have prepared a mailing that will include her criticism as well as our own admission of poor judgment. The following statement will appear in our mailing to the same mailing list of individuals and organizations that received our January 9, 1979 mailing:

"FRAC's Work on 'Workfare'—As most of you know, we have been monitoring the Food Stamp Act of 1977's pilot projects to test the concept of 'workfare'—whereby FSP work registrants have to accept a governmentally-supplied job to work off their food stamps at the rate of the minimum wage. On January 9, 1979, FRAC circulated a mailing about the workfare pilot projects that were authorized in the Food Stamp Act of 1977. That mailing sought to reflect our concerns about the efficacy of the workfare concept and its effect on poor people. FRAC exhorted advocates to 'hassle' governmental units that were contemplating the initiation of a workfare pilot project. That mailing prompted substantial Congressional criticism and a rebuke from the Community Services Administration (CSA).

"We have been directed, by Graciela Olivarez, Director of CSA, to circulate her disapproval of that mailing. The following constitutes her statement on that issue:

"In a newsletter sent by FRAC to 'Food Stamp Advocates' dated January 8, 1979, FRAC urged advocates to 'immediately begin working against workfare projects,' to initiate negotiations with state and county levels to block any application to the pilot project and to 'monitor and hassle' the activities of workfare sponsors in counties where workfare projects are established.

"FRAC is entitled under its grant from the Community Services Administration (CSA) to provide information to poor persons and organizations serving the poor in order to assist them in participating in local decision-making on matters that affect the poor. This informational function includes providing poor persons with pros and cons in respect to any proposal whose adoption depends on the voluntary consent of the community. However, FRAC is not entitled to use CSA funds to 'block' application for pilot projects and 'hassle' workfare projects, or to encourage others to do so. I understand, incidentally, that once a decision was made on a workfare project and implemented by a community, FRAC did not urge any action to interfere with the operation of the project. Indeed, FRAC's mailing of January 1979 was prior to the implementation of any workfare project. Nonetheless, the use of the term 'block' could easily give rise to misinterpretation. Similarly, the sort of activity connoted by the word 'hassle' is unacceptable. According to the dictionary, to 'hassle' someone is to 'harass' someone, and it is intolerable that CSA funds should be used for this purpose. I am therefore requesting you to refrain from giving this kind of advice in the future and to publish this statement in your next newsletter so that CSA's position is clear.—Graciela (Grace) Olivarez, Director, Community Services Administration.

"We agree that FRAC's mailing constituted poor judgment on our part. To the extent that we explicitly, or implicitly suggested that people should 'hassle' workfare sponsors or block the implementation of law, we were wrong to do that. Although we still strongly believe that workfare constitutes a grave harm to poor people and should not be expanded, the presentation of those views in the January 9, 1979 mailing did not constitute responsible judgment on our part."

I am hopeful that you will find that this mailing fulfills the letter and spirit of Mr. Pollack's promises to you. We appreciated your willingness to discuss this matter with him, and we look forward to future discussions about development in the Food Stamp Program and public assistance in the years ahead.

Yours truly

JEFF KIRSCH,
Acting Director.●

KEEP THE "GREEN" IN CHRISTMAS

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. MOORE. Mr. Speaker, I know many of my colleagues participated in the longstanding family tradition in many parts of this country during the past Christmas season—selecting, purchasing, displaying, and decorating a Christmas tree for their home. I look forward to this labor of love each year as do tens of millions of Americans. It is a warming moment because it represents the first family activity of the yule season; and it is a labor, I assure you—the sticky sap and prickly needles are not soon forgotten.

The great majority of us do not really know from what pasture or hillside our tree originates. If you are like me, you probably thought it came from "somewhere up North." However, I was very surprised and interested to learn that many of our Southern and Southeastern States boast a growing, but struggling Christmas tree producing industry. In my opinion, it is an industry worth promoting—for a variety of reasons I will mention—certainly not the least of which is to keep Christmas "green" and festive.

The southern Christmas tree industry competes alongside of its northern cousin, and has for over a decade on a commercial level. However, I have learned that in one very important economic respect, southern Christmas tree growers do not receive equitable treatment under our laws and regulations.

Under the Internal Revenue Code, producers of Christmas trees benefit from favorable capital gains tax treatment, as do other timber producers and mining operations, upon the sale of their product. However, under the current law, the producer-taxpayer can only apply this tax treatment to the sale of trees older then 6 years of age. The reason for this treatment of income is long-standing and reasonable. The timber producer must expend large amounts of capital for many years before he first receives any income from the sale of his products. I do not argue, and in fact support, this provision of law, but the legislative remedy I seek proposes to provide equal application of our tax laws to southern Christmas tree producers.

THE PROBLEM

In the early days of this specialized timber industry in the South and Southeast, tree varieties planted and harvested were identical or very similar to the evergreen tree types planted in the northern colder climates. Most of these varieties did not fare well, and did not mature properly in the milder climes. Agricultural research scientists eventually produced varieties of evergreen trees capable of thriving in moderate temperatures, and over time, the industry grew and expanded.

The tree well-suited to the less-harsh environment also matures at a faster rate. I understand that most varieties grown in the South reach cutting height between the 3 to 7 year range. These trees are just as esthetically pleasing and have other desirable qualities.

Mr. Speaker, I hope you are beginning to realize the inequity of the present situation, just as I have. We have an important, labor-intensive industry emerging in the South that is disadvantaged by our tax laws. Southern Christmas tree growers are harvesting their trees for sale at 3, 4, or 5 years of age—but they cannot begin to benefit from the capital gains tax provision in question because it only applies to "evergreen trees that are more than 6 years old at the time they are severed from the roots and are sold for ornamental purposes."

THE SOLUTION

The solution is relatively simple and contained in legislation I have introduced today. My bill seeks to amend section 631(a) of the Internal Revenue Code of 1954 (Public Law 83-591) to provide this tax treatment to producers whose trees are at least 3 years old. This will effectively include southern Christmas tree producers with no resulting harm or detriment to traditional producers located in Northern States.

BACKGROUND

In October of 1978, I was contacted by the Louisiana Cooperative Extension Service located at Louisiana State University which is in my congressional district, The extension service had received a plea from Louisiana Christmas tree producers to assist them obtain a ruling from the IRS that would allow them to receive equitable tax treatment in this instance. The extension service had contacted IRS but soon found that no ruling could be extended on an industrywide basis. My office contacted the IRS Technical Services Branch in Washington, D.C. and received a similar response. IRS representatives also indicated that in their opinion only amendment of the law could bring about the desired change sought by southern Christmas tree growers. The legislation I introduced today has grown out of this recommendation and is designed solely to provide all Christmas tree growers a level playing field.

THE CHRISTMAS TREE INDUSTRY

It may be helpful, Mr. Speaker, to briefly discuss the size and extent of the Christmas tree industry, and especially as it exists in the South and Southeast.

According to the most recent figures I could obtain, there are over 10,000 Christmas tree farmers nationwide, located in at least 37 States. Over 12,000 persons are employed on a full-time basis as growers, wholesalers, and retailers. Over 4,000 growers belong to the National Christmas Tree Growers Association.

In 1976, the wholesale value of Christmas trees topped $100 million, and retail sales were valued at around $240 million; 1978 sales reached the 31 million tree mark and values increased to the producer and marketing operations.

During the Christmas season over 30,000 individuals are employed in the retail aspect of tree sales. If you add in all part-time employees, such as high school and college students, over 100,000 people are employed in selling Christmas trees. Many retail sales outlets are run by civic, church, or service organizations, as well as those operated by farmers and "pick your own" firms.

Over 40 types of Christmas trees are grown. The six most prominent varieties of evergreens are Scotch pine, Douglas fir, balsam fir, cedar, spruce, and red pine. Christmas tree farms contain between 50 to 5,000 trees—most are in the 800 to 1,500 tree range, and southern producers usually have about 1,200 trees on their farm, of which 900 to 1,000 are considered good trees.

Christmas trees have been produced on a commercial, large-scale basis in the South since about 1971, and can therefore be considered a relatively new product or commodity. Tree farming is basically the same in all parts of the country, and producers can normally expect the same production costs, investment required, and land prices, no matter in what section they produce.

As I mentioned, purchase of Christmas trees is an increasing activity in our society today—it has been estimated by the industry that one in three families have a natural Christmas tree each year.

WHY A "NATURAL" TREE

Aside from purely personal tastes, I feel there are several sound reasons why our domestic Christmas tree industry should be encouraged, and why southern growers should receive equal treatment under the law.

Normally, these trees are grown on land that would only be marginally productive if planted in agricultural crops, or grazed in livestock. Due to the present demand and supply situation for farm commodities, it makes even more sense for trees to be produced on these fragile lands, than for more crop production to be encouraged and commodity markets adversely impacted.

Production on this type of acreage also promotes excellent conservation of the land. Erosion can be checked or improved due to tree stands, and the quality of the soil enriched by trimmings and small limbs that naturally blend with the earth. Acres of Christmas trees also provide excellent wildlife habitat and greatly improve the scenic beauty around us. Since a tree grower usually has four different age crops on his property, seasonal thinning for holiday sales does not leave harsh, barren patches of land.

Some may question that cutting trees after only a few years of growth contributes to unsound environmental practices. But, this is not the case. The varieties of evergreens grown as Christmas trees never grow to become giant conifers that adorn many of our State and national forests.

There are many practical aspects of Christmas tree production. These favor support for regional tree production as a means to enhance our economy and environment. Trees are natural, and thus biodegradable and require less local commitment to disposal services. Production of Christmas trees does not in itself produce air, water, or soil pollution. In fact, 1 acre of Christmas trees produces enough oxygen each day to serve the needs of 19 persons, as well as nearby wildlife.

As most any discussion today includes commentary on energy, so does an examination of the Christmas tree industry. Christmas tree production requires less energy than most agricultural production. A thriving industry in the South will help eliminate expensive truck and rail shipment of trees from more northerly climates, and will help conserve petroleum supplies. Consumers who can find quality trees at reasonable prices nearer their homes will save gasoline searching for the right tree.

Also, trees which are sold fresher and greener contain more moisture than trees shipped for hundreds of miles. Not only will these last longer—giving the consumer a better buy for his or her dollar—but the greater moisture content reduces fire hazards in the home.

In an economic sense, Christmas tree production is also a bargain. If we afford southern producers the equal tax treatment I have proposed, they will stand a much better chance of remaining in business and so contributing to their local economies. The Louisiana-Mississippi Christmas Tree Growers' Association estimates that about $1,000 per acre of trees in those States on an average farm is spent locally to buy fertilizer, supplies, and other goods and services.

Grower costs and retailer costs are kept lower if trees are produced and sold regionally. This, of course, benefits the consumer. It has been estimated that transportation costs add at least $1 to $2 to the price of a tree that must be shipped to a particular location. As consumer demand increases, as it has, tree prices may even escalate more in the future. Additionally, during the course of rail or truck shipment, some trees are lost or damaged and cannot be sold. Prices must be increased to compensate for this anticipated occurrence.

Finally, Mr. Speaker, I know of many acres of land in my own district that could be placed into Christmas tree production. This type of enterprise makes a perfect small business and also employs local labor.

SUMMARY

I feel this legislation is a very modest proposal, and should only be interpreted as a means of providing fair treatment for Christmas tree producers in the Southern States. Modern research and science has enabled producers in the South to grow a quality Christmas tree in half the time it takes to grow one in the North. I do not feel that our tax laws and regulations should discriminate against these businessmen just because their trees grow at a rapid rate. After all, these Christmas tree growers experience the same production costs and decisions as their counterparts in colder climates.

Therefore, the 6-year growth minimum is just not viable any longer. The IRS could not tell me why a 6-year threshold was included in the law, and the conference report on Public Law 83-951 is silent on the point, as the IRS indicated to me. In fact, some familiar with the history of this provision of the tax code feel that the 6-year figure was arbitrary, and used because it reflected the state of the art of Christmas tree production in 1954. I hope my colleagues will agree that agricultural research has made impressive strides in the past 26 years, and that it is now a reasonable request to ask that this law be modified and updated.

The Christmas tree producer must be a patient individual and must be very mindful of his financial resources in order to protect his investment. This portion of the tax code was structured with this type of individual taxpayer in mind—one who must wait a number of years in order to realize a return on his initial investment. The Christmas tree farmer, is like other foresters in the respect that each must risk natural disaster due to the length of time in harvest rotation. Other farmers who yearly harvest their crops do not face this wait to learn if they will survive a crop year or not.

I do not propose a new Federal program to assist Christmas tree producers, and I do not think they would want a handout from the Federal Government. Their request, in this situation, is only for fair treatment from their Government—not any special favors.

I urge my colleagues to join with me in supporting this legislation and to simply give this industry a better chance to prosper and serve us all.

After all, its hard to imagine Christmas without all of its traditions—especially the Christmas tree.●

CORCORAN BUDGET CUTS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. CORCORAN. Mr. Speaker, as Members of Congress scrutinize the President's budget proposal for fiscal year 1981 and as we begin the long and arduous task of developing the congressional budget, I feel that it is pertinent to bring to my colleagues' attention two letters I have recently written to the President which relate to this subject.

The first communication was presented for the President's attention well before he revealed his budget and alternative budget earlier this week. In that letter, I urged the President to follow the congressional intent relating to the provisions of Public Law 96-5 which require the President to submit a balanced budget if his own budget proposal is not in balance.

Regrettably, the President has failed to present to Congress an alternative budget which in any realistic sense approaches the intent of the Congress in this regard. My second letter addresses this outright indifference and default of duty. Though I intend to consider fully all proposals to restrain Federal spending and to control the budget deficit—and I am open to suggestions by Mr. Carter on this point—the President's failure of leadership on the budget is unforgivable. It is as though, to paraphrase an ancient story, he fiddled with the budget as inflation raged and Americans' dreams succumbed to those flames.

I ask that the two letters now appear in the RECORD:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., January 17, 1980.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In Senate debate last year, Senator Russell Long spoke in favor of an amendment by Senator Robert Packwood which is now law, saying:

"It requires the President . . . to submit a balanced budget. He does not have to recommend a balanced budget, but he would have to submit one to us as an alternative. Then we would know how the President and his advisors would balance the budget if they were called upon to do so. They would say how they would propose to balance the budget."

With your budget submission due before the end of the month, Mr. President, I trust that you will follow the congressional intent relating to this provision of law.

The American people, I believe, feel that their federal tax dollars are not being managed as efficiently as possible. A recent national survey by a respected major polling firm shows this: the average citizen believes 48¢ of every federal tax dollar is wasted. With this in mind, I would hope that your balanced budget will reflect a savings attainable through better management. This should result in a balanced budget which requires federal spending that does not exceed the level of taxation you propose in your unbalanced budget; preferably, taxation would be even less.

Last year, press accounts attributed a $2 billion budget saving to your unrealistic assumption that interest rates would fall. Last year, your budget proposal contained proposals to cut Social Security benefits that would hurt people least able to handle cutbacks. It is my sincere hope that your 1981 fiscal year balanced budget will not rely on such methods. Show us and the nation where bold cuts can be made.

Your long-standing promise to balance the federal budget may have been broken by increases in imported oil prices, but the opportunity remains to provide honest leadership in the budgetary process by sending to the Congress an austere, believable, balanced budget. I look forward to its receipt.

Sincerely,

TOM CORCORAN,
Representative in Congress,
15th District, Illinois.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., January 29, 1980.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Almost two weeks ago, I urged you to show the Congress and the nation where bold cuts can be made in the budget through a good-faith presentation of an alternative budget. I am dismayed at your response to the congressional mandate to submit an alternative balanced budget; it falls far short of illustrating, as Senator Russell Long phrased it on the Senate floor, "how the President and his advisors would balance the budget if they were called upon to do so."

Your alternative budget tells us that in order to balance the budget we would have to accept no real growth in defense capabilities through 1983, that we should have to limit adjustments in social security benefits to ¾ of the inflation rate, and that our vital Strategic Petroleum Reserve would not be fortified. It appears as though these and other items located as budget cut options represent what you consider to be the most marginal budget components.

I realize that funding the long-delayed defense programs and meeting the burdens and costs imposed by imported oil price hikes have contributed to difficulties in controlling spending and the size of the budget deficit. It is my belief, however, that had you assisted the Congress by providing "honest leadership in the budgetary process by sending to the Congress an austere, believable, balanced budget" (to quote from my earlier letter), significant progress would have been within grasp. Also, when you or your surrogates discuss the extent of the proposed 1981 deficit, I trust that you will bear in mind that, while it may be 50 percent of the on-budget deficit for fiscal year 1980, it is really only about 20 percent less in sum than the 1980 imbalance when off-budget and on-budget deficits are totalled. That, I feel, is a more realistic comparison.

Though few elected officials expect to gain popularity through unveiling possible budget reductions, we must confront the adverse effects of high spending levels and deficit budgets forthrightly. I have enclosed a listing of areas which could be candidates for budgetary restraint that totals $14.56 billion. While 10 of your 36 suggested outlay reductions are incorporated in some way in this listing, the majority of the savings would be effected by other means than those you would recommend. It is my hope, in providing you with this listing, that these suggestions for budgetary scrutiny will be helpful as you transmit to Congress your revisions in budget requests and related matters.

Again, I am disappointed that your alternative budget plan fails to approximate the intent of Congress in requiring it to be submitted. Nevertheless, I stand ready to give my full consideration to proposals you have made or hopefully will make which would make some headway in controlling budgetary excesses. We cannot overlook the ravaging effects of inflation caused partially by budget imbalances and the impact of the $40 billion in additional taxes envisioned in your budget for fiscal year 1981.

Sincerely,

TOM CORCORAN,
Representative in Congress,
15th District, Illinois.

Enclosure.

POTENTIAL SPENDING REDUCTIONS FOR FISCAL YEAR 1981 AS PROPOSED BY CONGRESSMAN TOM CORCORAN OF ILLINOIS

FIGURES IN MILLIONS OF 1981 DOLLARS

Elimination of Economic Regulatory Administration's gasoline and oil price and allocation control duties—$50.0.

Elimination of Targeted and Antirecession Fiscal Assistance, due to a more vigorous economy attained through freeing domestic energy sources and making tax changes to strengthen the economy—$1,000.0.

Transfer of food stamp assistance to Social Security Administration and cashing-out of food stamp benefits (savings est'd. at 50% of projected cost)—$4,865.0.

Limit eligibility of strikers to receive food stamps—$9.7

Repeal of Davis-Bacon Act—$785.0.

Legislative Branch spending restraint—$30.0.

Repeal of automatic cost-of-living adjustment in salaries of Members of Congress (per Corcoran bill)—$1.9.

Improved targeting of low-income energy assistance—$800.0.

Foreign aid reduction of one-half projected cost due to the need to maintain the longer-term economic strength of the United States to permit future foreign assistance—$3,100.0.

Elimination of Energy Security Corporation commitments to be incurred in 1981 in light of potential to stimulate synthetic fuels development through changes in existing Federal law—$2,000.0.

Reduction in parks acquisition and special habitats—$30.0.[1]

Reduction in welfare demonstration projects—$110.0.[1]

Across-the-board cutback in energy supply/conservation—$120.5.[1]

Reduction in LEAA grant assistance to state and local governments for criminal justice programs—$43.5.[1]

Mass transit operating expense subsidies—$50.0.[2]

Reduction in public-service jobs programs of one-half due to improved economic scenario and increased reliance on private-sector jobs creation—$1,550.0.

Total potential spending reductions-$14,545.6.●

REPRESENTATIVE EDGAR ROASTED ON "PORK" CHALLENGE

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. BEDELL. Mr. Speaker, I would like to draw the attention of my colleagues to an article which appeared in the Washington Post by staff writer Ward Sinclair on Congressman Bob Edgar, Democrat, of Pennsylvania, and his challenge to the water resources bill.

---

[1] One-half of reductions proposed in the President's Alternative Budget.

[2] Full level of reductions proposed in the Alternative Budget

It has been my privilege to work with Congressman Edgar on this important legislation, and I believe he has made a significant contribution to the manner in which we approach the water policy of this Nation. He has conducted himself in an open, forthright manner which is a tribute to his abilities as a lawmaker and a statesman.

The article from the January 31, 1980, Washington Post follows:

Representative Edgar Roasted on "Pork" Challenge

(By Ward Sinclair)

For all the scorn and derision rolling across the House floor this week, one would have thought a horned devil had taken a seat on the Democratic side of the aisle.

Rep. Robert W. Edgar (D-Pa.) is not only not a devil, but a Methodist minister in his private life. But he has sinned mightily nevertheless, as the House sees it: he has attacked a public works bill.

His brethren have reacted with unusual vitriol and emotion, which shows what can happen when a congressman tries to say nay on this subject, as Edgar has.

One member, Rep. Gene Snyder (R-Ky.), suggested Edgar had not "an ounce of milk of human kindness in his soul" in suggesting that some projects be excised from the bill.

Another, Rep. Tim Lee Carter (R-Ky.) although he apologized the next day, alluded snidely to Edgar's Methodist ministry and erroneously accused him of landing an unneeded courthouse for his district.

Rep. Carl D. Perkins (D-Ky.) said Edgar was threatening "the human rights of the people of the Appalachian region."

Kentuckians may say these things with more flair than some others, but the same feelings seem fairly widespread about Edgar's assault on the $4.4 billion water resources bill the House will take up again today.

The water resources bill, known sneeringly as the pork barrel. authorizes flood-control dams, harbor dredging, navigation projects, marinas, bridges and roads.

This legislation, usually produced every election year, is one of the most popular that Congress deals with because it means projects for individual districts—tangible proof that a legislator is at work.

But not in their wateriest fantasies could House members have dreamed up this year's version. The costliest ever, it would provide almost 200 projects around the country, affecting what President Carter said Tuesday would be 70 percent of the congressional districts.

Meeting with out-of-town editors, the president called the bill "very large and wasteful." While not using the word "veto," he said, "I intend to oppose these threats to our federal budget."

While Edgar and the White House are going in the same direction, ironically and not at all surprisingly, the congressman is doing most of the fighting and taking most of the heat. He has had little help from the administration.

The argument is over national water policy. Carter wants a new policy that he thinks would save both water and federal funds.

The House and Senate public works committees, which traditionally have had the water policy field all to themselves, view the presidential suggestions as a violation of congressional turf.

Turf actually is the name of the game, for as Edgar has found this week and during the past several years, individual members are offended personally when a colleague questions a favored reservoir or marina project.

Edgar, a member of the governing committee, has forced debate on the bill by threatening to call up 184 amendments each aimed at some members' favorite project.

"I believe many members with projects in the bill are saying, and they have told me privately, 'right on, Bob.' But they can't come out and oppose their own projects. It's just unfortunate that one can't raise policy issues apart from individual projects," Edgar said yesterday. "The criteria for all of these ought to be on their merit."

The environmental bloc, with which Edgar has been working, regards the congressman's performance as "extraordinary" in the words of Edward Osann, head of the Coalition for Water Project Review.

"The debate, the tone and direction of the votes indicate that the House generally is really hostile toward debating the merits of these issues," Osann said. "Their reaction to someone like Edgar is to exorcise, to banish him from the community of fraternal advancement."

By all rights, your typical politician would flinch at working himself into this kind of bind. But Edgar isn't typical, and, until he got elected "by accident" in 1974, he hadn't even been in politics.

Edgar, 36, was the Protestant chaplain at Drexel University and codirector of a community center before he decided to run for the House.

It really made no sense. His suburban district, southwest of Philadelphia, had elected Republicans without fail since 1858. He had no political pedigree.

"Until a year before the election, I had never been to a political meeting. One of my assets is that I have no politicial background. My constituents elected me not to come down here and let it be business as usual," he said.

As a member of that reformist "Watergate" class of 1974, Edgar took it seriously and still does, unlike some of his classmates who have mellowed with time.

There's a reminder, maybe intentional, maybe not, hanging on the wall behind his desk. It's a reproduction of Picasso's Don Quixote, the man who used to joust at windmills.●

WHY FRENCH SILENCE ON AFGHANISTAN?

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. EDWARDS of California. Mr. Speaker, France, immensely dependent on Middle East oil, has reacted mildly to the Russian invasion of Afghanistan. The French appear to think President Carter has overreacted.

The following article from the New York Times, January 30, 1980, seeks to explain France's view. It was written by André Fontaine, editor in chief of LeMonde, a leading Paris newspaper:

Why French Silence on Afghanistan?

Paris.—President Carter must be wondering how on earth he can please the French. They used to think he was too soft on the Russians. Now they complain of his sharp response to the Soviet invasion of Afghanistan and keep saying that détente must go on. President Valéry Giscard d'Estaing is even quoted as having said privately that Moscow acted in its own sphere of influence, that there has been no crossing of the "line"—an allusion to the Roman wall that supposedly marked Empire boundaries. There is some truth to this viewpoint.

Afghanistan came under Communist rule not in December 1979 but in April 1978, when President Mohammad Daud was shot dead and succeeded by Noor Mohammed Taraki, First Secretary of the Communist Party. He turned to Moscow for military and developmental aid and supported every Soviet or Soviet-backed move on the international scene. The Russians' problem at the end of 1979 was not to conquer a new country but to hold on to one that had become part of their possessions and to put down an insurrection threatening to overthrow its Moscow-sponsored Government. Giving in to popular pressure would have meant, in the Kremlin's view, submitting to counter-revolution, and that was unacceptable. It has never been accepted: Look at Hungary and Czechslovakia. To do otherwise is to admit that history can move backward; such an admission of weakness would encourage rebellions elsewhere in the empire. This said, the fact is the Soviet presence in Afghanistan is of very recent date, and there is nothing to support the assumption, commonly accepted in French official circles, that the country has always been in Russia's sphere of influence.

For centuries Afghanistan fought off invaders and, finally, as in Iran, the Russians and the British came to share influence there. This time the Russians decided to bring a foreign country under their direct rule. They compounded their action by again using patent lies, such as claiming they had been called in by a Government whose President, Hafizullah Amin, they had just killed.

The French reaction to the Afghan crisis was, to put it mildly, lacking in vigor. After having stressed the danger of war in his New Year message and urged restraint on heads of state, Mr. Giscard d'Estaing seemed anxious to minimize the invasion's impact. Why? There is of course the French Presidential election in 1981.

If Moscow asked the French Communists to reactivate the Union of the Left, an alliance of the Socialist and Communist Parties, Mr. Giscard d'Estaing could in theory be defeated, but it is too late for reconciliation, at least for one that could convince the electorate. Another explanation lies in the volume of French-Soviet trade: A sharp cutback would mean more unemployment and a balance-of-payments deficit, an unpleasant prospect with an election in sight. Basically, however, it is more probably a reaction of fear—not fear of a war that still looks remote, indeed impossible, but of a return to the cold war with all of its repercussions on the arms race, oil- and raw-material supplies and prices, and on the social and economic situation in Europe in the midst of increasing world instability.

The French are perfectly aware that the age of affluence is over. They are apparently not prepared to fight for a society that has lost confidence in its goals. This is time for gloom not for resoluteness, and this marks the difference with America, which appears to be recovering its old fire and determination. It remains to be seen how and where this resolve can be applied.

President Carter has failed to obtain the release of the hostages in Teheran. Blockading the Strait of Hormuz, connecting the Persian Gulf with the Indian Ocean, would only create an explosive situation in the area. Nobody believes that the threat of boycotting the Olympics will persuade the Russians to leave Afghanistan. Economic sanctions will hurt consumers in Eastern Europe far more than the Kremlin. They are likely to fuel political unrest but will not have the slightest chance of convincing the Soviet leadership to trim its military effort; on the contrary, sanctions will probably prompt the Kremlin to boost it. The truth is, no adequate answer has so far been worked out in America or Europe. As in the cold-war days, the West is slowly responding to Soviet moves rather than taking initiatives of any value. What the world needs is not so much a new balance of terror or a new containment policy as a concerted attempt to solve the one problem from which all the others flow: the growing imbalance between world needs and world resources. Judging by some of his past statements and stances, it was possible to believe that Mr. Giscard d'Estaing understood the fundamental importance of such an approach. Why then did he say nothing on the subject? Could it be that he has lost all hope of clearing the many obstacles ahead?●

VOLUNTEERS DESERVE THANKS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Ms. MIKULSKI. Mr. Speaker, I noticed with great interest and pleasure an article written by the well-known, syndicated columnist, Erma Bombeck, regarding the work of volunteers. The article, titled "Volunteers Deserve Thanks" conveys in a very human fashion the enormous contributions of volunteers to our society. I would like to insert this article into the RECORD:

VOLUNTEERS DESERVE THANKS

Volunteers are like yachts.

No matter where they are, they arouse your curiosity. Who are they? Where do they come from? Why are they here?

They could stay moored where it's safe and still justify their being, but they choose to cut through the rough waters, ride out storms and take chances.

They have style. They're fiercely independent. If you have to ask how much they cost, you can't afford them. Volunteers and yachts have a lot more in common these days. They're both a part of an aristocratic era that is disappearing from the American scene. They're both a luxury in a world that has become very practical.

Day by day the number of volunteers decreases in this country as more and more of them equate their worth in terms of dollars and cents.

Three years ago I did a column on volunteers in an effort to point out that they don't contribute to our civilization. They ARE civilization—at least the only part worth talking about.

They are the only human beings on the face of this earth who reflect this nation's compassion, unselfishness, caring, patience, need and just plain loving one another. Their very presence transcends politics, religion, ethnic background, marital status, sexism, even smokers vs. non-smokers.

Maybe, like the yacht, the volunteer was a luxury. And luxuries are too often taken for granted.

One has to wonder. Did we, as a nation, remember to say to the volunteers, "Thank you for our symphony hall. Thank you for the six dialysis machines. Thank you for sitting up with a 16-year old who overdosed and begged to die. Thank you for the hot chocolate at the scout meeting. Thanks for reading to the blind. Thanks for using your station wagon to transport a group of strangers to a ballgame. Thanks for knocking on doors in the rain. Thanks for hugging the winners of the Special Olympics. Thanks for pushing the wheelchair into the sun. Thanks for being."

Did the media stand behind them when they needed a boost? Did the professionals make it a point to tell them they did a good job? Did the recipients of their time and talent ever express their gratitude?

It frightens me somehow to imagine what the world would be like without them.

Mr. Speaker, as Ms. Bombeck stated, the work of volunteers in our society is very rarely appreciated or recognized. At best, their contributions are taken for granted. Too often, the Government actually discourages their efforts. For example, volunteers who use personal automobiles in the course of their service may take a tax deduction of 8 cents per mile. If the same person uses their same automobile for business, they can deduct 18.5 cents. There is no fair explanation for the difference of these figures.

For this reason, I have introduced H.R. 5409, the volunteer mileage deduction bill which would grant to volunteers the same mileage deduction rate as is currently allowed for business use. I am pleased to report that the bill is now cosponsored by close to one-third of the full House, including one-half of the Ways and Means,Committee.

The volunteer mileage deduction bill has been endorsed by numerous private groups, including the American Red Cross, the National Council of Jewish Women, the National Meals on Wheels Association, the League of Women Voters, and the American Hospital Association.

The importance of volunteers to our Nation is immeasurable. The passage of this bill would be a way for our Government and our people finally to say "thank you" to volunteers. I hope very much that the Congress will act favorably on this important legislation.●

MANPOWER POOL TO SHRINK SHARPLY IN EIGHTIES

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. CAVANAUGH. Mr. Speaker, published in the Washington Star of January 27, 1980, is an excellent analysis of the current state of our military manpower procurement system and a dismal prognosis for the future of that system. While President Carter has called for the return of registration for the draft, I and others in the Congress remain convinced that the problem runs much deeper than merely the time in which the United States could mobilize its forces in the event of a contingency.

The glaring inadequacies and gross inequities of our current system must be recognized and addressed. Our citizens must be made to realize the inherent unfairness in a system which relies primarily on the economically and educationally disadvantaged of the society to meet the manpower needs of our Armed Forces, while asking nothing of its more privileged members. Just as the rights and privileges which are guaranteed by the Constitution accrue to all within the society, so too should the obligations for the protection and maintenance of those freedoms fall upon the citizenry without distinction or discrimination.

Another serious shortcoming, one which is the main focus of the following article, is the difficulty which our Armed Forces are presently encountering in their efforts to attract qualified young men and women in sufficient numbers to meet the needs of a highly sophisticated and extremely specialized military fighting force, responsible for effectively utilizing the most advanced military hardware in the world. As I am sure my colleagues are aware, last year for the first time since the inception of the All-Volunteer Force concept in 1973, all branches of the armed services fell short of recruiting goals. The strength of the Reserve Forces is at a perilously low level. And, as former Under Secretary of the Navy Woolsey points out in his article, in the years ahead the pool of available young men and women will decrease markedly. The inevitable conclusion which Mr. Woolsey draws is that the AVF will ultimately fail, if indeed it has not already. It is absolutely essential that the Congress recognize these defects and move to correct them.

I have offered a proposal to create a public service system, H.R. 3603, to meet both the military and civilian manpower needs of the country, and others have made efforts to address the problem as they see it. Regardless of what approach we take, Mr. Speaker, the Congress and the President must move forward together to fashion a means of meeting these serious inadequacies which Mr. Woolsey so clearly and concisely illustrates, and I commend to my colleagues his short article:

PAYING FOR SERGEANTS IN THE 1980'S

(By R. James Woolsey)

Manpower will be the most intractable national security problem of the 1980s.

We are experiencing a resurgence of national will under the influence of the turbulence in Iran, Soviet moves in Afghanistan, and the specter of hostile nations controlling the West's and Japan's oil.

But such surges of American patriotism have historically found expression first, and most easily, in appropriations for major weapons systems. National leaders have always had a much more difficult job convincing the country to act sensibly about military manpower. Franklin Roosevelt and Carl Vinson somehow got capital ships built, even in the 1930s. But they and Sam Rayburn only saved the draft by one vote in September of 1941—two full years after the beginning of World War II.

In 1941 it was clear what statesmanship required: We needed the draft. Today the condition of the all-volunteer force presents a murkier picture. The four services have never been better led by service chiefs who understand and exert personal effort daily on manpower problems. Much, though probably not enough, is being done to improve recruiting, to teach remedial reading and job skills and to utilize women in a wider range of jobs.

But all this may well not be sufficient. The Army's Individual Ready Reserve is already a skeleton. All services are missing their recruiting quotas and the mental and skill levels of many enlistees are, to put it mildly, lower than desirable. Recruiting scandals continue as the pressure mounts.

The resumption of peacetime draft registration alone, while a reasonable and prudent step, will not change this picture. Registration merely lets inductions occur promptly if war comes, since no one seriously plans to fight for long with volunteers.

THE DEMOGRAPHIC THREAT

The most serious problem of all is that, each month, relentlessly, the pool of young men available for military service declines. Demographic projections make it crystal clear that this will continue through the '80's. At the beginning of the next decade there will be only about three-fourths as many young men in the country as there are today. Under an all-volunteer force then, we will have to attract about one out of every three qualified and available men into the military. If we find somewhere a bag of Krugerrands to give each enlistee, we might barely pull that off. But short of that—and certainly if we keep doing business as we are today—the all volunteer force will fail. The less intelligent our manpower policies, the further we'll move the date of failure into the embarrassingly near future.

UNWISE CIVILIAN CUTS

One way to fail sooner rather than later is to continue the severe cuts and limitations in defense civilian manpower that Congress and the Executive Branch have taken turns imposing over the last several years. When you cut, for example, the number of Navy civilian shipyard workers, someone has to take up the slack or the ship overhauls don't get done. So sailors work 72-hour weeks, don't re-enlist, and thus create a need for more recruits.

Another way to ensure failure is to continue clobbering career enlisted men and women with a pay structure that undervalues their contribution and with "reforms" that drive them out of military service.

In 1971 when the draft was ended by Congress, first-term enlisted men and women got more than a 50 per cent pay increase while the career force got a pittance. Military pay increases have been running at half the inflation rate, in good years. Some in Congress now propose increasing that to 10 per cent or so—about two-thirds of the current inflation rate. That's better than nothing, but hardly solves the careerists' problem. Inflation has so eroded the pay of the career enlisted soldier, sailor, and marine that today an E-6 (staff sergeant or 1st class petty officer) with, say, 8 years' service, stationed in Northern California, makes $300 a month less than a unionized grocery checkout clerk in nearby San Jose.

A number of good people stay in, but it is out of patriotism, and there are fewer each year. Frequent moves disrupt service family life and make it hard for a serviceman's spouse to work—the increasingly common augmentation for inflation-wracked family income. Emotionally important, and relatively inexpensive, benefits such as free parking or separate non-commissioned officers' clubs are removed year by year by one part of the bureaucracy or another. A generous retirement system permitting a second career after 20 years—the last major benefit better than that in the civilian world—is under assault.

OVERCOMING THE SHORTFALL

It is only by using civilian labor at every possible point and by significantly increasing the careerist proportion of the enlisted force that the all-volunteer force can be given a fighting chance. Increasing the careerist share, e.g., from 42 to 50 per cent of the enlisted force, principally by selective pay and benefit improvements, would reduce enlisted requirements by about 70,000 men annually. That would make up for more than double today's enlistment shortfalls. Such steps could postpone the date by which we must return to a peacetime draft from the early '80s to the mid-80's. If we are very lucky there's an outside chance, but only that, that they could even get us through the decade.

But even if we return to a peacetime draft or adopt some sort of national service system, the armed services can't function without the sorts of sergeants and petty officers who today are voting with their feet. They are the sinews of any military force—whether its privates come from Watts, Appalachia, or Groton—and they deserve better than what they'd been getting.

Even if you don't believe that, consider your own family's self-interest. The world has recently shown itself to be an angry and wicked place. You may need some people to go take a hill somewhere soon. Whom do you want your son learning the ropes from, when he first comes under mortar fire there—somebody who can't make it as a grocery bagger?●

ANDREI SAKHAROV—EXILED BUT NOT SILENCED

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. SOLARZ. Mr. Speaker, Andrei Sakharov was snatched from Moscow and contact with the West by the Soviet Government a few days ago in an attempt to silence his outspoken criticism of injustice and defense of human rights in the Soviet Union and throughout the world.

In a daring defiance of the conditions of his exile which forbid contacts with all foreigners or "criminal elements," Sakharov sent a written statement to Moscow on January 29th to tell those who care about human rights that this brutal attempt to stop his protests has failed. Indeed in this remarkable document Sakharov says he prefers a public trial to the gilded cage of banishment for alleged crimes against his homeland.

By stripping Dr. Sakharov, an eminent scientist, of all honors and awards, and sending him 250 miles from his home to the closed city of Gorky, the Soviet Union has once again displayed its disregard for human rights and its brutal repression of any who dare to speak in opposition to its policies. But it cannot expect the international community to remain silent.

Moscow may have at last found a way to silence this one brave and stubborn man, who is now cut off from all contact with his family, friends, and colleagues, and that "criminal element" that would dare hope and dream and speak of freedom and justice.

One cannot fail to be moved by the passion for justice that drives this one man to risk everthing to cry out against the repressive policies of his government.

Mr. Speaker, I ask that an article and editorial concerning Dr. Sakharov which appeared in the New York Times be printed in today's RECORD along with the full text of Sakharov's statement that his wife, Yelen Bonner, carried to Moscow at great risk, so that any who have not seen these might have an opportunity to read them. Perhaps some who have not had the opportunity to read the courageous statement of this man, now old and alone, but determined to continue to fight for what be believes in—an open free society in a world at peace. We must not forget Andrei Sakharov, though this indeed may be the last statement of his ever to reach us in the West.

SAKHAROV SAYS HE WANTS TRIAL, NOT "GILDED CAGE"

(By Craig R. Whitney)

Moscow, Jan. 28.—In a written statement his wife brought from his exile in Gorky today, Andrei D. Sakharov, the physicist and rights advocate, said: "I am prepared to stand public and open trial. I do not need a gilded cage. I need the right to fulfill my public duty as my conscience dictates."

The statement could be his last public appeal, his wife, Yelena Bonner, said. "I am afraid I may not be able to bring you any more," she said, "I may not be allowed to."

The authorities in Gorky, a city of 1.3 million people that is closed to foreigners, have cut Dr. Sakharov off from contact by mail or phone, his wife said.

The statement said Dr. Sakharov was living "in a state of complete isolation and anxiety for members of my family."

Dr. Sakharov, who helped the Soviet Union develop the hydrogen bomb and won the Nobel Peace Prize in 1975 for his defense of human rights, was seized Tuesday on a Moscow street by agents of the State Security Committee, the K.G.B., and was told that he was being sent to Gorky, a Volga River city 250 miles east of Moscow. The order did not apply to Miss Bonner, but she was allowed to accompany him.

Dr. Sakharov was also stripped by the Government of his three-time award of Hero of Socialist Labor, an unusually high distinction, which he got for his work on the hydrogen bomb in the 1950's. He has not been expelled from the Academy of Sciences, a step that would require a secret vote of the membership.

The Government's press agency, Tass, said today that the academy's Presidium had "censured Academician Sakharov's actions directed against the interests of our country and the Soviet people." He was charged with "denigrating the lofty title of Soviet scientist," Tass said.

Miss Bonner said the Gorky police kept their apartment in Shcherbinki, a suburban high-rise development six miles from downtown, under round-the-clock surveillance and warned visitors away.

SAKHAROV'S WIFE ALLOWED TO TRAVEL

Although her husband is confined to Gorky, she said, she had no trouble returning to Moscow by train today.

Miss Bonner said her husband disputed insinuations in the newspaper Izvestia that he had "blabbed" about military secrets from his hydrogen bomb work.

"Sakharov never, to anyone, revealed or spread state secrets of any kind," his wife said. "All his views were published in open papers. The article in Izvestia is a concoction of lies."

In his statement, he denied reports from dissidents here that he had been able to make contact with friends in Moscow by telephone. There is no telephone in the four-room apartment the Sakharovs have been assigned in Gorky, Miss Bonner said, and at the post office his calls and letters have apparently not been allowed to go through, although some of her telegrams have.

"From the article in Izvestia," he said in his statement, "it was apparent that the main reason for the repression against me at this particularly anxious time was my position condemning the intervention in Afghanistan, which is a threat to the entire world, and demanding the withdrawal of Soviet troops from that country, perhaps with replacement by United Nations units.

"Soviet representatives are trying to calm world public opinion by saying that I will be able to continue scientific work and that there is no threat of criminal prosecution against me. But I am prepared to stand public and open trial."

Dr. Sakharov demanded that Ruf G. Bonner, his 80-year-old mother-in-law, and Yelizaveta Alekseyeva, the fiancee of his stepson, be allowed to emigrate to the United States to join relatives there.

"Not since Stalin's times," Miss Bonner said, "have people in this country been sent to exile without trial. Even prisoners in jail have the right to correspond with their families. Sakharov has not even been able to call my mother here in Moscow."

The Sakharovs lived in a downtown Moscow apartment that belongs to Mrs. Bonner, Yelena's mother. The authorities disconnected the phone the day they sent Dr. Sakharov to Gorky.

Sakharov's Statement Carried From Gorky to Moscow by His Wife

Moscow, Jan. 28.—Following is the text of Andrei D. Sakharov's statement, brought from Gorky by his wife, Yelena Bonner, and translated from Russian by the New York Times:

On Jan. 22, I was arrested on the street and taken to the office of the Procuracy of the U.S.S.R. A. Rekunkov, First Deputy Procurator General of the U.S.S.R., informed me that I was being deprived of my titles of Hero Of Socialist Labor, of all decorations and prize awards, by decree of the Presidium of the Supreme Soviet of the U.S.S.R. I was asked to return the medals and orders and certificates, but I refused, believing that I was given them for good reason. Rekunkov also informed me of the decision to banish me to the city of Gorky, which is closed to foreigners.

On the same day, with my wife, Yelena Bonner, who was allowed to go with me, I was taken by special flight to Gorky, where the city's deputy procurator explained the conditions of the regime decreed for me—constant observation, prohibition against leaving the city limits, prohibition against meeting with foreigners and "criminal elements," prohibition against correspondence and telephone conversations with foreigners, including scientific and purely personal correspondence and telephone calls, even with my children and grandchildren, Matvei, 6, and Ana, 4. I was instructed to report three times a month to the police, with the threat of arrest in case of noncompliance.

ISOLATION FROM OUTSIDE WORLD

The authorities are thus imposing on us complete isolation from the outside world. The house is surrounded 24 hours a day by police and K.G.B. details, which pose obstacles to visits to us by anyone, including our friends. Telephone connections with Moscow and Leningrad are completely blocked. We have not been able to call even my wife's mother, to tell her how we were. I was not able to call a physicist colleague, a highly respected Soviet scholar. These restrictions also apply to my wife, who is supposedly "free." She sent a telegram to our children in the United States, but there was no answer, so she is deprived to contact with the children.

Even in prison, there is more possibility of communication with the outside world.

No longer youngsters and not in the best of health, we are completely deprived of help from our friends, of medical help from our doctors.

These repressive actions against me were undertaken at a time of general worsening of the international situation and of intensification in the persecution of dissidents within the country.

FOREIGN POLICY MOVES ARE LISTED

The worsening of the international situation was caused by actions of the U.S.S.R., which is doing the following:

1. Launching in Europe a broad and demagogic campaign with the aim of strengthening its military superiority.
2. Trying to destroy the recently outlined peace opportunities in the Middle East and southern Africa.
3. Supporting terrorist regimes in Ethiopia and some other countries.
4. Maintaining military units in Cuba.
5. Supporting the actions of quasigovernmental terrorists in Iran who have violated the basic principles of diplomatic work.
6. The culmination of this dangerous policy was the invasion of Afghanistan, where Soviet soliders are waging merciless war against insurgents, against the Afghan people.

Within the country, the authorities have taken new action against the core of the human rights movement. Velikanova and Nekipelov have been arrested, Landa has been threatened with arrest. The magazine Poiski is being broken up. Abrmkin, Sokriko, Grimm have been arrested.

The movement for religious freedom is being persecuted and the clergymen Dudko and Yakunin have been arrested. Regelson has been arrested. Trials and arrests are proceeding in the Ukraine and in the Baltic. Repression has increased against the Crimean Tatars; Reshat Dzhemilyov has been convicted.

The actions of the authorities against me in this situation are aimed at making the continuation of my public activities completely impossible. They are aimed at humiliating and discrediting me and at the same time making possible further repressive measures against all dissident groups in the country, with less possibility of the world's finding out about them, and further international adventures.

On Jan. 24, Izvestia published an article containing slander against me and a deliberate distortion of my position. My position remains unchanged. I am for a pluralistic, open society, both democratic and just; for convergence, disarmament and peace; for the defense of human rights in the whole world—in our country, in the countries of Eastern Europe, in Indonesia, China, Chile, everywhere; for a world-wide amnesty for prisoners of conscience; for doing away with the death penalty. I am for giving priority to the problems of peace, the problem of averting thermonuclear war.

From the article in Izvestia it is apparent that the main reason for the repression against me at this particularly anxious time was my position condemning the intervention in Afghanistan, which is a threat to the entire world, and demanding the withdrawal of Soviet troops from that country, perhaps with their replacement by United Nations units. (see my interview with The New York Times and with American television), as well as my having joined in a document on the subject issued by the Moscow Helsinki group.

Being in a state of complete isolation and anxiety for members of my family and for my daughter-in-law, Liza Alekseyeva—to whom I am no longer able to provide any protection—I demand that they be given an opportunity immediately to leave the U.S.S.R. and join their children and grandchildren. Although my wife is technically free, I will, of course, be afraid not only for her health, but for her life, if she is forced to travel to them [work illegible] (unfortunately, we know that the [state security] organs are capable of applying Mafia-like techniques).

VIOLATIONS OF RIGHTS CHARGED

The actions of the Soviet authorities are a gross violation of my basic right to receive and disseminate information (Article 19 of the Universal Declaration of Human Rights). Soviet representatives are trying to calm world public opinion by saying that I will be able to continue scientific work and that there is no threat of criminal prosecution against me. But I am prepared to stand public and open trial. I do not need a gilded cage. I need the right to fulfill my public duty as my conscience dictates.

I am grateful to all those who have come to my defense. My fate has been a happy one—I succeeded in being heard. But I ask everyone not to forget those who have selflessly served and are still serving in the defense of human rights, those whom I mentioned in this letter and all those whom I did not mention.—Andrei Sakharo, Gorky, Jan. 27, 1980.

[From the New York Times, Jan. 30, 1980]

A Man Not Afraid for Himself

Even as Soviet police surrounded his house of exile in Gorky, Andrei Sakharov managed to smuggle out another eloquent plea. "I am for a pluralistic, open society . . . for convergence, disarmament and peace; for the defense of human rights in the whole world . . . for a worldwide amnesty for prisoners of conscience; for doing away with the death penalty. I am for giving priority to the problems of peace, the problem of averting thermonuclear war."

His words are those of a moralist, not a criminal. Yet merely stating such views required more of the courage for which the professorial Dr. Sakharov is famous. He is plainly worried. Now aging and in poor health, he is surrounded by police, forbidden to leave Gorky, denied all contact with foreigners and unable to phone his children or relatives. He seems characteristically unafraid for himself but concerned for his family and for lesser-known dissidents sheltered by his prestige as a scientist and Nobel Peace Prize winner.

Moscow's repression of the man will not only damage the cause of human rights in Russia; it may also damage Soviet science. There is little likelihood of a return to the dark days when Stalinist political doctrine dictated the findings that were acceptable in genetics and other sciences. Dr. Sakharov is being persecuted for his political views, not his scientific work. But the crackdown on dissent will almost certainly isolate Soviet scientists even more from international contact. That would harm the Russians, who lag behind the West in most scientific fields and who need help to catch up. And it would end all hopes of furthering détente through peaceful scientific contacts.

Soviet authorities have apparently concluded that they will gain more at home by silencing Dr. Sakharov than they will lose abroad in opprobrium. Let other nations now prove them wrong.●

SALUTE TO JIMMY DURANTE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. BIAGGI. Mr. Speaker, you have got to have heart, otherwise you are nothing. Those were the words of the inimitable Jimmy Durante, used to describe the greatest quality a comedian can have. No one could deny that the "Schnozz" had lots of heart. There is also application in those wise words for all who ponder the loss of this great man, and one of the greatest comedians of all time.

There will never be another talent like Jimmy Durante. His routine of breaking up the piano and tossing his hat, the high-stepping way he and his partners Lew Clayton and Eddie Jackson would do the strutaway, and the memorable way he would close his television shows by walking into three spotlights, turning wistfully to the audience and saying, "Good night, Mrs. Calabash, wherever you are."

Goodby, Mr. Durante, goodby and thank you from very grateful fans for the great lesson in "heart." We do not expect that we will ever see your like again. But we are richer here in this country and around the world today for having had you pass our way for so long. May God bless you and keep you.●

DRAIN ON HIGHWAY TRUST FUND

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. GLICKMAN. Mr. Speaker, yesterday I addressed the House about my concern about the fate of the Senate provisions of the windfall profit tax relating to the tax treatment of alcohol-gasoline blend fuels. In that the conferees will be meeting again tomorrow and the following day and this issue will likely be resolved one way or the other, I wanted to take just a moment to call to the attention of my colleagues a letter which Senator BAYH received earlier today from Transportation Secretary Goldschmidt. That letter—to the chairman of the Senate Appropriations Subcommittee on Transportation—puts the debate about the impact of the provision of the Senate bill which would extend the present exemption for gasohol from the Federal excise motor fuel excise tax on the highway trust fund in proper perspective.

Clearly, the argument that this exemption will drain the highway trust fund is not a valid one. Admittedly, there will be a revenue loss, but in and of itself it cannot be blamed for financial problems of the trust fund which were evident back in 1978 when we passed the Surface Transportation Act amendments. Once again, I want to stress that highways will not have many supporters if there is not sufficient liquid fuel to allow people to drive.

I ask unanimous consent that the text of Secretary Goldschmidt's letter be printed at this point in the RECORD:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., January 30, 1980.

HON. BIRCH BAYH,
Chairman, Subcommittee on Transportation, Senate Appropriations Committee, U.S. Senate, Washington, D.C.

DEAR BIRCH: On several occasions, we have discussed the growing use of gasohol and its importance as a substitute fuel to help meet supply shortages over the coming decade. I am aware of your concern for gasohol in your capacity as Chairman of the National Alcohol Fuels Commission as well as your continuing support for the highway program, and I am pleased to respond to your request for information on the relationship between gasohol and highway financing.

As you know, there are various measures of Federal assistance being made available to encourage the greater use of gasohol. Among them is the exemption of this fuel from the normal Federal taxation on gasoline, which is one of the key revenue sources for the Highway Trust Fund. Extension of this exemption is a part of the current conference discussions over the energy tax bill.

Concerns have been raised over the impact the gasohol exemption may have on the Highway Trust Fund and its ability to sustain needed programs in the construction and rehabilitation of the Nation's highway network. Present estimates place the total tax revenues into the Highway Trust Fund from all sources (excluding interest on the fund balances), at $83.5 billion over the decade 1981-1990, before allowing for the revenue loss due to gasohol. While precise data is not yet available, the revenue loss is now expected to fall between $2.7 and $4.0 billion, with most of the shortfall occurring in the latter years of the decade. In percentage terms, the gasohol exemption represents a revenue loss of between 3 and 5 percent.

While this is a matter of concern, it is only one of several trends affecting the future of the highway program revenue stream. A lessened rate of travel growth, more fuel efficient auto and truck fleets, potential reliance on electric vehicles, and many other factors are combining to depress trust fund revenue growth well below the levels experienced in earlier time periods.

As part of the 1978 Surface Transportation Assistance Act, the Department of Transportation was directed to undertake a number of revenue related studies, including specific review of the proper allocation of highway expenses among classes of users and the most efficient and effective ways of raising revenue. We have these studies well underway and look forward to reporting their results to the next Congress. At that time, it will be important to assess the future highway programs and the ways in which revenue can be produced for those programs, balancing transportation objectives and other national goals such as the production and use of domestic substitute fuel supplies.

I know you have been a strong supporter of progress in the highway program during your tenure as Chairman of the Senate Transportation Appropriations Subcommittee, and I am sure that you will lend support to the measures necessary to assure that such progress continues in the future. I look forward to working with you on these concerns.

Sincerely,

NEIL GOLDSCHMIDT.●

TRIBUTE TO EVERETT E. CROSIER

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. DONNELLY. Mr. Speaker, today I had the honor to introduce legislation which would allow the citizens of my district the opportunity to pay tribute to the memory of one of our most dedicated, public-spirited and respected citizens, Everett E. Crosier.

The need for additional hospital facilities for veterans in eastern Massachusetts was recognized as early as 1940. The intervention of the war tabled all plans. Soon after World War II, Everett Crosier began proposing the idea that Brockton, Mass. would be an ideal location for a new Veterans' Administration hospital. Opposition, outcry, and misunderstanding soon spread throughout the community. Despite all this Everett persisted, traveling to Washington many times at his own expense. He eventually developed the idea of a 217-acre site on Belmont Street, a meadow which was occupied by a local institution, the Howard Home for Men.

In 1950 Everett's efforts were rewarded. The Veterans' Administration bought the site from the city of Brockton for $1 and announced that hospital plans were being drawn. This hospital has developed into one of the finest Veterans' Administration hospitals in the country, a facility with 996 beds, a wide variety of medical and rehabilitative programs, along with being the largest employer in the community.

I strongly feel that the least that can be done in the memory of this man, for his accomplishments to the community and to the men who serve our great country, is to establish the administration building of the Veterans Medical Center as the "Everett E. Crosier Center".●

SOVIET EXPANSION AND CONTROL OF THE SEALANES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 29, 1980

● Mr. SPENCE. Mr. Speaker, the United States is at the crossroads of history. If we are to continue as the acknowledged leader of the world, we must take immediate action to strengthen our defense forces which, in turn, will insure that we have the capability of responding to any sort of threat in any part of the world. In particular, we must recognize the vital importance of the sealanes to the fulfillment of this objective—unless we are assured of freedom of access to the sea routes across the globe, we run the serious risk of being cut off from our supplies of oil and other strategic materials on which we depend.

As recent events have indicated, the United States is facing a precarious world situation which is changing almost daily. We can no longer ignore the changing balance of world power which is encouraging the Soviet Union to flex its political and military muscles. To a large extent, the United States must accept the responsibility for these events because of our unwillingness in recent years to respond unequivocally when challenged.

A number of examples of our perceived weakness may be cited, and I will mention only a few of them today. During the Korean war, we were not permitted to chase our aggressors back across the Yalu River, nor were we allowed to bomb the bases from whence they came. In 1968, we allowed the U.S.S. *Pueblo* to be seized on the high seas without punishing those responsible. The war in Vietnam is a clear illustration of the unwillingness of our civilian leadership to exercise the military options which would have permitted us to resolve that conflict.

Our Embassy in Iran has been stormed twice, and we are all painfully aware of the fact that 50 Americans are still being held hostage as a result of the second action. Russian troops remain in Cuba and, in fact, this situation has been almost completely ignored because of more recent events on the world scene. Our policies during the last three decades have reflected a goal of appeasement, not a goal of peace through strength. Today, our future as a free nation rests on the courage of our leaders to reverse this trend. The American people have indicated their support for efforts to strengthen our defense posture, and I believe it is time to heed their collective wisdom.

The United States dependence on foreign sources of oil and strategic materials—such as manganese, aluminum, cobalt, and chromium—cannot be overlooked in evaluating the importance of a strong and effective naval force in today's world. If the United States loses its access to any of the various sealanes of the world, our ability to import these vital resources would be severely threatened. In turn, the very existence of our Nation could conceivably be jeopardized. There is abundant evidence that the Soviets are mobilizing their efforts in the area of seapower. The seizure of American diplomats in Iran and the Soviet invasion of Afghanistan pose real threats to the security of this region and to our future accessibility to the sealanes through which much of our oil and other strategic materials are transported. Soviet conquests in South Yemen and in the Horn of Africa give them the capability of controlling shipping on the Mediterranean, through the Suez Canal to the Persian Gulf and the Indian Ocean.

Soviet war by proxy in Southeast Asia and their naval presence give them the potential to control the Straits of Malacca, through which the Persian Gulf is reached quickly from that part of the world. The presence of Soviet military and naval personnel in Cuba has gone unchecked, the Monroe Doctrine notwithstanding. This has provided the Soviets with the ability to reach the North Atlantic and attack American ships there. Finally, the Panama Canal treaties have turned over that canal to an ally of Cuba. Thus, we can no longer assume that Panama will observe American shipping rights in time of war.

It is becoming increasingly apparent that the United States is perceived as a paper tiger. This view is held by our foes, but of equal concern is the prospect that our allies will back away from supporting us because of a belief that the United States no longer has the will, the courage, or the ability to defend itself or the principles of freedom which we espouse. I met with Prime Minister Lee Kwan Yeu of Singapore during the recent congressional recess, and I believe that his assessment of the world situation is an accurate one. He stated that the upcoming decade will belong to either the Soviet Union or to the United States. Although he indicated his fervent hope that the United States would, dominate, he stated that many nations of the world would be following events closely and would back the winner.

Thus, the United States is at a crossroads. We must strengthen our military programs in all areas, but it is particularly important that we devote additional resources to our naval capabilities. It is apparent that the Soviet Union is now a major sea power to be reckoned with, and they are using their navy to extend their military and economic influence throughout the world.

Since World War II, Soviet policymakers have reappraised their defense strategy and concluded that naval strength is the most appropriate means of gaining control of the sea's major "choke points." In fact, they are making real progress toward realizing this ultimate objective—which is to eliminate the freedom of the United States to use the seas for our own national defense. We must respond immediately to this challenge.

To bring our Navy to the level of acceptable risk, we need to build about 25 to 30 ships a year. The Chief of Naval Operations has said he needs about 600 ships—of the right kind—to assure control of the seas—this compares with our current force level of 455 ships, the lowest since pre-World War II. In addition, we must join with our NATO and Pacific and Asian allies in cooperative efforts to insure that the vital sealanes worldwide remain accessible to all.

The United States must begin now to change its policies of neglect. The best way to invite a war is to appear weak militarily and weak in resolve. The tension caused by the crises in the Middle East and Southwest Asia points up the need for immediate action to strengthen our naval forces. In this way, we will show the nations of the world that we intend to be so strong that no one will be misled into some adventuresome course against us.●

GOOD WORDS FOR THE DEPARTMENT OF EDUCATION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. PICKLE. Mr. Speaker, folks in Austin, Tex., shine in reflected glory now that Liz Carpenter is back in Washington as press secretary to our first Secretary of Education, the distinguished judge, Shirley Hofstedler. Since my 10th District of Texas has nine colleges and universities—and Liz—as well as some of the best public schools we are really interested in education. We wish both Liz and Judge Hofstedler the very best as they tackle an extremely important job.

The Washington Star expressed our views when their editorial page carried "A Good Word for That Department" yesterday. We expect to hear many good words for the new Department of Education whose strength may be its fresh approach to problems that have plagued our schools.

[From the Washington Star, Jan. 30, 1980]

A GOOD WORD FOR THAT DEPARTMENT

Hold everything, you people who go around bad-mouthing the Education Department. The new federal agency can't be all bad—it's brought Liz Carpenter back to town.

Lady Bird Johnson's press secretary and staff director, also identifiable as one of the great natural forces, like, say, sunshine and Niagara Falls, has the title of assistant secretary for public affairs. Everybody knows that means she's here to put the disputed department on the map.

Everybody knows she can do that. Whether even her touch can fix up the tarnished images of American education and the

American educational bureaucracy is rather more doubtful.

The point is that, either way, there's a public dividend. Having Liz Carpenter here is just about guaranteed to make Washington fun again after a pretty lugubrious few years.

The never-ruffled, ever-flourishing Liz has always been snappier with the one-liners than anybody this side of Bob Hope. The only reason she doesn't sound like a latter-day, female Will Rogers is that she doesn't let her drawl slow her down when she has something to say, which is most of the time. She is, in every sense of the word, quick.

She's also what she calls a "psalm-singing, foot-washing, total-immersion Democrat." And more Texan than mesquite.

Liz Carpenter's sense of humor, which manages to be extraordinarily good-natured in spite of its political bite, reflects an observant eye—she wasn't a new reporter for nothing—back-stopped by a powerhouse mix of country wit and city savvy. She has the kind of guts-and-energy personality that transcends gender.

At the same time, she's Woman in every fiber; several kinds of woman. For every hint of cookie-baking Grandma there's an evocation of Sophie Tucker. The bouncy Southern party girl is there too, side by side with the ERA crusader.

To put all this at the service of a department that inspires as much skepticism as the Department of Education shows somebody's pretty serious about the whole business. It's bringing out the big guns. It must be true what they say about the kind of tough fighter Jimmy Carter turns into once his blood is up.●

REBUTTAL TO "PERKS"

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. PEYSER. Mr. Speaker, in the December 17 issue of U.S. News & World Report, an article appeared speaking of "perks" for Members of Congress. I wrote a letter to the editor of U.S. News & World Report in which I selected seven points that the article labeled as perks and pointed out not only the misleading nature of these statements, but their absolute incorrectness. It was the decision of the editor not to print my letter in response. I am, therefore, placing it in the Record in order that at least some of the public will be able to know the facts.

Maligning the Congress periodically seems to be a favorite sport of the media. We are certainly far from perfect, and admittedly we still need to make changes for the better. However, in my opinion, the House of Representatives as a body is made up of dedicated men and women who I would gladly match against any other professional group.

The following is the text of my letter to the editor:

House of Representatives,
Washington, D.C., December 18, 1979.

Letters Editor,
U.S. News & World Report,
Washington, D.C.

To the Editor:

As a regular reader of U.S. News & World Report, I was dismayed to see you join in the annual attack on the Congress for its so-called "perks". One of the things I have valued in your magazine is its accurate reporting. You certainly let down your public with this article. I will comment on a few of your statements.

1. The $3,000 tax deduction.—This deduction to which Members of Congress are entitled is an antiquated, terrible impingement on a Congressman's rights. I believe every Member would gladly give up that privilege of deducting $3,000 from his income if he were given the right of deducting his out-of-pocket expenses not reimbursed, as every other businessman is given.

2. Recess time.—Recess time sounds like the old days in school when the kids went out in the yard to play before going back to work. Recess time to a Member of Congress means countless hours in his district offices meeting with constituents who have problems and want to see the Member. It means speaking at schools, church groups, service clubs, business organizations, etc.—in general, making himself available to the public.

3. Length of work week.—Your reporter must have missed the fact that during the majority of 1979, Congress has been in session Monday through Friday, and on numerous occasions has had night sessions. My own day, and it is reasonably typical, starts at 7:30 a.m. and ends at 6 or 7 p.m., when I am then free to visit with constituents who may be down in Washington for a convention or business meeting. On leaving Washington late in the afternoon on Friday, most Members return to their Districts for a weekend of work.

4. Group life insurance rates.—I assure you, a member of any group of comparable size would be able to get outside rates as cheap, and in many cases cheaper, than those paid by Congressmen.

5. Parking tickets.—Members' cars that are illegally parked in Washington, D.C. are ticketed. You can confirm this with the D.C. Police.

6. Private bathrooms and showers.—I personally know of no Member of the House who has a shower. While many Members do have a private bathroom, many others have converted their private bathroom to additional storage or office space:

7. Free mailing.—One of the most difficult and important jobs a Member has is his responsibility to communicate with his constituency. The heart of our democratic form of government is that the people are given the opportunity of knowing what their elected representatives are doing, and can respond to register their support or complaint based on the reports they receive from their congressman.

I think that accurate reporting would find that many of the so-called "perks" are actually necessary tools to ensure better service to the public. We in the Congress are far from perfect. However, the overwhelming majority of us love the work we are doing and enthusiastically give of ourselves to do the very best job we can for the people we represent in our district and the entire country. To imply, as your article does, that Congressmen enjoy excessive "perks" which detract from their work, I believe is a disservice to the American public.

Sincerely,

Peter A. Peyser,
Member of Congress.●

LETTER OF APPRECIATION TO CANADIAN GOVERNMENT

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1980

● Mr. D'AMOURS. Mr. Speaker, I would like to call the House membership's attention to a letter I have written to Canadian Prime Minister Joe Clark expressing our gratitude to the Canadian Government for coming to the aid of our citizens during their hour of need. I invite my colleagues to join me in signing this letter in order to express our appreciation in a very personalized manner.

As an American of Canadian ancestry, I take particular pride in expressing the appreciation of all Americans for the courageous action taken by Ambassador Kenneth Taylor and the Canadian Embassy staff in arranging the escape of six American diplomats from Iran.

Americans have always considered Canada to be a friend and important ally, and this most recent valiant action by the Canadian Embassy personnel in Iran solidifies those feelings.

The text of the letter to Prime Minister Clark follows. Additional Members who wish to cosign the letter should contact either Mike Radway or George Burke at 5-5456.

January 30, 1980.

Right Hon. Joe Clark, P.C., M.P.,
Prime Minister of Canada, Ottawa, Ontario,
Canada K1A0A2.

Dear Prime Minister Clark: As American citizens, and as Members of Congress, we wish to thank you and the Canadian people for your unwavering support during these trying times.

All of us have been deeply touched by the unselfish efforts of your diplomatic personnel in Iran on behalf of fellow members of the diplomatic community. We are equally appreciative of the unceasing efforts of your government to help find a peaceful solution to the Iranian crisis.

The actions of your government and your diplomatic personnel show great courage and are in the highest tradition of international diplomacy and cooperation. We hope that you will convey our gratitude to Ambassador Taylor and the members of his staff.

Sincerely,

Norman E. D'Amours (New Hampshire), Daniel K. Akaka (Hawaii), Donald Joseph Albosta (Michigan), Eugene V. Atkinson (Pennsylvania), L. A. Bafalis (Florida), Don Bailey (Pennsylvania), Alvin Baldus (Wisconsin), Doug Barnard (Georgia), Edward P. Beard (Rhode Island), Anthony C. Beilenson (California), Mario Biaggi (New York).

Lindy Boggs (Louisiana), Edward P. Boland (Massachusetts), David E. Bonior (Michigan), Marilyn Lloyd Bouquard (Tennessee), David R. Bowen (Mississippi), William S. Broomfield (Michigan), John Buchanan (Alabama), Clair W. Burgener (California), Bill Chappell, Jr. (Florida), Shirley Chisholm (New York).

James C. Cleveland (New Hampshire), Tony Coelho (California), E. Thomas Coleman (Missouri), John Conyers, Jr. (Michigan), Baltasar Corrada (Puerto

Rico), William E. Dannemeyer (California), Robert W. Davis (Michigan), Butler Derrick (South Carolina), Norman D. Dicks (Washington), Charles C. Diggs, Jr. (Michigan), Brian J. Donnelly (Massachusetts), Thomas J. Downey (New York).

Joseph D. Early (Massachusetts), Allen E. Ertel (Pennsylvania), Billy Lee Evans (Georgia), Dante B. Fascell (Florida), Vic Fazio (California), Floyd J. Fithian (Indiana), William D. Ford (Michigan), Edwin B. Forsythe (New Jersey), Joseph M. Gaydos (Pennsylvania), Benjamin A. Gilman (New York), Bo Ginn (Georgia).

Albert Gore, Jr. (Tennessee), Willis D. Gradison, Jr. (Ohio), Wayne Grisham (California), Frank J. Guarini (New Jersey), Tony P. Hall (Ohio), James M. Hanley (New York), Margaret M. Heckler (Massachusetts), W. G. Hefner (North Carolina), Ken Holland (South Carolina), Harold C. Hollenbeck (New Jersey), James J. Howard (New Jersey).

Carroll Hubbard, Jr. (Kentucky), William J. Hughes (New Jersey), James M. Jeffords (Vermont), Ed Jenkins (Georgia), Walter B. Jones (North Carolina), Jack F. Kemp (New York), Peter H. Kostmayer (Pennsylvania), John J. LaFalce (New York), Robert J. Lagomarsino (California), Raymond F. Lederer (Pennsylvania), William Lehman (Florida).

Jim Lloyd (California), Michael E. Lowry (Washington), Thomas A. Luken (Ohio), Robert T. Matsui (California), Nicholas Mavroules (Massachusetts), Romano L. Mazzoli (Kentucky), Mike McCormack (Washington), Gunn McKay (Utah), Norman Y. Mineta (California), Joe Moakley (Massachusetts), Anthony Toby Moffett (Connecticut).

G. V. Montogomery (Mississippi), Morgan F. Murphy (Illinois), Stephen L. Neal (North Carolina), Lucien N. Nedzi (Michigan), Henry J. Nowak (New York), James L. Oberstar (Minnesota), Richard L. Ottinger (New York), Edward J. Patten (New Jersey), Ron Paul (Texas), Thomas E. Petri (Wisconsin), Frederick W. Richmond (New York).

Bejamin S. Rosenthal (New York), John H. Rousselot (California), Eldon Rudd (Arizona), Marty Russo (Illinois), James M. Shannon (Massachusetts), Olympia J. Snowe (Maine), Edward J. Stack (Florida), J. William Stanton (Ohio), Fortney H. Stark (California), Samuel S. Stratton (New York), Bob Traxler (Michigan).

David C. Treen (Louisiana), Bruce F. Vento (Minnesota), Henry A. Waxman (California), Ted Weiss (New York), Lyle Williams (Ohio), Larry Winn, Jr. (Kansas), Lester L. Wolff (New York), John W. Wydler (New York), Bill Young (Florida), Don Young (Alaska), Robert A. Young (Missouri), Clement J. Zablocki (Wisconsin), and Leo C. Zeferetti (New York).●

SENATE—*Friday, February 1, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the Honorable LAWTON CHILES, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, direct us, in all our doings, with Thy most gracious favor, and further us with Thy continual help; that in all our works begun, continued, and ended in Thee, we may glorify Thy holy name, and finally by Thy mercy, obtain everlasting life. Amen.

—Common Worship, adapted.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 1, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LAWTON CHILES, a Senator from the State of Florida, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. CHILES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time at the moment. I will reserve it momentarily in the event a Senator wishes to ask for time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. TOWER. Mr. President, I yield 5 minutes of my time to the distinguished Senator from New Mexico (Mr. SCHMITT).

Mr. SCHMITT. Mr. President, I thank the distinguished Senator from Texas for his yielding time for the purpose of discussing one of the aspects of the recently completed White House Conference on Small Business.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS ENDORSES THE LEGISLATIVE VETO

Mr. SCHMITT. Mr. President, the White House Conference on Small Business met in Washington recently and included representatives from the small business community of this Nation. Over 1,500 such representatives from every State of the Nation came to debate and vote on legislative recommendations for presentation to the President and to the Congress.

The delegates to this conference were selected by more than 30,000 small business people throughout the country. They came to Washington to present a grassroots view of what changes are needed in the Federal policies to improve the economic environment for small business in America.

In the few weeks prior to these meetings in New Mexico, I hosted, along with the chamber of commerce and other persons and groups, a series of 5 meetings around the State, and I think the feelings of that constituency was reflected well in the 15 recommendations made by the recently completed conference.

High on the list, and included in many of those recommendations, is the great need for incentives for capital formation and for vast regulatory reform that will help the business community in general and small business in particular.

One of the greatest concerns of the small business community is the proliferation of Federal regulation over every aspect of business operations. Federal regulation has grown at an incredible pace over the past 10 years. The Federal Trade Commission, for example, is currently considering rulemaking in over 20 areas. I ask unanimous consent that a partial list of those areas be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Mobile homes, funeral homes, protein supplements, eyeglass II (distributorships), used cars, credit practices, nutrition advertising, health spas, over the counter drugs, hearing aids, over the counter antacids, warranties-refunds, thermal insulation, flammable plastics, children's television advertising, games of chance in food retailing and gasoline industries, standards and certification, octane posting, appliance labeling, consumer claims and defenses, and care labeling (textiles).

Mr. SCHMITT. Mr. President, what small business people want is some means for increasing the accountability of their elected Representatives for the quantity and quality of this kind of regulatory law. They realize that it is necessary to have a referee of the free enterprise system, but they believe, as I believe, that it is not necessary to have another manager of that system and of individual businesses.

They have endorsed the legislative veto as a means of correcting this problem of overmanagement of business through unnecessary and costly regulatory law.

On the list of over 300 issues considered by the White House Conference, the delegates selected the legislative veto as 1 of their top 15 priorities. These recommendations will be forwarded to the President and to the Congress in the form of a legislative agenda. The legislative veto recommendation states in part:

The Congress shall exercise line item veto over regulations within a specified time through congressional oversight committees, with one House floor vote.

The legislative veto amendment to the FTC authorization bill that the distinguished Senator from Georgia (Mr. NUNN) and I have introduced along with 35 other cosponsors would accomplish this objective articulated by the small business community. The legislative veto that we propose would allow the Congress to reject the regulatory recommendations of the Federal Trade Commission within a limited 60-day time period. If no action is taken by either House of Congress, the rule would automatically go into effect with the tacit approval of the Congress.

If one House acts to disapprove a rule, the rule will be vetoed unless the other House overrules the veto action within a 30-day period following the first action.

The House of Representatives recently voted to add a legislative veto provision of this nature to the FTC authorization by an overwhelming vote.

I hope the Senate will heed the call of America's small businessmen as the House of Representatives has done, and that we will act promptly to implement this important recommendation of the White House Conference on Small Business, along with action on many other fine recommendations of that conference.

The White House Conference on Small Business has arrived at its recommendations through a long and comprehensive process that has tapped into the mainstream of American opinion, professional, business and consumer.

Mr. President, I ask unanimous consent that the foreword to the conference agenda which describes the year-and-a half-long procedure through which these recommendations have been formulated, be printed in the RECORD at this point.

There being no objection, the foreword was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS

FOREWORD

Early in April, 1978, President Jimmy Carter called for a White House Conference

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

on Small Business in an effort to build a new awareness across the country of the importance of small business in the national economy. He stated that "such a conference can help us identify the many special problems facing small business and design a course of action that can address these problems in a constructive way."

This call by the President resulted in a conference process which will ultimately result in a series of proposals charting a course for federal policies impacting small business for the decades of the 1980's and 1990's. The process was designed to provide maximum participation by small business owners in identifying issues, in developing proposals for consideration by the Conference, and in formulating the final recommendations which will go to the President in the spring of 1980.

The following papers, which constitute the issue agenda for the Conference, are the product of a year-and-a-half effort that has involved over 30,000 small business owners from every state.

The initial stage of the Conference was a series of 57 Open Forums and Regional Meetings held in cities throughout the country. These meetings identified issues of concern to small business and elected delegates to attend the National Conference. The second stage was a series of ten Regional Delegate Caucuses held in the fall of 1979. In these caucuses, delegates reviewed issues, options and proposals, advised on priorities, and offered suggestions on the formation of the issue agenda for the National Conference.

The culmination of these first two stages will be the National Conference to be held in Washington, D.C., January 13–17, 1980. During these five days, delegates will work through the issue agenda and develop recommendations for presentation to the President and Congress that should significantly influence the future of small business in America.

The structure of the National Conference has been designed to create a work atmosphere and a solution-oriented work process. The Conference will be a combination of general sessions, issue workshops, and open forums. To insure that each delegate has an opportunity to participate effectively and contribute substantively, the program has been structured so that each delegate may work in depth on the two issue areas of his or her choice.

The main work of the Conference will be accomplished in issue workshop sessions led by delegate moderators. Each of the major issue areas will be divided into small discussion groups to ensure maximum participation by delegates. All workshops within an issue area will follow the same agenda. The workshop process will culminate in the production of issue reports, the highlights of which will be presented in the final general session and provide the basis of the final report to the President.

The Conference process has been long, fascinating, informative and productive. The issues and recommendations that have emerged for Conference deliberation have surfaced through an open process that should prove to be a model for the development of public policy through the democratic process.

Mr. SCHMITT. Finally, Mr. President, as we approach consideration of the Federal Trade Commission authorization for fiscal year 1980, I hope my colleagues will begin that very necessary process of considering the various proposals that will be before us, and in particular considering the legislative veto as a necessary and constitutional formulation of the Congress responsibility to review the making of law in this Republic.

I again thank the distinguished Senator from Texas for yielding, and yield back any time remaining.

Mr. TOWER. Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I would like to claim my time that I had passed earlier.

GAS RATIONING: OUR FIRST LINE OF DEFENSE

Mr. ROBERT C. BYRD. Mr. President, the dual crises in Iran and Afghanistan have, once again, brought into focus the unquestioned necessity for a standby gas rationing plan. Last spring, the reality of long gasoline lines and fuel shortages brought us to the verge of a national crisis. Now the specter of disruption and disorder in the Persian Gulf region has raised again the necessity of contingency planning. As we witness the unveiling of new military programs and anticipate increasing our defense commitment, we must bear in mind that emergency energy preparedness at home is our first true line of defense.

The President has indicated that a new rationing program will soon be forwarded to the Congress for review. Under the new authority incorporated in the Emergency Energy Conservation Act, passed last year under the leadership of Senator JACKSON and Senator JOHNSTON, a plan is deemed approved unless both the House and the Senate pass resolutions of disapproval. This mechanism is designed to expedite congressional review of a proposed rationing plan, with recognition of the urgent need which might compel quick action.

Last year, the Congress considered a proposed rationing plan but the exercise was futile. Although approved by the Senate, the plan was defeated in the House. Parochial concerns overran the national interest. It is my hope that greater reason will prevail this year. Each American will be asked to sacrifice some comforts and conveniences in the event an emergency threatens the supply of oil from the Middle East. We must remember the sacrifices of others, who will stand to lose far more if our national security interests are jeopardized.

There is no question that domestic energy consumption must be reduced drastically, and that it must be done soon. We have made significant steps in that direction in the last 12 months—reducing our overall petroleum consumption by more than 8 percent and our gasoline consumption by more than 5 percent. But we must do much more if we are to reduce our reliance on foreign oil altogether.

There is no way to predict events which may require immediate implementation of a gas rationing program. We do know, however, that our line of supply is vulnerable to outside incursion or internal disorder in the Middle Eastern States. This means that we must be ready if the need arises.

We must take all steps necessary to put a rationing plan in place, including appropriation of funds which are required to get this complicated program on line.

We must also be realistic about extent of the emergency which may require quick action. Legislation passed last year sought to define the extent of the emergency which might trigger rationing. Although this extreme remedy would inconvenience all of us, we must look realistically at the circumstances which might require this type of national cooperation.

Mr. President, I hope that the new rationing program will be forwarded to Congress for review as soon as possible by the President.

Mr. President, I have no further need for time. I yield back my time.

RECOGNITION OF SENATOR PELL

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized under the previous order for not to exceed 15 minutes.

RESPONDING TO THE SOVIET INVASION OF AFGHANISTAN

Mr. PELL. Mr. President, President Carter and many other world leaders have correctly condemned the Soviet Union's savage invasion of Afghanistan to "rescue" that country from a likely victory by Afghan patriots and anti-Communist freedom fighters. The Soviet invasion is in direct violation of the Charter of the United Nations and raises the possibility that the Soviets will invade or subvert other countries in the vital Persian Gulf area. In fact the United Nations vote on this matter shows 104 nations condemning, 18 approving, and 30 abstaining or not voting.

I agree with President Carter that firm action must be takan to defend our interests in the Persian Gulf area, and, for the most part, I support the specific steps that he has already announced. But in pondering what the next step should be and the one after that, it is important, in my view, to act only in concert with our allies and friends with interests in the area. This is particularly important if, as President Carter announced in his state of the Union address, we are to be prepared to use military force in defense of our interests.

Unilateral action by the United States or American action which has only verbal or halfhearted support from other NATO members and Japan and other Asian powers will be neither effective nor credible. When we act jointly, as we did in Korea, reasonable success rewards our efforts. When we try to go it alone, as we did in Vietnam, then failure is our lot.

Even more important, the interests of Europe and Asia are more at risk than are our own because of their greater dependence on oil from the Persian Gulf.

While we must be the leader in deterring further Soviet expansionism, we ought not to announce that we are prepared to go to war—and that this is what the President really means when he says that "an assault will be repelled by use of any means necessary, including military force"—until it is clear that other governments share our view of the Soviet threat and are prepared to join us in defending our common interests in Southwest Asia. We must bear in mind, in this connection, that the Soviet Union has a preponderance of conventional military power in the area and, as a result, we cannot realistically expect, or be expected by others, to deal with the Soviet threat alone.

I am very disturbed both by what I have heard and by what I have not heard to date in response to the Soviet invasion. The administration speaks boldly of sending millions of dollars' worth of military aid to Pakistan, of increasing the defense budget by billions of dollars, of the need for new base rights, and of the need to expand our present base on Diego Garcia. All of this may be necessary, but I believe it is unwise and futile to proceed with these plans until it is clearer that other governments are prepared to join us in running the risk of a military confrontation with the Soviet Union. What we decide to do should be directly conditioned on support from others.

So far, I have not heard much in the way of specific actions of support from our allies and friends around the world. Administration spokesmen exude optimism about what our NATO allies, Japan, and others will do; but, so far, there is little in the way of substantive commitments. I am not entirely surprised by that, because we have not done much to bring about a consensus concerning the nature and imminence of the Soviet threat and what the appropriate response should be. To my mind, it is putting the cart before the horse to send our Deputy Secretary of State abroad with a list of what the Europeans should be doing before the consensus I have just described has been achieved. If we are really facing the greatest threat to world peace since World War II, as our administration claims, I do not understand why we have not called an emergency ministerial meeting of NATO to discuss the threat and what should be done about it.

If we cannot forge a united front with our allies and friends, how can we expect the American people to support a high-risk policy in a faraway area that, while highly important, is not, frankly, vital to our existence as a modern industrial society? In this connection, a clearer administration exposition of exactly what is at risk, both for the United States and others, is required. It is not enough to speak in sweeping generalities about the meaning of the Afghanistan invasion.

At the same time that we embark on a program to demonstrate to the Soviets that they must expect to pay a price for aggression, we ought not to cut off our lines of communication and cooperation, where that is possible, with the Soviet Union. In particular, we should not panic in thinking that détente is dead or that the "Cold War" has returned. It will have done some good if the invasion of Afghanistan weans us from the recent alternating cycles of optimism and despair in our relations with the Soviets. The Soviets, even during the days of the most euphoric view of détente, never abandoned their ruthless concept of power and diplomacy; nor did they foreswear taking advantage of opportunities at hand. We are two superpowers living in uneasy proximity on planet Earth and so, willy-nilly we must continue to do business with the Soviets. But, we must do so in the context of firmness on our part, and that of our allies and friends; and our attitude must be clouded by sentiment or self-deception regarding what we can expect from the Soviets.

Returning, in this connection, to the specific actions that the President has taken, I support them for the most part, but I am deeply concerned about the wisdom of curtailing the exchange program. We are the ones who benefit from this program at both ends of the exchange, particularly in the area of scholarly exchange, which adds vitality to our knowledge of the Soviet Union. It has also been my experience that, the more Communists who visit this country, the better, as long as they return to where they came from. I have rarely seen a Communist go back to his home country more convinced of the rightness of communism after a visit to this country, and that is a plus for us in the long run, in more ways than one.

I also believe that another nonmilitary retaliatory option has been overlooked, and that is to step up the capability of Radio Free Europe, Radio Liberty, and the Voice of America to broadcast news about the Soviet invasion and to present our views on the situation. All of the radios have increased their broadcasts into the Southwest Asian area following the invasion, but they all need more and better transmitters to reach wider audiences. Also, in the case of VOA, a further strengthening of language capabilities is needed.

The radios already have their needs formulated, but funding is required. For RFE/RL, the amount needed is about $100 million and for VOA, about $60 million. At the same time that the Pentagon is asking for billions of dollars of additional spending, the radios' needs are extremely modest, yet they pay high dividends in generating public understanding of and support for our story around the world.

We must also not overlook diplomatic opportunities to defuse the Afghanistan crisis. In this regard, I trust that a major effort is being made to convince India, which is the Soviet Union's closest friend in the non-Communist world, to exercise its influence in Moscow in an effort to secure an early withdrawal of Soviet forces from Afghanistan. We also ought to encourage close cooperation between India, Pakistan and Iran in developing common, or at least compatible, policies vis-a-vis the Soviet threat.

Speaking as one Senator, I should be reluctant to support any of the military options now being considered by the administration, including aid to Pakistan, until satisfactory answers are provided to the following questions:

What are our specific interests and objectives in Southwest Asia?

To what extent are they shared by countries in the immediate area? By China? By Japan? By our NATO allies?

To what extent is there a shared view on the part of all nations with interests in the area concerning what ought to be done and who should do what?

To what extent is the administration prepared to act unilaterally or with minimal outside support? How does that affect our prospects for success?

What are the administration's views as to the correct balance between diplomatic and military initiatives?

I would hope, too, that in securing the answers to these questions and, generally, in the formulation of our policy, we would bear in mind the words of George Santayana, "Those who cannot remember the past are condemned to repeat it."

In this regard, Vietnam was probably our greatest foreign policy error in this century and I hope that at least equal weight will be given to the views and advice of those who had the foresight to oppose our Vietnam policy, men like Clark Clifford, William Fulbright, George Ball and Sam Brown, as to those who developed and executed that ill-conceived venture. And here I cannot help but observe that most of those responsible for developing our present foreign policy fall in this latter category.

I do not envy our President, who is faced with a brutal Soviet adversary and an overwhelming flood of both domestic and foreign problems. I wish him well in his efforts to resolve them and believe that with his own intelligence, a steady hand at the helm, and sound counsel, he can steer us through the turbulent seas that surround us.

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 109

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. WEICKER, for good reasons, will be detained for a little while. I, therefore, am about to ask unanimous consent that the Senate stand in recess until 1 p.m. But, before doing so, I ask unanimous consent that upon reconvening of the Senate today following a recess, the Senate then proceed to the consideration of Senate Resolution 109, regarding the Ethics Committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, the Senate, at 12:22 p.m., recessed until 1 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

OFFICIAL CONDUCT AMENDMENTS OF 1979

The PRESIDING OFFICER (Mr. BRADLEY). Under a previous order, the Senate will now proceed to the consideration of Senate Resolution 109, which the clerk will state by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 109) to limit the functions of the Select Committee on Ethics to investigations of improper conduct, to simplify financial disclosure requirements, to repeal the limitation on outside earned income, and for other purposes.

The PRESIDING OFFICER. Debate on this resolution, including all amendments, debatable motions, appeals, or points of order and motions to recommit shall be limited to an overall time of 4 hours, to be equally divided and controlled by the Senator from Connecticut (Mr. WEICKER) and the Senator from Connecticut (Mr. RIBICOFF).

Mr. WEICKER. Mr. President, I send to the desk an amendment in the nature of a substitute to Senate Resolution 109. The first amendment amends all after the resolving clause; the second amendment proposes a preamble; and the third amendment amends the title of the resolution. I ask that the amendments be read.

The PRESIDING OFFICER. The Chair will inform the Senator that amendments are in order only to the body of the resolution at this time, except by unanimous consent.

Mr. WEICKER. Well, Mr. President, I ask unanimous consent that the three amendments, as described, be sent to the desk, be read and become the pending business.

The PRESIDING OFFICER. Is there objection?

Is it the Chair's understanding that the Senator is proposing amendments to the preamble and the title at this time and wishes them to be considered?

Mr. WEICKER. Mr. President, it is the understanding of the Senator from Connecticut, in order to modify his amendment, what he has proposed here is in the correct parliamentary form to accomplish the amendment of a Senate resolution.

The PRESIDING OFFICER. The Chair will inform the Senator that amendments to the body of the resolution are in order at this time.

Mr. HEFLIN. Mr. President, we have no objection to any amendments.

The PRESIDING OFFICER. Ordinarily, amendments to the preamble or the title would have to be offered after the amendments to the body of the resolution, and after the resolution is agreed to.

Mr. WEICKER. Mr. President, the Chair is suggesting that the first amendment, which amends all after the resolving clause, be acted upon first and, if then acted upon favorably, the Senator from Connecticut should amend the preamble and then the title of the resolution?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 952

(Purpose: To direct a comprehensive review of the Senate Code of Official Conduct by the Select Committee on Ethics)

Mr. WEICKER. Mr. President, I send my amendment amending all after the resolving clause to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 952 in the nature of a substitute.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after "*Resolved*," and insert the following:

That the Select Committee on Ethics is authorized and directed to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation and for investigation of allegations of improper conduct by Senators and officers and employees of the Senate. The Select Committee shall report the results of such comprehensive review to the Senate at the earliest practicable date, but not later than November 15, 1980, together with its recommendations for changes in the Code and such provisions.

Mr. WEICKER. Mr. President, the substitute I am offering today to Senate Resolution 109 directs the Select Committee on Ethics to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation and for investigation of allegations of improper conduct by Senators and officers and employees of the Senate. The Select Committee would report the results of its review, together with its recommendations for changes in the code and ethics provisions, not later than November 15, 1980.

Mr. President, my colleagues know of my strong interest in simplifying and strengthening ethics regulation in the Senate.

Three years ago, during debate on Senate Resolution 110, I argued that full financial disclosure should be the foundation of Senate ethics.

I will now read from a portion of that debate:

> Full financial disclosure must be recognized as the force and essence of ethics regulation in the Senate. We must fashion a code of ethics which provides the media, the voters and political opponents with every significant fact which bears on the conscientious performance of official duties of an incumbent or candidate. Compelling each Member, candidate, and key staff member to reveal to public scrutiny a complete history of financial dealings is the most credible and legitimate role we can play.

My amendment substituting full financial disclosure was not accepted, however. Instead, the Senate adopted Senate Resolution 110, the Official Code of Conduct, on April 1, 1977, having previously adopted Senate Resolution 4 (amending S. Res. 338) regarding enforcement and administration of the code and investigations of improper conduct.

Since adoption of Senate Resolution 110 in 1977, the Select Committee on Ethics has had 3 years of experience with the code, and with the administrative structure of the ethics system in the Senate.

The experience of those members who have served on the select committee, including myself, and those who come under its rules and regulations, has been marked by frustration and confusion in many respects. As an example, the select committee has found it necessary to issue more than 200 rulings interpreting the code; these hairsplitting interpretations often offer no meaningful guidelines for members or staff.

My purpose in offering this substitute amendment is to commit the Senate to the difficult process of reviewing the code and related ethics provisions in an expeditious and forthright manner. Up to this point, the Senate has addressed aspects of the code only on an incremental basis, rather than through a comprehensive review.

I have great respect for the chairman of the select committee Senator HEFLIN, and the ranking minority member, Senator WALLOP, and also for the able committee staff. In no way should my proposal for a comprehensive ethics review be construed as a reflection on the leadership or initiative of the select committee. Rather, I believe the entire Senate should go on record in support of a comprehensive review process to be conducted by the select committee, under the leadership of Senator HEFLIN and Senator WALLOP, with a clear understanding that the full Senate will act on the recommendations contained in the committee report. Though the responsibility for the study falls on the committee, all Senators should contribute their views to the committee's deliberations and carefully consider their report and recommendations. Ethics in the Senate requires the full attention of all Members.

Mr. President, I commend the interest of Chairman HEFLIN and Senator WALLOP, and the other members of the select committee, in streamlining and strengthening the ethics process in the

Senate. I believe a comprehensive review of Senate ethics regulation as proposed in my substitute amendment offers a sound framework for that process.

Mr. President, I have, over the course of the past 2 years, developed, prepared, and in fact offered in Senate Resolution 109 specific proposals to amend the code. Several factors, however, have converged to have me offer this as a substitute for those specific recommendations.

First, is the new leadership of the Ethics Committee itself. It is a leadership which I have complete admiration for and complete confidence in. Yet this leadership has only recently gotten aboard as the guiding influence on the deliberations of that committee.

Second, it is an election year. I dare say that even to change a comma or a period of an ethics code during an election year is a nerve-racking experience for the Senator that is up for reelection, for fear that he or she would be accused of trying to weaken or diminish the strength of the ethics code.

Third, obviously again this year, deliberations on a revision would be required by the entire Senate, the Ethics Committee included. I do not think that the body will give sufficient attention this year to the detail which is required in the amending of this act.

For these reasons, I have decided to offer this substitute. It mandates that the committee, with 3 years of experience behind it, develops its own comprehensive recommendations, with input from this entire body.

Having said that, I have no less a firm belief in what needs to be done today as I did last year or the year before. What was enacted out here on the Senate floor 3 years ago was a play to popular opinion, to having the public believe that we had done something to cleanse ourselves of what I do not know, but that we had done something.

It was great public relations. But, like anything that is more public relations than substantive, it has had its price. There is not one Senator who has served on the Ethics Committee who, within 2 months, does not want to get off that committee. Why? Because he was sent here not to spend time overseeing his colleagues, but, rather, to represent the interests of his constituents. The minutia and the intricacies of what has to be resolved on the Ethics Committee is of the most time-consuming nature, far more so than that required by any other committee in the Senate.

It has to be asked whether or not the Code of Official Conduct is accomplishing the job it was intended to do. Again, here, in the matter of disclosure, I think the answer has to come forth: clearly not. Even though there is disclosure, it is of such a complex nature that for the public, never mind the media, to comprehend it becomes a full-time job on their part, which I am not so sure they are willing to devote. Disclosure on the part of us should be simple; its understanding should be simple.

It is well known that my feeling has been that this can be accomplished by making public each of our tax returns, with the exception of charitable donations and deductions for medical expenses, accompanied by a certified net worth statement, listing in detail—never mind categories but detail—all holdings, all assets, all liabilities. Then we could let each constituency decide what is ethically proper.

It could well be that in the State of Maine no outside income is viewed as the proper course. It may be that in a Midwestern State it is desired that their Senator earn outside income from farming. But let the constituency decide.

I cannot sit here and answer these questions, and it is not for me to do so. It is for the people of Maine or the people of Minnesota. This can not be accomplished by six or eight Senators. It can only be accomplished by the constituency itself, and only if that constituency has all the facts available and in a form that is readily understandable.

Three years have gone by and I do not think the urgency of catering to the public image is among us any more. I think it is likely that everybody has lost total interest in this subject, Senators and the public alike. But I have not, because a bad law is worse than no law at all, and this is a bad law.

It will only get worse, as it is not adequately enforced due not to willful intent, but by virtue of its complexities.

So I would hope that, with the new leadership coming aboard the Ethics Committee, the committee will address itself to this most important subject.

How many Members remember the day we passed the ethics legislation? Our great and good colleague from Minnesota, Hubert Humphrey, stood up and after we had passed the legislation made the statement that in order that we might all understand what we had passed a synopsis of the legislation should be written.

Well, I think we are past the point of any synopsis being written. Indeed, it has been written by the sweat and blood of the staff members and various Senators who have served on the Ethics Committee. But I do think we are at the point where review of this legislation is necessary. We are at a point where we can act as a body, where all voices can be heard, and where nobody is going to be accused of weakening the ethics legislation. We have matured from enacting what was a public relations exercise into enacting a law which can be administered, which can be obeyed, and which can be understood.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, speaking as chairman of the Rules Committee, our committee is very interested in this proposal and in the substitute amendment. My hope is that the chairman of the Ethics Committee and the Senator from Connecticut may come to a common agreement and, if they do, I would look forward very much indeed to supporting that agreement.

Mr. HEFLIN. First, let me thank the distinguished Senator from Connecticut for his kind remarks about my background and about me personally. I deeply appreciate it and, hopefully, I can measure up to the high standards and expectations he has expressed.

Mr. President, I believe there is much merit to many of the suggestions and thoughts of Senator WEICKER about the Ethics Committee and its function, and I think his suggestions should be carefully considered as we attempt to seek improvements in the Ethics Committee's operations.

The Ethics Committee is a committee that is bipartisan in its organization. In its charter, it is directed to be bipartisan and nonpolitical. Senator WALLOP is the vice chairman, and I am the chairman of the Ethics Committee. This committee is the only committee in which there is an equal number of members from the Democratic Party and the Republican Party. Perhaps the only partisan aspect of the committee's organization is that the party, the majority party, names the chairman. The vice chairman, of course, comes from the party that is not in the majority. Under the charter and the rules adopted by the committee, the chairman cannot do many of the things usually reserved to the committee chairman of other committees. In reality, leadership of the Ethics Committee is a joint effort of the chairman and the vice chairman, since they have to agree on most matters of concern with respect to the operation of the committee.

So, on behalf of Senator WALLOP and myself, I express support of Senator WEICKER's proposal as modified, which would direct the Select Committee on Ethics to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation.

There is a basis in the committee's own charter for a review such as the distinguished Senator from Connecticut proposes. Senate Resolution 338, as amended by Senate Resolution 110, the authorizing resolution of the select committee, states that it shall be the duty of the committee to recommend to the Senate, by report or resolution, such additional rules or regulations as it shall determine to be necessary or desirable to assure proper standards of conduct by the Members of the Senate and by the officers or employees of the Senate in the performance of their duties and the discharge of their responsibilities.

From personal experience, I am aware of the value that such a review could have to the Senate. In my position as the chairman of Alabama's first Ethics Commission, I have experienced, as I shall elaborate a little later, a study of ethics as applied in the public sector. I have already expressed my own intent to take a look at where we are today, not only with respect to the Senate's Code of Official Conduct and what measures might be suggested to improve our ethical procedures, but also with various other matters within the jurisdiction of the Select Committee. At the time of my appointment as chairman, several interviewers asked about plans or ideas I had changed which might need to be made. At this time, I would like to submit for the Record several of these newspaper articles, which are the result of interviews I gave on this subject.

First, I want to submit for the Record a copy of the Enquirer of Columbia, Ga., which is a city that borders on Alabama, dated November 1, 1979, entitled "Heflin Plans Ethics Changes."

Next, I should like to submit a copy of a November 8, 1979, clipping from the Roll Call, the newspaper of Capitol Hill, in Washington, D.C., entitled "Heflin: He Will Remodel Ethics."

Another article I want to introduce is from the January 1, 1980, the Birmingham News, and is an interview pertaining to some plans that I have concerning studies and possible changes in the ethics laws, ethics rules and procedures.

Mr. President, I ask unanimous consent that these be printed in the Record at this point.

There being no objection, the materials were ordered to be printed in the Record, as follows:

[From Roll Call, Nov. 8, 1979]

Heflin: He'll Remold Ethics

(By Keith Petersen)

Senate Minority Leader Howard Baker (R-Tenn.) called the chairmanship of the Senate Ethics Committee "at best, a thankless job," and after the committee's 16-month investigation of Sen. Herman Talmadge (D-Ga.), few would disagree.

But new chairman Sen. Howell Heflin (D-Ala.) doesn't see it that way at all, and has major revisions in store for the entire realm of Senate ethics.

"Everybody says, 'Well, nobody else will take it.' Well, I say, 'You talk to at least one of them that they offered it to.' I think that you'll find that a good number of them would have jumped at the opportunity."

Howell Heflin hurriedly strides into his Senate office. The rigors of a too-long day—rallying support for a helicopter training base in Alabama and handling inquiries about the seizure of the American Embassy in Iran—are evident. The massive Senator (calling him portly is like calling Alexander great) has been vaulted from the freshman curse of anonymity to a bona fide public figure. He sits back in a chair, puts a foot on the desk, and begins.

"I had had an interest in it (ethics)," the former Alabama Supreme Court Chief Justice says. "I served as the chairman of an Alabama ethics commission for about two years back in the 1960s and we made a study of ethics and drafted some legislation that was later adopted."

The first freshman senator to chair a committee since Sen. Coe Crawford (R-SD) chaired the Committee on Expenditures in the Interior Department in 1909, Heflin punctuates his soft drawl with many pauses.

"I sort of got interested in it. It has probably the most similarity to a judicial post of anything in the Senate. It's a job that has some attraction for me."

Heflin plans to change the structure of the Ethics Committee, and hopes to simplify the Senate ethics code.

"The way it's organized now," he says, "it's a grand jury and a trial jury, and definitely no court would allow a juror who sat on the grand jury to serve on a trial jury. From a structural viewpoint of the judiciary, I've got a lot of problems with the way it's organized . . . I've talked to several of the members (of the committee) about it and other Members of the Senate about trying to work towards what I call due process or inherent fairness.

"I don't think you can investigate something and not have cross-examination and non-oath testimony and then later it's oath testimony. It just causes me problems," he adds.

"I would like to separate them—in other words, let the present Ethics Committee have its principle function of being investigatory and charging body and hand down advisory opinions. I would then try to come up with some type of a trial body.

"Now there have been three suggestions that I have heard floating around," he says. "One would be an ad hoc committee of Senators. As each case would come up, they would be appointed to do that trial and make the recommendation to the Senate. The other would be to use former Senators and a third one would be to use hearing examiners such as retired judges or bring in some body of that sort.

"Those last two may have some Constitutional problems with them," he warns. "The Constitution confers the responsibility on each House of the legislative body to handle the misbehavior of their colleagues. . . . Now I haven't gone into it thoroughly as to whether or not that language could cause you a problem of bringing in, say, former Senators or bringing in trial examiners."

Aside from separating the committee's functions, Heflin also seeks to bring the mass ethics regulations together into one source.

"You go to three books in the things (ethics regulations). You go to the Ethics in Government Act, you go to the Federal Elections Law Act, and you go to the Rules of the Senate dealing with ethics. Now, I haven't made the study of it but I understand that there are really some conflicts between them, and that what I would do is somehow or another, consolidate or codify those into one book or into one act," he says. "If there are exceptions that would have to be made, they could be.

"The rules that come out of the Rules Committe define a great deal of what is legal and what is not pertaining to financial matters, so you've really got four different sources that you've got to go to. And my idea would be to some way or another codify that into one book," he adds.

The "clubbish" atmosphere in the Senate, that some people have criticized, is natural, Heflin says.

"Anytime you have close relationships, and the Senate is not an overly large body, then there are natural friendships that develop. There is, in the legislative function, the inherent element of backscratching—'You vote for me, I will owe you one.' That sort of thing comes up, and I don't think it's a disease of the United States Senate. I think it's a disease of that type of structure," he remarks.

"And there is obviously that clubbiness." But that, he adds, is somewhat neutralized in ethics considerations.

"You've got two forces," he says. "The publicity of the case plus the closeness that comes as a result of a body like that (the Senate)."

Just how the style of the Senate Ethics Committee will change, now that the requests of former chairman Sen. Adlai Stevenson (D-Ill) and former vice-chairman Sen- Harrison Schmitt (R-NM) have been honored, Heflin says, "remains to be seen."

Sen. Malcolm Wallop (R-Wyo) was named to fill Schmitt's vacancy.

Heflin, a trial lawyer from 1948 to 1971, Chairman of the Alabama Ethics Commission, Chief Justice of the Alabama Supreme Court from 1971 to 1977, freshman senator, chairman of the Senate Ethics Committee, leans back again.

"Quite obviously, for a freshman Senator to be selected as a chairman of a committee sounds good back home. I've noticed they pay a little more attention to me here in the Senate. I think it gives me a little more clout with the Senators; they'll listen to me. Usually, they don't pay much attention to what you're saying. I think they do a little more now."

Howell Heflin used to be just another one of the 19 freshman Senators, nameless and faceless. Now he's become one of the most visible.

[From the Columbus Enquirer, Nov. 1, 1979]

Heflin Plans Ethics Changes

(By Christopher Bonner)

Washington.—Sen. Howell Heflin, D-Ala., was confirmed Wednesday by the Senate as chairman of the Select Committee on Ethics and indicated he hoped to bring some changes to the panel.

The Alabama senator became the first senator in 70 years to head a standing Senate committee during his first year in office.

Heflin succeed Sen. Adlai Stevenson, D-Ill. Sen. Malcolm Wallop, R-Wyo., was named by the Senate to take the place of Sen. Harrison Schmitt, R-N.M., as committee vice chairman.

Both Stevenson and Schmitt had frequently expressed their desire to leave the six-member committee, which they led during its 16-month investigation of the finances of Sen. Herman Talmadge, D-Ga. Talmadge was denounced by the Senate earlier this month for improper financial conduct.

The last senator to win a committee chairmanship during his first year was Coe Crawford of South Dakota, who in 1909 was named to head the Senate Committee on Expenditures in the Interior Department.

The chairmanship of the Ethics Committee, however, is not avidly sought. Few senators are eager to take on the delicate task of judging the conduct of their colleagues.

Heflin did not comment during an interview on the committee's conduct of the Talmadge investigation. But the former Alabama chief justice left no doubt that he would handle future such inquiries in a different way.

Heflin said he was disturbed that the committee functions as both a grand jury, bringing charges against a member, and then as a judge.

"Those functions ought to be separate," Heflin said. He said he was uncertain now how to reform the procedure, but that perhaps a separate group of senators could be named to hold trial-like hearings, or that retired senators could be asked to serve as a jury for hearings.

Heflin said he was confident the Senate could adequately police the conduct of its members. "The only thing you have to guard against is the club-like approach," Heflin said.

In the past, the Senate has been criticized for closing ranks behind a member accused of wrongdoing. Talmadge was the first senator in 12 years about whom ethics hearings were held, and his investigation was the longest in Senate history.

Heflin said he had a reputation as a judge who moved expeditiously and he indicated that any future hearings would be conducted swiftly.

One of the problems illustrated by the Talmadge hearings was the vast array of rules a senator has to follow regarding conduct. Heflin said he wants to simplify the rules.

"Now there are the rules of the Senate, the Ethics in Government Act and the Federal Election Commission act that a member has to follow," Heflin said.

"There are some conflicts between these rules and some ambiguities," he added. "There should be uniformity."

Heflin, 58, who is called "judge" by his staff members, was offered the Ethics chairmanship in January but declined, saying at the time he had only been a senator one month.

[From the Birmingham News, Jan. 1, 1980]

ETHICS CHAIRMAN: PEOPLE EXPECT HONESTY

(In an exclusive club where seniority is everything, freshman Sen. Howell Heflin of Alabama had the unusual honor this year to be picked to chair a major Senate committee.

(As chairman of the Senate Select Committee on Ethics, the former Alabama Chief Justice will be the chief watchdog over the conduct of his colleagues—a job most senators shy away from.

(Birmingham News Washington correspondent Tom Scarritt recently discussed the new responsibilities with Heflin).

PACE. Senator, as chairman of the ethics committee, you are going to be overseeing the ethics of all your colleagues. What do you think the people expect in terms of ethics from their elected officials? Is there something special that they expect?

HEFLIN. Well, I think people expect basic honesty and integrity. I think if you ask the question "Is this honest? Is it right?", it solves most of the ethical problems.

There are, of course, other matters that come up, some details. I think sometimes we have too many laws and too many regulations and that causes confusion. Right now, the Senate's ethical conduct, in effect, is controlled by three laws.

One is the ethics in government (act), which affects the House of Representatives, the Senate and the executive branch of government—all the agencies. But there are particular provisions dealing with congressmen and senators.

Then you have the rules of the Senate, which deal with ethical conduct, disclosure (and) other matters. In addition to that, when you become a candidate then the Federal Election Commission law controls. If a senator runs for reelection, there are certain things that he has to do in regards to the Federal Election Commission.

So there are really three different laws. It would seem to me we could simplify them into two, at least, rather than three. It would make it easier to understand. Some of them have gotten so technical it's just an impossibility for any senator to know every one of them. They need to be clarified.

PACE. These three laws do put some special requirements on members of Congress that are different from what is expected of private citizens. Do you think this is a good idea?

HEFLIN. Well, I think there is a need for more requirements on a person that's in government than there are on a private citizen. I think a private citizen's business is his business.

These rules and laws also affect my wife. My wife says she doesn't think it's any of their business what she may own or what she may do with her money. But on the other hand, a husband could put everything in the wife's name. So there are reasons why they are that way.

I think there is a necessity for additional ethical requirements on the part of participants in government, as opposed to the average citizen.

PACE. Do you sense that there is a strong interest among citizens in the ethics of the Congress?

HEFLIN. To some degree. It's not a primary interest. For example, we file disclosure statements and the press will generally run a story on it.

The present disclosure laws, in my judgment, are confusing and ambiguous. You put (the value of your holdings) into categories. If you own your home, the category that it may be in is from something like $15,000 to $50,000. It could be worth $50,000 and it could be worth $15,000. That's a lot of leeway.

Some of the categories for valuation of stocks or for real property are, say, from $100,000 to $250,000. Well, that category is a broad category of $150,000.

I frankly don't see why you've got to have those broad brackets. It would seem to me you ought to just disclose the fair, reasonable market value of the house or the acreage that you own or the stock that you own. I don't really see why it ought to be in categories like it is at the present time.

PACE. Among your colleagues in the Senate, do you see an interest in ethics?

HEFLIN. Yeah, I think so. They passed (ethics laws). They continue to make them. The history has been that each time it comes up, they make them more stringent.

There's an interest in it. Some of it, you know, gets to the point where it is burdensome. You have certain things, for example, you're prohibited from accepting—gifts from certain people.

Then, on the other hand, there are exceptions to it. If it's an educational seminar—that is, travel, for example, where there is reimbursement for travel—you have to disclose those reimbursements. Some of it's prohibited and some of it is allowable. The distinction between the two, as to what is prohibited and what is allowable, but still reportable, varies and sometimes there's not a lot of rhyme or reason for that.

PACE. Do you think the senators want to be ethical?

HEFLIN. Oh yeah, I think the vast majority do. I'm sure you've got bad apples in the Senate just like you do any time you get a hundred people together. You're going to have some wherever they are. Even if they're newspaper reporters, you might have some bad apples in the lot.

I think any time you get a group of people together—435 members of Congress and 100 senators—out of those 535 members you're bound to have some bad apples.

PACE. How do you see your role as chairman of the ethics committee—are you the judge, the prosecutor or what?

HEFLIN. I think the present system by which the ethics committee of the Senate is organized is bad. I think that you have got to separate your investigating and charging function from your trying function.

It's sort of like a jury—I don't think the same body ought to be the grand jury and the trial jury.

Presently, the ethics committee is organized by which they are the investigator, they're the charger, they're the grand jury. Then they have the responsibility of being the prosecutor and then they have the responsibility of being the trial jury.

I think you have to separate those functions. I think due process of law requires that inherent fairness. You can't erase from your mind matters of hearsay that you heard in an investigative capacity. When you're in a trial jury function, the hearsay is not admissible.

The human mind can't remember what was admissable and when he heard it and that sort of thing, but it remains a fact.

So I have an idea of trying to separate it, which would mean that the trial jury function of the ethics committee would probably be done by another body. This could be either an ad hoc committee of senators appointed—and really in the last 10 years there've really been only three real trials. There's been Dodd, Senator Dodd of Connecticut, you then had Senator Brooke of Massachusetts and Senator Talmadge of Georgia.

You could have an ad hoc group that would do that function. Or, on the other hand, you could have senators who are no longer in the Senate, who have retired, or for some other reason are no longer members of the Senate.

Then, there are other suggestions about having hearing examiners or retired judges act in that capacity. There are some constitutional problems about that, really. The Constitution, in effect, says that each house of the Congress shall be the judge of its members. There's some question of whether you could delegate it to a nonmember. We are studying that right now.

PACE. So you are actively studying ways to change. . .

HEFLIN. Well, I don't know just to change. I'm not one that wants to change for change's sake. But if there is a reason, and in my judgment there is a reason to separate the grand jury function from the trial jury function of the ethics committee.

PACE. Will you be more comfortable in the grand jury role or the trial jury?

HEFLIN. I would think that the trial jury phase will not occur very frequently. I mean, if you've had only three in the last 10 years, you won't have it that often. So I think that function will be separated off from the ethics committee, and let it be done by another body.

PACE. Do you intend to seek out breaches of ethics or do you think it will be more a case of cases being brought to you?

HEFLIN. The way the law is written, the duty and function of the ethics committee is to investigate the complaints.

There is a distinction in the law between unsworn complaints and sworn complaints. If a complaint is under oath, then the ethics committee is required to go through a formal investigatory function. If a complaint comes in in an unsworn manner, then the duty of the ethics committee is to investigate it and to look into it, but it does not require the formality of the investigation that a sworn complaint does.

So that's the law. As I interpret the law, the law doesn't place upon the ethics committee the seeking out to find, but it is a body that hears complaints. The way the Congress and the people think, if there's something going on, you're going to hear about it, so I don't think that makes a lot of difference.

PACE. What made you decide to take the ethics committee chairmanship?

HEFLIN. I've been interested in ethics in government. Back in 1968, '69 and '70 I served as chairman of the Alabama Ethics Commission. This was an ethics committee appointed by Governor Brewer. This was the first one in the state.

We had a detailed study of ethics in government. I became interested in it. We had a report that was submitted to the Legislature and as a result of not only our activity, but activity of others, a state ethics law was adopted.

So I've had an interest in it, and it's one of the functions in which I would be, in effect, doing some interpretation of language, more like judging from an appellate judging viewpoint than the other duties that I have. So it has some attractions on that.

Of course, the other thing is, I suppose there is some honor to be a chairman of a committee, and as a freshman, being asked to do it . . . I don't know.

There is a limitation on the time you can serve. The statute says you can't serve longer than five years. I don't know whether I'll serve that long, but anyway at the present time I'm enjoying it.

PACE. You were offered a post on the ethics committee when you first came up here.

HEFLIN. Well, it wasn't when I first came here. It was at a stage after I'd been here awhile, just before the Talmadge trial began.

They wanted a judge, somebody with judicial experience, to preside over the Talmadge trial. Of course, there are only three members of the Senate that have former judicial experience—that's Senator Stennis of Mississippi, Senator Thurmond of South Carolina and myself. So I was asked at that time to be the chairman of it, of the ethics committee, and preside over the Talmadge trial.

I was at that stage still getting my staff organized, going through a learning process, and I did not feel that I ought to devote that much time—and it did take a lot of time—toward that one matter and neglect some other things that I thought were very important to me.

I told them that later on I would discuss it with them, and then they came back after the Talmadge trial was over and discussed it with me, and I agreed to serve as chairman.

Mr. HEFLIN. I have, of course, served on the Ethics Committee only a very short time. Most of the time that I have been on the Ethics Committee has been spent dealing with the matter of interpretive rules. Because a recess was imminent at the time of my appointment, a great demand was placed on my time as the chairman and on the time of the vice chairman, and on the members of the committee to give interpretive rulings pertaining to certain factual settings for Senators who would be traveling or undertaking other activities during the recess. Responding to these detailed questions took and continues to take, I might add, a great deal of time.

There is an old saying that one must learn to crawl before he learns to walk. Having just finished my first year in the Senate, I am still in the learning stage, a stage which probably could be better classified as a crawling stage. With regard to my appointment to the Ethics Committee, I am probably at a stage now where I have hardly learned how to crawl yet.

However, I have had some previous experience with regard to ethics in Government and ethical concept and philosophy in general. I served as chairman of the first Alabama Ethics Commission. In Alabama, our first ethics study commission made a 15-month study before making our conclusion and recommendation.

We divided our efforts into five categories and had a study group for each: Ethics in the legislative branch; ethics in the executive branch; ethics in the judicial branch; ethics in regulatory agencies; and ethics as it was applicable to lobbying. We had the assistance of the University of Alabama's Bureau of Public Administration. Each study group had the benefit of an experienced political scientist as a reporter and consultant. Each group did the necessary research and study and reported back to the overall ethics commission which reviewed, revised, gave further consideration and study to the work product of the subdivisions and then issued written reports concerning each area of inquiry.

As the result of this effort, as well as a general movement for ethics and accountability in government, the Alabama legislature adopted an ethics law shortly after the commission submitted its report. Of course, the legislature made many changes to our recommendations, but the basic framework of our study was followed.

Mr. President, I want it clearly understood that what I am about to say regarding my thoughts and observations about the Ethics Committee and its staff is not intended to be a criticism in any way of past committee members or the staff or the leadership of the committees. The Ethics Committee, during the past several years, has had tasks before it that were both serious and time consuming. As most of the Senators know, the Ethics Committee recently dealt with the Senator Brooke matter and the Senator TALMADGE matter. Extensive hearings were held on both of these matters and the committee really has not had much time for anything else except to issue hundreds of interpretive rulings. Their rulings are necessary in order to prevent any violation of the rules of ethics or the ethics-in-Government law or other laws or guidelines that are confronting Senators, but they are time consuming. So the committee really has not had much time to do anything else.

In the short period of time I have served on the committee I have made some observations. Many observations are not yet conclusive, but I do feel there are some faults in the present system. I think there are some areas that may be suffering from deferred maintenance, and others which may be structural defects. Thus, as I mentioned, what I say is not intended to be critical of past committee activity.

I am still studying and will continue to study the committee operation, but one defect that I think is present is the fact that the Ethics Committee, as organized, serves the function of a grand jury as well as a trial jury. No court of law would ever allow a person who serves on a grand jury to serve on a trial jury; but we have a situation where the Ethics Committee is, in effect, an investigator, a charger, a grand jury, and then it becomes a trial judge, and it makes disciplinary recommendations to the Senate as a whole. There have been several suggestions as to how we could separate the grand jury function from the trial jury function.

One suggestion is that we have ad hoc committees of Senators who would act as a trial jury, with the Ethics Committee serving as the investigator or the charger. Thus, the Ethics Committee would function as the grand jury and the special ad hoc committees hear the testimony, to be the trial jury, in effect.

Another suggestion, is that former Senators act as the trial jury; it has been suggested that hearing examiners be brought abroad to hear the case, and some suggestions that, perhaps retired judges might serve in that capacity.

There have been still other suggestions that the function of the grand jury be placed in the Rules Committee and that the Select Committee on Ethics, in effect, be the trial jury. This, of course, is the approach Senator WEICKER is advocating.

There may be some constitutional problems, in my judgment for outsiders, former Senators or hearing examiners, participating, since the Constitution says that each body is the judge of its own Members.

There may be problems with that. I have not reached any conclusion, but it is a matter that I think has to be studied.

While the fundamental structure of the process needs review, there are other significant problems which also need to be examined. One such problem is that of public disclosure and the form such disclosure should take.

It seems to me that there is a great need for simplification in the disclosure process, and the disclosure form. We are working on a form to be used this year. Hopefully, it will simplify, but still meet the current requirement for disclosure.

But the requirements themselves as well as the form will be a matter of ongoing study.

Another problem I see is the fact that so many different laws and rules impart on our ethics procedures, that some kind of consolidation seems to be in order.

In trying to answer almost any question which comes before the committee, I find there are many sources which we must examine to determine whether a proposed action is permitted.

In almost any given situation we have to look first at the Ethics in Government Act. We then have to look at the rules of the Senate as they apply to ethics; then there is the Foreign Gifts Act. Usually the act establishing Federal Election Commission and the rules used thereunder must be consulted, especially if the Senator is running for reelection, since there are requirements that fall under the category of ethics in regard to the conduct of campaigns.

In addtion to this, the Senate Rules Committee, in many ways, determining what is the official conduct of business, what is official and what would be outside the element of official business. There are other matters such as the expenditure of funds which involve ethical considerations that the Rules Committee has to deal with.

In addition to all of these authorities, the committee must also take cognizance of the franking privilege laws, and the whole body of rules which have grown up around this statute.

All of these statutes and rules impact on the ethical conduct of Members of this body. The Ethics Committee is required to have an overview, an oversight, and to give interpretive rulings on proposed activity related to all of those sources of restraint on proposed activity.

It seems to me that there is certainly a need for a comprehensive manual. Our laws and rules, in my judgment, are too detailed and too complex, and too scattered.

I do not disagree with the idea Senator WEICKER has about a study. I do have a little problem about the completion time. I think we have a problem whenever we attempt to select a date. I think we ought to review a completion date with a number of criteria in mind.

At the present time, the workload and the present status of the committee would have to be considered. We have a new chairman and a new vice chairman who are still learning the job.

Only this week, on Monday, was one Member appointed to the Ethics Committee, and on Friday a week ago another. We have six members; thus one-third of the committee has only served for less than a week, and during that time they have not met.

We have two experienced members on the Ethics Committee, but one says he may have to resign in the future. I think perhaps that may be in the near future.

We have spent most of our time working on interpretive rulings, and I, frankly, have not become familiar with all of the rules, laws, and the procedures which are applicable in a given situation. One must first understand the existing system before one can begin to understand the need for change.

There are other problems that are peculiar to the Ethics Committee. One is that we have inherited staff. I think this is fine and the way it should be. But it does require that the chairman and the vice chairman, and other members of the committee, have to get to know and evaluate that staff. This is something, of course, that we are doing as we work with them and as we are moving forward.

We, of course, have talked to the former members of the Ethics Committee in regard to the staff and its competency and philosophy. I must admit we get varying reports in regard to that.

The point I make is that just getting to know the staff and becoming familiar with the capabilities and the limitation of the staff members is a time-consuming task and, in order to be fair to all parties concerned, I think it has to be a thorough undertaking.

Our evaluation of the staff also would affect our decision of whether additions or consultants to staff should be added for a study, or whether the present staff can carry out the study without any additional personnel. In my judgment, there is a need for internal improvements, and this will require time.

As I have mentioned before, the vast majority of work thus far has been with interpretive rulings. I think there are some inherent dangers in regard to the procedure we follow in regard to interpretive ruling. Many times interpretive rulings are brought before the committee without an adequate statement of the factual situation. There is no adversary process in regard to decisions on interpretive rulings. We do not have the benefit of briefs or arguments as does a court of law when dealing with interpretation of statutory language.

I think we need to establish in the Ethics Committee an adequate law library in which we have works and treatises on statutory construction. For example, I think, certainly, there is a need for a set of words and phrases. As most people who have had background in law find, this is a work that would be exceptionally helpful.

We recently learned that there is an organization with members from 41 States which have some kind of ethics commission or committee which is concerned with the problem encountered by such commission or committee.

I think this is an organization we want to become associated with. I understand the Ethics Committee has never attended any of their meetings. I think we want to get involved in that and find out what is involved in what States are doing along these lines.

A criterion for selecting a completion date, of course, involves the urgency of the undertaking. It involves the question, is time of the essence? It involves the issue of, is there resulting injury as a result of a later completion date, and of the time required for the comprehensiveness of the study.

There are new concepts now dealing with ethics in Government. There is now a great deal of literature, not only in law reviews, but in other governmental publications and legal publications dealing with this.

Of course, there is an issue of the availability of time of the leadership in undertaking studies. As a freshman, I have a great deal of competition for my time. I simply do not know when the completion date should be. At this stage, I am not in a position to rationally and intelligently follow a formula or a procedure to determine a completion date.

I think it could be done quickly, but not in depth. On the other hand, it would take a longer period of time for a more detailed study. There is always the possibility of having a specific time set, and then, of course, having to come back and ask for an extension of time. Frankly, that does not appeal to me. I would very much like to meet a deadline once it is established. It has always been my practice to try to have a reasonable, adequate time to undertake to do a study or to do a task and try to complete it within that time frame. But at this stage, it is a hard job for us to determine, because of many factors, as to how long this will take.

I simply say that this is a problem. I believe we should discuss the matter. I will be glad to discuss it with Senator WEICKER, and perhaps we can agree on a procedure in regard to the time that might be involved.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator RIBICOFF in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. RIBICOFF

My friend and colleague from Connecticut (Mr. WFICKER) has been sincere and steadfast in his efforts to revise the Senate Code of Official Conduct.

As submitted, S. Res. 109 would have amended the Senate Code of Official Conduct in several very fundamental ways—

First, by establishing a new financial disclosure rule requiring the publication of income tax returns and reinstituting GAO audits;

Second, by repealing the rules which restrict gifts, foreign travel, outside earned income and honoraria;

Third, by permitting Senators to engage in outside business or professional activities; and

Fourth, to expand the source of funds available to a Member to defray office expenses.

Finally, the resolution proposed to restructure the entire ethics jurisdiction of the Senate. The Committee on Rules would be responsible for the day-to-day administration of the Code of Official Conduct and disclosure provision of the rules. The Ethics Committee would have sole jurisdiction over investigating complaints of improper conduct which are referred to it from the Rules Committee.

S. Res. 109 was referred jointly to the Committee on Governmental Affairs and the Committee on Rules and Administration on August 3, 1979. In a report, filed on behalf of the two committees, it was recommended that Senate Resolution 109 should not pass. I concurred in that recommendation.

A principal reason for this negative report is the belief of the two committees that Senators should not be subject to a standard of disclosure which differs from what is required of other Federal officials. The history of Senate action on this very question is, I believe, quite clear. This issue was given great consideration by the Committee on Governmental Affairs during its deliberations on Watergate Reform legislation and the Ethics in Government Act. It was the conclusion of the Committee that all high-ranking government officers—Senators, Congressmen, Justices, and executive branch officials—should be treated equally and that disclosure requirements should be uniformly applied.

This position was first taken in 1976 when the Committee reported S. 495. The Senate reaffirmed the Committee's recommendation when it passed that bill in July 1976. Again, in the 95th Congress, the Committee reported and the Senate passed, S. 555—The Ethics in Government Act. This legislation was enacted in October 1978 and instituted a government-wide standard for financial disclosure. Just recently—on August 3, 1979—the Senate voted to amend the Code of Conduct to substitute the disclosure provisions of the Ethics Act for Rule 42. The House took similar action in January of last year.

Senate action with respect to the other proposed changes is also quite clear. During debate on S. Res. 110, the Senate fully considered the desirability of income tax disclosure and rejected it as an excessive and unnecessary invasion of individual privacy. In separate actions the Senate has postponed the effective date of Rule 44 (outside earned income) and suspended the requirement for GAO audits of disclosure statements. On this last point, let me clarify that the Ethics in Government requires the Comptroller General to report to the Congress by November of this year on the feasibility and need for reinstituting such audits.

There was one aspect of S. Res. 109 which the Governmental Affairs and Rules Committees could not fully explore and study. The resolution, as introduced, proposed to restructure the ethics jurisdiction of the Senate. There have been questions raised concerning the administrative burden of the Code of Conduct, the necessity for so many interpretative rulings, and the procedures for handling investigations of allegations of misconduct by Members or employees of the Senate. These are important matters which affect our perception of the fairness and equity of the Code and they should be addressed.

I am pleased that the Senator has proposed to modify his resolution to instruct the Ethics Committee to study and report back to the Senate on the provisions for enforcement and implementation of the Code. I believe that this study should be undertaken by the Committee which is most directly affected by the Code of Conduct and is responsible for its administration. I believe that the substitute offered by the Senator from Connecticut (Mr. WEICKER) presents a constructive approach for the Senate in examining and overseeing ethics regulation.

Mr. WEICKER. Mr. President, I ask that I may amend my amendment as follows: On lines 10 and 11, in lieu of November 15, 1980, the dates would read "February 1, 1981."

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it will be so modified.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I appreciate greatly the comments of the distinguished Senator from Alabama. I disagree with nothing he said. Indeed, I find myself in substantial agreement with almost all of what he put forth.

I think this matter will be resolved in a satisfactory way within that time frame. If, by virtue of world affairs or domestic affairs, something happens, I have no doubt that we will be able to find an accommodation to assure that the job is done properly, rather than just done for the purpose of meeting a deadline.

I do not have much further to say, except that I wish great success, in what is a substantial task, to the Senator and his very distinguished committee.

Mr. HEFLIN. Mr. President, I support Senator WEICKER in his amendment. I support the overall resolution.

We got together and discussed the February 1, 1981, deadline for a completion date of the study. I think we can make it.

There may be situations, however, as pointed out in my previous remarks, that could arise, requiring us to ask for an extension of time. I do not like to do that, and I hope we will not have to do it. But I do feel that the study should be comprehensive and should go into all concepts of ethical conduct of members in the legislative branch of Government, including studying what various States have done, and looking at the problem as a whole.

We will have to make decisions about personnel and staff in regard to carrying out the study, but those are matters that we will meet head-on as we approach them.

Overall, I believe it is time for a study. I commend the Senator from Connecticut for calling for such a study. It is in keeping with my desire and my announced public intentions.

I must state that I also appreciate the support, the encouragement, the advice, and the wisdom that the distinguished Senator from Rhode Island (Mr. PELL) has provided us in regard to this matter.

Mr. PELL. Mr. President, I am delighted that the Senator from Connecticut and the chairman and the ranking minority member of the Ethics Committee have come to an agreement as to when the report should be made.

We are lucky that the chairman of the Ethics Committee, Senator HEFLIN, is taking on this responsibility, with his experience and background in the judiciary and with his commonsense approach. I think the study will be of great value.

I am glad that Senator WEICKER and Senator HEFLIN agree that if, for reasons of necessity, there is difficulty in concluding the report by the stated time and an extension should be needed, there would be no difficulty in reaching an accommodation. I will do my best to insure that such is the case.

Accordingly, I am very glad to support both Senators with respect to the study resolution, and I am prepared to yield back the remainder of my time.

Mr. WEICKER. I thank the distinguished Senator from Rhode Island for his kind remarks.

● Mr. HATFIELD. Mr. President, I rise in support of the substitute amendment to Senate Resolution 109 offered by the distinguished Senator from Connecticut. The amendment would authorize and direct the Select Committee on Ethics to reexamine the Senate's ethics code, in light of the experience of the past 3 years.

The ethics code is ripe for such a review. In the past year alone, the Senate has taken two highly significant actions which bring the merits of this code into question. First, the Senate postponed the effective date of the outside earning limitations until 1983. Second, the Senate's unique financial disclosure requirements were replaced with the standards applicable throughout the Government. That these major elements of the code have been abrogated in just 3 years indicates that there may be fundamental problems with the code.

Let there be no misunderstanding—in calling for this study, we are not calling for a weakening of the code. The Senate must maintain a strong code of ethics which will assure the public of the integrity of its Members. I believe such a code will have to go beyond financial disclosure. There is more at stake in an individual Senator's conduct than merely whether he or she will be reelected. We have seen in recent years the standing of public officials plummet in the public's eyes. A very significant factor in the public's disenchantment is the action of individual public officials. The resignation of a President, the criminal convictions or indictments of Members of the House of Representatives, ethics investigations of Members of both bodies of the Congress all contribute to the general perception of public officials as primarily "looking out for No. 1."

Under these circumstances, the Senate must maintain high standards of conduct, and rigidly enforce them. But there is a balance to be achieved. The code need not finetune a Member's activities, or create a lengthy body of regulation which a Member or staff person can avoid mastering only at his or her peril. My experience on the Ethics Committee has been that its members are forced to spend too much time deciding questions of miniscule proportions.

And so, Mr. President, I believe an Ethics Committee study of the questions raised today could be of major benefit to the Senate, and I urge adoption of this amendment.●

Mr. WEICKER. Mr. President, it is my understanding that I should ask for the yeas and nays on the amendment rather than on the resolution, and I do so at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair understands that the yeas and nays have been ordered on both the amendment and the resolution.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the yeas and nays on the resolution be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WEICKER. I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Arkansas (Mr. PRYOR), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "yea."

Mr. TOWER. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. MOYNIHAN). Is there any Senator in the Chamber who has not voted?

The result was announced—yeas 78, nays 0, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—78

Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
McClure
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—22

Armstrong
Baker
Biden
Bumpers
DeConcini
Garn
Glenn
Goldwater
Gravel
Hart
Johnston
Kennedy
Metzenbaum
Morgan
Nelson
Pryor
Ribicoff
Sasser
Stevens
Talmadge
Wallop
Young

So Mr. WEICKER's amendment (UP No. 952) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. All time has been yielded back——

Mr. WEICKER. Mr. President, a parliamentary inquiry. My motion to reconsider was directed toward the amendment just agreed to by the Senate. It is my intention to also move for adoption both the preamble and amending the title. My parliamentary inquiry: is a motion to reconsider at this time proper or should it wait until after the other two matters are disposed of?

The PRESIDING OFFICER. The Chair advises the Senator he may do it either way.

Mr. WEICKER. I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair will inquire did the Senator from Connecticut ask for reconsideration of the vote on the amendment?

Mr. WEICKER. That is correct.

The PRESIDING OFFICER. The Chair must then correct himself that it can only be done before agreeing to the resolution, and now is the proper time.

Mr. WEICKER. Mr. President, I send to the desk a preamble and ask for its adoption.

The PRESIDING OFFICER. The Chair must inform the Senator that the question now before the Senate is on agreeing to the resolution, as amended.

The resolution (S. Res. 109), as amended, was agreed to.

UP AMENDMENT NO. 953

Mr. WEICKER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 953 in the form of a preamble.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ROBERT C. BYRD. Mr. President, I respectfully regret that I must object, because the manager on our side has left the floor. I am not sure he was aware there was an amendment.

I wonder if the Senator from Connecticut (Mr. WEICKER) would let us put in a quorum and get them back here so they can hear what the amendment is.

Mr. WEICKER. Mr. President, in response to the distinguished majority leader, it has been cleared with the manager.

Mr. ROBERT C. BYRD. It has been?

Mr. WEICKER. Yes.

Mr. ROBERT C. BYRD. The amendment to the preamble has been cleared?

Mr. WEICKER. The amendment to the preamble and the amendment to the title.

Mr. ROBERT C. BYRD. Both?

Mr. WEICKER. Yes.

Mr. ROBERT C. BYRD. Then I have no objection, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment adding a preamble.

Mr. ROBERT C. BYRD. Mr. President I think we ought to have an understanding of what that is. If the distinguished Senator says it has been cleared with the others, I am sure that is correct. But the rest of us would like to know what it is.

Would the Senator mind taking a minute to explain it?

Mr. WEICKER. Mr. President, the best way to explain it is to read it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Insert the following preamble:

Whereas, Senate Resolution 110, 95th Congress, agreed to April 1, 1977, amended the Standing Rules of the Senate to establish a Senate Code of Official Conduct;

Whereas, Senate Resolution 110, 95th Congress, also amended Senate Resolution 338, 88th Congress, which established the Select Committee on Standards and Conduct (the name of which was changed to the Select Committee on Ethics by Senate Resolution 4, 95th Congress), to provide procedures for enforcing and implementing the Senate Code of Official Conduct and investigating allegations of improper conduct by Senators and officers and employees of the Senate;

Whereas, the Senate has found it necessary to take action on an ad hoc basis to amend the Senate Code of Official Conduct, including the adoption of Senate Resolution 265, 95th Congress, on September 29, 1977, which postponed the effective date of rule XLII relating to financial disclosure; Senate Resolution 93, 96th Congress, on March 8, 1979, which postponed the effective date of XLIV relating to the limitation on outside earned income until January 1, 1983; and Senate Resolution 220, 96th Congress, on August 3, 1979, which substituted the disclosure provisions of title I of the Ethics in Government Act for the provisions of rule XLII;

Whereas, because of the complexity of the Senate Code of Official Conduct the Select Committee on Ethics has found it necessary to issue more than 200 rulings interpreting the Code;

Whereas, it would be useful to review the appropriate procedures for investigations of allegations of improper conduct by Senators and officers and employees of the Senate;

Whereas, issues have been raised concerning the effective and efficient administration of the Senate Code of Official Conduct; and

Whereas, the Senate must assure that ethics regulation is credible, meaningful, and understandable for both the Members of the Senate and the public: Now, therefore, be it

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. WEICKER).

The amendment (UP. No. 953) was agreed to.

The resolution (S. Res. 109), as amended, with its preamble, is as follows:

S. RES. 109

Whereas, Senate Resolution 110, 95th Congress, agreed to April 1, 1977, amended the Standing Rules of the Senate to establish a Senate Code of Official Conduct;

Whereas, Senate Resolution 110, 95th Congress, also amended Senate Resolution 338, 88th Congress, which established the Select Committee on Standards and Conduct (the name of which was changed to the Select Committee on Ethics by Senate Resolution 4, 95th Congress), to provide procedures for enforcing and implementing the Senate Code of Official Conduct and investigating allegations of improper conduct by Senators and officers and employees of the Senate;

Whereas, the Senate has found it necessary to take action on an ad hoc basis to amend the Senate Code of Official Conduct, including the adoption of Senate Resolution 265, 95th Congress, on September 29, 1977, which postponed the effective date of rule XLII relating to financial disclosure; Senate Resolution 93, 96th Congress, on March 8, 1979, which postponed the effective date of rule XLIV relating to the limitation on outside earned income until January 1, 1983; and Senate Resolution 220, 96th Congress, on August 3, 1979, which substituted the disclosure provisions of title I of the Ethics in Government Act for the provisions of rule XLII;

Whereas, because of the complexity of the Senate Code of Official Conduct the Select Committee on Ethics has found it necessary to issue more than 200 rulings interpreting the Code;

Whereas, it would be useful to review the appropriate procedures for investigations of allegations of improper conduct by Senators and officers and employees of the Senate;

Whereas, issues have been raised concerning the effective and efficient administration of the Senate Code of Official Conduct; and

Whereas, the Senate must assure that ethics regulation is credible, meaningful, and understandable for both the Members of the Senate and the public: Now, therefore, be it

Resolved, That the Select Committee on Ethics is authorized and directed to undertake a comprehensive review of the Senate Code of Official Conduct and the provisions for its enforcement and implementation and for investigation of allegations of improper conduct by Senators and officers and employees of the Senate. The Select Committee shall report the results of such comprehensive review to the Senate at the earliest practicable date, but not later than February 1, 1981, together with its recommendations for changes in the Code and such provisions.

Mr. WEICKER. Mr. President, I send to the desk an amendment of the title and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read:

Resolution to direct the Select Committee on Ethics to undertake a comprehensive review of the Senate Code of Official Conduct and provisions for its enforcement and implementation.

The amendment was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 5168, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

The Senate proceeded to consider the bill which had been reported from the Committee on Armed Services with an amendment to strike all after the enacting clause and insert the following:

EXTENSION OF CERTAIN EXPIRED PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

SECTION 1. (a) Public Law 93–397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1980".

(b) Subsections (a) and (b) of section 2 of Public Law 95–377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c)(1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B)(ii);

(B) by striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof ", or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended—

(A) by striking out "or" at the end of item (i);

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1980, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

(d) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that during the period beginning on September 15, 1978, and ending on September 30, 1980, such a board may consist of nine officers serving in the grade of major general or above.".

(e) Sections 5787c(b)(2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

AMENDMENTS TO MAKE CERTAIN RETIREMENT PROVISIONS RELATING TO REGULAR ENLISTED MEMBERS OF THE ARMY AND AIR FORCE APPLICABLE TO RESERVE ENLISTED MEMBERS

SEC. 2. (a)(1) Section 3914 of title 10, United States Code, relating to the retirement of regular enlisted members, is amended to read as follows:

"§ 3914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.".

(2) Section 3925 of such title, relating to the computation of years of service of enlisted members of the Army in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "regular" in the catchline.

(3) The table of sections at the beginning of chapter 367 of such title is amended by striking out "regular" in the items relating to sections 3914 and 3925.

(b)(1) Section 8914 of such title is amended to read as follows:

"§ 8914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserves, equals 30 years.".

(2) Section 8925 of such title, relating to the computation of years of service of enlisted members of the Air Force in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "regular" in the catchline.

(3) The table of sections at the beginning of chapter 867 of such title is amended by striking out "regular" in the items relating to sections 8914 and 8925.

(c) The amendments made by this section shall apply with respect to retired pay payable for months beginning after the date of the enactment of this Act.

ESTABLISHMENT OF NAVY CHAPLAIN CORPS AS A STAFF CORPS OF THE NAVY

SEC. 3. (a) Chapter 513 of title 10, United States Code, relating to Bureaus of the Navy, is amended by striking out section 5142 and inserting in lieu thereof the following:

"§ 5142. Chaplain Corps and Chief of Chaplains

"(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

"(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, and with the advice of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty, who are not on the retired list, and who have served on active duty in the Chaplain Corps for at least eight years.

"(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

"(d) While serving as the Chief of Chaplains an officer is entitled to the rank and grade of rear admiral of the upper half unless entitled to a higher grade under another provision of law.

"(e)(1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

"(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

"(f) The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

"§ 512a. Deputy Chief of Chaplains

"(a) The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty, who is not on the retired list, and who has served on active duty in the Chaplain Corps for at least eight years.

"(b) While serving as the Deputy Chief of Chaplains, an officer is entitled to the rank and grade of rear admiral of the lower half unless entitled to a higher grade under another provision of law.

"(c) An officer detailed as the Deputy Chief of Chaplains who serves in such position for at least two and one-half years and is retired for any reason while serving in such position, or who is retired for any reason after having completed such period of service in such position, may, in the discretion of the President, be retired with the rank and grade of rear admiral of the lower half if at the time of his retirement he is serving in a lower grade, unless he is entitled to a higher grade under some other provision of law. If he is retired as a rear admiral, he is entitled to retired pay in the lower half of that grade, unless entitled to higher pay under another provision of law.".

(b) The table of sections at the beginning of chapter 513 of such title is amended by striking out the item relating to section 5142 and inserting in lieu thereof the following:

"5142. Chaplain Corps and Chief of Chaplains.
"5142. Deputy Chief of Chaplains.".

(c) Section 202 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Unless appointed to a higher grade under another provision of law, an officer of the Navy detailed and serving as Deputy Chief of Chaplains is entitled to the basic pay of a rear admiral of the lower half.".

EXPANSION OF AUTHORITY TO MAKE ADVANCE PAYMENTS

SEC. 4. Subsection (a) of section 1006 of title 37, United States Code, relating to advance payments, is amended to read as follows:

"(a) Under regulations prescribed by the Secretary concerned, a member of an armed force may be paid in advance—

"(1) not more than three months' basic pay of such member upon such members' change of permanent station; or

"(2) the amount of an allotment made from such member's basic pay to a dependent if the allotment is made to the dependent no more than sixty days before the scheduled date of deployment of the unit or command to which the member is assigned.".

AUTHORITY TO RETIRE IN A HIGHER GRADE RESERVE OFFICERS WHO HAVE SERVED IN SPECIAL POSITIONS

SEC. 5. (a)(1) Section 3962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) Section 3962(b) of such title is amended by striking out "Regular".

(3) The catchline of section 3962 of such title is amended to read as follows:

"§ 3962. Higher grade for service in special positions".

(4) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3962 and inserting in lieu thereof the following:

"3962. Higher grade for service in special positions.".

(b) Section 8962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) The catchline of section 8962 of such title is amended to read as follows:

"§ 8962. Higher grade for service in special positions".

(4) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8962 and inserting in lieu thereof the following:

"8962. Higher grade for service in special positions.".

(c)(1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the armed forces who retired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of enactment of this Act.

(2) Subject to the approval of the President, the Secretary of the military department concerned shall pay (in a lump sum) to any person appointed to a higher grade under authority of paragraph (1) an amount equal to the difference between (A) the amount such person was entitled to receive in retired pay for the period beginning on the date of his retirement and ending on the day before the date of the appointment of such person to a higher grade under such paragraph, and (B) the amount such person would have been entitled to receive in retired pay had he been retired in such higher grade. Any lump sum payment made under this paragraph, and (B) the amount such person available to the Secretary of the military department concerned for the payment of retired pay.

The PRESIDING OFFICER. The Chair wishes to state that the time for the debate on this bill is limited. The Chair would ask who yields time?

Mr. ROBERT C. BYRD. Mr. President, this is the additional time, I believe, that was provided for the closed session, if such a closed session is requested; am I correct?

The PRESIDING OFFICER. The Senator is correct; up to 4 hours.

Mr. ROBERT C. BYRD. Mr. President, I understand that a Senator will request a closed session shortly.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, before any request for a closed session occurs, I ask unanimous consent that Mr. PROXMIRE may proceed, as in morning business, for not to exceed 2 minutes, and that Mr. HELMS may proceed not to exceed 1 minute.

GENOCIDE CONVENTION DOES NOT AFFECT SOVEREIGN U.S. CONTROL OF EXTRADITION POLICY

Mr. PROXMIRE. Mr. President, a common objection to the Genocide Convention is that it might allow foreign countries to extradite and try U.S. citizens for committing genocide. It is important to dismiss this unfounded criticism. The Genocide Convention puts the United States under no obligations to extradite any of its nationals.

Articles VI and VII of the convention are concerned with possible extradition of persons charged with genocide. Article VI stipulates that persons accused of genocide shall be tried by the state in which the act was allegedly committed, or by an international tribunal. Does this mean, if the United States were to ratify the Genocide Convention, that an American charged with genocide elsewhere could be extradited and tried somewhere where he would not receive the due process afforded defendants in the United States? No it does not.

The United Nations report accompanying the Genocide Convention makes very clear that "nothing in the article (VI) should affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state." The Senate Foreign Relations Committee, in its favorable report of the Genocide Convention, also reiterated this understanding. The convention therefore, clearly leaves the United States the first right to try its nationals. And once someone has been tried once, prohibitions against double jeopardy preclude his being tried elsewhere as well.

Article VII of the Genocide Convention provides first that genocide shall not be considered a political crime for the purposes of extradition. Second, it says the parties to the convention pledge themselves in cases of genocide "to grant extradition in accordance with their laws and treaties in force." Far from compromising U.S. sovereignty, this provision reaffirms that the Genocide Convention does not affect extradition policy. The convention does not erode the Constitution of the United States or the supremacy of U.S. law in this country. Rather, the convention explicitly reserves extradition policy changes to other laws and treaties.

United States law provides for extradition only when there is an extradition treaty in force. Since there are no U.S. laws or extradition treaties relating to genocide, the opponents of the convention have no case. The Genocide Convention does not seek to quietly incorporate into U.S. law any nefarious provisions. The convention does not seek to subordinate American justice to any other standard. It simply seeks to raise the outrage of genocide to the level of an international crime. I urge my colleagues in the Senate to ratify the Genocide Convention.

VOLUNTARY STANDARDS AND CERTIFICATION

Mr. HELMS. Mr. President, later this month the Senate will consider S. 1991, the Federal Trade Commission Improvements Act of 1979. As Senators are aware, the Federal Trade Commission has come under increasing scrutiny in recent years. In fact, the FTC has been funded under continuing resolutions the last 3 years because the House and Senate have been unable to agree on an authorization bill containing measures to reform and guide the activities of the agency.

I am particularly interested in section 8 of S. 1991, which would amend the Federal Trade Commission Act to prohibit the FTC from engaging in rulemaking proceedings regarding voluntary standards and certification activities. It had been my intent to offer similar language as a floor amendment to S. 1020, the original Federal Trade Commission authorization bill. But during Commerce Committee markup of S. 1991, Senator MAGNUSON offered the language now contained in section 8, and his language was unanimously accepted by the other members of the Commerce Committee.

Until recently, few people outside the voluntary standards and certification community knew much about what voluntary standards are, who develops them, or why. And despite FTC attempts to regulate the voluntary standards and certification process, there are still many who have not come to understand fully how our voluntary standards and certification process works, or the extent to which this process affects our economy.

The February issue of Harpers magazine contains an article by Samuel C. Florman entitled "Standards of Value." It is the best explanation of our voluntary standards and certification process that I have seen.

In order that my colleagues might have this information available to them, I ask unanimous consent that Mr. Florman's article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STANDARDS OF VALUE

(By Samuel C. Florman)

SCREWS AND NUTS

In Washington hearing rooms, as I have seen them on television, dramatic events unfold before tense audiences. But one morning in late September, when I entered the third-floor hearing room in the Federal Trade Commission Building, the participants in the proceedings then under way seemed overcome by torpor, and no audience at all was there to witness the end of long hearings on a proposed trade-regulation rule covering "product standards and certification." For twelve weeks, starting in San Francisco and concluding in Washington, a small group of specialists had been arguing about certain arcana of our industrial society—the procedures by which volunteer experts establish thousands of technical standards for materials and manufactured products.

During much of the morning only seven persons, besides me, were in the room: the FTC-appointed presiding officer, a witness from the Institute of Electrical and Electronics Engineers, his lawyer, a stenographer, and, to examine the witness, one representative each from the FTC, the National Consumers League, and the American National Standards Institute (ANSI), the umbrella organization for most of the standards-setters in the nation.

Despite the hush, and the evident boredom, I felt that I was present at an occasion of some importance. I sensed that I was witnessing a crucial defeat for the forces of government regulation in the United States. Like a stranger coming across an advance platoon of Napoleon's army before the gates of Moscow, I thought, "The cause is lost; they have chosen the wrong enemy and come too far, recklessly; the great retreat starts here."

I first learned about the proposed FTC rule in the pages of engineering journals. "voluntary standard under attack," read a headline in the December, 1978, issue of the ASCE News, a publication of the American Society of Civil Engineers. "Federal Trade Commission Reaches for Regulatory Input to Every Segment of Standards-Setting Operation," announced a feature in Professional Engineer, "Another Incursion Into Private Enterprise," sputtered the editors of Consulting Engineer.

I found it hard to believe what I was reading. Who would dare to attack the voluntary standards-setters of America? Who could be foolish enough to challenge the 300,000 individuals who volunteer some of their time, under the auspices of trade, technical, and professional organizations, to writing the industrial standards of the nation? One might sooner launch an assault on the League of Women Voters. I could only conclude that someone at the FTC had gone mad.

My sense of alarm did not arise out of any personal animus toward government regulation. On the contrary, I am convinced that a complex technological society requires an abundance of regulation, and that the current big-business campaign to discredit the regulatory function is a danger to the commonweal. I become disturbed when I see an illustration in Exxon USA portraying the Statue of Liberty enveloped in red tape, or advertisements from the Amway Corporation showing an ugly "Federal Nanny" hovering overhead or a "regulatory" branch choking the other branches of the tree of liberty. If regulations are often imperfect, or even absurd, that is because regulators are as fallible as the bankers and department-store executives who regularly foul up our personal accounts. Regulations need to be rationalized, of course, but not disparaged and weakened to the point that the innate avarice of businessmen is given free play. Bureaucracy is the price we pay for technological complexity and creative greed. The Statue of Liberty is not tied up in red tape, dear Exxon—she is held together by red tape.

It was out of concern for the beleaguered cause of regulation that I deplored the move against the standards-setters. I even fancied that the public-relations department of the U.S. Chamber of Commerce, had planted a double agent within the FTC whose mission was to launch an assault on a placid yet powerful community whose history is one of the triumphs of American democracy.

ROUND PEGS, ROUND HOLES

Although standards are as old as civilization (in 1266, for example, England's Henry III decreed that a penny was to weigh the equivalent of 32 grains of wheat "taken from the middle of the ear"), the modern age of standards began in the nineteenth century with the development of mass production. If manufactured parts were to fit together and be interchangeable, and if parts made in one factory were to be assembled in another, then there had to be agreement on dimensions and quality of materials, that is, there had to be standards.

Such simple and ubiquitous items as the nut and bolt were being made haphazardly in thousands of sizes, shapes, and screw-thread configurations, a situation that an emerging industrial society could not tolerate. Wherever men of science and industry gathered, the need for standardization was discussed. At a meeting of the Franklin Institute in Philadelphia in 1864, a Mr. William Sellers proposed a system for standardizing screw threads that within a few years gained wide acceptance.

The American Society of Civil Engineers established a committee to develop a standard steel rail; the American Society of Mechanical Engineers set to work on a code for steam boilers. In 1898, a newly formed nonprofit organization called the American Society for Testing and Materials started to codify standard sizes, strengths, and other characteristics for the burgeoning steel industry. Intercompany standards associations were sponsored by several industries, notably the railroads, which required prototypical equipment such as safety couplings and air brakes, to say nothing of a standard track gauge to replace the thirty-three different dimensions that were in use at one time.

As the need for standards outstripped the facilities to provide them, the National Academy of Sciences pressed Congress to establish a national standardizing laboratory. In 1901 the National Bureau of Standards was founded, modeled after Germany's Imperial Physical-Technical Institute (organized in 1887) and England's National Physical Laboratory (established in 1900).

In addition to taking over and expanding the Treasury Department's Office of Weights and Measures, the NBS was given the responsibility of making tests to guide the purchasers for federal departments, and thus became a technical resource for both industry and government, researching, testing, and setting standards for myriad materials and products—cement, light bulbs, paper, twine, resins, varnishes, and so forth.

By 1911 the bureau was conducting some 80,000 tests annually, and sending inspectors into every state to examine the scales of shopkeepers (most of whom were found to be shortchanging their customers). However, industry did not want all standards to become the province of a federal agency, and even NBS officials agreed that such an assignment would swamp them in petty details and subject them to unwanted political pressures. So the idea of making all standards a responsibility of the federal government, although advocated by some, was not implemented.

As dozens of corporations, trade associations, and professional societies increased their standardizing activities, overlapping and conflict inevitably occurred. Thus, in 1916, the professional societies of the civil, electrical, mechanical, and mining engineers, along with the American Society for Testing and Materials, met to discuss the coordination of standards on a national level.

After two years of conferences, these five societies established the American Engineering Standards Committee. The purpose of this organization was not to create standards but to review and coordinate those being developed elsewhere. The departments of Commerce, War, and the Navy accepted invitations to become founding members. Soon other government agencies, and then many trade associations, joined, and in 1928 the committee reorganized and changed its name to the American Standards Association.

(In 1948, when the association incorporated under the laws of New York State, federal agencies withdrew from formal membership, although their personnel remained active on technical committees. The present name, the American National Standards Institute, dates from 1969.)

Although the standards movement was occasioned by mass production, it made its way into many areas of American life. Insurance companies, concerned about fire losses and electric shock hazards, founded Underwriters Laboratories in 1894 and, two years later, the National Fire Protection Association.

A growing sensitivity to the rights of workers was expressed in a drive for industrial-safety codes, launched in 1919 at a meeting that standards experts had with representatives of labor, industry, and government. Building codes were developed, and standards adopted for pharmaceuticals and agricultural products.

The consumer movement was created in the late 1920s not by activist lawyers but by standards professionals. During Herbert Hoover's term as Secretary of Commerce (1921–28) a "Crusade for Standardization" became very popular. The number of mattress sizes was reduced from seventy-eight to four, varieties of milk bottles from forty-nine to nine. Satirists predicted that eventually standardization would reach ladies' hats.

Today there are more than 400 private organizations—trade, technical, professional, consumer, and labor—that have written or sponsored the approximately 20,000 current commercial standards. Most of the larger of these organizations are members of ANSI, which defines itself as "the coordinating organization for America's federated national standards system."

By far the most prolific member of this community is the eighty-one-year-old American Society for Testing and Materials. Almost 30,000 individuals serve without pay on the ASTM's 135 standards committees.

The ASTM standards are usually developed at the request of an industrial trade association or a government agency, and they come in many varieties: a specification for stainless steel bar and wire for surgical implants; a recommended practice for rating water-emulsion floor polishes; a method of making and curing concrete test specimens in the field; a classification system for carbon blocks used in rubber products; a method of testing tires for wet traction in straight-ahead braking, using conventional highway vehicles.

To assure committee balance, the ASTM requires that neither the chairman nor more than half the members may be "producers." Draft documents prepared by task groups are reviewed by a mail-balloting procedure and, finally, by the entire ASTM membership. At each point along the way, negative ballots accompanied by written comments must be considered; dissatisfied voters can appeal to the board of directors committee that grants final approval. The ASTM standard is usually submitted to ANSI for endorsement as an American National Standard, and another routine begins, one that in recent years has given particular attention to the interests of small business and consumers. Many published standards find their way into government specifications.

Other leading developers of standards in the ANSI system are the Society of Automotive Engineers, the American Society of Mechanical Engineers, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the American Petroleum Institute, the Electronic Industries Association, and the National Fire Protection Association. Although not all of these organizations follow the full-consensus procedures of the ASTM, nor seek the participation of nontechnical people, their members all do view themselves as conscientious professionals.

Anyone who reviews the history of voluntary standardization in the United States cannot help being impressed by the benefits that arise from the activities of this unique social institution. And anyone who reads in the literature of the standards-setters themselves cannot help noting how proud they are of what they do. This is the community that the FTC staff now proposes to subject to stringent, wide-ranging, and unprecedented regulatory control.

CONSPIRACY THEORIES

During most of the morning session I attended, the witness was Ivan G. Easton, the consulting director of standards for the Institute of Electrical and Electronics Engineers, whose calm monotone did not conceal his annoyance. "We are dealing with high technology," he said, speaking of the IEEE's standards-making activities. There is no need for a new FTC rule, he argued, one that would only open the door to trivial challenge and harassment from people whose main interests lie outside the standards field. Instead of being pestered by lay bureaucrats, Mr. Easton implied, he and his colleagues should be thanked and encouraged to continue their constructive work.

The young FTC lawyer who was doing the questioning, however, saw Mr. Easton in a different light. "Aren't the people on your committees sponsored by their employers?" he asked. "And is this totally altruistic?" The implication that the IEEE's standards committees are controlled by the large corporations is wildly ironic, particularly in light of the fact that the 160,000-member organization has long been considered the most radical of the engineering societies, implacably opposed to domination by business interests. It went so far as to resign in protest from the Engineers Joint Council when that organization in 1967 decided to accept corporate members.

After the lunchtime break, in the hope of discovering the rationale for what increasingly appeared to me to be a lunatic proceeding, I sought out the responsible members of the FTC staff, and was directed to the office of Robert J. Schroeder, project manager. I yield to no one in deploring prejudice against the young, but I found it unsettling to learn that Mr. Schroeder, five years out of the University of Michigan Law School, and four other young men of approximately the same experience constitute the entire legal staff of the FTC's Bureau of Consumer Protection, the body that now proposes to reform one of the nation's venerable technical institutions.

It all began in 1974, Mr. Schroeder explained, with the case involving foamed-plastics insulation. Manufacturers had been marketing plastic insulation as "nonburning" or "self-extinguishing," using as justification an ASTM test that exposed a small piece of plastic to an open flame. However, when buildings burned, plastic insulation burned along with them, giving off a poisonous smoke. After a number of deaths were attributed to the flammability of foamed plastics, the FTC issued complaints against twenty-five manufacturers and their trade association, and named the ASTM as "the means and instrumentality" involved. Under a consent order, the manufacturers and their association agreed to stop making the unwarranted claims, to notify past purchasers of the danger, and to conduct a $5 million research program. The ASTM, maintaining that its test results had been misused by others, did not participate in the consent order, and when the FTC did not persist, declared itself vindicated. However, the FTC asserted that the plastics industry had "captured" the ASTM committee, and used it to issue of self-serving standard. It is because of this, Mr. Schroeder said, that the FTC commissioners recommended a general investigation of the standards field.

Four years of study convinced the FTC staff that a rule-making procedure was justified. Standards are called "voluntary." Mr. Schroeder explained but once they are adopted for use they are likely to become mandatory, and are often given the force of law. Therein lies a potential for abuse. This is recognized by the standards-setting organizations, which strive to avoid it by balancing their committees and establishing other democratic procedures. "But we have seen injury to consumers and to competitors," Mr. Schroeder insisted. "It's okay to say that the system works, but just read some of the instances that we have uncovered."

On my return home I did read through the FTC staff's 572-page report, and found about thirty instances of purported abuse of the standards process. There were several examples of what the report calls "buyer misreliance," of which the most prominent was the flammable-plastics case. A few of the others:

Aluminum electrical wire, after being approved by the Underwriters Laboratories in the 1960s, was implicated as a fire hazard and found to require special connecting devices. The UL, it is claimed, was slow to modify its standards and approval practices.

The American Plywood Association's "exterior grade" plywood has been found susceptible to damage by birds and insects.

Lighting-level standards developed by the Illuminating Engineering Society were steadily increased over the years. With the coming of the energy crisis, they were deemed to be wastefully high and were belatedly decreased. (This has been a special grievance of Ralph Nader.)

An ASTM standard for brick has been criticized for failing to state a minimum initial rate of absorption (of water from fresh mortar) that might affect the ultimate strength of a brick wall.

More numerous than "buyer misreliance" complaints were instances of purported "product exclusion." For example:

Plastic pipe was kept out of plumbing codes long after it was found suitable for certain uses. Presumably this happened because of pressure from plumbers' organizations, which preferred the more labor-intensive cast-iron pipe.

It took ANSI six years to develop a standard that permitted toughened glass as an alternative to porcelain for use in high-voltage electrical insulators.

A manufacturer of loose-fill powder insulation for underground pipe complained that his material was unfairly excluded from a standard developed by the Building Research Advisory Board of the National Academy of Sciences.

When the Railroad Uniform Freight Classification Committee approved the use of foamed-plastic packaging, the manufacturers of traditional cellulose packaging protested that their material outperformed the new product.

Other complaints were filed by manufacturers of boiler low-water cutoff devices, relief valves for hot-water heaters, screw-thread gauges, safety spectacles, inexpensive sprinkler systems (not approved by the National Fire Protection Agency), butt-welded intermediate metallic conduit (banned by Underwriters Laboratories), thin ceramic tile, water system backflow prevention devices, automatic vent dampers for gas furnaces, burglar alarms, bathtubs, and wine bottles.

In this catchall of complaints, it is difficult to determine which values the FTC staff means to espouse. It opposes hasty approval of new materials, and also too much deliberation or foot-dragging. It deplores economy at the expense of safety, and safety at the expense of economy. It condemns practical compromise (noting with disapproval that "decisions are susceptible to being based more on political give-and-take among various factions than on sound technical/evidentiary grounds"). It also condemns the "mistaken assumption" that there are any "unbiased experts."

It is, of course, against errors and in favor of perfection. In reading the report I could only wonder at the complexity of the issues with which the standards-setters contend, and marvel at the way in which so many interests seem to be accommodated. The processing of more than 20,000 standards has resulted in fewer than 100 dissatisfied parties (including those who were heard during the course of the hearings), and many of these are soreheads who in no way discredit the people they criticize. What other institution, I wondered, public or private, has done as well?

The report admits that there are means of recourse for those who feel aggrieved by the standards system—first making use of ANSI procedures, then appealing to the media or Congressional committees, and finally filing private antitrust and products-liability actions. (Only thirty formal complaints have been filed with ANSI in the past ten years, and all of these have been resolved without litigation.)

The report concedes that in the past the FTC has dealt with standards problems by issuing industry guides and advisory opinions (in 1970, in response to a request from ANSI itself). It admits that the standards organizations have taken steps to update and improve their procedures. One looks through the report in vain for a clue to how society might benefit from the mind-numbing regulatory document that has been produced.

The Proposed Trade Regulation Rule for Standards and Certification covers sixteen pages of tightly packed type. ("This isn't all bad," an ANSI official confided to me. "The standards organizations' lawyers love it.") The rule requires that "notice" be given to the public at three different stages of a standard's development; it requires that all persons (including environmental groups and energy-conservation groups) have equal opportunity to participate in all phases of standards proceedings; it contains a provision for "duty to act" in response to any legitimate challenge, and a definition of "appropriate action" (withdraw the standard, revise, or cease to distribute).

There are sections on "required disclosures," and "record-keeping and access," followed by a section on "appeals" (each standards-setter would have to establish an independent appeal board). Finally, there are sections dealing with the special responsibilities of certifiers and marketers (the information required to be included on labels would sometimes make the label larger than the product).

While ANSI does not quarrel with the rule's main objective—a fair representation of all interests in the standards process—it contends that the new regulations would mean substantial added administrative cost for the larger standards organizations, and would probably drive smaller standards-setters out of the business altogether. Obstructionists would have a field day, and the existing cadre of talented volunteers would become dispirited. And to what end? "Opponents of the FTC rule," says ANSI's official statement, "are being forced to defend a fantastically productive and effective standards system, which is the envy of the world."

Moreover, ANSI's lawyers maintain that the proposed rule imposes "prior restraint" on ANSI's right to public standards, and so constitutes a violation of First Amendment rights. They claim further that the FTC does not have authority to implement the rule, since ANSI, as a nonprofit corporation, is not subject to the FTC's jurisdiction.

Finally, the standards organizations point out that existing laws are adequate to remedy flaws in the system. The FTC is already empowered to prevent "unfair methods of competition . . . and unfair or deceptive acts or practices." The Sherman Act is enforceable by the Justice Department, the Consumer Product Safety Act by the Consumer Product Safety Commission.

The FTC lawyers say that they are merely trying to clarify laws that already exist, to better define what is "unfair" and what is not. ANSI's reply is that if the law is to be modified, then it is up to Congress to do it, and that the Senate Antitrust and Monopoly Subcommittee, after holding hearings in 1975, 1976, and 1977 on purported standards abuses, decided that no new legislation was warranted.

A CUT FOR NADER'S LIEUTENANTS

The hearings ended the day after my visit. Ralph Nader, who had been scheduled to testify, canceled his appearance, a good indication that the proposed rule is considered by its advocates to be a lost cause. ("We knew that he wouldn't show," chuckled ANSI's counsel, William Rockwell.) I have not encountered a single informed participant on either side who predicts that the rule will succeed. There is a move in the Senate to cut off the funds for this rule-making effort. Even if that does not happen, given the failure of the FTC staff to make a convincing case, and considering the outraged hostility of the scientific and business communities, it is rather difficult to conceive of the FTC commissioners deciding to proceed.

It will be late 1980 before the commissioners get around to considering the matter (after a period for written rebuttals, a new staff report, and a time for public comment), and by then the adversaries will probably have begun to negotiate. ANSI has repeatedly expressed its willingness to modify its procedures so long as it can be done voluntarily. When I asked Mr. Schroeder whether the FTC is willing to talk, he responded, "I would hope that there is room for discussion."

ANSI, although it could probably stand fast and claim total victory, may end up paying ransom, in the form of financial support for consumer groups. The FTC rule, as originally drafted, included just such a funding provision, but it was striken by the commissioners. Matthew Finucane of Ralph Nader's Center for Auto Safety, whom I met at the hearing, told me that even if the standards process is made more open, consumer groups cannot afford to participate without subsidy. The ASTM already spends close to $100,000 annually to subsidize lay review, and ANSI doubtless is willing to do the same. One might speculate that the entire proceeding has been a form of genteel extortion.

No matter what face-saving settlement is reached, the FTC, in failing to enact the rule, will have suffered a defeat, one that the regulators cannot afford. It is all very well for the FTC to be seen badgering used-car dealers and funeral-home directors, but quite another thing to assail the volunteer standards community, only to fall back before a ground swell of righteous indignation.

Why, then, did the FTC investigators embark on this ill-conceived venture? Some people think that bureaucrats lust insatiably for power, but I do not see that as a supportable argument. Perhaps some regulators believe that it is their role to extend their influence as far as possible on the assumption that unrelenting enemies of regulation are doing as much themselves. Such an unfocused aggressiveness, however, does not adequately explain the actions of the FTC staff.

It appears to me that Mr. Schroeder and his colleagues have a consuming impulse to codify the future. Clearly they have no interest in solving immediate problems. Those individuals who claim to have been wronged by the standards establishment are being turned into witnesses in support of some obscure future good. The Bureau of Consumer Protection is so busy making rules that the present needs of consumers go unattended.

To formulate redundant statutes instead of doing the day's work is a perversion of the regulatory function. The few complaints that arise out of the development of standards should be addressed, on a case-by-case basis, by diligent, competent investigation. But complex technological problems will not yield to another sixteen pages of legalistic prose.

Legalistic is the operative word. It is less significant that the FTC staff is young, bureaucratic, and (let us assume) idealistic, than that they are lawyers, and thus imbued with an excessive esteem for words. Instead of using the authority they already have, they create new definitions of authority. Our shelves grow heavy with law books, and our problems go unresolved.

American society is not overregulated. It is overlegislated and undermanned, overwritten and underaccomplished. It is overlawyered and underengineered.

Engineers tend to concentrate on the job that needs doing, and they implicitly place their faith in the ingenuity and good sense of future generations. Lawyers, accustomed to drafting contracts and executing wills, try to command posterity with the sorcery of clever phrases. The conflict over the proposed FTC rule on standards is, philosophically and literally, a battle between the two professions.

Engineers have learned in recent years that misplaced highways and parking lots can blight the very lives they are intended to enhance. Let us hope that regulatory lawyers will learn, with equal grace, that the fertile fields of creativity are to be tended, and occasionally weeded, but not paved over with rules.

Mr. ROBERT C. BYRD. Mr. President, I make the same request for the Senator from Virginia (Mr. HARRY F. BYRD, JR.), for not to exceed 1 minute.

THE CARTER BUDGET FOR 1981

Mr. HARRY F. BYRD, JR. Mr. President, President Carter's budget—including $68 billion in spending increases for this year and next year combined—was released 4 days ago. On each day since its publication, I have called the attention of the Senate to aspects of this budget.

As I have before, I wish once again to point out that if put into effect, the budget for fiscal 1981 will violate the law.

The 1981 budget calls for a deficit of $16 billion. If there actually is such a deficit—or indeed any deficit—this will violate Public Law 95–435, signed into law on October 10, 1978, by President Carter himself.

Section 9 of that law reads as follows:

> Beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

The language could hardly be simpler or clearer. Beginning with the year which commences on October 1, 1980, any Federal deficit will be illegal.

Will the Congress comply with the law? We shall see.

Returning once more to analysis of some of the figures in the budget, I would like today to point out some interesting features about the budget for energy.

The administration estimates a net revenue increase of $9 billion as a result of the so-called windfall profit tax—actually an excise tax on oil. The net revenues for the current year would be $6.6 billion, and for 1981 would be $15.6 billion.

The stated purpose of the windfall profit tax is to capture allegedly excessive profits which will accrue to oil companies as a result of price decontrol; these funds to be applied to energy-related public programs.

Now, let us examine the spending for energy. In the current year, fiscal year 1980, energy outlays are $7.8 billion. Next year they will be $8.1 billion, for an increase of about $300 million. Thus, in terms of actual energy outlays, the projected spending increase will consume about 3 percent of the gain in windfall tax revenues.

If we add to this total the sums of energy tax credits for the 2 years, and omit consideration of revenues from sale of U.S. petroleum reserves, we arrive at a figure of $13.5 billion for 1980, and $16.5 billion for 1981. These figures represent total spending and tax credits for energy for the 2 years. The increase in outlays, plus tax credits, is $3 billion. This is still only one-third of the increase in windfall tax receipts.

Finally, if we add the budgetary increases in mass transportation and aid to the poor for heating bills ($800 million) we arrive at a grand total increase of $3.8 billion in budget items with any relation to energy. Thus, of the anticipated $9 billion gain in windfall tax revenues, only 42 percent will go for energy and energy-related items.

Even if the remaining 58 percent of the windfall tax increase—$5.2 billion—is set aside for later obligation for energy, the effect of this pattern of taxation and spending is to lower the apparent deficit in the 1981 budget.

I believe the Congress must study carefully this and other gimmicks in the new budget. As the philosopher said, things are not what they seem.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I now ask that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 5168.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, does Mr. NUNN have control of half of the time?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. NUNN. Mr. President, will the Chair state the pending business?

The PRESIDING OFFICER. The pending business is H.R. 5168.

Mr. NUNN. Mr. President, this bill provides for an extension of Air Force officer-grade tables, and authorizes extensions of certain personnel policies relating to the National Emergencies Act, and amends current law with regard to certain other personnel matters.

This bill contains several personnel items that need to be enacted soon, to avoid a great deal of turbulence in the military services.

AIR FORCE GRADE EXTENSION

First, the number of Air Force colonels and lieutenant colonels currently authorized by Public Law 93-397 expired on September 30, 1979. This authority provided an increase in the number of colonels and lieutenant colonels serving on active duty in the Air Force above the permanent authority in law.

The original Officer Grade Limitation Act, which places limits on numbers of colonels and lieutenant colonels, was passed in 1954. At that time, the Air Force was a comparatively younger branch of the Armed Forces and, thus, needed fewer grade authorizations to provide adequate career progression. In authorizing substantially fewer field grades for the Air Force than the other services, Congress realized that the Air Force would need to seek relief in the form of additional authority as the force matured. The Congress has provided this additional authority on nine previous occasions. The most recent authority was provided by Public Law 95-377, which expired on September 30, 1979.

H.R. 5168 contains an extension of the grades authorized in that law for 1 year, that is through September 30, 1980.

S. 1918, the proposed Defense Officer Personnel Management Act, which recently passed the Senate on November 30, 1979, would provide permanent, more uniform promotion systems among the services, including new grade authorization tables so that temporary grade-relief legislation for the Air Force will no longer be necessary. Since this bill is now awaiting action in the House, the recommendation in H.R. 5168 would simply extend the current grades authorized for 1 year.

NATIONAL EMERGENCIES ACT RELATED PERSONNEL ITEMS

The National Emergencies Act of 1976 terminates the reliance by the Executive Branch on national emergency power to suspend provisions of law. In effect, this act repealed, effective September 15, 1978, every statute which depends upon the declaration of a national emergency for its existence. There are several personnel items that are affected.

Last year, Congress approved a bill to leave the military exactly as they were under existing practices by providing new authority for 1 year for the President to suspend the applicable provisions of law, while Congress continued to work on the Defense Officer Personnel Management Act. H.R. 5168 would again provide authority for the President to suspend through September 30, 1980, provisions of the applicable sections.

Those items involved are:

First. The requirement in law suspended since 1964 that Regular Navy male unrestricted line and limited-duty officers in grade O-3 or above serve a minimum of 2 years sea or foreign service in each grade in order to be eligible for promotion to the next higher grade. S. 1918, as passed by the Senate, would repeal this section.

Second. The requirement in law suspended since 1970 that limits to 5 percent the number of Navy active-list officers who may be recommended for promotion below the appropriate promotion zone. DOPMA, as passed by the Senate, would increase this limit from 5 percent to 10 percent.

Third. The requirement in current law suspended since 1968 that specifies the time that a Navy officer must serve in a grade in order to be eligible for consideration for promotion. DOPMA, as passed by the Senate, would change these sections.

Fourth. The requirement in law suspended since 1950 that allows a member to be retired with disability retired pay if disability is at least 30 percent, if he has at least 8 years of service for disability as a proximate result of performing active duty. This provision is not dealt with in DOPMA and will be reviewed again by the subcommittee next year.

ADDITIONAL CHANGES NEEDED FOR SPECIFIC AUTHORITY BECAUSE OF THE NATIONAL EMERGENCIES ACT

In addition, current service-promotion procedures in some cases rely upon specific authority given to the President in time of war or national emergency. Continuing these procedures for 1 year requires the enactment of specific legislation.

H.R. 5168 provides these specific legislative authorizations again for a 1-year period and again as we did last year. These items are:

First. Providing authority for Navy unrestricted line officers in the grade of lieutenant possessing skills in a critical shortage and serving in lieutenant commander billets, to be temporarily promoted to lieutenant commander. This so-called spot promotion authority would primarily apply to critical engineering billets of nuclear qualified officers. DOPMA, as passed by the Senate, provides 2-year temporary authority for promotion to lieutenant commander so that this provision will be reviewed at the same time the current nuclear officer special pay is reviewed.

Second. Authority to allow temporary and permanent Marine Corps major generals to sit on major general selective boards. The effect of the National Emergencies Act will be to limit the authority to just permanent major generals. This provision in current law is repealed in DOPMA, as passed by the Senate.

Third. Authority under national emergencies power is now used to consider Navy limited duty officers for early promotion. Specific authority needs to be enacted to allow this practice to be continued. This proposal is included in DOPMA, as passed by the Senate.

OTHER PROVISIONS ON PERSONNEL MATTERS

The committee also recommends four other provisions in H.R. 5168 relating to military personnel practices;

ADVANCE PAY UPON REGISTRATION OF AN ALLOTMENT FOR DEPENDENTS

First, a provision to authorize advance pay upon registration of an allotment for dependents, within 60 days prior to deployment of a unit. Under current law, there is no legal authority for advancement of pay to cover an allotment by a member for the member's dependents prior to the deployment of a ship or unit. As a result, a member must take reduced pay for a month to accumulate the amount of the allotment to be made. H.R. 5168 would authorize advancement of the amount of allotment so that the member could leave his dependents home and provide an allotment for them without going through a month of reduced pay. This provision is strongly supported by the Navy and the Department of Defense and would result in no increase in costs.

REMOVING CHAPLAINS FROM UNDER THE COGNIZANCE OF THE CHIEF OF NAVAL PERSONNEL

Second, a provision to remove chaplains from under the cognizance of the Chief of Naval Personnel. This is a Department of Defense legislative proposal—strongly supported by the Navy.

According to the Secretary of the Navy:

> Reassignment of the office and functions of the Chief of Chaplains of Naval Personnel to the Chief of Naval Operations staff level would result in organization improvement, add visability to the importance of the functions, place him on equal footing with his contemporaries in other services, and en-

hance his abilities to more effectively perform his mission and responsibilities.

PERMITTING RESERVE AND GUARD MEMBERS OF THE ARMY AND THE AIR FORCE WITH AN IMMEDIATE RETIREMENT ANNUITY UPON COMPLETION OF 20 YEARS ACTIVE DUTY SERVICE

Third, a provision to permit Reserve and enlisted members of the Army and the Air Force to retire with an immediate retirement annuity upon completion of 20 years of active duty service.

The present law provides retirement eligibility with an immediate annuity after completion of 20 years of active service for Regular or Reserve officers of all services and Regular or Reserve enlisted personnel in the Navy and Marine Corps and Regular enlisted personnel of the Army and Air Force. However, Army and Air Force Reserve enlisted personnel are authorized retired pay only at age 60, even though they have completed 20 years of active service.

There are not very many people who have been affected by this restriction. However, the increasing practice of full-time military support for the Reserve and Guard will mean that there will be more of these individuals in the future. The Army and Air Force Reserve enlisted personnel should be treated as are all other military personnel.

ALLOWING RESERVE OFFICERS OF THE ARMY AND THE AIR FORCE SERVING ON ACTIVE DUTY IN POSITIONS OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT TO CARRY THE GRADE OF GENERAL OR LIEUTENANT GENERAL TO RETIRE IN THAT GRADE

Fourth, a provision to allow Reserve officers of the Army and Air Force serving on active duty in positions of importance and responsibility designated by the President to carry the grade of general or lieutenant general to retire in that grade. This provision would be retroactive to January 1969, the date of the Reserve Revitalization Act, which emphasized the total force concept of Regular and Reserve components both contributing to defense efforts.

Under current law, although a Reserve officer can be appointed by the President to a position of importance and serve as lieutenant general or general, only Regular officers can be retired in that grade from serving in such a position.

The total force concept implies that Reserve officers can hold similar positions to Regular officers and should receive the same benefits.

In other words, this places Reserve officers on the same footing as regular officers in terms of retirement of those respective grades.

SUMMARY

In summary, H.R. 5168 would leave the military in the same position as current procedures by:

First. Extending Air Force field grade limits for 1 year .

Second. Providing authority to the President to suspend certain provisions of law through fiscal year 1980.

Third. Enacting specific legislation to extend current authority for 1 year to allow spot promotions of certain Navy lieutenants, below the zone promotion for Navy limited duty officers, and to allow temporary Marine Corps major generals to sit on major general selection boards.

H.R. 5168 also includes provisions on other needed personnel matters with regard to advance pay upon registration of an allotment for dependents, to remove chaplains from under the cognizance of the Chief of Naval Personnel, to permit Reserve enlisted members to retire with an immediate annuity after 20 years active duty service, and to allow Reserve officers of the Army and the Air Force to retire in the grade of general or lieutenant general if they serve on active duty in that grade.

Mr. President, H.R. 5168 does not contain any revolutionary proposals or high-cost military personnel items. It does contain the authority to continue current personnel practices until the Defense Officer Personnel Management Act is finally concluded in conference and enacted into law. It also provides needed revisions in other areas of current law. I urge my colleagues to support this bill.

Mr. President, I understand that the order provides that, if there are amendments that will not require a rollcall vote, these amendments could be debated and voted on today. The principal amendment that will be proposed to this bill, as I understand it now, will be the Armstrong amendment relating to military pay, and a substitute to that amendment will be proposed by Senator WARNER and myself. Those two matters will, in all likelihood, be debated in large part on Monday and voted on pursuant to the request and the unanimous-consent agreement entered into.

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, the distinguished Senator from Iowa (Mr. JEPSEN) is the ranking minority member and has been vitally involved in this legislation, as well as all of the considerations relating to the pay provisions that will be coming up on Monday. I am certain that he might want to make some remarks at this time. If so, before we get to other business, I yield to my friend and colleague, the ranking minority member (Mr. JEPSEN).

The PRESIDING OFFICER. Does the Senator from Iowa wish to be recognized?

Mr. JEPSEN. Mr. President, the Senator from Iowa joins in the remarks of the subcommittee chairman. I have nothing further to add.

Mr. NUNN. Mr. President, does the Senator from Virginia desire to be recognized?

Mr. WARNER. Yes.

Mr. NUNN. Mr. President, before I yield to the Senator from Virginia, and I shall, let me say that the Senator from Virginia has done an enormous amount of work on the legislation, but particularly on the amendments that will be debated on Monday relating to military pay and benefits. The Senator from Virginia has a proposal, which I have joined in as a cosponsor, as a substitute to the Armstrong amendment. The major part of that debate will be on Monday.

I commend and thank the Senator from Virginia for his extraordinary work and diligence in pursuing both the pending legislation and the amendments relating to the crucial matter of military pay and benefits, which have so much impact on the subject that the Senator from Virginia will be talking about this afternoon. That is the overall question of military readiness, which is, of course, so important to our national security. I thank the Senator from Virginia and I call to the attention of my colleagues the diligence and effort that he has put forth on this extremely important subject.

Mr. ROBERT C. BYRD. Mr. President, before the Senator from Georgia yields to the Senator from Virginia, will he yield to me?

Mr. NUNN. I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, so that Senators who may be in their offices listening to the debate will be aware of the agreement, at the present time, the Senate has before it H.R. 5168, which is the bill extending certain expiring provisions of law relating to personnel management in the Armed Forces. Under the agreement, this bill will not be finally acted upon today. On today, there is expected to be a closed session, but on Monday, the Senate will continue action on this bill.

On Monday, the only amendments that will be in order will be the amendment by Mr. SCHMITT, the amendment by Mr. ARMSTRONG, and the amendment by Mr. WARNER and Mr. NUNN, which will be a substitute amendment to the Armstrong amendment.

Other amendments may be called up today and voice-voted or acted upon by division, but if rollcall votes are ordered on other amendments today, those rollcall votes will not occur until Monday, and not before 6 p.m. on Monday.

So, if Senators have amendments to this bill, they must call them up today, because the only exceptions are those that I have already enumerated: Mr. SCHMITT, Mr. ARMSTRONG, and the Warner-Nunn substitute.

I thank the distinguished Senator for yielding.

Mr. NUNN. I thank the majority leader.

Mr. President, I yield to the Senator from Virginia such time as he may desire.

Mr. WARNER. Mr. President, I am very grateful to the distinguished Senator from Georgia, the chairman of the Subcommittee on Manpower and Personnel. Mr. President, momentarily, I shall move that the U.S. Senate go into executive session.

The PRESIDING OFFICER. Will the Senator graciously allow the Chair to inquire, is the Senator's intent a closed session?

Mr. WARNER. That is correct. I shall ask that the session be closed, and the ranking minority member of the Senate Committee on Armed Services, Mr. TOWER, as I understand it, will second that request.

Mr. ROBERT C. BYRD. Mr. President, before the Senator seconds the request, I have promised that I would put in a brief quorum, if Senators would allow me, and I assure them it will be very brief.

Mr. WARNER. May I finish a few remarks?

Mr. ROBERT C. BYRD. Yes, of course.

Mr. WARNER. Mr. President, the Armed Services Committee has just finished 2 days of hearings with the Secretary of Defense and the chairman of the Joint Chiefs of Staff as witnesses.

In making my request, I want my colleagues and, indeed, the American public, to clearly understand that this request is not made in any sense to signal fright or undue alarm with respect to the capabilities of the U.S. Armed Forces.

To the contrary, although I think there is a basis for serious concern, I do not join in any way in trying to send out a signal of distress or fright or alarm.

The purpose of this closed executive session is to provide Senators present and those who wish to read the RECORD, a review of the facts with respect to our current state of military readiness and the harmful impact that manpower problems are having on that readiness. I intend during the closed session to reveal facts concerning these negative trends. I emphasize, they are only trends, but they are trends which must be corrected.

To be more specific, there has been a steady decline over the past few years in the numbers of young men and women in the career forces of each of the armed services, particularly in highly skilled and technical job positions.

In order to maintain a readiness posture that is deemed satisfactory, the declining reenlistments, in my judgment and in the judgment of others, must be reversed.

The Senate will be considering on Monday proposals for additional military compensation. It is my judgment that these proposals—and I hope one or the other will be approved by the Senate—will help to reverse these trends. For Senators to form a judgment as to which of the proposals is best suited to meet existing military manpower problems, I have asked for this closed session, such that I can provide for those Senators present and for the record facts on which individual Senators can base their judgment.

At this time, Mr. President, I yield the floor to any others that wish to speak before we go into closed session.

Mr. ROBERT C. BYRD. Mr. President, if no Senator seeks to speak before the closed session, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Georgia yield me 30 seconds?

Mr. NUNN. I am glad to yield.

Mr. ROBERT C. BYRD. Mr. President, I urge that any Senators now, who have amendments to the bill, be prepared to call up those amendments today following the closed sessions, with the exception, of course, of those amendments which have been enumerated in the unanimous-consent agreement, which will be eligible on Monday.

Mr. President, I yield the floor.

CLOSED SESSION

Mr. WARNER. Mr. President, I move that the Senate go into closed session.

The PRESIDING OFFICER. The motion has been made that the Senate go into closed session. Is there a second?

Mr. TOWER. Mr. President, I second it.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 2 minutes on behalf of Mr. NUNN.

Mr. President, I ask unanimous consent that during the closed session, in addition to the Secretary of the Senate, the legislative clerk, the Parliamentarian, the Journal clerk, the Sergeant at Arms, and the secretaries to the majority and minority, all of whom are authorized under rule XXXVI, that the following personnel be authorized to be on the floor:

The Assistant Parliamentarian (Mr. Dove);

The Deputy Sergeant at Arms and the Executive Assistant to the Sergeant at Arms (Messrs. Fish and Needham);

The assistant secretaries for the majority and the minority (Messrs. Hynes and Greene);

The chief counsel and professional staff member of the Democratic Policy Committee (Ms. Checchi and Mr. Lipscomb);

The administrative assistant to the minority leader; the legislative assistant to the minority leader; and the Administrative Assistant to the Vice President (Messrs. Cannon, Liebengood, and Smith);

The floor assistant to the minority whip (Ms. Alvarado);

The official reporters of debate (Mr. Walker, Mr. Timberlake, Mr. Zagami, Mr. Mohr, Mrs. Ross, Mrs. Garro, Mr. Smonskey, Mr. Firshein, and Mr. Reynolds; and

The Director of the Office of Classified National Security Information (Mr. Murphy).

The PRESIDING OFFICER. The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXXV, directs the Sergeant at Arms to clear the galleries. close the doors of the Chamber, and exclude all officials of the Senate not sworn to secrecy.

[At 2:45 p.m., the doors of the Chamber were closed.]

LEGISLATIVE SESSION

At 4:28 p.m., the doors of the Chamber were opened, and the open session of the Senate was resumed.

ORDER OF BUSINESS

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask that the time not be charged to anybody.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I suggest that our respective cloakrooms inquire of Senators as to whether or not they have any amendments to the pending bill and, within 10 minutes, if we do not hear that a Senator has an amendment which he wishes to call up, we shall go out. That will be with the understanding that, on Monday, no amendments will be in order other than the Armstrong amendment, the Warner-Nunn substitute thereto, and the Schmitt amendment.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 10 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF JAMES EDWIN McTEER

● Mr. THURMOND. Mrs. President, on December 28, 1979, James Edwin McTeer, Sr., one of the most outstanding law enforcement figures in South Carolina, died.

Ed McTeer was Beaufort County sheriff for 37 years. He became the Nation's youngest sheriff at the age of 22.

I knew Sheriff McTeer for many years, and he was both a man of distinction and integrity. He was dedicated and sincere in everything he undertook, and was one of the most capable sheriffs the State of South Carolina has ever produced.

Ed McTeer was born in Beaufort County and lived there most of his life. After serving as sheriff for 37 years, he retired in 1963.

He was well known for his knowledge and practice of root medicine, spells, and witchcraft. He practiced what he called white magic and was the author of four books on the subject.

Sheriff McTeer was an outstanding citizen of South Carolina and a legendary figure. Being a devoted friend of mine I feel a great personal loss in his passing.

I extend my deepest sympathy to his lovely wife, Lucille; his devoted sons, J. E., Jr., and Thomas Heyward; and his beloved daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke, and Mrs. Sally Chaplin.

Mr. President, in order to share with my colleagues some articles concerning Ed McTeer's death. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.), State, Dec. 29, 1979]

FORMER BEAUFORT SHERIFF DIES

BEAUFORT.—Former Beaufort County Sheriff James Edwin McTeer, Sr., widely known as a root doctor and expert on witchcraft, died Friday at Beaufort Memorial Hospital. He was 76.

McTeer died of pneumonia, emphysema and other complications of old age, a hospital spokesman said.

He served as sheriff for 37 years. After retirement in 1963, he sold real estate in the Beaufort area.

McTeer, a self-proclaimed "white witch doctor," was probably best known for his expertise on root medicine.

McTeer also was often interviewed by writers doing stories about the occult or seeking information about Beaufort County history. He was the author of four books on the subjects. He recently estimated that he had been the subject of about 3,000 articles dealing with witchcraft.

He was born May 2, 1903, in Beaufort County and lived there most of his life. He was a son of the late James Edwin and Florence Heyward McTeer.

Surviving are his widow, Lucille Lupo McTeer; two sons, J. E. McTeer, Jr. and Thomas Heyward McTeer, both of Beaufort; three daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke and Mrs. Sally Chaplin, all of Beaufort; three sisters, Mrs. Catherine Cramer of Charleston, Mrs. Florence Stevens of Bamberg and Mrs. Alfred Lengnick of Beaufort; 12 grandchildren and five great-grandchildren.

The funeral will be 2 p.m. Saturday at St. Helena's Episcopal Church in Beaufort. Burial will be in New Episcopal Cemetery.

[From the Charlotte (N.C.) Observer, Dec. 29, 1979]

S.C.'s "WHITE WITCH DOCTOR," EX-SHERIFF McTEER, 76, DIES

(By Bob Drogin)

He spent his life battling hexes, voodoo and black magic from such evildoers as Dr. Bug and Dr. Buzzard.

In the end, more mortal maladies felled former Beaufort County (S.C.) sheriff and self-described "white witch doctor" James Edwin McTeer.

McTeer, who was 76, died early Friday of pneumonia, emphysema and other complications at Beaufort Memorial Hospital, a hospital spokesman said.

Sheriff for 37 years, McTeer gained a reputation for intercepting bootleggers and confiscating whisky. He sold real estate after his 1963 retirement.

But the tall, thin, bespectacled ex-sheriff was best known for his knowledge and practice of root medicine, spells and witchcraft in the S.C. Low country.

His incantations often involved plastic dolls, exploding horseshoe crabs, floating skulls, graveyard dirt, smoking witch masks and flashing lights. He prescribed amulets filled with roots and dirt.

McTeer practiced what he called white magic. He refused to put curses on, but he routinely removed evil hexes from such opponents as Dr. Buzzard, Dr. Hawk, Dr. Bug and Dr. Eagle. The evil hexes, he once said, "can make you die, make you commit suicide or burn your house down."

Thousands of people visited or called McTeer in his Beaufort office for help with love, business and health. He accepted no money, encouraging patients to contribute to charity.

While sheriff, he relied on his reputation for witchcraft for protection rather than carrying a gun.

In recent months, he helped investigate the bizarre desecration of a Beaufort grave, in which a body was unearthed and decapitated while dolls and strips of paper were hung in nearby trees.

McTeer, a descendant of Declaration of Independence signer Thomas Heyward Jr., said he learned witchcraft from two former slaves on his father's Beaufort County plantation.

He said he inherited extrasensory perception from his mother and grandmother. As a child, he predicted everything from crime waves to times when lots of animals would be run over on the roads.

He wrote four books, including "Fifty Years as a White Witch Doctor." He recently estimated he had been the subject of about 3,000 articles on witchcraft.

Surviving are his wife, Lucille Lupo McTeer; two sons, J. E. McTeer Jr. and Thomas McTeer; three daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke and Mrs. Sally Chaplin; three sisters, Mrs. Catherine Cramer of Charleston, Mrs. Florence Stevens of Bamberg, S.C., and Mrs. Alfred Lengnick; 12 grandchildren and five great-grandchildren.

The funeral will be at 2 p.m. today at St. Helena's Episcopal Church in Beaufort.

[From the Savannah (Ga.) Morning News, Dec. 29, 1979]

S.C. LAWMAN McTEER DIES

BEAUFORT, S.C.—For 37 years, James Edwin McTeer was the law south of the Combahee River. His death here Friday at the age of 76 brought to a close a distinguished career as sheriff, author, white witch doctor and real estate dealer.

The nation's youngest sheriff at age 22, McTeer retired in 1964 but remained an active consultant to local police forces. Earlier this month, he was still involved with police work as he helped investigate an unsolved voodoo-related grave desecration.

Within a few minutes of his death at 7:20 a.m. Friday of what a Beaufort Memorial Hospital spokesman described as emphysema, pneumonia and complications of age, word of his death began circulating within the community and state.

One of the first to learn of his death was Leroy Keyserling, a life-long friend and fellow member of the informal "coffee club" which has met each morning for a quarter of a century at a table at Harry's Restaurant on Bay Street. McTeer, according to Keyserling, was in "good spirits" last week during the morning get-together.

McTeer, who received national publicity this month for his self-proclaimed practice of white magic and role in the investigation of the possible voodoo case, entered the hospital Monday. He was reported to be in stable condition as recently as Wednesday afternoon.

With the discoveries four weeks ago of a rural grave which had been disturbed and the head of a traffic victim severed from the torso, reporters from as far away as Boston made the short walk from Bay Street to the former sheriff's modest green office at 214 West St.

Here, identified simply by a small hanging sign reading, "J. E. McTeer," the former lawman as recently as last week held "voodoo" rituals for the benefit of newsmen sent here to "follow up" the grave story.

He had been hospitalized briefly last summer following ceremonies naming the new Beaufort River highspan bridge in his honor.

While his age was not in his favor, some of his friends Friday expressed surprise at his death, although they were aware he had been hospitalized.

All those interviewed, from South Carolina Gov. Dick Riley to persons charged with carrying on his tradition of criminal investigation here, were unanimous in stating that McTeer had been a "living legend" and a rare individual who combined a career of law-keeping with business and historical and biographical authorship. With three of his four books out of print, a local bookstore reported having many inquiries for his books which could not be filled.

"The people of Beaufort County and South Carolina have lost a true friend and faithful servant," said Gov. Riley. Brantley Harvey Jr., former lieutenant governor from Beaufort, noted that he had recently taken depositions from McTeer about his Prohibition-era illegal liquor searches along the Savannah River for use in the present boundary dispute between South Carolina and Georgia.

With funeral services scheduled for 2 p.m. today at St. Helena's Episcopal Church and burial in the church cemetery across the street, a large turnout is expected among the citizens of this area and law enforcement officials.

"I expect many of his friends in law enforcement to be here," said Beaufort Police Chief Jesse Altman. "He was one of the finest law enforcement men anywhere. . . . It is a real loss to the community."

Beaufort County Sheriff Morgan McCutcheon praised McTeer as a "real student of human behavior" who could predict when certain types of crimes would be committed.

Known as the "high sheriff of the Low Country," McTeer followed his father as sheriff here at his death in 1926.

Born May 2, 1903, in the Red Dam section of Beaufort County—since included in Jasper County and soon to be the site of a state park—McTeer moved as a boy to the Grays Hill section of Beaufort County and spent most of his life intimately involved in almost every detail of the county's development.

Survivors include his wife, Lucille, two sons, J. E. Jr. and Thomas Heyward, and three daughters, Mrs. Jane Woods, Mrs. Georgianna Cooke and Mrs. Sally Chaplin, all of Beaufort; three sisters, Mrs. Catherine Cramer of Charleston, Mrs. Florence Stevens of Bamberg and Mrs. Alfred Langnick of Beaufort; 12 grandchildren and five great-grandchildren.

His family Friday requested that memorials be made to the Beaufort Memorial Hospital.

[From the Charleston Evening Post, Jan. 2, 1980]

HIGH SHERIFF OF THE LOWCOUNTRY

James E. McTeer's extraordinary interests made him no ordinary man. He was a pioneer in the two areas for which he is best remembered—law enforcement and the study of witchcraft.

In 1926 at the age of 22, McTeer became a national celebrity when he became the youngest sheriff in the United States. Selected as sheriff of Beaufort County, he served the people in that area for 37 years.

As sheriff and after he retired, McTeer also served them in another capacity as a self-proclaimed "white witch doctor," a practitioner of root medicine. It was said McTeer could remove a hex or cure an illness with his medicine. People traveled far and wide to consult him.

McTeer enriched the study of witchcraft and the occult by writing four books on the subject. He was considered by many to be the Southeast's leading expert on African witchcraft or voodoo, and his collection of books on witchcraft is one of the largest in the country.

McTeer died on Dec. 28. The "High Sheriff of the Lowcountry" will be missed by his many friends and admirers.

FRIEND OF SENATORS—JOSEPH V. MACHUGH

Mr. HEFLIN. Mr. President, I want to pay respect and honor to a friend of every U.S. Senator, Joseph V. Machugh, 225 A Street NE., Washington, D.C. Joe Machugh has known every person to serve as a U.S. Senator for more than 30 years. His warm personality, his meaningful handshake, his pleasant smile, his affable friendship, his perceptive wisdom and intelligent counsel, have aided each Senator in carrying out his responsibilities and fulfilling his duties. He has been called on many occasions, the Bernard Baruch of the Senate.

I ask unanimous consent that his recent white paper entitled "Skillful Guidance—Secret Weapons To Resolve Controversy" be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

SKILLFUL GUIDANCE—SECRET WEAPON TO RESOLVE CONTROVERSY

Despite effort to end poverty in America—Holy Writ says: "For ye have the poor always with you;" and problems, controversy and crises still plague people—everywhere! To meet a problem—start at the beginning, recognition of which requires rare understanding of human nature—and objectivity. Politicos oft proclaim: "I know problems of my constituency" but just knowing there are problems is a far cry from coping with them. Understanding complex situations calls for detailed familiarity with origin, cause and growth of the problem. Only after objective analysis—should decision be made about what to do. An early query could be: Is there any precedent concerning a similar plight? What happened in that case? Did it succeed? If not, why not? Were any further efforts made thereafter?

No generalization (including this one) invariably is true. Yet, with wide pertinence it is safe to say: "Every controversy involves opposite points of view." Isn't that exactly what controversy is all about? In meeting a challenge—one priority should seek to ascertain what are those conflicting views? Thomas Eliot said: "Humility is the most difficult of all virtues to achieve." For it puts others' interest before self. So, early attention should focus not on their own views (only too clearly known)—but on views firmly held by opponents! Lawyers are wont to assume "Role of The Devil's Advocate" to grasp more fully those opposing stances.

In the majestic field of civil law—early English Courts were: "of law" and "of equity." The latter originally were called: "Courts of the King's Conscience" before being renamed as Equity Courts—which were considered necessary for broad administration of justice—previously hampered by both inadequacy and rigidity of Law Courts when operating alone. One maxim of equity prescribed that: "No recourse to an equity court would be allowed—if already there exists a plain. adequate and complete remedy at law!" The maxim is cited here in a belief it is somewhat similar to alternative methods for settling controversy: Mediation, primarily analytical and persuasive; and enforcement, which entail constraint and penalty.

When "those other viewpoints" have been isolated and considered impartially "a mood for Mediation" may be near at hand—provided resort to mandatory enforcement is being held in abeyance! The word mediate (from Latin roots) means "to halve" or "being in the middle." Mediator is a person interposed between opposing Parties—as equal friend of each—to effect reconciliation between them. Doesn't that definition demonstrate convincingly that before any mediation is initiated—The Mediator must have been accepted on both sides? Experienced mediators lose no time making those other views known to all concerned, thereby laying a foundation for gradual approach to complete settlement of the controversy. For, when each side hears its stance emphasized to the opponents—a sense of victory (if minor) emerges on both sides, leaving an open door for still further reconciliation.

Two guidelines come to mind: "Dialogue defuses dangers" (because, as opponents talk-together—forceful confrontation—at least is delayed;) and "with wisdom—every controversy can be resolved." They are titles of two earlier Essays by the Writer, some context of which may help to clarify the basic theme of this Essay. Perhaps a foremost need today—many more Mediators with "a forte of visualizing workable balances between extremes that threaten continuance of powder kegs; and supplemented by compelling persuasiveness "to win over adamant opponents with deep-rooted and long-simmering grievances." That priceless qualification may restrain and/or prevent resort to more costly, dangerous and "futile use of naked force" that finally could destroy the fabric and substance of modern Civilization.

Like parents, teachers and all true leaders—Skilled Mediators, with intimate knowledge of the subject (including its difficulties and dangers)—show the way to willing followers. As a pragmatic experience—just ponder perceptively and presciently this trenchant triad, provocative thought:

(1) Is there—"a guidance gap?"
(2) Good guidance—generates gradual gains:
(3) Accordingly—why not—get with skilled guidance?

Composed January 15, 1980 by: Joseph V. Machugh.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AMENDMENT TO AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY—MESSAGE FROM THE PRESIDENT—PM 156

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to section 123 d of the Atomic Energy Act of 1954 (42 U.S.C. 2153), as amended, the text of the proposed amendment to the Agreement for Cooperation Between the United States of America and the International Atomic Energy Agency. The proposed amendment is accompanied by these items:

—My written determination, approval and authorization concerning the Agreement;
—The memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the amendment;
—The Joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary of the provisions of the amendment; and
—The views of the Nuclear Regulatory Commission.

The United States began negotiating for the proposed amendment in late 1977. This was done in anticipation of the passage of the Nuclear Non-Proliferation Act, which calls upon me to renegotiate existing agreements for peaceful nuclear cooperation so as to bring them into line with the Act's provisions. In my judgment the United States-IAEA agreement will meet all statutory requirements once this amendment is added.

The IAEA is a key element in the framework of international cooperation in the peaceful uses of nuclear energy, and I am pleased to forward an amendment designed to strengthen our cooperation with the Agency. The proposed amendment will, in my view, further the non-proliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed amendment and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and I urge that the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *February 1, 1980.*

SOCIAL SECURITY AGREEMENT BETWEEN THE UNITED STATES AND THE SWISS CONFEDERATION—MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents, which was referred to the Committee on Finance and the Committee on Foreign Relations, jointly, by unanimous consent:

To the Congress of the United States:

Pursuant to section 233(a)(1) of the Social Security Act as amended by the Social Security Amendments of 1977 (P.L. 95–216, 42 U.S.C. 1305 note), I transmit herewith the Agreement between the United States of America and the Swiss Confederation on Social Security, signed on July 18, 1979, the Final Protocol to the 1979 Agreement, also signed on July 18, 1979, and the Administrative Agreement for the Implementation of the 1979 Agreement, signed on December 20, 1979.

These U.S.-Swiss agreements are similar in objective to the U.S.-Italian social security agreements that I transmitted to the Congress on February 28, 1978, and to the U.S.-West Germany social security agreements that I transmitted to Congress on February 28, 1979. These bilateral agreements, which are generally known as totalization agreements, provide for limited coordination between the United States and foreign social security systems to overcome the problems created by gaps in protection and by dual coverage and taxation.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health, Education and Welfare, which explains the provisions of the Agreements and provides data on the number of persons affected by the Agreements and on their effect on social security financing, as required by the same provision of the Social Security Amendments of 1977.

The Department of State and the Department of Health, Education and Welfare join in commending his Agreement, Protocol, and Administrative Agreement.

JIMMY CARTER.

THE WHITE HOUSE, *February 1, 1980.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, received earlier today, relative to United States-Swiss agreements on social security, be jointly referred to the Committees on Finance and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 1, 1980, he presented to the President of the United States, the following enrolled bill:

S. 423. An act to provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of minor disputes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EXON, from the Committee on Armed Services: Robert J. Murray, of Virginia, to be Under Secretary of the Navy.

Joseph Charles Zengerle III, of the District of Columbia, to be an Assistant Secretary of the Air Force.

(The above nominations from the Committee on Armed Services were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to the requests to appear and testify before any duly constituted committee of the Senate.)

Mr. EXON. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: in the Reserve of the Army and Army National Guard, there are 46 appointments (14 to the grade of major general; and 32 to the grade of brigadier general) (list beginning with Charles Dounley Barrett); in the Air Force, Gen. James A. Hill, (age 56) for appointment to the grade of general on the retired list, Lt. Gen. Robert Couth Mathis, (age 52) to be general as Vice Chief of Staff, Maj. Gen. Philip Charles Gast, (age 50) to be lieutenant general as Vice Commander, Tactical Air Command, and Maj. Gen. William Richard Nelson, (age 53) to be lieutenant general as Commander, 12th Air Force (Tactical Air Command); there are 57 officers for temporary appointment (1 to the grade of major general; and 56 to the grade of brigadier general) (list beginning with John T. Randerson); in the Reserve of the Air Force, there are 17 appointments (5 to the grade of major general; and 12 to the grade of brigadier general) (list beginning with Stuart P. French); in the Navy, Vice Adm. Forrest S. Petersen (age 57) for appointment to the grade of vice admiral on the retired list; and in the Marine Corps, Maj. Gen. Paul X. Kelley (age 51) to be lieutenant general, as Commander, Rapid Deployment Joint Task Force, Readiness Command, MacDill Air Force Base, Fla. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. EXON. In addition, Mr. President, there are 873 lieutenant commanders in the U.S. Navy for temporary promotion to the grade of commander (list beginning with Charles E. Aaker), there are 2,135 officers for temporary and permanent promotions to the grade of lieutenant commander (list beginning with Robert J. Abbott); and in the Navy and Naval Reserve there are 598 temporary and permanent promotions to the grade of commander (list beginning with John W. Aldis); in the U.S. Naval Academy, there are 159 graduates for appointment to the grade of second lieutenant in the Marine Corps (list beginning with John H. Adams); in the Air Force, there are 700 officers for promotion to the grade of colonel (list beginning with Rallin J. Aars); in the Air Force and Reserve of the Air Force, there are 95 officers for promotion to the grade of colonel and below (list beginning with Neil A. Barbour); in the Reserve of the Air Force, there are 256 officers for promotion to the grade of colonel (list beginning with Howard J. Alexander); and, in the Air National Guard, there are 36 officers for promotion in the Reserve of the Air Force to the grade of lieutenant colonel (list beginning with Maj. Robert C. Bonham). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD on December 20, 1979 and January 22, 1980, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CANNON (for himself and Mr. PACKWOOD):

S. 2245. A bill to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for himself, Mrs. KASSEBAUM, and Mr. BOREN):

S. 2246. A bill to continue rail service by the Chicago, Rock Island, and Pacific Railroad for 90 days; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE:

S.J. Res. 140. A joint resolution entitled, "Iwo Jima Commemoration Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (for himself and Mr. PACKWOOD):

S. 2245. A bill to amend title 49 of the United States Code to eliminate unnecessary regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER REFORM ACT OF 1980

Mr. CANNON. Mr. President, during the past year the Commerce Committee has undertaken an intensive inquiry into the question of Federal regulation of the motor carrier industry. To the best of my knowledge, this has been the first major congressional look at the framework of motor carrier regulation since the basic statutes were enacted some 45 years ago. During this inquiry, the committee held some 14 days of hearings and heard from well over 200 witnesses representing literally tens of thousands of firms and individuals affected by truck transportation in this country.

The committee focused on a great number of areas. In particular, we were concerned about the effect of regulation upon inflation, fuel consumption, small communities, small shippers, employees within the industry, minorities and small business people desiring to get into the industry and, of course, the established carriers and shippers that make up the heart of the transportation industry.

When the debate began last year, I indicated that I would approach the issues with a completely open mind. I truly believe that this committee has given the issues fair and thorough review. It is now time to make the hard decisions that will be required to resolve the issues once and for all.

After sitting through these many hearings, listening to all of the witnesses, and reviewing the evidence submitted, I have personally concluded that deregulation of the trucking industry is not in the public interest. The transportation industry in this country is comprised of a complex network of shippers and carriers with longstanding relations with each other. Many of these relationships are a direct result of the existing regulatory structure. To abruptly and totally dismantle this structure would be to jeopardize the stability and reliability of the Nation's transportation system. Accordingly, I have decided that I will not support any move to totally deregulate the trucking industry.

On the other hand, I do not believe that a statute designed to meet the transportation needs of the 1930's should remain unchanged as we enter the 1980's. It is my belief that there is a good deal within the existing laws that could and should be reformed in order to reflect changes in the economy and in the transportation industry that have occurred during the past 45 years.

Accordingly today, together with my distinguished colleague from Oregon, the ranking minority member of the Commerce Committee, we are introducing the Motor Carrier Reform Act of 1980. This is a bill that would implement significant changes in the regulatory structure affecting the motor carrier industry, but would stop far short of deregulating this vital industry. While I am sure there are some who will disagree, this bill, in my considered judgment, will lead to an improvement in the Nation's transportation system, without adversely affecting the quality or quantity of service to small communities and small shippers and the status of employees within the motor carrier industry. At the same time, it is certainly likely that some firms and individuals would benefit more than others from the legislation. For example, this bill, if enacted, will put a premium upon the efficiency and effective management. It will improve opportunities for minorities and small businesses. It will reward innovation and creativity.

Mr. President, this bill will accomplish something else. It will bring an end to the uncertainty of the regulatory structure for motor carriers within this country. It will allow the transportation industry to know the ground rules in advance and provides explicit direction to the commission and guidelines within which it may operate. As you know, during the past few months, I have been very critical of the apparent attempts by the Interstate Commerce Commission to usurp the prerogatives of Congress with respect to major regulatory changes. If this bill is enacted, the roles of the Commission and the Congress will be clearly spelled out.

Each time I have criticized the Commission, I have emphasized that my criticism did not necessarily reach the merits of what the Commission was proposing, but the methods being used. Despite this consistent admonition in my statements, people have frequently misinterpreted what I have said as indicating a deep disapproval of all Commission proposals. As will be evident from reviewing this legislation, I personally believe that many of the reforms that the Commission has proposed in the past few years are constructive and beneficial to the transportation system. I am however, convinced that the Commission's approach of across-the-board changes for all carriers regardless of individual circumstances is wrong.

In this bill, the Commission will be prohibited from wholesale removal of operating restrictions without looking on a case-by-case basis at the effects of each removal. The Commission will be prohibited from instituting a so-called "master certificate" concept in which one general finding of public need is made for a specific type of transportation without looking at the individual carriers and situations involved. I believe that many restrictions on operating rights should be modified. I believe that in many areas entry should be reasonably free. But I firmly believe that the Commission has an obligation to look at each individual circumstance to decide whether the national transportation policy would be served by such decisions.

It is no secret that there are some aspects of this bill that will be controversial. Perhaps the most significant is the proposed phasing-out over a 3-year period of time of immunity from the antitrust laws for the purposes of discussing and voting upon single-line rates. In effect, this legislation puts a 3-year moratorium on action that the Interstate Commerce Commission has already voted to approve that would prohibit carriers from discussing single-line rates with each other. I have carefully weighed the evidence that I have seen on this very sensitive issue, and I am fully aware of its implications. There are many people within the motor carrier industry and many shippers who believe that such a change would result in serious problems with respect to transportation pricing. On the other hand, there are many others, including the administration, Members of Congress, and certain shippers and carriers, who are highly critical of the proposal to delay the action contemplated by the Commission on this issue. In some respects, the debate is between those who believe that emphasis should be placed upon developing a system that leads to maximum stability of rates for truck transportation, and those who believe that the system should be structured to allow maximum competitive response to demands of the marketplace.

One of the reasons why many critics of eliminating any degree of antitrust immunity foresee such grim results is because of the incredibly complicated and complex structure of motor carrier rates and tariffs. It has become abundantly clear to me from my review of this issue that there is a crying need for a simplification of tariffs and the general rate structure of the motor carrier industry. This should go hand-in-hand with a simplification of commodity descriptions and territorial limitations. Such simplifications would greatly reduce the adverse results of modifying collective ratemaking. But such processes take time. That is one reason why I believe it is absolutely necessary to phase-out any immunity that Congress chooses to do so over a period substantially long enough to allow carriers to meet the demands of the new environment.

The second reason for proposing such a 3-year phase-in, quite frankly, is to provide Congress a thorough opportunity to review the major reforms being taken in other areas of the law and the procedural reforms being enacted in the rate bureau structure before the effective date of the lifting of antitrust immunity for single-line rate discussions. In simple terms, the 3-year delay provides us with an escape valve in case the reforms that are implemented do not work as well as we had hoped.

Apart from this section, there are many other provisions in the bill that would streamline regulation of the motor carrier industry by reducing procedural barriers to entering the industry and operating on a day-to-day basis, provide greater freedom to set rates in response to market demands, provide greater opportunities for carriers to earn adequate profits, and provide more choices for shippers in obtaining transportation services.

The Commerce Committee will carefully review today's proposal. Next week we will announce hearings for the week of February 25. These hearings will focus specifically on the provisions of this bill and will allow the major parties an opportunity to comment and provide their suggestions for changes to the bill.

We are anxious to hear from all interested and affected parties and would welcome comments or suggestions for improvement. I can assure you that this bill is not cast in concrete. Senator PACKWOOD and I are far from infallible.

Oral testimony will be severely limited, but we encourage any interested parties to submit in writing their specific proposals for amendments of this bill, or if they choose to do so, general comments on the bill.

As you may know, I have given my personal commitment to doing everything in my power to see that a bill is on the desk of the President by no later than June 1, 1980. My counterparts in the House of Representatives, Public Works Committee, Chairman BIZZ JOHNSON and Transportation Subcommittee Chairman JIM HOWARD, have joined with me in a commitment toward this goal. The Commerce Committee, as a result, will proceed to markup quickly after the hearings have been held. I do want to emphasize that this bill is a completely bipartisan effort. I commend greatly the participation and leadership of Senator PACKWOOD on this issue in the committee. His views and insights on this subject have been of extreme value, and his active participation in the hearing process has been unduplicated by any other member of the committee.

Mr. President, in a few days I shall submit a detailed section-by-section analysis of this bill. In the meantime, I ask unanimous consent that the bill that I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Carrier Reform Act of 1980".

PURPOSE OF THE BILL

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary regulation by the Federal Government.

CONGRESSIONAL FINDINGS

SEC. 3. The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the 1980's; that historically the existing regulatory structure has tended to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the trucking industry; that protective regulation has resulted in operating inefficiencies and anticompetitive pricing; that in order to reduce the uncertainty felt by the Nation's transportation industry, the Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption to the transportation system consistent with the scope of the reforms enacted.

NATIONAL TRANSPORTATION POLICY

SEC. 4. Section 1010(a) of title 49, United States Code, is amended—

(1) in paragraph (5) by striking "; and" and substituting ";";

(2) in paragraph (6) by striking "industry." and substituting "industry; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) With respect to transportation of property by motor carrier, to rely to the maximum extent feasible upon actual and potential competition in order to (A) meet the needs of shippers and receivers; (B) allow a variety of quality and price options to meet changing market demands; (C) achieve maximum utilization of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide service to small communities and small shippers; and (F) improve and maintain a sound privately owned motor carrier system.".

MOTOR CARRIER ENTRY POLICY

SEC. 5. Section 10922 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers" after "motor common carriers";

(2) by redesignating subsections (b), (c), (d), (e), and (f), and all cross references thereto, as subsections (c), (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) The Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under this subchapter as a motor common carrier of property—

"(A) if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and the regulations of the Commission; and

"(B) unless the Commission finds, on the basis of a preponderance of evidence in the record, or upon its own initiative, that the transportation to be provided would be inconsistent with the present or future public convenience and necessity. In making a determination pursuant to this subparagraph, the Commission shall consider—

"(i) the transportation policy set forth in section 10101(a) of this title;

"(ii) evidence of public support for an application or other demonstration of public need; and

"(iii) the existing quality and quantity of service, but shall not find that diversion of revenue or traffic from an existing carrier is in and of itself inconsistent with the public convenience and necessity.

"(2) In no event may the Commission issue any certificate based upon general findings regarding public convenience and necessity developed in rulemaking proceedings.

"(3) The provisions of subparagraph (1)(B) of this subsection shall not apply for applications for authority to provide—

"(A) transportation to any point not served by a motor carrier of property certificated under this section;

"(B) transportation services as a direct substitute for abandoned rail service if such application is filed no later than 90 days after such abandonment;

"(C) transportation for the United States Government of commodities other than used household goods, hazardous or secret materials, and sensitive weapons and munitions; or

"(D) transportation of packages weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds: *Provided*, That notwithstanding any other provision of this title, any carrier holding authority under this subparagraph operating one or more commercial motor vehicles with a gross vehicle weight rating of 10,000 pounds or greater shall be subject to commercial motor vehicle safety regulations promulgated by the Secretary pursuant to this title with respect to its entire operations, including the operations of commercial motor vehicles with gross vehicle weight ratings less than 10,000 pounds.

"(4) No motor carrier of property may protest an application to provide transportation as a motor common carrier of property filed under this section unless—

"(A) it possesses authority to handle, in whole or in part, the traffic for which authority is applied, is willing and able to provide service that meets the reasonable needs of the shippers involved, and has performed service within the scope of the application during the previous 12-month period;

"(B) it has filed an application prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other legitimate interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(5) Notwithstanding the provisions of paragraph (4) of this subsection, no contract motor carrier of property may protest an application to provide transportation as a motor common carrier of property filed under this section.".

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATION

SEC. 6. Section 10922 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection.

"(h)(1) No later than 180 days after the date of enactment of this subsection, the Commission shall—

"(A) eliminate all gateway restrictions and circuitous route limitations imposed upon motor common carriers of property; and

"(B) implement, by regulation, expedited procedures to process applications of individual motor carriers of property seeking removal of operating restrictions in order to—

"(i) broaden the categories of commodities authorized by the carrier's certificate;

"(ii) authorize transportation or service to intermediate points on the carrier's routes;

"(iii) provide round-trip authority where only one-way authority exists;

"(iv) eliminate unreasonable or excessively narrow territorial limitations; or

"(v) eliminate any other restriction that the Commission deems to be wasteful of fuel, inefficient, or contrary to the public interest.

"(2) The regulations promulgated by the Commission pursuant to subparagraph (1)(C) of this subsection shall provide for final Commission action upon such applications by no later than 120 days after the date the application is filed with the Commission. Such regulations shall also provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In granting or denying applications under subparagraph (1)(C) of this subsection, the Commission shall consider, among other things, the impact of the proposed restriction removal upon the consumption of energy resources, potential cost savings and improved efficiency, and the transportation policy set forth in section 10101(a) of this title.".

EXEMPTIONS

SEC. 7. (a) Section 10526(a)(6) of title 49, United States, Code, is amended—

(1) by striking "a motor vehicle carrying, for compensation, only" and substituting "transportation by motor vehicle of";

(2) in subparagraph (A) by striking "livestock;" and substituting "livestock and uncooked meat;";

(3) in subparagraph (C) by striking "bananas," and by striking the word "and" at the end thereof;

(4) in subparagraph (D) by inserting the word "and" at the end thereof; and

(5) by adding at the end thereof the following new subparagraph:

"(E) livestock and poultry feed, agricultural seeds and plants, if such commodities are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;".

(b) Section 10526(a)(8) of title 49, United States Code, is amended to read as follows:

"(8) transportation by motor vehicle incidental to transportation by aircraft, including transportation of property by motor vehicle as part of a continuous movement which, prior or subsequent thereto, has been or will be transported by aircraft, or occasional transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft due to circumstances beyond the control of the carrier or shipper; or".

OWNER-OPERATORS

SEC. 8. (a) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10527. Exempt transportation by owner-operators

"(a) Subject to the provisions of this section Interstate Commerce Commission does not have jurisdiction under this subchapter over transportation by a motor vehicle operated by an owner or a person accompanied by an owner if such transportation is completely under the control of the owner-operator, performed completely on its own behalf, and is—

"(1) subsequent to a movement of property whose transportation is exempt under paragraph (6) of section 10526 of this subchapter;

"(2) in a single movement or in one or more of a series of movements in the general direction of the general area in which such motor vehicle is based or in the general direction of the general area of the origin from which the preceding exempt movement was made;

"(3) at a rate, fare, or charge at least equal to the lowest rate, fare, or charge for that same transportation filed and put into effect by any certificated common carrier; and

"(4) such motor vehicle is registered with the Commission under subsection (b) of this section and such registration is in such motor vehicle and indicated in such manner on the exterior of such motor vehicle as the Commission may require by regulations.

"(b) The Commission shall issue a registration to the owner of a motor vehicle authorizing such person to provide transportation under this section if—

"(1) such person files with the Commission a bond, insurance policy, or other type of security approved by the Commission under section 10927 of this title and of such amount as the Commission may determine; and

"(2) such person has designated in writing and in accordance with such regulations as the Commission may issue, an agent in each State in which such motor vehicle is operated on whom service of process in a court proceeding may be made.

"(c) The Commission shall expedite the issuance of registrations under this section.

"(d) Failure to comply with any of the provisions of this section by a person holding a registration under this section shall nullify such registration.".

(b) The index for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10527. Exempt transportation by owner-operators.".

PRIVATE CARRIAGE

SEC. 9. (a) Section 10524 of title 49, United States Code, is amended by designating the existing language as subsection (a) and by adding at the end of the section the following new subsections:

"(b) In addition to the transportation described in subsection (a), the Commission does not have jurisdiction over transportation for compensation provided by a person who is a member of corporate family for other members of the same corporate family if—

"(1) the parent notifies the Commission of its intent or one of its subsidiaries' intent to provide the transportation;

"(2) the notice contains a list of participating subsidiaries and an affidavit that the parent owns directly or indirectly an interest of 51 percent or more in each of the subsidiaries;

"(3) the Commission publishes the notice in the Federal Register within 30 days of receipt; and

"(4) a Commission-receipted and returned copy is carried in the cab of all vehicles conducting the transportation.

"(c) For the purposes of this section, a 'corporate family' means a corporation or group of corporations consisting of a parent and all subsidiaries, including unincorporated divisions and other parts of such corporation or group, in which the parent owns directly or indirectly an interest of 51 percent or more in each of the subsidiaries.".

(b) Section 10102(13) of title 49, United States Code, is amended by inserting "or a member of a corporate family as defined in section 10524(c) of this title," immediately after "means a person,".

MOTOR CONTRACT CARRIERS

SEC. 10. (a)(1) Section 10102(12) of title 49, United States Code, is amended by striking "a person or a limited number of" and substituting "one or more".

(2) Section 10923(b)(2) of title 49, United States Code, is amended—

(A) by striking subparagraph (A), and

(B) redesignating subparagraphs (B), (C), and (D), and all cross references thereto, as subparagraphs (A), (B), and (C), respectively.

(3) Section 10923(d) of title 49, United States Code, is amended—

(A) in the first sentence of paragraph (1) by inserting the following immediately before the period at the end thereof: ", except that in the case of a contract carrier, the Commission may not require a contract carrier to limit its operations to carriage for a particular industry or within a particular geographic area or require a contract carrier to enter into contracts only with the owner of goods to be shipped"; and

(B) in paragraph (2) by striking "or number".

(b) Section 10930(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or", and

(2) by amending paragraph (2) to read as follows:

"(2) if a person controls, is controlled by, or is under common control with, another person, one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.".

(c) Section 10749 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "or motor contract carrier of property" after "carrier"; and

(2) in paragraph (b)(1) by striking "or water common carrier" and substituting "water common carrier or motor common carrier of property".

(d) Section 10766(b) of title 49, United States Code, is amended by striking "common" in the first sentence and by striking the fifth sentence thereof.

(e) Section 10925 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) On application of the holder of a motor contract carrier permit, or on complaint of an interested party, or on its own initiative, and after notice and an opportunity for a proceeding, the Commission may amend or revoke any part of the permit and issue in its place a certificate of public convenience and necessity, if the Commission determines that the operations of the holder of the permit—

"(1) do not conform with the operations of a motor contract carrier; and

"(2) are those of a motor common carrier.

Any certificate issued under this subsection shall specify that its holder is authorized to provide transportation as a motor common carrier, of the same commodities between the same points or within the same territory as authorized in the permit.".

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

SEC. 11. Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

"(1) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

"(2) the aggregate of increases or decreases in any such rate is not more than 10 percent above the rate in effect 1 year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980, or the rate in effect 1 year prior to the effective date of the proposed rate.

Nothing in this subsection shall limit the Commission authority to suspend and investigate proposed rates on the basis that such rates may violate the provisions of section 10741 of this title or constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

RULE OF RATEMAKING

SEC. 12. (a) Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

(e) In proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or in proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements authorized by section 10706 of this title, the Commission shall authorize revenue levels that are adequate under honest, economical, and efficient management to cover total operating expenses, including the operation of leased equipment, and depreciation, plus a reasonable profit. The standards and procedures adopted by the Commission under this subsection shall enable the carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the United States, and take into account reasonable esimated or foreseeable future costs.".

(b) Section 10704(b)(2) of title 49, United States Code, is amended to read as follows:

"(2)(A) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers, other than by rail carrier, the Commission shall consider, among other factors, the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier.

"(B) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier or motor carrier of property the Commission shall consider, among other factors, the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide transportation or service.".

RATE BUREAUS

SEC. 13. (a) Section 10706 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), (f), (g), and (h), and all cross references thereto, as subsections (c), (d), (e), (f), (g), (h), and (i), respectively, and by adding the following new subsection after subsection (a):

"(b)(1) For the purpose of this subsection, 'single-line rate' refers to a rate, charge, or allowance by a single motor carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier.

"(2) As provided by this subsection, motor common carriers of property may enter into agreements between two or more such carriers concerning rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of them. Such agreements may be submitted to the Commission for approval by any carrier or carriers party thereto and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers that transportation policy. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in section 12 of title 15, do not apply to parties and other persons with respect to making or carrying out the agreement.

"(3) Agreements submitted to the Commission under this subsection may be approved by the Commission only if each of the following conditions are met:

"(A) Each carrier party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000,000. For the purposes of this subparagraph, the term 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' means equity holdings in a business entity of at least 5 percent.

"(B) Any organization established or continued under an agreement approved under this subsection must comply with the following requirements:

"(i) the organization may allow any member carrier to discuss any rate proposal docketed except as provided in subparagraph (3)(C) of this paragraph but after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal:

"(ii) the organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiate the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items.

"(iii) the organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property;

"(iv) the organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers, nor shall organization employees or employee committees make specific recommendations with regard to changes in tariff items, except that such employees or employee committees shall not be prohibited from reporting generally on statistical cost and economic data with regard to justification or lack of justification for general increases or broad rate restructurings;

"(v) upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to any person the vote cast by any member carrier on any proposal before the organization;

"(vi) the organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented;

"(vii) the organization may not docket or handle rates for intrastate transportation without specific authorization from the States involved; and disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed.

"(C) No agreement approved under this subsection may provide for discussion of or voting on rates proposed pursuant to section 10708(d) of this title.

"(D) Effective July 1, 1983, no agreement approved under this subsection may provide for discussion of or voting upon single-line rates.

"(E) In any proceeding in which a party to such proceeding alleges that a carrier voted or agreed on a rate of allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(F) The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.".

(b) No later than July 1, 1982, the Commission, the Secretary of Transportation, and the Comptroller General shall submit separate reports to the Congress upon the probable effect of eliminating antitrust immunity for the discussion of single-line rates pursuant to the provisions of this section and upon the need or lack of need for continued antitrust immunity with respect to joint rates. Such reports shall describe the preparations taken by the motor carrier industry and shippers for the transition to the elimination of such immunity, estimate the impact of the elimination of such immunity upon rate levels and rate structures, and describe the impact of the elimination of such immunity upon the Commission and its staff.

(c) Section 10706(c) of title 49, United States Code, as redesignated by this Act, is amended by striking "(except a rail carrier)" and substituting "(except a rail carrier or a motor carrier of property)".

LUMPING

SEC. 14. (a)(1) Subchapter I of chapter 111 of subtitle IV of title 49, United States Code is amended by inserting the following new section immediately after section 11108—

"§ 11109. Loading and Unloading Motor Vehicles

"(a) Whenever a consignor or consignee requires that persons who own or operate motor vehicles transporting products moving in interstate commerce be assisted in loading or unloading of such vehicles, the consignor or consigneee shall be responsible for providing that assistance or must compensate the persons who own or operate such vehicles for all costs associated with securing and compensating the person providing the assistance.

"(b) It shall be unlawful to coerce or attempt to coerce a person who owns or operates motor vehicles transporting products moving in interstate commerce to employ loading or unloading assistance which consignors or consignees do not require or which the owner or operator of the motor vehicle would not otherwise employ."

(2) The index to chapter 111 of subtitle IV of title 49, United States Code, is amended by inserting the following after item 11108:

"11109. Loading and unloading motor vehicles.".

(b) Section 11109 of title 49, United States Code, is amended by inserting the following new subsection at the end thereof:

"(h) Any person knowingly authorizing, consenting to, or permitting a violation of section 11109(a) of this title is liable to the United States Government for a civil penalty of not more than $10.000 for each violation."

(c)(1) Chapter 119 of title 49, United States Code, is amended by adding the following new section immediately after section 11916:

"§ 11917. Criminal Penalties for Violations of Rules Related to Loading and Unloading Motor Vehicles

"Any person that violates section 11109(b) of this title shall be fined not more than $10.000, imprisoned for not more than 2 years, or both."

(2) The index for chapter 119 of title 49, United States Code, is amended by adding the following at the end thereof:

"11917. Criminal Penalties for Violations of Rules Related to Loading and Unloading Motor Vehicles.".

MOTOR CARRIER BROKERS OF PROPERTY

SEC. 15. (a) Section 10924 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of persons" after "transportation" in the first place it appears;

(2) by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Interstate Commerce Commission shall issue, subject to section 10927(b), a license to a person authorizing the person to be a broker for transportation of property subject to the jurisdiction of the Commission under subchapter II of chapter 105, if the Commission finds that the person is fit, willing, and able—

"(1) to be a broker for transportation to be authorized by the license; and

"(2) to comply with this subtitle and regulations of the Commission."

(b) Subchapter I of chapter 111 is amended by redesignating section 11108 (and any reference thereto) as section 11109 and by inserting after section 11107 the following new section:

"§ 11108. Contracts for Exempt Agricultural Transportation

"The Interstate Commerce Commission shall require, by regulation, the use of written contracts governing the interstate movement by motor vehicle of property described in section 10526(a)(6) of this subtitle. In promulgating such regulation, the Commission shall prescribe the minimum requirements and conditions of such written contracts."

(c) The index for subchapter I of chapter 111, title 49, United States Code, is amended by striking the item relating to section 11108, and inserting in lieu thereof the following:

"11108. Contracts for exempt agricultural transportation.

"11109. Water carriers subject to unreasonable discrimination in foreign transportation.".

FINANCE EXEMPTIONS

SEC. 16. (a) Section 11302(b) of title 49, United States Code, is amended by—

(1) striking "more than $1,000,000" and substituting "more than $5,000,000"; and

(2) striking "more than $200,000" and substituting "more than $1,000,000".

(b) Section 11343(d)(1) of title 49, United States Code, is amended by striking the "more than $300.000" and substituting "more than $1,000,000".

UNIFORM STATE REGULATIONS

SEC. 17. Congress hereby declares and finds that the individual State regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the State in such regulations. Therefore, the Congress directs the Secretary of Transportation, in consultation with the States and the various State agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of State regulations for interstate motor carriers. Such recommendations shall be made to the Congress no later than 18 months after the enactment of this section.

POOLING ARRANGEMENTS

SEC. 18. Section 11342 of title 49, United States Code, is amended by—

(1) striking the language in subsection (a) following the first sentence;

(2) redesignating subsections (b), (c), and (d), and all cross references thereto, as subsections (c), (d), and (e), respectively; and

(3) by inserting the following new subsection immediately after subsection (a):

"(b) Any motor common carrier of property that is a party to such an agreement or combination may apply for Commission approval of such agreement or combination by filing said agreement or combination with the Commission not less than 30 days before its effective date. Prior to the effective date of the agreement or combination, the Commission shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Commission determines that neither of these two factors exists, it shall, prior to the effective date contained in the agreement or combination and without hearing, approve the agreement or combination. If the Commission determines either that the agreement or combination is of major transportation importance or that there is a substantial likelihood that the agreement or combination will unduly restrain competition, the Commission shall enter upon a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition; and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After full hearing, the Commission shall (1) indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation, and will not unduly restrain competition, and (2) to that extent, approve and authorize the agreement or combination, if assented to by all the carriers party to the agreement or combination, under such rules and regulations, and for such consideration between such carriers and upon such terms and conditions, as shall be found by the Commission to be just and reasonable.".

JOINT RATES AND THROUGH RATES

SEC. 19. (a) Section 10703(b) of title 49, United States Code, is amended by inserting ", II (insofar as motor carriers of property are concerned)" immediately after "subchapter I".

(b) Section 10705(a) of title 49, United States Code, is amended—

(1) in the first sentence of paragraph (1) by striking "(except a motor common carrier of property)";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting the following new paragraph immediately after paragraph (2):

"(3) The Commission may not require a motor common carrier of property, without its consent, to include in such through route substantially less than the entire length of its route and the route of any intermediate carrier operated in conjunction and under a common management or control with such motor common carrier of property which lies between the termini of such proposed through routes (A) unless such inclusion of lines would make the through route unreasonably circuitous as compared with another practicable through route which could otherwise be established or (B) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, more efficient or more economic transportation, except that, in prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the foregoing limitations in clauses (A) and (B), give reasonable preference to the carrier which originates the traffic.".

(c) The second sentence of section 10705 (b) of title 49, United States Code, is amended by striking "rail or water carrier" and substituting "rail carrier, motor carrier of property, or water carrier".

(d) Section 10705 of title 49, United States Code, is further amended by redesignating subsections (d), (e), and (f), and all cross references thereto, as subsections (e), (f), and (g), respectively, and by adding the following new subsection immediately after subsection (c):

"(d) All rail carriers, motor carriers of property, or water carriers party to a through route and joint rate whether established by such carriers under section 10703 of this title or prescribed by the Commission under this section shall promptly pay divisions or make interline settlements, as the case may be, with other carriers party to such through route and joint rate. In the event of undue delinquency in the settlement of such divisions or interline settlements, such through routes and joint rates may be suspended or canceled under rules prescribed by the Commission.".

(e) The first sentence of section 10705(e) of title 49, United States Code, as so redesignated by this Act, is amended by striking "a rail or water common carrier tariff" and substituting "a tariff of a rail carrier, motor carrier of property, or water carrier".

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

SEC. 20. Section 10928 of title 49, United States Code, is amended by—

(1) designating the existing section as subsection "(a)";

(2) inserting in subsection (a) (as redesignated by this Act) "of passengers" after "motor carrier" each time that term appears; and

(3) adding at the end thereof the following new subsections:

"(b)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to regulations of the Commission, may grant a motor carrier of property temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 180 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 90 days after the date the application is filed with the Commission.

"(c)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to regulations of the Commission, may grant a motor carrier of property emergency temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area, if the Commission determines that due to emergency conditions, there is not sufficient time to process an application for temporary authority under subsection (b) of this section. Unless suspended or revoked, the Commission may grant the emergency temporary authority for not more than 30 days unless extended by the Commission for a period of not more than 90 days. A grant of emergency temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 15 days after the application is filed with the Commission.".

PROCEDURAL REFORM

SEC. 21. (a) Section 10322 of title 49, United States Code, is amended by—

(1) amending paragraphs (a)(1) and (a) (2) as follows:

"(1) an exception to the initial decision is filed by an interested party during the 20-day period or by the end of an extended period if authorized by the Commission or a division; or

"(2) the Commission or a division stays or postpones the initial decision.".

(2) amending the last sentence of subsection (b) to read as follows: "If an initial decision is reviewed, it may be stayed or postponed pending final determination of the matter." ; and

(3) adding at the end thereof the following new subsection:

"(c) If the proceeding involves an application for a motor carrier certificate or permit under subchapter II of chapter 109 of this title, the Commission shall take final action upon an application no later than 270 days after the application is filed with the Commission."

(b)(1) The last sentence of section 10323 (a) of title 49, United States Code, is amended to read as follows: "The Commission may limit the right to apply for rehearing, reargument, or reconsideration of a decision of the Commission or a division to a proceeding or class of proceedings involving issues of general transportation importance."

ENFORCEMENT

SEC. 22. (a) Section 11701(c) of title 49, United States Code, is amended by striking "related to a rail carrier".

(b) Section 11702(a)(4) of title 49, United States Code, is amended to read as follows:

"(4) through its own attorneys—

"(A) to enjoin a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title from violating this subtitle, or from violating an order issued, regulation prescribed, or certificate, permit, or license issued under this subtitle;

"(B) to compel a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to comply with this subtitle, or to comply with an order issued, regulation prescribed, or certificate, permit, or license issued under this subtitle;

"(C) to compel a motor carrier or broker providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 to pay the civil penalties set out in chapter 119 of this subtitle; and

"(D) on behalf of a person to compel a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title to provide that transportation or service to that person in compliance with this subtitle at the same rate charged or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person;".

(c) Section 1114 of title 18, United States Code, is amended by striking "Consumer Product Safety Commission." and substituting "Consumer Product Safety Commission and the Interstate Commerce Commission.".

COOPERATIVE AND SHIPPER ASSOCIATIONS

SEC. 23. (a) Section 10526 of title 49, United States Code, is amended—

(1) in subsection (a)(5) by striking the words "association, except" and all that follows and substituting "association, except as provided in subsection (c) of this section;"; and

(2) by adding a new subsection (c) to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection and chapters 111, 117, and 119 of this subtitle, the Commission does not have jurisdiction under this subchapter over a motor vehicle controlled and operated by a cooperative association (as defined by section 1141j(a) of title 12) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, which provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, for a nonmember.

"(2) The transportation provided by a cooperative association or federation under paragraph (1) of this subsection (except for transportation otherwise exempt under this subchapter)—

"(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government—

"(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance;

"(ii) may not exceed in each fiscal year 35 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

"(iii) shall be provided only after the cooperative association or federation notifies the Commission of its intent to provide the transportation; and

"(B) for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year."

(b) Section 10562 of title 49, United States Code, is amended—

(1) by inserting "(a)" before "The Interstate Commerce Commission";

(2) in paragraph (2) by striking "household goods;" and substituting "household goods; or";

(3) by striking paragraph (3);

(4) by redesignating paragraph (4) as paragraph (3); and

(5) by adding at the end thereof the following new subsection:

"(b) Except as provided in chapters 111, 117, and 119 of this subtitle, the Commission does not have jurisdiction under this subchapter over the service of a shipper or a group of shippers in consolidating or distributing freight on a nonprofit basis, in order for the shipper or members of the group to secure carload, truckload, or other volume rates.".

(c) Section 11144(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may prescribe the form of records to be maintained by—

"(A) a cooperative association or federation of cooperative associations providing transportation subject to the jurisdiction of the Commission under section 10526(c) of this title; and

"(B) a shipper or group of shippers providing service subject to the jurisdiction of the Commission under section 10562(b) of this title to the extent such records are related to that transportation or service.

"(2) The Commission or any employee designated by the Commission, may on demand and display of proper credentials—

"(A) inspect and examine the lands, buildings, and equipment of such cooperative association or federation of cooperative associations, or such shipper or group of shippers; and

"(B) inspect and copy any record related to that transportation or service of such cooperative association or federation of cooperative associations, and such shipper or group of shippers.".

(d) Section 11145(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "; and" and substituting ";";

(2) in paragraph (2) by striking "services." and substituting "services; and "; and

(3) by adding at the end thereof a new paragraph to read as follows:

"(3) a cooperative association or federation of cooperative associations, providing transportation subject to the jurisdiction of the Commission under section 10526(c) of this title, and a shipper or group of shippers providing service subject to the jurisdiction of the Commission under section 10562(b) of this title, to file reports with the Commission containing answers to questions about that transportation or service."

(e) Section 11702(a) of title 49, United States Code, is amended—

(1) in paragraph (5) by striking "; and" and substituting ";";

(2) in paragraph (6) by striking "title." and substituting "title; and"; and

(3) by adding a new paragraph (7) to read as follows:

"(7) through its own attorneys—

"(A) to enjoin a cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title from violating this subtitle, or an order issued or regulation prescribed under this subtitle;

"(B) to compel a cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title to comply with this subtitle, or an order issued or regulation prescribed under this subtitle; and

"(C) to compel a cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title to pay the civil penalties set out in chapter 119 of this subtitle."

(f) Section 11901 of title 49, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following new subsection:

"(h) A person required to make a report to the Commission, answer a question, or maintain a record under this subtitle concerning transportation subject to the jurisdiction of the Commission under section 10526(c) of this title, or service subject to the jurisdiction of the Commission under section 10562(b) of this title, or an officer, agent, or employee of that person that (1) does not make the report, (2) does not specifically, completely, and truthfully answer the question, (3) does not maintain the record in the form and manner prescribed by the Commission, or (4) does not comply with section 10526(c) of this title, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues."; and

(3) in subsection (i)(2) by inserting "and (h)" after "(g)" and by amending subparagraph (A) to read as follows:

"(A) the motor carrier, broker, cooperative association or federation of cooperative associations, or the shipper or group of shippers has its principal office,".

(g) Section 11906 of title 49, United States Code, is amended by striking the words "motor carriers or brokers" and substituting "a motor carrier, broker, cooperative association or federation of cooperative associations providing transportation subject to the Commission's jurisdiction under section 10526(c) of this title, or a shipper or group of shippers providing service subject to the Commission's jurisdiction under section 10562(b) of this title.".

(h) Section 11909 of title 49, United States Code, is amended by adding at the end thereof a subsection to read as follows:

"(e) A person required to make a report to the Commission, answer a question, or maintain a record under this subtitle about transportation subject to the jurisdiction of the Commission under section 10526(c) of this title or service subject to the jurisdiction of the Commission under section 10562(b) of this title, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not maintain that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully maintains a record in violation of a regulation or order of the Commission, shall be fined not more than $5,000.".

(i) Section 11914 of title 49, United States Code, is amended by adding at the end thereof a new subsection to read as follows:

"(e) When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this subtitle, or a regulation or order prescribed under this subtitle, related to transportation subject to the jurisdiction of the Commission under section 10526(c) of this title, shall be fined at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.".

CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL OF A FREIGHT FORWARDER

SEC. 24. (a) Section 10741(c) of title 49, United States Code, is amended to read as follows:

"(c) A freight forwarder providing service subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title may not discriminate against a carrier providing transportation subject to the jurisdiction of the Commission under subchapter I, II, or III of that chapter in favor of a carrier controlled by, or under common control with, such freight forwarder.".

(b) Section 10923(b)(3) of title 49, United States Code, is amended to read as follows:

"(3) The Commission may not deny any part of an application for a freight forwarder permit filed by a corporation controlled by, or under common control with a common carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title only because the service to be provided by the corporation will compete with service provided by another freight forwarder subject to subchapter IV of that chapter.".

(c)(1) Section 11323 of title 49, United States Code, is repealed.

(2) Item 11323 of the index to Chapter 113 of subtitle IV of title 49, United States Code, is amended to read as follows:

"11323. Repealed.".

(d) Section 11343 of title 49, United States Code, is amended—

(1) in subsection (a) by striking the words "or III" and substituting "III or IV"; and

(2) in subsection (d) by adding at the end thereof the following new paragraph:

"(3) A transaction referred to in subsection (a) or (b) of this section which involves a freight forwarder providing transportation subject to the jurisdiction of the Commission under subchapter IV or chapter 105 of this title and which is lawfully accomplished or effectuated prior to July 1, 1980 shall be deemed to be approved and authorized by the Commission."

(e) Section 11702(a)(2) of title 49, United States Code, is amended by striking "or 11323".

● **Mr. PACKWOOD.** Mr. President, I am pleased to join Chairman CANNON as coauthor in introducing the Motor Carrier Reform Act of 1980. More than 1 year ago, the Committee on Commerce, Science, and Transportation began its investigation of the existing motor carrier regulatory structure which is now in its 45th year. During the process of our hearing program, the committee heard testimony from more than 200 interested parties representing Congress, the administration, the motor carrier and railroad industry, consumer representatives, independent truck operators, representatives from the academic world, and concerned citizens. Near the end of the 1st session of the 96th Congress, Chairman CANNON and I stated that it was our intent to file a motor carrier reform bill by the end of January 1980. The legislation we are introducing today represents many hours of negotiations and consultations between majority and minority staff members and representatives from the administration, the motor carrier industry, and other interested parties.

Mr. President, as I have said many times before, this legislation is a long time in coming. The last 45 years of regulation have resulted in a substantial impasse to market entry, carrier growth, efficient utilization of equipment and energy resources, and anticompetitive pricing through rate bureau immunity from the antitrust laws. The motor carrier industry, as it exists today, is reputed to be one of the finest motor carrier networks in the world. I suggest that we must not be satisfied with the status quo. It is clear that our present motor carrier network can improve, can provide more responsive service to the small community and remote shippers, can provide pricing which is just as competitive as any other business in the private sector, and more importantly, it can have the flexibility to change as our economy changes and requires different transportation forms and services.

The bill we are introducing today does not travel the deregulation path as far as many would like. The bill provides for a substantial streamlining of many of the present regulatory restraints. Accordingly, the bill attempts to improve the present system through reform, rather than total deregulation. At this time, I would like to provide my colleagues with a general overview of what I consider are the major provisions of this legislation.

Motor carrier entry is clearly one of the issues in the legislation we are introducing today. The Interstate Commerce Commission, in recent months, has changed its attitude toward motor carrier entry and has been more progressive in its issuance of extensions of existing authority to carriers and issuance of certificates to new market entrants. However, although motor carrier entry has been eased somewhat, it is still difficult for a new entrant to receive operating authority. This legislation attempts to ease entry by reducing the difficult findings that the Commission is now required to make before a new certificate can be authorized. Under this legislation, a carrier must simply show that he is fit, willing, and able to provide the service applied for. Further, the burden of proof will rest on protestants, rather than the applicant, as it does today, to show that the requested authority is inconsistent with the public interest. This, in and of itself, is an important departure from the existing system. Further, a test for consistency with the public interest is not required when the market applied for is: First, not served by any motor carrier presently; second, has just suffered abandoned rail services; third, involves U.S. Government shipments; or fourth, involves packages weighing 100 pounds or less.

Another important digression from the existing regulatory structure is the requirement that all circuitous route restrictions be removed from all motor carrier certificates. Further, the bill requires that regulations be implemented within 6 months to enable carriers to: First, substantially broaden commodities which they are authorized to haul; second, begin to serve intermediate points on their certificates which they are now restricted from serving; and third, perform roundtrip service when only one-way service is now authorized.

At present, our national motor carrier system has more than 100,000 motor carriers whose primary business is the movement of exempt agricultural commodities. Unfortunately, the agricultural exemption is narrowly defined to include only fresh fruits and vegetables. Section 6 of this legislation extends the agricultural exemption to include numerous other agricultural commodities, not necessarily limited to fresh produce. Further, independent owner-operators who have been deprived of the opportunity to maximize the use of their equipment will now be allowed to haul regulated commodities in conjunction with the movement of their exempt commodities. The only restriction is that the owner-operator is actually performing the transportation himself. This change from the existing agricultural exemption and restraints on the activities of owner-operators will certainly result in improved transportation efficiencies, lower carrier costs in the transportation of agricultural commodities, increased conservation of precious diesel fuel, and reduced costs of these commodities to the ultimate consumer.

At present, motor contract carriers are limited to service to eight shippers or less. It is clear that this segment of the trucking industry provides a valuable service to shippers. To put an arbitrary ceiling on their quantity of service is inconsistent with our new proposed transportation policy. Accordingly, contract carriers will be able to substantially increase the number of shippers that they may contract with. Another reform which is also long in coming is the elimination of the prohibition on intercorporate hauling. This legislation enables any company to secure the for-hire transportation services of any subsidiary for which it owns 51 percent or more of a controlling interest.

The last major area of concern I would now like to review is by far the most important, as well as the most controversial. At present, motor carriers set their transportation rates under the antitrust immunity umbrella which covers all discussions, proposals, and voting of rates in motor carrier rate bureau proceedings. This antitrust immunity has enabled a form of legalized price fixing. Testimony before our committee has clearly suggested that the system is anticompetitive and not in the public interest with regard to single-line movements—movements which can only be performed by one carrier. This legislation systematically removes the antitrust umbrella from discussions, proposals, and voting in rate bureau proceedings on matters related to single-line movements by July 1, 1983.

Mr. President, it is my contention that motor carriers should be able to decide what their costs are for a transportation movement from A to B. The rates charged by motor carriers should be different. They should reflect their differences in costs, labor, efficiencies and inefficiencies, geographical concerns, the differences in equipment, and the varying degrees of fuel costs. There is no reason that efficient carriers should be obliged to charge a rate in excess of what it would set independently. Further, it is unfair to efficient carriers that its inefficient competitors are privileged to set a rate above what the reasonable, efficient level for that particular carrier should be. It is not uncommon for a shipper to get an identical transportation rate quote from a dozen neighboring carriers to perform the same transportation between A and B. Removal of the antitrust immunity will enable the carriers to begin to compete on price, as well as quality of service.

To provide some immediate flexibility before 1983, the rate section in this legislation authorizes a zone of rate freedom for motor carriers in both single-line rates and joint rates. The carrier would be free to raise his rates 10 percent above or reduce them 10 percent below the level which the rate was 1 year prior to the point of reference. This will certainly provide immediate relief to shippers utilizing joint rates, both before and after 1983.

Mr. President, as you can see, the changes that we are proposing are a substantial digression from the existing regulatory constraints. I want to emphasize that I am proposing this bill not to break down the quality of service that we have today, but to improve upon a system where improvement is needed. It is expected that we will have 2 additional days of hearings on this legislation before Chairman CANNON and I present legislation to the full committee for its consideration. Chairman CANNON has stated several times that he intends to see that motor carrier reform legislation is on the President's desk by June 1, 1980. I intend to channel all my efforts to see that this is accomplished. I urge my colleagues to study this legislation closely in preparation for future floor action.●

By Mr. DOLE (for himself, Mrs. KASSEBAUM, and Mr. BOREN):

S. 2246. A bill to continue rail service by the Chicago, Rock Island, & Pacific Railroad for 90 days; to the Committee on Commerce, Science, and Transportation.

ROCK ISLAND RAILROAD DIRECTED SERVICE

● Mr. DOLE. Mr. President, today I am introducing legislation to keep the Rock Island Railroad running. My bill would require the Interstate Commerce Commission to extend directed service over the Rock Island Railroad by the Kansas City terminal for an additional 90 days. Joining me in this effort are Senator KASSEBAUM and Senator BOREN.

The Rock Island Railroad is a critical component of the Great Plains economy. Thousands of communities and shippers depend upon the Rock to transport agricultural commodities and manufactured goods. Kansans, in particular, bring fertilizer into the State on the Rock Island, and ship record crops to market on the Rock Island. Many of these communities are not served by other railroads. The Rock Island Railroad is their lifeline.

Yesterday the Interstate Commerce Commission indicated that it will not extend directed service beyond the present March 2 deadline. I, and many other representatives of the Midwestern States served by the Rock Island, had asked the ICC to allow the Kansas City terminal to operate over this railroad for an additional 90 days, as allowed by law. We argued that this service was necessary to bridge the gap between Rock Island service and operation by healthy railroads now considering the purchase of portions of the Rock Island Railroad. Apparently, however, the Commissioners at 12th and Constitution do not perceive our need.

I have talked with representatives of a number of railroad companies who are seriously considering purchasing major segments of the dying Rock Island. They feel that these lines may be important to their development. However, it is highly unlikely that they will be able to complete all of the complex negotiations involved in a sale of this magnitude between February 1 and March 2. Thirty-one days simply is not enough time. When March 2 comes, and none of these purchase agreements are sealed, the Kansas City terminal will discontinue service on the Rock Island and begin the process of mothballing the locomotives. Shippers along the line will begin arranging for other means of transportation. Transportation and economic patterns will be disrupted. The process of transferring operation to purchasing railroads at a later date will be vastly complicated.

That is why I believe that directed service must be continued for another 90 days. The 3 months of service can act as a bridge between the past and the future, between the old owners and the new. It can prevent disruption and disarray, and ease a difficult transition in the lives of affected communities. The Kansas City terminal, which has been performing well in a tough situation, can best do this. The cost of this additional directed service will be offset by the savings in shutdown costs, which are estimated at $15 million, and the savings to the economies of the States of the Midwest. The alternatives are expensive.

For the good of communities throughout the Midwest and for the sake of a healthy, viable railroad system, I urge my colleagues to approve this legislation.●

ADDITIONAL COSPONSORS

S. 336

At the request of Mr. MATHIAS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1954.

S. 414

At the request of Mr. DOLE, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 414, a bill to amend title 35 of the United States Code; to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes.

S. 2166

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. PRESSLER) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2166, a bill to promote the development of Native American culture and art.

S. 2197

At the request of Mr. BAUCUS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2197, a bill to credit, for certain purposes, each employee of the Federal Government and each member of a uniformed service who was seized and held hostage by terrorist forces in Iran with 1 year of service in addition to all other periods of service to which such employee or member is entitled to be credited.

S. 2222

At the request of Mr. MELCHER, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 2222, a bill to extend the time for commencing actions on behalf of an Indian tribe, band, or group or on behalf of an individual Indian whose land is held in trust or restricted status.

S. 2237

At the request of Mr. CHURCH, the Senator from Washington (Mr. JACKSON) and the Senator from Washington (Mr. MAGNUSON) were added as cosponsors of S. 2237, a bill to amend the Colorado River Basin Project Act to prohibit any Federal official from undertaking reconnaissance studies of any plan for the importation of water into the Colorado River Basin.

SENATE JOINT RESOLUTION 131

At the request of Mr. JAVITS, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Joint Resolution 131, a joint resolution designating April 10, 1980, as "ORT Centennial Day."

SENATE JOINT RESOLUTION 136

At the request of Mr. SASSER, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Joint Resolution 136, a joint resolution to designate the month of March 1980 as "Gospel Music Month."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. JEPSEN, the Senator from Idaho (Mr. MCCLURE) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. JEPSEN, the Senator from Idaho (Mr. MCCLURE) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Concurrent Resolution 61, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

ARMED FORCES PERSONNEL MANAGEMENT ACT—H.R. 5168

AMENDMENT NO. 1647

(Ordered to be printed and to lie on the table.)

Mr. WARNER (for himself, Mr. NUNN, Mr. STENNIS, Mr. TOWER, Mr. CANNON, Mr. EXON, Mr. HUMPHREY, Mr. LEVIN, Mr. INOUYE, Mr. MORGAN, and Mr. MATHIAS) submitted an amendment intended to be proposed by them, jointly, to H.R. 5168, an act to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of the following public hearings before the Select Committee on Indian Affairs:

A hearing is scheduled for February 5, 1980, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 1998, a bill to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.

A hearing is scheduled for February 26, 1980, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 2066, a bill to convey Federal land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development.

A hearing is scheduled for February 28, 1980, beginning at 10 a.m. in room 457, Russell Senate Office Building. Testimony is invited regarding S. 2223, a bill to permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants.

A hearing is scheduled for March 6, 1980, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 1507, a bill relating to the settlement of certain claims and controversies involving the waters of the San Luis Rey River in San

Diego County, Calif., and to other matters.

For further information regarding the hearings you may wish to contact the Select Committee on Indian Affairs on extension 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate next week on Tuesday, Wednesday, and Thursday, February 5, 6, and 7, to consider the Pakistan aid package.

Mr. TOWER. Mr. President, reserving the right to object—I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EXPRESSION OF THANKS TO CANADA

● Mr. BAUCUS. Mr. President, I submit for the RECORD a copy of a letter I have sent to the Canadian Ambassador to the United States expressing my personal thanks and appreciation for the courageous act of the Canadian Government in rescuing a number of American diplomats in Iran.

Since I am sure the sentiments reflect the sentiments of all Americans, I would like to make the letter a part of the official record.

The letter follows:

His EXCELLENCY PETER M. TOWE,
Embassy of Canada,
Washington, D.C.

DEAR MR. AMBASSADOR: The Canadian action in helping a number of Americans escape from possible illegal detainment by the Iranian extremists deserves the highest praise and commendation.

Throughout its history, Canada has stood for justice and legality in international proceedings. It is indeed a formidable reassertion of those ideals when your government risks what can only be difficulties for itself in Iran in defense of those principles.

The American people will remember this act of courage, and as a representative of the American people, I wish to express my heartfelt thanks and commendation to your government for its actions.

With best personal regards, I am
Sincerely,

MAX.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of February 1, 1980 is 222,206,613. This is an increase of 308,603 in the past month. It also represents an increase of 2,220,525 since February 1 of last year.

Over the past year, we have added enough additional people to more than fill Indianapolis, Ind., three times. And during the past month, our population has increased enough to more than fill Austin, Tex.●

CINCINNATI ENQUIRER SUPPORTS LEGISLATIVE VETO

● Mr. SCHMITT. Mr. President, the Cincinnati Enquirer recently published an excellent editorial in support of Senate action to pass a legislative veto amendment to the Federal Trade Commission (FTC). The Enquirer rightly points out that the Congress has delegated its constitutional power to create law to the FTC. Passage of a legislative veto by a vote of 321 to 63 in the House of Representatives is a clear signal to the American people that the Congress is ready to reassume its responsibility.

I want to state as vigorously as possible that the approval of a legislative veto amendment to the FTC authorization bill does not mean that the Congress is ready to abandon its goal of protecting consumers from unfair and deceptive trade practices. It does not mean the Congress will march to the tune of industry lobbyists whenever one group or another complains about a regulation and works to see it vetoed.

What passage of this amendment does mean is that the elected representatives of the people who are elected to pass judgment on the law of the land will do just that. We will no longer be able to pass the buck to the FTC—we will be held accountable. This may at times be uncomfortable, but the authors of the Constitution did not have our convenience in mind when they drafted that document. They wanted accountability and separation of powers. They wanted elected representatives to write the laws of the land.

The current authority of the FTC to draft, enforce and adjudicate laws called regulations does violence to our traditional view that only elected officials should write the law. The legislative veto is a reasonable legislative solution to this problem which will continue the delegation of authority to the FTC but will place a check on its abuse by allowing the Congress to review the final regulatory product.

Mr. President, I ask that the January 11 Cincinnati Enquirer editorial on the legislative veto be printed in full at this point.

The editorial follows:

FTC LOPSIDED VOTE SEEKS TO DENY IT SOME AUTHORITY

Congress and the nation have had it up to here with the federal regulatory bureaucracy—best epitomized perhaps by the Federal Trade Commission (FTC).

That explains why the House voted 321-63 late last year to reclaim some of the constitutional powers that an earlier Congress had delegated to the FTC (as well as to a host of other regulatory agencies).

What was before the House, specifically, was a proposal to permit either house of Congress to veto within 60 days any regulatory-commission ruling applicable to an entire industry. Unless the veto is overturned by the other house of Congress, under the proposal, it will remain vetoed.

House approval, of course, is only a first step. The Senate must concur, and President Carter must sign the authorization bill to which the FTC restraint was attached.

But the lopsided House vote has to be regarded as something of a turning point in the history of the entire regulatory movement—and, in particular, of the entire "consumer" movement.

The Constitution invests in Congress authority to regulate interstate commerce. Rather than occupying itself with all the questions that fall into that broad category of concerns, Congress created the FTC—along with similar regulators. They have acted over the years in Congress' name.

But the emergence of a class of professional consumers during the last decade has been a signal for such agencies at the FTC to run amok. If the FTC, under its hyperactivist chairman, Michael Pertschuck, had had its way, not a sparrow would have fallen to Earth anywhere in America without the FTC's sanction.

What the disconsolately stricken consumerists will be forgetting as they protest their betrayal is that the House is elected every two years by consumers—honest-to-goodness consumers as distinct from those who make their livings presuming to speak for the consuming public.

This, ultimately, is the public interest served.●

STATEMENT OF AIR CANADA ON THE INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979

● Mr. CANNON. Mr. President, I would like to submit for the RECORD, the statement of Mr. Claude I. Taylor, president of Air Canada and also the current president of the International Air Transport Association which was offered in conjunction with the hearings held on S. 1300 on August 21 and 22, 1979.

The statement follows:

STATEMENT OF AIR CANADA

Mr. Chairman, Air Canada appreciates this opportunity to present its views on the proposed legislation, S. 1300, introduced by you and Senator Kassebaum on June 7, 1979.

Before doing so, it may be helpful to the Subcommittee for Air Canada to describe briefly its role in international air transportation. Air Canada is a North American airline with forty-two years of experience. It operates over a system of 87,191 unduplicated miles, serving sixty destinations in nineteen countries, including ten destinations in the United States. In 1978, it carried 11.3 million passengers who generated 12,017 million revenue passenger miles.

Air Canada is wholly owned by the Government of Canada and operates pursuant to the Air Canada Act (Chap. 5, 26 Eliz. II, Statutes of Canada). The company has not received subsidy for almost 20 years and in fact pays dividends to the Government of Canada. Although Air Canada is owned by the people of Canada and the Government of Canada is its sole shareholder, it is subject to all laws and government regulations governing airlines, and must conform with the rules and regulations of the Canadian Transport Commission, which is the licensing body and regulatory agent for all air transport in Canada. In all matters relating to safety of equipment and flight, airworthiness and maintenance standards, Air Canada's operations are regulated by the Air Transport Administration of the Canadian Ministry of Transport. Air Canada is a member of the Air Transport Association of America and of the International Air Transport Association. Canada has been a member of the International

Civil Aviation Organization ("ICAO") since the formation of that organization in 1946.

Air Canada recognizes that S. 1300 is legislation to amend existing United States law and that the Subcommittee is not required to receive Air Canada's views thereon; however, Air Canada thought it might be useful to the Subcommittee if its attention were called to certain sections of S. 1300 which may give rise to misinterpretations or result in conflicts potentially harmful to international aviation relations.

SECTION 2 OF S. 1300

This section proposes the deletion of section 102(c) of the Federal Aviation Act of 1958 (hereinafter referred to as the "Act"), and the revision of the present language of section 102(a) of the Act. The factors now enumerated in section 102(a) would be modified and, for the first time, extended to foreign air transportation as that term is defined in section 101(24) of the Act. As thus modified, revised section 102(a) would require the Civil Aeronautics Board ("Board") to consider as being in the public interest, prior to the authorization of new air services, a "full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted [by the Secretary of Transportation] under section 107 of this Act."

Inasmuch as the "public interest" is also the test applied by section 402(b) of the Act in determining whether to issue permits to foreign air carriers, the requirement that the Board receive and evaluate the recommendations of the Secretary of Transportation on the safety implications of new services would apply to the issuance of permits to foreign air carriers to engage in foreign air transportation. It appears therefore that Board examination of safety implications would be mandated even though provision had been made for the new services sought (by the issuance or amendment of a foreign air carrier permit) in an outstanding bilateral air transport agreement between the United States and the country of the applicant foreign air carrier.

You no doubt realize that Canada has its own safety regulations governing the certification, airworthiness, maintenance and operation of Canadian-registered aircraft, including airline aircraft, and it would seem important to avoid conflicts between the safety jurisdictions of the United States Secretary of Transportation and the aeronautical authorities of Canada. If there are safety problems to be resolved with respect to an international route involving the air carriers of two nations, it would appear that the ideal way to accomplish this would be in bilateral negotiations, prior to the exchange of route and operating rights. This suggested procedure would permit technical inputs from both the Secretary of Transportation and, in the case of Canada, the Canadian Air Transport Administration.

SECTIONS 2, 9, AND 23 OF S. 1300

These sections, by revisions to sections 102(a)(3), 102(a)(7) and 402(f) of the Act and the addition of a new section 2(b) to the International Air Transportation Fair Competitive Practices Act of 1974, would confer on the Board broad powers to determine what is discriminatory and non-competitive in the foreign air transportation field. They would also give the Board authority to take summary actions, including such drastic steps as the suspension, cancellation or revocation of foreign air carrier permits, subject to Presidential review. The potential for harm to international aviation relations by Board institution of proceedings in the exercise of this new authority, even though later aborted by the President, is considerable.

Section 23 of S. 1300 in its proposed new section 2(b) to the International Air Transportation Fair Competitive Practices Act would give the Board authority to judge the actions of sovereign governments—a foreign affairs function which more appropriately should be relegated to diplomatic consultations—and to punish the international air carriers of such governments for actions over which such carriers may have no control. For example, a regulation or requirement of a foreign country which applied equally, across-the-board, to its own carriers and carriers of all nationalities serving that country would nonetheless be declared discriminatory or anti-competitive by the Board insofar as it impinged upon United States carrier operations in that country. The Board might hold discriminatory or anti-competitive a law, regulation or practice of a foreign country which is in accord with the laws of, and consistent with the standards of that country, simply because the Board finds such law, regulation or practice inconsistent with its own views.

To vest the Board with the authority to institute proceedings which have as their objective the "transfer", cancellation or revocation of a foreign air carrier permit could result in confrontations with other nations and the disruption of international air transport services.

Before the Board is empowered to recommend any such drastic action to the President under section 801 of the Act, the Subcommittee may wish to consider addition to S. 1300 of a requirement that consultations first be held between the United States Department of State and the affected country.

SECTION 7 OF S. 1300

This section as drafted is subject to misinterpretation. As proposed, revised section 402(b) of the Act would permit the Board to issue permits to foreign air carriers when it finds that (1) the applicant is "qualified" and has been designated by its own government to perform such transportation pursuant to an agreement with the United States, or (2) such transportation will be in the public interest. Air Canada assumes that it is not the intent of the alternative language to empower the Board to issue permits to Canadian carriers, for example, which have not been designated by the Government of Canada to perform such air transportation, or to issue permits to Canadian carriers to perform air transportation services not covered by an air transport agreement between Canada and the United States. This ambiguity can undoubtedly be cleared up by slight revisions to the language of section 7 of S. 1300.

SECTION 10 OF S. 1300

Section 10 would amend section 407(a) of the Act to give the Board authority to require the filing, by foreign air carriers, or periodical and special reports in whatever form and manner the Board desires. The Board would also be authorized to require foreign air carriers to file copies of any contract, agreement, understanding or arrangement between such foreign air carrier and any other carrier or person in relation to any traffic "affected by the provisions" of the Act. The Board would be left free to interpret the term "affected by the provisions" as it wished. The scope of this proposed grant of authority is thus both extremely broad and imprecise.

Air Canada hopes that it is not the intent of section 10 of S. 1300 to give extraterritorial application and effect to United States law. Many countries have laws which control the furnishing of corporate and proprietary information on the demand of foreign governments or courts. Conversely, Canada does not at the present time require United States carriers holding licenses from Canada to provide special reports, copies of contracts or agreements, etc., of the nature apparently contemplated by the proposed amendment to section 407(a) of the Act.

Canada now cooperates with the United States in the exchange of certain origin and destination data on transborder air traffic; however, the agreement to do so was the subject of bilateral negotiations between Canada and the United States and is embodied in Article XIV(B) of the Air Transport Services Agreement between Canada and the United States signed January 17, 1966 (T.I.A.S. 5972). The information exchanged pursuant to Article XIV(B) is therefore guaranteed confidentiality by section 1102 of the Act.

Foreign governments are aware of the provisions of the United States Freedom of Information Act (FOIA), 5 U.S.C. 552. In various orders issued in response to FOIA requests for public disclosure of documents, data, exhibits, etc. on file with it, the Board has shown that it considers itself helpless, except in rare cases, to deny such requests. The Board's view of the restrictions placed on its discretion by the FOIA was expressed in its Order 78–8–126 issued in Docket 33277, as follows:

"Once the [United States] government comes into possession of information, however, it is obliged to live within the constraints of the FOIA."

The amendment to section 1104 of the Act proposed by section 19 of S. 1300 would not solve the problem presented to foreign governments and carriers because section 1104, as thus amended, would authorize the withholding of information by the Board, the Secretary of State, or the Secretary of Transportation *only* in those cases where "disclosure of such information *would prejudice the formulation and presentation of positions of the United States* in international negotiations." (Emphasis supplied)

Thus, there would be no protection from public disclosure, under the FOIA, of reports, documents, agreements, etc. received by the Board from foreign air carriers pursuant to the proposed amended section 407(a) of the Act.

Foreign governments are understandably sensitive about the public disclosure of corporate and proprietary documents and data to which they accord confidential treatment. Inasmuch as the information the Board seeks by amendment of section 407(a) of the Act falls within a sensitive area involving foreign relations, it is respectfully suggested that the question of what reports—special or otherwise, documents, studies or agreements should be supplied to the Board by foreign air carriers be left for resolution in bilateral negotiations. Information supplied as a result of such consultations would be protected from public disclosure under the FOIA by section 1102 of the Act.

Air Canada has no comment at this time on the remaining sections of S. 1300. Should, however, the Subcommittee determine to leave the record in this hearing open at the close of the August 22, 1979 session for the receipt of additional statements or views, Air Canada may be interested in supplementing this statement in the light of the record made in the August 21–22, 1979 hearings.

Needless to say, Air Canada will be happy to cooperate with you, Mr. Chairman, and the Subcommittee in the development of a complete record.●

CAMBODIA

● Mr. BAUCUS. Mr. President, just as the world has joined together in outrage and condemnation of the Soviet aggression in Afghanistan, so the world has joined together in its determination to help the starving people of Cambodia. It is unfortunate that a human tragedy in one part of the world—Afghanistan—overshadows an equally devastating tragedy in another—Cambodia.

But, although reports of progress in alleviating the famine in Cambodia are not on the front pages of our newspapers, progress is indeed occurring. Relief officials report that famine conditions no longer exist, although hunger and malnutrition still stalk the land. The distinction is small, perhaps, but it offers a glimmer of hope for the lives of several million Cambodians.

Most relief efforts will concentrate on distributing the aid that has already arrived in Cambodia. Although relief officials report that neither the Heng Samrin government nor the Vietnamese troops in Cambodia are deliberately blocking or diverting the distribution of food and supplies, it is certainly not one of their priorities. In addition, the road from Kompon Som to Phnom Penh remains under the strict control of Vietnamese forces and relief officials have no way to determine the extent to which food and medical supplies are being distributed to the starving Cambodian people.

Although meager, the recent December rice harvest has already helped to feed thousands of Cambodians. By late March, however, the Cambodian people will once again be totally dependent on outside aid. Clearly then, it is imperative that relief supplies already in Cambodia be distributed and more relief supplies continue as necessary.

To dramatize this concern, a truck convoy is scheduled to move from Bangkok to the Thai-Cambodian border on February 5. The trucks will carry food, medicine, and doctors, and will also be accompanied by a large number of prominent international figures like Liv Ullman, Alexander Ginsburg, and Elie Wiesel, chairman of the President's Committee on the Holocaust. The convoy will solicit permission from the Phnom Penh authorities to enter Cambodia to deliver supplies and medical aid to the Cambodian people. Although this request has been informally rejected by the Phnom Penh authorities, no direct communication has occurred and I am hopeful that misunderstandings can be cleared up and the convoy's supplies distributed. I would only add my own deep gratitude to the International Rescue Committee (IRC) and Medicins Sans Frontiers for their efforts to press forward with this worthy effort.

Also, the cities of Phnom Penh and Kompon Son are reviving, slowly but surely. More and more people are returning; schools and hospitals are reopening; and the smaller markets are back in business selling rice and other staples. There is a long way to go, of course, but the progress being made is encouraging, and in stark contrast to the devastation I witnessed only months ago.

The border situation is also changing. It is now estimated that as many as 1 million Cambodians are living on or near the border in U.N.-sponsored holding centers inside Thailand; in encampments along the border itself; or inside western Cambodia.

The situation along the border is tense, however. There have been reports of Vietnamese troop movements, and fighting in western Cambodia between Vietnamese forces and Cambodian forces loyal to Pol Pot. These reports of heavy fighting and increased tensions around the camps are serious and do not bode well for the future stability of Cambodia.

In conclusion, the human tragedy in Cambodia continues, although greatly alleviated due to the generous outpouring of contributions from the international community and from private citizens both at home and abroad. This massive international humanitarian effort is delivering large amounts of food and supplies to Cambodia and to the Thai-Cambodian border. There is enough assistance in the pipeline to avert the tragedy in Cambodia.

On the other hand, Cambodia faces an even more fundamental challenge in trying to pull its many warring factions together. I do not pretend to have an easy answer, but we must not lose sight of the political dimension of this tragedy.

We stand today at the threshold of another decade—the 1980's. Surely our wisdom, our strength, and our compassion will be challenged as never before.

We can meet those challenges—whether from an aggressive global challenger or a tiny, starving nation halfway around the world—if we realize that if only one group in human society is threatened, all of us are less secure.

Mr. President, I ask that an article by Bernard Gwertzman which appeared in the New York Times on January 31 be printed at this point in the RECORD.

The article follows:

A VIETNAMESE DRIVE ALONG THAI BORDER IS REPORTED BY U.S.—DANGER TO CAMBODIANS CITED—HEAVY FIGHTING BY HANOI'S TROOPS AND POL POT FORCES IS SAID TO RAISE TENSION IN CAMPS

(By Bernard Gwertzman)

WASHINGTON, January 30.—The State Department said today that heavy fighting was taking place between Vietnamese troops and Cambodian forces opposed to the Vietnamese-backed Phnom Penh regime in an area close to refugee camps straddling the border between Cambodia and Thailand.

Last Saturday, the United States expressed concern that the Vietnamese forces inside Cambodia were preparing to use force to disperse the Cambodian refugees in the camps, estimated at more than half a million, and push them deeper into Thailand. Since such attacks might lead to a crossing of Thailand's border by Vietnamese forces, the United States said it was particularly worried.

Hodding Carter 3d, the State Department spokesman, said there were "significant reports today about military actions on the outskirts of the refugee camps, attacks which have sharply increased tensions in the camps."

FIGHTING CALLED HEAVIEST OF YEAR

Other officials said that the fighting south and north of Poipet, on the border, was the heaviest of this year and involved thousands of Vietnamese troops. About 50,000 Vietnamese are believed to be in that area. But officials said it was too early to say whether a full-scale offensive had begun.

The main fighting was taking place around Phnom Melai, about 12 miles southwest of Poipet, and around Phnom Chat, more than 20 miles to the northeast, State Department officials said.

According to intelligence reports, the intensity of the fighting was heaviest around Phnom Melai. It involves combat between the Vietnamese regulars and forces loyal to Pol Pot, who headed the Cambodian Government before it was overthrown by Vietnamese forces earlier this year and supplanted by the pro-Hanoi Government of President Heng Samrin. One official said that clashes had gone on for four days.

ARTILLERY FIRE NEAR REFUGEE CAMP

But there was more concern here about the clashes near Phnom Chat because artillery fire was encroaching on a refugee camp at Non Samet, and some casualties were reported.

"There is considerable tension in the camps in the area," one State Department official said.

Mr. Carter said: "Our concern about the safety of large concentrations of civilians along the Thai border is deep and longstanding."

He declared that the Vietnamese seemed to want to gain "total control" of the region. "Any grouping is seen by them as a threat to their puppet rule," he said.

On Saturday, State Department officials hastily arranged a briefing to say that they had received reports of a possible Vietnamese military operation against the refugee camps on the Thai-Cambodian border.

One of the sources for the alarm was reportedly a high-level defector from the Heng Samrin Government who said that an attack was planned for the last days of January.

"This engagement is under way," Mr. Carter said today.

In its warning on Saturday, the United States said that "Vietnamese military activity in this area poses a potential threat to the security of Thailand."

"Any expansion would constitute a threat to the peace, security and stability of the entire region," the department said.

Today, Mr. Carter said that the statement had been issued to alert the "international community to the plight of these Khmer and to the threat posed to them by Vietnamese military operations in the area of the encampments."

The problem for American analysts is to separate the Vietnamese effort to crush the pro-Communist Pol Pot forces' resistance from the Vietnamese unhappiness with large groups of Cambodians, housed in camps on the border, who are generally anti-Communist.

At the moment, most of the fighting is directed against the Pol Pot forces. But because they are situated near refugee centers, there is a danger that the Vietnamese might end up attacking the camps, causing havoc among the refugees and increasing the problems for the Thai Government.

The camps are the beneficiaries of rice and other food donated by international groups and some of these relief supplies are making their way into Cambodia, much to the irritation of the Vietnamese and the Heng Samrin Government, which wants to control the flow.●

RUSSIA—AND WASHINGTON'S MATURITY

● Mr. STEVENSON. Mr. President, on January 16 in a speech to the International Trade Club of Chicago I questioned whether the President's economic sanctions against the Soviet Union would have any positive effects, and discussed adverse effects for the United States. Robert J. Samuelson made similar observations in an article which appeared in the Washington Post on January 29. And today one of the wisest of America's senior statesmen questions in the New York Times the maturity of official Washington. As I also pointed out, the United States has exercised its nonmilitary options and left itself, as George F. Kennan puts it, with a small stick while "thundering all over the place." Though history is already confirming many of the opinions expressed in these pieces, the reasoning which leads up to them is worthy of some consideration by official Washington, and so, Mr. President, I ask that they be printed in the RECORD.

The material follows:

Remarks by Senator Stevenson, Chairman of the Subcommittee on International Finance, Committee on Banking, Housing and Urban Affairs, at a meeting of the International Trade Club, Chicago:

Russian imperialism did not begin in Afghanistan. It began 1,000 years ago. In our lifetime it could realize the dreams of the Czars for warm water ports—and ambitions, inconceivable in their days, for global supremacy based on effective control of world fuel supplies.

With a fictitious invitation and the pretext of American imperialism, the Russians invaded Afghanistan and destroyed that nation as a buffer zone. They may be preparing to extend their power by force through Pakistan and Iran to the Persian Gulf. The instabilities in the region, the apparent irresolve of the United States and the seeming futility of efforts to work cooperatively with the United States upon strategic arms limitations, peace in the Middle East and other enterprises may have tempted the Russians beyond forbearance and undermined whatever forces for moderation exist within the Politburo.

Six years ago the U.S. subsidized Soviet wheat purchasers. In one year during the heyday of detente the U.S. offered the Soviets about $1 billion in credits for the purchase of nonagricultural commodities. At Helsinki it offered the Soviets a Western imprimatur on Soviet domination of Eastern Europe in exchange for lip service to human rights. No sooner were credits extended than the game of "linkage" began. The Soviets were denied access to official credits and U.S. markets upon most favored nation terms because of their emigration policies. During the darkest days of Stalin's repressions the U.S. protested little. It protested strenuously the repression of human rights by the Soviet Union, as it began to respect them in the 1970s. Traumatized by Vietnam, the United States turned its back to the victims of Russian aggression in Angola—and invited more. Now American foreign policy is lurching away from East-West trade and President Carter's crusade for human rights and nuclear nonproliferation. The build-up of NATO forces in Western Europe yields to a renewed interest in rapid deployment forces, and we hear ominous reports of plans to mine the Persian Gulf. Russian imperialism is rediscovered. Its defeat is this year's moral equivalent of war.

The incoherence of U.S. policy in the 1970s dismayed friends and bewildered enemies. If the end of innocence is followed by overreaction to the Russian aggression against Afghanistan, the world will remain unimpressed, except by our continued ability to damage its security and our own welfare. The world will make its accommodations with the Soviet Union. Russian imperialism will continue its march, tempted by our decline, filling the cracks left by our default, unmoved by any prospect for the peaceful accommodation of conflicting interests by great powers.

American strategy toward the Russians would wisely move on parallel fronts. It would keep alive possibilities for political accommodation. It would also demonstrate that Russian aggression is expensive. It would offer incentives to responsible conduct, as well as disincentives to irresponsible conduct. The Russians are a minority in their restless empire. An arthritic economic system, a heavy arms burden, real and imagined threats from within and on all Russia's borders, a dark and bloody history create anxieties which require some understanding.

Our long-term objectives should include an effort to increase the world's supply of energy. Most fossil fuels lie outside the sedimentary basins of the Persian Gulf, the North American continent and Russia. They have not been explored and developed. We have capital and technology. Yet we perpetuate our dependence on undependable and expensive oil from the Middle East, ever undermining the efforts of the World Bank.

The U.S. should recognize that step by step diplomacy was doomed from the start and seek an overall settlement of the conflict in the Middle East based on the exchange of territories occupied by Israel for international recognition and guarantees of its peace and territorial integrity. Nothing has been so destabilizing and destructure of U.S. interests in the region, especially Iran, as the continuing Mideast War.

Our military power in South West Asia is limited by perceptions of the United States as a neo-colonialist power and an agent and architect of Israeli power. A similar perception of the Shah helped bring him down. No governments in the region, except Egypt, dare embrace American power or military assistance. And Egypt's influence in the Muslim world has been undermined by its association with Israel, the U.S. and a peace process which produces no peace and continues to neglect the Palestinian right of self-determination.

The events in South West Asia give us a lesson in the limits of U.S. military power in a resource hungry, interdependent and newly liberated world. Our sophisticated weapons are of little avail in the streets of Teheran or Kabul. They are not relevant to passions generated by the failures of modernization, the embittered revolution of rising expectations, ideas of Muhammed and Marx and dangerous men with access to the mass media. Supply lines are shorter for the Russians. Kabul is on the other side of the earth from the U.S.

Within the limits of its military power, the United States can establish power in the region and prepare for contingencies. It should acquire facilities for the supply of U.S. and friendly forces. Marines should be placed on U.S. naval vessels in the Indian Ocean.

Because overt U.S. military assistance is unwelcome in the region, the United States should organize an international effort to aid the rebel Afghans and the Pakistanis. That international effort should include nations from the region, as well as China and Western Europe. The situation offers the U.S. a chance to organize the world community against aggression—as it did not in Angola—and on the side of Islam. This aid effort must take into account India's sensibilities about Pakistan and the danger of Soviet retaliation. We should not overdo it. The aim should be to produce arms, supplies and, for Pakistan and Turkey, substantial assistance for their battered economies. Until international efforts along these lines are organized, other ways of supplying U.S. arms and supplies to the Afghans and Pakistanis must be utilized.

The capabilities of U.S. intelligence services should be strengthened. Greater efforts should be undertaken through the V.O.A. and other media—to reach the world's multitudes with the truth about our objectives and those of the Soviets. The U.N. and other platforms, the mass media included, should be utilized discreetly to build up resistance to Russian expansionism in the name of nationalism and nonalignment. Afghanistan gives us some opportunities to get off the defensive and align ourselves with the Third World.

Other measures are called for. But there are also limits to our economic power.

The United States has cut off cultural exchanges, cut off official credits, denied the Soviets MFN, and now embargoed sales of food and other commodities. Sales of technology with military potentials have been embargoed for years. The U.S. has abandoned the old policy of even-handedness in favor of accommodations with China. We have deferred action on the SALT treaty. We have done everything we can think of short of cutting off all trade and boycotting the Olympics. And those possibilities are under active consideration.

Little is left, short of military action, for the next time the United States is moved to make the Soviet Union pay a price for its transgressions. Soviet policies are more likely to be influenced constructively by mixed prospects for improved relations and Soviet economic development than by prospects for economic warfare, undiluted by possibilities for peaceful progress on any front. That which powers may be persuaded to do by old-fashioned and now neglected methods of quiet diplomacy can be made the more unlikely under threat when national pride is on the line. When the House of Representatives linked trade with the U.S. to free emigration from the U.S.S.R., emigration plummeted. During the pendency of SALT II, emigration increased. When it appeared dead, Russia invaded Afghanistan. They may conclude that they have little to lose by aggression—and much to gain.

The purpose of the embargoes is not to compel withdrawal of Russian troops from Afghanistan. The purpose is to signify that Russian adventurism in the world has a price. But we also pay a price with little prospect of influencing the Russians constructively.

The most immediate cost of the grain embargo for taxpayers is in excess of $2.5 billion to purchase grain destined for Russia. The longer term costs are much higher. Land set-asides may be reinstated, that is to say, payments to farmers for the nonproduction of corn. Large public expenditures for price supports and storage costs may also be necessary for some time. Russian livestock, if destroyed, would take years to replace. The movement toward a market determined farm price has been interrupted. The taxpayers could be required to support the farmer for a long time. The Federal expenditures are the smallest part of the cost.

Embargoes, like the freezing of Iranian assets, feed the general impression in the world that the United States is impulsive, unpredictable and an unreliable supplier of goods and services. Increasingly, nations come to the United States for the purchase of food and other goods and services only as a last resort. Russian managers with five year plans will not come back to the U.S. market at the risk of having their plans interrupted by embargoes. Eastern Europeans and other Russian allies will be pressured to avoid U.S. products. American companies, recognizing these facts of life, are already escaping the caprice of American policy by locating plants overseas. They can avoid embargoes by manufacturing with foreign sourced materials in foreign subsidiaries. Embargoes against exports of U.S. goods, therefore, produce exports of U.S. jobs and capital.

The embargoes will have an adverse effect on the U.S. balance of payments. The dollar is weakened by these actions. They may require taxes and Treasury borrowings to support the farmer and affected agribusiness for a long time. The federal deficit for fiscal '80 may be increased by 10 percent, causing higher interest rates than otherwise. If the farmers are to be protected, other industries adversely affected could similarly demand relief. The economic results for the United States are difficult to quantify. But they include more inflation, economic stagnation and unemployment. The burden falls heaviest on the American public in general—not the American farmer in particular. He has mechanisms, and American politics, to protect him.

As for the Russians, they will liquidate some livestock and poultry and look for grain elsewhere. The immediate effect of the embargo is to place more meat on the Russian plate. The Russian consumer may not feel the effect of the grain embargo for a year. Longer term effects depend on weather in Russia and Eastern Europe and the success of Russian production efforts.

Our experience indicates that the Russians respond to embargoes by devoting resources to the development of their own capabilities. Deny them equipment for the production of industrial diamonds, for example, and they become the world's largest producer of industrial diamonds. They are already the world's largest oil producer. The denial of equipment for the production of oil would, if successful, reduce world oil production temporarily—which hurts the United States and all oil consumers. The Russians divert resources from lower economic priorities and redouble their efforts to produce whatever is denied them. What they cannot supply themselves, they buy from our competitors. With their gold and oil increased still higher in value by these actions, the Russians have hard currencies to spend. They are one of the world's best credits.

Embargoes of more high technology could hurt the Russian economy. Perhaps the Administration will identify such technologies which can be embargoed effectively without undue damage to our own economy. In general, embargoes are difficult to enforce. Even the COCOM system which has the support of our allies, has not always been effective as a means of controlling exports to the Soviet Union of high technology with military potentials. Wheat, corn and soy beans are not, like computers, easily identified by source of origin. Transshipments and substitutions of shipments are possible in violation of regulations and promises. Not all grain exporters will even promise compliance; some of them have been treated shabbily by the U.S. in recent years. The nonagricultural commodities embargoed, except spare parts, are virtually all available from competitor nations eager to produce, sell and pay the oil bill. They do not share the full extent of President Carter's moral indignation, or his conviction that embargoes are an effective means of bringing Russian imperialism to heel. They will give some lip service to our efforts and go on doing business with the Russians, picking up our business in the bargain.

The cost of the embargoes for the U.S. is high; their effect on the Soviet Union problematical. They put the United States on a slippery slope. Such actions as embargoes against the Soviet Union and the freeze of Iranian assets once taken are difficult to undo. They await some undivined sign from the Russians—but conciliatory signs are made the more difficult for Russia by the implication that it is yielding to pressure. If the U.S. were to lift embargoes without some such sign it could signal its concession to Russian intransigence. Embargoes, like the freezing of assets, are economic acts of war. This economic war will not be ended by Russian or American capitulation.

What counteractions the Russians will take to demonstrate their contempt for the embargoes, I cannot say—except that some will come. These could include the withdrawal of deposits from American banks, as well as the discontinuation of business with other U.S. firms in a general hardening of the line. The U.S., having deferred Senate action on SALT II, has freed the Russians to deploy missiles without limit and without restrictions on their ability to conceal them. The objects of our solicitude—the unfortunates seeking to emigrate from Russia—will pay for our actions. The Russians have already vetoed the resolution for sanctions against Iran by the United Nations. They could call for sacrifice at home, redouble their economic and military efforts and resume their march. Such hurt as is sustained by the people of the Soviet Union will be laid to American imperialism and produce more unity and resolve in the U.S.S.R. The U.S.–U.S.S.R. relationship will spiral downward without some unfamiliar acts of statesmanship on one side or the other to break the spiral.

No end is in sight. And we have played out almost all our nonmilitary string.

In the continuing competition between the U.S. and U.S.S.R. it would be wise to act with more predictability and respect for our own economic interests. It would be best if our actions were governed by some strategy and a clearer perception of Russian interests. That strategy should include an appropriate use of all our resources for our political purposes. In a contest for survival, one is not overly fastidious about the weapons. We should use them all—but not upon ourselves.

The United States has potentially more control over world food supplies than Saudi Arabia has over oil, but we have never moved to use that power effectively. Irrespective of Russian provocation, the United States should develop a food policy for an era of chronic poverty, hunger, malnutrition and political instability. The Administration's recent report on hunger suggests the magnitude of the suffering in store for the world and the challenge to the United States. The Russian invasion of Afghanistan offers an opportunity to adopt a food policy more promising than a combination of expensive price supports, intermittent embargoes and the stealthy purchase of U.S. grain on advantageous terms by hostile nations.

The free market has been an article of faith among farmers and in the Congress. The truth is that the market is not free. It is run by five or six multinational trading companies and their subsidiaries. Like the multinational oil companies, they buy and sell in the world to enhance their profit, not our national interest.

Other nations, both producers and consumers, lacking the luxury of large surpluses and internal markets have public agencies to manage the marketing of grain. Canada and Australia have wheat boards which are their exclusive exporters. The centrally planned economies have government purchasing commissions which are their exclusive importers, determining their needs and negotiating all purchases. An estimated 80 percent of U.S. wheat exports are purchased by state trading corporations. The U.S. which alone has the power to control world food supplies and prices has multinational trading companies—and embargoes.

We should consider giving the Commodity Credit Corporation exclusive authority to market U.S. wheat and feed grains in the world. We will continue to have the world's largest exportable surpluses. In this hungry and dangerous world the United States disarms itself uniquely and unilaterally by leaving the sale and distribution of American food to multinational traders and their foreign government customers. At least, the CCC should be the exclusive agent for grain sales to the Communist nations.

The CCC could have taken over the Russian grain stocks, scaled down the sales step by step, making it clear that the ultimate result could be an embargo. The policy could have been carried out, giving markets time to adjust and the Russians time to adjust to the carrot, as well as the stick. The President could have embargoed private grain sales and through the CCC retained control over grain sales to the U.S.S.R. This would have avoided the crisis which has damaged the U.S. economy and deprived us of an opportunity to use food to influence the Soviet Union. Profits on the sale of food to Russia might have been increased, even as we brought our political interests into play. This mechanism still offers a means of demonstrating rewards to be achieved by responsible behavior, at the same time the United States demonstrates that aggression has its price. The CCC with its newly acquired grain stocks could still be the mechanism for getting the U.S. back into the Russian market. The CCC must dispose of these stocks somehow. In the Russian market, now denied us, it can sell without depressing grain prices. It remains to be seen whether or when the Russians let us enter their market.

Until OPEC and Iran, farmers have generally resisted the use of grain as an instrument of foreign policy. While resenting their own impotence in the marketplace and the unfair practices of foreign governments, both competitors and customers, they were not convinced that a U.S. marketing agency would protect them. Suddenly with OPEC oil prices, the seizure of the American Embassy in Teheran and the invasion by Russia of Afghanistan, farmers have begun to see a future filled with embargoes. They may be persuaded now that CCC controlled grain sales to the Communist governments are in the farmers' interests and the nation's.

Russian imperialism has been on the march for many centuries. Under Communism the Russians perfected the police state and gave their totalitarian society and their design upon the world an ideological cover. Action by the United States to resist this imperialism is overdue. The real issue is over the kind of action. And the danger is that we will punish ourselves for Russian transgressions and overreact, harden the lines, and with like reactions on the other side, move towards world chaos, even war. There are possibilities for constructive action in these circumstances. But they require an unfamiliar statesmanship which presses restraint, as well as action.

POPULAR POLICY NOT ALWAYS GOOD POLICY

(By Robert J. Samuelson)

No one should be surprised at the popularity of President Carter's restrictions on grain and high-technology exports to the Soviet Union. Americans think they have taken a lot of abuse from foreigners in recent years, and they are enthusiastic about dishing some out in return. But we should not confuse popular policy with good policy. You do not stop tanks with grain, and the ruthless pursuit of economic sanctions against the Soviets is a policy with inherent limits and dangers.

At worst, it may undermine America's international political and economic power by straining relations with its allies, disrupting world grain markets and diverting attention from the more fundamental military nature of the Soviet threat. Unless carefully understood, a policy intended to make us stronger may have the opposite effect.

For years, we have had simplistic ideas about the roles of economic and military power. We believed that increasing trade with the Soviet Union constituted a subtle form of disarmament. Greater interdependence would lead both sides to reduce relative military spending. We did, but they didn't. Consequently, the Soviets devote about twice as much of their national output to defense (11 to 13 percent) as the United States.

If we now believe that trade restrictions will significantly weaken the Soviets, we risk making the same mistake in reverse. With a litle bit of luck—good for us, bad for them—we can cause conspicuous inconvenience, but not much more. Even in grain, the Soviets depend on import for only 5 to 15 percent of their consumption. In high-technology areas, machinery imports constitute only a small proportion (1 to 3 percent) of annual Soviet investment that exceeds $300 billion. And the United States ranked only fifth as a supplier of high-technology goods in 1977, according to a recent Commerce Department study.

It's true that the Soviets face enormous economic problems in the 1980s. Oil production may soon peak, if it hasn't already, and there will be staggering strains in Soviet labor markets.

But none of this means that any economic hurt we inflict on the Soviets advances our interests. In the evolving struggle for Middle East oil, those interests are simple: to keep the oil flowing; to keep Soviets out; to make the Persian Gulf nations more receptive to American than Soviet protection; and, if worse comes to worse, to assure that our traditional alliances with Europe and Japan remain as cohesive as possible.

Indiscriminate economic warfare against the Soviets does not necessarily serve these interests. The one high-technology area where we might hurt the Soviets most is the one in which—in our own interests, not theirs—we ought to want to hurt them the least: oil exploration and production equipment. The more Soviet oil production declines, the more attractive Mideast oil supplies become and, incidentally, the more pressure builds for further price increases, which weaken Western alliances.

The damage the United States can do to Soviet food supplies is more immediate, but probably not sustainable. Even if the Soviets can't quickly make up all the lost U.S. grain sales, no respectable food analyst believes the impact on meat supplies (most grain is used as animal feed) will exceed the effect of the disastrous 1975–76 Soviet grain harvest, the worst in years. The Soviets then slaughtered large numbers of hogs and poultry, and, after feeding these animals to the public, imposed meatless Thursdays. In 1976, per capita meat consumption dropped 10 percent.

But keeping the Soviets permanently away from world grain supplies will be difficult. Although the United States is the largest exporter (accounting for 50 to 60 percent of the world total), there are numerous others, and shipments through third countries are not uncommon. Any long-term effort to block sales to the Soviets would probably result in a shuffle of customers and suppliers; the Soviets would pay slight premiums for grain, separating traditional suppliers and buyers. The latter would come to the United States. Already, the Soviets are believed to have offset some loss of U.S. grain with purchases from Argentina.

The simplest way to frustrate this process would be to hold large amounts of grain off the world market, but the cost to the United States would be great. Grain prices would rise, causing inevitable and understandable outrage among our principal allies, Europe and Japan, who are also our biggest customers. Keeping U.S. farmers happy would cost the Treasury additional billions of dollars for high price supports, acreage set-aside or other subsidies: billions that would probably be better spent producing guns rather than not producing grain.

Limiting exports to the Soviet Union may satisfy a gut instinct against trading with your "enemy," but we shouldn't regard—as we have—such trade restrictions as a substitute for military spending. By the combination of a strong military and liberal trade policies, we ought to be encouraging the Soviets to use trade, not force, to solve their problems at home.

Looming manpower shifts, for example, will increase Soviet need for the productivity inherent in Western industrial technology. For most of the postwar period, Soviet economic growth depended heavily on putting more people to work: 2.3 million on average during the 1970s. In the 1980s, the increase will average only 550,000, according to Census Bureau demographer Murray Feshbach. More disturbing to the Soviets, the entire increase will occur among the low-skilled Moslem population of Central Asia.

With these new problems added to the old—a large defense sector that siphons away the best managerial and technical talent, confusing "incentives" for factories and inefficient farming—you can understand why the commissars worry about the 1980s. Soviet meat consumption is still half America's, and at least one-fourth of urban families share living quarters.

Peace is in our interest, too, and if the Soviets find that their economic and political frustrations are best relieved by adventurism abroad, that supreme interest will suffer. If we had—which we do not—the capacity to project a credible military presence in the Persian Gulf, we would not be so worried about Afghanistan In current circumstances, curtailing exports to the Soviet Union may have been the "signal" we could send. If their 1980 harvest is poor, it may pinch. But it is a stopgap, not a policy, and it may boomerang.

GEORGE F. KENNAN, ON WASHINGTON'S REACTION TO THE AFGHAN CRISIS: "WAS THIS REALLY MATURE STATEMANSHIP?"

PRINCETON, N.J.—On Christmas Day 1979, after more than a century of periodic involvement with the internal affairs of its turbulent neighbor, and after many months of futile effort to find a pro-Soviet Afghan figure capable of running the country, the Soviet Government suddenly expanded what was already a sizeable military involvement in Afghanistan into a full-fledged occupation, promising that the troops would leave when their limited mission had been accomplished.

This move was not only abrupt—no effort had been made to prepare world opinion for it—but it was executed with incredible political clumsiness. The pretext offered was an insult to the intelligence of even the most credulous of Moscow's followers. The world community was left with no alternative but to condemn the operation in the strongest terms, and it has done so.

So bizarre was the Soviet action that one is moved to wonder whence exactly, in the closely shielded recesses of Soviet policy making, came the inspiration for it and the political influence to achieve its approval. It was a move decidedly not in character for either Aleksei N. Kosygin or Leonid I. Brezhnev. (The one was, of course, ill and removed from active work. The limitations on the other's health and powers of attention are well-known.) Andrei A. Gromyko, too, is unlikely to have approved it. These reflections suggest the recent breakthrough, to positions of dominant influence, of hard-line elements much less concerned for world opinion, but also much less experienced, than these older figures.

Such a change was not unexpected by the more attentive Kremlinologists, particularly in the light of the recent deterioration of Soviet-American relations, but it was assumed that it would take place only in connection with, and coincidental with, the retirement of Mr. Brezhnev and other older Politburo members. That it could occur with the preservation of Mr. Brezhnev as a figurehead was not foreseen.

Be that as it may, this ill-considered move was bound to be unacceptable to the world community, and the United States had no alternative but to join in the condemnation of it in the United Nations. But beyond that point, the American official reaction has revealed a disquieting lack of balance, both in the analysis of the problem and then, not surprisingly, in the response to it.

In the official American interpretation of what occurred in Afghanistan, no serious account appears to have been taken of such specific factors as geographic proximity, ethnic affinity of peoples on both sides of the border, and political instability in what is, after all, a border country of the Soviet Union. Now, specific factors of this nature, all suggesting defensive rather than offensive impulses, may not have been all there was to Soviet motivation, nor would they have sufficed to justify the action; but they were relevant to it and should have been given their due in any realistic appraisal of it.

Instead of this, the American view of the Soviet action appears to have run overwhelmingly to the assumption that it was a prelude to aggressive military moves against various countries and regions farther afield. No one can guarantee, of course, that one or another such move will not take place. A war atmosphere has been created. Discussion in Washington has been dominated by talk of American military responses—of the acquisition of bases and facilities, of the creation of a rapid-deployment force, of the cultivation of military ties with other countries all along Russia's sensitive southern border. In these circumstances, anything can happen. But the fact is, this extravagant view of Soviet motivation rests, to date, exclusively on our own assumptions. I am not aware of any substantiation of it in anything the Soviet leaders themselves have said or done. On the contrary, Mr. Brezhnev has specifically, publically and vigorously denied any such intentions.

In the light of these assumptions we have been prodigal with strident public warnings to the Russians, some of them issued even prior to the occupation of Afghanistan, not to attack this place or that, assuring them that if they did so, we would respond by military means. Can this really be sound procedure? Warnings of this nature are implicit accusations as well as commitments. We are speaking here of a neighboring area of the Soviet Union, not of the United States. Aside from the question of whether we could really back up these pronouncements if our hand were to be called, is it really wise—is it not in fact a practice pregnant with possibilities for resentment and for misreading of signals—to go warning people publicly not to do things they have never evinced any intention of doing?

This distortion in our assessment of the Soviet motivation has affected, not unnaturally, our view of other factors in the Middle Eastern situation. What else but a serious lack of balance could explain our readiness to forget, in the case of Pakistan, the insecurity of the present Government, its recent callous jeopardizing of the lives of our embassy personnel, its lack of candor about its nuclear programs—and then to invite humiliation by pressing upon it offers of military aid that elicited only insult and contempt? What else could explain, in the case of Iran, our sudden readiness—if only the hostages were released—to forget not only their sufferings but all the flag-burnings, the threatening fists, the hate-ridden faces and the cries of "death to Carter," and to offer to take these very people to our bosoms in a common resistance to Soviet aggressiveness? What else could explain our naive hope that the Arab states could be induced, just by the shock of Afghanistan, to forget their differences with Israel and to join us in an effort to contain the supposedly power-mad Russians?

This last merits a special word. I have already referred to the war atmosphere in Washington. Never since World War II has there been so far-reaching a militarization of thought and discourse in the capital. An unsuspecting stranger, plunged into its midst, could only conclude that the last hope of peaceful, nonmilitary solutions had been exhausted—that from now on only weapons, however used, could count.

These words are not meant to express opposition to a prompt and effective strengthening of our military capabilities relevant to the Middle East. If what was involved here was the carrying of a big stick while speaking softly rather than the carrying of a relatively small stick while thundering all over the place, who could object? But do we not, by this preoccupation with a Soviet military threat the reality of which remains to be proved run the risk of forgetting that the greatest real threats to our security in that region remain what they have been all along: our self-created dependence on Arab oil and our involvement in a wholly unstable Israeli-Arab relationship, neither of which is susceptible of correction by purely military means, and in neither of which is the Soviet Union the major factor?

If the Persian Gulf is really vital to our security, it is surely we who, by our unrestrained greed for oil, have made it so. Would it not be better to set about to eliminate, by a really serious and determined effort, a dependence that ought never have been allowed to arise, than to try to shore up by military means, in a highly unfavorable region, the unsound position into which the dependence has led us? Military force might conceivably become necessary as a supplement to such an effort; it could never be an adequate substitute for it.

The oddest expression of this lack of balance is perhaps in the bilateral measures with which we conceive ourselves to have punished the Russian action. Aside from the fact that it is an open question whom we punished most by these measures—Russia or ourselves—we have portrayed them as illustrations of what could happen to Moscow if it proceeded to one or another of the further aggressive acts we credit it with plotting. But that is precisely what these measures are not; for they represent cards that have already been played and cannot be played twice. There was never any reason to suppose that the Soviet Government, its prestige once engaged, could be brought by open pressure of this nature to withdraw its troops from Afghanistan. But this means, then, that we have expended—for what was really a hopeless purpose—all the important nonmilitary cards we conceived ourselves as holding in our hand. Barring a resort to war, the Soviet Government has already absorbed the worst of what we have to offer, and has nothing further to fear from us. Was this really mature statesmanship on our part?

We are now in the danger zone. I can think of no instance in modern history where such a breakdown of political communication and such a triumph of unrestrained military suspicions as now marks Soviet-American relations has not led, in the end, to armed conflict. The danger is heightened by the fact that we do not know, at this time, with whom we really have to deal at the Soviet end. If there was ever a time for realism, prudence and restraint in American statesmanship, it is this one. Nothing in the passions of electoral politics could serve as the slightest excuse for ignoring this necessity.●

THE DEATH OF FORMER LOUISIANA COMMISSIONER OF ELECTIONS DOUGLAS FOWLER, SR.

● Mr. LONG. Mr. President, I regret to inform this body of the death of Douglas Fowler, Sr., who until just last month was the dean of Louisiana's State elected officials.

Mr. Fowler resigned his important post as Louisiana commissioner of elections last month even though his term of office did not expire until this spring. Mr. Fowler's age and ill health prompted him to step down from the post he had held since 1959. But there was some joy in his resignation.

Just months earlier, Douglas Fowler's son had been elected by the people of Louisiana to succeed his father as commissioner of elections. So, Mr. President, Doug Fowler was able to turn the reins of office over to his own son.

Doug Fowler was a warm and friendly man who was beloved by most who knew him. I knew him since I was a young man and always considered him a true friend and adviser.

Few people can claim to have served their State harder, more faithfully and for a longer period than Doug Fowler. As commissioner of elections, he was an exemplary State official who won reelection time after time. His political career began in 1940 when he ran for clerk of court of his native Red River Parish. He was later elected mayor of Coushatta.

Mr. Fowler was a close friend and political friend.

He came from an era in Louisiana politics when public officials were able to maintain personal contact with many of their constitutents, and Doug Fowler made it a point to keep up this tradition until the day he died.

He will be missed by me and by all of those who knew him.

Mr. President, I submit for the Record an article that appeared in the Baton Rouge Sunday Advocate on July 15, 1979, upon Mr. Fowler's announcement that he would not seek reelection.

The article follows:

Fowler Had "His Day," Moving On

By Rafael Bermudez

"You have your day and you move on. I've decided to hang them up."

With those words, Douglas Fowler said last week he won't seek re-election as state elections commissioner, a post he held in one form or other for 20 years. His term ends in March 1980.

Fowler's bowing out of active politics will just about bring to a close an era of colorful and fiery politics in Louisiana.

Fowler, 72, was a protege of the late Earl Long and learned his distinctive brand of politics from the man whom he still refers to as "Mr. Earl."

He and Treasurer Mary Evelyn Parker are the only remaining statewide officeholders who date back to the Long eras.

Fowler made it through 40 years of Louisiana politics without ever being involved in a major scandal—a feat itself. The only blot on his record came in 1977 when the legislative auditor uncovered $5,228.87 in travel expenses claimed by Fowler for trips that were not related to his official duties. Fowler paid the money back.

Fowler is the last of the old campaigners who gave Louisiana its colorful political image. In the 1920s through the early 1950s, politics in the state was an art form of its own where candidates traveled from town to town making fiery speeches that stirred the crowds.

Those were the days before television and expressways, a time when farmers and small town dwellers had little to entertain them. Arrival of a candidate for governor of the state was a major event and folks turned out by the hundreds.

Of course, the prospect of being given a free ham, turkey or watermelon by the candidate helped.

Fowler says campaigning nowadays—with its multi-million-dollar budgets and heavy use of the electronic media—just isn't the same.

"We've lost touch with the people. We don't know what our people want. You just can't get on TV and talk to a man. You talk, but while you're talking, he's gone to the refrigerator to get a sandwich or something. I think we've lost a lot," says Fowler.

Fowler lost only one election in his long political career. That was in 1952 when he ran for comptroller on a gubernatorial ticket headed by the late Hale Boggs.

He started in politics in 1940 when he ran for clerk of court of his native Red River Parish. He was later elected mayor of Coushatta. Fowler's first involvement in state politics came in 1956 when he was appointed director of the State Board of Registration by Earl Long. In 1960 he became the first elected state custodian of voting machines and has been re-elected ever since. The name of the post was changed to commissioner of elections by the 1974 Constitution.

The voting machine custodian's duties had earlier been handled as part of the secretary of state's job. However, a political falling out between Long and former Secretary of State Wade O. Martin led to creation of the office of voting machines custodian in 1956. It was changed four years later to an elected position.

"Mr. Earl said, 'Hell! Let's make it an elective office and if they don't like the guy they can throw him out.' "

Fowler says his decision not to seek re-election was based on doctor's orders. Fowler suffers from emphysema. He said he will campaign in favor of his son, Jerry, who will try to succeed him as commissioner of elections. The only other candidate in the race to date is Jerre T. Hurst of Columbia.

Fowler says his only hobby is politics. So he'll remain active in it one way or other as long as he can.

"I think the roots Earl Long planted are still out there. They're getting thin because all of us are getting older. The young people don't know what it's like to campaign like we used to. You'd touch the people. They got an opportunity to express themselves."●

THE ADMINISTRATION'S BUDGET

● Mr. BAUCUS. Mr. President, we have now had several days to examine the administration's proposed budget. I would like to take just a few moments to discuss this budget and its implications for our constituents.

I believe the President has made a sincere effort to control spending. He proposes to keep real spending at the same level as last year and to reduce the deficit to $15.8 billion, the lowest level since 1974. The President proposes only one new major spending program, to expend educational opportunities for disadvantaged youth.

The bad news about the administration budget is its terrible impact on American taxpayers. Federal spending and taxes, as a percentage of the gross national product, will reach their highest level since World War II. Government spending under the proposed budget will reach 22.3 percent of the gross national product. Taxes will be 21.7 percent of the GNP, up from 18.5 percent in 1976.

This budget is, in simplest terms, unacceptable. It will be up to the Congress to reduce spending levels. Our goal should be to balance the budget this year.

And we should not stop there. It is imperative that we take control of spending in order to provide meaningful tax relief for our constituents.

This goal is not impossible. But it will require a sincere effort and discipline by Congress and the public.

INFLATION

I agree with the President that inflation continues to be our most serious domestic problem. Our highest budget priority must be reducing inflation.

Prices rose 13.3 percent in 1979, and there is no relief in sight. As a result, the purchasing power of the average American worker dropped 4.5 percent last year. At the same time, tax burdens increased as inflation pushed individuals into higher tax brackets.

Some causes of inflation—like OPEC price increases—cannot be avoided. But one of the reasons we have inflation is that Americans expect prices to go higher.

The Federal Government must take the lead to abolish this "inflation mentality." This will require tough fiscal policy.

THE BUDGET PROCESS

We need to begin by improving the process by which the administration and the Congress develop the budget.

We need more safeguards to insure that spending and taxes are kept within reasonable levels and that our budget is balanced. I have cosponsored legislation that would take a major step in this direction.

Along with Senator BAYH and others, I have cosponsored the Spending and Tax Limitation Act of 1979 (S. 2132) which would require the administration and the House and Senate Budget Committees to submit budgets each year with neither spending nor taxation exceeding 20 percent of the GNP.

If the legislation we are proposing was in effect today, Federal spending would be reduced by $64 million.

CONGRESSIONAL OVERSIGHT

No businessman becomes successful by allowing fraud, waste, and mismanagement in his operation. It is just commonsense that the Government ought to be operated on the same principle.

Congress must become more diligent in its efforts to identify waste, inefficient programs, and fraud. There is an enormous amount of fat in the Federal budget that can be trimmed by responsible congressional oversight.

I would like to mention just two of many examples of waste and fraud which have recently been identified by my Subcommittee on Contracted and Delegated Authority.

Based on questions raised by the subcommittee, the General Services Administration has canceled plans to give the C. & P. Telephone Co. a $300 million solesource contract to change the Federal Government's phone system. That single action, in my judgment, saves U.S. taxpayers millions upon millions of dollars.

Another example involves a water project in Montana. When local residents raised serious questions about the benefits and costs of a planned reregulating facility on the Kootenai River near Libby, Montana—and the Corps of Engineers refused to reexamine the plan in detail—I asked the General Accounting Office to do a comprehensive costbenefit analysis.

The GAO estimated that this project had a benefit-cost ratio of only 0.6. That means that for every dollar spent, only 60 cents would be returned to the taxpayer. The project cost of $0.3 billion simply cannot be justified. Based on the GAO report, I am requesting the delay of all funding for the reregulating project.

As members of the Senate, we can all be more diligent in our examination of Federal spending. Collectively, we need to enact legislation to improve our oversight capability.

Since I came to Congress in 1974, I have been pushing for enactment of comprehensive legislation to make sure all Federal programs are periodically reviewed by Congress.

Of over 1,200 Federal spending programs which have been identified by the General Accounting Office, over 800 are permanently authorized. That means that they never come up for review or reconsideration by the Congress.

My Legislative Oversight Act (S. 1304) would require Congress to establish specific objectives and expected annual accomplishments of any new spending program. Agencies would be required to report annually on their progress toward meeting the objectives.

This approach would give Congress solid guidelines to use in deciding whether to continue paying for programs. It would provide a quick means of separating programs that are really achieving their goals from those that simply drain the Federal Treasury.

We have talked about concepts of "sunrise" and "sunset" for a long time. It is time to enact the Legislative Oversight Act.

SUMMARY

The American public has amply demonstrated its disenchantment with big government, big taxes, and big spending. There are responsible ways to reduce these burdens. The proposals I have recommended—the Spending and Tax Limitation Act and the Legislative Oversight Act—should be major priorities of the Senate in 1980.●

WHAT HAPPENS IF OUR BLUFF IS CALLED?

● Mr. DOLE. Mr. President, a former Secretary of Defense, Mr. Clark Clifford is presently on an official mission to India, to reassure the new government about American intentions in the Persian Gulf region. Mr. Clifford told the Indians, that the United States would go to war if Russia makes any further move toward the Persian Gulf.

The Senator from Kansas is not an expert on gambling, but it just seems to me that Americans should be wondering right now, "what do you do in a high-stakes poker game when you are only holding deuces and the other side decides to call your bluff?" It looks as if the United States is pretty close to that position now. Yesterday, Mr. Carter's Secretary of Defense, testifying before Members of Congress, implied that the outcome of any war we would fight in the Persian Gulf would be highly doubtful, and that our position is so precarious that even to talk about whether or not we could win is very dangerous and harmful to our chances.

A 3-YEAR WARNING

Mr. President, these are sad times for America when our President and his closest advisers suddenly find out what the realities of the world are, after 3 years of cutting back funds and programs for our national defense. After the 1976 Vice Presidential debates there was a liberal assault on me for even suggesting that unpreparedness could lead to war. What happens when you are right, as President Ford and the Republicans have been right, and for 3 years you can not do anything about it except to try and sound the alarm.

Well now Mr. Carter has finally awakened to the dangers facing our country. But the Soviets were not "testing him" and his leadership of this Nation when they invaded Afghanistan. They had already tested him and he had failed. That is why they thought—or rather knew—they could get away with it. Last summer the President said the presence of Soviet combat troops in Cuba was "unacceptable." He told that to the American people and to the Soviet leadership. Yet, what did he do about it? Nothing. The Soviet Union not only called his bluff, they laughed at it. They knew what has been happening in this country under this administration: A long history of withdrawal, retreat, and indecisiveness.

FAILING THE TEST

They know that Jimmy Carter—far from the picture he tried to paint in his state of the Union message speech—has done more to disarm this country than any President in this century since Harding's Washington Naval Conference 60 years ago. In the last 3 years President Carter has cut the defense budget President Ford projected through the 1983 period, by over $57 billion. Carter slashed the strategic budget by $24 billion, cut the fund for general purpose forces by $25 billion, and reduced our vital, long-term research and development fund by $10 billion.

In terms of specific programs, the administration has canceled the B-1 program, cut back Trident submarine procurement and delaying its deployment by 2 years, canceled the neutron bomb which would have added to the security of our NATO flank, and delayed the MX program by up to 5 years.

Furthermore, all our foreign policy signals to the Russians have been negative. We hear a litany of foreign policy failures from the time Carter canceled our overflights over Cuba. President Carter pledged to retreat from our world responsibilities, in Panama, by giving away the canal; in Taiwan, by canceling our mutual defense treaty; in South Korea and the Philippines, by reducing our troops stationed there. He failed to challenge Russian and Cuban-proxy aggression in Africa. He sought restraint in our dealings with North Vietnam and Cuba. He failed to support the Shah of Iran and may have directly contributed to the fall of his government. And 20 months ago he failed to make any protest when the Communists first seized power in a previously neutral Afghanistan.

Now the President, fighting for reelection, takes a tough tone, but we are left with empty threats without substance. Does anyone really think that by reinstating registration, a process that will take over 6 months, that we can deter Soviet aggression? Or by suddenly revamping or removing congressional checks on the CIA we can prevent future

Afghanistans? On the contrary, we knew about the Iranian situation. We knew about Soviet troops massing on Afghanistan's borders. President Carter cut off aid to Pakistan because they were responding to a nuclear threat from India that we did nothing to protect them from. Strategically we are isolated in the Persian Gulf. What has the President done over the past 3 years to prepare for a crisis such as this?

We can do precious little. What if a Brezhnev doctrine were to come about instead of this Carter "doctrine." The Soviets could offer to "defend" OPEC states against what they call a U.S. imperialism. A Soviet offer would certainly bear more credibility in terms of true strength than a U.S. offer, a brinkmanship that risks our national security by a war we are no longer prepared for.

The administration is engaged in a series of calculated blustering aimed at threatening Russia. We have announced in advance that we will take bold military moves when in fact we cannot or will not do so. This is playing a very dangerous game.

UNANSWERED QUESTIONS, UNRESOLVED PROBLEMS

There are many questions that remain unanswered by the President's speech. He claimed many things the other night when he promised to protect by military force the "Persian Gulf region." But what specifically did he mean? What countries or areas are specifically included in that region? What kind of threats and how much force will the United States respond to? Does he mean only Russian troop invasions or the insurrections led by native Communist parties? What does he consider "an attempt to gain control of the Persian Gulf" to mean? Does the President plan—as he should—more specific programs to counter the Soviet buildup? Does the United States have any support from other countries in the region, and if so how much? Will they accept a U.S. military presence or not? Will our allies, particularly those dependent on Mideast oil, provide cooperation? And most important of all, with all the defense cutbacks the President has sponsored, with what military forces, specifically, are we going to respond? Secretary Brown's recent budget was formulated before the President's turnabout realization of Russia's aggressive intentions around the globe. There are no new programs, no increases in spending in order to get shorter leadtimes.

Some of the solutions to these problems can come just by having a strong, consistent, and cohesive foreign and defense policy. We need a policy that other countries, especially our enemies, will believe that we will follow through on—that we have not only the capabilities but the will and sense of direction to back our policy up. For the short term, we need to expand our naval flexibility. President Ford's projected shipbuilding plan called for 157 ships in 5 years. President Carter, after slashing this to only 67, still plans only for 97. Meanwhile some of our ships were built before World War II. The former Chairman of the Joint Chiefs of Staff, Maxwell Taylor, suggests that until new ships are built we consider leasing civilian ships for transport and supply.

Mr. President, there will be no rapid deployment force until we have the logistics, the planes, and the ships to get it deployed. And what of the people? The President talks about registration for the draft, but what about the lack of seasoned military personnel, those vitally necessary, trained specialists in the middle grades? That is where our real personnel shortfall is. What specific actions show the United States is taking steps to commit its will and power to back its strategic interests? We have embargoed our farmer's grain so that Argentina could sell theirs to the Russians instead of us. We have spoken about the possibility of going to war. The Soviet Union is superior to the United States in the things that count in crises: Conventional forces, and now, for the time since nuclear weapons were invented in this country. They are arguably superior in strategic forces. Russia is hardly likely in such circumstances to heed symbolic gestures and/or alarmist rhetoric.

I fear the Soviet Union will disregard Clark Clifford's warning about going to war. They see the President's state of the Union message as little more than an attempt at intimidating propaganda. This may be incorrect, but such miscalculations can lead to dangerous confrontations and unintentioned wars.●

NORTH AMERICAN TRADE

● Mr. BAUCUS. Mr. President, in 1979 I held several hearings on the subject of North American interdependence. At those hearings a wide range of witnesses appeared with many differing views on how North American trade may be increased and on what could be done to strengthen the economies of North America. Senator DOMENICI has taken a particular interest in this subject and he and I have worked together to advance the concept.

As a result of those hearings and as a result of personal investigations and conversations with many people, in Mexico, Canada, and the United States, I have gradually developed a number of proposals many of which have already been submitted in previous statements in the RECORD.

Particularly, I might mention the emphasis I have given to trade. My point is that our energy relationship is only one aspect of North American interdependence. Even without any energy relationship, we should proceed to strengthen trade among the countries of North America, since to do so should serve the interests of all concerned. Indeed, if it is not perceived as in the interests of all nations, the concept cannot be pursued. It is essential that the sovereignty of participants not be threatened in any way.

I have investigated and pressed a number of ideas; for example, I have stated my views that the State Department should reorganize itself to handle the countries of North America in a new bureau of North American affairs. To deal with Canada within that Department's European Bureau makes little sense to me; I commissioned a study by the GAO which in my view substantiated these conclusions. I have also looked at the possibilities for various sectoral agreements, for simplification of border trade, for increasing and simplifying trade in the service industries, and I have encouraged the creation of academic fellowships to permit increased intellectual exchange.

Of course, underlying all of my efforts was the initial amendment I submitted to the Trade Act which calls upon the administration to complete a 2-year study of possibilities for increased North American trade. I am now in communication with the U.S. Trade Representative and other agencies of the Government to determine how the administration plans to implement this mandate.

Central to the future course of events has been the conviction, shared by Senator DOMENICI, that an institutional framework must be devised which will provide direction for those who are trying to increase trade in North America. Some organization, immune to domination by any single party, industry or sector, must be considered to promote areas of interest and to warn when any dangers might arise.

Senator DOMENICI and I are tentatively planning a meeting with top industry, Government and other leaders to determine exactly how that structural framework might best be constructed. An institutional structure cannot be imposed from above if the industries and nations involved are not interested.

There have been many suggestions for an institutional framework. I believe we are on the right track and that we will be able to propose to the Senate a well thought out and valid proposal in this realm after we have had further meetings with the interested parties. Or, conversely, we will be able to report that suspicions and self-interest are still too strong to permit much progress.

We shall keep our colleagues informed as we go along and hopefully look forward to their cooperation in this important endeavor.●

GOSPEL MUSIC MONTH

● Mr. SASSER. Mr. President 2 days ago I introduced Senate Joint Resolution 135, designating the month of March, 1980 as Gospel Music Month. It is an honor long overdue this popular form of music.

Gospel, according to Webster, means "good news" or "glad tidings." Gospel music, then, is the musical expression of good news and glad tidings.

The history of gospel music attests to this statement. From its roots in colonial America to its heritage in our everyday lives gospel music has always denoted happiness. It has promoted happiness in the good news of a message available to all persons, regardless of age, creed, or color. The broad-based appeal of gospel music is witnessed in the various ways gospel music is presented: Black, traditional, inspirational, and contemporary. And fully 10 percent of all radio stations in my home State of Tennessee program a gospel format.

Many of my colleagues may remember the Broadway musical success, Godspell. It was a production that appealed to millions through its contemporary musical form and its presentation of the very principles underlying the true gospel. Godspell was contemporary gospel music at its best. And we cannot forget the contribution of Tennessee Ernie Ford, the Jordanaires, and many of our most popular country and western recording artists to the development of gospel music. Together they represent not only the diverse range of gospel music but its singular purpose.

The four major forms of gospel music are ably represented by the members of the Gospel Music Association, the industry's major representative organization. The association, I am proud to say, will be celebrating Gospel Music Week March 23–26) at the Opryland Hotel in Nashville, Tenn. The 4 days of seminars, workshops, panel discussions, choral readings and gospel music performances will climax in the 11th annual presentation of the Dove awards, the industry's "Oscar."

Gospel music, Mr. President, is very much a part of the American scene. It is a form that embodies a highly respected quality: Reverence for the Lord. It is striking to note the uniquely American way in which gospel music helps us to pay reverence to the Maker. Let me quote from Psalm 100:

> Make a joyful noise unto the Lord, all ye lands. Serve the Lord with gladness: come before his presence with singing.

It is in gospel music that we find the musical praise for the Lord and his work. To honor gospel music and its contribution to these United States is a fitting tribute.

I urge the Senate's early approval of Senate Joint Resolution 136.●

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is still in morning business.

Mr. ROBERT C. BYRD. Does the Senator wish to transact morning business?

Mr. TOWER. The Senator wants to offer an amendment.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The Senate continued with the consideration of H.R. 5168.

UP AMENDMENT NO. 954

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

> The Senator from South Carolina (Mr. Thurmond), for himself and Mr. Morgan, proposes an unprinted amendment numbered 954.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 2, following line 18, insert the following:
>
> "Sec. 5. Title 10, United States Code, is amended by adding the following new subsections at the end of section 8072:
>
> "(d) There is a Deputy Judge Advocate General in the Air Force who is appointed by the President by and with the advice and consent of the Senate from officers of the Air Force. He shall be appointed from Judge Advocates of the Air Force who have the qualifications prescribed for the Judge Advocate General in subsection (b) above. The term of office is two years, but may be sooner terminated, or extended by the President. An appointee who holds a lower regular grade shall be appointed in the regular grade of Major General.
>
> "(e) When there is a vacancy in the Office of The Judge Advocate General, or during the absence or disability of The Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of The Judge Advocate General until a successor is appointed or the absence or disability ceases."

Mr. THURMOND. Mr. President, when the Defense Officer Personnel Management Act (S. 1918) was passed 87 to 0, it contained my amendment to make sure that the positions of judge advocate general and deputy or assistant judge advocate general of all the services should be statutory positions in the grade of major general.

Unfortunately, a drafting error in my amendment resulted in the position of deputy judge advocate general of the Air Force having neither a statutory position nor grade.

Senator Morgan had previously urged in our committee that the deputy judge advocate general of the Air Force, be a statutory position in the grade of major general and I was trying, by my amendment, to make sure that this was the case for all services.

Senator Morgan and I are now offering an amendment to H.R. 5168 which will do what the Senate agreed to do 87 to 0 when it passed S. 1918, which intent failed because of a drafting error.

Our intent was set out in my remarks in this Chamber on November 30, 1979 at page 34213 of the Record. When we voted on S. 1918 that day, with my amendment, and passed it 87 to 0, it was with that intention. Today we merely carry out that intention of the Senate, which was frustrated by a drafting error.

Mr. President, in view of that situation, I hope the manager of the bill will accept this amendment.

Mr. NUNN. Mr. President, I have talked to the Senator from South Carolina about this amendment. I understand what he is doing. He is really advocating in this amendment that we place the Air Force on the same standing as to the deputy judge advocate general position as the other branches of the service.

Am I correct in that?

Mr. THURMOND. Mr. President, that is correct.

Mr. NUNN. So the Air Force, if this amendment passes, will have the same position with the same rank as the Army and the Navy.

Mr. THURMOND. That is the only purpose of this amendment.

Mr. NUNN. I might say for the Record here that I believe it is a bad precedent which is not being carried out by this amendment, but rather, by existing law, and this amendment adds to that, to some degree, a bad precedent to have a minimum rank for certain positions in the military.

What I would much prefer to do, and we may very well entertain this at another hearing in the subcommittee, is let the President of the United States and the Secretary of Defense decide the appropriate rank for a given position, and this amendment would specify that the Deputy Judge Advocate General in the Air Force will be a major general.

But I also understand the Senator from South Carolina is proposing this because that is already the law. It has been the law for many years with respect to both the Army and Navy. He is trying to achieve the purpose of equity between the three services.

So with the advance notice to my colleagues that I do reserve judgment on the wisdom of creating minimum rank for certain positions in law as opposed to leaving that to the discretion of the Chief Executive and leaving that flexibility available for changing circumstances; with that kind of reservation I would urge my colleagues to accept this amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. THURMOND. I yield back my time.

Mr. NUNN. Does anyone else want to speak on this amendment?

I believe Senator Morgan was a cosponsor?

Mr. THURMOND. The distinguished Senator from North Carolina is a cosponsor. He had to leave to go to North Carolina, I think to file papers for the race again for the Senate and he could not be here. He asked me to express his deep interest in this matter.

Mr. NUNN. I know he has taken a great lead in this, particularly the Judge Advocate General's Corps.

I thank the Senators for presenting this amendment and I urge my colleagues to accept it.

Unless someone else wants to be heard, I will yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment of the Senator from South Carolina (UP No. 954) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 955

(Purpose: To make certain technical corrections in the bill)

Mr. NUNN. Mr. President, I send an amendment to the desk that is a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 955.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 25, strike out ", or" and insert in lieu thereof "; or".

On page 10, line 9, insert "or of the Public Health Service" after "armed force".

On page 10, strike out lines 14 through 18 and insert in lieu thereof the following:

"(2) the amount of an allotment made from such member's basic pay to a dependent if such member is scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than 60 days before the scheduled date of the assignment of such member to such duty.".

On page 11, line 11, insert "(1)" after "(b)".

On page 11, line 19, strike out "(4)" and insert in lieu thereof "(3)".

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, this is a technical amendment and it has now, I believe, been agreed to by the other side of the aisle. It makes simple technical changes, no substantive change whatsoever to the bill. I ask that the Senate approve it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. TOWER. I yield back the remainder of my time.

Mr. NUNN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment of the Senator from Georgia (UP amendment No. 955) was agreed to.

Mr. NUNN. Mr. President, if there are further amendments, we certainly would like for them to be called up at this time.

I believe the unanimous-consent request provides, the Senator from West Virginia has already specified, we will consider other amendments on Monday, notably the Schmitt amendment and the Armstrong amendment, and the Warner substitute to the Armstrong amendment.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. NUNN. Yes.

Mr. ROBERT C. BYRD. I am advised by the minority that no callbacks have been received on that side of the aisle indicating amendments will be called up this afternoon by Senators.

I am advised by our Cloakroom on this side of the aisle there have been no calls from Senators indicating wishes to call up amendments.

So I, therefore, think Senators have had ample notice.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from Maryland (Mr. MATHIAS) be named as a cosponsor of the Warner amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I send the Warner amendment to the desk and ask that it be printed in the RECORD. We have a number of cosponsors. They are Mr. WARNER, Mr. NUNN, Mr. STENNIS, Mr. TOWER, Mr. CANNON, Mr. EXON, Mr. HUMPHREY, Mr. LEVIN, Mr. INOUYE, Mr. MORGAN, and Mr. MATHIAS. I ask that other cosponsors be added, as requested.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1647

Strike out all after "viz:" and insert in lieu thereof the following:

At the end of the bill add the following new sections:

FLIGHT PAY FOR ENLISTED CREW MEMBERS

Sec. 6. (a) Section 301 of title 37, United States Code, relating to hazardous duty pay, is amended—

(1) by striking out "(1), (2), or (3)" in subsection (b) and inserting in lieu thereof "(2) or (3)";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively, and by inserting after subsection (b) a new subsection (c) as follows:

"(c) For the performance of the hazardous duty described in clause (1) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

"ENLISTED MEMBERS

"Pay grade	Years of service computed under sec. 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	131	131	131	131	131	131	131
E-8	131	131	131	131	131	131	131
E-7	100	106	106	106	113	119	131
E-6	88	94	94	100	106	113	119
E-5	75	88	88	100	100	106	113
E-4	69	81	81	88	94	100	100
E-3	69	75	75	75	75	75	75
E-2	63	75	75	75	75	75	75
E-1	63	69	69	69	69	69	69
E-4 under 4 mo	63						
Aviation cadets	63						

	Years of service computed under sec. 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	131	131	131	131	131	131	131
E-8	131	131	131	131	131	131	131
E-7	131	131	131	131	131	131	131
E-6	119	125	125	125	125	125	125
E-5	119	119	119	119	119	119	119
E-4	100	100	100	100	100	100	100
E-3	75	75	75	75	75	75	75
E-2	75	75	75	75	75	75	75
E-1	69	69	69	69	69	69	69"; and

(3) by striking out "(b) or (c)" in the first sentence of subsection (g), as redesignated by clause (2), and inserting in lieu thereof "(b), (c), or (d)".

(b) The amendments made by this section shall be effective with respect to flight incentive pay payable for periods beginning after December 31, 1979.

FLIGHT PAY FOR OFFICERS

Sec. 7. (a) The tables in clause (1) of section 301a(b) of title 37, United States Code, relating to aviation career incentive pay, are amended to read as follows:

"Phase I

"Monthly rate:	Years of aviation service (including flight training) as an officer:
$125	2 or less
$156	Over 2
$188	Over 3
$206	Over 4
$306	Over 6.

"Phase II

"Monthly rate:	Years of service as an officer as computed under sec. 205:
$281	Over 18
$256	Over 20
$231	Over 22
$206	Over 24 but not over 25".

(b) The last sentence in clause (1) of section 301a(b) of such title is amended by striking out "$160" and "$165" and inserting in lieu thereof "$200" and "$206", respectively.

(c) The table in clause (2) of section 301a (b) of such title is amended to read as follows:

"Monthly rate	Years of aviation service as an officer
$125	2 or less:
$138	Over 2
$250	Over 6".

(d) The amendments made by this section shall be effective with respect to aviation career incentive pay payable for periods beginning after December 31, 1979.

CAREER SEA PAY FOR ENLISTED MEMBERS

Sec. 8. (a) Section 305a(b) of title 37, United States Code, relating to career sea pay, is amended to read as follows:

"(b) For sea duty performed after December 31, 1979, the monthly rates for special pay under subsection (a) are as follows:

"Years of sea duty:	Monthly rate
Over 3	$29
Over 5	40
Over 7	52
Over 9	63
Over 10	75
Over 11	86
Over 12	115".

(b) Section 804(a)(2) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485) is repealed.

(c) The amendments made by this section shall be effective with respect to career sea pay payable for periods beginning after December 31, 1979.

EXTENSION OF PERIOD DURING WHICH REENLISTMENT BONUSES MAY BE PAID

SEC. 9. Section 308(a)(1) of title 37, United States Code, relating to reenlistment bonuses, is amended—

(1) by striking out "ten" in clause (A) and inserting in lieu thereof "fourteen"; and

(2) by striking out "twelve" in the last sentence and inserting in lieu thereof "sixteen".

STATION HOUSING ALLOWANCE

SEC. 10. (a) Section 403(a) of title 37, United States Code relating to basic allowance for quarters, is amended by inserting "(1)" after the subsection designation "(a)" and by adding at the end thereof the following new paragraph:

"(2) Under uniform regulations prescribed by the Secretaries concerned, a station housing allowance may be paid to a member of the uniformed services assigned to duty in any area of the United States, except Alaska and Hawaii, whenever and to the extent that the average cost in such area for housing for members of the uniform services serving in the same or equivalent grade as such member exceeds by more than 15 percent the amount of the basic allowance for quarters of such member.".

(b) The catchline of section 403 of such title is amended to read as follows:

"Basic allowance for quarters; station housing allowance".

(c) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 403 and inserting in lieu thereof the following:

"403. Basic allowance for quarters; station housing allowance.".

(d) The amendments made by this section shall be effective with respect to periods after December 31, 1979, for which basic allowances for quarters are payable.

TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 11. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "that is not more than 7 cents a mile based on" in clause (1) and inserting in lieu thereof "per mile prescribed by the Secretaries concerned multiplied by the"; and

(2) by striking out "of not more than 10 cents a mile based on" in clause (3) and inserting in lieu thereof "at a rate per mile prescribed by the Secretaries concerned multiplied by the".

(b) Section 411(b) of such title, relating to travel and transportation allowances, is amended—

(1) by striking out "first-class transportation, including sleeping accommodations," in clause (1) and inserting in lieu thereof "common carrier transportation";

(2) by inserting "and designating areas as high cost areas" after "rates" in clause (2); and

(3) by striking out "first-class transportation, including sleeping accommodations and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage rates" in clause (3) and inserting in lieu thereof "transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances".

(c) The amendments made by this section shall be effective with respect to travel and transportation performed after December 31, 1979.

STABILIZATION OF PAY AND ALLOWANCES OF COMMISSIONED OFFICERS WHO PREVIOUSLY SERVED AS ENLISTED MEMBERS OR WARRANT OFFICERS

SEC. 12. (a)(1) Section 907 of title 37, United States Code, relating to the pay and allowances of enlisted members appointed as officers, is amended to read as follows:

"§ 907. Pay and allowances stabilized: former enlisted members and warrant officers

"(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as an officer; or

"(2) the pay and allowances to which he would be entitled if he were in his last enlisted grade before appointment as an officer.

"(b) A warrant officer who accepts an appointment as an officer shall, for service as a commissioned officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as a commissioned officer;

"(2) the pay and allowances to which he would be entitled if he were in his last warrant officer grade before appointment as a commissioned officer; or

"(3) the pay and allowances to which, before his appointment as a commissioned officer, he was entitled in accordance with subsection (a)(2) of this section.

"(c) For the purposes of this section—

"(1) the pay and allowances of a former grade include—

"(A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

"(B) subject to subsection (e), allowances under chapter 7 of this title; and

"(2) the rate of pay and allowances of a former grade is that to which the member would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade, based upon time in grade and years of service, as otherwise provided in this title.

"(d) Proficiency pay under section 307 of this title, incentive pay under section 301 of this title for hazardous duty, and special pay under sections 301 through 305 of this title for diving duty, sea duty, and duty at certain places may be considered in determining the amount of the pay and allowances of a former grade only so long as the member continues to perform the duty and would otherwise be eligible to receive that pay in his former grade.

"(e) Clothing allowance under section 418 of this title may not be considered in determining the amount of pay and allowances in a former grade if the officer is entitled to a uniform allowance under section 415 of this title.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 907 and inserting in lieu thereof the following:

"907. Pay and allowances stabilized: former enlisted members and warrant officers.".

(b) Section 203 of such title, relating to rates of pay for members of uniformed services, is amended by adding at the end thereof the following new subsection:

"(d) The basic pay of commissioned officers in pay grades O-1, O-2, and O-3 who are credited with over four years' active service as warrant officers shall be computed in the same manner as commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members.".

(c) The amendments made by this section shall be effective with respect to periods, for which pay and allowances are payable, which begin after the month in which this section is enacted.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

SEC. 13. Effective January 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act (as prescribed by the President under section 1009 of such title), are increased by 10 percent.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday, the Senate will convene at 12 noon. During that day, the Senate will resume consideration of H.R. 5168. The only amendments to be in order will be the amendment by Mr. SCHMITT, which was already covered by the earlier agreement, an amendment by Mr. ARMSTRONG, which was covered in that agreement, and a substitute amendment to the Armstrong amendment on which there is a 2-hour time limitation. That substitute amendment will be the Warner-Nunn amendment.

Any rollcall votes on legislation on Monday, if ordered, will begin not before 6 p.m. There could be procedural votes, of course, in getting the Sergeant at Arms to request the attendance of Senators. I do not anticipate there will be that problem, but it could result in a rollcall vote. Otherwise, rollcall votes on legislation will begin not before 6 o'clock on Monday.

RECESS TO MONDAY, FEBRUARY 4, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand recessed until the hour of 12 noon on Monday next.

The motion was agreed to; and, at 4:53 p.m., the Senate recessed until Monday, February 4, 1980, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate February 1, 1980:

NATIONAL COUNCIL ON THE HUMANITIES

Marian B. Javits, of New York, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1982, vice Eugene Smith Pulliam, resigned.

PANAMA CANAL COMMISSION

The following-named persons to be members of the Board of the Panama Canal Commission: (New positions)

Michael Blumenfeld, Assistant Secretary of the Army, of the District of Columbia.

John Alden Bushnell, of Connecticut.

John W. Clark, of Louisiana.

Clifford Bradley O'Hara, of Connecticut.

William Sidell, of California.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of lieutenant (junior grade):

Daniel F. Haynes
John D. Griffith
Bruce E. Moreland
Eldon J. Robison
Dana A. Gray
Charlie L. Cozby, Jr.
Carl S. Jordan
Bryan F. Collver
Patrick C. McHugh, Jr.
Lloyd G. Spence, Jr.
Philip T. Stanley
Timothy J. Gallaway
Jack R. Smith
David W. Alley
James L. Person
Tedric R. Lindstrom
Iain (n) Anderson
Scott J. Johnson
Bruce R. Mustain
George T. Elliott
Douglas P. Riggins
Paul J. Lammerding
Gary A. Napert
Mchael P. Lucia
Timothy W. Rolston
Robert L. Maki
John E. Dejung
Kelly P. Reis
Ronald T. Hewitt
Matthew J. Wixsom
Keith M. Belanger
Eric K. Chapman
Barry L. Poore
Paul S. Dalsanto
Martin R. Weikart
Mark J. Kerski
Robert K. Roemer
John F. Brooks
Michael P. Butler
Mark A. Frost
Bruce R. McQueen
Robert W. Durfey, Jr.
Paul E. Destefano
Michael J. Gardner
Stephen T. Delikat
Douglas C. Connor
Richard (n) Muth
Thomas S. Fullam
Edward L. Wilds, Jr.
Jay F. Boyd
Daniel (n) Rice
Jeffrey A. Kayser
Timothy J. Spangler
Robert A. Deletto
Gerard D. Massad
Randall R. Gilbert
Charles F. Barker
William G. Davidson
David K. Hebert
Donald R. Clinkenbead
Robert C. Hayden
Richard W. Cusson, Jr.
Gene L. Schlechte
Patrick J. Cunningham, Jr.
Jack R. Bentley
Mark J. Sikorski
Mark H. Landry
Rex J. Blake
John R. Huber
James P. Kevin, Jr.
Daniel C. Whiting
Peter J. Dinicola
Stuart J. Overton
Joseph G. Pickard
William P. Vieth, Jr.
Mark J. Burrows
Kevin G. Ross
Kevin P. Carpentier
William A. Emerson
Manson K. Brown III
Mark L. Miller
Lawrence R. Sandeen
Clinton S. Gordon
William F. Meyn, Jr.
John J. Lapke
Keith B. Schleiffer
Richard E. Wells
Robert W. McCarthy III
Lloyd M. McKinney
Wayne N. Collins
James A. Watson IV
Briak J. O'Keefe
Mark D. Hill
Lee T. Romasco
Richard B. Gaines
Martin L. Jackson
Joseph V. Pancotti
Bruce A. Drahos
Robert M. Bishop, Jr.
Michael R. Seward
Robert M. Czechowicz
Brian J. Ford
Frederic C. Harwood
Jay R. Hickman
Steven T. Penn
Ronald F. Wohlfrom
Clifford K. Comer
James A. McKenzie
William P. Layne III
William J. Wagner
George W. Kellan III
Richard C. Yazbek
Norman K. Swenson
Edward L. Young, Jr.
Stephen L. Kantz
William J. McHenry
Joseph T. Riordan
Jeffrey B. Stark
Thomas J. Murphy
Mark W. Cerasale
Stephen A. Ruta
Eddie V. Mack
Dwight K. McGee
Bruce D. Ward
Joseph R. Castillo
Mark E. Dahl
Robert A. Vanzandt
Richard A. Nickle
John W. Yost
Gene R. Allard
Brooke E. Winter
Andrew G. Givens
William V. Smyth
Paul A. Preusse
Kurt R. Wellington
Jon M. Bechtle
Christopher (n) Bond
Bruce W. Black
Kenneth (n) Hull
Scott M. Holley
Michael J. Lapinski
Jonathan B. Lemmen
George S. Sabol
Thomas J. Kavanaugh
Douglas E. Burke
Kenneth (n) Keefe
Jeffrey A. Georges
Adeste F. Fuentes
Robert F. Reynolds
Larry C. Mercier
Mitchell R. Forrester
Ronald J. Rabago
Thomas J. Chuba, Jr.
David G. Maylum
Kenneth B. Cowan
Mark E. Ashley
Joseph C. Loadholt
Douglas N. Eames
Matthew J. Vaughn
Will D. Agen
Paul S. Berry
Robert E. Reininger
Kent P. Mack
Leroy E. Smith
Martin D. Stewart
Benjamin M. Harrison
Lance W. Carpenter
Michael H. Vincenty
Byron (n) Ing
Alfred M. Ducharme
Steven H. Ratti
Douglas E. Yon
Cleon W. Smith
Wayne C. Parent
Michael P. Rand
Michael J. Mangan
Edward A. Richards, Jr
William C. Billings, Jr.
George F. Ryan
Michael H. O'Neill
Jeffrey E. Brager
Steven F. Butler
Michael R. Safford
Charles L. McAllister
William T. Blunt
Alexander P. Munoz
Rodney L. Boyd
Marshall M. Thomas
Joseph H. Ewalt
Michael T. Burnett
Michael G. Fetrow
Gerald R. Hagan
Darrell W. Williams
Ronald S. Leidner
William M. Cherry

The following named Reserve officers of the Coast Guard to be Regular commissioned officers:

James B. Hall
Michael J. Hanratty
Kevin A. Nugent

IN THE NAVY

The following-named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

To be rear admiral

John C. McArthur
Harold N. Wellman
Donald P. Roane
Donald L. Felt
James E. McCardell, Jr.
John T. Parker, Jr.
Edward J. Hogan, Jr.
George W. Davis, Jr.
Verle W. Klein
John A. Baldwin, Jr.
Jonathan T. Howe
William A. Kearns, Jr.
Thomas C. Watson, Jr.
William D. Smith
Jackson K. Parker
Dickinson M. Smith
Paul E. Sutherland, Jr.
Gerald W. MacKay
Benjamin T. Hacker
Allen D. Williams
Charles J. Moore
Clinton W. Taylor
William C. Wyatt III
Thomas J. Cassidy, Jr.
Robert C. Austin
Edward M. Peebles
Edward H. Martin
William F. McCauley
Daniel L. Cooper
Walter T. Piotti, Jr.
Lowell R. Myers
Fred W. Johnston, Jr.
Peter B. Booth
Paul F. McCarthy, Jr.
Roger D. Johnson
Frank B. Kelso II
John M. Poindexter

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of major general under the provisions of title 10, United States Code, section 5769:

James L. Day
David B. Barker
George B. Crist
Dwayne Gray
Richard A. Kuci

HOUSE OF REPRESENTATIVES—*Monday, February 4, 1980*

The House met at 12 o'clock noon.

Father William McCarthy, St. John the Baptist Catholic Church, Quincy, Mass., offered the following prayer:

Let us pray.

O God, the source of all wisdom, whose statutes are good and gracious, and whose law is truth, guide and direct the Congressmen, that by just and prudent laws, they may promote the well-being of all our people. Through Christ our Lord. Amen.

Almighty God, our Father, you have charged us with the task of building on this Earth a home where all the nations dwell in unity, liberty, and justice. We pray for strength and purpose to make officers in every branch of Government accountable to all the people, fulfilling roles of service and responsibility, that they may seek justice and protect the weak and lead us in constructing institutions for our peace and mutual aid. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office.

FATHER WILLIAM McCARTHY

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, it is my pleasure to introduce to the Congress the chaplain for Monday, February 4, 1980, Rev. William R. McCarthy, pastor of St. John the Baptist Church in Quincy, Mass. Father McCarthy is a close friend of my family. For my wife, Virginia, and I, it is particularly rewarding to have him here. Father McCarthy performed the marriage ceremony on our wedding day.

To all who know him, Father McCarthy is truly "a man for all seasons." His tremendous work in the church is coupled with a tireless dedication to the

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

local community. Presently, in addition to his busy clerical duties, he is chaplain to the Quincy Fire Department and serves on the board of housing for the city of Quincy. His work in behalf of the entire community has made him a figure of affection and inspiration to all.

Between 1957 and 1963, Father McCarthy first served in the Boston area at St. Rose's Church in Chelsea, Mass. In 1963, it was the good fortune of my home parish, St. Gregory's, in Boston, when Father McCarthy came to our church and stayed with us until his 1977 appointment as pastor to St. John the Baptist. During his years at St. Gregory's, his civic mindedness and devotion to neighborhood improvement challenged and inspired us all. In 1975, the Dorchester Civic Association paid tribute to Father McCarthy's "labor of love" in behalf of Dorchester by naming him "man of the year" for his numerous good works.

Above all, Father McCarthy is a man who loves people and genuinely cares about their problems, their needs, and their hopes. For me, my family, and my friends, he has always been a source of inspiration, learned counsel, good humor, and spiritual direction. I hope that my colleagues will take a few moments to reflect upon Father McCarthy's words to us here today. For as we are all aware, the complex problems and obstacles which confront this great body will require that our collective wisdom have all the divine guidance we can summon.

FATHER WILLIAM McCARTHY

(Mr. MAVROULES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAVROULES. Mr. Speaker, it is with great personal pleasure that I join with my distinguished colleague, the gentleman from Massachusetts (Mr. Donnelly), to welcome our guest chaplain today, Rev. William R. McCarthy, pastor of St. John the Baptist Church in Quincy, Mass.

I would like to acknowledge the reverend's presence and thank him for his inspiring prayer.

Although now a resident of my distinguished colleague's South Shore district, Father McCarthy's seeds were sown in my own—in Haverhill, Mass.

The pride of his community, Father McCarthy was born in Haverhill, December 9, 1926, and throughout his youth attended Haverhill public schools through his graduation from the city's St. James High School.

In 1952, Father McCarthy had the distinct honor of being ordained into the priesthood by the late, much revered Richard Cardinal Cushing. From such auspicious beginnings, Father McCarthy went on to serve as a curate in St. Rose Church in Chelsea, Mass., before his present assignment in Quincy.

Since leaving his hometown after high school graduation, Father McCarthy has never had the opportunity to return to Haverhill in his official capacity. Nor is that really important. What is important is that wherever he goes, he brings with him what he has taken from Haverhill—which is a commendation both to himself and to the home of his early years.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE ALLEGATIONS AGAINST MEMBERS OF CONGRESS

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time to share with the Members of the House the statement made today by Speaker Thomas P. O'Neill, Jr. The Speaker's statement is as follows:

> The allegations made over the weekend concerning possible criminal conduct by several Members of Congress are extremely serious. This morning the Democratic leadership and I met with Congressman Charles Bennett, chairman of the Committee on Standards of Official Conduct. He informed me that he is convening a special meeting of his committee at 1:30 p.m. today to consider the aforementioned allegations.
>
> The Democratic leadership fully expects that there will be a comprehensive and impartial investigation of these allegations. Furthermore I hope that the committee and the Department of Justice will pursue this matter expeditiously because of the special trust that Members of Congress exercise on behalf of the people of this Nation and because of the importance of maintaining the confidence of the American people in their Congress.

SELECTIVE SERVICE REGISTRATION OF WOMEN

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, President Carter will announce this week whether he will ask Congress to give him the authority to register women with the Selective Service System.

I am totally opposed to requiring women to register with the Selective Service System, and there are several reasons.

I believe, Mr. Speaker, that this legislation would have a hard time passing the Congress, and I know it would have a hard time coming out of the Committee on Armed Services.

Our Selective Service System is in a shambles. They can hardly register men, and if 16 million women are also required to register I do not think the Selective Service System can do the job.

Plus, I think the registering of women really is the first step toward putting women in combat positions and combat roles. In the service now, Mr. Speaker, we are getting an excellent group of servicewomen. That is not what we need. We need better men to serve. The women are filling up the supportive slots, and they are doing a good job.

The American people are against registering women, and as a man told me in Mississippi recently when I saw him, he said, "I have two sons and a daughter. I would want my two sons to register and serve if necessary, but I am not going to give you my daughter."

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the bill on the Consent Calendar.

PAIUTE INDIAN TRIBE OF UTAH RESTORATION ACT

The Clerk called the bill (H.R. 4996) to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SCHULZE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. This concludes the call of the Consent Calendar.

☐ 1210

MEMBERS INDICTED FOR WRONGDOING SHOULD STEP ASIDE FROM SPECIAL RESPONSIBILITIES UNTIL DELIBERATIONS ARE CONCLUDED

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I am certain that the American people are dismayed by the allegations that a number of Members of Congress are implicated in an alleged bribery scheme. This hits the American people like a new shock wave heaped upon the many international and domestic problems we face today.

The interest of the American people must come first. A Congress buffeted by such allegations, laboring under such a cloud, will not command the respect, confidence, and cooperation of the American people and cannot properly exercise its responsibilities. In an effort to be an effective public policy and decisionmaking body, we must demand an expedited resolution of such allegations. A reinforced House Ethics Committee or special assistance should be considered to provide a thorough, fair, and—most importantly—a swift resolution of the allegations.

The work of this 96th Congress is too important to be set aside or wait for the resolution of the charges. We must move ahead with the important agenda of tax, energy, foreign and military policy, and economic issues that envelop Americans and the world community.

Mr. Speaker, those who have been accused of such conduct deserve a fair hearing both with respect to standards of conduct as Members of Congress and to the criminal and civil laws of the land. No Member of Congress is above the law, and our Code of Ethics and Action in this instance will hold these Members of Congress answerable to the questions that are being raised.

Mr. Speaker, as I have outlined in correspondence with you, I am recommending that any Member of Congress indicted for wrongdoing step aside immediately from his special responsibilities during the interim of the civil, criminal, and ethical deliberations on his conduct.

The suspension of special assignments during this period would be in the best interests of Congress and consistent with propriety. This is clearly a necessary first step which will enable the House to focus on the world and domestic issues that are of paramount importance and will place these disturbing allegations on the path to fair resolution.

CONGRESS AND ADMINISTRATION SHOULD PROVIDE ASSISTANCE TO TUNISIA

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, my colleagues, during the holiday recess, I had the opportunity to visit some countries in North Africa, one of them Tunisia. Tunisia is a country of moderation and stability in an area where there is far too little moderation and stability. Tunisia now has some problems with one of its neighbors and is requesting some weapons of a defense nature and some long-term loans in order to acquire them.

Ordinarily I am cautious about granting or approving those kinds of weapon sales. In this case, it seems to me clearly this sale—and Tunisia has been a great friend of the United States—clearly ought to be encouraged, and we ought to be providing assistance. I hope Congress and the executive branch will cooperate.

ETHICS COMMITTEE SHOULD IMMEDIATELY INVESTIGATE ALLEGATIONS INVOLVING MEMBERS OF CONGRESS

(Mr. ERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERTEL. Mr. Speaker, over the weekend, the Nation received news of a Federal bribery investigation involving several Members of Congress. These still unofficial charges are appalling and go to the very heart of our democracy. They pose the fundamental question of whether our representative institutions serve their democratic function.

The Ethics Committee must proceed immediately to launch a full investigation of these appalling allegations. At the same time, the Department of Justice must go forward with its investigation in this matter and move it to an expeditious conclusion. Only then, will the American people be assured that our Government is worthy of its high ideals.

UNITED STATES SHOULD AID TURKEY ECONOMICALLY AND MILITARILY

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I have consistently voted in favor of not lifting the arms embargo to Turkey, because of its reluctance to make some movement to resolve the crisis on the Island of Cyprus. I have also taken the position that we should be careful about extending economic aid to Turkey for similar reasons.

There is an article in today's Washington Post that indicates that the situation in Turkey which is a linchpin in our strategic defenses in the Mediterranean and Middle East is so serious and the economic and political deterioration is so great, that I am hereby stating publicly and on the record that we must immediately initiate some kind of an international program to make sure that the Government of Turkey and the nation of Turkey remains firmly and positively committed to NATO and remains a strong economic and military bastion for the free world.

I hope that all of my friends who are concerned as I am over the Cyprus issue will nevertheless recognize that it will be impossible to solve that or a lot of other issues unless we help get Turkey back on its feet. Moreover, if we undertake such a program it can only help create an atmosphere in which the tensions between Turkey and Greece will be easier to resolve. If the present deterioration continues they will probably be impossible to resolve and are likely to get worse.

PERMISSION FOR SUBCOMMITTEE ON MEDICAL FACILITIES AND BENEFITS OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Medical Facilities and Benefits of the Committee on Veterans' Affairs may sit today while the House is proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why is it so necessary? Why cannot the gentleman just wait until we have adjourned?

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Well, it probably will not go back into session until we have adjourned, given the light calendar today, but these are just hearings. There is no markup involved in the procedure. I have been asked by the committee to ask unanimous consent that they be permitted to hear the rest of the witnesses today.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I have no great problem with what the gentleman has just stated, but so many of our people, as the gentleman knows, are many times promised that there will be votes and all that kind of thing. I wanted to be sure all of the people on the gentleman's committee have the benefit of whatever good testimony there is to hear.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania (Mr. EDGAR)?

There was no objection.

CONSISTENCY, THY NAME IS CARTER

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, let me see if I have this straight: Presidential envoy Clark Clifford says that a Soviet move in the Persian Gulf will mean "war."

But Secretary of State Vance says Clifford is being "dramatic" and that a Soviet move will not necessarily mean war.

President Carter says we will fight to protect the gulf.

Secretary of Defense Brown says he cannot guarantee victory in such a fight.

Pentagon sources say we have the capability of making a stand.

Congressional sources say we do not.

Muhammed Ali is sent by the President to gain support of black African States for the Olympic boycott. But when Ali gets to Africa he suddenly discovers that the Soviet Union has been giving aid to African States and he now has doubts about supporting the President.

Two years ago Secretary Brown told us we did not need the neutron bomb.

Four days ago he told us we did need the neutron bomb.

Mr. Speaker, is this an administration, or a rerun of family feud?

CONGRESS MUST DEMAND FULL AND TOTAL INVESTIGATION OF ALLEGATIONS AGAINST MEMBERS OF CONGRESS

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, according to the news report this weekend, the FBI has made some startling revelations. I think we in the House of Representatives must demand a total and complete investigation. Confidence in our Government is already at an alltime low. We must restore that trust and confidence and the only way we can do that is by a complete and an indepth report of all of the people involved.

☐ 1220

Many believe that Koreagate was a coverup. This time we want all of the facts, all of the facts revealed.

It is very sad that this has happened. The people's confidence, as has been said, in Government is at an alltime low. Over the past decade we have had so many scandals that I guess I ask, like so many others, "When will it all stop?"

Nothing can be swept under the rug. All of the facts must be brought to life. Hopefully we can put this period of scandal behind us. This is a national tragedy.

CAMPAIGN SCANDALS

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, the tragic scandal of Watergate literally resulted in the famine and death of millions of people in Indochina because it destroyed our will to stand up to brutal Communist aggression from North Vietnam. Also the ugly Koreagate scandal almost again gutted this country's resolve and our commitment to keep South Korea part of the non-Communist world.

Now we have another major Washington, D.C., scandal breaking just as the Soviets are using nerve gas and napalm on the hills people of Afghanistan, and threatening the oil fields of the Middle East. And then there are our diplomats held as hostages heading for day 100 this week.

What a mess. So, while scandal is in the air and we are diverting our energies and precious time investigating scandals, we should include in our investigations the lack of activity or interest on the part of the FEC to investigate not only PAC's and incumbents but challengers also. My opponent, young Carey Peck, in the 1978 general election, it turns out, accepted 13 $1,000 illegal corporate contributions all in sequentially numbered cashier's checks. A Member of the other body, it appears, received 22 illegal corporate contributions in cashier's checks drawn from the same bank in sequential numbers with "some gapping," those breaks being the gaps between the checks received by this Senator and the cashier's checks accepted by my opponent, "Peck's bad boy." All of this illegally donated money was embezzled from San Francisco, Calif., the year before, $997,000 worth of it. That is right, almost a million dollars stolen. By a 28-year-old con man who then tried to replace me in Congress with an inexperienced 28-year-old son of a multimillionaire movie star.

Now, if the majority leader is going to come to my district, as Peck has announced, to try to defeat me, then the majority leader had better prepare for a fight as rough as the Alamo with me playing Davey Crockett and a different outcome. I am going to get all of the facts out on both sides of the aisle about this scandal involving my campaign, and I am going to ask for FEC audits of Peck; rather I will demand them. And I will revise and extend my remarks to make this opening statement, in a series of disclosures even more interesting.

GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1979

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5176), an act to establish an independent personnel system for employees of the General Accounting Office, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "General Accounting Office Personnel Act of 1980".

GENERAL PERSONNEL AUTHORITY

SEC. 2. The Comptroller General of the United States (hereinafter referred to as the "Comptroller General") may appoint, pay, assign, and direct such personnel as the Comptroller General determines necessary to discharge the duties and functions of the General Accounting Office.

ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM

SEC. 3. (a) The Comptroller General shall, not later than the effective date established by section 9(a), establish by regulation a personnel management system for the General Accounting Office (hereinafter referred to as the "personnel system") which shall meet the requirements of subsections (b) through (h). Before promulgating any regulation or any amendment thereto under this section, the Comptroller General shall provide notice and an opportunity for public comment. No reprisal or threat of reprisal shall be made against any employee of the General Accounting Office as a result of comments provided with respect to any proposed regulation or amendment under this section.

(b)(1) The personnel system shall—

(A) embody the merit system principles described in section 2301(b) of title 5, United States Code;

(B) prohibit the personnel practices prohibited in section 2302(b) of such title;

(C) prohibit the political activities prohibited under subchapter III of chapter 73 of title 5, United States Code;

(D) assure that all employees of the General Accounting Office are appointed, promoted, and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service; and

(E) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(2) Nothing in this section prohibits or restricts any lawful effort to achieve equal employment opportunity through affirmative action.

(c) The personnel system shall provide that the pay of the employees of the General Accounting Office shall be fixed by the Comptroller General consistent with the principles of section 5301(a) of title 5, United States Code. Under the personnel system—

(1) the Comptroller General shall publish a schedule of pay rates which shall apply to employees of the General Accounting Office and, except as provided in paragraph (3) of this subsection or section 5, the highest rate under such schedule shall not exceed the highest rate of basic pay payable for GS–15 under the General Schedule;

(2) except as provided in section 5, the pay of the employees of the General Accounting Office shall be adjusted at the same time and to the same extent as rates of basic pay are adjusted for the General Schedule;

(3) such schedule may provide for rates which do not exceed the maximum rate payable for grade GS–18 of the General Schedule for up to one hundred employees, reduced by the number of employees who are in the General Accounting Office Senior Executive Service established under section 5, except for employees in such service pursuant to section 5(a)(4); and

(4) employees of the General Accounting Office shall be entitled to grade and pay retention, consistent with the principles of subchapter VI of chapter 53 of title 5, United States Code.

(d) The personnel system shall include a system for performance appraisals of employees of the General Accounting Office which meets the requirement of section 4302 of title 5, United States Code. The personnel system shall provide that the Comptroller General has the same responsibility with respect to the performance appraisal system under this subsection as the Office of Personnel Management has with respect to the performance appraisal systems under such section. The Comptroller General shall implement the performance system required by this subsection as soon as practicable, but not later than October 1, 1981.

(e) The personnel system shall provide for procedures to ensure that each employee of the General Accounting Office has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization, or to refrain from such activity, and shall provide for a labor-management relations program, consistent with chapter 71 of title 5, United States Code.

(f) The personnel system shall provide for the reduction in grade or removal of employees based on unacceptable performance consistent with section 4303 of title 5, United States Code, and the taking of other personnel actions consistent with chapter 75 of such title.

(g)(1) The personnel system shall provide that all personnel actions affecting employees or applicants for employment in the General Accounting Office shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition.

(2) The personnel system shall include a minority recruitment program consistent with section 7201 of title 5, United States Code.

(3) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the General Accounting Office by section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), by sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), by section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), by sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), or by any other law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; except that, with respect to employees and applicants for employment in the General Accounting Office, authorities granted thereunder to the Equal Employment Opportunity Commission, Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch—

(A) involving oversight and appeals, shall be exercised by the General Accounting Office Personnel Appeals Board established by section 4; and

(B) involving other responsibilities, shall be exercised by the Comptroller General.

(h) The personnel system shall provide procedures for the processing of complaints and grievances which are not otherwise provided for under subsections (e), (f), and (g).

GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD

SEC. 4. (a)(1) There is established within the General Accounting Office a board to be known as the General Accounting Office Personnel Appeals Board (hereinafter referred to as the "Board"). The Board shall be composed of five members appointed by the Comptroller General in accordance with this subsection.

(2) Each appointment made by the Comptroller General under paragraph (1) shall be made—

(A) from a written list of candidates submitted to the Comptroller General by any organization eligible to make such a submission under paragraph (4); and

(B) after consultation with organizations which represent employees of the General Accounting Office and with the member or members of each committee of the Congress having legislative jurisdiction over the personnel system who are designated by the chair of each such committee to consult with the Comptroller General.

(3) An individual shall be eligible for appointment as a member of the Board only if such individual—

(A) has a total of three years of full-time or part-time experience in the adjudication or arbitration of personnel matters;

(B) is not a current or former officer or employee of the General Accounting Office;

(C) has the demonstrated ability, background, training, and experience necessary to be especially qualified to serve as a member of the Board; and

(D) demonstrates a capacity and willingness to devote sufficient time to service as a member of the Board in order to enable the Board to dispose of cases under this section in a timely manner.

(4) An organization shall be eligible to submit a list of candidates to the Comptroller General under paragraph (2)(A) if, in the opinion of the Comptroller General, the membership of the organization is composed primarily of individuals who are experienced in the adjudication or arbitration of personnel matters. The submission of any list under this paragraph shall be made in the form, at the time, and according to the procedures, which the Comptroller General may require.

(b)(1) Except as provided in paragraph (2), members of the Board shall be appointed for terms of three years.

(2) Of the members first appointed to the Board two shall be appointed for a term of three years, two shall be appointed for a term of two years, and one shall be appointed for a term of one year, as designated by the Comptroller General at the time of appointment.

(3) Members of the Board shall not be eligible for reappointment.

(4) Any vacancy in the membership of the Board shall be filled in the same manner as the original appointment. Any individual appointed to fill a vacancy shall serve only for the unexpired portion of the term with respect to which such vacancy has occurred, except that, if the unexpired portion is less than one year, the Comptroller General may appoint the individual for a term which is equal to three years plus that unexpired portion.

(5) A member of the Board may continue to serve after the expiration of the term for which the member was appointed until a successor has taken office, except that the member may not so continue to serve for more than six months after the date on which the term for which the member was appointed otherwise would expire under this subsection.

(c)(1) A member of the Board may be removed from the Board—

(A) by majority vote of the members of the Board (other than the member who is the subject of the proposed action of removal); and

(B) only for inefficiency, neglect of duty, or malfeasance in office.

(2) Any member of the Board who is the subject of any proposed action of removal under this subsection shall be given notice and opportunity for a hearing before the Board prior to any vote of the members of the Board under paragraph (1)(A). The Board may dispense with the opportunity for a hearing only upon the submission of a written waiver of the hearing to the Chair by the member subject to the proposed action.

(d) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate payable for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be entitled to travel expenses and per diem allowances in accordance with section 5703 of title 5, United States Code.

(e) The members of the Board shall select from among the members of the Board a Chair who shall be the chief executive and administrative officer of the Board.

(f)(1) The Chair shall select and the Comptroller General shall appoint an individual to serve as General Counsel of the Board (hereinafter referred to as the "General Counsel"). The General Counsel shall be eligible for reappointment and shall serve at the pleasure of the Chair.

(2) The Chair shall fix the rate of pay of the General Counsel, except that the rate of pay shall not exceed the maximum rate payable for GS-15 of the General Schedule.

(g) The General Counsel shall—

(1) investigate any allegation concerning prohibited personnel practices referred to in section 3(b)(1)(B) of this Act to the extent necessary to determine whether there are reasonable grounds to believe that any such practice has occurred, exists, or is to be taken by any employee of the General Accounting Office;

(2) investigate any allegation concerning prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(3) investigate matters under the jurisdiction of the Board if so requested by the Board or any member of the Board; and

(4) otherwise assist the Board in carrying out its functions.

(h) The Board may consider, decide, and order corrective or disciplinary action (as appropriate) in cases arising from—

(1) employee appeals concerning any removal, suspension for more than fourteen days, reduction in grade, reduction in pay, or furlough of thirty days or less;

(2) prohibited personnel practices referred to in section 3(b)(1)(B);

(3) prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(4) determinations of appropriate units of employees for collective bargaining;

(5) elections and certifications of collective bargaining representatives;

(6) any labor practice prohibited under the labor-management system established under section 3(e) and any other matter appealable to the Board under that system;

(7) actions involving discrimination prohibited under section 3(g); and

(8) any other issue relating to the personnel of the General Accounting Office which the Comptroller General, by regulation, determines is most appropriately resolved by the Board.

(i) The Comptroller General shall promptly implement any corrective action ordered by the Board, in cases in which the Comptroller General has the authority to do so.

(j) The Board shall have authority to designate a panel of its members, or an individual member, to take any action which the Board is authorized to take under subsection (h). Any decision made under subsection (h) by a panel or individual member designated under this subsection shall be considered to be a final decision of the Board unless the decision is reopened and reconsidered by the Board under subsection (k).

(k) The Board may, on the motion of any party or on its own motion, reopen and reconsider any decision under subsection (h) within thirty days after the decision is rendered.

(l)(1) Any final decision of the Board (or of any panel or individual member designated under subsection (j)) under subsections (h) (1), (2), (3), (6) and (7) may be appealed to the United States Court of Appeals for the circuit in which the petitioner resides or to the United States Court of Appeals for the District of Columbia. Any appeal under this subsection shall be in accordance with the procedures of chapter 158 of title 28, United States Code. Notwithstanding any other provision of law, any petition for review of a final decision of the Board shall be filed within thirty days after the date the petitioner receives notice of the final decision of the Board.

(2) In any case filed under paragraph (1), the court shall review the record and set aside any agency action, findings, or conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) obtained without procedures required by law, rule, or regulation having been followed; or

(C) unsupported by substantial evidence.

(m) The Board shall promulgate regulations—

(1) providing for employee appeals, consistent with the principles of sections 7701 and 7702 of title 5, United States Code; and

(2) establishing its operating procedure.

GAO SENIOR EXECUTIVE SERVICE; MERIT PAY SYSTEM

SEC. 5. (a)(1) The Comptroller General may promulgate regulations establishing a General Accounting Office Senior Executive Service (hereinafter referred to as the GAO Senior Executive Service) which—

(A) meets the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

(B) provides that positions in the GAO Senior Executive Service meet requirements which are consistent with the provisions of section 3132(a)(2) of such title;

(C) provides rates of pay for the GAO Senior Executive Service which are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and which are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

(D) provides a performance appraisal system for the GAO Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

(E) permits the Comptroller General to award ranks to members of the GAO Senior Executive Service consistent with the provisions applicable to the Office of Personnel Management and the President under section 4507 of such title;

(F) provides for removal consistent with section 3592 of such title, and removal or suspension consistent with section 7543 of such title; and

(G) permits the Comptroller General to

pay performance awards to members of the GAO Senior Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title.

(2) Except as otherwise provided in paragraph (1), the Comptroller General may make applicable for the GAO Senior Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service.

(3) Employees in the GAO Senior Executive Service shall not be subject to the provisions of the personnel system established under section 3 (c), (d), (e) and (f).

(4) The GAO Senior Executive Service may include positions referred to in—

(A) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(B) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b); and

(C) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)).

(b) The Comptroller General may promulgate regulations establishing a merit pay system for such employees of the General Accounting Office as the Comptroller General considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

NONCOMPETITIVE APPOINTMENTS; TECHNICAL ASSISTANCE

SEC. 6. (a) Notwithstanding any other provision of law, any employee of the General Accounting Office who has completed at least one year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) The Director of the Office of Personnel Management shall, on request from the Comptroller General, provide technical and consulting services to the Comptroller General in the establishment of the personnel system for the General Accounting Office.

COORDINATION WITH CERTAIN OTHER PROVISIONS OF LAW

SEC. 7. (a) Except as provided under section 5(a)(4), nothing contained in this Act shall be construed as repealing, amending, or otherwise affecting the provisions of—

(1) sections 302 and 303 of the Budget and Accounting Act, 1921 (31 U.S.C. 42 and 43), or subsections (a) and (b) of section 203 of the Federal Legislative Salary Act of 1964 (31 U.S.C. 42a (a) and (b));

(2) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(3) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b);

(4) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)); or

(5) section 401 of the General Accounting Office Act of 1974 (31 U.S.C. 52c).

(b) Except as specifically provided in this Act, nothing contained in this Act shall be construed to repeal, amend, or limit the application of any provision of law applicable to employees of the General Accounting Office.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 2108(3) of title 5, United States Code, is amended by inserting "or the General Accounting Office" after "the Senior Executive Service".

(b) Subsection 5201(a)(1) of such title is amended by striking out "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by adding at the end thereof the following: "(ix) the General Accounting Office;".

(c)(1) Paragraph (1) of section 5108(c) of such title is repealed.

(2) Paragraphs (2), (3), and (4) of such section are redesignated paragraphs (1), (2), and (3), respectively.

(d) Section 5342(a)(1) of such title is amended by striking out "or" at the end of subparagraph (H), by inserting "or" at the end of subparagraph (I), and by adding at the end thereof the following: "(J) the General Accounting Office;".

(e)(1) Subchapter III of chapter 73 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 7328. General Accounting Office employees

"The preceding provisions of this subchapter shall not apply to employees of the General Accounting Office.".

(2) The chapter analysis for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7327 of the following new item:

"7328. General Acounting Office employees.".

(3) Subsections (a), (b), and (d) of section 311 of the Budget and Accounting Act, 1921 (31 U.S.C. 52) are amended to read as follows:

"(a) The Comptroller General shall appoint, fix the pay of, and remove employees of the General Accounting Office under the General Accounting Office Personnel Act of 1980.

"(b) All officers and employees of the General Accounting Office shall perform such duties as may be assigned to them by the Comptroller General.".

(4) Subsections (e) and (f) of such section are redesignated subsections (c) and (d), respectively.

(f) Section 13 of the Federal Employees Pay Act of 1946 (31 U.S.C. 46a) is repealed.

(g) Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended by striking out "(other than the General Accounting Office)".

AUTHORIZATION

SEC. 9. There are hereby authorized to be appropriated beginning fiscal year 1981 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 10. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on—

(1) October 1, 1980; or

(2) if later, one hundred and twenty days after the date of the enactment of this Act.

(b) The provisions of section 3 shall take effect on the date of the enactment of this Act, except the personnel system established by the Comptroller General under that section shall take effect on the effective date established by subsection (a).

Mrs. SCHROEDER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, will the gentlewoman from Colorado just briefly say what the Senate amendments were that resulted in the proposal now being suggested to the House?

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, on October 15, 1979, the House suspended the rules and passed H.R. 5716, establishing an independent personnel system for the General Accounting Office. Last week, the Senate passed its version of the same legislation. The Senate amendment consists primarily of technical amendments. Two minor substantive changes were made: First, provision was added to pay for travel of members of the General Accounting Office Personnel Appeals Board. Second, an explicit authorization for appropriations was added. Neither of these provisions are inconsistent with the House version of the bill.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado to dispense with reading of the Senate amendment?

There was no objection.

The SPEAKER. Is there objection to the original request of the gentlewoman from Colorado?

There was no objection.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 1, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:55 A.M. on Friday, February 1, 1980, and said to contain a message from the President wherein he transmits the second amendment to the Agreement for Cooperation Between the International Atomic Energy Agency (IAEA) and the United States of America.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

TEXT OF THE PROPOSED AMENDMENT TO THE AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs.

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to section 123d of the Atomic Energy Act of 1954 (42 U.S.C. 2153), as amended, the text of the proposed amendment to the Agreement for Cooperation Between the United States of America and the International Atomic Energy Agency. The proposed amendment is accompanied by these items:

—My written determination, approval and authorization concerning the Agreement;

—The memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the amendment;

—The joint memorandum submitted to me by the Secretaries of State and Energy, which includes a summary of the provisions of the amendment; and

—The views of the Nuclear Regulatory Commission.

The United States began negotiating for the proposed amendment in late 1977. This was done in anticipation of the passage of the Nuclear Non-Proliferation Act, which calls upon me to renegotiate existing agreements for peaceful nuclear cooperation so as to bring them into line with the Act's provisions. In my judgment the United States-IAEA agreement will meet all statutory requirements once this amendment is added.

The IAEA is a key element in the framework of international cooperation in the peaceful uses of nuclear energy, and I am pleased to forward an amendment designed to strengthen our cooperation with the Agency. The proposed amendment will, in my view, further the non-proliferation and other foreign policy interests of the United States.

I have considered the views and recommendations of the interested agencies in reviewing the proposed amendment and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution, and I urge that the Congress give it favorable consideration.

JIMMY CARTER.

THE WHITE HOUSE, *February 1, 1980.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 1, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 11:55 A.M. on Friday, February 1, 1980, and said to contain a message from the President wherein he transmits a Social Security Agreement between the United States of America and the Swiss Confederation.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE SWISS CONFEDERATION ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–261)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act as amended by the Social Security Amendments of 1977 (P.L. 95–216, 42 U.S.C. 1305 note), I transmit herewith the Agreement between the United States of America and the Swisss Confederation on Social Security, signed on July 18, 1979, the Final Protocol to the 1979 Agreement, also signed on July 18, 1979, and the Administrative Agreement for the Implementation of the 1979 Agreement, signed on December 20, 1979.

These U.S.-Swiss agreements are similar in objective to the U.S.-Italian social security agreements that I transmitted to the Congress on February 28, 1978, and to the U.S.-West Germany social security agreements that I transmitted to Congress on February 28, 1979. These bilateral agreements, which are generally known as totalization agreements, provide for limited coordination between the United States and foreign social security systems to overcome the problems created by gaps in protection and by dual coverage and taxation.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health, Education and Welfare, which explains the provisions of the Agreements and provides data on the number of persons affected by the Agreements and on their effect on social security financing, as required by the same provision of the Social Security Amendments of 1977.

The Department of State and the Department of Health, Education and Welfare join in commending this Agreement, Protocol, and Administrative Agreement.

JIMMY CARTER.

THE WHITE HOUSE, *February 1, 1980.*

TENTH ANNUAL REPORT ON THE ADMINISTRATION OF THE NATURAL GAS PIPELINE SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the Tenth Annual Report on the Administration of the Natural Gas Pipeline Safety Act of 1968, as required by Public Law 90–48. This report has been prepared pursuant to Section 14 of the Act and covers activities for calendar year 1977.

JIMMY CARTER.

THE WHITE HOUSE, *February 4, 1980.*

1978 ANNUAL REPORT ON THE ADMINISTRATION ON AGING OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

In accordance with Section 208 of the 1973 Amendments to the Older Americans Act (Public Law 89–73), I herewith transmit the 1978 Annual Report of the Administration on Aging of the Department of Health, Education, and Welfare.

JIMMY CARTER.

THE WHITE HOUSE, *February 4, 1980.*

☐ 1230

CONFERENCE REPORT ON S. 1300, INTERNATIONAL AIR TRANSPORTATION COMPETITION ACT OF 1979

Mr. ANDERSON of California. Mr. Speaker, I call up the conference report on the Senate bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 19, 1979.)

The SPEAKER. The gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference on S. 1300, the International Air Transportation Competition Act of 1979, has reported a bill which is not substantially different from the bill which the House passed by voice vote on November 8. The bill modernizes the laws governing international aviation, most of which have been in effect since 1938. During this 40-year period, international aviation has evolved from an infant industry to the basic system of international passenger transportation. A thorough modernization and revision of the governing law is needed.

The main features of S. 1300 are as follows:

First, the bill establishes new policy statements to guide the Civil Aeronautics Board and other agencies in regulating international aviation, and in conducting international aviation negotiations. These policy statements state that to the maximum extent possible, reliance will be placed on competition, rather than on detailed and burdensome Government regulation, to determine the services which will be offered to the traveling public. At the same time, the policy statements recognize that there are differences between international and domestic aviation; the critical difference being that in domestic markets a competitive environment can be established by actions of the U.S. Government, while in international markets, competition can be established only by agreement between the United States and one or more foreign governments. Since most foreign governments do not share our country's beliefs in the benefits of unregulated compensation in aviation, the policy statements contemplate that there will be a continuing need to seek equal opportunity for our international airlines through negotiations and regulatory actions.

Beyond providing a new policy orientation, the conference report gives our Government new powers to use in its efforts to end discrimination and operational and marketing restrictions on our carriers. The bill gives the Government the powers to suspend or revoke permits and rates of foreign air carriers whose governments place unreasonable restrictions on the operations of U.S. air carriers. The new powers given to our Government by S. 1300 are comparable to the powers which many foreign governments have and use against our carriers. The new powers given to the Civil Aeronautics Board by S. 1300 generally are subject to Presidential review and it is contemplated that restrictive actions will be taken only as a response in kind, after all reasonable efforts have been made to resolve disputes by negotiation.

S. 1300 also gives air carriers operating in foreign air transportation fare flexibility comparable to that which was authorized for domestic air carriers in the Airline Deregulation Act of 1978. In recent months, it has become clear that airlines operating internationally need flexibility to respond promptly to increases in their costs, particularly with regard to the dramatic rises in aviation fuel costs.

S. 1300 includes a fare flexibility provision permitting airlines to adopt fares 5 percent above or 50 percent below a standard foreign fare level. The standard industry fare level starts with the fares which the CAB allows to go into effect on or after October 1, 1979, and will be adjusted periodically to reflect changes in airline costs. This provision is similar to the fare flexibility provision in the Domestic Deregulation Act, which also uses a standard industry fare level based on the fares in effect on a specified date, and which also allows a pass-through of cost changes. The conference report gives the CAB discretion to set a different standard foreign fare level in a limited number of markets, if the Board finds, after an oral evidentiary hearing, that the fare in effect on or after October 1 is unjust and unreasonable.

Mr. Speaker, the bill that we took to conference was quite similar to the Senate version. There were some differences, particularly with regard to the fare flexibility provisions, but I believe the compromises we reached will benefit both consumers and the U.S. airlines which provide international service.

Mr. Speaker, I would also like to mention another important aspect of international air transportation, and that is air cargo. Last session, I introduced a bill, H.R. 5882, which would legislate cargo rate flexibility similar to what is provided in S. 1300 for passenger carriers. Since the introduction of this legislation, the Civil Aeronautics Board has proposed a rule to achieve the objectives of H.R. 5882, and is currently receiving public comments on their proposal. Following the Board's final action we will give further consideration to the need for legislation in this area.

I would also like to clarify some matters pertaining to the Love Field situation. The report refers to "turn-around" service between Love Field and points within the four contiguous States. This restriction is intended to limit flights serving Love Field, and only those flights, to the State of Texas and the four contiguous States, but is not intended to limit the number of cities served on such flights, so long as these cities are in those five States. Also there is no intent to limit flights by a carrier serving Love Field which do not serve Love Field at all, such as a New York-Miami flight. Finally, the prohibition in section 29(c)(1) against an air carrier providing through service or ticketing with another air carrier or foreign air carrier only applies with respect to a carrier's Love Field service and does not affect its usual ticketing, scheduling, and intensity practices and ratemaking practices at other points on its system.

To sum up, Mr. Speaker, the pending conference report represents a modernization of the law governing international aviation and an elimination of unnecessary, cumbersome, and expensive Government regulation. I urge my colleagues to join me in passing this legislation.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the committee, the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, the distinguished gentlemen from Kentucky and California have ably described the conference report which I urge my colleagues to support. One of the primary purposes of this legislation is to establish a statutory negotiating policy with respect to foreign air transportation agreements with other nations. Prior to this time, the pursuit of U.S. air transportation policy has taken varying courses.

This legislation establishes a policy of placing reliance on competitive market forces, achieving efficient and low-price services, eliminating unfair and discriminatory practices, and calls for our negotiators to strengthen the competitive position of U.S. carriers to at least assure equality with foreign air carriers.

The latter factor was included in recognition of economic and political considerations in foreign transportation which preclude theories of domestic regulatory reform from being equally applied to the international marketplace. Thus, the goal of strengthening the competitive position of U.S. air carriers is to be equally balanced with the goal of competition. Given the nature of international trade, this makes abundant sense. Obviously, our trade deficit has reached new depths due to our oil imports, and any increase in this dismal deficit will only further fuel inflation, increase the jobless rate, and further weaken the dollar.

With respect to international regulatory procedures, the bill simplifies obtaining route authority, makes the filing of international agreements permissive and applies the same antitrust principles to those agreements as the domestic regulatory reform bill. Also, the bill would allow U.S. carriers to lease foreign-registered aircraft without crew, pursuant to regulations adopted by the Secretary of Transportation, for operation between points solely within the United States.

In order to facilitate fostering competition in international air transportation this legislation provides the CAB additional authority to impose countermeasures against foreign carriers if the foreign government has imposed unreasonable, discriminatory, and unfair restrictions on U.S. carriers. Thus, the bill makes it easier for the Board to amend or suspend foreign air carrier permits, and gives greater power to the Board to suspend or cancel foreign air carrier tariffs. Also, the CAB is given authority to take any other retaliatory action deemed to be in the public interest.

Oil prices have risen tremendously over the past 12 months. The price of jet fuel has almost doubled over that period, and in the "spot market" even higher prices are paid. In short, air carriers are not able to adjust their tariffs fast enough because of both the volatile nature of the fuel market and the regulatory lag in obtaining permission to make these adjustments. Under current law it takes 60 days or more to obtain consent from the CAB to make a change in fares. In order to alleviate this situation, the bill would permit carriers to raise international fares, beginning 6 months after date of enactment, 5 percent above a "standard foreign fare level" without CAB approval. On the date of enactment, carriers can lower fares by 50 percent below the standard foreign fare level without board approval. Similar flexibility was given to carriers operating in domestic markets when the Airline Deregulation Act of 1978 was passed.

For the 6 months following enactment air carriers would be permitted to raise fares above those in effect on or after October 1, 1979, to cover actual operating and fuel cost changes. During this 6-month period the Board would be authorized on the basis of a full oral evidentiary hearing by an administrative law judge to determine whether certain fares in effect on October 1, 1979, are unjust or unreasonable. Once this determination is made the standard foreign fare level would be adjusted accordingly for purposes of fare flexibility and would only take effect on or after the 180 days after enactment of the bill.

Clearly, legislation such as this will reduce cumbersome regulation and spur on the development of an even stronger U.S. presence in international aviation.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend Chairman JOHNSON, Chairman ANDER-

SON, and Mr. HARSHA, our ranking minority member, for their efforts in bringing this conference report to the House floor. This legislation represents a logical outgrowth of Congress efforts to deregulate the domestic air transportation system. To the extent possible, the same procompetitive theories will now be applied by U.S. negotiators to the international marketplace.

The bill sets forth a procompetitive policy statement to direct the Civil Aeronautics Board in carrying out its duties with regard to routes, rates, and entry. It also establishes a number of goals for the CAB and Departments of State and Transportation to follow in establishing a negotiating policy for bilateral agreements. Again, competition is the theme, with equal emphasis on strengthening U.S. air carriers to at least assure equality with foreign air carriers, increasing U.S. carrier profitability, and eliminating unfair competitive practices engaged in by foreign nations.

The policy of strengthening the competitive position of U.S. air carriers is consistent with other U.S. foreign trade policy. Any diminution in the strength of our carriers will ultimately adversely affect the economy, the taxpayer, and the consumer, as well as frustrate the objective of full employment and economic growth.

As set forth in the statement of goals, our negotiators should make every effort to eliminate operating and marketing restrictions imposed by foreign carriers. In addition to market access, ground handling of aircraft, passengers, and cargo, there are several marketing obstacles that U.S. carriers face. These include, among others, restrictions or monopoly of reservations computers, currency restrictions, and ticketing restrictions. Foreign carriers operating in the United States do not face these types of obstacles, and thus compete with U.S. carriers on a much more equal footing than is possible for U.S.-flag carriers on foreign turf.

This legislation gives the CAB tools with which to pursue so-called liberal bilaterals. I wish to emphasize that the CAB is also expected to see to it that these agreements are lived up to by foreign entities and, if not, the CAB is expected to take appropriate countermeasures.

There are numerous cases where foreign governments have placed unfair anticompetitive restrictions on U.S. carriers. In order to promote the elimination of these restrictions. The bill gives the CAB authority to summarily modify, suspend, or revoke a foreign air carrier permit if the foreign government or foreign air carrier impairs the operating rights of U.S. carriers or engages in unfair or restrictive practices with an adverse impact on the U.S. carriers. Further, the bill would amend the Unfair Competitive Practices Act to provide Government agencies and U.S. carriers with the option of initiating proceedings with the CAB to try and resolve unfair, competitive practice disputes through negotiation, and failing that, through sanctions against the foreign government or carrier.

The conferees did agree to accept a modified provision permitting the CAB to authorize foreign carriers to carry local U.S. traffic in emergency circumstances. The other body had a similar provision in their bill and the conferees agreed to a more restrictive substitute. The CAB is expected to use emergency cabotage exemption authority sparingly after all possible efforts have been made to rectify the situation by utilizing U.S. carriers.

This legislation also amends existing law to conform international route awards, foreign agreements, and tariffs to the Deregulation Act of 1978. Applications for international route authority are to be granted if "consistent with" the public convenience and necessity rather than "required by" the public convenience and necessity. Agreements affecting foreign air transportation will be subject to the same antitrust principles as domestic agreements. In fact, the modified local cartage standard has already been applied to international carrier agreements under CAB precedents.

Fuel costs over the last year have risen at an astronomical rate. Aviation fuel has almost doubled within that time and now approaches an average of 85 cents per gallon. In many cases, much higher rates are paid for fuel in the spot market.

Given rapidly escalating fuel costs and regulatory lag in approving price increases to cover these costs, we have included in the bill a fare flexibility mechanism similar to that enacted in the airline deregulation act for domestic fare increases. Immediately upon enactment carriers may lower fares 50 percent below the standard foreign fare level without CAB approval.

For the first 6 months following enactment carriers are permitted to increase fares up to a standard foreign fare level. The baseline is a fare in effect on or after October 1, 1979, with cost adjustments every 60 days for fuel and 180 days for other costs. Beginning 6 months after the date of enactment, carriers may file increases 5 percent above the standard foreign fare level as adjusted for actual operating costs.

Under the compromise the CAB is authorized to assess certain fares to determine if they are unjust or unreasonable based upon a full oral evidentiary hearing by an administrative law judge. If the CAB finds certain fares unjust or unreasonable, then the standard foreign fare level would be adjusted accordingly. This authority only exists for the 6-month period following enactment and the CAB can make no further adjustments after 6 months except for cost passthroughs based on actual operating costs.

Mr. Speaker, this legislation is consistent with our efforts in applying a procompetitive policy to domestic air transportation, and it is only fair that our international carriers be put on the same footing to the extent possible as our domestic carriers.

I urge my colleagues to support the conference report.

☐ 1240

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of our Committee on Public Works and Transportation, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of S. 1300. This conference report will update the laws governing international aviation, and establish new policies to guide U.S. negotiators and regulators.

The conference report follows the lead of the domestic aviation bill which we passed last year, by establishing competition as the mainstay of our international aviation policy. However, S. 1300 also recognizes that in many cases we will be unable to negotiate agreements with foreign governments to establish a competitive environment. In these cases, hard bargaining will still be required to insure fair treatment for U.S. consumers and U.S. air carriers.

S. 1300 also gives our Government new powers to use against foreign air carriers when foreign governments discriminate against our air carriers, and we are unable to resolve the problem by negotiation. The new powers granted to our Government are comparable to those which foreign governments use against our air carriers. It is essential that the U.S. Government be placed on an equal footing.

Other important provisions of S. 1300 give U.S. carriers fare flexibility, to permit them to respond to increasing costs and changing market conditions. The fare flexibility provisions will facilitate reductions in fares to attract new passengers, as well as fare increases which are required by rising costs. The international provision is comparable to the fare flexibility provision in the domestic deregulation act, and it will increase the competitive effectiveness of our air carriers.

Mr. Speaker, I urge passage of this important legislation.

Mr. ANDERSON of California. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in support of the conference report. It is another step in the direction of deregulation of the airline industry and bringing more competition to play in this industry and letting competition rather than Government regulation control the economics as well as the improvements in service of the airline industry.

One of the things that this conference report does accomplish is it sets parameters within which carriers can decide in competitive markets what fares should be charged so that actual competition rather than governmental decision will achieve that purpose.

I might point out also that there are other issues in the international airline field that have not been addressed by this legislation and that need to be addressed. I would hope that the Subcommittee on Aviation of the House Committee on Public Works and Transportation will during this year address these other unresolved issues, issues, for example, which place American-flag carriers at a competitive disadvantage to subsidized and paternalistically operated carriers of other governments. These are just some of the issues that should be dealt with so that by the end of this Congress there can be a complete and comprehensive treatment and improvement of the airline industry in the international as well as the domestic industry.

I commend the chairman of the subcommittee and the ranking member for the hard work which was put into this conference report, and I urge its adoption.

● Ms. FERRARO. Mr. Speaker, I rise in support of the conference report on S. 1300, the International Air Transportation Competition Act.

In October of 1978, the Congress passed legislation to deregulate the domestic air transportation industry. That bill enjoyed broad bipartisan support as a perfect example of government recognizing a case of Federal controls running contrary to the interests of the airlines, their passengers, and the public at large. It represented responsible congressional oversight at its best. The only problem with the 1978 legislation was that it did not extend to international aviation. S. 1300 remedies that problem.

Of the many advantages of deregulation, perhaps the most critical, in terms of continued economic health of the airlines, is the fuel pass along, or the streamlining of procedures for approval of fare increases to reflect increased fuel costs. Under deregulation, the Civil Aeronautics Board has approved fare increases for domestic carriers every 2 months, rather than every 6 months as provided by the 1978 legislation.

International carriers face more serious fuel problems than do domestic carriers, yet must struggle with cumbersome regulatory procedures whenever they seek fare increases. The regulatory time lag between filing and CAB approval can be months, and with fuel prices increasing as rapidly and frequently as they did in 1979, fare increases frequently were outstripped by new fuel cost hikes.

We are all familiar with some version of the horror stories that skyrocketing energy costs have brought to our economy. We are also all too familiar with headlines announcing 100 and 200 percent increases in oil company profits. Well, the airline company balance sheets tell a very different story.

In 1979, despite a 12-percent increase in passenger traffic, airline profits dropped 66 percent—mostly because fuel prices nearly doubled. Eastern Airlines reported a 14-percent decline in profits for the fourth quarter of 1979. Trans World Corp., the holding company for TWA, reported a pretax loss of $56.4 million. Delta Airlines reported earnings down 25 percent.

The role of fuel costs in this story is clear. Despite extensive and successful efforts to increase fuel productivity, total industry fuel costs grew from $4 billion in 1978 to almost $6.5 billion in 1979—an increase of over 60 percent.

To take one particular airline as a case in point, Pan Am uses over 900 million gallons of fuel a year. In December of 1978, average fuel costs for Pan Am were 43.5 cents per gallon. In April of 1979, the price had risen to 49 cents, and then it took off, reaching 77 cents in September and 82 cents in December. Without regulatory freedom to pass these cost increases along through fare adjustments, continued U.S. flag service to Americans flying abroad could be threatened. This is important because U.S. airlines have always been world leaders in service improvements and in maintaining low fares, cutbacks in their operations would mean U.S. air travelers would pay higher fares for poorer service.

In my first term in Congress I have had more than my share of serious disagreements with the airline industry, particularly over the noise reduction bill which this House passed last week and over the Experienced Pilots Act. But deregulation of domestic air carriers has proven its value to passengers and to the airlines, and the case for deregulation is only stronger for international airlines. I commend Chairman ANDERSON and Ranking Minority Member SNYDER for bringing this conference to the floor, and I urge all my colleagues to support it.●

Mr. ANDERSON of California. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

The SPEAKER pro tempore (Mr. MAVROULES). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CALL OF THE HOUSE

Mr. CORMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 26]

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harris
Harsha
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hutto
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Ottinger
Pashayan
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stenholm
Stratton
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whittaker
Williams, Mont.
Winn
Wirth
Wolpe
Wright
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

☐ 1300

The SPEAKER pro tempore (Mr. MAVROULES). On this rollcall, 323 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

LEGISLATIVE PROGRAM

(Mr. CORMAN asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CORMAN. Mr. Speaker, on the calendar today was a rule for H.R. 5507 and consideration of that bill.

The Committee on Ways and Means discovered on Friday morning that we had to have a technical amendment to carry out the intent of an amendment that was made when the bill was before the full committee. Under our rules, we must submit that to the full Committee on Ways and Means. We have had no opportunity to do that. Therefore, we have asked that the rule and the bill be not considered today.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I would be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding.

As a member of the committee, my understanding is that there is some time problem with this legislation, and that the Senate has acted only in the committee and has not had a chance to bring the bill to the full Senate. Since we are working against a potential April 1 deadline, is it the gentleman's intent to bring this back at a relatively early date?

Mr. CORMAN. Yes, I hope that we can have this resolved by the Committee on Ways and Means this afternoon or in the morning and we would then be in a position to ask that it again be put on the calendar. I hope we can handle it expeditiously.

Mr. ROUSSELOT. The gentleman can assure us that the members of the Committee on Ways and Means will, in fact, have an opportunity to comment on or possibly even have a vote on these changes?

Mr. CORMAN. Yes.

Mr. ROUSSELOT. I thank the gentleman. I appreciate his withdrawing the rule on the basis of our discussion.

WASTING THE TIME OF THE CONGRESS

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I would just like to observe that last Thursday the gentleman from Maryland arose at the time the program was announced and suggested to the gentleman from California (Mr. DANIELSON), the acting majority leader, that we might want to rearrange the program as it was originally announced. I suggested that votes today could be put over to Tuesday, that the legislation planned was not of such great significance that the votes could not be put over. So what the leadership has done instead is to discommode 320 Members of Congress who had to return from their districts to answer a quorum call, with no major legislation on a Monday and now we are about to adjourn at a few minutes past 1 o'clock.

Somebody ought to get their act together around here and run this place in an orderly fashion.

Taken along with the latest scandals and everything else, it really gives Congress a great image to be called here and waste the taxpayers' money on a Monday like this. I just wanted to note that for the RECORD.

May I also note that the remarks last Thursday of the gentleman from California (Mr. DANIELSON) were changed substantially before being submitted in final form, and although I had engaged in the discussion I was not given the courtesy to revise my own comments. My remarks thus appear inconsistent with those of the gentleman from California, although they were not so at the time.

PERSONAL EXPLANATION

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAGEDORN. Mr. Speaker, congressional business required that I be out of town on Thursday, January 31, 1980, and consequently, I missed the vote on the Walker amendment to H.R. 5980, the Antirecession and Targeted Fiscal Assistance Act. Had I been present I would have voted in favor of the amendment, which would have stricken the Davis-Bacon Act wage provisions from the bill. I insert into the RECORD a statement in support of the amendment:

FLOOR STATEMENT BY CONGRESSMAN TOM HAGEDORN IN SUPPORT OF WALKER AMENDMENT TO H.R. 5980, JANUARY 30, 1980

Mr. Chairman, I rise in strong support of the amendment of my colleague from Pennsylvania and commend him on his efforts to help change a law that I have been working on reforming since I first came to Congress in 1975.

While there are great differences among Members of Congress on the proper role of government and on which public programs ought to be funded and to what extent they should receive funds, there is general agreement that, through the elimination of wasteful and unnecessary expenditures, the government ought to make sure that it gets the most value for the tax dollar. No matter what the federally funded project, one normally wants to get the job done for the lowest cost.

The Davis-Bacon Act makes this objective impossible. It is a perfect example of anachronistic legislation which has created more problems than it has solved.

The Act was enacted in 1931 for the purpose of protecting local wage rates on federal construction from the competition of lower wage, non-local labor, and was the first major law regulating the wages of non-federal employees. It was alleged by supporters of the Act that successful bidders were in the habit of importing substantially lower paid laborers from one region of the country for the work in another region. To remedy this situation, the Davis-Bacon Act required that, on all federal construction projects in excess of $2,000, contractors and subcontractors would be required to pay their employees the wage rate that was determined by the Secretary of Labor to be prevailing in the city, town, village, or other civil subdivision of the State in which the work is to be performed.

In effect, the result was to transform a prevailing, or average wage for an area into a minimum—or superminimum—wage rate for the purpose of federal construction. By virtue of Davis-Bacon, the federal government was assured of having to pay more than the private sector for comparable construction. Congress has added this prevailing wage requirement to nearly 80 other statutes involving federally assisted construction so the provisions now apply to the work done through State and local governments who use these construction funds.

By effectively prohibiting all wage competition, Davis-Bacon results in the grossly wasteful misallocation of scarce public resources. The General Accounting Office estimated in 1971 that the Act typically results in increased public construction costs of 5 to 15 percent. A 1975 study published by the Wharton School of Business reached similar conclusions. Even this tremendous expense underestimates the true cost of the Act in a number of ways.

These percentage figures reflect costs attributable to inaccurate prevailing wage determinations by the Department of Labor and do not attempt to estimate further savings that might be effected by modifying the prevailing wage concept itself. They do not reflect administrative costs incurred by the Labor Department and numerous other federal agencies in administering the Act, the compliance costs incurred by covered contractors and subcontractors—who must file countless wage certification statements each year—or the impact of Davis-Bacon upon construction costs in the private sector.

It is unrealistic to suppose that wage rates on the percentage of total national construction that is covered by Davis-Bacon does not affect rates on the remaining percentage that is not covered.

The costs of Davis-Bacon are felt in a wide variety of public programs. They are strongly felt in public employment and job-creating programs which are able to put fewer unemployed persons to work.

At a time when federal, state and local budgets are being squeezed from every direction, Davis-Bacon serves to frustrate public objectives and add needlessly to the costs of hundreds of other public programs.

H.R. 5980, the Anti-Recession and Targeted Fiscal Assistance bill that we are considering today, provides for two new assistance programs to state and local governments and would be triggered by declines in the real gross national product and real wages and salaries. The money in this bill is intended for these governments in the event of a recession and to address the needs of those local governments that have not yet recovered from the last economic downturn.

With these as the goals of this bill, there will be less money going to these governments than would otherwise be available because of the Davis-Bacon provision. If the state and local governments are to be in such dire need of these funds, then it makes more fiscal sense to insure that none of it is wasted by going to the higher wages mandated by the Davis-Bacon Act.

It seems to me that the stated purpose of the supporters of the Act is being defeated because the money will be going to higher wages instead of additional workers who would gladly work at lower, more realistic wages. If the intent of this bill is to provide more money to help in a period of recession, it makes no sense at all to include the Davis-Bacon requirement.

Mr. Chairman, going beyond this particular amendment, it is evident that something needs to be done about the overall effects of the Davis-Bacon Act and the manner in which it has been administered.

Reform of the Act and its administration would help, and legislative attempts toward this goal have been made.

Nearly four years ago when I started to offer amendments to do something about Davis-Bacon, I received only 35 votes. In 1978, the last amendment I offered to reform a small portion of the Act received 173 votes. In 1979, a General Accounting Office report stated that Davis-Bacon cost hundreds of millions of tax dollars and the report recommended that the Act be repealed. Because of the strength of this report and the growing need to do something about our inflationary federal budget, I decided to change the goal of my legislation from reform to all-out repeal. This was the goal of many opponents of Davis-Bacon for some time, but due to the realities of the situation, it would have been impractical to seek repeal of an Act that many Members of Congress had very little knowledge of. The GAO report helped to change this.

The education process of the past four years and the contents of the GAO report are beginning to pay off. There are presently 74 cosponsors of my bill, H.R. 1900, to repeal Davis-Bacon. There is a total of 80 individual Members of the House who have gone on record in favor of all-out repeal by sponsoring or cosponsoring identical repeal language. This is greater than the vote total of those favoring a very narrow waiver of Davis-Bacon in a military construction authorization bill three years ago. It is evident that the mood of the Congress is changing about the need to change Davis-Bacon.

Whenever a repeal, exemption or waiver amendment such as this one is offered on the Floor, one of the specious arguments used against that amendment is that it is not proper since the committee with the proper jurisdiction has not acted on such legislation. This is an irrational and impractical argument because the legislation being amended deals with some statute that already has been passed that contains a reference to Davis-Bacon prevailing wages.

I do not like the piecemeal approach to Davis-Bacon much better than those who use this weak argument, but those of us who want to get something done to help the beleagured taxpayer must use this legislative strategy because of the refusal of the appropriate committees to do anything.

It would not be proper for this specious argument to ever be used again since the Labor Standards Subcommittee does not have the courage to report out some type of reform or repeal bill. If the majority of the Members of that Subcommittee do not take this type of action so this matter can be settled once and for all by a yes/no vote, then the piecemeal attack will continue.

This bill under consideration today is a money bill, pure and simple. With the Davis-Bacon provision included in the legislation's programs, the intent of getting the most money possible to those governments that need it will be partially defeated. The facts show that Davis-Bacon benefits a few, but the vast majority either pay for the higher wages or are left out of receiving any financial assistance because there is not enough money to go around. With the limited resources that the American taxpayer has, it makes more sense to cut out provisions such as Davis-Bacon that do not give them as much bang for their buck.

MEDICAL EXPENSE PROTECTION ACT OF 1980

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARTIN. Mr. Speaker, today I am pleased to join with House Republican Leader JOHN RHODES and 19 colleagues in introducing the Medical Expense Protection Act of 1980 (MEPA). This legislation makes modest, incremental changes in our present health care system in order to improve financial protection for all Americans against unusually large medical expenses and at the same time to introduce needed consumer cost-saving incentives into the system.

Unlike comprehensive national health insurance proposals introduced by others in this Congress, this legislation does not duplicate the health care coverage that 9 out of 10 Americans already possess, and does not try to redesign the entire medical system that meets most of the needs of most Americans. Instead, MEPA fills in the gaps in coverage that currently exist in the private marketplace and offers new incentives for consumer cost consciousness that are necessary if ever-increasing health care costs are to be restrained.

Mr. Speaker, as you know, action is presently underway in both the House and the Senate on the need for improved health care protection. On the House side, the Ways and Means and the Interstate and Foreign Commerce Health Subcommittees already have held the first in a series of hearings expected this winter on national health insurance issues.

In the Senate, the Finance Committee also has made a number of preliminary judgments on a health insurance bill that would require employers to offer catastrophic health insurance policies to their employees.

Mr. Speaker, this issue is receiving close attention in both Chambers because of the well-known fact that there are very definite gaps in the otherwise excellent health care protection that Americans already possess. According to the Department of Health, Education, and Welfare, 22 million Americans are totally without health care protection; 20 million have inadequate health insurance, and an additional 46 million face the threat of financial devastation resulting from major illness.

This bill seeks to meet that need at a minimum cost in both outlays and unwarranted Federal intrusion into private insurance and health care.

A major research study on the adequacy of health insurance coverage released this January by a Washington-based consulting firm, found (as one of its major conclusions) that the greatest need in this country is to provide unlimited catastrophic protection to the 42.4 percent of our people who do not now have it, and to provide a maximum out-of-pocket limit on medical expenses to the 70.6 percent of our population who now have no way to budget in advance for protection against such financial loss. Moreover, a blue-ribbon advisory panel to the authors, in suggesting standards of adequecy of health protection, concluded that the maximum limit on out-of-pocket expenses should be income-related—not to exceed an amount between 10 and 30 percent of income.

Like many others in Congress, we believe the Federal Government should channel scarce health care dollars to aid these citizens. Many recent public opinion polls suggest that a majority of citizens share this belief. They believe, as we do, that we should not legislate a costly, comprehensive national health insurance program duplicating the coverage already held by most Americans.

Instead, we can accomplish our goals of improved coverage and reduced costs by filling in the gaps and correcting weaknesses in the extensive private and public health insurance networks already present today. We can achieve these goals—far more efficiently and effectively than through the highly regulatory, very ambitious national health insurance programs President Carter and Senator KENNEDY are advocating—by assuring every family protection against financial catastrophe resulting from major medical expenses over and beyond what the family has spent (or incurred out-of-pocket medical expenses which exceed) as a reasonable, equitable percentage of its income.

With such assurance, families can properly budget and handle their routine medical bills as they do their housing, food, and other living expenses. It is for these reasons that we are today introducing the Medical Expense Protection Act of 1980.

Mr. Speaker, MEPA is a realistic, politically feasible alternative to a comprehensive program. Without requiring later add-on phases, it is an integral program designed to:

First. Build upon our system of private health insurance by encouraging employers to offer improved health insurance protection to their employees. In order to receive favorable tax treatment under MEPA, employees would have to enroll in a "qualified" health plan. These plans would have to meet certain minimum standards (including catastrophic expense protection with a maximum $2,500 "stop-loss" limit per family). In addition, in order to stimulate competition and encourage the purchase of more cost-effective plans, employers who choose to offer qualified plans to their employees would have to contribute a fixed-dollar amount toward the cost of a qualified plan (of which a maximum of $120 per month would be excludable from the employee's income). Employees could obtain cash rebates for selecting qualified private health plans that are less costly than the employer's fixed dollar contribution.

As many of my colleagues are aware, these types of reforms to our health care system have been advocated by a number of prominent health economists (such as Prof. Alain Enthoven of Stanford Business School), and by many of our colleagues, including especially Representative STOCKMAN from our cosponsors, as well as the distinguished chairman of our Ways and Means Committee in his bill, H.R. 5740. Furthermore, studies would be conducted to find ways for extending such "consumer choice" to people enrolled in public programs as well.

Second. Improve medicare coverage for the elderly and disabled. Medicare beneficiaries and their families will receive the same catastrophic protection geared to their income as other families. In addition, beneficiaries will receive certain additional benefits, including cost-effective immunizations against diseases to which these people are particularly susceptible, without regard to the part B deductible.

Third. Protect those in the "gaps" through a catastrophic automatic protection plan (CAPP). The working poor and other medically indigent individuals and families not covered under medicaid—currently one person in three below the poverty line—the temporarily unemployed, and others unprotected or otherwise unable to obtain private health insurance will be assisted automatically in meeting large medical bills after incurring out-of-pocket medical expenses; that is, expenses that are not reimbursable by this or any other private or public insurance program, that exceed a reasonable percentage of their income in accordance with a published table. Under MEPA, most citizens will have substantially improved private insurance protection available to them, but for those relatively few families not otherwise covered and facing large expenses relative to their income, CAPP will cover a comprehensive set of services—essentially the same services currently provided under medicare, plus additional benefits such as outpatient prescription drugs for chronic illnesses for the elderly and disabled.

In order to prevent the needless duplication of existing programs, and to avoid expensive additional bureaucracy, no new Federal agencies will be created. Instead, administration of CAPP will be through the already existing Health Care Financing Administration (HCFA), using virtually the same forms, procedures, and rules already in place under medicare. Financing would be entirely from general revenues.

Thus, MEPA is a unique new proposal which will provide every American family with a comprehensive benefit package if they incur, and are liable to pay, medical expenses that exceed a reasonable percentage of their income as cost sharing. Yet, MEPA is structured in such a way that the additional cost to the Federal Government will be reasonable—about $7 billion according to our tentative, but informed, estimates—far below the cost of many other health insurance proposals. In our opinion, MEPA will provide our taxpayers with a comparatively modest program of assistance for catastrophic medical expenses which gives maximum "bang for the buck."

Moreover, MEPA provides tax benefits only to employers and employees who select qualified health plans. Generally, those will be less costly private health plans which avoid "first-dollar" coverage for many items, which include major medical coverage, and which will be marketed competitively. Several prominent economists have estimated that substantial savings (perhaps billions of dollars annually) could thereby result for our health care system as a whole.

MEPA is able to achieve such value for our taxpayers' dollars because it relies on the private sector as the most efficient method of providing health insurance to most people, but requires no costly Federal premium subsidies for expenses of marketing private health insurance plans to poor and other uncovered people who may be geographically mobile or otherwise difficult to reach and sell a health insurance plan. Also, unlike most of the other major health insurance proposals, MEPA does not mandate employers to provide health insurance to their employees. Consequently, there will be no need for a costly and bureaucratic program of payroll subsidies to employers; under MEPA employers will face no new, perhaps unbearable payroll tax or mandatory premium burdens which will cause them to fire or not hire employees, particularly unskilled marginal workers. Moreover, MEPA will not introduce that excuse of mandatory coverage to intrude Federal specifications into every detail of private health insurance.

Another significant advantage of MEPA is the immediate aid this bill will provide to the poor presently excluded from the medicaid program. We all realize the vast inequities involved in medicaid as it exists today—the fact that 65 percent of the Nation's poor are not covered under this program. But we also realize the difficulties and extensive time required in trying to achieve a meaningful consensus on "reform" of this massive, complex program. During the time it takes to achieve such a consensus, MEPA will be providing immediate aid to every poor and medically indigent family currently excluded from the program.

We do not suggest that MEPA is the "perfect" bill, or that it will solve all the "problems" now facing our health care delivery system that relate to cost, quality, and access to adequate health care. But it also is quite possible that alternative national health insurance proposals would radically alter our present system of financing and delivery of health care, would create unworkable and costly bureaucracy, would inappropriately distort our system of resource allocation, and would impose severe regulatory burdens on all our taxpayers.

In marked contrast to such proposals, under MEPA great flexibility would exist to continue to improve our present system. Various "reforms"—such as in the area of reimbursing our country's doctors or hospitals, can be tried out on a statewide or other more localized basis before considering them nationwide.

Mr. Speaker, it simply is unrealistic for us, as legislators, to presume—as some national health insurance proposals in effect would ask us to do—that we already have all the "answers" for solving the terribly complex problems of health care cost containment and quality control. No one piece of legislation, however expensive or far-reaching it may be, can possibly provide such answers at this time. MEPA, on the other hand, would allow continued experiments in such areas as prospective reimbursement by the States, or reimbursement of physicians by various Blue Shield plans and commercial insurance carriers. Numerous system reforms and benefit improvements could be integrated into MEPA at a later time, when we have firm data rather than the untested theories put forth in those comprehensive, regulatory proposals which some have advocated.

Also, MEPA (as presently drafted) anticipates that certain benefit improvements under medicare that already have begun to be addressed by the Congress will be enacted, either prior to the enactment of MEPA or as part of MEPA by being included during the legislative process. Examples of such benefits are included in certain provisions of H.R. 3990, as reported by the Ways and Means Committee a few months ago. Some of those important benefits, among others, relate to improved dental services, outpatient mental health care, services provided in comprehensive outpatient rehabilitation centers (including occupational therapy) and services provided in community mental health centers.

Finally, MEPA specifically recognizes that there is a major area where further knowledge is needed immediately and urgently, namely long term care for our elderly and chronically ill citizens. In particular, there is a great need to find and develop alternatives to institutionalization for providing services to beneficiaries. Although MEPA, like all of the other major national health insurance proposals, does not create a comprehensive program to deal with those needs and issues, it does provide for a substantial infusion of Federal funds—$75 million over a 5-year period—for additional, coordinated studies and demonstration projects by (as it will soon be called) the Department of Health and Human Services.

We believe that MEPA—by taking care of the financial burden of acute care for all people at a relatively low cost to the Federal Government—allows the greatest realistic possiblity and opportunity to consider enactment of other legislation for an intelligent, effective and comprehensive long-term care program in the near future; over $15 billion (in 1980 dollars) of additional Federal funds may be required—and enactment of such an ambitious program would hardly be easy after passing even a relatively modest $7 billion catastrophic health program such as MEPA. However, it certainly would seem to be progressively more difficult (if not impossible) to enact a much-needed, but relatively expensive long-term care program immediately or soon after enacting the administration's acute care "national health plan" (with estimated $18 billion additional Federal costs in the first year plus phased additions later) or Senator Kennedy's proposal (which may cost the Federal Government $31 billion or more in the first year alone) to pay all your bills for all your ills.

Mr. Speaker, I would just like to close my remarks by pointing out that additional details of this proposal will be provided later in the more extensive summary of the bill (together with a section-by-section analysis of the bill and the bill itself). For the convenience of my colleagues I will also insert as a part of these remarks a more concise description that highlights the major features of MEPA for a quick review at a glance. I, and my cosponsors, ask our colleagues to give this bill their careful consideration and support.

MEDICAL EXPENSE PROTECTION ACT OF 1980 "IN A NUTSHELL"

I. What MEPA would do:

MEPA would create a modest insurance program that provides "stop-loss" protection automatically for every American who otherwise would not have adequate protection against financial loss due to catastrophic medical expenses caused by sickness and injuries. It is designed to build on and maximize the use of our present pluralistic system of private insurance, state regulation and public programs. There would be minimal additional bureaucracy, and the relatively low cost to the federal government would be lower than for many of the other programs for "National Health Insurance" that have been suggested. People would have to bear the responsibility for budgeting a reasonable percentage of their income (on a graduated basis) for their health needs before they would receive any federal benefits. Catastrophic benefits will be paid by a new Catastrophic Automatic Protection Plan (CAPP).

II. Why MEPA is needed now:

Most Americans already have adequate financial protection against the costs of catastrophic medical care. But many others—young adults; unemployed people; the "working poor"; poor or elderly citizens who may not fit the confusing eligibility requirements of Medicaid or other state and federal programs; and widows and dependent children of decreased employees and employees who lose their jobs—fall within the cracks in our system. Some people simply can't get or can't afford a decent health insurance plan. MEPA would end this unfortunate situation by providing all people now "in the gaps" with insurance protection after they pay a reasonable portion of their income for medical expenses "out-of-pocket" as a "deductible".

III. How MEPA will help people who need assistance:

A. Employed People.—MEPA is designed to provide tax and other financial incentives to most employed people not to rely on federal assistance but to enroll in private insurance plans offered by their employers that meet certain minimum standards. Although it would not be compulsory for an employer to offer a qualified plan, tax and other incentives would encourage most employers to do so if they can afford to do so. Competition would be stimulated among qualified health insurance plans and new, competitive types of delivery systems by structuring tax exclusions and deductions to reward those who select lower-cost, efficient plans that provide catastrophic "stop-loss" protection ($2,500 maximum out-of-pocket expenses per family) and adequate protection to the beneficiaries against abrupt termination.

B. The Elderly and The Poor.—Medicare beneficiaries also begin to receive catastrophic protection geared to their income, as well as certain additional benefits. No substantial changes would be made to the Medicaid program or the role states now play in providing or financing health care.

c. People Without Adequate Protection (The "Working Poor" and Others "In the Gaps" of Our Present System).—As the table reproduced below illustrates, the federal government (through CAPP) will begin to assist all families with meeting large incurred medical expenses for covered services, but only after the expenses which exceed a certain percentage of their income paid out-of-pocket (that is, not reimbursable by any insurance company, employer or public program). This "deductible" would be graduated according to their income. The family would then pay a small percentage (i.e., 10–20 percent) of additional expenses as co-insurance until they reached the CAPP "stop-loss" limit, which again would be graduated, based upon income. At that point, they would pay no additional amounts. The present tax deduction for medical expenses would only continue for selected items, including health insurance premiums, medical expenses of the blind and disabled, and certain expenses for taxpayers and their dependents residing in long-term care and other institutions.

If a family's income [1] is—	The CAPP "deductible" [1] (to establish CAPP eligibility) is—	The coinsurance rate is—	CAPP "stop-loss" limit [1] is—
Not over $4,000	$300	10 percent	$500.
Over $4,000 but not over $10,000	$300, plus 20 percent of income over $4,000.	15 percent	$500, plus 25 percent of income over $4,000.
Over $10,000	$1,500, plus 20 percent of income over $10,000.	20 percent	$2,000, plus 25 percent of income over $10,000.

[1] These figures would be appropriately indexed for inflation for years after 1980.

IV. Administration and benefits:

1. No new major federal regulatory agencies would be established. Additional bureaucracy and red tape would be comparatively little because CAPP would be administered using generally the same forms, procedures, personnel and rules that already are used for Medicare. Most additional government functions would involve determining eligibility and servicing the relatively small number of claims filed each year for assistance under CAPP. Also, CAPP would reimburse qualified private plans for claims (and administrative expenses) paid on behalf of CAPP to the plan members.

2. CAPP would pay providers, physicians and other suppliers of services directly generally in accordance with Medicare principles. But, physicians' fees would be updated more frequently and not be restricted by the present "economic fee index" limits. Patients could not be billed for charges in excess of those which the catastrophic program paid providers. CAPP would be financed entirely from general revenues.

3. Benefits under CAPP would be substantially those which are provided under Medicare. However, they would be expanded to include certain prescription drugs for the aged and disabled, and cost-effective preventive health services such as pre-natal care, well-baby care and immunizations.

V. Long-term care studies and demonstrations:

The urgent, complex questions in this area would be addressed through adequate funding of major studies and demonstration projects.

VI. Cost and cost containment:

Detailed cost estimates are not yet available, but informed preliminary estimates indicate MEPA would be far less expensive than much more ambitious and highly regulatory programs, such as those proposed by the Administration and Sen. Kennedy. Additional federal costs under MEPA would probably be in the $7 billion range.

On the other hand, containment of hospital and medical costs in our health care delivery system would occur through incentives for greater competition and cost-sharing by the patient. Such savings could amount to several billion dollars annually. No new regulatory programs will be created, but existing programs that apply to Medicare would continue to apply to that program and to CAPP, as could any future reforms deemed necessary or desirable to improve and control cost and quality of care.

● Mr. RHODES. Mr. Speaker, I am pleased to join with my distinguished colleague from North Carolina (Mr. MARTIN) and others in introducing this legislation, which is aimed at protecting all Americans against catastrophic medical bills.

The Medical Expense Protection Act of 1980 is a two-pronged approach designed to improve health coverage under voluntary private plans, and to provide catastrophic protection for all Americans not covered by a plan or public program.

The key feature is a formula assuring all Americans that once medical bills reach a certain percentage of their income, all further expenses are automatically assumed by the program that will be established under this measure.

Our goal is to encourage employers and the health insurance industry to provide proper coverage at reasonable costs, so that the Federal Government can concentrate on providing coverage for those unable to obtain their own, at a minimum cost to the taxpayer.

Under this legislation, private health insurance plans offered by employers will be required to meet certain standards or lose their tax deductibility as a business expense. The standards include minimum levels of catastrophic coverage, minimum employer premium contributions, and certain types of coverage requirements.

For those not covered by a private plan or public program, this legislation will establish a catastrophic automatic protection plan or CAPP, that will pay all costs of illness or injury beyond specified levels of expenses, based on income percentages, that are incurred out of pocket. This program is designed to provide protection at relatively low thresholds of cost, without a lot of bureaucratic redtape, for those individuals and families who cannot afford private insurance or are excluded from medicaid. This approach, which involves Federal funds only when protection otherwise is not available, and only when expenses for a family are heavy relative to income, will entail less government intrusion and provide more benefits at lower costs than plans relying more heavily on Government participation.●

GENERAL LEAVE

Mr. MARTIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute speech today.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PRESIDENT'S BUDGET IS CRUEL TAX INCREASE FOR HARD-PRESSED AMERICAN FAMILIES

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I would like to call the attention of my colleagues in the House to the President's budget proposals for increased taxes. Now I know that many of my colleagues have been studying this budget all week, but I would like to help you read between the lines a little.

The administration tells us that under this budget the tax burden on Americans is only rising $40 billion. Only $40 billion. That is a lot of money, but that is really only half the story. That $40 billion only refers to income taxes on families and businesses. That is really only the direct taxes paid to the Internal Revenue Service.

But what about the other $36 billion in increased revenues? If the income of the Government increases by $76 billion from the last budget, and we pay $40 billion in new taxes, then simple arithmetic leaves us with $36 billion to account for. Does this money materialize from thin air, magically created by the wizards in the Office of Management and the Budget? I think not. That money comes from the people.

If the President's budget is approved, the Federal Government will receive $76 billion in additional revenues from the American people. That money does not come from thin air, it comes from the pockets of working Americans, from retired people, from each American family.

Let us face it. This budget is a cruel tax increase for hard pressed families in America.

That so-called $40 billion tax increase does not include the $11 billion in increased social security taxes paid by working Americans. It does not count the increased costs of gasoline and heating oil caused by the new windfall profit excise tax. It does not count any number of different taxes on business.

These taxes on businesses are passed on to the consumer as increased prices for food, clothing, shelter, and the little amenities of life—such as a birthday party for your children, or a new gas-saving automobile. It simply does not count any number of direct and indirect taxes on working Americans.

Taxes are paid by people, not things. Every dollar collected by the Federal Government comes from working American families—directly or indirectly.

The hard truth of the matter is that is this budget passes intact, the Federal tax burden will rise on each American family an average of $1,000 in 1981. They will pay some part of that money directly to the IRS, some in increased social security taxes. They will pay more at the gas pump and more at the supermarket. They will pay more to the Government for the privilege of riding in an airplane, or caring for a sick relative in a hospital.

This budget is nothing short of a disaster for families struggling to make ends meet. We must use our constitutional powers to amend this budget to help Americans deal with inflation.

Americans certainly do not need more taxes.

THE VITAL IMPORTANCE OF CONGRESSIONAL ELECTIONS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, the editor of the Phoenix Gazette, Arizona's largest statewide afternoon newspaper, has written an excellent column on the vital importance of congressional elections.

This is a positive statement about the need to elect people to Congress who properly represent the wishes of the people to make Government work efficiently, and to reduce the cost and size of Government at the Federal level.

I would like to include Loyal Meek's excellent column at this point in the Record:

[From the Phoenix Gazette, Jan. 30, 1980]

Congressional Races Deserve More Attention

(By Loyal Meek)

Presidential contests in both major parties are getting all of the attention in the news media.

A political decision every bit as important to the future of America—namely, who is going to control Congress—is being virtually ignored.

For two main reasons:

A national contest involving only one office, one of the world's top leadership positions, naturally attracts more attention than a contest involving 468 offices—435 representatives and 33 senators—scattered throughout 50 states.

Besides, it has become a foregone conclusion that the Democrats are going to control Congress again. After all, they've held solid control of it for the last quarter of a century and, since 1933, have yielded control to the Republicans for only four years—1947–48 and 1953–54.

It would take a tremendous victory for the GOP to wrest control of Congress from the Democrats in 1980. In the House, Democrats outnumber Republicans, 275 to 160, which means the GOP would have to gain a whopping 58 seats to achieve control. The odds are more favorable in the Senate, controlled by the Democrats, 58–41 with 1 independent; the GOP could get control with a gain of nine seats.

Despite these formidable odds, the Republicans, if not optimistic, are giving themselves at least a fighting chance.

They have been much encouraged by the results of a national survey they had taken by Market Opinion Research of Detroit.

It showed that the American people now believe that the Republican Party can do a better job of controlling inflation and government spending than the Democratic Party.

This represents a dramatic turnaround from 1974, when the GOP last had voter perceptions surveyed. The poll shows that 33 percent believe the GOP can do a better job against inflation, a gain of 21 percent since 1974, while only 25 percent felt the Democratic Party could do better, a drop of 23 percent in the last five years.

With inflation last year hitting a rate of 13.3 percent, the worst annual bite in 33 years, the trends shown by these figures appear bound to be reinforced. Certainly Republican leaders intend to make the most of the Democrats' red ink record.

In a House speech last week marking what he called the Democrats' "tarnished silver anniversary" of congressional control, minority leader John Rhodes of Arizona laid it out.

"In 25 years, the Democratic congresses have spent over five trillion dollars. They have collected four trillion, 700 billion in taxes from the American people and borrowed over 500 billion more. They have constructed a gigantic maze of federal agencies whose regulations have required nearly 700,000 pages to print and which add $130 billion a year to consumer prices.

"In return, the American people have a tax burden that has more than quadrupled, an economy that is strangling in bureaucracy and a dollar that is now worth 35 cents."

Good ammunition for someone contending that it is time for a change.

Unfortunately for Republican hopes, domestic concerns about inflation and regulation have been upstaged by foreign concerns.

It should be noted that the national survey was taken between Oct. 21 and Nov. 15, while the Iranian situation was heating up and long before Afghanistan hit the fan.

Serious as inflation is, the '80 elections may hinge more on national defense issues. The survey commissioned by the Republicans found that foreign affairs/national defense ranked near the bottom among problems considered the most important, mentioned by only 2 percent compared to 39 percent for inflation and 21 percent for energy.

That gap no doubt has narrowed considerably in the last month.

This may work to the advantage of President Carter, given the public's propensity toward not changing horses in the middle of the stream. But it may be less helpful for Democratic candidates for Congress. By and large, those surveyed feel the Republicans would do better at strengthening the military.

Much will depend on which way independent voters swing. They amount to more than a third of the electorate, and thus hold the balance of power.

In any event, the question of who is going to control the 97th Congress deserves a great deal more attention than it has been getting, at least as much as that being given to the presidential race.

The buck may stop at the president's desk, but the actions that have driven down its value below 35 cents were taken on the Democratic-dominated Capitol Hill.

□ 1310

SAN DIEGO NAVAL HOSPITAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Van Deerlin) is recognized for 15 minutes.

● Mr. VAN DEERLIN. Mr. Speaker, the Navy this week is asking Congress for $25 million as the first installment on a vast new medical center, for my home area of San Diego, that eventually is expected to cost more than $250 million.

The project has generated a great deal of controversy locally, although all factions in the dispute agree it will benefit the 400,000 active and retired Navy personnel, along with their dependents, who are entitled to use the center.

The dispute centers on the location of the project, on 36 acres in the environmentally sensitive Florida Canyon section of San Diego's showplace Balboa Park. Opponents claim that more appropriate sites are available outside the park, while the Navy and its supporters maintain there is no other location as satisfactory as the designated site, which is adjacent to the Navy's present aging hospital complex.

A secondary dispute concerns whether the Navy should acquire full ownership or a long-term leasehold on the city property it needs for the new medical center. Last month, a Federal judge in San Diego held that the Navy has the right to take the land through condemnation. It should be noted that the Navy proposes to return to the city some of the land now occupied by the existing hospital.

The Navy insists it must have immediate possession in order to carry out certain boring and trenching tests necessary to preparation of final plans and specifications for the project.

Under the Navy's timetable, a consortium of architectural consultants is to complete preliminary engineering drawings, specifications and cost estimates by the end of the next month. This information will be used by Congress in considering the requests for the initial $25 million.

The Navy's new military construction budget anticipates that the $25 million, covering site work and foundations for the proposed hospital building, will be authorized by September or October of this year. Final plans and specifications are to be in hand at that time, or very shortly thereafter, to allow the Navy to advertise for contract bids. It hopes to award a construction contract no later than December of this year.

The initial work covered by the first-year appropriation would include grading the site, construction of a retaining wall and foundation, the installation and connection of underground utilities, construction of a box culvert to reroute a stream bed and the reconstruction of Florida Drive—a street running through the canyon of the same name.

I understand the balance of the funds needed for the project—well over $200 million—will be sought a year from now, as part of the fiscal 1982 budget.

The Navy estimates it will take about 5 years to complete the new regional medical center, once construction gets underway. The project has been in the planning stage for 7 years, but it was not until fairly recently that the controversial Florida Canyon site was finally decided upon.

The existing hospital is now housed in a maze of 69 different structures, some of which date back to the 1920's. The Navy makes a valid point when it says Navy families are ill served by the present facility. Parking is a mess, services are duplicated or fragmented and patients must go outside to reach the X-ray center.

There is no question of the need for a replacement medical center in San Diego. But some of the methods used by the Navy in selecting the Florida Canyon site and acquiring the needed acreage are still open to debate—and are, in fact, the subject of continuing litigation in San Diego. These are questions which will no doubt be addressed as Congress begins consideration of this very important—and expensive—project.●

THE ENERGY SAVINGS TAX CREDIT ACT OF 1980

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, with all the talk recently about more coal, oil, and gas incentives, synfuels, solar energy, geothermal, gasohol, biomass, and other important energy resources which Congress is working on, it is easy to overlook or minimize the one which has the greatest short-term potential, and the lowest cost, to decrease our dangerous reliance on expensive, scarce imported oil. I am speaking of conservation. Last year, the President's Council on Environmental Quality studied the contribution that conservation could make to our efforts to achieve energy independence, and reported that "increases in the productive efficiency of energy possible with today's technology would allow the U.S. economy to operate on 30 percent to 40 percent less energy."

Imagine the attention that would be given an announcement by Exxon or Gulf that a new technology had been found which would increase our supplies of domestic energy by 40 percent. Such an announcement would almost immediately transform our domestic economic posture and our foreign policy. It would dramatically diminish the power which the oil-exporting countries have over the entire world. The potential for armed conflict over oil, and the resulting military armaments burden which the world suffers from, would be greatly reduced.

No such significance was attached to the CEQ announcement, although its impact is virtually the same. This is because when people think of conservation, they think of dark, cold homes. They think of inconvenient transportation. They think, incorrectly, that conservation means a return to simpler, cruder times, to a lower standard of living. But the true meaning of conservation is not only using less energy, but using it better. It relies not on less technology, but on better technology.

The decade of the 1970's was one of intense scrutiny of the way in which we use energy, and it is time to realize the benefits of that examination. We understand now how to modify existing homes, offices, and factories to get the biggest energy savings from the smallest dollar investment. We understand how to build more energy efficient houses and cars. It is time to begin seriously applying that knowledge to our lives, and I believe that the Federal Government has a clear responsibility to take the lead in urging, cajoling, and if necessary forcing the widespread application of energy efficiency and conservation. Indeed, one conclusion of the recently released National Academy of Sciences study on energy is that raising the energy efficiency of industrial machinery and consumer products as diverse as automobiles and houses "deserves the highest immediate priority in energy planning."

The best "carrot and stick" tool Congress has for this purpose is the tax laws. In 1975, Congress established stiff civil penalties for auto manufacturers who fail to achieve minimum mileage standards for the cars they make. In 1978, this "stick" approach was expanded to an actual tax on gas guzzlers beginning in model year 1980; the tax rises to $3,850 in 1986 on cars with less than 12.5 mile-per-gallon fuel efficiency. For the "carrot," Congress enacted in 1978 two energy tax credits, one for expenditures on energy saving devices such as insulation and storm windows, and one for money spent on devices that provide renewable energy. The IRS released statistics last year which showed that 6 million tax filers, 7 percent of the 88 million returns in 1978, claimed the credits. The average credit was about $100.

While the energy tax credits are a step in the right direction, I think they need improving. I am disturbed that the use of the credit has been concentrated among taxpayers in the upper income levels. According to the IRS, the vast majority of taxpayers claiming the credits had adjusted gross incomes of $15,000 to $50,000. Clearly, lower income taxpayers, who comprise the largest number of energy users and who probably need assistance the most in becoming energy efficient, are missing out on the current credits. Second, the existing credits require substantial taxpayer investment to qualify for a significant credit. Ironically, the higher the cost of energy, the harder it is for taxpayers to come up with the money for energy improvements, yet the more urgent such improvements are. Finally, while a 7-percent participation rate is quite good for a tax credit program, the 93-percent who do not claim the credit represent a vast potential for energy conservation. We simply cannot afford not to do everything possible to encourage energy efficiency and conservation among these people.

On Thursday, January 31, I introduced a bill (H.R. 6396) to fill in some of the gaps in our energy conservation incentives program. H.R. 6396, the Energy Savings Tax Credit Act of 1980, would provide a refundable tax credit equal to one-half a residential energy consumer's—owner's or renter's—dollar savings, over a base year, for electricity, natural gas, and heating oil; I have chosen 1978 as the base year because the winter was somewhat colder than average. To arrive at the tax credit under my bill, a resident would calculate the cost of his 1978 residential energy consumption at current prices, to arrive at his "adjusted base year cost." His credit would equal one-half the difference between his current year cost and his adjusted base year cost.

For example, if a consumer used 15,000 kilowatts in 1978—the price and total cost for that year are not significant—and 12,000 kilowatts in 1980 at 4 cents a kilowatt, he would compute his costs for both years at the 4-cents-a-kilowatt price. His 1978 cost would be $600, and his current cost would be $480. His credit would be half the difference, or $60. The same calculations would be made for natural gas and heating oil, if applicable, and all the credits would be added together. If the total credits exceed the taxpayer's Federal income tax for that year he would receive a check from the U.S. Treasury for the difference. The tax credit would have a life of 5 years.

Mr. Speaker, in drafting this bill I aimed for simplicity, so that it would not impose an undue burden on fuel suppliers or on taxpayers in figuring the credit. A bill which takes account of the impact of weather variations on fuel consumption would be an improvement, but it would be so complex and burdensome for the IRS, fuel suppliers, and taxpayers that it is questionable whether it would be worth the extra effort. In any event, I welcome any suggestions others have as to how to improve this approach.

Enactment of my bill would mean that all conservation efforts, from simple curtailment of wasteful energy use to investment in more efficient appliances and furnaces, would be rewarded. It would have its biggest impact, I believe where it is most needed—among households with less than $15,000 taxable income, who have not been using the two existing energy credits. It would also focus emphasis among these energy users on the low-cost, no-cost methods of saving energy, which have been woefully neglected. I am enclosing a list of 10 no-cost or low-cost energy conservation techniques which the Department of Energy supplies to newspapers around the country. The Department estimates that "If all homeowners carried out these 10 suggestions, the Nation would save an equivalent of one-fourth of the oil now imported into this country, or 2 million barrels per day."

Obviously, energy conservation is in the consumer's financial interest simply because of the high cost of energy. But it is a fact of human existence, and a key point of public tax policy, that an additional incentive is occasionally needed to spur people to actions which are in their interest. In this case, there are important national objectives involved as well, including the very security of our country. In these circumstances, an additional tax incentive is appropriate to insure that the full potential of energy conservation is realized.

H.R. —

A bill to amend the Internal Revenue Code of 1954 to provide individuals a refundable income tax credit for 50 percent of the amount of energy saved during the taxable year with respect to the principal residence of the taxpayer

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"Sec. 44D. Residential Energy Savings.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the qualified energy savings for the taxable year.

"(b) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified energy savings.—The term 'qualified energy savings' means, with respect to any taxable year, the excess (if any) of—

"(A) the energy expenses paid or incurred during 1978 with respect to any residence which is used by the taxpayer during the computation year as a principal residence, over

"(B) the energy expenses paid or incurred with respect to such residence by the taxpayer during the computation year.

The amount determined under subparagraph (A) shall be increased to the amount which would have been paid or incurred during 1978 if the electricity, natural gas, or heating oil had been acquired at the average price of the electricity, natural gas, or heating oil supplied to the residence during the computation year.

"(2) Energy expenses.—The term 'energy expenses' means the amount paid or incurred for electricity, natural gas, or heating oil for use in a residence.

"(3) Special rule where residence not occupied by taxpayer during 1978.—No amount shall be taken into account under this section with respect to any residence unless—

"(A) such residence was used by the taxpayer as a principal residence during 1978, or

"(3) the taxpayer establishes the amount of the energy expenses paid or incurred during 1978 with respect to such residence.

"(4) Principal residence.—The term 'principal residence' has the meaning given such term by section 1034, except that no ownership requirement shall be imposed. Such term only includes a residence in the United States.

"(5) Computation year.—The term 'computation year' means the calendar year ending in the taxable year.

"(6) Residences occupied for less than calendar year.—Under regulations prescribed by the Secretary in the case of a residence which is not occupied for the entire computation year, this section shall be applied by comparing the period when so occupied with a like period during 1978.

"(c) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section. Such regulations shall require—

"(1) any person selling electricity, natural gas, or heating oil for use in any residence during 1978 to furnish to any person using such residence during any calendar year after 1980 and before 1986, a statement showing—

"(A) the aggregate amount so sold during 1978, and

"(B) the amount of adjustment required under the last sentence of subsection (b)(1), and

"(2) any person selling electricity, natural gas, or heating oil for use in any residences during any calendar year after 1980 and before 1986 to furnish to any person purchasing such electricity, natural gas, or heating oil (as the case may be) a statement showing the aggregate amount purchased during such calendar year.

Any statement furnished under the preceding sentence shall constitute prima facie evidence of the information shown on such statement.

"(d) Termination.—No credit shall be allowed by subsection (a) for any taxable year beginning after December 31, 1985."

(b) Subsection (b) of section 6401 of such Code (relating to certain excessive credits treated as overpayments) is amended to read as follows:

"(b) Excessive Credits.—If the amount allowable as credits under section 31 (relating to tax withheld on wages), 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), 43 (relating to earned income credit), and 44D (relating to residential energy savings) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than credits allowable under sections 31, 39, 43, and 44D), the amount of such excess shall be considered as an overpayment."

(c)(1) Sections 44C(b)(5), 55(b)(2), and 56(c) of such Code are each amended by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Residential energy savings."

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

U.S. Department of Energy,
Washington, D.C., January 23, 1980.

Dear Editor: Public awareness of the need to conserve energy and reduce our dependence on imported oil is growing. The events of 1979—supply interruptions and substantial price increases—have prompted many Americans to take steps to eliminate wasteful uses of energy in the home, at places of employment and in transportation. But much more can, and must be done.

With that in mind, we prepared the enclosed series of short features which tell how readers can cut up to 25 percent from their energy bills by taking 10 simple, low-cost or no-cost actions. We will be sending additional features on conservation, new technologies and the nature of the energy problem. In the meantime, we would appreciate your comments and suggestions on energy topics that may be of interest to your readers.

Sincerely,
Carl Gustin,
Acting Director, Press Services Division, Office of Public Affairs.

Enclosures.

[First in a series]

HOW TO SAVE ENERGY WITHOUT SPENDING MONEY

As the winter winds grow colder, the cost of heating a home grows ever higher. To help ease the burden of soaring fuel costs, the U.S. Department of Energy suggests 10 steps to take at little or no cost that can lower home energy costs by about 25 percent.

The suggestions will be printed by this newspaper in a series. About half of them cost nothing to carry out. The others require an investment of less than $100.

The estimate of savings is based on costs of 5 cents per kilowatt hour for electricity, 37 cents per therm for gas, and 80 cents per gallon for oil. If your fuel costs are higher, your savings will be, too.

HOW LOW CAN YOU GO?

If the thermostat on your water heater is set between 140–160, you can reduce the setting down to 110–120 and save at least $20 a year for electric water heaters and $10 a year for gas. If this change in thermostat setting produces spotty dishes in the automatic dishwasher, or if there isn't enough hot water for all the household needs, you can always turn the dial back up a little. The lower the setting you can accept, the more money you will save.

Anybody with a screwdriver and five minutes to spare can reset the water heater thermostat. At the front of most water heaters there are one or two plates held on by screws. Turn off the circuit breaker (if you have an electric water heater) and then remove the plates. Push back the insulation and you will see the thermostat. It will either have numerical settings or simply the designations "high," "medium," and "low." Reset the thermostat to 120 degrees or "low." After replacing the insulation and the metal plates, turn the circuit breaker to its "on" position.

SAVINGS ON A DRAWSTRING

Every house is a solar collector. The trouble is, it may be collecting the sun's heat when you don't want it and releasing that heat when you do. If you use air conditioning, you can save from $25 to $30 each cooling season by keeping windows closed and shades or curtains tightly drawn, especially on the sunny sides of the house.

In the winter, you can cut fuel bills by opening shades in the morning on the eastern and southern sides of the house and by closing them late in the day. If it is sunny in the afternoon, you can get additional solar heat by opening the shades on the west side of the house.

The shades on the north windows should be kept shut at all times during the winter.

[Second in a series]

FIVE DOLLAR ENERGY INVESTMENT YIELDS $20–$70 RETURNS

Today's energy-saving suggestions from the U.S. Department of Energy cost less than $5. Together, they can save $20 to $30 per year in homes with gas water heaters, and $45 to $70 with electric heaters.

These savings are based on costs of 5 cents per kilowatt hour for electricity and 37 cents per therm for gas.

CUTTING THE LOSSES OFF AT THE TANK

A good way to save money is to add an extra layer of insulation around the outside of the water heater tank to cut heat loss. This should save $20 a year for electric water heaters, and about $10 a year for gas. You can buy enough regular foil-backed insulation and tape to do this job for less than $5.

On gas water heaters, a crucial warning must be heeded: Do not cover air inlets, pipes, controls, relief valves, or the flue at the top of the heater.

On electric water heaters it is best not to cover the drain faucet, the thermostat access panel, or the relief valve that comes out of the top of the tank.

If you are unsure about the various crucial openings on gas and oil water heaters, you can buy a manufactured insulation jacket kit with holes precut for the critical areas. It is also important that the insulation be affixed to the tank so that it can't slip and cover the openings later. A mistake here could cause a fire or even an explosion.

COOLING THE WASH

A switch to a lower temperature on the washing machine can have a major impact on utility bills. It takes about 35 gallons of water to do a full wash and rinse, or about 17 gallons for each cycle. How much of that water is hot depends on which button you push. A hot wash and warm rinse combination, the highest setting on most machines, requires 25 gallons of hot water. A load a day on such a setting, for electric water heaters, could easily cost $100 a year. Changing the rinse water to cold, which experts say does not affect the results of the wash, will save 8 of those gallons per day, or $25 a year. By changing the wash setting from hot to warm, you could save another $25. If you have a gas water heater, the savings would be $10 a year for each strategy.

To increase the savings even further, use a cold water detergent, and wash and rinse with cold water. You may be well satisfied with the cleaning results.

[Third in a series]

HOUSEHOLD HEAT: FORGOTTEN PLACES WASTE DOLLARS

Even if you have insulated attics and walls and have caulked and weatherstripped around doors and windows, gaps you may have overlooked will continue to cost you dollars and heat.

Some of these gaps can be closed at small expense and for a substantial return. Here are two areas that are commonly ignored:

ESCAPE UP THE CHIMNEY

It is not unusual to find a gap of an inch or wider in a fireplace whose damper is closed. This can create a major air leak when the fireplace is not in use, because the chimney itself encourages a strong flow of air.

One way to stop the leak is to stuff the gap with insulation, or, if it is too large to insulate, to cover it with a board. The stuffing or covering obviously must be removed before the fireplace is used. In a cold climate, you can plug the damper and save $45 a year with electric resistance heat, $20 with gas heat and $30 with oil heat, depending on where you set the thermostat and the size of the gap.

HOLES IN THE ATTIC ARE LIKE HOLES IN YOUR POCKET

Step into your attic some winter night. Even if it is insulated at floor level, you may be surprised to find the attic is much warmer than the outside air. That means that some of the expensive heat you need downstairs has escaped up to where it won't do you any good.

It is common to find large openings where pipes, ducts, or exhaust fans are cut through the attic floor. But they can be stuffed with foil-backed insulation or scrap plastic such as dry cleaner bags taped in place. Stopping attic bypasses can save from $25 to $80 a year in heating costs.

All the obvious holes and gaps can be plugged with the exception of the gaps around recessed light fixtures and the vents in the attic. Do not cover light fixtures directly with insulation as this may cause fire. Also, the vents must be able to breathe so that they can prevent moisture accumulation in the attic.

Another major attic bypass is the gap where the furnace stack or chimney meets the wood framing of the house. This gap is very important, because it often creates a kind of mini-chimney effect, carrying air all the way from the basement to the attic and making a river of heat loss. Fireproof insulation can be stuffed between the wood frame and the wall of the chimney. Do not use cellulose here, as it may burn.

Another good candidate for a little insulation is the attic door. It should be covered with a batt of foil-backed insulation. The edges of the door should be weather-stripped so that air cannot escape around the sides. This measure alone can save $20 if you have electric heat, $8 for gas heat, and $12 for oil heat. It will also save on air-conditioning costs.

[Fourth in a series]

MORE EASY STEPS TO SAVE ENERGY DOLLARS

A house is like a ship floating in a sea of air. The air tries to force its way in, like water, through every crack. In winter, the cold air that leaks in has to be heated, and it forces other, already heated air to leak out. Here are two suggestions from the U.S. Department of Energy for keeping hot and cold air where they belong.

MORE HOLES IN YOUR POCKET

When people think of caulking and weatherstripping, they generally think of windows and doors. But most energy studies find that only 20 percent of that costly infiltration comes through these places. The other 80 percent gets in underneath the baseboards, through wall outlets, through holes where plumbing pipes and telephone wires enter the house, through holes around exhaust fans, around dryer vents, and around sink and bathtub drain pipes as they exit from the house. These gaps and holes should all be caulked or stuffed with insulation. The electrical outlets can be sealed with inexpensive gaskets that can be purchased at hardware stores. Turn off the electrical current switch for the outlets in question, remove the plastic cover plates with a screwdriver, insert the gaskets, reattach the plates, and turn the current back on.

DON'T DUCK THE DUCTWORK

Where your heating and/or air-conditioning ducts pass through the living areas of the house, there is no need to insulate them. Where they pass through unfinished attics or basements, they are an important cause of money loss. Covering ducts can save up to $100 a year in heating costs and $35 in central air-conditioning costs.

The most inexpensive approach is to use 2-inch foil-backed insulation and to do the ducts yourself, remembering to keep the foil facing outward. It is most important to seal the cracks between each section of ducting with flexible caulk before you add the insulation. Hidden air leaks coming from these cracks can limit the effectiveness of the insulation.

Encircle the ducts with insulation. Use duct tape to seal all the cracks between such section of insulation, and also seal the seam where each piece of insulation joins itself.

[Fifth in a series]

KEEPING YOUR HEAT AND YOUR COOL

Many furnace technicians put the adjustment of the bonnet or plenum thermostat on oil and gas-fired heaters at the top of their list of cost-effective energy-saving measures. This thermostat turns off the fan that forces warm air up through the duct system into the house. On most heaters, the thermostat is set at 120 degrees or higher, resulting in a loss of furnace efficiency. It can be reset to just five degrees above room temperature for a savings of $9 a year.

If you are unsure about the location of your bonnet thermostat or how to adjust it, ask your furnace service person during the annual maintenance check.

Proper furnace maintenance, by the way, is another great way to save money. Oil furnaces, especially, can waste a lot of costly fuel if they are not kept clean and in tune. Because of excess soot and/or maladjusted burners, furnace efficiency can drop from 75 percent to below 60 percent, increasing fuel bills by more than one quarter. A furnace technician can do a series of simple stack and burner tests to tell you just what your furnace's efficiency is and advise you on how to improve that efficiency.

One part of the maintenance work you can do yourself. Clean filters are important to both furnaces and to air-conditioners. Clean or change them regularly.

The best furnace energy-saving adjustment is still at the thermostat. Every degree that the house is artificially held above or below outdoor temperatures add to the fuel bill. A 10-degree night setback is a great way to achieve a 10 to 25 percent savings on heating bills while you sleep. (If you have a heat pump, the savings will be from 5 to 15 percent.) The no-cost way to get the setback savings is to manually turn down the thermostat at night and then turn it up again in the morning. There are also various thermostats on the market that do the job automatically.

Caution: Some older people may require higher indoor temperatures—above 65 degrees F at all times—to avoid accidental hypothermia, a possibly fatal drop in body temperature. People with circulatory problems or those taking certain types of drugs (e.g., phenothiazines, commonly used to treat anxiety and nausea) may also be vulnerable. In such instances, follow a physician's counsel on both winter and summer thermostat settings in your home.

[Sixth in a series]

PROFITABLE TURN-OFFS SAVE ENERGY DOLLARS

Light bulbs are the symbols of conservation, but there are other things you can also turn off to save money. One example is the anti-sweat heater in refrigerators. These heaters keep moisture from appearing on the sides of the appliance. On large refrigerators, they add nearly $10 to the annual electric bill. They can be regulated with a switch inside the refrigerator compartment. The switch may have settings that say "dry/humid" or it may be called "power miser switch" or "energy-saver switch." If your switch says "dry/humid," make sure it is set on "dry." If it says "power miser" or "energy-saver," turn the switch on to turn the heaters off.

The heaters are unnecessary, except in humid climates where a house is not air-conditioned. If moisture ever does appear on the refrigerator, you can turn on the heaters for short intervals and turn them off again when the humid weather is over.

Other good turn-offs are as follows: (1) pilot lights on gas furnaces during the non-winter months; savings $10 a year. (2) If you have a second refrigerator and use it only to store marginal items, unplug it for a savings of $20 to $40 a year. (3) Central air-conditioners can be turned off when the house will be unoccupied for four hours or more. (4) Room air-conditioners can be turned off during an absence of one hour or more. (5) Water heaters can be turned off when you leave the house for a weekend or longer. (6) Furnace or heating system thermostats can be set back when you are gone for more than four hours.

The 10 measures in this newspaper's series are certain to help your bank account and enable you to keep up with rising prices. They may also benefit you and your neighbors in a more general way. If all homeowners carried out these 10 suggestions, the nation would save an equivalent of one fourth of the oil now imported into this country, or two million barrels per day. Reducing oil imports can ease the balance of payments deficit and the inflationary spiral it creates.

Twenty-five percent is a lot of money. And a low-cost, no-cost effort in each house or apartment would go a long way towards solving the nation's critical energy problem.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DANNEMEYER) to revise and extend their remarks and include extraneous material:)

Mr. VANDER JAGT, for 60 minutes, on February 7.

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. VAN DEERLIN, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SEIBERLING, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,277.25.

(The following Members (at the request of Mr. DANNEMEYER) and to include extraneous matter:)

Mr. FRENZEL.

Mr. YOUNG of Florida in five instances.

Mr. TAUKE.

Mr. CHENEY in two instances.

Mr. MCCLOSKEY.

Mr. MARTIN.

Mr. REGULA.

Mr. COLLINS of Texas in three instances.

Mr. KEMP in two instances.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. WAXMAN.

Mr. STARK in three instances.

Mr. BAILEY.

Mr. THOMPSON.

Mr. HOLLAND in five instances.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. BYRON in 10 instances.

Mrs. BOUQUARD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. CAVANAUGH in five instances.

Mr. NATCHER.

Mr. MCKAY.

Mr. EDGAR.

Mr. JOHNSON of California.

Mr. BINGHAM in 10 instances.

Mr. ADDABBO.

Mr. BARNES.

Mr. YATRON.

Mr. PICKLE.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 10 minutes p.m.) the House adjourned until tomorrow, Tuesday, February 5, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3360. A letter from the Under Secretary of Defense, transmitting a report on funds obligated in the chemical warfare and biological defense research programs during fiscal year 1979, pursuant to section 409(a) of Public Law 91-121; to the Committee on Armed Services.

3361. A letter from the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence), transmitting a report on the Precision Location Strike System restructured program, requested by House Report 96-546; to the Committee on Armed Services.

3362. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the American Institute in Taiwan for the U.S. Navy's proposed sale of defense equipment to the Coordination Council for North American Affairs (transmittal No. 80-37), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

3363. A letter from the Associate Director Legislative Liaison, Department of the Air Force, transmitting the semiannual report covering the period July 1, 1979 through December 31, 1979, on Air Force research and development procurement actions of $50,000 and more, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

3364. A letter from the Governor, U.S. Soldiers' and Airmen's Home, transmitting a draft of proposed legislation to modernize the law relating to the U.S. Soldiers' and Airmen's Home; to the Committee on Armed Services.

3365. A letter from the Attorney General, transmitting his annual report for fiscal year 1979 on the enforcement of title II (Extortionate Credit Transactions) of the Consumer Credit Protection Act of 1968, pursuant to section 203 of the act; to the Committee on Banking, Finance and Urban Affairs.

3366. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Board's fourth annual report on the Equal Credit Opportunity Act, pursuant to section 707 of the act; to the Committee on Banking, Finance and Urban Affairs.

3367. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a proposed regulation to implement sections 909 and 911 of the Electronic Fund Transfer Act, pursuant to section 904 of the Consumer Credit Protection Act, as amended (92 Stat. 3730); to the Committee on Banking, Finance and Urban Affairs.

3368. A letter from the Comptroller, Washington Gas Light Co., transmitting a certified copy of the company's balance sheet as of December 31, 1979, pursuant to 43 D.C. Code, section 313; to the Committee on the District of Columbia.

3369. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the authorization of appropriations for the National Institute of Education through fiscal year 1985; to the Committee on Education and Labor.

3370. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on steps taken by the Administrator of the Agency for International Development to alter U.S. programs under part I of the Foreign Assistance Act of 1961 in any country because of human rights considerations, pursuant to section 116(d)(2) of the act, as amended (91 Stat. 537); to the Committee on Foreign Affairs.

3371. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Harry E. Bergold, Jr., and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

3372. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Charles C. Flowerree, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

3373. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Under Secretary-designate Matthew Nimetz, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

3374. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on contracts awarded in excess of $100.000 without competitive selection procedures during the period October 1, 1978, to September 30, 1979, pursuant to section 601(e)(2)(A) of the Foreign Assistance Act of 1961, as amended (92 Stat. 956); to the Committee on Foreign Affairs.

3375. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3376. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the American Institute in Taiwan for the U.S. Navy to offer to sell certain defense equipment to the Coordination Council for North American Affairs (Transmittal No. 80-37), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3377. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3378. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting the 21st annual report of the Commission, pursuant to section 5(3) of Public Law 86-380; to the Committee on Government Operations.

3379. A letter from the Chairman, U.S. International Trade Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3380. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $21,205.17 in excess royalty payments to Sun Gas Co., Marathon Oil Co., and Superior Oil Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3381. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $30,000 in overpayment of minimum royalties to Aminoil USA, Inc., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3382. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $13,572.69 in excess royalty payments to CNG Producing Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3383. A letter from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of Mississippi and Lake Superior Bands of Chippewa judgment funds awarded in dockets 18-C and 18-T, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

3384. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a monthly report on sales of refined petroleum products and retail gasoline for October 1979, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

3385. A letter from the President, U.S. Railway Association, transmitting a quarterly report on the status of valuation proceedings under the Regional Rail Reorganization Act of 1973, as amended, pursuant to section 202(e)(3) of the act (93 Stat. 555); to the Committee on Interstate and Foreign Commerce.

3386. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of October 1979, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

3387. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation transmitting the financial report of the Corporation for the month of November 1979, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

3388. A letter from the Secretary of Transportation, transmitting his report on the detection and prevention of marihuana and other drug use by motorists, pursuant to section 212 of Public Law 95-599; to the Committee on Public Works and Transportation.

3389. A letter from the Secretary of Transportation, transmitting a report on the enforcement of vehicle weight limitations on the Federal-aid highway system, pursuant to section 123 of Public Law 95-599; to the Committee on Public Works and Transportation.

3390. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the conduct of energy research and development, pursuant to section 11(d) of Public Law 93-577; to the Committee on Science and Technology.

3391. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

3392. A letter from the Administrator, Small Business Administration, transmitting the Agency's annual report for fiscal year 1979, together with the Agency's balance sheets, lists of approved loans and contracts, and other statistical data, pursuant to section 10(a) and (b) of the Small Business Act, as amended, and section 308(g)(2) of Public Law 85-699, as amended; to the Committee on Small Business.

3393. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the Commission's annual report on the use of contractors, consultants, and the National Laboratories, pursuant to section 11 of Public Law 95-601; jointly to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

3394. A letter from the Secretary of Health, Education, and Welfare, transmitting the 12th annual report on the administration and operations of medicare during fiscal year 1978, pursuant to section 1875(b) of the Social Security Act, as amended (79 Stat. 332; 81 Stat. 931); jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

3395. A letter from the Comptroller General of the United States, transmitting a report on coordinating U.S. development assistance and the problems facing the International Development Cooperation Agency; jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and Foreign Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FRENZEL:

H.R. 6402. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the tax treatment of private foundations; to the Committee on Ways and Means.

By Mr. MATHIS:

H.R. 6403. A bill to amend the Agricultural Act of 1949, as amended, to increase the minimum level of price support for quota peanuts of the 1980 and 1981 crops; to the Committee on Agriculture.

By Mr. WINN:

H.R. 6404. A bill to amend title 28 of the United States Code to provide that the clerk of each U.S. district court and U.S. bankruptcy court shall reside in the district for which he is appointed, or within 20 miles of his official station; to the Committee on the Judiciary.

By Mr. MARTIN (for himself, Mr. RHODES, Mr. MICHEL, Mr. DEVINE, Mr. BURGENER, Mr. SHUSTER, Mr. LOTT, Mr. VANDER JAGT, Mr. CONABLE, Mr. BROYHILL, Mr. CARTER, Mr. ABDNOR, Mr. BEREUTER, Mr. GRADISON, Mr. HAMMERSCHMIDT, Mr. KEMP, Mr. LEE, Mr. O'BRIEN, Mr. SEBELIUS, Mr. STOCKMAN, and Mr. WAMPLER):

H.R. 6405. A bill to provide for the protection of individuals against catastrophic medical expenses by providing for a catastrophic automatic protection plan and certification of qualified health plans offered by employers, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. HAMMERSCHMIDT:

H.J. Res. 496. A resolution to require continuation of rail service by the Chicago, Rock Island, and Pacific Railroad through August 31, 1980; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

337. The SPEAKER presented a memorial of the Legislature of the State of Pennsylvania, relative to boycotting the 1980 Summer Olympic games; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1603: Mr. HARSHA, Mr. HALL of Texas, Mr. BADHAM, Mr. ROTH, and Mr. PAUL.

H.R. 1879: Mr. BEREUTER.

H.R. 4205: Mr. RAILSBACK.

H.R. 4509: Mrs. SMITH of Nebraska, Mr. LIVINGSTON, and Mr. STEED.

H.R. 5790: Mr. FORD of Tennessee and Mr. FAZIO.

H.R. 5857: Mr. VANDER JAGT, Mr. HEFTEL, Mr. DOUGHERTY, Mr. WEAVER, and Mr. GOLDWATER.

H.R. 6181: Mr. GLICKMAN and Mrs. SPELLMAN.

H.J. Res. 372: Mr. KRAMER, Mr. GILMAN, Mr. COUGHLIN, Mr. PEYSER, Mr. BUCHANAN, Mr. EVANS of the Virgin Islands, Mr. GONZALEZ, and Mr. CORMAN.

H.J. Res. 389: Mr. WAXMAN, Mr. PRICE, Mr. HOLLENBECK, Mr. FINDLEY, Mr. CORCORAN, and Mr. MITCHELL of New York.

H. Con. Res. 248: Mr. HUBBARD, Mr. ROE, and Mr. BEDELL.

PETITION, ETC.

Under clause 1 of rule XXII,

The SPEAKER presented a petition of the Kentucky American Legion, Louisville, Ky., relative to prayer in public schools; to the Committee on the Judiciary.

SENATE—*Monday, February 4, 1980*

(*Legislative day of Thursday, January 3, 1980*)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by Hon. DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, unto whom all hearts are open, all desires known, and from whom no secrets are hid: Cleanse the thought of our hearts by the inspiration of Thy Holy Spirit, that we may perfectly love Thee, and worthily magnify Thy holy name.

Let Thy blessing attend all who labor in this place. Cause us to remember that "we wrestle not against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places." Help us to lay aside every evil weight and run with patience the race that is set before us, looking unto the Author and Finisher of our faith, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 4, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SECURITY AND STABILITY IN THE GULF REGION

Mr. ROBERT C. BYRD. Mr. President, currently, international attention is focused on the Persian-Arabian Gulf region and the instability in that area. We are obviously greatly concerned about potential threats to the world oil supply and the long-term implications of the turmoil in Iran and the Soviet move into Afghanistan.

President Carter has stressed the importance of building a Middle East "security framework." We are taking steps to increase our military presence and contingency capabilities in the area. We are also bolstering the military capacity of certain key allies in the region, such as Egypt. Continuing support for Egypt will enable its military forces to make a strong contribution to that nation's security and to regional stability. And our large-scale security assistance program for Israel is a manifestation of our long-standing commitment to that nation. We also have ongoing security assistance programs with other nations in the region, including Jordan, and a cooperative arrangement with Saudi Arabia. We also have an important emerging relationship with Oman.

While it is essential for this country to do what it can to help insure the security and stability of the region—and we also hope for a more active role on the part of our allies among the major industrial nations—the future of the Middle East will depend largely on the efforts and intentions of the nations in that area. Many of those nations, despite the oil wealth in the region, have been weak militarily and politically. They constitute a tempting target for subversion or for external interference.

It was heartening to see the Islamic nations, meeting in Islamabad, Pakistan, strongly condemn the Soviet aggression in Afghanistan. The action by the conference of Islamic foreign ministers is a severe rebuff to Soviet efforts to gain support among Third World and Islamic nations. There are indications that some of the Islamic nations are increasingly recognizing that they have common security interests with the United States.

However, despite these encouraging signs of changing attitudes and recognition of reality on the part of Islamic nations, there remains a major inhibition to greater cooperation between those nations and the United States. There is strong doubt among the Islamic nations that the United States is truly dedicated to the achievement of a comprehensive Middle East peace and a resolution of the Arab-Israel question, particularly the difficult Palestinian problem.

It is my view that this Government is dedicated to the achievement of a comprehensive peace in the area, and I believe the Camp David accords and the Egypt-Israel Treaty were essential and firm steps in that direction.

Only recently we witnessed another important phase in the implementation of the treaty. The normalization of relations between Egypt and Israel is proceeding on schedule—a truly remarkable accomplishment when viewed against the background of war and distrust which prevailed for 30 years.

Israeli forces have completed a further interim pullout from the Sinai, and Egypt now has control of most of that area. The two countries now have formal diplomatic relations and will soon exchange ambassadors.

But there are complex and vexatious problems ahead. Currently, U.S. special envoy Sol Linowitz is in the area for discussions related to the question of autonomy for the Gaza Strip and West Bank.

Resolution of this issue is supposed to occur before May. However, there is little evidence of any significant progress toward working out a satisfactory agreement. Such an agreement is a critical part of the overall peace effort. Many Arab leaders remain skeptical of U.S. policy on the autonomy negotiations.

Israel is understandably concerned about its own territorial security, but it should recognize that it has a major stake in the achievement of a comprehensive peace, which is a key to regional stability. Much broader security issues are involved here. Certainly, Israel should be as concerned as anyone about keeping the Soviet Union out of the gulf region. As the Washington Post recently commented in an editorial:

> It is Israel that, ultimately, needs a Palestinian settlement more than anyone—except the Palestinians.

If we are to truly solidify our relations with the Persian-Arabian Gulf nations and to see a larger measure of stability in the region, we must be concerned with much more than improving security arrangements and providing security assistance.

The achievement of a comprehensive peace and resolution of the Palestinian autonomy issue, remain keys to strengthening and stabilizing the area. We must redouble our efforts to help overcome these remaining obstacles on the road to Arab-Israeli peace. I hope that the coming weeks will bring signs of progress.

I reserve the remainder of my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

THE TIDEWATER CONFERENCE

Mr. STEVENS. Mr. President, this past weekend elected Republicans got together informally to discuss a program of policy designed to set our party apart from that which is presently in power in the administration and in Congress.

The idea of a tidewater conference first was conceived by Senator BOB PACKWOOD, who recognized the need of having

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

an informal discussion of issues by getting Senators, Congressmen, Governors, and State officials together once a year in Easton, Md.

The format for the conference is one that has attracted a large number of Members of Congress and their spouses. The discussion is always interesting, and this year's was no exception.

Unfortunately, I committed myself to another engagement and was not able to be present. However, a member of my staff was in attendance at Tidewater and reported it an unqualified success.

Senator Bob Packwood and his staff have done a very good job in organizing the serious but informal event.

I commend him for another job well done. We are proud of him not only as a colleague and friend but as a member of our Senate leadership.

SENATOR JACKSON ON FOREIGN POLICY

Mr. STEVENS. Mr. President, on Saturday, February 2, my good friend, Scoop Jackson, delivered a major foreign policy speech before the Virginia General Assembly.

As usual, Senator Jackson is right on the mark in his analysis of what events in American foreign policy have contributed to the unfortunate posture in which we find ourselves today.

I highly commend this speech to my colleagues. No one doubts Senator Jackson's expertise in the area of national defense and foreign policy, even though one may not necessarily agree with his conclusions. I happen to think he is right in his major conclusions and hope everyone will read his remarks.

Mr. President, I ask unanimous consent that Senator Jackson's speech may be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Address To The General Assembly of Virginia

(By Senator Henry M. Jackson)

Governor Dalton, Lieutenant Governor Robb, Mr. Humelsine, Members of the General Assembly, Distinguished Guests:

I am sure that all of us here today feel a strong sense of our country's beginnings in this historic room—here in an early home of the oldest representative legislative body in the New World. If it is possible to draw strength and inspiration from the American past, certainly we can do so here.

This, after all, is the site where Washington, Jefferson, Patrick Henry, and others of that superbly gifted generation of Virginia revolutionaries learned their first lessons in politics and statemanship. It was here that Royal Governors grappled with stubborn Houses of Burgesses for almost a century and sent a series of gloomy warnings to London that these people meant to throw off the British yoke and follow their own destiny. It is inspiring to see in these formidable Virginians the unquenchable courage to defy the world's greatest imperial power of their day in their resolve to be free men.

Modern Americans may still take pride that here, in this room, Patrick Henry first shouted defiance to the Stamp Act ten years before the Revolution. We can be proud that the Virginia Revolutionary Convention meeting here sent the first instructions to their delegates in the Continental Congress to call for American independence.

I know that the millions of Americans who visit Williamsburg sense the powerful influence of these men on the dramatic events in their own days.

In our dangerous time, we too face the challenge of standing up to a domineering imperial power.

The theory that has animated American policy toward the Soviet Union over the last decade and under three administrations—that the Soviets, lured by a series of cooperative agreements, would match our concessions and reward our restraint—is dangerously and demonstrably false. The Soviet invasion of Afghanistan has shown that detente for us was an illusion, and Soviet "restraint" merely the absence of opportunity. And the political, economic and military policies developed to fit the theory that we have moved from confrontation with the Soviets to negotiations and cooperation now lie in ruins.

For a decade, the Soviets have watched our businessmen stream to Moscow, technology in hand. And they have watched as we rushed to OPEÇ, hat in hand, begging them to go easy on oil prices.

The Soviets have seen our diplomats naively put forward proposal after proposal—on the Indian Ocean, on weapons in space, on conventional arms sales, on forces in Europe, on strategic arms control—based on the assumption that the Soviet leadership shares our desire for accommodation and a stable world order.

They have heard our leaders tell the American people that manifestly unequal and unverifiable treaties favoring the Soviets are equal and verifiable and favorable to us.

They have been told that restrictions would be placed on their importation of our energy extraction technology while, in fact, not a single license was denied in support of our announced policy.

They have seen us stand idly as their Cuban surrogates have marched over Africa bearing Russian arms and exploiting the instability of fledgling Third World governments.

They have heard no protest from us as they gave Castro ocean-going attack submarines and high performance ground-attack aircraft.

They have listened as we called their combat brigade in Cuba unacceptable one week and acceptable the next.

They have heard very little from us as their Vietnamese surrogates have pressed into Laos, into Cambodia, and threatened the borders of Thailand.

What must they think of us in the Kremlin?

It should come as no surprise that the Soviets have concluded that they can crown a decade of detente by invading and occupying a sovereign state, or that they believe the response of the West will be weak and insubstantial; for it has been just that.

Despite the tragedy of the Soviet conquest of Afghanistan, one searches in vain for evidence that official Washington understands the fundamental failure of the policy of detente. It is reported that a senior American diplomat has talked to our allies about "getting detente back on track," overlooking two facts: this locomotive has run out of steam; and it's a one-way track to Moscow.

There are reports that bureaucrats at the Department of Commerce already are lobbying for exemptions to the new controls on the export of high technology to the Soviet Union, and that they are ready to resume "business as usual" when the storm passes. Mr. Brezhnev must recall as clearly as I that the computer sale to TASS, an associate of the KGB, that was canceled when Anatoly Shcharansky was sentenced, was licensed a few months later when Shcharansky was confined behind the barbed wire of the Gulag Archipelago.

The President has said that we should boycott the Olympic games if the Soviets cannot complete their conquest of Afghanistan within a month. If the Soviet blitzkrieg in Afghanistan can be accomplished and a puppet government ensconced within 30 days, they seem to be saying, then we shall go to the games in Moscow.

Despite evidence that some of the Soviet military trucks that rolled into Kabul were manufactured with American assistance, Commerce Department officers maintain that we were wise to help build the factory that made them.

Where, one asks, is the reassessment of our policy of the profligate transfer of our high technology to the Soviet Union?

Where is the crucial review of the underlying assumptions of our arms control policies?

Where is the inquiry to establish why we have failed to obtain reciprocity from the Soviets in trade, diplomacy, science and international politics?

Have the architects of the policies now so manifestly failed been assigned to reconsider them? Where are those men and women, more sober and wise, who were right from the start?

Already the rationalizations have begun to appear. And the excuses. "The Soviets will get bogged down in Afghanistan." "They have suffered in terms of world opinion."

Key officials, who have miscalculated the Soviets with glaring consistency, now proclaim that the Soviets, in taking Afghanistan, have made a "miscalculation." They have wandered into a "quagmire," so the argument runs, from which they will emerge chastened and diminished. Some of our officials content themselves with believing that our unhappy experience in Vietnam will inevitably befall the Soviets wherever they might choose to intervene. But Afganistan is not Vietnam. And the Russians are not Americans. They have crossed an international border with seven divisions and imported hundreds of Soviet bureaucrats to administer the civil government. They have moved ruthlessly to crush all resistance. Afghanistan is not a divided country that the Soviets are helping to defend against an invading army. The invading army is Soviet.

Added to the easy belief that Soviet colonialism in South Asia—for that is what it is—will somehow work against the Soviets is the self-delusion that they have suffered a loss in "world opinion." Now it is undoubtedly true that the invasion of Afghanistan has affected the way in which the Soviets are viewed by countries around the world. In the area most immediately affected, the Soviets are surely perceived as ruthless, powerful and on the move.

And what are the likely consequences of such a perception among such countries as Pakistan or Saudi Arabia or Iraq or Oman? Will they now rally to the West, offended by Moscow's determination to work its will with an invading army? Or will they draw a contrast between the Soviet advancing and the West retreating? Will they conclude they are safer aligned with nice guys who are not powerful in the region, or with tough Kremlin leaders who are increasingly powerful and assertive?

The unpleasant truth is that the opinion that counts in international politics is formed not by images of fairness or decency, but of strength and will. And with respect to that crucial opinion, it is we, and not the Soviets, who have suffered a defeat.

For a decade, the West has been receding into the shadows of growing Soviet military strength.

While our defense budgets were declining, theirs was increasing.

While we were negotiating, they were doubling their strategic forces.

While we have talked, they have acted.

As our deficiencies have become obvious, and as the Soviets have surpassed us in one component after another of military power, they have become bolder; and we have become diffident, divided and uncertain.

Now, after a decade in which the Soviets have allocated 30 percent more overall than we to defense—50 percent more in 1979—we have gone from strategic superiority to the verge of strategic inferiority. In strategic forces the Soviets have outspent us by 160 percent; and in 1979, while we waited for the fruits of detente to register Soviet restraint, the figure grew to nearly 200 percent.

These differences in the pattern of spending show up in the aggregate size of the forces of each country. While force ratios do not tell the full story, they are instructive. The Soviets now lead us in tanks by 5 to 1; in armored personnel carriers by 4 to 1; in artillery pieces by 8 to 1; in tactical aircraft by 2 to 1; in submarines by over 3 to 1; in naval surface combatants by 1.5 to 1; and the throw weight of their intercontinental ballistic missile force now exceeds ours by at least 300 percent. In ground forces the Soviet advantage is equally dramatic. Although each Soviet division is somewhat smaller in number of men than our own, the Soviets have fielded over 170 active and reserve divisions to our 28, including 7 airborne divisions to our 2. And as the invasion of Afghanistan has shown, their reserve forces, unlike most of our own, are well trained, equipped and ready.

And there is more.

What matters most from a geopolitical point of view, when comparing military forces, is how able each is to fight in regions where conflict is likely to occur—or where conflict, if it does take place, is likely to be decisive. Here the Soviets enjoy an enormous geographic advantage spanning, as they do, the Eurasian land mass. Thus they are proximate to, and able quickly to bring force to bear in, areas long considered vital to the West; while we, surrounded by oceans that in an earlier day protected us, must move great distances to fight and to support our forces. Nowhere is this more dramatic than with respect to the reservoirs of oil on which we depend in the Persian Gulf. Soviet forces are now a mere 300 miles from the Gulf; we are 8,000 miles away. The result is this: in the time that it would take us to deploy a single division there, the Soviets could deploy 10.

It is all very well to declare that we will fight to prevent vital oil resources from coming under the control of the Soviets. But with what will we fight? A decade ago we would have relied on the shadow cast by our strategic nuclear superiority to deter adventure that could lead to direct confrontation. Today that strategic advantage is gone; and soon it will lie with the Soviets.

We are, I am unhappy to report, in a dangerous position of military disadvantage across almost the entire spectrum of military power. And our wounds are largely self-inflicted, the product of a decade of wishful thinking and inadequate action.

For fear of crying wolf, we have behaved like sheep.

If we are to sweep away, as I believe we must, the illusions upon which a decade of detente has been based, we must understand the nature of our Soviet adversary and the competition between us.

Moscow has not become more accommodating as it has become stronger and more secure. On the contrary, it has become more ambitious, aggressive and tenacious in pursuing its imperial interests.

The naive belief that a more powerful Soviet Union would be more tolerant at home has been shattered by the arrest and forced exile of Andrei Sakharov, a man of extraordinary personal courage and humanity.

For the Soviets, the relationship between us is one of unremitting competition. From time to time there may be instances in which our interests and theirs coincide; and when this happens the Soviets will act in accord with their interests. The appearance, then, of "cooperation" is either wholly coincidental or it may be a tactic to tranquilize us for longer-term purposes. They will cooperate in order to compete more effectively, but not out of deference to our interests or desires; philanthropy is not their natural mode of behavior.

From the Soviet tactic to enter agreements that appear cooperative—the Hitler-Stalin Pact comes to mind, as does the Soviet-Chinese Friendship Treaty of 1950, or the Soviet-Egyptian Friendship Treaty of 1971, or SALT I, for that matter—some officials have drawn the mistaken conclusion that the U.S.-Soviet relationship is a mixture of "cooperation and competition." This confusion between the appearance of cooperation and the reality of competition has nurtured and sustained the illusions of detente for a decade.

A dramatic shift in the balance of power has taken place these last 10 years, in the context of multifaceted arms control negotiations. Was this cooperation—or competition?

Let me suggest a short answer: We have been cooperating while they have been competing.

A generation ago, the distinguished theologian Reinhold Niebuhr had the words for our predicament.

"If the democratic nations fail, their failure must be partly attributed to the faulty strategy of idealists who have too many illusions when they face realists who have too little conscience."

It is not too late to learn that lesson.

We must begin today—this very hour—to arrest and reverse the decline of the 1970's. We didn't get into our present situation overnight, and we won't get out of it with a few fast fixes.

We must take immediate action to greatly strengthen our military posture beyond that which President Carter calls for in his pre-Afghanistan defense budget for FY 1981. We need an across-the-board, long-term buildup of our military capabilities to meet essential strategic and tactical requirements of the 1980's. This must begin with an immediate, substantial supplemental budget for the current year which should cover more than an adjustment for inflation in fuel costs and pay. President Carter should design this supplemental budget to improve markedly the readiness of our current forces. He also should develop a major amendment to the FY 1981 budget designed to continue the improvement in force readiness and to expand the military buildup already programmed.

Taking a leaf from President John F. Kennedy's book during the 1961 Berlin crisis, President Carter should begin selectively to call up reserve units to augment our ability to respond in this period of heightened danger. This would be a measure of the President's stated intent to get serious about the nation's defense.

As we get serious about our defenses, we need not abandon our long-standing goal of reaching truly equal, and truly verifiable accords with the Soviet Union to limit weapons of mass destruction. But we will never achieve this kind of stabilizing and durable agreement if we negotiate from a position of weakness and make one-sided concessions. And the Soviets should understand that we are prepared to live in a world without arms limitation if they persist in their pattern of aggression and subversion, and continue to be unreasonable in arms control talks.

We must enlist our friends and allies in a broad effort to provide for the common defense. The NATO nations need to understand the common necessity to strengthen conventional and theater nuclear forces and to take a broader view of the arena in which our collective interests lie and where NATO nations must be prepared to act if necessary.

The Middle East is of immediate concern. The other NATO nations import 75 percent of their oil from the Persian Gulf area. Their ability to survive economically and to defend themselves depends on the continuity of that supply. For Japan, the situation is just as critical. The time is ripe for President Carter to lead our key allies in a collective effort to organize and plan what needs to be done to assure access to Middle East oil.

In this undertaking, we must work closely with friendly nations in the Middle East. We have close relationships there that can be developed further for our common defense. Our deep and abiding ties with democratic Israel and our now well-established relationship with Egypt are sources of strength upon which we can build. Further, moderate Arab states understand the imperial nature of Russian ambitions in the region. Yet. President Carter's State of the Union address failed to tell us how the United States can work with our friends in the region to deal with the full extent of the challenge. Key nations like Saudi Arabia are not as concerned with overt attack from without, as with creeping Kremlin influence, subversion and overthrow by coup d'etat. We need to fashion cooperative arrangements with our friends in the Middle East the better to assist them to counter indirect as well as direct aggression.

We must revive the tradition of bipartisan foreign policy—for it is an essential source of national strength and resolve. The future of freedom is not a partisan issue. All Americans have the same stake in this future; and no one political party has a monopoly of good sense and thoughtful counsel. The President must call on, listen to, and exchange ideas with political leaders from the party out of power as well as leaders in his own party. Rather than perfunctory briefings after the fact, these leaders should be included in the design and development of a strategy and policy which we will sustain over the long term.

As a visible move in this direction, and without delay, President Carter should bring into his Administration men and women, Republican as well as Democratic, who from the beginning have understood the nature of the long-term competition with the Soviet Union.

No doubt the Kremlin will shortly seek to rekindle the unfounded optimism of detente and again lull the West into complacency about the state of its defenses. We must have leadership that recognizes the realities of Moscow's intentions and will not be deluded by its now-familiar maneuvers. We must be led without illusions about the nature of our relationship with the Soviet Union or the magnitude of the effort we must now commence.

Too many have been selling America short. This is the greatest country on the face of the earth. We are rich in human and material resources. Our task is to marshall our resources at home and in concert with our allies to meet the challenges of today and tomorrow.

A final word:

On this occasion we remember those men of Virginia who met here in Williamsburg on the eve of the revolution which gave us our freedoms. They rallied to an idea that turned out to be durable indeed: that free men might govern themselves.

Years later, Abraham Lincoln speaking of these founders of our nation advised us:

> "They were pillars of the temple of liberty; and now that they have crumbled away that temple must fall unless we, their descendants, supply their places with other pillars, hewn from the solid quarry of sober reason."

Mr. STEVENS. Mr. President, if the Senator from Illinois seeks the time remaining I yield the time remaining on this side.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

SENATOR ROBERT C. BYRD'S PRESS CONFERENCES

Mr. PERCY. Mr. President, I appreciate very much the minority leader yielding to me.

Mr. President, I noticed over the weekend a statement by Senator Robert C. Byrd criticizing the statement by Clark Clifford on a possible war in the Persian Gulf.

I take this occasion to say that my Sundays are always enlivened a bit by knowing that Senator Byrd has held a press conference on Saturday to comment on the issues of concern to the Senate and the country, and to remind the country that the Senate has leadership that thinks through issues.

I happen to concur very strongly with what Senator Byrd said Saturday. I felt it was an unfortunate comment, particularly to be made in India, and, as the ranking Republican on the Subcommittee on Near Eastern and South Asian Affairs, of which Senator Stone is the chairman, I think we all have to be extraordinarily sensitive as to what is going on there and what can and should be said.

I felt it was right and proper for the distinguished Senator to make the point which I think is shared by many of his colleagues and, though he speaks for the majority, he also often expresses many of the ideas that those of us on the Republican side have.

I want to pay tribute to my distinguished colleague for the time he takes on Saturday to present his views. Ninety percent of the time I have agreed with what he has had to say, and I think he performs a great service in this regard, just as I feel that Senators Baker and Stevens of the minority leadership have distinguished themselves by enunciating positions which they hold as individual Senators, but from which they cannot disassociate themselves of the fact that they have leadership roles.

Many times the distinguished majority and minority leaders are speaking directly to the President, although they have access to him at all times. Sometimes they feel it advisable to speak to the President through the media when they feel strongly enough to put their remarks right on the record.

It is wonderful to see the way that their positions of leadership have thrust upon our Senate leaders the responsibility to take hard and tough positions. Just as one Senator, I am very proud of the fact that they articulate their views in a way which strengthens the Nation, and this at a time when people are questioning the strength of our Government and the strength of our institutions. I think the Senate is a strong part of a strong Government that can now face up to the crisis that the world faces.

In regard to the revelations of the past weekend, the people of this country should know that this institution will respond in a forthright way. We will support fully the actions of the Justice Department, the FBI, and other agencies that have a responsibility to expose wrongdoing. The Senate and our Ethics Committee will respond because we have a strong institution, and it is strong because of the leadership on both sides of the aisle, by the majority leader, Mr. Byrd; the minority leader, Mr. Baker; the assistant majority leader, Mr. Cranston; and the acting minority leader, Mr. Stevens, who has done an outstanding job in standing in for Mr. Baker who, understandably, has been in other parts of the country.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished Senator from Illinois for his encouraging statement. It serves to make me all the more aware of my responsibilities. I only hope I can live up to those responsibilities as we conduct our work daily and as I conduct my weekly news conference on Saturdays.

I attempt to be moderate and reasonable, and I hope that I may always reflect that reasonableness and candidness in those news conferences that will help find some leadership for the country, to help instill in our people a greater confidence in the legislative branch, and that will reflect the viewpoint of the majority of my colleagues on both sides of the aisle.

I thank the Senator for his observations. They have been very helpful.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I want to join the Senator from Illinois in his comments about the majority leader, and I want to thank him for his comments with respect to Senator Baker and myself. It takes a while, I might say to my good friend, to learn the difference between speaking for oneself as a Senator and trying to articulate the position of those who have given us the opportunity to speak for our own side of the aisle and the majority leader for his side of the aisle. But I do think it is not often that we get those compliments, so we are grateful to the Senator from Illinois.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I would like to thank the Senator from Illinois for his words, with which I agree. I appreciate his recognition of our efforts to keep matters bipartisan and calm at a time of great stress.

In a recent session, the Senator from Georgia (Mr. Nunn) stated that there is a very thin line between a warning and a dare, and that it would be wise for us to let our actions speak rather than to try to accomplish our purposes by mere words.

I think that is a very fine statement of what our country should seek to do now, the stance that it should take, and that is exactly what the Senator from Illinois had in mind, I believe, when he spoke about the dangers that face us in this world.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, that it may not extend beyond 30 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 414

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 515, S. 414, the Federal patent procedure for small businesses and nonprofit organizations measure, is before the Senate there be a time agreement therein as follows: 2 hours equally divided on the bill and under the control of Mr. Bayh and Mr. Thurmond; 1 hour on my amendment in the first degree; 30 minutes on any amendment in the second degree; 20 minutes on any debatable motion, appeal, or point of order if such point of order is submitted to the Senate or the Chair entertains discussion thereon; and that the agreement be in the usual form.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXPORT-IMPORT BANK LOANS ABROAD

Mr. PROXMIRE. Mr. President, for some time now I have been putting into the Record the reports from the Export-Import Bank on their loans abroad. They have made loans for various purposes. Most recently, I put in notices of loans to the Laker airline in England, so they could buy planes that were made in this country, and also to the wholly owned Belgian airline, owned by the Belgian Government.

I think it is time for us to think about the consequences of these loans. The interests were for 8⅜ percent. The prime rate, as we know, is over 15 percent. The Government has to pay over 11 percent to borrow the money. This means the taxpayer is subsidizing, in effect, the British airline that flies Americans and others to Europe and to this country, and also subsidizing the Belgian airlines.

The taxpayer has to do a lot of things in our society, but I do not see any justification at all in subsidizing an airline, particularly an airline that flies overseas, especially in view of the fact that the wealthiest people in this country are the ones who use the airlines to fly to Europe. You cannot be a resident of an inner-city area, minority or unemployed low-income person and spend much of your time flying to Europe and back. Obviously, these are affluent people. They should pay for it themselves: We should end this kind of subsidy.

But we have gotten to this kind of a situation because we feel we have to subsidize the credit of our exporters in order for them to compete effectively with other exporters. And, of course, in other countries, they do exactly the same thing because they want to compete with us. It should not be beyond the capability of mankind to work out this kind of arrangement where all countries suffer and agree that they will only provide interest at the market rate. The market rate is very simliar because of the mobility of capital. And there is no justification at all, except, of course, for the people who get the credit—that is, Boeing, for example, and the airlines, and the affluent people who use these services to take advantage of the taxpayer to this extent.

Mr. President, I call attention to the fact that I had asked the staff of the Banking Committee to give me the statistics. They say that the average rate of interest during the past 6 months was about 8.38 percent. On the other hand, the average over the past 6 months U.S. Treasury rates and medium-term maturity rates currently yield in the range of 10.7 percent to 10.9 percent.

Now, that is a spread which—in view of the fact that every other day I will announce a $100 million loan—is undoubtedly costing the American taxpayers millions of dollars a year. And it is time we stopped it.

THE GENOCIDE CONVENTION AND FREE SPEECH

Mr. PROXMIRE. Mr. President, the time has come to act on the Genocide Convention.

Attrition and defections have left only a few to oppose the treaty.

One argument the treaty's detractors forward is that article III, the prohibition of "direct and public incitement to commit genocide" abridges first amendment guarantees of free speech.

This argument is totally unjustified. In *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969), the Supreme Court drew the line between protected free speech and prohibited incitement to immediate action: "* * * the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to produce such action." Article III's wording is certainly consistent with this Supreme Court decision.

Our concern for free speech is admirable, but misplaced in this case. It is amazing that such frivolous, groundless arguments alleging violation of free speech should prevent the Senate from exercising its right to speak out loud and clear on its commitment to the basic right to live.

The Genocide Convention does not and could not infringe on the Constitution. I call on my colleagues to break the Senate silence on the Genocide Convention and I urge its immediate ratification.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WILLIAM ORVILLE DOUGLAS

Mr. JACKSON. Mr. President, I have the honor to place in the RECORD a copy of the memorial service held for Justice William O. Douglas here in Washington, D.C., at the National Presbyterian Church on Wednesday, January 23, 1980.

The memorial service was a deeply moving occasion for his colleagues and friends. Bill Douglas preached and lived as a free spirit. He left a legacy of individual freedom and a protected natural environment for coming generations to maintain and cherish. He enriched so many lives. His contributions to American legal theory, practice, and justice were profound and lasting. He will be remembered and respected as one of the great Americans.

Mr. President, I ask unanimous consent that this copy of the service be printed in the RECORD.

There being no objection, the memorial service was ordered to be printed in the RECORD, as follows:

MEMORIAL SERVICE FOR WILLIAM ORVILLE DOUGLAS

Organ Prelude:

Call to Worship:

God is a spirit, and they that worship Him must worship Him in spirit and in truth."

Blessed are the pure in heart, for they shall see God."

The Lord gave and the Lord hath taken away. Blessed be the name of the Lord.

Peace I leave with you, my peace I give unto you: not as the world giveth, give I unto you. Let not your heart be troubled, neither let it be afraid.

Invocation:

Eternal Father, in whom we live and move and have our being, draw us close to Thee this hour and let Thy light and Thy joy fill our souls as we offer unto Thee the praise and thanksgiving of our hearts; for the mystery and wonder of life here and hereafter. We thank Thee that deep in the human heart is an unquenchable trust that life does not end with death, that the Father who made us will care for us beyond the bounds of vision even as He has cared for us in this earthly pilgrimage. We praise Thy name that our hope has been so wondrously confirmed in the life, the words and resurrection of our Lord Jesus Christ, in whose name we pray. Amen.

"The Lord's Prayer": Albert H. Mallotte.

MSG William F. Kugel, Soloist.

Comments By Dr. Elson:

"The elements of the service and the participants in it are in fulfillment of the instructions of Mr. Justice Douglas.

In one of his notes he wrote:

"Years ago I knew a cowboy out West who used to sit rocking back and forth on a kitchen chair singing the Lord's Prayer. It was a beautiful rendition, and the last time I saw him I asked him if he would wash his blue jeans and polish his boots and come East to sing at my funeral. I am sorry to report that he died before he was able to do this. Among the baritones you know from your church assignments, there should be one splendid vocalist who could do it.'

"We have just been uplifted by hearing the Lord's Prayer sung by MSG William E. Kugel just as Mr. Justice Douglas was inspired when his cowboy friend sang it long ago."

The Holy Bible—The Old Testament:

"Let us hear the Old Testament lesson as contained in the Psalms."

I will lift up mine eyes unto the hills, from whence cometh my help.

My help cometh from the Lord, which made heaven and earth.

He will not suffer thy foot to be moved: he that keepeth thee will not slumber.

Behold, he that keepeth Israel shall neither slumber nor sleep.

The Lord is thy keeper: the Lord is thy shade upon thy right hand.

The sun shall not smite thee by day, nor the moon by night.

The Lord shall preserve thee from all evil: he shall preserve thy soul.

The Lord shall preserve thy going out and thy coming in from this time forth, and even for evermore. (Psalm 121)

The Lord is my light and my salvation; whom shall I fear? the Lord is the strength of my life; of whom shall I be afraid?

When the wicked, even mine enemies and my foes, came upon me to eat up my flesh, they stumbled and fell.

Though an host should encamp against me, my heart shall not fear: though war should rise against me, in this will I be confident.

One thing have I desired of the Lord, that will I seek after; that I may dwell in the house of the Lord all the days of my life, to behold the beauty of the Lord, and to enquired in his temple. (Psalm 27:1–4)

The statutes of the Lord are right, rejoicing the heart: the commandment of the Lord is pure, enlightening the eyes.

The fear of the Lord is clean, enduring forever: the judgments of the Lord are true and righteous altogether.

More to be desired are thy than gold, yea, than much fine gold: sweeter also than honey and the honeycomb. (Psalm 19: 8–10)

"And now the words of the prophet, Micah"

He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God? (Micah 6: 8)

The Holy Bible—The New Testament:

"Hear the message of the New Testament, first in the words of the Apostle Paul."

". . . the time of my departure is at hand.

"I have fought a good fight, I have finished my course, I have kept the faith: (II Timothy 4: 6,7)

"For as many as are led by the Spirit of God, they are the sons of God.

"Who shall separate us from the love of Christ? shall tribulation, or distress, or persecution, or famine, or nakedness, or peril, or sword?

"Nay, in all these things we are more than conquerors through him that loved us." (Romans 8: 14,35,37)

"But I would not have you to be ignorant, brethren, concerning them which are asleep, that ye sorrow not, even as others which have no hope.

"For if we believe that Jesus died and rose again, even so them also which sleep in Jesus will God bring with him.

"Whereforce comfort one another with these words." (I Thessalonians 4:13,14,18)

"For we know that if our earthly house of this tabernacle were dissolved, we have a building of God, an house not made with hands, eternal in the heavens." (II Corinthians 5: 1)

"Thanks be to God, which giveth us the victory through our Lord Jesus Christ.

"Therefore, my beloved brethren, be ye steadfast, unmoveable, always abound in the work of the Lord, forasmuch as ye know that your labour is not in vain in the Lord." (I Corinthians 15: 57,58)

"Let us hear comforting words of Jesus when he said,

"Let not your heart be troubled: ye believe in God, believe also in Me. In My Father's house are many dwelling places: if it were not so, I would have told you. I go to prepare a place for you. And if I go and prepare a place for you, I will come again, and receive you unto Myself; that where I am, there ye may be also. And whither I go ye know, and the way ye know. I am the way, the truth, and the life: no man cometh unto the Father but by Me.

"These things have I spoken unto you, being yet present with you. But the Comforter, which is the Holy Spirit, whom the Father will send in My name, He shall teach you all things, and bring all things to your remembrance, whatscever I have said unto you. Peace I leave with you, My peace I give unto you; not as the world giveth, give I unto you. Let not your heart be troubled, neither let it be afraid."

(John 14—adopted from the *Presbyterian Book of Common Worship*) Eulogy—The Chief Justice of the United States.

THE HONORABLE WARREN E. BURGER

It has been said one measure of a person is the capacity to transmute dissatisfactions into creative pursuits and concrete results. In the common understanding of the term, Bill Douglas was not a satisfied man but he succeeded to a great extent in channeling his dissatisfactions into an amazing range and diversity of constructive pursuits. His insatiable curiosity took him all over the world to satisfy his urge to understand other peoples, to know their ways of life, their problems, their sufferings, their aspirations.

His lifelong concern for our natural environment led him to study, write and act in this area long before the term "environmentalist" had found its way into the American vocabulary. The Chesapeake and Ohio Canal, which is now a National Park, is but one of the more visible manifestations of his generative powers. And there are others—more than 20 books and countless articles.

Bill Douglas' family came from the rugged land of Nova Scotia and settled in a small Minnesota town where his father was a Presbyterian minister. There Bill was born and lived the earliest years of his life. Later the family moved to the West where he lived to young manhood and then—as if anticipating the book he would one day write—he moved east as a young man to study law.

He was a passionate human being and we saw in him proof that people of imagination and strength who feel deeply and who act on their beliefs are those who make others think and rethink conventional beliefs. He was always ready to think the unthinkable. And if doing that was a threat to accepted wisdom, upsetting to some, he took a pixielike delight in that. Whether people agreed or disagreed with him, they listened.

With Justice Holmes, he believed deeply that to live fully one must take part in the action and passion of his times. He followed that precept to the utmost and for him the action and passion of his times was a spectrum covering all of life.

As a highly visible public figure for more than four decades, Bill Douglas was in the news perhaps more than most officials. Yet we knew him as a very private person who let only a few people really come to know him.

It is this private person, as well as the public man, that we honor today.

There was a time when some who differed with him on issues mistakenly described him as an atheist and even questioned his belief in the American system. This shows how terribly wrong—even absurd—perceptions can be. He was a true believer, a Christian, in the genuine sense and his opinions while on the Court reflect his firm belief in an Almighty God, a belief inculcated by his Presbyterian minister-father and by his mother.

As a judge, he was firm in keeping the church-state separation under the Religion Clauses of the First Amendment, but this in no sense came from hostility toward religion. Quite the contrary. His positions stemmed from a profound belief that to protect the free exercise of religion, Governments must keep hands off.

Perhaps nowhere did his deep religious convictions emerge more clearly than in his opinion in *Zorach* v. *Board of Education*. In upholding the New York statute allowing release of students from classes to take part in worship or religious instruction, he wrote this:

"We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma. When the state encourages religious instruction . . . it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that (the State) may not (do this) would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe . . . [W]e find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence."

In his partial dissent in *Wisconsin* v. *Yoder*, he questioned any test of religiosity, saying:

"I am not at all sure how the Catholics, Episcopalians, the Baptists, Jehovah's Witnesses, the Unitarians, and my own Presbyterians would make out if subjected to [a test]."

In a letter to Bill Douglas on his retirement, signed by the eight remaining Members of the Court, we paid tribute to him as a unique resource for the Court and one that may never again be present at the Conference table. This resource was his intimate knowledge of the opinions of the Court going back, then 36 terms, with his memory of the evolution of the decisions of those cases.

His response to that letter was typical of the less well known side of this uncommon man. He said, "Your letter filled my heart with overflowing emotion." Then he went on:

"Those who start down a water course [on a canoe trip] may be strangers at the beginning but almost invariably are close friends at the end. There were strong headwinds to overcome and there were rainy as well as sunny days. The portages were long and . . . some were very strenuous, but there was always a pleasant camp . . . [but] inevitably there came the last campfire, the last breakfast cooked . . . The greatest such journey I have made has been with you my colleagues who were strangers at the start but warm and fast friends at the end."

We who knew Bill Douglas well could see that his last illness was, to him, a preparation for his next journey, and he accepted that journey as a part of God's plan for human existence. He approached it as he approached countless explorations he made into the mountains and valleys of strange and unknown lands on other continents. To him this was but another new experience, another challenge, another journey. And we know he was not one to shrink from new experiences or to fear the unknown. He was fortified by the firm religious beliefs so eloquently revealed in his opinions.

At a dinner celebrating his having served longer than any Justice, he reaffirmed the creed that guided his life. His words should fortify all of us in the days ahead:

"I think the heart of America is sound; I think the conscience of America is bright; I think the future of America is great."

I am proud to join in a salute to William O. Douglas, a unique and many facetted man and notable American.

Comment by Dr. Elson:

"Mr. Justice Douglas wrote about the next song as follows:

"'Another song that goes way back to my boyhood was one that Mother and Father used to sing. Mother was a soprano vocalist in the church and Father was a singing evangelist when he began his career. One song that they liked to sing was "Shall We Gather at the River?" If this is not the exact title, I am sure you will remember it, as this is an old and familiar song.'"

"Shall We Gather at the River?" Robert Lowry.

(Traditional tune, adopted by Aaron Copeland).

Memorial Tribute: Former Associate Justice Abe Fortas.

THE HONORABLE ABE FORTAS

Bill Douglas has departed, and there is an emptiness in our world.

In these final moments, we who love and revere him, seek comfort of shared recollection of the man, and the solace that we may derive from recalling his legacy.

It is not easy; he was not a demonstrative man; and the entire world was his forum, and all of its people were the objects of his efforts. His perspective was vast; his vision was far-reaching: from a tattered, homeless vagrant to the disorder of a world in turmoil.

To seek the measure and essence of the man, we must go beyond the law which was his basic instrument. We must go far beyond the volumes of the Supreme Court Reporter which enshrine his extraordinary assertions of the rights and dignity of people. We must go beyond the archives of the Securities and Exchange Commission which memorialize his insistence that all of man's creations, including business and finance, must account to the service of society and its people. We must go beyond the records of his remarkable career at Yale and Columbia where he devised noval and effective techniques for the analysis of law and social problems.

We must go far beyond all of this. To recall to our minds the essence of our friend, we would have to summon his friends—the ranch hands at the little settlement of Whistling Jack, and at Goose Prairie, in the state of Washington; the Indians with whom he talked and fished near his cabin in Lostine, Oregon; Rup Singh, the mule driver in Central Asia; Yacoub Bishara, the peasant in Lebanon; Rahul, the Himalayan guide. To him, they were people—his friends; and the world that he fought to create was, in his view, a world which would bring peace and dignity to them, too.

We would have to go to his beloved mountains, to the wild rivers, to the peaceful paths of the Olympia Peninsula, of Mount Adams, of the Wallowas, and of our own, neighboring countryside. We would have to journey to the agricultural station at Beltsville to see the rose bushes, made sturdy by cross-breeding with the seeds which he brought from the Himalayas. We would have to visit Douglas' collection of wild flowers from all of the world, which he gathered and classified and preserved, with wonder and amazement at God's beauty, and growing dismay and anger at man's destructiveness.

In all that he did, Douglas was a conservationist—a conservationist of all that God has created. He believed, deeply believed, in people, and he fiercely resented infringement of their rights and their dignity. He believed, deeply believed, in the sanctity of nature and nature's wonders. He said, "we deal not with transitory matters, but with the earth itself. We who come this way are merely short-term tenants."

Bill Douglas was my beloved teacher, friend and colleague for 50 years. We shared joys and sorrows; triumph and disaster; achievement and defeat; acclaim and calumny. He was a man of quivering sensitivity; yet he unhesitantly exposed himself to brutal assault. He was a man greatly in need of love; yet his life was devoted to causes which invited controversy and incited outrageous defamation.

He was a brave man: he did what his mind and heart directed, although he knew—with devastating clarity—that he would have to endure suffering and torment, and that his suffering would be almost unendurable.

Perhaps it is inevitable in our world that true greatness—the capacity to create tomorrow, to implant in a primitive world the seeds of principle that may flourish in a better world of the future: Perhaps it is inevitable that pain and suffering will accompany such greatness.

For Douglas was tomorrow's man. He saw the world from the eminence of a lofty mind and exalted conscience; and he sought to raise the world's standards to the level of his own perception. His degree of success is remarkable; his failures are understandable—for he was, indeed, tomorrow's man.

I recall a precept of which has was fond: "Occupy high ground", he said. And so he did.

I remember Herblock's cartoon when Douglas retired from the Supreme Court. It shows the crest of a mountain on which the name of William O. Douglas is carved in large letters. A mother and father and their two children are at the base of the mountain, looking up to its crest. There, they seem to say, there is the high ground where Douglas took his stand; where people may live in the beauty and freedom which Douglas claimed as humanity's right.

It is extraordinary to realize that, during his lifetime, Douglas was a leader in every one of mankind's major advances towards the summit: towards a peaceful world in which all people—and not just some—have the blessings of personal dignity and freedom from oppression or economic want; and towards a world in which the earth and all of its beauties; its trees and mountains, its rivers and its atmosphere—are carefully safeguarded and scrupulously nurtured.

I cannot conclude without telling you of an experience that I do not understand: On Sunday morning, as I stood beside the bed on which lay the body from which Douglas had departed, it was not the great events of his life which came to my mind. Instead, I saw Douglas, about 45 years ago, in his New Haven house, playfully presiding at a pretended meeting of the mythical Hunt Club which he and Thurman Arnold invented—when you, Bill Junior and Millie were small children. And I saw Douglas, who fancied himself a great outdoor chef, throwing a preciously expensive steak directly on a charcoal fire, at a cook-out in our back yard. And I saw him slyly letting us know that it was he who had induced our Dean at Yale to board the train to Boston instead of New York where the Dean was scheduled to speak. And I saw him with Cathy, happily striding along the C&O Canal. And so, I recalled, as I hope you will, the moments of happiness and not of grief.

Mr. Justice Douglas belongs to the world, and its people. That is as it should be. But Bill Douglas also belongs, in a very special way, to you Cathy, and to Bill Junior and Millie and his grandchildren, and to all of us who loved him.

Memorial Tribute: The Honorable Clark M. Clifford.

THE HONORABLE CLARK M. CLIFFORD

In the early summer of 1945 Bill Douglas entered my life. He became an important, vital and continuing influence for 35 years.

Bill's life was not an easy one. He had worked and struggled against poor health, poverty and lack of opportunity. But he forged his own opportunities and was eminently successful in demonstrating his keenness of intellect, his incredible industry and his willingness to find new solutions to old problems.

Bill was a restless man. He was always striving, always seeking, always looking for new dragons to slay. His enemies were injustice, intolerance and inequality of freedom.

His life was one long struggle against oppression. It was a battle to achieve those fundamental rights in which he believed so deeply; the right to be free from brutality, the right to trial by jury, the right to confront one's accuser, and the right to be informed of the charge and to have a full chance to defend.

Bill's convictions were deep seated. He believed in the right to speak freely; the right to worship as each one desired, the right to be let alone, and the supreme law of our system: the principle that government is controlled by the governed.

These precepts, to Bill, do not exist in a vacuum. They were not glittering generalities that were sterile and academic.

They involved people. Poor people. Sick people. Underprivileged and undernourished people. Oppressed people. People of foreign extraction.

These were Bill's constituents. He was their champion.

I would have given a good deal to be present when Bill entered the Gates of the Kingdom of Heaven.

The turnout must have been remarkable, even by heavenly standards. His admirers would be numbered, not in the hundreds, not in the thousands, but in the tens of millions.

And so it is on this earth. Each one of us is freer, each one of us is safer, and each one of us is stronger—because of this man.

I do not know if, by today's standards, Bill would be called a religious man.

He certainly, however, would qualify under the direction given by the wise prophet Isaiah when he said:

"Learn to do well, seek judgment, relieve the oppressed, judge the fatherless, plead for the widow."

I would be remiss if I did not pay my respects to Bill's widow, Cathy.

What a magnificent figure she has been through these last difficult and tortured months. Kind and considerate, supportive and solicitous, courageous and loving—she has stood taller each passing day.

May God's grace be upon her and may she have peace.

I have a favorite poem which I have long thought, applies with special relevance to Bill, whom I have loved so well.

Permit me to conclude with it. It is entitled:

"UP-HILL"

Does the road wind up-hill all the way?
  Yes, to the very end.
Will the day's journey take the whole long day?
  From morn to night, my friend.

But is there for the night a resting-place?
  A roof for when the slow, dark hours begin.
May not the darkness hide it from my face?
  You cannot miss that inn.

Shall I meet other wayfarers at night?
  Those who have gone before.
Then must I knock, or call when just in sight?
  They will not keep you waiting at that door.

Shall I find comfort, travel-sore and weak?
  Of labor you shall find the sum.
Will there be beds for me and all who seek?
  Yea, beds for all who come.

—CHRISTINA GEORGINA ROSSETTI.
(1830–1894.)

Comment by Dr. Elson:

"Hearing the next number by the Army Chorus surely will be enhanced by giving attention to this note from Mr. Justice Douglas in a letter written to me more than two years ago.

'And then from my hobo days, I knew the famous songwriter Woody Guthrie who wrote a song called, "This Land is Your Land, This Land is My Land". It represents not a socialist dream of mine, but many of the freedoms that are explicit or implicit in the Constitution, such as the right to move from place to place, to look for a job or to establish a new home, and the right to move interstate without payment of a fee, as some states within the last thirty years have tried to impose. In other words, it expressed the vagrancy issue as I have expressed it and as it has become ingrained in the law. (See my opinion expressed in 405 US 156, Papchristou, et al v. City of Jacksonville.)' "

"This Land is Your Land": Woody Guthrie.

Memorial Tribute: Sidney M. Davis, Esquire.

SIDNEY M. DAVIS, ESQUIRE

Mr. Justice Douglas was born at the close of the nineteenth century, his life encompassed most of the twentieth century, and the impact of his ideas and the influence of his life are a legacy that will carry deep into the centuries ahead.

He engaged his life always in the pursuit of great causes. He said that he wanted to be remembered as one who made the earth more beautiful. He will also be remembered as one who made this country more free, more just and more civilized.

He was an introverted and private man who led an active and public life, a peaceful man who lived with conflict and a quiet man who would not hold his silence.

His energy and vitality were immense. Justice Holmes once said that life is like an electrical system which derives its quality from the current that runs through the wires. No stronger current ever ran through any man than through Bill Douglas. And if ever a man lived his life to the fullest, he did.

He led an extraordinary and useful life filled with achievement, adventure and accomplishment and he carried it off with dignity and sensitivity.

He was a tall, big-boned man with a shock of carelessly combed hair turning from sandy to silver as the years went by. His face, lined and furrowed even as a young man, grew craggy and deeply creased with character. He could flash a wicked grin, reflecting a dry and salty sense of humor, and his talk was in accents of the far west. When engrossed in conversation, he would paw at his face with a large hand as though brushing an obtrusive fly from his forehead. His clothes forever bore the unmistakable stamp of habitual indifference.

His appearance was quintessentially American. Sitting on the bench of the Supreme Court in his judge's robes, scratching the side of his head and restlessly rocking in his black chair, he looked for all the world like a Remington cowboy.

He was lean and spare and tough, both physically and intellectually. His dear friend, Judge Jerome Frank, once described him as the coldest mind and the warmest heart in Western civilization. For although he governed his emotions firmly, he was a sentimental and kind man.

He had more than his share of what his Scottish forebears called the "bite of inwit", a highly charged sense of right and wrong and a large conscience.

The guiding force of his life was the principle that "beaten paths are for beaten men". Bill Douglas preferred always to break a path rather than to follow one.

He wrote extensively for the Court. But while he regarded writing for the majority as a duty, writing in dissent was for him not only an obligation of conscience but a happy luxury as well.

His years on the Court were a recurrent invocation of those libertarian principles which in his conception lay at the very heart of American constitutionalism. He cared deeply about the need to preserve and expand constitutional precepts of unfettered speech, and of fair procedures and fair play, especially for those with limited means who were confronted with great public or private power.

He was as resolute and tenacious and brave in the expression of his beliefs as he was in the way he lived his life. And he dared, always, to be himself.

That he was a privately religious man astonished even some of his closest friends. When Thoreau was on his death bed, his friends brought a minister to see him. "Why have you come sir?" asked the dying man. "Mr. Thoreau," said the minister, "I've come to help you make your peace with God". "Oh?" said Thoreau, "I hadn't known there had been a quarrel". Bill Douglas never quarrelled with his God although he may have had a few other disagreements along the way.

But with it all, the strength of his beliefs and the indomitable force of his character were deeply imbedded in the personality of a man to whom heart and feeling were no strangers. He was a warm and loving man to his friends and was loved in turn by them.

Bill Douglas lived well and he died hard. He was a great Justice and a good man and he shaped his times and touched the hearts of many of us. The flavor and memory of him will stay with us for a long time and life will somehow be lonelier and darker without him.

(Sidney Davis is a New York attorney and a professor at Princeton University).

Memorial Tribute: Mr. Eric Sevareid, Journalist.

MR. ERIC SEVAREID

Much better authorities than I have spoken of Bill's mammoth labors for freedom under law. I will not dwell on that, but say only two things about it. He was so passionate about civil liberties because he understood clearly that they are their own defense, can be defended only as long as we still have them. And, without them in America, even peace in the world itself would likely vanish. If both superpowers were closed and paranoid, censored societies with secrecy the rule, surely the tensions in the world would become explosively unbearable.

I think Bill Douglas felt that, if he did not express it just that way.

The marvelous freedom he discovered as a very young man was something else—freedom from personal fears. Repeatedly, as a boy, sometimes hanging by his numbed finger tips to a mountain ledge above an abyss, he cauterized his fear. When the pain was gone, fear was gone and he felt forever healed.

When a man so wins, he wrote, there comes an exquisite moment, a sense of austerity, a feeling of peace. It is then, he said, that a man discovers the power of his soul to carry him on.

It was the mountains that did this for him, and before that the trauma of his father's untimely death, the devotion of his remarkable mother, the conquest of illness and the things he saw that laid the first embers of a lifelong fire of rage against poverty and ignorance, injustice and power abused.

The other day I took down again from the shelf his thirty year old book on men and mountains. I had forgotten that he had inscribed it to me, in 1950. He wrote on the fly leaf, "In appreciation of his contribution to these pages." I could think of no specific contribution of mine. We had never talked much directly about boyhood and poverty and wilderness. But we were neighbors then, over in Virginia: he had read some things of mine about youth and the wilds and the pain and fright of trying to test oneself, so often foolishly. I think he felt I understood that part of him, at least, if not, in clear measure, his huge meaning for our collective life as a society in law.

In any case, to me his friendship was an honor, a blessing.

Not so long after the turn of the century, at his father's funeral in that mountain country the minister said to the small boy, "You must now be a man, sonny."

What a man he was. But in all men who are men, some part remains the small boy. The thrill and wonder of natural surroundings never left him: the feeling only mellowed and developed religious overtones. Every time he made it to a mountain top and looked about the splendid world of blue and white he felt the presence of a Supreme Being: yet he felt that man himself was the most exciting of all God's creatures. What but a Supreme Being, he said, could fashion one who can laugh and cry and love, mold a soul that can aspire to the stars and a heart that can sacrifice all for an idea or a loved one.

How ignorant, those critics who thought Justice Douglas an irreverent and worldly man.

It is some effort to mourn his death because his life was such a rejoicing. He loved the very names on that western land, those wonderful names from our folk learning—Bumping River, Lodgepole, Cougar Creek, Crystal Mountain, Chinook Pass, Old Snowy and Devils Horn and Goose Prairie. No prairie at all, of course, to anyone from North Dakota like me.

I fooled a bit with a fly rod on the Bumping River as Bill watched in silence and an old saying occurred to me. I said to him, "Trout live only in beautiful places—and so do you." He liked that. He grinned that wide, country boy grin and pulled at that country boy cowlick that would never stay combed.

His person inhabited the beautiful places: so did his mind and his spirit.

How he loved this country and how he worried about it, like an anxious parent. What he wrote thirty years ago I think he must have still felt, at the end:

"We need a faith," he said, "the faith of our fathers. We need a faith for which it would be glory to die. Only if we have such a faith are we free to live."

America, Freedom, Douglas. A Triumvirate. A Trinity.

Pastor's Tribute (prepared for the service but not delivered during the service).

From the very beginning the vital forces, the inner being of William O. Douglas seemed to be fused with elemental and eternal things. His life seemed at one with the earth, the sky, woodlands, brooks, lakes, canals, trails and mountain peaks. The springs of his life seemed to synchronize with nature. He was part of it, meshed with it, inseparable from it.

He was a P K—a preacher's kid—as we sometimes say. His father came out of the community of Pictou, Nova Scotia whose citizens, Scottish of the Scots, highlanders and Gaelic speaking, were descended from the immigrants who arrived on one of the several voyages of the sloop, Hector. Colin Douglas, his great grandfather arrived in 1773 with 180 people in 30 families.

The theology of John Calvin was cogenital to the citizens of Pictou.

Justice Douglas was steeped in the truths of the English Bible, absorbed in home and church and he often said that the view of reality, of man and duty and destiny in the Declaration of Independence and the Constitution was the Biblical view.

William O. Douglas was very religious in the real—the profound sense. He did not parade his piety. He was dignified but not pompous, reverent without piosity—warm friendly, sensitive—a true human being.

If you asked him the purpose of life he would probably reply in the terms of the Shorter Catechism learned in boyhood, "The chief end of man is to glorify God and enjoy Him forever." In that faith we rest him and in it we find hope.

"Let us pray:"

Almighty God, Father of mercies and Giver of all comfort, deal graciously, we pray Thee, with all those who mourn this day, that casting every care on Thee, they may know the consolation of Thy love, the healing of Thy grace, and the companionship of Thy presence. Through Jesus Christ our Lord.

O Eternal God, we thank Thee for the precious memories which cluster about this hour, for moments of triumph and moments of suffering. Give us eyes to see and hearts to feel the invincible faith, the undefeated courage, the unconquerable love revealed to us in Thy servant, William. Grant us something of his faith, his courage, his hope in any trial that may come to us. Bless us, henceforth, with an ever abiding sense of his presence. Through Jesus Christ, our Lord, Amen.

Almighty and everlasting God, before whom the generations rise and pass away, we thank Thee for thy servant William. We thank Thee for his goodly heritage, his love of life, his zeal for knowledge, his devotion to nature, his defense of personal freedom, his evangelism for human rights, his massive gifts to jurisprudence, his guardianship of the Constitution, his gifts of friendship to people of many nations, his incisive mind and fervent heart, and for his fidelity to the higher law of God.

Suffer us not to miss the glory of this hour. May some new resolution arise in us that we may be true as he was true, that we may serve our country and our God all the days of our lives and leave the world better for having lived in it. Through Jesus Christ our Lord. Amen.

And now, O Father, who doest all things well, with thankful hearts that Thou hast given him to us for a season, we give Thy servant, William, back to Thy tender care, until the shadows flee away, and the brighter day dawns, when the visible and invisible are as one in Thy higher kingdom. Through Jesus Christ our Lord. Amen.

"Psalm Twenty-three" Scottish Psalter—Crimmon.

MSG Michael Miller, Soloist

Benediction:

Go in peace, be kindly disposed one to another, and may the blessing of God's love go with you and remain in you.

The grace of our Lord Jesus Christ, the love of God and the communion of the Holy Spirit be with you this day and ever more.

Amen.

The Organ Postlude.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXTENSION OF PROVISIONS RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 5168, which the clerk will now report.

The second assistant legislative clerk read as follows:

A bill (H.R. 5168) to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that suggestion.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. NUNN. Mr. President, under the unanimous-consent order which has been entered, there is a provision for taking up the Schmitt amendment. I see the Senator from New Mexico in the Chamber.

Will the Chair please inform Senators what the time allocation is on the Schmitt amendment?

The PRESIDING OFFICER. Thirty minutes.

Mr. NUNN. Is that on each side, or is that thirty minutes total?

The PRESIDING OFFICER. A total of 15 minutes to a side.

Mr. NUNN. Who controls time?

The PRESIDING OFFICER. The Senator from New Mexico and the Senator from Georgia.

Mr. NUNN. If the Senator from New Mexico wishes to be recognized, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I think it is clear that the amendment will not take the full time allocated, and we should be able to get on with other business.

Mr. JEPSEN. Mr. President, will the Senator yield so that I may make a brief opening statement?

Mr. SCHMITT. I am happy to yield to the distinguished Senator from Iowa.

Mr. NUNN. I will be glad to yield to the Senator from Iowa on my time, and the Senator from New Mexico will be able to retain more of his time.

The PRESIDING OFFICER. The Senator from Iowa has time.

Mr. JEPSEN. Mr. President, the purpose of H.R. 5168 is to extend the expired provisions of law relating to Armed Forces personnel management.

The bill provides for the following:

First. Extends the authorization of an increase for 1 year in the number of Air Force colonels and lieutenant colonels allowed under current law, which expired September 30, 1979;

Second. Authorizes the President to maintain current personnel practices in certain areas through September 1980;

Third. Extends authority for spot promotions of certain Navy lieutenants and allows temporary Marine Corps general officers to sit on major general selection boards;

Fourth. Authorizes reserve enlisted members of the Army and Air Force to retire at 20 years of service and receive an immediate retirement annuity;

Fifth. Removes the Office of the Chief of Chaplains of the Navy from under the Chief of Naval Personnel;

Sixth. Authorizes advance payment upon registration of an allotment for dependents, within 60 days prior to deployment of a unit; and

Seventh. Authorizes reserve officers in the Army serving in high level active duty positions designated by the President to retire at the grades of the positions in which they served.

Mr. President, the provisions of this bill are quite narrow and temporary. They are only intended as an extension of current law until provisions of the Defense Officer Personnel Management Act go into effect.

The DOPMA bill, S. 1918, passed the Senate unanimously, but has not yet gone to conference with the House. As DOPMA contains the bulk of new law effecting personnel management in the Armed Forces, I urge my colleagues to support a continuation of current law contained in H.R. 5168 in the meantime.

Thank you, Mr. President.

UP AMENDMENT NO. 956

(Purpose: To provide for private sector representation on International Telecommunications Conferences and Meetings)

Mr. SCHMITT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

PRIVATE SECTOR REPRESENTATIVES ON U.S. DELEGATIONS TO INTERNATIONAL TELECOMMUNICATIONS CONFERENCES AND MEETINGS

SEC. 6. (a) The provisions of section 202, 203, 205, 207, and 208 of title 18, United States Code, shall not apply to representatives from the private sector on the United States Delegation to an international telecommunications conference or meeting who is specifically designed to speak on behalf of, or otherwise represent, the interest of the United States at such Conference or meeting, with respect to a particular matter, provided that the Secretary of State, or head of delegation to each such conference or meeting or other designee of the Secretary, certifies that—

(1) no government employee on the delegation is as well qualified to represent United States interests, and

(2) such designation serves the national interest.

(b) All such representatives shall have on file with the Department of State, the financial disclosure report required for special government employees.

(c) For the purpose of this section, international telecommunications conferences and meetings involving international telecommunications matters shall include but not be limited to conferences and meetings of the International Telecommunication Union (ITU), the International Consultative Committees for Radio and for Telegraph and Telephone (CCIR and CCITT), the Organization of European Cooperation and Development (OECD), the United Nations Economic and Social Council (UNESCO), the International Telecommunications Satellite Organization (INTELSAT), and the International Maritime Satellite Organization (INMAR SAT).

(d) The provisions of this section shall expire one year after the date of the enactment of this Act.

Mr. SCHMITT. Mr. President, on May 10 of last year, the Senate adopted an amendment to the State Department authorization bill which allowed the

Secretary of State to designate private individuals to speak on behalf and for the United States at the World Administrative Radio Conference which has just concluded in Geneva a few weeks ago.

The purpose of this amendment was to draw upon the expertise in the private sector as we traditionally have, especially since the topic of telecommunications is one of such a technical nature and such broad implications to both our defense and our commercial activities.

The experience of the WARC conference demonstrated the wisdom of the Senate's action and the action of Congress in adopting this amendment.

The position of the United States on the various issues before the conference was argued far more persuasively and effectively than would be otherwise by drawing upon the expertise in both government and the private sector.

Mr. President, I am now proposing an amendment to this pending legislation which would allow the Secretary of State the same authority for all telecommunications conferences and meetings for a period of 1 year. The importance of this amendment at this time is that there will be many such conferences and meetings in the coming year and delegations are being formed now for those conferences.

This amendment has been cleared by the Department of State as well as by the Committee on Foreign Relations. The Commerce Committee is considering this type of amendment within the bills dealing with communications. However, these bills will not come before the Senate until later this year and, therefore, the necessity of at least covering this issue for 1980.

It is important in the delicate negotiations of telecommunications that the Secretary of State has flexibility in providing the type of expertise which is needed for successful negotiations.

Therefore, I hope the Senate will adopt this amendment which basically waives certain provisions of the Ethics in Government law so that the private sector can support the efforts of the United States in conferences of this kind.

I am happy to reserve the remainder of my time and yield to the Senator from Georgia.

Mr. NUNN. Mr. President, just one question to my friend from New Mexico: This is the same amendment that was proposed back in December shortly before we adjourned and that was accepted unanimously by the Senate to the doctors pay bill; is that correct?

Mr. SCHMITT. The Senator is correct. It is the same amendment and the reason for offering it at this time is just to insure, as I have said several weeks ago, that this provision can be adopted in at least one of the measures before the conference. The Department of State, the Foreign Relations Committee, and many also in the House of Representatives feel that this should happen, and we are just trying to cover ourselves so we can proceed in these conferences with all available expertise.

Mr. NUNN. I thank the Senator from New Mexico.

Mr. President, this amendment is specifically authorized to be offered to this bill under the previously enacted and agreed upon unanimous-consent request. It is not germane to the bill but because it is part of the overall unanimous-consent request the Senate is entitled to consider it under that request.

We have already accepted the amendment. It is my understanding there is no objections from either side of the aisle on this amendment. Unless my colleague from Iowa has any reservation from the minority side, from this side of the aisle I recommend that the Senate accept the amendment.

Mr. SCHMITT. Mr. President, I certainly know of no objections.

I solicit from the Senator from Iowa if he is aware of any objections to the amendment.

Mr. JEPSEN. Mr. President, I am not aware of any.

Mr. SCHMITT. Mr. President, then I am happy to yield back the remainder of my time if the Senator from Georgia will do so also.

Mr. NUNN. Mr. President, unless there is someone on this side of the aisle or someone in the Chamber who wishes to speak on this amendment, I am prepared to yield back the remainder of my time. I see no one who wishes to speak. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

UP AMENDMENT NO. 957

(Purpose: To provide that the comparability pay of certain members of the uniformed services shall be determined without regard to the President's alternative pay plan)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) for himself and Mr. MATSUNAGA proposes an unprinted amendment numbered 957.

The amendment is as follows:

In lieu of the language proposed to be inserted by Mr. SCHMITT, insert the following new section:

SEC. . (a) Except as provided in subsection (b), and notwithstanding any other provision of law, the pay and allowances of any pay grade with respect to which an adjustment was made for the first pay period beginning on or after October 1, 1979, under section 1009 of title 37, United States Code, shall be increased, effective for the first pay period beginning on or after January 1, 1980, to the rate for such pay grade which would have been payable by reason of such adjustment if the President had not submitted an alternative pay plan under section 5305(c) of title 5, United States Code, with respect to such adjustment.

(b) The provisions of subsection (a) shall not apply to the pay and allowances of any pay grade the rate for which is limited by the provisions of the second paragraph of section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979.

Mr. NUNN. Mr. President, is this amendment germane to the Schmitt amendment? I raise the question of germaneness. I raise an objection.

The PRESIDING OFFICER. First of all, a point of order cannot be raised against this amendment until all the time has expired.

Mr. NUNN. How much time is there on the amendment?

The PRESIDING OFFICER. Four hours.

Mr. NUNN. Mr. President, under the previous unanimous-consent request it was my understanding that the Senator from Colorado could offer an amendment to the bill. I did not know there was anything in this unanimous-consent request about offering an amendment to the Schmitt amendment.

The PRESIDING OFFICER. The agreement providing for an amendment by the Senator from Colorado did not necessarily say to the bill.

Mr. NUNN. I did not understand the Chair.

The PRESIDING OFFICER. The language in the order reads "An amendment on which there shall be 4 hours, an amendment to be offered by the Senator from New Mexico, and an amendment to be offered by the Senator from Colorado." It does not say to the bill.

Mr. NUNN. Mr. President, that is not the understanding of the Senate. That was not the intent of the unanimous-consent request. Is that the ruling of the Chair? Then I appeal the ruling of the Chair.

The PRESIDING OFFICER. Until the time has expired a point of order will not lie.

Mr. NUNN. All right. At the appropriate time I will appeal the ruling of the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ARMSTRONG. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator cannot object to a quorum call. The quorum call is in order.

Mr. ARMSTRONG. May I ask to whom is the time charged?

The PRESIDING OFFICER. To the Senator from Georgia.

Mr. ARMSTRONG. I thank the Chair.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HEFLIN). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to suggest the absence of a quorum again, without any business having been transacted, and that the time not be charged to anybody.

Mr. ARMSTRONG. Mr. President, reserving the right to object, is it the majority leader's suggestion that that same provision apply to all quorum calls that may be necessary during the course of debate on this amendment?

Mr. ROBERT C. BYRD. No; just this one.

Mr. ARMSTRONG. Mr. President, I have no objection to it in this case, but it does seem to me that it should not apply equally to both. So, reserving the right to object, I would ask that if the majority leader would be willing to say that during the consideration of this amendment quorum calls shall not be charged to the time that is allotted for debate on the amendment——

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

Mr. NUNN. Mr. President, I suggest the absence of a quorum and ask that the time be allotted equally against both sides.

Mr. ARMSTRONG. Mr. President, reserving the right to object, respectfully, it is not my purpose at all to burn up the time of the Senator from Georgia (Mr. NUNN), but I cannot agree to that. I have speakers scheduled to use the time that has been allocated to my side. So I think either the Senator should charge the quorum call to his time or agree to my earlier suggestion that further quorum calls from this point forward not be charged to either side.

Mr. ROBERT C. BYRD. Mr. President, I cannot agree that all quorum calls from now on will not be charged to either side. I am simply trying to help both sides.

Right now we are in a quagmire, trying to get some understanding as to what was meant by the unanimous-consent agreement. I am trying to keep a quorum call from being charged to either side, trying to protect both sides.

Mr. ARMSTRONG. Mr. President, I point out to the distinguished majority leader that I do not see that we are in a quagmire. I have offered an amendment and the Chair ruled on a suggested point of order.

Mr. ROBERT C. BYRD. We can argue that.

Mr. GOLDWATER. Mr. President, we cannot hear anything back here.

The PRESIDING OFFICER. If neither side can agree, the time will be charged equally against both sides.

Mr. ROBERT C. BYRD. Mr. President, I withdraw any request——

Mr. GOLDWATER. Mr. President, would it be possible to have the Senators——

Mr. ROBERT C. BYRD. Mr. President, I withdraw any suggestion for the absence of a quorum.

Mr. GOLDWATER. Mr. President, would it be possible to ask the Senators to get back to their seats?

Mr. ROBERT C. BYRD. Mr. President, I have spoken loud enough. I said I do not request any quorum at this time.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I move that we dispense with the order for proceeding under the quorum call.

The PRESIDING OFFICER. There is no quorum call in progress now.

Mr. ARMSTRONG. Mr. President, I am prepared to yield myself such time as I may consume.

Mr. President, may I ask how much time has been used by the quorum call and reconfirm the amount of time remaining to each side?

The PRESIDING OFFICER. Twenty-four minutes and 5 seconds.

Mr. ARMSTRONG. And the time remaining to each side at this point?

The PRESIDING OFFICER. The Senator from Colorado has 120 minutes and the Senator from Georgia has 96 minutes.

Mr. ARMSTRONG. Mr. President, I yield myself 10 minutes.

Mr. President, the amendment has been presented at the desk, and I believe, if I have not already done so, I will ask that we dispense with further reading of the amendment, and I will ask for the yeas and nays——

Mr. NUNN. I object, Mr. President.

The PRESIDING OFFICER. The amendment has already been read.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ARMSTRONG. Mr. President, the amendment which I have presented is, in my judgment, absolutely vital to the preservation of the all-volunteer force. If it is adopted, it will represent, in my view, the most important single step which we can take this year to strengthen our national defense. I am delighted to be associated in this effort with the distinguished Senator from Hawaii (Mr. MATSUNAGA) who has long been identified with the volunteer Army, and indeed along with a former colleague of mine, Bill Steiger, of Wisconsin, is known as one of the fathers of the all-volunteer concept.

The purpose of the Armstrong-Matsunaga amendment is to lift the pay cap which the administration has imposed upon military pay. Our amendment will simply lift military pay from the 7 percent cap proposed by the President to the 10.41 percent which the President's pay agent has certified to be required to meet the comparability standards prescribed by law.

Mr. President, it is encouraging to me that so many distinguished Members of this body are united in the belief that we must provide a genuine cost-of-living increase to the men and women who defend our country. I think that the widespread interest in this Chamber and throughout the country among service personnel and other observers indicates the seriousness of the problem. Let there be no mistake about it, this is an issue of the utmost significance to our country. The chairman of the Joint Chiefs of Staff and each of the service chiefs have identified manpower as either the most serious or one of the most serious problems confronting our national security as we enter the decade of the 1980's.

This year for the first time ever, all of the services failed to meet their recruiting goals. In the first 10 months of the 1979 fiscal year, the Army experienced a shortfall of 17.4 percent in its recruiting goal. The Marine Corps, Navy, and Air Force recruited only 93, 94, and 96 percent of their respective goals in the same period. The recently publicized recruiting scandals indicate that the Army's recruiting problems may be even more severe than these statistics alone might indicate.

The Armed Forces are also discovering that a steadily increasing percentage of those they do recruit are unsuitable for military service and must be discharged before their enlistments expire. Compounding the problem is that the learning skills of those who are attracted to our military service and who do serve out their terms of enlistment is declining.

Nearly 50 percent of all male volunteers test mentally in the lower half of the U.S. population compared to 32 percent in 1964. Army training manuals are being rewritten downward from an 11th to an 8th grade reading level. This is a very serious development in an Army where a corporal who commands a tank is responsible for a more complex piece of machinery than the fighter planes which were flown by college graduates during World War II.

Mr. President, the front page of yesterday's Washington Star carries a story under the headline, "'GI Proficiency at Low Level,' New Study Says."

Mr. President, I ask unanimous consent to insert at this point in the RECORD the full text of this article which underscores so dramatically the decline in the capability of our military units as a result of declining personnel standards to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GI'S PROFICIENCY AT LOW LEVEL, NEW STUDY SAYS

(By John J. Fialka)

An unreleased Army study, probably the most comprehensive survey ever taken of the fighting quality of the all-volunteer Army, concludes that "the overall level of much Army training and proficiency may be low."

The study shows that, while Congress and the Pentagon are in the process of buying and fielding some $61 billion of supersophisticated new equipment, Army units in the field are having severe difficulty learning to maintain and accurately fire the tanks and air defense systems they have.

A major part of the problem, according to the 12-volume study—which cost $300,000 and took two years to complete—is that the intelligence level of many of the crew members manning tanks and air defense systems may be too low to operate them at the Army's standards for combat-ready performance.

The study, called the "Army Training Study," concludes that the crews are unable to remember or retain knowledge learned in basic training once they reach the field. "The only demographic variable significantly related to retention," the study adds, "was mental category."

The survey directly contradicts many of the basic assumptions of the supposedly "professional" all-volunteer Army. The problem in the field, it states, is compounded by corporals and sergeants who know little more than the new privates they are supposed to train and by a high level of "turbulence," constant reassignments and other extraneous activities which cut sharply into available training time for combat units.

The study was completed a year ago. It involves 35 tests involving thousands of soldiers in all 16 divisions of the active Army. After being reviewed by then-Army chief of staff Gen. Bernard Rogers, it was stamped "for official use only," a classification below secrecy levels that, nevertheless, prevents its public disclosure.

A copy of the complete study, obtained by The Washington Star, states: "Analysis across all respondents indicates one overriding conclusion—there has been little perceived change in the training environment since 1971. The environment is still seen as hostile to the conduct of 'good' training."

MANY FLUNKED TESTS

Some examples of the problems described in the survey:

Among a sample of 1,288 M60 tank crewmen studied, 28 percent of the tank gunners tested in the United States and 21 percent of the gunners tested on NATO duty in Germany "did not know where to aim when using battlesights." The M60 is the Army's main battle tank.

From their performance on the target range, the tank crews were found to average 40 to 50 percent below the level of skill required by Army standards for combat readiness. In one sample group of 52 tanks tested, all of them flunked the gunnery test.

Performance levels of tank crews sent from training schools into the field was "essentially flat." They did not improve their skills, partly because many sergeants "do not demonstrate the technical knowledge to accomplish their jobs and train their subordinates to a high standard of performance."

Test results of 666 tank repairmen showed that the chances that they would correctly diagnose a repair problem were somewhere between 15 and 33 percent. The chances that they would correctly repair the tank, once they found the problem, were between 33 and 58 percent.

Among the tank repair crews, many of the corporals and sergeants "do not appear to be any more proficient than lesser experienced individuals."

Because of lack of repair capability and without rapid replacement of disabled tanks, the number of tanks in a given unit could quickly descend to an "abysmally low level" in a combat situation.

A worldwide check of Army units using Redeye, a bazooka-like, shoulder-fired rocket which is one of the infantry's main air defense weapons, found "numerous problems" in all units, some of them so severe that the Redeye units were judged "not combat effective."

One of the major demographic changes between the all-volunteer Army, started in 1972, and its draftee predecessors is that the intelligence levels in the all-volunteer Army no longer reflects the spectrum of society as a whole.

LOWER ABILITY DEMONSTRATED

According to Army statistics, in 1972, 26 percent of the Army fell in mental category 3B, which includes people falling in the 30th to the 50th percentile on national intelligence tests. In 1977, when the Army Training Study began, 49 percent of the Army fell in that category. Although there are no statistics yet available for 1979, it is probable that the category has grown larger because the percentage of high school graduates among recruits has dropped sharply.

The change is of major importance, according to the study, because researchers found a direct relationship between the intelligence level of the soldier firing the Redeye or the M60 gun and the possibility that he might hit an enemy target.

Recruits in category 3B showed a markedly lower ability to read maps, remember complex firing sequences and recognize enemy targets, all of which are key to the performance of the Redeye and the M60. In one group of Redeye gunners tested, for example, soldiers in higher mental categories were deemed twice as likely to properly identify and hit an enemy aircraft as those in category 3B.

Army researchers watching the Redeye gunners found "a high percentage" were from mental category 3B. Their study concludes that, for purposes of "combat effectiveness," the Army should eliminate 3B personnel from the Redeye program. A similar correlation between intelligence and performance was found in tank crews, which were also found to be largely drawn from the 3B category.

An Army spokesman, asked by a reporter to comment on the study, said it was never released because Gen. Rogers never gave it the necessary approval to become "an official Army document." Nevertheless, the Army admits it is the chief source of material behind an Army-wide revolution in training and how training is measured.

Lt. Col. Russell Simonetta, who is heading the reform effort for the Army's deputy chief of staff for operations, said the Army does not agree or necessarily disagree with the study's findings. A world-wide training verification system being set up for the Army, a sort of giant, computerized report card for how Army units perform, will be able to verify unit performance and readiness levels, but that won't be ready until 1983, he said.

There are a few indicators outside of the study, however, that show that its findings may be not be wide of the mark. In NATO contests between Army Redeye and tank units and units of other countries, the gunners of the all-volunteer Army have been somewhat less than impressive.

TRAINING BUDGET CUT

In a 1977 competition in Germany sponsored by the Canadian Army, for example, U.S. Army tankers came in dead last competing with Canadian, German, Belgian, Britsh and Dutch units. Asked about the problem later in a Senate hearing, Secretary of Defense Harold Brown said: "I think it probably says less about readiness than it does about the ability of some individually picked crews."

Simonetta said the Army Training Study was undertaken after Congress cut the Army's training budget. Originally it was intended to measure training "across the board," he explained, but because that provided to be too large a task, in February 1978 researchers decided to focus on "a few weapons systems of immediate concern."

One of the ideas, he said, was to develop a computer model of an average battalion that would show the most efficient ways to spend training money.

Another goal of the study was to develop a way to keep track of on-the-job training in the field. To that end, each Army brigade will soon have a new, $15,000 computer to keep track of unit efficiency.

"We're trying to get the whole Army training in exactly the same way," said Simonetta. Until recently, he said, training and training styles have been left up to the individual commander.

Another major approach being taken by the Army to the training problem is to design around it. The classic example is the new $1.4 million XM1 battle tank, the successor to the M60 and one of the most costly, complex and powerful pieces of war machinery ever fielded.

Col. Frank Day, who is developing a massive Army training program for the new tank, said the mechanics who work on it will be given special new test equipment, hand-held miscroprocessors, which plug into the disabled tank and give an automatic, electronic diagnosis of its problems.

As for firing the main gun the aiming has been totally computerized. "Within five minutes," says Col. Day, "I could teach my mother to hit a target at 2,000 meters with the first trigger pull."

Mr. ARMSTRONG. Mr. President, overall, the most serious personnel problem in the Armed Forces is in the declining rate of reenlistments. The shortages are specially acute in the middle noncommissioned officer and officer grades, the highly trained men and women who have the skills and experience necessary to operate the complex weapons in our modern technology center Armed Forces.

The Navy lacks 17,000 skilled petty officers with 9 to 16 years of service and is suffering shortages of officers trained as nuclear submariners, pilots, and doctors. The Army is short more than 46,000 NCO's and the Air Force more than 3,000. These shortages are compounded by the fact that there is no lateral entry into the Armed Forces. If a fighter squadron commander or a submariner leaves the service, the Navy or Air Force cannot go into the civilian job market and hire someone else to replace him. It takes years and thousands of dollars to train someone to take his place.

When one takes a look at what has happened in the military pay and benefits since the all-volunteer force was created, it is not hard to understand why the manpower shortages have developed.

Base pay for a recruit has fallen to 83 percent of the minimum wage. Base pay has declined relative to inflation every year since the all-volunteer force was created.

Regular military compensation, base pay plus allowances for housing and subsistence, has declined more than 20 percent for each pay grade since 1972. I direct the attention of my colleagues to the chart which I have posted in the back of the Chamber which in a graphic form shows the extent of the pay cut we have given to military personnel. The average salary for enlisted personnel including all allowances is $9,900. I might point out that is the average for all grades of enlisted personnel.

By comparison, the Bureau of Labor Statistics says that the minimum necessary to maintain a lower standard of living for a family of four is $11,546 while enlisted personnel average nearly a $2,000 a year less than that amount.

Mr. President, 100,000 military families are eligible for food stamps. A janitor on the union scale earns almost as much as a chief petty officer with 17 years of service. The plain fact is that many patriotic, qualified, motivated men and women are discovering that they cannot afford to serve their country. It is not surprising that so many are leaving the service.

Considering pay scales and the way these personnel have been treated, and the signal which has been transmitted to them by Congress, the wonder is that so many are actually staying on the job. I believe it should be clear to all of us that if we do not stop this erosion of pay and benefits now, restoration of the military draft will be all but inevitable. I hope this will not happen. To restore the draft for any reason would be unfortunate, in my opinion. But to restore the draft simply because we are unwilling to pay the men and women who defend our country a living wage would be unconscionable.

But even restoration of the draft would not solve the most serious element of the manpower problem, and that is retention. A draft presumably would prevent a shortage of privates and the existence of a draft might prevent the shortage of second lieutenants. But we cannot draft corporals and sergeants, captains and majors. We can solve the retention problem only if we are willing to pay our servicemen a living wage.

So, Mr. President, these are some of the reasons why Senator MATSUNAGA and I, and a number of our colleagues, have joined in bringing this amendment to the floor.

I want to add one footnote to the discussion which I think is particularly timely. That relates to what is going on today in Iran. At this instant there are 13 Marines among those who have been taken hostage in our Embassy. I am advised that including base pay and foreign duty pay, they are receiving the following amounts: Four are receiving less than $7,300 a year; eight are receiving $8,200 a year; one of them is receiving just over $12,000. Thus, only 1 of the 13 who are defending our Embassy and who are now being held hostage—and by the way these are not isolated, but are typical cases—is paid at the rate which the Bureau of Labor Statistics says is necessary to maintain what is described as a lower standard of living.

In the name of national defense, in the name of the all-volunteer service, and in the name of fair play for these dedicated men and women, I urge the adoption of this amendment.

In a moment it will be my purpose to yield to my colleague from Hawaii and then other distinguished Members of the body who have asked to speak on this subject. Before I do, I want to explain exactly why I have proceeded in this way to offer the Armstrong-Matsunaga amendment as a substitute to Mr. SCHMITT's amendment, rather than offering it to the bill itself. I have done so for one reason and only one reason: to make it possible for the Senate to vote directly on the issue of a military pay raise.

Until today, I have, at no time, attempted to use any element of surprise or any parliamentary maneuvering in support of my amendment. I first raised this issue nearly a year ago, in March of last year, in my views on the first concurrent budget resolution for fiscal 1980. Again, when the Senate considered the second concurrent budget resolution for fiscal 1980, I raised the issue. Then, in a speech on this floor on September 21, when the Senator from Georgia brought to the floor a bill designed to reinstate the draft, I expressed my concern. I expressed what I believe is the serious need for a pay raise. I stated explicitly my intention to bring to the floor on an appropriations bill an amendment to increase military pay. When that bill came to the floor, many will remember that an unusual parliamentary situation developed.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ARMSTRONG. Mr. President, I yield myself 5 additional minutes.

An unusual parliamentary situation developed. As a consequence, by a very close vote on a parliamentary, rather than substantive, issue, the amendment was defeated. It is my recollection that it was defeated by just two votes, with, in fact, three of the cosponsors of the amendment voting against it because of the parliamentary rather than the substantive situation. In short, I do not like the idea of resorting to an element of surprise and, yet, the opponents of this amendment have done so repeatedly.

When I announced that I would offer this amendment, that Senator MATSUNAGA and I would do so to H.R. 5169, again, the opponents of the pay raise began to develop a series of substitutes to avoid meeting the issue head on. In doing so, they are, of course, well within their rights and well within the established traditions of the body. All I have decided to do today in offering my amendment as a substitute to Mr. SCHMITT's amendment is to fight fire with fire. What I am doing now is getting a vote on my amendment so that it will not be preempted by a substitute. I think the expressions of anguish from others in the Chamber underscore clearly why that is so necessary.

Mr. President, I want to make one thing clear: I am not, for a moment, opposed to the contents of what I believe to be the substitute. As I understand it, it involves increasing the allowances for permanent change of station; it increases, through a system of making them variable, the housing allowances. It increases flight pay, special duty pay, sea duty pay, and so on. I think those are all meritorious and I have told the sponsors on previous occasions, and I reiterate now, that I am for them, I am prepared to vote for these. What I object to is forcing the Senate to vote on those instead of having a head-on vote on the merits of a pay raise.

I believe that these personnel changes, which are suggested by the Nunn-Warner substitute, are desirable, are meaningful, are worthwhile. I simply do not think they are a substitute for a pay raise.

As a matter of fact, Mr. President, the issue of whether or not we ought to have a pay raise or whether or not we ought to have this package or some package of other benefits was discussed in a Subcommittee of the Senate Armed Services Committee. It was an interesting discussion. I listened to it with utmost interest and concern.

The personnel chief of the Army said that he basically favors both the pay raise and a benefit-bonus package and, on balance, if he had to choose, he would choose the bonus package. The personnel chief of the Navy favors both pay raise and the benefit-bonus package. The Air Force favors the pay increase, but, since it is interested in flight pay, it favors both plans. The Marines, on balance, favor the pay raise but are not against the bonus plan.

What I would like to point out is that there is really no need to make a choice. If I had offered my amendment to the main bill, the sponsors of the substitute would have offered the substitute and there would never have been a vote on the pay raise. By proceeding the way I have, we shall have a vote on the pay raise and the next bill on the calendar could well be S. 2190, which has been reported by the Armed Services Committee, and have a straight up-or-down vote on the merits of that package of bonus pay and benefits which I am going to support. I think that is a reasonable proposition, that the Senate vote on both of these issues and that one not be permitted to obscure the other.

Finally, Mr. President, before I yield to other speakers, let me point out that the Armstrong-Matsunaga amendment is not really a pay raise at all. It has been described as an across-the-board pay raise, but it really is not. What it is is an attempt to avoid a blanket pay cut. In the chart in the back of the room, I have shown that, adjusting military pay for inflation, the pay of military personnel has declined year after year. The pay agent said they had to have a 10.41 increase this year just to stay even, that that did not increase them, it kept them up with inflation. Instead, we have given them 7 percent and that is a 3.5 percent pay cut. All Senator MATSUNAGA and I and our colleagues are trying to do is restore the pay cut. We are really not giving them a raise.

This concept has been supported by active and retired military personnel of every rank, from private to general, from seaman to admiral. I could read into the RECORD and, perhaps, at the appropriate time, I shall do so, some touching letters from personnel in support of this concept, from personnel chiefs and others, including the Chief of Naval Operations, former Defense Secretary Melvin Laird, and a lot of others. Of course, this proposal enjoys the support of the Noncommissioned Officers Association, the Air Force Sergeants Association, the Association of the U.S. Army, and the Air Force Association.

That is why I am proceeding in this way. That is why the amendment is justified. Now, Mr. President, it is my purpose to yield to my distinguished colleague from Hawaii.

Mr. WARNER. Will the Senator yield for a question?

Mr. ARMSTRONG. I am pleased to do that, provided it is understood to be on his time, not on my own.

Mr. ROBERT C. BYRD. Mr. President, that is against the rules.

Mr. ARMSTRONG. Mr. President, I am pleased to reserve the remainder of my time and yield the floor so the Senator from Virginia can seek recognition on his time.

Mr. WARNER. Mr. President, we shall continue in the manner stated.

Mr. ARMSTRONG. In that event, Mr. President, I am pleased to yield to my distinguished colleague from Hawaii (Mr. MATSUNAGA) as much time as he needs and, at the outset, for 15 minutes.

Mr. MATSUNAGA. Mr. President, I thank the Senator from Colorado.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. MATSUNAGA. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I realize that the distinguished Senator from Hawaii is a cosponsor of the amendment that has been offered by Mr. ARMSTRONG. Was the distinguished Senator from Hawaii aware that the distinguished Senator from Colorado (Mr. ARMSTRONG) intended to call up his amendment, cosponsored by the Senator from Hawaii, as a substitute to the Schmitt amendment?

Mr. MATSUNAGA. To be honest with the majority leader, I was not aware until I came to the floor and was informed that this procedure was being used.

Mr. ROBERT C. BYRD. So, when the Senator from Colorado speaks of taking other Senators by surprise, apparently, the cosponsor of the amendment has been taken by surprise.

Mr. MATSUNAGA. The Senator who is the principal sponsor of the amendment, of course, is an experienced parliamentarian. I suppose that, by this action he has taken, it would preclude all secondary amendments. This, I believe, is the tack he is using.

Mr. ROBERT C. BYRD. But the "tactic" comes as a surprise to the Senator from Hawaii and he was not forewarned of the tactic or informed in advance, am I correct?

Mr. MATSUNAGA. That is correct.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. MATSUNAGA. Mr. President, as a cosponsor of the Armstrong-Matsunaga amendment, I rise in strong support of the amendment, which would lift the current pay increase ceiling for military personnel and allow them to receive a cost-of-living increase which will provide them with a hedge against inflation and greater comparability with the salary levels in the private sector.

Mr. President, as the Senator from Colorado has already indicated, the Armstrong-Matsunaga amendment would give the military services the authority to provide servicemen and women with a cost-of-living increase for fiscal year 1980 of 10.41 percent, which is the level of increase that the President's Council on Federal Pay determined last year as necessary to help offset inflation and achieve greater comaparibility with the private sector. In effect, our amendment will authorize, for the personnel of the uniformed services, an additional pay adjustment for this fiscal year of 3.41 percent, over and above the 7-percent pay adjustment they received on October 1, 1980. The effective date of this additional pay adjustment would be January 1, 1980. This effective date sets the cost of the Armstrong-Matsunaga amendment at approximately $472 million, which is comfortably below the ceilings agreed to for both budget authority and outlays for the defense function in the second concurrent budget resolution for fiscal year 1980.

Mr. President, my colleagues will recall that when the Senator from Colorado and I offered this same amendment to the Defense appropriations bill last November, we were denied a vote on the merits of our proposal because of procedural questions. Nevertheless, we were very encouraged by the number of Senators who cosponsored our amendment, and the many Senators who expressed their support for our effort, even though they were compelled to vote to table the Senator from Colorado's appeal of the ruling of the Chair against our amendment. These indications of support, and subsequent developments which underscore the pressing need for an immediate strengthening of our military manpower posture, have convinced us to once again seek an up-or-down vote on the Armstrong-Matsunaga amendment.

Mr. President, it is our intention, in offering this amendment, to begin to reverse the continuing erosion of military compensation that the Department of Defense has determined to be the primary cause of the military manpower problems facing the all-volunteer force today. We strongly believe that our failure to do what is of paramount importance to the sustainment of the all-volunteer force, that is, to maintain pay comparability, will lead in the very near future to the abandoning of the all-volunteer system and the restoration of the draft during peacetime.

With President Carter's call last week for the reinstatement of draft registration, in response to the crisis in Iran and the Soviet invasion of Afghanistan, I am afraid to say that the peacetime draft, to which I am unalterably opposed, is no longer a remote possibility. Mr. President, the Senator from Colorado and I are convinced that this contingency can be avoided if the Congress acts now to resolve the serious manpower problems facing the all-volunteer force. It is generally agreed that the best way to accomplish this is by immediately improving military pay, and our amendment will do just that, it will begin that process by providing all military personnel with an additional 3.41-percent pay increase for fiscal year 1980.

Mr. President, as my colleagues know, the Congress began, in 1971 and 1972, to build the framework for the all-volunteer force by enacting legislation introduced by the late Congressman William Steiger and myself which brought military pay literally out of the "Dark Ages," to levels which provided servicemen with a decent standard of living and relative comparability with their private sector counterparts. At that time, we in the Congress clearly understood that pay comparability was, indeed, the key to the success of the all-volunteer force. By the time the AVF was fully implemented, which was in mid-1973, military pay was at a level which the military considered imperative in terms of their recruitment and retention efforts.

Unfortunately, Mr. President, after the Congress upgraded military compensation early in the life of the all-volunteer force, little attention was given to maintaining pay comparability in the intervening years. As a result, military compensation eroded throughout the last decade to levels that are almost as unacceptable as those which existed prior to the establishment of the AVF.

Looking back over these years, it can be seen that a series of related and unrelated developments had an increasingly detrimental effect on military pay levels. First, changes were made in the method of calculating comparability increases for Federal employees, in attempts to correct inequities in the general schedule pay system. Due to the fact that military compensation is tied to the general schedule, these changes in comparability calculations had a spin-off effect on the military pay system, depressing military pay levels without proper justification.

Second, the President, in 1975, 1978, and 1979, imposed "pay caps" on both GS and military pay raises as part of the Federal Government's overall effort to fight inflation. As a result, average military pay declined, between 1972 and 1978, about 7 percent, relative to broad measures of private sector pay.

Third, the extraordinarily high rate of inflation has compounded these effects to the further disadvantage of military personnel in terms of real purchasing power. It should be noted that from 1972 to the present, the Consumer Price Index rose approximately 73.6 percent (taking into account an estimated 13.3 percent increase in 1979), while military pay increased by only 56.2 percent. This, of course, represents a CPI-military pay differential of nearly 18 percent. I might point out, Mr. President, that even with the full comparability increase provided in the Armstrong-Matsunaga amendment for fiscal year 1980, members of the Armed Forces will still remain some 18 percent behind the inflationary curve. We are proposing not an 18 percent increase, which they presently should be getting, but a mere additional 3.41 percent.

Fourth, there have been significant reductions in present and future military fringe benefits, such as overseas station housing allowances, reserve drill pay, future retirement and social security income, among others, which have had an adverse impact on the standard of living of military personnel.

Mr. President, in view of these circumstances, Defense Secretary Harold Brown last year ordered an indepth study of the "adequacy" of military compensation, in terms of the economic conditions in which servicemen and women must live, and the recruitment and retention requirements of the all-volunteer force. The pay adequacy study, which was conducted under the auspices of Assistant Secretary of Defense for Manpower

Robert Pirie, was completed last fall and released by the Department of Defense in November. It is my belief that the findings of this most recent study of military pay confirm, beyond a reasonable doubt, that overall military compensation has seriously eroded throughout the life of the all-volunteer force.

Mr. President, I would like to read to the Senate some of the significant findings of the Defense Department's pay adequacy study.

First, the study revealed a marked drop in the average real income of military personnel—regular military compensation (RMC) adjusted for inflation—since the major adjusting pay raise of January, 1972. The net effect on regular military compensation from that date through 1978 has been a negative real growth of 7.4 percent. The decline in real income continued into 1979, so that last year, real income for the military was about 11 percent less than in 1972. In comparison with other American wage and salary earners, military personnel were behind in almost every case. For example:

First. Salaried professional, administrative, technical, and clerical workers suffered only a 0.9 percent negative real growth from 1972 to 1978—6.5 percent better than regular military compensation.

Second. Production and nonsupervisory workers in manufacturing attained a real growth rate of 8.6 percent during the same period, 16 percent better than regular military compensation.

Third. Federal wage system workers enjoyed a positive real growth of 12 percent—19.5 percent better than regular military compensation.

Fourth. Union represented workers in all industries averaged a 6.3 percent real wage growth, which represents a 12.7 percent advantage over regular military compensation during the period between 1972 and 1978.

Mr. President, I ask unanimous consent that a chart from the pay adequacy study comparing changes in purchasing power and pay between the military and the private sector be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Mr. President, the pay adequacy study next found that the median earnings of military enlisted personnel fall below that of their comparably-aged contemporaries in civilian life, with the greatest discrepancy being in the 25- to 34-year-old age group. In addition, military spouse earnings tend to be below spouse earnings in the non-military sector, the cause of which may be attributed to military family mobility. In general terms, the study found evidence to support the conclusion that military family income, in the enlisted ranks especially, is below that, and not rising as rapidly as that of reasonably comparable civilian counterpart groups.

Concerning manpower supply and demand, the study found that there are significant retention problems currently at the second and third reenlistment points for enlisted personnel, which broadly encompasses 5 to 15 years of service, and in the 5 to 12 years of service categories for officers. Furthermore, drops in higher quality accessions, which fall into mental categories I and II, reveal supply and demand problems at the enlisted entry point.

Other findings include the fact that a wide range of housing costs and travel expenditures is incurred by military personnel, which create large disparities in standards of living among military members, depending upon where they are assigned.

Needless to say, Mr. President, the practical effect of this considerable pay erosion on the all-volunteer force can be seen very clearly by examining recent reports of recruiting shortfalls being experienced by all of the military services in both the Active and Reserve Forces. It is my understanding that for fiscal year 1979, all of the military services, for the first time in the history of the all-volunteer force, missed their recruiting goals. The Department of Defense believes that it must recruit 18 percent more people in 1980 to make up for the shortfall in 1979, with the Army, for example, needing 33 percent more men and 36 percent more women.

In terms of retention, the manpower chiefs of each of the four service branches, while testifying last week before the Senate Armed Services Subcommittee on Manpower, indicated that their respective services are now facing serious problems in retaining skilled personnel. In a recent letter to Defense Secretary Harold Brown, Adm. Thomas Hayward, the Chief of Naval Operations, expressed the fact that the second term retention rate for the Navy has declined from 59 percent in fiscal year 1975 to 45 percent in fiscal year 1979. Admiral Hayward wrote that in order to maintain a healthy career force in the long term, the Navy must attain a second term retention rate of at least 60 percent. The admiral went on to inform Secretary Brown that the Navy, at the present time, is approximately 20,000 petty officers short—I repeat, 20,000 short—of the number needed by the Navy to man the fleet. He also said that shortages of officers, especially pilots and nuclear trained submariners, have also reached critical proportions.

Mr. President, the Chief of Naval Operations made it very clear to Secretary Brown that, in his opinion, the principal cause of the manpower shortages facing the Navy today is inadequate compensation. And I might add, at this point, that the final conclusions of the Defense Department's pay adequacy study strongly support Admiral Hayward's statement.

Here are the conclusions of the pay adequacy study:

> In sum, the study data strongly suggest that military personnel are not adequately compensated, that the inadequacy is not evenly distributed across the force, and that the condition impacts on attraction and retention. There is a clear indication that mid-career personnel, junior entering members, personnel in high living cost areas, and Permanent Military Reassignment (PCS) travelers bear an inordinate share of the defined shortfall.

Focusing on the effect of military pay on attraction of new personnel and retention of those already serving, the pay adequacy study had this to say:

> One powerful measurement of the "adequacy" of military compensation is the ability of the services to attract and retain the numbers and kinds of personnel necessary to meet national defense requirements. Regular Military Compensation has declined across the entire spectrum of enlisted and officer pay grades in comparison to the real goods and services it commanded at the inception of the All-Volunteer Force in 1973. Perhaps more importantly, it has also declined relative to civilian earnings over this period. Actual and anticipated pay caps have served to focus attention on compensation issues and have caused both enlisted and officer personnel to articulate clearly that their primary source of dissatisfaction with a military career is pay.

Finally, Mr. President, I would like to bring to the attention of Senators this most noteworthy statement from the pay adequacy study:

> A general decline in military pay, relative to that offered by the civilian sector, holding all else constant, will invariably be evident in declining retention, increasingly tight recruiting markets, and shortages of military manpower. Studies which have attempted to measure the effects of compensation on recruiting and retention have been reviewed (by this study) and the empirical evidence overwhelmingly supports this conclusion.

Mr. President, that is precisely the situation facing the all-volunteer force at this very moment. The serious erosion of military pay and benefits since the inception of the all-volunteer force in 1973 has resulted in recruiting and retention shortfalls that have placed our Armed Forces in an alarming state of declining readiness. The manpower chiefs of all four branches of the armed services have testified to this, the Joint Chiefs of Staff have written to the Secretary of Defense about it, and the Assistant Secretary of Defense for Manpower has confirmed it in his recent study on the adequacy of military pay. Indeed, the current situation facing the all-volunteer force confirms the foresight of the President's Commission on the all-volunteer force, which said, in its 1970 report:

> The viability of an all volunteer force ultimately depends upon the willingness of Congress, the President, the Department of Defense and the (military) services to maintain . . . competitive levels of military pay.

Mr. President, that is precisely our intention in offering this amendment to raise military pay by 3.41 percent. In the Armstrong-Matsunaga amendment, the Congress has the opportunity to make the all-volunteer force work by taking the first step toward reachieving and maintaining pay comparability for our military personnel. There is no question in our minds that such action would first, help to improve our recruitment efforts by allowing the military to compete with private industry; second, help to increase our retention of skilled personnel, both enlisted men and officers, by making a career in the military a more attractive prospect; and third, in general, help solve the nagging manpower problems in both the Active and Reserve Forces which have led some Members of Congress to call for a return to the peacetime draft.

Mr. President, in the wake of President Carter's call last week for the reinstatement of draft registration, I believe that one very important point must be made. It should be emphasized that the reinstatement of draft registration is, according to the administration, only intended to improve the ability of our Armed Forces to mobilize manpower in the event of a national emergency, which precipitates an immediate return to the draft. I would remind my colleagues that the reinstatement of draft registration will have absolutely no effect on the All-Volunteer Force; it will not attract any more recruits, and it will not encourage the reenlistment of those already serving. In other words, even with registration in effect, the All-Volunteer Force, with its current manpower problems intact, will continue to provide for our national defense. The only thing that will change this is if the Congress votes for a resumption of peacetime conscription.

That is why the Senator from Colorado and I believe that the enactment of the Armstrong-Matsunaga amendment is more important today than it was when we first proposed it last November. In response to the crisis in Iran and the potential Soviet challenge in the Persian Gulf region, the President has called for an immediate strengthening of our overall military posture—and I, for one, support that move. However, I point out to my colleagues that in his State of the Union message to the Congress, President Carter prefaced his call for the reinstatement of draft registration by reaffirming his faith in the ability of the All-Volunteer Force to meet our peacetime defense requirements. There should be no misunderstanding about that.

We, too, believe that the all-volunteer force can and will continue to provide a strong and effective peacetime national defense, provided that it is given the chance to reach full strength in terms of manpower in both the active and reserve forces. As I have said, this can only be accomplished through increases in military pay and benefits, such as that advocated in the Armstrong-Matsunaga amendment.

In conclusion, Mr. President, let me say that as one of the original sponsors of the legislation which created the all-volunteer force—the other being my late friend from Wisconsin, Bill Steiger—I have followed very closely its progress. In all candor, Bill Steiger and I were pleasantly surprised that it performed so well for so many years. In fact, when one compares the record of the all-volunteer force during the past decade to the performances of other Federal programs, one could say that it has worked brilliantly. Without a doubt, it refuted the criticisms leveled against it by the early critics of the volunteer concept, and has continued to refute the criticisms of those who seek its demise today. Only recently, has it encountered problems in terms of manpower, and these can be attributed directly to the failure of the President and the Congress to keep faith with the basic principle behind the volunteer concept—the maintenance of pay comparability.

In view of these circumstances, I perceive this vote in the Armstrong-Matsunaga pay increase amendment to be the most important vote taken by the Congress on the All-Volunteer Force since its inception. We are today voting on the future of the All-Volunteer Force—Senators should make no mistake about that.

Despite President Carter's expressed belief in the All-Volunteer Force, his proposed budget for fiscal year 1981 does not include the basic pay increases for military personnel which were recommended in the Defense Department's pay adequacy study. Instead, the budget allocates additional moneys to certain allowances provided to servicemen. While we believe that these various allowance increases are necessary and long overdue, we do not believe that they are an adequate substitute for a boost in basic military pay. Indeed, the All-Volunteer Force needs both, and this can be accomplished by enacting the Armstrong-Matsunaga amendment which provides a basic pay increase for the current fiscal year and the President's budget recommendations for allowance increases for fiscal year 1981.

Mr. President, for the reasons I have stated, I urge my colleagues, in the strongest of terms, to vote in favor of the Armstrong-Matsunaga amendment.

EXHIBIT 1

EXHIBIT 1—PURCHASING POWER CHART

MILITARY-WAGE SYSTEM, PRIVATE NONAGRICULTURAL INDUSTRY PERCENT CHANGE IN PAY AND PURCHASING POWER, JANUARY 1972 BASE POINT

	Mil RMC[1]	Wage systems, United States[2]	Production and nonsupervisory workers[3]				CP-W[4]
			Total[5]	Manufacturing	Construction	Trade	
1972	6.0	8.6	7.5	8.6	4.5	5.3	3.3
1973	7.3	3.7	6.2	7.6	6.6	5.0	6.2
1974	5.5	9.7	6.4	6.2	5.7	6.5	11.0
1975	5.0	10.6	5.7	7.9	6.8	6.2	9.1
1976	4.8	11.6	7.3	9.7	6.6	5.8	5.8
1977	7.1	8.8	7.7	9.4	4.2	6.6	6.5
1978	5.5	8.8	7.8	8.9	8.0	7.6	7.6
Cumulative pay change	49.2	80.5	59.9	75.0	50.9	51.8	61.1
Cumulative purchasing power change	−7.4	12.0	−.7	8.6	−6.3	−5.8	

[1] Annual October increases.

[2] Increase in annual average salaries for standard 40 hr workweek. March is average observation month. Source: USCSC "Federal Workforce Statistics, Mar. 31, 1978" and OPM, Workforce Analysis and Statistics Division.

[3] Increase in annual average earnings for workweeks of full and part-time workers of 40.5 hr in 1972 to 40.4 in 1978 in manufacturing (includes overtime pay), 36.5 in 1972 to 36.9 in 1978 in construction, and 34.9 in calendar year 1972 to 32.9 in 19 8 in trade. Total industries hours ranged from 37.0 in 1972 to 35.8 in 1978. Includes paid overtime, holidays, vacations, sick leave, excludes bonuses, tips, in-kind payments, and fringe benefits, Source: "Employment and Earnings, 1909–78," USDL, BLS.

[4] U.S. city average annual CPI increases. 1967=100.

[5] Data relate to production and related workers in mining and manufacturing: to construction workers in construction; and to nonsupervisory workers in transportation and public utilities; wholesale and retail trade; finance, insurance and real estate; and services. Source: USDL, BLS, "Employment and Earnings, July 1979."

Source: Department of Defense.

(During the preceding remarks, Mr. STEVENSON assumed the chair.)

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. MATSUNAGA. I believe that my time has expired.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Georgia yield me some time on the bill?

Mr. NUNN. I yield to the majority leader such time as he may need.

Mr. President, how much time do I have on the bill?

The PRESIDING OFFICER. The Senator has 36 minutes on the bill.

Mr. NUNN. How much time do I have on the amendment?

The PRESIDING OFFICER. Ninety minutes.

Mr. NUNN. I yield such time as the majority leader may need on the amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I should like the attention of the distinguished Senator from Colorado (Mr. ARMSTRONG).

Mr. President, on December 20 of last year, an agreement was entered into which provided that "at such time as Calendar No. 454, H.R. 5168, to extend the provisions of law relating to personnel management of the Armed Forces, is called up and made the pending business before the Senate, there be a time agreement thereon as follows."

One of the provisions in the time agreement covered an amendment by Mr. ARMSTRONG on the military pay cap and provided for 4 hours on that amendment.

One of the other facets of the time agreement provided for an amendment by Mr. SCHMITT dealing with private negotiators at international conferences and allowed 30 minutes thereon.

On January 30, 1980—last week—there was a further unanimous-consent agreement dealing with this matter, and the pertinent extracts from that agreement are as follows:

That with respect to H.R. 5168, which is the bill extending certain expiring provisions of law relating to personnel management of the Armed Forces, all amendments be disposed of on Friday; or, if rollcall votes were ordered on any, the rollcalls be put over until Monday.

However, certain amendments were excepted. One of those amendments excepted was the amendment by Mr. SCHMITT, which already was covered in the agreement of December 20, and which was identified in that agreement as dealing with private negotiators at international conferences.

A second amendment that was excepted by the agreement of January 30 was the amendment by Mr. ARMSTRONG, which also was covered by the December 20 agreement and identified in that agreement.

Another amendment that was excepted from the requirement that amendments would have to be called up on Friday of last week was "a substitute amendment to the Armstrong amendment on which there be a 2-hour time limitation; that amendment would be the Warner-Nunn amendment."

Mr. President, the agreement is as clear as can be. There were three amendments that did not have to be called up on last Friday—to be called up today: the Schmitt amendment which was identified on January 20; the Armstrong amendment which was identified on January 20; and the Warner-Nunn amendment which was to be a substitute to the Armstrong amendment.

That was the spirit of the agreement. That was the intent of the agreement. And that is the clear verbiage of the agreement.

So today the distinguished Senator from New Mexico (Mr. SCHMITT) called up his amendment. It was going to be accepted by the managers of the bill and all time was yielded back, and they were prepared to accept the amendment when lo and behold here comes the lightning bolt. Mr. ARMSTRONG calls up his amendment as a substitute to the Schmitt amendment.

Mr. President, if there had not been a time agreement, if there had not been an agreement that clearly laid out what amendment was to be the substitute to what amendment, Mr. ARMSTRONG would clearly have been within his rights to call up his amendment and make it a substitute to the amendment by Mr. SCHMITT.

But the agreement has been violated. Under the rules of the Senate, amendments in the third degree are not in order.

Now, for Mr. WARNER and Mr. NUNN to call up their amendment as a substitute to the Armstrong amendment would mean that the Warner-Nunn substitute to the substitue to the Schmitt amendment to the bill would be an amendment in the third degree and thus not in order.

I suppose I have gotten more time agreements in this body than has any other Senator in the history of the Senate. There is no way to prove that, but I have been at the job for 13 years getting time agreements and I think I know what a time agreement means. If I offer the request I know what my intent is. I know what the intent of others are. They can understand the English language as well as I can and perhaps even better.

And I happen to believe that if we are going to have time agreements we should live up to them and not try to take advantage in one way or another. That would be unfair to other Senators.

If Senators had desired that Mr. ARMSTRONG offer his amendment as a substitute to the amendment by Mr. SCHMITT and that Mr. WARNER and Mr. NUNN call up their amendment as a substitute in the third degree and if a unanimous consent to that effect had been entered, that would have been fine. We should have said that. But that is not what was provided by this time agreement.

But now the amendment by Mr. ARMSTRONG is before the Senate. I think it is a clear violation of the agreement. I think it is unfair, and I think it could make more difficult the securing of time agreements in the future. After all, in this Senate we operate on the basis of comity, courtesy, understanding, and, in very large measure, on the basis of time agreements, our rules being different from those of the House of Representatives.

Mr. President, I can do one of two things. I can make a point of order against the Armstrong amendment as not being in order under the agreement. I can understand the zealousness with which the author of the amendment has approached this matter. He wants a vote on his amendment. I do not blame him at all for wanting a vote on his amendment. But the unanimous-consent agreement should have been so constructed, if that were going to be one of the conditions.

This agreement clearly states that the Warner-Nunn amendment shall be a substitute to the Armstrong amendment. But by this action which the Senator from Colorado has taken, the Warner-Nunn amendment cannot be a substitute to the Armstrong amendment, unless the Senate allows it in as an amendment in the third degree.

The other alternative would be for Mr. WARNER and Mr. NUNN to call up their amendment as an amendment to the Armstrong amendment. Everyone entered into the agreement with his eyes open.

Therefore, I am going to insist that this Senate live up to its agreement and that Mr. WARNER and Mr. NUNN be able to either call up their amendment as a substitute in the third degree to the Armstrong amendment or that the Senate uphold a point of order that the Armstrong amendment is not in order under this particular agreement.

I think that in the long run it is always better to live up to agreements. One may win in a given instance by violating an agreement, but it will not pay in the long run.

I hope that the distinguished Senator from Colorado will really not insist on offering his amendment as a substitute to the Schmitt amendment, and that he proceed to withdraw it, offer it separately, let the Schmitt amendment be agreed to as the managers of the bill were ready to accept the Schmitt amendment and then call up his amendment, and let Mr. WARNER and Mr. NUNN call up their amendment as a substitute. If the Senate votes down the Warner-Nunn substitute, then the vote would occur on the amendment by Mr. ARMSTRONG. If the Senate votes in support of Warner-Nunn substitute, then for all practical purposes that would be the end of the matter. But the Senate would make the choice, as surely Senators are discriminating enough to do. They know what they are voting on. If they do not want the Warner-Nunn substitute, if they prefer the Armstrong amendment, they will vote down the Warner-Nunn substitute.

They understand that. But the distinguished Senator from Colorado seeks an advantage here now, and it is an undue advantage, in this particular instance and in light of this particular agreement.

I have taken the floor at this time to alert the Senate as to the procedural problem that faces the Senate and as to the facts concerning that procedural matter. So, nothing can be done at the moment until time on the amendment has expired or been yielded back. But at that time I will either raise a point of order that the amendment by Mr. ARMSTRONG is not in order under this agreement, or Mr. WARNER and Mr. NUNN will proceed to offer their amendment as an amendment to the second-degree amendment and, if the supporters of the Armstrong second-degree amendment want to raise a point of order against the Warner-Nunn amendment, they may do so. One way or another the Senate is going to have to take a stand on this procedural matter.

By fairness and by right and by terms of the agreement Mr. WARNER and Mr. NUNN are entitled to have a vote on their amendment first in any event. A motion to table that amendment can be made. The amendment may go down in defeat, but under this agreement they are entitled to have their amendment voted on in order of precedence first.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, has the discussion which has just taken place been charged to the amendment?

The PRESIDING OFFICER. The time has been charged to the Senator from Georgia on the amendment.

Mr. ARMSTRONG. I thank the Chair.

Mr. President, in response, I yield myself 3 minutes. I am deeply distressed by the implication of the majority leader's remarks, and would beg his indulgence and ask his attention to my response.

The majority leader has come very close to—I am sure inadvertently, but has come very close to—suggesting that the Senator from Colorado is seeking to take unfair advantage of one or more Members of this body or of the body itself, and I am sure he did not intend to go so far, and that upon reflection I hope at the conclusion of this debate or at what time he thinks appropriate he will consider the direction of his remarks.

It will be for other Senators to determine whether or not I or other Senators used the rules in a way that is unfair, and I assure the Senators, in fact I assure all Senators, that is not my purpose.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Of course.

Mr. ROBERT C. BYRD. I do not assign any ulterior motive to the Senator. I stated that he is zealously trying to get a vote on his amendment, and I can understand that. But I can say without assigning any ulterior motive to the Senator that this procedure in itself is unfair to the authors of the substitute amendment and not in the spirit of the agreement and not in accordance with the words of it.

Mr. ARMSTRONG. Mr. President, let me put it in context.

Mr. ROBERT C. BYRD. I am not saying the Senator seeks to be unfair. I am saying this procedure is unfair.

Mr. ARMSTRONG. I felt confident that my friend, the distinguished majority leader, would distinguish between what he objects to in this procedure from any characterization of my motives, and I assure the distinguished majority leader I have no desire to be unfair to him or to the body.

However, I would point out to the majority leader and others that repeatedly in this Chamber we have seen insistence on complying with the letter of the rules, insistence on the unanimous-consent agreement. In fact, the Senator from Colorado was not present when it was entered into, so all I had to go on was not the spirit of it, not what was said at some other time, but exactly what was the letter of the agreement.

But I would like to put this in perspective because, as I mentioned at the outset, the majority leader was not on the floor when I began discussing this issue. It was nearly a year ago that I proposed this. I have discussed it publicly and openly over and over again, and I gave Senators months of notice of my intention to offer an amendment on the appropriation bill. I made what I felt to be a meaningful and significant speech on this subject. I did not insert that speech in the RECORD. I made that speech on the floor of the Senate.

Then, when I offered the amendment, unexpectedly upon the motion of the majority leader, a parliamentary procedure which was new to me and, I think, new to most Members of the body and, in fact, was declared to be new to the Chair, resulted in my amendment being tabled, put off. I did not get a vote on the merits of the issue. Repeatedly since then those who have opposed my amendment have sought ways in which to prevent the main issue from being addressed head on, shall there be a fulfillment of the contract with military personnel?

We said we were going to give them a cost-of-living increase. We have not done so. All I am seeking to do is to get a vote on that issue.

Repeatedly the opponents of this have sought a way to avoid this. I have not said that was unfair. In fact, in my opening remarks I made it clear that while I did not like that process, while I felt it was to my tactical and strategic disadvantage, I said at the time that I thought they were operating well within the rules and the established procedures and practices of this body.

Mr. President, I would suggest to all Senators that I am doing the same. The rules have been used against me to prevent my getting a vote on this issue, and all I am seeking to do is to use the rules so that I can get a vote on the issue of military pay, and if I——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Let me finish my statement and I would be glad to yield.

If I did less than that, if Senator MATSUNAGA and others interested in this amendment would do less, we would break faith with hundreds of thousands of military personnel around the world who need and want and deserve a pay raise.

If I did less than to take advantage of every ethical provision of the rules to gain an up or down vote, I would be derelict in my duty.

However, I want to state again, as I stated earlier before the majority leader came to the floor, it is not my purpose to preclude or preempt the Senator from Georgia from offering his amendment, and I have stated that those provisions in his amendment are not inconsistent with what I have suggested and that, in fact, I favor the provisions of his amendment which are embodied in the bill S. 2190, and that if he called up S. 2190, I, for one, intend to vote for it, and if he gives me time I, for one, would speak for it, and I would be glad to be a cosponsor.

But as the opponents of the raise said, and as the majority leader here says, if we have to make a choice it would be wrong. The majority leader said that Senators know how to make a choice. I will say to you that under our procedures we are not required to make a choice. It is perfectly proper for us to vote up or down on both of these issues, and that is all I am seeking to do.

I would like to offer this suggestion, because I believe we may be on the verge of setting a precedent which would be most unfortunate. I am afraid that at the urging of the majority leader the Chair may be on the verge of ruling that a third degree amendment might be in order, and I think that opens a Pandora's box. We could have third degree agreements qualified by unanimous consent, and then I suppose we could have 4th and 5th and 10th degree amendments. I would like to avoid that. Although I am a relatively new Member, I have deep feelings for the traditions of this Chamber.

Here is what I would like to suggest: I would like to suggest that while others discuss the merits of this issue, that some of us might meet in the corner of the Chamber to consider a suggestion I would like to make which would permit both of these issues to be voted on separately on their merits, neither as a substitute for the other, with neither side gaining an advantage, the advantage being really for the clarification of Senators and for the country so that we will get an up or down vote on the pay raise, so that we will get an up or down vote on the package of military benefits, not one the substitute for the other, and not being an advantage for my point of view or somebody else's point of view.

I would be pleased to discuss that. I am tempted to offer it here, but I would be pleased to let others speak about the issue before us, the issue pending, and, meanwhile, retire to the rear of the Chamber and see if we can work out an agreement. That is my purpose, and I appreciate the opportunity to make this observation.

Now, Mr. President, unless the other side wishes to consume time at this point, I would like to yield 12 minutes——

Mr. ROBERT C. BYRD. Mr. President, I ask the Senator from Colorado if he would allow Mr. NUNN to yield to me again.

Mr. ARMSTRONG. Of course, I would be happy to. I yield the floor, and I reserve the remainder of my time.

Mr. NUNN. I yield to the majority leader on the amendment.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Colorado (Mr. ARMSTRONG) has expressed his great dedication to the rules, his desire to abide by the rules, and I must say that within the context of the rules, if one uses that word in its generic sense, time agreements are rules, and when the Senate enters into a time agreement by unanimous consent, that agreement can be broken only by unanimous consent.

The Senator may make all the appeals and arguments that he wishes, but he cannot obscure the immutable fact that we have a time agreement on this bill; that it lays out three amendments that can be called up today and no more; and that those three amendments are Mr. SCHMITT's amendment, Mr. ARMSTRONG's amendment—and it identifies the thrust of each of those two amendments—and specifically, indubitably, and unquestionably says that Mr. WARNER and Mr. NUNN may call up a substitute amendment to the Armstrong amendment.

Now, the Armstrong amendment is an amendment in the second degree, as offered to the Schmitt amendment. It was never contemplated by that agreement that Mr. ARMSTRONG could call up his amendment as a substitute to the Schmitt amendment and shut out Mr. WARNER and Mr. NUNN. But that is what the able Senator is doing by offering his amendment in the second degree.

As further evidence of the clear intent of the agreement and of the Armed Services Committee, the Armed Services Committee reported an amendment in the nature of a substitute—I am reading therefrom—"intended to be proposed by Mr. WARNER (for himself, Mr. NUNN, Mr. STENNIS, Mr. TOWER, Mr. CANNON, Mr. EXON, Mr. HUMPHREY, Mr. LEVIN, Mr. INOUYE, Mr. MORGAN, and Mr. MATHIAS) to the amendment (numbered" blank—because the number of the Armstrong amendment was not known at that time.

Now, that was the clear intent of the Armed Services Committee when it discussed this matter and voted to report a substitute by Mr. WARNER and Mr. NUNN and specified that that amendment was to be offered to the amendment offered by Mr. ARMSTRONG.

Mr. President, those are the facts. The Senate will make its decision a little later today as to whether or not I am right. I will determine whether or not I should make a point of order against the Armstrong amendment at that point. I may be just as happy to urge Mr. WARNER and Mr. NUNN to call up their amendment, which they have told me they are going to do anyhow, as a substitute to the Armstrong amendment and then let Mr. ARMSTRONG make the point of order against the amendment by Mr. NUNN and Mr. WARNER as an amendment in the third degree; let the Senator from Colorado bear the burden of making the point of order and sustaining it. So, one way or the other, the Senate is going to make a decision today as to whether or not it intends to live up to this agreement and let Mr. WARNER and Mr. NUNN offer their amendment as a substitute to the Armstrong amendment.

Mr. GOLDWATER. Mr. President, will the Senator from Colorado yield?

Mr. ARMSTRONG. Mr. President, I am very pleased to yield to the Senator from Arizona. It is my understanding he wishes to speak on the amendment. I yield 10 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I thank the Senator, but I want to speak on the general subject, more than I want to speak to this specific amendment or the other amendments.

Mr. President, this is a subject that has long been close to me. My last assignment as a Reserve officer in the Air Force called for my being Deputy Chief of Staff of Personnel in the event of hostilities.

Mr. President, President Carter's call for draft registration has once again raised the consciousness of the American people and the Congress to the military and defense needs of this country. The current situation in Iran and Afghanistan has aroused even the least-curious person to a heightened interest in the status of our country when it comes to assuring adequate military resources.

Yet, at this crucial time when we are considering ways to enlarge and augment our military rolls, on-call personnel and reserves, we find that the pay conditions of our current Armed Forces are such that many good people are leaving the military life to attempt to make ends meet in alternative civilian employment.

More astonishing is the fact that 100,000 military families currently qualify for food stamps. This is tragic and unnecessary.

And, while inflation has certainly hurt those in the civilian sector as well, the military has fallen behind at a faster rate, ranging anywhere from 7 to 20 percent.

And once-coveted benefits of military life are quickly eroding. There is inadequate coverage for frequent moving expenses; there is insufficient compensation to service people and their families when they must meet the extremely high costs of off-base housing.

Assistant Secretary of Defense Robert Pirie recently disclosed a defense study which showed that those paid by the military have suffered a 7-percent loss of real purchasing power since the end of the draft in 1972.

What do these facts and figures mean? What does it matter that certain persons are leaving their military post to keep up with the cost of living? Let me give you just one example that makes it very clear.

Last year, the Air Force lost nearly 3,000 pilots because of inadequate pay and benefits. And when you think that it can cost from $200,000 to $700,000, or even more, to replace a pilot, we must stop and ask ourselves, "What is the trade-off for not assessing and meeting adequately the needs of our military personnel?"

I might add, Mr. President, it is often my privilege to fly in the cockpits of transport planes across this country. I would judge that over 50 percent of the crews of our airlines in this country were trained by the Air Force, by the Army, and by the Navy, and they could not hack it, as we say in the service, so they dropped out and went where they could to make a decent living.

The members of our armed services are totally dependent on the Congress to provide them with a living wage. And, by law, this wage is set in relation to statistics from the Department of Labor which take into account civilian pay standards, labor conditions, and the cost of living.

Yet, the President may place a cap on these pay-level increases, as he has done in 1975, 1978, and 1979.

Thus, military pay has increased only 56 percent over the past 7 years while the Consumer Price Index has risen over 74 percent.

My point is this: Perhaps at no time in the Nation's history have we been more lacking, yet, more in need of sufficient military forces.

And with the institution of the all-volunteer forces, I, along with many of my colleagues, had high hopes for a military force composed of people whose earnest desire was service or a career in our Armed Forces. And, in many ways, we have not been disappointed. As a matter of fact, about 65 percent of Army soldiers are high-school graduates; and almost 100 percent of the Army's commissioned officers have college degrees.

Mr. President, I might remark at this point that I think I was the first Member of Congress to publicly ask for the end of the draft. I did so because I felt in peacetime it was immoral and unconstitutional to try to tell any person in this country what they had to do with a few years of their life. And I followed by saying, "except in time of emergency."

Now, Mr. President, this country is in an emergency. While it is not as drastic, possibly, as a draft might indicate, nevertheless, we have ships of the fleet that cannot sail because we have inadequate enlisted people. We have aircraft of the Air Forces, all of them, that cannot fly because we have insufficient enlisted personnel to take care of them. And it could go on and on.

The fact remains—and I have said this, Mr. President—we would be hard pressed to go to war today against any power. And I say this in spite of the fact that some Members of this body think it is wrong for people in the Senate to say anything against our forces. I have been saying for a long time they are inadequate, and I am going to continue to say so, particularly in view of the statistics that we are talking about.

These statistics are impressive, but they pinpoint the need to look at what we in the Congress must offer the men and women in uniform who have made their choice to give service to this Nation.

A recent defense report of the Association of the United States Army explained that more than 50 percent of the current Army recruits have the intention of making a career of their service when they enlist. But, in actuality, fewer than 22 percent of those enlisted for a first term ever carry out that goal by reenlisting.

Needless to say, we must move to preserve our Armed Forces. And I am not speaking of numbers, either, but of individuals.

If we are to expect proud, confident men and women to dedicate their all to the service, we must provide the fiscal responsibility to assure a career arena that is secure, grounded, and above all, deserved.

We cannot afford to rob Peter to pay Paul by trying to take an arbitrary stab at inflation by capping military pay. Nor must we risk the loss of fine young men and women who have become, or desire to become, competent and skilled in an area of serving their country, but who must leave for the civilian sector because they cannot afford the minimum standard of living with which the military provides them.

It is time to act; to act definitively, and to act now.

It is for this reason, Mr. President, that I believe that both the pay increase proposed by Senator ARMSTRONG and the increase in allowances recommended by our committee are necessary. I do not see why it is not possible to compromise in such a way so as to pass legislation which contains an optimal mix from both of these amendments.

I would like to add to the suggestion made by my friend from Colorado, that both sides of this argument sit down and see if we can come up with a bill that will contain pay for those provided in Senator Armstrong's amendment, and to provide benefits that are not in his amendment. I am particularly thinking about flight pay, submarine pay, combat pay.

When I first went into the Army Air Corps, flight pay was 50 percent of your salary. That meant a lot in those days. It meant the difference between first lieutenants, captains, and majors staying in the service or getting out. But then we adopted a very disturbing attitude toward the pilots of our country by saying they cannot fly when they are past 42 years of age, that they are not entitled to flight-pay benefits.

Mr. President, I see no reason why the advocates of the Warner-Nunn approach and the advocates of the Armstrong approach cannot get into somebody's cloakroom and figure out a way to put these two amendments together. I am afraid that what we are going to wind up with is a bill, one, that the President will probably veto, and, if he does not, a bill that is not going to mean what it will have to mean to the men and women in service to keep them there.

We are in a desperate need for pilots. I am told that our pilot-training rate by the year 1981 will probably reach 2,000, and we lost 1,000 last year. The airlines need 1,000 pilots a year from our training sources. It is much cheaper for them to come to the trained pilots of the military service than to train their own pilots, cheaper by probably $200,000 or $300,000. I would like to think that the young man who is going into flight training today, and the young woman who is going into flight training today, can look forward to compensation from the Federal Government that will cause them to stay in and not, by the time they get to be captains and majors, be looking for a job with the airlines.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GOLDWATER. I ask for an additional 2 minutes.

Mr. President, I ask unanimous consent that a very wonderful paper written by Melvin Laird, called "People, Not Hardware, The Highest Defense Priority" be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

PEOPLE, NOT HARDWARE, THE HIGHEST DEFENSE PRIORITY

(By Melvin R. Laird)

INTRODUCTION

In January 1973 one of my last acts as Secretary of Defense was to end draft calls. With that step, the United States embarked on one of the more important ventures in its recent history: we would endeavor to become the first nation in modern times to maintain a large standing military force on an all-volunteer basis, comprising about 2.5 percent of the total labor force and relying completely on the equitable considerations of the competitive market place.

My confidence that this undertaking would succeed in the best interests of the United States was based on the expectation that the President, Congress, and the American people would honor a commitment to provide a decent standard of living and meaningful quality of life for men and women who volunteered for duty in the armed services and for their families. The Gates Commission,[1] which laid the foundation for our transition from selective service to the All-Volunteer Force, put the matter this way: "The viability of an all-volunteer force ultimately depends on the willingness of Congress, the President, the Department of Defense, and the services to maintain . . . competitive levels of military pay. . . ." The commission defined "competitive" as that earned by civilian workers of comparable age and education.

Today, we have reneged on this commitment and are failing to provide this decent and competitive standard of living for personnel in the armed forces, especially at the lower enlisted levels from E–1 to E–5. This explains many of the current problems with the All-Volunteer Force and its threatened collapse.

In the early 1970s, there were three courses of action available to this country to maintain adequate military manpower levels in the armed forces of the United States.

1. Continue to fulfill military manpower requirements by using conscript labor through a selective service system that had been used since 1939. The need for manpower (young men and women) required for the military services was no more than one out of fifteen young people between the ages of eighteen and twenty-four. Even using this system, pay scales would have to be established and maintained at least equal to the compensation paid young people in civilian occupation. This system provided, without proper military compensation, the most regressive type of reverse taxation on these young military people ever devisd in a free society.

2. Establish a national Universal Federal Service, which would provide for conscript service for all young people between the ages of eighteen and twenty-four. This system, although costing the military less, would cost our Government a great many tax dollars in finding millions of young people proper service employment at low wage rates in hospitals, schools, urban and rural slums, and other areas. This program would have been fair because all our young people not choosing military service would have been required to serve from a year to two years in federal service on a comparable pay basis. The universal service approach has been and continues to be used by the U.S.S.R. and other countries. It had little support in our country in the early 1970s, although as a member of Congress I had advocated universal service.

3. Establish the All-Volunteer Force, which pays the small percentage of American young people needed for military service on a competitive basis with other jobs in our society. The Executive Branch, the Congress, and especially the young Americans of our country chose the third alternative. Thus was born the All-Volunteer Force for the peacetime manpower requirements of our military establishment. It was never anticipated that the All-Volunteer Force would meet emergency requirements or military mobilization requirements. For that reason, registration and the lottery system which I started in 1970 was continued on a standard pay basis along with the Volunteer Force.

Faced in early 1980 with new threats to national security as a result of Soviet action, the Administration belatedly is advocating increased funds for national defense. But as we embark on increased levels of national defense spending we had better make sure we understand where the essence of our national defense lies. It is the quality of our combat and combat-support personnel, officer and enlisted, which undergirds our entire defense effort. Attracting and retaining persons of quality in sufficient numbers should be our number one priority in the fiscal year 1981 budget, commencing October 1, 1980. This means increased pay and benefits at all levels, with special attention to the lower enlisted ranks. The Carter Budget for 1981 does little to meet this problem. Until such time as Congress is ready to establish a new conscript military establishment at lower pay than that currently tendered the All-Volunteer Force—and I strongly oppose such action—we must keep pay and allowances for our military personnel competitive with civilian workers of comparable age and education in the economic marketplace. The imperative is clear for the 1981 defense budget; put first things first, people ahead of hardware. We need *both* people and advanced technology but in that order of priority.

There is a strong tendency in the civilian bureaucracies of the Department of Defense, not unknown in the military services as well, to seek out technological solutions for tough problems in the application of deterrence and defense: we all hear talk about the growing vulnerability of large carriers or of heavy armored divisions or of marine amphibious forces or airborne units or bombers because of new technologies. This talk is another way of saying we can cut back on the numbers of people traditionally needed in major combat arms. Yet where do Presidents turn in time of crisis when military force may prove vital? Suddenly the question of high-quality personnel in sufficient quantity to carry out missions across the globe—on carriers, in tanks, in amphibious and airborne units—become paramount.

In this analysis of the present deplorable state of equitable compensation for the All-Volunteer Force, I would like to outline the major problems today, the condition of present compensation, assess the impact of poor compensation on our national security, and present practical solutions for these problems.

PROBLEMS IN TODAY'S ALL-VOLUNTEER FORCE

Seven years after I ended draft calls and as we enter the dangerous decade of the 1980s, the All-Volunteer Force is beset with severe and growing problems of both quantity and quality.

Recruiting and retention targets have been revised downward each year. The Gates Commission was confident we could maintain a volunteer force of 2.5 million qualified people. When we ended the draft, the size of our force stood at 2.3 million, but we had confidence that this level or higher could be maintained. Today, it stands at about 2 million, 16 percent below the level of seven years ago. Each year, at least one of the services has missed these declining targets, and last year, for the first time, all four of our armed services failed to meet their recruiting goals. The Army fell almost 12 percent or 16,000 people below its target. Even the Air Force, normally in good shape in attracting high quality men and women to its enlisted ranks, missed its goal by 2,000 people. Overall the Department of Defense came in under its reduced recruitment goals by 25,000.

Most importantly, the armed services have experienced not only quantitative but qualitative shortfalls as well. Last year, the percentage of high school graduates joining the military declined by 10 percent. Only a little more than 50 percent of those enlisting in the Army were high school graduates, while the Navy, with its increasingly demanding technology, was forced to accept one person below high school graduation level for every three high school graduates who entered. Nearly 50 percent of the new male volunteers in fiscal year 1979 tested mentally in the lower half of the U.S. population. Five years ago the figure was 32 percent. The quality problem is so bad that, even with a 16,000 person shortfall, 60 percent of the men recruited in fiscal year 1979 by the Army were below the national average in intelligence and required additional training time. For fiscal year 1980, the Army has lowered its standards even further. Pressure for recruitment has become so intense that last year 324 recruiters were charged with various types of malpractice.

---

[1] The President's Commission on the All-Volunteer Force, headed by Thomas S. Gates, Jr.

It is important to note that the vast majority of quantitative and qualitative recruiting shortfalls came in those areas of the military service for which no civilian counterpart exists, the all-important realm of combat arms—armor, artillery, and infantry. While it is easy to understand why combat branches might be somewhat unattractive, we should not forget that these are what the military is all about. These are the people on whom we are now relying to build the newly organized rapid deployment force.

Recruiting people is only half of the personnel difficulty in today's military. Retaining qualified people is an acute problem and will get worse unless remedial action is taken. Approximately 30 percent of males enlisting do not even complete their first term of enlistment. The services have been losing an average of more than 75 percent of those completing their first enlistment since 1976. In fiscal year 1979 the Marine Corps was able to keep fewer than 10 percent of its first-termers, while the Air Force dropped below 20 percent in the first term retention rate for the first time in five years.

While the failure to retain an adequate number of those completing their first term is a severe problem, it is not nearly as important a national defense issue as the failure to retain the requisite number of those who have completed their second and third terms of service. These individuals, who form the backbone of the non-commissioned officers cadre and provide the reservoir of technological skills and experience necessary to operate and maintain our sophisticated weapon systems, are irreplaceable. It takes at least a decade for a military novice to gain the training and experience possessed by these individuals. Yet, the defense establishment is losing them in record numbers. None of the services is currently retaining more than 60 percent of its second-termers. Moreover, except for the Army, which has experienced a slight increase over the past two years, the second term retention rates of the services are dropping rapidly. Over the past few years, the second term retention rate in the Air Force declined from 75 to 59 percent; in the Navy from 64 to 45 percent; and in the Marine Corps from 47 to 45 percent.

Retention rates for third-termers—people who have completed approximately eleven years of service—are also in decline, now averaging less than 70 percent. The rates range from a low of about 66 percent in the Marine Corps to a high of approximately 90 percent in the Air Force. Two years ago, third term retention rates in those two services were about 70 and 95 percent. When one considers that these third-termers, on the average, are more than half way toward retirement, a dropout rate of over 20 percent per year is significant and alarming. Most of those who leave are in critical skill areas such as submarine technicians, electronics technicians, air traffic controllers, aviation repair specialists, and computer programmers. For every one of the mid-career petty officers and senior noncoms who stays past his or her third term, the services need four fewer recruits to be trained to take their places.

Not even the reinstitution of the draft would solve this severe retention problem. In fact, it would probably make the situation worse. Previous experience has demonstrated that conscripts rarely stay beyond their term of obligated service. Moreover, even if sufficient numbers of the draftees did stay on, it would be more than a decade before they reached the experience level of the third-termers who currently are resigning.

As a result of declining reenlistment rates among second- and third-termers, the armed forces have a shortage of more than 70,000 non-commissioned officers. The Army alone has a shortfall of more than 46,000, the Navy 20,000, the Marine Corps 5,000, and the Air Force 3,000.

There are shortfalls among selected categories of officers as well. The Department of Defense, faced with a 10 percent shortage of doctors and a far greater shortage of qualified specialists, cannot provide adequate care for a peacetime military, let alone in time of emergency. Retention rates for pilots in the Navy and Air Force are less than half of the required number. The Navy is also experiencing serious difficulties in retaining adequate numbers of nuclear submarines and surface warfare officers, while the Air Force cannot keep the required numbers of engineers and navigators. At the present time, the Air Force is short 2,500 pilots, 1,000 engineers, and 500 navigators.

When we ended conscription and accepted an active force smaller than during our Vietnam involvement, we did so on condition that this nation would adopt a Total Force Concept—that is, it would maintain (1) an effective reserve component of approximately one million trained people that could be mobilized immediately, and (2) a viable standby selective service system that could provide scores of thousands of personnel within a few months. Neither condition has been met.

The reserve component has a shortage of over 350,000 people: 75,000 in the selected reserve and 275,000 in the individual ready reserve. And as the Nifty Nugget Exercise conducted in the fall of 1978 convincingly demonstrated, this shortage makes it virtually impossible for the ground forces to sustain a conventional war in Europe for any length of time.

Moreover, our Selective Service System is now nonexistent. When I felt office in 1973, the Selective Service System's budget was nearly $100 million and it employed 2,500 people. Last year, the budget had been slashed to $7 million, and only 100 people were on the System's payroll. Peacetime registration ended in April 1975, and classification was terminated in January 1976. I think it was a serious mistake and a false economy of the Ford Administration to end registration and classification. The Carter Administration and this current Congress saw problems but refused in 1979 to reinstate even registration. Current mobilization plans require the Selective Service System to provide the first inductees within thirty days, 100,000 people in sixty days, and 650,000 within six months. Only the most optimistic and uninformed person could imagine that this system, in its present condition, would be responsive to national needs in an emergency. As a minimum, it would take the present Selective Service System over 125 days just to provide the first 100,000 people to the armed forces. Simply put, an American capacity to draft sufficient numbers of men for a major war—even with some advanced warning—does not exist today.

Our military forces have other problems as well. We have underfunded the defense investment area for over a decade. The military balance vis-à-vis the Soviet Union is deteriorating in the strategic, theater and tactical nuclear, and conventional areas. Our operating forces are woefully short of funds for spare parts, training weapons, and fuel oil. Yet, ironically, the small amount of growth in the investment category during the past two years has come at the expense of the personnel area.

While shortcomings in the Selective Service System, reserve components, and certain officer categories are serious, the main problem for the Department of Defense continues to be its inability to attract and maintain the required numbers of qualified enlisted personnel. When and if military force is used in the future, the brunt of the fighting will have to be borne by our active forces, that is, forces in being. Even the most advanced, capable, and numerous weapon systems are only as good as the people operating them.

Fortunately, the solution to the problem of recruiting and retaining the required number of qualified enlisted people in the active force is comparatively simple. The United States must provide these individuals and their families with a quality of life commensurate with the sacrifices we demand from them, and the primary ingredient in providing that quality is comparative pay and related benefits.

THE COMPENSATION SITUATION

Shortly after assuming office as Secretary of Defense in 1969, I was appalled to discover that approximately 50,000 military families wero eligible for welfare. With the assistance of the President and Congress, we succeeded in enacting pay increases of over 35 percent between July 1969 and November 1971. As a result, the number of military families who could qualify for family assistance was reduced to practically zero. In January 1973, as I left the Pentagon, I was confident that military compensation not only was adequate to provide a decent standard of living for even the lowest ranking enlisted person, but also was reasonably competitive with relevant sectors of the private economy. Today, the situation is dramatically different. Military pay, particularly for enlisted people, is no longer adequate nor is it, by any standard, competitive with those sectors in the private economy with which it must contend. My judgment is based on the following facts:

Since 1972, the Consumer Price Index (CPI) has risen by 76 percent, while the level of military compensation has increased by only 51 percent (see Appendix A). This represents an average decline of over 14 percent in purchasing power for all military personnel over the past seven years. As indicated in Appendix B, for some grades the decline in disposable income approaches 25 percent. (For those who would contend that the CPI is distorted because of the rapid rise in housing costs, bear in mind that the average enlisted person is forced into the housing market anew every couple of years.)

The average compensation for an enlisted person, including pay and allowances, currently is $9,900. According to the Bureau of Labor Statistics, the minimum amount necessary to maintain a "lower" standard of living for a family of four is $11,546, while a "moderate" standard of living costs just over $20,000. This means that the typical enlisted family has a standard of living 17 percent below a minimum standard of living, and 50 percent below a moderate standard.

At least 100,000 and possibly as many as 275,000 military families may be eligible for public welfare assistance. The exact numbers are difficult to calculate because many military people are too proud to apply for public assistance; in fact some people resign from the service when they discover that they are eligible. Military commissaries take in over $10 million a year in food stamps. In effect, we are hiding part of our defense budget in appropriations of the Department of Human Services and Agriculture. When considering the number of military people on welfare, it is important to note that, in contrast to the draft era, large numbers of enlisted people are married. Today, about 50 percent of all E–4s are married. For E–3s the figure is close to 30 percent.

As of May 1979 the basic pay for all personnel in Grades E–1 to E–4 was at or below the minimum wage level. This translates into 32 percent of the entire enlisted force and means that approximately 580,000 military personnel, regardless of skills or educational background or length of workweek, are paid no more, and in most cases far less, than the minimum permissible level for any work performed in the private sector in a 40-hour workweek. This situation has occurred because, since 1972, the minimum wage has increased by 81 percent while basic pay for the E–1 to E–4 grades has increased only 43 percent. A comparison of basic military pay to the hourly minimum wage is found in Appendix C.

The average enlisted person qualified for a home loan of only $25,000. Less than 1 percent of the available homes in most areas of the United States where enlisted personnel are stationed are in this price range.

Five years ago, the Army was able to pay a bonus of up to $2,500 to those men who joined the combat branches. As a result, it could attract the required quantity of men into this area and ensure adequate quality as well. For example, in fiscal 1974 over 25,000 of those receiving the bonus were high school graduates in mental categories one, two, or three. Presently, the bonus level, despite the ravages of inflation, remains at $2,500, and consequently is less attractive. As a result, the number of men eligible for a bonus has declined by 33 percent, and the number of high school graduates joining the combat areas is down by 50 percent. Bonus costs in current dollars for fiscal year 1979 were actually 46 percent less than five years ago. In constant dollars, they are down almost 60 percent.

While these facts are appalling enough in the abstract, a few concrete examples are even more shocking. An E–4 plane handler on the nuclear-powered carrier *Nimitz*, currently deployed to the Indian Ocean during the Iranian crisis, normally works sixteen hour a day or about 100 hours per week. In the course of his duties, he handles F–14 aircraft which cost $25 million per plane and helps operate a $2 billion ship. Yet he makes less per hour than a cashier at McDonalds, lives below the poverty level, and is eligible for food stamps, and probably has not seen his wife and child for six months. A chief petty officer, E–7, on that same ship with seventeen years of service makes the same salary as a janitor on union scale and puts in twice as many hours. An individual who joined the service after the end of the draft in 1973 was making about $6,200 as a single man. Today, with almost eight years of service behind him, he is probably an E–5 with a wife and child. Yet with four promotions, four longevity increases, and increased dependents' allowances. his real income has increased by less than 3 percent a year over the past seven years. The average foreign employee in an overseas U.S. embassy makes 40 percent more than the Marines who risk their lives to guard those embassies. Of the thirteen Marines taken hostage in Iran, four earn $7,500 per year; eight receive $8,200; and one just over $12,000. Thus, only 8 percent of these guards has been paid what the Bureau of Labor Statistics says is necessary to maintain a lower standard of living; their average salary is $8,200 or nearly 30 percent below this lower standard, and their hourly earnings for a typical sixty-hour workweek are less than the $3.10 minimum wage.

Given situations like this, it is not surprising that the services cannot meet recruiting quotas and that career people are leaving the armed forecs in record numbers.

While the pay situation for enlisted people is poor when compared with the economy as a whole, it is even worse when compared with those areas in the public and private sectors with which the armed forces must compete for scarce manpower. For example, since 1972, production and other nonsupervisory workers in the manufacturing category have experienced a real growth in earnings of about 0.5 percent; federal wage system employees or blue-collar workers who work side by side with military people at depots and bases across the country have seen about 1 percent growth in real earning levels in that same period; and unionized workers have experienced no loss in average purchasing power over the past seven years. Since 1974, the median incomes of male high school graduates in the civilian sector in the 18–24 and 25–34 age groups have actually grown 10–15 percent more than military pay. Thus, the typical enlisted person has seen a loss of more than 15 percent earning power over the past eight years vis-a-vis some of his contemporaries in the non-military sector. The difference is even more pronounced in certain high skill areas. A mid-career noncommissioned officer earns approximately $12,000 per year. If he or she is a computer programmer, comparable civilian earnings would be at least $25,000. For a boiler technician at $12,000 the civilian comparison is $23,000; for an electronics technician $21,000.

While it is nothing of a national disgrace that our military people are losing purchasing power rapidly through a precipitous decline in their salaries, these same people are also being unfairly gouged in other areas as well. Each year military people who are transferred must spend over $1 billion out of their own pockets to accomplish the move. The average cost to an E–7 with three dependents to move himself and his family 1,500 miles is approximately $3,835. (This does not include the costs of buying and selling a home or advance house hunting trips.) Presently, he is reimbursed only $644 by the government and thus must come up with over $3,000 to defray the cost of a move which is undertaken for the good of the service. This amount represents over 20 percent of his annual compensation. A GS–9 asked to execute the same move would be reimbursed approximately $4,500, plus the costs of buying and selling a home should he choose to take advantage of this benefit.

Similarly, it costs the 650,000 active duty personnel who must live in off-base housing over $1 billion above their housing allowance to provide this civilian shelter for themselves and their families. For example, an E–7 with three dependents currently draws a housing allowance of $248 per month. If he is stationed in the San Diego area, the average rent for a three-bedroom home is $420 per month. Thus, the E–7 is forced to spend over $5,000 per year (or about $2,000 above his allowance), or 32 percent of his annual compensation to provide housing for his family. An E–4 with the same number of dependents draws a $185 per month housing allowance and must dip into his pocket for nearly $3,000 above his allowance if he is stationed in San Diego. It is estimated that the average military person stationed in the United States spends over $1,000 per year more for housing than he or she receives in quarters' allowance.

Single military personnel living in the barracks also suffer financially if they are stationed outside the continental United States in high cost areas like Germany, Japan, or Alaska. Married people or service members living in non-military housing in those places are authorized a cost-of-living allowance to maintain their purchasing power at the level of their contemporaries stationed in the United States. Those residing in the barracks are not. Yet these individuals spend about 35 percent of their pay in the local economy for such items as recreation, transportation, clothing, food, and gifts. It is estimated that the typical single junior enlisted member spends an additional $1,500 more per year for higher prices associated with the economic environment of areas like Germany, Alaska, or Japan.

The final place where military personnel are forced to spend extra money out of their own pockets is in the area of medical care. Theoretically, free medical care and supplies are supposed to be provided to all service personnel and their families. Because of the lack of medical facilities and the shortage of doctors, the Department of Defense cannot provide this service to most dependents. These individuals must rely on the Civilian Health and Medical Program of the Uniform Services (CHAMPUS). This plan has a number of features which force the service member to bear some expenses for his dependents' "free" medical care:

$100 deductible

20 percent cost sharing on outpatient medical care and supplies after the deductible limit has been reached.

A fee schedule that keys benefits for medical services in a particular year to the seventy-fifth percentile of the nationwide costs of those services in the previous year. Thus, in a high cost area like Washington, D.C., the service member must pay 25 to 35 percent of the cost of most surgical procedures out of pocket. Even in lower-cost areas, CHAMPUS fees are often overtaken by the rapidly escalating costs of most medical procedures. A typical enlisted person with dependents normally pays several hundred dollars per year out of his own pocket for medical services and supplies for his family's allegedly free medical care.

In addition, the Department of Defense no longer provides dental care to the dependents of service personnel. Those expenses, therefore, must be borne entirely by active duty personnel since they cannot participate in dental plans available to an increasing number of their civilian colleagues in private industry.

Essentially, there are four reasons why the present military pay situation has developed.

First, over the past seven years, changes have been made in the method of calculating the comparability increases for federal employees on the GS scale. These changes were necessary to correct certain inequities in the Civil Service pay system. Since the military pay system is linked to the GS system, however, military pay levels were automatically depressed without sufficient reason. These changes alone resulted in a 7 percent decline in purchasing power in the pay of armed services personnel.

Second, in 1975, 1978, and 1979 the President imposed pay caps on raises for all government employees to hold down inflation and reduce the size of the federal deficit. Together, these three pay limitations cost the military another 7.2 percent in purchasing power.

Third, in October 1976 and October 1977, the President reallocated portions of a military person's pay increase into the Basic Allowance for Quarters. For those living in government housing, this meant that the increase in their take-home pay was about 25 percent less than the amount of the raise.

Fourth, an extraordinary and unprecedented rate of inflation has, in the past two years, compounded the effects of the first three actions and has diminshed the purchasing power of the military in relation to the CPI by an additional amount.

IMPACT ON U.S. NATIONAL SECURITY

Whatever the reasons for the present situation, they do not diminish the negative impact on defense readiness. The failure of American society to keep its commitment to maintain an adequate level of pay for the members of the armed forces has and will continue to have a number of serious effects. Every study done on the subject confirms that there is a direct correlation between the erosion of pay and the decline in levels of retention. An Air Force study conducted in August 1979 revealed that future financial security is a daily concern to 90 percent of its airmen and that pay is the factor that is most influential in persuading an individual not to make the military his only career. Over the past two years alone, the importance of pay as a factor in career decisions has doubled for typical airmen. Navy studies conducted in the fall of 1979 reveal that the number one reason for leaving the service is better employment opportunities in civilian life. More than half of those who resign from the service cite the unavailability of housing as a factor in their decision to resign. A simulation conducted by the Office of the Secretary of Defense last summer, using the retention model developed by Dr. John Warner of the Center for Naval Analysis, concluded that a 6 percent decline in real pay over the next three years would result in about 30,000 more people leaving the service than would do so without the decline. Studies done by such groups as Rand and the Defense Advanced Research Project Agency indicate that a 1 percent decline in military pay relative to civilian pay will lead to a decline in retention of between 1 and 3 percent.

If pay continues to drive high quality people out of the service, it cannot but undermine our national security. No matter how sophisticated, weapons cannot be effectively operated and maintained without sufficient numbers of qualified people. The size of our active duty force continues to decline slowly but steadily each year. Absent a specific policy decision or a reduction in commitments, the number of people on active duty has declined by 300,000 since the creation of the All-Volunteer Force. Many operational units are woefully short of personnel. For example, none of our five Army divisions in Europe is up to its wartime strength. Some training units in the United States are 50 percent below their authorized strength. Some naval ships deployed to the Mediterranean and Indian Ocean have a manpower shortage of 15 percent, and over 30 percent in certain key areas like boiler technicians. Frequently, those people who remain on active duty are forced to work extra hours to make up for the deficiencies: sailors on the U.S.S. *Concord*, a navy supply ship operating in the Mediterranean, for instance, are working 110 hours per week, while radiomen put in their normal shifts and then substitute as cargo handlers. This is not only dangerous but demoralizing. Submarines are in even worse shape; these vessels go to sea with only 65 percent of the required training and man-hours of experience.

Equally serious is what this decline in pay is doing to the image of our military and the quality of their family life. When more than 10 percent of our enlisted force is eligible for welfare, when hundreds of thousands of enlisted men make less than the minimum wage, and when an E–6 with eleven years of service receives less compensation than a unionized grocery check-out clerk in San Jose, California, the image of the military is not helped. It has become fashionable in some circles to lament the fact that for many people in the armed services the military profession has degenerated from a calling or vocation, with the emphasis on service, to a mere occupation, which focuses primarily on pay and benefits. While this change is regrettable, we have only ourselves to blame. When we allow military compensation to fall 15 percent below the cost of living and even further short of wages in comparable industries, when we compel enlisted people already living below the poverty line to dip into their own pocket to pay for excess costs in moving, housing, and medical services, and when we ask enlisted people to work unpaid overtime to make up for personnel shortfalls, then we should not be surprised that these people have pay and benefits as their primary concern. They act this way, not because they are mercenaries, but because they are being exploited.

A second and possibly more profound effect of declining pay on those individuals who are in the service is the impact on the quality of their home lives. In order to make ends meet, increasing numbers of enlisted people and their spouses are forced to seek outside income. At the present time, approximately 20 percent of our enlisted personnel have a second job which consumes from 11 to 30 hours per week, while more than half of the spouses of enlisted people work full or part time. As a result, thousands of enlisted people, whose home life is already under an abnormal strain because their own workweeks at the base or on the ship often amount to seventy hours and because operational commitments frequently keep them away from home for prolonged periods, put an even greater strain on their family lives when they take on other jobs requiring an additional twenty or thirty hours per week outside the home. Similarly, more than half of the enlisted wives, who frequently must act as both father and mother because of the husband's prolonged absences from home, are forced to perform both roles while working full- or part-time outside the home. What kind of home life can the family of a Navy boiler technician have when the father must spend three out of every four years on sea duty, which involves 50 percent of the time on deployment and fifty to sixty hours per workweek while home, and the mother is compelled to work just to provide a minimum standard of living?

The necessity for husbands to hold second jobs and for wives with children to work just to make ends meet produces a number of side effects which also lessen the appeal of a military career. Many enlisted people with second jobs often earn more money from these part-time jobs than from full-time military jobs while working fewer hours. For example, an E–5 at the Moffet Field Naval Air Station in California, whose annual military compensation is about $10,000 per year, can make $12,000 by moonlighting sixteen hours per week. If he can work thirty-five hours per week, his outside income can rise proportionally. Conversely, the wives of military people who have a second job usually make less and have higher unemployment rates than their counterparts in civilian life. This occurs because of the frequent moves which the military family must make. Normally, the working military wife is forced to obtain a new job every three or four years and thus repeatedly starts over at the bottom as a new employee. Not surprisingly, studies show that the mean earnings of the working wife of an enlisted man are 20 percent below those of her civilian counterpart in the same age bracket and with a similar educational background. In addition, her unemployment rate of 16 percent is more than double that of her civilian colleagues. Thus, it is not startling that an enlisted person who can make more outside of the service than in would not want to reenlist and accept a transfer which would mean that he would lose his outside income while his wife would have to accept a reduction in pay and temporary unemployment at their new duty station. The real surprise is that some do accept the transfer!

SOLUTIONS

What is needed to solve our current military pay muddle is a national commitment to maintain an acceptable standard of living and a meaningful quality of home life for those who are willing to dedicate their lives to the defense of this country.

We need no repetition of political campaign rhetoric of 1976 that the defense budget could be reduced billions of dollars by reducing personnel costs. That has hurt national defense as we are paying a stiff price for this misguided economy. As the Gates Commission noted, we need a commitment "to maintain and improve the effectiveness, dignity, and status of the Armed Forces so that they may continue to play their proper role." As a minimum, upholding that promise involves ten specific actions which must be taken now.

First, military pay must be restored to its 1972 real income levels immediately. This would involve a 17 percent across the board increase for all grades in order to make up for the loss in purchasing power which has occurred since 1972.

Second, legislation indexing military pay to future changes in the Consumer Price Index must be enacted. This step would protect the future purchasing power of active duty people in the same way that the compensation of military retirees is protected. It is rather ironic that the nation is more concerned with safeguarding the purchasing power of those who have served than those who are now serving. This step would have the added benefit of inducing more people to remain on active duty after becoming vested in the retirement system at the twenty-year point. Only the most noble person would remain on active duty when his or her pay will rise more rapidly if he or she retires. Finally, indexing active duty military pay to the CPI would remove the ever-present temptation from the executive and legislative branches to use military pay to support specific economic and monetary policies. The cost or savings for each percentage point change in military pay is $300 to $400 million.

Third, mandate that changes in military pay levels be applied to all forms of military compensation. Hence, if in a given year the CPI rises by 10 percent, then basic pay, the housing allowance, and subsistence would each increase by the full 10 percent. Under the present system, if the President applied part of the raise to the quarters or subsistence portions of compensation, then the basic pay does not increase by the full amount.

Fourth, military pay must be decoupled from that of civil service workers on the GS scale. Such a step is implicit in the first two recommendations and is eminently reasonable because the situations of the two work forces are quite different. The demand for jobs in the federal civil service far outweighs the supply, and civil servants generally are not subject to long hours of unpaid overtime, frequent moves, and family separation.

Fifth, establish a variable housing allowance keyed to the local area. It makes little sense to pay the same housing allowance to enlisted people stationed in Fort Rucker, Alabama, and the Presidio in San Francisco. As a corollary to this recommendation, the Department of Defense should undertake a crash program to increase the amount of military housing available to members of the armed services. At the present time, housing is available to only 20 percent of the enlisted force. At a minimum, it should be available to 50 percent. We cannot tolerate the type of neglect which occurred during fiscal year 1980 when no funds were appropriated for the construction of new family housing.

Sixth, reimburse military families for the full cost of their moves. This would involve the adoption of the same standards as those in existence for civilian employees of the federal government. It would mean establishing reimbursement for activities before and after moving such as temporary housing allowance and increasing the mileage and per diem rates to reflect actual costs for the military person and dependents. For example, the present change of station entitlement for a service member is 10 cents per mile, while the actual expense is about 21 cents per mile. President Carter's new proposal to provide members on permanent change of station orders with $35 per diem is a step in the right direction, but does not go far enough.

Seventh, provide annual special-skill pay to those enlisted and officer ratings where severe shortfalls are experienced. These payments would be over and above the reenlistment bonuses paid to the people in such areas and would mean extending to the entire force the monetary inducements currently provided to doctors. Such a step would help narrow the gap between the pay that an enlistee receives and the pay he or she could be earning on the outside in such areas as computer programming.

Eighth, adopt the Blue Cross and Blue Shield fee schedules for CHAMPUS. These schedules are much more current and realistic than the present system. Such a step will reduce the cost to the military person of providing medical care for dependents and thus increase the availability of medical services.

Ninth, increase the bonus for those joining the combat arms branches to $5,000 in fiscal year 1980 and index future bonuses to reflect increase in the CPI. This will restore the bonus level to what it was five years ago and should help the quantitative and qualitative shortfalls in the key area of combat arms.

Tenth, provide a cost-of-living allowance for personnel stationed overseas in high cost areas even if they live in the barracks. Since these individuals spend about 35 percent of their pay in the local economy, approximately 35 percent on their pay should be on the same scale as that of people living off post.

These ten initiatives will be expensive. Their total costs could amount to billions of dollars a year. Restoration of comparability will involve a one-time jump of at least $5 billion. Implementing a variable housing allowance and paying the full cost of moves will involve $2 billion in additional costs annually. Indexing military pay will add some $750 million per year over the normal pay raise. Meeting the 50 percent target for family housing will require an additional $1.5 billion each year. Special-skill pay for 10 percent of the enlisted force would amount to $2 billion annually. Increasing CHAMPUS benefits will add some $300 million per year to the cost of the system. Restoring the bonus to the level of five years ago will add $40 million per year, and COLA for those in the barracks will come to $47 million. Some will say, understandably, that devoting more money to compensation could increase the percentage of the defense budget absorbed by manpower costs to over 60 percent and make it more difficult for us to compete with the Soviets, who spend a scant 17 percent of their military budget on personnel.

When compared with the fiscal 1981 defense budget total of $157 billion or with a trillion dollar five-year program or the $4 billion that the federal government spends each year on youth jobs programs, the costs of improving the quality of life of the men and women in the military services are not immense or unreasonable.

Moreover, these expenditures could save money in the long run. Each year billions of dollars go down the drain when people leave the service for lack of pay. For example, the cost of training a pilot is in excess of $700,000 while an electronics technician cost almost $100,000 to train. On the average, the Department of Defense could save $25,000 for each additional first-termer it retains, $60,000 for each second-termer, and $125,000 for each third-termer. Additional billions could be saved by not having inexperienced personnel operating and maintaining sophisticated weapons systems. Finally, the Pentagon spends about $10,000 for each person it recruits, and about $2 billion per year to recruit, train, separate, and pay benefits to individuals who do not complete their first term. These military "dropouts" also cost the government $50 million per year in unemployment compensation. Competitive pay would help attract a high-quality person and would lead to higher retention.

Even if these additional expenditures do not save money in the long run, there are three compelling reasons why they must be borne no matter what the cost. First, they are necessary to uphold the commitment that other leaders and myself in the nation made to the youth of America when we embarked on the All-Volunteer Force and ended the hidden tax of conscription. Second, during this new decade maintaining the All-Volunteer Force will be more, not less difficult. By the end of the 1980s the number of males reaching age 18 will decline from its present level of 2.14 million to 1.6 million, a drop of 25 percent in ten years. Currently, because of the turbulence in the international arena, the demands upon our military forces will be much greater than in the 1970s. I am afraid that the seizure of our embassy in Iran and the invasion of Afghanistan are only harbingers of things to come.

I recognize that increased compensation alone will not solve the problems of the All-Volunteer Force. Such innovative steps as reducing the length of deployments and restoring the G.I. Bill are also necessary. Reinstituting registration for a standby draft will be essential. I am certain, however, that unless we compensate our people adequately, the All-Volunteer Force will not work and we will do irreparable harm to the prestige of military service and to the military family. The choice confronting us is simple: either we pay salaries high enough to retain skilled people or we settle for a military less ready to fight in the future.

APPENDIX A

PERCENTAGE CHANGE IN PAY AND PURCHASING POWER IN VARIOUS WAGE SYSTEMS, 1972–79

Year [1]	Consumer Price Index	U.S. wage system	Manufacturing workers	Unionized workers	Regular military compensation
1973	6.2	3.7	7.6	7.0	7.3
1974	11.0	9.7	6.2	9.4	5.5
1975	9.1	10.6	7.9	8.7	5.0
1976	5.8	11.6	9.7	8.1	4.8
1977	6.5	8.8	9.4	8.0	7.1
1978	7.6	8.8	8.9	8.2	5.5
1979	[2] 13.0	7.0	[2] 9.9	10.0	7.0
Cumulative change	76.2	77.8	77.1	76.8	50.6
Cumulative purchasing power change		+.9	+.5	+.3	−14.5

[1] Change from previous calendar year.

[2] Estimated.

Sources: U.S. Department of Defense, "Report of the Pay Adequacy Study," October 1979, app. A, pp. 3, 4, and 8; and Congressional Record, Senate, Nov. 9, 1979, p. S 16377.

APPENDIX B

LOSS IN AVERAGE MILITARY DISPOSABLE INCOME, JANUARY 1972 TO MAY 1979

[In percentage points]

Rank	Years of service													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
O10														−24.6
O09														−21.9
O08													−19.5	
O07											−19.0			
O06							−18.2	−18.9	−18.1	−18.4	−18.4	−18.4	−18.5	−18.7
O05				−16.9	−17.9	−18.1	−18.2	−18.5	−18.8	−18.8	−18.8	−18.9	−18.9	
O04		−16.8	−17.7	−17.4	−17.6	−17.9	−18.3	−18.6	−18.8	−18.9	−19.0			
O03	−15.1	−15.7	−16.1	−16.9	−17.2	−17.4	−17.8	−18.1	−18.2					
O02	−16.1	−16.1	−16.8	−17.0	−17.2									
O01	−15.7	−15.8	−15.9											
O3E				−17.2	−20.5	−19.7	−20.0	−20.3	−20.5					
O2E				−22.3	−20.8	−21.0	−21.3	−21.6	−21.8					
O1E				−20.1	−20.1	−20.2	−20.4	−20.6	−20.8					
W4								−18.2	−18.0	−18.3	−18.4	−18.7	−18.8	−19.1
W3						−17.5	−17.9	−17.9	−18.2	−18.3	−18.5	−18.7	−19.0	−19.2
W2			−17.2	−17.2	−17.2	−17.2	−17.3	−17.4	−17.6	−17.8	−18.0	−18.2	−18.4	
W1	−16.1	−16.8	−16.9	−17.2	−17.1	−17.1	−17.2	−17.1	−17.2	−17.3	−17.4	−17.3		
E9								−15.5	−15.2	−15.2	−15.4	−15.6	−16.0	−16.7
E8						−13.5	−14.4	−14.4	−14.5	−14.6	−14.9	−15.0	−15.4	−16.2
E7				−13.9	−14.1	−14.2	−14.2	−14.3	−14.4	−14.4	−14.5	−14.5	−14.7	−15.6
E6	−11.5	−12.4	−12.6	−12.9	−13.2	−13.4	−13.7	−14.1	−14.2	−14.3	−14.3			
E5	−19.7	−11.2	−11.4	−11.7	−12.1	−12.4	−12.7	−12.9	−12.0					
E4	−10.9	−11.1	−11.3	−14.6	−14.8									
E3	−11.9	−12.0	−12.1	−12.2										
E2	−12.5													
E1	−13.5													

Source: U.S. Department of Defense, "Report of the Pay Adequacy Study," October 1979, app. A, table 10.

APPENDIX C

SERVICE PAY AND FEDERAL MINIMUM WAGE, 1970-81

Fiscal years	E-1 basic monthly pay	E-1 hourly wage [1]	Federal minimum wage [2]	Military pay as a percentage of minimum wage
1970	115.20	0.66	1.60	41.5
1971	134.40	.78	1.60	48.5
1972	288.00	1.66	1.60	103.8
1973	307.20	1.77	1.60	110.8
1974	326.10	1.88	2.00	94.1
1975	344.10	1.99	2.10	94.5
1976	361.20	2.08	2.30	90.6
1977	374.40	2.16	2.30	93.9
1978	397.50	2.29	2.65	86.5
1979	419.40	[3] 2.42	2.90	83.4
1980	448.80	2.59	3.10	83.5
1981 [4]	480.30	2.77	3.35	82.7

[1] Hourly wage (for member with less than 2 yr of service) is calculated as 12 mo basic pay divided by 52 weeks at 40 hr per week.

[2] Data are from table 11a, "History of Federal minimum wage under the Fair Labor Standards Act," published by the Wage and Hour Division of the Department of Labor.

[3] Hourly wages in 1979 for grades E-2 to E-4 equal $2.70, $2.80, and $2.91, respectively.

[4] Assumes a fiscal year 1981 pay raise by 7 percent.

Source: Congressional Record, Senate, Nov. 9, 1979, p. 16376.

BIBLIOGRAPHY

Congressional Budget Office, *The Federal Government's Pay Systems*, February 1977.

Congressional Budget Office, *The Costs of Defense Manpower*, January 1977.

Cooley, John, "U.S. Adds Spit and Polish to Volunteer Army Recruiting," *Christian Science Monitor*, November 8, 1979, p. 8.

Cooper, Richard, "The All-Volunteer Force: Five Years Later," *International Security*, Spring 1978, pp. 101–13.

Fialka, John, "Ill-Equipped, Undermanned U.S. Army Is Decimated in Nifty Nugget Exercise," *Washington Star*, November 2, 1979, p. 1.

Freed, David, "Military Medical Crises," *Colorado Springs Sun*, January 23, 1979, p. 1.

Gust, Kelly, "Riding the Waves to Poverty: Military Service Means Service Pay—It's Low," *Contra Costa Times*, November 9, 1979, pp. 25–26.

Halloran, Richard, "Older Enlistees Find the Navy Less Appealing," *New York Times*, December 4, 1979, p. 9.

Janowitz, Morris and Moskos, Charles, "Five Years of the All-Volunteer Force: 1973–78," *Armed Forces and Society*, February 1979, pp. 171–217.

Lenner, Urban, "Carter Aides Mull a New Youth—Jobs Plan That Would Add $1 Billion to Yearly Cost," *Wall Street Journal*, December 7, 1979, p. 2.

Miller, Judith, "Navy Troubled by Career Force Losses," *New York Times*, May 26, 1979, p. 10.

Philpot, Tom, "President Rejects DOD Pay Package," *Air Force Times*, December 10, 1979, p. 1.

Pirie, Robert, "Manpower For Mobilization," *Command Policy*, October 1979, pp. 1–8.

"Quality of Recruits Changing," *Armed Forces Journal*, December 1979, p. 10.

Stevenson, John, "Navy Enlistment Lags Badly," *Norfolk-Virginia Pilot*, July 18, 1979, p. C1.

The Report of the Department of Defense Pay Adequacy Study, October 1979.

The report of the President's Commission on Military Compensation, April 1978.

The Report of the President's Commission on an All-Volunteer Force, February 1970.

United Press International, "U.S. Fleet Readiness in Doubt," *New Orleans Times-Picayune*, November 12, 1979, p. 8.

Wilson, George, "Top Naval Officer Speaks Out Against Resuming the Draft," *Washington Post*, November 8, 1979.

Wilson, George, "More Pay Urged to Keep Skilled People in Military," *Washington Post*, November 13, 1979.

Weintraub, Bernard, "Today's Army: Good Enough for Tomorrow," *New York Times*, June 10, 1979, p. 1.

Yenekel, James, "Saving the American Family: Three Views From Home Base," *Washington Post*, December 1, 1979.

Mr. GOLDWATER. Mr. President, I thank my friend from Colorado for yielding.

Mr. WARNER. If the Senator from Colorado will yield, I will be glad to charge the time for my questions against this side.

Mr. ARMSTRONG. I do not have the floor, Mr. President.

Mr. NUNN. If the floor has been yielded back, I will yield to the Senator from Virginia such time as he may require.

Mr. WARNER. I would like to put to the sponsor of this legislation a question. For some years now, I believe since 1972, military pay has been tied directly to civilian pay. I think there is serious question, as to whether or not this should continue. However, in my judgment, such a decision should be preceded by detailed examination by the Senate.

It is my understanding that the civil service reform bill of 1979 now before the Government Operations Committee would decouple military pay from civilian pay. That proposal has not been considered by the full committee and, of course, has not been debated by the Senate.

I have serious reservations about the advisability of decoupling civilian and military pay. I represent a great many civilian personnel in my State, and, as such, I want that question to be very thoroughly considered by the Senate in committee action and then by the Senate as a whole before such a decision is made.

To come directly to my point, if the Senate were to accept the proposal of the Senator from Colorado, it would set a precedent that, in my judgment, might well prejudice further consideration by the Senate.

Mr. ARMSTRONG. If the Senator will yield, I will be happy to respond to his statement.

Mr. WARNER. I yield to the Senator from Colorado, and I presume the time will be charged against him.

Mr. ARMSTRONG. Mr. President, if the time will be charged against me, then I want to use it to ask for the yeas and nays which have not yet been ordered.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. NUNN. What was the request?

The PRESIDING OFFICER. The request was for the yeas and nays.

Mr. NUNN. I would object if he asked unanimous consent.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. ARMSTRONG. I cannot understand why the Senator from Georgia would object to granting the yeas and nays.

Mr. NUNN. I did not hear the request. The Senator has to have a sufficient number of Senators, not unanimous consent.

Mr. ARMSTRONG. Let us see if there is a sufficient number of Senators present.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. I will respond briefly to the Senator from Virginia, but before I do I would like to comment on the meaningful contribution by the Senator from Arizona. I hope every Senator will read not only what the Senator from Arizona said but also the full statement of the distinguished former Secretary of Defense, Mr. Laird. I will say that Mr. Laird's recommendations for military personnel make everybody in this Chamber look like a bunch of pikers. What he said we need goes so far beyond the Armstrong-Matsunaga amendment or the Warner-Nunn amendment that it is not really funny.

The answer to my friend from Virginia is this: I am not suggesting drastic changes in pay schedules. I am suggesting that we implement the present law. The present law says that the so-called Presidential pay agent submit a recommendation, and that recommendation for this year was 10.14 percent. I am just saying let us implement the present law. Some can argue that we should or should not decouple the military from civilian pay. As a matter of fact, President Carter's budget for fiscal 1981 does decouple the two. I take no position on that at the present time.

Decoupling has been advocated by Defense Secretary Harold Brown in his testimony before the Armed Services Committee on December 13, 1979. He is for it. I take no stand. Under present law there is a provision which permits the civil service to give higher cost-of-living increases than the military. I am not taking a stand on that issue. I am saying to implement the present law with respect to military personnel. Some can argue that military often work beyond 40 hours a week and the civilians do not. That might justify higher pay for military people. I am not making that argument.

I am saying the law calls for a 10.41 percent pay increase for military personnel in fiscal year 1980 and an arbitrary cap was put on that by Congress without one hearing, without one word of testimony, without any consideration of what effect that was going to have on readiness, reenlistments, military preparedness, the human tragedy of it, or XYZ. I am saying, let us just implement the law; this is nothing strange or unusual.

Mr. President, I see in the Chamber a distinguished Senator, who serves with great distinction on the Armed Services Committee, my friend from Maine (Mr. COHEN). I should like to yield to him at this time. I yield him 10 minutes.

Mr. COHEN. I thank the Senator.

Mr. President, I rise in support of the Armstrong amendment. I think Senator ARMSTRONG's proposal, lifting the cap on military pay, is the single most important step we can take today to demonstrate Congress commitment to our young men and women in uniform.

The November 9 floor debate on the Armstrong amendment and the January 22 Military Manpower Subcommittee hearing on the issue served to focus on the critical problems faced by the Nation's military personnel. They are making real personal sacrifices to serve their Nation.

As we debate this question, I think we must try to put ourselves in the shoes of the young person considering military service. The long hours, difficult tasks, separations from loved ones, and knowledge that you could be asked to give your life for your country are parts of the package that are accepted by those joining the military.

It takes a special person, with a special commitment to our Nation, to accept those challenges. But even that special person could reach the conclusion that he or she simply cannot afford to enlist or reenlist under today's conditions.

How many of us would readily sign up for a job—any job—that paid less than the minimum wage? Would we take a job that would force our families onto welfare? Would we stay at that job if we knew we could make several thousand dollars more working shorter hours and with better working conditions? What would our morale be like if we saw our employer actually reducing our benefits, not even keeping them even with inflation?

Nearly a third of our junior enlisted force serves the Nation at less than the minimum wage. At least 100,000 and possibly as many as 275,000 military families are eligible for welfare assistance. The discrepancy between military and civilian wages is greatest in the 25- to 34-year-old age group, where most enlisted members are in grades E–5 and E–6, with 6 to 15 years of service.

The average enlisted person earns $9,900 annually. This compares with an income of $11,546, which the Bureau of Labor Statistics estimates a family of four needs to maintain a "lower level" standard of living. Inflation has hit military people hard, driving down their purchasing power more sharply than civilians by amounts ranging from 7 to 20 percent.

I say to the Senator from Colorado, in response to the question of why we do not treat them equally, I think the evidence is pretty clear that military personnel have been hit hardest by inflation, at least 7 to 20 percent harder than those in other sectors of our work force.

Providing fair, equitable compensation is imperative for two reasons. First, those serving in their Nation's defense deserve to receive a fair living wage. Whether volunteers or conscripts, their sacrifices on behalf of the Nation merit this recognition.

Second, if we pay our military personnel so poorly that they are forced to "moonlight" to feed, clothe, and house their families, we cannot realistically expect them to be at peak efficiency in their military roles.

I found it interesting, for example, during our hearing, through which Senator ARMSTRONG sat, that when a representative from the administration, who expressed opposition to any pay increase, was asked whether or not he thought they should serve at less than the minimum wage or have to serve by seeking welfare assistance, or whether or not they should be forced to moonlight, in each and every case, he said no, because it reflected poorly on the quality of our military life.

Any pay increase we vote on today will not be a great boon to these individuals. However, approval of the Armstrong amendment would give these young men and women a clear signal that we are aware of their hardships and are committed to their welfare. Even those opposed to the Armstrong proposal acknowledge that its approval would give a real psychological lift. That lift would provide far greater benefits to our defense forces than the dollar levels involved.

If we say no to the Armstrong amendment, we had better not complain next year, or the year after, that the Volunteer Force is not working—that it cannot attract and retain the quality and quantity of personnel we feel we need. Congress has failed to live up to its responsibility to the All-Volunteer Force and to the young men and women serving in it. The Non-Commissioned Officer Association recently detailed the reductions made by Congress in recent years. Ours is not a good record in terms of support for our troops.

Refusal to support the Armstrong amendment would serve as another reflection of our unwillingness to provide fair, equitable benefits for those in uniform. Defeat of BILL ARMSTRONG's proposal could cause some people to conclude that Congress does not feel that the special sacrifices of all those serving in our Nation's Armed Forces are worth fair compensation. I do not think it too much to expect that we pay at least the minimum wage.

Much more can be done to fullfill our obligation to our men and women in uniform. The Nunn/Warner proposal reflects the kind of followup steps we should take to deal with specific problems. Those steps, I believe, can be effective only after—not before—we deal with the overall problem of eroding pay.

Much of what is in the Nunn/Warner approach has been proposed by the Carter administration for inclusion in the fiscal year 1981 budget. I commend the administration for recognizing the need for these special allowances, though I am puzzled that the President rejected a Defense Department proposal for $500 million in increased pay.

All the top military personnel chiefs have cited low pay as one of the most critical problems facing today's force. Unfortunately, the Office of Management and Budget, not the military leadership, appears to dominate in administration decisionmaking on personnel and compensation policies.

The Nunn/Warner proposal contains some positive elements, but our greatest immediate need is to lift the pay cap. More direction is needed if we are to put together a truly comprehensive long-range solution to compensation problems.

For example, I defer to the Senator from Virginia on this point, that sea pay rates should be doubled, rather than increased by 15 percent, as Nunn/Warner would do.

A recently completed study of sea pay suggests that worldwide seafarers receive 130 to 200 percent more total compensation for comparable work ashore; that 60-plus hour workweeks are required by Navy members assigned to ships, whether in port or at sea; that at minimum, we should double sea pay rates to provide more meaningful compensation and provide retention incentives for career petty officers assigned to sea duty; and that doubling the rates would cost $14.5 million for 9 months ($19 million annually).

The key groups the Navy is trying to retain are those with 6 to 12 years of active duty. These individuals have enough sea duty to qualify for a maximum sea duty pay under such an increase of $90 to $110 a month.

Aviation career incentive pay should be increased by 50 percent, instead of 25 percent. Joint service studies dictate a minimum increase of 50 percent is needed to significantly stem current and projected aviation officer losses. A current Center for Naval Analysis study suggests that even with a 50-percent increase, the Navy will need bonus authority to overcome severe aviation officer shortages forecast for the 1980's. The increase would be $38 million for 9 months, $48 million annually.

Aviators are aware of the Navy/Air Force proposal for the 50-percent increase. A smaller increase would be an unfortunate signal.

Finally, I believe a per diem reimbursement entitlement should be added to the PCS increase. PCS mileage increases to 18.5 cents a mile do not incorporate the documented need for per diem to reimburse food/lodging costs for the member and family. The OSD pay study recommended both the 18.5-percent-per-mile mileage allowance, plus $45 per diem for the member and $15 per diem for each family member. Increased cost for the per diem is $41.2 million for 9 months, $55 million a year.

It has been documented that military personnel have paid about $1.2 billion out of pocket for travel expenses in excess of reimbursements. It is difficult for me to accept the fact that a person must pay out of his or her own pocket to carry out an order issued by the Government and in the Government's interest.

We have to take these kinds of considerations into account as we attempt serious, comprehensive reform of the military system of benefits and allowances.

But if we are to attract and retain quality individuals in our military forces, we must move immediately to provide a fair compensation policy. That is why I support the Armstrong amendment.

Increases in PCS, VHA, sea and flight pay, and bonuses are important. There is no question about that. But the heart of the compensation system is pay. It is the regular paycheck that shows the soldier whether his or her contributions are being recognized. It is that paycheck that must meet the monthly bills.

Worthwhile increases in special pay and allowances must follow an initial pay boost. In my view, the Armstrong amendment best responds to the needs of all those in the service. More important, it sends the clearest of signals.

The PRESIDING OFFICER (Mr. BOREN). Who yields time?

Mr. NUNN. Mr. President, I yield such time to the Senator from Virginia as he needs.

Mr. WARNER. I thank my distinguished colleague from Georgia.

Mr. President, I first want to say how deeply grateful I am for the courageous efforts by the distinguished Senator from Colorado, who has untiringly fought for recognition of the fact that the men and women of the Armed Forces today are receiving inadequate compensation.

We are here this afternoon debating his proposal. Assuming we can resolve the parliamentary situation, we will be further debating a proposal to be submitted by myself and Mr. NUNN. Both efforts are moving in the direction of assist military personnel.

There is, however, a marked distinction, and I urge my colleagues to focus upon this distinction.

As Senators may know, in January I introduced a bill concerning military compensation which approached the issue of military compensation in a different manner from that of Senator ARMSTRONG. That bill was considered by the Senate Armed Services Committee and hearings were held with Department of Defense witnesses.

The bill I proposed focused on the serious problem of declining retention in our military forces. The bill I proposed would have focused pay increases and additional allowances on the career members of our military forces rather than an across-the-board pay increase to all members of our military forces.

Mr. President, it is the career forces where we have our most serious manpower problem. Highly trained and technically skilled men and women are leaving our Armed Forces at unprecedented rates. The Senate heard on Friday, in a closed session, the classified facts on just how serious this declining retention is and how seriously it is impacting our military readiness. Our combat readiness today is being degraded, and much of the readiness is directly credited to the loss of skilled career personnel.

The bill I proposed would have directly addressed the problem of career retention much more so than the across-the-board pay raise proposed by Senator ARMSTRONG.

Mr. President, the Senate Armed Services Committee has now considered that problem and has made changes in my original bill, and has in fact voted out that bill, as amended, to the full Senate with the recommendation that it be approved by the Senate. It is that bill that is now before the Senate in the form of a substitute amendment to the Armstrong amendment.

Mr. President, while I would have preferred that my proposal, which included both pay increases as well as increases in allowances, would have been accepted by the Armed Services Committee, I am convinced that this proposal now before the Senate is an appropriate means of addressing our current military manpower problems.

Last week, testimony was taken from the Secretary of Defense and the chairman of the Joint Chiefs of Staff—both of those individuals favored legislative proposals which specifically focus upon retention of the career force.

Although the choice was difficult, they clearly and unequivocally said that the legislative proposal of Messrs. WARNER and NUNN more nearly met the critical need of the career force than the across-the-board pay proposal by the distinguished Senator from Colorado.

Let me describe for a moment what this substitute amendment would do and what it would not do.

It would not provide for an across-the-board pay raise.

Instead, it would provide for almost $500 million in increases in the allowances that our military personnel would receive.

Specifically the substitute amendment would:

First. Establish a variable housing allowance for military personnel, paying them the full difference between the average of local residential costs and 115 percent of the basic allowance for quarters.

Second. Raise reimbursement for moving expenses in connection with permanent changes of station for military personnel from the present 10 cents a mile to 18.5 cents.

Third. Accelerate sea pay to 1982 rates and increase them by 15 percent, which would permit payments of between $28 and $115 a month for time spent at sea.

Fourth. Increase flight pay by 25 percent.

Fifth. Allow reenlistment bonuses for military personnel with between 10 and 15 years of service—bonuses not now available.

Sixth. Increase subsistence allowances by 10 percent.

Last, Mr. President, there is a technical adjustment here for officer pay which is explained in detail in the legislation.

Mr. President, when the Armed Services Committee looked at all these proposals, the Armstrong proposal, my original bill and the committee alternative, that is, the amendment Mr. NUNN and I will soon be introducing, the committee weighed the testimony, brought its expertise to bear on this question, and my recollection is that they were persuaded to go the course that will soon be presented to the Senate, for these reasons:

One, it is more likely the House of Representatives will accept the Nunn-Warner approach.

Two, it avoids establishing—and I wish to emphasize this—it avoids establishing a prejudical precedent on this question of decoupling military and civilian pay at a time when that all-important question is under the scrutiny of a Senate committee and soon will be debated by the Senate as a whole.

Mr. President, at this time I will yield the floor to the distinguished Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, I intend to support the proposal of the Senator from Virginia (Mr. WARNER) and the Senator from Georgia (Mr. NUNN), to provide increased compensation for our uniformed services. This proposal, approved by the Senate Armed Services Committee, is a reasonable first step in meeting the critical problem being experienced by the military in attracting and retaining qualified personnel. We all know what these problems are and the list is sorry indeed.

The Navy is currently short approximately 20,000 petty officers. The Army is short 46,000 NCO's. The Air Force's NCO ranks are undermanned by more than 3,000. Add to this a shortage of 2,000 pilots and a shortage of nuclear trained submarine officers and the extent of our readiness problem becomes apparent. The problem is not a new one. The Department of Defense mobilization exercise known as "Nifty Nugget," conducted in 1978, highlighted these problems. The Joint Chiefs have been concerned for some time and the Congress is not fully aware of the extent of the manpower storage. What is required now is that we act. This type of problem will not go away. Indeed, given the state of our economy and the rate of inflation, the situation will continue to worsen. Consider these facts. Since the inception of the all-volunteer forces:

First. The base pay for beginnnig recruits has fallen to 83 percent of the minimum wage.

Second. Base pay has fallen relative to inflation every year since 1973.

Third. And more than 100,000 military families qualify for food stamps.

This is an intolerable situation and one which must be corrected. I should like to make clear that I opposed the all-volunteer force and I favor a return to the military draft. But we must, in the interim, attempt to make the system we now have work.

The Senator from Virginia has done an excellent job in producing the compromise and I congratulate him. But, as I said earlier, it is not a solution but merely a first step. As the Chief of Naval Operations, Admiral Hayward said in his December 13 memorandum to the Secretary of Defense, Brown—

> While we will never be able to compensate fully for those unique deprivations associated with military life, we cannot continue

to ignore the large net loss in purchasing power which military people have experienced since 1972.

Mr. WARNER. I thank the distinguished Senator from South Carolina.

Mr. President, I understand the Senator has to leave the Senate floor and would otherwise take a more active role in this debate.

Mr. HOLLINGS. That is correct.

Mr. WARNER. I shall miss his great debating ability.

Mr. President, I ask unanimous consent that Senator HOLLINGS be added as a cosponsor to the substitute amendment when it is presented.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, at this time I yield the floor to my distinguished colleague from Georgia.

Mr. NUNN. I thank my good friend and colleague from Virginia.

Mr. President, would the Senator from Colorado like to have additional time at this point? I have been requested to attend another meeting very briefly. If the Senator would like to use time at this point, I would be glad to yield and let him use his time.

Mr. ARMSTRONG. Mr. President, I would like to yield myself 1 minute. I ask the Senator from Georgia to stay, and then I intend to yield to Senator STAFFORD.

Mr. President, the reason I wanted a moment with the Senator from Georgia on the floor is to propound a unanimous-consent request which I believe will be of interest to him.

Earlier in the afternoon, I pointed out my concern about the parliamentary snafu we find ourselves in and tried to make it entirely clear I am not trying to prevent a vote on the amendment Mr. NUNN and Mr. WARNER have in mind to offer. I am only trying to prevent the amendment which Mr. MATSUNAGA and I have offered, which is the pending business, from being preempted.

Therefore, Mr. President, in the spirit of fairplay to all, in the spirit of giving the Senate a chance to vote up or down on both proposals, I ask unanimous consent that upon the disposition of the Schmitt amendment, as amended, if amended, an amendment by Messrs. NUNN and WARNER be in order as an amendment in the first degree elsewhere in the bill. That would permit, whatever happens to my amendment, an up-or-down vote also on the amendment offered by the distinguished Senator.

Mr. NUNN. Reserving the right to object, Mr. President, and I shall at the appropriate time object, first of all, I would have to have the majority leader here to be able to enter into such an agreement.

Second, the Senator from Maine (Mr. MUSKIE) is entitled to be heard on this question, certainly, before we enter into any kind of agreement that would have an up-or-down vote on both proposals, which would total something over $1.1 billion, even without the almost automatic civilian pay increases which in all likelihood would follow.

So I will not be able to enter into that agreement. I say to the Senator from Colorado that I understand the spirit in which it is offered.

I must say that from the point of view of the servicemen and servicewomen who need some help, whether it is in the form of the Armstrong amendment or the Warner amendment, the worst single thing we could do, in my view, in terms of trying to help those servicemen and servicewomen in the Armed Forces, would be to adopt both the Armstrong amendment and the Warner amendment, because in that case, I do not think a veto is possible; I think a veto is probable.

I also believe that if both amendments were to be adopted, inasmuch as the House of Representatives has never had hearings on these measures and because anything in conference would have to go back to the floor of the House, they would not accept it in conference, in all likelihood, without specific instructions.

By the time both those proposals were voted on, even if the President did not veto it, in my view, 1980 fiscal year would be almost over.

So I do not think anything would be worse for the service people, in terms of getting some additional compensation in one form or the other, than to put both these proposals together.

For that reason, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ARMSTRONG. Mr. President, I hope the time consumed by the Senator from Georgia is not charged against me.

The PRESIDING OFFICER. The time used by the Senator from Georgia is charged against his time.

Mr. ARMSTRONG. I yield myself 30 seconds to express regret that the Senator from Georgia has seen fit to object. It is his opinion that it would be unwise to adopt both. It is my opinion that it would be very wise to adopt these justified measures.

Whatever happens to either proposal today, I am going to be for a pay increase and in favor of raising the mileage allowance above 10 cents. You cannot operate a car for 10 cents a mile. I do not care what the President says about vetoing the bill—you cannot do it. I think it should be raised to a living amount. The same for the housing allowance.

Let the House do what it thinks is right, and let the President do his job and come up with a pay package that reflects the economic realities of this time.

Mr. President, at this time, I yield to the distinguished author of a book entitled "How to End the Draft: The Case for an All-Volunteer Army"—one of the five authors of that book—which was influential in creating the climate of opinion which led to the creation of the volunteer service. It gives me a great deal of pleasure to yield to an acknowledged leader in the volunteer service concept and an authority on these matters, our colleague BOB STAFFORD. I yield Senator STAFFORD 8 minutes.

Mr. STAFFORD. I thank the distinguished Senator for his words and for yielding to me.

Mr. President, I support enthusiastically the Armstrong-Matsunaga amendment to lift the military pay cap because I believe it to be the swiftest, the surest, and the most cost effective step we can take now to strengthen our national defense.

Defense Secretary Harold Brown, in his preview of the 1981 defense budget before the Armed Services Committee, reiterated a point that has been made over and over again by the chairman and the other members of the Joint Chiefs of Staff: Military manpower is the most critical defense need of the 1980's. Rates of recruitment and retention have fallen to low levels. Unless these manpower problems are turned around, no amount of spending for sophisticated military hardware will do us any good.

On the most defense issues, we are groping in the twilight, if not in the dark. We configure and arm our Army, Navy, Air Force, and Marine Corps to meet hypothetical contingencies which may or may not occur. We authorize sophisticated weapons systems without knowing for certain how long they will take to build, how much they eventually will cost, or if they will be as effective as we hope they will be in accomplishing the missions we set for them.

The manpower problem presents a refreshing change. On this most important of all defense issues, we know precisely what the problem is: We have the means at hand to solve it; no lead time is required before the means can be applied to accomplishing our end, and we can calculate precisely, without fear of cost overruns, how much each step we take will cost.

There are, without question, dozens of factors that impact upon the abysmally low rates of recruitment and retention experienced recently by our Armed Forces. But it is obvious to everyone what the principal cause of this problem is: We simply are not paying our servicemen and women a living wage.

This, unfortunately, is not a new situation or one which has developed since we did away with the military draft. In 1967, four of my colleagues and I who were in the House of Representatives, authored a book entitled "How To End the Draft: The Case for an All-Volunteer Army."

At that time—in 1967—we stated:

> During the past year there has been a flood of charges of inequities in the operation of the current military draft program. But no inequity is greater than this: We not only compel young men to serve two years in the military forces against their will, but we compel them as well to undertake a considerable financial sacrifice while they are serving. This is wrong—and should be changed.

But have things changed in the last 12 years? Let us look at the current situation.

Military compensation has fallen nearly 20 percent, relative to inflation, since 1972.

A beginning recruit today earns only 83 percent of the minimum wage.

The average annual wage for all members of the Armed Forces in the 1979 fiscal year was $12,885—$4,755 below the median income for all U.S. families. Enlisted personnel—86 percent of the total force—were $7,740 below the median for all U.S. families.

Given these circumstances, it should be no great surprise to us that servicemen and women with critical skills are leaving the Armed Forces for jobs in the private sector where, often, they can earn nearly twice as much money for one-third fewer hours worked per week.

What commonsense does not tell us, survey data does. Comprehensive manpower studies conducted by the Air Force and the Navy this year and last make it clear that the principal reason why so many servicemen are not reenlisting is the erosion of pay and benefits.

Again, let me recall another statement made by my collegaues and me 12 years ago in our book "How To End the Draft." At that time we warned:

> It is fully appropriate that military pay scales be commensurate with available civilian pay scales, so that in seeking volunteers the Armed Forces can compete effectively with alternative civilian attractions. If military pay scales are not commensurate with civilian pay scales many young men who may wish to serve may make judgment that they cannot afford to do so. If this were to prevent the evolution of an all-volunteer service it would be cruel injustice to those who would be drafted to serve.

This is just as true today as it was in 1967.

There are those who advocate reinstitution of the draft as a solution to the manpower problem. But this is neither cost-effective, nor a solution. The Chief of Naval Operations has said that four individuals would have to be drafted to make up for the experience and skills of just one experienced petty officer who declines to reenlist. It will cost a great deal more to draft and train those four individuals than it would to pay the one a living wage.

Moreover, reinstitution of the draft will not solve the most serious element of the manpower problem—retention of middle grade officers and noncommissioned officers. We draft privates, not corporals or sergeants. The existence of a draft can prevent a shortage of second lieutenants, but not of captains and majors.

In short, there is no solution to the manpower problem that does not encompass a rise in military pay. The longer we delay in implementing the solution, the worse the problem will get, and the more expensive it will be to solve it.

Commonsense, and common justice, make it clear that the time for us to act is now.

Mr. President, I yield back the remainder of my time.

Mr. ARMSTRONG. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Colorado has 42 minutes, and the Senator from Georgia has 63 minutes.

Mr. ARMSTRONG. Mr. President, under the circumstances I think it best for the other side to use some time at this point, but I wish to just take a moment to congratulate my distinguished colleague, Senator STAFFORD, on his very meaningful contribution to this debate, and I just hope that every Member of this body will weigh very carefully and very heavily the observations that he has made.

Mr. President, I reserve the remainder of my time.

Mr. STENNIS. Mr. President, acting for those who are authorized under the rule here for our time, I wish to yield 5 minutes to the Senator from Nebraska (Mr. EXON).

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I rise today as one who is certainly deeply concerned as my colleagues are with the military personnel problems that face the United States. Both sides of this proposed amendment or amendments have been addressed extensively in the Senate in December and today and at length by the committee of jurisdiction, the Armed Services Committee, on which I serve.

It is my belief that our Nation must adequately compensate our military personnel, and I think the question that we are trying to address here today is how best for us to do that and how best it is for us to address the problems of retention. Retention is a major concern by many of our military leaders today.

I cannot support the Armstrong-Matsunaga amendment because I do not agree with its approach to the problem. I certainly recognize that my distinguished colleagues from Colorado and Hawaii are very sincere in their approach, and I guess that my difference with them is how best to do the job that I feel needs to be done first.

First, all Americans suffer from the effects of double-digit inflation and all Americans are being asked to sacrifice in the fight against it. By raising military pay across-the-board, there will be calls for equity for civil servants and other sectors of our economy—calls which will, I fear, be too difficult for this Congress to resist. By promising to "keep up with inflation" in 1980, does this not imply a promise that Congress will insure that military personnel will be granted an extra inflation "kicker" every year hereafter? Would not this action make a "de facto" promise to that end? I believe it would create such a perception and this is a promise I believe we cannot make in good faith.

To lift the pay cap across the board, as suggested in the amendment that is being offered by Mr. ARMSTRONG and Mr. MATSUNAGA, is a band-aid approach which will not have—which will not have, I emphasize, a perceptible impact on the essential problem that we are faced with today, which is retention.

A more thoughtful approach is necessary and far more desirable at this time. In my view, raising the base pay of an E–1 or a general does not help in the primary problem and the solution thereto of meeting our real manpower needs today, which I emphasize once again is retention.

What we need to do is to send a signal to our military personnel that we appreciate the sacrifices that military life requires, that they are needed by their country to continue in the military career, an honorable profession.

Mr. President, we need to send that signal in a number of ways, by adequately compensating them, by showing them that they are not being asked to sacrifice more than other Americans in the fight against inflation and giving them the reliable equipment and operating funds necessary for them to do the job in which they take so much pride.

This is the message we must send and it can be sent in a more effective manner than by moving everyone up one notch on the ladder of trying to keep up with inflation.

Mr. President, I am fearful that if we go the 3-percent across-the-board route that is being suggested we are not going to be addressing the key problems and the key areas of retention that most experts in the military tell us about today, although I can see, and I do not for a moment doubt the sincerity of those on the other side of this issue, that a 3-percent increase might sound good to some people.

Mr. President, the Warner-Nunn amendment, the amendment supported by the committee of jurisdiction, and I emphasize the committee of jurisdiction, after careful consideration of all the proposals is the better approach, aimed at retaining the people most needed by our armed services at this time.

Mr. President, it is clearly not the final answer, but I think it is the pertinent step that should be made at this time.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. EXON. Mr. President, will the Senator yield me 2 additional minutes and then I shall close?

Mr. NUNN. Mr. President, I yield such time as the Senator needs.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, reinstituting registration or even the draft will do little to solve the retention problem, and that is the most pressing need that we face today.

The Warner-Nunn amendment addresses those areas of compensation which will directly aid in helping solve the retention problem right now.

The administration has proposed certain incentives in this area in connection with the fiscal year 1981 budget which has just been submitted. Many of our proposals today are consistent with that proposal, and this whole question will be explored in much greater detail later in this session.

For now, Mr. President, I urge my colleagues to support the committee approach to our military retention problems, an approach which is much better targeted at the most pressing need and which does not set an undesirable precedent for the future.

In this important area, it would seem logical that the Armed Services Committee recommendation should prevail. Indeed, the Armstrong proposal received only four votes in the committee of a total of 17 members. The Armed Services Committee and its recommendation should be followed in this instance.

I urge my colleagues to do just that when they vote later today.

I thank the Chair.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I believe the Senator is speaking in behalf of the Armstrong amendment.

Mr. LEAHY. Yes, I am.

Mr. NUNN. I think the time should be yielded from the Senator from Colorado.

Mr. LEAHY. I have a total of 3 or 4 minutes. I know the Senator from Colorado is willing to yield it. I cannot speak for him. He is not in the Chamber.

Mr. WARNER. Mr. President, could it be chargeable to us until such time as the Senator from Colorado——

Mr. LEAHY. The Senator from Colorado is in the Chamber now.

Will the Senator from Colorado yield me 4 minutes?

Mr. ARMSTRONG. Mr. President, I yield the Senator 4 minutes with the utmost of pleasure.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, there are many reasons to support a substantial salary increase for uniformed military personnel. Clearly, the most important of these is that the raise will contribute to the enhancement of our national security.

There are two other reasons that I would like to submit, however. Both of these taken by themselves provide sufficient justification for the pay raise. Perhaps foremost is the simple fact that the men and women in our Armed Forces deserve a pay raise.

My other reason, Mr. President, is based on the current debate over the All-Volunteer Force and the issue of draft registration. A significant salary increase for uniformed military personnel is one of the steps that is needed to keep the All-Volunteer Force alive.

Mr. President, if the national security of the United States truly requires a return of the draft, I am confident that a majority of the Congress would support such a return. I certainly would.

If the security of the United States truly requires a return of registration, I am confident that a majority of the Congress would support such a return. I certainly would.

In either of these cases, I would support action that included both men and women without exemption other than physical infirmity.

Mr. President, before we rush pell-mell into such action, we must assess the true requirements of the national security of the United States. Under any system of registration or draft, there would be no significant change in the makeup of our Armed Forces in less than a year. Yet we are talking about dangers facing us today—now. We must realize that the All-Volunteer Force, coupled with our Reserves and National Guard units, is the only trained, reliable force available to the United States.

Our modern military, which requires sophisticated weapons, also requires highly trained technicians to use those weapons. Our experience has shown that if people are drafted, most will leave the service just at the time when they are becoming proficient at their given position.

I for one would like to see us concentrate on making the All-Volunteer Force succeed. We can maintain a professional military force only when we recognize the need for a trained, experienced force and address the problems of retention and reenlistment. A fair, realistic pay scale is one such step.

I will support Senator ARMSTRONG's moves to increase the salary of our military personnel. I will support efforts to improve training, education, and the inducements for the best of our military to reenlist.

Only this will address the immediate dangers confronting the United States—providing a military force far more suited to the requirements of our national security today.

If I have time remaining I yield it back to the Senator from Colorado.

Mr. STENNIS. Mr. President, if someone else wishes to proceed——

Mr. DURENBERGER. Mr. President, will the Senator yield?

Mr. STENNIS. If not, I want a few minutes at some time.

Mr. WARNER. Mr. President, the chairman's time can be charged to Mr. NUNN.

Mr. NUNN. I yield the chairman such time as he may wish.

Mr. President, can the Chair state the time remaining?

The PRESIDING OFFICER. The time remaining for the Senator from Georgia is 55 minutes, and that of the Senator from Colorado is 38 minutes.

Mr. NUNN. I yield to the Senator from Mississippi if he desires.

Mr. STENNIS. I thank the Senator from Georgia.

I want to make note of one particular fact here that is involved, Mr. President. I will make an argument on the merits later, but I want to say that I am supporting the Warner-Nunn or Nunn-Warner amendment here as a substitute, as a consensus and as moderation. This is something that the Committee on Armed Services of the Senate could get together on and after hearings on the points involved, offer to the Senate what we believe is a safe way to go.

Mr. President, I want to make a comment that is not referred to frequently now except by the chairman of the Appropriations Committee. I speak with great deference to the Senator from Colorado who, I think, is a very fine man and a very fine Senator who contributes here a great deal. But the ancestry of this amendment, Mr. President, shows that it originated on the floor of the Senate as an amendment to an appropriation bill.

Now, there just could not be a more complicated subject, outside of the scientific field, that a committee has to pass on than this matter of a pay raise for over 2 million key people. I say key people because they are the only ones we have in military uniform, and it directly affects the civilian counterparts in the Department of Defense. There just could not be a more complicated subject than the pay scales and the pay raise and adjustments to that vast multitude of factors that go into the fixing of their salaries.

It originated—I was told at one time there were almost 100 different add-ons, amendments over the period of years, a little here and a little there, that go to make up that whole picture as to the serviceman's pay. So it is nothing short of—to bring it to the Senate floor now in an understandable way and with comparisons—an in-depth hearing, tediously and almost ad infinitum conducted by a subcommittee of the Committee on Armed Services, attended by highly competent and experienced staff men from the committee and the Pentagon who know the subject. That is the only way in the world to get at an in-depth, understandable, fair, and accurate presentation on the Senate floor of the subject matter.

Still it was brought in here—and this is not personal criticism—as an amendment to an appropriation bill, clearly a violation of our rules. We have approved from time to time modifications of the ordinary language that applies in the rule.

I hope I am not an extremist. This matter is so important and it has gone so far that I have definitely made up my mind that it is my duty as chairman of the Committee on Armed Services to try to create a sentiment, that I believe will be readily adopted in the Committee on Armed Services, that when we have far-reaching military bills here, of amendments presented on the floor for the first time that have not been presented to our committee, that we will stand, I hope unanimously as a body, and the committee will, and move the Senate to refer the bill back to the committee for the express consideration of the amendment, and make a promise on the floor then that that committee will hear the facts with reference to that proposed amendment, will take a vote on it and make a recommendation to this body on the subject matter. I mean that is when it is a major point.

That is the only way we are going to be able to preserve the integrity, the validity, and the soundness of the Senate rules so far as the operation of a committee is concerned.

Since I have been involved in these matters, I do not believe there is any substitute for intelligent, applied committee work to the subject matter. That is true not only of the Committee on Armed Services, it is true of the Appropriations Committee, and it is true of most of the major committees when those matters come up.

Unless we are willing to follow rules like that—and do not say it is impossible because I have been here when it was followed, and you just did not have this trouble. We ought to let them know in advance and spell out what it will mean. It will appear then that the best way to go and the quickest way to go is to offer the amendment to the committee.

I understand in some way the Senator from Colorado had offered this amendment in the Budget Committee. I had not had a chance to talk to him about that.

I do not state that as a fact. But it was offered first in the Budget Committee to the extent of $1 billion extra, as I understood it was earmarked, for the purpose of increasing pay.

It just shows another instance of if our major committees are going to stand here and see this wandering around, I call it, method of being applied to avoid facing the committee, whatever the purpose, we are deteriorating rapidly the value of these committees. We are destroying the only system under which they can function.

Mr. President, I have agreed to this so-called compromise amendment in this case, but only under these pressing circumstances. And a promise has been made—of course, all promises ought to be kept—that there would be a vote on this matter. That left us with four choices.

But I want to say with great emphasis, and I repeat it again, over and over I see where we have to go back and relearn our eighth grade arithmetic and get back on the track with reference to these functions.

So, if for no other reason, the amendment here, in the form that it is in now, with reference to the Senator from Colorado, should be defeated for the lack of that preparation on its face. But I think the substitute's preparation has been made in this case. But it does not apply, it does not apply to the Armstrong amendment in its present form that carries a difficult matter in which debate was had here for 15 years—15 years—trying to get the comparability adjustment made between civilian pay and military pay—and we finally got it. And now the proposal is to repeal it or ignore it and let it fall by the board with a floor amendment that began without going to a committee.

I do not believe this body can continue to be an effective body and will not continue to be an effective body, with the volume of work that we have to do, unless we tighten up the application of these rules, rather than just throw them to the wind.

I thank the Senator for yielding me that time.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I am very pleased to yield at this time 5 minutes to my distinguished colleague from Minnesota (Mr. DURENBERGER).

Mr. DURENBERGER. Mr. President, we face once again the issue which was brought to our attention by Senators ARMSTRONG and MATSUNAGA last November. Once again, the issue is very simple and very clear: That issue is the future of the All-Volunteer Force.

As I stated on the floor last November, during our original consideration of this amendment, there are two compelling reasons to secure for the men and women of our armed services the modest pay raise which was recommended by the President's pay agent but overruled by the President in an attempt at false economy. The first reason is equity; we have consistently shortchanged our service personnel in violation of the spirit of the Federal Pay Comparability Act. The second reason is security; our ablest officers and NCO's are leaving the service because they cannot afford to serve.

Mr. President, the All-Volunteer Force has worked far better than many of its critics would have thought. Despite some recent shortfalls, overall enlistment rates and force levels are generally up to the quotas set by the Department of Defense. Moreover, as Richard Cooper of the Rand Corp. demonstrates in the March 1978 issue of International Security, the quality and ability of today's first-term enlistees are no worse than—and may even be better than—the quality and ability of the young men involuntarily conscripted through 1973.

Dr. Cooper's article therefore undermines much of the standard criticism of the All-Volunteer Force. However, beneath the aggregate strength of our military services, there exist two very serious problems. First, the Nifty Nugget exercises have demonstrated that, in the event of general mobilization, we would face serious difficulties in calling up and deploying our Reserves. But bottlenecks in mobilization cannot be blamed on the the Rand Corp. demonstrates in the All-Volunteer Force, and they can be solved without abandoning the volunteer concept.

Second, and perhaps more seriously, the military services are facing a severe crisis in the retention of experienced personnel. Those people who are most crucial to the success of a modern army or navy are leaving the military after one or two terms of service. Thus, although the All-Volunteer Force has been successful in recruiting enough initial enlistees, it has failed radically in its efforts to retain these people later, when they should be rendering their most valuable service.

As Senator WARNER noted in his floor statement of January 22, the Army is currently short of 45,000 experienced noncommissioned officers. The Navy lacks 20,000 experienced petty officers. Indeed, a recent article in the Washington Post states that Admiral Hayward, the Chief of Naval Operations, is so concerned about retention that he is willing to forego vitally needed equipment to stimulate reenlistments.

I have been, and will continue to be, a firm advocate of the All-Volunteer Force concept. It is just, it is adequate, it is efficient, and it works. I have been and will continue to be a, critic of the way in which our services stultify initiative, penalize imagination, misallocate resources, and vitiate leadership. It is for these reasons that many of our most talented and dedicated soldiers, sailors, airmen, and marines leave the service.

However, we cannot expect the all-volunteer concept to work unless we are willing to pay a decent living wage to those on whom we impose the sacrifice of arduous duty. A recent article in Aviation Week and Space Technology notes that many people with aerospace-related skills are leaving the service solely because the private sector values their skills and will pay for them, while the Government does not. Mr. President, the All-Volunteer Force should seek to recruit from as broad a sector of our society as possible. It should seek to attract those with unique professional and technical skills as well as those motivated by patriotism or the quest for a long-term career. However, we cannot recruit skilled personnel unless we are willing to compete for them.

The article makes clear that we are not adequately competing, and I ask unanimous consent tht it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RETENTION OF HIGHLY TRAINED POSES SERIOUS PROBLEM

(By David R. Griffitns)

Retraining expensively aerospace-related trained manpower at a time skilled civilian counterparts are earning far more money is the most serious problem facing the military in the 1980s.

The key to growing with the future, top officials said, is not only in getting the most advanced, complex equipment available. Equally important is keeping the middle-level officers and noncommissioned officers who operate, develop and support the equipment, particularly aircraft.

Attracting young people to bombers and fighters and the flight-line environment has made the recruiter's job easy compared to other military disciplines. But, once in uniform for anywhere up to 12 years, officers and enlisted personnel have a tough time ignoring the civilian demand for their highly marketable skills.

No one is calling is a crisis yet, but Gen. Lew Allen, USAF Chief of Staff, told AVIATION WEEK & SPACE TECHNOLOGY:

"There are trends that look bad. If they're not attacked, there could be substantial degradation in the fortunate position we have now that could last a lot of years.

"The real issue is retention. The convenient way to look at it is that in several special fields, and more generally, we see signs that an Air Force career is not sufficiently attractive to U.S. citizens to allow us to do our job. We came out of Vietnam with a poor image of military service.

"That's forgotten, but what is it now? Apathy?" he asked.

The question was rhetorical. Allen and his counterparts in the other services know they cannot compete monetarily, particularly since salaries in the military have been watered down by inflation much more than in the civil sector. In addition, military leaders are aware of some erosion in service benefits, which traditionally have been touted as attractive reasons to stay in uniform.

The effects of varying downward trends and other uncertainties are raising questions about maintaining proper levels of experience in key supervisory posts and non-flying positions where rated personnel are considered essential. Additionally, and perhaps most importantly, top officials are worried about what it all portends for the future of their primary mission—readiness.

In the early 1980s, Allen wants to spread the shortages "in a way as wise as we can." The Army Chief of Staff, Gen. Edward Meyer, said Europe and the early deployment forces from the continental U.S. will stay at 100 percent, but shortages could affect later reinforcements. Meanwhile, congressional critics such as Rep. Robin L. Beard (R–Tenn.) are warning that the Individual Ready Reserve, consisting largely of valuable veterans, is deficient in critical skills, particularly physicians and aviators.

One officer views the problem from two angles. Maj. Gen. William R. Usher was chief of readiness for United States Air Forces, Europe, before he came to the Pentagon as director of personnel plans in the office of the deputy chief of staff for manpower and personnel. "If the pilot shortage continues," he said, "how much do we draw down from the rated supplements [engineers, staff, etc.?] If current losses continue, some cockpits could become vacant because we need experienced pilots in some staff positions.

"Mission-ready means fully capable. An undergraduate pilot training graduate is not fully qualified. In Europe, it takes as much as 150 days to get a crewman ready because of NATO command and communications and weather and other factors. If you're losing experienced people, it hurts your capacity to accept new people."

Allen summed up what he called an "extremely serious problem":

"The exodus of young pilots and navigators has affected every aspect of our force planning. Significant numbers of skilled aviators are leaving active duty at the very point where they should be moving into important mid-level leadership responsibilities."

Pilot retention itself is of immediate concern to the Navy and the Marine Corps as well as the Air Force, while the Army enjoys a relative advantage, partly because civilian demand for helicopter pilots has not reached a worrisome stage.

A breakdown shows that:

The Air Force lost nearly 3,000 pilots in Fiscal 1979, far above a planning figure of more than 2,000. Of that total, about 1,800 were in the crucial 6–11-year experience group. In June, 1979, the cumulative retention rate in that group was 26.9 percent, down from 43.8 percent the year before. Navigators were staying in at a rate of 41.1 percent, compared to 56.1 percent in June, 1978. Strategic Air Command bomber pilot retention went from 58 percent to 37.7 percent in the same one-year period, while tanker pilots rates fell from 41.7 percent to 21.4 percent. SAC navigator retention also showed a decline.

Navy pilot retention peaked at about 60 percent in early Fiscal 1977, fell to around 40 percent in Fiscal 1978 and is projected to stabilize at just over 20 percent in Fiscal 1980. Currently, one official said, the Navy is keeping 41 percent of its pilots and 81 percent of its naval flight officers in the period from 1.5 years before the minimum service obligation ends to six months after. That shows, the official said, that civilian competition for naval flight officers is close to insignificant.

Marine Corps Training Command has shown a two-year drop of about 400 naval aviators, lieutenant colonel and below, to around 3,200. The difference in requirements during that time has been negligible, but the number of aircraft has decreased.

The numbers reached this point and could go down further because of civilian competition and dissatisfaction with military service. However, there were also unforeseen trends of the 1970s that abetted the decline.

A top Air Force official explained: "After the Vietnam peak in 1968 through 1977, we cut the size of the active force by about 37 percent and transferred some missions to the Guard and Reserve. We actually encouraged people to get out. Compensation and benefits were more competitive with the civil sector before inflation.

"We got the Air Force stabilized, but then we had pay caps and this year we were even grateful that the President allowed us 7 percent instead of 5.5 percent. According to one survey, it would require 10.4 percent this year to stay even with the civilian marketplace."

That concern has spread. Adm. Thomas Hayward, Chief of Naval Operations, has established his own No. 1 issue for next year—compensation. The real issue is that enlisted men's pay has eroded 2–3 percent a year. They're underpaid by at least 20 percent. The all-volunteer force won't work if we send out the signal year after year that 'you guys really don't count.' "

A defense report by the Assn. of the U.S. Army quotes one Defense Dept. official to the effect that recruit pay, which was 115 percent of the federal minimum wage in 1975, has shrunk now to 83 percent, with a drop to 80 percent expected by 1981.

Robert L. Goldich, a Library of Congress national defense analyst specializing in manpower, said all three retention quandaries—pilots, noncommissioned officers, and scientists and engineers—are related largely to compensation. He cited the "compression" caused by the big 1971 pay raise aimed at getting the all-volunteer force off to a running start.

"It was a disproportionate pay raise designed to recruit junior enlisted and officers," he said. "Now it's built into the system. The compression affects E–5s and E–6s and O–3s and O–4s. When promoted from O–2 to O–3, and especially from O–3 to O–4, and from E–4 to E–5 and E–6, the amount of money has not been commensurate with the new responsibilities required. The hardest hit by far are majors and E–5s and E–6s.

"When you combine that with other factors like general pay caps and recruits below the minimum wage, you've got a problem. But, an even more crucial factor relates to the 8- 10- 12-year range for both officers and enlisted. That's when expenses shoot up, a man gets married, starts a family, purchases a home. It's when pay is least able to keep up with rising financial responsibilities. One hope is that there's a DOD pay study to inject money into those grades."

Then comes what a senior Air Force official called the push of airlines hiring and the pull of dissatisfaction with a military career. Those two factors, along with earlier force reductions, have forced the Air Force to program an increased pilot training rate to a total of 1,575 in Fiscal 1980, which is awaiting congressional approval, and more than 1,800 the following year. Both would still leave a gap.

The Air Force, which expects airline hiring of about 2,000 a year, is the hardest hit by such competition. Recent experience has shown that 78 percent of all pilots hired by the airlines have military experience. Of that number, 56 percent came from the Air Force, the official said.

One manpower official, Rear Adm. Carl J. Seiberlich, commander of the Naval Military Personnel Command, has been watching the cyclic pattern of pilot retention responding to airline layoffs and hiring. Until the airlines started hiring in about 1977, aviators had a better retention rate than submariners and surface warfare officers. Now, he said, they are at the bottom. Seiberlich and others, encouraged by recent airline layoffs, are reminding young pilots of the advantage of staying with a more certain career.

"Now," the admiral said, "I tell pilots who are thinking of quitting, 'you could go in as a flight engineer for six years without touching a stick except for a simulator. Then there are 10 years as a copilot. Then, you're a captain and you put on your trifocals and wonder how you're going to keep your money away from Uncle Sam.' "

A high-level Marine manpower official, plans, programs and budget branch, said, "I just commanded an air group. We lost 12 aviators in two years. Eleven said they were going to the airlines. It's a matter of supply and demand. If airline hiring continues through the 1980s, we've got a problem." "We just saw a major come back from an airline," another Marine said. "He didn't like riding sideways [flight engineer] for five years. It may be our communication problem."

The services may find some encouragement in Future Airline Pilots of America projections that civilian candidates for airline hiring are becoming more qualified to compete with their military counterparts. The sophistication of their aircraft and the complexities of their flying environments are becoming such that nonairline pilots, whose numbers have increased during periods of no hiring, are making up a larger and more competitive pool, FAPA said.

It added some other determinants, including the highly unpredictable state of the national economy. FAPA quoted economists to the effect that a recession would hurt airlines more than in the past because they are no longer a "growth industry" able to withstand economic downturns as easily as before.

At least two service chiefs are skeptical about the effects of airline cockpit demands. Hayward said the issue would not have to be addressed if there were a reasonable adjustment in service pay for inflation. "If they skate out on that [airlines], they're really using another reason," he said.

"Airline hiring is used to explain the outflux," Allen said. "But less than half of the crewmembers are leaving the Air Force to go to an airline. It will be a continuing problem, but airline hiring is as much a whipping boy as anything."

Before looking at the dissatisfaction for which some officials think airline hiring is an excuse, it must be noted that civilian competition comprises much more than just the commercial airlines. "A lot of generals are looking for a good young man out there—General Electric, General Dynamics and General Barrow," a Marine officer said of the obstacles facing his commandant. Gen. Robert H. Barrow is the Marine commandant.

Allen said the Air Force is losing ground in its efforts to close an existing gap in scientific and technical officers, a problem that has been exacerbated by failure in the last fiscal year to meet those specialized recruiting goals.

The Air Force chief expects the cycle, which not too long ago found doctorate graduates looking for jobs, to repeat itself. But, until then, he knows that matching starting civilian salaries, other than college and university jobs, is impossible. He assessed the situation:

"Trying to recruit into officer training after college graduation doesn't work because the private sector offers too much. There's no problem in attracting pilots, but we do have a problem getting graduate engineers. Still, recruiting engineers is not as bad as retaining them. One of the most effective things we can do is to get more ROTC scholarships. Congress has trouble understanding that, but we need to be able to help someone very early in a career."

A Labor Dept. official noted that top salaries are available now in a wide variety of engineering fields, including such "glamour" areas as computer sciences. Also, while civilian mechanics are hardly a rarity, there is, he said, a "real shortage of skilled mechanics."

The Marines are worried about a loss trend that other services are noting. Aviation ground officers, such as maintenance and component repair supervisors, air defense and other support officers, are nearly as attractive to industry as their flying counterparts.

Goldich of the Library of Congress has seen military reports that, on occasion, make retention look like a near-futile enterprise.

"At a Navy installation in California, where there are very steep housing costs and a big electronics industry, a lot of military people moonlight and get phenomenal wages," he said. "Then, after their tour they quit to concentrate on those phenomenal wages.

"There are cases where there are actually enlisted headhunters on active duty. The private companies give them X amount of money for each individual they recruit after their term is up. It's especially true in the 8-10-12-year areas."

Losing both rated and nonrated officers with that middle level of experience has the Air Force worried about more than just open cockpits. When the Air Force had more pilots than it needed, many were moved to other jobs.

An official explained: "One extremely important commodity is the pilot who's also an engineer. There's a better R&D product if the engineer has had experience with line operational units. Or, there's a need for a rated officer as a civil engineer, who would be a key man for recovering a base after an enemy attack."

That so-called "rated supplement" must be drawn down as a companion move to increasing pilot training if the Air Force is to avoid unfilled cockpits.

"How do you replace a lieutenant colonel in charge of a civil engineering squadron or a young major development engineer at Aeronautical System Div.?" an Air Force official asked. "So you lose experience by denuding your support side.

"What it all boils down to is that by 1985, there'll be a big gap in middle experience, such as flight commanders, squadron operations officers and key staff."

Allen sees a beneficial long-term effect in that the young officers will be filling those supplemental responsibilities early, with a concomitant increased chance for promotions. "But," he added, "lieutenants are doing the jobs now, that a year or so ago, were being filled by experienced captains and majors."

Reversing or at least stabilizing that trend has to depend in part on accessions. One short-term safety valve is increased pilot training, but Air Force Officers Training School itself takes 12 weeks. Most of the services also have increased by one year the first-tour obligation after training.

Other solutions will take time to bear fruit—increased ROTC scholarships, either two or four years, and more enlisted education and commissioning programs, which often mean a college degree. Service academy output is steady, but generally fixed.

Mr. DURENBERGER. To cite a few examples of the consequences of our neglect, the Air Force lost nearly 3,000 pilots in fiscal year 1979, of whom nearly 1,800 had served only 6 to 11 years. The retention rate for Air Force pilots was only 26.9 percent in June 1979. Similarly, the retention rate for Navy pilots is expected to fall well below 30 percent. These pilots are leaving because they cannot afford to stay. They cannot afford to stay because we have not placed adequate value on their service.

The situation is just as bad for enlisted personnel. As Admiral Hayward states in the same article:

> The real issue is that enlisted men's pay has eroded 2-3 percent a year. They are underpaid by at least 20 percent. The All Volunteer force will not work if we send out the signal year after year that "you guys don't really count".

Mr. President, we have the opportunity today to begin a reversal of these trends with a modest investment in our security. The choice is really very simple. We can demonstrate our concern for equity, or we can say that our military personnel really do not count. We can insure the continued success of the All-Volunteer Forces, or we can return to the military draft through fiscal default.

Ideally, the issue would not be posed as a choice between increasing base pay and increasing other forms of military compensation. Both measures are needed, and one should not be offered as a substitute for the other. However, the issue has been put in these terms, and we must make a decision.

Passage of the Armstrong-Matsunaga amendment will lift the Presidential pay cap on military salaries, and will provide immediate relief to all the men and women of our services.

It will demonstrate to our military personnel that we are serious about keeping faith with them, as we expect them to keep faith with us. Moreover, passage of this amendment still permits us to implement most of the measures contained in the Warner-Nunn amendment, for the Department of Defense budget request for fiscal year 1981 addresses the need to increase other forms of military compensation.

Passage of the Warner-Nunn amendment, on the other hand, will deny immediate relief to a large number of our military personnel. Moreover, it will not provide us with a timely opportunity to raise the base pay of our soldiers, sailors, airmen, and marines. It will substitute the inadequate for the equitable, and it will send a signal that "you guys really don't count."

Lifting the pay cap will not solve the retention problem by any means, but it will be a vital first step with the most widespread effect. Any measure short of this, or any measure which will demonstrate only selective concern for a few of our military personnel, will insure the continued attrition of our forces. It will dampen enlistments at a time when the Secretary of Defense tells us that the challenges of recruiting are likely to increase. It will be both a substantive and a symbolic blow to our Armed Forces.

Rather than selective concern, let us opt for equity. Rather than attrition, let us invest in security. Mr. President, let us take prompt action to insure the passage of the Armstrong-Matsunaga amendment.

Mr. WARNER. Mr. President, will the Senator yield for a question on my time, that is the time of Senator NUNN and myself?

Mr. DURENBERGER. I am happy to yield to the Senator from Virginia.

Mr. WARNER. In the consideration of these two proposals by the Armed Services Committee, time and time again we put the question to those best qualified to answer. Without exception, the Secretary of Defense, the Deputy Secretary of Defense the Chairman of the Joint Chiefs, and the majority of the service personnel chiefs said that the No. 1 problem is the career force, and that the approach by Messrs. WARNER and NUNN addresses that more nearly than did the approach by our distinguished colleague from Colorado (Mr. ARMSTRONG).

I, therefore, ask the Senator if he accepts the opinion of the experts, those persons entrusted with the responsibility of daily management of the services, how can he reject our proposal in favor of Mr. ARMSTRONG'S?

Mr. DURENBERGER. Very simply—and perhaps too simply to satisfy the Senator from Virginia—obviously I was not present nor privy to the specific testimony to which the Senator refers. But I reached my own judgment on the basis of what it is that will retain people in a career service, principally on the basis of reality and, in addition, on the basis of my own experiences interviewing a number of people from my own State who have made decisions to leave the service, or who, after making a commitment to one of the service academies, have shared with me their observations after a term or two in the service.

To them, the issue of pay is most directly competitive with the private sector. There is absolute merit in all of the proposals contained in the Nunn-Warner amendment. Each of these provisions is important. Each of these provisions, as I understand it, is included in the President's fiscal year 1981 budget recommendation, and each of these would work very well with the wage increases in the Armstrong-Matsunaga amendment.

But when you compare what it costs to live, what it costs to maintain a family in the private sector, versus the commitment one has made to the military service, there is no question but what there is a gap, measured by various people, of between 12 percent and 20 percent.

It is for that reason that I conclude that reenlistments can be induced more easily by the pay increase than it can be by a measure which excludes a pay increase across the board.

Mr. WARNER. In substance, if I understand the distinguished Senator from Minnesota, it is based upon his own interviews of presumably a small number of individuals that he reaches his conclusion?

Mr. DURENBERGER. That is very true, I have applied that sort of measurement since I have come to Washington to a number of situations, and found it more valid in most cases than the judgment of those who I often find classified as experts.

Mr. WARNER. It is very clear and I respect the Senator's view.

Mr. NUNN. Just to clarify the point of discussion about the President's 1981 budget, the President's 1981 budget does not provide variable housing, which the Warner-Nunn bill does. The President's 1981 budget does not provide PCS which the Warner-Nunn proposal does. The President's 1980 budget provides nothing, with the exception of the PCS. The President does provide up to 12 cents per mile rather than 10 cents per mile. On flight pay, the President's 1981 budget does provide additional flight pay. The specifics of that are unknown to the committee at this time. Reenlistment bonuses are between 10 and 15 years, which is in the Warner-Nunn proposal, are also provided in the President's 1981 budget. The President does not provide any subsistence increase in either 1980 or 1981, which is in the Warner-Nunn proposal.

As a point of clarification, and this does not get to the argument of Warner-Nunn versus Armstrong, there are a substantial number of proposals in the Warner-Nunn proposal which are not in the President's 1981 budget. The overall retention as affected by the Warner-Nunn, in my view, is going to be substantially more than the President would provide either in the 1980 request or the 1981 request.

Mr. President, I yield the floor.

Mr. HART. Will the Senator from Hawaii yield me 5 minutes, Mr. President?

Mr. NUNN. I would have no objection to the Senator from Hawaii, since he is a cosponsor, yielding on behalf of the Senator from Colorado. I ask unanimous consent he be permitted to control the time in the absence of the Senator from Colorado on that side of the question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. I thank the Senator. I yield 5 minutes.

Mr. HART. Mr. President, one commentator recently noted we no longer have a Department of Defense. We have a Department of Systems Development and Acquisition.

I am afraid that is all too true. Those in the political arena are just as guilty, I think, of fostering that attitude. They fcous more on individual weapon systems or votes for weapons systems as the barometer of a person's commitment to defense than on the larger picture of what makes a strong defense, including manpower elements.

It is unquestionably true that the Congress as well as many in the Defense Department focus too much on equipment and too little on people. Yet manpower is a key to military effectiveness. And we face some serious problems in the area of military manpower.

Morale is one problem. I think that has been well documented. I have visited three separate Navy fleets, and morale problems have been evident in all three.

Recruiting is certainly a serious problem in all services. Last year for the first time no service made 100 percent of its recruiting goals.

Retention is also a key part of the manpower problem, especially retention of noncommissioned officers and field grade officers. I do not oppose the measures in the Warner-Nunn approach. Those measures are targeted at the retention problem. Because of that, I voted present in our Armed Services Committee deliberations to show that I do not oppose those steps. But I cannot support them as an alternative to a pay raise for everyone in the services.

I think we have to keep in mind that only part of the personnel problem can be dealt with through pay and benefit measures. A good part is nonmaterial. Decreasing job satisfaction as efficiency-oriented administrative tasks take more and more time from effectiveness-oriented military tasks, and as continued operation and maintenance shortages make a mockery of a unit's actual ability to fight effectively. At some point the Armed Services Committee must look beyond spending solutions to structural changes in this and other problem areas.

However, Mr. President, pay is one part of the problem. It has decreased every year in real terms. It has decreased even faster because there is no tax indexing, not only for people in the military but for all citizens.

The decrease in real pay leads to a lack of certainty about the future. If Congress lets pay decline year after year in real terms, how secure are other benefits? From time to time I have heard from uniformed personnel, officers and enlisted men, "What about retirement?" These are real morale factors: Not just the amount of pay but what that says about security for the future. Those in mid-career have to choose now between staying in or getting out. Later will be too late for a second career. Facing these uncertainties now, many, too many, are getting out.

I think the key to the amendment offered by my colleague from Colorado and the Senator from Hawaii is not the across-the-board raise, but the rejection of the concept of a pay cap. I think that is an important signal to send out to the uniformed personnel in our services. It gives certainty for the future by setting a precedent. Congress will not accept less than parity with the private sector for the military. Certainty is more important at this time than the actual dollar amount.

The argument has been made that this also sets a precedent for the civil service. However, civil service people can come in at various grade levels. That is not true with the military. You have to advance through the ranks and through the grades. Once talent is lost, particularly in the middle levels, whether enlisted or officer, it is gone for good.

For these reasons as well as many others, I strongly support the efforts of my colleague from Colorado and the Senator from Hawaii. I hope the Senate will adopt this as the best approach to the problems of morale and increased military effectiveness.

I thank the Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator from Colorado for his strong support. He has been for the amendment from the very beginning. For procedural reasons we were forced to go the other way the last time, but we hope this time we will have a direct vote on the amendment itself.

Mr. ARMSTRONG. Mr. President, I also join my colleague from Hawaii in complimenting my colleague from Colorado on his statement. Senator HART has spoken to me privately and publicly about the need for a pay increase for the military, not just today but on many occasions. I appreciate his contribution to this debate. I hope that every Member of the Senate will keep in mind his observations when the time comes to vote on this amendment.

Mr. WARNER. Will the Senator yield?

Mr. ARMSTRONG. I just want to ask what the time is that remains.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Colorado has 28 minutes remaining and the Senator from Georgia has 40 minutes remaining.

Mr. ARMSTRONG. Mr. President, I have a number of speakers who wish to speak. I would like to yield the floor and reserve the remainder of my time.

Mr. WARNER. Mr. President, I would like to ask the distinguished Senator from Colorado to address an issue which I find troublesome and which the Senate Armed Services Committee found troublesome—mainly, that the proposal by Mr. ARMSTRONG would set a precedent which might prejudice future Senate deliberations on the question of decoupling military pay from civilian pay.

I personally have some reservations about whether those two pay systems should be decoupled, although it may well become necessary. It is a matter which, in my judgment, requires considerable investigation by the Senate committees and then debate on the floor. I ask the distinguished Senator from Colorado how he would advise his colleagues in the Senate on that issue; should they have to vote on Mr. ARMSTRONG'S proposal?

Mr. HART. It is a serious issue. My colleague from Colorado and I, as well as the Senator from Virginia, represent a great number of civil servants. There is a great concentration of civil servants in the Denver area and in the rest of Colorado, serving that entire region of the country. So we are mindful of the problems this may create in that respect. But, Mr. President, policies are set in certain times and certain circumstances, and times and circumstances change.

I think we are all aware that the two circumstances driving this debate today are the activities of the Soviet Union in the last couple of weeks, and unrest in a part of the world where we have, unfortunately, become dependent on some producers of a major resource. We have to accommodate to those circumstances. Those circumstances did not exist when the policy of comparability was established. So, as times change, we may have to adjust our policy to accommodate those changes, particularly if our national security is at risk.

Second, the other circumstance that has changed is the mass exodus of the middle-level enlisted and field-grade people from the services. The Senator from Virginia, as well as all the rest of us on the Committee on Armed Services, are becoming increasingly aware and, I think he would agree, somewhat alarmed at what this means in terms of this country's readiness.

We can debate new weapons systems, and B-1 bombers, and Trident submarines, and nuclear aircraft carriers all the time, but the Senator from Virginia, peculiarly, because of his background and service as a service secretary, understands what happens if we do not have experienced people to run those systems. Instead of being stronger, we are weaker.

I think those two changing circumstances—the instability in a key part of the world and the unprecedented abandonment of the services by key people—argue strongly for a decoupling at this time—if that, in fact, would be the effect of this amendment. I am not sure it is. It is argued by the sponsors that that is what we are doing here. I am not sure, as a factual matter, that that is what is occurring.

I think, finally, the civil servants of this country are concerned about national security. I think if you got as many representative civil servants as possible in this room and spelled out the diplomatic and military considerations, the national and international security considerations in the Middle East, and said one thing we can do right now to make this country more secure is to stem this tide of experienced personnel from the services, and that would mean increased military pay at some slight risk or jeopardy to comparability, the large majority of those civil servants would say, "Right on, do it."

Mr. WARNER. The President, may I bring to the attention of the Senator from Colorado that these changed circumstances, and I definitely agree they accentuate consideration in the Senate here today, came long after this measure was introduced by Mr. Armstrong, in the first instance, and cosponsored by the Senator from Hawaii.

Mr. MATSUNAGA. Will the Senator from Virginia yield for a question?

Mr. WARNER. Yes, but let us get the date when Senator Armstrong first brought it up.

Mr. ARMSTRONG. If the Senator will yield, I want to be sure whose time it is being charged to.

Mr. WARNER. It will be charged to myself and Senator Nunn.

Mr. ARMSTRONG. Mr. President, the first occasion that I brought this matter to the attention of the Senate was last March in the views I submitted accompanying the first concurrent budget resolution. It was a budgetary issue, so the question of pay cap was addressed to the budget.

Second, when the second budget resolution came out, I addressed it then. I addressed it the third time on the 21st of September, in a floor speech related to a bill the Senator from Georgia (Mr. Nunn) had brought forward, in which he sought to reimpose the draft. As all Senators know, then I brought it to the floor in connection with an appropriations bill, and now on H.R. 5168.

Mr. WARNER. I thank the Senator from Colorado. That refreshes my recollection. Those events all took place before the Iranian crisis, and that in Afghanistan, took place.

Mr. ARMSTRONG. While the Senator is correct that that amendment was first offered before these events occurred, many other similar events had occurred around the world and Senators in this Chamber, including the distinguished Senator from Virginia, had warned of the kind of slippage in our international position which has occurred. So, it is not as if Iran, and Afghanistan, and Cuba, and Africa were all completely unexpected. They are part of a pattern which has been going on for some years.

Mr. WARNER. Mr. President, had the other distinguished Senator from Colorado completed his response?

Mr. MATSUNAGA. Mr. President, the question which was put by the Senator from Virginia to the Senator from Colorado, the President, himself, in the budget he proposed for the next fiscal year, has recognized the need for the difference in the treatment of military personnel from civilian personnel, has he not? If the Senator will recall, the President proposed a 7.4-percentage-average military pay raise, while proposing a 6.2-percent pay raise for Federal personnel. Is that not true?

Mr. WARNER. It is correct. The President has submitted to the Senate a decoupling proposal, but the Senate has not yet passed on it, either in the committee or the Senate as a whole. Yet, should the proposal of Mr. Armstrong and the Senator from Hawaii be voted on favorably today by the Senate, it would establish a prejudicial precedent for decoupling, in my judgment, prior to full consideration by the Senate.

Mr. MATSUNAGA. I say to the Senator from Virginia that it is not a prejudicial decoupling, but an anticipatory decoupling, because the President himself has recommended a different treatment of military personnel and Federal civil service employees.

Mr. WARNER. Mr. President, with all due deference to the distinguished Senator from Hawaii, the President recommends many things to Congress that are not accepted. I am stressing the importance of this decoupling issue and the necessity for the Senate as a whole to address it and, indeed, the committee to address it before we pass on that issue. Yet the Senator's measure today forces, in my judgment——

Mr. MATSUNAGA. The point I am trying to make to the Senator from Virginia is that what the Armstrong-Matsunaga amendment proposes to do would be in keeping with what the President has proposed in the budget for the next fiscal year. That is the point I am trying to make.

Mr. WARNER. And the point I make is that the U.S. Senate, either through committee action or by the Senate as a whole, has not looked directly at this decoupling issue; and, therefore, it is unwise at this time to accept a measure which establishes a precedent.

Mr. President, are there others in the Chamber who wish to address the matter now pending? If not, I shall continue to address this issue on my time.

Frankly, Mr. President, I find myself in a difficult position in that I want very much to help the men and women in the armed services. Somehow I believe that, irrespective of the outcome today of this issue, the Senate, as a whole, will be on record as supporting additional compensation.

The most important thing is that we, as a body, take some action to send a signal to these courageous and patriotic individuals as a means to affirm our respect for what they are doing and as a means to provide some modicum of additional compensation.

These people—and I have witnessed it within the last 60 days on personal trips to military bases—these people are hurting financially and we cannot, and should not, expect them to continue. They do not have to stay in the Armed Forces and if we do not act very soon, regrettably, many will be forced to leave and, in the end, our Nation will be the loser.

It is imperative that we, the leadership, guide this decision, together with the leadership of the military. I have stated ever so clearly today that, based upon my own inquiry, together with participation in the Senate Armed Services Committee, it is clear that the leadership in the Pentagon—the Secretary of Defense, the Deputy, the Chairman of the Joint Chiefs of Staff—have indicated a preference for the Warner-Nunn approach.

Otherwise, serious damage to the career force and readiness will continue.

Our responsibility is to promptly act to reverse this continuing decline.

Mr. President, I yield to the distinguished Senator from Nebraska.

Mr. EXON. Mr. President, I rise to perhaps put in perspective what I think may be unintentional and misleading in some of the considerations we have here.

I heard such phrases as "stemming the tide." I heard discussion here in the last hour about the volunteer service against the special draft service.

I do not believe that is the point we are trying to address in the difference between the proposal offered by Mr. Armstrong and Mr. Matsunaga as opposed to the amendment that will be introduced by the Senator from Virginia and the Senator from Georgia.

Mr. President, I have not made up my mind as one Senator as to whether or not we need to return to a draft at this time.

I will support, Mr. President, if it is offered in this body, a return to registration for men—I emphasize "registration for men."

I happen to oppose the registration of women and, certainly, the draft of women, for many reasons, not the least of which is that I believe if we would ever get ourselves into a situation of drafting 50 women for every 50 men, we might find ourselves in a position of not knowing what to do and not having the proper role for those women drafted in place.

If, therefore, we suddenly find ourselves in an emergency, the fact of having to draft 50 women for every 50 men might cause more problems than it would solve as far as the national security interest of the United States is concerned.

I think we should not do this on the floor of the U.S. Senate because I suspect the Armed Services Committee has not made a decision on whether or not we should return to a draft.

Mr. President, I ask unanimous consent to have printed in the Record an article that was in yesterday's Washington Star entitled "GIs' Proficiency at Low Level, New Study Says," and I would like to have it printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I would like to quote the first paragraph:

> An unreleased Army study, probably the most comprehensive survey ever taken of the fighting quality of the all-volunteer Army, concludes that "the overall level of much Army training and proficiency may be low."

Later on in that same story:

> The survey directly contradicts many of the basic assumptions of the supposedly "professional" all-volunteer Army. The problem in the field, it states, is compounded by corporals and sergeants who know little more than the new privates they are supposed to train and by a high level of "turbulence," constant reassignments and other extraneous activities which cut sharply into available training time for combat units.

I happen to feel we have much better people in our armed services today than that report is giving credit to. But I do not feel, Mr. President, that the all volunteer service has been as excellent as some of the remarks on this floor would seem to indicate. To try to make that point, I have had that story from the Washington Star printed in the RECORD.

"Stem the tide," Mr. President. I do not really believe many of us on the floor of the U.S. Senate believe that a 3.5 percent increase will stem the tide of anything. Let us put that in perspective, if we can, Mr. President.

With just some rough calculations here, it is my understanding, if the Armstrong-Matsunaga amendment is finally adopted by the Senate and placed in force, and these are general figures, because I recognize that there are some caps in certain categories in the armed services, but, briefly speaking, if the Armstrong-Matsunaga measure is successful, it would mean that a two-star general, for example, would receive an increase in salary of about $148 a month; a buck sergeant would receive an increase of $29 a month; and a private, an increase of $22 a month.

I suggest, Mr. President, if that is the basis for anyone voting for the amendment offered by Senator ARMSTRONG and Senator MATSUNAGA, we are sending a pretty weak signal.

I think sincerely that was the thrust of the Armed Services Committee's in-depth review of these proposals.

We feel that the amendment that will be offered by the Senator from Virginia and the Senator from Georgia does more toward retention by taking approximately or a somewhat less sum of money than that which would be required to fund the amendment by the Senator from Colorado and the Senator from Hawaii, and taking that money and targeting it to do the most good as far as retention is concerned.

Therefore, I emphasize once again that I believe the more thoughtful, the proposal that would do the most amount of good now, is the one that is being offered by Senator NUNN and Senator WARNER, which should be known as the Armed Services Committee amendment and recommendation.

Mr. President, I thank the Chair and I thank the Senator from Georgia for yielding.

EXHIBIT 1

GI'S PROFICIENCY AT LOW LEVEL, NEW STUDY SAYS

(By John J. Fialka)

An unreleased Army study, probably the most comprehensive survey ever taken of the fighting quality of the all-volunteer Army, concludes that "the overall level of much Army training and proficiency may be low."

The study shows that, while Congress and the Pentagon are in the process of buying and fielding some $61 billion of supersophisticated new equipment, Army units in the field are having severe difficulty learning to maintain and accurately fire the tanks and air defense systems they have.

A major part of the problem, according to the 12-volume study—which cost $300,000 and took two years to complete—is that the intelligence level of many of the crew members manning tanks and air defense systems may be too low to operate them at the Army's standards for combat-ready performance.

The study, called the "Army Training Study," concludes that the crews are unable to remember or retain knowledge learned in basic training once they reach the field. "The only demographic variable significantly related to retention," the study adds, "was mental category."

The survey directly contradicts many of the basic assumptions of the supposedly "professional" all-volunteer Army. The problem in the field, it states, is compounded by corporals and sergeants who know little more than the new privates they are supposed to train and by a high level of "turbulence," constant reassignments and other extraneous activities which cut sharply into available training time for combat units.

The study was completed a year ago. It involved 35 tests involving thousands of soldiers in all 16 divisions of the active Army. After being reviewed by then-Army chief of staff Gen. Bernard Rogers, it was stamped "for official use only," a classification below secrecy levels that, nevertheless, prevents its public disclosure.

A copy of the complete study, obtained by The Washington Star, states: "Analysis across all respondents indicates one overriding conclusion—there has been little perceived change in the training environment since 1971. The environment is still seen as hostile to the conduct of 'good' training."

MANY FLUNKED TESTS

Some examples of the problems described in the survey:

Among a sample of 1,288 M60 tank crewmen studied, 28 percent of the tank gunners tested in the United States and 21 percent of the gunners tested on NATO duty in Germany "did not know where to aim when using battlesights." The M60 is the Army's main battle tank.

From their performance on the target range, the tank crews were found to average 40 to 50 percent below the level of skill required by Army standards for combat readiness. In one sample group of 52 tanks tested, all of them flunked the gunnery test.

Performance levels of tank crews sent from training schools into the field was "essentially flat." They did not improve their skills, partly because many sergeants "do not demonstrate the technical knowledge to accomplish their jobs and train their subordinates to a high standard of performance."

Test results of 666 tank repairmen showed that the chances that they would correctly diagnose a repair problem were somewhere between 15 and 33 percent. The chances that they would correctly repair the tank, once they found the problem, were between 33 and 58 percent.

Among the tank repair crews, many of the corporals and sergeants "do not appear to be any more proficient than lesser experienced individuals."

Because of lack of repair capability and without rapid replacement of disabled tanks, the number of tanks in a given unit could quickly descend to an "abysmally low level" in a combat situation.

A worldwide check of Army units using Redeye, a bazooka-like, shoulder-fired rocket which is one of the infantry's main air defense weapons, found "numerous problems" in all units, some of them so severe that the Redeye units were judged "not combat effective."

One of the major demographic changes between the all-volunteer Army, started in 1972, and its draftee predecessors is that the intelligence levels in the all-volunteer Army no longer reflects the spectrum of society as a whole.

LOWER ABILITY DEMONSTRATED

According to Army statistics, in 1972, 26 percent of the Army fell in mental category 3B, which includes people falling in the 30th to the 50th percentile on national intelligence tests. In 1977, when the Army Training Study began, 49 percent of the Army fell in that category. Although there are no statistics yet available for 1979, it is probable that the category has grown larger because the percentage of high school graduates among recruits has dropped sharply.

The change is of major importance, according to the study, because researchers found a direct relationship between the intelligence level of the soldier firing the Redeye or the M60 gun and the possibility that he might hit an enemy target.

Recruits in category 3B showed a markedly lower ability to read maps, remember complex firing sequences and recognize enemy targets, all of which are key to the performance of the Redeye and the M60. In one group of Redeye gunners tested, for example, soldiers in higher mental categories were deemed twice as likely to properly identify and hit an enemy aircraft as those in category 3B.

Army researchers watching the Redeye gunners found "a high percentage" were from mental category 3B. Their study concludes that, for purposes of "combat effectiveness," the Army should eliminate 3B personnel from the Redeye program. A similar correlation between intelligence and performance was found in tank crews, which were also found to be largely drawn from the 3B category.

An Army spokesman, asked by a reporter to comment on the study, said it was never released because Gen. Rogers never gave it the necessary approval to become "an official Army document." Nevertheless, the Army admits it is the chief source of material behind an Army-wide revolution in training and how training is measured.

Lt. Col. Russell Simonetta, who is heading the reform effort for the Army's deputy chief of staff for operations, said the Army does not agree or necessarily disagree with the study's findings. A world-wide training verification system being set up for the Army, a sort of giant, computerized report card for how Army units perform, will be able to verify unit performance and readiness levels, but that won't be ready until 1983, he said.

There are a few indicators outside of the study, however, that show that its findings may not be wide of the mark. In NATO contests between Army Redeye and tank units and units of other countries, the gunners of the all-volunteer Army have been somewhat less than impressive.

TRAINING BUDGET CUT

In a 1977 competition in Germany sponsored by the Canadian Army, for example, U.S. Army tankers came in dead last competing with Canadian, German, Belgian, British and Dutch units. Asked about the problem later in a Senate hearing, Secretary of Defense Harold Brown said: "I think it probably says less about readiness than it does about the ability of some individually picked crews."

Simonetta said the Army Training Study was undertaken after Congress cut the Army's training budget. Originally it was intended to measure training "across the board," he explained, but because that proved to be too large a task, in February 1978 researchers decided to focus on "a few weapons systems of immediate concern."

One of the ideas, he said, was to develop a computer model of an average battalion that would show the most efficient ways to spend training money.

Another goal of the study was to develop a way to keep track of on-the-job training in the field. To that end, each Army brigade will soon have a new, $15,000 computer to keep track of unit efficiency.

"We're trying to get the whole Army training in exactly the same way," said Simonetta. Until recently he said, training and training styles have been left up to the individual commander.

Another major approach being taken by the Army to the training problem is to design around it. The classic example is the new $1.4 million XM1 battle tank, the successor to the M60 and one of the most costly, complex and powerful pieces of war machinery ever fielded.

Col. Frank Day, who is developing a massive Army training program for the new tank, said the mechanics who work on it will be given special new test equipment, hand-held microprocessors, which plug into the disabled tank and give an automatic, electronic diagnosis of its problems.

As for firing the main gun, the aiming mechanism has been totally computerized. "Within five minutes," says Col. Day, "I could teach my mother to hit a target at 2,000 meters with the first trigger pull."

Mr. STENNIS. Mr. President, will the Senator yield just 3 minutes?

Mr. WARNER. Yes. I yield to the distinguished Senator.

Mr. STENNIS. Mr. President, I have stated this already, but historically, the point here about the comparability pay between the civilian employees and the people in military uniform, was a bone of contention here for a long time. It was debated year after year, then held in abeyance a while, and then it would come back.

I remember how well satisfied all were, all of these employees, that there was comparibility now. It was considered an achievement for the civilians and the military. One point was that, frankly, that would combine the power and push together for increases, which is part of our system, and I am not complaining about that.

But I use it as background to point this out, that just as certain as night follows day, if we pass the Armstrong amendment we are just ringing the bells of the civilian people and saying, "Come on, knock on the door, let us hear from you by mail, by air mail, every way, and get your organization together," because there will be a demand that will have some validity and some practical purposes. It will be a very effective weapon.

We will be confronted with—the best estimate I get is $1.5 billion for that purpose—$1.5 billion for a comparable increase for the civilian employees. That, added to the cost of the Armstrong amendment, which is most of the money it takes, would run it to well over $2 billion per year without any problem being solved.

That is the main point. If we are really going to dig deep and get the reason and comparison and make adjustments, according to the rules of proper consideration and comparability, instead of creating an upheaval here. If we really want to do the fair and just thing, we are going to have to have those hearings I have already mentioned. This is not an effort to put this matter off.

I believe in getting them solved, if possible, and getting rid of them one way or another, doing something about them. We might as well get ready. We had better fasten our seatbelts and put on our helmets, because we certainly are going to have trouble along this line. I want the Senator from Colorado to be on my side when it comes.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, in a moment I will yield to the Senator from Oklahoma.

I tell the distinguished chairman of the Armed Services Committee that I always am going to be on his side, whether we agree on the pending amendment, or any particular amendment, or not. I always will be on his side.

I note with pleasure that the Senator from Oklahoma (Mr. BELLMON) has come to the floor, and I am pleased to yield him 5 minutes.

Mr. BELLMON. I thank the Senator from Colorado.

Mr. President, I strongly support the Armstrong-Matsunaga amendment. As one of the original backers of the volunteer concept, I am embarrassed and ashamed to realize how far Congress has allowed that basic premise to erode.

The idea behind the volunteer service was that pay and allowances in the military would be made and kept comparable to earnings in the private sector so that those who chose careers in the military service of their country would not do so at severe economic sacrifice.

In our zeal to hold down the Federal deficit in the fight against inflation, we have, unwisely, I now believe, chosen to place one pay cap after another upon military salaries. The result has been that over the last 8 years, military pay has fallen behind the rate of inflation by 20 to 24 percent. What this means is that a young person who chooses a military career does so with the full knowledge that the income received will be roughly one-fourth less than that of peers who take jobs in the private sector.

Mr. President, this is a complete violation of the volunteer concept. When those who now wish to go back to conscription point to the difficulty the military is having in recruiting needed personnel, they fail to take this serious income discrepancy into account.

Mr. President, I still believe that defense of our country is important enough that the citizens of the United States are willing to pay members of our military service salaries comparable to those in the private sector. I further believe that it is a serious abuse of the Government's police power to force young people into the military against their will during peacetime.

In addition, I seriously doubt that the manpower needs of our defense can be satisfactorily met through military conscription. As a marine veteran of World War II, I cannot imagine the difficulties unit commanders have in building effective combat units from draftees who are in uniform against their will and who have circled the calendar in red showing the date of their release from active duty and who have utterly no interest in making a career in the military.

The needs of a modern defense force for trained, skilled, technologically competent, highly motivated manpower is far greater now than it was in World War II. In my opinion there is no way those needs can be met in peacetime through conscription. While it is true in the short run that manpower will cost more if the volunteer concept is followed, it is equally true that in the long run costs will be less and proficiency will be higher if the services can succeed in attracting the number and the quality of personnel our defense requires through the volunteer concept.

Since the Russian invasion of Afghanistan a kind of war psychosis seems to have sprung up in our country. There is danger that this feeling may shade the decisions this body will make in ways that are temporarily appealing but which are devastating to our future strength and stability. I am fearful that conscription may prove to be one of these decisions.

It is for this reason that I am determined to help make the volunteer concept work. I feel an important first step is to begin to repair the damage which our past decisions have caused to the military pay structure. It is for that reason that I am supporting the Armstrong-Matsunaga amendment and intend to support other efforts to bring military pay comparability at least to where it was when the volunteer concept was adopted.

In supporting this amendment, I am fully aware that we are imposing additional pressure on a defense spending ceiling already seriously threatened by supplementals and inflation. However, I note that there are at least two ways to compensate for the $0.5 billion estimated cost of the Armstrong amendment. The administration assumes no absorption of the $2.9 billion pay raise supplemental requested by the President. If Congress requires 25 percent absorption, there is an approximately $0.7 billion savings which would offset the cost of the Armstrong amendment.

Alternatively, the Congress could continue to refuse the DOD the $0.8 billion which is now being requested as a supplemental. In supporting either the Nunn or the Armstrong pay amendments, I caution the Senate to appreciate the budget implications of such a decision. This increase, however worthy, will require compensating budget discipline in order to maintain the viability of the defense spending ceiling. I trust that all Senators will join later in insuring this discipline.

So I am happy to join the Senator from Colorado in his amendment, and I thank him for yielding me this time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I direct a question to the distinguished Senator from Oklahoma.

During the course of the deliberations by the Senate Armed Services Committee, the thought of increasing the pay was viewed in the context of the question of whether or not pay should be decoupled for the military from the civilian. Many of us felt that it was such an important issue that it should be considered separately by the appropriate committee of the Senate and then debated by the Senate as a whole.

If the Armstrong proposal were to be voted upon favorably by the Senate today, we would have established a prejudicial precedent to the effect that the Senate has indicated that it is on record that civilian and military pay should be decoupled.

Will the distinguished Senator from Oklahoma address that issue?

Mr. BELLMON. Mr. President, if the Senator will yield me a couple of minutes, I will do my best to respond.

Mr. NUNN. Mr. President, if the Senator could get some time from the other side, it would help. We are running short on our time.

Senator MATSUNAGA has permission, under the unanimous-consent agreement, to yield time.

Mr. MATSUNAGA. The Senator from Colorado is in the Chamber.

Mr. BELLMON. Mr. President, do I have time remaining from the 5 minutes I had?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ARMSTRONG. I yield the Senator from Oklahoma 1 additional minute.

Mr. BELLMON. Mr. President, I readily agree that there should be no coupling of military pay raises and civilian pay raises.

The fact is that in the civilian Government services, pay increases come in various ways. There are cost-of-living increases. There are step increases or merit increases. I think one will find that in the civilian civil service, pay has kept up more with inflation than is true in the military.

In addition, so far as I can tell, and based on the number of applications our office receives for Government jobs, there is no problem recruiting people for civilian Government service.

Therefore, I feel that we should look where the needs are, and the needs obviously are in the military, because we are not able to get the personnel we need for the defense of our country.

Mr. WARNER. The Senator is quite correct in his observation about meeting needs. But the Secretary of Defense, the Deputy Secretary, the Chairman of the Joint Chiefs, and the service chiefs all say that dollars—whatever dollars we can make available—are needed to help the career force, to stop this flow of persons from the career force.

It was for that reason that the Senate Armed Services Committee, in its wisdom, and with its knowledge based on how to help this career situation, decided between the alternatives, favoring the Nunn-Warner approach, as opposed to the Armstrong approach, thereby avoiding a prejudicial precedent with respect to the decoupling of civilian and military pay.

Mr. NUNN. Mr. President, if the Senator from Maine desires the floor, I will be glad to yield him 15 minutes on the bill.

Mr. MUSKIE. I will need only 5 minutes.

Mr. NUNN. I yield the Senator from Maine 5 minutes on the bill.

Mr. MUSKIE. Mr. President, I make it clear at the outset that, on strictly budget grounds, I will vote against whichever of the two proposals survives in the preliminary voting.

I will start my discussion of the pending measures by giving a preliminary status report on the fiscal year 1980 budget situation which I would like to share with the Senate.

I emphasize that this is a preliminary report. Congress has yet to act on the major spring supplemental appropriation bill, and the Congressional Budget Office has not yet completed its reestimate of the budget totals taking account of the latest economic forecast and the new technical program information in the President's budget. Thus the numbers could change somewhat.

But the basic message is clear, and whatever uncertainties there are in the numbers will not change it: The spending totals may well exceed the second budget resolution ceilings by large amounts.

Taking account of Senate action to date, possible supplementals, and the CBO reestimate now underway, budget authority could be as high as $649 billion, or $11 billion above the second budget resolution ceiling. Outlays could be as high as $565 billion, or $17 billion above the resolution. These estimates do not include proposals the Senate is considering at this time.

The estimate of revenues is dependent on the outcome of the windfall profit tax legislation now in conference. But there seems little prospect that revenues will rise above $518 billion, which is about the level of the second budget resolution.

Thus the deficit could be as high as $47 billion, or $17 billion above the second budget resolution.

Mr. President, with a deficit of that level facing us—if there is only one Senator who votes against any additional spending proposals that add to that deficit level—it must be the Senator from Maine as chairman of the Budget Committee. I do not know how else I can make the point, that however urgent a particular proposal may be which the Senate is considering, the urgency of budget discipline must be emphasized and the urgency of holding the deficit down must be emphasized. Both of the proposals now before us will add to that deficit in this fiscal year, one to a greater extent than the other, as I will soon point out. Both of them will add to that deficit, and we are already talking about a possible $17 billion increase in the deficit since the second budget resolution was approved last fall.

Mr. President, I ask unanimous consent to print at this point in the RECORD a table showing these amounts.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1980 BUDGET

[In billions of dollars]

	Second budget resolution	Preliminary status report	Difference
Budget authority	638.0	649	+11.0
Outlays	547.6	565	+17.4
Revenues	517.8	518	+.2
Deficit	29.8	47	+17.2

Mr. MUSKIE. Mr. President, this is not a pleasant picture, and the possible spending overages should give each Senator cause for concern. We will need to assess carefully each supplemental request that comes before us to see if it is urgently needed or indeed if it is required at all. We will also need to take a hard look at amounts we have already enacted to see if possible savings through rescission can be made.

Through such efforts, we may be able to hold the spending totals to lesser amounts than I have cited. We must leave no stone unturned in our efforts to hold the budget to the minimum possible levels consistent with meeting high priority national needs. Thus far we have achieved very few of the savings mandated first by the Senate and then assumed by the entire Congress in the second budget resolution. Faced with the new status information, let us now see if we can do better.

Mr. President, I ask unanimous consent to print in the RECORD at this point a table showing the major elements of the spending totals as we now see them.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1980 SPENDING TOTALS

[In billions of dollars]

	Budget authority	Outlays
Amount already enacted or passed by the Senate	627	541.0
Possible supplementals	16	13.0
CBO re-estimate (preliminary)[1]	6	11.0
Total	649	565.0
Second budget resolution	638	547.6
Possible overage	11.0	17.4

[1] When CBO completes its re-estimate exercise, these amounts will be incorporated into the above 2 lines on this table.

Mr. MUSKIE. Mr. President, may I remind the Senate of three votes in the last 10 days, where we faced the question of achieving savings and we refused to achieve them or we refused to make cuts when we had the chance. The last of these opportunities was on disability legislation that came out of the Finance Committee. We were committed to make savings on disability legislation in the first and second budget resolutions, and yet this Senate overwhelmingly rejected those savings. We wiped them out, and increased the cost above the budget on legislation which was designed to achieve savings.

Mr. President, I recognize that there is need to improve the enlistment and reenlistment rates in our Armed Forces.

I do not have to remind my colleagues that this recognition comes at a time when world tension—both economic and military—is increasing.

I agree that action must be taken to minimize our manpower problems. There are two basic questions that must be asked as we reach a decision on this issue.

The first question is, Does the proposed solution resolve the issues that create the retention problem?

The second is, Can we afford it?

Regarding the first question, two basic solutions have been suggested. One is Senator Armstrong's proposal that provides an across-the-board pay raise of 3.4 percent for military personnel. The other solution is offered by Senators Nunn and Warner and it provides pay raises aimed at selective ranks where retention is a significant problem. The Nunn proposal also provides incentives such as bonus pay for critical skills and increased allowances to meet rising housing costs and increased change-of-station moving costs.

The Nunn proposal costs approximately $500 million in budget authority and outlays. The Armstrong proposal costs over $600 million and this could rise to an even higher figure as I will discuss shortly.

In examining the merits of these proposals, I think there are clear advantages to the Nunn approach compared to the Armstrong approach, although further study might improve even that approach.

The Nunn proposal is targeted to specific military manpower problems—the problems of a fair standard of pay for middle level enlisted and officer personnel who manage the forces and equipment in the field. It does this by basic pay or bonuses. This proposal goes one step further and addresses military housing problems in high-cost areas and it would bring moving allowances of the military up to Federal civilian levels.

The Armstrong proposal provides an across-the-board pay raise. In my opinion, it does not address the real problems of military personnel. It mainly pays more money to the highest officer levels. I ask unanimous consent that a table displaying that be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—MONTHLY BASIC PAY AT 7-PERCENT PAY RAISE VERSUS 10.4-PERCENT PAY RAISE PROPOSAL—FOR SELECTED RANKS AND VARIOUS YEARS OF SERVICE

	Monthly basic pay		Difference in monthly basic pay
	7-percent pay raise	10.4-percent pay raise	
O-8 (major general/22 yr)	$3,946.20	$4,071.00	$124.80
O-6 (colonel/18 yr)	2,571.60	2,653.20	81.60
O-5 (lieutenant colonel/14 yr)	2,029.50	2,093.70	64.20
O-4 (major/10 yr)	1,736.10	1,791.00	54.90
O-2 (1st lieutenant/4 yr)	1,293.00	1,333.80	40.80
O-1 (2d lieutenant/2 yr)	827.40	853.50	26.10
E-9 (10 yr)	1,265.40	1,305.30	39.90
E-7 (sergeant 1st class/6 yr)	888.30	916.50	28.20
E-4 (4 yr)	651.00	671.70	20.70
E-3 (private 1st class/3 yr)	570.30	588.30	18.00
E-2 (2 yr)	500.10	516.00	15.90
E-1 (private/2 yr)	448.80	463.20	14.40

Note: (1) Totals represent basic pay only and do not include amounts for monthly housing and subsistence allowances. (2) Source: Office of the Secretary of Defense.

Mr. MUSKIE. Mr. President, for instance, under the Armstrong proposal, a major general would receive an additional $125 a month. But a sergeant first class would receive only $28 a month. Now, how does such inequality resolve retention problems?

A further problem with the Armstrong across-the-board proposal is that it opens the door to claims for equality in pay for the total Federal civilian workforce. This is its hidden cost. If a 3.4-percent pay raise is extended to all civilian employees of the Department of Defense, the cost of the Armstrong proposal rises from $600 million to $1 billion. If it is extended to all Federal civilian employees, the cost of the Armstrong proposal goes to $1.5 billion. The targeting provisions of the Nunn proposal minimize the likelihood that this would happen.

Turning to the question of affordability, regardless of which approach seems reasonable for solving the problem, the fact is that either of these pay proposals, plus all other possible later requirements in the function, would likely breach the functional ceilings in the fiscal year 1980 second budget resolution. And there are no savings elsewhere that we can count on to hold the aggregate budget ceilings to the second budget resolution levels. Indeed, there are pressures on the rest of the budget that are as great as in the national defense category.

So, Mr. President, I find myself in a real predicament. Military manpower problems are real. They are significant. They are a No. 1 defense priority. But, the budget situation is critical. We cannot ignore it. I, as chairman of the Budget Committee, especially cannot ignore it.

Mr. President, we must determine our priorities among all the remaining potential items in the national defense function. Some are required. Others may not be—at least to the extent of the request by the President. I ask unanimous consent that a table showing the current status of the national defense function with a listing of all possible later requirements, including the impact of the Nunn and Armstrong proposals, be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

Function 050: National defense

[In billions of dollars]

	BA	O
Current status	137.3	126.8
Mandatory supplementals:		
Pay supplemental	2.8	2.8
Retired pay	0.2	0.2
Total	140.3	129.6
Second concurrent resolution total	141.2	129.9
Under second concurrent resolution	−.9	−.3
Possible discretionary supplementals:		
Program supplemental	.8	.7
Manpower and other	.4	.2
Nunn proposal	.5	.5
Armstrong proposal	1.0	1.0

Mr. MUSKIE. Mr. President, the Armstrong proposal costs twice as much as that of Nunn. I do not believe it can be absorbed within the function when examining all requirements.

Further, Mr. President, after an evaluation of all aspects of both the Nunn and Armstrong proposals, I find I cannot support either one, except that I will support Nunn in preference to Armstrong. Due to the pressures that the proposals create on the spending levels of the national defense function, and in view of the overall budget situation confronting us, the Senate should reject the proposals in order to maintain budget integrity.

Mr. President, I must state that Senators Nunn and Warner have approached the manpower problem with reason. They have targeted a solution toward a very serious problem. I am hopeful the fiscal year 1981 defense budget will alleviate the serious problems of retention that face our Armed Forces. To achieve this goal, I hope that the Department of Defense will submit recommendations to the appropriate congressional committees in order to achieve such a result in the event that the Senate does not approve one of these proposals this afternoon.

But today, Mr. President, the No. 1 problem of the Nation is our economy. The situation is critical. The budget cannot absorb excessive spending proposals at this point.

So, for those reasons, principally on a budget basis, I will oppose final passage of either of these propositions, although I will vote for Nunn in preference to the Armstrong proposal. I will vote for Nunn/Warner because I think they have targeted a solution to the growing crisis in our military forces, and because the potential budgetary impact is substantially less.

Mr. NUNN. Mr. President, I yield myself 2 minutes on the bill to ask a question but, first, I want to say I thank my colleague for making the budgetary impact most apparent.

The $17.5 billion we may be over the budget and the budget resolution, has the Senator got any broad categories where that $17.5 billion in overages is?

Mr. MUSKIE. Yes. I can identify the specific causes of the overage.

The $17 billion is comprised of Senate action to date, possible supplementals and budget reestimates by the CBO. I repeat an earlier comment. The Nunn/Armstrong proposals are not included in the $17 billion, so, Members supporting Nunn are adding $500 million to the deficit—while Armstrong would add up to $1.5 billion to the deficit. Let me provide examples of the reestimates. These include items such as the cost of interest on the public debt and reestimates based on the grain embargo, and other similar factors. These items may vary. They may turn out less than I have assumed in the $17 billion figure, but I thought I had better get the outside dimensions of the problems facing us.

Now, with respect to the supplementals, the $17 billion assumes $2.8 billion or the full cost of military and DOD civilian pay raises. This total could be adjusted downward by the Appropriations Committee assuming absorption of the pay raise to some extent. But, as the Senator knows, absorption of the pay raise usually hits O. & M. and that is a particularly sensitive area right now.

In addition, the program supplemental of $800 million recently submitted by the President is assumed in those totals. The Appropriations Committee may well find it possible to reduce that item. So there is some possibility of reducing the $17 billion. But, I doubt that there is a possibility of reducing it by more than $3 billion—assuming the most optimistic estimates on the cost of the grain embargo and the most optimistic estimates of reducing some of the forthcoming military supplementals.

Mr. NUNN. I thank the Senator, and I yield the floor.

Mr. SCHMITT. Mr. President, will the Senator from Colorado yield 3 minutes to the Senator from New Mexico?

Mr. ARMSTRONG. I would be happy to do that since the pending amendment is an amendment to the amendment of the Senator from New Mexico.

Mr. SCHMITT. Mr. President, while I support and am a cosponsor of the amendment by the distinguished Senator from Colorado (Mr. ARMSTRONG), and also of the distinguished Senator from Hawaii (Mr. MATSUNAGA), I am sorry to find that the Senator from Colorado found it necessary to offer his amendment to my amendment dealing with international telecommunications conferences. This Senator, however, must be sympathetic to the desire of the Senator from Colorado to have an up or down vote on his amendment. During my time in the Senate I have also faced the problem of having a vote on an amendment the majority seemed to be in favor of, rather than a substitute which prevents consideration of that amendment.

Since the Armstrong-Matsunaga amendment is before us, we must decide this issue and, therefore, I will speak to the amendment. Hopefully, the issue can be resolved to the satisfaction of the majority of this body.

Mr. President, there is an increased discussion about the readiness of our military forces and the ability of the United States to quickly supplement our Active Forces in the event of an emergency, and to have forces adequate to back up foreign policy initiatives that have been made either, by the administration, or by the Congress and the administration acting jointly. The President has called for reinstitution of draft registration, a proposal which we have already debated on numerous occasions in this body, and I am sure we will debate again.

There may be a good reason to reinstitute draft registration, but we would be deluding ourselves if we believe this proposal would somehow alter the present situation during a crisis. What it would do would be to speed up the drafting of individuals for military service, not, I am afraid, as great as is often attributed to it. The time frame in which this could be accomplished would still be long, estimated at 3 to 4 months if you look at the registration of a large number of individuals rather than beginning the draft as soon as there was an adequate pool of registrants available. Obviously, this is still insufficient for coping with an immediate crisis of the kind we could expect to arise at any time.

The answer to our readiness problem is to make our active military more attractive to our young people, and especially to those already in the military or who have recently served. The amendment before us would accomplish this to some degree, and Senators Armstrong and Matsunaga must be commended for their leadership in this area of military pay.

In addition, Mr. President, we must make our Reserves and National Guard more attractive to those leaving active service and to other individuals who should serve. The combination of active forces on a volunteer basis and a Ready Reserve and National Guard must be our first line of defense in any emergency situation that requires rapid mobilization to meet an existing threat.

In the Washington Post of Sunday, February 3, 1980, Martin Anderson of the Hoover Institute at Stanford University addressed this very issue. I ask unanimous consent, Mr. President, that the article by Mr. Anderson be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUILD UP THE RESERVES, NOT REGISTRATION LISTS: WE DON'T NEED MILLIONS OF UNTRAINED DRAFTEES, AND THE RUSSIANS KNOW IT

(By Martin Anderson)

President Carter's call to "begin registration" for the military draft was obviously a part of his effort to send the Soviets a message about our concern for their naked aggression in Afghanistan. But in this case he is sending Moscow the wrong message.

Carter is right in his belated recognition of the potential military threat that the Soviet Union poses to world peace and to our own security. But taking down the names and addresses of the young people of America under the threat of five years in jail or a $10,000 fine is a weak and possibly dangerous response.

What the Soviets would understand is a clear, effective move to strengthen the combat capability of the armed forces of the United States. Registration does not do this. Rather, if enacted, it could easily lull us into a truly dangerous state of complacency.

If there ever was a sudden threat to our national security, any form of a military draft would be virtually worthless. Even with the names and addresses of young men and young women neatly typed on computer printouts, it would take at least three to four months to contact them, induct them and hastily train them—if the training facilities were ready. Without advance registration, it would take a few weeks longer. The end result—with or without registration—would be hundreds of thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the armed forces many months too late.

As the Defense Manpower Commission noted in its report to the president and the Congress on April 19, 1976: "The changing nature of war and its technology will not allow for any lengthy period of time for national mobilization for a major conflict. Thus, the national security relies on the ability to mobilize our reserve forces from a peacetime 'citizen soldiers' status to a combat-ready status in a relatively short time."

What is vital to our national security is a large, well-trained reserve force, one that is really ready, one that can be called into service in a matter of days in case of an emergency.

Registration for the draft would not do this, but it will do something else. The conventional wisdom that seems to be held by many in the upper ranks of government, the acedemic world and the media is that our all-volunteer force has problems, especially in the reserves, and that the military draft will solve them. Half of that wisdom is true. We have severe problems, particularly in the reserves. We should have 1 million men and women in the active reserves; we have about 800,000. There should be 700,000 members of the Individual Ready Reserve; we have about 200,000. But the draft, or its advance proxy, registration, will not solve these deficiencies in a timely or sensible fashion.

As Richard Danzig, the principal deputy assistant secretary of defense for manpower, reserve affairs and logistics, stated a few weeks ago, "although, if constantly updated, peacetime registration would give us a ready list of people that we could call instantly in an emergency, I think our capacity to call them would exceed our ability to begin training . . . we would not be able to accept draftees within the first weeks of an emergency mobilization."

The danger is that so many people sincerely believe that our military manpower problems can be solved by the draft. If registration is enacted, they will view this as leading directly to the reinstitution of the draft, sigh contentedly and turn their efforts and talents to solving other problems. The passage of a draft registration law will only give a false sense of security to our people and to many of our political leaders. It will be used as a reason by some, and as an excuse by others, for not taking the hard steps that will strengthen our reserve forces to the point where they can effectively back up our active forces.

It will also give a false signal to the Soviets. The political-military leadership of the Soviet Union understands and respects military power. They are fully capable of distinguishing between the military capability of computer lists as potential additions of young, inexperienced draftees and that of a significantly strengthened reserve force. They will view registration more as a stamping of our feet than as a shouldering of arms. And they will act accordingly.

What we should do is:

Immediately bring our active forces up to full combat capability. While our active forces are very close to their targeted manpower levels, the quality of their weapons and other equipment—including tanks, planes and ships—often falls far short of the military needs of the 1980.

Announce that from now on the reserves are serious business, not a paid routine gambol. Anyone staying in the reserves or the National Guard should fully realize that in the event of a military threat to this country they will be called first to supplement our active forces. And that they will be called regardless of whether they are married, have children or know a congressman.

Arm the reserves and National Guard with modern weaponry and other equipment that is fully comparable to what the active forces will have.

Take steps to encourage more people to join the reserves and, for those already serving, to reenlist. These steps should include improved recruiting efforts, competitive levels of pay, reenlistment bonuses and improved management of our current reserve forces. For example, current planning in the Department of Defense assumes that only 70 percent of the Individual Ready Reserve would show up if we mobilize. This percentage could be increased significantly if assignments were made in advance and addresses were kept current. Some of these relatively simple measures are now beginning to be taken, but there is still vast room for improvement.

Institute an effective program of lateral entry into the armed forces so that more mature men and women, from their late 20s through their 40s, and in special cases, up to 65, can enlist for a period of time—both in the active forces and the reserve forces. This could provide the armed forces with a potential pool of talented people that could be utilized in many positions, and could reduce their almost total reliance on people coming up through the ranks. Further, it is the one effective way to ensure that the upper ranks of the military do not become isolated from the rest of our society.

And, finally, the president of the United States should address the Nation and explain clearly and comprehensively exactly why he feels that the Soviet invasion of Afghanistan is such a threat to world peace and the United States. The history of this country's response to a call to arms shows that Americans have always turned out in overwhelming numbers when they felt their country was threatened and they believed that our cause was just. There is no evidence to suggest that this would not also be the case today. If the only way we can induce our citizens to participate in the defense of this country is to threaten them with five years in jail or a stiff fine, then our leadership has failed to convince them of the seriousness of the situation and the validity of the course of action proposed to deal with it.

Enactment of the draft registration law would diminish our national security by increasing the chances that our reserve forces will be left in limbo, at a time when we need to strengthen them the most. It would in time lead to a new military draft, one that would almost certainly include women. And it would call into question the commitment this Nation made almost a decade ago when we decided to raise an armed force in a manner consistent with the principles of freedom on which this country was founded.

If we really wish to respond to the Soviet move in Afghanistan, let us do it directly by arming and training a combat-ready active and reserve force that is second to none. Let's forget about making lists.

Mr. SCHMITT. This article by Mr. Anderson entitled "Build Up the Reserves, Not Registration Lists" was an article appearing in the Washington Post of yesterday.

Mr. President, this Nation must realize what the real threats are, what the time scale of those threats is, and what the actual status of our Armed Forces is becoming.

I just recently completed a tour of defense installations in the State of New Mexico, of which there are many, and the common theme was that our qualified noncommissioner officers and officers, as well as many enlisted men, of great capability are leaving the service for private-sector jobs.

We must reverse this trend if we are going to have any credibility in the world at all.

I thank the Senator again for yielding to me.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I thank the Senator from New Mexico for his contribution to the debate on the merits of my proposal and his understanding, and I thank him for his patience in understanding, why I found it necessary to offer this amendment as a substitute to his amendment.

It gives me great pleasure at this time to yield 5 minutes to the distinguished Senator from Oregon (Mr. HATFIELD).

Mr. HATFIELD. Mr. President, I thank the Senator.

I rise to support the amendment of the Senator from Colorado (Mr. ARMSTRONG) and the Senator from Hawaii (Mr. MATSUNAGA) as I did last fall. I think it is very interesting that we find ourselves in a situation here today about which I would like to make a few observations.

I make no effort to hide the fact that I consider the draft an odious form of involuntary servitude that is not in keeping with the American system. It is more characteristic of the totalitarian systems of Europe. That idea was addressed very vividly by the late Senator Robert A. Taft, of Ohio, a high apostle of conservatism not some left-wing radical liberal that might not surprise anyone.

But I am deeply concerned about the fact that we have today in our military service let the base pay fall to 83 percent of the minimum wage with the result that over 100,000 families in the military service qualify for food stamps.

Mr. President, I think it is very peculiar that those who profess to be the great spokesmen for the military establishment here in the Senate should make the effort to block even a vote on this issue. As one who opposes the draft, I know very well what the posture of some of our good colleagues is concerning that issue. If not perhaps intended, at least this effort to block the Armstrong-Matsunaga vote on raising the pay to a tolerable and commensurate rate level to civilian employment, does provide us with a further effort to destroy and to sabotage and undermine the all-volunteer service. If the volunteer service collapses, then the only thing left to us is a form of involuntary servitude known as the draft.

I think, therefore, that if we are professing our needs for military escalation in this day, we ought to start with the proposition that those who are called into military service, or who are on a voluntary basis serving our country, should not be required to further than risk their life; namely, to subsidize their own service to this Nation in uniform. I think it is a disgraceful situation that we have let this military establishment fall into.

I have supported every effort to strengthen the Reserves of this Nation. I have supported every effort to give a competitive status for the volunteer service, because not only do I believe in the volunteer service, but I believe its ultimate success depends upon whether or not we are going to be coerced into restoring this alien European system of manpower recruitment.

So I rise with great enthusiasm, again, to put a further brick into the foundation of a good, solid military service to this Nation, to defend this Nation, and to support a voluntary service that has to be undergirded with an adequate pay scale.

I might also say that some of these experiences in the Navy of losing an unprecedented number of people—and the Air Force and the Army—can be attributed directly to the lack of pay scale.

Now, this cosmetic approach that we have seen thrown up as sort of sand in the eye, dust in the air, to try to offset and throw off track the very basic thing we need—a military pay increase—is not going to suffice. It is not the answer. The answer is the Armstrong-Matsunaga approach, which I am proud to cosponsor.

The PRESIDING OFFICER. Who yields time?

Mr. MATSUNAGA. Will the Senator from Oregon yield whatever time he has left? Did the Senator use all of his time?

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. ARMSTRONG. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. ARMSTRONG. Mr. President, I understand that I have 12 minutes remaining. I have two other Senators I would like to recognize before the afternoon is over. But I would like to yield at this time 5 of my remaining 12 minutes to the distinguished Senator from Hawaii (Mr. MATSUNAGA), the cosponsor of this amendment.

Mr. MATSUNAGA. Mr. President, first, I commend the Senator from Oregon (Mr. HATFIELD) for his strong support for the Armstrong-Matsunaga amendment. He has long been a champion against the reinstatement of the draft. And, as he has so well stated, the defeat of the Armstrong-Matsunaga amendment is a first step toward reinstatement of the draft.

I support the proposition that we ought not to have a peacetime draft, because of the great inequities involved, the proven inequities, as it was practiced in the past. Reinstate the draft and you will find a division among our youth, as we found in the 1960's.

Today, with the All-Volunteer Force, we do not have the "avoid the draft" emigration to Canada or to other nations.

The defeat of the Armstrong-Matsunaga amendment will mean, as I said, the first step toward reinstatement of the draft.

For that reason, we ought to support and vote for the Armstrong-Matsunaga amendment and defeat the substitute Warner-Nunn amendment, which will be offered.

I reserve the remainder of my time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. SARBANES). The Chair recognizes the Senator from Virginia.

Mr. WARNER. Mr. President, with due respect to my colleagues and the sponsors of the Armstrong-Matsunaga proposal, we are now bringing the Senate into a debate on the draft. I just do not believe that either piece of legislation provides a basis for this type of debate.

I remind my distinguished colleagues that the Secretary of Defense, the chairman of the Joint Chiefs, the service chiefs, none of them have come forward to say, "Let's bring back the draft." But these are the very managers of these young men and women in the Armed Forces who come and tell you that, unless they get the type of relief provided by the Warner-Nunn amendment, they are going to lose the career force, the petty officers, the senior enlisted men, and the junior officers who have to work with the young people coming in through the All-Voluntary Force today.

So let us not take this debate and characterize it as those in favor of the draft and those opposed to the draft. We are reaching for a means, with the few dollars available, to stem the flow of the career forces of the U.S. military.

Mr. NUNN. Mr. President, I agree with the Senator from Virginia. There are all sorts of arguments you can make on the floor of the Senate. And we often exaggerate. All of us are guilty of that, from time to time. But to categorize a vote for the Armstrong amendment versus the Warner amendment as the question of whether you are going to bring back the draft or not is perhaps the greatest exaggeration I have heard in the Chamber this year. On a scale of 1 to 10, that would be No. 50.

Anyone looking at this objectively would realize that neither one of these bills, whether it is the Armstrong bill, the Warner bill, or whatever, neither one of them are going to solve the problems of the volunteer force. Those problems are massive.

There is not a single thing in here that affects the reserve forces. Nothing affects the reserve forces. We have got more problems with the Reserves than we do with the active duty forces.

There is nothing in this bill that affects doctors. If we had a war right now, we would have a critical shortage of doctors that the American people would ask for another Pearl Harbor type inquiry as to why we had so many casualties and why so many of the casualties turned out to be fatalities. The reason would be because we do not have the medical personnel.

So I can stand a little bit of exaggeration or even a medium amount of exaggeration. But to say that this is a referendum on the draft is a degree to exaggeration that I really cannot fully digest.

Both of these bills are bandaids on a massive wound. The wound is not all related to money. You have to do something about the quality of forces.

There are a lot of experienced people dropping out of the military because they are placed in the position of training people who are basically untrainable. So let us not kid ourselves about this being a referendum on the draft.

Over and over and over again the Senator from Colorado (Mr. ARMSTRONG) has said that the Senator from Georgia has introduced a bill to bring back the draft. I may, one of these days—I may, one of these days—if I think the national security of this country demands it. I may do that.

When I do, the Senator from Colorado is not going to have anything to say, because he has already announced it 15 times.

I have never introduced that. What I introduced was a bill to bring back registration—registration.

So let us tone down the rhetoric to the degree that it has some credibility. Let us not engage in a debate that is so exaggerated that it has no credibility whatsoever.

That really does not serve the purpose of either the people in the military or a rational decision by the Senate.

Mr. President, I yield the floor.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I yield myself 1 minute of the 3 minutes I have remaining.

Mr. President, the Senator from Georgia has exaggerated his own statement by which he called exaggerated the statement which I made. What I had stated was that the defeat of the Armstrong-Matsunaga amendment would be a step in the direction toward reinstatement of the draft. The Senator from Georgia cannot argue with that because, as was stated only 2 weeks ago by those who appeared before his very subcommittee by the Assistant Secretary of Defense for Manpower and the manpower chiefs of the various branches of the armed services, the lack of adequate compensation was the greatest cause for the inability to retain personnel already in service, and the inability to attract new personnel to the all-volunteer force.

If they are unable to retain present personnel and are unable to attract new personnel because of the low levels of present compensation certainly who can argue that it is not a step in the direction toward reinstitution of the draft.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. ARMSTRONG. Mr. President, how much time remains on the amendment on each side?

The PRESIDING OFFICER. The Chair will inform the Senator from Colorado that 9 minutes are remaining to the Senator from Colorado and 10 minutes remain to the Senator from Georgia.

Mr. ARMSTRONG. Mr. President, I would like to reserve my time for the present, and I ask if the other side would like to proceed.

The PRESIDING OFFICER. Does anyone yield time? In the absence of the yielding of time, time runs equally.

Mr. ARMSTRONG. Mr. President, could I have the attention of the Senator from Georgia?

Mr. President, I wonder if the Senator from Georgia would care to use time. I have a few minutes remaining but I have a request from the Senator from Kansas (Mr. DOLE) to speak. He is on his way. Does the Senator from Georgia care to use time?

Mr. NUNN. Not at this stage.

Mr. ARMSTRONG. I hope the Senator from Kansas will be along shortly. I will use a moment or two before he arrives to renew my unanimous-consent request to include a vote on the Armstrong-Matsunaga amendment on its merits and also on the Warner-Nunn approach. Earlier I asked unanimous consent that upon the disposition of the pending Schmitt amendment, as amended, if indeed it is amended, that it then be in order for Messrs. NUNN and WARNER to offer their amendment as a first degree amendment at another point in the bill.

Mr. NUNN. Reserving the right to object, and I shall object, I will repeat what I said a while ago. I understand the purpose of the Senator in this, but I must repeat that anyone interested in raising either pay or benefits for the people in the military forces today could not do anything worse than to put us in a situation of voting up or down on both of these amendments. To do so, if they passed, would mean that the bill would be vetoed without any doubt. Therefore, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Colorado.

Mr. ARMSTRONG. I am very sorry, Mr. President, that the Senator has seen fit to object to this. It is part of a pattern which has prevailed since this issue first surfaced some months ago in which the opponents of the pay raise have tried to preclude an up-and-down vote on the issue. These are separate though clearly related questions. I think it would be well for Senators to vote on each of these issues on their merits.

The question is not whether or not we are for the package of reenlistment pay and bonuses suggested by Senator WARNER and Senator NUNN. I have made it clear that I am in favor of it. The question is can we make the Voluntary Force work in the absence of a pay raise.

I addressed that specific question to a number of authorities on this subject, and I would like to share with the Senate the answers I received from a couple of them. From the Deputy Chief of Naval Operations, I addressed the following question: Do you believe the retention problems in your service can be resolved without an increase in military pay? The answer: "No."

Similar answers have come back from others who are knowledgeable on this question.

I ask unanimous consent to have printed in the RECORD at this point editorials from the Rocky Mountain News——

Mr. WARNER. Will the Senator yield for a clarification of the reply from the Deputy Chief of Naval Operations? There are so many Deputy Chiefs of Naval Operations. Having operated that Department for 5 years, I will ask the Senator which one he is referring to?

Mr. ARMSTRONG. Is the Senator using his time, Mr. President?

Mr. NUNN. I yield 2 minutes to the Senator on the bill.

Mr. WARNER. Which deputy is the Senator referring to?

Mr. ARMSTRONG. The Deputy Chief of Operations for Manpower, Personnel, and Training.

Mr. WARNER. The distinguished Senator said, and I will quote back, that we cannot solve the problems without a pay increase. I presume the Senator is not suggesting that the Warner-Nunn proposal is not in the nature of a pay increase.

Mr. ARMSTRONG. I will say to the Senator it is a pay increase for some personnel. It is a pay increase for someone who happens to have a permanent change of station or happens to be at the point of reenlistment. For someone in the middle of a 4-year enlistment, it is not a pay increase.

Mr. WARNER. I hasten to bring to the Senator's attention the increase in the subsistence pay, which is across the board. I think in fairness both proposals can be properly characterized as pay increases.

Mr. NUNN. If the Senator will yield, will the Senator agree when I say that the Warner amendment will only affect those people in the service who eat, sleep, or travel?

The PRESIDING OFFICER. The Senator from Colorado has 6 minutes remaining.

Mr. ARMSTRONG. Mr. President, I will again appeal to the managers of the bill to use the time or to stop the clock. They are in the position to yield time from the bill and I am not. I wanted to reserve 3 or 4 minutes to the Senator from Kansas to speak on the subject. He is not only a distinguished Member of this body, but a distinguished war veteran, and a person who is very knowledgeable on this subject. I think it would be unfortunate if he were foreclosed from speaking.

Mr. President, therefore, in aid of that suggestion, in a moment I will move for a quorum call to be charged against the bill. In the meantime, I send to the desk three editorials in support of the Armstrong-Matsunaga amendment and ask unanimous consent that they be printed in the RECORD at this point. They are from the Rocky Mountain News, the Richmond News Leader, and the Denver Post.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

A CRUCIAL PAY RAISE

Sen. William Armstrong, R-Colo., wants to do something that's sensible, crucial and very nearly unarguable, so naturally he's encountered stiff opposition in our fiddle-around Congress.

He wants a 3.4 percent across-the-board military pay hike. That would help keep servicemen and their families even with inflation. It would also help preserve the all-volunteer armed forces.

But some Democrats—notably, Sen. Sam Nunn, D-Ga.—are saying what's really needed is for the U.S. to revamp the whole military pay structure. They may be right, except for one thing. This kind of wholesale shaping-up exercise would take a year or more. There's no reason servicemen should be deprived of needed income in the interim. It is also maintained that Armstrong's proposal would put a big dent in the budget. Maybe so. But some expenditures are simply essential.

We can't help but suspect that Nunn has an ulterior motive for refusing to go along with Armstrong. Nunn wants to revive the draft. If pay is raised and the all-volunteer Army starts working better, it will become more difficult for him to make his case.

MILITARY PAY

In the columns at right Republican Senator William Armstrong of Colorado discusses the deplorable state of military pay. The evidence is compelling: U.S. servicemen are grossly underpaid. Later this month, Senator Armstrong plans to offer an amendment to increase military pay retroactive to January 1, thereby at least partially rectifying the pay problem.

While the Senator's article addresses conditions throughout the armed forces, Chief of Naval Operations Admiral Thomas Hayward says insufficient pay could cripple the Navys ability to fight. Because neither pay nor benefits have kept pace with inflation, scores of career sailors are leaving the service. According to Hayward, the lack of experienced sailors is "rapidly approaching a crisis."

A war-ready Navy depends heavily on its chief petty officers. Yet while the Navy needs to retain 60 percent of its enlisted men who have completed two tours of duty, the 1979 retention rate slipped to 45 per cent. As a result, the Navy currently faces a 17,000-man shortfall in ranks from 2nd class petty officer to master chief petty officer.

Without experienced CPOs, the Navy cannot be considered shipshape. Petty officers are the fleet's most critical enlisted men. They man sensitive stations and train and supervise raw recruits. Thanks to the CPO shortfall, 38 per cent of the U.S. ships sailing in European waters now ranks in the lowest two readiness categories. Undermanned ships could prove sitting ducks for the bright and shiny—and imposing—Soviet fleet.

Poor pay also contributes to insufficient retention rates for Naval officers. Only 30 to 40 per cent of the Navy's officers re-up. Retention rates for Naval pilots could nose dive to 28 per cent by the end of this fiscal year. Officer retention in the vital nuclear submarine program has sunk to less than 30 per cent.

The other services face equally serious retention problems. A sergeant shortage threatens the Army's ability to fight. The Air Force is losing senior enlisted men at a steady rate. Military families in the U.S. have trouble making ends meet, but servicemen stationed overseas confront intensified problems. The declining value of the dollar and Europe's high cost of living impose severe financial hardships on officers and enlisted men alike. Gone are romantic assignments to gingerbread Germany; now soldiers overseas struggle to support their families.

Providing for the national defense ought to be the federal government's paramount duty. When Congress abolished the draft, it pledged to maintain adequate pay levels for the all-volunteer force. Congress has reneged on its commitment. We favor a resumption of the draft to meet general military manpower needs. And we believe all servicemen ought to be paid salaries commensurate with the obvious importance of their jobs. They deserve pay and benefits at least comparable to earnings in the private sector and the federal bureaucracy. The Armstrong amendment merits a resounding Yes.

LET'S RAISE GI PAY

Colorado Republican Sen. Bill Armstrong, backed by his Democratic colleague Gary Hart, made a wise but futile bid in the Senate Nov. 9 to raise the pay of American military personnel.

In brief, Armstrong offered an amendment, co-sponsored by Hart, that would have granted servicemen and women the 10.4 percent pay increase that the President's Pay Agent determined is required for comparability with civilian workers. The move failed 44–40, mostly because the majority was reluctant to exceed Carter's seven percent wage increase guidelines.

Armstrong and his allies were right in their belief that the growing problems of the services outweigh what symbolic value is left in the president's badly tattered guidelines. Like the man who drowned in a river that only "averaged" three feet in depth, the overall numbers obscure some severe specific problems.

Armstrong noted that base pay for recruits has fallen to 83 percent of the minimum wage. Even when allowances are figured in, the military is increasingly hard-pressed to compete with civilian wage scales for the recruits it needs to make an all-volunteer force viable. Indeed, 100,000 military families are eligible for food stamps. Overall, military pay and allowances, when adjusted for inflation, have declined by 20 percent since 1972.

The worst problem, however, is in the Armed Forces' ability to encourage reenlistment of trained personnel—the very people whose skills are increasingly necessary to operate the highly technical systems upon which we must depend to offset the Soviet Bloc's edge in manpower and equipment. The Navy lacks 17,000 skilled petty officers, the Army is short by 46,000 non-commissioned officers and the Air Force needs 3,000 NCOs.

As Armstrong noted, such shortages are much more severe for the military than in the rest of the government work force because there is no "lateral entry" into key military positions by civilians. Each highly trained serviceman who leaves must be replaced by a raw recruit whose training cost is likely to far exceed the additional money that would have kept the veteran in the ranks.

Whatever the merits of restoring the draft, Armstrong is right in arguing that conscrip-

> tion can't solve the re-enlistment problem. Because of the high training costs mandated by that turnover, the defeat of Armstrong's amendment not only weakened our military strength—it was also false economy.

Mr. ARMSTRONG. Now, Mr. President, in order to preserve a few minutes of time for the use of the Senator from Kansas and a minute or two for the Senator from Colorado to sum up his debate at the right time, I shall suggest the absence of a quorum and ask unanimous consent that the time be charged to the bill rather than to the amendment.

Mr. NUNN. Mr. President, reserving the right to object, how much time is left on the bill?

The PRESIDING OFFICER. The Senator from Georgia has 20 minutes on the bill. The Senator from Iowa has 56 minutes on the bill.

Mr. NUNN. May I ask the Senator from Colorado a question?

Mr. ARMSTRONG. Yes.

Mr. NUNN. How long does he anticipate it will be before the Senator from Kansas arrives?

Mr. ARMSTRONG. I think momentarily, Mr. President. However, if there is a constraint on the bill time, it was not my purpose to burn that up. I shall suggest the absence of a quorum and ask that the quorum time not be charged and I shall undertake—

Mr. NUNN. Reserving the right to object, I shall not object to that. I think it is a reasonable request.

I remind the Senator from Colorado that that is precisely the request the majority leader made a couple of hours ago, which I also thought was reasonable, but which the Senator from Colorado objected to.

Mr. ARMSTRONG. Mr. President, I point out that, at the time, all I asked was that the same apply to both sides, not just one side. I did not object to the principle, I merely asked that it apply to both.

Mr. NUNN. Mr. President, as I understand it, the unanimous-consent request is that the quorum call be entered into and that it be charged to neither side. Is that the request, Mr. President?

The PRESIDING OFFICER. Will the Senator from Colorado repeat the unanimous-consent request?

Mr. ARMSTRONG. Mr. President, that is my request, that I suggest the absence of a quorum and that the time for calling the roll not be charged to either side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I urge my colleagues to defeat the amendment by the Senators from Colorado and Hawaii and others to remove the pay cap for military personnel. I urge my colleagues instead to adopt an amendment in the nature of a substitute by the Senator from Virginia (Mr. WARNER), which is cosponsored by a majority of the Armed Services Committee.

PROBLEMS OF THE ALL-VOLUNTEER FORCE

The sponsors of the Armstrong amendment are absolutely correct when they cite the serious problems that the All-Volunteer Force is now encountering. Our Reserve forces are over 20,000 men below authorized strength, which themselves are far below realistic requirements. Recruiting for the active military is becoming increasingly more difficult. All four services failed to meet their recruiting objectives in the past year and total active military strength is about 30,000 below the congressionally authorized level.

Shortages in the number of personnel are not the only problems. The military services are also having increasing difficulty in maintaining quality standards among those who do enlist. During fiscal year 1979, only 64 percent of all those who enlisted were high school graduates—a decline of 10 percent in the proportion of high school graduates from a year ago. Indeed, even though the Army is now simplifying its technical and equipment publications to the 7th grade level, some 19 percent of its new recruits are reading at or below the 7th grade level. Apparently, widespread recruiting irregularities may mean that the quality of new recruits is much lower than official statistics indicate.

The future looks even worse because we face a substantial and continuing decline in the number of 18-year-olds for at least the next decade.

For fiscal year 1980, the Army will try to recruit one-third more recruits than it did in fiscal year 1979 in order to maintain strength.

The Army is responding to these adverse recruiting trends by lowering its enlistment eligibility criteria and has decided to permit the enlistment of 17-year-old males who have not completed high school. The Army had stopped enlisting 17-year-old nongraduates because of the alarming rate at which this group failed to complete its first term; now it will turn its attention once again to this group if it is to achieve its authorized end strength.

The Navy is faring little better. On August 28, the Navy announced that it will lower its recruiting goal for high school graduates from 76 percent of new enlistees to 72 percent, and will spend additional resources for so-called "academic remediation training", emphasizing reading and writing skills for marginally qualified individuals.

These problems are exacerbated by the large shortages in the Reserve components, the lack of sufficient personnel in critical skills, like doctors, and the lack of a peacetime registration program under the Military Selective Service Act. If the All-Volunteer Force cannot sustain itself adequately in peacetime, how can we expect it to provide the foundation for mobilization in war?

THOSE PROBLEMS WILL NOT BE SOLVED BY THE ARMSTRONG AMENDMENT

Mr. President, while the sponsors of this amendment are correct in recognizing the serious problems in the All-Volunteer Force, this proposed amendment will not solve these problems. Increasing the basic pay of recruits $15 a month will not solve recruiting problems, especially when we recognize that bonuses of up to $3,000 are now available for enlistments in skills where there are shortages.

In fact, Charles Moskos, sociology professor at Northwestern University, testified before the Manpower and Personnel Subcommittee that—

> Large raises in military pay were the principal rationale to induce persons to join the All-Volunteer Force. This has turned out to be a double-edged sword, however. Youth surveys show that high pay motivates less qualified youth—for example, high school dropouts, those with poor grades—to join, while having a negligible effect on more qualified youth—those taking academic high school courses or college bound.

Secretary of Defense Harold Brown said, in his posture statement in January 1979:

> We believe we can, if necessary, perform our mission with a somewhat lower proportion of high school diploma graduates but it may result in somewhat increased attrition and training costs since we will be accessing individuals with a greater propensity to leave the service.

In other words, the Secretary is projecting the deadly combination of lower manpower quality and higher manpower costs. Is this the direction in which the sponsors of this amendment want to go?

Over the past 5 years, Congress has taken many actions to increase military pay and benefits. In addition to providing authority for enlistment bonuses of up to $3,000 and reenlistment bonuses of up to $15,000, Congress has provided special bonuses for doctors (up to $17,700, and other health professionals, nuclear qualified officers, up to $5,000, and pilots up to $2,940). We have provided cash bonuses and educational assistance for enlistment and reenlistment into the Reserves, and increased the rates of sea pay for Navy enlisted personnel, as well as providing increased CHAMPUS benefits and military survivor benefits. We have authorized an increase in the number of recruiters and in recruiting programs.

A $36-a-month increase in a sergeant's pay will not solve retention problems for a military careerist who has seen his pay advantage compared to a new recruit decline by 50 percent in the past 15 years, especially when the available $15,000 reenlistment bonus is not enough to keep him. In 1964, the average careerist was paid 120 percent of what the average first-term member was paid. Now the average careerist is paid 60 percent more than the average first-term member.

Military pay scales were last set by Congress in 1971. Since then, across-the-board percentage raises have been provided many times. The underlying problem is the fundamental structure of military pay, especially career pay. By front-loading pay for first-term personnel, the current system has evolved into one in which career personnel are stretched like rubber bands between increased first-term pay and the large retirement annuity. Costly across-the-board raises such as the amendment provides only perpetuate the problem.

MANPOWER COSTS AS A PROPORTION OF THE DEFENSE BUDGET

Mr. President, as I have stated before, there is a need for substantial annual real increases in defense spending on the order of 5 percent or more in budget authority over the coming years. In my judgment, such increases are essential if we are to begin to halt the adverse trends in the East-West military balance.

Since 1970, the Soviet Union has invested a total of $104 billion more than the United States for military equipment and facilities.

The volunteer force was based on the theory that all the taxpayers should bear the additional cost of manpower directly, rather than impose an implicit tax on those drafted. Like most Washington theories, this one has been only 50-percent implemented. The additional manpower cost has not been borne by increased general taxes or reduced social spending, but, instead, comes directly from the other parts of the defense budget.

Manpower costs now account for 59 percent of the defense budget. In 1964, manpower costs accounted for 48 percent of the defense budget. If the manpower proportion had remained constant at the 48-percent level between 1970 and 1978, we would have had an additional $100 billion in today's dollars to spend on military investment and readiness rather than manpower. Additional defense funds which are made available should not be gobbled up just to keep baling wire and bandaids on a policy that has lost its logical credibility but not its political support.

AMENDMENT INTERFERES WITH CURRENT PAY RAISE PROCESS

Mr. President, the sponsors of the amendment appear to be surprised that a pay cap means that pay will not keep up with comparable pay in the private sector. This is literally what the pay cap means, and this is what it meant when we did not overturn the President's alternative pay raise proposal of 7 percent submitted in September.

I should also point out that the 10.4-percent increase needed to maintain comparability with the private sector at a time when inflation is running at 13 percent confirms what is well known in Georgia: The current high rate of inflation is eroding the real purchasing power of all Americans.

The high rate of inflation is affecting the real income of servicemen, Federal civilian workers, and most Americans. It should also be kept in mind that, since 1964, average military basic pay has increased by 224 percent. Prices have increased by 115 percent over the same period, but military procurement has increased by only 46 percent.

The 7-percent pay cap is part of President Carter's anti-inflation program, where the Federal Government is being asked to show an example of pay raise restraint in an effort to halt inflation. There are many questions of equity that must arise if the pay cap is removed only for the military. What about Federal white-collar and blue-collar civilian workers? What about private sector workers, who have settled for a 7-percent pay raise, in voluntary compliance with the administration's wage guidelines?

In addition, this amendment attempts to introduce an entirely new pay raise mechanism. Instead of considering the amount of the pay raise to maintain comparability and any alternative plan submitted by the President in September, we will now, in addition, consider pay raises for individual groups of employees in other bills. This amendment was already debated on the defense appropriations bill. Now we are debating it again. It seems clear that if this amendment is approved, we will face pay raise questions over and over again on various bills.

THROWING MONEY AT A PROBLEM WILL NOT SOLVE THE PROBLEM

Mr. President, this amendment is a classic case of recognizing a problem and then attempting to solve the problem by throwing money at it. According to the Congressional Budget Office, this amendment alone would add $631 million to defense manpower costs in fiscal year 1980.

We should realize where this approach is going to lead.

In January 1977, the Congressional Budget Office issued a report on the "Costs of Defense Manpower." That study projected significant shortages in the supply of recruits for the Military Services in the 1980's and discussed budget options. On page 16 of that report, it is stated:

> If the armed forces try to make up for these shortages with across-the-board pay increases, by 1985 they could add up to $8 billion per year (in 1977 constant dollars) over today's manpower costs without any additions to military forces.

Senators should realize that, by endorsing this amendment, they would be endorsing an attempted cure for the problems of the All-Volunteer Force with money. We would be literally accepting an attempt to "try to make up for these shortages with across-the-board pay increases" as outlined in the Congressional Budget Office study. If that is the approach that this body wants to adopt, then so be it. But let's realize exactly where we are heading with this approach.

The Senate should realize that this amendment will not be the last attempt to throw money at the All-Volunteer Force problems. This $631 million proposal is only the tip of the iceberg that may well sink attempts to satisfy our pressing national security needs. The sponsors of this amendment should realize that throwing money at the All-Volunteer Force problems will lead us down the road to this $8 billion increase predicted by the Congressional Budget Office; it will lead us down the road to the policy of increased manpower costs for lower quality personnel referred to by Secretary Brown; it will continue leading us down the road of increasing manpower costs at the expense of military investment, which may increase our defense costs and lower our defense capabilities.

If you believe that this approach is the right way to go and you believe that increased defense investment is also necessary, then you should be prepared to add $40 billion to the national defense budget between fiscal year 1980 and fiscal year 1985. That $40 billion will not buy a single ship, aircraft, or missile but will be needed to provide the money for the across-the-board pay increases that the Congressional Budget Office projects will be necessary to make up recruiting shortages for the all-volunteer force.

The sponsors of this amendment should also realize that this approach will not lead us to resolving the serious problems of shortages in Reserve units and in the individual ready reserve. It would not resolve the problem that, in an emergency, the Army would be compelled to deploy quickly all combat personnel from Reserve units, leaving those units completely gutted and incapable of being deployed until trained draftees became available to fill the units. The shortfall in combat trained personnel is so serious that it would seriously debilitate units in combat. It will not resolve the problem of the disastrous state of military medical care and the grave shortages of doctors and other medical personnel. In case of an emergency, thousands of young people in combat units will die or be permanently crippled unnecessarily because we will not have the medical personnel to treat them or the capability to return them quickly to the United States.

It will not solve the problem of the increasing number of married personnel who are enlisting in the military and who have increased the number of dependents in Europe to the point of adversely effecting readiness and bringing into question the adequacy of evacuation plans.

THE WARNER AMENDMENT IS A MUCH MORE SENSIBLE APPROACH

Mr. President, the amendment by the Senator from Virginia, cosponsored by a majority of the Armed Services Committee, provides for an increase in allowances, bonuses and special pays for military personnel.

The Warner amendment provides for substantially increased rates for sea pay and flight pay. These increases recognize the hardships of sea duty and flight duty and are directed at areas with significant retention problems. An enlisted man with the rank of 7 on the nuclear carrier *Nimitz*, which is now leading a battle group in the Persian Gulf, with 18 years of service, who has spent 12 years at sea away from his family, will receive an increase of $137 per month under the Warner amendment. Under the Armstrong amendment, he will receive an increase of $44 per month. An Air Force pilot, who is a major with 10 years of services and lives on base, will receive an increase of $70 per month under the Warner amendment. He would receive $58 per month under the Armstrong amendment.

Current law provides authority to pay a bonus of up to $15,000 for reenlistment in critical skills to members who have completed less than 10 years of active duty service. The Warner amendment provides authority to pay such reenlistment bonuses to enlisted personnel with between 10 and 15 years service who are not now eligible for such reenlistment bonuses.

(Mr. TSONGAS assumed the chair.)

Mr. NUNN. I might add this is one of the most critical categories of shortages at the present time.

This, too, has a direct effect on the retention problems by expanding that bonus authority.

The Warner amendment provides for a 10-percent increase in subsistence allowances for all personnel who are not receiving their meals in messhalls. The Armstrong amendment would provide for an increase of 3.4 percent in subsistence allowances for such personnel.

The Warner amendment will cost $486 million in fiscal year 1980 and $3.2 billion over 5 years, whereas the Armstrong amendment would cost $631 million in fiscal year 1980 and $4.9 billion over 5 years, an increase in cost between the two of about $1.7 billion. This amendment was approved by the Armed Services Committee by a vote of 14 to 0 with 1 Senator voting present. In testimony before the Subcommittee on Manpower and Personnel, the Navy which faces the most critical manpower problems, now endorsed the approach of the Warner amendment, rather than the Armstrong amendment.

The amendment for a 3.4-percent across-the-board pay raise for military personnel is more expensive than the Warner amendment, but cannot solve recruiting and retention problems. Increasing the basic pay of recruits by $22 a month will not solve problems in skills where bonuses of up to $3,000 are now available. A $36 a month increase in sergeant's pay will not solve retention problems for a military careerist who has seen his pay advantage compared to a new recruit decline by 50 percent in the past 15 years.

Mr. President, the Armstrong amendment must raise serious equity questions about removing the pay cap for civilian personnel which would give the amendment a total cost of over $1.5 billion per year, if the Senate decides, which I think would be very likely to also lift the cap for civilian personnel.

It should be frankly and honestly admitted that neither of these amendments would solve the serious and deepening problems of the All-Volunteer Force.

In summary, Mr. President, I urge my colleagues to oppose the Armstrong amendment and ask them to support the Warner substitute amendment in an effort to direct financial incentives at specific career retention problems and to provide additional allowances in areas where the need is great.

Mr. President, unless more Senators want to be heard on this side of the question, I yield the floor at this point.

Mr. STENNIS. Mr. President, may I have 2 minutes?

Mr. NUNN. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, we have been over this. It has been well discussed and well debated.

I would like to refer to one matter. I would not argue this money will not do any good at all in these special categories. But we have not been lazy nor adamant about trying other matters after the law was passed with reference to this whole problem. We have given reenlistment bonuses. We have given enlistment bonuses—that is, for the original enlistment—and we have paid this and paid that and extend those bonuses on up to 10 years.

My point is that the committee has listened to anything we thought would solve the problem and we have agreed to most of it. The problem is still there, more acute than ever.

The other point I wish to make is that in our committee, in a sense of bringing together, trying to get a consensus on this knotty matter, after each one had expressed a preference, to a degree, we had an almost unanimous vote. For the record, only one vote was cast against this Warner-Nunn amendment. In other words, all of us thought it was at least generally fair. All of us thought it was something we did not feel compelled just to oppose to the last degree, but as a consensus and a practical matter of having something here for the Senate to pass on with the recommendation of the committee, the membership was willing to come together on it.

I believe that is worth something to the Senate membership. I hope we can stand by those determinations we have already made. I hope each Member will find grounds to stand by those determinations and feel not only free to explain this to our colleagues, but let us get this bill, the substitute, passed by a sizeable vote which will help if we are going to have any bill at all.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. Mr. President, I yield myself 1 minute on the bill.

Mr. President, I ask unanimous consent that the Senator from Washington (Mr. JACKSON) and the Senator from South Carolina (Mr. HOLLINGS) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I reserve the remainder of my time on the bill.

Mr. MATHIAS. May I have 1 minute?

Mr. NUNN. I yield 2 minutes to the Senator from Maryland on the bill.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, the United States is engaged in a very serious debate about whether or not to reinstitute registration for the draft. President Carter, in his state of the Union message, called for registration and the depleted ranks of our Armed Forces seems to argue in its favor

There is no question that the United States must maintain a defense posture that is credible to our allies and to our adversaries alike. Recent events in the Middle East simply underscore the urgency of that task.

Right now we are not adequately girded to meet the emergencies we may face in this decade which has begun so ominously. We have, for example, allowed our Navy to decline to less than half its 1970 size.

However, our military manpower problems are, if anything, more serious than our equipment deficiencies. Chief of Naval Operations, Adm. Thomas Hayward, pointed out last year that the "Navy's retention of second termers has dropped from 59 percent in 1975 to 48 percent today." The problem of retaining professionals in the Navy is common to the other services as well and is getting worse.

It is a critical problem. Every day the so-called art of waging war becomes more complicated. The sophisticated weapons that give our Armed Forces their strength require educated and experienced professionals to operate them. Yet, it is these professionals we are losing.

They are not leaving the Armed Forces from lack of patriotism. They are leaving because they are going broke in their Nation's service. Their salaries are well below their civilian counterparts. They are not adequately compensated for frequent moves. They are often forced to absorb exorbitant housing costs.

It seems to me to be the wildest form of impracticality to spend hours in debate about registration when right here and now we could adopt a simple measure designed to encourage our professionals to stay in the service and when the very sophistication of modern weapons systems argues that it is these seasoned men and women that we most sorely need in the armed forces.

I am delighted, therefore, to cosponsor the amendment to H.R. 5168, the Armed Forces Personnel Management Act, initiated by my colleague, the Senator from Virginia (Mr. WARNER.) I believe this amendment would remove some of the disincentives that now discourage reenlistments. And, while I am under no illusion that we can lick this difficult problem in one fell swoop, passage of this amendment would be a good place to begin the attack.

But, for now, let us pass this amendment as an indication of our intent to deal seriously and expeditiously with the skilled manpower problem that confronts us.

The PRESIDING OFFICER. The Senator from Colorado has 4 minutes remaining.

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, do I understand that I have 4 minutes remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. Mr. President, I would like to deal with a couple of specifics and then attempt in the time remaining to sum up the issue as I see it.

First of all, the pending Armstrong-Matsunaga amendment has been repeatedly characterized as an across-the-board pay increase. I stress to my colleagues, the Members of the Senate, it is not an across-the-board pay increase.

What we are seeking to do by implementing the current law is to prevent the across-the-board pay cut which has been administered in fiscal 1980, just as it has in each of the last 6 succeeding fiscal years as shown by the chart posted in the back of the Chamber.

Second, an allegation has been raised, both directly and by implication, that by offering this amendment on the floor, I am subverting the committee procedure. Nothing could be further from the truth. As a matter of fact, all I am doing is offering an amendment which implements the present law, the law that was developed after extensive hearings in both Houses, after committee action, after floor action, after conference committees.

In an arbitrary action, this body permitted the President to impose a pay cap. There was no testimony about it, no hearings, no committee procedure. We just pulled it out of our hat and said 7 percent instead of 10.1 percent.

I am not subverting the committee procedure. I am implementing the present law. If proponents of the pay raise want to say, "Let us change the whole pay system," that is fine, and I have a few changes myself. But I do not suggest them today. I am saying let us have an application and an implementation of the present law.

It is hard to imagine, in this day and age, that an employer in the United States of America could get away with paying new employees less than the minimum wage; that he could get away with paying skilled journeymen who have been with the firm 8 to 10 years so little that they have to get food stamps in order to feed their families; that an employer could force employees to work 20 to 30 hours a week overtime without additional compensation, and hold cost-of-living increases below the rate of inflation for 6 out of the last 7 years.

If the Government ever found an employer doing something like that, it would fall on him like a ton of bricks. There would be lawsuits and OSHA inspectors everywhere, and denunciations on the floor of the Senate Chamber.

That is exactly what the Government is doing, running a sweatshop in the military service.

These examples are not hypothetical horrors. They are the actual state of affairs in the Armed Forces today.

The All-Volunteer Force is in trouble, and the reason is that Congress has not kept the promises it made to our servicemen and servicewomen at the time the volunteer force was created. Congress pledged to keep pay and benefits for the military comparable to those in the private sector. But Congress has reneged on that pledge.

The Armed Forces are smaller in number today than at any time since 1950, as we cannot keep up with manpower requirements, and the reason is that we have not permitted the pay to go up with the cost of living.

We all have suffered from inflation, every family in this country, but none as much as the military men and women.

Hardest hit have been the career noncommissioned officers, the bone and sinew of our Armed Forces. The average salary for all enlisted personnel, including all allowances, is $9,900, which is less than the Bureau of Statistics says is necessary for maintaining a lower standard of living. In fact, the average pay of all enlisted military personnel is less than they would draw if they were unemployed, thrown out of work by the Chrysler Corp. You draw more in unemployment compensation in the State of Michigan than you do if you are employed as an enlisted man or a woman in the service of the United States.

Unless steps are taken now to change this, we probably are going to face the question of the draft.

I think that to reinstate conscription would be unfortunate, but to do so because we are unwilling to pay a reasonable going wage would be unconscionable.

For all these reasons, I urge the adoption of the Armstrong-Matsunaga amendment.

The PRESIDING OFFICER. The Senator's time has expired.

All time has expired on the amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Casimir Yost, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that the time that I consume be chargeable against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I at this time direct a question to my distinguished colleague, the proponent of the Armstrong-Matsunaga proposal.

I am directing my attention to title 37, section 1009, entitled "Pay and Allowances of the Uniformed Services."

Section (a) provides:

> Whenever the general schedule of compensation for Federal classified employees as contained in section 5332 of title 5 of the U.S. Code is adjusted upward, the President shall immediately make an upward adjustment in the pay for the armed services.

In the Senator's colloquy he continuously used the phrase that the purpose of his proposal is "to enforce the law." Am I correct?

Mr. ARMSTRONG. I think the term I used was "implement the law."

Mr. WARNER. "Implement the law." As I understand it, the law is written that the President shall receive the advice of a panel with respect to pay for civilian employees. Then the President has the option of either accepting the recommendation of the panel or, as he did in this instance, putting on a pay cap and then equal treatment is accorded between the armed services and the civilian.

The question I place to the Senator is, when he represents to our colleagues that he is implementing the law is restoring to the members of the Armed Forces the difference between the Presidential pay cap of 7 percent and the recommendation of the pay commission of 10.41 percent, it seems to me that he cannot do it for one class of Federal employees; namely, military, without doing it for the civilians, if he is going to say his proposal implements the law. How does he draw the distinction?

Mr. ARMSTRONG. Mr. President, is the Senator from Virginia saying that as a matter of law that cannot be done or as a matter of policy he questions the wisdom of doing so?

Mr. WARNER. No. The Senator from Colorado continually uses the phrase that he by his proposal is "implementing the law." Am I correct in that quote?

Mr. ARMSTRONG. Yes, the Senator is correct in that quotation, and that is a correct statement. My proposal is not some idealized version of what I think military people should be paid. It is not my formula. It is the formula that is in the present law which was developed after extensive hearings and action in the Chamber.

The way that came up, I will remind the Senator, is that the chairman of the Armed Services Committee and others raised the question of whether or not in some way I was circumventing the committee process or I was trying to write a new pay proposal on the floor which, of course, I am seeking to do. The reason it came up in the way it came was because arbitrarily without any hearings, without any consultation of which the Senator from Colorado is aware, the President decided to oppose the 7-percent pay cap. I am not suggesting, never did suggest, that he did not have the legal authority to do so. I do not believe any of my remarks could or should be interpreted as suggesting violation of the law.

Mr. WARNER. No. My study of the code is that he has the legal authority.

Mr. ARMSTRONG. I think that is correct.

My point is this, that the recommendation that I have merely implements the present law and the amount found necessary by the pay agent, which the Senator refers to as the pay commission—actually the title of it is the pay agent—found to be necessary to maintain pay comparability under the provisions of that act.

So the question is not a legal one, in my opinion. It is a question of whether or not we are keeping faith with the spirit of what Congress said would be the policy, that is, merely to let the service people have enough of a pay increase to keep them up with inflation. Year after year, as the Senator can see, we have neglected to do so.

Mr. WARNER. I understand very clearly, as I have all along, the Senator's statement, but my point is, how can he say that he is standing there implementing the law for one class of beneficiaries and at the same time he is denying it to the second class of beneficiaries, namely the civil servants?

Mr. ARMSTRONG. I understand the Senator's question to me is whether or not that is wise to do so. I have carefully taken no position on that issue. The question of whether or not civil servants should also have a pay increase in accordance with the Pay Comparability Act is one which Senators may differ on.

I have pointed out the President in his fiscal year 1981 budget says we should decouple; the military personnel should get a higher pay raise than Federal civilian personnel. That is the President's position. It is not mine.

I point out that in December the Secretary of Defense testified that military personnel for policy reasons should get a higher pay raise than civilian personnel.

I have taken no position on that. I think that is a separate issue to be addressed at the point of time that someone moves to give some kind of a pay raise to civilian personnel.

Arguments in support of decoupling, that is giving military personnel a higher pay raise, would include such things as the fact that there is hardship involved, danger involved, prolonged periods of separation from their families, military personnel frequently work for long periods of time and are away from their families, and a lot of reasons.

But the Senator from Colorado takes no position on that.

The only issue which the Senator from Colorado seeks to bring before the body is the question of military pay.

Let me just point out, in closing, that the reason I brought up this issue the first time I spoke about this in the Chamber was when the Senator from Georgia brought to the Chamber a bill which sought to reimpose the draft. I said: "Wait a minute. If we are at the point where we are going to start——"

Mr. NUNN. Mr. President, will the Senator please be precise in what that bill was? As I said a few minutes ago, and I said over and over again when I introduce, if I introdue a bill to impose the draft, then I think everyone will know it, but when I introduce a bill on registration and the Senator keeps saying over and over again it is to impose a draft, I keep reading the Senator and colleagues quoting that in the paper, it gets a little bit disconcerting. I am losing control of my own actions.

Mr. ARMSTRONG. Mr. President, I say to the Senator from Georgia that he certainly does not look disconcerted and he does not look as if he is out of control. He looks to me on the contrary, that his composure is near perfect as it is at all times.

Mr. NUNN. I wish to use my own interpreter.

Mr. ARMSTRONG addressed the Chair.

Mr. WARNER. Mr. President, let me finish.

Mr. ARMSTRONG. Mr. President, let me put this in perspective.

Mr. WARNER. This colloquy is taking place on my time.

Mr. ARMSTRONG. I beg pardon.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. The Senator had the opportunity to reply, but I bring to his attention the continued use of a certain phrase in encouraging support for his amendment and that phrase being "I am trying to implement the law." But I am suggesting to him that he is only implementing it for one class of beneficiaries, namely the uniformed military, and he is ignoring the same provisions of the law which equally apply to the civilian force. Let us be more specific to our colleagues on that point.

Mr. ARMSTRONG. Mr. President, any Member of the Senate may move to do the same thing for Federal civilian employees, and when they do it is a debatable issue and a proper subject for discussion. I will tell you this, I do not know whether I am for or against it, but if we get a bill in here to draft people or register them to get them into the Federal civil service, I will be the first one to suggest that it is time for a pay increase.

I apologize to the Senator from Georgia. I interpret the point of his bill is to pay for the draft. But if he says all he wants to do is to register them and not draft them, then I accept that correction. But the point is, and in debate he eloquently pointed out——

Mr. NUNN. The Senator does not have to accept it as my word. He can read the bill.

Mr. ARMSTRONG. I think the record clearly reflects, however, the dissatisfaction of the Senator from Georgia with the workings of the volunteer army. He spoke about that eloquently. He pointed out its shortcomings, and that is what prompted me to then come forward and say the reason the thing is not working is because of the pay scales.

Mr. WARNER. The Senator from Colorado continues to use my time in discussing a subject that is finished—the draft. This is not a draft-related matter.

The point I wish to raise is that if the Senator wishes to inform his colleagues, that he would clarify his phrase "to implement the law," because the Senator is only implementing the law for half the beneficiaries, and he is denying the other half the benefit of that law.

Mr. ARMSTRONG. Mr. President, the Senator is correct in part, although I point out I am not in my amendment implementing it for all military personnel. For example, in my amendment, higher grade officers, such as major generals and lieutenant generals, the two-, three-, and four-star generals and flag officers are also not covered, and I would just say the Senator is correct, and I think the record is very clear on that. If he wishes to raise the question of an amendment to cover either general officers or Federal civilian employees or somebody else, that——

Mr. WARNER. I want to make it eminently clear to our colleagues that when the Senator uses his phrase "the purpose is to implement the law," the Senator is implementing it for only one-half of the class of beneficiaries, namely, the military, and is denying it for the civil service.

Mr. President, may I yield the floor to my distinguished colleague from Georgia?

Mr. NUNN. Mr. President, the Senator from Virginia (Mr. WARNER) I believe has control of the time on the bill in the absence of Senator JEPSEN, and if we could have the dialog come out of Senator JEPSEN's time on the bill, because the majority time on the bill is just about dissipated——

Mr. WARNER. I concur with that request.

Mr. ROBERT C. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. McGOVERN). The Senator will state it.

Mr. ROBERT C. BYRD. What is the question now before the Senate?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Colorado as a substitute for the amendment of the Senator from New Mexico.

● Mr. DURKIN. Mr. President, since 1972 the men and women who valiantly serve in our Armed Forces have waged an uphill battle against energy-fueled inflation. It is high time that we offer our military personnel a greatly deserved helping hand. For this reason I wholeheartedly support and cosponsor the amendment introduced by Senators ARMSTRONG and MATSUNAGA to lift the military pay cap imposed by Congress in 1972.

The effects of this ill-advised pay cap are evident today on two counts. First many of our young people have decided they cannot afford to serve their country in light of the huge disparity in wages between military and civilian employees. This year, for the first time, each branch of the armed services failed to meet its recruiting goal.

Second, those individuals already in the military are facing severe economic hardships. This has resulted in a precipitous drop in reenlistment and a staggering rise in the number of military families who are now eligible for welfare. Today at least 100,000, and possibly 275,000, military families are eligible for welfare assistance. This is no way to run an Army.

Our military personnel are the backbone of our national security. Their contribution to the country as a whole and to the individual States cannot be emphasized enough. Men and women working in New Hampshire at the Portsmouth Naval Shipyard and at Pease Air Force Base, are instrumental to the State's seacoast economy. Since coming to the Senate I have fought hard for our military personnel but for too long these dedicated men and women have been neglected by the Congress. Today the hard facts are before us, we can no longer allow our armed services to remain undermanned and underpaid.

The Department of Defense has determined that the continual erosion of military compensation is the primary cause of the manpower shortage facing the volunteer army today. It is no wonder. From 1972, the year the pay cap was instituted, to the present, the Consumer Price Index rose a whopping 74.2 percent. Military pay increased a mere 56.2 percent. This tremendous 18 percent differential is an unheard of burden to place on those individuals who are protecting our country.

The bill I am cosponsoring today is by no means extravagant. It simply proposes to raise the pay cap 3.4 percent to the level necessary to reach wage comparability with civilian employees. This can be easily done without exceeding the budget guidelines for the defense function, and without diverting funds from maintenance or weapons procurement.

Simply stated, this legislation is a long overdue measure to bolster our military personnel, strengthen our Armed Forces, and promote our national security. I urge my Senate colleagues to join with me to secure prompt passage of this amendment.●

● **Mr. McGOVERN.** Mr. President, I rise in support of the Armstrong/Matsunaga amendment to raise the military pay cap from 7 percent to 10.41 percent. I am a cosponsor of this amendment for two reasons.

First, I believe it is a matter of fairness. I was shocked to learn that regular military compensation has fallen nearly 20 percent behind the rate of inflation since 1972; that at least 100,000 and possibly 275,000 military families are eligible for welfare assistance; that basic pay for 580,000 military people falls below the Government's minimum wage for civilian employees; and that the average salary for enlisted men—including all allowances—is more than $1,600 less than the Bureau of Labor Statistics estimates is necessary for a family of four to maintain a "lower level" standard of living. And although the increase provided by this amendment will not correct all of these problems, it is a beginning in the effort to correct the very real injustice of the situation.

I am also supporting this amendment because I believe in the concept of the All-Volunteer Force. We are being told that the AVF has not worked—we see lagging enlistments and shortages of highly skilled personnel—and now we need to have registration and perhaps the draft. One can almost believe there has been a deliberate attempt to discourage enlistments by making a career in the military service so unattractive and financially impossible for a young family in order to prove that the AVF has not worked.

I do not think it is prudent from a military or financial standpoint to draft our young people, train them for a short period of time, then go through the exercise again with a new group of draftees.

I believe we can begin to solve our manpower problems by offering more incentives for recruitment and retention, and this amendment is one step in that direction. That, and building up our Reserves would give us a far superior force than the draft.

In an article in yesterday's Washington Post, Martin Anderson points out:

> If there ever was a sudden threat to our national security, any form of a military draft would be virtually worthless. Even with the names and addresses of young men and neatly typed on computer printouts, it would take at least 3 to 4 months to contact them, induct them and hastily train them—if the training facilities were ready. Without advance registration, it would take a few weeks longer. The end result—with or without registration—would be hundreds of thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the Armed Forces many months too late.

I ask unanimous consent that the article, "Build Up the Reserves, Not Registration Lists" be printed at the conclusion of my remarks.

Mr. President, the substitute amendment being offered here today will not solve the basic problem of attracting and keeping quality personnel in our Armed Forces. It will pay some few individuals a little more, depending on special circumstances. It is not the kind of fair, even-handed approach we need to this problem. I ask my colleagues to join with me in support of the Armstrong/Matsunaga amendment.

The article follows:

BUILD UP THE RESERVES; NOT REGISTRATION LISTS: WE DON'T NEED MILLIONS OF UNTRAINED DRAFTEES, AND THE RUSSIANS KNOW IT

(By Martin Anderson)

President Carter's call to "begin registration" for the military draft was obviously a part of his effort to send the Soviets a message about our concern for their naked aggression in Afghanistan. But in this case he is sending Moscow the wrong message.

Carter is right in his belated recognition of the potential military threat that the Soviet Union poses to world peace and to our own security. But taking down the names and addresses of the young people of America under the threat of five years in jail or a $10,000 fine is a weak and possibly dangerous response.

What the Soviets would understand is a clear, effective move to strengthen the combat capability of the armed forces of the United States. Registration does not do this. Rather, if enacted, it could easily lull us into a truly dangerous state of complacency.

If there ever was a sudden threat to our national security, any form of a military draft would be virtually worthless. Even with the names and addresses of young men and young women neatly typed on computer printouts, it would take at least three to four months to contact them, induct them and hastily train them—if the training facilities were ready. Without advance registration, it would take a few weeks longer. The end result—with or without registration—would be hundreds of thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the armed forces many months too late.

As the Defense Manpower · Commission noted in its report to the president and the Congress on April 19, 1976: "The changing nature of war and its technology will not allow for any lengthy period of time for national mobilization for a major conflict. Thus, the national security relies on the ability to mobilize our reserve forces from a peacetime 'citizen soldiers' status to a combat-ready status in a relatively short time."

What is vital to our national security is a large, well-trained reserve force, one that is really ready, one that can be called into service in a matter of days in case of an emergency.

Registration for the draft would not do this, but it will do something else. The conventional wisdom that seems to be held by many in the upper ranks of government, the academic world and the media is that our all-volunteer force has problems, especially in the reserves, and that the military draft will solve them. Half of that wisdom is true. We have severe problems, particularly in the reserves. We should have 1 million men and women in the active reserves; we have about 800,000. There should be 700,000 members of the Individual Ready Reserve; we have about 200,000. But the draft, or its advance proxy, registration, will not solve these deficiencies in a timely or sensible fashion.

As Richard Danzig, the principal deputy assistant secretary of defense for manpower, reserve affairs and logistics, stated a few weeks ago, "although, if constantly updated, peacetime registration would give us a ready list of people that we could call instantly in an emergency, I think our capacity to call them would exceed our ability to begin training . . . we would not be able to accept draftees within the first weeks of an emergency mobilization."

The danger is that so many people sincerely believe that our military manpower problems can be solved by the draft. If registration is enacted, they will view this as leading directly to the reinstitution of the draft, sigh contentedly and turn their efforts and talents to solving other problems. The passage of a draft registration law will only give a false sense of security to our people and to many of our political leaders. It will be used as a reason by some, and as an excuse by others, for not taking the hard steps that will strengthen our reserve forces to the point where they can effectively back up our active forces.

It will also give a false signal to the Soviets. The political-military leadership of the Soviet Union understands and respects military power. They are fully capable of distinguishing between the military capability of computer lists as potential additions of young, inexperienced draftees and that of a significantly strengthened reserve force. They will view registration more as a stamping of our feet than as a shouldering of arms. And they will act accordingly.

What we should do is:

Immediately bring our active forces up to full combat capability. While our active forces are very close to their targeted manpower levels, the quality of their weapons and other equipment—including tanks, planes and ships—often falls far short of the military needs of the 1980s.

Announce that from now on the reserves are serious business, not a paid routine gambol. Anyone staying in the reserves or the National Guard should fully realize that in the event of a military threat to this country they will be called first to supplement our active forces. And that they will be called regardless of whether they are married, have children or know a congressman.

Arm the reserves and National Guard with modern weaponry and other equipment that is fully comparable to what the active forces will have.

Take steps to encourage more people to join the reserves and, for those already serving, to reenlist. These steps should include improved recruiting efforts, competitive levels of pay, reenlistment bonuses and improved management of our current reserve forces. For example, current planning in the Department of Defense assumes that only 70 percent of the Individual Ready Reserve would show up if we mobilize. This percentage could be increased significantly if assignments were made in advance and addresses were kept current. Some of these relatively simple measures are now beginning to be taken, but there is still vast room for improvement.

Institute an effective program of lateral entry into the armed forces so that more mature men and women, from their late 20s through their 40s, and, in special cases, up to 65, can enlist for a period of time—both in the active forces and the reserve forces. This could provide the armed forces with a potential pool of talented people that could be utilized in many positions, and could reduce their almost total reliance on people coming up through the ranks. Further, it is the one effective way to ensure that the upper ranks of the military do not become isolated from the rest of our society.

And, finally, the president of the United States should address the nation and explain clearly and comprehensively exactly why he feels that the Soviet invasion of Afghanistan is such a threat to world peace and the United States. The history of this country's response to a call to arms shows that Americans have always turned out in overwhelming numbers when they felt their country was threatened and they believed that our cause was just. There is no evidence to suggest that this would not also be the case today. If the only way we can induce our citizens to participate in the defense of this country is to threaten them with five years in jail or a stiff fine, then our leadership has failed to convince them of the seriousness of the situation and the validity of the course of action proposed to deal with it.

Enactment of the draft registration law would diminish our national security by increasing the chances that our reserve forces will be left in limbo, at a time when we need to strengthen them the most. It would in time lead to a new military draft, one that would almost certainly include women. And it would call into question the commitment this nation made almost a decade ago when we decided to raise an armed force in a manner consistent with the principles of freedom on which this country was founded.

If we really wish to respond to the Soviet move in Afghanistan, let us do it directly by arming and training a combat-ready active and reserve force that is second to none. Let's forget about making lists.

THE ELIMINATION OF THE MILITARY PAY CAP

● Mr. DOLE. Mr. President, once again the Senate faces a very important issue concerning the economic plight of our military service man and woman.

This amendment would increase military pay from the 7 percent cap imposed by the administration to the 10.41 percent the President's pay agent determined is necessary to achieve comparability with the private civilian work force.

Mr. President, the Senate was denied a vote on the merits of this amendment when it was proposed to the Defense appropriations on November 9, 1979. Today, once again, we have seen an attempt to deny a vote on the merits of this amendment. The Senator from Kansas would suggest to those who seek to prohibit a vote on this important measure that the American people, and in particular, the servicemen and women of our Armed Forces are not being fooled by this parliamentary chicanery.

The Senator from Kansas strongly believes the Armstrong/Matsunaga amendment deserves a vote and urges the leadership and those opposing the amendment to allow such a vote.

THE AMERICAN SOLDIER

Mr. President, the economic plight of our military servicemen and women can no longer be ignored. As we all know, members of the armed services are wholly dependent upon Congress to provide them with a just and fair wage.

Mr. President, most of us have suffered from inflation, but none so severely as those men and women who are expected to defend this country at all times, and any number of places throughout the world. Mr. President, from December of 1972 to 1978, the cost of living rose 59.9 percent. But the regular military compensation—base pay plus allowances for housing and subsistence—of the Armed Forces rose by only 40.8 percent. The Department of Labor reports that even with the 7 percent pay raise on October 1, 1979, members of our armed services are still some 19 percent behind the inflationary curve.

Mr. President, it is only fair that the pay cap for military personnel be lifted. In addition to this obvious reason, there are even more pressing, practical reasons for not forcing yet another pay cut on the men and women who defend our country. One of them is that many of our sailors, soldiers, and airmen are leaving the service in droves. In searching for an answer to this very difficult question, we find that there is no simple answer. However, one reason is very clear—we are not paying our service personnel enough, and we continuously snipe away at, or fail to provide, their traditional benefits.

Is it any wonder why our servicemen and women are leaving to seek a better life as civilians?

BUDGET CONSIDERATION

Mr. President, I can fully appreciate the concern of every Member of this body to curb Government spending in the fight against inflation. However, if we are to remain a strong and free Nation, in the face of increasing adversity throughout the world, we must insure the ability of our Armed Forces to perform their peacetime military missions.

Mr. President, a vote for this amendment is a vote for a decent way of life for members of our armed services who are charged with the responsibility of maintaining a strong and free America.

Mr. President, I am proud to be an original cosponsor of this important amendment and I urge its adoption.●

Mr. ROBERT C. BYRD. Mr. President, I make a point of order—the time agreement entered into on January 30, 1980, having specified clearly that a substitute amendment to the Armstrong amendment, to be the Warner-Nunn amendment, would be in order on today; and that the agreement not having specified that the Armstrong amendment could be offered as a substitute to the Schmitt amendment—that the amendment by Mr. ARMSTRONG to the Schmitt amendment under the given agreement is not in order, because otherwise it would mean that, for the agreement to be effectuated, and for Mr. NUNN and Mr. WARNER to call up their amendment as a substitute to the Armstrong amendment it would constitute an amendment to an amendment to an amendment, such not being in order in the Senate, except in regard to amendments between Houses, and when a committee offers a complete substitute for a bill; for the Chair to rule to the contrary would do violence to the rules of the Senate prohibiting amendments in the third degree except in the instances to which I have alluded.

Mr. ARMSTRONG. Mr. President, may I say one word?

Mr. ROBERT C. BYRD. There is time on the point of order if the Chair cares to entertain discussion.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, I appreciate the Chair's indulgence, and I can explain very simply why the Chair should not sustain the point of order which has been raised by the distinguished Senator.

Although the agreement, that is to say, the time agreement, provides for a Warner-Nunn substitute, it is implicit that such an amendment will be in order only if the legislative situation permits. In this case, the situation does not so permit. To permit it would be, in effect, to permit a third-degree amendment.

The text of the unanimous-consent agreement does not require that the Armstrong amendment even be offered to the bill. No such requirement can be implied and, of course, in that event, to take a hypothetical example, then there would be no way for the Warner-Nunn substitute to be offered.

To the extent that the agreement was intended by the makers of the agreement to preclude what I have done this afternoon, it seems to me, it should have provided that no amendment to the Schmitt amendment be in order. No such provision is contained in the unanimous-consent agreement. To now attempt to interpret the unanimous-consent agreement in that way, it seems to me, would be to require a tortured reading of this agreement.

Mr. President, may I also point out that when this same issue was raised earlier this afternoon, the Senator from Georgia put the issue very clearly, and the chairman ruled, I think with great precision, and properly so. If I may quote briefly:

> Mr. NUNN. Mr. President, under the previous unanimous-consent request it was my understanding that the Senator from Colorado could offer an amendment to the bill. I did not know there was anything in the unanimous-consent request about offering an amendment to the Schmitt amendment.
>
> The PRESIDING OFFICER. The agreement providing for an amendment by the Senator from Colorado did not necessarily say to the bill.
>
> Mr. NUNN. I did not understand the Chair.
>
> The PRESIDING OFFICER. The language in the order reads, "an amendment on which there shall be 4 hours, an amendment to be offered by the Senator from New Mexico, and an amendment to be offered by the Senator from Colorado." It does not say to the bill.

It seems to me that the Chair has already ruled on this point. It was my understanding, and if I could just beg the indulgence of the Chair to make this point crystal clear, it was not any intent of mine nor is it my intent at this moment to preclude to Senators WARNER and NUNN an opportunity for a fair vote up and down on the merits of their proposition. I have twice offered unanimous-consent agreements to permit them to do so. I am willing to enter into such an agreement now.

The only thing I am trying to avoid is their preempting my amendment so I do not get a vote on the merits of my proposition.

As for the point of order, I think it is clear the point of order should not be sustained and should be overruled.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. It is true that the agreement entered into on January 30 did not specify that the amendment by Mr. ARMSTRONG be in the first degree.

But I think everyone anticipated that, in order for Mr. NUNN and Mr. WARNER to offer an amendment to the Armstrong amendment, the Armstrong amendment would have to be an amendment in the first degree. Because amendments in the third degree are not in order in the Senate except by unanimous consent.

The agreement specifically stated that the Warner-Nunn substitute would be to the Armstrong amendment. The only way that Mr. WARNER and Mr. NUNN can offer a substitute to the Armstrong amendment is for the Armstrong amendment to be in the first degree.

Now, if we had entered into the unanimous-consent agreement a provision that amendments in the third degree would be in order, then they would be in order under such an agreement on this bill. If we had provided in the agreement that it would be in order for Mr. ARMSTRONG to offer a substitute to the amendment by Mr. SCHMITT, then he could have done so.

Why the Senate would specifically state that Mr. WARNER and Mr. NUNN could offer a substitute to the Armstrong amendment and intend that Mr. ARMSTRONG might offer a substitute to the Schmitt amendment, without the agreement having said so specifically, I cannot understand.

It seems to me that parallel construction would require that the agreement state that Mr. ARMSTRONG could offer his amendment as a substitute to the Schmitt amendment. If the agreement had said that Mr. SCHMITT could offer an amendment, and that Mr. ARMSTRONG could offer an amendment to the Schmitt amendment, and that Mr. WARNER and Mr. NUNN could offer an amendment to the amendment to the amendment, thus making an amendment in the third degree in order, the agreement would have said that.

Now, I grant that there can be some difference of opinion as to the construction of this agreement, because the agreement, indeed, does not say that Mr. ARMSTRONG's amendment has to be in the first degree. It does not say that. I can understand how Senators might say, "Well, it doesn't have to be in the first degree. It can be an amendment to Mr. SCHMITT's amendment, but that under the agreement Mr. WARNER and Mr. NUNN would still be allowed to offer their amendment to the Armstrong amendment." I can understand how some may interpret it that way.

But such an interpretation allows a third-degree amendment to come in without the intent of the agreement being such, and without it being precisely stated as such. And this will do violence to the rules of the Senate and violence to time agreements in the future.

I happen to be opposed to the Armstrong amendment. But if I were not opposed to it, this agreement being as it is, I would take the same position that I take here now.

I appeal to the distinguished Senator from Colorado to pull his amendment back and offer it as an amendment in the first degree, let Mr. WARNER and Mr. NUNN offer their amendment as a substitute therefor in the second degree. Because, in any event, if my point of order were not to be sustained by the Chair and/or the Senate, then, ipso facto, there is no way under that agreement of denying Mr. WARNER and Mr. NUNN the opportunity to offer their amendment to Mr. ARMSTRONG's amendment. Because the agreement lays it out in black and white.

And so the order of precedence in voting still would be first on the Warner-Nunn substitute to the Armstrong amendment to the Schmitt amendment. The vote would still come first on the Warner-Nunn substitute.

That being the case, and it being the desire of the distinguished Senator from Colorado—by way of explanation as to why he has resorted to the procedure of offering his amendment to the Schmitt amendment—to shut out the Warner-Nunn amendment so as to first get a vote on his amendment. But if the Warner-Nunn substitute still comes in as an amendment in the third degree, he not only does not succeed in his effort to have a vote occur first on his amendment, but he also does violence to the rules of the Senate—not by intent, but in effect—because it will be flying in the face of the rules and precedents of the Senate precluding amendments in the third degree.

I would urge the Senator, rather than do this violence to the rules—granted that there might be some difference of opinion in interpreting the agreement—I would urge the Senator to pull back his amendment and let us go about it in the usual fashion, letting Mr. WARNER and Mr. NUNN offer their amendment in the second degree as a substitute. They will get a vote on it first anyway. A tabling motion will be in order. The Senate can vote for the Warner-Nunn substitute or can vote against it.

But if the Senator pursues the route he now takes, and if my point of order should fail, then he has not gained anything by way of getting a vote on his amendment prior to a vote, one way or the other, on the Warner-Nunn substitute. He fails in his effort to get the first vote and the Senate does violence to its rules and precedents denying amendments in the third degree.

I hope the Senator will be persuaded by my argument and pull his amendment down and then offer it again as an amendment in the first degree as soon as the amendment by Mr. SCHMITT has been agreed to.

I understand the managers of the bill were ready this morning to accept the Schmitt amendment. Once that amendment is accepted, the Senator from Colorado could offer his amendment, Mr. WARNER and Mr. NUNN could offer their amendment as a substitute, and we would not run the risk of doing injury to the Standing Rules and precedents of the Senate, which prohibit third-degree amendments.

Mr. ARMSTRONG. Mr. President, may I be heard further?

The PRESIDING OFFICER. The Chair will remind Senators that there is no debate permitted on the point of order, unless it is submitted under the previous agreement.

For the Chair's own edification, we have permitted some debate. The Senate proceed for another 3 minutes, and then the Chair will rule.

Mr. ARMSTRONG. Mr. President, I appreciate the Chair's indulgence. I understand perfectly that I am proceeding only at the sufferance of the Chair.

Mr. President, at no time have I sought to preclude, and I do not now seek to preclude, the vote on the Warner-Nunn substitute.

The majority leader has suggested that perhaps I would consent to offering my amendment as an amendment in the first degree. I would so agree, provided that in doing so I did not subject myself to preemption by a second degree Warner-Nunn substitute.

We can compromise this issue very easily, and that is to let both be voted on as first degree amendments, or, if one or the other must be a substitute, how would it be if we let Messrs. Warner and Nunn offer their amendment and let me offer mine as a second degree substitute, thereby finessing the parliamentary situation?

It seems to me that for Senators to argue that the only way to resolve this is for me to concede and to give up the rights which I have under the rules and the established traditions of the Senate is wrong. And for reasons which I have explained earlier in the day, out of loyalty to hundreds of thousands of service personnel whose interests are affected by this, I cannot conscientiously do so, as much as I would like to accommodate the majority leader.

I will also restate the parliamentary situation as I see it. Although the unanimous-consent agreement provides for a Warner-Nunn substitute, it is implicit that such an amendment is in order only if the legislative situation permits. In my judgment, under the rules and under the unanimous-consent agreement, the situation does not so permit.

And if the point of order offered now by the majority leader were to be sustained, then, under his interpretation, the Warner-Nunn substitute would still not be in order, unless I reoffered my amendment to the bill in the first degree.

So I am hopeful, both on a practical, substantive ground, and also from a parliamentary standpoint, that the Chair will reaffirm its ruling of earlier in the day that the amendment is in order.

The PRESIDING OFFICER. The Chair is now ready to rule.

Even though the Chair said earlier, in response to a parliamentary inquiry, that the pending amendment was in order as either a first- or second-degree amendment under the agreement, the Chair has now had more time to ponder the question, and while he agrees with the prior interpretation of the bare language of the agreement, he feels that the least violence would be done to the Senate precedents by sustaining the point of order because of the third-degree factor, and the Chair sustains the point of order.

Mr. NUNN. Mr. President, all time having been yielded back on the Schmitt amendment—I do not believe the yeas and nays have been ordered—we will accept the amendment.

Mr. WARNER. Mr. President, we accept the Schmitt amendment.

Mr. ARMSTRONG. Mr. President, do I understand that after the acceptance of the Schmitt amendment it would be in order for me to resubmit the Armstrong-Matsunaga amendment as a first-degree amendment?

The PRESIDING OFFICER. The Senator is correct. There will be no additional time for debate, but the Senator can submit his amendment.

The question is on agreeing to the amendment offered by the Senator from New Mexico.

The amendment was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 958

(Purpose: To provide that the comparability pay of certain members of the uniformed services shall be determined without regard to the President's alternative pay plan)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I do so fully realizing that Senators may be facing another 2 hours of debate on this issue.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. Armstrong) proposes an unprinted amendment numbered 958.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . (a) Except as provided in subsection (b), and notwithstanding any other provision of law, the pay and allowances of any pay grade with respect to which an adjustment was made for the first pay period beginning on or after October 1, 1979, under section 1009 of title 37, United States Code, shall be increased, effective for the first pay period beginning on or after January 1, 1980, to the rate for such pay grade which would have been payable by reason of such adjustment if the President had not submitted an alternative pay plan under section 5305(c) of title 5, United States Code, with respect to such adjustment.

(b) The provisions of subsection (a) shall not apply to the pay and allowances of any pay grade the rate for which is limited by the provisions of the second paragraph of section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979.

Mr. ARMSTRONG. Mr. President, if there are those who would like to hear 4 more hours on this amendment, I would be glad to meet with them privately, or they may stay for the 2 hours of debate on the general subject which ensues under the time agreement if Messrs. Warner and Nunn decide to offer their amendment as a substitute.

Mr. NUNN. Mr. President, has all time been consumed on the Armstrong amendment?

The PRESIDING OFFICER. All time has been consumed.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

Mr. NUNN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered but in a different version.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1647 TO UP AMENDMENT NO. 958

(Purpose: To increase certain items of compensation for members of the uniformed services)

Mr. NUNN. Mr. President, I ask that the clerk state the Warner substitute, which I now call up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. Warner) for himself, Mr. Nunn, Mr. Stennis, Mr. Tower, Mr. Cannon, Mr. Exon, Mr. Humphrey, Mr. Levin, Mr. Inouye, Mr. Morgan, and Mr. Mathias proposes an amendment numbered 1647 to the amendment of the Senator from Colorado.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after "Viz:" and insert in lieu thereof the following:

At the end of the bill add the following new sections:

"FLIGHT PAY FOR ENLISTED CREW MEMBERS

"Sec. 6. (a) Section 301 of title 37, United States Code, relating to hazardous duty pay, is amended—

"(1) by striking out '(1), (2), or (3)' in subsection (b) and inserting in lieu thereof '(2) or (3)';

"(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively, and by inserting after subsection (b) a new subsection (c) as follows:

"'(c) For the performance of the hazardous duty described in clause (1) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

" 'ENLISTED MEMBERS

" 'Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	100	106	106	106	113	119	131
E-6	88	94	94	100	106	113	119
E-5	75	88	88	100	100	106	113
E-4	69	81	81	88	94	100	100
E-3	69	75	75	75	75	75	75
E-2	63	75	75	75	75	75	75
E-1	63	69	69	69	69	69	69
E-4 under 4 months	63						
Aviation cadets	63						

Pay grade	Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	131	131	131	131	131	131	131
E-6	119	125	125	125	125	125	125
E-5	119	119	119	119	119	119	119
E-4	100	100	100	100	100	100	100
E-3	75	75	75	75	75	75	75
E-2	75	75	75	75	75	75	75
E-1	69	69	69	69	69	69	69';

and

"(3) by striking out '(b) or (c)' in the first sentence of subsection (g), as redesignated by clause (2), and inserting in lieu thereof '(b), (c), or (d)'.

"(b) The amendments made by this section shall be effective with respect to flight incentive pay payable for periods beginning after December 31, 1979.

"FLIGHT PAY FOR OFFICERS

"SEC. 7. (a) The tables in clause (1) of section 301a(b) of title 37, United States Code, relating to aviation career incentive pay, are amended to read as follows:

" 'Phase I

" 'Monthly rate:	Years of aviation service (including flight training) as an officer:
$125	2 or less.
$156	Over 2.
$188	Over 3.
$206	Over 4.
$306	Over 6.

" 'Phase II

" 'Monthly rate:	Years of service as an officer as computed under section 205:
$281	Over 18.
$256	Over 20.
$231	Over 22.
$206	Over 24 but not over 25'.

"(b) The last sentence in clause (1) of section 301a(b) of such title is amended by striking out '$160' and '$165' and inserting in lieu thereof '$200' and '$206', respectively.

"(c) The table in clause (2) of section 301a(b) of such title is amended to read as follows:

" 'Monthly rate:	Years of aviation service as an officer:
$125	2 or less.
$138	Over 2.
$250	Over 6'.

"(d) The amendments made by this section shall be effective with respect to aviation career incentive pay payable for periods beginning after December 31, 1979.

"CAREER SEA PAY FOR ENLISTED MEMBERS

"SEC. 8. (a) Section 305a(b) of title 37, United States Code, relating to career sea pay, is amended to read as follows:

" '(b) For sea duty performed after December 31, 1979, the monthly rates for special pay under subsection (a) are as follows:

" 'Years of sea duty:	Monthly rate
Over 3	$29
Over 5	40
Over 7	52
Over 9	63
Over 10	75
Over 11	86
Over 12	115'.

"(b) Section 804(a)(2) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485) is repealed.

"(c) The amendments made by this section shall be effective with respect to career sea pay payable for periods beginning after December 31, 1979.

"EXTENSION OF PERIOD DURING WHICH REENLISTMENT BONUSES MAY BE PAID

"SEC. 9. Section 308(a)(1) of title 37, United States Code, relating to reenlistment bonuses, is amended—

"(1) by striking out 'ten' in clause (A) and inserting in lieu thereof 'fourteen'; and

"(2) by striking out 'twelve' in the last sentence and inserting in lieu thereof 'sixteen'.

"STATION HOUSING ALLOWANCE

"SEC. 10. (a) Section 403(a) of title 37, United States Code, relating to basic allowance for quarters, is amended by inserting '(1)' after the subsection designation '(a)' and by adding at the end thereof the following new paragraph:

" '(2) Under uniform regulations prescribed by the Secretaries concerned, a station housing allowance may be paid to a member of the uniformed services assigned to duty in any area of the United States, except Alaska and Hawaii, whenever and to the extent that the average cost in such area for housing for members of the uniform services serving in the same or equivalent grade as such member exceeds by more than 15 percent the amount of the basic allowance for quarters of such member.'.

"(b) The catchline of section 403 of such title is amended to read as follows:

" '§ 403. Basic allowance for quarters; station housing allowance'.

"(c) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 403 and inserting in lieu thereof the following:

" '403. Basic allowance for quarters, station housing allowance.'.

"(d) The amendments made by this section shall be effective with respect to periods after December 31, 1979, for which basic allowances for quarters are payable.

"TRAVEL AND TRANSPORTATION ALLOWANCES

"SEC. 11. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

"(1) by striking out 'that is not more than 7 cents a mile based on' in clause (1) and inserting in lieu thereof 'per mile prescribed by the Secretaries concerned multiplied by the'; and

"(2) by striking out 'of not more than 10 cents a mile based on' in clause (3) and inserting in lieu thereof 'at a rate per mile prescribed by the Secretaries concerned multiplied by the'.

"(b) Section 411(b) of such title, relating to travel and transportation allowances, is amended—

"(1) by striking out 'first-class transportation, including sleeping accommodations,' in clause (1) and inserting in lieu thereof 'common carrier transportation';

"(2) by inserting 'and designating areas as high cost areas' after 'rates' in clause (2); and

"(3) by striking out 'first-class transportation, including sleeping accommodations and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage rates' in clause (3) and inserting in lieu thereof 'transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances'.

"(c) The amendments made by this section shall be effective with respect to travel and transportation performed after December 31, 1979.

"STABILIZATION OF PAY AND ALLOWANCES OF COMMISSIONED OFFICERS WHO PREVIOUSLY SERVED AS ENLISTED MEMBERS OR WARRANT OFFICERS

"SEC. 12. (a)(1) Section 907 of title 37, United States Code, relating to the pay and allowances of enlisted members appointed as officers, is amended to read as follows:

" '§ 907. Pay and allowances stabilized: former enlisted members and warrant officers

" '(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

" '(1) the pay and allowances to which he is entitled as an officer; or

" '(2) the pay and allowances to which he would be entitled if he were in his last enlisted grade before appointment as an officer.

" '(b) A warrant officer who accepts an appointment as an officer shall, for service as a commissioned officer, be paid the greater of—

" '(1) the pay and allowances to which he is entitled as a commissioned officer;

" '(2) the pay and allowances to which he would be entitled if he were in his last warrant officer grade before appointment as a commissioned officer; or

" '(3) the pay all allowances to which, before his appointment as a commissioned officer, he was entitled in accordance with subsection (a)(2) of this section.

" '(c) For the purposes of a former grade include—

" '(1) the pay and allowances of a former grade include—

" '(A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

" '(B) subject to subsection (e), allowances under chapter 7 of this title; and

" '(2) the rate of pay and allowances of a former grade is that to which the member would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade, based upon time in grade and years of service, as otherwise provided in this title.

" '(d) Proficiency pay under section 307 of this title, incentive pay under section 301 of this title for hazardous duty, and special pay under sections 301 through 305 of this title for diving duty, sea duty, and duty at certain places may be considered in determining the amount of the pay and allowances of a former grade only so long as the member continues to perform the duty and would otherwise be eligible to receive that pay in his former grade.

"'(e) Clothing allowance under section 418 of this title may not be considered in determining the amount of pay and allowances in a former grade if the officer is entitled to a uniform allowance under section 415 of this title.'.

"(2) The table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 907 and inserting in lieu thereof the following:

"'907. Pay and allowances stabilized: former enlisted members and warrant officers.'.

"(b) Section 203 of such title, relating to rates of pay for members of uniformed services, is amended by adding at the end thereof the following new subsection:

"'(d) The basic pay of commissioned officers in pay grades O–1, O–2, and O–3 who are credited with over four years' active service as warrant officers shall be computed in the same manner as commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members.'.

"(c) The amendments made by this section shall be effective with respect to periods, for which pay and allowances are payable, which begin after the month in which this section is enacted.

"INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

"SEC. 13. Effective January 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act (as prescribed by the President under section 1009 of such title), are increased by 10 per centum.".

The PRESIDING OFFICER. There is a limitation of 2 hours' time on this amendment.

Mr. NUNN. Mr. President, I yield 30 seconds to the Senator from California.

THE NEED TO RESPOND TO PROBLEMS WITH THE ALL-VOLUNTEER FORCE

Mr. CRANSTON. Mr. President, I appreciate the concern expressed by my colleagues here today about the serious problems facing the all-volunteer force. We face shortfalls in recruitment goals. Equally disturbing, there is a continuing decline in the retention rate of qualified personnel. With the sophisticated equipment used in the Armed Forces today, trained, experienced personnel are essential. There are some areas where the shortages are acute such as the lack of adequate personnel to man our naval vessels. The insufficient levels of manpower make the difficult jobs of today's military even more so.

The problem of attracting and keeping people in the military stems in large part from the perception that promises made at the time of recruitment are not being kept; from the perception that benefits are continuing to erode; and from the preception that, frankly, members of the Armed Forces feel they could do better elsewhere.

We need to confront these concerns if we are to have an effective military force. I think that the debate today shows that we are responding. The key question is how to recruit and retain qualified personnel for our armed services. We must acknowledge that military personnel face problems that are not found in other careers. The demands of the job are in certain respects unique and we must recognize this fact. Hours are long. And there are often lengthy periods of separation from family. There is a strong sense that the critical services the men and women of the Armed Force are performing are unappreciated by the American public. Military personnel are required to move frequently. Often moving expenses do not cover the cost of the move. A financial strain is placed on them on top of the emotional and physical strain that moving normally entails. In addition, military personnel are required to move to high-cost areas which their basic allowances for living do not cover. These are some of the complaints expressed most frequently by my constituents.

We must resist the temptation to resolve the problems by "quick fixes" and half measures. A blanket, across-the-board, 3.4-percent pay increase would not resolve these problems. I do not think that just throwing money in the general direction of military personnel—particularly in a 3.4-percent increase across the board when inflation is running about 13 percent—will be a real incentive to prospective recruits or to people who are making a decision whether to stay in the military. It will not keep our pilots or experienced personnel in the services. We must insure that proposals truly remedy the most urgent problems. For that reason, I support the Nunn-Warner amendment.

We must focus on specific issues. I believe the amendment proposed by my able colleagues, Senators NUNN and WARNER, does just this. Their amendment will for the first time provide a cost-of-living allowance for military members living in the high-cost areas of the continental United States. It will increase the rate of reimbursement for moving expenses. It also will address specific problems of retention in the Air Force and Navy by increasing flight pay by 25 percent and by increasing and accelerating sea pay. These are specific concrete measures which will go to the heart of the problem.

Thus, I support the Nunn-Warner amendment to H.R. 5168. It is an important step in the right direction of assuring the men and women in the Armed Forces that we mean to keep the commitments made to them. And it is an important step in doing our utmost to make the All-Volunteer Force work. We need to examine thoroughly the entire framework of the pay and compensation system. I will continue to work with my colleagues in the Senate to see to it that the needs of our military personnel are met properly. This will insure that the needs of our Nation are met as well.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senator from Massachusetts (Mr. TSONGAS) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Will the Senator yield?

Mr. NUNN. I yield.

Mr. GOLDWATER. Mr. President, I said earlier that I could support either one of these amendments. Because the Warner-Nunn amendment does take care of important parts that were left out of the Armstrong amendment, I ask that I be included as a cosponsor.

Mr. NUNN. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, from the point of view of the Warner-Nunn proponents, we have been debating this for about 4½ or 5 hours today. I believe the merits have been thoroughly discussed. I do not know whether the Senator from Colorado would like to spend some time discussing the merits further, and I would not yield back my time without an accommodation from him. But to accommodate the Senate, when and if the Senator from Colorado completes his remarks, I will be glad to briefly summarize, the Senator from Virginia briefly summarize, and be prepared to ask for a vote. I ask for the yeas and nays on the substitute.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. I yield the floor.

Mr. ARMSTRONG. I did not quite hear what the Senator said. As I understand it, 2 hours are available for debate, evenly divided.

Mr. NUNN. That is correct.

Mr. ARMSTRONG. Is it the Senator's suggestion that we dispose of it more quickly than that?

Mr. NUNN. It was my suggestion that in fact we have been debating the merits of both of these proposals this afternoon, and we should try to wrap it up as quickly as possible to accommodate the Senate and come to a vote. It is up to the Senator from Colorado. He has 1 hour and we have 1 hour.

Mr. ARMSTRONG. I endorse that in general principle. I would like to ask that the proponents take a few minutes and state the contents of it and state why they feel it is better than the amendment which has been under discussion for the last 3 hours. I have one or two speakers who would like to comment on the comparison of the two amendments. While I will not comment during the course of the debate, it is not my intent to drag it out.

Mr. WARNER. Mr. President, I speak in behalf of the Warner-Nunn substitute amendment. This amendment reflects the combined judgment of the majority of the Senate Armed Services Committee after hearings, the witnesses being the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Manpower and Personnel, the Chairman of the Joint Chiefs of Staff, and each of the service chiefs.

It is the majority opinion of those witnesses that the No. 1 problem facing the U.S. military today is retention in the career force. Consequently, the Senate Armed Services Committee carefully drew up a piece of legislation aimed directly at stemming the retention drain from the Armed Forces today.

Mr. President, we have the highest respect and regard for the efforts of the distinguished Senator from Colorado.

But during the course of the deliberations in the Armed Services Committee it was made eminently clear that the Armstrong proposal not only did not address the question of retention as precisely as the Nunn-Warner proposal, but that it sidesteps the all-important question of compensation of the civilian Government employees.

I referred earlier to the statute by which pay increases for civilian and military employees is provided, and it is clear under that law that when the various pay agents meet, they make a recommendation to the President and the President then has the option to accept the recommendation or to propose an alternative. In this instance, he proposed a pay cap alternative of 7 percent, thereby denying both civilian and military the additional pay of 3.41 percent.

A vote in favor of the Armstrong proposal would clearly favor one class over the other. While there may be justification for so favoring one class; namely, the military, over the civilians, I want each and every Senator to know that he will have to answer to his constituents, the civilian employees, and give an explanation as to why they are not given equal and like treatment as that given to the members of the armed services.

It is for these two, combined reasons; namely, that we do not wish at this time, without careful deliberation by the Senate as a whole and committee action, to deprive civilian employees of an increase in compensation while granting an across-the-board increase to military personnel; and, secondly, that, in the combined judgment of the very persons responsible for the Armed Forces; namely, the Secretary of Defense, Chairman of the Joint Chiefs, and the military chiefs—the proposal of the Senate Armed Services Committee; namely, the Warner-Nunn substitute amendment—is the one that they favor. Accordingly, I urge my colleagues in the Senate to vote in favor of the pending measure, the substitute amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I yield myself 10 minutes.

The issues to which the opponents of the military pay raise amendment, which Senator MATSUNAGA and I have brought to the floor, have insisted on bringing into perspective—that is, the issue which they have insisted that we now join—is an either/or choice between a series of special incentive bonuses, reenlistment pay, flight pay, sea pay, and so on—in lieu of implementing that portion of the present law which provides for a cost-of-living pay increase for military personnel.

I very much regret that they have insisted, despite numerous opportunities to permit a vote on both issues, on forcing the Senate to an either/or choice. I think this is shortsighted for many reasons. In fact, I would suggest that, ultimately, they will not prevail in having an either/or choice. I hope and, as a matter of fact, I believe that, at the right time, when we move to table the Nunn-Warner substitute, we are going to have enough votes to table it and then to go ahead and pass the Armstrong-Matsunaga amendment to keep faith with the Nation's military personnel. If that happens, I say to my friends, the distinguished Senators from Virginia and Georgia, that I should like to be among the cosponsors who bring their amendment back as a separate issue.

It is most perplexing to me that they have insisted on bringing their amendment to the floor in a way that attempts to preempt the amendment which Senator MATSUNAGA and I have offered. I understand, and I appreciate—indeed, I respect—the point of view expressed by the Senator from Georgia, who says we just cannot have both of these, that the dollars are just too big, too overwhelming, somebody would veto it, the House would not go along, and so on. In my opinion, both of these packages are well justified.

Certainly, a modest pay increase to partially offset the nearly 20 percent reduction in after-inflation compensation paid to military personnel—3 percent is all we are trying to restore—is well justified. How can anybody argue in this day and age that many of the things which are represented in the Warner-Nunn substitute are also not well justified? In my opinion, they clearly are. That is why I am for it. But I think it is terribly shortsighted to force us to make this kind of choice. I hope that, however this vote turns out, whichever of these proposals goes forward—and I think it will ultimately be the Armstrong-Matsunaga proposal—we can regroup and send the other proposal forward, too.

Earlier today, the Senator from Arizona (Mr. GOLDWATER) submitted for the RECORD, a report by the former Secretary of Defense, Melvin Laird. I pointed out at the time that what Mr. Laird says is necessary in terms of military personnel goes far beyond the sum total of either of these amendments or both, combined. He says that if we are really serious about making the volunteer force work, we have to pay more, we have to have more benefits. He goes a lot farther than what we are talking about. I predict that, however we go tonight, we are eventually going to go well beyond the sum total of these areas.

I was impressed, at the hearing conducted by the Senate Committee on Armed Services, that the chiefs themselves, the personnel chiefs of the Armed Services, clearly wanted what is in both these proposals, clearly think it is well justified, clearly think it is imperative in order to stop the hemorrhaging of personnel in the officer and enlisted ranks, in order to get the second-term reenlistments, and in order to attract the recruits.

I really must say that I find it perplexing in the extreme that my colleagues would insist on portraying this as a choice. In fact, I would have very much preferred that they had come forward with a proposition such as that originally suggested by the Senator from Virginia (Mr. WARNER), which was a package of some pay increases and some special bonus pay. I think that made some sense. I think it still makes some sense. But, instead, by a narrow vote, as I understand it—by a vote, I am told, of eight to nine—the Armed Services Committee decided, instead, to endorse another proposal.

Mr. President, I should like to suggest that that is a choice which, while a proper one for the committee to make, is not going to be in the best interests of the hundreds of thousands of service men and women around the world who are looking to this Congress to protect them.

I pointed out before, Mr. President, in consideration of this whole military pay issue, that service men and women cannot and should not form labor organizations. They cannot go on strike and we should never permit them to do so. These people cannot quit their jobs because, in most instances, they are enlisted for definite terms of service. It seems to me that when we bring people into the service of the country under those terms and conditions, we have a very special responsibility in this Chamber to look out for their well-being and to be more concerned about their welfare, their pay, their perquisites, their career opportunities, their educational benefits, their retirement, their career opportunities, and their status than even they are themselves.

I say to my friends, the Senator from Georgia and the Senator from Virginia, and also to the chairman of the Committee on Armed Services, who, I notice, is on the floor, that it is my intention to offer specific amendments in every one of these areas of concern to military personnel. I am not going to offer them tonight. The only one I am offering tonight has to do with implementing a portion of the Pay Comparability Act. But in time, I shall be offering amendments affecting their pay opportunities, their career opportunities, their retirement benefits, their status, and a lot of other things, because I care about those people who are serving their country with such distinction and often with such great sacrifice to themselves, I care for their worth and value as human beings, and I care for what the morale and esprit of our military servicemen mean to the defense of our country.

Mr. President, I am sorry we are faced with this choice, but we are faced with it. The only choice we have tonight is, are we going to be for a package of selective pay and bonuses or are we going to be for the Armstrong-Matsunaga pay proposal? I should like to tell exactly why, now that we are forced to make that choice, Senators ought to be for the pay increase suggested by Senator MATSUNAGA and myself and a number of others and not for the substitute. I should like to begin by reading a message sent to me by the Air Force Sergeants Association, which was handed to me and came to my attention for the first time just a couple of hours ago. It comes to me on the AFSA stationery over the signature of Donald L. Harlow, chief master sergeant of the Air Force, retired, deputy executive director of the AFSA. It is addressed to all Members of the Senate. I share it in the hope that all Members of the Senate will take it to heart.

FEBRUARY 1, 1980.

To: All Members of the Senate:

The enlisted members of the Armed services are unaware of the Warner proposal as an alternative to the Armstrong/Matsunaga 3.4 percent pay proposal. The anticipation of receipt of the increased pay, effective 1 January 1980, is paramount among all enlisted men and women.

Unfortunately, Senator Warner's and Senator Nunn's alternative is a few years late in retaining the highly qualified technicians and mid-level supervisors so desperately needed during the build-up of our defense forces.

The proposed increase in supplemental housing allowance will be of little benefit with the cost of rentals going up with the corresponding rate of inflation.

The increased reimbursement of mileage for travel, in a permanent change of station allowance, will also affect few enlisted people, as such movement on an individual basis is minimal.

The increase of flight pay by 25 percent is also ludicrous in view of such pay for enlisted aircrew members not being changed for some 25 years.

If anyone considers the draft to be the answer to our manpower problem in the armed services, may I point out that such a draft will undoubtedly acquire sufficient quantity of people while the quality will suffer significantly.

I am confident that no Member of the United States Senate wants to play politics with the security of our Nation. On behalf of the 144,000 members of our association and their dependents, I would urge you to vote for the Armstrong/Matsunaga 3.4 percent pay increase for our active duty military people.

DONALD L. HARLOW, CMSAF, Ret.,
Deputy Executive Director.

Mr. President, there is little I can add to what the sergeant summed up so eloquently and so well.

I am hopeful before I go into a detailed comparison of the two proposals that even now the sponsors of this substitute would be disposed to permit a vote to occur on both, and by unanimous consent they could still do that.

They are forcing us to make a choice, and it is one in my judgment in their best interests, not in the best interests of the Senate, and certainly not of America's fighting men and women.

Let me be specific.

The Warner-Nunn substitute fails to address the core of the recruitment/retention problem: the fact that a serviceman's monthly pay is inadequate to cover his monthly bills. The Armstrong-Matsunaga amendment strikes at the heart of this problem.

It does not go the whole distance, the 20 percent growth. It only restores 3 percent of it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ARMSTRONG. Mr. President, I yield myself 5 additional minutes.

Second, the Warner-Nunn substitute is too selective. The package provides far greater benefits for officers than for enlisted men, and for the Navy and the Air Force at the expense of the Army and the Marine Corps. The Armstrong-Matsunaga amendment provides every serviceman, from private to colonel, with a 3.4 percent pay increase.

Third, the Warner-Nunn substitute provides servicemen with very little they would not be getting anyway. Every element in the Warner-Nunn package was included in the Department of Defense's fiscal year 1981 budget recommendations to President Carter; most of the elements in the package are included in the President's budget request.

By contrast, the Armstrong-Matsunaga amendment would give servicemen what they want most, something that is not included in the President's fiscal year 1981 budget plans.

Four, the Warner-Nunn substitute reinforces the belief of servicemen that Congress intends to continue to force them to take real pay cuts year after year. The Armstrong-Matsunaga sends a clear signal that Congress believes it has an obligation to pay servicemen a living wage.

I think that is a signal that psychologically is the most important thing we have to turn around.

Somebody can dance around the issue and say that we have to recruit sergeants, we have to recruit flyers, we have to recruit officers. The real fact of the matter is that there is, over the serviceman, the feeling they are forgotten, that we do not care, and we can give them a pay cut and still keep them interested and keep them in.

This amendment is far more important than money. This is an amendment that goes to the heart of the credibility of the Congress of the United States, with the people in uniform who defend us.

In my opinion, it makes very little difference whether the Warner-Nunn substitute is enacted in the remainder of fiscal year 1980, or at the start of fiscal year 1981. Even many of those who otherwise would be beneficiaries of its arbitrary increases in selected allowances will gain little or nothing from their enactment in the remainder of this fiscal year, as compared with the start of the next year.

For example, when we look at the change in the PCS mileage rate, and I strongly support that change, bear in mind that only those who move between now and October 1 would be affected by the change in PCS mileage rates, and only those whose enlistment contracts expire between now and October 1 would benefit from a rushed establishment of a third-term enlistment bonus. The Armstrong-Matsunaga amendment provides a concrete benefit to all servicemen and women in the first paycheck after its enactment, and an even more important psychological benefit.

In my judgment, and this is something all Senators can have an opinion on, the Warner-Nunn substitute is more likely to be delayed or defeated in the House than the Armstrong-Matsunaga.

In the substitute, which I support, they are breaking new ground. In the Armstrong-Matsunaga approach, we are merely funding a portion of the present statute which was developed after careful hearings, after consideration in both Houses of Congress. That is why this is so simple, fair, and clear-cut.

It seems to me, that is the kind of proposal that logic would say the House would most likely support.

I must confide, however, it is not logic alone that persuades me to think if we send them the Armstrong-Matsunaga pay raise, the House will buy it. I have talked with some Members of the House, including some I regard as among the most influential, after serving there for 6 years.

They tell me if we send this over it will pass. Perhaps the sponsors of the Nunn-Warner proposal can make a similar representation? I am not aware that there is a groundswell of support in the House for their substitute proposal. Perhaps there is. If there is, that ground swell would still be there if they sent it over separately.

Finally, the Warner-Nunn substitute does little or nothing at all to encourage recruitment. It is a virtual prescription for a return to the peacetime draft.

I do not say that by way of evaluating whether or not we ought to pass legislation to register people for the draft. I have not announced my position on that. I am opposed to implementing it in peacetime.

I am not suggesting that passing Armstrong-Matsunaga is a cure-all for the volunteer service. But we do not have to realize that, if we do not pass this, it is virtually impossible to make it work.

That is our view on our side.

Reluctantly, with the keen desire that we are not being forced to make the choice, I ask Senators to vote for the tabling motion when I make it to table Warner-Nunn so that we can go forward and vote for Armstrong-Matsunaga.

Mr. President, I reserve the remainder of my time to see whether or not the proponents wish to respond. If not, I will again take the floor and yield to my colleague from Hawaii.

Mr. President, I reserve the remainder of my time.

Mr. NUNN. Mr. President, I will respond very briefly. Before that, will the Senator from Colorado state approximately how much more of his time he would like to take? We have colleagues who would like some idea.

Mr. ARMSTRONG. Mr. President, I say to the Senator from Georgia that he could facilitate this by agreeing to a separate vote. If he agrees to have both issues voted on the merits, I can sum up in not more than 2 minutes and go to a vote on both issues.

Barring that——

Mr. NUNN. Mr. President, certainly, the Senator from Georgia will not do that.

If the Senator will indicate then how much time he will take?

Mr. ARMSTRONG. It is a disappointment to me to hear the Senator state he may not be prepared to do so.

Barring that, I would expect to use the time available to make the best case we can for tabling Warner-Nunn and to support Armstrong-Matsunaga.

Mr. NUNN. Mr. President, may I have an indication of the time remaining?

The PRESIDING OFFICER. The Senator from Colorado has 43 minutes remaining. The Senator from Georgia has 51½ minutes.

Mr. NUNN. The Senator from Colorado has how much time?

The PRESIDING OFFICER. Forty-three minutes.

Mr. NUNN. Mr. President, I serve notice on my colleagues that I intend to take only 5 minutes of the remaining time unless someone else on my side wants to be heard.

At this stage, I simply yield the floor to the Senator from Colorado, and that means, as I count the minutes, we would be voting in about 45 minutes.

Mr. ARMSTRONG. Mr. President, I yield 15 minutes to my distinguished colleague from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. I thank the Senator from Colorado for yielding.

Mr. President, I will not use the 15 minutes but I will reserve the remainder of the time when I finish.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MATSUNAGA. Mr. President, I rise in strong opposition to the Warner-Nunn substitute to the Armstrong-Matsunaga amendment. At the very outset, I want to emphasize to my colleagues that the allowance increases which would be made available to certain military personnel under the Warner-Nunn substitute are desirable, and very long overdue. I must say that under any other circumstances, I would readily and enthusiastically support the proposal of the Senators from Georgia and Virginia.

However, Mr. President, I say with all due respect to them, that I believe their proposal is simply not enough at this critical time in the life of the All-Volunteer Force. I am afraid that if the Senate chooses to address the recruiting and retention problems currently facing the AVF by means of the Warner-Nunn proposal, we will be making a terrible mistake—one that may, perhaps, seal the fate of the volunteer military force, and require the reinstatement of the peacetime draft.

Mr. President, the fact of the matter is that military pay has declined across the entire spectrum of enlisted and officer pay grades since the establishment of the All-Volunteer Force in 1973. In short, we allowed the military services to fall behind in pay comparability, which is the key to a successful volunteer system, and we are now paying for our mistakes with declining recruiting and retention rates. The Armstrong-Matsunaga amendment will provide each and every serviceman and woman with a visible increase in basic pay. The Warner-Nunn substitute will only benefit certain servicemen, at a certain rank, performing certain specified jobs, living in certain areas, or changing assignments.

Let us look at what is contained in the Warner-Nunn substitute amendment and how it will affect military personnel.

First, the variable housing allowance increase in the Warner-Nunn amendment will help married servicemen and their families, but will do nothing to help single, junior enlisted personnel.

Second, the increased travel reimbursement allowance will be helpful to those personnel who will be reassigned this year and will be forced to move their household. Those who will not be reassigned and who will remain at their present station this year will not benefit from this allowance increase.

Third, the increase in sea pay provided in the Warner-Nunn amendment will be received by those Navy personnel who are eligible because they have completed 3 years of sea duty. Those sailors in their first, second, and third years of sea duty will not benefit in the least from this allowance increase.

Similarly, while Air Force pilots will benefit from the flight pay increase—that is, those pilots who do fly—those who perform important work on the ground with respect to the safety of those flying pilots will not receive any benefits under the flight pay provided in the Warner-Nunn substitute.

Mr. President, it seems to me that the basic premise behind the Warner-Nunn proposal is that by taking measures to increase retention in the career force, the need for an increased number of recruits is reduced. Certainly, that reasoning is sound, particularly when one looks at the demographic patterns projected for the next several years, which indicate that the pool of available young men and women will decline significantly. However, the fact is that we will still need to recruit qualified young men and women; and without pay comparability, the military services will be unable to do so. Increasing allowances to the benefit of the career force will, indeed, be good for retention in the short term; but if we are concerned about the long-term future of the all-volunteer force, we must avoid the temptation to camouflage the manpower problems and take positive steps to reachieve and maintain pay comparability with the private sector.

Mr. President, the comparability pay increase provided in the Armstrong-Matsunaga amendment will prevent military personnel from falling even further behind inflation and the cost of living during 1980. This additional pay increase would be a visible one which makes no distinction among servicemen and servicewomen, and one that would demonstrate that Congress is aware of the serious erosion of pay and benefits which has occurred since 1973, and our determination, once again, to make a career in the All-Volunteer Force an attractive one.

For those Senators who remain concerned about career force retention, and would like to see the allowances in the Warner-Nunn substitute put into effect, I point out that the President's proposed budget for fiscal year 1981 contains several of the allowance increases provided in the Warner-Nunn amendment. In my judgment, the best course of action that Congress can take to help the All-Volunteer Force meet its manpower requirements is to approve the Armstrong-Matsunaga amendment for fiscal year 1980, and support the allowance increases in the defense budget for fiscal year 1981.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I am aware that there are in the Chamber a number of Senators who are increasingly persuaded that it would be well if we could bring these issues to a vote separately, if both were available to us as first-degree amendments.

While I am not going to propound that unanimous-consent request, I am ready to propound it at any time. I will propound it, perhaps, again later. If someone wishes to make such a unanimous-consent request, I shall support it enthusiastically.

I feel, with respect to Members who have come on the floor during the last several hours, who have not been involved deeply in this debate, that there is a growing sense that the sponsors of the substitute do their own measure a disservice by forcing this kind of choice.

Mr. President, I note that the distinguished Senator from Idaho (Mr. McCLURE) is in the Chamber. I will be very pleased to yield to him 10 minutes or more time if he needs it. At this time, I yield 10 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I particularly appreciate the comments just made about the growing number of Senators who feel that what this Nation needs is at least both amendments, not one or the other, and perhaps more than the two together, but no less than the two together. I join that growing number who, after having heard all the debate in favor of each amendment, has to join in the wish that there were some way we could vote for both, because I think both have merit.

I sat in the Chamber all day today, listening to this debate, and it has been an excellent debate. There have been very little diversions into irrelevant material.

I am convinced that the more immediately important of the two is the Armstrong-Matsunaga amendment, and that is not to say that I do not agree with the thrust of the Warner-Nunn amendment. I do.

However, I am convinced from listening to the debate—and I must commend both the Senator from Colorado and the Senator from Hawaii for the very cogent manner and forceful manner in which they have presented their arguments—I am convinced from that and from other materials and conversations I have had or have heard that the immediate need will best be met by the adoption of the Armstrong-Matsunaga amendment.

I understand the thrust of the Warner-Nunn amendment. Those also are critical needs, and I believe they are more likely to be met with the adoption of the Armstrong-Matsunaga amendment and the subsequent adoption, if necessary, of those measures contained in the Warner-Nunn proposal.

Mr. President, I am concerned with one turn of the debate today that dealt with a question of the draft.

The Senator from Georgia says: "My

bill does not call for the draft. My bill calls only for registration."

But registration is for something. Registration by itself does nothing or very little. It gives us some names and addresses, but we do not have any idea of qualifications or skills or availability or physical capacity. So I suspect that there will be registration together with classification.

Mr. NUNN. I say to the Senator that the bill that came out last year called for both.

Mr. McCLURE. Yes. But there are discussions, I say to the Senator from Georgia, and a number of people around here talking as though all we are going to do is just get a list of names. We are not going to just get a list of names. It will also be classification and after classification it will be registration and classification for something, not just a vacuous effort, not just a vacuous operation with no purpose. It will have its purpose, first of all, to induce people who under the threat of the draft might volunteer who otherwise would not, and I suspect that may be one salutary effect. With respect to the Reserve forces and the National Guard forces, their enlistments probably will go up. But they will not go up in the critical area, in my judgment, that it is necessary to address the very real sociological problem being presented this country by the imbalanced kind of response to the all-volunteer service.

Mr. President, I served in the other body when we passed the Comparability Act. I was on the Post Office and Civil Service Committee in the other body when we passed the Comparability Acts, and I was in favor of them because I want the people who serve our Government in civilian and military capacities to be able to be paid at least as much as their counterparts in private enterprise.

We should not expect people to work for less than their due wages.

And yet there is running through this debate here today an implicit acceptance of the fact that registration, classification, and at least the threat of the draft will be necessary to coerce young Americans to serve. Even though they are patriotic Americans they will not make the sacrifice at current pay levels.

And the Armstrong-Matsunaga amendment addresses that fact directly. It does not deal with the question of retention of those with greater skills with as much precision as does the Warner-Nunn amendment, and that is a real problem. But it does address itself to the fact that in the next year there will be thousands of young Americans who have to make the decision whether or not to stay in and countless thousands more will have to make the decision whether or not they can afford to enlist. It is to those that we must address our concern.

The President in his latest submission to Congress and statements to the Nation about defense posture has indicated that we must build new weapons systems.

Mr. President, new weapons systems are of no value to us this year. They will be of no value to us next year because they will not yet be built. Neither will the new ships being built for the Navy be ready next year.

But the question will be whether or not we have enough personnel to operate the ships and the weapons that we have. That is a very real question of the numbers and the qualifications of those people, and both amendments address that question.

But the fundamental question that must be raised at some point, will we by voluntary action induce young Americans to serve in the armed services of this country or must we again resort to the coercion of Government, the involuntary servitude by a draft system in peacetime that forces young Americans, not all, but some, some selected young Americans to give up a portion of their lives because the rest of us were not willing to pay enough to get them to do it voluntarily?

Mr. President, I find myself in total agreement with the remarks made by my distinguished colleague, the senior Senator from Oregon (Mr. HATFIELD) earlier this afternoon on the revulsion that I feel towards the idea of ordering young people in this country in time of peace to do something that they do not want to do, not all, some selected here and there by one means or another, some but not all giving up a portion of their life over their protest without their consent. I know this is not the time to debate the issue of the draft, and perhaps this is not even the time to inject the issue of whether or not that is to include women because I know again that is a very sensitive subject and it must be and properly is. But I think, regardless of which side of that issue you may be on, we are only kidding ourselves if we believe that we can have a draft that does not address that issue. I think we are only deluding ourselves if we believe that we can speak in this body and say we will subject half our citizens to the draft and the others will not because of their sex.

I believe that in this generation and in this decade if we refuse to address that in Congress the courts will address that question again, and I take no comfort in the fact that they have addressed it in the past and come down with one line of authority. Courts have a way of moderating or modifying or changing their directions according to the wind that is blowing now and the wind that is blowing now is equal treatment of the sexes.

So I think there is no question so far as the junior Senator from Idaho is concerned that if we have registration, if we have classification, if we have compulsory service of some but not all, ultimately that will be resolved in favor of saying all will be included in that selection process, and that all cannot exclude the half or slightly better than half of the young people in this country of service age who happen to be women.

So, Mr. President, we are not addressing this question of pay in a vacuum. We are addressing this question of pay against the context of need for our national defense, against the context of the alternative ways in which we will find the means to provide enough manpower, and I use that term to include both men and women, have enough people in the service to man the weapons of war which we will provide, God willing we will not have to use.

Mr. President, for those reasons I must join with the Senator from Colorado and the Senator from Hawaii in asking our colleagues to reject the Warner-Nunn amendment because that is the only choice we have now in order to vote for the Armstrong-Matsunaga amendment, with the full expectation and the full hope that we will also at a later time have the opportunity to address the questions that have been raised that are implicit in the Warner-Nunn amendment.

Mr. President, it has been suggested that if indeed we dare to pass both the President——

The PRESIDING OFFICER (Mr. STONE). The Senator has used the 10 minutes.

Mr. McCLURE. Mr. President, will the Senator yield additional time?

Mr. ARMSTRONG. Of course, I yield an additional minute or more if he needs it.

Mr. McCLURE. I thank the Senator.

Mr. President, it has been suggested that the President would veto any legislation that has both measures in it.

Mr. President, I think, as the Senator from Colorado very ably said earlier today, we should do our own duty. We should carry out our own sense of responsibility. We should not be looking over our shoulder to see whether or not the President would or would not veto that legislation.

But, Mr. President, let me suggest that it makes no sense at all politically or logically for the President of the United States who, on the one hand, urged the necessity for increasing preparation, the desirability of preparing, for a draft of young Americans, and then to deny the financial ability to avoid the necessity for a draft while meeting the military manpower requirements of this country.

For all these reasons, Mr. President, I hope we will reject the Warner-Nunn proposal at this time, support it at a later time, and tonight vote for the Armstrong-Matsunaga proposal.

I thank the Senator from Colorado.

Mr. HAYAKAWA. Mr. President, will the Senator yield me 5 minutes?

Mr. ARMSTRONG. I would be delighted to yield the 5 minutes requested by the distinguished Senator from California.

Mr. HAYAKAWA. I read in the Los Angeles Herald-Examiner today this alarming story which, I understand, also appeared in the Washington Star yesterday, about the very, very low level of accomplishment and the low level of intelligence and the low level of technical proficiency among the military at the present time. Apparently it is based upon a recent study, and it shows that:

> While Congress and the Pentagon are in the process of buying and fielding some $61 billion of super sophisticated new equipment, Army units in the field are having severe difficulty learning to maintain and accurately fire the tanks and air defense systems they have.

That is a really low Army proficiency when we spend these vast amounts of money on sophisticated equipment, and apparently a majority of young men have not got the intellectual capacity to learn how to handle and use them properly.

Let me quote some other sentences from this same study:

> Because of lack of repair capability and without rapid replacement of disabled tanks, the number of tanks in a given unit could descend to an "abysmally low level" in a combat situation.

They simply cannot repair them because they do not have the mechanical training or skills.

> According to Army statistics in 1972, 26 percent of the Army fell in mental category the 50th percentile on national intelligence 3B, which includes falling in the 30th to tests. In 1977, when the Army training study began, 49 percent of the Army fell in that category. Although there are no statistics yet available for 1979, it is probably that the category has grown larger because the percentage of high school graduates among recruits has dropped sharply.

In other words, more than half, at least half and probably more than half, fall below the 30th to 50th percentile in national intelligence tests. This means a real, real degradation and decline in the quality of our Armed Forces.

> Recruits in category 3B showed a markedly lower ability to read maps, remember complex firing sequences and recognize enemy targets, all of which are key to the performance of Redeye and M60. In one group of Redeye gunners tested, for example, soldiers in higher mental categories were deemed twice as likely to properly identify and hit an enemy aircraft as those in category 3B.

That is all up and down the line. There are these deficiencies in sheer mental ability because the military is not able to attract the quality of young people needed to maintain its strength and its skill.

Therefore, this whole concept being proposed by Senator ARMSTRONG and Senator MATSUNAGA in their amendment strikes me as absolutely essential to be implemented, that is, it allows for a percentage increase for all military personnel through the ranks of private to colonel. These are the people who need it. These are the people who find their standard of living declining with inflation. These are the people who need incentives to stay in the service.

At the present time, all too many who have the training, who have the intelligence, after a while leave the service altogether with the result that training has to be started all over again with fresh personnel, fresh and ignorant personnel.

Essentially, this is the way not just of strengthening our defense level but also vastly saving money by keeping in people who already have been trained and having better people to train so that the training takes effect.

So I am happy to support my distinguished colleague from Colorado and my distinguished colleague from Hawaii in this amendment, and I encourage my colleagues to do the same.

Mr. WARNER. Mr. President, will the Senator yield for a question which may be chargeable to our time? Under the Armstrong proposal the new inductee or seaman second class would receive approximately $22 a month. Is it the Senator's opinion that that additional increment of $22 a month will get the type of individual into the Armed Forces to cure the problems cited in this article?

Mr. HAYAKAWA. Not entirely by itself, Senator WARNER, but under a prevailing set of circumstances everybody, including young people, are aware that there is a national emergency, and with the entire scale of military pay going up as a result then the hoped-for future career in the military will become considerably more attractive. But I do think it will make a difference.

Mr. WARNER. Well, the bulk of these funds would go to those other than first-term enlistees.

Mr. HAYAKAWA. That is not my understanding. It is a percentage.

Mr. WARNER. They get 3.4 percent. Only the flag officers and general officers, because of their bumping up against another statutory limitation, are not able to receive the additional pay raise.

I certainly commend the distinguished Senator from California for bringing to the attention of our colleagues these articles such as this, pointing out the deficiency and the incompetency of members of the Armed Forces. But just to take this 3.4 percent and say it is going to cure it, I urge you that it is an argument which is unpersuasive certainly to this Senator who spent many years dealing with the personnel problems of the military.

Mr. HAYAKAWA. The former Secretary of the Navy is more aware and more experienced with these problems in depth than any knowledge or information I have. But, nevertheless, I would like to say while this is not a solution nor the sole solution, this can help in maintaining and improving the quality of our troops.

Mr. WARNER. Well, the distinguished Senator from California should know that this proposal by Senator ARMSTRONG is going to cost the first year, I think, around $630 million. What is the figure?

Mr. ARMSTRONG. Mr. President, if the Senator will yield——

Mr. WARNER. I yield.

Mr. ARMSTRONG. The figure, which has been attached to it by experts, is $472 million.

Mr. WARNER. That may or may not be correct. The effective date being——

Mr. ARMSTRONG. January 1.

Mr. WARNER. January 1.

Has the Senator made any calculations with respect to the retirement costs that have to be borne by the taxpayers? I bring to the Senator's attention the fact that the Nunn-Warner approach to military compensation does not impact on the retirement costs, which are an ever, ever growing obligation of the American taxpayer.

Mr. ARMSTRONG. Mr. President, I was distracted from hearing the remarks of the Senator from Virginia. However, I am advised, although I did not hear the last observation of the Senator from Virginia, by staff that we have asked for that figure from DOD and told it cannot be calculated. It is obvious that an increase in regular military compensation will ultimately have its effect in retired pay. As I said before, it may well be that we may want to restructure the whole military compensation system at the right time. I would surely like to look at a proposal to do that, but it is not before us today.

Mr. WARNER. Just to close out this debate, I bring to the attention of the Senator the fact that the Budget Office priced out the Senator's proposal at $631 million in fiscal year 1980, annualized over a 5-year period at almost $5 billion in contrast to the Nunn-Warner approach, which is $486 million in fiscal year 1980 annualized over the 5 years at $3.2 billion. The latter has no impact on retirement costs. Also there are some tax-free advantages to the Warner-Nunn approach with respect to the persons in the military.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I am pleased to rise in support of the Nunn-Warner substitute amendment.

The debate today is one of the first of many floor debates we will have this session on military preparedness. These debates are very important, for they will document some of the reasons for the defense policies we adopt for the 1980's.

Throughout these debates there will be proposals that seem very attractive. Our problem will not be which to accept, but which to decline. It will take extraordinary discipline on the part of the Senate.

The matter before us is an example. The issue here is military pay. None of us doubts that the most precious asset of our defense system is the personnel who make it work. And clearly the effectiveness and the morale of these personnel turn, to a great extent, on the pay they receive.

It is tempting to give these personnel, who serve this Nation so well, all that is asked. But at the same time, we must realize that our Government and our Treasury are limited, and that at some point, a balancing of demands must be made.

We should ask ourselves certain questions when we are faced with a dilemma such as this. Does the proposal tend to throw money at a problem, or does it target limited funds toward areas where they will do the most good? Does the proposal represent a steady, cool-headed response to a problem, or does it represent a knee-jerk from underreaction to overreaction?

I prefer to take the balanced approach. I prefer gradual and controlled change to the jolts of an unsure policy.

When I apply those criteria to the proposals before us, I conclude that the Nunn-Warner compromise is preferable to the approach of the Armstrong amendment.

Where the Armstrong amendment would increase salaries with a broad brush, the substitute amendment would target the increases so that they can do the most good. Thus, the Nunn-Warner compromise would boost bonuses for positions requiring critical skills, while the Armstrong amendment would dissipate the increases throughout all military jobs.

Since the funds for the Nunn-Warner amendment are targeted, the Nunn-Warner approach better responds to the problems of the All-Volunteer Force. The Armstrong amendment approach, however, has been described by some as actually worsening the problems of the All-Volunteer Force.

The Nunn-Warner compromise would make the increases more visible, for example, by giving service personnel cost-of-living allowances that are adjusted for the part of the country, or the part of the world, where the personnel are stationed. The Armstrong proposal would bury the increases throughout the pay structure.

The Nunn-Warner compromise would be more equitable. It would keep the pay raise lid for Government employees—military or civilian—the same, and it would bring military travel allowances up to the level of civilian travel allowances. The Armstrong amendment would place the military pay raise lid far beyond the civilian pay raise. I think this would be an invitation to lawsuits by civilian employees as they seek to achieve comparability.

The Nunn-Warner proposal would keep the military pay raise within the President's inflation guidelines; the Armstrong proposal would not.

The Armstrong amendment would cost considerably more. It would cost $4.9 billion over 5 years, whereas the Nunn-Warner compromise would cost $3.2 billion over the same period. Each dollar used to pay salaries is a dollar that is not available for readiness, or for conventional and strategic weapons systems.

Finally, we should not discount the fact that the Nunn-Warner compromise is the product of a number of hours of hearings and debate within the Armed Services Committee. The compromise received a 13–0 vote of support from the committee after it voted down the Armstrong amendment.

I would like to thank the Armed Services Committee, and its chairman, Senator STENNIS, and the Manpower Subcommittee chairman, Senator NUNN, and the minority floor managers, Senators JEPSEN and WARNER, for the good work they have done in considering this bill, and the amendments, on an expedited basis.

I believe the committee has presented a strong, measured approach to a serious problem. The committee has set a wise course in meeting a military need, a compromise that can be used as a model in the many debates on defense in the months to come.

I urge the Senate to support the Warner-Nunn amendment.

Mr. NUNN. Mr. President, have the yeas and nays been ordered on the substituted?

The PRESIDING OFFICER. They have.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to the Warner proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, just summarizing, the Senate tonight is faced with a choice between theoretical desires and practical realities. If we really want to do something for the people out in the services, and I do, and I think most of my colleagues do on both sides of this question, if we really want to do it in a time frame that will be meaningful, and I think most of our colleagues would agree with that, then we will pass the Warner substitute.

The chances of a veto of the Armstrong proposal are very strong. I cannot speak for the administration, and I am not attempting to. I want to make that clear. The administration has testified against both of these proposals.

But I believe, from all the facts concerned, when you consider the civil-service problem, the pay there, when you consider that the Armstrong proposal is a good deal more money in fiscal year 1980, and substantially more money over the next 5 years, when you consider all those items, I believe that almost anyone would agree that the chances of a veto there are very strong.

So if we really want to do something for the military people, if we really want to do something for the people who need help the most, and if we really want to do something for these critical skills that are extremely important for our national security—and I think everyone would agree that retention is our No. 1 problem in the critical skill area—if we really want to achieve all of those goals, and I do, and, again, I believe that most of my colleagues do, then we will come down here clearly for the Warner substitute and not for the Armstrong amendment.

I do ask my colleagues to consider all of the arguments that have been made. I think that we can go on and on, to no avail. I hope that we could bring this debate to a conclusion and come to a prompt vote.

When the Senator from Colorado is prepared to yield back his time, then I will be prepared to yield back the remainder of my time.

Mr. President, what is the time remaining, as far as the amendment is concerned?

The PRESIDING OFFICER. There are 44 minutes remaining to the Senator from Georgia, and 17 minutes remaining to the Senator from Colorado, and a few seconds on each side.

Mr. NUNN. Mr. President, I yield the floor.

Mr. ARMSTRONG. Mr. President, I feel that the debate that we have had on this issue today has been instructive and worthwhile for all those who have participated. I think that if the purpose of debate in this body is to clearly identify policy alternatives, then we are well-served by this discussion.

I have heard it said that the Senate is no longer the great debating body that it once was; that, in modern times, the tradition of full debate, meaningful debate on the floor of the Senate has fallen into disuse; that most of the real work is done in committee; and that, really, sessions in the Chamber are pro forma.

We have certainly proved that that is not the case today. I compliment those who have participated in the debate. I am not going to attempt to mention them all by name. But I will make the observation that the contribution which has been made by Senators who have been interested enough to come to the floor and participate is truly outstanding.

Needless to say, I am especially grateful to the 15 or 20 Senators who have come to the floor to speak in behalf of the Armstrong-Matsunaga amendment.

But, may I say to my friends who have reached an opposite conclusion and who, for that reason, will support the substitute, that I think the arguments which they have raised have served the essential purpose of debate—and that is to sharpen the issue.

The real question comes down to this: If you think the best thing to do is to implement a portion of the present pay act and given a partial restoration of the cost-of-living pay cut which has been administered to our military personnel in recent years, then you would want to be in favor of the Armstrong-Matsunaga amendment. If you think, to the contrary, that it is a better idea to go for a package of bonuses and special pay incentives, then the better choice is the Warner-Nunn proposal, which is the substitute.

I come back, as the debate winds down, to where I started an hour ago when this substitute was called up, and that is with the utmost regret that my colleagues, Senators NUNN and WARNER, have seen fit to force us to make a choice between these two well-deserved packages of incentives.

I believe, myself, that however the vote turns out—and, frankly, I have every reason to think that we will carry the motion to table the amendment of Senators NUNN and WARNER—but whether we do or not, I believe that the military services are going to get a pay increase. And, if we succeed in tabling the substitute, I think, nonetheless, many of the items which are contained in their proposal will be enacted.

In fact, as I pointed out, virtually all of them are contained in the President's budget proposal for fiscal year 1981.

I think we have got two good proposals. In summary, then, why is a vote of tabling Nunn-Warner and, thereby, in support of Armstrong-Matsunaga justified? First, because the amendment which Senator MATSUNAGA and I have offered goes right to the heart of the No. 1 problem facing all service personnel, and that is covering the monthly bills.

Second, because, while I like the components of it, by comparison, the Warner-Nunn proposal is too collective; too much of it goes to officers rather than enlisted personnel; too much of it goes to the Navy and Air Force at the expense of the Army and Marines.

Third, I believe if we do not do anything about the Warner-Nunn tonight—and I would like to go ahead and pass it as a separate measure, anyway—that most of it will be enacted, because it has been suggested by the President in the budget for 1981.

Last, but not least, I think we ought to be for the Armstrong-Matsunaga amendment because it goes right to the heart of what we really think of our service personnel: What is our credibility with them? Do they think we care?

I would like to close on that theme by sharing with you, briefly, portions of some of the many, many letters that I received from service personnel around the world.

The first one I would like to share a portion of with you is from a master sergeant, E-7, a senior selectee who has 20 years of active duty in the U.S. Air Force. He goes into some detail, in fact, very knowledgeably about the overall problems, personnel problems of the service. I wish I had time to read the whole letter, but I want to quote one paragraph.

He says:

> I do not agree with the special pay raises for certain military ranks. Give all military personnel a pay raise.

Then I would like to quote to you from someone who has written from New York State. He says:

> I wanted to write and tell you I support your proposal to give the military an additional 3.4 percent pay raise. For the first time in over 8 years, I feel like finally someone has realized that military pay has not kept pace with the economy.

Here is a letter that came in from Mountain Home Air Force Base in Idaho. It is a letter that points out:

> At the office I work in the majority of us live from pay to pay. My husband and I are both in the military. We have two children and we still live from pay to pay. Just imagine what it is like when one spouse is in the military. I don't see how they do it.

Then here is a letter from Washington:

> We, as a Navy family, are proud of your stand on the military pay raise issue. We desperately need more money. My husband is an E-4. He makes more money moonlighting than he does in the Navy.

Then here is a letter from a gentleman who is a captain from San Antonio, Tex. He is a selectee for major. There is just one paragraph I would like to quote out of his letter.

> After reading the article outlining your proposed amendment, I thought I would like to pass on our financial position to let you know that a little increase now looks a lot better than a general restructuring in the future. Both efforts might be needed. The now increase holds especially true for our junior personnel who have to have a place to live and are trying to raise a family but only have two or three stripes.

Well, I could have cited dozens, maybe hundreds of letters. But here is one more that sums up the very essence of this, which goes far beyond the money. What we are really talking about is what kind of a signal goes out from this place tonight to military personnel around the world. The best summation I have heard of it was contained in this letter, which I received in January. It said:

> I read of your proposed amendment to boost military pay and wanted you to know how important that message is to today's serviceman. Not because of the 4 percent but, more importantly, the troops need to hear that there are still those in the House and Senate who have their best interest at heart.

I think that is the issue that is before us, Members of the Senate. I hope that you will vote to table Nunn-Warner; that, at the appropriate time, Messrs. NUNN and WARNER will call up either S. 2190, which is on the calendar and contains their proposal or, even after action on my amendment, that they will be disposed to call it up as an add-on to this bill.

But if they insist on forcing us to make the choice, then, in that event, the clear choice is for Armstrong-Matsunaga, rather than Nunn-Warner.

Mr. WARNER. Mr. President, I yield back the time remaining and suggest we proceed to a vote.

Mr. NUNN. Mr. President, is the Senator from Colorado prepared to yield back the remainder of his time?

Mr. NUNN. Mr. President, is the Senator from Georgia is prepared to do so.

Mr. NUNN. Mr. President, I am prepared to do so.

Mr. ARMSTRONG. Mr. President, before we do that, I ask unanimous consent to have one additional article printed in the RECORD. This is an article from the Washington Star of January 27, 1980, which relates to the payment of noncommissioned officer personnel. I ask unanimous consent that this very important article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PAYING FOR SERGEANTS IN THE '80S

(By R. James Woolsey)

Manpower will be the most intractable national security problem of the '80s.

We are experiencing a resurgence of national will under the influence of the turbulence in Iran, Soviet moves in Afghanistan, and the specter of hostile nations controlling the West's and Japan's oil.

But such surges of American patriotism have historically found expression first, and most easily, in appropriations for major weapons systems. National leaders have always had a much more difficult job convincing the country to act sensibly about military manpower. Franklin Roosevelt and Carl Vinson somehow got capital ships built, even in the 1930s. But they and Sam Rayburn only saved the draft by one vote in September of 1941—two full years after the beginning of World War II.

In 1941 it was clear what statesmanship required: We needed the draft. Today the condition of the all-volunteer force presents a murkier picture. The four services have never been better led by service chiefs who understand and exert personal effort daily on manpower problems. Much, though probably not enough, is being done to improve recruiting, to teach remedial reading and job skills and to utilize women in a wider range of jobs.

But all this may well not be sufficient. The Army's Individual Ready Reserve is already a skeleton. All services are missing their recruiting quotas and the mental and skill levels of many enlistees are, to put it mildly, lower than desirable. Recruiting scandals continue as the pressure mounts.

The resumption of peacetime draft registration alone, while a reasonable and prudent step, will not change this picture. Registration merely lets inductions occur promptly if war comes, since no one seriously plans to fight for long with volunteers.

THE DEMOGRAPHIC THREAT

The most serious problem of all is that, each month, relentlessly, the pool of young men available for military service declines. Demographic projections make it crystal clear that this will continue through the 1980s. At the beginning of the next decade there will be only about three-fourths as many young men in the country as there are today. Under an all-volunteer force then, we will have to attract about one out of every three qualified and available men into the military. If we find somewhere a bag of Krugerrands to give each enlistee, we might barely pull that off. But short of that—and certainly if we keep doing business as we are today—the all-volunteer force will fail. The less intelligent our manpower policies, the further we'll move the date of failure into the embarrassingly near future.

UNWISE CIVILIAN CUTS

One way to fail sooner rather than later is to continue the severe cuts and limitations in defense civilian manpower that Congress and the Executive Branch have taken turns imposing over the last several years. When you cut, for example, the number of Navy civilian shipyard workers, someone has to take up the slack or the ship overhauls don't get done. So sailors work 72-hour weeks, don't re-enlist, and thus create a need for more recruits.

Another way to ensure failure is to continue clobbering career enlisted men and women with a pay structure that undervalues their contribution and with "reforms" that drive them out of military service.

In 1971 when the draft was ended by Congress, first-term enlisted men and women got more than a 50 percent pay increase while the career force got a pittance. Military pay increases have been running at half the inflation rate, in good years. Some in Congress now propose increasing that to 10 percent or so—about two-thirds of the current inflation rate. That's better than nothing, but hardly solves the careerists' problem. Inflation has so eroded the pay of the career enlisted soldier, sailor, and marine that today an E-6 (staff sergeant or 1st class petty officer) with, say 8 years' service, stationed in Northern California, makes $300 a month less than a unionized grocery checkout clerk in nearby San Jose.

A number of good people stay in, but it is out of patriotism, and there are fewer each year. Frequent moves disrupt service family life and make it hard for a serviceman's spouse to work—the increasingly common augmentation for inflation-wracked family income. Emotionally important, and relatively inexpensive, benefits such as free parking or separate non-commissioned officers' clubs are removed year by year by one part of the bureaucracy or another. A generous retirement system permitting a second career after 20 years—the last major benefit better than that in the civilian world—is under assault.

OVERCOMING THE SHORTFALL

It is only by using civilian labor at every possible point and by significantly increasing the careerist proportion of the enlisted force that the all-volunteer force can be given a fighting chance. Increasing the careerist share, e.g., from 42 to 50 percent of the enlisted force, principally by selective pay and benefit improvements, would reduce enlisted requirements by about 70,000 men annually. That would make up for more than double today's enlistment shortfalls. Such steps could postpone the date by which we must return to a peacetime draft from the early '80s to the mid-'80s. If we are very lucky there's an outside chance, but only that, that they could even get us through the decade.

But even if we return to a peacetime draft or adopt some sort of national service system, the armed services can't function without the sorts of sergeants and petty officers who today are voting with their feet. They are the sinews of any military force—whether its privates come from Watts, Appalachia, or Groton—and they deserve better than what they'd have been getting.

Even if you don't believe that, consider your own family's self-interest. The world has recently shown itself to be an angry and wicked place. You may need some people to go take a hill somewhere soon. Whom do you want your son learning the ropes from, when he first comes under mortar fire there—somebody who can't make it as a grocery bagger?

The PRESIDING OFFICER. Is all time yielded back?

Mr. NUNN. Mr. President, I yield back the remainder of my time.

Mr. ARMSTRONG. Mr. President, I yield back the remainder of my time and, if it is in order, I move to lay on the table the Nunn-Warner amendment.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1647.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Louisiana (Mr. LONG) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

Mr. NUNN. Mr. President, regular order.

The PRESIDING OFFICER. Regular order has been called for.

Have all Senators in the Chamber wishing to vote voted?

Mr. ARMSTRONG. Mr. President, could we have the clerk read the yeas?

Mr. NUNN. Regular order, Mr. President.

The result was announced—yeas 41, nays 46, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—41

Armstrong
Bellmon
Boschwitz
Cohen
Danforth
Dole
Durenberger
Durkin
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Kassebaum
Laxalt
Leahy
Lugar
McClure
McGovern
Magnuson
Matsunaga
Melcher
Metzenbaum
Nelson
Packwood
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Wallop
Weicker
Williams
Zorinsky

NAYS—46

Baucus
Boren
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cranston
Culver
Eagleton
Exon
Ford
Glenn
Heinz
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Levin
Mathias
Morgan
Moynihan
Muskie
Nunn
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stone
Talmadge
Tower
Tsongas
Warner
Young

NOT VOTING—13

Baker
Bayh
Bentsen
Biden
Bradley
DeConcini
Domenici
Garn
Hollings
Humphrey
Kennedy
Long
Thurmond

So the motion to lay on the table amendment No. 1647 was rejected.

Mr. NUNN. I move to reconsider the vote by which the motion was rejected, Mr. President.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment in the nature of a substitute (No. 1647) to the amendment of the Senator from Colorado (Mr. ARMSTRONG). The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. DECONCINI), and the Senator from Louisiana (Mr. LONG) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The result was announced—yeas 87, nays 1, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—87

Armstrong
Baucus
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
McClure
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—1

Bellmon

NOT VOTING—12

Baker
Bayh
Bentsen
Biden
Bradley
DeConcini
Garn
Hollings
Humphrey
Kennedy
Long
Thurmond

So the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Colorado, as amended.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment, as amended, on which the yeas and nays have been ordered.

Mr. NUNN. I cannot hear the Chair.

The PRESIDING OFFICER. The pending business is the amendment by the Senator from Colorado, as amended, on which the yeas and nays have been ordered.

Mr. NUNN. Mr. President, I think some Senators have left with the understanding that there would be no more rollcall votes tonight. I, for one, do not believe we need any more rollcall votes on this amendment or on final passage, so I ask unanimous consent that the previous order for the yeas and nays on that amendment be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Without objection, the amendment, as amended, is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment as amended, was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

PROVIDING FOR EQUITABLE MILITARY RETIREMENT PROVISIONS

● Mr. DOLE. Mr. President, on September 19, 1979, I introduced S. 1777, a bill allowing Reserve enlisted members of the Air Force and the Army to retire with an immediate annuity upon completion of 20 years of active duty service. As this bill would rectify an inequity in the military retirement system, I would like to commend the Senate Armed Services Committee for including my bill in H.R. 5168, as an amendment. This legislation has the backing of various veterans organizations, such as the NCOA, and also the support of the Department of Defense. In addition, it was passed overwhelmingly in the House of Representatives during the 95th Congress. However, due to time limitations, it was never addressed in the Senate.

AN INEQUITY

Title 10 of the United States Code provides for retirement eligibility with an immediate annuity after completion of 20 years of active service for Regular and Reserve officers of all services. This includes Regular and Reserve enlisted personnel of the Navy and Marine Corps and Regular enlisted personnel of the Army and the Air Force. However, Army and Air Force Reserve enlisted personnel are authorized retirement pay only at 60 years of age, even though they have completed 20 years of active service.

A RECENT PROBLEM

Until recently this did not pose a problem because the majority of Army and Air Force enlisted personnel who served past their initial enlistment are members of the regular component. However, since 1971 and the coming of the all volunteer force, both the Army and the Air Force have enlisted members with prior service and experience to serve a reserve tour for the purpose of performing a special requirement, such as a recruiting position. Many of these individuals had served in World War II and/or Korea, had accumulated considerable active duty service, 14–16 years, and, in many cases, were highly decorated. These individuals were not recalled to active duty in the regular component because the reserve terms were generally shorter and because their specific skills were not needed, at the time, by the Air Force or the Army on a long-term basis. However, as the reserve recruiting shortages worsened, many were asked to extend their original tours.

In reviewing the history, it appears that the Army and the Air Force Reserve enlisted personnel were not singled out for exclusion of these retirement provisions. Rather, this inequity came about because circumstances for bringing enlisted members on active duty for extended periods has changed. Whether intentional or not, however, the fact still remains that there exists an inequity that needs to be addressed and resolved. When the conditions of service are the same, there should be similar or comparable treatment of members with regard to their service commitment. I do not see how any of my colleagues could dispute this point. It is especially important in today's volunteer environment that members perceive they are entitled to similar and equitable treatment.

Mr. President, I would again like to commend the Senate Armed Services Committee for recognizing this inequity, and including this legislation in H.R. 5168. As members of the Army and the Air Force should be afforded the same treatment and benefits as their counterparts in the other branches of the Armed Forces, I call upon my colleagues in the Senate to address this inequity and vote for adoption of this important measure.●

Mr. NUNN. Mr. President, if I have any time remaining, I yield back the remainder of my time.

Mr. JEPSEN. Mr. President, if I have any time remaining, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The bill having been read the third time, the question is, "Shall it pass?"

The bill (H.R. 5168) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title will be appropriately amended.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the title amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that the bill as passed be printed.

The PRESIDING OFFICER (Mr. Levin). Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the bill as passed.

The PRESIDING OFFICER. There is authority for that.

Mr. NUNN. Mr. President, I express my deep appreciation to George Travers, on the majority side, for his usual splendid job in preparing for both the bill and the amendments to the bill.

I also express my appreciation to Mr. Ron Lehman of the Armed Services Committee staff, to Chris Lehman of Senator Warner's staff, and Mike Donnelly of Senator Jepsen's staff for an extraordinary job, which we have come to expect, in their assistance on the bill and on the amendment.

I also thank the members of the subcommittee who spent many hours working on these proposals: the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Iowa (Mr. Culver), the Senator from Nebraska (Mr. Exon), the Senator from Iowa (Mr. Jepsen), the Senator from Virginia (Mr. Warner), and the Senator from Maine (Mr. Cohen).

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TREATY OF NORTH AMERICA

Mr. HATCH. Mr. President, it would be fair to say that the idea of establishing closer relationships with our North American neighbors commands universal approval right across the political spectrum. But it is much less appreciated that this approval is not restricted to our own country.

On January 5, the Winnipeg Free Press, the Calgary Albertan, the Vancouver Sun and the Ottawa Journal carried an article by Duncan Edmonds discussing his concept of a "Treaty of North America." Edmonds is now a political consultant with offices in Ottawa and New York. Previously, he was senior policy adviser to Joe Clark, who is now Prime Minister of Canada. He has over 20 years of experience in Canadian politics, on both major parties.

Those of us who follow the affairs of our northern neighbor know that there has been an underground current of interest among Canadians in the concept of closer cooperation. Mr. Edmonds provides evidence of this in his discussion of the reaction to his proposal, which he first broached over 2 years ago.

I commend his article to my colleagues, and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A PROPOSAL FOR A TREATY OF NORTH AMERICA

(By J. Duncan Edmonds)

A. PREFACE

The fundamental issue facing Canada and Canadians as we enter the 1980's is the historic, economic and political imperative to work out a new set of institutional and structural arrangements with the United States of America. Our best hope for achieving improvements in Canada's current serious economic situation, as well as achieving real progress in developing the great potential of this country, will be found in relationship with the United States.

It is shortsighted and dangerous that we should not be fully involved in debating and discussing this issue across Canada today.

This paper advocating a treaty of North America was written two years ago in the autumn of 1977 when I was serving as the Senior Policy Adviser to the then leader of the Opposition, Mr. Joe Clark. At that time I was assisting in a worthwhile and exciting, if somewhat futile, project of drawing up a "blueprint" for Canada's future which hopefully would have provided a general sense of direction for Mr. Clark's leadership.

The paper was quite widely circulated both by myself and Jim Gillies, then a leading figure in the Conservative caucus and presently the senior policy adviser to Prime Minister Clark. I received a great deal of positive comment on the basic concept. The bulk of the negative comment was less directed at the substance than it was at the politics, acceptability and practicality of the proposal. I want to add for the historical record that although I often raised the subject and formally presented Mr. Clark with this paper, so far as I am aware these thoughts do not represent the views of Prime Minister Clark, Mr. Gillies or the current government. Because of the sensitivity of the issue and the practical requirements of my position at the time, I resisted any temptation to give my thoughts any wider public audience.

I do so now because during even a short two year period there have been a number of important developments which relate directly to the basic proposition of this paper. A partial recounting of these developments would include such reports as the Economic Council of Canada "Looking Outward"; the report of the Canadian Senate Standing Committee on Foreign Affairs on "Canada's Trade Relations With The United States"; several reports of the C.D. Howe Research Institute, and reports of the Sub-Committee on International Trade of the United States Foreign Relations Committee chaired by Senator Baucus.

Many of the developments which have taken place in the five basic issues discussed in this paper have served to emphasize further the need for some more comprehensive approach to Canada/U.S. relations. An important outcome of the recently concluded GATT negotiations has been to increase dramatically public awareness in both Canada and the United States of the very considerable degree to which our economies are already into a free trade mode. The lively controversy in Canada during the autumn of 1979 regarding the close relationship between rising interest rates in Canada and the U.S. has provided abundant evidence of our basic economic interdependency.

Several of the candidates for the Presidential nomination of both major parties in the United States have recently talked about the basic concept implied in this paper, most recently in November, 1979 Ronald Reagan, in a major and sensitively worded address in New York, referred at some length to a "North American Accord."

What follows is the original paper, basically unchanged except for several minor editorial adjustments to reflect the passage of two years.

B. INTRODUCTION

The most striking reality common to virtually all of the public affairs commentary in Canada these days is that a widespread feeling of malaise is gripping this country. There is apprehension about our economic situation, and the very future of Canada as a nation is perceived to be in considerable jeopardy. Across the country there is a prevalence of negative attitudes, much introspection, considerable confusion and generally there is an unhappy, quarrelsome and negative tone. Yet, Canada possesses enormous resources, both physical and human, and by any definition we are one of the most fortunate peoples in the world with an almost unlimited potential.

The purpose of this paper is to briefly examine some of the basic reasons why we find ourselves in this position and, based on the analysis, to suggest in broad outline a sense of direction and a strategy for Canada as we approach the decade of the 1980's. While the paper does not address the broader international context and the changing values and attitudes of the turbulent world, nonetheless the suggested directions take these broader factors very much into account.

Canada has always been a very difficult country to govern. Throughout our history our political leadership has managed to develop and govern this country while at the same time sometimes obscuring, sometimes deflecting and almost always delaying resolution of some of the fundamental and interrelated issues which we have always faced.

The five basic issues in Canada which we have had with us since Confederation can be summarized as follows:

The French-English partnership;

The Canada-U.S. relationship;

A range of issues relating to the dynamics of balancing our federal system;

Several key economic issues basically related to scale of market and the creation of an east-west economy in opposition to the more natural north-south forces of both economics and geography; and the central question as to the role of government in the economic life of Canada;

Permeating everything an absence of widely accepted national goals and purposes and the lack of a clear sense of identity for Canadians.

The basic task of the national political parties, and in particular of the Prime Minister of Canada, over the years has been to manage these fundamental issues both in style and in substance. Usually, throughout our history only one or two of the fundamental issues has required major attention by the Prime Minister at any given time. Today it is quite clear that we are in trouble with all of our basic issues at the same time.

The essential reason for the malaise now so conspicuously apparent throughout Canada is that we are dealing with only some of the superficial symptoms of the fundamental issues and that we are not grappling with them at their roots. The whole of the Canadian political system is under enormous strain at the macro level, and we are only giving piecemeal and superficial attention to particular aspects of the system. We are living in a dangerous dreamworld where many people who do seem to understand the reality of the whole system are somehow hoping that political rhetoric, better political management, and a vague hope in an improved economic performance and some, as of yet undefined, new relationship with Quebec will serve to get us through this present crisis.

I do not believe that this will suffice. Canada has reached a point in its evolution where we are going to have to face some of the unpleasant truths in this country. If we are going to prevent a precipitous decline in Canada in the 1980's, we are going to require some very hard-headed and creative thinking about some of our most fundamental attitudes and directions. We are at a stage where the real requirement for our political leadership at the national level is to begin thinking about macro solutions and stop the superficial tinkering.

C. THE BASIC ISSUES

Although the French/English issue has deep historical and sociological roots and has been evolving over many years, it took the election of the Parti Quebécois Government in November 1976 to really dramatize the national political crisis for Canada. Today Canada is exhibiting a great sense of confusion with regard to Quebec and on national unity. The Quebec issue is not going to be resolved easily or quickly. The multitude of issues involved have the potential to virtually paralyze this country for the foreseeable future. Very few Canadians, whether English or French, have a clear vision of where we are going in the subject of national unity. After over a year of task forces and billions of words, we are stuck in a morass of confusion and almost despair regarding Quebec. The initiative lies almost entirely with the P.Q. and there appears to be little evidence that there will be any negotiation or reconciliation for at least another couple of years. In the interim the whole country is basically paralyzed with regard to its national objectives and our sense of unity. There is, however, widespread agreement that the Canada of the past will not re-emerge. Some major changes must occur in the English/French partnership.

The most notable dimension absent in the current discussions is how any changes in the English/French partnership will relate to the basic inter-related issues of Canada. It may be that by concentrating on some of the other issues and seeking some new directions there we might be able to find ways and means of overcoming the present impasse in English/French relations and in the process work in harmony with Quebec to work out a set of initiatives which will meet many of their legitimate objectives while strengthening Canada as a whole.

On the Canada-U.S. issue, we also find ourselves in a confused position. The various "Third Option" policies of the Trudeau government, including the contractual link to Europe, increased trade and activity with the countries of the Pacific Rim, the whole FIRA concept, seem to be almost academic while we appear to be moving back to a much more realistic appreciation of our relationship with America.

America in turn has come through perhaps the greatest crisis of its life with the Vietnam War and the Watergate problems now behind her and a new administration in office. Inexorably we seem to be moving towards a closer relationship with America and yet we do not seem to be discussing it very clearly in our society.

The American cultural and economic and political influence in Canada has never been greater, and more and more it would appear that we will have to acknowledge many of the positive benefits of this relationship. Indeed, of the five basic issues of Canada it would appear that a positive evaluation and the working out of a new set of arrangements with the United States, while ensuring Canadian sovereignty, could be the most hopeful direction for Canada to pursue.

Regarding Canadian federalism, it is becoming increasingly evident that the British North American Act is showing enormous strain not only from Quebec but, to a greater degree that is appreciated by many Canadians, from the Western provinces as well. Apart from the strains regarding the division of powers, there are also many problems regarding the evolutions that have taken place since Confederation, particularly the development of the large urban centres. There is also the whole question of the North and the plans for the future of the Northwest Territories and the Yukon and the relationship that Canadians are going to have with their huge northern area.

Canada has perhaps the most decentralized federal system in the Western world, certainly a far greater degree of decentralization than in West Germany and the United States. We must be very careful before we adopt any simplistic solutions to our system of federalism. In any event, nothing is likely to evolve very far in this whole area while the uncertainty with regard to Quebec is the prevailing aspect of our national life. Indeed, it is highly unlikely that the answers to our current problems regarding federalism will be found through constitutional readjustments. No doubt there can be some constitutional changes by way of giving additional powers to the provinces in several specific areas such as communications, for example, but it would be folly to expect too much of these changes. Canada's sense of direction will not be found solely in the re-arrangement of our existing federal system.

We face a number of serious and fundamental economic problems. Inflation is rising again and quite likely headed for double digits. We have the highest rate of unemployment since the years of the Depression. We have a federal government deficit of nearly $9 billion this year (1977) and likely to exceed $10 billion next year. Our balance of payments is in shocking deficit, our dollar has been devalued 12 percent vis-a-vis other currencies such as the German, Japanese or Swiss. There will be major inflationary consequences to this devaluation and the entire process has gone ahead in an unplanned manner with a total absence of any constructive policies accompanying it.

Our productivity is declining and our capacity to compete in the international markets is becoming seriously impaired. Our labour rates are higher than the United States and our percentage of work stoppages related to strikes is alarming. Our rate of government expenditures has gone from 35 to 44 percent of the Gross National Product in the last ten years. We pay our public servants more than any other public servants in the world and yet at the same time many of them appear to be demoralized and seem to lack much purpose and coherency. There is major conflict and division between the private sector and the public sector.

The above statements, all of which could be elaborated, are not recounted to be simply a negative litany. They are merely plain statements of fact which, looked at together, are going to seriously affect our economic capacity as a nation over the next few years. When you add to this situation the fact that we are the only major industrialized country in the world which does not have access to a major market of at least a hundred million people and you take into account the many challenges posed by the new international economic order, it becomes dramatically clear that we have got to make some major alterations and changes in our economic policies and our economic goals and objectives for Canada.

We persist in discussing in very vague terms the need for an industrial strategy and yet we fail to take account of our economic relationship with the United States in the development of that strategy, thereby rendering the whole process at best academic and more realistically meaningless.

Finally, if one thinks about our national purpose and our goals and objectives as a people, it becomes evident that we lack a clear sense of a national vision. We are among the richest and most fortunate people in the Global Village and we will not be able to continue for many more years without a much clearer sense of ourselves and how we relate to the great issues of human development which will be worked out in the context of the new international economic order throughout the rest of this century.

Canadians have an opportunity to contribute to the world community a model of a country in which peoples of different backgrounds and races can live together pursuing broad objectives under one government. There can surely be no greater need in the world today than to provide such a model.

The above analysis of our five key issues could be extended and elaborated in much greater detail. The basic purpose of this paper is to suggest that we are in serious difficulties with each of these basic issues and are unlikely to resolve them without stepping back and taking a look at the broader overall system of the Canadian policy. I believe that we will find a sense of direction and create a series of forces and factors which will allow us to find real solutions to each of our basic problems by considering a fundamental rearrangement of our North American political and economic arrangements.

D. THE TREATY OF NORTH AMERICA

Canada is a North American nation. We share this continent with the United States and with Mexico and there is potential and capacity for enormous dynamic evaluation in our political and economic relations with our North American partners. For purposes of discussion, let me suggest in broad outline a concept and a vehicle which could provide enormous advantages to Canada and to our North American partners, and at the same time provide a very practical means of avoiding the dead-end and the morass in which we appear to be floundering at the moment.

Envisage one of the great documents of North American history, the Treaty of North America. This historic document should begin by outlining the common goals, shared values, ideals and fundamental purposes of the Canadian, Mexican and the American peoples. The preamble to the Treaty of North America should also reflect awareness of the broad external challenges and threats to our shared beliefs. The preamble should affirm and make absolutely clear the reality that the parties to the agreement wish to give up sovereignty or the sense of historical integrity or the sense of being an independent people and nation. On the contrary, Canada, the U.S. and Mexico wish to strenthen and reaffirm their basic national identities, but in order to do this really effectively, must recognize their interdependency within North America.

The specifics of the Treaty of North America might include:

(a) the preamble which would embody some of the thoughts expressed above, but would also give heavy emphasis to the broader global forces and factors which are pressing in on North America and increasingly will demand a united response;

(b) the signatories to the Treaty should be Canada, the United States and ultimately Mexico, although Mexico may be a complicating factor for many reasons. Basically the door should be left open in principle for Mexico, but the actual negotiations between Canada and the U.S. should not be impeded by the range of issues and concerns between Mexico and the U.S.;

(c) The Treaty would establish a Council of North America which would be a body not unlike the Council of Europe in its initial conceptualization. The Council of North America might be located somewhere in Western North America. The Council should have some structures, committees and a variety of duties and tasks. It might take over, for example, the work of the International Joint Commission. It might provide some guidance for the over-all management of Canada/U.S. relations. It might provide a lively centre for research for common North American problems. It should certainly become a symbolic centre for assisting the peoples of North America to better appreciate the challenges their societies face from the broader world over the next 30–40 years. The Council of North America should be a lively dynamic place where important issues and subjects that are in the process of evolution are understood and talked about and shared amongst the peoples of North America.

The languages of the Council of North America should be English, French and Spanish. Some provision should be made for delegate appointments to the Council of North America, by the existing governments and then with some further provision for direct elections in the year 2000. The whole concept should be one of an evolving dynamic integrating organization embodying all North American peoples while preserving all the richness and diversity of the different heritages that have come together over the centuries.

Every opportunity for full evolution and development of the Quebec presence and the preservation of many aspects of the Quebec sense of nationhood should be allowed to find a focus within the Council of North America. The counterbalancing of Mexico and the Spanish culture in North America with the French should provide an enormous strength to both these peoples as they persevere, as they will and must, to maintain and strengthen their cultural traditions within the North American context.

(d) The Treaty of North America should make clear provision for a greater integration of Canadian and American defence arrangements through the expansion of NO RAD. The Canadian defence role, independent from the United States, should then shift much more to the North and to the seas. We should be developing the North through a number of defence bases and should be expanding our cadet and youth service programs to get thousands of young Canadians living and working in the North for at least a year or so of their lives. We should also consider a permanent peace-keeping force as part of the Canadian forces which could be available on a continuing basis for international peace-keeping activities. As well, we should redefine and improve our defence-sharing arrangements with the United States, and through a more effective defence-sharing arrangement begin to get some industrial development associated with the bases in the North and give much more attention to the ocean resources. Canada would remain in NATO but in a somewhat different role than we are presently.

(e) Under the Treaty of North America we should set up a mechanism whereby Canada, the United States and Mexico can pursue several common policies in relationship to the new international economic order in such areas as research in programs for international development, the combining of a number of our bilateral aid programs, the development of a joint international food policy and the establishment of food reserves, the development of common nuclear policies and in a variety of other areas. We should be working with the United States and Mexico in complete partnership in relation to the new international economic order. There will also be a role for the multinational corporation in relationship to some of these common policies with the new international order. Exciting and very beneficial opportunities for the creation of new jobs in Canada are inherent in this concept.

(f) The Treaty of North America should establish the principles and the guidelines for a series of major agreements on energy, water and other resources. In particular, we should think about the development of our energy, water and other natural resources in terms of an integrated North American concept. This will be much to Canada's advantage and much to the advantage of the rational full development of the resources of this continent. It need not preclude arrangements between Canada and other countries regarding our resources, nor need it be a rigid and inflexible continentalism which would not be politically acceptable to Canadians.

(g) Under the treaty we should develop the principles and some of the broad mechanisms to allow for the development of a common industrial strategy between Canada and the United States to be worked out in graduated stages over the next 10 years. This common industrial strategy, by the end of that time, might lead inevitably to a complete free trade arrangement with the United States. It will need to be done in stages with major safeguards for the Canadian manufacturing industries. Ultimately a much closer integration of our economies can be the only fundamental answer to many of the particularly difficult Canadian economic problems today. A clearer definition of the positive contribution of the multinational corporations would be possible through these negotiations which would have to include reciprocal tax agreements.

The fundamental reason why we need to negotiate the Treaty as a whole is so the leverage and bargaining power which Canada can acquire through the defence integration and through the resource-sharing can be fully utilized in the negotiations towards the longer-term integration of our economies.

CONCLUSION

Clearly the various elements of the Treaty of North America will require an enormous amount of work and further elaboration. However, in this broad concept we could have a vision which will fundamentally alter and improve the Canadian political and economic situation. There would be opportunities for literally thousands of individuals and groups, universities and others, to reconcile the many details which would need to be considered.

This Treaty would be as much in the American and the Mexican interests as it would be in our own.

This entire subject is very large and complex and raises the most fundamental emotions. How do we begin to explore it wisely without getting sidetracked by the enormous difficulties such as a rapid "politicization" of the issue in Canada, or accusations that the concept fails to appreciate the complexity of managing Canada/U.S. relations, or the argument that any Canadian initiative would represent weakness which would limit our negotiating capacity.

The answer to this question is, of course, the supreme challenge for Canadian political leadership in the 1980's. The Prime Minister of Canada has a number of means by which this concept could be fully explored. During the exploration stage there will be important requirements to build upon an already widely based public consensus.

We have an opportunity to manage the process where history is inexorably taking us anyway. Rarely do a people have the opportunity that we now have as Canadians to seize the moment where we are faced with great national uncertainty and a sense of malaise to replace that with a dynamic new sense of ourselves in partnership with the whole North American continent. We ought to begin this great task immediately.

PERSPECTIVES ON THE 1980's: THE VIEW FROM DALLAS

Mr. HATCH. Mr. President, in a city known around the world for the acumen and progressiveness exhibited by its business leaders, a gentleman by the name of Mark Shepherd stands among the very tallest of the tall. Mr. Shepherd is chairman of the board of Texas Instruments, Inc., one of the most advanced and successful electronics companies in the world and the company that first developed the foundation of modern computer technology, the chip. Mark Shepherd has been at the helm of Texas Instruments during its best years and has presided over a success story that proves the American dream is not only not dead, it can be healthier than ever.

Mr. Shepherd recently spoke to the Chamber of Commerce of Dallas and made one of the most thorough, prudent, and intelligent analysis of the current state of our Nation both at home and abroad that I have read in all my years here as a member of this august body.

Because his is a still-strong, confident voice calling us to fulfill our destiny as the greatest Nation on the face of the Earth, I commend Mark Shepherd's recent presentation to the attention of all my colleagues in the hope that you will all pause and give this remarkable analysis the serious and extensive attention it so clearly deserves.

I ask unanimous consent that his remarks entitled "Perspectives on the 1980's: The View from Dallas" be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PERSPECTIVES ON THE 1980's: THE VIEW FROM DALLAS

(By Mark Shepherd, Jr.)

INTRODUCTION

The mood of the American people as we enter the 1980s should be characterized by a pervasive sense of somber realism: the world will not return to the way it used to be and although we can solve our problems, we must work much harder to do so.

In Dallas and Ft. Worth we have a unique perspective on the world, being at once residents of one of the fastest growing regions of the world and citizens of a nation facing formidable challenges in the decade ahead. But even here, we must struggle to prevent the decay that has drained once-dynamic cities like Cleveland, Detroit and New York. We still look upon the Metroplex with well-deserved optimism; we view the world more soberly.

Slide 1. Problems of the Industrial World:

My remarks will, first, highlight some of the major problems facing the industrialized world in the 1980s, and second, suggest a few steps the U.S. can take to deal with the most pressing among them. The challenges we face are:

Global political and economic instability and the rise of Soviet military power;

Accelerating inflation;

The dollar problem and the threat of severe international financial disruptions;

Declining productivity;

A scarcity of available energy resources, and

The emergence of the "advanced developing countries."

Slide 2. Nations in Turmoil and Soviet Proxies:

Political instability pervades the international community. A pivotal development in the last decade has been a shift in the worldwide balance of power, from one essentially favorable to the U.S. and the free world, to a more hostile and dangerous environment.

In the Middle East and Africa, U.S. influence has ebbed as Soviet power in the region has grown. In Angola, Ethopia and Mozambique, Marxist governments are in control. The Soviets continue to encroach upon the Arabian peninsula by encouraging Cuban infiltration in South Yemen at the same time they sell arms to North Yemen. Soviet troops have invaded Afghanistan and are amassing on the borders of Iran and Pakistan. The stage has now been set for a possible Soviet intervention in Iran to gain control of its oil resources or an invasion of Pakistan in search of deep warm-water ports. Meanwhile, on NATO's southern flank, Turkey remains at the edge of political and economic collapse.

In Iran, religious fanaticism has replaced any semblance of civilized government. When Iran falls apart—as it inevitably will—the Soviets may step in to pick up the pieces. Until then, Libya will continue to act as Moscow's chief mouthpiece in the Moslem world.

In Southeast Asia, almost five years after the North Vietnamese marched into Saigon, the entire region remains embroiled in conflict. As Cambodia starves, China is pitted against Vietnam and the Soviet Union in a confrontation which could ignite at any time into a major war.

Closer to home, the revolution in Nicaragua last year received Cuban support but the ultimate role of the communists in that government remains unclear. Meanwhile, the new regime in El Salvador is crumbling as its Marxist opponents gain strength and civil war seems more likely every day. Across the Caribbean, leftist governments with Cuban backing are in control of Grenada, Saint Lucia and Dominica, while Jamaica is edging closer to a socialist form of government. And Mexico, exhibiting some of the characteristics of pre-revolutionary Iran, is a prime target for communist infiltration.

Slide 3. Accelerating Inflation:

These political pressures have built at a time when the Western system is threatened by a serious inflation problem.

In the past decade, the major industrialized countries have experienced rates of inflation which are two or three times as high as the ones prevailing in the 1960s. Excessive monetary growth, the progressive worsening of government deficits and wage increases in excess of productivity gains have been the principal factors responsible for accelerating inflation. The prospect of continued sharp price increases by the OPEC cartel will further exacerbate inflationary pressures.

Despite popular perceptions, however, rising petroleum prices should not receive a disproportionate share of the blame for inflation. As shown on this slide, in the time period 1973–79, oil price increases were responsible for less than 20 percent of U.S. inflation, 23 percent of Western Europe's and 38 percent of Japan's.

The OPEC cartel, while undeniably a contributor to the inflation of the industrialized world, should not be made a convenient scapegoat for fiscal and monetary mismanagement.

Slide 4. Corporations Severely Penalized by High Rates of Inflation:

High rates of inflation are extremely damaging to economic growth. Inflation distorts economic decisions, it discourages savings and investment and it feeds upon itself as higher inflationary expectations become institutionalized.

In an inflationary environment, corporate profits are distorted. Reported profits are the basis for tax payments, but economic profits, which are smaller than reported profits in periods of high inflation, are the basis for corporate growth.

Economic profits include adjustments for inventory valuation and capital consumption. In periods of inflation these adjustments are negative because the value of inventories is understated, and depreciation allowances are simply not high enough to cover the escalating cost of replacing plant and equipment.

Based on economic profits, the effective tax rate pretty much duplicates the rate for reported profits through 1969, but diverges significantly beyond that point. Rather than dropping to 39 percent in 1979, the effective tax rate on economic profits has risen steadily to 52 percent. The gap created by this confiscatory divergence in the past six years alone represents a cumulative misappropriation of $89 billion. This is about 11 percent of total economic profits and 8 percent of total expenditures for business investment for this period.

The capability to self-fund real corporate growth is reduced by the combination of high inflation and a tax system that fails to recognize the divergence between reported and economic profits. The consequence is a reduction in the potential real growth of the economy.

Slide 5. Nominal Effective Dollar Exchange rate:

High rates of inflation in the U.S., our continuing trade imbalance and the unsettled conditions in the oil market are at the heart of the dollar's weakness.

The rising level of dollar-denominated assets held by the OPEC nations—$300 billion by the end of this year, and possibly, $1 trillion by the mid-80s—constitutes the single most important threat to international monetary stability. Diversification away from the dollar could undermine its viability as the international currency of exchange, but, more importantly, any interruption in the recycling of the OPEC surplus would be disastrous for the industrial nations and the oil poor developing countries alike. Even in the absence of such interruptions, the international financial system will be hard-pressed to digest an OPEC surplus whose value will fast approach that of all common stocks traded on the New York Stock Exchange.

The U.S. can minimize these pressures by taking those actions necessary to encourage a stable dollar and by providing an attractive real rate of return on dollar assets for foreign investors. International confidence in the dollar can only be restored if the U.S. continues to fight inflation even in the face of slower economic growth. Any sign of weakness on the part of the Administration or the Federal Reserve in this battle could trigger more disruptions in the monetary markets, leading to tight credit and exchange controls, and the formation of trading blocs round alternate currencies.

Instability in the currency markets could also lead to renewed protectionism. Steps toward protectionism, however limited, are dangerous. When a government bows to pressures from one industry or labor group, it is difficult to prevent the spread to other areas.

Slide 6. Contribution of Productivity to U.S. Economic Growth:

Protectionist tendencies are even more pronounced when differences in productivity growth undermine international competitiveness.

There are but two sources of long-run real GNP growth: labor input and productivity.

As shown here, in the twenty years between 1949 and 1969, productivity in the U.S. accounted for about eight-tenths of each percentage point of output growth while man-hours accounted for only two-tenths.

In the 1970s, however, the average proportion of U.S. output attributable to gains in productivity has declined to slightly less than one-half, reversing the relative factor shares of the period 1949–69.

During the last decade, productivity gains slipped below the rates of the sixties for all of the major world economies.

Slide 7. Dependence on Oil for Energy Needs of Major Industrial Countries, 1978:

Another well publicized contributor to the global economic malaise is the skewed distribution of primary energy resources. Except for the Soviet Bloc, every major consuming nation is dependent on foreign suppliers for some portion of its energy needs.

The U.S. is, by far, the world's largest consumer of energy. But, while only one-fifth of our total energy supply comes from overseas, more than half of Western Europe's energy is imported and Japan depends on foreign suppliers for 88 percent of its energy consumption.

The Soviet Union and its satellites are net exporters of energy, producing about 7 percent more energy than they use. This is only a temporary situation, however, and last year's cut-off of Iranian natural gas to the Soviet Union has already caused severe distribution problems throughout Eastern Europe. The Communist bloc will soon need to import oil if it cannot obtain the necessary technology to exploit its own petroleum resources.

The U.S., unlike the Soviet Union is not restricted by a lack of technology; rather, by an overabundance of government restrictions, which create disincentives for energy production.

Slide 8. Meeting Energy Demands:

The scope of the energy problem is staggering. Despite projections of slower growth rates of GNP and energy consumption, it has been estimated that to meet expected energy demand in the non-communist world between now and the year 2000 we must do all of the following:

(1) Produce new crude oil equivalent to 14 North Slopes, plus a similar amount in the form of higher recovery rates from existing deposits;

(2) Dig 650 new coal mines;

(3) Develop some 6 new Groningen-size gas fields; and

(4) Build 600 new nuclear power stations of at least 1000 megawatts each and provide all the necessary support facilities for them.

The energy dilemma may go beyond economic dislocation in the 1980s. It could tear apart the fabric of the Atlantic Alliance, which has withstood many other threats since 1948. While this country has a way out of the energy crisis, Europe and Japan have their backs against the wall. And though Japan's economic and military dependence on the U.S. will encourage cooperation and prevent open conflict, the same cannot be said for Europe. Where the Soviet Union has failed to divide NATO, OPEC might well succeed.

Slide 9. Map of World Highlighting Advanced Developing Countries:

Finally, the industrialized nations must learn to cope with the emerging competition from the Advanced Developing Countries without stifling their own economic growth. This small but growing group of countries in the Pacific Basin—South Korea, Taiwan, Hong Kong, Singapore, and Malaysia—has progressed beyond dependency on exports of raw materials to sell manufactured goods in head-to-head competition with European, American, and Japanese producers—and will soon begin to challenge us in higher technology areas.

In the next few years, today's Advanced Developing Nations will join the ranks of the industrial powers. But as a new generation of ADCs, all pursuing export-led growth policies, arises, the dominance enjoyed by the major industrialized nations will deteriorate. International competition will then intensify and lead to severe strains in trading relationships.

Slide 10: People's Republic of China:

Emerging simultaneously with the growing importance of the ADCs is the challenge and opportunity presented by the People's Republic of China. The PRC will play a significant international role during this decade in several ways: as a counterweight to Soviet power in Asia, as an exporter of goods, as a supplier of energy and as a marketplace of enormous potential.

China's army, although under-equipped, fields the largest land force in the world and could make a significant contribution to the balance of power in the Pacific Basin and Asia. Closer relations with the West in general, and the U.S. in particular, would present a formidable obstacle to continued Soviet expansion around the globe.

In addition, with a population exceeding a billion this year, an ambitious industrialization program underway and 20 billion barrels of proven petroleum reserves, China's demand for goods and services may, in the long run, create lucrative markets for Japan, the U.S. and Western Europe.

But as we attempt to develop the Chinese market, we must not overlook the export potential of the PRC which could, in just a few years, pose serious competitive threats to the major industrialized nations.

Slide 11. Meeting the Challenges of the 1980's:

How can the U.S. meet these challenges in the coming decade and regain its position of leadership in the world?

We must get our house in order by focusing on six fundamental issues:

The establishment of attainable national goals and priorities;

The enhancement of U.S. power and influence abroad;

The control of inflation;

The improvement of productivity growth;

The promotion of exports, and

The solution to the energy problem.

Slide 12. To develop National Objectives:

We cannot hope to "muddle through" our present problems as we have sometimes done in the past. The U.S. must develop a set of coherent and attainable national goals that will stand for at least a decade, perhaps a generation. This should be a function of Congress, led by the Executive branch, but if our legislators are unable or unwilling to assume this responsibility we will need to find another approach. The dilemma is how to accomplish this without falling into the trap of national planning.

One way could be through the establishment of a Board for National Goals, with status similar to that of the Fed but with no independent power of implementation. Our own "Goals for Dallas" program, where all sectors of the community have been encouraged to respond to our city's problems, as well as contribute to its growth, provides a useful analogy. The members of the board, whose tenures would extend beyond normal political terms, would include ex-Presidents, ex-Congressmen, ex-Cabinet Members and representatives from business, labor and the general public. Its charter would be to formulate, for the consideration of the President, Congress, and the public a set of national goals by initiating public debate and generating a national consensus.

To encourage the development of a long-range viewpoint among our political leaders, the terms of Congressmen and the President should be lengthened, with the Chief Executive limited to one term. Longer terms of service and higher salaries would attract better people, dampen the tendency toward personal corruption and diminish the demands of re-election on the time of public servants.

We will not be successful in establishing a consensus on national goals without an intensive educational thrust. Knowledge concerning the free enterprise system and the many key issues to be resolved is at such a level that the public is simply not equipped to make the difficult choices. And few of our educators understand the system.

The people in this country have the ability to understand the key issues, the guts to make hard, intelligent decisions, and the power to implement them through the ballot box. But, they must have the facts underlying these issues, and some options to consider, before they can do so.

Slide 13. U.S. and Soviet Defense Activities:

Recent events validate the serious concerns being raised as to whether U.S. military strength is sufficient to protect the interests of this nation and its allies.

U.S. defense spending, in constant 1978 dollars, has trended downward almost continuously since 1968 while the Soviet Union has increased its defense outlays to levels which are 42 percent higher than those of the U.S. Between 11 and 13 percent of the Soviet GNP has been devoted to military spending every year since 1968. In contrast, the U.S. defense effort has dwindled to 4.9 percent of GNP in fiscal year 1979, down from 9.3 percent in 1968. This erosion of military strength must be reversed.

The President's recently proposed five-year, 4.8 percent annual real growth in defense appropriations will raise the level of defense expenditures to 5.5 percent of GNP by 1984, still short of the absolute level of Russian expenditures. These funds will help maintain our strategic retaliatory capability to assure that nuclear war remains unlikely. At the same time since conventional war remains a real possibility, we must rebuild our conventional forces to allow us to project our power wherever necessary and in sufficient strength to protect our interests.

But the responsibility for meeting the Soviet threat is not ours alone. America's allies must contribute to our common defense. The members of the Atlantic Alliance, as well as Japan, should take the necessary steps, including higher defense budgets, to help reverse the shifting global balance of power.

Slide 14. Reversing the Decline in U.S. Power and Prestige:

But simply spending more on defense does not solve the larger problem. The crisis in Iran, where America seems helpless in the face of terrorist blackmail, is the logical outcome of the decline in American power and prestige during the past few years. The unwillingness of the U.S. to respond to the Soviet military buildup and our reticence about using economic and military tools to protect our interests have led to dismal results: Americans at home and abroad are subject to verbal and physical abuse which no self-respecting nation can long endure.

In the 1980s, we must turn this situation around by carefully defining our interests and then mustering the resolve to defend them. It will not be enough to build a new long range ballistic missile, deploy the Trident submarine, rebuild our navy, produce a new strategic bomber, strengthen our conventional forces or reinvigorate the NATO alliance, although these things should be done. The U.S. must also simultaneously foster the perception of the great power that it is: a nation to be respected, and if necessary, to be feared. Otherwise, America will remain hostage to an increasingly alien world.

Slide 15. To Control Inflation:

Inflation has contributed to our tarnished image overseas and it has sapped our economic strength at home. The U.S. can bring inflation under control. But to accomplish that goal without serious disruptions of employment and output requires a gradual unwinding of the wage-price spiral. It is a long-term process, requiring patience by all and the resolute maintenance of a course to that end by the Federal Government.

Wide fluctuations in the growth of the money stock must be avoided. Monetary growth should be reduced gradually to a steady rate about equal to the long-term average real growth of GNP. Recent actions by the Fed indicate a commitment to this end. But it must be lasting.

The growth of spending by the Federal Government should be held below that of GNP, in order to gradually reduce its share of GNP to 20 percent or less from its present 21.5 percent. An overall budget balance should be required on a three-to-five year basis.

Government regulation must be curtailed. There is a growing body of evidence to support the role of regulatory costs as one of the basic causes of inflation. Recent estimates place the annual cost of Federal regulation at more than $100 billion a year: this is 75 percent higher than the cost of last year's oil import bill.

Slide 16. Blueprint for Tax Reform:

Congress must correct the tilt in tax policies that encourage consumption and discourage saving. Interest paid is tax deductible, interest earned is taxed and usually at the highest applicable marginal rate. A blueprint for basic tax reform should include: lower tax rates for savings-related income, the elimination of double taxation of dividends, still lower tax rates on capital gains, higher investment tax credits, accelerated depreciation of equipment and facilities and the introduction of tax credits for R&D spending and exports. Consideration should be given to a consumption tax, which would serve both as a correction to the tax policy tilt and as an offset to tax revenues lost through reform.

Finally, we must strive continuously to make industry and government at all levels aware that productivity gains are absolutely essential to our efforts to reduce inflationary pressures at home, as well as to remain competitive in the world marketplace.

Slide 17. Sources of Productivity Growth in the U.S. (1929–1978):

Sources of productivity problems often cited are a decline in the work ethic, lack of worker motivation and general moral decay. Undoubtedly, there is something to such concerns. But changed worker attitudes cannot explain the dramatic deceleration in annual productivity growth from almost 3 percent in the 1950s and 1960s to about 1 percent in the mid-1970s and to an absolute decline close to 1 percent in 1979. One must search elsewhere.

John Kendrick, at George Washington University, has reached the conclusion that about 40 percent of the U.S. increases in productivity during the past fifty years can be attributed to technological innovation driven by R&D spending, while only 15 percent is attributable to capital usage.

This does not diminish the importance of capital outlays. They create the new capacity essential to a growing economy, and it is through new equipment and facilities that more advanced technology is injected into the production and distribution streams of the economy. Kendrick's studies to imply, however, that the impact on productivity of a dollar spent for R&D is several times greater than that of a dollar invested in conventional fixed capital.

To spur productivity growth we should adopt measures to encourage savings and risk taking, relax unnecessary restrictive practices which add to business costs, improve education and training, develop a national commitment to productivity improvement and, above all, we should create tax incentives to encourage R&D spending. This would channel funds to those businesses—the high-technology industries with heavy R&D expenditures—that can make the greatest contribution to economic growth, employment, and reduced inflation.

Slide 18. Declining U.S. Share of World Exports:

Lagging U.S. productivity, and the absence of adequate incentives to export, have depressed the U.S. share of the world export market from more than 18 percent in 1960 to an estimated 12.5 percent in 1979. If the U.S. had maintained the same share it held in 1960, the estimated $28 billion trade deficit in 1979 could have been a $55 billion trade surplus.

Increasing R&D, capital formation and productivity will improve the environment for exports, but we must do more.

First, we must continue to strengthen our recently reacquired surplus position in manufactured goods, especially high-technology products directed to the capital sectors of developed and developing nations. This is our major source of strength and source of comparative advantage vis-a-vis other countries.

Second, the U.S. must maintain its traditional favorable balance in agricultural trade, for political as well as economic reasons.

Finally, we must take measures, other than quotas or trade barriers, to reduce the volume of oil imports. Even if the improving trend in manufacturers trade continues throughout the 1980s, the escalating cost of our oil imports, estimated at more than $80 billion this year, will prevent any lasting improvement in our overall trade balance.

Slide 19. Comparison of International Efficiency:

Since 1973, rising oil prices have signalled the need to use our energy resources more efficiently. The U.S., despite being sheltered from the full impact of the petroleum price increases, has responded to these market signals by increasing the productivity of energy. In 1973, the energy equivalent of one billion barrels of petroleum was required to produce $122 billion of real GNP; by 1978, this same amount of energy produced $131 billion of output, an improvement of 1.5 percent per year.

However, other industrial countries, whose domestic oil prices fully reflect world market conditions, have achieved even greater efficiency in their use of energy.

Western Europe, over the period 1973–78, realized a 2.3 percent per year improvement in the productivity of energy, while Japan, a nation with the greatest dependence on imported energy, realized a 3.2 percent per year improvement. In fact, Japan is so energy efficient that if the U.S. could equal its performance, we could become a net exporter of oil.

Although the dollar depreciation of recent years may have biased upward the levels of energy productivity of Western Europe and Japan, the success of these industrial countries in raising their energy productivity suggests needed improvements in our policies.

Slide 20. U.S. Energy Problem:

To provide a permanent solution to the energy problem, we should immediately remove all price controls. On the supply side, this would encourage domestic energy production by providing strong incentives and financing for oil and gas exploration while stimulating the development of other energy sources. On the demand side, higher prices would promote conservation and reduce energy waste. A sizable increase in the gasoline tax would provide further incentive to reduce our demand for a fuel that comprises 40 percent of our oil consumption and 20 percent of our total energy consumption.

Instead, the Administration seems bent on achieving the opposite effect with its so-called "windfall profit" tax. The insidious nature of this proposed tax is that it would be levied not on profits but rather on revenue. And it would be collected even if the producer took a loss on the oil that generated the revenue.

Fossil fuels, despite increasing difficulties in finding and extracting them, will remain our major source of energy for the rest of this century. Greater emphasis must be placed on the use of coal, and U.S. laws and regulations should facilitate, not impede, the conversion from oil and gas to coal. The technology now exists to exploit America's vast shale oil deposits and the petroleum locked in tar sands. American coal can be converted to synthetic fuels using present technology. According to recent estimates, these alternate sources of energy will become economically viable as the price of oil approaches $40 or $50 per barrel (in today's dollars).

Mexico represents a potentially important supplier of traditional fuels to the U.S. We can improve relations with Mexico by adopting a program which would allow Mexicans to work in the U.S. for extended periods and return home after the work is done. By greatly improving their domestic economy, Mexico's recent oil discoveries could be the catalyst providing a long term solution to the illegal alien problem while at the same time helping the U.S. in meeting its energy requirements.

Similarly, we should seek better relations and a higher level of cooperation with other suppliers of energy in this hemisphere, notably Canada and Venezuela

Nuclear energy must play a greater role in the future of all countries. The events at Three Mile Island, however, have heightened the controversy surrounding nuclear power. Prior generation control technology and humane error may have been responsible for that accident. By replacing control and monitoring equipment designed a decade or more ago with today's technology, based on microelectronic devices and distributed computing systems, the likelihood of similar nuclear accidents would be greatly diminished. Safe nuclear power can be provided at competitive prices and, someday, breeder reactors or nuclear fusion could give us a nearly limitless supply of electrical energy.

The U.S. need not have an energy shortage. Our current reserves are quite adequate to bridge the gap to the era of renewable energy sources. But we must get on with it. We have the means to make solar, wind, geothermal and ocean energy a reality. But we must develop these "exotic" technologies with the understanding that their impact will not be felt for several decades and it may be disappointingly small.

In the end, the answers we seek to the energy problem will affect our free enterprise system in fundamental ways. They will either reinforce faith in free markets to provide the incentives for national economic well-being, or accelerate governmental intervention in the economy at every level.

Slide 21. What if . . .?:

Our problems are neither temporary nor inconsequential, nor do they lend themselves to quick, clean or easy solutions. But the way we approach them will have a profound impact on our own future as well as that of coming generations.

We can get a rough notion of the impact our choices will have by examining the consequences of two economic scenarios for the next twenty years: one simulation presumes we continue to rely on a piecemeal approach to our problems; the other assumes we make a concerted effort that begins to yield results in the second half of the 1980s.

The first scenario, a continuation of the status quo, is characterized by policies that cause a downward drift in the rate of investment and an upward drift in wage gains. Productivity gains are negligible—only 0.5 percent annually—and inflation advances at a 10–11 percent annual rate from 1980 to the year 2000. In the second scenario, tax policy changes and an easing of government regulations raise the levels of R&D spending and private investment. As a result, inflation is reduced to 8 percent per year and the annual rate of productivity growth is raised to about 2.0 percent.

The seemingly small numerical differences in these two scenarios mask a striking difference in the futures they create. The cumulative effects of two more decades of the "status quo" are devastating: by the year 2000, prices will be more than seven times those in 1980; the level of productivity will have increased by only 10 percent; and the average American family will have experienced absolutely no gain in real income.

The second scenario, ultimately brings about substantial improvements over the first. By the year 2000, the price index would be nearly 50 percent lower than under the status quo policies; productivity growth would be more than four times higher than the "status quo" amount; real GNP would increase by 84 percent from its 1980 level and real family incomes would rise by almost 50 percent.

But the fact that even this scenario does not compare well with our past economic performance, clearly illustrates the dangers of continuing our present course.

We must move now to boost growth of productivity, for this is the key to reducing inflation, increasing output, and bringing about real income gains.

We must escape the legacy of the poor policies of the past. The burden of government regulations must be eased, and the rate of investment and technological innovation increased.

To fail to take the necessary actions is to risk our political and social stability. For the bottom line is that real economic growth is the glue that holds us together. If economic growth slows precipitously or ceases for any extended period, the glue begins to dissolve—and so does our society.

No slide:

The road into the 1980s will not be a smooth one—the challenges we have discussed will be formidable. In this age of ambivalence, our pessism is real, but so is our potential to respond to the challenges. The American people are ready to make the difficult choices that will confront us in an uncertain world.

But confidence in our government must be restored. We have had enough of bureaucratic incompetence, wasteful spending, and misguided welfare programs. Our faith in the ability of the American government to handle even our simplest problems has been shattered. There is a yearning for leadership, to steer us over these rough roads. But leadership is in woefully short supply at all levels of government—federal, state, and local.

The sense of ambivalence extends beyond domestic matters to foreign affairs, where the American frame of reference has been shifted from the stable and sure world of the 1950s and 1960s to one where the image of the U.S. abroad has been tarnished. And we are uncertain how to restore this image, although our desire to be powerful politically, economically, and militarily endures.

In the midst of our moodiness we need to remind ourselves that by most objective measures, our international competitive advantages are still formidable. The U.S. is more self-sufficient than most other industrialized nations. We have abundant natural resources, an exceptional food-producing capability, and an awesome edge in terms of infrastructure. In short, we have the means and the foundation for future growth.

Certainly the times are changing; but a strong undercurrent of the old, unchanging American values is still with us:

There is no lack of spirit, of goodness, of patriotism;

The work ethic has not been abandoned;

And above all, the high value placed upon freedom, at home as well as abroad, remains unaltered.

These underlying values have always been and still are the foundations of the American society, and provide optimism that we can successfully meet the challenges that the coming decade will bring.

THE 1981 BUDGET: A GIANT BOOST IN TAXES

Mr. HARRY F. BYRD, JR. Mr. President, once again I wish to call the attention of the Senate to some important aspects of the budget which President Carter submitted to the Congress a week ago today.

As I have pointed out each day since the budget was published, the President's proposals if carried out would violate the law. Section 7 of Public Law 95–435, signed into law by President Carter himself on October 10, 1978, prohibits Federal deficits in this language:

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

President Carter's budget for 1981 calls for a deficit of $16 billion. As chief sponsor of section 7, I can state that the intent of that legislation is precisely to prohibit any such deficit.

Thus, in order to insure compliance with the law, the Congress must reject the deficit proposed by the administration.

Today I also wish to direct the attention of Senators to the revenue side of the Carter budget.

Examination of the revenue proposals of the President discloses that he is relying on a total tax increase of $76 billion, or more than 14 percent, for the coming year, fiscal year 1981. This comes on top of what will be a 12-percent tax increase for 1980 over 1979.

Looking quickly at the budget, one might presume that the new windfall profits tax on oil is largely responsible for the huge tax boost. But not so. The net increase in revenues from this new tax, for fiscal year 1981 over 1980, will be only $9 billion, or less than 12 percent of the huge tax boost which the President's budget envisions.

The largest tax increase is a $35 billion hike in individual and corporate income taxes, all but a small fraction of which will be a bonanza to the Federal Government resulting from the double-digit inflation which the Government's own reckless deficit spending, over a long period of years, has done so much to encourage.

But not content with the ballooning of revenues resulting from inflation, the President also proposes a $7 billion in legislated tax increases in a desperate effort to finance the $52 billion spending increase—mostly for nondefense programs—which his budget calls for. In addition to the $52 billion increase for 1981, he proposes an additional $16 billion for the current fiscal year, for a total spending increase of $68 billion.

In fiscal year 1981, total taxes will take a higher percentage of the gross national product than in any year since World War II; namely, 21.7 percent.

Individual income taxes will consume 11.8 percent of personal income—also a near-record, dramatic increase over the 9.6 percent which prevailed in 1976, when Jimmy Carter ran for office.

President Carter's budget is a high-tax, big-spending program to gain favor with as many special interest groups as possible in an election year. The Congress should reject this budget and enact one which is fiscally responsible.

Mr. President, I ask unanimous consent to have a table entitled "Individual Income Taxes as percent of personal income" printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

INDIVIDUAL INCOME TAXES AS PERCENT OF PERSONAL INCOME

	Individual income taxes	Personal income	Individual taxes percent of income
1972	95	943	10.1
1973	103	1,052	9.8
1974	119	1,155	10.3
1975	122	1,256	9.7
1976	132	1,382	9.6
1977	158	1,532	10.3
1978	181	1,717	10.5
1979	218	1,923	11.3
1980[1]	239	2,109	11.3
1981[1]	274	2,314	11.8

[1] Estimates, Office of Management and Budget, January 1980

A VALUABLE PROGRAM FOR THE ELDERLY

Mr. ROBERT C. BYRD. Mr. President, much has been written or said lately about how physical activity improves a person's mind and body. Many people now believe that such activity tends to slow the aging process. New studies are showing that most older Americans remain capable of considerable physical exercise.

On Sunday, February 3, the Washington Post Parade magazine carried a story which details a group of elderly citizens in my own State of West Virginia and the betterment of their lives that has resulted from their participation in a unique exercise program called Preventicare. Too often and incorrectly, we have associated prolonged life with loneliness and inactivity. The article, "Old People Who Jump for Joy," demonstrates how the Preventicare program attacks such problems with remarkable success. I take special pride in the fact that the program originated in West Virginia and has been of such benefit to these venerable Americans.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OLD PEOPLE WHO JUMP FOR JOY

(By Donald Robinson)

Thousands of old people in West Virginia and a number of other states are finding new youth and vigor—and a warm, satisfying social life—in a special low-cost, state-sponsored physical fitness program called Preventicare.

There's Mrs. Irma Hall, 72, of Charleston, W. Va., whose swollen fingers were so crippled by arthritis that she couldn't pick up a piece of paper—until she joined a Preventicare group. "Inside of a few months, I could peel potatoes," Mrs. Hall says. "I was able to use my pinking shears for the first time in years."

Wallace H. Cooley, 77, of Clarksburg, W. Va., was a coal miner for 45 years. After a heart attack, he was in such discomfort that he carried 40 aspirins, plus other pills, wherever he went. Then he enrolled in Preventicare. "I don't take any of that stuff with me anymore," he now says. "I don't need it."

Despite their age, Mrs. Hall and Mr. Cooley can do leg-lifts, sit-ups, knee-bends, body-lunges and other exercises for 60 solid minutes. They toss big medicine balls around. They dance happily to recorded music. "It's grand," Cooley declares. "I feel like a young guy all over again."

Preventicare groups, which range in size from 10 to 30 people and in age from 60 to 102, do exercises that are designed to strengthen the hearts and lungs of elderly people and to flex every muscle in their bodies.

"After people reach their 60s," says physical therapist Lawrence J. Frankel, who created the Preventicare program, "most begin to suffer from poor circulation, aching joints and muscles, arthritis, and bone degeneration. Their coordination declines, and they experience chronic fatigue. However, with the right exercises, elderly people can improve their circulation, fortify their hearts and lungs, tone up their muscles. Most of them can get back their mobility."

The 50 Preventicare exercises can be performed in any position that a person finds comfortable—standing, sitting or lying supine. They can be done in a bed, wheelchair or walker.

The exercises are easy to learn. One simply has you tilt your head backward as far as possible and then forward 10 times. In another, you stretch out your arms, spread your fingers wide apart and bring them together again repeatedly. In another you crumple a page of newspaper into a ball using only the first joint of each finger, not the palm, of one hand.

A more vigorous exercise has you stretch your legs straight out and rapidly cross them—right leg over left, then left over right. This helps to reinforce the abdominal muscles. Other exercises prescribe a variety of body movements as well as running, jumping and hopping in place.

All the exercises are done to soft, leisurely background music so that no one's pulse goes faster than 120 beats per minute—the highest rate considered safe for people over 60. Each session lasts an hour, and group members attend at least three a week.

The sole requirement for membership in a Preventicare group is a doctor's certificate stating that you are physically up to the exercises. There is no fee, and expenses are minimal. The only equipment needed is a strip of padding or carpeting to sit on, a medicine ball, and a 24-inch piece of broomstick (used in certain exercises).

In these groups, the participants lead their own exercises—no outside instructors are needed. One group leader in Charleston is a blind woman in her late 60s. She never misses a meeting.

But Preventicare groups provide something as valuable to oldsters as exercise—an opportunity to socialize. Group members cheer each other on, encouraging one another to do every exercise correctly and wholeheartedly.

Frankel, a muscular man who stands as erect as a West Point cadet, attracted attention in the mid-1950s with a program of exercises he designed for asthmatic children. He also developed a gymnastic program for blind youngsters.

Early in 1970, the West Virginia Commission on Aging assigned Frankel to develop a new kind of physical fitness plan for the elderly. He explored the situation and reported to the commission:

"Older people do not exercise because they have been stereotyped as senior citizens, and society says that they should not exercise. As a result, many withdraw from physical activities and become more and more immobile, which ultimatly can lead to institutionalization. We've got to motivate elderly people to be more active if they are to resist the ravages and unhappiness of old age."

The commission agreed, and Frankel—with the collaboration of Mrs. Betty Richard, a physical-fitness expert who helped to design the exercises—created Preventicare.

The two then tested the program on 15 people aged 60 to 86 who lived in an apartment residence for the elderly in Charleston. It was an immediate success.

One of the residents, a woman of 75, was completely bedridden and faced with removal to a nursing home because of a regulation requiring that all who occupy such a dwelling be fully ambulatory and able to care for themselves.

After undertaking the Preventicare exercises, she was able to walk, cook her own meals and do other chores. She attended social affairs and even helped to lead exercises for the group. Her eviction notice was cancelled. "Life is worth living again," she says.

The program proved so valuable that West Virginia authorities asked Frankel to establish Preventicare groups in many other housing projects for the elderly, old people's homes, and hospitals.

Today almost 200 Preventicare groups are operating in 51 of West Virginia's 55 counties, and groups have also sprung up in New York, Virginia, Kentucky, Ohio, Pennsylvania and North Dakota.

Frankel makes no profit from the program. Years ago he set up a nonprofit foundation to administer Preventicare's financial affairs.

Frankel says the program has succeeded because it is motivated by love—his love for the old people and their love for each other.

SANDINISTAS IN EL SALVADOR

Mr. STONE. Mr. President, a few days ago, the Senate passed a $75 million authorization for Nicaragua. At that time, I opposed it, stating that I thought it was too late to change the Sandinista-led Nicaraguans by means of that kind of authorization and that the country of

El Salvador, on the other hand, deserved our first priority attention.

A few minutes ago, the Associated Press carried the following wire story:

> SAN SALVADOR, EL SALVADOR.—A Nicaraguan captured during a skirmish between leftists and the army has admitted being a member of the Sandinista National Liberation Front, authorities said Monday.
>
> Authorities quoted the man, Juan Jose Molina Peres, as saying the leftists arrived from Nicaragua in groups of four. But the authorities said he did not reveal how many Sandinistas allegedly were in El Salvador.
>
> The official position of the Nicaraguan Government is that it will not "export revolution" to other countries.
>
> The Sandinistas led the revolution that toppled the Nicaraguan Government of Gen. Anastasio Somoza last July and installed a guerrilla-backed junta in its place.
>
> Salvadoran officials said the Nicaraguan was captured Thursday in San Miguel, 110 miles east of San Salvador, in a fight with the popular United Action Front, a leftist group styled after the Sandinistas.
>
> The government claims the leftists shot first when the army tried to dislodge them from a church they were occupying. Four people died in the battle.

Mr. President, I believe that the Government of El Salvador is under pressure, including terrorists, firefight pressure from terrorists and leftists augmented by Sandinistas from Nicaragua.

And we are preparing to send Nicaragua $75 million while that conduct is proceeding.

I believe that the Senate has erred. I believe that the Government of the United States is making an error. And I think it is not too late to remedy that error.

But if we persist not only will we waste the $75 million for the American taxpayers but we will send a signal that appeasement of terrorism and leftist revolution in Central America is the order of the day for us, the exactly wrong signal to send at a time such as the United States faces today.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT ON THE ADMINISTRATION OF THE NATURAL GAS PIPELINE SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 158

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I transmit herewith the Tenth Annual Report on the Administration of the Natural Gas Pipeline Safety Act of 1968, as required by Public Law 90-48. This report has been prepared pursuant to Section 14 of the Act and covers activities for calendar year 1977.

JIMMY CARTER.

THE WHITE HOUSE, *February 4, 1980.*

REPORT OF THE ADMINISTRATION ON AGING—MESSAGE FROM THE PRESIDENT—PM 159

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 208 of the 1973 Amendments to the Older Americans Act (Public Law 89-73), I herewith transmit the 1978 Annual Report of the Administration on Aging of the Department of Health, Education, and Welfare.

JIMMY CARTER.

THE WHITE HOUSE, *February 4, 1980.*

MESSAGES FROM THE HOUSE

At 12:08 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 566) to authorize a targeted fiscal assistance program for payments to local governments requiring fiscal relief, an antirecession fiscal assistance program, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BROOKS, Mr. FOUNTAIN, Mr. FASCELL, Mr. MOORHEAD of Pennsylvania, Mr. ENGLISH, Mr. ASPIN, Mr. WEISS, Mr. SYNAR, Mr. HORTON, Mr. WYDLER, Mr. BROWN of Ohio, and Mrs. SNOWE were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 493. Joint resolution providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 494. Joint resolution providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.

At 3 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the amendment of the Senate to the bill (H.R. 5176) to establish an independent personnel system for employees of the General Accounting Office.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1300) to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes.

HOUSE JOINT RESOLUTIONS ORDERED HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 493 and House Joint Resolution 494, both providing for the appointment of citizen regents of the Board of Regents of the Smithsonian Institution, be held at the desk until further disposition by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2890. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1981, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, and for other purposes; to the Committee on Armed Services.

EC-2891. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on three construction projects to be undertaken by the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC-2892. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Joint Tactical Information Distribution System—How Important Is It?"; to the Committee on Armed Services.

EC-2893. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2894. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice that the Department of Air Force intends to exercise certain provisions of law for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-2895. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report on property acquisitions of emergency supplies and equipment for the quarter ending December 31, 1979; to the Committee on Armed Services.

EC-2896. A communication from the Under Secretary of Defense for Research and Engineering, transmitting, pursuant to law, a report on funds obligated in the chemical warfare and biological defense research programs for fiscal year 1979; to the Committee on Armed Services.

EC-2897. A secret communication from the Assistant Secretary of Defense for Communications, Command, Control, and Intelligence, transmitting, pursuant to law, a report on the Precision Location Strike System restructured program; to the Committee on Armed Services.

EC-2898. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer to the Coordination Council for North American

Affairs for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–2899. A communication from the Governor of the United States Soldiers' and Airmen's Home transmitting a draft of proposed legislation to modernize the law relating to the United States Soldiers' and Airmen's Home; to the Committee on Armed Services.

EC–2900. A communication from the Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report on experimental, developmental and research contracts of $50,000 or more for the period July 1 through December 31, 1979; to the Committee on Armed Services.

EC–2901. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, final provisions for implementing the Electronic Fund Transfer Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–2902. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report on the Equal Credit Opportunity Act for calendar year 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–2903. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, part 1 of the annual report of the Congressional Budget Office entitled "Entering the 1980s: Fiscal Policy Choices"; to the Committee on the Budget.

EC–2904. A communication from the President of the United States Railway Association, transmitting, pursuant to law, a report on the status of the Rail Act valuation, proceedings for the quarter ended December 31, 1979; to the Committee on Commerce, Science, and Transportation.

EC–2905. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Overweight Vehicle Penalties and Permits—An Inventory of State Practices"; to the Committee on Commerce, Science, and Transportation.

EC–2906. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on marijuana, other drugs, and their relation to highway safety; to the Committee on Commerce, Science, and Transportation.

EC–2907. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to issue patents to the numbered school sections in place, granted to the States by the Act approved February 22, 1889, by the Act approved January 25, 1927 (44 Stat. 1026), and by other Act of Congress; to the Committee on Energy and Natural Resources.

EC–2908. A communication from the Administrator of the United States Environmental Protection Agency, transmitting, pursuant to law, a report on the effect of application of nonnuclear energy technologies to evaluate the adequacy of attention to energy conservation methods and the adequacy of attention to environmental protection and environmental consequences of the application of energy technologies; to the Committee on Energy and Natural Resources.

EC–2909. A communication from the Administrator of the Energy Information Administration, transmitting, pursuant to law, a report on changes in market shares of refined petroleum products and retail gasoline for October, 1979; to the Committee on Energy and Natural Resources.

EC–2910. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on a refund to Marathon Oil Company for certain royalties paid by the company for leases; to the Committee on Energy and Natural Resources.

EC–2911. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on refunds of royalties for certain leases made to ARCO Oil and Gas Company, Chevron, Inc., and Exxon Company; to the Committee on Energy and Natural Resources.

EC–2912. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on a refund of a royalty paid for a lease made to the Sun Gas Company; to the Committee on Energy and Natural Resources.

EC–2913. A communication from the Comptroller General of the U.S., transmitting, pursuant to law, a report entitled "Coordinating U.S. Development Assistance: Problems Facing the International Development Agency"; to the Committee on Foreign Relations.

EC–2914. A communication from the Assistant Administrator for Legislative Affairs of the Agency for International Development, transmitting, pursuant to law, a report on contract actions in excess of $100,000 entered into without competitive selection procedures during the period October 1, 1978 to September 30, 1979; to the Committee on Foreign Relations.

EC–2915. A communication from the Assistant Legal Advisor for Treaty Affairs, transmitting, pursuant to law, a report on international agreements other than treaties entered into within the previous sixty days; to the Committee on Foreign Relations.

EC–2916. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report on the numbers of positions established in grades GS–16, 17, and 18 during calendar year 1979; to the Committee on Governmental Affairs.

EC–2917. A communication from the Manager of Corporate Accounting for the Potomac Electric and Power Company, transmitting, pursuant to law, a copy of the company balance sheet as of December 31, 1979; to the Committee on Governmental Affairs.

EC–2918. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC–2919. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the 21st Annual Report of the Commission; to the Committee on Government Affairs.

EC–2920. A communication from the Deputy Assistant Secretary of Defense for Administration, transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC–2921. A communication from the Assistant Secretary of the Interior for Indian Affairs, transmitting, pursuant to law, a plan for the use of certain judgment funds of the Mississippi and Lake Superior Bands of Chippewa Indians; to the Select Committee on Indian Affairs.

EC–2922. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, a report under the Freedom of Information Act for calendar year 1979; to the Committee on the Judiciary.

EC–2923. A communication from the U.S. Commissioner of Education transmitting, pursuant to law, final regulations for assistance to States for education of handicapped children; to the Committee on Labor and Human Resources.

EC–2924. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the annual report of the Small Business Administration for fiscal year 1979; to the Select Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 358. An original resolution authorizing additional expenditures by the Committee on the Budget for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. HEFLIN, from the Committee on the Judiciary, without amendment, but with a preamble:

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day" (Rept. No. 96–566).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S.J. Res. 141. An original joint resolution to establish the policy of the United States with respect to items carried on space flight missions and to express the sense of the Congress that the Attorney General defend any civil action brought with respect to items carried on Apollo missions to the Moon (Rept. No. 96–567).

By Mr. CANNON (from the Committee on Commerce, Science, and Transportation):

S.J. Res. 141. Joint resolution to establish the policy of the United States with respect to items carried on space flight missions and to express the sense of the Congress that the Attorney General defend any civil action brought with respect to items carried on Apollo missions to the Moon. Original joint resolution reported and ordered placed on the Calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCLURE (for himself, Mr. Tower, Mr. Laxalt, Mr. Hayakawa, and Mr. Garn):

S. 2247. A bill entitled the "Small and Rural Laboratory Protection Act"; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself, Mr. Cannon, Mr. Warner, and Mr. Long):

S. 2248. A bill to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. TALMADGE:

S. 2249. A bill to increase the minimum level of price support on quota peanuts for the 1980 and 1981 crops; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NELSON (for himself and Mr. Long):

S. 2250. A bill to prohibit until January 1, 1982, the conversion of the rates of duty on certain unwrought lead to ad valorem equivalents; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. Hollings, Mr. Bayh, Mr. Dole, Mr. McGovern, Mr. Church, Mr. Baucus, Mr. Kennedy, Mr. Culver, Mr. Nelson, Mr. Zorinsky, Mr. Melcher, Mr. Stone, Mr. McClure, Mr. Levin, Mr. Boschwitz, and Mr. Eagleton):

S. 2251. A bill to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 2252. A bill to amend the Tariff Act of 1930 to continue the present duty-free status of repair parts, materials, and equipment purchased in Panama for, and repairs made in Panama to, vessels documented under the laws of the United States; to the Committee on Finance.

By Mrs. KASSEBAUM:

S. 2253. A bill to provide for an extension of directed service on the Rock Island Railroad and to provide transaction assistance to the purchasers of portions of said railroad; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMPSON (for himself and Mr. WALLOP):

S. 2254. A bill to remove certain restrictions imposed by Public Law 89-345 on a conveyance of land from the Administrator of Veterans' Affairs, to the City of Cheyenne, Wyoming; to the Committee on Veterans' Affairs.

By Mr. WILLIAMS:

S. 2255. A bill for the relief of Carmen Alda Armada; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 2256. A bill to continue until the close of June 30 1982, the existing suspension of duties on concentrate of poppy straw; to the Committee on Finance.

S. 2257. A bill authorizing continuing appropriations for the Lithuania legation; to the Committee on Foreign Relations.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE (for himself, Mr. TOWER, Mr. LAXALT, Mr. HAYAKAWA, and Mr. GARN):

S. 2247. A bill entitled the "Small and Rural Laboratory Protection Act"; to the Committee on Labor and Human Resources.

● Mr. McCLURE. Mr. President, today I am introducing, along with my colleagues Senator TOWER, Senator LAXALT, Senator HAYAKAWA, and Senator GARN, legislation that will affect every rural and small clinical laboratory in this Nation.

On October 12, 1979, the Department of Health, Education, and Welfare published regulations in the Federal Register that set educational minimums for clinical laboratory personnel. The regulations propose a three-pronged approach to quality assurance in clinical laboratories—personnel standards, quality control and proficiency testing. However, the regulations assume that by setting high educational standards for clinical personnel the other two goals will automatically result. The primary emphasis of the regulations rests with personnel standards as the means to quality assurance.

These regulations fail to recognize three important factors—the variety of hospital size and scope of service, the availability of personnel, and cost.

All of my colleagues in the Senate know that small and rural hospitals face special problems their larger counterparts in urban areas do not confront. Fully one-half of this country's hospitals, some 3,200, have fewer than 100 beds. Three-quarters of this group is located in rural areas. There are 1,600 hospitals in America with 50 beds or less and they operate very small, limited laboratories. The nature of laboratory work done in small hospitals differs greatly from that done in large hospitals as it is generally routine testing or testing that results from an emergency situation. A patient who requires more sophisticated tests will either travel to a bigger hospital or have test samples sent to a larger laboratory for analysis. The staffing of a typical small laboratory also differs. A visiting pathologist usually serves as lab director. The chief technologist of such a laboratory may be the only technologist and usually possesses a B.A. or B.S. degree. The State of Idaho has 33 hospitals with 50 beds or less and only one of those facilities employs a technologist with a graduate degree.

The HEW regulations will require that the technical supervisor of a laboratory hold a graduate degree. Is it realistic to expect a 50 bed hospital, with a small lab performing basic testing, to employ a technologist with an M.D., Ph. D., or master's degree? Is it even necessary? I do not believe the mere presence of a diploma is, in itself, the way to achieve quality control. I do not believe it is necessary for a small laboratory to hire a highly educated technologist to do work that can be done competently, efficiently, and economically by a person holding a B.S. or B.A. degree.

Small hospitals also have difficulties in recruiting personnel. Because of geographic isolation, lower salaries, and lack of cultural advantages, small community hospitals must rely on personnel straight out of school who are willing to work in a rural hospital to gain some experience. The employee turnover is enormous, sometimes every 6 to 12 months. A small hospital cannot hope to compete for a technologist holding a graduate degree if that person is qualified to work in a larger hospital, with better salary and greater opportunity for advancement. The State of Idaho has no schools of medicine or dentistry within its borders and no affiliated teaching hospitals. Obviously, Idaho cannot draw upon homegrown personnel to fill vacancies in its clinical laboratories.

The experience of one hospital administrator serves as a good example of this recruiting problem. This administrator had, for more than 4 months, searched for an experienced, well-credentialed technologist to head her hospital's laboratory. Only one candidate inquired about the job and he frankly admitted he wanted to "hook a free interview trip to Idaho." There were no other takers. Uniformly, candidates with graduate degrees justifiably seek what our small, rural hospitals cannot offer: Better pay, regular hours, complete instrumentation, career challenge, and educational opportunities. Implementation of the HEW regulations will intensify an already fiercely competitive recruiting market, to the disadvantage of small hospitals.

Cost to smaller hospitals will be staggering. If we assume qualified candidates could be found, a technical supervisor with a graduate degree would command a salary of at least $24,000.

Is it realistic to expect a clinical laboratory with gross annual revenues of $80,000 to meet those kinds of demands? Small hospital technologists often split duties with other departments to justify their full-time status. The lack of flexibility in the HEW regulations would make it more difficult for management of small hospitals to use limited personnel creatively and to full economy. At a time when we are all concerned about the rising cost of health care, it is incongruous to enforce regulations that can only add significantly to labor costs. The inevitable outcome will be higher costs to the consumer.

The frustration of small hospitals is justified when rules are proposed that do not realistically address the problems and pressures involved in providing quality care at an affordable cost. These regulations are neither cost-effective nor necessary, particularly if improved clinical laboratory testing is the ultimate goal. Because small hospitals cannot possibly comply with these regulations, their laboratories will be forced to close, causing the eventual shutdown of the hospitals themselves.

The bill I am introducing today will prevent HEW from implementing these regulations. This bill has the support of the smaller hospitals laboratories in Idaho, Nevada, California, Utah, and Texas. On behalf of my collegaues who are cosponsoring this bill, I urge you to look at these regulations and consider the impact they will have on clinical laboratories in your State. The American Hospital Association, representing over 6,100 health care institutions, has stated:

> The use of detailed, uniform, inflexible personnel standards as a regulatory approach to assuring quality laboratory services is ill-conceived, inappropriate, unnecessarily expensive, and intrusive into hospital management responsibilities. Further, the proposed regulations would seriously threaten the availability of basic services in many hospitals, particularly small or rural hospitals. Considering the lack of evidence that standards such as those proposed would have any measurable and positive impact on the quality of lab services, we consider the Department's continued pursuit of such standards as contrary to the interests of the American public's access to quality health care services.

Mr. President, I ask unanimous consent that the text of the bill be printed at this time in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Department of Health, Education and Welfare is hereby directed to immediately halt implementation of those regulations relating to Clinical Laboratory Personnel published October 12, 1979 at 44 CFR 58923 and published as corrected October 23, 1979 at 44 CFR 61059.●

By Mr. INOUYE (for himself, Mr. CANNON, Mr. WARNER, and Mr. LONG):

S. 2248. A bill to amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. INOUYE. Mr. President, on behalf of Senators CANNON, LONG, WARNER, and myself I am introducing a bill which would authorize the U.S. Travel Service (USTS) to operate at the same staff and funding levels in fiscal year 1981, that it did in fiscal year 1980.

While we remain committed to enactment of S. 1097, the National Tourism Policy Act which passed the Senate unanimously last May, that legislation is still pending in the House subcommittee, and a simple extension of USTS' existing authority may be necessary if the House does not act in timely fashion.

The legislation I am introducing today is also necessary because preliminary details of the Department of Commerce's budget for fiscal year 1981, indicate that the budget for the USTS contains $8.5 million "to support a restructured tourism program."

We were dismayed to learn from industry sources, subsequently confirmed by USTS staff, that the "restructured tourism program" contemplated by the budget included a reduction of 20 people in the USTS overseas offices, and an addition of 20 people to USTS' tourism effort in Washington. The budget would also cut the budget of USTS' overseas offices by $500,000, and add $1.2 million to its Washington office budget.

Last year Congress specifically rejected the administration's efforts to close USTS' regional offices. In doing so the law we passed (Public Law 96–85) mandated that the number of employees of USTS assigned to its Washington office be reduced to a level not to exceed 40 percent of the number of such employees on December 31, 1978. It also intended that USTS' international operations be maintained without reduction in personnel.

Our purpose in enacting Public Law 96–85 was to assure a continued, undiminished Federal tourism promotional effort in designated international markets pending enactment of the more comprehensive effort embodied in S. 1097.

Significantly, I believe, all segments of the tourism industry supported the action Congress took. The Office of Management and Budget, on the other hand, stood alone in urging international tourism promotion was not an appropriate Federal function. Moreover, OMB took that position without prior consultation with the Congress and the travel industry, despite repeated requests from both to discuss the wisdom of such action.

In recent months based on representations from the Department of Commerce we were under the impression that no reductions were planned in the staff level of USTS's international offices for fiscal year 1981. Thus the reason for our dismay.

Under the administration's proposal USTS will have 25 people overseas on the "firing line" promoting the United States, and 50 people in Washington supporting their efforts. This is a precise reversal of what Congress did last year when it mandated that USTS reduce its Washington staff by 60 percent, so that USTS would have its greatest resources where the action is, that is, in the overseas offices selling the United States as a tourist destination. The travel industry, I should note, unanimously supported Congress.

I believe it is especially important at this time for those who believe in the importance of international tourism for the Nation's economic and social welfare to stand united behind a Federal commitment commensurate with that importance. Such a commitment, in my view, begins with an undiminished Federal role abroad. I would add that my view is unanimously supported by the travel industry, and the 125 nations which operate national tourist offices.

World travel expenditures in 1979, were estimated to have reached $504 billion, and every developed nation in the world is aggressively promoting itself as an international tourism destination through its national offices located throughout the world.

For example:

First. Approximately 25 foreign governments have national tourist offices in Canada urging the Canadian consumer to travel to destinations other than the United States;

Second. In Mexico there are at least 17 such national tourist offices;

Third. In Japan there are at least 44 such national tourist offices;

Fourth. Sixty-five foreign governments and 64 foreign airlines compete in West Germany;

Fifth. In the United Kingdom there are 55 foreign national tourists offices; and

Sixth. In France there are 46 foreign national tourist offices.

If the United States is to compete in the lucrative international tourism market the very least we can do is to continue our very modest effort until S. 1097 is enacted.

The legislation I am introducing today will permit us to do that, and my subcommittee expects to hold hearings on March 5.●

By Mr. TALMADGE:

S. 2249. A bill to increase the minimum level of price support on quota peanuts for the 1980 and 1981 crops; to the Committee on Agriculture, Nutrition, and Forestry.

PEANUT PRICE SUPPORT LEGISLATION

● Mr. TALMADGE. Mr. President, I am today introducing legislation intended to correct a glaring economic injustice that otherwise will be inflicted upon the country's 80,000 peanut farmers.

My bill would increase the minimum price support level required by law for 1980 and 1981 crop quota peanuts to $502 per ton from $420. The effect would be to raise by $47 the quota support level of $455 per ton announced by the Secretary of Agriculture on January 30, 1980.

The increase, which would be less than 3 cents a pound, is desperately needed by growers to keep pace with steeply rising production costs that threaten to engulf them.

I introduce this legislation only as a last resort. Over the past several weeks, I have urged and pleaded with the Carter administration to establish a loan level for quota peanuts high enough to protect producers from the ravages of double-digit inflation and spiraling production costs.

On December 21, 1979, 17 other Members of the Senate and I, representing all nine peanut producing States stretching from Virginia to New Mexico, sent Secretary Bergland a letter calling on him to establish a loan level for 1980 quota peanuts that would be "fair and reasonable." We said in our letter that—

> Since the new peanut program was enacted as a part of the Food and Agriculture Act of 1977, the index of prices paid by farmers has increased by 28 percent. Yet the quota support level has remained at the statutory minimum provided by Congress in the 1977 Act. The net result has been a reduction in the support level—and for all practical purposes, the market price—from 71 percent of parity in 1977 to 58 percent of parity at the present time.

Mr. President, the $455 quota loan figure announced by the Secretary on January 30 is neither fair nor reasonable. It is totally inadequate in light of the economic reality that our farmers face. That is why I am compelled to seek relief for my peanut growers and for peanut farmers throughout America through legislative means.

In the Farm and Agriculture Act of 1977, Congress made substantial and long needed revision in the peanut price support and allotment program. These revisions—applicable to the 1978–81 crops—were intended to reduce the cost of the peanut program without unduly disrupting producer income; to bring production and domestic consumption into better balance; to increase export opportunities for U.S. peanuts; and to modernize and give greater flexibility in the administration of the program.

The 1977 act made three major changes in the existing law.

First. It established a national peanut poundage quota that could be adjusted downward by the Secretary of Agriculture over the 4-year life of the program to bring production into balance with domestic demand.

Second. It established a new method of determining price support levels for quota peanuts by giving the Secretary of Agriculture discretionary authority to adjust the loan above the $420 per ton statutory minimum based on production costs and other factors. Prior to the 1977 act, peanut price supports were pegged to the parity formula; annual adjustments in the loan level were required by law based on changes in the parity price of peanuts.

Third. It established a new program category of peanuts, called "additional" peanuts, which growers at their option could produce primarily for the export market. Additional—or nonquota peanuts—are those peanuts produced within a farm acreage allotment in excess of the farm poundage quota. Generally, this would be about one-fourth of the farm's normal production. The loan level for additional peanuts is set by the Secretary based on world supply, demand, and market conditions for peanuts. Thus far in the life of the program, the Secretary has set the additional loan level substantially below that prevailing for quota peanuts, $250 for 1980.

Mr. President, I think it should be noted that the 1977 revisions in the peanut program were supported generally by the peanut producer organizations in most States. In fact, the National Peanut Growers Group, the umbrella organization representing all producer groups, worked closely with the Department of Agriculture and Congress in developing the new program.

The producer organizations exhibited a rare display of responsibility by placing the long-term interest of their industry above the immediate economic benefits that existed under the former program. But the growers had faith that they would be treated fairly and sympathetically in the exercise of the discretionary authority contained in the law, including the establishment of support prices.

The new peanut program has produced most of the desired results during the first 2 years it has been in effect. Program costs have been reduced dramatically—from as high as $150 million in some prior years to around $20 to $25 million. Production for domestic consumption is being brought in balance, and U.S. peanut exports are at record highs, with about one-fourth of production now going overseas.

But in one essential respect, the new program has been a major disappointment to growers and to those of us in Congress who helped write and pass the new law. As passed by Congress, the law requires the Secretary to take into consideration "any change in the index of prices paid by farmers for production items, including interest, taxes and wage rates paid by farmers" in setting the support level for an ensuing year.

Unfortunately, the Secretary has failed to exercise this authority sufficiently to keep pace with rapidly advancing costs. This failure has disappointed growers who had expected more equitable treatment from the administration.

The $420 per ton minimum support level has been in effect for the first 2 years of the new program, 1978 and 1979. That figure was only modestly higher than the effective price support level of $410 that existed in 1977—the last year under the old program. During the same period, the national poundage quota has been reduced to about 80 percent of total production and will be reduced another 80,000 tons in 1980.

In 1979, the national peanut growers group presented a well-documented case for an increase in the quota support level based on 1978 production cost increases. They were turned down cold.

This year the growers came back with an even stronger case. By putting the most limited interpretation on the calculation of increases in prices paid by farmers as they relate to peanut production, the growers requested an increase of about 19.5 percent. Thus, using the guidelines Congress placed in the new law, peanut producers sought an increase to $502 per ton for 1980. They were understandably dismayed, disappointed, and angered by the $455 figure announced by the Secretary on January 30.

To his credit, Secretary Bergland has expressed genuine sympathy for the plight of peanut producers and has readily acknowledged that some increase in the support level is justified. I am sure we all recognize and understand the constraints placed upon him by the Office of Management and Budget and by the White House. I am confident that, had it been his decision alone, we would have seen a more realistic and equitable decision in this matter.

But regardless of who in the administration made it, the decision announced January 30 to limit the increase to $455 per ton is simply unacceptable to the peanut producers. And it is unacceptable to me. It leaves me with but one alternative—to seek redress through the legislative process. I intend to pursue vigorously the legislation that I am introducing today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. I also ask unanimous consent that the text of the December 21, 1979, letter to Secretary Bergland be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 108(a) of the Agricultural Act of 1949 is amended by striking out "$420 per ton" and inserting in lieu thereof "$502 per ton".

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., December 21, 1979.

Hon. BOB BERGLAND,
Secretary of Agriculture,
U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: We, the undersigned Senators from the peanut producing States, wish to express our support of the petition made to you, on December 17, 1979, by the National Peanut Growers Group requesting an increase in the 1980 support price for quota peanuts.

The National Peanut Growers Group represents fourteen producer organizations in the three areas and nine states of the Nation where peanuts are grown. We believe this group speaks with a unified voice for the peanut farmers of America.

The growers' case for an increase in the quota support level is based primarily on the sharp increases in production costs incurred in the past two years, and on the certain continued rise during the coming year. Their case is well documented and, in our view, compelling.

Since the new peanut program was enacted as a part of the Food and Agriculture Act of 1977, the index of prices paid by farmers has increased by 28 percent. Yet the quota support level has remained at the statutory minimum provided by Congress in the 1977 Act. The net result has been a reduction in the support level—and for all practical purposes, the market price—from 71 percent of parity in 1977 to 58 percent of parity at the present time.

In passing the 1977 Act, the Congress gave the Secretary wide discretion to adjust the statutory minimum support level for quota peanuts. However, we required that the Secretary must take into consideration "any change in the index of prices paid by farmers for production items, interest, taxes and wage rates paid by farmers" in setting the support level for an ensuing year. Congress chose not to make it mandatory that the Secretary adjust the support level on a basis of change in the index, though there was considerable sentiment for this. Instead, we left this in your hands, feeling that you would recognize and respond to conditions and circumstances as they might develop. We now respectfully request that you use the authority granted you to increase the quota support level for 1980 by a fair and reasonable amount.

We also are constrained to remind you of the high degree of responsibility that the Nation's peanut producers showed in helping to develop the needed changes in the peanut program in the 1977 Act. These changes have resulted in a very substantial reduction in what their incomes from peanuts would have been under the former program. These changes have also reduced program costs to nominal levels. Indeed, the new program has saved the taxpayers substantially from what the Department had estimated the cost would be at the time the legislation was enacted. We believe these factors should be taken into consideration along with the sound economic case that exists for a fair and reasonable increase in peanut quota supports.

We will appreciate your sympathetic consideration of this matter.

Sincerely,

Jesse Helms, Henry Bellmon, John Tower, Herman E. Talmadge, Richard (Dick) Stone, Fritz Hollings, Peter Domenici, Howell Heflin, David L. Boren, Lloyd Bentsen, Sam Nunn, John W. Warner, Robert Morgan, Harrison Schmitt, Strom Thurmond, Lawton Chiles, Donald W. Stewart, Harry F. Byrd, Jr.

By Mr. NELSON (for himself and Mr. LONG):

S. 2250. A bill to prohibit until January 1, 1982, the conversion of the rates of duty on certain unwrought lead to ad valorem equivalents; to the Committee on Finance.

● Mr. NELSON. Mr. President, I rise to offer legislation to change the tariff rate on imports of unwrought lead.

Mr. President, the goal of the recently completed Tokyo Round of the multilateral trade negotiations was to reduce tariff and nontariff barriers to the free flow of international trade.

As part of the Tokyo Round, the United States converted specific rates of duty on a number of imported items to their ad valorem equivalent based on the value of these imports in 1976. It is my understanding that these conversions were not intended to significantly increase the actual tariff collected.

As the result of this process, the ad valorem rate of duty on imports of unwrought lead, effective January 1, 1980, is 3.5 percent.

At about the same time this change was negotiated, however, lead prices increased dramatically. They shot up from 21 cents per pound in 1976 to about 50 cents per pound today. Because the ad valorem tariff is computed as a percentage of the price, the tariff rose at a similar rate.

This has imposed a great burden on lead users and consumers in the United States. Prior to the tariff conversion, the duty on unwrought, unalloyed lead was

1.0625 cents per pound. At today's lead prices, it is 1.75 cents per pound, which represents a 60-percent increase in the tariff.

Thus, while the whole purpose of the trade negotiations was to lower tariffs and other barriers to trade, the result in the case of lead imports is a significantly higher tariff.

The increased tariff will not only cause the price of imported lead to increase, but will also have the effect of causing the price of domestically produced lead to rise to an equivalent level. The net effect will likely increase costs to the lead-using industries and their customers by about $21 million a year.

This added burden will come at a time when at least one of the major using industries, the automotive battery industry, is already experiencing a decline in sales which appears, in part, to be the direct result of increased prices and is consequently being forced to cut back production and lay off employees.

Therefore, I am introducing legislation today which will correct this inadvertent tariff increase. This measure suspends for 2 years the 3.5 percent ad valorem tariff and retains for that 2-year period the prior specific rate of duty of 1.0625 cents per pound. During those 2 years, lead price levels can be observed so as to arrive at a proper rate of duty, one which can achieve a happy medium for those adversely affected when the price is high and for those who are adversely affected when the price is low. If necessary, further negotiations with our trading partners can provide a rate of duty which may be more appropriate than the 3.5-percent rate.

In my judgment, it is important to emphasize that the United States is a net importer of lead. U.S. lead requirements considerably exceed U.S. production. A higher tariff is not, therefore, needed to protect U.S. producers or their employees from foreign competition.

I was prepared to offer the substance of this bill in the waning days of the last session of Congress as an amendment to the windfall profit tax bill, but upon the assurance of the manager of that bill, the chairman of the Finance Committee, that a hearing on such a proposal would be held by the committee early this year, I did not offer my amendment at that time. I am pleased to note that the Finance Committee's Subcommittee on International Trade, chaired by Senator Ribicoff, will hold a hearing February 5 on the subject matter of this bill, which is also embodied in H.R. 6089, introduced last December in the House of Representatives. After the hearing, I would hope that the Finance Committee will expeditiously report the measure favorably to the Senate.●

By Mr. METZENBAUM (for himself, Mr. Hollings, Mr. Bayh, Mr. Dole, Mr. McGovern, Mr. Church, Mr. Baucus, Mr. Kennedy, Mr. Culver, Mr. Nelson, Mr. Zorinsky, Mr. Melcher, Mr. Stone, Mr. McClure, Mr. Levin, Mr. Boschwitz, and Mr. Eagleton):

S. 2251. A bill to amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol; to the Committee on the Judiciary.

GASOHOL COMPETITION ACT

● Mr. METZENBAUM. Mr. President, Senators Hollings, Bayh, Dole, McGovern, Church, Baucus, Kennedy, Culver, Nelson, Zorinsky, Melcher, Boschwitz, Stone, Levin, McClure, and Eagleton join me today in introducing legislation that is designed to prevent discrimination by the major oil companies against the retail sale of gasohol.

The development of gasohol and other synthetic fuels is a vital part of our national effort to reduce our dangerous dependence on costly and unreliable sources of foreign oil. Time and again, the Senate has demonstrated the high priority it assigns to the production of such fuels. But, Mr. President, our efforts to encourage the rapid development of gasohol and synfuels cannot succeed if consumers cannot buy those products in the marketplace.

That, unfortunately, is precisely what has been happening.

Major oil companies have, for example, prevented their dealers from selling gasohol from company-owned pumps and tanks—even when the companies themselves have been unable to provide the product.

Oil companies have maintained that prohibition even when dealers have clearly labeled the gasohol as not a company product.

The practical effect of such a limitation is, of course, to preclude the sale of gasohol altogether.

A more widely publicized instance of discrimination against gasohol was the announcement just a few weeks ago by Exxon and other major companies that their credit cards could not be used to buy gasohol at their franchised stations. Although such a policy does not prevent the sale of gasohol, it obviously discourages purchasers, particularly in a time when soaring prices have increased credit card purchases by customers who do not carry with them the large amount of cash needed these days to fill a tank.

Mr. President, at its recent national convention, the American Farm Bureau Federation adopted a resolution condemning the use of credit cards to inhibit gasohol sales. The National Farmers Union has also expressed in equally strong terms its opposition to a shortsighted practice that runs contrary to this Nation's fundamental interests.

In the glare of national publicity, the oil companies have withdrawn their restrictive credit card policies. But I believe that we must act now to insure that these powerful corporations do not at a later date try once again to misuse their vast market power. Accordingly, I have drawn up this legislation in such a way as to eliminate any attempt to discriminate against or unreasonably limit the sale of gasohol or other synthetic fuels.

Paragraph (i) of the bill addresses the use of credit cards to inhibit the sale of gasohol and other synfuels. Under this paragraph, an oil company is free to adopt any credit card policy it chooses for the sale of its own products, so long as that policy applies equally to the sale of gasohol or other synthetic fuel. Thus, the bill does not interfere with an oil company's right to set its own credit policies. It simply prevents the company from using those policies in a discriminatory manner to make the conservation of oil by consumers more difficult.

The use of the word "discriminate" in paragraph (ii) of the bill is not intended to eliminate all differentiation between gasohol and gasoline. Although both are motor fuels, they are products whose characteristics differ to a certain extent. Therefore, actions or policies that differentiate between the two based on actual, proven differences would not be precluded by this bill. For example, a requirement that a franchise station indemnify an oil company for damage to its leased equipment, should the damage be proven to be directly attributable to the properties of gasohol, would not be unlawful under this bill.

Paragraph (ii) also prohibits unreasonable limitations on the sale of gasohol and other synthetic fuels. The phrase "unreasonably limits" was used to cover obstacles to the marketing of gasohol that were not necessarily discriminatory. For example, if an oil company forbids the use of its pumps and tanks for dispensing any noncompany product, gasohol is not singled out, but its sale is impeded. This limitation, although nondiscriminatory, should be prevented and will be reached under paragraph (ii) of this bill.

Mr. President, the practices that I have described are in effect similar to exclusive dealing arrangements, because retailers have been hindered in their efforts to sell a product that competes with that of their franchisors. The present scope of statutes that address exclusive dealing and discriminatory marketing practices does not, however, cover the conduct in question. It is crucially important that these restraints on distribution in the vital area of domestic energy supply be eliminated. Accordingly, I submit this bill as an amendment to the Clayton Act, in order to stop practices, which are not only anticompetitive, but which also hinder our urgent conservation efforts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clayton Act is amended by inserting "(a)" immediately after "Section 3".

Sec. 2. Section 3 of that Act is amended by adding at the end the following—

"(b) It shall be unlawful for any person engaged in commerce in the course of such commerce, directly or indirectly to impose any condition, restriction, agreement, or understanding that

"(i) limits the use of credit instruments in any transaction concerning the sale, resale, or transfer of gasohol or other synthetic motor fuel, where there is no similar limitation on transactions concerning such person's conventional motor fuel; or

"(ii) otherwise discriminates against or unreasonably limits the sale, resale, or transfer of gasohol or other synthetic motor fuel, where such synthetic or conventional motor fuel is sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia, or any insular possession or other place under the jurisdiction of the United States.".●

● Mr. HOLLINGS. Mr. President, I rise today to join my colleagues in introducing legislation designed to prohibit major oil companies from denying their customers the opportunity to use oil company credit cards to purchase gasohol. This legislation is in direct response to statements by several large oil companies announcing policy establishing such prohibition. It is my intention to send those companies adhering to such a policy a plain but forceful message that Congress will not tolerate arbitrary and capricious barriers to be placed in the way of gasohol that might frustrate its development and acceptance by the public.

This Congress has done much to establish programs and develop the production of ethanol which, of course, is the product mixed with gasoline to form gasohol, and other alcohol fuels. I have cosponsored and supported those measures. It is very much in the Nation's interest, Mr. President, that we develop alternative sources of energy in order to reduce our critical dependence on foreign oil. What better way to begin, Mr. President, than by stretching our gasoline supply through the use of gasohol.

In the development of any new product, public awareness of its benefits and acceptance through use is critical to its success. Action such as that taken by a few of the large oil companies is patently irresponsible and only serves to retard and restrict the ultimate benefit that gasohol may provide. I am unalterably opposed to that action and my sponsorship of this measure is the result of a promise I made to the people of South Carolina upon learning of this policy.

To me it is incongruous that the major oil companies would even contemplate such a policy. I think it is to the credit of some that they did not set such a policy. I doubt that there is a Member of this body, Mr. President, who possesses an oil company credit card, that has not been inundated with the wide range of merchandise offerings that arrive with the monthly card statement. Customers are invited to use their oil credit cards to purchase radios, calculators, briefcases, glassware and countless other nonpetroleum products. For those who do not want to pay in full credit plans are available. But when it comes to gasohol, Mr. President, the answer is no. My answer to the oil companies, Mr. President, is a resounding no. It will not be tolerated.

It is imperative that Congress act quickly to change this unwise and irresponsible policy on the part of some of our oil companies. Congress is serious about the development and distribution of gasohol and is trying to encourage its development and distribution. I would have hoped that the oil companies shared our concern and would also be working to encourage its availability. Instead they are acting to choke it off. This legislation, made necessary by the recalcitrance of these companies, will speed the day when gasohol will be an important part of our daily fuel supply.●

● Mr. BAYH. Mr. President, I am today introducing the Gasohol Competition Act along with Senators METZENBAUM and HOLLINGS, to permit the free and unhindered marketing of gasohol—a clean burning, octane boosting blend of alcohol and gasoline—as well as other alternative liquid fuels by America's retail service station dealers. This legislation is an important step toward the widespread commercialization of these new fuels, which is a must if we are to get out from under the yoke of dependence on foreign oil. This dependence has played havoc with our economy and is now threatening to disrupt world peace. The legislation is necessary because of the stranglehold that our major, vertically integrated multinational oil companies have over the distribution of petroleum in the United States, from the time it leaves the ground, to the time it goes into the gas tanks of the American motorist.

Over the past few years we have made enormous progress toward the goal of extending our petroleum supplies by displacing gasoline by domestically produced alcohol. After years of being one of the few "gasoholics" in Washington, I am enormously gratified by these developments. Gasohol is now being sold at thousands of outlets. Jobbers and retailers have a strong interest in marketing this new exciting "homegrown" fuel. The major auto companies have warranteed their cars for use with gasohol. Measures are currently pending in House-Senate conference committees to provide financial incentives for potential alcohol producers. And the public response to this new product has been nothing short of astonishing. Every marketing survey done on consumer acceptance indicates that Americans support use of gasohol because of its superior performance and because it is one direct step they can take to help reduce our consumption of foreign oil. They are anxious to use our Nation's vast natural resources to meet our energy needs and turn what are now problems—farm surpluses and falling farm incomes, disposal of agricultural, municipal and industrial wastes, and the like—into opportunities.

As a result of these developments, gasohol is beginning to make a noticeable dent in motor fuel supplies in many States. I am proud to say that last December, Indiana had the distinction of being the State in the Union selling the most gallonage of gasohol. And plans are now afoot in Indiana to start producing anhydrous alcohol to meet Hoosier demand for gasohol. Similar activity is reflected all across the country, to dramatically boost alcohol production to meet Secretary of Energy Duncan's goal of 500 million gallons of production per year during 1981.

Mr. President, as gasohol has caught on with the public, a disturbing impediment to its sale has come to light—restrictions by our major, integrated oil companies to its free and unhindered sale by franchised and independent service station dealers, who constitute the major marketers of motor fuel in this country. When gasohol first became available to the public, it was primarily distributed by agricultural co-ops. Independent service station dealers, franchised by the majors, were restricted by the terms of their contracts from marketing gasohol by their suppliers because it was not a company product.

In response to this situation, last June I sponsored S. 1268, the Gasohol Marketing Freedom Act, which prohibited gasohol sales from becoming legitimate grounds for a supplier to terminate or refuse renewal of a franchise, or to undertake economic reprisals against retailers who distributed gasohol. This legislation was designed to remove franchise agreements, written by the oil companies, who control most gasoline marketing, as an obstacle to service station dealers desiring to offer this attractive new product to the public.

Since that time, several major oil companies have decided to market gasohol at selected stations. In my own State, Amoco and Texaco, among others, are selling gasohol in selected marketing areas, and many independent jobbers are selling alcohol fuels at their retail outlets. However, independent, franchised dealers who would like to make gasohol available to the public at their stations have been unable to do so, unless their supplier blends and delivers the product as a "company" product. If their suppliers do not provide them with "branded" gasohol, these dealers are denied the use of company storage tanks and pumps for gasohol sales, and cannot let customers use their company credit cards to pay for such purchases.

Many dealers in my home State see this as just another way to kill off independent stations, by denying them access to a new market, which a major company can absorb instead at its own gas-and-go stations. Customers using these stations either have to forgo use of gasohol, or switch from their neighborhood station to a company operated station selling gasohol.

Mr. President, this type of behavior is a perfect example of the abuses that stem from the stranglehold the major oil companies have over American fuel supplies and is a practice that is clearly not in the Nation's interest. It gives the major oil companies total control over the sale of gasohol and other synthetic motor fuels now on the horizon—products which compete with their normal product line and cut the public's need for their products. It puts small businessmen—who have worked for years to build up a market, through long hours and exemplary service to their customers—at the total mercy of the oil giants and cuts them out of an emerging new source of business. It denies customers the convenience of purchasing gasohol at the neighborhood station they have patronized for years.

Mr. President, I have long supported measures to break the oil companies into their component parts—production, transportation, refining, and marketing—so that they cannot control the price and supply of products to the public. Over and over again, we have seen how they use this control to their benefit during times of shortages to jack up prices and control supplies. This degree of control literally puts the Nation at their mercy and wipes out any vestige of competition in the production and distribution of petroleum products. A proposal I authored to break up the oil companies and restore competition to the oil industry was reported out of the Senate Judiciary Committee in 1976, but was not scheduled for floor action that year because of a threatened filibuster. I have introduced similar legislation in this Congress, which is pending in committee. Opposition from the major oil companies to this attempt to restore free competition to the energy business is overwhelming. Thus far, they have managed to prevent any serious congressional consideration of these matters.

The Gasohol Competition Act we are introducing today is one small aspect of this question, but may be critical for the future well-being of the country. It is designed to make sure that we do not permit the major integrated oil companies—who control the distribution of motor fuel in our Nation—to block distribution of alternative fuels desired by the public. It builds on the Gasohol Marketing Freedom Act I introduced in June by prohibiting discrimination against the marketing of any synthetic motor fuel—not just gasohol—and specifically preventing limitation on the use of credit cards in these transactions.

I hope the Antitrust Subcommittee, which Senator METZENBAUM chairs, and on which I serve as the ranking member, will take this measure under consideration in the near future.●

By Mr. CRANSTON:

S. 2252. A bill to amend the Tariff Act of 1930 to continue the present duty-free status of repair parts, materials, and equipment purchased in Panama for, and repairs made in Panama to, vessels documented under the laws of the United States; to the Committee on Finance.

TARIFF ON TUNA NETS

● Mr. CRANSTON. Mr. President, in October of 1979 I introduced S. 1851, amending the Tariff Act of 1930 to continue the duty-free status of repair parts, materials, and equipment purchased in Panama by the U.S. domestic tuna fleet. This legislation was occasioned by passage of the canal implementation measure, which caused the Panama Canal Zone to be considered foreign soil and thus imposed upon the tuna industry a 50-percent tariff on net importations, a tax not previously levied.

Today I am introducing an amended bill which reflects an agreement reached between the tuna industry and domestic net manufacturers as to the effective dates of the duty-free status. Duty-free importations would be allowed for the period October 1, 1979, ending December 31, 1981. By the end of this period, domestic manufacturers could be reasonably expected to meet the highly specialized needs of the tuna industry, needs that are now met almost entirely by foreign manufacturers.●

By Mrs. KASSEBAUM:

S. 2253. A bill to provide for an extension of directed sevrice on the Rock Island Railroad and to provide transaction assistance to the purchasers of portions of said railroad; to the Committee on Commerce, Science, and Transportation.

ROCK ISLAND TRANSITION ACT

● Mrs. KASSEBAUM. Mr. President, today I am introducing legislation to maintain vital service on the Rock Island Railroad and to facilitate the transfer of portions of this line to stronger railroads. The rail system is an economic lifeline in the Midwest, providing an essential, energy-efficient means of transporting huge volumes of agricultural and industrial products.

The Chicago, Rock Island & Pacific Railroad has routes through the heart of the "breadbasket" the leading hard red winter wheat-producing area of the Nation. Every year, the product of these vast harvests move into the processing and distribution channels which serve the consumer so well. No chain is stronger than its weakest link, however, and this aphorism is being proven in our food chain today. The state of the Rock Island, both physically and financially, has deteriorated to the point of damage to both producer and consumer.

Mr. President, as you know, communities throughout the Midwest are facing a cessation of rail service on the Rock Island Railroad on March 2, when the current ICC-directed service order expires. The demise of the Rock Island is not a surprise. The railroad has been in bankruptcy since 1975. Since then, the hopes of those communities served by the Rock Island have hinged on the willingness of other railroads to purchase and rehabilitate lines as a part of their systems. Fortunately, there have been some encouraging signs recently, and some offers to purchase have been filed with the Department of Transportation. However, it is highly unlikely that any of these proposals can be consummated by March 2. The fact is, therefore, that with a few exceptions, it looks as though most service will cease, or at least be interrupted, on March 2.

Mr. President, I will not belabor the consequences of such a circumstance. Locally they are catastrophic. Nationally they are ominous at best. According to the ICC, in 1978 the Rock Island carried 8.5 million tons of corn and wheat. That amounts to 7 percent of all the corn and wheat moved by rail in that year.

In the aggregate, such figures are often incomprehensible. Their significance can better be understood when examined on a line-by-line basis. The Kansas City Board of Trade has provided a glimpse of the problem as exemplified in Kansas by the line that runs west from Belleville to the Colorado border. This line of the Rock Island passes through eight Kansas counties. For the years 1976, 1977, and 1978 these counties have produced, on average, 191.4 million bushels of corn, wheat, and milo, or near 27½ percent of the State's entire production of these three grains. The board of trade has assigned an approximate dollar value of over $950 million to the grain which passes through elevators served by the Rock. The State has estimated that 38.3 percent of the total commercial grain storage capacity of Kansas is served by this and other Rock Island Railroad lines.

Without rail service, grain, fertilizer and other products will move slowly and more expensively. The cash price offered to farmers if grain must be trucked is 5 cents to 17 cents below the rail rate per bushel. The increased traffic load places an additional burden on our already over-strained bridges and rural highways. In addition, much valuable energy is consumed.

The ICC has recognized the essential nature of the service provided by the Rock and has, for the past 4 months "directed" service over portions of the system. But in just 27 days the directed service order expires. Chances of an extension are very bleak.

Unquestionably, Mr. President, we must move toward the transfer of the Rock Island routes into the hands of stronger railroads, facing the fact that not every mile of track can or should be saved. But even healthy railroads have been reluctant to offer to buy portions of the system due to costs involved in the purchase of the lines and the enormous equipment and the extensive rehabilitation expenses associated with such acquisitions. The role of Congress then, is to facilitate the purchases of viable lines and make the transition as smooth as possible, keeping in mind the needs of affected shippers and communities.

So, Mr. President, I propose that Congress do three things. First, we can provide some additional time of directed service so that shippers have enough time to make other arrangements, and purchasing railroads can make their offers. We can also provide incentives which will encourage other railroads to buy those lines that they think can be profitably incorporated into their systems and direct the ICC to act expeditiously on those proposed acquisitions. And where acquisitions are likely, we can help to avoid interruptions in service. In this way, Mr. President, we can provide a smooth transition for those areas which will be served by new carriers over old Rock lines and we can provide those communities that will lose service with a date certain for its cessation and time to seek alternative transportation services.

Therefore, Mr. President, I am today introducing the Rock Island Transaction Act, to accomplish the goals that I have outlined. This legislation would direct the ICC to continue its existing order for 30 days. It directs the ICC to give preference to Rock Island acquisition proceedings. And, finally, it provides transaction assistance, giving the Department of Transportation new authority and the wherewithal to provide monetary assistance to railroads for the purchase of Rock Island lines. The cost of the program is $225 million. Over two-thirds of that cost is attributable to the transaction assistance program where the Government's investment would be secured by the solvent railroads seeking to purchase Rock lines.

Another important aspect of this issue, Mr. President, is jobs; 4,000 employees of the Rock Island stand to be dislocated as a result of the Rock's demise. The labor protection provisions which we adopted in the Milwaukee Railroad Restructuring Act will be applicable to the lines purchased under the provisions of this proposal, to provide them with assistance.

Mr. President, I think this is a responsible approach to the transportation problems being visited upon the Midwest as a result of the downfall of Rock Island. We are not out to "save the Rock," but rather to prevent unnecessary dislocation—to shippers, employees and the consuming public—during the transition to a transportation system that does not include the Rock Island Railroad.

Mr. President, I ask unanimous consent that the text of my proposal be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Rock Island Transition Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) a cessation of service over the Rock Island appears imminent;

(2) a cessation of operations by the Rock Island would have serious repercussion on the economics of the States in which such railroad principally operates;

(3) a cessation of service would have a dramatic impact on the farm economy due to the volumes and value of fertilizer and agricultural products moved on the Rock Island, damaging the economic viability of the nation's grain producers and handlers by seriously impeding the movement of grain for both domestic and export sales;

(4) a cessation of operations of the Rock Island would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Rock Island;

(5) premature cessation of services over lines which are the subject of pending purchase application would result in harm to the shipping public.

(b) The Congress declares that emergency measures set forth in this Act must be taken to avoid extensive disruptions in transportation services in the areas served by the Rock Island.

DEFINITIONS

SEC. 3. As used in this Act—

(a) the term "Commission" means the Interstate Commerce Commission; and

(b) the term "Rock Island" means the Chicago, Rock Island and Pacific Railroad Company.

DIRECTED SERVICE

SEC. 4. (a) Directed service over the lines of the Rock Island Railroad that were in operation on the date of enactment of this Act shall be continued by the Commission until April 2, 1980.

(b) Notwithstanding the provisions of section 11125(b)(1) of title 49 of the United States Code, the Commission shall direct service over all lines identified by the Secretary of Transportation as being the subject of bona fide offers of purchase until the transactions are consumated.

EXPEDITED PROCEEDINGS

SEC. 5. (a) The Commission shall give all proceedings involving the Rock Island preference over all other proceedings related to rail carriers pending before it and make all its decisions at the earliest practical time.

(b) The Commission shall reach a final decision on all proceedings filed by April 2, 1980, which involve a sale, transfer, or lease of any line of the Rock Island to a solvent carrier within 120 days of the filing of an application.

TRANSACTION ASSISTANCE

SEC. 6. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsections:

"(h) PURCHASE OF ESSENTIAL PROPERTIES FOR COMMON CARRIER SERVICE.—(1) Notwithstanding subsections (a) through (g) of this section (other than subsections (b)(2) and (d)(3)), the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the purchase of properties of the Rock Island by other railroads to be used for common carrier rail service. This subsection shall apply only to purchase applications filed with the Commission after January 1, 1980.

"(2) The total par value of the redeemable preference shares and the amount of trustee certificates which the Secretary may purchase under this subsection from the proceeds received from the issuance and sale of Fund anticipation notes shall not exceed $150,000,000."

"(3) The loan shall be granted upon such terms and conditions that insure that the applicant rail carrier will be financially capable of making the requisite interest and principal payments without a drain on its financial resources.

APPLICABILITY OF NEPA

SEC. 7. The provisions of the National Environmental Policy Act shall not apply to transactions carried out pursuant to this Act.

COURT REVIEW

SEC. 8. The determinations as to essentiality under section 7 of this Act shall not be subject to any court challenge.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) There is hereby authorized to be appropriated to carry out the directed service required under section 4 of this Act, $75 million.

(b) There is hereby authorized to be appropriated to provide the transaction assistance, under section 7 of the Act, $150 million.●

By Mr. HEINZ:

S. 2257. A bill authorizing continuing appropriations for the Lithuania legation; to the Committee on Foreign Relations.

● Mr. HEINZ. Mr. President, the Soviet Union's actions in recent weeks came as a surprise to many Americans. But they were no surprise to the citizens of Lithuania and the 1 million persons of Lithuanian heritage in the United States. These people are more than aware of the Soviet Union's historic attitude toward neighboring states. For years, they have tried to warn others that whenever desirable for strategic purposes, the Soviet Union would not hesitate to invade and annex adjacent nations. That was the fate of the Lithuanian Republic and the two other Baltic States—Latvia and Estonia—in 1940, at the start of the Second World War. Soon after annexation, the Soviet Union initiated a campaign to wipe out Lithuania's culture and traditions—to assimilate an independent people and a distinctive culture to the folds of "Mother Russia."

One place where the independence of the various nations held captive by the Soviet Union lives on is in the Washington legations of the Baltic States. The United States has never recognized the Soviet Union's annexation of these countries, and in consequence, has maintained diplomatic relations with their representatives to this day. But the Washington legations of these nations do more than simply represent the interests of the citizens of the Baltic States and their American descendants. They work to preserve the culture and traditions of these nations. They provide sorely needed reminders of the Soviet Union's lamentable international conduct. And their very existence serves as an instrument of American foreign policy.

But now the existence of the Lithuanian legation is in serious danger. Since 1940, this legation has been supported by the assets of Lithuanians frozen in this country at the time of the Soviet occupation. These frozen assets, however, have now been exhausted. Unless alternative funding is forthcoming, the Lithuanian Legation will soon have to close permanently. This unfortunate prospect has caused understandable consternation among Lithuanian-Americans.

I am therefore offering at this time legislation which authorizes continuing appropriations for the Lithuanian Legation in the United States. This bill, introduced in the House by Mr. DOUGHERTY of Pennsylvania and numerous cosponsors, and now in the House Committee on Foreign Relations, authorizes the sum of $250,000 in fiscal year 1981 to maintain Lithuania's Legation. It also relaxes the requirements for eligibility to represent the Lithuanian Republic, permitting Legation posts to be filled by any persons of Lithuanian parentage who are not U.S. citizens.

I am fully convinced of the need to preserve Lithuanian representation in the United States. Yet I realize that there is no precedent for the kind of funding authorized by this legislation. While offering this bill in order to bring the matter to the attention of the Senate Foreign Relations Committee, I therefore wish, at the same time, to suggest two alternative means of insuring funding for the Lithuanian Legation.

One would be for Lithuanian-Americans, through their various community organizations, to contribute substantially toward the maintenance of their homeland's Legation. Any shortfall of funds could be made up by the U.S. Government, which would thereby insuring the Legation's existence.

A second alternative would be for the

Congress to establish a trust fund large enough so that the interest realized each year would suffice to cover the expenses of the legation. This form of funding would obviate the need for Congress to repeatedly appropriate funding each year.

I ask that these and other alternatives be considered by the Committee on Foreign Relations. For some 40 years now, the Lithuania legation has provided an expression of American foreign policy at no cost to our Government. It is now time that we assume some of the burden. If we do not, then this last vestige of a proud and free nation will be lost forever.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is authorized to be appropriated for fiscal year 1981 to the legation of Lithuania in the United States, $250,000.

(b) The Chargé d'Affaires of the legation described in subsection (a) is authorized to receive, on behalf of such legation, any funds appropriated under this Act to such legation, and is authorized to administer such funds. Such funds may only be used for the maintenance of the operations of such legation. The Chargé d'Affaires may use such funds to pay the compensation of personnel which the Chargé d'Affaires may appoint to be in the diplomatic corps of the legation, except that all such personnel must be of Lithuanian parentage and may not be United States citizens. Such personnel shall be entitled to all the privileges and immunities of diplomatic personnel of comparable rank from other countries.●

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. Stone, the Senator from Idaho (Mr. McClure) was added as a cosponsor of S. 76, a bill to amend the title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors.

S. 1543

At the request of Mr. Nelson, the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of S. 1543, a bill relating to tax treatment of qualified dividend reinvestment plans.

S. 1953

At the request of Mr. Young, the Senator from Utah (Mr. Garn) was added as a cosponsor of S. 1953, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

S. 1984

At the request of Mr. Wallop, the Senator from Oklahoma (Mr. Boren), the Senator from North Carolina (Mr. Helms), the Senator from North Dakota (Mr. Young), and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 1984, a bill to amend the Internal Revenue Code of 1954 to provide an unlimited marital estate and gift tax deduction, to modify provisions relating to special valuation of certain farm and other real property, and for other purposes.

S. 2153

At the request of Mr. Schweiker, the Senator from Florida (Mr. Chiles), the Senator from Mississippi (Mr. Cochran), the Senator from Utah (Mr. Garn), the Senator from New Hampshire (Mr. Humphrey), the Senator from Indiana (Mr. Lugar), the Senator from New Mexico (Mr. Schmitt), the Senator from Texas (Mr. Tower), the Senator from Wyoming (Mr. Wallop), the Senator from North Dakota (Mr. Young), and the Senator from Oklahoma (Mr. Boren) were added as cosponsors of S. 2153, a bill to amend the Occupational Safety and Health Act of 1970 to concentrate enforcement activities on hazardous workplaces and encourage self-initiative in improving occupational safety and health, and for other purposes.

S. 2166

At the request of Mr. Melcher, the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 2166, a bill to promote the development of Native American culture and art.

S. 2220

At the request of Mr. Nelson, the Senator from New Hampshire (Mr. Durkin) was added as a cosponsor of S. 2220, a bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from the gross estate of a decedent of a portion of the value of certain interests in a farm or trade or business if the spouse or children of the decedent materially participate in such farm or trade or business.

S. 2221

At the request of Mr. Weicker, the Senator from North Dakota (Mr. Young) was added as a cosponsor of S. 2221, a bill to amend the Internal Revenue Code of 1954 to increase from 60 percent to 80 percent the deduction allowed to individuals with respect to net capital gain from investment in small business.

SENATE JOINT RESOLUTION 139

At the request of Mr. Boren, the Senator from Kansas (Mr. Dole), the Senator from Missouri (Mr. Eagleton), and the Senator from Iowa (Mr. Culver) were added as cosponsors of Senate Joint Resolution 139, a joint resolution to require continuation of rail service by the Chicago, Rock Island, and Pacific Railroad through August 31, 1980.

SENATE CONCURRENT RESOLUTION 67

At the request of Mr. Nelson, the Senator from Arkansas (Mr. Pryor), the Senator from New Hampshire (Mr. Durkin), the Senator from West Virginia, (Mr. Randolph), the Senator from Maryland (Mr. Sarbanes), the Senator from Arkansas (Mr. Bumpers), and the Senator from Montana (Mr. Melcher) were added as cosponsors of Senate Concurrent Resolution 67, a concurrent resolution expressing the sense of the Congress with respect to taxing social security benefits.

AMENDMENT NO. 1647

At the request of Mr. Nunn, the Senator from Massachusetts (Mr. Tsongas), the Senator from Arizona (Mr. Goldwater), the Senator from West Virginia (Mr. Randolph), and the Senator from Washington (Mr. Jackson) were added as cosponsors of amendment No. 1647 proposed to H.R. 5168, a bill to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

At the request of Mr. Warner, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of amendment No. 1647 proposed to H.R. 5168, supra.

SENATE CONCURRENT RESOLUTION 74—SUBMISSION OF A CONCURRENT RESOLUTION EXPRESSING GRATITUDE OF THE AMERICAN PEOPLE TO CANADA

Mr. HEINZ submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. Con. Res. 74

Whereas, the Iranian seizure of the American Embassy in Teheran and the continued holding of American citizens is contrary to international law and accepted standards of comity and morality; and

Whereas, it is imperative for the maintenance of these standards and the rule of law that the Americans held hostage in Iran be promptly released; and

Whereas, the United States has sought, with only partial success, the support of our friends and allies in obtaining the hostages' release; and

Whereas, Canada's Ambassador to Iran has exemplified his country's support for these standards at some risk to himself, his embassy, and his government by sheltering six Americans who evaded seizure by Iranian militants and organizing their escape from Iran and return to the United States;

Now, therefore, be it resolved by the Senate (the House of Representatives concurring), that it is the sense of the Congress that the President further express his gratitude to Canada and the assistance provided by its ambassador, by awarding Kenneth Taylor, the Ambassador of Canada to Iran, the President's Medal of Freedom.

● Mr. HEINZ. Mr. President, in this modern age it is not often we get a chance to see a real hero. In fact, prevailing sentiment in many parts of the country has been that there are no more heroes, that in our cynical "me-generation" era people are no longer thinking in heroic terms, and that even if one appeared, most of us probably would not recognize him or her.

Under these circumstances, it is refreshing to have a real case of heroism on our hands, a case where an individual risked something of himself and his country to help others and express support for a cause he believed in. I am referring to the recent actions by Canada's Ambassador to Iran, Kenneth Taylor, in providing shelter to six Americans who were not seized when Iranian militants took over the American Embassy in Tehran, and in enabling them to escape from Iran using Canadian passports and return to the United States.

Ambassador Taylor undertook this act of courage at some risk to himself, his embassy staff, and his Government. Indeed, recent statements by Iran's foreign minister that Canada "will pay" for its actions bear out the risk involved and make Americans all the more grateful that the Canadian Government and the Ambassador decided to take the risk.

In taking this action, Ambassador Taylor underlined not only Canada's support for the American position but also his Government's great respect for the rule of international law and accepted standards of international diplomacy. At a difficult time for Americans everywhere, he has reminded us that we have friends who think we are right and who are willing to act on their beliefs.

I am sure in the story of this 3-month adventure, there are many chapters which will never be told, and many other heroes who will never be known. At the same time, however, Ambassador Taylor's chapter has become known, and I believe it is appropriate for the American people and its Government to express its gratitude for his actions. Just as the Canadian people have not forgotten America, we should not let this brave and gracious act pass unnoticed.

The Senate has already expressed its thanks to the Canadian Government. It is also appropriate, however, to show our gratitude for the heroism of Ambassador Taylor. Accordingly, I am introducing a concurrent resolution expressing the sense of the Senate that the President award Ambassador Taylor the Presidential Medal of Freedom, the highest award that can be given a noncitizen. Such an action is appropriate in light of what the Ambassador has done, and it is also fitting that we take a moment to recognize a modern-day hero, to pay tribute to his imagination and courage, and to wonder if perhaps we would not be better off with a few more like him.●

SENATE RESOLUTION 358—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. MUSKIE, from the Committee on the Budget, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 358

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, the Committee on the Budget is authorized from March 1, 1980, through February 28, 1981, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,432,900, of which amount not to exceed $80,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL TRADE COMMISSION ACT AMENDMENTS—S. 1991

AMENDMENT NO. 1648

(Ordered to be printed and to lie on the table.)

Mr. McCLURE (for himself, Mr. MELCHER, Mr. COCHRAN, Mr. LUGAR, and Mrs. KASSEBAUM) submitted an amendment intended to be proposed by them, jointly, to S. 1991, a bill to amend the Federal Trade Commission Act to change procedures for agency adjudication and rulemaking, to extend authorizations for the Federal Trade Commission, and for other purposes.

DEPARTMENT OF ENERGY CIVILIAN APPLICATIONS AUTHORIZATIONS—S. 688

AMENDMENT NO. 1649

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to S. 688, the Department of Energy Authorization Act for fiscal year 1980—civilian applications.

Mr. HATCH. Mr. President, since 1973 the country and more specifically the Congress, has been engaged in a serious debate concerning our energy policy. Nuclear power and its role in the public utility industry have been one of the most controversial aspects of that policy debate. On the one hand, are concerned citizens who fear that rapid and haphazard development of nuclear power would be dangerous. On the other hand, are equally concerned citizens who understand that nuclear power may very well be the only source of relief from the energy shortfall that could cause widespread human suffering in the near future.

Today, an emerging consensus believes that the nuclear power option, enhanced by necessary technical and institutional refinements, is the way to go. The National Academy of Science concurs and claims that by 1990 we must be proceeding toward the generation of 50 percent of our electricity by nuclear means if our environment and economy are not to suffer substantially.

The President has wisely voiced particular concern about the impact of the growth of nuclear power generation on the spread of nuclear weapons. The recently released draft "Report of the Nonproliferation Alternative Systems Assessment Program" clearly establishes that the most "proliferation resistant" technology that is implementable in the near future is that of the light-water reactor and a once-through fuel cycle. President Carter's 1981 budget provides evidence of the administration's commitment to this nuclear scenario. It recommends an increase in funding for research and development of refinements in the light-water reactor.

Mr. President, what you may not know is that no prudent decision about the future of this particular option can be made without certain, reliable knowledge of the location, magnitude, and availability of our domestic uranium resources. The light-water reactor only uses the uranium isotope U-235 and that isotope is only 0.6 percent of natural uranium. Thus, the critical difference between the breeder path and the President's alternative is the significance of the uranium supply question. Mr. President, we simply do not have a reliable assessment of the uranium resource that reflects the total picture of the actual availability of uranium to the industry.

Essentially, my amendment would reemphasize the vital role of the national uranium resource evaluation (NURE) program which has been a part of the Federal resource analysis effort since 1974. The amendment would broaden the scope of the program to include consideration of institutional barriers to the availability of identified resources. Additionally, it would require an interim report to be submitted to the Congress that I am sure would contribute substantially to the quality of our judgments in this critical area.

In summary, since the President is committed to support at least one type of nuclear power, and since many of us believe nuclear power to be a crucial element in the Nation's energy future, surely we can agree that a clear accounting of our uranium resources is in order. The NURE program, if adequately funded, can most expeditiously and accurately provide that accounting. Regardless of where you might stand on the nuclear issue in general, such information would prove useful.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, February 7, 1980, beginning at 1 p.m., to hold a hearing on numerous judicial nominations.

The PRESIDING OFFICER. Without objection, so ordered.

SUBCOMMITTEE ON CRIMINAL JUSTICE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Criminal Justice Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, February 7, 1980, to hold a hearing on graymail legislation.

The PRESIDING OFFICER. Without objection, so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Constitution Subcommittee of the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 6, 1980, to resume consideration of S. 1790, the Privacy Protection Act of 1979.

The PRESIDING OFFICER. Without objection, so ordered.

ADDITIONAL STATEMENTS

OCCASION OF THE FIFTIETH ANNIVERSARY OF FU JEN UNIVERSITY, TAIPAI, TAIWAN

● Mr. GOLDWATER. Mr. President, it was my great privilege in December to participate in the ceremonies marking the 50th anniversary of the establishment of Fu Jen University in Taipai, Republic of China. The university honored me in a special way during this event by awarding me an honorary doctorate of law degree.

In my opinion, it is a notable fact that Fu Jen University is a private institution administered by the Catholic Church, and I chose this fact as the theme of a brief address which I gave at the university.

Mr. President, the contrast between Taiwan, where there are more than 5,000 active churches and buildings of worship and nearly 1,000 Christian schools, and Communist China, which has bloodily suppressed the free exercise of religion, could not be greater.

The true nature of a totalitarian society is evident in mainland China which fears the strength and truth of a free church. On the other hand, the beacon of freedom shines brightly in the Republic of China on Taiwan, which shares and exercises the American concept of freedom of religion.

Mr. President, this point is developed in the remarks I gave at Fu Jen University, and I ask to have the complete statement printed in the RECORD.

The statement follows:

ADDRESS OF SENATOR BARRY GOLDWATER

Thank you, your Excellency, Members of State, ambassadors, distinguished members of the clergy, members of the faculty, and most importantly, students.

I listened with a great deal of interest to the words of Madam Chiang Kai-Shek. Of course, I couldn't understand them, but I read them in the paper, so I was a little ahead of you. I had the great honor of visiting with Madam Chiang, and I've known her a good many years, and I just wanted to pass on to you that I've never seen her look better, and never has her intelligence been as good and as sharp as it is today.

I wish to say that you have honored me today—honored a man who came to your country just two years ago with the assurance that my country, the United States, would never double cross the Republic of China by the recognition of the Communist People's Republic of China.

I open my remarks to you with that statement because I believe in honesty above all virtues. I said those things because my President, then President Nixon, and my Secretary of State, then Henry Kissinger, had stated that to me in person and in writing; and I was lied to. Now I appear before you either as a dishonest man, or prayerfully, one who by admission has partially allayed a suspicion or even a charge. Let me tell you that regardless of what my President has done, no President can destroy the love and affection and respect that my countrymen have for your people here in the Republic of China.

May I congratulate the administration, faculty, and students of this world famous university on the occasion of its fiftieth birthday. I assure you that every last measure of strength and energy I possess will be devoted to the goal of the safety and security of this nation and its people, so that you at this university, and other free institutions like you, can celebrate your hundredth and two hundredth and even more anniversaries in the years ahead.

One of the most highly respected and revered of all Americans, an apostle of freedom and an intellectual giant, who is often misunderstood for his statement about the separation between church and state, wrote in 1822, and I'd like to read his words,

"It was not, however, to be understood that instruction in religious opinions and duties was meant to be precluded by the public authorities as indifferent to the interests of society; on the contrary, the relations which exist between man and his Maker, and the duties resulting from those relations, are the most interesting and important to every human being, and the most incumbent on his study and investigation."

So said Thomas Jefferson, one of my American heroes, when he was serving as Rector of his beloved University of Virginia.

Jefferson's statement is typical of the enormous emphasis which our Founding Fathers in my country put upon morality and religion. Faith in their religion, and faith by Americans in the moral purpose of our experiment with self government, have been a determining factor in shaping the development of our society since the first settlers reached the American continent. The widespread devotion to an almighty Supreme Being, and a faith in His benevolence towards our nation, has been a unique characteristic of the American people in every period of our history. Even the small minority of non-believers have always shared with the great majority the same basic ethical and moral values, both as guiding principles for their own lives, and as standards of conduct for government officials.

I believe that the guidance of a spiritual Being, a belief in that Being, a belief that our freedoms are a gift of that Being, in our case, our God, is the firm rock upon which is built the very substance of freedom. In my country, we hold this as our most important statement, that "all men are created equal, they are endowed by their creator with certain inalienable rights, and among these are life, liberty and the pursuit of happiness." Now whether a people follow those words of ours from the Declaration of Independence is not of complete importance. The point I am making, or trying to make, is that any nation which allows free religious worship and expression, and open religious education, such as that provided by this university, is acting agreeably with the beliefs and traditions of all free people.

On the other hand, any society which is cruelly repressive of spiritual beliefs is in direct conflict with the character of those of us who live in freedom.

As a general rule, I suggest that religious freedom is one of the best guides by which to judge the commitment of any nation to freedom in general. A government which is open enough to allow the free exercise of religion is normally a government that deserves the full support and friendship of the entire free world.

Now, by this standard, the Republic of China is high on the list of nations with whom the United States must retain a close and growing alliance. Communist China is at the bottom of the list, as a despicable regime which may go down in history as the worst tyranny the world has ever known.

Contrary to hopes for a "new respect for religion" on the mainland, hundreds of millions of your countrymen and women have been thrown into a condition of mental and spiritual slavery by the communist dictators. A headline in the American Catholic Herald of June 28 says it all: "800 Million Chinese; One Place for Mass."

Any impression that the communist regime is getting soft on religion must be seen in the context of remarks by Father Louis Zee, a native of mainland China and now an American priest, who visited his homeland earlier this year. He said, "For all practical purposes, organized religion does not exist in China anymore; the Catholic Church has been wiped out."

Now there is no way the communists can erase the tragic history they have created. All those who deplore the darkness of life and degrading bondage that communism brings with it must pray and work and sacrifice together for the ultimate victory of the Lord's goodness over the evil of oppression on the mainland. And, as our two people share a cmmon bond of religious freedom, so we must stand together to see that communist tyranny never reaches one inch of territory held by the Republic of China and its eighteen million free citizens.

Let me in closing remind you that without freedom, there can be no life, no liberty, nor any pursuit of happiness. These are the rich rewards God has chartered for free people, and never believe for one moment in your young lives or older lives, that there is anything more important to life than liberty. Without liberty, you can't be happy. You can't pursue happiness. You became a slave. Why is it that a bird that you cup in your hands wants to get away? He wants to be free. Why does the little dog try to get away? He wants to be free.

And so it is with man and woman. But I want to take this opportunity in closing to thank you for the generous reception that you have bestowed on me—my wife, my friends and myself; and to tell you that down through the years that it has been our privilege and pleasure to visit Taiwan. We have always been completely happy with our visit, and we always want to come back. And I want to come back year after year to watch you young people grow up in freedom under the teachings of this great university, so that you can take your place along side of those great people who have led and lead the Republic of China.

I thank you.●

A CHECKLIST OF ITEMIZED DEDUCTIONS TO PROTECT OLDER AMERICANS FROM OVERPAYING THEIR FEDERAL INCOME TAX

● Mr. NELSON. Mr. President, millions of Americans are assembling canceled checks, receipts, and other records to prepare their Federal income tax returns before the April 15 deadline date.

Individual taxpayers will file about 92 million returns this year.

The Internal Revenue Service has repeatedly emphasized over the years that it wants no taxpayer to pay more taxes than are legally due.

Yet, many Americans needlessly overpay their taxes each year. Hearings conducted by the Senate Committee on Aging make it clear that numerous elderly persons pay more income tax than the law requires.

One important reason is that they are simply unaware of tax relief measures which can save them considerable amounts of money.

For this reason, the Committee on Aging publishes a checklist of itemized deductions each year to alert older and younger taxpayers about measures which can assist them.

This summary can be useful in other ways as well. A taxpayer, for example, may be able to determine whether it would be more advantageous to itemize deductible expenses or claim the standard deduction. The checklist is also useful in explaining tax relief provisions more fully, such as the tax credit for the elderly.

Even people who have already filed their tax returns may find the summary beneficial, particularly if they overlooked an allowable deduction. They may obtain a refund by filing an amended return—form 1040x—for the year in question They must submit the return, though, within 3 years after the original return was due or filed, or within 2 years after they paid their income tax, whichever is later.

Many Americans throughout our Nation have discovered that the Committee on Aging's checklist is an important safeguard in assuring that they do not overpay their Federal income tax.

I therefore ask that the Committee on Aging's publication, "Protecting Older Americans Against Overpayment of Income Taxes," be printed in the RECORD.

The material follows:

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES

(Checklist of itemized deductions for schedule A (form 1040))

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3 percent of your adjusted gross income (line 31, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3 percent limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3 percent rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3 percent rule) but only to extent exceeding 1 percent of adjusted gross income (line 31, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3 percent limitation):

Abdominal supports (prescribed by a doctor).

Acupuncture services.

Ambulance hire.

Anesthetist.

Arch supports (prescribed by a doctor).

Artificial limbs and teeth.

Back supports (prescribed by a doctor).

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. You should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian Science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning, X-ray, filling teeth).

Dentures.

Dermatologist.

Eyeglasses.

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).

Gynecologist.

Hearing aids and batteries.

Home health services.

Hospital expenses.

Insulin treatment.

Invalid chair.

Lab tests.

Lipreading lessons (designed to overcome a handicap).

Medicare A, voluntarily paid, if you are 65 or older and not entitled to social security benefits.

Neurologist.

Nursing services (for medical care, including nurse's board paid by you).

Occupational therapist.

Ophthalmologist.

Optician.

Optometrist.

Oral surgery.

Osteopath, licensed.

Pediatrician.

Physical examinations.

Physical therapist.

Physician.

Podiatrist.

Psychiarist.

Psychoanalyst.

Psychologist.

Psychotherapy.

Radium therapy.

Sacromac belt (prescribed by a doctor).

Seeing-eye dog and maintenance.

Speech therapist.

Splints.

Supplementary medical insurance (Part B) under Medicare.

Surgeon.

Telephone/teletype special communications equipment for the deaf.

Transportation expenses for medical purposes (8c per mile plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

Expenses may be deducted only in the year you paid them. If you charge medical expenses on your bank credit card, the expenses are deducted in the year the charge is made regardless of when the bank is repaid.

TAXES

Real estate.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, ordinarily you may add to the amount shown in the tax tables the sales tax paid on the purchase of the following items: automobiles, truck, motorcycles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax table, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, dividends untaxed under the dividend exclusion, interest on municipal bonds, untaxed part of unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonoperating foundations, veterans organizations, fraternal societies, or nonprofit cemetery companies, are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible).

Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 8¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in your home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Personal loan.

Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Other credit cards—you may deduct as interest the finance charges added to your monthly statement, expressed as an annual percentage rate, that are based on the unpaid monthly balance.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money and only if the charging of points is an established business practice in your area. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the separately stated "finance charge."

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. Report your casualty or theft loss on Schedule A. If more than one item was involved in a single casualty or theft, or if you had more than one casualty or theft during the year, use Form 4684 for computing your personal casualty loss.

MISCELLANEOUS

Appraisal fees to determine the amount of a casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box used to store income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of bond if required for employment.

Expenses of an office in your home if used regularly and exclusively for certain business purposes.

Educational expenses that are: (1) required by your employer to maintain your position; or (2) for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—You may claim a credit (line 38, Form 1040) for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general, or special election. The credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, (4) local committee of a national political party, or (5) certain newsletter funds set up and maintained by a person who holds, has been elected to, or is a candidate for nomination or election to a public office. The amount of the tax credit is one-half of the political contribution, with a $50 ceiling ($100 for couples filing jointly).

PRESIDENTIAL ELECTION CAMPAIGN FUND

Additionally, you may voluntarily earmark $1 of your taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

ADDITIONAL INFORMATION

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$3, 300
Single (age 65 or older)	4, 300
Qualifying widow(er) under 65 with dependent child	4, 400
Qualifying widow(er) 65 or older with dependent child	5, 400
Married couple (both spouses under 65) filing jointly	5, 400
Married couple (1 spouse 65 or older) filing jointly	6, 400
Married couple (both spouses 65 or older) filing jointly	7, 400
Married filing separately	1, 000

Additional Exemption for Age.—Besides the regular $1,000 exemption, you are allowed an additional exemption of $1,000 if you are age 65 or older on the last day of the taxable year. If both a husband and wife are 65 or older on the last day of the taxable year, each is entitled to an additional exemption of $1,000 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1980, you will be entitled to the additional $1,000 exemption because of age for your 1979 Federal income tax return.

"Zero Bracket Amount."—The "zero bracket amount" is a flat amount that depends on your filing status. In 1979, this amount was increased for each filing status. If you are married filing jointly or a qualifying widow or widower, your zero bracket amount is $3,400. If you are single or a head of household, your zero bracket amount is $2,300. If you are married filing separately, it is $1,700. It is not a separate deduction; instead, the equivalent amount is built into the tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, you will need to make an adjustment if you itemize deductions.

However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

Tax Tables.—Tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you do not have to deduct $1,000 for each exemption because this amount is also built into the tax table for you.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $1,000 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, but only one of them, may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence.—You may exclude from your gross income some or all of your gain from the sale of your principal residence, if you meet certain age, ownership, and occupancy requirements at the time of the sale. The exclusion is elective, and you may elect to exclude gain only once. If you were age 55 or older before the date of sale, you may elect to exclude up to $100,000 of gain on the sale if you owned and occupied the residence for 3 of the 5 years ending on the date of sale (or 5 to 8 years under certain circumstances). Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded.

Additionally, payment of tax on the gain on the sale of your personal residence in excess of the excluded amount will be deferred if, within 18 months before or 18 months after the sale, you buy and occupy another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence; (2) you were on active duty in the U.S. Armed Forces; or (3) your tax home was abroad. Publication 523 (Tax Information on Selling or Purchasing Your Home) may also be helpful.

Credit for the Elderly.—You may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if you are:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If you maintained a household that included your dependent under age 15 or a dependent or spouse incapable of self-care, you may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable you to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—If you have a dependent child who shares your principle place of abode in the United Seates, you may be entitled to a special payment or credit of up to $500. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if you reported earned income and had adjusted gross income (line 31, Form 1040) of less than $10,000, you may be able to claim the credit.

Earned income means wages, salaries, tips, strike benefits, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

ENERGY TAX ACT

The Energy Tax Act of 1978 is directed at providing tax incentives for energy conservation measures and for conversion to renewable energy sources.

A credit of up to $300 may be claimed for expenditures for energy conservation property installed in or on your principal residence, whether you own or rent it. The residence must have been substantially completed by April 20, 1977. Items eligible for the credit are limited to the following: insulation (fiberglass, cellulose, etc.) for ceilings, walls, floors, roofs, water heaters, etc.; exterior storm (or thermal) windows or doors; caulking or weatherstripping for exterior windows or doors; a furnace replacement burner which reduces the amount of fuel used; a device to make flue openings (for a heating system), more efficient; an electrical or mechanical furnace ignition system which replaces a gas pilot light; an automatic energy-saving setback thermostat; and a meter which displays the cost of energy usage.

A maximum credit for renewable energy source property is $2,200. Equipment used in the production or distribution of heat or electricity from solar, geothermal, or wind energy sources for residential heating, cooling, or other purposes may qualify for this credit.

Energy credits may be claimed by completing Form 5695 and attaching it to your Form 1040.

Examples of items which do not qualify for energy credit are the following: carpeting, drapes, wood paneling, exterior siding, heat pump, wood or peat fueled residential equipment, fluorescent replacement lighting system, hydrogen fueled residential equipment, equipment using wind energy for transportation, expenditures for a swimming pool used as an energy storage medium, and greenhouses.

For further information, consult the instructions for Form 5695 and IRS Publication 903, Energy Credits for Individuals.●

CONTINUED ROCK ISLAND RAILROAD SERVICE

● Mr. BOREN. Mr. President, on Thursday I introduced Senate Joint Resolution 139 that, if enacted, will allow the Chicago, Rock Island & Pacific Railroad to continue operation over its entire system throughout the Midwest. I am pleased to have as cosponsors of this measure Senators BUMPERS, PRYOR, BELLMON, ZORINSKY, TOWER, and KASSEBAUM.

The directed service order under which the Kansas City Terminal Co., is presently operating over the Rock Island lines is scheduled to terminate on March 2, 1980.

The Rock Island operates in 13 Midwestern and Southern States, utilizing over 10,000 miles of track. More than 6,000 jobs of railroad workers and the jobs of thousands of others who depend on uninterrupted rail service could be threatened. The agricultural producing and marketing activities in the States served by the Rock Island are almost totally dependent upon continuing rail service. In Oklahoma alone, the Rock Island serves 154 communities with over 400 industries located on their lines. Of this total, 243 industries are located locally which means that they would be without rail service if this line is abandoned. In 1978, Oklahoma counties served by the Rock Island produced 78.6 percent of the State's wheat. In 1979, these same counties accounted for 73 percent of the State's wheat production. In many cases, the Rock Island is the only means of transportation for moving this wheat. Several grain companies in Oklahoma have millions of dollars in prepaid shipping costs that they are in danger of losing if the Rock Island folds.

These examples from Oklahoma, multiplied by the other 12 States that are served by the Rock Island show that an emergency does exist and measures must be taken to avoid the substantial damage to the economy of the region and of the Nation which the proposed embargo would cause.

Mr. President, this resolution will authorize the Rock Island to operate under the authority of the Emergency Rail Services Act of 1970 and to operate its system as it existed on September 1, 1979.

We are not seeking by the passage of this resolution to supercede the ruling of the bankruptcy judge under which the Rock Island is being reorganized. We are only concerned that service over the Rock Island lines continue uninterrupted through August 31, 1980, so that it will not end before prepaid shipping costs are honored, and during the middle of another season. This would enable more railroads to make offers to purchase portions of the Rock Island. The deadline set by the Federal Railroad Administration for submitting offers to purchase portions of the Rock Island was February 1, 1980. We do not feel that 1 month is sufficient time to enable the many details of purchase to be completed. It will be much easier for another railroad to pick up operation over the Rock Island if service is not interrupted on March 2, 1980. This will also enable the track to be maintained in operating condition which would be difficult if service is interrupted.

Mr. President, I urge my colleagues to carefully consider this legislation. Without the timely passage of this resolution, we will be faced with devastating economic results in this region of our Nation.●

A NUCLEAR ARMS RACE WILL NOT IMPROVE U.S. POSITION IN THE MIDDLE EAST

● Mr. McGOVERN. Mr. President, in the Washington Post of January 29, 1980, Ambassador Paul Warnke presents a convincing argument for the necessity of arms control despite the recent increase in tension between the United States and the Soviet Union. I agree with him that the current crises confirms the wisdom of trying to lessen the risk that United States-Soviet confrontations will lead to nuclear war. A new round in the nuclear arms race will not improve our political or military position in the Persian Gulf or Middle East region. In fact, expensive procurements of strategic weapons, like the MX ICBM, may divert resources from conventional force improvements which may be necessary in that region. The SALT without détente position is difficult to achieve politically, but the logic is compelling. And we should also reexamine the relation between the dynamics of the arms race, SALT, and the deterioration in United States-Soviet relations over the past several years to see whether there is any causal connection between them.

I urge my colleagues to give serious attention to the position outlined by Paul Warnke, and I ask to print his article in the RECORD.

The text of the article follows:

SALT WITHOUT DÉTENTE

(By Paul Warnke)

For some SALT critics, the gloom caused by the Soviet invasion of Afghanistan appears lightened by their belief that it shows that they've been right, that "the Russians can't be trusted" and that strategic arms control doesn't belong in the real world. Some suggest that this egregious Soviet conduct requires a drastic change in our foreign policy and new people to conduct it. Their mistaken assumptions are that SALT rests on trust, that SALT supporters blindly believed the Soviets to be a bunch of Boy Scouts and that pursuit of nuclear arms control is inconsistent with a sound defense policy.

I would be surprised if many who have dealt closely with the Russians are all that surprised by recent developments—appalled, of course, and perhaps disappointed, but certainly not startled. Soviet incursions into neighboring states have had the periodicity of a plague of 12-year locusts—Hungary in 1956, Czechoslovakia in 1968 and now Afghanistan.

Nor does this new proof that Soviet military power remains a threat to world peace mean that arms control efforts should be abandoned. Instead, the current crisis confirms the wisdom of trying, through strategic arms limitations, to lessen the risk that U.S.-Soviet confrontations will lead to mutual nuclear devastation.

Admittedly, it is uncongenial to try to reach agreements with a government that often sets its own international rules. But if we are to get anywhere in controlling nuclear arms, we must not continue to confuse SALT with détente, as do the advocates of "linkage." Détente connotes a lessening of frictions, of dangers to world peace. As détente fades, the urgency of arms control increases. We can only guess whether prompt approval of SALT II and active negotiations on theater nuclear forces and other SALT III issues would have forestalled the present crisis. But we should know that without the SALT II treaty we are now less secure. Détente should remain a long-range goal. But control of strategic nuclear weapons is an immediate necessity.

Disputes about Cubans in Africa and about Soviets in Cuba and Afghanistan show that the differences between the United States and the Soviet Union are serious and continuing. We have regrettably little in common. What we do share, and what makes nuclear arms control feasible, is a common interest in survival and in avoiding nuclear weapons proliferation. Because of this common interest, SALT negotiations could start the year after Soviet force ended the Prague Spring and while Soviet-supplied weapons were killing Americans in Vietnam.

Whether the present Soviet aggression is a response to a particular concern or part of an overall design does not affect the seriousness with which it must be treated. No state is entitled to seek perfect security for itself at the sacrifice of that of another. And if conduct of this kind goes unchallenged, a limited original purpose may be converted into something more ambitious.

The Soviet leadership seems to be losing sight of the cardinal rule of superpower competition—that neither side improves its own security by endangering that of the other. Pursuit of a plan to bring the Persian Gulf states under Soviet control would constitute a direct and massive threat to our interests. In contrast, we have very wisely made it clear that our new relationship with the People's Republic of China will not evolve in a way that threatens the security of the Soviet Union.

At best, the world is in for a troubled time. At worst, the crises will be played out with no controls over nuclear weapons, with each side trying to gain greater strategic nuclear strength, and thus posing a greater threat to the other's security. For both, the cause of national survival would be best served by prompt entry into force of the SALT II treaty and renewed efforts to obtain more sweeping controls on nuclear arms. But "linkage" here seems destined to conquer logic.

Recognizing that we cannot trust the Russians (and with no reason to believe that they trust us), we still need to avoid the immense risks of further nuclear escalation. The real world needn't include nuclear anarchy.

In his State of the Union address, President Carter cited the need "in a time of great tension" to observe the mutual constraints of SALT I and SALT II. In fact, since October 1977, when the SALT I Interim Agreement expired, there have been no formal controls over offensive nuclear weapons. Each country then announced separately that it intended to do nothing in contravention of SALT I limits. These undertakings have been honored.

Important SALT principles have been fully worked out and could be implemented and verified without a ratified treaty. (The U.S.-Soviet treaty limiting nuclear weapons tests to yields of 150 kilotons is treated as binding although the Senate has never acted on it.) A U.S. statement could detail our intention to abide by these key principles provided that the Soviet Union does the same.

Continued in the reciprocal restraints should be the freeze on ICBM silos, the most deadly and yet the most vulnerable of the nuclear weapons delivery systems. In matching statements, the sides would commit also to freeze the maximum number of multiple independently targetable reentry vehicles (MIRVs) on any type of existing missile, to flight-test no more than one new ICBM and to limit the new missile to 10 MIRVs. Of crucial importance, each country should state also its intention to refrain from concealment measures or other interference with national technical means of verification.

This approach would leave us free to proceed as planned with the modernization of each part of our nuclear deterrent triad. It would, of course, leave us far short of the benefits of the full SALT II treaty, such as the equal ceilings and sub-ceilings that would require actual reductions in existing Soviet forces, and the chance for speedy negotiation of tighter controls.

As with a formal SALT treaty, there could be no guarantee that the Soviets would live up to their commitments. But our national technical means of verification would tell us if they were not, and would also tell us if they were interfering with those means and trying to conceal nuclear weapons developments.

To support SALT is not to suggest that it is the panacea for all international problems. And to continue to pursue strategic arms control is not to condone Soviet misbehavior. But the new realism doesn't require that we emulate the Roman *andabata*, who was thrust into the combat arena fully armed and armored, but sealed sightless in his helmet.●

THE CARTER GOSPEL—AS REVISED

● **Mr. GOLDWATER.** Mr. President, much has been said about the President's state of the Union address by political writers and political observers, but we are just beginning to see the reaction from the segment most affected, the professional military. One of the most profound comments on this speech appeared as an editorial in Aviation Week & Space Technology of January 28, written by William H. Gregory. I ask that this interesting article be printed in the Record.

The article follows:

The Carter Gospel—As Revised

President Jimmy Carter's State of the Union message sent to Congress last week to precede and elaborate on his State of the Union address was a remarkable and revealing document. It was an obvious political manifesto, a Carter White Paper to the nation to lay the cornerstone of his campaign for reelection this year.

It was far different in political salesmanship from his actual address to Congress—the toughest, most spirited, rousing speech of his presidency that was deservedly well received. Both the speech and the message reflected one profound note in common—the transfiguration of Jimmy Carter from a rosy idealist at the start of his term to something approaching a hard-boiled realist.

Although he did not take this exact tack in his address, he takes credit in the message he sent to Congress for rebuilding the nation's defense budget. Yet here are Mr. Carter's words:

"The decline in defense spending has been reversed; defense spending has increased at a real rate of over 3 percent in 1979, and I am proposing a real increase in the defense spending level of more than 20 percent over the next five years."

This from the man who was promising just after his election four years ago to cut $5–7 billion out of the defense budget when he took office. While he never managed to deliver on that promise, the President did kill the Air Force B-1 bomber program as one of his important defense decisions.

Nevertheless, those words are literally true. The long decline in defense spending in real terms—after discounting the effects of inflation—is ending. President Carter is not leading that reversal, though. He is only following. He is responding to the demands of Congress, which arose ostensibly as a price for Senate approval of the SALT 2 treaty.

There was no question after his address, though, that the President had captured the crest of outrage in the U.S. He talked to Congress like a leader. Judging by the resounding applause, Congress liked it when, in fact, Congress was quicker than the President to sense the shifting mood of the nation on defense, a mood that it took the seizure of the U.S. hostages in Iran and the Soviet invasion of Afghanistan to supply a nucleus for crystalization. That was the message of the Iowa Democratic caucuses, where the President beat Sen. Edward Kennedy (D.–Mass.) two-to-one, despite the White House imposed Soviet grain embargo that hit Midwestern farmers right in the pocketbook.

President Carter's real role on defense until now has been as a reluctant dragon. Yet his White Paper to Congress does not hesitate to say that in his three years in office his policies have been directed at three areas of change, the first of which is:

"The steady growth and projection abroad of Soviet military power—power that has grown faster than ours over the past two decades." The other two areas he cited are the dependence of the U.S. on oil from the Middle East and on the pressures for change in developing nations, including the revolution in Iran.

Only last summer, after a still-undefined role in the fall of the Shah of Iran, the White House was busy trying to sell the SALT 2 arms limitation treaty to the Senate. That treaty did not satisfy critics at either pole—those who thought it gave too much strategic advantage to the Soviets or those who thought it was not arms control at all but simply a codification of an arms race. In the 75 pages of the State of the Union message, there is only one key paragraph devoted solely to support of SALT 2.

That is not a burial by President Carter of his arms control dreams. But in contrast to a dozen pages devoted to what the Administration has done to bolster U.S. or North Atlantic Treaty Organization defenses and to the growing threat of the Soviet military buildup, it is lip service. SALT 2 got even shorter shrift in the President's address, where he shifted emphasis to a continuing goal to control nuclear weapons but left out even the mild treaty endorsement in his message.

That lonely reference to SALT also contrasts with the language of the Carter message on what it plainly calls "the Soviet attack on Afghanistan and the ruthless extermination of its government." Its language leaves little doubt that the Afghanistan invasion was what shocked President Carter into sounding like a veritable firebrand on defense. Nevertheless, it proposed the most realistic language of the message:

"The destruction of the independence of the Afghanistan government and the occupation by the Soviet Union has altered the strategic situation in that part of the world in a very ominous fashion. It has brought the Soviet Union within striking distance of the Indian Ocean and even the Persian Gulf. It has eliminated a buffer between the Soviet Union and Pakistan and presented a new threat to Iran. These two countries are now far more vulnerable to Soviet political intimidation. If that intimidation were to prove effective, the Soviet Union might well control an area of vital strategic and economic significance to the survival of Western Europe, the Far East and ultimately the United States."

In his subsequent address, the President built on that assessment to deliver the most significant pronouncement of the new Jimmy Carter: That any assault on vital interests of the U.S. in the Persian Gulf will be met, if necessary, by force. When the initial enthusiasm wanes, as it will, the test will come in how well earlier Carter Administration budgets and military decisions and the promised future increases in Defense funding will back up these tough words from the transfigured President.●

AMBASSADOR GEORGE KENNAN CALLS FOR REALISM, PRUDENCE, AND RESTRAINT IN AMERICAN STATESMANSHIP

● **Mr. McGOVERN.** Mr. President, Ambassador George Kennan is America's most experienced and knowledgeable diplomat in dealing with the Soviet Union. As the original author of the containment doctrine, he provided the intellectual framework for an entire period of American policy toward the Soviet Union. It would be wise, therefore, to heed the concerns of Dr. Kennan about the administration's response to the Soviet invasion of Afghanistan. Dr. Kennan clearly states, and I agree, that the Soviet intervention is unacceptable to the world community. But he also notes a disquieting lack of balance in the analysis and response to Afghanistan which has led to a militarization of thought in Washington. He finds a war atmosphere in Washington which is obstructing our efforts to develop a realistic policy based on political as well as military responses and which takes into account the local as well as the global factors.

I am sobered by Dr. Kennan's warning:

> We are now in a danger zone. I can think of no instance in modern history where such a breakdown of political communication and such a triumph of unrestrained military suspicions as now marks Soviet-American relations has not led, in the end, to armed conflict.

Mr. President, Dr. Kennan's wise counsel should be considered by all of us in the Senate as we began to examine specific policy proposals to respond to the new situation created by the Soviet invasion of Afghanistan. I ask to insert Dr. Kennan's article from the New York Times of February 1, 1980, in the Record.

The text of the article follows:

George F. Kennan, on Washington's Reaction to the Afghan Crisis: "Was This Really Mature Statesmanship?"

Princeton, N.J.—On Christmas Day 1979, after more than a century of periodic involvement with the internal affairs of its turbulent neighbor, and after many months of futile effort to find a pro-Soviet Afghan figure capable of running the country, the Soviet Government suddenly expanded what was already a sizeable military involvement in Afghanistan into a full-fledged occupation, promising that the troops would leave when their limited mission had been accomplished.

This move was not only abrupt—no effort had been made to prepare world opinion for it—but it was executed with incredible political clumsiness. The pretext offered was an insult to the intelligence of even the most credulous of Moscow's followers. The world community was left with no alternative but to condemn the operation in the strongest terms, and it has done so.

So bizarre was the Soviet action that one is moved to wonder whence exactly, in the closely shielded recesses of Soviet policy making, came the inspiration for it and the political influence to achieve its approval. It was a move decidedly not in character for either Aleksei N. Kosygin or Leonid I. Brezhnev. (The one was, of course, ill and removed from active work. The limitations on the other's health and powers of attention are well-known.) Andrei A. Gromyko, too, is unlikely to have approved it. These reflections suggest the recent breakthrough, to positions of dominant influence, of hard-line elements much less concerned for world opinion, but also much less experienced, than these older figures.

Such a change was not unexpected by the more attentive Kremlinologists, particularly in the light of the recent deterioration of Soviet-American relations, but it was assumed that it would take place only in connection with, and coincidental with, the retirement of Mr. Brezhnev and other older Politburo members. That it could occur with the preservation of Mr. Brezhnev as a figurehead was not foreseen.

Be that as it may, this ill-considered move was bound to be unacceptable to the world community, and the United States had no alternative but to join in the condemnation of it in the United Nations. But beyond that point, the American official reaction has revealed a disquieting lack of balance, both in the analysis of the problem and then, not surprisingly, in the response to it.

In the official American interpretation of what occurred in Afghanistan, no serious account appears to have been taken of such specific factors as geographic proximity, ethnic affinity of peoples on both sides of the border, and political instability in what is, after all, a border country of the Soviet Union. Now, specific factors of this nature, all suggesting defensive rather than offensive impulses, may not have been all there was to Soviet motivation, nor would they have sufficed to justify the action; but they were relevant to it and should have been given their due in any realistic appraisal of it.

Instead of this, the American view of the Soviet action appears to have run overwhelmingly to the assumption that it was a prelude to aggressive military moves against various countries and regions farther afield. No one can guarantee, of course, that one or another such move will not take place. A war atmosphere has been created. Discussion in Washington has been dominated by talk of American military responses—of the acquisition of bases and facilities, of the creation of a rapid-deployment force, of the cultivation of military ties with other countries all along Russia's sensitive southern border. In these circumstances, anything can happen. But the fact is, this extravagant view of Soviet motivation rests, to date, exclusively on our own assumptions. I am not aware of any substantiation of it in anything the Soviet leaders themselves have said or done. On the contrary, Mr. Brezhnev has specifically, publicly and vigorously denied any such intentions.

In the light of these assumptions we have been prodigal with strident public warnings to the Russians, some of them issued even prior to the occupation of Afghanistan, not to attack this place or that, assuring them that if they did so, we would respond by military means. Can this really be sound procedure? Warnings of this nature are implicit accusations as well as commitments. We are speaking here of a neighboring area of the Soviet Union, not of the United States. Aside from the question of whether we could really back up these pronouncements if our hand were to be called, is it really wise—is it not in fact a practice pregnant with possibilities for resentment and for misreading of signals—to go warning people publicly not to do things they have never evinced any intention of doing?

This distortion in our assessment of the Soviet motivation has affected, not unnaturally, our view of other factors in the Middle Eastern situation. What else but a serious lack of balance could explain our readiness to forget, in the case of Pakistan, the insecurity of the present Government, its recent callous jeopardizing of the lives of our embassy personnel, its lack of candor about its nuclear programs—and then to invite humiliation by pressing upon it offers of military aid that elicited only insult and contempt? What else could explain, in the case of Iran, our sudden readiness—if only the hostages were released—to forget not only their sufferings but all the flagburnings, the threatening fists, the hate-ridden faces and the cries of "death to Carter," and to offer to take these very people to our bosoms in a common resistance to Soviet aggressiveness? What else could explain our naive hope that the Arab states could be induced, just by the shock of Afghanistan, to forget their differences with Israel and to join us in an effort to contain the supposedly power-mad Russians?

This last merits a special word. I have already referred to the war atmosphere in Washington. Never since World War II has there been so far-reaching a militarization of thought and discourse in the capital. An unsuspecting stranger, plunged into its midst, could only conclude that the last hope of peaceful, nonmilitary solutions had been exhausted—that from now on only weapons, however used, could count.

These words are not meant to express opposition to a prompt and effective strengthening of our military capabilities relevant to the Middle East. If what was involved here was the carrying out a big stick while speaking softly rather than the carrying of a relatively small stick while thundering all over the place, who could object? But do we not, by this preoccupation with a Soviet military threat, the reality of which remains to be proved, run the risk of forgetting that the greatest real threats to our security in that region remain what they have been all along: our self-created dependence on Arab oil and our involvement in a wholly unstable Israeli-Arab relationship, neither of which is susceptible of correction by purely military means, and in neither of which is the Soviet Union the major factor?

If the Persian Gulf is really vital to our security, it is surely we who, by our unrestrained greed for oil, have made it so. Would it not be better to set about to eliminate, by a really serious and determined effort, a dependence that ought never have been allowed to arise, than to try to shore up by military means, in a highly unfavorable region, the unsound position into which the dependence has led us? Military force might conceivably become necessary as a supplement to such an effort; it could never be an adequate substitute for it.

The oddest expression of this lack of balance is perhaps in the bilateral measures with which we conceive ourselves to have punished the Russian action. Aside from the fact that it is an open question whom we punished most by these measures—Russia or ourselves—we have portrayed them as illustrations of what could happen to Moscow if it proceeded to one or another of the further aggressive acts we credit it with plotting. But that is precisely what these measures are not; for they represent cards that have already been played and cannot be played twice. There was never any reason to suppose that the Soviet Government, its prestige once engaged, could be brought by open pressure of this nature to withdraw its troops from Afghanistan. But this means, then, that we have expended—for what was really at hopeless purpose—all the important nonmilitary cards we conceived ourselves as holding in our hand. Barring a resort to war, the Soviet Government has already absorbed the worst of what we have to offer, and has nothing further to fear from us. Was this really mature statesmanship on our part?

We are now in the danger zone. I can think of no instance in modern history where such a breakdown of political communication and such a triumph of unrestrained military suspicions as now marks Soviet-American relations has not led, in the end, to armed conflict. The danger is heightened by the fact that we do not know, at this time, with whom we really have to deal at the Soviet end. If there was ever a time for realism, prudence and restraint in American statesmanship, it is this one. Nothing in the passions of electoral politics could serve as the slightest excuse for ignoring this necessity.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. James G. Prather, legislative assistant to Senator BELLMON, to participate in a program sponsored by a foreign educational organization, Tunghai University in Taichung, Taiwan from January 4 to January 12, 1980.

The committee has determined that participation by Mr. Prather in the program in Taiwan, at the expense of Tunghai University, to discuss economics and international relations is in the interest of the Senate and of the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. Eugene Iwanciw, legislative assistant to Senator SCHMITT, to participate in a program sponsored by a foreign educational organization, Tunghai University in Taichung, Taiwan from January 4 to January 12, 1980.

The committee has determined that participation by Mr. Iwanciw in the program in Taiwan, at the expense of Tunghai University, to discuss economics and international relations is in the interest of the Senate and the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. Charles O. Wood, legislative assistant to Senator SIMPSON, to participate in a program sponsored by a foreign educational organization, Tunghai University in Taichung, Taiwan from January 4, to January 12, 1980.

The committee has determined that participation by Mr. Wood in the program in Taiwan, at the expense of Tunghai University, to discuss economics and international relations is in the interest of the Senate and of the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. Thomas Getman, legislative director to Senator HATFIELD, to participate in a program sponsored by a foreign educational organization, Tunghai University in Taichung, Taiwan, from January 2 to January 13, 1980.

The committee has determined that participation by Mr. Getman in the program in Taiwan, at the expense of Tunghai University, to discuss economics and international relations is in the interest of the Senate and of the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN EDUCATIONAL ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign educational organization involving travel to a foreign country paid for by that foreign organization. The Select Committee on Ethics has received requests for a determination under rule 43 which would permit the following named employees to participate in a program sponsored by a foreign educational organization, the Van Leer Jerusalem Foundation in Israel from January 4 to January 14, 1980:

Mr. Steve Silver, office of Senator STEVENS.

Mr. Charles E. Horner, office of Senator MOYNIHAN.

It has been determined that the travel of these persons at the expense of the Van Leer Jerusalem Foundation is in the interests of the Senate and the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN EDUCATIONAL ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign educational organization involving travel to a foreign country paid for by that foreign organization. The Select Committee on Ethics has received requests for a determination under rule 43 which would permit the following named employees to participate in a program sponsored by a foreign educational organization, Soochow University, Taipei, Taiwan, from December 28, 1979, to January 4, 1980:

Ms. Rebecca C. Bernhardt, office of Senator STEVENS.

Messrs. Abram Shulsky and George W. S. Kuhn III, office of Senator MOYNIHAN.

Mr. Alvin P. Drischler, office of Senator LAXALT.

Mr. Ernest E. Garcia, office of Senator DOLE.

Mr. Charles N. Andreae, office of Senator LUGAR.

Ms. Lillian Saunders, office of Senator BOSCHWITZ.

Dr. Robert K. Wolthuis, Republican policy committee.

It has been determined that the travel of these persons at the expense of Soochow University is in the interest of the Senate and the United States.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for a determination under rule 43 which would permit James Streeter and Sylvia Castellanos of the staff of Senator MCCLURE, and Elvira Orly of the staff of Senator HAYAKAWA, to participate in a program sponsored by a foreign educational and charitable organization, the Asociacion de Amigos del Pais (Association of Friends of the Country) of Guatemala. The purpose of the trip is to meet with representatives of a broad cross-section of Guatemalan public opinion, and it is to take place from January 7 to January 11, 1980.

The committee has determined that the participation of James Streeter, Sylvia Castellanos, and Elvira Orly in this program, at the expense of the Asociacion, is in the interest of the Senate and the United States.●

DEVELOPMENT OF THE AGRICULTURALLY DERIVED ETHYL ALCOHOL FUEL INDUSTRY

● Mr. HOLLINGS. Mr. President, the South Carolina House of Representatives recently passed a resolution to encourage the Congress to take action to fully develop the potential of agriculturally derived ethyl alcohol as rapidly as possible. I agree with these sentiments completely and have been a strong supporter of legislation to this end. President Carter's recent initiative gives added support to our efforts. As Congress explores the several proposals now before it concerning ethyl alcohol development I call the resolution of the South Carolina House of Representatives to your attention. It will encourage and enlighten our consideration of this most important matter.

I ask the resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

Whereas, recently events have occurred which have made it evident that the exorbitant costs paid for supplies of oil and its byproducts necessitate the rapid development of alternate sources of fuel supplies for the United States and indeed for the entire world; and

Whereas, it is becoming more evident that the United States has agricultural resources which may be used to develop large supplies of ethyl alcohol to be used for fuel or mixed with gasoline to produce gasohol; and

Whereas, the National Gasohol Association is continuously assessing and developing policies and plans to promote an efficient and economical ethyl alcohol fuel industry; and

Whereas, it is the feeling of the members of the General Assembly that the provisions of the Resolution of the National Gasohol Association should be put into effect by the President and Congress of the United States.

Now, therefore, be it resolved by the House of Representatives:

That the President and Congress of the United States are memorialized to take the following actions either by executive order or legislative recommendation:

1. Make available immediate low interest loans to finance alcohol fuel production and provide for rapid amortization of new alcohol fuel production plants.

2. Make permanent the federal four cent excise tax exemption on gasohol.

3. Require the federal government to use grain alcohol in its vehicles.

4. Require the federal government to stockpile ethyl alcohol fuel for defense purposes.

5. Appoint a Presidential Ad-Hoc Advisory Committee of people presently involved in agriculturally derived ethyl alcohol fuel development to advise the President, the United States Department of Agriculture and the Department of Energy to insure the rapid development of the alcohol fuel industry.

6. Direct the United States Department of Agriculture to develop markets for the high protein byproducts of alcohol grain products.

7. Make available the 1977 sugar crop for alcohol production.

Be it further resolved that the President and Congress of the United States are memorialized to immediately formulate, in the event of grain embargoes, policies to encourage the utilization of embargoed grain supplies to accelerate ethyl alcohol fuel products in the United States.

Be it further resolved that copies of this resolution be forwarded to the President and Vice President of the United States, the Speaker of the House of Representatives of the United States and to each member of the Congress of the United States representing South Carolina.●

ANDREI SAKHAROV

● Mr. McGOVERN. Mr. President, Andrei Sakharov, who for many years has been one of the courageous leaders in the human rights movement in the Soviet Union, has now begun a Soviet antiwar movement to protest Soviet intervention in Afghanistan. By sending him to exile in Gorki, Soviet authorities are telling Dr. Sakharov to love Russia or leave it. But of course the truth cannot be exiled to Gorki. Dr. Sakharov may be exiled from his fellow citizens, but such crude measures will not prevent dissent against the Afghanistan war. Those who predict that the Soviet Union will have an easy time avoiding another Vietnam in Afghanistan have only to look at Dr. Sakharov's courageous action to realize that domestic opposition awaits the Soviet Union as a response to aggressive military intervention. I want to express my strong personal admiration for Dr. Sakharov's brave struggle and to pledge that I will do all I can to make sure that he is not forgotten or exiled from our memories.

Mr. President, last week 25 Nobel Prize winners sent a telegram to President Brezhnev protesting Soviet banishment of Dr. Sakharov. A number of these Nobel laureates at one time spoke out against the war in Vietnam. They speak on behalf of the conscience of the international scientific community.

And the Washington Post of January 29, 1980, reports that Dr. Sakharov continues to speak out for human rights and for peace and disarmament despite the action by the Soviet authorities.

Mr. President, I ask that these articles—on the Nobel laureates' telegram, the text of Sakharov's statement, and the Washington Post report—be printed in the RECORD.

The texts of the articles follow:

SAKHAROV DEFIES SOVIETS

(By Kevin Klose)

Moscow, January 28.—Andrei Sakharov today defied Soviet attempts to silence him, declaring from exile that he is ready to face "open and public" trial in place of the "gilded cage" of internal banishment to which he now is confined.

Sakharov, in a statement released by his wife, Elena Bonner, said, "I need the right to do my civic duty as my conscience dictates."

He said Soviet authorities are "trying to degrade and discredit me" in a way that "unties the government's hand for any future repression of dissidents inside the country."

Sakharov, who has been banished to Gorki, said the "main reason for my repression" was his recent series of statements condemning the invasion last month of neighboring Afghanistan. "The repressions taken against me were done at a moment of overall worsening of the international situation and an escalation in the repression of dissent internally."

These new world tensions, he said, were "caused by the U.S.S.R., culminating in the invasion, where Soviet troops wage a pitiless war against the insurgents and the Afghan people."

Sakharov said his isolation left his family defenseless and demanded that his mother-in-law, Ruth Bonner, and the fiance of his stepson be allowed to emigrate. His stepson already lives in the United States.

The Sakharov declaration was composed by his wife from mental notes she said she made in conversations with her husband before leaving Gorki for the train trip to Moscow yesterday. She said she did not write down what he wished to say because they feared police interception.

Although Bonner is officially not under the so-called admnistrative measure that applies to her husband and is ostensibly free to travel and visit freely, she said, "I think today's statement may be the last."

In his statement, Sakharov said "the authorities try to calm international public opinion by saying I will continue my scientific work and am not threatened with criminal charges." Sakharov has worked on astrophysics since breaking with the state more than a decade ago to take up the cause of human freedoms.

In closing, Sakharov declared, "I am thankful to all to have spoken up in my defense. My fate is fortunate, because it is possible for me to be heard. But I ask you not to forget those who independently work for human rights . . ."

He mentioned a number of activists who have recently been seized by the KGB, including Gleb Yakunin, an Orthodox priest, and Tatyana Velikhanova and Viktor Nekipelov.

He proclaimed this as his pholosophy; "I support a pluralistic, open society that is both demorcatic and just. I support convergence, disarmament and peace, the defense of human rights throughout the world—in our country and the countries of Western Europe, Indonesia, China, Chile—everywhere a world amnesty for prisoners of conscience and the abolition of the death sentence."

Meanwhile, today, the Soviet Academy of Sciences, through its ruling presidium, officially censured Sakharov for "actions directed against the interests of our country and the Soviet people, actions helping heighten international tensions and denigrating the lofty title of Soviet scientists."

Sakharov last week was stripped of the awards and titles heaped on him during his years at the center of the Soviet hydrogen bomb program. Friends of the nuclear physicist had taken heart from the fact that those titles were removed by action of the Supreme Soviet, the rubber-stamp parliament, at the command of Soviet President Leonid Brezhnev, and that the academy traditionally free of direct intervention by the ruling Communist Party—had not itself moved against Sakharov.

But the censure vote rolls back that faint hope of Sakharov's friends that he is immune from direct retaliation by the academy itself. Sakharov is still a member of the prestigious academy.

The 58-year old physicist and his wife were sent last Tuesday to Gorki, a city closed to foreigners 250 miles east of Moscow, in a Kremlin move that has further damaged its relations with the West in the aftermath of the invasion of Afghanistan.

"This is the first instance of internal exile without a trail in the Soviet Union since Stalinist methods were rejected at the 20th Party Congress in 1956," Bonner said. "This amounts to a special regime that is worse than exile."

Bonner flatly rejected official allegations that her husband gave military secrets to Americans and other foreigners. "He never spoke to anyone at any time about any of this work," she said.

She said her husband believes there is no direct connection to his exile and the abrupt ouster the same day last week of Vladimir Kirillin, considered a liberal voice within the political-scientific hierarchy, from his powerful job as head of the state committee on science and technology and deputy prime minister. In 1973, when Sakharov was under bitter attack from the authorities, Kirillin met with the physicist and sought to persuade him to cease his dissidence and concentrate on science. Sakharov rejected the overtures.

Today, Tass announced Kirillin's successor, Gury Marchuk, 54 Ukrainian-born chairman of the Siberian branch of the Academy of Sciences based in Akademgorodok, the so-called "science city" at Novosibirsk.

There had been speculation that Kirillin either opposed moves against Sakharov, or the Afghan invasion, or both, in the belief that Western countermoves would cut valuable ties and exchanges with Western scientists.

SAKHAROV'S STATEMENT CARRIED FROM GORKY TO MOSCOW BY HIS WIFE

(Moscow, January 28.—Following is the text of Andrei D. Sakharov's statement, brought from Gorky by his wife, Yelena Bonner, and translated from Russian by The New York Times:)

On January 22, I was arrested on the street and taken to the office of the Procuracy of the U.S.S.R. A. Rekunkoc, First Deputy Procurator General of the U.S.S.R., informed me that I was being deprived of my titles of Hero of Socialist Labor, of all decorations and prize awards, by decree of the Presidium of the Supreme Soviet of the U.S.S.R. I was asked to return the medals and orders and certificates, but I refused, believing that I was given them for good reason. Rekunkov also informed me of the decision to banish me to the city of Gorky, which is closed to foreigners.

On the same day, with my wife, Yelena Bonner, who was allowed to go with me, I was taken by special flight to Gorky, where the city's deputy procurator explained the conditions of the regime decreed for me—constant observation, prohibition against leaving the city limits, prohibition against meeting with foreigners and "criminal elements," prohibition against correspondence and telephone conversations with foreigners, including scientific and purely personal correspondence and telephone calls, even with my children and grandchildren, Matvei, 6, and Ana, 4. I was instructed to report three times a month to the police, with the threat of arrest in case of noncompliance.

ISOLATION FROM OUTSIDE WORLD

The authorities are thus imposing on us complete isolation from the outside world. The house is surrounded 24 hours a day by police and K.G.B. details, which pose obstacles to visits to us by anyone, including our friends. Telephone connections with Moscow and Leningrad are completely blocked. We have not been able to call even my wife's mother, to tell her how we were. I was not able to call a physicist colleague, a highly respected Soviet scholar. These restrictions also apply to my wife, who is supposedly "free." She sent a telegram to our children in the United States, but there was no answer, so she is deprived of contact with the children.

Even in prison, there is more possibility of communication with the outside world.

No longer youngsters and not in the best of health, we are completely deprived of help from our friends, of medical help from our doctors.

These repressive actions against me were undertaken at a time of general worsening of the international situation and of intensification in the persecution of dissidents within the country.

FOREIGN POLICY MOVES ARE LISTED

The worsening of the international situation was caused by actions of the U.S.S.R., which is doing the following:

1. Launching in Europe a broad and demagogic campaign with the aim of strengthening its military superiority.
2. Trying to destroy the recently outlined peace opportunities in the Middle East and southern Africa.
3. Supporting terrorist regimes in Ethiopia and some other countries.
4. Maintaining military units in Cuba.
5. Supporting the actions of quasi-governmental terrorists in Iran who have violated the basic principles of diplomatic work.
6. The culmination of this dangerous policy was the invasion of Afghanistan, where Soviet soldiers are waging merciless war against insurgents, against the Afghan people.

Within the country, the authorities have taken new actions against the core of the human rights movement. Velikanova and Nekipelov have been arrested. Landa has been threatened with arrest. The magazine Poiski is being broken up. Abramkin, Sokirko, Grimm have been arrested.

The movement for religious freedom is being persecuted and the clergymen Dudko and Yakunin have been arrested. Regelson has been arrested. Trials and arrests are proceeding in the Ukraine and in the Baltic. Repression has increased against the Crimean Tatars; Reshat Dzhemilyov has been convicted.

The actions of the authorities against me in this situation are aimed at making the continuation of my public activities completely impossible. They are aimed at humiliating and discrediting me and at the same time making possible further repressive measures against all dissident groups in the country, with less possibility of the world's finding out about them, and further international adventures.

On Jan. 24, Izvestia published an article containing slander against me and a deliberate distortion of my position. My position remains unchanged. I am for a pluralistic, open society, both democratic and just; for convergence, disarmament and peace; for the defense of human rights in the whole world—in our country, in the countries of Eastern Europe, in Indonesia, China, Chile, everywhere; for a worldwide amnesty for prisoners of conscience; for doing away with the death penalty. I am for giving priority to the problems of peace, the problem of averting thermonuclear war.

From the article in Izvestia it is apparent that the main reason for the repression against me at this particularly anxious time was my position condemning the intervention in Afghanistan, which is a threat to the entire world, and demanding the withdrawal of Soviet troops from that country, perhaps with their replacement by United Nations units, (see my interview with The New York Times and with American television), as well as my having joined in a document on the subject issued by the Moscow Helsinki group.

Being in a state of complete isolation and anxiety for members of my family and for my daughter-in-law, Liza Alekseyeva—to whom I am no longer able to provide any protection—I demand that they be given an opportunity immediately to leave the U.S.S.R. and join their children and grandchildren. Although my wife is technically free, I will, of course, be afraid not only for her health, but for her life, if she is forced to travel to them [word illegible] (unfortunately, we know that the [state security] organs are capable of applying Mafia-like techniques).

VIOLATION OF RIGHTS CHARGED

The actions of the Soviet authorities are a gross violation of my basic right to receive and disseminate information (Article 19 of the Universal Declaration of Human Rights). Soviet representatives are trying to calm world public opinion by saying that I will be able to continue scientific work and that there is no threat of criminal prosecution against me. But I am prepared to stand public and open trial. I do not need a gilded cage. I need the right to fulfill my public duty as my conscience dictates.

I am grateful to all those who have come to my defense. My fate has been a happy one—I succeeded in being heard. But I ask everyone not to forget those who have selflessly served and are still serving in the defense of human rights, those whom I mentioned in this letter and all those whom I did not mention.

Twenty-Five Nobel Laureates Rally in Support of Beleaguered Colleague, Andrei Sakharov

New York, January 25.—Twenty-five Nobel Prize winners in science today voiced their concern over the treatment of fellow laureate, Academician Andrei Sakharov. In a cable despatched to President Leonid Brezhnev by the Committee of Concerned Scientists, the distinguished scientists assailed the banishment of the human rights activist from Moscow to a closed city and the withdrawal of his state honors.

Declaring that the Soviet government's action in evicting Dr. Sakharov from Moscow would "silence an eloquent voice of wisdom desperately needed in our troubled world," the Nobelists urged that President Brezhnev "return Dr. Sakharov to his home in Moscow and restore his state honors."

In response to a Tass report charging that Sakharov "has been conducting subversive activities against the Soviet state for a number of years," the Nobel laureates pointed out that these atcivities "centered on his efforts to further Soviet compliance with the Universal Declaration of Human Rights and the Helsinki Final Act, documents to which the USSR is a signatory." They termed punitive measures taken against Dr. Sakharov for his attempts to ensure the Soviet government's "respect for its human rights commitments, honorably undertaken" in numerous international agreements "a travesty of justice."

Stating that "while in Moscow, he was able to regularly attend scientific seminars sponsored by the Academy of Sciences and to meet on occasion with visiting Western scientists," the signatories to the cable asserted that Dr. Sakharov's enforced exile will isolate him from his scientific colleagues "in contravention of Soviet commitments to the free flow of people and ideas." They underscored their concern with the admonition that Dr. Sakharov's "continued detention in Gorky will only serve to deter Western scientists from engaging in scholarly exchanges with the USSR and to heighten international tension."

The cable was signed by: Philip Anderson, Christian Anfinsen, John Bardeen, Baruch Blumberg, Owen Chamberlain, Leon Cooper, Carl Cori, Allan Cormack, André Cournand, Paul Flory, Ivar Giaever, Donald Glaser, Sheldon Glashow, Alfred Hershey, Gerhard Herzberg, Robert Hofstadter, Robert Holley, Arthur Kornberg, Polykarp Kusch, Simon Kuznets, Edward Purcell, Howard Temin, George Wald, James Watson and Rosalyn Yalow.

The Committee of Concerned Scientists is an independent organization of American scientists committed to constructive action to protect and advance the scientific and human rights of colleagues the world over.

We deplore the banishment of Academician Andrei Sakharov to Gorky and the action of the Soviet government divesting him of his state honors. His consignment to internal exile in a closed city will silence an eloquent voice of wisdom desperately needed in our troubled world.

It is our understanding that Dr. Sakharov's expulsion came in response to his alleged "subversive activities against the Soviet state for a number of years." We wish to point out that these activities centered on his efforts to further Soviet compliance with the Universal Declaration of Human Rights and the Helsinki Final Act, documents to which the USSR is a signatory. Punishing Dr. Sakharov for his attempts to ensure your government's respect for its human rights commitments, honorably undertaken in these and other international agreements, is a travesty of justice.

Moreover, Dr. Sakharov's exile will serve to isolate him further from his scientific colleagues. While in Moscow, he was able to regularly attend scientific seminars sponsored by the Academy of Sciences and to meet on occasion with visiting Western scientists. This enforced exile will preclude further scientific interaction of this nature in contravention of Soviet commitments to the free flow of people and ideas.

American scientists will not fail to react to the repression of their gifted colleague. In the name of human decency we urge that you return Dr. Sakharov to his home in Moscow and restore his state honors. His continued detention in Gorky will only serve to deter Western scientists from engaging in scholarly exchanges with the USSR and to heighten international tension.

Philip Anderson, Christian Anfinsen, John Bardeen, Baruch Blumberg, Owen Chamberlain, Leon Cooper, Carl Cori, Allan Cormack, Andre Cournand, Paul Flory, Ivar Giaever, Donald Glaser, Sheldon Glashow.

Alfred Hershey, Gerhard Herzberg, Robert Hofstadter, Robert Holley, Arthur Kornberg, Polykarp Kusch, Simon Kuznets, Edward Purcell, Howard Temin, George Wald, James Watson, Rosalyn Yalow.●

RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

● Mr. CANNON. Mr. President, in accordance with section 2 of Senate rule XXVI, as amended, I submit for the RECORD the rules of the Committee on Commerce, Science, and Transportation for the second session of the 96th Congress.

The rules follow:

RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION[1]

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of sec. 133(a) of the Legislative Reorganization Act of 1946, as amended.

2. Meetings of the Committee, or any subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee, or any subcommittee, when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(3) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Paragraph 7(b) of rule XXV of the Standing Rules of the Senate, as amended by S. Res. 9, 94th Cong., Nov. 5, 1975.)

3. Each witness who is to appear before the Committee or any subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

II. QUORUMS

1. Nine members shall constitute a quorum for official action of the Committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

2. Six members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill or nomination; provided that proxies shall not be counted in making a quorum. Rule XXV, Sec. 5(a).

3. For the purpose of taking sworn testimony a quorum of the Committee and each subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the subcommittee unless he is a Member of such subcommittee.

2. Subcommittees shall be considered *de novo* whenever there is a change in the chairmanship, and seniority on the particular subcommittee shall not necessarily apply.●

IRAN, AFGHANISTAN, AND SOVIET MILITARY DOCTRINE

● Mr. GOLDWATER. Mr. President, it is certainly apparent by this time that the Carter administration and especially the State Department were taken by surprise when the Soviets invaded Afghanistan. And, understandably, we are hearing a lot of conjecture that the Russians may have miscalculated the situation and seriously misjudged the world's response to naked aggression.

I believe this is the worst kind of wishful thinking. The obvious fact is that the administration miscalculated once again the overall thrust of Soviet intent. The Soviet Union has been embarked upon a course of world domination for many years. It has never veered from that course. And it is my hope that once the American people come to understand this ultimate aim of the Soviet Union, the Government can rise to the task of preventing further incursions on the world's geography and the cause of freedom.

The time has come for us to fully recognize the overall Soviet design and assume that its aggression will not end with Afghanistan and very probably will move into Iran.

Mr. President, Paul Craig Roberts has written an extremely important article for the Wall Street Journal of January 16, 1980, on the Soviet military doctrine, and I ask that it be printed at this point in the RECORD.

The article follows:

IRAN, AFGHANISTAN AND SOVIET MILITARY DOCTRINE

(By Paul Craig Roberts)

The Soviet invasion of Afghanistan clearly surprised U.S. policymakers. Why would the Soviets risk so much—grain and technology, their favorable relations with the "Third World," and the lull of detente that was gradually eroding alliances against them—for the sake of a land-locked mountain kingdom of troubles?

This puzzle has led to all sorts of speculations. Some State Department officials, embarrassed by the event, concluded that this could not have been the work of Soviet leader Leonid Brezhnev, a man committed to detente and SALT. Therefore, he must have lost control to younger hawks who took advantage of his age and illness. Others less gullible concluded that the Soviets, misled by signals of weakness from President Carter, miscalculated and seriously misjudged the response to such naked aggression.

That is certainly a possibility. But on the other hand it may be that it is the U.S. that has miscalculated.

Key elements of the Afghan roadways were built by the Soviets, who some years ago took care to literally pave the way for their recent invasion. Other roads lead west into Iran, and it is only 300 miles across almost empty country from the Afghan border to the strategic straits of Hormuz through which most of the West's imported oil flows. In contrast, from the Soviet's northern border with Iran it is a much longer distance to the strait through more heavily populated and more difficult terrain.

The Soviets have another opportunity in the Baluchi dissidents whom they have sponsored. Baluchistan overlaps areas of Afghanistan, Iran and Pakistan, and a separatist movement could invite the Soviets in.

If the Soviets were to seize Iran, the Persian Gulf would become, de facto, Soviet territorial waters, and no oil could flow unless the Soviets permitted it. Under such conditions the Soviet Union could reasonably expect Western Europe and Japan to accommodate its foreign policy, and they could make it very uncomfortable for any President who tried to put teeth into a U.S.-Chinese military alliance. They would have achieved a long-sought goal: "to lay down the direction of international politics," as Soviet Foreign Minister Andrei Gromyko has put it.

When you look at their opportunity in terms of Soviet military doctrine, it makes you wonder what the Soviets might do next. Unlike our doctrine which emphasizes deterrence and the controlled use of military moves for political signaling purposes, Soviet doctrine emphasizes the primacy of the offensive, stunning surprise and lightning attack, which has as its major aim the prevention of an effective response by opponents. As Jeffrey Record, defense aide to Senator Sam Nunn, has said in a Brookings Institution study, "Sizing Up The Soviet Army," "the Soviet army appears eminently capable of responding to the demands of its doctrine."

---

[1] Adopted by the Committee of Commerce, Science, and Transportation at its organizational session on March 10, 1977; amended January 27, 1978. Printed in the Congressional Record on February 6, 1979, pursuant to the Legislative Reorganization Act of 1970.

Even against NATO forces Soviet doctrine postulates its armored and motorized rifle divisions to reach the Rhine in less than 48 hours. Against disintegrated Iranian forces, tied down in rebellions by non-Persian nationalities, Soviet forces could reach the Strait of Hormuz before the U.S. could react.

Last Friday the New York Times reported that "Soviet military units appear to be concentrating their efforts on securing newly established bases and staging areas, and clearing highways and other land routes west toward Iran." More recent UPI reports say that Soviet forces are assembling in Afghanistan near the Iranian border. According to a UPI dispatch from Kabul, Western correspondents have been given suspicious reasons for repeated cancellations of flights to Herat, and have been unable to reach the site to confirm the suspected activities.

If these reports are accurate, they explain why the Afghan guerrillas are having such an easy time in the northeast regions. The guerrillas are simply not the focus of the Soviet invasion.

The reports also cast some speculative light on why the Soviet Union is positioning itself as Iran's protector and on the possible reasons for the takeover of the U.S. embassy in Tehran. If the hostages were to be tried or killed, the President would have to move, if only verbally, toward a military reprisal or be booed out of office, and the Soviets could enter Iran on the pretext of protecting the country from an American invasion.

If events in days ahead lend any credence to these speculations, it could mean that an American policy of even greater restraint toward Iran is necessary whatever the provocations. The President has lost the option of any decisive action against Iran in the name of the hostages. By dilly-dallying in the UN, President Carter gave the Soviets two months to position themselves in Afghanistan to seize Iran once any belligerent act on our part provides a pretext.

Of course the Iranians and the Carter administration could figure out what's going on before the Soviets have a chance to pull it off, and work together to defuse the situation. But at this point prospects for such cooperation don't look good. It has been a year since the shah departed, a long time for the KGB to do its work. It's not clear whose hands the hostages are in, or how Khomeini could reverse the anti-American basis of his revolution.

Another cardinal rule of Soviet doctrine is not to stand by and lose the advantage after you have gained it. Poised on the West's jugular, the Soviets may not let go. On Nov. 30, The Jerusalem Post reported extensive Soviet military maneuvers "in which some 10,000 airborne soldiers were transferred from Soviet territory via the Middle East to Ethiopia and back, quickly and successfully." If such a maneuver took place, it obvoiusly was a test of timing and strike capability beyond what it would take to seize Afghanistan.

If we should come out of this crisis whole and these ominous prospects turn out to be only possibilities on paper, there is nevertheless a lesson to be learned. Our position in the world is too dangerous for us to place more trust in Soviet words than in American power. The three year drift in Carter administration foreign policy has left us dangerously exposed, and left the President with no good options.●

LET THE FTC CONTINUE ITS JOB

● Mr. METZENBAUM. Mr. President, within the next few days the Senate will decide on one of the most important questions facing the 96th Congress. Will we keep the interests of the public in mind and permit the Federal Trade Commission to continue to pursue honesty and competition in the marketplace or will we listen to a few powerful economic interests and stop the FTC's efforts midstream?

It is my sincere hope that the Senate will choose to listen to the consumers of this country. In these days of spiraling inflation, people need an FTC which can watchdog the marketplace against anticompetitive and dishonest practices which keep prices artificially high. And if the FTC is to do this job properly then it must be free from the pressures of Congress and special interest groups.

The choice will soon be ours—will we keep the FTC independent and operating fully or will we weaken it by applying a legislative veto and kill several of the Agency's ongoing proceedings? One of the many newspaper editorials in this country which support the proconsumer course is one which appeared in the New York Times on November 20, 1979. I ask that the editorial be printed in the Record in its entirety.

The editorial follows:

Rushing to Gut the FTC

It's open season on the Federal Trade Commission. On the pretext of shielding the innocent from wasteful regulation, Congressmen by the dozen are pressing for legislation to exempt their favorite industries from FTC scrutiny. In fact, the commission has generally acted quite responsibly; this assault on its power is nothing more than special-interest politics.

Congress created the FTC in 1914 to encourage competition and deter business misrepresentation. Only in the last decade, however, have the commissioners chosen to invoke all their powers in defense of market competition. Not surprisingly, such new aggressiveness has bruised many toes along the way.

In the last few months, the industries with the most to lose have lashed back. The House Commerce Committee has now reported a bill giving either house a veto over specific commission decisions. That would create an almost dumbfounding precedent, allowing politicians to override the considered findings of independent regulatory agencies.

Rather than back away from so shameless a proposal, the full House seems determined to roll back proceedings the F.T.C. has already begun. The House has approved a move by Marty Russo, an Illinois Democrat, to block the F.T.C. case against unsavory funeral sales practices. Mr. Russo, it appears, has persuaded his colleagues that insisting on straightforward cost disclosure to grieving relatives is overregulation. And after the Thanksgiving recess, Representative Mark Andrews of North Dakota hopes to forbid the F.T.C. even to look to see whether giant agricultural co-ops like Sunkist and Ocean Spray are jacking up consumer prices through monopolistic marketing practices.

Yet by comparison with moves against the commission in the Senate, the House's actions seem almost benign. Wendell Ford, chairman of a Senate Commerce subcommittee, doesn't believe in the Congressional veto—but he doesn't believe in the F.T.C. either. He would end its current investigations of children's television advertising, used car dealers and tobacco industry health disclosure practices. For good measure, he would eviscerate the commission's general powers to prohibit unfair advertising. And he would terminate the F.T.C.'s investigation of how industry standards are set for everything from hcspital explosion hazards to residential electrical wiring.

Other senators are sharpening other axes. Howard Cannon of Nevada wants to stop the commission's investigation of the insurance industry. The F.T.C. has no authority to regulate insurance; Congress has specifically delegated that to the states. But Senator Cannon's industry friends are furious with the commission staff's suggestion that certain kinds of life insurance are a bad deal for consumers. Senator Howell Heflin of Alabama wants to eliminate F.T.C. authority to force divestiture as an antitrust remedy, even though divestiture is sometimes the only effective remedy. James McClure of Idaho hopes to prohibit F.T.C. intereference in state regulation of professionals—doctors, lawyers, dentists, optometrists—even when such regulations serve mainly to reduce competition.

Opponents of the F.T.C. are surely right that the agency's powers should be reviewed periodically. They are probably right that the commission has not always used its powers wisely. There is no reason, however, to let the F.T.C.'s critics camouflage special interest as regulatory reform. In fact, the success of lobbyists in organizing this Congressional stampede suggests how much an independent Federal Trade Commission is needed. Let us hope that, before they vote to crush the commission, our representatives remember for whom they really work.●

TOM CHAPPELL: SMALL BUSINESSMAN

● Mr. COHEN. Mr. President, last month, small businessmen and women from all over the country convened in Washington for the White House Conference on Small Business. They met to draw up and present to Congress and to the administration a comprehensive agenda for small business in the 1980's.

Among the delegates was Thomas Chappell of Kennebunk, Maine, who was recently featured in an article in the Portland Evening Express.

Tom exemplifies the innovative spirit and determination that have made small business the foundation of our economy. He is a true entrepreneur who developed his own imaginative product line to provide additional choices to the American consumer. It is small business people such as Tom who have been responsible for nearly all major industrial inventions and innovations in this country since World War II.

Perhaps the best way for Congress to encourage the flourishing of this creative spirit is to enact many of the recommendations of the small business conference. I look forward to working with Tom and the other small business delegates from Maine on these issues.

The newspaper article follows:

Tom's Follows "Natural" Route to National Success

(By Jon Halvorsen)

Kennebunk.—Tom Chappell often felt insulted by the television ads he saw for various products and figured, "Why not make something myself?"

So he started his own company and made his own toothpaste. Not to mention toothbrushes, mouthwashes, soaps, deodorants, shaving creams, shampoos, oils and lotions.

Taking advantage of the growing consumer demand for "natural" products—free of artificial preservatives, chemicals and colors—Tom's of Maine Inc., founded nearly 10 years ago, now claims to be the nation's largest manufacturer of natural personal care products.

Started with just a handful of people, the company now employs nearly 40 fulltime workers, and its products are found from California to Australia. Chappell expects the company to gross about $2.5 million this fiscal year—and he predicts the figure will reach $10 million sometime in the 1980s.

"Our corporate goal is to make alternative products, alternative choices for the consumer who prefers natural living products," the tall, softspoken Chappell said in an interview at the company's plant, a converted railroad warehouse.

Chappell, 36, is himself a product of the Sixties, and his company grew out of—and still appeals to—what used to be called the "counterculture."

Raised in Massachusetts, Chappell graduated from Trinity College in Connecticut in 1966. Although never a campus radical, Chappell, like many other students of the time, took a critical view of the way society was being run and sought somethng "simpler, less technologically oriented, more in touch with the earth, the environment."

He gave up his job as a Philadelphia insurance executive and moved to Maine to help his father run a manufacturing business in Biddeford. In 1970, Chappell, his wife Kate and former Rep. Dick Spencer pooled their resources and started their own company, making non-polluting natural soaps and other products.

Eighteen months later, Chappell recalls, they found the only way they could survive was to attract other investors. Now about 15 persons own a chunk of the business, although Chappell and his wife, who writes advertising copy for the company, owns 55 percent of it.

The company used to be known as the Kennebunk Chemical Center Inc., but that title was dropped more than a year ago because of the now-unfavorable connotation of "chemical," Chappell says.

Sales have grown steadily. About 35 percent of the firm's products are shipped to the West Coast and another 35 percent are sold between Boston and Washington, D.C. Five percent are sent to Britain and Australia, and Chappell recently added the Netherlands to his list of customers.

"We used to be unique," Chappell says. "We have a lot of competition now," primarily from two Southern California companies.

Tom's of Maine products are sold mostly in health and natural foods stores, seldom in supermarkets or drugstores. In the beginning, that was "a wise concept for a small company that can't afford to go into the mass market and try to match its resources against Proctor & Gamble or Gillette," Chappell says.

On the other hand, he says, "our problem right now is that we realize our product line has an appeal to the general consumer, and we're wondering whether or not we should make some moves to test our acceptance in the supermarket and the drugstore."

Chappell has a keen knowledge of his customers. More than 80 percent are under age 40; two-thirds are women; a large majority are well-educated and with above-average incomes.

In the company's brochures and letters to retailers and consumers, Chappell, who dislikes Madison Avenue advertising techniques, has addressed himself to "Dear Brothers and Sisters." The phrase now seems outdated and he's often kidded about it. But Chappell always intended it "to be a sincere form of communication to another brother or sister on this earth."

In the company's early years, "it was advantageous to use that language," he says. "Now it's eccentric."

Toothpaste—the company produces 18,000 tubes a day—is his biggest-selling product, and comes in natural spearmint and fennel flavors. And like all the other products the company makes, it has no artificial sweeteners, dyes, and preservatives.

The difference between Tom's Toothpaste and a major brand found in the drugstore "typifies the difference in mentality between my consumer and the general public," he says.

He doesn't make extravagant claims for his toothpaste. "Our product is a simple product. It isn't perceived as a technological development that is designed to make teeth whiter than white, cleaner than clean, harder than hard. Toothpaste, in fact, designed to be a gentle cleanser for the teeth and gums."●

FOR U.S. DEFENSE DEBATE ACCURATE INFORMATION IS NEEDED

● Mr. McGOVERN. Mr. President, the forthcoming debate on the size of the military budget will be one of the most important in the past 30 years. Events in Iran and Afghanistan have raised doubts about our level of military preparedness while the promulgation of a new doctrine portends large increases in the future.

It would be unfortunate if the military budget debate became simply a clash of symbols based on an abstract percentage figure of real growth. If our national defense requires a higher level of military spending, I am prepared to support it. But a higher level must be justified on the basis of need and mission and not because 3 percent is assured to be better than 5 or 10 percent better than 5 percent.

I would like to call to the attention of the Senate two articles which shed some light on the need for accurate factual information about necessary levels of defense spending. A recent article in the Wall Street Journal, entitled "Raising Questions About U.S. Defense Spending," points out that NATO outspends the Warsaw Pact and that as much as one-quarter of Soviet spending is directed against China. The authors ask whether the problem with our defense budget is in its total size or in its allocation of internal mission priorities.

The second article, from the Christian Science Monitor, by Dr. James Treires, questions the validity of the "dollar cost comparison" method used to determine how much it would cost the Soviet Union to purchase its military output in U.S. dollar terms. He suggests that this leads to a bias which inflates Soviet spending figures at the expense of an accurate and realistic picture of the Soviet military threat.

Mr. President, these articles raise important questions which should be considered during the debate on the military budget. I ask to insert them in the Record for the benefit of my colleagues.

The texts of the articles follow:

[From the Wall Street Journal, Feb. 1, 1980]

Raising Questions About U.S. Defense Spending

(By Barry R. Posen and Stephen W. Van Evera)

Even before recent events in Iran and Afghanistan, polls showed a dramatic upsurge in public support for more defense spending. The latest opinion survey, released last week, showed a larger plurality favoring more military spending than any national poll since 1950.

This popular view became official policy in December, as President Carter announced a decision to increase defense spending by 4.85 percent per year in real terms over the next five years. His budget confirmed the decision and already there is talk of higher spending over and above the budget figure. One former top national security official, John Lehman, recently recommended a 10 percent annual defense budget increase, after inflation adjustments. This newspaper suggested 20 percent.

Three basic considerations have been widely overlooked in this national rush to judgment on the defense question. First, few people seem to realize that the NATO states still spend more money on defense than do the Warsaw Pact countries, according to most estimates. The following figures are published by the respected London-based International Institute for Strategic Studies, and agree with data from the CIA:

1978 Defense spending ($ million)

United States	105,135
Other NATO states	74,747
Total NATO	179,882
Soviet Union	148,000
Other Warsaw Pact	12,406
Total Warsaw Pact	160,406

The Soviets outspend the United States, but taken as a whole the Western alliance outspends the Eastern bloc. Furthermore, about one-quarter of the Soviet defense effort is directed against China, rather than NATO, so these figures understate an actual NATO advantage of roughly three to two.

We should not conclude that the U.S. and NATO are without defense problems. Instead, we should ask if more defense spending is the answer.

The U.S./NATO objective is defensive. Defense is usually easier than conquest, if the defender chooses the right defense doctrine. If this is in fact the case, our military now has more than enough resources, as long as these resources are used wisely. If we are weak even though we outspend the Pact states, we should look for errors in our doctrine, force structure and choice of weapons before we spend even more.

Second, the United States still carries an unfair share of the NATO military spending burden.

The U.S. now spends 5.0 percent of her GNP on defense, compared with an average 3.5 percent for our 13 NATO allies. West Germany, for instance, spends only 3.4 percent of her GNP on defense; France spends only 3.3 percent; Italy spends only 2.4 percent; Canada spends only 1.8 percent; and Japan, not in NATO but still an ally, spends only 0.9 percent. Only Britain (4.7 percent) spends nearly what she should.

This inequity arose in the wake of World War II, when we agreed to carry the main burden of European defense while the European economies recovered from the war. Today, however, the West European standard of living approaches our own, and the total West European industrial capacity equals ours. Yet we still subsidize Western Europe's defense.

Why should we now increase this subsidy? Our European and Japanese allies depend on Persian Gulf oil far more than we, yet everyone now assumes that the defense of the Gulf is an exclusive American obligation.

Third, the current debate on defense spending is premised on a false image of the main direction of both the Soviet and American military effort.

Recent press accounts picture a looming Soviet military capacity to intervene in the developing world, and an atrophied American intervention capability. Administration statements indicate that most of the proposed new defense spending will be allocated to forces best structured for Third-World intervention, to counter this alleged Soviet threat.

In fact, the Soviets direct very little of their military effort toward Third-World contingencies, and their current intervention capability is far inferior to our own, which remains quite robust.

The Soviet naval infantry (marine corps) numbers only 12,000 men, compared with 184,000 U.S. Marines. The Soviet amphibious fleet has only one-third the American carrying capacity. The Soviet airlift force can lift only half what U.S. aircraft can move, in millions of ton-miles per day. The U.S. Navy has 14 aircraft carriers operating or under construction, against only five much smaller and less capable Soviet carriers. The Soviets lead the U.S. only in airborne and airmobile troops, 56,000 to 39,000.

Overall, the U.S. now spends 25 percent to 35 percent of its military budget on forces appropriate for third-world intervention—more than we spend on our entire strategic nuclear force—while the Soviets devote less than 10 percent of their defense effort to the same mission. They direct their military effort almost entirely against their chief great-power rivals—the U.S., the other NATO states and China.

We should imitate this Soviet example. Soviet military power is the principal danger we face, and we should buy forces which confront it more directly. Intervention forces fail to do this, so our current investment in intervention capability is arguably too large, rather than too small.

In short, no defense budget increase is justified today, least of all the increase in intervention forces recommended by the President. We confess our national incompetence in military matters when we admit that we cannot defend ourselves even while we and our allies outspend our adversary. If we nevertheless decide that we must spend more, it is our allies, not we, who should bear the burden.

[From the Christian Science Monitor, Feb. 1, 1980]

THE CIA'S FAIRYLAND ESTIMATES OF MOSCOW'S BUILDUP

(By James J. Treires)

For at least a decade, U.S. intelligence agencies have had excellent information on the size, weaponry, and deployment of Soviet armed forces. With today's sophisticated satellites and other types of monitoring, it is impossible for either superpower to develop, test, and put into operation a significant new weapon system without the knowledge of the other.

How, then, did we suddenly discover that there has been an "unprecedented Soviet military buildup" that now threatens to make the United States the Number Two power in the world? How could the Russians have sneaked up on us when we were watching them closely all the time?

If one carefully studies the military debate over the past few years, it becomes clear that the sudden Soviet buildup occurred not in their arms factories and military bases, but in the accounting department of our Central Intelligence Agency. About three years ago, the CIA analysts decided that their previous estimates of the *cost* of the Soviet military establishment were way too low, so they simply doubled their old figures.

Americans concerned with our safety in a dangerous world might well ask what difference it makes. If the military has been taking twice as much of the Soviet budget as we had thought, does that tell us anything significant about the threats their forces might pose to American interests? Of course not.

Why, then, is so much emphasis being placed on the allegation (not, as we shall see, a documented fact) that the Soviets are spending 12 to 13 percent of their gross national product (GNP) on national defense while we are spending only a little more than 5 percent? The only obvious reason for making this argument is to convince the American people that we should be spending more.

It is unfortunate but true that reliable information on Soviet military spending is practically nonexistent. The few figures they publish are aggregates that are based on different statistical concepts and conceal as much as they reveal. Furthermore, prices in a socialist economy reflect government policy rather than market values and are therefore a poor indicator of true costs.

Since credible data are not easily available, anyone can play the game of estimating Soviet military spending, and those who put the most effort into the enterprise are the people who have a vested interest in the result. This includes, of course, the CIA and other members of "the intelligence community."

The method used by the CIA to estimate what the Russians are spending is simple in concept but difficult to defend. They estimate ". . . what it would cost to produce and man in the United States a military force of the same size and with the same weapons inventory as that of the U.S.S.R. and to operate that force as the Soviets do." What the CIA measures, then, is *not* what the Soviets actually spend but what they *would* have spent had they paid their servicemen at U.S. rates, bought their weapons at U.S. prices, and spent the same amount as the U.S. to keep each unit in operation—none of which they actually do.

This may be a "dollar cost comparison," but it is in no way a valid comparison. All the cost data on the Soviet military are U.S. data. Soviet quantities at U.S. prices equal a fairyland budget. The estimating techniques used and the flimsy assumptions underlying them would be laughable if produced by a private researcher. Only the official aura of a government agency and the implied assurance that the CIA knows more than it is telling enables its estimates to be taken seriously.

We know what forces each side has, and we know what ours cost us. But the CIA tells us we must also know how much they are paying for theirs, as if this money comparison could tell us something we need to know to provide an adequate defense for the United States.

The latest CIA report tells us that the Soviet Union spent 50 percent more than the U.S. in 1979 ($165 billion versus $108 billion) and that, for the 1970–79 decade, they spent almost 30 percent more. Since the U.S. has a GNP about twice that of the U.S.S.R., the CIA's figures can only mean that the Soviet people have been undergoing a much greater economic strain than we have experienced. But what does the evidence show?

As the Washington Post noted recently, "Since the beginning of the 1970's, there has been no increase in the average [U.S.] factory worker's take-home pay, the longest plateau of that kind in the country's history." In contrast, it reported in November that "drinking and related problems soar despite increasing Soviet prosperity." While no one claims the Russians enjoy an American standard of living, it is undeniable that theirs has shown some improvement over the past decade while ours has not.

Contrary to what the CIA says, it is the United States, not the Soviet Union, that is overburdened with military expenditures. Our government's exclusive concern with the defense sector and benign neglect of consumer goods industries have so weakened the U.S. economy that it is having great difficulty supporting the military establishment at the current level, let alone the grandiose levels now being talked about.

Anyone who believes the Pentagon's claim that America's current defense burden is the lightest we have borne since 1940 is in for a rude surprise in the months ahead.●

DUMPING BY NONMARKET ECONOMY COUNTRIES

● Mr. HEINZ. Mr. President, a subject of growing importance to our economy is the question of how to measure dumping from nonmarket economies (NMEs). In the interest of furthering debate on this issue, I want to bring to the Senate's attention a copy of a student note on "Dumping by State-Controlled-Economy Countries," from the University of Pennsylvania Law Review (128 U. Pa. L. Rev. 217–243 (November 1979)), even though I strongly disagree with the article's conclusions. The student author takes the position that the Treasury regulations promulgated in August 1978 to "solve" the Polish Golf Car case are the best possible approach to nonmarket economy dumping. The author's view is based in essence on the stated assumption that "per capita GNP as the virtue of correlating closely with the general level of wages," even though the author concedes in passing that some "defenders of free enterprise can be bound to seriously maintain that, for instance, the low labor costs enjoyed by SCE (state-controlled-economy) producers are in theory illusory."

I believe that the supposedly low labor costs of NME producers are illusory, because they do not include the subsidization of wages by the state which is implied by the free or low-cost housing, medical care, and many other benefits which are paid for by private enterprise in free-economy countries as part of the wage package.

The article views the importance of the Treasury regulations as improving access for nonmarket economy exports to this country. This represents a substantial misreading of the purpose of the U.S. unfair trade laws.

The purpose of these laws, including the antidumping law, is neither to improve nor restrict access to the U.S. market. They are not intended to "tilt" the rules in order to ease or hamper the entry of goods from a given foreign producer. Instead, the purpose of the rules is to enable all producers, both United States and foreign, to have access to the U.S. market under the same basic free market rules—rules which require the producers to be governed by the bottom line of a profit-and-loss statement.

While special procedures are required to determine whether or not dumping has occurred from nonmarket economies, because their internal economies are not run on the basis of profit-and-loss, nevertheless, the underlying purpose of the dumping laws remains the same. As the author points out, it is up to Congress, and not the executive branch or the courts, to amend the antidumping laws.

We believe that the Treasury, in its August 1978 regulations, greatly exceeded the intent of the Congress which passed the Trade Act of 1974, and took it on itself to rewrite the antidumping laws both in order to resolve one specific case in favor of the Polish state golf car producer, and, in general, to make it easier for nonmarket economies to sell here, no matter what their prices.

Senator ROTH and I have sponsored a bill, S. 1966, which seeks to give all producers access to the U.S. market on the same terms, while allowing nonmarket economy producers the benefit of being able to sell here at the lowest average price of any other producer.

We believe that our proposal represents a means of determining whether dumping has occured from a nonmarket economy which is fair both to domestic industry and the nonmarket economy countries which seek better relations with us, while not depriving U.S. consumers of the benefits of low-cost imports. In addition, our proposal offers a guideline which provides importers with certainty and predictability—rather than the uncertainty and possibility of manipulation built into the current regulation. Nevertheless, we welcome debate on this matter, as this article will stimulate, and hope the fullest possible expression of views will occur. Mr. President, I ask that the article be printed at this point in the RECORD.

The article follows:

Dumping By State-Controlled-Economy Countries: The Polish Golf Cart Case And the New Treasury Regulations

Following the conclusion of the Multilateral Trade Negotiations in Geneva earlier this year,[1] Congress in July passed implementing legislation in the Trade Agreements Act of 1979.[2] That Act makes sweeping changes in the administration of the antidumping laws and expressly repeals the Antidumping Act of 1921.[3] But it leaves untouched those substantive provisions addressed to dumping by state-controlled-economy (SCE) countries,[4] a subject of continuing controversy in recent years.[5]

Dumping occurs when a foreign producer sells his goods in the United States at less than fair value.[6] If such sales are taking place, and are causing or threatening to cause material injury [7] to an industry in the United States, or if the sales are materially retarding the establishment of a domestic industry, then an antidumping duty is added with the aim of bringing the United States sale price into line with the fair value of the merchandise.[8] In an ordinary case, involving goods imported from a market-economy country, the fair value, or foreign market value, is determined by the price at which the foreign producer sells his good in his home market.[9] Alternatively, the test of foreign market value may be the price at which the goods are sold for export to countries other than the United States,[10] or it may be the constructed value,[11] computed as the cost of production plus amounts for general expenses and profits.[12]

Special problems arise if these tests for foreign market value are applied to goods imported from state-controlled-economy (SCE) countries. Central planning and the absence of a market structure are widely thought to destroy the usefulness of all three tests as reliable indicators of the value of the goods in question.[13] In recognition of this problem, Congress enacted section 205(c) of the Trade Act of 1974,[14] which provides that the foreign market value of SCE-country imports is to be determined by looking to the price or constructed value of similar products sold or produced in a third or surrogate non-SEC country.

The interpretation of section 205(c) is of very great importance to many communist countries whose trade with the United States has grown rapidly in recent years.[15] To date, the chief experience in applying section 205 (c) has been the *Polish Golf Cart Case*,[16] an antidumping proceeding that has accordingly assumed a significance extending far beyond the manicured golf links of suburban America. A Polish manufacturer of electric golf carts, produced solely for export to the United States, successfully made inroads into the American market. On the basis of the sales prices of a small Canadian producer, the Polish carts were found to be priced at less than fair value,[17] and to be injuring the domestic United States industry.[18] In the duty-assessment stage of the proceedings, however, the Canadian manufacturers' output was no longer deemed sufficient to reflect foreign market value, and the Treasury Department, for lack of any other foreign cart manufacturer of adequate size, announced its intention to use the domestic prices of United States manufacturers as the determinant of the competing Polish golf carts' foreign market values.[19] That predicament elicited howls from Polish trade representatives and catalyzed a rethinking within the Treasury,[20] which ultimately led to the promulgation of new Treasury regulations in August, 1978.[21] Under the new regulations, the use of third-country prices and production costs is circumscribed by a requirement that the third country be one at a stage of economic development comparable to that of the exporting SCE country.[22] In addition, if, as in the Polish case, no comparable market-economy country produces a similar product, a constructed value test may be employed which first ascertains the actual physical inputs in the SCE manufacturer's production process, and then values those inputs in the economic setting of a comparably developed market-economy country.[23]

In part I, this Comment briefly reviews the economic theory of the antidumping law, the history of efforts by the Treasury, prior to 1974, to apply the law to SCE countries, and the problems confronting the SCE producer under section 205(c). Part 11 develops the facts of the *Polish Golf Cart Case*, and part III, discussing the controversy surrounding the September, 1978, Treasury regulations, concludes that the regulations are consistent with the statute and based on sound policy considerations.

I. ANTIDUMPING THEORY, THE THIRD-COUNTRY TEST, AND SECTION 205 (C)

A. The economic theory of antidumping laws

The classic definition of dumping as "price discrimination between national markets." [24] was formulated by Jacob Viner in 1923. Specifically, dumping occurs when a foreign producer sells his goods for export to a target market at prices lower than he sells those same goods in his own home market.[25] From a theoretical economic viewpoint, dumping, or selling abroad at less than "fair value," is not evil per se.[26] If a steady stream of goods at differentially low prices could be guaranteed, no harm would ultimately result. Injury to the target market's domestic industry would be more than offset by the benefit of a constant supply of cheap goods. But if the seller cuts short the stream of cheap goods once he has eliminated the target market's domestic competition, and raises the prices of his goods to artificially high and noncompetitive levels, the long-range injury to competition in the target market outweighs the temporary benefit of lower prices.

According to the theory of international free trade, free competition among nations will maximize efficiency and result in lower prices, as each nation specializes in producing those goods for which it is best suited.[27] Short-run or predatory dumping of the kind just described, because it derails this "natural law" of comparative advantage, constitutes an unfair international trade practice, against which nations espousing free trade principles may legitimately defend themselves. Significantly, however, to avoid a protectionist result, laws designed to combat dumping must not place sanctions on all imports that undersell domestic goods,[28] but only on those imports that undersell domestic goods by exploiting an artificial or anticompetitive advantage. Price-discriminatory exports are taken to indicate just such an artificial advantage, on the assumption that the lower export prices are subsidized by higher prices in the dumper's home or other markets and thus do not reflect the fair value of the goods, understood as cost plus profit.[29]

Thus, the real cost of the imported goods, whether reflected by home market prices, export prices, or some hypothetical construction, must be the touchstone of any investigation to determine whether dumping has occurred. When cost or price data are unobtainable or unreliable, the conventional economic theory underlying antidumping laws breaks down, and attempts to discover the value of imported goods may degenerate into mere speculation.

B. Application on the Antidumping Act to State-controlled economy countries prior to 1974

State-controlled-economy (SCE) countries present special problems for the calculation of foreign market value. The normal tests, based on the price in the home market, the export price to countries other than the United States, or the constructed value, all presuppose a free market in which prices are set by the rise and fall of supply and demand. In a planned economy, however, home market prices are fixed by governmental authorities on the basis of production or import goals and projected demand elasticity,[30] and need not ultimately reflect the true costs of production. Export prices to countries other than the United States may give no better clue to actual production costs in an SCE country because they, too, are likely to be determined by noneconomic influences.[31] As with prices, the attempt to arrive at actual costs by means of a constructed-value test encounters the fundamental difficulty of ascertaining values in a nonmarket economy.

When the Antidumping Act of 1921 was adopted,[32] dumping by SCE countries was not a pressing problem. The only SCE country then existing, the Soviet Union, was still in its infancy, and the Act understandably contained no provisions concerning economies not organized on free market principles. As market-economy countries and SCE countries alike became interested during the 1950s in increased East-West trade, the shortcomings of the 1921 Act soon became apparent.

In the first case in which imports from an SCE country were found to be selling at less than fair value, *Bicycles from Czechoslovakia*,[33] Treasury employed neither the home market price nor the export price nor the constructed value. In their place, a new "third-country" [34] test was applied, which looked to the home market or export price of similar merchandise produced in a non-SCE country.[35] In *Jalousie-Louvre-Sized Sheetglass from Czechoslovakia*,[36] the third-country price test was made explicit, and the possibility of using a constructed-value test was rejected because of an asserted lack of data on costs, expenses, and profits.

Authority for this rejection of the statutory methods of calculation was eventually offered in *Portland Cement from Poland*,[37] in which the Treasury concluded that sales in an SCE country do not qualify as sales "in the ordinary course of trade" as required by

---

Footnotes at end of article.

the Act.[38] Such an interpretation found support in *J. H. Cottman & Co.* v. *United States*,[39] a decision of the Court of Customs and Patent Appeals holding that the "ordinary course of trade" referred to conditions in a free market economy, where competitive forces are allowed to operate without restrictions.[40]

The third-country test was used consistently during the 1960s.[41] Occasionally, adjustments were allowed for differences in transportation costs, quality, and productive efficiency.[42] As trade with SCE countries continued to increase, however, Treasury's ad hoc treatment of the problem was brought to the attention of Congress. The result was section 205(c) of the Trade Act of 1974.[43]

C. Section 205(c) of the Trade Act of 1974

Section 205(c) enacted the Treasury's third-country test into law. If the Secretary finds that the exporting economy is state-controlled to the extent that foreign market value cannot be calculated by the ordinary tests,[44] he may employ:

> (1) the prices . . . at which such or similar merchandise of a non-state-controlled-economy country or countries is sold either (A) for consumption in the home market of that country or countries, or (B) to other countries, including the United States; or
>
> (2) the constructed value of such or similar merchandise in a non-state-controlled-economy country or countries. . . .[45]

Although section 205(c) itself stated no preference, prior Treasury practice tended to rely on third-country prices and not on constructed values.[46]

Like the Treasury's ad hoc third-country price test, the price test option embodied in section 205(c) confronts the SCE exporter with substantial uncertainties not faced by his capitalist counterpart. Imagine an SCE exporter who wishes to sell his product in the United States for $100. A similar domestic United States product sells for $140, and similar West German merchandise costs the United States consumer $135. A Japanese firm sells the same article for consumption in Japan for only $99.[47] Depending on which foreign country is selected by the Treasury as the third country, the foreign market value of the SCE exporter's product may range from $99 to $135. Unlike the market-economy exporter who enjoys a reasonable assurance that the foreign market value of his products will be determined by his home market prices or his export price to other countries—prices which he surely has knowledge of and over which he exerts control—the SCE exporter has no way of knowing whether he is dumping until an antidumping proceeding gets under way.[48]

The unfairness of selectively imposing these risks on SCE exporters is further magnified by an ambiguity in the language of section 205(c), which can be read to allow selection of the United States as the third country whose home market or export price is determinative of foreign market value. Thus, in the illustration above, the Treasury would be free to find the United States manufacturer's price of $140 as the price "at which such or similar merchandise of a non-state-controlled-economy country [the United States] . . . is sold . . . for consumption in the home market. . . ."[49] Unless used with restraint, such a construction of the Act, although perhaps supported by the legislative history,[50] is patently protectionist. Freewheeling use of domestic United States prices as the standard of fair value effectively eliminates competition by SCE imports. Because the exporter's costs of packaging, shipping, and insurance would have to be added to the United States manufacturer's price,[51] the imported goods would have to be sold at higher prices than the domestic variety.

On its face, section 205(c) puts the SCE producer at a further disadvantage because it does not provide for adjustments based on proven economies.[52] An efficient producer in a free market economy can avoid antidumping duties and reap the benefit of his lower costs by evenhandedly selling at low prices in his home market as well as in the United States. No matter how efficient or evenhanded the SCE exporter, the Trade Act of 1974 does not expressly provide that his efficiency shall be taken into account. The "value" of his goods will be determined, not by reference to his costs or his sales, but by reference to the sales or costs of an undetermined, possibly less efficient manufacturer in a third country.

These problems with the application of section 205(c)'s foreign market value tests to SCE countries—the gross uncertainty, the possibly unrestrained use of United States domestic prices, and the omission of provisions permitting cost-justified adjustments—all derive from a common source: the failure to assure that the resulting foreign market value reflects the true costs of production. Such a departure from cost considerations creates havoc because it runs counter to the basic principles underlying United States antidumping law. That law was intended to prevent unfair competition by prohibiting predatory dumping, not to protect United States industry from efficiently made, lower-priced imports.[53] Without a method for approximating the SCE exporter's actual costs, any determination of the foreign market value of his goods is necessarily arbitrary. The tests contained in section 205(c), because they may be applied without regard to actual costs, do not adequately restrain the potential use of antidumping law as a protectionist barrier to East-West trade.

Focus on these issues of valuation sharpened in the *Polish Golf Cart Case* and eventually resulted in the promulgation of new regulation.

II. THE POLISH GOLF CART CASE

Beginning in 1971, Poland began to export to the United States its Melex golf carts, designed on the model of the E-Z Go cart made by Textron, Inc., the number one United States manufacturer.[54] In 1974, nearly seven thousand Melex carts were sold, accounting for twelve percent of all golf carts sold in this country.[55] In April of that year, Harley Davidson Motor Co., Inc., the second largest domestic manufacturer of golf carts,[56] filed with the Treasury Department a complaint alleging that Pezetel, the Polish manufacturer, was selling its golf carts in the United States at less than fair value.[57] Shortly thereafter, Treasury announced the institution of an inquiry into the charges,[58] followed in March, 1975, by a notice of withholding of appraisements,[59] a procedure mandated by its finding that reasonable grounds existed for suspecting that the Polish golf carts were being sold at less than fair value. Finally, on June 11, 1975, Treasury announced that its reasonable suspicions had hardened into a firm determination of less-than-fair-value sales.[60]

Over the objections of Harley Davidson, Treasury's calculation of the foreign market value of Melex golf carts in this initial phase of the proceedings was based on the 1974 sales of a small Canadian manufacturer, Marathon Golf Car Co., Ltd.[61] Harley Davidson urged Treasury to use the higher sales prices of domestic United States manufacturers. For its part, Pezetel, also unhappy with Treasury's methodology, complained that Treasury ignored two independent studies of the constructed value of Polish golf carts as produced under Canadian conditions; both studies showed that the carts were not being dumped.[62] The Treasury's calculations, according to Pezetel, while concededly allowing a small adjustment for economies of scale,[63] failed to take into account significantly lower labor costs in Poland.[64] Notwithstanding these objections, Treasury calculated foreign market value on the basis of the Canadian manufacturer and found substantial dumping margins, in some cases exceeding twenty percent, for all Melex sales in 1974.[65]

In September of 1975, the International Trade Commission found that less-than-fair-value sales of Polish golf carts had injured the domestic industry,[66] and the case entered the duty-assessment stage.

No duties were liquidated until mid-1977, when Treasury, on the basis of the 1974 Marathon prices adjusted for inflation,[67] assessed duties of up to $155 per cart for the first eight months of 1975 and collected more than $600,000.[68] Although the question has been disputed, it appears that by 1976, Marathon's production of golf carts no longer sufficed to form the basis of a foreign market value determination for the continuing influx of Melex golf carts.[69] At first indicating that duties for the first three quarters of 1976 would again be assessed on the basis of adjusted 1974 Canadian sales,[70] Treasury later reversed itself, yielding to Harley Davidson's persistent contention that the domestic prices of a United States manufacturer should be the referrent for the foreign market value of the Polish golf carts.[71]

This result vexed the Poles, who argued forcefully that use of domestic United States prices would effectively bar Melex carts altogether. When the additional costs of ocean freight, insurance, and normal duties were taken into account, Pezetel would be required to sell its golf carts at prices substantially higher than those of United States models.[72] That anomaly was not lost on Treasury officials,[73] and discussions within the Treasury Department and with Polish trade representatives led eventually to proposal of new regulations in January, 1978.[74] On September 8, 1978, those proposed regulations, with modifications, became effective.[75]

The brief history recounted here suffices to show that prior to the September, 1978, regulations, the Polish manufacturer faced an American bureaucratic nightmare of Kafkaesque dimensions. The extreme injustice of using domestic United States prices as the test of the foreign market value of Melex carts only compounded the unfairness of computing the carts' value without regard to the claimed cost and production advantages achieved by Pezetel's efficient operation.[76] Moreover, Pezetel confronted the uncertainty of not knowing from week to week how the value of its golf carts would be measured. In the words of Pezetel's special counsel:

> "In short, for the last three years, Pezetel has been confronted with endless shifting and unclear interpretations of the applicable statute, and unfair and arbitrary resolutions of the factual issues under that statute. As a result, it is now utterly impossible for Pezetel (and the whole of Polish industry) to determine what is required of it by American law, or to know whether or not it is considered to be dumping. In fact, in the past six months, various Customs officials have given Pezetel estimates of foreign market value ranging from $643 to $1300."[77]

III. THE SEPTEMBER, 1978, TREASURY REGULATIONS

The new regulations promulgated by the Treasury,[78] effective September 8, 1978, go a long way towards solving the problems with section 205(c) so pointedly raised by the *Polish Golf Cart Case*. They begin by stating that price or constructed value shall be computed from cost and price data in a market-economy country *at a stage of development comparable* to the exporting SCE country.[79] If no comparable market-economy country can be found, the price or constructed value shall be measured by data taken from a non-

---

Footnotes at end of article.

comparable market-economy country *other than the United States.*[80] If that option fails to provide an adequate basis for determining foreign market value, then, and only then, will the Treasury resort to United States domestic prices or costs.[81]

With respect to constructed value, the regulations provide that the SCE manufacturer may furnish data on the "specific objective components" of production, such as hours of labor, quantities of raw materials, and amounts of energy consumed. These components, if verified, will then be valued in a comparable non-state-controlled-economy country. Two criteria of comparability specifically endorsed by the regulations are per capita agross national product and infrastructure development.[82]

Although the new regulations do not eliminate the hazards of unpredictability inherent in the statute, they mark a significant advance. Where before the Treasury was free to select any third country as the benchmark of fair value, now the choice is limited, to the extent possible, to third countries of comparable economic development. However uncertain the concept of comparability may be in theory,[83] the regulations give hope of a case-law development which, in practice, will provide increasingly concrete and trustworthy guidelines to the SCE exporter.

The explicit constraints placed by the regulations on the use of United States domestic prices and cost figures constitute a second advance. Although the regulations do not discard this test altogether, a step that would probably have violated the intent of Congress,[84] they make its use highly improbable. The only conceivable situation in which an SCE exporter would be threatened with a finding of foreign market value based on United States manufacturers' domestic prices or costs would be one in which a) no comparably developed economy could be found which produced similar merchandise, *and* b) a constructed value based on the exporter's own production factors could not be calculated because the exporter refused to come forward with the applicable data. In this new setting, then, the domestic United States price or constructed-value tests will serve as a useful spur to disclosure by SCE producers.

A third advantage of the 1978 regulations is the use of data on the "specific objective components" of production in the SCE country, an innovation "which recognizes both natural advantages and possible disadvantages of production for the producer."[85] Under the old regulation, an efficient SCE exporter ran the risk of being saddled with a valuation based on the prices of an inefficient third-country manufacturer. Although he might produce an item with one-half the manpower costs required by the inefficient third-country manufacturer, computation of the foreign market value would ignore the SCE exporter's "specific objective components" of production and thus overlook his efficient use of labor. The amended regulations, to the extent they permit use of constructed value based on actual physical inputs, place the SCE exporter on a more equal footing with his market-economy competitors.

The language of the new regulations,[86] and the Customs Service protestations[87] leave no doubt that price tests will continue to enjoy official preference over constructed value. Nevertheless, in practice, constructed value will enjoy increased use. Under amended section 153.7(c)[88] constructed value may be employed whenever prices of identical or similar merchandise from a comparable economy are not available; in the past, no strict comparability rule limited the use of the price test.[89] Differences in trade behavior between SCE countries and market-economy countries may also work to favor use of constructed value. Most SCE countries, because of central planning, are better able than are market-economy countries at comparable stages of development to channel resources into the manufacture of products specially for export to the United States. Consequently, the advent of the comparable-economy concept may serve to establish constructed value, based on actual physical inputs, as the principal determinant of foreign market value. Because the constructed-value method offers the SCE exporter a more realistic valuation of his goods,[90] this development should exert a beneficial influence on administration of the antidumping law and the future of East-West trade.

A. Statutory objections

Opponents of the new regulations raised two major arguments against them, one statutory and the other economic. First, they contended that the amended regulations were inconsistent with section 205(c) of the Trade Act of 1974. Second, they questioned the theoretical soundness of the concept of comparably developed economies, specifically ridiculing the underlying presumption that economies comparable in macroeconomic terms are also microeconomically similar.

Significantly, the statutory arguments do not rest on the wording of section 205(c),[91] which neither expressly nor impliedly contradicts the new regulations. Instead, the opponents of the regulations, drawing inferences from the legislative history and the past administration of the antidumping law, purported to show that the regulations violate the intent of Congress.

The chief premise of the statutory argument is that by enacting section 205(c), Congress meant to ratify the existing Treasury practice with respect to SCE countries. That practice, as expressed in the pre-1974 regulation[92] and as administered by the Treasury,[93] contained no requirement that the choice of a third country be restricted in the first instance to market-economy countries at stages of development comparable to the SCE country in question. Moreover, nothing in the language of the 1974 amendments, nor in the legislative history, made any reference to the concept of comparability. In adding the comparability requirement, the argument goes, Treasury went beyond the authority given it by section 205(c).[94]

These contentions the Treasury properly rejected. Although both the Senate and the House Reports clearly indicate a congressional intent to give legislative approval to Treasury's pre-1974 practice,[95] such a ratification is hardly inconsistent with the refinement contained in the new regulations. In its early approach to imports from SCE countries, the Treasury invented a procedure for which it had no clear authority under the Antidumping Act of 1921.[96] By filling in that lacuna and clearly expressing its intent to ratify Treasury's innovative use of administrative discretion, Congress did not curtail Treasury's discretion in continuing to deal responsibly with a slippery problem of international trade.[97] It would be odd indeed if Congress's attempt to bestow its stamp of approval had the opposite effect of putting a straitjacket on Treasury's exercise of discretion. Applied generally, that obtuse interpretation of the legislative history of section 205(c) would stymie meaningful collaboration between Congress and the administrative arm of government.[98]

One variation on the legislative history argument contended that the regulations' preference for the constructed-value method when comparable prices are unavailable conflicted with a congressional preference, manifest in the legislative history, that domestic prices of United States producers be used whenever adequate price data from other market-economy countries cannot be found.[99] The legislative history on which the defenders of American industry here relied consists of a single sentence in the Senate Report,[100] which establishes only an intent to "permit" and *not* an intent to *require* use of domestic United States manufacturers' prices in determining fair value. The 1978 regulations are thus consistent with this legislative history, because they provide for the use of those prices when all other prices or constructed-value referents fail.

A third statutory argument presented by representatives of American industry opposed to the new regulations centered on the use of the SCE country's actual physical inputs as the base data for constructed value. They contended that the purpose of section 205(c) was to prohibit consideration of the prices or costs of production in the SCE country. Calculating the costs of production on the basis of verified physical inputs was, according to these opponents, likewise within the Act's proscription.[101]

Responding to this criticism, the Treasury conceded that SCE-country prices and costs are unreliable, but insisted that the actual physical inputs of production can be ascertained without difficulty and then valued in a market-economy country.[102] Such a procedure, the Treasury maintained, effectuates the congressional intent to avoid reliance on artificial price and cost figures, while observing section 205(c)'s directive to find the "normal costs" of imported merchandise.[103]

The regulations' opponents did not lack a reply. Ingeniously they countered that in an SCE country, even the actual physical inputs are skewed because the mix of labor, raw materials, and energy that goes into manufacturing a product ordinarily depends on the relative cost of each factor. In a market-economy country, if labor is cheap and sophisticated machinery expensive, a manufacturer will use relatively more labor. In an SCE country, however, the mix of physical inputs is determined not by market forces, but by government decisionmaking, for instance, state subsidization of automated machinery.[104] A calculus of costs based solely on these physical factors of production thus fails to account for the hidden costs of government intervention in the economy, as, for example, a rise in food prices to finance new technology for the export of lightbulbs. When Congress ruled that prices and costs of an SCE country should not be used to calculate fair value, it was argued, the prohibition extended as well to the actual physical inputs of production.[105]

As a statutory argument, this reasoning is perhaps too clever. At best it demonstrates that Congress would have been consistent had it banned reliance on physical inputs as well as prices. But Congress, it is clear, never considered that eventuality and meant only to confirm the existing practice of the Treasury. Especially when one considers the "principle that the construction of a statute by those charged with its execution should be followed unless there are compelling indications that it is wrong,"[106] it would be difficult to say that the Treasury is mistaken in its understanding of what Congress meant to forbid in section 205(c).[107]

B. Policy objections

In addition to the statutory arguments, the standard of comparability embraced by Treasury's recent regulations has also been subjected to a barrage of criticism on policy grounds. Questioning has focused on the use of per capita GNP as the criterion of comparable development, the availability of GNP figures for SCE countries, the assumption that countries at comparable stages of development have comparable internal costs and prices, and the decision to apply the comparability standard, not to comparable producers or industries in market-economy countries, but rather to comparable market countries as a whole.

Footnotes at end of article

The selection of per capita GNP as the chief criterion for comparing the development of free market and SCE countries was attacked as arbitrary on the ground that other recognized measures of economic development, such as the level of industrialization, yield conflicting results.[108] According to this view, almost any level of development can be assigned to a given SCE country, depending upon the criterion chosen. That other indicia of development yield different results, however, does not impair the validity of Treasury's choice of per capita GNP. The point of selecting a comparably developed economy is to find a surrogate country in which costs and prices most nearly reflect the costs and prices of the SCE country. Per capita GNP has the virtue of correlating closely with the general level of wages,[109] and wages, in general, make up the greater part of production costs. Unlike other criteria of development, such as the level of industrialization, per capita GNP can thus be used to identify the market-economy countries whose labor costs, and overall production costs, will be most comparable to the costs in the SCE country.

The availability of sufficient statistical data to determine the GNP of SCE countries has also been a subject of dispute. Critics of the regulations note that in contrast to market-economy countries, which report gross national product in accordance with the United Nations System of National Accounts, SCE countries report a net material product based on different kinds of data.[110] While acknowledging that projections of GNP for SCE countries have been made, these same critics contend that such estimates are imprecise. On the other hand, economists who have addressed this question have concluded that any imprecision inherent in Western recalculations of GNP figures from SCE countries is not likely to be so statistically significant as to detract from the viability of per capita GNP as a criterion of comparable development.[111]

Although greater statistical exactitude is desirable in this area, it is important to keep in mind the alternative methods of selecting a third country. The relevant question is not whether per capita GNP offers a perfect method of comparison, but whether it represents a significant advance over the former method of selecting a surrogate country virtually at random.[112] Examined in this light, the imperfections in computing GNP figures for SCE countries do not undermine the value of Treasury's new regulations, especially when the availability of additional criteria, such as the level of infrastructure development, is taken into account.

A similar analysis suffices to rebut a third complaint directed at the per capita GNP test. Opponents of the regulations insisted repeatedly that the GNP criterion rested on the fallacious assumption that countries with comparable GNP's have comparable internal costs or prices.[113] Although large differences in particular comparative advantages may not show up in gross figures, they can create severe distortions in particular price comparisons between countries. In mineral-rich nations like Saudi Arabia, for example, higher per capita GNP may coexist with relatively low internal prices. The likelihood of such distortions, according to this view, renders the per capita GNP test worthless as a tool for ascertaining the foreign market value of SCE products.

In its extreme form this argument is misleading. It is true that GNP levels do not accurately reflect the distribution of natural resources among countries. But per capita GNP is a reliable indicator of general wage levels,[114] a major factor in production costs,[115] especially for manufactured items.[116] Moreover, the regulations do not restrict Treasury to this measure alone, but allow comparability to be determined from "generally recognized criteria," including "infrastructure development (particularly in the industry producing such or similar merchandise)."[117] By employing additional criteria of comparability, Treasury will be able to avoid the spectre of grossly distorted price and cost comparisons. Here, once again, a perfect comparison is not the issue, but rather a method that most closely approximates the real value of the imported goods. On this score, no one could reasonably doubt that a market-economy country of matching per capita GNP is a more likely candidate for a fair approximation than a third country selected arbitrarily.

Perhaps the most sophisticated policy argument against the comparability test adopted by the Treasury is that which would place the focus not on comparable economies, but on comparable producers.[118] Treasury's test, the argument begins, is biased in favor of the SCE producer, because it allows the foreign market value of his goods to be computed in accordance with the lower prices or costs of a comparably developed economy, and not on the basis of the higher prices or costs prevailing in more advanced economies where a comparably sophisticated producer would normally be found.[119] Sophisticated manufacturers are typically located in advanced market-economy countries because, there, decisions to invest in labor-saving equipment are private ones, spurred by high labor costs. Where labor is cheap, market forces militate against large capital investments in advanced plants. These market relationships, however, are replaced in the SCE country by government planning, which permits highly automated plants and cheap labor to exist side by side. When such a situation occurs, as it did in the *Polish Golf Cart Case*, Treasury's comparable-economy test gives the SCE producer the double benefit of higher efficiency *and* inexpensive labor.[120] This "unfair" advantage to the SCE producer could be eliminated, according to this view, by basing the selection of a third-country surrogate on the existence of a comparable producer or comparable industry.

The logic supporting the comparable-producer proposal provocatively illustrates section 205(c)'s potential for discriminating against SCE imports on ideological grounds. Instead of seeking to estimate the foreign market value of SCE goods, the comparable-producer test would deprive a country like Poland of its actual cost advantages on the theory that any cost advantage accruing to an SCE country by virtue of its nonmarket orientation must be disregarded as "unfair." In effect, such an approach to valuation would penalize SCE countries for departing from cherished free market principles and would erect an impermeable barrier to SCE imports.

It should be acknowledged that the policy underlying the comparable-producer proposal is not an incoherent one. No doubt ardent defenders of free enterprise could be found who would seriously maintain that, for instance, the low labor costs enjoyed by SCE producers are in theory illusory, and that the higher labor costs prevailing in more advanced market-economy countries constitute the SCE producer's true labor costs. Congress, however, in enacting section 205(c), gave no indication of embracing a theoretical approach to valuation so antagonistic to trade with SCE countries. It was concerned with the more mundane problem of calculating the actual value of SCE imports in the absence of reliable market prices and costs. That pragmatic attitude was also the essence of wisdom. In an increasingly complex and interdependent world economy, cold-war shibboleths adopted for protectionist uses may well close the doors to peace and prosperity.

CONCLUSION

The purpose of United States antidumping law is to discourage unfair price-discrimination practices in the importation of foreign-made goods into the United States. Because of the difficulty of ascertaining the foreign market value of imported goods, there is always a danger that antidumping measures will be subverted to protectionist designs. As a result, domestic markets characterized by excessive concentration, inefficient producers, or inflated prices may be shielded from the healthy competition of lower-priced imports.

This danger is especially acute in the application of the antidumping law to imports from state-controlled-economy countries. Because costs and prices in those countries are set more or less independently of market forces, the ordinary tests of foreign market value do not apply, and valuation is necessarily speculative. Experience with this problem in the *Polish Golf Cart Case* led the Treasury Department, in 1978, to promulgate new regulations which attempt a fairer and more rational valuation of SCE imports.

The new Treasury regulations, although admittedly imperfect, can withstand the criticisms levelled at them by American industrial interests. The statutory objections rely mainly on exaggerated and unconvincing perceptions of congressional intent, while the objections based on policy focus on the regulations' potential problems without denying, or seriously confronting, the obvious inadequacies of the former rules. The one alternative approach advanced by these critics—a proposal that a third country be selected on the basis of a comparable producer—is a thinly disguised vehicle of protectionism, which would erect a barrier to all manufactured products imported from SCE countries.

The importance of the Treasury regulations cannot be over-estimated. In order to improve the balance of payments and increase trade, countries like Poland will increasingly seek to sell in the United States market sophisticated, labor-intensive products that require large capital investment. The *Polish Golf Cart Case* marked the first time an SCE country was successful in pursuing such a course.[121] If, given these economic realities, United States antidumping law is to be amended to discriminate against imports from countries of communist or socialist persuasion, the task belongs to Congress, and not to the executive branch or to the courts.[122] Consistent with the national policy favoring free trade and the will of Congress as expressed in section 205(c), Treasury's September, 1978, regulations take a much needed step towards fair and even-handed application of the antidumping law to imports from SCE countries.

FOOTNOTES

[1] The agreements were signed by the United States on April 12, 1979, House Comm. on Ways and Means, Trade Agreements Act of 1979, H.R. Rep. No. 317, 96th Cong., 1st Sess. 27 (1979) [hereinafter cited as 1979 H.R. Rep.], and President Carter transmitted them to the Congress on June 19. *Id.* 1. The text of the agreements was published in House Comm. on Ways and Means and Senate Comm. on Finance, 96th Cong., 1st Sess., Multilateral Trade Negotiations (Joint Comm. Print, WMCP: 96–18, 1979) [hereinafter cited as MTN Agreements].

[2] Pub. L. No. 96–39, 93 Stat. 144 (July 26, 1979).

[3] *Id.*, Title I, § 106 (repealing 19 U.S.C. §§ 160–173 (1976)).

[4] 19 U.S.C. § 164(c) (1976) (repealed, Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979): current version at *id.*, Title I, § 101, to be

codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1677b(c)). *See* note 23 *infra.*

The term "state-controlled-economy country" has not been defined. With few exceptions, it has been applied to countries usually identified as communist. *See* Anthony, *The American Response to Dumping from Capitalist and Socialist Economies—Substantive Premises, and Restructured Procedures After the 1967 GATT Code,* 54 Cornell L. Rev. 159, 200–01 (1969).

[5] The most recent and comprehensive discussion of dumping by state-controlled-economy countries, presenting a constellation of views by foremost scholars, practitioners, and bureaucrats in the field is Interface One: Conference Proceedings on the Application of U.S. Antidumping and Countervailing Duty Laws to Imports from State-Controlled Economies and State-Owned Enterprises (D. Wallace, G. Spina, R. Rawson, & B. McGill eds. 1979) [hereinafter cited as Interface One] (forthcoming). *See* Anthony, *supra* note 4; Feller, *The Antidumping Act and the Future of East-West Trade,* 66 Mich. L. Rev. 115 (1967); Wilczynski, *Dumping and Central Planning,* 74 J. Pol. Econ. 250 (1966). *See also* Coudert, *The Application of the United States Antidumping Law in the Light of a Liberal Trade Policy,* 65 Colum. L. Rev. 189, 224–27 (1965); Fisher, *The Antidumping Law of the United States: A Legal and Economic Analysis,* 5 Law & Pol'y Int'l Bus. 85, 129–35 (1973); Note, *Treasury Runs the Maze: Less than Fair Value Determinations Under the Antidumping Act of 1921,* 8 Ga. J. Int'l & Comp. L. 919, 928–29, 936–37 (1978).

For general discussions of United States antidumping law in addition to those cited above, see Barcelo, *Antidumping Laws as Barriers to Trade—The United States and the International Antidumping Code,* 57 Cornell L. Rev. 491 (1972); Ehrenhaft, *Protection Against International Price Discrimination: United States Countervailing and Antidumping Duties,* 58 Colum. L. Rev. 44 (1958); Comment, *The Antidumping Act—Tariff or Antitrust Law?* 74 Yale L.J. 707 (1965).

[6] Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 101, 93 Stat. 144 (July 26, 1979) (to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1673).

[7] The requirement that the injury be "material" is a major innovation made by the 1979 Act. *See* 1979 H.R. Rep., *supra* note 1, at 45–49.

[8] Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 101, 93 Stat. 144 (July 26, 1979) (to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1673).

[9] *Id.* (to be codified at 19 U.S.C. § 1677b(a)(1)(A)).

[10] *Id.* (to be codified at 19 U.S.C. § 1677b(a)(1)(B)).

[11] *Id.* (to be codified at 19 U.S.C. § 1677b(a)(2)).

[12] *Id.* (to be codified at 19 U.S.C. § 1677b(e)).

[13] *See* S. Rep. No. 1298, 93d Cong., 2d Sess. 174 (1974) [hereinafter cited as 1974 S. Rep], *reprinted in* [1974] U.S. Code Cong. & Ad. News 7186, 7311.

[14] Pub. L. No. 93–618, Title III, § 321, 88 Stat. 1978 (repealed, Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979); current version at *id.,* Title I, § 101, to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1677b(c)). In its new home at § 773(c) of the Tariff Act of 1930, old § 205(c) now reads:

> If available information indicates to the administering authority that the economy of the country from which the merchandise is exported is State-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a) of this section, the administering authority shall determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either—(1) the prices, determined in accordance with subsection (a) of this section, at which such or similar merchandise of a non-State-controlled-economy country or countries is sold either—(A) for consumption in the home market of that country or countries, or (B) to other countries, including the United States; or (2) the constructed value of such or similar merchandise in a non-State-controlled-economy country or countries as determined under subsection (e).

[15] From 1967 to 1975, United States imports from Poland increased more than 250 percent, from $87.675 million to $234.14 million. Imports from Hungary during the same period multiplied eleven times over, from $5.699 million to $63.710 million, while the influx of goods from Czechoslovakia, rising from $.98 million in 1967 to $37.778 million in 1975, is so great as to render percentages meaningless. [1970–1971] Y.B. Int'l Trade Stats. 31, 167, 628 (United Nations 1973); [1976] 1 Y.B. Int'l Trade Stats. 289, 442, 718 (United Nations 1977). From 1977 to 1978, imports from these same countries continued to grow: Poland, 33 percent; Hungary, 46 percent; and Czechoslovakia, 58 percent. Office of East-West Policy and Planning, Dep't of Commerce, U.S. Trade Status with Communist Counties 4 (May 24, 1979).

[16] The earnest Bluebooker must here confess frustration over his inability to provide the reader with a useful citation. The *Polish Golf Cart Case* is an interminable proceeding about which very little meaningful information has been published by the authorities involved. Although the Treasury Department duly marks significant events in the *Federal Register, e.g.,* 40 Fed. Reg. 25,497 (1975); 40 Fed. Reg. 11,917 (1975); 39 Fed. Reg 20,815 (1974), findings of fact and conclusions of law are only hinted at in these notices so that the researcher has the sensation of a quick glimpse through a small keyhole. No improvement can be expected under Trade Agreements Act of 1979, which, although mandating notice of all final determinations, apparently does not require publication of factfindings and legal conclusions. Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 101, 93 Stat. 144 (July 26, 1979) (to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1673(d)). *See* 1979 H.R. Rep., *supra* note 1, at 69.

A separate antitrust action involving Polish golf carts, Outboard Marine Corp. v. Pezetel, 461 F. Supp. 384 (D. Del. 1978), should not be confused with the antidumping proceeding which is the subject of this Comment.

[17] 40 Fed. Reg. 25,497 (1975).

[18] Electric Golf Cars from Poland, 40 Fed. Reg. 49,153 (1975) (U.S.I.T.C. finding of injury to United States industry).

[19] Letter from Carl W. Schwarz, Counsel for Melex USA, Inc., to Representative Charles A. Vanik, Chairman of the Subcomm. on Trade of the House Comm. on Ways and Means (Apr. 27, 1979), *reprinted in Multilateral Trade Negotiations: hearings Before the Subcomm. on Trade of the House Comm. on Ways and Means,* 96th Cong., 1st Sess. 734, 735 (1979) [hereinafter cited as *1979 House MTN Hearings*].

[20] *Administration of the Antidumping Act of 1921: Hearing Before the Subcomm. on Trade of the House Comm. on Ways and Means,* 95th Cong., 2d Sess. 117, 125 (1978) [hereinafter cited as *1978 Antidumping Act Hearing*] (statement of Charles Owen Verrill, Jr., Counsel to AMF, Inc., and its wholly owned subsidiary, Harley Davidson Motor Co.).

[21] Antidumping Investigation Procedures Under Antidumping Act, 1921, 43 Fed. Reg. 35,262 (1978) (codified at 19 C.F.R. § 153.7 (1979)). Conforming changes were also made to § 153.27, which specifies the nature of the allegations required in a complaint to the Treasury raising a question of dumping. *See* 19 C.F.R. § 153.27 (1979). Although this Comment refers to the "September 1978, regulations" in the plural, it focuses solely on the amendments to § 153.7 and nowhere discusses the technicalities of amended § 153.27. *See* text acompanying notes 78–120 *infra.*

[22] 19 C.F.R. § 153.7(b) (1979).

[23] *Id.* § 153.7(c). The House Report accompanying the Trade Agreements Act of 1979 was careful to avoid expressing any opinion on the Treasury regulations:

> Although this report contains the general caveat that this bill is intended to implement only those changes in domestic law which are considered necessary or appropriate to make U.S. law consistent with the international agreements and is not intended as a general expression of approval of current regulations or administrative practice, the Committee believes it is necessary to emphasize the specific application of that caveat to the current law on dumping from non-market economy countries. The reenactment of current statutory provisions on this subject is not an expression of congressional approval or disapproval of the regulations promulgated by the Secretary of the Treasury on August 9, 1978 (43 F.R. 35262).

1979 H.R. Rep., *supra* note 1, at 76–77.

[24] J. Viner, Dumping: A Problem in International Trade 3 (1923).

[25] Anthony, *supra* note 4, at 159.

[26] For a short discussion of the economics of dumping, see *id.* 163–77. J. Viner, *supra* note 24, is still the major authority on the subject.

[27] *See, e.g.,* P. Samuelson, Economics 668–91 (10th ed. 1976); Anthony, *supra* note 4, at 163–77.

[28] In theory, a foreign manufacturer could dump his goods in the United States even though he sold them at prices equal to or higher than his United States competitors. Dumping that does not undersell domestic prices has been labeled "technical dumping" and will not result in a finding of injury. (concurring statement of reasons of Com- *See, e.g.,* Vinyl Clad Fence Fabric from Canada, 40 Fed. Reg. 51,243, 52,244-45 (1975) m'rs Moore and Ablondi).

[29] *See* Anthony, *supra* note 4, at 166–77.

[30] Feller, *supra* note 5, at 118.

[31] *Id.* 128.

[32] Ch. 14, Title II §§ 201–212, 42 Stat. 11 (1921) (repealed Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979); current version at *id.,* Title I, § 101, to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. §§ 1671–1677g)).

[33] Fed. Reg. 6657 (1960).

[34] The term "third country" is used in this Comment to refer to the selection of a surrogate market-economy country for the purpose of valuing imports from an SCE country. It should not be confused with the test of foreign market value, which looks to the export price to countries other than the United States and which shall be referred to as the export-price test.

[35] *See* Feller, *supra* note 5, at 130, n.65.

[36] 27 Fed. Reg. 8457 (1962).

[37] 28 Fed. Reg. 6660 (1963).

[38] 19 U.S.C. § 164(a) (1976) (repealed, Trade Agreements Act of 1979, Pub, L. No. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979); current version at *id.,* Title I, § 101, to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1677b(a)(1)(A)).

[39] 20 C.C.P.A. 334, 357 (1932), *cert. denied* 289 U.S. (1933).

[40] *See* Feller, *supra* note 5, at 126.

[41] Anthony, *supra* note 4, at 200 & n. 169.

[42] *E.g.*, Cast Iron Soil Pipe and Fittings from Poland, 32 Fed. Reg. 2901 (1967); Shoes from Czechoslovakia, 31 Fed. Reg. 1207, 7087 (1966).

[43] Pub. L. No. 93–618, Title III, § 321, 88 Stat. 1978 (repealed, Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979); current version at *id.*, Title I, § 101, to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1677b(c)).

[44] *Id.*

[45] *Id.*

[46] Anthony, *supra* note, 4, at 200–05.

[47] This hypothetical is adapted from remarks of Professor Stanislaw J. Soltysinski in Interface One, *supra* note 5, at 97.

[48] Congress in 1974 did express concern for the predicament of foreign producers who risk antidumping duties on the basis of prices charged by others and over which they have no control, and accordingly amended § 212(3) of the Antidumping Act to eliminate from the definition of "such or similar merchandise" merchandise "produced by another person." *See* 19 U.S.C. § 170(a) (1976) (repealed, Trade Agreements Act of 1979, Pub. L. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979); current version at *id.*, Title I, § 101, to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1677 (16)); 1974 S. Rep., *supra* note 13, at 177, *reprinted in* [1974] U.S. Code Cong. & Ad. News 7186, 7314; H.R. Rep. No. 571, 93d Cong., 1st Sess. 72 (1973) [hereinafter cited as 1973 H.R. Rep.].

Counsel for Melex USA, Inc., the American subsidy of the Polish golf cart manufacturer, concocted the ingenious argument that this definition must be read into § 205(c), with the result that the third-country-price test can only be employed if the SCE producer is producing goods in a market-economy country, as, for example, if Poland began manufacturing golf carts in a plant in Spain. Comments of Melex USA, Inc., on Proposed Amendments Pertaining to Merchandise from State-Controlled-Economy Countries 7–8 (Feb. 22, 1978) [hereinafter cited as Melex Comments] (copy on file with the University of Pennsylvania Law Review). Although the argument is technically a compelling one, it is readily apparent that strict application of the rules of construction here produces an absurd result. Congress, in endorsing Treasury's existing practice of applying a third-country-price test, could hardly have meant to confine its use in the future to a situation never before encountered.

[49] 19 U.S.C. § 164(c) (1976) (repealed Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979); current version at *id.*, Title I, § 101, to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1677b(c)).

[50] The Senate Report, referring to § 205(c), expressly noted:

> The amendment is intended to permit comparison of the purchase price or exporters' sales price of the merchandise in question with the prices of such or similar merchandise produced in the United States in the absence of an adequate basis for comparison using prices in other non-State-controlled-economy countries.

1974 S. Rep., *supra* note 13, at 174, *reprinted* in [1974] U.S. Cfde Cong. & Ad. News 7186, 7311. The House Report did not take a position on this issue. *See* 1973 H.R. Rep., *supra* note 48, at 157. For the view that the quoted sentence in the Senate report was "a gratuitous addition . . . which had, and has, absolutely no basis in fact or law," see Melex Comments, *supra* note 48, at 13.

Prior to the promulgation of the September, 1978, regulations, the regulations in force provided that United States prices or construed value "generally will be utilized" where sales in market-economy countries other than the United States "do not provide an adequate basis for comparison." 19 C.F.R. § 153.7 (1978). For the full text of the pre-1978 regulation, *see* note 89 *infra*. It is unclear, however, whether the Treasury ever used domestic United States prices as a determinant of foreign market value prior to 1974. *See* 43 Fed. Reg. 35,262, 35,264 (1978).

[51] Letter from Stanislaw J. Soltysinski, Special Counsel to Pezetel, to Robert H. Mundheim, General Counsel, Department of the Treasury (Aug. 25, 1977) [hereinafter cited as Soltysinski Letter] (copy on file with the University of Pennsylvania Law Review), *Contra, 1978 Antidumping Act Hearing, supra note* 20, at 117, 122 (statement of Charles Owen Verrill, Jr.).

[52] Interface One, *supra* note 5, at 75, 82 (address by Deputy Assistant Treasury Secretary Peter D. Ehrenhaft); *id.* 98 (remarks of Professor Stanislaw J. Soltysinski).

[53] 1974 S. Rep., *supra* note 13, at 179, *reprinted in* [1974] U.S. Code Cong. & Ad. News 7186, 7316.

[54] *1978 Antidumping Act Hearing, supra* note 20, at 123–24 (statement of Charles Owen Verrill, Jr.).

[55] Electric Golf Cars from Poland, 40 Fed. Reg. 49,153 (1975).

[56] Letter from Carl W. Schwarz to Representative Charles A. Vanik, *supra* note 19.

[57] *1978 Antidumping Act Hearing, supra* note 20, at 122 (statement of Charles Owen Verrill, Jr.).

[58] 39 Fed. Reg. 20,815 (1974).

[59] 40 Fed. Reg. 11,917 (1975). The notice, in effect, directed customs officers to postpone determinations of the tariff to be levied on Polish golf carts entering the country, pending the outcome of the antidumping proceeding.

[60] Fed. Reg. 25,497 (1975).

[61] 1978 *Antidumping Act Hearing, supra* note 20, at 123. Marathon produced approximately 200 golf carts in 1974, *id.*, in comparison with Pezetel's production capacity of 10,000 per year. *Id.* 129. Counsel for Melex referred to Marathon as a "Mom and Pop" producer of "custom made" golf carts. Letter from Carl W. Schwarz to Representative Charles A. Vanik, *supra* note 19.

[62] Soltysinski Letter, *supra* note 51.

[63] *Id. Contra, 1978 Antidumping Act Hearing, supra* note 20, at 123 (statement of Charles Owen Verrill, Jr., alleging that Treasury granted a substantial reduction for economies of scale).

[64] Soltysinski Letter, *supra* noet 51.

[65] Electric Golf Cars from Poland, 40 Fed. Reg. 49,153, 49,154 (1975).

[66] *Id.*

[67] Comments of Harley Davidson Motor Co. on Proposed Amendments Pertaining to Merchandise from State-Controlled-Economy Countries 8 (Feb. 16, 1978) [hereinafter cited as Harley Davidson Comments] (copy on file with the University of Pennsylvania Law Review).

[68] *Id.*

[69] Counsel for Harley Davidson alleged that Marathon had ceased producing golf carts and had only nominal sales of a utility vehicle that was similar in design. *1978 Antidumping Act Hearing, supra* note 20, at 125 (statement of Charles Owen Verrill, Jr.). Counsel for Pezetel insisted that Marathon was not going out of business, but instead had nearly doubled its 1974 sales in 1976. Soltysinski Letter, *supra* note 51.

[70] Letter from Treasury Secretary W. Michael Blumenthal to Representative Henry S. Reuss (Nov. 28, 1977), *quoted in* Harley Davidson Comments, *supra* note 67, at 8–9.

[71] Letter from Carl W. Schwarz to Representative Charles A. Vanik, *supra* note 19. No duties have yet been liquidated under this standard.

[72] Soltysinki Letter, *supra* note 51.

[73] Letter from Deputy Assistant Treasury Secretary Peter D. Ehrenhaft to Representative Henry S. Reuss (Dec. 28, 1977), *quoted in* Harley Davidson Comments, *supra* note 67, at 8–9.

[74] 43 Fed. Reg. 1356 (1978).

[75] 43 Fed. Reg. 35,262 (1978). The Poles attempted to persuade Treasury to apply the new regulations retroactively to 1975, a move which, if successful, would have avoided heavy duties during 1975–1978 based on United States manufacturers' prices. Treasury appears to have taken a firm stand that the regulations may only be applied to goods entering the country after September 8, 1978, the date when the regulations took effect. *See 1978 Antidumping Act Hearing, supra* note 20, at 117, 126–27.

[76] Soltysinki Letter, *supra* note 51.

[77] *Id.*

[78] 19 C.F.R. § 153.7 (1979):

(a) *General.* If the information available indicates to the Secretary that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of fair value under § 153.2, § 153.3, or § 153.4, the Secretary shall determine fair value on the basis of the normal costs, expenses, and profits as reflected by either:

(1) the prices, determined in accordance with subsection 205(a) and section 202 of the Act (19 U.S.C. 164(a), 161) at which such or similar merchandise of a non-state-controlled economy country or countries is sold either: (i) For consumption in the home market of that country or countries, or (ii) to other countries, including the United States; or

(2) The constructed value of such or similar merchandise in a non-state-controlled-economy country or countries.

(b) *Comparability of economies.* (1) The prices as determined under § 153.7(a)(1), or the constructed value as determined under § 153.7(a)(2), shall be determined, to the extent possible, from the prices or costs in a non-state-controlled-economy country or countries at a stage of economic develop- lar merchandise in a non-state-controlled economy country from which the merchandise is exported. Comparability of economic development shall be determined from generally recognized criteria, including per capita gross national product and infrastructure development (particularly in the industry producing such or similar merchandise).

(2) If no non-state-controlled-economy country, of comparable economic development can be identified, then the prices or constructed value as determined from another non-state-controlled-economy country or countries other than the United States shall be used.

(3) If neither § 153.7(b)(1) nor (b)(2) provides an adequate basis for determining the price or constructed value of such or similar merchandise, then the prices or constructed value, as determined from the sales or production of such or similar merchandise in the United States, shall be used.

(c) *Use of constructed value.* If such or similar merchandise is not produced in a non-state-controlled-economy country which is concluded to be comparable in terms of economic development to the state-controlled-economy country from which the merchandise is exported, the constructed value of such or similar merchandise may be determined from the costs of specific objective components or factors of production incurred in producing the merchandise in question, including but not limited to, hours of labor required, quantities of raw materials employed, and amounts of energy consumed, if such information is obtained from the producer of the merchandise in the state-controlled-economy country under investigation, and verification of such information in the state-controlled-economy country is concluded to the satisfaction of the Secretary. Such components or factors shall be valued and such values verified in a non-state-controlled-economy country determined to be reasonably comparable in economic development to the state-controlled-economy country under investigation. To the values thus obtained, there shall be added an amount for general expenses and profits, as required by section 206(a)(2) of the Act (19 U.S.C. 165(a)(2)), and the cost of all containers and coverings and other expenses, as required by section 206(a)(3) of the Act (19 U.S.C. 165(a)(2)).

[79] 19 C.F.R. § 153.7(b)(1) (1979).

[80] *Id.* § 153.7(b)(2).

[81] *Id.* § 153.7(b)(3.

[82] *Id.* § 153.7(c).

[83] *See* text accompanying note 108–20 *infra.*

[84] *See* note 50 *supra.*

[85] 43 Fed. Reg. 35,262, 35,264 (1978). *See* text accompanying note 52 *supra.*

[86] *See* note 78 *supra.*

[87] "The regulations as adopted should make it clear that costs of production in a non-state-controlled-economy country of comparable economic development will be used only if . . . [p]rice information is unavailable. . . ." 43 Fed. Reg. 35,262, 35,264 (1978).

[88] 19 C.F.R. § 153.7(c) (1979).

[89] *1979 House MTN Hearings, supra* note 19, at 106, 109 (statement of Charles Owen Verrill, Jr.). Prior to the September, 1978 amendments, § 153.7 read as follows:

> If the information available indicates to the Secretary that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of fair value under §§ 153.2, 153.3, or 153.4, the Secretary shall determine fair value on the basis of the normal costs, expenses, and profits as reflected by either:
>
> (a) The prices, determined in accordance with section 205(a) and section 202 of the Act (19 U.S.C. 164(a), 161), at which such or similar merchandise of a non-state-controlled-economy country or countries, including the United States, is sold either (1) for consumption in the home market of that country or countries, or (2) to other countries, including the United States; or
>
> (b) The constructed value of such or similar merchandise in a non-state-controlled-economy country or countries, including the United States, as determined under section 206 of the Act (19 U.S.C. 165).
>
> The prices or the constructed value of the United States produced merchandise generally will be utilized where sales or offers for sale of such or similar merchandise in any other non-state-controlled-economy country do not provide an adequate basis for comparison.

19 C.F.R. § 153.7 (1978).

[90] INTERFACE ONE, *supra* note 5, at 98 (remarks of Professor Soltysinski).

[91] *See* note 14 *supra.*

[92] *See* 19 C.F.R. § 153.5 (1973).

[93] In its discussion of comments submitted on the proposed regulations, Treasury alleged that in selecting third-country surrogates in the past, it had "attempted to select a country that is most like the exporting country." 43 Fed. Reg. 35,262, 35,263 (1978). For this alleged past practice the Treasury did not cite any cases, and one commenter argued persuasively that the case law contradicted the existence of a pre-1974 comparability standard. Memorandum of Westinghouse Electric Corp. on Proposed Amendments Pertaining to Merchandise from State-Controlled-Economy Countries 3–5 (May 22, 1978) [hereinafter cited as Westinghouse Memorandum] (copy on file with the University of Pennsylvania Law Review).

Even assuming that the Treasury had pursued an unannounced policy of selecting third countries on the basis of comparability, it is extremely unlikely that Congress was aware of such an obscure practice when it enacted § 205(c) in 1974. Thus, the Treasury's revelation of its alleged past practice fails to counter the argument that the new regulations were precluded by the mandate of § 205(c). No past practice is needed, however, to reconcile the new regulations with the statute. *See* text accompanying notes 95–107 *infra.*

[94] Westinghouse Memorandum, *supra* note 93, at 1–3; Comments of Westinghouse Electric Corp. on Proposed Amendments Pertaining to Merchandise from State-Controlled-Economy Countries 9 (Feb. 15, 1978) [hereinafter cited as Westinghouse Comments] (copy on file with the University of Pennsylvania Law Review); Harley Davidson Comments, *supra* note 67, at 6–7.

[95] The House Report read:

> A new subsection (c) to § 205 is also added to adopt in the law the substance of the existing Treasury Department practice, as reflected in § 153.5(b) of the Treasury's antidumping regulations (19 C.F.R. 153.5(b)) . . . The amendment would confirm the Treasury practice under which the Secretary makes the necessary dumping determinations with respect to state-controlled-economy countries based on prices at which such or similar merchandise in a non-state-controlled-economy country is sold either for consumption in its home market or to other countries, or based on the constructive value of such or similar merchandise in a non-state-controlled-economy country is sold either for consumption in its home market or to other countries, or based on the constructive value of such or similar merchandise in a non-state-controlled-economy country.

1973 H.R. REP., *supra* note 48, at 72.

The Senate Report stated:

> The second amendment to section 205, to be added as a new subsection (c), also unchanged from the House bill, would adopt, in substance, existing Treasury regulations concerning standards for comparison to be employed in investigations of merchandise imported from State-controlled-economy countries . . . Accordingly, the amendments would confirm the existing Treasury practice . . .

1974 S. REP., *supra* note 13, at 174, *reprinted* in [1974] U.S. CODE CONG. & AD. NEWS 7186, 7311.

[96] Anthony, *supra* note 4, at 201–04. *See* text accompanying notes 32–43 *supra.*

[97] Both the House and the Senate Reports speak of adopting the existing Treasury practice, *in substance. See* note 95 *supra.* These reservations can be read as intending to leave the Treasury free to modify its regulations within the basic framework, endorsed by § 205(c), of using third-country tests to determine foreign market value.

[98] A useful analogy can be found in the doctrine that reenactment of a statute gives legislative sanction to its administrative interpretation. *See generally* K. DAVIS, ADMINISTRATIVE LAW TREATISE § 5.07 (1958). There, too, the question has arisen whether such implied legislative adoption of a regulation prohibits the administrative agency from amending it without express authority from Congress. In Helvering v. Reynolds, 313 U.S. 428 (1941), the Supreme Court answered that question in the negative, noting that the prior administrative construction of the reenacted statute does not "become so embedded in the law that only Congress can effect a change. . . . It gives way before changes in the prior rule or practice through exercise by the administrative agency of its continuing rule-making power." *Id.* 432. K. DAVIS, *supra,* at § 5.10.

Dean Griswold's thinking on the reenactment problem also supports the view taken here. Observing that, in general, the effect to be given to reenactment is "essentially one of administration rather than of law," Griswold, *A Summary of the Regulations Problem,* 54 HARV. L. REV. 398, 423 (1941), he remarked that "there must be freedom in working out the proper construction of a statute in the early days after its enactment." *Id.* 413. Even after an interpretive regulation has been established, it may be that the agency ought to be allowed to amend it prospectively, if not retroactively. *Id.* 416. That the Treasury was involved in just this process of "fine-tuning" its regulations in the early days following the enactment of § 205(c) is apparent—the Department's decision to issue the regulations was prompted by its experience in administering § 205(c), and Treasury announced that it recognized the need to assess the effect of the amendments as soon as possible. 43 Fed. Reg. 35,262, 35,263, 35,264–65 (1978). To the extent that the pre-1978 regulation had become established, Treasury's decision to apply the new regulation prospectively also conformed to the Griswold view. *See* note 75 *supra.*

[99] *1978 Antidumping Act Hearing, supra* note 20, at 117, 122 (statement of Charles Owen Verrill, Jr.); Westinghouse Comments, *supra* note 94, at 11.

This interpretation of § 205(c), if adopted, would put the United States in violation of its international obligations as defined in the Multilateral Trade Negotiations (MTN) just concluded. Article 15 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreements on Tariffs and Trade (Apr. 12, 1979) MTN AGREEMENTS, *supra* note 1, at 30–31, allows the United States to calculate the foreign market value of SCE imports on the basis of a third-country price or constructed value, but limits the use of domestic United States prices by stating: "If neither prices nor constructed value . . . provide an adequate basis for determination of dumping . . . then the price in the importing signatory [the United States price] . . . may be used." *Id.* 30. Consistency with this MTN Agreement mandates that United States prices be employed as the determinants of foreign market value only if both third-country prices and constructed-value prove inadequate.

What effect should be given to Article 15 as a matter of domestic United States law is a question that admits of no easy answer. On the one hand, Congress clearly provided that any portion of the MTN Agreements it approved that conflicted with United States statutes would not take effect as domestic law. Thus if a court were to decide that Congress meant the Treasury to use United States manufacturers' prices before resorting to constructed value, § 205(c) would conflict with Article 15 of the MTN Agreement, and the latter would fall.

On the other hand, the House Report states that Title I of the 1979 Act "encompasses those changes to the current countervailing duty and antidumping laws necessary or appropriate to the implementation of the international agreements on these subjects," 1979 H.R. REP., *supra* note 1, at 45. It also announces the intent of Congress "to make U.S. law and practice consistent with" the Antidumping Code of the General Agreement on Tariffs and Trade (GATT). *Id* 59. Had Congress understood § 205(c) to require use of United States prices before third-country constructed value, a priority inconsistent with the GATT Code, this statement of intent would lead one to expect a clarification of § 205(c). That none was forthcoming suggests that § 205(c) in 1974, and as reenacted in 1979, only allows use of United States prices when third-country-price and constructed value tests are inadequate.

This suggestion is not refuted by the disclaimer in the House Report, *supra*, at 76–77, denying any intent to approve or disapprove the new Treasury regulations. *See* note 23 *supra*. Although those regulations added the comparability criterion, they preserved the former regulations in allowing reference to United States prices only when price and constructed values do not provide an adequate basis for comparison. *See* text of pre-1978 regulation at note 89 *supra*. The House Report's caveat can best be understood as applying to the innovative aspects of the September, 1978, regulations. Had Congress wished to reserve its judgment on the pre-1978 regulation, it might easily have done so.

To summarize—although the question could be decided either way, the most sensible interpretation of Title I of the Trade Agreements Act of 1979 is that Congress intended to adopt Article 15's amendment of the GATT Antidumping Code and thought § 205(c), as elaborated by Treasury's pre- and post-1978 regulations, consistent with that Article. This interpretation also has the advantage of making United States domestic law consistent with international obligations.

[100] 1974 S. Rep., *supra* note 13, at 174, *reprinted in* [1974] U.S. Code Cong. & Ad. News 7186, 7311. *See* note 50 *supra*.

[101] 43 Fed. Reg. 35,262, 36,263 (1978).

[102] *Id.*

[103] 19 U.S.C. § 164(c) (1976) (repealed, Trade Agreements Act of 1979, Pub. L. No. 96–39, Title I, § 106, 93 Stat. 144 (July 26, 1979); current revision at *id.*, Title I, § 101, to be codified as an amendment to the Tariff Act of 1930, at 19 U.S.C. § 1677b(c)).

[104] Westinghouse Comments, *supra* note 94, at 14–15.

[105] *Id.* Similarly it was argued that § 205(c) was intended to prohibit use of GNP figures from SCE countries for the purpose of assessing comparability of economic development. Interface One, *supra* note 5, at 186 (remarks of Richard O. Cunningham); Westinghouse Comments, *supra* note 94, at 12–13. *See* Westinghouse Memorandum, *supra* note 93, at 5–7. Yet no evidence that Congress gave any consideration to the reliability of such macroeconomic data was offered.

[106] Miller 1. Youakim, 440 U.S. 125, 144–45 n.25 (1979) (quoting Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 381 (1969) (footnote omitted)). *Accord*, Board of Governors of the Fed. Reserve Sys. v. First Lincolnwood Corp., 439 U.S. 234, 251 (1978).

[107] As a matter of policy, the failure of the new approach to constructed value to include certain hidden costs of the SCE producer need not be a fatal flaw. Resource allocation, even in an SCE country, is not without limits. Moreover, market-economy-country producers have hidden costs, too, resulting from social legislation tax loopholes, government subsidies, and the like. Any estimate of constructed value is at best an approximation, and the question ought not to be whether the new method of calculation is a perfect one, but whether it permits a more accurate and fairer picture of the value of SCE imports than the former method of selecting a third country virtually at random. Interface One, *supra* note 5, at 75, 85 (address by Deputy Assistant Treasury Secretary Peter D. Ehrenhaft). *See* text accompanying notes 108–20 *infra*.

[108] *1979 House MTN Hearings*, *supra* note 19, at 106, 108 (statement of Charles Owen Verrill, Jr.); *id.* 112–15 (paper by Professor Stanislaw Wasowski, prepared for Harley Davidson Co.).

[109] Interface One, *supra* note 5, at 209 (remarks of Professor Franklyn D. Holzman); *id.* 231 (remarks of Richard O. Cunningham).

[110] *1978 Antidumping Act Hearing*, *supra* note 20, at 117, 127 (statement of Charles Owen Verrill, Jr.); Westinghouse Comments, *supra* note 94, at 12.

In recent years a number of projects have attempted to develop methods for comparing the GNPs of market-economy and SCE countries. The most ambitious study, undertaken by the United Nations Statistical Office and the University of Pennsylvania, and supported by the World Bank, began in 1968 and is now nearing completion. *See* A System of International Comparisons of Gross Product and Purchasing Power: Phase I (I. Kravis, ed. 1975); International Comparisons of Real Product and Purchasing Power: Phase II (I. Kravis ed. 1978).

[111] Interface One, *supra* note 5, at 209 (remarks of Professor Paul Marer); *id.* 209–10 (remarks of Professor Franklyn D. Holzman); *see* Soltysinski, The United States Antidumping and Countervailing Duty Laws from a Socialist Economy Perspective 13–14 (July 21, 1978) (unpublished paper on file with the University of Pennsylvania Law Review).

[112] Interface One, *supra* note 5, at 175, 185 (address by Deputy Assistant Treasury Secretary Peter D. Ehrenhaft).

[113] *E.g., 1979 House MTN Hearings*, *supra* note 19, at 106, 107–08 (statement of Charles Owen Verrill, Jr.); *id.* 114–15 (paper by Professor Stanislaw Wasowski, prepared for Harley Davidson).

[114] *See* note 109 *supra*.

[115] Interface One, *supra* note 5, at 209 (remarks of Professor Franklyn D. Holzman).

[116] *Id.* 229 (remarks of Professor Stanislaw J. Soltysinski).

[117] 19 C.F.R. § 153.7(b)(1) (1979).

[118] *See 1979 House MTN Hearings*, *supra* note 19, at 93, 100–01 (statement of Richard O. Cunningham); Interface One, *supra* note 5, at 187–88 (remarks of Richard O. Cunningham).

[119] *See* note 118 *supra*.

[120] *Id.*

[121] Interface One, *supra* note 5, at 95–96 (remarks of Professor Stanislaw J. Soltysinski).

[122] *See* AFL–CIO v. Kahn, [1979] 5 Lab. Rel. Rep. (24 Wage & Hour Cas.) 162, 170 (D.C. Cir., June 22, 1979) (en banc), *cert. denied*, 99 S. Ct. 3107 (1979). In *Kahn*, the plaintiffs argued that the Council on Wage and Price Stability Act (COWPSA) deprived President Carter of authority to require government contractors to comply with wage and price guidelines. Chief Judge Wright, writing for the court en banc, found support for the President's procurement program in Congress' renewal of COWPSA in 1979 without significant modification. Although he noted that the legislative history of the 1979 extension demonstrated full Congressional awareness of the President's program and contained express assertions of an intent to withhold judgment on its validity, *id.* 1969–70, Chief Judge Wright reasoned that, because "Congress can reverse incorrect Executive interpretations of its statutes and has used that power in the past, . . . [i]n this context, a court could only in the most extreme case find that the Executive has violated the statute." *Id.* 170 (footnote omitted).

A similar approach to the reenactment of § 205(c) in the Trade Agreements Act of 1979 would preclude a judicial finding that the original passage of § 205(c) deprived the Treasury of authority to issue its 1978 regulations. Here the argument is even stronger than in *Kahn*, where Congress merely extended the COWPSA for an additional year without meaningful alterations, because the Trade Agreements Act of 1979 made extensive changes in the antidumping law, but preserved § 205(c) intact. Although, as in *Kahn*, the legislative history evinces an express attempt to avoid the issue of the validity of an administrative action, *see* note 23 *supra*, *Kahn* teaches that these reservations should not be taken at face value. Rather, after *Kahn*, attempts by Congress to duck resolution of a controversy by passing the buck to the courts should be viewed, in all but the most extreme cases, as impliedly approving the questioned administrative practice.●

RULES OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, in accordance with the provisions of section 133B of the Legislative Reorganization Act of 1946, as amended, I submit for printing in the Record the rules of the Committee on Labor and Human Resources.

The rules are as follows:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

(Harrison A. Williams, Jr., Chairman)

RULES OF PROCEDURE

Rule 1.—Unless the Senate is meeting at the time, or it is otherwise ordered, the Committee shall meet regularly at 10:30 a.m. on the fourth Thursday of each month in room 4232, Dirksen Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3.—Meetings of the Committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of Rule 25.7 of the Standing Rules of the Senate.

Rule 4.—(*a*) Subject to paragraph (b), one-third of the membership of the Committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the Committee which is composed of less than a majority of the members of the Committee shall include at least one member of the Majority and one member of the Minority.

(*b*) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the Minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a Minority member, the measure or matter shall lay over for a day. If the presence of a member of the Minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(*c*) No measure or matter shall be ordered reported from the Committee or a subcommittee unless a majority of the Committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each Committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of Rule 25.7 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or the Clerk's designee, shall have the responsibility to make appropriate arrangements to implement this Rule.

Rule 8.—The Committee, and each subcommittee, shall undertake, consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946, as amended, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the Committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of Rule 25.7 of the Standing Rules of the Senate, no person other than members of the Committee, members of the staff of the Committee, and designated assistants to members of the Committee shall be permitted to attend such closed session, except by special dispensation of the Committee or subcommittee or the Chairman thereof.

Rule 14.—The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17.—(*a*) The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the Committee.

(*b*) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: provided, with the concurrence of the Chairman and ranking minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(*c*) The Committee may, by a majority vote, delegate the authority to issnue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to a member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(*d*) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(*e*) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

(I) information relating to employment, education, and background on the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (Part I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the Committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (Part II) shall not be required of any nominee when the Committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time: provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(1)[1] Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and

---

[1] Name changed from the Committee on Human Resources, and subparagraph (1) redesignated as subparagraph (m) by S. Res. 30, 96–1, Mar. 7, 1979.

review, on a comprehensive basis, matters relating to health, education and training, and public welfare, and report thereon from time to time.

* * * * *

7. (a) When the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the Majority Leader and the Minority Leader (or in the event of the absence of either of such Leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The Majority Leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such anonouncement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceedings of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of said members vote to forgo such a record.

Guidelines of the Senate Committee on Labor and Human Resources With Respect to Hearings, Markup Sessions, and Related Matters

HEARINGS

Section 133A(*a*) of the Legislative Reorganization Act reauires each Committee ot the Senate to publicly announce the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of Section 133A(*a*) and in order to assure that members of the Committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each Committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. Seven days prior to public notice of each Committee or subcommittee hearing, the Committee or subcommittee should provide written notice to each member of the Committee of the time, place, and specific subject matter of such hearing, accompanied by a list of those witnesses who have been or are proposed to be invited to appear.

3. The Committee and its subcommittees should, to the maximum feasibly extent, enforce the provisions of Rule 9 of the Committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the Committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the Committee so that there may be full and fair consideration of each bill which the Committee or a subcommittee is marking up the following procedures should be followed.

1. Seven days prior to the proposed date for an executive session for the purpose of marking up bills the Committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(*a*) two copies of each bill, joint resolution, or other legislative matter (or Committee Print thereof) to be considered at such executive session; and

(*b*) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session.

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the Committee or subcommittee (as appropriate) should deliver to each of its members two copies of a cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, each member of the Committee or a subcommittee (as appropriate) should provide to all other such members two written copies of any amendment or a description of any amendment which that member proposes to offer to each bill, joint resolution, or other legislative matter to be considered at such executive session.

4. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the Committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearing conducted by the Committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE REPORTS, PUBLICATIONS, AND RELATED DOCUMENTS

Rule 16 of the Committee Rules requires that the Minority be given an opportunity to examine the proposed text of Committee reports prior to their filing and that the Majority be given an opportunity to examine the proposed text of supplemental, minority, or additional or individual views prior to their filing. The views of all members of the Committee should be taken fully and fairly into account with respect to all official documents filed or published by the Committee. Thus, consistent with the spirit of Rule 16, the proposed text of each Committee report, hearing record, and other related Committee document or publication should be provided to the Chairman and ranking minority member of the Committee and the Chairman and ranking minority member of the appropriate subcommittee at least forty-eight hours prior to its filing or publication.●

AGRICULTURAL ADJUSTMENT ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3398.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 3398) to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. MCGOVERN, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. MELCHER, Mr. YOUNG, Mr. DOLE, and Mr. BOSCHWITZ as conferees on the part of the Senate.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 599 and Calendar Order No. 600.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANGELINA C. BECKMANN

The resolution (S. Res. 348) to pay a gratuity to Angelina C. Beckmann, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Angelina C. Beckmann, widow of Bernard J. Beckmann, an employee of the Senate at the time of his death, a sum equal to eight and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

CAROLYN AND ABRAHAM G. WATSON

The resolution (S. Res. 349) to pay a gratuity to Carolyn Watson and Abraham G. Watson, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Carolyn Watson, mother of W. David Watson, and to Abraham G. Watson, father of W. David Watson, an employee of the Senate at the time of his death, a sum to each equal to two and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. There are none. I thank the Chair.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with page 2 and running through page 9.

Mr. STEVENS. There is no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The legislative clerk proceeded to read the nominations on the Executive Calendar, beginning on page 2.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominations were confirmed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

(All nominations confirmed are printed at the conclusion of Senate proceedings today.)

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I believe that under the order previously entered by the Senate the business on tomorrow will be S. 1468, Calendar Order No. 445, the airport and airway system development legislation, on which some action has already been taken under the time agreement. The only amendments to be in order will be by Messrs. CANNON and SASSER.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I expect rollcall votes tomorrow.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 11 o'clock tomorrow morning in accordance with the order previously entered.

The motion was agreed to; and, at 8:19 p.m., the Senate recessed until Tuesday, February 5, 1980, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 4. 1980:

IN THE AIR FORCE

Gen. James A. Hill, U.S. Air Force, (age 56), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8006, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Robert Couth Mathis, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Philip Charles Gast, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. William Richard Nelson, 311-20-5281FR, U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapter 837, title 10, United States Code:

To be major general

Brig. Gen. Stuart P. French [redacted] FV, Air Force Reserve.

Brig. Gen. Frank E. Humpert, [redacted] FV, Air Force Reserve.

Brig. Gen. Joseph W. Kovarick, [redacted] FV, Air Force Reserve.

Brig. Gen. Donald T. Schweitzer, [redacted] FV, Air Force Reserve.

Brig. Gen. Joseph A. Thomas, [redacted] FV, Air Force Reserve.

To be brigadier general

Col. William W. Basnett [redacted] FV, Air Force Reserve.

Col. James L. Colwell, [redacted] FV, Air Force Reserve.

Col. Arthur W. Green, Jr. [redacted] FV, Air Force Reserve.

Col. Donald J. Licker, [redacted] FV, Air Force Reserve.

Col. Patrick J. Marckesano, [redacted] FV, Air Force Reserve.

Col. Gerald E. Marsh, [redacted] FV, Air Force Reserve.

Col. Louis C. Riess, [redacted] FV, Air Force Reserve.

Col Thomas F. Talbot [redacted] FV, Air Force Reserve.

Col. James D. Thurmond, [redacted] FV, Air Force Reserve.

Col. James L. Tucker, Jr. [redacted] FV, Air Force Reserve.

Col. James C. Wahleithner, [redacted] FV, Air Force Reserve.

Col. Robert A. Wheasler, [redacted] FV, Air Force Reserve.

The following officers for temporary appointment in the U.S. Air Force to the grades indicated, under the provisions of chapter 839, title 10, of the United States Code:

To be major general

Brig. Gen. John T. Randerson, [redacted] FR, Regular Air Force.

To be brigadier general

Col. Donald O. Aldridge, [redacted] FR (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. James T. Boddie, Jr [redacted] FR Regular Air Force.

Col. Thomas C. Brandt [redacted] FR, Regular Air Force.

Col. William J. Beckner, Jr., [redacted] FR, Regular Air Force.

Col. America P. Bruno [redacted] FR, Regular Air Force.

Col. Duane H. Cassidy [redacted] FR, Regular Air Force.

Col. William M. Constantine, [redacted] FR, Regular Air Force.

Col. James F. Culver, [redacted] FR, Regular Air Force, Medical.

Col. Charles J. Cunningham, Jr., [redacted] FR, Regular Air Force.

Col. Lewis G. Curtis, [redacted] FR, Regular Air Force

Col. James C. Dever, Jr. [redacted] FR, Regular Air Force.

Col. William L. Doyle, Jr., [redacted] FR, Regular Air Force.

Col. Richard H. Dunwoody, [redacted] FR, Regular Air Force.

Col. Archer L. Durham [redacted] FR, Regular Air Force.

Col. Duane H. Erickson, [redacted] FR, Regular Air Force.

Col. Edward N. Giddings, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Donald W. Goodman, [redacted] FR, Regular Air Force.

Col. William A. Gorton, [redacted] FR, Regular Air Force.

Col. David M. Hall, [redacted] FR, Regular Air Force.

Col. Charles R. Hamm [redacted] FR, Regular Air Force.

Col. Elbert E. Harbour [redacted] FR, Regular Air Force.

Col. Winfield S. Harpe [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Harley A. Hughes, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John P. Hyde, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Richard A. Ingram [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Avon C. James, [redacted] FR, Regular Air Force.

Col. Buford D. Lary, [redacted] FR, Regular Air Force.

Col. Albert J. Lenski, [redacted] FR, Regular Air Force.

Col. Leland K. Lukens [redacted] FR, Regular Air Force.

Col. Sheldon J. Lustig [redacted] FR, Regular Air Force.

Col. James P. McCarthy, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Richard L. Meyer [redacted] FR, Regular Air Force.

Col. Monte B. Miller, [redacted] FR, Regular Air Force, Medical.

Col. Joseph D. Mirth, [redacted] FR, Regular Air Force.

Col. George L. Monahan, Jr., [redacted] FR, Regular Air Force.

Col. Joe P. Morgan, [redacted] FR, Regular Air Force.

Col. David L. Nichols, [redacted] FR, Regular Air Force.

Col. William E. Overacker, [redacted] FR, Regular Air Force.

Col. Maurice C. Padden, [redacted] FR, Regular Air Force.

Col. Gerald W. Parker, [redacted] FR, Regular Air Force, Medical.

Col. Walter H. Poore, [redacted] FR, Regular Air Force.

Col. Allen K. Rachel, [redacted] FR, Regular Air Force.

Col. Bernard P. Randolph, [redacted] FR, Regular Air Force.

Col. Bealer T. Rogers, Jr., [redacted] FR, Regular Air Force, Medical.

Col. Thomas W. Sawyer, [redacted] FR, Regular Air Force.

Col. John A. Shaud, [redacted] FR, Regular Air Force.

Col. Robert D. Springer [redacted] FR, Regular Air Force.

Col. C. C. Teagarden, [redacted] FR, Regular Air Force.

Col. Larry N. Tibbetts, [redacted] FR, Regular Air Force.

Col. Marion F. Tidwell [redacted] FR, Regular Air Force.

Col. Jerry W. Tietge, [redacted] FR, Regular Air Force.

Col. William T. Tolbert [redacted] FR, Regular Air Force.

Col. William T. Twinting, [redacted] FR, Regular Air Force.

Col. Regis A. F. Urschler, [redacted] FR, Regular Air Force.

Col. Wilma L. Vaught, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Paul D. Wagoner, [redacted] FR, Regular Air Force.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Charles Dounley Barrett, [redacted].

Brig. Gen. Bill Charles Branson, [redacted].

Brig. Gen. Robert Earl Crosser, [redacted].

Brig. Gen. Berwyn Fragner, [redacted].

Brig. Gen. John Edward Gecks, [redacted].

Brig. Gen. Willard Eugene Hanshew, [redacted].

Brig. Gen. Evan LeRoy Hultman, [redacted].

Brig. Gen. Lawrence Wilford Morris, [redacted].

Brig. Gen. Zack Church Saufley, [redacted].

Brig. Gen. Robert LeRoy Shirkey, [redacted].

Brig. Gen. Stanford Joyner Skinner, [redacted].

Brig. Gen. Gorman Curtis Smith, [redacted].

Brig. Gen. William Doyle Tidwell, Jr., [redacted].

To be brigadier general

Col. James Earl Harrell, [redacted].

Col. Theodore Walter Paulson, [redacted].

Col. Louis Lynn Stuart, Jr. [redacted].

Col. Clifton Clay Capp, [redacted].

Col. Robert Osie Bugg, [redacted].

Col. Curtis Duane Norenberg, [redacted].

Col. Lewis Julian Reynolds, Jr., [redacted].

Col. Warren Alexander Edward Magruder, [redacted].

Col. Roy Copper Gray, Jr., [redacted].

Col. Jerold Franklin Pittman [redacted].

Col. James Patrick Noonan, [redacted].

Col. Daniel Clare Helix, [redacted].

Col. James Langton Carroll, [redacted].

Col. Phillip Joseph Zeller, Jr., [redacted].

Col. Norbert Joseph Rappl, [redacted].

Col. Thomas Frances Geagan, [redacted].

Col. Harold Joe Wages, [redacted].

Col. Richard Eldon Leithiser, [redacted].

Col. Douglas John Ewing, [redacted].

Col. Raymond Marvin Jacobson, [redacted].

Col. James Earl Wagner, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. James Frederick Fretterd, [redacted].

Col. Harold Allan Fryslie, [redacted].

Col. James Hubert Lewis, [redacted].

Col. Richard Randolph Reid, [redacted].

Col. Jasper Brabham Varn, Jr., [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. George Joseph Betor, [redacted].

To be brigadier general

Col. Thomas James Cordner, Jr., [redacted].

Col. Lyle Carl Doerr, [redacted].

Col. Joseph Wesley Griffin, [redacted].

Col. Lowell Wesley Ives, [redacted].

Col. Karl Channing Verbeck, [redacted].

Col. David Wilbert Wayt, [redacted].

IN THE NAVY

Vice Adm. Forrest S. Petersen, U.S. Navy, (age 57) for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

IN THE MARINE CORPS

The following-named officer under the provisions of title 10, United States Code, section 5232, to be assigned to a position of importance and responsibility designated by the President, in grade as follows:

To be lieutenant general

Maj. Gen. Paul X. Kelley, [redacted], U.S. Marine Corps.

IN THE AIR FORCE

Air Force nominations beginning Howard J. Alexander, to be colonel, and ending George W. Young, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 20. 1979.

Air Force nominations beginning Robert C. Bonham, to be lieutenant colonel, and ending Leonard F. Nolan, Jr., to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 20, 1979.

Air Force nominations beginning Rallin J. Aars, to be colonel, and ending Fred L. Witzgall, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1980.

Air Force nominations beginning Neil G. Barbour, to be colonel, and ending Beverly R. Dyches, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1980.

IN THE NAVY

Navy nominations beginning Charles E. Aaker, to be commander, and ending C. Clair Wylie, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 20, 1979.

Navy nominations beginning John W. Aldis, to be commander, and ending Kathleen A. Hammel, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1980.

Navy nominations beginning Robert J. Abbott, to be lieutenant commander, and ending Catherine S. Wright, to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1980.

IN THE MARINE CORPS

Marine Corps nominations beginning John H. Adams, to be second lieutenant, and ending Jerry T. Young, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1980.

EXTENSIONS OF REMARKS

A COMPARISON OF WORDS AND DEEDS

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. CHENEY. Mr. Speaker, the distinguished minority whip, Mr. MICHEL, delivered an excellent speech recently in his home State of Illinois in which he compared the President's words to his deeds regarding both domestic and foreign affairs.

I urge my colleagues to read Mr. MICHEL's remarks, which follow:

REMARKS OF CONGRESSMAN BOB MICHEL

In Washington, those moments following the President's State of the Union Address to the Congress are as much a ritual as the speech itself. It is during that period that Members of the House and Senate make the race to the television galleries above the House floor and line up to express their views on the speech.

The challenge of the members is to come up with the catchiest, most descriptive, capsulized critique of the President's address. He who expresses himself best shares those precious network news seconds with the President himself.

This year's State of the Union ritual was no exception. It was played out like a Broadway performance right up to the instant analyses.

This year, however, there was a significant difference in the atmosphere. Those who are always the quickest with the quotable quotations and biting commentaries seemed to be stumbling all over themselves reacting to President Carter's discussions of Iran, Afghanistan, Soviet-American relations and the rest. I, too, had an extremely difficult time assessing his statements on draft registration and the threat of military force against further Soviet aggression. When I got home and heard the newsmen hail the President's remarks as a "complete about face," a "tough message," and a "bold demonstration of American resolve," I suddenly realized why I had failed the challenge of the post-State of the Union press competition.

There really wasn't much in President Carter's speech to criticize. As are most of the President's major addresses, it was a good speech, well-delivered, with something for everyone. It was tailored to the mood of the country. The President said what everyone wanted to hear and said it the way they wanted to hear it, firmly.

But the speech was still very troublesome. I could not find the words to compliment it any more than I could find reason to criticize it. I realized that while the speech was well done, it was also thoroughly and utterly irrelevent to the times and the situation.

President Jimmy Carter has joined the ranks of a very select group of American Presidents whose enunciations of American policy came to mean absolutely nothing.

In the case of this Administration, the speech as a tool of political leadership is worthless. It has no substance, because for the past three years, the president has demonstrated that his speeches have no follow-through, no basis in reality, no force of law or action.

It was said of Winston Churchill that during World War II, he enlisted the English language in the cause of freedom. President Carter uses the language as an end in itself. His words are just that: words . . . they have no visible connection with his action or with events as the rest of the world perceives them.

The State of the Union Address did not reflect the state of world affairs, nor did it reveal how the United States would actually react to world affairs.

For example, to the Russians it must mean little that our President said he will stand up to them in the event of further aggression.

As I assess the Russian hierarchy, they are not impressed by the threat, but the probability that the threat will be carried out. President Carter has never stood up to the Russians, whether they be in Cuba, In Ethiopia, Angola, or in Afghanistan—not anywhere. The Russians know him and they know his record.

Secondly, there is the matter of our will to react versus our ability to react. The state of our conventional forces is of critical importance in this war of nerves with the Soviet Union. Regardless of what the President says in his speeches, the Soviets know for a fact that our reserves are down, that our army is poorly equipped, that our Navy is barely seaworthy, and that through three years of capitulation in the SALT negotiations, the U.S. has steadily disarmed itself, both strategically and conventionally.

Futhermore, the Soviets don't have to be told that "an attempt by an outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States," and that military force will be used, if necessary, to repel it. Nor do the American people have to be told that.

We do need to know, and the Soviets need to know, however, what is meant by an "attempt to gain control of the Persian Gulf". Is it overt military aggression against Iran? How about the slow subversive, non-military destruction of a Persian Gulf government? What will the United States respond militarily to, how soon and with what, where? If we are serious about the Southwest Asian crisis, then we have to talk seriously about those questions, and forget the somber, ritualistic political rhetoric. We have to come back to the real world and face the reasons why the Soviets are occupying Afghanistan today.

We have had three years of earnest, sincere, well-written speeches enuniciating American domestic and foreign policies. As well-intentioned as they might be, the people at the top in the Carter Administration have been unable to turn policy into practice. It has gotten so bad that the enunciation of Carter policy is no longer relevant, to the American people, to the Congress, and most importantly, to our allies and adversaries abroad. Now the time of crisis has arrived, and our gestures are empty, our words meaningless and our warnings without weight.

This cavernous gap between what the President says, and what he does, is not confined to foreign policy. The published, but not delivered, State of the Union and the televised version of the address contained some astounding statements and entirely indefensible claims.

He said that he has "developed a very cooperative and productive record with Congress". Such a statement is ludicrous. Most of his legislative intiatives, including some 25 he mentioned in his advance statement, have yet to see the light of day.

He said, "major parts of a comprehensive energy program have been enacted . . ." In three years of inaction and confusion, we have but one expensive, inefficient Department of Energy to list among Mr. Carter's credits.

He said, "We will continue the steady economic policies which have worked to date." What are these steady economic policies which have worked to date?

He said, "The deficit for the FY 1981 budget will be less than half of the FY 1980 budget deficit and will represent a 75 percent reduction from the deficit I inherited." This was an insult to our intelligence. President Carter failed by some $20–$30 billion to meet his goal of balancing the budget by fiscal year 1981, and the reductions he did achieve were the result of $61 billion in higher taxes.

He said, "The decline in defense spending has been reversed." An interesting statement, given the fact that reduced defense spending was the cornerstone of the Carter presidential campaign three years ago, and has been the hallmark of the Democratic Congress since he took office. It is also interesting that President Carter, while a reborn defense spender, has not learned the importance of getting your money's worth. He is spending our defense dollars on refurbishing outdated aircraft, building restricted-range cruise missiles, building slow conventional aircraft carriers, and deploying an MX missile system the wrong way.

Finally, he said inflation isn't his fault because the biggest single factor in the inflation rate increase last year was from skyrocketing OPEC oil prices. He did't tell the American people those oil prices contributed no more than 3 points to the 12.7 rate of inflation. He didn't mention that of 13 industrialized nations which are more dependent on OPEC than we are, only two of them have higher inflation rates.

Japan relies on OPEC for 99.8 percent of its oil and has a 4.2 percent inflation rate.

West Germany relies on OPEC for 96.8 percent of its oil and has a 5.7 percent inflation rate.

Belgium relies on OPEC for 100 percent of its oil and has a 5.1 percent inflation rate.

We get 46.8 percent of our oil from OPEC and our inflation rate as I said is 13 percent.

The same sad commentary can be made about what President Carter has said and is saying about other major issues, such as national health, welfare reform and education. The words have lost their believability because the President has lost his credibility.

The State of the Union speech reflected the state of Jimmy Carter's hopes, dreams and political illusions much more than the real "State of the Union".

Since most of the President's speech and the public's attention has focused on international events I'd like to take a few more minutes to recount some recent history so that those who have already forgotten will have a better perspective of just why we are where we are!

After arriving late last night I read those accounts the Journal Star carried of a random sampling of local peoples' comments on the President's speech, and they prompt me to go into a little more detail.

In words that are fast becoming a legend in their own time, President Jimmy Carter said a month ago that the Soviet invasion of Afghanistan "made a more dramatic change in my own opinion of what the Soviet's ultimate goals are than anything they've done in the previous time I've been in office."

I have no doubt of the President's sincerity when he said the Afghanistan invasion "dramatically" altered his view of the Soviet Union's intentions. The record of the past three years shows that President Carter was convinced, against the evidence, that his intelligence, good will and powers of persuasion were working wonders with the Soviet Union.

As early in his administration as Tuesday, June 14, 1977, he stated: "I think that in general we're moving in the right direction . . . we've not singled out the Soviet Union for criticism (concerning human rights) . . ."

Those words remind me of that maxim we all learned in our childhood: great oaks from little acorns grow. The seeds of the current international crisis can be traced in part to the President's attitude, early in his administration, that he was moving in the "right direction" with the Soviets.

What did the President mean by those words? Did he really believe that there is a single goal which the Soviet rulers with their Marxist doctrines and the Western nations with their principles could pursue in harmony? It appears that this is precisely what he believed and this misconception has cost us dearly.

It is sometimes argued that the goal of world peace is a "direction" both powers can follow without sacrifice of their respective principles. But what does each side mean by "peace"?

In the West, peace means an atmosphere in which each nation is free to pursue its own destiny without violating other nations' government. The doctrines of the militant Marxist states, "peace" as such is impossible if there are capitalist exploiters anywhere. "Peace" to the Soviet Union can only mean Marxist-Leninist dogma in power all over the world.

To say, then, that the two super-powers have at least the pursuit of "peace" in common is to miss the essential difference between the two: The Soviet Union is inspired by a doctrine at the heart of which is a vision of continual struggle with what it sees as "capitalist exploiters". We have been told in recent years that such doctrine is no longer important in the Soviet Union, that we have what President Carter calls "an inordinate fear of Communism".

I believe the events of the past ten years and particularly recent events in Afghanistan have put that idea to rest. There is much to be feared about the Soviets.

One other point: In that same 1977 news conference the President raised the question of his treatment of the Soviet Union in regard to human rights violations. He almost seemed to be saying that since he had not "singled them out" for criticism, he should be praised for "restraint". But since the Soviet Union is the single greatest violator of human rights on the face of the earth, it is imperative to single them out. Their system is simply not only quantitatively different in regard to human rights violations—it is qualitatively different.

Anyone who treats Chile and the Soviet Union equally when it comes to condemnation of human rights violations is living in a fantasy world. But this is exactly what the President was telling the world he was doing and would continue to do.

In the same news conference, the President said this about then-U.S. Ambassador to the United Nations Andrew Young:

". . . in general I think that Andy Young has been a superb representative of our country . . ."

The name of Andrew Young may not now bring about the kind of emotional reactions it once did. It may be useful to recall what the Chief United States diplomat was saying in his hey-day:

". . . Communism has never been a threat to me . . . Americans should not be upset, because a thousand Cubans or 20,000 Cubans or even 100,000 Cubans anywhere in the world are no threat to the United States . . . Cuban troops helped stabilize the situation in Angola . . ."

Carter never publicly disagreed with or scolded or corrected Young at the time these statements were made. In fact he went out of his way time after time to stand by Young, to "explain" Young's outrageous statements. Small wonder: far from speaking in opposition to the Administration's point of view, Young was simply saying in public what the Carter Administration privately believed.

There are times when you have to put yourself in the other fellow's shoes. Think of it for a moment: what must the Kremlin leaders have thought when they read remarks such as those I have just read? It is clear to me, at least, that given their background, their training and their goals, they must have judged the President to be either naive or terribly uninformed about the nature of the world. Once such an opinion is formed, it is hard to dispel it. So I think it is safe to say that as early as mid-1977, the Soviet rulers had begun to recognize that they were being given an unprecedented opportunity to test the American will.

On December 16, 1977, the President gave his opinion concerning relations with the Soviet Union during the first year of his presidency: "I think our relations with them are much better than they were shortly after I became President. I think they've gotten to know me, and my attitudes, and I think I've gotten to know them and their attitudes much better than before. We've had a very constructive relationship with the Soviet Union, which I think is constantly improving."

It should be emphasized that 1977 was the year in which a Soviet client state like Vietnam committed human rights violations on a massive scale, giving the world for the first time the "boat people" phenomenon. Another Soviet client state, Cuba, had its mercenaries all over Africa. The Soviets continued their build-up of offensive weapons, both conventional and nuclear. The President called this a "constructive relationship."

He was operating within the context of the Andrew Young version of the world, in which the hard outlines or reality are blurred by the distorting effect of self-righteousness.

A few weeks after this news conference he once again met the press. At that time the Soviet Union was busily engaged in the war between Somalia and Ethiopia, selling arms to both sides. The President said that he had "expressed our concern to the Soviets in strong terms."

This Presidential expression of concern did not appear to upset the Soviet Union's rulers. For three years no matter how strong the terms the President used, the Soviet Union just didn't seem to listen to him.

Cuba didn't listen to him.

Vietnam didn't listen to him.

Revolutionary Iran didn't listen to him when he threatened them with military intervention. So he dropped that idea and threatened them with UN sanctions. For some reason this did not frighten them. The President and his advisers must have wondered why. Perhaps it is because after three years of pious words, scare words, soothing words, bold words, words, words, words, from the Carter Administration, words never followed by action, no one really pays attention.

In 1978 in a speech to the graduating class of the Naval Academy, the President said:

"Our long-term objective must be to convince the Soviet Union of the advantages of cooperation and the costs of disruptive behavior."

That sounds nice. But for three years the President did not teach the Soviet Union the costs of disruptive behavior. No wonder his words, like the American dollar, have long since been devalued in the world of international affairs. No wonder the gang in the Kremlin weighed the President's words in the balance and found them wanting.

Needless to say, the cynicism of the Soviet leaders is without limits. Thus, when Carter complained that Brezhnev had lied to him about Afghanistan (a fact that shocked the President and no one else), the Soviet propaganda apparatus attacked Carter as being "bellicose and wicked" precisely what they know he is not. I must confess there have been times during the past three years when, after hearing yet another sermon from the White House, I have wished that the President could find it in himself to be just a wee bit wicked and just slightly bellicose, if only to show he has a change of mood now and then.

The gap between his words and his deeds eventually grew so large that the Soviet rulers, the Ayatollah and the mobs that sacked our embassies decided that little risk is involved in attacking American interests or property.

Now of course we have a new Carter.

Tough. Steely-eyed. The very model of a macho President. For three years he treated our defense forces as if they were barely necessary evils that he would rather forget. These days he sounds like a combination of Stonewall Jackson and George Patton.

When I hear the President rattling his new-found sabre, I am reminded of the story told about Mark Twain. He had an unfortunate habit of swearing. To shock him out of it, his wife one day came up to him and repeated to his face every word she had heard him use. He listened and then said: "My dear, you have the words but you don't have the tune."●

PERSONAL EXPLANATION

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. BARNES. Mr. Speaker, I was absent from the House last week on official business for meetings in the Middle East with Government officials of Egypt, Israel, and Saudi Arabia. I take this occasion to indicate how I would have voted on legislation considered during the period.

Rollcall No. 8, on Monday, January 28. By a vote of 307 to 8, with 5 voting present, the House approved the Journal of the previous legislative day's proceedings. I would have voted "aye."

Rollcall No. 9, on Monday, January 28. By a vote of 335 to 23, the Committee of the Whole agreed to a Public Works Committee amendment to H.R. 4788, the Water Resources Development Act of 1979, authorizing construction of six additional water development projects. I would have voted "aye."

Rollcall No. 11, on Monday, January 28. By a vote of 117 to 263, the Committee of the Whole rejected an amendment by Representative EDGAR of Pennsylvania to H.R. 4788 to delete authorizations for certain water projects. I would have voted "aye."

Rollcall No. 12, on Tuesday, January 29. By a vote of 387 to 6, with 2 voting present, the House agreed to a motion to resolve into the Committee of the Whole for the further consideration of H.R. 4788. I would have voted "aye."

Rollcall No. 13, on Wednesday, January 30. By a vote of 390 to 9, with 2 voting present, the House agreed to resolve into the Committee of the Whole for the further consideration of H.R. 5980, antirecession fiscal assistance. I would have voted "aye."

Rollcall No. 14, on Wednesday, January 30. By a vote of 119 to 294, the Committee of the Whole rejected a substitute amendment by Representative MATSUI of California for an amendment offered by Representative FOUNTAIN of North Carolina to H.R. 5980. I would have voted "no."

Rollcall No. 15, on Wednesday, January 30. By a vote of 185 to 207, the Committee of the Whole rejected an amendment by Representative BROWN of Ohio to an amendment offered by Mr. RODINO of New Jersey to H.R. 5980. I would have voted "no."

Rollcall No. 16, on Wednesday, January 30. By a vote of 208 to 186, the Committee of the Whole agreed to the Rodino amendment to H.R. 5980 which would increase the targeted fiscal assistance authorization to $200 million, from $150 million, if the national rate of unemployment for the first quarter of the fiscal year exceeds 5 percent. I was paired in favor of the Rodino amendment and would have voted "aye."

Rollcall No. 17, on Wednesday, January 30. By a vote of 370 to 0, the House agreed to House Concurrent Resolution 267, expressing appreciation to the Canadian Government for its assistance in securing the safe return of U.S. Embassy personnel from Iran. I would have voted "aye."

Rollcall No. 18, on Thursday, January 31. By a vote of 285 to 122, the House agreed to the conference report on H.R. 2440, the Aviation Safety and Noise Abatement Act of 1979. I would have voted "no."

Rollcall No. 20, on Thursday, January 31. By a vote of 185 to 221, the Committee of the Whole rejected an amendment by Representative WYLIE of Ohio that sought to substitute the general revenue sharing formula for the allocation provisions in H.R. 5980 for targeted fiscal assistance. I would have voted "no."

Rollcall No. 22, on Thursday, January 31. By a vote of 216 to 188, the Committee of the Whole agreed to an amendment by Representative SNOWE of Maine to H.R. 5980 providing that no State can receive more than 12.5 percent of the total targeted fiscal assistance for units of local government. I would have voted "no."

Rollcall No. 23, on Thursday, January 31. By a vote of 130 to 266, the Committee of the Whole rejected an amendment by Representative WALKER to H.R. 5980 to strike the Davis-Bacon wage provisions from the bill. I would have voted "no."

Rollcall No. 24, on Thursday, January 31. By a vote of 178 to 215, the House rejected a motion to recommit H.R. 5980 to the Committee on Government Operations with instructions. I would have voted "no."

Rollcall No. 25, on Thursday, January 31. By a vote of 214 to 179, the House passed H.R. 5980, antirecession fiscal assistance. I would have voted "aye."●

BUCK GOVER: MAN OF PAST AND PRESENT

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. JOHNSON of California. Mr. Speaker, I wish to bring to my colleagues attention a recent article by Pat Lakey of the Record Searchlight of Redding, Calif. W. C. "Buck" Gover, who is the subject of her article, is a good and valued friend of mine.

He is truly one of the last of the real American pioneers and his life and philosophy may well serve as a source of inspiration, especially to the young people of this Nation.

The article follows:

[From the Record Searchlight, Nov. 10, 1979]

BUCK GOVER: MAN OF PAST AND PRESENT

(By Pat Lakey)

Don't call W. C. "Buck" Gover an old man.

At age 78, he's a young man who has been around a long time.

That's how one of Gover's many friends describes him—and the description couldn't be closer to the mark.

Gover sifted his hands through a small trailer full of walnuts, their hard shells gleaming from the day's long rains. He paced restlessly from an electrical pump that had stopped working to a pile of soggy nuts that awaited a motorized drying so they could be loaded into a big semi-truck, the engine of which rumbled impatiently at the delay.

"You know, if these rains don't let up soon, it could mean trouble," Gover said, but his eyes were smiling as he surveyed a leaden sky overhead.

Whether the harvest is successful or loses money, there's one thing that won't be changed—Buck Gover is a happy man.

"I know people talk about the 'good old days,' but I don't like to say the old days were better. I'm not the kind who thinks that way," Gover said. "Everyday when I get up, I like that particular day. I make sure that I do . . . that's what keeps me young."

Gover has managed to maintain his enthusiasm for life through long years of farming and ranching on his land in southern Shasta County. The Gover Ranch, located southeast of Anderson, once had more than 14,000 acres, but about half of it has been sold in recent years.

Gover and his son, Dan, grow walnuts on 600 acres on Bloody Island—the site of a legendary Indian battle, the tale of which Gover claims has been told wrong more often than not.

"You've probably heard quite a few stories about Bloody Island—I can tell you three or four that I don't believe," Gover said.

"The one I do believe was told to me by Bill Shelton, an Indian who used to work for us. He said he was told by his people that the island was the site of a battle between two Indian tribes for fishing rights on Battle Creek."

Although the history books say Battle Creek and Bloody Island got their names because of a battle Gen. John Fremont fought with the Wintu Indians in 1846, Gover said he's inclined to believe Shelton's version.

"A few years ago, I let a man dig for artifacts on Bloody Island, and while he was digging around there he came across a mass grave.

"This tribe that lived on the island apparently would bury their dead in a sitting position—I saw some of the skeletons myself. But right next to the properly buried Indians, there were 18 more skeletons just laid out in a common grave. And every one of them had their skull bashed in."

Gover said the skeletons showed no marks from bullets, leading him to believe the battle probably was Indian warfare.

"Gen. Fremont was here—the books are right about that," Gover said. "He camped about 300 yards below where my house is, near a large oak tree that my parents and grandparents referred to as 'Fremont's Oak.'

"Well, the story in the history books goes that Fremont, I don't know why, but that he had a set-to with some Indians and went down there and just slaughtered hundreds of them. I don't believe that, Gover said.

"Then another popular story about Bloody Island is that after the so-called 'Dersch Massacre' the white people rounded up the Indians on Bloody Island and killed 200 of them without losing a single white man. When people tell me that one I tell them they're crazy."

The Dersch Massacre, Gover said, was the killing of the mother of Fred Dersch—who was a friend of Gover's father.

"As the story goes, the Indians came up to the Dersch place on Bear Creek and killed Mrs. Dersch. She had seen them coming and hid Fred in the brush.

"It's true that several of the Indians who killed Mrs. Dersch were killed later, but they were cornered way up on Battle Creek, up above Coleman. And for a long time after that, if a white man saw an Indian anywhere in the country he'd take a shot at him."

Gover said except for the mass grave on Bloody Island, no other skeletons have been uncovered. He doesn't allow anyone to dig for artifacts on the island anymore.

Much of Shasta County's colorful history happened in the Balls Ferry area where the Gover Ranch lies beside the Sacramento River. Gover purchased Bloody Island in 1943, but most of the stories he remembers being told by his grandmother were about the main ranch and the men who ran it.

"I was a favorite of my grandmother Wilcox (wife of William S. Wilcox, the first of Gover's ancestors to live on the ranch) and she would tell me lots of stories about the pioneer days," Gover said.

Many of the stories were about Maj. Pierson B. Reading, a name familiar today to every schoolchild who has studied Shasta County history. William Wilcox, Gover's grandfather, was Reading's ranch foreman for several years until Reading's death.

"Maj. Reading used to hire a lot of Indians to work the ranch, and my grandmother told me about a time when he fooled them into thinking what he said really made a difference."

Gover smiled as he recalled the story.

"The major had been reading about poisons to kill birds, and he had an idea. He soaked strips of meat in strychnine and let the crows eat them. Then he timed how long it took them to die.'

"After he had it down pretty well, so he could just about predict when they'd start falling down dead, Maj. Reading told some of the Indians he could order crows to die.

"He walked over to the tree where the crows were perched—by this time the poison was about to take effect—and he said, 'I command you to die. The birds started falling out of the tree and Maj. Reading didn't have much trouble getting the Indians' respect after that."

Sightseers who drive on Balls Ferry Road today past Balls Ferry Resort and Rooster's Landing would have a hard time imagining how the area appeared in the 1890s. During that era, the community was thriving as never before—or since.

During its prime, the community boasted a store, post office, saloon, blacksmith shop, flour mill, hotel and dance hall that overlooked the Sacramento River. There also were several homes built on the hillsides near the town.

All that remains of the community today is the remnants of an old surface water well where the hotel used to stand.

There's a story connected with each person who used to live there, "but you wouldn't have room in your paper to put all of them," Gover said. "I guess most of them moved to Anderson or Red Bluff later."

Gover attended small Shelton School. The schoolhouse no longer stands, but you almost can see it as Gover points down the road to the spot where it used to be.

When it came time to go to high school, Gover chose to go to Red Bluff High rather than attend the closer Anderson school.

"The old Anderson High School was just a shack of a thing built down in the flat part of town. And there were only four kids enrolled there. Red Bluff had just built a nice, new building and there were more students, so I talked my parents into letting me go there."

Gover later graduated from Stanford University.

Gover stopped talking briefly to tend to a huge industrial dryer that blew hot air over mounds of brown walnuts.

"We can't do any picking today because of the rains. Bloody Island floods in places and we're likely to get stuck out there. You know, some of Bloody Island's recent history is almost as interesting as its past," Gover said, settling in his chair to tell his story.

"Before they built the (Shasta) dam, it would flood pretty bad on Bloody Island—washing away livestock and fences that belonged to the people who lived there.

"There's no one living on the island now, but several people have tried it in the past—and a lot of them have run into bad luck."

Gover recalled how the wife of Bloody Island's caretaker, when the 1,000-acre island was owned by a bank, was accidentally electrocuted when she moved a floor lamp. Workers trying to find a power leak in lines nearby had diverted a massive voltage dose to the island instead.

Two men who were riding in a boat at the lower end of Bloody Island were drowned when their boat tipped over. And another man was found in one of the buildings on the island with a .22-caliber bullet in his head.

"The island's record is kind of rough," Gover said. "Makes you wonder if some of those Indians who got their skulls busted might be back around there somehow."

Gover laughed heartily and led the way outside to the machine building. The rain had stopped for the moment, and blue sky showed through. Acres of wet, green fields stretched beyond sight to the west and north, and fat, curly haired Herefords munched contentedly in their pens. A pair of hawks circled the ranch, seeming to admire the view more than they were hunting.

"I've traveled a lot in my time—I guess I've been to nearly every State in the Union," Gover said. "But I've never found anyplace that could compare with this.

"People ask me sometimes when I'm going to take a vacation. I just tell them I am on vacation. I've been on vacation all my life."

Gover's younger son, Dan, shares his father's love of the countryside, Gover said. His elder son, Doug, lives in the Bay area, where he works for an airline.

"When Dan was growing up, just a small child, people would ask him what he wanted to do when he grew up. And even when he was that small, he would say he wanted to set up an operation just like Dad. Dan and I are business partners on the ranch now."

Dan Gover also is a Shasta County supervisor whose firm policy of abiding by the county's general plan has angered some potential developers. Buck Gover bristles at the mention of a citizens' group that has discussed beginning a recall effort against his son.

"I ran for supervisor twice myself, and lost by an eyelash, but I've told Dan that lately it's a good thing he's up there instead of me. Because I tell you, some of those darn fool people would just make me lose my temper.

"When Dan was younger, I remember him being impressed by a saying he heard—'If something is the law, follow it. If you don't like the law, change it.' Dan's always remembered that.

"And that's just what these people want Dan to do—break the law. Well, he's soft-spoken and quiet, but he's also firm when he knows he's right."

Gover will brag for hours about his sons' virtues. He'll tell you about the fine grades they got in school and how they won almost all the awards at graduation.

But Gover himself has a list of plaudits to his name that covers several pages.

He has served on nearly every cattlemen's board in the county, state and country as well as on walnut and grazing associations. He is a past master of the Masonic Lodge, also serving as an inspector in the 110th Masonic District.

The list has grown with the years, but the real Buck Gover can't be known from a list.

The way his ready smile seems to make things better immediately can't be explained in black and white. But you know the feeling when you see it. He's a man who likes to laugh and he finds plenty of things to laugh about.

"There were some hard times here, and sometimes it looked like we wouldn't be able to keep the ranch," Gover reflected, standing beneath a huge, spreading oak near his house.

"I'll never forget the day I saw my father standing in the yard with tears streaming down his face. He thought we were going to lose the ranch."

It was during the Depression, and neighbors were selling their homes, moving away. The Govers felt the pinch, but they fought back—and won.

"My dad (also named Dan) was just certain we weren't going to make it that day, but I refused to give up," Gover said. "I told him we were going to work as hard as we could and we weren't going to spend a nickel that we didn't have to. It was tough, but we made it."

With half of this year's walnut crop harvested and the other half waiting to be picked, Gover still is working hard to make the ranch work. His wife of 58 years, Ila, has helped him make the dream a reality.

The rain began falling again, making its way through the leaves and branches and dropping on Gover's hat. He just smiled and walked back to continue his vacation.●

ANALYSIS OF THE FEDERAL PROCUREMENT BUDGETS

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. EDGAR. Mr. Speaker, the Northeast-Midwest Congressional Coalition has compiled the following analysis of the Federal procurement budgets for fiscal year 1981. I believe this analysis will be useful to all my colleagues and especially those of the Northeast-Midwest region of the country.

The analysis follows:

Budget Brief—Federal Procurement

HIGHLIGHTS

For fiscal 1981, the president has proposed $127 billion in outlays for the purchase of goods and services by the departments and agencies of the federal government. Of this amount, $92 billion is budgeted for the Defense Department and $35 billion for federal civilian agencies. This represents an increase of $14 billion (an 8.6 percent gain in real dollars) over the previous year for Defense Department procurement and no increase in outlays (a 7.9 percent loss in real dollars) for civilian agency procurement. Increases in the procurement budget attributable to higher Defense Department spending probably will yield greatest benefits for Southern and Western states.

BUDGET SUMMARY

[In billions of dollars]

Estimated outlays [1]	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Defense Department [1]	71	78	92	17.9	8.6
Civilian agencies	27	35	35		−7.9
Total	98	113	127	12.4	3.5

[1] The figures in this chart, not listed in the president's fiscal year 1981 budget, are staff calculations based on estimates provided by the Office of Management and Budget.

Although a comprehensive reporting procedure has been established by the Office of Federal Procurement Policy to provide a state-by-state breakdown of federal civilian procurement, no figures are yet available.

The Defense Department, however, prepares a state-by-state breakdown for prime contract awards which shows that, on a per capita basis, more defense procurement dollars are spent in the South and West than in the Northeast-Midwest region. In 1978, the region's share of prime contract awards was 39 percent, even though it contained more than 47 percent of the nation's population.

Several important "socioeconomic" programs are designed to target federal procurement dollars more narrowly to those areas in greatest need of economic stimulation. These include the Small Business Set-Aside Program, the 8(a) program for minority-owned businesses, and the labor surplus area program.

I. Small business set-aside program

Background.—This program was established to insure that small businesses receive a larger portion of federal contract awards. Small businesses generate more jobs than larger firms and, according to recent studies, account for more than half of all scientific and technological innovations in this century, including many of the major inventions in high-technology industries. Research by the National Science Foundation indicates that small companies develop 24 times as many innovations per research-and-development dollar than the largest firms. Nevertheless, most federal agencies do not actively seek the participation of small firms in the contract bidding process.

Regional implications.—The Small Business Set-Aside Program is particularly important to the Northeast-Midwest region: A recent study showed that while small businesses generated just under two-thirds of all new jobs in the United States, they provided three-quarters of all new jobs in the Northeast and Midwest.

Legislation recently introduced in Congress (H.R. 5330 and S. 1974) would require a small business set-aside of at least 1 percent of research and development funds for agencies with R & D budgets of at least $100 million. This would affect about a dozen federal agencies, and would insure (according to fiscal 1979 data) that small businesses receive at least $270 million in research contracts.

II. Disadvantaged business utilization

Background.—Firms that are at least 51 percent owned or managed by socially and economically disadvantaged individuals qualify for preference under the 8(a) program. President Carter's executive order of January 20, 1979 committed his administration to increasing federal procurement dollars awarded to minority firms to at least $3.8 billion by 1980. Although figures are not yet available for total procurement dollars awarded to minority firms in 1979, 1.01 percent was awarded in that year under the 8(a) program. The 1980 goal for the 8(a) program has been tentatively set at $1.3 billion. The 8(a) program allows the Small Business Administration to enter into contracts with any government agency with procurement authority. In effect, SBA becomes the prime contractor, subcontracting the actual work to a small firm eligible under the socially and economically disadvantaged criteria.

Public Law 95-507, enacted in October 1978, requires federal agencies to develop subcontracting goals for small and minority-owned businesses. Although it is too early to document the increase in contracting dollars for small and minority businesses as a result of this law, it is intended to substantially increase present contract award levels.

III. Labor surplus area program

Background.—This program is designed to encourage departments and agencies of the federal government to restrict the bidding on appropriate contracts to firms in areas of excessive unemployment, with the goal of stimulating private-sector activity in such areas. Although the policy—known as Defense Manpower Policy Number Four—has existed since 1952, it has until recently been largely ignored. In 1979, the goal for federal civilian agency set-asides for labor surplus (high-unemployment) areas was $1.2 billion. Initial data for fiscal 1979 suggest this goal was not met. For fiscal 1980 the tentative goal has been set at $1.3 billion. The Defense Department is prohibited by the Maybank amendment from setting aside contracts for goods and services under the labor surplus area program. This restrictive provision, routinely attached each year to the defense appropriations bill, requires the Defense Department to purchase its goods and services at the lowest possible price, thus prohibiting it from restricting the bidding on its contracts to firms in high-unemployment areas. Exceptions to this rule may be made only when an order can be split into two separate production runs.

Regional implications.—Even though 45 percent of the nation's high-unemployment areas are located in the Northeast-Midwest region, the labor surplus areas program to date has had a minimal impact on redistributing the government's procurement dollars. A major contributing factor has been the Defense Department's exemption from the program for total set-asides.

The Defense Department spends the lion's share of the federal government's procurement dollars. Although much of its procurement budget is spent on items directly related to the nation's security and military preparedness, a substantial amount also is used to buy such common items as nuts, bolts, office furniture, and so forth. Repeal of the Maybank amendment would allow the Defense Department to set aside some of these contracts for firms in high-unemployment areas, and could result in a substantial increase in federal procurement awards within the Northeast-Midwest region, the creation of many new jobs, and a reduction in the need for income maintenance payments for food stamps, unemployment compensation, housing subsidies, and the like.

BUDGET BRIEF—TRANSPORTATION

HIGHLIGHTS

The president's fiscal 1981 budget increases actual outlays for the Urban Mass Transportation Administration (UMTA) by $117 million. When this amount is adjusted for inflation, a real dollar decrease of 3.8 percent results.

The president's fiscal 1981 budget also increases budget authority for bridge repair and replacement programs under the Federal-Aid Highway Trust Fund by $50 million. This represents a 7.9 percent decline in real dollars. Because the budget authorizes a lower level of spending than last year, Northeastern and Midwestern states will not be able to significantly expand bridge repair and replacement programs using federal funds, and may even face some cutbacks.

The president's budget assumes that $750 million in additional funds for the completion of the Northeast Corridor Improvement Project will be authorized by Congress this year. But total outlays for the project in fiscal 1981, when adjusted for inflation, show a decline of 10.6 percent from fiscal 1980.

The fiscal 1981 budget notes: "Federal financial support of the railroads is primarily a phenomenon of the 1970s, resulting from the collapse of railroads in the Northeast and Midwest. The Penn Central, Milwaukee, and Rock Island Railroad bankruptcies are the most notable examples." As a result, the administration has proposed substantial deregulation of the railroad industry. For fiscal 1981, the president has proposed budget authority of $1.8 billion for the nation's railroads, including $250 million to be used under the recommended deregulation program.

BUDGET SUMMARY

[In millions of dollars]

	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Urban mass transit:					
Budget authority	2,365	2,169	3,821	76	62.2
Outlays	2,458	2,601	2,718	4	−3.8
Bridges: Budget authority	614	900	950	5.5	−7.9
Northeast Corridor improvement project:					
Budget authority	490	381	400	5.0	−3.0
Outlays	199	400	388	−3.3	−10.6

I. Urban Mass Transportation Administration (UMTA)

Background.—In his 1980 State of the Union message, President Carter said, "A major goal during the 1980s is to bring about a dramatic increase in the economic and energy efficiency of our transportation systems." Accordingly, the President has proposed to use $16.5 billion over the next decade from the windfall profits tax revenues to increase the energy efficiency of transportation. Of that, $13 billion would be allocated to increase transit capacity, $2.5 billion would be directed to promote the energy-efficient use of the automobile, and $1 billion for research on automotive fuel efficiency.

Congress has not yet agreed to this proposal. House and Senate conferees still are trying to reconcile differences in the House and Senate versions of the Windfall Profits Tax bill (H.R. 3919), and neither bill earmarks funds for increasing transportation energy efficiency.

The Senate bill contains $1 billion for improvements in the railroad system, including $600 million for rail freight rehabilitation, $60 million for state rail freight assistance programs, and $340 million to Amtrak for operating assistance and rehabilitation. The Senate version originally contained a $15 billion Transportation Trust Fund. This fund would have helped many states in the Northeast-Midwest region, but the proposal was killed on the Senate floor.

The fiscal 1981 budget proposes $1.5 billion in budget authority under the windfall profits tax program for energy-related transportation initiatives.

Also under the windfall profits tax program, the budget includes a proposal for a public transportation capital investment program which would increase capacity and improve services by providing grants to States and cities that have adopted specific energy conservation plans. Budget authority of $1.1 billion is proposed for 1980 and $1.2 billion for 1981.

The President increased UMTA's budget by $117 million in fiscal 1980, representing a 3.8 percent decrease in real dollars.

Regional Implications.—The Northeast-Midwest region may benefit slightly from the small increase in actual UMTA funding. Larger Northeastern and Midwestern cities—such as New York, Boston, Chicago, Baltimore, and Philadelphia—contain the oldest, most extensive commuter transportation systems in the nation. In fiscal 1979, Northeastern and Midwestern cities received 55 percent of the $444 million in UMTA capital or operating assistance available to all cities with populations of more than 200,000. This share increased to 60 percent in fiscal 1980. As a result, large metropolitan areas in the Northeast-Midwest region benefit under an increase in UMTA capital operating assistance, as do the States in which they are located.

State Implications.—Please refer to the chart—"UMTA Funds Available for Capital or Operating Assistance in Urbanized Areas of More than 200,000 in Population"—on the following page.

UMTA FUNDS AVAILABLE FOR CAPITAL OR OPERATING ASSISTANCE IN URBANIZED AREAS OF MORE THAN 200,000 IN POPULATION

[In thousands of dollars]

State	Fiscal 1979	Fiscal 1980
Connecticut	8.1	8.8
Delaware	2.3	2.5
Illinois	58.2	70.9
Indiana	10.9	13.1
Iowa	2.3	2.6
Maine		
Maryland	18.9	23.3
Massachusetts	23.9	28.8
Michigan	35.5	42.9
Minnesota	9.5	11.8
New Hampshire	.1	.1
New Jersey	37.2	45.5
New York	140.2	167.4
Ohio	37.4	44.2
Pennsylvania	46.2	55.9
Rhode Island	4.7	5.8
Vermont		
Wisconsin	8.7	10.5
Total	444.1	534.1

II. Bridge repair and replacement

Background.—The crisis condition of our nation's bridges received national attention with the January 7, 1979 Parade magazine cover story, "Deathtrap Bridges—A National Disgrace." The article noted that "America's bridges are falling down at the alarming rate of 150 a year." A study by the Federal Highway Administration has shown that one-fifth of the nation's bridges are candidates for collapse. The president's budget increases the fiscal 1981 budget authority for bridge repair and replacement by $50 million over the fiscal 1980 allocation. This represents a 7.9 percent decrease in real dollars.

Regional implications.—According to a report by the Congressional Research Service, 32 percent of all structurally deficient and functionally obsolete bridges on the federal-aid highway system are in Northeastern and Midwestern states. In fiscal 1979, the region received 44 percent of the funds for bridge replacement and repair, but only 32 percent in fiscal 1980. Despite this substantial drop in the region's share, each of its states showed modest increases in actual dollar allocations.

State implications.—Please refer to the chart—"Federal-Aid Highway Funds Authorized for Bridge Repair and Replacement"—on the following page.

FEDERAL-AID HIGHWAY FUNDS AUTHORIZED FOR BRIDGE REPAIR AND REPLACEMENT

[In millions of dollars]

State	Fiscal 1979	Fiscal 1980
Connecticut	2.1	3.0
Delaware	1.6	3.0
Illinois	50.0	70.2
Indiana	5.6	7.9
Iowa	14.9	21.0
Maine	4.4	6.2
Maryland	11.7	16.4
Massachusetts	13.4	18.8
Michigan	9.1	12.8
Minnesota	21.0	29.4
New Hampshire	6.6	9.2
New Jersey	10.8	15.1
New York	50.1	70.2
Ohio	14.3	20.0
Pennsylvania	36.2	50.7
Rhode Island	3.8	5.3
Vermont	7.0	9.8
Wisconsin	14.8	20.8
Total	277.4	389.8

III. Northeast corridor improvement project

Description of the issue.—The rehabilitation of the Northeast rail corridor, which stretches between Washington, New York and Boston, is a long-term investment for the entire nation. With rising transportation costs and shortages of fuels, the successful completion of this project is essential for the economic vitality of the region.

Early in 1980, the Administration plans to propose legislation that will provide an added $750 million to complete the Northeast Corridor Improvement Project. The bill also would extend the estimated completion date through late 1984 or early 1985. The president's budget assumes the $750 million will be authorized by Congress. Of this increase, $105 million is included in budget authority for fiscal 1981. Total outlays for the Northeast Corridor Improvement Project, when adjusted for inflation, decreased by 10.6 percent.

Regional implications.—Transportation Secretary Neil Goldschmidt has said that "the additional Federal investment of time and money in the Northeast Corridor rail system would enable Amtrak to attract enough riders so that, within five years after the completion of the corridor, its annual revenues from operations over the Washington-Boston mainline should cover its annual costs for that service."

The proposed legislation also has the potential to directly benefit the rest of the nation. The proposal allocates funds for the rehabilitation of other corridors throughout the country. Specific corridors have not yet been designated, but at least one is likely to be located in the Midwest.

The Senate version of the windfall profits tax bill allocates $1 billion for improvement in the nation's railroads, including $600 million for rail freight assistance, $60 million for State rail freight assistance programs, and $340 million for Amtrak operating assistance and rehabilitation. The Northeast Corridor Improvement Project is specifically excluded from receiving additional funds under this program because it will receive additional funding under a separate legislative proposal.●

DISSATISFACTION WITH THE FINAL AIRPORT AND AIRWAY DEVELOPMENT ACT CONFERENCE

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. ADDABBO. Mr. Speaker, though I applaud the efforts of the conferees in reviewing the Airport and Airway Development Act conference recommended last week, I must express my deep dissatisfaction with the final agreed-on provisions.

Twenty years ago we started this crusade to provide essential relief from aircraft noise for communities surrounding our Nation's airports. Three years ago these regulations became a reality. FAR part 36 is long past the debate stage. Having been the subject of countless congressional hearings and one of the Federal Aviation Administration's most intensive and comprehensive regulatory proceedings, the time has come for implementation without hesitation or exception. The report we are considering today will set this cause back beyond redemption.

Compromise may well be the mark of reasonable men, and my colleagues know that I am not an unreasonable man. I have always been sensitive to the needs of the aircraft industry, particularly in light of the fact that it is the single largest industry in my home area. In this instance, however, I am convinced that my constituents are long overdue in their entitlement to some relief from aircraft noise, as I am also convinced that the industry will not suffer unduly in meeting the current approved phased in requirements.

It is time for us all to face-up to the commitments made to the people. If we do not reject this report, it is they who will be compromised.●

U.S. MILITARY SPENDING—ANOTHER VIEW

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. STARK. Mr. Speaker, how much should we spend on the military? The answer we hear these days is, "more."

Whenever there is such widespread agreement on a national security matter, I begin to check my wallet. That is an especially wise thing to do when it seems we are about to give the Pentagon billions of additional dollars.

In an article in the Friday, February 1, Wall Street Journal, Barry R. Posen and Stephen W. Van Evera do a very good job of "Raising Questions About U.S. Defense Spending." The authors are research fellows at the Harvard Center for Science and International Affairs.

The considerations they raise are ones that I have raised on numerous occasions: One, NATO nations spend more on defense than the Warsaw Pact countries—total 1978 NATO military spending exceeded total Warsaw Pact military spending. Two, the United States carries an unfair proportion of the NATO defense burden. And, third, the current debate misreads the Soviet military effort. I urge my colleagues to read and seriously consider these points. They will reach the same conclusions: "No defense budget increase is justified today, least of all the increase in intervention forces recommended by the President."

The article follows:

[From the Wall Street Journal, Feb. 1, 1980]

Raising Questions About U.S. Defense Spending

(By Barry R. Posen and Stephen W. Van Evera)

Even before recent events in Iran and Afghanistan, polls showed a dramatic upsurge in public support for more defense spending. The latest opinion survey, released last week, showed a larger plurality favoring more military spending than any national poll since 1950.

This popular view became official policy in December, as President Carter announced a decision to increase defense spending by 4.85% per year in real terms over the next five years. His budget confirmed the decision and already there is talk of higher spending over and above the budget figure. One former top national security official, John Lehman, recently recommended a 10% annual defense budget increase, after inflation adjustments. This newspaper suggested 20%.

Three basic considerations have been widely overlooked in this national rush to judgment on the defense question. First, few people seem to realize that the NATO states still spend more money on defense than do the Warsaw Pact countries, according to most estimates. The following figures are published by the respected London-based International Institute for Strategic Studies, and agree with data from the CIA:

1978 DEFENSE SPENDING

	Millions
United States	$105,135
Other NATO states	74,747
Total NATO	179,882
Soviet Union	148,000
Other Warsaw Pact	12,406
Total Warsaw Pact	160,406

The Soviets outspend the United States, but taken as a whole the Western alliance outspends the Eastern bloc. Furthermore, about one-quarter of the Soviet defense effort is directed against China, rather than NATO, so these figures understate an actual NATO advantage of roughly three to two.

We should not conclude that the U.S. and NATO are without defense problems. Instead, we should ask if more defense spending is the answer.

The U.S./NATO objective is defensive. Defense is usually easier than conquest, if the defender chooses the right defense doctrine. If this is in fact the case, our military now has more than enough resources, as long as these resources are used wisely. If we are weak even though we outspend the Pact states, we should look for errors in our doctrine, force structure and choice of weapons before we spend even more.

Second, the United States still carries an unfair share of the NATO military spending burden.

The U.S. now spends 5.0% of her GNP on defense, compared with an average 3.5% for our 13 NATO allies. West Germany, for instance, spends only 3.4% of her GNP on defense; France spends only 3.3%; Italy spends only 2.4%; Canada spends only 1.8%; and Japan, not in NATO but still an ally, spends only 0.9%. Only Britain (4.7%) spends nearly what she should.

This inequity arose in the wake of World War II, when we agreed to carry the main burden of European defense while the European economies recovered from the war. Today, however, the West European standard of living approaches our own, and the total West European industrial capacity equals ours. Yet we still subsidize Western Europe's defense.

Why should we now increase this subsidy? Our European and Japanese allies depend on Persian Gulf oil far more than we, yet everyone now assumes that the defense of the Gulf is an exclusive American obligation.

Third, the current debate on defense spending is premised on a false image of the main direction of both the Soviet and American military effort.

Recent press accounts picture a looming Soviet military capacity to intervene in the developing world, and an atrophied American intervention capability. Administration statements indicate that most of the proposed new defense spending will be allocated to forces best structured for Third-World intervention, to counter this alleged Soviet threat.

In fact, the Soviets direct very little of their military effort toward Third-World contingencies, and their current intervention capability is far inferior to our own, which remains quite robust.

The Soviet naval infantry (marine corps) numbers only 12,000 men, compared with 184,000 U.S. Marines. The Soviet amphibious fleet has only one-third the American carrying capacity. The Soviet airlift force can lift only half what U.S. aircraft can move, in millions of ton-miles per day. The U.S. Navy has 14 aircraft carrièrs operating or under construction, against only five much smaller and less capable Soviet carriers. The Soviets lead the U.S. only in airborne and airmobile troops, 56,000 to 39,000.

Overall, the U.S. now spends 25% to 35% of its military budget on forces appropriate for third-world intervention—more than we spend on our entire strategic nuclear force—while the Soviets devote less than 10% of their defense effort to the same mission. They direct their military effort almost entirely against their chief great-power rivals—the U.S., the other NATO states and China.

We should imitate this Soviet example. Soviet military power is the principal danger we face, and we should buy forces which confront it more directly. Intervention forces fail to do this, so our current investment in intervention capability is arguably too large, rather than too small.

In short, no defense budget increase is justified today, least of all the increase in intervention forces recommended by the President. We confess our national incompetence in military matters when we admit that we cannot defend ourselves even while we and our allies outspend our adversary. If we nevertheless decide that we must spend more, it is our allies, not we, who should bear the burden.●

FOREIGN POLICY AND NATIONAL DEFENSE

HON. RICHARD BRUCE CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. CHENEY. Mr. Speaker, the international challenges and difficulties now facing this country will be increasingly debated in the weeks and months ahead, and the record of the current administration rightfully is being examined in relation to our problems.

I know of no one more uniquely qualified to comment on the current state of affairs than former President Gerald R. Ford, who discussed some of our foreign policy problems during a January 23 speech in Rochester, N.Y.

I insert President Ford's remarks at this point in the Record for the benefit of my colleagues.

Excerpts From Speech by Gerald R. Ford, 38th President of the United States, Before the Monroe County Republican Luncheon

Now let me turn to foreign policy and related programs. From the outset of my political career in 1949 as a freshman member of Congress, I believed in a bipartisan foreign policy. As a Republican, I consistently supported Democratic Presidents Truman and Johnson as they sought to implement foreign policy decisions in our national interest. Since leaving the White House three years ago, President Carter has asked for my direct assistance on a number of foreign policy issues. I responded affirmatively on the Panama Canal Treaty, the sale of military aircraft to Israel, Egypt, and Saudi Arabia, the lifting of the Arms sale embargo to Turkey and the recognition of the People's Republic of China. From the first day the American hostages were seized in Iran I have urged national unity and supported the President's efforts to resolve the crisis. So far I have refrained from any criticism as the Carter Administration seeks a solution to the Soviet invasion of Afghanistan. The crisis is too grave, the threat to peace is too real.

However, the President and his advisors must recognize that cooperation is a two-way street. I have and will continue to give bi-partisan support when our national security is challenged. Having been there, I know how important it is for a President to have bi-partisan support when Oval Office decisions are made affecting our nation's future. I will not, however, tolerate inaccurate or misleading partisan statements by the Carter Administration. In recent weeks the White House has been guilty of these untrue partisan attacks. The Carter Administration can't have it both ways—one day asking for Republican help and the next day blaming us for their weaknesses in defense and indecision in foreign policy.

While the Carter Administration foreign policy slides from crisis to crisis, the White House tries to rewrite history by blaming previous Republican Administrations for current Carter weaknesses and failures. In an attempt to hide deliberately from responsibility for their foreign and military policy failures, the White House, through National Security Advisor Zbrigniew Brzezinski is clearly falsifying the record for partisan political purposes. Such Carter Administration propaganda, to cover up the current mess, comes with illgrace at the very time the President is calling for national unity and bi-partisan support in foreign policy.

Let me cite the facts. On January 15, 1980, Mr. Brzezinski, the Assistant to President Carter for National Security Affairs said in an interview published in the Wall Street Journal, "After eight years of sustained Republican neglect for the requirements of defense, the President reversed the trend and in three successive years increased defense spending."

The truth is—the Ford Administration in fiscal years 1976, 1977, and 1978 in budget authority and in fiscal years 1977 and 1978 in outlays (expenditures) reversed the downward trend in defense spending, de-

spite annual reductions by a Democratic majority in the U.S. Congress.

The record shows President Carter in the 1976 Presidential campaign promised to reduce defense spending by $7 billion dollars. Unfortunately, he lived up to those naive promises. Within the first few months after taking office in January, 1977, he cut the military budget by approximately $2 billion.

The Carter Administration reduced my proposed defense budgets for 1979 through 1983 (a six year period) by $57 billion, an average cut of $9.5 billion per year. Carter slashed our strategic program $24 billion (26.9%), general purpose forces were cut $25 billion (7.3%) and research and development was reduced by $10 billion (12.6%). President Carter cut my planned Navy budget over the six year period by almost $26 billion (41% of the total). Ford budget approved a five year Navy shipbuilding plan of 157 new ships by 1982, an average of 31 per year. President Carter in his first two years in office slashed this program 54%.

The Ford Administration approved a plan to deploy the MX Missile by FY 1984. Tragically, the Carter Administration held back on the MX. Consequently, its deployment date will be delayed at least four years at a time when our Minuteman missiles will become increasingly vulnerable to Soviet strategic strength.

President Carter in 1977 cancelled the B-1 bomber program, of 244 modern aircraft with no replacement to take its place. The aging B-52's, now 25 years old, are not adequate for the decade of the 80s.

The Trident submarine procurement under Carter was cut back and the initial operational deployment was delayed by two years.

A legendary New York statesman—Al Smith—used to say—"Let's look at the record." In this case the facts expose the Carter White House to a partisan distortion of history. Mr. Brzezinski, who should know better, is guilty of outright misrepresentation.

During his 1976 Presidential debates, candidate Carter repeated his campaign pledge to reduce military budgets by at least $7 billion. I challenged him during the debate to justify his commitment to irresponsible cuts in defense spending programs. Now with the Soviet Union stronger militarily and more aggressive worldwide, in 1980 it would be interesting to see and hear in a debate, President Carter's alibies for his cutbacks in U.S. military programs and funding during his three years in office.

In the 1976 Presidential campaign and during his first 2½ years in office, Mr. Carter naively misread Soviet military and diplomatic intentions. In the last three years the Russians have beefed up their Pacific fleet and now use the Camranh Bay Navy base in Vietnam. There is a continuing build up of Soviet naval strength in Cuba which has followed the introduction of a Russian combat brigade on Cuban soil in the last two years. The Soviet Union has now moved into Afghanistan with the obvious target the vast oil reserves in the Middle East. Their Warsaw Pact military forces, augmented by the S.S. 20 missile and Backfire Bomber, are stronger not weaker.

Yes, the United States faces the most serious confrontation since the end of World War II and the American people are ready to follow strong leadership in this hour of crisis. My advice to the President and his staff—admit your mistakes and don't falsely blame others. 221 million Americans—Democrats, Republicans and Independents will join together to save this blessed land."●

I AM A FRIEND OF SHERIFF JIM FLOURNOY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. PICKLE. Mr. Speaker, Sheriff Jim Flournoy of Fayette County, Tex., recently announced his retirement, saying he will not seek another term this year. Sheriff Flournoy is not just any sheriff. He has the longest tenure of any sheriff in Texas, having witnessed quite a bit of local controversy in his 33 years as the county's top law enforcement officer. Thousands of Washington theater-goers are learning about a slightly fictionized Sheriff Jim Flournoy in the popular play, "The Best Little Whorehouse in Texas."

It was Sheriff Flournoy who has unwittingly earned himself a place in our national folklore as the plain-talking gutsy frontier-cut sheriff in the play.

But in reality, this "Best Country Sheriff in Texas" became a legend many years before author and playwright, Larry L. King, brought Flournoy to Broadway. A Dallas Morning News article last July aptly described the sheriff:

> **Jim Flournoy—alias Big Jim, Mr. Jim, Sheriff Jim—is everything you've ever seen in a western. From a distance you might mistake him for an early Texas Ranger: six-feet-six with his boots on, and even taller when he wears his crowning cowboy hat. Enormous ears, thin gray hair, the posture of a ponderosa pine and a mammoth, Roman nose that could smell trouble and** still sniff out a eight-point deer in tne brush.

Sheriff Flournoy presides over law enforcement in Fayette County from the grand old limestone courthouse on the square in La Grange. Both the man and the structure are symbols of continuity in a changing world. The sheriff has kept watch over the county since becoming sheriff in 1947. Before that, he served some time as a Texas Ranger, worked for other sheriffs in Fayette County and got his start as an employee of the sanitary livestock commission, helping eradicate ticks from cattle in central Texas during the late 1920's.

Sheriff Jim is a tough man, the very embodiment of frontier justice. He has kept Fayette County a law-abiding place. Stories about the sheriff can be heard in great abundance. He is as quick with a gun as with following the law. As the Dallas Morning News writes:

> **Nobody in his right mind would cross a man who opens each deer hunting season by shooting the centers out of a dozen bottle caps from fifty feet away.**

But even Larry L. King, whose play about La Grange did not endear him to Sheriff Flournoy, has said there is a soft, gentle side to the sheriff. Above all, Flournoy is a helpful public servant, a constant symbol of the community.

Fayette County residents have mixed feelings about the retirement of Sheriff Flournoy. They realize this 77-year-old public servant deserves some rest and relaxation after a distinquished and colorful law enforcement career. But they also realize it is hard to replace a living legend, a living embodiment of Texas frontier justice. Fayette County is feeling the pressures of growth, as it seeks new industry, while struggling to maintain a high quality of life. Sheriff Jim Flournoy has dedicated his life to maintaining that high standard. Regardless of how Fayette County grows and changes, we will always appreciate Sheriff Flournoy's service and will sorely miss his leadership.●

WHY CONFRONTATION?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. STARK. Mr. Speaker, I think we ought to ask ourselves, "What will our young people be fighting for should they be sent to war in Southwest Asia?"

Would they be fighting—and dying—for the best interests of America? Or would they be fighting—and dying—for the big oil companies? Or for the oil sheiks? Or for the weapons contractors?

The President has made foreign policy blunders that have led him to the brink of declaring war. Given the evidence available, this could be a war between Russia and the United States that we are not prepared for and a war we would have to fight without allies.

The way to discourage communism is not to declare verbal war on the Russians and plunge headlong into Southwest Asia.

More importantly, warfare between superpowers is not the way to combat communism. It will be escalated quickly to nuclear dimensions. And no one wins a nuclear war.

Survival of the Western World and our Third World friends depends on strong, healthy, prosperous societies united in their resolve to oppose aggression. What the President's policy lacks is support from our allies and encouragement from the countries in the region that are threatened. The President has taken off and expects our friends and allies to help us with the landing. This is not the way to make a sensible and effective foreign policy.

Further, in a real emergency, a **system of draft registration and the draft itself could be implemented quickly. The invasion of Afghanistan is not the most severe threat to peace since World War II. That is why I oppose registration. The President's call is a political act not justified by events, and it raises fears about our** national security that are not justified.

The Middle East is not vital to this country because of its oil. It is time we changed our way of thinking about that troubled area. If we must continue to rely on oil from shaky sheikdoms to run our cars, heat our homes, and fuel our factories, we might as well start the "doomsday clock" moving forward. America must become energy-sufficient once again. We have the resources. We have the will. We lack the leadership.

Mr. Speaker, George Kennan addressed these same issues February 1 in the New York Times. His essay follows:

[From the New York Times, Feb. 1, 1980]

George F. Kennan, on Washington's Reaction to the Afghan Crisis: "Was This Really Mature Statesmanship?"

Princeton, N.J.—On Christmas Day 1979, after more than a century of periodic involvement with the internal affairs of its turbulent neighbor, and after many months of futile effort to find a pro-Soviet Afghan figure capable of running the country, the Soviet Government suddenly expanded what was already a sizeable military involvement in Afghanistan into a full-fledged occupation, promising that the troops would leave when their limited mission had been accomplished.

This move was not only abrupt—no effort had been made to prepare world opinion for it—but it was executed with incredible political clumsiness. The pretext offered was an insult to the intelligence of even the most credulous of Moscow's followers. The world community was left with no alternative but to condemn the operation in the strongest terms, and it has done so.

So bizarre was the Soviet action that one is moved to wonder whence exactly, in the closely shielded recesses of Soviet policy making, came the inspiration for it and the political influence to achieve its approval. It was a move decidedly not in character for either Aleksei N. Kosygin or Leonid I. Brezhnev. (The one was, of course, ill and removed from active work. The limitations on the other's health and powers of attention are well-known.) Andrei A. Gromyko, too, is unlikely to have approved it. These reflections suggest the recent breakthrough, to positions of dominant influence, of hard-line elements much less concerned for world opinion, but also much less experienced, than these older figures.

Such a change was not unexpected by the more attentive Kremlinologists, particularly in the light of the recent deterioration of Soviet-American relations, but it was assumed that it would take place only in connection with, and coincidental with, the retirement of Mr. Brezhnev and other older Politburo members. That it could occur with the preservation of Mr. Brezhnev as a figurehead was not foreseen.

Be that as it may, this ill-considered move was bound to be unacceptable to the world community, and the United States had no alternative but to join in the condemnation of it in the United Nations. But beyond that point, the American official reaction has revealed a disquieting lack of balance, both in the analysis of the problem and then, not surprisingly, in the response to it.

In the official American interpretation of what occurred in Afghanistan, no serious account appears to have been taken of such specific factors as geographic proximity, ethnic affinity of peoples on both sides of the border, and political instability in what is, after all, a border country of the Soviet Union. Now, specific factors of this nature, all suggesting defensive rather than offensive impulses, may not have been all there was to Soviet motivation, nor would they have sufficed to justify the action; but they were relevant to it and should have been given their due in any realistic appraisal of it.

Instead of this, the American view of the Soviet action appears to have run overwhelmingly to the assumption that it was a prelude to aggressive military moves against various countries and regions farther afield. No one can guarantee, of course, that one or another such move will not take place. A war atmosphere has been created. Discussion in Washington has been dominated by talk of American military responses—of the acquisition of bases and facilities, of the creation of a rapid-deployment force, of the cultivation of military ties with other countries all along Russia's sensitive southern border. In these circumstances, anything can happen. But the fact is, this extravagant view of Soviet motivation rests, to date, exclusively on our own assumptions. I am not aware of any substantiation of it in anything the Soviet leaders themselves have said or done. On the contrary, Mr. Brezhnev has specifically, publically and vigorously denied any such intentions.

In the light of these assumptions we have been prodigal with strident public warnings to the Russians, some of them issued even prior to the occupation of Afghanistan, not to attack this place or that, assuring them that if they did so, we would respond by military means. Can this really be sound procedure? Warnings of this nature are implicit accusations as well as commitments. We are speaking here of a neighboring area of the Soviet Union, not of the United States. Aside from the question of whether we could really back up these pronouncements if our hand were to be called, is it really wise—is it not in fact a practice pregnant with possibilities for resentment and for misreading of signals—to go warning people publicly not to do things they have never evinced any intention of doing?

This distortion in our assessment of the Soviet motivation has affected, not unnaturally, our view of other factors in the Middle Eastern situation. What else but a serious lack of balance could explain our readiness to forget, in the case of Pakistan, the insecurity of the present Government, its recent callous jeopardizing of the lives of our embassy personnel, its lack of candor about its nuclear programs—and then to invite humilitation by pressing upon it offers of military aid that elicited only insult and contempt? What else could explain, in the case of Iran, our sudden readiness—if only the hostages were released—to forget not only their sufferings but all the flagburnings, the theatening fists, the hate-ridden faces and the cries of "death to Carter," and to offer to take these very people to our bosoms in a common resistance to Soviet aggressiveness? What else could explain our naïve hope that the Arab states could be induced, just by the shock of Afghanistan, to foreget their differences with Israel and to join us in an effort to contain the supposedly power-mad Russians?

This last merits a special word. I have already referred to the war atmosphere in Washington. Never since World War II has there been so far-reaching a militarization of thought and discourse in the capital. An unsuspecting stranger, plunged into its midst, could only conclude that the last hope of peaceful, nonmilitary solutions had been exhausted—that from now on only weapons, however used, could count.

These words are not meant to express opposition to a prompt and effective strengthening of our military capabilities relevant to the Middle East. If what was involved here was the carrying of a big stick while speaking softly rather than the carrying of a relatively small stick while thundering all over the place, who could object? But do we not, by this preoccupation with a Soviet military threat the reality of which remains to be proved run the risk of forgetting that the greatest real threats to our security in that region remain what they have been all along: our self-created dependence on Arab oil and our involvement in a wholly unstable Israeli-Arab relationship, neither of which is susceptible of correction by purely military means, and in neither of which is the Soviet Union the major factor?

If the Persian Gulf is really vital to our security, it is surely we who, by our unrestrained greed for oil, have made it so. Would it not be better to set about to eliminate, by a really serious and determined effort, a dependence that ought never have been allowed to arise, than to try to shore up by military means, in a highly unfavorable region, the unsound position into which the dependence has led us? Military force might conceivably become necessary as a supplement to such an effort; it could never be an adequate substitute for it.

The oddest expression of this lack of balance is perhaps in the bilateral measures with which we conceive ourselves to have punished the Russian action. Aside from the fact that it is an open question whom we punished most by these measures—Russia or ourselves—we have portrayed them as illustrations of what could happen to Moscow if it proceeded to one or another of the further aggressive acts we credit it with plotting. But that is precisely what these measures are not; for they represent cards that have already been played and cannot be played twice. There was never any reason to suppose that the Soviet Government, its prestige once engaged, could be brought by open pressure of this nature to withdraw its troops from Afghanistan. But this means, then, that we have expended—for what was really a hopeless purpose—all the important nonmilitary cards we conceived ourselves as holding in our hand. Barring a resort to war, the Soviet Government has already absorbed the worst of what we have to offer, and has nothing further to fear from us. Was this really mature statesmanship on our part?

We are now in the danger zone. I can think of no instance in modern history where such a breakdown of political communications and such a triumph of unrestrained military suspicions as now marks Soviet-American relations has not led, in the end, to armed conflict. The danger is heightened by the fact that we do not know, at this time, with whom we really have to deal at the Soviet end. If there was ever a time for realism, prudence and restraint in American statesmanship, it is this one. Nothing in the passions of electoral politics could serve as the slightest excuse for ignoring this necessity.●

GNP SLIDES DOWN UNDER CARTER

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. COLLINS of Texas. Mr. Speaker, jobs for today are essential. Jobs are the backbone of our economy. Men and women want to see business grow because this means more jobs and higher productivity.

In discussing economic downtrends caused by the present administration, Senator SCHMITT said, "Jim, you missed the most important point. When Carter became President, our real GNP was growing at 5.9 percent, but today we are at 0 percent GNP progress."

Gross national product must increase or jobs will be cut back. There can be no pay raises unless production increases. Teenagers will not be able to find new jobs unless GNP increases.

A big part of this problem arises from lack of capital to build and modernize plant and machinery. Government wastes too much from excessive taxes and leaves too little capital for business to reinvest for improving production.

Under President Carter the entire country is sliding downhill. He took American inflation at 4.8 percent and big spending has raised it to a staggering 14 percent. The bank prime interest rate was 6.2 percent and Carter's pressure on money has caused it to rise to 15 percent.

The world has lost confidence in Carter's financial program and runs from the American dollar, as gold zoomed from $125 to $680 an ounce.

All of these Carter programs cause American production to lose momentum with the GNP dropping from 5.9 percent to 0 percent.●

JOSEPH E. TERRY—AN EXEMPLARY CIVIL SERVICE EMPLOYEE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. BROWN of California. Mr. Speaker, at a time when the civil service employees of this country are coming under criticism from various quarters, I think it worthwhile to call attention to one civil service employee whose career stands as a model of devotion to public service. In that career, which will draw to a close in February 1980, the employee of whom I speak has exhibited the qualities of integrity, dedication, and selflessness over the span of his illustrious career.

Joseph E. Terry was raised on a small farm on Long Island. Early in life he showed the determination, good will, and sense of humor which were to accompany him throughout his life. In June 1936, near the lowest point of the depression, he graduated from Cornell University with a degree in electrical engineering, and for the following 3 years was employed in private industry. In December 1940 he became a contract physicist with the Navy's Bureau of Ordnance, where he worked on antimagnetic projects degaussing ships and submarines; and in April 1941, he signed a 1-year contract to establish a degaussing station at the Naval Station, Cavite, Philippine Islands. He was at Cavite on December 10, 1941, when the Japanese attacked the Navy facilities in the Manila area and invaded the Philippines. In January 1942, with other American civilians, Joe Terry was interned by the Japanese, He remained a Japanese prisoner for the next 3 years, first at an internment camp at Santo Tomas University in Manila and then at a camp in Los Banos on Luzon some 60 miles to the south.

During his years as a Japanese prisoner, Joe Terry exhibited the kind of leadership and courage which inspired his fellow prisoners to maintain hope. Statements by his fellow prisoners indicate the extent of his influence. One, William F. McCandlish, states:

> I just cannot praise Joe enough for the wonderful job he did in maintaining morale at a high level under circumstances which were not too good for morale to begin with.

Another, Frank O. Mortlock, echoes the same sentiment:

> A happy combination of competence, personality, and physical fitness made Joe a natural leader of men. Under the most trying of circumstances, folks felt comforted by Joe's presence and his good spirits. . . . He gave of himself beyond what was required in the Camp Labor Code and shared whatever he had with those less fortunate than he.

And a third, Robert B. Jones, has this to say:

> I have always admired Joe for his honesty and concern for his fellow man which was proved over and over. . . . He was a hero to all of the youngsters throughout imprisonment, and I don't know of any man who did not respect him at all times.

Following the liberation of the prisoners at Los Banos by the American forces in February 1945, Mr. Terry spent a month in a rest camp in the Philippines and was then returned to the United States. At that time he became an employee of the Naval Ordnance Laboratory, White Oak, Silver Spring, Md. As a member of the Research Management Division of that laboratory, he participated in the planning and development of numerous research programs, including one at Point Barrow, Alaska. An associate of his at that time, James R. Lightfoot, states that:

> Joe was outstanding at NOL in the management of personnel and facilities. His good technical background plus a dandy personality made him a natural in the recruitment, placement, and management of scientific and engineering personnel and in the sponsoring and directing of technical projects for the Navy.

Mr. Terry's outstanding work at NOL White Oak led to his being offered a position on the scientific staff of the Navy's Bureau of Ordnance in Washington, D.C.—a position which he accepted in October 1949. In that position he was responsible for the development, coordination, and support of military construction projects for all BuOrd research activities, including NOL White Oak, the Naval Aviation Ordnance Test Station at Chincoteague, the Naval Ordnance Missile Test Facility at the White Sands Proving Ground, and the Naval Ordnance Test Station at China Lake. This position required the highest technical ability, together with exceptional clarity, tact, and diplomacy in convincing reviewing officials of the need for the new facilities. While in this position, Mr. Terry received from his supervisor the following commendation for his work:

> Mr. Terry has profoundly impressed me with his capacity for thoroughness and for his unique ability to reach sound conclusions through mazes of conflicting and obscure data. The joint abilities to perceive all phases of a problem and to seek out the buried heart of a problem set him apart as a person of unusually keen intellect. . . . While in his present position Mr. Terry has been called upon to perform a wide variety of work covering the entire research effort of the Bureau of Ordnance. He has impressed me by his ability to grasp the technical phases of research activity in its multitudinous ramifications and still maintain a level-headed understanding of administrative problems. He can do equally fine work in trouble-shooting, planning or administration.

In the early 1950's the Navy established a facility for the evaluation of the guided missiles which were being scheduled to go into service with the fleet. That facility, which developed into the Missile Evaluation Department of the Naval Ordnance Laboratory at Corona, Calif., was headed by a Navy engineer who had been a friend and fellow prisoner of Joe Terry's at Santo Tomas and Los Banos. That engineer persuaded Joe to leave his job in Washington, D.C., and to take part in the challenging task of evaluating these new weapons of warfare. In November 1954, Mr. Terry accepted the position of Assistant Head of the Missile Evaluation Department, NOLC.

Since that time, Mr. Terry has been an integral part of the Navy's missile evaluation program at Corona. Beginning with a project for the analysis of Terrier ship-launched missile firing performance, that program expanded to cover the evaluation of all Navy tactical missiles, both ship- and air-launched, as well as quality assurance of the Navy's fleet ballistic missile weapon systems Polaris, Poseidon, and Trident. The work has involved leadership in the use of high-speed digital computers for the processing not only of performance data but missile production data and other information relative to missile evaluation. It has also involved pioneering efforts in the development of equipment and techniques for obtaining accurate and meaningful missile evaluation data, including telemetric data. At present, the program includes the direct support of fleet firing exercises through the operation of six telemetry installations located at the NATO allied Missile Firing Installation, Crete; Roosevelt Roads, Puerto Rico; Oceana, Va.; Cherry Point, N.C.; Mount Cabuyo, Republic of the Philippines; and White Beach, Okinawa. Program personnel are also operating the Navy's air combat maneuvering ranges at Yuma, Ariz., and at Oceana, Va., which provide realistic training in air combat to Navy, Marine Corps, and Air Force fighter pilots.

During the 25 years that he has been associated with this program, Mr. Terry has played a key role in its design, development, and implementation. Evidence of his accomplishments is provided by the numerous commendations he has received from higher authority, including three superior performance awards. His sound technical ability, together with his administrative and supervisory skills, have enabled him to make major contributions in the evolution of the missile evaluation organization from a department of the Naval Ordnance Laboratory, Corona, to a separate and independent activity—the Fleet Missile Systems Analysis and Evaulation Group—in 1962. Mr. Terry served as Assistant Technical Director of FMSAEG from 1962 until 1973, at which time he became Technical Director. In 1971 the activity became an annex of the Naval Weapons Station, Seal Beach, and in 1976 its name was changed to the Fleet Analysis Center. It is from the post of Technical Director of the Fleet Analysis Center that Mr. Terry will be retiring in February 1980.

In addition to his work directly connected with Navy missile evaluation, Mr. Terry served from 1964 through 1967 on the Policy Board of the U.S. Naval Laboratories in California, Board of U.S. Civil Service Examiners for Scientists and Engineers at Pasadena, and as Chairman of its successor organization, the Professional Council for Scientists and Engineers. In January 1973, he received a letter from then Secretary of Defense Melvin R. Laird thanking Mr. Terry for the support which he gave the President's Inter-Agency Economic Adjustment Committee in its efforts to alleviate the economic impact of Defense decisions that adversely affected communities and individuals. Mr. Terry has also served the interests of the Navy through his work as Director of the Corona-Riverside Navy League Council.

Mr. Terry's contributions to the Navy and the American people as Technical Director of the Fleet Analysis Center were perhaps best summarized by the Commanding Officer of the Naval Weapons Station, Seal Beach, in a commendation to Mr. Terry several years ago. After citing Mr. Terry's "extraordinary ability in managing a large engineering function as well as a complex data management system and an extensive interface with the Fleet," the Commanding Officer stated:

> You have managed over 600 employees (of whom 400 are professional engineers, scientists, statisticans, and highly specialized paraprofessionals) in the full accomplishment of your most difficult mission. Your contributions to the Station's professionlism in the areas of technical, financial, administration, and personnel management are truly outstanding. The quality of your leadership is exemplified in the number of letters of commendation received by the Station, the increased breadth of responsibility, and the increased significance of technical contributions that the Station has performed . . . Your versatility, managerial capability, and overall outstanding performance are reflected in the attitude and output of the personnel you supervise.●

SRI LANKA OBSERVES 32D ANNIVERSARY OF INDEPENDENCE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. YATRON. Mr. Speaker, February 4 is a day of great importance to the people of Sri Lanka as this day commemorates the 32d anniversary of their independence from the British Crown.

The proud nation of Sri Lanka (meaning resplendant land) has distinguished itself by the staunch promotion of world peace, the upholding of human rights and the striving to create comprehensive and effective internal policies for its people.

The people and the Government of Sri Lanka are committed to establishing a growing economy while maintaining democratic liberties and providing a wide spectrum of needed Government services. Their dedication to these ends has been praised by many countries throughout the world.

To the people of Sri Lanka I express my continuing sentiments of support on this 32d anniversary celebration of independence. I know that my colleagues will join with me in commending the Government and people of Sri Lanka for their dedication to democracy and liberty and in wishing them every success in the future.●

BOY SCOUTS OF AMERICA—1980

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. NATCHER. Mr. Speaker, the famous Scout motto, "Be Prepared," is most applicable as the 4.1 million members of Boy Scouts of America prepare to celebrate the 70th anniversary of their organization during Scouting Anniversary Week, February 3-9, 1980.

Incorporated on February 8, 1910, and chartered by Congress in 1916, the Boy Scouts of America exists to provide an educational program for boys and young adults, designed to train in the responsibilities of participating citizenship, to build desirable qualities of character, and to develop personal fitness, thus to help in the development of American citizens.

Under the theme, "Scouting—the Better Life," Scouts from Maine to Hawaii participating in Scouting Anniversary Week will mark the celebration with special dinners, storefront and shopping center displays, demonstrations, reports to mayors, and other related events.

Other activities scheduled throughout the year include the Reader's Digest Association-Boy Scouts of America Public Speaking Contest. Twelve regional winners selected on a competitive basis from among an original 2,000 participants will vie for $11,500 in college scholarships at the contest finals on February 6 at Washington's Hyatt Regency Hotel.

Also, a revitalized emphasis on outdoor living skills will be seen with many ecology, and energy-related activities; including, President Carter's energy conservation award program for Boy Scouts, together with Project SOAR—save our American resources. Instead of merely expressing criticism, Scouts are assuming an active, constructive role in cleaning up their environment and restoring acres of land back to its original beauty.

Over the years, we have seen evidence that these programs have been very successful in preparing our youth to meet the future with courage, and a deep commitment to contribute to the growth of their community and country both morally and spiritually.

As I have stated on numerous occasions, I always enjoy recalling with sincere appreciation the experiences and adventures that were mine as a Boy Scout, and I firmly believe that the basic concepts of this fine organization cannot fail to generate a deep realization of one's duty to God and country as well as a keen respect for the fundamental rights of all people.

This group of young men characterize the qualities every individual should possess—a pride in each other and themselves. Their goal—to continue to improve and shape a bigger and brighter world. In these troubled times, their desire to do a good turn daily makes Scouting the better life.●

DR. TIM LEE CARTER: "A PLEA FOR LIFE"

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. WAXMAN. Mr. Speaker, no issue before the House is as divisive and emotional as abortion. Our last vote on this question was on a bill designed to provide preventive health care for the poorest children of America—the child health assurance program—reported from my Subcommittee on Health and the Environment.

Dr. TIM LEE CARTER worked so hard for this bill, believing firmly in the need for us to provide decent medical care for the 5 million children who do not now get it.

The antiabortion amendment on the floor sought to eliminate all Government funding for abortion except where the life of the mother was endangered. It sought to eliminate current provisions of law which allow for abortions in circumstances involving rape or incest.

It was Dr. CARTER who spoke so eloquently against the awful limitations of this amendment. In the highest traditions of his profession, he asked the House to affirm life and human dignity by rejecting the blind language of the antiabortion proposal. No statement was more characteristic of the man or the concerns he consistently has represented.

The Louisville Courier-Journal has recognized Dr. CARTER'S courage and the strength of his convictions in a recent editorial. I am honored to insert that editorial into the RECORD:

[From the (Louisville, Ky.) Courier-Journal, Jan. 31, 1980]

ABORTION: AN EMOTIONAL ISSUE IN SERIOUS NEED OF COMPASSION

The issue, of course, was abortion. But the person who spoke the words above was not what the Right-to-Lifers would call a pro-abortionist. What he was pleading for, in fact, was life.

At stake on the House floor, its prospects diminished by rigid anti-abortion amendments, was a crucial health program. It would provide decent medical attention for an estimated five million children (and 220,000 women about to bear children) who can't afford it and aren't presently eligible for government help.

The speaker was Kentucky Republican Tim Lee Carter, who will retire from the House this year after eight terms. He's a doctor and very much opposes abortion, as a general rule. Yet he recognizes that there are certain situations, particularly rape and incest, in which a woman's life can be ruined (and thus likely her child's, too) if she is denied medical help in time.

But most House members vote differently on even these situations. They have done so since the Supreme Court's 1973 ruling that states may not interfere with a woman's right to an abortion during the first three months of pregnancy and may impose only health regulations during the second three months. Every year, the House votes to forbid Medicaid financing of abortions except to save the life of the mother. In 1977 and 1978 (thanks to a compromise backed by Congressman Carter), it agreed to a further exception: when two doctors agree that continued pregnancy would result in severe and long-lasting damage to the mother's health. But even this was dropped last year.

The Senate, fortunately, has been less rigid. One can criticize its agreeing to severe limitations on tax-paid abortions. But at least it insists on extending such funding to cover cases of rape and incest, too. The Senate has managed to prevail in reconciling differences between the two houses. Presumably if will prevail again this time, if it passes the Child Health Assurance Program bill on which Representative Carter worked so long and hard.

IN PUBLIC, PRINCIPLES VANISH

Any Congressman, actually, can explain why the Senate wins on the rape/incest issue. Senators represent statewide constituencies. And House elections are so close together that campaigning to hold onto seats in that body never stops. So its members dread divisive, emotional issues that can enrage large blocs of single-issue voters. Abortion is such an issue.

Some congressmen privately admit that they don't agree with the single-minded "pro-life" forces, but fear to vote otherwise. Some of the latter won't even concede that a mother's life should have priority over that of a foetus, if only one can survive. (A "pro-life" bill before the 1980 Kentucky legislature embraces that view. It would forbid publicly financed abortions even to save the mother.) So these congressmen betray their own consciences, knowing that the Senate, its six-year terms better insulating members from emotional tides in the electorate, will repair at least the worst of the damage.

This doesn't do anything, of course, for the girl or woman—often desperate—who is poor but hasn't been raped and doesn't otherwise qualify for federal help. The way matters stand in this country, abortions (under the Supreme Court guidelines) are a constitutional right. But the poor must fend for themselves.

And the situation could get worse. Some States are under court orders to provide "medically necessary" health services, including abortion, from their own funds. But the Medicaid-extension bill discussed above was amended by the House to let States do as they please. And the pro-life forces rallied last week, in Washington and the State capitals, in behalf of their proposed constitutional amendment to outlaw abortions altogether.

The proposition isn't one-sided, of course. Many citizens saw fairness and wisdom in the Supreme Court decision. They knew of the horrors of clandestine abortions. They acknowledged the injustice of congressional curbs on the right of poor women to medical attention legally available to those with money. Above all, they supported a woman's right to reject one of life's ultimate cruelties: bringing into the world an unwanted child.

Those Americans haven't been as well organized or made as much noise as the "pro-lifers." But they have sensitivities, too, and they may be in a majority. It wouldn't take much to make them angry enough to do some shouting of their own.

Maybe they won't have to. The Supreme Court agreed in November to consider various lower-court findings that Congress is acting unconstitutionally in refusing federal funds to finance abortions for most women on welfare. And a U.S. district judge in New York ruled earlier this month, in a sweeping decision four years in the making, that the congressional restrictions violate individual rights of due process and of religious freedom. If upheld on appeal, this would vastly expand the original Supreme Court ruling based on the right of privacy.

Such a finding, of course, would be enormously divisive. The "pro-lifers" feel deeply that anyone defending abortion is—as a Kentucky lawmaker told the Frankfort Right to Life rally last week—"really pro-death." But it is our greatness as a nation that we put such store by individual rights, and that we recognize the need to respect differences of opinion.

Dr. Tim Lee Carter would be the last person anyone could fairly accuse of being pro-death. Yet he eloquently pleads that the abortion issue can have more than one dimension. Cannot the "pro-lifers" concede the same? Cannot they grant the possibility that others may be equally concerned about life but see the issue from a different perspective on what being human, and in a free America, is all about?●

A TRIBUTE TO JIMMY LEA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. RHODES. Mr. Speaker, I join my colleagues in the House in our appreciation for the quarter of a century of service to the Congress given so graciously by Jimmy Lea. He has been around almost during the entire time I have been in the Congress, and he is one of those unsung efficient kind of people who do so much to keep House procedures moving along. As clerk of the Official Recorder of Debates, he has had a job that demanded detail and patience, and dealing with many Members of this body. Jimmy has performed well, on good humor, and certainly has been most helpful to newcomers unfamiliar with the House floor process.

I have enjoyed having Jimmy Lea with us during the past 25 years, and I wish him a long, enjoyable, and fulfilling well-earned retirement in his beloved Calvert County country. We all are going to miss him very much.●

TWENTY YEARS AFTER THE "TRIESTE" DIVE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. McCLOSKEY. Mr. Speaker, last year 53 of our colleagues asked the President to dedicate the 1980's as a decade for ocean resource use and management. It is appropriate that we do so. The oceans are a frontier which have not been developed to their full potential, and which must be, if we hope to maintain our standard of living and raise the standard of living of those who are currently less fortunate than us.

Much of the groundwork for this development has been done. The 1980's will see the development of the minerals and petroleum of the deep seabed which was made possible only through the technological advances made in the 1970's. The 1980's will also see intensified fishing efforts which will be subject to management regimes resulting from the imposition of fisheries management zones and the development of biologically sound management practices during the 1970's. In addition, research during the past several decades has resulted in the development of new uses and markets for marine life including underutilized species of fish, marine plants, and other marine organisms.

One of the pioneers of basic oceans research is Don Walsh, currently director of the Institute for Marine and Coastal Studies of the University of Southern California. Don has spent a lifetime studying the oceans and is one of this country's experts in their use for commercial, scientific, and military purposes. One of Don's early projects, involving both scientific and military aspects of oceans research, was his participation in the bathyscaph *Trieste's* dive to the bottom of the Marianas Trench—the deepest known place in the oceans. I am inserting in the RECORD a copy of Don's account of his experience which illustrates the depths that some dedicated people go to learn more about the oceans:

VOYAGE TO THE BOTTOM OF THE SEA

(By Don Walsh)

TWENTY YEARS AFTER THE TRIESTE DIVE

Nearly twenty years ago two men crowded into the cramped interior of the United States Navy's Bathyscaph Trieste. They were located at a spot about 200 miles southwest of the island of Guam in the Western Pacific. More significantly, they were just above the deepest known place in the oceans: the Challenger Deep in the Marianas Trench.

Nine hours later, when they returned to the surface, they brought with them the world's depth record. The official depth for the Challenger Deep dive was determined to be 35,800 feet, almost seven miles down.

But was this bit of exploration two decades ago just an event to gain publicity or did it have a real purpose? And what impact is to be seen today from this early pioneering in deep submergence? Having been Trieste's Navy commander, the co-pilot on the deep dive and the first submersible pilot in the Navy, I hope to give some idea of what was done then and what it means today.

First, it is important to have some idea of the beginnings of deep submergence; how the bathyscaph came to be invented by Professor Auguste Piccard, and how it eventually joined the United States Navy.

To set the scene we should go back about fifty years to 1930-1934 when the American zoologist, Professor William Beebe was experimenting with his bathysphere in the waters near Bermuda. Beebe and Engineer Otis Barton had devised the bathysphere as a means to take the scientist's trained mind and eye directly into the ocean environment.

Beebe's logic was simple. Why deny scientists direct observations simply because the research site was covered by ocean water? On land biologists and geologists made direct observations in the field. But in the oceans the marine scientist was forced to lower various gadgets into the sea to bring up often mutilated samples. These artificial hands and eyes were poor substitutes for direct observation.

The Beebe bathysphere was simply an iron ball which was fitted with ports for observation and photography. An entrance hatch (bolted from the outside!) provided access for the two-man crew. The ball was then lowered by a cable into the sea. Electrical power and communications with the surface were through a second cable.

Beebe's classic book *Half Mile Down* is an eloquent tribute to his imagination and his dedicated team. The narrative of their thirty-second dive in August, 1934 to 3,028 feet is as exciting as any epic of exploration. Dr. Beebe was the first true deep submergence explorer.

But the bathysphere had its limitations. Cable has weight and theoretically if you lower enough of it over the side it will finally pull apart from its own weight. Oceanographers, well aware of this, use tapered cables to lower equipment into the deepest parts of the sea. In addition, since the bathysphere is attached to the mother ship by the cable, any motion of the surface ship results in a similar motion of the ball. Thus if there were eight foot high waves at the surface the ball would also move up and down eight feet. This would make it very difficult to do any precision observations close to the seafloor. Finally there is the problem of "cracking the whip" when the motion of the mother ship and the length of cable are out of phase. If the whip motion is severe enough, the ball can be snapped right off the end. A better "innerspace ship" was needed.

Professor Auguste Piccard was a Swiss physicist who was active in the study of cosmic radiation in the 1920s and 1930s. Because the Earth's atmosphere shields this radiation from space, Professor Piccard became an accomplished alpinist taking his equipment up mountains to higher altitudes to reduce this shielding effect. But this was not enough and he designed a high altitude free balloon to get better numbers for his research. Incidental to getting the figures he set several altitude records. He was not only a good scientist, he was also a creative and effective engineer. His book, *Earth, Sky and Sea* is a delightful account of his scientific adventures in these three environments.

Even before his balloon exploits Piccard has thought about applying the concepts of the free balloon to an undersea craft. This would give the desired independence from surface ship and its cable tether. He began the design of the first bathyscaph (this word simply means "deep ship") in 1938. However, as the sounds of war gathered in Europe it became clear that his underwater balloon would have to wait until the return of peace.

In 1948 Piccard's first bathyscaph, the FNRS-2 (named after the initials of the Belgian foundation that sponsored the project), was test dived. While it performed well as a submersible, it had many deficiencies as a surface craft. Considerable modification was called for and the FNRS-2 was taken to the French Navy yard at Toulon for rebuilding. In the early 1950s, prior to completion of the conversion of the FNRS-2, into the new FNRS-3, the Piccards (since the end of World War II, Professor Piccard had his son, Jacques, as his co-worker on all his bathyscaph projects) left the French Navy program. They had been offered the opportunity to build a completely new bathyscaph to be supported by several sponsors in Italy. The principal sponsor was the City of Trieste.

In mid-1953 the Bathyscaph Trieste was launched at Castellemare di Stabia near Naples. By coincidence the French Navy launched FNRS-3 at this same time. The world now had two bathyscaphs.

From 1953 to 1957 the Piccards operated Trieste on a variety of test and scientific projects in the Mediterranean. However the cost of operating such a complex piece of scientific equipment made it clear to the Piccards that they would have to find a permanent long-term sponsor for their submersible.

In 1957 the United States Navy's Office of Naval Research (ONR) sponsored a series of scientific dives with the Trieste at Capri. This program permitted American oceanographers from several different disciplines (biologists, geologists, acousticians, etc.) to sample the utility of the bathyscaph as a tool for their particular research interests. At the end of the series their submitted reports and evaluations were used to determine whether or not the Navy would purchase the Trieste and bring it to the United States.

The final evaluations were positive. In 1958 Trieste was purchased and shipped to the Navy Electronics Laboratory (NEL) at San Diego, California. I joined the project at NEL in December 1958 and by March was appointed Officer-in-Charge of the bathyscaph Trieste, a position I held until leaving the project three years later.

Essentially the bathyscaph has two major components, the float (balloon) and the cabin. The float is filled with a lighter-than-water liquid; in the case of Trieste it was aviation gasoline. This provided the buoyancy, or lift, required to carry the weight of the vehicle and its payload into the ocean's depths.

The cabin was simply a steel sphere with very thick (5-7 inches) walls designed to keep the crew of the submersible in "shirtsleeve comfort". Inside the cabin the pressure was almost always at atmospheric pressure, so we did not have to contend with any of the pressure problems faced by divers.

To submerge the bathyscaph it had to be made heavier than water. To slow down the rate of descent, stop, or to ascend to the surface weight had to be gotten rid of to make it become positively buoyant. For surface buoyancy the float had two large ballast tanks, one at each end of the float, which were filled with air during surface operations. To submerge, the air was vented off and the Trieste became heavier than water. Weight reduction was through an ingenious system which employed two large containers (shot tubs) hanging on the underside of the float. Each container held about eight tons of steek shot, much like beebees but made from steel. At the bottom of each shot tub, was a funnel-like constriction which was surrounded by an electromagnet. When the magnet was energized the shot was magnetized and would not flow through the opening. When the electrical power was shut off the shot then flowed freely through the orifice. In emergency situations both shot tubs could be jettisoned instantly.

Limited mobility at the seafloor was provided by three small electrical maneuvering motors mounted on the float. This did not make a submarine out of Trieste; mobility was limited to a few thousand feet from where it landed.

Outside the front window of the cabin (the plastic window was seven inches thick) were a series of external lights, a remote control camera and strobe lights for the camera.

Basically, the bathyscaph represented a simple, effective means for the oceanographer to do in situ work. This very simple solution to a difficult set of problems is a monument to the genius of Auguste Piccard.

Trieste had joined the United States Navy at the age of five. Though it was to be used to advance Navy interests in deep ocean research, the first major task was to get the submersible ready for its ultimate test, a dive to the deepest part of the ocean.

The bathyscaph made its first dive as a Navy unit in December, 1958. This was a checkout for the Navy crew of military and civilian personnel who had been assigned to the project at NEL. Jacques Piccard and his engineer, Giuseppe Buono, completed the team. Buono had been with the Trieste since its construction when he was the project foreman in the Italian shipyard and was in charge topside during diving operations. Piccard and Buono were brought to NEL with the Trieste to help train the United States Navy project team how to operate and maintain this radical new craft.

In the spring of 1959 the Trieste made six more dives for scientific and training purposes. On the twelfth of May, I got my first sample of deep submergence with Trieste on a plunge of seventy feet in San Diego Bay! But a real dive was not far behind; ten days later we dove to a depth of 4,100 feet off

San Diego. From this vantage point I saw the depths of the ocean as few others had. We were well beyond the penetration of sunlight and were into the domain of bioluminescence, seeing animal forms not found in any aquarium collection.

During that spring, while we were busy learning how to use Trieste, a much more important aspect of the project was being worked out: our plan to take the submersible to the deepest place in the ocean. Not only was a great deal of preparation involved, but also many technical changes to the bathyscaph were necessary. Fortunately, Lieutenant Larry Shumaker, an Annapolis classmate of mine and a former shipmate in submarines, joined the project as Assistant Officer-in Charge. Larry immediately took over responsibilities for the technical side, under the careful guidance of Piccard and Buono. This left me free to work out the planning details for Project Nekton, the name we had given to the deep-dive program, working closely with our project's Chief Scientist Dr. Andreas B. Rechnitzer.

In the mid-1950s Andy Rechnitzer was a marine biologist, fairly fresh out of his training at Scripps, when he took a position in the Marine Sciences Program at the Navy Electronics Laboratory. When he heard about the Office of Naval Research dives at Capri with Trieste he got himself invited as a participant. On 20 July 1957 Andy made his first dive and like myself, he was a confirmed "deep submerger" from then on. As part of the post-dive review team for ONR, Andy was able to lend his voice to those who wanted the Navy to buy the submersible for undersea research. Furthermore he made a convincing case for bringing it to the Navy laboratory at San Diego. He pointed out that this location offered deep water near the coast, year-round good operating weather, and the proximity of major Navy support facilities and equipment. However, his most important act, in my view, was that he recruited me into the Trieste program!

By the late spring of 1959 I had taken our Project Nekton plan to the to the Navy Department and had gotten approval for it. The Navy approved the program but we were directed to maintain a very low profile and not encourage any publicity or public announcement of our intentions. In fact, one very senior naval officer, the Chief of Naval Operations, told me that if the Trieste did not surface from the deep dive the two men in it would be the lucky ones! The implication was that those people left on the surface would feel the full weight of his wrath. This was a pretty full order for a young lieutenant, but my quick education in how the Navy makes decisions had paid off and we had our green light to proceed.

Concurrently Trieste was undergoing major modifications at the Navy's Ship Repair Facility in San Diego. Basically we needed to increase its working depth capability from 20,000 to about 40,000 feet. To do this we had to increase the gasoline capacity of the float (balloon), add more shot ballast capacity and install a new sphere that had greater depth capability. The first two items were done in San Diego, but the new sphere had to come from the Krupp Works in Germany. Nevertheless, it all came together surprisingly quickly and by the late summer Trieste was back at NEL ready to begin local test dives.

The first dive was the eleventh of September, followed by a second one four days later. We were pleased with the results and quickly began the business of dismantling the bathyscaph for shipment to Guam in the Western Pacific.

One of the more fortunate aspects of our plan for Project Nekton was the proximity to Guam, where a major Navy base with all the support facilities we would require, lay only 200 miles from the Challenger Deep.

Less than two months after we had tested Trieste in its new configuration off San Diego, we had the submersible back in the water at Guam for a post-assembly test dive. Somehow our small project team of fifteen people had gotten tons of equipment packed; the bathyscaph disassembled into several major components; had got ourselves out of Guam, and back in operation in about six weeks time.

Our plan was to conduct a series of increasingly deeper dives until we felt all was ready for the deepest dive. By 15 November 1959, Piccard and Rechnitzer brought the world's depth record home to the United States with a dive to 18,150 feet. The previous record had been 13,500 feet set by the French Navy's FNRS-3 off Dakar in West Africa in January 1954.

But on this dive we also developed a difficulty with the sphere that gave us some real problems. The Krupp sphere was made in three ring-like sections, held together by epoxy glue. In theory the water pressure, even at the surface, was sufficient to hold the pieces in alignment. The epoxy was to keep the joint watertight and provide mechanical strength to hold the sphere together when it was out of the water. But because of the different metallic masses of the rings the epoxy glue failed. The two outer rings, containing the entrance hatch and the viewport, were much larger masses of steel than the center ring. Thus when the rings were warmed or cooled, they tended to expand and contract at different rates, the thinner ring reacting more quickly. On the dive to 18,000 feet the sphere got very cold in waters where the temperature approached 33 F. When the submersible surfaced this very cold metal was bathed in surface water of about 80 F. With such severe stress on the epoxy joint the glue finally pulled away with a great bang.

While there was no danger of flooding we were concerned about the small quantity of seawater that was seeping through the joint. The formation of rust in the interior joint faces might cause a reduction of strength. It was clear that we would have to put Trieste back into her drydock, disassemble the sphere and work out a way to seal it. We cleaned the sphere joints carefully and sealed them with compounds and rubber strips from the outside. Our wizard machinist, Navy Chief Petty Officer Jon Michel, designed and built a system of metal bands that would mechanically bind the sphere rings together. We gave up on trying to glue it again and instead relied on a mechanical fastening system. Even at that, we could not get all three rings in perfect alignment, they were about 0.008 of an inch off, but since the joints were about five inches wide, we felt we had a good margin of safety.

Needless to say, we did not bother to feed our misgivings to superiors in Washington or NEL. I knew we would probably be ordered home and that would be the end of our attempt at the Challenger Deep. Since I was to make the deep dive, I felt no one would be more concerned about the potential safety of Trieste than I would. That notion was to be my guide for the work that was to follow.

During the Christmas holidays we took advantage of the quiet time to test the Trieste's new sphere joints and to train Rechnitzer, Shumaker and myself as bathyscaph pilots. By January, 1960 we were ready to resume our dive series, and the Navy had its first three submersible pilots.

On January 8 we dove to 23,000 feet in the Nero Deep near Guam and on the twenty-third of that month we were ready for the profoundest plunge of all—the Challenger Deep. This final dive in Project Nekton took Jacques Piccard and myself nine hours to complete.

At 300 feet we encountered the thermocline, a layer where the water temperature drops sharply. Since the cold water was denser than the water we had been passing through, we became relatively more buoyant and stopped. We had expected this. Part of our standard diving procedure was to use this brief halt as an opportunity to make a final instrument check. Then, by releasing a little gasoline from our maneuvering tank, we got rid of some of our excess buoyancy and started down again.

At about 600 feet we entered a zone of deepening twilight where colors faded off into gray. By 1,000 feet the light had gone completely. We turned out the lights in the sphere to watch for the luminescent creatures that are sometimes visible at this level. We saw very few. Eventually we turned the cabin lights back on and briefly tested the forward lights that throw a beam in front of the observation window. Formless plankton streamed past, giving us a sensation of great speed.

We were now dropping fast, at about four feet per second. It was getting colder, and we decided to put on dry clothing. It was quite an operation: two grown men changing clothes in a space thirty-eight inches square and only five feet, eight inches high.

There were minor incidents such as the small leak that always developed in one of the hull connectors—a place where wires from lights and instruments on the outside of the sphere pass through the hull. The leak started at about 10,000 feet. It was an old friend, a tiny drip, drip, drip. I timed the drips and found no change from before, which meant that it had not become more serious. We expected it to disappear at about 15,000 feet, when the water pressure packed the plastic sealer in more tightly—and it did.

Up to this point we had managed to maintain voice contact with the people on the surface, using Project Nekton's specially developed underwater telephone.

But now, at 15,000 feet, we lost them—possibly because they were a good distance from us laterally as well as vertically. We were truly on our own now except for a crude system of tone signals we had arranged. By means of a special key the underwater telephone can send out a tone that sounds something like a radio time signal. These carry farther than voice transmission. In our code, all even numbered signals are for good news: two means all is well, four means we are on the bottom, six means we are on the way up. The bad messages come in odd numbers: three means we are having mechanical difficulty and are coming up but not in distress, five means something has gone wrong and we are coming up in an emergency. We never had to use the odd numbers.

At 27,000 feet we checked our rate of descent to two feet per second by dumping some shot ballast. We were not too sure of the underwater currents here and we did not want to go crashing into a wall of the trench by mistake. As we neared 30,000 feet I started thinking about the changes we had planned to make when we got within 1,000 feet or so of the bottom—which we now were expecting to find only another 3,500 feet below us. I was running through a mental checklist when we heard and felt a powerful, muffled crack. The sphere rocked as though we were on land and going through a mild earthquake.

We waited anxiously for what might happen next. Nothing did. We flipped off the instruments and the underwater telephone so that we could hear better. Still nothing happened. We switched the instruments back on and studied the dials that would tell us if something critical had occurred. No, we had our equilibrium and were descending exactly as before.

We dumped more ballast, checking our speed to one foot per second. At 33,000 feet, only about 600 feet off the expected bottom, we turned on our sensitive fathometer, which always before had quickly and accurately picked up the floor for us. It showed nothing.

We checked our speed to half a foot a second and continued. At that rate, time and distance pass very slowly, and I think for the first time in the dive both of us had the feeling of awe that comes from exploring the totally unknown.

I did not take my eyes off the fathometer and Jacques never stopped watching out of the tiny porthole with its weak probe of light. No bottom was in sight at 36,600 feet, or at 37,200. But at last at 37,500 feet the fathometer traced the beginnings of the bottom. Soon Jacques could see a difference in the effect of our light in the water, as the rays reflected off the bottom. As we approached the floor I called the fathometer readings to Jacques in fathoms: "Thirty . . . twenty . . . ten . . ." At eight, he called that he could see the gray-white bottom.

As we sank through the clear water near the bottom, we had a tremendous piece of luck. Peering through the tiny porthole, Jacques spotted a fish. It appeared to be browsing, searching for food along the ocean floor. It looked like a sole or flounder, flat with eyes on the side of its head. It was about a foot long. Our sudden appearance in his domain, with our great light casting illumination such as he had never seen before, did not seem to bother him at all. After we had been watching him for a minute, he swam slowly off into the darkness again, beyond the range of our light.

At 1:10 p.m. we sank gently onto the soft floor. A great cloud of silt rose around us. We had found the bottom at 37,800 feet,[1] 1,600 feet deeper than the rough soundings made from the surface had led us to expect.

The fifteen-man, Navy civilian/military team had set a record that could not be broken. And as all good explorers do, we planted the United States flag at the deepest spot in the ocean.

Subsequent to the completion of Project Nekton, the project team went home for a well-earned rest. We had worked virtually twelve hours a day, six days a week for five months to reach our goal, and we all needed a respite. Trieste stayed at Guam, as we intended to do Project Nekton II later in the spring.

By May the Nekton II project team was assembled at Guam. Piccard and two-thirds of the original military and civilian personnel from Nekton had left. Thus we began the new program with only five of the original fifteen people (Walsh, Shumaker, Rechnitzer, Buono and Michel). We planned only five ocean dives in this short program so we could get the Trieste shipped back to the United States before August when the typhoon season reaches its peak at Guam.

We did not intend Nekton II to end quite so quickly, but on the July 9 dive we had a complete failure of the outside lighting system. Replacement parts were only available in Europe and we felt that in the two to three remaining weeks before the arrival of the worst of the typhoon season there would be not time to fix this system.

By the second of August, Trieste and all its equipment had been placed on a United States-bound ship at Guam. The Guam programs were now over.

From late 1960 until I left the Trieste Program in mid-1962 we operated at San Diego in support of various Navy research projects. Among these were seafloor studies, acoustics, deep scattering layer investigations and gravity measurements. Also we spent nearly nine months doing a complete reconstruction of the Trieste to reflect the lessons learned in the submersible's first seven years of operation. This gave us a vehicle that was much more capable for scientific and technical work than the Trieste that the Navy purchased three years earlier. New lights, cameras, instruments and sampling devices were developed. The first submersible applications of TV, CTFM sonar and remotely operated manipulator were developed. In addition, the Trieste team designed systems that made the submersible easier to service and handle at sea; new battery modules that increased available power, and techniques which improved operational safety.

But Trieste was still the only operational submersible in the Navy and only one of four in the world. We therefore spent a considerable amount of our time at our "second job": the selling of deep submergence to the Navy. It was not a task taken lightly since there were many who wanted to scrap the Trieste once it had set the world's record for the Navy. We in the project saw the record dive a little differently. This adventure helped us to gain access to the policy makers who could help see that such programs were supported and expanded. I guess we were successful, in a general way, because nearly 100 submersibles have been built throughout the world since then. While only about eleven have been United States Navy, the early Navy designs for the submersibles and development of their systems have influenced most of those that have come after them.

Looking back over two decades since we made our "voyage to the bottom of the sea", I would say we have met our early expectations. It took longer than we had anticipated, but this is true of every new frontier. All of us who were with the original Trieste from 1959 to 1964 are proud to have been among the first pioneers in innerspace.●

OUTSTANDING SCHOOL DIRECTOR HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. BAILEY. Mr. Speaker, this Nation's educational system is one of the greatest in the world. The quality of its academic institutions is unequalled anywhere. It is a system that has achieved its prominence through the persistence, perseverance, and brilliance of many, many, women and men from all walks of life.

One man who I feel deserves to be included in this most prestigious category is Harmon Lauffer, a 27-year member of the Hempfield Area School Board of the 21st Congressional District. Since its inception, Mr. Lauffer has devoted countless hours over the years toward constructing, expanding, and constantly improving the Hempfield district's academic curriculum. He also has been instrumental in promoting expansion of extracurricular activities, that is, the outstanding sports opportunities available to all students.

Elected to the Manor School Board—later to become part of the Hempfield Area District—in 1948, he always has assumed an active and aggressive role. He is considered by the faculty, administration, students, and district residents, to be a true asset. Without doubt, they are saddened by his retirement.

A brief capsulization of his service speaks well for his dedication over the years. It is as follows: 1948-53 member Manor School Board, 1954-61 Hempfield Joint School Committee, 1957-64 president, Westmoreland County School Board, 1961-63 president, Hempfield Area School Board, 1968-79 vice president and president, Hempfield Area School Board, 1977-79 vice president and president of Westmoreland County Vocational-Technical School.

It is a pleasure to bring the remarkable and admirable service of this fine man to your attention and the attention of our colleagues. Hempfield Area School District is fortunate to have benefited by his leadership, wisdom, and insight. He has been a fine model for those board members who will carry on as Mr. Lauffer retires.●

IOWA QUARRY OPERATORS: BEING "INSPECTED TO DEATH"

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. TAUKE. Mr. Speaker, Congress passed the Federal Mine Safety and Health Act of 1977 to respond to a series of very tragic coal mining disasters. The basic legislation is vitally important, answering a critical need to insure the safety of the men and women who work in the deep mines.

However, the sweeping definition of what constitutes a mine and the types of operations subject to the act include many small surface operations which simply do not present workers with the same types of hazards associated with the deep, underground mines.

Also, legitimate concern has been raised about the number of Federal inspectors and the number of inspections in my home State of Iowa. There is more than one MSHA inspector for every 100 quarry workers, despite a good safety record of Iowa mines. We seem to have a classic case of Government overkill.

I have added my name to the growing list of Members supporting legislation that would transfer enforcement of surface operations from MSHA to OSHA. Since this legislation may come before the full House in the future, I thought an article, "Iowa Quarry Operators: Being Inspected to Death", which recently appeared in the Cedar Rapids Gazette would be of interest and help to my colleagues.

---

[1] After the dive, it was discovered that the fathometer had been calibrated in distilled water. Adjusted to seawater, it indicated a true depth of 35,800 feet, a figure more in line with the soundings.

I ask unanimous consent that this article be inserted in the CONGRESSIONAL RECORD immediately following my remarks:

[From the Cedar Rapids Gazette, Dec. 16, 1979]

IOWA QUARRY OPERATORS: BEING INSPECTED TO DEATH

(By Tom Fruehling)

Nobody has much good to say about the Occupational Safety and Health Administration (OSHA). Folks from this federal agency, it might be remembered, ordered the Cedar Rapids fire department to put a railing around its fire pole.

But quarry operators in the Midwest, including a number around Marion and Cedar Rapids, are pleading with lawmakers to come under OSHA's jurisdiction. It's not that they're particularly taken with OSHA's regulations; it's just that the quarry officials feel they would be easier to live with than existing federal mining laws.

Michael Wright, safety director for Alpha Crushed Stone in Marion, calls the existing setup "bizarre."

Ken McNichols, executive director of the Iowa Limestone Producers Assn. in Des Moines, is even more harsh. He contends the regulations under which Iowa quarries operate are literally killing people.

8 FATALITIES

Since quarries have fallen under the jurisdiction of the Department of Labor's Mine Safety and Health Act in early 1978, there have been eight mining fatalities in Iowa. In the 15 years prior, all told there were eight fatalities.

"It's no mystery," says McNichols. "Safety directors are too busy following federal inspectors around, too busy trying to comply with rules and regulations and paperwork that they can't devote enough time to developing safety programs.

Wright and other local quarry representatives agree with McNichols' assessment "I used to devote almost full time to training employees and working on our safety program," says Wright. "Now, about all my time is spent on federal inspections. And little of value comes from the inspections."

Quarries used to be regulated by the Department of the Interior. Regular inspections of the operations were made by federal officials and when safety violations were found, the operators were forced to correct them. There was no mechanism for fines, however.

Two years ago—on the heels of several coal mine disasters, according to McNichols—all underground and surface mines were put under the umbrella agency of Mine Safety and Health Administration. The law specifies that each underground mine be inspected four times a year, while surface mines are to be inspected twice a year. Operators may be fined from $2 to $10,000 if violations are found. Each inspection takes from one to three days.

McNichols and others claim that since the law went into effect, quarry operators are being "inspected to death."

EACH HOLE

"As far as MSHA is concerned, each hole in the ground constitutes a mine," McNichols points out. "They make no distinction between a permanent coal mine or uranium mine employing hundreds of people and a quarry which is maybe worked a couple of weeks a year. Iowa and the Midwest is unique in that the area is rich in limestone and has many quarries. Another factor is that it is often cheaper to move portable rock crushing machines to different quarries close to job sites than it is to truck material from permanent locations."

Each time equipment is moved to these "holes in the ground," Federal inspectors move in.

Often, inspectors look at the same machinery they looked at a week before at another location.

In the case of Alpha, it has 28 different quarries, most of which are worked on a spot basis. In the past nine months, Alpha has had 43 inspections.

Dennis Goettel, safety director for B.L. Anderson Inc., said his firm has had 39 inspections since February. One crushing plant has had six since July.

Another area quarry operator said one of his company's portable crushing plants, involving 10 employees, has been checked 10 times this year. There have been no accidents at the plant, and inspectors found just two minor violations.

Tom Scott, general manager of the River Products Co. of Iowa City, says his company runs one underground mine and three surface mines which, by law, would be subject to 10 inspections a year. The facilities have undergone 28 inspections this year.

"MSHA has all this money, and all these inspectors that don't have enough to do," Scott says. "So they go around looking for things. But the intent of the law has been forgotten. There's little emphasis on safety. That's been lost in the bureaucracy."

HARASSMENT

Wright, for one, has termed the MSHA inspection procedure "overkill and out and out harassment."

He has voiced his complaints to Iowa Sens. John Culver and Roger Jepsen and Rep. Tom Tauke.

Jepsen responded by saying he was "appalled" at the "excessive government regulation."

"This governmental disease of control over our lives" has got to end, Jepsen wrote.

Tauke agreed with Wright that the law needs to be changed to exempt stone, sand and gravel mining operations from the Federal Mine Safety and Health Act. In fact, both he and Jepsen have sponsored bills in the House and Senate to that end.

"The law is driving small entrepreneurs out of business," McNichols claims. "They can't afford to have down time caused by unnecessary inspections. And they can't afford to devote personnel to nothing but follow inspectors around.

McNichols points out there are about 2,000 people in Iowa employed in the metal and non-metal mining business. There are about 30 federal inspectors working in the state, McNichols says, 10 of them out of Cedar Rapids.

"If OSHA had the same ratio of inspectors to employees, they'd have to have around 100 at Collins alone. Instead, there are 30 OSHA inspectors in Iowa who are responsible for inspecting facilities that employ 1.5 million people."

MORE THAN ARIZONA

He says Iowa has more mine inspectors than Arizona, even though 30,000 people in Arizona work in uranium mines and other mining facilities.

McNichols and his associates say they believe in safe operations. "But," says McNichols, "things were better when it was left in the hands of the industry, before Big Brother got in the act."

Safety directors point out that the regulations cause them to be inundated with paperwork.

Goettel notes that since, in the eyes of the federal agency, each quarry site is considered a separate mine he gets 40 copies of each correspondence from MSHA.

And Wright points out that when a citation is issued, forms filter through several different offices all over the country before the amount of a fine is determined. He says the whole process is a waste of taxpayers' money.

And, says Scott, "the whole intent of the law has been misinterpreted. Inspectors, instead of being safety professionals, are now merely policemen who play the numbers game with citations and fines."

FINK DISAGREES

Doyle Fink, MSHA supervisor in Cedar Rapids, disagrees with criticism of the agency. "Our purpose is not to browbeat people. What we're doing is trying to save lives and improve safety. The law mandates that we make a specified number of inspections, and we attempt to abide by the guidelines."

And, contrary to the views of quarry operators, Fink contends conditions in mines and quarries are safer now than before MSHA was created. "Fines have served a purpose," he says. "Operators are more conscious of safety than they used to be."

In any case, the inspectors are not likely to go away—unless the law is changed. In fact, MSHA is scheduled to add more inspectors next year.●

LIVING TOGETHER AND DYING ALONE

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1980

● Mr. McKAY. Mr. Speaker, I wish to place into the CONGRESSIONAL RECORD excerpts from the book "The Broken Heart," by Dr. James J. Lynch.

This book discusses the importance of human companionship in marriage to the physical and mental well-being of any individual.

I believe my colleagues will find this material both enlightening and shocking. I encourage those interested to obtain a copy of this book. It forcefully underscores the importance of the family to the well-being of society.

Hopefully, our actions in Congress will protect and defend the basic family institution in America.

The article follows:

EXCERPTS FROM THE BOOK "THE BROKEN HEART"

(By Dr. James Lynch)

LIVING TOGETHER AND DYING ALONE

The differences in longevity among various racial groups in the United States, and the unusually long life spans of some groups, are also reflected in the various mortality tables that measure the way people live together.

It is a striking fact that U.S. mortality rates for all causes of death, and not just heart disease, are consistently higher for divorced, single, and widowed individuals of both sexes and all races. Some of the increased death rates in unmarried individuals are astounding, rising as high as ten times the rates for married individuals of comparable ages.

Corporations such as insurance companies that gamble their money on their ability to evaluate health risks have long recognized that a person's marital status is one of the best predictors of health, disease, and death. Over two decades ago, in 1956, Drs. Kraus and Lillienfeld at The Johns Hopkins Medical School also recognized this relationship. They summarized the medical data available at that time on the relationship between marital status and mortality rates as follows:

"Married people experienced a lower mortality rate from all causes than did single persons, the widowed, and the divorced for every specific age group in each sex and color. For both sexes and colors combined, the ratios of the age-adjusted death rates in these three not-married groups to the age-adjusted rate in the married group were 1.47, 1.46 and 1.84, respectively. . . . The relative excess mortality in the not-married categories compared to the married group was greater at the younger ages. . . . The relative excess mortality in the not-married categories was consistently greater in males than in females" (p. 207).

All three aspects of the Kraus and Lillienfeld review deserve special emphasis. First, all causes of death were higher in the nonmarried groups. Second, the differences were greatest at the younger ages. Third, the differences were more apparent in males.

Before we proceed to examine these conclusions in greater detail, however, several statistical concepts referred to by Drs. Kraus and Lillienfeld need to be clarified. The first of these is the concept of *age-specific death rates.* Within any given age group, a certain percentage of people die. At younger ages, obviously, fewer people die than at older ages. Excessive age-specific death rates, therefore, refer to any increase for a specific age group above the average death rate for that age. Quite often this is expressed in terms of a ratio. Thus, the 1.84 overall age-adjusted death rate for divorced people in the United States means that when the death rate at all ages is averaged together and adjusted for the average death rate at each age, divorced people die 1.84 times more frequently than married people. This is, of course, calculated from the relative numbers of divorced to married people at each age. A second concept that must be emphasized is that of *excessive mortality.* If for example, 1 out of every 100 males dies at the age of 30, while 2 out of every 100 30-year-old divorced males dies, then the excessive mortality of divorced males is said to be double that of their married counterparts for that specific age. *Premature death* as a statistical concept refers to deaths occurring before the ages of 65-70, while age-specific death rates are the death-rate patterns at any and all ages.

The Kraus-Lillienfeld finding of sharply increased death rates for nonmarried individuals has been confirmed repeatedly over the last two decades by other investigators, and these findings stimulate many questions. Why should nonmarried individuals have so much higher death rates than married individuals? What diseases contribute most to this marked increase in death rates? Why should the younger nonmarried groups suffer proportionally so much more than older individuals? Why should younger widows and widowers, for example, die at higher rates than older widows and widowers, who themselves die at higher rates than married individuals?

While the overall death rate for divorced individuals in the United States is almost double that of married individuals, a closer inspection of mortality figures reveals that the death rates of nonmarried individuals are far greater than might be initially deduced from Kraus and Lillienfeld's summary statements.

In 1970, in *Marriage and Divorce: A Social and Economic Study* Hugh Carter and Paul Glick reported *overall* increased death rates very similar to those observed by Kraus and Lillienfeld 14 years earlier. Their text, however, provides additional valuable insights into the large number of diseases that contribute to increased death rates in nonmarried individuals. Using data obtained from the National Center for Health Statistics on all deaths that occurred in the United States from 1959 to 1961, Carter and Glick demonstrated that the *premature death rates* (deaths between the ages of 15 and 64) in men and women who were single, divorced, or widowed were significantly higher than those for married individuals. As is shown in detail in Appendix B, they classified death rates per 100,000 population according to marital status, sex, race, and cause of death. For every listed cause of death the single, widowed, and divorced had significantly higher death rates than did married people, both white and nonwhite and both sexes.

Representative comparisons, extracted from the detailed table in Appendix B, help show not only the magnitude but also the consistency of this phenomenon. The following table shows that for every major cause of death, the rates for divorced males ranged anywhere from two to six times higher than those of their married counterparts. Single and widowed males showed similarly high death rates when compared to those who were married.

DEATH RATES OF DIVORCED AND MARRIED MEN PER 100,000 POPULATION, AGES 15-64 IN THE UNITED STATES, 1959-61

Cause of death	White males		Nonwhite males	
	Married	Divorced	Married	Divorced
Heart disease	176	362	142	298
Motor vehicle accidents	35	128	43	81
Cancer of respiratory system	28	65	29	75
Cancer of digestive system	27	48	42	88
Stroke	24	58	73	132
Suicide	17	73	10	21
Cirrhosis of liver	11	79	12	53
Hypertension	8	20	49	90
Pneumonia	6	44	22	69
Homicide	4	30	51	129
Tuberculosis	3	30	15	54

As can be seen in the table, for U.S. males heart disease is by far the leading cause of death. While in every case there were significantly higher death rates for the divorced males, there were also important differences in death rate patterns according to race. Death caused by strokes and hypertension was significantly higher in the nonwhite population, although again significantly altered by marital status. Unfortunately, however, until very recently U.S. census data grouped all nonwhite races together, including Orientals, blacks, and Indians, so that it is impossible to sort out the relative manner in which these different groups contributed to the nonwhite death rates. It is well known that hypertension and stroke afflict blacks significantly more than whites. Since blacks in 1960 comprised roughly 85 percent of the total U.S. nonwhite population, it would be reasonable to assume that they contributed to the bulk of the deaths given for nonwhite males. This point is especially critical in light of the fact that it has been assumed by many that the greatly elevated rates of hypertensive heart disease and stroke among blacks reflect some type of genetic predisposition to these diseases. And yet, as is clear from the figures, the incidence of hypertension is also significantly affected by marital status, strongly suggesting the possibility that environmental and psychological factors influence the course of this disease.

Similar changes in death rate patterns by marital status can be seen in women. In order to show the generality of the influence of marital status, the death rate patterns of widowed women can be compared to those of married women.

DEATH RATES OF WIDOWED AND MARRIED FEMALES PER 100,000 POPULATION, AGES 15-64 IN THE UNITED STATES, 1959-61

Cause of death	White females		Nonwhite females	
	Married	Widowed	Married	Widowed
Heart disease	44	67	83	165
Cancer of breast	21	21	19	28
Cancer of digestive system	20	24	25	41
Stroke	19	31	72	147
Motor vehicle accidents	11	47	10	25
Hypertensive heart disease	7	10	50	97
Cancer of cervix	7	13	17	34
Cirrhosis of liver	7	15	9	23
Suicide	6	12	3	6
Accidental fires or explosions	1	6	4	11

Several features can be quickly seen. First of all, the overall death rate before age 65 for women was significantly lower than for men. As was true with men, marital status significantly influenced the death rates, with married women always having lower rates. Again, there were important racial differences. Stroke and hypertensive heart disease were much higher among nonwhite females; as usual, the rate was double for widows.

In summary then, for both men and women, white and nonwhite, cardiovascular disease (including stroke and hyertension) was listed as the major cause of premature death. For divorced, widowed, and single men, both white and nonwhite, the overall death rates for cardiovascular disease were two to three times higher than for married men. Similar trends were also true for women. For almost every major cause of premature death there were also marked increases for the nonmarried over the married, with differences in death rates as high as tenfold. Death rates for heart disease, motor vehicle accidents, cancer of the respiratory system, cancer of the digestive organs, stroke, suicide, cirrhosis of the liver, rheumatic fever, hypertension, pneumonia, diabetes, homicide, tuberculosis—all these were higher among single, widowed, and divorced individuals. The consistently higher death rates for so many different causes of death is itself remarkable.

Of all these causes of death other than heart disease, cancer is perhaps the most interesting, not only because it is the second leading cause of death but also because it is commonly thought of as a disease that is unambiguously physical in nature (that is, cancer is not usually thought of as being influenced by phychological or social factors). And yet, as is shown in the following table and in greater detail in Appendix B, almost every type of cancer is significantly influenced by marital status, with the widowed, divorced, and single individuals almost always having significantly higher death rates.

The 4.10 ratio for white males for buccal cavity and pharyngeal cancer means that divorced white males died from this type of cancer *4.10 times more frequently than did married men.* What is remarkable about these figures, taken directly from Lillienfeld, Levin, and Kessler's text, *Cancer in the United States,* published in 1972, is that every type of terminal cancer strikes divorced individuals of either sexes, both white and nonwhite, more frequently than it does people who are married.

* * * * *

Levin, and Kessler recommended "We would suggest that a group of recently widowed and divorced persons be followed and their mortality experience compared with that of a suitable married group . . . similar comparisons being made between those who remain single and those who marry" (pp. 148-149).

Data on many leading causes of death suggest that marital status also significantly influences the general life-style of the individual. The sevenfold increase in premature death rates from cirrhosis of the liver among divorced white males and the general increase in death rates from this disease among all nonmarried groups (except single white females) suggest that unmarried individuals in general consume more alcohol. There are marked increases in death rates due to motor vehicle accidents and "accidental fires," with widowed men and women having four- to sevenfold increases in death rates from these causes. Suicide increases fivefold in the widowed white male and fourfold in the widowed nonwhite male and white female, while death by homicide also increased dramatically. This doubling of cancer of the respiratory system and the tenfold rise in tuberculosis among divorced white males led Carter and Glick to suggest that perhaps differential patterns of cigarette smoking had influenced these results.

Yet even something as obvious as the relationship between cigarette smoking and health is not so clear-cut as one might think. Dr. Harold Morowitz, a professor of biophysics at Yale University, recently called attention to intriguing data he found buried among the masses of health statistics in the Hammond Report. The Hammond Report, first published in 1963, was the study that followed the smoking habits of about a half million men; it led, ultimately, to the warning printed on every package of cigarettes that "smoking is dangerous to your health." Without quarreling with the overwhelming mass of data which support that conclusion, Dr. Morowitz points out that the relationship is not a simple one. For example, he extracted the following table from the Hammond Report on the relationship between marital status, smoking, and premature death:

AGE-STANDARDIZED DEATH RATES PER 100,000 MEN, AGES 40–69

	Nonsmokers	Smoke 20+ cigarettes a day
Married	796	1,560
Single	1,074	2,567
Widowed	1,396	2,570
Divorced	1,420	2,675

The overall influence of marital status on premature mortality closely resembles the ratios cited earlier. Moreover, it is fascinating to note, as Dr. Morowitz points out, that "being divorced and a non-smoker is slightly less dangerous than smoking a pack or more a day and staying married." He adds with tongue in cheek that "if a man's marriage is driving him to heavy smoking he has a delicate statistical decision to make" (p. 39).

By no means should these data be construed to minimize the very real dangers of cigarette smoking. What these data also reveal, however, is that the ultimate medical consequences of behavioral variables like smoking must be examined in the larger context of a person's total social existence. Of even greater significance, these data suggest that it is possible to sort out statistically the relative influence of both smoking and marital status. As can be seen, the relative impact on mortality remains proportionately the same between marrieds and nonmarrieds, although the overall death rate rises when smoking is added to the equation.

In 1973, Kitagawa and Hauser attempted to correct for statistical factors that might have influenced the higher death rates that have been routinely reported for the nonmarried. In their book *Differential Mortality in the United States,* based on death rates in the United States during 1959-1961, they estimated that divorced white males between the ages of 35 and 64 had a death rate more than double that of their married counterparts (130 percent higher), while white male widows had a death rate of 78 percent higher and single males 75 percent higher. Among white females, divorcees had an overall death rate 37 percent higher than that of married women, whereas the widowed were 30 percent higher and the single 34 percent higher. Among nonwhite males, the widowed had the greatest increase, being 89 percent above the married levels, while divorced nonwhite males had a death rate 87 percent above that of married nonwhite males. Among nonwhite females of the same age range, the death rate for widows was 65 percent, for divorcees 57 percent, and for singles 42 percent above the rate for nonwhite married females. In summary, they pointed out that the greatest increases in death rates occurred for divorced white males and widowed nonwhite males, with cardiovascular disease in all cases being the leading cause of death.

The influence of the nonmarried state on health can also be gauged by other indices. Mortality is by no means the only statistic that reveals the strong relationship between marital status and health. Another barometer of health is the amount of time spent in all types of residential institutions, both of a voluntary and involuntary nature. (Detailed tables are given in Appendix B.) Almost every type of institution has extraordinarily high proportions of the nonmarried in their populations. For example, Carter and Glick pointed out that among middle-aged persons in institutions providing long-term hospital care, "widows had three times and widowers had eight times the institutional rate of comparable married persons. Bachelors had a rate twenty-one times that of married men, and fully 9 percent of bachelors and 5 percent of spinsters 45 to 64 years old were confined to an institution" (p. 410).

Differential rates of mental hospital residence among the married and nonmarried reflect the same pattern. Carter and Glick reported that "where rates of mental hospital residence for married men of middle age in 1960 were set at 100, bachelors of the same age had a comparable rate of 2,350 (23.5 times greater), separated and divorced men around 1,000 and widowers about 500. Likewise, where mental hospital residence rates for married women of middle age were set at 100, comparable rates were nearly 1,000 for spinsters, around 500 for the separated and divorced, and 200 for widows" (ibid.). At ages 45-64, divorced males had a detention rate in prisons 20 times higher than married men, the separated 18 times higher, and the widowed 7 times higher.

Another way to assess the impact of marital status on health and health costs is to examine the differential manner in which chronic health conditions affect those who live alone. Health conditions are considered chronic if they last more than three months; included in this category are both mental and physical disorders. Of interest in this regard is the manner in which chronic health conditions affect the activity of individuals—for example, whether they can continue to work. Married individuals have significantly fewer chronic conditions (50 percent fewer) which limit their activities, even though they suffer slightly more chronic diseases overall. This suggests that they can cope with diseases better than people who live alone.

On the other hand, the differential patterns of confinement in mental hospitals, prisons, and other institutional settings help to emphasize the fact that any attempt to consider the effects of marital status apart from all the changes in personal and cultural life-styles that go with it would seriously distort reality. This issue reduces to one that health statisticians call an *Analysis of variance.* If, for example, ten different factors hypothetically contribute to heart disease, statisticians would try to determine the relative importance of each factor—that is, how much of the "variance" in heart disease each factor accounts for. In the case of one of these factors, marital status, the issue becomes even more complex. Marriage not only apparently influences the heart itself but also affects other behaviors, such as eating, drinking, smoking, and general life-style, all of which also influence the heart. Thus, in many instances, marital status appears to *co-vary* with other factors that also influence the heart. And as we have already seen with cigarette smoking, the impact of such behaviors is in turn influenced by marriage

Even beyond the manner in which marriage may act to change an individual's behavior, the very process of selection in marriage no doubt also tends to leave those who are sick unmarried. In general, those who are healthy are likely to marry, while those who are seriously ill are less likely to find a partner. This selection factor is also likely to influence death statistics, especially in early adult life leading to a higher statistical death rate among nonmarried individuals. What percentage of the increased death rates among the nonmarried is due to this type of selection factor has not been thoroughly examined. However, this selection factor cannot be the only factor accounting for the wide variety of causes of death that are influenced by marital status, or the differential manner in which people of different ages are afflicted by the same disease. It is hard to apply the same "selection factor" to differences in death rates from phenomena as diverse as tuberculosis, automoblie accidents, fires, cancer, suicide, and coronary heart disease.

All these complicating factors make it imperative for us to focus more carefully on just one cause of death, heart disease. The multitude of factors that mix with marriage to influence health can be sorted out more clearly by concentrating on the heart.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterik to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, February 5, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 6

9:00 a.m.

Labor and Human Resources
Child and Human Development Subcommittee
To hold hearings on S. 1843 and H.R. 2977, proposed Domestic Violence Prevention and Services Act.
6226 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on S. 2177, proposed Emergency Home Purchase Assistance Authority Amendments.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.
235 Russell Building

Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings to examine current problems and programs of the hearing impaired, and to explore future technological developments designed to handle their problems.
4232 Dirksen Building

10:00 a.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1981 for the National Institutes of Health.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To review those programs administered by the Office of the Secretary of Commerce.
S-146, Capitol

Armed Services
To continue hearings on proposed military procurement authorizations for fiscal year 1981 for the Department of Defense.
212 Russell Building

Energy and Natural Resources
To resume hearings to review those items in the President's budget for fiscal year 1981 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee, to hear officials from the Department of Agriculture.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To continue joint markup of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.
4200 Dirksen Building

Governmental Affairs
To resume consideration of S. 262, to require that all Federal agencies conduct a regulatory analysis before issuing regulations and to require the use of less time-consuming procedures to decide cases.
3302 Dirksen Building

Select on Intelligence
To hold a closed business meeting.
S-407, Capitol

Joint Economic
To continue hearings on the state of the U.S. economy.
2212 Rayburn Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1981 for the National Institutes of Health.
S-128, Capitol

*Finance
Public Assistance Subcommittee
To hold hearings to examine the problems which welfare reform legislation should address.
2221 Dirksen Building

3:30 p.m.

Judiciary
Constitution Subcommittee
To resume consideration of S. 1790, to establish nonconstitutional protections to all citizens not suspected of criminal activity and to all levels of government against possible abuses of the search warrant procedure.
2228 Dirksen Building

FEBRUARY 7

8:30 a.m.

Energy and Natural Resources
To resume closed hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade.
S-407, Capitol

9:30 a.m.

Commerce, Science, and Transportation
To continue hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.
235 Russell Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 and on supplemental funds for fiscal year 1980 for programs administered by the Department of State.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Alcohol, Drug Abuse and Mental Health Administration.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Judiciary.
S-146, Capitol

Banking, Housing, and Urban Affairs
To resume oversight hearings on the New York City federal loan guarantee program.
5302 Dirksen Building

Environment and Public and Works
Environmental Pollution and Resource Protection Subcommittees
To continue joint markup of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.
4200 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings to examine the problems which welfare reform legislation should address.
2221 Dirksen Building

Judiciary
Criminal Justice Subcommittee
To hold hearings on S. 1482, to set forth certain pretrial, trial and appellate procedures for criminal cases involving classified information.
357 Russell Building

Select on Indian Affairs
Business meeting, to begin markup of H.R. 3979, to modify and ease certain Federal laws restricting commercial transactions between Indians and Federal employees, S. 2222, to extend the time within which the United States may bring an action for damages on behalf of an Indian tribe to December 30, 1984; and to resume consideration of S. 1464, to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.
4232 Dirksen Building

Joint Economic
To continue hearings on the state of the U.S. economy.
2257 Rayburn Building

1:00 p.m.

Judiciary
To hold hearings on the nominations of Richard S. Arnold, of Arkansas, to be U.S. Circuit Judge for the Eighth Circuit; Henry Woods, to be U.S. District Judge for the District of Arkansas; and Helen J. Frye, Owen M. Panner, Jr., and James A. Redden, each to be a U.S. District Judge for the District of Oregon.
2228 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1981 for the Health Resources Administration.
S-128, Capitol

Environment and Public Works
Nuclear Regulation Subcommittee
To resume hearings on S. 1521, proposed Nuclear Waste Regulation Act, and to begin hearings on S. 1360, to establish a workable framework for Federal/State cooperation in the planning, siting, development, construction and operation of nuclear waste storage and disposal facilities.
4200 Dirksen Building

3:00 p.m.

Conferees

On S. 643, to reform the United States refugee and assistance program by repealing current discriminatory laws, raising the annual limitation on refugee admission, providing procedures to meet emergency situations, and providing for Federal support of the refugee resettlement process.

EF-100, Capitol

FEBRUARY 8

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To resume hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.

5302 Dirksen Building

Environment and Public Works

Environmental Pollution and Resource Protection Subcommittees

To continue joint markup of S. 1480 to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

10:30 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of the Assistant Secretary for Health, Scientific Activities Overseas, and Retirement Pay for Commissioned Officers.

S-128, Capitol

FEBRUARY 13

10:00 a.m.

Energy and Natural Resources

To resume hearings to review those items in the President's budget for fiscal year 1981 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee, to hear officials from the Department of the Interior.

3110 Dirksen Building

FEBRUARY 18

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To review those programs administered by the Department of Education.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Communications Commission.

S-146, Capitol

FEBRUARY 19

8:30 a.m.

Energy and Natural Resources

To resume closed hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade.

S-407, Capitol

10:00 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for Elementary and Secondary Education and Impact Aid programs.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Arms Control and Disarmament Agency, Commission on Civil Rights, Equal Employment Opportunity Commission, and the Legal Services Corporation.

S-146, Capitol

Banking, Housing, and Urban Affairs

To hold hearings on proposed legislation to renew the Home Mortgage Disclosure Act.

5302 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To resume hearings on S. 1938, proposed Federal Radiation Protection Management Act

3302 Dirksen Building

Rules and Administration

To hold hearings on resolutions requesting additional funds for Senate committees.

301 Russell Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Emergency School Aid, and Libraries and Learning Resources.

S-128, Capitol

Technology Assessment Board

Business meeting on pending Board business.

EF-100, Capitol

FEBRUARY 20

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration.

412 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.

235 Russell Building

10:00 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Vocational Education, Student Assistance programs, and Student Loan Insurance Fund

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Commission on Security and Cooperation in Europe, International Communications Agency, and the Japan-U.S. Friendship Commission.

S-146, Capitol

Energy and Natural Resources

Business meeting, to consider proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.

3110 Dirksen Building

Governmental Affairs

To hold hearings on S. 2164 and 2165, bills to protect the confidentiality of certain export information required by the Bureau of the Census for statistical purposes.

3302 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 1652, proposed Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act.

4232 Dirksen Building

Rules and Administration

To continue hearings on resolutions requesting additional funds for Senate committees.

301 Russell Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Special Institutions.

S-128, Capitol

FEBRUARY 21

8:30 a.m.

Energy and Natural Resources

To resume closed hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade.

S-407, Capitol

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold oversight hearings on the activities of the Commodity Futures Trading Commission.

324 Russell Building

9:15 a.m.

Veterans' Affairs

To hold hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society and finding employment opportunities.

318 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.

235 Russell Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Agency for International Development, Congressional Research Service, and the Senate Legal Counsel (Sec. 115, Public Law 95-481).

1114 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Higher and Continuing Education, Educational Activities Overseas, Higher Education Facilities Loan and Insurance, and College Housing Loans.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Small Business Administration.

S-146, Capitol

Governmental Affairs

To continue hearings on S. 2164 and 2165, bills to protect the confidentiality of certain export information required by the Bureau of the Census for statistical purposes.

3302 Dirksen Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for special projects of the Department of Education.

S-128, Capitol

FEBRUARY 22

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on a proposed amendment to establish standards for developing a cost ratio trigger for burden of proof in rate cases, to S. 1946, to provide railroads with more pricing rate flexibility and contract provisions.

235 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume hearings on the U.S. embargo of grain and technology exports to the Soviet Union.

5302 Dirksen Building

FEBRUARY 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 2245, proposed Motor Carrier Reform Act.

235 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the conduct of monetary policy.

5302 Dirksen Building

Energy and Natural Resources

To hold hearings on S. 1280, proposed Energy Management Partnership Act.

3110 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To resume hearings on S. 1652, proposed Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act.

4232 Dirksen Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Human Development Services.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the administration of foreign affairs within the Department of State.

S-146, Capitol

FEBRUARY 26

9:30 a.m.

Commerce, Science, and Transportation

To continue hearings on S. 2245, proposed Motor Carrier Reform Act.

235 Russell Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Department of the Treasury, and the Export-Import Bank of the United States.

1114 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Health Care Financing Administration.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for international organizations and conferences within the Department of State.

S-146, Capitol

Banking, Housing, and Urban Affairs

To continue oversight hearings on the conduct of monetary policy.

5302 Dirksen Building

Budget

To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1981 congressional budget.

6202 Dirksen Building

Energy and Natural Resources

To continue hearings on S. 1280, proposed Energy Management Partnership Act.

3110 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.

3302 Dirksen Building

Labor and Human Resources

To consider those matters and programs which fall within the committee's jurisdiction with a view to submitting its views and budgetary recommendations to the Committee on the Budget by March 15.

4232 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 2066, to convey certain land in Colorado to the Ute Mountain Ute Indian Tribe.

5110 Dirksen Building

11:00 a.m.

Veterans' Affairs

To hold hearings to receive legislative recommendations for fiscal year 1981 from Disabled American Veterans.

318 Russell Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for International Commissions of the Department of State, and the Office of the U.S. Trade Representative.

S-128, capitol

Budget

To continue closed hearings in preparation for reporting the first concurrent resolution on the fiscal year 1981 congressional budget.

6202 Dirksen Building

FEBRUARY 27

9:30 a.m.

Commerce, Science, and Transportation

To continue hearings on S. 2245, proposed Motor Carrier Reform Act.

235 Russell Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.

6226 Dirksen Building

10:00 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Social Security Administration.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the International Trade Commission, and the Federal Trade Commission.

S-146, Capitol

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold oversight hearings to examine the scope of rental housing.

5302 Dirksen Building

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on S. 1934, proposed Municipal Solid Waste to Energy Act.

3110 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To continue hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.

3302 Dirksen Building

Labor and Human Resources

Education, Arts, and the Humanities Subcommittee

Business meeting, to consider S. 1839, authorizing funds through fiscal year 1985 for programs under the Higher Education Act.

4232 Dirksen Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of Inspector General, Office of Civil Rights, Policy Research, and Departmental Management.

S-128, Capitol

FEBRUARY 28

9:00 a.m.

*Veterans' Affairs

To resume hearings on S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration.

412 Russell Building

10:00 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Community Services Administration, and the Railroad Retirement Board.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Board for International Broadcasting, and the Securities and Exchange Commission.

S-146, Capitol

Banking, Housing, and Urban Affairs
Insurance Subcommittee
To hold hearings on proposed authorizations for fiscal year 1981 for the crime and riot-reinsurance program of the Federal Emergency Management Administration.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To continue hearings on S. 1934, proposed Municipal Solid Waste to Energy Act.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.
3302 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
Business meeting, to continue consideration of S. 1839, authorizing funds through fiscal year 1985 for programs under the Higher Education Act.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2223, to allow members of Indian tribes to transfer restricted Indian lands to heirs who are not members of the reservation where the land is located.
457 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the National Commission on Libraries and Information Services, Corporation for Public Broadcasting, Occupation Safety and Health Review Commission, Mine Safety Review Commission, and the Soldiers' and Airmen's Home.
S-128, Capitol

FEBRUARY 29

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.
235 Russell Building

Labor and Human Resources
Employment, Poverty and Migratory Labor Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for the Legal Services Corporation.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for domestic programs of ACTION, National Labor Relations Board, Federal Mediation and Conciliation Service, and the National Mediation Board.
S-128, Capitol

Banking, Housing, and Urban Affairs
Insurance Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for the crime and riot-reinsurance program of the Federal Emergency Management Administration.
5302 Dirksen Building

MARCH 3

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Education for All Handicapped Children Act (P.L. 94-142).
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on proposed legislation to renew the Home Mortgage Disclosure Act.
5302 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To review those programs administered by the Department of Labor.
S-128, Capitol

MARCH 4

8:00 a.m.
Veterans' Affairs
To resume hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society and finding employment and education opportunities.
412 Russell Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs administered by the Department of State.
1318 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Public Service Jobs, Special Youth Programs, the Job Corps, and Jobs for the Elderly.
1223 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed legislation authorizing funds through fiscal year 1985 for the Urban Mass Transportation program.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, to resume consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.
3110 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1981 from Veterans of Foreign Wars.
318 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for General Manpower Training programs, Private Sector Initiatives, State Employment Security Agencies.
1114 Dirksen Building

MARCH 5

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Labor-Management Services Administration, Pension Benefit Guaranty Corporation, Occupational Safety and Health Administration, and the Mine Safety and Health Administration
1114 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds through fiscal year 1985 for the Urban Mass Transportation program.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, to continue consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.
3110 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Employment Standards Administration, Bureau of Labor Statistics, and President's Committee on Employment of Handicapped.
1114 Dirksen Building

MARCH 6

9:30 a.m.
Veterans' Affairs
Business meeting, to consider those items in the President's budget for fiscal year 1981 which fall within its legislative jurisdiction and to consider recommendations which it will make thereon to the Budget Committee by March 15.
412 Russell Building

10.00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain international Security Assistance programs of the Department of State.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds through fiscal year 1985 for the Urban Mass Transportation program.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, to continue consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.
3110 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River, San Diego, California, to be held in trust for, and operated and maintained by certain boards of Mission Indians.
5110 Dirksen Building

MARCH 7

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on S. 864, 1499, 1663, 1744, bills to facilitate the formation of U.S. export trading companies to expand export participation by smaller U.S. companies.
5302 Dirksen Building

MARCH 10

10:00 a.m.
Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To resume hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.

5302 Dirksen Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for general administration and legal activities of the Department of Justice.

S-146, Capitol

MARCH 11

10:00 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Bureau of Investigation, Department of Justice.

S-146, Capitol

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.

5302 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To hold hearings on S. 1699, proposed Energy Impact Assistance Act.

3302 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 2144, proposed Health Professions Educational Assistance and Nurse Training Act.

4232 Dirksen Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Immigration and Naturalization Service, Department of Justice.

S-146, Capitol

MARCH 12

10:00 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Drug Enforcement Administration, Department of Justice.

S-146, Capitol

Banking, Housing, and Urban Affairs

Business meeting, to consider those matters and programs which fall within the Committee's jurisdiction with a view to submitting its views and budgetary recommendations to the Committee on the Budget by March 15.

5302 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To continue hearings on S. 1699, proposed Energy Impact Assistance Act.

3302 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To continue hearings on S. 2144, proposed Health Professions Educational Assistance and Nurse Training Act.

4232 Dirksen Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Prison System, and Office of Justice Assistance, Research and Statistics, Department of Justice.

S-146, Capitol

MARCH 13

9:00 a.m.

Labor and Human Resources

Child and Human Development Subcommittee

To hold hearings on proposed legislation to establish Commissions on National Youth Service and Volunteerism.

4232 Dirksen Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the International Development Cooperation Agency, and certain programs of the Agency for International Development.

1114 Dirksen Building

MARCH 14

9:00 a.m.

*Veterans' Affairs

To hold hearings on the recruitment and retention of qualified health-care professionals to staff the Veterans' Administration's health-care facilities.

412 Russell Building

MARCH 17

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To hold hearings on S. 2097, proposed Joint Export Marketing Assistance Act, and on the substance of S. 2040, proposed Small Business Export Expansion Act and S. 2104, proposed Small Business Export Development Act.

5302 Dirksen Building

MARCH 18

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development.

1114 Dirksen Building

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To continue hearings on S. 2097, proposed Joint Export Marketing Assistance Act, and on the substance of S. 2040, proposed Small Business Export Expansion Act and S. 2104, proposed Small Business Export Development Act.

5302 Dirksen Building

MARCH 20

9:00 a.m.

Veterans' Affairs

Business meeting, to consider S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration.

412 Russell Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development, and for the Peace Corps.

1114 Dirksen Building

MARCH 24

2:00 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Bureau of Census, general administration, and economic and statistical analysis, Department of Commerce.

S-146, Capitol

MARCH 25

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development; the international narcotics control program of the Department of State; and for the Inter-American Foundation.

1318 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Economic Development Administration, and Regional Planning Commission, Department of Commerce.

S-146, Capitol

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.

5302 Dirksen Building

MARCH 26

9:00 a.m.

Labor and Human Resources

Child and Human Development Subcommittee

Business meeting, to mark up S. 1843 and H.R. 2977, proposed Domestic Violence Prevention and Services Act; and proposed legislation to establish Commissions on National Youth Service and Volunteerism.

4232 Dirksen Building

10:00 a.m.

Appropriations

State, Justice Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Industry and Trade Administration, Minority Business Development Agency, and the U.S. Travel Service, Department of Commerce.

S-146, Capitol

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To continue hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.

5302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the National Oceanic and Atmospheric Administration, Department of Commerce.
S-146, Capitol

MARCH 27

9:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1981 from AMVETS, Paralyzed Veterans, Blinded Veterans, W.W.I. veterans, and Military Order of the Purple Heart.
1202 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Patent and Trademark Office, National Telecommunications and Information Administration, and science and technical research, Department of Commerce
S-146, Capitol
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To resume hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Maritime Administration, Department of Commerce.
S-146, Capitol

MARCH 28

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

MARCH 31

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Department of Commerce.
S-146, Capitol

APRIL 1

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for foreign assistance programs.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1981 for the Department of Commerce.
S-146, Capitol
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

APRIL 2

9:30 a.m.
Veterans' Affairs
To resume hearings on the Federal government's efforts to assist Vietnam-era veterans in readjusting to society, and the use of excepted appointments for disabled veterans.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs, and the Urban Development Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

APRIL 15

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed authorizations for fiscal year 1981 for the international affairs programs of the Department of the Treasury; and on proposed legislation to increase the U.S. quota in the International Monetary Fund.
5302 Dirksen Building

APRIL 16

9:30 a.m.
Veterans' Affairs
Business meeting, to consider proposed legislation on the recruitment and retention of qualified health-care professionals to staff the Veterans' Administration health-care facilities, S. 759, to provide for the right of the United States to recover their costs of hospital nursing home of outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts, and H.R. 4015, proposed Veteran Senior Citizen Health Care Act.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for the international affairs programs of the Department of the Treasury; and on proposed legislation to increase the U.S. quota in the International Monetary Fund.
5302 Dirksen Building

APRIL 17

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the development of children who benefit from adoption by facilitating their placement in adoptive homes.
4332 Dirksen Building

MAY 1

10:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold hearings on issues Congress might consider which would affect youth in the coming decades.
4232 Dirksen Building

MAY 22

9:30 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings to examine issues affecting infant mortality, and preventable birth defects.
4232 Dirksen Building

MAY 29

9:30 a.m.
Veterans' Affairs
To hold hearings on proposed legislation to establish a cost-of-living increase for service-connected disability compensation.
412 Russell Building

JUNE 11

9:30 a.m.
*Veterans' Affairs
To hold oversight hearings on the activities of the Inspector General of the Veterans' Administration.
412 Russell Building

CANCELLATIONS

FEBRUARY 7

9:30 a.m.
Judiciary
To resume hearings on S. 680, proposed Citizens' Right to Standing in Federal Courts Act.
2228 Dirksen Building

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To resume hearings on S. 742, proposed Nuclear Waste Management Reorganization Act.
3302 Dirksen Building

SENATE—*Tuesday, February 5, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. J. BENNETT JOHNSTON, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Be still and know that I am God. I am exalted among the nations, I am exalted in the earth.—Psalms 46: 10.

Almighty God, give us wisdom to perceive Thee, intellect to understand Thee, diligence to seek Thee, hearts to meditate upon Thee, and a life to proclaim Thee. And if in the stress of daily duty we forget Thee, do not forget us, but draw our wandering spirits back to Thy heart of love, and reinforce us by Thy strength. In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 5, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. BENNETT JOHNSTON, a Senator from the State of Louisiana, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. JOHNSTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

HOUSING INDUSTRY DOWNTURN

Mr. ROBERT C. BYRD. Mr. President, like automobiles and steel, the housing industry has long been regarded as a bellwether of general economic trends. A major downturn in housing strains the entire economy, in part because the housing industry employs a wide range of skilled and unskilled labor. Many small businessmen—architects, homebuilders, tradesmen, suppliers, common carriers, and real estate agents—throughout the country earn their livelihood through the housing industry. Housing investments have a multiplier effect as people purchase appliances, furniture, and make a variety of improvements in their property.

The entire housing market has accounted for mortgage loans of more than $100 billion in each of the last several years. In 1978, the latest year with available figures, sales of new housing of $104 billion represented 5 percent of the gross national product. Resales of owner-occupied housing amounted to $216 billion. Since a majority of homes are financed with long-term mortgages, housing is one of the most sensitive U.S. industries to changes in the cost and availability of credit.

Housing forecasts for this year project a substantial decline in construction and sales. A major cause for the projected downturn is the Federal Reserve Board's decision last October to pursue a new policy of "tight money." The Fed's action to tighten credit has reduced both demand for and supply of mortgage financing for homes.

To some extent, the Fed's tight money plan is welcome "shock therapy" to break the psychology of inflationary expectations that has shaped Americans' decisions to invest in assets that they expect to appreciate. Today, many people are buying housing as an investment—believing that they cannot lose money—rather than as a shelter. Housing prices have escalated as a result of people trying to buy an investment safe from the effects of inflation. We can no longer afford to continue to buy homes at any interest rate, at any price, in the belief that such investments will automatically double or triple in value.

Families are being priced out of the market by a growing gap between housing costs and income gains. According to a recent report by the Bank of America, rising interest rates and rising home prices increased the average monthly payment on family homes by more than 20 percent last year. The cost of new housing under construction is greater than many people's ability to buy.

The Federal Reserve Board's policy of tightening credit and raising interest rates is bitter medicine to fight the inflation psychology that plagues the housing industry. The AFL-CIO has estimated that the Fed's action will result in the loss of 170,000 jobs and a $6 billion increase in new construction costs.

A housing slowdown, if it results in a moderation of inflation, could be good news for many consumers. However, a severe drop in construction would be damaging. The Government has taken some important steps to cushion the projected housing downturn by working to insure that an adequate flow of credit remains available for the industry. Following the Fed's action in October, the Federal Home Loan Bank lowered reserve requirements for its 4,000 member associations. Last month, the thrift institutions were allowed to increase the amount of money that they can borrow from "outside sources" such as commercial banks. In December, the President signed legislation passed by Congress to suspend through next March usury ceilings on home mortgages. In some 20 States, mortgage lending had almost ceased because State usury laws set limits on interest rates for mortgage loans that were not profitable.

Last session, the Senate passed banking deregulation legislation, H.R. 4986, by a vote of 76 to 9, which is now deadlocked in conference with the House. The Senate bill would provide for a gradual lifting of the ceiling on interest rates which are paid to small savers by depository institutions. Adoption of the legislation would result in an increase in savings at depository institutions and, therefore, help stabilize the primary source of mortgage money.

The housing industry collapsed during the 1974–75 recession. At that time, construction plunged suddenly from more than 2 million starts in 1973 to almost no starts for several months of 1974 before completing the year at almost 1.3 million new units. Since housing is among the largest industries in the country, its sudden collapse came as a major shock to the economy, and the resulting job losses aggravated the recession.

Last session, legislation was introduced in both Houses to revise and upgrade the Government's emergency authority to purchase mortgages should the housing industry begin to reach a crisis situation. This mortgage-subsidy program, known as the Brooke-Cranston program, was first used in 1974.

The Nation continues to require new and affordable housing, and Congress must work to see that this need is met. The Congress must work against housing costs as a cause of inflation, but at the same time not allow the housing industry to bear the brunt of anti-inflationary policies. We must continue to insure that an adequate flow of credit remains available to the housing industry.

Do I have any time remaining, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has just under 4 minutes.

Mr. ROBERT C. BYRD. I reserve that time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, without prejudice to the distinguished acting minority leader, who wants to use some of his time under the standing order, but who has to go to the telephone at the moment, I will request that there now be a period for routine morning business.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 10 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there morning business?

Mr. ROBERT C. BYRD. Yes, Mr. President. My colleague, the distinguished senior Senator from West Virginia, is approaching, and I believe he has a statement he might wish to make during morning business.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I am informed by my distinguished senior colleague that he wishes to address the Senate on the bill which will be before us, the pending business that will be before the Senate, shortly. I, therefore, suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

THE PRESUMPTION OF INNOCENCE

Mr. STEVENS. Mr. President, let me comment upon the editorial which appeared in this morning's Washington Post entitled, "ABSCAM." I particularly want to call attention to the following words of the editorial:

> But in fact, we "know" nothing. Crimes may have been committed, as the stories assert they were, but there have not yet even been any charges, let alone any indictments, let alone any convictions. Even Members of Congress, if we may say so, deserve to be presumed innocent until proved guilty.

I think that Members of Congress, in particular, need to be reminded of the point in that last sentence.

As I said to the press earlier in response to a question posed this morning, Pete Williams is a personal friend of mine. I heard the news on the radio while I was out of town and I was shocked. I am still shocked, and refuse to believe the assertions against Pete Williams and others which at this time have been presented in the media only and not in the proper forum.

I believe the Post has done a service by reminding the Nation and us of the presumption of innocence.

THE 1980 SUMMER OLYMPICS

Mr. STEVENS. Mr. President, last week the Senate passed a resolution recommending that if the 1980 summer Olympics are held in Moscow, no American team should participate in those games and no Americans should attend in any capacity.

An excellent column by Harrison Salisbury appeared on the editorial page of the New York Times last Thursday outlining the advantages of free world participation in the games should they be held in Moscow.

I feel that the full implications of an American boycott have not been fully explored. I ask unanimous consent that a copy of the article be printed in the Record, with the hope that my colleagues will have the chance to read it and give its ideas some serious consideration.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Boon for the K.G.B.

(By Harrison E. Salisbury)

Hanover, N.H.—Yuri V. Andropov, the head of the K.G.B., is feeling a lot better these days. President Carter, believe it or not, has done him an excellent turn.

What pleases Andropov and his worried chiefs of the Soviet secret police is Mr. Carter's proposed boycott of the 1980 Olympics. While Leonid I. Brezhnev and some associates have considered the Olympics a great feather in the Soviet cap, Mr. Carter's boycott may have saved Andropov's neck. It may even—temporarily—have saved the Soviet system.

Many of those whose lessons in Sovietology began somewhat earlier than the perceptions that dawned in Mr. Carter's mind as a result of the invasion of Afghanistan have awaited the Games in Moscow with keen interest. It seemed to them that the whole Soviet economic system might simply collapse under the weight of hundreds of thousands of visitors and tens of thousands of foreign athletes. More important, it seemed possible that this foreign horde, unmatched since Genghis Khan, might simply tumble the Soviet system into oblivion.

Perhaps these perceptions were a bit exaggerated. But not much. Russians whom I know have been divided into two classes: those who planned to head for the hills to avoid a total breakdown of vital services and transport in Moscow, and a second and larger class that planned to descend on the capital to mingle with the congregation of Westerners laden with forbidden capitalist fruits. While many Russians would be frankly lured by the material goods that the visitors would bring in (sport shirts, decent shoes, jogging outfits, Parisian perfume, even, perhaps, cocaine) not a few look forward to sampling more precious Western wares: literature, ideas, philosophy, a chance to talk with a foreigner beyond the scrutiny of Andropov's minions.

To cope with these problems, Andropov has been working for three years on schemes to minimize the mingling of foreigners and natives. Schools and colleges have been ordered to finish semesters before the Olympic influx; parents have been urged to get their young people off to camp or summer jobs early; complex systems for rotating visitors into and out of Moscow have been devised; elaborate plans have been drafted to throw a protective screen of plainclothesmen between the visitors and the people of the "host" country. But no Russian has believed for one minute that these plans would work—certainly no young Russian. They have been limbering up their English, French, German, Spanish and Japanese. They have made plans with friends to be put up illegally in rooms and apartments in Moscow.

Many adult Russians have been looking toward Olympic time as a moment for unprecedented contact with and association with, foreigners. They know only too well the ability of Andropov's men; they also know that no police force, not even the Russian, can cope with such hordes of humanity. Andropov has known this, too. Because the Olympics are not the K.G.B.'s first experience in handling a mass influx of foreigners. In 1957, the Russians with notable naïveté sponsored a world youth congress in Moscow. Tens of thousands of young people, most of them supposedly ideologically screened, gathered. The mixing of these youths with Soviet young people had explosive results. Before the congress, the party and police had managed to hold the line against such intolerable symptoms of "bourgeois Western culture" as rock and roll and blue jeans. After it, Russian youth was never the same. In the end, the authorities simply gave up. Rock and roll and its stepchildren dominate Russian youth culture: So do jeans. What dynamite items the Olympics would introduce into Soviet culture probably never will be known if, as President Carter wishes, the boycott succeeds.

Already Anropov's fears for Russian security (and his own) have been materially eased. Whatever happens, there will be no hundreds of thousands of foreign visitors tramping Moscow streets. Nor is that all. As the exile of Andrei D. Sakharov has shown, Andropov's hands have been freed to embark on all kinds of repressive measures designed to enhance the "purity" of Soviet society. The ability of Soviet men of reason (and they do exist) to stay the hand of the hardhats, the yearners for the ghost of Stalin just waiting in the wings, have been remarkably strengthened.

There is, we should understand, a flip side to American policy vis-a-vis the Soviet Union. There is a hawk faction in the Soviet Union just as in the United States. Each tough Carter move will evoke a tough one within the Soviet Union. The Soviet military chiefs, elements in the party bureaucracy who have been smacking their lips lately over "The Protocols of the Elders of Zion" and new anti-Semitic delights, the bullyboys of the party, Andropov and his police associates are feeling a lot better these days. Things have flipped their way and they will make the most of it.

THE BILLIONTH BARREL OF ALASKAN NORTH SLOPE OIL

Mr. STEVENS. Mr. President, I would like to take a few minutes to talk about a historic event that recently took place in my State of Alaska.

On January 16, at 3:05 a.m., the billionth barrel of Alaskan North Slope oil entered the Alyeska pipeline. This event marked the production of 10 percent of the field's reserves, and is also a tribute to the fact that this, the most sophisticated pipeline in the world, has in spite of remarkable odds had an outstanding performance record.

There were skeptics in the beginning and indeed, the task of producing oil from Alaska's North Slope seemed formidable. The Prudhoe field is 250 miles north of the Arctic Circle, located on a flat, treeless Arctic tundra. The temperature often drops in the winter to 60 degrees below zero, and when the wind blows, to a chill factor of 120 degrees below zero. For nearly 3 months there is essentially total darkness and during two of them, the Sun never rises. Summers are limited to 3 months during which the top 2 feet of permafrost upon which the Prudhoe field is situated, melts. This results in shallow ponds and pervasive water.

Furthermore, the Alyeska pipeline has the notable distinction of being the most closely regulated and monitored pipeline system in history.

Despite all this, the construction of the pipeline system and successful production of Prudhoe oil has continued to take aback its critics and please its supporters. It is truly a testimonial to the entrepreneurial ingenuity of private enterprise.

Yet, we should also be reminded that while Americans have consumed 10 percent of the reserves of the Prudhoe field, no new domestic reserves have been found to replace it. The need to find and produce new energy reserves has at the same time become critical in light of recent events.

As we have seen with the Prudhoe experience, it can be done. But it will require the cooperation of Government and private enterprise, working together in a constructive manner.

Mr. President, I point out again to the Senate that no new lease of Federal lands has occurred in Alaska since 1965. Despite the fact that one-half of the public lands owned by the United States are in Alaska, the Federal Government is not pursuing the vast potential for oil and gas production in my State.

Mr. President, I ask unanimous consent that an article appearing in the Oil Daily entitled "Billionth Alaska Barrel Occasion to Re-Examine" be printed in the RECORD. I believe it accurately addresses the situation we face today.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BILLIONTH ALASKA BARREL OCCASION TO REEXAMINE

The following statement by Alton W. Whitehouse, chairman of Standard Oil Co. of Ohio was issued in connection with production of the billionth barrel of crude oil at Prudhoe Bay oil field. This milestone was expected probably Wednesday and will mark the production of more than 10 percent of the recoverable reserves in the prolific field. Sohio has a 53 percent stake in the oil at Prudhoe Bay.)

The one billionth barrel of oil produced at Prudhoe Bay, Alaska, has entered the Trans-Alaska Pipeline for the 800-mile trek to the Valdez terminal on Alaska's south coast and them on to its market in the United States.

This is good news. This new U.S. production has helped the U.S. balance of payments to the tune of at least $17 billion since startup of the Prudhoe Bay field and Trans-Alaska Pipeline. Each of these billion barrels of Alaskan oil has displaced a barrel that would have come from foreign sources, and thereby lessened our dependence on others.

America has enjoyed the security of these first billion barrels of crude oil from Prudhoe Bay. The nation has also gained through billions of dollars of payrolls paid and supplies purchased to build and operate the field, the pipeline, the terminals, and tankers.

BAD NEWS, TOO

There is some bad news, too. Americans have now consumed more than 10 percent of the original 9.6 billion barrels of producible reserves contained in Alaska's Prudhoe Bay oil field without discovering new reserves to replace what has been used. While Sohio is pleased with its Alaskan development, it is sobered by the continuing seriousness of the Nation's energy predicament, and the great need to be about the business of searching for the substantial oil reserves most believe lie beneath our own country's lands and offshore areas.

One of the lessons of Prudhoe Bay and the Trans-Alaska Pipeline is that the job of finding and producing new energy reserves can be done, and done well, by private enterprise—but that this job requires much time and very large amounts of money.

Sohio already has targeted more than $4 billion in new investments during the next ten years just to keep the oil flowing from the Prudhoe Bay field. Our plans go well beyond that to substantial investments in exploration for additional oil and gas in the arctic or wherever they may exist and for development of other fields. It will be an expensive search.

WORK TOGETHER

Another lesson of Prudhoe Bay and the pipeline is that the various elements of government must work with private interests in a constructive and coordinated way to resolve the regulatory obstacles and tradeoffs which surround any such project today. More than anything else today, I call upon public officials at all levels to see to it that our country's laws and regulations not only protect the public's interest but encourage companies both large and small who have the experience in finding more energy to do so.

We need timely access to lands and waters where deposits of energy may be found. We need expediting of permits, while maintaining a proper concern for environmental factors. Most of all, we do not need more taxes that destroy the economic incentive to get on with the search for more energy.

We will be celebrating the production of Prudhoe Bay's second billion barrels in less than another two years, by then, the Nation must be well on the way to finding and developing the replacement of these energy reserves. If not, the United States' citizens and consumers face a somber energy future indeed. It can be done, but only if a new spirit of cooperation replaces the adversary climate that now pervades the relationship between many elements of government and the energy industry. I hope these things will happen. We intend to do our part.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me on his time before he yields his time back?

Mr. STEVENS. Mr. President, I yield to the majority leader.

MILITARY PAY INCREASES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to insert a statement in the RECORD by the Senator from Massachusetts (Mr. KENNEDY) entitled "Military Pay Increases," in which he expresses his support for the Warner-Nunn amendment adopted on yesterday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR KENNEDY

I welcome the vote in favor of the Warner-Nunn amendment, which raises the level of military pay for senior enlisted ranks and middle-level officers beyond the 7.0 percent ceiling imposed by the Administration and provides expanded benefits for all military personnel. The pay increase—though not extending to the lower enlisted ranks—is still important to maintaining the integrity of the all-volunteer force, and the additional compensation provisions will help counter the serious problems we now face in retaining experienced, skilled middle-grade personnel.

These measures not only are a significant step in strengthening our national defense but are also a matter of vital importance to the men and women in our armed forces, who have suffered a drastic reduction in their individual standards of living in recent years.

All of the Joint Chiefs of Staff have stated that manpower shortages are the foremost military-related problem we will confront in the 1980s. Based on surveys conducted by the Department of Defense and by the Services, it is clear that the principal cause of the manpower problem is the steady erosion of military pay and benefits that has taken place over the past eight years.

Despite the fact that military pay has risen 56 percent since 1972, military personnel—depending on their pay grade and length of service—have experienced a 12 to 24 percent decrease in their average real income as a result of inflation. In every year since the inception of the all-volunteer force, base pay for a recruit has declined, relative to inflation. Under the Carter Administration, spiraling inflation—which soared to more than 13 percent this past year—has accelerated the erosion of pay and benefits that began in 1972.

At present, our military personnel are receiving incomes that have dropped more than 10 percent below what is warranted by the rate of inflation and below what comparable positions would offer in the civilian sector. Even more disturbing is the fact that base pay has fallen to 83 percent of the minimum wage.

Beyond these abstract percentages, we get an even more disturbing picture of the plight of our service men and women by considering that the average salary for enlisted personnel is $9,900—nearly $2,000 below the $11,546 that the Bureau of Labor Statistics has set as the minimum necessary to maintain a "lower standard of living" for a family of four. Indeed, more than 100,000 military families are now eligible for food stamps.

In light of these alarming statistics, can there be any serious question why patriotic, dedicated, aspiring men and women find it necessary to forgo a military career? Briefly stated, they have realized that service to their country means personal financial disaster. I believe this situation must be remedied at once.

Some of my colleagues, perhaps, would countenance the continued erosion of military pay and benefits in the hope that they might thereby obtain a restoration of the draft. I find this unacceptable. I oppose a peacetime draft when there exists insufficient military justification for it. I believe it would be a tragic mistake if we had to resume the draft simply because we were unwilling to pay our military personnel a living wage, and in that regard I will support necessary wage increases for the enlisted ranks and lower- and mid-level officers in the future.

Moreover, a resumption of the draft will have no ameliorative effect on the most serious aspect of our manpower problem: the sharp decline in reenlistments of middle-grade personnel. The loss of skilled career personnel has severely degraded our overall combat readiness. We have now reached a point at which our retention rates are so low that our military forces are becoming incapable of performing many of their designated missions.

All the branches of our armed services are experiencing reenlistment shortfalls. The Air Force, for example, has a current shortage of more than 2,000 pilots. The Army is short more than 46,000 non-commissioned officers. The Navy is short nearly 20,000 mid-grade skilled personnel, including 2,600 officers. Last year, the Navy suffered reenlistment shortfalls in 59 of its 85 major enlisted skill areas—with the result that our present fleet manning is at only 85 percent of combat readiness levels.

These shortages of skilled manpower are clearly detrimental to our national security interests. At a time when the United States faces major crises around the world—from Afghanistan and Iran to Thailand and Tunisia—we must assure that our forces are in as high a state of readiness as possible. Yet we simply cannot maintain a high level of readiness unless we retain a sufficient number of skilled, experienced personnel. We are not doing so at the present time.

Resumption of the draft would have no bearing on our retention problems: we cannot draft sergeants and colonels, trained technicians and squadron commanders. The only way we can begin to hedge the decline in reenlistments among the skilled ranks is by providing our military personnel a living wage and adequate compensation. We must take steps to do so now.

As we enter a new decade, our defense posture must remain second to none. In this regard, we can no longer afford recruitment shortfalls and the loss of experienced, skilled personnel from our armed forces. That is why we must take immediate steps to halt, and then to reverse, the manpower shortages and declining reenlistments we have encountered in recent years. To this end, we must take appropriate measures in the short term to increase military pay and benefits to offset the impact of inflation; in the longer term, of course, we must get to the real heart of the problem: the inflation that has gone out of control under the present Administration. The Warner-Nunn amendment is not a panacea for our problems—but it is a step in the right direction. I commend my colleagues for their support of the amendment.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1648, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1648) to provide for the improvement of the Nation's airport and airway system, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. This bill is under time control. The Senator from Nevada (Mr. CANNON) has 22 minutes remaining and the Senator from Oregon (Mr. PACKWOOD) has 14 minutes remaining.

Who yields time?

Mr. CANNON. Mr. President, I yield 7 minutes to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I thank the able Senator from Nevada (Mr. CANNON).

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I join with others in support of S. 1648, the Airport and Airway System Development Act of 1979.

I commend the able Senator from Nevada (Mr. CANNON), chairman of the Committee on Commerce, Science, and Transportation, and the ranking minority member, the Senator from Oregon (Mr. PACKWOOD) and their colleagues on the committee for effective and diligent efforts in bringing this timely measure to the Senate. These amendments to the airport and airways program provide for a continued strengthening of aviation development. As a cosponsor and active participant in the formulation of the Airport and Airway Development Act of 1970, I am intensely aware that progress has been achieved under the new concept of aviation assistance to communities throughout our country, including the communities in West Virginia.

We have a rugged terrain in our State, with narrow valleys. The problem of airport construction, the management of these airports, and the services given are constant challenges.

I believe this legislation will insure further progress.

The development of our Nation's airports is a goal which I have advocated and worked toward for over 40 years. At that time, it was not an easy task and there were not many supporters.

Frankly, it was not unlike our work for approval of a network of roads in this country. From this earlier effort came the program that has meant so much to our Nation in the movement of people and products. I refer in the latter instance to our interstate highways.

Today, aviation activities draw on a broad base of support in the Congress. There continue to be critical problems which must be met and solved.

In recalling earlier years, two important airport developments come to mind. These were Utica, N.Y., and St. Louis, Mo.

The late Supreme Court Justice Benjamin Cardozo in his opinion on the right of Utica, N.Y., to issue airport bonds said the following prophetic words in 1928:

> The city that is without the foresight to build the ports for the new traffic may soon be left behind in the race of competition. Chalcedon was called the city of the blind because its founders rejected the nobler site of Byzantium lying at their feet. The need for vision of the future in the governance of cities has not lessened with the years. The dweller within the gates, even more than the stranger from afar, will pay the price of blindness.

How true were his words. Then there were those who cherished the status quo. They asked why spend considerable sums of money for airport construction and maintenance and operations. As an example, I recall the opposition to a bond issue in 1928 for the St. Louis Airport. One very vocal unbeliever stated:

> The number of persons using the airport will be about equal to the total number of persons who engage in big-game hunting, trips to the African wilderness, and voyages of North Pole exploration—In the very nature of things, the vast majority of the inhabitants of city—a 99 percent majority—cannot now, and never can, reap any benefit from the existence of an airport.

How wrong he proved to be not only in St. Louis but in hundreds of airports throughout our Nation.

It was my privilege to sponsor the initial Federal aid airport legislation in 1944. That measure was reintroduced in 1945 and led to the first airport assistance program. The pending bill is a continuation of this effort begun many years ago.

As stated by the committee, S. 1648 is designed in large degree to meet the special airport/airway needs in the so-called "post-deregulation era." I opposed deregulation—nine Senators voted against the legislation—and continue to have deep concern over its impact on small- and medium-size cities. However, I agree that S. 1648 does take into consideration the new challenges for smaller communities that have been created by deregulation.

The elimination of large- and medium-hub airports—those which enplane more than 700,000 passengers annually—from the ADAP program would certainly seem justified, when accompanied by the airline ticket tax reduction from 8 percent to 2 percent. This action, together with the combining of general aviation, reliever, commuter and small air carrier airports into a single category and the establishment of a more comprehensive discretionary fund, should provide the basis for assisting airport development in a more flexible and prioritized manner. However, the success of such an effort obviously will depend on the capability of the FAA to implement the revised aid program.

Under S. 1648, airport development and planning is improved and funded at substantial levels as is the airway program. Project application procedures are streamlined and provisions are contained in the bill to insure effective performance once a project has been approved.

I hope the Congress will proceed with timely enactment of this reauthorization measure.

Mr. President, I have indicated my belief in S. 1648, but I take this opportunity to express again my concern over the effect of airline deregulation on smaller communities, particularly in West Virginia.

The potential for airline service in our

State has deteriorated considerably. We hear that West Virginia is uneconomical for regularly-scheduled air service. The airlines cannot make as much money in West Virginia as they can, for example, flying from Pittsburgh to Las Vegas.

Given the state of trunk—or even regional—air service in West Virginia, our citizens are finding it increasingly difficult to travel by air for business and pleasure due to deregulation.

Many airlines are not concerned with public service, so much as they are with high-density, long-haul routes with quicker returns on heavy jet transport aircraft. Big, we in West Virginia agree, is not necessarily better.

Some of us foresaw this situation. Some of us with extensive backgrounds in civil aviation knew what was going to happen. We had seen it before and supported Government regulation of the air carriers. I am not happy at the result, but the record shows I voted against deregulation in the Senate a year ago. Knowing what they know now, I am confident that the tiny minority of nine then against deregulation would increase, were the Senate given an opportunity to vote again on the same bill.

Mr. President, here are the facts: As of last July, according to the CAB, West Virginia had suffered a 15-percent loss in the number of passenger aircraft serving our State, with a 12-percent decline in the number of seats on departing crafts. I doubt that the situation has improved. Interestingly, the CAB last week was not able to update these figures even by a few months. I hope this is not indicative of the attention that the Board is giving to areas of small- and medium-size cities. I am renewing my request to the Board for more current statistics and I hope they will show a different trend.

Mr. President, there were many facets to the deregulation concept that were to develop as the legislation was being implemented. For example, lower air fares would come about through deregulation. That may have happened in some areas of the country but I would refer to two cases in West Virginia. Since January of 1979, the round trip fare between Charleston and Washington has been increased from $94 to $120, a rise in excess of 55 percent. Since the latter part of 1978, the round trip fare between Clarksburg and Washington has been increased from $88 to $118, a 34-percent rise. I am aware of the price increases confronting the airlines due to increased fuel and personnel costs, but I seriously question whether such dramatic fare increases are warranted.

Further, Members of Congress were told how commuter airlines or smaller air carriers would pickup the service patterns as larger carriers left uneconomical points. Last April, I warned those who would listen—and there were not many who were inclined to listen, least of all the CAB—of the problems involved in the commuter airlines assuming a vastly increased role. This was not a criticism of commuter systems; rather it was directed to the inattention of the FAA and CAB in strengthening the operations of smaller carriers. Now, as Senators know, the National Transportation Board has completed several days of hearings on the commuter industry.

Mr. President, I ask unanimous consent that my testimony of last April and several articles on airline service be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Remarks by Senator Jennings Randolph

Mr. Chairman, it is a privilege to participate in the Hearings of the Aviation Subcommittee on the changes in service to small and medium size communities as a result of the Airlines Deregulation Act of 1978. I express genuine appreciation to you and your colleagues on the Subcommittee for providing me with this opportunity. You are aware of my very deep concern over the effects of airline deregulation on our small communities throughout the United States.

As you know, I do not come before this Subcommittee after the fact. I opposed the Deregulation Act last year. There were nine members of the Senate who, on the final roll call, joined in that opposition. By and large, we were against this measure for the very same reasons that many members of Congress are now outlining as a basis for a detailed review of the Act. It was my belief and continues to be that the Airline Deregulation Act does not provide the needed protection to maintain adequate air service to our small- and medium-size communities. It does not provide for the development of a balanced national transportation system.

This latter concern is heightened by the fact that many states are losing rail transportation and bus service at a time when the airlines under the Deregulation Act are deserting communities that have enjoyed the benefits of air service in the past.

At the time of the Deregulation legislation, I strongly believed that the airlines would make a "Mad Rush" to enter the large metropolitan, long haul, highly profitable routes and decrease less profitable service to smaller cities. I am convinced that this is exactly what is happening throughout this country. Unless some brakes are imposed on this trend, we could end up with a most inequitable distribution of air service, based solely on economics and not service to the public.

I feel, Mr. Chairman, that I can best assist this Subcommittee in its review of Airline Deregulation by outlining the problems that have developed in our State of West Virginia. At this time, that is my chief basis for an analysis of Airline Deregulation.

In our state, we are experiencing difficulties in maintaining adequate air service in five key cities that are served by four airports. Unless I miss my guess, we will be undergoing severe disruptions of airline service in other communities throughout the state.

In Charleston, West Virginia, served by Kanawha Airport, United Airlines earlier this year announced the elimination of its Charleston/Pittsburgh/New York service, which constitutes 50 percent of United's operations in and out of Charleston. American Airlines has filed a request to terminate its service to Charleston entirely.

In my opinion, it is important to stress that the United announcement was made without any consultation with local or state officials or the members of the West Virginia Congressional delegation. In this instance, we have a situation in which a community had expended substantial amounts of funding to develop an airport that could accommodate the jets of an air carrier. It is a community that has worked with and strongly supported United Airlines. Yet, I emphasize that, without any consultation, United Airlines made its determination and announced the elimination of 50 percent of its service. As you are aware, Senator Byrd and I joined together with the State of West Virginia and the local community in developing a replacement service by Allegheny Airlines for the United flights that were being discontinued. Chairman Cohen referred to the ease with which this replacement service was secured.

Let me tell you, Mr. Chairman, that this was not an easy task. It took the full resources of our state officials, local officials and Senator Byrd and me to develop this program of replacement service. So, if Chairman Cohen uses this example to emphasize the manner in which replacement service can be obtained for communities, I believe he is in error. I wonder how many states can and will pull together the resources that we did to achieve the results of a Charleston—and I also wonder how many communities will have the opportunity to work with an air carrier as cooperative as Allegheny Airlines.

The cities of Clarksburg and Fairmont, served by Benedum Airport, and Morgantown, served by the Municipal Airport, also have been subjected to a severe disruption of their airline service pattern to Washington. Allegheny Airlines announced a suspension of service to these communities, with a replacement service to be provided by an experienced Allegheny commuter operator, Aeromech, based at Benedum Airport.

After numerous discussions with representatives of these communities, it was generally agreed that the Allegheny commuter could provide improved service to this area of our state. In short, the change-over to the Allegheny commuter was acceptable to the majority of the citizens in the area. But then what happened? We were told that the commuter could not operate in and out of Washington National Airport, which had been the destination under the previous service, but would have to utilize Baltimore-Washington International Airport because of a lack of landing slots at National.

This, in my judgment, is not a replacement service. Despite repeated pleas to the Federal Aviation Administration and the Civil Aeronautics Board, we have not been able to secure landing slots at Washington National for this commuter service. Additionally, we still do not have a determination under the law on who is ultimately responsible for maintaining air service to Clarksburg, Fairmont and Morgantown—the question of whether the commuter operator or Allegheny Airlines bears the ultimate responsibility has not been answered by the Civil Aeronautics Board. Yet, the Civil Aeroautics Board approved the Allegheny suspension and commencement of service by the commuter effective April 1.

I think there is something seriously wrong with our Airline program when communities find themselves in this type of situation. It has been a particularly frustrating experience in obtaining factual information on who controls the landing slots at high density airports such as National.

The Civil Aeronautics Board states that it is not within its jurisdiction to allocate landing slots, but that they are discussing the issue with FAA. I do not disagree with this position. The FAA maintains generally that it cannot exercise the authority to allocate slots on an individual basis. So, it is left to committees composed of the commuter airlines and the air carriers to assign landing slots that are vital to the maintenance of service to small and medium size communities. It is foolhardy to think that the air carriers will do anything to accommodate the much smaller commuter operators when such operators have a need for slots to provide replacement service. The FAA proposes to modify this situation to some degree, but it is a question of how long this will take. Meanwhile cities in our state are denied the opportunity for adequate air service operations.

At Parkersburg, a thriving city in the western part of our state on the Ohio river, Piedmont Airlines has terminated its service. The CAB concurred in this action despite the fact that the local community petitioned the Board to stay the Piedmont withdrawal until such time as a commuter replacement could be obtained.

I emphasize that in this particular case, the city is not attempting to keep an air carrier indefinitely against its will. But they do want the opportunity to secure a commuter replacement prior to the Piedmont withdrawal, thus maintaining an orderly transition of service. The CAB in agreeing to the Piedmont termination indicated that the Board would now make a determination of essential air service needs by July 9, and invited community and state officials to present views on what constitutes essential air service for Parkersburg.

This seems to me to be a rather ridiculous set of circumstances when the CAB approves the elimination of service and then makes its findings on essential service. Obviously, the board is prejudging the question of the service that is needed at Parkersburg.

I think it would be more logical to determine air service needs at a city such as this prior to the complete elimination of an air carrier's operations. I fully realize that to achieve this "more logical" procedure a change in the Airline Deregulation Act might be required.

We are not finished at Parkersburg, Mr. Chairman, Local officials and citizens have employed counsel and this week petitioned the CAB for reconsideration of its decision. It is possible that the citizens of Parkersburg and Wood County will carry this issue to the Federal courts, if necessary. This activity represents substantial costs. However, unless there are major changes in the Airline Deregulation Program, more West Virginia cities are going to take this course of action. In a sense, we are putting the airlines and the CAB on notice that West Virginia will not stand by and allow our air service to be destroyed.

Finally, Mr. Chairman, I focus on two additional issues. Are airline fares really being reduced under Airline Deregulation? Some areas may be enjoying the benefits of lower fares. This is of little consolation to citizens of our state who have been subjected recently to a fare increase of over 23 percent for service between Charleston and Washington. I have little doubt that other small and medium size cities in our nation are being hit with similar fare increases.

I have referred to replacement service by commuter airlines. I have been a strong believer and supporter of the commuter concept. I fly with commuters often. These operations run safe and efficient systems. But the Airline Deregulation program does not take into consideration critical issues with respect to increasing commuter operations. In my judgment the number and size of commuter systems are not adequate to fill the air service needs of our small communities as envisioned in Airline Deregulation concept—and this insufficiency will continue for quite some time. This is not a criticism of our commuter airlines. Thus, many communities that would presumably utilize commuters will go without service until there are operators to serve them.

Further, the aircraft to fill the needs of these smaller air service systems are not available and it is questionable whether they will be on the market in sufficient numbers in the next three to five years. But numbers is not the only problem. The quality of the aircraft available to commuter operators in this country is drastically lacking. By quality I mean a good, safe, fast, efficient, comfortable, pressurized aircraft in the range of 18 to 30 passengers. It is an absolute tragedy that our government and equipment manufacturers have not developed such aircraft on a large scale. In order to obtain adequate equipment, one commuter operator in our state has been required to go to foreign countries to seek their products.

Unless there is a concerted effort by the FAA, the CAB, and industry to develop a strong commuter airplane program, citizens from smaller communities will be forced more and more to travel on inferior aircraft. And, at this time, I do not see the CAB and the FAA moving vigorously to solve this critical problem.

Mr. Chairman, I appreciate the opportunity to be heard today. I hope that you and the members of the Subcommittee will give further attention to the very difficult problems being encountered by small and medium size cities as a result of Airline Deregulation.

[From the Charleston Gazette, Aug. 30, 1979]

Air Deregulation Harmful, Travel Agent Says

(By Sandy Wells)

Airline deregulation, a move intended to improve service and reduce fares by stimulating competition, actually is having the reverse effect on medium-sized markets such as Charleston, the president of a Charleston travel agency said Wednesday.

"To say that Charleston is coming out ahead with deregulation would be ludicrous," said Ted Lawson, president of National Travel Service. "Deregulation is not operating for the benefit of Charleston or for West Virginia. Deregulation is supposed to lower fares, but fares out of Charleston have increased, some by as much as 25 percent. And anyone who has flown recently has noticed the decrease in service amenities."

In a competitive situation, he said, airlines don't have to serve unprofitable routes "so naturally they're going to beef up service and lower fares in the most profitable markets. That's fine in places like New York and Chicago, but cities like Charleston are going to be hurting."

Lawson said that although Charleston still has two good airlines with Allegheny and Piedmont, the withdrawal of United and American has stifled rather than stimulated competition. "The more airlines you have in a single market, the keener the competition will be," he said. "Four carriers obviously are going to be more competitive than two."

And, with the pullout of two major airlines, he said, Charleston no longer has access to certain promotional fares. "United, for example, had a great excrusion package to Las Vegas. But because it only applies to United carriers, we can't offer it anymore."

Lawson said the key to competition in the free enterprise system would be new airlines, "but nobody can afford to start one. Just one small DC–9 jet costs $12 million. Since deregulation, the smaller airlines have had to merge with the big carriers in order to survive. In about five years, we'll end up with only five or six major airlines, which is really an oligopoly. that's just short of a monopoly and monopolies don't breed competitive pricing.

"We're all in favor of free enterprise," he continued, "but you can't regulate something for 20 years then ask it to compete because what you've been doing all that time is inhibiting growth, allowing certain companies to get so large that smaller ones can't compete anymore."

Lawson favors limited regulation. "Because air service is a public transportation network, it should be regulated in some way," he said. "Airlines shouldn't be subsidized. If a community can't support a flight, the airline should be able to get permission to withdraw it. But not without some form of review."

He said that when and if net fares are initiated, travel agents will be able to purchase tickets from the airlines and sell them at reduced rates. "Consumers will benefit then because of competition among the agents," he explained, "but the net fare concept is still on the drawing boards.

"Now airlines are changing their fares every day and travel agents are tearing out their hair trying to keep up with them. With computers, we can scan hundreds of fares in moments, but then we have to interpret them. The airline companies don't spell out restrictions on their special deals in the ads," he said. "People read those ads then they call us and we have to list all the stipulations. It's confusing and time-consuming for everybody."

He said the seats lost by the withdrawal of United and American have been replaced by the other two airlines, "but only because of political pressure. There's no law that says those seats had to be replaced."

If the demand for airline seats continues to increase without increasing capacity, Lawson said, the state will suffer economically. "New businesses interested in locating here will look at accessibility. Businessmen can't book far in advance like vacationers. They get called out to important meetings with only a few days notice. Thousands of dollars may be riding on a single conference, but if they can't get on that Monday morning flight, they have to cancel. Having to book so far ahead is a tremendous hardship on them."

[From the Charleston Gazette, Sept. 29, 1979]

Air Service Down Since Deregulation

West Virginia has suffered a 15 percent loss in air-passenger service since an airline deregulation law passed last October, according to statistics provided by the Civil Aeronautics Board.

Airports in Charleston, Huntington, Beckley, Parkersburg, Wheeling and Princeton-Bluefield all suffered reductions in weekly departures and total airline seats available from June 1978 to June 1979.

Clarksburg showed a slight increase in total weekly departures, while Morgantown had an increase in the number of seats available on outgoing flights.

A CAB spokesman said the increases occurred mainly because of upgraded commuter airline flights available in the two cities.

The 15 percent decrease occurred in the number of passenger craft serving the state. There was a 12 percent decline in the number of seats available on planes leaving the state.

The deregulation gave the nation's airlines much more freedom in deciding their routes.

"Service now is, or is becoming, a function of demand," said Ted Lopatkiewicz, a CAB spokesman. "The smaller airports in the state have lost more than they've gained, but maybe they had too much service before.

"But commerce generally in West Virginia is on the increase, and that creates demand . . . so there might be a turnaround in West Virginia as far as air service in the near future."

In Charleston, where both United and American Airlines will have completely stopped service by October, the number of planes leaving the Kanawha Airport weekly dropped from 211 last June to 188 this June. However, an airport spokesman said the demand for seats on the planes that have remained is higher than in the past.

In Parkersburg, departing planes and available seats were down by 38 percent from last June to this June at the Wood County Airport.

Piedmont Airlines pulled out of the airport in April, and the slack has not yet been taken up, according to airport manager Dick Allen.

"Deregulation has definitely hurt us," said Allen.

[From the Charltston Gazette, Dec. 20, 1979]

"ESSENTIAL" FLIGHTS TO REMAIN: AIR SERVICE DETERMINED AT 7 STATE AIRPORTS

(By Dan Haar)

WASHINGTON.—The Civil Aeronautics Board issued guidelines Wednesday that will prevent airlines from pulling out of seven small airports in West Virginia and leaving them without air service.

The CAB has drawn up what it calls "essential air service determinations" for airports in Beckley, Clarksburg, Elkins, Lewisburg, Morgantown, Bluefield and Parkersburg. These determinations spell out the minimum number of flights that must be provided the communities, no matter how few passengers there are.

None of the airports are in immediate danger of losing all of their service. However, some airports are worried that this may eventually happen as passengers decrease and costs increase.

In the past, an airline was discouraged by the CAB from pulling out of an airport, especially when it was the only one flying into the community. That changed in 1978, when Congress deregulated the airline industry.

But in doing so, Congress stipulated that no airport could be left stranded by the airlines, at least for the next 10 years, and it instructed the CAB to see this was done.

That is the purpose of the "determinations," which are based on traffic in and out of each airport, and on recommendations offered by community officials. An airline will be prevented from leaving an airport if it would bring the level of service below the minimum set by the CAB in its determinations.

For some of the airports, the CAB guidelines are less than what they would have liked.

Beckley, for example, wanted the CAB to guarantee that there would be flights to Roanoke and Cincinnati, since these were the two most popular destinations for passengers. The CAB agreed on Roanoke but thought Pittsburgh would be better than Cincinnati.

So, the essential air service determination for Beckley reads as follows: a minimum of two daily round-trip flights, five days a week, to Roanoke and to Pittsburgh, and two trips to both cities over the weekend. Each flight must provide at least 80 seats for passengers. Service to Roanoke must be non-stop.

CAB said Pittsburgh is better than Cincinnati because the connections to other cities are better in Pittsburgh.

Present service at Beckley includes daily flights to Roanoke, Washington and Cincinnati.

Bluefield had asked the CAB to guarantee flights to Roanoke and Richmond, since this suited its passengers best. Again, the CAB agreed with Roanoke, agreeing on two daily non-stop flights between the two cities.

However, CAB chose Pittsburgh instead of Richmond, reasoning that Richmond-bound passengers could go through Roanoke. The CAB minimum to Bluefield includes two daily round trips to Pittsburgh and Roanoke, and three round-trip flights to Pittsburgh and two round-trip flights to Roanoke on the weekends.

Piedmont Airlines is now the only airline serving Bluefield, stopping at Bluefield between Roanoke and Charleston. There are two round trips each day during the week, and three flights over the weekend.

Parkersburg had asked the CAB to set a minimum at its airport which would require flights to Pittsburgh, Charleston and Roanoke. The CAB is guaranteeing flights only to Pittsburgh, daily, because there is "not sufficient justification" for flights elsewhere.

Present service at Parkersburg includes day flights to Charleston and Pittsburgh.

The other airports have gotten pretty much what they wanted from the CAB.

Both Clarksburg and Morgantown, which have similar flights, wanted and got guarantees of flights to Pittsburgh and Washington. The CAB minimum for both airports are two daily non-stop, round-trip flights to the two cities, with 80 seats reserved for passengers in Clarksburg and Morgantown.

This is similar to what is already provided at the two airports.

Elkins had asked the CAB to set a minimum at its airport of daily flights to Washington and Pittsburgh, as is now the case. The CAB agreed.

Lewisburg; where The Greenbrier is the main drawing card, wanted frequent flights to Roanoke and daily flights to Atlanta. Flights now go to Roanoke, New York, Washington, and Atlanta.

The CAB determined that minimum service at the Lewisburg airport should include two daily round-trip flights to Roanoke and two daily round-trip flights to either Washington or Atlanta.

The communities have 60 days to ask the CAB to change their determinations.

Mr. RANDOLPH. Mr. President, I know that the Senate Commerce Committee has been following closely the status of air service under deregulation. It is my hope that the committee is contemplating additional hearings this year. I think they are needed, particularly from the standpoint of States such as West Virginia which from all indications will continue to be faced with critical air service problems under deregulation.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

Mr. CANNON. On whose time, Mr. President?

The ACTING PRESIDENT pro tempore. On whose time?

Mr. SASSER. Mr. President, I withdraw my request at the present time.

The ACTING PRESIDENT pro tempore. Who yields time? The request for the quorum has been withdrawn.

Mr. CANNON. Mr. President, the parliamentary situation is such, as I understand it, that Senator SASSER has an amendment to offer. We shall be delighted to have him offer his amendment if he desires to. Otherwise, we are prepared to go to third reading.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, before calling up my amendment, I ask unanimous consent that time be extended for debate on my amendment from 15 minutes to a side to 30 minutes to a side.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PACKWOOD. Reserving the right to object, what for, Mr. President?

Mr. SASSER. Mr. President, I make that request for a number of reasons.

No. 1, I was not consulted about time agreements on this bill or its amendments before time agreements were reached. Neither was any member of my staff. Likewise, I was not forewarned when the agreement was called up for a unanimous-consent approval, even though I had a printed amendment pending, Mr. President, which I presume was well known.

In the past, Mr. President, I have cooperated here continually with the leadership and managers of the bills as they have come up, to move expeditiously the business of the U.S. Senate. I hope that, today, Mr. President, the managers of this bill will not object to a unanimous-consent agreement extending me an additional 15 minutes. There are other cosponsors of this amendment who, I think, wish to be heard.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PACKWOOD. I object, Mr. President.

The ACTING PRESIDENT pro tempore. Objection is heard. Does the Senator call up his amendment?

AMENDMENT NO. 897

(Purpose: To make airport defederalization voluntary for public airports which are unable to generate funds sufficient for airport development from commercial air carriers)

Mr. SASSER. Mr. President, I call up my printed amendment No. 897.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER), for himself, Mr. JAVITS, Mr. MOYNIHAN, Mr. TSONGAS, Mr. BOREN, Mr. WILLIAMS, Mr. HATCH, Mr. BRADLEY, Mr. LEVIN, Mr. BAKER, and Mr. STONE, proposes an amendment numbered 897.

Mr. SASSER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 66, amend section 23 by—

(1) striking subsection (a) thereof;

(2) relettering the remaining subsections accordingly; and

(3) deleting on line 24 "and (b)";

Substitute "section 23" for "section 23(a) or 23(b)" in the following pages and lines:

Page 13, line 12; page 18, line 20; page 27, line 20; and page 28, line 24.

Mr. SASSER. Mr. President, I introduce this amendment on behalf of myself and my distinguished colleagues Senators JAVITS, MOYNIHAN, TSONGAS, BOREN, WILLIAMS, BRADLEY, LEVIN, BAKER, HATCH, and STONE.

Mr. President over the last 10 years, we have experienced, I think, a maturation of a truly national air travel system. We have seen the development of airports and air passenger facilities which are unparalleled in our history and, I suppose, unparalleled anywhere in the world.

In one short decade, we have seen safer, cleaner, more attractive and far more comfortable and more convenient passenger terminal facilities emerge from a previous circumstance that, in far too many cases, included overcrowded, dirty, ugly, unpleasant, and drafty airport terminals.

The ADAP program was adopted to assist local airports with much needed capital development programs. Before its inception, in far too many cases, local airports were dependent upon revenues from the general tax base of their localities to provide airport improvements.

At least one thing has been learned by the pre-ADAP experience: it is patently unfair to place the burden of airport improvement upon homeowners and other property owners through the collection of general property taxes for that purpose. That burden has been rightfully borne during the last 10 years by the air travelers through the collection of the air passenger tax and through collection of various user fees from the air carriers.

During that same decade, air travel has burgeoned beyond anyone's expectation. No doubt, the very improvements made possible through ADAP contributed substantially to the growing popularity of commercial air travel. Hence, as traffic has increased, the need for capital improvement has increased as well. Airport facilities completed in the early seventies are now overburdened by the volume of 1980 air travel.

Why then, are we being urged to abandon a program that has enjoyed such unqualified success?

Why must we abandon a successful program at a time when there is a growing need to retain it?

The incentive, we are told, is "defederalization." Defederalization has become one of those magic buzz words which goes along so well with the wave of popular abhorrence for big Government and widespread resistance to Government interference in business.

Mr. President, I feel that and I think the majority of the Members of this body share that opinion. This debate, we are told by the proponents of S. 1648, "centers on the concern of whether or not multimillion dollar businesses which are all capable of profitable enterprise should continue to receive 'airport welfare' from the Federal Government."

I say to my colleague that is simply not the case.

The simple truth is that our Nation's airports are not profitmaking enterprises, and were never intended to be. The proponents of this bill, I think, distinguished and able Senators, know that as well as I do. As a matter of fact, they went to great length last Thursday to rush through so-called technical amendments that prohibits just that eventuality.

No, our airports are not profitmaking enterprises, as contrasted with our commercial airlines, which are. Rather, they are publicly owned and controlled instruments of local governments, their sole responsibility is to the public interest, convenience, and necessity.

The airline industry, on the other hand, is solely responsible to its stockholders. Once, we undertook to impose a standard of public interest, convenience, and necessity upon the carriers.

Then I think we made a great mistake. Any further hope for that dream of imposing the public interest and convenience and necessity in place of the profit motive, I think, evaporated with the so-called airline deregulation bill. At the time the deregulation bill came up, that was also a popular buzz word. Indeed, I remind the Senate that deregulation was brought to us under the same auspices that now want to defederalize.

Having enjoyed the benefits of deregulation for a time now, we know what that means. For Knoxville and Chattanooga, Tenn., it means service abandonment, curtailed and inconvenient schedules, and higher fares. Does my memory fail me when I remember promises of lower fares and better service? Perhaps, but now I know the complete definition of deregulation. It simply means that airline companies, given the opportunity, will maximize their profits to the hilt. Why, then, should we expect the airline companies to respond any differently to "defederalization"? The simple truth is, we cannot. Once again, the name of the game will be "maximize profits." After all—that is the bottom line of why the airlines are in business.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. SASSER. I yield.

Mr. JAVITS. I only interrupt because that is exactly our situation. Deregulation in places like Binghamton, N.Y., and other cities has meant less service or no service and higher fares. So it has worked out counterproductively. This whole measure, which the Senator's amendment, in which I am honored to join him, is trying to change, is premised on the theory of these 72 airports—and I think the wrong is deeply compounded by setting them forth so it is inflexible. There is no way out. If you get under that line which makes the 72, you are still out on ADAP funds. It is based on the theory, as the Senator has properly noted, that they are going to negotiate and that they are going to do better when they negotiate, but there is no certainty in this bill unless the Senator's amendment is adopted—to wit, giving an option.

Otherwise, they are out if their negotiation is unsuccessful or produces less money than is needed for their capital requirements.

Mr. President, I support strongly the Sasser amendment, of which I am cosponsor. The airport development program has been a vital factor in the improvement of the quality of air service throughout the country. It represents the Federal and State governments' commitment to a strong and coherent national airport policy.

The bill before us, S. 1648, however, as reported out of the Senate Commerce Committee, would materially alter the concept of a nationally developed airport development policy by removing the 72 largest airports from the ADAP system. The committee has based its decision to remove these airports on a finding that:

First. The airports are multimillion dollar enterprises that have gross revenues in excess of $100 million; and Second, they are landlords that have air carriers as their tenants.

From these two findings the committee concludes that these airports should have the ability to finance their own capital development projects without ADAP funds.

But, this analysis evades a more fundamental question, to wit: can these airports finance their capital development projects without ADAP funds? The committee has identified these airports as multimillion dollar operations, but it cites only their gross operating revenues. What are the net earnings of these airports—these figures are needed to give the Senate a better financial picture of the airports.

The committee has also placed a heavy emphasis on the fact that many of these airports are landlords and, as such, should be able to replace lost ADAP funds. However, merely because there is a lessor/lessee relationship it does not carry with it a presumption that rates can be increased at anytime, especially where long-term contracts are involved. The committee assumes that each and every airport will be able to recoup lost ADAP funds by increasing their charges to the airlines. But, renegotiation of these contracts may be precluded. I am informed that many of these airports have long-term contracts with air carriers, some in existence for as long as 30 years.

The committee report discusses language in the bill—at section 23—which would purport to abrogate certain provisions in the long-term contracts between airport operators and all carriers. However, I seriously doubt if section 23(e) will have such an affect. On its face this section appears merely to permit the airports to seek a renegotiation of such contracts with air carriers. If the airports are unable to renegotiate their contracts or, if alternatively, such renegotiation does not result in increased revenues, we must then ask ourselves from what source will funds come to replace lost ADAP funds? The committee indicates air carriers will want to renegotiate these contracts, because it is in their best interest. I have some doubts about the committee's conclusion.

Last year, Congress passed and the President signed the Airline Deregulation

Act of 1978. This legislation has generated competition in the airline industry, the likes of which it has not known. Each carrier is seeking to expand its share of the market by reducing cost wherever possible and moving out of less profitable markets. With this increased competition, we must seriously question how amiable air carriers will be to the renegotiation of long-term contracts which will result in higher operating costs.

While airline deregulation looks like it will work out as a wise decision on the part of the Congress, we must all recognize that the total effects of airline deregulation cannot yet be known. Some markets which were previously served by major air carriers are experiencing a reduction in service or being abandoned. However, in some instances new carriers are attempting to fill the void left by these major air carriers. But, if this bill is enacted, these new regional carriers will be forced to pay higher fees than those previously paid by the major air carriers. The result may be to make it more difficult for these airports and communities to attract replacement carriers.

Already, several of the airports in my State have indicated that it is impossible to get air carriers to commit themselves to long-term development projects until the effects of deregulation are known. During this interim period the need for ADAP funds are more critical. It should be noted that two of the airports in my State identified by the committee as multimillion dollar enterprises are in fact already experiencing a drop in airline departures and seating. Therefore, an attempt to increase landing fees may only exacerbate the problem.

The supporters of this legislation indicate that airline passengers will receive $5 billion in savings over the course of the next 5 years due to the reduction in the ticket tax. However, airline passengers will not receive an equivalent reduction in the cost of their airline tickets. The committee report is not clear on this point, for at page 1 it states:

> The reduction in the ticket tax . . . represents a real 6 percent reduction of airline fares throughout the U.S. or in dollar terms, a net $5 billion savings for passengers over the next five years.

However, at page 13 the committee states:

> It intends that those airports eliminated from the program recoup the lost revenues from passengers through increased charges on the airline.

In addition, there appears to be some disagreement over whether the reduction will be passed on to airline passengers or used to offset air carriers' soaring fuel costs. Therefore, there remains considerable doubt as to how much, if any savings airline passengers will actually receive under this legislation.

While the issue of the tax reduction is not before us today, it is implicit in this legislation. This bill supports a 6-percent reduction in the ticket tax. The trust fund presently has a surplus of $3.3 billion. If the ticket tax is reduced as recommended and expenditures are made at their authorized levels, the trust fund may have a $100 million deficit by the end of fiscal year 1985. We will then be required to increase the ticket tax or reallocate general revenues to finance this program.

The ADAP program must not be viewed solely as a program to provide funds to airports, it is more than this. It represents a balanced approach that insures a basic equality in the distribution of scarce aviation resources. If the large and medium hub airports must depend solely upon negotiation with air carriers for their development, the Nation will suffer. The larger airports with their strong bargaining position will insure the continuation of their airport development projects to the exclusion of projects at the medium hub airports, some of which are struggling to keep major air carrier service in their markets.

It must be remembered, that these 72 airports will all compete with each other to recover lost ADAP funds from the same air carriers. Therefore, airports the size of Chicago, Atlanta, and Los Angeles, the 3 largest airports in the country, will be seeking increased revenues from the same air carriers as will Raleigh-Durham, Birmingham, and Albany airports, the 3 smallest airports among the top 72 airports.

What becomes apparent is that these smaller airports will suffer from the lack of ADAP funds. Such a result is not in the Nation's best interest.

For the first time in recent years the country's airport development projects will be subject to the downturns in the airline industry. Therefore, major development projects will depend upon the profitability of the industry. Projects such as retrofitting for the handicapped and land acquisitions for environmental purposes, may lose the priority they deserve. These projects may not always represent the sort of projects private enterprise would view as a high priority capital investment project.

I do not believe now is the proper time materially to change the focus of this program. Far too many questions remain unanswered, including the effect that airline deregulation will have on air travel and airports in our country, especially its impact on the medium hub airports. I urge the Senate to adopt the Sasser amendment.

I strongly support the Senator in his amendment. I thank him for yielding and hope very much that the Senate will see the justice of passing this amendment.

Mr. SASSER. I thank the Senator from New York.

Mr. President, I yield 1 minute to the Senator from Oklahoma.

Mr. BOREN. I thank my colleague from Tennessee.

Mr. President, I am pleased to cosponsor this amendment offered by my good friend Senator SASSER to S. 1648, the Airport and Airway System Development Act.

S. 1648, as currently written, would involuntarily "defederalize" our Nation's 72 largest airports and make them ineligible to participate in the ADAP program. The 40 largest airports would become ineligible after September 30, 1981, and the next 32 largest airports would become ineligible after September 30, 1982.

Mr. President, some of these 72 airports might possibly stand to benefit from this "defederalization." Some of these airports have the leverage with the various air carriers to renegotiate their contracts so that any lost funds from ADAP could be recovered.

But many of these airports will in truth be unable to make up the lost ADAP funds from the air carriers. By passing this amendment, the attractive concept of "defederalization" will remain, but it will be made voluntary for all airports and the discrimination against the largest 72 airports contained in S. 1648 will be removed. I see nothing wrong with allowing those airports that are willing and able, to voluntarily "defederalize" themselves and seek to renegotiate for more funds with the air carriers serving them.

Forced "ineligibility" for the 72 largest airports could have serious economic consequences for those airports that would not be able to make up the lost ADAP funds.

Many of these 72 airports operate under long-term contracts to air carriers that do not allow renegotiation, or they may contain clauses that require a majority of the air carriers serving that airport to agree on capital needs projects or safety projects for that airport. During these times of increased competition due to "deregulation" of the airlines, it is becoming increasingly difficult to get a majority of air carriers to agree on projects that might not necessarily benefit one air carrier as much as another.

Mr. President, the argument has been made that it would not be in the best interest of air carriers to allow needed safety and capital improvement projects to go unfunded; therefore, the air carriers would have an incentive to make up the lost ADAP funds for which an airport had previously been eligible. While this may be partially true, this places the burden of raising these funds from the air carriers entirely on the airports and without ADAP funds, they would lose some, if not all, of their leverage in negotiations with the various air carriers.

In my own State, two airports, Oklahoma City and Tulsa, are proposed to be involuntarily "defederalized." During the period from 1974 to 1978, these two airports had combined total capital development of $25 million. Of this total development at both airports, 45-percent of the funds was provided by the ADAP program. I think it is extremely optimistic to think that these airports will be able to continue that level of capital development and hope to raise that amount of money from the various air carriers serving their airports.

Can we really assume that this bill will result in a savings to the people who utilize air transportation? I think it is safe to assume that any increased user and landing fees from the air carriers will be passed on to the consumers so that there really will not be any savings to the public.

Numerous similar examples could be cited from any of the 34 States that would be affected by S. 1648. In fact, Mr. President, Federal ADAP funds currently represent an average of 32 percent of all funds used for capital development at those airports sought to be "defederalized" in 1981, and an average of 44 percent of all capital improvement funds for those airports to be "defederalized" in 1982. To hinge the replacement of these amounts of funds upon the generosity of the air carriers is a dangerous position and should not be forced involuntarily upon these airports.

The adoption of this amendment would make "defederalization" voluntary for those airports that seek to attempt it. They may very well stand to gain from renegotiating their contract with the air carriers. But we must continue the protection for some airports sought to be "defederalized" since there is no guarantee and indeed some question as to whether or not they would be able to replace their lost ADAP funds.

I urge my colleagues to support this amendment.

Mr. SASSER. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has just over 8 minutes.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Oklahoma for his remarks.

Mr. President, no one stands to gain from so-called "defederalization" of our airports except the airline companies themselves. And, they stand to gain a great deal: reduced to its essence, what S. 1648 is about is dramatically improved cash flow for airlines.

Is there one among this body who really believes that the total cost of an airline ticket, including taxes, will be reduced if the passenger tax is reduced by 6 percent as the proponents of this bill infer, but never really come out and say? No where in the record of hearings on this measure can I find an iron-clad commitment from the airlines that this will be the case.

While the airlines enjoy a substantially enriched cash flow, the airline passenger will ultimately pay a great deal more.

If I buy a car and make a substantial down payment, I can obtain far more favorable financing terms on the unpaid balance than if I obtain 100 percent financing. Furthermore, when I finish paying for my car, it will have cost me a lot less in total dollars in the first case than in the latter.

The ADAP program has supported airports with their "down payment" on capital improvements. Approximately 40 percent of the capital costs of airport improvements eligible for the program have been paid with ADAP funds. Those funds have been available as cash on the front end of development. Forty percent is a substantial down payment. As a result, our airports have enjoyed far more favorable financing arrangements than would be the case without ADAP. If, in the future, capital improvements must be 100 percent financed, it is clear that interest rates will be significantly higher and in some cases cities will have to pledge their general revenues to secure the bonds for airport improvement.

Now, the proponents of S. 1648 assure us that the airlines will pick up the tab for future capital improvements. Assuming they will, it is obvious that these costs will be passed on to the airline passenger. Who can argue that these costs will not be higher than those experienced under the present program.

The big difference, I submit, will be that the airlines will be collecting, and holding as their own, funds that were previously paid to the Federal Government as taxes on tickets. Rather than laying aside moneys for future development in the aviation trust fund, the airlines will not have to pay until debt service obligations commence at a much later date. The cash flow benefit of that arrangement is just as obvious as the fact that the airline passenger will ultimately pay more.

The most threatening aspect of the proposed program is the carriers themselves will control airport development policies thereafter simply because they will control the purse strings. It is obvious that profit motivated airline managers will not see eye-to-eye with public airport representatives about the need for future capital improvements. A negotiating contest between private enterprise controlling the purse strings and a governmental body whose only concern is for the public interest, convenience and necessity is obviously not a free market transaction as the proponents suggest and as the term "defederalization" implies.

If "defederalization" of our publicly owned airports makes sense, then, is it not equally logical that we defederalize the highway trust fund, letting the truckers, and others who use it, bargain with the State to maintain and build those roadways? Why not defederalize revenue sharing? There are many other examples I could point to, Mr. President.

But, as the Senator from Oklahoma has pointed out, my amendment will leave the decision about defederalization with the local airport authority where it belongs. The distinguished opponents of my amendment contend that if it is adopted there will be no incentive for any airport to voluntarily defederalize. I submit, Mr. President, that simply is not the case. I have filed an amendment to S. 1649, the companion tax bill to S. 1648. That amendment provides that the airline passenger tax shall remain at 8 percent, or at an adequate level to fully fund the ADAP program, for all emplanements at airports participating in ADAP. But, at airports which voluntarily elect to defederalize, the tax will be reduced to 2 percent on each emplanement.

The opponents of my amendment accuse me of promoting "airport welfare." On that charge I plead guilty, Mr. President. When we promote airport welfare, we promote the welfare of the public, the population for which airports exist to serve. And I cannot think of a better model of a successful welfare program. The ADAP program has not cost the General Treasury of the United States one red cent:

Mr. President, we simply cannot afford to turn the policy and planning responsibility for airport development over to the private sector of our economy. We have already witnessed what can happen when this was done with other modes of transportation. If we seriously believe we can rely upon the airlines for airport improvements which the public deserves and will need in the future, let me suggest that we go take a careful look at the nearest bus station, or various train stations that are dotted across the country.

Mr. President, I urge all of my colleagues to support my amendment.

Mr. President, I wish to thank Bob Lowe and Irwin Kuhn of my staff for their help on this amendment, and Tony Welters, of Senator JAVITS' staff as well as Amy Dunbar, of Senator TSONGAS' staff.

Mr. President I ask unanimous consent that comments in favor of my amendment to S. 1648 by my colleague (Mr. BRADLEY) be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR BRADLEY

I support the amendment offered by my distinguished colleague from Tennessee. This provision would amend Section 23 of S. 1648 to make participation in ADAP voluntary rather than mandatory for large and medium hub airports. Under the Sasser amendment federal funding for airport development will still be available to airports which are unable to generate sufficient funds from airlines.

I co-sponsored the amendment for several reasons, the first of which focuses on the national impact of mandatory defederalization for medium and large size airports. While the Committee's plan for reducing Federal aviation taxes in concert with defederalization is attractive, I am fearful that the results of taking such action will be detrimental to the airline industry as a whole.

One of my main concerns is that unless the Sasser Amendment is adopted, airport safety standards may be jeopardized. Several airports have recently proposed safety projects which would be funded under current eligibility from the Aviation Trust Fund from 1981–1985. A decrease or outright elimination of those funds would impair the development of those important safety projects.

Proponents of mandatory defederalization of funding for medium and large hub airports have suggested that additional revenue could be generated through increased airport fees for the airlines. While this may seem desirable, because of legal restrictions and contractual obligations, there are no guarantees that the airlines will volunteer to renegotiate their existing airport contracts to make up for lost ADAP funds. The end result would be a deferral for airport capital improvement projects that have been long overdue.

In addition, it has been suggested that smaller air carrier airports will get increased Federal funds if the larger airports are "defederalized." The reality of the matter is that as the larger airports are "defederalized," ADAP funds authorized by S. 1648 would be reduced by $225 million from fiscal year 1981 to FY 1982, and by an additional $50 million from fiscal year 1982 to FY 1983.

If the Sasser amendment is not adopted, New Jersey's transportation industry would be hampered. Aviation contributes $1.5 billion per year to New Jersey's economy. A substantial portion of that revenue is generated through airline operations at Newark Airport. F.A.A. projections have shown that if Newark Airport is "defederalized," a significant number of enplanements and entitlements would be lost from 1980–1986. This would be detrimental to the State of New Jersey's economy.

Aviation has been and continues to serve as a basic transportation resource providing exceptionally time efficient travel routes to our nation. Such a valuable economic resource should not be damaged by mandated efforts to save federal funds.

Mr. LEVIN. Mr. President, defederalization of the Nation's largest airports might easily jeopardize the safety of the traveling public, place these airports at the mercy of the commercial airlines and create competitive dissention over the development of safety projects at the Nation's major airports.

Many of the airports which would be "defederalized" under S. 1648 are in a weak position to negotiate with the airlines for increased landing fees and other user charges. The loss of presently guaranteed Federal ADAP funding would force airports to rely totally upon revenues generated from user fees for the development of essential airport safety projects. Airports, such as Detroit Metropolitan, with major obstacles to renegotiating long-term contracts with serving airlines, would become powerless with the airlines. The presence of an airline at most airports—except for the top five or six airports—is more important to the airport than to the airline. In the current deregulated atmosphere, airlines have great leverage over airports because of their increased ability to choose which markets they will serve.

Already, the Nation's largest airline, United has announced that it is drastically reducing its service to Detroit, and the State of Michigan. I believe that this reduction could be further stimulated if airports are forced to charge higher user fees. Many airlines will simply threaten to drop out of certain markets if faced with increased costs and their threats can too easily succeed.

Further, 29 of the 72 major airports scheduled to be defederalized under S. 1648 have a majority of interest clause in their contracts with the serving airlines. This means that any new projects would have to be paid for solely by the sponsors of the airport, and not the airlines or the Federal Government, if a majority of the serving airlines do not approve that project. I envision a time when a project, essential to the safe operations of an airport, is vetoed by a majority of airlines which would not benefit from the development of that project which other airlines require for safe operation. Placing this burden on the airport sponsors is unjust. And placing the balance of safety on the bargaining table is worse. We cannot allow safety to be compromised by competitive forces.

While the concept of defederalization, with its accompanying decreased bureaucratic redtape, is admirable, its implications under S. 1648 could be tragic. Therefore, I believe that the Sasser amendment, which allows airports, which are unable to arrive at suitable contracts with the serving airlines, to voluntarily take themselves out of the defederalization program, is the preferable alternative at this point. I urge my colleagues to support the Sasser amendment.

Mr. SASSER. Mr. President, I ask unanimous consent that the distinguished Senator from Florida (Mr. STONE) be added as a cosponsor to my amendment to S. 1648.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CANNON. Mr. President, what is the time situation?

The ACTING PRESIDENT pro tempore. The Senator from Nevada has 15 minutes remaining. The Senator from Tennessee has 41 seconds remaining.

Mr. CANNON. Mr. President, I yield myself 10 minutes on the bill.

My distinguished colleague from Tennessee has offered a most interesting amendment. It says let welfare recipients decide when they wish to get off welfare. We could apply this philosophy to a number of Federal aid programs that I can think of, but I doubt that we would see anyone ever again get off the Federal dole.

The Senator seems surprised that airports are not beating down the door to get off Federal aid. I am surprised, too—surprised that Senator SASSER is surprised. Money which comes in without any negotiation or justification is "easy" money that any business would fight to keep. My only amazement is that there are some airports—Los Angeles, Omaha, Miami, and Las Vegas—which put the interests of their passengers, in the tax savings, above their own ease of continuing business as usual.

I am a little disappointed that airport directors in places like New York and Nashville do not seem to be embarrassed about coming to the Congress and claiming they cannot run their own million dollar businesses without help from Washington.

In New York, the savings to the passengers as a result of the bill, without the Sasser amendment, amount to more than $118 million as a result of the tax reduction.

If this body cannot find the resolve to eliminate Federal aid for businesses which have revenues in the millions, and are all self-sufficient and capable of profitability, then I suggest we continue this debate to reconsider the foundations of the philosophy of American Government.

The claim has been made by the proponents of this amendment that airlines will not pay to replace ADAP, and that the airports will be left at the mercy of the airlines' generosity. Since when is a landlord who has the only house in town at the mercy of his tenants? Not only logic defies this argument of our opponents; it is disproved in black and white by the facts. Let me give my colleagues some specific examples of what the airlines have paid for at some of these major airports versus what ADAP has paid for:

At Dallas/Fort Worth, in 10 years, ADAP has accounted for $6 million. The airlines have underwritten $796 million in the same period.

At Seattle, ADAP has paid for $26 million while the airlines have funded $200 million.

At Tampa, ADAP has funded $13 million; the airlines $60 million for the terminal alone.

In addition to these capital improvement examples, the airlines and other users have funded 100 percent of these airports' operating budgets over the past 10 years, which would account for anywhere from $50 million to nearly half a billion dollars more.

The airlines have no choice about paying the costs of these larger airports if they wish to do business.

The proponents of this amendment have also noted that safety needs might not be met at defederalized airports. This claim is simply an uninformed red herring.

Airport safety is regulated by the FAA under section 612 of the Federal Aviation Act, which requires safety certification for all air carrier airports. This regulation is completely independent of ADAP—it is in a different act—and if an airport is unsafe for any reason, its certificate is suspended until the problem is remedied. Accepting ADAP has always been voluntary on the part of the airport; complying with safety regulations is mandatory.

Much has been said about the airport's lack of "leverage" against the airlines. The airports under debate are monopoly landlords which control airline access to markets ranging from $100 million to $3 billion in passenger revenues; these airports are operated by governmental bodies which can (and may have) established airline fees by law, as a local ordinance. Failure to pay such a fee leaves an airline subject to the impoundment of property, and airplanes have been impounded. Finally, I ask my colleagues, "What alternative do the airlines have?" If landing fees go up at all large and medium hub airports, they are all still as relatively attractive as they were when receiving ADAP grants. Will the airlines flock to small communities with fewer passengers? Hardly, when landing fees represent only about 2 percent of an airline's operating costs.

A point which has been ignored by the proponents of this amendment is its extreme negative impact on smaller airports. If the Sasser amendment is adopted, I can guarantee that this bill will not provide enough funds to meet the safety needs of the Nation's smaller airports—airports which do not have the market ability to raise their own revenues. So the proponents of this amendment are asking you to sacrifice the needs of your smaller airports in order to continue subsidizing to the desires of the multimillion dollar airports which have a ready alternative.

Finally, I think it should be pointed out that the only group which supports the Sasser amendment are the airport operators whose funds are under debate. Cities, counties, and mayors are airport operators by another name. On the other hand, the airlines, pilots, commuters, and general aviation and passenger groups support the committee position opposing this "gutting" amendment.

I urge my colleagues to oppose this amendment.

Mr. President, I reserve the remainder of my time.

Mr. PACKWOOD. I yield myself 5 minutes from the bill.

Mr. President, let us begin by saying what we are and are not talking about in this bill. We are not talking about radar. We are not talking about control towers. We are not talking about instrument landing systems. Those will continue to be funded for the large airports if this bill is passed without the Sasser amendment.

We are talking about 74 percent of the money in the trust fund now going to the 72 largest airports in this country. Where we are short of safety equipment on radar, on control towers, and—most vitally—on instrument landing systems is at the smaller airports of this country, the reliever airports, not the major airports.

If the Sasser amendment is adopted, those smaller airports are going to suffer, because the fund is not going to be increased. It simply means that the larger airports will be guaranteed the same large percentage of funds they have received before; and they are not the ones who need them. They are the ones most in a position to raise money for themselves.

Let us look again at the situation. Under this bill, 72 airports are defederalized. The smallest of those airports, the 72d, the bottom of the list, generates more than $100 million in passenger revenues annually. It is a big enough airport that it can bargain with the airlines.

Today, more than 90 percent of the money the airports have comes from negotiated fees and landing rights with the airlines. To say that these 72 largest airports in this country cannot raise the additional 10 percent by negotiating with the airlines belies what they have been able to do by raising 90 percent.

Let me take the principal airport in Oregon, for example, at the city of Portland. Portland airport pays about $12 million a year into the airport development fund. They get back about $3 million from the airport development fund. The Portland airport is perfectly able to negotiate with United Airlines, Northwest Airlines, Western Airlines, Hughes Air West Airlines, Continental Airlines—all the other airlines that serve Portland. The Portland airport is perfectly able to negotiate for the additional moneys they will need.

Further, in this bill is an amendment offered last week for a study that must be finished in 9 months, to see if there is any possibility that any one of these airports cannot raise the additional funds.

Senator Cannon and I have pledged that we will make every effort—and I think we can guarantee it, considering the jurisdiction the Commerce Committee has over the airlines—that those airlines will negotiate in good faith with those airports so that they will have the requisite amount of money.

What we are talking about in this bill is not hurting the large airports. We are talking about helping the small airports—where most of the accidents occur, where most are without instrument landing systems, where most need the most help and will not have it if the Sasser amendment is adopted.

In conclusion, I point out that every one of the airports released from Federal control under this bill generates infinitely more money through passenger revenues at its airport than it gets from the airport development fund. Each one is in such a strategic position that the airlines cannot afford to abandon it. They are not going to abandon Syracuse or Albany, N.Y., or Rochester. They are not going to abandon Portland, Oreg., or Albuquerque, N. Mex. Competition is going to force them to serve those towns, and the airline deregulation we passed last year is furthering that competition.

None of those carriers is going to pull out of a town and leave its competitors in it. So they will negotiate sufficient money for the airport to pay the needs of the airport.

I urge the defeat of the Sasser amendment.

Mr. President, I yield 5 minutes on the bill to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, first, I compliment the distinguished chairman, the distinguished ranking minority member of the Commerce Committee, and the distinguished Senator from Kansas for the initiative they have taken in this matter, on which all members of the Commerce Committee have worked very hard.

There is no question that in New Mexico, as well as in most other States, the demand and the need for feeder airports, for auxiliary airports, to supplement the growing traffic at major airports is growing every day.

We have a particularly serious problem in Albuquerque, N. Mex., at the only major airport that will be affected by the bill, where we have a mix of high-performance military traffic, major commercial traffic growing seemingly every month, and general aviation traffic that grows almost beyond belief and, with general aviation airport about 10 miles away scheduled for closure in the next few years, that general aviation traffic is going to grow by a major increment in an already saturated air environment.

So, Mr. President, the need in New Mexico for the rapid development and the funding of the rapid development of feeder airports throughout the State is approaching a critical stage, not only for the relief of the congestion in the Albuquerque area but also for the development of that commuter air network that is by far the most efficient way to serve a rural State like New Mexico.

So I am very happy to support not only the bill but to speak in opposition to the amendment offered by the distinguished Senator from Tennessee.

Maybe most telling of the arguments for the bill and against the amendment being considered is the way in which almost every airport in the country is being treated under present law.

I mentioned Albuquerque, N. Mex., where that airport received $7.35 million in the years 1971 through 1979 but contributed $61.33 million.

As to the dollars recovered per passenger, at Albuquerque it was only 74 cents out of an average of $6 paid per passenger load. That hardly seems like any way to run an airport.

Similar figures can be shown for Arizona where in Phoenix the dollar return per $6 recovered on the average per passenger was 97 cents; in Atlanta that figure is 58 cents per $6; Indiana it is $1.66 per $6; Kentucky, for example, at Louisville, it is $1.31 per $6; and at Minneapolis 42 cents out of the $6 that each passenger has paid is returned to the airport.

This is not a situation that any airport should feel sanguine about and certainly through the negotiations that are provided for in this bill the airports should be able to do much better than they are currently doing today and at the same time we would see a growth in the availability of funding to the smaller airports that are so necessary to the development of a viable passenger airline system in this country.

Mr. President, I think the Commerce Committee in their efforts of a year ago to deregulate major portions of the airline industry did an excellent job. We learned something in that effort that there are other problems besides deregulation.

One of the problems is the development of small airports, the availability of commuter airplanes, and the availability of passenger service that can utilize those commuter airlines at the smaller airports.

This bill is designed and I think will accelerate the development of that commuter network which is so vitally necessary to the rural portions of the country.

I urge all of my colleagues to support the committee on this measure and vote in opposition to the pending amendment.

Mr. CANNON. Mr. President, I yield myself 5 minutes on the bill.

Mr. President, my distinguished colleague from Tennessee is absolutely, 100 percent wrong when he states these larger airports will continue to support the trust fund but get nothing back. For the first time they will get back more than they put in. These airports and their passengers continue to receive the benefits of the facilities and equipment program (navigational and control equipment); the research and development program; the funding for operating the airways system (O. & M. program); and the cross-subsidy improvement of smaller airports that larger airport passengers have always paid.

Allow me to use an example to show just how my collegue from Tennessee has turned the facts upside down on this issue.

At Los Angeles the passengers pay into the trust fund at the 8 percent tax rate, $80 million per year and get back $10 million in ADAP and $39 million in the benefit allocation of the other three programs. So at present they are minus $31 million in direct benefits. At our recommended 2-percent tax rate, Los Angeles will generate $20 million in tax revenue and get back $50 million in allocated benefits from the increased F. & E., R. & D., and O. & M. programs. So for the first time, Los Angeles passengers (as well as those at all other defederalized airports) will get back in benefits more than they pay in and that includes the two airports affected in the home State of the distinguished Senator from Tennessee, that of Memphis and Nashville.

I point out to him that Memphis recovered 18.7 percent of the amount of money they contributed to the trust fund. At Nashville they only recovered 15.6 percent of the amount of money they contributed to the trust fund.

Now they will get back more without the Sasser amendment because of the $3 billion surplus that has been created primarily by the passengers of these larger airports, and our program sees to it that they get the benefit of their past payments.

Mr. President, the suggestion has been made by the proponents of the Sasser amendment that the airlines will not pass the tax savings on to the passengers but keep the added revenues for themselves.

This is absurd. The airlines do not have control of tax revenues. So if a ticket tax reduction is made by the Finance Committee, it comes off the top and ticket prices will go down by the amount of tax reduction. The airlines have already utilized the upward fare flexibility provided under airline deregulation. So fare increases are limited to average industry cost increases as determined by the Civil Aeronautics Board. Therefore, airlines will only recoup the tax reduction as average industry costs escalate the prices, which would also occur without a tax reduction.

Mr. President, the suggestion has been made by some of my colleagues as to some of the negative aspects of the airline deregulation.

While my distinguished colleagues have pointed to some of the negative aspects of airline deregulation, let me give the complete story. During 1979, average fares rose 16 percent despite an estimated 85 percent rise in the price of fuel between 1970 and 1979. Some fares have even decreased such as the normal economy fare between Dallas and New Orleans which is 23 percent lower today than in October 1978. There has been a remarkable improvement in airline productivity and fuel efficiency. For the 12 months ended November 1979, the volume of passengers and freight carried per gallon of jet fuel was up 33.8 percent over the 1970–76 period. Meanwhile, the passenger load factor for the 11 largest U.S. air carriers was up to 63.6 percent, higher even than in the boom year of 1978.

The Nation's 141 hub airports serve 98 percent of the country's air traffic. Between September 1978 and September 1979, service from hub airports measured by departures was up 8 percent and up 10 percent from 534 nonhub airports.

Finally, Mr. President, I wish to have printed in the RECORD a copy of a memorandum dated January 11, 1980, to President Carter from CAB Chairman Cohen which summarizes the results of the Airline Deregulation Act of 1978 and also has attached a list of over 200 communities, mostly small ones, which a year after deregulation are receiving more service measured not only by more flights but by more seats as well. These are the many cities and towns across the country which have benefited from airline deregulation and which we hear little about because the citizens there are happy. What we do hear about are only the comparatively small number of communities where certainly legitimate problems exist but where the CAB is also working hard to solve them, something that rarely took place under regulation. I ask unanimous consent to print in the RECORD the material to which I have made reference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

CIVIL AERONAUTICS BOARD,
Washington, D.C., January 11, 1980.

To: The President.
From: Marvin Cohen, Chairman, Civil Aeronautics Board.

This memo summarizes the results of the Airline Deregulation Act which you signed on October 24, 1978. We will meet Monday afternoon, January 14, 1980, to discuss these results as well as the current status of our joint effort with the Administration to increase competition in international aviation.

1. *Fares.* Solely as a result of the enormous increase in the price of jet fuel, *average* airline fares went up 16 percent during 1979. The price of fuel, which accounts for nearly 30 percent of airline costs, is estimated to have increased 85 percent between the fourth quarters of 1978 and 1979. Without these fuel price increases, average airline prices would have actually declined 0.8 percent between January and October 1979, although labor, aircraft, and all other input costs rose steadily throughout the same period.

This 16 percent increase in fares represents the *average* of all first class, normal economy, and discount fares. Not every fare has gone up by this amount, and overall consumers paid $1.5 billion less in air fares during the first 11 months of deregulation than they would have paid. Thus, for example, although fares on the Eastern shuttle have gone up 24 percent, fares on many markets are lower today than when the Act was signed. Southwest's normal economy fare between Dallas and New Orleans is 23 percent lower today than in October 1978. Finally, many discounts are still available—and 50 percent of passengers today travel at discount fares 10–70 percent lower than the standard coach fare.

2. *Increased airline productivity and more efficient use of fuel.* Airline deregulation has resulted in a dramatic improvement in fuel economy. Under regulation, when fares were fixed by government, airlines were able to compete with each other only by adding additional service. In the process, passenger load factors (the percentage of seats occupied) were driven down (averaging but 52.8 percent for 1970–1976), and fuel economy was poor.

Under deregulation, by contrast, carriers can now compete with one another by offering lower fares, and thus face a powerful incentive to fill up their previously empty seats. For the twelve months ended November 1979, the passenger load factor for the eleven largest U.S. airlines was up to 63.6 percent, and the volume of passengers and freight carried per gallon of jet fuel was up 33.8 percent over the 1970–76 period.

Airlines are also flying their planes more hours and adding more seats. Entry and exit freedom have allowed carriers to restructure their route systems to match aircraft to route lengths. However, with the prospect of rapidly increasing fuel costs, 1980 may bring service cutbacks, high fares and low profits.

3. *Service changes.* The nation's 141 hub airports serve 98 percent of its air traffic. Between September 1978 and September 1979, service, measured by aircraft departures, is up 8 percent from hub airports and up 10 percent from the 534 non-hub airports. Service is up at 3/5 of the airports and down at 1/3—mostly non-hubs. Carriers are shifting service to let supply follow demand and to match equipment with markets. The chart in Appendix A lists over 200 points of all sizes that have both more service and seats than a year ago.

On the other side, the Act's liberal exit provisions allow a carrier to withdraw unless there would be a loss of "essential air service." Although communities at first resist their loss of service (and the press has widely reported cutbacks), in most cases the remaining service is adequate or replacement service quickly appears.

For example:

Earlier this year when American and United discontinued service to Charleston W.Va., the community was extremely upset. However, without any gap in service, USAir and Piedmont increased service in the market, offering comparable service with comparable aircraft. Providence, R.I., had a similar experience.

If the proposed withdrawal would result in service below "essential air service," the Board requires the carrier to remain until a replacement is able to provide adequate and reliable service.

Northwest Airlines had been providing limited, poorly-timed service to Jamestown, N.D. When Northwest filed notice of its intention to abandon the point, we held the carrier in until Air Wisconsin began service. Jamestown now receives several daily, well-timed flights and the traffic response has been excellent. The Mayor of Jamestown has said that Northwest's suspension was a blessing in disguise.

Our most difficult transition problems are occurring in medium-sized communities. We have adopted a very liberal interpretation of the Act to permit us to do everything possible to ease the transition at these points.

For example:

United Air Lines filed notice several months ago to terminate service at Bakersfield, California. We allowed United to suspend service to San Francisco because another carrier, Air Pacific, was found able to provide reliable service. Because Air Pacific is a new airline, we required United to keep standby capacity to quickly resume service in case the replacement carrier is unable to perform adequately. Under our transition policy, we are allowing United to reduce Los Angeles service only in stages so we can monitor the reliability of the commuter replacements.

In Michigan, United plans to drop service from some cities to Cleveland and Chicago. We are working with state and local officials and may hold United in under the transition policy until adequate replacement carriers are found.

Delta has announced it will leave Manchester, N.H., and Worcester, Mass., in late April. However, three carriers in the area have expressed an interest in replacing Delta. We will not let Delta leave until replacement service is in place.

4. *Industry health.* In 1978, the combination of a strong economy, relatively stable fuel costs and the Board's liberal policies enabled the industry to achieve record operating profits of over $1 billion.

Steeply rising costs, the United strike and DC–10 grounding led to a drop in profits to about $400 million in 1979. It was still a relatively good year by historic standards.

To the surprise of many deregulation critics, the smaller local service carriers have done very well under deregulation. Frontier, Allegheny (USAir), Piedmont and Texas International had record profits in 1979. New entrants like Midway and Air Florida have done well and plan to expand low-fare service to new cities in 1980.

POINTS RECEIVING MORE FLIGHTS AND MORE SEATS

(10-1-79 compared with 10-1-78)

Abilene, Tex.
Alamosa, Colo.
Albany, N.Y.
Allentown, Pa.
Alpena, Mich.
Altoona, Pa.
Asbury Park, N.J.
Astoria, Ore.
Atlanta, Ga.
Atlanta City, N.J.
Augusta/Waterville, Me.
Austin, Tex.
Baker, Ore.
Baltimore, Md.
Bangor, Me.
Bar Harbor, Me.
Beaumont/Port Arthur, Tex.
Bedford, Mass.
Bellingham, Wash.
Beloit/Janesville, Wis.
Redmond, Ore.
Billings, Mont.
Binghamton, N.Y.
Bismarck, N.D.
Bloomington, Ill.
Boise, Idaho
Borrego Springs, Cal.
Boston, Mass.
Bozehan, Mont.
Bradford, Pa.
Brainerd, Minn.
Bridgeport, Conn.
Tri-City Apt., Tenn.
Brookings, S.D.
Brownsville, Tex.
Brownwood, Tex.
Bullhead City, Ariz.
Burbank, Cal.
Burlington, Iowa
Burlington, Vt.
Butte, Mont.
Cadillac, Mich.
Cape May, N.J.
Carbondale, Ill.
Carlsbad, Cal.
Cedar City, Utah
Cedar Rapids/Iowa City, Iowa
Charlotte, N.C.
Charlottesville, Va.
Cleveland, Ohio*
Clovis, N.M.
College Station, Tex.
Columbia, Cal.
Corvallis, Ore.
Crescent City, Cal.
Dallas/Ft. Worth, Tex.
Danville, Ill.
Danville, Va.
Del Rio, Tex.
Denver, Colo.
Devils Lake, N.D.
Dodge City, Kans.
Du Bois, Pa.
Eastsound, Wash.
El Centro, Cal.
Elkhart, Ind.
Elmira, N.Y.
Erie, Pa.
Eugene, Ore.
Farmington, N.H.
Flagstaff, Ariz.
Flint, Mich.*
Florence, S.C.
Ft. Lauderdale, Fla.
Fort Myers, Fla.
Friday Harbor, Wash.
Gainesville, Fla.
Galesburg, Ill.
Gallup, N.M.
Garden City, Kans.
Georgetown, Del.
Grand Island, Nebr.
Great Falls, Mont.
Greensboro/H. Pt. N.C.
Harrisburg, Pa.
Harrison, Ark.
Hartford, Conn.
Helena, Mont.
Hermiston, Oregon
Houston, Texas
Hyannis, Mass.
Indian Falls, Idaho
Indiana, Pa.
Palm Springs, Calif.
Inyokern, Calif.
Jacksonville, Fla.
Jacksonville, Ill.
Johnstown, Pa.
Kansas City, Mo.
Keene, N.H.
Kingman, Ariz.
Kingston, N.C.
Klamath Falls, Ore.
La Grande, Oregon
Lake Havasu City, Ariz.
Lancaster Pa.
Las Vegas, Nev.
Lawton, Okla.
Lewiston, Idaho
Liberal, Kans.
Logan, Utah
Longview, Texas
Lopez Island, Wash.
Los Angeles, Calif.
Cody, Wyoming
Lynchburg, Va.
Macon, Ga.
Manassas, Va.
Manchester, N.H.*
Manhattan, Kans.
Marshall, Minn.
Miami, Fla.
Millville, N.J.
McAllen, Texas
Missoula, Mont.
Moab, Utah
Modesto, Calif.*
Montpelier, Vt.
Montrose, Colo.
Mountain Home, Ark.
Mt. Pleasant, Mich.
Mount Vernon, Wash.
Myrtle Beach, S.C.
Naples, Fla.
New London, Conn.
New Orleans, La.
Newport, R.I.
Norfolk, Nebr.
Norfolk/Virginia Beach, Va.
Ocean City, Md.
Omaha, Nebr.
Ontario, Calif.
Ontario, Ore.
Orange County, Cal.
Orlando, Florida
Oscoda, Mich.
Owensboro, Ky.
Oakland, Calif.
Page, Ariz.
Paris, Texas
Pasco, Wash.
Pendleton, Ore.
Phoenix, Ariz.
Pittsburgh, Pa.
Plattsburgh, N.Y.
Port Angeles, Wash.
Portland, Me.
Prescott, Ariz.
Princeton, N.J.
Providence, R.I.
Provo, Utah.
Pullman, Wash.
Raleigh/Durham, N.C.
Redding, Calif.
Reno, Nev.
Rhinelander, Wis.
Richmond, Va.
Riverside, Calif.
Riverton, Wyo.
Rockford, Ill.
Rock Springs, Wyo.
Rushburg, Ore.
Roswell, N.M.
Rutland, Vt.
St. George, Utah
St. Louis, Mo.
Salida, Colo.
Salina, Kan.
Salt Lake City, Utah
San Angelo, Texas
San Francisco, Calif.
Santa Barbara, Cal.*
Santa Fe, N.M.
Santa Maria, Calif.
Saranac Lake, N.Y.
Sarasota, Fla.
Seattle, Wash.
Spokane, Wash.
Staunton, Va.
Sun Valley, Idaho
Syracuse, N.Y.
Tampa, Fla.
Terre Haute, Ind.
Toledo, Ohio*
Tucson, Ariz.
Tyler, Texas
Waco, Texas
Washington, D.C.
Watertown, N.Y.*
Wenatchee, Wash.
Westerly, R.I.
West Palm Beach, Fla.
White Plains, N.Y.
Williamsport, Pa.
Williston, N.D.
Worcester, Mass.*
Yakima, Wash.
Yankton, S.D.
Youngstown, Ohio
Yuma, Ariz.

Mr. CANNON. Mr. President, I note that the Senator has less than a minute remaining. If he desires a little more time I am glad to yield him 2 or 3 minutes of my time.

Mr. SASSER. Mr. President, I thank the distinguished chairman.

Let me say I support strongly the committee's position with regard to seeing that the small airports of this country get the necessary funding to carry on to fulfill their mission.

The amendment which I have filed to the tax bill dealing with funding for the Airport Development Act will see that adequate funding is made available for the smaller airports of this country.

If the 72 airports which are affected by this bill are going to get more money back than they put in, it is passing strange to me, Mr. President, that they are almost uniformly and universally opposed to this bill.

I see nothing wrong with a public tax, a tax on customers, a tax on airline users, to be used to provide facilities which they will use. I simply do not have any confidence in the concept that the airport authorities are going to be able to turn to the airlines to make up the difference.

We have situations, Mr. President, in which airport authorities have entered into long-term commitments with the airlines, long-term contracts and, of course, these contracts would have to be enforced. If, indeed, we get into the posture where various airports are bidding against each other for cheaper landing

---

*In these cities after 10-1-79 service was reduced, or not * * *.

fees and that sort of thing, that is not good public policy.

We would get into a situation where one airport which may be in a marginal market is forced to negotiate with airlines for higher landing fees or higher fees coming into the airport, and then the airlines may simply use the ultimate weapon, and that is pull out of that marginal market. We have seen that in so-called marginal markets all over this country in the past 8 or 9 months.

Mr. President, I urge my colleagues to vote in support of the amendment which I have proposed here today. I think it is an amendment which will provide for continued strength in the airline industry and, particularly, as it relates to airport facilities and airport terminals in this country.

I submit, Mr. President, that without this amendment we may be going down the same road we walked down 2 years ago with airline deregulation.

Mr. CANNON. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Nevada has 1 minute on the bill and 15 minutes on the amendment.

Mr. CANNON. Mr. President, I yield myself 5 minutes on the amendment.

Mr. RANDOLPH addressed the Chair.

Mr. CANNON. Does the Senator have a question?

Mr. RANDOLPH. Yes. I would like to ask the able chairman this question: There are no smaller airports, not a single airport, that would be defederalized by the passage and enactment of S. 1648; is that correct?

Mr. CANNON. The Senator is correct. This only applies by the formula to include the 72 largest airports in the country.

Mr. RANDOLPH. I want the record to be clear.

Mr. CANNON. The smallest one, I may say, has $100 million in passenger revenues.

Mr. RANDOLPH. Yes, I understand.

If I may take 1 minute to say, I voted against deregulation, and I know that Senator CANNON knows that. I am glad I voted against deregulation regardless of the statements coming from the CAB Chairman, Mr. Cohen.

But I want to say when we think in terms of an essential service coming in to take the place of carriers that leave an area or an airport, a mistake is being made, repeatedly. Essential service is not comparable service, and communities are suffering.

I am a believer in commuter airlines. But most of the planes that are now being operated by commuter lines are not pressurized. Senator CANNON, is that not a fact? I ride them. They are not pressurized.

Mr. CANNON. Some of them are and some are not.

Mr. RANDOLPH. Many of them are not.

Mr. CANNON. I do not know what the exact figures are, but most of them are pressurized.

Mr. RANDOLPH. Most of them in West Virginia are not pressurized and that is what we need. In fact, some of them have no lavatories.

I am not going to discuss deregulation again here today. I have a strong feeling on that. You have been very kind to hear me in the overview of that legislation last April.

I want to come back to the fact that I think—and I say this in all good conscience—that our colleague from Tennessee has outlined this subject in error. I have gone through it very carefully. I do not wish to influence what others do except to state my own belief that the amendment would be very bad.

Mr. CANNON. I thank the Senator.

Let me say to my colleague from Tennessee I have just checked here now to see what the savings would be to his airports. In Memphis the savings to his airports under the bill as it now is written, without the Sasser amendment and with the ticket tax reduction—Memphis would save for its passengers $8,487,724. The savings to Nashville would be $44,139,354 for the passengers in that community.

Mr. SASSER. Mr. President, will the Senator yield for a question?

Mr. CANNON. I will in just a moment.

The Senator made the statement that the larger airports have long-term break-even contracts without the ability to renegotiate their fees to make up lost ADAP.

Forty of the 72 airports to be defederalized have long-term contracts, and in this bill we specifically provide the ability to renegotiate rates and charges notwithstanding those long-term contracts and, in fact, the committee can only identify 9 of the 72 airports which have signed long-term agreements since 1970.

Therefore, the majority of airports to be defederalized signed airline agreements without any knowledge about ADAP, and those contracts are certainly not dependent on ADAP as it was indicated here. So I would say to my colleague, respectfully, that that issue is not a valid one.

Yes, I yield to the Senator.

Mr. SASSER. The figures the distinguished Senator has just quoted for passenger savings in Nashville and Memphis presuppose that the airline will cut their fares the 6 percent this bill calls for, is that correct?

Mr. CANNON. No, that is not correct. The airline fares are not based on the 6 percent. The airlines have no control over that 6 percent at all. The airline fare is fixed without the 6 or the 8 percent tax, so that 6 percent goes into the pocket of the taxpayer when that reduction is made from 8 to 2 percent. The airlines have absolutely no control over that.

The suggestion that the ticket tax will not be reduced is, of course, absurd. This is, of course, the way we will use up the surplus that now exists in the trust fund.

Mr. SASSER. The distinguished chairman is taking into consideration that the airlines will not raise their fares to eat up the tax savings. Is that the way he——

Mr. CANNON. The airlines can raise their fares under the bill now. They have an upward or downward fare flexibility. Many of them have already used that flexibility because of the rising costs.

The only other provision they can get an increase on is the cost pass-through which is affected by the fuel costs. But they cannot step in and automatically raise their fares 6 percent to make up for that 6 percent reduction that is made in the ticket tax.

Mr. MOYNIHAN. Mr. President, I should like to urge my colleagues to support the amendment offered by Senator SASSER, which would allow for the continued participation, by the Nation's 72 largest airports, in the Aviation Trust Fund for airport development. While I fully support the committee's view that unnecessary Federal involvement in the marketplace should be eliminated wherever possible, I am not convinced that the proposal before us today would accomplish the stated purpose without doing significant harm to the airports involved. Of the 72 airports involved, 6 are in my State. They have relied in the past on funds received from the Aviation Trust Fund to make needed capital improvements in their facilities. It is the committee's view that these airports can replace the loss of ADAP funding through an increase in the user fee charged to the airlines. Were this guaranteed, I suspect you would find the 72 airports in question more supportive of this legislation. As it is, many of these airports operate under contracts which establish user fees. These contracts often run as long as 30 years. Should ADAP funds be denied to these airports, many would be faced with the difficult and uncertain task of renegotiating the contracts to attempt a recovery of the loss of ADAP funding. To illustrate this point, I have a letter which I received from Mr. Alan Sagner, chairman of the Port Authority of New York and New Jersey. In it, he expresses his serious concern with this provision. This concern is one which I feel is shared by many of the 72 airports involved.

Again, I urge my colleagues, many of whom have airports in their own State directly affected by the measure, to study this proposal, and to support the amendment offered by Senator SASSER, myself, and several of our colleagues.

The letter follows:

THE PORT AUTHORITY
OF NEW YORK AND NEW JERSEY,
November 5, 1979.

Hon. DANIEL P. MOYNIHAN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR MOYNIHAN: The Port Authority of New York and New Jersey, operator of the three major airports in the Metropolitan New York City region (John F. Kennedy International, Newark International, and LaGuardia), is very concerned with the provision in Senate bill S. 1648, entitled the Airport and Airway System Development Act of 1979, which would terminate federal funds for medium and large airports after fiscal year 1981.

Federal funds have been a major factor in the development of our airports since the beginning of ADAP in 1970. Port Authority capital requirements for that development, which thus far exceed $500 million, have been met, in part, with the assistance of federal grants amounting to $90 million. Clearly, federal aid has played a significant role in the achievement of the present level of excellence at these three airports of national importance.

Indeed, the need for federal funds in the continuing development of Port Authority operated airports is expected to be even greater during the five year period to be covered by this proposed legislation. Certain facilities at our airports must be improved and in some areas redeveloped to accommodate continuing passenger growth. In addition, major improvements in runway and taxiway systems would enhance the efficiency of aircraft movements. A conservative estimate of the cost of these extensive airport improvements is well in excess of $500 million over a five year period. An expenditure rate of that magnitude would be significantly greater than that of the previous ten years.

This legislation, however, would terminate federal aid for these and all major and medium airports after fiscal year 1981. In its place, the sponsor of this legislation, Senator Cannon, has suggested that, as a result of the ticket tax reduction proposed in companion Senate bill S.1649, the airport operator would be able to collect higher user fees from the airlines. Although this approach might result in certain benefits, I am virtually certain that not only will these benefits not be achieved, but that the adoption of this approach will lead to the deterioration of nationally significant airports.

For example, the Port Authority has long term leases with the airlines operating at its airports. Such leases are a major basis for the willingness of the investment community to underwrite obligations of the Port Authority. All these agreements are the result of hard-fought negotiations between the Port Authority and the carriers. Under such circumstances, it would be unreasonable to assume that the carriers would voluntarily provide all the funds for all projects which would have been funded through ADAP.

Thus, without federal funds or their guaranteed replacement, the ongoing developmental needs of such airports could not be met. In addition, the loss of funds would have a serious adverse effect on employment and business in the region served by these airports. Curtailment in planned airport capital expenditures would obstruct the development of airport facilities at a pace required to meet demands of business and passengers. The result would be an inadequate airport complex which would discourage visitors and be unable to serve adequately the needs of the region's business community.

The Port Authority's concern with potential loss of funds is shared by many airports throughout the nation as noted in the testimony of the Airport Operators Council International submitted to the Senate Subcommittee on Aviation, on September 12, 1979.

This bill would also require an airport agency to provide an assurance to the Secretary of the Department of Transportation, as a condition for the approval of any project grant, that it will dedicate airport revenues to airport expenses. The Port Authority, if it continued to be eligible for federal airport funds (and at a minimum during fiscal year 1981), would be unable to comply with such a requirement because of legal restrictions in connection with its financial structure.

The Port Authority, as a self-supporting agency, issues Consolidated Bonds to provide proceeds for capital expenditures in connection with its facilities, including but not limited to airports. Such bonds include covenants which pledge the combined net revenues from all its facilities as security for such bonds. It is this mechanism which has enabled the Port Authority to develop its facilities, especially the airports with their large capital need, without cost to the general public. Thus, the Port Authority facilities other than airports have aided in the development of the airports.

This situation is not unique to the Port Authority. In testimony at House Aviation Sub-committee hearings held on September 18 and 19, Mr. David Davis, Executive Director of the Massachusetts Port Authority, discussed the inability of that agency to comply with the isolation of airport revenues requirement.

The Port Authority urges that S. 1648 be amended to remove these problems.

The Port Authority requests your support of these changes on this important aviation legislation.

Sincerely,

ALAN SAGNER,
Chairman.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator HUMPHREY in opposition to the Sasser amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

I oppose the pending amendment of the Senator from Tennessee because I believe that this amendment would have the effect of removing the defederalization concept, which I support, from S. 1648. In my view, few airports would be willing to voluntarily give up the comfort and ease of free federal money.

Airports and airlines need each other to survive. There is no reason to think one would try to bankrupt the other. I remind the Senate that the smallest of these 72 airports proposed to be removed from eligibility for ADAP funding generates passengers worth more than $100 million annually. Airlines, therefore, will make up the lost ADAP funds of these airports, because the airlines have a self-interested, profit-motive to do so.

Defederalization will require good management on the part of airports. Airport improvements will have to be funded on the basis of need. My experience with federal funding is that often projects of marginal utility are qualified under the federal criteria. The incentive for an airport eligible for a few million in free money each year is to spend it or lose it—whether or not the project is worthwhile and economically justifiable.

Defederalization will further our efforts to decrease unnecessary federal intrusion in the marketplace. For this reason, I urge the Senate to reject this amendment which weakens the defederalization concept that is the very heart of this bill.

● Mr. EAGLETON. Mr. President, I regret I cannot support that provision of the committee bill which would sever the Nation's largest airports—including St. Louis Lambert and Kansas City International—from the airport and airway system development program.

Defederalization is an attractive concept and I hope that we can agree on an equitable way to begin the process. But I cannot go along with the precipitous axing of all major airports even those such as St. Louis Lambert which are in the midst of an extensive and costly development program. It is unrealistic to suppose as the committee bill does, that these airports can make up the loss of Federal funds by increasing user fees on air carrier tenants. Many air carriers are already facing a serious financial squeeze as they struggle to stay ahead of escalating fuel prices and cover the enormous costs of modernizing jet fleets. In most cases these carriers operate under long-term contracts with airports and any change in user fees must be negotiated with the users and approved by a majority. I am certain that some increases can be agreed on. But, in those cases where major safety and capacity improvements are underway and substantial increases in user fees would be required, I seriously doubt that adequate agreements could be reached. To take the example of Lambert International, the present landing fee is 48.09 cents per 1,000 pounds. That fee raises about $7 million a year which covers operating costs. If Lambert were forced to replace the $14 million in construction costs which it hopes to receive from the ADAP program this year through user fees, it would necessitate a threefold increase. I consider that a highly unlikely prospect. What will happen instead, in my opinion, is the indefinite deferral of critically needed safety and capacity improvements.

I realize that some airports are in a better situation than Lambert and they would welcome the committee's recommendation. I hope a large number will. But, for some major airports this not a feasible option. For that reason, I will support an amendment to make this provision voluntary rather than mandatory on major airports.●

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CANNON. Mr. President, if no one else wishes to speak, I am ready to yield back my time.

Mr. SASSER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Tennessee. The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. GOLDWATER. On this vote I have a pair with the distinguished Senator from New Hampshire (Mr. HUMPHREY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. MAGNUSON (after having voted in the negative). On this vote, I have a pair with the distinguished Senator from New Jersey (Mr. BRADLEY). If he were present and voting, he would vote "yea." Having voted "nay," I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from South

Dakota (Mr. Pressler) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. Garn) would vote "yea."

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 58, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—31

Bayh
Bellmon
Boren
Chiles
Danforth
Durenberger
Eagleton
Ford
Glenn
Hatch
Huddleston
Inouye
Javits
Johnston
Levin
Lugar
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Percy
Riegle
Sarbanes
Sasser
Stevenson
Stone
Tsongas
Weicker
Williams

NAYS—58

Armstrong
Baucus
Bentsen
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cohen
Cranston
Culver
Dole
Domenici
Durkin
Exon
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Jackson
Jepsen
Kassebaum
Laxalt
Leahy
McClure
McGovern
Mathias
Melcher
Nunn
Packwood
Pell
Proxmire
Pryor
Randolph
Ribicoff
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Goldwater, for.
Magnuson, against.

NOT VOTING—9

Baker
Biden
Bradley
DeConcini
Garn
Humphrey
Kennedy
Long
Pressler

So Mr. Sasser's amendment (No. 897) was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 959

(Purpose: To provide a continuing reporting requirement on the financial capability of airports receiving Federal assistance, and a determination by the Secretary)

Mr. CANNON. Mr. President, I say to my colleagues that I have one technical amendment that I do not think will be opposed by anyone. All of the time has gone on the bill, so we expect to go to a vote very shortly.

Mr. President, I send to the desk one final amendment of a technical nature which will supplement the payments to be made by Senator Packwood's amendment.

The PRESIDING OFFICER (Mr. Randolph). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Nevada (Mr. Cannon) proposes an unprinted amendment numbered 959.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 2 and 3, insert the following new subsection:

(e)(1) The sponsor of any commercial service airport that is part of an air traffic hub and that receives federal assistance for an airport development project under this Act shall, no later than 90 days after the expiration of any fiscal year in which such airport received such assistance, document to the Comptroller General of the United States that adequate funding for such project is not available from sources other than Federal assistance. Such documentation shall be in such manner and form as the Comptroller General may prescribe, but at a minimum shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; and a statement of sources and application of funds. No later than July 1st of each calendar year, the Comptroller General shall transmit a copy of such documentation to the Congress, along with a report containing such comments and information as the Comptroller General may deem to be necessary to keep the Congress informed of the operations and financial condition of the sponsors of such airports and such recommendations with respect thereto as he may deem advisable. A copy of such documentation and reports shall be furnished to the Secretary at the time submitted to Congress.

(2) In order to insure the compatability of the documentation submitted pursuant to paragraph (1) of this subsection, the General Accounting Office shall, within 180 days after the date of enactment of this Act, develop a standard accounting system to be used by airport sponsors in preparing such documentation.

Mr. CANNON. Mr. President, this amendment would require an annual report by the General Accounting Office as to the need of each hub airport for Federal aid.

These reports will keep Congress up to date on hub airports receiving Federal aid, documenting their ability, or lack thereof, to replace those funds from other sources. My hope is to provide clear and indisputable proof for future congressional decisions about which airports have a real need for Federal assistance versus those which may be simply offsetting other revenue sources.

Mr. President, I am prepared to yield back the remainder of my time.

I yield 1 minute to the Senator from Maine.

Mr. MUSKIE. Mr. President, I support the pending amendment.

Mr. DOMENICI. Mr. President, will the Senator yield 10 seconds to the Senator from New Mexico?

Mr. CANNON. Mr. President, if no one further desires time, I am willing to yield back the time, Mr. President.

Mr. PACKWOOD. I yield back the time on the bill as well as on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PACKWOOD. I move to reconsider the vote by which the amendment was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, S. 1648, the Airport and Airway System Development Act of 1979, reauthorizes and significantly modifies the programs that have been funded under the Airport and Airway Development Act of 1970.

Because S. 1648 provides direct spending authority in fiscal 1981, a year for which no budget resolution has been adopted, it required a waiver of section 303(a) of the Budget Act.

Mr. President, the resolution waiving this section of the Budget Act, Senate Resolution 288, was reported by the Commerce Committee and referred to the Budget Committee which reported favorably on December 11. The Senate adopted the waiver resolution on December 14.

Notwithstanding approval of the waiver resolution, Mr. President, it is worth noting that during the Budget Committee's consideration of the waiver resolution a number of questions were raised regarding the need for this legislation at this time. These questions are of sufficient importance, Mr. President that I think they should be brought to the attention of the Senate. I will review these questions shortly. Before I do, however, I will take just a few minutes to discuss the budgetary aspects of the bill.

As reported, S. 1648 provides authorizations of $1.7 billion in fiscal year 1981 and totaling $8.5 billion over a 5-year period, fiscal years 1981–85, from the airport and airway trust fund. Much of this authorization total represents direct spending authority for grants in aid for airport development. Mr. President, I ask unanimous consent that a table showing the authorization levels in this bill be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

TOTAL FUNDING AUTHORIZATIONS IN S. 1648

[By fiscal years; in millions of dollars]

Authorization level	1981	1982	1983	1984	1985	5-yr total
Grants-in-aid	825	600	550	600	650	3,225
Facilities and equipment	400	450	550	600	750	2,750
Research and development	90	95	100	105	110	550
Operations and maintenance	350	375	400	425	450	2,000
Total	1,665	1,250	1,600	1,730	1,960	8,475

Mr. MUSKIE. Mr. President, I want to note two things about these authorizations. First, the fiscal year 1981 level of $1.7 billion is roughly 31 percent above the fiscal year 1980 level enacted to date. Lest the Senate forget, fiscal year 1981 budget targets agreed to in the second resolution call for a balanced Federal budget in that year. This bill will make it more difficult for the Senate to stay within its own approved budget plan for fiscal year 1981.

Second, the major program, grants for airport development, is scheduled to receive funding of over $3.2 billion during the 5-year period covered by the bill. While this amount may seem to be a modest increase over the amount available during the previous 5 years, the comparison of aggregate funding is misleading because the bill significantly reduces eligibility for airport grants.

Under S. 1648, the largest airports in the country would no longer be eligible for airport development grants. The Commerce Committee report on S. 1648 estimates that 72 airports would be removed from the ADAP program and these 72 airports were specifically excluded by a floor amendment on last Thursday. But these 72 largest airports account for about 86 percent of all passenger enplanements in the country. I believe that this is a cause for concern—increased funding but elimination of airports serving 86 percent of the passengers. How can airports serving only 14 percent of the passengers possibly warrant an increase in total program funding? I hope that the distinguished floor manager will shed some light on this question during consideration of the bill.

Mr. President, the authorization levels in the bill, especially the big increase in fiscal year 1981, represent my first reservation about this legislation, and especially about the need for the Senate to act upon it in advance of the regular budget calendar provided for in the Budget Act. This is direct spending legislation and is not likely to be reviewed again by the Congress for 5 years. Enactment now will give these aviation programs first claim on the fiscal year 1981 budget and could cause the other transportation programs to have to compete within a more limited funding allowance.

The direct spending and appropriations authorized in S. 1648 exceeds the fiscal 1981 request of the President and would breach the fiscal year 1981 congressional budget by $0.2 billion in budget authority and $0.1 billion in outlays. For future years, the airport grant level is reduced in fiscal year 1982 but the total authorization increase between fiscal year 1982 and fiscal year 1985 and exceed the outyear projections of the congressional budget. The 5-year excess total $0.7 billion in budget authority and $0.6 billion in outlays, over the congressional budget.

When the Budget Committee considered the waiver resolution for this bill on December 11, the Commerce Committee argued that floor consideration of the authorization bill is urgent because all aviation taxes will lapse on June 30, 1980, and cause serious administrative problems. I opposed the waiver in committee because I found no compelling reason to consider this legislation in advance of the first budget resolution for fiscal year 1981 or receipt of the President's fiscal year 1981 budget proposals. I continue to have reservations about consideration now. This bill represents commitment for 5 years spending and includes significant program changes.

Mr. President, there is a third aspect of this bill that was discussed by the Budget Committee. That problem is its failure to significantly increase the airport and airway trust fund contributions for FAA air traffic control expenses. Of total FAA operating expenses, amounting to $2.1 billion in fiscal year 1980, only about 15 percent are now paid from the ticket taxes and other user charges going into the trust fund. The remainder is financed from general revenues from all taxpayers.

The airport and airway trust fund should bear a larger portion of the burden for navigation system expenses of the Federal Aviation Administration. The President's legislative proposal requests an authorization of $1.3 billion in fiscal year 1981, with the level increasing annually to $1.9 billion in fiscal year 1985.

Mr. President, the current FAA costs, the biggest part of which is the operation and maintenance of the airways navigation system, will be about $2.1 billion in fiscal 1980. The President has requested $2.3 billion for fiscal year 1981. The surplus in the trust fund should be used to finance a larger portion of Federal assistance for air navigation and traffic control, as was originally conceived when the trust fund and its use-related taxes were established.

Mr. President, the proposed funding increases for airport development concern me because they seem to be motivated in part by the misperception that there is a pile of money that will go to waste if it is not expended for more airport development. Proponents of program increases say that the increases are justified by the existence of a surplus in the airport and airway trust fund. It seems clear to me that the desire to spend this surplus is driving up the ADAP authorization levels proposed in this bill.

It is true that there is an uncommitted balance of about $2.7 billion in the trust fund, but this is not the same as saying that it is necessary to spend another $2.7 billion on airport projects. Indeed, the whole purpose behind the establishment of the airport and airway trust fund was to have user taxes pay not just for the cost of airport development, but for all types of Federal spending to assist air transportation. It makes no sense to set up a trust fund and earmark revenues for only one part of a program. The revenues continue to accumulate and should be used to increase trust fund support of the FAA and to reduce the burden on the general taxpayer.

The result has been something different than originally intended. Trust fund revenues have been used to finance airport development, as intended. But much of Federal assistance to air transportation continues to come from general revenues—and that was not intended. Transfer of all FAA costs to the trust fund would use up the major part of the surplus, $2.1 billion or more, in 1 year. You can see that any talk about a surplus in the trust fund is misleading.

There is another problem with this notion of using up the so-called surplus in the trust fund. This bill proposes increased spending for airport development while related legislation introduced by the chairman of the Commerce Committee proposes to reduce the revenues accruing to the trust fund. It is too early to tell what reaction the Finance Committee may have to the tax reduction proposal, but I think it makes more sense to use this surplus, at least in part, to reduce taxpayer subsidization of air travel.

The airport and airway trust fund was originally established to finance most Federal aviation costs. The Senate considered this a sound policy at that time, but to date only minor trust fund contributions to FAA costs have been made. The trust fund contributions that have been made are largely due to Senate approval of the Buckley amendment to the 1976 air bill, which reestablished the authorizations for trust fund payments to cover a portion of FAA costs. This Senate policy was supported by 30 Senators who are still in this body.

The Senate already approved a bill on May 1, 1979, which provided that an additional $250 million of FAA costs would be borne by the trust fund in fiscal year 1980 for a total of $575 million, and I am very disappointed that it has not been enacted.

Mr. President, because this bill could cause the fiscal year 1981 congressional budget to be exceeded even though it eliminates the Nation's busiest airports from eligibility, because it should be acted on after all spending priorities have been considered by the Senate in the congressional budget, and because the trust fund surplus should be used to finance a larger portion of FAA expenses, I must vote against this bill and urge other Senators to do likewise.

Mr. CANNON. Mr. President, I yield 1 minute to the Senator from Iowa.

Mr. JEPSEN. Mr. President, recent news reports of fatal air crashes or near misses have increased public awareness of the need for improvements in our aviation system. While many of these incidents have involved major metropolitan airports, this does not preclude or diminish the need for consideration of the small airports found in rural areas like my home State of Iowa.

It is my opinion that the bill before us today will begin to address the specific needs of rural aviation. Furthermore, it recognizes the increased costs the average consumer must pay, by offering a significant savings to the consumer through needed tax cuts. Specifically, S. 1648 would eliminate large and medium hub airports, those which enplane more than 700,000 passengers per year, from the ADAP program. This would allow for a reduction of the airplane ticket tax from 8 percent on each fare to only 2 percent. This will mean a 6-percent reduction of airline fares throughout the United States or a net savings of $5 billion over the next 5 years. Basically, this change will eliminate the Federal Government as the middleman and reduce the bureaucratic redtape which so often frustrates all of us.

Due to the rapid technological advances in the aviation industry, people have tended to lapse into a false sense of security where air travel is involved. As more and more people take to the air in small aircraft, there is an increased need for improvement in our aviation system. This increased need for improvement is particularly evident at small airports. This legislation will provide for significant increases in appropriations to small airports for navigational aids and safety equipment.

Mr. President, the present ADAP program has fostered a $3 billion surplus. While it is nice to be able to point to a Federal program which shows a surplus rather than a deficit, it seems to me to be an incredible waste. Surely with so many small airports in need of some financial assistance, we can come to some kind of a solution which satisfies everyone.

Many airports in Iowa are interested in expanding or improving their operations but unfortunately, they find themselves in a Catch-22 situation. They would most definitely like to provide the necessary navigational and safety improvements necessary to make landing there safer but the airlines are the only ones with the capital to make these types of investments and they will not land there because it is not safe. Consequently, the Federal Government is their only alternative and the $3 billion reserve plus the remaining 2-percent tax can provide the needed revenue.

Mr. President, the question then arises, do we allow the Federal bureaucracy to continue to administer these funds, or do we consider allowing those States capable of administering ADAP funds to do so? Senator LEVIN offered an amendment to allow this kind of activity to occur. I supported Senator LEVIN's amendment because I believe that, in those instances where it is reasonable, we should give as much authority to the States as possible. In my home State, the Iowa Department of Transportation's aeronautics division has shown that they are ready, willing, and able to administer these funds. Furthermore, I am confident that they can do this in a manner which will reduce bureaucratic redtape and increase the amount of money which finds its way into direct airport improvements. It stands to reason that small airports will have a stronger voice in how these funds are spent if they are administered at the State level. Ultimately, we must insure that those funds collected for system development are used for that purpose.

I think the legislation before us today represents a positive change in the ADAP program. Revamping the air transport system in this country has been like putting together a jigsaw puzzle. We have gradually been putting the pieces together to the point where we can see a definite shape forming. Unfortunately, some of the pieces have been missing. I think this bill puts those missing pieces in place.

● Mr. DOMENICI. Mr. President, I have in the past been a proponent of deregulation, or, as termed here, defederalization, where it promises to benefit the consumer and stimulate the economy. While the intent of S. 1648 meets with my general philosophy, I am concerned that defederalization may, in the long run, fall short of its expectations in some airports to be affected. To be more specific, I am most concerned with the well-being of the medium-hub airports to be affected and their ability in the future to successfully negotiate with the various airlines. It is for this reason that I find the amendment of my colleague from Oregon a satisfactory middle ground.

As I understand it, the amendment will commission a study that will research the need for a tax or some alternate mechanism to provide funds for those airports unable to meet their capital development if the air carrier refuses to cooperate. The study, if I am correct, will have to be completed within 9 months of enactment of S. 1648, before any airports become ineligible for Federal funds. Should this study show that an airport is unable to meet its capital development costs, I would assume that my colleague on the Commerce, Science, and Transportation Committee would take immediate action to aid those airports in jeopardy. Whether that aid would be in the form of a tax, a grant, or reenactment or an ADAP type program would of course largely depend on the findings of the study.

I merely want some assurance that something will be done should the study show that some airports need assistance. I do not want to see this one, once completed, placed upon a shelf and forgotten, as is often the case with studies commissioned by Congress. If the study suggests that assistance is required, in effect that defederalization is not working, I want to know that something will be done to address the problem.

As I have mentioned earlier, I am in general agreement with the intent of S. 1648 and with the amendment by the Senator from Oregon, but I can not, in good conscience, support either unless Congress is willing to act, and act quickly should the goal of defederalization fail.

Mr. PACKWOOD. Mr. President, the Senator is absolutely correct to assume that the Commerce Committee, after being notified that some airports could be in financial trouble as a result of becoming ineligible for Federal funds, would take immediate steps to protect those airports. While I feel confident that we will not have to face this problem, you may be sure that in the interest of aviation safety, it would be necessary for the committee to act promptly. The safety of passengers at the Albuquerque Airport is just as important to me and the committee as is the safety of passengers at Portland and New Orleans, both of which are being defederalized.

Just 5 months after the President signed the Airline Deregulation Act into law the Commerce Committee held oversight hearings because of the concerns of some Members about decreased air service in their States. I believe this hearing was quite effective in giving the air carriers guidance as to how they could work more effectively with communities when service cutbacks were contemplated. We sent a strong message to the Civil Aeronautics Board as to what considerations the committee felt ought to be taken into account in determining what constitutes essential air service.

Again, I can assure the Senator from New Mexico that the Commerce Committee would act quickly and responsibly in the case of any defederalized airport which appeared to be facing loss of safety projects with the loss of Federal funds.

Mr. DOLE. Mr. President, there are a number of reasons for supporting this Airport and Airway System Development Act. It would defederalize the Nation's 72 largest airports, reduce the airline passenger ticket tax, and enhance the safety of American air travel.

Most significantly, from the perspective of my State of Kansas, this bill would finally free the ADAP trust fund, with its $3.25 billion surplus, for use in improving the safety and adequacy of small airports across the country.

For years, passengers have been feeding the aviation trust fund with their ticket taxes. For years, the small airports of Kansas and America have been applying for a small portion of those moneys to fund needed improvements. And for years, they have been turned down as the trust fund ballooned to over $3 billion. This has been a great frustration to the 3,000 small airports throughout the country which have received very little Federal support during the 10-year life of the ADAP program. Because of this frustration, many of us have been trying to free this trust fund money for years.

The legislation we are considering today will finally do this, and will funnel the funds to those who need it most—the small airports. These airports, so badly in need of safety-related improvements and additional space for general aviation, at long last will be able to address problems long-deferred because of the unavailability of funding. They will be able to enhance safety by relieving congestion and updating navigational equipment. These changes are long overdue.

This alone is reason enough for me to support this legislation.

Mr. MAGNUSON. Mr. President, I rise in support of S. 1648, the Airport and Airway Systems Development Act of 1979. I thank the distinguished chairman of the Senate Committee on Commerce, Science and Transportation for his efforts in bringing this bill to the Senate floor. This bill will eliminate the time and costs of the Federal Government in administering trust fund grants to large and medium hub airports and it will speed up the implementation of needed capital improvements to these airports.

Mr. President, I do have a question about how this legislation will affect an airport in my State of Washington. Therefore, I wish to address a question to the Senator from Nevada.

It is my understanding that under the Commerce Committee bill the Spokane International Airport will not be defederalized.

Mr. CANNON. Mr. President, the Senator from Washington is correct. Under the formula and data used by the Senate Commerce Committee in developing the Airport and Airway Systems Development Act of 1979 the Spokane International Airport will not be defederalized and this airport will continue to be eligible for airport development aid program grants from the aviation trust fund.

Mr. MAGNUSON. Mr. President, I thank the Senator from Nevada for this clarification. I support this bill and its concept of defederalization. I urge my colleagues to vote for passage of this bill.

Mr. TSONGAS. Mr. President, the Senator from California (Mr. CRANSTON) and I seek clarification of section 23(d) of S. 1648. We understand the intent of this section is to remove Federal regulation which was required upon acceptance of Federal funding under the Airport and Airway Development Act. Are we correct in assuming that it is the committee's intention to allow States and localities to continue to exercise jurisdiction to impose any important requirements or regulations—environmental, social, or otherwise—under their presently retained authority and jurisdiction?

Mr. CANNON. The Senators are correct. State laws and regulations which are direct and cover all businesses would not be negated—nor will any important Federal, social, or environmental laws as these, too, are direct and apply to all businesses engaged in interstate commerce, as is clearly the case with airports. What is negated are the strings and regulations which the Federal Government has applied as part of the consideration in a private contract with a grant recipient. The States would not be permitted to step in and reimpose these contractural stipulations on individual airports just because the Federal Government was giving up its purse string powers.

But, clearly the Federal Government and States should not keep grant programs merely for the collateral purposes of enforcing social and environmental regulations imposed as part of a grant agreement. The bill is not written to negate important, directly-applied laws, and obviously there is no intent to negate important social or environmental laws of the Federal Government or the States.

Mr. CULVER. Mr. President, I would like to ask the distinguished chairman of the Commerce Committee a question regarding the discretionary funds available to the Federal Aviation Administration (FAA) for airport development.

Cedar Rapids—Iowa's second largest city—has filed a preapplication with FAA for $4.9 million in discretionary funds for construction of a new terminal apron at the community airport. This is part of the Cedar Rapids airport's $19 million renovation and expansion program, which includes construction of a new terminal building to accommodate the substantial increase in passengers projected for the facility during the next decade.

Community officials are considering issuing $15 million in essential purpose general obligation bonds to help raise the local share of total project costs. I cannot emphasize too strongly, however, that Federal discretionary funds are required if this critically needed development is to proceed on schedule.

I would like to know if the Senator from Nevada has had the opportunity to familiarize himself with Cedar Rapid's new terminal plan, and if he believes this is the type of project that should be given a high priority for inclusion in the discretionary funding program by FAA during this fiscal year?

A second question I have for the chairman concerns another project in my State.

The community of Charles City, Iowa has also filed an application with FAA for discretionary funds in order to build a new runway.

Charles City is a dynamic and growing city of 9,100 situated along the Cedar River in north-central Iowa. In order to assure continuing growth, however, a longer runway at the municipal airport is urgently needed.

The existing facility cannot be expanded because of a crown in the middle of the structure. Consequently, the city has concluded that the most economical action is to build a new 4,000 foot runway parallel to the present one. The estimated cost of the new runway is $1,380,000 and the city is seeking $1,086,000 in discretionary funds to meet part of the cost of this construction.

I have flown into Charles City on a number of occasions—most recently this past June when I chaired a field hearing of the Senate Resource Protection Subcommittee on hazardous waste dumpsite problems—and I can attest to the need for a new facility. A new, larger runway is needed to attract new industry and to accommodate the growth of existing industry, including that of the two largest companies, Salsbury Laboratories and White Farms Equipment Co.

I would like to ask the chairman if he believes the Charles City proposal is the type of airport expansion project that should be given every possible consideration by FAA for discretionary funds this year?

Mr. CANNON. As the Senator is aware, the competition for discretionary funds is always intense, with the highest priority given to safety-related projects. The kind of improvements the Senator has described will have a much higher chance of receiving discretionary funds under S. 1648. The needs you have identified are the reason we are convinced we must focus ADAP on the smaller airports' development. While I cannot assure the distinguished Senator of the funds for specific projects, I can assure him that we developed this bill with the kind of projects you have noted in mind, and we wish to improve the availability of funds for such worthy projects.

Mr. CULVER. I would like to ask the distinguished chairman of the Commerce Committee a question concerning the "defederalization" provision of S. 1648.

As you know, the bill removes from the Airport and Airway Development Act (ADAP) program 72 large and medium hub airports—defined as those facilities which handle more than one-quarter percent of all enplanements annually. Under current figures, this means that airports which service more than 700,000 passengers annually would be phased out of the program and be ineligible for ADAP funds in the future. This is based on the assumption that these larger airports are able to develop alternative sources of funding through revised contracts with the private carriers.

Under the 700,000 passenger cutoff, the Des Moines airport—Iowa's largest facility—would continue to receive Federal ADAP funds. However, Des Moines—like other growing small hub airports around the country—has been enplaning larger numbers of passengers in recent years and may cross the 700,000 annual threshold during the next several years. In order to develop alternative funding sources and continue orderly planning, airports must unambiguously know if they will be dropped from the ADAP program if they surpass this 700,000 figure at some point in the future.

Therefore, I would like the chairman to address himself to this point. Does this legislation "defederalize" only those airports which currently enplane more than 700,000 passengers annually, or will any airport automatically become ineligible for ADAP funds as soon as it crosses this threshold any time during the life of the legislation?

It is important to Iowa that this point be clarified. If only the 72 airports currently earmarked for "defederalization" will be phased out of the ADAP program, the Des Moines airport will continue to receive program funds. If, however, airports will be dropped from the Federal program as they exceed this cut-off criterion in succeeding years, Des Moines may lose its eligibility in the future.

It is my understanding that the legislation is only intended to apply to the 72 large and medium hub airports currently identified by the Commerce Committee, and that other airports would not be "defederalized" during the life of the legislation. It would, however, be extremely helpful to airport planners in Iowa and other States to have this point clarified and I would greatly appreciate having the chairman explicitly address this issue.

Mr. CANNON. A technical amendment restricts the mandatory defederalization to those airports which enplaned more than one-quarter percent of the total passengers in the country based on 1978 enplanement figures. As a result, Des Moines will not be forced out at any time in the life of this legislation.

Mr. CULVER. Mr. President, the chairman's remarks are very helpful, and I applaud his decision to offer a technical amendment to the bill to specify that no additional airports will be subject to loss of ADAP funds in the future. This action squares the legislative language with committee intent, and assures Iowa aviation officials that Des Moines Airport will remain eligible for ADAP funds so it can continue to meet the transportation needs of Iowans.

Mr. HEFLIN. Mr. President, I ask the chairman if any consideration might be given to the specific, and what I believe are unique, circumstances of the Birmingham Airport and its need for financial assistance or a guaranteed replacement for ADAP.

Mr. CANNON. Mr. President, Birmingham, individually, must be studied and the details of its financial capabilities provided to the Commerce Committee a year and 3 months before the airport would be defederalized. This study and detailed analysis are assured by the

Packwood amendment as adopted by the Senate. I want to personally assure the Senator from Alabama that the Aviation Subcommittee will hold hearings 9 months after enactment of this legislation, and if the final law includes the mandatory exclusion of Birmingham, the subcommittee will specifically examine the financial capabilities, safety needs, and capacity needs of Birmingham Airport. We shall give the same kind of specific scrutiny to any unique airport situation and find a remedy, legislative if necessary, to see that real and important needs do not go unmet.

I assure the Senator of this examination and action if necessary.

Mr. COCHRAN. Mr. President, I appreciate the opportunity to comment on the Airport and Airway Development Act, S. 1648. As a former member of the Subcommittee on Aviation of the House Committee on Public Works and Transportation, I can fully appreciate the work the committee has done in getting this bill to the floor.

I support the bill, and I am especially pleased the funds now available in the trust fund will be fully utilized over the next several years to develop needed airport projects around the country. The discretionary funds that will be made available are greatly needed in the Southern region.

However, I would appreciate the chairman's comments on a problem that has been brought to my attention under the existing system of allocating funds based on the priority assigned to projects in a given region. Obviously, some sort of priority system is necessary if we are to have orderly development projects to insure safety and expanded service for air travelers. However, during the past 4 years, I have worked with the sponsors of an airport project in north Mississippi, and the problems encountered in obtaining the necessary funds for this project point up the need for some changes in the priority system.

The project in question has received approximately $3.4 million from the Federal Government, and local interests through a bond issue have provided almost $2 million. These funds have been expended on street relocation, runway site preparation, and excavation. Work has now stopped. When completed the airport will be able to provide jet service to the community. However, to provide this service an additional $4.4 million will be needed. It should be pointed out that these additional funds would only provide minimum facilities for air carrier service.

The most recent assignment of priorities by the FAA, which is an improvement over previous ones for this project, still leaves the project with very little hope of fiscal year 1980 discretionary funds. If so, this would be the second year in the past five in which these funds were not provided. As a result, this project will continue to be delayed while construction costs escalate with inflation.

My concern is that there should be some priority given to those projects which are partially completed ahead of other projects with a region which are seeking initial funds. I would appreciate the chairman's thoughts on this problem.

Mr. CANNON. As the Senator is aware, the competition for discretionary funds is always intense, with the highest priority given to safety-related projects and certainly a high priority for uncompleted projects. The kind of improvements the Senator has described will have a much higher chance of receiving discretionary funds under S. 1648. The needs you have identified are the reason we are convinced we must focus ADAP on the smaller airports' development. While I cannot assure the distinguished Senator of the funds for specific projects, I can assure him that we developed this bill with the kind of projects you have noted in mind, and we wish to improve the availability of funds for such worthy projects.

Mr. THURMOND. I am pleased to rise in support of the Airport and Airway Development Act as reported by the Committee on Commerce, Science, and Transportation.

Mr. President, this legislation, by defederalizing the Nation's 72 largest airports, represents the logical second step in our ongoing plan to deregulate the airline industry.

Defederalization will allow airport management to take a more active role in contractual negotiations with the air carriers. At the same time, this legislation will allow the smaller, regional airports to receive adequate funding for necessary improvements to insure greater passenger safety.

Mr. President, while I support the defederalization concept, I urge that the Commerce Committee take a careful look at the need for repeal of the present prohibition on the user head tax. I am well aware of the potential problems reimposition of this tax may create, but, I am concerned that those airports which no longer will receive ADAP funds in the future are afforded a method of generating adequate revenues to maintain their present and future operations.

Mr. President, I would like to commend my distinguished colleagues, Senator CANNON from Nevada, Senator PACKWOOD from Oregon, and the other members of the Committee on Commerce, Science, and Transportation, for their work on this legislation, and I hope that my colleagues in the Senate will support the committee's recommendations.

SECTION 23(a) OF S. 1648

● Mr. HEFLIN. I am concerned about the impact that the bill will have on the largest airport in my State, which is located at Birmingham, Ala. The committee report states that under section 23(a), 72 airports would no longer be eligible for airport development funds after September 1982. Birmingham is the 71st of those 72.

My concern about disqualifying Birmingham arises out of its unique situation in terms of air service development. Historically, the primary carriers serving Birmingham have preferred to shuttle Birmingham passengers through Atlanta, instead of offering nonstop service to Houston, Pittsburgh, and other points. In the last few years, Birmingham has made a substantial effort and progress in improving its air service by attracting new carriers and establishing itself as an alternative gateway to the South.

After an intensive study of its service needs, the city in 1978 filed with the Civil Aeronautics Board an application for institution of a route proceeding, asking that new carriers be authorized to conduct nonstop service in eight priority markets. In response, the Board issued certificates to 12 airlines to serve these priority markets, as well as some intermediate points. Since then, Birmingham has worked hard toward initiation of Birmingham service by these carriers. Its progress has been marked by the entry in 1978 and 1979 of Birmingham's first new carriers in 30 years. However, as we all know, the recent slump in airline earnings has resulted in a contraction of the amount of service offered by the carriers, and Birmingham faces a stiff challenge in gaining additional nonstop service, rather than connecting service via the Atlanta airport.

At this crucial point in Birmingham's effort to improve its service, the city should not lose its ability to maintain and improve its airport at a level that allows it to compete for that service. The city has filed with the Federal Aviation Administration plans to improve its taxiway system and develop a new 18–36 runway. Over the next 3 years, these projects are estimated to cost approximately $10.5 million, and the city is relying on Federal airport development funds to pay the major share of these important projects. These improvements are essential to the city's efforts to improve its service.

This legislation is premised on the finding that the "defederalized" airports can replace the money they otherwise would have received as Federal assistance under the Airport and Airways Development Act by renegotiating rates and charges paid by air carriers for the use of such airports. Birmingham would have to double its landing fees in order to make up for the lost Federal funds. I fear that Birmingham may not be able to do so. In any event, requiring it to double the charges assessed the carriers would substantially set back its air service development efforts.

I would like to ask the chairman if any consideration might be given to the specific, and what I believe are unique circumstances of the Birmingham Airport and its need for financial assistance or a guaranteed replacement for ADAP.

Mr. CANNON. Birmingham, individually, must be studied and the details of its financial capabilities provided to the Commerce Committee 1 year and 3 months before the airport would be defederalized. This study and detailed analysis are assured by the Packwood amendment as adopted by the Senate. I want to personally assure the Senator from Alabama that the Aviation Subcommittee will hold hearings 9 months after enactment of this legislation, and if the final law includes the mandatory exclusion of Birmingham the subcommittee will specifically examine the financial capabilities, safety needs and capacity needs of Birmingham Airport.

We will give the same kind of specific scrutiny to any unique airport situation and find a remedy, legislative if necessary, to see that real and important needs do not go unmet.

I assure the Senator of this examination and action if necessary.●

● Mr. CULVER. Mr. President, S. 1648, the Airport and Airway System Development Act of 1969, significantly expands the Federal aid available to small and rural communities to upgrade and modernize their small and general aviation airports.

To attract and maintain growing business and industry and to meet urgent transportation needs, small communities will have to enlarge their airports during the next decade. Many municipal airports will have to construct 4,000-foot runways to accommodate larger private planes and jets, and other towns will have to rebuild and improve existing airport facilities. The cost of undertaking these major construction requirements, however, will be a significant financial burden.

The Iowa Department of Transportation estimates that my own State may face a $10 million shortfall by 1985 in the funds available to upgrade runways, taxiways, and aprons at community airports. In addition, several million additional dollars will be needed to maintain existing runways. Since we can anticipate greater service by commuter airlines under the improved regulatory climate, as well as increasing numbers of recreational fliers, it is essential that small airports have the resources to assure modern and safe facilities for those who use them.

This bill authorizes the Secretary of Transportation to provide $825 million in grants for airport planning and development in fiscal year 1981. Of particular importance to rural States like Iowa, it expands the Federal Aviation Administration's (FAA) discretionary fund program, which calls for minimum, 5-year funding commitments to small carrier and general aviation airports. This helps assure that small communities—which are often unable to generate adequate local sources of revenue for major construction or renovation projects at municipal airports—will have access to Federal funds so that multi-year projects can be planned and built. A number of Iowa communities, including Cedar Rapids, Sioux City, Ottumwa, Burlington, Clinton, Sac City, Vinton, Pella, Shenendoah. Osceoloa, and Spenser, currently have applications pending before the FAA for discretionary fund grants for critically needed air site development projects. I am hopeful that the increased availability of ADAP money for small airports will enable communities to begin their improvements in the near future.

Mr. President, in the past, there has often not been sufficient attention given to the transportation needs of individuals who live in small towns and rural areas. I am particularly pleased, therefore, that S. 1648, the Airport and Airway System Development Act of 1979, recognizes that small airports require additional capital assistance to meet the major transportation and safety requirements of the passengers and fliers who use them. I urge my colleagues to approve it.●

Mr. President, I yield back my time.

The PRESIDING OFFICER. No further amendments being in order, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

So the bill (S. 1648), as amended, was passed, as follows:

S. 1648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Airport and Airway System Development Act of 1979".

DECLARATION OF POLICY

SEC. 2. The Congress hereby finds and declares—

That the safe operation of the airport and airway system will continue to be the highest aviation priority;

That continuing airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

That all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958 (49 U.S.C. 1302 and 1303), as amended by the Airline Deregulation Action of 1978, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and the prevention of unjust and discriminatory practices;

That this Act should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports, for points, where scheduled commercial air service is provided;

That this Act should be administered in a manner to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining a precision approach system and a full approach light system for each primary runway, grooving or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

That aviation facilities that receive assistance under this Act should be constructed and operated with due regard to providing substantial relief from current and projected noise impacts on nearby communities;

That certain airports that have the ability to finance their capital and operating needs without Federal assistance should no longer receive Federal assistance under this Act;

That such airports can replace the moneys they otherwise would have received as Federal assistance under this Act by renegotiating rates and charges paid by air carriers for the use of such airports; and

That the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expediture program.

DEFINITIONS

SEC. 3. As used in this title—

(1) "Air traffic hub" means all of the commercial service and reliever airports determined by the Secretary to be serving the same geographical area.

(2) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(3) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards;

(ii) the construction of physical barriers and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public-use airport; and

(iii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) the soundproofing of any school or hospital, or of any publicly owned health facility, operating as such at the time of the enactment of this Act, or, when specifically approved by the Secretary, operating as such subsequent thereto, and located in an area proximate to the airport in which the noise levels caused by the operation of a public-use airport are not compatible with the operations of such institutions;

(C) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) noise suppressing equipment for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport;

(v) noise monitoring equipment; or

(vi) aviation-related weather reporting equipment;

(D) any acquisition of land or any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in paragraph 3(A) or 3(C) of this section or to remove or mitigate or prevent or limit the establishment of airport hazards; and

(E) any acquisition of land or of any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public-use airport.

(4) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(5) "Airport planning" means planning as

defined by such regulations as the Secretary shall prescribe, and includes airport system planning.

(6) "Airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine, the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports.

(7) "Annual expenditure program" means a program for the utilization of funds pursuant to a consolidated improvement plan.

(8) "Commercial service airport" means a public airport which is determined by the Secretary either to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, or to enplane annually 10,000 or more passengers.

(9) "Consolidated improvement plan" means a 3-year plan for development and planning projects at one or more airports.

(10) "Eligible airport" means an airport that is eligible to receive Federal assistance under the provisions of this Act.

(11) "Government aircraft" means aircraft owned and operated by the United States.

(12) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(13) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the United States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(14) "Primary airport" means a commercial service airport which is determined by the Secretary to have enplaned .01 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(15) "Primary hub" means an air traffic hub, the commercial service airports of which are determined by the Secretary to have enplaned .5 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(16) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(17) "Project costs" means any costs involved in accomplishing a project.

(18) "Project-grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(19) "Public agency" means a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or Guam or any agency of any of them; a municipality or other political subdivision; a tax-supported organization; or an Indian tribe or pueblo.

(20) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(21) "Public-use airport" means any public airport or any privately owned reliever airport which is used or to be used for public purposes.

(22) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a primary airport.

(23) "Secretary" means the Secretary of Transportation.

(24) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this Act, an application for financial assistance for a public airport or (B) any private owner of a public-use airport which submits to the Secretary, in accordance with this Act, an application for financial assistance for a reliever airport.

(25) "State" means a State of the United States or the District of Columbia.

(26) "Trust Fund" means the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, as amended.

(27) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 12 of this Act which is to be paid from funds made available for the purposes of this Act.

NATIONAL AIRPORT SYSTEM PLAN

SEC. 4. (a) FORMULATION OF PLAN.—The Secretary shall review and revise as necessary the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe and effiicent system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) developments forecasted in other modes of intercity transportation.

(b) In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(c) The Department of Defense shall make military airports and airport facilities available for civil use to the extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which military airports and airport facilities will be available for civil use.

NAVIGATION AIDS

SEC. 5. The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)) shall be charged to appropriated funds available to the Secretary for that purpose pursuant to section 7(a) of this Act. Nothing in this Act shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

AIRPORT IMPROVEMENT PROGRAM

SEC. 6. (a) AIRPORT GRANTS; OBLIGATIONAL AUTHORITY.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project-grants in accordance with the provisions of this Act in aggregate amounts of not less than nor more than $825,000,000 for fiscal year 1981; $1,425,000,000 for the fiscal years prior to October 1, 1982; $1,975,000,000 for the fiscal years prior to October 1, 1983; $2,575,000,000 for the fiscal years prior to October 1, 1984; and $3,225,000,000 for the fiscal years prior to October 1, 1985.

(b) No obligation for airport development shall be incurred by the Secretary after September 30, 1985: *Provided*, That nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 9(a) of this Act after such date.

(c) No obligation shall be incurred by the Secretary for airport development at any airport that is ineligible to receive such Federal assistance under the provisions of sections 23(a) or 23(b) of this Act.

(d) No obligation shall be incurred by the Secretary for airport development at a privately owned reliever airport unless—

(1) such airport is in a primary hub area,

(2) the Secretary finds that such airport plays an essential role in the national airport system plan, and

(3) the Secretary receives appropriate assurances that such airport will continue to function as a reliever airport during the economic life of any facility at such airport that was developed with Federal financial assistance under this Act.

AIRWAY IMPROVEMENT PROGRAM

SEC. 7. (a) AIRWAY FACILITIES AND EQUIPMENT; OBLIGATIONAL AUTHORITY.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b), the Secretary is authorized to make expenditures from the Trust Fund in aggregate amounts of not less than nor more than $400,000,000 for fiscal year 1981; $850,000,000 for the fiscal years prior to October 1, 1982; $1,400,000,000 for the fiscal years prior to October 1, 1983; $2,000,000,000 for the fiscal years prior to October 1, 1984; and $2,750,000,000 for the fiscal years prior to October 1, 1985. Amounts appropriated under the authorization in this subsection shall remain available until expended.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312 (c) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section 312(c). For research, engineering and development, and demonstration projects and activities under such section 312(c), there is authorized to be appropriated from the Trust Fund $90,000,000 for fiscal year 1981; $95,000,000 for fiscal year 1982; $100,000,000 for fiscal year 1983; $105,000,000 for fiscal year 1984; and $110,000,000 for fiscal year 1985. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) OTHER EXPENSES.—The balance of the moneys available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient condition. Eligible maintenance expenses are limited to costs incurred in the field and exclude the costs of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the

Airport and Airway Trust Fund for the purposes of clauses (1) and (2) of this subsection may not exceed $350,000,000 for fiscal year 1981; $375,000,000 for fiscal year 1982; $400,000,000 for fiscal year 1983; and $425,000,000 for fiscal year 1984; and $450,000,000 for fiscal year 1985. No part of the amount appropriated from the Airport and Airway Trust Fund in any fiscal year for obligation or expenditure under clause (2) of this subsection shall be obligated or expended which exceeds that amount which bears the same ratio to the maximum amount which may be appropriated under clauses (1) and (2) of this subsection for such fiscal year as the total amount obligated in that fiscal year under subsections 6(a) and 7(a) of this Act bears to the aggregate of minimum amount made available for obligation under each such subsection for such fiscal year. If in fiscal year 1981, or in any subsequent fiscal year, the total amount obligated under subsection 6(a) or obligated under subsection 7(a) of this Act in such fiscal year is less than the minimum amount made available for obligation under such subsections for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under subsection 6(a) or made available under subsection 7(a) of this Act for such fiscal year and the total amount obligated under this subsection for such fiscal year.

(d) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

(2) Amounts equal to the minimum amounts authorized for each fiscal year by section 6 or sections 7 (a) and (b) and the third sentence of section 7(c) of this Act shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts transferred to the Trust Fund by subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 (relating to aviation user taxes) may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection 7(c) of this Act.

(4) No provision of law, except for a statute hereafter enacted which expressly limits the application of this paragraph (4), shall impair the authority of the Secretary to obligate to a negligible airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to subsection 9(a) of this Act, in addition to the minimum amounts authorized for that fiscal year by sections 6 and 7 of this Act.

APPORTIONMENT OF FUNDS

SEC. 8. (a) For each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary in accordance with subsection (b) of this section: *Provided,* That in any apportionment for a fiscal year beginning after September 30, 1981, the Secretary shall not apportion any funds to airports that are ineligible to receive Federal assistance for such purposes under the provisions of sections 23(a) or 23(b) of this Act.

(b) On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To the sponsor of each eligible primary airports, as follows:

(i) $6 for each of the first 50,000 passengers enplaned at that airport;

(ii) $4 for each of the next 50,000 passengers enplaned at that airport;

(iii) $2 for each of the next 400,000 passengers enplaned at that airport; and

(iv) $.50 for each additional passenger enplaned at that airport.

(B) The Secretary shall not apportion more than $10,000,000 under paragraph (1) of this subsection to an airport sponsor for any airport for any fiscal year.

(C) In no event shall the total amount of all apportionments under paragraph (1) of this subsection for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purpose of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an eligible primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(D) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this Act, the total amount of all apportionments under paragraph (1) of this subsection for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an eligible primary airport under paragraph (1) of this subsection proportionately so that such 50 percent amount is achieved.

(2) PRIMARY HUBS.—

(A) For each primary hub as follows: $.50 for each passenger enplaned at each commercial service airport which is a part of the air traffic hub.

(B) The Secretary shall not apportion more than $5,000,000 under paragraph (2) of this subsection to any primary hub for any fiscal year.

(C) In no event shall the total amount of all apportionments under paragraph (2) of this subsection for any fiscal year exceed 20 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each air traffic hub under paragraph (2) of this subsection proportionately so that such 20 percent amount is achieved.

(D) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this Act, the total amount of all apportionments under paragraph (2) of this subsection for such fiscal year shall not exceed 20 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment of each air traffic hub under paragraph (2) of this subsection proportionately so that such 20 percent amount is achieved.

(3) APPORTIONMENTS TO STATES, PUERTO RICO, AND INSULAR AREAS.—

(A) To the several States and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands for eligible airports other than: (I) reliever airports which are public airports and which are part of a primary hub; (II) commercial service airports which are part of a primary hub; (III) primary airports; and (IV) airports that are ineligible to receive Federal assistance under the provisions of sections 23(a) or 23(b) of this Act:

(i) $75,000,000 for fiscal year 1981; $80,000,000 for fiscal year 1982; $85,000,000 for fiscal year 1983; $90,000,000 for fiscal year 1984; and $95,000,000 for fiscal year 1985 shall be apportioned as follows:

(I) Puerto Rico, and Insular Areas. One percent of such amounts to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(II) States. One-half of the remaining 99 percent in the proportion which the population of each State bears to the total population of all the States and one-half of the remaining 99 percent in the proportion which the area of each State bears to the total area of all the States. As used in paragraph (3) of this subsection, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(ii) In addition $150,000 shall be apportioned to each State for each commercial service airport located within the State which is included for the purpose of apportioning funds under paragraph (3)(A) of this subsection.

(B) In no event shall the total amount of all apportionments under paragraph (3) of this subsection for any fiscal year exceed 20 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 6 of this Act. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each State and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands, under paragraph (3) of this subsection proportionately so that such 20 percent amount is achieved.

(C) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 6 of this act, the total amount of all apportionments under for such fiscal year shall not exceed 20 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each State and to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and the Virgin Islands, under paragraph (3) of this subsection proportionately so that such 20 percent amount is achieved.

(4) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), and (3) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary for such projects at eligible airports as the Secretary considers most appropriate for carrying out the purposes of this Act: *Provided,* That—

(A) In the case of eligible reliever airports, no less than $225,000,000 of the funds apportioned to primary hubs pursuant to paragraph (2) of this subsection and the funds apportioned to the discretionary fund of the Secretary pursuant to paragraph (4) of this subsection shall be distributed to such reliever airports during the period from October 1, 1980 to September 30, 1985.

(B) In the case of public airports that are not primary airports and that received Federal assistance for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended—

(i) the Secretary shall promulgate regulations identifying high priority projects that would significantly increase the safety or capacity of such airports, and

(ii) during the period from October 1, 1980 to September 30, 1985, the Secretary shall make available to each such airport an amount from the discretionary fund that equals the sum of (I) the United States share of the costs of such high priority projects at such airport up to an amount equal to five times the minimum amount apportioned to such airport for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended, and (II) such additional funds as the Secretary, in his discretion, considers appropriate;

(C) In the case of eligible public airports other than reliever or a commercial service airports, no less than $275,000,000 of the funds apportioned to the States pursuant to paragraph (3) of this subsection and the funds apportioned to the discretionary fund of the Secretary pursuant to paragraph (4) of this subsection shall be distributed to such public airports during the period from October 1, 1980 to September 30, 1985.

(D) After September 30, 1981, no funds from such discretionary fund shall be distributed to any airport that is ineligible to receive such Federal assistance under section 23(a) or 23(b) of this Act.

(5) Notwithstanding paragraphs (1), (2), and (3) of this subsection, the Secretary may apportion funds for eligible airports in the State of Alaska in the same manner in which such funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event may the total amount apportioned for such eligible airports pursuant to this paragraph in any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of the Airport and Airway Development Act of 1970.

(c) All apportionments for any fiscal year under this section shall be based on the number of passengers enplaned during the preceding calendar year.

USE OF APPORTIONED FUNDS; MISCELLANEOUS CONDITIONS

SEC. 9. (a) DURATION OF AVAILABILITY.—Each amount apportioned under section 8 (b)(1), (b)(2), and (b)(3) of this Act shall be available for obligation by project-grant agreement, as the case may be, during the fiscal year for which it was first authorized to be obligated and the 2 fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 8(b)(4) of this Act.

(b) MISCELLANEOUS CONDITIONS.—

(1) The following conditions apply to apportionments made under section 8(b)(1):

(A) Funds apportioned to a sponsor under section 8(b)(1) of this Act may be used at any public airport of such sponsor which is in the national airport system plan, except that after September 30, 1981, no such funds may be used at an airport that is ineligible to receive such Federal assistance under the provisions of sections 23(a) or 23(b) of this Act.

(B) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for an approved project-grant to the sponsor of another eligible public airport that is part of the same State or the same geographical area as the airport of the sponsor making the waiver.

(2) The following conditions apply to apportionments made under section 8(b)(2):

(A) Prior to the distribution of any funds apportioned under section 8(b)(2) of this Act, the sponsor of each eligible commercial service airport and the sponsor of each reliever airport which is a public airport, whose airports are a part of the same primary hub, shall have submitted jointly to the Secretary a consolidated improvement plan and an annual expenditure program. In addition, such sponsors must certify that: (i) there is in existence a current airport system plan for such hub prepared by the public agency responsible for airport system planning for such hub; and (ii) the consolidated improvement plan and the annual expenditure program are consistent with such system plan, were prepared in cooperation with the public agency which prepared such system plan, and are consistent with the objectives of this Act as stated in sections 2 and 10 of this Act.

(B) Funds apportioned under section 8(b)(2) of this Act shall be distributed by the Secretary pursuant to project-grant agreements, in accordance with the annual expenditure program.

(c) NOTICE OF APPORTIONMENT.—The Secretary shall give notice to primary airport sponsors, the Governor of each State, or the chief executive officer of the equivalent jurisdiction, the sponsors of commercial service airports which are part of primary hubs, and the sponsors of reliever airports which are public airports and are part of primary hubs, as the case may be, as soon as possible after April 1 of each year of the estimated amount of the apportionment to be made on October 1 of that year.

TRANSPORTATION PLANNING

SEC. 10. It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

SUBMISSION AND APPROVAL OF PROJECT-GRANT APPLICATIONS

SEC. 11. (a) SUBMISSION.—Subject to the provisions of this subsection, (1) any public agency, or two or more public agencies acting jointly, or (2) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project-grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project or projects proposed to be undertaken. No project-grant application shall propose airport development or airport planning except in connection with public airports included in the current national airport system plan prepared pursuant to section 4 of this Act. Nothing in this subsection shall authorize the submission of a project-grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(b) APPROVAL.—

(1) No project-grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is consistent with the objectives of this Act as stated in sections 2 and 10 of this Act;

(B) the project is substantially consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this Act;

(C) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this Act;

(D) the project will be completed without undue delay;

(E) the sponsor which submitted the project-grant application has legal authority to engage in the project as proposed; and

(F) all project sponsorship requirements prescribed by or under the authority of this Act have been or will be met.

(2) No project-grant application for airport development may be approved by the Secretary unless the sponsor or a public agency or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project-grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; and (C) high intensity runway lighting, when it is determined by the Secretary that any such items are required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project-grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this Act shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project-grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6) HEARINGS.—

(A) No project-grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(7) AIR AND WATER QUALITY.—

(A) No project-grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality implementation plans. In any case where such plans have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from that Administrator. Notice of certification or refusal to certify shall be provided within 60 days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project-grant application on compliance during construction and operation with applicable air and water quality standards.

(c) ACCEPTANCE OF CERTIFICATION.—In determining compliance with the requirements of this Act and other Federal laws, the Secretary shall, to the greatest extent practicable consistent with the objectives of this Act or such other Federal laws, accept conclusionary certifications from sponsors that they have complied or will comply with all of the statutory, regulatory, and procedural requirements that are imposed in connection with a block-grant or project-grant under this Act or other Federal laws. Acceptance by the Secretary of certification from a sponsor may be rescinded at any time.

(d) REQUIREMENT OF NOTICE.—Each sponsor to which funds are apportioned under section 8(b)(1) of this Act must notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project-grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

UNITED STATES SHARE OF PROJECT COSTS

SEC. 12. (a) GENERAL PROVISION.—Except as otherwise provided in this section, the United States share of allowable project costs payable on account of any project contained in an approved project-grant application submitted in accordance with this Act shall not exceed 90 percent of the allowable project costs.

(b) PROJECTS AT CERTAIN PRIMARY AIRPORTS.—In the case of primary airports enplaning 25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project-grant application shall not exceed 75 percent of the allowable project costs.

(c) PROJECTS IN PUBLIC LAND STATES.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) of this section shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in the State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (1) the percentage share determined under subsection (a) of this section, or (2) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970, as amended.

PROJECT SPONSORSHIP

SEC. 13. (a) SPONSORSHIP.—As a condition precedent to approval of an airport development project contained in a project-grant application submitted under this Act, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier, authorized by certificate or exemption to engage directly in air transportation pursuant to section 401, 402, 416 or 418 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities;

(2) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(3) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

(4) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(5) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(6) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(7) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(8) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this Act or under the Federal Airport Act or the Airport and Airway Development Act of 1970, as amended, shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(9) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(10) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(11) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe;

(12) revenues generated by the airport (other than an airport operated by an airport sponsor in a single State that operates other transportation facilities within such State and has borrowed development funds for such airport and other transportation facilities in the form of consolidated revenue bonds) will be used for the capital and operating expenses of the airport except that nothing in this subparagraph shall be construed as restricting an airport sponsor that operates more than one airport from allocating revenues from any such airport for the operating and capital expenses of another such airport; and

(13) in the case of a primary airport, the airport operator or owner will provide restroom facilities that (A) are available to the public without any charge or fee and (B) are maintained in a condition of cleanliness commensurate with the public health standards of the unit of general local government in which such airport is located.

To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements in regard to the airport to which the project relates as are consistent with the terms of this Act and as the Secretary considers necessary. Among other steps to insure compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this Act, the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (6) of this subsection.

(b) CONSULTATION.—In making a decision to undertake any airport development project under this Act, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

GRANT AGREEMENTS

SEC. 14. Upon approving a project-grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the project-grant application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this Act and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this Act, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project-grant application for a project which will not be completed in 1 fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 8(b)(1) of this Act for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Thereafter, in the case of a project for airport development, the amount stated in the accepted offer as the maximum obligation of the United States may not be increased by more than 10 percent. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

PROJECT COSTS

SEC. 15. (a) ALLOWABLE PROJECT COSTS.—Except as provided in section 16 of this Act, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 20(b) of this Act;

(2) it was incurred subsequently to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement; and

(4) it has not been included in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—

(1) Notwithstanding the provisions of subsection (c) of this section, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project-grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958, as amended, all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft providing scheduled service, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue producing public-use area if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

(2) No more than the greater of (A) $200,000 or (B) 60 percent of the sums apportioned under section 8(b)(1) of this Act to the sponsor of an eligible primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. No more than $200,000 of the sums apportioned under section 8(b) (2) and (3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Notwithstanding any other provisions of this Act, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(4) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

PAYMENTS UNDER GRANT AGREEMENTS

SEC. 16. The Secretary, after consultation with the sponsor with which a project-grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project-grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project-grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

PERFORMANCE OF CONSTRUCTION WORK

SEC. 17. (a) REGULATIONS.—The construction work on any project for airport development contained in an approved project-grant application submitted in accordance with this Act shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS' PREFERENCE.—All contracts for work on projects for airport development approved under this subchapter which involve labor shall contain provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans.

(1) A Vietnam era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions.

(2) Disabled veteran is defined in section 2108(2) of title 5 of the United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

USE OF GOVERNMENT-OWNED LANDS

SEC. 18. (a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this Act at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national airport system plan, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) Making of Conveyances.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of 4 months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) Exemption of Certain Lands.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the Bureau of Sport Fisheries and Wildlife; or within any national forest or Indian reservation.

FALSE STATEMENTS

Sec. 19. Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this Act;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this Act; or

(3) knowingly makes any false statement or false representation in any report required to be made under this Act;

shall, upon conviction thereof, be punished by imprisonment for not to exceed 5 years or by a fine of not to exceed $10,000, or by both.

ACCESS TO RECORDS

Sec. 20. (a) Recordkeeping Requirements.—Each recipient of a grant under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this Act to insure that such requirements are kept to the minimum level necessary for the proper administration of this Act.

(b) Audit and Examination.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this Act. The Secretary may require, as a condition to receipt of a grant under this Act, that an appropriate audit be conducted by a recipient.

(c) Audit Reports.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this Act relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than 6 months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) Withholding Information.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

(e) Reporting Requirements.—(1) The sponsor of any commercial service airport that is part of an air traffic hub and that receives Federal assistance for an airport development project under this Act shall, no later than 90 days after the expiration of any fiscal year in which such airport received such assistance, document to the Comptroller General of the United States that adequate funding for such project is not available from sources other than Federal assistance. Such documentation shall be in such manner and form as the Comptroller General may prescribe, but at a minimum shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; and a statement of sources and application of funds. No later than July 1 of each calendar year, the Comptroller General shall transmit a copy of such documentation to the Congress, along with a report containing such comments and information as the Comptroller General may deem to be necessary to keep the Congress informed of the operations and financial condition of the sponsors of such airports and such recommendations with respect thereto as he may deem advisable. A copy of such documentation and reports shall be furnished to the Secretary at the time submitted to Congress.

(2) In order to insure the compatibility of the documentation submitted pursuant to paragraph (1) of this subsection, the General Accounting Office shall, within 180 days after the date of enactment of this Act, develop a standard accounting system to be used by airport sponsors in preparing such documentation.

GENERAL POWERS

Sec. 21. The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this Act, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties under this Act.

CIVIL RIGHTS

Sec. 22. The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this Act. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

NONPARTICIPATING AIRPORTS; WAIVER OF CERTAIN OBLIGATIONS

Sec. 23. (a) No obligation for airport development shall be incurred by the Secretary (1) after September 30, 1981, at any airport that enplanes more than .5 percent of the total number of passengers enplaned in fiscal year 1978 as computed by the Federal Aviation Administration and set forth in section 28 of this Act at all commercial service airports or (2) after September 30, 1982, at any airport that enplanes more than .25 percent of the total number of passengers enplaned in fiscal year 1978 as computed by the Federal Aviation Administration and set forth in section 28 of this Act at all commercial service airports.

(b) For any fiscal year beginning after September 30, 1981, any airport that otherwise would be eligible to receive Federal assistance for airport development under this Act may elect not to receive such assistance: *Provided*, That—

(1) Such airport shall not be eligible to receive assistance for airport development under this Act for that fiscal year or any subsequent fiscal year, and

(2) Any airport that elects not to receive such assistance during a fiscal year shall notify the Secretary of such election at least 60 days prior to the commencement of that fiscal year.

(c)(1) The Secretary shall issue criteria and requirements pursuant to which the sponsors of airports described in subsections (a) and (b) of this section may, at their option, terminate any existing assurances, requirements, or contractual obligations with the United States that arose from the acceptance of Federal assistance under, or that are contained in grant agreements, deeds, or other instruments of conveyance issued pursuant to, this Act, the Federal Airport Act of 1946 (49 U.S.C. 1101 et seq.), the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) or the Surplus Property Act of 1944.

(2) If the sponsor of an airport, pursuant to paragraph (1) of this subsection, elects to terminate a financial obligation owed to the United States, the Secretary is authorized to settle such obligation in an amount not exceeding the maximum obligation stated in the existing agreement, less any payments made thereon.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, neither the sponsor

of an airport nor the Secretary may terminate any assurance specified in paragraphs 1 through 13 of section 13 of this Act or in paragraphs 1 through 10 of section 18 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718).

(4) Notwithstanding paragraphs (1) and (2) of this subsection, any airport that received or receives Federal assistance under this Act, the Federal Airport Act of 1946, the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) or the Surplus Property Act of 1944, either before or after the date of enactment of this paragraph, shall be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier, authorized by certificate or exemption to engage directly in air transportation pursuant to section 401, 402 or 418 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, add such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar use of such airport utilizing the same or similar facilities.

(d) No State or political agency of one or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to (1) the operating safety of an airport subject to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432), or (2) any assurance, obligation, or requirement from which an airport sponsor has been released by the Secretary under this section.

(e) Notwithstanding any contract which is in existence on the effective date of this Act and which restricts the airport sponsor's ability to raise or impose charges on any air carriers, any airport which is not an eligible airport under this Act may renegotiate rates and charges with any air carrier for the purpose of replacing revenues that otherwise would have been available to such airport from the Trust Fund were it not for the amendments made by this Act. Any revenues that result from such renegotiation shall be used only for capital and operating expenses of such airports.

REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; SEPARABILITY; AND APPLICABILITY OF ANTITRUST LAWS

Sec. 24. (a) Repeal.—Except as otherwise provided in this Act, sections 1 through 30 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701–1730), are repealed as of the close of September 30, 1980.

(b) Effective Date.—The provisions of this Act are effective as of the close of September 30, 1980.

(c) Saving Provisions.—

(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction under any provision of the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act, as amended, which are in effect at the time this Act takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this Act, amounts apportioned before October 1, 1980, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended, and which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act, to the same extent as though that Act had not been repealed.

(d) Separability.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances is not affected thereby.

(e) Applicability of Antitrust Laws.—Nothing in this Act shall relieve any person (including any owner or operator of any airport or any public agency acting in that capacity) from the operation of the antitrust laws, including the Sherman Act, the Clayton Act, and the Federal Trade Commission Act, each as amended, and the Federal Aviation Act of 1958, as amended.

REPORT TO CONGRESS ON AIRPORT AND AIRWAY TRUST FUND

Sec. 25. On or before the third day of January of each year, the Secretary shall transmit a report to the Congress describing the status of the revenues and expenditures of the Airport and Airway Trust Fund and its authorized programs and operations under this Act during the preceding fiscal year.

REPORT TO CONGRESS ON ABILITY OF NONELIGIBLE AIRPORTS TO FUND AIRPORT DEVELOPMENT

Sec. 26. The Secretary and the Comptroller General shall conduct separate studies of airports that will be ineligible to receive Federal assistance under the provisions of section 23(a) or 23(b) of this Act to determine the ability of such airports to replace the moneys they would otherwise receive as Federal assistance under this Act.

Such studies shall:

(1) include determinations by the Secretary and the Comptroller General as to the ability of such airports to replace such Federal assistance by renegotiating rates or charges imposed upon air carriers utilizing such airports;

(2) include determinations by the Secretary and the Comptroller General as to the advisability of repealing section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. 1513) in order to permit such airports to replace such Federal assistance by imposing a tax, fee, or head charge;

(3) include determinations by the Secretary and the Comptroller General as to the ability of such airports to replace such Federal assistance from other resources;

(4) identify any airports which the Secretary or the Comptroller General concludes would not be able to replace such Federal assistance, identify what specific airport development projects such airports would be unable to fund, and include the data which led the Secretary or the Comptroller General to reach such conclusions; and

(5) include such recommendations for legislative or other action as the Secretary or the Comptroller General determines to be necessary.

The Secretary and the Comptroller General shall each transmit their respective study to the Congress not later than nine months after the enactment of this Act.

STANDARDS FOR RUNWAY FRICTION

Sec. 27. The last sentence of section 612 (b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)), is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof "and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

PASSENGERS ENPLANED AT MAJOR AIRPORTS IN FISCAL 1978

Sec. 23. Appendix A—passengers enplaned at major commercial service airports in fiscal year 1978—

Airport	*1978 PAX enplanements*
1. Chicago, IL	22, 165, 600
2. Atlanta, GA	17, 499, 034
3. Los Angeles, CA	15, 658, 256
4. New York, NY (JFK)	12, 071, 256
5. San Francisco, CA	9, 813, 302
6. Dallas/Ft. Worth, TX	9, 687, 196
7. Denver, CO	8, 760, 407
8. New York, NY (LGA)	8, 463, 697
9. Miami, FL	7, 887, 028
10. Washington, DC (DCA)	7, 007, 999
11. Honolulu, HI	6, 909, 850
12. Boston, MA	6, 689, 515
13. Detroit, MI	4, 907, 399
14. Houston, TX	4, 769, 963
15. Pittsburgh, PA	4, 753, 036
16. St. Louis, MO	4, 671, 134
17. Philadelphia, PA	4, 586, 318
18. Las Vegas, NV	4, 243, 550
19. Seattle/Tacoma, WA	4, 236, 375
20. New York, NY (EWR)	4, 171, 450
21. Minneapolis, MN	3, 996, 127
22. Cleveland, OH	3, 502, 562
23. Tampa, FL	3, 309, 164
24. New Orleans, LA	3, 127, 159
25. San Diego, CA	3, 031, 288
26. Phoenix, AZ	2, 947, 174
27. Kansas City, MO	2, 768, 998
28. Ft. Lauderdale, FL	2, 710, 725
29. San Juan, PR	2, 639, 432
30. Orlando, FL	2, 430, 753
31. Memphis, TN	2, 263, 393
32. Portland, OR	2, 076, 413
33. Salt Lake City, UT	2, 005, 933
34. Baltimore/Washington, MD	1, 761, 545
35. Buffalo, NY	1, 731, 085
36. San Jose, CA	1, 616, 456
37. Indianapolis, IN	1, 566, 916
38. Washington, D.C. (IAD)	1, 537, 169
39. Cincinnati, OH	1, 516, 210
40. Charlotte, NC	1, 476, 538
41. Kahului, HI	1, 473, 582
42. San Antonio, TX	1, 457, 999
43. Windsor Locks, CT	1, 455, 512
44. Milwaukee, WI	1, 434, 528
45. Sacramento, CA	1, 310, 723
46. Oakland, CA	1, 309, 652
47. Columbus, OH	1, 269, 290
48. Orange Co., CA	1, 131, 295
49. Nashville, TN	1, 130, 971
50. Anchorage, AK	1, 125, 403
51. Albuquerque, NM	1, 106, 236
52. Lihue, HI	1, 090, 307
53. Burbank, CA	1, 043, 550
54. Louisville, KY	1, 039, 362
55. Oklahoma City, OK	1, 033, 101
56. Dayton, OH	967, 803
57. Reno, NV	965, 221
58. Tulsa, OK	936, 662
59. Ontario, CA	924, 156
60. Omaha, NB	906, 222
61. Rochester, NY	895, 422
62. Norfolk, VA	882, 698
63. Palm Beach, FL	873, 076
64. Jacksonville, FL	856, 424
65. Syracuse, NY	856, 008
66. Dallas, TX (DAL)	835, 968
67. Tucson, AZ	831, 196
68. El Paso, TX	828, 557
69. Raleigh, NC	785, 669
70. Houston, TX (HOU)	771, 829
71. Birmingham, AL	762, 232
72. Albany, NY	700, 414

Hub classifications were determined by each airport's percentage of the total enplaned revenue passengers in all services and all operations. Classifications are based on 280,117,872 total enplaned revenue passengers.

The percentage and number of enplaned passengers in the hub classifications are as follows:

Large hub, 1.00 percent or more, 2,801,179 or greater.

Medium hub, 0.25 percent to 0.99 percent, 700,295 to 2,801,178.

Small hub, 0.05 percent to 0.24 percent, 140,059 to 700,294.

Non hub, less than 0.05 percent, 140,058 or less.

Mr. CANNON. I move to reconsider the vote by which the bill passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. MAGNUSON. Mr. President, had there been a rollcall vote on this bill, I would have had a pair with the distinguished Senator from New Jersey (Mr. Bradley). If he were present, he would vote "nay" on the bill. If I were permitted to vote, I would vote "yea."

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. That concludes the action on S. 1648?

The PRESIDING OFFICER. That is correct.

Mr. CANNON. The motion to table and motion to reconsider were agreed to?

The PRESIDING OFFICER. That is correct.

AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee on conference on H.R. 2440 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Randolph). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of December 19, 1979.)

Mr. CANNON. Mr. President, I am pleased to recommend to the Senate the conference report on H.R. 2440, the Aviation Safety and Noise Abatement Act of 1979. This report is a compromise package which has the support of the administration, the support of the previous House opponents to the Senate noise bill, and the support of those of us who favored S. 413. This compromise certainly does not represent my ideal solution to the problems we have tried to address in H.R. 2440, but I do recommend it as acceptable considering the extreme differences of opinion on FAR 36.

We have also reduced the spending impact of the legislation to meet OMB's objections.

The waivers provided to the existing noise regulations have been narrowed by this compromise to only apply in cases where the operator has a signed contract for the newest technology aircraft and for two engine jets designed to serve small communities. Importantly, both these waiver provisions have termination dates to assure that all airplanes will be made compliant in the future.

I wish to place particular emphasis on the requirement included by the conferees that the single noise exposure measurement system to be adopted by FAA is to have a "highly reliable relationship" between the system's projected noise exposure and the surveyed reactions of people living in the noise exposure area. It is my understanding that existing noise measurement systems do not reliably project the reactions of people to aircraft noise, and if that understanding is accurate, this language directs the FAA not to adopt an existing system until it has been modified and proved reliable.

Mr. MUSKIE. Mr. President, I do not particularly enjoy fighting lost causes, but it seems I have found myself fighting them in the last couple of weeks. I find myself in that situation again.

Mr. President, I must urge the Senate to reject this legislation for two reasons:

First, the conference report omits a very desirable provision regarding contributions from the airport and airway trust fund for expenses of the Federal Aviation Administration. Second, the fiscal 1980 budget is already oversubscribed, as I spelled out in detail to the Senate yesterday.

When S. 413 passed the Senate, and again when the Senate substituted the text of S. 413 as an amendment to H.R. 2440, this legislation contained a provision that was budgetarily very desirable—the bill provided for a $250 million increase in trust fund payments for FAA operations and maintenance.

That provision represented a significant step toward implementing the principle that user fees should finance all types of Federal expenditures for aviation, and it would have reduced the burden on Federal taxpayers to subsidize air travel.

I am sure that members of the Budget Committee were influenced by this desirable provision when they voted to report favorably the budget waiver. I felt that it represented a major improvement in the bill from a budgetary standpoint. I said as much in my statement of April 10, 1979, when the Senate adopted the budget waiver on this legislation, Senate Resolution 125.

Unfortunately, Mr. President, that desirable provision was omitted from this conference report. When the Senate and the full Congress established the airport and airway trust fund, all types of Federal expenditures for aviation activities were eligible for financing from trust fund revenues. The Senate partially reestablished that policy in 1976. I believe we should continue to expand the portion of FAA costs funded from trust fund revenues given the enormous pressures on general revenues for other functions of the budget, including the defense function, and including the personnel costs of the defense function which were the subject of the extensive Senate debate yesterday, and the Senate decision will result in substantially increased Federal expenditure.

Mr. President, the conference report authorizes an additional $72 million in fiscal year 1980 funding, $57 million of which is direct spending authority not subject to further congressional action. Furthermore, it permits the obligation of an additional $200 million in discretionary funds for airport development (ADAP) projects. The costs of this bill fall in function 400, transportation, where the functional ceilings of the second budget resolution have already been exceeded. Furthermore, this bill will put additional pressure on the overall spending ceilings of the second budget resolution.

Mr. President, the bill before us involves an increase in spending which can be controlled and should thus be rejected.

Mr. President, because the conference report omits the desirable provision increasing the trust fund contributions for FAA expenses, and because the fiscal year 1980 budget is already oversubscribed, I will vote against it and urge the Senate to reject it.

Mr. CANNON. Mr. President, I submit for the Record a colloquy on the Love Field issue. It is slightly different from the one printed at the passage of S. 1300 between Senator Long and myself, and this corrects an error in the previous colloquy.

The colloquy follows:

CORRECTED COLLOQUY ON LOVE FIELD ISSUE

Mr. LONG. Mr. President, the conference report on S. 1300, the International Air Transportation Competition Act, refers to "turnaround service" with respect to the new restrictions which have been placed on Love Field. I would like to make sure that I understand accurately what is meant by this term. Turnaround service means that service does not go beyond the contiguous States but turns around at an out-of-State point or terminates there. Of course, since subsection (c) also specifically authorizes service between Love Field and one or more points in the State of Texas, such flights could operate through Love Field to other points in Texas, or through a point within the contiguous States to other such points, before turning around. Also, there is no intent to limit flights by a carrier serving Love Field which do not serve Love Field at all, such as New York-Miami. Is that correct?

Mr. CANNON. The Senator is absolutely correct.

Mr. MAGNUSON. I would like to ask

the chairman if the conferees intend the authorization maximums, which have been created by H.R. 2440, to supersede the fiscal year 1980 appropriations for these program areas already approved by Congress?

Mr. CANNON. Not at all. The Senator is making reference to the bill's change in the authorization from "not less than" to "not less than or more than," which applies to airport grant, F. & E., and R. & D. These maximums are prospective authorization ceilings for the funds to be made available for an individual fiscal year. However, they do not, and are not intended to, preclude the Appropriations Committee from appropriating the maximum authorization for that individual fiscal year plus additional funds authorized, but not expended, in previous years. For example, the F. & E. authorization for fiscal year 1980 is "not less than or more than $250 million." The DOT fiscal year 1980 appropriation for F. & E. is a total of $293 million, which represents $250 million authorized for fiscal year 1980 plus a reappropriation of $43 million available for obligation and expenditure in fiscal year 1980, but which was authorized in previous years.

The law is clear on this point by referencing the authorization maximum for an individual fiscal year, which is not the same as the total appropriation ceiling in a fiscal year that may account for authorizations accumulated from several fiscal years.

The conferees are in complete support of the fiscal year 1980 appropriation levels.

I would also like to touch on one additional point. That concerns the increased Federal participation share in airport grants called for by H.R. 2440. Although the Federal share would be increased from 80 to 90 percent in many cases, that increase should not be applied retroactively. It should be applied only to those grant projects placed under grant subsequent to the enactment of H.R. 2440.

Concern has also been expressed that the interaction of various provisions of this bill and provisions of the Airport and Airway Development Act of 1970, as amended, could result in the limited availability of ADAP discretionary funds during fiscal year 1980.

One measure which would alleviate this potential impact on discretionary funding would be an amendment to the Airport and Airway Development Act of 1970, as amended, to provide that funds apportioned to air carrier airports in fiscal years 1979 and 1980 are available for obligation during the fiscal year in which those funds were first authorized to be obligated and for the 2 fiscal years immediately following. Passage of such legislation, which is before the Congress, would prevent an artificially high demand for the obligation of apportioned funds in fiscal year 1980, which in turn would result in increased funds being available for discretionary obligation. I am confident that legislative action will be taken on this matter in a timely fashion.

Mr. ARMSTRONG. Mr. President, I would like to take a very brief moment to ask the distinguished chairman a question about section 304.

This provision deals with aircraft serving our smaller communities. As I understand it, effective December 1, 1979, two-engine aircraft of 100 seats or less would be exempt from provisions of this bill until January 1, 1988, and two engine aircraft with more than 100 seats would be exempt until January 1, 1985. However, paragraph (c) of this section allows the Secretary of Transportation to set an effective date earlier than the December 1, 1979, date on a case-by-case basis.

This matter was brought to my attention because Frontier Airlines, which is headquartered in Colorado, increased the seating capacity of their two-engine aircraft from 97 seats to 106 seats and made this change during calendar year 1979. The reason I am asking this question is because Frontier, which changed its seating capacity somewhat, would still use the same aircraft to service the smaller communities, and service to those communities is a matter of concern.

So, it would seem to me that this is the kind of situation that paragraph (c) of section 304 was written to deal with and I wonder if the chairman could tell me if my understanding is correct.

Mr. CANNON. Mr. President, the Senator from Colorado is absolutely correct. In fact, the Frontier example is one which we specifically had in mind when we created the flexibility to adopt an earlier date, and the statement of managers encourages the Secretary to use that flexibility.

I also understand that Republic Airlines, which serves more small communities than any other domestic airline, has a nearly identical problem. While the dates and seating capacity numbers are slightly different for Republic, I hope the Secretary will also consider their problem, as I am sure the conferees intended him to do on a case-by-case basis.

Mr. President, I want to note one recent aviation noise development which I view with alarm. The California Supreme Court has found that an airport can be sued for "nuisance" damages, rather than the historic need for the plaintiff to show a taking of value. Such lawsuits are limitless and could quickly place an undue burden upon interstate commerce. I want to encourage the airlines and FAA to join the city of Los Angeles in appealing this dangerous decision in the Federal courts. I believe a successful appeal to this case is a necessity.

I want to also note that section 302 of this bill would direct the Secretary to commence a rulemaking to require compliance with noise standards by air carriers and foreign air carriers engaging in foreign air transportation.

The provision does not specify a definite compliance schedule, either by its own terms or by reference. The provision does specify that a rulemaking be commenced and completed to establish a compliance schedule, and that the compliance schedule is to establish a phased rate of compliance for foreign air commerce "similar" to that for domestic air commerce.

An example illustrates the flexibility of this provision. The noise rules applicable to domestic air commerce were promulgated on December 1976, 8 full years before the rules require final compliance and 4 full years before the first phased compliance date. I do not suggest that, at this time, when air carriers are so aware of this Nation's commitment to the control of aviation noise, that 8 years notice would be desirable today. Shorter notice would certainly be desirable. However, the length of notice to provide to carriers engaged in domestic air transportation clearly indicates that similar compliance for persons engaged in foreign air commerce does not require impossibly or unreasonably swift compliance.

Thus, this provision would not impose any specific final or interim compliance dates for persons engaged in foreign air commerce.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HART). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the House-Senate conferees have succeeded in modifying some of the more regressive features of a bad bill. Still, the conference report does not merit support, because it dilutes and delays the noise relief that 7 to 10 million Americans have been promised.

The evidence does not support the need for a small community service exemption all the way until 1988. This means that airport neighbors must endure the noise for an additional 5 to 7 years. Should individual small communities have faced hardship because of the rules, the FAA could have waived the rules under their power to waive in the public interest. Regrettably, the conference report will now give a blanket waiver.

Nor does the evidence support the use of "trade-offs" whereby over one-third of the three-engine fleet will be permitted to fly indefinitely with little or no retrofitting. These trade-offs will sacrifice 5 to 6 decibels of noise relief on approach of aircraft. The experts have testified that 5 to 6 decibels of relief is perceptible, especially when it is cumulated hour after hour after hour over the homes of millions of Americans.

The conference bill does contain a positive element regarding noise. It mandates that FAA commence rulemaking to bring international flights into compliance, phased in over the next 5 years. The report, however, contains potentially worrisome language regarding four-engine aircraft that urges the FAA "to give consideration to hardship situations * * *." I would assume, in keeping with noise abatement objectives while giving recognition to this intent, that this consideration is confined to four-engine operators which range in the lowest 10 percent of air carriers in terms of plane miles flown or operating revenues or number of aircraft.

Mr. President, I will close by quoting from the conference report:

> This legislation is intended to be the final resolution of this issue, except for extraordinary and unanticipated circumstances.

This confirms what the American people fully expect—that the relief given aircraft in this legislation is as far as the Congress is prepared to or should be asked to go.

Mr. CRANSTON. Mr. President, I oppose the conference report on H.R. 2440, the Aviation Safety and Noise Abatement Act of 1979.

If enacted, the bill would be a saddening example of the Congress giving with one hand and taking away with the other. We would offer some things I strongly support, such as increased funding of noise abatement programs. But we would extend noise compliance deadlines for aircraft and we would curb the ability of homeowners to take airport noise grievances to court.

This kind of trade-off, Mr. President, is neither fair nor sensible. What we are doing is prolonging the adverse health impact on millions of Americans who live near airports. We are softening Federal requirements that commit us to quieter aircraft by 1985. We are muddying the waters for States and localities that have designed noise compliance programs to meet the deadlines we in the Congress have approved. Worse, we are in this report making it harder and harder for taxpayers who live near airports to sue for relief. A key provision of H.R. 2440 as reported from conference protects airports from lawsuits if the airport has published a noisemap.

Mr. President, when this bill passed the Senate last year I supported it. There were some worthwhile provisions worthy of my vote. On the objectionable noise compliance extensions I wrote to the conferees detailing my opposition. Specifically, I asked that the exemption of two- and three-engine aircraft be deleted. I asked removal of the waiver for four-engine planes. And I asked that the so-called good cause waiver, giving the Secretary of Transportation duplicative authority to waive compliance not in the public interest, be dropped.

The conferees agreed with two of my objections, removing the four-engine exemption and the good cause waiver. But two-engine aircraft with more than 100 seats are exempt until 1986, three-engine aircraft until 1985, and two-engine aircraft with less than 100 passengers until 1988. The two-engine, 99-or-less exemption strikes me as especially questionable in view of the explosive growth of this kind of commuter service.

Mr. President, Mayor Tom Bradley of Los Angeles has sent me a message which reads in part:

> In light of the problems brought about by jet aircraft landing and departing from the (Los Angeles International Airport) and from the Burbank Airport, the City has been relying for a number of years on the airlines meeting the FAR–36 deadline. We have even enacted an ordinance to ensure compliance by the airlines. Any relaxation of the FAR–36 requirements, through the use of waivers, would undermine our efforts to protect our citizens from the adverse effects of aircraft noise and potentially have a negative impact on the City's financial health.

Major Janet Gray Hayes, of San Jose, told me:

> This noise bill would remove the requirements that U.S. airlines install quieter engines by 1986 and thereby prolong and intensify an already critical local problem.

California's Director of Transportation, Adriana Gianturco, wired me:

> We believe there are still two provisions in the report which are unacceptable. First, noncomplying two-engine aircraft would be able to fly up to seven years beyond cutoff dates in current regulations. While noise levels at airports might decline after 1985, this bill will add noise at California airports during the coming five years. For those who live under the approach and takeoff areas at airports, five years is a lifetime.

Mr. President, under this bill planes that cause 70 percent of airport noise can fly up to 3 years beyond current deadlines while at the same time it is made more difficult for those suffering from that noise to pursue their complaints in court. In my view, this is incompatible with our Federal goal of airport noise reduction, and I find the report unacceptable.

Mr. President, I ask unanimous consent that the full text of the messages from Mayor Bradley and Ms. Gianturco be printed at this point in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

[Telegram]

LOS ANGELES, CALIF.,
December 18, 1979.

Hon. ALAN CRANSTON,
Capitol One,
Washington, D.C.

DEAR SENATOR CRANSTON: The Senate will soon be considering the conference committee report on H.R. 2440 which contains provisions allowing, in specified cases, waivers of the FAR–36 1985 deadline for the quieting of commercial jet aircraft, the city of Los Angeles opposes the waivers.

The residents living near the city's Los Angeles International and Ontario airports have suffered from the noise generated by aircraft using the airports, the city has suffered heavy financial losses because of the lawsuits brought by citizens against it as a result of the noise. In addition, there is a very real possibility that the city will continue to suffer heavy financial losses as a result of the December 14, 1979 decision by the California State Supreme Court. The court ruled that cities may be sued for the "emotional and mental distress" residents suffer from jet aircraft noise emanating from municipal airports. The court's decision allows those affected to sue as often as they wish. This is of major concern to the city, any approval of legislation allowing waivers to airlines would, in effect, continue the potential for damage liabilities the city has suffered as a result of the aircraft noise.

In light of the problem brought about by jet aircraft landing and departing from the city's airport and from the Burbank Airport, the city has been relying for a number of years on the airlines meeting the FAR–36 deadline. We have even enacted an ordinance to ensure compliance by the airlines, any relaxation of the FAR–36 requirements, through the use of waivers, would undermine our efforts to protect our citizens from the adverse effects of aircraft noise and potentially have a negative impact on the city's financial health.

For these reasons, we ask that you oppose H.R. 2440 when it comes before the Senate.

Sincerely,

Mayor Tom Bradley, John Ferraro, Council President, Joel Wachs, Council President pro tempore, Robert Farrell, Chairman, International Relations Committee, Pat Russell, Councilwoman, 6th District, Ernani Bernandi Councilman, 7th District.

[Telegram]

DEPARTMENT OF TRANSPORTATION,
Sacramento, Calif., January 18, 1980.

The Aviation Safety and Noise Abatement Act of 1979, amended by the conference report accompanying H.R. 2440, has gone a long way toward eliminating California's objections concerning certain waivers of Quieter Aircraft Engine Designs. We realize that a great deal of compromise has gone into the conference report and that many positions have changed substantially; however, we believe there are still two provisions in the report which are unacceptable. First, noncomplying two-engine aircraft would be able to fly up to seven years beyond cut-off dates in current regulations. While noise levels at airports might decline after 1985, this bill will add noise at California airports during the coming five years. For those who live under the approach and takeoff areas at airports, five years is a lifetime.

The other unacceptable provision in the report would eliminate the opportunity for the purchaser of a home, in an area found to be impacted by airport noise, to sue the airport for relief by the mere publication of notice of the existence of a noise exposure map in a newspaper somewhere in the same county. This elimination of the constitutional rights of homeowners cannot be supported.

With elimination of these two provisions, we believe this legislation would be acceptable to this department and to those California citizens now suffering unacceptable levels of airport noise.

ADRIANA GIANTURCO,
Director of Transportation.

Mr. PERCY. Mr. President, I rise to express my opposition to the acceptance of the conference committee report on the Aviation Safety and Noise Abatement Act of 1979. Although I voted in favor of the act earlier last year, I believe that the conference report has substantial changes that are contrary to the best interests of my constituents.

First, I predicted my favorable vote of the Senate version of this bill on an amendment that I proposed and that was accepted which would have permitted homeowners to participate in a federally-funded program to noise insulate their homes if they were located under noisy flight paths and near the ends of busy runways. This program was to be modeled after a successful Japanese program that has paid 90 percent of the cost of sound insulating the residences of 15,600 families near 15 busy airports. Regrettably, this amendment was dropped from the conference report. Therefore, my constituents, particularly those living around O'Hare International Airport—the world's busiest—are faced with the prospect of living under the din of noisy two-engine jets seating less than 100 passengers until 1988 or 5 years later than they would without adoption of this report. At least 300 of these aircraft are operated by airlines serving O'Hare and it is unfair to ask these homeowners to put up with this additional noise without at least allowing them funds to noise insulate their homes.

Second, my constituents will be denied millions of dollars in fare savings due to a House amendment accepted by Senate conferees that permanently blocks Southwest Airlines from offering low-fare service from Dallas' Love Field to both St. Louis-Lambert Field and Chicago-Midway Airport.

In a time when air fares are skyrocketing, why should my constituents in both downstate Illinois and Metropolitan Chicago be denied substantial fare savings and additional service. It does not make any sense at all.

The organization, representing 18 mayors and village presidents from communities surrounding O'Hare, has asked me to oppose this legislation as has the operator of O'Hare, the city of Chicago. I cannot ignore these views from responsible civic officials who every day must answer phone calls from homeowners complaining about the continual noise and who are increasingly turning to the courts for relief. Thank you.

● Mr. DURENBERGER. Mr. President, I think every Senator should recognize exactly what we achieve if the conference report on noise abatement is approved this afternoon.

When the noise abatement deadlines in FAR 36 were adopted 3 years ago last month, the Federal Government made a commitment to the carriers, the airport operators, and the residents of airport parameters.

The standards themselves were the product of 7 years of intensive rulemaking activity. If we now elect to retreat from their deadlines, we break that commitment to millions of airport parameter residents, who were promised relief from airport noise by 1983.

At the same time, we will be breaking an equally strong commitment to airport operators, who are increasingly beseiged with public criticism and inverse condemnation suits. If compliance deadlines are delayed, the operators will have to respond—and they will respond by restricting night flights, lowering the frequency of service, and taking other actions which impact adversely on consumers.

This bill is also a breach of commitment to those airlines which acted in the public interest by making the investment needed to bring their fleets into timely compliance. Northwest Airlines of Minnesota is a good example. Northwest has invested millions of dollars to comply with these standards in a timely and responsible manner. If we now extend the deadlines, airlines like Northwest are the real losers. They took the Federal Government at its word when FAR 36 was announced, and will suffer a multimillion-dollar competitive disadvantage because they did so.

We should not be naive enough to believe the effects of a retreat from compliance deadlines will go unnoticed by other industries facing safety or environment deadlines. Establishing and then abandoning deadlines is a dangerous precedent. It gives industries subject to similar deadlines incentive to gamble. After all, if Congress pulls back from the noise standards, why should they expect us to remain firm on other consumer, safety or environmental deadlines? Postponing the noise deadlines is an open invitation for other industries to demand similar treatment, and postpone compliance decisions in the hope they may receive it.

Finally, I simply cannot accept the logic behind the so-called "new technology incentive." There is already a strong economic incentive to replace older aircraft with generation III planes. These newer planes are significantly more fuel efficient, at a time when the airplines are increasingly squeezed by rising fuel costs. They have greater range, and can carry larger passenger loads.

There is no evidence that an extension in noise deadlines will have any impact on the airlines willingness to order generation III aircraft. It is simply an incentive to postpone any compliance action, including the ordering of new aircraft. And in practice, this section of the agreement may well provide more than failure to meet delivery dates would not be a failure of the airlines, and FAA would have little choice but to grant further extension until the date the planes are actually delivered. This is a retreat from the deadlines of FAR 36, and we have to recognize its significance.

If the industry could make a case that maintenance of the deadlines will result in severe financial hardship, I would be more than sympathetic with their position. But no such case has been made or even offered. In fact, the carriers have been given the right to impose an air fare surcharge so the cost can be spread across the population at large.

Mr. President, if the Senate wants to reverse 10 years of progress in airport noise control, so be it. But let us not delude ourselves by referring to the bill as a noise control act, or a noise abatement incentive. Let us recognize it for what it is—a retreat from the commitment made to carriers, operators, and airport parameter residents when these standards were adopted 3 years ago.

I am one Senator who opposes that retreat, and I urge my colleagues to join me in rejecting the conference agreement.●

Mr. CANNON. Vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report on H.R. 2440.

The conference report was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

RECESS UNTIL 4:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 4:30 p.m. today.

There being no objection, the Senate, at 1:01 p.m., recessed until 4:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business for not to exceed beyond 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CARTER BUDGET FOR 1981: FINANCING IN FOREIGN AID

Mr. HARRY F. BYRD, JR. Mr. President, President Carter's budget message submitted 8 days ago, increases Federal spending by $68 billion. On each day since its publication, I have called the attention of the Senate to aspects of this budget.

As I have before, I wish once again to point out that, if put into effect, the budget for fiscal 1981 will violate the law.

The 1981 budget calls for a deficit of $16 billion. If there actually is such a deficit—or indeed any deficit—this will violate Public Law 95–435, signed into law on October 10, 1978, by President Carter himself.

Section 7 of that law reads as follows:

> Beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

The language could hardly be simpler or clearer. Beginning with the year which commences on October 1, 1980, any Federal deficit will be illegal.

Will the Congress comply with the law?

Today, I want to discuss the Carter administration's proposals in the area of foreign aid.

This is an extremely difficult section of the budget to analyze. Bookkeeping tricks have been employed to conceal the real trends in spending. Program categories have been altered, so that comparisons between fiscal years are virtually impossible.

Because of this juggling, the most meaningful analysis of the foreign aid budget is a study of the 3-year trend, from fiscal 1979, which ended last September 30, through fiscal 1981, which will end September 30 of next year.

In foreign economic aid, spending in 1979 was $4.7 billion. The President proposes $6.2 billion for 1981. This is an increase of 32 percent.

The administration's juggling has boosted fiscal year 1980 economic aid spending by more than $450 million over its earlier estimates, which has the effect of making the increase for 1981 over 1980 look smaller, but the truth about sharply escalating foreign aid giveaways emerges by looking at the 1979 to 1981 pattern—an increase of almost one-third in spending.

The administration also wants to eliminate certain pledges to the big international banks from the appropriations process. Thus, $1.1 billion in pledges to the development banks would simply disappear from the budget for 1981.

In another budgetary dodge, the administration produces an artificial $1.2 billion increase in 1980 spending—thus again reducing the increases for 1981—by slowing receipts in the military sales trust fund.

In the area of budget authority, we find that new commitments of spending for bilateral economic aid will rise by more than $500 million from 1980 to 1981, an increase of 23 percent.

The administration's foreign aid budget is deceitful. I urge the Committees on Budget, Foreign Relations, and Appropriations to examine it with great care.

The Congress must not be tricked into approving new billions for foreign aid at a time when continuing high inflation demands that we exercise restraint.

Mr. BAYH addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold for a moment?

Mr. BAYH. I am glad to.

Mr. ROBERT C. BYRD. This will allow me to put in a quorum call.

Mr. BAYH. Yes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 414

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with respect to the agreement on Calendar Order No. 515, S. 414, the patent bill, there be 2 hours equally divided on the Stevenson-Schmitt amendment extending the bill's uniform patent procedures to all who contract with the Federal Government; provided further, that the amendment not be called up until tomorrow; and ordered further, that there be no rollcall votes in relation to the bill, or amendments thereto, or motions in regard thereto, today.

Mr. STEVENS. Reserving the right to object, it is my understanding the balance of the previous unanimous-consent agreement remains in effect.

Mr. ROBERT C. BYRD. Yes. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNIVERSITY AND SMALL BUSINESS PATENT PROCEDURES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 515, S. 414.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 414) to amend title 35 of the United States Code, to establish a uniform Federal patent procedure for small businesses and nonprofit organizations, to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance, and for other purposes,

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "University and Small Business Patent Procedures Act".

SEC. 2. (a) AMENDMENT OF TITLE 35, UNITED STATES CODE, PATENTS.—Title 35 of the United States Code is amended by adding after chapter 17, a new chapter as follows:

"CHAPTER 18.—PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE

"Sec.
"200. Policy and objective.
"201. Definitions.
"202. Disposition of rights.
"203. March-in rights.
"204. Return of Government investment.
"205. Preference for United States industry.
"206. Confidentiality.
"207. Uniform clauses and regulations.
"208. Domestic and foreign protection of federally owned inventions.
"209. Regulations governing Federal licensing.
"210. Restrictions on licensing of federally owned inventions.
"211. Precedence of chapter.
"212. Relationship to antitrust laws.

"§ 200. Policy and objective

"It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse of unreasonable use of inventions; and to minimize the costs of administering policies in this area.

"§ 201. Definitions

"As used in this chapter—

"(a) The term 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined by section 102 of this title 5, United States Code.

"(b) The term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency and any person for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

"(c) The term 'contractor' means any person that is a party to a funding agreement.

"(d) The term 'invention' means any invention or discovery which is or may be patentable or otherwise protectable under this title.

"(e) The term 'subject invention' means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement.

"(f) The term 'practical application' means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

"(g) The term 'made' when used in relation to any invention means the conception or first actual reduction to practice of such invention.

"(h) The term 'small business firm' means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

"(i) The term 'nonprofit organization' means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501 (c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)).

"§ 202. Disposition of rights

"(a) Each nonprofit organization or small business firm may, within a reasonable time after disclosure as required by paragraph (c)(1) of this section, elect to retain title to any subject invention: *Provided, however,* That a funding agreement may provide otherwise (i) when the funding agreement is for the operation of a Government-owned research or production facility, (ii) in exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of this chapter or (iii) when it is determined by a Government authority which is authorized by statute or Executive order to conduct foreign intelligence or counterintelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (c) of this section and the other provisions of this chapter.

"(b)(1) Any determination under (ii) of paragraph (a) of this section shall be in writing and accompanied by a written statement of facts justifying the determination. A copy of each such determination and justification shall be sent to the Comptroller General of the United States within thirty days after the award of the applicable funding agreement. In the case of determinations applicable to funding agreements with small business firms copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

"(2) If the Comptroller General believes that any pattern of determinations by a Federal agency is contrary to the policy and objectives of this chapter or that an agency's policies or practices are otherwise not in conformance with this chapter, the Comptroller General shall so advise the head of the agency. The head of the agency shall advise the Comptroller General in writing within one hundred twenty days of what action, if any, the agency has taken or plans to take with respect to the matters raised by the Comptroller General.

"(3) At least once each year, the Comptroller General shall transmit a report to the Committees on the Judiciary of the Senate and House of Representatives on the manner in which this chapter is being implemented by the agencies and on such other aspects of Government patent policies and practices with respect to federally funded inventions as the Comptroller General believes appropriate.

"(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

"(1) A requirement that the contractor disclose each subject invention to the Federal agency within a reasonable time after it is made and that the Federal Government may receive title to any subject invention not reported to it within such time.

"(2) A requirement that the contractor make an election to retain title to any subject invention within a reasonable time after disclosure and that the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such time.

"(3) A requirement that a contractor electing rights file patent applications within reasonable times and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

"(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world, and may, if provided in the funding agreement, have additional rights to sublicense any foreign government or international organization pursuant to any existing or future treaty or agreement.

"(5) The right of the Federal agency to require periodic reporting on the utilization or efforts at obtaining utilization that are being made by the contractor or his licensees or assignees: *Provided*, That any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

"(6) An obligation on the part of the contractor, in the event a United States patent application is filed by or on its behalf or by any assignee of the contractor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

"(7) In the case of a nonprofit organization, (a) a prohibition upon the assignment of rights to a subject invention in the United States without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee shall be subject to the same provisions as the contractor) (b) a prohibition against the granting of exclusive licenses under United States Patents or Patent Applications in a subject invention by the contractor to persons other than small business firms for a period in excess of the earlier of five years from first commercial sale or use of the invention or eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance unless, on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use shall not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention shall not be deemed to end the exclusive period to different subsequent products covered by the invention; (c) a requirement that the contractor share royalties with the inventor; and (d) a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research or education.

"(8) The requirements of sections 203, 204, and 205 of this chapter.

"(d) If a contractor does not elect to retain title to a subject invention in cases subject to this section, the Federal agency may consider and after consultation with the contractor grant requests for retention of rights by the inventor subject to the provisions of this Act and regulations promulgated hereunder.

"(e) In any case when a Federal employee is a coinventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Federal agency employing such coinventor is authorized to transfer or assign whatever rights it may acquire in the subject invention from its employee to the contractor subject to the conditions set forth in this chapter.

"(f)(1) No funding agreement with a small business firm or nonprofit organization shall contain a provision allowing a Federal agency to require the licensing to third parties of inventions owned by the contractor that are not subject inventions unless such provision has been approved by the head of the agency and a written justification has been signed by the head of the agency. Any such provision shall clearly state whether the licensing may be required in connection with the practice of a subject invention, a specifically identified work object, or both. The head of the agency may not delegate the authority to approve provisions or sign justifications required by this paragraph.

"(2) A Federal agency shall not require the licensing of third parties under any such provision unless the head of the agency determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement and that such action is necessary to achieve the practical application of the subject invention or work object. Any such determination shall be on the record after an opportunity for an agency hearing. Any action commenced for judicial review of such determination shall be brought within sixty days after notification of such determination.

"§ 203. March-in rights

"With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this chapter, the Federal agency under whose funding agreement the subject invention was made shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such request, to grant such a license itself, if the Federal agency determines that such—

"(a) action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

"(b) action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

"(c) action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

"(d) action is necessary because the agreement required by section 205 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of its agreement obtained pursuant to section 205.

"§ 204. Return of Government investment

"(a) If after the first United States patent application is filed on a subject invention, a nonprofit organization, a small business firm, or an assignee of a subject invention of such an organization or firm to whom such invention was assigned for licensing purposes, receives $70,000 in gross income for any one calendar year from the licensing of a subject invention or several related subject inventions, the United States shall be entitled to 15 per centum of all income in excess of $70,000 for that year other than any such excess income received under nonexclusive licenses (except where the nonexclusive licensee previously held an exclusive or partially exclusive license).

"(b)(1) Subject to the provisions of paragraph (2), if after the first United States patent application is filed on a subject invention, a nonprofit organization, a small business firm, or an assignee of a subject invention of such an organization or firm, receives gross income of $1,000,000 for any one calendar year on sales of its products embodying or manufactured by a process employing one or more subject inventions, the United States shall be entitled to a share, the amount of which to be negotiated but not to exceed 5 per centum, of all gross income in excess of $1,000,000 for that year accruing from such sales.

"(2) In no event shall the United States be entitled to an amount greater than that portion of the Federal funding under the funding agreement or agreements under which the subject invention or inventions was or were made expended on activities related to the making of the invention or inventions less any amounts received by the United States under subsection (a) of this section. In any case in which more than one subject invention is involved, no expenditure funded by the United States shall be counted more than once in determining the maximum amount to which the United States is entitled.

"(c) The Director of the Office of Federal Procurement Policy is authorized and directed to revise the dollar amounts in subsections (a) and (b) of this section at least every three years in light of changes to the Consumer Price Index or other indices which the Director considers reasonable to use.

"(d) The entitlement of the United States under subsections (a) and (b) shall cease after (i) the United States Patent and Trademark Office issues a final rejection of the patent application covering the subject invention, (ii) the patent covering the subject invention expires, or (iii) the completion of litigation (including appeals) in which such a patent is finally found to be invalid.

"§ 205. Preference for United States industry

"Notwithstanding any other provision of this chapter, no small business firm or nonprofit organization which receives title to any subject invention and no assignee of any such small business firm or nonprofit organization shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency under whose funding agreement the invention was made upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

"§ 206. Confidentiality

"Federal agencies are authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

"§ 207. Uniform clauses and regulations

"The Office of Federal Procurement Policy, after receiving recommendations of the Office of Science and Technology Policy, may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 205 of this chapter and the Office of Federal Procurement Policy shall establish standard funding agreement provisions required under this chapter.

"§ 208. Domestic and foreign protection of federally owned inventions

"Each Federal agency is authorized to—

"(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

"(2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of this title as determined appropriate in the public interest;

"(3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract; and

"(4) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.

"§ 209. Regulations governing Federal licensing

"The Administrator of General Services is authoried to promulgate regulations specifying the terms and conditions upon which any federally owned invention may be licensed on a nonexclusive, partially exclusive, or exclusive basis.

"§ 210. Restrictions on licensing of federally owned inventions

"(a) No Federal agency shall grant any license under a patent or patent application on a federally owned invention unless the person requesting the license has supplied the agency with a plan for development and/or marketing of the invention, except that any such plan may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

"(b) A Federal agency shall normally grant the right to use or sell any federally owned invention in the United States only to a licensee that agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

"(c) (1) Each Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

"(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

"(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

"(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

"(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

"(2) A Federal agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

"(3) First preference in the exclusive or partially exclusive licensing of federally owned inventions shall go to small business firms submitting plans that are determined by the agency to be within the capabilities of the firms and equally likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms.

"(d) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, any Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that a Federal agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with antitrust laws.

"(e) The Federal agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

"(f) Any grant of a license shall contain such terms and conditions as the Federal agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following:

"(1) periodic reporting on the utilization or efforts at obtaining utilization that are being made by the licensee with particular reference to the plan submitted: *Provided*, That any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code;

"(2) the right of the Federal agency to terminate such license in whole or in part if it determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Federal Agency that it has taken or can be expected to take within a reasonable time, effective steps to achieve practical application of the invention;

"(3) the right of the Federal agency to terminate such license in whole or in part if the licensee is in breach of an agreement obtained pursuant to paragraph (b) of this section; and

"(4) the right of the Federal agency to terminate the license in whole or in part if the agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee.

"§ 211. Precedence of chapter

"(a) This chapter shall take precedence over any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations contractors in a manner that is inconsistent with this chapter, including but not necessarily limited to the following:

"(1) section 10(a) of the Act of June 29, 1935, as added by title 1 of the Act of August 14, 1946 (7 U.S.C. 427i(a); 60 Stat. 1085);

"(2) section 205(a) of the Act of August 14, 1946 (7 U.S.C. 1624(a); 60 Stat. 1090);

"(3) section 501(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951(c); 83 Stat. 742);

"(4) section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721);

"(5) section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360);

"(6) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182; 68 Stat. 943);

"(7) section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457);

"(8) section 6 of the Coal Research Development Act of 1960 (30 U.S.C. 666; 74 Stat. 337);

"(9) section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920);

"(10) section 32 of the Arms Control and Disarmament Act of 1961 (22 U.S.C. 2572; 75 Stat. 634);

"(11) subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5);

"(12) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901; 88 Stat. 1878);

"(13) section 5(d) of the Consumer Product Safety Act (15 U.S.C. 2054(d); 86 Stat. 1211);

"(14) section 3 of the Act of April 5, 1944 (30 U.S.C. 323; 58 Stat. 191);

"(15) section 8001(c)(3) of the Solid Waste Disposal Act (42 U.S.C. 6981(c); 90 Stat. 2829);

"(16) section 219 of the Foreign Assistance Act of 1961 (22 U.S.C. 2179, 83 Stat. 806);

"(17) section 427(b) of the Federal Mine Health and Safety Act of 1977 (30 U.S.C. 937(b)); 86 Stat. 155);

"(18) section 306(d) of the Surface Mining and Reclamation Act of 1977 (30 U.S.C. 1226(d); 91 Stat. 455);

"(19) section 21(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(d); 88 Stat. 1548);

"(20) section 6(b) of the Solar Photovoltaic Energy Research Development and Demonstration Act of 1978 (42 U.S.C. 5585 (b); 92 Stat. 2516);

"(21) section 12 of the Native Latex Commercialization and Economic Development Act of 1978 (7 U.S.C. 178(j); 92 Stat. 2533); and

"(22) section 408 of the Water Resources and Development Act of 1978 (42 U.S.C. 7879; 92 Stat. 1360).

The Act creating this chapter shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

"(b) Nothing in this chapter is intended to alter the effect of the laws cited in paragraph (a) of this section or any other laws with respect to the disposition of rights in inventions made in the performance of funding agreements with persons other than nonprofit organizations or small business firms.

"(c) Nothing in this chapter is intended to limit the authority of agencies to agree to the distribution of rights in inventions made in the performance of work under funding agreements with persons other than nonprofit organizations or small business firms in accordance with the Statement of Government Patent Policy issued by the President on August 23, 1971 (36 Fed. Reg. 16887), agency regulations, or other applicable regulations or to otherwise limit the authority of agencies to agree to allow such persons to retain ownership of such inventions.

"(d) Nothing in this chapter shall be construed to require the disclosure of intelligence sources or methods or to otherwise affect the authority granted to the Director of Central Intelligence by statute or Executive order for the protection of intelligence sources or methods.

"§ 212. Relationship to antitrust laws

"Nothing in this chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.".

(b) The table of chapters for title 35, United States Code, is amended by adding immediately after the item relating to chapter 17 the following:

"18. Patent rights in inventions made with Federal assistance.".

SEC. 3. AMENDMENTS TO OTHER ACTS.—The following Acts are amended as follows:

(a) Section 156 of the Atomic Energy Act of 1954 (42 U.S.C. 2186; 68 Stat. 947) is amended by deleting the words "held by the Commission or".

(b) The National Aeronautics and Space Act of 1958 is amended by repealing paragraph (g) of section 305 (42 U.S.C. 2457(g); 72 Stat. 436).

(c) The Federal Nonnuclear Energy Research and Development Act of 1974 is amended by repealing paragraphs (g), (h), and (i) of section 9 (42 U.S.C. 5908 (g), (h), and (i); 88 Stat. 1889–1891).

SEC. 4. EFFECTIVE DATE.—This Act and the amendments made by this Act, shall take effect one hundred and eighty days after the date of its enactment, except that the regulations referred to in section 2, or other implementing regulations, may be issued prior to that time.

The PRESIDING OFFICER. This bill is being considered under a time agreement of 2 hours of time allotted on the bill.

Who yields time?

Mr. BAYH. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I am pleased to be the author, along with my colleague from Kansas (Mr. DOLE), of S. 414, the University and Small Business Patent Procedures Act. The bill is designed to cut through the bureaucratic redtape that is presently strangling too many promising inventions. I am pleased that 40 of our colleagues are now cosponsoring this important legislation. I trust that a strong majority of the Senate will lend their support to this measure when the vote is taken.

Mr. President, S. 414 addresses a serious and growing problem: Hundreds of valuable medical, energy, and other technological discoveries are sitting unused under Government control, because the Government, which sponsored the research that led to the discoveries, lacks the resources necessary for development and marketing purposes, yet is unwilling to relinquish patent rights that would encourage and stimulate private industry to develop discoveries into products available to the public.

The cost of product development exceeds the funds contributed by the Government toward the initial research by a factor of at least 10 to 1. This, together with the known failure rate for new products, makes the private development process an extremely risky venture, which industry is unwilling to undertake unless sufficient incentives are provided.

The problem is substantial in HEW, the Department of Defense, the Department of Agriculture, and the National Science Foundation. But nowhere is the patent situation more disturbing than in the biomedical research programs. Many people have been condemned to needless suffering because of the refusal of agencies to allow universities and small business sufficient rights to bring new drugs and medical instrumentation to the marketplace.

The bill that we are considering today strikes a careful balance, it seems to me, between the rights of the Federal Government to use for itself and the public good inventions arising out of research that the Federal Government helps to support, and the equally important rights of the inventor and the public to see that the inventions receive their full potential in the marketplace and reach the people they may benefit. This bill will allow universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research, if they spend the additional private resources necessary to bring their discoveries to the public. Our experience has shown that unless inventors, universities, small businesses, and the private sector generally are given sufficient incentives to work together and bring inventions to the public, new technology is likely to languish.

This bill addresses part of a larger problem that I find very disturbing, namely, that America seems to be falling behind in technological innovation and inventiveness.

The Nation that used to pride itself in being way ahead of all others in developing the new mousetrap, the better idea, is now falling behind.

Evidence is mounting that we are falling farther and farther behind our international competition in a number of areas. Indications of the seriousness of this trend are:

The present U.S. importation of over $6 billion worth of manufactured goods (second only to our importation of foreign oil);

A U.S. productivity rate since 1967 of only 24 percent (which compares to rates of 105 percent for Japan, 54 percent for Italy and France, 39 percent for Canada, and even 25 percent for Great Britain;

The fact that 35 percent of all U.S. patents issued now go to foreigners;

And finally the fact that fewer and fewer inventions are being reported to the Government from our multibillion dollar research and development efforts.

There are, of course, a number of theories which have been offered to explain this situation. Some observers have cited the dropoff in Government supported research, the nature of the modern corporation, changes in lifestyle, the entrance into the work force of inexperienced workers, and overregulation of business by the Government. Others have said that this technological lag is merely a misperception, and that new technological developments are being made, but that they are of necessity not as exciting as the unprecedented technological breakthroughs that followed World War II.

I do not wish to speculate on these theories beyond saying that many of our prominent scientists, educational leaders and businessmen believe that this problem is a very real one, one in fact so serious that it strikes at the traditional heart of the American economy—our ability to adapt to a changing world.

Mr. President, this bill was reported out of the Judiciary Committee on November 20, 1979 unanimously. The recent White House Conference on Small

Business adopted the passage of S. 414 as one of its top recommendations to spur small business innovation. President Carter in his innovation statement of October 31, 1979 indicated his support for the concept of this bill.

Passage of S. 414 will be a good first step in addressing the innovation and productivity slump which is of so much concern to the Congress and to the American people.

Mr. President, I was privileged to preside over the hearings that were held by the Senate Judiciary Committee on S. 414, and I was very impressed by the abundance of evidence, from a broad cross-section of the American business community, in support of the proposed legislation.

I must confess that, not being an inventor, I was not aware of the bottleneck that the present patent policies create with respect to developing, and marketing new products and deliver them to the public. An idea that is thus frustrated and never gets out on the marketplace, is, for all intents and purposes, worthless so far as helping the American people are concerned.

I was amazed to find that we have some 28,000 patents that have been developed by public research, supported by the taxpayers, but nobody is commercializing those ideas, and getting them to the public, the people who paid for the research, because of the present Government patent policies.

We are concerned, of course, that the taxpayers, who pay for the research, receive a return for the money they have invested. For that reason, there has been rather strong opposition to the general idea that we should change the patent policy and make it possible for those who develop ideas to be able to commercialize them. The rationale is that since the taxpayers supported the ideas, it would not be good to have the business sector making a profit at the expense of the taxpayer. However, I suggest that it is folly to think that a taxpayer is getting any benefit from the tax dollars invested in research if these ideas do not reach the marketplace.

So, we have important inventions such as potentially revolutionary treatments for cancer patients, that are never marketed because the Government insist on retaining title to them. These inventions must be allowed to benefit the American public.

There is a whole array of new ideas gathering dust because no one is willing to take a chance, to invest dollars to commercialize the idea, unless they know, in the best tradition of the free enterprise system, that, having taken a chance, they will be allowed to make a profit.

What we are doing here is to take an important first step in resolving this problem. I do not suggest that this is going to be a panacea for correcting all the problems of our present patent policy, just as I would be quick to say that this is not going to be a panacea for all the productivity problems we have. But I think it is an important first step.

So far as small businesses and universities are concerned, we are saying that if the Government research on which they are involved develops ideas that merit commercialization, it will be possible for them to do so, with the understanding that they have ownership of the ideas that they have developed. Thus, small businesses will be willing to invest their own money in the process of commercialization and distribution, to see that these ideas reach the public.

We have included an equally important provision that says that if these ideas are developed and if a small business or university is willing to invest its own resources in the commercialization process, and if the idea begins to make substantial returns, equity would require that the taxpayer be reimbursed. So we have a formula through which funds will be returned to the Government from these inventions that have a substantial success in the marketplaces.

It seems to me that we have the best of both worlds here. We have made it possible for small businesses and universities to take a chance, to move out into the marketplace with ideas, and to make the ideas available to the public generally.

On the other hand, we have said, "If you begin to make substantial money from these products, you should repay the taxpayer, who helped support the research in the first place."

Before we begin debating this, there will be those who ask some sincere questions about why we limit this to small businesses and universities. I think the Senator from Illinois (Mr. STEVENSON) and the Senator from New Mexico (Mr. SCHMITT) will have an amendment which would change S. 414 to encompass all research that is developed by large corporations, even multinational corporations, as well as that encompassed by the present confines of S. 414—namely, small businesses and universities.

I point out that we will debate this at greater length when the amendment is before us. I think we have very solid grounds to start with small businesses and universities, to walk with this new procedure before we run.

I believe it is important, first, to understand that if we consider the development of new jobs since World War II, it is remarkable to find out that most of them were created by our small businesses, not major corporations.

Second, if we look at where most of the new ideas have been developed, about half of the most important discoveries made since World War II have been developed by small businesses and universities, not by the major corporations.

Third, I think commonsense points out that the larger corporations are able to hire batteries of lawyers; and conduct their own research efforts much better than is possible for the small business.

Also, I should point out the disparity in this present awards of Government research. We had a number of highly qualified small business presidents represented in testimony before our committee; and I was amazed to find that although fully half of the new ideas developed since World War II have come from these kinds of companies, they only receive about 4 percent of all the Government research being conducted.

I could not understand until I talked with some of these businessmen how burdensome the present policies are on the small company struggling to compete against larger competitors. They are very concerned that if they become involved in any Government research, they will not only be denied access to title of any new ideas that are developed, but also, under the present procedure, they may lose all their background rights to ideas they presently have.

For that reason, many of the most sophisticated smaller businesses—that could make a significant contribution to our Government and to the public generally, avoid Government research like the plague.

They feel they have nothing to gain and everything to lose by such involvement.

So what I think S. 414 will do is to turn loose those small companies and allow them to develop their ideas, use that creativity and see that we have Government research going to small companies as well as the large major corporations.

Interestingly enough, not only are these provisions of S. 414 supported by small business and the universities, as one could expect, but large corporations as well realize that it is important for us to get this precedent established, see how it works, and then address the question of whether the policy should be applied equally across the board to large corporations as well as small businesses and universities.

So, Mr. President, as the debate starts here, I hope I have been able to capture the importance of this issue before us. It is not a very exciting subject, let me suggest, as when we are talking about response to Russian aggression, the concern about rapidly increasing energy costs, the concern for long-range energy supplies, all of these dramatic kind of issues that surround us today. It is really not very exciting to talk about the patent policy until it is realized how much it impacts on our economic well-being.

Mr. President, if we are concerned about inflation, I suggest one of the best ways to deal with inflation is to increase productivity, to get the cost of producing each item down and allow more sophisticated technologies to get into production.

For that reason as well as the others that I have stated I hope that the Senate will see the wisdom of supporting S. 414 which will be an important first step toward increasing productivity in this great country of ours which for years has prided itself on being No. 1 in this important area. Now we find that with the exception of Sweden in the industrialized world we are the last. We are the second from the bottom, and that is a position we should change. We should move rapidly toward the top, and I think freeing up not only our inventors and our creativity but making available to the public those ideas which have already been discovered will be an important first step toward accomplishing this goal.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I rise in support of S. 414, the University and Small Business Patent Procedures Act. As a cosponsor of this legislation, I strongly urge swift action on S. 414 as reported unanimously by the Judiciary Committee.

The need for legislation of this kind has been well established. Recent studies by the Department of Labor show that the United States is falling behind other countries in a number of technological areas. More technology is coming into this Nation than is going out. Foreign countries are doubling efforts to spur innovation, while many American companies are cutting back on research and development. In today's world, we cannot afford to have this continuing decline in our innovative capacity.

Economists tell us that our recession—inflation problem is worse than it appears on the surface. If productivity continues to fall, there will be a reduction of our standard of living in the 1980's. One cause of this decline has to be the slowdown in technological innovation. The Select Committee on Small Business published a report last June which attributed 45 percent of the Nation's economic growth from 1929 to 1969, to technological innovation.

Mr. President, one of the major barriers to increased technological innovation is the present patent policy of our Federal Government. Current patent policy requires Federal agencies that fund research and development work in the private sector to retain ownership in any patentable discoveries made under research supported by them. Even if the Government has provided only a small percentage of the money used in the research and development of an invention, it can take the patent rights to subsequent inventions.

Federal agencies which hold control over these patents can grant nonexclusive licenses to private businesses for commercial development. Unfortunately, private business needs more time and protection to develop an invention than is guaranteed by a nonexclusive license from the Government. The record supports this assessment. Out of the more than 28,000 patents held by the Federal Government, fewer than 4 percent have been successfully licensed.

One area of the private sector, however, has a much better record in this regard. Universities, which can offer exclusive or partially exclusive licenses on their patents if necessary, have been able to license successfully 33 percent of the patents they hold. Why then, one might ask, is the Federal Government stuck with more than 95 percent of its patent portfolio just sitting on the shelf not earning the Government any money or anyone in private business any either?

The answer is simple. Presently, there are at least 24 different patent policies among the various Federal agencies. These policies are often contradictory and serve as unnecessary barriers to organizations, like universities and small businesses, which may be interested in developing and commercializing Government-held patents, but do not have the legal staffs to wend their way through this maze of regulations and policies.

S. 414 establishes a uniform Federal patent policy with respect to inventions made by nonprofit organizations, universities, and small businesses utilizing Government grants. It also authorizes procedures for licensing inventions which cannot be licensed under current Federal patent policies. A return on the Government's investment is insured by a provision requiring any licensing or commercial use of an invention by a nonprofit organization, university, or small business, to be subject to a percentage of any gross income earned over an established amount within any 1 calendar year.

Mr. President, the bill is designed to promote the use and marketing of inventions and ideas developed with Government support. Some would argue that it is unfair to give certain Government grantees licensing rights or ownership of a patent and not give them to others. That broader question is being addressed, however, in separate legislation.

Likewise, many argue it is unfair to use Federal funds to achieve a new invention and then not retain the future rights of use or commercialization to it. But what good are these patents doing the Nation just sitting on a shelf? Nothing, in my opinion, and that is why I support S. 414.

Approval of this legislation will only mean that some 25 to 30 percent of all federally held patents will be subject to the provisions of the bill. It is not the entire wealth of the Federal Government's patent portfolio. But it is enough to spur further creativity and productivity at a time when our Nation needs an economic shot in the arm. I urge my colleagues to vote in favor of this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, will the Senator yield me 5 minutes?

Mr. THURMOND. Mr. President, I am pleased to yield to the distinguished Senator such time as he may require.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, today we have a chance to give our lagging economy a shot in the arm. At the same time, I think we can help small business, which is the backbone of the free enterprise system, and we can do both of these things by passing the University and Small Business Patent Procedures Act.

This bill will encourage new-product innovation and investment in small business, and it will shore up the patent system.

The patent system has served this country well, since the beginning of the Republic. It protects and nurtures the creative genius of our inventors, and it accounts in great measure for the industrial might of the country. Not only does it give the inventor a chance to make a profit from his discovery, but it also gives his competitors a chance to invent around his discovery, refining it, improving it, even making it obsolete.

Abraham Lincoln observed that the patent system "added the fuel of interest to the fire of genius."

But, despite its success, several experts in the field, including Admiral Rickover, think that changes are needed. In their opinion, the Federal Government should be entitled to patent rights on discoveries made by university and business researchers who use Government funds. They think the Government's interest should be in direct proportion to the size of its contribution.

Others maintain that such a policy works against our long-term national interest. For several reasons, they contend that Government involvement would make private researchers reluctant to use any Government funds, and so slow down the inventive process. First, they say that the Government, with no real economic incentive, may be a reluctant partner in the eventual marketing of the discovery. Second, they say that the inventor will lose incentive if he or she has to share the economic rewards that flow from the effort. They conclude that such a policy, in practice, would hamper valuable research.

With this debate in progress, the Department of Health, Education, and Welfare put a freeze on the marketing of all inventions made under Department-funded grants to universities that did not hold institutional patent agreements.

I became particularly concerned about this problem when representatives of the Johns Hopkins University came to see me and pointed out that failure to obtain greater rights in an important drug invention could jeopardize efforts to commercialize the drug, resulting in loss of its benefits to the public. It is the public that has an interest here.

Shortly afterward, I joined with Senator DOLE and Senator BAYH to introduce the University and Small Business Patent Procedures Act in the 95th Congress. Reintroduced in the 96th Congress, this bill will solve the problem by allowing universities, nonprofit organizations, and small businesses to obtain limited patent protection on discoveries they have made under Government-supported research, if they spend the additional private funds necessary to bring the discoveries to the public. It will restore the "fuel of interest" that Abraham Lincoln thought so important.

Our bill would encourage the Federal Government to grant patent rights, and it has broad support among the scientific, academic, and small business communities. Best of all it would cost the Government nothing. As a matter of fact, the Government stands to have its research funds paid back under a provision of this bill that requires the patent holder to reimburse the Federal research money out of royalties and income.

It is time to overcome the barrier to commercialization so that the public can reap the benefits of our Federal R. & D. efforts. This bill is a good one; I urge all of my colleagues to support it.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I appreciate very much the thoughtful comments of our colleague from Maryland. I think they are particularly appropriate because he is a member of the Senate Judiciary Committee and has been one of those who has been studying this matter for a long time. It is typical of his concern, not only for productivity, but, for the fact that the people who pay the taxes ought to benefit from that investment that he would be such an enthusiastic supporter of S. 414, and we are grateful to him.

Mr. MATHIAS. I thank the Senator from Indiana. I can only say that without the initiative he has shown in his position as one of the leaders of the committee, and as chairman of the subcommittee, this bill would not be on the floor today.

It is an important bill to move forward. It will free up a segment of the economy which we all feel should be freed up.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senator from Indiana be permitted to suggest the absence of a quorum without the time being taken out of either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator KENNEDY in support of S. 414.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KENNEDY

I am pleased to support passage of S. 414, the University and Small Business Patent Procedures Act.

This legislation represents a significant and long overdue improvement in the Government's patent policy. It will also help to revitalize the American spirit and capacity for innovation. The need for such reform of our patent policy—one of the keys to successful innovation—is clear.

I am concerned that the number of patents granted to U.S. citizens has dropped significantly in recent years. Our economy's lowered productivity and growth rate coupled with increased importation of foreign manufactured technology clearly justify the timely patent policy reform contemplated in S. 414.

There presently exist over 20 different procedures dealing with patent policies among the various federal agencies. These procedures vary widely and are sometimes inconsistent. Frequently, these regulations deter universities and small businesses from participating in federal research and development. The Office of Federal Procurement Policy reported that only 3½ percent of the federal research and development expenditures has gone to small business in recent years, yet small businesses have accounted for over one-half of the major U.S. innovations over the last twenty years.

This legislation will greatly enhance the prospects for small businesses and universities to benefit from their investment of resources under federal research contracts. If these entities are able to obtain patent rights to inventions, they will be in much better positions to secure the venture capital necessary to reduce the inventions to commercial use.

Some are concerned that allowing private entities to obtain patent rights to inventions made with public funds would result in "giveaways" or unwarranted private gain. One of the key features of S. 414 is the "payback" provision, which requires the small business or university contractor to return to the Government the amount of the original funding. This payback provision, together with others which allow the Government to monitor and improve the efforts being taken to secure commercialization of the inventions, will help insure that the broadest public interest is being served.

By providing small businesses and universities with the opportunity to secure patent rights, we will help improve competition and assist some of our most innovative firms and entities. This legislation will help America retain its competitive edge in technology and innovation.

I am not unmindful of the technological contributions made by the larger businesses in America. With their vast resources and capabilities, large American businesses have also helped to greatly improve the state of the art in many diverse fields. This bill does not alter the ability of any business to obtain full patent rights through contract negotiations or through existing waiver procedures.

It is my belief that the approach of S. 414 is an equitable one. It assists small firms and increases the incentives necessary to achieve commercialization, while not altering the rights of larger businesses under existing procedures.

I believe that all the indicators clearly point toward the need for substantial improvements in our patent policy. I am confident that this legislation is an important first step. The Judiciary Committee anticipates undertaking additional studies and hearings on the important questions involved. As the needs and solutions become even clearer, we will continue to develop legislative proposals to improve the patent system and to insure that beneficial ideas and inventions enter the marketplace.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that there be a period for the transaction of routine morning business of not to extend beyond 45 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. ROBERT C. BYRD. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I had understood that perhaps the debate on the bill, S. 414, had ended for today. I now understand that there may be some other Senators who wish to speak.

I, therefore, ask unanimous consent that the bill continue to be before the Senate, but that Senators may speak, as in morning business, without the time being charged against the bill. This way, the bill will not be set aside from morning business. The Senators who wish to speak on the bill will come to the floor and speak on it. The Senators who want to speak in morning business may do so without charging the time to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield to the Senator from Idaho (Mr. CHURCH).

JOINT REPORT BY SENATORS CHURCH AND JAVITS ON THE SALE OF ARMS TO MOROCCO

Mr. CHURCH. Mr. President, on behalf of the Committee on Foreign Relations, the distinguished Senator from New York (Mr. JAVITS) and I are reporting to the Senate on the committee's consideration of Senate Concurrent Resolution 71, to disapprove the sale of certain weapons to Morocco. With the concurrence of Senator MCGOVERN, who had introduced the resolution to disapprove the sales, the committee took no action to object to the proposed sales, having in mind, first, that the sales are a demonstration of U.S. support for the Kingdom of Morocco and, second, that the executive branch provided assurances that the proposed sales will enhance the climate for good-faith efforts on the part of both sides to seek a negotiated solution to the Sahara conflict.

From early in 1978 until July 1979, the United States limited its transfer of weapons to Morocco as a result of Morocco's involvement in the Sahara war. On July 20, and July 31, 1979, Assistance Secretary of State Harold Saunders testified in executive session before the Subcommittee on Near Eastern and South Asian Affairs concerning a possible change in U.S. arms-transfer policy to Morocco. The committee sent a staff delegation to the region in August to prepare a firsthand report. The committee met again on September 20 in executive session to review the staff report and discuss the issue. On September 21, 1979, we sent a letter to the President making several recommendations concerning the proposed change in U.S. arms-transfer policy.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. On January 24, 1980, the committee received three notifications of proposed letters of offer to sell Morocco 6 OV-10A aircraft, 20 F-5E/F, and 24 Hughes 500 MD helicopters. The notifications were printed in the CONGRESSIONAL RECORD. Under the provisions of section 36(b) of the Arms Export Control Act, if Congress passes a concurrent resolution objecting to the sale of these weapons, the letters of offer cannot be agreed to by the United States. On January 23, 1980, Senator McGOVERN introduced Senate Concurrent Resolution 71, objecting to all the weapons sales to Morocco contained in those three notifications.

The committee met on January 30 to consider the resolution introduced by Senator McGOVERN. During his public testimony on January 30, Assistant Secretary of State Harold Saunders made a statement which the committee believes is critical to the Senate's consideration of the proposed resolution to disapprove the weapons sale. Mr. Saunders stated:

> The comprehensive purpose of the President's decision on arms sales to Morocco is to help that country's efforts to defend itself while at the same time nurturing and encouraging a psychological climate in the region conducive to negotiations. Efforts to encourage both sides to come to the negotiating table must parallel our efforts to strengthen Morocco militarily. The relationship between these two courses of action is central to the implementation of the President's decision.

This statement by Mr. Saunders, first, affirms our strong support for the Kingdom of Morocco; second, is consistent with the committee's September 21 recommendations concerning the importance of a negotiated solution; and third, assures the Congress that the administration views the sale of these weapons as consistent with the pursuit of a negotiated settlement to the Sahara conflict. Mr. Saunders' testimony further assures the Congress that the relationship between U.S. efforts to strengthen Morocco, and U.S. efforts to encourage both sides in the conflict to come to the negotiating table, is central to the implementation of the President's decision to approve the arms sale.

After the committee received Mr. Saunders' testimony, Senator McGOVERN withdrew his request that the committee vote on Senate Concurrent Resolution 71. The committee, therefore, does not object to these sales and recommends to the Senate that it not consider Senate Concurrent Resolution 71 for the reasons described earlier.

I yield now to my colleague, the Senator from New York.

EXHIBIT 1

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 21, 1979.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Senate Foreign Relations Committee met on September 20, 1979, to consider U.S. arms transfer policy to Morocco and the general situation in northwest Africa. This meeting was held in response to your Administration's request for the Committee's advice on this matter.

After a thorough discussion of the issues, the Committee came to the following conclusions:

(1) The United States should reaffirm its strong disposition in favor of a negotiated settlement to the Saharan conflict and should begin a concerted diplomatic initiative to find a negotiated settlement.

(2) The United States should appoint a seasoned American ambassador to Morocco of the kind most suitable to open communications again between the United States and King Hassan.

(3) The United States should furnish Morocco with weapons, suitable for the defense of that country and as an expression of support for the Moroccan Government. These weapons should be furnished for the defense of Morocco, but we recognize that such weapons might be used in the Saharan conflict. The United States should make it clear that provision of these weapons is not an American endorsement of Morocco's policy in the Sahara and therefore the United States should not provide weapons that would be suitable only for counterinsurgency operations in the Western Sahara.

The Committee unanimously supported the first two findings above and approved the third by a vote of 6 to 3 with one abstention.

The Committee also wishes to express its satisfaction at the way in which your Administration conducted consultations on this matter.

With best wishes,
Sincerely,

JACOB J. JAVITS,
Ranking Minority Member.
FRANK CHURCH,
Chairman.

Mr. JAVITS. Mr. President, I concur in these views and supported them in the committee. I would like to make reference to just one point.

One, let us remember that we are dealing here also with the security of Morocco as a nation, because the events in the western Sahara have brought about attacks upon the national territory of Morocco, with no indication whatever—on the contrary, indications exactly the other way—that this could not be repeated should this war continue. Therefore, in a real sense, the war involves making war upon Morocco as well as the struggle in the western Sahara itself. That is point 1.

By the way, as to the first point, that lends emphasis to the need for military aid to Morocco, that is, its national integrity.

On the second point, I call attention to the use of the words "both sides" in respect of these negotiations.

The significance of the use of those words is that it is an umbrella which allows flexibility respecting the negotiating parties. It is well known that there is a diversity of interests here, and that there are feelings on the one side that the real party in interest is Algeria, and feelings, I suppose, on the other side, of varying degrees respecting others who might be interested in this particular struggle.

Mr. President, I feel that by using this term, "both sides," we leave that question entirely open and, therefore, will contribute rather than direct from the likelihood of negotiations.

For all of those reasons, Mr. President, I hope that the Senate will act as recommended by the Senate Foreign Relations Committee.

ARMS SALES TO MOROCCO

Mr. PELL. Mr. President, Senators CHURCH and JAVITS have reported to the Senate on the Foreign Relations Committee's consideration of Senator McGOVERN's resolution to disapprove the administration's proposed arms sales to Morocco. I participated in the committee's consideration of this matter; and, although I have serious reservations about the wisdom of these sales, I decided not to oppose the committee's action in the hope that Morocco will, indeed be influenced by the administration and the Congress to pursue a negotiated, instead of a military, resolution to the western Sahara question.

I hope and urge that my colleagues will read very carefully the report made by Senators CHURCH and JAVITS, because I seriously question the Moroccan desire to negotiate anything but the terms of a surrender by the Polisario freedom fighters in the western Sahara. If my fears are borne out by events, I believe it would be appropriate for the administration and the Congress to reconsider the desirability of permitting the actual delivery of the weapons now proposed. That ought to be done if the administration and the Senate are serious about the "relationship" mentioned in the report by Senators CHURCH and JAVITS between the goals of helping Morocco to defend itself and encouraging both sides in the Saharan dispute to come to the negotiating table.

As I see it, most if not all of the weapons included in the arms package are destined for use by Morocco to squash the Polisario forces in direct defiance of the UN General Assembly resolution of November 21, 1979, which was adopted by an overwhelming vote of 85 to 6 with 41 abstentions, including that of the United States. That resolution recognized the Polisario as the representative of the people of the western Sahara and called for the full participation of the Polisario in "any search for a just, lasting and definitive political solution of the question of western Sahara." The Polisario is prepared to seek a political solution to this question, but so far I have seen no evidence that Morocco is.

One of the aspects of the western Sahara question that disturbs me greatly is the possibility that the administration, with the tacit support of the Congress, is prepared to acquiesce in the crushing of the western Saharan independence movement in the name of friendship for Morocco. If my suspicion is correct, let us openly debate the issue of whether this is the best way of expressing support for a friend and stop cynically talking about negotiations.

THE ECONOMIC MESSAGE OF THE PRESIDENT AND THE BUDGET FOR 1981

Mr. THURMOND. Mr. President, I rise to express my very real concern about the highly negative tone, the acute fiscal irresponsibility, and the appalling lack of significant economic leadership exhibited in President Carter's budget for 1981 and in his annual economic message transmitted to the Congress last week.

Mr. President, it is my feeling that our Nation's citizens are being severely short-changed by the current administration. The American people deserve the best, not the worst, from their national leaders. During these times when we face so many critical problems, both at home and abroad, the administration appears to be trying to feed us a diet of "business as usual." The people of this Nation and their representatives in the Congress must react in a manner to offset this void in national leadership as exhibited by President Carter's budgetary and economic messages.

Mr. President, while many have spoken and much has been written about this particular problem, I would like to share with my colleagues in the Senate just a few brief examples of comments that highlight its critical nature.

First, from an editorial titled, "Imprudently and Irresponsible," in the January 29, 1980 issue of the Wall Street Journal, I quote the first and the last paragraphs as follows:

> President Carter describes his 1981 budget as "prudent and responsible." It is neither. It is an inflationary budget at a time when inflation is exceeding 13 percent. It is larded with election year pork. It makes no attempt to bring runaway programs, such as disability insurance, under control. It probably underestimates spending just as badly as his 1980 budget, which will miss by at least $32 billion.
>
> It would be nice to have a President offer us a "prudent and responsible" budget some day, and really mean it.

Second, Mr. President, from the same issue of the Wall Street Journal, I quote excerpts from the editorial titled, "The Planned Tax Increase:"

> According to the figures in the President's budget for fiscal year 1981, the Carter administration expects the personal income tax burden to grow much more rapidly than personal income. . . .
>
> With taxes growing faster than income, individual income tax receipts are projected to rise from 11.3 percent of personnel income in 1980 to 14.9 percent in 1985. This large boost indicates the extent to which inflation, by swelling nominal incomes, is pushing taxpayers into higher brackets of the progressive income tax. . . .
>
> The Carter administration should reconsider its benign view of substantial increases in the personal income tax burden. Its budget folk are looking only at higher revenues to cover more spending and still (someday) balance the budget. But those rising revenues also mean rising disincentives. And as we have said before, the real tax burden of high marginal rates is not just the revenues they raise but all income they discourage from being earned.

Third, Mr. President, from the February 1, 1980, issue of the Washington Post in an editorial titled, "Three Presidential Messages," I quote the following:

> President Carter's three January messages reflect, this year, a somber and embattled frame of mind. The tone is pessimistic. . . .
>
> . . . The perils that the President describes, particularly in the Economic Message, are larger and more immediate than the responses that he has devised. . . .
>
> There is a disparity between diagnosis and prescription. If Mr. Carter's analysis of the economic prospect is correct—and this year he seems to have it just about right—then there is a clear requirement to do much more about both inflation and oil imports than the President is yet prepared to contemplate.

Finally, Mr. President, from an editorial titled, "Economic Sad Songs." in the February 1, 1980 issue of the Washington Star, the following excerpts are especially pertinent:

> The Carter administration gets higher marks for candor than achievement in economic management; and, since one argues in vain with economic signposts, even the candor is to some degree a virtue enforced by brute necessity.
>
> There is uncommon candor in the presidential budget and annual Economic Message submitted this week to Congress. The budget will not be balanced this year, as often promised—it will be at least $16 billion in deficit. The Economic Message concedes that prospects on every front are bleak: Inflation will run at best in double digits all year. Productivity—output per working hour—continues declining. . . .
>
> . . . There is the impression of an administration with uncertain economic goals, drifting along in the swirling current of forces and events it cannot or will not master . . .
>
> Whether the failure of mastery means that economic management has itself become an illusion, or that we have the wrong managers, may be an open question. But an answer is overdue.

Mr. President, the sum and substance of all these type thoughts and comments may have resulted in the sadly stated concluding paragraph of the January 30, 1980, letter transmitting the Economic Report of the President to the Congress of the United States. President Carter stated in that paragraph:

> There are no economic miracles waiting to be performed. But with patience and self-discipline, combined with some ingenuity and care, we can deal successfully with the new world. The 1980s can be a decade of lessened inflation and healthy growth.

Certainly, Mr. President, we of the Senate recognize the virtues of patience and self-discipline—but I believe we are in agreement that our current problems call for impatience in many instances and for new and significant leadership initiatives. Also while "some ingenuity and care" are adequate for "business as usual," we must now reach for greater ingenuity and much more forceful actions because we are not now in a "business as usual" world.

Mr. President, these economic matters must receive our most careful consideration and appropriate action. In order to share with my colleagues the entire contents of the four editorials from which I have quoted, I ask unanimous consent that they be printed at this point in the Record.

[From the Wall Street Journal, Jan. 29, 1980]

IMPRUDENT AND IRRESPONSIBLE

President Carter describes his 1981 budget as "prudent and responsible." It is neither. It is an inflationary budget at a time when inflation is exceeding 13 percent. It is larded with election year pork. It makes no attempt to bring runaway programs, such as disability insurance, under control. It probably underestimates spending just as badly as his 1980 budget, which will miss by at least $32 billion.

It is a budget full of more than the usual amount of flummery and wishful thinking. The President claims spending for fiscal 1981 will be up only 9 percent from 1980 and, after allowing for inflation, "this budget is virtually level with 1980 spending."

But that is only if you compare Mr. Carter's 1981 budget target with what the government actually will spend, according to present estimates, in the current fiscal year, ending next September 30. If you compare the target Mr. Carter is setting this year with the one he set just a year ago—which because of the huge overruns is the truly prudent thing to do—spending is up 16 percent. If he misses his mark as badly in fiscal 1981 as he did in fiscal 1980, and there is every reason to believe that he will, his spending will have risen some 32 percent in just two years.

This is happening at a time when there is a $40 billion deficit, federal borrowing in the credit markets is supplying enormous inflationary pressures and when income transfers conducted through the federal budget are seriously eroding savings and capital formation. The transfer process is laying the groundwork for further inflation, possibly worse than the present, through damage to the nation's productive capacity.

Mr. Carter's budget shows no awareness of this crucial problem. Income transfers will account for about 45 percent of the 1981 budget, a rising percentage. Defense spending is budgeted at only 23.7 percent, about the same as 1979, despite the promises of increased defense emphasis.

Even without further cost overruns in 1981, actual spending on income security will have increased 38 percent over two years. This category includes disability insurance, which has been soaring as a result of progressive liberalization of eligibility requirements and which is playing havoc with the Social Security programs. It includes unemployment compensation, which is already, budgeted for a 20 percent increase this year. It includes welfare. In other words, it is money transferred from people who are working to people who are not, lowering the incentives of both for productive labor.

Aside from this central economic problem which Mr. Carter saw fit to further aggravate, there are all the "little" programs—meaning just fifteen or twenty billion dollars—that come in so handy for an incumbent administration in an election year. Housing subsidies are up 12 percent. The Labor Department's employment and training operation, one of the most effective vote-buying schemes ever invented, is up 18 percent to $18.7 billion. By contrast, the Pentagon procurement account—for weapons buying—is up barely over 10 percent.

A lot of this spending will be defended by the administration on grounds that it is counter-recessionary. The budget predicts a mild recession this calendar year, a decline of 1 percent in real economic growth. This kind of argument would be much more plausible if the budget had been in surplus or even balance at the peak of the business cycle, which, if the recession forecast is accurate, occurred last year. But the fiscal 1979 and projected fiscal 1980 deficits, if averaged, come out to $34 billion a year during a period of peak-level prosperity. Does the White House really expect us to believe, after the experience of recent years, that budgets are carefully planned to take account of business cycles? Even in the best of circumstances, nothing has been close to target, so what reason is there to expect that to happen in the worst of circumstances?

The worst of circumstances—declining real growth, rising unemployment, 10 percent-plus inflation and a rising proportion of the budget going to pay interest on federal debt—would appear to be just around the corner if the budget's economic forecast is accurate. The President proposes to deal with it all by offering even more of the same medicine that put us where we are. His spending proposals, combined with the tax increases described just below, are a prescription for running the economy into the ground.

It would be nice to have a President offer us a "prudent and responsible" budget some day, and really mean it.

[From the Wall Street Journal, Jan. 29, 1980]

THE PLANNED TAX INCREASE

According to the figures in the President's budget for fiscal year 1981, the Carter administration expects the personal income tax burden to grow much more rapidly than personal income. The table tells the story:

Taxes and income

(Increase over previous year)

(In percent)

	Personal income	Personal income tax receipts
1980 ----------	9.7	9.6
1981 ----------	9.7	15.0
1982 ----------	12.0	16.1
1983 ----------	12.5	19.7
1984 ----------	11.7	19.5
1985 ----------	10.9	18.1

With taxes growing faster than income, individual income tax receipts are projected to rise from 11.3 percent of personal income in 1980 to 14.9 percent in 1985. This large boost indicates the extent to which inflation, by swelling nominal incomes, is pushing taxpayers into higher brackets of the progressive income tax. But the picture is even grimmer than it looks for two reasons.

In the first place, personal income includes transfer payments from the government, most of which are not taxable. So the tax burden falls even heavier on people who actually pay taxes.

Also, incentive depends less on the tax on all income than the tax on additional income. The budget shows that the tax burden on increases in personal income will rise from 11.2 percent in 1980 to 23.3 percent in 1985—a startling 108 percent increase.

Of course, other taxes are headed up too, and the President is counting on the new "windfall profits" tax to bring in revenues of $20.9 billion in 1981, $28.4 billion in 1982, and $31.5 billion in 1983. Overall, total tax receipts show an increase of 103 percent between 1980 and 1985, a period during which GNP is projected to increase by only 75 percent.

On a fiscal year basis, total tax receipts are projected to be 21.6 percent of GNP in 1981 and 24.2 percent of GNP in 1985, a historic high for peacetime or wartime. In 1944 tax receipts were 22 percent of GNP.

It is doubtful that the President's goals of reducing unemployment and inflation are consistent with these large projected increases in taxation. The tax break implicit in the progressive income tax system will slow economic activity as more and more people find themselves swept into the higher brackets. As the tax bite on additional earnings grows, so does the disincentive to produce additional income and to save. Without savings there cannot be the investments that bring new jobs and inflation-fighting productivity gains.

The Carter administration should reconsider its benign view of substantial increases in the personal income tax burden. Its budget folk are looking only at higher revenues to cover more spending and still (someday) balance the budget. But those rising revenues also mean rising disincentives. And as we have said before, the real tax burden of high marginal rates is not just the revenues they raise but all the income they discourage from being earned.

[From the Washington Post, Feb. 1, 1980]

THREE PRESIDENTIAL MESSAGES

President Carter's three January messages reflect, this year, a somber and embattled frame of mind. The tone is pessimistic. The central subjects are oil and military defense, two preoccupations that intersected in the State of the Union address last week when he warned that the United States would use force to defend its vital interests in the Persian Gulf. Oil and its soaring price are chiefly responsible for the acceleration of inflation over the past year, he said, and it has a lot to do with the recession that he foresees. Those are the ideas that form both the Budget Message and the Economic Message that appeared this week.

Budget and economic policy is now, in Mr. Carter's view, largely a matter of damage control. The overriding aims are to keep inflation from getting worse, and to mitigate the worst effects of rising unemployment among the young, and to diminish dependence on foreign oil. The aim is, further, to end the decline in other governments' estimation of American military power.

A year ago Mr. Carter was all positive thinking and determined good cheer. His State of the Union message asserted a "new foundation" in national values; it was notably mainly for its omission of any serious discussion of energy. Last year's Economic Message opened with a briskly self-congratulatory passage on rising employment, rising profits and rising incomes. The task would be, he said, "to sustain prosperity and extend its benefits more widely." This year, the message begins with a bleak description of the doubling of oil prices and its effects on the world's economy.

It's instructive to see that this year's bleak messages seem to have raised Mr. Carter's political standing. In January 1979, as he was talking about rising wealth and sustained prosperity, most other people were worrying about a coming recession or, at best, very low economic growth. The leap-frog pattern in oil pricing was already becoming visible, and the Iranian revolution was rapidly gathering momentum. That context gave last year's message an un-serious air—a quality of not quite conscious avoidance of certain unpleasant possibilities. This year, most Americans seem to give Mr. Carter credit for talking about the same world they think they are living in.

But it is possible for Americans, including Mr. Carter, to talk themselves into a state of paralysis in which everything seems insoluble. The perils that the President describes, particularly in the Economic Message, are larger and more immediate than the responses that he has devised. He perceives the need to slow down inflation. To accomplish that, he intends to rely on tight fiscal policy and the wage-price guidelines. But fiscal policy is running rather loose at the moment, with the budget deficit having crept back up to $40 billion this year, and the guidelines are much too rubbery to take much pressure. Mr. Carter sees the need to reduce oil imports, but the means of doing it will take a decade to become fully effective.

There is a disparity between diagnosis and prescription. If Mr. Carter's analysis of the economic prospect is correct—and this year he seems to have it just about right—then there is a clear requirement to do much more about both inflation and oil imports than the President is yet prepared to contemplate.

[From the Washington Star, Feb. 1, 1980]

ECONOMIC SAD SONGS

The Carter administration gets higher marks for candor than achievement in economic management; and, since one argues in vain with economic signposts, even the candor is to some degree a virtue enforced by brute necessity.

There is uncommon candor in the presidential budget and annual Economic Message submitted this week to Congress. The budget will not be balanced this year, as often promised—it will be at least $16 billion in deficit. The Economic Message concedes that prospects on every front are bleak: Inflation will run at best in double digits all year. Productivity—output per working hour—continues declining. A "mild" recession is expected. The oil cartel, which the president blames for about half the current 12 per cent inflation rate (the highest in decades), still has a clamp on world fuel prices. Finally, though less is made of this, the administration intends to relax its unsuccessful wage-price "guidelines" from 7 to 9.5 per cent.

There are lighter moments amid the gloom. Connoisseurs of lost illusions may savor Mr. Carter's poker-faced admission that the lofty goals of the Humphrey-Hawkins Act will not be met. "I have been forced to conclude," says Mr. Carter, surely not without a smile, "that reaching the goals of a 4 per cent unemployment and 3 per cent inflation by 1983 is no longer practical." Indeed! Was it ever?

Of all the problems, inflation remains foremost. In Mr. Carter's "strong conviction" it is "the nation's No. 1 economic problem." As he has said before. And the next most serious, declining productivity, is a key contributor to it. The American economy is weary, battered by lean and hungry foreign competitors and longing for the shelter of trade restrictions which, to its credit, the administration has largely opposed.

Any number of debating points, some on the cheap side, could be made about this administration's economic performance. Events have cruelly dashed almost all its goals and promises. These are bad times for government economic "managers," of whatever political brand, and the thought occurs that since government does such a bad job at management and prediction we could get by with a good deal less of it.

But we do not count on early withdrawal; and so the interim need is that Mr. Carter's managers be more assertive, not less so. They have been entirely too fatalistic about a level of inflation that ought to be unacceptable, too meek in adjusting to every bad turn in the news—whether it is the exactions of OPEC or Congress's continuing tendency to try to please everybody.

Here President Carter is caught in a political trap of his own devising. He criticized President Ford in 1976 for governing by veto and promised that things would be different with a Democratic administration working cozily with a Democratic Congress. Things have been different, if not exactly cozy. But the economic picture goes on deteriorating.

The lone bright spot in the anti-inflation battle was the mid-1979 appointment of Mr. Paul Volcker to chair the Federal Reserve Board, and Mr. Volcker's strong leadership to tighten money and contain credit. But unless the Fed's initiatives are reinforced by fiscal discipline, next year's presidential budget and Economic Message will probably feature the same sad songs as this year's, maybe sadder ones. At least the administration is resisting the lure of an election-year tax cut, so far.

But in other respects, there is the impression of an administration with uncertain economic goals, drifting along in the swirling current of forces and events it cannot or will not master. To be sure, mastery would need the help of Congress, especially in doing something about the bloating of every succeeding budget by indexing it to an increasingly irrelevant consumer price index. Consider these budget figures, for instance: Of the $52 billion increase in outlays for 1980–81, $15 billion is for new defense spending, $34 billion for entitlement programs mandated by Congress, and $3 billion for commitments already made and contracted for. There is, except for defense, no "new" real spending at all. The rest is monetary illusion.

Whether the failure of mastery means that economic management has itself become an illusion, or that we have the wrong managers, may be an open question. But an answer is overdue.

THE PLIGHT OF THE AMERICAN FARMER

Mr. THURMOND. Mr. President, as the 2d session of the 96th Congress gets underway, I wish to make a few remarks urging that attention be given to the problems facing our Nation's agricultural community. Recent world events, coupled with domestic disturbances, have placed the American farmer in a very serious position.

The recent suspension of grain sales to the Soviet Union has caused much concern among the farming community. Although I believe the suspension a necessary action in the light of the open aggression on the part of the Soviets, I do not believe the American farmer should bear a disproportionate share of the costs of this action.

In recent correspondence with President Carter, chairman of the Senate Agriculture Committee, Senator TALMADGE, and Secretary of Agriculture Bergland, I expressed my concerns. Calling upon Senator TALMADGE to convene an early meeting of the Senate Agriculture Committee, I outlined problem areas that demanded immediate and decisive action. I strongly urged President Carter to move up the March 1 deadline for announcing any decisions concerning a crop set-aside program, as many Southeastern farmers begin planting corn in late February.

The initial threat to the farmer posed by the grain embargo appears to have subsided somewhat. However, the longer range concerns remain to be addressed. Farmers desperately need assurances that they will be able to operate profitably in the future.

The agricultural community of our Nation has been beseiged by severe economic problems. Farm production costs for 1979 increased at an average annual rate of 16 percent. Fuel costs have skyrocketed, with an increase of 45 percent over the 1978 price levels. Short-term interest rates increased by 29 percent last year. Mortgage interest rates showed a 25-percent increase. Livestock purchase prices increased by 21 percent and feed prices by 17 percent.

Such rampant inflation will soon destroy the American farming community, if it remains unchecked. Farm debt, one of the most accurate barometers of farm distress, increased by 15 percent last year. As of January 1, 1980, total agricultural indebtedness was $20 billion greater than the previous year. The farming community now owes $158 billion. To further darken the situation facing the American farmer, farm income is expected to decline this year.

Mr. President, the family farm is in trouble. Some farmers have already had to sell out, leaving behind a way of life and land that has been traditional in their family for generations. Others have been forced to seek employment in industry to supplement their income from farming operations. In my home State of South Carolina, there are many farm families in which one or more members work outside the farm. It is very distressing to see their earnings from industry often used to cover losses from their farming operations.

I strongly urge Congress to face up to its responsibilities regarding the American farmer. The problems facing him today demand immediate attention. The agricultural sector of the United States is vital to its economic and social wellbeing. We have the most advanced and efficient food producing industry in the world, and we ought to see that it stays that way.

If we are to maintain our superiority, we must take action. I believe that steps to insure the availability of credit at reasonable rates are essential. In addition, we must expand domestic demand, as well as foreign markets, for our agricultural products. Increased incentives for gasohol production would not only expand our domestic market, but would also lessen our dependence upon foreign oil.

In light of the current energy supply situation, steps must be taken that will insure the agricultural sector of enough fuel not only to produce, but also to market what it produces. On a related matter, rail service in rural areas has been adversely affected by Federal regulation. It is essential to a viable agricultural economy that adequate rail service to shipping points be present.

We must view our agricultural sector as vital to our Nation. Farmland should be thought of as a scarce commodity essential to our national security. Foreign ownership of our prime agricultural land must be monitored and controlled, if necessary. Foreign investors from the United Kingdom, Luxembourg, West Germany and Canada, alone, control about 4 million acres of our Nation's farmland. Nearly one-third of this 4 million acres is concentrated in the South, with some 219,948 acres in my State of South Carolina being owned by foreign investors.

The U.S. Department of Agriculture needs to redirect its efforts. More emphasis should be given to research efforts and other activities to increase productivity and aid the farmer in the marketing of agricultural commodities. Recent trends in USDA's priorities have transformed it into an agency that is more oriented toward food consumption than food production. One-half of USDA's budget is devoted to food subsidy programs. I feel the major objective of this agency should be centered more on the farmer and his problems.

Mr. President, I again urge Congress to face up to its responsibilities. We cannot idly sit still while the very backbone of our Nation is in danger of being broken. The American farmer has suffered from uncontrolled inflation for too long. His production costs have soared while his share of the consumer's dollar has dwindled. Furthermore, while I believe the American farmer understands the necessity of the recent grain embargo, he is very concerned about both the short- and long-run effects, and rightly so. We cannot turn our back on the American farmer.

Mr. President, I ask unanimous consent that my letters to President Carter and Senator TALMADGE be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., January 9, 1980.
President JIMMY CARTER,
White House, Washington, D.C.

DEAR MR. PRESIDENT: I was pleased to attend a briefing last evening at the White House concerning the United States response to the Soviet invasion of Afghanistan.

Prior to and since this briefing, I have received a number of calls from farmers in South Carolina regarding Administration plans to alleviate hardships due to the grain sales suspension. In response to these concerns, I have asked Senator Talmadge to convene an early meeting of the Senate Agriculture Committee to thoroughly analyze the situation and formulate plans to cooperate with your Administration in seeing that our Nation's farmers are treated fairly. A copy of this letter is attached for your information.

I am deeply concerned that the various grain trading companies not be allowed to profit from this situation at the expense of farmers. Contingency plans now being developed by USDA should insure that the trading firms are compensated for actual services rendered, but that they are not permitted to reap profits by purchasing at depressed spot market prices the grain to fulfill their contracts, while selling it to the Government at full contract prices, as if there had been no embargo. The focus of the Administration's mitigating efforts primarily should be to help farmers, not the big trading firms.

Furthermore, I strongly urge you to expedite plans for any crop set-aside program, inasmuch as many farmers in South Carolina and the Southeast begin planting corn in late February. Farm suppliers will also need to be apprised of any set-aside plans much earlier than the March 1 decision date indicated by USDA, since very soon they must place orders for seed, fertilizer, pesticides, etc. The sentiment among farmers who have contacted me seems to favor a mandatory set-aside program, without any payments to remove acreage from production, but coupled with a substantial increase in support prices.

Mr. President, on the whole, I believe the agricultural community understands the grave threat to the United States and the entire Free World posed by the Soviet takeover of Afghanistan. They feel, however, that any required sacrifices should be shared by all the American people, and they need specific information regarding the agricultural policies being developed in response to this situation as soon as possible.

I urge your prompt and careful attention to these important matters.

Respectfully,

STROM THURMOND.

COMMITTEE ON THE JUDICIARY,
Washington, D.C., January 9, 1980.
Hon. HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In light of the President's recent decision to suspend grain sales to the Soviet Union in excess of the 8 million tons allowed under the 1976 grain trade agreement, I am deeply concerned about the impact of this embargo on our Nation's farmers and the entire agricultural community. Within the last few days, a number of farmers from South Carolina have been in contact with my office, expressing great anxiety about the repercussions of this action on farm prices, their income, and their ability to survive in the farming business.

As you well know, grain producers have recently experienced several consecutive years of severe hardship as a result of adverse weather and low prices that failed to keep pace with rapidly escalating production costs. In order to keep their farm enterprises viable, many producers have gone even more deeply into debt. For these beleaguered farmers, the deleterious economic effects of a grain trade embargo may well prove disastrous, unless prompt and effective steps are taken by the Administration and by Congress to alleviate the hardships of this grain sales suspension.

Accordingly, I urge you to convene, as soon as possible, a meeting of the Senate Agriculture Committee to thoroughly analyze the impact of the grain trade embargo and to initiate appropriate action, in the form of legislation or other recommendations, that will effectively address the critical needs of United States farmers.

The Administration has announced plans for the Federal Government to purchase from the 22 affected trading companies the grain which will not be delivered to the Soviet Union. Farmers are concerned about the method in which this grain will be held and about how, when, and under what conditions it will be released into the market in order to minimize downward pressure on grain prices. In addition to thoroughly inquiring into these matters, I recommend that the Committee may also wish to carefully inquire into and consider:

1. Actions to ensure that the USDA plans do not allow the large grain exporting companies to profit from this situation at the expense of farmers. The grain companies should be compensated for actual services rendered, but they should not be permitted to reap profits by purchasing grain at depressed spot market prices to fufill their contracts, while selling it to the Government at full contract prices.

2. The need for expediting a decision on 1980 crop set-aside programs, as the March 1 date currently cited for a decision on this matter is much too late to be of any assistance to many of South Carolina's farmers. Much of the over one-half million acres normally devoted to the production of corn in South Carolina is seeded during the last week in February. Fertilizer and other necessary supply orders must be made several weeks in advance of this planting.

3. The need for further increasing loan and target prices for wheat, feed grains, and soybeans beyond the levels specified in recent legislation passed by the Senate.

4. Efforts to expedite and enhance the purchase of surplus grain for use in the production of gasohol.

5. Plans by the Administration to carefully co-ordinate the U.S. embargo with other grain-exporting Nations to insure that there is a common and effective policy toward the Soviet Union on this matter.

6. Alternative means of selling or otherwise disposing of excess grain to other Nations who may need it, together with the need for appropriate restrictions necessary to insure that this grain is not diverted to replace stocks sold by other Countries to the Soviets.

7. The need to solidify a program of action directed at maintaining farm incomes, should such an embargo be carried on in future years.

8. The overall cost impact of the President's embargo decision and plans to alleviate farmer hardships on the U.S. Treasury and on domestic food prices.

It is of the greatest importance that these matters receive immediate attention and that decisive measures be taken. Many farmers are currently formulating plans for planting their 1980 crop as well as making marketing decisions for the 1979 crop. They should not be expected to make such serious decisions without adequate knowledge of their Government's response to this very complex situation.

I am convinced that American farmers understand the grave dangers posed by the ruthless Soviet invasion of Afghanistan, and they are willing to do their part to support the President's foreign policy efforts. At the same time, I believe it is the responsibility of Congress and the Administration to cooperate fully in developing programs that will alleviate economic hardships on farmers and insure that the agricultural community does not bear a disproportionate burden of the sacrifices which all Americans must share relative to this matter.

Thank you for your careful consideration of these recommendations, and with kindest regards and best wishes,

Sincerely,

STROM THURMOND.

THE GENOCIDE CONVENTION GUARANTEES A FAIR TRIAL

Mr. PROXMIRE. Mr. President, for 31 years the Senate has failed to ratify the Genocide Convention.

One of the arguments against the treaty alleges that article VI of the treaty would deprive Americans of the right to a fair trial guaranteed by the Constitution. This simply is not true.

Americans abroad are subject to local criminal law. The day is long past when this country could claim extraterritoriality for its citizens. If a foreign sovereign has enacted laws prohibiting genocide, Americans can be accused of committing it there. They can do this whether or not we or they are a party to the Genocide Convention.

The more strenuous objection raised by these opponents is that the United States would be obligated to extradite Americans to stand trial in foreign countries. The report of the Sixth Committee of the General Assembly (U.N. Document A-1760. December 3, 1948, p. 8) asserts—

> The first part of Article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, it does not affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

The United States would retain jurisdiction over nationals on its own soil.

Additionally, the implementing legislation and U.S. laws provide for extradition only where an extradition treaty is already in force. The convention simply requires that genocide be included in any new treaties or in revisions of existing ones. In negotiating these treaties U.S. officials consider the fairness of judicial proceedings before enacting a treaty. The rights of the accused are assured; the constitutional right to a fair trial is not compromised.

Furthermore, under the convention the United States reserves the right to initiate its own criminal proceedings against an accused rather than to extradite. The United States' understanding "that nothing in article VI shall affect the right of any States to bring to trial before its own tribunals any of its nationals for acts committed outside the States" makes this position plain.

The Genocide Convention does not and could not deprive an American national of his right to a fair trial. Neither does it obligate the United States to forgo its initiative in prosecuting American nationals or force us to extradite nationals accused of genocide by a foreign state.

Mr. THURMOND. Mr. President, I ask unanimous consent that Eric Hultman and Emory Sneeden, of the minority staff of the Committee on the Judiciary, be granted privileges of the floor during the consideration of and voting on S. 414.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUILFORD MILLS

Mr. HELMS. Mr. President, I am very proud that North Carolina is this Nation's largest textile-producing State. More than one-fourth of the U.S. textile industry is in North Carolina. There are approximately 250,000 workers employed in some 1,398 textile plants located in 82 of our State's 100 counties.

Most people are familiar with our outstanding large textile companies such as Burlington, J. P. Stevens, and Cone. Less familiar are the more specialized, but smaller textile firms. Nevertheless, the small companies continue to play an important role in the textile industry. One such company, Guilford Mills, was featured in a recent issue of Forbes.

This company with 2,100 employees demonstrates the vitality and strength of the domestic textile industry. Guilford Mills has prospered under the innovative management of its capable chairman and chief executive, Charles A. Hayes, and the productivity of its dedicated workers. I commend both the management and the employees on their fine success, and I anticipate continued progress and growth of Guilford Mills.

Mr. President, I ask unanimous consent that the article entitled, "Knitting Up a Storm," by James O'Hanlon, which appeared in the January 21, 1980, issue of Forbes, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KNITTING UP A STORM

(By James O'Hanlon)

Even by the standards of the perennially out-of-favor textile industry, smallish Guilford Mills (1979 revenues, $196 million) commands a puny price/earnings ratio. It sold recently at just three times its 1979 earnings of $7.88.

But its P/E and its relative sales volume are the only puny numbers that Guilford displays. Since going public in 1971 the Greensboro, N.C. company has improved its original 20%-plus return on equity to a rare 42% in its last fiscal year; by July it will have quadrupled sales, and its earnings could be as high as $5 a recently split share. Its secret: highly automated production in the warp-knitting process in which it specializes. Guilford's 2,100 employees will produce sales of close to $100,000 per employee, compared with perhaps $36,000 for a big weaver like $2.6 billion (revenues) Burlington Industries.

Warp-knitting uses only the lengthwise (warp) yarns with no crosswise or filling yarns, and can produce, at high speed, fabrics up to 260 inches wide—far wider than can other knitting or weaving techniques. But warp-knitting has its drawbacks: The machines can't handle the nubs, snags and other minute variations of natural fibers. Therefore warp-knitting has traditionally been used to turn synthetic yarns into cheap greige (pronounced gray, and meaning unfinished) goods that, after dyeing and finishing, go into inexpensive undergarments and bedding. Warp-knitting cannot produce denim, corduroy or any of the other popular woven fabrics that sustain the big textile companies.

In giving warp-knitting a wide berth, the bigger textile producers left a nice niche for Guilford in a business with unique cost efficiencies. Guilford's 700 West German warp-knitting machines can, unlike other knitting equipment, produce 1-ounce-per-square-yard fabric for women's blouses and 20-ounce-per-square-yard industrial fabric on the same machines. They can switch from one fabric to another within hours, as opposed to days for other knitting equipment. Says tall, husky Charles A. Hayes, Guilford's 44-year-old chairman and chief executive, "We patterned ourselves after the small, innovative warp-knitting companies that we came across during our machine-buying trips to Europe. They had developed finishing techniques that were unheard-of over here."

Since 1971 Guilford has often spent twice its depreciation on new equipment, twice as much as has normally been spent in the industry. Meanwhile Hayes and his small research and development team have devised new ways of dyeing, printing, napping and embossing to turn greige cloth into close copies of satins, velours and velvets for the increasingly fashion-conscious low-to-middle-income apparel markets. "Fiber companies like Celanese develop cetrain types of yarn for us," says President and Chief Operating Officer George Greenberg, a tall ex-World War II combat marine. "Then Chuck Hayes and his research team come up with something that is wanted on the market and can't be gotten elsewhere."

Lately Guilford has invaded the higher-priced garment area with an inexpensive nylon velvet called Voyant, now going into garments with labels like Calvin Klein and Christian Dior. Apparel-makers account for some 80% of Guilford's sales, though no single customer exceeds $5 million. As sharp in marketing as in production, Guilford presells giant retailers like Sears, Roebuck and J.C. Penney who then specify Guilford fabrics to faithful suppliers like Jonathan Logan and Kellwood Co.

Hayes left his father's upstate New York dairy farm at 16 to work in a nearby warp-knit finishing plant whose big customer was Guilford. When Guilford's founder and boss, James Hornaday, decided in 1960 to integrate his then-$4 million-sales knitting operation forward into producing finished cloth, he hired Hayes and Maurice Fishman (currently Guilford vice chairman and senior vice president) to build a dyeing and finishing plant from scratch. By that time Hayes knew finishing inside out—an asset, along with youth and natural leadership ability, not lost on Hornaday. Says Greenberg, "Today Chuck probably knows more about warp-knitting than any man alive."

Hayes today owns 17% of Guilford's common, while Hornaday—retired and in good health at 82—has gradually liquidated his holdings down to 9%. All told, Hornaday and Guilford's officers own 60% of the shares. Takeovers? Not unless Hayes wants one.

A thoughtful, reticent man, Hayes expects 15% annual growth through 1985. He also foresees warp-knitting methods for natural fibers. He has already developed two new products with huge automotive potential: Guilford's snap-in interior auto roof is already widely used in the new lighter cars; and its polyester-based upholstery is given a good chance to replace the vinyl now commonly used in car interiors.

Of course, Guilford has no magic shield against recession: Hayes says automotive orders (10% of sales) are already down. But he sees the company riding out any storm of less than biblical proportions. Says he: "We are in the fortunate position of carrying no short-term debt, and all of our $20 million in long-term debt is carried at 8½%."

His biggest concern is the larger textile firms. "They are beginning to catch up with our innovations," he says. "If they are good technicians they can take their time and figure out what we are doing." He looks worried for only a second and says: "Warp-knitting is a billion-dollar business now and it's just beginning to grow. We will give it all our attention."

THE TELEVISION CONTROVERSY: ACCESS TO THE AIRWAYS

Mr. HELMS. Mr. President, Cornell C. Maier is chairman of the board, president, and chief executive officer of Kaiser Aluminum and Chemical Corp. He is one of the most outstanding corporate leaders and public-spirited citizens I have ever had the privilege of meeting.

He has spearheaded the Kaiser effort to sponsor television commercials focusing on issues of widespread public concern. As many of my colleagues are now aware, Kaiser sought to purchase commercial time from the three major networks to promote public awareness of the energy crisis, the burden of governmental redtape, and the threats to our free enterprise system. The major networks refused to air the commercials, citing either the fairness doctrine or the "controversial" nature of the ads.

The overall response to the Kaiser initiative has been encouraging and the issue has drawn significant congressional attention. The House Subcommittee on Communications has already held hearings on this question and I am hopeful the Senate will be examining the issue as soon as possible.

Chairman Maier spoke out again on the television advertising issue in a speech delivered to the Commonwealth Club of California on December 7, 1979, in San Francisco. His comments were well received by the Commonwealth Club and were subsequently broadcast by approximately 100 radio stations throughout the West.

Mr. President, because of congressional interest in this subject, I ask unanimous consent that Mr. Maier's remarks be printed at this point in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

The Television Controversy: Access to the Airwaves

(By Cornell C. Maier)

Madam Chairman, distinguished guests, ladies and gentlemen. Thank you.

We're in trouble!

Big trouble!

I'm not talking about inflation . . . or about unemployment . . . or the energy crisis. These are trouble, all right. But we have bigger trouble. The foundations of our democracy are eroding away. The fabric of our society is being unravelled and rewoven into a strange new design. And most of us seem not to be aware of it, or care very much.

I care! That's why I'm here. And I hope that by the time I finish you'll care; because I know that being the kind of people you are in this organization, you won't sit idly by—you'll get involved.

The ability to speak freely in this country is being denied. It's being denied by the most powerful means of public communications the world has ever seen. This is an issue much bigger than Kaiser Aluminum. It is an issue that will ultimately affect each and every one of us as individuals in our own lifetime; but more importantly, will shape and determine the sort of life your children, and your children's children and theirs after them, will have.

For a number of years, Kaiser Aluminum & Chemical Corporation has been urging people to get involved with the issues that concern them . . . in their work, in their communities, in their country. We also have a policy, as a corporation, of speaking out on issues which we believe are important to us, to our employees, to our shareholders, our communities, and our country. We believe we not only have a right to do this, but a responsibility as well.

About three years ago we began to get into the area of issues advertising. We selected issues which we felt were important to our employees, our shareholders, our communities, and our nation. We wanted to draw public attention to those issues in order to generate individual involvement with them. The medium that we used for this was print.

In the fall of 1978, we decided to concentrate our 1979 issues program on three problems. They were: (1) the lack of a national energy policy (which the President of the United States had declared the "moral equivalent of war"); (2) the burden of unnecessary governmental red tape; and (3) the clear and present threat to the free enterprise system.

These commercials were designed as public service commercials urging people to get involved. They asked a series of questions but did not deliver answers. Instead, the commercials urged the viewer: "Whatever your views, let your elected representatives know." But when we tried to air these three television commercials urging citizens to get involved and to speak out on clearly important issues, we were flatly barred from doing so by all three television networks.

THE NETWORKS' RESPONSES

CBS informed us that "public affairs are the sole province of CBS News, where trained journalists examine and present all sides of the issues." NBC said that the commercials would "clearly violate the Fairness Doctrine by opening a discussion on an issue of public importance." Ironically, this doctrine was formulated to do exactly that, to insure that there would be a balanced presentation on issues of public importance. NBC went on to say that "these presentations are not acceptable for use on NBC nor do we feel that revisions can overcome the inherent problems in this kind of approach."

ABC said: "ABC cannot accept commercials saying 'write to your congressman.' Commercials should use a positive approach." The ABC response really shocked us, and it shocked most of the members of Congress who heard about it. We could not then, and cannot now, understand what is wrong, objectionable, controversial, or unacceptable, about encouraging people to become involved with their government. Who gave ABC the right or the authority to decide that encouraging people to contact their elected representatives isn't positive? What happened to that idea voiced by Abraham Lincoln which for so long had characterized our nation—that this is "a government of the people, by the people, and for the people."

We were so interested in getting these commercials on the air that we decided to modify them in hopes of satisfying some of the networks objections. But even in the revised versions, the answer was the same: No, you cannot run them.

The more we thought about the situation, the more we became convinced that these rejections were a flagrant abuse of what amounts to an absolute power of censorship on the part of the networks. We determined not to let this issue die in silence . . . not to let this pass without challenge.

TOOK OUR CASE TO THE PEOPLE

We decided to take our case, not to the courts, not to the regulatory agencies—but directly to the people.

We did so by running a full-page, one-time ad in The New York Times, The Washington Post, The Los Angeles Times, The Wall Street Journal, The San Franciso Chronicle, and The Oakland Tribune. The ad reprinted the entire text of each television commercial that was rejected by the networks, so that people could decide for themselves just how "objectionable" or "controversial" the commercials really were. The ads closed with this line, "If you believe a free exchange of ideas is as important now as it's ever been, write your elected representative or write us at Kaiser Aluminum. Let your voice be heard."

The response has been absolutely overwhelming. We've heard from people from all over America, and from all walks of life. The young, the old . . . students, widows, stockholders, blue-collar workers, congressmen and senators, educators, small-business men. Some of these people identify themselves as being pro-business, others identify themselves as having no fondness for business at all. But they were all concerned and 96 percent of them favored the position we took. In fact, we received mail from, or had discussions with, more than 40 members of Congress, from both bodies and from both parties, indicating support for airing our ads.

Listen to a portion of this letter. "Read your ad in the Washington Post this morning. Good for you all. I believe in a free exchange of ideas. I also believe America is headed for hard times, if the people are not informed of their choices and their rights. . . . As I sit here, my spirits are heavy. My age is 22 years and my country is drowning in greed and indifference. This is not the world I was promised as a little girl—but I believe it is not too late for America. It is 6:33 a.m., and this has been written before I have gotten out of bed to go to work. You are correct, and please don't stop your campaign for the free exchange of ideas. P.S.: You are correct, one person can make a difference. I shall try, too."

The American people obviously are frustrated, angry, and highly concerned about television.

CONGRESS CONCERNED, TOO

Because the people are concerned, Congress has become concerned, too. As a result of these ads, as a result of the letters we received, and the newspaper coverage that has resulted from the denial of access to television, the issue is finally drawing Congressional attention of a significant nature. In fact, the House subcommittee on communications, chaired by Congressman Lionel Van Deerlin of San Diego, held hearings on this question in mid-November, in Washington. I was privileged to testify there . . . along with representatives of the three networks. I think we made some progress.

Why are we so concerned about access to television . . . why have we gone to all this trouble—spent all this time . . . on an issue seemingly far removed from our business? The answer is simple. Abraham Lincoln said long ago that "public opinion is everything in this country." He was right. For as long as man has had organized society, public opinion has been everything. Even for dictators and kings, but certainly for democracies, public opinion is everything. And television is the most powerful force devised for forming public opinion.

POWER OF TV IS AWESOME

No other force has such power to inform or misinform, to educate, to persuade. No other force has such ability to set the standards for what is acceptable or unacceptable in our society, to motivate, or to propagandize. Polls show that approximately 75 percent of the people in this country say they get their news from television. It has been estimated that by the time this year's high school graduates get their diplomas, they will have spent some 15,000 hours in front of their television sets. Contrast that with the only 11,000 hours they will have spent in classrooms.

The power of television is truly awesome. And denial of access to this medium is denial of the right of free speech. For in our society today, denial of the ability to be heard makes the exercise of the right of free speech impossible.

REACHING MASS AUDIENCES

Television is a "monopoly," a government-licensed monopoly. Television is the only way mass audiences can be effectively reached in this country. It is the only true medium of mass communications available.

If we as a company have a message we want to deliver in any of our communities through the newspapers and the newspapers, for some reason, refuse to run our ads, we can still get our messages to everybody in the community, just as the newspaper would have done, by printing it and having it delivered ourselves. We don't have that ability with television. If television won't let us have access, then no other comparable medium is available to us.

The networks argue that one reason they cannot allow access to television for commercials which discuss issues or express opinion is that they might suffer economic loss. Were they to do so, then they might have to give (rather than sell) corresponding time to groups or organizations who disagree with that position or opinion.

THE MONEY ISSUE

This is the first time the idea of "money" has been mentioned in connection with this issue—but "money" is very close to the heart of the matter.

We may be among the few in America who understand that the networks' job is to make money. We respect them for that and they do it very well.

Fortune Magazine reports that ABC's return on stockholder equity in 1978 was 21.6 percent; CBS's was 21 percent; and NBC's was 17.4 percent.

Contrast that with the oil companies and their "excessive" profitability.

Fortune Magazine reports that EXXON had a return on stockholders' equity of 13.7 percent in 1978—Mobil's was 12.6 percent.

ABC 21.6 percent . . . EXXON 13.7 percent. Why is the 13.7 percent more excessive than the 21.6 percent?

Hear anyone screaming about "excessive" network profits? I didn't. Why? Because television didn't focus attention on these facts—didn't cover them in their newscasts. I'm no defender of the oil companies. They've made a lot of mistakes and have done a poor job in getting the facts to the public. But still and all, they have been far from fairly treated by television.

WHAT MAKES NETWORK "NEWS"?

In terms of making money, the networks do very well indeed. In television, money is made by selling time. I have no objections to that. My concern is that network managements give the impression that what they're selling as news somehow has balance and objectivity to it. It may be news in the sense that it is entertaining or sensational—but whether the "facts" are involved is another matter. For instance, how frequently do you see the views of Dr. Glenn Seaborg contrasted with those of Jane Fonda regarding nuclear power? How frequently do you see the views of Reg Jones contrasted with those of Ralph Nader on consumer protection? Not very frequently. Why? The answer is that television "news" means show-biz and sensationalism to generate high ratings—but not necessarily substance to inform.

CYNICISM INHERENT IN ATTACKS

It's the cynicism here that bothers me . . . the cynicism of network news misleading us with respect to oil company profits (and who knows what other issues) when they know better . . . the cynicism inherent in the attacks on the free enterprise system and the profit motive by what is one of the most profit-oriented businesses in America—network television.

Perhaps what we need is something like a "truth in labeling law" applied to network news. Perhaps most of those programs should carry a disclaimer which says, "What you are about to see is 'news.' It may or may not present the 'facts.' "

The networks argue that they must not permit access to their airwaves to organizations like ours for fear that those with the biggest pocketbooks will speak the loudest. Nonsense! The people who speak the loudest in this country are the people with the biggest soapboxes—the politicians, the activists, the extremists, the actors—and they would continue to do so, because they provide the show-biz that network news depends on.

The "deep pocketbook" problem is a problem, but not nearly as large as some would have you believe and one that can be solved with careful thought.

DEEP POCKET FEARS

As Justice William Brennan of the United States Supreme Court pointed out in one of the landmark cases involving broadcasting (*Columbia Broadcasting System* v. *Democratic National Committee*), "These 'deep pocket' fears are concerns, not realities. There is time enough to deal with such a situation when, and if, it arises," he concluded.

If you get the impression that I am concerned with the arrogance of network television, you're absolutely right. I speak from first-hand knowledge. One of the things that one of the networks said to us, one of the things which made us so determined to pursue this issue to the end, was this: CBS, in rejecting our commercials, asked our advertising agency, "Where do these guys get off thinking they have a right to express an opinion on these points?"

If a television network has the right to decide who has rights . . . worse, if it has the power to decide who has rights, we are in serious trouble.

Television is so powerful, that it is our feeling that Congress needs to take a sweeping reevaluation of broadcasting laws and regulations immediately. The laws which govern television were written in 1934. They were written to govern radio. They did not anticipate, nor do they adequately address the problems in regulating an industry as powerful as television today . . . an industry whose force has grown exponentially since Watergate and Vietnam. A new hard look is necessary, now!

RULES OUGHT TO BE CHANGED

If the FCC's rules are so restrictive that they prohibit broadcasters from accepting material such as the type we wanted to run for fear of economic loss, then those rules ought to be changed.

If the reason for rejection of material such as that which we wanted to run is something other than the present rules, then, as a society, we ought to know what those reasons are, and we ought to correct them.

INDEPENDENTS ARE WILLING

Nearly all agree that there is a major problem here which needs to be addressed. I don't mean to tar all broadcasters with the brush I've applied to the networks. Many of the independent station owners and networks have been, and are now, more than willing to allow a free exchange of ideas on their stations. Over 75 radio stations around the country, some of them network-owned, have run radio versions of the commercials we wanted to use on television. But it is the three major television networks which currently dominate mass communications. The essential questions that we're dealing with are the questions of who will be permitted to bring issues before the American public for consideration . . . of who will be allowed to participate in setting the agenda for public debate . . . of who will be allowed to participate in that debate?

ANOTHER CHANCE

ABC is willing to re-look at its position and work with us to try to find solutions. So we are making progress in a spirit of interested cooperation. The NBC and CBS positions remain rigid. But we're going to give them all another chance . . . which they cannot ignore. We're developing three new commercials which we'll submit to all three networks shortly after the first of the year. They focus on very "controversial" subjects. One deals with the need for and impact of energy conservation. One deals with encouraging business organizations to hire disadvantaged youth. One encourages people to vote next November. Very "controversial."

THE REAL ISSUE

I should make it clear that we have no desire to try to force our way onto television news or public affairs shows. Freedom of the press is every bit as important as freedom of speech. But *both* those freedoms must be accommodated! We see this not as a freedom of the press issue, but rather, as a freedom of speech issue. And freedom of speech may be an empty right unless it carries with it the ability to be heard.

We don't want to dictate the rules. We believe that the broadcasters, the Congress, the regulators, and the educators ought to be the ones to address this problem . . . now—and come up with the answers. Answers that are not only fair . . . but right!

The real issue is not the issue of regulatory authority, network power, or Congressional action. The issue is what we as a people are willing to settle for in our society . . . what we are willing to retain or let go among our basic liberties. The real issue is how do we go about providing for a fair exchange of ideas in an open society . . . *in order to protect all our freedoms.*

The real issue is what are we going to leave for our children and their children in the future. . . .

You and I, we were *given* a free society . . . free speech, free press, free worship, the freedom to try . . . to be what we could be.

But what are we going to leave the children . . . what will we leave the future generations?

It is up to each one of us to decide . . . and what we decide will determine the future.

Let your voice be heard.
One person can make a difference!
You can.
Do you?
Will you?
Thank you.

COLORADO RIVER BASIN WATER DIVERSION

Mr. MAGNUSON. Mr. President, on February 1, I joined with Senator CHURCH and Senator JACKSON in sponsoring legislation, S. 2237, to prohibit any Federal official from undertaking studies of any proposals for the diversion of water into the Colorado River basin. I want to emphasize here how strongly I feel about this issue.

In 1968 Congress approved legislation which prohibited the Secretary of the Interior from studying plans for the diversion of water into the Colorado River basin for a 10-year period. That ban was extended by Congress in 1978 for another decade. I sponsored and strongly supported those earlier measures. As is the case with S. 2237, those earlier laws were enacted so as to block efforts to divert water from the Columbia River system to the Colorado River basin.

The intent of Congress in 1968 and again in 1978 was certainly clear. However, it recently came to our attention that the Environmental Protection Agency, through a consulting arrangement with the University of Oklahoma, has been studying the feasibility of diverting Columbia River system water to the Colorado River basin—the very thing the current laws prohibit the Interior Department from doing. Our new legislation, S. 2237, makes it absolutely clear that no Federal official—whether he is in the Interior Department, EPA, or anywhere else—is to engage in any studies of diverting Columbia River system water to the Colorado River basin. The prohibition is intended to be absolute.

The Columbia River system is the lifeblood of the Pacific Northwest. It provides electricity for the region, supports our important fishing and recreation industries, and provides irrigation water for hundreds of thousands of acres of farmland.

Water is a diminishing resource in the Pacific Northwest. Rapid growth in the region is increasing the demand for power, irrigation, recreation, and all the other services made possible by the Columbia and its tributaries. Even with the conservation measures that have been undertaken, there is no surplus. Consequently, there is no need nor justification for any Federal agency or official to be spending time or money contemplating how Columbia River system water might be diverted or used outside the Pacific Northwest.

ANNIVERSARY OF SRI LANKA INDEPENDENCE

Mr. PERCY. Mr. President, February 4 marked the 32d anniversary of Sri Lanka's independence. I was last in Sri Lanka in August attending an international population conference and had the delightful pleasure of renewing my acquaintance with that beautiful country.

Sri Lanka's strong record of individual freedom and democracy is a source of justifiable pride to its people. Since independence in 1948, seven general elections have been held and the reins of government have changed hands six times in an effective demonstration of democracy at work. Voter turnout in general elections averages over 80 percent, a level of participation that I wish we could achieve here in the United States.

Sri Lanka's achievements in improving the life of its people are equally impressive. In the last 25 years, Sri Lankans have:

Increased their food consumption by about 15 percent to 2,200 calories per person.

Increased their life expectancy to 68 years.

Decreased their infant mortality to 45 per 1,000.

Significantly decreased their population growth.

Achieved an adult literacy rate of 78 percent.

In recent decades income distribution has also become more equitable to benefit the lower 40 percent of the population.

In its foreign policy, Sri Lanka has participated actively in the nonalined movement, consisting now of some 90 nations. From August 1976 when the Non-Aligned Conference was held in Sri Lanka until September 1979, Sri Lanka served as the chairman and coordinator of the Non-Aligned Movement. Sri Lanka has sought moderation in nonalined discussions and has consistently taken positions to defend such internationally accepted principles as basic as noninterference in domestic affairs and the sovereign integrity of nations.

At the nonalined meeting held last fall in Havana, Cuba, Sri Lanka continued to pursue its objectives of moderation and restraint. Sri Lanka's overall approach toward foreign affairs was articulated by President J. R. Jayewardene (ji-war-din-a) at that meeting:

> Let not man raise his hand against man. Let him speak the language of peace and friendship. Let the love that passeth human understanding prevail. May they seek to solve their problems by discussion and not by war.

Mr. President, these are words that express the hopes not only of Sri Lankans but also of Americans and indeed of people the world over. We wish Sri Lanka congratulations on its 32d anniversary and look forward to many more years in which Sri Lanka will be a constructive force in the building of a peaceful world.

PREMIERE OF THE NEXT WOMEN'S TENNIS SUPERSTAR

Mr. PERCY. Mr. President, last weekend the Avon Futures Women's Tennis Tournament was played in Chicago. This is a year-long tennis tournament circuit played all over the world. One of the early stops on the tour is in Chicago.

This tournament was important to me not only because it was played in Illinois, but also because it will prove to be, I am sure, a historical event. It was the debut of someone I believe will be the next women's tennis superstar, succeeding some of the all-time great American women players such as Maureen Connally Brinker, Billie Jean King, Chris Evert Lloyd, and Tracy Austin.

She is Andrea Jaeger, a freshman at Stevenson High School in Prairie View—a suburb of Chicago. She has already proven her mettle in the amateur arena by beating all of the top-ranked juniors in America.

At 14 years of age she is now moving into the big time, and I am confident that she will soon be the main story in women's tennis. She combines many of the outstanding qualities that the past women greats in tennis possessed—the aggressiveness of a Billie Jean King, the powerful two-handed backhand of a Chris Evert Lloyd, and the youthfulness and dedication of Tracy Austin. On top of those abilities she adds other qualities that will make her even better, such as her speed of foot and ability to read the ball coming off of her opponent's racket.

She did not win the Avon event in Chicago last weekend. She lost in the second round to the eighth seed of the tournament. But, the receipt of the $2,500 check she earned for 2 days work officially enters her into the professional tennis arena.

Recently, an article appeared in the Chicago Tribune Sunday Magazine about Andrea Jaeger entitled "The New Wonderteen of Tennis," by Clifford Terry. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEW WONDERTEEN OF TENNIS

(By Clifford Terry)

When Andrea Jaeger won the eighth annual Girls State Tennis tournament last fall, she literally didn't seem to raise a sweat. True, it was a fairly nippy October weekend, more suitable to football than a summer sport, but the other players had at least shed their outer garments as the tension of their matches increased. Not Andrea, though. Sure, she did peel off her mint-green jacket (to reveal a Mickey Mouse T-shirt), but she didn't get around to removing her matching warmup pants until the very last game, when she had Hinsdale Central's Sue Whitney on the ropes, 6-3, 5-0. Perhaps it was totally innocent, but there are those Jaeger-watchers who undoubtedly saw it as another bit of gamesmanship—psyching her opponent, as if to say that she just couldn't be bothered to take it all off. And what about Mickey Mouse? Wasn't that some sort of commentary on her part, they might have archly inquired.

Such confidence—some would say arrogance—has gotten her some nasty notices in the press, but those who are closer to her say, well, that's Andrea. What do you want from a 14-year-old girl? Alice Marble? Eleanor Roosevelt? Margaret Mead? Hey, she's just a kid.

Well, not just any kid. Still only a freshman at Stevenson High School in Prairie View—and a 5-foot-1½-inch, 95-pound one at that—she is scheduled to play in this week's $200,000 Avon Championships in the International Amphitheatre against such competition as Martina Navratalova, Chris Evert Lloyd, Evonne Goolagong, and Billie Jean King.

The last time we checked in on that ongoing story, "Pippi Longstocking Puts Away a Crosscut Volley," the part of Pippi was being played by Tracy Austin—complete with pigtails, braces, pinafores, two-handed backhand, and Southern California zip code. But Tracy Austin is 17 years old now, and the braces and pinafores have been given the hook, and she has grown to 5-feet-4 and is earning scads of money as a professional, and has relinquished the role to Miss Jaeger, who squirms at the inevitable and tiresome Austin comparisons but seems determined to keep them going.

Having gotten bored with playing nonprofessionals, she at this very moment may be playing for pay. Earlier this month, after this went to press, she was to have entered the Avon Futures tournament in Las Vegas in order to qualify for the higher-echelon Chicago event. If she didn't qualify on merit, however, she would have been given a pass anyway, being a local girl and big boxoffice attraction.

"I've decided that if she gets in on her own, she can turn pro for Chicago, "Roland Jaeger her father and coach, said last month. "But she has to earn it herself. Otherwise, she'll have to wait for another Avon event to turn pro. That way, we won't be putting any pressure on her. Just leave it open. Whatever, she won't be playing any more juniors. She's beaten them all. There's no reason to go back."

In November, Jaeger (pronounced Yay-gur) showed that she had the stuff to play with the big girls—and not just 17-year-old high school seniors like her sister and doubles partner, Susy—when she won the South African Classic in Johannesburg, knocking off such pros as Marise Kruger (ranked 26th in the world by the Women's Tennis Association), Tanya Hartford (34th), Francoise Durr (72d, after not playing much last year), and Bettina Bunge (33d). Had she been a professional, Andrea would have taken home $12,000 in first-place money. Instead, as a reward, when she returned home to Lincolnshire, her father allowed her to invite a friend to stay overnight.

Her mother, Ilse, says with a laugh that the prospect of her daughter turning pro "scares the heck out of me," but her father says not to worry. "Look, if she plays as a pro for three or four years and decides this isn't what she wants, she'll be only 18 and can still go to college. In fact, if she does all right, she could not only go to college, she could probably *buy* it."

Only a few weeks before South Africa, she had been on the courts of Arlington High School for the state tournament, being watched by all those patchwork-slacked suburban fathers and those suburban mothers with the short, feathery haircuts and the necks made leathery by too many hours on the golf course. On Friday, in the quarterfinals, she had faced Diane McCormick, a sophomore at Glenbrook North, as Roland Jaeger—a compact, energetic, loquacious, 45-year-old teaching pro at the Courts on 22 in Bannockburn—sat in the bleachers and made running comments to no one in particular. ("I can't believe Andrea got the ball back, but she gets a lot of balls. The other players beat themselves. . . . She screwed up that point. . . . There, she screwed up again. . . . McCormick's hitting the ball pretty good over there. She's playing full out. Hasn't chocked yet. But she knows she can't beat Andrea. That's the problem. They've played six or seven times, and she's never won more than three games off her. . . Everyone wants to beat Andrea, but they have to be at least a third better because of her competitive attitude. She hates to lose at anything in life—which she's inherited from me.")

Using a two-handed backhand like you-know-who, Jaeger was all over the court, making remarkable "gets" like a teen-age Kenny Rosewall. One of the strongest parts of her game is her net play, but this afternoon she didn't need it, as she stayed at the baseline, wearing her opponent down and quickly winning, 6-1, 6-2—thus moving into Saturday morning's semifinals, when she would beat Jane Jarosz of Lisle's Benet Academy, while sister Susy—a Stevenson senior who has won the tournament for three consecutive years—was being upset by Sue Whitney.

"Andrea is a better player than Susy," Roland Jaeger said later that afternoon, after the younger girl had gained revenge for the elder by demolishing Whitney in the finals. "But they've played each other in 10 tournaments, and Susy has won every time. The thing is, they practice with each other every day, and Susy knows her sister's game. Another thing. Andrea is a fighter. She wants to beat the other player any way she can. If it means hitting 20 shots to her backhand, she'll hit 20 shots to her backhand. But she wouldn't do that with Susy. She wouldn't want the point that bad.

"Their styles are completely the opposite. Andrea is a more aggressive person—in anything she does. When Susy was starting out at age 10, I taught her just to return the ball because at that time Chris Evert dominated the game and that was her style. If I'd known what I do today, maybe Susy would be a more aggressive player, too. As it is, she stays back and plays it safe. I guess I'd compare Andrea with Billie Jean King: She stays back when she has to, but she comes in to the net whenever she can.

Her biggest weakness now is her serve—not because it's a weak stroke, but just because she's so small. She can't reach up high enough to put enough zip on it. The maturity in her game is still two years away. Right now, I tell her, she has to make her opponents come in on her and make the mistake—act like a counterpuncher. In two years, though, she's going to have to go out and beat them by forcing it."

If she had been playing on the pro circuit this last year, he adds, she'd probably be ranked in the top 20, or perhaps 30, in the world. As it is, last month she was tentatively ranked No. 2 in the girls' 18-and-under singles bracket by the United States Tennis Association, behind Mary Lou Piatek of Munster, Ind., an 18-year-old freshman at Trinity (Tex.) University, and was rated No. 2 in doubles (with sister Susy). Ironically, Jaeger blasted Piatek, 6-0, 6-0, last year on the way to winning the Junior Internationals at Boca Raton, Fla.—which, again, gives one doubts about ratings systems. She also won the 18-and-under in 1979 (her ninth national age-group title) and teamed with her sister to win the doubles. (Susy, who hopes to attend Stanford on a tennis scholarship this fall, is ranked ninth in singles.) A year ago this month, Andrea—at 13—became the youngest player ever to win the prestigious Orange Bowl World Junior Tennis Championships in Miami (Chris Evert had won it at 15), and she went on to beat older players again in the National Indoors 21-and-under tournament in Maryland. All told, she played in almost 20 tournaments last year, losing only four times—twice to Susy, once to Austin (in the U.S. Open), and once to an unseeded Swiss player in the Wimbledon Juniors.

Besides her net game, her strongest suit is her quickness, according to Steve Casati, another pro at the Courts on 22. "It's not just speed of foot but the way she can read the ball coming off her opponent's racket. That's awfully hard to teach a kid. A lot of it is natural instinct. What she has to work on is getting at least 70 per cent of her first serves in because the pros can just wallop her second serve, and that puts unnecessary pressure on her. She also needs to strengthen her passing shots. When pressed, she lobs instead of passes—which is the junior-tennis game but not the pro game."

Some would say that another thing she has to work on is her public image. Reporting her win at the Orange Bowl, a Sports illustrated writer focused on a moment in the semis when Andrea yelled after opponent Bettina Bunge called a ball out, protested to the umpire (who ruled the point be replayed), and then told Bunge, "You wait—the next time one is close, I'm calling it out." The writer went on to describe her as "obstinate" and "unyielding," adding: "The tennis world might as well become accustomed to her. She's going straight to the top."

Life magazine a while ago noted that in one match, a particular rally lasted 152 shots and that Andrea "toyed with an older but Jesser opponent like a cat with an exhausted mouse." And Sports Illustrated came back again to declare that she harasses linesmen and comes close to being "a female Ilie Nastase." Citing her 'impertinence,' the story tells about the match in which she was whipping an opponent whose mother was frantically trying to give her daughter signals from the stands. The girl couldn't pick them up, so Andrea walked to the net and announced, "Your mother wants you to hit my forehand." After Jaeger had won, she said to the girl: "Tell your mother she doesn't know anything about tennis. My forehand is my best shot."

Asked about such notices, the teenager shrugs. "The only thing that would upset me is if my parents or sister or friends would think of me like that. Otherwise, I don't care."

She concedes that often it's tough being so young and talented. "Some of my opponents wouldn't talk to me, and they'd try to take advantage of me with line calls and stuff. So I'd ask the linesman for his opinion, and now everyone thinks I just scream at the officials. People spread rumors about me. Like, in South Africa, this reporter wrote that I didn't like Tanya Hartford because of her bad sportsmanship and that I didn't like Durr and Kruger because they take so much time and it bugs me. They just put stuff in my mouth. It's really a joke. One of the articles quoted me saying things, and I didn't even know what the words meant."

"Those stories upset me to a certain extent," says Susy. "But Andrea really doesn't care much what people think. She is the way she is. She has a lot of bad habits and she's always saying things and you want to go, like, 'Andrea, shut up.' She's very open, very honest. She doesn't put a coating on anything. I never go up and ask her how something looks on me if it doesn't look that great because she'll go, 'God, don't wear it. She's got a very aggressive personality, but underneath she's still only 14 years old. In fact, sometimes she does those things to hide the fact that she is only 14."

Andrea started playing tennis at age 7, swatting balls against the interior walls of the family garage. (The oil marks still show through a layer of new paint.) At 9, she won her first tournament—a 10-and-under event in Lake Bluff—and as a reward was allowed to take a friend bowling. After playing only 18 months, she had won nine tournaments. "If she loses a point," her father said at the time, "it's usually a shot that she's practicing for the future." By age 10 she was beating 12-year-olds and continued to play "up" against her seniors.

Roland Jaeger admits there were times when he pushed his daughters when their interest lagged, but Andrea doesn't remember those times. "When we started playing, it was because we wanted to. It wasn't like, 'Go down to the court before I beat you up.' We have a good time doin' it. It would be a drag if I just hit and hit every day but, like, we play in groups and move around and it's fun and you can do stuff that's really not that serious." Her father has no fear of his daughters burning out. "We tell them to play six days a week, and they play seven. We make practice fun—especially for Andrea. There has to be a little psychology to keep it enjoyable. No kid really wants to go out and play two, three hours a day—even Tracy Austin."

Comparisons to Austin are inevitable, of course. Again, Audrea shrugs. "There's just one Tracy Austin, and there's just one Andrea Jaeger, and you really can't compare us just because we're girls and play tennis and wear pigtails. People keep saying, 'You want to follow in her footsteps, right?' Well, she might look in the records to see if Chris Evert won this or that tournament so many times, but I don't really care if I've won a tournament at a younger age than Tracy. It's, like, no big deal. Also, our styles are different. She really isn't a net player like I am."

The comparisons apparently nag Roland, although he won't say so. He will say things like: "Andrea likes tennis, but she also likes other things. She's not a Tracy, whom you can harness, put the saddle on, and run in 20 races. If Andrea's going to be good in tennis, it has to be the way she wants it, not the way we want it. Tennis isn't her whole life. For instance, last year we turned down invitations to fly to the French and Italian Opens because it would have interfered with her 8th-grade graduation.

"If the girls were the same age—Andrea is about 3½ years younger—Tracy wouldn't have a prayer. Andrea would just outhit her. She definitely has more talent. Already, she can serve much better than Tracy. It's just that, mentally, Tracy has the edge; she has so much more knowledge at this stage."

The two have met head-to-head just one time—in the second round of the U.S. Open in Flushing Meadow, N.Y., last September—when Austin won, 6–2, 6–2, and eventually went on to beat Evert Lloyd in the finals.* But the match lasted an hour and 45 minutes (40 minutes alone for the first four games), as several baseline rallies went to more than 50 strokes. Andrea will have to wait a little for a rematch, since Austin isn't entered in the Chicago Avon, and when they do meet again, she says, she'll work on getting her first serve in more and on coming to the net more often.

At Flushing Meadow, Andrea was 14 years and 3 months old—five months younger than Tracy was in 1977 when she reached the quarter-finals in her first Open. Austin had started playing tennis at age 2, made the cover of World Tennis magazine at 4, won her first tournament at 8, and was on the cover of Sports Illustrated at 13. (Andrea, in contrast, was the cover girl for Tennis USA at 13 and would have been on the cover of Life last summer but was bumped at the last minute for a shot of a whale.) Now a junior at Rolling Hills High School, Austin turned pro in 1978, a short time before her 16th birthday.

From the start, Tracy has been coached in the conventional way—by high-keyed California masters. Andrea's coach has a much more fascinating background. Roland Jaeger was born in Switzerland, grew up in a small town in Germany (where he met Ilse), was a good amateur soccer player and boxer, came to the United States when he was 21, worked as a bricklayer, and eventually bought a tavern on Montrose near Western. Remarkably, he and his wife didn't take up tennis until eight years ago, when they started playing on an indoor Skokie court next to Frank Parker, the onetime U.S. champion, who'd give them tips. Mostly, though, the couple is self-taught.

"We became 'A' players and won a couple of tournaments," he says, "but I don't have much time to play anymore, and I haven't been able to beat my daughters for a couple of years now. I started out by studying the game a great deal, looking for technical things in the matches I watched, and listening to Pancho Gonzales' television commentary. I was far ahead of the older pros in the ways of teaching kids because they hadn't caught up with the changes in the styles of play. About 2½ years ago, I got this job and sold my lounge."

Another interesting aspect of the Jaeger story is the apparent genuine lack of sibling rivalry. It isn't easy, after all, to have a sister three years younger who gets most of the publicity—even though you've beaten her in every match.

Says Susy: "It's really weird to me that people will come up and say, 'God, aren't you jealous of your sister?' Like, with reporters, it's such an issue. They want me to tell them 'the real story.' But it's just a natural thing with us. I mean, OK, we fight because we're normal sisters. But the only time I really yell at her is when we're practicing, because Andrea tends to be a little lazy and I try to work pretty hard. Actually, we probably get along so well because we're the total opposites in personality. I'm more steady, she's more up and down and gets excited easily. If there was a rivalry, it'd be awful because we travel a lot together and there have been tournaments where I've played really poorly and Andrea has won and I'd really be mad. But I know people like to see quarreling. They're always looking for little things."

On the road, when their parents aren't traveling with them, the girls stay in private homes, with Susy acting as the surrogate mother, keeping track of balanced meals and reasonable bedtimes. "My biggest complaint is that she has so much energy and is always running around," Susy says. "When we were in Florida and it was 95 degrees, she was playing tag only 20 minutes before her match. I also give her moral support. When you're seeded No. 1, there are always people who are going to be jealous of your successes and don't like your attitude or even what you're wearing. But Andrea always knows that if there's no one else in the whole crowd cheering for her, I will be."

"When we're on the road, Susy does crazy things that a 2-year-old wouldn't do, and I do things that a 1-year-old wouldn't," adds Andrea. "Like, in South Africa, I was sittin' near the pool and she comes up and pushes me in. I get out and go, 'I can't believe you,' and then she pushes me in again, and I get out and go, 'Will you quit it?' and then she pushes me in again. At another tournament, we took water balloons and 'whaled' on everyone. They came back and took this baby ointment thing and put it all over my hair. It took, like, 20 washes to get it all out. Or on the plane, we'll goof off, have pillow fights and everything, pokin' each other's face or doin' somethin' just to amuse ourselves."

Between them, the Jaeger girls have won about 300 tournaments, but the only trophies on display in the house—unlike Tracy Austin's home, where the hardware is prominently lined up on bookshelves—are the two won by their parents in mixed doubles. The others have been covered with Saran Wrap and stored in closets. "We just don't want anyone to get a big head," says Roland. "I guess, basically, we believe in the old-fashioned values and discipline. For example, our kids have to go to bed at 9:30, and if one causes problems, they both get punished. And in our house, the biggest punishment you can get is not being allowed to make telephone calls!"

Despite the sporadic media blitz, the Jaegers seem determined that their daughters will lead relatively "normal" lives. "The only thing that's really different is that we have to go to bed so early," says Andrea, who is an excellent student at Stevenson High and would like to go to college eventually, probably to study "business stuff." "Like, I don't miss doing lots of activities at school 'cause I have so much fun with the kids at the tennis club. It's like having a huge family. I don't know if you'd call it 'dating,' but some of the boys and I go to movies and play miniature golf and goof around. But it's not like I call up a boy and say, 'Hey, let's go to this party and stuff' or 'Oh, I got this new lipstick; let's try it out.' It's nothin' like that."

In her spare moments, she likes to play soccer, collect comic books (Batman, Richie Rich), read other kinds of books ("scary ones—not anything like 'Alice in Wonderland' "), and watch sports and horror movies on television. She also watches her diet. As a special treat, she and her sister visit a store in Highland Park to buy yogurt bars. "Like, we don't go home and drink pop and eat ice cream and cookies and everything," she says.

---

* She thus became the youngest champion—male or female—in the history of the event, being three months younger than Maureen Connolly was in 1951.

Not that she is some kind of teen-age freak. "Oh, yeah, we do go to McDonald's and stuff. I don't think anyone can live without that."

THE KENNEDY CENTER'S NEWEST THEATER

Mr. PERCY. Mr. President, the Kennedy Center's Terrace Theater—an extraordinarily generous gift from the people of Japan—is now celebrating its first anniversary. One year ago, the theater opened with a performance of Japanese kabuki and this week we again see the presentation of Japanese music and dance. Through the last year patrons of the Terrace Theater have also seen a Nigerian mystery, children's theater, some recent American works, and the Comedie Francaise and they have heard opera, chamber music, and even some poetry readings.

This last year is testimony to the tremendous flexibility of this new theater "on the roof." While the three larger theaters below provide the stage for grand productions with wide audience appeal, the Terrace Theater now gives the Kennedy Center a smaller and more intimate setting to stage equally important works that may lack the wide following of a great musical, a well-known ballet company or a highly acclaimed orchestra. The Kennedy Center is now even better able to fulfill its role as a showplace for all performing arts for the enjoyment of an American public with diverse tastes.

Mr. President, once again we thank the people of Japan for this. I ask unanimous consent that an excellent article that appeared in the Washington Star this past weekend be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Feb. 3, 1980]

THE TERRACE THEATER, ONE YEAR LATER

(By Theodore W. Libbey and Anne Marie Welsh)

In the year since it opened to claps of Kabuki blocks and the crystalline movement of a lion dance, the Kennedy Center's Terrace Theater has come to occupy a noticeable, if not yet clearly defined, niche in Washington's performing arts ecosystem.

Originally billed as an experimental theater, the place, in it's building stage, was assumed to be the much desired "small house" in which productions which took artistic risks would be welcome, its smaller size sheltering such experimentation from failure at the box office. At the press conference prior to its opening last year, it became clear that the Terrace Theater would be used, not so much to stimulate innovation, but as a setting that would showcase those performers who could not attract "big house" crowds of 2,000 viewers a night.

Neither Roger Stevens, chairman of the Kennedy Center, nor Martin Feinstein, then its executive producer, was clear about the uses to which the theater would be put. And even then, there were intimations of conflict between the two and their visions of the place.

So far, the Terrace has served three main functions. It has brought a few new and desirable staples to the Kennedy Center diet. It has served as home for children's and "cultural diversity" programs that aid the Center in fulfilling its educational mandate from the Congress. And it has also occasionally resembled a dumping ground for "special interest" activities, a catch basin for the run-off cultural effluvium whose inclusion in Kennedy Center programming are justified under such rubrics as "diversity" or "esoterica."

The pastel-hued, sharply-raked theater for 500 has housed such divergent productions as "A Party with Betty Comden and Adolph Green," a children's "Imagination Celebration," the Comedie Francaise's "Soiree Romantique," and a compelling Nigerian mystery play called "Death and the King's Horseman."

In the first year of its life it has provided a home for the Kennedy Center's adventurous "Summer Opera" (to be absorbed next year in the regular season of the Washington Opera), become the new residence hall of the Theater Chamber Players of Kennedy Center, an occasional second home to the Folger Theater Group, and served as the site of the first National Black Music Colloquium and Competition.

The Kennedy Center's Young Concert Artists series opened in the Terrace last October and the British American Repertory Company brought Tom Stoppard's "Dogs Hamlet Cahoots Macbeth" to its boards during the month of September.

A $3-million gift of the Japanese government, the intimate roof-top arena has hosted mini-festivals in abundance—seven days of chamber music performed by a potpourri of ensembles and soloists, the 11th American College Theater Festival, a "Theater in the Americas" festival, and coming this month a "Black History Month" festival.

Remarkably, given its intimate scale ideal for small modern dance troupes, there have been only two dance programs scheduled there—one as part of the opening Tribute to Japan celebration and another, a performance of dances by young choreographers of the Stuttgart Ballet's Noverre Society. For the latter, the stage proved too small for works featuring more than eight dancers. Throughout the year, the little theater has also served for lectures, poetry readings, and colloquia on the arts.

Behind it all there has been more than a hint of uncertainty as to what was behind it all.

Even Roger Stevens, chairman of the Kennedy Center, does not have a clear-cut sense of the personality the Terrace may develop in the future: "I see the use of the Terrace Theater, if you pardon the cliche, for avant-garde and experimental theater. But in the first place we do not intend to use it for pure theater per se for more than four or five months a year. We want to bring in modern dance, we want to see a lot of chamber music, and I think certainly next year we'll do what we called last year 'Summer Opera.'"

And echoing the statements he made at last year's opening press conference, he said, "In other words, it will be used for things for which our other theaters are too large. That's really what it is intended for. God knows, I really literally get a call every other day from someone who says I've got just the thing for that theater. But the point is that we are not trying to book it. It isn't really a matter of booking, it's a matter of creating it."

Clearly, there is not yet an institutional vision; it remains a-setting-for-which-the-other-theaters-are-too-big, and one which is subject to financial considerations more complex than the Center first envisioned. "I'm not basically happy," said Stevens, "because I think the first year we had to find out some financial problems of operating it which are bigger than we imagined at first—the use of stagehands, help, the expense of advertising costs."

What Stevens is contemplating for the theater is an identity that would ensure a built-in audience. "It's a matter of sitting down and trying to figure out the kind of projects we want. What I really think we'd like to do is to have that a place which would have a following that wouldn't require a lot of promotion."

One way around the promotion problem might be the rental of the theater by other performing arts presentors.

The Washington Performing Arts Society—a group with both taste and vision—will present two modern dance troupes there this spring, although the Kennedy Center itself has made no strides in the direction of giving its impramatur to an indigenous American art form now more than a half-century old.

Experimentation will have to come from others willing to rent the space, for the Terrace Theater's schedule of Kennedy Center sponsored events through May now includes the Black History Month Festival, a new play by the Folger, the National Children's Arts Festival, the American College Theater Festival, a young concert artists series, and performances by the Theater Chamber Players.

Stevens' strong suite is theater, which perhaps explains the emphasis upon drama during the first year of the Terrace's life. For now, it appears that the Terrace Theater will operate in much the same catch-as-catch-can way it did last year.

It might support artistic experimentation, sustain excellence on a small scale, or forge taste in modern and contemporary music and dance, as many assumed it would before the opening. It might serve as a showcase—and a reward—for American-repertoire companies in theater, dance, opera and music.

But as the Kennedy Center's newest theater heads into its second year, and prepares to honor again the Japanese whose gift it was, the mauve and silver house has yet to find an identity of its own.

DON McHENRY: KEEPING COOL IN THE HOT SEAT

Mr. PERCY. Mr. President, the Washington Star of January 28 featured an excellent profile of Donald McHenry, our Ambassador to the United Nations, by Lynn Rosellini.

Ambassador McHenry came from modest beginnings in East St. Louis, Ill., and rose to assume an important international role at a very significant time. During a period of dramatic and tumultuous developments in the world arena, he has represented the United States with effectiveness, strength, poise, and humility. "After four months as U.S. Ambassador to the United Nations," the article says, "Donald McHenry is known as a consummate diplomat." The consensus of all his colleagues mentioned in the article is that McHenry is a true professional, highly intelligent, and widely respected.

Mr. President, we can be proud and grateful that Don McHenry is "our man" at the United Nations. I ask unanimous consent that the Washington Star profile of Ambassador McHenry be printed in the RECORD, so that all of my colleagues will have an opportunity to read it.

There being no objection, the profile was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Jan. 28, 1979]

Donald McHenry: Diplomat for All Seasons

(By Lynn Rosellini)

One day during the recent United Nations debate on Afghanistan, Donald McHenry encountered a Third World ambassador who unexpectedly had defended the Soviet invasion before the General Assembly.

"When are you going to submit your resignation?" McHenry asked, grinning.

"What?" the diplomat replied, uncomprehending.

"If I had instructions like you," said McHenry with a chuckle, "I would resign."

As the diplomat squirmed at the joke, McHenry pushed his point: "Look," he said, "I really don't understand your policy . . ." A few minutes later, McHenry moved on. Although the impact of the exchange can't be known, the country did reverse its policy less than a week later.

"You can get much more done in this business without getting angry," McHenry said later. "You can make your point much better in jest."

And that is one reason why, after four months as U.S. ambassador to the United Nations, Donald McHenry is known as a consummate diplomat. He knows, it is said, when to joke and when to be serious, when to speak and when to be silent. It is also said that McHenry's cool presence has helped the United States build support in unexpected quarters at the U.N. during the current crises in Iran and Afghanistan.

As he moves through the corridors of the United Nations building in New York, one hand resting casually in his pocket, McHenry is knowledgeable, accessible and patient. But although he is personally engaging, he can be cold as ice when he wants to make a point.

One day during the recent debate on sanctions against Iran, McHenry sat smiling and chatting in the Security Council with Soviet Ambassador Oleg Troyanovsky. Yet a few hours later, he rose to his feet and delivered a scathing attack comparing his Soviet colleague's statement to "Alice in Wonderland."

"He's a good diplomat, straightforward and honest," said India's ambassador to the U.N., Brajesh Chandra Mishra.

"He is a very calm, intelligent person with a broad grasp of both strategy and tactics," said a State Department source, who did not want to be identified. "He knows where he wants to go and how to get there."

Both at the U.N. and in Washington, McHenry—unlike his predecessor, Andrew Young—is known as a "professional."

"I find him [McHenry] extremely professional, extremely intelligent and a pleasure to work with," said a U.N. ambassador from an allied Western nation, who did not want to be named, "and I don't know anyone in this whole place who wouldn't say the same. I think Andy Young was very popular among some, not so popular among others. His approach to other delegates was amateurish."

U.N. Ambassador T. T. B. Koh of Singapore agreed that McHenry, unlike Young, is highly regarded by almost everyone at the U.N. "Andy Young was very popular with the Third World," he said. "But he hurt the British, Swedes and Russians with his remarks about racism in Britain and Sweden and his remarks that Russians are the worst racists in the world."

McHenry, 43, was sitting the other day in his office at the U.S. Mission overlooking the East River. A man of medium build, he was well-dressed but not dapper. He wore a white shirt, conservative navy-blue suit and a mustache. An inch of flesh peeped between socks and pants cuffs, and occasionally he nibbled a fingernail.

"I've only talked to Andy Young three or four times since he left," McHenry was saying. "It's a myth that I was as close to Andy as people thought I was. I didn't even know him before I came here."

Unlike Young, McHenry is a career diplomat who has spent most of his life learning the delicate arts of patience and restraint.

He grew up in a poor black neighborhood in the industrial town of East St. Louis, Ill. "Most people grew up on the other side of the tracks," he said, chuckling. "I grew up on the other side of five sets of tracks. There was a different social status between each set."

The family home was situated on a dirt road called Millett Street. "Now it's called McHenry Boulevard," he observed. "But they still haven't paved it. It's only a block long." When Donald was 5 years old, his father, now a laborer in a Detroit auto plant, was divorced from his mother, a home economist. Mrs. McHenry raised her two sons and daughter with "never a cent from Dad."

"It wasn't a bad life, but one didn't get the exposure to many things . . ." he recalled. "The influence of my life was my mother. She would take us into St. Louis to museums. If I wanted to do something, she would open the door. Our exposure to music, art and literature began at home.

"Sometimes, we resented it. Other kids could go out and run in the streets. But not the McHenry kids. She was so strict. If we wanted to go to college, she would work day and night to see we did."

McHenry attended all-black elementary and high schools, where he shunned sports in favor of Honor Society. "At the time we came through school," said Mrs. Jonathan Reed, a former high-school classmate, "a lot of popularity was based on athletics. He just wasn't into the things that made people popular at that time."

When it came time for college, McHenry's mother was adamantly opposed to his attending an all-black school. "You've got to get out and compete with the same people you are going to have to compete with in life," she would say.

Yet when he enrolled at Illinois State University at Bloomington/Normal, McHenry discovered that there was no housing for black students within the city limits. That was when he started perfecting his negotiating skills.

"I led the campaign to break down the discrimination, and succeeded," he recalled. "We had meetings and pressured the various deans, and we eventually persuaded a couple of (white families) to open their homes to blacks. Then others began to follow suit.

McHenry and friends also systematically confronted local tavern owners who were discriminating against blacks. He is fond of recalling how, once, they told the owner of an all-white roller rink: "You either serve us, or face the police." The owner replied, "OK, OK, you guys win. What size shoe do you want?"

McHenry was so startled that "I couldn't think of the damned shoe size. I couldn't even skate!"

STATE DEPARTMENT START IN '63

McHenry graduated from Illinois State with a social-science degree and obtained a master's degree in speech and political science from Southern Illinois University at Carbondale. Later, he worked toward a doctorate at Georgetown University and taught English at Howard. In 1963, he joined the State Department as a junior officer in the office of United Nations political affairs.

He left 10 years later, following the Cambodian invasion and the accession of Henry Kissinger as secretary of State. After stints as a lecturer at Georgetown, a guest scholar at the Brookings Institution and a project director at the Carnegie Endowment, he joined Carter's transition team in 1976. The following year, he was appointed to the U.N. delegation.

McHenry's face first became familiar to Americans last summer when Soviet ballerina Ludmila Vlasova, whose husband had just defected to the United States, was detained at New York's Kennedy airport. As chief U.S. negotiator in the sleepless, 72-hour confrontation, McHenry averted a potentially explosive situation by delicately negotiating a personal meeting with Vlasova to ascertain whether she wished to leave the U.S.

But within the U.N., McHenry is better known for his work toward the goal of a peaceful transition to majority rule in the southern African territory of Namibia. As a result of those efforts, McHenry is highly regarded among Third World delegates to the U.N.

"The Third World regards Don as a man sympathetic to their aspirations, both in the economic and political field," said Singapore's Ambassador Koh. "Don McHenry is very accessible to us. He's very unaffected, open and casual, so we have no problem going in and talking very frankly with him on things we disagree on.

"The fact that he's black is positive. It gives people from Africa the chance to feel a kinship with him. But more than that, he's spent two years trying to negotiate the independence of Namibia."

Unlike past U.S. diplomats, McHenry has never assumed that Third World nations will automatically use the U.N. to flog the U.S. If he makes a case they can buy, McHenry feels he can get Third World support.

"What we've been trying to do over the last three years is to remove some of the hostility there . . ." he said. "[The feeling] that they're either with us or against us.

"When we sat and discussed sanctions [against Iran] with the nonaligned group, the first thing I did was give all the drawbacks, then discussed the reasons for doing it. Then, they had to weigh the pros and cons, instead of us confronting each other like two trains passing in the night. I've found if you try from the beginning to recognize the views of the other guy, you disarm 'em."

It was McHenry who helped convince President Carter and Secretary of State Cyrus Vance to delay the Security Council vote on sanctions several days, in order to maximize Third World support (the vote, vetoed by the Soviets, was 10 to 2 in favor of sanctions.) In the overwhelming General Assembly vote deploring Soviet moves in Afghanistan, traditionally anti-American Third World nations voted 78 to 9 in favor of the proposal.

It is impossible to say in precisely what ways McHenry influenced these votes, since most of the discussions took place in confidential circumstances. But it is clear that his approach is almost always low-key and personal.

"When you're talking to delegates, you have to take into account that that's the position taken by their government," he said. "Now, if you can get behind that and get down to their positions as people, you can hope that when they write a cable home, they will get across the difficulty of taking a particular position . . . .

"If you can get behind the formal governments across the street, you can break it down—find out why they're doing things and they can find out why we are."

Sometimes, it is important to recognize that even diplomats have feelings. Deputy U.S. Ambassador William Vanden Heuvel likes to recall how once, when Colombia was fighting Cuba for a seat on the Security Council, McHenry encountered the distraught Colombian ambassador. "The Cubans had 90 votes and the Colombians had 58. Then some country decided to throw in Peru, and Colombia went from 58 to 43. The Colombian ambassador was so insulted he planned to drop out.

"Don came in and saw the look on his

face. The ambassador said, 'I'm getting out.' Don said, 'No, you come with me.' He took him off for 10 minutes and brought him around . . . It was a very decisive moment. Very few people would have seen that happen and be aware of the pride that South Americans have and the humiliating moment of going from 58 down to 43." (Colombia eventually regained its position, and Cuba withdrew from contention in favor of Mexico).

A STAR ON THE SHUTTLE

All of the recent publicity has made Donald McHenry a big hit on the Eastern Shuttle between New York and Washington. When he climbed on board in New York the other day, an Iranian woman told him: "I just want you to know that all Iranians aren't like that bunch." No sooner had he sat down than the man behind him leaned over the seat and said: "Keep up the good work."

The attention slightly embarrasses McHenry, "He's shy," said former U.N. delegate Esther Coopersmith. "Last year, his local school in East St. Louis was named after him. He was so thrilled with that. And then he was shy after he told me . . . He went down for the dedication, and they made a bust of him. He was embarrassed about that. He's embarrassed when he sees a picture of himself."

At the office, McHenry is unassuming, fixing his own coffee and closing his own door at the morning staff meeting (of five staffers present recently, two were blacks and two were women).

In Washington, he has apparently won the confidence of President Carter and Secretary of State Vance. "I've never seen anyone more skillful than Don McHenry in receiving instructions," said Vanden Heuvel, "and then causing them [his superiors] to reflect on their original instructions without ever challenging their authority."

McHenry's work has kept him at the U.N. days, nights and weekends in the recent months of the twin Afghan/Iranian crises. At Thanksgiving, he flew back to New York and Washington three times from an abortive vacation in New England. At Christmas, he just stayed home.

What free time he has, he spends with his two teen-age daughters, Elizabeth and Christina, who live with him at the official U.S. Ambassador's suite at the Waldorf. McHenry is divorced from his wife, who lives in Massachusetts. If there is another woman in his life, it is a well-kept secret. His son, Michael, is an apprentice chef in Boston.

McHenry reserves two nights a week to eat dinner with his daughters at home, sometimes cooking up special dishes like coq au vin. "I come up with what I call old family recipes," he said. "The girls swear they've never tasted the same thing twice."

But despite such diversions, the pressure of the crises has been weighing on McHenry. WCBS all-news radio drones all night in his bedroom, and between winks, he listens to bulletins of the latest crises.

Not surprisingly, he doesn't sleep well. "You're always thinking about what you did today," he said, sighing, "and what you've gotta do tomorrow."

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRITIQUE OF CARTER FISCAL YEAR 1981 BUDGET

Mr. BELLMON. Mr. President, the Senator from New Mexico (Mr. DOMENICI), joins me in the following statement:

Mr. President, today's Washington Post carries an incisive critique of President Carter's fiscal year 1981 budget by Robert J. Samuelson of the National Journal. I commend this analysis to the attention of my colleagues. It is one of the most thoughtful pieces I have seen on the new budget.

Samuelson is rough on the President, but justifiably so. Let us share a few quotes from the article:

> The theme is that there is no theme. For all the rhetoric—deploring inflation, promoting savings and urging restrained spending—the latest proposals do little to stem dependence on oil imports and promise significantly higher levels of taxes and spending.
>
> Carter has now effectively abandoned his pledge to reduce government spending to 21 percent of output (Gross National Product)—which itself is a full percentage point above the average for 1964–1974—and projects spending above 22 percent of GNP until at least 1983."
>
> . . . [the President] still lacks, as he always has, an underlying vision of how government economic policy needs to be reoriented to encourage adjustment to long-term problems—or diminished productivity growth, of a gradually aging population, of reduced worldwide economic power, of excessive demands for limited resources—that underlie today's inflation and economic stress.

Mr. President, Mr. Samuelson's comments are right on target. In his budget proposals, the President has not stepped forward with a real leadership plan that the country can rally behind. Rather, he has reacted passively to the events and forces that threaten our national economic and political stability by attempting to satisfy old constituencies and create new ones. In Mr. Samuelson's own words, "this is not policy (it is) evasion." I ask unanimous consent that the full text of the Samuelson article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 5, 1980]

WHITE HOUSE DRIFTING, BUDGET PLAN SHOWS

(By Robert J. Samuelson)

In the 1960's, there was a glib slogan that went like this: if you're not part of the solution, you're part of the problem. Somehow, that's the thought inspired by the White House's latest batch of budget and economic proposals.

Except for the budget's size, which at $616 billion in fiscal 1981 is so large that the number seems increasingly meaningless, the theme is that there is no theme. For all the rhetoric—deploring inflation, promoting savings and urging restrained spending—the latest proposals do little to stem dependence on oil imports and promise significantly higher levels of taxes and spending.

The White House is mostly drifting, accommodating the constituencies—mainly for sustained spending—that seem nearest, most visible and most politically important. The budget is progressively less a tool used to promote needed economic growth and change, and increasingly one used to redivide and apportion a national wealth that is expanding at a slower and slower rate.

This goes to the heart of the President's intellectual and political failure. He still lacks, as he always has, an underlying vision of how government economic policy needs to be reoriented to encourage adjustment to long-term problems—of diminished productivity growth, of a gradually aging population, of reduced worldwide economic power, of excessive demands for limited resources—that underlie today's inflation and economic stress.

Having failed to devise policies that can be placed in a larger context of economic change—and, thereby, command public opinion—Carter has willingly allowed himself to become the prisoner of short-term political pressures. He has used this budget, trade policies and other government favors (the latest being the rescue of the Chrysler Corp.) in ways that ultimately create more problems than they solve.

What symbolizes the administration's political weakness is the absence of measures—a stiff gasoline tax of 30 to 50 cents a gallon would be best—to reduce oil demand. America's domestic economic policy—and power—are intimately linked, but, even in a time of "crisis," Carter cannot make an effective political connection.

A gasoline tax shouldn't be so difficult to sell. By reducing spending for foreign oil, a large tax—whose proceeds would be used to cut the deficit or other federal taxes—would keep purchasing power at home and promote growth just when the economy seems headed into a slump. By taking pressure off world oil markets, it would foster price stability, or less instability, and enhance America's diminished authority with its European and Japanese allies. It is a price increase that is anti-inflationary.

A skilled politician, a "leader," can demonstrate the virtues of superficially unpopular proposals; that's what "being Presidential" is all about. But Carter can't.

As for the rest of the budget, it now threatens to become top heavy in ways that do the economy more harm than good. Carter has now effectively abandoned his pledge to reduce government spending to 21 percent of output (gross national product)—which itself is a full percentage point above the average for 1964–74—and projects spending above 22 percent of GNP until at least 1983.

A few percentage points of GNP may seem small, but, with the economy's output approaching $2.4 trillion, the amounts involved are roughly $25 billion to $50 billion in 1980 dollars. The danger is that the resulting high tax rates or deficits will simply blunt economic growth further, creating more demands for government assistance and yet a greater drag on the economy.

Congress and the White House find themselves in a dilemma of their own making. By consistently reducing defense spending as a proportion of the budget and GNP in the late 1960s and most of the 1970s, they financed large new programs without sharply increasing over-all levels of spending. Defense fell from two-fifths of the budget in 1965 to one-fourth in 1976.

New constituencies—from railroad riders who received Amtrak subsidies to artists who receive grants from the National Endowment for the Arts—arose, and old ones expanded their dependence on Washington. Federal assistance jumped from 17 percent of state and local spending in 1969 to 26 percent in 1977. The current bipartisan support for higher defense spending means that Congress and the White House must tell other constituencies to do with less or impose higher taxes or higher deficits.

Calling much spending "uncontrollable" usually signifies an unwillingness, not an inability, to control. Social security is the biggest "uncontrollable" program, accounting for $107 billion out of a $466 billion budget in fiscal 1979. Automatically increased for rises in the consumer price index, benefits will jump an estimated 13 per cent in July after a 9.9 per cent increase last year: nearly a 25 per cent rise in a period when average wages have increased 15 to 18 percent. Nothing says that Congress could not reduce this large automatic benefit rise.

All constituencies are "deserving," but governing means making choices. Congress and the White House are simply making the wrong ones, they are sustaining high spending on the revenues flowing from automatic tax increases induced by inflation, augmented by revenues from the "windfall" oil tax.

Inflation kicks workers into higher brackets. Without a tax cut in 1980 or 1981, a family of four with $15,300 income in 1976—just about average—that received annual wage increases of 7 to 8 percent in succeeding years would pay 19 percent of its 1981 income in taxes, against 16 percent in 1976. For a family with $22,000 income in 1976, the same calculation shows an increased tax bite from 18 to 24 percent.

It's difficult to be precise about the discouraging effect of higher tax rates on work and investment, but there's little doubt that there is some effect. On the other hand, using a bigger deficit to absorb higher spending simply transfers the pressure to higher interest rates, which will squeeze out needed investment—particularly housing—and lay the groundwork for higher inflation. This is not policy, but evasion.

Mr. BELLMON. Mr. President, there is another analysis of the President's budget which I would ask unanimous consent to have inserted into the RECORD. This analysis was prepared by the minority staff of the Senate Budget Committee under great time pressure so that it might be available to the members of the Budget Committee the same morning that the embargo on the President's budget was ended. In a vein similar to the Samuelson comments, this analysis expresses disappointment that the proposed budget was not balanced as promised, despite the fact that the budget contains the highest level of tax revenues as a percent of GNP since World War II. Despite all of this money, the budget is still not balanced. Yet, Mr. President, the fiscal year 1981 budget can be balanced. I believe that the budget for 1981 which the Senate Budget Committee will bring to the Senate floor later this spring will be balanced. The minority staff analysis includes numerous examples of where the President's proposals could be further restrained. The staff prepared a list of savings which would reduce the deficit by a total of over $27 billion, a savings far in excess of the deficit proposed by the President. That is why I say the fiscal year 1981 budget can be balanced.

I ask unanimous consent that the summary and appendixes of the minority staff analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVIEW OF THE PRESIDENT'S BUDGET FOR FISCAL YEAR 1981

I. SUMMARY

1A. Budget totals:

The President's budget recommendation for Fiscal Year 1981 and recent actual totals are as follows:

[Billions of dollars]

	Actual fiscal year 1978	Actual fiscal year 1979	President's estimate fiscal year 1980	President's request fiscal year 1981
Budget authority	501.5	556.7	654.0	696.1
Outlays	450.8	493.7	563.6	615.8
Revenue	402.0	465.9	523.8	600.0
Deficit	−48.8	−27.7	−39.8	−15.8
Growth over prior year (percent):				
Budget authority	7.6	11.0	17.5	6.4
Outlays	11.9	9.5	14.2	9.3
Revenues	12.4	15.9	12.4	14.6

B. Overview comments:

1. Fiscal year 1981 budget not balanced as promised:

For several years the Administration has promised that the FY 81 Budget would be in balance. That Budget now shows a deficit of $15.8 billion. The Administration puts blame for the deficit on the economic forecast, but the fact remains that even with the highest level of taxation since World War II (FY 81 Revenues equal 21.7 percent of GNP, up from 20.1 percent in FY 79, and an estimated 20.8 percent in FY 80), the Budget still is not balanced. The 21.7 percent figure is the highest level since 1944 which was 21.9 percent. See Appendix A for data on each year since 1940.

2. Fiscal year 1981 budget could be balanced:

Despite the fact that the President's version of the FY 81 budget shows a deficit, that budget can be balanced. As shown in Appendix B, over $23 billion of potential savings are not proposed by the President and can be made in his budget. These savings are not unrealistic draconian measures—most items are either savings which have been proposed in the past or are new Presidential initiatives deemed not critical in this era of restraint. Thus, even after adjusting the President's numbers upward for "likely increases" (Appendix D), the FY 81 budget can be balanced!

	President	President's totals adjusted (app. D)	Savings (app. B)	Totals for balanced budget
Outlays	$615.8	$623.5	−$20.0	$603.5
Revenues	600.0	600.0	+7.9	607.9
Deficit	15.8	23.5	+27.9	+4.4

3. President's budget is not restrained:

a. Spending as a percent of GNP rises to 22.4 percent in FY80 and 22.3 percent in FY81. These are the highest levels since World War II except for the recession-impacted year of FY76 when it was 22.6 percent.

b. The President claims credit for restraint because outlays rise only 9.3 percent over a revised FY80 base (0.5 percent real growth). However, the comparisons are made off a base inflated by supplementals and some assumed shifting of spending from FY 81 back to FY 80. See "Budget Gimmickry" in Appendix E. A better yardstick is the two-year comparison FY 79–81. During that period, the President's Budgets have shown an increase in spending of 12.4 percent average each year (or 3.4 percent real growth each year). This is not a restrained budget!

c. The President's Budget includes at least 18 legislative proposals for new and expanded programs (see Appendix C), including proposals for a new youth initiative, several energy proposals, a hazardous waste "superfund", and a significant child health program. FY81 outlays for these new initiatives will total more than $4 billion with significant increases in costs for FY82 and FY83.

One new legislative proposal deserves special comment. The National Health Plan proposed by the President would increase Federal health costs by $24 billion in FY83 and by over $30 billion in FY85. The plan will also mandate an increase of $9.6 billion in private sector expenditures for health in 1983. For 1983, the President is projecting a total increase in Federal outlays for Health of more than 47 percent over FY82. Thus the President proposes a massive increase in Federal health financing without any assurance that this will improve the health status of the American people or that it will not fuel another devastating round of inflation in the health care system. The costly burden of these legislative proposals for new and expanded Federal programs does not reflect restraint.

4. Significant deterioration in the President's budget numbers over the last 12 months:

a. Fiscal year 1980 budget.—In the current year, BA has grown by $38.5 billion and outlays by $32.0 billion since the President's Budget for FY 80 was submitted just last January. This increase is not one year over another, but is the same budget one year later.

	President's fiscal year 1980 budget		
	As of January 1979	As of January 1980	Difference
Budget authority	615.5	654.0	+38.5
Outlays	531.6	563.6	+32.0
Revenues	502.6	523.8	+21.2
Deficit	−29.0	−39.8	−10.8

b. Fiscal year 1981 budget.—Last January, the President gave us an estimate showing the fiscal year 1981 budget as virtually balanced. The Congressional Budget last fall showed a surplus for fiscal year 1981. Now the President says the fiscal year 1981 budget will be in deficit by $15.8 billion. As estimated by the President, budget authority for fiscal year 1981 has grown by $45 billion in the last 12 months and outlays have grown by over $37 billion.

	President's fiscal year 1981 budget		
	As of January 1979	As of January 1980	Difference
Budget authority	651.0	696.1	+45.1
Outlays	578.0	615.8	+37.8
Revenues	576.8	600.0	+23.2
Deficit	−1.2	−15.8	−14.6

c. Fiscal year 1982 budget.—The deterioration also affects the estimates for fiscal year

1982, virtually wiping out the $37.8 billion surplus estimated by the President only 12 months ago. These numbers include no tax cuts for either fiscal year 1981 or fiscal year 1982.

	President's fiscal year 1982 budget		
	As of January 1979	As of January 1980	Difference
Budget authority	695.7	775.1	+79.4
Outlays	614.9	686.3	+71.4
Revenues	652.6	691.1	+38.5
Surplus	+37.8	+4.8	−33.0

5. President's budget understates the costs of his policies:

Even though the President's spending numbers and deficit numbers are very discouraging, the policies and programs reflected in his budget would drive both spending and the deficit even higher than stated in his budget request. As shown in Appendix D, it would be necessary to add $7.7 billion to the budget in order to carry out the recommendations of the President. He has understated costs in some areas and in other cases he has backed proposals which have no chance of enactment by Congress. In still other cases, he assumes implementation of cost savings ideas on an unrealistic timescale.

6. No attack on inflation—which Carter calls number 1 domestic problem:

a. Big deficits means big borrowing—Federal Government (and Federally-sponsored entities) will borrow $59.1 billion in fiscal year 1980 and $46.5 billion in fiscal year 1981.

b. President proposes that Federal spending as a percent of GNP remain at 22 percent or greater for next 3 years. This compares with an average of 20 percent during the 20 years ending in 1977. It also would reverse the move toward smaller Federal share of the economy which Congress and the President declared as national policy in the 1978 revenue act.

c. No effort is made to restrain the growth of indexed programs which help sustain inflation.

d. No moves are made to introduce competition in health care system. Instead, the President continues to support a hospital cost-containment plan which has been rejected by the House and asks Congress to approve the first components of a "National Health Plan" which would pump $24 billion of highly inflationary spending into the health system in 1982.

e. No new deregulation initiatives are offered to help reduce production costs and thus help combat inflation.

f. No proposals are made for restraining the rise in Minimum Wage for Youth.

g. The budget continues a very high level of spending for so-called "countercyclical program" in the face of labor shortages in many areas of the country.

h. There is continued reliance on wage and price guidelines that have been watered down to the point that they are virtually meaningless.

7. Real growth in defense overstated:

The President's Budget claims 5.6 percent real growth in FY 81 and an average real growth of 4.1 percent over the FY 81–85 period. CBO estimates of defense composite inflation show that the President's defense request would provide only 4.1 percent for FY 81 and 2.9 percent average for FY 81–85. While little programmatic detail is available except that Rapid Deployment Force components to respond to distant crises situations, funding increases appear to be for programs advocated by the Ford Administration and stalled by the present Administration for the past three years.

8. Questionable priorities in foreign aid:

While Afghanistan situation heightens dangers, Defense spending will grow at 5 percent or less; however,

a. new commitments for U.S. bilateral aid to developing countries show real growth greater than 15 percent, but

b. aid to such key countries as Turkey, Egypt and Israel is held to current levels, zero real growth.

9. Poor leadership on crucial energy problems:

The President's Budget shows continued confusion and questionable choices of priorities on critical energy problems. He focuses resources on exotic, long-term, highly speculative possibilities. He fails to focus on domestic production of petroleum, and cuts investment in nuclear power dramatically. He proposes three major Government-owned synthetic fuel plants which could be more appropriately developed by the private sector.

10. Major increases in Federal aid to State/local government without reforms:

The President's Budget proposes a significant increase in Federal aid to state and local government, totaling $7.4 billion in FY 81. Further, a five-year extension at current funding levels of general revenue sharing is proposed. Fiscal restraint would have suggested a cutback in either the specific aid programs or in general revenue sharing, but not the high funding levels proposed for both in this Budget.

Consolidation proposals are modest and result in no savings. Moreover, it is disappointing the President did not propose any reforms to help eliminate duplication or streamline programs. Unless the Administration leads, reforms in these programs are most unlikely.

1. Unwillingness to continue tough fights in an election year:

The President has dropped his support for Social Security benefit changes proposed in prior years to await "studies". He has followed the lines of least resistance in requesting an increase of over 20 percent for assisted housing programs which are poorly designed, unduly expensive and mismanaged by HUD.

12. President's military pay policy unwise:

The President continues to call for a pay cap for military personnel in spite of the fact that this technique has not been effective in fighting inflation and is becoming a serious problem in terms of attracting and retaining people in our armed services. Ensuring that the All-Volunteer Force concept continues to work demands that we recognize the sacrifices military personnel make and that we move to pay them accordingly. Inflation degrades the attractiveness of military service and a prudent move would be to eliminate the policy of pay caps. The effect of this adjustment would be approximately $.8 billion in FY 81.

APPENDIX A

Receipts as a percent of GNP, 1940–83

Year	Percent
1940	6.7
1941	7.9
1942	10.3
1943	13.4
1944	21.9
1945	20.8
1946	19.5
1947	17.4
1948	17.0
1949	15.1
1950	14.9
1951	16.5
1952	19.6
1953	19.3
1954	19.2
1955	17.2
1956	18.1
1957	18.5
1958	18.0
1959	16.7
1960	18.6
1961	18.6
1962	18.2
1963	18.5
1964	18.3
1965	17.8
1966	18.1
1967	19.3
1968	18.5
1969	20.8
1970	20.2
1971	18.5
1972	18.8
1973	18.8
1974	19.5
1975	19.3
1976	18.5
1977	19.4
1978	19.5
1979	20.1
1980 (estimate)	20.8
1981 (estimate)	21.7
1982 (estimate)	22.2
1983 (estimate)	22.7

APPENDIX B

POTENTIAL SAVINGS NOT PROPOSED BY THE PRESIDENT[1]

There are numerous areas where cuts below the President's Budget could be made in both budget authority and outlays:

1. Continue an orderly transition from emphasis in employment and training programs on countercyclical objectives and toward programs to meet the needs of the structurally unemployed.

Phase out countercyclical public service jobs by the end of FY 81, consistent with the Congressional Budget passed by the Senate last year.

Increase resources for comprehensive services to the structurally unemployed, with emphasis on welfare recipients, by 10 percent.

Delay consideration of any other new initiatives until FY 82.

Continue Private Sector Initiative programs with funds already available, consistent with the Congressional Budget last year.

Continue Job Corps, Summer Youth, and the Young Adult Conservation Corps at current levels.

Savings:

BA	$2.6
O	1.4

2. Reduce costs of student assistance programs, below the President's Budget, by assuming enactment of S. 1600, the Kennedy-Bellmon National Student Loan Reform Act and by holding the maximum basic education opportunity grant to the current level of $1800. This would better focus loan resources on students most in need, and it would not have a significant impact on grants to students from families with very low incomes.

Savings:

BA	$0.2
O	0.2

3. Eliminate funding for new grant program for service projects, demonstrations,

---

[1] All numbers are in billions of dollars and are for fiscal year 1981.

and research on the problems of domestic violence. There is no evidence that these new initiatives would reduce domestic violence, and there is a serious question whether this should be an area of Federal responsibility.

Savings:

BA	$0.010
O	0.002

4. Maintain new low-income energy assistance program at current level, instead of expanding it.

Savings:

BA	$0.8
O	0.8

5. Freeze deductions allowed in the Food Stamp program for determining gross income, and make other cost-saving reforms. The Food Stamp program has grown from $6.8 billion to $9.7 billion in two years.

Savings:

BA	$0.5
O	0.5

6. Continue funding for Women, Infants, and Children (WIC) nutrition program at current levels, instead of expanding the program as the Budget proposes.

Savings:

BA	$0.2
O	0.1

7. Maintain Current Funding level for low-income housing programs.

Savings:

BA	$6.8
O	0.1

8. Hold Federal retirement, Social Security, Supplemental Security Income, and Veterans' pensions cost-of-living increases to two percentage points (2%) below the normal adjustment (based on the CPI) as part of the attack on inflation.

Savings:

BA	$---
O	3.3

9. Eliminate General Revenue Sharing or cut an equivalent amount from other grant-in-aid programs to State and local governments. (The Budget shows an increase of 9.0% in Federal aid to State and local governments—excluding General Revenue Sharing—in FY 81 over FY 80.)

Savings:

BA	$6.9
O	5.1

10. Hold funding for the Law Enforcement Assistance Administration to current law.

Savings:

BA	$0.1
O	*

11. Delay consideration of any new energy-related transportation initiatives until FY 82.

Savings:

BA	$1.5
O	0.6

12. Maintain mass transit funding at current law levels, which already include increases proposed in response to the energy crisis last year.

Savings:

BA	$0.2
O	*

13. Delay implementation of child health (CHAP) legislation until consolidation of existing programs for children is completed.

Savings:

BA	$0.4
O	0.4

14. Drop efforts to enact legislation mandating Medicaid payment for comprehensive clinic services.

Savings:

BA	$0.1
O	0.1

15. Enact legislation making Medicare liability for medical costs secondary to accident policy liability.

Savings:

BA	$*
O	0.1

16. Mandate Professional Standards Review of routine testing and preoperative stays in hospitals.

Savings:

BA	$0.1
O	0.1

17. Eliminate periodic interim payments by Medicare—one-time savings.

Savings:

BA	$--
O	0.1

18. Encourage States to award contracts competitively for Medicaid laboratory services.

Savings:

BA	$0.1
O	0.1

19. Reduce by 20 percent the tax deductibility of personal and corporate payments for health insurance and personal health care expenses to help constrain inflation in the health care sector.

Revenue increase	$3.9

20. Drop plans for Government construction of coal gasification and coal liquefaction plants and a High-Btu plant, all of which can be done more economically by the private sector.

Savings:

BA	$0.4
O	0.3

21. Postpone purchases for the Strategic Petroleum Reserve until FY 1982.

Savings:

BA	$1.3
O	1.3

22. Eliminate proposed grants to electric utilities for the purpose of converting from petroleum or natural gas to coal or another alternative fuel.

Savings:

BA	$0.025
O	0.022

23. Across-the-board reductions in non-petroleum supply and conservation programs which exist outside the Energy Security Corporation.

Savings:

BA	$ --
O	0.2

24. Hold Department of Energy administrative expenses to current policy levels.

Savings:

BA	$0.1
O	*

25. Eliminate Youth Conservation Corps (elimination was proposed in FY 80 Budget).

Savings:

BA	$0.1
O	0.1

26. Maintain FY 80 appropriation level of $3.4 billion for EPA construction grants.

Savings:

BA	$0.3
O	*

27. Consolidate Agriculture conservation program with the Great Plains conservation program (proposed in FY 80 Budget).

Savings:

BA	$0.020
O	0.020

28. Postpone consideration of new NASA initiatives until FY 82.

Savings:

BA	$0.025
O	0.025

29. Maintain current policy funding for the National Science Foundation's basic research programs.

Savings:

BA	$0.1
O	0.1

30. Eliminate the Emergency Livestock Feed program. The program is subject to abuse. In addition, feed availability has improved recently and the prospects for feed availability continue to be good for the future.

Savings:

BA	$-----
O	0.1

31. Do not fund Homeownership Assistance program (HOAP). Congress rejected a larger version of this initiative last year. Funding as a pilot project would only provide a wedge for increases in future years.

Savings:

BA	$0.1
O	0.003

32. Do not fund the Temporary Mortgage Assistance program. This is not the year to begin new initiatives such as this, particularly as there are other programs which can meet the need.

Savings:

BA	$0.006
O	0.006

33. The President proposes a 13 percent compensation increase for Veterans' DIC dependents and the Veterans' clothing allowance for FY 81. A 10 percent increase would be less inflationary and more responsible.

Savings:

BA	$0.2
O	0.2

34. Require agencies to absorb 40 percent of pay raise.

Savings:

BA	$0.8
O	0.8

35. Maintain current level of refugee assistance. Administration proposal for increased funding is based on earlier projections of numbers of refugees. Later data indicate the number is declining.

Savings:

BA	$0.1
O	0.1

36. Deny 50 percent funding increase proposed in the Budget for neighborhood self-help development grants.

Savings:

BA	$0.005
O	0.002

37. Maintain in FY 81 the funding level proposed in FY 80 for economic development assistance programs. (The Administration proposes over a 100 percent increase in funding for these programs in FY 80.)

Savings:

BA	$0.1
O	*

38. Assume enactment of Social Security benefit reforms (proposed in the FY 80 Budget).

---

*Indicates an amount less than $50 million.

Savings:

BA	-----
O	$0.8

39. Increased revenues from withholding taxes on interests and dividends in excess of the amount exempted.

Revenue increase	$4.0

APPENDIX B SUMMARY

Changes from the President's fiscal year 1981 budget

Budget authority	−$24.191
Outlays	−17.480
Revenues [2]	+7.900
Reduction in the deficit before interest adjustment	−25.380
Interest adjustment	−2.538
Total reduction in the deficit	−27.918

[2] See item No. 19 and 39.

APPENDIX C

NEW INITIATIVES IN THE FISCAL YEAR 1981 BUDGET

Listed below are 18 new initiatives introduced in the President's FY 81 Budget which total $6.1 billion in budget authority and $4.1 billion in outlays. In addition, several of these programs have FY 1980 impact, and costs of the programs grow significantly in the outyears so that by 1982–1984, the actual cost would be substantially greater than the above totals.

1. New Youth Initiatives.

[In billions]

Fiscal year 1981:

BA	$1.2
O	0.35

2. New Energy-Related Transportation Initiatives.

Fiscal year 1981:

BA	$1.5
O	0.6

Outyear cost estimates: (over ten years) $16.5.

3. New Standby Antirecession Fiscal Assistance Program, Including Targeted Fiscal Assistance for FY 80 Only.

Fiscal year 1981:

BA	$1.0
O	1.0

Fiscal year 1980:

BA	0.38
O	0.25

4. Coal Gasification and Liquefaction Plant Construction Program and High Btu Gas Line Program.

Fiscal year 1981:

BA	$0.4
O	0.3

5. EPA Hazardous Waste/Oil Liability Superfund.

Fiscal year 1981:

BA	$0.25
O	0.05

Outyear cost estimates vary upwards from $1.5 billion.

6. Child Health Assurance Program (CHAP).

Fiscal year 1981:

BA	$0.4
O	0.4

Outyear cost estimates:

BA	$1.5
O	1.5

7. New Legislation to Provide 13 percent Cost-of-Living Increase to VA Compensation Beneficiaries.

Fiscal year 1981:

BA	$0.9
O	0.85

8. New Legislation to Provide a 10 percent Increase in GI Bill Benefits and a 2-Year Extion of the Delimiting Period for Needy and Educationally Disadvantaged Vietnam-Era Veterans.

Fiscal year 1981:

BA	$0.19
O	0.19

9. Homeownership Assistance Program (HOAP).

Fiscal year 1981:

BA	$0.1
O	0.003

Major increases in outyears to probably $1.0 billion level in budget authority.

10. Two New Starts for NASA, the National Oceanic Satellite System, and Gamma Ray Observatory (total below for both).

Fiscal year 1981:

BA	$0.03
O	0.03

Outyear costs estimated $1.0.

11. Medicaid program.

A. Eliminate cutoff of Medicaid for disabled whose earnings exceed specified level;

B. Increase Federal reimbursement level for services provided in the Territories;

C. Require states to reimburse for clinic services provided to Medicaid eligibles.

Fiscal year 1981:

BA	$.1
O	.1

Outyear estimated costs:

BA	$.2
O	.2

12. Medicaid and medicare home health benefit.

Fiscal year 1981:

BA—Less than $.1 billion.

O—Less than $.1 billion.

Outyear estimated costs: Les than $.1 billion.

13. Medicare.

A. Eliminate waiting period for disability coverage and extend Medicaid coverage for disabled who return to work but who are not medically recovered;

B. Modify Medicare method of reimbursement;

C. Liberalization of mental health benefit.

Fiscal year 1981:

BA	$--
O	.1

Outyear estimated costs: $.3 billion.

14. Economic and military aid to Pakistan (FY 80 only).

Fiscal year 1980:

BA	$.1
O	.1

15. Grant program to electrical utilities to convert from petroleum and natural gas to coal.

Fiscal year 1981:

BA	$.03
O	.03

Outyear estimated costs: $12 billion.

16. 10-year ocean margin drilling program jointly funded with NSF and private industry.

Fiscal year 1981:

BA	$.01
O	.01

Outyear estimated costs: $.7 billion.

17. Temporary mortgage assistance program (TMAP).

Fiscal year 1981:

BA	$.006
O	.006

18. Domestic violence prevention program.

Fiscal year 1981:

BA	$.01
O	.002

NOTE: Total may not add due to rounding.

APPENDIX D

LIKELY INCREASES OVER PRESIDENT'S BUDGET

(dollars in billions)

The President's Budget does not include a number of program expenditures which are most likely to be added either by him or by Congress. Also, several cost savings proposals are recommended in the President's Budget which are unlikely to be enacted. Both types of potential increases are included in the following list:

1. The President uses an unrealistically low defense inflator but states his intention to seek a supplemental to offset higher inflation.

Potential 1981 costs:

BA	$1.6

2. The President projects "absorption" of pay raise costs by DOD at a rate of 40 percent, which is unrealistically high.

Potential 1981 costs:

BA	$0.6
O	0.6

3. The President caps military pay at 7.4 percent which is unrealistic given inflation and Congressional support for all volunteer force concept.

Potential 1981 costs:

BA	$1.3
O	1.3

4. The President's Budget omits expected increased fuel costs in Defense Department activities in FY81.

Potential 1981 costs:

BA	$4.5
O	4.5

5. The Budget assumed unrealistic Foreign Assistance conference result for multi-lateral development bank.

Potential 1981 costs:

BA	$0.1
O	0.05

6. The Budget omits anticipated request for IMF quota increase appropriation.

Potential 1981 costs:

BA	$5.5

7. The President's Budget does not include a Pakistan aid package for FY81.

Potential 1981 costs:

BA	$0.2
O	0.1

8. President includes no request for U.N. and African peace-keeping.

Potential 1981 costs:

BA	$0.2
O	0.1

9. President's proposed cutbacks in the nuclear fission program are likely to be rejected by Congress.

Potential 1981 costs:

BA	$3.0
O	0.2

10. The Budget proposes a new small-scale alcohol fuels program ($300 million per year for ten years) without requesting funding for the program.

Potential 1981 costs:

BA	$0.3

11. Energy-related transportation initiatives planned to be spent in FY80 have not yet been enacted. Appropriations for the initiatives will come late in the year; thus, spending is likely to occur in FY81. The FY81 Budget Authority and Outlay totals do not reflect this.

Potential 1981 costs:

BA	$1.4
O	0.9

12. The President's assumption that the Emergency Economic Loan Program will be terminated is unrealistic. Congress is likely to authorize the program's extension.

Potential 1981 costs:

BA	$1.5

13. The President proposes to eliminate impact aid payments to all districts which do not rely heavily on these grants for a high proportion of the districts' total budgets. Congress rejected a similar, less drastic, reduction last year. A gradual phasedown would seem more likely.

Potential 1981 costs:

BA	$0.2
O	0.2

14. The President proposes to save $800 million through Hospital Cost Containment in FY81. The Administration has never effectively presented the case for this legislation and was soundly defeated in the House last year. Passage this year is unlikely.

Potential 1981 costs:

BA	$0.1
O	0.8

15. The President proposes to save $200 million through requiring employers of the working aged to provide health insurance and to rely on Medicare only as a supplementary source of coverage. This requirement was considered by House Interstate and Foreign Commerce last year and referred for further study and hearings because of its anticipated effect on the employability of the elderly. There is strong opposition from senior citizens' groups and the insurance industry.

Potential 1981 costs:

O	$0.2

16. The Budget assumes $300 million will be saved through administrative reform of the hospital reimbursement system. Administration attempts to modify the reimbursement system are currently being litigated. The difficulty experienced by the Administration suggests that this savings for FY81 should be reduced by one-third.

Potential 1981 costs:

BA	$0.1
O	0.1

17. It is unlikely that the President's Federal Employees Compensation Reform Act will be enacted in FY81.

Potential 1981 costs:

BA	$1.1
O	1.0

18. No funding is included for new water resource project construction in FY81 Budget. However, FY81 Administration estimate is unusually high. It is likely that a large number of new starts in FY81 will be initiated by Congress.

Potential 1981 costs:

BA	$0.06
O	0.06

19. There is an inadequate level of funding included for Forest Firefighting.

Potential 1981 costs:

BA	$0.15
O	0.15

20. Passage of welfare reform in time to achieve FY81 savings is not likely. Hearings are not scheduled in the Senate until late spring.

Potential 1981 costs:

BA	$0.2
O	0.8

21. Projected savings in Social Security disability legislation assume passage of House version, which is highly improbable. Savings most likely to be cut in half from estimate shown.

Potential 1981 costs:

O	$0.05

22. Assumed savings in school lunch and other nutrition programs are highly unlikely to be passed by Congress.

Potential 1981 costs:

BA	$0.43
O	0.46

23. The President estimates FY81 spending associated with his $3.95 billion Budget Authority request for the Community Development Block Grant program to be $3.8 billion. CBO estimates Outlays associated to be $0.6 billion higher.

Potential 1981 costs:

O	$0.6

24. The President understates disaster relief spending expected in FY81.

Potential 1981 costs:

O	$0.5

25. The President assumes no appropriations for several small highway programs which Congress has consistently funded in the past.

Potential 1981 costs:

BA	$0.1
O	*

26. Reduced assistance to Conrail is proposed. Department of Transportation has conceded that they may have to ask for a supplemental later in the year upon reevaluation of the program.

Potential 1981 costs:

BA	$0.4
O	0.4

27. The President assumes savings from his proposal to obtain reimbursement from health insurers for treatment of non-service-connected disabilities of insured veterans in VA hospitals. This recommendation has been proposed in prior years and has not moved.

Potential 1981 costs:

BA	$0.3
O	0.3

Total Potential 1981 costs:

BA	$20.64
O	** 12.87

Many of the items listed above, while they represent difficult decisions, are sound policy. We would reconcile this as follows:

Total outlays (Appendix D)	$12.87
Less savings which should be achieved	5.17
President's policy stated in more realistic terms (outlays)	+7.70

*Less than $50 million.

**Totals may not add due to rounding.

APPENDIX E

Budget gimmickry

Amounts involved in billions of dollars

Function:		BA	O
150	Puts some Export Import Bank direct loans financing off-budget in the Federal Financing Bank	1.0	0.4
	Shifts FMS Trust Fund outlays back into FY 80. Decreases FY 81 outlays by $1.2 billion, increases FY 80 outlays	4.1	1.2
350	Shifts Agricultural Credit Insurance Funds loans off-budget to Federal Financing Bank		1.0–2.0
	Shifts Short-Term Export Credit Program off-budget in the form of loan guarantees		2.0
500	FY 80 Supplemental for Child Welfare Services not assumed in current law overstating President's Budget Authority	0.2	
	Reappropriation of funds for Basic Education Opportunity Grant Program spent in FY 79 and not reappropriated overstates Budget Authority in FY 80	0.5	
600	Finances public housing projects through selling notes to Federal Financing Bank instead of to the public as it is now done. This would be done by switching $1.9 billion in FY 80 unobligated balances in one account to another account, increasing FY 81 Budget Authority	1.9	

Mr. BELLMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

REPORT ON THE ADMINISTRATION OF THE RAILROAD SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 160

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I transmit herewith the Eighth Annual Report on the administration of the Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et. seq.) as required by that Act. This report has been prepared in accordance with Section 211 of the Act, and covers the period January 1, 1978 through December 31, 1978.

JIMMY CARTER.

THE WHITE HOUSE, *February 5, 1980.*

REPORT ON FEDERAL ENERGY CONSERVATION PROGRAMS—MESSAGE FROM THE PRESIDENT—PM 161

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I transmit to the Congress the annual report to be submitted under section 381 (c) of the Energy Policy and Conservation Act, 42 U.S.C. 6361(c) (1970).

This report covers the implementing activities undertaken during 1978 by Federal agencies. It includes actions to establish mandatory policies and standards with respect to energy conservation and efficiency for Federal procurement activities along with progress towards developing a 10-year plan for energy conservation in Federally-owned or leased buildings. It also describes programs for carrying out a responsible public education program to encourage energy conservation and efficiency and to promote vanpooling and carpooling arrangements.

JIMMY CARTER.

THE WHITE HOUSE, *February 5, 1980.*

REPORT OF THE NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT—PM 162

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Title VI, Section 605 of the Economic Opportunity Act of 1964, as amended by P.L. 89–794, I am transmitting herewith the Eleventh Annual Report to the Congress of the National Advisory Council on Economic Opportunity.

This Report reflects the Council's views in its role in examining programs authorized by the Economic Opportunity Act of 1964, and their impact in alleviating certain problems confronting low-income people. While those views are not entirely consistent with this Administration's policies, we shall consider them in the future.

JIMMY CARTER.

THE WHITE HOUSE, *February 5, 1980.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:42 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1300. An act to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States internationl aviation negotiating policy, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 5:24 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 108. A joint resolution to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.

The message also announced that the Speaker has appointed Mr. LEACH of Louisiana as a conferee in the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5235) to amend chapter 5 of title 37, United States Code, to revise the special-pay provisions for certain health professionals in the uniformed services, vice Mr. DAVIS of South Carolina, excused.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 5, 1980, he presented to the President of the United States the following enrolled bill:

S. 1300. An act to amend the Federal Aviation Act of 1968 in order to promote competition in international air transportation, provide greater opportunity for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NELSON, from the Select Committee on Small Business, without amendment:

S. Res. 359. An original resolution authorizing additional expenditures by the Select Committee on Small Business for inquiries and investigations. Referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TALMADGE (for himself, Mr. HUDDLESTON, Mr. EAGLETON, Mr. PRYOR, Mr. LUGAR, Mr. ZORINSKY, and Mr. STONE):

S. 2258. A bill to alleviate the adverse effects of the suspension of trade with the Union of Soviet Socialist Republics on United States agricultural producers; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MATHIAS:

S. 2259. A bill for the relief of Majid Sallomy; to the Committee on the Judiciary.

S. 2259. A bill for the relief of Rami Majid Sallomy; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 2261. A bill to quiet title of property in Albert and Eulia Rodriquez; to the Committee on Energy and Natural Resources.

By Mr. COHEN:

S. 2262. A bill to authorize the documentation of the vessel, Onalay, as a vessel of the United States with coastwise privileges; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself and Mr. JAVITS):

S. 2263. A bill to provide for the establishment of the Women's Rights National Historic Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 2264. A bill to amend section 110 of the Agricultural Act of 1949 and section 4(h) of the Commodity Credit Corporation Charter Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER:

S. 2265. A bill to amend Part III of Subchapter B of Chapter 1 of the Internal Revenue Code; to the Committee on Finance.

S. 2266. A bill to amend Section 1014 of the Internal Revenue Code; to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. HAYAKAWA):

S.J. Res. 142. Joint resolution to authorize and request the President to issue a proclamation honoring Walt Disney on the 60th anniversary of the production of his first original animated cartoon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE (for himself, Mr. HUDDLESTON, Mr. EAGLETON, Mr. PRYOR, Mr. LUGAR, Mr. ZORINSKY, and Mr. STONE):

S. 2258. A bill to alleviate the adverse effects of the suspension of trade with the Union of Soviet Socialist Republics on U.S. agricultural producers; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL AGRICULTURAL SECURITY ACT OF 1980

● Mr. TALMADGE. Mr. President, I am greatly concerned that the actions thus far announced by the administration may be insufficient to protect the American farmer from the adverse effect of President Carter's decision suspending shipments of agricultural commodities to the Soviet Union. This is the reason I am introducing today a bill that will go far to help ease the embargo's impact on American farmers. I am pleased that several of my colleagues are cosponsoring the legislation.

The bill would:

First, permit the making of price support loans of 1979 crop corn to producers who did not participate in the 1979 feed grain program, and participation by such producers in the farmer-held reserve (but only up to 50 percent of their 1979 production);

Second, allow corn that is Government-owned to be sold at 115 percent of the current loan rate when used for making alcohol for motor fuel;

Third, permit the making of price support loans on 1979 crop soybeans to producers who did not comply with the normal crop acreage requirements;

Fourth, establish a food security reserve of wheat;

Fifth, increase the maximum loan that may be made for farm storage facilities;

Sixth, extend the economic emergency loan program through September 30, 1981, with additional lending authority of $2 billion;

Seventh, require the Secretary of Agriculture, in cooperation with the U.S. Trade Representative, to make a detailed study of the potential for expansion of U.S. agricultural export markets and the use of agricultural exports in obtaining natural resources and other commodities needed by the United States; and

Eighth, make it clear that the Secretary of Agriculture has the authority to purchase and handle, in addition to grain, all other agricultural commodities that were under contract for delivery to the Soviet Union but suspended by the embargo.

I would like to discuss each of the eight proposals in detail.

First. Amendment of the Agricultural Act of 1949 to permit (a) the making of price support loans on 1979 crop corn to producers who did not participate in the 1979 feed grain program, and (b) participation by such producers in the farmer-held reserve.

It is imperative that policies be initiated immediately to ameliorate the economic burden that most farmers now face because of the grain sales suspension. Since much of the grain committed to Russia was corn, actions must be taken to isolate this corn from the market. The Secretary of Agriculture has announced increased loan rates, adjusted release and call prices, increased storage payments, and forgiveness of interest charges for all corn entering the farmer-held reserve since October 22, 1979.

While I commend the Secretary for these actions, only those farmers who participated in the 1979 program for corn are eligible.

A significant portion of the 1979 crop of corn is not eligible to be placed in the farmer-held reserve or the price support loan program. Since market prices are unstable and many farmers need to sell their corn so that they can pay their bills and purchase production items for the 1980 crop, all producers of 1979 crop corn should be eligible to receive price support loans and participate in the expanded farmer-held corn reserve on up to 50 percent of their 1979 corn crop. Farmers who did not participate in the 1979 program should not be eligible, however, for other program benefits such as disaster payments. This action would relieve the immediate economic burden on many farmers while assuring that enough corn is placed in the reserve to stabilize prices.

Second. Amendment of the Agricultural Act of 1949 to permit Commodity Credit Corporation stocks of corn to be sold at 115 percent of the current loan rate when used for making alcohol for motor fuel.

Under existing law, when a farmer-held reserve is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat and feed grains at less than 150 percent of the current level of price support. The only exceptions are for stocks that are substantially deteriorated or in danger of deterioration, or for specified emergency or disaster assistance programs.

The law should be changed to allow corn from Commodity Credit Corporation stocks to be sold at 115 percent of the loan rate if used for making alcohol for motor fuel in new production facilities.

This change in law would be a great incentive in getting many new alcohol production facilities quickly built and producing much needed alternative energy supplies. To make sure that such alcohol facilities do not depend on lower priced corn in the long term, these facilities would be required to have the flexibility to produce alcohol from other agricultural and forestry biomass products during times when supplies of corn are not readily available. The Secretary of Agriculture would have the authority to limit the amount of corn in the reserve that could be committed or used by any one person or firm.

Third. Amendment of the Food and Agriculture Act of 1977 to permit the making of price support loans on 1979 crop soybeans to producers who did not comply with the normal crop acreage requirement.

I understand that the existing regulations require that a soybean farmer must have complied with any normal crop acreage requirement established by the Secretary of Agriculture in order to place his 1979 production under the price support loan program. Because of this requirement, much of the soybeans produced last year are not eligible for the loan program.

Soybean prices have fluctuated since the suspension of agricultural trade with the Soviet Union, and many producers prefer to hold their crop in hope of higher prices. Many of these farmers are faced with a severe shortage of cash, however, and it only makes good sense to allow all of the 1979 crop of soybeans to be eligible for the soybean loan program—disregarding the normal crop acreage requirement.

Fourth. Establishment of a food security reserve of wheat.

Last year, at the request of the administration, I introduced a bill (S. 1278) to authorize the President to establish a food security reserve of wheat to insure that stocks will be available for the Public Law 480 food aid program even in a period of tight supplies.

While the Secretary has announced that the Commodity Credit Corporation will proceed to purchase wheat from the 1979 crop for the reserve in order to stabilize prices, the actual establishment of the reserve is dependent upon the enactment of legislation. My bill provides for such a food reserve.

Fifth. Amendment of the Commodity Credit Corporation Charter Act to increase the maximum loan that may be made for farm storage facilities.

Under existing law, the maximum loan that may be made to a producer for a farm storage facility is $50,000.

In order to assure that there are adequate facilities for storing the commodities our farmers produce, I believe that it would be prudent to increase the maximum loan amount to $100,000. Other changes may also be needed to expand the farm storage facility loan program and make it more effective. An expanded program would be useful for farmers who elect to keep in storage for several months part of their 1979 crops of wheat, feed grains, and soybeans in hope that prices will strengthen. New storage facilities could also be built under the program for the 1980 crops.

Sixth. Extension of the economic emergency loan program.

In 1978, Congress responded to the emergency credit needs of farmers brought about by economic stresses and established the economic emergency loan program.

However, the authority for making and guaranteeing loans under this program expires May 15, 1980. An extension of the program would greatly assist farmers in obtaining cash to purchase the necessary supplies to plant their 1980 crops. Many farmers would have no way of obtaining the needed cash to pay their expenses in the absence of the program—unless they sell their 1979 crops at depressed prices and take an economic beating. My bill provides an extension of the economic emergency loan program through September 30, 1981, with additional lending authority of $2 billion.

Recently, many Georgia farmers have told me that increased credit from the Farmers Home Administration is needed if the 1980 crops are going to be planted and harvested on time. Given the additional impact of the embargo on the farm economy, it is absolutely essential that the economic emergency loan program be extended.

Seventh. A requirement that the Secretary of Agriculture, in cooperation with the U.S. Trade Representative, make a detailed study of the potential for expansion of U.S. agricultural export markets and the use of agricultural exports in obtaining natural resources and other commodities needed by the United States.

The President has announced his support of policies to stimulate the production of alcohol from on-farm and small- and medium-scale production facilities using corn, forestry residues, and other agricultural biomass as feedstock. I am delighted that he is supporting a program that is patterned after the agriculture, forestry, and rural energy bill I introduced last year, S. 1775, and which was incorporated as title II in the Senate's overall energy legislation now in conference, S. 932.

Alternative fuels from agricultural biomass are one of the few short-range answers to our Nation's energy needs. This is an excellent way to increase the domestic demand for agricultural and forestry products while at the same time extending our supplies of energy.

We also need to be thinking seriously about developing new and permanent trading partners with regard to agricultural exports. The world's population is increasing steadily, and our capacity for producing food is not growing as fast. Surely, many countries, in the near future, will be willing to trade natural resources, such as oil and natural gas, in exchange for our food. By the year 2000, food could be a critical tool in developing our international policy—so why not start and negotiate bilateral trade agreements with several countries that have something we want in return. Mexico and China offer great promise in this regard.

It is time we become more hard-nosed about the potential of using food as a bargaining chip for things we need, and it now seems to be an opportune time for a coordinated effort in this regard. For this reason, my bill requires that the Secretary of Agriculture, in cooperation with the U.S. Trade Representative, make a detailed study of this potential and report to Congress not later than January 1, 1981. When we develop the 1981 farm bill, I want to know how we can both increase agricultural trade and our supplies of energy and other scarce resources.

Eight. Authority for the Secretary of Agriculture to use the Commodity Credit Corporation to purchase, in addition to grain, all other agricultural commodities that were under contract for delivery to the Soviet Union but suspended by the embargo.

Mr. President, the decision to suspend agricultural trade with the Soviet Union included cutting off sales to a number of agricultural commodities in addition to grain, the export of a significant amount of poultry, for example, was suspended—some 65 thousand tons.

I believe that adequate legal authority exists to permit the Secretary of Agriculture to purchase or otherwise handle—in the same manner as he is handling grain—poultry and other agricultural commodities that were under contract to be delivered to the Russians. I feel strongly that the Secretary of Agriculture should treat all agricultural commodities equitably. My bill would make it clear that the Secretary has the legal authority to use the Commodity Credit Corporation to deal with all agricultural exports in the same manner as he is handling grain.

Mr. President, this summarizes what my bill will do to lessen the impact of the suspension of sales of agricultural commodities to the Soviet Union—changes in our farm programs that would not cost the Federal Government an arm and a leg. My bill is designed to put farm income up to where it would have been without the embargo. Farmers' management decisions concerning what and how much to produce and when to sell were based on growing export markets—but all that is changed now by the embargo.

While I support President Carter's firm and forceful stand against the Soviet aggression in Afghanistan, I also support the view that farmers have the right to expect that the burden and sacrifices will be shared by all Americans. My bill will help assure that this will be the case.

The eight changes in law made by my bill are fine tuned to the current needs of our farmers. On January 22, 1980, a hearing by the Committee on Agriculture, Nutrition, and Forestry was held to get the Secretary of Agriculture's most realistic and honest assessment of:

First. The estimated economic impact of the grain sales suspension in both the short- and long-run—for our farm economy;

Second. The adequacy of the actions the administration has announced thus far to offset this potentially devastating blow to American agriculture; and

Third. The other steps that may be needed to protect our farmers from being unfairly burdened by foreign policies that dramatically affect agricultural exports and farm income.

I ask unanimous consent, Mr. President, that the statement I made at the hearing be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HERMAN E. TALMADGE

Mr. Secretary, thank you for coming today. We appreciate your rearranging your schedule so that you could appear on the opening day of Congress for a full and frank assessment of the agricultural situation and outlook.

Your annual appearances before this Committee to discuss the state of American agriculture have become traditional. They have always proved productive and helpful to the Committee.

This year, your appearance assumes greater significance and urgency because of the President's suspension of further grain shipments to Russia in response to the Soviet's brazen aggression in Afghanistan.

I am certain that every thinking American recognizes the grave implications that the Soviet aggression in the Middle East hold for our national security. As the President said in his January 4 address to the Nation: "A Soviet-occupied Afghanistan threatens both Iran and Pakistan and is a steppingstone to possible control over much of the world's oil supplies."

This is an intolerable situation from the standpoint of American strategic interests and our national welfare. I believe that the President had no choice—and I believe we as a nation have no choice—but to take a firm and forceful stand against this Soviet aggressive threat.

Aggressors of whatever stripe understand only firmness and force. The Soviet Union must not mistake our national resolve in this instance.

One of the drastic steps that the President has taken in response to the Russian aggression is to suspend further grain shipments to the USSR. This action predictably resulted in an immediate drop in most farm commodity prices and has cast a cloud of uncertainty over the entire agricultural economy.

The farmers of this country are loyal and patriotic. They are willing and eager to shoulder whatever burdens and sacrifices are required of Americans in the national interest. But farmers have a right to expect that the burden and sacrifices will be shared by all Americans.

President Carter has stated his determination to minimize any adverse impact on farmers resulting from the grain cut-off. That is what this Committee wishes to explore with you today.

In particular, Mr. Secretary, the Committee wants to know the most realistic and honest assessment of:

(1) The estimated economic impact of the grain sales suspension—in both the short- and long-run—for our farm economy;

(2) The adequacy of the actions the Administration has announced thus far to offset this potentially devastating blow to American agriculture;

(3) What other steps may be needed to protect our farmers from being unfairly burdened as a result of foreign policies that dramatically affect agricultural exports and farm income.

Mr. Secretary, I and the other members of this Committee will listen carefully to what you have to say today concerning the actions you already have announced to moderate the effects of the grain sales cut-off. I commend you and the Administration for what has been done thus far. I can assure you that this Committee stands ready and willing to help in any way so that these steps can be carried out in a timely manner.

However, as you know from the letter I sent you last Friday, I for one question whether the actions that have been announced are sufficient to deal with the problem.

I must say to you, Mr. Secretary, that I reserve the option and will not hestitate to initiate whatever other steps I feel are necessary through legislation to carry out the President's pledge "to minimize any adverse impact on the American farmer."

In addition, Mr. Secretary, before the hearing is concluded today, I want to hear your comments on the proposals outlined in the letter and the Administration's position on my energy bill (S. 1775), which in modified form is title II of S. 932, now being considered by a Committee of Conference. In short, Mr. Secretary, do you or do you not support title II.

Senator TALMADGE's letter of January 18 to Secretary Bergland reads as follows:

U.S. SENATE,
January 18, 1980.

Hon. BOB BERGLAND,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I am greatly concerned that the actions thus far announced by the Administration may be insufficient to protect the American farmer from the adverse effect of the President's decision suspending shipments of agricultural commodities to the Soviet Union.

I would, therefore, appreciate your comments on the following legislative initiatives that I am considering for introduction:

1. Amendment of the Food and Agriculture Act of 1977 to permit (a) the making of price support loans on 1979 crop corn to producers who did not participate in the 1979 Feed Grain Program, and (b) participation by such producers in the farmer-held reserve.

It is imperative that policies be initiated immediately to ameliorate the economic burden that most farmers now face because of the grain sales suspension. Since much of the grain committed to Russia was corn, actions must be taken to isolate this corn from the market. You have announced increased loan rates, adjusted release and call prices, increased storage payments, and forgiveness of interest charges for the next 512 million bushels of corn entering the farmer-held reserve.

While I commend you for these actions, only those farmers who participated in the 1979 program for corn are eligible.

A significant portion of the 1979 crop of corn is not eligible to be placed in the farmer-held reserve or the price support loan program. Since market prices are depressed and many farmers need to sell their corn so that they can pay their bills and purchase production items for the 1980 crop, all producers of 1979 crop corn should be eligible to receive price support loans and participate in the expanded farmer-held corn reserve. (Farmers who did not participate in the 1979 program should not be eligible, however, for other program benefits such as disaster payments.) This action would relieve the immediate economic burden on many farmers while assuring that enough corn is placed in the reserve to stabilize prices. Farmers who placed their corn in the reserve before the suspension should also be afforded all of the benefits recently announced, including forgiveness of interest charges.

2. Amendment of the Agricultural Act of 1949 to permit Commodity Credit Corporation stocks of corn to be sold at the current loan rate when used for making alcohol for motor fuel.

Under existing law, when a farmer-held reserve is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat and feed grains at less than 150 percent of the current level of price support. The only exceptions are for stocks that are substantially deteriorated or in danger of deterioration, or for specified emergency or disaster assistance programs.

The law should be changed to allow corn from Commodity Credit Corporation stocks to be sold at the loan rate if used for making alcohol for motor fuel in new production facilities.

This change in law would be a great incentive in getting many new alcohol production facilities quickly built and producing much needed alternative energy supplies. To make sure that such alcohol facilities do not depend on lower-priced corn in the long term, these facilities should be required to have the flexibility to produce alcohol from other agricultural and forestry biomass products during times when the market price of corn is high due to short supplies.

3. Amendment of the Agricultural Act of 1949 to permit the making of price support loans on 1979 crop soybeans to producers who did not comply with the normal crop acreage requirement.

I understand that the existing regulations require that a soybean farmer must have complied with any normal crop acreage requirement established by the Department in order to place his 1979 production under the price support loan program. Because of this requirement, much of the soybeans produced last year are not eligible for the loan program.

Soybean prices have dropped substantially the past few days, and many producers prefer to hold their crop in hopes of a price recovery. Many of these farmers are faced with a severe shortage of cash, however, and it only makes good sense to allow all of the 1979 crop of soybeans to be eligible for the soybean loan program—disregarding the normal crop acreage requirement. This change could, of course, be accomplished by an amendment of the regulations, and I urge you to amend them.

4. Enactment of legislation authorizing a food security reserve of wheat.

Last year, at the request of the Administration, I introduced a bill (S. 1278) to authorize the President to establish a food security reserve of wheat to ensure that stocks will be available for the Public Law 480 food aid program even in a period of tight supplies.

While you have announced that the Commodity Credit Corporation will proceed to purchase wheat from the 1979 crop for the reserve, the actual establishment of the reserve is dependent upon the enactment of legislation.

5. Amendment of the Commodity Credit Corporation Charter Act to increase the maximum loan that may be made for farm storage facilities.

Under existing law, the maximum loan that may be made to a producer for a farm storage facility is $50,000.

In order to assure that there are adequate facilities for storing the commodities our farmers produce, I believe that it would only be prudent to increase the maximum loan amount to $100,000. Other changes may also be needed to expand the farm storage facility loan program. An expanded program would be useful for farmers who elect to keep in storage for several months part of their 1979 crops of wheat, feed grains, and soybeans in hopes that prices will rebound. New storage facilities could also be built under the program for the 1980 crops.

6. A one-year extension of the economic emergency loan program.

In 1978, Congress responded to the emergency credit needs of farmers brought about by economic stresses and established the economic emergency loan program.

However, the authority for making and guaranteeing loans under this program expires May 15, 1980. A one-year extension of the program would greatly assist farmers in obtaining cash to purchase the necessary supplies to plant their 1980 crops. Many farmers would have no way of obtaining the needed cash to pay their expenses in the absence of the program—unless they sell their 1979 crops at depressed prices and take an economic beating.

7. Amendment of the Food and Agriculture Act of 1977 to permit the establishment of a set-aside program for the 1980 crop of feed grains.

While policies must be adopted to relieve the immediate economic burden being experienced by farmers, short-term production cutbacks must be achieved—especially for corn and other feed grains—or our farm economy may experience financial disaster. While there may be sporadic upswings in grain prices, most experts predict that the long-range economic effect of the grain sales suspension will be significant.

Much of the 1980 crops of corn and other feed grains will be harvested 8 to 9 months from now. Adequate reserves will likely have been established, and the Russians could renege on their commitment to purchase six million metric tons of grain during the fifth year of our grains agreement with them. (Under the agreement, the Russians may buy an additional two million tons without prior consultation with the United States.)

I am fearful that the economic impact of the Russian grain sales cut-off could be greater for the 1980 crops of corn and other feed grains than for the 1979 crops. Moreover, this gloomy outlook could also have a negative impact on soybean farmers; farmers could easily switch from corn and plant more soybeans which would cause the price of soybeans to plummet this fall.

Given these fears, I believe that a 1980 feed grain set-aside is a necessity. (I understand that your General Counsel has advised you that, in view of your announcement last October that there would be no set-aside for the 1980 crop of feed grains, legislation would be required to permit you to proclaim a 1980 set-aside.)

Depending on the size of the feed grain set-aside, a voluntary paid diversion should also be initiated to make sure that enough acreage in total will be taken out of production to reduce supply by at least what the Russians would have likely purchased during the fifth year of the grains agreement.

It may also be necessary to increase loan rates and target prices for corn and other feed grains. In addition, it may be necessary to increase the soybean loan rate for the 1980 crop.

8. The initiation of policies that will promote increased demand, both foreign and domestic, for U.S. farm products.

The President has announced his support of policies to stimulate the production of alcohol from on-farm and small- and medium-scale production facilities using corn, forestry residues, and other agricultural biomass as feedstock. I am delighted that he is supporting a program that is patterned after the agriculture, forestry, and rural energy bill I introduced last year (S. 1775) and which was incorporated as title II in the Senate's overall energy legislation now in conference (S. 932).

Alternative fuels from agricultural biomass are one of the few short range answers to our Nation's energy needs. This is an excellent way to increase the domestic demand for agricultural and forestry products while at the same time extending our supplies of energy.

We also need to be thinking seriously about developing new and permanent trading partners with regard to agricultural exports. The world's population is increasing steadily, and our capacity for producing food is not growing as fast. Surely, many countries, in the near future, will be willing to trade natural resources, such as oil and natural gas, in exchange for our food. By the year 2000, food could be a critical tool in developing our international policy—so why not start and negotiate bilateral trade agreements with several countries that have something we want in return. Mexico and China offer great promise in this regard.

It is time we become more hard-nosed about the potential of using food as a bargaining chip for things we need, and it now seems to be an opportune time for a coordinated effort in this regard. For this reason, I am requesting that you, in cooperation with the United States Trade Representative, make a detailed study of this potential and report to the Committee not later than January 1, 1981. When we develop the 1981 farm bill, I want to know how we can increase agricultural trade and our supplies of energy and other scarce resources—all at the same time.

Finally, Mr. Secretary, I urge you to use all of your existing authorities to protect the American farmer. In this regard, I urge you to make use of more of our grain under the Public Law 480 program. Also, I think you should exercise the authority in the Emergency Agricultural Act of 1978 to use production on farms enrolled in the annual commodity programs for the purpose of making alcohol for blending with gasoline.

With every best wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

Mr. TALMADGE. During the hearing, Mr. President, I listened carefully to what the Secretary had to say concerning the actions that the administration has announced to moderate the effects of the grain sales cut-off. Also, I thoroughly questioned him about many of the changes in policy my bill would put into place. I told the Secretary at that time that I would not hesitate to initiate whatever steps I felt would be necessary through legislation to carry out the President's pledge "to minimize any adverse impact on the American farmer."

After much thought and discussion with many of my Senate colleagues and Georgia farmers, and after receiving correspondence from every major farm organization, I believe that the National Agricultural Security Act of 1980—with its eight provisions—is needed and I urge its early enactment.

Furthermore, Mr. President, I have encouraged the Secretary to take administrative action and announce a voluntary paid diversion program for the 1980 crops of corn and other feed grains. Under the Food and Agriculture Act of 1977, he has the authority to implement such a program immediately, and I urged him to do so in my letter to him of January 25, 1980. According to many agricultural economists, a paid diversion is one of the most cost-effective ways of reducing excess supplies.

Moreover, following the January 22, 1980 hearing, I sent a letter to the Secretary urging him to do everything possible administratively to ease the farm credit crunch that now is widespread in this Nation. I offered several suggestions for improving the situation.

A voluntary paid diversion program for feed grains and steps to ease the farm credit crunch are two actions that the Secretary can take immediately. No change in existing law is needed.

Mr. President, I ask unanimous consent that the two letters I sent to Secretary Bergland on these issues be printed in the RECORD. I also ask unanimous consent that the letters I sent to Senator EAGLETON and to Congressman WHITTEN concerning authority for the Farmers Home Administration to offer additional credit to our farmers and ranchers for the 1980 fiscal year be printed in the RECORD. I also ask unanimous consent that the text of the bill I am introducing today and a summary be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., January 22, 1980.

Hon. BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Prior to the announced embargo of feedgrains and wheat to the Soviet Union, the Department of Agriculture had already predicted that farm income in 1980 would decline by 20 percent. Further, hearings which my Committee on Agriculture, Nutrition, and Forestry held showed that as far back as last summer many rural banks were at or near their legal lending limits.

In anticipation of continuing good grain prices, many farmers held their grain until the first of the year for income tax purposes. Therefore, they will be selling their grain at lower prices while production costs for the upcoming crop year are expected, by some estimates, to rise 20 to 30 percent.

My experience thus far in 1980 in Georgia has been that with credit supplies severely limited from other traditional sources, the Farmers Home Administration is being asked to provide lending assistance to many producers who would not normally be using FmHA.

I know the Farmers Home Administration is doing its best to service all of its borrowers, but I would like to suggest several steps that may provide our producers with some immediate short-term relief.

If at all possible, I would like FmHA to dispatch some emergency teams to Georgia to help alleviate the tremendous backlog in pending applications now needing processing.

Secondly, it may be desirable at this time to institute a liberalized policy on deferrals and moratoriums of loan repayments.

A third possibility that may help some of our producers would be a liberalization of FmHA's refinancing policy on existing debt.

Mr. Secretary, you and I both realize the steps outlined above are only temporary, and that two of the most crucial problems facing the Farmers Home Administration are lack of funds to serve all those in need of assistance (I understand that you can only serve approximately one out of every three applicants) and staffing levels woefully inadequate to properly make loans and service FmHA's loan portfolio.

I had earlier called on you to support extension of the Economic Emergency Loan Program scheduled to terminate on May 15, 1980, and you have my strong assurances that my Committee will continue to work with you and the Farmers Home Administration to alleviate these other long term problems.

Any action you can take on the temporary steps outlined above would be appreciated by both me as well as agricultural producers in Georgia and around the Nation.

With every good wish, I am
Sincerely,
HERMAN E. TALMADGE,
Chairman.

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., January 22, 1980.

Hon. THOMAS F. EAGLETON,
Chairman, Subcommittee on Agriculture, Rural Development and Related Agencies, Appropriations Committee, Washington, D.C.

DEAR MR. CHAIRMAN: Prior to the embargo of feedgrains and wheat to the Soviet Union, the Department of Agriculture predicted that farm income in 1980 would decline by 20 percent. Further, hearings which my Committee held showed that as far back as last summer many rural banks were at or near their legal lending limits.

My experience thus far in 1980 in Georgia has been that, with credit supplies from traditional sources severely limited, the Farmers Home Administration is being asked to provide financial assistance to producers who would not normally be using FmHA as a source of funds.

As you well know, the loan level authorizations provided for in the annual appropriations bill are never adequate to serve all those who truly need help. It appears that this year the situation is even more critical than in the past. The banks have very limited funds available, and agribusiness merchants who normally extend credit are demanding cash on delivery.

Because of the crucial nature of this situation, I am respectfully requesting that you give immediate consideration to a supplemental appropriations for the Farmers Home Administration to meet the needs of America's agricultural producers. If a supplemental appropriations measure is considered it should also contain funding for additional personnel to help alleviate the tremendous backlog of FmHA loans awaiting processing.

With every good wish, I am
Sincerely,
HERMAN E. TALMADGE,
Chairman.

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., January 22, 1980.

Hon. JAMIE L. WHITTEN,
Chairman, Appropriations Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Prior to the embargo of feedgrains and wheat to the Soviet Union, the Department of Agriculture predicted that farm income in 1980 would decline by 20 percent. Further, hearings which my Committee held showed that as far back as last summer many rural banks were at or near their legal lending limits.

My experience thus far in 1980 in Georgia has been that, with credit supplies from traditional sources severely limited, the Farmers Home Administration is being asked to provide financial assistance to producers who would not normally be using FmHA as a source of funds.

As you well know, the loan level authorizations provided for in the annual appropriations bill are never adequate to serve all those who truly need help. It appears that this year the situation is even more critical than in the past. The banks have very limited funds available, and agribusiness merchants who normally extend credit are demanding cash on delivery.

Because of the crucial nature of this situation, I am respectfully requesting that you give immediate consideration to a supplemental appropriations for the Farmers Home Administration to meet the needs of America's agricultural producers. If a supplemental appropriations measure is considered it should also contain funding for additional personnel to help alleviate the tremendous backlog of FmHA loans awaiting processing.

With every good wish, I am
Sincerely,
HERMAN E. TALMADGE,
Chairman.

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., January 25, 1980.

Hon. BOB BERGLAND,
Secretary of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: I urge you to institute immediately a voluntary paid diversion program for the 1980 crops of corn and other feed grains with adequate payments to divert enough acreage to bring supply into balance with need and increase farm commodity prices.

As you know, Mr. Secretary, I am greatly concerned that the actions thus far announced by the Administration may be insufficient to protect the American farmer from the adverse effect of the President's decision suspending shipments of agricultural commodities to the Soviet Union.

On January 18, 1980, I sent you a letter outlining several policy initiatives that I believe would ease the grain embargo's impact on farmers. One of the initiatives concerned a set-aside or paid diversion for the 1980 crop of corn and other feed grains.

While policies must be adopted to relieve the immediate economic burden being experienced by farmers, short-term production cutbacks must be achieved—especially for corn and other feed grains—or our farm economy may experience financial disaster. While there may be sporadic upswings in grain prices, most experts predict that the long-range economic effect of the grain sales suspension will be significant.

Much of the 1980 crops of corn and other feed grains will be harvested eight to nine months from now. Adequate reserves will likely have been established, and the Russians could renege on their commitment to purchase six million metric tons of grain during the fifth year of our grains agreement with them. (Under the agreement, the Russians may buy an additional two million tons without prior consultation with the United States.) Too, even if the Russians are willing to buy, the longshoremen may continue in their refusal to load grain destined for Soviet ports.

I am fearful that the economic impact of the Russian grain sales cut-off could be greater for the 1980 crops of corn and other feed grains than for the 1979 crops. Moreover, this gloomy outlook could also have a negative impact on soybean farmers; farmers could easily switch from corn and plant more soybeans which would cause the price of soybeans to plummet this fall.

Given these fears, I believe that a 1980 feed grain set-aside or a voluntary paid diversion program is a necessity. It is essential that enough acreage be taken out of feed grain production to reduce supply by at least what the Russians would have likely purchased during the fifth year of the grains agreement. The authority for you to establish a voluntary paid diversion program is contained in the Food and Agriculture Act of 1977.

When you appeared before my Committee last Tuesday to respond to questions concerning the economic impact of the grain sales suspension on our farm economy and the adequacy of the steps the Administration has announced to offset this potentially devastating blow to American agriculture, you implied that you would not seriously consider announcing a 1980 set-aside for feed grains even if given the legal authority to do so. You did state, however, that you would make a decision on a paid diversion program for feed grains by no later than March 1, 1980.

This is not soon enough, Mr. Secretary. Farmers in the southern part of my State and other sunbelt States will be planting corn shortly. Therefore, I urge you to announce a voluntary paid diversion program for feed grains immediately.

Farmers must know what our farm policy is going to be for the 1980 crops. No new facts or reports of major consequence will be made available during the next few weeks—so why not make a decision on a diversion program now? While delaying such a decision would allow you to see what the market prices will do in response to your announced decisions for the 1979 crop of feed grains, this information will shed no light on what prices will be this fall for the 1980 crop; too many uncertainties exist. We know that farmers plan to plant more corn this year than last, and that there is some chance that no U.S. grain will be exported to Russia this year.

In summary, Mr. Secretary, I believe that a voluntary paid feed grain diversion program is needed for the 1980 crops, and the sooner you announce it the better off farmers in Georgia and other States will be in making their management decisions.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

S. 2258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Agricultural Security Act of 1980".

PARTIAL ELIGIBILITY FOR PRICE SUPPORT LOANS AND PARTICIPATION IN THE PRODUCER STORAGE PROGRAM WITH RESPECT TO THE 1979 CROP OF CORN

SEC. 2. Effective with respect to the 1979 crop of corn, the Agricultural Act of 1949 is amended by inserting immediately after section 105A a new section 105B as follows:

"PARTIAL ELIGIBILITY FOR PRICE SUPPORT LOANS AND PARTICIPATION IN THE PRODUCER STORAGE PROGRAM WITH RESPECT TO THE 1979 CROP OF CORN

"SEC. 105B. (a) Notwithstanding any other provision of law, the Secretary may make available to any producer who did not file a timely agreement to participate in the 1979 feed grain set-aside program under section 105A of this Act—

"(1) loans and purchases under section 105A(a)(1) of this Act, and

"(2) participation in the producer storage program under section 110 of this Act,

on up to 50 percent of the corn produced in the 1979 crop year on the producer's acreage normally planted to crops designated by the Secretary under section 1001(a) of the Food and Agriculture Act of 1977.

"(b) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.".

SALE OF COMMODITY CREDIT CORPORATION STOCKS FOR USE IN MAKING ALCOHOL FOR MOTOR FUEL

SEC. 3. Section 110(d) of the Agricultural Act of 1949 is amended by—

(1) striking out "and" at the end of clause (1);

(2) striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(3) adding at the end thereof a new clause (3) as follows:

"(3) sales of corn for use in the production of alcohol for motor fuel at facilities that (A) begin operation after January 4, 1980, and (B), whenever supplies of corn are not readily available, can produce alcohol from agricultural or forestry biomass feedstock other than corn."

NONAPPLICABILITY TO THE 1979 CROP OF SOYBEANS OF THE REQUIREMENT FOR A REDUCTION OF NORMALLY PLANTED ACREAGE

SEC. 4. Section 1001(a) of the Food and Agriculture Act of 1977 is amended by striking out the period at the end of the section and inserting in lieu thereof a colon and the following: "*Provided,* That the reduction of acreage normally planted to designated commodities required by the Secretary under this subsection with respect to 1979 crops shall not apply as a condition of eligibility for loans and purchases for the 1979 crop of soybeans.".

FOOD SECURITY WHEAT RESERVE

SEC. 5. (a) Congress hereby declares it to be the policy of the United States to develop a wheat reserve solely to provide for emergency food needs in developing countries.

(b) In order to carry out the policy and accomplish the objective set forth in subsection (a) of this section, the President shall establish a reserve stock of wheat of up to four million metric tons for use for the purposes specified in subsection (d) of this section.

(c) Stocks of wheat for the reserve may be acquired (1) through purchases from producers or in the market if the Secretary of Agriculture determines that such purchases will not unduly disrupt the market, and (2) by designation by the Secretary of stocks of wheat acquired by the Commodity Credit Corporation.

(d) Notwithstanding any other provision of law, stocks of wheat designated or acquired for the wheat reserve under this section may be released by the President to provide, on a donation or sale basis, emergency food assistance to developing countries at any time that the domestic supply of wheat in the United States is so limited that quantities of wheat cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes, under the criteria of section 401(a) of that Act: *Provided,* That up to three hundred thousand metric tons of wheat may be released from the reserve under this section in any fiscal year to provide urgent humanitarian relief in any developing country suffering a major disaster as determined by the President.

(e) Wheat released from the reserve for the purposes of subsection (d) of this section shall be made available under the Agricultural Trade Development and Assistance Act of 1954, except that section 401(a) of that Act, with respect to determinations of availability, shall not be applicable thereto.

(f) The Secretary of Agriculture shall provide for the management of stocks of wheat in the reserve as to location and class of wheat needed to meet emergency situations and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity removed from the wheat reserve for the purposes of this subsection shall be promptly replaced with an equivalent quantity.

(g) Stocks of wheat in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of subsection (d) of this section or for the purposes of administering the Agricultural Trade Development and Assistance Act of 1954 and shall not be subject to any quantitative limitations on export that may be imposed under section 7 of the Export Administration Act of 1979.

(h)(1) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credti Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposal of wheat for or in the reserve.

(2) The Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 for wheat released from the reserve that is made available under that Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such wheat. Such reimbursement may be made from funds appropriated for that purpose in subsequent years.

(i) Any determination by the President or the Secretary of Agriculture under this section shall be final.

INCREASE IN THE MAXIMUM CCC LOAN FOR FARM STORAGE FACILITIES

SEC. 6. Section 1104 of the Food and Agriculture Act of 1977 is amended by striking out "$50,000" wherever that figure appears therein and inserting in lieu thereof "$100,000".

EXTENSION OF ECONOMIC EMERGENCY LOAN PROGRAM

SEC. 7. The Emergency Agricultural Credit Adjustment Act of 1978 is amended by—

(1) in section 207(c), striking out "$4,000,000,000" and inserting in lieu thereof "$6,000,000,000"; and

(2) in section 211, striking out "May 15, 1980" and inserting in lieu thereof "September 30, 1981".

STUDY OF THE POTENTIAL FOR EXPANSION OF U.S. AGRICULTURAL EXPORT MARKETS AND THE USE OF AGRICULTURAL EXPORTS IN OBTAINING NEEDED MATERIALS

SEC. 8. (a) The Secretary of Agriculture, in cooperation with the United States Trade Representative, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study not later than December 31, 1980.

(b) In performing the study, the Secretary shall determine—

(1) world food, feed, and fiber needs over the next 20 years;

(2) estimated United States and world food, feed, and fiber production capabilities over the next 20 years;

(3) potential new or expanded foreign markets for United States agricultural products over the next 20 years;

(4) the potential for the development, over the next 20 years, of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take over the next 20 years to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

AUTHORITY TO USE THE FUNDS, FACILITIES, AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION TO PURCHASE AGRICULTURAL PRODUCTS INTENDED TO BE EXPORTED TO THE USSR

SEC. 9. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to use the funds, facilities, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that

(1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but

(2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the exportation of agricultural products to the Union of Soviet Socialist Republics, in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

SUMMARY OF THE NATIONAL AGRICULTURAL SECURITY ACT OF 1980

The bill would—

(1) Authorize the Secretary of Agriculture to make available to any producer who did not participate in the 1979 feed grain set aside program—

(A) commodity program loans and purchases, and

(B) participation in the farmer-held grain reserve program.

on up to 50 percent of the corn produced in 1979 on the producer's normal crop acreage;

(2) Authorize the Commodity Credit Corporation to sell, at not less than 115 percent of the national average loan rate, stocks of corn for use in the production of alcohol for motor fuel at new facilities that can use agricultural or forest biomass feedstocks other than corn (under existing law, the Commodity Credit Corporation may not sell its stocks of corn for such use at less than 150 percent of the national average loan rate whenever the farmer-held grain reserve program is in effect; the current loan rate for corn is $2.10 per bushel);

(3) Exclude as a condition of eligibility for commodity loans and purchases for the 1979 crop of soybeans, the Secretary's requirement for the 1979 crops that a producer's acreage normally planted to designated crops be reduced by the producer's acreage covered by the 1979 wheat and feed grain set-asides;

(4) Require the President to establish a reserve of up to 4 million metric tons of wheat for use in providing for emergency food needs in developing countries. Wheat in the reserve could be used for emergency food assistance whenever other United States domestic supplies of wheat were so limited that quantities of wheat could not be made available, except for urgent humanitarian purposes, for disposition under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480). However, when needed to provide urgent humanitarian relief in any developing country suffering a major disaster as determined by the President, up to 300,000 metric tons of wheat could be released from the reserve in any fiscal year for such use;

(5) Increase—from $50,000 to $100,000—the maximum loan that the Commodity Credit Corporation may make to any producer of grain, soybeans, rice, or high moisture forage or silage for the construction or renovation of farm storage facilities;

(6) Extend—from May 15, 1980, to September 30, 1981—the authority for making new insured or guaranteed economic emergency loans to farmers and ranchers under the Emergency Agricultural Credit Adjustment Act of 1980, and increase—from $4 billion to $6 billion—the cap on the total principal balance that may be outstanding at any time for loans under that Act;

(7) Require the Secretary, in cooperation with the United States Trade Representative, to perform a study of the potential for expanding United States agricultural export markets and using United States agricultural exports in obtaining needed resources from other countries. The Secretary would be required to complete the study and submit to the President and Congress a report on the study not later than December 31, 1980; and

(8) Authorize the Secretary to use the funds, facilities, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural commodities, other than grains, intended for export to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, that cannot be exported under such contracts due to the President's suspension of exports to the Union of Soviet Socialist Republics (this is a clarifying amendment; under existing law, the Secretary is purchasing and handling grains that were under contract for delivery to the Soviet Union).●

● Mr. HUDDLESTON. Mr. President, while rising to indicate support for enactment of the National Agricultural Security Act, I also wish to applaud the administration's quick action in announcing steps to minimize the impact of the suspension of trade with the Soviet Union on our farmers. Measures taken have met with some success. Nonetheless, while prices now average near January 4 levels in some terminal markets, they remain below their close of 1 month ago in some country markets in Kentucky and other States.

The downward pressure on prices in Kentucky has been attributed to a sharp reduction in the movement of grain, a recognition that there may be larger supplies overhanging the market, and increased uncertainty regarding future demand, supplies and prices.

As has been indicated by the Department of Agriculture's invitation for farmers and elevator operators to sell grain now congesting our export terminals, the pipeline is full. Our elevators are unable to move grain at a time when Kentucky and Midwestern grain normally flows into the Southeast and into barges for its trip to New Orleans and its longer journey to export markets.

Should prices not return and remain near their January 4 level, Kentucky and other grain producing States in the lower Midwest could bear a disproportionate share of the cost of the grain trade suspension. Over 94 percent of Kentucky's grain farmers are ineligible for Government price support loans, storage, payments, and interest forgiveness. They, as do many farmers in other States, have no alternative but to market their grain to meet their credit obligations and obtain the capital needed to plant this year's crop.

In Kentucky, as in other States, many farmers were producing in response to a strong export and domestic market, and were doing so with a feeling that an embargo would not be instituted, that is, that it was not a "normal risk factor". I do not think it is now right to say to these farmers that they should bear a disproportionate share of the costs of the trade suspension. They should be given the opportunity to place their crops under loan.

The National Agricultural Security Act of 1980 will extend to all farmers the opportunity to place up to 50 percent of their 1979 crops under loan. Further, it will permit the Secretary to move stocks of grain in excess of reserve requirements into the production of alcohol for motor fuel, to provide price support loans for soybean producers now ineligible to participate in current programs, to establish a food security reserve of wheat, to increase loans for farm storage facilities, and to extend the economic emergency loan program through September 30, 1981.

Further, while provisions of this act will help alleviate the impact of the current embargo, the Secretary should be given the authority to provide price support, should a similar action be taken in the future, through the acquisition and/or increase in reserve stocks commodities affected, and to hold such surplus stocks for the purpose of meeting food and feed emergencies and/or the production of alcohol for fuel purposes. It is my intent, therefore, to introduce a bill later this week which will provide this authority and specify how stocks acquired or put in a reserve may be used to meet our emergency food and fuel needs.●

By Mr. DOMENICI:

S. 2261. A bill to quiet title of property in Albert and Eulia Rodriquez; to the Committee on Energy and Natural Resources.

● Mr. DOMENICI. Mr. President, the relief this bill would provide is to insure a New Mexican family does not lose their home without equitable compensation. Albert and Eulia Rodriguez built a home in 1940 on land given them by Albert's grandfather. In 1974, they were advised by the Bureau of Indian Affairs that their land was in fact on Indian land. A lawsuit was commenced in 1977 to dispossess them of their home, and on May 17, 1979 a judgment was entered affirming the Taos Pueblo's ownership of the land. Not only did they lose their home. but they were almost assessed a $20,000 fine for trespassing.

The law is clear. The land belongs to the Taos Pueblo and the Pueblo is entitled to all improvements to the land. However, it seems inequitable to see the Rodriguez family financially wiped out by such a mistake in judgment. This legislation would merely compensate them for the value of the home, which they built and which they lost. Then there will be no real winner or no real loser, but an adjustment which will leave both parties as they started in 1940.●

By Mr. MOYNIHAN (for himself and Mr. JAVITS):

S. 2263. A bill to provide for the establishment of the Womens' Rights National Historic Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to establish a Women's Rights Historic Park in Seneca Falls, N.Y. The park, as a formal addition to the National Park System, will commemorate the historic events in Seneca Falls that marked the beginning of the women's rights movement.

The 1848 Women's Rights Convention, organized by Elizabeth Cady Stanton, Lucretia Mott, and others, and held in Seneca Falls' Wesleyan Chapel, was the setting for the signing of the declaration of sentiments, a document which can certainly be regarded as the Magna Carta of the women's movement. This unprecedented declaration called for broad societal changes aimed at eliminating discriminatory restrictions on women in all their spheres of life. The right to vote, to own property, to become educated, to have equitable divorce and child care laws * * * all these and more were proclaimed in this landmark document.

Two years later in Seneca Falls, Susan B. Anthony and Elizabeth Cady Stanton met and formed a feminist coalition that was eventually to culminate in the National Women's Suffrage Association of 1869. By 1919, women had finally acquired the right to vote, as the 19th amendment to the Constitution was passed.

To commemorate the early beginnings of the women's movement and to recognize the significant role that Seneca Falls has played in the movement, I am offering today a bill that will create a new historic park within Seneca Falls. This proposal, in which I am joined by my distinguished colleague Senator JAVITS, and in the House by Congressmen BINGHAM and LEE, will acquire the Wesleyan Chapel and the house of Elizabeth Cady Stanton, along with specified and limited neighboring property necessary to maintain the historic scene. Rights will also be acquired to three other properties related to the women's movement, although these properties would not be formally acquired by the Park Service. The additional properties include the home of Amelia Bloomer, a woman who participated in the Woman's Rights Convention and who is known for her contribution to dress reform and for the popularization of "bloomers." Also included will be the Hunt house and the McClintock house, two additional sites in the neighboring town of Waterloo, which were used for planning activities related to the convention.

Together these five sites will be used for an interpretive park that will serve to publicize the early events of the women's movement and to heighten public awareness of its significance. Additionally, a downtown preservation district will be created in which private preservation efforts will be encouraged. Among the significant landmarks in this downtown area will be the Women's Hall of Fame. an institution established in 1970 which was created to honor women of accomplishment throughout the years.

The pattern for the entire Women's Rights Historic District concept is the Lowell National Park in Massachusetts. As in Lowell, the park is created not to protect and publicize one major landmark, but rather to preserve a whole range of elements which together combine to illustrate a larger movement.

To advise the Secretary of the Interior on the administration of this new historic park, the bill mandates the creation of a women's rights national historic district advisory commission, with representation composed of the involved localities, agencies, and private groups and institutions. Also, in order to encourage further the commemoration of the women's movement in the Seneca Falls area, the Secretary of the Interior is authorized to commence cooperative agreements with nonprofit groups to develop and implement programs relating to the women's movement.

The cost of creating this new historic park will be minimal. Land acquisition is estimated to require $429,000. Operation and maintenance costs are estimated at $240,000 per year, and development costs are estimated at $1,600,000. The total then for the creation of this unique park and for its first year of operation and maintenance, would be approximately $2.2 million, a small price to pay for a new national park highlighting this important movement.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSES

SECTION 1. (a). The Congress finds that—

(1) The Women's Rights Convention held at the Wesleyan Methodist Chapel in Seneca Falls, New York, in 1848 is an event of major importance in the history of the United States because it marks the formal beginning of the struggle of women for their equal rights.

(2) The Declaration of Sentiments approved by the 1848 Women's Rights Convention is a document of enduring relevance, which expresses the goal that equality and justice should be extended to all people without regard to sex.

(3) There are nine Women's Rights Historic Sites located in Seneca Falls and Waterloo, New York, associated with the 19th century women's rights movement.

(b) It is the purpose of this Act to preserve and interpret for the education, inspiration and benefit of present and future generations the nationally significant historical and cultural sites and structures associated with the formal beginning of the struggle for equal rights for women and to cooperate with State and local entities to preserve the character and historic setting of Seneca Falls.

ESTABLISHMENT

SEC. 2. (a) To carry out the purpose of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is hereby authorized to establish the Women's Rights National Historical Park, as depicted on the map entitled "Boundary Map, Women's Rights National Historical Park," numbered WORI 80,002 and dated January 1980. Said map shall be on file and available for public inspection in the offices of the Secretary of the Interior, Washington, D.C. The Secretary is authorized to acquire such land, or interest therein he deems necessary, by donation, purchase with donated or appropriated funds, or exchange; fee acquisition shall be limited to the following Women's Rights Historic Sites in Seneca Falls:

1. Stanton House, 32 Washington Street.
2. Dwelling, 30 Washington Street.
3. Dwelling, 34 Washington Street.
4. Lot, 26–28 Washington Street.
5. Former Wesleyan Chapel, 126 Fall Street.
6. Theater, 128 Fall Street.

Less-than-fee acquisition may be explored for preserving the following Women's Rights Historic Sites:

1. Bloomer House, 53 E. Bayard Street, Seneca Falls.
2. McClintock House, 16 E. Williams Street, Waterloo.
3. Hunt House, 401 E. Main Street, Waterloo.

(b) The Secretary shall administer the park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented, and the Act of August 21, 1935 (39 Stat. 535) as amended.

SEC. 3. (a) The Secretary will encourage local and State agencies to establish a preservation commission, with responsibility to develop and implement a plan for the preservation and rehabilitation of the area within the park boundary in order to preserve the 19th century character so that the setting as well as the key structures remain intact.

(b) The Secretary is authorized to provide technical assistance and funding for the preservation plan, up to a limit of 50 percent of the total cost of the preservation plan.

ADVISORY COMMISSION

SEC. 4. (a) There is hereby established the Women's Rights National Historical Park Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall terminate ten years after the date of establishment of the park.

(b) Appointments to the Advisory Commission shall be made by the Secretary as follows:

(1) A representative of the Elizabeth Cady Stanton Foundation;

(2) A representative of the Women's Hall of Fame;

(3) A representative of the Seneca Falls Historical Society;

(4) Two members appointed by the Governor of New York;

(5) A representative of the U.S. Department of Transportation;

(6) A representative of the U.S. Army Corps of Engineers;

(7) A representative of the Village of Seneca Falls;

(8) A representative of the Town of Senaca Falls;

(9) A representative of Eisenhower College;

(10) A representative of Wells College; and

(11) A representative of Cornell University;

(12) A representative of a local agency or group dedicated to downtown commercial revitalization;

(13) Two women in non-traditional occupations or professions nominated by the Elizabeth Cadey Stanton Foundation, and;

(14) Three women from national women's groups or authors or lecturers on women's rights nominated by the Elizabeth Cady Stanton Foundation.

The Secretary shall designate one member of the Advisory Commission to serve as chairperson and any vacancy shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without compensation, but the Secretary may pay expenses reasonably incurred by the Advisory Commission and reimburse members for reasonable expenses incurred in carrying out their responsibilities under this Act.

(d) The Secretary, or his designee, shall from time to time, but at least four times a year, meet and consult with the Advisory Commission on matters relating to the development of the park and with respect to carrying out the provisions of this Act. The Advisory Commission may determine when meetings will be held less frequently.

COOPERATIVE AGREEMENTS

SEC. 5. The Secretary is authorized to enter into cooperative agreements with appropriate non-profit entities for developing and implementing programs related to the women's rights movement, which could include research, lectures, seminars, studies, publications and conferences.

GENERAL MANAGEMENT PLAN

SEC. 6. Within three years the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States

House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the Women's Rights Historic Sites.

FEDERAL CONSISTENCY

SEC. 7. Any federal entity conducting or supporting activities directly affecting the park shall consult with the Secretary prior to the issuance of final approval for said activity, license or permit.

FUNDING

SEC. 8. There are hereby authorized such sums as may be necessary to carry out the provisions of this Act.●

By Mr. EXON:

S. 2264. A bill to amend section 110 of the Agricultural Act of 1949 and section 4(h) of the Commodity Credit Corporation Charter Act; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. EXON. Mr. President, I am introducing today legislation which many believe to be necessary in order that the American farmer is protected from bearing the full burden of the recent action taken by the President with regard to the national security grain embargo against the Soviet Union. In order that the administration may keep its commitment to our food plant, changes in existing law are necessary. Congress, therefore, must expeditiously act on these areas to assist our farmers to recover from acts over which they had no control.

This bill increases the current $50,000 maximum loan the Commodity Credit Corporation may make to producers for on-farm grain storage facilities to $100,000. Mr. President, this increase is necessary in light of the suspension which has created a new demand for on-farm storage facilities which have dramatically increased in cost. One farmer from Nebraska told me that he very much wanted to put up a new storage facility, but the cost had increased so much that he would be over the $50,000 limit. This situation is widespread through my State and, I understand, throughout the grain belt. This change will relieve this situation, and has been requested by the Secretary as a further step necessary in protecting our food plant.

Mr. President, the second part of this legislation would provide immediate additional loan cash to those farmers who have been participants in the farm program. The change this legislation proposes will increase the loan rates for that corn in the reserve from the current $2.10 per bushel to $2.50 per bushel. The loan rate for wheat in the reserve only would be increased from the present level of $2.50 to $3.50 per bushel.

This action, Mr. President, would provide immediate and much-needed cash to those farmers who have been in the reserve program through 1979, and who are in need of additional sums, in order to pay their ever-increasing costs of operation, during this period of very tight money supplies and low commodity prices primarily as a result of the embargo. Mr. President, this change will not affect the basic loan levels of $2.10 for corn and $2.50 for wheat, nor will it affect the release and call levels for grain in the reserve. It simply gives those people who have been in the reserve program the needed stimulus to carry through this difficult period.

The bill will also provide indirect assistance for those farmers who have previously not participated in the program by increasing incentives to take program grain off the market. If our food plan is to survive, we must provide the necessary incentives for our farmers to take part. This participation, brought about by this legislation, will result in better market prices for all commodities.

In a recent meeting with the Secretary of Agriculture, Mr. Bergland, I discussed this very approach as a means of direct stimulation to the farm economy. There was agreement that this type of approach, as proposed by this measure, will encourage our grain producers to participate in the reserve as well as rewarding those who previously have been voluntarily in the program. Mr. President, the Secretary gave me his assurances that he would support this type of legislative approach. While additional work is needed to gain the support of other administration officials, the Secretary said he would begin work immediately after introduction of this bill to assist in its passage.

Certainly, Mr. President, we should be able to expect support from all sectors of the administration for this bill. It is one step further toward the promises President Carter made to the American farmer after the decision to suspend sales to the Soviet Union was announced. The Secretary and I believe this additional step is necessary for the general health of the agriculture sector. Not only will it have an immediate beneficial effect by pumping needed dollars into the farm gate, but it will also have a long-range impact by shoring up those market prices which suffered as a result of the suspension. I urge my colleagues to expedite the passage of this legislation.

Mr. President, I recognize that the man who just left the chair, the distinguished Senator from North Dakota (Mr. BURDICK), and the man who has just entered, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), know, and respect, and appreciate the situation that the grain farmers find themselves in today.

I thank the Chair, and I send the bill to the desk.

The PRESIDING OFFICER. The bill will be received from the distinguished Senator from Nebraska and appropriately referred.

By Mr. DURENBERGER:

S. 2265. A bill to amend part III of subchapter B of chapter 1 of the Internal Revenue Code; to the Committee on Finance.

● Mr. DURENBERGER. Mr. President, I send to the desk a bill that amends section 103 of the Internal Revenue Code relating to Industrial Development Bonds.

Mr. President, generally the purpose of this bill is to allow those well-established State and local government units primarily engaged in promoting economic development to advance refund outstanding industrial development-bond issues. The advance refunding will allow State or local subdivisions to remove unfavorable or restrictive covenants in the original bond issue, to consolidate maturities, to establish new reserve-fund provisions, and to obtain debt-service savings.

Mr. President, I would like to point out that Congress amended section 103 of the Code in 1978 to provide for advance refunding of industrial development bonds for certain qualified public facilities, namely airports, docks or wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related to these facilities, and convention or trade show facilities which are generally available to the general public. The bill I am introducing serves a needed public purpose, and any savings from a bond refunding would not benefit a private facility.

Mr. President, this bill provides for the refunding of certain outstanding tax-exempt industrial development bonds. Interest on an advance-refunding issue of an industrial development bond is tax exempt only if the refunding issue is secured by a pledge of substantial revenues of the issuer derived from at least 20 separate facilities operated or leased by the issuer, provided such pledge is on a parity of lien with other issues. The issuer must be an established governmental unit created for the express purpose of, and primarily engaged in, promoting economic development. Additionally, the issuer may not pass through to a nonexempt person any debt-service savings.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Part III of Subchapter B of Chapter 1 of the Internal Revenue Code (relating to items specifically excluded from gross income) is amended by designating section 103(b)(8) as 103(b)(9) and inserting after section 103(b)(7) the following new section:

"(8) ADVANCE REFUND OF QUALIFIED ISSUES.—

(A) IN GENERAL.—Paragraph (1) shall not apply to a refunding issue if—

(i) the refunding issue is secured by a pledge, on a parity of lien with other issues, of substantial revenues of the issuer derived from 20 or more facilities operated or leased by the issuer,

(ii) the issuer of such refunding issue is a political subdivision engaged primarily in promoting economic development,

(iii) the issure of such refunding issue was created by the State legislature at least 20 years prior to the issuance of such refunding bonds for the express purpose of promoting economic development, and

(iv) any debt service savings derived from the refunding may be used only for the proper corporate purposes of the issuer and shall not be used to reduce any existing obligation of any person who is not an exempt person (within the meaning of paragraph (3).●

By Mr. DURENBERGER:

S. 2266. A bill to amend section 1014 of the Internal Revenue Code; to the Committee on Finance.

● Mr. DURENBERGER. Mr. President, I send to the desk a bill in the nature of a technical amendment to section 1014(a) of the Internal Revenue Code to conform to the repeal of carryover basis.

It now appears that the carryover basis provision of the Tax Reform Act of 1976 will be repealed. If so it would be appropriate to amend the provision relating to the basis of property acquired from a decedent where a special estate tax valuation has been elected for real property devoted to farming or small business.

Mr. President, prior to 1976, Congress had concluded, as a policy matter, that the basis of transferred property should reflect initial cost and thereafter be increased by the addition of other capital costs and certain taxes. A Federal estate tax being in the nature of an excise tax is accessed against the fair market value of assets included in a decedent's estate. In order to avoid the complexities of allocating the tax to each specific asset, the basis of the assets are increased to reflect the estate tax valuation.

In the 1976 act, Congress recognized a problem in valuing certain assets in a decedent's estate. The Congress believed that, when land is actually used for farming purposes or in other closely held businesses—both before and after the decedents' death—it is inappropriate to value the land on the basis of its potential "highest and best use" especially since it is desirable to encourage the continued use of property for farming and other small business purposes.

As a result, the act provides that, if certain conditions are met, the executor may elect to value real property included in the decedent's estate which is devoted to farming on closely held business use on the basis of that property's value as a farm or in the closely held business, rather than its fair market value determined on the basis of its highest and best use.

Section 1014(a)(3) of the code logically provides that if the lower special valuation provision is elected, the basis of the assets will also reflect such lower valuation.

The special valuation provision also provides that if, within 15 years after the death of the decedent the property is disposed of to nonfamily members or ceases to be used for farming or other closely held business purposes, all or a portion of the Federal estate tax benefits obtained by virtue of the reduced valuation are to be recaptured. The amount of the tax benefit potentially subject to recapture is the excess of the estate tax liability which would have been incurred had the special use valuation provision not been utilized over the actual estate tax liability based on the special use of valuation provisions. Under provision of the current law, the additional amount of estate tax paid cannot be added to the basis of the property.

Mr. President, this bill would provide that the basis of property in the hands of a person acquiring such portion in the hands of a person acquiring such portion from the decedent shall be the fair market value of the property.

Mr. President, with the repeal of carryover basis there is no justification in logic or equity for not increasing the basis of property received from an estate to reflect the amount of estate tax paid.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1014 of the Internal Revenue Code of 1954 (relating to basis of property acquired from a decedent) is amended by adding at the end thereof the following new subsection:

"(e) Property Valued Under Section 2032A.—

"(1) In General.—Except as provided in paragraph (2), if property is valued under section 2032A with respect to any decedent, then the value of such property in the hands of a person acquiring such property from the decedent or to whom the property passed from the decendent shall be the value of such property determined under section 2032A.

"(2) Basis where additional tax has been imposed under section 2032A.—In the case of any portion of an interest in property described in paragraph (1) with respect to which an additional tax has been imposed by section 2032A(c), the basis of such portion in the hands of a person acquiring such portion from the decedent or to whom the portion passed from the decedent or to whom the portion passed from the decedent shall be the fair market value of such portion which would have been taken into account under chapter 11 for purposes of valuing the gross estate of the decedent but for the application of section 2032A.

"(3) Rules for the application of paragraph (2).—For purposes of paragraph (2)—

"(A) paragraph (2) shall be applied immediately before the transaction which gives rise to the additional tax imposed by section 2032A(c),

"(B) if the recapturable amount for any interest has already been imposed with respect to prior transactions, each remaining portion of such interest shall be treated as if an additional tax had been imposed with respect to such portion, and

"(C) if the transaction giving rise to the additional tax occurs during the phaseout period provided by paragraph (3) of section 2032A(c), the increase in basis by reason of paragraph (2) shall be such increase multiplied by the fraction applicable to such transaction under such paragraph (3)."

(b) Basis of Property Acquired in a Generation-Skipping Transfer.—Subsection (a) of section 2614 of such Code (relating to basis adjustment is amended to read as follows:

"(a) Basis Adjustment.—

(1) Transfers before death of deemed transferor.—If property is transferred to any person in a generation-skipping transfer which occurs before the death of the deemed transferor, the basis of such property in the hands of the transferee shall be increased (but not above the value of such property determined for purposes of this chapter) by an amount equal to the tax imposed by section 2601 with respect to such transfer.

"(2) Transfers after death of deemed transferor.—If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property in the hands of the transferee shall be the value of such property determined for purposes of this chapter.".

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply in respect of decedents dying after December 31, 1976.

(2) The amendments made by subsection (b) shall apply to property transferred in any generation-skipping transfer (as defined in section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1976.●

By Mr. CRANSTON (for himself and Mr. Hayakawa):

S.J. Res. 142. Joint resolution to authorize and request the President to issue a proclamation honoring Walt Disney on the 60th anniversary of the production of his first original animated cartoon; to the Committee on the Judiciary.

HONORING WALT DISNEY

○ Mr. CRANSTON. Mr. President, I am introducing a joint resolution to honor the memory of Walt Disney.

I feel it appropriate to pay tribute to a pioneer, innovator, and the possessor of one of the most creative imaginations which led to a successful 43-year Hollywood career. Disney's work touched millions of people worldwide and has brought joy and compassion to the people of every nation. I believe the resolution speaks for itself and I ask unanimous consent that it appear at this place in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 142

Whereas, Walt Disney demonstrated his talents in the creation of the first sound cartoon, the first use of technicolor in animation, and the first musical to combine live action with the cartoon medium;

Whereas, Walt Disney's interest in education resulted in an award winning nature series and his support of the California Institute of the Arts;

Whereas, Walt Disney, and his staff have received over 950 honors and citations from many nations, including 48 Academy Awards, and seven Emmy Awards;

Whereas, Walt Disney's personal awards include honorary degrees from Harvard, Yale, the University of Southern California, and the University of California at Los Angeles, the Presidential Medal of Freedom, France's Legion of Honor and Officer d'Academie decorations, Thailand's Order of the Crown, Brazil's Order of the Southern Cross, Mexico's Order of the Aztec Eagle and the Showman of the World Award from the National Association of Theatre Owners;

Whereas, Walt Disney has achieved worldwide recognition as an individual who exemplifies imagination, optimism and self-made success in the American tradition; and

Whereas, Walt Disney's work has touched millions of people worldwide and has brought joy and compassion to the people of every nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation honoring the memory of Walt Disney on the 60th anniversary of the creation and production of his first original, animated cartoon.●

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. MOYNIHAN, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 378

At the request of Mr. BELLMON, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 378, a bill to authorize funds for the Robert A. Taft Institute of Government.

S. 414

At the request of Mr. BAYH, the Senator from Alabama (Mr. STEWART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. HEFLIN), and the Senator from Iowa (Mr. CULVER) were added as cosponsors of S. 414, a bill to amend title 35 of the United States Code; to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes.

At the request of Mr. DOLE, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 414, supra.

S. 1101

At the request of Mr. MOYNIHAN, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 1101, a bill to amend subpart 1 of part A of title IV of the Higher Education Act of 1965 to provide for basic educational opportunity grants for elementary and secondary school students, and for other purposes.

S. 2132

At the request of Mr. BAYH, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2132, a bill to require the transmission of an alternate budget and reporting of an alternate concurrent resolution on the budget for a fiscal year if proposed spending or revenue levels exceed specified percentages of the estimated gross national product.

S. 2253

At the request of Mrs. KASSEBAUM, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 2253, a bill to provide for an extension of directed service on the Rock Island Railroad and to provide transaction assistance to the purchasers of portions of said railroad.

SENATE JOINT RESOLUTION 119

At the request of Mr. MATHIAS, the Senator from Vermont (Mr. LEAHY), the Senator from Georgia (Mr. TALMADGE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Wyoming (Mr. WALLOP), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of Senate Joint Resolution 119, a joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc. to erect a memorial.

SENATE JOINT RESOLUTION 135

At the request of Mr. BAYH, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Arkansas (Mr. BUMPERS), the Senator from Oklahoma (Mr. BOREN), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. MATHIAS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Georgia (Mr. TALMADGE), the Senator from Alabama (Mr. HEFLIN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alabama (Mr. STEWART), the Senator from Michigan (Mr. LEVIN), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of Senate Joint Resolution 135, a joint resolution to provide for designation of the first Friday of March as "Teacher Day, United States of America."

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. BAYH, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution urging the Soviet Union to allow Irina Astakhova McClellan to emigrate to the United States, and for other purposes.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. CHAFEE, the Senator from Montana (Mr. MELCHER), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution expressing the sense of the Congress that April 22, 1980, should be celebrated as Earth Day, 1980.

AMENDMENT NO. 897

At the request of Mr. SASSER, the Senator from Florida (Mr. STONE) was added as a cosponsor of amendment No. 897 proposed to S. 1648, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

SENATE RESOLUTION 359—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON, from the Select Committee on Small Business, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 359

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, and S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, in accordance with its jurisdiction under such Senate resolution, the Select Committee on Small Business is authorized from March 1, 1980, through February 28, 1981, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to procure the temporary services (not in excess of one year) or intermittent services of individuals, consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganiaztion Act of 1946, as amended.

SEC. 2. The expeses of the Select Committee under this resolution shall not exceed $333,812 of which amount not to exceed $7,000 may be expended for the procurement of the services of individual consultants, or organizations thereof.

SEC. 3. The Select Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

SEC. 4. Expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL TRADE COMMISSION AUTHORIZATIONS—S. 1991

AMENDMENT NO. 1650

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT (for himself, Mr. NUNN, Mr. SCHWEIKER, Mr. MORGAN, Mr. LEVIN, Mr. TOWER, Mr. BOREN, Mr. WARNER, Mr. GRAVEL, Mr. HELMS, Mr. HUDDLESTON, Mr. LUGAR, Mr. ZORINSKY, Mr. YOUNG, Mr. DECONCINI, Mr. PRESSLER, Mr. HUMPHREY, Mr. GOLDWATER, Mr. COCHRAN, Mr. THURMOND, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. GARN, Mr. JEPSEN, Mr. MCCLURE, Mr. SIMPSON, Mr. LAXALT, Mr. WALLOP, Mr. HATCH, and Mr. DOMENICI) submitted an amendment intended to be proposed by them, jointly, to S. 1991, a bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for the Federal Trade Commission, and for other purposes.

RESTORING CONGRESSIONAL ACCOUNTABILITY TO THE FEDERAL TRADE COMMISSION

Mr. SCHMITT. Mr. President, I am submitting today an amendment to S. 1991, The Federal Trade Commission Authorization bill reported by the Senate Commerce Committee on December 14, 1979. This amendment was previously introduced as amendment No. 212 to S. 1020, the first FTC authorization bill reported by the Committee on May 15th of last year. Thirty-five Senators joined me in cosponsoring amendment 212, and I hope their support will also be extended to this amendment when it is offered to S. 1991.

The amendment is essentially the same as that which was previously introduced, but it contains a new provision that would encourage the Supreme Court to expedite any constitutional challenge which may be made against the legislative veto. I am confident that such a challenge will fail, but a prompt resolution of any controversy that may develop would be desirable. A similar provision is contained in the FTC authorization bill already passed by the House. In addition to this provision, there are several technical and clerical changes in the amendment I am resubmitting today designed to make it clear that proposed FTC rules are "recommendations" to the Congress. These minor changes were suggested by the attorneys who have represented the House and Senate before the courts on legislative veto cases on five occasions. In each of these cases, the constitutionality of the veto has been upheld. The technical changes in this amendment are designed to bring it into greater consistency with the provision of the other congressional veto statutes which have been favorably ruled upon by the courts.

THE NEED FOR LEGISLATIVE VETO

The broad legislative mandate given to the Federal Trade Commission by Congress makes the passage of legislative veto legislation essential. The FTC Act merely provides that "unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce are hereby declared unlawful." Considering that rules of the Commission may apply to any act or practice "affecting commerce" and that the only statutory restraint is that it be unfair, the apparent power of the Commission with respect to commercial law is virtually as broad as the Congress itself. In fact, the Federal Trade Commission may be the second most powerful legislature in the country. The FTC claims the power to declare any commercial act, practice or commission to be "unfair" regardless of State law; and thereby, to amend all State statutes and reverse all State cases which may be inconsistent with its declaration. All 50 State legislatures and State supreme courts can agree that a particular act is fair and lawful, but the five-man appointed FTC can overrule them all.

Under the broad statutory language which governs the Federal Trade Commission, the FTC can regulate virtually every aspect of America's commercial life. The FTC's rules are not merely narrow interpretations of tightly drawn statutes, instead they are broad policy pronouncements which Congress has an obligation to study and review. Congress has delegated to an administrative agency the authority to write rules and regulations having the effect of law. It is only appropriate, consequently, that we hold back for ourselves the power to oversee and possibly disapprove those rules when the agency strays too far afield.

The Committee on Commerce, Science, and Transportation has held comprehensive oversight hearings on the Federal Trade Commission over the last several months. These hearings have uncovered a variety of problems at the Commission, both with regard to specific proposed rulemakings and the procedures under which rules are developed. In general, the committee bill is responsive to the problems resulting from past abuses. Chairman Pertschuk admitted that such abuses have occurred when he told the committee that some FTC staff members waged a "vendetta" against certain industries in the development of rulemaking proposals in the past. The committee is to be commended for its actions to address some of the existing difficulties at the FTC. But these are the problems of today; the committee bill does little, if anything, to prevent similar abuses from occurring in the future. For this reason a legislative veto of proposed FTC rules is not only desirable, it is essential.

The alternative would be to leave the Congress with no means of affecting the rulemaking actions of the FTC for the 2-year lifespan of the authorization bill. We have no guarantee that overzealous FTC staff's will not again embark on a "vendetta" against the small business people of our Nation. I do not think this body wants to abandon small business in this way. Acceptance of this amendment will insure that in the future controversies surrounding proposed FTC rules may be addressed by the Commerce Committee and the Senate in a timely, carefully considered and systematic procedure rather than in an ad hoc approach whenever there is an appropriations bill pending.

This amendment would provide the Congress with an opportunity to review, and possibly disapprove, proposed FTC rules during a 60-day period before they become effective. The amendment provides that proposed rules will automatically become effective after this period if the Congress takes no action. Should one House adopt a resolution to disapprove a proposed rule, such a rule would not take effect unless the other House acts to reject the resolution of disapproval. This procedure has been carefully crafted and is an embodiment of the constitutional provision which states that "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives".

CONSTITUTIONALITY

Several objections have been raised to providing Congress with the use of the legislative veto power. The most frequent is the claim that the legislative veto is unconstitutional. It is clear, however, that if it were unconstitutional, we would surely know it by now. Since 1932 Congress has enacted over 295 provisions of law with legislative review or veto powers. On those occasions where the veto has been challenged in court, it has not been ruled unconstitutional.

On September 18, 1979, the Senate vetoed a rule of the Federal Election Commission dealing with candidate debates. There was no discussion of the constitutionality of the legislative veto during the floor debate. The spector of Congress being overloaded with FTC rules was not raised. On the contrary, both the chairman and ranking minority member of the Rules Committee felt the action was appropriate, and in this case the legislative veto was used with efficiency and effectiveness.

It is an enigma why the legislative veto procedure should be thought "appropriate" when used to review the rules of the Federal Election Commission which regulates Members of Congress—but highly objectionable when it might be used to review the rules of the Federal Trade Commission which regulates our constituents.

If an election rule is objectionable to a single Member of Congress, then a resolution of disapproval can be introduced and the concerns of that Member given fair consideration. However, the rules of the FTC are beyond the reach of the Congress; and thus, beyond the reach of the public upon whom the rules may impose tremendous costs, paperwork, and inconvenience. The public must bear the cost and wait a year or two, or more, before an amendment to an authorization bill or a bill to terminate the rulemaking can be considered; if it is considered at all. This inconsistency is troubling; it suggests that we, as Members of Congress, believe we should live by different rules than the ordinary citizen. This double standard should be rejected. I am convinced that the legislative veto procedure will be appropriate and efficient when it is directed toward the concerns of the public about FTC rules, as it is when it is directed toward the concerns of the Congress about FEC rules.

This amendment includes a sunset provision that will require the veto provision to lapse at the conclusion of the authorization period, giving the Congress an opportunity to test this procedure over a limited period of time.

HOUSE ACTION

In the 95th Congress, the House of Representatives passed an FTC authorization bill which created a mechanism for possible Congressional review and disapproval of proposed FTC rules. The Senate did not act on a similar provision and the conferees twice returned a conference report to the House which did not contain a legislative veto. On both occasions it was rejected. The result was that there was no FTC authorization bill in the 95th Congress.

In the current Congress, the House Committee on Interstate and Foreign Commerce has included a legislative veto provision in the FTC authorization bill which was passed on November 27, 1979 by an overwhelming vote of 321 to 63.

HOUSE ACTION

The House has made it clear that an FTC bill which does not contain a legislative veto will be unacceptable. In light of the fact that the Federal Trade Commission has not had an authorization bill since 1976, the Appropriations Committee has been increasingly reluctant to appropriate funds for its continued operations. In order to encourage passage of an authorization bill, severe restrictions have been placed on the Commission in the continuing Resolution for Appropriations. These restrictions prohibit the promulgation of any new rules and disallow final rules from going into effect. The result is that the FTC can do little more at present than pay the salaries of its employees. Effective action in legitimate consumer protection initiatives has been hampered by the continuing uncertainty surrounding the FTC authorization bill.

In order to put an end to this uncertainty, the passage of a floor amendment to provide for legislative review and possible veto of proposed FTC rules is essential. This is a moderate and reasonable approach that will allow dispassionate consideration of the merits of individual proposed rules rather than the legislative "free-for-all"—with a dozen or more important and wide-ranging rules targeted simultaneously for termination by interest groups—which has characterized efforts to pass an FTC authorization bill in the past. In this kind of atmosphere mistakes can occur and a solution to the problems at the FTC is only deferred. Passage of a legislative veto amendment will put an end to this unfortunate situation and will allow the FTC to get on with its important business of providing consumer protection in the marketplace.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1650

On page 78, between lines 22 and 23, insert the following:

CONGRESSIONAL REVIEW OF COMMISSION RULES

SEC. 20. (a) The Federal Trade Commission Act is further amended by adding immediately after section 25, as added by section 19 of this Act, the following new section:

"SEC. 26. (a) (1) On the date on which the Commission issues a recommended final rule, the Commission shall transmit a copy of such rule to the Secretary of the Senate and the Clerk of the House of Representatives. A recommended final rule of the Commission shall not become final if within 60 days of continuous session of Congress after the date of transmittal of such rule to the Congress, one House agrees to a resolution of disapproval concerning such rule and at the end of 30 additional such days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

"(2) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the recommended final rule with which the resolution is concerned.

"(3) For purposes of this subsection, the term 'resolution of disapproval' means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: 'That the

disapproves the recommended final rule recommended by the Federal Trade Commission dealing with the matter of , which rule was transmitted to the Congress on

.', the first blank being filled with the name of the resolving House, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress.

"(b) For the purposes of this section—

"(1) continuity of session is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"(c) The provisions of paragraph (3) of subsection (a), subsection (d), subsection (e), and paragraphs (3) and (4) of subsection (h) are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but are applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsections (a)(3) and (h)(3); and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(d) (1) Resolutions of disapproval and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the committee of the Senate or the House of Representatives having legislative jurisdiction over the subject matter with which the rule to which the resolution relates is concerned.

"(2) (A) If the committee to which a resolution of disapproval has been referred does not report such resolution within 45 days of continuous session of Congress after the date of transmittal of the proposed rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a resolution disapproving a resolution of disapproval has been referred does not report such resolution within 20 days of continuous session of Congress after the date of transmittal of the resolution of disapproval from the other House, it shall be in order to move to discharge the committee from further consideration of the resolution disapproving the resolution of disapproval.

"(3) Any such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House of Representatives and privileged in the Senate (except that it may not be made after a resolution of disapproval or a resolution disapproving a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(e) (1) Except as provided in paragraphs (2) and (3), consideration of a resolution of disapproval or a resolution disapproving a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged in the House of Representatives and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or a motion to recommit the resolution is not in order.

"(f) If the Congress adopts a resolution of disapproval which disapproves a recommended final rule which was being proposed to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the Commission of its responsibility for adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"(g) (1) If a recommended final rule of the Commission is disapproved by the Congress, the Commission may issue a recommended final rule which relates to the same acts or practices as the disapproved rule. Such recommended final rule—

"(A) shall be based upon—

"(i) the rulemaking record of the recommended final rule disapproved by the Congress; or

"(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

"(B) may reflect such changes as the Commission considers necessary or appropriate.

"(2) The Commission, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (a) (1), and such rule shall only become final in accordance with such subsection.

"(h) (1) If either House of Congress adopts a resolution for reconsideration of a rule, and at the end of 30 days of continuous session of Congress after the date of transmittal of such resolution to the other House, such other House has not passed a resolution disapproving such resolution for reconsideration, the rule shall be reconsidered in accordance with paragraph (2).

"(2) Two hundred and ten days after the adoption by either House of the Congress of a resolution for reconsideration of a rule, the rule shall lapse unless again recommended by the Commission. Unless excepted by section 553(a) of title 5, United States Code, the Commission shall, not less than 60 days prior to again recommending such a rule, give notice of a proceeding to consider its recommendation. The notice and proceeding shall comply with subsections (b) and (c) of section 553 of title 5, United States Code, except that the provisions of clause (B) of section 553(b) of such title shall not be available to the Commission and the Commission shall hold a hearing for oral presentations. Rules recommended pursuant to this subsection shall become final in accordance with subsection (a), and during the period for congressional review provided by that subsection the reconsidered rule may remain in effect.

"(3) For purposes of this section, the term 'resolution for reconsideration' means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: 'That the   directs the Federal Trade Commission to reconsider the rule dealing with the matter of

which is found at   .', the first blank being filled with the name of the resolving House, the second blank being filled with the title of the rule and such further description which may be necessary to identify it, and the third blank being filled with the citation to the rule in the records of the Commission.

"(4) The provisions of subsections (d) and (e) apply to the consideration of resolutions for reconsideration and resolutions disapproving a resolution for reconsideration, except that—

"(A) for purposes of such subsections, the term 'resolution of disapproval' shall be deemed to refer to 'resolution for reconsideration'; and

"(B) for purposes of subsection (d)(2)(A), if the committee to which a resolution for reconsideration has been referred does not report such resolution within 45 days of continuous session of Congress after the date of introduction of such resolution, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(i) The provisions of this section do not apply to—

"(1) rules of agency organization, practice, and procedure; and

"(2) rules relating to agency management or personnel.

"(j)(1) Any interested party may institute an action in an appropriate district court of the United States, including an action for declaratory judgment, as may be appropriate to construe the consistency of the provisions of this section with the Constitution of the United States. The United States district courts shall have jurisdiction, without regard to the sum or value of the matter in controversy, or actions brought under this section. The district court immediately shall certify any action brought under this section to the United States court of appeals for the circuit in which the district court is located. Such court of appeals shall hear the matter en banc.

"(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

"(3) The court of appeals and the Supreme Court of the United States shall advance on the docket and expedite to the greatest extent possible the disposition of any matter certified under paragraph (1).".

(b) (1) Section 18(a)(1) of the Federal Trade Commission Act is amended by striking out "prescribe".

(2) Section 18(a)(1)(A) of such Act is amended by inserting "prescribe" before "interpretative".

(3) Section 18(a)(1)(B) of such Act (as amended by section 7(a) of this Act) is further amended by inserting "recommend, subject to the provisions of section 26," after "(B)".

(4) The proviso in section 18(a)(1)(B)(ii) of such Act (as added by section 8 of this Act) is amended by striking out "promulgate" and inserting in lieu thereof "recommend".

(5) (A) The first sentence of the matter following clause (B) of section 18(a)(1) of such Act (as amended by section (a) of this Act) is further amended by striking out "prescribed" and inserting in lieu thereof "recommended".

(B) The second sentence of such matter is amended—

(i) by striking out "rulemaking"; and

(ii) by striking out "proscribe" and inserting in lieu thereof "recommend the proscription of".

(c)(1) The first sentence of section 18(a)(2) of such Act is amended by inserting "recommend or" before "prescribe".

(2) The second sentence of such section is amended by striking out "prescribe" and inserting in lieu thereof "recommend".

(d)(1) Clauses (1) through (4) of the first sentence of section 18(b) of such Act (as amended by section 7(b) of this Act) are redesignated as clauses (A) through (D), respectively. Such first sentence of such section is redesignated as paragraph (1). The second, third, fourth, fifth, and sixth sentences of such section (as added by section 10 of this Act) are redesignated as paragraph (2).

(2) Section 18(b)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "prescribing" and inserting in lieu thereof "recommending".

(3) Section 18(b)(1)(A) of such Act (as amended by section 7(b) of this Act and redesignated by paragraph (1) of this subsection) is further amended by striking out "prescribe" and inserting in lieu thereof "recommend".

(4) Section 18(b)(1)(D) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "promulgate, if appropriate, a" and inserting in lieu thereof "if appropriate, issue and transmit to the Congress a recommended".

(5) Section 18(b)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by adding at the end thereof the following new sentence: "A recommended final rule issued by the Commission under subsection (a)(1)(B) may only become final in accordance with section 26.".

(6) Section 18(b)(2) of such Act (as added by section 10 of this Act and redesignated by paragraph (1) of this subsection) is amended—

(A) in the first sentence, by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "clause (A) of paragraph (1)";

(B) in the fourth sentence, by striking out "paragraph" and inserting in lieu thereof "clause"; and

(C) in the fifth sentence, by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "clause (A) of paragraph (1)".

(e)(1) Section 19(d)(1) of such Act is amended by striking out "promulgated" and inserting in lieu thereof "recommended".

(2) The first sentence of section 18(d)(2)(B) of such Act is amended to read as follows: "A substantive amendment to, or repeal of, a rule recommended under subsection (a)(1)(B) which has become final under section 26 shall be recommended, and shall be subject to judicial review, in the same manner in which a rule is recommended and becomes final under such subsection and section.".

(3) Section 18(d)(3) of such Act is amended by inserting "recommended" after "any rule" and by striking out "takes effect" and inserting in lieu thereof "becomes final under section 26".

(f)(1) Section 18(e)(1)(A) is amended by striking out "is promulgated under subsection (a)(1)(B) by the Commission" and inserting in lieu thereof "recommended by Commission becomes final under section 26".

(2) The first sentence of section 18(e)(5)(B) of such Act is amended by striking out "prescribed under subsection (a)(1)(B)" and inserting in lieu thereof "which has become final under section 26".

(3) The first sentence of section 18(e)(5)(C) of such Act is amended by striking out "promulgated under subsection (a)(1)(B)" and inserting in lieu thereof "which has become final under section 26".

(g) The last sentence of section 18(f)(1) of such Act is amended by striking out "the Commission prescribes a rule under subsection (a)(1)(B) of this section" and inserting in lieu thereof "a rule recommended by the Commission becomes final under section 26".

(h)(1) Section 18(g)(1) of such Act is amended by striking out "under subsection (a)(1)(B) of this section" and inserting in lieu thereof "which has become final under section 26".

(2) The first sentence of section 18(g)(2) of such Act is amended by striking out "prescribed under subsection (a)(1)(B)" and inserting in lieu thereof "which has become final under section 26".

(i) Section 22(1) of such Act (as added by section 16 of this Act) is amended by striking out "prescribed" and inserting in lieu thereof "recommended".

(j)(1) The second sentence of section 23(a)(1) of such Act (as added by section 17 of this Act) is amended by striking out "promulgate" and inserting in lieu thereof "recommend".

(2) Section 23(a)(2)(C) of such Act (as added by section 17 of this Act) is amended by striking out "final action by the Commission" and inserting in lieu thereof "the issuance and transmission to the Congress of a recommended final rule".

(3) Section 23(a)(4) of such Act (as added by section 17 of this Act) is amended by striking out "promulgate" and inserting "recommend".

(k)(1) The first sentence of section 24(b) of such Act (as added by section 18 of this Act) is amended by striking out "promulgates a final rule" and inserting in lieu thereof "issues a recommended final rule for transmission to the Congress under section 26".

(2) Section 24(C)(1)(B) of such Act (as added by section 18 of this Act) is amended by striking out "promulgated" and inserting in lieu thereof "recommended".

(3) The first sentence of section 24(c)(2) of such Act (as added by section 18 of this Act) is amended by inserting "recommended'" before "final rule".

(4) The first sentence of section 24(d) of such Act (as added by section 16 of this Act) is amended by inserting "recommended" before "final rule" and by striking out "promulgated" and inserting in lieu thereof "recommended".

(l) The amendments made by this section shall apply from the date of enactment of this Act until September 30, 1982. The provisions of law relating to the amendments made by this section which were in effect on the day before the date of enactment of this Act shall apply on October 1, 1982 and thereafter.

On page 78, line 24, strike out "Sec. 20." and insert "Sec. 21."

AMENDMENT NO. 1651

(Ordered to be printed and to lie on the table.)

Mr. LEVIN (for himself, Mr. BOREN, Mr. STEWART, Mr. PRYOR, and Mr. BAUCUS) submitted an amendment intended to be proposed by them, jointly, to S. 1991, supra.

ADDITIONAL STATEMENTS

WHAT WILL THEY DO FOR NEW YORK

● **Mr. MOYNIHAN.** Mr. President, I believe the political economy of New York must be an issue in the forthcoming national election. In an effort to make it one, and in so doing to set forth some of the fundamental facts that must be known before this issue can be constructively discussed, I published in Sunday's New York Times Magazine an essay that I described as an open letter to the candidates and that the Times saw fit to entitle "What Will They Do for New York?"

The election year is still young, and it is appropriate at this stage simply to characterize the problems and to suggest a mode of analysis that might lead to solutions. I ask that the text of my essay be printed in the RECORD at this time.

The essay follows:

[From the New York Times Magazine, Jan. 27, 1980]

WHAT WILL THEY DO FOR NEW YORK?

(By DANIEL PATRICK MOYNIHAN)

A long Presidential campaign, with many contenders, is just the setting in which New Yorkers might hope to place an issue on the national political agenda.

The issue is New York.

This will not seem new. Any big state, or, for that matter, any little one, has interests that set it apart, and candidates try to respond. But the issue of New York is different. It is regional, affecting much of the Northeast to a degree that will grow more pronounced as Federal spending on energy and arms increases, two areas of the budget in which expenditures are almost wholly concentrated in the South and West. It is ideological, in the sense that a great political tradition is at stake. And it is cultural. Our greatest city is at stake. When the French historian Fernand Braudel sought to describe what Venice meant to the Mediterranean world of the 15th and 16th centuries, he wrote: "Venice dominated the 'Interior Sea' as New York dominates the Western world today." If that city should enter a protracted crisis and decline, so will this nation and so will the West.

To be dealt with, the issue must be understood. The Carter Administration has actually reduced Federal aid to New York City. But this is trivial compared with the Administration's inability to grasp the problems of this city and state.

To borrow from Daniel Bell's concept of a postindustrial society, the issue of New York has to do with the management of a post-New Deal political economy.

The term "political economy" has fallen out of use somewhat, and I would like to revive it. The men of the 18th century who wrote our Constitution considered themselves, and were, students of this subject, which for them meant developing government policies for the promotion of the wealth of the government and the community as a whole.

The issue of New York involves relations with the Federal fisc that makes it ever more difficult for the public and private sectors of our city and state economy to operate successfully. In the simplest terms, we pay too much out and get too little back. That is why the city almost went bankrupt in 1975. That is why something similar is almost certain to happen again in the next few years. And again after that. And then yet again. Until we face the issue.

Why not do so now, when it is still a relatively simple issue with relatively simple solutions? And before the brutal foreign-policy crises of the 1980's strike with their full force.

A final preliminary. I am not writing about all the problems of New York. I deal only with those the Federal Government helps to bring about, and which, accordingly, the Federal Government can help resolve.

Now to the essentials.

First. New York has a mature public sector. A long half century and more of innovation, much of it beginning here and thereafter mandated from Washington, has brought us to the point where just about any service a modern society can afford we do provide. (That we don't always do a good job at it is beside the point. We pay enough to get the best.)

Consider the following: New York State established a disability-benefits system under Gov. Thomas E. Dewey in 1949. Just about any resident of New York State who has a job and becomes disabled, in circumstances that have nothing to do with his or her job, can receive weekly payments—sometimes full salary—for up to six months. (Four other states and Puerto Rico have since adopted similar plans.) The program has been around so long that New Yorkers themselves—even the 5.7 million persons covered—no longer think of it as a notable benefit, and Presidential candidates can call for improvement in national health care as if the New York program didn't exist. But it does, and it costs New York employers $389 million a year that employers in Texas definitely do not pay.

Second. Because ours is so mature a public sector, no national social program is likely to add to what we already have. For example, early in the Carter Administration, the Secretary of Health, Education and Welfare and the Vice President jointly announced a Presidential proposal for a national system of allowances to help families with the cost of adopted children. Fair to breathless, Secretary Califano presented the proposal to a Senate hearing I happened to chair. "The Administration initiative," he informed us, "will begin the vital task of protecting thousands of American children who are, unfortunately, at severe risk under present welfare programs." Impressed, I sent a note to a New York official who was present. Could it be that the Feds have come up with an idea we have missed? The answer came back: New York enacted adoption allowances in 1968.

Third. New York can no longer support this public sector at the level it now does. Moreover, the effort to do so is making things worse, as taxes take their toll on the private sector. Herewith Roy W. Bahl of the Maxwell School at Syracuse University in a recent study of New York State's economy: "By 1975, New York had become a vastly overdeveloped public sector: a per capita income 11 percent above the national average to support a level of per capita expenditures 57 percent above the national average and far and away the heaviest tax burden in the nation."

This tax burden, now compounded by energy costs, has brought on a near collapse of manufacturing in some regions of what, until just yesterday, was the nation's leading industrial state. In seven years, starting in 1969, New York City lost 400,000 jobs south of 59th Street. If the economy of the state had grown at the national rate since 1960, we would today have 2.7 million more jobs than we do.

Instead, we have had a huge and unprecedented out-migration. A middle-level executive in Manhattan may increase his real income a third simply by taking the same job in Houston. (A family on welfare would lose a third of its income.) A million persons have left New York State in this decade alone. This should be seen for what it is, a massive flight of capital.

Now to work worthy of a President.

The principal problem of the political economy of New York is that we pay much more to the Federal Government than we get back. We pay almost 12 percent of Federal taxes; we get back about 8 percent in Federal outlays. For 1978, $46 billion in taxes returned $35 billion in outlays, a deficit of $11 billion. (These numbers can get rather too familiar. A billion minutes ago St. Peter was 10 years dead.)

There are two reasons for this gap. First, Federal social policies from the time of the New Deal have been designed to transfer resources from "high" income areas such as New York to "low" income areas such as Mississippi. The New Deal, in particular, took up the regional problem of the South, which had tormented American politics since the Civil War. Let us be clear that the policies of favoring the South were in great measure first advocated by New Yorkers: Mississippians rather opposed them and are hardly to be held accountable.

Second, Federal outlays in areas such as defense and public works are incredibly biased against New York (and, generally speaking, the Northeast). This is a bias as old as the original 1899 Rivers and Harbors Act, and as new as the Houston Space Center.

A general proposition about the political economy of New York is that the Federal money we do receive is "soft," compared with the relatively "hard" money that goes South and West. We get food stamps; they get infrastructure. Lewiston, Idaho, is a seaport; New York Harbor is silting up. The Army Corps of Engineers is cloning the Mississippi, building a canal from Mobile Bay on the Gulf of Mexico to Pickwick Pool on the Tennessee, leading thence to the Ohio. Farther west, the corps holds Congressional authority to turn Dallas—300 miles upriver from Galveston—into a seaport. The Erie Canal is just about defunct.

Part of the problem—the part of the problem not attributable to our own previous indifference—is that the public-works program of the Federal Government were first designed to support the westward movement and then, following the Civil War, to help rebuild the South. The momentum of such longterm enterprises can be considerable, so that even efforts at redress somehow fail. Thus, Federal water programs are traditionally concerned with agriculture, flood control and power generation. The Bureau of Reclamation will build systems to water cattle or wash coal, but never simply to supply water for humans to drink (New York City is building its third water tunnel entirely on its own, just as it built the first two, only the third is just about stalled for lack of funds.) The Water Supply Act of 1958 was supposed to be a general-use, nationwide program. So far, $1.4 billion has been spent, not one cent of it in New York State.

But it is defense that has been our undoing. In 1978, California received $16 billion in defense contracts; New York, $5 billion. The $11 billion difference is the reason the Governor of California sits on a $7 billion or $8 billion surplus each year. (The much-proclaimed Proposition 13 "tax revolt" in California was not at all what it seemed. It was a revolt against local-government taxes. Property values, and hence taxes, were rising rapidly with the booming California economy, while the Governor sat on a vast, unallocated surplus.) In 1978, New York received $1.1 billion in research and development contracts from the Defense Department; California received $5.5 billion. We have just as many Ph.D.'s, just as many community colleges training technologists. These are jobs worth fighting for.

I have hoped to make the point that we are dealing here with structural problems: the intentional bias of Federal-state cost-sharing formulas in social programs; the frontier heritage of Federal public works; the legacy of three Pacific wars in the pattern of defense spending.

It follows from this that there needs to be a structural response. May I offer the parallel of the stock-market crash of 1929 and the Depression that followed. This was a crisis of the business economy, and a serious one indeed. Many foresaw the end of private enterprise. The response of Herbert Hoover, then in office, was energetic and, by previous standards, bold. But nothing *radical* was done. This is to say, in the etymology of the term, nothing that went to the root of the matter. This awaited Franklin D. Roosevelt (albeit, he came to office deploring Mr. Hoover's excessive efforts!). Three years into the Roosevelt Administration, the securities markets had been transformed, the banks insured, farm prices supported Social Security established, unions recognized, unemployment legislation enacted.

The list isn't that long actually. The New Deal was pretty much in place by 1935. (The famous "Hundred Days" of F.D.R. refers to the length of time Congress was in session his first year in office.) But the changes, while few, were structural and fundamental and there has not been a serious crisis of the private sector of the economy since.

The crisis of the public sector also began in New York, with the near bankruptcy of the city in 1975, following a frenetic expansion. Once again an incumbent Republican President, in this case Gerald Ford, responded with energy and even boldness. Aid was increased, loans were guaranteed, new controls put in place. But nothing *radical* was done. This, presumably, was to await a Democratic Administration.

As a candidate in 1976, Jimmy Carter encouraged just this impression. A month before the election he told the Northeastern governors at Hartford that "42 years ago, a Democratic candidate" running for the Presidency "saw that the poverty of the South was the greatest long-term obstacle the nation had to overcome." Now it was a Southerner's turn, he said, "to restore prosperity to the Northeast, to follow Franklin Roosevelt's example and rebuild the region that now demands our help."

Somebody has to say it, and it might as well be a Democrat. Three years have gone by, and it is as if Herbert Hoover had been succeeded—by Herbert Hoover.

I do not say this in denigration. I admire and like our President. It is just that he has achieved nothing radical, nothing that changes the political economy, nothing that affects the structural relations that have given rise to the issue of New York. Nor—and this is chilling—has he really tried.

Even in traditional terms he has failed. The Carter Administration has actually reduced the amount of Federal aid going to New York City, our most vulnerable jurisdiction.

(See Chart below:)

FEDERAL AID TO NEW YORK CITY DURING THE CARTER ADMINISTRATION

[In millions of dollars]

Fiscal years	1977	1978	1979	Adopted budget, 1980	Cumulative increase, 1977–80
Federal aid (not adjusted for inflation)	$2,801	$3,047	$3,091	$3,300	+$499
Federal aid in 1980 dollars (inflation adjusted)	$3,671	$3,737	$3,478	$3,300	−$371
Percent real increase	5	2	−7	−5	−11

Source: New York City Office of Management and Budget.

One would give more credence to the charge by Senator Edward M. Kennedy that President Carter had turned "thumbs down on the people of New York" if in that same statement, made in December, the Senator had not likened the President to his two predecessors, saying, "I believe that 12 long years of Republican Administrations is enough, and it's time we put in a real Democrat."

Senator Kennedy's charge doesn't fit the facts at all. In the eight Nixon-Ford years, Federal aid, in constant 1980 dollars, rose $1,739,000, a real increase of 95 percent. Aid doubled. The problem was that almost all this aid (revenue sharing being the conspicuous exception) followed the New Deal formula whereby upward of half the cost of any new Federal program, in New York, is paid by the state or by the state and a unit of local government. The Republican aid was generous, but it was not radical. It only swelled our public sector, raised our taxes, and indeed brought on the first collapse.

Let me not appear too harsh to either Mr. Carter or Mr. Kennedy. The President almost certainly thinks he has increased aid to the city (although his budget director, James T. McIntyre Jr., noted recently that last year's budget had "radically lowered expectations").

As for Senator Kennedy, the danger—and it is that—of his position is that it reinforces the autotherapeutic illusion among Democrats that Republicans nearly starved the city into bankruptcy in 1975. This was the conceptual foundation of the 1975 "settlement" which avoided bankruptcy at that time. The settlement made sense if one assumed that a Democratic Administration would come to office shortly and, on a tide of Federal money, all boats would rise, including our grounded scow. This myth began with us. But as a candidate, Kennedy should know that at least some of us no longer think we can afford such self-delusion.

The year 1976 held some promise, however. The Democratic platform called for full Federal assumption of welfare costs, state and local. As a candidate, Mr. Carter absolutely committed himself to assuming at least the local cost. Now this would be a change in the political economy. A change of Rooseveltian order.

New York State has 1.2 million persons on welfare. Their living allowance has not been increased since 1974, with the effect that their purchasing power has been cut nearly in half. Literally. The suspicion that New York City has filled its rolls with able persons is nonsense. A third of the children born in the city now are born out of wedlock. Such children, with their mothers, make up the overwhelming portion of the welfare population, and they are truly dependent. Nor does the notion hold up that this is a problem peculiar to cities. Nassau County on Long Island, with 1.4 million suburbanites, spends half its budget on welfare and Medicaid and enjoys the distinction of being the highest-taxed community in the highest-taxed state in the nation.

Mr. Carter has broken his welfare promise. That is what hurts. It is not that he has tried and failed: he has not tried. Which means he has not understood. He brought into his Cabinet Washington lawyers who saw their task as picking up where Lyndon B. Johnson left off and finishing the New Deal. The President's latest welfare "reform" proposal would establish a minimum family payment—where?—in 13 Southern and Southwestern states. Texas, slithering in oil revenues, would have any increases in its welfare payments paid by the Federal Government. New York would get a token 5 percent increase in Federal participation. Leaving 1.2 million people stranded still.

Medicaid is another such situation. The distribution formula is based on the Hill-Burton Act of 1946, which began Federal aid to hospital construction. A colleague has described it as "the South's compensation for the Civil War." But this is not quite fair. In 1946, Alabama needed an advantage, and besides, relatively small sums were involved. But Medicaid costs are vast, and the bias has become ruinous to New York, which not only has a vast welfare population, which by Federal law is entitled to Medicaid, but a vast illegal-alien population (a Federal responsibility also!), which we try to take care of because this is our social inheritance. (Other than New York City, only one city in the nation has more than two municipal hospitals, Los Angeles, which has three. New York has 17.)

To change the Medicaid formula would change the political economy. But this is not what has come out of Washington. Instead, the President sends us the Vice President with $30 million to enable Brooklyn Jewish Hospital to keep from going bankrupt for another three years. But three years from now? Will the illegal aliens it cares for be eligible for Federal reimbursement? Will the reimbursement formula represent true costs? If not, nothing has changed. If the political economy that has brought us to the verge of bankruptcy is still in place, then the cycle of crisis and bare recovery will persist.

The shame of it all is that not that much is required—just as Roosevelt didn't do that many things, but the things he did were radical. So it is with the crisis of the public sector. A few basic changes would set things right. And—Republicans and Governor Brown please take special note—no increase in the overall public sector is required. All that is required is for New York to get its proportional share of Federal outlays, thereby reducing its own. The problems of city and state would not disappear, but the Federal Government would no longer be part of the problem.

The list of specifics could go on a bit further: under the 1975 Education for All Handicapped Children Act, the Federal Government required that extensive services be provided such children and began by putting up 12 percent (sic) of the cost, leaving New York with yet another increase in a huge education budget; because of a peculiarity of the law, twice as many Vietnamese veterans in California go to college as in New York; New York's parochial schools, which once educated one child in four and now one child in six, are prevented from receiving even state aid by the Supreme Court. A bill for tuition tax credits would have passed in 1978 save for the adamant and not wholly attractive opposition of the Administration. As Bishop Edward D. Head of Buffalo—where half the Catholic high schools have closed—recently put it, parochial schools in New York are "dropping like leaves from a tree." As they drop, the public sector must pick up their students, and this, too, is the doing of the Federal Government.

What has been so disappointing about the Carter Administration is that there has been no one who could see this issue in conceptual terms—in terms, that is, of a change in the political economy. All of the numbers I have used here are official; but let me say right off that they are incomplete. We haven't anything like the data base we want. For three years I have been talking to Cabinet officers about this, asking their departments' help. (You never do anything about a problem in Washington until you learn to measure it.) I have been met with incomprehension and near total failure to respond. It is as if someone called at the Labor Department in 1934 suggesting that the Bureau of Labor Statistics begin measuring unemployment on a regular basis (which it did not then do), only to have Madame Perkins ask, "Why on earth would anybody want to keep count of the number of persons out of work?"

Just as indifference to social dislocation would have led to class bitterness during the Depression, so will regional bitterness arise unless something is done about the political economy of the Northeast. Take those Vietnam veterans. For three years, Senator Jacob Javits and I have been trying to get the law changed to give veterans in New York (and Pennsylvania and many other states) a better chance for college. We have not had any success.

Take defense. I have pleaded with Secretary of Defense Harold Brown that regional disparities would one day politicize the department's appropriations. On April 3, 1979, he wrote me: "How can New Yorkers, of all people, be thought so parochial as to view national defense as a local public-works program?"

He got a for instance this September. The Senate had voted a 3 percent increase in defense spending, which the Administration had requested as vital to national security. The day after the Senate voted, the House voted. The measure lost; the Democrats in our delegation voted 23 to 2 against it. This was largely a vote on political principles (which I respect even if I do not share). But wait until the next bankruptcy crisis. To vote against defense will be an act of regional vengeance.

But I go on. In sum, I plead that the issue of New York be seen as basically regional and fundamentally systemic.

The nation needs a policy for it. A post-New Deal policy. The man who persuades us that he has thought this through is likely to get our votes. I have to say I fear the moment was lost in the first two years of the Carter Administration, and that foreign crises will now take over. But even so, the man who manages to win the election (including you, Mr. President) and actually does something will be remembered, not only by us but by history.●

CENTER FOR DEFENSE INFORMATION ISSUES IMPORTANT NEW STUDY OF SOVIET GEOPOLITICAL INFLUENCE

● **Mr. McGOVERN.** Mr. President, the United States is now engaged in the most critical foreign policy debate of the past 30 years. Our entire global posture is being reexamined; our relations with the Soviet Union are being reviewed; our level of military preparedness is being reinforced. There has never been a more urgent requirement for accurate information about our foreign and military posture. We cannot afford to let image dominate substance or to believe myths instead of facts.

The Center for Defense Information today has published a landmark contribution to the national security debate which grips this Nation. The study is entitled, "Soviet Geopolitical Momentum: Myth or Menace?" It examines on a region by region and on a country by country basis trends of Soviet influence around the world from 1945 to 1980.

The major conclusions of this study are:

American fears of Soviet geopolitical momentum strongly affect U.S. foreign and military policy.

A comprehensive study of trends of Soviet world influence in 155 countries since World War II does not support perceptions of consistent Soviet advances and devastating U.S. setbacks.

Outside Eastern Europe, Soviet influence has lacked staying power. Inability to accumulate influence in foreign countries over long periods is a dominant feature of Soviet world involvement.

Starting from a very low base of political, economic, and military involvement, the Soviets have increased their influence around the world. Starting with influence in 9 percent of the world's nations in 1945, they peaked at 14 percent in the late 1950's, and today have influence in 12 percent of the world's nations. Of the 155 countries in the world today, the Soviets have significant influence in 19.

The Soviets have been successful in gaining influence primarily among the world's poorest and most desperate countries.

Soviet foreign involvement has to a large extent been shaped by indigenous conditions and the Soviets have been unable to command loyalty or obedience.

Soviet setbacks in China, Indonesia, Egypt, India, and Iraq dwarf marginal Soviet advances in lesser countries.

Temporary Soviet successes in backward countries have proved costly to the Soviet Union. They provide no justification for American alarmism or military intervention. U.S. policies should emphasize our nonmilitary advantages in the competition for world influence.

Mr. President, I urge my colleagues in the Congress to give this study their closest personal attention. It is imperative that we arrive at an objective and dispassionate view of American and Soviet positions in the world today.

Finally, this analysis by the Center for Defense Information has been in preparation for several months. It concludes that there are 19 countries in the world today with significant Soviet influence. Last month, the Soviet Union was decisively rebuked in the United Nations when the resolution condemning its invasion of Afghanistan and calling for the withdrawal of all foreign troops was passed by a 108 to 18 margin. The Soviet Union received the affirmative support of only 15 other countries—the Soviet republics of the Ukraine and Byelorussia each have a vote in the U.N. This vote offers independent confirmation of the validity of the CDI study of trends of Soviet influence.

Mr. President, I offer the list of the countries found by CDI to have significant Soviet influence and the countries which voted for the Soviet Union during the vote on the Afghanistan Resolution in the U.N. on January 14, 1980:

CDI List of Countries With Significant Soviet Influence

Afghanistan, Angola, Bulgaria, Cambodia, Congo, Cuba, Czechoslovakia, Ethiopia, East Germany, Hungary, Laos, Libya, Mongolia, Mozambique, Poland, Romania, Syria, Yemen (Aden), and Vietnam.

Countries Voting for the Soviet Union in the U.N. on Afghanistan Resolution

Afghanistan, Angola, Bulgaria, Byelorussia, Cuba, Czechoslovakia, Ethiopia, East Germany, Grenada, Hungary, Laos, Mongolia, Mozambique, Poland, Southern Yemen, Soviet Union, Ukraine, and Vietnam.

I would like to congratulate Adm. Gene LaRocque, the Director of the Center for Defense Information, and the principal analysts for this study, David Johnson and Stephen Goose, for their timely and important contribution to the national debate on the protection of America's vital interests abroad.

Mr. President, I ask to have printed in the Record the text of the January 1980 Defense Monitor entitled "Soviet Geopolitical Momentum: Myth or Menace."

The text of the Defense Monitor follows:

Soviet Geopolitical Momentum: Myth or Menace?—Trends of Soviet Influence Around the World From 1945 to 1980

INTRODUCTION

Since World War II America has engaged in a struggle with the Soviet Union fierce enough to justify a large part of our military expenditures, totaling so far over two Trillion dollars, or $10,000 for every American.

We have had no military combat with the Soviets. The struggle has largely been waged over third countries through diplomacy, aid, trade, and occasionally military intervention. Since the Soviets brutally occupied Eastern Europe in the 1940's, many Americans have feared that subversion and conquest would continue until pro-Soviet governments were installed throughout the world or were thwarted by our efforts.

In the intervening 35 years, there have been hundreds of headlines that seemed to justify that fear. Recent Soviet advances in Afghanistan, Angola, Ethiopia, and South Yemen have led The Wall Street Journal to editorialize that "The Soviet Union is engaged in a its massive military buildup." Former Secretary of State Henry Kissinger has taken the lead in popularizing fears of Soviet "geopolitical momentum."

Yet many news stories today and in the past have told of Soviet reversals. The countries of China, Egypt, and Somalia come to mind. To make matters more confusing, many new countries have been created, old ones have changed names, and everywhere hundreds of factions and governments have risen and fallen. Even experts have trouble keeping the extent of the Soviet world-wide thrust in perspective.

With this issue of the Monitor, we take stock. Looking at the whole world over the past 35 years, we have asked: Have the Soviets made lasting gains? Where, when, and how have they succeeded? What have been the sources of their failures? What role has the United States played? It is essential that the debate over the complex subject of trends of Soviet influence be more informed and factual than it has been. We hope our analysis will contribute to informed discussion and provide better perspectives from which to view present and future Soviet influence in the world.

TRENDS OF SOVIET INFLUENCE

After the 1917 revolution the Soviet Union was generally isolated and ostracized, particularly by Western powers. Despite this isolation, the Soviet Union prior to World War II did have extensive programs of military aid and training for some countries, including Turkey, China, and Germany. But the only country that came under significant Soviet influence was Mongolia.

As a result of Soviet military victory over Germany in Eastern Europe in World War II, the Soviet Union established a number of satellite states which remain today the basic group of Soviet-influenced states. The short-lived Sino-Soviet bloc came into existence with the communist victory in China in 1949. After the death of Stalin in 1953 the Soviet Union substantially expanded its diplomatic and aid activities in other parts of the world and gradually expanded its presence and influence outside the Eastern European sphere of dominance.

The periods of Soviet influence in the world from 1945 to 1980 are displayed in the charts on pages 11–14. For 155 countries these charts indicate the presence or absence of significant Soviet influence and its duration. A total of 35 countries have had some period of significant Soviet influence in the post-World War II period. There has been frequent shifting in the orientation of countries. It should be noted that the degree of Soviet influence is not the same for each instance of Soviet influence. The period of Soviet influence for each country has its own characteristics.

Since 1945 the number of countries where the Soviet Union has had a degree of involvement that suggests the potential for significant influence has increased, rising from 7 countries in 1945 to 19 today. This category includes both countries where the Soviets exercise clear influence, primarily Eastern Europe, and other countries where Soviet influence is important but substantially less.

While this increase in the number of what one might loosely call "pro-Soviet" countries may superficially correspond to some impressions of Soviet geopolitical momentum, there are several important observations that must be considered.

First, there has been a large expansion of the number of countries in the world since 1945, from about 74 in 1945 to about 155 today. The percentage of Soviet-influenced countries in the world started at 9 percent in 1945, rose to about 14 percent in the late 1950's, then declined in the 1960's and finally rose back to about 12 percent in the late 1960's. It has remained at this level for the past 10 years. According to this indicator, Soviet world influence was at its height in the 1950's and there has been no significant Soviet geopolitical momentum in recent years. Considering that nearly all the new countries in the past 35 years have been former colonies of Western powers, the degree of Soviet success in cultivating close friends among these very numerous anticolonial countries is less than one might have expected.

Importance of countries

A second important observation is that not all countries are equally important or offer the same benefits to patrons. Whether it is differences in population, size, economic development, natural resources, military strength, or regional importance, some countries are much more significant than others. One of the important features of Soviet world influence is the extent to which it has been most successful among the poorest and least important countries. Nearly half of the 19 countries (most of those outside Eastern Europe) where the Soviet Union has significant influence today are poverty-stricken countries at the bottom of the development ladder and in dire need of foreign assistance. Their governments are usually weak. These countries for the most part have little to offer major powers other than the satisfaction of supplying urgently needed assistance for the future prospect of some benefit.

In general, the world's major military powers and industrialized nations are either allied with the U.S. or expect U.S. aid or protection. If impoverished countries are discounted from the aggregation of Soviet-influenced countries then lack of Soviet geopolitical momentum is even more evident. The Soviet Union has acquired needy friends which place substantial demands on the Soviet Union in return for what are often small or intangible gains. Sometimes the disadvantages of influence may exceed the advantages.

When Daniel Patrick Moynihan was U.S. ambassador to the United Nations in the mid-1970's, he and his staff made an analysis of which countries were important to the United States. They took into account imports of oil and other critical materials, amount of trade, and size of U.S. investments. Sixty-four countries by these criteria had no bilateral significance for the U.S. According to Moynihan's list, nearly all the pro-Soviet countries outside Eastern Europe are not economically important to the U.S.

Former CIA official Ray Cline in his most recent book on World Power Trends provides no power rating for seven of the 19 countries where the Soviets have significant influence today (Afghanistan, Angola, Cambodia, Congo, Laos, Mozambique, and South Yemen).

Expanding influence?

Trends of Soviet influence over the past 35 years have been analysed by the Center for Defense Information by aggregating Soviet-influenced countries over this period according to their population and Gross National Product (GNP). Indexes of power developed by Ray Cline in his three books on World Power Assessment were also examined to make overall appraisals for trends in the 1970's. Because countries are not equally important, these methods of aggregating them may give a better picture of trends of Soviet influence than simply counting the number of countries.

Population and GNP charts show the percentage of the world's total population and GNP for each year from 1945 through 1979 in countries under Soviet influence. With minor differences the population and GNP curves show similar patterns, rising and falling as Soviet influence in the world waxed and waned. Soviet influence rose sharply in the late 1940's with the addition of China and again less dramatically in the late 1950's with the addition of Indonesia and Iraq. Soviet influence plummeted through the first half of the 1960's with the loss of China and Indonesia but then rose in the late 1960's and early 1970's with the addition of Egypt and India. The loss of Egypt and India in the 1970's has been only partially offset by successes in the former Portuguese colonies and elsewhere. In the late 1970's with the departure of India from the Soviet orbit there was a dramatic decline in the percentage of the world's population under Soviet influence.

According to Center for Defense Information analyses, 1958 was the high point of Soviet influence in the world. At that time Soviet-influenced countries had 31 percent of the world's population and 9 percent of the world's GNP, not including the Soviet Union. In 1979 the Soviets were influencing only 6 percent of the world's population and 5 percent of the world's GNP, exclusive of the Soviet Union.

If China and India are excluded, the Soviet Union has been effective in steadily influencing countries outside the U.S.S.R. with a total of 4 to 6 percent of the world's GNP from 1945 to the present. If the contribution of four countries, China, India, Indonesia, and Bangladesh, are excluded, the Soviet Union has been steadily influential in countries with 4–6 percent of the world's population since 1945.

Ray Cline's indexes of power are based on the combination of a variety of demographic, geographical, economic, and military factors. Dr. Cline has provided power ratings for the world's countries for three different years, 1974, 1976, and 1979. Using his ratings for each year and dividing all countries in the world, including the U.S. and the Soviet Union, into three groups (pro-Soviet, pro-West and China, other), we get a rough impression of the relative share of the world's power possessed by the Soviet Union and its clients. It is also one measure of the trends of Soviet influence in the past six years. The results indicate an extremely steady division of the world's power into 20 percent for the pro-Soviet camp (including the Soviet Union), 70 percent for the pro-West and China camp (including the U.S.), and 10 percent other. There has been almost no change in these percentages from 1974 to 1979.

No Soviet geopolitical momentum

These comparisons can give only approximate measures of the relative growth or decline of Soviet influence. But they do seem to demonstrate that there is no evidence of inexorable Soviet geopolitical momentum. If these data demonstrate anything, it is the decline of Soviet world influence since the 1950's.

What emerges from the data is that, with the ups and downs over the years, the Soviet Union's bloc of friendly nations has less aggregate importance today than it did in the late 1950's, prior to the loss of China. Soviet efforts at influence-building since 1960 have not brought it back to the plateau it reached before China's defection. Nothing that has happened since has really made up for the decline in the power of the Soviet block relative to the rest of the world that occurred when the Soviets lost China.

Another major conclusion that may be drawn from these analyses is that a handful of important countries account for nearly all of the significant fluctuation in Soviet world influence: China, India, Egypt, Indonesia, and, to a lesser extent, Iraq. It has been Soviet success or failure with these countries that has been the real story of the rise and fall of Soviet influence. Soviet inability to hold the allegiance and support of important Third World countries over the long term has been the major weakness of the Soviet Union in attempting to expand its influence. While smaller countries such as Somalia and Guinea have been at least as forceful in exerting their independence as the larger developing countries, the more important countries have had more resources and options at their disposal to pursue their own road and acquire other patrons.

A final conclusion that may be drawn from this study of trends of Soviet influence is that a closer look at developments in the 1970's reveals a clear absence of expanding Soviet influence. During this period when there have been so many headlines about the American loss in Vietnam and alleged Soviet successes in Africa and the Middle East, the Soviet Union has not in fact expanded its influence. Soviet losses in the 1970's have just about equaled gains.

SUPERPOWERS AND THE THIRD WORLD

Over the years since the 1940's the Soviets have broadened their influence in the Third World but they have not been successful in turning any part of it into a zone of their exclusive or even predominant influence. Third World governments, including those associated with the Soviet Union, jealously safeguard their sovereignty, with or without an American presence or the threat of U.S. intervention. Even those states which have had a substantial Soviet military presence have sought to maintain their essential independence.

CIA research analysts Orah Cooper and Carol Fogarty conclude:

"Reduced Western influence in Third World countries has not necessarily led to a corresponding rise in Soviet influence. New governments often have translated anticolonialist positions into strong nationalist policies jealous of any foreign influence. Despite the commitment of some LDC (less developed countries) governments to a 'Socialist' system, they usually have wanted their own brand of socialism, and have not been attracted to Soviet Communist ideology, either by economic or military aid."

Rather than being mezmerized by the myth of Soviet geopolitical momentum, Americans should have greater confidence in the independence of other countries. For example, it is too simple to maintain, as Zbigniew Brzezinski has, that "Castro is a puppet of the USSR." (See Cuba country study.) This is as mistaken an observation as earlier American misconceptions about the monolithic Sino-Soviet bloc and Soviet control of China.

Soviet policies have made adjustments to the needs of Third World countries more often than the latters' decisions have yielded to the preferences of the Soviet Union. As Steven Kaplan of the Brookings Institution observed in his major study of Soviet political uses of military power, Mailed Fist, Velvet Glove, in the Third World "the status of the Soviet Union typically was not that of imperial overlord but that of guest worker." The major impact of Soviet efforts has been to enable other countries to pursue more effectively policies they wanted to follow anyway. In the face of past U.S. rejection of nonalignment, for example, Soviet support enabled governments to more easily implement this policy. India and Iraq are prominent examples. Among other things, Soviet support has made it more difficult for the U.S. to get rid of regimes it does not like.

American policy

It is important to note that Soviet reverses, for the most part, have occurred for reasons that have little to do with specific American actions. While the United States has sometimes through diplomacy and other means sought to "expel" the Soviet Union, as in the Middle East, or to constrain it, American actions have usually played no important role in the emergence of conflict between the Soviet Union and its clients. On the contrary, threatening American behavior has often helped solidify Soviet relations with affected countries. This has certainly been the case in Angola, Cuba, and Vietnam, for example.

There may be instances when it is in American interests to strongly oppose Soviet involvements in the Third World. Such action must be based on deep understanding of local circumstances and our own national interests and respect for local capabilities. But in general the Soviet "threat" in the Third World is not the real issue. Both the United States and the Soviet Union have faced enormous and growing obstacles to controlling events around the world. The inadequacy of Soviet leverage over possibly disruptive clients may be more a problem than Soviet domination. Vietnam is an example of this today. There has been a dangerous increase in recent years in local international conflict (see November 1979 Defense Monitor, "A World At War.") Neither superpower is able through military or other means to maintain a condition of global stability tilted in its favor. Neither is very successful in controlling a sphere of influence.

Opportunities for the Soviet Union to gain influence in the Third World have often been the result of questionable policies that the U.S. has pursued. U.S. policies on such issues as Vietnam, the Middle East, Panama, minority rule in Southern Africa, and various economic matters have tended to isolate the U.S. from the Third World. We should be realistic that certain policy choices are going to have certain consequences we may not like. We cannot have our cake and eat it too. Neither can the Soviet Union. It too faces the problem of reconciling conflicting policies and priorities. For example, the Soviets were unable to maintain good relations simultaneously with Ethiopia and Somalia.

The real problem for the U.S. is how to relate to change in the world and our approach to the Third World. It has been argued by Henry Kissinger and others that there is a deep and natural antagonism between much of the Third World and the U.S. Recent events in Iran have seemed to confirm this for many Americans. For example, a recent Washington Post editorial argued that "the common ground is regretably narrow" between the U.S. and the Third World. Such attitudes have encouraged support for confrontationist policies which, fortunately, the Carter Administration has tended to avoid.

It is an open question to what extent the U.S. can harmonize its own interests with those of other parts of the world. It should be recognized that the anti-imperialist and anticolonial views of radicals often stem from their nationalist sentiments more than from rigid Marxism and a blind anti-Americanism. Pretending that other countries who are at odds with the U.S. are puppets of the Soviet Union and refusing to deal constructively with them stimulates their alienation.

Code of conduct?

While the past record of the Soviet Union in influence-building is very mixed it may be argued that the past may be no guide to the future. Will the Soviet Union be more adventuristic and successful in the future? Assorted speculations are possible but the record shows that apocalyptic predictions have been made repeatedly over the past 30 years. Brookings' Mailed Fist, Velvet Glove found no clear association between the state of the strategic military balance (and other military measures) and the amount of Soviet political use of military force. Changes "did not seem to lead to more frequent Soviet political-military activity."

Of course, it is obvious that the Soviets are more involved around the world today than 20 or 30 years ago. All countries must take account of the Soviet Union as a force in world affairs. U.S. involvement has also increased. The danger of armed combat between the U.S. and the U.S.S.R. in the Third World is real. But the situation is not as anarchic and disordered as it may seem. Restraint and caution have sometimes been shown by both the U.S. and the Soviet Union. The Soviet Union has used armed forces to support friends in the Third World occasionally, in circumstances when a vacuum of legitimate rule has been created by the rapid withdrawal of a colonial power (Angola) or when the U.S.S.R. could assume the position of acting to defend the sovereignty or territorial integrity of a Third World nation (Ethiopia) or to maintain an existing Marxist regime in power (Afghanistan). The long-term gains for the Soviets appear doubtful and marginal.

A very important element of the informal "code of conduct" for superpower behavior in the Third World is the willingness to live with failure. The Soviets in Egypt in 1972 and the Americans in Iran in 1979 could have used force to resist expulsion and did not. Acceptance of loss of influence without overreaction is necessary for both superpowers in the face of frequent setbacks. Recognition of the inevitability of ups and downs of influence and the frequently temporary nature of losses should encourage a certain equanimity when confronted by change and instability. The massive Soviet military move into neighboring Afghanistan would appear to be an ill-advised violation of this code.

Another ingredient of the amorphous code of conduct should be a willingness to downplay overblown geopolitical approaches to world affairs, i.e., not seeing everything that occurs in the world in terms of superpower competition. Such "strategic" thinking inevitably leads to ignoring local situations and exaggerating the component of superpower conflict and involvement. Both the Carter Administration and the Soviet Union under Brezhnev, with important exceptions, have wanted to avoid the kind of linkage of world events which complicates the solution of local problems and entangles the superpowers in conflicts they would rather avoid.

It would benefit both the U.S. and the Soviet Union if they concentrated more on the solution of their own domestic problems and less on trying to influence foreign governments. After Brezhnev and Kosygin replaced Khrushchev in the mid-1960's they declared that domestic development was the primary internationalist duty of the U.S.S.R. In view of the difficult economic problems facing the Soviet Union today this domestic orientation would be even more desirable than in the 1960's. The same is true for the United States.

COUNTRY STUDIES OF SOVIET INFLUENCE

The fifteen countries examined here are the ones which, outside of Eastern Europe, have been most actively courted or significantly influenced by the Soviet Union in the past and today. These brief studies address the basic issues: When was the period of greatest Soviet influence? Why was the Soviet Union successful in gaining influence? How much influence did the Soviets exercise? What was the level of closeness? What were the tensions and problems in the relationship? So what if the Soviets have influence? What is the country's importance internationally? Is it an asset or a liability to the USSR?

Africa

Although there were no self-avowed Marxist regimes in Africa until the 1970's, many of the newly independent nations decided to break dramatically from the colonial era by establishing socialist political and economic systems. Several nationalist leaders with radical leanings were more than willing to accept Soviet aid offers and develop close ties with the USSR: Touré in Guinea, Nkrumah in Ghana, Keita in Mali, Ben Bella in Algeria, and Nimeiry in Sudan. Yet all of these countries have moved away from the Soviet Union in the past decade. Of the ten

African nations which have had significant Soviet influence at some time during the past 35 years, only four have influence today.

Algeria's radicalism and antagonism toward the West made it a special object of Soviet attention. During the 1960's Algeria received more Soviet military aid, about $286 million worth, than any other African country except Egypt, which is included under the Middle East section of this study. But Algeria's nationalism and Arabism have severely limited Soviet influence. It has kept its distance from the Soviet Union politically and economically. Relations have never been as close as during the Ben Bella years and have cooled since Boumedienne's death in 1979. Algeria was an important behind-the-scenes force at the 1979 Nonaligned Conference in keeping Cuba from drawing the movement close to the USSR. The United States, which imports half of Algeria's oil, is rapidly replacing France as the nation's main trading partner.

Some other African countries accepted Soviet aid and advisors during the past decade, but cut short any budding relationship choosing instead to remain nonaligned: Benin, Cape Verde, Guinea-Bissau, Equatorial Guinea, Nigeria, and Uganda. The main targets of Soviet attention and resources in Africa in the 1970's have been Angola and Mozambique in Southern Africa, and Ethiopia and Somalia in the Horn.

Angola

The military victory of the Popular Movement for the Liberation of Angola (MPLA) in 1975 over two rival groups backed by the West established the first Marxist government in Africa. The MPLA had received support from the Soviet Union for over a decade. The victory on the battlefield in 1975 was the result of a massive Soviet air and sealift of $300 million worth of military equipment and thousands of Cuban soldiers.

It is not surprising then that the new Angolan regime developed close ties with the USSR. While the Soviets offered moral and material assistance, the United States alienated the Angolans by aiding the Portugese for years. In the final year of fighting, the U.S. persisted in viewing the conflict in the context of a Soviet-American balance of power struggle. Instead of developing ties with all of the liberation factions, America indiscriminately gave aid to anyone opposing the MPLA.

Agostinho Neto, Angola's leader until his death in September 1979, proclaimed the country's independence on November 11, 1975. Less than a year later, in October, the USSR and Angola signed a 20-year Treaty of Friendship and Cooperation. Today, there are about 1,000 Soviet civilian personnel in Angola and about 1,000 military advisors, some holding key positions in the defense structure. Soviet military aid, which has averaged around $100 million per year since 1975, has been much more significant than economic aid, which totaled only $1 million in 1978. Cuba's involvement is far more extensive than that of the Soviet Union. There are approximately 18,000 Cuban troops and 6,000 nonmilitary technicians in Angola.

It appears that Angola is attempting to avoid total dependence on its communist friends and the charge of being a Soviet "puppet." Since 1975, economic aid from the West has exceeded that from the USSR and Eastern Europe. Angola welcomes Western technology and capital. Gulf, Mobil, and Boeing are all working with the Angolans in the development of the nation's largely unexploited wealth.

Neto aspired to an independent, nonaligned foreign policy. His successor, Jose Eduardo Dos Santos, seems intent on trying to limit dependence on the Soviet Union and to expand political and economic ties with the West. Neto diligently worked toward establishing diplomatic relations with the United States. He took the lead among with the Front Line states in his willingness to cooperate with the West to bring about a peaceful settlement in Namibia. He rejected Soviet requests for deep-water naval facilities at Lobito and Luanda. The Carter Administration, however, has continued the "punitive" policy of nonrecognition started by Henry Kissinger.

In spite of their efforts, Angola has been more of a liability than an asset to the Soviets. They must deal with two major problems. The Angolan economy has still not recovered from the civil war, and more importantly, the government is being challenged militarily. Jonas Savimbi's UNITA forces control much of the southern and central portions of the nation. South Africa provides extensive assistance to UNITA. South African combat soldiers, helicopter gunship pilots, and jet fighter pilots have engaged the Angolan troops in battle. Angola must also contend with guerrilla activities in the oil-rich Cabindan enclave and reprisals by Zaire against Katangan (Shaba) rebels based in the northeast.

The Soviets are devoting substantial resources to Angola and are running the risk of becoming deeply embroiled in a local or regional conflict against their wishes. Yet they have been denied a naval base to take advantage of Angola's location and they are losing out in the competition to take advantage of Angola's natural wealth.

Mozambique

Like the MPLA in Angola, the Mozambique Liberation Front (FRELIMO) defeated Portugal in June 1975 only after years of support from communist nations. Mozambique, which was not formally declared a Marxist state until 1977, relied primarily on China for aid before independence. Since then, the Mozambicans have cultivated closer relations with the Soviet Union. Although FRELIMO remains closer ideologically to China, there is a pragmatic realization of Moscow's superior ability to provide all types of aid and technical assistance. Association with Mozambique does not benefit the USSR greatly. It is one of the poorest and least developed countries in Africa. With a negative annual growth rate from 1975 to 1977 and a yearly per capita Gross National Product of about $170, the nation desperately needs to court those who can help the most.

The West has provided the majority of economic aid to Mozambique. In his 1979 Independence Day speech, President Samora Machel stressed that assistance would be accepted from anyone, even countries which opposed FRELIMO during the liberation war. He stated that Mozambique especially desired more trade and investment from the West. In 1978, the Soviet Union ranked a distant third in terms of aid extended, behind Sweden and Britain. Mozambique's top five trading partners are all from the West, with the U.S. number one.

Mozambique has steered a neutral course in foreign affairs. American Ambassador Willard Depree has commented, "Sure, FRELIMO's Marxist, but they keep their distance from Moscow. They're very independent, pro-Third World." A Treaty of Friendship and Cooperation was signed with the USSR in March 1977. But in October Machel travelled to Washington where he declared the opening of a "new era" in relations, ending the "aggressive and imperalistic behavior" of the Nixon years. In 1979 Machel rejected Soviet appeals for naval base rights.

Mozambique's dependence on Soviet military equipment is its strongest bond with Moscow. Still, the Soviets have failed to meet Mozambique's defense needs. Military training is provided by about eight hundred Cubans, not by the Soviets. A CIA document dated September 1979 concludes, "Economic aid from Communist countries . . . has been disappointing, while Mozambique's Communist military inventory . . . has not permitted Mozambique to maintain a secure frontier. Zimbabwe-Rhodesian forces still mount crossborder operations at will." In recent months the raids have included attacks on regular Mozambican forces. The Soviet Union has given more military assistance to Ethiopia in its battle against revolutionary guerrillas and former client Somalia than it has to Mozambique in its fight against "imperialist" Rhodesian forces.

Somalia

Meaningful Soviet involvement in Somalia dates from a $35 million arms agreement signed in 1963 after Western nations refused to offer more than $15 million in military aid. By the end of the decade Moscow had become Somalia's major aid patron, but it was not until the October 1969 military coup by General Siad Barre that ties became very close.

In 1970 Barre ousted the American Peace Corps, proclaimed his intention to create a socialist state, and increasingly turned to the USSR for assistance and support. Somalia became the largest Soviet arms client in Africa. The Soviets rebuilt the port at Berbera, turning it into a de facto military base where they had complete access to and control over the naval base, airfield, and port facilities. A Treaty of Friendship and Cooperation was signed in July 1974.

Irritants existed in the relationship. Barre continually complained that the Soviets did not offer enough economic aid—only $154 million from 1963 to 1977. The Soviets objected to Somalian overtures to the U.S., China, Iran, and Saudi Arabia. But by mid-decade contacts were flourishing. The two nations signed a record economic aid package of $60 million and a new arms accord in 1975. There were at least 1,000 Soviet military advisors spread throughout the Somalian defense establishment. Still, a very rapid deterioration of relations took place. Eight years of Marxist indoctrination and over $1 billion of military aid did nothing to supplant Islam and nationalism as the driving forces in Somalian life.

One issue was sufficient to destroy Soviet-Somalian ties: The Soviet decision to ship weapons to Ethiopia beginning in early 1977. Ostensibly the arms were for use against the Eritrean rebels, but they were also employed against Somali-backed forces in the Ogaden. The critical Soviet role in helping to drive Somalian troops out of the Ogaden later in the year led Barre, in November, to order all Soviet military and civilian personnel out of the country and to abrogate the Friendship Treaty.

Somalia thus became the third nation in the Red Sea area in less than six years to oust the Soviets, following Egypt in July 1972 and Sudan in May 1977. Somalia continues to take a hostile attitude toward the USSR and frequently denounces Soviet global activities. Somalia now receives most of its military and economic assistance from other Moslem countries such as Saudi Arabia and Egypt.

The Soviet Union and Somalia had stayed together out of mutual need, not mutual love. Somalia needed Soviet aid. The USSR needed a presence in the Horn of Africa. The Soviets were willing to risk the alienation of Somalia because they considered Ethiopia more important, and, although both nations are equally impoverished, Ethiopia has a larger territory, population, and GNP. But the immediate willingness of Somalia to reverse completely a long-standing and costly relationship must have surprised and upset the Soviet Union. It does not bode well for the Soviet's future in the Horn.

Ethiopia

Haile Selassie's Ethiopia was a stalwart defender of Western interests in the Horn for decades. Ethiopia signed a Mutual Defense Assistance Treaty with the United States in 1953 and the Americans established a military base at Kagnew. Ethiopia became the largest recipient of U.S. aid in black Africa. Then in September 1974 the Provisional Military Council, or the Dergue, overthrew Emperor Selassie and proclaimed its intention to transform Ethiopia into a socialist state. Yet for over two years the Dergue did not receive diplomatic support or material aid from the Soviet Union. The Soviets were leery because of the violent leadership struggles within the Dergue and because government forces were fighting with rebels in the Ogaden region who received help from the USSR's closest ally in the area, Somalia, and with rebels in Eritrea who were supported by Soviet Middle East allies Iraq and Syria.

By the end of 1976 Soviet policy began to change. The Soviets started offering assistance to both Somalia and Ethiopia in an attempt to "ride both camels" as the two fought each other in the Ogaden. Colonel Mengistu Mariam seized power in February 1977 and declared himself a Marxist-Leninist. In May he ousted the U.S. military assistance team and shut down the base at Kagnew. A massive Soviet air and sea lift of an estimated $1 billion in military equipment and 20,000 Cuban troops permitted Ethiopia to drive Somalian forces out of the Ogaden in late 1977.

For the moment, the Soviet-Ethiopian relationship seems very secure, much as was the case with Somalia. Ethiopia is the most important Soviet friend in the entire Middle East/North Africa area, and it desperately needs Soviet weapons, economic aid, technicians, and international backing. A Treaty of Friendship and Cooperation was signed in November 1978. There are about 400 military and 650 economic Soviet advisors in Ethiopia.

Despite the outward signs of close cooperation, there have been trouble spots in relations. The Soviets are bothered by Mengistu's refusal to create a civilian Marxist party. He is a career military man who came to power without the support of a civilian party organization and declared his allegiance to Marxism only after his coup. There are reports of Ethiopian dissatisfaction with the level and quality of Soviet economic aid. Ethiopia is grossly underdeveloped, with a per capita income of only $100 a year, yet Soviet economic commitments have been very limited. About three-fourths of Ethiopian economic assistance has come from the West and China.

The Soviets undertook great risk in supporting Ethiopia. First, they alienated most of the Middle East by supporting non-Moslem Ethiopia against Somalia. Iraqi and Syrian support for the Eritreans continues to be a sore spot in their relations with the Soviet Union. Second, the USSR lost a well-developed naval facility at Berbera with only a vague possibility of a replacement along the Eritrean coast, if and when the government can establish its control there. Third, the Soviets are in danger of becoming bogged down in Ethiopia's continuing military problems. Last, the permanence of the Soviet's position is doubtful because of the instability and unpopularity of Mengistu's regime. There were nine assassination attempts of the leader between September 1977 and June 1978. The Dergue's revolutionary domestic policies have aroused a considerable amount of turmoil and resentment among the general populace, which has a strong nationalist, Coptic Christian tradition.

THE MIDDLE EAST

For the past twenty-five years the Soviets have poured the vast majority of their Third World military and economic aid into the Middle East region. However, their success at accumulating influence has been dismal. The only nation which unflaggingly supports the Soviet Union today is tiny, destitute South Yemen. The region's most powerful Soviet allies over the years, Egypt and Iraq, are now both hostile to Soviet influence in the Middle East. Libya and Syria flaunt their independence. They are allies only when it pleases them and only on their own terms.

The violent anti-Amercianism accompanying the revolution in Iran has not improved the Soviet Union's position there. The Ayatollah opposes all foreign involvement in Iran and the Moslem world. Iran has been conducting a violent anti-Soviet campaign in its press, radio, and television, which eased some with the seizure of the American embassy, but intensified greatly after the Soviet invasion of Afghanistan in December. The Iranians stormed the Soviet embassy and tore down the Soviet flag. Earlier in 1979 over one thousand Iranian and Afghan students had protested outside the embassy against Soviet aid to the socialist government in Afghanistan and to the Kurds in Iran.

North Yemen continues to receive limited deliveries of Soviet military equipment, as it has since the early 1960s. The relationship has deteriorated steadily since 1969 however, as the USSR has moved closer to South Yemen, and North Yemen has moved closer to the West and to Saudi Arabia. North Yemen's decision to continue to accept Soviet arms even after Soviet aid to Aden during the border war in spring 1979 does not reflect increased Soviet influence, but rather North Yemen's pragmatic attempt to serve its own interests by "playing both ends against the middle."

Libya

Until the overthrow of the Libyan monarchy in 1969 the main features of relations with the USSR were mutual avoidance and disdain. Colonel Muammar Qaddafi's seizure of power and his efforts to lessen Western influence did not immediately open the door for the Soviets. Until late in 1973 Qaddafi was a harsh and outspoken critic of the Soviet Union and of communism.

Then in April 1974 the first Soviet-Libyan military sales agreement was signed. By the end of the year, the Soviets had delivered $1 Billion worth of arms. It was only the beginning of an arms spending spree. The Libyans have spent about $12 Billion on Soviet weapons, including an estimated three to four Billion in 1979. That total far surpasses Soviet sales to any other client. There are now approximately 1750 military technicians and 22,000 economic advisors in Libya from the USSR and Eastern Europe.

The relationship rests solely on the Soviet Union's ability and willingness to supply large quantities of sophisticated weapons and equipment. There is no aid involved. Libya pays cash for the arms as it receives them. Qaddafi only stopped his attacks on the Soviet Union in order to develop the military relationship. By the time of the October War of 1973, Libya found itself isolated because of its radical policies. It has procured its modern arsenal as a prestige symbol and a means of asserting itself internationally.

Qaddafi follows a very independent foreign and domestic policy. He espouses the concept of a "Third International Force" rejecting both communism and capitalism in favor of a new socialist ideal based on the Koran. The Soviets and Libyans differ over such basic foreign policy issues as recognition of the existence of Israel and the proper approach to a Middle East peace settlement. Libya's active overseas military policy—the financing, training, and support of various radical regimes, revolutionary movements, and terrorist groups—does not always meet with Soviet approval. Qaddafi has rebuffed the Soviets by refusing to allow them to develop port facilities in Libya and by establishing diplomatic relations with China in August 1978.

Libya offsets its military dependence on the USSR and maintains close ties with the West through its economic policies. Forty percent of Libya's daily oil exports go to the United States. Libya follows a conservative overseas investment policy directed mainly at Western Europe. The Libyan Arab Foreign Bank funnels Billions of petrodollars through loans and investments to economically weak and politically unstable nations such as Italy (over $1.2 Billion in loans), Turkey, Spain, and Greece.

The Soviets are not likely to gain many benefits from their military relationship with Libya except financial ones. The Kremlin has not been able to have any influence on Libyan policy-making. Libya remains isolated from the center of Arab and African politics. Qaddafi's unpredictability and radicalism inhibit the development of close ties with other countries. Libya's influence, and any gains the Soviets may accrue from it, extends only as far as the road is paved with Libyan money. Moreover, the undermanned, poorly-trained Libyan military is not an effective combat force. Libya simply cannot absorb or maintain the vast quantities of arms is has been receiving.

Egypt

Starting in 1955 the Soviet Union had greater interaction with Egypt than any other Arab state. The Soviets were involved in all aspects of Egyptian life. There was a continuous flow of military and economic aid, frequent high-level state visits, and an extensive cultural exchange program. The key elements in initiating and sustaining the friendship were Soviet military aid and a common interest in limiting Western influence in the Arab world. Until the break in ties in 1972, Egypt received more military assistance than all the other Middle East countries combined, about $2.7 Billion.

Nasser turned to the Soviet Union because of his ambition to modernize Egypt and increase its regional and international prestige. He saw the West as the greatest obstacle to those goals and was ready to profit by whatever leverage the USSR could provide. Like the Soviets, Nasser adamantly opposed the Baghdad Pact and wanted to eliminate. or at least diminish the Western military presence in the area.

From the time of Egypt's "Czech arms deal" in September 1955 through 1966 relations with the Soviet Union were not always close, and dealings with the West were not always hostile, but Egypt increasingly moved closer to the Soviet Union. Following the Six-Day War in 1967, however, the relationship took on new dimensions. Egypt's defeat was an embarrassment for the Soviets, but it provided the opportunity to improve their position in the country. Soviet involvement increased dramatically. By 1970 there were 20,000 Soviet military technicians in Egypt. Soviet warships started making regular calls at Egyptian ports. The USSR had complete access to and virtual control over the naval facilities at Alexandria, Port Said, and Merse Matruh.

In the spring of 1971, the new Egyptian leader Anwar Sadat undertook several bold moves to which the Soviets greatly objected. He announced a new initiative for opening the Suez Canal, invited an American delegation to Cairo to discuss it, and then dismissed seven top officials who publically endorsed Soviet opposition. In reaction to these events, Soviet President Podgorny travelled to Cairo. Although Sadat would not retract his actions, he signed a hastily drawn up Treaty of Friendship and Cooperation.

Relations were troubled immediately before the signing and got even worse afterward, demonstrating how little such treaties can mean. Sadat openly complained about the Soviet refusal to deliver more advanced weapons to Egypt, the apparent Soviet strategy of "no war, no peace" in the Middle East, and what he considered the unacceptable arrogance of Soviet advisors.

Sadat evidently came to the realization that since the USSR was unwilling to help Egypt regain its lost territory by force, the United States was a better ally. In July 1972, only fourteen months after signing the Treaty, Sadat expelled most Soviet personnel from the country, cancelled Soviet port privileges, and returned the military installations to Egyptian control.

The ouster effectively ended significant Soviet influence in Egypt, although the Treaty was not abrogated until 1976. The rift has only deepened with time. Sadat repudiated Egypt's $5 Billion debt to Moscow. He began "de-socializing" the nation in 1974 and returning to a capitalist approach to the economy. Egypt now looks primarily to the West for its economic and military assistance. American aid has increased every year since 1973. Economic aid is currently at the level of $1 Billion a year. The U.S. has promised to deliver between $2.5 and $6 Billion in sophisticated weaponry to Egypt in the next six years.

Syria

Syria is viewed by many as the Soviet Union's most important ally in the Middle East today. But the Syrian commitment to the USSR is tenuous at best. Damascus has displayed its independence throughout the 1970's. Relations are just now gradually recovering from their low point in 1976.

The Soviet-Syrian relationship has flourished because they need each other and have common ground to stand on internationally. Syria's dependence on Soviet arms has been and continues to be the foundation of the relationship. Syria has also needed Soviet diplomatic support because its radical policies have isolated it regionally. Syria's alienation has given the USSR a vehicle for making its views known and felt in the Middle East.

In 1956 the Syrians signed their first arms accord with the Soviets, citing the "impossible conditions" imposed by the West. This was followed by a flurry of military, economic, and cultural contacts. For the next few years, Syria, even more than Egypt, was seen as the most promising ally in the region. The Syrian Communist Party (CPS) was the largest in the Middle East. The ruling Ba'athist Party was closely aligned with the CPS and very antagonistic to Western domination in the Arab world.

The potential was not realized however. The Soviets lost direct contact with Syrian leaders when Syria merged with Egypt to form the United Arab Republic from 1958 to 1961. Then, in spite of about $300 million in military aid over the next five years, the Soviets were not able to establish a close relationship because of Syria's political instability and frequent coups.

A coup in February 1966 by radical Ba'athists led to an acceleration in the tempo and closeness of relations which increased further after the Six-Day War of 1967. Yet a massive infusion of military equipment following the war (over $300 million in a single year) was accompanied by a sharpening of policy differences. This pattern continued in the 1970's and resulted in a steady deterioration of relations. The central issue was how to deal with Israel and the occupied territories. The Soviets favored a political solution while Syria insisted on reprisals and the eventual total defeat of Israel.

Despite Soviet aid after the 1967 Six-Day War, Syria ignored the Kremlin's pleas to support United Nations Resolution 242. President Hafiz Assad refused a Soviet offer of a Friendship Treaty in April 1972, but by the year's end Syria had received $150 million in military aid. Syria did not show any gratitude for the huge quantities of weapons the Soviets sent during and after the October War in 1973. It took part in disengagement talks in Washington and opened "interest sections" with the U.S. as a prelude to the reestablishment of full diplomatic relations in August 1974. Assad chose to boycott the Soviet-sponsored Geneva Peace Conference in December 1974.

Nothing demonstrated Syria's independence and growing strength as much as its invasion of Lebanon in early 1976. On the day before Soviet Premier Kosygin flew to Damascus from Iraq, he expressed extreme dissatisfaction with the increasing Syrian role in the conflict. But the next day, with Kosygin still in the air, large numbers of Syrian troops invaded. The Soviets called for a cease-fire and harshly criticized Syria for its policy of assistance to Christian anti-Palestinian Liberation Organization forces, a policy which the United States heartily endorsed. The Syrians merely stepped up activities. The Soviets were not likely to take any actions which might drive Syria closer to the U.S. When a cease-fire was finally arranged in October, Moscow's "bete noire" in the Middle East, Saudia Arabia, was the instrumental country.

The Soviets have had to at least tacitly recognize Syrian dominance in Lebanon, and to accept Syria's opening its economic doors to the West. Syria is now actively courting investment from the West. The Soviets have continued to offer large amounts of military aid to the Syrians, including highly sophisticated weapons, as seen in the recent delivery of 100 T–72 tanks. Still, basic policy differences remain. The friction which surfaced in the context of the Lebanese invasion could easily emerge again in a new situation.

Iraq

Like the other Middle East nations, Iraq's relationship with the Soviet Union was built on military supply and mutual interests. During the twenty years of continual and extensive military aid, relations have often fluctuated between cordiality and tenseness. There has been a particularly severe downturn over the past two years. The Soviets have not been able to exert any lasting influence on Iraq's domestic or foreign policy. Iraqi nationalism and Arabism have always taken precedence over non-Arab interests.

The Iraqi Revolution in 1958 ushered in a new era in relations. In order to establish its neutrality and to bolster its regional prestige, Iraq withdrew from the Baghdad Pact and turned to the USSR for military assistance. For the next fifteen years relations were usually very friendly, with expanding military and economic aid, trade, and cultural exchanges. The major exception was in 1963 when the anti-communist Right Ba'athist Party seized power and Soviet arms shipments were cut off. The Soviets frequently praised Iraq's staunch anti-imperialist foreign policy, especially the breaking of relations with the U.S. after the Six-Day War of 1967. In April 1972 Iraq signed a Treaty of Friendship and Cooperation with the USSR. More than anything else, the Treaty was a recognition that the two nation's were dependent on mutual diplomatic support to maintain a significant voice in Middle East politics.

Relations with the Soviet Union have been deteriorating since the October War and oil embargo in 1973. The increased revenues from oil allowed Iraq to lessen its dependence on the Soviets and to pursue a more independent foreign policy. Iraq refused to back the Soviet-American cease-fire resolution ending the war and began to turn to the West for technology, including military goods from France. A key factor in Iraq's movement away from the Soviet Union was its desire to become once again a leader of the Arab world instead of an outcast. This necessitated an increasingly neutral posture and a rapprochment with the more conservative Arabs, especially Saudi Arabia.

The Iraqi leadership is very concerned about Soviet intentions in the Middle East. President Saddam Hussein has indicated that Iraq would consider militarily opposing any Soviet attempt to violate Arab sovereignty. A brutal crackdown on communists in Iraq throughout 1978 was interpreted by many as a warning to the Soviets not to meddle in Iraqi affairs. Since Hussein came to power in July 1979, he has accelerated the move away from the USSR. He has bucked the Soviets on numerous important foreign policy issues. Iraq strongly opposes Soviet involvement in Afghanistan and South Yemen and supports the Eritrean rebels in Ethiopia against the Soviet-backed government.

Iraq is ending its military dependence on the Soviet Union. In all likelihood, France will soon become Iraq's largest military supplier. France has agreed to send Iraq $1.6 Billion in arms over the next five years. Spain, now Iraq's third largest supplier, has concluded a deal to deliver $900 million in arms over that same span.

Iraq's movement away from the USSR is a serious blow to the Soviets. Iraq is not a backwater nation like Afghanistan or South Yemen. Its enormous oil reserves are the fourth largest in OPEC. It has what is now probably the most powerful military force in the Persian Gulf, rivaled only by Saudi Arabia. Its location makes it central to both the Persian Gulf and Arab-Israeli theatres. The Soviets are likely to be particularly disappointed with the state of relations because Hussein succeeds Castro as the head of the Nonaligned Conference in 1982.

South Yemen

South Yemen proclaimed its independence from Britain November 1967 and the Marxist National Liberation Front assumed power. The Soviets, who had been giving aid to rival North Yemen for years, were hesitant to become involved with an unstable regime in a small nation with severe financial problems. Until the 1970's, South Yemen (PDYR) was closest to China, which provided most of the country's economic assistance and military aid and training.

After the October War in 1973, the USSR substantially increased its military aid to the PDYR, sending $30 million in arms in 1974 compared to $50 million over the previous six years. Soviet interest was sparked in part by North Yemen's growing closeness with the West, but also perhaps by the realization that by virtue of its position along the Bab al-Mandad Strait, South Yemen provided a perfect location from which to affect the flow of oil out of the Middle East and to play a role in any Arab-Israeli conflict.

President Selim Ali happily accepted Soviet aid for his impoverished country, but also took measures to display independence and neutrality. South Yemen maintained its ties with China, established diplomatic relations with Saudi Arabia, accepted aid from Egypt and Kuwait, and eased tensions with North Yemen.

The bloody coup in June 1978 led by Abdul Ismail ended South Yemen's nonaligned status. Ali was killed and his followers purged. Ismail opposed relaxation of tensions with the conservative Arab nations, which meant increased reliance on the USSR for economic and military support. The Soviet presence is now significant in all fields, ranging from politics and national security to economic development and education. There are about 1,000 Soviet economic technicians and 500 military advisors in this nation of only 1.9 million people.

There are signs that Soviet influence is not as pervasive as one might conclude from their presence. Most importantly, the PDYR refuses to give the Soviets rights for a permanent military base. The Soviets are making use of the facilities at Aden, but the Yemenis try to keep control of all operations and to restrict the Soviet role to advice and technical aid. Ismail has said, "We did not get rid of the British to give the port of Aden to anyone else." For the Soviets, this means uncertainty about access in times of crisis. Islamic nationalism is definitely a much stronger motive force in South Yemen than loyalty to the Soviet Union.

There are frequent complaints about Soviet aid: the advisors are unnecessarily rude and arrogant, too much aid goes directly to the in-country Soviet personnel, and it takes too long for the Soviets to finish an aid project. Consequently, South Yemen is showing a new receptivity to international aid programs and Western investment. The World Bank is engaged in development projects worth $42 million. Most of South Yemen's trade is with the West. Britain and Japan are the major trading partners.

South Yemen has very little to offer the Soviet Union. The benefits of its location are offset by the uncertainty of access for the USSR and by the country's encirclement by hostile nations. South Yemen is tiny, sparsely populated, and economically destitute. The PDYR's armed forces are small and poorly trained. The Soviets must worry about being dragged into a military conflict over which they would have little or no control, as almost happened early in 1979 in a confrontation with the North. Ismail still has not consolidated his power. His regime remains uncertain and unpredictable and far removed from the mainstream of Arab politics. If the Soviets are trying to expand their influence in the Middle East, South Yemen is a very weak base from which to start.

SOUTH ASIA

The Soviet Union has not had much success in obtaining meaningful influence in South Asia. It has, through extensive aid programs and cultural contacts, managed to keep the region neutral and not hostile. India and Afghanistan have been the primary Soviet targets. The Soviets have been willing to spend Billions of dollars to keep them from being actively pro-Western.

The Soviets courted Pakistan during the latter half of the 1960's, but discovered that closer ties with Pakistan would come at the expense of deteriorating relations with both India and Afghanistan. The first government of Bangladesh, which was grateful to the USSR for its aid and support during the battle for independence, was very friendly toward the Soviet Union, but relations soured after the military coup and assassination of Mujib in August 1975. Sri Lanka has accepted some Soviet military and economic aid, but it has also been an important force in maintaining the integrity of the nonaligned movement.

Afghanistan

Afghanistan had contacts with Russia for centuries and has had extensive military and economic relations with the Soviet Union since 1954. The Soviets have supplied about 95 percent of Afghanistan's military aid and 65 percent of its economic assistance. Yet Afghanistan carefully preserved its nonaligned status until the violent coup by the Marxist Khalq Party in April 1978.

Afghanistan's major concerns in 1954 were stability on its border with the USSR and protection against its neighbors Iran and Pakistan. Developing closer ties with the Soviet Union was seen as the best way to achieve those goals. Afghanistan realized that joining the Baghdad Pact would only antogonize the Soviets. Besides by the mid-1950s the United States was rejecting Afghan requests for arms and shifting its attention and support to Pakistan.

Still, the leaders in Kabul did not allow any single aid donor to gain a position of dominance. The Soviets controlled the military aid program, but the United States established a significant presence through economic assistance (about one-fourth of Afghanistan's total) and development of the education system.

The Soviets hoped that after the leftist Mohammed Daoud seized power in 1973 relations would grow much closer. Interaction did increase appreciably. Most notable were a record economic credit for $437 million in 1975 and a trade agreement in 1976 calling for a 65 percent increase in trade by 1980. But Daoud insisted on practicing what he called "genuine nonalignment." The Soviets especially objected to Afghanistan's sudden improvement in relations with Iran and Pakistan.

When the Khalq, led by Noor Mohammed Taraki, seized control in 1978 the Soviets again perceived a great opportunity for advancing their influence in Afghanistan. Seven months after the coup, Taraki signed a Treaty of Friendship and Cooperation with the USSR. However, Taraki stated that his government would maintain a policy of "active, positive neutrality and free judgment," and would not be the "satellite of this or that country." But when faced with a snowballing rebellion which was receiving outside assistance from Pakistan, the government had to become dependent on Soviet arms and training in order to survive. The United States in part pushed Afghanistan toward the Soviet Union by its hostile diplomatic posture and denial of aid.

The ruling Marxists soon became a political, economic, and military burden for the USSR. The regime's ideology, economic policies and ties with the Soviet Union alienated vast numbers of citizens in every layer of society. Armed insurrection began in January 1979, organized mainly by two religious groups which declared a holy war against the government. It turned into a war of attrition with the rebels slowly gaining the upper hand as the Army became increasingly unwilling to fight. The deteriorating military situation, coupled with Soviet displeasure with Hafizullah Amin (Taraki's successor), were the primary reasons why the Soviet Union sent large numbers of combat troops into Afghanistan in late December 1979.

The Soviets were apparently not involved in or pleased with the coup led by Amin in September 1979, but they clearly masterminded and provided the muscle for his bloody overthrow by Babrak Karmal in December. The Soviet Union now has greater influence in Afghanistan than at any time in the past, but the risks are great. The USSR is becoming increasingly involved in a very poor, primitive, land-locked country which is in the midst of what amounts to a full-scale civil war.

It is very unlikely that the Soviet Union could turn Afghanistan into a satellite state. It remains to be seen if the invasion by the Soviet troops will turn the tide in the struggle with the insurgents. The fiercely independent Afghan people have been fighting off outsiders for centuries, including the formidable forces of Alexander the Great, Genghis Khan, and the Mongol and British Empires. The Soviets are very much disliked, even by many not opposing the central government. Soviet personnel are often found murdered and brutally mutilated. Even before the invasion estimates of Soviet deaths ranged from dozens to over 1000.

The Soviet Union is in a no-win situation. Deeper involvement is not likely to result in a lasting and complete military victory and will engender harsh international condemnation, but a withdrawal would be embarrassing and would hurt Soviet credibility with the rest of its allies.

India

Since 1955 the Soviet Union has provided India with the largest total aid program of any non-communist nation—over $5 Billion in military and economic assistance. This huge effort has not gained any lasting influence for the Soviets. It has mostly served to enhance the neutral stance India has been deeply committed to on its own. The Soviets have acquiesced to India's different political, economic, and social orientation and its dedication to democracy and parliamentary institutions.

India was interested in developing close ties with the USSR for several reasons. The primary concern was to balance the superpowers and not allow the West to develop dominant influence. The Soviets were offering softer loans without conditions about usage attached, unlike most Western offers. The two nations also discovered mutual interests on many foreign policy matters. The Soviets heartily approved of India's fervent opposition to colonialism, imperialism, and military alliances. India saw the Soviet Union as a valuable ally against a hostile China, and Western-backed Pakistan.

A Soviet economic credit to India in 1955 began a decade of friendly relations with ever-expanding military, economic, and cultural ties. The relationship was strained during the latter half of the 1960's, however, largely because of the Soviet attempt to woo Pakistan away from the West. Soviet arms sales to Pakistan and neutrality in the 1965 Indo-Pakistani War incensed the Indians. Relations hit a low point in 1969. The strong opposition which almost toppled Indira Gandhi that summer criticized her for being too pro-Soviet, and a great deal of bitter anti-Soviet sentiment burst forth.

Mrs. Gandhi weathered the political storm and consolidated her power after elections in March 1971. Relations with the USSR improved decisively. A 20-year Treaty of Friendship and Cooperation was signed in August. This began the period of closest ties between India and the Soviet Union which ended with the electoral victory of Moraji Desai in 1977. The Soviets delivered more arms from 1971 to 1977 than in all the previous years combined, $1.3 Billion worth versus $1 Billion worth.

Even during this period India's nonalignment was clear. The Treaty was signed mainly to offset and inhibit Chinese and American involvement in the war over Bangladesh. Mrs. Gandhi stated that while India was grateful for all the Soviet aid, the USSR should not expect any tangible rewards for its efforts. Thus, India refused to grant the Soviets military basing privileges and openly opposed a permanent Soviet presence anywhere in the Indian Ocean. The West continued to dominate in the economic and education fields, as it always had. In 1976 the Soviet Union ranked fifth among suppliers of economic aid.

After Desai took his oath of office in March 1977, he asserted that, "India will have friendly relations with all countries who want them and will not have any special relations with any country." He said that the Treaty with the Soviets "must not come in the way of our friendship with any other state . . . if (the Treaty) involves any lack of friendship with others, then it will have to change."

India was one of the founders of the nonaligned movement and continues to be a leader in keeping the movement independent of the two major blocs. India has recently started a major campaign to diversify its military suppliers. Plans were announced in July 1979 to spend $4 Billion for advanced weapons systems over the next five to ten years. About half of the total has already been earmarked for the purchase of 150 British Jaguar fighter planes.

India is also involved in a slow process of normalization of relations with China. Trade was resumed in 1977, followed by increased cultural exchanges and cooperation in scientific and technical matters. Foreign Affairs Minister Vajpayee visited Peking in February

1979. It was the first high-level visit between China and India since 1960.

Indira Gandhi's return to power in January 1980 will have unpredictable consequences for India's relations with the USSR. India is not likely to break off from the Soviet Union completely because of its commitments to nonalignment and the well-developed structure of contact and interaction. But there is even less chance that the world's largest democracy will ever follow a path not set by itself. As Indian official T. N. Kaul stated in 1972 when Soviet influence was at its height, "No one can win or lose India. India is going her own way. She will not be dominated or dictated to by any other power. India's size, population, resources, history and culture make one thing certain: India will always be India."

EAST ASIA

Communism has fared better in Asia than any other part of the globe, but even there Soviet influence has been limited in both duration and intensity. Two of the most important Soviet setbacks, in China and Indonesia, were in this region. Case studies on both countries follow.

The Soviets have failed to cultivate sustained friendly relations with their communist neighbor in the northeast Asia, North Korea. Kim Il Sung managed to avoid Soviet or Chinese domination during the 1950's and 1960's by balancing the two against each other. By the mid-1960's North Korea was drawing closer to China and adopting the Maoist line on Soviet "revisionism." Soviet-North Korean relations have not been cordial since a conflict over Soviet assistance to the United States after North Korea shot down an American EC–121 reconnaissance plane in April 1969.

The establishment, however shaky, of communist regimes in Laos and Cambodia has given the Soviet Union the opportunity to increase its involvement in those countries, but not necessarily its influence. The regimes in Laos and Cambodia, whose legitimacy and authority are under armed attack, are dominated by the Vietnamese, not the Soviets.

There is much concern in the U.S. about the ripple effects of increased Soviet influence in Vietnam, but an analyst for the Far Eastern Economic Review noted that, "What one discovers in travelling through (Southeast Asia) is heightened anti-Soviet vigilance, not enhanced Soviet prestige. Though some people predict that Soviet influence will increase through Vietnam or through the three communist states of Indochina, a critical evaluation of the Soviets is in the majority."

China

The Sino-Soviet split was by far the most crushing blow to the expansion of Soviet influence in the post-World War II period. The Soviets lost their most prized ally and a potential superpower. China has the world's largest population, third largest territory, third strongest military, and sixth largest GNP. The shattering of the mythical "monolithic communist bloc" did more to lessen the perception of inexorably expanding Soviet influence than anything else. All of the Soviet "gains" since 1960 added together do not compensate for the defection of China.

There was a brief golden age of the Sino-Soviet alliance lasting from the triumph of the Chinese Communists in 1949 through 1953. During this period China was very weak because of the civil war and was willing to acknowledge the USSR as the leader of world communism in order to insure Soviet aid. But relations steadily deteriorated until the open break in 1960.

There were three major issues that eventually led the two nations to become bitter enemies, aside from the fact that China was slowly gaining the wherewithal to become a superpower in its own right. First, China rejected Soviet declarations about the "non-inevitability of war" and the desirability of peaceful coexistence. These were seen as a repudiation of sacred revolutionary ideals and weak-willed capitulation to the West. Second, China objected to Soviet recognition of a "parliamentary path" to power in the Third World and insisted that armed struggle should be the primary means of revolutionizing the developing nations. From the 1955 Bandung Conference on, China elected to actively compete with the USSR for influence in Asia and Africa.

The third problem was Mao's "seniority complex." After Stalin's death Mao believed that he should be recognized as the world's most important communist leader, especially by those in the Kremlin. He saw the de-Stalinization campaign begun in 1955 as an attack on his own personality cult. The Soviets were irritated by Mao's ideological and economic innovations such as the 1957 Hundred Flowers campaign and the Great Leap Forward in 1958.

The mutual dissatisfaction and distrust could no longer be papered over for the sake of the united communist front by 1960. In the summer the Soviets cut off all economic aid to China. At the Conference of Communist Parties in Moscow in November the two countries laid their differences on the table. The relationship rapidly moved from open acknowledgement of differences to the point where each considered the other its number one enemy.

Today, the Soviet Union and China have hundreds of nuclear weapons aimed at each other and millions of troops facing each other. They compete for influence and goodwill everywhere. China has been systematically building a network of international relationships designed to put pressure on the Soviet Union. The keys were the establishment of diplomatic relations with Japan and West Germany in 1972 and with the United States in 1979.

There is very little chance of an early rapprochement. Serious problems still exist at the party-to-party level, over doctrine and organization, and at the state-to-state level. At the top of the list are the mutual military threat and border disputes, their relationships with Vietnam and their competition for influence in Southeast Asia. Several months of talks in 1979 did nothing to alleviate any of the problems. Perhaps most important is the fact that the two nations are at different stages of development. With its superpower status fully achieved, the USSR is basically concerned with preserving its position globally. Until China fulfills its goal of becoming a superpower of the same magnitude as the U.S. and the Soviet Union, it will probably continue to view the Soviet Union as a hostile force.

Indonesia

From 1958 to 1965 the Soviets devoted more total aid to Indonesia than to any other country—$1.34 billion in military aid and $372 million in economic aid. The huge effort was a dismal failure. The period of cordial relations was very short and today relations are close to outright hostility. No arms have been shipped since 1965 and not a single important development project was completed.

In the mid-1950's Indonesian leader Sukarno decided to pursue a more radical brand of nationalism and liberate the nation from the political processes, economic practices, and cultural habits inherited from the colonial period. He adopted an essentially anti-Western ideology which cleared the way for the development of close ties with the USSR. Indonesia's large size, population, and prestige in Asia made it an inviting target. In 1958 the Soviets and Indonesians signed their first arms agreement, worth $250 million, and Indonesia accepted a $100 million economic credit offered several years before. The Soviets gave unqualified support for Sukarno's domestic economic policies and his "momentum policy" in general.

Several other factors contributed to the improvement in relations with the USSR. One was the rise of the Indonesian Communist Party (PKI), its anti-West orientation, and Sukarno's growing collaboration with the organization. Another was the suspension of relations with China from 1959 to 1961, mainly because of Sukarno's treatment of overseas Chinese. Indonesia had been much closer to China from 1954 to 1958. Finally, while the Soviets fully backed Surkarno's confrontation campaign against West New Guinea (Irian Barat) diplomatically and with military assistance, any lingering sentiment for the United States was destroyed by American support for anti-government insurgents in Sumatra.

From 1958 to 1962 the Soviets viewed Indonesia as one of its most favored Third World allies. The honeymoon period turned out to be brief. First, the Indonesian economy began to fall apart, drawing heavy criticism from the Soviets. The Indonesians were no longer able to repay the large debt they were accruing. More importantly, the Soviets objected to the increasing radicalization of Sukarno's foreign policy. They particularly resented his anti-Malaysia campaign, which Sukarno used Soviet arms and money to carry out. Perhaps most critical was Sukarno's intensifying closeness with the PKI and the new policy line espoused by the communists. In 1963 the PKI dropped its posture of neutrality in the Sino-Soviet conflict, coming down squarely on the side of the Chinese.

The Soviets quickly lost whatever leverage they had over the direction of Indonesian politics. Indonesia withdrew from the United Nations in 1964 at the urging of China. It then refused to endorse Soviet participation in a "Second Bandung Conference" scheduled for Algiers in June 1965.

It was the events surrounding and following the coup attempt in September 1965 which resulted in the disintegration of the Soviet-Indonesian relationship. The coup was unsuccessful, but it led to the fall of Sukarno. A military regime, headed by General Suharto, came to power. Suharto chose to improve ties with the West and to break with the Soviet Union and China. All Soviet aid projects were suspended. The PKI was banned and its members systematically imprisoned and killed. The vast outpouring of military hardware and development aid did nothing to bring about any permanent influence. There was no lasting isolation from the West.

Vietnam

A common misperception is that Vietnam and the Soviet Union have been inseparable allies for many years. Until 1965 North Vietnam was much closer to China, which was the major aid donor. Ironically, it was the United States' decision to bomb North Vietnam and send large numbers of ground troops into the South which gave the USSR the opportunity to establish its influence. The Chinese simply could not supply the Vietnamese with enough equipment to deal with the American offensive. The Soviets sent about $1 billion a year in aid to North Vietnam during the war years, 1965–1975.

After the communist victory in South Vietnam in April 1975 the Soviets expected their relationship with Vietnam to intensify. But the Vietnamese showed that they wanted to lessen their dependence on the Soviet Union. By the end of 1976 Moscow seemed to be losing ground in Vietnam. Hanoi rejected the Soviet proposal for an Asian security organization and refused to join the Soviets in branding the Association of Southeast Asian Nations (ASEAN) an "imperialist creation." Vietnam joined the World

Bank, the International Monetary Fund, and the Asian Development Bank, but declined an invitation to become a member of the Council of Mutual Economic Assistance (COMECON) in December 1976.

Premier Pham Van Dong envisioned the pursuit of a "five-sided diplomacy," with the actors being Vietnam, the Soviet Union, China, the United States, and the Third World. Fifty percent of Vietnam's military and economic aid would come from the West, especially the U.S., and the other half would come from the Soviets and Chinese.

Dong did not have a chance to implement that policy. The United States refused to agree to reparations as part of the normalization process or to send aid of any kind. The other Western nations followed the American lead. The Chinese meanwhile were warning the Vietnamese to curb their ambitions in Cambodia. Then in the spring of 1977 a severe drought struck which led to critical food shortages. Vietnam was cut off from the West, challenged by China, and economically in crisis. It had no place to turn except the Soviet Union.

The Soviets responded immediately with huge amounts of military and economic aid. Today, the USSR provides about $2 million a day in total aid. There are somewhere between 5000 and 8000 Soviet personnel in Vietnam, mostly economic technicians. Vietnam joined COMECON in June 1978 and signed a Treaty of Friendship and Cooperation in November 1978.

It is frequently charged that Vietnam has become a Soviet satellite, following Soviet orders in Southeast Asia. However, the Vietnamese take great pride in their independence. They are a very nationalistic people. If one recognizes Vietnam's traditional quest for dominance throughout Indochina, the case can be made that Vietnam is using the USSR to enlarge its own sphere of influence in Asia and not vice-versa. The relationship is built on mutual interests and needs.

There are indications that things are not running all that smoothly. The Vietnamese were disappointed when the Soviets offered only token aid and maintained a fairly subdued diplomatic posture during China's invasion of Vietnam in February 1979. Moscow is bothered by Vietnam's failure to achieve a quick and decisive victory in Cambodia. The conflict has drawn harsh international condemnation, as has Vietnam's refugee problem. The Soviets and other COMECON members have been upset with Vietnam's economic performance. Surely the Soviets do not relish the thought of bankrolling Vietnam indefinitely while it fights with both China and neighboring rebels. The dilemma for the Soviets is that the more involved they become with the Vietnamese, the more Sino-Vietnamese relations will deteriorate. If Vietnam's resources are exhausted in a war effort, then the Soviets will have to assume a heavy economic burden.

There are also reports that the Soviets are not happy with what the Vietnamese are offering in terms of access to naval facilities. American analysts were very disturbed when Soviet warships and reconnaissance planes began using Vietnamese facilities for the first time in the spring of 1979. There was much discussion of the possibility of the Soviets taking over the base built by the U.S. at Cam Ranh Bay. This has not happened, although Soviet ship days in the area have increased. Vietnamese leaders have repeatedly said that they will not give the Soviets any type of military base on their soil.

Vietnam will remain a close ally of the Soviet Union as long as it perceives it to be in its own best interests, which will probably be as long as it takes to get back on its feet economically and for the tensions with China to subside.

LATIN AMERICA

The Soviet Union has not been able to develop a single ally in the Western Hemisphere except for Cuba. The Soviets have established some economic, cultural, and even military ties over the years, but the nations of Latin America remain essentially anti-communist and adhere to Western practices.

The Communist Party played an important role in the Arbenz government in Guatemala in the early 1950's, but it took care to keep its distance from the Kremlin. The Soviets never made a significant political, economic, or military commitment to the socialist government of Salvador Allende in Chile from 1970 to 1973. Peru began receiving Soviet arms in 1968, but the relationship was limited to modest military sales. Peru stopped buying Soviet arms in 1979.

Soviet influence in Nicaragua since the overthrow of Somoza has not increased demonstrably. Revolutions around the world should not be equated with increasing Soviet influence, whether they are full-scale as in Nicaragua or lesser upheavals as in El Salvador, Grenada, or Jamaica. On-the-scene analysts have described the guerrilla-led government in Nicaragua as "neither communist, nor totalitarian, nor particularly democratic so far." Nicaragua is regularizing trade with the United States and a large American aid program is forthcoming. The Carter Administration is considering giving military assistance. A symbolic first sale of $3,000 worth of compasses and binoculars was sent last October.

Cuba

Cuba's dependence on the USSR economically and militarily is indisputable. The amount of Soviet influence on the direction of Cuban policies is another matter. To call Castro a "puppet" and to state that Cuba is an "active surrogate for foreign policy which is not shaped by itself," as Zbigniew Brzezinski has, is to ignore the history of Soviet-Cuban relations and the present aspirations and interests of Cuba.

After the 1959 Revolution, Cuba was forced by American political, economic, and military pressures to turn to the Soviets for aid. The Soviets were hesitant to commit themselves, however, waiting nearly two years, until after the 1961 Bay of Pigs fiasco, to recognize the socialist nature of Castro's revolution and to begin shipping arms and providing economic assistance.

Relations were troubled throughout the 1960's. There were two major issues. Castro was infuriated by what he perceived to be Soviet capitulation to Western aggression during the Missile Crisis in 1962, the U.S. bombing of North Vietnam and intervention in the Dominican Republic in 1965, and the Six-Day War in 1967. The Soviets opposed Castro's approach to revolution in Latin America. They preferred gradual political, economic, and cultural penetration instead of armed struggle. Neither has been successful.

Major weapons deliveries to Cuba were curtailed in 1965 and did not resume until 1971. Relations hit their low point from 1966 to 1968 as Castro lashed out at Soviet domestic and foreign policies and touted Havana as an independent third center of the world communist movement. In retaliation, the Soviet Union cut back its oil deliveries to Cuba in 1968. The squeeze choked the Cuban economy and Castro eased up on his criticisms of the USSR.

Throughout the 1970's Cuba and the Soviet Union have enjoyed a new closeness. But Cuba has also worked to improve relations elsewhere in the world. Havana restored diplomatic ties with many Latin American governments. The Organization of American States lifted economic sanctions against Cuba in 1975. Washington and Havana set up "interest sections" to facilitate communications and as a possible prelude to the reestablishment of full diplomatic relations.

The Soviets and Cubans have found many areas for mutually beneficial collaboration, especially in Africa. But the perception of Cuba "doing the Kremlin's bidding" is mistaken. The increasing Cuban-Soviet cooperation in the 1970's has improved Cuban military capabilities, but has had no real effect on Cuban policies in Africa. The policies have remained the same since the early 1960's, only the level of effort has changed. Cuba has aided the "progressive" regimes and revolutionary movements in Africa since 1961. Cuba had training missions in Ghana, Guinea, Guinea-Bissau, Congo, and Zaire and combat troops in Algeria in the 1960's. Cuban behavior in Africa may serve Soviet interests, but Soviet behavior equally serves Cuban interests.

Cuba has numerous reasons of its own to be active in Africa and in international forums. Castro continues to bid for the title of leader of the Third World, and Cuban activism has boosted its prestige and impact with many Third World nations. Cuban involvement in Africa gives it some degree of leverage over the USSR. It can command higher levels of aid and support for its "services." It should be realized that the Soviets are less a cause of Cuban behavior than a constraint on it.

WESTERN EUROPE

None of the countries of Western Europe have been subject to significant Soviet influence. Soviet attempts to expand their influence immediately after World War II in countries such as Greece and Austria were failures. The Soviets have developed extensive commercial relations with some of the countries of Western Europe, but that chiefly brings influence in the limited business sense.

The Soviet Union's geographic location and military might put constraints on the actions of a nation like Finland. It is plainly in Finland's best interest to maintain a neutrality in foreign affairs and to build a mutual confidence with the USSR. But Finland has strong historic, cultural, and economic ties with the West. Finland has a fundamentally free society and is proud of its democratic institutions. In the parliamentary elections in the spring of 1979 there was a major shift from the left to the right, despite Soviet warnings not to vote for the Conservative Party.

Eurocommunism should not be associated with Soviet influence. The communist leaders in Italy, France, and Spain encouraged the use of the term to emphasize the trend toward independence from Moscow and the adaptation of communist tenets to the conditions of particular nations. At any rate, eurocommunism as a movement seems to be fading. It lost momentum with the setbacks suffered by the Italian communists in the 1976 elections and the French communists in 1978. At the July 1979 meeting of ruling communist parties eurocommunism was not even mentioned. The brief flirtation with socialism in Portugal in the early 1970's is now memorable primarily for the near-hysterical reaction of much of the West, and especially the U.S.

EASTERN EUROPE

Eastern Europe has been the bastion of Soviet influence in the post-World War II years. There have been many attempted rebellions, some successful, most not. Germany in 1953, Hungary in 1956, and Czechoslovakia in 1968 did not fare well. But Tito fiercely proclaimed Yugoslavia's independence from Moscow in 1948 and that country has remained a shining example of how a communist nation geographically linked to the USSR can maintain its freedom and integrity. Albania demonstrated that a tiny, weak nation could thumb its nose at the great superpower as well when it denied the Soviets basing rights after 1960.

Cracks seem to be emerging in the wall of Soviet domination once again. There are undeniably strong currents of Western influence running beneath the surface of Soviet control, especially in the cultural fields. Throughout Eastern Europe the people often seem uncomfortable with Soviet ideology and contemptuous of life in the USSR. In nearly every aspect of society—literature, music, dance, dress—Western ideas and fashions have intruded on Soivet-style rigidity.

The loosening of the Soviet rein seems evident everywhere: the Pope's tumultous welcome in Poland and the celebration of that country's 61st Independence Day, a holiday banned by government officials, by over 5000 people in Warsaw; Hungary's recovery of St. Stephen's Crown from the U.S. and its Vice-President's visit to Washington—the highest level visit in thirty years; increased defections throughout Eastern Europe, especially in East Germany; increased dissident action, particularly the Charter 77 members in Czechoslovakia.

Romania has shown the greatest independence in the 1970's. It has a history of bucking Moscow on foreign policy issues. It severely criticized the invasion of Czechoslovakia in 1968 and has refused to send soldiers to Warsaw Pact exercises ever since. Romania also denounced the Soviet intervention in Afghanistan and Vietnam's invasion of Cambodia. In November 1978 Romania refused the Soviet demands for higher military spending by other Warsaw Pact members and for increased integration of East European forces. Because of economic pressures, Romania has required all foreigners, including COMECON members, to pay for gas and oil with Western currency ever since the summer of 1979. The directive has been called a "repudiation of the entire COMECON clearing system."

Romania has made a point of trying to remain neutral in the Sino-Soviet dispute, and has recently strengthened its ties with China. President Nixon visited Romania in 1969. Romania is the only Warsaw Pact nation to openly support the Israeli-Egyptian peace treaty and American peace efforts.

The Soviets have always had to worry if the East Europeans would back the USSR in wartime. They must also worry about how much support they can muster in peacetime.●

THE POWER OF PUBLIC INTEREST GROUPS TO INFLUENCE POLICY

● Mr. TOWER. Mr. President, in a guest editorial appearing in the December 25, 1979, issue of the Los Angeles Times, Murray L. Weidenbaum focuses our attention on one of the sacred cows in American society—self appointed, self-styled "public interest groups."

As Dr. Weidenbaum sees it, the media and many legislators automatically picture these groups as the underdog and those who disagree as representing some special interests opposed to the public welfare.

One key to the power of this new breed of special interests is the myth of their powerlessness when, in fact, they are able to stop projects, to tie-up business or government in redtape and endless litigation, and to reduce the variety of products available to the consumer. He faults many of the groups for failing to base their demands on their knowledge of what the public wants and laments that they are not accountable to the public. One of their greatest sins is their failure to listen to the other fellow's viewpoint.

As a former participant in Government policymaking, Dr. Weidenbaum observes that making good policy is far more difficult than merely choosing, in a simple-minded fashion, between "public" or "consumer" interests, which are presumably good and to be endorsed, and "special" or "business" interests, which are presumably evil and to be opposed.

Because of the timeliness of this guest editorial, I ask that it be printed in the RECORD at this point.

The editorial follows:

WHAT INTERESTS DO "PUBLIC" GROUPS SERVE?

(By Murray L. Weidenbaum)

It is high time to turn our attention to the modern version of the sacred cow in American society—self-appointed, self-styled "public interest groups." Anyone who has attempted to debate with the representatives of these groups quickly learns of the advantages that they possess.

Because some of the groups at times have been on the side of the angels in attacking special privileges, large segments of the media, as well as many legislators, automatically view them as the underdog. This attitude also results, however, in the people who disagree with them invariably being portrayed as the "heavies."

But just because I may disagree with Ralph Nader or Jane Fonda on a specific issue should not inevitably be taken as my representing some special interest opposed to the public welfare. It may just happen that on occasion Ralph (or Jane) may be wrong. They may at times confuse their personal prejudices with the national well-being.

A key to the power of this new breed of special interests is the myth of their powerlessness. In the public arena, some of these self-proclaimed groups possess great power to stop projects, to tie up business or government in red tape and endless litigation, and to reduce the variety of products available to the consumer.

As a former participant in government policy making, I know that making good policy is far more difficult than merely choosing, in a simple-minded fashion, between "public" or "consumer" interests, which are presumably good and to be endorsed, and "special" or 'business" interests, which are presumably evil and to be opposed. I never came across any single individual or group intelligent enough and dispassionate enough to represent the totality of the public's interest.

Sensible policy making consists not of dramatic confrontation, but of carefully balancing and reconciling a variety of legitimate interests—such as clean air and low inflation, safe products and high employment, healthy working conditions and rising productivity.

The claims of many public interest groups are not based on their knowledge of what the public wants or their accountability to the public. General Electric, for example, must spend many millions of dollars a year on market research in order to better meet consumers' changing needs. It is almost amazing that, in contrast, the new breed of special interest groups does not have to survey the public's view. The truth of the matter is that in their arrogance they implicitly assume that they know what is best for the consumer.

It is intriguing that they often seem to view the corporation as simultaneously venal and omnipotent. Many critics of the American business system gladly accept the accomplishments, goods and servies produced by corporations, but they reject the values that have been followed in achieving those results.

They ignore the role of material incentives in obtaining desired material benefits. They seem to think the corporation could continue to produce all the material abundance at least as effectively as now, while simultaneously turning its efforts to a host of social and non-economic concerns.

To talk or write about regulated industries "capturing" their regulators (as most academics still do) is, to put it kindly, a quaint way of viewing the fundamental changes in business decision-making now taking place—the shift of power from private managers to public officials. Yet public policy still tends to be dominated by the organized, compact pressure groups who attain their benefits at the expense of the larger body of consumers.

But the nature of those interest groups has changed. Rather than the railroad baron or the utility executive (a relatively easy target for attack), the villain of the piece often has been a self-styled representative of the "public interest"—who so frequently takes the positions on government policy that reduce jobs, increase inflation, and otherwise undermine the American living standard as well as the quality of life.

It is intriguing to note that it is the business system and not the self-styled consumer advocate that in practice constitutes the front line of defense for consumers, and it is the consumer who suffers from the costly overregulation of business that is advocated by so-called "corporate activists" who view business firms as instruments for achieving their social objectives.

The position that business does not care about people because profit comes first is nonsense. Business has all the incentives to take actions that result in improving welfare. The reasons for doing so, of course, arise not out of benevolence but out of hard-nosed, practical economic interest. More purchases by willing customers generate more profits.

In contrast, many social activists do not understand the ultimate consequences of their actions. Knowingly or not, they would use the accumulated wealth of our society as their intellectual plaything.

So many public interest groups act as if communication were strictly a one-way affair. They expect the rest of society to listen carefully to and respond radically to their "demands." But they cavalierly dismiss the points made by anyone disagreeing with them as self-serving apologetics. This double standard is more than unfair; it makes it difficult to achieve good public policy.

If the various public interest groups would reduce their rhetoric and in turn listen to other voices in society, they might be able to come up with more carefully developed and more constructive proposals. In any event, a bit of modesty on their part would go a long way.●

FUTURE BUSINESS LEADERS OF AMERICA—PHI BETA LAMBDA, INC.

● Mr. NELSON. Mr. President, as chairman of the Select Committee on Small Business, I call your attention to a student vocational organization—the Future Business Leaders of America—Phi Beta Lambda—whose 200,000 members in 8,000 chapters in high schools and colleges across the country are pledged to learn more about the free enterprise system and how they can fit into it. During FBLA-PBL Week, February 10–16, these young people will concentrate on "keeping in touch with the business of America." They are bringing business people into the classroom to get firsthand information about how business operates.

Men and women from all walks of business and industrial life cooperate on the local level with FBLA-PBL by providing plant and office tours, talking about their businesses and their jobs and participating in workshops making the business world come alive for them.

From my own State of Wisconsin, two eminent educators have committed a great deal of time and energy to the cause of Future Business Leaders of America-Phi Beta Lambda. They are Dr. Russell Hosler and his wife, Dr. Mary Margaret Hosler. Both have served on the FBLA-PBL national board of directors, and Dr. Russell Hosler is a member of the founding board in 1969.

A focal point of FBLA-PBL is its widespread interest in and promotion of the free enterprise system by means of an on going economic education program called Project Awareness. This program involves the young people in a study of the American economic system, and ultimately it encourages them to reach out beyond their classrooms and into the local business community.

Through chapter activities, often in conjunction with local business and industry, these young members of FBLA-PBL have the chance to learn how the group process works to solve problems and make decisions. They use the skills they have learned in their classroom—typing, bookkeeping, public speaking, and management training skills to conduct the many service, social, and fundraising activities of their chapters.

The national headquarters of Future Business Leaders of America-Phi Beta Lambda is located in Reston, Va. President and chief executive officer is Edward D. Miller.●

WHAT WE SHOULD DO

● Mr. MOYNIHAN. Mr. President, Felix G. Rohatyn is one of the most distinguished and accomplished individuals in the United States, and it is a source of lasting pride to me and benefit to New York that he is a resident of the Empire State. He is also one of our most provocative thinkers and erudite writers on a wide variety of contemporary issues of pressing importance for his Nation, his State, and his city. It is therefore with considerable respect and enthusiasm that I submit for the Record his incisive guest column entitled "What We Should Do" as published on the op-ed page of the Washington Post on January 30, 1980, and a recent interview with Mr. Rohatyn in the New York Daily News on February 3, 1980.

The articles follow:

What We Should Do

(By Felix G. Rohatyn)

The president's State of the Union message was less noteworthy for what it said—i.e., that we will draw the line at Soviet expansionism in the Persian Gulf—than for what it neglected to say. In many ways, what was not covered was more important. For instance:

(1) In 1980, our payments to OPEC for imported crude will be running at the rate of nearly $100 billion per annum. This compares to about $6 billion before the 1973 embargo. Over the next five years, the United States will pay out about $500 billion for a product it burns into the atmosphere every day.

The value of all companies listed on the New York Stock Exchange is approximately $900 billion. The idea that over the next five years we would mortgage to OPEC half the productive capacity of this country, built up over 200 years, to pay for oil is obviously absurd. This situation is as dangerous to our system, and as unacceptable to our security, as would be a Soviet presence in Saudi Arabia.

(2) Domestic inflation and our economic posture are a basic factor in our international security posture. Our economy is the foundation upon which our security is built. This foundation is shaky. The United States cannot finance a rearmament program of the type envisaged by the administration by simply increasing its budget deficit. The United States cannot hope to convince OPEC to hold on to its dollars if we continue to give in to runaway inflation that has two main components: energy consumption and government spending.

The United States is not a credible partner, economically or militarily, unless it takes concrete action to reduce drastically energy consumption and to strengthen its currency. Coming off the high end of a business cycle with a $40 billion deficit is not reassuring.

(3) There are only two ways to reduce domestic energy consumption both drastically and soon: gasoline rationing or increasing the price of gas with a substantial tax. Ultimately, both may be needed. With the additional financing requirements for defense, a gas tax seems to be the most logical answer.

Of all the presidential candidates, only Rep. John Anderson has had the courage to advocate what many see as only common sense. A 50-cent-per-gallon gas tax would raise approximately $55 billion per annum, could reduce consumption by about 10 percent and is an absolute minimum. A $1-per-gallon tax, phased in over three years, would be more appropriate. In Europe, gasoline taxes amount to $1.50 to $2 per gallon, with a per-gallon price at the pump of $2.50 to $2.70. Europe's per-capita consumption is 40 percent that of the United States', not only because people drive less but because long ago they switched to small, fuel-efficient automobiles.

The proceeds of the gas tax should be used partly to fund increases in defense spending, partly to lower taxes on business in order to increase capital investment and productivity and partly to help lower-income groups by financing mass transit and lowering Social Security taxes.

(4) A significant gas tax would do more to strengthen the dollar and give OPEC long-term confidence in our currency than any other single economic action available to us. It should set the stage for a dialogue with OPEC aimed at changing our payments for oil from freely convertible dollars to long-term bonds guaranteed by the U.S. government. The proceeds of these bonds could be used only to purchase American commodities or manufactured goods over a period of years as the bonds mature.

As an inducement to such an arrangement, we should be willing to commit part or even all of our current gold reserves. At current market prices, the United States has approximately $250 billion worth of gold; sitting on a mountain of gold will do no good if our economy collapses. We should be willing to commit the only commodity we have that has risen in value as much as oil as part-payment for oil, if OPEC will accept long-term bonds, with limited convertibility, for the balance.

If such an arrangement were negotiated with one or two members of OPEC, such as Saudi Arabia and Kuwait, others might follow later. The producers must understand that we will be driven to much harsher choices if the bankruptcy of our society is the only alternative.

(5) Our commitment to protect the oil resources of the Middle East benefits Europe and Japan at least as much as it benefits us. They should, therefore, pay their fair share. As part of the mutual security arrangements with Egypt, Israel, Saudi Arabia and Jordan, any American troops stationed there should be evenly matched by European forces financed by Europe and Japan.

* * * * *

The windfall profits tax could not be applied to the oil-producing states themselves because of congressional resistance. At a minimum, a certain proportion of defense contracts as well as subcontracts of the synfuel programs should be mandated to the urban, impacted areas of the Northeast and Midwest. If we are to survive as a Union of states, then there has to be a balance as to burdens and benefits.

(8) This country faces major challenges in the coming decade without a foundation of consistent domestic or foreign policy for a base. Double-digit inflation is not abating, nor is a meaningful reduction of energy consumption taking place. The wage-price guidelines are as irrelevant to wages and prices as the windfall profits tax is irrelevant to production and consumption of energy.

Wage and price controls are not a long-term solution, but a 6-to-12-month wage-price freeze should be considered to provide a relatively stable pause during which the administration and Congress can debate and arrive at a sensible, interrelated set of policies for the 1980s.

Policy is a fabric, a tapestry in which all strands are interwoven, linked to each other, clearly describing a basic posture and direction. We have no such tapestry. The State of the Union message concentrated on what might happen but is not likely to—i.e., Soviet expansion into the Middle East oil fields. It ignored that which is inevitable but which we have no answers for—i.e., reducing energy consumption and paying for what we use, reducing inflation and paying for defense, protecting the dollar and giving a future to the young black, keeping this Union viable and united.

Those are some of the inevitables we face, and those are only a few. What is certain is that we are living at the end of an era: the era of Keynesian economics, growth with limited inflation, cheap and plentiful energy, U.S. economic domination of the Western world. If we are to be in control of our destiny as a viable democracy in a state of transition, it cannot be done with business as usual at home.

The American voter is usually far ahead of his leaders. He is entitled every four years to his most precious right: namely, to ask those who propose to lead just what it is they propose to do. The answers, so far, both by Republicans and Democrats, have not been inspiring.

Rohatyn Fears Our Way of Life Is Threatened

(By Dan Dorfman)

"I'm scared," a glum Felix Rohatyn told me the other day. And it wasn't his increasing number of visible gray hairs that bothered him. "I feel I'm living in 1912, the years of The Guns of August (World War I started in 1914). I see an enormous threat to our way of life, a lot of pain. At best, we face a reduced standard of living. And at worst, we'll have to defend our interests abroad. And the longer we wait and do nothing—which is what we're doing—the worse it's going to get."

One of the brightest financial minds I know and a partner in the investment banking from of Lazard Freres & Co., Rohatyn didn't confine his gloomy outlook to generalities. He offered some specific—and bold—proposals to meet our problems. One, in particular, called for harsh medicine—namely, an immediate 50-cents-a-gallon tax on gasoline, followed by another 50-cent boost within two to three years. Those hikes would push gas to about $2.50 a gallon for Rohatyn's BMW, which, he says, he may sell because of the poor gas mileage.

You may not agree with the man, but his views are invariably thought-provoking. And as you'll see, the 51-year-old Rohatyn, who's also chairman of New York's Muncipial Assistance Corp. (Big MAC), is clearly an original thinker.

In relating Rohatyn's thinking, one has to address himself to the economic policies of Jimmy Carter. And here, although Rohatyn wouldn't say it directly, it's obvious he feels the President is weak and vacillating. Take, for example, the President's recent State of the Union message in which Carter got high marks in many quarters for addressing himself strongly to the growing Soviet menace. Rohatyn, for one, was disappointed, asserting that the message failed to talk about stable prices for the housewife in Columbus, Ohio, jobs and education for the black kid in Harlem or the need for a hard U.S. dollar.

"Nothing in Carter's message," says Rohatyn, stroking his thick bushy eyebrows as he spoke, "gives me confidence we're moving in any of those directions. We can't have credibility with the Russians, or the Chinese, unless we have a viable domestic policy . . . and at present we have no coherent set of either domestic or foreign policies.

Says Rohatyn: "At some point, someone's going to have to do something to resolve our enormous economic social strains. If not, we could be headed for a financial collapse and I'm not sure democracy could weather that.

That 50-cents-a-gallon tax at the gas pump I spoke about earlier is strongly recommended by Rohatyn as the first step in getting the United States' economic house in order. Such a tax—which would boost prices at the gas pump to about $1.75 a gallon—would also cause some suffering, as well as heighten inflation, admits Rohatyn. "But it's something," he says "we've got to accept."

Rohatyn says such a gas tax would raise about $50 billion a year (as well as cut consumption about 10%). By reducing energy imports, he observes, you're cutting back on inflation. And that helps both the housewife in Columbus and the dollar. Rohatyn points out that part of the $50 billion can also be directed to business incentives to create more jobs . . . and that would help the black kid in Harlem.

Other important uses for those funds, as Rohatyn sees it: (1) financing the defense effort (which would help lower the budget deficit); (2) rolling back Social Security taxes (which would especially aid the lower-income group).

"Paying $2 or $2.50 a gallon for gas is not the end of the world," says Rohatyn. "It means you buy a smaller car and save on gas consumption. Just look at Europe; gas there is $2.75 a gallon. . . ."

Rohatyn rattled off some scary statistics as he turned the conversation to OPEC (the Organization of Petroleum Exporting Countries). He notes that the value of all Big Board companies is about $900 billion—a value that took 200 years to create. But over the next four years, he says, the United States will pay half of that to OPEC.

That's simply not a sustainable proposition, declares Rohatyn. "We just can't sustain an economic thesis where all our real estate, all our companies and all our equities are to be bought in exchange for oil."

Taking the thought a step further, Rohatyn observes that over the next four to five years a trillion dollars will go out of the Western world to pay for oil (and that doesn't even include the oil bill of the less-developed countries). The international monetary system can't handle it, the banking system can't handle it . . . and the end result, in Rohatyn's mind, is an economic collapse that'll lead to some sort of military action.

So what's to be done?

Rohatyn advocates a new form of U.S. payment for imported oil—which this year will cost us about $100 billion, up from $6 billion before the 1973 oil embargo. In brief: a combination of long-term bonds (20–25-year variety) and some gold. The bonds could be used only to purchase American goods (such as commodities and machinery) as they mature . . . and not for the purchase of American companies, says Rohatyn.

At present, the United States has a gold inventory worth about $280 billion. And as Rohatyn sees it, "I don't see us sitting on a mountain of gold if our economy is in difficulty. It's absurd for us (the Treasury) to embark on a program of selling gold at $250 an ounce and refusing to sell it at $700."

Whether OPEC would ever buy such a payment plan, of course, remains to be seen.

On other matters, Rohatyn thinks the U.S. recession that seemed to be developing will be put off by higher defense spending. He also believes there's an even chance that wage-price controls will be strongly pushed within the next 12 months. (He personally favors a temporary wage-price freeze of six to 12 months to curb inflation.)

The grim-faced Rohatyn offered one other economic idea as we parted. And I'm sure we'd all love to see it happen. The idea: Take inflation out of taxable income. In other words, your salary would be taxed only on real income; the inflation rate, which ran 13.3 percent last year, would be exempt. "It would create a discipline for the government to live within its means," says Rohatyn.

With the way inflation's killing us all, who can resist such a marvelous suggestion?●

RESEARCH AND DEVELOPMENT

● Mr. NELSON. Mr. President, on January 17, 1980, the delegates to the White House Conference on Small Business selected by vote the top 15 priorities from the 60 conference recommendations to be forwarded to the President for his review and consideration. The sixth highest ranking priority specifically urged support and passage of S. 1860, the Small Business Innovation Act of 1979. Nineteen Senators joined as original cosponsors when I introduced that measure on October 4, 1979.

Title III of S. 1860 would provide various tax incentives to help overcome and eliminate those barriers impeding capital formation by small, innovative concerns. I am hopeful that both the Senate Small Business and Judiciary Committees will complete their work on the bill early in this session so that the Finance Committee can then consider the provisions of title III.

An article recently appeared in Business Week entitled, "To Review Research and Development," which discussed the need to provide incentives to spur increased innovation. The writer, Lewis H. Young, suggests that attention should be focused on what can be done to assist smaller, new concerns. I share his conclusion "that a more effective solution to the problem of declining U.S. innovation would be to change the tax laws to encourage the person with a good idea to start a new company."

Mr. President, I ask that this thought provoking article be printed in the RECORD.

The article follows:

To Revive Research And Development

(By Lewis H. Young)

Last month in The New York Times, Reginald H. Jones wrote an article lamenting the neglect of science and technology in the U.S. and linking this shortcoming to the causes of inflation, unemployment, declining productivity, trade deficits, disenchantment with government, and loss of international position. In proposing a remedy, the chairman and chief executive officer of General Electric Co. suggested three incentives:

Flexible depreciation for equipment and special-purpose structures used in research and development.

Flexible depreciation for purchased patents and other intangible items of technology, such as knowhow and secret processes.

A special deduction equal to 120 percent of research-and-development expenditures.

Few members of the Business Roundtable, the organization of chief executives of large U.S. corporations, would argue with Jones's prescription. But the fact is his remedy omits one serious cause of the lack of investment in R&D in the U.S. today—the unwillingness of so many of today's financially oriented professional managers to take the risks such investments involve. Moreover, the incentives Jones proposes are aimed at the wrong segment of business: big business, which doesn't do all that much innovating.

WHY R&D LAGS

During the past decade, the concentration of the chief executive officer of most big corporations on financial matters has kept him focused almost exclusively on the short run—on next quarter's earnings or this year's profits. Jones's proposal reflects this. Despite lip service—and quite a bit of it, too—to the subjects of long-range planning and strategic planning, most companies are run by bottom-line management, which means the chief executive comes up with a profit number for the year and then makes sure it is achieved. If the company falls short of the mark, such areas as R&D, new-product planning, or marketing are slashed, because cuts in those areas show up on the bottom line quickly.

Using the excuse of applying the techniques of professional management, a lot of chief executives have turned timid in the area of product and process innovation. Approving an innovative R&D program is costly, not only in money, but in reputation if it turns sour. And the risks of a long-term project not working out are high, too high for managers who can see a sure fast profit squeezing another ⅛ percent out of the corporate cash, or using the corporate cash to buy a going business. Kennecott Copper Corp., for example, will not undertake any R&D effort that does not promise a payback within five years. RCA Corp., once a pioneer in high technology, has now opted for surer but smaller returns by acquiring a financial services company (CIT Inc.) instead of gambling on a big future with videodiscs. In addition, RCA stopped designing and manufacturing its own videotape recorder, with the risks that involves, to sell Matsushita's product.

Because of U.S. companies' unwillingness to take a gamble on R&D, many Japanese executives say they no longer fear American competition. Japanese companies often trade short-term profits for long-term growth. That kind of persistence has enabled the Japanese to make big inroads in steel, autos, consumer electronics, and now computers. And the Japanese have persevered even though, as in 1965 in color television, they suffered from a lack of competitiveness because they didn't have the production volume to match U.S. companies.

The failure to invest, particularly in process R&D and new manufacturing equipment, tends to have a multiplying effect. Rockwell

International Corp. found that its newly acquired. Admiral Group Div. could not compete in price with Japanese television manufacturers because the Admiral plant was full of outdated mechanical manufacturing and testing equipment, while the plants of its Japanese competitors were equipped with the latest instrumentation, automatic assembly, and materials-handling gear, and Rockwell was not prepared to spend to modernize the plant—even though it believed it had a superior product. Nor was the company willing to wait the years it would take to establish its superior product as a high-quality, premium-priced television set. Its answer: Go out of the television business.

VESTED INTERESTS

Jones's own GE has not achieved a lot of success in one aspect of high technology. It could not make it in the semiconductor business or as a supplier of mainframe computers, and it was slow to respond to the microprocessor revolution. These are areas that require fast decisionmaking, flexibility, and risk-taking. In big companies, there is a bureaucracy designed to accomplish the opposite. It slows down innovation to the point that the bright people who are best at this kind of work leave or give up in frustration. And too often bureaucracies in companies have vested interests in the products or the old way of doing things and are imaginative only in devising reasons why new-product or new process work should be killed. It is far easier to shoot a new idea full of holes than it is to come up with the innovation in the first place.

A more effective solution to the problem of declining U.S. innovation would be to change the tax laws to encourage the person with a good idea to start a new small company. As these infant enterprises grow, they would contribute far more to employment, to fighting inflation, to boosting productivity and to maintaining the U.S. competitive position than an increase in depreciation rates at large corporations will. What is needed is to modify the tax laws so that people who are willing to start or invest in new enterprises can make money and keep most of what they make.●

A FUNERAL FOR THE FTC?

● Mr. METZENBAUM. Mr. President, within the next few days, the Senate may take action which could lower even more the regard the citizens of this country have for Congress.

We will be voting on legislation which will make significant changes in the authority of the Federal Trade Commission—the one Federal agency that in recent years has worked to promote fair competition and to protect consumers interests in the marketplace. Yet that is the problem. The FTC's diligence in helping consumers has stirred the wrath of special interests that do not want the FTC meddling in their affairs.

These special interests have come to Congress with one clear message—get the FTC off our backs. Are we in the Senate going to listen? Are we going to kill the FTC's rulemaking on advertising to children and its efforts to make the standards and certification process more competitive and fair? Are we going to keep the FTC from reporting on abuses in the insurance industry?

If we submit to the pressures of the special interest lobbies, it will be at the expense of consumers and honest and open competition in the marketplace. And it will not be long before people realize what damage congress has done to one Federal agency that clearly has the public's interest in mind.

I urge my colleagues to read the editorial I am submitting today which appeared in the St. Petersburg Times on October 24, 1979.

The editorial follows:

A Funeral for the FTC?

Fair competition! Consumer protection! Noble words, and more than 60 years ago the Congress created an agency, the Federal Trade Commission (FTC), to breathe life into them.

But the FTC was a paper tiger, sleeping in the sun while the hyenas and jackals continued picking the poor consumer's bones.

That is, it was. A few years ago, Congress tired of having the FTC make consumer law ad hoc, one culprit at a time. It gave the FTC power to lay down trade regulations saying in advance how entire industries should behave. Next, Jimmy Carter came along and appointed a fine new FTC chairman, Michael Pertschuk.

The tiger stirred. It roared, And, as one might expect, the jackals and hyenas are scared of losing their free lunch. They've ganged up on the FTC, they have it at bay, and they just might be about to pick its bones clean.

The issue is a bill, two years overdue, to reauthorize the FTC. The House has insisted on giving either house of Congress the power to overrule the FTC when it adopts trade regulations that displease special interests. So far, the Senate has refused to go along with this, but the Senate's back finally is bending.

Of course, Congress ought to have the last word over agencies such as the FTC, to which it has delegated lawmaking power. But what two houses give, it should take two houses to take back.

This week or next, the House will vote on an FTC bill that embodies the one-house veto, a gimmick of dubious constitutionality. At least this version is as benign as the consumer protection subcommittee dared to make it. If the House voted, say, to toss out an FTC rule protecting people who buy used cars, the Senate would have 30 days to overrule the House.

The veto power is far from the worst of what lurks in the House. Three pending special interest amendments would curtail the FTC's attack on alleged monopoly in the breakfast cereal industry; forbid the FTC from investigating agricultural marketing cooperatives, and prevent the FTC from enforcing some sensible and sadly overdue funeral industry regulations that have been under development for six years.

The funeral industry's front man, Rep. Marty Russo, D-Ill., shilled for the medical lobby last year when he cast the deciding committee vote that killed the hospital cost containment bill.

The coincidence is striking and significant. If the FTC isn't to be allowed to represent the consumer vis-a-vis funerals, what of the other industries it is investigating, such as medicine, mobile homes, new home construction and used cars? "If we can't win funerals," says a friendly House staff member, "we can't win any of those."

The FTC's investigation proved that funerals cost too much because the consumers have too little choice in how they are carried out and because there is hardly any price competition. It also documented disgraceful conduct by a minority of funeral directors.

In the public interest, the rules would require itemized price disclosure and prohibit such goulish practices as embalming without permission and forcing relatives to purchase expensive caskets when—as in immediate cremation—they are not necessary.

The rules themselves would not be necessary if the states had acted. But, apart from a few such as Arizona, Texas and Florida, state regulation is at the whim of the industry, discouraging competition and shielding the unscrupulous practitioner. Florida's new law, made possible by a "sunset" deadline on the toothless old law, was modeled on the proposed FTC code.

The FTC's rules would benefit citizens of all states, including the few which have responded to the need. On Oct. 10, the Arizona State Board of Funeral Directors and Embalmers emphatically endorsed the FTC's efforts, saying:

"... funeral services consumers are uniquely vulnerable . . . The demonstrated need exists for active and aggressive coordinated enforcement efforts by federal, state and local consumer fraud agencies in this area ..."

There could be no greater consumer fraud than for the Congress to create high-minded laws and agencies, only to repudiate them when they threaten to fulfill their purposes. Adoption of the Russo amendment, and others of its ilk, would confirm Mark Twain's theorem that ". . . there is no distinctly native American criminal class except Congress." Fortunately, the rest of the House still has a chance to prove Russo—and Twain—wrong.●

MAYOR KOCH'S ADDRESS

● Mr. MOYNIHAN. Mr. President, last week, before the U.S. Conference of Mayors, Mayor Koch of New York City delivered an address which deserves the Senate's immediate attention. The mayor's message was that Federal regulations have very often saddled local governments with expensive and ill-conceived requirements, without adequate consideration being given to the enormous hardship thereby placed on States and localities. Federal officials have been all too eager to order regulations whose impacts they are shielded from because they are not responsible for the delivery of services.

I urge my colleagues to read Mayor Koch's timely analysis, which I request to be printed in the Record.

The address follows:

The Mandate Millstone

(By Mayor Edward I. Koch)

My topic this morning is "The Mandate Millstone"—a maze of complex statutory and administrative directives that, over the past decade, has come to threaten both the initiative and the financial health of local governments throughout the country. My concern is not with the broad policy objectives that such mandates are meant to serve, but rather with what I perceive as the lack of comprehension by those who write them as to the cumulative impact on a single city, and even the nation.

I want to emphasize that my criticism is directed at the shortcomings of a system that has evolved over the course of many years. This is not the fault of particular individuals nor of today's leadership; it is rather an inheritance from the work of several Administrations and Congresses, including some in which I served.

The City of New York, as an example, is driven by 47 federal and state mandates. The total cost to the city of meeting these requirements over the next four years will be

$711 million in capital expenditures, $6.25 billion in expense budget dollars and $1.66 billion in lost revenue.

On the federal level, the current crop of mandated programs is really the second stage in the evolutionary process of activist lawmaking exhibited by the Congress. First, in the 1960's came the Great Society programs. The nation's cities could choose from a bountiful catalog of Federal grants which offered to foot 80, 90 or even 100 percent of the cost of enormously ambitious programs. In a time of unprecedented prosperity, with only higher expectations ahead, local governments eagerly went after Federal funds even, at times, at the expense of comprehensive planning.

Left unnoticed in the cities' rush to reallocate their budgets so as to draw down maximum categorical aid were the basic service delivery programs taken for granted by the Great Society architects. New roads, bridges and subway routes were an exciting commitment to the future, but they were launched at the expense of routine maintenance to the unglamorous, but essential, infrastructure of the existing system. Further, the enticement of federal aid drew cities into new social service commitments that were soon to monopolize their budgets.

The 1960's left a bitter legacy for cities in two respects. As prosperity fell hostage to inflation, and then stagflation, the bright promises of programs so boldly launched with Federal aid collapsed under exponential cost overruns. Projects under construction, such as our Second Avenue subway, had to be abandoned and the now concealed but still remembered excavation serves to remind the public of how easily government can fall victim to monumental folly.

Perhaps more damaging was the shift in the 1970's in the legislative approach, particularly in Congress, to the grand commitments of the 1960's. Sweeping solutions to social ills were still in vogue, but this time the public purse had a bottom to it, and its guardians became adept at fending off the claims of local governments. The result has been an ever widening gulf separating the programmatic demands of an activist Congress from its concurrent fiscal conservatism. By the close of the 1970's the cities found themselves under the guns of dozens of Federal laws imposing increasingly draconian mandates. From the perspective of local government the mandate mandarins who write these laws appear to be guided by certain disturbing maxims such as:

Mandates solve problems, particularly those in which you are not involved.

The Federal government, for example, has shown no reluctance in ordering sweeping changes, whose impact it will never have to face since it does not hold the final service delivery responsibilties in, for example, education, transportation and sewage disposal.

Mandates need not be tempered by the lessons of local experience.

Frequently a statutory directive will impose a single nationwide solution to a perceived problem, such as sewage treatment, that has been developed in the isolation of a consultant's office and rarely, if ever, exposed to real world conditions in the affected regions.

Mandates will spontaneously generate the technology required to achieve them.

Congress has shown a disturbing penchant for prohibitions on existing approaches to problems such as ocean dumping, for which no practical replacement has been developed.

The price tag of the lofty aspiration to be served by a mandate should never deter its imposition upon others.

Statutory commands are rarely accompanied by adequate financial assistance. Most extreme in this instance is the accessibility mandate for transit systems and the requirements relating to the education of the handicapped.

I do not for a moment claim immunity from the mandate fever of the 1970's. As a Member of Congress I voted for many of the laws which I will discuss, and did so with every confidence that we were enacting sensible permanent solutions to critical problems. It took a plunge into the Mayor's job to drive home how misguided my Congressional outlook had been. The bills I voted for in Washington came to the Floor in a form that compelled approval. After all, who can vote against clean air and water, or better access and education for the handicapped? But as I look back it is hard to believe I could have been taken in by the simplicity of what the Congress was doing and by the flimsy empirical support—often no more than a carefully orchestrated hearing record or a single consultant's report—offered to persuade the Members that the proposed solution could work throughout the country. The proposals I offer address this problem by increasing the level of scrutiny applied to both the cost and feasibility of mandates directed at local governments.

Let me now turn to the case histories of some of the more onerous mandates faced by New York City. I use my city as an example, because I know its problems best. The problems we face of course, recur throughout the United States. The numbers may be larger in New York but these mandates have an equally significant impact on the budget and local autonomy of every city.

PROVIDE TOTAL ACCESS FOR THE HANDICAPPED

An example of a mandate that may totally skew capital spending nationwide in the 1980's at all levels of government is the handicapped access program required by regulations promulgated in response to Section 504 of the Rehabilitation Act of 1973.[1]

No one would argue that we need to commit funds to make transit systems and buildings accessible to the handicapped. But one also has to deal with the limitations—both financial and physical—that exist in the real world beyond the printed page of the Federal Register.

The Departments of Transportation[2] and Health, Education and Welfare[3] have issued regulations that set as a mandate total accessibility for the handicapped to transit systems, instead of dealing with the function of transportation: mobility. In rejecting numerous appeals for modest exemptions and waivers, these regulations impose a restrictive and inflexible interpretation of the basic mandate of Section 504. Ironically, in focusing on accessibility the regulations fail to benefit a significant portion of the severely disabled. Subways and buses may ultimately be made fully accessible, but a disabled person may not be able to get to the system to enjoy its accessibility.

In this instance, alternatives are available. New York City has a far more extensive and flexible bus system than its subway system. Given the numbers of handicapped people impacted—some 22,800 in wheelchairs and 110,000 semi-ambulatory for a system that carries about 5.3 million people on a weekday—a more reasonable approach can be formulated to meet the transportation needs of the disabled. The City of New York has proposed making its buses accessible and providing a paratransit system for the most severely disabled. Paratransit will provide door-to-door service and can make the difference between a handicapped person being a prisoner in his or her home or a mobile member of the community. Similar paratransit services are in planning or underway in other cities.

The DOT regulations presently proposed do not accept the alternative of a bus and paratransit mix.[4] Beyond bus accessibility, the regulations appear to demand accessibility in 53 percent of our subway stations within thirty years, at a cost in today's dollars of some $1.3 billion. Added to this will be at least $50 million in recurring annual operating expenses. And the regulations make no affirmative provision for meeting the handicapped community's myriad difficulties in getting to buses and subways.

It would be cheaper for us to provide every severely disabled person with taxi service than making 255 of our subway stations accessible. Indeed, the Congressional Budget Office in its report of November, 1979 on Urban Transportation for Handicapped Persons, Alternative Federal Options, estimated that the cost of implementing the 504 regulations when spread over the limited number of wheelchair users and severely disabled passengers, will be $38 per trip. In contrast, transit trips by the general public cost, on the average, about 85 cents.

Should we somehow achieve the prescribed level of systemwide rapid transit accessibility, I believe that even the most courageous will test it only once to satisfy themselves that they are able to ride the subways and that few will do it on a regular basis.

The history of this mandate points up a basic fallacy in the process leading to its promulgation: unrealistic projections by Federal agencies of the cost of realizing mandated goals. When the Department of Transportation issued its preliminary nationwide regulations for public review and comment in early 1978, it used a figure of $1.8 billion for the contemporary cost of making all transportation systems accessible. This was clearly an unrealistic estimate and implied an unwillingness by the Department to face up to the magnitude of the course they were proposing to require. The Congress acknowledged this credibility gap and in 1978[5] ordered the Department to submit a report by early 1980 on the costs of accessibility based on a survey of all rail transit operators.

Finally, the Section 504 regulations are crippled by the lack of available technology to achieve the mandated standard of accessibility. Bus lifts have yet to be developed that operate without frequent breakdowns; no U.S. bus manufacturer would even bid to build the Transbus; and people are just starting to think about devices than can span the distance between a rapid transit vehicle and the passenger boarding platform.

The issue of transit accessibility is one that the Department of Transportation must deal with quickly. If an affirmative policy decision is not made to bring the demands of 504 in line with the practical limits on compliance efforts, transit subsidies in the 1980's will be severely distorted making systems accessible to several thousand people while forsaking improvements needed on the total system. The cost in operating reliability will very likely reduce the quality of service available to both current users and those who should benefit from improved accessibility. We may, in fact, build a system under the 504 mandate which most handicapped people can't use due to the barriers still remaining, and which, if they do manage to board breaks down far more frequently.

Footnotes at end of article.

EDUCATE HANDICAPPED CHILDREN

While the Congress may have been thoughtless or arbitrary in compelling universal access for the handicapped without sufficient consideration of the real world constraints on localities, it has been almost cynical in its implementation of the directive that all handicapped children be provided "a free and appropriate education."[6] It is impossible to attack the virtues of this objective. Yet the structure of the program enacted to accomplish it not only dooms the compliance efforts of local school districts, but also jeopardizes the overall quality of education that can be offered to all children.

The Federal law contains three fundamental defects. First, the formula by which accompanying Federal assistance is measured looks to the national average cost of educating a non-handicapped child and thus completely overlooks the far broader scope of services that are needed to bring the promise of the mandate to the actual population it was designed to benefit. The formula contains a second fallacy in its use of a single nationwide average cost; it deprives school districts with high education costs and high concentrations of handicapped pupils of any recognition of the greater costs and special problems they face in designing compliance programs.

In New York City we have had to budget $8,180 per handicapped pupil, nearly three times the cost of educating a non-handicapped child. This compares to the national average figure of $1,400 for non-handicapped children employed by the federal government to determine the level of assistance for handicapped educational programs. Third, and most disturbing, has been the consistent failure by Congress even to appropriate the full measure of assistance authorized by an already restrictive formula. Here we have the Congress implicity reneging on the delivery of an already meager federal share of the cost of meeting its own national mandates. The shortfall in appropriations has grown over the past two years to the point where less than half of the authorized amount has been distributed to affected school districts. The act authorized an appropriation in Fiscal Year 1980 of 20 percent of the understated federal calculation of national costs; the appropriation however was only 12 percent.

To sum up: first, they underestimate the costs and then they underfund the underestimate. New York City is receiving only $8.5 million in federal aid while spending an estimated $221 million in tax levy dollars for special education in Fiscal Year 1980. Our commitment will grow to at least $278 million in Fiscal Year 1981 and we can only hope that the Congress will keep pace.

This mandate, combined with an inadequate level of federal funds for its fulfillment, has compelled the diversion of increasingly scarce local resources from the education of the rest of the school population. And as in 504, the absolute terms of the mandate discourage any efforts at the local level to develop alternative approaches to the statutory objective, such as the use of special facilities providing intensive attention to the needs of handicapped children, which might ease the enormous financial burden imposed by the program.

CLEAN UP THE WATER NOW; WORRY ABOUT THE LAND LATER

Perhaps the most graphic example of a mandate gone haywire is the prohibition, effective on December 31, 1981, of current ocean dumping programs, including New York's, for the disposition of sewage sludge.[7] In the face of an absolute command to shut down ocean dumping we must look for alternate technology. It would seem elementary that the planet earth, reduced to its most basic elements, offers us only land and water and what can not be dumped in the ocean must be deposited on land.

Incredibly, the Congress and the Environmental Protection Agency have imposed the ban out of concern for water quality in the absence of reliable land disposal technology. Every way the City turns with its sludge it encounters another federal regulation. Banned from the ocean, the alternative we must use—dewatering and composting—will create an end product ladened with heavy metals, the disposal of which may come into conflict with anticipated landfill regulations,[8] permanently rob the landfill of future agricultural use and endanger the area's watertable. The dewatering and composting of sludge will require a $250 million capital investment and $35 million in annual operating costs. The federal government will provide 75 percent of the capital costs; but New York City must shoulder at least 75 percent of the operating costs with the State assuming the remaining 25 percent. This will be only an intermediate step toward an as yet undeveloped permanent replacement for the existing ocean dumping program.

It is anticipated that a permanent replacement will be available in ten years, at which time we will be forced to abandon $150 million of the capital investment in the interim solution because of the potential health and environmental hazards it poses. This is what you might call a classic example of planned obsolescence—all for an imperceptible alteration in water quality for a brief period of time.

While we are covering our land with sludge contaminated by toxic materials, full compliance with yet another EPA regulation,[9] administered jointly with the U.S. Army Corps of Engineers,[10] may result in the cessation of all commerce in the Port of New York. This commerce annually produces more than $32 billion in foreign cargo trade and generates $1.5 billion in personal and business income for New York City's economy. To accommodate the large container vessels that have become the standard vehicle for moving goods by water, the natural depths of New York Harbor must be continually dredged. We have secured a three year extension of the ban on ocean dumping of dredged material. The extension does not, however, relieve us from the obligation to perform the costly bioaccumulation tests required by EPA's ocean dumping criteria,[11] which are subject to evaluation by both EPA and the Corps of Engineers. The interpretation of these tests by the two agencies can be inconsistent so that they may be judged to be within permissible parameters by the Corps of Engineers but not EPA.

The disposition of dredge spoil is plagued by yet another arbitrary standard: the requirement that localities assess seven alternatives for the disposal of the material.[12] The review of seven "possibilities" is required even though only three practical options appear to be available: ocean disposal, contained upland disposal, and use of subaqueous burrow pits.

While the standard laid down by the ocean dumping mandate is currently unrealistic, another federal standard compels the City of New York to operate its sewage treatment plants at secondary treatment capacity, even though area water quality does not require this level of treatment year round. It may be hard to argue against pure waters, but this standard will force the City of New York to spend $10 million in FY 1981 for superfluous secondary treatment.[13] I might add that while the Federal government contributes 75 percent of the cost of constructing sewage plants, it leaves to the locality the full cost of their operation. Furthermore, the Federal government tells us how to operate and man the plants. New York State has used its interpretation of these Federal regulations as an excuse to deny its 25 percent share of operating costs. We are now having to sue the State of New York over the denial of the City's application for reimbursement in the amount of $6 million withheld in FY 1977.

San Francisco, like New York City, plans to build new secondary treatment facilities. It also contends that full secondary treatment is not necessary on a year-round basis. Consequently, San Francisco has asked EPA to allow it to operate the plant at the primary treatment level during the winter months. Other localities like Los Angeles and Boston have filed applications with EPA in an effort to obtain complete exemptions from the secondary treatment requirements.

My concern is not simply with the needless expenditure of local dollars, but also with the Federal dollars committed to these programs in amounts that, considered in the context of overall urban needs, are desperately required by other urban programs. We must respond to the fiscal and public policy dilemma that is created by the cumulative impact of courses that individual mandates are blindly propelling us down. Mandates obscure priorities and encumber comprehensive planning.

DON'T ENCUMBER WELFARE RECIPIENTS' SPENDING FREEDOM

Another example of a federal statutory mandate that frustrates local efforts to administer vital programs is the ceiling placed on the use of restricted public assistance payments. In New York State the AFDC program is structured to include a separate shelter allowance for welfare recipients. The total grant paid to each recipient is different depending on his or her rent expenses. The Congress mandates that these monies be included in the recipient's grant and not be paid directly to the landlord.[14] The ostensible rationale for this measure is to preserve the tenant's basic freedom of choice in allocating his check to food, housing and clothing in a manner consistent with his priorities. Exceptions to this policy are made only if a recipient is found to have mismanaged the federal funds. Historically, nonpayment of rent for more than a month has satisfied the mismanagement test.

New York City is faced with an accelerating syndrome of insolvency and abandonment by landlords who provide many of the lower income rental units to AFDC recipients usually because monthly rent collections fall far behind costs. These building owners have repeatedly approached the City seeking relief in the form of "two-party" welfare rent checks which would be issued to tenants who receive public assistance but require co-signature by their landlord before cashing. The City has made a strong effort to implement a two-party check program in areas especially hard hit by urban blight.

Our efforts to improve the situation have been blocked by a federal law that limits to 20 percent of the caseload the number of welfare clients who can be placed on restricted two-party payments.[15] If we exceed this limit we are subject to federal and state disallowances that could result in the withholding of the 75 percent federal and state share of restricted rents exceeding the 20 percent ceiling. A flat 20 percent limit is unrealistic given the magnitude of the prob-

---

Footnotes at end of article.

lem in New York City. In August 1979 restricted grants reached a level of 18.8 percent of total grant recipients. This required the launching of a crash effort last October to remove clients from two-party rent restrictions before we could recoup the funds advanced to prevent their eviction for nonpayment of rent. We are now at a level of 17 percent of the overall caseload.

Our problems in this area could be compounded further. The Department of HEW has aired a regulation that would prohibit placing a welfare recipient on the restricted payment procedure solely because rent is not paid on time.

HEW argues that failure to pay rent may not be sufficient evidence of mismanagement. When pressed to provide an acceptable definition of mismanagement, HEW suggests that the City would, in every individual case, have to show a diversion of rental funds to such things as vacations, drugs or liquor. Using rent money for items such as food and clothing would not be deemed evidence of mismanagement, despite the fact that the landlord will come up short in rent collections, and even though each recipient receives a special amount for rent, as well as food and clothing allowances.

The HEW answer to the loss of housing caused by non-payment of rent would appear to require the City to publicize counseling services to clients who have difficulty managing their budgets. HEW has even suggested that the City's social service staff make home visits to clients to provide the counseling. This latter suggestion from Washington bureaucrats is particularly naive when it is made to a City saddled with an AFDC population of 736,000 since the administrative cost of such a system would be enormous, and its effectiveness a matter of speculation.

Fortunately, wiser heads appear to be prevailing. The Department of HEW officials are now discussing with state and city officials a more realistic approach to the problems associated with the definition of mismanagement. I am hopeful that this will yield an administratively practical way of protecting the interest of families while not contributing to further deterioration of our housing stock.

THE COSTLY PUBLIC ASSISTANCE PARTNERSHIP

The most severe impact of the restrictions imposed on the two-party check program is the loss of an important component of the City's housing preservation efforts. Of far more immediate concern to our overall financial condition is the statutory formula that sets ceilings on the Federal share of total AFDC and Medicaid programs. The underlying design of both programs directs that the City provide assistance to a potentially unlimited number of recipients, but allows little local control over the benefit levels or eligibility standards which determine their total cost. Having imposed these enormous expenditure commitments, the Congress then restricts its participation by a cost sharing formula that has long been obsolete.

Enacted in the 1940's, the Federal share formula links the reimbursable percentage of program costs to the per capita income of each state.[16] As much as 65 percent of AFDC and 70 percent of Medicaid benefits will be absorbed by the U.S. Treasury in states which rank lowest by this single measurement. New York, with one of the highest per capita incomes in the nation, is limited to the minimum 50 percent contribution for each program. The authors of the formula may have thought their index accurately measured the capacity of state and local government to generate the revenues needed to cover their share of the total costs of an open-ended program. But per capita income, in isolation, can not reflect two other critical determinants: cost of living and the size of the overall tax burden that a state or city is asking its citizens to shoulder. Since New York ranks at or near the top in these criteria, the ability of its taxpayers to carry steadily increasing public assistance costs is, in fact, no better than states enjoying the aid of the higher Federal reimbursement rates.

This inequity has been addressed in several pending legislative proposals. I urge the Congress to give prompt consideration to S. 2073, introduced by Senator Moynihan, which would build cost of living considerations into the Medicaid reimbursement formula and refine the definition of recognized per capita income to assure a fair measurement of a state's ability to finance its share of the costs of that program. Enactment of these reforms would reduce public assistance expenditures in New York City alone by $200 million, and would also establish a vital precedent to guide the more comprehensive welfare overhaul efforts currently underway in both Congress and the Administration.

COURT MANDATES

In addition to the federal statutory and administrative mandates reviewed so far, the City must also cope with the staggering impact that decisions of the federal courts, interpreting and applying the sweeping mandates of federal law, can have on the fiscal stability of localities and on their ability to govern with some minimum degree of flexibility. In New York City, for example, a program was initiated in conjunction with a planned new hiring of entry level officers aimed at increasing the total number of minorities on the police force.

The Police Department spent $250,000 conducting an intensive recruiting campaign among minority groups, and arranged for test preparation classes at locations throughout the City that were readily accessible to candidates from minority communities. The City designed a civil service examination with the aid of outside experts that would produce the largest possible number of eligible candidates from all ethnic groups. Minority applicants represented 30 percent of those taking the test.

When the Civil Service appointment list was prepared from the results of the test, 13,000 candidates, the number sought as the pool needed for hiring, had obtained a grade of 94 or better. When an ethnic survey disclosed that of the 13,000 placed on the list only approximately 15 percent were black and hispanic, a federal judge found not only statistical discrimination from the test results, but went further and held that the results were evidence that the City had practiced intentional discrimination. He then directed that a quota be used in hiring from the list calling for 50 percent new hires to be black and hispanic candidates until at least 30 percent of the entire police force was black and hispanic.[17] The net effect is that the courts are no longer examining the fairness of the test; they are examining the results. And if the test does not turn out the way the judge wants, he imposes the result that is consistent with his personal, political viewpoint.

I believe that the judge in the police case is simply wrong on the finding of intent, and on the facts and the law. But the real threat to the City from this decision is that under federal law, unless the City enters into a compliance agreement with the Office of Revenue Sharing in the Treasury Department imposing some kind of quota or affirmative action program—and, I might add, thereby violates our Civil Service obligations under the State Constitution—the City's unrestricted revenue sharing funds, approximately $300 million per year, could be withheld by the federal government. That situation is simply intolerable and affects not only New York but every state and city in this country. I will never accept quotas voluntarily in any program administered by the City of New York. It is unconscionable to me that in this matter, where the tests are job-related and reasonable, the courts will ultimately impose quotas.

STATE REQUIREMENTS

The problem posed by the self-styled altruism of the federal mandates reviewed thus far are compounded by equally and in some cases more arbitrary dictates of state government. The unique size and density of New York City usually precludes our legislature from using the shield of uniformity to cloak an inflexible directive. That has not, however, prevented Albany from imposing its own onerous requirements on the City.

The state, with local concurrence, has assumed since 1976 responsibility for the administration of the judiciary at all levels.[18] The generosity of this arrangement has been tempered in large degree by legislation a year later which restored the local obligation to finance all maintenance, improvement, and expansion programs required to support an adequate level of caseload capacity.[19] Thus reduced to the status of a silent partner, we face escalating annual local tax levy commitments to the state-run court system that will reach $23 million by Fiscal Year 1982.

The state public housing program offers a second example of the serious fiscal implications of an imposed local partnership. Prior to 1961 New York State made separate payments to each State Housing project. Then, the Legislature consolidated its subsidy payments, and froze the state share at $44 million.[20] This has left the City's budget as the bank of last resort for the chronic deficits experienced in metropolitan area projects. With rents kept down to assure an adequate housing supply for lower income tenants and maintenance costs increased by the facilities' age and inflation, the City must increase its subsidy to this program by an average of 17 percent each year. We will be spending $13 million by Fiscal Year 1983 to comply with the state-mandated obligations.

An even more extreme example is the state mandate that the City provide legal services for indigent parties in the courts.[21] This exposes our budget to still another significant and potentially unlimited expenditure requirement that will amount to at least $9 million annually in the next three fiscal years. The State's contribution to this program is zero.

Perhaps the most unfair type of state regulation is that which holds out the promise of fiscal relief but measure eligibility by an impossibly high standard. Public assistance recipients in New York who are not eligible for the federal AFDC program are given Home Relief benefits financed jointly by the state and the client's locality.

The state share of these costs is normally set at 50 percent but increases from 50 percent to 60 percent for any social service district that can demonstrate an AFDC error rate of 4.5 percent or less.[22] That has not proved to be an overly difficult task for upstate communities whose aggregate caseload permits intensive monitoring. In New York City, however, a marginal reduction in error

---

Footnotes at end of article.

rate is achieved only after enormous investments in detection and prevention programs which must survey a welfare population of 736,000, larger than most towns in New York State.

We have made impressive progress in this area, and can point to an error rate reduction program that has brought the City from the 1973 level of 18 percent to the current 7 percent rate. But we are far from achieving the 4.5 percent rate specified as a condition for a 60 percent state share of program costs, and the $23.5 million saving that would bring. It is quite possible that a system as huge as New York City's can never reduce errors to 4.5 percent, or could do so only at a cost far beyond the proffered fiscal incentive. The discrimination practiced by the state's formula is obvious and warrants immediate relief through an appropriate adjustment to the Social Services Law that would set realistic targets for New York City.

No review of state-imposed mandates would be complete without reference to the Heart Law.[23] This directive, first enacted in 1970, is the most frustrating example of how the Legislature can tie the hands of local officials charged with the responsibility of administering a program in accord with the best interests of their community. The law deprives public pension fund trustees of the broad discretion traditionally allowed them by erecting what the unions claim is an absolute presumption that every heart ailment reported by a retiring police or fire department employee was attributable to an "accident" in the course of his employment. Since the underlying retirement program authorizes a tax-free disability pension at three-quarters pay for such a condition, the Heart Law creates a huge potential loophole in the half-pay ceiling placed on standard pension benefits. The mandate reflects an overwhelming concern for the welfare of one group of City workers, who can develop a heart condition on the job but may also do so behind the lawn mower on a day off; a concern, I might add, which does not extend to the job title of Mayor whose occupant routinely encounters stress throughout a far less predictable working day.

The City believes that fully half of the disability applications approved under the law's compulsion would not stand up under a thorough medical analysis of the ailment's actual cause. And while some may view the law as generous, it is a measure of generosity, amounting to $12 million to date, that the Legislature did not choose to fund and that the City can ill afford.

NEEDED REMEDIES

In parading this catalog of arbitrary, restrictive, or counterproductive mandates before you I hoped to demonstrate both the complex demands confronting an urban chief executive today and the need for comprehensive revisions to the process by which such directives are formulated. To its authors a new mandate may appear to be a bold experiment in behavior modification for a worthy goal. But I do not think they view themselves as accountable for the hardship they may inflict on a particular locality. A superior level of government can not, they would argue, be expected to anticipate every nuance in a far reaching policy initiative. Indeed not—here lies the very reason why federal mandates must be flexible enough to accommodate local circumstances.

As the Mayor to whom those who must endure the hardship of irresponsible mandates look for relief, I must serve notice that I can no longer accept the monotonous refrain that "it's up to Washington to correct its errors." It is long past time for the system to become responsive to the needs of those it purports to regulate, and for effective controls to be placed on the mandate machinery.

I do not claim to offer more than a rough outline for a modest measure of protection from the kinds of excesses now faced by a city like New York, but urge that prompt and careful consideration be given to the following proposals:

All mandates should include waiver provisions that afford an appropriate measure of recognition of a locality's efforts to address the objective through alternate means, or to integrate the required program with competing or complementary policies. New York has, in several instances, commenced negotiations seeking administrative relief only to be met with an almost reflex hostility to allowing the slightest relaxation or modification of the mandate. This attitude may reflect a natural bureaucratic concern that the first variance breeds a collection of exceptions that will carve the underlying statute into an unworkable patchwork. But the administrators of these laws must be directed, by statute or Executive Order, to accommodate requests for waivers authorizing additional time or modified procedures from communities who offer reasonable evidence of an unfavorable impact.

Special consideration should be given to cities whose local revenue raising and expenditure powers have come under the control of external authorities. It may be some years before we can measure the success of current efforts by all three levels of government to insulate the American metropolis from the twin cycles of declining revenues and spiraling costs. It makes absolutely no sense for the federal and state authorities to nullify their own ambitious urban assistance programs through the inflexible application of arbitrary mandates and the horrendous price tags they carry.

Action on any proposed mandate should be deferred until a report has been prepared on both the potential impact it would have on local government expenditures and the state of existing or proposed technology available to achieve timely compliance. Agencies such as the Congressional Budget Office and the Office of Technology Assessment are already in a position to perform an objective analysis of this nature which could be summarized in reports that would accompany legislative proposals to the Floor. Such a procedure would assure that the mandate makers are fully informed of the potential shock waves their action may send throughout affected communities.

No mandate should be imposed unless alternative methods of compliance are offered, with the final selection left to local option. In the exceptional case where its authors are convinced that a single standard and procedure must be imposed they should authorize variations in the timing of and approach to compliance within appropriate parameters, which are proportional to the degree of hardship or potential program failure among affected communities.

Finally, it is of overriding importance that every mandate be accompanied by financial aid sufficient to achieve compliance. The aggregate tax levy resources which must be committed to all of the federal and state presently imposed on the City amount to $938 million at a time when we must identify $299 million in net expense budget reductions for Fiscal Year 1981.

Action on any proposed mandate should be deferred until a report has been prepared on both the potential impact it would have on local government expenditures and the state of existing or proposed technology available to achieve timely compliance. Agencies such as the Congressional Budget Office and the Office of Technology Assessment are already in a position to perform an objective analysis of this nature which could be summarized in reports that would accompany legislative proposals to the Floor. Such a procedure would assure that the mandate makers are fully informed of the potential shock waves their action may send throughout affected communities.

No mandate should be imposed unless alternative methods of compliance are offered, with the final selection left to local option. In the exceptional case where its authors are convinced that a single standard and procedure must be imposed they should authorize variations in the timing of and approach to compliance within appropriate parameters, which are proportional to the degree of hardship or potential program failure among affected communities.

Finally, it is of overriding importance that every mandate be accompanied by financial aid sufficient to achieve compliance. The aggregate tax levy resources which must be committed to all of the federal and state mandates presently imposed on the City amount to $938 million at a time when we must identify $299 million in net expense budget reductions for Fiscal Year 1981.

This nation has encouraged local independence and diversity throughout its history. We cannot allow the powerful diversity of spirit that is a basic characteristic of our federal system to be smothered under the grim conformity that will be the most enduring legacy of the mandates I have reviewed today.

In this speech, I have not been able to discuss all the mandates New York City is laboring under. What follows is a summary of the 47 mandates and their costs. An appendix describing the nature and costs of each mandate is also available.

FOOTNOTES

[1] 29 U.S.C. § 794.

[2] 49 CFR Part 27.

[3] 45 CFR Parts 84 and 85.

[4] 49 CFR Part 27.

[5] Surface Transportation Assistance Act of 1978, 49 U.S.C. § 1612.

[6] Education for All Handicapped Children Act, 20 U.S.C. § 1401 et seq.

[7] Marine Protection, Research & Sanctuaries Act, 33 U.S.C. § 1412a.

[8] EPA is required to promulgate regulations under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. Draft regulations have been circulated.

[9] 40 CFR Part 227.

[10] 33 CFR Part 324.

[11] Marine Protection, Research and Sanctuaries Act, 33 U.S.C. § 1401 et seq. and 40 CFR Part 227.

[12] 40 CFR § 227.15.

[13] Clean Water Act, 33 U.S.C. § 1251 et seq. and Federal Water Pollution Control Act, 33 U.S.C. § 1287 et seq.

[14] Social Security Act, 42 U.S.C. § 606.

[15] Social Security Act, 42 U.S.C. § 603.

[16] 42 U.S.C. § 1396d(b).

[17] *Guardians Association of N.Y.C. Police Department, Inc.* v. *Civil Service Commission of the City of New York*, 79 Civ. 5314 (S.D. N.Y. January 11, 1980).

[18] Section 39 of the Judiciary Law.

[19] *Id.*

[20] Section 73 of the Public Housing Law.

[21] Family Court Act Sections 262 and 1120; County Law Section 722, Articles 18–A and 18–B; Surrogates Court Procedure Act § 407.

[22] Sec. 153–C of the Social Services Law.

[23] Gen. Mun. Law § 207–K.

SUMMARY—FINANCIAL PLAN IMPACT, FEDERAL/STATE MANDATES, FISCAL YEARS 1980-83

[Dollar amounts in millions]

	Fiscal years 1980-83			
	Total	City	State	Federal
EXPENSE BUDGET				
Criminal justice:				
Court administrative costs	$82	$82		
Minimum standards	83	82		$1
Public defender	37	37		
State readies	32	32		
Custody of felony inmates	40	32	$8	
Arrest records	7	7		
Education/higher education:				
Special education	2,027	1,203	684	140
Senior college prefinancing	28	28		
Shinn pensions	42	21	21	
Environmental protection:				
Water pollution and control	151	111	14	4
Secondary treatment	55	41	36	
Ocean dumping	54	41	13	
Sanitary landfills	8	8		
Incinerators	20	20		
Health:				
Mental health charge backs	29	29		
Child health/school health	24	12	12	
Bureau of Child Guidance	18	9	9	
Prison mental health	37	32	5	
Tuberculosis control	10	5	5	
V.D. control	11	6	5	
Prison health	9	8	1	
Mental health—Courts	5	3	2	
Working papers	2	1	1	
Housing:				
Police costs	211	123		88
State subsidy	98	42	56	
Termination proceedings	11	7		4
Social services:				
AFDC	3,819	939	955	1,925
Medicaid	8,579	2,157	2,157	4,265
Home relief	943	471	472	
Medicaid—Home relief	414	207	207	
Preventative services	38	8	18	12
IV-D collection target	24	24		
Day care	24	24		
Interim assistance	16	4	4	8
Home care	12	3	3	6
Foster care—Indochinese refugees	11	4	4	3
Transportation services	11	3	3	5
Emergency assistance	8	4	4	
Public works employment program (PWP)	8	8		
Child support services	8	4	4	
Miscellaneous budget:				
Computer assisted mass appraisal project	30	21	9	
Heart bill	24	24		
Total expense	17,500	6,245	4,752	6,501
CAPITAL BUDGET				
Environmental protection:				
Secondary treatment	875	108	108	659
Sludge—Ocean dumping	250	31	31	188
Sanitary landfills	513	513		
Incinerators	118	95	23	
Section 504:				
Education	16	16		
Transit	[1] 1,300	[1] 1,300		
Total capital	1,772	763	162	847
REVENUE BUDGET				
Tax exemptions	(1,600)	(1,600)		
Water and sewer charges	(24)	(24)		
FICA deposits	(21)	(21)		
OTB—Horsebreeders' fund	(16)	(16)		
Total revenue	(1,661)	(1,661)		

[1] Not included in tctals since it is an obligation of MTA/NYTA. Timing is uncertain. ●

TAXPAYERS AND THE INTERNAL REVENUE SERVICE

● Mr. BAUCUS. Mr. President, I would like to submit for the RECORD an editorial which appeared in this morning's New York Times. The editorial describes improvements in Internal Revenue Service treatment of taxpayers, and makes recommendations for further action.

As chairman of the Finance Subcommittee on Oversight of the Internal Revenue Service, I recognize that we still have a long way to go to make sure that all taxpayers are treated fairly by the Internal Revenue Service. The editorial recommends that courts be given discretion to award legal fees in cases when the IRS has acted unreasonably.

I have introduced legislation which will do just that. The Taxpayer Protection and Reimbursement Act (S. 1444) is designed to alleviate some of the financial burden for taxpayers who win in court against unreasonable IRS positions and to protect taxpayers at the onset from unreasonable IRS actions. The legislation will allow Federal courts and Tax Courts to reimburse taxpayers who prevail against the IRS, in virtually all types of tax cases where the position of the IRS was unreasonable, for reasonable court costs and attorneys' fees.

The Subcommittee on Oversight of the Internal Revenue Service conducted a hearing on this bill last July 19. I hope that my colleagues join me in pushing for enactment of this important legislation.

The editorial follows:

PAYING ATTENTION TO THE SMALL TAXPAYER

When an Internal Revenue Service computer duns you for a tax debt you've already paid, where do you go to complain? Three years ago the service established "problem resolution" offices to deal with such foulups. And now Commissioner Jerome Kurtz has designated one of his senior assistants as official ombudsman to make sure the system works.

These are only two of several steps taken in recent years to right the balance between the individual taxpayer and a powerful, impersonal Government bureaucracy. New I.R.S. instruction booklets, for example, no longer read like directions for assembling Korean lawn furniture. Auditors are no longer required to collect monthly quotas in penalties to prove themselves fit for promotion. There is more to be done, however, to guarantee a fair shake to the taxpayers on April 15. Two modest reforms in particular seem sensible.

Small taxpayer assistance. When General Motors disagrees with the I.R.S., the company calls on an army of accountants and lawyers to make its case. Not so the typical individual taxpayer with, say, a disputed $400 deduction for moving expenses. The ombudsman's staff cannot assist—it is specifically prohibited from offering tax advice or representing individual claimants. So rather than hire a lawyer whose fee might exceed $400, the taxpayer usually pays up.

One solution would be to extend the authority of the ombudsman, giving the office authority to intervene on behalf of small taxpayers at the various stages of appeal. This approach, though, might create serious conflicts of interest within the I.R.S. How most small claims are resolved would not much affect total revenues. But in precedent-setting cases that could cost the Government millions of dollars, the impartiality of the ombudsman could easily be strained.

Perhaps a better approach would be to provide Federal funds to nonprofit groups willing to give tax advice to individuals. The I.R.S. is already cooperating with a few privately supported programs in which law students help aggrieved moderate-income taxpayers. Extending the reach of such programs with Federal cash could make a difference.

Tax court equity. Once the I.R.S. decides you owe money, the only independent appeal available to most taxpayers is to the Federal tax court. Recent administrative changes make it practical for intrepid individuals to plead their own cases, provided that less than $5,000 is at stake. More typically, though appeals cost thousands in attorney fees. Congress has long toyed with the idea of requiring the I.R.S. to pay private legal costs whenever the tax court decides against the Government. But the legislators are reluctant because it would reduce the incentive to settle out of court. A sensible middle ground would give the court the discretion to award legal costs when it judged the I.R.S. to have acted unreasonably.

These reforms would not eliminate the public's feeling that the income tax is arbitrary and complex. But they would help check the cynicism that is eroding voluntary compliance and, inevitably, reinforcing the I.R.S.'s police mentality. And that is something that is surely worth the effort. ●

THE WASHINGTON METROPOLITAN AREA REGIONAL RAPID RAIL SYSTEM

● Mr. MATHIAS. Mr. President, on December 20, 1979, the Senate approved legislation authorizing the Federal share of construction costs for the remaining 40 miles of the rapid rail system for the

Washington metropolitan region. That legislation was signed by the President on January 3.

I was pleased, as the sponsor of that legislation, to see that national commitment to urban mass transit become law. The remaining pieces of the Washington Metrorail financial picture are now being put together by the legislatures of Maryland and Virginia.

In the year 2000, when we look back on Metrorail and the Washington region, we will be proud of the investment we have made in this urban mass transit system which has shaped regional growth and become an energy-efficient people mover for the residents and visitors to the Nation's Capital.

I ask that a recent column from the Washington Star, by Lawrence M. Lesser, describing the future of Metrorail, appear in the RECORD at this point.

The column follows:

METRORAIL AND THE FUTURE

(By Lawrence M. Lesser)

What does the future hold for Metro now that President Carter has signed the $1.7-billion Metrorail funding bill? As the new year and a new decade begin, here are some things to look for:

The new law virtually assures that the entire 101-mile Metrorail system will be built. Now the key question is whether all the trains will be running by 1990 as scheduled.

Although funds still will have to be appropriated by Congress as construction proceeds, the recent legislative action marks the firmest commitment to date by the President and Congress that the full system will be completed by the end of the decade.

Now the burden shifts to the District, Maryland and Virginia to come up with "stable and reliable" sources of revenue to meet the local share of Metrorail's construction and operating costs. Look for new gas, payroll and sales taxes beginning in 1982.

Trains will reach the beltway this year for the first time as three new stations on the Blue Line between Stadium/Armory and Addison Road in Prince George's County open for service.

Bus and rail fares may rise from 7 to 10 percent this year. Higher fuel prices, labor costs and other operating expenses leave Metro little choice. Ridership will increase anyway. Metro will appear to be a bargain compared with the cost of driving.

With extension of the Orange Line to Ballston Station in Arlington County last month, Metrorail now carries 260,000 riders daily.

Private employees in the area will offer subsidies to their employees to ride Metro. The firms will buy flash passes and farecards, and then resell them to their employees at a discount.

Congressional Quarterly has such a program. Others will follow suit. But the federal government, which employs 21 percent of area workers, declines to participate.

Parking at Metrorail stations will be of increasing concern to neighborhood residents and riders alike. Neighborhoods near train stations will experience increased traffic congestion, vehicle noise and safety hazards as Metrorail expands. But residents will be protected to some extent with on-street parking bans.

One wonders how much money Metro will lose from commuters who find themselves forced to drive because they cannot find parking at or near Metrorail stations. Many commuters just do not have adequate bus service where they live and must drive.

Metro intends to build few more than half the number of parking spaces estimated to be needed once the system is completed. Thus, for every auto passenger Metrorail gains, it also stands to lose one or more riders who will not be able to park.

The much beloved farecard will remain a fixture of the system in 1980. While some have urged that the balky farecard machines be scrapped, others argue that farecard encourages riders to use Metrorail since cash outlays are not required for each ride. The machines also provide Metro with valuable marketing data that otherwise would be expensive to acquire.

Malfunctioning escalators also will be with us unless Metro improves maintenance. How many days (Mondays in particular, it seems) have you arrived at the station and found the escalators out of order?

A look back at 1979 saw the opening of four stations and marked the beginning of full weekend service. These steps will result in a hefty upswing in Metrorail ridership and revenues.

As we head into a new year and a new decade, things never have looked brighter for rail transit in the Washington metropolitan area.

President Carter is committed. The Congress is committed. Local governments are committed. And most important of all, area residents have given Metrorail their enthusiastic support in the way that counts the most—through the farebox.●

SOCIAL SECURITY BENEFITS SHOULD NOT BE TAXED

● Mr. BAYH. Mr. President, on Thursday, January 24, I was pleased to cosponsor a resolution introduced by my colleague, Senator NELSON, chairman of the Social Security Subcommittee of the Finance Committee, which clearly states the opposition of the Senate to taxation of social security benefits. It is clear to me, and I expect a majority of my colleagues will agree, that such a proposal is clearly unjustified and inequitable.

To most Americans, social security benefits represent a guarantee that their needs will be met upon retirement. Social security is not a Government handout. It is a pension that is earned through contributions made during an individual's working years—it is almost like having money in the bank.

Last December, the Fifth Advisory Council on Social Security reported to Congress that the Nation's $9-billion-a-month retirement program is alive and well. As much as that assessment pleased me, another part of the Council's report disturbed me. The Advisory Council—a 13-member panel which meets every 4 years to review the status of the social security system—recommended that a portion of social security benefits be taxed. Because I am absolutely opposed to this, I cosponsored Senator NELSON's resolution which expresses the sense of the Senate that social security payments should remain tax free.

If one-half of social security benefits were taxed, as the Advisory Council has proposed, 10.6 million tax returns or approximately 15 million individuals out of the 24.2 million persons who receive social security benefits, would be subjected to loss of income. The average tax liability of those affected would amount to $350 per year. The funds received by the Federal Government would be deposited into the general revenue fund and are not designed to improve the fiscal integrity of the social security system. Taxing these benefits would in no way contribute to sustaining our retirement programs but would undercut the confidence that millions of Americans place in the social security system.

I want to see the day when the "golden years" are just that, not a time of poverty and financial distress. Social security benefits are earned, not charity. This program is based on the concept that hard work during early life be repaid in later years. It makes no sense for the Government to give with one hand and take away with the other, which is what the Advisory Council's suggestion would do. Benefits received from social security have been exempt from Federal taxation for almost four decades. For those on fixed incomes, the benefits paid by the social security system are barely enough to provide a decent living. As the cost of fuel, food, housing, and almost every other necessity escalate, and the buying value of the dollar declines, the living conditions of our retirees deteriorate. I do not think that taxation of benefits should be even considered during this time of economic hardship for so many of our older citizens.

This is not the first assault on social security benefits. Under present law, a social security recipient loses $1 of benefits for every $2 of earned income over a certain limit. This does nothing more than penalize hard working, industrious senior citizens who are trying to supplement their retirement income. Senator BARRY GOLDWATER and I have introduced S. 1287, to eliminate this penalty.

The confidence Americans hold in our social security system should not be undermined through taxation of benefits. I urge early consideration and support of this resolution by my colleagues both in the Senate and the House of Representatives which has a similar resolution pending.●

FOOD AND AGRICULTURE ACT

● Mr. BAUCUS. Mr. President, in January of 1981, the Senate will begin extensive hearings on legislation to modify and extend farm programs currently authorized by the Food and Agriculture Act of 1977. I hope that in the coming year an active dialog between agricultural producers and Members of Congress will help identify and clarify issues that Congress must address.

I would personally prefer to minimize Government interference in agriculture. But as recent world events illustrate, markets for agricultural products are not free. Government intervention and involvement in agricultural production is a fact of life throughout the world.

The importance of agriculture in U.S. domestic and foreign policy was recently underscored by the President's decision to embargo 17 million tons of U.S. grain which had been sold to the Soviet Union. The President did not embargo steel exports; he did not embargo textile exports; nor did he embargo automobile exports. He chose, instead, the one product America produces better and more efficiently than any other nation in the world.

Food and agriculture legislation is absolutely essential if we are to maintain a strong and viable agricultural system—a system that can continue to play a central role in U.S. economic and foreign policies.

Farm legislation is particularly important to Montana. Agriculture is by far our most important industry, contributing some 40 percent of the State's gross product. Montana grain and livestock producers have an enormous stake in price support and income protection programs. In addition, the Food and Agriculture Act authorizes numerous research programs and important food assistance programs.

The Food and Agriculture Act does not affect just farmers. Consumers have a large stake—in the price supports that prevent market instability and wild price fluctuations, in the research programs that help insure adequate long-term supplies of nutritious foods, and in the feeding programs that are a major force in our war against domestic hunger and malnutrition.

There are several elements the Senate should consider as it discusses amendments to the Food and Agriculture Act.

PRICE SUPPORT PROGRAMS

The 1977 act established a system of loan rates and target prices to stabilize commodity prices and maintain farm incomes. The loan rates provide a mechanism whereby farmers can borrow money rather than being forced to sell farm products on depressed markets; the loan rates also set minimums for domestic commodity prices. Target prices are the basis used to calculate direct payments to maintain farm incomes when commodity prices are very low.

The system of target prices and loan rates should be continued in the new act. However, I will recommend several rather substantial changes.

All too often the loan rates and target prices established under the 1977 act have been inadequate to protect farm income. This was graphically demonstrated in the winter of 1977 and 1978 when thousands of American farmers came to Washington to protest what they correctly called a "Bankruptcy Act."

It is imperative that target prices and loan rates be established at levels that will allow farmers to cover their full costs of production and earn reasonable profits.

USDA cost of production estimates have frequently been disputed in recent years. The new act should establish a board of active agricultural producers within the USDA to monitor and help develop cost of production estimates.

SET-ASIDES

During periods of domestic overproduction, it has sometimes been necessary for the Federal Government to discourage production of certain crops. This reduction in farm production serves two important purposes. It allows burdensome surpluses to be reduced, and it reduces the cost of Federal farm programs.

Under current legislation, farmers are required to set-aside, or leave idle, a certain percentage of their crop land. Unfortunately, this reduction in acreage does not necessarily result in a corresponding reduction in production.

In 1977, the USDA calculated that a 20-percent set-aside would only result in an 8-percent reduction in production. This happens because farmers tend to set-aside their least productive land and devote more resources—labor, fuel, fertilizer, et cetera—to land that is not set-aside.

A more efficient system would require farmers to reduce the amount they produce, but not necessarily by reducing the acres planted. This would give farmers flexibility to use the most efficient production systems. As alternatives to leaving valuable crop land idle, producers could use less fertilizer, less fuel, or less of other inputs.

Establishing limitations on production—per bushel or per pound basis—rather than requiring set-aside of land, would conserve fuel and other expensive inputs, give farmers production flexibility, and make Federal farm programs more effective.

Montana has special problems that must be addressed in new farm legislation. Saline seep continues to be a serious problem in our State, destroying thousands of acres of prime farmlands annually.

Current set-aside programs aggravate saline seep problems by requiring farmers to leave land idle. New legislation must include exemptions or production flexibility to allow farmers to continue production on lands affected by or which contribute to saline seep.

The use of tall wheat grass barriers between strips of farm land has proved to be a useful soil and water conservation measure in parts of my State. Unfortunately, under the current program, farmers cannot count acreage devoted to tall wheat grass barriers toward their set-aside requirement. Again, this is a problem that must be remedied in a new Farm Act.

RESERVE PROGRAM

In 1977, Congress established a reserve program which allows farmers to insulate their crops from the market during times of domestic overproduction. Farmers retain control of their grain, which can be returned to market channels when prices rise above established levels.

Our experience during the past 3 years shows that the reserve program can and does work. But Congress needs to use this experience to refine and improve the reserve program.

The program gives the Secretary of Agriculture discretionary authority to make payments to farmers to cover costs of storing their reserve grain. During 1977 these payments were not offered and farmers simply did not participate in the program.

Late in 1979, wheat prices reached release levels and the USDA suspended storage payments. This resulted in a severe problem for farmers in Montana and other States affected by transportation difficulties.

Even though national average prices were adequate, transportation problems prevented many individual producers from selling grain. These farmers had to assume the burden of paying storage payments on grain they found impossible to sell.

For these reasons, new legislation should state explicitly that storage payments, sufficient to cover the actual costs of holding grain, shall be paid on any grain committed to the reserve program for as long as that grain remains in storage.

Experience also suggests that in some situations farmers will not be able to raise money to repay reserve loans that are "called" because transportation problems will prevent sale of grain. New legislation should explicitly provide that when transportation is not available, grain in the affected area will not be "called" from the reserve program.

GRAIN EMBARGOES

In the 1977 act, Congress included a provision automatically increasing loan rates to 90 percent of parity whenever export sales or commercial trade are suspended based upon a determination of short supply.

Recently, the President called for an embargo for national security reasons. Although the President pledged that farmers would not bear the financial burden of this embargo, his good intentions have not been translated into solid action.

New farm legislation should require that whenever an embargo is called, for whatever reason, loan rates will be increased automatically to prevent immediate price reductions. This would assure that the 50-cent-per-bushel drop in wheat prices farmers suffered immediately after the Russian embargo will not be repeated.

SUGAR

Recently in the House of Representatives a coalition of anti-inflation and consumer interests defeated essential legislation to establish a domestic sugar program. Such a program is necessary to protect the domestic industry and consumers from wild fluctuations in world prices.

This country is presently importing roughly 50 percent of the sugar it uses. Our dependence on imports is sure to increase unless domestic producers can be assured of recovering their costs of production. In order to prevent the same kind of dependence on foreign sugar that we now have on foreign oil, it is essential that we protect domestic producers and processors from unfair foreign competition.

It is imperative that a strong domestic sugar program be included as part of the 1981 Farm Act.

RESEARCH

Strong Federal research and extension programs are necessary to preserve this Nation's leadership in agricultural production. I am most distressed by administration efforts in recent years to de-emphasize research and extension.

The 1977 act includes the authorization for a large number of research and extension programs. Most of these programs need to be extended and expanded.

Montana and its neighboring States share some problems that must be the subject of expanded research. These include the serious spread of leafy spurge and the continuing problem of saline seep.

SUMMARY

No single bill is more important to the agricultural economy than the Food and Agriculture Act. It is not too early for producers and the Congress to be discussing and recommending changes to be incorporated in the 1981 act. I hope during the coming months to hear from my constituents and colleagues who recommend changes in the legislation.●

THE MEDICAL EXPENSE PROTECTION ACT—H.R. 6405

● **Mr. DOLE.** Mr. President, for far too long the Republican party has been viewed as the nay-sayer, particularly in the area of health legislation. Many of us have known that not to be true, that Republicans can and do frequently offer positive alternatives that provide the Congress and the American public, with more than one option to choose from.

So it is with pleasure that I noted yesterday's introduction in the House of H.R. 6405, the Medical Expense Protection Act of 1980.

The Senator from Kansas wishes to congratulate Mr. MARTIN, Mr. RHODES, and the other 19 cosponsors for having made a significant contribution to the current debate on national health insurance.

Mr. President, as you know, almost 1 year ago, the Senator from Kansas joined by Senators DANFORTH and DOMENICI introduced S. 748, the Catastrophic Health Insurance and Medicare Improvements Act of 1979.

CURRENT GAPS IN THE SYSTEM

As this Senator indicated at that time, in recent years there have been impressive gains in the health status of many Americans and in their access to high quality medical care. Public or private health insurance now pays for 90 percent of all hospital charges. Medicare and medicaid provide benefits for nearly 50 million citizens, and yet 10 to 16 million Americans lack any health coverage at all.

People with incomes of less than $10,000 are twice as likely to be without health insurance coverage as those with incomes above that level.

One-third of all those uncovered by insurance are full time heads of household employees—10 percent of our work force. Many young adults between the ages of 19 and 24 are uninsured as are 30 percent of the unemployed. These sobering facts leave little doubt: Far too many Americans are vulnerable to financial loss due to tragic catastrophic illness.

ALTERNATIVES

There are those who have proposed adding fuel to the fire of escalating governmental spending. Some have suggested that the Federal Government underwrite the costs of comprehensive health insurance for everyone creating yet another system for financing health care. This seems unrealistic, in view of rapidly rising health care costs—costs that devour a full month out of every year's salary for the average worker. As it is, health care costs account for approximately 9 percent of the gross national product. Health expenditures cause a drain on all personal and national resources, and threaten the stability of Federal and State budgets. Moreover, demographics point toward an aging society which will presumably require even more health care than in the past.

Thus, we need to look at the sobering realities of a federally funded or controlled comprehensive approach. First and foremost is the ability of the American people to support any costly new system of anything. Do not forget that by 1981 the individual earning $30,000 a year will find himself paying $165 per month, after taxes, to support his membership in the social security system alone. In addition, we have been warned by many experts of health care that what appears to be "free" is in fact a dangerous psychological spur to further inflation.

Two goals must be met. We must address the problem of health insurance for each citizen in the context of what we can afford, and every American should have access to high quality health care at a cost he can ultimately bear.

We ought to afford individuals the opportunity to protect themselves and their families from financial ruin due to illness, for the devastating effects of major illnesses can incur personal expenses far beyond what personal resources can be reasonably expected to meet. It is this critical financial problem that must be addressed.

We believe that protection from financial ruin due to illness should be and is an obtainable goal and can be accomplished in spite of the serious economic problems with which our country is confronted. Protection can be achieved without the Federal Government taking over the financing and control of the private sector, as other catastrophic health insurance proposals have advocated in the past.

WHAT IS NEEDED

What we need is an approach which builds on the private market place—one that recognizes the importance of incentives and competition—one that supports the private sector—one that does not encourage the development of yet another inefficient, costly, oppressive Federal bureaucracy.

The proposal introduced by Senators DANFORTH, DOMENICI and me, and the one more recently introduced by my House colleagues seek to meet this goal.

SENATE PROPOSAL OVERVIEW

The catastrophic health insurance proposal that Senator DANFORTH, Senator DOMENICI, and I introduced has three key parts. First, those eligible for medicare will be protected by expansion of their present benefits. Second, the large majority of the employed will be assured of the availability of adequate private insurance protection. Third, those who are part of the residual marketplace, and not already covered, may choose to have the Federal Government serve as a facilitator and in some instances a financial backup in contracting with private insurance companies for catastrophic coverage.

This plan is designed primarily for low-income families not covered by medicaid; however, all except those covered by medicare and medicaid would be eligible for participation.

The last component recognizes the complex problem of how to reach those now uncovered by health insurance for catastrophic illness. Since these people are so varied, there is no single dimension (such as unemployment) that can be used to define a population toward which to target assistance.

The last component also contains an income related deductible and an income related premium subsidy.

The House Republican bill, while taking a somewhat different approach in some areas, is very similar in others, providing what I believe to be a basis upon which we might base a consensus.

CURRENT ACTIVITIES

Mr. President, as you know, there is currently activity in both the House and the Senate with respect to health insurance.

In fact, the Finance Committee, of which I am the ranking Republican member, anticipates a return to an active committee markup on health insurance in the very near future.

Prior to Christmas the committee tentatively agreed to a number of provisions, many of which, I am pleased to say, reflect provisions contained in S. 748, the Dole, Danforth, Domenici bill.

These tentative decisions reflect an attempt to reach a consensus within our committee on this vital issue.

At the time of introduction of our bill, S. 748, the distinguished chairman of the Finance Committee made a statement indicating his hope that we could agree on a proposal that would muster votes on both sides of the aisle. I am hopeful that we can muster not only the bipartisan support Senator LONG spoke of, but also both House and Senate support.

The concepts embodied in H.R. 6405 lead me to believe that there is such a base upon which to build an agreement.

CONCLUSION

As my distinguished colleague in the House, Mr. MARTIN, explained yesterday, this issue of catastrophic health insurance is receiving close attention in both Chambers, because of the well known fact that there are very definite gaps in the otherwise excellent health care protection that Americans already possess. I believe we can solve this limited problem with a limited solution.

If a single principle unites our thinking, it is this: Slogans, however appealing politically, do not assure adequate coverage. Promises are cheaper than performance. Here, as elsewhere, what we do is bound by the shape of the American economy. In health care, as in economic planning, the guiding principles should be individual freedom and practical results.

I look forward to working with my colleagues in the House and the Senate, and want to again congratulate the sponsors of H.R. 6405 for having made such a valuable contribution to this debate.●

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 6:28 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 7:24 p.m., when called to order by the Presiding Officer (Mr. FORD).

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 593, 598, and 602.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

CREDITS FOR SALES OF ITEMS BY THE SERGEANT AT ARMS

The bill (S. 2225) to provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which appropriated funds are used by a Senator or a committee or office of the Senate to purchase from the Sergeant at Arms and Doorkeeper of the Senate items which were purchased by him from the appropriation for "miscellaneous items" under "Contingent Expenses of the Senate" in any appropriation Act, the amounts received by the Sergeant at Arms and Doorkeeper shall be deposited in the Treasury of the United States for credit to such appropriation. This Act does not apply to amounts received from the sale of used or surplus furniture and equipment.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 347) authorizing additional expenditures by the Committee on Rules and Administration for inquiries and investigations, was considered and agreed to, as follows:

S. RES. 347

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, the Committee on Rules and Administration is authorized from March 1, 1980, through February 28, 1981, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $715,900, of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

YOUTH ART MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 19) to authorize the President to issue a proclamation designating March 1980 as "Youth Art Month," which had been reported from the Committee on the Judiciary with an amendment on page 2, line 4, strike "1979" and insert "1980".

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 19

Whereas children are among our most priceless assets; and

Whereas childhood is the time to develop interests, skills, and aptitudes to last a lifetime; and

Whereas through meaningful school art activities children develop initiative, self-expression, creative ability, self-evaluation, discipline, and a heightened appreciation of beauty; and

Whereas the importance of art in education is recognized as being necessary for the full development of all children; and

Whereas participation in school art programs develops perceptive qualities and sensitivity, thereby producing a more enlightened citizenry; and

Whereas Youth Art Month has been observed nationally since 1960 and has gained wide acceptance; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of March 1980 as "Youth Art Month", and calling upon the people of the United States and interested groups and organizations to become involved in and give their support to quality school art programs for children and youth.

The title was amended so as to read:

A joint resolution to authorize the President to issue a proclamation designating March 1980 as "Youth Art Month."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF SENATOR MORGAN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. MORGAN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, awaiting the call of the Chair.

There being no objection. the Senate, at 7:27 p.m., recessed, subject to the call of the Chair.

The Senate reassembled at 8:10 p.m. when called to order by the Presiding Officer (Mr. FORD).

TIME-LIMITATION AGREEMENT—S. 1991

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes action on S. 414, the Senate then proceed to the consideration of S. 1991, relating to the Federal Trade Commission with the following proviso in the form of a time agreement: That there be 5 hours, equally divided, on the bill, to be controlled by Mr. FORD and Mr. DANFORTH; that there be 1 hour on any amendment in the first degree; that there be 30 minutes, equally divided, on any amendment in the second degree, and 20 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate by the Chair or if discussion thereon is entertained by the Chair; that there be 2 hours on an insurance amendment by Mr. METZENBAUM; that there be 3 hours on each of two Magnuson-Packwood amendments to strike sections 7 and 8 of the committee bill; that on an amendment by Mr. SCHMITT, which is referred to as the legislative veto amendment, no tabling motion be in order, no amendment to that amendment be in order, and that, therefore, Mr. SCHMITT would get an up-or-down vote on the amendment; provided further that nongermane amendments are not in order; provided further that no point of order lie against the Schmitt amendment or the Levin-Boren amendment; provided further that third reading of the Senate bill occur at no later than noon Friday, February 8; that, immediately following third reading of the Senate bill and without further debate or motion or point of order, the Senate proceed to the consideration of H.R. 2313, which is the companion House bill; that, without further debate, motion, or point of order, all after the enacting clause be stricken, and the Senate bill, as amended, be inserted in lieu thereof and a vote occur immediately without further debate, motion, or point of order on the House bill as thus amended by the Senate bill; provided further that, on any motion to reconsider, a time limit of 20 minutes on debatable motions apply.

Mr. STEVENS. Reserving the right to object, and I shall not object, I just want to clarify. It is my understanding that the leader's propounded, proposed unanimous-consent agreement could envision finishing with the bill on Thursday evening if we did reach that. It is not mandatory that we wait until noon on Friday. It is no later than Friday afternoon, is that correct?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. STEVENS. Second, it is my understanding that there will be no amendments, including no substitutes, offered to the Schmitt amendment and that it and the Levin-Boren amendment dealing with legislative veto will not be subject to a point of order on germaneness or any other point of order; but the germaneness rule will apply to all other amendments and they will be subject to a point of order. Is that correct?

Mr. ROBERT C. BYRD. The Senator is correct. However, I do not know how to define the Levin-Boren amendment. I do not know whether it is an amendment dealing with the legislative veto or not.

Mr. STEVENS. Legislative review. It is in that legislative regulations section.

Mr. ROBERT C. BYRD. Legislative review, yes.

Mr. STEVENS. We understand that Levin-Boren is looked upon by some as an alternative to the Schmitt amendment. We are trying to give them equal treatment.

Mr. ROBERT C. BYRD. Yes; what the distinguished and able Senator has just said would apply to both—in other words, that no point of order would lie against either Mr. SCHMITT's amendment or the Boren-Levin amendment.

Mr. STEVENS. I want to make certain, if I may, Mr. President, that once the Schmitt amendment is offered, it is not subject to amendment even by Senator SCHMITT on this agreement. Once the Levin amendment is offered, it is not subject to amendment by anybody, either, is that right?

If I am in error, I should like to be corrected. We understood that that was the case.

Mr. ROBERT C. BYRD. Mr. President, I add, and that the Levin-Boren amendment be treated as the Schmitt amendment; to wit, no tabling motion would be in order, no point of order would be in order, and no amendment would be in order.

Mr. STEVENS. Reserving the right to object, I do not object. By treating them equally, I want to make certain we understand. That means after either the Schmitt or the Levin-Boren amendment is offered, those amendments will be before the Senate, subject to an up-or-down vote, no tabling motions, no point of order, no amendment offered by the sponsors or any other Senators, and we shall have an up-or-down vote on each of them. As a matter of fact, if the Senate wished to, it could adopt or reject either or both.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, is it the definite understanding that the Schmitt amendment and the Levin-Boren amendment are the amendments that we have been generally talking about, having to do with legislative veto and legislative resolution along the same line, having to do with the same subject?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object when the leader addressed himself to the question of the Schmitt amendment, I do not think it was clear that the Schmitt amendment, as well as the Levin-Boren amendment, will both have applied to them the same time limitations, and that is 1 hour equally divided?

Mr. ROBERT C. BYRD. That is correct.

Mr. STEVENS. There is a request for 2 hours for the Schmitt amendment. If that is what the Levin request is, the time frame is such that it is almost impossible to fit it in between Wednesday and Friday noon already.

Mr. METZENBAUM. But the 1-hour limit applies?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. I thank the leader.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished acting Republican leader for his cooperation and for the work he has expended in helping to bring this agreement to fruition. I wish to thank Mr. JEPSEN, Mr. SCHMITT, Mr. HELMS, Mr. FORD, who will manage the bill on my side of the aisle, Mr. METZENBAUM, Mr. MAGNUSON, Mr. LEVIN, Mr. BOREN, and other Senators, who have labored so long and in such a dedicated way to make this agreement possible because, otherwise, Mr. President, I do not think the Senate could have been in business Wednesday, Thursday, and Friday of this week.

Mr. STEVENS. If the Senator will yield momentarily Senators DANFORTH, PACKWOOD, and MCCLURE were also involved in this.

We are particularly grateful to Senator JEPSEN who left an engagement and returned to the Senate in order to clarify the matter.

I think it is a good agreement. We will work on it and complete the business by Friday noon.

Senators WEICKER and SIMPSON were also involved. But I think the whole Senate has been, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, it has been one of those difficult agreements that took a lot of time. But I have seen this happen on many occasions when with dedication and purpose and willingness to work an agreement could be reached.

Mr. President, I ask unanimous consent that in the event something unforeseen happens to occur that would prevent final action on the patent bill by 1 p.m. tomorrow, that the majority leader, after consultation with the minority leader, be authorized to proceed to the consideration of the FTC bill.

Mr. STEVENS. Reserving the right to object, I will not object, I do not see any other way we can if we seek to meet the 12 o'clock deadline, and that is the deadline we requested. Therefore, I agree.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1991, a bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission ,and for other purposes; debate on any amendment in the first degree (except a Metzenbaum amendment dealing with insurance on which there shall be 2 hours and two Magnuson-Packwood amendments striking sections 7 and 8 on which there shall be 3 hours each) shall be limited to 1 hour to be equally divided and controlled by the mover of such and the manager of the bill, debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 5 hours, to be equally divided and controlled, respectively, by the

Senator from Kentucky (Mr. FORD) and the Senator from Missouri (Mr. DANFORTH), *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That on the Schmitt amendment and the Levin-Boren amendment dealing with legislative veto, no point of order, tabling motion or amendment thereto shall be in order.

Ordered further, That 3d reading of S. 1991 occur no later than 12 noon on Friday, February 8 and that following 3d reading of the Senate bill without any intervening action or debate the Senate proceed to H.R. 2313 and without any intervening action or debate all after the enacting clause be stricken and the language of S. 1991 as amended be inserted in lieu thereof and without any intervening action or debate 3d reading and a vote on final passage of H.R. 2313 occur immediately.

RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 8:25 p.m., the Senate recessed until tomorrow, Wednesday, February 6, 1980, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, February 5, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Praise the Lord! Praise the Lord, O my soul! I will praise the Lord as long as I live; I will sing praises to my God while I have being.—Psalms 146: 1, 2.

Gracious Lord, in the midst of the concerns of the day, we pause to offer our thanksgiving for the gift of life and the promise of Your spirit that nurtures and sustains us. Insure, O Lord, that our hearts are open to Your forgiveness and compassion, to Your healing and to Your power, that conscious of Your love to us, we may go forward to praise Your name and serve all those in need. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3236. An act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3236) entitled "An act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes," disagreed to by the House; request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. NELSON, Mr. BAUCUS, Mr. DOLE, Mr. DANFORTH, and Mr. DURENBERGER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3398) entitled "An act to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. MCGOVERN, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. MELCHER, Mr. YOUNG, Mr. DOLE, and Mr. BOSCHWITZ to be the conferees on the part of the Senate.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

CLARENCE S. LYONS

The Clerk called the bill (H.R. 3818) for the relief of Clarence S. Lyons.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 3872) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SENSENBRENNER. Mr. Speaker, I object.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Two objections are heard. Under the rule, the bill is recommitted to the Committee on the Judiciary.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 4285) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

JOHN H. R. BERG

The Clerk called the bill (H.R. 2782) for the relief of John H. R. Berg.

There being no objection, the Clerk read the bill, as follows:

H.R. 2782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John H. R. Berg shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act (8 U.S.C. 1421(d)), may be naturalized at any time after the date of enactment of this Act if otherwise eligible for naturalization under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOZEF SWIDERSKI

The Clerk called the bill (H.R. 4013) for the relief of Jozef Swiderski.

There being no objection, the Clerk read the bill, as follows:

H.R. 4013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Jozef Swiderski has resided in the United States and any State since his lawful admission for permanent residence on July 22, 1968, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act, and his petition for naturalization may be filed in any court having naturalization jurisdiction under section 310 of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that further reading of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CERTIFICATE OF SPECIAL CONGRESSIONAL RECOGNITION FOR MATTHEW DAVID BAHR

(Mr. MURPHY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY of Pennsylvania. Mr. Speaker, I rise today to pay tribute to a young man who will, this afternoon, receive a certificate of special congressional recognition from my office. Matthew David Bahr, the placekicker for the

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Super Bowl XIV champion Pittsburgh Steelers, has, as a very young man, stepped into a pressure situation and met the challenge in an admirable manner, characteristic of the capabilities possessed by our country's youth. His contributions to the Steelers' successful season are ones of teamwork, sacrifice, and pride. Those qualities of excellence and spirit symbolize the character of the team, as well as the character of the Pittsburgh area. Therefore, I am pleased to have Matt Bahr in Washington today to receive the award as a testimonial to his abilities. He truly belongs in Pittsburgh, the city of champions.

Matt Bahr began his professional career with the Pittsburgh Steelers by kicking a 41-yard field goal in a game against the New England Patriots, which eventually was won in overtime. Appropriately enough, Matt ended the season by kicking a 41-yard field goal in the Super Bowl. These two games probably placed more pressure on Matt than is usually placed upon any other rookie. His ability to accept the challenge and successfully convert his attempts are characteristic of the quality Coach Chuck Noll seeks in his players. The spectacular successes of the Pittsburgh baseball and football teams are due to the teamwork, leadership, and pride of the men who comprise those teams.

Now that Matt Bahr has joined the Pittsburgh sports family, I am certain that more will be written about him as he continues a successful career, and contributes his time to many worthwhile civic functions, as so many of his fellow teammates do in the off-season. Pittsburgh as a vibrant and unique city in the United States. The people are warm, humble, hardworking, and friendly. They appreciate the efforts and accomplishments of their athletes and, in return, the athletes enjoy living in Pittsburgh. As the 1980's begin, Pittsburgh will be called the city of champions because of its World Series and Super Bowl victories. The champions, though, are the steelworkers, miners, executives, public servants, as well as the athletes. Among all those champions is the rookie placekicker for the Pittsburgh Steelers, Matthew David Bahr.

DISCRIMINATION AGAINST MINORITIES IN CENSUS HIRING

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, I am about to sign a letter which will go to Mr. Vincent P. Barabba, Director of the Bureau of the Census. I have today directed the subcommittee staff to undertake a thorough review of the Bureau's testing procedure for employment in the upcoming census. Reports continue to come in from around the country that persons from minority communities are failing the eligibility test at a greater rate than any other group who have taken the test.

For the past year I have listened to the Bureau officials make reference about the efforts to recoup and assign indigenous people, and I have repeatedly been in contact with the Bureau with regard to these efforts. However, it is becoming increasingly apparent that the examination is biased against cultural and language minorities. Thus, Mr. Speaker, capable and dedicated people are being rejected on the basis of institutional expectations, and not on their ability to get the job done. As we progress to the census, I feel the problem will become more acute unless changes are instituted, or an alternative to the examination substituted. Accordingly, I urge the cooperation with our investigation and to make available to my staff the necessary memorandum reports included in the examination.

MUHAMMAD ALI'S FORAY INTO AFRICA

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, now in its fourth year, President Carter's on-the-job-training foreign policy does not seem to be giving us much indication that it is improving. The latest insult in a long series of travesties would be Muhammad Ali's foray into Africa. I read the Cleveland Plain Dealer this morning, and I quote:

> With jabs at Jimmy Carter and hooks at the Kremlin, Muhammad Ali carried on yesterday with his U.S.-sponsored tour to promote a boycott of the Moscow Olympics. But he said his real aim now is to head off war between "the baddest two white men in history"—America and the Soviet Union.

☐ 1210

Well, I do not know why in the world the President sent someone like that to Africa to represent this country. Maybe he could go out with the students and counsel against the draft, those who are going to Canada or Sweden, but how he can be an exponent of American foreign policy would make one wonder. Except we all wonder what our foreign policy is under Carter and Vance. Maybe the real reason Ali went is revealed in the rest of the story when he is quoted as saying—

> Plus, I came 'cause I don't pay my expenses. America does. I get a free plane ride, I get free cooks, I get free everything.

He gets free everything and the American people get the lumps—and the shame.

SOVIET SHIPS SHOULD BE DENIED ACCESS TO U.S. PORTS

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, the President has outlined a number of measures in response to the Soviet invasion of Afghanistan. In the long run, the most important may well be the President's new-found dedication—based on his recent awakening to Soviet methods of operation and objectives—to a strong national defense and a long-overdue increase in defense spending.

With regard to the impact of his other measures—the grain embargo, the curtailment of fishing rights, the limitation of the transfer of American technology, and even the proposed Olympic boycott—only time will tell. There can be no question, however, that the American public is strongly supportive of such measures, and is even willing to sacrifice at home for the sake of national objectives.

I am, therefore, today introducing legislation which would have an immediate impact on the Soviet Union. I propose that we deny all Soviet ships access to any U.S. port until the Soviet troops are withdrawn from Afghanistan.

The Soviet Union has the world's largest merchant marine fleet, one that is gaining an increasing share of the cargo shipped to and from the United States. The Russians view their merchant marine fleet as an integral part of their defense system, as well as a profitable means of earning much-needed hard currency. A curtailment of U.S. operations would certainly be hard felt.

Mr. Speaker, the east and gulf coast longshoremen had the right idea. If we are serious about responding to Soviet actions, we should go farther than just "limiting" exports, just "curtailing" fishing rights. The measure I am proposing is decisive and direct—and will certainly be felt by the Soviets.

Further, while there may be some immediate financial hardship on U.S. users of Soviet bottoms, I am certain that the American people are willing to make this kind of sacrifice. And, in fact, an additional benefit might be the revitalization of our own merchant marine fleet.

Mr. Speaker, I urge my colleagues to join in support of this legislation.

NATIONAL TEENAGER DAY

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, I am today introducing a resolution calling on the President to issue a proclamation designating November 7 of each year as "National Teenager Day." This group of young Americans, representing as it does the future leaders of the Nation, is rarely accorded the recognition extended to other Americans. Enactment of this resolution will direct America's attention to the accomplishments and contributions of these young Americans between the ages of 13 and 19.

The years between 13 and 19 can often be the most difficult years for our young people. They often find themselves belonging neither to the adult world nor to the world of their younger brothers and sisters. At the same time, as they grow older, they begin to experience many of the same frustrations and rewards of young adults, without some of the prerogatives accorded the latter. By establishing a "National Teenager Day," all Americans can focus on the contributions, achievements, and experiences of this group of young people.

I selected November 7 of each year because it will be the anniversary date of a youth conference held in Rochester, N.Y. On November 7, 1979, more than 1,000 junior and senior high school students from the Greater Rochester area gathered to discuss, for the first time as a group, their common problems and interests. Sponsored by the Urbanarium and the New York State Division on Youth, the conference afforded those attending the opportunity to discuss such issues as: The legal rights of youth, employment issues affecting youth, and integration and separation. Sponsors of the conference hope to make it an annual event.

The turnout for the conference and the diversity of the topics discussed attest to the seriousness of purpose. Meetings and conferences, similar to the one held in Rochester, should be held on an annual basis to further encourage young people to discus issues affecting them. Such conferences also offer an appropriate way to observe National Teenager Day.

I encourage my colleagues to join me in sponsoring this important resolution.

GENERAL PROTEST EXPRESSED OVER ANTICS OF NATIONAL SECURITY ADVISER

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, with the greatest of respect for my President and the greatest deference to the gentleman who is, his National Security Adviser, I must register a general protest of the apparent antics which took place on the Khyber Pass, which separates Afghanistan and Pakistan.

Our constituents are being talked to with respect to war, and their sons and daughters perhaps with respect to being drafted to fight this war.

And yet, the National Security Adviser is, in a sense, playing a game of guns on the Khyber Pass. This led to the discharge of an automatic rifle, which directed fire into Afghanistan.

It seems to me that these are perilous and very sensitive times. I would hope that everybody who represents the administration, and everyone who represents the Congress, would be very restrained and very circumspect in their actions lest they contribute to heightening of these tensions.

PERMISSION TO EXCUSE FROM SERVICE AS CONFEREE AND APPOINTMENT OF NEW CONFEREE ON H.R. 5235 UNIFORMED SERVICES HEALTH PROFESSIONALS SPECIAL PAY ACT OF 1979

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the gentleman from South Carolina (Mr. DAVIS) be excused from service as a conference on the House bill (H.R. 5235) to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for certain health professionals in the uniformed services, and that the Speaker be authorized to appoint a Member to fill the vacancy.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from Alabama?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the gentleman from Louisiana (Mr. LEACH) to serve as a conferee on H.R. 5235.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

ANNUAL REPORT COVERING THE IMPLEMENTING ACTIVITIES UNDERTAKEN DURING 1978 BY FEDERAL AGENCIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit to the Congress the annual report to be submitted under section 381 (c) of the Energy Policy and Conservation Act, 42 U.S.C. 6361(c) (1970).

This report covers the implementing activities undertaken during 1978 by Federal agencies. It concludes actions to establish mandatory policies and standards with respect to energy conservation and efficiency for Federal procurement activities along with progress towards developing a 10-year plan for energy conservation in Federally-owned or leased buildings. It also describes programs for carrying out a responsible public education program to encourage energy conservation and efficiency and to promote vanpooling and carpooling arrangements.

JIMMY CARTER.

THE WHITE HOUSE, *February 5, 1980.*

EIGHTH ANNUAL REPORT ON ADMINISTRATION OF RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the Eighth Annual Report on the administration of the Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et. seq.) as required by that Act. This report has been prepared in accordance with Section 211 of the Act, and covers the period January 1, 1978 through December 31, 1978.

JIMMY CARTER.

THE WHITE HOUSE, *February 5, 1980.*

ELEVENTH ANNUAL REPORT OF NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

In accordance with Title VI, Section 605 of the Economic Opportunity Act of 1964, as amended by P.L. 89–794, I am transmitting herewith the Eleventh Annual Report to the Congress of the National Advisory Council on Economic Opportunity.

This Report reflects the Council's views in its role in examining programs authorized by the Economic Opportunity Act of 1964, and their impact in alleviating certain problems confronting low-income people. While those views are not entirely consistent with this Administration's policies, we shall consider them in the future.

JIMMY CARTER.

THE WHITE HOUSE, *February 5, 1980.*

□ 1220

CROSSWALK ALLOCATIONS

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the crosswalk allocations to the House committees pursuant to section 302(a) of the Congressional Budget Act, as contained in the conference report (H. Rept. 96–582) accompanying Senate Concurrent Resolution 36, the second concurrent resolution on the budget for fiscal year 1980, be considered as meeting the requirements of section 302(a) of the Budget Act.

Section 302(a) requires that the managers' statement accompanying a conference report on a budget resolution allocate the total new budget authority and outlays specified in the resolution among all House and Senate committees with jurisdiction over spending bills.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Connecticut could explain why this is necessary.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I will try to explain. The gentleman will recall as part of the Budget Act the conference report which we normally would bring back and adopt would have in it the allocations to the committees so that they could comply therewith. Because of the fact that when we disagreed with the other body last fall on reconciliation, the gentleman will recall, the other body could not any further amend our resolution No. 36 and therefore came forth with a new resolution, resolution No. 53. The gentleman will recall that we took up that resolution in lieu of the conference report. It was not a conference report but a Senate resolution which we acted on and adopted with an amendment which knocked out reconciliation. The Senate agreed to our amendment and we had a budget resolution. That Senate resolution was not a conference report and did not have a statement of conferees which would have included the section 302(a) allocations. It is now necessary that we adopt these allocations which were in the original conference report. The way in which we can accomplish that would be in this manner. It is what we have agreed to in the House when we originally adopted the Second Budget Resolution last year.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, the gentleman from Maryland was not aware of this request and is not fully apprised of its effect. I do recall that 2 years in a row the Budget Committee, instead of bringing back a conference report, has placed the House in a position where we had to act on the other body's resolution. It is my vague recall that that places opponents of that budget resolution in a disadvantaged parliamentary position because certain motions are not in order.

Now it appears that the gentleman is coming in to correct another problem of the Budget Act that flows from the lack of a budget conference report last year. Quite frankly, if that is the case, it seems to me we ought to get to the business of amending or changing the Budget Act if we are not to have conference reports. In other words, I just do not want to make it easier for the gentleman to do what he has been doing, to be quite frank about it.

Mr. GIAIMO. If the gentleman will yield further, I understand and I wish to God that the gentleman could make my job a little bit easier as chairman of the Budget Committee.

Mr. BAUMAN. If the gentleman will confer with me, I might make some suggestions.

Mr. GIAIMO. But if we do not have this allocation, the gentleman understands that then we are not going to be able to scorekeep the proper expenditures, and we could run the risk of expending additional moneys, which I am sure the gentleman does not want to do.

Mr. BAUMAN. The gentlemen's scores on savings are not worth the paper they are written on, and he knows that. Every year he projects $15 billion or so in deficit and it winds up at $40 billion. I would like to make the gentleman feel a little better, but I also would like to know a little bit more about this request and, at the moment, I am going to object.

The SPEAKER pro tempore. Objection is heard.

DISTRIBUTION OF FUNDS APPROPRIATED TO PAY JUDGMENTS AWARDED TO INDIAN TRIBES

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate joint resolution (S.J. Res. 108) to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups, and ask for its immediate consideration.

The Clerk read the title of the Senate Joint Resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could we have an explanation of why we are doing this by unanimous consent?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am happy to yield to the gentleman from Arizona.

Mr. UDALL. I thank my friend for opening those particular old wounds. I will try to survive here.

This is a simple parliamentary stall or snarl.

Mr. ROUSSELOT. Stall?

Mr. UDALL. No, snarl.

Mr. Speaker, Senate Joint Resolution 108 provides for congressional validation of certain plans for the distribution of Indian judgment funds. The House passed a similar bill, House Joint Resolution 383, on September 17, 1979.

The need for this legislation arose because of a recent decision of the Federal district court. Pursuant to the act of October 19, 1973, the Secretary of the Interior is required to develop a plan for the use and distribution of funds awarded to Indian tribes by the Indian Claims Commission or the Court of Claims.

The act imposes certain time limitations on the Secretary in developing and submitting such plans to the Congress. The court ruled that failure to meet those time limitations resulted in invalid plans.

In almost every case, the Secretary has failed to meet those deadlines. Yet, in every case, Congress has not seen fit to disapprove of the plans as submitted.

This legislation merely validates those plans.

Through an oversight, the Senate failed to repass our bill after passing the Senate bill. The Senate bill is only slightly different than the House-passed bill. They accepted an amendment of the Interior Department with which we have no quarrel.

Mr. ROUSSELOT. Further reserving the right to object, did the other body add any things that we have not passed upon, looked at, or considered?

Mr. UDALL. No.

Mr. ROUSSELOT. As sometimes they are prone to do?

Mr. UDALL. No; this is a very simple little Indian bill that has been cleared with the minority, Mr. Johnson, Mr. Clausen.

Mr. ROUSSELOT. Further reserving the right to object, and I would yield to my colleague from Colorado, does this cost very much?

Mr. UDALL. If the gentleman will yield further, nothing. This is simply the distribution of funds.

Mr. ROUSSELOT. Does the gentleman mean that this costs nothing?

Mr. UDALL. When an Indian claim is settled, then we have the problem of who gets the distribution of the pot. It is the money fund distribution; the fund is not enlarged. This deals with which Indians and under what conditions the money is distributed.

Mr. ROUSSELOT. I certainly do not want to get in trouble with our Indians.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the noted Indian fighter for yielding.

I would like to reassure the gentleman that what the gentleman from Arizona (Mr. Udall) said is correct. There is no money to be spent under this bill, and it is just a matter of the snarl or the stall or however the chairman wishes to describe it.

Mr. ROUSSELOT. Snarl or stall. And if we do not use this procedure it would not move along; is that correct?

Mr. JOHNSON of Colorado. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 108

Whereas, pursuant to Public Law 93–134 (Act of October 19, 1973; 87 Stat. 466; 25 U.S.C. 1401), the Secretary of the Interior or his designee has submitted plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; and

Whereas none of such plans have been disapproved by congressional action; and

Whereas a recent July 9, 1979, decision of the United States District Court for the District of Columbia in the case of Seminole Indian Tribe of Florida versus Andrus has called into question the effectiveness and validity of those plans submitted to Congress under Public Law 93–134; and

Whereas it is the purpose of this resolution to validate the effectiveness of the plans (other than the plan involved in the Seminole decision and a plan involving the tribes of the Warm Springs Reservation which is the subject of pending litigation) which were submitted to the Congress pursuant to Public Law 93–134; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93–134 are hereby declared to be valid and effective as of the dates indicated:

Tribe or group	Docket Nos.	Effective date
Washoe	ICC 288	Sept. 25, 1974.
Seneca	ICC 342–A and 368–A	Sept. 26, 1974.
Fort Berthold (Three Affiliated Tribes)	ICC 350–A, E, and H	Oct. 2, 1974.
Paiute, Northern	ICC 87	Oct. 10, 1974.
Nez Perce	ICC 175–B	Do.
Cherokee, Eastern	ICC 282–A through L	Do.
Ponca	ICC 322, 323, and 324	Nov. 23, 1974.
Tuscarora	ICC 321	Dec. 18, 1974.
Chippewa, Red Lake	ICC 189	Feb. 3, 1975.
Sioux, Yankton	ICC–332–B	Feb. 7, 1975.
Kikiallus	ICC 263	Feb. 18, 1975.
Skagit, Lower	ICC 294	Do.
Lummi	ICC 110	Mar. 3, 1975.
Apache Chiricahua	ICC 30 and 48 and 30–A and 48–A.	Mar. 16, 1975.
Sioux, Cheyenne River	ICC 114	Do.
Iowa	ICC 135	Mar. 24, 1975.
Ottawa, Oklahoma	ICC 304 and 305	June 17, 1975.
Pueblos de Jemez, Santa Ana, and Zia	ICC 137	Do.
Apache, Jicarilla	ICC 22–K	July 8, 1975.
Suquamish	ICC 132	Sept. 14, 1975.
Winnebago	ICC 243, 244, and 245	Oct. 30, 1975.
Cabazon	ICC 148	Do.
Apache, Western	ICC 22–D	Dec. 3, 1975.
Cherokee	ICC 173–A	Nov. 5, 1975.
Navajo	Ct. Cl. 49692	Nov. 17, 1975.
Creek, Oklahoma	ICC 167–273	Nov. 16, 1975.
Angoon	ICC 278–B	Feb. 1, 1976.
Samish	ICC 261	Dec. 10, 1975.
Swinomish	ICC 233	Do.
Shawnee	ICC 334–B	Mar. 5, 1976.
Mohave	ICC 283 and 295	Apr. 12, 1976
Chippewa, Pillager	ICC 144	Apr. 28, 1976.
Yakima	ICC 161, 222, and 224	May 13, 1976
Colville	ICC 161, 222, and 224	May 21, 1976
Kiowa-Comanche-Apache	ICC 257 and 259–A	June 8, 1976
Fort Berthold (Three Affiliated Tribes)	ICC 350–F	June 20, 1976
Flathead (Confederated Salish and Kootenai)	Ct Cl 50233 No 8 and No 9	Aug. 25, 1976.
Seneca	ICC 84; 342–B, C, and 368; 342–F and I.	Jan. 29, 1977.
Six Nations and Stockbridge-Munsee	ICC 84 and 300–B, ICC 300	Mar. 4, 1977.
Devils Lake Sioux	ICC 363	July 23, 1977.
Siginaw Chippewa	ICC 57	Nov. 12, 1977.
Fort Berthold Three Affiliated Tribes	ICC 350–C and D	Mar. 13, 1978.
Fort Mohave	ICC 295–A	Nov. 12, 1977.
Potawatomi	ICC 15–K, 29–J, 217, 15–M, 29–K, and 146.	Mar. 6, 1978.
Mescalero (Lipan)	ICC 22–C	Apr. 9, 1978.
Taos Pueblo	ICC 357–A	Apr. 10, 1978.
Colville-Nez Perce	ICC 186	May 1, 1978.
Creek	ICC 275	June 15, 1978.
Seneca Nation	ICC 342–G	Feb. 1, 1979.
Lake Superior and Mississippi Chippewa	ICC 18–C and 18–T	Do.
Sisseton-Wahpeton	ICC 363 (1867 and 1872)	Mar. 26, 1979.
Pyramid Lake	ICC 87–B	June 12, 1979.
Bois Forte Chippewa	ICC 18–D	June 5, 1979.
Caddo	ICC 226	
Goshute	ICC 326–B and J	
Nisqually	ICC 197	
Potawatomi, Prairie Band	ICC 15–K, 29–J, 217, 15–M, 29–K and 146.	

SEC. 2. The foregoing plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93–134 are hereby declared to have been validly submitted and are exempted from the submission deadline in section 2 of said Act and shall be effective as provided in section 5 of said Act.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

REQUIRING THE SECRETARY OF THE INTERIOR TO CONVEY A PARCEL OF LAND LOCATED IN COLORADO TO THE UTE MOUNTAIN UTE TRIBE AND TO PAY AN AMOUNT TO SUCH TRIBE FOR ECONOMIC DEVELOPMENT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5036) to require the Secretary of the Interior to convey a parcel of land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development, as amended.

The Clerk read as follows:

H.R. 5036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That within the thirty-day period beginning on the date of the enactment of this Act the Secretary of the Interior shall convey, without consideration, to the Ute Mountain Ute Tribe, all right, title, and interest of the United States in and to the parcel of land located in the State of Colorado described in section 3 and all mineral interest of the United States in and to the parcel of land located in the State of Colorado, county of Gunnison, commonly known as the Pinecrest Ranch, and more fully described in a warranty deed, book 325, pages 6–8 (reception numbered 234174) on file in the Office of the County Clerk and Recorder for Gunnison County. The parcel of land described in section 3 shall not be considered Indian country for any purpose and shall be subject to State and local governmental jurisdiction and taxation.

SEC. 2. The Secretary of the Interior shall pay to the Ute Mountain Ute Tribe for the economic development of lands owned by such tribe, from sums appropriated therefor, the sum of $5,840,000 in accordance with an economic development program submitted to the Secretary by the Ute Mountain Ute Tribe and approved by the Secretary.

SEC. 3. The parcel of land conveyed pursuant to the first section consists of—

(1) in township 48 north, range 3 west, New Mexico principal meridian—

(A) the northwest quarter, the west half of the northeast quarter, and the west half of the southeast quarter, in section 19; and

(B) the north half of the northwest quarter and the northwest quarter of the northeast quarter, in section 30;

(2) in township 48 north, range 4 west, New Mexico principal meridian—

(A) the east half of the northwest quarter, the south half of the northeast quarter, and the north half of the southeast quarter, in section 9;

(B) the south half, the northwest quarter of the northeast quarter, and the southeast quarter of the northeast quarter, in section 10;

(C) the south half of the northeast quarter, the northeast quarter of the southeast quarter, and the south half of the southeast quarter, in section 11;

(D) the north half of the northwest quarter, the northeast quarter, and the east half of the southeast quarter, in section 13;

(E) the east half of the southeast quarter and the southwest quarter of the northwest quarter, in section 14;

(F) the west half of the northeast quarter and the south half of the southwest quarter, in section 15;

(G) the northeast quarter of the southeast quarter in section 16;

(H) the southeast quarter of the southeast quarter in section 17;

(I) the northeast quarter of the northeast quarter in section 20;

(J) the northeast quarter of the southeast quarter in section 21;

(K) the northeast quarter of the northeast quarter and the north half of the southwest quarter, in section 23;

(L) the west half of the northeast quarter, the southeast quarter of the northeast quarter, the west half of the southeast quarter, and the northeast quarter of the southeast quarter, in section 26; and

(M) the east half of the northeast quarter in section 29; and

(3) in township 47 north, range 4 west, New Mexico principal meridian—

(A) the northeast quarter of the northwest quarter in section 10;

(B) the west half of the northwest quarter in section 15;

(C) the east half of the southeast quarter and the southeast quarter of the northeast quarter, in section 16;

(D) the southeast quarter of the southeast quarter in section 20;

(E) the north half of the northeast quarter, the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter, in section 21;

(F) the northwest quarter of the southeast quarter in section 27; and

(G) the northeast quarter of the northeast quarter in section 29.

SEC. 4. The enactment of this Act shall fully satisfy all claims against the United States by the Ute Mountain Ute Tribe relating to the dispute over ownership of lands located in New Mexico and described as townships 31 and 32, range 16 west of the New Mexico principal meridian.

SEC. 5. Effective October 1, 1980, there is authorized to be appropriated to the Secretary of the Interior the sum of $5,840,000 to carry out section 2. Any sums appropriated under the authority contained in this section shall remain available until expended by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5036 provides for the conveyance, in fee simple, of approximately 3,000 acres of BLM lands to the Ute Mountain Tribe of Colorado and authorizes the appropriation of $5,800,000 for economic development programs for the tribe.

The lands and funds are by way of compensation to the tribe for the loss of approximately 15,000 acres of lands and $6,000,000 in funds as a result of a Supreme Court decision on a land dispute between the Ute tribe and the Navajo tribe.

In an 1895 act of Congress ratifying an agreement with the tribe, the United States established a reservation for the tribe, most of which was in the State of Colorado. However, it did provide for six townships in New Mexico. Because of the use of two different Federal survey systems, an overlap conflict developed between the Ute lands and the lands of the Navajo tribe under a 1868 treaty.

For years the Federal Government treated the overlap lands as Ute lands until the 1972 Supreme Court decision held they were Navajo lands. The Federal court decision did not deal with any compensation which may be due the Utes as it did not have jurisdiction.

The administration opposes the bill on the grounds that the United States had no legal obligation to the tribe for the loss of the lands and the money. This is probably accurate.

However, the committee felt that it was very inappropriate for the United States, the trustee and guardian of this tribe, to set up the lack of any legal obligation to the tribe when there is unquestionably a moral obligation.

I urge the passage of the bill.

Mr. Speaker, I yield such time as he may consume to our very able committee member, the gentleman from Colorado (Mr. KOGOVSEK).

Mr. KOGOVSEK. Mr. Speaker, in 1895, the U.S. Congress entered into an agreement which established the Ute Mountain Reservation. The intent of Congress was to provide the Weeminuchi Band of Indians with a given amount of land on which to settle, establish a livelihood and carry on the traditions of the native Americans as other tribes were doing on other reservations.

Through surveying conflicts, it was later determined that 15,000 acres of the reservation were in conflict with a contiguous reservation granted by Congress to the Navajo Indian Tribe. A series of actions eventually lead to a clarification of the land's true owner. The U.S. Supreme Court agreed that the 15,000 acres in dispute belonged to the Navajos. The legislation which I have introduced does not attempt in any way to argue with the Court's findings.

However, the congressional intent of 1895 is violated by a lack of means to provide the tribe with the amount of land originally granted. The American Indian Policy Review Commission has documented the failure of the Federal Government to fulfill its responsibilities to Indian tribes in many instances. It is my belief that not compensating the Ute Mountain Tribe for the loss of land the members believed to be theirs would be yet another failure.

There is a special trust relationship between Indian tribes and the Federal Government, with the Congress acting officially as sole trustee. The Congress must abide by the highest standards of loyalty required by this special relationship. Failure to do so would result in a miscarriage of justice. The members of the Ute Mountain Tribe came here to testify, they told the Interior Committee about their tribe, clearly showing that a request for compensation of land, only 3,000 acres compared to 15,000 acres lost, and money lost from royalties earned from natural resources on the land now known as part of the Navajo Reservation, is a valid request.

I urge my colleagues to support the legislation which will honor the agreement this body made in 1895 and the obligation Congress has to protect Indian tribes.

□ 1230

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5036. This bill would settle the claims of the Ute Mountain Ute Indian Tribe against the United States by conveying to the tribe 2,800 acres of Federal land in Colorado and paying them $5,840,000 to be used exclusively for economic development. The land and money would compensate the Utes for the loss of some 15,000 acres of land and more than $6 million in revenue as a direct result of conflicting, overlapping surveys mandated by separate acts of Congress.

Members of the Ute Mountain Tribe are descendants of the Weeminuchi Band of Ute Indians who, together with other Ute Indian bands, at one time owned and occupied a substantial portion of what is now the State of Colorado. The various Ute peoples ceded their land to the Federal Government through a series of transactions and were given reservation land in exchange. H.R. 5036 has its origins in the 1895 agreement which set up the present Ute Mountain Reservation.

The 1895 agreement was a direct outgrowth of a treaty negotiated by the Federal Government in 1880, but never ratified. The agreement was an attempt to put to rest the controversy over the proposed resettlement of all the Ute peoples outside of the State of Colorado. Under this agreement, Congress provided for the establishment of the Ute Mountain Reservation in Colorado and New Mexico. The property given to the tribe was described as follows:

> All that portion of their present reservation lying west of the range line between ranges thirteen and fourteen west of the New Mexico principal meridian, and also all of townships 31 and 32 of ranges 14, 15, and 16 west of the New Mexico principal meridian and lying in the Territory of New Mexico . . .

This area was not surveyed until 1914 by a Federal surveyor, Clayton Burt. As authorized in the 1895 agreement, he used the standard New Mexico grid system as the basis for his survey. Mr. Burt set the western boundary of the reservation at the then eastern boundary of the Navajo Reservation, which at that time had been platted under a special grid system based upon the Navajo special meridian. The effect of this procedure was to reduce the width of the Ute Reservation townships 31 and 32 by an area of some 23 square miles. Partial townships were thereby created where full townships had been specified by Congress.

In 1936 the General Land Office abolished the Navajo special meridian and caused all land in New Mexico to be platted in accordance with the New Mexico principal meridian. The replatting moved the boundary of the Ute Reservation westward, overlapping the previous Navajo Reservation boundary and showing the westernmost Ute Reservation townships in New Mexico as full-width townships. The subsequent dispute between the two tribes over ownership of the land within the overlapping boundaries existed until 1957, when oil and gas leasing began in the area. The companies engaged in such leasing were concerned about a possible cloud on the title to the land. Consequently, the Bureau of Indian Affairs refused to allow oil and gas revenues arising from the disputed land to be paid to either tribe, and the tribes agreed to put the revenues into an escrow account pending judicial resolution of their dispute.

In 1972 the U.S. Supreme Court affirmed the judgment of a special three-judge U.S. District Court panel in New Mexico (*Ute Mountain Tribe of Indians* v. *Navajo Tribe of Indians*, 409 U.S. 809, 34 L.Ed. 2d 70, 93 S.Ct. 68, October 10, 1972) which found that the disputed land belonged to the Navajos. The Court did not, however, address the issue of compensation for the Utes being denied the full amount of land granted to them by Congress in 1895. This left the Utes with a claim but without an appropriate forum. The Indian Claims Commission could not hear it, since the Commission only had jurisdiction over claims arising before 1946, and the Utes claim only arose in 1972. The Court of Claims has no authority to restore any land to the tribe. Thus, the Utes saw no alternative but to go back to Congress for an equitable remedy.

The proposal now before the House, H.R. 5036, would provide such a remedy. As compensation for the loss of 15,000 acres of grazing land, H.R. 5036 would transfer to the Utes some 2,800 acres of land currently used solely by the tribe under lease from the U.S. Bureau of Land Management. The land joins and is intermingled with a ranch which the tribe owns as a private landowner. The tribe would pay taxes on the transferred land. The amount of money to be paid the tribe—$5,840,000—equals the amount of oil and gas lease revenue that was in the escrow account at the time of the Supreme Court decision in 1972. The entire amount could be used only for purposes of tribal economic development under a plan to be submitted to and approved by the Secretary of the Interior. None of the money would be available for per capita payments to tribal members.

I deeply regret that the official voices of the administration have spoken in opposition to H.R. 5036. The Interior Department said it does not believe the Utes have any equitable monetary or legal claim against the United States, because: First, the tribe received all or part of the six townships referred to in the 1895 agreement; second, the Department has no evidence that the Utes bargained for specific acreage or that Congress had a specific acreage in mind when it created the reservation; and third, Congress knew it was conveying partial townships because the House report on the ratification of the 1895 agreement referred to "fractional" townships.

It appears that the Department and the administration are splitting hairs in an attempt to avoid facing the equities of the Utes' case. For example, the administration asserts the Utes have no legal claim against the United States because they took possession of all of the townships referred to in the 1895 agreement. Never mind that the land was not surveyed for 20 years after Congress ratified the 1895 agreement, and never mind the fact that beginning in 1895, the Utes, believing that six full townships in New Mexico were theirs, grazed all of townships 31 and 32 of range 16 west each winter until forced to leave in 1972. And never mind the Utes had no cause of action until the outcome of litigation in 1972. The administration's legal position seems to be that if Congress or the Executive made a mistake and the tribe lost some land, the tribe should be happy with what it got and forget what it lost.

It is shameful for the Department to oppose H.R. 5036 on the grounds that they have no evidence of the tribe having bargained for specific acreage or that Congress had any specific acreage in mind when it created the reservation. In 1895, as is true today, a township consisted of 36 square miles. Six of them total 216 square miles or 138,240 acres. The 1895 agreement gave the Ute tribe six townships, no more, no less. What evidence of a specific number does the Department think is necessary?

The Department further argues that "Congress was aware that many of the townships granted to the Utes would be of fractional height, since several lay on the State line between Colorado and New Mexico," and since the House report refers to the New Mexico townships as "six fractional townships of unoccupied land in New Mexico." Moreover, the Department says that "we have no evidence as to whether Congress was aware that townships 31 and 32 of range 16 west were of fractional width." Lacking such evidence, the Department in effect asks us to presume that Congress was so aware and, further, that despite its clear language in the agreement calling for six townships, Congress intended to give the Utes townships that were shrunken in both height and width. I cannot make such a presumption.

It is appropriate here to note the testimony of an expert witness before the Interior Committee concerning the agreements and Executive orders involving the United States and Indian tribes in the latter part of the 19th century. Prof. Robert Delaney of Fort Lewis College, Durango, Colo., testified that "in all instances, if Congress or the Executive intended a fractional township, it was definitely stated."

A tribal witness summed up the tribe's feeling this way:

> In 1895 our people did not understand the complexities of transfer of real property and we had no surveyors. We relied upon what was stated in the Agreement with the United States Government. We understood that we received six full townships in New Mexico upon which to live and graze our cattle and we acted upon this belief by claiming this land and exercising rights of possession for many years. We feel we have been promised something by the Government but we have not received it.

Mr. Speaker, H.R. 5036 is intended to make whole an Indian tribe that through no fault of its own was deprived of the ownership and use of some 23 square miles of land specifically provided them by an act of Congress. The bill fulfills the Ute Tribe's request for justice, not charity. If enacted, H.R. 5036 will go a long way to implement economic development plans which can eventually greatly decrease the tribe's dependency upon the Federal Transfer Payments System. The Ute Mountain people wish only to demonstrate that they can be economically productive, self-sufficient citizens while still maintaining their culture and community life.

I am happy to say that the State of Colorado is fully in support of this legislation, and that the County of Gunnison, Colo., in which the tribe's lands are located, is supportive of the bill. I urge the Members of the House to approve H.R. 5036 and settle for all time the Ute's claim.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore (Mr. GONZALEZ). The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 5036, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING INVESTIGATION OF CERTAIN WATER RESOURCE DEVELOPMENTS

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5278) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, as amended.

The Clerk read as follows:

H.R. 5278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following proposals:

(1) Hungry Horse Project, Hungry Horse Powerplant Enlargement and Reregulating Reservoir, located on the South Fork of the Flathead River in Flathead County, Montana.

(2) Boise Project, Power and Modification Study, located in southwestern Idaho (Ada, Boise, Canyon, Elmore, Gem, Payette, and Valley Counties) and in eastern Oregon (Malheur County).

(3) San Francisco Bay Area Waste Water Reclamation Project, located in the San Francisco Bay area and western San Joaquin Valley of California.

(4) San Joaquin Valley Drainage Investigation with a study area in the San Joaquin River basin, Tulare basin, and the Sacramento-San Joaquin Delta-Suisun Bay area of California.

(5) Delta Overland Water Service Facilities, located in the Sacramento, San Joaquin, Solano, and Contra Costa Counties of California.

(6) Chino Valley Project, located in north central Yavapai County and south central Coconino County in Arizona.

(7) North Platte River Hydroelectric Power Study, Pick-Sloan Missouri Basin Program, Western Division, located in Natrona and Carbon Counties, Wyoming.

(8) Wind-Hydroelectric Energy Project in Carbon and Albany Counties, Wyoming.

(9) Lake Meredith Salinity Project, in Quay County, New Mexico, and Oldham, Potter, Moore, Carson, and Hutchinson Counties in Texas.

(10) Colorado-Big Thompson Powerplants of the Pick-Sloan Missouri Basin Program in Colorado.

(11) The relocation of the intake of the Contra Costa County Water District Canal from Rock Slough to the vicinity of the Clifton Court Forebay in Contra Costa County, California.

(12) The Los Vaqueros Dam, pump-generating plant, and related features at a site approximately eight miles west of the Clifton Court Forebay in Contra Costa County, California.

(13) The obtaining of a water supply of up to ten thousand acre-feet per year for existing and potential domestic, recreational, and municipal water users along the Colorado River in California who do not hold water

rights or whose rights are insufficient to meet their requirements.

Sec. 2. (a) The Secretary of the Interior is hereby authorized to engage in feasibility studies relating to enlarging Shasta Dam and Reservior, Central Valley Project, California, or to the construction of a larger dam on the Sacramento River, California, to replace the present structure.

(b) The Secretary of the Interior is further authorized to engage in feasibility studies for the purpose of determining the potential costs, benefits, environmental impacts, and feasibility of using the Sacramento River for conveying water from the enlarged Shasta Dam and Reservior or the larger dam to points of use downstream from the dam.

(c) Before funds are expended for the feasibility studies authorized by this section, the State of California shall agree to participate in the studies and to participate in the costs of the studies. The State's share of the costs may be partly or wholly in the form of services directly related to the conduct of the studies.

Sec. 3. The Secretary of the Interior is authorized to review and revise, as may be necessary, the feasibility study of the Kellogg Unit, Central Valley Project, Contra Costa County, California.

Sec. 4. In preparing the studies and review authorized by subsections (11) and (12) of section 1 and section 3, the Secretary of the Interior shall fully describe all potential beneficial or detrimental impacts resulting from the construction or operation of the projects under study. The Secretary shall further make recommendations to the Congress for assuring that neither the construction nor the operation of any such project results in the determination of the water quality and ecology of the Sacramento-San Joaquin Delta or the San Francisco Bay estuarine system.

Sec. 5. Notwithstanding any other provision of the law, the Secretary of the Interior is authorized to enter into new negotiated concession agreements with the present concessionaires at Rancho Monticello, South Shore, and Markley Cove Resorts at Lake Berryessa, California. Such agreements shall be for a term ending not later than May 26, 1989, and may be renewed at the option of the concessionaire for no more than two consecutive terms of ten years each. Such agreements must comply with the 1959 National Park Service Public Use Plan for Lake Berryessa, as amended, and with the Water and Power Resources Service Reservoir Area Management Plan: *Provided*, That the authority to enter into contracts or agreements to incur obligations or to make payments under this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. Kazen) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. Lujan) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Kazen).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5278 is a bill to authorize the Secretary of the Interior to conduct feasibility investigations of numerous potential water resource projects located throughout the 17 reclamation States.

Based on preliminary studies, these proposed projects appear to warrant further investigation. However, without specific congressional authorization, the Secretary of the Interior cannot conduct further detailed feasibility investigations to determine if they should eventually be constructed. H.R. 5278 provides this study authority.

Specifically, H.R. 5278 authorizes the Secretary of the Interior to begin feasibility studies on 14 proposed projects and to review and revise a feasibility study on one other project.

The projects to be studied are for a variety of purposes, including hydroelectric production, waste water management, water quality, salinity control, water storage, and wind-hydro development. The study areas themselves are located in the States of Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Texas, and Wyoming. According to information provided the committee, the estimated cost of these feasibility studies is approximately $19.7 million. H.R. 5278 does not authorize the appropriation of any specific funds since the Secretary of the Interior has standing authority to request funds for investigations of potential Federal reclamation projects. However, the funds must be appropriated before they could be used to carry out these studies.

In addition to the aforementioned feasibility studies, H.R. 5278 also authorizes the Secretary of the Interior to enter into new negotiated concession agreements with present recreational concessionaires at Lake Berryessa, Calif., which is part of the Water and Power Resources Service Solano project.

Mr. Speaker, I believe that the measures authorized by H.R. 5278 are necessary and important in that they could, with future congressional construction authorization, result in the development of critically needed water resource development and, consequently, I urge approval of the bill, H.R. 5278, as amended.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the statement of our distinguished subcommittee chairman, the gentleman from Texas, and I urge my colleagues on this side of the aisle to support the bill.

This is a study bill. The hydro projects authorized for feasibility-level studies could, when constructed, add some 1,400 megawatts of power to the Nation's energy supply. And one of the projects—the Medicine Bow wind-power demonstration project in Wyoming—will be the first large-scale development of modern wind turbine power generation in this country.

The majority of these projects have been under study for many years. They have been brought along from reconnaisance-level reports and appraisal studies, and have survived the long process of weeding out and selection that takes place as projects work their way through the system to get to this point of authorization. The fact that the studies actually have the approval of this administration speaks volumes in itself. I think it is fair to say that the Carter administration has taken more than a casual interest in western water and power projects. If they can find no reason for opposing a project, it is fairly safe to say that no such reasons exist.

In my opinion, some of these projects should be authorized for construction right now, without further studying or delay. Both the Medicine Bow wind project and the Colorado-Big Thompson pumped-storage project have been proven feasible and have been studied to death. As a matter of fact, I sponsored a bill three years ago authorizing immediate construction of the Colorado-Big Thompson project.

Even though that bill was cosponsored by the chairman and ranking member of our full committee, the chairman and ranking member of our Water and Power Subcommittee and 10 other ranking members of the Interior Committee, it was shot down by the administration and its supporters in this body. If that bill had passed 3 years ago, we would have had new hydropower coming on line late this year or early next year. But the administration said it wanted to study it some more, so here we are today, authorizing them to go back and study the Colorado-Big Thompson pumping unit for another 3 years, and then come back to us with a request for construction authorization. If we are lucky, our grandchildren may see the day when the new power comes on line.

I make this point at this time because I think there is such a thing as being overly cautious in some of these matters. When the Nation is in the midst of an energy crisis, and when we are faced with a situation where we either develop new domestic sources of energy or be subject to blackmail from foreign oil suppliers, I think the proper role of leadership is to speed up, not delay, the development of new power.

This bill should pass today without a dissenting vote. And I want to advise my colleagues that within a few days I will be circulating a "Dear Colleague" letter asking for cosponsors on a separate bill authorizing a speedup in the feasibility study of the Medicine Bow wind-turbine project, with additional authorization to get construction underway this year. I hope you will all join me in that effort, and in the meantime, I certainly urge a yes vote on the bill before us.

Mr. KAZEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. Johnson).

☐ 1240

Mr. JOHNSON of California. Mr. Speaker, I appreciate the opportunity to rise in support of legislation to authorize feasibility investigations of certain water resource developments.

The bill I cosponsored with Mr. Udall, H.R. 5278, includes a proposal of particular interest to me.

This is the enlargement of Shasta Dam and Reservoir, Central Valley project, Calif.

Enlargement of Shasta Lake, possibly up to three or four times its present size of 4,552,000 acre-feet, is one of the limited number of possibilities available for increasing the future water and hydropower supply for the Central Valley Basin and other areas in California.

Last year, the Water and Power Resources Service made a water-management study for the Central Valley Basin.

Justifications for enlarging Shasta's

capacity in this report included water problems caused by current overdrafts on the underground supply in the San Joaquin Valley, State water project shortages, the difficulty in maintaining water quality in the Sacramento-San Joaquin Delta, and fish resource problems from Shasta through the delta.

The State of California has agreed to participate in the studies, as well as the cost of the studies.

I know of little opposition to this proposal, with the possible exception of a few critics to any kind of study.

Rather, this is a very popular and, I believe, vitally important project.

Mr. Speaker, I take this time to ask the gentleman from Texas (Mr. KAZEN) to enter into a colloquy with me concerning the overall aspects of the study. I take this opportunity to ask the floor manager of the bill H.R. 5278, Mr. KAZEN, a question concerning the Shasta Dam and Lake feasibility study and investigation. Is it true that the tributaries of the Sacramento, Pit, and McCloud Rivers will be studied, as well as tributaries to the Sacramento River between Keswick Dam, along with the offstream storage sites along the west side of Sacramento Valley?

Mr. KAZEN. If the gentleman will yield, yes, it is.

Mr. JOHNSON of California. Also, I will ask the gentleman from Texas (Mr. KAZEN) would the study include the recreation, fish and wildlife, and environmental concerns in the study?

Mr. KAZEN. Yes. The study will certainly include those items.

Mr. JOHNSON of California. That is very fine.

Mr. Speaker, I yield back the remainder of my time.

Mr. LUJAN. Mr. Speaker, I yield so much time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, H.R. 5278 authorizes the Secretary of the Interior to engage in feasibility investigations of 15 water-resource development projects in eight western States.

Mr. Speaker, I want to take just a moment to commend the leadership of the Interior and Insular Affairs Committee, and more specifically the gentleman from Texas (Mr. KAZEN) and the gentleman from New Mexico (Mr. LUJAN), for moving out and addressing what many of us perceive to be a very important issue; namely, to utilize the great hydro potential in the West by moving in the direction of a feasibility study of the generating capacity. These gentlemen, in my judgment, have done a great deal to address the whole concept of adding to our energy supplies. I want the record to clearly show my support of what they are attempting to accomplish.

The projects actually include powerplant enlargements, a wind-hydro demonstration unit, a dam enlargement, and studies relating to wastewater reclamation, the recovery of seepage water, pump generation, and drainage canal relocation. The major thrust of the legislation is, however, to add hydro-generating capacity to nine existing dams by installing more turbines and pumped-storage units. I know of no opposition to the studies. The congressional authorization is necessary as a result of a provision in the Federal Project Recreation Act which requires specific authorization for all feasibility investigations.

The legislation also authorizes the Secretary of the Interior to enter into new negotiated concession agreements with present concessionaires at Lake Berryessa, notwithstanding any other provision of law.

Lake Berryessa is a water supply and recreational facility, as a result of a water development that is located in my congressional district. The provision was added to the legislation by way of an amendment that I offered in the full Interior Committee, and it had the concurrence not only of the committee as a whole but also the chairman and the ranking member of the Water and Power Resources Subcommittee.

New statutory authority is necessary due to the unique history of the project and the unusual circumstances which have developed there.

When Lake Berryessa was first built in the late 1950's the Bureau of Reclamation, now called the Water and Power Resources Service, did not believe there was any recreation potential at the lake, and refrained from development of recreational facilities.

Despite the position of the Bureau, thousands of people began using the lake for recreational purposes. As use increased, the county of Napa assumed responsibility for recreational management of the lake under the cognizance of the Bureau.

In order to develop facilities, the county leased concessions to individuals over 20- and 30-year periods with renewal provisions in the leases. The concessionaires developed launching ramps, picnic grounds, and limited day-use facilities. In order to realize any return on their investments in these facilities, they began charging fees, and opened a number of resorts, which included mobile-home trailers. The lake proceeded to develop along this pattern under agreement with Napa County, and under the acquiescence of the Bureau.

In 1972, concern was raised that the facilities were in disrepair and that the public was not being allowed proper access. Over the next several years a great deal of public debate took place over who should manage the lake, the types of facilities that should be allowed, and what steps could be taken to enhance public access and enjoyment of the lake.

During this same period, I appointed a Lake Berryessa task force whose purpose was to study the situation and come up with suggestions on what types of improvements needed to be made at the lake. The task force made its recommendations which resulted in legislative language in the Reclamation Development Act of 1974, which gave the Bureau authority to resume recreational management, and authorized expenditure of funds to develop new public day-use facilities.

In 1974, the county of Napa reversed its policy and informed the Bureau of Reclamation that it no longer would manage the recreational facility.

With enactment of the 1974 act, it became incumbent upon the Bureau to address the question of the rights of the present concessionaires. For a number of reasons, this period was stormy, with the future of the concessions left somewhat unclear. It is in the public interest that we resolve this uncertainty, and allow orderly development and improvements to go forward at Lake Berryessa.

As the author of the Lake Berryessa provision, I would like to clarify the terms under which the new concession agreements will be negotiated.

In the bill, H.R. 5278, we have provided that—

> Such agreements shall be for a term ending not later than May 26, 1989, and may be renewed at the option of the concessionaire for no more than two consecutive terms of ten years each. Such agreements must comply with the 1959 National Park Service Public Use Plan for Lake Berryessa, as amended, and with the Water and Power Resources Service Reservoir Area Management Plan; *Provided*, That the authority to enter into contracts or agreements to incur obligations or to make payments under this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

If the Secretary of the Interior finds that the operations of the concessionaires are not in accordance with the use and management plans mentioned, it is our intent that the Secretary shall declare those concessionaires agreements terminated and those concessionaires will have no further right to extension of the concession agreements.

Further, it is our intent that all permanent facilities placed by the concessionaires in the seven resorts at Lake Berryessa shall be considered the property of the respective current concessionaires. Further, any permanent additions or modifications to these facilities by the concessionaries shall remain the property of said concessionaires; however, at the option of the Secretary of the Interior, the United States may require that the permanent facilities not be removed from the concession areas, and instead, pay fair value for the permanent facilities or, if the new concessionaire assumes operation of the concession, require that new concessionaire to pay fair value for the permanent facilities.

Mr. LUJAN. Mr. Speaker, will the gentleman yield for a question?

Mr. CLAUSEN. I will be happy to yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding. I want to make certain that the language which we have provided in this bill would fully protect those people who have made sizable investments at this lake. They have been whipsawed among three different agencies over the years, each of whom has had different regulations, and I commend the gentleman for his concern and for his timely action to provide congressional direction as to how the situation should be handled.

Let me ask the gentleman this question: What will happen if the Secretary finds that the operations of the concessionaires are not in strict accordance with the use and management plans mentioned in the bill?

Mr. CLAUSEN. In that event, the Secretary may declare the agreements terminated, and those concessionaires would have no further right to extension of the agreements.

Mr. LUJAN. If the gentleman will yield further, yes, but it is my understanding that these concessionaires have made sizable investments in permanent facilities at the lake. What happens to those facilities? Does the Government just make a windfall profit in the form of confiscated property simply by declaring the agreements terminated? Would these people just have to walk away and leave their investments behind?

Mr. CLAUSEN. The answer to that question is no. As we have discussed previously in the committee, that eventuality has been foreseen, and we have no intent of such a thing happening. It is our intent that all permanent facilities placed by the concessionaires in these seven resorts at Lake Berryessa be considered the property of the respective current concessionaires, along with any permanent additions or modifications to those facilities. That is only right and fair, and the committee has no intention of stripping them of those rights. However, the committee is saying that the Secretary has the right to require those facilities to stay where they are and not to be removed from the premises if and when the concessionaire leaves. The Secretary has the option to require the facilities to be removed or to require that they remain. We simply intend that if the United States wants the facilities to stay when the concessionaire leaves, the Secretary will pay the concessionaire fair value for the permanent facilities; or, if the Secretary permits a new concessionaire to assume operation of the concession, he will require the new concessionaire to pay fair value for the permanent facilities.

Mr. LUJAN. That was my understanding at the time we adopted this portion of the bill as an amendment, and I simply wanted to be certain that the intent of the language in the bill, which referred to "new negotiated concession agreements," is fully understood as to the protections we are providing against confiscation of private property by the Government. The gentleman has covered that question fully, and I appreciate it.

If I may ask one further question: At the time we adopted this provision, there was some question as to whether the Park Service or the Water and Power Resources Service would have any reservations about any legal problems that may currently exist, or whether they would have any problems with these arrangements. So I would ask the chairman of our subcommittee, my friend from Texas (Mr. KAZEN), if these agencies were contacted and if they expressed any opposition or reservation?

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I will be happy to yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

The agencies were contacted, and they said that they had no problem with the new concessionaire arrangements as contained in the bill. I commend the gentleman from California and the gentleman from New Mexico for their clarifying remarks.

Mr. LUJAN. I thank the gentleman.

Mr. CLAUSEN. I thank the gentleman for assisting to make this legislative history because it is a unique set of circumstances and we are attempting to confine this particular legislation to that unique problem at Lake Berryessa and not have national application, which was the concern of some of the people down in the Department as well.

Mr. KAZEN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I simply rise in strong support of this legislation and wish to commend my chairman for bringing this matter to the floor, as well as the dean of my delegation, the gentleman from California (Mr. JOHNSON), who has really promoted much of the projects which are in the California portion of this legislation, which for the first time, if the feasibility studies go properly and everything goes right, will provide a significant amount of new feasibility in water management and conservation in the State of California. Also, I wish to commend the members of the committee on the minority side for helping us to arrive at this legislation.

● Mr. COELHO. Mr. Speaker, as a cosponsor of H.R. 5827, I strongly support this bill. As you know, it authorizes the Secretary of the Interior to conduct feasibility studies for a number of water projects in 6 of the 17 western reclamation States, where water is an increasingly scarce and precious commodity.

This bill was drafted not only with the intended goal of enhancing and supplementing existing water supplies, but with the intent of enhancing economic feasibility and benefits of proposed projects through cooperation of Federal and State water resource agencies and the consideration of water conservation. This bill also stresses and specifies the consideration of possible viable alternatives and the review and revision of certain projects—for example, the enlargement of Shasta Dam and the review of proposed plans for the Kellogg unit in California.

In short, this bill is an example of a responsible effort to mitigate a serious water shortage. Clearly, the consideration of true costs and benefits of these projects is the priority here, which is as it should be. However, I am concerned that these true costs and benefits be considered in terms of the fair distribution of those costs to the direct beneficiaries, and I will be watching these studies closely to see that they are. The proponents of some of the projects in this bill, I would note, are individuals who have been critical of projects and the distribution of project benefits in other areas—while, at the same time, beneficiaries of projects in their own districts were not meeting the standards of payment and eligibility advocated by these individuals.

I intend to see that all true costs are fairly distributed to all project beneficiaries.

As a direct beneficiary of water projects myself and a representative of an area where water shortages are a crucial reality, I am concerned that water development projects are planned and constructed only after the responsible and careful consideration of the best interests of all concerned.

I am satisfied that H.R. 5278 provides for that responsible and careful consideration, and I urge its approval.●

□ 1250

Mr. KAZEN. Mr. Speaker, I have no further requests for time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time.

Mr. KAZEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the bill, H.R. 5278, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title was amended so as to read: "A bill to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENDING THE FILING DATE OF FINAL REPORT OF THE SELECT COMMITTEE ON COMMITTEES

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 533 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 533

Resolved, That notwithstanding the provisions of sections 5 and 6 of H. Res. 118, Ninety-sixth Congress, the Select Committee on Committees of the House of Representatives, shall—

(1) report to the House on the matters within its jurisdiction not later than April 1, 1980; and

(2) expire thirty days after the filing of such report with the House.

The SPEAKER pro tempore (Mr. GONZALEZ). The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield 30 minutes for purposes of debate only to the gentleman from Maryland (Mr. BAUMAN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 533 is a privileged resolution from the Committee on Rules to extend the filing date of the final report of the Select Committee on Committees. As a privileged resolution, House Resolution 533 is considered in the House under the 1-hour rule and would not be subject to amendment unless the floor manager yields for that purpose. Last year, the House established a Select Committee on Committees to study the operation and implementation of rules X, XI, and XLVIII of the Rules of the House of Representatives regarding the establishment and jurisdiction of standing committees, the rules of procedure for committees and the permanent Select Committee on Intelligence.

In creating the Select Committee on Committees, the House directed it to report to the House its recommendations on the matters within its jurisdiction not later than February 1, 1980, and to dissolve 90 days thereafter.

In order to complete its work, the chairman and ranking minority member of the Select Committee on Committees have requested the filing date of their final report be extended to April 1, 1980. On January 23, the Democratic Caucus adopted a resolution supporting such an extension.

House Resolution 533 extends the select committee's filing date of the final report for 60 days, from February 1 to April 1, 1980. All other provisions of the original resolution which established the Select Committee on Committees, House Resolution 118, remain unchanged and no additional funds are required. The Select Committee on Committees and its authority will still expire on May 1, 1980, 30 days after the new reporting deadline. Mr. Speaker, I urge my colleagues to adopt House Resolution 533.

Mr. BAUMAN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the Select Committee on Committees was created on March 20, 1979, by a vote of 208 to 200, hardly an overwhelming endorsement of the select committee's role. At that time I opposed its creation simply because I felt that the Committee on Rules of the House already has the original jurisdiction to deal with the matters that the select committee was given.

Mr. Speaker, one of the major complaints I have heard from the public throughout recent years asks why Congress does not act more quickly, why is it not more streamlined in its procedures, why does it take so long to achieve its goals if indeed it has any goals?

It is natural that in the contention of a democratic system reconciliation of viewpoints are going to take some time. However, I happen to believe rather strongly that this House has to change its procedures to make more expeditious the work of the committees.

Mr. Speaker, I would like to comment briefly that the Committee on Committees was given a deadline of February 1 to report back to the House on a number of different suggestions for procedural reform. This resolution would extend that reporting deadline to April 1 and 30 days thereafter the committee would presumably go out of existence.

Mr. Speaker, one question I would like to have answered in this debate is whether or not this is going to be the last request for extending the reporting time and the existence of this committee. If it is not, I think we have a right to ask why we should extend it now.

This committee has not particularly distinguished itself so far, at least in the view of the gentleman from Maryland, and the House has had no occasion to vote on all but one of its proposals, and that was indirectly. We refused to establish little cubbyholes out in statuary hall, known as carrels, where Members could repair to think in quiet, and have a file drawer in which to keep their things. One might ask what people keep in file drawers around here, in view of recent events.

Mr. Speaker, I would like to know, is this the last request for extension of the committee and if not, what other plans might be in the future.

Mr. PATTERSON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished chairman of the select committee.

Mr. PATTERSON. Mr. Speaker, our intention is not to seek an extension of time for the committee, not to seek one additional dollar. The committee, when it was created, was created for a life of 1 year. That year expires on or about May 1. There is no intention to go beyond that. It was perhaps conceived at the time that H.R. 118 was passed that there would be one report filed on February 1 and it would take 90 days thereafter to complete the floor transactions that might take place on the recommendation.

Mr. Speaker, we have chosen instead to go on an incremental approach and we have four or five proposals, in addition to the Energy and Environment Subcommittee proposal that we expect will be going to the floor and we do not need additional time beyond the April 30–May 1 date but we do need and are requesting a 60-day extension of time to file our report so that the report would be filed on April 1 rather than on February 1, which has now expired.

Mr. Speaker, if this extension is not adopted, we perhaps cannot do a couple of things that I think are very important. One is to adopt a multiple referral system that will improve and expedite legislation and another is a proposal for the reduction of the number of subcommittees over a period of time by 26.

We have matters of oversight and other matters we would like to look into. If the extension is not granted, we cannot do those things.

The proposal of the Subcommittee on Energy and Environment has been acted upon by our committee and we will of course proceed with that in any event.

Mr. BAUMAN. I appreciate the response of the chairman of the Select Committee on Committees and also his assurance that the so-called incremental changes in the rules will not require greater increases in the period of time of the committee's existence. I hope that by the deadline of May 1 all of these issues will be before us.

Mr. Speaker, I would only point out that some of us have grave reservations about the committee's proposal on energy jurisdiction because we do not think it goes far enough. Some of us would like to see all of the energy jurisdictions of this House consolidated into one committee rather than catering to the personal problems of committee chairmen and subcommittee chairmen who may lose some of their power. I think the hour is rather late for those personal considerations to be paramount.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BAUMAN. Mr. Speaker, I yield myself an additional 3 minutes.

It gives us some pause to see the energy committee suggestion coming out of your select committee that accommodates the political problems of the Committee on Interior and Insular Affairs and other committees but does not produce a single unitary jurisdictional committee for energy.

Mr. PATTERSON. Would the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman.

Mr. PATTERSON. Mr. Speaker, I know there have been references made by some to the point that the committee recommendation does not go far enough. Of course this is not the time for full debate but I would point out there is no committee or subcommittee in this Congress at the present time that has broad energy jurisdiction granted to it under rule 10 of the House of Representatives.

□ 1300

Mr. Speaker, our select committee proposal grants jurisdiction over energy policy matters generally, and specifically it goes far beyond any present grants of energy jurisdiction in a wide area from solar to nuclear. It is, I think, a very extensive, futuristic, positive proposal for an energy committee that will have great strength and will have teeth in it. I know we will debate that issue when the matter comes to the floor.

The practical side of it is that we do not pull away from presently existing jurisdictions and jurisdiction over matters that other committees have been handling for years. This will not adversely, in our opinion, affect the national energy policy.

Mr. BAUMAN. Mr. Speaker, again I thank the gentleman from California (Mr. PATTERSON) for his response. I would only observe that I believe I did hear him say that one of the issues to be addressed by the select committee before it expires is that we limit the number of committee and subcommittee assignments for Members. I hope indeed that will be the fact.

I do not think the sequential referral changes and jurisdictional changes will cure all the problems that this House faces. There should be a reduction of the total number of committees and subcommittees on which Members serve. That is absolutely necessary, and I hope the gentleman's committee will address that matter.

Mr. Speaker, I have no further requests for time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WATER RESOURCES DEVELOPMENT ACT OF 1979

Mr. ROBERTS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4788) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Roberts).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDGAR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 379, nays 6, answered "present" 1, not voting 47, as follows:

[Roll No. 27]

YEAS—379

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Conable
Edgar
Lloyd
Mitchell, Md.
Moffett
Wilson, Bob

ANSWERED "PRESENT"—1

Vander Jagt

NOT VOTING—47

Alexander
Anderson, Ill.
Anthony
Applegate
Bonior
Brown, Ohio
Chisholm
Crane, Philip
Davis, S.C.
Diggs
Eckhardt
Edwards, Okla.
Emery
Fish
Ford, Mich.
Fowler
Gephardt
Gramm
Gray
Hightower
Hinson
Horton
Hutto
Kelly
Kindness
Kostmayer
McCloskey
McDonald
McHugh
Madigan
Mathis
Montgomery
Murphy, Ill.
Myers, Pa.
Obey
Patterson
Pritchard
Rodino
Rostenkowski
Runnels
Santini
Swift
Udall
Whitten
Wilson, C. H.
Wyatt
Yates

☐ 1310

So the motion was agreed to.

☐ 1320

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4788, with Mr. Pease (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, January 29, 1980, title IV was open to amendment, and pending was an amendment offered by the gentleman from Indiana (Mr. Fithian).

AMENDMENT OFFERED BY MR. ERTEL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FITHIAN

Mr. ERTEL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Ertel as a substitute for the amendment offered by Mr. Fithian: Page 171, after line 25, insert the following:

(e) The following projects are not authorized after the date of enactment of this Act:

(1) the navigation project on the Illinois Waterway, Illinois and Indiana, authorized by section 101 of the River and Harbor Act of 1962 (Public Law 87–874);

(2) the flood control project for the Big Blue River, Wabash River Basin, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742);

(3) the portion of the Norfolk Harbor and Thimble Shoal Channel, Virginia, improvement project (authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1250)) identified in paragraph 2(2)(b) of the report of the Chief of Engineers, Department of the Army, dated February 19, 1954 (Senate document numbered 122, Eighty-third Congress, second session, pages 1 and 2) as "an anchorage 38 feet deep and 1,500 feet square, an anchorage 35 feet deep and 1,500 feet square, and an anchorage 20 feet deep, 1,000 feet wide, and 3,000 feet long, opposite Lambert Point and south of Craney Island.";

(4) the project for Cascadia Dam and Reservoir, South Santiam River, Oregon, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193);

(5) the flood control projects for South Plymouth and Genegantslet Lakes, Susquehanna River Basin, authorized by section 10 of the River and Harbor Act of December 22, 1944 (58 Stat. 893);

(6) the projects for West Oneonta Lake, Davenport Center Lake, and Copes Corner Lake, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1573);

(7) the project for improvement of the Chester River, Pennsylvania, authorized by the first section of the River and Harbor Act of March 2, 1919 (40 Stat. 1277);

(8) the project for the Connecticut River, above Hartford, Connecticut, authorized by the first section of the River and Harbor Act of July 3, 1930 (46 Stat. 919);

(9) the project for Sixes Bridge Dam and Lake, Maryland, authorized by section 85 of the Water Resources Development Act of 1974 (88 Stat. 36);

(10) Salt Creek Lake, Salt Creek, Ohio,

authorized by the Flood Control Act of 1962 (76 Stat. 1188);

(11) Lincoln Dam and Reservoir, Wabash River, Illinois, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1081);

(12) Helm Lake, Skillet Fork of the Little Wabash River, Illinois, authorized by section 203 of the Flood Control Act of 1968 (83 Stat. 742–743);

(13) the project for Coney Island Creek, New York, authorized by the River and Harbor Act of August 30, 1935 (49 Stat. 1030).

(f) No Federal money may be authorized for planning or implementation of the Northfield Mountain Water Supply Project, Massachusetts, or the Miller's River Basin Water Supply Project, Massachusetts.

(g) The Secretary of the Army, acting through the Chief of Engineers, shall review the following projects and report to Congress not later than June 30, 1981 his recommendations concerning the continued authorization of such projects:

(1) the Lafayette Lake Dam and Reservoir project, Wabash River, Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89–298); and

(2) the project for Elk Creek Lake, Rogue River Basin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1192).

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. MOFFETT. Mr. Chairman, reserving the right to object, I will not object if the gentleman assures us that we can see a list of the projects in his amendment.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I will be happy to give the gentleman a list of the projects.

Mr. MOFFETT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. ERTEL)?

There was no objection.

Mr. ERTEL. Mr. Chairman, this amendment is a substitute amendment for that offered by the gentleman from Indiana (Mr. FITHIAN) prior to the time that we closed the last time we were on the water bill.

The substitute amendment does only two things: First, it changes the Fithian amendment by changing the deauthorization of the Lafayette Lake dam and reservoir project and the Elk Creek Lake-Rouge River Basin project. The amendment provides that they shall be studied with the intent of coming back to the Congress by June 30, 1981, with a report, indicating whether the projects' authorization should be continued or deauthorized.

Mr. Chairman, the second aspect of the amendment is it incorporates all of the Fithian amendment language for the deauthorization of those projects deauthorized in the original amendment. It is a compromise between the position of the gentleman from Indiana (Mr. FITHIAN) and the gentleman from Indiana (Mr. MYERS), and a compromise between the gentleman from Oregon (Mr. DUNCAN) and the gentleman from Oregon (Mr. WEAVER).

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I would like to suggest that the gentleman may go down in history along with Henry Clay as the great compromiser. I thank the gentleman for what he has done.

Mr. ERTEL. I thank the gentleman. I do not know whether that is a compliment or not, being a compromiser, but I take it as a compliment and I thank the gentleman.

At this point I think we have agreement.

I yield back the balance of my time, Mr. Chairman.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, insofar as the minority is concerned, we have no problem with this substitute offered by the gentleman from Pennsylvania (Mr. ERTEL). I just would like to point out that 14 of these projects that appear in this amendment would, by normal process of the procedure established by section 12 of the Water Resources Development Act of 1974, be deauthorized in any event either this year or at the end of 1981.

I would also like to point out that the amount of money that is involved in these projects we are deauthorizing is somewhere in the neighborhood of $2.3 billion.

I would hope that our friends in the press who have been so assiduous in their interpretation of the cost of this legislation in their reporting would also give the committee credit for this reduction of some $2.3 billion.

Insofar as I am concerned, Mr. Chairman, this substitute is acceptable.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I want to concur in what the gentleman from Ohio (Mr. HARSHA) has stated and add simply that of all of the 19 projects incorporated into this deauthorization, there were only two requests made specifically by Members to the committee during the hearings on H.R. 4788.

☐ 1330

For the record the committee received testimony relative to Lafayette Lake Dam, Indiana, and Thimble Shoal Channel, Norfolk Harbor, Va.

Mr. Chairman, as a follow-on to the statement of my good friend, the gentleman from Ohio (Mr. HARSHA), I would just like to make perfectly clear that the action we take here today in accepting the Ertel substitute for the Fithian amendment is intended in no way to be a withdrawal of Public Works Committee support for the water project deauthorization process that we established in 1974 and that has worked well since then. By accepting the Ertel substitute, we mean to do no more than to help to reach a compromise concerning the controversy that has arisen over the original Fithian amendment.

As the ranking minority member of the Public Works Committee so aptly pointed out, the statutorily mandated deauthorization procedure that we have followed since 1974 has worked and worked well. More than 360 projects have been deauthorized using this procedure. Most of the projects contained in the Fithian amendment would have soon been candidates for deauthorization under the existing procedure. For example, in 1980 the projects for Thimble Shoal Channel, Cascadia Dam, Susquehanna River Basin, West Oneonta Lake, Davenport Center Lake, Copes Corner Lake, Chester River, Hartford, and Coney Island Creek would have been eligible for deauthorization under section 12 of the 1974 act. In 1981, the same would have been true for the projects at Salt Creek Lake, Lincoln Dam and reservoir and Helm Lake. The Lafayette Lake, Illinois Waterway and Elk Creek Lake projects would have become candidates in 1983 or 1984. The amendment offered by Mr. FITHIAN is really unnecessary, but we have agreed to the Ertel substitute in the spirit of compromise so that the entire bill can move forward.

Mr. Chairman, I would just like to make two additional points. The first is that I hope the import of the fact that we have deauthorized these projects has not escaped the attention of those who have criticized the cost of this bill to the U.S. taxpayer. In deauthorizing projects in this bill, we have eliminated approximately $3.6 billion in water project authorizations. This fact has totally been ignored by those attacking the cost of the bill. My second point, Mr. Chairman, is that these deauthorizations are positive evidence testifying to the fact that roughly 50 percent of water resources projects which are authorized by the Congress are never constructed and are deauthorized before any Federal construction funds are ever spent. This is another fact totally ignored by those who criticize this bill by inflating and overstating the cost of the bill. The real truth of the matter is that the net cost of this year's Water Resources Development Act is nowhere near the $4.3 billion that has been incorrectly claimed by opponents.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I am happy to yield to the gentleman.

Mr. EDGAR. I appreciate the gentleman yielding and appreciate his comments about the total cost that is involved in deauthorization of these projects.

I was a little confused about what the gentleman's comment reflected in terms of the total cost of the bill. While we are taking a constructive action in deauthorizing these projects and the sum that is being deauthorized is a sizable amount, I do not think it follows that you can deduct that from the cost of the project in the bill. I just want to make that point.

Mr. HARSHA. I am sure that the gentleman does not think that because he would not even take the cost of the deauthorization of the Dickey-Lincoln project from the cost of the bill, and certainly that should have been.

Mr. EDGAR. I appreciate the gentleman's comments. I think we just have to focus on the real costs involved in this legislation.

Mr. HARSHA. Neither has the gentleman focused on the real costs of the bill before us.

Mr. ROBERTS. Mr. Chairman, I move to strike the last word and rise in support of the amendment.

Mr. Chairman, I wish to commend the gentleman from Pennsylvania (Mr. ERTEL) and the two gentlemen from Indiana for working out this provision. They have had a most difficult situation and have labored long and hard to reach an agreement.

I have no objection to the amendment. It meets the requirements, and I hope the substitute is adopted.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Fithian amendment. This amendment proposes to deauthorize several costly and unnecessary water projects and includes language pertaining to the Northfield-Millers Rivers diversion proposals for the Connecticut River.

I should like to first address myself to this latter issue. On December 8, 1979, the Assistant Secretary of the Army for Civil Works, Mike Blumenfeld, sent a letter to the Office of Management and Budget stating that it was his determination after careful study of the matter not to recommend proceeding any further with the Northfield-Millers Rivers diversion proposal. Secretary Blumenfeld stated that there was no State support for the project and that upon review of the Chief of Engineers' report, he had not found the project to be superior to other alternatives. The language in this amendment reaffirms the decision of Mr. Blumenfeld for the corps by specifically providing no authorization for any additional work on the project.

Mr. Chairman, I believe my past record with regard to the funding of water resources projects demonstrates my very real concern over the misdirection of Federal policies in this area. I wholeheartedly supported the President's water policy reforms which I felt added a welcomed degree of rationality to the decisionmaking process. I deeply regret that this water resources bill does not incorporate most of these water policy reforms.

A number of my colleagues who also support the Fithian amendment have already listed a number of reasons why the particular projects listed in this amendment should be deauthorized. I will not repeat what has already been said. I would like to point out, however, that this amendment is unique because we have not only chosen these projects for deauthorization after careful analysis of their environmental and economic feasibility but, lo and behold, these projects are also opposed by the Members in whose districts they fall.

During the debate on the energy and water appropriations bill last year there was lively debate here in the House over amendments to delete funding for certain projects. At that time many Members of this body took pains to point out that the opinion of Members in whose districts projects were located should be given considerable weight in the final determinations. You may recall the creation of the Pinocchio Award by one of our esteemed colleagues who suggested this award should be issued to those Members who put their nose in other people's districts when it does not concern them. If this is the basis on which many Members are making decisions on these amendments, then for heaven's sake, let us be consistent.

I would also like to recall to Members of this Chamber that during the energy and water appropriations bill debate, it was suggested by one Member that those who opposed funding of projects should have stepped forward with a bill to deauthorize the projects rather than waiting for the appropriations process. Well here we are. We have accepted your criticism. We have taken your advice. Now we ask for your support.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I am happy to yield to the gentleman from California.

Mr. CLAUSEN. I commend the gentleman for his continuing vigilance in defense of his own district and his penetrating presentation to each of the members of the committee. At the outset the gentleman made reference to the fact he was supporting the Fithian amendment, and I am assuming that that would carry forth to the Fithian amendment as amended here by this substitute amendment by the gentleman from Pennsylvania (Mr. ERTEL)?

Mr. CONTE. By all means. I am just interested in this one project.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word and rise in support of the amendment.

Mr. Chairman, I, too, join my colleagues in commending the gentleman from Pennsylvania (Mr. ERTEL) in his efforts and his success, apparently, in compromising here. This is a question where really there can be no winners.

I am sure my colleague from Indiana is not completely satisfied with this language, nor am I really satisfied. I think we all have our own views.

The thing that has concerned me with action by this body to strike projects without due consideration is the fact that several years ago this committee taught me a lesson. When I came down here as a young Member, I decided there was a project that needed to be built. Now, this project had not gone through the study process and the planning process, so I thought it should be authorized and I introduced it as an amendment to an omnibus public works bill. The committee, very appropriately, and very rightfully, beat the dickens out of me and proved that I was wrong in using this procedure on the House floor to authorize.

Correspondingly, I believe it is just as wrong to use this procedure to deauthorize. I know nothing about the other 18 projects. For that reason I am accepting this compromise. But the thing that deeply concerns me is what the Under Secretary of the Army, Mr. Blumenfeld and the Chief of the Army Corps of Engineers said when they appeared before our subcommittee this morning. The Chief of the Army Corps of Engineers said this: The people of the United States have been saved in flood damages this past year almost $20 billion. Almost $20 billion in 1 year was saved in flood damages that could have occurred had there not been in place the flood control measures already enacted by this Congress in past years. The startling fact is how little the country has invested in flood protection in the past, the cumulative amount for all of the years amounts to slightly over $18 billion. To say that these are wastes and, every once in a while, in a snide way some call them pork barrel, when they returned more than the total investment in total for 200 years, is something we should all keep in mind.

Now, most of us hope to be around in the year 2000 when it is projected that our country's population will be something near 300 million. It has already been projected that this country of 300 million is going to need about twice as much water as it has available today. Yet we say we do not want to provide water for the future.

That is the same kind of judgment and thinking which has given us the energy problem we find our country in today. We can import more energy, we can import oil from abroad. Maybe we cannot get as much as we would like to. But where can we import water from?

Most of us at the year 2000 expect to be grandparents, or maybe even great grandparents. When that little tyke crawls up in our lap and says "Grandpa, grandma, was it really true that when you were a little boy or little girl that you could flush the stool more than once a day; is it really true that you could take a shower or a bath anytime you wanted; was it really true that you could even water the lawn or wash your automobile; if you had an abundance of water like that, what happened to it, grandpa, grandma"; then what are you going to say to that child?

The CHAIRMAN pro tempore (Mr. PEASE). The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. MYERS of Indiana was allowed to proceed for 1 additional minute.)

Mr. MYERS of Indiana. I know my political life would probably be easier if I succumbed to the popular notion today that these projects are bad, that we are not really going to need the water, just that same wisdom that said that we would not need energy this year. It is not easy for the farsighted people, or at least the nearsighted people to realize that we are going to need all of this water in the future and we may not have it. God is not making any more water. We have to wisely use the water we have today.

Storage makes a lot of sense. It is the only way. Ground tables are lowering.

But I say to my colleagues today, I do not want to have to answer my grandchildren and say that I took the easy way out, that I wanted an easier political life, so I went the way what seemed to be popular opinion, and I did not have the courage to do what is right. I hope that I may not have to answer that question to my grandchildren, and the decision we make here in this Congress today can make an answer to that question unnecessary. So I ask my colleagues not to vote for what is politically popular maybe for the time, but to vote for what is right, vote for water for our country's future.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words, and rise in support of the amendment.

I want to thank Mr. ERTEL for the work that he has done and the chairman of the Committee on Public Works and Transportation, the ranking minority member, and all of the members of the committee.

I support the revised amendment offered by Mr. ERTEL that calls for a thorough economic analysis of the project. I support this amendment only if the study be a completely new and thorough examination of Elk Creek Dam based on current data, costs, and rates. In order that this body can be assured of making an informed final decision on that project, the corps must prepare an itemized benefit/cost analysis reflecting present-day figures and current principles and standards.

The citizens of the Rogue River Valley deserve to have project economics presented to them that are indicative of today's values and emerging thought regarding our Nation's water needs.

Elk Creek was authorized almost 20 years ago and was designed to meet the needs of that era. Yet in our present world of declining natural resources and runaway inflation, we can little afford to invest in projects of questionable value. Current Federal expenditures must be allocated only to those activities that meet the needs of today, and will serve future generations of Americans. Elk Creek must make it or die on its own merits as a justifiable additional increment to the existing water system.

We cannot approve construction of a $100 million Federal project that, as a weak sister, must be justified by relying on the sunk costs of projects already in place and operating.

I would like to clarify my concerns regarding this project, concerns that have been repeatedly expressed by myself and residents of the Rogue River Valley, but which to date have been inadequately addressed by the corps.

This project has been plagued for years by claims that the Elk Creek watershed is characterized by unstable soils subject to erosion, mass wasting, and turbid runoff. A not too dissimilar situation exists in an adjacent watershed, also within my district, the south Umpqua. The corps has proposed a major water project there and is conducting extensive preimpoundment studies. Those studies are designed to predict critical postimpoundment water quality characteristics such as: dissolved oxygen and biochemical oxygen demand; the potential for nutrient enrichment; turbidity and temperature; and occurrence of heavy metals. This information is vital if the effects of that dam upon the Umpqua's fishery are to be accurately portrayed.

Exactly this same information is needed for Elk Creek Dam, yet similar studies have not been undertaken. Regarding the effects of that dam, past predictions have been based on use of a computer model which has been severely criticized by scientists across the country. This is despite the fact that Elk Creek reservoir releases would directly impact the Rogue River. That is the river made world famous by author Zane Grey for its magnificent salmon and steelhead fishery. Such a fishery is dependent upon a healthy river, with clean, clear waters. We must be assured that construction of Elk Creek Dam would not jeopardize that valuable resource.

As I mentioned in my remarks last week, serious questions continue to surround other aspects of the project as well. Proposals to use Elk Creek reservoir waters for irrigation have come and gone. To date, no irrigation project has been developed to the satisfaction of all concerned parties. Studies of early Bureau of Reclamation proposals were terminated because their own economic investigations determined that the local irrigation district had inadequate capacity to repay the expenditures necessary for construction and operation of the canal and distribution system. Yet, without such a system potentially turbid waters would need to be released directly into the mainstem Rogue, with attendant deleterious effects upon the fishery.

Public and official State support for the project has wavered over the years. Downstream developers who view the dam as providing an opportunity to build on hazardous flood-plain lands continue to support the project. Gentlemen farmers and other suburban residents are vying for the project's irrigation waters. The timber industry, fishermen, and watershed land management agencies all view the project as a major threat. The controversy continues, and the corps has yet to supply answers satisfactory to concerned parties. A sound economic rationale has yet to be presented that clearly justifies expenditure of $100 million for a project of such questionable value.

The study must answer the above issues or it will be of no avail.

☐ 1340

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to commend the gentleman from Pennsylvania (Mr. ERTEL) for his effort to get us out of a difficult situation, and to express my appreciation for that. I also want to explain what I believe we are doing here today, and then to engage the gentleman, the maker of the amendment, in a colloquy so that I understand precisely what his intent is.

First, I think that we clearly, he or I, established the principle that projects can be deauthorized by action on the floor, and thereby speed up those projects. In so doing, we also catch up with projects which have not been funded for more than 8 years. We start a process here today which will lead to the deauthorization of Lafayette Lake, which is essential if we are going to provide for equity and fairness and justice to those people in the area affected. Finally, we make further reaffirmation that the person in whose district most of the project lies has something to say about the work of this committee, so that I commend the gentleman from Pennsylvania.

I now would like to engage my friend in a colloquy so that I understand precisely what his amendment does, and then I will subside, Mr. Chairman.

First of all, is my interpretation correct that the amendment language calling for a review generally limits the review to an analysis of the economic feasibility of the Lafayette Lake project and that it does not, for example, require or imply that the Army Corps of Engineers would redo their whole general design memorandum or their environmental impact statements? Is this your interpretation of the language?

Mr. ERTEL. The intent of this language is to permit the Army Corps of Engineers to undertake what is commonly referred to as a "feasibility study" or "survey report." This is the level of study preceding the general design memorandum. The Committee on Public Works and Transportation recommends and the House approves or disapproves water project authorizations based on the findings of the "survey report" or "feasibility study." While the Chief of Engineers makes his recommendation for project authorization based on the economic feasibility of a project; that is, the projects having a favorable benefit-to-cost ratio, the final survey report does include an environmental impact statement.

Mr. FITHIAN. It is my understanding that the amendment language calling for a review indicates that the Army Corps of Engineers should use current criteria in calculating the benefit-to-cost ratio and the economic feasibility of the project. Is this your undertsanding of the amendment language?

Mr. ERTEL. Yes. My interpretation of the language is that the Army Corps of Engineers should use current criteria in calculating the benefit/cost ratio and the economic feasibility of the project.

Mr. FITHIAN. The amendment reads that the "results of such review his recommendations concerning continued authorizations of such projects." Is my interpretation of your intent correct that the Army Corps of Engineers' recommendations on "continued authorization" would be a recommendation to either continue authorization or to deauthorize the project if the benefit/cost or economic feasibility is negative?

Mr. ERTEL. Yes. My interpretation is that the Chief of Engineers would make a recommendation to either continue authorization of the project if the benefit/cost ratio is favorable or to deauthorize the project if the benefit/cost ratio is unfavorable. I would add, however, that Congress has made it clear in this and prior legislation that projects can be authorized on other than economic criteria. For example, authorization for a project could be based on regional economic benefits, the social well-being of the people, or on environmental grounds. Generally, however, the primary determinant is the national economic development account, the benefit/cost ratio, and I would expect the Chief of Engineers to make his recommendation on this basis.

Mr. FITHIAN. It is my understanding that the funds for this review will come from Army Corps of Engineers discretionary funds, rather than a line item in the appropriations bill. It is also my understanding that the so-called 8-year deauthorization process will not be interrupted by this review. Is this your understanding also?

Mr. ERTEL. Since neither Lafayette Lake or Elk Creek Dam would be eligible for deauthorization until 1983, well after the mandatory completion date of the new survey report, I do not intend this amendment to interrupt the 8-year waiting time. Pertaining to your second question, since the amendment states the corps "shall" undertake this new survey study, I would expect it to use discretionary funds. Certainly, however, the Appropriations Committee could add funds for this purpose.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana has expired.

(At the request of Mr. Weaver and by unanimous consent, Mr. Fithian was allowed to proceed for 1 additional minute.)

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I just wanted to include myself in this colloquy and to associate myself with this colloquy on the Elk Creek project, and ask if I might ask the gentleman to yield to the gentleman from Pennsylvania (Mr. Ertel).

Would the gentleman from Pennsylvania respond that my remarks and concerns about the study are also embodied in the general intent of this amendment?

Mr. ERTEL. If I understand the gentleman's question correctly, if the gentleman would be asking the same question about his project, would I respond the same?

Mr. WEAVER. Yes.

Mr. ERTEL. Yes, it would be the same.

Mr. WEAVER. And my own remarks, if the gentleman will yield further, that I made concerning these studies—and there were other remarks I made—would the gentleman say that was the intent of the amendment also?

Mr ERTEL. I must beg the gentleman's indulgence. I did not hear all his comments on the floor. I was doing something else at the time, but I would intend that they do a thorough job, but not spend a great deal of money.

Mr. WEAVER. I thank the gentleman very much.

□ 1350

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding. The gentleman is not intending by his colloquy to change any of the substitute provisions of his amendment?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Duncan of Oregon, and by unanimous consent, Mr. Fithian was allowed to proceed for 30 additional seconds.)

Mr. DUNCAN of Oregon. My question was that by the gentleman's colloquy, he is not intending to change the substantive provisions of his substitute amendment?

Mr. ERTEL. If the gentleman will yield, absolutely not. I was interpreting the amendment as we had drafted it, and I hope that the gentleman would understand it that way.

Mr. FITHIAN. Mr. Chairman, I would urge an aye vote on the amendment, and let us get on with finishing this bill.

Mr. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

First of all, Mr. Chairman, I want to state to the gentleman from Pennsylvania and the gentleman from Indiana that we on the minority cannot accept that which has been contained in this colloquy because we were not given a copy of the colloquy that just now took place. Any legislative history that interprets the amendment should be agreed to by all parties. This is a concurred-in arrangement that has been in effect for quite some time, and it is just normal procedure.

Mr. ERTEL. Mr. Chairman, will the gentleman yield for a moment?

Mr. CLAUSEN. I would be happy to yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding. I apologize to the gentleman for not having given him the colloquy. I should have. I have a copy here and would be glad to give it to him. I did not intend to change the language of the statute by the colloguy. It was strictly a magnification of the language.

Mr. CLAUSEN. In listening to what was just verbalized here and after reading from the statements during the course of the colloquy, we have been given the impression that the gentleman may be legislating beyond that which is contained in the amendment and, therefore, under no circumstances can we concur.

Mr. Chairman, a couple of points need to be made perfectly clear about what the understanding is accompanying our agreement concerning the so-called Ertel compromise substitute. The first is that the language of the Ertel substitute was jointly drafted and agreed to by the principal parties to the controversy surrounding the original Fithian amendment. These included the gentleman from Indiana (Mr. Myers), the gentleman from Oregon (Mr. Duncan), and the chairman and ranking minority members of both the Committee on Public Works and Transportation and the Subcommittee on Water Resources. All of the gentlemen I just identified agreed beforehand to the language of the gentleman's amendment. None of us agreed to—or, for that matter, knew anything about—the colloquy just entered into by the gentleman from Pennsylvania (Mr. Ertel) and the gentleman from Indiana (Mr. Fithian). I think I can speak for all of us when I say that we do not consider the colloquy to be part of the compromise contained in the language of the Ertel substitute and so we reject outright any assertions that it constitutes part of the understanding or legislative history associated with the substitute amendment.

Second, Mr. Chairman, I want to make certain that everyone understands that nothing contained in or associated with the Ertel substitute is meant to authorize a new study of the Lafayette Lake or Elk Creek Lake projects. In addition, nothing is meant to change or otherwise affect the underlying premises and factual assumptions supporting the original authorizations of these projects. For example, no change is intended to result from the Etrtel substitute to previously enacted statutes and their requirements, such as section 80 of the Water Resources Development Act of 1974. No change is understood to be intended in terms of how these statutes and their requirements are to be applied to the projects to be reviewed by the corps under the Ertel language. And, for purposes of the deauthorization review to be conducted by the corps of the Lafayette Lake and Elk Creek Lake projects, only the rules and requirements and policies existing at the time the projects were originally authorized—as modified by sections 12 and 80 of the 1974 act—and to be taken into account by the corps in forwarding its reports on those project's deauthorizations to Congress.

Third, it should be understood by all that the Ertel substitute cannot, on its own, result in the deauthorization of either the Lafayette Lake or Elk Creek Lake projects. Both of these projects are expected to continue to follow the existing deauthorization procedure and come before the Public Works Committee before their deauthorizations, should such appear to be warranted.

Mr. ERTEL. Mr. Chairman, will the gentleman yield on that last point so I can clarify it?

Mr. CLAUSEN. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding. I believe the language that we read would say that they should in fact look at this and come back to our committee. It does not deauthorize. We still have the discretion to do that, or if it continues with the authorization, we do nothing because it is already authorized. What it means is that we would have a report, and the language. Obviously we would have to come out with a report to deauthorize the project, so I hope we are not changing the standard process. All we are doing is bringing the criteria up to date and changing them in light of the inflation which has occurred, and we all know that, both on the benefits and costs side, and to look at those things which may have been disproportional.

Mr. CLAUSEN. As I already stated the review which the corps is being authorized here to perform is not to use criteria and standards different from those existing at the time the two projects were authorized. Furthermore, I understand that the gentleman from Pennsylvania, who is a valued member of the Public Works Committee, certainly concurs with me that this is not to set a precedent for altering the deauthorization procedure.

Mr. ERTEL. It is not, but it gives us language that if we decided to do it in our discretion, we can go back and do it.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding. We entered into an agreement with an understanding quite different from the colloquy developed here. I find no place in the language of the amendment, as it is being now proposed anyway, to make a restudy. It says: "shall review the following projects"—and "review" means we do not go back to the very expensive studies. That is something we are all trying to escape because it adds to the burden of the taxpayers of this country.

I contacted a friend at Indiana State University over the weekend about restudies, and he said, "We don't want any more studies." He said, "I have got volume after volume of studies already." He said, "You might want to reevaluate what is already in the record. You might want to review it."

This is what the language says: "shall review the following projects."

In helping draft the language of this substitute amendment by Mr. Ertel and in supporting it, it is my intention and understanding that no additional study is authorized and that the Corps of Engineers in conducting the review provided in this amendment shall use only that data and information it presently has available from its own investigations and plans, and not from any GAO studies or reports, or from any other authority.

Paragraph (L) (1) says: "the Lafayette Lake Dam and Reservoir project, Wabash River, Indiana, as authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298); and". This makes it clear that there is no authority to use any different B/C ratio than that provided in the 1965 act and that the Corps of Engineers is not to use any criteria provided recently by the so-called principles and standards.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding. I should tell the gentleman that we had to change the colloquy because we changed the language of the amendment just before we put it on the floor, and that "restudy" word was cut out. He did use the word "review" in the colloquy on the floor. I want the gentleman to understand that. We had to change that to conform to the amendment, as we had to make the changes which were agreed upon here before, so that is not in the colloquy. I apologize to the gentleman. I did not have a chance to strike it.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding. In question No. 2 of the colloquy, it was said:

> It is my understanding that the amendment language calling for a "review as of the date of submission of such report" indicates that the Army Corps of Engineers should use current criteria in calculating the benefit-to-cost ratio. * * *

Again, I find nothing in the amendment that says anything about changing the cost-benefit ratio or the criteria used in its development. It merely says it shall be reviewed. I reject any attempt to make the language of the amendment—and the compromise it is supposed to embody—different from what was agreed to.

Mr. ERTEL. If the gentleman will yield again, I have to caution the gentleman we gave him a statement which we had to change. The words "and restudy" as of the date of the report were excluded from the colloquy, but we do want them to review the benefit-to-cost ratio. Why? Because of inflation. There is no reason to review a report unless you bring in those particular factors. You have to bring it up to date.

Mr. CLAUSEN. I will reclaim my time.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Roberts, and by unanimous consent, Mr. Clausen was allowed to proceed for 2 additional minutes.)

Mr. CLAUSEN. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding. I would like to read to both of the gentlemen the statement that goes into the law, the amendment.

> The Secretary of the Army, acting through the Chief of Engineers, shall review the following projects and report to Congress not later than June 30, 1981, his recommendations concerning the continued authorization of such projects:

There is no restudy; it is a review. The legislative language does not call for the preparation of a survey report or a feasibility report for these projects—only a review based on information which is available. I would also point out that the interest rate to be used in determining the benefit-costs ratios of these projects will be that established by existing law and regulations, which specify the discount rates to be used for older projects and contain a "grandfather clause" relating to the applicable interest rate.

Mr. CLAUSEN. As the gentleman knows, since the Lafayette Lake project was authorized prior to 1969, the interest rate which was used when the project was authorized was grandfathered by section 80 of the 1974 act and meant to be retained. I am sure the gentleman will agree with that.

Mr. ROBERTS. I agree.

Mr. MYERS of Indiana. Will the gentleman yield.

Specifically, section 80's grandfather clause came along after such project as the Lafayette Lake and River project was authorized in section 204 of the Flood Control Act of 1965. That is the authorization, and there is nothing in the colloquy here that would change that law.

Mr. CLAUSEN. That is correct.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I think it demonstrates the flexibility and the willingness to work with Members on controversial problems demonstrated by the gentleman from Texas (Mr. Roberts) and the gentleman from California (Mr. Clausen). There has been a good deal of attack on these gentlemen in the press in connection with this bill. I want to say that as the founder of the Environmental Study Conference, I have worked with them and we have been able to resolve many problems.

There have also been attacks on these gentleman in the press as regards retribution against people who oppose them. I suppose I have been as vigorous as anybody in this body in opposing them on a number of occasions, disagreeing with them on matters which affect the environment. I would just like to point out for the record that they and the committee as a whole have included in this bill projects that are very significant to my district in Mamaroneck, N.Y., and elsewhere, and they are among the largest projects that are in the bill. I want to express my appreciation for that and point out that the gentlemen have done this, despite the fact that I have disagreed with them on a number of occasions and voted for amendments which cut projects from last year's bill. While they expressed strong objections to my votes, they considered the projects in the bill on the merits and included them in the bill despite our disagreements.

I would like to take this time if I could to have a colloquy with the gentleman from California with respect to one of the projects in my district. Mr. Chairman, as the gentleman knows, we have a problem with a potential cost overrun on a small corps project in my district in Chappaqua, Westchester County, in New York, the sawmill project. Although inflation has driven the cost of this project about $300,000 above the current ceiling, under the provisions of section 437 of this bill it would be a qualified project. Since subsection (b) provides for retroactive application of this provision under appropriate circumstances, I would like to clarify that this provision is intended to permit the corps to revise existing cooperation agreements for projects within the purview of this provision.

Mr. JOHNSON of California. If the gentleman will yield, the gentleman is absolutely right. One of my first visits serving on this committee was to the gentleman's district when he first arrived here, and we looked over some of those projects at that time. I do hope that this goes on and that it is built.

Mr. OTTINGER. I want to thank the gentleman, and I want to thank the committee for starting to address some of our probems in the Northeast. They are fully as compelling in many cases as the projects which have been traditionally funded in the West. Including in this bill the Hudson River Tunnel that is vitally needed for additional water for our area and including some of the smaller projects such as occur in my district is a sign of concern for Northeast problems which we very much appreciate.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding. I want to thank the distinguished gentleman from New York for his kind statement about the gentleman from Texas. All I want to say is that the gentleman from Texas is doing his best to see that the people of this country do not have the problem outlined by the gentleman from Indiana (Mr. MYERS) in that we do not have enough water. The gentleman and I have disagreed on a lot of things, but in this bill, as the gentleman knows, we have got environmental protection, plus we have built-in fish and wildlife, 10 percent, into every single project over $7.5 million. I appreciate very much the gentleman's help.

☐ 1400

Mr. CLAUSEN. Mr. Chairman, if the gentleman will recall, we have spent innumerable hours working with each one of the Members of the Congress who do have special and unique problems. The gentleman is one of those to whom I think the committee has given an extraordinary amount of time in order to arrive at a solution.

Mr. Chairman, I do not know whether the gentleman would like to have any further comments on this but I would like to think that maybe we have tried to work this out together in an amicable way that would serve to satisfy the interests of the gentleman's people as well as the projects sponsored by other Members of Congress.

Mr. OTTINGER. Mr. Chairman, I want to thank the gentleman from California very much for his interest and help. I voted for the Edgar amendment in the last bill and there was considerable controversy over that before the committee. The gentleman from California was particularly critical of my vote. As the gentleman knows, I have differed with the committee on a number of matters in the past. He nevertheless agreed fully that the projects should be considered on their merits and actively supported their inclusion. I am extremely grateful to him and want to reiterate that, despite our strong disagreement, he acted in complete fairness as affected my projects.

Mr. Chairman, I would just like to express my appreciation that the committee took a look at the problems on the Mamaroneck, on their merits and in resolving these problems certainly took no acts of retribution.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to congratulate the gentleman from Pennsylvania on his compromise. I will not take 5 minutes but I will merely say that two of the projects mentioned in this substitute are projects that relate to the Connecticut River, one of which was first authorized in 1930 and has since that time been most studied but never funded. The other is much more controversial. That is called the Connecticut River diversion project and would divert about 148 million gallons of water a day from the Connecticut River and ultimately into the Quabbin Reservoir for supply to Boston. The interesting thing about this project is virtually no one likes it. Early on the Army Engineers did and now even they have appeared to withdraw their support from the project.

Mr. Chairman, I would read a whole list of groups who oppose it but I think it is sufficient to say it is not wanted in any way. There are some people in Boston who still say the project could be a last resort for Boston and that certainly is not ruled out. I applaud the gentleman for including it and I thank him for his amendment.

● Mr. BOLAND. Mr. Chairman, as many Members of this House know, the Dickey-Lincoln School project on the St. Johns River in Maine has been a source of controversy since its authorization in the Flood Control Act of 1965. The Dickey-Lincoln project was envisioned as both, an aid to flood control in northern Maine, and as an alternative energy source for New England. New England desperately needs to develop alternative sources of power because so much of the region's power is now generated by imported oil. The Dickey-Lincoln project could save 2.3 million barrels of oil per year, a savings that is clearly in the best interests of insuring a bright economic future for New England.

In spite of the economic advantages of the Dickey-Lincoln project, opponents have succeeded in providing for its deauthorization in the legislation now under consideration by this committee. One of the project's most consistent supporters, Senator EDMUND S. MUSKIE of Maine recently made a forceful and persuasive argument in favor of Dickey-Lincoln at a meeting of the Northeast Public Power Association. I insert Senator MUSKIE's remarks at this point in the RECORD.

I am sure that the deauthorization of the Dickey-Lincoln project that is carried in this bill will not be the last word on it. The distinguished senior Senator from Maine, Mr. MUSKIE, will assure that in another forum.

REMARKS OF SENATOR EDMUND S. MUSKIE, BOSTON, MASS.

I appreciate the opportunity to be with you to discuss the Dickey-Lincoln School project.

I want first to thank all of you for your efforts over a long haul through a very difficult period.

We are at a critical point in the effort for Dickey-Lincoln. I believe we have weathered the worst the opponents have to hurl at this project with public support still relatively intact. You deserve a good deal of credit for that fact. We have much work ahead of us, but I believe we will succeed. We will succeed because Dickey-Lincoln is vital to New England's energy future.

I feel a little like the preacher sermonizing to the faithful on the importance of church attendance. But I have not had occasion to share my thoughts on Dickey with you for some time. I hope you will bear with me, because I would like to consider with you the future of Dickey-Lincoln—where do we go from here?

Dickey-Lincoln has been so frequently and grossly mischaracterized by opponents that I always consult the record before I discuss the project. It is always a refreshing experience.

After more than a quarter century in public life, one becomes accustomed to exaggerations and distortions by proponents or opponents of one or another point of view. The opponents of Dickey-Lincoln may have reached new heights—or depths—and I suppose in the process, unintentionally paid tribute to inherent merits of the project.

I was not surprised to hear opponents of Dickey-Lincoln announce that a project specifically designed to preserve the Allagash Wilderness waterway would destroy that splendid canoeing river.

I was not surprised when I heard opponents proclaim that the project would cost $2 billion and flood 500 thousand acres, when in fact it will cost $800 million and flood 88,000 acres—less than half of one percent of Maine's forest land. They're off by a factor of 250 and 500 percent, respectively, but their figures sound dramatic and make good headlines.

I was not surprised that opponents would tell Maine people that all the power was being exported to benefit the profligate energy consumers in Massachusetts and southern New England—and then watch the same opponents tell the people of Massachusetts and southern New England that the project would make no significant contribution to their energy needs. In fact, about 45% of the output from Dickey-Lincoln will be consumed as base and intermediate load power in Maine. The remainder will be distributed as peaking power around New England to meet 17% of the region's peaking power needs.

I was not surprised to read a letter last year in which opponents describe the environmental impact statement as an attempt by the Corps of Engineers "to justify building the dam." The same opponents have said we don't need an environmental impact statement and opposed funding for it every year. These same opponents first used the environmental impact process to delay the project—they then used the hearings that process requires as a forum to distort and denounce the project. And I fully expect the same opponents will soon proclaim that the statement they didn't want completed is inadequate and that we need more studies before construction begins.

In fact, the New England Division of the Corps of Engineers has done an outstanding job on the environmental impact statement. It deserves to be commended for its thoroughness, fairness and openness. The record will show that the environmental process was honored and protected by the Corps, while opponents of Dickey, flying an environmental banner, sought at every turn to undermine the process.

I was not even surprised when a young woman approached me recently to ask how I could support construction of a nuclear dam at Dickey-Lincoln.

For some reason, opponents are unwilling to accept the simple fact that I find Dickey-Lincoln the most environmentally acceptable energy alternative available to Maine and New England. They go to considerable lengths to reconcile my environmental record with my support of Dickey-Lincoln. They have variously asserted that "Muskie has a blind spot on Dickey-Lincoln" or "Muskie is a tool of labor" or "Muskie puts public power over public resource." But apparently, they could never find one that stuck, because I have now come across a new approach which does surprise me and does offend me.

I am advised by my colleagues in the Senate that the latest distortions by those lobbying against Dickey-Lincoln involve the suggestion—and sometimes outright assertion—that I don't really support Dickey-Lincoln. The opponents apparently persuaded themselves—if no one else. I received a letter from the National Audubon Society last year asserting that I shared their view that Dickey-Lincoln is "environmentally destructive."

I may be overly sensitive, but I think that's going too far. I went to some trouble to assure the National Audubon Society that I do not share their view.

I hope I succeeded. It may be a small beginning, but if they can begin with this one fact, perhaps they can move on to develop an accurate assessment of the whole project.

Well, Dickey-Lincoln is not a nuclear dam, but what is it?

Dickey-Lincoln is a hydroelectric and flood control project which will be constructed on the upper St. John River in Northern Maine. It will consist of two dams: A large storage dam which will capture the spring runoff from the snow melt, provide flood control to eliminate floods in the St. John Valley which cost an average of $6.5 million per year, and generate 1,183,000,000 kilowatt hours of power as required for New England consumers: And a regulating dam downstream which will capture the water released from Dickey and discharge it over a period of time to generate 262 million kilowatt hours of energy annually and provide a steady flow on the river. That regular flow will enhance generation at existing downsteram dams by an additional 350 million kilowatt hours per year.

In current dollars, the total cost for construction of the project, including both dams and transmission lines, is $844 million.

The Federal Government will build the project with funds appropriated by Congress. The cost will be repaid to the Federal government with interest over the first 50 years of the project. Because much of our region's peaking power is now generated by burning heating oil, the project will reduce oil consumption in New England by 2.3 million barrels a year. At today's prices, it would displace more than $60 million a year in oil that will otherwise be imported to New England.

No one knows what oil might cost in 10 or 20 years, but even at today's prices, New England will spend $850 million in 15 years for the oil Dickey-Lincoln would have displaced if it were on the line. Dickey-Lincoln would pay for itself through the sale of power in less than 50 years. And it would still be producing power in 100 years—quite literally, free, inflation-proof power.

In short, Dickey-Lincoln will be an outstanding investment for the Federal government and a tremendous bargain for New England consumers.

The most remarkable fact about Dickey-Lincoln is that we have not built it yet. After years of study and struggle, it looks as good as we thought it would. Perhaps better.

Dickey-Lincoln actually entered public debate, of course, as something of a stepchild. Initial interest in federal energy development in Maine was directed at the potential for generating electricity from the tides in eastern Maine and New Brunswick. President Roosevelt actually began construction of the Passamaquoddy project in the 30's, but stopped development after one year.

When President John Kennedy took office in 1961, he agreed to take another look at Passamaquoddy. In the course of those studies, it became clear that tidal power would not be economically feasible on its own, but might be if accompanied by a conventional hydro project that could "smooth out" the 12-hour tidal cycle. So we looked at the upper St. John River in the early sixties and reached a point where President Johnson, in July of 1965, recommended construction of the Dickey-Lincoln project. Congress authorized construction of Dickey-Lincoln in the flood control act of 1965.

That 1965 authorization was a major milestone and represents a significant achievement. It was a very difficult fight, not unlike the effort which remains ahead of us.

Dickey-Lincoln is the first major Federal hydroelectric project authorized for construction east of the Mississippi and north of the Mason-Dixon Line. There are a number of historic reasons for that which I won't go into now. I think most of you understand them.

New England consumers pay a tremendous price for that anomaly. It is a price we cannot afford any longer. New England is 80 percent dependent on oil for its energy, compared to a national average of 47 percent. Most of New England's oil is imported, and most of that is from OPEC. New England's energy costs are 26 percent higher than the national average.

Recent international events very clearly demonstrate the vulnerability of oil supplies abroad. Disruptions and continuing price increases are weakening our national economy, driving inflation up and complicating our international relations. The entire nation is affected. But in many ways, New England is affected most directly and most severely.

The absence of Federal hydropower doesn't fully explain our energy problems in New England, but construction of Dickey-Lincoln is a critical element in responding to them.

Although Dickey-Lincoln was authorized in 1965 over the objections of investor-owned utilities from the northeast, these opponents succeeded in blocking appropriations for any work on the project from 1965 to 1974. In 1974, the Arab oil embargo focused attention on Dickey, and $800,000 was appropriated for advanced planning and engineering. The National Environmental Policy Act was the law of the land, so we directed the corps in 1974 to proceed with environmental studies and provided $2.5 million in that year. We have financed the studies at the level requested each year since.

The money in the current budget should allow for completion of the environmental studies this spring, as I understand it.

The environmental review of Dickey-Lincoln has been a long, tedious and thorough process. It was not painless for supporters of the project. Like all major energy projects, Dickey-Lincoln will affect the environment. Indeed, it will change the character of the St. John River. But no significant environmental problems were discovered. The search was exhaustive and it provided opportunities for opponents to dramatize and distort aspects of the project. The environmental impact statement is intended, in part, to provide a forum for opponents. If I am disappointed with events of the last few years, it is not because opponents of Dickey came forward to speak. It is because those opponents had so little faith in the process, or their own position, and chose instead to abuse the process and distorted the facts.

There is no question opponents managed to erode support for Dickey-Lincoln. But after five years of a massive and intensive public relations campaign in Maine and a lobbying campaign in Congress against Dickey-Lincoln, it is clear that more Maine people support Dickey-Lincoln than oppose it. And Congress continues to provide funds for the project.

The University of Maine last fall conducted a statewide poll for the state office of energy resources. That poll, which was released on December 24, shows 42% of Maine people in support of the project and 36% opposed to it. In northern Maine—Aroostook county, where the project will be located—a clear majority favors construction.

After five years of very noisy opposition, that survey is testimony to the basic good sense of Maine people, and the clear merits of the project.

So we are here today to look at the future and to look toward construction.

I think we have reached the testing point. I am prepared to agree now with one major point advanced by opponents of Dickey-Lincoln:

We need no further studies of Dickey-Lincoln, we have examined the project and it is sound. It is sound economically. It is sound environmentally. And it is sound from an energy perspective.

But we still face the serious and difficult task of making it a reality.

The $800 million required for construction of Dickey-Lincoln will have to be appropriated by Congress over the 7-year construction period. The money will have to be provided during a time when the Federal budget will be under tremendous pressure from those who want to achieve balance, keep programs up with inflation, increase defense spending and cut taxes.

A new project, particularly a new water resource project, is not guaranteed a warm reception in that climate.

We shall have to show that Dickey-Lincoln is not only in Maine's interest, in New England's interest and in the national interest, but is a priority item on the agenda. Dickey-Lincoln meets those criteria and I believe if we set out today with the objective of presenting that case to Congress, we can succeed.

We start with some real pluses. There is a strong reservoir of very effective members in both Houses on both sides of the aisle who understand and support Dickey-Lincoln. The battles we have come through thus far have established a depth of support that will be invaluable as we proceed.

The environmental impact statement and the debate which accompanied it will help us. We can go into Congress with credibility because we have examined Dickey-Lincoln not as a pork-barrel project, but rather as an energy alternative.

During the hearings on the environmental impact statement, when debate on Dickey-Lincoln was raging in Maine, some of my colleagues were befuddled and would ask me about it. They tended to be from districts where the accumulation of Federal installations was considered the primary responsibility of the local Congressman. They were unable to comprehend why Maine people could debate for a second the infusion of $800 million of federal capital. The old saying to the contrary notwithstanding, I had to explain that Maine people have a long tradition of very carefully counting the teeth of gift horses.

So we have counted Dickey-Lincoln's teeth.

We have demonstrated that Dickey-Lincoln is important to Maine and New England. It provides clean, dependable energy at reasonable and inflation-proof prices. It reduces our dependence on imported oil, and it will allow development of additional sources—alternative sources if you will, that could further reduce our dependence on imported oil.

The same factors that make it valuable to Maine and New England make it valuable to the country. These factors are receiving increased attention in Washington as we survey the national energy landscape.

One week ago today, January 11, the general accounting office issued a report entitled "Hydropower—An Energy Source Whose Time Has Come Again."

That report reiterates the virtues of hydropower: Clean, inflation-proof, reliable and flexible.

The report repeats the general mathematical evaluation for hydropower which the corps announced for Dickey-Lincoln in December. Because oil costs are rising so fast relative to construction costs, hydropower and Dickey-power become more and more attractive every month. Hydro costs are almost entirely associated with construction, so once a plant is in place, costs do not rise but actually fall.

Dickey-Lincoln compares favorably with oil-fired plants today. How much better will it compare 50 years from now after all capital costs have been paid back and the plant continues to generate electricity for Maine and New England?

I recommend the GAO report to you. It examines present restraints and urges specific action to encourage development of hydro.

The GAO report will not rule the day, but it is one more important confirmation of the excellent work the corps has been doing and an important buttress to many of our arguments.

There is one last justification for Dickey-Lincoln that I want to share with you. It relates back to the very reasons we first conceived the project. A storage project like Dickey not only provides peaking capacity for regular anticipated daily and seasonal load increases. It also provides tremendous reserve capacity for energy emergencies and to back up a less reliable alternative source.

As the managers who must assure the steady flow of current to your customers, you understand the importance of adequate capacity and reserve capacity. You also understand the trends in demand and supply and the real squeeze on reliable capacity. I suspect that most of you were aware that as of early December last year, New England was looking at the real prospect of blackouts and brownouts in January if a Nuclear Regulatory Commission order to close down six nuclear plants in New England was not waived. A waiver was granted and the crisis avoided, but it was uncomfortably close.

If a future emergency required that a shutdown be implemented, the reserve capacity of Dickey would pick up a significant part of the load.

On a more positive side, Dickey-Lincoln enhances opportunity for development of a variety of alternative energy sources in New England. Opponents of Dickey-Lincoln attempted to convert the debate from an evaluation of Dickey as a substitute for oil to an analysis of alternatives to Dickey. They did not succeed, in part because the need to displace oil is obvious, and in part because Dickey wins hands down over the alternatives. But we do not have an "either-or" situation, and if we really want to improve our energy future, we should use Dickey to allow us to proceed with new sources.

Just as Dickey's reliability and flexibility could enhance the feasibility of tidal power—a prospect I think will some day be realized—so too can Dickey enhance the feasibility of low head hydro development, wind and even solar power.

Even wood burning may require some electrical back-up which Dickey could help provide. I understand some Maine utilities are worried that houses which heat primarily with wood stoves or furnaces but use an electric back-up system may increase the winter peak demand in ways that are difficult to predict. Dickey's reserve capacity would help avoid problems in that regard.

If you detect a theme in this part of my remarks, I have succeeded. There is a vital role for Dickey in the future, and you are in the best position to help define it. I hope you will apply your talent and resources to seeing that Dickey-Lincoln's importance is clearly understood.

If you look at the map of Maine, the northern part of Maine is roughly in the shape of an arch. Dickey-Lincoln is located pretty close to the keystone of the arch. That is an appropriate symbol. Dickey-Lincoln can be the keystone to our energy future. We have to move to put it in place.

I see no reason to wait. Opponents say we have studied long enough. With your help, I will ask the Congress this year to finance construction of the project. With a divided New England delegation, it will be a tough fight. But if the facts win out, so will we.●

● Mr. FITHIAN. Mr. Chairman, it is my understanding in conversations off the floor that if the Army Corps of Engineers "review" concludes that the Lafayette Lake project is either economically infeasible, with a negative cost-benefit ratio, or should be deauthorized, that members of the subcommittee here today are prepared to accept deauthorization of Lafayette Lake as part of the next water resources bill in the 97th Congress.

I am pleased that the Fithian amendment, as amended by Mr. ERTEL, would lead to the deauthorization of 17 projects that are unneeded and unwanted in the districts they were designed to serve. I am joined in this bipartisan effort by 13 colleagues—Congressmen EDGAR, O'BRIEN, SHARP, HANLEY, MOFFETT, WEAVER, ROBERT W. DANIEL, SOLARZ, SIMON, CORCORAN, DAN CRANE, CLARENCE MILLER, and Congresswoman BYRON—who have experienced frustration in getting their projects deauthorized.

If these 17 unwanted projects were ever built, they would potentially cost the American taxpayer more than $2 billion. I believe that there is a great deal of merit in trimming out the deadwood from already existing authorizations at the same time that Congress is considering billions of dollars in new water projects. I am hopeful that this amendment has established the principle of deauthorization of water projects on the House floor by Members in whose districts these useless projects are located.

PROJECTS IN THE FITHIAN AMENDMENT

Project	State	Member's district	Date authorized	Last funded	Estimated cost (millions)
1. Chester River	Pennsylvania	Robert Edgar	1919	1955	$0.07
2. Connecticut River above Hartford	Connecticut	Toby Moffett	1930	(1)	256.0
3. Coney Island Creek	New York	Stephen Solarz	1935	1936	2.0
4. Copes Corner Lake	do	James Hanley	1938	1951	101.7
5. West Oneonta Lake	do	do	1938	1951	64.8
6. Davenport Center Lake	do	do	1938	1964	74.5
7. Genegantslet Lake	do	do	1944	1951	63.1
8. South Plymouth Lake	do	do	1944	1950	42.4
9. Norfolk Harbor anchorage	Virginia	Robert Daniel	1954		
10. Cascadi Dam	Oregon	James Weaver	1962	1969	141.0
11. Salt Creek Lake	Ohio	Clarence Miller/Tom Corcoran	1962	1973	31.0
12. Illinois Waterway navigation project	Illinois	George O'Brien	1962	1975	851.3
13. Lincoln Lake	do	Dan Crane	1965	1972	131.0
14. Helm Lake	do	Dan Crane/Paul Simon	1968	1974	32.9
15. Big Blue Lake	Indiana	Phil Sharp	1968	1979	130.0
16. Sixes Bridges Dam	Maryland	Beverly Byron	1974		35.4
17. Connecticut River diversion project	Connecticut	Toby Moffett			129.0
Total					2,086.17

---

[1] None.

Reform must go hand in hand with new authorizations. I am hopeful that future authorizations will contain a deauthorization provision. and that Members of the House will have an opportunity to avail themselves of this process.

I believe this amendment reaffirms the longstanding custom of the House and the Public Works Committee in granting congressional privilege to the Member in whose district a particular public works project is located when such issues come for a vote. It takes a great deal of courage for Members to seek deauthorization of projects in their district; in the past, it has been tantamount to political heresy. But times have changed, and many things have been reversed. Most of these 17 projects are environmentally unsound and economically infeasible, and will never be built. It is reasonable, therefore, that these projects be terminated so that local initiatives for alternative development of the resource can be implemented. You cannot create a State park or a county or municipal recreation area where a Federal project has been authorized. Under these circumstances I do not think it is too much to ask Federal Government to step aside to let local and State governments work their will and to give the people living in these designated areas peace of mind about their future.

In my own district, I have been trying unsuccessfully for nearly 5 years to get Lafayette Lake project deauthorized. I am hopeful that the "review" mandated by this substitute will lead to deauthorization of this project during the first water resources bill in the 97th Congress. The "review" is due for completion on June 30, 1981.

I am confident that any review of the Lafayette Lake project based on current criteria, including the current interest rate of 7⅛ percent, will conclude that the project is economically infeasible, with a negative cost-benefit ratio. In 1976 the Army Corp of Engineers calculated that the project had a positive cost-benefit ratio of 1.3 to 1, but was based on an interest rate of 3¼ percent; if calculated at present criteria, the ratio would be well below 0.50 to 1. This project never included criteria for a local water supply or hydropower benefits and these new aspects could not be added to this project design. Therefore, it is unlikely that the Army Corps of Engineers could return anything but a negative economic assessment of this project. I will request that the GAO review the methodology utilized by the Army Corps of Engineers in its "review" of Lafayette Lake.

If the Army Corps of Engineers recommends that the Lafayette Lake project be discontinued or deauthorized, I am hopeful that the Congress would accept these conclusions and proceed to deauthorize the project. There is no point in conducting a study unless Members are willing to abide by the results. It would be a waste of the taxpayer's money to ignore these results. I appeal to every member of the subcommittee and full Public Works Committee—on the basis of fairness and equity—that they include the deauthorization of Lafayette Lake in the first water bill during the 97th Congress.

The case against the construction of Lafayette Lake is overwhelming. There are several compelling reasons for deauthorization of the project.

First, the Indiana congressional delegation is strongly in favor of deauthorization, as both U.S. Senators and 10 of the 11 Congressmen support deauthorization.

Second, the Indiana House of Representatives and the Indiana State Senate recently passed a resolution deauthorizing the project at the State level, by votes of 89 to 4 and 32 to 14, respectively. Governor Otis Bowen signed this resolution on February 12, 1977. The State has, therefore, officially withdrawn all support from the project.

Third, the Congress blocked funds for the projects in fiscal year 1977 and no funds have been requested for fiscal year 1978 or fiscal year 1979, or fiscal year 1980 or fiscal year 1981.

Fourth, the Army Corps of Engineers has placed the project on the inactive list.

Fifth, the Office of Management and Budget in the past indicated that it did not oppose immediate deauthorization of the project.

Sixth, the project is environmentally unsound and economically infeasible.

Seventh, the general public is decisively opposed to this project.

Eighth, the project cannot, and will not, be constructed.

In addition, the lack of deauthorization of the project is causing special problems in Tippecanoe County. Without Federal deauthorization, State and local officials will not pursue alternatives such as a State park or recreational area. Neither State nor local officials are willing or able to commit funds for an area in which a Federal project is still authorized.

Significantly, there are many other problems caused by the lack of deauthorization. These include:

First, the uncertainty of deauthorization keeps the county, private developers, and residents of the Lafayette Lake area in a constant dilemma. There is a definite lack of initiative for development when the threat of the lake remains. People are reluctant to build onto their present homes. There is a flat prohibition against new construction in the area, except on existing lots. No new subdivisions are permitted.

Second, the Wildcat Valley is gradually becoming a "depressed area," not only in the marketplace definition of the term, but also in the potential and promise which such a productive and valuable area would normally achieve for itself.

Third, county officials have adopted a Band-Aid approach to bridge and road structures in the area, that is, construction of temporary structures. There is a great reluctance by the county to make major improvements or build permanent structures in areas that could later be condemned.

Fourth, local farmers who work the land in the proposed lake area are unwilling to take the financial risks necessary to purchase equipment, land, and generally improve their farming operation. Full production, therefore, is not obtained.

Fifth, the board of county commissioners concluded that "the most significant damage being done by authorizations is the personal sense of loss incurred by the residents of the Wildcat Valley. To live under the constant fear of being forced from their homes is a severe cross to bear."

I strongly believe that it would be unfair for the Lafayette community to have to wait 8 years until Federal deauthorization is accomplished under the provisions of section 12 of Public law 93-251. This law states that only projects which have not received funding for 8 consecutive years could be candidates for deauthorization. Immediate deauthorization is a practical means to resolve not only the day-to-day problems in the Wildcat Valley, but also the long-range pressing problems of agricultural, commercial, residential, and recreational planning for the entire area.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) as a substitute for the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN), as amended.

The amendment, as amended, was agreed to.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we come to the close of the debate on this important bill, I think it is appropriate to emphasize several issues that have arisen during the course of these deliberations.

It is obvious, Mr. Chairman, that this bill has widespread support in the House. I am fairly certain that it enjoys equally widespread support in the other body. Our task now becomes one of opening the eyes of the administration as to the need to sign this legislation into law promptly so that the appropriations process can work its will on those projects most worthy and most urgently needed.

I rose during the debate last week to raise an issue that I believe lies at the heart of this "clash" between the legislative branch and the executive branch of our Government. The crux of the matter is who is going to decide water policy for these United States. Will it be the Congress or shall it be a handful of self-appointed individuals within the administration?

This clash is not a new one. The Congress and this administration have differed on water policy from the start. We must continue to work to resolve those differences. But the Congress must not abdicate to the executive branch powers that will virtually hand to the executive branch the roles of prosecutor, judge and executioner where water projects are concerned.

We have heard contentions from downtown that water projects are inherently wasteful expenditures of money and that they fail to take proper account of environmental considerations.

Yet the folks downtown refuse to recognize that the scrutiny which these projects undergo in the Public Works Committee speaks primarily to those issues. No project is recommended by that committee which does not meet environmental concerns or whose cost-benefits ratio does not justify allocation of Federal resources.

The administration buries its head in the sand when we speak of the costs that will be saved because of a Federal investment. I spoke last week of four projects in my district—Fifteen Mile Bayou, Helena Harbor, Lake Neark, and Eight Mile Creek—that are just such cases. Federal investment in those projects will prevent chronic flooding in West Memphis, Ark., saving thousands of dollars to the Federal Government in flood damages and assistance to recoup losses; Federal investment will provide heretofore nonexistent recreational opportunities to the people of northeast Arkansas and obviate the need for frequent dredging of Osceola Harbor; Federal investment will free some 3,000 citizens of Paragould, Ark., from the fear of being driven from their homes every 2 or 3 years by uncontrollable waters; and finally, Federal investment will generate the spark that one of the most economically depressed areas in the State of Arkansas needs to reverse a trend of no growth to one of renewed growth. The new harbor construction at Helena will provide the jobs and the tax base necessary to rejuvenate the Phillips County area.

These needs are people needs, Mr. Chairman. You will find few people in my State who view Federal expenditures for water resources as a wasteful investment. On the contrary, my people place few needs at a higher priority than the need for wise management of water resources.

Water resource projects have come under fire as running counter to environmental needs. The forces of production have collided with the forces of preservation, setting off highly charged embers of emotion which often blinds both sides of the argument to reality. Clearly, we have a responsibility to preserve the environment in which we live, but we also have the responsibility for meeting the economic and social needs of our people.

Every project contained in this bill must meet rigid environmental guidelines. They should not be held hostage on charges of being unsafe for the environment. Those charges are unfounded.

We have heard other contentions about some of these water projects; namely, that they should be eliminated from the bill because there is no final report. It is the administration, Mr. Chairman, that controls that process. And they have. We have not seen a final report since we locked horns on water policy.

The administration has chosen to play another game with the Congress in terms of the question of "finality" of reports.

In the proposed budget for fiscal year 1981, we find, and I quote:

> No new starts for water resource construction are specifically recommended in the 1981 budget because the independent review of projects by the Water Resources Council must await authorizing legislation. The administration will propose funding for new starts as soon as such reviews can be legally conducted.

This latest entry in the eternal circle of water policy determination leaves us with an administration withholding or delaying final corps reports as a basis for opposition to water resource project authorizations measure that they maintain are needed to proceed with budget recommendations.

In other words, since Congress has not approved the executive branch's water resource policy proposals the executive branch will attempt to block authorization of new projects and funding of new construction starts with the argument that the needed project report reviews has not been completed.

This committee has had sufficient time to review the projects contained in this bill. There is nothing hasty or ill conceived in their product. It has been 4 years since the Congress has enacted a water resources authorization bill. This bill has been thoroughly washed and dried. I say that it is time that this process and this committee have our support.

I would only remind my colleagues again of the warnings of our Speaker. Let us not adopt a wait-and-see attitude about what the future holds for this Nation's water resources, as we did for energy.

Is Congress a strong and coequal institution with the executive branch? Or are we a weak reed bowing before the winds of executive branch proposals we believe not to be in the best national interest?

Congress has a duty to make responsible decisions on water resource projects. Though our Nation has a need for the Congress and the executive branch to work in harmony, when those conflicts cannot be resolved, it is up to the Congress to take a firm stand.

I urge an affirmative vote on this bill, Mr. Chairman, and I hope that we achieve it in numbers sufficient to signal the administration that the American people want water resource needs addressed in the time-tested process that the Congress adopted and which has served this Nation well.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Edgar: Page 180, line 3, add the following after 'condition.' before the '"': The Secretary is not authorized to carry out any of the work described in this subsection unless the state in which the work is to be accomplished has in existence and is maintaining a dam safety program for non-Federal dams which insurers that non-Federal dams are built in accordance with sound engineering practice, protect the safety of the public, and are maintained in safe condition.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the chairman of the subcommittee.

Mr. ROBERTS. Mr. Chairman, the gentleman from Pennsylvania has provided us with a copy of his amendment. We see nothing wrong with it and this side is willing to accept the amendment.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, when we agreed to open up title III for the gentleman, so he could offer his other amendments, he told me at that time he would only offer certain amendments. Is the gentleman going to abide by that understanding? The gentleman has but one other amendment to offer?

Mr. EDGAR. This gentleman has but one other amendment that he will offer this afternoon.

Mr. HARSHA. The minority has no objection to the amendment, Mr. Chairman.

Mr. EDGAR. Mr. Chairman, section 435 would put the Corps of Engineers into the business of repairing hazardous, non-Federal dams owned by the States or political subdivisions thereof. The section provides that the costs of repair are to be repaid to the United States over a period of 50 years. Hazardous non-Federal dams are a serious problem; however, the approach outlined in section 435 would, in my judgment make the situation worse, not better. The reason is that there is no quid pro quo, in the sense that there is no incentive for States to have good dam-safety statutes on the books with good dam-safety inspection.

I am proposing an amendment to section 435 which would correct this defect. My amendment would condition Federal help in repair of hazardous non-Federal dams upon the States themselves having in effect dam-safety statutes governing the building of non-Federal dams—statutes which protect the public safety, which set down solid engineering standards, and which provide for regular inspection and maintenance of such dams.

My amendment is needed because the rate of construction of non-Federal dams has been increasing exponentially in recent decades. We are not talking about dams built at the turn of the century. Almost half of the States in the country do not have adequate dam-safety laws according to testimony given to the House Government Operations Committee. Even States which do have good dam-safety laws sometimes do not appropriate any money to carry them out and enforce the inspection program. Passing section 435 is likely to aggravate the present situation, not improve it. My amendment would go a long way to correcting the failure of section 435 to provide any incentive to a State to keep non-Federal dams in a safe-and-sound condition and to insure that new non-Federal dams are built up to sound standards.

It should also be noted that this section provides a handsome subsidy to those States that have not maintained their dams in sound condition: They get immediate relief from the Federal Government and get easy repayment terms. Unless my amendment passes, the House will simply be rewarding those States that have exercised the least amount of responsibility in maintaining safe non-Federal dams.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from California.

Mr. CLAUSEN. In concurrence with the chairman of the subcommitttee and the ranking member of the full Committee on Public Works and Transportation (Mr. Harsha), I, too, want to join in supporting this amendment, and also to state that it does follow the track record of this committee in attempting to address in a very positive way the whole issue of dam safety. I think the gentleman is to be commend for offering the amendment consistent with established committee policy.

Mr. EDGAR. I thank the gentleman, and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Edgar).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. McClory: Page 180, after line 5, insert the following:
>
> (c) Section 3 of the Act entitled "An Act to authorize the Secretary of the Army to undertake a national program of inspection of dams" (Public Law 92–367; 33 U.S.C. 467b) is amended by adding after the first sentence thereof the following new sentence: "In any case in which any hazardous conditions are found during an inspection, upon request by the owner, the Secretary, acting through the Chief of Engineers, may perform detailed engineering studies to determine the structural integrity of the dam, subject to reimbursement of such expense.".

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this amendment has been cleared with both the majority and the minority. It merely authorizes the Secretary of the Army, through the Corps of Engineers, to authorize phase II engineering studies subject to being reimbursed following the performance of those phase II studies.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, the gentleman's amendment ties in basically with what the gentleman from Pennsylvania was doing, and I have no objection to the amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I will be happy to yield to the gentleman from California.

Mr. CLAUSEN. In considering the amendment, as I have discussed it with the gentleman, and discussed it with other members of the committee, it is with the understanding that the contracting for the engineering itself by the Corps of Engineers would place the maximum emphasis on going to the private sector, which is essentially basic policy, but this amendment does conform to that objective?

□ 1410

Mr. McCLORY. It is my understanding that is the practice at the present time. It is understood that that would be followed by the Chief of the Corps of Engineers if this amendment is adopted.

I thank the gentleman.

Mr. Chairman, under the legislation authorizing the Corps of Engineers to inspect dams throughout the country, a visual examination of thousands of publicly and privately owned dams has been carried out.

According to the reports of the Corps of Engineers, many of the dams have been declared to pose hazards to persons and property. Unfortunately, the corps' reports do not designate the repairs or replacements that should be undertaken to remove the hazards cited in the corps' reports. The dilemma which devolves upon the local communities or private property associations or owners under such circumstances is unprecedented. In general, as in the case of the Lake-in-the-Hills Dam, the level of the privately owned lakes was ordered lowered to a depth which exposed large areas of the lake bottom. This, in turn, created an unsightly and unhealthy condition. The Property Owners' Association found itself without a source of funds to determine what, if any, repairs were required to be made.

Mr. Chairman, my amendment will enable the Corps of Engineers to undertake the so-called phase II engineering provided that the owners—public or private—agree to reimburse the corps.

Mr. Chairman, my amendment provides for the authorization and funding pursuant to which the Secretary of the Army, through the Corps of Engineers, might assume responsibility for phase II engineering analyses in cases where dams are declared unsafe after a phase I (visual) inspection.

Of particular concern to me are three dams in my own congressional district: Lake-in-the-Hills, Tara, and Lake Marian. When the corps initially declares a dam to be unsafe, it is not a conclusion based upon a thorough and detailed engineering analysis; rather, a judgment is made upon a cursory visual inspection, even though such findings may result in emergency action; for example, posting a 34-hour watch at a damsite, or lowering the water level, et cetera.

The corps' findings can thus impose a tremendous liability upon the property owners or the local community. I think it is a pretty serious business to take this sort of action, based only upon preliminary findings, and that is why I am offering this amendment. It seems to make sense for the corps to fully complete their inspection following the initial phase I inspection and then follow through by making the results of the phase II engineering analysis available to State and local dam owners.

Mr. Chairman, my amendment will enable local citizens to better protect their community against dam failures, and will enable people all over the country, including my constituents, to make the repairs necessary.

No one needs to be reminded of the present situation of unsafe dams. As of June 1979, 24 percent of the dams inspected thus far under the National Dam Inspection Act of 1972 have been classified as unsafe and in need of repair.

Adoption of my amendment will be a significant step toward insuring the safety of our dams and will provide the means for determining what repairs may be necessary. Following such phase II engineering studies, needed repairs or other action may be undertaken to protect human life and property in accordance with the clear objective of the act authorizing the inspection of our Nation's dams.

Adoption of the amendment should be of benefit to virtually every part of the country—and will specially benefit many of my constituents in Illinois' 13th Congressional District.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WON PAT

Mr. WON PAT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WON PAT: Page 185, after line 8 insert the following:

SEC. 443. Section 22 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by adding at the end thereof the following:

"(c) For the purposes of this section, the term 'State' means the several States of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

Renumber subsequent sections accordingly.

Mr. WON PAT. Mr. Chairman, the amendment which I am offering today will make Guam, Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands eligible for comprehensive planning assistance related to the development, utilization, and conservation of our water resources. Such comprehensive planning assistance is already available to the States under section 22 of the 1974 Water Resources Development Act. My amendment today will merely expand the definition of State within that section so as to include the various territories of the United States.

I am taking this action because of the acute need for the comprehensive planning of the use of our water resources in Guam and in other insular areas as well. Island ecosystems are very fragile and water is one of our most precious resources. This amendment will make the territories eligible for technical assistance from the U.S. Army Corps of Engineers in developing comprehensive plans for the protection of this resource. We are long overdue for assistance of this nature and I trust that my colleagues will not disagree and that they will concur with this amendment. I thank the Chair.

Mr. HAGEDORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 4788, the Water Resources Development Act of 1979, which authorizes the Army Corps of Engineers to undertake the construction, repair, and preservation of various projects along our Nation's rivers and harbors. I also want to commend the fine work of Mr. ROBERTS and Mr. CLAUSEN in guiding this bill through committee and bringing it to the House floor.

There are two specific aspects of the bill that I would like to address briefly. The first involves a section of the bill which relates to an important project in southern Minnesota. Section 112 authorizes the Army Corps of Engineers to undertake a demonstration project for the removal of silt and aquatic growth from Albert Lea Lake in Freeborn County, at an estimated cost of $4.27 million.

In recent years, there has been considerable concern over the eutrophic condition of Albert Lea Lake. The decline in the condition of the lake has been evidenced by noxious odors, "scum," and a decline in the quantity and quality of fish in the lake. This has resulted in drastically reduced recreational use of the lake, as well as a possible public safety hazard.

Initial studies indicate that it would be economically feasible to dredge at least the major portion of Albert Lea Lake from the Shellrock channel to the outlet of the lake. This portion of the lake comprises approximately 910 acres, of which 610 might be dredged and the remaining 300 acres might be used as a deposit area for the dredged material.

The Secretary of the Army will report to the Administrator of the Environmental Protection Agency the plans for and the results of the project together with such recommendation as may be necessary to assist the Administrator in carrying out programs elsewhere for freshwater lakes under section 314 of the Federal Water Pollution Control Act. In this way the information and experience developed at Albert Lea Lake will prove valuable in improving the environmental quality of other lakes with similar problems around the country. The demonstration project called for in the bill will insure future recreational use of the lake and provide a solution for other lakes which suffer similar problems.

Mr. Chairman, I would also like to take a moment to clarify committee report language which makes reference to the locks and dam 26 ordeal. I need not go into detail on the plethora of obstacles which have impeded the construction of this important project. In its report, the Public Works and Transportation Committee reemphasized the need to move ahead with the construction of the new locks and dam, and made reference to an ongoing lawsuit that was preventing construction. I would like to point out that in the time since the committee report was drafted further progress has been made.

Of all the impediments thrown in the way of locks and dam 26, perhaps the most formidable was the lawsuit filed in 1974 by 18 midwestern railroads and 3 environmental groups. However, an October 23, 1979 decision by the U.S. district court has paved the way for the completion of the new facility. After 5 years of court hagglings, the court ruled that the corps' final environmental impact statement complied with NEPA requirements. I am pleased to note that the initial phases of construction of the new locks and dam have begun and as a result, the agricultural and transportation needs of the Midwest and upper Midwest are being addressed.

In conclusion, Mr. Chairman, the committee has brought before the House an important bill, designed to address the water resource problems throughout the country, and I urge favorable consideration by my colleagues.

PARLIAMENTARY INQUIRY

Mr. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in support of the amendment, but I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. CLAUSEN. Mr. Chairman, what is the status of the amendment offered by the gentleman from Guam?

The CHAIRMAN pro tempore. The amendment is still pending.

Mr. CLAUSEN. Mr. Chairman, section 22 of the Water Resources Development Act of 1974 provides authority for the U.S. Army Corps of Engineers to cooperate with any State in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources located within the boundaries of the State and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

Through what I believe was an oversight on our part, the governments of Guam and the other Pacific Territories have not been eligible to participate under section 22's comprehensive planning provisions. The governments of Puerto Rico and the Virgin Islands, on the other hand, are eligible.

There is no good reason of which I am aware for this situation to go uncorrected, and so our colleague has offered this amendment. It will result in no additional cost to the Federal Government but will rather make Guam and the Pacific Territories eligible to participate in a program that they should always have been eligible to participate in. The amendment has been recommended by the Pacific Division of the Corps of Engineers. In addition, it has been discussed with members of the Hawaii congressional delegation and they are fully supportive. It is totally consistent with the 1947 United Nations Trusteeship Agreement under which the United States is obligated to promote political, social and economic advancement in the Trust Territory of the Pacific Islands. It is also consistent with our actions in other public works legislation such as the Local Public Works Employment Act and the Economic Development Act of just a few months ago.

It is a good amendment and I urge its adoption.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the gentleman's amendment. It just puts Guam in the same category as the Virgin Islands and other territories considered as States.

I ask for adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Guam (Mr. WON PAT).

The amendment was agreed to.

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take this time to express my sincere thanks for the record to the gentleman from California (Mr. JOHNSON), and the gentleman from Texas (Mr. ROBERTS) and my colleague from Ohio (Mr. HARSHA), who was most helpful, as well as the gentleman from California (Mr. CLAUSEN) for including in this bill a transfer of land to the Department of Natural Resources for the State of Ohio from the Federal Government along the Big Darby Creek. This land involves the transfer of land which was deactivated in June 1973 due to economic conditions causing it to become economically infeasible. Analysis indicated an economic benefit to cost ratio of less than 1.0 to 1.0 and it became apparent that any reevaluation would not result in a benefit to cost ratio sufficient to justify the project. In July of 1978 a public notice was circulated to all appropriate agencies and interested parties. The fact no negative comment was received doubly strengthened our position and the recommendation has since resulted that the project be deauthorized. It has been maintained and administered by the State of Ohio as a wildlife preserve since 1965.

The environmentalists want this because there are five endangered species now in the waters of the Big Darby Creek. I submit that these gentlemen have extended me every courtesy. They are gentlemen with a heart and I just wanted to let them know of my appreciation for this assist to the people of my district.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROBERTS: Page 185, after line 8, insert the following:
>
> SEC. 443. The project for flood control, Hocking River at Logan and Nelsonville, Ohio, is hereby authorized for construction substantially in accordance with the report of the Chief of Engineers dated June 30, 1978, at an estimated cost of $7,650,000.
>
> Renumber succeeding sections accordingly.

Mr. ROBERTS. Mr. Chairman, I will not take the full 5 minutes.

Mr. Chairman, this project was in the bill the last time. It had some problems. It has now cleared the Chief of Engineers. It has cleared everybody and it is now available for full consideration.

I ask for adoption of the amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, as the gentleman has stated, we are prepared to accept the amendment.

I would ask the chairman to yield to the gentleman from Ohio, the initial sponsor.

Mr. ROBERTS. I would be happy to yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding. These critically important projects are in the heart of Appalachia Ohio where the cost of unemployment compensation would far outweigh the cost of the projects. Failure of the Congress to authorize the work will force business and industry to leave the Hocking Valley. That, in turn, will cost desperately needed jobs and will halt economic development and growth. The people of the Hocking Valley deserve nothing less than a full measure of help from us.

I thank the gentleman for yielding.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to clarify the intent of the amendment. This will add $7,650,000 to this bills?

Mr. ROBERTS. That is correct.

Mr. EDGAR. The gentleman has stated that the final report from the Army Corps of Engineers has been completed?

Mr. ROBERTS. Everything has been cleared. If the gentleman will remember, it was in the bill 2 years ago, or the last Congress. It had some restudy problems. Now it has been cleared and it is all ready to go.

☐ 1420

Mr. EDGAR. Mr. Chairman, let me ask the gentleman, is any cost sharing involved in this particular project through local initiative?

Mr. ROBERTS. There is the standard money, yes.

Mr. EDGAR. Which would be what?

Mr. ROBERTS. There are lands, easements, rights of way, and so forth. The standard procedures are followed.

Mr. EDGAR. Mr. Chairman, would the gentleman indicate whether this was one of the objections of the Army Corps of Engineers, or are they fully supportive of it?

Mr. ROBERTS. Mr. Chairman the Army Corps of Engineers is fully in support of the project.

Mr. EDGAR. Mr. Chairman, I thank the gentleman for his response.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I am happy to yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have advocated the approval of the Boggy Creek project, which is a flood control project in Texas. We have had a feasibility study, and the

Corps of Engineers has been looking at the project for 6 or 7 years. It has approved the project on both the regional and district bases, but the official notice of that reached the gentleman's committee just a few days after the committee had acted on the bill. Therefore, the project is not in the bill before us.

I regret that it is not before us; the timing was just unfortunate. However, I am hopeful and I anticipate that it will have been cleared in the other body, and that the matter will be before the conferees when they vote.

This is a very much needed project, and I assume that all the problems will have been cleared up by that time. Technically it was not cleared in the full committee, and there was not time to act on it.

Therefore, Mr. Chairman, I will not offer an amendment, but I wish to state to the gentleman that I anticipate that when we go to conference, the project will be in the bill in the other body and that the issue will be before the conferees when they go to conference.

Mr. ROBERTS. Mr. Chairman, had it been cleared, it would have been in the same position as this amendment and would have been offered at the same time. I agree with the gentleman from Texas (Mr. PICKLE). If the project is in the bill in the other body, we will certainly try to be helpful in conference.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, as part of the dialog and the colloquy that is taking place, and after consultation with the minority staff, let me say that we will attempt to cooperate in whatever manner the committee chairman decides would be in the best interests of the gentleman's objective.

Mr. PICKLE. Mr. Chairman, I thank the gentleman from California (Mr. CLAUSEN) and the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, I urge adoption of the pending amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ROBERTS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I ask unanimous consent that I may be permitted to offer a corrective amendment which would actually go to title II.

We find that in a previous amendment the letter "E" has to be inserted in lieu of the letter "G." This is a technical amendment, and I ask unanimous consent for its consideration.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS: On Page 97, line 20, strike the letter "G" and insert in lieu thereof the letter "E".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. EDGAR. Mr. Chairman, reserving the right to object, I will not object, but let me ask this question:

This is just a technical change; is that correct?

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, the gentleman is correct. It simply changes the letter, "G" to the letter, "E."

Mr. EDGAR. It does not make any substantive change in the language?

Mr. ROBERTS. It does not make any substantive change.

Mr. EDGAR. Mr. Chairman, I will not object.

Mr. CLAUSEN. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment.

Mr. EDGAR. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlemen from Texas (Mr. ROBERTS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: On page 172 strike lines 8 through 25 and on page 173 strike lines 1 through 13 and redesignate succeeding sections accordingly.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 5 additional minutes.)

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. EDGAR) is recognized for 10 minutes.

Mr. EDGAR. Mr. Chairman, as we are moving toward completion of this omnibus water bill, I would like to draw everyone's attention to the amendment which is pending and which I have just offered.

The amendment eliminates the language in the bill authorizing the construction of an Army Corps of Engineers monument in Washington, D.C.

While it can be argued that no up-front money will be necessary to build this particular monument, it will not be argued successfully that the American public will not have to pay on into the future the cost of maintaining and keeping this monument in a good physical condition over the long run. It seems to me that this amendment is symbolic of some of the negative points in this particular bill.

I will be interested to see how many Members enthusiastically stand up and say that in a time when we have a $39 billion deficit this year and a projected Presidential budgetary deficit of $16 billion next year they feel comfortable about committing the American public to this particular authorization.

I think more important than the actual construction of a monument is the fact that this particular bill constructs and spends money on projects that, after careful study, if one would look at the details, would be inappropriate for the Federal Government to be spending. For example, we heard last week that the Army Corps of Engineers objected to 125 of the projects contained in this legislation. We heard that their objections come to some $2.5 billion worth of projects in this bill.

We heard defended on this floor a project to shore up a mountain for some private developer who built on top of a mountain and whose houses are now falling off. We are committing $700,000 of American taxpayers' money to strengthen and to reconstruct that mountainside.

We have also heard that the Federal Government is going to spend $300,000 in this bill to build a marina. That marina is going to be built on a large lake in Texas.

I would suggest to all of us that we focus on things like the landslide, the marina, and the 54 projects in the bill that have no final report. I would hope that we will look at those projects that have no cost sharing. We are building highways and roads in this bill with 100 percent Federal dollars, and we are not asking local communities to pay a 10-percent or 20-percent or 25-percent local matching share.

We have projects in this bill that violate international law. We have projects in this bill that give 100 percent of the benefits to a private company without at any time asking that private company to spend one dime or to share its wealth with the Federal Government in order that we might dredge a river or dredge a harbor for them to carry on private commerce.

After careful analysis of this bill, a number of organizations, including environmental groups, tax groups, and public interest groups like the League of Women Voters and others have examined the bill and demonstrated, I think, pretty clearly that we are moving in the wrong direction.

I would like to suggest to all the Members that we use this particular amendment as our symbolic opportunity to speak out on what we find is a very objectionable bill. The arguments in the well have indicated that "if you are for the bill, you are for a water policy; if you are opposed to the bill, you somehow think that over the next 20 to 30 years we are not going to have a water crisis."

I would like to say from the well that as a futurist, as an environmentalist, as someone who looks at the next 20 years in terms of population trends, who looks at the Northeast-Midwest urban system and sees the deterioration that is taking place in that system, who looks at the total national perspective of the North, East, South, and West in terms of the value of spending critical resources where they are needed, that I want a water bill that is based on merit. I want a water policy based on sound criteria. I do not want a shopping list of everybody's project, good and bad, put together in an omnibus water package.

What I want to suggest to the President and to the Nation is that we have a water policy based on merit so that Members of Congress can come to the Committee on Public Works and Transportation and analyze the economic cost, the environmental and social cost, and the engineering and safety needs so we can produce, not on an every-2-year basis for political purposes, an annual bill that has in it those meitorious projects that have final report studies, that have cost sharing, and that meet the basic criteria of necessity. We would, therefore, be spending critical dollars on those projects that are most necessary to save lives in flooding, to provide water resources for areas of our country that have drought, and to provide for the reconstruction and renovation needs of our older cities where there is great deterioration and destruction of water systems.

☐ 1430

I would like to suggest to all of the Members that in offering my 184 amendments to focus attention on this bill was not simply a dilatory tactic. It was not done simply to pat BOB EDGAR on the back and say, somehow, that he has seen something that others have not. It is to suggest that we need in this country a national water policy to focus on the real needs, and we do not have to spend billions and billions of dollars on worthless projects or projects that simply do not meet the basic criteria.

I would hope that as we focus attention on this monument that is to be constructed in Washington, D.C., that we focus our attention on it in a symbolic way. I fail to see how the Army Corps of Engineers needs any more monument than the construction projects that it has constructed all over this country over the past few years. I fail to see why the American taxpayers have to spend critical dollars in times of deficit for projects that are either worthless or are projects simply placed in this legislation for a Member's political purposes. I fail to see why the American taxpayer cannot demand that we in the Congress of the United States really go through the legislative process in a fair and equitable way and base our determination on the projects on merit and not on how they vote, not on how they conform to the committee's rules and regulations or proper criteria, but based on something that the administration, whether it is Democratic or Republican, can also agree on.

So I would urge all Members to vote against the construction here in the District of Columbia of an unneeded and unnecessary monument to the Army Corps of Engineers and instead spend time, energy and effort in building a monument to the American public, who is demanding more of this House, who is demanding more of each of us as Representatives, and who is asking us to have a water policy that does not spend the whole Federal Treasury on projects that do not have merit.

So I hope that the Members will direct their attention to this amendment and that the Members will unanimously accept the opinion that this Army Corps of Engineers monument is not necessary. It is symbolic of other negative things in this bill, and we must stand together and develop, as will be offered by the gentleman from Pennsylvania (Mr. ERTEL), and others, a process whereby we can base our decisions on merit and sound criteria; not simply on an ad hoc shopping list of good and bad projects called the omnibus water bill.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Chairman, would the gentleman agree that the Corps of Engineers has done anything constructive in its history?

Mr. EDGAR. The gentleman would say that the Army Corps of Engineers has done many things that have been constructive. I think the Army Corps of Engineers should be commended for their efforts throughout the United States in flood control and dredging projects. I think the Army Corps of Engineers has done a number of terrible projects simply because those projects have been forced upon them by Members of Congress. What I am suggesting is that there is monument enough to the Army Corps of Engineers out in the United States proving their merit, giving them an international reputation. But that is not to say that they have not also failed to respond in some instances to sound and meritorious projects.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman who just offered the amendment in a few words admitted the great contributions that the Corps of Engineers has made, not only in wartime, but in peacetime as well, to the country as a whole, and to the economy of the country.

It seems to me rather picayunish and almost absurd to offer an amendment of this type to this bill simply because the gentleman does not like the bill. He says it is a bad bill and, therefore, all of it should be stricken out.

Assuming the gentleman is right about the bill being bad—and I challenge that statement wholeheartedly—but for argument's sake, assuming the gentleman is right, the amendment fails to recognize the outstanding contribution the Corps of Engineers has made to this Nation throughout its history.

The Corps of Engineers' contributions are not limited to flood control, dams, and navigation facilities. They have been involved in the defense of our country in wartime, from the earliest days of our history, when they constructed fortifications. The Army Engineers have been the first ashore, sustaining heavy casualties, to clear the mines, and other obstacles, to landing craft during amphibious operations. They go out in front of the infantry to clear the roads, and to build the bridges over which a combat army must travel. They construct the airfields and port facilities for the movement of materiel to support the combat troops and, after the last war, they rebuilt the railroads in Europe.

In peacetime the Nation utilizes the expertise of our Army Engineers for the construction of civil works projects, such as the Manned Space Flight Center at Houston, and Cape Canaveral, as well as our navigation and flood-control projects. The corps has also constructed, or designed, most of official Washington from the Capitol, the White House, to the Washington Monument, and the Lincoln Memorial. They have also contributed to the construction of the postal facilities and surveying of the railroads. Another contribution of the corps is of a different dimension entirely, namely, the systematic development of engineering excellence in this country. Though few on this floor may recall the fact, the U.S. Military Academy at West Point was the first—and for a long time the only—engineering institution in the United States.

And yet in our Nation's Capital, there exists no worthy recognition of this continuing contribution to the Nation.

This is the purpose of section 423 which authorizes the Corps of Engineers Historical Foundation to construct a memorial to the U.S. Army Corps of Engineers.

And let me point out this to the Members. The language in the bill provides that neither the United States, nor the District of Columbia, shall be put to any expense in the construction of this particular memorial. This memorial will be placed at an appropriate location that is already federally owned. There will be absolutely no cost in construction either to the American taxpayer through general tax revenues, or to the citizens of the District of Columbia through their tax process. It is to be constructed by the Corps of Engineers' Historical Foundation. The only expense whatsoever will be for leaf raking, grass cutting, and the removal of ornithic deposits. If any of my colleagues have a question about that, I will be glad to explain that a little more specifically on the other side of the aisle.

But let us put this silliness and absurdity aside and focus on the contribution the Corps of Engineers has made throughout our history, the work of the Corps of Engineers in wartime and in peace. Let use reflect on the civil works of the Corps of Engineers in strengthening the underpinnings of our economic well-being.

As Americans, we are often accused of slighting our history. Yet Washington is often characterized as a monumental city. Let use put aside this small-minded amendment, whose only apparent purporse is to punish the Corps of Engineers for what the Congress tells it to do. The gentleman admitted that the corps had some reservations about some of the projects in the bill, but I should hazard the guess that this was due to the administration who gave instructions to the corps not to support the projects; while the corps probably does support some of them, because of political purposes they are required to make the statement that they did. But let us not punish the Corps of Engineers, and let us not fail to recognize the monumental service they have given to this Nation, and to the people of this country, by saying that they are not worthy of a memorial, in effect, because they do what we, the Congress, tell them to do. If we did not authorize these projects, if we did not fund them, if we did not direct them to construct them, why, they would not construct them. So they are hardly to be blamed for projects they have constructed that the gentleman does not like.

But the gentleman is not the only one to consider in this amendment. Some of the others of us in this House like the particular bill. We certainly approve of this language in the legislation because we recognize the oustanding job that the Corps of Engineers has done, and I think that it is a recognition long overdue. Only a very small portion of expense will be involved in the maintenance. It is no more than the maintenance that is involved in all of these other monuments around the District of Columbia, and on federally owned lands. I would hazard to guess that it would only amount to several hundred dollars a year to maintain this particular memorial.

Mr. Chairman, I urge the defeat of the amendment.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I wonder if the gentleman could tell the House what the Corps of Engineers Historical Foundation is, who its officers are, and what date it was incorporated?

Mr. HARSHA. No, I cannot. All I can assure the gentleman is that the Federal taxpayer will not pay any money for the construction or erection of this memorial.

Mr. EDGAR. Will the gentleman yield further?

Mr. HARSHA. I will be happy to yield.

Mr. EDGAR. I am confused with the gentleman's comments, because in the language of the bill, the language that I choose to strike, we say that the Corps of Engineers Historical Foundation is authorized to design and erect a memorial on public grounds.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. HARSHA) has expired.

(On request of Mr. EDGAR and by unanimous consent, Mr. HARSHA was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. If the gentleman will yield further, I would suggest to the gentleman that what we are asking the House to accept with the language of the bill, is that an organization which we do not have the officers' names of, and we do not know when it was incorporated, or who controls it, will have the opportunity, and right, to build a monument here in Washington, D.C. I would suggest to the gentleman that that would be inappropriate if we were bringing this particular amendment out of the Subcommittee on Buildings and Grounds, on which I serve. We would want to know who is constructing, and who is funding, and who is putting the dollars in. In this case, I would suggest that not one member of our committee can tell us who the officers are of the Corps of Engineers Historical Foundation, who runs it, when it was incorporated, and where the funds come from to build this project.

Mr. HARSHA. If the gentleman wants to take part of the language of the act, and rest his case on that, I submit that he has to take all of the language of the act, and then rest his case, because the act further says that the United States and the District of Columbia shall be put to no expense in the erection thereof.

If the gentleman is relying on this very language to argue his point, he has to accept it all. He cannot just consider what he takes and distorts to meet his own personal opinion.

I have been also advised by staff that the Corps of Engineers' Historical Society consists of former officers and members of the Corps of Engineers who have since retired, and the society is incorporated in accordance with the District of Columbia Nonprofit Corporation Act.

Mr. EDGAR. Mr. Chairman, will the gentleman yield further?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

□ 1440

Mr. EDGAR. What if we do not like the monument? What if we do not like the engineering, the construction, or the architecture of the monument?

Mr. HARSHA. The language of the authorization is clear—"The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts and the National Capital Planning Commission" all those people have to approve and pass judgment on this particular part.

I would suspect whatever they did, the gentleman would not like it.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. HARSHA) has again expired.

(By unanimous consent, Mr. HARSHA was allowed to proceed for 1 additional minute.)

Mr. HARSHA. I would like, for the purpose of the record, to point out that I have the articles of incorporation of the Corps of Engineers' Historical Foundation, and that it is a nonprofit corporation located here in the District of Columbia, and the articles can be perused by anybody who has a concern.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

We had asked the Army Corps of Engineers' historian about this particular organization, and he is unaware of this particular foundation and its incorporation.

Are the officers listed there that could be read on the public record?

Mr. HARSHA. I do not see the list of the officers by name. It provides that the officers of the corporation shall consist of a president, secretary, treasurer, and such other officers as may be deemed necessary by the board of directors, but as to who those officers are, I do not have that information.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have listened throughout the several days that this bill has been on the floor, and I am somewhat disappointed at some of the things I have read and heard concerning the bill.

I think at this juncture, as we are finishing up the bill, it might be a good time for me to mention a few things I believe should be considered.

We hear a lot about the environment. Every Member of this House is concerned about the environment. We will have differences of opinion as to what should be done to preserve and enhance the environment, but I give credit to everybody on both sides of the debate. Everybody wants to consider the environment, but I think some have not considered what this bill does to improve the environment.

One of the principal reasons we need such a bill as this is because the development and urbanization and the increase in population in this country has assaulted the environment for 300 years. We are assaulting it day after day and year after year through legislation and programs for new storm sewer systems which carry runoff water to the river instead of hold it back in a basin. The environment is assaulted through a number of other pieces of legislation under which there is no requirement that benefits exceed costs as is the case in this bill, and in legislation under which there is no consideration for all of the procedures cooperating with wildlife authorities and others which the committee reporting this bill must go through before it can approve or recommend one of these projects.

Many years ago when my ancestors landed at Plymouth Rock, there were only 1 million people in this country, just 1 million in what is now the mainland United States. The various forms of life had developed over a period of centuries to what we call a balance of nature.

One million people could be absorbed, there were all kinds of predators, birds, insects, plants, and other forms of life. When one form of life reproduced in surplus to its share, another form was encouraged to expand until it devoured the excess. The streams ran clear and the rain fell up plant life and earth which absorbed it.

But now we have 220 million people. That huge increase in population required major adjustments in the environment. Land was cleared for agriculture so more food for humans could be raised, plants and animal life which competes with man was reduced or eliminated urban areas were developed which drained the land and increased the volume poured into the river. Parking lots and buildings are being built every day.

The water that falls on top of the buildings does not go into the ground. It goes into a sewer system that we help pay for with Federal money, goes right down to the river with dirt and pollution and swells the river, and that causes greater floods. When more and more water is poured into a river, the flood plain is assaulted and hardwood existing above the edge of the flood plain experience wet feet, that kills them and they are replaced with plants that can withstand water.

So what we have done is to assault the environment over a period of time, but we have not done enough to correct what we have done to harm the environment. We have done far too little to hold back some of that excess so the area below can be damaged less below the reservoir. Since the water ran off too fast, there is also too little during dry periods. Most of the projects in this bill are for the purpose of helping to counteract the assault that we have made upon the environment and are continuing to make. This bill helps the environment and reduced the severity of the adjustments which must be made. I hear some urban people around here saying how bad this bill is. We would not need this bill if we did not have all these sewer systems and all the new parking lots and all the new buildings in these urban areas. Those who promote urban programs should be ashamed of themselves if they vote against this bill which merely helps to correct damages to the environment caused by urbanization.

So I say to my colleagues, a vote against this bill is a vote against the environment, it is a vote against using some of our increased resources gained from development by previous generations to offset damage done to our streams. What we should think about is this: 220 million people have assaulted the environment in this country, and it is about time that we do a bit more to help correct the damage that has been done and our society is still doing. That is what we are trying to do in this bill. This bill really represents a very, very puny amount to spend out of the great resources that we have as a result of the development of our lands in this country and the development of our urban areas by previous generations.

I think it is a good bill overall. Anyone can argue about one project or another, but it is about time we support this kind of a bill with enthusiasm instead of having it attacked all of the time as just being a pork barrel and ignoring the fact that what we are trying to do is correct damage that has been done in previous years and to prepare for a better tomorrow.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment of the gentleman would strike the monument to the Corps of Engineers, built with private money, donated by the people who have fought for this country during wartime and worked for this country in peacetime.

The men and women of the Corps of Engineers have valiantly served their country and deserve the eternal gratitude of our people. Such gratitude is especially warranted in these times of increasing international strife. Other branches of our military have similar memorials in the Washington area. The Seabee memorial and the memorial to the 101st Airborne were authorized and constructed in just this manner. The funds to construct this memorial will come entirely from private donations. Absolutely no Federal or other public funds will be expended for its construction. There may be miniscule expenses for maintenance, but no more than a couple of hundred dollars per year. The site and the memorial itself will have to meet the exacting standards of the Commission on Fine Arts and other organizations who are involved in monuments in the area of the District of Columbia. This provision is a valid and worthwhile one. I ask for the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. EDGAR. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. The Chair will count.

RECORDED VOTE

Mr. EDGAR. Mr. Chairman, I withdraw my point of order and demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 133, noes 273, not voting 27, as follows:

[Roll No. 28]

AYES—133

Ashbrook
Aspin
Atkinson
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Bennett
Bingham
Blanchard
Bonior
Brademas
Brinkley
Brodhead
Broyhill
Burton, Phillip
Byron
Carr
Chisholm
Collins, Ill.
Conyers
Corcoran
Coughlin
Courter
D'Amours
Daschle
Deckard
Dellums
Derrick
Derwinski
Devine
Dodd
Downey
Drinan
Early
Edgar
Edwards, Calif.
Edwards, Okla.
Evans, Ind.
Fenwick
Fisher
Fithian
Florio
Ford, Tenn.
Fountain
Garcia
Gephardt
Gonzalez
Goodling
Gradison
Grassley
Gray
Green
Guarini
Gudger
Hamilton
Harkin
Harris
Hinson
Holtzman
Hopkins
Hughes
Jacobs
Jeffords
Kastenmeier
Kemp
Kindness
Kostmayer
LaFalce
Leach, La.
Lederer
Leland
Levitas
Long, Md.
Lowry
Luken
McDonald
McKinney
Maguire
Markey
Marks
Marlenee
Martin
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Nolan
O'Brien
Ottinger
Panetta
Patterson
Paul
Petri
Porter
Pursell
Quayle
Rangel
Ratchford
Regula
Richmond
Ritter
Rosenthal
Roth
Rousselot
Seiberling
Shannon
Sharp
Simon
Solarz
Spellman
St Germain
Stack
Stark
Stockman
Studds
Udall
Vanik
Walker
Waxman
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wolpe
Wylie
Young, Fla.

NOES—273

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
AuCoin
Badham
Bafalis
Bailey
Barnard
Beard, Tenn.
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Breaux
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, John
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corman
Cotter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Dickinson
Dicks
Diggs
Dingell
Dixon
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Fazio
Ferraro
Findley
Flippo
Foley
Ford, Mich.
Forsythe
Frenzel
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gore
Gramm
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lujan
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McKay
Madigan
Marriott
Mathis
Matsui
Mazzoli
Michel
Mikulski
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Pashayan
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Railsback
Reuss
Rinaldo
Roberts
Robinson
Roe
Rose
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stokes
Stratton
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—27

Anderson, Ill.
Crane, Philip
Davis, S.C.
Emery
Evans, Ga.
Fish
Fowler
Hightower
Holt
Johnson, Colo.
McCloskey
McHugh
Murphy, Ill.
Obey
Pritchard
Rhodes
Rodino
Rostenkowski
Runnels
Santini
Stewart
Treen
Whitten
Wilson, Tex.
Wyatt
Wydler
Yates

☐ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Emery for, with Mr. McCloskey against.

Mrs. Holt for, with Mr. Wydler against.

Messrs. GOLDWATER, VENTO, ANNUNZIO, BIAGGI, MARRIOTT, MITCHELL of New York, and SAWYER changed their votes from "aye" to "no."

Mrs. FENWICK, Messrs. McDONALD, EARLY, MITCHELL of Maryland, STACK, PHILLIP BURTON, DERWINSKI, and WILLIAMS of Ohio changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, last week and again this week we have been witness to the courageous work of my colleague from Pennsylvania (Mr. Edgar). The efforts of our colleague, Mr. Edgar, are perhaps not popular here in the House, and the kind of things he is trying to do, but I simply wanted to rise as one Member of the House to pay my respects to him for the job he has done.

☐ 1510

It is difficult to do what he is trying to do. He has not been entirely successful, but I think that is not altogether the most important thing here. Back in Pennsylvania in our own State our own people are aware of the job he has done. I think he has raised some very legitimate questions about these projects. While I do not serve on the committee itself, and while I certainly do not question the intentions of the members who do, I think it is important that these questions be raised. He is representing the taxpayers. Not only is he representing the taxpayers of his own district, I think he is representing the taxpayers of all 435 districts in this country in raising very serious questions about these projects. I simply wanted to commend him. I wish that more people, including myself, could have been with him here on the floor during his lonely days to engage in the struggle with him. But I support him. I am proud of him and proud to be associated with him. I think he has done a good job.

Mr. CLAUSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of engaging in a colloquy with my friend, the gentleman from Alaska (Mr. Young), to develop some legislative history as relates to section 404. Section 32 of the Water Resources Development Act of 1974, established a national streambank erosion evaluation and control program so that new methods and techniques for bank protection in varying types of conditions could be developed. The Congress, therefore, recognized a number of serious streambank erosion problems. I recognize however that no such demonstration projects have been conducted under Arctic conditions.

Mr. YOUNG of Alaska. Will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. The distinguished gentleman from California is absolutely correct. In Bethel, Alaska, for example, there is a serious problem with streambank erosion from the Kuskokwim River. The unique conditions in the Arctic environment would enable the Corps of Engineers to obtain additional knowledge with respect to streambank erosion in extremely harsh environments. The information gathered by the corps would hopefully provide additional insight for streambank erosion control.

Mr. CLAUSEN. I thank the gentleman for his comments and I agree with his analysis that the scope of these demonstration projects should include sites with unique conditions such as the one described at Bethel, Alaska. I would urge my colleagues to designate Bethel in the committee report as a site to be studied under this program.

I now yield to the Chairman, the gentleman from Texas (Mr. Roberts), to determine if he concurs with this colloquy.

Mr. ROBERTS. I thank the gentleman for yielding. I concur in the colloquy. If the gentleman would yield further, I would also like to make an announcement at this time. So far as we know on this side, there is only one further amendment to this bill, and we hope to have it completed within 30 minutes.

Mr. CLAUSEN. Mr. Chairman, I yield back the remainder of my time.

Mr. EDGAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full extent of my 5 minutes. I simply want to suggest in my revision of remarks that section 415 would provide for congressional veto of any rule or regulation promulgated under any law of the United States relating to Army water resources projects. Such rule or regulation would have to be submitted to the Congress and then could be made ineffective with the adoption of a concurrent resolution of disapproval by both Houses of Congress within 90 calendar days of continuous session or by the adoption of such resolution by one House within 60 such days, that is not then disapproved by the House within 30 such days.

The administration has advised that this provision is unconstitutional. I suggest, however, that there are other ways of assuring congressional oversight of such regulations. One method would be to revise the provision to require the submission of any such rule or regulation to the Congress for its review and thus its possible disapproval by enactment of appropriate legislation.

You may ask why is the existing provision unconstitutional?

It is my understanding that it violates the principle of Separation of Powers by denying the President the opportunity to exercise his necessary review and possible veto of legislation under article I. section 7, of the Constitution.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ertel: Page 185, after line 8, insert the following:

Sec. 443. (a) There is hereby established a Commission on Federal Water Policy, hereinafter referred to as the "Commission".

(b) The Commission shall investigate and study the water policy of the United States and submit to Congress no later than January 1, 1981, its recommendations for a comprehensive Federal water policy.

(c) The Commission shall consist of 29 members as follows:

(1) The Chairman and ranking minority Member of the following committees of the House of Representatives:

(A) Public Works and Transportation,
(B) Interior and Insular Affairs, and
(C) Agriculture.

(2) Two other Members of each of the committees referred to in paragraph (1), appointed by the Speaker.

(3) Three additional Members of the House of Representatives appointed by the Speaker.

(4) The Chairman and the ranking minority Member of the following committees of the Senate:

(A) Environment and Public Works, and
(B) Agriculture.

(5) Two other Members of each of the committees referred to in paragraph (4), appointed by the majority leader of the Senate.

(6) Six additional Members of the Senate appointed by the majority leader of the Senate.

(d) The two co-Chairmen of the Commission shall be appointed, one by the Speaker of the House of Representatives from among Members of the House of Representatives who are members of the Commission, and one by the majority leader of the Senate from among Members of the Senate who are members of the Commission.

(e) (1) The Commission, or on authorization of the Commission, any committee of two or more members may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

(2) The Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information which it deems necessary to carry out its functions under this section and each such department, agency or instrumentality shall furnish such information to the Commission upon request made by the co-Chairmen.

(f) Members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, and per diem in accordance with the Rules of the House of Representatives or subsistence and other necessary expenses incurred by them in performance of the duties vested in the Commission.

(g) The Commission is authorized to appoint and fix the compensation of such personnel as may be necessary to enable it to carry out its functions. Such personnel may be appointed without regard to provisions of law relating to appointments in the competitive services and may be paid without regard to provisions of law relating to classification and General Schedule pay rates, except that no employee shall receive compensation in an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code.

(h) The Speaker and the majority leader of the Senate shall provide such office space as the Commission may require.

(i) Any vacancy in the Commission shall be filled in the same manner as was the office originally.

(j) There is authorized to be paid out of the contingent fund of the House of Representatives, on vounchers approved by the Committee on House Administration of the House of Representatives not to exceed $200,000 to carry out this section.

Mr. ERTEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. EDGAR. Reserving the right to object, will the gentleman in the well assure us that he will explain the full content of the amendment?

Mr. ERTEL. If the gentleman will yield, yes, I anticipate doing so.

Mr. EDGAR. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ERTEL. Mr. Chairman, I rise in support of my amendment.

The debate on H.R. 4788 has focused attention on the need to reform and standardize the procedures by which Congress authorizes, funds, and oversees the construction of the Nation's water projects.

Take, for example, project authorization. We hear arguments favoring the two-step authorization for reasons of close congressional scrutiny. Certainly, this is a very good point. On the other hand, we hear arguments favoring the one-step authorization. Proponents of the one-step authorization note that close congressional scrutiny of water projects already is provided by the annual appropriations process, and that the two-step authorization is time consuming, thereby adding unnecessarily to total project cost. These, too, are very good points.

Let me make it clear that the issue of a one-step or a two-step authorization is not the only question facing us. There are valid questions on project cost sharing, the procedures for deauthorization, cost ceilings, and independent review of projects, to name some.

My distinguished committee and subcommittee chairmen and ranking members have noted, and properly so, that the Committee on Public Works and Transportation alone does not have jurisdiction over Federal water policy or the procedures under which Congress evaluates and authorizes water projects. In the House, at least two other committees are involved. In the Senate, two committees share jurisdiction.

My amendment is simple and inexpensive. It creates a commission of Members of the House and Senate to make recommendations for a standardized congressional approach for water project authorization and for the promulgation of comprehensive Federal water policy reform. While those committees now having jurisdiction over Federal water policy would be represented on the commission, the commission's membership would not be exclusive. Other Members of the House and Senate could be placed on the commission by the Speaker or majority leader.

Members of the House and Senate would not receive any additional compensation above their congressional salaries for serving on the commission. The amendment does provide $200,000 from the House contingency fund for unforeseen expenses, most likely clerical support. I do, however, envision the commission where possible to draw from the existing committee staffs.

In short, my amendment embodies the same concept as the Speaker's Energy Task Force in 1977 which took up the National Energy Act. The primary difference is that my amendment would bring the Senate into the process.

I think this is a step the House and Senate have to take and I urge your support.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

The minority is prepared to accept the gentleman's amendment. I do want to add also that the gentleman has not only presented the minority with a copy of the amendment but has worked very closely with both the majority and the minority in developing what I think is a very important amendment. Hopefully, it will help the congressional process address the whole concept of methodology for evaluating a project according to certain criteria. This has been long overdue. I compliment the gentleman for his amendment.

Mr. ERTEL. I thank the gentleman.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I will be happy to yield to the gentleman from Texas.

Mr. ROBERTS. I thank the gentleman for yielding. The gentleman provided us with an amendment and an explanation thereof. I think it is an excellent amendment. It goes a long way to setting water policy that some of the people have been talking about, giving the Congress a chance to participate, and this side is happy to accept the amendment.

□ 1520

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I will be happy to yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I want to compliment the committee on the efforts they have made on this legislation and I rise in support of it.

Mr. Chairman, I would like to commend the distinguished chairman and ranking minority member of the Committee on Public Works and Transportation, Mr. JOHNSON and Mr. HARSHA, and also the chairman and the ranking minority member of the Subcommittee on Water Resources, Mr. ROBERTS and Mr. CLAUSEN, for their hard work and diligent efforts in bringing to the floor a sound bill that will benefit millions of Americans and American homeowners all across this country and particularly help save lives and property in western New York.

In particular, I appreciate the support these Members along with their staff have given me in bringing about the final authorization of two projects in my community, the Cazenovia Creek flood control project and the Ellicott Creek flood control project. Both of these projects are badly needed to prevent devastating flooding that occurs virtually every year because of the severe Buffalo winters. Damage to property since these projects were first initiated has by now run into the millions of dollars, and the threat to personal safety and health as well as private property is severe every spring.

The Cazenovia Creek project is located principally in West Seneca, N.Y., and encompasses 144 square miles of watershed, the basin extending over Erie and small portions of Genesee and Wyoming counties. The purpose of the project is to prevent flooding in the watershed area, principally in West Seneca and portions of the city of Buffalo. The project will consist of cleaning debris from the channel, straightening that channel, and constructing an ice retaining, concrete gravity dam and ice boom structure. The total estimated Federal cost is $1,670,000, with a local contribution of $330,000, and the benefit-cost ratio is a healthy 1.8 to 1.

The Ellicott Creek project authorization contained in this bill modifies the project for Sandridge Dam and Reservoir at the request of local residents who were concerned about the preservation of valuable farmland, and authorizes the construction of a combination of channel enlargement work and diversion channels in lieu of the authorized multiple-purpose reservoir. Flooding on Ellicott Creek is caused by melting snow and moderate rains in the late winter and early spring, and damages urban properties in Williamsville, Amherst, and Tonawanda, and rural properties in the upstream reaches of these areas. Thirty-four alternative solutions to this flooding problem have been examined, and the diversion channel solution proved to be the most able to solve the Ellicott Basin's needs. The total estimated Federal cost of this project is $13,200,000 with a local contribution of $2,800,000. It also has a very favorable benefit-cost ratio of 1.6 to 1.

Mr. Chairman, the people of my district have waited many long years for the final go-ahead on these projects from the Federal Government. I urge my colleagues to support this bill so that these critical projects do not face any more delays, and so that the people of western New York can look forward to relief from the constant threat of flooding along Cazenovia and Ellicott Creeks.

Mr. ERTEL. Mr. Chairman, I yield back the balance of my time.

Mr. EDGAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take the well at this time to support the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

Mr. Chairman, the proposal for a review of Federal water resources policy made by the gentleman from Pennsylvania (Mr. ERTEL) is a constructive one, but I believe it is extremely important to put it in proper context.

First, I suggest that the need for a better water resource policy has very little to do with inadequate study. In fact, comprehensive studies of national water resource policy have been carried out in this country for decades on the average of one about every 4 years. These include: First Hoover Commission (1947), Cooke Commission (1950), Advisory Committee on Water Resources Policy

(1954), Hoover Commission (1954), Senate Select Committee on National Resources (1959), National Water Commission (1973), National Water Quality Commission (1976), and the section 80 study (1976).

Many of them, like the report of the National Water Commission, have yielded valuable recommendations. Some of them like more realistic cost sharing, improved project review, improved fish and wildlife mitigation, ground-water management, and more realistic pricing policies have been repeated time and again.

What is missing clearly is action on such reviews by any President or Congress.

President Carter was criticized after his "hit list" objections to water projects in 1977 for having an inadequate policy base, and he responded by conducting the most thorough review of Federal water policy in many years. His review took almost 2 years, and included a nationwide program of State, interest group, and public participation.

At the end of that process, he did something no other President has ever done before. He adopted a comprehensive water policy, and sent it to us in detail on June 6, 1978. He made it clear how and why he would carry out Executive responsibilities on water development, and made a series of proposals for Congress to consider on water planning. on the evaluation of projects, the Water Resources Council, cost sharing, and other key issues—many raised in the debate on this bill.

Substantial progress in implementing the President's policy has been made in the executive branch, but very little has been done on the congressional proposals. Whether this is our fault or the administration's is debatable, but it is clear to me that we should promptly address the issues the President has raised, and if we do not like his policy, let us at least frame one of our own, rather than simply defend a traditional system that has defects which have been identified time and again.

I believe we should take the initiative. The efforts made in this debate gave us a chance to do so which the members refused to take. If we are to undertake our own policy review, let us look at what the President has done and incorporate it, and the past efforts of similar studies in our efforts. For this reason, I am inserting in the RECORD, at the proper time, the message of President Carter to Congress on water policy, and a series of other documents which make clear how much effort has already gone into this subject.

I commend the gentleman from Pennsylvania for his suggestion that we in Congress take that policy and other recommendations of the many reports seriously.

Mr. Chairman, I include here a copy of the President's message to Congress, dated June 6, 1978, on the subject of water policy initiatives, followed by a news release of the National Taxpayers Union of today's date. The material follows:

THE WHITE HOUSE,
June 6, 1978.

To the Congress of the United States:

I am today sending to Congress water policy initiatives designed to;

Improve planning and efficient management of Federal water resource programs to prevent waste and to permit necessary water projects which are cost-effective, safe and environmentally sound to move forward expeditiously;

Provide a new, national emphasis on water conservation;

Enhance Federal-State cooperation and improved State water resources planning; and

Increase attention to environmental quality.

None of the initiatives would impose any new federal regulatory program for water management.

Last year, I directed the Water Resources Council, the Office of Management and Budget and the Council on Environmental Quality, under the chairmanship of Secretary Cecil Andrus, to make a comprehensive review of Federal water policy and to recommend proposed reforms.

This new water policy results from their review, the study of water policy ordered by the Congress in Section 80 of the Water Resources Planning Act of 1974 and our extensive consultations with members of Congress, State, county, city and other local officials and the public.

Water is an essential resource, and over the years the programs of the Bureau of Reclamation, the Corps of Engineers, the Soil Conservation Service and the Tennessee Valley Authority have helped permit a dramatic improvement in American agriculture, have provided irrigation water essential to the development of the West, and have developed community flood protection, electric power, navigation and recreation throughout the Nation.

I ordered this review of water policies and programs because of my concern that while Federal resources programs have been of great benefit to our Nation, they are today plagued with problems and inefficiencies. In the course of this water policy review we found that:

Twenty-five separate Federal agencies spend more than $10 billion per year on water resources projects and related programs.

These projects often are planned without a uniform, standard basis for estimating benefits and costs.

States are primarily responsible for water policy within their boundaries, yet are not integrally involved in setting priorities and sharing in Federal project planning and funding.

There is a $34 billion backlog of authorized or uncompleted projects.

Some water projects are unsafe or environmentally unwise and have caused losses of natural streams and rivers, fish and wildlife habitat and recreational opportunities.

The study also found that water conservation has not been addressed at a national level even though we have pressing water supply problems. Of 106 watershed subregions in the country, 21 already have severe water shortages. By the year 2000 this number could increase to 39 subregions. The Nation's cities are also beginning to experience water shortage problems which can only be solved at very high cost. In some areas, precious groundwater supplies are also being depleted at a faster rate than they are replenished. In many cases an effective water conservation program could play a key role in alleviating these problems.

These water policy initiatives will make the Federal government's water programs more efficient and responsive in meeting the Nation's water-related needs. They are designed to build on fundamentally sound statutes and on the Principles and Standards which govern the planning and development of Federal water projects, and also to enhance the role of the States, where the primary responsibilities for water policy must lie. For the first time, the Federal government will work with State and local governments and exert needed national leadership in the effort to conserve water. Above all, these policy reforms will encourage water projects which are economically and environmentally sound and will avoid projects which are wasteful or which benefit a few at the expense of many.

Across the Nation there is remarkable diversity in the role water plays. Over most of the West, water is scarce and must be managed carefully—and detailed traditions and laws have grown up to govern the use of water. In other parts of the country, flooding is more of a problem than drought, and in many areas, plentiful water resources have offered opportunities for hydroelectric power and navigation. In the urban areas of our Nation, water supply systems are the major concern—particularly where antiquated systems need rehabilitation in order to conserve water and assure continued economic growth.

Everywhere, water is fundamental to environmental quality. Clean drinking water, recreation, wildlife and beautiful natural areas depend on protection of our water resources.

Given this diversity, Federal water policy cannot attempt to prescribe water use patterns for the country. Nor should the Federal government preempt the primary responsibility of the States for water management and allocation. For those reasons, these water policy reforms will not preempt State or local water responsibilities. Yet water policy is an important national concern, and the Federal government has major responsibilities to exercise leadership, to protect the environment and to develop and maintain hydroelectric power, irrigated agriculture, flood control and navigation.

The primary focus of the proposals is on the water resources programs of the Corps of Engineers, the Bureau of Reclamation, the Soil Conservation Service and the Tennessee Valley Authority, where annual water program budgets total approximately $3.75 billion. These agencies perform the federal government's water resource development programs. In addition, a number of Federal agencies with water-related responsibilities will be affected by this water policy.

I am charging Secretary Andrus with the lead responsibility to see that these initiatives are carried out promptly and fully. With the assistance of the Office of Management and Budget and the Council on Environmental Quality, he will be responsible for working with the other Federal agencies, the Congress, State and local governments and the public to assure proper implementation of this policy and to make appropriate recommendations for reform in the future.

SPECIFIC INITIATIVES IMPROVING FEDERAL WATER RESOURCE PROGRAMS

The Federal government has played a vital role in developing the water resources of the United States. It is essential that Federal water programs be updated and better coordinated if they are to continue to serve the nation in the best way possible. The reforms I am proposing are designed to modernize and improve the coordination of federal water programs. In addition, in a few days, I will also be sending to the Congress a Budget amendment proposing funding for a number of new water project construction and planning starts. These projects meet the criteria I am announcing today. This is the first time the Executive Branch has proposed new water project starts since Fiscal Year 1975, four years ago.

The actions I am taking include:

A directive to the Water Resources Council to improve the implementation of the Principles and Standards governing the planning of Federal water projects. The basic planning objectives of the Principles and Standards—national economic development and environmental quality—should be retained and given equal emphasis. In addition, the implementation of the Principles and Standards should be improved by:

adding water conservation as a specific component of both the economic and environmental objectives;

requiring the explicit formulation and consideration of a primarily non-structural plan as one alternative whenever structural water projects or programs are planned;

instituting consistent, specific procedures for calculating benefits and costs in compliance with the Principles and Standards and other applicable planning and evaluation requirements. Benefit-cost analyses have not been uniformly applied by Federal agencies, and in some cases benefits have been improperly recognized, "double-counted" or included when inconsistent with federal policy or sound economic rationale. I am directing the Water Resources Council to prepare within 12 months a manual which ensures that benefits and costs are calculated using the best techniques and provides for consistent application of the Principles and Standards and other requirements;

Ensuring that water projects have been planned in accordance with the Principles and Standards and other planning requirements by creating, by Executive Order, a project review function located in the Water Resources Council. A professional staff will ensure an impartial review of pre-construction project plans for their consistency with established planning and benefit-cost analysis procedures and applicable requirements. They will report on compliance with these requirements to agency heads, who will include their report, together with the agency recommendations, to the Office of Management and Budget. Project reviews will be completed within 60 days, before the Cabinet officer makes his or her Budget request for the coming fiscal year. Responsibility will rest with the Cabinet officer for Budget requests to the Office of Management and Budget, but timely independent review will be provided. This review must be completed within the same budget cycle in which the Cabinet Officer intends to make Budget requests so that the process results in no delay.

The manual, the Principles and Standards requirements and the independent review process will apply to all authorized projects (and separable project features) not yet under construction.

Establishment of the following criteria for setting priorities each year among the water projects eligible for funding or authorization, which will form the basis of my decisions on specific water projects:

Projects should have net national economic benefits unless there are environmental benefits which clearly more than compensate for any economic deficit. Net adverse environmental consequences should be significantly outweighed by economic benefits. Generally, projects with higher benefit/cost ratios and fewer adverse environmental consequences will be given priority within the limits of available funds.

Projects should have widely distributed benefits.

Projects should stress water conservation and appropriate non-structural measures.

Projects should have no significant safety problems involving design, construction or operation.

There should be evidence of active public support including support by State and local officials.

Projects will be given expedited consideration where State governments assume a share of costs over and above existing cost-sharing.

There should be no significant international or inter-governmental problems.

Where vendible outputs are involved preference should be given to projects which provide for greater recovery of Federal and State costs, consistent with projects purposes.

The project's problem assessment, environmental impacts, costs and benefits should be based on up-to-date conditions (planning should not be obsolete).

Projects should be in compliance with all relevant environmental statutes.

Funding for mitigation of fish and wildlife damages should be provided concurrently and proportionately with construction funding.

Preparation of a legislative proposal for improving cost-sharing for water projects. Improved cost-sharing will allow States to participate more actively in project decisions and will remove biases in the existing system against non-structural flood control measures. These changes will help assure project merit. This proposal, based on the study required by Section 80 of P.L. 93-251, has two parts:

Participation of States in the financing of federal water project construction. For project purposes with vendible outputs (such as water supply or hydroelectric power), States would contribute 10 percent of the costs, proportionate to and phased with federal appropriations. Revenues would be returned to the States proportionate to their contribution. For project purposes without vendible outputs (such as flood control), the State financing share would be 5 percent. There would be a cap on State participation per project per year of ¼ of 1 percent of the State's general revenues so that a small State would not be precluded from having a very large project located in it. Where project benefits accrue to more than one State, State contributions would be calculated accordingly, but if a benefiting State did not choose to participate in cost-sharing, its share could be paid by other participating States. This State cost-sharing proposal would apply on a mandatory basis to projects not yet authorized. However, for projects in the authorized backlog, States which voluntarily enter into these cost-sharing arrangements will achieve expedited Executive Branch consideration and priority for project funding, as long as other project planning requirements are met. Soil Conservation Service projects will be completely exempt from this State cost-sharing proposal.

Equalizing cost-sharing for structural and non-structural flood control alternatives. There is existing authority for 80-20 percent Federal/non-Federal cost-sharing for non-structural flood control measures (including in-kind contributions such as land and easements). I will begin approving non-structural flood control projects with this funding arrangement and will propose that a parallel cost-sharing requirement (including in-kind contributions) be enacted for structural flood control measures, which currently have a multiplicity of cost-sharing rules.

Another policy issue raised in Section 80 of P.L. 93-251 is that of the appropriate discount rate for computing the present value of future estimated economic benefits of water projects. After careful consideration of a range of options I have decided that the currently legislated discount rate formula is reasonable, and I am therefore recommending that no change be made in the current formula. Nor will I recommend retroactive changes in the discount rate for currently authorized projects.

WATER CONSERVATION

Managing our vital water resources depends on a balance of supply, demand and wise use. Using water more efficiently is often cheaper and less damaging to the environment than developing additional supplies. While increases in supply will still be necessary, these reforms place emphasis on water conservation and make clear that this is now a national priority.

In addition to adding the consideration of water conservation to the Principles and Standards, the initiatives I am taking include:

Directives to all Federal agencies with programs which affect water supply or consumption to encourage water conservation, including:

Making appropriate community water conservation measures a condition of the water supply and wastewater treatment grant and loan programs of the Environmental Protection Agency, the Department of Agriculture and the Department of Commerce;

Integrating water conservation requirements into the housing assistance programs of the Department of Housing and Urban Development, the Veterans Administration and the Department of Agriculture;

Providing technical assistance to farmers and urban dwellers on how to conserve water through existing programs of the Department of Agriculture, the Department of Interior and the Department of Housing and Urban Development;

Requiring development of water conservation programs as a condition of contracts for storage or delivery of municipal and industrial water supplies from federal projects;

Requiring the General Services Administration, in consultation with affected agencies, to establish water conservation goals and standards in Federal buildings and facilities;

Encouraging water conservation in the agricultural assistance programs of the Department of Agriculture and the Department of Interior which affect water consumption in water-short areas; and

Requesting all Federal agencies to examine their programs and policies so that they can implement appropriate measures to increase water conservation and re-use.

A directive to the Secretary of the Interior to improve the implementation of irrigation repayment and water service contract procedures under existing authorities of the Bureau of Reclamation. The Secretary will:

Require that new and renegotiated contracts include provisions for recalculation and renegotiation of water rates every five years. This will replace the previous practice of 40-year contracts which often do not reflect inflation and thus do not meet the beneficiaries' repayment obligations;

Under existing authority add provisions to recover operation and maintenance costs when existing contracts are renegotiated, or earlier where existing contracts have adjustment clauses;

More precisely calculate and implement the "ability to pay" provision in existing law which governs recovery of a portion of project capital costs.

Preparation of legislation to allow States the option of requiring higher prices for municipal and industrial water supplies from Federal projects in order to promote conservation, provided that State revenues in excess of Federal costs would be returned to municipalities or other public water supply entities for use in water conservation or rehabilitation of water supply systems.

FEDERAL-STATE COOPERATION

States must be the focal point for water resource management. The water reforms are based on this guiding principle. Therefore, I am taking several initiatives to strengthen Federal-State relations in the water policy area and to develop a new, creative partnership. In addition to proposing that States increase their roles and responsibilities in water resources development through cost-sharing, the actions I am taking include:

Proposing a substantial increase from $3 million to $25 million annually in the funding of State water planning under the existing 50%–50% matching program administered by the Water Resources Council, State water planning would integrate water management and implementation programs which emphasize water conservation and which are tailored to each State's needs including assessment of water delivery system rehabilitation needs and development of programs to protect and manage groundwater and instream flows.

Preparation of legislation to provide $25 million annually in 50%–50% matching grant assistance to States to implement water conservation technical assistance programs. These funds could be passed through to counties and cities for use in urban or rural water conservation programs. This program will be administered by the Water Resources Council in conjunction with matching grants for water resources planning.

Working with Governors to create a Task Force of Federal, State, county, city and other local officials to continue to address water-related problems. The administrative actions and legislative proposals in this Message are designed to initiate sound water management policy at the national level. However, the Federal government must work closely with the States, and with local governments as well, to continue identifying and examining water-related problems and to help implement the initiatives I am announcing today. This Task Force will be a continuing guide as we implement the water policy reforms and will ensure that the State and local role in our Nation's water policy is constant and meaningful.

An instruction to Federal agencies to work promptly and expeditiously to inventory and quantify Federal reserved and Indian water rights. In several areas of the country, States have been unable to allocate water because these rights have not been determined. This quanitification effort should focus first on high priority areas, should involve close consultation with the States and water users and should emphasize negotiations rather than litigation wherever possible.

ENVIRONMENTAL PROTECTION

Water is a basic requirement for human survival, is necessary for economic growth and prosperity, and is fundamental to protecting the natural environment. Existing environmental statutes relating to water and water projects generally are adequate, but these laws must be consistently applied and effectively enforced to achieve their purposes. Sensitivity to environmental protection must be an important aspect of all water-related planning and management decisions. I am particularly concerned about the need to improve the protection of instream flows and to evolve careful management of our nation's previous groundwater supplies, which are threatened by depletion and contamination.

My initiatives in this area include the following:

A directive to the Secretary of the Interior and other Federal agency heads to implement vigorously the Fish and Wildlife Coordination Act, the Historic Preservation Act and other environmental statutes. Federal agencies will prepare formal implementing procedures for the Fish and Wildlife Coordination Act and other statutes where appropriate. Affected agencies will prepare reports on compliance with environmental statutes on a project-by-project basis for inclusion in annual submissions to the Office of Management and Budget.

A directive to agency heads requiring them to include designated funds for environmental mitigation in water project appropriation requests to provide for concurrent and proportionate expenditure of mitigation funds.

Accelerated implementation of Executive Order No. 11988 on floodplain management. This Order requires agencies to protect floodplains and to reduce risks of flood losses by not conducting, supporting or allowing actions in floodplains unless there are no practicable alternatives. Agency implementation is behind schedule and must be expedited.

A directive to the Secretaries of Army, Commerce, Housing and Urban Development and Interior to help reduce flood damages through acquisition of flood-prone land and property, where consistent with primary program purposes.

A directive to the Secretary of Agriculture to encourage more effective soil and water conservation through watershed programs of the Soil Conservation Service by:

Working with the Fish and Wildlife Service to apply fully the recently-adopted stream channel modification guidelines;

Encouraging accelerated land treatment measures prior to funding of structural measures on watershed projects, and making appropriate land treatment measures eligible for Federal cost-sharing;

Establishing periodic post-project monitoring to ensure implementation of land treatment and operation and maintenance activities specified in the work plan and to provide information helpful in improving the design of future projects.

A directive to Federal agency heads to provide increased cooperation with States and leadership in maintaining instream flows and protecting groundwater through joint assessment of needs, increased assistance in the gathering and sharing of data, appropriate design and operation of Federal water facilities, and other means. I also call upon the Governors and the Congress to work with Federal agencies to protect the fish and wildlife and other values associated with adequate instream flows. New and existing projects should be planned and operated to protect instream flows, consistent with State law and in close consultation with States. Where prior commitments and economic feasibility permit, amendments to authorizing statutes should be sought in order to provide for streamflow maintenance.

CONCLUSION

These initiatives establish the goals and the framework for water policy reform. They do so without impinging on the rights of States and by calling for a closer partnership among the Federal, State, county, city and other local levels of government. I want to work with the Congress, State and local governments and the public to implement this policy. Together we can protect and manage our nation's water resources, putting water to use for society's benefit, preserving our rivers and streams for future generations of Americans, and averting critical water shortages in the future through adequate supply, conservation and wise planning.

JIMMY CARTER.

THE WHITE HOUSE, *June 6, 1978*.

MEMBER'S EMPTY PROMISES OF FISCAL RESTRAINT EXPOSED BY DECADE'S MOST EXPENSIVE RIVERS AND HARBORS BILL

According to the National Taxpayers Union, the Washington based lobbying organization representing the taxpayer, "The proposed Water Resources Development Act, H.R. 4788, is fiscally irresponsible and contradicts all of our efforts to cut the waste out of government expenditures and balance the federal budget."

H.R. 4788 is scheduled for final debate in the House of Representatives on Tuesday, February 5. The bill authorizes over 100 Corps of Engineer water development projects, including many which are needed to meet regional navigation, flood control, and water supply needs. Also included in this bill are projects which are not a high national priority and, in fact, would, if passed, represent the irresponsible use and mismanagement of the taxpayer's money.

David Keating, Director of Legislative Policy for NTU, remarked, "It is ironic that some of the bill's staunchest support comes from those who have continually advocated cutting government spending and balancing the budget. The very members who are getting large chunks of money from this bill are also those who make statements to their constituency on cutting government spending down to the bone."

More than 50 projects in this bill are being authorized with insufficient data and review. The results of this type of authorization are clearly evident, as the bill also provides for more than 27 projects, totalling more than $86 million, which correct a problem caused by an already constructed Corps project. According to the Corps of Engineers, H.R. 4788 authorizes five projects which will return less than a dollar in benefits for every taxpayer dollar spent on the project. Congressmen may be able to swallow these costly authorizations, but the National Taxpayer's Union feels they have bitten off more than the taxpayer can chew.

Congressman Wes Watkins (D-OK) supports the Parker Lake project in his district which the bill authorizes without a concurrent plan for the mitigation of fish and wildlife losses. By doing so, Congress would be authorizing the project without knowing its full costs. Congressman Watkins, though, reported to his constituents in a recent release:

"Since being elected to Congress, I have consistently worked for sound spending policies and the wise use of our taxpayer's dollars . . . I will continue to do whatever I can at every opportunity to bring federal expenditures in line."

Congressman William Harsha (R–OH) who has three objectionable projects in the bill, totalling more than $252 million, has spoken in favor of the bill numerous times, including one discourse in support of a marina construction on Lake Texoma, Texas, costing a "measly $300,000." He is also sponsoring an amendment to balance the federal budget and berates other congressmen who do not follow suit. In a release dated March 17, 1979, Congressman Harsha says:

"For far too many years, those of us who have favored bringing spending in line with revenues have been outnumbered by a majority in Congress who voted for every conceivable spending program and against the taxes necessary to finance them."

The Corps of Engineers has not completed even the most meager level of evaluation, the district engineer's report, for a project in Harlan County, Nebraska, costing more than $4.8 million, yet Congresswoman Virginia Smith (R–NE) strongly supports the project. In Mrs. Smith's January 8, 1980 news release, she states:

"Priorities for the Congress when it reconvenes later this month include a reduction in taxes and a reduction in government spending."

Congressman Leon Panetta (D–CA) has two projects in his district which the Army objects to because final reports are not complete. This type of authorization has proved to be ineffective in the past due to the stifling effect on the planning process. But Mr. Panetta, in a December 4, 1979 newsletter, criticizes Congressional spending saying:

"Despite the overwhelming support of the American public for a balanced federal budget and the need for fiscal restraint, the Congress has continued to give little more than lip-service to these important goals . . . the only way we will ever reform the spending habits of this Congress, is by forcing committees to go back and look at those programs that are already on the books—making changes where they are needed and eliminating programs which have proven to be wasteful and ineffective."

NTU feels that although it is a good exercise to examine programs that are already on the books, the place to start with sound spending policy is at the authorizing level.

These examples are just a few of the many projects which illustrate the irresponsible use of the taxpayer's money in H.R. 4788. There are many more cases. The National Taxpayer's Union is merely attempting to highlight representative instances of contradictory statements and actions.

Mr. FITHIAN. Mr. Chairman, I rise to support the proposal for increased congressional attention to water policy, but also to make certain that such an effort is intended to ask the hard questions, and having received answers, to make some fundamental changes in the way in which Congress deals with water problems.

Although Congress may not agree with all the results of water policy studies which have been done in the past, the fact is that much work has been done, and many good ideas have been produced.

President Carter has made water policy a major effort of his administration, and has submitted to Congress a comprehensive proposal which represents his thinking. He is the first President in many years to do so, and our response should be something more than a promise of further study while we do business as before. The efforts of the President are well and objectively set out in an article in the National Journal of March 10, 1979, which I will seek permission to insert in the RECORD at the appropriate time.

My point is this: We have heard many times in this debate that, regarding water development, Congress has the prerogative. I would go further; I believe we have the responsibility to make progressive changes in water policy.

No one likes to fight out broad policy issues in the context of a bill authorizing or funding the project of individual Members or the veto of a bill with all the traditional problems. But until Congress responds to the ideas the administration has put on the table or creates some new ones of its own, such confrontations are likely to continue.

[From the National Journal, Mar. 10, 1979]

Carter's Water Policy Reforms—Trying Not To Make Waves

(By Dick Kirschten)

President Carter once again is navigating in perilous waters. With the political shoals of 1980 drawing ever closer, he is trying to push ahead carefully with his water policy reforms.

In the last Congress, Carter plunged in boldly—some would say blindly—with his 1977 water projects "hit list" and almost found himself swept over the falls in a congressional pork barrel. Miraculously, the President emerged at the end of 1978 as a big winner when the House sustained his veto of a bloated water projects appropriations bill.

The bruises from that victory remain, however, and Carter appears to be trying to chart a safer course through the 96th Congress. His fiscal 1980 budget proposals for water resources spending have drawn fire from both reformers and defenders of the status quo—a sign that the President is somewhere in the middle of the channel.

The Administration also is showing little enthusiasm for crusades to reopen the fight over user fees on the inland waterways or to halt the massive Tennessee-Tombigbee Waterway project, which is under fierce legal attack by railroad and environmental interests but—perhaps more significantly—is just as fiercely being defended by senior southern legislators who wield considerable power in Congress.

Nor will Carter, in pushing his natural resources reorganization proposal, include a frontal attack on the cozy relationship that has existed between congressional sponsors of water projects and the federal agencies that design and build them.

Two key players in the multi-agency effort to implement Carter's water policy told National Journal, in separate interviews, that the Administration does not wish to get into any gratuitous new fights at this point. They hope to make some quiet progress without making too many waves. But even that won't be easy.

Eliot R. Cutler, an associate director of the Office of Management and Budget (OMB), said the Administration wants "to consolidate the strength" it showed in last year's veto victory and use it to get on with "the not-so-glamorous job of building some policy reforms into the system" for future federal water project decisions.

Assistant Interior Secretary Guy R. Martin, who is spearheading the implementation effort, stressed the importance of "living with" some of the past congressional decisions that are not to the Administration's liking rather than "resurrecting those battles that already have been lost."

Looking ahead, the Carter forces have three immediate objectives in this session of Congress: the defense of their 1980 water projects budget; passage of a state-federal cost-sharing bill designed to give the states some leverage in the selection of projects; and a quick infusion of funds for the Water Resources Council that Carter has tapped to set new project standards, review construction decisions and administer grant programs to promote state water conservation and planning efforts.

The cost-sharing bill—now being redrafted in light of objections by the states—faces a rough fight on its own. As for the Water Resources Council, it would have been wiped out last year if Carter had not prevailed with his veto. With many Members of Congress apparently still smarting over their failure to override that veto, Carter may find himself in hot water on all of these issues.

POLICY DEVELOPMENT

Last June, after a year-long study that originally was to have taken only six months, Carter sent Congress his promised message on new directions in national water policy. It was something less than the "comprehensive" master plan it had been billed as. The White House conceded that the message was only a beginning—"the initial stage of an important long-term effort." The President said he was offering "the goals and framework for water policy reform" that would have to be carried out in several stages.

But there was no mistaking the fact—as the Council of State Governments pointed out in a report last November—that Carter had bluntly challenged "traditional congressional domination in federal water policy decision making" and had questioned "congressional judgment in project selection." The fight was on.

"The basic issue raised by the President's initiatives," the council said, "is whether national water policy choices and program decisions should be made on the congressional appropriations battlefield or by the states, the Administration and Congress working together within the framework of some generally accepted principles and guidelines." The council clearly favors the latter approach.

Since June, 19 interagency task forces have been scrambling to find grounds for such general acceptance, not only among the states, the Administration and Congress, but within the sprawling 25-agency federal water bureaucracy as well. The task has not been easy.

Carter's water policy has three major goals: to avoid wasteful or low-benefit water projects; to promote water conservation; and to bring the state governments into financial partnership through a state-federal cost-sharing scheme for future water projects.

To halt economically or environmentally unsound projects, Carter wants better federal planning. He has ordered the Water Resources Council to develop a new procedural manual to bring uniformity, consistency and accuracy to the previously suspect cost-benefit calculations that federal agencies have relied on to justify projects sought by Congress. The manual is to be in force by July, if all goes well.

As a further curb on extravagant projects, Carter wants Congress to face up to the total cost of each new project at the outset—not just the sum needed to get it started. He wants Congress to appropriate the entire amount needed to complete each project at the time it approves its construction.

To promote more efficient use of water, a variety of educational and research steps have been taken, including a Housing and Urban Development Department study of water-saving plumbing code revisions.

Water pricing is another key to the Carter strategy, not only to discourage unnecessary consumption but also to recover the costs of building and operating projects. A "conservation pricing" bill that would allow higher-than-cost fees to discourage excess municipal and industrial consumption of water from federal projects is to be sent to Capitol Hill later this year.

To bring the states into the financing—as well as the selection—of water projects, Carter has proposed that no new project be approved unless a state has agreed to put up a set percentage of the total cost. In each year of construction, the state would have to pay its share of that year's costs in advance, and in cash. Where a project produces revenue, the state would share the take with the federal government in proportion to its contributions.

BUDGET PROPOSALS

Carter gave everybody something to howl about with his 1980 budget proposal for water resources. In terms of new budget authority, he proposed giving the federal water agencies a whopping 16.5 per cent increase. But in terms of outlays—the money to be spent in the coming year—the proposed increase was only 2 per cent, or far less than the rate of inflation. Included were 26 proposed new water projects, costing an estimated $578 million to complete.

Perhaps the loudest howls came from the President's nominal allies in the water policy reform fight. One environmental organization—the Environmental Policy Center—fired off a press release that attacked two of the new projects, objected to continued spending on several older ones, including Tennessee-Tombigbee, and charged that "the Administration has abandoned its full-funding principle" with respect to a Mississippi River lock and dam that was at the center of last year's hassle over waterway users' fees.

Twelve House Members who supported Carter's 1978 veto wrote to the President on Feb. 5 to echo the criticisms of the environmentalists and to say that they were "greatly disappointed" with Carter's failure to "follow through" on his own policy initiatives.

On the very same day, however, a Carter emissary was being bombarded with complaints about a different aspect of the water resources budget at a meeting of the House Appropriations Subcommittee on Public Works. W. Bowman Cutter, OMB's executive associate director for budget, was informed in no uncertain terms that the subcommittee viewed the Carter policy as an executive power grab.

Rep. Virginia Smith, R-Neb., told Cutter that Congress is "not about to give up our stewardship" over water projects. And Rep. John T. Myers, R-Ind., said Congress would not act as "a rubber stamp" for the President's project preferences. The subcommittee and its staff are openly opposed to the full-funding proposal because it takes away their power to control the pace of construction. Once Congress appropriates the full project cost, OMB assumes control over the amount to be spent each year and, in theory, could choke off a project it did not favor. Subcommittee chairman Tom Bevill, D-Ala., also challenged the Administration's estimates of the costs of its proposed projects. "You'll come up short," he told Cutter.

A week later, OMB's Eliot Cutler was taken to task at a White House luncheon by Reps. Berkley Bedell, D-Iowa, and Robert W. Edgar, D-Pa., who took the other side of the full-funding argument. They wanted to know why Carter included only $20 million in his budget to begin construction of a new Lock and Dam 26 on the Mississippi River near Alton, Ill. The full cost of the structure—which would replace the aging locks that have become a bottleneck for the river's barge operators—is $491 million, according to the Army Corps of Engineers' latest estimate.

Bedell and Edgar, no friends of the project, said Carter should have asked Congress to appropriate the entire sum needed to complete the facility. Although it would not affect the level of annual outlays, such a large appropriation, when added to the cost of other desired water projects, might put Congress, sensitive as it is to demands for reduced federal spending, in a bind.

That is just what environmentalists who generally deplore water projects would like to see. Brent Blackwelder of the Environmental Policy Center angrily denounced the Administration for treating Lock and Dam 26 as an incomplete, rather than a new, project. As Blackwelder argued in a press release, a full appropriation for the project "would virtually have precluded funding any other new starts."

In a Jan. 24 letter to OMB director James T. McIntyre Jr., Blackwelder pointed out that "this project was not even authorized until October 1978, and . . . not a spade of dirt has been lifted." In an interview, the environmental lobbyist said the Administration was backing down from its own idea "of forcing Congress to bite the bullet and accept the entire price tag if it wants to go ahead with a project."

At his Feb. 13 lunch with Bedell and Edgar, Cutler explained that OMB, as well as the congressional Appropriations Committees, view Lock and Dam 26 as an old project even though it has not yet been authorized. Congress voted funds in 1974 to begin land acquisition for the new facility, and some of that money was spent. In the bookkeeping for water projects, Cutler said, land acquisition is listed as a contruction cost.

Bedell and Edgar told National Journal in interviews that they were partially satisfied by Cutler's explanation but intend to pursue the subject. They are among those who wish that Carter had vetoed the compromise struck last year by Congress on user fees for barge operators. Lock and Dam 26 had been held hostage by advocates of a user fee and its authorization was approved only when Congress and Carter accepted a tax on the fuel used by barge operators in lieu of a fee for the use of federal navigational facilities.

The compromise, fashioned by Sen. Russell B. Long, D-La., calls for a phased fuel tax, starting at 4 cents a gallon in 1980 and rising to a maximum of 10 cents by 1985, that goes into a trust fund that can be used only for new construction. The final outcome was a far cry from the original proposal, vigorously pushed by Sen. Pete C. Domenici, R-N.M., that would have imposed a system of user fees to recoup all inland waterway maintenance costs and half of any new construction.

Bedell was one of the leading House proponents of the Domenici bill, which originally had Carter's strong backing. The Iowa Democrat was sorely disappointed by the Administration's failure to insist on a tougher measure to reduce the subsidy enjoyed by the barge industry. He cited a 1977 Congressional Budget Office report that federal subsidies equal about 42 percent of all barge revenues, compared with 3 percent for railroads, 1 percent for trucks and none at all for pipelines.

Bedell has a new bill this year to impose a modified waterway user fee on top of Long's fuel tax. The combined receipts by 1985 would equal 25 percent of federal waterway expenditures.

The fuel tax alone, according to Bedell's calculations, will offset only 5 percent of federal costs in 1981 and 10.2 percent in 1985. Neither the Carter Administration nor Domenici, however, are in a mood to resurrect the user fee battle this soon. Bedell is going it alone.

Another subject on the agenda when Bedell and Edgar lunched with Cutler was the Tennessee-Tombigbee barge canal in Alabama and Mississippi. Serious questions about the project's economic justification have come to light in a recent court trial, and Sen. Gaylord Nelson, D-Wis., has prepared a bill to halt the $1.67 billion project. Nelson hopes to force hearings on the project, which he characterizes as "the biggest pork-barrel boondoggle of them all." The project, according to a Nelson aide, is 364 percent over its original budget. Carter is asking $165 million for it in fiscal 1980.

Cutler, in an interview, said that the Administration had decided not to take on the Tennessee-Tombigbee fight during its hit list review in 1977. At that time, a White House staffer—not Cutler—remarked that the reason was that "Sen. Stennis isn't dead yet." Sen. John C. Stennis, D-Miss., the chairman of the Armed Services Committee and second-ranking Democrat on the Appropriations Committee, is one of the project's most forceful boosters.

Cutler said he told Bedell and Edgar that "no new information" had come to light at the time the new budget was prepared to change the 1977 decision to continue the Tennessee-Tombigbee construction.

As for Lock and Dam 26, he said, "We just didn't want to muddy the waters with Congress about what our intentions are with respect to projects already started."

COST SHARING

An underlying theme of Carter's water policy is that better project decisions will be made if fiscal responsibility can be brought closer to home. Cost sharing is not new for federal water projects, but so far, state governments have not been asked to join in.

The Council on Environmental Quality estimates that the federal government pays an average of 70 percent of water project costs, with the remainder covered by local project sponsors or beneficiaries. "States seldom participate in project funding and do not play a major role in setting project priorities," the council pointed out in a recent report.

Carter—with cautious backing from a National Governors' Association panel—has decided that the time has come to make the states start picking up part of the tab. In return, the states would be able to influence the choice of which of their new projects would receive funds first. They also would be offered a chance to expedite work on previously authorized projects if they chose to share in the costs.

Three cost-sharing levels have been proposed. For non-revenue-producing projects, the state would put up 5 percent of the cost. Where there are potential revenues—and thus the potential for the state to recover all or part of its investment—the share is to be 10 percent. Finally, for flood control measures, where the non-federal requirement for "non-structural" measures—usually land acquisition—is now 20 percent, the same requirement would apply to "structural" measures—dams, levees, floodwalls and the like. This would eliminate the existing bias against non-structural solutions.

The governors' association, in endorsing "the concept of cost sharing" but not the draft bill, has taken a strong position in opposition to one provision—that states share in the cost of navigational projects such as the controversial Lock and Dam 26.

The draft bill—by categorizing navigational projects as among those considered to have revenue-producing potential (or "vendible outputs")—seemed to be designed with an eye toward encouraging the states to push for higher waterway user fees. If states have to foot 10 percent of the costs of future Lock and Dam 26 projects, they would certainly become interested in revenue-raising mechanisms that might eventually repay their considerable investments. Russell Long's fuel tax trust fund would be no help in that regard.

In a Feb. 13 letter to Interior Secretary Cecil D. Andrus, Gov. Scott M. Matheson, D-Utah, chairman of the governors' water policy subcommittee, warned that it would be difficult to apportion the regionally "diffused" benefits of most inland waterway facilities on an equitable basis.

Aside from the prospect that states where facilities such as locks and dams may be built could be unfairly burdened by the cost-sharing requirement. Matheson went a step further and noted that the draft bill also would apply to port and harbor projects "crucial to strengthening the U.S. position in international trade."

The Utah governor archly added, "There has been no companion suggestion that the federal government share with states the substantial customs revenue which ports and harbors generate."

In an interview, the Interior Department's Martin indicated that in all likelihood navigational projects will be dropped from the cost-sharing bill, or at least from the 10 percent state sharing requirement. The matter was discussed at a recent policy meeting, Martin said, and "we agreed that the navigational projects have vendible outputs, but they aren't being vended."

The Interior official also indicated that another potentially controversial provision relating to reimbursement by project beneficiaries and indirectly, by the states, for federal dam safety expenditures also would be dropped. "OMB wanted that in there because they got beat when it was before Congress last year." Martin said. "But there is no reason to think we would win it this year either."

WATER RESOURCES COUNCIL

One of the most ticklish challenges facing the Administration is to get Congress to quintuple the budget of an agency that the legislators attempted to kill just a year ago. That agency is the Water Resources Council, a small, independent body governed by the heads of larger governmental agencies and with a record of unimpressive achievement.

Carter, however, is counting on the council to write strict new rules for the heretofore rough-and-tumble game of calculating water project costs and benefits and to create a new independent review team to see that those rules are honored. The President also wants to expand the council's $3 million-a-year program of state planning grants to $25 million and to add another $25 million annually for state technical assistance grants to promote water conservation.

To get all of these objectives rolling, the council is asking for a $49.2 million supplemental appropriation for the current fiscal year and permission to reprogram $431,000 in unspent funds from its 1978 budget. Its current $12.7 million appropriation was bestowed begrudgingly by Congress in the post-veto compromise it struck with Carter. In the bill vetoed by the President, the council got nothing, although some of its functions were to be reassigned to the Interior Department.

The supplemental and reprogrammed funds would bring its total budget to $62.3 million, roughly equivalent to the $61.2 million that Carter proposed for the agency in his 1980 budget.

Most of the supplemental funds—$47 million—are being sought to bring the two state grant programs up to the new levels Carter desires. The planning funds would let the states become more sophisticated partners in the new water policy that the President envisions. The conservation grants would be used for public education and research but not equipment or other hardware.

Another $2 million is needed to get the council started on a major study to weigh the environmental and other impacts of increased commercial traffic on the Upper Mississippi River system. This study was authorized as a part of the Lock and Dam 26 compromise.

Last, but by no means least, the council wants $625,000 to assemble and find working space for the independent review panel that Carter, by executive decree, has ordered to be in operation by next month. This team, which would not judge the merits of water projects but only check the procedures followed in bringing them to the point where construction funds are sought, is expected to review new project starts for the fiscal 1981 budget.

The council received a new lease on life when Carter rejected a proposal by his reorganization advisers to fold the agency into a new Department of Natural Resources, built around the nucleus of the Interior Department. Instead, it will remain independent, even though its chairman would continue to be the Interior (or Natural Resources) Secretary.

State officials and others had objected to the transfer of the council and its functions to a Cabinet department responsible to the President. Instead, they would prefer a fully independent council with state representatives—perhaps several governors—sitting as voting members.

Carter's reorganization plan had originally also called for the transfer of the water planning and design functions of the Army Corps of Engineers and the Agriculture Department's Soil Conservation Service to the new department.

The corps, in turn, would have picked up the construction functions now performed by the Soil Conservation Service and the Interior Department's Bureau of Reclamation while retaining its current construction duties.

The intent was clear; to strip the corps—and its congressional allies—of the power to plan and promote its own projects. Instead, the new department would have determined whether to move ahead on water projects of all kinds.

In the face of strong opposition, especially from the corps and its supporters, Carter rejected the proposed changes.

Domestic Policy Staff chief Stuart E. Eizenstat made it clear at a March 1 briefing on the reorganization plan that the Administration will face a tough enough time trying to sell Congress on major "substantive changes" in the way water projects are planned and financed. He added, "It didn't make sense . . . to dilute our attention" with a fight over the organization of the water agencies.

"We are far from giving up in terms of reforming the whole water area," he insisted, but "our major water battle this year" is to sell Cogress on such concepts as full funding and state participation. "It is going to take all our resources."

Clearly, the President has ordered his helmsmen to steer a cautious course.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I agree the Commission should review all of the previous work, tie it together, bring it back and put into a legislative form so that this House and Senate—this is composed of both House and Senate Members—put it together into legislative form, into something we can pass in this House and make a coherent water policy.

Mr. FITHIAN. Mr. Chairman, I thank the gentleman for his comment. I would say that when we get back to the House we are going to have some of the same problems we have now.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I will be happy to yield to my friend from Virginia.

Mr. FISHER. Having participated in three or four of the studies in past years that the gentleman from Pennsylvania (Mr. EDGAR) mentioned, I can say with some feeling that the trouble with most of the studies—certainly the several in which I took part—is that they never could move from the recommendations of study into congressional and executive action, especially congressional action.

I would hope very much that we would give this one more try, this time with the focus upon a congressional commission and with the main challenge of taking the best of the recommendations that have accumulated from all of these commissions in the past and moving them across the goal line into significant action.

☐ 1530

So I want to support the amendment that is being offered.

Mr. FITHIAN. Mr. Chairman, I thank the gentleman for his remarks.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The amendment was agreed to.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I recognize the mood and the temperament of the House. They want to vote. I shall not take the 5 minutes, but I did want to point out that the Members have been deluged by propaganda directed against this bill, the chief source of which has been the so-called Coalition for Water Project Review. In order to put this debate in the proper perspective and to point out the glaring misrepresentation, false statements, erroneous deductions, and misleading inferences, I took one of the projects named by this Coalition for Water Project Review, the Gallipolis Lock and Dam, and analyzed its allegations in comparison with the facts.

Let me say in the outset that this project is not in my congressional district. I have no parochial interest in it. It lies between the congressional district of the gentleman from Ohio (Mr. MILLER) and the gentleman from West Virginia (Mr. RAHALL) and let me also say that unfortunately many organizations, who have credibility with Congress and with the press, have lent their name to the so-called Coalition for Water Project Review, thereby giving it some credibility but I doubt if all these organizations read the reports on these projects.

In the coalition release of January 8, 1980, entitled "Profiles in Pork"—profiles in propaganda would be a better term—they stated "as in the past the committee places no requirements on the barge beneficiaries to repay the cost of this expensive project through user fees." This is absolutely false because Congress in 1978 passed the Inland Waterway Revenue Act wherein a fee is charged to the users of this inland waterway; that fee is graduated and by the time this project is built the water users will be paying the maximum fee assessed. To single this project out and to suggest that its users be required to reimburse the total cost of this project or all the other navigation projects on the system seems to me to be totally inequitable.

Their chief allegation, though, was that raising the water level of the river has caused massive erosion and implied that the damage to the shore and the banks of the Ohio was caused by the construction of navigation dams and locks. In addition, in their January 22, 1980 release they stated that—

> Past developments on the Ohio River have caused deterioration of the water quality and rampant erosion. The committee should examine the regional effects of one more high-head dam before authorizing the project.

Now, one would think this coalition had some responsibility to review the reports on projects it criticizes. Had it actually reviewed the reports, it would have found that this project does not call for a high-head dam, it does not raise the level of the water one fraction of an inch. It is chiefly a lock replacement project, substituting a 1,200-foot lock for a 600-foot lock, accompanied by rehabilitation of the existing dam that was built in 1937. Erosion is due to floods and their resulting high, fast water. Navigation dams lower the velocity of the river when it is at normal stage but have no control over floods. Whenever the river floods, the locks are all open, as are the gates on the dam; thus, the river is in its natural state. There is absolutely no substance to this claim that massive erosion is caused by these dams and their operation.

Furthermore, a comprehensive, exhaustive and detailed study of the Ohio River was made by Dr. Joseph Hagerty, Dr. Daryl Simons, and Dr. Stanley Schumm. The study was directed at system mechanics and basic causes of erosion.

Dr. Hagerty was an associate professor of civil engineering and an associate in department of geology at the University of Louisville. He also performed engineering consulting work.

Dr. Simons heads all research projects for the Colorado State University. Previously, as a professor at the University of Wyoming and as an employee of the U.S. Geological Survey, he had been involved in the civil engineering field with emphasis on problems of erosion, sedimentation, river mechanics and related matters. In other words, an expert.

Dr. Schumm, a Ph. D. in geomorphology from Columbia University, previously worked for 12 years for the U.S. Geological Survey dealing in erosion problems and presently is a professor of geology at Colorado State University.

All three, after extensive study, found that erosion on the Ohio River was not due to the construction and operation of the navigation dams, but rather to flooding which, as I have said, is not affected by the dams.

This finding and conclusion was introduced into a lawsuit in the U.S. Court of Claims last October and, after cross examination and other appropriate legal procedures, the court likewise found that erosion was not caused by the construction and operation of the dams on the Ohio—but by floods.

Therefore, there is just no substance to such a wild and invalid claim that Gallipolis Dam would add to the erosion problems on the Ohio.

Their next allegation is deterioration of water quality. Gallipolis lock and dam will not change the flow of the river or raise the water level any more than it has already been raised by the existing lock and dam. Further, there is no credible evidence that these dams have increased the cost of waste water treatment. Certainly this one dam, because it is not to be raised or changed or lowered but merely rehabilitated, will have no effect on water quality. Still further, for the past 10 years or so the Ohio River has undergone tremendous improvements in water quality at precisely the time the navigation improvement program has been carried on. This is confirmed by aquatic biology experts with the Ohio River Valley Water Sanitation Commission on the basis of long-term physical and electronic monitoring. These findings are supported by the Ohio River fish survey, which has recorded a dramatic increase in the number and diversity of fish in the river, significantly including pollution-sensitive species.

Their next allegation is that more dams on the tributaries will be required. This is absolutely not necessary. In the first place, the tributary dams are basically structured for flood control, water supply and recreation, not navigation. They are structured to keep the river from exceeding its capacity in times of flood and excessive rain and water runoff; the need for upstream dams is for flood control and not navigation. Therefore, there is no substance to their charge that Gallipolis will require additional dams on tributaries.

Their last allegation discusses the vulnerability of the barge system to droughts, floods, freeze-ups and accidents. When the river freezes over the barge traffic stops, just as it is curtailed on the Great Lakes, but that is a result of nature, an act of God, and not the result of navigation dams. Barge traffic has been stopped because of freeze-ups only one time during modern history and the construction of Gallipolis would not aggravate this problem. To argue on this basis that the Gallipolis project would unduly increase the Ohio River Valley's dependence on navigation and therefore to freezes bank to bank is ridiculous.

As to accidents, Gallipolis at the present time is one of the most accident prone dams on the system because of its antiquated state, congestion at the lock endangering the lock operation, and just as importantly the hazardous approach conditions due to the bend in the river which increases the accident rate at the dam to 16 times what it is at any other modern lock on the Ohio. This is a compelling reason for building the new facility as soon as possible to eliminate these hazards. Further, any real environmentalist would be concerned about the accident rate at the dam because sufficient quantities of oil and gasoline are transported by barge as to constitute the threat of water pollution in the case of an accident.

As I said earlier, navigation dams have nothing to do with the flood conditions or the river. When the river is in flood condition the gates of these dams are open and the dams exert no control over the river or its flow; the river essentially flows and acts in its natural state and the dams under these circumstances do not contribute to any problems of navigation due to high flow. The velocity of the river is in no way affected by the dams under flood conditions.

The release refers to unofficial estimate of damage from new locks and dams by Senator FORD of Kentucky. That is just what it is, an unofficial estimate and, as a matter of fact, the evidence is to the contrary. That is, there is no substance to these unofficial damage estimates, and this so-called coalition was or should have been aware of this court case documenting the fact.

Admittedly, I have examined only one of the projects contained in the release of the Coalition for Water Project Review. However, these inflamatory statements, if made in the one instance, are in all probability made in others in their eagerness to defeat this legislation. How do you separate the wheat from the chaff? These tactics are not worthy of your consideration and I respectfully submit that you should cast them aside for what they are—misrepresentations, falsehoods, distortions, and misleading inferences—and support the committee.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to commend the chairman of our Subcommittee on Water and Power Resources, the gentleman from Texas, Mr. RAY ROBERTS. This is the last time the gentleman will probably handle a bill of this size on the floor. He has done a wonderful job over the last 3 years in perfecting this bill and along with the rest of the members of the committee he has worked long and hard on this bill in getting it in shape to bring to the floor.

We have had a long and hard debate. Everyone has had an opportunity to speak on the bill. The bill is a very comprehensive bill dealing with the water resource program of the United States. It is one that is very necessary. I commend all participants.

We are going to miss the gentleman from Texas, Mr. RAY ROBERTS, when he leaves this House at the end of this session. I hate to see him go. He has been a very, very fine subcommittee chairman. He replaced me as chairman when I was ill here a year or so ago. He did a wonderful job with the committee at that time.

I say to the gentleman, RAY, you are to be congratulated for a very fine job on the floor. Your friends will miss you.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I want to join in the accolades that have been presented to our distinguished chairman, the gentleman from Texas, Mr. ROBERTS. On a number of occasions I have taken the microphone in the well of the House and extolled the gentleman, who has been described as one of the fairest and firmest individuals that I have had the privilege to share a ranking minority chairmanship with, that is the gentleman from Texas, Mr. RAY ROBERTS.

In peace and war RAY ROBERTS has devoted his life unsparingly to the service of his country. As chairman of our Water Resources Subcommittee, he has been a leader in the fight to protect and upgrade our irreplaceable water supplies, to clean up our ravaged rivers and lakes and restore them for the benefit of future generations. His farsightedness has contributed substantially to the development of a progressive national water program. The legislation adopted under his aegis will stand as tribute to him and his recognition of the Nation's need for development and conservation of its water resources.

In addition to the gentleman from Texas, Mr. RAY ROBERTS, I am sure that the chairman, the gentleman from California (Mr. JOHNSON) would join with me in giving equal acknowledgment and recognition of another retiring member of this committee, the ranking member from the State of Ohio, the gentleman from Portsmouth (Mr. HARSHA). BILL has served with extraordinary distinction. He is a man recognized and enormously respected for being smart, tough, and always thoroughly prepared. He has mastered the intricacies of parliamentary procedure as well as anyone in this body and if there is anyone that has done a job that is also worthy of recognition, it is the gentleman from Ohio, BILL HARSHA.

Mr. Chairman, BILL HARSHA has an unprecedented record of protecting and advancing the interests of his constituents. At the same time, he has been a champion of legislation that is responsible and responsive from a nationwide perspective. He shows the highest esteem and deep respect of all of us here in Congress because he is fair, firm, and factual. He is fair in the scrutiny that he gives the legislative proposals that come before him; firm in the commitment he makes to properly evaluate those proposals; and factual in the approach he takes in formulating positions concerning those proposals.

Because of BILL HARSHA and the 20 years of service he has given to this Congress and this Nation, our rivers and streams will be cleaner and more able to be enjoyed by both recreational and commercial users. Our highways will be better designed and safer. The country's airport and aviation laws have been vastly improved so that new aircraft will be built with cleaner and quieter engines and airports will become good neighbors in the community. Because of BILL HARSHA, we have a body of economic development legislation that is revitalizing regional growth and prosperity nationwide. And locks and dam 26 on the Mississippi River will stand as living monuments to BILL HARSHA's perseverance and legislative genius.

Mr. Chairman, when BILL HARSHA retires at the end of this session, the rest of us in the House will miss him and his contributions far more than anyone else who has retired in a long, long time.

I think it would be appropriate that we give those gentlemen, the gentleman from Texas and the gentleman from Ohio, a round of applause and a standing ovation for their work.

Will you join me?

[Applause, the Members rising.]

Mr. JOHNSON of California. Mr. Chairman, I want to join my colleague, the gentleman from California, in commending the gentleman from Ohio (Mr. HARSHA). The gentleman from Ohio (Mr. HARSHA) has been a fine ranking minority member to have served with. He has been a real bulwark of the committee. I have worked with him side by side. The result has been meaningful legislation for all America. BILL HARSHA's contribution to the committee has made it a cohesive, active unit. We have passed legislation that covers the spectrum from the arts to highway safety. BILL has been with us all the way.

I salute him. Wish him well.

Mr. ROBERTS. Mr. Chairman, I want to express great appreciation for the accolades for myself and the gentleman from Ohio. We will be happy with a unanimous vote on this bill.

● Mrs. SCHROEDER. Mr. Chairman, let us look at H.R. 4788, the Water Resource Development Act on the lighter side.

THE CONGRESS AND THE ENGINEER

(With sincere apologies to Lewis Carroll, the Walrus, the Carpenter and the Oysters)

The Congress and the Engineer
Were walking close at hand
They wept like anything to see
Such quantities of sand:
"If this were only cleared away,"
They said, "it would be grand!"

"If seven mill and seven thou
We gave for half a year,
Do you suppose," the Congress said,
"That that could get it clear?"
"I doubt it," said the Engineer,
"You needn't be austere."

"O Voters, put your trust in us!"
The Congress did beseech.
"Dredging projects are just the thing
Along this briny beach:
We cannot do with less than four
No care the cost of each."

An elder Voter looked at them
And many a word he said:
The elder Voter slammed his fist
And shook his heavy head—
Meaning to say he did not choose
To take part in this dread.

But four young Voters hurried up,
All eager for this treat:
The idea of a public work
To them seemed very neat—
To have big bucks come fly their way
Was something hard to beat.

Four other Voters followed them
And yet another four;
And thick and fast they came at last,
And more, and more, and more—
All hoping, through the frothy waves,
To be friends of the corps.

"The time has come," the Congress said,
"To hand out many things;
Ports and dams and harbor sights
Reservoirs and springs
Waterways across the sea
And a monument to kings."

"But wait a bit," the Voters cried,
"Before you do all that;
The cost of some is out of sight,
And some of them are fat!"
"No worry!" said the Engineer.
They thanked him much for that.

"Much more money," the Congress said,
"Is what we chiefly need:
You'll pay more tax until we find
We have enough indeed—
Now if you're ready, Voters dear,
We can begin to feed."

"But not on us!" the Voters cried,
Turning a little blue.
"After such kindness, that would be
A dismal thing to do!"
"Things will be fine," the Congress said,
"No need to sit and stew."

"It seems a shame," the Congress said,
"To play them such a trick,
After we've bought them all so much
But made them pay so quick!"
The Engineer said nothing but
"What blueprint shall I pick?"

"I weep for you," the Congress said:
"I deeply sympathize."
With sobs and tears they sorted out
Those of the largest size,
Holding pocket-calculators
Before their streaming eyes.

"O Voters," said the Engineer,
"We've had a lot of fun!
Won't you be going home again?"
But answer came there none—
And this was scarcely odd, because
They bankrupted every one.●

● Ms. HOLTZMAN. Mr. Chairman, I oppose H.R. 4788, the Water Resources Development Act of 1979 because it authorizes approximately $2.5 billion for water projects that are unwarranted at a time that we can ill afford such expenditures.

I strongly support certain aspects of the bill, particularly those portions that are important and beneficial to New York. For the first time the corps is granted authority to engage in single purpose urban water supply projects. Accordingly, section 203 authorizes a $25 million loan for work on New York City Water Tunnel No. 3, which is essential.

As amended by the House, section 203 also accomplishes the intent of an amendment I had originally planned to offer. It stops any work and any further studies of the Hudson River skimming project. That project, which called for taking water from the Hudson River and using it as part of New York City's drinking water supply, would have posed serious environmental and health problems. It would have added to New York City's drinking water—currently among the purest in the country—water from the Hudson River that has been contaminated by a wide variety of toxic and carcinogenic chemicals discharged as industrial waste. Congressman MCHUGH and I worked with the Public Works Committee to develop a committee amendment, adopted by the House, that has effectively stopped this project.

Although I favor this part of the bill, I cannot vote for the entire bill because more than 50 percent of its $4 billion price tag is for projects that are seriously questionable. With a projected budget deficit of well over $40 billion and an inflation rate higher than any time except just after World War II, we cannot afford wasteful Government expenditures. We cannot continue with business as usual; we cannot blithely spend taxpayers' dollars on projects and programs that are not clearly justifiable.

Unfortunately this bill has many such inadvisable and unneeded projects. The Army Corps of Engineers itself opposes 54 projects with an estimated price tag of $2.5 billion, because the administrative review process on them has not been completed. Other projects have been included in the bill without meeting local cost-sharing requirements, without engineering feasibility reports or without plans for mitigating fish and wildlife losses. Serious challenges have been raised to other projects on the grounds that they are environmentally unjustified, unnecessary, and too costly.

I urge defeat of this bill and the development of an alternative that is fiscally responsible and authorizes only projects that are clearly warranted.●

● Mr. STOKES. Mr. Chairman, I rise in strong support of H.R. 4788, the Water Resources Development Act of 1979.

I do so primarily because of section 113 of that act, which provides an essential $31.2 million for improvements to Cleveland Harbor. Cleveland, like many Midwest cities, is a city with a seriously declining economic base. The long-term viability of the region will depend in large part, on the success of current heavy industries and on the development of new business. Vastly improved port facilities are essential to both elements.

The steel industry is a vital part of the economy of Cleveland. That industry relies heavily on water shipment of cargoes and supplies. As larger ships come on line, in particular, the new 1,000-foot iron ore carriers, Cleveland Harbor will no longer be able to serve the steel industry adequately. The approach and entrance channels are not deep enough, not wide enough, and not long enough for the new bulk carriers, especially during inclement weather operations.

The improvements authorized in H.R. 4788, will do the deepening, the widening, and the extending essential to the maintenance of the local steel industry. The 100,000 jobs linked to steel and port operations will, in turn, be maintained and hopefully increase.

Yet, steel is not the only aspect of Cleveland which depends on a viable port. Many other existing concerns depend on water for receipt of supplies and distribution of products. If Cleveland is to attract new industries and develop new economic bases, such as shipping or exporting, the need for port modernization becomes even more urgent. Plans currently exist for development of the port terminal areas and construction of surrounding industrial park areas. In conjunction with these activities, the nearby downtown airport would be expanded to handle all types of traffic. The expanded industrial areas and improvement in transportation possibilities would be great stimuli to new investment in the business area.

Cleveland simply cannot hope to maintain its current status or to establish any significant growth and development as an industrial city or as a major American trade center without the funds authorized in H.R. 4788. Section 113 is not an attempt to obtain Federal dollars simply for the sake of obtaining those Federal dollars. It provides money vital to avert certain loss of thousands of jobs and finances to the Cleveland area. Again, Mr. Chairman, I strongly urge my colleagues' support of H.R. 4788 so that Cleveland can continue at its current status and ultimately be renewed as a model for other cities which face financial difficulties and seek to return to their former strength. In closing, Mr. Chairman, I want to commend the distinguished chairman of this committee, Mr. JOHNSON, of California for bringing this bill to the floor and for his outstanding service to this Nation.●

● Mr. CAVANAUGH. Mr. Chairman, I thank the committee for accepting my amendment which will add no additional authority under the bill but will simply make a technical correction which will allow contracts to be let between the State of Nebraska Game and Parks Commission and the Army Corps of Engineers to begin work on an erosion protection project at the Louisville, Nebr., State Recreation Area under the auspices of section 14 of the Flood Control Act of 1946 (Public Law 79-526) as amended by the Water Resources Development Act of 1974 (Public Law 93-251).

During a recent flood crisis along the Platte River considerable damage occurred to public facilities and eroded enormous portions of shoreline at the Louisville State Recreation Area. The shoreline is valuable to the public for park expansion purposes and for future facility development.

Louisville State Recreation Area is one of the more popular public use areas in the State. Being situated between Omaha and Lincoln, the site serves as the recreation resource for the two largest population centers of the State. During 1977 over 200,000 visitors were counted using the area.

Section 221 of the Flood Control Act of 1970 requires that non-Federal interests enter into enforceable contracts to provide the required non-Federal cooperation for Corps of Engineers water resource projects. Most States have developed means to comply with this requirement, but some have as of yet been unable to do so. The primary problem is a constitutional one—the inability to commit future legislatures to appropriate funds for repayment of such project purposes as water supply and recreation. The Nebraska commission has obtained an opinion from the Attorney General which prohibits the commission from entering into the contract because section 221 assurances are violative of the Nebraska Constitution which prohibits the binding of the State legislature for future unappropriated funds.

The problem which I am seeking to correct in Nebraska for the Louisville State Recreation Area is similar to the situation found in Indiana and corrected in this bill at section 435.

This Nebraska constitutional limitation only applies to State government, and political subdivisions, such as local natural resource districts, may obligate themselves beyond 1 tax year for section 221 purposes. Problems such as the the one presented by this amendment are normally cured by making the local natural resources district the local sponsor for section 221 purposes. In this instance that cannot be accomplished because the State recreation area is under the sole and exclusive jurisdiction of the State game and parks commission. Therefore the problem must be corrected by statute.

Parkland in Nebraska and especially in eastern Nebraska is in far too short of supply to be wasted away by flooding action. Therefore, I am asking your assistance in the preservation of parkland.

AMENDMENT BY MR. CAVANAUGH TO H.R. 4788—WATER RESOURCES DEVELOPMENT ACT OF 1979

SEC. 445. The requirements of section 221 of the Flood Control Act of 1970 (Public Law 91-611) shall not apply to any agreements between the Federal Government and the State of Nebraska for local cooperation as a condition for the construction of the erosion protection project at the Louisville State Recreation Area on the right bank of the Platte River, near Louisville, Nebraska, authorized by section 14 of the Flood Control Act of 1946. The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with the State of Nebraska on the items of local cooperation for this project, which is to be assumed by the State, notwithstanding that the State may elect to make its performance of any obligation contingent upon the State legislature making the necessary appropriations and funds being allocated for the same or subject to the availability of funds on the part of the State.●

The CHAIRMAN pro tempore. Are there further amendments to title IV? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4788) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, pursuant to House Resolution 513, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SOLOMON. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SOLOMON moves to recommit the bill, H.R. 4788, to the Committee on Public Works and Transportation.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROBERTS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 283, noes 127, not voting 23, as follows:

[Roll No. 29]

AYES—283

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brooks
Brown, Calif.

Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Corcoran
Corman
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Dickinson
Dicks
Diggs
Dingell
Dixon
Donnelly
Dornan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Findley
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gramm
Gray
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hawkins
Hefner
Heftel

Hillis
Hinson
Holland
Horton
Howard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kogovsek
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McEwen
McKay
McKinney
Madigan
Marlenee
Marriott
Mathis
Matsui
Mattox
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer

Price
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Roberts
Robinson
Roe
Rose
Rosenthal
Rousselot
Roybal
Royer
Rudd
Satterfield
Scheuer
Schulze
Sebelius
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Stenholm
Stokes
Stratton
Stump
Swift
Symms
Synar
Taylor
Thomas
Thompson
Traxler
Treen
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOES—127

Applegate
Aspin
Atkinson
Barnes
Beard, R.I.
Bedell
Beilenson
Boland
Bolling
Brinkley
Brodhead
Broomfield
Burton, Phillip
Byron
Carr
Clay
Collins, Tex.
Conable
Conte
Conyers
Cotter
Coughlin

Courter
Crane, Daniel
D'Amours
Dannemeyer
Deckard
Dellums
Derrick
Derwinski
Devine
Dodd
Dougherty
Downey
Drinan
Early
Edgar
Edwards, Calif.
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Fish
Fisher

Fithian
Florio
Forsythe
Fountain
Gephardt
Gradison
Grassley
Green
Grisham
Guarini
Gudger
Hall, Ohio
Harkin
Harris
Heckler
Hollenbeck
Holtzman
Hopkins
Hubbard
Ireland
Jacobs
Jeffords

Jeffries
Jenkins
Kastenmeier
Kelly
Kindness
Kostmayer
LaFalce
Latta
Lee
Leland
Levitas
Lowry
McDonald
Maguire
Markey
Marks
Martin
Mavroules
Mazzoli
Mica
Michel

Miller, Calif.
Minish
Moffett
Moorhead, Calif.
Neal
Nelson
Nolan
O'Brien
Paul
Pease
Petri
Porter
Pursell
Quayle
Ratchford
Ritter
Roth
Russo
Sabo
Sawyer

Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Solomon
Stack
Stark
Stewart
Stockman
Studds
Tauke
Vento
Walker
Waxman
Whittaker
Williams, Ohio
Wolpe
Wydler
Young, Fla.

NOT VOTING—23

Anderson, Ill.
Crane, Philip
Davis, S.C.
Emery
Fowler
Goodling
Hightower
Holt

McCloskey
McDade
McHugh
Murphy, Ill.
Obey
Pritchard
Rhodes
Rodino

Rostenkowski
Runnels
Santini
Ullman
Whitten
Wyatt
Yates

☐ 1550

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Obey against.

Mr. Emery for, with Mr. McHugh against.

Until further notice:

Mr. Santini with Mr. Anderson of Illinois.

Mr. Rostenkowski with Mr. Goodling.

Mr. Ullman with Mr. Philip M. Crane.

Mr. Whitten with Mrs. Holt.

Mr. Yates with Mr. Pritchard.

Mr. Murphy of Illinois with Mr. McDade.

Mr. Fowler with Mr. Wyatt.

Mr. Runnels with Mr. McCloskey.

Mr. Davis of South Carolina with Mr. Hightower.

Mr. LELAND and Mr. RITTER changed their votes from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. BEDELL). Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time simply to share with the Members two changes in the schedule for today.

Immediately it will be the purpose of the leadership to recognize the gentleman from Wisconsin (Mr. ZABLOCKI) for the consideration of House Concurrent Resolution 272, expressing the sense of Congress that Andrei Sakharov should be released from internal exile, and following that, to return to the bill originally scheduled for yesterday, and to consider H.R. 5507, relating to the treatment of retirement benefits under Federal employment insurance law. The rule is a closed rule, with 1 hour of general debate. Upon completion of those two matters we would have completed the legislative business for the day.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding.

In other words, we will take up just the rule on the Federal employment insurance bill?

Mr. WRIGHT. I think it is the purpose to take up the bill, which is a closed rule, 1 hour of general debate, and then a vote.

Mr. ROUSSELOT. If the gentleman will yield further, because it is a closed rule, there is a little controversy on that. Is it possible that we are going to rise at 5:30 regardless?

Mr. WRIGHT. It is possible that we might even get through by 5:30, I think even probable, if we address ourselves diligently to that task.

Mr. ROUSSELOT. But if we did not, would we rise at 5:30?

Mr. WRIGHT. If we did not, we would regroup and sort of reconsider things along about that time.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California, who may have some assurances to share.

Mr. BROWN of California. Mr. Speaker, would the gentleman be able to say at this point in time whether there will be any change in the schedule for Thursday?

Mr. WRIGHT. I am happy to announce that at this time I know of no changes.

Mr. BROWN of California. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, will the distinguished majority leader yield?

Mr. WRIGHT. I yield to the gentleman from Illinois.

Mr. MICHEL. Noting that on the program there are just two smaller bills, depending upon one's interests, which are scheduled for Thursday, would that suggest that, the schedule being kept, we could avoid a session on Friday?

Mr. WRIGHT. Well, yes. There is always Wednesday, of course. And tomorrow we meet at 3 o'clock. We hope to have Wednesday on regular schedule tomorrow, meeting at 3 o'clock, to dispose of the Agricultural Land Protection Act. If we are successful in doing that and completing the bill today and taking up whatever other legislative business may be ripe for consideration, the appropriations ceiling on the Colorado River Basin Authority and the Small Reclamation Projects Act, subject to granting a rule, if all of those things were finished by Thursday and there would be no reason for our meeting Friday, then I think it is likely that we might not meet on Friday.

Mr. MICHEL. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the distinguished gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I understand the majority leader has a personal event tonight at 7 o'clock in which he has an intimate interest, dealing with his future, and that we could therefore at least know that we will be out of session before that time; is that correct?

Mr. WRIGHT. The gentleman from Maryland may be absolutely certain that the gentleman from Texas will be out by that time, and I expect that all of us will be. I thank the gentleman; I appreciate the advertisement.

□ 1600

EXPRESSING SENSE OF CONGRESS FOR RELEASE OF ANDREI SAKHAROV AND URGING PRESIDENT TO PROTEST CONTINUED SUPPRESSION OF HUMAN RIGHTS

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 272) expressing the sense of the Congress that Andrei Sakharov should be released from internal exile, urging the President to protest the continued suppression of human rights in the Soviet Union, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 272

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect human rights and fundamental freedoms;

Whereas the signatory countries have pledged themselves to "fulfill in good faith their obligations under international law";

Whereas the Universal Declaration of Human Rights guarantees to all the rights of freedom of thought, conscience, religion, opinion, and expression;

Whereas the International Covenant on Civil and Political Rights guarantees that everyone shall have the right to freedom of thought, conscience, and religion, the right to hold opinions without interference, and the right to freedom of expression;

Whereas the Soviet Union signed the Final Act of the Conference on Cooperation and Security in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Principle VII of the Final Act specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights and Principle IX confirms the relevant and positive role individuals play in the implementation of the provisions of the Final Act;

Whereas the invasion and occupation of Afghanistan by armed forces from the Soviet Union is a direct violation of the Declaration of Principles Guiding Relations between States of the Helsinki Final Act, including the commitments to refrain from the threat or use of force, to respect equal rights and self-determination of peoples, to observe the purposes and principles of the Charter of the United Nations, to fulfill in good faith obligations arising from generally recognized principles and rules of international law;

Whereas Nobel Laureate Andrei Sakharov, leader of the human rights movement in the Union of Soviet Socialist Republics, condemned the Soviet intervention in Afghanistan, calling it a "threat to the entire world" and demanded the withdrawal of Soviet troops;

Whereas Dr. Sakharov was subsequently arrested and exiled to the city of Gorky in direct contravention of Principle VII of the Helsinki Final Act, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights;

Whereas all freedom-loving peoples should condemn the recent actions of the Soviet Union in denouncing and internally exiling Dr. Sakharov; and

Whereas the continued repression of religious believers, scientists, writers, intellectuals, human rights activists, and Helsinki Monitors, including Scharansky, Orlov, Rudenko, Tykhy, Petkus, and many others, is an egregious violation of both Principle VII and Basket Three of the Helsinki Final Act: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Union of Soviet Socialist Republics should release Andrei Sakharov from internal exile immediately.

SEC. 2. The Congress urges the President—

(1) to protest, in the strongest possible terms and at the highest levels, the exile of Andrei Sakharov and the continued suppression of human rights in the Soviet Union;

(2) to call upon all other signatory nations of the Helsinki Final Act to join in such protests and to take actions against the Soviet Union, including refusal to participate in the 1980 summer Olympics in Moscow, suspension of appropriate trade, economic, and commercial activities with the Soviet Union, and other such sanctions as may be available to them; and

(3) to inform immediately the governments of all other signatory nations of the Helsinki Final Act that the United States delegation to the 1980 Conference on Security and Cooperation in Europe review meeting intends to raise at that meeting these specific violations of the Helsinki Final Act, including the individual cases of Andrei Sakharov and the Soviet Helsinki Monitors.

SEC. 3. The Clerk of the House of Representatives shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 272, expressing the sense of Congress that Andrei Sakharov should be released from exile and urging the President to protest the continued suppression of human rights in the Soviet Union.

I want to take this opportunity to commend the distinguished chairman of the Subcommittee on International Organizations, the Honorable DON BONKER, the distinguished gentlelady from New Jersey (Mrs. FENWICK), and the distinguished chairman of the Helsinki Commission Mr. DANTE FASCELL, for their efforts on this resolution. I also want to commend Congressmen ALBOSTA, WOLFF, MAGUIRE, and the members of the Commission on Security and Cooperation in Europe for their contributions.

The gentleman from Washington (Mr. BONKER) will describe the details of the resolution. However, I do want to take this opportunity to impress on the Members of this Chamber the seriousness of this action by the Soviet Government.

Dr. Sakharov is a brilliant physicist, a Nobel laureate, and a very courageous man. His exile, following upon the Soviet military invasion of Afghanistan, is a grim reminder that the peoples of the Soviet Union do not enjoy internationally recognized human rights proclaimed in the various international conventions and accepted by the civilized international community.

The Soviet Government has ratified the Final Act of the Conference on Security and Cooperation in Europe and the International Covenants, and committed itself to respect human rights and basic freedoms. Dr. Sakharov's exile is a tragic illustration of the Soviet Government's duplicity in human rights. The tragedy extends further, because that government has also imprisoned many other outstanding Soviet citizens.

It is highly appropriate for this Congress to urge the President to protest the Soviet Union's continuing suppression of human rights.

Mr. Speaker, this resolution, which was cosponsored by 80 Members, was unanimously approved and reported yesterday by the Committee on Foreign Affairs. I, therefore, urge its unanimous adoption by this House this afternoon.

Mr. Speaker, I yield briefly for debate purposes only to the ranking Member of the Committee on Foreign Affairs, our distinguished colleague the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, 2 weeks ago, "competent authorities" in the Soviet Union, that is to say, the Soviet secret police, banished Dr. Andrei Sakharov, the Nobel laureate scientist, to the provincial city of Gorky—250 miles from Moscow. According to the press, the Soviet prosecutor let it be known that Sakharov was being sent to this "closed zone" so that he would no longer be in touch with foreigners, especially foreign journalists.

Sakharov became a full member of the prestigious Soviet Academy of Sciences in 1953 at the unprecedented early age of 32. "The father of the Soviet hydrogen bomb," as he is often called, was one of the top scientific figures in the U.S.S.R. He was awarded the Nobel Peace Prize in 1975. His banishment—or internal exile—was actually a violation of Soviet law inasmuch as "such punishment may be imposed by a court after a criminal trial" and there had been no trial. What had this extremely popular and distinguished personage done? What crimes had he committed for the Soviets to risk world condemnation and domestic discontent for his banishment?

In 1968 he had denounced censorship

and intellectual restraints and Soviet pressures against the liberalization of Communist rule in Czechoslovakia. He soon became the voice of moderation and reason and the symbol of dissidence within the U.S.S.R. Therefore, he became a threat to the Soviet system.

In 1973, Sakharov wrote of "the dangers of an illusory détente that is not accompanied by an increase of trust and democratization." He pointed out that Soviet authorities were systematically violating international covenants on human rights by jailing political prisoners. He reported to Westerners on arrests of human rights activists, Russian Orthodox worshippers and others. Several months ago, he appealed to Western nations to boycott the 1980 Olympic games in Moscow. On January 2, finally, he called on the United Nations to pressure the Soviet Union to withdraw from Afghanistan, calling the situation "tragic, dramatic, and dangerous." In turn, he was called a traitor.

Sakharov's apartment had been searched, he had been harassed. His life had been threatened many times and he had been denied permission to travel to Oslo in 1975 to receive his Nobel prize. He has also been deprived of mail from his two grown children in the United States.

"Sakharov," according to Dr. Stephen Cohen, director of Russian studies at Princeton, "symbolized the possibility of dissent for others inside the establishment."

A "fallen angel," as he had been described, his eminence and his past scientific service to the U.S.S.R. nonetheless forced the authorities to extend him immunity from arrest.

Perhaps the Kremlin believed that in the turmoil of its Afghanistan invasion, Sakharov's banishment would not be greatly noticed abroad and would, more importantly, serve as a necessary warning at home.

This crass political repression has caused an international furor and is a violation of the simplest standards of human decency. It also represents a repudiation of the human rights provisions of the Helsinki Final Act which Sakharov was monitoring for Soviet compliance. The Italian Communist newspaper, L'Unita, put it well when it exclaimed editorially that the Soviets were "incapable of resolving tensions tolerantly." We can say no less than a Communist publication.

We have moved to withdraw the Olympic games from Moscow as Sakharov pleaded months ago. We have condemned the Soviet invasion of Afghanistan as we have finally recognized the illusory nature of détente. As we devise concrete and positive actions to respond to growing Soviet imperialism, we must also recognize the importance of symbols. Although our cries of outrage in the Sakharov affair are largely symbolic, Sakharov himself was and is a symbol—a symbol of tolerance, decency, and reason. Yet, as a symbol, he was and is perceived as dangerous to the Soviet totalitarian regime. There is great tragedy and faint hope in this fact.

It is incumbent upon us to pay homage to this man and draw the attention of the world to his example and his plight. And to the squalid nature of the Soviet system.

Mr. ZABLOCKI. Mr. Speaker, I yield the balance of the time to the gentleman from Washington (Mr. BONKER), the chairman of the Subcommittee on International Organizations.

Mr. BONKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have before us today (H. Con. Res. 272) an excellent resolution passed unanimously by the Committee on Foreign Affairs expressing the outrage of the Congress against the Soviet Union's continuing violation of human rights. Though this resolution singles out Soviet physicist and Nobel Prize winner, Andrei Sakharov who was arrested last January 22, I must remind my distinguished colleagues that his arrest was not an isolated incident. Reports out of Moscow have indicated that for the past 3 months the Soviet Union has been conducting a major crackdown on dissidents. This action is partially a cleansing operation before the Moscow Olympics, but more importantly, it is directed at silencing those who would have been the most outspoken critics of the brutal invasion of Afghanistan. These reports further indicate that more than 40 people have been arrested or tried for the nonviolent exercise of their human rights. These dissidents represent a wide range of groups within the Soviet Union—human rights monitors, religious believers, would be emigrants, campaigners for rights of national groups and members of independent trade unions.

Mr. Speaker, as one can see, Andrei Sakharov, the subject of this resolution, represents the tip of the iceberg. He was charged with subversive activities, stripped of all state honors and asked to return his awards. Contemptuously disregarding world public opinion, the Soviets banished Sakharov from Moscow and have sent him into internal exile in Gorki.

Mr. Speaker, because of his accomplishments, Andrei Sakharov enjoyed a special status, one that allowed him to constantly speak out against the Soviet system, to lead the Soviet human rights movement and to inform Western sources about human rights violations occurring daily in the Soviet Union. Now that voice—the "conscience of Russia"—has been silenced.

House Concurrent Resolution 272 expresses the sense of the Congress that Andrei Sakharov should be released from internal exile and in the whereas clauses the case history of Soviet violations of international agreements are explained.

In the resolved section the Congress urges the President—

First, to protest the continued suppression of human rights in the Soviet Union;

Second, to call upon all other signatory nations of the Helsinki Final Act to take action against the Soviet Union by refusing participation in the 1980 summer Olympics and suspension of appropriate trade, economic, and commercial activities; and

Third, to inform the governments of all signatory nations of the Helsinki Final Act that the U.S. delegation to the 1980 conference intends to raise these violations of the Helsinki Act at that Conference.

By this act today, the word will go forth to all the champions of human rights in the Soviet Union that the Soviet authorities may have temporarily silenced Andrei Sakharov but through us their voices will continue to be heard.

☐ 1610

Mr. Speaker, the committee had several resolutions before it on this particular matter, one that was introduced by our distinguished colleague and member of the committee, Mrs. FENWICK, and one by our other colleague, Mr. WOLFF of New York. We also had resolutions by Mr. MAGUIRE and Mr. ALBOSTA. All of these were excellent resolutions, and an attempt was made to accommodate the best features of each of the resolutions. What finally emerged was the resolution submitted by Mrs. FENWICK, with some modifications.

I would like at this time to credit Mrs. FENWICK for her persistence, her commitment, and her enlightened leadership in this entire area. The resolution I think represents the excellent work that she has been doing on the committee.

Mr. Speaker, at this time, before yielding to the distinguished minority leader, I would like to recognize our distinguished colleague on the House Foreign Affairs Committee, the Chairman of the Helsinki Monitoring Commission, the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I thank the gentleman from Washington for yielding some time.

As chairman of the Helsinki Commission let me say that the Fenwick resolution was presented to the Helsinki Commission at its last meeting and was adopted by them. We express our appreciation to Mrs. FENWICK for offering that resolution and then submitting it to the Foreign Affairs Committee for action along with the expressions of many other Members of the House, which has culminated in the resolution pending before my colleagues.

Mr. Speaker, I urge the House to adopt the resolution under consideration. I am pleased to join Representatives FENWICK, BONKER, my colleagues on the Helsinki Commission and the Foreign Affairs Committee in sponsoring House Concurrent Resolution 272, legislation which calls upon the Government of the Soviet Union to release Academician Andrei Sakharov from internal exile. The bill also urges the President to protest the exile of Sakharov as well as the continued suppression of human rights in the U.S.S.R., to call upon other Helsinki signatory nations to join in such protests, and to inform all other Helsinki countries that the United States intends to raise these specific violations at the 1980 CSCE review meeting in Madrid.

With the arrest and exile 2 weeks ago of Dr. Andrei Sakharov, the 1975 recipient of the Nobel Peace Prize, a well-orchestrated campaign of repression against Soviet human rights activists reached a crescendo. For over the past year, Soviet authorities have systematically arrested, imprisoned, or exiled dissidents of nearly every religious or political group and geographic region. A survey prepared by the staff of the Helsinki Commission reveals the shocking statistics: 102 Soviet human rights activists were convicted in 1979 while another 59 were arrested and are currently awaiting trial. Contrary to speculation that Sakharov's exile marks the beginning of a KGB crackdown on the Soviet human rights movement, it is clear that his banishment from Moscow is the culmination of a series of repressive measures.

This ongoing campaign of repression has not been limited to any one group of dissidents nor to any one area. Three Russian Orthodox leaders, a Lithuanian Catholic activist, at least 10 Ukrainian human rights supporters, a spokesman for the Crimean Tatars, an Armenian economist, the editor of a Jewish journal are among the KGB's latest victims. Since the spring of last year, 11 members of the Helsinki Monitoring Groups—in Moscow, Ukraine, and Armenia—have been arrested. Although many of these courageous individuals have never met, they all have at least one thing in common: Andrei Sakharov has been their spokesman, the man who—at great risk to himself—defended their activities and supported their causes.

Now Andrei Sakharov is paying a terrible price for his brave actions. Isolated from his family and friends, subjected to threats against his life, threatened with deportation to an even more remote place as well as with sanctions against his wife, Sakharov nonetheless continues to speak out in defense of human rights.

Mr. Speaker, I urge the House to take swift action and condemn the crude Soviet attempt to silence this courageous champion of freedom by adopting House Concurrent Resolution 272.

□ 1620

Mr. BONKER. Mr. Speaker, I yield 25 minutes to the gentleman from Michigan (Mr. BROOMFIELD), the ranking minority member of the Committee on Foreign Relations.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I would like to point up to the Members the fact that Dr. Sakharov is a Noble Prize winner, but I would like to remind the Members of the House that at the time he received that award it was greeted with strange silence in the Soviet Union. It was a great achievement, recognized around the world, but the Soviet press muzzled the announcement of this award and later on gave it a sinister implication because they did not want Sakharov to be too respected, too build-up, too recognized as a leader, by the people within the Soviet Union.

As was properly pointed out, Dr. Sakharov has been a spokesman for Soviet dissidents, a spokesman to the free world—to the free world press stationed in Moscow. Now, he has been muzzled. What this really amounts to is taking him out of Moscow, removing him from access to the free world press. So, another voice is silenced. This should come as no surprise. Certain people have expressed surprise that the Soviets would invade Afghanistan, exile a man such as Dr. Sakharov. Anyone who understands the Soviet State understands the hard hand they maintain over their people, and should not be surprised.

In fact, our committee staff has tremendous amounts of material dealing with this kind of conduct of the Soviet Union. All one has to do is to check our staff director, Dr. Jack Brady, and he will demonstrate the hyprocrisy that is rampant in the Soviet Union. As a matter of fact, I wish a certain head of state had consulted with Dr. Brady. Then, he would not have been surprised that Mr. Brezhnev would have lied to him.

I would just like to close by making this point, Mr. Speaker: This act demonstrates the contempt of the Soviet Union for the Helsinki accords. They signed that without any honesty, without any decency, without any respect for the commitment we and others have given to the Helsinki accords. But, again, I emphasize that this should not have surprised anyone. The Sakharov story and the story of other dissidents is typical of the denial of human rights in the Soviet Union.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. BUCHANAN), who is a member of the Helsinki Commission.

Mr. BUCHANAN. Mr. Speaker, someone has said, "He truly loves the law who keeps it when his government breaks it."

I am quite convinced that there are no finer patriots in the Soviet Union than those dissidents who are so prominently represented in the person of Andrei Sakharov, because that citizen who will stand up within his society and say, "You have made promises and you must keep them;" who will seek to right the wrongs in his own society, and who will seek to set crooked things straight—that citizen is invaluable. He or she is the silver and the gold and the precious stone of the society.

Such a man is Andrei Sakharov. When the Soviet Government seeks to silence the voice of courage, the voice of reason, it injures the Soviet Union and the Russian people—not just the individuals who are the targets of that repression.

It was my privilege to serve as a part of the delegation to the Helsinki accords followup conference in Belgrade. I well remember American delegate Joyce Hughes, a distinguished civil rights leader and law professor, as she said in that meeting, "My experiences in the United States have led me to believe that promises on paper can become realities in the world."

We do right today, not only for our country and for the dissidents, but we do right for the people of the Soviet Union and for the cause of world peace, when we in this resolution strongly remind the Soviet Government that its actions are repressions against its own people, that it made promises on paper in the Helsinki accords. It made promises on paper in its new constitution based on those accords, promises that it does not keep. In taking this action today, we once again say to the world that the human rights policy of the United States stands strong, that we will stand for the rights of people everywhere, and in so doing we are doing something right for our society, something right for the people of the other superpower, and we defend the people who are the best patriots and the finest citizens of that society.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, as a cosponsor of this resolution, I urge my colleagues to join in seeking the release of Andrei Sakharov from internal exile.

The exile of Nobel Laureate, Dr. Andrei Sakharov, because of his condemnation of the Soviet intervention in Afghanistan, is indicative of the lack of respect for human rights in the Soviet Union—not just for Sakharov, for Shcharansky, Orlov, Rudenko, Tykhy, Petkus—but for thousands of other human rights activists, intellectuals, writers, Helsinki monitors, scientists and all those who have had the courage to speak out in protest against Soviet repression.

Dr. Andrei Sakharov demonstrated why he has become known worldwide as a leader of the human rights movement in the Soviet Union. While others around the globe hesitated to condemn this aggression, this man, who has suffered so much in his fight to be free, boldly stepped forward and risked his remaining liberty by declaring that the Soviet invasion is a "threat to the entire world."

The past efforts of the Soviets to pay lipservice to the issues of human rights and democracy have once again been exposed. In a direct slap in the face of the civilized world, the Soviet Union demonstrated their respect for human rights and international law by their actions to arrest and exile Dr. Sakharov to the city of Gorky. Such action is in direct contravention of principle VII of the Helsinki Final Act, the Universal Declaration of Human Rights and the International Convenant on Civil and Political Rights.

Last August, when our Foreign Affairs Committee met with Soviet officials in Moscow, I was appalled to hear their Chief Justice Smirnov state that human rights is a propaganda vehicle of the West.

If there is such a serious misconception of our Nation's concern for human rights by the Soviet's leading jurist, then it is apparent that we must make our message loud and clear to the Soviet Union that our Nation holds human rights in high regard. Furthermore, the Congress and the American people consider respect for basic human rights and individual liberty to be the birthright of all mankind, transcending internatiinal boundaries.

The majority of the nations of the world have joined the United States in condemning the Soviet aggression in Afghanistan. Our efforts to deny the Soviets the benefits of holding the Olympic summer games is rapidly gaining support as a positive response to that act. It should be remembered that it was Dr. Sakharov who pleaded this action many months ago. His exile is symbolic of Soviet abuses to the many thousands of lesser known men and women who share with him the fate of standing up to the repressive Soviet Communist regime and now suffer arrest and exile.

It is only fitting that we officially recognize this outrage and direct world attention to Dr. Sakharov and his plight. Dr. Sakharov in the past has been a great symbol of hope to all of those who share his love of freedom. Now he has become another symbol, a symbol of the repressive, totalitarian nature of the Soviet system. I once again urge my colleagues to join with me in support of this resolution, symbolizing our understanding of the true nature of the Soviet system and our unyielding support for the principles of human rights and freedom that we share with Dr. Sakharov.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding to me. I, too, wish to express my appreciation to the Foreign Affairs Committee for bringing this resolution to the floor so promptly, and to point up again the importance of this particular situation of Dr. Sakharov. The world now knows there are thousands of others like Dr. Sakharov who are imprisoned in the Soviet Union improperly. All the time, the Soviets are trying to convince people around the world that they are for human freedom and civil rights with impressive rhetoric when in actuality the Communists are not doing any such thing; they are in fact imprisoning people who are willing to speak out for people's freedom.

I compliment my colleagues for bringing this resolution to the floor to make it very, very apparent to the world that we do not approve of this very radical behavior on the part of the Soviets. I thank my colleague for yielding to me.

Mr. GILMAN. I thank the gentleman for his supportive remarks.

□ 1630

Mr. BONKER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WOLFF), a distinguished member of the Committee on Foreign Affairs and a sponsor of the resolution.

Mr. WOLFF. First let me say that a special commendation is due to the gentleman from Florida (Mr. FASCELL) for his constant vigilance. He is a member of the Helsinki Commission. Also a special commendation to the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), to the gentleman from Washington (Mr. BONKER) and the gentlewoman from New Jersey (Mrs. FENWICK) for the outstanding work they have done in this particular situation.

Mr. Speaker, I might comment that this one of the fine hours of the Congress and unfortunately the press gallery is virtually empty at this point. If it had been a question of some indications of some indiscretions of the Congress perhaps the galleries would be filled to overflowing.

However, I think it is important to understand that the situation as has been described by others is not just the isolated case of Dr. Sakharov. When we visited the Soviet Union and spoke to Pentecostalists—there are 50,000 Pentecostalists who are trying to immigrate from that country today and it is not just a question of the Jewish people who are being persecuted by the Soviet Union but many others as well.

The gentleman from Florida (Mr. FASCELL) asked why Dr. Sakharov. Well, why Shcharansky, why others who have tried to monitor the accords?

I ask the Congress and the entire membership of the Congress to join me in welcoming two relatives of Andrei Sakharov who will be visiting us at 5:15 on Thursday in room B-369. They are constituents of the gentleman from Massachusetts (Mr. DRINAN). They will be coming here to tell you their story firsthand as to why Andrei Sakharov has been jailed.

I ask my colleagues to not only look at the individual cases that are involved here but at the broad discrimination that is taking place and the broad deprivation of human rights that continues to take place.

Mr. Speaker, as a sponsor of one of the original resolutions condemning the Soviet action against Dr. Sakharov, I bear a special interest in the resolution currently being considered. I am sure that my colleagues in the House are universally incensed by the mistreatment of Dr. Sakharov and his fellow Soviet dissidents. They have exhibited their feelings not only by sponsoring various resolutions expressing outrage at the Soviet action, but also by sending a letter expressing their indignation to Soviet party chief Brezhnev. I have no doubt that my colleagues share my strong feelings of support for House Concurrent Resolution 272.

I wish to reiterate some of the sentiments expressed in this resolution and to elaborate upon them. Dr. Sakharov's mistreatment is not an isolated case; it seems that the Soviets have undertaken a general crackdown on dissident activity, Dr. Sakharov being the most prominent of the latest victims of Soviet institutional terror. A good number of harrassed advocates of human rights have been mentioned in the resolution; it is, of course, impossible to name them all.

Dr. Sakharov has for years devoted tremendous energy and resolve in his advocacy of the cause of human rights throughout the world. His efforts were acknowledged in 1975 with his reciept of the Nobel Peace Prize. But as we know, human rights are not very fashionable in the Soviet Union; Dr. Sakharov was not permitted to accept his prize personally.

Up until now, Dr. Sakharov has been left alone by the Soviet authorities; his status as one of the leading scientists in his country provoked hesitation from those who wish to silence him. But the Soviets decided to change their policy to one of active repression.

WHY SAKHAROV?

A valuable insight into the situation is given to us by Tatyana Yankelevich, Dr. Sakharov's stepdaughter, and her husband, Efrem. They recall the days when Sakharovs' apartment in Moscow was "always exciting—so many people in a small apartment, discussing how to try and help one another." But the Sakharovs are now in exile in the "guilded cage" of Gorky; the Yankelevichs, having been stripped of their Soviet citizenship, reside in Boston. Mrs. Yankelevich is forced to follow the developments across the sea on television, as she and her husband are denied access to the Sakharovs, who are refused telephone and mail services so vital to their crusade for human rights. The Yankelevichs relate that even correspondence within the Soviet Union is forbidden.

The case of another prominent Soviet citizen, Lev Z. Kopelev, is typical of how those who have chosen to protest the mistreatment of Dr. Sakharov from within the Soviet Union have been dealt with by their Government. Mr. Kopelev is a writer whose works have been attacked as being subversive and treasonous by a Soviet newspaper. Mr. Kopelev's meetings with foreigners were venomously ridiculed: "Kopelev's only occupation now is to supply our adversaries with propaganda materials." It went on to describe him as "nothing but a Judas, a traitor to his country and nation." It is perhaps ironic that the religious reference to Judas was chosen; it is absurd that the avowedly atheist Soviets wish to associate their enemies with an antichrist.

"I believe in Russia" were the words of Mr. Kopelev. Indeed, such are the sentiments of the Soviet dissident movement as a whole. Russia is their beloved homeland, a homeland now being ruled by a clique of oppressors who distort party doctrine for use against their own people. Kopelev, like so many others, are being threatened, if not punished, because they wish to convey that feeling to sympathetic foreigners. The cause of human rights cannot be silenced in the Soviet Union, nor will it be forgotten by the American public. Passage of this resolution must not signal the end of our concern; I am sure that my colleagues share with me the readiness to continue this fight for human dignity, as long as there are those who wish to destroy it.

Mr. BONKER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman from Washington for yielding and I commend his fine statement, his efforts in the Foreign Affairs Committee and the efforts of the chairman of the full committee, Mr. ZABLOCKI, to report out a comprehensive resolution which reflected the concerns expressed by all of the sponsors.

In the resolution before us today, the House recounts the full extent of Soviet human rights violations which are all the more cynical and outrageous because the Soviet Union has signed so many international covenants guaranteeing its citizens' rights. The resolution identifies the continued repression of "religious believers, scientists, writers, intellectuals, human rights activists and Helsinki monitors," as a violation of both Principle VII and Basket Three of the Helsinki Final Act. The resolution recognizes that the case of Dr. Sakharov is but another in a series of repudiations of these important accords.

To be sure, when we cite the names of Shcharansky, Ginzburg, Orlov or Sakharov, we cannot forget the hundreds of thousands, if not millions, of less-prominent cases and even more egregious violations. We must never forget the aspiration of those Soviet citizens who wish to worship or emigrate and who are not scientists or intellectuals. But the Sakharov case has foreign policy implications that go beyond our discussion of human rights violations and I would like to dwell on the importance of Dr. Sakharov's arrest and its timing for that reason.

Sakharov had enjoyed relative freedom in the Soviet Union in comparison to his allies in the human rights movement. His contributions in physics won him awards, a place of honor in Soviet society and perhaps some breathing room within which he operated. But Dr. Sakharov attributed his ability to speak out to détente, the platform on which human rights monitoring took place. When the West tied scientific and cultural contacts to certain levels of Soviet compliance with standards of human rights, this enabled Sakharov and others like him to dissent, to organize and to establish monitoring groups which protected rights of all Soviet citizens.

But once the protective umbrella was folded and East-West relations deteriorated, then and only then did the Soviets feel comfortable to move against Sakharov. They moved with a vengeance.

Sakharov was arrested on his way to work and banished from Moscow to the city Gorky. Gorky is a closed zone, off limits to foreigners, and is 2 hours from Moscow. He has been stripped of all of his state titles and awards. To impede the reporting of his arrest, the Soviets disconnected all nearby telephones. To complete the smear, the Soviet press has chipped in, accusing him of heaping indignities upon the title "Soviet Scientist" describing him as a "renegade," who has directly damaged his fellow citizens through his "subversive activities."

Sakharov who served as the lead source of information for the West on Soviet human rights violations was arrested now because the Soviet regime knew that its relations with the United States could not be worse. They moved at this time because any potential uproar by the West would be pale in comparison to our outrage at their invasion of Afghanistan.

Why do the Soviets bother? Why not expell all of those who want to leave? The essential answer is this: The government restricts freedom of expression as it restricts emigration because the Soviet system cannot withstand the political and ideological consequences of giving its citizens a choice. Recognizing this, it is wholly appropriate and consistent with our own politcal ends to continue to use the issue of human rights to present Soviet citizens with a forum from which to speak out against Russian policy.

A human rights policy can and should remain an active tool in our diplomatic arsenal to protest and hopefully arrest further violations. And, we must remember, that if we don't honor the Sakharovs, the Soviets will benefit from our laxness the more easily to perpetuate their outrages against their citizens. They waited until the world was in turmoil and they believed they had the luxury to silence one man—a Nobel laureate and human rights advocate—who dared to speak. And Sakharov's voice was a powerful one indeed. That's the reason why Congress must take special care in honoring his contribution to the cause of human rights.

I again thank the gentleman for his work on behalf of this important expression of congressional conscience.

I would point finally, that the world had to be in a state of turmoil for the Soviets to feel that they could act with impunity in this case. Sakharov's voice was a powerful one indeed and the Congress rightly takes special care in honoring him today, for his contributions to human rights.

I am pleased to have been the sponsor of one of the parent resolutions which was considered by the committee, a resolution which had over 50 cosponsors in the House and I would like to invite my colleagues in the coming days, weeks, and months to participate in a continuing vigil here in the Congress in statements before the Congress and the American people on behalf of the Soviet dissidents and refusniks.

Mr. Speaker, I thank the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI) and the chairman of the subcommittee, the gentleman from Washington (Mr. BONKER) and other members of the committee on both sides of the aisle including my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), for the excellent work they have done on this matter.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK), who is a cosponsor and a member of the Helsinki Commission.

Mrs. FENWICK. Mr. Speaker, I thank my colleague.

Yes, Mr. Speaker, we are speaking especially today of Andrei Sakharov who has been rightly described as the conscience of the Soviet Union. However, there are so many others. There is Shcharansky, Orlov, Deke, Rudanko, Petkos. I could recite them one after the other. They are lost in the prisons of Russia or in their psychiatric hospitals, beaten down. I do not know how many Members of this House have ever seen a person come out of a psychiatric hospital. Michael Bianstov, too. For 2½ years he could neither walk nor talk when he came out.

That is what Mr. Sakharov is trying to talk to us about. That is why it is such a sorrowful day to lose a powerful voice like that. He speaks to us still through his brave wife but how long is she going to be allowed to come and communicate with the Western journalists in Moscow?

They slipped off the train, she and another woman the other day. Will they be watched so carefully that they cannot do that again?

I think maybe we ought to remember that tens of thousands are lost and never known. They are unknown and unsung names and they die and suffer.

Perhaps Jacobo Timmerman who has just escaped from another kind of dictatorship said something that we all should remember:

> Whether it is in a minuscule, rightist country or an immense leftist country, the simplest formula for arriving at and staying in power is the unlimited destruction of human rights.

That is what we are talking about: the unlimited destruction of human rights. These people who have suffered in one way or another, in one country or another, all over the world, are telling us what this terrible century is like.

Mr. Speaker, certainly we should have learned one thing from the 1930's, that is we do not speak up, those of us who are safe and comfortable here, when people are being brutalized by their own governments, we are losing our souls.

I thank you, Mr. Speaker.

Mr. BONKER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I rise in support of House Concurrent Resolution 272 expressing the sense of this body that the Soviet Union has unfairly and unjustly exiled a great man. Dr. Andrei Sakharov, one of the outspoken critics of repression in the Soviet Union, has been removed to a city 250 miles from Moscow where no foreigners are allowed to enter, and no contact with the West can be maintained.

I remember with tremendous clarity a day in August 1975, when I met this troubled man in his Moscow apartment. Anatoly Shcharansky, the tireless defender of the rights of Jews to emigrate, served as my guide.

Dr. Sakharov expressed with remarkable vigor his conviction that the role of Christians in helping Soviet Jews can be immense. It was extraordinarily moving to hear Sakharov speak with such conviction about religious freedom.

After my return to the United States I remember worrying about the future of this beautiful human being. Would the Kremlin keep his wife outside of Russia and thereby seek to induce her husband to follow? Would Brezhnev hope that the prophetic voice of Sakharov would fade away if he were banished to the West? Or would Sakharov be allowed to remain in Moscow where each day his stature grows as a prophet?

Today, the fate the Soviets have chosen for him and others is clear. By silencing the most articulate critic of Soviet society, the Kremlin hopes to blot out the reality of Soviet transgressions. As the Soviet crackdown becomes more vicious, so too must our protests grow stronger.

Sakharov, Shcharansky, Orlov, Nudel and others must be allowed to regain their freedom. Our voices must not be silent until this task is complete.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I strongly support this resolution.

Mr. Speaker, I rise in support of House Concurrent Resolution 272, a resolution which calls upon the Soviet Government to release Andrei Sakharov from internal exile and further urges the President to protest the violations against the human rights of Dr. Sakharov and other Soviet citizens.

It has been a mere 2 weeks since the first news of the exile of this distinguished Nobel Peace Prize winner was announced to the Western World. And since that time, Sakharov has been threatened with further sanctions for his public comment "that he will refuse to submit to what is characterized as an illegal deprivation of his civil and political rights." Only last Wednesday, he was told that he had violated the terms of his exile by making a public statement blaming the Soviet Union for the deterioration of the international climate and stating that his criticism of the Soviet invasion of Afghanistan was a cause of his banishment. Unfortunately, this travesty portends similar consequences for other dissidents and freedom lovers in the Soviet Union. Only yesterday, an attack on Lev Opelev, a prominent author and friend of Sakharov was published by the Government. The turn of the screw has begun.

How tragic that the Soviets must resort to repression in order to maintain a semblance, false though it may be, of stability. How sad that intelligent criticism of Soviet actions is answered not by reevaluation and reappraisal of policy, but by condemnation. How internally fragile must be any system which represses rather than assimilates creativity and innovation. This is the tragedy which men such as Sakharov represent; brillant, creative, a genius forbidden to flower and bloom, yet like all living creatures, drawn instinctively to the light, to freedom and to the need to fight relentlessly for the truth. We must not forget the struggles of men such as Sakharov, but instead herald them. And we must not cease to protest against that type of system which unjustly confines such men.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Speaker, I wish to join with my other colleagues in condemning the exiling of Andrei Sakharov.

Last summer I had an opportunity to be in the Soviet Union with other Members of the Congress. We were over there with members of the Committee on Foreign Affairs. The thing that amazed me was the great desire on the part of so many people in the Soviet Union in spite of the suppression, the persecution that was present, to speak out for freedom. They believed in the rights of individuals. They were not afraid of the Soviet Union. In spite of the fact that they saw their numbers taken one at a time into exile or into prison or to their deaths, they were brave enough to stand for the things that they believed in.

Certainly this gentleman was one of those people who was willing to stand out for freedom in this world. Unless we and others are willing to stand for the freedom of each and every person on the globe, we lose our freedom ourselves in part.

For that reason, I think the act of the Congress in supporting this resolution is a step that we can take and we must take many more in order to insure the rights of people who are being oppressed throughout the world.

● Mr. OTTINGER. Mr. Speaker, I rise in support of House Concurrent Resolution 272, expressing the sense of the Congress that Andrei Sakharov should be released from internal exile, and urging the President to protest the continued suppression of human rights in the Soviet Union. We must take this opportunity to remind the Soviet Union that we will not allow the determination of these valiant dissidents to be ignored or forgotten. Let the Soviets' be assured by this resolution that we will continue to speak out for those whose rights have been violated. For the cost of silence is abandonment of human rights, and that is a cost we will not pay.

In support of this resolution, I would like to bring to the attention of my colleagues an editorial which appeared in the New York Times on January 30.

This editorial pays tribute to Andrei Sakharov. At this time we are all too familiar with the plight of countless dissidents and intellectuals who have been continually persecuted for expressing their views. However, despite the Soviets' arrest and exile of Sakharov his voice will not be silenced nor will ours.

Moreover, we who have the freedom to speak out must not forget the courage of this and all valient dissidents, and we must heighten our insistent voices on behalf of those who do not have the liberty to do so.●

● Mr. HOLLENBECK. Mr. Speaker, I strongly support this resolution condemning the arrest and exile of Andrei Sakharov. Andrei Sakharov is not only a great scientist, he has also spoken out long and hard on the human rights of all men and scientists in particular. He spoke strongly for the tremendous need to pursue every avenue toward more stable and peaceful relationships between the United States and the Soviet Union. His arrest is a direct snub at all attempts to reduce the level of conflict between the East and West.

Mr. Speaker, Andrei Sakharov is not the only dissident who has been arrested and imprisoned in the Soviet Union or elsewhere. There are many others around the world, but in the Soviet Union including Yuri Orlov, Anatoly Shcharansky, and Sergii Kovalev. Together with other colleagues on the Science and Technology Committee, I have persistently written Soviet authorities directing attention to the plight of these men and urging their release. All to no avail, yet. Thus, for this reason I am pleased that this resolution makes clear publically our strong condemnation of Soviet human rights violations for dissidents, not just Dr. Sakharov's arrest. (A copy of a recent letter I wrote to Roman A. Rudenko on this subject is enclosed for the RECORD. Mr. Rudenko is Procurator General of the U.S.S.R.)

Mr. Speaker, last week the gentleman from California (Mr. BROWN) and I introduced House Joint Resolution 487 which would make it U.S. policy to drastically reduce U.S./U.S.S.R. scientific cooperation pending the release of Andrei Sakharov unless otherwise dictated by extraordinary circumstances or the personal conscience of individual scientists. In the near future, we shall no doubt be considering here House Joint Resolution 487, but for today let me say that I strongly support House Concurrent Resolution 272 as a first step in expressing the true measure of my disgust over human rights violations by the Soviet Union.

In ending, I would just like to restate my remarks last year to President Alexandrov of the Soviet Academy of Sciences concerning the future of East-West scientific cooperation. I quote, "Communication while vital to the long run health of science is not beneficial per se, but only if it involves exchange between equals and only if it strengthens research opportunities beyond the immediate exchanges. Acquiescence in the violation of scientists' human rights is unacceptable as a price of scientific exchange."

I would emphasize that we cannot acquiesce in the violations of human rights; for example, when Dr. Sakharov and his wife are exiled or when Yuri Orlov is imprisoned and confined to solitary confinement and hard labor. On the other hand, we must in all instances be open to any genuine signals from the Soviet Union that they do seek to improve the conditions of their outspoken scientists and do genuinely welcome greater freedom of expression within their society and when they will respect national borders. In short, they must show us that they are ready and do seek to abide by the principles of the Helsinki Final Act in Europe and elsewhere.

Thank you, Mr. Speaker.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., January 25, 1980.

MR. ROMAN A. RODENKO,
Procurator General of the U.S.S.R.,
Pushkinskaya ulitsa 15a,
Moscow K–19, RSFSR, U.S.S.R.

DEAR MR. RODENKO: On May 24, 1979, we wrote Academician Anatoly Alexandrov, President of your National Academy of Sciences, concerning the imprisonment of Yuri Orlov and Sergei Kovalev. A copy of our letter is enclosed.

Since that time we have read Madame Orlov's testimony that her husband's health and physical condition have deteriorated seriously. More recently it has been reported that Yuri Orlov has been placed in a PKT punishment block. His diet has been greatly reduced and he is in solitary confinement when not working at hard labor.

As a result of Madame Orlov's testimony and the more recent reports of his further confinement, many of our nation's most distinguished scientists have written us expressing their great concern for Orlov as well as for the condition of Anatoly Shcharansky and Sergei Kovalev. Among the signers of these letters, which we enclosed along with a copy of Madame Orlov's testimony, you will no doubt recognize the names of eleven Nobel Laureates and many other world renowned scientists. Some scientific groups such as the Association for Computing Machinery and the 2,400 scientists for Orlov and Shcharansky have gone further. They have chosen, at considerable professional sacrifice, to suspend scientific contact with the Soviet scientists pending the release of their imprisoned colleagues.

We believe that their actions reflect the conclusion which we stated last year to Academician Alexandrov and which we emphasize once again:

"Communication, while vital to the long-run health of science, is not beneficial *per se* but only if it involves exchange between equals and only if it strengthens research opportunities beyond the immediate exchanges. Acquiescence in the violation of scientists' human rights is unacceptable as a price of scientific exchange."

In transmitting these letters we wish to point out that none were in any way solicited by the U.S. government but reflect the conscience of individual scientists and professional groups acting on their own.

As we noted last year and the U.S. Congress increasingly recognizes the need to include human rights as an essential component of national and international science and technology policy. Conversely, as President Carter stated in his March 19, 1979, message to Congress on "Science and Technology," it is our expectation that "these (science exchange) programs (with the Soviet Union) support and remain compatible with our overall political relationship." Specifically, we recall that in the 1975 Helsinki Accords and associated agreements, the United States and other Western nations recognized the legitimacy of the de facto governments and boundaries in Eastern Europe in exchange for recognition by the Soviet Union and its allies of provisions pertaining to the respect for human rights, as well as cooperation in humanitarian and other fields (including science). We assume that the Soviet Union and other signatories will still honor these reciprocal agreements.

As we write we have just received news of the arrest and internal exile of Andrei Sakharov and his wife, Elena Bonner, to the city of Gorky. As members of the Committee on Science and Technology, which oversees our Nation's science policy and which has responsibility for funding the National Science Foundation, we are concerned for the Sakharovs and for the effect of their arrest on East-West scientific cooperation. Our feelings are shared by many American scientists, some of whom have signed the letters enclosed here concerning Orlov, Shcharansky, and Kovalev.

We are also concerned because Andrei Sakharov has been a symbol for those few courageous men and women, in the Soviet Union and in the West, who have spoken out, even at the height of the cold wars, on the need for peace and the elimination of possible nuclear holocaust. Today we join these lonely voices of moderation in searching for a more rational and more humane resolution of the differences now facing our two nations. As a step, which we believe would be of great significance, we appeal to you to do everything in your power to assure the safety and timely release of Yuri Orlov, Anatoly Shcharansky, Sergei Kovalev, as well as the Sakharovs. We look forward to receiving your reassurance concerning their situation as the first of many steps required by leaders in both of our countries to reverse the ominous trends occurring today.

Sincerely,

George E. Brown, Jr., Harold C. Hollenbeck, James H. Scheuer, Tom Harkin, Donald J. Pease, Kent Hance, Allen E. Ertel, Donald L. Ritter, *Members of Congress.*●

● Mr. BIAGGI. Mr. Speaker, I am proud to rise as a cosponsor and strong supporter of House Concurrent Resolution 272, expressing the sense of Congress that Dr. Andrei Sakharov should be released from internal exile in the Soviet Union.

The banishment of Dr. Sakharov—a 1975 Nobel Peace Prize winner—is another indication of the reversion by the Soviet Union to its policies of aggression and arrogance. Not only do they flaunt their disregard of international law with their actions—they cannot even adhere to basic standards of human morality.

The timing of the Soviet action is at best curious. Just prior to this action, the Soviets had been roundly criticized for their invasion of Afghanistan. This criticism even translated into decisions by this Nation and the Congress to boycott the Olympics. When one would expect some gesture by the Soviets to enhance their faltering stock in the world community they turn around and do something aimed at incurring still further world wrath.

The Sakharov banishment lends credence to the decision to boycott the Olympics. How could the United States or any civilized nation travel to a country which practices the most brazen form of oppression in dealing with their own citizenry?

We are sending still another message to the Soviets today. Tragically, it is not a new one—we have passed resolutions of this sort throughout the past decade. Despite our actions, it appears the Soviet Union is taking giant steps backward. The President is dealing with the Soviets in strict terms, and well he should. I support his policies and hope they do provide some incentive for the Soviets to improve.

Mr. Speaker, we must be consistent and strong in our efforts to promote and protect basic human rights throughout the world. With this in mind, I urge the unanimous passage of House Concurrent Resolution 272.●

● Mrs. HOLT. Mr. Speaker, I commend the Foreign Affairs Committee for its timely action in bringing House Concurrent Resolution 272 to the floor and I join my colleagues in condemning the Soviet Union's suppression of human rights and in expressing moral outrage at the senseless persecution of Dr. Andrei Sakharov. This is another flagrant example of a persistent pattern of Soviet totalitarianism within its borders.

We know only too well that the Soviet Union is seizing the opportunity to expand its influence and control into South Asia and the Persian Gulf. Its blatant invasion of Afghanistan is a case in point.

Mr. Speaker, when a prominent Russian of Sakharov's stature can be arrested, exiled, and stripped of human rights, just think of the millions of others in the Soviet Union who must live in perpetual fear of the Kremlin and its ruthless leaders. I strongly urge the adoption of the resolution.●

Mr. BONKER. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore (Mr. Mitchell of Maryland). Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Are there additional requests for time?

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 31, as follows:

[Roll No. 30]

YEAS—402

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian

Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—31

Anderson, Ill.
Ashley
Bonior
Crane, Philip
Davis, S.C.
Eckhardt
Emery
Fish
Fowler
Hightower
Holt
Johnson, Colo.
McCloskey
McHugh
Murphy, Ill.
Murphy, N.Y
Nolan
Obey
Pritchard
Pursell
Rhodes
Roberts
Rodino
Rostenkowski
Runnels
Santini
Treen
Whitten
Wilson, C H.
Wyatt
Yates

□ 1700

The Clerk announced the following pairs:

Mr. Rodino with Mr. McCloskey.

Mr. Rostenkowski with Mr. Treen.

Mr. Obey with Mr. Wyatt.

Mr. Roberts with Mr. Pursell.

Mr. Charles H. Wilson of California with Mr. Emery.

Mr. Santini with Mr. Fish.

Mr. Whitten with Mr. Philip M. Crane.

Mr. Murphy of New York with Mr. Anderson of Illinois.

Mr. Murphy of Illinois with Mrs. Holt.

Mr. Fowler with Mr. Pritchard.

Mr. Ashley with Mr. Yates.

Mr. Hightower with Mr. Eckhardt.

Mr. McHugh with Mr. Bonior of Michigan.

Mr. Nolan with Mr. Runnels.

Mr. Davis of South Carolina with Mr. Rhodes.

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3275, AMENDING THE SMALL RECLAMATION PROJECTS ACT OF 1956

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96–746) on the resolution (H. Res. 559) providing for the consideration of the bill (H.R. 3275) to amend the Small Reclamation Projects Act of 1956, as amended, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4119, FEDERAL CROP INSURANCE ACT OF 1979

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96–749) on the resolution (H. Res. 562) providing for the consideration of the bill (H.R. 4119) to improve and expand the Federal crop insurance program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2551, AGRICULTURAL LAND PROTECTION ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96–748) on the resolution (H. Res. 561) providing for the consideration of the bill (H.R. 2551) to establish internal Federal policy concerning protection of certain agricultural land; to establish a Study Committee on the Protection of Agricultural Land; to establish a demonstration program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2609, INCREASING APPROPRIATIONS CEILING FOR THE COLORADO RIVER BASIN SALINITY CONTROL ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96–745) on the resolution (H. Res. 558) providing for the consideration of the bill (H.R. 2609) to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3995, NOISE CONTROL ACT AUTHORIZATION, FISCAL YEARS 1980 AND 1981

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96–747) on the resolution (H. Res. 560) providing for the consideration of the bill (H.R. 3995) to authorize appropriations for the Noise Control Act of 1972 for the fiscal years 1980 and 1981, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 5507, RELATING TO TREATMENT OF RETIREMENT BENEFITS UNDER FEDERAL EMPLOYMENT INSURANCE LAW

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 544 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 544

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 7 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5507) to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. FARY). The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a modified closed rule providing 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule allows only amendments recommended by the Committee on Ways and Means which are not amendable and also permits one motion to recommit. Finally, Mr. Speaker, the rule waives clause 7, rule XIII, against consideration of the bill. Clause 7, rule XIII, states that the report accompanying each bill shall contain an estimate of the costs which would be incurred in carrying out the bill in the fiscal year in which it is reported and in each of the succeeding fiscal years. The cost estimate accompanying H.R. 5507 provides estimated outlays for fiscal years 1980 through 1984. However, the bill was reported during fiscal year 1980 and would add outlays from the unemployment insurance trust fund for 6 months in fiscal year 1980. The committee report failed to include an estimate of outlays incurred through fiscal year 1985 and so a waiver of clause 7, rule XIII, is necessary.

Mr. Speaker, pursuant to the unemployment compensation amendments of 1976 all States would be required to reduce an individual's unemployment insurance benefits by the amount of any private or public pension or retirement benefits he or she is receiving. H.R. 5507 would amend and delay the effective date of the Federal requirement from March 31, 1980 to January 1, 1982, and would require States to reduce unemployment insurance benefits to an individual by the amount of pension or other retirement benefits received only from the employer chargeable for the individual's unemployment benefits. Pensions or retirement benefits maintained by other employers would remain a matter of State law.

Mr. Speaker, this bill would also establish a 2-year limit on the payment of extended unemployment benefits as of January 1, 1982. The 2-year period would commence 1 year after the individual initially applied for regular State unemployment benefits. An individual would be allowed up to 3 years to collect any regular and extended benefits under this legislation.

Mr. Speaker, the Unemployment Compensation Amendments of 1976 are viewed to be inconsistent with the goal of the unemployment programs because unemployment benefits are barred from individuals who retire and then return to the work force or who continue to work while receiving pensions. H.R. 5507 is a good bill which takes care of some problems in the Unemployment Amendments of 1976.

Mr. Speaker, I support this rule and urge my colleagues to adopt House Resolution 544 so that the House may proceed to the ocnsideration of this important legislation.

□ 1720

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

ceed to the consideration of this impor-

Mr. Speaker, House Resolution 544 is a closed rule, allowing only amendments recommended by the Committee on Ways and Means which are not amendable. Clause 7 of Rule XIII, the requirement of a committee cost estimate, is waived against consideration of the bill. Finally the resolution provides one motion to recommit.

This is not a difficult rule.

On the other hand, the legislation which we are about to consider, H.R. 5507, is much more complicated and far reaching in its effects than its supporters would have us believe.

To provide some background, current law provides that beginning April 1, 1980, the amount of unemployment insurance compensation received by an individual shall be reduced by the amount of any public or private pension. Treatment of retirement income has varied from State to State, and, anticipating this change, a number of States have already enacted provisions to conform to the new law enacted in 1976.

H.R. 5507 would delay the effective date after which all States would be required to make such a reduction from March 31, 1980, to January 1, 1982. It further provides that such offsets will only be required when the pension is received from the base-period employer or an employer who would be charged for any unemployment compensation benefits received by the person.

The provisions of this legislation are in direct contradiction of the principles on which our programs of unemployment assistance are based. Unemployment insurance programs are designed to provide needed benefits to regularly employed members of the work force who become involuntarily unemployed. This compensation is a means of temporary support to individuals who are ordinarily steadily employed.

This description obviously does not envision a retiree as an ordinarily employed member of the labor force. We must recognize the fact that unemployment compensation and pensions perform two entirely different functions and they must be treated as such.

The language of the 1976 law is an appropriate recognition of the fact that these two kinds of benefits must be given separate treatment. Implementation of this 1976 law will halt an unnecessary drain of unemployment compensation funds reserving them for those in the greatest need and to whom the program was directed.

Enactment of H.R. 5507 is a mockery of the work ethic and would be disastrous move for this House to make. If this bill is approved, we will be asking the taxpayer to pick up the cost of a benefit that is directly contrary to the purpose of unemployment compensation.

I urge defeat of this legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I am not going to weary the House with extensive comment on the bill, because, bad as it is, we will have plenty of time to discuss it in the Committee of the Whole, but I would like a comment on what the House will not be able to do, because we are considering this bill under a closed rule.

As many Members are aware, this bill was scheduled for floor action yesterday, but it was pulled off and a committee amendment adopted, because we had some difficulty with drafting.

When the committee considered the amendment which was agreed to unanimously, I might add, the committee at the same time decided that it would not act on two amendments that were proposed by the gentleman from California (Mr. ROUSSELOT).

Those two amendments would not have made the bill whole, but they would have made it a lot more palatable to the House and would have saved a great deal of money for our unemployment compensation fund.

The first of these was an amendment originally suggested by our good colleague, the gentleman from Tennessee, ROBIN BEARD, and that relates to unemployment compensation being paid to people who go into the Armed Forces and get out after 91 days and then claim unemployment compensation.

I doubt if there is a Member of the House who can justify that sort of thing, but no, the committee did not want to accept that, and, because of the closed rule, there will be no opportunity to present that amendment. The second amendment suggested by the gentleman from California was one that would reduce the 2-year delay in implementing the provisions of the earlier bill which are being voided by the bill before us.

That amendment, I am told, would save some $56 million, which is only money, of course.

The sponsors, I guess, would have us believe that it does not cost anybody anything because we merely levy these unemployment compensation taxes on the employers of the world, and everyone knows the employers can well afford to pay the taxes.

The one fact is, however, that those taxes are paid by the consumer of the goods and services which are produced by those employers; and the employers simply act as the Government's tax collector.

So we are laying back on our consumers in this bill an unnecessary $600 million through fiscal year 1984. We could have saved about $56 million of that, perhaps an inconsequential amount, but better than a poke with a sharp stick, had we been allowed to consider the Rousselot amendment on the floor of the House.

Mr. Speaker, this is a lousy bill. I have not had time to discuss the bill itself, but I assure my colleagues it is costly, unnecessary and contrary to the work ethic.

But one of the worst aspects of the bill is that we are considering it under a closed rule so that the House has no ability to work its will and to reduce the unnecessary expenditures contained therein.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise to inform my colleagues that there was another important aspect of this bill that I think we should have included, but because of the nature of the closed rule we are not able to do so. Those were suggestions by our colleague, the gentleman from Tennessee (Mr. BEARD), and others from the Committee on Armed Forces, which would probably result in legislative savings of $20 million or better for the first year, and that is that there evidently are several people who have found out that you can sign up to be in the military, serve for 91 days or a few more days than 91 days, then find a way to get something a little bit less than an honorable discharge but some kind of a discharge that does not disturb your ability to get veterans' benefits, and then you are eligible for all kinds of veterans' benefits and unemployment compensation.

Many people felt that this should be included as an amendment in this bill.

Now, the other body, we understand in committee has included this language in the bill, and I am sorry that we will be unable when we get to the Committee of the Whole House to add this particular amendment, which I think was very properly discussed in the hearings in the subcommittee, was offered by the gentleman from New York (Mr. CONABLE) in the full committee, and though was slightly defeated by voice vote, in my judgment, should be part of this legislation as long as we are taking time to improve the unemployment compensation law.

□ 1720

So, my feeling is we made an error in not allowing for a rule that would have provided that this amendment, offered by my colleague or suggested by my colleague from Tennessee, offered in committee by the gentleman from New York (Mr. CONABLE) that it was not made in order to be offered on the floor, because I am sure with adequate debate we could have included it in the legislation.

I also would like to say it was my hope, as the gentleman from Minnesota has suggested, that we should have reduced the time extension to 1 year or thereabouts. It could ultimately be a saving from anywhere from $150 to $200 million. That, to me, is a lot of dollars.

The other body actually in their markup has stated this should begin on April 1 of this year. So my feeling is that, again, we made a mistake in having such a closed rule that this provision could not be added. Most recognize that the States could comply with this law that was passed 4 years ago within at least a year's time and, as a result, I am sorry that we did not allow these two potential amendments to be offered on the floor. Therefore, I think it is again regretful that we have such a tight and a closed rule that appropriate amendments to save the taxpayers very substantial dollars could not be offered. I regret this was not allowed to occur.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. I thank the gentleman for yielding.

I would like to ask the gentleman if the provisions which the gentleman discusses are not in a bill of the other body which we will probably encounter in the committee on conference anyway.

Mr. ROUSSELOT. Yes. That is my understanding. It is my hope that the conferees, if we do pass this legislation, that the conferees do take this into account and that our conferees will accept the other body's version of the same legislation which would make it far less expensive.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. LOTT. Mr. Speaker, I yield 3 additional minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. FRENZEL. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. I will be more than pleased to yield to my colleague from Minnesota, who is a member of the committee.

Mr. FRENZEL. I thank the gentleman.

If we are probably going to encounter this in the committee of conference, the fact that we are being prohibited from this closed rule is likely to lead to some instruction of the conferees, would it not?

Mr. ROUSSELOT. Well, I would hope so, because I believe what has been provided in the legislation by the other body was discussed in our committee. I am sorry we did not include it in the bill and I would hope that our conferees would want to go to the conference and include this in the conference provisions.

Mr. FRENZEL. If the gentleman will yield further, I think it is terribly depressing that the House is not going to have a chance to participate in such decisions as the other body has already made and our conferees are either going to have to act for us or be instructed by us.

Mr. ROUSSELOT. I think, as the gentleman knows, there is some urgency to the legislation because of previous provisions that go into place on April 1 of this year, so there was an attempt to try to accommodate that potential deadline for the few States that may not have had a chance to enact legislation to comply with this provision. My belief is that most of them have been notified, I understand, by the Department of Labor that they should be ready to comply in case some legislation of this type does not pass.

But, in any event, in case those States have not had a chance to act, it is our hope that something will be provided, some provision will be made so that they will have time to act.

I urge my colleagues to consider voting against this closed rule.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I rise simply to announce to the Members that as soon as we adopt this rule we will not have any further business for today. We hope to pass the bill tomorrow.

Mr. PEPPER. Mr. Speaker, I have just one sentence. This rule is in accordance with the precedents in dealing with this kind of question by the Rules Committee and the House and, therefore, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—yeas 37, nays 46.

Mr. PEPPER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 158, not voting 31, as follows:

[Roll No. 31]

YEAS—244

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Annunzio
Anthony
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chappell
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Corman
Cotter
Daniel, Dan
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harris
Hawkins
Hefner
Heftel
Hillis
Holland
Holtzman
Howard
Hubbard
Hutto
Ireland
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lee
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McKay
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins

Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Roe
Rose
Rosenthal
Roybal
Russo
Sabo
Satterfield
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—158

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, R. W.
Dannemeyer
Deckard
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Forsythe
Fountain
Frenzel
Gingrich
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harkin
Harsha
Heckler
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Kazen
Kelly
Kemp
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKinney
Madigan
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
O'Brien
Pashayan
Paul
Petri
Porter
Quayle
Regula
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
White
Whitehurst
Whittaker
Williams, Ohio
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—31

Alexander
Anderson, Ill.
Applegate
Ashley
Carter
Crane, Philip
Davis, S.C.
Eckhardt
Emery
Evans, Del.
Fish
Fowler
Hightower
Kindness
McCloskey
McHugh
Moorhead, Pa.
Murphy, Ill.
Obey
Pritchard
Railsback
Rhodes
Rodino
Rostenkowski
Runnels
Santini
Treen
Waxman
Whitten
Wyatt
Yates

□ 1740

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Treen.
Mr. Rodino with Mr. Wyatt.
Mr. Obey with Mr. McCloskey.
Mr. Santini with Mr. Emery.
Mr. Murphy of Illinois with Mr. Fish.
Mr. Fowler with Mr. Philip M. Crane.
Mr. Hightower with Mr. Pritchard.
Mr. Davis of South Carolina with Mr. Anderson of Illinois.
Mr. Yates with Mr. Railsback.
Mr. Runnels with Mr. Evans of Delaware.
Mr. Ashley with Mr. Carter.
Mr. Whitten with Mr. Kindness.
Mr. Applegate with Mr. Eckhardt.
Mr. Moorhead of Pennsylvania with Mr. Alexander.
Mr. McHugh with Mr. Waxman.

Messrs. DUNCAN of Tennessee, VANDER JAGT, ICHORD, HORTON, HUGHES, STENHOLM, and FOUNTAIN changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

● Mr. DANIELSON. Mr. Speaker, I was unable to be present for two rollcall votes on January 22, 1980, and January 23, 1980, because I was participating in a study mission in the Far East. On rollcall No. 2, in which the House agreed to House Resolution 514, the rule under which it considered H.R. 2471, to authorize appropriations for the U.S. International Trade Commission and the U.S. Customs Service for fiscal year 1980, I would have voted "aye."

On rollcall No. 3, in which the House agreed to House Resolution 513, the rule under which it considered H.R. 4788, authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation and flood control, I would have voted "aye."●

WITHDRAWAL AS MEMBER FROM PROCEEDINGS OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER laid before the House the following withdrawal from the Committee on Standards of Official Conduct during proceedings investigating FBI bribery charges:

FEBRUARY 4, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
The Capitol.

DEAR MR. SPEAKER: For obvious reasons I wish to withdraw from the Ethics Committee proceedings while they are investigating the alleged improprieties of members of Congress in connection with the FBI bribery charges.

Sincerely,

JOHN P. MURTHA,
Member of Congress.

APPOINTMENT OF MEMBER TO ACT IN PROCEEDINGS OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER. Pursuant to clause 4 (e)(2)(D) of rule X, the Chair appoints the gentleman from Georgia (Mr. FOWLER) to act as a member of the Committee on Standards of Official Conduct in connection with any committee proceeding relating to the conduct of the gentleman from Pennsylvania (Mr. MURTHA).

PRESIDENT PROPOSES DELETION OF REQUIREMENT THAT IRS COMPLY WITH FAIR DEBT COLLECTION PRACTICES ACT

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, in an age when the great cry is for more responsible and responsive government, it comes as something of a surprise, even a shock, to have the President propose an appropriation for the purpose of harassing, oppressing, and abusing taxpayers. Incredible as it might seem, the budget of the United States for the fiscal year 1981 contains such a proposal. At page 775 of the appendix to the budget, the President proposes that the general provisions governing Treasury Department appropriations be altered to delete the requirement that Internal Revenue Service personnel comply with certain provisions of the Fair Debt Collection Practices Act.

The effect of this proposed deletion would be to license the practices forbidden by that act, which practices include—and here I quote from the act: "The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person" and "the use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader" and "causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."

A few years ago the Internal Revenue Service was engaging in just such practices to collect taxes throughout the country, and in my own district the excesses even extended to plans for armed door-to-door shakedowns of citizens. It was that type of proven experience that moved Congress to restrict the Internal Revenue Service from practices which, if engaged in by private debt collectors, would constitute grounds for damage suits.

It now appears that the Internal Revenue Service is chafing under the requirement that it engage in orderly conduct, and would like a little more room to engage in the rubber hose and shotgun methods more suited to criminal extortionists than to officers and employees of a democratically installed government.

It is my intention to fight this proposed deletion, and require that the Internal Revenue Service refrain from uncivilized, inhumane, and criminal procedures in tax collection.

□ 1750

COMMENDATION OF KAHUKU HIGH SCHOOL BAND

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, I would like to take this opportunity to commend the students, parents, and Mr. Michael Peyton and Mr. Alan Akaka, band instructors of the Kahuku High School Band which is in my district. The Kahuku Red Raider Marching Band has just been named one of the top-10 marching bands in the Nation by the National Band Association. This is the first time that a school band from Hawaii has received this recognition. With this honor is an invitation to perform at the National Band Association's Marching Exhibition during the first and second weeks of June at Knoxville, Tenn.

The National Band Association is the largest band organization in the world. It was organized for the purpose of promoting the musical and educational significance of bands and is dedicated to the attainment of a high level of excellence for bands and band music in the United States.

STATEMENT OF THE HONORABLE JAMES J. HOWARD, CHAIRMAN, SUBCOMMITTEE ON SURFACE TRANSPORTATION, HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE, ON A BILL TO AMEND CHAPTER 4 OF TITLE 49, UNITED STATES CODE, TO PROVIDE FOR MORE EFFECTIVE REGULATION OF MOTOR CARRIERS OF PROPERTY, AND FOR OTHER PURPOSES

(Mr. HOWARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOWARD. Mr. Speaker, of all the subject matters I have been concerned with as chairman of the Subcommittee on Surface Transportation, none has caused me more anguish in discerning what is best for the public interest than the issues confronting the Congress regarding the regulation of the motor carriers of property. I am torn, on the one hand, by thoughts epitomized in the adage that if something is working well, don't tinker with it. Any objective observer would have to concede that our national system for transportation of property does work well and, in fact, for more than a generation has provided a service unequaled in any other part of the world. On the other hand, I am disturbed by evidence indicative of a need for improving the system. No objective observer in the light of that evidence could seriously dispute that the system needs "tinkering," perhaps substantially.

Last August 20 the Subcommittee on Surface Transportation began, in Denver, Colo., the first of a series of hearings across the Nation. Subsequently hearings were held in Boston, Harrisburg, Savannah, Chicago, San Diego, and San Francisco. The purpose of those hearings was to afford the grassroots of those participating in or affected by the trucking industry to have an opportunity to come to grips with and make their views known on current conditions in the industry and on the possible necessity for change in the matter and scope of the regulations governing the industry.

We heard from consumers, owner-operators, private carriers, contract carriers, large and small, common carriers, large and small, economic experts, truck drivers, and many others.

From each we learned something. From all we learned that there is no unanimity of opinion on what would best serve the public interest. Some indicated continuance of the status quo. Others opted for total deregulation. Others for extensive reregulation and still others for a very limited reregulation.

While there was no unanimity of expression on what should be done, the hearings did make clear that the principal objectives of any legislation should be to remove those conditions contributing to a waste of our Nation's invaluable energy resources; to provide a fair opportunity for any American to get into the business; to provide the wherewithal for a fair interaction among carriers and shippers, large and small; to assure service to small towns and rural areas; to assure that the immunity to antitrust prosecution afforded by law to the industry in the making of rates is merited by a system of ratemaking that is fair not only to the industry but to the public as well; to assure that the cost to the consumer for the transportation of property will be as low as possible and yet consistent with the American concept that a laborer is worthy of his hire; to afford a better economic climate for those rugged individualists engaged as individuals in the business and to protect them from abuses which deny them a fair return on their labor and investment.

Efforts to achieve these objectives have been made by many Members of Congress by the introduction of bills directed toward attaining these concerns.

The chairman of the full committee, our very esteemed colleague, the Honorable HAROLD T. (BIZZ) JOHNSON, has equally shared in the study, analysis, and review of all the bills and of all the input at our hearings thus far. We have concluded that at this point we are in need of additional input, analysis, and recommendations from our colleagues, the administration, the Federal agencies, the Interstate Commerce Commission, and the national organizations representing those who would be affected by any legislation we propose. Beginning February 20 we will hold hearings to obtain those views.

In an effort to acquaint you and the witnesses we will be hearing from with the kind of legislation we think will advance improvement of our current system of truck transportation, we have drafted the bill we now introduce. Its provisions are tentative and exploratory and intended as an invitation for extensive discussion and any changes which would bring us further down the road to enacting legislation for the truck transport system that is fair and equitable to all.

It is with a deep sense of pride and appreciation that I bring to your attention the major contributions to this bill which our highly esteemed colleagues, the Honorable WILLIAM H. HARSHA, ranking minority member of the full committee, and the Honorable BUD SHUSTER, ranking minority member of the Subcommittee on Surface Transportation, have made. Both have been active and informed participants in our hearings and in the drafting of this bill, and both coponsor the bill.

Before closing, I want to advise you that current uncertainty in regard to the direction of our legislation has contributed materially to a disruption in the planning and operations of both the Interstate Commerce Commission and of the industry. On October 22, 1979, Senator CANNON announced that he would do everything in his power to see that an act is on the desk of the President by no later than June 1, 1980. Chairman JOHNSON and I have joined Senator CANNON in his commitment toward that goal.

SECRETARY OF AGRICULTURE SHOULD BE COMPLIMENTED ON REPORT ON DIETARY MODERATION

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARTIN. Mr. Speaker, as one who has criticized the FDA and Department of Agriculture for their unjustified crusade to ban nitrite preservative in meat, like the earlier ban on saccharin, I want to compliment our former colleague, the Secretary of Agriculture, for his recent report on dietary moderation.

By helping to educate Americans that excessive individual consumption of fat, sugar, salt and alcohol can be harmful, he properly emphasizes the healthy virtue of moderation. He properly does not, nor could he propose to ban such products, but seeks to improve public understanding of good dietary habits.

It is high time we get away from obsolete laws that require relatively innocuous food additives to be banned, and instead focus attention on informed choices by consumers themselves.

I include the following:

U.S. URGES PUBLIC TO EAT LESS OF POPULAR FOODS

(By Victor Cohn)

The federal government, in its most serious warning in recent years about the nation's eating habits, urged Americans yesterday to eat less of many of America's most popular foods.

The departments of Agriculture and Health, Education and Welfare said Americans should eat less fat, especially less saturated or solidified fat, and less cholesterol, sugar and salt—as well as less food altogether—if they want to avoid premature death from several diseases.

In effect and sometimes explicitly, the recommendations warn Americans away from too many cholesterol-laden eggs, too much fat-rich whole milk and butter, too many salty prepared meats and snacks and too much sugared food, like sweet breakfast cereals.

The recommendations are only that, "not a prescription," and they are "purely advisory" and will not force anyone to do anything, Agriculture Secretary Bob Bergland emphasized.

But he and other officials also said the recommendations, have already led Agriculture's school lunch and other food programs to buy less fatty hamburger, less sugary canned fruits and less salty food. Officials said there will be other steps, in time.

And there will be huge educational efforts by Agriculture and HEW directed at hundreds of thousands of doctors, nutritionists and school teachers.

The recommendations dodge many important issues, such as the fact that most beef, even lean beef, tends to be fatty, and the matter of possibly risky food additives, like nitrite and saccharin.

Nonetheless, the recommendations represent a vast turnaround in favor of consumers for the traditionally producer-minded Agriculture Department.

The seven key statements say:

"Eat a variety of foods" daily, from "selections of" fruits; vegetables; whole grain and enriched breads, cereals and grain products; milk, cheese and yogurt; meats, poultry, fish, eggs, and legumes (dry peas and beans).

"Maintain ideal weight," since obesity is linked to high blood pressure, diabetes and increased risk of heart attacks and strokes.

"Avoid too much fat, saturated fat and cholesterol" by eating in moderation foods like eggs, organ meats (liver, sweetbreads and kidneys) and butter, cream and solid margarines. If you want to eat these, reduce intake of other fatty foods.

"Eat foods with adequate starch and fiber"—starch for carbohydrates which provide energy and are low in calories unless flooded by fats, and fiber (in fruits, vegetables, whole grain breads and cereals) for healthy intestines.

"Avoid too much sugar"—in frequent snacks, jams, jellies, candies, cookies, soft drinks, cakes, pies, breakfast cereals, ice cream, flavored milk and even catsup.

"Avoid too much sodium [salt]," which is in processed foods, sauces, pickled foods, snacks and sandwich meats, as well as the salt-shaker.

"If you drink alcohol, do so in moderation," because alcoholic drinks tend to be high in calories and more than one or two a day can be dangerous.

These recommendations represent a major victory for Sen. George McGovern (D-S.D.) His Select Committee on Nutrition issued a similar, though even more drastic, set of "Dietary Goals" in January 1977.

For more than two years, McGovern and some colleagues have been urging federal action. Many farm- and cattle-minded members—and food interests—felt otherwise.

Some scientists, too, felt that one of the hottest issues—whether fats and cholesterol in foods help cause heart and blood vessel disease—remains unresolved. Public recommendations may cause disappointment and anger, they argued, if the recommendations prove ill-advised.

To this, Bergland and HEW Assistant Secretary and Surgeon General Julius Richmond replied that the recommendations are "only" the prudent "consensus" of most scientists today, not immutable or permanent rules.

TRIBUTE TO HON. CHARLES A. VANIK

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I know all of us in this body were saddened and perhaps disappointed by the announcement of the retirement of one of our most able colleagues, the gentleman from Ohio (Mr. VANIK). In the months ahead, I am sure there will be ample opportunity for all of us to express our tribute to his extraordinary achievements, but at this time I would like briefly to express my appreciation for his 26 years of service in the House, a record of intelligent and fearlessly outspoken independence and crusading concern for the consumer.

But more importantly, I would like to share with my colleagues the gentleman's statement announcing his decision not to seek reelection. That statement is an eloquent expression of the gentleman's commitment to the highest level of integrity and decency in public service. It is a perceptive comment on the need for major reform of the conduct of political campaign and an argument for public financing and the best that I have seen on that subject.

The statement follows:

Statement of Congressman Charles A. Vanik, January 30, 1980, at a Press Conference in Cleveland, Ohio

Congressman Charles A. Vanik of the 22nd District of Ohio today announced that he will not seek election to the 97th Congress. Representative Vanik was first elected to the Congress from the 21st District of Ohio in 1954. In 1968, he gave up his 21st Congressional seat to run for Congress from the 22nd District of Ohio. Currently, Mr. Vanik serves on the Ways and Means Committee and is Chairman of the Trade Subcommittee:

Congressman Vanik stated:

"My decision is not based on any concern about reelection. In 1978 I was elected by a margin of 66 percent. In the past three elections, I was reelected without raising any campaign funds or making campaign expenditures. My voting record and my walking shoes were my entire campaign.

"Today my supporters advise that it will be necessary for me to return to campaign financing. My determination not to use campaign funds overwhelms my desire to remain in office. Seldom are contributions made without a political debt or mortgage. I have become accustomed to a high degree of political freedom, which should be made available to every member of Congress through public financing. This is particularly important since public financing of presidential elections has increased the pressures on Congress and diverted the flow of special interest campaign resources to the Congress. Objective judgment on public issues are hard to come by under such tremendous pressure.

"Instead of campaigning for reelection, I would like to spend my total time solving problems through the legislative process. I believe that I can do more in eleven months of hard work than I can in two years of the next term.

"It distresses me that the campaign of 1980 began Labor Day 1979. The political demands on time have put needed legislation and important decisions on the back burner. For the good of the nation, the campaign period should be shortened, limited to the period between May and November.

"For twenty-five years, I have fought an uphill battle for tax justice. Until the Congress is released from its contribution commitments, there is little hope that the heavy burden of taxation will be lifted from the individual in a more equitable manner. The oil windfall tax is a case in point. The President and the Congress have accepted a revenue level $100 billion less than it ought to be. The result is a victory for everyone but the people.

"There is often talk about limiting the terms of Congressmen. From my vantage point, Congress needs experience and memory as much as it needs new blood. Under the present system, we are creating a revolving door Congress which has little stability or courage.

"Twenty-six years is substantial commitment to any endeavor—it is time for me to meet new challenges."

RECORD NAVY DIVE

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, I want to call your attention, and that of my colleagues, to a recent record dive performed by the U.S. Navy at the Naval Experimental Diving Unit (NEDU) located in my district.

The dedicated naval personnel located at the Navy Coastal Systems Center in Panama City, Fla., established their place in the record books with Deep Dive 79, a deep saturation dive mission in which six U.S. Navy saturation divers reached the equivalent depth of 1,800 feet of seawater (FSW). The NEDU was the first to successfully put divers in the water at 1,800 FSW to perform meaningful work for 5 days. This unprecedented action is a major breakthrough in understanding the effects of deep dives and man's ability to cope with them. The previous deep dive was accomplished by our allies, the French, in 1977 to a depth of 1,644 FSW for a period of 10 minutes. At that time, the purpose was to demonstrate practical underwater oilfield work at great depths. The implications for future "harvesting" of the sea are obvious.

The dive took place in the NEDU's ocean simulating facility, the world's largest and most sophisticated man-rated hyperbaric chamber complex. The dive commenced on November 6, 1979, and was completed on December 13, 1979. The extra 32 days of dive time were necessary, Mr. Speaker, to allow for 12 days of compression to 1,800 FSW and 20 days of decompression back to the surface. During this period the divers resided in the NEDU complex, which consists of a 55,000-gallon wet chamber interconnected with six dry living/working chambers totaling 3,076 cubic feet of space. This complex allowed the divers some freedom of movement during their 37 days of isolation from the outside world.

The dive team consisted of the following personnel:

HMCS (DV) Thomas "Boxy" Holmes Dive team leader);

Lt. Claude Piantadosi, MC;

HMCM (DV) Lowell "Bo" Burwell;

BM1 (DV) John Paul Johnston;

EM1 (DV) Thomas "Tuck" Ostertag, and

BT1 (DV) Larry Siemiet.

Mr. Speaker, I want to especially note that Senior Chief Holmes holds the unprecedented distinction of having reenlisted—for 4 years—at 1,800 FSW. The reenlistment ceremony was held on November 21, 1979, with the oath being administered by Lieutenant Piantadosi.

My sincere congratulations and thanks go to these brave and dedicated individuals.

Thank you, Mr. Speaker.

THE 32D ANNIVERSARY OF SRI LANKA

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, yesterday (February 4) was the 32d anniversary of the formation of the nation of Sri Lanka—a remarkable country in Asia, one of Asia's three working democracies—and I would like to submit a statement outlining some of the considerable progress this wonderful country has made in achieving almost universal literacy and achieving impressive systems of health service distribution.

Last August I had the privilege of participating in the first International Conference of Parliamentarians on Population and Development which the Government of Sri Lanka hosted in Colombo. So, for a week or more I had the pleasure of observing this tiny, little democracy in some detail.

It is an unusual country which enjoys an enormous richness of one natural resource—its people. Sri Lanka boasts an education system that produces well over 80 percent literacy rates; indeed, over 80 percent of its young women are in school. Women and men have equal access, not only to education, but also to jobs. Although its GNP is modest, especially by the standards of the oil rich developing countries—measured by the Perceived Quality of Life Index (PQLI)—Sri Lanka is rich indeed. Through their parliamentary government the people have provided themselves with an excellent array of education, health, welfare and other services. They have a right to be proud of this little jewel of a democracy—at a time when, of the 150-odd nations of the world, perhaps only 25 or so can be counted as working democracies. In Asia, which encompasses over one-half the world's population, there are only three working democracies—India, Japan, and Sri Lanka.

Mr. Speaker, there follows for the interest of my colleogues extracts from an Aide Memoire given to me by Ernest Corea, High Commissioner for Sri Lanka, which describes in detail the progress made in Sri Lanka over the last year.

AIDE MEMOIRE

February 4, 1980 marks the 32nd anniversary of Sri Lanka's achievement of independence. The transformation from British colonial rule to independent nationhood was brought about by persuasion and negotiation. In the same spirit, the country's people and leaders have worked together to establish and nurture a politically stable society, in which the forms and values of democracy are firmly entrenched. Universal adult franchise introduced to the country in 1931, is a cherished and freely exercised right. Seven general elections have been held in Sri Lanka since independence was achieved in 1948. The reins of Government changed hands at six of them, thus establishing for Sri Lanka a record of democracy-in-action, which is unmatched in post-colonial Asia. For the past 15 years, voter turnout at general elections has averaged over 80 percent, testifying to the political maturity of Sri Lanka's people.

Until 1972 Sri Lanka retained the British monarchy as the constitutional head of state. In 1972, a Republican constitution was adopted, and with its inauguration in May 1972, the traditional name of Sri Lanka (meaning "Resplendant Land") was restored. The Governor General who had represented the British Monarchy was replaced by a titular President, nominated by the Head of Government (Prime Minister) elected by the people of Sri Lanka. This essentially British type of Parliamentary Government continued until 1978, when a further constitutional change was made.

Mr. J.R. Jayewardene, under whose leadership the United National Party was returned to office with an overwhelming majority in Parliament, in July 1977, had consistently campaigned for the establishment of a Presidential form of Government capable of increasing the level and pace of national development without in any way eroding the country's democratic freedoms. Such a constitution was endorsed by Parliament, and became effective on September 7, 1978. It reflects the best in the constitutional practices of the U.S.A., France and British, adapted to the specific conditions and desires of the country and people of Sri Lanka.

Sovereignty of the people is exercised through Parliament, which has been declared supreme. Legislative power is vested in Parliament and, unlike the American system, the President has no right of veto over legislation passed in Parliament. The executive power of the people is vested in the Presidency. The President is elected directly by the people for a fixed term of six years, and he is not dependent on a majority in Parliament. This arrangement, which provides for executive stability, is considered indispensable for a developing country like Sri Lanka. Parliament initiates legislation and voices the aspirations of the people. The President, on the other hand, ensures that the vital connecting links in the execution of such legislation are maintained.

The rule of law is ensured in the constitution by a strict separation of powers between the executive, the legislature and the judiciary. An independent judicial system ensures the right of every citizen to equality before the law.

The constitution also ensures a fair and just solution to the historic grievances of the Tamil-speaking minority in Sri Lanka, particularly in the area of language rights. While Sinhala, the language of the majority remains the official language, both Sinhala and Tamil were made national languages under the 1978 constitution, and the use of Tamil in Government offices and in the Law Courts has been constitutionally guaranteed.

Equal opportunities for every Sri Lankan citizen, irrespective of ethnic origin or religion, are guaranteed under the constitution. Past experience had shown a certain looseness in the provision of the constitution as regards the fundamental rights to be enjoyed by the people. In the new constitution there is a specific chapter dealing with fundamental rights. This chapter embodies all 30 clauses contained in the U.N. Universal Declaration of Human Rights.

Sri Lanka's foreign policy has been one of non-alignment, in its purest form. Sri Lanka's perception of non-alignment, and its overall approach to world affairs, were articulated in the following terms, by President J. R. Jayewardene, speaking at Havana last year:

"Let not man raise his hand against man. Let him speak the language of peace and friendship. Let the love that passeth human understanding prevail. May they seek to solve their problems by discussion and not by war."

From August 1976 when the Conference of the Heads of State and Government of Non-Aligned countries was held in Sri Lanka until September 1979, Sri Lanka served as the Chairman and the Co-ordinator of the Non-Aligned Movement. This Movement, which now consists of over 90 members, has been a vital force in the deliberations of the United Nations, and has played an increasingly significant role in international affairs. As Chairman, Sri Lanka sought to maintain the founding principles of non-alignment, and when it gave up the gavel of office, President Jayewardene said that he was "glad and proud" to hand it down with the movement "untarnished and unaltered". Sri Lanka's consistent aim within the Non-Alignment Movement has been to introduce a sense of moderation, in discussion, and to protect internationally accepted principles as basic as non-interference and sovereign integrity.

Sri Lanka's truly non-aligned position was demonstrated during the Non-Aligned Heads of State and Government conference held in Havana (September 1979) where the Sri Lanka delegation consistently pursued the objective of moderation and restraint.

A point of particular interest to the American public would be that Sri Lanka entered a reservation on the section in the Havana Declaration dealing with Puerto Rico. While Sri Lanka supports the principle of self-determination for the people of Puerto Rico, its expression of a reservation implies that the formulation in the Havana Declaration does not accord with Sri Lanka's position on this issue.

BASIC HUMAN NEEDS

Successive governments in Sri Lanka have shown their commitments to meeting the basic human needs of the people. Sri Lanka's achievements in the realm of food, education and health are particularly impressive. In the last 25 years, Sri Lankans have:

Increased their food consumption by about 15 percent to 2,200 calories per capita;

Increased their life expectancy to 68 years;

Decreased their infant mortality to 45 per 1,000;

Decreased their population growth rate to 1.5 per cent;

Achieved an adult literacy rate of 78 percent.

In recent decades income distribution has also become more equitable to benefit the lower 40 percent of the population.

ECONOMY

When the present Government assumed power in 1977, it was clear that the previous governments commitment to social and economic welfare had not been without its costs: notably a stagnating economy which had been particularly hard hit by the energy crisis and an unacceptable rate of unemployment.

The Government of President Jayewardene has taken a number of important steps to reverse this trend and generate and redirect resources from consumption to investment: from welfare programs and subsidies to efforts to stimulate economic growth and investment in production. At the outset, in 1977, the government initiated a series of far-reaching financial and economic reforms to bring about a free market economy through such moves as the unification of the exchange rate, the liberalisation of foreign exchange restrictions and the dismantling of import and export controls. As a result, Sri Lanka has achieved an impressive growth rate of 8.2 percent in 1978, nearly twice the growth rate of 4.4 percent recorded in 1977. After the initial spurt in 1978 following the liberalisation, the economy is expected to settle down to an appreciable growth rate of about 6 percent in the next few years, a satisfactory growth rate given the present gloomy world economic situation.

AMEND THE GUN CONTROL ACT

(Mr. HARSHA asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. HARSHA. Mr. Speaker, serious problems have arisen as a result of abusive enforcement of the Gun Control Act of 1968. Although the Bureau of Alcohol, Tobacco and Firearms has promised to reform its practices, many of the problems are inherent in the law; any reforms made now could easily be undone by a future Director interested in generating easy arrests to justify the Bureau's existence.

Accordingly, I have joined in cosponsoring H.R. 5225, which amends the Gun Control Act to restrict BATF enforcement powers and clarify many of the areas in which law-abiding citizens are inadvertently violating obscure provisions of the law.

Jerry Cassill of Stoutsville, Ohio, is one of the victims of the 1968 Gun Control Act's vague definition of "engaged in the business of dealing" in firearms. Mr. Cassill is a long-time hunter, shooter, and gun collector. Prior to his entrapment on charges of dealing in firearms without a Federal license, he had a perfectly clean record. In September of 1975, he and his son began attending gun shows in his State to further their hobby of collecting. They studied the gun laws to make sure any purchases or sales by them were made in accord with the law. In January 1976, he was displaying in a booth adjacent to that of the Bureau of Alcohol, Tobacco and Firearms. In order to make sure that he was in full compliance with the law he discussed how he purchased, sold, and traded from his collection at the gun show with one of the agents at the booth. The agent assured him that he could engage in these activities; as long as he did not publicly advertise his firearms, set up "store front" business premises or establish regular business hours, he did not qualify as a "dealer" and did not need a Federal license.

In late 1978 Mr. Cassill was raided by BATF agents who executed a search warrant and confiscated his collection, valued at about $4,000. Thanks to BATF press releases, television stations in his community named his residence as the location where "illegal guns" had been seized. Many months later, he received a summons to appear on charges of dealing without a license and sale to nonresidents. He was formally charged, fingerprinted, and informed of his indictment. Mr. Cassill was emotionally unable to stand up to a felony trial. He entered a plea of guilty to one of the charges.

The day after he entered the plea a probation officer impressed upon him that the charges carried a possible punishment of 5 years in a Federal penitentiary and a $10,000 fine. The shock of this, coming on top of the effect of his being charged, drove him to a nervous breakdown. He was hospitalized the next day. After his release, the judge sentenced him to a modest fine but no jail time in light of his clean record.

After the sentencing Mr. Cassill returned to his work with the Post Office, a job which he had held for 21 years. He was met by a postal inspector who informed him that since a felony was involved, he would have to review the case to see if he would be permitted to keep his employment. He was suspended for 1 week without pay, but at end of the week he was informed that he would not be discharged.

The cumulative effect on a law-abiding citizen, without previous contact with the justice system, of being raided by Federal officers, listed in the media as having been indicted for a Federal offense, pleading guilty with consequent loss of civil rights and then worrying whether he would be sentenced to 5 years in a penitentiary, proved too much for him. He was hospitalized under psychiatric care. His family went without income for several weeks awaiting settlement of a claim for disability. Even today, he is able to work only part time, and his family is near destitute. As Mrs. Cassill summarized her description of the case: "This is brief and inadequate, but how do you put human suffering into words?"

The Federal Firearms Law Reform Act would have prevented Mr. Cassill's persecution. Section 101 of that act redefines the class of persons who must obtain a Federal dealers' license, limiting it to those "whose time, attention and labor is occupied in dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of an inventory of firearms." The requirement of licensing is specifically limited so that it "shall not include a person who makes occasional sales, exchanges, or purchases of firearms or who sells all or part of his personal firearms." A collector such as Mr. Cassill who engages in occasional sales of his personal collection would thus not be subject to the licensing requirement nor to harassment based upon such.

Delay in enacting H.R. 5225 can only result in more honest citizens such as Mr. Cassill being harassed by Federal officials.

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, this is a followup on King Crime and the fact that the murder of Federal Judge John Wood and the prior attempt to murder the Assistant Federal District Attorney, James Kerr, still remains very much unsolved. I cannot help, in light of the headlines that are so obsessing the country, the Congress and everybody, concerning the sad, very tragic, very unfortunate developments, deporable, of the involvement of some Members of the Congress and other public officials in the apparent bribery undertaking known as a sting operation conducted by the Justice Department or the FBI.

In view of the tremendous obstacles and difficulties in trying to convey a sense of urgency to the Justice Department, beginning with the highest rungs of the executive branch, the Presidency, a year ago last year, and the resistance on the part of Justice Department particularly to really give urgent priority attention and sustain that attention until what I call the most stupendous and deplorable crime of the century has been resolved.

I was surprised to see by the newspaper accounts the tremendous amount of money that was diverted by the Department of Justice and labor involving several hundred FBI employees was involved in this so-called sting transaction.

I could not help but recall in 1964 the appearance before this body by the then majority whip, Hale Boggs of Louisiana, who stood on this floor and told us that the FBI specifically had electronic surveillance of every single Member's telephone on the Hill. Nothing ever came of that. Of course in that halcyon time, in those innocent days, Mr. Boggs' statements were accepted with some disbelief, trepidation and cynicism but I felt the House had a duty at that time that it never discharged.

Soon we are going to get the so-called intelligence bill effecting and setting forth a charter, they claim, a bill of rights so to speak, for not only the FBI but as I understand it the CIA. Also, in the interim since that fateful day when Hale Boggs addressed us, I have had a personal experience that leads me to conclude that the FBI and the CIA have really been out of control and have been used and manipulated wrongly and illegally by Presidents—not one but several—and there is no assurance that that practice does not continue until this day, with great jeopardy to the other two branches of the Government.

The murder of John Wood and the attempted murder of James Kerr to me represents the gravest acts or commissions of crime because they are a direct threat to the third branch of our Government which is coequal, coordinant; the judiciary. If the Justice Department could give this much concentrated effort, time, money and personnel, it underlines the futility of the efforts I have taken to concentrate even a fragmentary amount of that effort on the resolution of this great crime, the murder of Judge Wood and the attempted murder of James Kerr.

□ 1800

It goes to the heart of our government and our democracy, because there is no question that it is a direct challenge to the judiciary and it has resulted in the intimidation of the judiciary. Judges who have been prone to be stern, of course, all within the limits of the law, as was Judge Wood, are now intimidated. Every one of them in the western district is under U.S. marshal custodial surveillance, including the district attorneys, while the criminal is loose in the land, highly organized, openly defiant of our constituted authorities, directly challenging and intimidating the third branch with the potential to do the same to our branch and to anybody else who interferes or dares.

Judge Wood unfortunately has been described even by some editorial writers and newspapermen as a very severe judge. In fact, they nicknamed him Maximum John, as if this was a reason for his murder. This is absolutely abominable, in my opinion.

Why can there not even be a lead?

Now, the Director of the FBI tells me, he says, "Oh, it is a very difficult case. There were no witnesses."

Well, that begs the question, as I said before. If you have witnesses, it should not be a difficult case; but the fact that this is a direct challenge to the Federal judiciary, which it obviously is because of the prior attempt which I look upon as an act of intimidation on James Kerr, the assistant district attorney, and because of the pattern of behavior of the headquartered organized criminal syndicate where its focus of activity was not really San Antonio where the crimes took place, but 600 miles over in the outer reaches of the western judicial district in El Paso, part of what I have described in prior speeches as the Las Vegas-El Paso-Juarez, Mexico, connection, as one of the four conduits of this vast enterprise which is now a $2 billion business in the illicit traffic of stolen automobiles and stolen automobile parts into Mexico in exchange for drugs.

It is now the most lucrative criminal activity in the country and it is completely undiminished. It is undeterred. We cannot get that concentrated coordinated sense of urgency and priority in breaking this.

It is directly responsible, unquestionably, for the murder of Judge Wood.

It is with a great deal of dismay that then I see this other under very questionable circumstances which the Washington Post, to its credit in the editorial today, very, very prudently and responsibly addresses itself to.

Mr. Speaker, I ask unanimous consent that I may be permitted to include in the RECORD at this point this editorial on page A-16 in today's, Tuesday's, Washington Post, entitled "ABSCAM."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The editorial is as follows:

ABSCAM

The late Sam Rayburn used to say that the three most important words in the English language were "just a minute." We wouldn't agree more: *Just a minute*—everyone in America within shouting range of a TV or newspaper may now "know" that a bunch of legislators were caught in corrupt acts by the FBI "sting" investigation. But in fact, we "know" nothing. Crimes may have been committed, as the stories assert they were, but there have not yet even been any charges, let alone any indictments, let alone any convictions. Even members of Congress, if we may say so, deserve to be presumed innocent until proven guilty. And although the tale, as it has unfolded so far, has some pretty unsavery aspects to it, not all of those concern the activities in which the legislators are said to have engaged.

Take the story of Senator Larry Pressler, described by one of those anonymous law-enforcement "sources" as "an honorable man." Pressler said he got a message about a possible campaign contribution, was taken to a house on W Street, and talked to about introducing private immigration bills. When he failed to bite, even though the magic number of $50,000 was mentioned, and went away empty-handed, one of those who took him there said he had blown it.

If that is the whole story—and the "if" is an important one—something is plenty wrong. It sounds as if the FBI had not only been creating the atmosphere in which a crime could be committed, but had also fabricated the crime itself down to the last detail—and then tempted a member of Congress to commit it. Leaving aside the legal technicalities of defining "entrapment," no citizen—member of Congress or not—should be required to prove his integrity by resisting temptation.

There is a substantial difference between the first "sting" operation and this one. In the original, the police set themselves up as buyers of stolen goods and waited for the thieves to bring in the loot. In this one, as best we can make out from the torrential "leaks" that have occurred, the FBI created its trap without having received evidence that some prior crime had been committed.

Assurances, of course, are now being offered by the Department of Justice and the FBI that this investigation was carefully monitored and that nothing was done that violates judicially approved law-enforcement techniques and so forth. That may well be so, given the broad sweep of deceptive activities by law-enforcement personnel that the courts have approved. But not everything that is legal is right.

It cannot be right to set people up in this way and then let it be known that you have film of them committing criminal acts—before you have so much as warned them or brought criminal charges. That's why it is essential to step back from the current news stories before passing judgment on what is being reported. We, at least, are going to wait until we know a good deal more than we now do about the facts and the investigative devices used, not to mention the remarkable appearance of network television cameras in front of one legislator's house hours before he was told he was under investigation.

Mr. GONZALEZ. Mr. Speaker, I cannot summon forth powers of eloquence, political influence, any kind of action on my individual part as a single Member of the House. All I must confess to is a failure to bring about the priority-urgent concentration of effort in the resolution of these two dastardly crimes.

Now, I have introduced a simple House Resolution. I have not had the time, nor do I have the staff to go around and seek cosponsors, in which I asked that the House instruct the President and advise him that it is our sense of urgency that he allow up to $3 million reward money for the successful prosecution of the cases involving the murder of Judge Wood and the attempted murder of James Kerr.

Now, I hope I can get approval of that, because I believe that in the absence of that range of congressional input showing that we do consider this a matter of urgency, that it will not happen.

Recently the local newspapers in San Antonio had a big story about how a supposed informer with respect to the Judge Wood case had refused on the basis that the reward amount available to him was not over $125,000; so that many people get distraught with this; but the fact is that one of the prime movers that we suspect is a fugitive at this point. He jumped a $400,000 bond which he paid for in cash. Even though the district attorney had asked the judge to set a million dollar bond, the Judge said no, all he could go was $400,000. The man came in with $400,000 cash; so that in light of this when I am asking for sanction for the Justice Department to have available to it up to $3 million, it is indeed a modest amount; but in view of the importance of the need for the resolution of these cases, it certainly is a very small price.

TRIBUTE TO JOHN HOLDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 5 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, as we begin the second session of the 96th Congress, and as we enter the 1980's as a legislative body, I would like to pause for one moment to honor a man who served us faithfully and well during the last two decades. John Holden, who retired December 31 from his post as staff director and minority counsel to the Veterans' Affairs Committee, has been an essential and inspirational adviser to four different ranking minority members on that committee, and will be sorely missed by all who work in the area of veterans law.

John Holden is a native of Washington, D.C. He enlisted in the Army in 1941, and served 3½ years as an artilleryman in the Southwest Pacific during World War II, finally leaving the service as a first lieutenant in December 1945. Following the war, he became a national service officer with the Disabled American Veterans, and held several other responsible positions in that organization before becoming the national legislative and service director of the AMVETS organization. John then served with the Veterans' Administration as a special assistant to the Chief Benefits Director, and then as the assistant director of a VA regional office, before accepting his position on the Veterans' Affairs Committee in 1962.

Our society and our Government and consequently just about every office on Capitol Hill shook with change and anguish during a good many of the years John Holden provided Members of Congress with advice and counsel. In those difficult times of conflict in Vietnam, John experienced directly the torment of an unpopular war, as his eldest son Jack served with the Marine infantry and was wounded. He has long been known as a man whose door was open to those of all political persuasions to discuss current policies and debates.

John Holden is a man who has given his country and this Congress immeasurable good, Mr. Speaker, and on behalf of all of us, I wish him the very best in all his future years.●

SMALL BUSINESS EQUAL ACCESS TO JUSTICE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

● Mr. McDADE. Mr. Speaker, I am introducing today, the Small Business Equal Access to Justice Act. This bill provides that individuals and small businesses which prevail in agency adjudications or in civil actions brought by or against the United States will be able to recover attorney fees and all reasonable costs, including the businessmen's time, unless the Government can show that its action was substantially justified.

This legislation is needed because at the present time far too many small business owners simply cannot afford the cost of fighting unjustified Government action. Present law requires a private party to bear all costs of litigation involving the Government, even if the Government's position is arbitrary or groundless.

The approach taken in this bill is a responsible one. It places the expenses of unwarranted litigation where it belongs—on the offending Government agency. When Government action is sound and appropriate the small business owner or individual will have to continue to pay the courts costs, as well as the fine that may have been levied against him. But, if the agency is unable to prove that its position is reasonable, then the small businessman will be able to recover the costs expended through his court efforts.

Let me give you a specific example of why this bill is needed. One of the businessmen in my district, had a large fine imposed on him by the Department of Labor. He felt this fine was unjustified. Since he felt so strongly about the Government action, he decided to appeal this fine by administrative action. After many delays and a tremendous personal sacrifice on his part the agency decided in his favor. Yet to prove he was right, it cost him approximately $15,000. Small businessmen cannot afford to spend their limited funds in this way. Many small businessmen presently pay civil penalties or sign consent decrees because the costs of fighting such actions are too high.

My bill is intended to remedy this type of situation. It preserves the right of the Government to take action to correct illegal and harmful practices—but it also adds a greater degree of balance to the scales of justice. Agencies must justify their actions and when they are proven wrong, the small business owner or individual is to be fairly compensated for the time and money he has spent to refute the Government's charges.

The enactment of this legislation should also help to improve citizen's perception of their relationship with the Government and will help to insure that administrative decisions reflect informed deliberations. It will make agencies take a closer look at their rules and their procedures.

Moreover, the Office of Advocacy within SBA is directed to evaluate the effect of this act, report back to the Congress so that we may carefully evaluate it before the sunset date is reached. I am hopeful that the Small Business Committee will work to quickly hold hearings on this bill and that the House will have an opportunity to consider it during this Congress.●

STATEMENT ON 1981 BUDGET—ECONOMIC POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. LATTA) is recognized for 30 minutes.

Mr. LATTA. Mr. Speaker, last week the President sent us his proposed Federal budget for the fiscal year 1981. All of you should now have the budget documents in hand, but unless you have had the time to carefully study all 2,300 pages, you may be assuming that this 1981 budget is all the good things President Carter says it is.

Unfortunately, this is not a budget which will set things right in America from an economic or defense standpoint.

From the cover of the 1981 budget alone, you can get a very good idea of where Jimmy Carter's priorities are. Note the colors—green and white—the official colors of the Carter-Mondale election campaign in 1976, and again in 1980. This color coordination is no coincidence. Mr. Carter has just sent us the most partisan political budget I have ever seen during my 21 years in Congress. It is a document, prepared and printed at the taxpayer's expense, and directed at the Presidential primary elections, and not at what is best for all the people of this country, and doing that which is necessary to preserve the little freedom which remains in the world.

Let me explain:

Jimmy Carter's 1981 budget caters to every special-interest group except the taxpayers. In other words, it gives out with a lot more butter, but dangerously little additional guns. His defense budget will barely begin to undo the damage he has inflicted on our national security posture during his first 2 years in office. I plan to give an analysis of the defense portion of this budget in a few days.

While talking about the need to restrain spending, he lists, in table 14 on page 590 of the budget, all the new, non-defense-spending programs he wants passed. While OMB did not add up the total cost of all these new programs, we did. In 1981, these new, non-defense-spending programs would cost $19.8 billion: by 1985, their costs will have grown to over $75 billion. This is not restraint, it is reckless, deficit spending running wild.

Mr. Carter boasts that the annual budget deficit is much lower than when he took office, but neglects to mention that fully 90 percent of that reduction was achieved by raising taxes, not cutting spending. He forgets to mention that he, Mr. Carter, promised us a balanced budget by 1981.

He tells us that spending in this budget will grow by "only" 9.2 percent in 1981, but forgets to say that over the 2-year period (1979–81), spending will have grown by at least 24.7 percent. He does not talk about how spending for the current calendar year—1980—continues to grow, and is now estimated to top $564 billion—up $32 billion from his original request for 1980, and $16 billion above the level set in the second budget resolution passed only 2 months ago.

The 1980 deficit was supposed to be under $30 billion, but now Mr. Carter tells us it will be at least $40 billion. The chairman of the Budget Committee in the other body stated on nationwide television last week that by the time the 1980 fiscal year comes to an end on September 30, we will be lucky if we have kept the 1980 deficit below $50 billion.

Finally, and most important, the budget does not mention, unless you look at the fine print on table 21 on the 621st page of the budget, that in 1981, the tax burden on the American people will set a peacetime record, and that by 1982, the tax burden will have surpassed the all-time record reached in 1944 during the height of World War II.

In fiscal year 1981, Mr. Carter's budget will have the Federal Government consuming in taxes, 21.7 percent of our gross national product. While the Federal Government has never, in peacetime, taken that big a slice out of our national income, the budget will still run a large deficit. If you look at table 21, you will find some other very interesting information.

For example, you will see that in President Ford's last year in office, the Federal Government took 18.5 percent of the GNP in taxes. If President Carter had maintained the tax burden at 18.5 percent of the GNP, as it existed under Mr. Ford, the American people would be paying $89 billion less in taxes in 1981 than they will have to pay under Carter's tax policy. In other words, if this $89 billion were divided evenly, every taxpaying family in America would be paying $1,200 less in taxes in 1981, had President Ford's tax policies been continued.

In trying to defend its budget, the administration wrings its hands and says that if only inflation and unemployment were not so high, then the budget could be balanced. I expect we will hear the same song by the President's apologists in Congress over the next year as well. But let me tell you, the American people will not be fooled by that sort of rhetoric. It is too much like a dog chasing its tail. We run budget deficits, so we have inflation. Inflation results in increased spending and more budget deficits which, in turn, contribute to even more inflation and an excuse for even more spending and more deficits, and so forth. We must stop this merry-go-round and get off.

Instead of bemoaning how the economy affects the budget, we have got to spend more time talking about how the budget impacts on the economy. That is what we mean when we talk about fiscal policy, and setting fiscal policy is supposed to be the principal purpose of the President's budget and the congressional budget process. It is supposed to be, but it is not. The budget has become a captive of the economy, and fiscal policy has become a concept honored only in the breech.

Moreover, just because the administration no longer seems to fix a positive and deliberate fiscal course does not mean that the budget does not impact on the economy. The problem is it does impact, and it is nearly always negative. Our 13.3 percent inflation rate for last year is solid evidence of this fact. I know there are those who will try to point to increased energy costs for this ridiculously high rate, but the Bureau of Labor statistics reveals that, without the energy related items, we would still have had an inflation rate of 11.1 percent last year.

President Carter and the big spenders keep talking about how more and more of the budget is becoming uncontrollable while, at the same time, urging more spending in the uncontrollable areas. Look what he wants done in his budget message: He wants Congress to enact his national health insurance program to begin in 1983 at a first-year cost of $24.1 billion. Not only would this be the largest spending total for the first year of a single new program, every penny of that $24.1 billion would be uncontrollable.

He wants to eliminate the cap on food stamp expenditures, not just raise the cap, eliminate it altogether, therefore, enlarging an existing entitlement program and making it completely uncontrollable. He wants to further expand the coverage of medicaid, already one of our largest uncontrollable programs, and asks for a 20 percent increase in budget authority for subsidized housing—a program which in the not too distant future will be our most expensive, uncontrollable spending program, apart from social security.

So, on the one hand, we have the President admitting that the growth of uncontrollable Federal spending is the principal reason we cannot balance the budget and reduce inflation, yet in the next breath he proposes the creation of even more new entitlement programs, and the expansion of existing ones.

If we continue to follow the course Mr. Carter has outlined, in a few years we will be in a position where so much of the budget has become uncontrollable that we can leave budget-making to a computer, and do away with OMB, CBO, the Congressional Budget Committees and the Appropriations Committees, and probably a good number of other committees as well. Since most of the budget will be committed well before the fiscal year starts, the only reason for the Congress to meet will be to vote for more new entitlement programs, and the increases in the national debt, and more taxes required to finance them.

The root of the problem is spelled out clearly in Mr. Carter's budget, but he refuses to do anything about it other than the wrong things. What Jimmy Carter still has not realized after 3 long years in office, is that it is the private sector, not the Government, which creates wealth, and allows our citizens to improve their standard of living. It is not the Government that creates jobs, it is the private sector. Let me cite an example, out of his own 1981 budget, to prove that Jimmy Carter has not become aware of this fact.

In his budget message, the President states that "we must enhance our economy's productivity." I could not agree more. But he then rules out any tax relief for American business, for American savers and investors necessary to increase that productivity and, instead, announces he wants a new $2 billion Government-spending program for unemployed youth.

Now I, too, would like to help unemployed youngsters get jobs, but the way to do it is to increase investment in new plants which will use up-to-date technology and equipment, thereby increasing productivity, and making us more competitive in today's world. Let me repeat, I, too, favor helping young people find jobs. But until, and unless, we get new investment into American industry, permanent jobs are not going to be there to find.

Instead of reducing the tax burden to free up funds for such capital investment, Mr. Carter has chosen to raise taxes and spend $2 billion—all of which will have to be borrowed from investors who might otherwise have invested in the private sector. This is what I mean when I say that this administration does not understand basic economics, and by its actions only compound our problem.

When campaigning for office Jimmy Carter criticized President Ford and his advisers for pursuing an economic policy which could lead to high inflation and higher unemployment: In fact. Mr. Carter used to add the inflation and unemployment rates, and called the results the "misery index." When Mr. Ford left office, inflation was at 4.8 percent and dropping, unemployment at 7.8 percent and dropping. Ford's so-called misery index was 12.2 percent and declining.

But look at where Mr. Carter projects his economic policies will bring us by the end of his 4 years in office: Unemployment of 7.5 percent—barely below the figure at the end of Mr. Ford's administration, and inflation at 9.5 percent, or more than twice as high at it was when Ford left office. That gives the Carter administration a misery index of 17 percent—more than one-third higher than Mr. Ford's.

President Carter's economic policies have been a disaster—they have inflation running over 13 percent, productivity declining by nearly 2 percent a year, mortgage interest rates at all time highs, personal savings declining to below 3½ percent, enormous trade deficits along with endless budget deficits, the tax burden up by 17 percent and going higher. His new budget confirms the failure of his administration, yet all it gives us is more of the same. Let us cast aside such economic policies, and do something to restore economic growth, bring down prices, and reduce unemployment. Let us fashion a budget which keeps more money in the hands of those who earn it, encourages greater savings and investment, and one which drastically slows the rate of nondefense Government spending. Then, and only then, will the budget be the master of inflation, not its slave.

□ 1820

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the distinguished gentleman from Ohio for yielding.

Mr. Speaker, I would like to commend the gentleman for taking this special order and carrying out his responsibility as the ranking minority member on the Budget Committee to the people of the United States to give the true picture of just what this budget does not do.

The story is the same year after year, as the gentleman has pointed out. But it goes much further than this, for this year there is an attempt to satisfy all segments of the people of the country by projecting a budget which provides something for everyone, including those of us who have been crying for an increased budget for the Defense Department.

Mr. LATTA. Mr. Speaker, let me at that point commend the gentleman for his foresight. Last year before the Budget Committee the gentleman proposed an amendment to do exactly what he just said, to increase that defense budget, and had they done that, we probably would not be in the fix we are today defensewise.

Mr. RUDD. I certainly agree with the gentleman. As a matter of fact, the 5-percent real growth in defense spending, which I proposed last year, was finally adopted, at least verbally, by the President in his State of the Union message, although he indicated he was requesting a 5 percent real growth, which amounted to a little more than 3 percent real growth in defense spending. But aside from that, the rapid and giant increases that take place in the welfare areas that the gentleman enumerated previously are catastrophic in its effect on the economy of the United States. I think we can increase defense spending but not by that 5 percent real growth that we are talking about now, which would barely keep our heads above water. What we really need is a defense increase in spending of maybe 10 percent or 12 percent, or even more, in order to do the things we have not been doing for the past few years. At the same time, we can pay for this by reducing the welfare program substantially but still allowing for growth in all of these areas in the entitlement programs which we quarrel with from time to time as being something that is going on from year to year and which can be stopped by legislation. The Congress of this country is the government of the country. The debt increase will permit these spending areas, and only the Congress can reduce it.

Mr. Speaker, Director Alice Rivlin of the Congressional Budget Office acknowledged before the House Budget Committee that the increasing tax burden projected over the next 4 years by President Carter's fiscal year 1981 budget will have a major adverse impact on economic productivity and growth unless Congress acts to stem the tide of increasing taxation.

Of course, this also means that Congress must act to reduce Federal spending for nondefense programs, where sharp increases have occurred over the past several years.

The burden of Federal taxation under the President's fiscal year 1981 budget will be 22 percent of the gross national product. This high Federal tax burden is unprecedented in our Nation's history, either in peacetime or war.

Furthermore, the President's 5-year budget projection through 1985 calls for increasing spending every year, reaching a level of more than $902 billion. In order to support this increased Federal spending under current spending policies, the President's budget documents show that the burden of Federal taxation would be increased 15 to 20 percent each and every year through 1985. This will add $1,200 to the average family's tax bill in 1981, and more than that each year for the next 4 years, which is an outrageous prospect.

Congress must act decisively to reverse these spiraling Federal spending and tax policies, so that such an unacceptable additional tax burden will not be imposed upon the American people.

We should be cutting taxes to help bolster our national economy, instead of increasing them to support an unwarranted expansion or start of new Federal spending programs. Spending can be cut in the nondefense area of the budget in order to eliminate the budget deficit and lower taxes. This should be the immediate goal of Congress this year.

The President's proposed spending increases in 1981 are heaviest in the public assistance area of the budget, despite the deliberate attempt to focus attention on a proposed defense increase, which is restrained by comparison.

Welfare spending will increase $29 billion in the President's budget, on top of the $31 billion welfare increase over the 1979 level under the current fiscal year 1980 budget.

Under the President's new budget, food stamps alone are heading for the $10 billion mark by next year, unless some action is taken to restrain that growth. The President has also requested a 24-percent increase in the current $5.3 billion housing assistance program, and a 24-percent increase in elementary and secondary education programs.

In defense of the spending policies continued under this third Carter administration budget, some Members of Congress point to the so-called mandatory nature of about three-fourths of the budget outlays under existing law. In addition, these same supporters of the current big spending policies note that about 58 percent of the mandatory entitlement programs are "indexed" by law to increase with the cost of living, so that Congress has no choice but to vote for the additional spending as inflation pushes up the Consumer Price Index.

This is all a convenient way to avoid making hard decisions on needed spending reductions in the Federal budget. The point is that so-called uncontrollable spending programs can be brought under control and reduced if Congress is willing to change the existing law. Congress is ultimately responsible for approving all spending by the Federal Government, and so the buck stops with Congress, not with the President.

Since the largest area of Government spending, and the largest single area of spending growth, is in the social welfare portion of the Federal budget, I believe that this is the area of greatest need for reform and spending reduction.

At the appropriate time in the budget process in Congress this year, I will be offering reasonable proposals to stem the tide of spiraling Federal handout programs.

Director Rivlin stated that the 1981 Federal deficit under current law, despite the unprecedented heavy tax burden providing revenues for spending programs, will be about $27 billion without enacting any of the President's proposed new programs or expansion of existing programs. Add to that an additional approximately $13 billion for off-budget Federal activities, and the real 1981 Federal deficit is already in the neighborhood of $40 billion, just under current law.

Both this deficit situation and the unconscionable current burden of Federal taxation demand that we take action to cut Federal spending, particularly in the overbloated public assistance area.

Probably the greatest obstacle to reducing the mammoth welfare rolls is the fact that escalating benefit levels have become competitive with wages paid by private industry.

This is especially true since welfare benefits are tax-free income while income from employment is subject to State and Federal income taxes, as well as social security.

This combination of factors in our present system has created the very real possibility of causing a permanent recipient class of Americans, ever dependent on the Federal Government to care for them from the cradle to the grave.

While some within the welfare industry—those professional social workers who administer welfare—scoff at this notion, observable evidence lends credibility to the theory.

Welfare benefits are tax free, and a recipient who begins work is faced with the reality of paying taxes, conceivably leaving him with a net income less, or only marginally more, than his tax-free welfare benefits. It is apparent that such recipient believes it is to their advantage not to be gainfully employed, as they understand the importance of taxes—a factor often overlooked by welfare administrators.

Recent welfare "reform" regulations designed to accommodate this phenomenon by providing incremental benefits have resulted in yet more abuses—such as workers making $20,000 per year and more, and still receiving welfare benefits.

A federally funded study completed in 1979 also demonstrated the negative effects of welfare on family stability among recipients. While the Government's social planners apparently anticipated that poverty broke up Americans homes, the conclusions from the study indicated that welfare was more of a detriment to family stability. Welfare tends to break up families more as husbands do not feel needed by or responsible for their Government-supported families.

Another disturbing aspect of generous welfare benefits is the increasing time period during which people stay on the rolls. One report indicated, for instance, that between 1971 and 1975 the caseload of recipients who had been on welfare for more than 3 straight years increased from 31 to 45 percent—another indicator that the present system is fostering an increasingly permanent welfare class.

Henry David Thoreau once observed:

> There are a thousand hacking at the branches of evil to one who is striking at the root.

We need not continue to adopt bandaid "reforms" for the existing welfare monstrosity.

Rather, the current system should be abolished altogether for those able to work. Only the truly needy of our society—the aged, the blind, the disabled—should be eligible for support at taxpayer expense.

Fundamental reform is needed, and I will be working closely with my colleagues again in this session to develop responsible approaches to saving the tax dollars of our citizens and restoring the incentives for work.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, I have noted with interest the recitation of the failure of the Carter administration to deal with the problem of inflation in this country.

But is it not a correct statement to say that a President can only spend what a Congress appropriates? Is that not true?

Mr. LATTA. That is absolutely true.

Mr. DANNEMEYER. And is it not also true that there is not a bureaucrat working in the Federal Government anywhere whose job was not at one time created by an act of Congress?

Mr. LATTA. I would say that that is a fair statement.

Mr. DANNEMEYER. And is it not also true that over the course of the past 5 years, the past 5 fiscal years, the Congress of the United States has appropriated money that is in excess of a quarter of a trillion dollars in deficits that are cumulative?

Mr. LATTA. They are all cumulative. They are not paying off a dime on that national debt. They are having a hard time keeping up with the interest.

Mr. DANNEMEYER. And is it not true that all during the time those deficits, those cumulative deficits, of over a quarter of a trillion dollars in the last 5 years have been voted, that one political party, the Democratic Party, has controlled this institution, the House of Representatives and the Senate of the United States? Is that not correct?

Mr. LATTA. That is right.

Mr. DANNEMEYER. There is a myth going around that says that somehow if we change Presidents we can somehow change this madness in fiscal policy, and I hope that the gentleman will join me in condemning that myth because we are not going to change anything in terms of fiscal policy of this country unless we change the people who occupy the seats in this House and in the Senate, because they are the people who have been voting these deficits year after year and causing the inflation that is slowly but surely destroying the middle class of America. If we want to change that course, we must change the people who are privileged to vote in this House.

Mr. Speaker, I commend the gentleman for bringing the subject to our attention.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I would like to join the gentleman from California (Mr. DANNEMEYER) in his statement. He is absolutely right. The Congress has been responsible for the increase in spending, the increase in bureaucracy, and all of the wild programs which have taken our economy to the state today, and the only way it can be remedied is in Congress alone, and that means changing the complexion of the Congress, changing the philosophy, in order to turn that tide around.

Mr. Speaker, I just want to add one thing, if I may, and I thank the gentleman for yielding me the additional time. I just want to point out regarding the welfare spending that it will increase $29 billion in the President's budget, in this year's budget, fiscal year 1981, on top of the $31 billion welfare increase over the 1979 level. This should be a clear indication as to where we can cut some of that spending out.

Once again, I thank the gentleman for taking this special order and for yielding the time to permit me to participate with him as a fellow member of the Budget Committee.

Mr. LATTA. Mr. Speaker, I wish to thank the gentleman for his comments and for his participation not only on the floor but in committee, because he is a very highly regarded member of the Budget Committee and we are glad to have him as a member of that committee.

□ 1830

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Again I wish to compliment the gentleman for bringing this message to the House this evening. I do hope that our colleagues will pay close attention to this entire budget which, as the gentleman has pointed out, has an awful lot of inconsistencies and does not match up to the rhetoric we were given when it was presented.

Can the gentleman tell us again—I know he referred to it in his remarks—what the cost of the interest will be for the proposed fiscal year 1981? I know it keeps going up because we keep driving the deficits up. What will the total amount be for interest in the 1981 budget?

Mr. LATTA. Talking about something in the neighborhood of $64 billion, which I think is quite low.

Mr. ROUSSELOT. It is really not realistic, is what the gentleman is saying?

Mr. LATTA. Not realistic, because we passed the second budget resolution in November, and they had an interest figure there of $57 billion. Now they are going to come back and ask for $5 billion more just for the interest.

Mr. ROUSSELOT. On the 1980 budget?

Mr. LATTA. Yes.

Mr. ROUSSELOT. That they have had to add on because they estimated too low.

Mr. LATTA. Five billion dollars too low.

Mr. ROUSSELOT. What is the gentleman's guess might be added on for the interest charge in 1981 if things go as they have in the past?

Mr. LATTA. I can easily foresee an interest charge of $70 billion.

Mr. ROUSSELOT. That is $70 billion?

Mr. LATTA. That is correct.

Mr. ROUSSELOT. That is an incredible amount of money, and of course as the gentleman well knows, having served on this Committee on the Budget for so long, that does not just come from anywhere, all that debt they pay that interest on. Those debt securities have to be sold out in the marketplace, put out there by the Treasury, every month. So it sucks up the money from the marketplace that might go to other things. The Government is competing in the marketplace to borrow all that money not only for the new debt, but for the rollover of the old debt.

I know the gentleman knows full well, and he has been here long enough, it was not that far back in the past that $70 billion was all we paid for defense in one given year, and yet now the interest charge for that borrowing has risen almost—as he says it could well go in 1981—to $70 billion.

Mr. LATTA. Let me just interject at this point, another statistic that boggles the mind, that just during the 1970's, the national debt of this country increased over $500 billion.

Mr. ROUSSELOT. A $500 billion increase in the debt?

Mr. LATTA. Just during 1970.

Mr. ROUSSELOT. That is more than we spent, as the gentleman pointed out a few minutes ago, far more than we spent in the whole year of 1972.

Mr. LATTA. Yes.

Mr. ROUSSELOT. I compliment the gentleman for again pinpointing some of these areas. I hope our colleagues will pay attention to it. I know our constituents back home are, because their taxes keep going up, and they keep saying, "Why can't you Congressmen control this horrendous deficit that we have in this country," this horrendous spending that we clearly cannot justify much of this wild spending, and then in turn causes this tremendous debt increase.

I compliment my colleague again for giving a scholarly, detailed analysis of what it means to this country if we put in place this tremendous budget that he has just analyzed.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

I would just like to comment on the statement made by my good friend, the gentleman from California. The solution, of course, is the solution proposed by our other colleague from California (Mr. DANNEMEYER).

Let me just point out one other item in this present budget that we are talking about. There has been a great deal of pride exuded about the reduction of the deficit to about $16 billion. That, of course, does not take into consideration, does it—and I pose this question to the gentleman—the off-budget items which may run as high as another $15 or $16 billion, but certainly as high as $13 billion?

Mr. LATTA. It certainly does not take care of the off-budget items.

Let me say that they are already revising that $16 billion talked-about deficit up to $20 billion, and as the gentleman knows, I pointed out several times in the Committee on the Budget hearings already, about $4½ billion that they are going to have to be paid out for increased energy cost in the Defense Department. That figure was given out a week ago Friday by the Comptroller of the Defense Department.

I might say as far as fiscal 1980 is concerned, they are going to have to ask for about $3½ billion for increased energy cost there. So that totals about $8 billion that is needed in the 1980 fiscal year budget or in the 1981 that is going to have to be reckoned with.

Mr. RUDD. I thank the gentleman.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

The gentleman mentioned a few minutes ago during the 1970's the total budget debt increased by over $500 billion.

Mr. LATTA. That is the national debt.

Mr. DANNEMEYER. What political party controlled the Congress of the United States all during the 1970's and created, by their votes, this debt of which the gentleman speaks?

Mr. LATTA. Not only during the 1970's, but for the last 25 years. It was controlled by the Democrats.

Mr. DANNEMEYER. Is it not true that, for instance, in the last 5 years, these five deficits accumulative, a debt of a quarter of a trillion dollars, that when we analyze the votes of the Members of the House who created or who voted for those deficits, 83 percent of the time the Democrats were voting for those budgets, those deficit budgets, and the Republican Members of the House were voting against them 95 percent of the time; is that not true?

Mr. LATTA. Yes. I have seen those figures.

Let me say this, strange as it may seem. They go home at campaign time and talk about how conservative they have been. I do not know why their voting records here never caught up with them at campaign time, but one of these times it is going to catch up with them, and the American people are going to make some drastic changes in this place, because I agree with what has been said here on the floor this afternoon, that they are demanding and they are going to get a balanced budget sooner or later.

WOMEN SHOULD NOT BE DRAFTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, it is said to be the intention of the President to seek registration of men and women between the ages of 18 to 26 for the draft, should the draft be reinstituted. After undergoing briefings by the appropriate agencies, I concur that registration is a step that must be undertaken, though I emphasize that this is simply a registration program at this point, not resumption of the draft. The need for resumption of the draft must await developments which I pray never come to be.

But it is the proposed registration for women that bothers me. I am opposed to this and will fight implementation of it.

I happen to support the principle of equal rights. I think it is the right of every citizen, male or female, to receive equal pay for equal work. I think that in career choices, education, and in all business and social transactions and activities, it is wrong to permit sexual discrimination. I believe in backing up that concept with strict laws that prohibit discrimination.

But to equate equal rights with the demand that we do not recognize the physical differences between men and women is not only silly but it could impair our national security. Let me explain.

There are a great many jobs within the military that women can fulfill adequately. They are now doing so. If need be, I am sure that women would conduct themselves with distinction on the battlefield, for training exercises have indicated that female soldiers are capable in most instances in keeping up with their male counterparts.

But, unless this Nation is ready to adopt a completely unisex military system, then any Army containing combat units must of necessity provide segregated facilities for its men and women troops. In garrison duty, that is expensive but workable. In combat conditions, it is folly and almost impossible. Combat commanders have enough to worry about without adding to their burdens.

Women have served with heroism in every war this Nation has fought within my lifetime and if another war breaks out, they will serve again. But it seems sensible to me to utilize them for essential, behind-the-lines jobs, where at least minimum standards of privacy can be maintained, without interference in the priority of battle.

If that rationale is sound, and I believe it is, then our Nation requires fewer women soldiers than it requires male soldiers, since in wartime, most troops are readied for combat, whether they are utilized or not. In that case, I believe that female volunteers would suffice in number.

I would hope, therefore, that if registration is implemented, women be registered only on a voluntary basis. Those wishing to serve should not be denied, for they can play an important role. But women should not be impelled to register for the draft simply because it is correct that as women they should receive equality in all other aspects of their citizenship.

There are those with the best of intentions who will brand this as a sexist position. Perhaps it is, but I prefer to believe it is a pragmatic approach to a fundamental problem that we would face in wartime.

Wars are not academic exercises. They are the result of the failures of intellectual reasoning. Wars are brute force against brute force, and as such are not the place to exercise fairness, equality, or any other virtue of civilized society.

The battleground suspends all human rights, and the only goal that matters is survival. If our national security is so imperiled that we can only survive by sending the youth of this Nation into this horrible maelstrom, then it must be done. But if we must do so, then let there be no distraction from resolving the conflict as quickly as possible.

There is no question of bravery or willingness to serve the Nation, only a question of making our military machine the most effective and potent force possible, should it come to that. There are many ways to serve a nation, and women have compiled an enviable record. We need not conscript them into uniform as a penalty of equality to achieve their service, should it be required once again.●

ESTABLISH WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, today Representatives GARY LEE, PHILLIP BURTON, chairman of the House Interior Subcommittee on National Parks, and I, are introducing legislation to establish a Women's Rights National Historical Park in Seneca Falls, N.Y. Senators MOYNIHAN and JAVITS are sponsoring identical legislation in the Senate.

This legislation would "preserve and interpret for the education, inspiration, and benefit of present and future generations the nationally significant historical and cultural sites and structures associated with the formal beginning of the struggle for equal rights for women. * * *" It is fitting that we do this.

In 1977 I worked with PHIL BURTON to establish the Eleanor Roosevelt National Historic Site in Hyde Park, N.Y. At that time I was surprised to learn that, with the exception of Clara Barton's home outside of Washington, D.C., and the Maggie Walker site in Richmond, Va., there was not a single national park or historic site commemorating the life of an American woman. Certainly no park or monument site dealt with the special problems and achievements of American women—or with the struggle of women to achieve full equality with men.

Establishment of the Women's Rights National Historical Park will begin to remedy this omission. Seneca Falls, N.Y., was the site of the 1848 Women's Rights Convention which began the organized struggle for women's rights in this country. It was at that convention that feminists, under the leadership of Elizabeth Cady Stanton, adopted the declaration of sentiments, based on the Declaration of Independence, which declared that "all men and women are created equal." It called for the right of women to control property she earned or inherited; equal access to education; and equal access to the professions. The declaration also called for the reform of divorce laws, the right of women to child custody, and the end of the double standard of morality. Most controversial was the convention's call for women's suffrage. Even some of the activists thought that pushing for the vote was a bit extreme, and one of the leading feminists, Lucretia Mott, a Quaker, warned Stanton to drop that plank. "Why, Lizzie," she said, "thee will make us look ridiculous."

Mott was not far off. The press had a field day with the Seneca Falls convention. It was ridiculed and lampooned throughout the country. But the women's movement, under the leadership of Stanton and Susan B. Anthony, was undaunted. Stanton responded to the ridicule and derision with the statement that—

> It is a settled maxim with me that the existing public sentiment on any subject is wrong.

She persevered, and by the late 20th century much—but not all—of the 1848 agenda was either law or custom. Women today, in the newly energized movement, are still fighting for the rest of the program.

Establishment of the Women's Rights Historical Park in Seneca Falls will commemorate the great events which took place in 1848 in Seneca Falls and will also remind women and men that the struggle for equality is far from over. I look forward to speedy passage of this bill. The text of the bill follows:

H.R. 6407

A bill to provide for the establishment of the Women's Rights Historical Park in the State of New York and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) The Women's Rights Convention held at the Wesleyan Methodist Chapel in Seneca Falls, New York, in 1848 is an event of major importance in the history of the United States because it marks the formal beginning of the struggle of women for their equal rights.

(2) The Declaration of Sentiments approved by the 1848 Women's Rights Conven-

tion is a document of enduring relevance, which expresses the goal that equality and justice should be extended to all people without regard to sex.

(3) There are nine Women's Rights Historic Sites located in Seneca Falls and Waterloo, New York, associated with the 19th century women's rights movement.

(b) It is the purpose of this Act to preserve and interpret for the education, inspiration and benefit of present and future generations the nationally significant historical and cultural sites and structures associated with the formal beginning of the struggle for equal rights for women and to cooperate with State and local entities to preserve the character and historic setting of Seneca Falls.

ESTABLISHMENT

SEC. 2. (a) To carry out the purpose of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is hereby authorized to establish the Women's Rights National Historical Park, as depicted on the map entitled "Boundary Map, Women's Rights National Historical Park," numbered WORI 80,002 and dated January 1980. Said may shall be on file and available for public inspection in the offices of the Secretary of the Interior, Washington, D.C. The Secretary is authorized to acquire such land, or interest therein he deems necessary, by donation, purchase or appropriated funds, or exchange; fee acquisition shall be limited to the following Women's Rights Historic Sites in Seneca Falls:

1. Stanton House, 32 Washington Street.
2. Dwelling, 30 Washington Street.
3. Dwelling, 34 Washington Street.
4. Lot, 26–28 Washington Street.
5. Former Wesleyan Chapel, 126 Fall Street.
6. Theater, 128 Fall Street.

Less-than-fee acquisition may be explored for preserving the following Women's Rights Historic Sites:

1. Bloomer House, 53 E. Bayard Street, Seneca Falls.

2. McClintock House, 16 E. Williams Street, Waterloo.

3. Hunt House, 401 E. Main Street, Waterloo.

(b) The Secretary shall administer the park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented, and the Act of August 21, 1935 (39 Stat. 535) as amended.

SEC. 3. (a) The Secretary will encourage local and State agencies to establish a preservation commission, with responsibility to develop and implement a plan for the preservation and rehabilitation of the area within the park boundary in order to preserve the 19th century character so that the setting as well as the key structures remain intact.

(b) The Secretary is authorized to provide technical assistance and funding for the preservation plan, up to a limit of 50 percent of the total cost of the preservation plan.

ADVISORY COMMISSION

SEC. 4. (a) There is hereby established the Women's Rights National Historical Park Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall terminate ten years after the date of establishment of the park.

(b) Appointments to the Advisory Commission shall be made by the Secretary as follows:

(1) A representative of the Elizabeth Cady Stanton Foundation;

(2) A representative of the Women's Hall of Fame;

(3) A representative of the Seneca Falls Historical Society;

(4) Two members appointed by the Governor of New York;

(5) A representative of the U.S. Department of Transportation;

(6) A representative of the U.S. Army Corps of Engineers;

(7) A representative of the Village of Seneca Falls;

(8) A representative of the Town of Seneca Falls;

(9) A representative of Eisenhower College;

(10) A representative of Wells College;

(11) A representative of Cornell University;

(12) A representative of a local agency or group dedicated to downtown commercial revitalization;

(13) Two women in non-traditional occupations or professions nominated by the Elizabeth Cady Stanton Foundation, and;

(14) Three women from national women's groups or authors or lecturers on women's rights nominated by the Elizabeth Cady Stanton Foundation.

The Secretary shall designate one member of the Advisory Commission to serve as chairperson and any vacancy shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without compensation, but the Secretary may pay expenses reasonably incurred by the Advisory Commission and reimburse members for reasonable expenses incurred in carrying out their responsibilities under this Act.

(d) The Secretary, or his designee, shall from time to time, but at least four times a year, meet and consult with the Advisory Commission on matters relating to the development of the park and with respect to carrying out the provisions of this Act. The Advisory Commission may determine when meetings will be held less frequently.

COOPERATIVE AGREEMENTS

SEC. 5. The Secretary is authorized to enter into cooperative agreements with appropriate non-profit entities for developing and implementing programs related to the women's rights movement, which could include research, lectures, seminars, studies, publications and conferences.

GENERAL MANAGEMENT PLAN

SEC. 6. Within three years the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the Women's Rights Historic Sites.

FEDERAL CONSISTENCY

SEC. 7. Any federal entity conducting or supporting activities directly affecting the park shall consult with the Secretary prior to the issuance of final approval for said activity, license or permit.

FUNDING

SEC. 8. There are hereby authorized such sums as may be necessary to carry out the provisions of this Act.●

EMPLOYMENT IMPACT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. STEWART) is recognized for 30 minutes.

Mr. STEWART. Mr. Speaker, today, I am introducing legislation which will require each Federal agency to prepare an employment impact statement. Federal agencies will be required under my legislation to prepare a concise statement of the employment impact of its procurement plan for each fiscal year. This act, the Federal Contract and Employment Impact Act of 1980, requires each Federal agency to prepare its employment impact statement at least 3 months before the beginning of each fiscal year.

Such statements shall contain a concise statement of the volume and nature of the procurement proposed to be undertaken by the agency for the ensuing fiscal year. The statement shall classify the expected procurement into contracts for construction, services, and real and personal property. Further, the statement shall identify the volume of each type of procurement by geographic area; the rates of unemployment in the areas wherein the preponderance of work to implement the contracts is to be performed; and the actions which will be required of the contractors to employ individuals who are the most severely disadvantaged in terms of the length of their unemployment and their prospects for finding employment.

If any agency undertakes an action to procure goods and services in a manner which departs significantly from its prepared plan, that agency shall publish a supplemental statement providing the necessary revisions to the plan.

The Secretary of Labor is to provide Federal agencies with current information concerning unemployment rates and shall advise and assist contractors in developing and implementing training programs to achieve the purposes of this act.

I am of the opinion, Mr. Speaker, that the purchasing power of the Federal Government can be used so as to have an effect on the unemployment rate in this country. The purchasing power of the Federal Government, according to the figures listed below, is enormous. The total procurement by civilian executive agencies in 1978 was over $28 billion. Construction expenditures by these same agencies during this same period was close to $2 billion.

Military agencies spent over $65 billion for total procurement during 1978. Procurement for services by the military amounted to over $4.5 billion. Expenditures for military construction during 1978 amounted to close to $2.5 billion.

I would like to include at this point a summary of the total procurement by military and civilian executive agencies for the period from 1974 to 1978 prepared by the Congressional Research Service. These tables indicate how large this purchasing power is:

PROCUREMENT BY CIVILIAN EXECUTIVE AGENCIES,[1] FISCAL YEARS 1974–78

[In billions of dollars]

Fiscal year	Total procurement	Procurement of construction
1974	14.157	1.141
1975	19.126	1.320
1976	17.979	1.744
Transition quarter	5.159	.374
1977	24.292	1.733
1978	28.566	1.905

[1] Excludes CIA, NSA, and Federal grant expenditures.

Source: General Services Administration, Office of Finance, annual statistical report, "Procurement by Civilian Executive Agencies," for fiscal years 1974–78.

PROCUREMENT BY MILITARY AGENCIES,[1] FISCAL YEARS 1974–79

[In billions of dollars]

Fiscal year	Total military procurement	Major hard goods	Services	Construction	Other
1974	40.131	20.760	2.668	1.676	15.027
1975	45.758	22.184	3.064	2.707	17.803
1976	46.934	22.795	3.194	2.247	18.698
Transition quarter	12.182	5.685	1.051	678	4.768
1977	55.572	29.318	3.383	2.564	20.307
1978	65.185	34.120	4.554	2.483	24.028

[1] Includes Army, Navy, Air Force, and Defense Logistics Agency. Excludes civil functions.

Sources: Department of Defense, Washington Headquarters Services, "Military and Civil Functions Procurement by Claimant Program," fiscal year 1978, p. 1. Department of Defense, Office of the Secretary of Defense, "Military Prime Contract Awards," fiscal year 1977, pp. 26, 27.

In 1952, the Office of Defense Mobilization issued Defense Manpower Policy No. 4 (DMP–4) which made it the policy of the Federal Government "to direct Federal procurement, nonformula grants, and executive agreements to businesses in areas of excessive unemployment."

In a report to the Congress in 1977, the General Accounting Office recommended that "the Congress either strengthen the policy by giving it a statutory base * * * or rescind it."

I think the Congress should give some direction to the program.

It would seem that if the Government were to add another dimension to its procurement policy, namely, that of targeting Federal contracts "for services, for real or personal property, or for the construction of structures or facilities," as the bill does, to the areas of high unemployment, then the Government would be achieving a twofold objective in the expenditure of Federal funds. The Government would be, in addition to securing necessary services or building essential facilities, training individuals and reducing the unemployment rate.

Each employment impact statement as described above shall contain a statement which shall include the rate of unemployment in the area wherein most of the work to implement the contract is to be performed and the actions which will be required of the contractor to employ individuals who have been unemployed for an extensive period of time.

Further, the Secretary of Labor shall assist such agencies in developing training programs to enable individuals to acquire the necessary skills to permit individual contractors to carry out the provisions of the contract with the Government.

The General Accounting Office is to review the compliance by Federal agencies with the requirements of this legislation to determine the impact of the requirements of the act on national, State, and local unemployment. After such a review, the General Accounting Office shall make such recommendations in its report to the Congress as it considers necessary, to reduce further the unemployment rate through the use of Federal contracts.

In the debate on the House floor during the consideration of the Department of Defense appropriations for fiscal year 1980 bill, several Members stressed the fact that the Federal Government has never adequately used the Federal procurement program to alleviate the high unemployment we are experiencing in certain sections of our country. The General Accounting Office stated in its 1977 report that—

> The procurement dollars spent and the numbers of people hired that are attributable to the Labor Surplus Policy have declined, and at the same time the Government procurement budget has increased significantly.

Mr. Speaker, the figures I have cited above indicate the dimension of the procurement practices of the Federal Government. It seems logical to wed the procurement practices with our economic policies in a manner so as to make an impact on the high unemployment rate. Federal agencies must be encouraged to target their procurement policies to areas which are experiencing chronic unemployment.

This bill provides such encouragement. I strongly urge its passage.

□ 1840

SHIFTING TAX BURDENS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● **Mr. VANIK.** Mr. Speaker, one of the most disturbing elements contained in the President's budget are projections through 1983 showing a proportional decrease in the share of the Federal tax burden which corporate income taxes will provide, and the accompanying increase in the burden on individual income taxes.

Corporate income taxes, which now provide 14 percent of Federal receipts, will fall by 1983 to only 11 percent. In 1970 the corporate income tax share of financing the Federal budget was 17 percent. The trend is clearly downhill—and accelerating. At the same time, the citizens of this Nation, who already pay 46 percent of all receipts through individual income taxes, will be asked to shoulder 50.7 percent of the tax burden by 1983. While the net benefit to the economy of this shift is unknown, there is no doubt but that this will result in a negative impact on the individual.

This shift is occurring with little or no public awareness—and major lobbying efforts are underway to provide enormous new reductions in corporate tax payments. It should be the subject of a national debate, and I hope the Ways and Means Committee will examine the implications of this trend in 1980.

The corporate sector is clamoring for capital formation through lower taxes. The individual American has an even greater need for capital formation—to buy a house, to invest in family education, and for better health and security. The shrinking savings rate of our people is an ominous omen—unfortunately more threatening than capital shortages for industry.●

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● **Mr. ALEXANDER.** Mr. Speaker, I wish the RECORD to indicate following the vote to resolve into the Committee of the Whole for further consideration of H.R. 4788, Water Resources Development Act of 1979, that I was unavoidably detained at a meeting with a delegation from the Arkansas Hospital Association and was therefore not recorded on that vote. Had I been present, I would have voted "yea." ●

LEGISLATION TO PROHIBIT EXPORT OF PHOSPHATE FERTILIZER TO SOVIET UNION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● **Mr. BEDELL.** Mr. Speaker, today I am introducing legislation urging the President to exercise the authorities he has to prohibit the export of superphosphoric acid (phosphate fertilizer) to the Soviet Union until the Soviet Union withdraws its troops from Afghanistan and until the President removes the ban imposed on agricultural commodities to the Soviet Union.

As I indicated in an earlier letter to the President, the suspension of phosphate sales to the Soviet Union would demonstrate that the administration is indeed committed to efforts beyond the limited actions of embargoing the sale of grain and computer hardware in serving notice to the Soviet Union that its invasion of Afghanistan will not be ignored. In addition, an embargo of phosphate would be an important step for the President to take in making good his pledge that no one segment of the American economy will be made to bear the full cost of the announced embargo.

Moreover, Mr. Speaker, as superphosphate is recognized as an essential agricultural fertilizer, there seems to be no justification for providing this chemical to the Soviets so that they can minimize the impact of their loss of U.S. grain shipments. In fact, a decision to continue to allow the export of superphosphate to the Soviet Union would be viewed with understandable outrage by my rural constituents who feel that it makes no sense to embargo shipments of grain to the Soviets while at the same time allowing the Soviets to obtain fertilizer that they may use to increase their crop yields.

Mr. Speaker, I urge my colleagues to give this resolution their full support, and I am hopeful that the President will see the wisdom in curtailing superphosphoric acid exports.

The text of the resolution follows:

H. RES. 563

Resolved, That the House of Representatives urges the President to exercise the authorities he has to prohibit the export of superphosphoric acid (phosphate fertilizer) to the Soviet Union until the Soviet Union withdraws its troops from Afghanistan and until the President removes the ban imposed on agricultural commodities to the Soviet Union.●

H.R. 2609, A BILL TO INCREASE AUTHORIZATIONS FOR THE YUMA DESALTING PLANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. BROWN of California. Mr. Speaker, on Thursday the full House is scheduled to take up H.R. 2609, a bill to increase authorizations for the Colorado River Salinity Control Act of 1974, primarily to allow the construction of the largest desalting plant in the world at Yuma, Ariz. At this time I do not intend to make all the arguments against this legislation, which are indeed many, but rather provide one piece of background information that most Members of this body would consider as fair and reliable. I refer to the May 4, 1979, General Accounting Office report entitled "Colorado River Basin Problems: How to Reduce Their Impact," which recommended against going ahead with the proposed billion dollar Yuma Desalting Plant.

Excerpts from the GAO report follow:

[Excerpts from report to the Congress of the United States by the Comptroller General, May 4, 1979]

COLORADO RIVER BASIN WATER PROBLEMS: HOW TO REDUCE THEIR IMPACT

Unless Federal, State, and local governments begin to work together, the Colorado River Basin—an area embracing parts of seven Southwestern States—will not be able to cope with a probable water shortage soon after the year 2000.

GAO recommends that the Congress establish a task force to determine how the parties involved should cooperate to improve the supply and quality of water in the Colorado River Basin.

CHAPTER 3. CURRENT SALINITY CONTROL PROGRAM MAY NOT BE COST EFFECTIVE IN ACHIEVING DESIRED RESULT

As Colorado River Basin waters are increasingly put to use and consumed, the salinity [1] of the remaining river water is expected to increase. Although estimates of the extent of damage vary widely, the Bureau of Reclamation foresees economic losses to agriculture and municipal and industrial users of the water due to increased salinity.

The current program for controlling salinity in the basin principally includes setting salinity standards for the basin and possibly constructing 17 salinity control projects. However, it appears this program will not achieve its desired objectives because:

The 4 projects which have been authorized for construction may not be economically or technically feasible;

Some of the 13 projects, which have not yet been authorized for construction, appear to have limited potential and are not being seriously considered; and

The salinity standards that have been set may not be met when the river's water supply is fully developed.

In spite of this knowledge, no specific long-range plans are being considered to control salinity in the basin after 1990. Although some additional measures are being studied, their impacts on salinity reduction are not known.

In addition to the program to control salinity in the basin, measures are underway that are intended to decrease the salinity of the water going to Mexico. In 1974, several measures to control the salinity of water going to Mexico were authorized by the Congress. Their cost has risen sharply, and more economical alternative solutions should be considered.

Alternatives to large desalting plant should be considered

The estimated cost of the desalting complex has escalated from $62 million to about $178 million, an increase of $116 million, or 187 percent. Annual operating costs for the complex are estimated to be $14 million. At the same time, the size of the plant has been revised downward from a capacity in excess of 100 to 96 million gallons a day.

The drainage return flow of the Wellton-Mohawk Irrigation and Drainage District has been approximately 200,000 acre-feet a year. The Bureau hopes to reduce significantly the return flow from the district by implementing an irrigation improvement program. Based on an operational study, of a 20-year period ending in 1996, the Bureau projected that over a 50-year period the return flow would average 155,000 acre-feet. This analysis showed that the desalting complex would salvage 88,000 of the 155,000 acre-feet with the remaining 67,000 acre-feet being diverted down the bypass drain to the Santa Clara Slough.

The 67,000 acre-feet consists of 35,000 acre-feet of brine and wastewater from the desalting plant and 32,000 acre-feet which will be bypassed when the plant is not required to operate because of surplus water in the river. Bureau officials point out, however, that if the water surplus does not occur as projected, then the plant would be required to desalt a portion or all of the 32,000 acre-feet. In other terms, the desalting plant is costing at least $178 million in construction costs plus $14 million in operation and maintenance costs to save 88,000 acre-feet each year. Based on the Bureau's July 1977 estimate of annual equivalent costs to operate the desalting plant, we estimate that it would cost $338 an acre-foot to deliver 88,000 acre-feet of water to Mexico. In contrast, the costs of augmenting streamflows have been estimated to be as low as $3 an acre-foot, although the process has not been fully proven. In any event, the costs to desalinate water have risen to the point where alternatives should be considered.

Prior to the approval of minute 242, a Presidential interagency task force, chaired by Ambassador Herbert Brownell, Jr., as Special Representative of President Richard M. Nixon, considered several alternative measures and different desalting projects before deciding on the authorized project. During these considerations, Ambassador Brownell made a commitment to the basin States to the effect that the solution of the salinity problems with Mexico should not reduce their water supply. Among the alternatives considered were nine different desalting plants, bypassing Wellton-Mohawk drainage water and substituting it with water allocated to other States, and total or partial shutdown of the Wellton-Mohawk Irrigation and Drainage District. Ultimately, the alternative measures to the desalting plant were discarded as infeasible for economic and/or political reasons.

In commenting on our draft report, Bureau officials stated the Bureau was not requested or authorized to investigate the feasibility of the desalting complex. They said the Bureau had no plans to evaluate the economic feasibility of the desalting complex or any other alternative. However, Department of the Interior officials recently decided that alternatives to the desalting complex should be considered. During hearings on March 20, 1979, before the Subcommittee on Water and Power Resources, House Committee on Interior and Insular Affairs, Interior officials said two alternatives to the desalting complex have been proposed which could potentially reduce the size of the desalting plant.

Expand the Wellton-Mohawk irrigation improvement program to reduce return flow to 80,000 acre-feet per year, which could potentially reduce the size of the desalting plant up to 40 percent.

Reuse return flow water on existing Wellton-Mohawk irrigated lands by (1) designating a specific area for use of drainage water only and restricting the choice of crops, (2) returning drainage water to the Wellton Canal and mixing it with incoming Colorado River water, and (3) restricting diversions to Wellton-Mohawk with some form of compensation to the landowners.

Interior officials pointed out that these alternatives were proposed only recently and have not been studied fully to determine their potential. Furthermore, they pointed out that similar proposals were rejected by the Brownell task force.

Interior agreed to consider two additional alternatives suggested by the subcommittee.

Buying out Wellton-Mohawk totally with the land leased back to the farmers (thereby decreasing water use by telling the farmers what crops they can grow).

Buying the water development rights to Wellton-Mohawk and then telling the farmers how they can use the water.

Interior officials told us they plan to complete their evaluation of the four alternatives about mid-May 1979. They plan to use data already available, as time does not permit them to perform additional field studies.

In addition, we believe there is another alternative worthy of consideration. In our draft report, we had suggested that funding for construction of the Yuma complex be deferred until the Bureau evaluated other less costly alternatives, such as bypassing Wellton-Mohawk return flows and substituting them with water from the basin States' allocations. This alternative appears to be feasible but probably would not be acceptable to the States. Even though Ambassador Brownell dismissed this alternative earlier because of the loss to U.S. users of the substituted water, estimated at that time to be 220,000 acre-feet, the Bureau is now using it as a temporary measure.

Ambassador Brownell's reason for rejecting the bypass alternative need to be reconsidered because the Bureau estimates only 123,000 acre-feet rather than 220,000 acre-feet would have to be replaced annually by the Federal Government if the Yuma plant was not built. In any event, even if the plant is built, the Government will have to replace 35,000 acre-feet of water. Another reason for reconsidering this alternative is the significant cost increase of the Yuma complex.

In commenting on our draft report, Bureau and State officials objected to this suggested bypass alternative. They pointed out that the negative impact of the bypass alternative is the loss of water to the U.S. users—the States. They contend that because the Federal Government does not own or have rights to any water stored in the reservoirs and all the Colorado River water belongs to the States, any water loss would have to come from the States' allocations.

In addition, Bureau officials also said it should be kept in mind that water lost to the States while implementing any alternative must be replaced, as provided by the 1974 Salinity Control Act. During the recent hearings to increase the authorized cost ceiling for the Yuma complex, Interior cited this Federal obligation as one reason for acting quickly to approve the Yuma proposal. Interior officials reported the United States is already obligated to replace about 1 million acre-feet of drainage water which has been bypassed since passage of the 1974 act.

---

[1] Salinity, in freshwater, is the total of all dissolved solids or salts present and is measured in terms of parts per million or milligrams per liter. These measurements are essentially the same.

Except for decreed Indian and Federal reserved water rights, all the Colorado River water belongs to the States. Therefore, a question must be resolved: How will the Federal Government meet its obligation to replace water lost as a result of bypassing water from the Wellton-Mohawk project to the Santa Clara Slough?

Another factor which needs to be considered in any evaluation of the bypass alternative is to what extent the Government has an obligation to replace bypassed water. We agree that an obligation does exist under the 1974 act, but the point in time when that obligation begins to accrue is subject to more than one interpretation.

The act states that except in times of surplus water in the Colorado River, replacement of the reject stream from the desalting plant and drainage water bypassed to the Santa Clara Slough is recognized as a national obligation, as provided for in section 202 of the 1968 Colorado Basin Project Storage Act (Public Law 90–537). Section 202 provides that satisfaction of the requirements of the Mexican Water Treaty from the Colorado River constitutes a national obligation and that this obligation will be met by augmenting the basin water supply. According to the 1968 act, the basin States are to provide water to meet the Mexican commitment until the Congress has authorized the water augmentation plan and it is in operation.

The Bureau believes that the Federal obligation to replace lost water began with enactment of the 1974 act and now totals about 1 million acre-feet. Although we agree that this may be a reasonable interpretation, we believe there are two other equally reasonable interpretations. These are that the national obligation did not begin to accrue until—

The extension of the bypass drain to the Santa Clara Slough was completed in 1977 and

The augmentation plan for increasing water supply has been approved by the Congress and is in operation, as cited in section 202 of the 1968 act.

The Bureau has initiated studies of various methods of augmenting the river's water supply. Some of the methods examined appear promising, but so far none have been proven in one way or another. The Bureau has been unable to quantify, with certainly, the amount of water resulting from this program.

CONCLUSIONS

Much uncertainty exists about the effectiveness and efficiency of the salinity control program for the basin and whether it can achieve the intended results. Also, assuming an annual virgin flow of less than 14 maf and using the Bureau's assumptions of future rate of water resource development, the salinity control plan, even if implemented successfully, will not by itself achieve the water quality standards established for the basin. The effectiveness of the 1974 Salinity Control Act in controlling salinity in the basin, is questionable at best. The program got off to a bad start because the projects included in the act were based on hastily prepared, inadequate studies which resulted in numerous program changes and correspondingly significant cost increases.

It is doubtful now that the current salinity control program will reduce salt in the river as much as predicted because at least 6 of the 17 projects in the program may be in trouble. Construction has been deferred on two projects and preliminary studies on four other projects indicate they may be questionable. Interior, EPA, and State officials told us that additional measures are being studied to control salinity in the basin. However, a plan integrating these additional measures with the existing program has not been developed nor have their impacts been quantified. We believe that the uncertainties involved with all these factors point out the need for a new assessment of the overall salinity control problem as well as alternative solutions.

Under the normal water project approval process, the technical and economic feasibility of the salinity control projects would have been evaluated before authorization to insure a workable and cost-effective program. This was not done with the currently authorized projects. Such a study should have disclosed that the projects have high costs compared to benefits, and their effectiveness in reducing salinity is questionable. If the basin's salinity is to be controlled or reduced while the water resources are developed, the limited money available for salinity control must be applied to the most cost-effective projects. We believe, therefore, that the costs of salinity control projects should be compared to the benefits derived so that the most cost-effective projects are chosen.

Specifically, we believe that the Crystal Geyser and Las Vegas Wash projects, as presently formulated, will have minor impact in reducing the river's salinity and will cost more than benefits received.

The relationships and problems of water availability, development, and quality will have to be addressed as interrelated issues in order to achieve and maintain the water quality standards. The current project-by-project approach has led to water development that greatly increases salinity. Salinity control can best be accomplished through better basinwide management of total water resources which consider trade-offs between projects for water resource development and salinity control.

The significant cost growth and lengthy schedule delays for the desalting complex and other related projects authorized by title I of the 1974 act appear to have made other alternatives more attractive, although the problem of replacing the water lost or diverted or compensating the States for its loss will have to be resolved. We believe that less costly alternatives to satisfy our Mexican water commitment should be reconsidered.

We believe there are some serious questions that need to be resolved in considering the alternatives. Because of the widely varying impacts for the various alternatives, we believe it is vitally important for the Bureau to have a clear understanding of all the relevant information. Only then can the Bureau fully evaluate each alternative and determine the most cost-effective and beneficial solution. The U.S. obligation to replace the Wellton-Mohawk drainage water is one factor that needs clarification.

As part of considering the bypass alternative, we believe the Bureau should ask the Congress to clarify the intent of the 1974 Salinity Control Act concerning when the national obligation begins accruing for replacing the Wellton-Mohawk drainage water. The timing of when the U.S. obligation begins accruing can have an important impact on the bypass alternative consideration. For example, if the full provisions of section 202 of the 1968 Colorado River Storage Act apply, there would be no Federal obligation until the Congress approved the augmentation plan and it was in operation. If this interpretation is the one intended by the Congress, there would be no Federal obligation accruing now and there would be less urgency to construct the Yuma desalting complex. During the recent hearings, Interior officials cited the current Federal obligation as one of the primary reasons for prompt adoption of the administration's proposal to increase the authorized cost ceiling for the Yuma complex. The significant cost increase of the Yuma complex, and the fact that much less Wellton-Mohawk drainage water than initially estimated would be lost to U.S. users, are additional factors which indicate the bypass alternative should be reevaluated.

In any event, even if the Federal obligation is now accruing, it could be erased by 1985 if the basin reservoirs reach storage capacity and water releases are required. According to a Bureau official, this creates a surplus condition and any Federal debt accrued to that point would be wiped out. As mentioned on p. 12, the Bureau anticipates there will be a surplus condition prior to 1985 when initial water deliveries are scheduled to begin for the Central Arizona Project.

RECOMMENDATIONS

We recommend that the Congress temporarily defer Federal funding for construction of the

Upstream salinity control projects (title II of the 1974 act) until the Bureau develops an alternative plan, in cooperation with the basin States, which compares the costs and benefits of the many alternatives; addresses the salinity problems in a comprehensive manner; and results in an effective and efficient basinwide program and the

Yuma Desalting Complex until the Bureau has reevaluated its feasibility and considered other viable and/or less costly alternatives.

Also, we recommend that the Secretary of the Interior ask the Congress to clarify the intent of the 1974 Salinity Control Act concerning when the national obligation for replacing the Wellton-Mohawk drainage water begins to accrue.

REGISTRATION AND DRAFT LEGISLATION

(Mr. DEVINE asked and was given permission to extend his remaks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, Brig. Gen. Carlton S. Dargusch, Deputy Director of Selective Service under Gen. Lewis B. Hershey submitted a most meaningful memorandum addressing the problems of registration and draft. All Members would do well to study and digest General Dargusch's material:

MEMORANDUM

On 23 January 1980 the President of the United States announced that he would ask Congress in February, 1980 for legislation and funds in connection with the Selective Service registration of an age group yet to be designated with the possible inclusion of women. Registration to be accomplished through the United States Post Office.

The Selective Training and Service Act of 1940, Public Law 783–76th Congress, was effective 16 September 1940. The details for the registration of men were set forth in the Selective Service Regulations and covered the age group 21 through 35. They included registration proclamations by the President and the Governor of each state and placed the Governor in charge of the activity in his state. The registration was handled on a voluntary and uncompensated basis by regular election officials supplemented where necessary by other qualified citizens. Registration facilities were provided in each voting precinct through a registration board for that area, consisting of a chief registrar and registrars. The registrar actually performed the function of registration and this was done under oath. Registration day for the Continental United States was 16 October 1940 and on that day some 16,316,908 men were registered for Selective Service. This is the way to do it. The psychological effect was best described in a cartoon which was set forth at page 86 in the Report of Director of Selective Service entitled "Selective Service in Peacetime."

It is quite obvious that the Post Office has neither the locations nor the personnel to accomplish a nationwide registration on a single day such as was done so successfully on 16 October 1940.

The proposed registration, however, is just the first step in the reconstituting of the Selective Service System on an effective standby basis. If the Selective Service System is to be reconstituted on an effective standby basis, it should be in the form of the state/federal Selective Service System which functioned so successfully from 1940 to 1973 and which consisted of state headquarters, local boards, appeal boards and other Selective Service agencies in which most of the personnel served without compensation.

Any attempts by the Executive Branch to completely federalize the Selective Service System should be resisted by the Congress and any proposed amendments of the Military Selective Service Act to that end should be rejected by the Congress for the strength of Selective Service in both World Wars I and II and thereafter resulted largely, if not entirely, from the state and local operation of the System which was headed by the President of the United States and Director of Selective Service. A computerized, federalized, bureaucratic Selective Service System operated out of Washington would not long survive and when that computerized, federalized, bureaucratic System foundered, it would be too late to rectify the mistakes which should never have been made in the first instance by the Executive Branch in the light of the proven success of the state/federal Selective Service System of World Wars I and II and thereafter. Surely, the sad lessons of the Civil War in both the North and South and the sage observations of General James Oakes concerning the bungled federal draft of the Civil War and the experiences of General Lewis B. Hershey should not be ignored when the nation faces even more serious problems of national survival in 1980 than those which this nation faced in 1940. The United States is the only nation that stands between the Soviet Union, its surrogates and the free world and the mere restoration of registration for Selective Service will not alter the balance of power. The bitter choice is guns or butter and rearmament must be the first order of business for the United States, for everything else is secondary to that in the contest for national survival. Wonder about official Washington—See the Wall Street Journal, 1 February 1980.

"The Pentagon tried to dispel doubts over U.S. ability to defend the Persian Gulf.

"In an unusually detailed briefing, an official described how a lightly armed force of 1,000 U.S. troops could reach the oil-rich region in about 24 hours from Italy. Within two weeks, the U.S. could have some 24,000 soldiers in the area, he said.

"Earlier, Gen. David Jones, chairman of the Joint Chiefs, underwent tough questioning by Senators on whether the U.S. could meet President Carter's pledge to defend the area. The U.S. can respond to a Soviet attack, he said, though 'neither side can be confident of the outcome.'

" 'We can't assure you that we can win a war there,' Defense Secretary Brown told the Senate armed services panel. 'But to cast doubt on our ability is damaging to U.S. security.' "

One may well ask what the Soviets and the Iranians are going to be doing while that beachhead is being established. One Bay of Pigs should be enough for the United States and if the United States is required to take military action in the Persian Gulf, it must find more workable solutions than that suggested in the Wall Street Journal.

IN MEMORY OF RAY GARRETT, JR.

(Mr. BROYHILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BROYHILL. Mr. Speaker, it is with a note of melancholy and sadness that I mark the passing of Ray Garrett, former Chairman of the Securities and Exchange Commission. He was a treasured friend and a dedicated public servant. Ray was a brilliant attorney, a true gentleman, and a man of great accomplishment. At the age of 59, he leaves us before his time. He made things happen; everyone loved him.

As Chairman of the SEC, he was a tower of strength, yet still knew the meaning of restraint. His whole life was an inspiration. Briefly, I would like to acquaint my colleagues with the career of Ray Garrett.

He was born on August 11, 1920, in Chicago, Ill. In 1941, he was graduated from Yale University and he received his LL.B. from Harvard Law School in 1949. Immediately prior to joining the Commission as Chairman, Mr. Garrett was a partner in the Chicago law firm of Gardner, Carton, Douglas, Children, and Waud where he had been since 1958. From 1954 to 1958, he was on the staff of the Securities and Exchange Commission, serving for most of that period as Director of the Division of Corporate Regulation.

In 1965, Mr. Garrett was chairman of the section of corporation banking and business law of the American Bar Association and has also served as chairman of the ABA Committee on Developments in Corporate Financing. He was chairman of the advisory committee for the corporate department financing project of the American Bar Foundation, a member of the board of editors of the American Bar Association Journal, and consultant to the "Reporter" for codification of Federal securities laws project of the American Law Institute.

Prior to joining the SEC staff, he was a teaching fellow at Harvard Law School and assistant professor of law at New York University. For several years he was a visiting lecturer at the Northwestern University School of Law. Mr. Garrett was sworn in as Chairman of the Securities and Exchange Commission on August 6, 1973. In 1975 he returned to the private practice of law. Even in the private sector, he continued his public service by giving unselfishly of his time to serve on advisory committees, educational seminars and wrote authoritative articles in his field.

Ray is survived by his wife Virginia, three daughters, one son, and six grandchildren.

I wish to express my condolences to Ray Garrett's family. Their loss is our loss. Ray will always be remembered and always loved by those who knew and worked with him.●

TESTIMONY OF HON. JAMES T. BROYHILL BEFORE INTERNATIONAL TRADE COMMISSION

(Mr. BROYHILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BROYHILL. Mr. Speaker, on January 22 of this year, the International Trade Commission held public hearings in order to determine injury to domestic yarn spinners as a result of imports of plied acrylic yarn from Italy and Japan. Two plants have closed in my own district because of less-than-fair-value imports of acrylic yarn from Japan and Italy, and I know that my district is not alone in this respect. Indeed, a number of my colleagues in the House of Representatives have indicated to me that they, too, have had plants close in their districts, due to the importation of plied acrylic yarn priced below its production costs.

I had the opportunity to testify before the Commission during its hearings on the impact of dumped spun acrylic plied yarn on the domestic industry. In my testimony, I emphasized the severity of the injury to the domestic plied acrylic yarn industry and the urgent need for the Commission to grant relief to the domestic yarn spinners, as mandated by the Trade Agreements Act of 1979.

Mr. Speaker, I would like to take this opportunity to share with my colleagues my testimony as presented before the International Trade Commission:

REPRESENTATIVE BROYHILL TESTIFIES BEFORE THE INTERNATIONAL TRADE COMMISSION

Mr. Chairman and members of the Commission: I am pleased to have the opportunity to appear before the Commission this morning in its hearing on the effect of less than fair value sales of spun acrylic yarn from Italy and Japan. I want to express my wholehearted support of the petitions filed by the American Yarn Spinners Association against injurious, unfairly-priced imports of the yarn.

I represent the tenth congressional district of North Carolina, where several of the domestic manufacturers of the yarn have their production facilities. Two companies, LaFar Industries and American & Efird, recently were forced to close plants employing many of my constituents because they could not compete with imports priced below their costs of production. My district has been hit hard by these imports. I know from my colleagues in the House of Representatives who are members of the Congressional Textile Caucus that other areas of the country where the yarn is or has been produced have also been adversely affected. Plants have been closed in a number of communities; many have been operating well below capacity and have been forced to lay off workers. The number of people employed in the production of spun acrylic yarn has dropped significantly from what it was three years ago—before the large increase in unfairly-priced imports began. From conversations with businessmen and workers in my own district and elsewhere, I know well the heavy economic and human toll inflicted by the dumping of Japanese and Italian yarn in this country.

As I am sure the Commission is aware, the Trade Adjustment Assistance Act has provided some benefits to workers who have lost their jobs in the spun acrylic yarn industry over the past year, because the Labor Department found that increased imports were responsible for reduced domestic sales. Adjustment assistance, however, treats only the symptoms of unfair competition. To root out the unfair competition itself, a domestic industry must turn to our antidumping laws. This is what the American Yarn Spinners Association has done.

I am very concerned about the outcome of this case and your determination for two reasons. The first is, of course, that the companies still producing the yarn in my district and elsewhere, and the workers who are employed by them, desperately need the relief from unfair competition that an affirmative determination will provide. My second reason is more general. As a member of Congress, I want to assure myself that the antidumping laws are being interpreted and applied as intended by Congress to safeguard our domestic industries from injury caused by unfair competition from abroad. To my mind, this case provides a classic demonstration of the need for effective enforcement of the antidumping laws.

There are others here today who can speak more directly than I about the impact of dumped imports on the spun acrylic yarn business. Rather than duplicating their testimony, I would like to focus my brief remarks on the law under which this case will be decided—the Trade Agreements Act of 1979. As vice-chairman of the Congressional Textile Caucus, I was deeply involved in the deliberations over this important piece of legislation in which both labor management representatives of the textile and related industries were highly interested. Let me share with you my perspective on what Congress intended to achieve by enacting the new antidumping provisions.

In general, it should be made clear at the outset that the thrust of the new law is identical to that of the old one: where a domestic industry is suffering injury because of unfairly-priced imports, it is entitled to prompt relief. It is not Congress's intention to protect our domestic industries from every threat of foreign competition—far from it; we welcome competition for the benefits it provides to our free enterprise system. But competition, foreign or domestic, should be on a fair basis.

Let me now turn to address in particular the key concepts of injury, causation, and industry. First, how much injury must an industry suffer before it is entitled to relief? As the Commission is well aware, the term "material" modifies the term "injury" under the new Act. Congress introduced this modifying term in order to bring the U.S. antidumping provisions into compliance with the international antidumping code. In so doing, however, we did not intend to make the injury standard more stringent than it has been. In our view, the general approach to injury that the Commission has pursued under the Trade Act of 1974 and previously is correct. The 1979 Act simply makes explicit that which has been implicit in Commission decisions for the past several years: the injury cognizable under the antidumping law is, in the words of the statute, any "harm which is not inconsequential, immaterial, or unimportant." If the Commission finds that unfairly-priced imports have caused an injury that is not inconsequential or immaterial, the Commission should render an affirmative determination.

This brings me to the second important antidumping concept: causation. What must be the relationship between the injury suffered and the unfairly-priced imports? Congress retained the "by reason of" language of earlier statutes in the 1979 Act. Our expectation was that the Commission would reach an affirmative determination whenever unfairly-priced imports are among the identifiable causes of injury. I believe that this expectation is consistent with recent Commission practice, including the practice of considering the cumulative impact of unfairly-priced imports from several sources where these imports are contemporaneous and are of like merchandise.

I must say in candor, however, that members of Congress were concerned by certain opinions of individual Commissioners which appeared to take the position that if any other cause of injury could be identified—recession, product competition, or whatever—then imports could not meet the "by reason of" standard. The House Report on the 1979 Act makes clear that this position does not reflect the legislative intent. The Report states:

"In determining whether [the] injury is "by reason of" such imports, the ITC looks at the effects of such imports on the domestic industry. The law does not, however, contemplate that injury from such imports be weighted against other factors (e.g., the volume and prices of . . . imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry) which may be contributing to overall injury to an industry. Any such requirement has the undesirable result of making relief more difficult to obtain for those industries facing difficulties from a variety of sources, precisely those industries that are most vulnerable to . . . dumped imports."

So long as imports are a contributing factor in the injury suffered by the domestic industry, there is sufficient causal linkage to support an affirmative determination.

The third and final concept I wish to comment upon in considering the 1979 Act is that of "industry." How should the Commission determine the nature and extent of the "industry" it should examine in considering the impact of unfairly-priced imports of a given product? For the first time, the statute expressly defines the term "industry"; it means "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." This definition represents a shift in emphasis from what I believe has been the Commission approach under the 1974 Act. In recent years the Commission has determined the scope of the domestic industry by focusing on the facilities used to produce the merchandise in question; if the same facilities were used to manufacture other products, then the industry was deemed to include production of the latter as well.

The new Act calls for an industry definition based not on facilities but on product characteristics and uses. The key term "like product" is defined as a product "most similar in characteristics and uses" to the imported product, rather than as any product manufactured in the same facilities. The Commission is expressly directed by the statute to assess the effect of dumped imports—

" . . . in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the . . . dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided."

Congress intended the Commission to focus on as narrow an industry as available data make possible.

The significance of this change should be evident to the Commission in its consideration of this case. Congress was concerned about instances like this one, where foreign producers seek entry into the U.S. market by focusing on one or two specific product lines, typically the most common ones. Once they have established a dominant position in those lines, the foreign producers can readily expand their presence in the U.S. market, because the domestic industry has already been weakened by sales losses in its large volume, standard lines. Congress recognized that the pattern of the importers' sales—the particular products they select to place in the U.S. market—is a better guide to determining the scope of an industry than the widely varying practices of U.S. manufacturers in arranging their manufacturing facilities. By focusing on "like products" the Commission will be better able to measure market penetration and the other effects of the unfair competitive practice in terms of the segment of the market in which the importer itself has chosen to compete.

In the present investigation, I believe that the Commission will find that the appropriate industry is the producers of plied, worsted-spun, acrylic, machine-knitting yarn. This is the product that the Japanese and Italians have sold in this country at unfair prices; it is a product with distinctive characteristics and uses; it is one for which the producers maintain separate financial data. There is no evidence that any other type of yarn was imported at less than fair value from Italy or Japan. The producers of plied, worsted-spun, acrylic, machine-knitting yarn represent an industry within the meaning of the 1979 Act.

I hope that these comments on the legal principles applicable to antidumping investigations are helpful to the Commission as it undertakes its expanded responsibilities to enforce this country's trade laws. I am confident that if the Commission applies these principles properly in the present case, in light of both the congressional intent and the facts as presented by other witnesses today, it will find that imports from Japan and Italy have caused injury to an industry in the United States.

There is one final point I wish to make, and then I will close. The textile industries in this country have had a difficult time with imports for several years. The yarn industry is no exception to this pattern. In order to assist the industry, the U.S. Government has entered into a number of agreements with foreign countries establishing import quotas for the yarn. In the past, Japan has been one of the countries whose exports of yarn have been subject to a quota; Italy has not. There is no quota for Japan in 1980.

Even if both Japanese and Italian imports were permanently subject to quotas, the Commission's determination in this case should be unaffected. Quotas are not intended to be—and must not be permitted to become—a license to sell in this country at less than fair value. A quota provides no more protection against unfair competition than the Trade Adjustment Assistance Act I have already referred to. Quotas are established on the assumption that the imported merchandise permitted to enter this country will do so on a fair basis. It is the Commission's responsibility to ensure through the enforcement of our antidumping laws that fair competition is maintained. Only by an affirmative determination in this case can the Commission fulfill that responsibility.

Thank you for the opportunity to testify in this important proceeding.●

H.R. 6405—MEDICAL EXPENSE PROTECTION ACT OF 1980 (MEPA)

(Mr. MARTIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. MARTIN. Mr. Speaker, I am pleased to share with our colleagues a detailed summary of a new catastrophic medical expense protection bill, H.R. 6405, introduced by Mr. RHODES and myself and 19 cosponsors.

SECTION-BY-SECTION ANALYSIS

TABLE OF CONTENTS

TITLE I—CATASTROPHIC AUTOMATIC PROTECTION PLAN (CAPP)

SEC. 101. Amendment to Social Security Act.

"TITLE XXI—CATASTROPHIC AUTOMATIC PROTECTION PLAN (CAPP)

"Part A—Establishment of catastrophic automatic protection plan

"Sec. 2101. Establishment of plan.
"Sec. 2102. Eligibility.
"Sec. 2103. Determination of deductible amount.
"Sec. 2104. Computation of covered deductible medical expenses.
"Sec. 2105. Application for assistance; income certification.
"Sec. 2106. Benefits; coinsurance.
"Sec. 2107. Application to medicare-eligible individuals.

"Part B—Administration of plan

"Sec. 2111. Payment of providers.
"Sec. 2112. Use of entities for administration of benefits.
"Sec. 2113. Catastrophic automatic protection plan trust fund.
"Sec. 2114. Prescription drug listing.
"Sec. 2115. Application of miscellaneous medicare and related provisions.
"Sec. 2116. Determinations and appeals; imposition and collection of civil penalties.

"Part C—Definitions

"Sec. 2121. Definitions.
Sec. 102. Study of catastrophic automatic protection plan.
Sec. 103. Effective date.

TITLE II—EMPLOYER HEALTH PLANS

Sec. 201. Amendments to Internal Revenue Code of 1954.
Sec. 202. Effective date.

TITLE III—AMENDMENTS TO MEDICARE PROGRAM

Sec. 301. Expansion of benefits.
Sec. 302. Changes in reimbursement.
Sec. 303. Coordination of medicare and CAPP.
Sec. 304. Effective date of CAPP option.

TITLE IV—STUDIES AND MISCELLANEOUS PROVISIONS

Sec. 401. Long-term care study and other studies.
Sec. 402. Maintenance of effort.
Sec. 403. Unfair trade practice.

TITLE I—CATASTROPHIC AUTOMATIC PROTECTION PLAN (CAPP)

SEC. 101. Amendment to Social Security Act. Establishes the existence of the Catastrophic Automatic Protection Plan (CAPP) under a new Title XXI of the Social Security Act, consisting of three parts, divided into sixteen sections, which are further described as follows:

Part A—Establishment of catastrophic automatic protection plan (CAPP)

SEC. 2101. Establishment of Plan. Establishes a voluntary insurance plan which would provide automatic protection to families against catastrophic medical expenses in accordance with further provisions of Title XXI. The Plan is to be funded by general revenues and co-insurance payments paid by beneficiaries under the Plan.

SEC. 2102. Eligibility:

Initial Eligibility: Provides that a family will become eligible for assistance in any year for CAPP-covered services after they have incurred, out-of-pocket, covered medical expenses (called "covered deductible medical expenses") equal to a "deductible" amount. Expenses which would count toward meeting the deductible amount (which amount would be known by reference to a table, determined in accordance with Section 2103) would have to be incurred during the 14-month period ending with December of the year. Therefore, covered deductible medical expenses would include such expenses incurred during the calendar year and those incurred in the 3 months prior to the beginning of the calendar year.

Continued Eligibility: This Section further provides that once a family becomes eligible for assistance, and is still eligible on December 31 of a calendar year, the family will remain eligible for assistance as long as it continues to incur covered deductible medical expenses. In the subsequent year (or years) such a family would not have to incur expenses equal to a full new deductible, but instead would have the deductible for the second or subsequent calendar year prorated.

In particular, a family could continue to be eligible for assistance in the first calendar quarter of the subsequent calendar year after its covered deductible medical expenses paid out-of-pocket equal, in the aggregate, one-quarter of the deductible amount if those covered deductible medical expenses are incurred during such first calendar quarter or during the last three months of the prior calendar year.

Similarly, during the second calendar quarter of the subsequent calendar year the family could continue to receive benefits if their covered deductible medical expenses incurred during the first two quarters of that subsequent year or the last three months of the prior calendar year equal, in the aggregate, one-half of the deductible amount.

Again, the family's eligibility would continue for the third calendar quarter of a subsequent calendar year after the family has incurred covered deductible medical expenses during such subsequent year or the last three months of the prior calendar year equal, in the aggregate, to three-quarters of the deductible amount.

In all instances, a family's continued eligibility for assistance is contingent upon its payment of required coinsurance amounts in a timely manner.

Sec. 2103. Determination of Deductible Amount:

In General: This Section provides for determining the deductible amount for a family. In essence, a family's deductible will be $300, plus 20% of the amount by which the family's verified income exceeds $4,000. However, the Section further provides that if all members of a family are not covered by a qualified health plan and a member of the family who is a full-time employee (under 65 years of age) earns at least the minimum wage, and refuses to participate in a qualified health plan which is offered by the person's employer, then the deductible amount for the family will be increased by $1,000 or 50% of the deductible amount that otherwise would apply, whichever is greater. Alternatively, such a family may elect to have the deductible amount remain unchanged, but to not have counted, toward meeting the deductible amount, covered expenses or services to the extent those expenses or services could have been covered under the qualified health plan, had the family member elected to participate, during the period beginning with the first date the plan could have applied to the family and ending 120 days after the last date (if any) the plan could have applied.

Families with Medicare-Eligible Members: The Section further provides that in the case of a family in which a member is eligible to enroll in Part B of Medicare, but is not enrolled therein or covered by a qualified health plan, the deductible amount for that family will be increased by twice the amount of the premiums which would be payable with respect to the member's enrollment under Part B of Medicare.

Families with Full-Time Students: In addition, this Section provides that in the case of a family in which a member who is not a dependent of another person, is over 21 years of age, is a full-time student at an institution of higher education, and is not covered by a qualified health plan, the deductible amount for the family will be equal to the greater of $1,500 or 20 percent of the family's verified income for the year.

Adjustment for Inflation: This Section also provides for necessary adjustments to specific dollar amounts set forth in this Section and in Section 2106 which are necessary in years after 1980 due to inflation. Some amounts will be adjusted to reflect changes in the per capita annual health care expenditures in the United States (as determined or estimated by the Secretary) from 1978 until two years before the year in question. Other amounts will be adjusted in accordance with the percentage change in the average income per family in the United States during such period of time.

Sec. 2104. Computation of Covered Deductible Medical Expenses. This Section provides for determining the amounts of covered deductible medical expenses, and the types of services for which such expenses are incurred, which will be allowed to count toward meeting the deductible amount under CAPP.

Meaning of "Reasonable" Expenses: Only "reasonable" expenses incurred for covered medical services furnished to members of the family will be counted. The term "reasonable expenses" will have essentially the same meaning as under Title XVIII (Medicare), except that there will be a special meaning for that term with respect to services provided by prepaid health plans or in case of prescription drugs for the treatment of chronic illness. Reasonable expenses specifically do not include any amounts with respect to expenses to the extent that any insurer or other entity is obligated to pay for or does make payment for them (other than pursuant to this Title XXI). Nor does the term include any amounts with respect to expenses to the extent that an itemized bill or receipt for the provision of covered services, which certifies that the services were actually rendered, has not been presented in such form and manner as the Secretary may prescribe.

Also, the term does not include expenses which are for inpatient services (or physicians' or other services furnished in conjunction with inpatient services) in situations where an insurance or similar policy or plan provides payments relating to the provision of such inpatient services or to the individual's confinement in a medical institution, unless the individual receiving such payments has a health plan or health insurance coverage for at least 75 percent of the reasonable costs or charges or actuarial value of such services.

Meaning of "Covered Medical Service": For purposes of this Section, the term "covered medical service" is defined to mean a CAPP covered service (as defined subsequently in Section 2121(5)) which has been provided in a state by a provider which, in general, is qualified to provide the service under Medicare or Medicaid and which service has not been determined unnecessary or inappropriate by a Professional Standards Review

Organization or pursuant to such other standards as the Secretary may recognize by regulation. The Section also provides that covered deductible medical expenses will be considered to be incurred on the date on which the services, with respect to which the expenses are incurred, have been furnished.

Sec. 2105. Application for Assistance; Income Certification. This Section sets forth the manner in which families may apply for assistance under CAPP. It also sets forth rules and procedures with respect to the verification of family income.

Application Procedures: The Section provides for coordination with Medicare Part B application procedures with respect to families with a member who is eligible for Medicare. Coordination also is provided with entities which administer qualified health plans offered by employers for employees enrolled in such plans; and with other CAPP intermediaries in connection with an application for assistance by other families. CAPP is given certain rights with respect to obtaining payments from third parties which might be due and owing to families who apply for assistance.

Under emergency circumstances, and under other circumstances as the Secretary may prescribe, a CAPP participating provider or health agency or a state (or political subdivision therein) may apply for assistance from CAPP on behalf of a family to which it has furnished services or which resides in the area served by the agency or in the state or political subdivision. The Secretary will permit such assistance to be provided, with respect to CAPP services furnished by the provider and other CAPP participating providers, where sufficient deductible medical expenses have been incurred to create a reasonable presumption of eligibility of the family for such assistance. The Secretary will provide for the issuance of a card which may be used to indicate the entitlement of members of a family to assistance.

Verification of Income: The Secretary, in cooperation with other federal and state agencies, is to provide for the timely verification of the income of families for which applications for assistance have been submitted. The confidentiality of such income-related information will be protected. The Secretary of the Treasury is directed to cooperate with the Secretary with respect to verification of income statements. Financial assistance to states under the Public Health Service Act is made conditional upon cooperation by the state with the Secretary for such purposes.

Use of More Current Calendar Year for Determination of Income: It is provided that the income of the members of the family for the previous calendar year will be considered the verified income of the family for the year in which assistance is sought, except that the Secretary will allow the verified income of the more current year to be used for purposes of determining eligibility in cases where the Secretary determines that the family income in the current year is expected to be less than 80%, or more than 130%, of its income in the previous year.

Filing of Statements of Actual Income by Families Receiving Assistance: Families who receive assistance must file a statement of their actual income for a year not later than April 15 of the following year or else be subject to a civil penalty and being declared ineligible for further assistance from CAPP. Families who submit false income statements are subject to similar types of penalties. If, after assistance is provided to a family, in any year, it is determined that the family's actual income for the year in which assistance was provided is less than 80%, or more than 130%, of the verified income applicable to that year, the Secretary will recompute the amount of the family's deductible as well as its co-insurance rate and stop-loss limit* for that year so that such figures will be based upon the actual income of the family. Any overpayments to the family would have to be repaid to the Trust Fund or the family would face civil penalties and disqualification from further assistance under CAPP. (Section 2116 provides for rights to a hearing and judicial review in certain circumstances in connection with the imposition and collection of civil penalties.)

Sec. 2106. Benefits; Coinsurance:

Payments to Providers and Individuals: This Section provides that families who are entitled to assistance shall receive full payment for CAPP medical expenses incurred for CAPP covered services, except that only 75% of the expenses will be paid for prescription drugs for the treatment of chronic illness, provided in each case that the services were furnished to members of the family by CAPP participating providers (except under certain emergency medical circumstances).

Payments will be made by the CAPP intermediary directly to the CAPP participating provider upon the presentation of an itemized bill, upon which the provider has certified that the service was, in fact, furnished to a member of a family who is entitled to assistance. Under certain circumstances, payments may be made directly by the intermediary to the individual upon presentation of an itemized and receipted bill.

Coinsurance: After incurring the deductible and becoming eligible for assistance, the family generally will be required to pay to CAPP a certain percentage of any additional covered medical expenses as coinsurance until the family has incurred in the aggregate) deductible covered medical expenses equal to the amount of the CAPP "stop-loss".

CAPP "Stop-Loss" Amount: The CAPP stop-loss amount for a family whose verified income is under $4,000 is equal to $500. If the family's verified income is over $4,000, the CAPP stop-loss amount is equal to $500 plus 25% of the verified income in excess of $4,000. In the case of a family where the deductible has been increased pursuant to Sec. 2103, because the family member elected not to participate in a qualified health plan offered by the family member's employer, the CAPP stop-loss amount will be increased by $1,250 (as adjusted pursuant to Sec. 2103) or 50% of the CAP stop-loss which would otherwise be applicable, whichever is greater.

Where the family member refuses to enroll in Part B of Medicare, although eligible to do so (and is not covered under a qualified health plan), the CAPP stop-loss amount will be increased by twice the amount of the premiums which would be payable with respect to the member's enrollment under Part B. And, in the case of a family where a member who was not a dependent of another person, is over 21 years of age, is a fulltime student at an institution of higher education, and is not covered by a qualified plan, the CAPP stop-loss amount is equal to $2,000 (as adjusted) or 25% of the family's verified income, whichever is greater.

Coinsurance Rate and Amount: The amount which the family must pay the Trust Fund as coinsurance is equal to a percentage (known as the coinsurance rate) of the expenses incurred for CAPP covered services. If the family's verified income is less than $4,000 for a year, the coinsurance rate is 10%; if the family's verified income is over $4,000 but not over $10,000, the coinsurance rate is equal to 15%; and if the verified income is over $10,000 for a year, the coinsurance rate is equal to 20%. The coinsurance rate is 20% for families where a full-time employee does not elect to participate in a qualified health plan which is offered, or where the family has a member who is a full-time student that meets the conditions set forth above with respect to an increased deductible or stop-loss limit.

Billing and Payment of Coinsurance; Sanctions for Failure to Pay Coinsurance: This Section specifies that the Secretary will provide for billing of families for coinsurance due under this Section. If payment is not made within a specified period of time, the family will be in default. A family will be entitled to a hearing before any assistance under CAPP is denied because of its failure to make the required coinsurance payments. An opportunity for a hearing and judicial review of the determination made at the hearing will be provided in accordance with the provisions of Section 2116. If a family willfully fails to make the required coinsurance payments, the family will be subject (in addition to the amount of the payments owed and in accordance with the provisions of Section 2116) to a civil penalty, in an amount not to exceed 50 percent of the amount of the coinsurance plus accrued interest at the prevailing rate. Any civil penalties collected pursuant to this section or Section 2105 will be deposited into the CAPP Trust Fund.

Sec. 2107. Application to Medicare-eligible Individuals. This section pertains to individuals who are eligible for Medicare. It provides that if an individual is entitled to have payment made under Title XVIII (Medicare) with respect to a part of a CAPP covered expense incurred with respect to a CAPP covered service, and is also entitled to have CAPP pay for the remainder of such expense, then payment for the entire amount of the expense will be paid under Title XVIII to the person or entity furnishing the service. The Secretary will provide for appropriate reimbursement of the Part A or Part B Trust Fund, as the case may be, from the CAPP Trust Fund for the amount of such payment attributable to the individual's entitlement under CAPP. Any coinsurance amounts which may be required to be paid to CAPP will be computed on the basis of the total expense which is paid for by CAPP (that is, the coinsurance rates will be applied to the dollar amount paid by CAPP, and not the amount paid by the Medicare Trust Fund).

Part B—Payment of providers and administration

Sec. 2111. Payment of Providers:

In General: This section specifies how payment will be made to providers of services under CAPP, and how such payments will be administered. Providers will be paid essentially as they are under Part A or Part B of Medicare, depending on whether the service paid for by CAPP is described under Part A or Part B of Medicare. Appropriate changes from the reimbursement amounts payable under Title XVIII are set forth, such as to provide for 100 percent of payment for services described under Part B of Medicare instead of 80 percent, and the elimination of the Part B deductible with respect to expenses incurred for CAPP covered services.

Other Changes Regarding Payments to Physicians: This section further provides, regarding payments made with respect to CAPP covered services provided by physicians who participate in CAPP, that the provisions in the Medicare law that apply what is known and referred to as the "economic fee index" will not be applicable.

Also, the section provides that determinations of such physicians' customary charges (in determining the prevailing charges under Medicare reimbursement principles) will be made on the basis of more recent data than under present law. Specifically, the period for the determination of the prevailing charge level will be the last preceding six-month period (ending June 30 or December 31) which ended more than three months before the date the request for payment is made.

---

*This term refers to the amount beyond which families will not be required to pay coinsurance, and is defined in Section 2106.

Payments for Prescription Drugs: Payments with respect to CAPP covered services for prescription drugs that are furnished in connection with treatment of chronic illness will be made in a amount equal to the lesser of (1) the amount charged or (2) the amount that would be recognized as the reasonable charge under Medicare for such drug.

Sec. 2112. Use of Entities for Administration of Benefits. The Secretary is authorized to use carriers and intermediaries, as under Medicare, for purposes of administering the benefits under CAPP. Conformity to the principles of Medicare with respect to such agreements, and in selection of the entities to be used, will be maximized.

Sec. 2113. Catastrophic Automatic Protection Plan Trust Fund. This section creates the Catastrophic Automatic Protection Plan Trust Fund. The composition of the Board of Trustees is specified, and their duties and powers are described. The CAPP Trust Fund is similar in structure and in other ways to the trust fund established under Part A and Part B of Medicare.

Sec. 2114. Prescription Drug List. This section provides for the establishment by the Secretary of an alphabetical list of certain drug entities within therapeutic categories which are enumerated in the Section. Supplemental lists (arranged by diagnostic, prophylactic, therapeutic, or other classifications) of the drug entities could be included by the Secretary in the list, as could the proprietary names under which products of a drug entity on the list are sold and the names of each supplier of such drug entities.

Sec. 2115. Application of Miscellaneous Medicare and Related Provisions. Section 2115 incorporates several provisions of the Medicare law by reference. Among the provisions of Medicare which are incorporated are those relating to regulation, penalties, administration, the Provider Reimbursement Review Board, waiver of liability of the beneficiary where Medicare claims are disallowed, the limitation on federal participation for capital expenditures contained in Section 1122 of the Social Security Act, the provisions relating to disclosure of ownership and related information contained in Section 1124 of the Social Security Act, the provisions relating to disclosure of certain convictions contained in Section 1126 of the Social Security Act, and the provisions of Part B of Title XI of the Social Security Act relating to professional standards review.

SEC. 2116. Determinations and Appeals; Imposition and Collection of Civil Penalties:

Determinations and Appeals: Subsection (a) of Section 2116 provides that any individual who is dissatisfied with any determination as to the individual's eligibility or ineligibility for benefits under CAPP, or a denial as assistance for failure to pay coinsurance amounts to CAPP, or a determination of the amount of benefits with respect to CAPP covered services which are described in Part A of Medicare, shall be entitled to a hearing by the Secretary and to judicial review of the Secretary's final decision in accordance with certain provisions of Title II of the Social Security Act. It is further specified that such a hearing will not be available unless the amount of controversy is at least $100, and judicial review will not be available unless the amount in controversy is at least $1,000. In addition, providers of services are afforded protections with respect to a hearing and judicial review in accordance with the provisions of Section 1869(c) of Title XVIII (Medicare).

Civil Penalties: Subsection (b) of this Section provides that any civil penalty assessed by the Secretary under CAPP shall be assessed pursuant to an order. Prior to issuing the order, the Secretary would have to give written notice to the individual of the proposal to issue such an order and provide the individual an opportunity to request, within fifteen days after receiving notice from the Secretary, a hearing on the order. At the option of the individual, such a hearing would be on the record in accordance with provisions of the Administrative Procedure Act (5 U.S.C. Sec. 554).

The Secretary is given the right to compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under CAPP. The amount of such a penalty, when finally determined, or the amount which is agreed upon in a compromise, may be deducted from any sums which are owed to the individual by the United States.

Subsection (b) of this Section further provides that an individual who is aggrieved by an order assessing a civil penalty, and who has requested a hearing as described above, may file a petition for judicial review of the order within 60 days after the order was issued. If no such petition for judicial review is filed (or a final judgment in favor of the Secretary is rendered by the Board pursuant to a petition for judiical review), and an individual fails to pay an assessment of a civil penalty, the Attorney General is instructed to recover the amount assessed (plus interest) in federal court. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any civil penalty collected under CAPP will be deposited into the CAPP trust fund.

Sec. 2121. Definitions. This section provides definitions for purposes of establishment of CAPP. Among the terms defined are the following: family, member of a family, income, qualified health plan, CAPP covered service, prescription drugs for treatment of chronic illness, participating pharmacy, CAPP participating provider, and CAPP intermediary. CAPP covered services, generally, are those provided under Medicare, without regard to premiums, coinsurance amounts copayments, and deductibles (but taking into account any dollar visit or day limitations). However, it is provided that in lieu of the 190-day lifetime limitation provided under Section 1812(b)(3) on the furnishing of inpatient psychiatric hospital services, there is a limitation of 45 days for such services in any calendar year for each individual. Also, the term CAPP covered services is defined to include pre-natal, delivery, and well-baby care for children under the age of one year, immunizations, and the furnishing of prescription drugs for the treatment of chronic illnesses as defined in this bill for individuals who are entitled to hospital insurance benefits under Part A of Medicare.

Sec. 102. Study of Catastrophic Automatic Protection Plan. This Section provides that the Secretary of Health and Human Services will conduct an evaluation of the implementation of CAPP during its first five years. The evaluation shall include an examination of the advantages, disadvantages, costs, and savings effected by enactment of CAPP and such legislative recommendations as may be appropriate. An annual interim report (beginning in 1981) is provided for, with the final report due on March 1, 1986.

Sec. 103. Effective Date. This Section establishes the effective date for CAPP. It provides that CAPP shall take effect in and after the first calendar year which begins more than six months after the date of the enactment of this Act.

TITLE II—EMPLOYER HEALTH PLANS

Sec. 201. Amendments to Internal Revenue Code of 1954. This Section provides tax and other financial incentives for employers and employees to purchase health plans that are "qualified"—that is, those plans that meet certain minimum criteria designed to provide catastrophic protection to beneficiaries, continuity of coverage for beneficiaries, and competition among alternatives qualified health plans.

Conditions for Excludability of Contributions by Employers from Income of Employees (I.R.C. Sec. 106): Section 106 of the Internal Revenue Code is amended in a number of ways by Subsection (b) of this Section. In general, contributions by employers will not be excludable from the gross income of employees unless a contribution is to a qualified health plan, and certain conditions are met.

Certain Conditions For Being a Qualified Health Plan: To be a qualified health plan, the employer would have to offer to make available at least one qualified health plan to each full-time employee. The employer would have to contribute an amount equal to at least 50% of the premium for the least expensive qualified health plan for each employee who elects to participate in such a plan, and to provide for employee contributions to a qualified health plan through a payroll withholding system. The amount of the employer's contribution would have to be fixed with respect to any particular employee, but could vary among employees to reflect collective bargaining agreements and other reasonable business considerations which would include geographical considerations, age, coverage of the employee by another qualified health plan, and categories of coverage such as self-only or family coverage (but that would not include variations among employees primarily on a basis related to the employee's income).

Rebates: If an employer offers more than one qualified health plan to an employee, and the employer contribution for a category of one such plan is greater than the total premium for the same category of another such plan with respect to an employee, and the employee selects the less expensive (or "low option") plan, then the employer must pay the employee, on a monthly basis, a rebate. The rebate also would have to be paid to the employee who elects not to participate in any of the plans offered by the employer, provided that the employee and his family are covered by a qualified health plan.

The rebate would have to be equal to at least 75% of the amount by which the largest employer contribution that the employer would make for a plan exceeds the premium for the plan of the same category that actually is selected by the employee (or, in the case where no plan is selected, the premium of the least expensive category of such plan offered to the employee). Any such rebate will be deductible by the employer and will not be treated as wages for purposes of FICA and FUTA. The rebate will be treated as wages (and therefore taxable) to the employee for purposes of income and withholding taxes (except for up to $8.33 per month if the employer's contribution does not exceed the limitation on the amount of excludable employer contributions as determined in this Section).

Limitation on Amount of Excludable Employer Contribution: The amount of an employer contribution which is excludable will be limited initially to $120 per month in the case of a family category of qualified health plan, and a reduced amount for other categories as shall be determined by the Secretary of Health and Human Services based upon actuarial considerations of the relative costs of providing medical care under the different categories of qualified health plans. (Note: Subsection (d) of this Section provides that the limit would not apply to contributions made pursuant to collective bargaining agreements entered into prior to January 1, 1980 until the expiration of such agreement or January 1, 1983, whichever is earlier.) For years after 1980, the dollar amounts will be increased by the increase in the medical component of the Consumer

Price Index between July 1979 and July of the previous year.

Annual Open Enrollment: In order to be a qualified health plan, the plan would have to be offered at the time of initial employment, and at least annually while employment continues during an open enrollment period of not less than 15 days (during which period of time an employee could enroll or terminate enrollment in a qualified plan, and to change participation in a qualified health plan or among such plans).

Definition of Qualified Health Plan:

Provision of Catastrophic Benefits: A qualified health plan would have to provide for the provision of, or reimbursement or payment for, CAPP-covered services, without the imposition of any coinsurance after the covered individual or family has incurred out-of-pocket expenses (including expenses for which assistance is provided to the employee by CAPP in a calendar year) in an amount equal to $2,500. That dollar amount will be increased in a calendar year after 1980 by the same percentage as the percentage increase in the per capita expenses for medical care between 1978 and the second previous year.

Administration of CAPP Benefits for Covered Individuals; Disclosure of Benefits: The plan would have to be offered or administered by an entity that has entered into a CAPP coordination agreement with the Secretary of Health and Human Services, whereby the entity agrees to act as an agent for CAPP in providing assistance to employees who have enrolled in qualified health plans and have incurred expenses for CAPP-covered services in an amount which would entitle them to payment from CAPP. The plan also would have to provide conspicuous notice to all potential enrollees that any amounts paid as benefits under the plan will not count as out-of-pocket expenses toward meeting the CAPP deductible.

Extended Coverage and Right of Conversion: The plan would have to provide that, subject to certain conditions, the plan will not terminate with respect to a covered individual because of the death, retirement, or termination (other than for good cause) of the employment of the employee for at least 60 days after the date of such death, retirement, or termination unless such individuals are covered by another qualified health plan. Also, the plan cannot terminate because of divorce or separation of the individual from the employee for at least 30 days after the date of the divorce or separation. Furthermore, the plan would have to offer covered individuals whose coverage would otherwise terminate (because of the termination of employment or of the group plan) the option to purchase a qualified health plan within 60 days after the employment or plan terminates. The plan would have to provide for no waiting period before services are covered and no exclusions of covered services to reflect pre-existing conditions. A family category plan would also have to provide for the automatic enrollment of newly born or adopted children and dependent children under the age of 22.

Agreements with States for Certifying Qualified Health Plans: The Secretary may enter into an agreement with the state under which the state department that approves health insurance policies would certify whether or not a health plan is a qualified health plan, if such certification process meets standards established by Secretary and if such process provides for review by the Secretary of any determination by the state department.

CAPP Coordination Agreements: This Section also spells out details concerning the CAPP coordination agreement. It provides that the Secretary will certify, to the entity that offers or administers the plan, the individual's entitlement to assistance from CAPP and the family's applicable CAPP deductible amount, coinsurance rate, and stop-loss limit. The entity would have to agree not to disclose such information without the consent of the individual or his legal representative.

The Secretary will reimburse the entity, unless the entity makes payments improperly, for the reasonable expenses associated with the provision of CAPP assistance to individuals enrolled in the plan pursuant to the CAPP coordination agreement. The entity will make payment to the individual whose family is certified as eligible for CAPP deductible amount and not otherwise reimbursable under the plan, upon the presentation of itemized bills from CAPP participating providers.

Payments will be made by the entity in the same manner as the entity otherwise would indemnify or pay for covered services under the plan, for 100% of the lesser of the bill or whatever amount the plan has negotiated for payment of the provider. The entity will subrogate to the Secretary any claims for payments, for assistance provided under the agreement, for which other plans or insurers may be liable.

The Secretary is responsible for providing for the billing and collection of any co-insurance required to be paid to CAPP. If the Secretary notifies the entity that a covered individual or family, with respect to which the entity is providing CAPP assistance under the agreement, has defaulted or otherwise is ineligible for assistance, the Secretary may terminate any reimbursement of the plan for its provisions of assistance under the agreement to the individual or family until such time as the Secretary may notify the entity of the individual's or family's re-eligibility.

The entity will notify the individuals of the coverage which is available pursuant to the coordination agreement and of the names and addresses of providers from whom services covered under the agreement can be obtained.

Definitions: The Section defines several important terms which are used therein. These terms include: full-time employee; premium; employer contribution; employee contribution; child; family; employer; and category of qualified health plan.

Deductibility of Contributions by Employers to Health Plans (I.R.C. Sec. 280(D): Subsection (c) of this Section amends the Internal Revenue Code by adding a new Section 280(D), to provide that no deduction shall be allowed to an employer for contributions to a health plan for compensation (through insurance or otherwise) to his employees for personal sickness, unless the employer offers his employees a qualified health plan and such plan is offered in accordance with the conditions specified in Section 106 of the Code.

Itemized Deductions for Certain Medical Expenses (I.R.C. Sec. 213): Subsection (d) of this Section changes Section 213 of the Internal Revenue Code relating to an itemized deduction presently allowed for medical, dental and other expenses. Such an itemized deduction will be allowed only for medical care provided to the taxpayer, his spouse, and dependents who are blind or disabled or have End Stage Renal Disease; or medical care provided to the taxpayer, his spouse, and dependents while a resident of a long-term care facility or of an institution for the care, rehabilitation, or training of the physically or mentally handicapped. The deduction will only be allowed to the extent that such expenses exceed 3 percent of adjusted gross income. In addition, the itemized deduction will be allowed for an amount equal to ½ of the expenses paid during the taxable year for a premium for a qualified health plan or a qualified individual health plan (but not an amount in excess of $250).

Qualified Individual Health Plans: Subsection (d) of this Section also defines the term "qualified individual health plan." Such a plan is one which will provide (directly or through insurance, reimbursement, or otherwise) medical care for individuals and families that the Secretary certifies meet certain requirements which are also set forth with respect to employer health plans.

In particular, the qualified individual health plan would have to provide catastrophic benefits, be offered by an entity which has entered into a CAPP coordination agreement with the Secretary, and provide conspicuous notice to individuals that amounts paid as benefits under the plan will not count as out-of-pocket expenses toward meeting the CAPP deductible amount. Also, the plan could not provide for waiting periods before services are covered or exclude pre-existing conditions. The plan, if a family plan, would have to provide for automatic enrollment of newly born or adopted children and dependent children under the age of 22.

In addition, a qualified individual health plan would not be allowed to terminate with respect to a covered individual because of the death of another individual covered by the plan for at least 60 days after the date of such death, at least to the extent that another qualified health plan does not provide protection to the covered individual. Also, the plan would not be allowed to terminate with respect to any covered individual because of a divorce or separation of the individual from another person for at least 30 days after the date of the divorce or separation.

Finally, it is provided that the Secretary of Health and Human Services may enter into an agreement with a state under which the state department which approves health insurance policies would certify whether or not the health plan is a qualified individual health plan. The certification process of the state would have to meet such standards as the Secretary may establish and would have to provide for review by the Secretary of any determination by the state department.

Sec. 202. Effective Date:

In General: Subsection (a) of this Section provides that the amendments made by the relevant provisions of Section 201 shall apply to taxable years which begin more than six months after the date of enactment of this Act. However, as noted above, in the case of a collective bargaining agreement entered into before January 1, 1980, the provisions which limit the amount of contributions by an employer that may be excluded from income will not apply until the earlier of the expiration of such agreements or January 1, 1983.

TITLE III—AMENDMENTS TO MEDICARE PROGRAM

Sec. 301. Expansion of Benefits. Section 301 makes certain changes to Title XVIII of the Social Security Act (Medicare). It provides for the elimination of limitations of allowable days that presently exist with respect to hospital care. The present coinsurance amounts for the 61st and succeeding days of an inpatient hospital stay will be eliminated.

Individuals entitled to benefits under Part A of Medicare are made eligible with respect to CAPP covered services. The Section further provides for Medicare beneficiaries to receive immunizations under Part B which are reasonable and necessary for the maintenance of health without regard to the Part B deductible.

Sec. 302. Changes in Reimbursement:

Election of CAPP Participating Physicians to Take Assignments: This Section provides that physicians who have agreed to be CAPP participating providers may elect also to take assignment of all of their Medicare patients' claims and then be reimbursed as they would be reimbursed under CAPP. In particular, such physicians would agree to accept the charge allowed by CAPP as their full charge for the service they provide. In return, for those physicians, the schedules used for determining the prevailing charges in computing the allowable charges for CAPP (and Medicare) payments would be updated more frequently and be based on more recent data than under present law; and, the "economic fee index" (that under present law restrains the rate of increase of payments that otherwise would be made) would be removed with respect to those services. The reimbursement mechanism is described in greater detail in the description of Section 2111 above.

Physicians In Shortage Areas: The Medicare law (Section 1842) also is changed to provide that physicians in localities designated by the Secretary as physician shortage areas may, under certain specified conditions, establish their customary charges under Medicare (and thus under CAPP) at the 75th percentile of prevailing charges, rather than the 50th percentile, as under current law. In addition, physicians presently practicing in such shortage areas would be allowed to move up to the 75th percentile on the basis of their actual fee levels.

Sec. 303. Coordination of Medicare and CAPP. This Section provides, in essence, that intermediaries and carriers under Medicare will act as such for CAPP with respect to Medicare beneficiaries who may also be eligible for assistance under CAPP.

Sec. 304. Effective Date of CAPP Option. This Section provides that amendments relating to changes in Medicare shall apply to items and services furnished in or after the first calendar year which begins more than six months after the date of enactment of this Act. However, the provisions which relate to reimbursing CAPP participating physicians, who elect to be reimbursed under Medicare in the same manner that they are reimbursed under CAPP, shall apply to services furnished in or after the sixth month after benefits first become available under CAPP, (thereby providing some "lead time" in which experience may be obtained under CAPP prior to expanding the new reimbursement methods to services provided to Medicare beneficaries).

TITLE IV—STUDIES AND MISCELLANEOUS PROVISIONS

Sec. 401. Long-Term Care Study and Other Studies:

Long-Term Care: This Section directs the Secretary of Health and Human Services, through the Office of the Secretary, to provide for studies of, and demonstration projects with respect to, the desirability and feasibility of adding a long-term care program into Title XVIII or XXI of the Social Security Act over time. The provision further describes what these studies and projects shall do, and directs the Secretary to report to the Congress periodically on the results of the studies and projects, with a final report to be made not later than January 1, 1988. $15 million per fiscal year, for five successive fiscal years, are authorized to be appropriated for carrying out such studies and projects.

Consolidation with Medicaid: The Section also provides for the Secretary to conduct a study of the feasibility of, and options with respect to, consolidating the Medicaid program into the new CAPP program. The study is to focus on the role of states in the resulting consolidated program. The Secretary is to report to the Congress, not later than two years after the date of enactment of this Act, on such study and include in the report such recommendations for changes in legislation as may be appropriate.

Increased Competition: The Secretary is also directed to study and explore new methods for increasing competition in health care delivery through providing Medicaid recipients and Medicare beneficiaries with greater "consumer choice" in obtaining health care services which they are entitled to. In particular, it is anticipated that the Secretary will explore various options for enabling such recipients and beneficiaries to receive the actuarial value of benefits to which they are entitled, through enrollment in qualified health plans including new types of alternative delivery systems such as Health Maintenance Organizations.

Sec. 402. Maintenance of Effort. This section provides that a state may not change its laws or regulations after November 1, 1979, in a manner which reduces the amount or extent of eligibility categories or benefits provided by the state either (a) under Title V, XIX, or XX of the Social Security Act, or (b) under any program providing benefits that are substantially similar to those covered under CAPP, if such a change would result in an increase in the amount of payments that the federal government would have to make under CAPP. If a state makes such a change in its laws or regulations in violation of this Section, the Secretary will reduce the amount of payments under Title XIX (Medicaid) to the state; or, in the case of a state which does not participate in Medicaid, the Secretary will reduce any grants under the Public Health Service Act to the same extent that the change made by the state reduces the amount or extent of such benefits. However, the Secretary is authorized to waive such reduction pursuant to regulations, under circumstances and conditions the Secretary may deem appropriate.

Sec. 403. Unfair Trade Practice. This Section provides that it will be considered an unfair trade practice under Section V of the Federal Trade Commission Act (15 U.S.C. 45) for any entity to advertise that any amounts paid to individuals may nevertheless be counted by such individual or family toward meeting the CAPP deductible.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Yates (at the request of Mr. Stewart), for yesterday and today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gonzalez, for 15 minutes, today.

Mr. Gonzalez, for 15 minutes, Thursday, February 7, 1980.

(The following Members (at the request of Mr. Porter) to revise and extend their remarks and include extraneous material:)

Mr. Vander Jagt, for 1 hour, on February 11.

Mr. Gingrich, for 1 hour, on February 11.

Mr. Tauke, for 5 minutes, today.

Mr. Hammerschmidt, for 5 minutes, today.

Mr. Martin, for 10 minutes, today.

Mr. McDade, for 5 minutes, today.

Mr. Latta, for 30 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Addabbo, for 15 minutes, today

Mr. Bingham, for 5 minutes, today.

Mr. Stewart, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. Bedell, for 5 minutes, today.

Mr. Brown of California, for 5 minutes, today.

Mr. Lundine, for 60 minutes, on February 7.

EXTENSION OF REMARKS

By unanimous consent, permisson to revise and extend remarks was granted to:

Mr. Martin, to extend his remarks in the body of the Record, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $2,366.

Mr. Edgar, and to include extraneous material, following his remarks on the Ertel amendment to H.R. 4788 in the Committee of the Whole today.

Mr. Fithian, and to include extraneous material, immediately following his remarks on the Ertel amendment to H.R. 4788 in the Committee of the Whole today.

Mr. Boland, during consideration of title IV, section 421, of H.R. 4788, in the Committee of the Whole today.

(The following Members (at the request of Mr. Porter) and to include extraneous matter:)

Mr. Green.

Mr. McCloskey.

Mr. Schulze.

Mr. Tauke in four instances.

Mr. Evans of Delaware in two instances.

Mr. Johnson of Colorado.

Mr. Rousselot in two instances.

Mr. McClory.

Mr. Walker.

Mr. Porter.

Mr. Hillis in three instances.

Mr. Dannemeyer.

Mr. Rudd.

Mr. Michel in three instances.

Mr. Martin.

Mr. Derwinski in two instances.

Mr. Corcoran.

Mr. Regula.

Mr. Campbell in two instances.

Mr. Lagomarsino in two instances.

Mr. Findley.

Mr. Gilman.

Mr. Kelly.

Mr. Hollenbeck.

Mr. Ashbrook in two instances.

Mr. Mitchell of New York.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Jenrette.

Mr. Murtha.

Mr. Ford of Michigan.

Mr. Foley.

Mr. Stark in three instances.

Mr. Wolff in two instances.

Mr. Long of Maryland.

Mr. Bowen.

Mr. Murphy of New York.

Mr. Harris.

Mr. Zablocki.

Mr. Udall in two instances.

Mr. Carr.

Mr. Edgar in four instances.

Mr. Hubbard.

Mr. ALEXANDER.
Mr. JOHNSON of California.
Mr. HOWARD.
Mr. YATRON.
Mr. DRINAN.
Mr. BINGHAM.
Mr. CONYERS.
Mr. McDONALD in three instances.
Mr. BEDELL.
Mrs. SCHROEDER in two instances.
Mr. ATKINSON.
Mr. FAUNTROY.
Mr. PEYSER.
Mr. BRODHEAD.
Mr. HALL of Ohio.
Mrs. COLLINS of Illinois.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1300. An act to amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for U.S. air carriers, establish goals for developing U.S. international aviation negotiating policy, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on February 1, 1980, present to the President, for his approval, a bill of the House of the following title:

H.R. 4320. To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

ADJOURNMENT

Mr. STEWART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Wednesday, February 6, at 3 o'clock p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3396. A letter from the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting a report on the performance of Defense Department commercial and industrial-type functions, pursuant to sections 806(b) of Public Law 96-107; to the Committee on Armed Services.

3397. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain military equipment to Saudi Arabia (Transmittal No. 80-32), pursuant to section 813 of Public Law 94-106, as amended; to the Committee on Armed Services.

3398. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the American Institute in Taiwans' proposed sale of certain military equipment on behalf of the Army to the Coordination Council for North American Affairs (Transmittal No. 80-38), pursuant to section 813 of Public Law 94-106, as amended; to the Committee on Armed Services.

3339. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the American Institute in Taiwan's proposed sale of certain military equipment on behalf of the Army to the Coordination Council for North American Affairs (Transmittal No. 80-39), pursuant to section 813 of Public Law 94-106, as amended; to the Committee on Armed Services.

3400. A letter from the Attorney General, transmitting the annual report for calendar year 1979 on the administration of the Equal Credit Opportunity Act, pursuant to section 707 of Public Law 90-321, as amended (90 Stat. 255); to the Committee on Banking, Finance and Urban Affairs.

3401. A letter from the Secretary of Agriculture, transmitting a preliminary report on the study of the school nutrition programs administered under the National School Lunch Act and the Child Nutrition Act of 1966, requested by Senate Resolution 90, 96th Congress; to the Committee on Education and Labor.

3402. A letter from the Acting Administrator, Agency for International Development, Department of State, transmitting the annual report of the Agency's Auditor General for fiscal year 1979, pursuant to section 624 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

3403. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Saudi Arabia (Transmittal No. 80-32), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3404. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain defense equipment on behalf of the Army to the Coordination Council for North American Affairs (Transmittal No. 80-38), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3405. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain defense equipment on behalf of the Army to the Coordination Council for North American Affairs (Transmittal No. 80-39), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3406. A letter from the Secretary of Commerce, transmitting the report on the review of export control country policy for the fourth quarter of 1977 and the first quarter of 1978, pursuant to section 4(b)(2)(A) of the Export Administration Act of 1969, as amended (91 Stat. 235); to the Committee on Foreign Affairs.

3407. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report that NASA provided no services to State or local governments under the Intergovernmental Cooperation Act of 1968 during calendar year 1979, pursuant to section 304 of the act (Public Law 90-577); to the Committee on Government Operations.

3408. A letter from the Secretary of the Interior, transmitting a report on the Teton Dam claims program for the calendar year 1979, pursuant to section 8 of Public Law 94-400; to the Committee on Interior and Insular Affairs.

3409. A letter from the Secretary of the Interior, transmitting the annual report for fiscal year 1979 on the Government's helium program, pursuant to section 16 of Public Law 86-777; to the Committee on Interior and Insular Affairs.

3410. A letter from the Secretary of Health, Education, and Welfare, transmitting the report of the National Cancer Advisory Board on the National Cancer program, covering fiscal year 1979, pursuant to section 407(a)(7) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

3411. A letter from the Secretary of Health, Education, and Welfare, transmitting the seventh annual report of the National Heart, Lung, and Blood Advisory Council, pursuant to section 418(b)(2) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

3412. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

3413. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

3414. A letter from the Chairman, Migratory Bird Conservation Commission, transmitting the Commission's annual report for fiscal year 1979, pursuant to section 3 of the act of February 18, 1929 (16 U.S.C. 715b); to the Committee on Merchant Marine and Fisheries.

3415. A letter from the Administrator, Panama Canal Commission, transmitting a report, including financial statements, on the operations of the Panama Canal during fiscal year 1979, pursuant to section 1312 of the Panama Canal Act of 1979 (Public Law 96-70); to the Committee on Merchant Marine and Fisheries.

3416. A letter from the Director, Office of Personnel Management, transmitting a report on the activities of the Office and of Executive agencies with regard to the minority recruitment program, pursuant to 5 U.S.C. 7201(e); to the Committee on Post Office and Civil Service.

3417. A letter from the Under Secretary of State for Management, transmitting a draft of proposed legislation to amend Public Law 90-553, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries, and for other purposes; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. H. Res. 558, a resolution providing for the consideration of H.R. 2609. A bill to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes (Rept. No. 96-745). Referred to the House Calendar.

Mr. FROST: Committee on Rules. H. Res. 559, a resolution providing for the consideration of H.R. 3275. A bill to amend the Small Reclamation Projects Act of 1956, as amended (Rept. No. 96-746). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. H. Res. 560, a resolution providing for the consideration of H.R. 3995. A bill to authorize appropriations for the Noise Control Act of 1972 for the fiscal years 1980 and 1981 (Rept. No. 96–747). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. H. Res. 561, a resolution providing for the consideration of H.R. 2551. A bill to establish internal Federal policy concerning protection of certain agricultural land; to establish a Study Committee on the Protection of Agricultural Land; to establish a demonstration program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes. (Rept. No. 96–748). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. H. Res. 562, a resolution providing for the consideration of H.R. 4119. A bill to improve and expand the Federal crop insurance program, and for other purposes. (Rept. No. 96–749). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. WHITE (for himself, Mr. Price, Mrs. Holt, Mr. Rodino, and Mr. Kastenmeier):

H.R. 6406. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to revise the laws governing the U.S. Court of Military Appeals, to provide for review of decisions of such court by the Supreme Court, and for other purposes; to the Committee on Armed Services.

By Mr. BINGHAM (for himself, Mr. Lee, and Mr. Phillip Burton):

H.R. 6407. A bill to provide for the establishment of the Women's Rights National Historical Park in the State of New York and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BRINKLEY:

H.R. 6408. A bill to amend title 38, United States Code, to establish a program for making direct loans to veterans for solar energy systems and certain other energy conservation improvements; to the Committee on Veterans' Affairs.

By Mr. BRODHEAD:

H.R. 6409. A bill to amend title 10, United States Code, to provide that a member of the Fleet Reserve or Fleet Marine Corps Reserve who is eligible for both retired pay based on nonregular service as a Reserve and retainer pay based on regular service shall be entitled to whichever pay is more favorable to such member; to the Committee on Armed Services.

By Mr. BROOKS (for himself and Mr. Horton, Mr. Preyer, and Mr. Steed):

H.R. 6410. A bill to reduce paperwork and enhance the economy and efficiency of the Government and the private sector by improving Federal information policymaking, and for other purposes; to the Committee on Government Operations.

By Mrs. BYRON:

H.R. 6411. A bill to amend title 18, United States Code, to provide increased penalties for using a firearm to commit a felony or carrying a firearm unlawfully during the commission of a felony, and for other purposes; to the Committee on the Judiciary.

By Mr. FUQUA (by request):

H.R. 6412. A bill to authorize a supplemental appropriation to the National Aeronautics and Space Administration for Research and Development; to the Committee on Science and Technology.

H.R. 6413. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

By Mr. HAMMERSCHMIDT:

H.R. 6414. A bill to amend the Older Americans Act of 1965 to provide that area agencies on aging shall have authority to award funds to the providers of home delivered meals for older persons without requiring that such providers also furnish meals to older persons in a congregate setting, and for other purposes; to the Committee on Education and Labor.

By Mr. HEFNER:

H.R. 6415. A bill to amend title 38, United States Code, to revise the eligibility for various veterans' employment and training programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HOWARD:

H.R. 6416. A bill to amend the mortgage amount, sales price, and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HOWARD (for himself, Mr. Johnson of California, Mr. Shuster, Mr. Roberts, Mr. Cleveland, Mr. Anderson of California, Mr. Clausen, Mr. Roe, Mr. Hagedorn, Mr. Mineta, Mr. Stangeland, Mr. Nowak, Mr. Edgar, Mrs. Bouquard, Mr. Hefner, Mr. Young of Missouri, Mr. Bonior of Michigan, Mr. Flippo, Mr. Rahall, Mr. Atkinson, Mr. Albosta, Mr. Boner of Tennessee, and Mr. Edwards of Alabama):

H.R. 6417. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HOWARD (for himself, Mr. Johnson of California, Mr. Harsha, and Mr. Shuster):

H.R. 6418. A bill to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MATHIS:

H.R. 6419. A bill to amend title 5, United States Code, to provide for adjustments to Federal personnel ceilings based upon the extent that Federal functions are contracted out, to provide that performance in administering personnel ceilings and contracting-out requirements are taken into account in evaluating the performance of Federal executives and managers, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of Pennsylvania:

H.R. 6420. A bill to amend the Military Selective Service Act to increase the maximum age for registration under such act from 26 to 55; to the Committee on Armed Services.

H.R. 6421. A bill to amend title 10, United States Code, to raise to 45 the maximum age at which an individual may receive an original appointment as a commissioned officer of the Armed Forces; to the Committee on Armed Services.

By Mr. PATTEN:

H.R. 6422. A bill to amend title 38, United States Code, to allow beneficiaries of U.S. Government life insurance policies to elect to receive such insurance in a lump sum, rather than in monthly installments, when the insured has not specified the method of payment of such insurance; to the Committee on Veterans' Affairs.

By Mr. ROBINSON:

H.R. 6423. A bill to provide for the awarding of costs and fees to a prevailing party other than the United States in certain administrative proceedings and civil actions; to the Committee on the Judiciary.

By Mr. SHUMWAY:

H.R. 6424. A bill to deny access to ports of the United States to Soviet vessels until the Soviet Union withdraws its military forces from Afghanistan; to the Committee on Merchant Marine and Fisheries.

By Mr. STEWART:

H.R. 6425. A bill to require the consideration of the impact on employment in Federal contract operations, and for other purposes; to the Committee on Government Operations.

By Mr. YATRON:

H.R. 6426. A bill to amend title 5, United States Code, relating to qualifications for appointment and retention in the civil service; to the Committee on Post Office and Civil Service.

By Mr. CORRADA (for himself, Mr. Evans of the Virgin Islands, and Mr. Won Pat):

H.R. 6427. A bill to amend title 5 of the United States Code to provide for the transportation of remains, dependents, and effects of certain Federal employees whose homes or official stations are located in parts of the United States outside the continental United States, and for other purposes; to the Committee on Government Operations.

By Mr. DASCHLE (for himself, Mr. English, Mr. Nolan, and Mr. Stangeland):

H.R. 6428. A bill to amend the Agricultural Act of 1949 to establish land diversion payment program for the 1980 crops of corn and wheat; to the Committee on Agriculture.

By Mr. McDADE:

H.R. 6429. A bill entitled "Small Business Equal Access to Justice Act"; jointly, to the Committee on Small Business and the Judiciary.

By Mr. McDONALD:

H.R. 6430. A bill to amend section 105(c) of Public Law 95–344 to extend to 5 years the period within which the general management plan for the Chattahoochee River National Recreation Area shall be developed; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 6431. A bill to provide for the issuance of a commemorative postage stamp in honor of older Americans in recognition of the 1981 White House Conference on Aging and the World Assembly on Aging to take place in 1982; to the Committee on Post Office and Civil Service.

By Mr. WEAVER:

H.R. 6432. A bill to provide for the conveyance of certain real property in Lane County, Oreg., to certain persons who purchased and held such land in good faith reliance on an inaccurate surveyor's map; to the Committee on Interior and Insular Affairs.

By Mr. HORTON:

H.J. Res. 497. Joint resolution to authorize and request the President to issue annually a proclamation designating November 7 of each year as National Teenager Day; to the Committee on Post Office and Civil Service.

By Mr. BONKER (for himself, Mrs. Fenwick, Mr. Fascell, Mr. Albosta, Mr. Wolff, Mr. Maguire, Mr. Zablocki, Mr. Fountain, Mr. Diggs, Mr. Rosenthal, Mr. Hamilton, Mr. Bingham, Mr. Yatron, Mr. Solarz, Mr. Studds, Mr. Ireland, Mr. Pease, Mr. Mica, Mr. Barnes, Mr. Gray, Mr. Hall of Ohio, Mr. Wolpe, Mr. Bowen, Mr. Fithian, Mr. Broomfield, Mr.

Derwinski, Mr. Findley, Mr. Buchanan, Mr. Winn, Mr. Gilman, Mr. Guyer, Mr. Lagomarsino, Mr. Goodling, Mr. Pritchard, Mr. Quayle, Mr. Wright, Mr. Dodd, Mr. Biaggi, Mr. McKinley, Mr. Ambro, Mr. Donnelly, Mr. Skelton, Mr. Roe, Mr. Giaimo, Mr. Blanchard, Mr. Peyser, Mr. Leach of Louisiana, Mr. Downey, Mr. Lent, Mr. Levitas, Mr. Ottinger, Mr. Stack, Mr. Traxler, Mr. Evans of Delaware, Mr. Frost, Mr. LaFalce, Mr. Mitchell of Maryland, Mr. Yates, Mr. Harris, Mr. Waxman, Mr. Won Pat, Mr. Burgener, Mr. Lungren, Mr. Scheuer, Mr. D'Amours, Mr. Oberstar, Mr. Young of Alaska, Mr. Kostmayer, Mrs. Chisholm, Mr. Coelho, Mr. Goldwater, Mr. Boland, Mr. Moakley, Mr. Fish, Mr. Pepper, Mr. Kildee, Mr. Lehman, Mr. Brodhead, Mr. Courter, Mr. Garcia, Mr. Anderson of Illinois, and Mr. Glickman):

H. Con. Res. 272—Expressing the sense of the Congress that Andrei Sakharov should be released from internal exile, urging the President to protest the continued suppression of human rights in the Soviet Union, and for other purposes.

By Mr. **MURPHY** of New York (for himself, Mr. Breaux, Mr. Forsythe, Mr. Dingell, Mr. McCloskey, Mr. D'Amours, Mr. Evans of Delaware, Mr. de la Garza, Mr. Akaka, and Mr. Stack):

H. Con. Res. 273. Concurrent resolution to encourage the President to terminate the fishing privileges of the Soviet Union in U.S. fisheries unless the Soviet military presence in Afghanistan is withdrawn; to the Committee on Merchant Marine and Fisheries.

By Mr. **ZABLOCKI** (for himself, Mr. Broomfield, Mr. Fascell, Mr. Wolff, Mr. Solarz, Mr. Buchanan, Mr. Guyer, Ms. Holtzman, Mrs. Boggs, Mrs. Schroeder, Ms. Mikulski, Mrs. Heckler, Mrs. Fenwick, and Mrs. Snowe):

H. Con. Res. 274. Concurrent resolution expressing the sense of the Congress that the President should request the United Nations to establish an international presence in the refugee encampments on the border between Thailand and Kampuchea, and for other purposes; to the Committee on Foreign Affairs.

By Mr. **PERKINS** (for himself, Mr. Thompson, Mr. Ashbook, and Mr. Erlenborn):

H. Res. 557. Resolution providing funds for the further expenses of a welfare and pension plans task force under the jurisdiction of the Committee on Education and Labor to the Committee on House Administration.

By Mr. **BEDELL**:

H. Res. 563. Resolution calling upon the President to prohibit the export of superphosphoric acid (phosphate fertilizer), to the Soviet Union until the Soviet Union withdraws its troop from Afghanistan and until the President removes the ban imposed on the export of agricultural commodities to the Soviet Union; to the Committee on Foreign Affairs.

By Mr. DORNAN:

H. Res. 564. Resolution to amend the Code of Official Conduct of the House of Representatives; to the Committee on Rules.

By Mr. PEPPER:

H. Res. 565. Resolution to provide for the expenses of investigations and studies to be conducted by the Select Committee on Aging; to the Committee on House Administration.

By Mr. QUAYLE:

H. Res. 566. Resolution requesting Special Prosecutor; to the Committee on the Judiciary.

By Mr. UDALL:

H. Res. 567. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Interior and Insular Affairs; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. PHILLIP BURTON:

H.R. 6433. A bill for the relief of Tin Man Cheung; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 6434. A bill for the relief of Estrella Mangahas; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

275. The SPEAKER presented a petition of the Bailey County Commissioner's Court, Bailey County, Tex., relative to revenue sharing; to the Committee on Government Operations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 365: Mr. Satterfield, Mr. Gramm, Mr. Young of Florida, and Mr. Kildee.

H.R. 1000: Mr. Mitchell of New York.

H.R. 1101: Mr. Tauke.

H.R. 1429: Mr. Udall.

H.R. 1642: Mr. Neal.

H.R. 1644: Mr. Tauke.

H.R. 1682: Mr. Duncan of Tennessee.

H.R. 1918: Mr. Lehman, Mr. Clausen, Mr. Daschle, and Mr. Lott.

H.R. 1970: Mr. Lungren.

H.R. 2264: Mr. Corrada, Mr. Dodd, Mr. Dougherty, Mr. Gray, Mr. Mitchell of Maryland, Mr. Ottinger, Mr. Panetta, Mr. Pepper, Mr. Roe, Mr. Solarz, Mr. Stokes, Mr. Rosenthal, Mr. Carter, Mrs. Collins of Illinois, Mr. Downey, Mr. Fish, and Mr. Patten.

H.R. 2400: Ms. Ferraro, Mr. Roe, and Mr. Waxman.

H.R. 3566: Mr. Pepper.

H.R. 4367: Mr. Beilenson.

H.R. 4511: Mr. Heftel.

H.R. 4574. Mr. Gilman, Mr. Evans of Georgia, and Mr. Solomon.

H.R. 4631: Mr. Waxman and Mr. Matsui.

H.R. 4646: Mr. Findley, Mr. McCormack, and Mr. Pursell.

H.R. 4782: Mr. Johnson of California.

H.R. 4827: Mr. Grassley.

H.R. 5022: Mr. Markey.

H.R. 5504: Mr. Fary.

H.R. 5610: Mr. O'Brien.

H.R. 5663: Mr. Pepper, Mr. Murphy of Pennsylvania, Mr. Marlenee, Mr. Hillis, Mr. Stangeland, Mr. Lagomarsino, Mr. Robert W. Daniel, Jr., and Mr. McClory.

H.R. 5771: Mr. Edgar and Mr. Coelho.

H.R. 5858: Mr. Fish, Mr. Fithian, Mr. Fuqua, Mr. Hall of Ohio, Mr. Hance, Mr. Leach of Louisiana, Mr. Long of Maryland, Mr. Ritter, Mr. Russo, Mr. Solomon, Mr. Stack, Mr. Boner of Tennessee, Mr. Nedzi, and Mr. Benjamin.

H.R. 5862: Mr. Brown of Ohio, Mr. Tauke, and Mr. Fountain.

H.R. 5935: Mr. Drinan, Mr. Evans of Indiana, and Mr. Downey.

H.R. 5978: Mr. Butler and Mr. Robinson.

H.R. 6008: Mr. Kildee.

H.R. 6034: Mr. Kildee, Mr. Goldwater, and Mr. Dougherty.

H.R. 6066: Mr. Kildee and Ms. Mikulski.

H.R. 6303: Mr. Stark, Mr. Yates, Mr. Dellums, Mr. Bingham, Mr. Edwards of California, Mr. Sabo, Mr. McCloskey, and Mr. Rosenthal.

H.R. 6316: Mr. Applegate, Mr. Cleveland, Mr. Whitehurst, Mr. Leach of Louisiana, Mr. Barnard, Mr. Spence, Mr. Young of Alaska, Mr. Yatron, Mr. McDonald, Mrs. Smith of Nebraska, and Mr. Bevill.

H.R. 6324: Mr. Traxler.

H.J. Res. 157: Mr. Quillen.

H.J. Res. 159: Mr. Horton.

H.J. Res. 300: Mr. Philip M. Crane.

H.J. Res. 322: Mr. Dicks.

H.J. Res. 416: Mr. Hollenbeck, Mr. Waxman, and Mr. Vander Jagt.

H.J. Res. 442: Mr. Alexander, Mr. Andrews of North Dakota, Mr. Andrews of North Carolina, Mr. Annunzio, Mr. Anthony, Mr. Applegate, Mr. Archer, Mr. AuCoin, Mr. Badham, Mr. Bafalis, Mr. Bailey, Mr. Barnes, Mr. Bauman, Mr. Beard of Tennessee, Mr. Benjamin, Mr. Bennett, Mr. Bereuter, Mr. Bethune, Mr. Bevill, Mr. Bingham, Mr. Blanchard, Mrs. Boggs, Mrs. Bouquard, Mr. Bowen, Mr. Brademas, Mr. Breaux, Mr. Brinkley, Mr. Broomfield, Mr. Brodhead, Mr. Phillip Burton, Mr. Butler, Mrs. Byron, Mr. Carney, Mr. Carr, Mr. Carter, Mr. Cavanaugh, Mr. Chappell, Mr. Cleveland, Mr. Coehlo, Mr. Conte, Mr. Corman, Mr. Corcoran, Mr. Daniel B. Crane, Mr. D'Amours, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Daschle, Mr. Davis of South Carolina, Mr. Deckard, Mr. de la Garza, Mr. Dellums, Mr. Derrick, Mr. Derwinski, Mr. Devine, Mr. Dicks, Mr. Dingell, Mr. Donnelly, Mr. Dougherty, Mr. Duncan of Oregon, Mr. Edgar, Mr. Edwards of California, Mr. Edwards of Oklahoma, Mr. English, Mr. Erdahl, Mr. Ertel, Mr. Evans of Georgia, Mr. Evans of Delaware, Mr. Fary, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Ms. Ferraro, Mrs. Fenwick, Mr. Findley, Mr. Fisher, Mr. Fithian, Mr. Florio, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Foley, Mr. Forsythe, Mr. Fountain, Mr. Fowler, Mr. Frenzel, Mr. Frost, Mr. Fuqua, Mr. Gephardt, Mr. Giaimo, Mr. Gibbons, Mr. Gilman, Mr. Ginn, Mr. Gore, Mr. Gramm, Mr. Grassley, Mr. Gray, Mr. Goldwater, Mr. Gudger, Mr. Hagedorn, Mr. Hall of Texas, Mr. Hall of Ohio, Mr. Hance, Mr. Hanley, Mr. Hansen, Mr. Hammerschmidt, Mr. Harris, Mr. Hawkins, Mr. Hefner, Mr. Heftel, Mr. Hillis, Mr. Hopkins, Mr. Hubbard, Mr. Huckaby, Mr. Hughes, Mr. Hutto, Mr. Hyde, Mr. Ichord, Mr. Ireland, Mr. Jeffries, Mr. Jenkins, Mr. Jenrette, Mr. Johnson of California, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Kastenmeier, Mr. Kazen, Mr. Kemp, Mr. Kogovsek, Mr. Kostmayer, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Louisiana, Mr. Leath of Texas, Mr. Lee, Mr. Levitas, Mr. Leland, Mr. Lewis, Mr. Lloyd, Mr. Long of Maryland, Mr. Long of Louisiana, Mr. Loeffler, Mr. Lowry, Mr. Lungren, Mr. Maguire, Mr. Mathis, Mr. Matsui, Mr. Mavroules, Mr. McClory, Mr. McCloskey, Mr. McCormack, Mr. McDonald, Mr. McHugh, Mr. McKinney, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Mitchell of New York, Mr. Moakley, Mr. Moffett, Mr. Moore, Mr. Moorhead of Pennsylvania, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murtha, Mr. Natcher, Mr. Neal, Mr. Nelson, Mr. Nichols, Mr. Nolan, Mr. Nowak, Ms. Oakar, Mr. O'Brien, Mr. Panetta, Mr. Patten, Mr. Paul, Mr. Pepper, Mr. Peyser, Mr. Preyer, Mr. Pritchard, Mr. Pursell, Mr. Quillen, Mr. Railsback, Mr. Ratchford, Mr. Reuss, Mr. Rhodes, Mr. Roberts, Mr. Rose, Mr. Roth, Mr. Rousselot, Mr. Roybal, Mr. Royer, Mr. Rudd, Mr. Runnels, Mr. Sabo, Mr. Satterfield, Mr. Sawyer, Mr. Scheuer, Mr. Schulze, Mr. Sebelius, Mr. Sharp, Mr. Simon, Mr. Skelton, Mr. Solarz, Mr. Solomon, Mrs. Snowe, Mr. Stack, Mr. Staggers, Mr. Stenholm, Mr. Stewart, Mr. Stump, Mr.

Symms, Mr. Synar, Mr. Tauke, Mr. Taylor, Mr. Thomas, Mr. Thompson, Mr. Trible, Mr. Udall, Mr. Ullman, Mr. Vento, Mr. Volkmer, Mr. Walgren, Mr. Walker, Mr. Watkins, Mr. Waxman, Mr. Whitehurst, Mr. Whitten, Mr. Charles Wilson of Texas, Mr. Charles H. Wilson of California, Mr. Wolff, Mr. Wolpe, Mr. Wyatt, Mr. Young of Alaska, Mr. Zablocki, Mr. Zeferetti, Mr. Wampler, Mr. Bedell, Mr. Philip M. Crane, Mr. Hollenbeck, Mr. Oberstar, Mr. Rahall, Mr. Stangeland, Mr. Stark, and Mr. Fish.

H.J. Res. 445: Mr. Green, Mr. Robinson, Mr. Michel, Mr. Roybal, Mr. Harsha, Mr. McClory, Mr. Richmond, Mr. Kazen, Mr. Guyer, Mr. Young of Florida, Mr. Edwards of Oklahoma, Mr. Williams of Ohio, Mr. Myers of Indiana, Mr. Grassley, Mr. Chappell, Mr. Hawkins, Mr. Brown of California, Mr. Gilman, Mr. Wright, Mr. Ottinger, Mr. Horton, Mr. McKay, Mr. Solomon, Mrs. Collins of Illinois, Mr. Clausen, Mr. Derwinski, Mr. Nedzi, Mr. Pritchard, Mr. Stockman, Mrs. Heckler, Mr. Hopkins, Mr. Wydler, Mr. Rousselot, Mr. McClosky, Mr. Regula, Mr. Conyers, Mr. Moorhead of California, Mr. Fish, Mr. Carter, Mr. Goldwater, Mr. Ginn, Mr. Luken, Mr. Leach of Iowa, Mr. Ford of Michigan, Mr. Drinan, Mr. McEwen, Mr. Lee, Mr. Hyde, Mr. Cleveland, Mr. Taylor, Mr. Bob Wilson, Mr. Roth, Mr. Petri, Mr. Dickinson, Mr. Buchanan, Mr. Ashley, Mr. Rinaldo, Mr. Porter, Mr. Bevill, Mr. Mica, Mr. Coleman, Mr. Hanley, and Mr. Gephardt.

H.J. Res. 463: Mr. Barnes, Mr. Biaggi, Mr. Bingham, Mr. Boland, Mr. Butler, Mrs. Byron, Mr. Collins of Texas, Mr. Conyers, Mr. Early, Mr. Edgar, Mr. Evans of Delaware, Mr. Foley, Mr. Frenzel, Mr. Gore, Mr. Guarini, Mr. Hammerschmidt, Mr. Harsha, Mr. Hawkins, Mr. Hyde, Mr. Lloyd, Mr. Martin, Mr. Mathis, Mr. Mica, Mr. Miller of Ohio, Mr. Mitchell of New York, Mr. Moakley, Mr. Moffett, Mr. Montgomery, Mr. Neal, Ms. Oakar, Mr. Porter, Mr. Preyer, Mr. Pritchard, Mr. Quillen, Mr. Rosenthal, Mr. Sawyer, Mr. Skelton, Mr. Solarz, Mr. Spence, Mr. Studds, Mr. Tauke, Mr. Taylor, Mr. Watkins, Mr. Charles H. Wilson of California, Mr. Wolff, Mr. Wolpe, Mr. Wyatt, Mr. Yates, Mr. Yatron, and Mr. Young of Alaska.

H.J. Res. 474: Mr. Ambro, Mr. Barnes, Mr. Beard of Rhode Island, Mr. Carter, Mrs. Chisholm, Mr. Corrada, Mr. Diggs, Mr. Duncan of Oregon, Mr. Fascell, Mr. Fazio, Mr. Fish, Mr. Ginn, Mr. Hanley, Mr. Hollenbeck, Mr. Kastenmeier, Mr. Kemp, Mr. Lagomarsino, Mr. Lent, Mr. Moakley, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Oberstar, Mr. Pepper, Mr. Peyser, Mr. Pickle, Mr. Rahall, Mr. Scheuer, Mr. Solarz, Mr. Stack, Mr. Stark, Mr. Stratton, Mr. Traxler, Mr. Van Deerlin, Mr. Weiss, Mr. Williams of Ohio, Mr. Winn, Mr. Whitehurst, Mr. Wolff, Mr. Bingham, Mr. Anderson of California, Mr. Anderson of Illinois, Mr. Benjamin, Mr. Bevill, Mr. Carney, Mr. Dougherty, Mr. Forsythe, Mr. Frost, Mr. Kazen, Mr. Kelly, Mr. Lewis, Mr. Lloyd, Mr. Long of Maryland, Mr. Lungren, Mr. McHugh, Mr. Mazzoli, Mr. Panetta, Mr. Roe, Mr. Rosenthal, Mr. Solomon, Mr. Waxman, Mr. Young of Florida, Mr. Young of Missouri, Mr. Santini, Mr. de la Garza, Mr. Frenzel, Mr. Green, Mr. La Falce, Mr. Leach of Louisiana, Mr. Richmond, Mr. Yates, Mr. Zeferetti, Mrs. Holt, Mr. Coelho, Mr. Downey, Mr. Edgar, Mr. Evans of the Virgin Islands, Mr. Heftel, Mr. Patten, Mr. Skelton, Mr. Brodhead, Mr. Horton, Mr. Evans of Delaware, and Mr. Neal.

H.J. Res. 480: Mr. Emery, Mr. Dougherty, Mr. Bonior of Michigan, Mr. Fish, and Mr. Horton.

H.J. Res. 481: Mr. Young of Missouri, Mr. Bolling, Mr. Ichord, Mr. Blanchard, Mr. Solomon, Mr. Buchanan, Mr. Fascell, Mr. Bethune, Mr. Royer, Mr. Perkins, Mr. Hightower, Mr. Horton, Mr. Gramm, Mr. Boner of Tennessee, Mrs. Holt, Mr. Leach of Louisiana, Mr. Bafalis, Mrs. Bouquard, and Mr. Charles H. Wilson of California.

H. Con. Res. 212: Mr. Lundine.

H. Con. Res. 257: Mr. Courter, Mr. Gradison, Mr. Robinson, and Mr. Philip M. Crane.

H. Con. Res. 259: Mr. Findley, Mr. D'Amours, Mr. Evans of the Virgin Islands, Mr. Bonior of Michigan, Mrs. Chisholm, Mr. Bonker, Mr. Scheuer, Mr. Kildee, Mr. Bedell, Mr. Simon, Mr. Lungren, and Mr. Philip M. Crane.

H. Res. 547: Mr. Whitehurst, Mr. Leach of Louisiana, Mr. Frenzel, Mr. Seiberling, Mr. Bedell, Mr. Horton, Mr. Blanchard, Mr. Hinson, Mr. Won Pat, Mr. Garcia, Mr. Lagomarsino, Mr. Lungren, and Mr. Vento.

EXTENSIONS OF REMARKS

NATIONAL YOUTH SERVICE AS AN ALTERNATIVE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. McCLOSKEY. Mr. Speaker, Dr. Martin Anderson's article from the autumn issue of CommonSense appeared in the CONGRESSIONAL RECORD Extensions of Remarks on Wednesday, January 30, 1980. Because we have seen evidence that the All-Volunteer Army concept is not working, I would like to respond to this very important issue by calling to the attention of my colleagues the following comments which appeared in the same issue of CommonSense.

NATIONAL YOUTH SERVICE AS AN ALTERNATIVE

(By PAUL N. MCCLOSKEY, JR.)

None of us wish to consider a return to the draft if the all-volunteer force concept is working, or can be made to work.

In the past year, however, it has become increasingly clear that not one of the four branches of the service has been able to recruit the required number of qualified young people. Despite increased recruiting budgets, I think it fair to state that there are very few reasonable young men today who will volunteer to be combat-ready soldiers in time of peace. And the question becomes: if we cannot get reasonable young men to volunteer, can we afford an Army of unreasonable or unqualified people at a time when the requirements of skill in handling sophisticated weapons systems and coolness in tense international situations have never been more necessary around the world?

It has been suggested by some that we should double the pay in order to attract a better quality volunteer. But payroll costs have increased from $21 billion five years ago to $28.7 billion this year.[1] It is my understanding we are already spending 55 percent of our defense budget on manpower costs, compared to only 25 percent by the Soviets.[2] Can we afford to increase this percentage? Even if we could, there is no assurance that it would solve the problem.

I have visited half of the 24 high schools in my congressional district and asked the question: "How many of you will volunteer to be combat riflemen if I tell you you are going to train in the jungle or desert in the summer and the Arctic in the winter, that you are going to run 20 miles a day, that you are either going to be hot, tired, and dirty, or cold, wet, and miserable—how many of you will volunteer if we double the pay from $418 a month to $836 a month?" I have yet to see a single hand raised.

People can be led to enlist by promises of travel, education, and cushy, interesting jobs in the Army. But in many cases, these promises constitute nothing less than fraud. Duping the ignorant and unwary into volunteering (which appears to be happening today) produces two inevitable results. People who volunteer drop out in their first tour of duty because their expectations have not been met; or they suffer low morale and performance on duty. In every congressional office I know, there is a sheaf of cases where some young man has volunteered for four years only to learn that he had a three-year option; had been promised education and training, and after about six months of not getting it, has pointed to some recruiting misrepresentation. The South has traditionally been the area from which we drew volunteers most easily. Recently, however, nine recruiting officers have faced criminal charges in North Carolina alone, in a widespread investigation of recruiting frauds.[3] If that situation continues, we have a harsh decision to make.

The Senate Armed Services Subcommittee on Manpower voted four to three to restore draft registration.[4] The House Armed Services Committee voted 30 to four to restore registration for the draft.[5] Our two committees of expertise in the House and Senate both feel that we must prepare to return to the draft. Last September, the House of Representatives voted to defer registration because Members did not feel the evidence was sufficient as yet to convince our political constituencies that a return to the draft is necessary.[6] This is a controversial political issue which politicians may be reluctant to face squarely, particularly in an election year. Congress has agreed to defer consideration of registration pending a thorough Administration study of the all-volunteer force, with consideration of alternative solutions including a return to the draft or the National Youth Service concept.[7]

SOLDIERS OF QUALITY

Our prime concern must be the *quality* of those soldiers who make up our military forces. In time of peace in the past, it may have been possible to get by with less than a cross-section of citizens of the United States making up our armed forces. But today, the job of a combat soldier is more complicated. A soldier may be assigned to guard nuclear weapons in Germany, or guard an embassy in Tehran. Today, the job of a combat soldier calls not only for coolheadedness but also for intelligence and technical skills not needed in earlier days. There have been occasions in American history where wars occurred because someone was trigger happy—the first shot at Lexington, for example. The Boston Massacre occurred and inflamed the 13 colonies when someone fired a round into a crowd by mistake or panic. A lack of coolness or mistake in judgment at the Brandenburg Gate could lead this nation into war. We need quality soldiers of intelligence and common sense to deal with today's communications equipment and weapons systems.

This need is not being met. In the last several years, the Army has had to downgrade its training manuals from the 12th grade to the eighth grade level, and recently to even lower levels.[8] The May 2, 1979, Stars and Stripes reports a test of 450 soldiers in West Germany revealed that only seven could read at the 9th grade level![9] With respect to the quality of the American soldiers in Germany, a German police spokesman in Erlangen, asked about increasing crime rates, was quoted: "I get the impression that over the last two years, because of the all-volunteer Army, the quality of the soldier has gone down. Some of them come across as totally illiterate and without any internal leadership."[10] The wife of a career Army sergeant wrote to me recently: "I can confirm your belief that the military is greatly out of shape and would be slaughtered just like the divisions sent against North Korea at the beginning of that war. It scares the life out of me that my husband would have to lead and depend on the men in his company. *They would be worthless.*"

From another standpoint, the current system is working unfairly against the poor and minorities. We are a rich, powerful, predominantly white nation. Yet an increasing percentage of those we call on for the most onerous duty of citizenship—defending our freedoms—are poor, black, or brown. The disparity in Vietnam was bad enough. While 17 percent of our population is black or Latino, these two minorities suffered over 40 percent of infantry casualties in that war. If we went to war today, that percentage would be higher. If you recall the famous picture of President Carter jogging in Korea with the front-line troops near the DMZ, you cannot fail to have noticed that nearly all of those soldiers with him were black. None of us should feel too comfortable having our white-dominated nation of affluence and freedom asking that our most difficult task be performed primarily by the poor and minorities.

It is not that we *want* to return to a draft. It is that we may have no other alternative if we are to spread the burden fairly and also to have a quality fighting force consistent with our national security. Nor are we considering a draft because we need a *larger* Army. The overall size of our Army may well be reduced in future years. Even now we would need perhaps only 400,000 young men of the 2.1 million who turn 18 each year. If we include women, this is less than one-out-of-10 of the total 18-year-old population—one-in-five if we include men only.[11]

There is no way to keep high morale in an armed force made up of individuals who were the one-in-five or one-in-10 unlucky enough to be chosen by lottery. None of us want to return to a draft where there is a college exemption that places the burden only on those who can't qualify or afford to get into college.

It seems basic to me that we should seek a return to the prinicple that George Washington laid down in 1783: that the privilege of being an American justifies a duty to serve the country a year or two in one's youth.

If that duty is to be accepted by today's idealistic young people, the duty must be universal and shared by all. The opportunity of service to the nation and community should include civilian as well as military service. It is on this basis that I have proposed the National Youth Service concept (H.R. 2206).

THE NATIONAL YOUTH SERVICE ACT

Essentially, the bill provides for four options to each 18-year-old. Each young person, man or woman, could volunteer to serve in a combat arm for two years. If he or she did so, at a prescribed minimum subsistence wage, such a volunteer would receive four years of college benefits as compensation. The subsistence wage would not be the current pay of $418 a month, but closer to perhaps $200 per month. The second option an 18-year-old would have would be to serve for six months on active duty as a reservist with a five and one-half year obligation to *remain* combat-ready—which means being able to run 20 miles a day, being ready to go into action on instant notice. The third

---

Footnotes at end of article.

option would be a year of civilian service which could be done in private institutions and for charitable groups. It could include the Candy Stripe hospital assistance program; it could include maintaining or preserving the trails of American, cleaning up impoverished neighborhoods, coaching summer basketball leagues, or participating in the community service side of church missionary work such as the Mormon Church's foreign missions program. Only if one did *not* volunteer for any of these three major types of service to the nation would an individual then be subject to the draft between the 18th and 24th birthday. Nonvolunteers would go into a pool, but even then they would be subject to the draft *only* if there were insufficient volunteers for the active military forces and the Reserves. The obligation would be shared by all, but no one need be drafted who volunteered for humanitarian service.

Dr. Anderson and others have suggested that, at least in peacetime, a military draft constitutes involuntary servitude and violates the 13th Amendment. This is clearly an erroneous position.

The Supreme Court has squarely held, by denying certiorari in two cases in the 1960s, that in peacetime the government has the power both to draft people into the military services and to require, in order to maintain morale and discipline in the armed services, that conscientious objectors and persons not drafted serve in some civilian form of service as an alternative.[12] Admittedly the government is without the power to compel peacetime civilian service alone. That would be involuntary servitude and violative of the 13th Amendment in my judgment.

The court desicion (*Howze* v. *United States*) upheld by the Supreme Court used the following language: "Compulsory civilian labor does not stand alone, but it is the alternative to compulsory military service. It is not a punishment, but is instead a means for preserving discipline and morale in the Armed Forces. The power of Congress to raise armies and to take effective measures to preserve this efficiency, is not limited by either the 13th Amendment or the absence of a military emergency." [13]

In another case, the Supreme Court held: "The power of coercing the citizen to render military service . . . so far from being inconsistent with liberty . . . is essential to its preservation." [14]

We should not forget that the very reason we adopted our Constitution was so that the central government could have the power to raise an army in peacetime—a power which didn't exist even in wartime under the original Articles of Confederation.

RIGHTS AND OBLIGATIONS

The key to the problem, again, is restoration of the concept that the privilege of U.S. citizenship justifies a universal duty of service to the nation in one's youth. Once this concept of duty—currently a casualty of the Vietnam War—is restored, once it is accepted that the purpose of that service is to *defend* the country, not to invade foreign nations, the National Youth Service alternative may well prove the best way we have to both provide a quality and respected military force, yet also meet the aspirations of our young people who wish to serve the country or their community in an humanitarian capacity. Once the duty is a duty shared by all, that duty will merit its own respect. Once the duty is accepted, in my judgment, enough 18-year-olds may volunteer so that *no one* need be drafted.

With the threat of the draft in the background, 18-year-olds may very well provide sufficient volunteers to adequately make up both the regular forces and the Reserves. If it is understood that there is a duty to serve the country, I don't think you will see any lack of idealism in our young people for some of them to serve the arduous demands of military service. I believe we have large numbers of young Americans today who would like to serve in civilian service but are denied the opportunity to do so. There is no lack of volunteers for the Peace Corps or for Forest Service jobs. We could save half the forests in California which burn down each year if we had adequate numbers of young people to watch for fires and to fight fires immediately when they occur.

If it turns out that the continuing lack of quality and quantity of our services requires a return to some form of the draft, then, at that point, very possibly as early as next spring, I recommend that the Republican Party adopt this concept of a national duty to serve in return for the privilege of being an American. I can conceive of no fairer way to spread the obligation of protecting our country.

FOOTNOTES

[1] U.S. Department of Defense, Annual Report: Fiscal Year 1980, p. 23.

[2] Estimates by U.S. House of Representatives Armed Services Committee.

[3] Office of Congressional Liaison, U.S. Department of the Army, November 19, 1979.

[4] Congressional Quarterly, June 9, 1979, p. 1115.

[5] U.S. House of Representatives Armed Services Committee, House Report 96-166, May 15, 1979.

[6] Congressional Record, September 12, 1979, p. D1145.

[7] Amendment to H.R. 4040, Department of Defense Authorization Act for Fiscal Year 1980 by Rep. Patricia Schroeder (D-Colo.), Congressional Record, September 12, 1979, p. H7765.

[8] Testimony of Secretary of the Army Clifford Alexander, Subcommittee on Manpower and Personnel, U.S. Senate Armed Services Committee, November 19, 1979.

[9] According to Stars and Stripes, the U.S. Army began to step up "its basic skills education program," in Bremerhaven and Clay Casern in Osterholz-Scharmbeck, West Germany, "in an effort to bring illiterate soldiers up to a ninth-grade reading, language and math level. . . .

"Education experts said that about 875 soldiers assigned to north Germany units—665 of them assigned to the 2nd Armd Div (Fwd) at Clay Casern—have been identified as reading below a ninth-grade level. Each of these soldiers qualifies for the Basic Skills Education Program (BSEP).

"Education experts note that many of these soldiers lack basic literacy skills to the point where they cannot fill out forms for enrollment in education classes. A number of them are unable to read and understand Army training and maintenance manuals, they say. . . .

"'The problem of literacy is severe,' said Rich Johnston, an education counselor at Clay Casern. 'The problem is pathetic. We have tested many soldiers here who have earned high school diplomas and they are only able to read at a fifth-grade level. We've tested other soldiers who are able to read only at a third-grade level'. . . .

"Education officials at Clay Casern said they have tested 450 soldiers for BSEP. Only seven tested out at a ninth-grade level or higher in math, language and reading." Dan Synovec, "Army Gears Up Against Illiteracy," The Stars and Stripes, May 2, 1979.

[10] Michael Getler, "3 Alleged Rapes by GIs Strain Relations in W. Germany," The Washington Post, May 29, 1979.

[11] U.S. Department of Defense, America's Volunteers: A Report on the All-Volunteer Armed Forces, December 31, 1978, p. 18.

[12] *United States v. Holmes*, 387 F.2nd 781 (1968). Certiorari to the United States Supreme Court denied, 391 U.S. 9361 (1968); *Badger v. United States*, 322 F.2nd 902 (9 Cir. 1963). Certiorari to the United States Supreme Court denied, 376 U.S. 914 (1964).

[13] *Howze v. United States*, 272 F.2nd 146, 148 (1959).

[14] *Lichter v. United States*, 334 U.S. 742, 757 (1948), footnote 4.●

FARMERS ARE IN PRECARIOUS SITUATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HUBBARD. Mr. Speaker, during these times of international crises and uncertain expectations, our great Nation is relearning the meaning of personal sacrifice. Yet, we should share as equally in this burden as possible. While our attention is focused naturally on events overseas, let us not forget the Americans who are paying an especially high price to send a lesson to the Soviets, the American farmers. Farmers are in a precarious economic situation, which was described very plainly to me in a recent letter from a constituent, Edward F. Young of Princeton, Ky. Especially for those Members of Congress from urban areas who do not hear directly from farmers, I would like to record the following letter:

DEAR MR. HUBBARD: Why is it that every time the economy begins to look like the American Farmer can make a decent profit, the government finds a way to put the idea to rest?

I am part owner and operate a fertilizer and farm supply store here in Princeton. Since my partners are farmers and I also farm some, I am very aware of the problems farmers face. Right now, while you read this, the American Farmers are in one of the most precarious positions they have ever encountered.

Inflation during the last five years has been unbearable. Equipment prices have doubled. Interest rates have doubled. Many other items and supplies have more than doubled. *However*, the price the farmers can get for their products is less today than it was five years ago. Why? What happens when the nation's leading industry faces such a predicament?

The figures published show Gross Farm Income to be up. This is misleading. They should publish net income or *real* farm income. I don't think anyone really realizes what conditions exist.

The only way the American Farmer has survived these past few years is through increased efficiency and increased borrowing power gained through the inflated land prices. The Secretary of Agriculture believes farm land prices are too high now. What will happen to the farmer if the farm land prices level or decline and the Federal Reserve Board's "tight money policy" continues? I personally don't know a single farmer that can survive another five years under present conditions. I believe in survival of the fittest, but the small and part-time and the inefficient farmer have already been eliminated.

Think of the "snowballing" effect the farmer's problems have on other people, i.e., machinery manufacturers and dealers, fertilizer and farm suppliers like myself, and the farm laborers that will be out of work.

The present embargo on Russia only serves to highlight a problem that has long been in existence. What are we going to do to keep these farmers from losing their farms and people like me from losing their businesses? If there is any legislation in process now to help, I urge you to support it. If there isn't any, I urge you to start some. Let me know if there is anything I can do to help. We in the Agricultural Industry are in a world of "hurt."

Thanks for your time and listening ear.

Sincerely,

EDWARD F. YOUNG.●

AMERICAN CITIZENS ABROAD

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. ALEXANDER. Mr. Speaker, I would like to continue with issues which affect American nationals living and working overseas as presented in the study done by the American Citizens Abroad.

ISSUE NUMBER 5—DISCRIMINATORY PREFERENCE IN CITIZENSHIP TRANSMISSION QUALIFICATION OF PARENTS

SUMMARY OF THE PROBLEM

American laws setting the requirements which must be met by citizens having children abroad so that the child can be an American citizen at birth make a distinction between those who are abroad as employees of the U.S. Government, or of International Organizations, and those who are not attached to the Government in any way. The distinction gives significant benefits to the first group, and denies these benefits to the second.

ACA'S QUESTION

When it comes to qualifying to transmit citizenship to children born abroad, why are some Americans given greater privileges than others? What makes a Government employee more valuable and more deserving of human rights guarantees for his children than a citizen who is not working for the Government?

THE PRESIDENT'S REPLY

"Section 301 (g) of the Immigration and Nationality Act gives benefits with respect to the transmission of citizenship requirements to certain individuals, such as military personnel and government employees who may be abroad involuntarily at the direction of the United States Government, and those working for an international organization. These persons can count time spent abroad in the service of the United States Government or an international organization as a period of physical presence in the United States for purposes of transmission of citizenship. In making a distinction between persons residing abroad voluntarily and those serving abroad with the Government or an international organization, Congress was carrying out a legitimate purpose and had sound basis for its distinctions."

The President, thus, justifies the existence of two different classes of Americans abroad, one with more rights than another. However, he further states: "The enactment of the legislation liberalizing the general requirements for transmission of citizenship, as cited in Section I of this report (see Issue 4 above), would significantly lessen the difference in treatment between those abroad who are in the service of the U.S. Government or international organizations and other Americans living abroad." Subsequent to such recommended action the distinction would remain, but would be of lesser import.

ACA'S RENEWED QUESTION

Does the President really feel that there is a need to make a distinction between Americans living overseas in terms of their ability to transmit basic Human Rights to their children simply because of different kinds of employers of Americans abroad?

The President stated that the Congress, in making such a legislative distinction, was carrying out a legitimate purpose on a sound basis. Doubtless good reasons can always be found for almost any action taken by the Congress. But that is not the point. The point is whether such a distinction is necessary, and whether it is right.

A clue to the President's thinking is given in the use of the word "voluntary" in justifying the distinction made between Government employees and those not working for the Government. Presumbly this implies that only Government employees are sent abroad by their employers without choice. This would come as a surprise to many employees of major corporations who have also been sent overseas. Of course these private sector Americans could always refuse to go abroad. They could quit their jobs. But, then again so could most of the Government employees. The issue of voluntariness as a justification for this distinction would not seem a valid example.

It might be argued that employees of the Government are working for the good of the country while the private sector Americans are only out for their own selfish interests. This, in most cases, would also be hard to justify. Indeed, it is often not clear who is making the most important contribution to the health and welfare of the United States, the clerk at an Embassy or a prominent American professor, lawyer, doctor, engineer, consultant, poet or architect. The point really is that the United States should not be in the business of making such curious value; value judgments of the worth or contributions being made by its overseas citizens. Yet, any other basis for making distinctions between how different classes of overseas Americans should be treated is hard to find.

ACA would like to ask the President to address the question of whether some overseas Americans should have more privileges than others? If so, how is such differential treatment to be justified? Explanations given to date are quite evidently inadequate. All Americans should be equal before the law. Or have we missed something?

ISSUE NUMBER 6—RETROACTIVITY OF THE REVOCATION OF CITIZENSHIP RETENTION REQUIREMENTS

SUMMARY OF THE PROBLEM

In 1978, the Congress finally abolished the requirement that children born abroad with American citizenship in families where only one parent was an American citizen had to return to the United States for a specified period of subsequent residence failing which the child automatically lost his American citizenship on a given birthday.

When this change was made, the Congress failed to make the change retroactive. Hence some children who were born abroad have been stripped of their American citizenship for failure to comply with requirements than no longer exist.

ACA'S QUESTION

Why, if the Congress recognizes that conditions subsequent for the retention of citizenship acquired at birth abroad are wrong, should not the revocation of this abandoned principle apply equally to those previously struck by its inequity as to those fortunate enough to still be too young to have been assaulted by it?

THE PRESIDENT'S REPLY

"There are no longer any provisions of law which discriminate against citizens born abroad with respect to retention or loss of citizenship. During the hearings on the bill, Congress considered arguments for and against retroactive repeal of Section 301 (b) (which had previously required the subsequent residency as a condition of retaining citizenship if acquired at birth abroad), and found sufficient reasons for repealing the statute prospectively only. The arguments against retroactive repeal were grounded on difficulties, legal and administrative, inherent in restoring citizenship status to persons who have previously lost it, and in the "ripple effect" that such action would have on derivative citizenship claims, tax obligations, and social security benefits. Reconsideration of this matter has resulted in the conclusion that the Administration should not seek a revision in the recent legislation enacted by the Congress."

When the changes to Section 301 (b) were being discussed by the Administration and the relevant Members of the Congress, the Administration took a strong position in favor of making the revocation of the retention requirements retroactive. There were good reasons for doing this. First, there was a relevant historical precedent. Earlier, when the subsequent residency requirements had been made less draconian in 1952, the Government initially opposed retroactivity and then reversed itself and argued in the Federal Courts that retroactivity should be used. Children that had been stripped of their failure to comply with previous requirements were restored to their citizenship status, problems of administration, and ripples, notwithstanding.

Second, the Administration had a strong argument to the effect that the size of the potential complications issue was small. After all, only a modest number of children had been abused by the old law and most of these were not necessarily old enough to have had large families for derived citizenship complications, and surely none was yet old enough to have social security retirement problems. Indeed, according to the State Department, we were only talking about 2,000 people.

Additionally, while there would be a need to adopt new administrative procedures to handle the retroactivity processing, State had just been relieved from the large burden of having to chase after children born abroad to take their citizenship away from them and thus there was a net freeing of administrative capacity in any case.

ACA'S RENEWED QUESTION[1]

ACA is most disappointed by the change in the Administration's stand on this issue. From being a strong defender of overseas Americans in 1978, the Administration has abandoned the disinherited children abroad. Now the Administration cites the very arguments to justify this new policy that it had so effectively shown to be without substance only one year earlier.

ACA asks once again, why is the Administration abandoning the 2,000 citizens who have been stripped of their American citizenship under provisions of a law that is now recognized to have been unjust? Surely, if justice has any meaning, it must be worth some small administrative inconvenience to be rendered.

We ask the President to reconsider his new policy and not abandon the 2,000 disinherited innocents abroad.●

DICKEY-LINCOLN PROJECT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● **Mr. EDGAR.** Mr. Speaker, I would like to include for the record an article on the Dickey-Lincoln project which appeared in the September 9, 1978, edition of the Dartmouth Alumni magazine. The article discusses some of the problems of the proposed project. Fortunately, the decision of the Public Works and Transportation Committee to deauthorize the project was upheld on the House floor recently.

The article follows:

[From the Dartmouth Alumni magazine, Sept. 9, 1978]

DICKEY-LINCOLN: WHO WANTS IT? WHO NEEDS IT?

(By Greg Hines)

The rush of spring runoff of the St. John River in northern Maine is prized by canoeists and coveted by federal power producers. The U.S. Army Corps of Engineers has plans for the St. John that involve converting one of the most attractive white-water runs in the Northeast into a power-producing reservoir. The Army Corps project would generate something over a billion kilowatt hours of peaking power annually, mostly for the Massachusetts market, plus about 250 million kilowatt hours of intermediate power per year for northern Maine customers.

Authorized by Congress in 1965 but never funded for construction, the Dickey-Lincoln School Lakes project has recently been revised and refigured by the Army Corps, largely in response to rising concern over energy sources. The Dickey-Lincoln project calls for two dams—a large structure at the site of the small village of Dickey, Maine, and a smaller, regulating dam downstream at Lincoln School. The Dickey Dam will produce peaking power; the Lincoln School Dam intermediate power.

The Dickey Dam and reservoir will be awesome. Dickey will be larger than the Aswan Dam of Egypt at 335 feet high and 10,200 feet long, this earthfill structure will back up slack water over 88,000 acres of forest, white-water rapids, free-flowing streams, lakes and ponds. Much more than the St. John River will be destroyed. The Black River will be totally erased in the United States and pursued to extinction into Quebec. Along with the inundation of rivers and streams will come the destruction of the habitat of northern plants and animals: woodcock, ruffed grouse, wood thrush, deer, brook trout, moose, woods warblers. marsh marigold, white spruce, tamarack. The list could be expanded.

Habitat destruction sounds innocuous, but what it really amounts to is a net reduction in the number of animals and plants: the arctic woodpecker, the deer, the Canadian lynx, the white-throat sparrow, cedar, lady slipper, and painted trillium. Mobility will not save a species; destruction of habitat brings reduction of numbers, since other areas generally are environmentally incompatible or populated to capacity.

But what's so new here? Man has been pushing plants and animals aside for hundreds of years. If the Army Corps says the Dickey-Lincoln project is economically justified with a satisfactory benefit-cost ratio, doesn't that put an end to the issue? And this is precisely what the more than 30 volumes of report on the Dickey-Lincoln project attempt to establish beyond argument. The economic justification for construction of the Dickey-Lincoln dams rests on the Army Corps' benefit-cost study, which arrays benefits and costs in dollars and concludes that a project is justified economically if the benefits exceed the costs. Dickey-Lincoln passes the benefit-cost test by the narrowest of margins, 1.2 benefits to 1 costs. But in reaching 1.2:1, the Army Corps engages in some extraordinary data manipulation.

Note that the Army Corps, which is responsible for the design and construction of the project, prepares the benefit-cost study that recommends the project to Congress for funding. Remember, also, that an above-one benefit-cost ratio, justifies withdrawing resources from private use for public projects, an important incentive for the Army Corps to underestimate costs and pad benefits in reaching the 1.2:1 ratio. For example, in mid-1978, the prime rate of interest—the cost of money for low-risk private borrowers—was about 8.5 per cent. For purposes of analysis, however, the Army Corps employed interest rates of 3.25 per cent and 6.38 per cent in computing the Dickey-Lincoln benefit-cost ratios. Neither of these interest rates provides a realistic market test for Dickey-Lincoln, and the 3.25 rate is so far from reality that its use can only be an embarrassment even to the most hardened Army Corps champion.

Congress expects benefit-cost analysis to show two things: how a project ranks in comparison with others and whether a particular project is justified economically. In other words, projects with benefit-cost ratios of 2.8:1 and 3.2:1 are clearly superior to a project with a ratio of 1.2:1, although all three pass the benefit-cost test for economic justification. If the ratio is greater than 1, resources employed in the private sector can be shifted to public output without economic loss to society. But for the above-one ratio to be a reliable guide to the optimum private-public resource distribution, project data on benefits and costs must not be under- or overstated. In more cases than not, however, the federal agencies have been better at discovering project benefits than at acknowledging costs. The benefit-cost analysis of the Dickey-Lincoln project continues this tradition.

Early in the 20th century, the Army Corps of Engineers built dams mainly for flood protection. But as years passed and the flood potential lessened as Corps projects were completed, dam building had to be justified on other grounds. Projects were designed to be "multi-purpose,". with power production generally the main purpose. Also, other benefits than power have come to be relied upon to justify project development. Recreational opportunities from reservoir use, for example, have frequently added more to the project benefits than flood control, and since the private market does not establish a dollar value for the reservoir use by water skiers and fishermen, Congress has designated the dollar value range of such benefits. To establish recreational benefits, the extent of recreational use of the project—"visitor days"—must be estimated and assigned a value. All visitor days have dollar value, but some kinds of recreational opportunities are worth more than others, depending upon whether the recreational opportunity offered by the project is unusual or commonplace. Recreational benefits for Dickey-Lincoln, according to the Army Corps, fall mainly in the middle range, which critics contend is a totally unjustified attribution of value to a fluctuating slackwater impoundage.

These added benefits usually continue for the life of the project, increase with population growth, and improve the chances of a project passing the benefit-cost test. In addition to recreational benefits, the Dickey-Lincoln benefit-cost ratio is raised by "redevelopment" benefits, which are project outlays for labor that otherwise would be unemployed or underemployed in northern Maine. Redevelopment benefits are not confined to labor expenditures during dam construction, but take account of later operaction and maintenance expenditure as well, thus assuming the depressed conditions in the project's labor market will extend beyond the period of construction. Finally, Dickey-Lincoln counts "downstream" benefits of $3.5 million annually for the increase in power availability to the United States from New Brunswick hydroelectric producers. Because Dickey-Lincoln will impound the spring runoff of the St. John River, making this water available for later power generation in New Brunswick as well as in Maine, a credit for the value of the New Brunswick power sold in the United States is added to project benefits. Significantly, however, the benefits but no share in the production costs of this power are attributed to Dickey-Lincoln.

It is clear that the benefit-cost analysis of the Army Corps, although purporting to follow market standards, does not find these standards to be much of a restraint in computing benefits. What about costs? For a project such as Dickey-Lincoln, costs cover the full range of economic goods and services. Some of these costs can be manipulated; that is, adjusted or selected by the analyst. Others simply must be transcribed from market data. The most important single project cost, the interest rate, is at least partially within the control of the federal agencies, since the rate used is adopted by a committee of high-level federal agency representatives. Over the years, the committee has selected an interest rate for project analysis that has been well below the market rate, for example, employing 6.38 per cent in the case of Dickey-Lincoln, when the market rate is about 8.5 per cent. The reason for the lower rate is simple: The lower the interest rate, the easier it is to justify economically a federal project.

The rate of interest enters benefit-cost analysis at two points: as a financing charge during the four or five years of project construction and as a discounting rate to convert the project's future output to present worth. For an economic undertaking to cover full cost—whether public or private, internally or externally financed—it must account for interest during construction, the cost of using money in this economic activity. If the interest rate is 6.38 percent, a smaller cost is incurred than if the rate is 8.5 percent. Since the Dickey-Lincoln project is capital intensive and the early construction and equipment expenditures dwarf later operation and maintenance costs, the interest rate chosen for analysis exerts a crucial influence on project justification. A low rate means projects pass the benefit-cost test easily; a high rate means they fail.

Discounting, a process which many view as a kind of economic legerdemain, also employs the interest rate to determine the present worth of a project. To compare investments—whether public projects or private business undertakings—the benefits and costs that occur over the life of these investments must be adjusted to the present by discounting. For the capital-intensive project, in which the major cost outlays are for the building of the project but the benefits extend over its later life, the use of a low rate of interest for discounting decreases the benefit stream less than a higher rate. The result: The lower the interest rate for discounting, the higher are benefits relative to costs.

Projects such as Dickey-Lincoln do not pay taxes, which in itself is entirely defensible. But most federal agencies, including the Army Corps, ignore taxes as an element of cost in their analysis; that is, no account is taken in the benefit-cost ratio for such levies as corporation taxes and other outlays that are an inevitable feature of business in the private sector. As a result, the benefit-cost analysis by the agency does not truly reproduce conditions comparable to those of the private economy. If an above-one benefit-cost ratio is to signify a resource use that is equally or more efficient than that of the private sector, the public project must demonstrate a capacity to cover taxes as costs. This does not mean that the Dickey-Lincoln project should actually pay taxes; it does mean, however, that it should be efficient enough to do so.

Few would maintain that the role of government should be limited to functions in which it is equally or more efficient than the private sector. Some things can't be left to private direction and control: national defense, justice, mass education, prevention of poverty, among others. The public interest is not automatically served, however, by federal power production, although it may be justified to subsidize it at times, as in the case of rural electrification. But Dickey-Lincoln does not fulfill any such welfare objective. Under the circumstances, the benefit-cost analysis of Dickey-Lincoln simply conceals from Congress the uneconomic nature of the project by employing a below-market interest rate, neglecting tax costs, padding the benefit stream, and disregarding other sources of power.

Transmission of the Dickey-Lincoln power from its far northern Maine point of production to the Massachusetts market also raises serious environmental and economic considerations. The proposed power line would cut a swath of environmental and aesthetic blight across New England, destroying habitat and promoting the use of herbicides. The transmission route recommended in the draft Environmental Impact Statement would cross northern New Hampshire near Errol, continuing south through Vermont to Boston. An alternate route, not the first choice in the draft report, would bisect the John Sloan Dickey Area in the Dartmouth College Grant, a portion of the Grant recently designated for special protection as a natural area.

How soon can Dickey-Lincoln put power on the market and how much is it needed? Six years after construction starts, if all goes well, Dickey-Lincoln power could be in Boston. In the meantime, power from the James Bay Development Corporation, a Quebec-owned hydroelectric project, will be looking for a market for its output, and there is no place for it to go but the United States. Premier Rene Levesque is anxious to sell ten billion kilowatt hours annually to New England by 1983—two years before the earliest possible Dickey-Lincoln power. Moreover, ten billion kilowatts of James Bay power annually is over eight times the expected yearly output of Dickey-Lincoln. But if Quebec's price is too high or if we are reluctant to trust the volatile Quebecers—although we have accommodated to an autarchic OPEC—pumped hydro power combined with conventional steam generation near the major market is the obvious lower-cost alternative to Dickey-Lincoln.

At least three alternative pumped-hydro developments are clearly superior to Dickey-Lincoln in terms of benefit-cost ratios—Great Barrington, with a benefit-cost ratio of 1.58:1; Fall Mountain, with 1.67:1; and Percy No. 3, with 1.56:1. These potential developments have the additional advantage of being close to the main power market, thus avoiding extensive constuction of new transmission lines. Moreover, the benefit-cost ratios for the pumped hydro installations are computed at an interest rate of ten percent, a project life of 50 years, and a five percent tax cost factor. In short, the analysis of the Great Barrington, Fall Mountain, and Percy No. 3 power options imposes substantially higher economic standards than are followed in the case of Dickey-Lincoln and still shows superior benefit/cost results.

How urgent is the need for more power in New England? The frequent reference to the energy crisis, the pleas for conservation of energy, and continued population and economic growth give the impression of an unchecked, burgeoning demand for a shrinking supply of energy. In the long run, New England will face increasing difficulties in meeting its energy needs, but for the short-term—say, the next eight to ten years—there will be no unusual pressure on energy supply sources, Indeed, because of the reduction in power consumption in response to rate increases—price is a greater persuader—and because of its moderate growth rate, New England has an exceptionally high electricity reserve. In 1975, for example, New England had an electricity reserve margin of around 50 per cent, compared with a traditional margin of around 20 per cent. This reserve margin will be reduced by future growth in electricity demand, but it affords the opportunity to delay major capital investment decisions in power production facilities.

This reserve margin is reported by the New England Federal Regional Council (NEFRC), an organization made up of representatives of agencies of the federal government that are involved in some way with New England energy problems. The federal agencies in the NEFRC include the Departments of Energy, Interior, Commerce, the Environmental Protection Agency, and—significantly—the Army Corps of Engineers. The NEFRC report of August 1977 forecasts that the average price of electricity in New England will decline in constant dollars between now and 1985. Before rejecting this forecast as simply evidence that the bureaucracy has lost touch with reality, note that this does not mean that electricity rates are going to drop, but that they will not go up as fast as the prices of other goods and services. Electricity rates are forecast to lag behind other prices in large part because of the reserve capacity buffer in New England power production.

But short term or long run, Dickey-Lincoln is economically and environmentally too costly. According to the Army Corps' estimate in 1976 prices, the project will cost more than $822 million, but it is certain that the final figure will top a billion dollars as a result of the usual engineering modifications and price-level increases. By any standard, a billion-dollar investment is impressive, the more so in this case because it is economically unjustified, and even this extraordinary figure does not tell the full story. Environmental destruction does not carry a price tag, but it is an inescapable cost of Dickey-Lincoln power.●

THE TRUTH ABOUT WATER IN THE WEST

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday February 5, 1980

● Mr. JOHNSON of Colorado. Mr. Speaker, in these times when flights of rhetoric command more attention than the facts, it is important to take advantage of every opportunity to set the record straight. I refer, in particular, to the last several years when it has become fashionable to refer to public works projects as "ripoffs" and "boondoggles," while construction programs with social significance, such as subway subsidies and Potomac River water supply diversions, somehow are pictured as having benefits that are not subject to the same scrutiny.

Water resource development in the West has become a favorite target of those who do not know what they are talking about.

I submit the following article authored by Edward Keating, a Coloradan who spent 15 years divided between House and Senate staffs, as an exhibit of the real value of this Nation's investment in water resource development.

THE TRUTH ABOUT WATER IN THE WEST

(By Edward Keating)

Seldom in the history of the United States has any legislation been so woefully misrepresented as the legislation affecting water and Reclamation Projects for the West during the past several years.

Water and Reclamation Projects have been called "boondoggling"—wasteful money-spending ventures. When, as a matter of simple truth, they pay for themselves completely—many, many times over to the United States Treasury.

The purpose of this article is to set forth some facts and figures proving this truth.

In addition to the repayment of the loans, tremendous benefits are derived from water and Reclamation Projects. These benefits are not confined to local areas but extend to all sections of the country through increased and continuing revenues to the United States Government.

An outstanding example of the viability and economical soundness of such projects is the Colorado-Big Thompson (CBT) Project in the State of Colorado.

This Project was completed in 1956 at a cost of $162,000,000 * * * "a mammoth water conservancy accomplishment with tremendous impact on a vast area of Northern Colorado * * *", to quote Ralph Partridge, Tribune-Eagle Editor, Cheyenne, Wyoming, March 20, 1977, edition. This same article states that Earl Phipps, Manager, Northern Colorado Water Conservancy District (NCWCD), Loveland, Colorado, reported recently that total value of crops produced in the district in 1975 was more than 280 million dollars. Of the total irrigation water used—about 25 percent was Project water. The balance was from local supplies. This indicates a crop value return of 70 million dollars per year from water furnished by the CBT.

The important thing about the irrigation water obtained from the Colorado-Big Thompson Project is that this water was supplied to the farmers during the arid periods of the summer when there is little rain and is depended upon as a reserve supply in years of drought like 1977. Many of the crops would have dried up and withered if it had not been for this water at the proper time. I like to call this "insurance water". Without it, the sugar beet crop and many other crops may have failed completely.

During this drought in the summer of 1977, without this "insurance water", the economy of northern Colorado could have been depressed tremendously and there would have been a sizeable loss to the Federal Government in income taxes. This would have been a serious blow to our already unbalanced budget.

From a national defense standpoint, we must recognize that the United States produces a small percentage of the sugar we consume.

If we were to go to war and our supply lines from abroad were cut off or endangered by submarine warfare, as in World War II, we could be in serious difficulty.

Ralph Partridge's article, referred to above, continues "* * * economists say a dollar originated on the farm turns over seven times in commerce, in this case (1975) for an impact of 490 million dollars, (and) * * * it was speculated some 20 percent or 98 million dollars wound up in the hands of the government as income tax".

To learn more about the Colorado-Big Thompson Project and particularly seeking an answer to the question most important to the citizens of the United States—"Are water projects worth the cost?"—I met several times with the very able Manager of the Northern Colorado Water Conservancy District, E. F. Phipps. The following analysis of the benefits-cost-ratio of the CBT Project is based on reports and statistics supplied by Earl Phipps.

The annual report for 1976 of the Northern Colorado Water Conservancy District states that: "The end of the year position in the Escrow Fund of $2,163,000 brings that reserve to a point somewhat above the level needed to repay the Project on schedule".

This means that the funds for repayment of the Project loan by the NCWCD are more than adequate to meet the current payments.

This Project loan will not cost the people of the United States one red cent.

This Project also has a hydroelectric production of 700 million kilowatt hours per year—a feature Earl Phipps called "very significant in view of the energy shortage".

The United States Government has retained the ownership and right-of-sale to this hydroelectric production of power and, to date, has received nearly 98 million dollars in gross power revenues, independent of the normal payment of the farmer for the water.

After the farmers and power users have completely paid for the construction of the Project, the United States Government will continue to reap the benefits and realize the profits from the sale of this electric power at a rate in the area of $4,550,000 per year as long as this dear old world of ours exists!

The power production of the CBT Project is 700 million kilowatt hours per year. Figuring that at 6.5 mills for the sale price of this power to rural electric organizations and various municipalities equals $4,550,000 per year, or over, the 40-year repayment period, the sale of power alone will be $182,000,000. Remember, the Project was completed at a cost of $162,000,000.

Dividing the sale of power by the cost of building the Project ($162,000,000) equals 1.1 to 1 total benefit-cost-ratio from power alone. In other words, the sale of power alone exceeds the cost of building the Project by $20,000,000 during the 40-year loan period.

The sale of crops plus power equals approximately 17 times the benefits-cost-ratio of building the Project.

As stated above, the cost of building the Colorado-Big Thompson Project was 162 million dollars. The operation of the Project began in 1957. The annual crop value in 1976 was $260,000,000. Twenty-five percent of this amount can be attributed to the CBT Project, or about one-fourth of the value of the crops. By conservation in various reservoirs, this "insurance water" was dispensed to the farmers when they needed it in periods of drought and in the dry summer during the growing season.

The 1976 crop value figures are lower than the 1975 figures because of the depressed prices of our agricultural products.

If we take one-fourth of $260,000,000—or $65,000,000—and multiply that by 40 years, which is the repayment period of the farmers on the loan from the Federal Government, this crop value is 2.6 billion dollars.

Now—taking the total crop value of 2.6 billion dollars and dividing that by the original cost of the Project (162 million dollars), we find that the total benefits-cost-ratio for crops alone from the Project is 16 times the cost of the Project.

The United States Government will receive direct revenues to the Treasury Department during the 40-year loan period of 29 million dollars from water users. The Government will receive an additional $182,000,000 from the sale of power—or 1.3 times the cost of building the Project.

Practically all economists will agree with the estimate that every new dollar created in the economy can be multiplied by seven times in turnover through various economic channels.

This money—experts say—passes through banks, automobile dealers, appliance dealers, hardware stores, gasoline stations, groceries, etc., about seven times, thus benefiting the entire economy. Imagine the income taxes returned to the United States Treasury from these transactions.

It would be difficult for IBM, or any other computer, to compute how much this increase in production has helped the employment picture in the entire United States. One small example—a farmer in Greeley, Colorado buys a tractor and car. How many people per hour does this employ in Detroit and Akron?

If we take the 65 million dollars per year which is attributable in crop production to the CBT Project times the 40-year repayment period—that will equal 18.2 billion dollars gross increase in the economy. An estimated one-third of that amount—or 6.1 billion dollars—would be net taxable income to the United States Government at the estimated rate of twenty percent actual tax which will equal 1 billion 22 million dollars actual income tax paid to the United States Treasury together with direct payment of $211,000,000. These payments to the Government will equal approximately 8.9 times the cost of the Colorado-Big Thompson Project alone!

Revenues to the Federal Government will increase with the growth of the population and inflation, and the ultimate return to the Federal Government will probably exceed twenty times the cost of building the Project!

There is no "boondoggling" or "porkbarrelling" in this Project. Far from being a boondoggle, it is a real BOON to Colorado and to the Nation.

In simple fact, it is one of the finest investments our dear old Uncle Sam has made in all the years of the Republic—and the benefits will continue forever.

In the face of these facts and the proven example of the highly successful and beneficial operation of the Colorado-Big Thompson Project (just one of many such projects) . . . . WHY . . . . have water and Reclamation Projects in general in the West been so misrepresented and criticized by certain people?

It may be that it is extremely difficult for midwesterners, easterners and southerners to understand and sympathize with the problems of the arid western States.

Almost everyone is aware of the general variances in geographic climatic patterns. We learn through study, travel and increasingly detailed national weather reports. But, unless we live in a particular section of the country for a reasonable time, it is hard to realize the day-to-day effect of the local climate on the health, economy and general well-being of that area.

For instance—Mobile, Alabama, has 66 inches of rainfall annually. Compare this with 8.4 inches for Grand Junction, Colorado.

The relative humidity in Mobile averages 85 percent in the morning and 57 percent in the afternoon. In Grand Junction, the corresponding averages are 41 and 35 percent—with many days of 10 to 15 percent humidity.

The high humidity in such areas as Mobile permits the soil to retain moisture while the evaporation process in the dry areas like Grand Junction removes what little moisture there might be in the soil.

So, living in Mobile, one might have to think beyond the statistics to realize that only through artificial application of water to the land-irrigation can Grand Junction—with about one-eighth of Mobile's rainfall—grow the peaches and other premium fruit for which it is noted.

The annual average relative humidity in Washington, D.C. is 73 percent in the morning and 52 percent in the afternoon. Many days and nights the humidity is 90 to 98 percent. A recent weather report from St. Louis announced the temperature as 87 degrees with a relative humidity of 100 percent!

Our Nation's Capital receives about 40 inches of precipitation per year. Just the morning dew is sufficient to keep many lawns, vegetable gardens and golf courses green until the next rain, which is never far away. With 112 days of rain annually, Washington averages a rainy day about every three days. August and September are lower in rain and humidity.

In sharp contrast, the Grand Junction, Colorado, average is 70 days for 8.4 inches total precipitation during the entire year. And this rainfall or moisture on many of these days means only a brief shower or very light snow. All of this comes mainly in a short period during the winter and spring, leaving about 295 days of drought or extremely dry conditions out of the entire year.

If you live in Atlanta, Georgia, where the average relative humidity is 83 percent in the morning and 56 percent in the afternoon with an annual precipitation of 48 inches, you might understandably underestimate the devastating effect of a drought period in the West.

The noticeable effect when changing from a very dry climate to an area of high humidity was graphically and rather humorously described when a sportscaster for a Denver radio station in broadcasting a baseball game from Omaha, Nebraska, said something like this: "I feel like I can swim in this air. It is so heavily laden with moisture, I could just swim out and interview each player!"

In addition to the differences in the extent of moisture, the manner in which this precipitation occurs varies from one section of the country to another

Looking to the West, a great deal of precipitation in the form of snow accumulates during a few winter months in the mountains of Colorado from 10,000 to over 14,000 feet high. There are 53 mountain peaks in Colorado over 14,000 feet—ranging from Sunshine Peak at 14,001 to Mt. Elbert with 14,433 feet.

This precious water resource must be impounded and brought down to agricultural and industrial areas, as well as municipalities, throughout the very dry summer months. In order to do so, we just have to build dams and reservoirs.

If permitted to keep all the water originating within the State, Colorado would be in a very good position. However, interstate water compacts between Colorado and other western States have been executed and legally processed. Under the Colorado River Compact, water with its origin in Colorado is distributed over a wide area.

For example—Arizona and Utah receive a portion, Los Angeles receives a portion, and even our good neighbors to the south, east and north in Mexico, Kansas, Nebraska, and Wyoming enjoy the benefits of water from the snow which has fallen in the high country of Colorado.

Without water and conservation, there would not have been—and cannot continue to be—agricultural, industrial and economical development in this vast area of the United States. The significant contribution to the Nation's economy, defense and taxes resulting from this development would have to be borne by other sections of the country such as New York, Texas, Pennsylvania and Louisiana.

Like any other good thing, there can be too much as well as too little. Too much water through prolonged rainfall, concentrated downpours in limited areas, or uncontrolled flooding can be as disastrous as severe droughts. Thousands die and millions of dollars of property damage is caused by floods.

This makes water control—to the extent humanly possible—imperative throughout the United States and especially in the arid West.

Certain facts have been set forth in this article concerning water sources, conservation, distribution and control.

The aim is toward a better understanding of the water situation and the problems peculiar to each section of this Nation.

As the population increases, so does the importance of careful, cautious and conscientious considerations of the conservation and equitable distribution of water.

There are many approaches to the management of our water resources put forth by various geographical, environmental, agricultural, industrial, and other groups that make up our country.

What we must have is the wise coordination of these proposals and ideas leading to a firm and fair course of action to make sure that the supply, conservation and distribution of our water keeps pace with the divergent demands in a manner most equitable to all concerned—and that means YOU-and—ME—and—ALL our fellow Americans.

Even more important than our individual comfort and security, the decisions which must be made regarding water will determine the future of our great Nation.

It is not a matter of whether we shall act now—or later—or never—it is simply a matter of life and death!

APPENDIX

Sources

1. Comparative Climatic Data—Through 1976. U.S. Department of Commerce. National Oceanic and Atmospheric Administration, Environmental Data Service, Asheville, N.C. April 1977.
2. Colorado River Compact.
3. "Water Projects Big Income Booster". Ralph Partridge, Sunday Tribune-Eagle Editor. March 20, 1977. Cheyenne, Wyoming.
4. Annual Report 1976. Northern Colorado Water Conservancy District. E. F. Phipps, Secretary-Manager. Loveland, Colorado.

Notation

The following symbols are used in this article:

1. CBT—Colorado-Big Thompson
2. NCWCD—Northern Colorado Water Conservancy District●

WATER POLICY REFORM

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. EDGAR. Mr. Speaker, I recommend to my colleagues that the following article from the National Journal be reviewed as we consider what our water policy for the future will be:

CARTER'S WATER POLICY REFORMS—TRYING NOT TO MAKE WAVES

(By Dick Kirschten)

President Carter once again is navigating in perilous waters. With the political shoals of 1980 drawing ever closer, he is trying to push ahead carefully with his water policy reforms.

In the last Congress, Carter plunged in boldly—some would say blindly—with his 1977 water projects "hit list" and almost found himself swept over the falls in a congressional pork barrel. Miraculously, the President emerged at the end of 1978 as a big winner when the House sustained his veto of a bloated water projects appropriations bill.

The bruises from that victory remain, however, and Carter appears to be trying to chart a safer course through the 96th Congress. His fiscal 1980 budget proposals for water resources spending have drawn fire from both reformers and defenders of the status quo—a sign that the President is somewhere in the middle of the channel.

The administration also is showing little enthusiasm for crusades to reopen the fight over user fees on the inland waterways or to halt the massive Tennessee-Tombigbee Waterway project, which is under fierce legal attack by railroad and environmental interests but—perhaps more significantly—is just as fiercely being defended by senior southern legislators who wield considerable power in Congress.

Nor will Carter, in pushing his natural resources reorganization proposal, include a frontal attack on the cozy relationship that has existed between congressional sponsors of water projects and the federal agencies that design and build them. *See this issue, p. 398.*)

Two key players in the multi-agency effort to implement Carter's water policy told *National Journal*, in separate interviews, that the Administration does not wish to get into any gratuitous new fights at this point. They hope to make some quiet progress without making too many waves. But even that won't be easy.

Eliot R. Cutler, an associate director of the Office of Management and Budget (OMB), said the Administration wants "to consolidate the strength" it showed in last year's veto victory and use it to get on with "the not-so-glamorous job of building some policy reforms into the system" for future federal water project decisions.

Assistant Interior secretary Guy R. Martin, who is spearheading the implementation effort, stressed the importance of "living with" some of the past congressional decisions that are not to the Administration's liking rather than "resurrecting those battles that already have been lost."

Looking ahead, the Carter forces have three immediate objectives in this session of Congress: the defense of their 1980 water projects budget; passage of a state-federal cost-sharing bill designed to give the states some leverage in the selection of projects; and a quick infusion of funds for the Water Resources Council that Carter has tapped to set new project standards, review construction decisions and administer grant programs to promote state water conservation and planning efforts.

The cost-sharing bill—now being redrafted in light of objections by the states—faces a rough fight on its own. As for the Water Resources Council, it would have been wiped out last year if Carter had not prevailed with his veto. With many Members of Congress apparently still smarting over their failure to override that veto, Carter may find himself in hot water on all of these issues.

POLICY DEVELOPMENT

Last June, after a year-long study that originally was to have taken only six months, Carter sent Congress his promised message on new directions in national water policy. It was something less than the "comprehensive" master plan it had been billed as. The White House conceded that the message was only a beginning—"the initial stage of an important long-term effort." The President said he was offering "the goals and framework for water policy reform" that would have to be carried out in several stages.

But there was no mistaking the fact—as the Council of State Governments pointed out in a report last November—that Carter had bluntly challenged "traditional congressional domination in federal water policy decision making" and had questioned "congressional judgment in project selection." The fight was on.

"The basic issue raised by the President's initiatives," the council said, "is whether national water policy choices and program decisions should be made on the congressional appropriations battlefield or by the states, the Administration and Congress working together within the framework of some generally accepted principles and guidelines." The council clearly favors the latter approach.

Since June, 19 interagency task forces have been scrambling to find grounds for such general acceptance, not only among the states, the Administration and Congress, but within the sprawling, 25-agency federal water bureaucracy as well. The task has not been easy.

Carter's water policy has three major goals: to avoid wasteful or low-benefit water projects; to promote water conservation; and to bring the state governments into financial partnership through a state-federal cost-sharing scheme for future water projects.

To halt economically or environmentally unsound projects. Carter wants better federal planning. He has ordered the Water Resources Council to develop a new procedural manual to bring uniformity, consistency and accuracy to the previously suspect cost-benefit calculations that federal agencies have relied on to justify projects sought by Congress. The manual is to be in force by July, if all goes well.

As a further curb on extravagant projects. Carter wants Congress to face up to the total cost of each new project at the outset—not just the sum needed to get it started. He wants Congress to appropriate the entire amount needed to complete each project at the time it approves its construction.

To promote more efficient use of water, a variety of educational and research steps have been taken, including a Housing and Urban Development Department study of water-saving plumbing code revisions.

Water pricing is another key to the Carter strategy, not only to discourage unnecessary consumption but also to recover the costs of building and operating projects. A "conservation pricing" bill that would allow higher-than-cost fees to discourage excess municipal and industrial consumption of water from federal projects is to be sent to Capitol Hill later this year.

To bring the states into the financing—as well as the selection—of water projects, Carter has proposed that no new project be approved unless a state has agreed to put up a set percentage of the total cost. In each year of construction, the state would have to pay its share of that year's costs in advance, and in cash. Where a project produces revenue, the state would share the take with the federal government in proportion to its contributions.

BUDGET PROPOSALS

Carter gave everybody something to howl about with his 1980 budget proposal for water resources. In terms of new budget authority, he proposed giving the federal water agencies a whopping 16.5 per cent increase. But in terms of outlays—the money to be spent in the coming year—the proposed increase was only 2 per cent, or far less than the rate of inflation. Included were 26 proposed new water projects, costing an estimated $578 million to complete.

Perhaps the loudest howls came from the President's nominal allies in the water policy reform fight. One environmental organization—the Environmental Policy Center—fired off a press release that attacked two of the new projects, objected to continued spending on several older ones, including Tennessee-Tombigbee, and charged that "the Administration has abandoned its full-funding principle" with respect to a Mississippi River lock and dam that was at the center of last year's hassle over waterway users' fees.

Twelve House Members who supported Carter's 1978 veto wrote to the President on Feb. 5 to echo the criticisms of the environmentalists and to say that they were "greatly disappointed" with Carter's failure to "follow through" on his own policy initiatives.

On the very same day, however, a Carter emissary was being bombarded with complaints about a different aspect of the water resources budget at a meeting of the House Appropriations Subcommittee on Public Works. W. Bowman Cutter, OMB's executive associate director for budget, was informed in no uncertain terms that the subcommittee viewed the Carter policy as an executive power grab.

Rep. Virginia Smith, R-Neb., told Cutter that Congress is "not about to give up our stewardship" over water projects. And Rep. John T. Myers, R-Ind., said Congress would not act as "a rubber stamp" for the President's project preferences. The subcommittee and its staff are openly opposed to the full-funding proposal because it takes away their power to control the pace of construction. Once Congress appropriates the full project cost, OMB assumes control over the amount to be spent each year and, in theory, could choke off a project it did not favor. Subcommittee chairman Tom Bevill, D-Ala., also challenged the Administration's estimates of the costs of its proposed projects. "You'll come up short," he told Cutter.

A week later, OMB's Eliot Cutler was taken to task at a White House luncheon by Reps. Berkley Bedell, D-Iowa, and Robert W. Edgar, D-Pa., who took the other side of the full-funding argument. They wanted to know why Carter included only $20 million in his budget to begin construction of a new Lock and Dam 26 on the Mississippi River near Alton, Ill. The full cost of the structure—which would replace the aging locks that have become a bottleneck for the river's barge operators—is $491 million, according to the Army Corps of Engineers' latest estimate.

Bedell and Edgar, no friends of the project, said Carter should have asked Congress to appropriate the entire sum needed to complete the facility. Although it would not affect the level of annual outlays, such a large appropriation, when added to the cost of other desired water projects, might put Congress, sensitive as it is to demands for reduced federal spending, in a bind.

That is just what environmentalists, who generally deplore water projects, would like to see. Brent Blackwelder of the Environmental Policy Center angrily denounced the Administration for treating Lock and Dam 26 as an incomplete, rather than a new, project. As Blackwelder argued in a press release, a full appropriation for the project "would virtually have precluded funding any other new starts."

In a Jan. 24 letter to OMB director James T. McIntyre Jr., Blackwelder pointed out that "this project was not even authorized until October 1978, and . . . not a spade of dirt has been lifted." In an interview, the environmental lobbyist said the Administration was backing down from its own idea "of forcing Congress to bite the bullet and accept the entire price tag if it wants to go ahead with a project."

At his Feb. 13 lunch with Bedell and Edgar, Cutler explained that OMB, as well as the congressional Appropriations Committees, view Lock and Dam 26 as an old project even though is has not yet been authorized. Congress voted funds in 1974 to begin land acquisition for the new facility, and some of that money was spent. In the bookkeeping for water projects, Cutler said, land acquisition is listed as a construction cost.

Bedell and Edgar told *National Journal* in interviews that they were partially satisfied by Cutler's explanation but intend to pursue the subject. They are among those who wish that Carter had vetoed the compromise struck last year by Congress on user fees for barge operators. Lock and Dam 26 had been held hostage by advocates of a user fee and its authorization was approved only when Congress and Carter accepted a tax on the fuel used by barge operators in lieu of a fee for the use of federal navigational facilities.

The compromise, fashioned by Sen. Russell B. Long, D-La., calls for a phased fuel tax, starting at 4 cents a gallon in 1980 and rising to a maximum of 10 cents by 1985, that goes into a trust fund that can be used only for new construction. The final outcome was a far cry from the original proposal, vigorously pushed by Sen. Pete V. Domenici, R-N.M., that would have imposed a system of user fees to recoup all inland waterway maintenance costs and half of any new construction.

Bedell was one of the leading House proponents of the Domenici bill, which originally had Carter's strong backing. The Iowa Democrat was sorely disappointed by the Administration's failure to insist on a tougher measure to reduce the subsidy enjoyed by the barge industry. He cited a 1977 Congressional Budget Office report that federal subsidies equal about 42 per cent of all barge revenues, compared with 3 per cent for railroads, 1 per cent for trucks and none at all for pipelines.

Bedell has a new bill this year to impose a modified waterway user fee on top of Long's fuel tax. The combined receipts by 1985 would equal 25 per cent of federal waterway expenditures.

The fuel tax alone, according to Bedell's calculations, will offset only 5 per cent of federal costs in 1981 and 10.2 per cent in 1985. Neither the Carter administration nor Domenici, however, are in a mood to resurrect the user fee battle this soon. Bedell is going it alone.

Another subject on the agenda when Bedell and Edgar lunched with Cutler was the Tennessee-Tombigbee barge canal in Alabama and Mississippi. Serious questions about the project's economic justification have come to light in a recent court trial, and Sen. Gaylord Nelson, D-Wis., has prepared a bill to halt the $1.67 billion project. Nelson hopes to force hearings on the project, which he characterizes as "the biggest pork-barrel boondoggle of them all." The project, according to a Nelson aide, is 364 percent over its original budget. Carter is asking $165 million for it in fiscal 1980.

Cutler, in an interview, said that the Administration had decided not to take on the Tennessee-Tombigbee fight during its hit list review in 1977. At that time, a White House staffer—not Cutler—remarked that the reason was that "Sen. Stennis isn't dead yet." Sen. John C. Stennis, D-Miss., the chairman of the Armed Services Committee and second-ranking Democrat on the Appropriations Committee, is one of the project's most forceful boosters.

Cutler said he told Bedell and Edgar that "no new information" had come to light at the time the new budget was prepared to change the 1977 decision to continue the Tennessee-Tombigbee construction.

As for Lock and Dam 26, he said, "We just didn't want to muddy the waters with Congress about what our intentions are with respect to projects already started."

COST SHARING

An underlying theme of Carter's water policy is that better project decisions will be made if fiscal responsibility can be brought closer to home. Cost sharing is not new for federal water projects, but so far, state governments have not been asked to join in.

The Council on Environmental Quality estimates that the federal government pays an average of 70 percent of water project costs, with the remainder covered by local project sponsors or beneficiaries. "States seldom participate in project funding and do not play a major role in setting project priorities," the council pointed out in a recent report.

Carter—with cautious backing from a National Governors' Association panel—has decided that the time has come to make the states start picking up part of the tab. In return, the states would be able to influence the choice of which of their new projects would receive funds first. They also would be offered a chance to expedite work on previously authorized projects if they chose to share in the costs.

Three cost-sharing levels have been proposed. For non-revenue-producing projects, the state would put up 5 percent of the cost. Where there are potential revenues—and thus the potential for the state to recover all or part of its investment—the share is to be 10 percent. Finally, the flood control measures, where the non-federal requirement for "non-structural" measures—usually land acquisition—is now 20 percent, the same requirement would apply to "structural" measures—dams, levees, floodwalls and the like. This would eliminate the existing bias against non-structural solutions.

The governors' association, in endorsing "the concept of cost sharing" but not the draft bill, has taken a strong position in opposition to one provision—that states share in the cost of navigational projects such as the controversial Lock and Dam 26.

The draft bill—by categorizing navigational projects as among those considered to have revenue-producing potential (or "vendible outputs")—seemed to be designed with an eye toward encouraging the states to push for higher waterway user fees. If states have to foot 10 per cent of the costs of future Lock and Dam 26 projects, they would certainly become interested in revenue-raising mechanisms that might eventually repay their considerable investments. Russell Long's fuel tax trust fund would be no help in that regard.

In a Feb. 13 letter to Interior Secretary Cecil D. Andrus, Gov. Scott M. Matheson, D-Utah, chairman of the governors' water policy subcommittee, warned that it would be difficult to apportion the regionally "diffused" benefits of most inland waterway facilities on an equitable basis.

Aside from the prospect that states where facilities such as locks and dams may be built could be unfairly burdened by the cost-sharing requirement, Matheson went a step further and noted that the draft bill also would apply to port and harbor projects "crucial to strengthening the U.S. position in international trade."

The Utah governor archly added, "There has been no companion suggestion that the federal government share with states the substantial customs revenue which ports and harbors generate."

In an interview, the Interior Department's Martin indicated that in all likelihood navigational projects will be dropped from the cost-sharing bill, or at least from the 10 per cent state sharing requirement. The matter was discussed at a recent policy meeting, Martin said, and "we agreed that the navigational projects have vendible outputs, but they aren't being vended."

The Interior official also indicated that another potentially controversial provision relating to reimbursement by project beneficiaries and indirectly, by the states, for federal dam safety expenditures also would be dropped. "OMB wanted that in there because they got beat when it was before Congress last year," Martin said. "But there is no reason to think we would win it this year either."

WATER RESOURCES COUNCIL

One of the most ticklish challenges facing the Administration is to get Congress to quintuple the budget of an agency that the legislators attempted to kill just a year ago. That agency is the Water Resources Council, a small, independent body governed by the heads of larger governmental agencies and with a record of unimpressive achievement.

Carter, however, is counting on the council to write strict new rules for the heretofore rough-and-tumble game of calculating water project costs and benefits and to create a new independent review team to see that those rules are honored. The President also wants to expand the council's $3 million-a-year program of state planning grants to $25 million and to add another $25 million annually for state technical assistance grants to promote water conservation.

To get all of these objectives rolling, the council is asking for a $49.2 million supplemental appropriation for the current fiscal year and permission to reprogram $431,000 in unspent funds from its 1978 budget. Its current $12.7 million appropriation was bestowed begrudgingly by Congress in the post-veto compromise it struck with Carter. In the bill vetoed by the President, the council got nothing, although some of its functions were to be reassigned to the Interior Department.

The supplemental and reprogrammed funds would bring its total budget to $62.3 million, roughly equivalent to the $61.2 million that Carter proposed for the agency in his 1980 budget.

Most of the supplemental funds—$47 million—are being sought to bring the two state grant programs up to the new levels Carter desires. The planning funds would let the states become more sophisticated partners in the new water policy that the President envisions. The conservation grants would be used for public education and research but not equipment or other hardware.

Another $2 million is needed to get the council started on a major study to weigh the environmental and other impacts of increased commercial traffic on the Upper Mississippi River system. This study was authorized as a part of the Lock and Dam 26 compromise.

Last, but by no means least, the council wants $625,000 to assemble and find working space for the independent review panel that Carter, by executive decree, has ordered to be in operation by next month. This team, which would not judge the merits of water projects but only check the procedures followed in bringing them to the point where construction funds are sought, is expected to review new project starts for the fiscal 1981 budget.

The council received a new lease on life when Carter rejected a proposal by his reorganization advisers to fold the agency into a new Department of Natural Resources, built around the nucleus of the Interior Department. Instead, it will remain independent, even though its chairman would continue to be the Interior (or Natural Resources) Secretary.

State officials and others had objected to the transfer of the council and its functions to a Cabinet department responsible to the President. Instead, they would prefer a fully independent council with state representatives—perhaps several governors—sitting as voting members.

Carter's reorganization plan had originally also called for the transfer of the water planning and design functions of the Army Corps of Engineers and the Agriculture Department's Soil Conservation Service to the new department.

The corps, in turn, would have picked up the construction functions now performed by the Soil Conservation Service and the Interior Department's Bureau of Reclamation while retaining its current construction duties.

The intent was clear: to strip the corps—and its congressional allies—of the power to plan and promote its own projects. Instead, the new department would have determined whether to move ahead on water projects of all kinds.

In the face of strong opposition, especially from the corps and its supporters, Carter rejected the proposed changes.

Domestic Policy Staff chief Stuart E. Eizenstat made it clear at a March 1 briefing on the reorganization plan that the Administration will face a tough enough time trying to sell Congress on major "substantive changes" in the way water projects are planned and financed. He added, "It didn't make sense . . . to dilute our attention" with a fight over the organization of the water agencies.

"We are far from giving up in terms of reforming the whole water area," he insisted, but "our major water battle this year" is to sell Congress on such concepts as full funding and state participation. "It is going to take all our resources."

Clearly, the President has ordered his helmsmen to steer a cautious course.●

OTA REPORT ON TECHNOLOGY AND EAST-WEST TRADE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. UDALL. Mr. Speaker, in the wake of the Soviet invasion of Afghanistan, the Congress and the country are engaged in a major reassessment of U.S. trade and other relations with the Soviet Union, the People's Republic of China, and other segments of the Communist world. The Congress has approved most-favored-nation status for the People's Republic of China. The President has taken or proposed such steps as an embargo on high technology exports to the Soviet Union and a boycott of the Olympic games.

I commend to my colleagues an especially timely, clear, and cogent study of these and similar issues called Technology and East-West Trade by the Congressional Office of Technology Assessment (OTA). Done at the request of the House Committee on Foreign Relations and the Senate Committee on Commerce, Science, and Transportation, this report was released late last year at hearings held by the Subcommittee on International Finance of the Senate Committee on Banking, Housing, and Urban Affairs. The star witness at those hearings, McGeorge Bundy—the former national security adviser to President's Kennedy and Johnson and former head of the Ford Foundation—called the report "the best I have seen in some 30 years of intermittent attention to the subject" and congratulated OTA on "an unusually clear and thorough analysis of this tangled and hotly debated subject.

Mr. Speaker, I attach a brief summary of the OTA report on "Technology and East-West Trade":

TECHNOLOGY AND EAST-WEST TRADE

Although Western technology contained in civilian products sold to the Soviet Union has contributed to its military potential, it is unlikely that any unilateral action of the United States could have prevented this—or could do so in the future. Almost any high technology, even though its purpose and function is civilian, may have some military use. U.S. export controls do a good job of preventing the transfer of primarily military technologies to the Communist world, but a conclusive determination of the degree of military risk entailed in the sale of these so-called "dual-use" technologies is probably impossible. Existing multilateral arrangements designed to minimize that risk work reasonably well.

These are among the conclusions of the OTA report *Technology and East-West Trade.* The report looks not only at the military, but also the political and economic costs and benefits to the United States of trading—especially in technology—with the Communist world. It reviews the controversy over whether such trade can or should be used to obtain foreign policy leverage. It also examines the East-West trade policies of four of America's major allies—West Germany, France, Great Britain, and Japan—and finds them significantly different from that of the United States. Finally, it provides background information on existing U.S. export policies and regulations, and on the use which Communist nations have made of Western technology.

Trade with the Communist world plays a relatively small part in U.S. foreign trade. The absolute value of Communist trade with Western nations is low and the United States has captured only a minor share of that limited market. The policy most likely to increase the U.S. share of trade with Eastern-bloc countries is the extension of official credits to those Communist nations currently ineligible for them. In the long run, however, dramatic growth in the total volume of East-West trade is contingent upon an increase in the ability of the East to export to the West.

East-West trade has always been economically more important for Western Europe and Japan than for the United States. While our allies do not deny the basic necessity of withholding items of direct military relevance from Communist nations, they generally do not share the concerns expressed in the United States over the political, military, and strategic implications of transferring dual-use technologies. In Japan, West Germany, France, and Great Britain, the sale of technology is seen as primarily an economic issue and any use of export controls for political purposes is largely eschewed.

Because of its position of leadership in a number of technologies of critical military significance, the United States may legitimately feel it has a special responsibility to ensure their safekeeping. If it can play this role with intelligence and integrity, the United States may be able to initiate and maintain a strong and unified Western-bloc position on the transfer of military technologies. However, the United States is not the sole source of most of the dual-use technologies desired by Communist nations and this foreign availability constrains its unilateral influence over their transfer.

In sum, it appears most unlikely that actions taken by the United States alone could lead to: (1) a dramatic increase in our trade with the East, (2) a dramatic decrease in the military risks associated with existing trade, or (3) a significant reduction in the technologies the East can purchase, given the existing attitudes of other Western nations.●

OAKLAND'S DAVID JOHNSON: INVENTING ENERGY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. STARK. Mr. Speaker, I would like to bring to the attention of my colleagues the outstanding work of a citizen in my district.

David Johnson of Oakland, Calif., has spent thousands of hours and close to $100,000 in his independent effort to perfect a new and exciting engine model that converts heat energy into mechanical movement.

His model involves a nitinol process which is based on the energy releasing reactions of a nickel-titanium alloy when it is immersed in water.

The potential for the application of this nitinol process in the field of geothermal and solar energy makes Mr. Johnson's project of national interest, and therefore worthy of our recognition and the Department of Energy's support.

A Los Angeles Times article about David Johnson and other private citizens working to solve our energy difficulties follows:

INDIVIDUALS TRY TO SOLVE ENERGY WOES

(By Robert A. Jones)

OAKLAND.—When David Johnson first became intrigued with the idea of a nitinol engine he had seen only a small working model in a University of California laboratory. It was the first such engine in the world, a metal wheel turning in a bath of hot water, using the water itself as a source of energy, Johnson was fascinated.

But as he watched the wheel revolving in the tub of water, it seemed to him that the design incorporated a certain awkwardness. The moving parts, of which there were many, did not flow smoothly, and the action of the engine itself sometimes was fitful. Johnson, a physicist at the university, believed he could do better.

That was six years ago, and Johnson's smudged and cluttered shop in the industrial flats of Oakland now contains a cluster of nitinol engines. Each is unique and each, almost as if by magic, begins to whirr contentedly when thin nitinol strips are brought into contact with hot water.

In the intervening six years, Johnson has become obsessed with the development of the nitinol process, which could have far-reaching applications in the field of geothermal and solar energy. Thousands of hours have been spent in his shop, perfecting models that have become increasingly sophisticated, more powerful and ever closer to a design that will be commercially usable.

Johnson is one of thousands of people in this country working on private projects that may eventually contribute to the solution of the nation's energy crisis. Working alone, without the help of large corporations or universities, they have relied almost entirely on their own resources and the belief that their idea is singularly valuable.

But last year Johnson became the beneficiary of a recent federal program that is designed to exploit the potential of the nation's private inventors.

For the first time the government, through the Department of Energy, has initiated a program of grants to finance projects by individuals that offer promise in the field of energy development.

The grant program is not extensive and the financial awards are not large. Last year about 12,000 people applied for development funds and about 600 were approved. Most grants fall in the range of $5,000 to $25,000, with a maximum of $50,000. In contrast, the government plans to spend $762 million this year for development of the experimental breeder nuclear reactor.

But administrators of the program in the Energy Department's Appropriate Technology Office say a timely grant, although small, can be crucial in keeping a project alive. If the idea eventually results in energy savings, they say, then the whole nation can receive a large benefit from a small investment.

"In the beginning there was the worry that the program would end up funding perpetual motion machines," said Berg Lucarelli, a technical consultant for the energy grants. "A lot of people were leery, we think we have proven now that there is a wealth of useful ideas outside the more traditional research institutions. The genius of the individual is still working here."

In the case of the nitinol engine, the federal grant may well allow David Johnson to transform the process from a laboratory oddity to a useful tool. If he does, Johnson will have invented a far more economical engine for use with low-temperature heat from solar collectors or geothermally-heated water.

The nitinol process is based on the surprising behavior of a nickel-titanium alloy for which the process is named. Although most metals react to temperature change, nitinol does so dramatically. A lanky spring of nitinol dipped into hot water will contract suddenly and with amazing force.

To the uninitiated, the reaction of nitinol to hot water often seems to suggest something alive, but in fact it represents an acute and direct transformation of heat energy into mechanical movement.

By the time he applied for the federal grant, Johnson estimates he had invested about $100,000 of his own time and money in the project. At that point he had proved that his models would work efficiently and smoothly, but they remained mere models. The net power of any one machine was tiny, and to establish credibility Johnson believed he needed a prototype that would produce a full horsepower.

The goal of the grant, then, was to produce engines that approached some practical size. Johnson had a number of ideas as to how larger machines might be built, but he did not have the money to pursue his notions.

Last year Johnson was awarded $16,500. Several approaches were tried, some successful and some not, and now Johnson believes a one-horsepower nitinol engine is attainable within a year.

Although Johnson's engine is one of the most exciting of the grant projects, many others are equally ingenious. A man who lives near Santa Cruz and earns his living as a professional clown was awarded a $10,000 grant to develop a machine that grinds up waste from the forest floor and compresses it into burnable logs.

Richard Linebarger, the developer, says the log maker thus far has not proved economical for its designed purpose largely because of labor costs but he believes it may find a related use in compressing logs from tree and lawn clippings in cities.

In Hawaii a man is adapting a system he discovered in Thailand whereby outboard motor propellers are mounted on a long shaft trailing a boat. The long shaft works on the principle that water several feet to the rear of the boat is moving faster than that immediately behind it. Thus, the inventor believes, a propeller pushing against the fast-moving water will be more efficient and energy will be conserved.

An electronics specialist in San Francisco is building a microcomputer that would govern electricity use in the home. When the overall consumption in the home reaches a limit set by the homeowner, the computer would automatically shut down certain expendable appliances for short periods. If installed in enough homes, the developer believes such a device could substantially reduce the "peaks" in electricity demand that in recent years has troubled utilities and required the construction of new power generators.

Other projects in the grant program do not involve the development of mechanical devices but rather what Lucarelli calls "a change in a process, a slightly better way of doing something." Often, he says, these more mundane projects offer the most exciting prospects for energy conservation.

A study by the Lawrence Berkeley Laboratory found, for example, that the greatest energy saving among 20 selected projects stems from a proposed system of man-made lagoons to digest sewage waste naturally and simultaneously produce methane or natural gas.

For a small such facility that processes a million gallons a day, the energy savings over a conventional waste treatment plant amounts to 66,000 Kilowatt hours a year. In addition the digester would produce an estimated 6.84 million cubic feet of natural gas annually.

Another project with large potential savings involves a workshop in Arizona to assist homeowners in installing a simple solar hot water heating system. Although commercial installations normally cost in the range of $2,000 to $3,000, the Arizona workshop has targeted the cost of its system at $300 to $400.

Because its low cost would make solar heaters attractive to a large number of homeowners, the Berkeley study projected that as many as 15,000 new hot water systems could be developed in a period of five years.

For all 20 projects the study concluded that the energy savings potential was "impressive." Over their lifetime it estimated the savings at an equivalent to 9.8 million barrels of oil.

Some of the projects could turn into bonanzas for the inventors themselves. The Department of Energy does not forbid, and in fact even encourages, grant recipients to patent energy devices that turn out successfully. Although no one yet is known to have reaped a fortune, grant administrators say that a product filling the right niche at the right time could well produce great financial rewards.

But not all those involved in the program have been pleased with the results. In some cases grants have been so small that developers have been left stranded in the midst of their projects without money to complete even a prototype model.

Brad MacMillan, who received the grant for a home microcomputer, says the $7,600 barely covered costs for developing concept drawings of his device. "I've spent an entire year running around trying to get enough money to build one, just one," he said. "Pretty much I've met a stone wall."

In such a case, MacMillan argues, the government is in the position of starting a project and then abandoning it without ever knowing whether the device will work or not. "You wonder whether it's a real program or a sham, just something for public relations," he said.

Energy administrators concede that lack of funds often forces them to make painful choices. Last year, for example, about $300 million was requested for 12,000 projects but the program had only $8.4 million to distribute nationwide. Under such restrictions, they say, many worthwhile ideas are rejected.

Meg Schacter, Western regional director of the program, says nonetheless it is growing and that in the future a higher percentage of applications will be approved for support. This year, she says, national funding will increase to $10 million.

Schacter noted that the energy office will soon begin consideration of applications for the 1980 awards. Applications for grants can be obtained by writing to Schacter at Energy Programs, Department of Energy, 111 Pine St., San Francisco 94111.●

THE STATE OF THE ARTS AT STATE AND LAND-GRANT UNIVERSITIES

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. FORD of Michigan. Mr. Speaker, the Congress is now considering reauthorization of the National Endowment for the Arts. I would like to call to the attention of my colleagues a study recently published by the National Association of State Universities and Land-Grant Colleges, with the support of the National Endowment for the Arts. This study, "The State of the Arts at State and Land-Grant Universities," has been distributed to each Member. Based on a national survey of 232 campuses, this study is a valuable resource on teaching, research, and public service programs in the arts. It makes no recommendations for legislative action, but rather documents for the first time the special relationship between the arts and public institutions of higher education in the United States.

The report highlights the role of State and land-grant universities as patrons of the arts, who provide showcases for professional artists and their works in their concert halls, theaters, lecture halls, museums, and galleries. For example, respondents to the survey reported 4,036 exhibitions of art or craft works and 10,731 musical, opera, dance, and theater performances presented on campus by faculty, students, and nonuniversity artists during a single year.

The report also documents that State universities and land-grant colleges have become major centers for career education and training in the arts through extensive curriculums offerings, public exhibitions, performance, and professional experience. Respondents reported a total of 21,891 courses offered in 23 arts disciplines in the fall of 1977, and student enrollments of 135,473 in these courses, which were taught by 8,329 faculty.

The report also includes data on the distribution of arts faculty by discipline, sex and tenure status; the number of arts degrees awarded; arts programing in the visual and performing arts; continuing education courses in the arts; campus arts facilities; and public and private sources of support for the arts on campus.

In the public service arena, extension services in the arts based at State and land-grant universities bring arts courses to specialized populations, such as the elderly, the imprisoned, and the handicapped; to thousands of elementary and secondary school students, many of whom have never before seen a play, heard a concert, or visited a museum; to residents of rural areas, where scattered populations discourage quality touring companies, and to residents of urban areas, where the high cost of tickets discourages attendance. Faculty and students at our Nation's major public institutions of higher education offer quality arts programs to all Americans, regardless of where they live or what their income level is.

I commend the National Association of State Universities and Land-Grant Colleges and the National Endowment for the Arts for their cooperative venture in producing, "The State of the Arts at State and Land-Grant Universities." This excellent report will help the Congress and the Nation to appreciate the rich activities in the arts underway at our Nation's major public universities. These institutions serve future career professionals—arts majors; broaden the esthetic sensibilities of tomorrow's citizenry—students who major in nonarts disciplines; upgrade the expertise of career artists, arts educators, and arts administrators—practicing professionals—through continuing education courses; and enrich the lives of people with an avocational interest in the arts who can attend high quality musical and dramatic performances on campus or take a noncredit art course.

"The State of the Arts at State and Land-Grant Universities" documents the fact that State and land-grant universities offer broad access to quality arts programs. I urge my colleagues to read it.●

JAMES CASSANO

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. SCHULZE. Mr. Speaker, it gives me great pleasure to share with my colleagues the following tribute to the outstanding contribution and accomplishments of one of my constituents, District Manager James Cassano, who is retiring after 42 years of loyal service to the Social Security Administration. The fact that it was written by his fellow worker, Assistant District Manager W. B. Hopkins, is a true measure of his integrity and commitment.

The article follows:

TRIBUTE TO JAMES CASSANO

Mr. Cassano began his career with Social Security in Baltimore, Md., as a clerk on February 10, 1938. Coming up through the ranks from GS-1 to his present GS-13 position, Jim was first promoted to District Manager of the Uniontown District Office in 1954. He opened the West Chester District Office on October 29, 1956, and has been its only manager since that time. He has seen the office grow from a staff of 8 people in 1956 to a staff of 29 people today. The workload has increased from 8,097 beneficiaries in 1955 to over 37,000 beneficiaries today.

His leadership qualities and managerial skills are to be admired as the West Chester Social Security Office commands a reputation as good as any Social Security facility in existence.

A long time resident of West Chester, Jim has been very active in many community service activities including the Exchange Club, serving as President of the West Chester Club and in 1969-1970 as President of the Pa. District Exchange Clubs. In 1972 he was named Mr. Exchangite of the Year by the Pa. District Exchange Clubs:

Jim was a member of the Chester County Health and Welfare Council for many years and served on its Inter-Agency Executive Committee for a number of years.

As a result of his long period of service as Chairman of a combined service club and Salvation Army food drive, the Salvation Army presented him with its highest honorary award to private citizens in 1974.

Jim served as a member of the Advisory Board of the Greater West Chester United Fund for several years. For the past 22 years, he has assisted in conducting the annual United Fund campaign in West Chester.

He has served as a member of the Chester County Retired Senior Volunteer Program (RSVP) Advisory Committee to assist the Executive Director in administering the RSVP program in Chester County.

He has served as a member of the Advisory Group of the Chester County Services for Senior Citizens since its inception over seven years ago.

Jim is a member of the Elks Club of West Chester, and the West Chester Order of Sons of Italy.

He is a member of the St. Agnes Roman Catholic Church in West Chester and has served as a Rector in that church for over seven years.

Though the Social Security Administration loses his services now, I am certain that the residents of Chester County will continue to benefit from his superior abilities as he continues to serve in his various community activities. We say at this time, Thank you Jim for a job well done.●

OTA REPORT ON ENVIRONMENTAL CONTAMINANTS IN FOOD

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. UDALL. Mr. Speaker, this past December the Congressional Office of Technology Assessment—OTA—released the first comprehensive study of Federal and State efforts to protect the public from the accidental contamination of food by PCB's, Kepone, PBB's, and other toxic materials. This report, "Environmental Contaminants in Food," was requested by the House Committee on Interstate and Foreign Commerce.

In receiving the OTA report, our distinguished colleague, BOB ECKHARDT, chairman of the House Commerce Oversight and Investigations Subcommittee, commended OTA for its valuable contribution to our understanding of the problem of food contamination. The OTA report, Congressman ECKHARDT said:

> Raises most of the issues that need to be addressed * * * and also provides constructive options for change.

The summary of this report is available as a separate self-mailer for Members of Congress to send to constituents, district offices, and interested local agencies.

Mr. Speaker, I attach a brief summary of the OTA report, "Environmental Contaminants in Food."

ENVIRONMENTAL CONTAMINANTS IN FOOD

Environmental contaminants in food have become a nationwide problem. Between 1968 and 1978, according to an OTA survey, 243 food-contamination incidents were reported in this country. (Environmental contaminants include organic chemicals, metals and their derivatives, and radioactive substances that inadvertently enter the human food supply through agriculture, mining, industrial operations, or energy production.)

Although the United States has escaped mass poisonings such as have occurred in other industrialized nations, nearly all U.S. residents carry detectable residues of some environmental contaminant in their bodies. Studies indicate that some contaminants present at low levels in U.S. food cause physiological changes in humans, but the long-term significance of these changes is uncertain. Between 1968 and 1978, at least $282 million in food was lost to contamination. This conservative estimate only includes 30 percent of the known incidents and ignores hidden costs such as medical expenses and lost workdays.

Although the Federal Food, Drug, and Cosmetic Act (FFDCA) contains no specific provisions for environmental contaminants, the Food and Drug Administration (FDA) does set permissible levels (either "action levels" or "tolerances") for all known contaminants. FDA relies on informal action levels more than formal tolerances because tolerances can only be set through complex, time-consuming procedures. FDA is not required to review these informal judgments, nor to commission new toxicological studies even when available data are inadequate. When setting regulations FDA atttempts to balance the cost of the food lost against the degree of public health protection gained.

Federal and State monitoring of food is primarily regulatory, designed to ensure that environmental contaminants do not exceed prescribed action levels or tolerances. Consequently, contamination involving unregulated substances is rarely identified before it becomes a major problem. None of the major environmental contamination incidents in this country (PBB, PCB, kepone, and mercury) were initially discovered by ongoing monitoring programs. In each case, actual human or animal poisonings—either at home or abroad—alerted authorities to the danger.

Managing contamination incidents can be difficult because the Federal and State agencies involved sometimes do not coordinate their activities. Efforts are hindered further by the complexity of the American food system and the rapidity with which food is moved through the system.

In light of these findings, Congress could: 1) allow the present system to continue; 2) amend FFDCA to require the establishment of tolerances, simplify administrative procedures through which tolerances are set, clarify the weight economic criteria can have, and/or grant FDA authority to set regional tolerances; 3) establish a national monitoring system to detect unregulated chemicals in food; and/or 4) designate a lead agency or establish a center to orchestrate the delivery of Federal assistance to affected areas.●

SRI LANKA'S INDEPENDENCE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. ZABLOCKI. Mr. Speaker, today, February 4, the 32d anniversary of Sri Lanka's independence, is a fitting opportunity for us to recognize the political, economic, and social achievements which have marked that country's history as a free, democratic society.

Sri Lanka has held seven general elections since it achieved independence in 1948, and the Government has changed hands at six of them, a record for democracy-in-action in postcolonial Asia. Voter participation in general elections has averaged over 80 percent for the last 15 years, certainly an accomplishment which we in the United States should envy.

Sri Lanka's successive governments have achieved a record of meeting the basic human needs of their country's people which is unequaled in the developing world. Although the country's per capita annual income is only about $200, average life expectancy is 68 years, roughly equivalent to the rate for the District of Columbia. The country's adult literacy rate is 78 percent, and its population growth rate is estimated at 1.6 percent annually. According to the World Bank, Sri Lanka has about 1½ times the life expectancy, three times the literacy, one-fourth the infant mortality and half the birth rate that are typical of countries at its per capita income level.

Since President J. R. Jayewardene took office in 1977, the Sri Lankan Government has taken important steps to reverse the trend of economic stagnation and high rates of unemployment which had stifled economic growth. In order to restore free market incentives, foreign exchange restrictions have been liberalized, import and export controls dismantled, and the tax system overhauled to encourage savings and investment. The country has established a free trade zone to attract foreign investments and has embarked on an ambitious water control and land reclamation project, the accelerated Makaweli development program. As a result, the Sri Lankan economy grew by an impressive 8.2 percent in 1978, and its growth rate is expected to remain at 6 percent or better for the next several years.

Sri Lankans have every right to salute their past with pride and their future with confidence. I am sure we join with many other nations in taking the opportunity of their national day to offer them our congratulations and best wishes.

Additional information follows:

EMBASSY OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA,
Washington, D.C., January 22, 1980.

Hon. CLEMENT J. ZABLOCKI,
U. S. House of Representatives,
Washington, D.C.

MY DEAR MR. ZABLOCKI: As you know, February 4 marks the National Day of Sri Lanka and this year we will be celebrating the 32nd Aniversary of obtaining our independence from the British Crown. I recall with appreciation the references you have made in the past in the House about Sri Lanka on this occasion. I am therefore venturing to request you once again to make a suitable reference to my country on the floor of the House this year too. Knowing your continuing interest in and affection for Sri Lanka, I am sure that you will be able to respond favourably to this request.

I am enclosing an Aide Memoire containing information on Sri Lanka both in general and with particular reference to the progress made over the last year which may be of value in formulating your remarks.

With kind regards,

Yours sincerely,

ERNEST COREA,
High Commissioner for Sri Lanka in Canada and Charge d'Affaires a.i., Washington.

Enclosure.

AIDE MEMOIRE

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

NATIONAL DAY—FEBRUARY 4, 1980

February 4, 1980 marks the 32nd anniversary of Sri Lanka's achievement of independence. The transformation from British colonial rule to independent nationhood was brought about by persuasion and negotiation. In the same spirit, the country's people and leaders have worked together to establish and nurture a politically stable society, in which the forms and values of democracy are firmly entrenched. Universal adult franchise, introduced to the country in 1931, is a cherished and freely exercised right. Several general elections have been held in Sri Lanka since independence was achieved in 1948. The reins of Government changed hands at six of them, thus establishing for Sri Lanka a record of democracy-in-action, which is unmatched in post-colonial Asia. For the past 15 years, voter turnout at general elections has averaged over 80 percent, testifying to the political maturity of Sri Lanka's people.

Until 1972 Sri Lanka retained the British monarchy as the constitutional head of state. In 1972, a Republican constitution was adopted, and with its inauguration in May 1972, the traditional name of Sri Lanka (meaning Resplendant land) was restored. The Governor General who had represented the British Monarchy was replaced by a titular President, nominated by the Head of Government (Prime Minister) elected by the people of Sri Lanka. This essentially British type of Parliamentary Government continued until 1978, when a further constitutional change was made. Mr. J. R. Jayewardene, under whose leadership the United National party was returned to office with an overwhelming majority in Parliament, in July 1977, had consistently campaigned for the establishment of a Presidential form of Government capable of increasing the level and pace of national development without in any way eroding the country's democratic freedoms. Such a constitution was endorsed by Parliament, and became effective on the 7th September 1978. It reflects the best in the constitutional practices of the U.S.A., France and Britain, adopted to the specific conditions and desires of the country and people of Sri Lanka. Sovereignty of the people is exercised through Parliament, which has been declared supreme. Legislative power is vested in Parliament and, unlike the American system, the President has no right of veto over legislation passed in Parliament. The executive power of the people is vested in the Presidency. The President is elected directly by the people for a fixed term of six years, and he is not dependent on a majority in Parliament. This arrangement, which provides for executive stability, is considered indispensable for a developing country like Sri Lanka. Parliament initiates legislation and voices the aspirations of the people. The President, on the other hand, ensures that the vital connecting links in the execution of such legislation are maintained.

The rule of law is ensured in the constitution by a strict separation of powers between the executive, the legislature and the judiciary. An independent judicial system ensures the right of every citizen to equality before the law.

The constitution also ensures a fair and just solution to the historic grievances of the Tamil speaking minority in Sri Lanka, particularly in the area of language rights. While Sinhala, the language of the majority remains the official language, both Sinhala and Tamil were made national languages under the 1978 constitution, the use of Tamil in Government offices and in the Low Courts has been constitutionally guaranteed.

Equal opportunities for every Sri Lankan citizen, irrespective of ethnic origin or religion are guaranteed under the constitution. Past experience has shown a certain looseness in the provision of the constitution as regards the fundamental rights to be enjoyed by the people. In the new constitution there is a specific chapter dealing with fundamental rights. This chapter embodies all 30 clauses contained in the U.N. Universal Declaration of Human Rights.

Sri Lanka's foreign policy has been one of non-alignment, in its purest form. Sri Lanka's perception of non-alignment, and its overall approach to world affairs, were articulated in the following terms, by President J. R. Jayewardene, speaking at Havana last year:

"Let not man raise his hand against man. Let him speak the language of peace and friendship. Let the love that passeth human understanding prevail. May they seek to solve their problems by discussion and not by war."

From August 1976 when the Conference of the Heads of State and Government of Non-Aligned countries was held in Sri Lanka until September 1979, Sri Lanka served as the Chairman and the Co-ordinator of the Non-Aligned Movement. This Movement which now consists of over 90 members has been a vital force in the deliberations of the United Nations, and has played an increasingly significant role in international affairs. As Chairman, Sri Lanka sought to maintain the founding principles of non-alignment, and when it gave up the gavel of office, President Jayewardene said that he was "glad and proud" to hand it down with the movement "untarnished and unaltered." Sri Lanka's consistent aim within the Non-Alignment Movement has been to introduce a sense of moderation, in discussion, and to protect internationally accepted principles as basic as non-interference and sovereign integrity.

Sri Lanka's truly non-aligned position was demonstrated during the Non-Aligned Heads of State and Government conference held in Havana (September 1979) where the Sri Lanka delegation consistently pursued the objective of moderation and restraint.

A point of particular interest to the American public would be that Sri Lanka entered a reservation on the section in the Havana Declaration dealing with Puerto Rico. While Sri Lanka supports the principle of self-determination for the people of Puerto Rico, its expression of a reservation implies that the formulation in the Havana Declaration does not accord with Sri Lanka's position on this issue.

Basic human needs

Successive governments in Sri Lanka have shown their commitments to meeting the basic human needs of the people. Sri Lanka's achievements in the realm of food, education and health are particularly impressive. In the last 25 years, Sri Lankans have:

Increased their food consumption by about 15 percent to 2,200 calories per capita;

Increased their life expectancy to 68 years;

Decreased their infant mortality to 45 per 1,000;

Decreased their population growth rate to 1.5 percent;

Achieved an adult literacy rate of 78 percent.

In recent decades income distribution has also become more equitable to benefit the lower 40 percent of the population.

Economy

When the present Government of President J. R. Jayewardene assumed power in 1977, it was clear that the previous governments commitment to social and economic welfare had not been without its costs: notably a stagnating economy which had been particularly hard hit by the energy crisis and an unacceptable rate of unemployment.

The Government of President Jayewardene has taken a number of important steps to reverse this trend and generate and redirect resources from consumption to investment: from welfare programmes and subsidies to efforts to stimulate economic growth and investment in production. At the outset, in 1977, the government initiated a series of far-reaching financial and economic reforms to bring about a free market economy through such moves as the unification of the exchange rate, the liberalisation of foreign exchange restrictions and the dismantling of import and export controls. As a result, Sri Lanka has achieved an impressive growth rate of 8.2 percent in 1978, nearly twice the growth rate of 4.4 percent recorded in 1977. After the initial spurt in 1978 following the liberalisation, the economy is expected to settle down to an appreciable growth rate of about 6 percent in the next few years, a satisfactory growth rate given the present gloomy world economic situation.

Positive steps have also been taken to stimulate investment in the private sector. The tax system of the country has been completely overhauled to restore incentives to save and invest. The Budget for 1980 extended concessions in the form to tax holidays on company profits in a number of new industrial areas. Measures have also been taken to encourage savings and it is gratifying to note that time and savings deposits with commercial banks rose to Rs.1,250 million in 1977 and Rs.1,584 million in 1978 in sharp contrast to an increase of Rs.463 million in 1976 and Rs.68 million in 1975. In the first eight months of 1979 alone these deposits rose to Rs.1,698 million.

Free trade zone

Particular emphasis is also being given to attracting foreign investment through the Government's Free Trade Zone proposal. As at the end of 1979, the Greater Colombo Economic Commission has approved about 77 industrial projects from 21 countries involving an investment of $140 million of which about 70 percent is from foreign investment. By the end of 1979 around 15 industries were already in production and another 20 under construction.

In pursuit of these objectives of attracting private capital to Sri Lanka, the Government has also allowed new foreign banks to open branches in the country. The American Citibank has already opened a branch in Colombo and other banks have also expressed similar interest. In 1979 Sri Lanka arranged for the first time in its history a syndicated loan of U.S. $50 million in the Euro-currency market on very favourable terms. The fact that the loan was heavily over-subscribed is further proof of the international banking community's confidence in the economic policies of Sri Lanka.

Mahaweli development programme

With its twin priorities of increasing employment opportunities and increasing agricultural production for self-sufficiency the Government of President Jayewardene has also decided to embark on the Accelerated Programme of Mahaweli Development. This ambitious multipurpose irrigation scheme is based on exploiting the resources of Sri Lanka's largest river, the Mahaweli. In the first stage of development under the accelerated programme, 5 dams are to be constructed 4 of which would have a major hydro-power component amounting to about 500 to 600 megawatts and lead to the opening up of approximately 117,000 hectares of new land. The project is being completed with financial assistance from the World Bank and its affiliate the IDA (International Development Association) in conjunction with the U.S., Canada, Netherlands, EEC, U.K., and Sweden.•

NICARAGUA—PART X: EDUCATION AND THE LITERACY CAMPAIGN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

• Mr. HAMILTON. Mr. Speaker, members of the congressional mission to Nicaragua were able to witness close up many of the trials and tribulations of the people of that war-torn nation. Hunger, sickness, and homelessness are the companions of many. Families grieve for relatives lost in the fighting, and children have been left without parents. With the destruction of the economy, unemployment has become widespread and the provision of basic necessities has been made more difficult. Antedating these problems, however, is an invisible problem that has festered for years in both city and countryside: Nicaragua has one of the highest rates of illiteracy in Latin America. If illiteracy is a form of silent violence visited on a population by either a government's neglect or its simple incapacity to educate its citizens, then Nicaragua has indeed been a violent place for some time.

Our second meeting in Managua—with Minister of Education Carlos Tunnermann, the former rector of the National Autonomous University of Nicaragua—allowed us to delve into the problem of illiteracy among Nicaraguans. When asked for his assessment of the current situation, Mr. Tunnermann replied that the extent of illiteracy was greater than had been acknowledged by the Somoza regime. Up to 55 percent of all city dwellers and 80 percent of all rural people might be illiterate. The official estimate of 650,000 illiterates made by the regime, he stated, was low by at least a quarter million, perhaps more. If such an assessment is correct, approximately 900,000 Nicaraguans can neither read nor write. The figures clearly justify the emphasis on education in the new government.

Members of the congressional mission were very concerned about two recent developments in Nicaraguan education. The first was the presence of 1,200 Cuban teachers in the nation's school system. In response to a question about the duties of these teachers, Mr. Tunnermann cited Nicaragua's "deficit" of 3,400 educators and then explained that steps had been taken to insure that the Cubans would not engage in political indoctrination of their pupils. They would be working within the confines of a temporary curriculum prepared for them by the new government. Before receiving their assignments, they would be required to attend seminars in the curriculum conducted by Nicaraguans.

Mr. Tunnermann also remarked that most of the Cubans would be posted to rural regions where there had been severe shortages of teachers in the past. There they would be limited to the instruction of reading, writing, and arithmetic, while Nicaraguans handled classes in civics, history, and social science. Mr. Tunnermann added that teachers from other countries were being welcomed, though all foreigners were to work in the school system not more than 2 or 3 years until emergency needs were met.

Our second concern was not founded on anything as concrete as the presence of 1,200 Cubans, but it was, for some at least, potentially more serious. Like counterparts of theirs in other developing nations, the leaders of the Sandinista movement have conceived and planned a literacy campaign as an integral part of their postrevolutionary program. Called the National Crusade For Literacy and administered by a Jesuit priest, Father Ernesto Cardenal, the 4-month effort is to begin in March of this year. Its ambitious goal is nothing less than the eradication of illiteracy in Nicaragua. The basic skills it will supply are to supplement whatever instruction may already be available in the existing school system. Of course, the literacy campaign holds great promise for many poor Nicaraguans. It may be the vehicle to lift them out of their lamentable backwardness. On the other hand, the campaign could be used against them. It might become the mechanism through which the poor would be browbeaten into acceptance of less than the full freedom to which their struggle has entitled them.

How can the philosophical underpinnings of the literacy campaign be understood? Perhaps the best way to understand them is to examine the groups and individuals who direct, support, and participate in the effort. To begin, the direction is broadly based. Aside from several government functionaries, the board of directors includes representatives of the Nicaraguan Episcopal Conference, the National Autonomous University of Nicaragua, the Central American University, the National Association of Nicaraguan Educators, the Nicaraguan Federation of Catholic Educators, the Union of Journalists of Nicaragua, and the Nicaraguan Institute of Development, among others. Support for the effort is just as broadly based. Government and private sources in Nicaragua itself are prominent, but contributions have also come from the Government of the Netherlands, the Organization of American States, foundations and individuals in Germany, and religious organizations and individuals in Honduras, Mexico, Panama, Switzerland, and Venezuela. As regards participation in the effort, once again the base is broad. The archbishop of Managua, for example, has stated that the 220 priests, 500 religious, and many lay workers in his jurisdiction will be devoted to the campaign. These people will complement thousands of private volunteers who will undoubtedly lend a hand.

Our Nicaraguan hosts made it clear to us that they view the reconstruction of their country in a very comprehensive way. There are economic, social, political, and moral aspects to be considered. President Carter, of course, is asking Congress for additional funds to help speed the process of rebuilding. Because the school system and the literacy campaign are bound to play key roles in virtually all aspects or reconstruction, it is important that neither one be abused to the detriment of the people. There are good reasons to believe that we will not be disappointed by events in Nicaraguan education in the time ahead.

(NOTE.—Previous statements in this series appeared on November 27, November 29, December 3, December 4, December 11, December 14, December 20, January 22, and January 28.)•

THE VALUE OF A PRIVATE EDUCATION

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

• Mr. TAUKE. Mr. Speaker, this Thursday, I will join the students of my alma mater, Wahlert High School, in Dubuque; Iowa, at an assembly to observe National Catholic Education Week. That makes it particularly appropriate to review the special role private schools play in our society.

Nearly 50 million young people are currently enrolled in the elementary and secondary school system. Of that number, nearly 10 percent attend private schools. And, while public school attendance has been dropping at nearly 2 percent each year, private school attendance has, in recent years, increased by more than 1 percent annually.

This was not always the case. In the late 1960's, enrollments in private schools, over 70 percent of which are Catholic, plummeted. Private educators became concerned. Patrick Farrell, director of education for the U.S. Catholic Conference, challenged parochial schools to reexamine their purpose. Their conclusion:

> We discovered that our real strength was our relationship with the community and that we offered parents the kind of education that they wanted for their children.

In the past decade our society has begun to return to many of its traditonal values. Parents once again welcome the emphasis private schools place on discipline, moral and religious values, as well as on academic excellence.

And yet this does not mean that private schools are homogenous. To the contrary, they are the epitome of diversity. Private schools welcome persons of all races, economic and religious backgrounds. In the Catholic system, the study of Catholic doctrine is not mandatory, and lay teachers outnumber nuns and priests by a 2-to-1 margin.

The challenges confronting the private schools today are very complex. In order to meet the individual needs of the students and the demands of society, schools must be sensitive to the uniqueness of the individual student and flexible in their approach to learning. Because of their historic commitment to superior education, private schools will continue to perform an essential function of developing young minds into tomorrow's leaders. We could not do without them.●

NATURAL RESOURCES ARE A CASUALTY IN IRAN

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. EVANS of Delaware. Mr. Speaker, as we look at the turmoil in Iran and Afghanistan, our thoughts focus on the suffering on the innocent people caught up in the conflicts, and the implications of these events for our national security.

A recent report in the Washington Post called my attention to another tragic aspect of these events, that is the consequence of the turmoil in Iran for the wildlife, fish, and other national resources of this ecologically rich nation.

During the many years the Shah reigned in Iran he established a system of national parks to protect many forms of endangered wildlife such as Persian fallow deer, Caspian tigers, cheetahs, and others. Rigorous conservation measures were instituted to prevent overgrazing of the grasslands, overcutting of the forests, and overfishing of the waters.

With the Shah gone, and public sentiment aroused against all he stood for, these parks and conservation regulations no longer matter. To quote from the Washington Post article by Michael Weisskopf:

> In a nation turned upside down by revolution the natural resources so carefully preserved by the Shah Mohammad Reza Pahlavi have become a major casualty of the new Islamic republic. After years of restrictions and stiff penalities for such infractions as felling a tree, Iranians flock to the seas and forest today and simply take what they want.

The author goes on to describe how some Iranians race across the open desert on motorcycles "mowing down the once protected gazelles and deer with machineguns." Assault rifles are now turned on innocent, almost tame, wildlife. Sturgeon in the Caspian Sea are taken, not with nets, but with explosives, and without regard to size and season limits.

I am greatly troubled by this slaughter of endangered wildlife and the pillaging of rich forests and waters. In the long run, it is these events which may do much to undermine the objective of Iranian self-sufficiency. These natural resources, carefully used, could go far in sustaining Iranians now and in the future. In the words of Iran's deputy director of natural environment, "if you destroy them, nothing will be left."

Mr. Speaker, I ask unanimous consent that the attached article from the January 21, 1980, Washington Post, entitled, "Free-for-all Ravaging Iran's Ecology," be included in the RECORD.

FREE-FOR-ALL RAVAGING IRAN'S ECOLOGY

(By Michael Weisskopf)

VARAMIN, IRAN.—They race across the open desert on motorcycles, mowing down the once-protected gazelles and deer with machine guns.

Sometimes the motorized poachers at Kavir National Park near here chase the animals into submission, then ritualistically slit their throats.

Hundreds of miles to the north, unlicensed fisherman in small wooden boats drop dynamite into the Caspian Sea, waiting with nets as scores of caviar-laden sturgeon belly up.

In the Zagos forest of west Iran, villagers harvest acres of valuable hardwood trees for fuel or sale to furniture makers, then plant crops or graze livestock on the fertile land.

In a nation turned upside down by revolution, the natural resources so carefully preserved by Shah Mohammad Reza Pahlavi have become a major casualty of the new Islamic republic.

After years of restrictions and stiff penalties for such infractions as felling a tree, Iranians flock to the seas and forests today and simply take what they want.

With sophisticated weapons seized from army barracks last year, they frighten off resources police as they leave behind ecological havoc.

Mohammed Vahedi, Iran's deputy director of natural environment, said such pillage is understandable in a country without a strong central government or a new set of laws.

"Suddenly you had a change in the face of the regime," he said, "and it was very acceptable for us to want to do all of the things we couldn't do before."

"It's like in the city of New York. All that breaking into stores and looting when the electricity went out. People want to do things when there is no police and no regulations."

Iran is blessed with numerous fresh-water lakes and rivers, the bountiful Caspian Sea and millions of acres of forest filled with some of the world's rarest wildlife. Persian fallow deer, Caspian tiger, jebeer and goitered gazelle, wild ass and cheetah.

The shah, intent on protecting this national treasure, insisted on strong conservation laws and appointed his brother, Abdol Reza Pahlavi, as Iran's environmental chief.

Although Abdol Reza Pahlavi aggressively prosecuted poachers—the fine for destroying a Persian fallow deer was $3,500—he apparently was willing to bend the rules for himself and his friends.

Game wardens at wildlife preserves were instructed to search for prize trophies, stalk them and somehow get word to the environmental chief, who would arrive later in a helicopter with a hunting party of friends and servants from Tehran.

"The people saw that the environment was only being protected for the shah's brother," remarked Vahedi. "The people couldn't use the wildlife for themselves. After the revolution, they had this in their minds."

Soon after the shah was toppled, Iranians, imbued with a new sense of freedom, picked up their G3 assault rifles and pistols and marched to some of Abdol Reza Pahlavi's favorite hunting grounds, such as Kavir National Park, a huge expanse of desert located 100 miles southeast of Tehran.

Wild animals at Kavir, almost tame after of years of near security from hunters, were easy targets for motorcycle gangs zooming across the flat open spaces, sometimes using flashlights at night to freeze their prey before gunning them down.

Although many of the hunters come from nearby farming villages like Varamin, hundreds more drive from Tehran carrying their motorcycles in the back seats of Land Rovers or the backs of trucks.

One day recently, shots could be heard across the desert, but the park was empty of guards. Villagers who use the oil in the bones of wild ass as a medicine were seen along the outskirts of Kavis with automatic rifles in hand.

Near the entrance of Kavir, Tamur Kallakouh was tending the herd of 400 sheep that he has brought to the park for the winter grazing on ground painstakingly cultivated by botanists over the past 15 years as a guard against land erosion.

"I never has the guts to come before," said the 21-year-old shepherd. "I heard things were easier now. Otherwise I would have hand-fed my sheep in a barn for 1,000 rials [$15] apiece for the winter."

In north and northwest Iran where the tall cypress, beech and maple trees flourish in the cool wet climate, poachers have cleared away thousands of acres of the hardwoods to make room for livestock grazing and farming.

As many as 300 trees are sawed and hacked down in the Zagros and Caspian forests every day by local people needing firewood and entrepreneurs who sell the lumber at great profit to homebuilders and furniture manufacturers, according to Vahedi.

The northwoods lakes have long been the mating and hatching grounds for duck, geese and swan that migrate from Siberia. But experts now fear that a whole generation of the birds may be lost because of wanton hunting in places like the Caspian forest.

A similar warning comes almost weekly from Shilot, Iran's fishery agency, which says that unbridled poaching of sturgeon has drastically reduced the population and threatens the nation's profitable caviar industry.

Shilot-approved fishermen are the only ones allowed by law to net the valuable sturgeon, and they abide by strict seasonal limits and other requirements, such as size of mesh and permitted locations for the fishing.

But since the revolution, the Caspian Sea is jammed with unauthorized fishermen who not only drop nets regardless of the season, but use explosives to increase their catch and fish in spawning grounds before the sturgeon have laid eggs.

Although Shilot posts guards along the waterfront, they are too undermanned and underarmed to confront the hundreds of gun-toting poachers who fish the Caspian every day, according to fishery officials.

Vahedi stresses, however, that using force to stop the environmental destruction of postrevolutionary Iran is not practical.

"The Army is with the people and the people are with the Army," he said. "They don't want to fight each other. We must talk to the [violators] and explain to them that these are the resources for you and your children.

"If you destroy them, nothing will be left."●

THE 32D ANNIVERSARY OF SRI LANKA

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. WOLFF. Mr. Speaker, on February 4, the Republic of Sri Lanka celebrated the 32d anniversary of its independence from Great Britain. Last August, a delegation to Asia led by the Subcommittee on Asian and Pacific Affairs visited Sri Lanka where it was our pleasure to meet with that nation's leaders and observe several development projects. Along with my colleagues in the delegation, I am deeply impressed with the dedication, intelligence, and foresight of President Javawardene and his cabinet as they chart their nation's future.

Sri Lanka is today a model for developing nations. Life expectancy and per capita food consumption have increased dramatically during the past 25 years while the rates of population growth and infant mortality have declined. In addition, the nation's economy has achieved impressive and consistent growth rates which, in spite of the present worldwide economic stagnation, will probably remain above 6 percent for the next several years.

As a leading voice among the developing nations, Sri Lanka's position has been one of true nonalinement. During the Conference of Nonalined Heads of Government held in Havana last year, the delegation from Sri Lanka consistently sought to maintain the founding principles of the nonalined movement and it always has been an advocate of moderation and restraint in the resolution of international differences.

Concern for the rights of citizens in Sri Lanka is reflected in the nation's new constitution which insures equality before the law for all citizens and gives special attention to the needs of the Tamil-speaking minority. Tamil government offices and law courts are being maintained and, along with Sinhala, Tamil has been declared a national language. These are fundamental measures that are essential to resolving the historic grievances of the Tamil people.

Mr. Speaker, it is my pleasure to bring to the attention of our colleagues the commendable goals and outstanding accomplishments of Sri Lanka. I extend to the people of Sri Lanka my warmest congratulations on the 32d anniversary of the founding of their nation.●

THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. EVANS of Delaware. Mr. Speaker, the White House Conference on Small Business recently concluded its meeting here in Washington and issued a list of 60 recommendations which will serve as the basis for a final report from the Conference to the President and the Congress. This report is expected to be completed in approximately 2 months. Fortunately, the 1,573 delegates to the Conference designated 15 of the 60 recommendations as priority items.

Due to public and congressional interest in these recommendations, I am attaching the priority items for the consideration of my colleagues. The primary areas of concern identified by the Conference center around inflation, excessive Government spending, unreasonable regulations, and the confiscatory level of taxation. The collective message from the Conference seems to be "Get the Government off our backs and out of our pockets!"

Based on the firsthand reports I received from the members of the Delaware delegation to the Conference, I believe the final report should serve as the catalyst for congressional action to relieve small businesses from the big problems they are now facing. The men and women involved in small business operations face a unique set of difficulties today. I intend to continue my efforts to enact a broad tax relief and regulatory reform package which will strengthen the role of small business as the backbone of our economy.

The recommendations of the Conference follow:

WHITE HOUSE CONFERENCE ON SMALL BUSINESS—JANUARY 13-17, 1980 DELEGATE RECOMMENDATIONS

(Listed in order of priority set by delegates)

1. Replace the present corporate and individual income tax schedules with more graduated rate scales, specifying the graduated corporate tax scale up to $500,000.

2. Adopt a simplified accelerated capital cost recovery system to replace the present complex Asset Depreciation Range (ADR) regulations, with provisions such as (A) immediately expensing capital costs less than a specified amount, (B) immediately expensing government mandated capital costs, and (C) the creation of a maximum annual benefit that may be derived from the system.

3. Balance the Federal Budget by statute in Fiscal Year 1981 by limiting total Federal spending to a percentage of the GNP, commencing with 20 percent and declining to 15 percent.

4. Revise estate tax laws to ease the tax burden on family-owned businesses and encourage the continuity of family ownership.

5. Congress shall exercise its oversight function with the assistance of the General Accounting Office, instituting sunset reviews of all laws, regulations, and agencies, to ensure that none exceeds original congressional intent. Sunset reviews, in an appropriate time frame (not less than every five years) should include economic impact analysis and proposed agency budget reductions, leading to re-enactment of each agency's enabling legislation to permit its continued existence, or to reduce its size and cost.

(A) Establish a Regulatory Review Board composed of representatives from the Executive Branch, Congress and small business owners, with responsibility for impact statements and cost controls.

(B) Congress shall exercise line-item veto over regulations within a specified time through congressional oversight committees, with one-house floor vote.

6. Support and urge passage of S. 1860, the Small Business Innovation Act of 1979, and companion bill H.R. 5607, as presently drafted with flexibility for minor future amendments, covering: small business research and development set-asides; small business innovation and research programs (as already encompassed by H.R. 5126 and S. 1074); patents retention; amendments to the Internal Revenue Code; and regulatory flexibility.

7. Provide for a tax credit for initial investment in a small business, and permit deferral of taxes for roll-overs of investments affecting small businesses.

8. Reform the Social Security System by including, where constitutionally possible, all public and private sector employees as contributors and more closely tie benefits to contributions to move the system toward actuarial soundness. Limit benefits to the original old-age and survivors benefits. Freeze the tax base and tax rate at the January 1980 level. Eliminate double dipping.

9. Provide tax incentives in the form of a new security called a *Small Business* Participating Debenture (SBPD) to provide a source of capital for small businesses.

10. The Office of Advocacy must be maintained, reinforced and expanded so that activity be not less than 5 percent of the SBA salary and expense budget. The legislative mission of Advocacy must be considered the number one priority of SBA and the Office of Advocacy. The independence of that function of the Office of Advocacy must be protected so that it may continue to have the confidence of the small business community. SBA's Advocacy budget should be devoted to economic research and analysis, as well as small business advocacy. Small business advocates, under the direct supervision of the SBA Office of Advocacy, shall be assigned to OMB, Federal Reserve Board, Treasury, International Trade Policy Committee and other regulatory agencies.

11. Private lending institutions should be required to provide equal access to commercial credit for women in business. The Fed-

eral Reserve Board should establish record keeping requirements for commercial loans to women which will permit effective monitoring of performance under the Equal Credit Opportunity Act. The Small Business Administration should make bank certification available to as many commercial banks and other lenders as possible and establish targets for increasing the dollar volume of loans made to minority-owned and women-owned businesses, as one of the criteria for recertification.

12. Small business should be eligible for magistrate review of agency civil penalties, and reimbursed for court costs, reasonable attorney's fees, and damages from administrative action, if successful in civil disputes with the Federal Government, including IRS.

(A) Such costs and fees to come from the operating budget of the agency.

(B) Magistrates will be appointed and be responsible to the judges in each Federal Judicial District.

(C) With burden of proof on the agency to defend its action.

13. Revise minimum wage standards by freezing standards at January, 1980 levels and establishing a two-tier minimum wage by exempting teenagers, seasonal workers and part-time workers.

14. The President, by Executive Order, and Congress, by legislation, shall establish mandatory goals for all Federal procurements and Federal funds or grants to states, localities, and public and private institutions, on a contract-by-contract or agency-wide basis for small businesses (35 percent); minority-owned (Black, Hispanic, Native American, Asian Pacific American, and other racial minorities) businesses (15 percent); and women in business (10 percent).

15. Require that all government agencies which develop fiscal, monetary, legislative and regulatory policies/practices shall submit small business "economic impact" statements that require the regulatory agencies to identify the anticipated benefits and to justify the costs of Federal regulatory requirements to small businesses. In addition, all regulatory policies shall be subject to sunset provisions to be reviewed every 5 years in order to insure that only cost effective regulations shall be maintained and retained in the future.●

WATER RESOURCES: TIME FOR RESTRAINT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. PORTER. Mr. Speaker, a clear and unmistakable message is being conveyed by the people to all of us: halt wasteful spending and balance the budget now. While many areas of spending have become nondiscretionary, one that can be controlled is the authorization of new water resource projects, H.R. 4788, now being considered in the House. Historically, this is an area where abuses have been rife, and cost inefficiencies largely ignored, as one unnecessary project after another has been authorized. This year, it is a first-rate opportunity for the Congress to show the people that we are listening to them and are committed to a fiscally responsible course.

An editorial which appeared in the Chicago Tribune on February 4, 1980, aptly expressed these views:

RESTRAINING THE ENGINEERS

Sophisticates in the affairs of government can count, year in and year out, on the sponsorship of numerous, expensive, and dubious water projects by the Department of the Army. Show its Corps of Engineers a river and in all likelihood the engineers will point to the need for a dam or a new channel or some other improvement, often unnecessary. But this year there comes to hand a spirited protest against dozens of pending water projects—a protest not to the Department of the Army but *from* that department.

In a letter to Rep. Harold T. Johnson [D., Cal.], chairman of the House Committee on Public Works and Transportation, Michael Blumenfeld, assistant secretary of the Army [civil works], struck out hard against H.R. 4788, the pending Water Resources Development Bill. He said in part, "The administration cannot support the 54 project authorizations in the bill which have not received full departmental and administration review. . . . the 54 inadequately reviewed projects in the bill could lead us to commitments of approximately $1.8 billion in future years, unadjusted for inflation."

The total number of "objectionable" provisions is 125 [plus 11 more "questionable" ones]. Absent or incomplete review is not the only basis for objection. Often the objection is that a project is "a non-federal responsibility." Examples include a ship canal and a municipal water treatment plant at Buffalo, paving a county road in Tennessee, replacing a bridge in Arkansas, elevating and relocating a couple of roads in Texas, bearing 80 percent of the cost of a highway bridge in New York, maintaining a levee system in New York, and so on. Another ground of objection is absence of any provision for cost-sharing. For example, the bill calls for a new marina on Lake Texoma [Texas Oklahoma] not only without study, report, and review, but also without "appropriate cost-sharing."

The Department of the Army also resists a congressional veto of "any rule or regulation promulgated under any law of the United States relating to Army water resources projects." No doubt a high proportion of advocates of such a veto envision congressional restraints on Army spending. However, the Army's objections to the Water Resources Development Bill show that congressmen may outdo the Army Corps of Engineers in wastefulness.

The Corps of Engineers has fairly earned its reputation for building water projects with indefensible cost-benefit ratios. But in view of the series of the indefensible boondoggles and treasury raids in H.R 4788, authorizing Congress to override the rules and regulations by which the Corps of Engineers restrains itself to a degree, hardly seems a good idea.

Too many misguided water development projects have been approved by both Congress and the Corps of Engineers. It is better to require two signoffs rather than just one.

And it is great to see the Department of the Army actively defending the public interest against funding a congressional pork barrel.●

CHEMICALS USED AGAINST THE AFGHAN PEOPLE

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HILLIS. Mr. Speaker, in the February 4 edition of the Wall Street Journal, there appears an editorial entitled "Yellow Rain." This editorial deals with one of the most disturbing developments concerning the Soviet invasion of Afghanistan—the use of chemicals by the Soviets against the Afghan people.

Ever since the world witnessed the effects of chemical warfare during World War I, their use has been basically outlawed by the Geneva Protocol of 1925—although there are a number of loopholes in that treaty which the Soviets take advantage of in order to claim that they have not broken its terms. Nevertheless, the fact remains that the Soviets are apparently willing to use chemical weapons against defenseless people.

As the editorial indicates, the horror of chemical warfare makes it difficult for civilized people to comprehend and respond to the Soviet's actions since it is almost impossible to imagine that a Nation would actually resort to such inhumane activities. We cannot afford, however, to make the same mistake we did during the early years of World War II when Nazi Germany was practicing genocide against Jews and the Western World refused to recognize it until after it was brought into the war. We must recognize reality and face the sober fact that there are governments capable and willing to engage in even the most horrid of actions and protect ourselves from them. To that end I urge the Department of Defense to begin today to study the Soviet's activities and recommend steps we can take to protect American soldiers from the effects of these weapons,

I am at this point placing the Wall Street Journal's editorial in the RECORD so that my colleagues can benefit from reading it.

YELLOW RAIN

Government officials privately confirm that Soviet forces have used nerve gas known as Soman against Afghan tribesmen. Soviet chemical weapons were also used in 1978 against Meo tribesmen in Laos and in Yemen in 1964. The willingness of the Soviets to employ such loathsome weapons, not as a desperate last step but as an opening shot, is something that the U.S. and its allies had better start thinking realistically about.

The Soviet Union is a party to the Geneva Protocol of 1925. Unlike SALT and other arms control treaties, the Geneva Protocol is binding in time of war and bans the first use of chemical weapons. Legally the Soviets have loopholes for using chemical weapons in Afghanistan. They signed the Protocol with a reservation that they are bound only in relation to other parties. Afghanistan is not a party to the Protocol and, furthermore, the Soviets do not admit that they are at war against Afghanistan.

Legalisms aside, large scale and expensive Soviet chemical warfare preparations indicate that the Soviet Union may not intend to be bound by the Protocol in conflict against anyone, party to the Protocol or not. Chemical warfare capability is fully integrated in Soviet forces. Soviet divisions are prepared to attack with chemical weapons and to operate in contaminated environments. Under the Protocol the Soviets could only make "second use" of this capability. but no one else has "first use" capability.

The U.S. has renounced the first use of chemical weapons against any nation whether or not a party to the Protocol. There is a small amount of money in the defense budget for chemical warefare research, and the U.S. has some deteriorating stocks of chemical weapons which are largely World War II leftovers that served as insurance against first use by the Germans and Japanese. But U.S. forces at the present time do not have the capability to employ chemical weapons and, indeed, have scant defensive capability against chemical weapons.

Gassing people with deadly substances as if they were so many mosquitos is abhorrent to the moral conscience of the West. Civilized people have a hard time confronting the issue—which may be the reason that Soviet use of inhuman weapons against technologically primitive tribesmen has not produced a barrage of moral protests. It is one of those unmentionables that diverts our human rights concerns to Guatemalans swinging nightsticks against left-wing students.

But we are going to have to steel ourselves for there may be worse to come. Intelligence sources now believe that the Soviets have used biological weapons in Afghanistan. Soviet use of "microbe bombs" would be a clear violation of the 1972 biological treaty that bans not only the use of such weapons but also their development, production and possession. The arms control community is unsure whether the Soviets are complying with this treaty. Under its provisions, evidence of a violation can be brought before the UN Security Council, forcing the world to confront an issue that it doesn't want to confront.

The repeated use of chemical warfare, meanwhile, gives a good indication of the general regard in which the Soviets hold treaties and conventions. It is a powerful reason not to ratify a Strategic Arms Treaty with unverifiable provisions such as range limits on cruise missiles. And also a reason not to proceed with negotiations on a comprehensive nuclear test ban treaty just when the government is wondering whether there was or was not an atomic test off Antarctica last year.

Meanwhile, Meo tribesmen in Laos have seen the effects of "yellow rain," descending on the men, women and children of primitive villages. And whether as a systematic anti-guerrilla weapon or merely to indulge Soviet curiosity, in the vicinity of Feyzabad, in areas west of Kabul and around Jalalabad, canisters of Soman have burst open in the air, spreading vapors that penetrate the skin, paralyze the central nervous system, and cause violent seizures and death.●

CHOICES BETWEEN HEATING AND EATING; THE IMPACT OF INFLATION UPON THE ELDERLY

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. GREEN. Mr. Speaker, as a member of the Select Committee on Aging, I along with Representatives Ferraro and Biaggi recently conducted a field hearing of the Subcommittee on Retirement Income and Employment in the 18th Congressional District of New York. The hearing was entitled "Inflation and its Impact Upon the Elderly" and explored this topic with special emphasis upon the areas of energy, housing, and social services. Since there are almost 1 million elderly individuals living within the boundaries of the city of New York, I thought it appropriate to share with you and my other colleagues here in the House a letter I sent to Chairman Pepper briefly describing a few of the highlights of this hearing. The letter is as follows:

House of Representatives,
Washington, D.C., January 28, 1980.

Hon. Claude Pepper,
Chairman, House Select Committee on Aging, U.S. House, Washington, D.C.

Dear Mr. Chairman: On January 10, 1980 the Subcommittee on Retirement Income and Employment of the Select Committee on Aging held hearings in New York City concerning "Inflation and its Impact upon the Elderly." I am pleased to take this opportunity to report to you and the other Members of the Committee about the highlights of this hearing and some of the important insights which we gained. Representatives Ferraro and Biaggi joined me in conducting this hearing and their participation was most valuable.

In investigating the hearing topic, the Subcommittee focused upon how the elderly feel inflation in energy, housing, and social services. Throughout the day, one predominant theme emerged: inflation has eroded the purchasing power of our senior citizens to the extent that they have been forced to cut down not only on luxuries and extras, but also on many of the basic necessities upon which we all depend for survival. Since the older adults of New York City comprise 5 percent of the elderly population of the United States, I thought a brief summary of the testimony of the over 30 witnesses who participated in this hearing would be of particular interest to you.

With respect to energy, the Subcommittee heard testimony regarding how our fellow citizens often living on fixed incomes during their "golden years" have been forced by the current 13 percent rate of inflation to make real choices between heating and eating. For the last several years the Congress has viewed home heating assistance as an emergency program and has enacted such a program year by year. However, each year money was appropriated for these programs too late in the season to be used with maximum efficiency and effectiveness. In addition, the amount of money did not begin to meet our national needs. Consequently, too many of this nation's older adults have suffered from hypothermia and too many have been discovered in their apartments without heat in the winter. Given the jolting increases in energy costs in the last few years, I believe it no longer makes sense to approach the home heating assistance question on a year-by-year, emergency basis. Thus, I announced at the hearing that I will soon be introducing legislation to establish a permanent, on-going program of home heating assistance which I hope will enable States and localities to plan in advance to avert the kinds of tragedies we have seen.

Concerning housing, the Subcommittee learned that for many of the nearly one million senior citizens in New York City, the old concept that rent should absorb only one-fourth of an individual's income has clearly become obsolete. The median gross rent paid by aging households is presently $184 in New York City. This figure represents an increase of more than 30 percent since 1975 and reflects an income/rent ratio of approximately 40 percent. Moreover, the New York City Housing Authority estimates that of these one million older adults living in the City 37 percent are trapped in unsuitable housing and 24 percent of these individuals are living in sub-standard dwellings. Furthermore, we were reminded that in areas such as New York, where the rental market is becoming more and more limited each day, there is a need to provide additional funds and create innovative programs in order to improve existing housing. Our attention to inflation in housing served to renew my commitment to the tenants tax justice concept which is embodied in H.R. 3910. This is a bill which I have introduced and which would allow a deduction for real estate taxes imposed on tenants and which I believe would do much to ease the financial burden currently borne by New York City renters.

Regarding social services, we were called upon by several of the witnesses to redefine the standards of eligibility under which assistance to older Americans becomes available. The plight of older adults living at or below the poverty line is deplorable. The difficult task of surviving for those older Americans whose incomes place them just above the current line of poverty is too often ignored or minimized. Since one-half of all handicapped individuals are elderly, the Subcommittee was again reminded how important the increased availability of transportation is for these citizens. Inasmuch as New York City medical costs exceed any other area in the nation, evidence was presented to the Subcommittee pointing out the need for increased Medicare coverage and the need to contain rising hospital costs. We need to allow senior citizens not only a greater sense of dignity by providing them with the means to obtain greater independence, but also with an increase in services upon which their very lives depend.

I was pleased that on October 30, 1979 the Committee on Ways and Means approved the Medicare Amendments of 1979 (H.R. 3990). Included in this legislation are several provisions contained in a bill I introduced earlier in this Congress (H.R. 1296). Among these are: elimination of the present 100 day visitation restriction, elimination of the $60 deductible under part B, and elimination of the three day requirement for prior hospitalization under part A. I am hopeful that the Congress will take final action on this matter during the Second Session of the 96th Congress.

The Subcommittee also heard concern about the future of the Social Security system. I believe that several reforms are needed in the system, including elimination of gender-based distinctions in benefits. I assured those in attendance at our hearing that I oppose the recent recommendation of the Advisory Council on Social Security that Social Security benefits be taxed. In addition, I outlined a proposal I have introduced which would make the Social Security system sound for our senior citizens. This would be accomplished, in part, by gradually raising the retirement age to 68, beginning in the year 2000. Thus, no one now 65 or older or anyone who could reasonably be considered to be planning an imminent retirement would be affected. My proposal would put the system on an actuarily sound basis for the next 75 years and, thus, would allay the concerns felt by many senior citizens and others that the system is in danger of going bankrupt. We need to provide senior citizens with a system they can count on, and not one which threatens to short-change them after a lifetime of hard work and contribution. I will continue to work for the well-being of older Americans and the sound standing of their Social Security system as the Congress reviews relevant proposals during the Second Session.

Thank you for your consideration of this brief summary, Mr. Chairman. I hope that you and the other Members of our Committee find this information helpful.

Respectfully submitted,

S. William Green,
Member of Congress.●

HOUSE CONCURRENT RESOLUTION 220

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. WALKER. Mr. Speaker, on December 6, 1979, I introduced for myself and Mr. Abdnor, Mr. Gradison, Mr. Grassley, Mr. Grisham, Mr. Pashayan, Mr. Rousselot, Mr. Lott, Mr. Lagomarsino, Mr. Goldwater, Mr. Dougherty, and Mr. Mottl, House Concurrent Resolution 220 seeking the establishment of a Federal strike force and program to investigate and prosecute crimes committed by members of outlaw motorcycle gangs. I wish to take this opportunity to state that neither the perception of the need for the resolution nor its introduction, should in any way be considered as reflecting adversely upon the more than 7 million of our responsible and law-abiding citizens who use motorcycles for fuel-efficient transportation and recreation. In fact the damage done to the welfare and public image of this overwhelming majority of motorcyclists by the small percentage of persons involved in outlaw motorcycle gangs is one more reason that the resolution should be adopted.

Thank you.●

WINDFALL PROFIT TAX—NO ENERGY SOLUTION

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. ROUSSELOT. Mr. Speaker, in the Wednesday, January 31 edition of the Washington Star, a message, sponsored by the Amway Corp., briefly explained why the windfall profit tax will penalize not only the oil industry, but every American citizen as well. As H.R. 3919 makes its laborious way through the conference committee, it is important for us to remember that the real victims of the windfall profit tax will be the consumers who will pay ever higher prices for gasoline as they wait in longer lines at the pump. Nothing in the bill being discussed in the conference will produce additional energy for this country. Nothing in the bill being discussed will encourage new exploration and drilling. The bill, however, will encourage the Federal Government to find new ways to spend more tax dollars. Given the performance in the past of the bureaucracy, particularly the Department of Energy, there is little hope that the Government will put the windfall revenues to productive use.

I urge my colleagues to read the Amway message which follows:

Windfall Profit Tax—No Energy Solution

If the windfall profits tax passes the Congress, we all lose.

The Congressional Budget Office (CBO) estimates that, depending on which version of the tax is imposed, the United States will produce 4 to 14.8% less oil.

Industry sources and the CBO say that if no windfall profits tax were enacted, 200,000 to 400,000 more barrels of oil per day would be produced in this country by 1985. That is about half the amount of oil we were importing from Iran.

Few would object to taxing the "windfall profits" of companies which invest those profits in ventures other than U.S. energy production. But it makes no sense to tax away the dollars which would be used for additional domestic energy. And even without the tax, the government will reap the biggest windfall of all . . . some 62 percent of the additional revenues will be paid by the oil companies in federal and state taxes.

But too many politicians need an election year scapegoat. They have decided to single out oil producers for "special tax treatment." Taxing away resources needed to produce more oil defeats the purpose of decontrolling oil prices.

The purpose of decontrol is to provide the dollars producers need to find and extract more oil and natural gas in America. By taking away those dollars, the President and the Congress will make us more dependent on foreign oil, and domestic production will decline further, just as it has ever since controls were imposed.

Playing politics with America's energy future is no solution to the most critical problem we face. Amway Corporation, Ada, MI 49355.

One of a series of messages to stimulate public dialogue about significant national issues.●

NEW AMERICAN CITIZENS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 30 residents of Maryland's Second Congressional District who have chosen to become American citizens, accepting all of the responsibilities that freedom and citizenship entail. I hope that my colleagues will join me in welcoming these new Americans and extending to them our wishes for a happy and prosperous life in the land we love.

They are:

Mrs. Eva S. Zinreich, Mr. Stanislav Klika, Mrs. Hyong Cha Harrid, Mrs. Elizabeth R. Kramer, Mr. Edwin M. Lacanienta, Mr. Sharadchandra M. Desai, Mr. Mihail Almiroudis, Mr. Rene F. De Brabander, Mrs. Ghazala A. Burney, Mrs. Rosemary Alison Eshelman, Mr. Peter Inglis Buchan, Mr. Isidoro Lachter, Mr. Johannes W. Van Der Spek, Mr. Fernando J. Acle, Mr. Alejandor E. Acle, Mr. Dhia M. Said, Mrs, Yu-Lien Wang, Mr. Victor Wang, Mrs. Sun J. Kim, Mr. Gab Sang Yun, Mrs. Hae Sook Yun, Mr. Teodoro R. Carangal, Mrs. Rita L. Carangal, Mrs. Phyllis Mary David, Mr. Oscar Glikin, Mrs. Hae Sook Lee, Mr. Yong Huh Hong, Mrs. Keun Ok Hong, Mrs. Jestina Ann and Mr. Stephen Mark Held in behalf of Edwin Jee Nam Held (6) and Benjamin Jee Hwan Held (6).●

PROBLEMS IN ATTEMPTING TO RECRUIT AND RETAIN QUALIFIED NONCOMMISSIONED OFFICERS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HILLIS. Mr. Speaker, on January 17 there appeared an article in the Washington Star entitled: "Paying for Sergeants in the 1980's." I believe this article clearly states the problems facing our military leaders today in attempting to recruit and retain qualified NCO's. The Congress and the Department of Defense must address these problems as we debate the fiscal year 1981 budget.

In the past few years military benefits have come under increasing attack. Educational benefits have been severely reduced. Attempts have been made to reduce commissary and BX or PX privileges. To some degree, along with neglecting to increase pay sufficiently, these issues have led to the situation described in the article.

We must begin to find solutions to the problems of recruiting and retaining qualified military personnel if we are to adequately maintain our national defense and security.

I am placing a copy of the Star's article in the Record with the hope that my colleagues will read it and support future efforts to improve the compensation of military personnel.

Paying For Sergeants in the 1980's

(By R. James Woolsey)

Manpower will be the most intractable national security problem of the '80s.

We are experiencing a resurgence of national will under the influence of the turbulence in Iran, Soviet moves in Afghanistan, and the specter of hostile nations controlling the West's and Japan's oil.

But such surges of American patriotism have historically found expression first, and most easily in appropriations for major weapons systems. National leaders have always had a much more difficult job convincing the country to act sensibly about military manpower. Franklin Roosevelt and Carl Vinson somehow got capital ships built, even in the 1930s. But they and Sam Rayburn only saved the draft by one vote in September of 1941—two full years after the beginning of World War II.

In 1941 it was clear what statesmanship required: We needed the draft. Today the condition of the all-volunteer force presents a murkier picture. The four services have never been better led by service chiefs who understand and exert personal effort daily on manpower problems. Much, though probably not enough, is being done to improve recruiting, to teach remedial reading and job skills and to utilize women in a wider range of jobs.

But all this may well not be sufficient. The Army's Individual Ready Reserve is already a skeleton. All services are missing their recruiting quotas and the mental and skill levels of many enlistees are, to put it mildly, lower than desirable. Recruiting scandals continue as the pressure mounts.

The resumption of peacetime draft registration alone, while a reasonable and prudent step, will not change this picture. Registration merely lets inductions occur promptly if war comes, since no one seriously plans to fight for long with volunteers.

THE DEMOGRAPHIC THREAT

The most serious problem of all is that, each month, relentlessly, the pool of young men available for military service declines. Demographic projections make it crystal clear that this will continue through the '80s. At the beginning of the next decade there will be only about three-fourths as many young men in the country as there are today. Under an all-volunteer force then, we will have to attract about one out of every three qualified and available men into the military. If we find somewhere a bag of Krugerrands to give each enlistee, we might barely pull that off. But short of that—and certainly if we keep doing business as we are today—the all-volunteer force will fail. The less intelligent our manpower policies, the further we'll move the date of failure into the embarrassingly near future.

UNWISE CIVILIAN CUTS

One way to fail sooner rather than later is to continue the severe cuts and limitations in defense civilian manpower that Congress and the Executive Branch have taken turns imposing over the last several years. When you cut, for example, the number of Navy civilian shipyard workers, someone has to take up the slack or the ship overhauls don't get done. So sailors work 72-hour weeks, don't re-enlist, and thus create a need for more recruits.

Another way to ensure failure is to continue clobbering career enlisted men and women with a pay structure that undervalues their contribution and with "reforms" that drive them out of military service.

In 1971 when the draft was ended by Congress, first-term enlisted men and women got more than a 50 per cent pay increase while the career force got a pittance. Military pay increases have been running at half the inflation rate, in good years. Some in Congress now propose increasing that to 10 per cent or so—about two-thirds of the current inflation rate. That's better than nothing, but hardly solves the careerists' problem. Inflation has so eroded the pay of the career enlisted soldier, sailor, and marine that today an E-6 (staff sergeant or 1st class petty officer) with, say, 8 years' service, stationed in Northern California, makes $300 a month less than a unionized grocery checkout clerk in nearby San Jose.

A number of good people stay in, but it is out of patriotism, and there are fewer each year. Frequent moves disrupt service family life and make it hard for a serviceman's spouse to work—the increasingly common augmentation for inflation-wracked family income. Emotionally important, and relatively inexpensive, benefits such as free parking or separate non-commissioned officers' clubs are removed year by year by one part of the bureaucracy or another. A generous retirement system permitting a second career after 20 years—the last major benefit better than that in the civilian world—is under assault.

OVERCOMING THE SHORTFALL

It is only by using civilian labor at every possible point and by significantly increasing the careerist proportion of the enlisted force that the all-volunteer force can be given a fighting chance. Increasing the careerist share, e.g., from 42 to 50 per cent of the enlisted force, principally by selective pay and benefit improvements, would reduce enlisted requirements by about 70,000 men annually. That would make up for more than double today's enlistment shortfalls. Such steps could postpone the date by which we must return to a peacetime draft from the early '80s to the mid-'80s. If we are very lucky there's an outside chance, but only that, that they could even get us through the decade.

But even if we return to a peacetime draft or adopt some sort of national service system, the armed services can't function without the sorts of sergeants and petty officers who today are voting with their feet. They are the sinews of any military force—whether its privates come from Watts, Appalachia, or Groton—and they deserve better than what they've been getting.

Even if you don't believe that, consider your own family's self-interest. The world has recently shown itself to be an angry and wicked place. You may need some people to go take a hill somewhere soon. Whom do you want your son learning the ropes from, when he first comes under mortar fire there—somebody who can't make it as a grocery bagger?●

SALTY SENSE—PART I

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. CARR. Mr. Speaker, today I am initiating a series of CONGRESSIONAL RECORD insertions. From time to time I will insert those statements on strategic arms limitation which in my judgment are unusually cogent or perceptive.

It is no secret that I support SALT II; therefore one would expect these insertions to reflect that view. In fact, I must say that I have yet to hear an argument against the treaty that was either cogent or perceptive, and that could not be instantly demolished by exposure to the facts. Nevertheless, should such a document appear I will happily include it in the series.

I begin the series with a superb summary of the basic case for SALT II prepared by the gentleman from California, Mr. BEILENSON. The following insertion is excerpted from his constituent newsletter of December 1979:

A PERSONAL VIEW: WHY SALT II SHOULD BE APPROVED

FACING THE CHALLENGE OF A NUCLEAR WORLD

Twenty-five minutes from now the United States can destroy Russia as a nation and a society—and the Russians can do the same to us. . . . The United States has enough nuclear warheads to strike the 450 largest Soviet cities 20 times each, and the Soviets have enough warheads to hit an equal number of American cities 10 times each. . . . The global stockpile of nuclear arms now equals one million Hiroshima-size bombs, with a combined explosive power equal to 12 tons of TNT for every person on earth.

These facts are so overwhelming that we become numbed by them. But we cannot lose sight of the insanity of it all, of the horror that would be visited on humankind if only a fraction of these thousands of weapons were ever exploded—we would certainly lose our country and our society as we know them, and our own and our children's futures.

There is absolutely no defense on either side against this existing ability to destroy each other, and I think that any sane and thoughtful person would support sensible and rational means to decrease the possibility of nuclear war.

The Strategic Arms Limitation Treaty (SALT II) represents seven years of effort by the two superpowers to slow the nuclear arms race. The Treaty, for the first time, mandates limitations in the nuclear weapons systems of the United States and the Soviet Union. It thus constitutes a substantial achievement and a major step in a necessary process that must be confirmed and continued if we are ever to limit the threat of nuclear weapons.

After exhaustive investigation and many weeks of testimony on SALT II in the Senate, not a single weakness or loophole has been found in the Treaty. And that is why those who are seeking to defeat SALT II, and cannot do so on the merits, have resorted to raising other issues such as the presence of Russian troops in Cuba, and demands for greatly increased U.S. defense budgets.

But the greater our concerns about aggressive and unfriendly Soviet intentions, the more we need to restrain their ability to build up their strategic nuclear forces; the more one distrusts the Soviets, the more one should support the SALT agreement.

The Treaty should be judged on its merits alone—we should support it only if it is good for us. It must not be considered as a favor to be given to the Russians as a reward for good behavior or withheld as a punishment for bad behavior.

The only standard by which we should judge the Treaty remains: will our national security be better served by its approval or by its defeat? If it is in our country's interest, it should be approved; if it is not in our own interests, it ought to be rejected.

THE TRUTH ABOUT SALT II

While the provisions of the Treaty are complicated and lengthy, and the arguments surrounding it are complex and confusing, the simple truth of the matter is that the provisions of the SALT II agreement are overwhelmingly favorable to the present and future security interests of the United States.

The Treaty will preserve the military balance between the U.S. and the Soviet Union by restraining the Soviet military build-up while permitting the modernization of our own strategic forces at the same time.

Limit on strategic delivery vehicles. The Treaty places a limit of 2250 on the number of strategic delivery vehicles—i.e., long-range bombers, land-based missiles of intercontinental range (ICBM's), and missiles fired by submarines—each side may have. The Russians have 2500 delivery systems now; to comply with the Treaty, they will have to destroy or dismantle about 10% of their systems. This will be the first agreed upon reduction in the history of nuclear arms.

Without this SALT-imposed restriction, the Russians are expected to have 3000 delivery systems built by 1985. Thus, without SALT, they would have 750 more missile systems aimed at the United States. On the other hand, the U.S. has only 2000 delivery systems—so we can build up to the 2250 figure if we want to.

Limit on nuclear warheads. The Treaty places a limit on the number of warheads that can be deployed by each country—which would result in limiting the Soviets to about 9500 warheads, compared with as many as 18,000 they would be able to deploy if they followed present production schedules in the absence of the SALT agreement.

This limitation on warheads is critically important because it is in this area that the Soviet Union has the greatest potential for dramatically expanding its forces in the near future. Without SALT, for example, the 300 big Soviet "heavy missiles" could carry up to 30 warheads apiece—a total of 9000 nuclear bombs; with SALT, they are limited to 10 warheads apiece—a total of 3000. Thus, under SALT, there will be 6000 fewer nuclear warheads aimed at the U.S. from this one Soviet missile system alone.

There are many other important provisions of the Treaty which impose additional significant restraints on the ability of both superpowers to deploy more nuclear weapons. But, equally significant from our own point of view are the areas which the Treaty does not touch:

It does nothing to curb our "forward-based" forces in Europe—the 700 American missiles and planes equipped with nuclear bombs that are within striking range of the Soviet Union (the Soviets have no such weapons close to the U.S.) We have more nuclear warheads in Europe than the Russians have in the entire world, and they are all excluded from the provisions of the Treaty.

The Treaty does nothing to change the current imbalance, favorable to us, in which 70% of Russia's nuclear power is concentrated in exposed and increasingly vulnerable land-based missiles, while nearly 75% of ours is on almost totally unvulnerable submarines and bombers.

It also does nothing to restrain the nuclear capabilities of the three other nuclear weapons states (Britain, France and China), all potential adversaries of the Soviet Union.

SALT II prohibits none of the programs which our own military leaders believe are necessary for improving our own strategic nuclear capabilities. Throughout the negotiations, care was taken to preserve the options that those responsible for our military planning have defined as necessary to our security. In fact, the agreement allows the United States to go forward with every single strategic nuclear program now on our drawing boards—all of our military options are open. We can arm our heavy bombers with thousands of new, accurate cruise missiles of unlimited range. We can go ahead with our new Trident submarines and our new longer-range, more accurate Trident missiles. We can go forward with our new warhead and guidance system for our ICBM's, and develop and deploy our MX mobile missile. The Treaty will not interfere with any of these programs but will, in fact, aid our planning by giving us a much clearer picture of the military threat we will face in the 1980's, and by setting limits on what the Soviets can do.

WHAT WILL HAPPEN IF SALT II IS NOT APPROVED?

SALT II deserves support because the provisions of the Treaty itself are clearly in our interests. In addition to that, however, rejection of the Treaty by the U.S. Senate would have profoundly damaging consequences to this nation:

Rejection of the Treaty would damage the United States' leadership position among our allies and throughout the entire world. There would be a global perception that America had chosen confrontation rather than cooperation and peace, and that the Soviet Union is more committed than is the United States to limiting the threat of nuclear war.

Our allies would lose faith in our ability to conduct international affairs. It would indicate to them that we cannot generate a stable national consensus on even this most crucial of foreign policy issues. It would also tell them that a relaxation of East-West tensions is not likely to come about from bilateral U.S.-U.S.S.R. negotiations and that, if they wish to pursue detente, they will have to do so on their own.

And, here at home, rejection of the SALT agreement would leave our national security policy in disarray, with no clear support in the country or in Congress for any specific approach to national defense issues or the limitation of nuclear armaments.

Our relations with the Soviet Union would worsen and tensions would increase. The SALT process would be stopped dead in its tracks, and the prospects for achieving significant reductions in nuclear armaments at any time in the near future would become extremely remote. The Russians have been involved in these bilateral negotiations with us now for more than seven years, they have engaged in this process with the utmost seriousness, they have made most of the major concessions—and it would be incomprehensible to them if we were now to abruptly discard the results of all our mutual efforts. They would be led to conclude that the U.S. had changed its policy, and they would move to further build up their own military forces.

We would thus be sending the wrong signals to Moscow—signals which few thinking Americans would want to send. At a time when Soviet leadership will surely be in transition, we will be strengthening the hand and validating the position of the militarists and hardliners in the Kremlin who want an escalation of tensions and dangers in the world.

Finally, and most importantly, we will greatly jeopardize our own national security. Unrestrained by the terms of the Treaty, and angered and frightened by the abrupt reversal of an American nuclear policy pursued by recent Democratic and Republican administrations alike, the Soviets would be encouraged to go ahead with development, deployment, and expansion of nuclear weapons systems that would otherwise have been prohibited by SALT II.

Without SALT, the Russians would have twice the number of nuclear warheads, hundreds more missiles and heavy bombers, and several new types of ICBM's than they would be allowed under the Treaty. There would be no limit on the size of these new missiles and, most importantly, no limit on the number of individual nuclear bombs with which each missile could be equipped—thus greatly endangering the survivability of our own nuclear forces.

Without SALT, there would be no restriction on concealment and encoding practices, and no requirement that the U.S.S.R. give us data on their nuclear systems (as required by SALT), thereby making our verification of Soviet missile testing, development and deployment much more difficult.

Thus, without SALT II, we would have a renewed and destabilizing nuclear arms race—and all we would end up with would be greater military and political uncertainty, many additional billions of dollars in defense costs—and less security for our nation.

THE CHOICE BEFORE US

It is important to remind ourselves what we are talking about—an issue totally unlike anything we have ever had to deal with before. Even a single nuclear explosion over any major city would result in a catastrophe greater than any mankind has ever known. We are talking, in brief, about the survival of the human race.

As I said at the outset, there is only one standard against which to measure the provisions of SALT II: does the Treaty serve the security interests of the United States by lessening the possibility of a nuclear exchange? I think the answer is clearly in the affirmative—and I suggest that the burden is on those who feel differently to show us how rejecting SALT II would reduce the Soviet threat in any way or lead to a safer, saner, or more secure future for any of us.

We have negotiated a Treaty that is favorable to our side and that protects our own security interests—and we must be wise enough to seize this opportunity and ensure its success.●

NATIONAL DAY OF SRI LANKA

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. BOWEN. Mr. Speaker, February 4, 1980, marks the 32d anniversary of the independence of Sri Lanka.

I have been privileged to visit Sri Lanka, which means resplendent land, also known as Ceylon, and Sri Lanka is a most appropriate name for this shining example of democracy among the developing nations.

When it gained independence from Great Britain in 1948, Sri Lanka set out to establish firmly the twin principles of democracy and economic opportunity, building upon the foundation so wisely constructed by Great Britain, the colonial administrator. Universal adult suffrage was introduced in 1931, and one of Asia's highest literacy rates has been expanded even further since the peaceful transition to independence in 1948. Four-fifths of Sri Lanka's adult population is literate, and over 80 percent of eligible voters participate in general elections. In addition, life expectancy is up to 68 years, and the population growth rate is down to 1.5 percent.

Two years ago, Sri Lanka moved from a parliamentary form of government to a modified presidential system. An elected President now serves a 6-year term and works with a Parliament also directly elected by the people. The actions of the Parliament cannot be vetoed, and there is also an independent judiciary. Equal opportunity is guaranteed to every Sri Lankan citizen, irrespective of language, ethnic origin, or religion, by the 1978 Constitution.

The most salient influence in Sri Lanka today is the leadership of President J. R. Jayewardene, who heads the United National Party. He is now carrying forward, with the assistance of a very talented Cabinet and a wise Parliament, a program of economic and financial reform aimed at establishing a free market economy, greater tax incentives for increased private savings and investment, and a system in which hard work and initiative can enable anyone to prosper. Private capital, both foreign and domestic, has responded well, and the Sri Lankan economy and opportunities for her people are rapidly expanding.

Mr. Speaker, since February 4 is the National Day of Sri Lanka, I think it is appropriate that we offer our congratulations to a nation which has exerted great influence for moderation and balance in the nonalined movement, which has condemned the Soviet invasion of Afghanistan, and which is a model of political and economic democracy for many developing nations.●

CIA SUDDENLY HAS FRIENDS AGAIN

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. McCLORY. Mr. Speaker, a recent article in the Chicago Tribune by the Columnist Nick Thimmesch describes a new public perception of our Nation's intelligence agencies.

The hearings which are being conducted by the Legislative Subcommittee of the House Permanent Select Committee on Intelligence are extremely significant in identifying the congressional response to this renewed support of the intelligence agencies.

I am hopeful, of course, that this public support will continue and that we may perform responsibly in behalf of revitalizing our intelligence agencies—as President Carter indicated in his state of the Union message.

The recognition by the President that both our military posture and our intelligence capabilities need to be augmented is commendable. His statements are consistent with his proposed new direction in foreign policy. I regard the President as a newcomer to these views, but hasten to note that he is voicing sentiments reflected in the public polls.

Mr. Speaker, Nick Thimmesch has dramatized the new support which is being extended to the CIA and to other intelligence agencies, and I commend his article to you as it appeared in the January 26 issue of the Chicago Tribune as follows:

The CIA, that necessary rogue, is appreciated again. The Republic's overseas troubles have swung the public and the decision-makers over to its side. Rational people know that the United States must have a Central Intelligence Agency—a title, by the way, far more popular in surveys than the pejorative initials CIA.

Only a few years ago, Congress was beating the whey out of the CIA. The Hughes-Ryan Amendment to the 1974 Foreign Assistance Act all but stopped the CIA from engaging in covert actions. Between 1975 and 1979, four major congressional committees went over every wart and pimple on the CIA, producing 7,093 pages of hearings and reports, and creating the notion that perhaps the agency's days were numbered.

The CIA crawled out of this wreckage, retreated to its Langley, Va., campus, and began offering the public all manner of free documents to reassure everybody that it was an open enterprise.

But it can't be. Since Iran, Congress has been demanding that the Central Intelligence Agency behave more like the old CIA and have spies in appropriate vital places so that our government will know what's going on. Birch Bayh, chairman of the Senate Intelligence Committee, even goes around defending the CIA these days on matters like its Afghanistan intelligence.

A 73-19 majority of Americans according to a recent ABC News-Harris Survey, now favors "overhauling and stepping up CIA intelligence activities around the world." A 57-34 majority wants the United States "working to overthrow the Ayatollah Khomeini in Iran."

Several years back the survey gave the CIA a 49-32 negative rating. The agency was a favorite target for politicians and the press. Sinister motives were attributed to the CIA in movies, TV films, and skin magazines.

CIA recruiters had to knock before entering any college door; some universities are still opposed to such recruitment. But agency officials now report no serious difficulties on this one-time enemy soil. Applications by college graduates are up, and the applicants' educational levels are up to one-third better than a few years ago. In 1979 there were 104,000 inquiries about employment at the CIA, with 16,400 interviews conducted. There is a 21 per cent increase in recruitment of women.

Still, the agency has serious problems. Wholesale firings during the reform period caused loss of people needed now and diminished morale. Euphemisms like "special actions" replaced "covert actions." Indecision and a feeling of lack of purpose plagued the building. The idea got around that PHOTINT [acronym for photo-intelligence] would prevail over HUMINT [human intelligence.]

The Freedom of Information Act has been invoked 25,000 times at the CIA by individual Americans, universities, Congress, and foreigners, the latter group no doubt including intelligence agents from hostile countries.

The Polish Embassy here even asked for sensitive information, as it is allowed to under the act. Last year, the CIA spent more than 116 man-years on request for information. No request galls the agency more than those from Phillip Agee, one-time agent and now an admitted enemy seeking to put the CIA out of business.

"Total application of public disclosure statutes to the CIA is seriously damaging our ability to do our job," Frank C. Carlucci, deputy director, told a select, congressional committee last year.

Foreigners willing to serve as information sources are leery of doing anything for the CIA because of FOIA, Carlucci said:

"A foreign intelligence source from a Communist country broke off a productive association with us specifically because of fear of consequences of disclosure under the Freedom of Information Act."

Similarly, foreign intelligence officers of friendly nations are reluctant to cooperate. Patriotic Americans are also afraid to volunteer information. Carlucci told a president of a U.S. firm, a former cabinet member, who said "any company was out of its mind to cooperate with the CIA as long as the provisions of FOIA apply to it."

Anyway, Iran and Afghanistan demonstrate that American interests are hardly served by the enfeebling of the CIA, the degradation of its work by the three TV networks, and the aberration of the top intelligence agency having to show its innards to anybody who comes along.●

NOMINATION OF RUTH BADER GINSBURG TO THE U.S. CIRCUIT COURT OF APPEALS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. DANNEMEYER. Mr. Speaker, the nomination of Columbia University law professor Ruth Bader Ginsburg to the U.S. Circuit Court of Appeals for the District of Columbia raises the question of what exactly is President Carter trying to do to our Federal court system.

Although her record indicates legal accomplishments, Mrs. Ginsburg is certainly not one of the top candidates who could be nominated to sit on the court which may be the second highest court in our Nation. She lacks judicial experience. She has not compiled scholarly treatises on complex legal topics. She is certainly not one of the better known legal professors in the country.

What are her chief qualifications? Certainly, one reading the newspaper accounts of the appointment and the reaction to it discovers that Mrs. Ginsburg is considered one of the leading feminist lawyers, had been successfully involved in a number of key sex discrimination cases, is a passionate advocate of the ratification of the equal rights amendment, and is an activist participant in the so-called women's movement by her involvement in the Women's Rights Project, Women's Action Alliance, and the Women's Law Fund. The appointment comes at the very time when President Carter was under attack from some quarters for not being sufficiently responsive to the demands of the women's movement and when the National Organization of Women announced their intention not to support President Carter's reelection bid. We may legitimately ask what political considerations were behind Mrs. Ginsburg's appointment at this particular time? Did President Carter need a judicial nominee or did he need a judicial nominee which would curry favor with certain advocates in the women's movement?

I doubt whether Mrs. Ginsburg can separate her already well-known views on legal questions in the women's movement from the requirements of key cases coming before the court of appeals. Will she be able to exercise judicial restraint or an impartial decision on sex discrimination cases? Will she carry her views forward on cases dealing with such issues as jobs, abortion, contraception, et cetera? Will she be an arbiter on the court or an advocate? Will she impartially render the law or will she try to write into law what she from her past writings and policies views as desirable social policies? Will she adopt the equal rights amendment judicially through her court decisions?

These are all questions of legitimate concern. The courts are for legal decisions and not for political appointments or for political advocacy by judges. Ruth Bader Ginsburg may be an able scholar in the field of law but this background does not necessarily make her qualified for sitting on the U.S. Circuit Court of Appeals for the District of Columbia.●

A REPORT FROM THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HILLIS. Mr. Speaker, I am placing in the RECORD a copy of a letter I received from Mr. James Meck, president of Northern Indiana Supply Co., Inc., Kokomo, Ind. Mr. Meck was my appointee to the White House Conference on Small Business held in Washington, D.C., January 13 to 17.

Mr. Meck's letter is an excellent description of the concerns expressed by the participants of the Conference. Tax reform, capital formation and cost recovery, inflation, Government spending and regulation, and reform of the social security system are all problems which Congress must address if we are to ever lift the burden of excessive Government interference from the American businessman's back. While the White House Conference on Small Business was able to focus on the problems of businessmen, it is up to the Congress to implement those recommendations.

I strongly urge the leadership of the House to address these issues during the coming year.

NORTHERN INDIANA SUPPLY CO., INC.,
Kokomo, Ind., January 29, 1980.

Hon. ELWOOD H. HILLIS,
Rayburn House Office Building,
Washington, D.C.

DEAR BUD: I thank you for the opportunity to represent you and our district at the recent White House Conference on Small Business. Although with Indianapolis, Chicago, and Washington, D.C. meetings, I was away from work six days, I believe we had and will have an opportunity to present small business problems and solutions to our government.

The first meeting I attended at Indianapolis this summer was one of fifty-seven open forums to discuss issues affecting small business. The ideas and suggestions from these meetings were discussed in depth at ten regional meetings. These meetings fashioned the agenda and issue areas for the National Conference. At the National Conference we had twelve issue areas and each delegate was to choose two areas in which to work. We took twenty to thirty ideas in each area and arrived at the five most important by discussing them and then voting. The top sixty issue recommendations were presented to the delegation as a whole and we voted on the top fifteen to present to the Congress and executive branches of our government.

Although I am sure you will receive a formal presentation of our work, I would like to give you my feelings on some of the issues. I think all small businesses are affected by the need for capital formation and retention which was the most popular of the issue areas. One recommendation was to lower and graduate the corporate tax scale up to $500,000 profit, and to put a lid on the individual rate at 50 percent of income derived from a small business. This would be similar to the lid on capital gains.

Another recommendation was to revise estate tax laws to ease the tax burden on family-owned business and encourage the continuity of family ownership. I believe that after a proper study and re-writing of the laws in this area, Congress can help stem the flow of small business disappearing to the large corporations.

A very popular subject was to adopt a simplified, accelerated capital cost recovery system to replace the present complex asset depreciation range regulations with provisions such as:

(a) immediately expensing capital costs less than a specified amount.

(b) immediately expensing government mandated capital costs.

(c) the creation of a maximum annual benefit that may be derived from the system.

The area of inflation was considered very important to small business, because by and large they are very competitive and cannot adjust to inflation as well as big business, big labor, and big government. The most important recommendation in my opinion was: Balance the federal budget by statute in fiscal year 1981 by limiting total federal spending to a percentage of the GNP, commencing with 20 percent and declining to 15 percent. Another issue was to reform the Social Security System with specific recommendations.

Government regulations and paperwork received a lot of attention. The most important issue was that Congress should maintain oversight on the proliferation of regulations and veto unnecessary ones. We would also like sunset reviews on existing laws and regulations.

The office of advocacy in the Small Business Administration received many good comments and the economic policy and government program workshop thought that the office should be expanded into other agencies. This workshop also stressed that all government agencies submit small business economic impact statements with new regulations.

I have highlighted a few of what I consider the most important issues discussed. I hope that the format work done by the Conference will filter out in the form of legislation that you can support. Even more important is that maybe some of the bureaucrats in Washington are aware that we (small business) are out here because we were there.

Thanks again for the opportunity to serve you and the Fifth District Small Businesses.

Very truly yours,

JAMES E. MECK.●

REPORT FROM THE MIAMI CONFERENCE ON THE CARIBBEAN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. YATRON. Mr. Speaker, toward the close of last session, I had the pleasure of participating in the Miami Conference on the Caribbean, which took place November 28-30 and brought together key public and private sector leaders from the Caribbean countries and several hundred leading U.S. businessmen.

In my view, this conference was a very important opportunity for the U.S. Government to present our own interests and concerns for the region, and to listen to priorities and viewpoints of diverse sectors of Caribbean leadership and opinion.

It was also an important opportunity for Caribbean businessmen and development officials interested in attracting U.S. investment to get together with potential investors and trading partners, using informal time at the conference to follow up on information and ideas set forth during the sessions.

The conference opened with a strong statement of policy. President Carter delivered a message by closed-circuit television, emphasizing American support for Caribbean aspirations for prosperity and human rights.

The President's message was followed by a major statement of U.S. policy toward the Caribbean, delivered by Ambassador Philip Habib, senior adviser to the Secretary of State.

Ambassador Habib pointed to five principles guiding U.S. policy in the region: Support for economic development, commitment to democratic practices and human rights, acceptance of ideological pluralism, respect for national sovereignty, and strong encouragement of regional cooperation and Caribbean activism in world affairs.

I believe both of these statements reflect a significant direction in U.S. policy that recognizes the importance the future of the Caribbean will play in our own future. I ask that the text of President Carter's message be included in the RECORD:

REMARKS OF THE PRESIDENT AT THE MIAMI CONFERENCE ON THE CARIBBEAN

The President: Even though I cannot be with you in person this evening, I want to use this conference to reaffirm my commitment and that of the United States to economic development and democracy in the Caribbean. We ourselves are part of the Caribbean community and we know that development and democracy are key to realizing the strength of the region and meeting its challenges.

The Caribbean today is passing through a time of rapid change and our mutual challenge is to steer a course economically, socially and politically, that will lead to a better life for all our people.

Twenty years ago only three island nations in the Caribbean were independent.

Today there are thirteen such sovereign nations and that number is likely to increase by as many as five in the next few years. Behind these numbers is a stirring history. Its beginning was an unpleasant story marred by lonely struggles against slavery, colonialism and, too often, indifference by the outside world. But the drive of the Caribbean peoples toward freedom and modern development is primarily a proud story, one of courage, imagination and determination in the face of hardship.

Today, however, with independence largely won, the Caribbean still faces many problems. Perhaps the most serious problems are economic. Spiraling oil prices, unstable commodity markets, uneven growth, inflation and unemployment are not unique to the Caribbean. But these global trends have struck the small countries of the Caribbean with special severity. They add a major burden to the already imposing challenge of the building and development of independent nations. And economic deprivation creates vulnerabilities to extremism and to foreign intervention.

In facing these problems, the Caribbean has some significant advantages. In addition to its beauty and climate, vigorous political institutions and talented human resources provide special opportunities. From the resurgent social democracy of the Dominican Republic, to the established parlimentary traditions of some English-speaking peoples, free institutions have fostered development within a stable framework.

The awarding of this year's Nobel Prize to the distinguished development economist, W. Arthur Lewis, exemplifies the achievements and contributions of the island peoples. Citizens of the United States and the Caribbean stand together with a common pride in our achievement. We stand for the rights of people to be free of oppression, free from arbitrary abuse, and free to participate in their nation's political life.

These rights of freedom are precious. Whatever the claimed justification, we will not be silent when these rights are abused. We stand with those who are genuinely committed to economic development. We stand with those who espouse social justice and human rights, and who work to translate them from abstract goals into real programs. We stand with those who are genuinely committed to international relations based on mutual respect.

As President, I have sought consistently to implement these principles, and to strengthen relations in the region. We negotiated canal treaties with Panama, in keeping with our determination to forge new and better relationships with developing countries. We have worked with 30 countries and 15 international institutions to establish a Caribbean group, which has expanded and coordinated the flow of aid to the region, and will support efforts to design, fund and implement regionally—integrated development activities.

My Administration has increased direct economic assistance to the Caribbean, nearly doubling bilateral aid obligations over the past two years. As actual disbursements reflect these increases, we will be contributing more than ever before to generate employment and to help meet basic human needs. This is particularly true for the newly-independent countries of the Eastern Caribbean.

We have come rapidly to the assistance of countries like the Dominican Republic and Dominica, friends in need of emergency aid to rebound from natural disasters. We have repeatedly shown our eagerness to support political freedom and democratic processes. But such governmental action, no matter how important, is still not enough.

That is why your meeting tonight is so important. The United States has vast untapped resources of technology, skills and good will. I will use my office and my influence to help mobilize the people of the United States to work with the people of the Caribbean for common goals, social and economic development, and democracy.

In the United States, our universities, agricultural and labor organizations, business and industry, churches, and other benevolent institutions, state and local governments, and individual private citizens, can all play a vital role in establishing mutually-advantageous relationships with our friends in the Caribbean. We can all benefit from improvements in education, agriculture, tourism, industry, trade, health, transportation, employment opportunities, and personal friendships among our people.

The answers for the future are in the Caribbean's own talents and traditions, not in the false promises of foreign models. Solutions will not emerge by blaming our problems on our own friends. To seek freedom, justice, independence and a better life, one needs to work closely with those who genuinely share the goals of development and democracy. I hope that the other basin states of Venezuela, Colombia, Mexico and Central America will play a vigorous role in this effort.

The Caribbean group is an excellent example of the benefits of a multi-lateral effort. Closer cooperation between the Caribbean community and the Central American Common Market, and perhaps also the Andean Pact, could be another step toward greater progress. Like the Caribbean, Central America is experiencing a period of profound change. Unlike the Caribbean, where nations are struggling to defend democratic institutions while they modernize, many of the nations of Central America are seeking to develop democratic institutions which had not previously existed. Nevertheless, both regions have much in common, and also much to learn from each other.

Few societies can more genuinely speak of a common destiny than ours; for the United States and the Caribbean, the ties of history and geography are continuously renewed by what can only be described as one of the most intense people-to-people relationships in the world today. It is a relationship filled with exciting possibilities that are waiting to be explored. As leaders and molders of opinion, we have a special responsibility to build understanding, to defend the region's democratic institutions, and to promote development of social and economic justice.

On behalf of the people of the United States, I pledge our continuing respect and support for these efforts. Thank you very much.●

THE NEED FOR OVERSIGHT HEARINGS ON THE EPA'S PROPOSED REGULATIONS ON VISIBILITY IMPAIRMENT

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. RUDD. Mr. Speaker, on November 5, 1979, as a result of litigations brought about by the Friends of the Earth, the U.S. District Court of the District of Columbia directed the Environmental Protection Agency to implement section 169(a) of the Clean Air Act Amendments of 1977. That section established as a national goal, protection of visibility in class I Federal areas from impairment by manmade air pollution.

That section further requires the EPA to study methods for achieving that laudatory goal and to report to Congress with definitive methods for identifying and quantifying visibility impairment; modeling techniques or other methods for determining the extent to which manmade pollution may reasonably be anticipated to cause or contribute to such impairment; and methods for remedying such manmade air pollution and resulting visibility impairment.

The district court established a timetable for the EPA to undertake this massive regulatory task that is inherently unreasonable, requiring that regulations be submitted by May of this year and implemented by November 15, 1980. I might note that under the 1977 Clean Air Act amendments, these regulations were supposed to be implemented last year, however, due to the lack of sound scientific methods for achieving the goals of section 169(a), initiation of the rulemaking process was, quite reasonably, postponed.

The U.S. district court, in taking its action, has ignored a palpable body of scientific data that clearly indicates more complete information is needed prior to the enactment of any regulatory measures dealing with visibility, allow me to quote from the Environmental Research and Technology (E.R. & T.) Inc. study, "An Assessment of the Principal Technical Issues Related to Visibility Protection Under the Clean Air Act," which was completed for the U.S. Department of Energy in September of 1979:

> Limited information exists at this time to support the administration and implementation of a regulatory framework, either on a national or a regional scale, for the 1977 Clean Air Act amendments mandate relating to visibility improvement.

Furthermore, the E.R. & T. report goes on to note that—

> Existing methods to measure the cause and effect of visibility changes in class "I" areas are very limited and require substantial improvement before they can be applied in regulatory practice with reasonable confidence.

The report also states:

> Review of air quality models applicable to visibility problems indicates that available modeling techniques are not adequate at present for regulatory decisionmaking, relative to estimating visibility impacts of major energy facilities.

I find this particularly disturbing in light of our Nation's energy plight. I hope we are not facing increased costs for energy as a result of poorly contrived regulations.

The findings of this study are revealing in light of the acquiescence of the EPA to the district courts decision. It is patently obvious that the EPA cannot, with reasonable scientific justification, promulgate meaningful regulations at the present time. To quote further from the E.R. & T. report:

Determination of visibility baselines and source contributions to visibility impairment should be a major priority within the next year and could take up to 5 years to complete.

In short, there is not a valid body of scientific evidence available right now to base regulations on and further studies are genuinely needed which could take up to 5 years. It is clear that our country is faced with yet another instance where the courts have mandated rulemaking without considering the full impact of their actions.

It is my grave concern that the EPA not promulgate unduly restrictive regulations in the present atmosphere of scientific uncertainty as to the very definition of what constitutes visibility impairments.

In view of the fact that the EPA has not challenged the district court decision and intends to carry out the rulemaking process, and in view of the statutory requirement for a full report to Congress, I strongly urge my colleagues in both Houses to hold oversight hearings on the EPA's hastily conceived efforts to establish visibility impairment regulations.●

OMB STUDY CONCERNING THE DISTRIBUTION OF THE FEDERAL WORK FORCE

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HARRIS. Mr. Speaker, I would like to direct the attention of this House to a letter which I sent recently to the Director of the Office of Management and Budget concerning his recent study on the distribution of the Federal work force. I think that this matter should be of interest to my colleagues since the study dispels a common misconception concerning the distribution of Federal employees throughout the country.

Through its findings the study also makes an implicit statement concerning the types of individuals who work for the Federal Government. The Federal work force is composed of working men and women from all walks of life in cities and counties across this Nation, and I am pleased that this study has reinforced my belief that the Washington bureaucracy exists primarily in the minds of those who write politically popular fiction.

The letter follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND
CIVIL SERVICE, SUBCOMMITTEE ON
HUMAN RESOURCES, CANNON
HOUSE OFFICE BUILDING,
Washington, D.C., January 25, 1980.

JAMES T. MCINTYRE, JR.,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. MCINTYRE: I have reviewed with great interest the report prepared by your office concerning the feasibility of decentralizing Federal activities and relocating them outside the National Capital Region. The findings of this study, which was mandated by an amendment to the Civil Service Reform Act by Congressmen Jim Leach, show the inaccuracy of much of the conventional wisdom concerning big government and begin to debunk some of the myths concerning Federal employees.

Your study found that the Federal government is in fact already decentralized, maintaining 22,000 Federal facilities throughout the United States. Approximately 88 percent of the total Federal civilian workforce is located outside the National Capital Region. Nearly nine out of ten employees of the Federal government live in towns and cities across the nation, pay local school taxes, suffer from inflation, participate in local affairs, and pay Federal income tax on their earnings. Although this is not the generally accepted image of Federal employees, it is nonetheless accurate.

Moreover, your report states that this mix has been relatively stable for the last decade, despite the fact that actual Federal civilian employment has decreased during the same period. These facts effectively dispute claims that the "Washington bureaucracy" has grown in size and become removed from the citizens it serves.

I was especially pleased to note that the OMB has found no basis for recommending major physical decentralization of Federal functions currently located in the National Capital Region. Relocation carries a sizable pricetag in terms of direct and indirect costs. Besides these considerations, too much decentralization causes organizational inefficiencies which could adversely affect program delivery.

The report does identify Federal activities employing 9200 National Capital area residents which agencies may consider for possible relocation. I am hopeful that the agencies are made fully aware of the costs of relocation, and that they carefully study all factors involved before considering the relocation of any Federal activity.

Sincerely,

HERBERT E. HARRIS II,
Chairman, Subcommittee on Human Resources.●

BUDGET BRIEF

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. EDGAR. Mr. Speaker, following is an analysis of the low income and rural housing budget proposal for fiscal year 1980, as well as an analysis of the budget for unemployment compensation. These budget briefs have been prepared by the Northeast-Midwest Congressional Coalition:

BUDGET BRIEF NO. 5: LOW-INCOME AND RURAL HOUSING

HIGHLIGHTS

The president has requested $33.2 billion in budget authority to fund 300,000 units of subsidized rental and public housing, representing a real increase of 25 percent in the number of subsidized housing units the Department of Housing and Urban Development will fund in fiscal 1980. The administration's budget request reverses the trend in recent years of a decline in funding and responds to the growing need for low-income housing in a shrinking rental market.

The president's fiscal 1981 budget proposes an overall reduction in rural housing assistance—a 15 percent decrease in real dollars: Within this framework, however, the budget proposes a decrease in the total amount of funds available to moderate-income persons and an increase in the total amount of funds going to low-income persons.

I. Low-income housing

BUDGET SUMMARY

[Dollars in billions]

	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Subsidized housing (Section 8):					
Budget authority..	$22.9	$19.6	$24.4	24.5	14.6
No. of units funded.....	269,707	202,220	285,000	40.9	....
Public housing:					
Budget authority..	$8.2	$7.7	$8.8	14.3	5.2
No. of units funded.....	55,368	38,172	42,000	10.0	....
Total housing:					
Budget authority..	$31.1	$27.2	$33.2	22.1	12.4
No. of units funded.....	325,075	240,392	300,000	24.8	....

Background

The administration anticipates that its budget request of $33.2 billion will enable the Department of Housing and Urban Development to subsidize 258,000 rental units for lower-income households under HUD's Section 8 housing assistance program, and 42,000 units under its public housing program. This year's request for subsidized housing marks an increase of $6.0 billion in budget authority and allows an estimated 60,000 more units to be funded, while retaining the 60/40 ratio of newly constructed units to less costly existing ones. The proposed distribution of low-income housing units under both programs includes 180,000 newly constructed or substantially rehabilitated units, and the acquisition of 120,000 existing structures, of which 40,000 will require moderate rehabilitation.

Unlike other budget categories, budget authority for subsidized housing represents the total cost of HUD funds committed over a long-term contract period of 15 to 40 years. In short, it is more useful to discuss HUD program funding levels in terms of the number of housing units that will be subsidized at a given dollar level.

Last year's budget controversy over subsidized housing centered on calculations by the Office of Management and budget indicating that the President's fiscal 1980 budget request of $26.7 billion would fund 300,000 housing units. OMB's calculations were based on its optimistic projection that a lower per unit cost could be achieved, and the ration of less costly existing housing to new construction would be increased by 5 percent, to 45 percent of the total units funded. The latter would have required a statutory amendment because current law requires HUD to base its subsidized housing mix on local Housing Assistance Plans (HAPs). OMB's calculations did not foresee last year's 17 percent inflation rate in the housing construction industry, and the actual number of subsidized housing units dropped from the projected 300,000 to fewer than 240,000.

This issue appears to have been resolved in this year's budget request, with per unit housing costs gauged to reflect the impact of high inflation in the housing industry.

Regional Implications

Inflation, condominium conversions, and the high cost of mortgage money all have contributed to the shortage of housing, particularly low-income rental units. Early projections indicate that the 1980 Census will show the percentage of the population living in poverty is increasing in Northeastern and Midwestern states, thereby expanding the numbers of poor persons relying on the capacity of HUD to provide decent, affordable housing under the Section 8 and Public Housing programs. In 1978, the Northeast-Midwest region received 56 percent of all units allocated under Section 8 Housing Assistance program; 1980 estimates show that the region's share of Section 8 funding dropped to less than 50 percent, with a marked decrease in the number of new units constructed.

II. Rural housing

BUDGET SUMMARY

[Dollars in millions] [1]

	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Section 502 insured housing loans:					
Subsidized	$2,007	$2,220	$2,300	3.6	−4.6
Unsubsidized	860	860	472	−45.1	−49.5
Section 515 rental housing loans:					
Subsidized	822	820	820		−7.9
Unsubsidized	48	48	48		−7.9
Section 504 very-low-income housing repair:					
Loans	15	24	50	108.3	91.8
Grants	19	24	25	4.2	−4.1
Home onwership assistance program (HOAP) [2]			100		

[1] These figures reflect program levels. According to the Agricultural Department, "program level represents the total financial value of benefits provided to the public by USDA." The figures for 1980 and 1981 are estimates.

[2] This program has been proposed for 2 years, but Congress has failed to appropriate funds. The $100 million reflects the total cost of the program over the maximum term of the agreements. Actual first-year expenditures would be approximately $1 million.

Background

The overall decrease in housing funds will affect some states more severely than others because of the way Farmers Home Administration funds are distributed. Before fiscal 1977, the distribution of rural housing funds was based on historic program activity. But in 1977, the Farmers Home Administration began using formulas to distribute its housing funds. The formulas, based on "need" indicators determined by the agency, were established so that funds could be distributed by need rather than by demand.

The initiation of the formula resulted in some states receiving what Farmers Home has described as "unacceptable" increases or decreases in their level of funding. It was necessary, therefore, to temper those changes with a transition formula to ease states into their new level of funding. Many of the states which historically had received large amounts of money under these programs no longer qualified under the new allocation method based on need for the share of funds they were receiving. On the other hand, the total share of funds increased for those states not making wide use of the programs but entitled to greater amounts under the formula.

Regional Implications

FmHA's decision to distribute funds on the basis of need is sound, but there is some question as to the effectiveness of the formula's need indicators to accurately measure need. The formulas have been criticized on a number of fronts and there is some indication that the Farmers Home Administration will recommend new formulas for use in the next fiscal year. The Northeast-Midwest Institute has found that the substandard and poverty definitions currently used in the allocation formulas are inadequate and should be broadened to more accurately measure need throughout the nation. The current substandard definition includes only those homes that lack complete plumbing or are overcrowded, and poverty is presently measured by the national poverty line. The substandard definition should, at the very least, be broadened to include those homes that lack efficient heating systems. In addition, a poverty indicator that takes into account geographic variations in the cost of living should be employed.

State Implications

In fiscal 1980, 14 of the 18 states in the Northeast-Midwest region experienced reductions in their actual funding levels or in their total share of funds for either the Section 502 or 515 program. The cut in the Section 515 program resulted from the smaller amount of total funds being allocated by formula (because of the large amount of funds held in reserve by the national office) and the effects of the transition formula. Although the total amount of funds to be allocated by formula increased slightly from fiscal 1979 for the Section 502 program, the total share of funds for a number of states decreased as a result of the transition formula.

These cuts will be exacerbated in fiscal 1981. Because funding levels for the Section 502 program have been reduced, every state will lose some funds. The transition formula will decrease some state shares of funds even further. Similarly, the transition formula will reduce some states' total share of funds under the Section 515 program.

BUDGET BRIEF NO. 6: UNEMPLOYMENT COMPENSATION

HIGHLIGHTS

The president's fiscal 1981 budget for unemployment compensation is based on revised rules for the Extended Benefits program, making it less likely that the program will go into effect. The move is expected to cut $900 million in federal unemployment benefits and an equal amount in state benefits despite an anticipated rise in the national unemployment rate to 7.4 percent in 1981.

Northeastern and Midwestern states, many of which have suffered from high levels of structural unemployment, probably will see even higher unemployment rates in the next two years. The new regulations mean that less federal money will go to the Northeast-Midwest region and the recession will have a greater negative impact on jobless workers than it would under the present system. But it also means decreased outlays from some state trust funds in the region.

The changes will go into effect February 13, 1980.

BUDGET SUMMARY

[Dollars in millions]

	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Unemployment compensation:					
Budget authority	$15,516	$16,940	$19,351	14.2	5.2
Outlays	10,742	15,610	18,752	20.1	10.6

I. The extended benefits issue

Background.

The budget for unemployment compensation is based on revised rules for the Extended Benefits program, making it less likely for the program to be triggered into effect. Congress established the program in 1970 to provide 13 additional weeks of unemployment benefits to workers who have exhausted their regular compensation during a recession.

The program can be activated by either state or national indicators.[1] When the national indicator reaches 4.5 percent, the program is triggered into effect for all states. If the national trigger is off, an individual state can have extended benefits activated when its indicator reaches 4.0 percent and the current insured unemployment rate is 20 percent higher than the average rate for the previous two years.

The revised rules change the method of counting the number of unemployed workers to exclude persons collecting extended benefits. The effect is to lower the indicator. Since the program is triggered by a high unemployment rate, the lower indicators will trigger states onto the program more slowly and trigger them off more quickly. The budget for unemployment compensation assumes that the national rate will not increase enough in 1980 or 1981 to trigger on extended benefits, saving $1.8 billion in federal and state payments that would have gone to workers under existing rules. Private forecasters, however, project much higher unemployment rates for 1981 than the president does. If they prove more accurate, the national program could trigger "on," and most of the planned savings would disappear.

Regional Implications

The revisions of the extended benefits rules has serious implications for the Northeast-Midwest region because unemployment rates are generally higher in this region and are expected to increase faster during the recession than in other sections of the country. Both state and national indicators will trigger on more slowly with the new method of calculations, reducing the period that individuals can collect benefits. The change will work to the detriment of workers in states with a recent history of high structural unemployment: Even if the indicator rises above the trigger level of 4.0 percent, a state cannot qualify for extended benefits unless the indicator is at least 20 percent higher than the two-year average. Twenty-two states now have high enough averages that their indicator rates must be greater than 4.0 percent before triggering on. Nine of those states are in the Northeast-Midwest region. The Department of Labor has not yet determined the extent to which the new rules will affect the 120 percent requirement, but the redefinition of indicator rates to lower levels means that the 4.0 percent hurdle will be more difficult to reach than under the old rules.

If the projected savings do materialize, state trust funds will pay $900 million less in benefits, reducing pressures on many states in the region to raise employer taxes.

---

[1] The indicators are 13-week moving averages of national and state insured unemployment rates. The changed formula will reduce the insured rate in several cases, thus lowering the indicators. Owing to different methods of calculation, the insured unemployment rate is several percentage points lower than the more commonly used total unemployment rate. The insured rate counts only persons who claim unemployment benefits as unemployed; the total unemployment rate includes all persons who do not have a job and are seeking work, regardless of their eligiblity for unemployment compensation.

State Implications

At the moment, Michigan, Alaska, and Puerto Rico are the only states eligible for extended benefits. Other than Michigan, eight states in the region have had such high levels of unemployment in the past two years that they would not become eligible for extended benefits even if they had unemployment rates of 4.0 percent because of the 120 percent requirement. Of those eight states, New Jersey, Pennsylvania, and Rhode Island already have unemployment rates above 4.0 percent. The others are Illinois, Maine, Massachusetts, New York, and Vermont.

II. Financing unemployment compensation benefits

Regional Implications

A related issue arising from the recession concerns the financing of benefits. Fourteen states in the Northeast-Midwest region had to borrow from the Treasury when their trust funds were depleted in the last recession, and eight states in the region still owe $2.9 billion of a national total of $3.1 billion. The recession will result in higher outlays for unemployment compensation, which must be covered by taxes on employers. If no changes are made in the system, states which are the hardest hit by unemployment probably will need to raise taxes, even though their tax burdens already are among the highest in the nation. Tax hikes will come at the worst possible time and will provide incentives for employers to shift investments away from the region.

State Implications

The following states in the region have outstanding trust fund debts:

[In millions of dollars]

Connecticut	371	Massachusetts	232
Delaware	47	Pennsylvania	1,122
Illinois	947	Rhode Island	108
Maine	36	Vermont	41

To pay off the loans, employers in some of those states face an increase in the federal unemployment tax of 0.3 percent in 1980, another 0.3 percent in 1981, and so on until the debts are cleared. Other states (Michigan, for example), repaid their loans and will avoid the extra federal tax, but expect to borrow again later this year.

Thus, the economic downturn will result in disproportionately high losses of income and employment for firms and workers in the Northeast and Midwest. The structure of the unemployment compensation program and the revised Extended Benefits rules will create additional problems for the region during the recesssion. This combination of economic realities and fiscal restraints means that the Northeast and Midwest will bear a large portion of the burdens imposed by the economic policies in the 1981 budget.●

JOHN CAVANAUGH

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 29, 1980

● Mr. DERRICK. Mr. Speaker, in light of his service to this body, it is with no small amount of regret that I today join my colleagues in wishing farewell to a fellow Member of the House of Representatives from the State of Nebraska, JOHN CAVANAUGH.

Having previously served on the House Banking, Finance and Urban Affairs Committee with JOHN, I am in a position to note that his absence will be a substantial loss to this legislative body. JOHN CAVANAUGH'S service to this country in the U.S. Army, the Nebraska State Legislature, and most recently in the U.S. House of Representatives is indeed a distinguished one.

While I can certainly understand and appreciate JOHN'S desire to spend more time with his family, I am also sorry to see this body lose such a promising young Member. In light of his past accomplishments, and as a friend and colleague in the House, I would like to offer JOHN CAVANAUGH my best wishes and good luck on what can only be a successful future.●

UNITED STATES MILITARILY EQUAL TO RUSSIA

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. STARK. Mr. Speaker, another knowledgeable source has been heard from on the issue of the military budget. Adam Yarmolinsky, writing on the Op-Ed page of the February 4 New York Times comes to the same conclusion I have reached:

> Poor-mouthing United States military strength only tends to promote unnecessary inflation of the United States defense budget—and dangerous inflation of Soviet estimates of their own capacity for mischief.

Mr. Yarmolinsky who has served both the Pentagon and the Arms Control and Disarmament Agency feels that there is a rough equivalency between the military forces of the East and the West. His essay is a fine brief summary of these forces, and I include his article at the conclusion of these remarks.

Mr. Speaker, we must have an adequate Defense Establishment, and we do. The way to keep it strong is to have a sensible plan that addresses areas that need shoring-up. We will achieve nothing but a higher rate of economic inflation if we try to throw dollars at the Pentagon in an attempt to staunch some imaginary military hemorrhage. It seems to me that we are moving in that direction and I think it is a big mistake. It will mean short-changing domestic programs and the militarizing of our society.

THE MILITARY BALANCE: ABOUT EQUAL

(By Adam Yarmolinsky)

WASHINGTON.—The periodic charge that the military balance has shifted or is about to shift across the board in favor of the Soviet Union is worrisome enough in the light of the Soviet Union's ugly military adventure in Afghanistan, other possible moves toward the Persian Gulf, and the continuing United States dependence on Middle Eastern oil. It is even more worrisome when coupled with the charge that the overall balance cannot be restored until late in the new decade.

Neither charge, however, stands up under examination.

While the facts do not suggest any grounds for complacency, they do tell us that if we pursue a sensible spending policy, emphasizing combat readiness, mobility and flexibility, there will be no "window" in the 1980's through which the Russians can with impugnity reach for the "cookie jar." The Russians must measure any local advantage that they think they can gain against the overall United States-Soviet Union military balance.

In the air, on the sea, and on the ground, United States and North Atlantic Treaty Organization forces outpoint the Warsaw Pact's in quality where they do not actually outnumber them. Overall, considering that there is a rough equivalence of the forces, factors such as training, tactics and readiness become decisive.

The Russians' numerical edge in combat aircraft is balanced by our qualitative superiority. They cannot match the F-15 in air combat, nor do they have any plane comparable to the A-10, an armored close-support aircraft that can knock out tanks. Our new F-16 fighter, which is very capable in both air-to-air combat and ground support, is now coming off the production line. In combat tactics and training, we have a significant margin.

Our naval forces remain superior to the Russians'. Over the last 15 years, we have launched more than twice the tonnage and more than 20 percent the number of surface ships they have launched. Only if one compares numbers of ships without regard to size or firepower do they loom as a serious threat. They outnumber us in particular types—for example, attack submarines—since they as primarily a land power see the destruction of American shipping as a primary mission. The Soviet Union is indeed building a blue-water navy, but that navy is still the stepchild of its military establishment whereas ours commands one-third of the entire defense budget and substantially more than either the Army or Air Force.

On the ground, NATO has almost as many men under arms as the opposing forces of the Soviet bloc. The Russians have more tanks that we do, but this is at least partly offset by NATO's planes and antitank weapons. Further, the United States Army started last year the biggest modernization program in its history, and NATO has begun an ambitious modernization program of its own.

Given our general qualitative superiority, if we choose to increase quantities of particular weapons, we do not need to await the development of new systems, with resulting delays into the late 1980's, but often can open, continue or accelerate existing production lines.

Nor should the Soviet military performance in the invasion of Afghanistan give us pause about our relative military capabilities, if the Russians could not move 100,000 men across their own borders—most of them on existing highways—after months of preparation, they ought to turn in their uniforms.

The central issue remains one of combat readiness.

Historians generally agree that at the outset of World War II, the Germans did not have more tanks or men than the Allies, but those they had were fully combat-ready. The Pentagon's emphasis on elaborate weapons systems has tended to keep training and readiness activities on short rations. Unrealistic comparisons of weapons strengths divert military spending from less glamorous but more essential purposes.

There are a number of unsettled issues in comparing United States and Soviet military strength, from the question of theoretical vulnerability of our Minuteman land-based missiles to the utility of theater nuclear weapons in the European theater to the combat-ready capability of our existing forces.

But poor-mouthing United States military strength only tends to promote unnecessary inflation of the United States defense budget—and dangerous inflation of the Soviet estimates of their own capacity for mischief.●

TRIBUTE TO DAN FLOOD

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. COUGHLIN. Mr. Speaker, last Thursday, January 31, the Honorable Daniel J. Flood resigned his seat in the House of Representatives. Dan served in this body for 16 years, achieving eminence in the House as chairman of the Labor-HEW Appropriations Subcommittee. As such, his leadership directly affected the quality of life in the United States from the education of our young people to the care of the sick and aged to the well-being of workers and the Nation's poor. While it is often difficult to measure the impact which one individual has had on millions of lives, in the case of Dan Flood it has surely been significant.

Despite his key role in the funding of national programs, Dan never neglected his constituents in Pennsylvania's 11th Congressional District. He was an extremely conscientious and effective representative of the interests of the coal mining region of northeastern Pennsylvania. Dan was instrumental in the enactment of legislation which established the Appalachian Regional Commission, the Appalachian Redevelopment Act, the Mine Health and Safety Act which created the black lung pension program, and the Agnes Recovery Act of 1972.

No one who watched Dan Flood take personal command of the rescue operations in the wake of severe flooding in the 11th District from tropical storm Agnes can doubt his deep caring for the people he represented. His reputation as a man who could get things done was confirmed as he cut through usually time-consuming redtape to rush military equipment, personnel, and supplies to aid the victims of Agnes. Once the crisis was over, Dan worked tirelessly to obtain massive Federal relief and economic assistance to rebuild the devastated area.

The House will not be quite the same without Dan Flood's colorful style, his eloquence, and his legislative talents.●

INTERRELIGIOUS TASK FORCE ON SOVIET JEWRY CONDEMNS SOVIET INVASION ON AFGHANISTAN

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. DRINAN. Mr. Speaker, the Soviet invasion of Afghanistan has evoked condemnation from all sectors of the American public. The wanton Soviet disregard for the right to self-determination of the Afghan people was unequivocally violated when Soviet troops marched across the Afghan frontier to seize the reigns of power there.

Dr. Andrei Sakharov, the Soviet dissident and Nobel laureate who was recently arrested and taken into internal exile, said that:

> The human-rights issue . . . is not simply a moral one, but also a paramount, practical ingredient of international trust and security.

Clearly, the Soviets have violated fundamental standards of human rights, international trust, and the security of Afghanistan by their actions.

I commend the interreligious task force on Soviet Jewry for its strong statement on this subject and urge my colleagues to read it. The statement follows:

> The National Interreligious Task Force on Soviet Jewry condemns the recent Soviet invasion of Afghanistan as a flagrant assault upon human rights. It is one more in a continuing series of such assaults by the USSR: Hungary in 1956, Czechoslovakia in 1968 and now Afghanistan in 1979.
>
> Concerned about upholding the human rights of all peoples, the National Interreligious Task Force on Soviet Jewry urgently calls upon world political, religious and business leaders, farmers and consumers, althletes and sports fans, academicians and students to make the critical decisions and the personal sacrifices involved in the counter measures to censure the Soviet Union and to press for its immediate withdrawal from Afghanistan. The Task Force welcomes the U.N. General Assembly Resolution calling for all Soviet troops to leave Afghanistan and the Task Force also urges:
>
> 1. The continuation of the U.S. trade embargo of high technology and wheat supplies directed against the USSR.
>
> 2. The immediate movement of the 1980 Olympics from the Soviet Union. The U.S. should not participate if the games are held in the USSR.
>
> The task force believes that the Muslim countries of the Middle East, especially Iran, are threatened by Soviet aggression and expansion. The USSR is a menace to Muslim religious liberty as well as to the national independence of the Islamic states of the Middle East. Those who are currently holding the hostages in Iran, whether consciously or not, are aiding the USSR in its campaign of expansion. We call upon the Iranian authorities, especially the Ayatollah Khomeini, to order the release of the hostages in the name of religious freedom and to seek an international means to resolve the dispute concerning the Shah of Iran.
>
> The statement was signed by the following Task Force leaders:
>
> Co-Chairpersons: Prof. Andre Lacocque, Director of the Center for Jewish-Christian Studies of the Chicago Center of Theological Schools, Chicago, Ill., Sr. Margaret Traxler, Executive Director of the Institute of Women Today, Chicago, Ill.; and Rabbi Marc Tanenbaum, National Director, Interreligious Affairs, American Jewish Committee, New York City.
>
> Also: Prof. Thomas E. Bird, Chairman of the Slavic Language Department, Queens College, City University of New York; Sr. Ann Gillen, Executive Director of the National Interreligious Task Force on Soviet Jewry, Chicago, Ill.; and Rabbi A. James Rudin, Assistant National Director, Interreligious Affairs, American Jewish Committee, New York City.●

IRANIAN ELECTION

HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. JENRETTE. Mr. Speaker, the inauguration today of Iran's new President, Abolhassan Bani-Sadr raises new hope for the American people that 50 of our fellow citizens may be released in the near future. Bani-Sadr lost his previous job as Foreign Minister because he expressed too much sympathy for the plight of the American hostages. Now that he has received the overwhelming support of the Iranian people at the ballot box, hopefully we can look forward to seeing an official voice in the Iranian Government expressing support in the willingness to negotiate in a manner that is reasonable for the world order we live in today. My prayer and that of the American people is that we shall see a quick and satisfactory settlement to this problem.●

BEDELL STATEMENT ON VETERANS HEARING

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. BEDELL. Mr. Speaker, on December 17, I held an informal hearing in Sioux City on veterans issues for veterans in my district. In addition to the wide attendance by veterans, this hearing was also attended by Representative BOB EDGAR, who serves on the Veterans' Affairs Committee, and representatives from the National and Des Moines Veterans' Administrations. Because this meeting highlighted many of the pressing veterans issues of the day it was of great benefit to those who participated. I would like to submit the testimony that was received at this hearing so my colleagues in Congress can also benefit from the comments on veterans in my district.

Following, in the third of a series of testimony I will be submitting to the RECORD this week, is the statement of Robert O. Steben on behalf of AMVETS—State of Iowa.

The statement follows:

STATEMENT OF ROBERT O. STEBEN

I share the concerns of the Service Officers from the American Legion and the Disabled American Veterans about the reduction in staffing within the VA's Department of Veterans Benefits. I would like to present you with some additional information. Budgets for Federal agencies are not prepared in a few weeks or a few months. Work begins on budgets two and three years in advance. In preparing their budgets, agencies look at projected population figures, trends in customer usage, technological advances in equipment, etc. Within the Department of Veterans Benefits the field stations have had substantial staff reductions in both Fiscal Years 1979 and 1980.

In January 1978, DVB regional offices began to receive their TARGET equipment. At that time the anticipation was that the use of TARGET would be fully implemented in some stations, other than the original test stations, by the fall of 1978. This equipment was supposed to allow the regional offices to do their work in a shorter period of time with less manpower. Had this expectation become a reality, the staffing reductions suffered by the DVB field stations beginning in October 1978, would have been balanced out. In reality the TARGET program has been running far behind the original time frame that was planned for it. Unfortunately the budgets had already been established, and the budgets determine the amount of staff that will be available.

For Fiscal Year 1980, which began October 1, 1979, the DVB regional offices have experienced reductions in their staff. Again I feel that in the budget planning process the expectation was that surely by this time the TARGET program would be further along in being implemented than it actually is. Where is the Department of Veterans Benefits on its implementation of using the TARGET system?

For its own purposes the Veterans Administration has divided the United States into three regions; Eastern, Central and Western. Iowa is in the central region. The central region was to fully implement TARGET before the other regions. Within the central region the first three regional offices to fully implement TARGET were Chicago, Cleveland and Detroit. Chicago is working on fully implementing the use of TARGET. Cleveland and Detroit have not started working with full implementation as yet. Where does that leave regional offices such as Des Moines or the regional offices in other regions? It leaves them with staffing levels that I believe were largely established on the premise that they would have TARGET to offset their reduced staff, and the TARGET system is not going to be available to them within the foreseeable future. The end result is that the veterans and the families of veterans are the ones that suffer. To the best of my knowledge the Chicago Regional Office is still experiencing significant problems because of the "bugs" still in the TARGET system.

I wish to call your attention to another matter that concerns me. Perhaps I am using a cannon to kill a gnat by calling this to the attention of members of Congress, but when I see the frustration and hardship that some veterans suffer I feel I am justified. VA regulation 967(C) deals with overpayments of benefits to veterans. Sometimes these overpayments are made through no fault of the veteran and in many cases the veteran does not realize that he or she has been overpaid. VA regulations allow for a veteran to request a waiver of an overpayment. Because of the manner in which the VA processes overpayments and notifies veterans of overpayments, later benefits are withheld from the veteran and applied towards satisfying the overpayment. I am familiar with cases when the first indication a veteran has that an overpayment has been established against him is when he does not receive his check. This is particularily devastating to older veterans on fixed incomes. The above mentioned regulation states, "Amounts which have been recovered by the U.S. Government prior to the date of receipt by the VA of a request for waiver, will not be refunded and will be excluded from waiver." If the VA finds justification to waive an overpayment, then I believe it should refund to the veteran any amount that has already been withheld and applied against the overpayment. This application of the regulation could be changed by an internal determination of the VA, but it has been unwilling or unable to do so. In the interest of equity to the veteran I feel you, as Representatives of Congress, should consider legislation that would direct the VA to refund amounts that have already been withheld in cases where the VA determines that a waiver should be granted.

The other service officers have already expressed their dismay and concern over the Improved Pension program. I can add little to what has already been said other than to assure you that the AMVETS share the concern of the other service organizations over this program. Changes by Congress in this program are definitely needed.●

THE WEATHER NEWS—OUR BEST FORECAST

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. MURTHA. Mr. Speaker, last Saturday I got up about 5 a.m. and had the pleasure of traveling to a very special place in the 12th Congressional District—Gobbler's Knob. There I went to see the only authentic groundhog weather forecaster—Punxsutawney Phil.

As many people know, I have announced my support for President Carter for reelection, but I think there is a strong tide in my district showing support for Punxsutawney Phil for President. In fact, I saw hundreds of signs promoting his candidacy. I do not know how well he would run outside of the area, but he is definitely making an impact in central Pennsylvania.

For the few who may have missed it, here is Phil's official 1980 forecast.

Hear Ye! Hear Ye! To all faithful followers assembled here on Gobbler's Knob, and to all believers around the world, I, Charles M. Erhard, Jr., President of the Punxsutawney Pennsylvania Groundhog Club, hereby proclaim that at this moment of 7:29 a.m., EST, His Imperial Majesty, King Philip, has emerged from his borrow. Judging from what I have observed from the Royal Woodchuck's behavior—and considering these ominous words that Phil whispered to me in Groundhog-ese, I must now proclaim this message from the King of all Weather Prognosticators. Punxsutawney Phil has decreed that there will, indeed, be six more weeks of winter. But beware! There will be some surprises in store before March 20! So that, folks, is the official word this morning from the Weather Capital of the World—Punxsutawney, Pennsylvania—home of the only reliable weather forecasting Groundhog.●

THE 1981 BUDGET: THE BIG "IF"

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mrs. SCHROEDER. Mr. Speaker, what struck me the most while poring through the President's budget for fiscal year 1981 were the number of "ifs." The budget deficit will be $15.8 billion if no supplemental defense budget is proposed. There will be no tax cut if the long-expected recession doesn't come. What would domestic budget levels be if this wasn't an election year?

The following article is a good overview of the budget from which to derive "ifs" of your own:

[From the New York Times, Feb. 3, 1980]

THE BUDGET: NOT AS TIGHT AS IT LOOKS

(By Michael E. Levy)

The 1981 Federal budget confirms what most Americans have surmised for some time: the age of affluence is gone and hard times are ahead. The new budget assumes a mild recession in the first half of 1980 and a slow recovery in its last quarter, followed by gradual further improvements of real output throughout 1981. Unemployment is expected to rise rapidly later this year while inflation will decline slowly. Both are projected to remain high by the end of calendar 1981—7.3 percent and 8.6 percent, respectively.

In this troublesome economic setting, President Carter's 1981 budget promises large real increases for defense spending as a whole, and for all major defense programs, through fiscal 1985. Most nondefense programs are to be sustained at their current levels, adjusted for inflation, but some will be curtailed in real terms. Few new initiatives are proposed—all to be phased in slowly over several years—and national health insurance, a major past commitment, is delayed until fiscal 1983.

The new budget provides only modest antirecession support to the economy. It proposes to delay the timing of any tax cut to the 1982-85 period in order to reduce the 1981 budget deficit to $15.8 billion (from this year's $39.8 billion)—its lowest level since fiscal 1974. A sharp reduction in the budget deficit is viewed as a necessary commitment toward reducing inflation.

Such a reduction in the deficit, if achieved, is the result of massive tax increases, rather than of severe spending restraint. Hence, the Federal tax burden, measured as a percent of total output, would reach a new postwar peak of 21.7 percent in an election, and possibly a recession year.

DEFENSE SPENDING

President Carter has given top budget priority to large real increases in national defense spending for fiscal 1981 and for years to come; current Congressional and popular sentiment provides strong support. Recent Congressional debates over the SALT II agreement with the Soviet Union raised serious questions concerning United States defense capabilities. Concern has been widespread in the wake of the Iranian hostage crisis and the Russian invasion of Afghanistan.

Eight years of steady curtailments reduced real defense spending in fiscal 1976 to about 65 percent of its Vietnam War peak. Measured as a percent of total output, national defense spending continued to decline from 9.5 percent in fiscal 1968 to 5.1 percent in fiscal 1979. This downtrend has now been reversed. In fiscal 1981, national defense outlays are scheduled to rise by $15.8 billion to $146.2 billion—a real increase of 3.3 percent. Further real increases of 4.3 percent and 4.4 percent are planned for fiscal 1982 and 1983, respectively.

Since military personnel on active duty is scheduled to rise only by 14,000, or seven-tenths of 1 percent, by the end of fiscal 1981, ample funding is available for sizable increases in all major defense functions, including procurement of ships, aircraft, weapons and delivery systems that have long lead times. During the early stages of a rapid defense buildup, expanding pipelines for such long-lead items are often strained, deliveries fall behind schedule, and obligational authority—the leading edge of defense spending—far outpaces increases in outlays. Thus, spending bulges toward the end of the fiscal year and shortfalls of actual outlays below budgeted amounts would not be surprising.

Yet there are reasons for expecting future upward revisions in the 1981 defense budget. President Carter has proposed comprehensive military and civilian pay reform legislation. Comparability would be broadened to include pay as well as fringe benefits and compensation would be based on private-sector as well as state and local government pay.

The results of this reform have been built into the defense budget: average pay raises of only 7.4 percent for the military and 6.2 percent for civilian employees at a "saving" of $1.7 billion, compared with the pay increases mandated under current law. (In the civilian agencies, these reforms reduce budgeted outlays by another $1 billion.) These savings are contingent on passage of the pay-reform legislation by Congress which, in an election year, is uncertain at best.

Fuel costs are another potential source of upward revisions in the defense budget. At his press briefing, Defense Secretary Brown noted that "neither the fiscal year 1980 supplement nor the fiscal year 1981 budget provides for the most recent increases in fuel costs. These will be addressed separately as will other changes which prove necessary."

NONDEFENSE SPENDING

Budget outlays for fiscal 1981 are projected to rise by $52.2 billion, or 9.3 percent, to $615.8 billion. Since national defense absorbs fully 30 percent of this increase, total nondefense increases have to be limited to $36.4 billion. Of this, over $35 billion is mandated by law for the major "entitlement programs"—income security, medicare and medicaid. Income security includes such programs as Social Security, railroad retirement, unemployment compensation, food stamps and welfare.

Combined outlays for these programs will rise by $29 billion under existing law, mainly because of the steadily increasing number of qualifying beneficiaries and the automatic cost-of-living increases provided for Social Security and related programs. Medicare and medicaid expenditures are scheduled to rise by $6.2 billion because of the larger number of beneficiaries and higher health care costs. (President Carter's hospital cost containment program—it was proposed last year and is being resubmitted to Congress—would trim this figure by $0.8 billion.)

Another $2.4 billion is needed to meet higher net interest payments on the rising Federal debt. Hence, all other nondefense programs would have to be held at their fiscal 1980 levels in current dollars (i.e., be reduced in real terms), if 1981 budget outlays are to be held to $616 billion.

In reality, the 1981 budget is not quite as tight-fisted as seems to be implied by the figures. Federal budget accounting provides ways of funding programs without raising offical budget outlays. For example, the 1981 budget outlays for energy include $1.8 billion in revenues from government production and sale of oil from the Naval petroleum reserves in California and Wyoming.

According to Federal budget accounting, these revenues are not counted as regular budget receipts, even though they are deposited with the Treasury, but as "offsetting receipts," a form of "negative spending" or direct funding that permits expansion of other energy programs without raising total budget outlays.

Payments of rents and royalities on the outer continental shelf, another large "offsetting receipt," are projected to rise to $6 billion in fiscal 1981, up by $1.2 billion from the current year. Net sales of financial assets, mostly mortgages or mortgage-related, by such on-budget lending agencies as the Government National Mortgage Association ($1.1. billion in fiscal 1981) and the Farmers Home Administration ($3.3 billion) are also an offsetting source of funding that reduces recorded budget outlays.

The 1981 budget contains a much higher level of such outlay "offsets," and it relies much more on off-budget loan guarantees for program support, than this year's budget. Thus, the new budget sustains the real support levels of most nondefense programs despite the high inflation cost of the relative tightness (more apparent than real) of the $616 billion outlay ceiling.

Moreover, the new budget proposes only a few new initiatives for the "human-resources programs," which cover income security; health; education, training, employment and social services, and veterans benefits. Even these do not increase total budget outlays—they are not add-ons but replacements of related programs that are considered less effective or of lower priority, and they are phased in gradually over future years.

The aim continues to be "better targeting" of human-resources programs in order to increase benefits for the poor, the handicapped and unemployed youth, while curtailing benefits for the less needy. Two major social initiatives that have been a part of President Carter's longer-term commitment are reaffirmed. National health insurance is schedule to get under way in fiscal 1983 at an initial cost of $24 billion, while welfare reform is to be initiated in fiscal 1981, provided Congress passes the necessary legislation.

BUDGET DEFICIT

Reducing the budget deficit has been an ongoing commitment of President Carter. His election pledges had included the promise to balance the budget by 1981.

A sharp reduction in the budget deficit from an estimated $39.8 billion this year to $15.8 billion in fiscal 1981 is now considered an essential part of the Administration's anti-inflation policy. This would make the 1981 deficit the lowest one since fiscal 1974. Moreover, the President and several top Government officials have stressed that, without a recession this year, the 1981 budget would be in surplus—further evidence of relative fiscal restraint. (A recession enlarges the deficit because it induces large countercyclical increases in unemployment compensation, food stamp benefits and other income-support programs, and it erodes revenues from individual and corporation income taxes.)

This assessment is subject to a number of important qualifications. First, estimates of budget deficits 21 months into the future are always hazardous. They are subject to estimating errors, changes in economic performance and revisions in fiscal policy by the Administration and the Congress. Thus, two years ago, the initial 1979 budget projected a deficit of $60.5 billion. The actual deficit was $27.7 billion. Last year, the initial 1980 budget projected a deficit of $29 billion which has just been raised to $39.8 billion.

Second, in order to hold 1981 outlays to $616 billion, the new budget proposes $9.7 billion in reduction of ongoing programs. Most of these cuts would require Congressional legislation. They include savings from hospital cost containment and other medicare and medicaid reforms, $1.6 billion, reform of school lunch and child nutrition programs, $0.5 billion, reductions in school impact aid, $0.3 billion) and several other programs that failed to gain Congressional approval last year. Also included are $2.7 billion in "savings" from pay reform which will be difficult to pass in an election year.

Last but not least, if the sharp reduction in the 1981 deficit is achieved, it will be due to massive tax increases—not to tight spending restraint. Previously passed Social Security tax increases for 1980 and 1981 will add $15 billion to fiscal 1981 receipts. Two large increases raise the taxable earnings base from $22,900 in 1979 to $29,700 in 1981, and the combined tax rate rises next January from 12.26 percent to 13.3 percent.

The proposed oil windfall profits tax adds another $14 billion in fiscal 1981, and a speed-up tax collection, similar in its impact to a one-time, one-year tax increase, provides another $4.5 billion. These 1981 tax increases account for $33.5 billion, 44 percent of the projected $76.2 billion revenue gain.

Add to this the levitating effect of inflation on personal income taxes—it pushes everyone into higher tax brackets even if there is no increase in real taxable income—and it is easy to understand why the Federal tax burden would reach an unprecedented postwar peak in fiscal 1981.

At $600 billion, Federal budget receipts would be equal to 21.7 percent of the country's total output, up from 20.8 percent in fiscal 1980 and 20.1 percent in fiscal 1979. Throughout the postwar years, tax reductions were enacted well before the Federal tax burden reached 20 percent. Fiscal 1969 and 1970, the only exceptions with 20.8 and 20.2 percent, respectively, were followed by a large tax cut. Whether the Federal tax burden will reach an unprecedented new peak in an election year with a recession without triggering a tax cut remains to be seen.●

IMPROVE OUR DOMESTIC AUTO INDUSTRY IN THE WORLD MARKET

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. BRODHEAD. Mr. Speaker, I want to call to the attention of my colleagues a New York Times article which discusses the need to improve the position of our domestic auto industry in the world market. I believe that it provides a concise discussion of important issues which will affect the country in the immediate future.

The article follows:

[From the New York Times, Aug. 20, 1979]

Car Ind 4 Sale. Orig Own

(By Terrence Bracy)

Washington.—Signs of gloom are all around the automobile industry.

Foreign cars now claim one-quarter of the once-chauvinistic American market. In May, a single month, Japanese auto imports grossed $1 billion. Meanwhile, Ford's share of the market continued to slip, so that this proud company is no longer making money on its domestic operations. Chrysler is on the edge of despair, fighting to make payrolls and keep the wolf from the door. By the beginning of this month, Chrysler was petitioning the Government for outright financial assistance. American Motors is selling more Jeeps than cars. And during July, when General Motors, the healthiest, was laying off thousands of workers, The Wall Street Journal was advertising, ironically, a used Volkswagen diesel for "$9,800 or the best offer."

What we face is not an auto-industry problem but a national economic crisis. Transportation experts agree that the automobile is here to stay—but it may not be an American make.

In fact, the huge synthetic-gasoline program under discussion could well end up fueling the sales of Toyotas, Datsuns and Volkswagens because foreign manufacturers are well ahead of Detroit's in the race to build the auto of the 1980's.

The automobile industry, counting suppliers, is the nation's largest private-sector employer. Like a mighty economic river, its tributaries touch every state, sustaining three million workers. If those tributaries dry up, the impacts on the East and Midwest will be enough to make even the free-market ideologue wince.

What is to be done? It is time to use the stick and carrot, in that order.

THE STICK

Deregulators notwithstanding, it is difficult to find an action that has as effectively saved energy as the imposition of fuel-economy standards on the auto industry. Since 1975, when Congress mandated improvements, the new auto fleet—while still lagging behind foreign cars—has progressed from 13 miles per gallon to nearly 20, heading for a target of 27.5 five years hence. These standards anticipated a marketplace that Detroit's planners failed to see, and are responsible for its salvation today. Those near-term standards ought to be accelerated as advocated by the former Transportation Secretary, Brock Adams. In addition, the Administration should draw on the powers Congress already has granted and set a new target of 50 miles per gallon by 1995.

THE CARROT

To meet the 50-miles-per-gallon goal, Detroit will need help in capital formation. (What is sacred about subsidizing synthetic-fuel plants that employ very few as against auto plants?) The accelerated shift to lighter-weight materials, better transmissions and more-efficient engines will add a $50 billion burden to the auto industry that it cannot carry without Federal help.

A carefully designed package of industrial and consumer tax incentives would make this quick transition possible—saving at least one million jobs and two million barrels of oil per day by the mid-1980's. All this will be saved but something even more important will result—the financial and industrial base to market the revolutionary breakthrough in auto technology that we are awaiting. No one yet knows whether it will span an electric, hybrid or gas-turbine engine, or what. But we know we must have it and that it should not use oil from the Organization of Petroleum Exporting Countries.

Inaction on the auto front, combined with a push to produce synthetic fuels, means that we are making national decisions to put America's energy in foreign cars, to favor foreign jobs over domestic ones, and to invest on a large scale in the South and West while ignoring the struggling cities of the East and Midwest.

Isn't it time we reconsider?●

WHAT WE SHOULD DO

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. BINGHAM. Mr. Speaker, Felix Rohatyn has been instrumental in helping New York City avert financial catastrophe. In last Wednesday's Washington Post he offered a program to strenghen this Nation by countering the dangerous economic and national security effects of our heavy dependence on imported oil. I commend this important article to my colleagues and other readers of the Congressional Record:

What We Should Do

(By Felix G. Rohatyn)

The president's State of the Union message was less noteworthy for what it said—i.e., that we will draw the line at Soviet expansionism in the Persian Gulf—than for what it neglected to say. In many ways, what was not covered was nore important. For instance:

(1) In 1980, our payments to OPEC for imported crude will be running at the rate of nearly $100 billion per annum. This compares to about $6 billion before the 1973 embargo. Over the next five years, the United States will pay out about $500 billion dollars for a product it burns into the atmosphere every day.

The value of all companied listed on the New York Stock Exchange is approximately $900 billion. The idea that over the next five years we would mortgage to OPEC half the productive capacity of this country, built up over 200 years, to pay for oil is obviously absurd. This situation is as dangerous to our system, and as unacceptable to our security, as would be a Soviet prescence in Saudi Arabia.

(2) Domestic inflation and our economic posture are a basic factor in our international security posture. Our economy is the foundation upon which our security is built. This foundation is shaky. The United States cannot finance a rearmement program of the type envisaged by the administration by simply increasing its budget deficit. The United States cannot hope to convince OPEC to hold on to its dollars if we continue to give in to runaway inflation that has two main components: energy consumption and government spending.

The United States is not a credible partner, economically or militarily, unless it takes concrete action to reduce drastically energy consumption and to strengthen its currency. Coming off the high end of a business cycle with a $40 billion deficit is not reassuring.

(3) There are only two ways to reduce domestic energy consumption both drastically and soon: gasoline rationing or increasing the price of gas with a substantial tax. Ultimately, both may be needed. With the additional financing requirements for defense, a gas tax seems to be the most logical answer.

Of all the presidential candidates, only Rep. John Anderson has had the courage to advocate what many see as only common sense. A 50-cent-per-gallon gas tax would raise approximately $55 billion per annum, could reduce consumption by about 10 percent and is an absolute minimum. A $1-per-gallon tax, phased in over three years, would be more appropriate. In Europe, gasoline taxes amount to $1.50 to $2 per gallon, with a per-gallon price at the pump of $2.50 to $2.70. Europe's per-capita consumption is 40 percent that of the United States' not only because people drive less but because long ago they switched to small, fuel-efficient automobiles.

The proceeds of the gas tax should be used partly to fund increases in defense spending, partly to lower taxes on business in order to increase capital investment and productivity and partly to help lower-income groups by financing mass transit and lowering Social Security taxes.

(4) A significant gas tax would do more to strengthen the dollar and give OPEC long-term confidence in our currency than any other single economic action available to us. It should set the stage for a dialogue with OPEC aimed at changing our payments for oil from freely convertible dollars to long-term bonds guaranteed by the U.S government. The proceeds of these bonds could be used only to purchase American commodities or manufactured goods over a period of years as the bonds mature.

As an inducement to such an arrangement, we should be willing to commit part or even all of our current gold reserves. At current market prices, the United States has approximately $250 billion worth of gold; sitting on a mountain of gold will do us no good if our economy collapses. We should be willing to commit the only commodity we have that has risen in value as much as oil as part-payment for oil, if OPEC will accept long-term bonds, with limited convertibility, for the balance.

If such an arrangement were negotiated with one or two members of OPEC, such as Saudi Arabia and Kuwait, others might follow later. The producers must understand that we will be driven to much harsher choices if the bankruptcy of our society is the only alternative.

(5) Our commitment to protect the oil resources of the Middle East benefits Europe and Japan at least as much as it benefits us. They should, therefore, pay their fair share. As part of the mutual security arrangements with Egypt, Israel, Saudi Arabia and Jordan, any American troops stationed there should be evenly matched by European forces financed by Europe and Japan.

The U.S. nuclear umbrella must stay over Europe, but the free ride on the ground must stop.

(6) Committing large sums for training young blacks, Puerto Ricans and Chicanos is meaningful only if jobs are available to them once they are trained. This is not the case. We have accepted the notion that we are a service economy instead of a manufacturing economy. This is highly questionable.

We need a balanced economy, both services and manufacturing—with the emphasis, however, on manufacturing. This is the best way to provide employment opportunities to the minorities and the underprivileged. Such a policy may require certain limitations on free trade, which can be a price worth paying. Free trade, in any case, is something we practice while others only preach it.

(7) The economic forces being generated in the United States will increasingly divide the country between haves and have-nots. The region where most of our oil and gas are produced will now be the recipient of most of our defense contracts. In addition to

the severance taxes charged by the oil-producing states to the consuming states, there will be the drain of tax dollars to Georgia, Texas and California for defense. Half this country—the half where the sun shines—will produce oil and guns; the other half—the urban areas of the Northeast and Midwest—will produce unemployment and slums.

The windfall profits tax could not be applied to the oil-producing states themselves because of congressional resistance. At a minimum, a certain proportion of defense contracts as well as subcontracts of the synfuel programs should be mandated to the urban, impacted areas of the Northeast and Midwest. If we are to survive as a Union of states, then there has to be a balance as to burdens and benefits.

(8) This country faces major challenges in the coming decade without a foundation of consistent domestic or foreign policy for a base. Double-digit inflation is not abating, nor is a meaningful reduction of energy consumption taking place. The wage-price guidelines are as irrelevant to wages and prices as the windfall profits tax is irrelevant to production and consumption of energy.

Wage and price controls are not a long-term solution, but a 6-to-12-month wage-price freeze should be considered to provide a relatively stable pause during which the administration and Congress can debate and arrive at a sensible, interrelated set of policies for the 1980s.

Policy is a fabric, a tapestry in which all strands are interwoven, linked to each other, clearly describing a basic posture and direction. We have no such tapestry. The State of the Union message concentrated on what might happen but is not likely to—i.e., Soviet expansion into the Middle East oil fields. It ignored that which is inevitable but which we have no answers for—i.e., reducing energy consumption and paying for what we use, reducing inflation and paying for defense, protecting the dollar and giving a future to the young black, keeping this Union viable and united.

Those are some of the inevitables we face, and those are only a few. What is certain is that we are living at the end of an era: the era of Keynesian economics, growth with limited inflation, cheap and plentiful energy, U.S. economic domination of the Western world. If we are to be in control of our destiny as a viable democracy in a state of transition, it cannot be done with business as usual at home.

The American voter is usually far ahead of his leaders. He is entitled every four years to his most precious right: namely, to ask those who propose to lead just what it is they propose to do. The answers, so far, both by Republicans and Democrats, have not been inspiring.●

AFGHANISTAN: WHERE U.S. MARXISTS STAND

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. McDONALD. Mr. Speaker, the Soviet invasion of Afghanistan has been accompanied by the applause of most U.S. Marxist and Marxist-Leninist organizations. Even the Trotskyite Communist parties such as the Socialist Workers Party—SWP—have commended the military invasion as a progressive step. But some of the more thoughtful U.S. Marxists, some who still retain a shread of conscience, are having a difficult time reconciling themselves to the inundation of Red Army troops to put down a popular mass rebellion involving some 90 percent of the people of that country.

These U.S. leftists may agree that socialism or communism is what they would prefer to see in Afghanistan, but they think the people should somehow be ready for it and cooperate in its imposition. For these waverers, who find no pretense of even a Communist-dominated popular front in support of a Marxist revolution as in Cuba or Vietnam or Nicaragua, the Institute for Policy Studies and its Transnational Institute have provided the solution: Shut up and make an accommodation since the Soviets will never withdraw.

The connections of the Institution for Policy Studies/Transnational Institute with the Soviet KGB and with the Cuban regime have been well documented. As analysts on both sides of the Atlantic have observed, IPS/TNI serves as a source of proposals, lines, and suggestions that if offered directly by the KGB or an official Soviet propaganda source would be immediately dismissed by free world liberals.

The following survey and analysis of the U.S.-left reaction to the Afghanistan invasion by the U.S.S.R. appeared in the Information Digest, published by John Rees.

The article follows:

AFGHANISTAN SPLITS U.S. LEFT

The massive invasion of Afghanistan by over 80,000 Soviet troops at the end of December has caused shock waves among the members of the U.S. left. In general, those parties and groups that were able to swallow the Soviet invasion of Czechoslovakia in 1968 and accept the effort to crush the previously Soviet-supported Marxist Eritrean guerrillas in Ethiopia have had little difficulty in backing the Red Army's invasion of Afghanistan.

The Communist Party, U.S.A. (CPUSA) has endeavored to faithfully follow the shifts and twists of the Kremlin's attitude toward the various Marxist-Leninist regimes in Kabul. On 12/28/79, a banner headline asserted, "Soviets Call Afghan Intervention a Lie." However the text of the article was a report on an Oil, Chemical and Atomic Workers strike. In the same issue, a page 5 article by Tom Foley, the Daily World's foreign affairs writer, asserted that the "Afghan revolutionary government has been consolidating the gains it has made since April 17, 1978, when the People's Democratic Party of Afghanistan came into power." The article went on to quote President Hafizollah Amin on economic benefits of the takeover by his Marxist-Leninist party and his statement that "the Afghan people are keeping a watchful eye over the U.S. naval buildup in the Indian Ocean and Persian Gulf."

The next day, 12/29/79, The Daily World headlined "New Afghan Government Formed." The article blandly noted that "The former Afghan leader, Hafizollah Amin, was found guilty of crimes against the Afghan people and was executed by sentence of the revolutionary court."

The Communist Labor Party (CLP), a small pro-Soviet splinter group, also toed the line that "The Soviet Union went into Afghanistan in order to stop the increasing activities of CIA gangs."

Maoist and Peking-line parties strongly condemned "Soviet social-imperialism." The Communist Party, Marxist-Leninist (CPML) in its paper, The Call, termed the invasion "a blitzkrieg of * * * massive proportions." The Call attacked the White House response as "mild" and one of "deciding which Soviet Wrist to slap." Another Peking-line group closely allied with the CPML, the League of Revolutionary Struggle (LRS), attacked the "flagrant" invasion as "part of their preparations for world war."

Maoist, Albanian-line parties attacked the U.S. and USSR almost equally. The Revolutionary Communist Party (RCP) declared the Soviet Afghan invasion "imperialist;" but said the U.S. "is an equally vicious wolf in the moves toward world war."

Trotskyist communist groups in general have maintained their semi-suicidal tradition of uncritical support of the Soviet Union in all confrontations with non-communists.

In a front-page editorial, the SWP newspaper, The Militant [1/18/80] said the "dirty and murderous" Afghan "right-wing guerrillas." Said the SWP:

"With this powerful array of international forces ranged against the revolution, the Afghan government turned to the Soviet Union for aid. Money and advisers were provided. When it looked like the imperialist-backed forces might pull off a bloody Chile-style counterrevolution right on its southern border, Soviet troops came in.

"So the issue is not Soviet intervention, but a growing U.S. intervention—aimed at taking back the gains won by the Afghan masses—that finally forced the Soviet government to respond."

The Trotskyist Workers World Party (WWP) characterized the invasion as a "necessity" that "can be justified only on the basis of the grim alternative which would fall on the beleaguered people of Afghanistan should the counterrevolutionary forces be permitted to triumph." And as for the Spartacist League (SL), a front-page article in Workers Vanguard [1/11/80] headlined "Hail Red Army!" and commenced, "The effective deployment of thousands of Soviet troops in Afghanistan is one more stinging humiliation for American imperialism in the Near East."

A number of other Trotskyist splinter groups including the Workers League (WL) and Revolutionary Socialist League (RSL) were critical, with the RSL's Torch [Jan. 15 to Feb. 14, 1980] stating, "The Russian ruling class has launched an imperialist invasion."

As for the Institute for Policy (IPS) and its newspaper, In These Times [Jan. 16-22, 1980], they take the line that the USSR has sadly been forced to take such an unpopular action by their humanitarian concerns for the success of the reforms of the People's Democratic Party of Afghanistan.

Fred Halliday, a London-based fellow of the Transnational Institute (TNI), IPS's foreign affairs project, and a long-time contributing editor to the Middle East Research and Information Project (MERIP) which supports every Soviet-backed revolutionary and terrorist group in the Middle East from the Palestine Liberation Organization (PLO) to the POLISARIO, blames the Soviet invasion on Saudi Arabia and Pakistan. Writes Halliday, the Soviet Union was forced in by the strength of the internal reaction and by the alleged assistance provided to the anti-communist guerrillas by Pakistan and Saudi Arabia.

Since Halliday's article [to be expanded for the next issue of New Left Review] is a well-constructed piece of disinformation and propaganda, a closer examination of its contents is warranted:

"* * * in the 20 months since the People's Democratic Party of Afghanistan had come to power in a revolutionary coup of April 1978, much of the countryside—where 87 percent of Afghanistan's population live—had risen in revolt. Afghanistan is an extremely conservative country and the PDPA had alienated even those who might stand to benefit most from it—the rural poor—by pushing through reforms without proper preparation. This applied to such measures as the equalization of nationalities, and the virtual abolition of the bride price, but above all to the land reform decree of December 1978.

"But even if these reforms were bureaucratically and at times coercively imposed, few can doubt that they were changes long overdue in Afghanistan, * * *. The underlying cause of the resistance was the fact that these reforms threatened entrenched social interests: those of tribal chiefs and landowners, those of village elders whose arrangement of marriages was an important source of social power, and those of all the rural population who lived off smuggling to Pakistan and resented any form of government control. * * *

"This counter-revolutionary tendency could not have gained such a widespread hold on the country had it not received substantial support from abroad. The refugees who moved over to Pakistan, many as part of an annual migration pattern, were given money and shelter by the government there, and allowed to set up military camps from which to operate. * * * other opponents of the Afghan government supplied aid to the rebels. Saudi Arabia, Iran and Kuwait provided financial aid, and China—a long term military ally of Pakistan's—provided arms to the guerrillas as well as sending instructors to Afghan rebel bases at Miranshah and Chitral on the Pakistan border. * * *

"There is then considerable support for the thesis that the rebellion was sustained from outside and that without this support it would never have posed the threat to the PDPA that prompted Russian intervention. Had the Pakistanis disarmed the refugees and sealed the frontier—the normal procedure for a state in such a situation—then there would not be Russian forces in Afghanistan today."

The internal contradictions of IPS/TNI's Halliday regarding his admission that virtually 87 percent of the Afghani people had risen in revolt against so-called "reforms" that were coercively imposed, that the presence of large numbers of Afghanis in Pakistan is partly due to a normal annual migration pattern, and his claim that these 87 percent of the Afghani people are merely "entrenched social interests" or "smugglers" are obvious.

And what response is appropriate? Halliday's implied solution could be summarized as "scratch and get glad." He writes:

"The Russians have paid a high price for their intervention. They will have to remain in Afghanistan for quite some time before the regime is firmly enough established, and the cost in lives and money will be considerable. * * * the intervention in Afghanistan is neither a reckless venture nor one from which the Russian leaders will quickly retreat under pressure.

* * * * *

"The demonic picture of Russian policy now current in Washington as a result of the intervention in Afghanistan is therefore an unfounded one. The Russians may have had the misfortune to intervene in a U.S. election year, but neither the all-informed [sic] hysteria this has generated, nor the force of Islamic counter-revolution in Afghanistan itself, appear likely to force them off the course they have chosen."

Other U.S. leftists who normally collaborate with Soviet-initiated disarmament initiatives and who were active in the anti-Vietnam movement have circulated a call for immediate withdrawal of Soviet troops from Afghanistan. They state the invasion "presents a new threat to world peace and will speed up the already insane arms race with diversion of more and more of the world's resources from human need to the war machines."

Signers of this call include Don Rose, Citizens Party; Sidney Lens, Mobilization for Survival (MFS); Shirley Lens, chair, Women for Peace; Paul Booth, AFSCME staff; Dr. Quentin Young, Cook County Hospital; Ed Sadlowski, assistant director, USWA District 31; lawyer Richard M. Gutman; John Rossen; Jane Kennedy and other Chicago area activists.

Groups of Afghanis resident in the United States, mostly students, have held demonstrations and vigils outside the United Nations in New York and near the Afghanistan Embassy in Washington. There are an estimated 2,000 Afghanis living in the U.S., and nearly all of the 300 who live in the Washington area turned out for a January 4, 1980, protest near the Soviet Embassy.

Many Afghanis in New York and Washington have expressed fear of being followed and harassed by Soviet intelligence agents assigned to the very large staffs of the Embassy and U.N. mission. They also are afraid of being infiltrated by Iranian agents and supporters of Ayatollah Khomeini who would try to take advantage of the substantial Persian-speaking minority in Afghanistan to increase the anti-American sentiments in the resistance movement.

Meanwhile groups that have previously supported Soviet "peace" initiatives such as the Women's International League for Peace and Freedom (WILPF) and Women Strike for Peace (WSP), are trying to forestall any U.S. Persian Gulf military buildup. The old Coalition for Peace in the Middle East in which WILPF and WSP played leading roles, already has been transformed into the Coalition for Peace in Iran and Afghanistan to meet the new "burning issue."●

TRIBUTE TO "MOTHER HEN"

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HUGHES. Mr. Speaker, I would like to take a moment to express my deep sorrow over the passing of Mrs. Blanche Scott of Margate, N.J., on November 19, 1979. Mrs. Scott, affectionately known to her friends as "Mother Hen," provided valuable assistance to the sports fishermen of South Jersey by steering them safely through rough seas during inclement weather and guiding them to prime fishing waters over her citizens band radio.

For many years, Mrs. Scott managed her marine radio station from Scott's Dock, a marina owned and operated by Blanche and her husband, Ray in Margate. Originally just a hobby, her volunteer radio communication service soon offered full-time assistance to boaters and fishermen whose CB radios lacked access to the information available on VHF channels.

Each year from March through November, "Mother Hen" provided boaters with needed weather and fishing reports and responded to calls for assistance. On numerous occasions, Mrs. Scott gave those in trouble life-saving aid, serving as liaison between the Coast Guard and boats in distress, and contacting doctors during medical emergencies. She also served as a clearing point for the transmission of vital messages from ship to shore.

Blanche's dedication and commitment to the fishermen of South Jersey was equally matched by her pleasant manner and special sense of humor. She was a loving and devoted wife and mother, and will be sadly missed by her countless friends. New Jersey will long remember Mrs. Scott for her valuable service to the maritime community and for her unselfish devotion to those in need.●

KHOMEINI, MOSCOW, AND RUMORS OF WAR: WILL THE IRRATIONAL ENGULF US?

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. BINGHAM. Mr. Speaker, on January 20, 1980, Dr. Matthew Ies Spetter, leader of the Riverdale-Yonkers Society for Ethical Culture, gave a stimulating and thoughtful address on the subject: "Khomeini, Moscow, and Rumors of War: Will the Irrational Engulf Us?"

I commend to my colleagues and others the following outstanding excerpts:

EXCERPTS FROM DR. MATTHEW IES SPETTER'S ADDRESS

MAJOR CHANGES

I see five major areas of change which need comprehension if ever we are to get beyond the era of the balance of terror.

1. We are in a time of a truly demonic spiral of nuclear weapons. Almost each year a weapons system becomes obsolete, because the USSR has found a counterweapon. Security based upon weapons is once and for all finished. A new norm of global security must be developed. SALT II was just a first step.

2. We are facing a proliferation of nation states, even though old-fashioned sovereignty is untenable. Those states emerge amidst fierce collectivist or religio-political nationalism. This means the end of power politics. As the so-called "nuclear club" grows giving even the tiniest nation incredible power, we need ideas for a pluralistic world, not one of power blocs.

3. With the immense population growth everywhere we now confront the fact that about fifty million people starve to death each year.

4. From this fact emerge ideologies which are neither Marxist nor capitalist—a new war of ideas is upon us. For about three hundred years the West could count upon the wealth of colonies. That day is past. Oil should teach us our vulnerability and dependence.

5. We live in common deadly peril. Internal stresses such as between the two dictatorships, China and the USSR, face us with a new kind of political warfare that can

easily boil over into military confrontation. The old ideologies have lost their hold, new symbols for world order are more urgently needed than who makes a "killing" gambling on the stock or gold markets.

THE SOVIET MOTIVES

Crucial is the question: is the Soviet Union following a plan for world domination, is Afghanistan just a stepping-stone? If so, how can the West respond effectively? The Soviet sphere of influence has grown from Vietnam, to Cambodia, to Afghanistan, to South Ymen and, with the help of the Cubans, to Ethiopia. Will the road to Paris and London, as Lenin said, lead via Asia? Many think so. President Carter has ordered a halt to all negotiations with the Russians on military matters. SALT II has been put on ice.

Mr. Brezhnev says "nothing of the sort." "It was no simple decision for us to send Soviet military contingents to Afghanistan," he said. He denied that he was aiming for Pakistan or Iran or for the Western oil resources. He was invited to come into Afghanistan by Mr. Amin—the former ruler—then came in and promptly executed Mr. Amin and his family. All this—Brezhnev said—"because Afghanistan had become a seat of serious danger to the security of the Soviet state."

In what way did the USSR feel threatened? Was it fear that the fanatic fervor of nationalistic Islam would infect Soviet Moslems as well? Had they written Mr. Carter off as a "lame-duck" President anyway and felt that in the political vacuum, until elections in the USA, they could increase their positions of power? (Under John Foster Dulles of course, we built our so-called "positions of strength" around the Soviet Union, from Korea to Norway.)

But why, then, wholesale military occupation of a basically powerless nation? Was Russia's leadership still caught in ancient political molds which are without relevance in the ICBM era? Were they motivated by their own propaganda?

Now Mr. Brezhnev knew of course that the world would not swallow this version. Why then the decision to act militarily, which transformed an already pro-Russian regime into an occupied territory? I think one has to go back to what is known as the Brezhnev Doctrine. It asserts that Russia has the duty to assist any communist state which faces upheaval. There needs to be the pro-forma "invitation" of course, as in Hungary and Czechoslovakia. In Afghanistan, however, the airlift of troops started a full two days before the initiation! The Russians do not deny it.

Here one must ask what larger Russian aim is at stake, since they obviously were killing our notion of detente. There is a divergence of meaning here. To the USSR detente meant reducing the danger of nuclear war. We looked upon it as an instrument for a changed Soviet-West relationship. The Russians explicitly rejected that interpretation. What they called "national liberation struggles" would get Soviet armed support. Thus they did not inform the USA when the Arabs launched the Yom Kippur war in 1973 with vast Russian military aid; thus they intervened in Angola and helped Vietnam invade Cambodia. By taking Afghanistan they could both confront China, which borders on it; and get even closer to the oil of the Persian Gulf. Afghanistan is not all that important, nor are its eighteen million largely illiterate, poverty-stricken people.

Was Russia performing the opening move in the chess game that will, before too long, topple other feudal monarchies of the Persian Gulf, especially Saudi Arabia? Within the communist ideology that would be rational.

Have you ever tried to argue with a convinced communist about the Soviet Union? You may be arguing, but he is in possession of a true faith. You may objectively seek some position but the communist knows the truth, he knows where history is going. His loyalty is not to such a quest, but to something he considers a higher goal. He may betray you for that higher purpose and yet feel morally superior. Brezhnev may lie, but in the communist rationale that is not a lie, but a tactic to achieve "socialist" progress. So with the military strategy of the USSR, I am afraid. It is based upon a rockbottom faith of serving world history. Ultimately at all cost. That is what we are up against.

Martin Buber wrote a splendid essay on this very issue. He called it "Against the Generation of the Lie." Obviously not only the USSR is guilty of using the lie. Buber said that the prevalence of lying in today's world is removing the basis of life. It is a way of controlling others by an even greater lie, which then becomes the delusion of collectivities. It becomes a means of justifying power over others; of oppression; of maintaining superiority. When an individual man or woman lies, he sooner or later has to come to terms with reality anyway. The lie will boomerang. Without a return to truth there is no partnership and without that we cannot live.

But collectivities and nations may even seek that isolation which the big lie creates. It reinforces even further the feeling that they stand alone against the world. Thus the duplicity is no longer just words but becomes social reality based upon illusion.

WAR AND PEACE HAVE BECOME MORE THAN A POLITICAL ISSUE, IT IS NOW THE ONE CENTRAL MORAL ISSUE OF HUMANKIND

There is no road to victory in a world conflagration, because war has become total and therefore mad, absurd. Violence is no substitute for the real socio-economic needs of the world, the struggle against hunger, disease and ignorance.

War, in the end, is the default, the bankruptcy of the leadership. It has become a delusion of the impotent.

Far more important to America's future is to extend ourselves into Asia and Africa and Latin America and have the nations there understand what they can expect of us to build up their standard of living, to fertilize their fields, to rid themselves of abject poverty.

We need not sit back and wait till the next country in South America explodes in violence. We need not fear Castro's agitation if at last we address the social and economic misery at our doorstep with out productive means and identify with the people's needs.

All-pervading irrationality and nationalism are obstructing today's view of a better world. But only when we break out of the mythology and tribalism will there be a secure future in the nuclear age—the safety namely of a human community in which we will be free of the terror of nuclear arms, a human community in which we need not fear that our children and grandchildren will be threatened by annihilation but will instead be able to build the satisfactions of their human fulfillment in a sane order. That is the root that must nourish us, that is the loyalty that must bind us and these are roots and loyalties far stronger and far more important than the abstractions of nations and powerblocs. We may not give up on that vision.●

THE NATION'S CAPITAL HONORS PEACHES AND HERB

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. FAUNTROY. Mr. Speaker, it gives me a great deal of personal pleasure to join with the Mayor of the District of Columbia, the Honorable Marion S. Barry, Jr., in saluting two of the most talented individuals and residents of our Nation's Capital—Linda Greene and Herb Fame. Together they are known as nationally and internationally famous entertainers under the name of Peaches and Herb.

They have taken the message of America throughout the world and were the first black American group to perform in the People's Republic of China. They have achieved outstanding success and the recognition which the people of Washington accords them is well deserved as they are honored for their contributions to our Nation and to the city which they call home.

PEACHES & HERB DAY—A PROCLAMATION

Whereas, Peaches & Herb, nationally and internationally known entertainers, are residents of our metropolitan Washington area; and

Whereas, Peaches & Herb are the first Black American group to perform on Mainland China, the People's Republic of China; and

Whereas, Peaches & Herb have achieved outstanding success in the record industry, having now sold over 3 million record albums in the past year, and were nominated by the top three music trade publications as "Top Duo" for 1979 and nominated for a Grammy Award; and

Whereas, it is fitting that we should set aside a time to honor them for their achievements and cultural contributions to our city and nation:

Now, therefore, I, the Major of the District of Columbia, do hereby proclaim Friday, February 1, 1980, as "Peaches & Herb Day" in Washington, D.C., and call upon all of our residents to join with me in honoring Peaches & Herb in grateful acknowledgement of the exceptionally outstanding cultural contributions which they make to the life of our city and nation.●

A NEED FOR A NATIONAL STEEL POLICY

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. ATKINSON. Mr. Speaker, in a continuing effort to draw attention to the great need for a national steel policy, I would like to reprint a section of a publication, "Steel at the Crossroads," published by the American Iron & Steel Institute. This publication is an informative work of great scholarship. The AISI is to be commended for their hard work and for their considerable expertise. I refer to a chapter which is devoted to the need for radical improvements in capital re-

covery tax laws for the steel industry. This part of the publication, which I urge everyone to read in full, refers to the Capital Cost Recovery Act. The Capital Cost Recovery Act would help provide the needed capital that is essential to the revitalization of the steel industry. It also refers, in part, the burden placed on an already straining industry by federally required pollution control expenditures. I have cosponsored the Capital Cost Recovery Act and I have sponsored H.R. 5394 which allows for rapid depreciation of federally required expenditures. While I favor enactment of the general capital cost recovery legislation, I even more strongly urge that the Government provide tax relief for the burdensome environmental requirements which we have placed on one of our most vital industries at a time when that industry can least ac-commodate them.

I insert in the RECORD, at this point:

VII.—THE STEEL INDUSTRY REQUIRES HIGHER RATES OF RETURN AND MORE RAPID CAPITAL RECOVERY TO MEET CAPITAL REQUIREMENTS OF $7 BILLION PER YEAR

A. COMPONENTS OF CAPITAL AVAILABILITY

The funds available to any firm to meet its capital requirements come from three principal sources: (1) capital recovery (depreciation); (2) reinvested earnings (net income less dividends); and (3) issuance of debt and/or equity. In the case of the steel industry, these funds are necessary for replacement, expansion, environmental, and non-steel capital expenditures plus debt retirement and increases in working capital.

In the final analysis, capital outlays and capital availability must be in balance, with the amount of capital available determining the extent to which capital requirements are met.

One way to view the balancing of capital needs and sources is to match each type of capital requirement and each component of capital availability. For example, capital recovery should balance capital expenditures for modernization and replacement, since capital recovery is intended to replace worn-out facilities. Reinvested earnings and issuance of debt and equity are used for debt repayment, working capital increases, and the expansion of the enterprise.

The relationships described above do not provide any funds for environmental retrofitting of existing facilities. Normally, environmental expenditures are included in modernization and thus financed with capital recovery. However, retrofitting of existing facilities to meet new environmental or other standards was not envisioned at the time of original construction and funds from capital recovery are not adequate to offset these retrofitting costs. Accordingly, it is difficult to imagine how these imposed and non-economic requirements could be met without foregoing other capital needs, unless added revenues are provided through price increases.

B. PAST BALANCE OF CAPITAL REQUIREMENTS AND CAPITAL AVAILABILITY IN THE AMERICAN STEEL INDUSTRY

Since 1969, capital expenditures, in constant dollars, by the American steel industry have been very low, averaging approximately $2.9 billion per year (in 1978 $). Of this amount, only $2.1 billion per year was spent for replacement of steel-producing facilities. This compares with $4.4 billion per year (in 1978 $) needed for steel equipment replacement, and total capital spending needs of $6.5 billion per year during the next decade.

Inadequate funds have severely constrained the steel industry's ability to meet its capital requirements. The two major problems have been inadequate rates of return and tax laws that impede capital recovery. A sizeable increase in the industry's debt/equity ratio—from 35 percent in 1969 to 42 percent in 1978—has been required to supplement retained earnings and funds available from capital recovery merely to accomplish the relatively low level of spending that has occurred. Since there has been essentially no net expansion over the past 10 years, the use of reinvested earnings and debt to finance capital expenditures for replacement demonstrates that capital recovery has been insufficient for its intended purpose.

Capital recovery has not been sufficient for the following reasons: Rates of capital recovery are too slow under current tax laws; capital recovery based on historical costs is inadequate to fully cover replacement at today's inflated costs; and capital recovery funds have been diverted to meet imposed environmental standards rather than used for their intended purpose.

C. HOW CURRENT TAX LAWS HAVE IMPACTED CAPITAL AVAILABILITY IN THE AMERICAN STEEL INDUSTRY

1. Capital cost recovery

Capital recovery is very slow for the steel industry under current U.S. law. This slow recovery presents a major problem in any attempt to embark on an accelerated capital expenditure program because enormous cash shortfalls occur in early years. These shortfalls can be recouped, but at a much later time.

This long time frame has even more profound implications in an inflationary economy. Since capital recovery is based on historical costs, only part of the cost of replacing worn-out facilities is recovered. Over the past ten years, plant and equipment costs have almost doubled.[1] Thus, if $100 were spent in 1968 to buy two pieces of identical equipment, by 1978 the capital recovery from the original $100 expenditure would only allow replacement of one of them.

As shown in Table VII-1, steel industry assets have one of the longest guideline depreciable lives of any American industry. Products that compete directly with steel (wood, plastics, rubber products, aluminum, and copper) all have shorter tax lives.

TABLE VII-1.—STEEL HAS ONE OF THE LONGEST CAPITAL COST RECOVERY PERIODS

	Guideline-lives—years [1]
Assets used in the manufacture of:	
Electronic equipment	8.0
Chemicals	9.5
Textiles, yarns, fabrics (average)	9.0
Wood products	10.0
Plastics	12.0
Electrical equipment	12.0
Motor vehicles	12.0
Fabricated metal products	12.0
Aluminum and copper	14.0
Rubber products	14.5
Steel	15.0
Cement	20.0
Average for all manufacturing industries	12.0

[1] Actual tax depreciation lives could vary plus or minus 20 percent.

Source: U.S. Department of the Treasury, Internal Revenue Service.

The basic problem has been an overemphasis in the U.S. on the physical life of facilities and, as a result, U.S. tax rules have been formulated based on the concept of "useful life". Since the Congress has viewed steel industry facilities as having long "useful lives", the American steel industry has been burdened with low capital recovery allowances. Most nations, however, have not employed "useful life" or physical concepts but rather have used rapid capital recovery as an economic tool to promote accelerated capital formation and increased productivity. For example, in some countries, capital expenditures are treated as any other expenditures and can be deducted in the year incurred. In France, Italy, and Sweden, capital recovery allowances in the first 3 years exceed 75 percent of capital expenditures (as compared to less than 57 percent in the U.S.). In Canada, full capital recovery is permitted in approximately 2½ years, compared with over 10 years in the U.S. Various estimates indicate that this more rapid capital recovery in Canada would lead to a return on investment at least a third higher for a plant built on the north shore of Lake Erie as compared to one built on the south shore in the U.S. (50 miles away). This in part explains why The Steel Company of Canada, Ltd., has a fully integrated plant under construction on the north shore of Lake Erie at Nanticoke, Ontario, while U.S. Steel Corporation cannot justify expenditures for a similar plant on the south shore. Such comparisons dramatize the importance of rapid capital recovery if the American industry is to compete on equal terms with foreign rivals.

2. Investment tax credit

Funds provided by the investment tax credit contribute to the capital available to the American steel industry for investment in productive facilities. The credit also partially offsets the inflationary effects of deferred recovery of capital investment. The credit, obviously, is of greatest benefit to capital-intensive industries such as steel, where the need for investment capital is largest.

The investment tax credit should be made fully available as expenditures are incurred and should apply to all property, rather than just property having a normal construction period of two years or more. Further, the annual limitation on the utilization of the credit (which is presently scheduled to increase to 90 percent in 1982) should be eliminated completely, and the credit should be fully available to offset all tax liability including the minimum tax. The impact of this structural change on tax revenues would be minimal. However, there would be a maximum utilization of the benefit in years when capital expenditures are at the highest levels and funds are most needed.

3. U.S. corporate tax rates

High corporate tax rates constrain enterprise expansion by reducing net income and reinvested earnings. Further, in current circumstances, where capital recovery is not sufficiently rapid and companies are often forced to use reinvested earnings as a supplement to maintain plant and equipment, high corporate tax rates impose severe penalties.

Most other countries have much lower corporate tax rates than the U.S.A. As estimated by the Canadian Department of Finance, effective corporate tax rates on manufacturers' book profits are 10 percentage points lower in Canada than in the U.S. for representative states and provinces. (For example, the effective income tax rate for all manufacturing in Ohio, including both state and federal tax, was estimated at 41.3 percent. This rate compares with 31.9 percent in the province of Ontario.)

One special feature of U.S. tax law that unfairly reduces internal cash generation is the minimum tax on items of tax preference. Designed to ensure the payment of at least some taxes on income, the minimum

---

[1] Chemical Engineering Plant Cost Index, May 8, 1978.

tax was intended to remedy abuses that clearly were not of corporate origin. Too often the relationship between tax preference items and a company's ordinary tax liability generates an unexpected minimum tax liability. This occurs when net income levels are depressed while tax preference items remain at or near normal levels. This was not the intention of Congress and there is no justification for the continued application of the minimum tax to corporations. The law should be repealed or amended to remedy this mis-application.

4. Depletion

The percentage depletion allowance for minerals has provided an effective economic benefit to the extractive industries. It should be retained at least at current levels. Furthermore, the effectiveness of this provision should not be impaired by the minimum tax, particularly since the tax laws on percentage depletion contain a direct limitation of such deductions.

5. Impact of current U.S. tax provisions

In summary, current U.S. tax laws are not designed to enhance capital recovery. This imposes an unnecessary burden on U.S. corporations attempting to compete with other world industries. In addition, by discouraging capital expenditures, specifically capital replacement, the lower rate of capital recovery in the U.S. slows improvements in labor productivity, energy efficiency, pollution control, etc.—all of which are made possible by installing technological up-to-date equipment. Current capital cost recovery in the U.S. is slower than that of most of its trading partners. This slow capital recovery goes a long way towards explaining the declining U.S. international competitive position in recent years. Faster capital recovery is essential if the U.S. is to re-establish itself as a viable competitor in the world economy.●

VLADIMIR SHELKOV

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. PEYSER. Mr. Speaker, a few days ago, I was deeply saddened by the news that Vladimir Shelkov, the 84-year-old Russian leader of the Seventh-day Adventist Church, had died in a Soviet labor camp.

Mr. Shelkov was convicted last summer of "anti-Soviet activities" in retaliation for his lengthy role as a national religious leader and for his active encouragement of religious instruction for children through Sunday school classes. This activity was regarded as so subversive and dangerous to the Soviet state that it sentenced an elderly clergyman with a weak heart to 5 years at hard labor in the winds and snows of Siberia. This sentence, which was characterized by Nobel Peace Prize winner Andrei Sakharov as "illegal and monstrous," would seem to have been carefully calculated by Soviet authorities as a de facto death sentence.

Vladimir Shelkov's final arrest and conviction was the culmination of a lifetime of religious persecution by the Soviet Government. Beginning with his first arrest in 1931 for "counter-revolutionary crimes" and ending only **with his death, Shelkov endured nearly 25 years of imprisonment and 10 years of forced hiding. It has been said that Shelkov may have been the model for the saintly Baptist in Solzhenitsyn's "One Day in the Life of Ivan Denisovitch" true or not, the characters of the two men are, unquestionably, cut from the same mold.**

Shelkov was adopted as a prisoner of conscience by Amnesty International in 1978 because all of his arrests were "clearly for the exercise of his right to freedom of conscience." A letter from 53 American Congressmen was sent to Leonid Brezhnev in April 1979, expressing the concern of the Congress for Mr. Shelkov's condition and requesting his release on humanitarian grounds. No response was ever received.

Last month, I received word that Vladimir Shelkov was gravely ill and had requested medical assistance, but, according to State Department sources, this assistance was denied to him. Now, he is dead. It is worth noting that, before levying sentences in political trials, Soviet judges confer with and actually receive instructions from representatives of the party apparatus. Therefore, the fate of Vladimir Shelkov must be seen as representing official Soviet policy and the Soviet Government bears the responsibility for his death. The callous attitude of the Soviet Government toward human rights, exemplified by the mistreatment of Vladimir Shelkov, can only harm relations between that nation and the rest of humanity. I can only hope that the outcry against this and other outrageous abuses will lead the Soviet Government into conformance with the ideals and policies of the world's civilized nations.●

PROPOSALS TO TAX SOCIAL SECURITY BENEFITS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. BONIOR of Michigan. Mr. Speaker, the Advisory Council on Social Security, which Congress established in 1977, has released its report. One of the most controversial provisions is the recommendation to tax half of social security benefits. This would amount to a huge increase in taxes for many collecting social security. I totally oppose this recommendation which would tax those least able to afford it. The American public has paid into the social security system with the belief that the benefits have been earned and already taxed. For this reason, they believed that social security benefits would not be taxable and we should not change that policy now.

Presently, the prohibition on the taxation of social security benefits is an IRS ruling. I do not believe that this is a sufficient protection. We need **to put this prohibition into law. H.R. 6012, which I have cosponsored, would accomplish this goal. I urge the Ways and Means Committee to consider this bill in the near future.**

While only those individuals and couples whose income including half of social security benefits is greater than $7,400 would be taxed, according to the Council's own estimates, this would affect 10.6 million of the 24.2 million couples and individuals collecting social security. The average tax increase for those people would be $350 annually. Even the Council admits that those living on social security benefits are having a hard time keeping pace with inflation because the cost-of-living increases are given only annually. Yet, the Council suggests that senior citizens living on fixed incomes should pay increased taxes.

This proposal would increase Government revenues by $3.7 billion annually. However, there are many other sources of income that are lost through tax expenditures which could be eliminated. The increased revenue from closing just the following four loopholes would be $5.538 billion.

(1) Elimination of country club memberships as a business expense—$38 million.

(2) Elimination of business meals for entertaining clients as a business expense—$2,000 million.

(3) Elimination of taxation of income earned abroad by U.S. corporations until that income is returned to this country—$480 million.

(4) Percentage depletion allowance for oil, gas and mineral companies—$3,020 million.

Totals—$5,538 million.

I do support the Council's recommendation that cost-of-living increases be given semiannually rather than annually. As the Council points out, the gap between the time prices rise and when the cost-of-living increases are granted is 15 months. Given the high rates of inflation, this leaves those living on fixed incomes unprotected from inflation. H.R. 2139, which I have also cosponsored, would implement this recommendation. I urge the Ways and Means Committee to pass it as well.

Our senior citizens have faithfully paid into social security for many years. They deserve to know that their benefits will be paid and will keep pace with inflation.●

RECOGNIZING SRI LANKA'S NATIONAL DAY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. FOLEY. Mr. Speaker, it is again my pleasure to recognize February 4 as the "National Day of Sri Lanka," now celebrating the 32d anniversary of its important shift from British colonial rule to full nationhood. This independent, forward-moving, democratic nation stands as an example of progressive government, under which the quality of life has steadily improved.

I am certain that I express the feelings of many Americans in marking with admiration the achievements of this multiparty democracy. In seven elections, control of government has changed hands six times. Yet, these transitions did not interfere with the ongoing national commitment to improving the basic human conditions: In 25 years, Sri Lanka has achieved a literacy rate of 78 percent, decreased infant mortality and population growth by significant increments, and made equally important strides in improving the diet and life expectancy of its people. Earnest efforts to expand and improve economic opportunities continue to move ahead. These are truly noteworth achievements: Sri Lanka has succeeded where many others have failed.

Confronting its economic situation, Sri Lanka has made impressive adaptations. A healthy growth rate, in today's generally poor economic climate, is the result to a large degree of the important steps recently taken to stimulate investment and savings. Free market forces have been accorded a stronger role through policies designed to create positive incentives for development. These policies have caught the interest of foreign investors, as manifested by their involvement in over 75 new industrial projects. Private capital has clearly been attracted by the prospect of a stable economic atmosphere, and thus also the prospect of greater employment.

Sri Lanka's rich and diverse culture has been known and respected by the United States for many years. It is therefore important to note its commitment to the political and economic values that are so important to maintaining these traditions.

Finally, I am not alone in respecting the genuine independence which marked Sri Lanka's recent chairmanship of the world's nonalined movement. I think it is safe to suggest that this leadership embodied the principles which originally gave the broad-based organization its stirring appeal to so many diverse and strongly independent nations.

I extend my congratulations to all of Sri Lanka on this important date, and my best wishes for a future that builds upon the many successes of its past.●

CONGRESSIONAL BLACK CAUCUS ANALYSIS OF THE PRESIDENT'S FISCAL YEAR 1981 BUDGET PROPOSAL

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mrs. COLLINS of Illinois. Mr. Speaker, the Congressional Black Caucus today presented its initial analysis of the President's proposed fiscal year 1981 budget. Our statement criticized the budget proposal for cutting domestic assistance programs, implementing policies which will increase unemployment and recommending a massive, long-term increase in the military budget. We criticized policies which have increased official black unemployment from 11.4 percent in November to 12 percent in December to 12.6 percent in January, with even higher unemployment predicted, and which have totally ignored the Full Employment Act of 1978. The full caucus statement analyzing the fiscal year 1981 budget follows:

CONGRESSIONAL BLACK CAUCUS ANALYSIS OF PRESIDENT'S FISCAL YEAR 1981 FEDERAL BUDGET PROPOSAL

The President's fiscal year 1981 Federal Budget is an unmitigated disaster for the poor, the unemployed and minorities. The budget is deceptive and the American people have been misled as to its meaning. There are real cuts in domestic program spending, budget policies which will increase unemployment and a massive long-term increase in military spending. Yet, the President's budget has been presented to the American people as one which continues current services for domestic programs while making modest defense spending increases.

Nothing could be further from the truth. This is a budget which will, by the Administration's own admission, increase unemployment by 1½ million persons to 7.5 percent by the end of 1980.

This is a budget which has the Administration postponing the Full Employment Act's unemployment target of 4 percent unemployment for two more years until 1985, and the inflation target of 3 percent for five years until 1988.

This is a budget which not only increases the military budget by 5.4 percent about inflation rates in fiscal year 1981, but then locks in an additional 4.8 percent in fiscal year 1982, 4.4 percent more in fiscal year 1983, 4.2 percent in fiscal year 1984, and 4.2 percent more in fiscal year 1985 with only the passage of the fiscal year 1981 budget. This means the military budget which stood at $127.8 billion in 1979 will be over $248 billion in fiscal year 1985.

This is a budget which as a whole continues at a current services level, but which, because of the massive defense increase, clearly cuts social programs below even the levels they were only cut to last year.

This is a budget which claims to initiate a new $2 billion youth jobs program, but which actually will give half that amount to school systems for illusory benefits, and provide few new jobs or training opportunities with the other half. In fact, there will be a devasting two year delay before the program becomes effective.

And this is a budget which, because it implements the same ineffective economic policies of the past several years, will neither reduce unemployment nor inflation nor the deficit. In fact, at the same time as the Administration continues to call "inflationary" spending for the programs which could make the unemployed productive, taxpaying workers, it massively increases defense spending, the most inflationary and waste-ridden Federal expenditure of all. And by focusing on the deficit, which the Congressional Budget Office and many economists say has little effect on inflation, it ignores the very reason for the budget—the well-being of our people.

Why has the public been led to believe that this budget proposal makes little change from last year? That impression has been created through a failure to look behind the numbers and the rhetoric.

The employment budget and policy is the clearest example. First, the Administration which demanded flexibility in the Humphrey-Hawkins Act timetable, used that flexibility rather than offering alternative economic policies. After following economic policies which are creating a recession and increasing unemployment in an ineffective effort to stem inflation, it tells us that 4 percent unemployment is an unrealistic goal for 1983. The Administration also assumes "high employment" to be a 5.1 percent unemployment rate, in direct contravention of the Full Employment Act.

If the white male unemployment rate could stand at 3.7 percent at the end of last year, why cannot the same be done for the rest of the Nation? It is not inflationary to hire Blacks, women, Hispanics and youth who could produce needed goods and provide needed services. Are Blacks to stand silent when the official Black unemployment rate rises from 11.4 percent in November to 12 percent in December to 12.6 percent last month?

The budget actually reduces the number of job slots under the Title VI public service jobs program. By providing funds for only 450,000 jobs slots under the Title II-D and Title VI programs, it provides for less than one-half of the level authorized by law to respond to the unemployment rate of 7.5 percent which the Administration, itself, predicts.

What of the new $2 billion youth employment program? Only $300 million of that amount is requested for youth employment programs in fiscal year 1981, and only $100 million, or about 9.8 percent above current outlays, will actually be spend in fiscal year 1981. Most of this coming year's money—$900 million in budget authority—is to be spent for training through the same public schools which have failed to train too many of our young people in the past. In addition, because the program is forward funded, it would not become fully operational until fiscal year 1982. The number of service years under the Youth Employment and Demonstration Project Act, summer youth and Job Corps programs actually declines from 404,000 in fiscal year 1980 to 403,000 in fiscal year 1981.

But most of all, the misdirected economic policies which have put youth unemployment at 16.3 percent, and Black youth unemployment at 37.2 percent in January, will lead to an increase, rather than a decrease, in the youth unemployment rate.

Our young people are being told that money can be found to send them to war but not to put them to work. They are held hostage to the military budget.

Much is also made of the housing budget. We are told that the number of subsidized housing units will increase by 24 percent to 300,000 for fiscal year 1981. Yet 300,000 subsidized units is what the Administration claimed it was providing for fiscal year 1980, but provided money for far fewer, and only 240,000 are now expected to be produced. And the 300,000 figure was itself roundly criticized last year as a significant decrease from the 400,000 subsidized units provided for in recent years.

There are further deceptions in a budget which claims to hold poor people harmless. The budget for the revenue sharing program, set again at $6.9 billion, does not add any money, much less the increase necessary to cover inflation. So-called "Cash Management Initiatives", whereby tax receipts will be collected earlier in the year, is used to create the illusion of a lower-deficit. These manipulations of budget figures are still being analyzed, but the massive increase in the military budget at the same time as the overall budget remains level tells us that there are many more real cuts in domestic programs.

The military budget is most frightening of all. Prepared even before the Russian invasion of Afghanistan, the military budget is increased over 5 percent beyond inflation. And Secretary of Defense Brown has already informed the House Armed Services Committee that he will be back for further supplemental requests during the coming months.

When we read that other countries have subjugated domestic needs to their military machine we should understand that that is exactly what this budget is doing to our own country.

Most terrifying is that this is really a watershed year for the military budget. If Congress approves this 5 percent real increase, it is setting in motion weapons and personnel expenditures which will require increases of at least 4 percent each year through fiscal year 1985 and beyond.

The American public must become involved in the debate on this budget. The shape of our lives for many years is at stake, and for many, if not all of us, it is our very lives which are at stake.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment in Illinois on January 23, I was unable to be present and voting on House Resolution 513, the rule providing for consideration of H.R. 4788, the water resources development bill. If I had been present, I would have voted for the resolution.●

IS THE FEDERAL COMMUNICATIONS COMMISSION MAKING POLITICAL DECISIONS?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. MICHEL. Mr. Speaker, the Federal Communications Commission (FCC) recently announced it has fined RKO General $400 million and stripped that company of its television stations. Put more simply, the FCC has declared war on RKO General.

The Wall Street Journal recently addressed this ruling. I believe that what the Journal has to say is worth consideration by anyone interested in the relationship between Government and industry. The editorial raises the serious question that far from being a decision based on the relevent facts, the FCC ruling is quite possibly based on political motivations.

In any event, I want to take this opportunity to place the editorial in the RECORD. If, indeed, the Wall Street Journal's argument is even near correct, this case should be watched closely as it continues—RKO General will fight the decisions in the courts. We may have something more than a regulatory agency's ruling—we may have the imposition of a political and ideological point of view instead of reasoned judgment in a major Government decision. I think that even the possibility of such an imposition should concern every American.

At this time, I wish to insert in the RECORD, "By Favor of the King", the Wall Street Journal, February 1, 1980:

[From the Wall Street Journal, Feb. 1, 1980]

BY FAVOR OF THE KING

Last week the Federal Communications Commission issued a press release fining RKO General some $400 million and kicking it out of the broadcasting business. Eventually the FCC will get around to writing a formal decision explaining why.

The attempt to explain this arbitrary action should make amusing reading. Four of the seven commissioners decided that RKO no longer "qualified" to hold broadcast licenses for its TV stations in Boston, New York and Los Angeles—and by extension presumably for its other 13 licenses to come up for future renewal. The other three commissioners disagreed. So did the FCC Broadcast Bureau, and an FCC administrative law judge who reviewed RKO's qualifications. Both had recommended that the licenses be renewed.

RKO's problems started some 11 years ago, when supermarket heir David Mugar set his eyes on its license for WNAC-TV in Boston. His challenge to the license was going nowhere, so he hired Terry Lenzner, former counsel to the Senate Watergate Committee, and Washington reporter Scott Armstrong, co-author of "The Brethren," to see if they could dig up some dirt on RKO.

RKO is a subsidiary of General Tire and Rubber. According to the FCC press release, in the early Sixties General Tire pressured various companies to advertise on RKO stations as a condition of doing business with the parent. This was nearly 20 years ago. It was settled in a consent decree with the Justice Department in 1970, many license renewals ago.

In the general purging of pre-Watergate morality, General Tire also was found to have been involved in some bribery antics of the sort that most companies felt were necessary to do business in countries like Rumania, Morocco and Chile. It also confessed to a slush fund for political contributions, the contents of which never exceeded $25,000. It seems that RKO delayed telling the FCC that its parent was being investigated by the Securities and Exchange Commission. But eventually the SEC pronounced itself satisfied with General Tire's confessions, and a settlement was reached.

For these sins, the commission press release declares, RKO is "unqualified" to retain its licenses. "The company could not be trusted in the future to operate WNAC-TV in a manner consistent with FCC standards."

Dissenting Commissioner James H. Quello accused the majority of "gross bureaucratic overkill." He added, "none of the allegations against the parent company, General Tire, impacted the broadcast subsidiary or affected broadcast service. RKO stations have a long history of renewal in the public interest. They are broadcast pioneers with over 25 years of meritorious broadcast service to the public."

Business ethics of course need to be policed, but the General Tire problems have been adequately dealt with by the appropriate agencies. In any event such offenses strike us as small beer, and on alternate days the FCC itself seems to agree. This week it approved licenses for Westinghouse Broadcasting, a subsidiary of Westinghouse Electric. Back about the time General Tire was twisting the arms of a few advertisers, Westinghouse was involved in the notorious electrical price-fixing case. In 1978, Westinghouse entered a guilty plea for failing to disclose $323,000 in foreign payments. Yet Westinghouse is qualified to continue in the broadcast business but RKO General is not.

It is by no means clear, by the way, that Mr. Mugar will succeed in his effort to get the Boston license. Another group, Hub Communications, has also put in a bid. Mr. Mugar has, however, linked up with a third group, composed of blacks and MIT professors, to get the advantage of a movement toward more minority ownership of broadcast licenses. RKO is of course appealing in the courts.

If the FCC bestows these licenses on the challengers, it will be making them instant millionaires, just as its decision puts RKO out of the broadcast business. This has been a historical pattern with government protected monopolies like broadcast licenses. It is just as in the olden days when the king would take the salt monopoly from one courtier and bestow it on a new favorite. Surely there must be a more civilized way—auctioning off the licenses probably—to make such decisions.

When decisions are made by court politics, it is always difficult to discern precisely what has happened. But we would feel a little less uncomfortable about this case and those potential new Boston millionaires were it not for a couple of facts. The president of RKO is Frank J. Shakespeare, head of the U.S. Information Agency in the last Republican administration. And the Chairman of the FCC is Charles D. Ferris, whose previous job was as general counsel to House Speaker Tip O'Neill, Democrat of Boston.●

SENDING A SIGNAL TO THE PHILIPPINES

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HALL of Ohio. Mr. Speaker, I was disheartened to learn that the administration is seeking congressional approval for fiscal 1981 of $25 million in grant military assistance for the Philippines. This is the same amount successfully sought for fiscal 1980. The administration also wishes to continue foreign military sales credits for the Philippines in fiscal 1981 at the fiscal 1980 request level of $50 million.

The fiscal 1981 administration budget request for military aid for the Philippines carries out the gentlemen's agreement between President Carter and President Marcos that the administration would use its best effort to obtain certain security assistance funding for the Philippines over the 5 fiscal years following the base agreement between the two countries concluded in early 1979. The text of the President's letter of January 4, 1979, to President Marcos in which he discussed this commitment follows at the end of my remarks. This statement of intent on the part of the administration was not part of the Military Bases Agreement per se, nor did it specify, for example, that $25 million in grant military assistance would be sought in fiscal 1981.

Last year, during committee consideration of military aid for the Philippines, I offered an amendment to reduce grant military assistance to that country by $7.9 million. This amendment was adopted by the Subcommittee on Asian and Pacific Affairs, but later overturned by the full Foreign Affairs Committee.

This year, I intend to offer an amendment in committee to make a substantial reduction in grant military assistance for the Philippines. In my opinion, the need for such a cut is even more compelling this year.

A significant cut in military assistance would be a signal to two elements in the Philippines. First, it would signal the Marcos regime that the United States wants to see martial law lifted and democratic processes and civil liberties fully restored. Second, it would signal the growing opposition forces in the Philippines that the United States does not wish to be tied to the repression of the Marcos government.

In 1979, we saw the failure of bankrupt and shortsighted policies which tied the United States to the shah in Iran and to Somoza in Nicaragua. The media is far ahead of both Congress and the administration in pointing to the Philippines as the next "Iran" or "Nicaragua." Will we be left holding the bag in the Philippines, too?

President Marcos is a wily and skillful manipulator of world opinion. He knows when to release political prisoners, hold bogus local elections, and otherwise ease up on oppressive policies. He also may be the beneficiary this year of the heightened security consciousness which seems to be sweeping the country in the wake of the Russian invasion of Afghanistan. Given the turmoil in that part of the world, the bases in the Philippines are likely to assume renewed importance for those concerned about the strategic interests of the United States.

It would be tragic, however, if perceived short-term security interests were to override our long-term relations with the Filipino people. The successors of Marcos no doubt will recall the support given Marcos by the United States and hold the United States responsible for complicity in the abuses carried out under Marcos.

Ferdinand Marcos has interrupted the democratic tradition in the Philippines. Cutting military assistance to Marcos would demonstrate that the United States favors the early restoration of that democratic tradition.

In Nicaragua, Somoza succeeded in systematically repressing moderate democratic alternatives to his regime. The Sandinistas became the only real alternative left. A similar situation could occur in the Philippines. If democracy is not restored and the moderate opposition has no workable alternative, a radical liberation front could become the umbrella for the disaffected. I believe the United States must apply pressure upon Marcos to hold free elections so that the Filipino people can determine their own destiny in a democratic climate—while that is still a possibility.

It will be argued that we cannot cut military assistance because that assistance is necessary to the Bases Agreement. We already have a Bases Agreement with the Philippines. Military assistance for Marcos was not a part of the official agreement. If we cut a significant amount of that assistance, we are not going to lose the bases. Indeed, even under the terms of the President's letter to President Marcos, there is no requirement that we provide a specific amount of military assistance in fiscal 1981. Let the administration's "best effort" bear fruit in another year, after martial law has been lifted and the democratic processes fully restored. If the bases are in our vital security interests, let us not lose them in the long run through the application of a policy that seeks to save them in the short run.

A thought-provoking editorial in the Washington Post of February 5, 1980, outlines well the framework within which the United States should develop its policies with the Marcos government. I commend it and the President's letter last year to President Marcos to the attention of my colleagues:

THE WHITE HOUSE,
Washington, January 4, 1979.

President FERDINAND E. MARCOS,
Republic of the Philippines, Manila.

DEAR MR. PRESIDENT: I was pleased to learn that our negotiators have reached agreement on an amendment to the 1947 Military Bases Agreement.

In light of this development, I wish to state that the Executive Branch of the United States Government will, during the next five fiscal years, make its best effort to obtain appropriations for the Philippines of the following amounts of security assistance:

Military Assistance—$50 million.

Foreign Military Sales Credits—$250 million.

Security Supporting Assistance—$200 million.

In addition, the United States will give prompt and sympathetic consideration to requests for specific items of military equipment to be provided under these programs, and to requests for the sale of other military equipment which your government may wish to purchase through U.S. government or commercial channels, consistent with the worldwide policies of this government with respect to the transfer of conventional arms.

In closing, let me state once again that I appreciate your personal efforts in bringing these negotiations to a successful conclusion. I believe that the amendment to which our two governments have now agreed will strengthen the security not only of the Philippines and the United States but also of the entire Western Pacific region.

Sincerely,

JIMMY CARTER.

COURTING A BACKLASH?

After a year in which popular revolutions of the left toppled American-supported martial-law regimes of the right in Iran and Nicaragua, it is only prudent for Americans to be checking the roster of friends and allies for other positions in which the United States may be exposed. Any such review brings you quickly to the Philippines, where President Marcos is nearing the end of a decade of military rule and where assorted kinds of opposition—church and secular, political and military, lower-class and middle-class, Marxist and Moslem—are bubbling up all around.

Regrettably, very little of this sentiment was allowed to be expressed in the local elections (the first in eight years) that Mr. Marcos staged over the weekend. It was not simply that his candidates, using the formidable advantages his rules ensured them, swept most contests. Mr. Marcos also failed to persuade the principle opposition parties that it was worth their while to compete at all. Simultaneously, he launched a dialogue on "political normalization" with his long-jailed chief political rival, Benigno Aquino, whom he even freed for three weeks to conduct his own political soundings. But neither the elections nor the normalization gambit, which most Filipinos seem to have dismissed as a snare though it has not yet been played out completely, indicate any more than a slight and tentative readiness on Mr. Marcos' part to try to defuse the popular explosion that almost all experts believe is otherwise a near certainty.

The United States, by the military-bases agreement it made a year ago, accepted a certain obligation not to hassle the Marcos regime, in public anyway, for its perceived internal failings. Bases aside, President Marcos has earned further American gratitude and discretion by offering major help in receiving boat people and by voting right in the Security Council on Afghanistan—things like that. American officials can see that the Filipino opposition is building and that it tends to hold Washington responsible for the government's undemocratic ways. Yet they view the problem less as hedging against a possible future disaster than as balancing out a set of competing interests now.

In the current calculus, the emphasis of American policy is inevitably on ensuring continued security cooperation and demonstrating the benefits and reliability of the American connection. We don't quarrel with this emphasis. But we would like to hear the administration explain, perhaps in the testimony it is about to offer the House, what it is doing to ensure against a backlash some day from Mr. Marcos' domestic foes. The Philippines, unfortunately, is not the only place of which that question must be asked.●

THE PUBLIC DEMAND FOR MORE GOVERNMENT SERVICES AND LESS GOVERNMENT SPENDING

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. DERWINSKI. Mr. Speaker, the Christian Citizen, published in Alsip, Ill., is an innovative, informative and one of the leading Christian newspapers in the country. Its editor and publisher, Rev. Donald M. Parker, in his editorial commentary of February 1, addresses the public demand for more Government services while complaining of Government interference and expanded Government spending, which thus increases the inflation rate and cost to the public. I wish to insert Reverend Parker's commentary on his solution to the steady growth of Government spending:

[From the Christian Citizen, Feb. 1, 1980]

STOP GIVING US SO MUCH, PLEASE

(By Donald M. Parker)

The cartoon below rather hits home, doesn't it? Our wants go in two directions at the same time. Mutually opposed directions at that.

A related area is that we all like "something for nothing." Yet, nothing ever comes really free.

With every government give-away program there is an enormous price tag. Welfare packages come gift-wrapped in pretty paper and topped with a neat bow. Most attractive. But inside they contain rotting meat swarming with maggots.

Welfare, Social Security benefits, farm subsidies, "guaranteed" or low-interest loans have to be paid by someone. The cost or "guarantee" has to come from someone's pocket, from someone's labor and fruits of labor.

The more the public demands from its government, the more government in turn demands from the public. "We want clean air and pure streams" means that the EPA and other regulatory commissions, agencies and bureaucrats are going to be formed. Government leeches thus are spawned, consuming precious tax dollars, increasing inflation's impact and deficit spending.

More governmental "Thou Shalt Nots" are promulgated, putting businesses and consumers alike into ever tightening strait jackets.

When government officials—bureaucrats and our elected legislators—can't balance the budget with tax-dollar income, they spend beyond their means and make up for the difference by expanding credit and pumping more printing-press money into the economy. This legalized form of government counterfeiting keeps inflating the money supply to pay for the deficit-creating expenditures and give-away programs, whether nationally or in foreign countries. this is "foreign" aid par excellence!

As a consequence, money is cheapened—devalued—buying less in the market-place. thus everything costs more. Even the so-called government freebies.

Every year Social Security demands more from this country's most productive workers. The amount of wages that may be taxed by Social Security and matched by employers grows annually several thousand dollars.

Because things cost more since it takes more and more of the ever-cheapening dollars to pay for them, wage increases can hardly keep up with inflation's demands. Every wage increase puts the worker in a higher tax bracket, giving government more tax monies in the process and setting the wage earner further back in relation to take-home pay and his standard of living. "Another day older and deeper in debt"!

With 1979 inflation running at 13.2 percent, the President urged a 7 percent wage increase limitation, guaranteeing a financial setback for all. The same year the U.S. House approved a $430 billion "temporary addition" to the $400 billion permanent National Debt limit—a 7½ percent increase.

Approaching 15 percent annually (matching Prime Rate), inflation is growing twice as fast as earnings, earnings which are taxed at ever higher rates and consumed by ever increasing prices. Frustration at wholesale prices!

See why Americans must begin paying less taxes? To force Federal Fat Cats to TRIM their budgets and reduce Federal spending.

Please, Government, stop giving us so much! We are being buried alive! Smothered by Big Brother's "kindness"!●

JOINT STATEMENT OF HON. JOHN M. MURPHY, HON. JOHN B. BREAUX, AND HON. EDWIN B. FORSYTHE IN REGARD TO HOUSE CONCURRENT RESOLUTION 223, TO TERMINATE SOVIET FISHING IN THE FISHERY CONSERVATION ZONE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. MURPHY of New York. Mr. Speaker, in furtherance of the policies of the United States to apply appropriate political and economic pressure against the Soviet Union because of its recent invasion of Afghanistan, today we, together with a number of cosponsors, are introducing a House concurrent resolution to urge the President to terminate the fishing privileges of the Soviet Union in the U.S. fisheries unless the Soviet military presence in Afghanistan is withdrawn by February 20, 1980.

Under the Fishery Conservation and Management Act of 1976 (FCMA), no foreign fishing is authorized within the 200-Mile Fishery Conservation Zone (FCZ) of the United States unless a Governing International Fishery Agreement (GIFA) is entered into between the United States and the foreign nation concerned allowing such fishing.

On November 26, 1976, the United States and the Soviet Union entered into a GIFA that permits the vessels of the Soviet Union to engage in fishing within the FCZ for fish that are surplus to the needs of U.S. fishermen. This agreement does not expire until July 1, 1982.

Pursuant to the GIFA, allocations of fish have been made to Soviet vessels for the past 3 years. In 1977, 266 Soviet vessels were licensed to fish within the FCZ; they were allocated approximately 565,000 metric tons of various species of fish and actually caught about 300,000 metric tons.

In 1978, 212 Soviet vessels were licensed; they were allocated 580,000 metric tons and actually caught 370,000 metric tons. In 1979—based on preliminary figures, 146 vessels were licensed; they were allocated over 500,000 metric tons and actually caught 310,000 metrics tons.

In 1980—based on preliminary figures, 118 Soviet vessels were licensed to fish and the total allocations would have amounted to approximately 450,000 metric tons of fish. However, of this amount, 75,000 metric tons were actually allocated in the Gulf of Alaska and the vessels had commenced fishing in the gulf prior to the Russian invasion of Afghanistan. On January 4, the President announced that the United States would curtail Soviet fishing in the FCZ; therefore, the remaining 375,000 metric tons were not allocated. The contemplated allocations would have amounted to 200,000 metric tons in the Bering Sea; 150,000 metric tons in the Pacific Ocean off the coasts of California, Oregon, and Washington; and 25,000 metric tons in the Northwest Atlantic Ocean.

It is estimated that this loss of catch to Russia is valued at between $50 to $65 million. The Russians in the past have caught about 5 percent of their total fisheries needs in our FCZ.

The Soviet Union's brutal aggression against Afghanistan has already resulted in a number of other retaliatory actions. The President on January 4 imposed a virtual embargo on grain sales and other critical export products. On January 14, the United States joined 139 other nations in a United Nations Peace Resolution calling for the immediate, unconditional, and total withdrawal of all foreign troops in Afghanistan. On January 20, the President announced that unless the Soviet Union withdraws its troops from Afghanistan by February 20, he will recommend to the U.S. Olympic Committee that our athletes not participate in the Olympics to be held in Moscow this summer.

The termination of the fisheries agreement with the Soviet Union will further underscore the deep concern that the United States has with respect to the threat to world peace posed by the Soviet aggression. It is imperative that the President transmit the required 1-year notice to terminate this agreement so that the Soviet people will know once and for all that after this 1-year period there will be an absolute ban on Russian vessels in the FCZ for the remainder of the agreement. Thus, pursuant to the requirements of the FCMA, no new agreement could be entered into after the 1-year termination notice to allow Soviet vessels to again fish in the FCZ without the approval of both the House and Senate. Indeed, this is the way it should be because this is probably the only way that Congress can have any direct input in the decision-making process concerning any resumption of Soviet fishing in our zone. It goes without saying that there must be congressional input in any policy that would allow Soviet fishing in the FCZ in the future. This resolution is designed to accomplish that purpose.

Moreover, the termination will put other nations on notice that their fishing privileges in our waters may be jeopardized if they take actions that are inconsistent with U.S. policies in similar situations.

Our plans are to bring the resolution before the House for a vote at the earliest possible date, and we urge all Members to give it their strong support.●

NICARAGUA NEEDS AMERICAN SUPPORT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. CONYERS. Mr. Speaker, by the end of February the House will consider a $75 million aid supplemental to the people and Government of Nicaragua. Approval of this aid would be a hopeful, constructive step in assisting the Nicaraguan people in a time of great need and in repairing the damage resulting from three decades of the Somoza dictatorship.

The 2½ million people of Nicaragua, having overthrown in July 1979 the Somoza regime, now face the enormous tasks of national reconstruction. Roughly three-quarters of the people are poor; 60 percent, it is estimated, are illiterate. Nicaragua's external debt, contracted under the former regime, amounts to $1.5 billion, which the new Government has pledged the honor. The physical and economic damage to the country, after the revolution, has been estimated at $1.8 billion. Yet the new Government's foreign exchange is in the neighborhood of $80 million, and it is already in a state of default on its foreign bank loans.

The new Government has launched a series of major reconstruction programs, including a national literacy campaign and a program to create 90,000 new jobs. From all appearances, it enjoys the overwhelming support of the people. Nicaragua badly needs capital and credit to rebuild, and the aid supplemental is a first step in this direction.

The Christian Science Monitor on February 1 carried a highly informative report on Nicaragua's current situation—the author, Barbara Koeppel, is currently on assignment there and contributing much useful information. Recently, the Detroit City Council issued a resolution in support of the Nicaraguan revolution. A number of Detroiters have been active in Nicaraguan support efforts, and have issued an appeal for Americans to aid its antiliteracy campaign.

I urge my colleagues to review these documents on Nicaragua, and support the old supplemental:

[From the Christian Science Monitor Feb. 1, 1980]

NICARAGUA SETS OFF ON ROCKY ROAD TO RECOVERY

(By Barbara Koeppel)

MANAGUA, NICARAGUA.—Six months ago, Nicaragua was euphoric. General Somoza had slipped off in his private jet to Miami, away from the land his family had ruled—some would say plundered—for over four decades.

His National Guard, feared and sometimes despised, was vanquished. The bombs, which the desperate President had showered on his people, had ceased to fall.

Nicaraguans cheered the Sandinistas as they marched triumphantly into Managua. Hundreds of thousands of citizens crammed in front of the National Palace to make the change of government official, welcoming Sandinista leaders and their victorious army.

But today the euphoria has faded. The country reels under the weight of the tasks of recovering from the ravages of war, poverty, and neglect, and moving the revolution forward.

Pride persists, however. "Our land, our revolution," billboards proclaim. The words are echoed everywhere.

Especially noticeable is a tremendous feeling of relief. "We're not afraid any longer," a bellboy says. "Now we can go out at night without wondering if we will return home," says a businessman.

Just as widespread is the deep sense of unity.

"We all think of the revolution as our child, and want to protect it, to give it a chance to grow. So we criticize everything, but not the revolution," explains Eduardo Kuhl, a coffee grower and hotel owner.

None of this diminishes the problems facing Nicaragua.

The Sandinistas inherited a bankrupt economy. General Somoza emptied the Treasury before he fled, leaving $3.5 million in the banking system and a whopping $1.6 billion foreign debt.

Areas that were destroyed must be rebuilt. Most factories were bombed. Communications and transport systems were in shambles. Thousands of houses and businesses were destroyed. Famine threatens because crops were not planted during the insurrection. Production ground to a halt during the war, so unemployment is widespread, hovering now around 30 percent.

Social needs are pressing, not just from the war, but from years of "Somocismo" in which there were great wealth for the few and grinding poverty for the many.

To make matters worse, the government faced incredibly high public expectations.

"Many Nicaraguans thought that once Somoza was gone, life would change instantly. But that just isn't possible," insists Dr. Moisés Hassan Morales, one of the five members of the ruling junta.

The government passed over 200 decrees to get the country rolling and ease the burden of the poor, who are at least 75 percent of the population.

Rents under $150 a month were cut by almost half. The wages, about $1.80 a day, were raised slightly, and government salaries—even those of the junta—were limited to $1,000 a month. Prices of basic foods like rice, beans, and milk are controlled to keep the lid on inflation.

Schools and medical care, which were previously unavailable to most Nicaraguans (because fees were charged), were made free. Unions, which were either powerless or crushed, now are organizing furiously and have real strength. A hundred thousand workers already have formed unions, under the approving eyes of the Sandinistas, and 60,000 peasants have joined the farm worker's union.

Elections are occurring in the "mass" organizations (the block committees, women's and youth groups, and unions) and in local governments. Many Nicaraguans are participating in decision making for the first time.

Economic plans for 1980 are ambitious. The government will try to create 90,000 jobs, though many observers doubt this is possible so soon.

Bombed-out buildings are being rebuilt, and roads, parks, and hospitals, and the like are being constructed in every part of the country. Most of the housing that had been destroyed in Managua, in fact, is already completed.

Perhaps most important, a mass campaign to teach basic reading and writing to the 53 percent of Nicaraguans who are illiterate will begin in March.

All these improvements must be paid for out of production, which creates something of a dilemma for the new leaders, who have promised much.

"We can't afford to consume our resources now. We must work and reinvest them," says Henry Ruiz, the nation's new planning minister.

The country is potentially rich, and could indeed provide the social goods—for example, education, health care, housing, and some of the jobs—that leaders now promise if it can just get out of the current impasse, produce enough to earn foreign exchange, repay the debt, and accumulate surplus.

What is interesting is that despite the staggering problems, the government and Sandinista leaders command the loyalty of most of Nicaragua's 2.5 million people.

"The people trust the new government. After all, they were part of the insurrection together," observes Mary Hartman, an American nun who has been here for 15 years.

"They aren't afraid of austerity either, because most Nicaraguans always lived [with] it, along with repression. Now it's just austerity. And they are confident things will change."

Not all, of course, are satisfied.

Not unexpectedly, the sharpest complaints are from those with large business or land holdings, who fear the government is too committed to the poor and not concerned enough with the needs of the private sector. A key business organization, the Superior Council of the Private Sector, has endorsed the government's economic plan for this year, but is clearly edgy about what latitude the Sandinistas will allow for it and how the government expects it to help out.

The influential daily newspaper La Prensa, as well as news organizations representing the political left and right, have also criticized the six-month-old government. In part, this indicated a positive shift—the government feels comfortable enough to relax some of the controls it instituted after taking power.

The private sector's dissatisfaction is noteworthy, because, controlling 60 percent of the economy, its cooperation is essential if the ailing economy is to revive. The government also needs the private sector's investment and managerial know-how.

Businessmen are skeptical, however, of the Sandinistas's growing political power. They fear that someday their holdings may be nationalized.

They point out the government already has put strong controls on finance and foreign trade. It extends credit for business ventures it feels are most needed—for example, to produce necessities like food, clothing, and medicine, and to market key export products like cotton and coffee. And it regulates what is imported and exported.

It woos private enterprise with easy loans, good prices, and quick payment for products the government then markets; thus eliminating the middlemen.

The Sandinistas promise a certain degree of labor peace, too. They are launching a campaign to hold down wage demands and increase labor productivity.

But the government has hinted it can use its muscle against business. If the large landholders, for example, leave fertile land uncultivated, it will lease the lands for nominal fees to others who are more willing to cultivate it.

Jaime Balcázar, head of a UN mission here, says the Nicaragua government is "not communist, as some in the US say, or capitalist with new face, as some of the ultraleft critics here claim. Nor is it anything in between. Rather, the model is purely Sandinista."

DETROIT CITY COUNCIL TESTIMONIAL RESOLUTION

NICARAGUA

Whereas the people of Nicaragua have paid a great price for their freedom from the Somoza dictatorship, namely, tens of thousands, of lost lives, a devastated industrial sector of the economy and a practically bankrupt national treasury, and

Whereas the people of Detroit expressed their concern and support for the people of Nicaragua during the recent war of liberation when last April 21st, Manuel Cordero, representing the MPU (United People's Movement) was presented with a Spirit of Detroit citation, and

Whereas the Nicaraguan people have begun to reconstruct a new society of "Freedom, Justice and Peace," based on "The Recognition and Affirmation of Fundamental Human Rights, both individual and collective," as spelled-out in the Statute on the Rights of Nicaraguans, and

Whereas the distinguished guests from Nicaragua, Moises Hassan of the governing Junta of the Government of Reconstruction and Doris Tijerino of the Secretariat of External Affairs of the FSLN (Sandinista Front for National Liberation), are visiting Detroit in order to participate in the Second National Conference on Nicaragua: Now, therefore, be it

Resolved, That the Detroit City Council extend a warm greeting of friendship to the people of Nicaragua through its distinguished guests, Moises Hassan and Doris Tijerino; that it expresses its continuing support for the people of Nicaragua as they reconstruct their nation into one of "Freedom, Justice and Peace" and that it makes its own, the demand of many concerned U.S. citizens to their federal government for granting generous unconditional reconstruction aid to the people of Nicaragua.

NATIONAL NETWORK IN SOLIDARITY WITH THE NICARAGUAN PEOPLE,

Detroit, Mich.

LETTER ON LITERACY TO RESPONSIBLE AMERICANS

The Somoza dynasty ruled Nicaragua for forty-odd years. Among its legacies is the fact that more than half of the people of Nicaragua can neither read nor write. The Somoza dictatorship, after having greedily neglected the education, health and economic welfare of the Nicaraguans for so long, was overturned by a national uprising led by the Sandinista guerrillas in July 1979. The new authorities in Nicaragua are determined to do away with the shameful legacy of the Somoza decades. In 1980 they will be concentrating their energies on literacy. To this end a national campaign to eradicate illiteracy is now in preparation.

The campaign will get under way in March 1980, at the start of the dry season in Nicaragua. The organizations of Nicaraguan workers, women and youth are sharing responsibility for conduct of the campaign. They have already canvassed the population and determined that illiteracy, countrywide, stands at between 55 and 60 percent but that in the rural areas it approaches 95 percent of the people. They have also found that, within the minority of the population who read and write, fully 120,000 people are ready to help teach their fellow citizens to read and write. This is an impressive response in a nation of little more than two millions who are only beginning to recover from the economic and military devastation inflicted on them by the Somozas. To carry through this educational campaign money is needed desparately for supplies to equip classrooms, teams of volunteer teachers and students in a countryside where there have never been teachers and schools before.

If the Nicaraguans are willing to help themselves by helping each other in this manner, can we in the United States fail to respond when asked for material aid to the impending literacy campaign? Remember: the plight of the Nicaraguans is the consequences of long years of U.S. domination of their country. The Somozas were put into power and kept there by the U.S. Do not Americans, then, have a special responsibility to help the Nicaraguans when they ask us to?

We can help. People-to-people support to the Nicaraguan literacy campaign can be channeled through Humanitarian Aid to Nicaraguan Democracy (H.A.N.D.). Make checks out to H.A.N.D. Send funds to National Nicaraguan Solidarity Network, Detroit Regional Office, 1820 Mt. Elliott, Detroit, MI 48207.

REV. JAMES ZELINSKI,
Regional Director.

NICARAGUA LITERACY CAMPAIGN—FACT SHEET

1. Under Somoza 60 percent of the people of Nicaragua were illiterate. The 40 percent who are literate received substandard educations. In rural areas most people only went to 2 or 3 grades of school, in the cities people went to 6th grade. High schools were not very common outside of the cities, and in the cities most were private or Catholic schools, which charged tuition. In some rural areas, the recent literacy census has found out, 90-95 percent of the people are illiterate. According to the same census even in Canada, the third largest city, illiteracy rate among youths 10-14 years of age, was 43 percent—and this is the age range which ordinarily has the highest literacy rate.

2. The new Government of National Reconstruction has decided to launch a mass, literacy campaign with the goal of teaching 700,000 to 1 million people to read and write. The campaign will begin in late March, or early April, when the rainy season ends, and run through August, when the rains begin again. If the target is not met by then, the campaign may be run again in next years dry season. The reason for running it in the dry season is that during the rainy season the road and transport in many rural areas, precisely those with the highest illiteracy, become inaccessible. So far 140,000 people have volunteered to take part in the campaign as teachers. Total cost of the literacy campaign is estimated to be $20 million.

3. The revolutionary government considers that education is one of the basic priorities of the revolution. Consequently it has made all schooling free, and started this literacy campaign. It considers literacy to be with food and health care the three top priorities that it must deliver to the people as gains of the revolution.

4. The first step in the campaign was the census to determine how many people needed the literacy campaign, and how many would volunteer to teach in it. The enthusiastic response on the part of volunteers shows that the campaigning will be a success. The next step in the campaign, which has just begun, is the preliminary training of the 140,000 to prepare them to teach illiterates. The method to be used is that of Paolo Friere, world renowned Brazilian educator, author of Pedagogy of the Oppressed, whose methods for mass literacy, based on life experiences and consciousness of oppressed peoples, have already been used in Chile, Peru, and other Third World countries. Paolo Friere was in Nicaragua to help with the initial setting up of the campaign.

5. During the campaign all schools will be closed so that the volunteers, many of them high school and college students can take part. The main structures for the campaign come from the mobilization of Nicaragua's mass organization. The Sandinista Defense Committees are administering the campaign locally. The trade unions are organizing teachers, as well as those of its members who need literacy classes. The peasant organization is setting up classes in rural areas and the Sandinista Youth group, July 19; and the National Womens' Organization are organizing the volunteer teachers.

6. The mass character of the campaign is perceived as an essential part of the revolutionary process, and of the raising of political consciousness and organization. It is felt that the city people who take part will get an understanding of the working conditions and life of the rural working class, and a better understanding of the tasks of the revolution. The campaign will bring the benefits of the revolution to the countryside, use texts which will provide a political awareness to the illiterates on what has happened in Nicaragua and an understanding of the revolutionary process. It is expected that many of the illiterates whose political consciousness and independence have been developed by becoming literate will be organized in the mass organizations (youth, womens', unions, farmworkers, etc.) which are organizing the campaign and are seen as the essential defenders of the revolutionary process.

7. The campaign is being carried out as war on illiteracy—with the same seriousness that the war against the Somoza dictatorship was fought. Volunteers are being organized into Brigades and Fronts, with the same names as the brigades and fronts that fought the guerrilla war against Somoza. It is designed to create that same fighting spirit which existed against the dictatorship to battle as great enemy of the revolution, illiteracy and ignorance. A literate, aware, conscious people is seen as the way to freedom, to defending the revolution, and to deepening it.●

SANDINISTA TERRORISTS ON THE MARCH

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. ASHBROOK. Mr. Speaker, in the next few weeks the House will be asked to send $75 million of taxpayer wages to stabilize the Marxist regime in Nicaragua. It has been interesting to watch how Mr. Carter and the press has tried everything possible to reconcile this aid package with the increased anti-Communist rhetoric of recent weeks. They have named the bill the "Special Central American Assistance Act" to fog the real purpose of the legislation and they have done their best to portray the new Nicaragua as some socialist nirvana that will become the bosom buddy of America once several million dollars fill their coffers.

Maybe this time the U.S. public will not allow itself to be duped into aiding one more beach head for communism. Over the years we have aided Castro in Cuba, built the plants for the Soviets to revitalize their armored divisions, given credibility to Swapo in Namibia and to the MPLA in Angola, we have opened the door for the Ayatollah in Iran and we have given implicit moral support to guerrillas in Rhodesia and South Africa by not supporting efforts to stop their violence. One day Americans might learn that there are forces out there that must be confronted and can never be co-opted.

The Nicaragua aid bill has been pushed by the media and the administration as a vital method of keeping Nicaragua from becoming an outpost for Cuba. The assumption in this argument is that the Sandinistas are spending their time worrying about internal improvements to their war-torn nation. Every now and then reality breaks through this sugar coating. Buried deep in the Washington Post is a short news item about Juan Jose Molina Peres. Juan is a Sandinista terrorist captured during a skirmish with government force in El Salvador. What was a Sandinista doing in El Salvador? He was aiding leftist forces in fighting the existing government. Was he a lone operative? He was part of a four-man team that had arrived from Nicaragua to help destabilize the country of El Salvador.

For months there have been reports coming from El Salvador, Guatemala, and Hondoras of increased terrorism in the wake of Nicaragua falling. Just like in Southeast Asia the dominoes are being lined up for a long-term program of conquest. Also like Southeast Asia the media is doing its best to downplay the obvious signs of regional adventurism. We discounted the hand writing on the wall in Vietnam and now have the tragedies of the boat people and the refugee camps in Thailand. Are we now going to be lulled to sleep by Mr. Carter and company and fund the Sandinistas as they march up the coast? It is time to draw the line and that line should begin with Nicaragua aid.●

SURVIVING CASTRO'S HELL: HUBER MATOS' TRIUMPH

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. MICHEL. Mr. Speaker, on October 23, 1979, I placed in the RECORD an article from the New York Times, dealing with Huber Matos. For 20 years Matos, a former aide to Fidel Castro, was imprisoned on trumped-up charges of treason to the Castro regime. Matos' real offense was his refusal to go along with the Castro dictatorship. Castro's cruel vengeance on this man ranks high among the most inhuman and vindictive crimes ever committed by a dictator against one innocent human being.

Now Matos is free. He has talked to a Times reporter about the way he spent the last 20 years in Castro's Cuban prisons. The article should be required reading for those in government and media who have taken a starry-eyed approach to the Cuban dictator. Castro is satanic in his hatred of those who stand in his way and he has made a hell out of Cuba. Matos endured one corner of that hell and survived. Before we even begin to think about recognizing Castro's Cuba, Huber Mato's story should be made known to every American.

At this point I wish to insert "Prisoner of Castro: The Huber Matos Story," from the New York Times, February 4, 1980.

PRISONER OF CASTRO: THE HUBER MATOS STORY

(By Richard Eder)

Huber Matos is 61 years old, compact, grizzled and alert. There is a suggestion of a graying badger to him; an independent creature that is fierce in corners.

It has been said that of all Fidel Castro's political prisoners, that one he was most nervous about was this prickly provincial schoolmaster who fought for him in the Sierra Maestra and had become one of the leaders of the rebel army by the time Fulgencio Batista, the Cuban dictator, fled.

Ten months after the victory. Mr. Matos, unhappy with the increasingly authoritarian style of the Castro regime, tried to resign. Instead of granting his request to return to teaching, Mr. Castro denounced him as a traitor, arrested him, and ran the trial that condemned him to 20 years in prison.

THIRD OF LIFE IN JAIL

Twenty years later—one third of his life—Mr. Matos was released, after a long international campaign on his behalf. He lives in the United States now, and spends his time writing and speaking on hehalf of the political prisoners remaining in Cuba. He would like to unify whatever part of the Cuban exile community can be unified around the idea that prison punished and preserved in him: that Cuba needed drastic social changes but not a dictatorship.

He does not believe that the exiles can be a decisive factor in any future changes in Cuba. But he thinks they can encourage an eventual vast revulsion of the Cubans against the political system they live under.

He cane here the other day to talk about his life in the Cuban revolution and his lifetime in its jails. This is his account.

Huber Matos worked with Fidel Castro for more than a year before he met him. When Mr. Castro landed with a small group in December 1956 and began operating in the Sierra Maestra, Huber Matos drove trucks into the foothills to supply him. Then he went to Costa Rica to get arms.

WARM WELCOME BY CASTRO

On March 30, 1958, he crash-landed by night in a small plane with 12 men and five tons of weapons aboard, in a mountain settlement. "Three hours later we were with Fidel," he recalled. "He was euphoric. He began rummaging through the crates trying out the different weapons, shooting them off into the air, as happy as a child and saying, 'Now we really will win the war.' "

The cordiality of this first meeting was marred when Mr. Castro insisted we go back to Costa Rico to get more arms. He insisted on staying. "Fidel said to me, 'Oh, so you want to fight.' And I said it wasn't a question of wanting to fight but of participating in the sacrifices. And furthermore—I said—I came leading a group of men. If they stay and I go I will be playing on ugly role and I wasn't born to play such roles. I think he never forgot this."

Mr. Matos stayed. He was green but he turned into a tenacious and effective fighter, and within six months he had been given the rank of comandante, or major, and put in charge of a column.

As he recalls it, his relations with Mr. Castro were both close and distant. There is a quality of fierce literal-mindedness to Mr. Matos that rubbed against Mr. Castro's mixture of sweeping charm and evasiveness. By now, and with 20 years in prison to reflect on it, Mr. Matos sees in Fidel Castro's character the main explanation for the political course he came to take.

"The day after I arrived I saw him take one of his comandantes and humiliate him in the vilest language over some trivial mistake. I knew I would never accept such treatment. And one day, when I returned from a mission, he used language that I would call disrespectful. He was seeing how far he could go with me.

"I said I had not come for this, that I was a fighter and did not accept insults; and that rather than accept them I would turn in my weapon and go down to the foothills and grow vegetables for the revolution. I thought I would be arrested—I'd seen it happen to others—but no, he said nothing."

As for politics, Mr. Matos said he had no reason at the time to doubt that Mr. Castro's aims were similar to his own. "We'd spend the nights talking about things; and he always expressed himself as one determined to carry forward a democratic revolution. I had no doubts. He even used to warn us about the Communists. When I was organizing the column he told me to find ways to keep the Communists out of the key jobs."

A THIRST FOR POWER

Does he now think, in fact, that Mr. Castro was a convinced Communist all along?

"No. I think he was playing a double card. In my opinion, Fidel was not convinced of the virtues of Marxism-Leninism. He was a man who wanted power.

"If he finally chose the Communist alternative it was because if he'd taken the democratic road he would not have been able to remain 20 years in power. Temperamentally it would not have suited him. He doesn't like to be opposed, and he found himself better off in a Communist structure where the leader is a demigod.

"Even today I don't believe that he is a convinced Communist. Look at the Constitution. Do you recall that the day that the new Communist Constitution was proclaimed, he went to Moscow to attend the Soviet party congress? This is the man who talked about institutionalizing the revolution."

IN COMMAND OF PROVINCE

After the rebel victory, Mr. Matos was put in charge of the province of Camagüey, and remained in the vaguely defined top ranks of the revolution. It was the vagueness that began to bother him, he said; the fact that Fidel Castro centered all power in himself and took no steps to create a democratic structure.

In July he wrote to Mr. Castro that rather than aggravate divisions, he wanted to resign quietly and go back to teaching. "A few days afterwards he saw me in the Hotel Hilton and told me: 'Chico, there's no reason for you to leave. Keep on working; I need you. Look, if later on you still feel you must leave, then offer your resignation and we'll sit down and talk about it.'

"At that point I think he was sincere. So when things didn't improve and I wrote my last letter on Oct. 19 I didn't expect what would happen. Because until that day we treated each other like brothers. It was impossible for me to conspire against him; and I felt that though I must leave I wouldn't go against him."

Mr. Castro wrote back agreeing to his resignation. But early the next day, the radio began broadcasting reports that Mr. Matos was leading the Camagüey garrison in an insurrection. Soon after, Camilo Cienfuegos, the army Chief of Staff, arrived in Camagüey with an order for his arrest. Major Cienfuegos, who died in a mysterious plane crash several days later, was a friend, and apologetic.

"When we got to headquarters Camilo realized that this was ridiculous; that there was no sign of an insurrection." Major Cienfuegos got on the phone to Osvaldo Dorticós, the President.

"Dorticós asked him to put Fidel on, and Camilo said he wasn't here, and then Dorticós told him to put Huber on. So I took the phone—everything was very polite though Ramiro Valdés, the security chief, was right beside me—and Dorticós said, 'Huber, what's happening? I told him Fidel was making a scandal because I tried to resign; and he said: 'We must stop this. It makes no sense.'

"Camilo went off to where Fidel was. The next thing I knew, Fidel rushed past me as if the Devil were after him, and went out to the balcony and addressed the crowd.

"He called me a traitor and said that I didn't have the guts to come out and face the people. So I told Camilo, 'You tell him I have lots to tell the people, and I want him to give me the chance.' So Camilo went and told him, 'Huber wants to speak too,' and when Fidel heard that, he ordered Ramiro to take me away immediately. They put me on a plane to Havana; and 20 of my officers insisted on coming along; they said if I was arrested so were they."

After the court-martial, Mr. Matos spent 20 years in half a dozen different prisons. For most of the time he was in solitary confinement; for one period of a year he was given no clothes and subsisted in his underwear.

THE WORST BEATING

He says that for the moment he does not want to disclose the full details of a treatment that ranged "from brutal to subhuman." He does say he received a number of beatings. The worst took place in 1973, when a dozen men, carrying lengths of cable, broke several of his ribs and tore a muscle loose from his left shoulder. This was after 14 years of imprisonment, and it illustrates what he says was the main horror of those 20 years: the total insecurity.

Mr. Matos's 20 years were marked by sudden and arbitrary violence, he says, and unexplained deprivations such as sudden transfer to a worse cell, solitary confinement, a ban on visitors, or violent and destructive searches.

The psychological and physical pressure over 20 years did nothing to gentle the prisoner's inveterate pugnacity. Shortly before the time for his release, security men came to take him from the East Havana prison to security headquarters. Mr. Matos immediately protested that this was against regulations, and went into a fighter's crouch. He was dragged out, violently beaten, and thrown into a car. On the way across town his escorts told him, he says, that he never would be released.

"Do you know what it means, if you've always thought you would die in prison, and after 20 years you are on the point of being freed, and you reason that if they beat you this way it means they have no intention of releasing you? And I thought, my wife will be destroyed, hoping for 20 years that I'd be out."

HOW THE JAILING ENDED

Convinced he was to be killed, Mr. Matos said, he went into a kind of frenzy.

"They took me to the foreigners' cells. They are furnished nicely, so that foreigners will commend the prisons. But I was screaming and struggling, and so they threw me face-up on the bed.

"As soon as they took the handcuffs off, I jumped up and grabbed the chair to go at them, and they wrestled it away and retreated to the door, so I jumped up again and grabbed the table and smashed off two legs, and then I broke everything else that I could, even the light switches.

"And then I built myself a kind of parapet in the corner, using mattresses and furniture, and each time they tried to come in I had these two chair legs in my hands."

A senior officer came to try to persuade him that he really would be released and to urge him to quiet down and put on fresh clothes. A diplomatic mission from Costa Rica was coming to escort him, the officer said, and it was not fitting that he should be seen bloody, bruised and with his clothes torn to pieces. "If I look this way it is your fault," Mr. Matos says he told him. "But after a day and a night when nobody got any sleep I began to reflect it might be true, and I agreed to clean myself up."●

EDMUND P. JUTEAU

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. MITCHELL of New York. Mr. Speaker, last week, I commended to the attention of my colleagues the record of achievement of a member of my constituency, Mr. Edmund P. Juteau, a Vietnam veteran who served his country and his fellow veterans faithfully. I am saddened to report that Mr. Juteau died on Sunday, February 3, 1980, of cancer.

In his brief life, Mr. Juteau helped a great many people. I hope that his example, as a man unafraid to pursue his goals in spite of serious obstacles, will continue to help many people. I am sure that my colleagues will join me in sending our deepest sympathies to his survivors—his family, his friends, and his fellow veterans.●

HOW MUCH OF AN ALLY IS THE UNITED STATES TO MOROCCO?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. LAGOMARSINO. Mr. Speaker, in an article entitled "Arms for Morocco?" published in the most recent edition of Foreign Affairs magazine, chairman of the Africa Subcommittee STEPHEN SOLARZ questioned the wisdom of supplying new types of weapons to the Moroccan Government.

My colleague and good friend on the Foreign Affairs Committee ED DERWINSKI responded to Mr. SOLARZ' article in a letter disagreeing with a number of his assertions. One point raised by Mr. DERWINSKI is especially worth emphasizing:

> In my opinion, the problems confronting us in Iran and Afghanistan can be attributed, among other things to a global perception that we have become an undependable ally who no longer can be counted upon in the crunch.

I believe the comments made by Mr. DERWINSKI are worth considering, and I call to the attention of my colleagues his views on "Arms for Morocco":

> HOUSE OF REPRESENTATIVES,
> *Washington, D.C., January 24, 1980.*
>
> HON. STEPHEN J. SOLARZ,
> *U.S. House of Representatives,*
> *Washington, D.C.*
>
> DEAR STEVE: Thank you for calling my attention to your article in Foreign Affairs magazine concerning U.S. arms sales to Morocco. You have analyzed a difficult question with your customary energy. I must disagree, however, with many of your conclusions. Given your reputation as this Congress most brilliant student of world affairs, I do so with considerable trepidation.
>
> At the outlet, I want to make it clear that I approve of a "globalist" approach to foreign policy. The way we respond to a situation in one area of the world does impact on events and nations elsewhere. How we treat our African friends is definitely noted by our NATO, Middle East and Persian Gulf allies and influences the formulation of their foreign policy equations. If, as you suggest, the Administration is finally recognizing this international fact of life with respect to its Western Sahara policy, I believe it's about time.
>
> In my opinion, the problems confronting us in Iran and Afghanistan can be attributed, among other things, to a global perception that we have become an undependable ally who no longer can be counted upon in a crunch.
>
> Steve, you seem to be concerned about the amount and type of equipment the Administration is contemplating selling Morocco. You appear to make a distinction between offensive and defensive weaponry. Frankly, I cannot see the difference. A weapon is a weapon, and the manner in which it is employed determines whether it is defensive or offensive. In view of recent Polisario incursions deep into Morocco, I think some of these so-called offensive weapons are needed to defend Morocco.
>
> I gather the King and his military advisors left you with the unrealistic impression that with additional U.S. equipment they could win a "quick victory" in the Sahara. As I recall, you met with Hassan in August. Since then, he appears to have changed his mind as he stated during a subsequent interview about two months ago that he envisioned "a peaceful solution for the Sahara . . . I have my peace plan and I do believe that during 1980 we shall reach peace at the Sahara." The King went on to add that "If I made public my peace plan now it would achieve the wrong effect. First we have to gain our strongholds in the Sahara, and afterwards we can talk peace." In the same interview, Hassan also declared that "we shall not penetrate Algeria's territory to chase the Polisarios." Such temperate statements are consistent with the Administration's objective of encouraging the King to negotiate a settlement from a position of reasonable strength.
>
> Your attempt to draw an analogy between our experience in Angola and what could happen in the Western Sahara just doesn't wash. You imply that we had little prospect for success if we had continued our assist-

ance to anti-Communist forces in Angola. At last report, Jonas Savimbi was still going strong, and if Congress hadn't terminated U.S. support, I believe we would now be dealing with a friendly government in Luanda rather than a Marxist regime that enjoys so little popular support it needs 20,000 Cuban troops to sustain it.

In addressing the self-determination question, you cite reports that the "Polisario is overwhelmingly based on the indigenous Western Saharan population." Given the nomadic history of the people we are talking about, I am very skeptical of such a conclusion. Does a nomad call any area his home? In this regard, I note press accounts that the Polisario army has in its ranks tribesmen from Mauritania, Algeria, Niger, and Mali. Does not that suggest less than overwhelming indigenous support for the Polisario, as well as the possibility of mercenaries clandestinely paid by the likes of Algeria, Libya, and perhaps even the U.S.S.R.?

Your revelation that Ethiopia was among those African governments that has recognized the Polisario is a blatant example of that Marxist regime's hypocrisy. I wonder how Mengistu would feel about a self-determination referendum in Eritrea. In my opinion, the Eritreans can make a much stronger historical claim for their autonomy than the Polisario, yet nobody in the OAU or UN seems to be focusing on that question. Knowing of your respect for the principle of self-determination, undoubtedly the African Subcommittee, which you chair, has already looked into the matter, hasn't it?

As to the 1975 UN Visiting Mission's findings on the Polisario, a word of caution is in order. Any organization that passes a resolution equating Zionism with racism warrants having anything it says subjected to severe scrutiny.

In discussing the political coloration of the Polisario, you point out that "Polisario leaders indicated that, in the context of an independent Saharan state, they would be inclined, for economic, cultural and geopolitical reasons, to look toward the West, not the East, for support. In fact, they are the only major liberation movement in Africa that has not received direct Soviet, Cuban or Chinese military assistance." The key word here is direct and I notice you were careful to use it.

The fact of the matter is, much of the Polisario's military equipment is of Soviet origin and has been transferred to the guerrillas from Algeria and Libya. Maybe that does not tell you anything but it does me. It reminds me of recent contentions that the Sandinistas in Nicaragua were not receiving any direct Cuban assistance, and, therefore, one should not rush to any conclusion as to the political orientation of the Nicaraguan regime.

In evaluating this arms sale to Morocco, what Morocco has done to protect and further the interests of the free world must be given weighty consideration. It is an impressive record and includes twice (1977-78) sending troops to Zaire to squash Cuban-backed insurgencies, as well as allowing the U.S. to maintain strategic air and naval communication facilities on Moroccan soil. In addition, we should bear in mind that King Hassan, who has been a longtime advocate of a peaceful settlement of the Arab-Israeli dispute, was the first Arab government leader to publicly support the Middle East peace initiatives.

We should also remember that the King is one of the few friends Sadat has in the Arab world, and was instrumental in bringing about Sadat's first visit to Jerusalem. And let's not forget the actions Hassan has taken to protect the security of Morocco's Jewish community. While I am aware of the occasion you mention when Morocco "acted in ways that are not compatible with our regional concerns," you must admit that Hassan has taken more politically courageous pro-U.S. stands in recent years than any other Arab leader this side of Sadat.

To deny a valued and strategically located friend such a modest arms request would reveal that we have failed to heed the lessons of Iran and Afghanistan. I am confident all of us realize we cannot afford to send anymore of those kinds of signals.

Sincerely,

EDWARD J. DERWINSKI,
Member of Congress.●

THE SURFACE TRANSPORTATION ACT OF 1980

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. HOWARD. Mr. Speaker, today I am introducing the Surface Transportation Act of 1980. This bill bill make our highway and public mass transportation programs more responsive to demands for expanded and increasingly energy efficient transportation systems. Joining me in introducing this important legislation are the chairman of the full Committee on Public Works and Transportation, Mr. JOHNSON of California, the ranking minority member of the Subcommittee on Surface Transportation, Mr. SHUSTER, and several other Members of the House, primarily from the Committee on Public Works and Transportation.

Recent developments, at home and abroad, have created a national awareness of the need to promote energy conservation and reduce our Nations dependence on imported oil. Transportation is of singular importance in any conservation program because transportation consumes more than half of every barrel of crude oil used in this country. Encouraging greater energy efficiency in our transportation systems will make a tremendous contribution to our national petroleum conservation effort and thus help to create a more energy self-sufficient America. Reducing our dependence on imported oil also requires a marked increase in the domestic production of alternative energy sources. Increasing the production of alternative energy sources has a direct impact on the Nation's transportation system as well. The increased transportation of coal and other energy commodities creates the need for programs to preserve the roads used in energy transportation and reduce the adverse impact of increased truck and rail movements through our communities.

The goals of energy conservation and increased domestic energy production necessarily involve improvements in the efficiency of our transportation systems. We must expedite targeted investments in our public transportation systems and in highway facilities which support more efficient automobile use. We must rebuild and expand our existing public transportation systems in urban areas. We must actively pursue programs to extend public transportation to our smaller urban and rural communities. We must support projects which will facilitate carpools, vanpools, and other high occupancy automobile solutions. We must preserve and improve our Nation's roads and highways and facilitate the transportation of energy commodities.

The Surface Transportation Act of 1980 is an important step toward achieving an energy self-sufficient America. It fosters the development of a transportation infrastructure in our urban and rural areas necessary to encourage the use of public transportation. It brings us closer to the goals of completing the Interstate Highway System while protecting the Federal investment in our existing system of public roads and it addresses the impact of the increased movement of energy commodities.

Energy efficient public transportation and an improved energy transportation network are necessary to strengthen our Nation's energy independence. I urge my fellow Members of Congress to support this bill which increases our commitment to these programs. The needs exist—in our urban and rural areas—on our highways and in our transit systems. We should act now to meet our present and future transportation and energy needs. To meet these needs we should utilize a source of funds which is appropriate for energy-related programs—the crude oil windfall profits tax. The direct energy impact of these programs makes the windfall profits tax the logical source of funding for the expenditures authorized in this bill. While there is still some uncertainty about the final form of the tax, its sponsors are all in agreement that a substantial portion of this new tax revenue should be devoted to increasing and encouraging efficiency in our transportation systems—the purpose of the Surface Transportation Act of 1980.

This bill contains two titles. Title I, the Federal-Aid Highway Act, and title II, the Federal Public Transportation Act of 1980.

Title I would make several changes in title 23, U.S. Code, it provides increased authorizations for the primary and secondary roads programs, the bridge program, and the interstate highway program. The bill increases the fiscal year 1982 authorizations for these programs by $2.475 billion, $1.275 billion above the fiscal year 1981 level. This represents a 17-percent increase, reversing the artificially decreased program levels previously authorized for fiscal year 1982 and allowing for needed program growth.

This bill also redefines the scope of the work remaining in the interstate highway program. This redefinition limits the items eligible under the definition of interstate construction. Items excluded from the interstate program are shifted to an expanded 3R program. The 3R program which

provides financial assistance for interstate resurfacing, restoration, and rehabilitation is amended to include major reconstruction of interstate segments. This new 4R program will greatly increase the funds available to restore and modernize completed interstate segments. These actions focus our efforts on completing unfinished portions of the Interstate System and establishing a comprehensive program to upgrade our Nation's system of interstate highways. Improving the condition of our Nation's highways reduces delays due to poor road conditions and greatly increases the efficiency of automobile travel.

In addition to changes in existing programs, title I authorizes two important new programs: the transportation systems management program and the energy-impacted roads and railroad crossing program.

The transportation systems management program broadens the existing traffic operations improvement program to include a range of energy conservation related traffic improvement projects. Funds authorized under this program would be apportioned annually by a formula to States. This program will encourage the more efficient use of our basic system of public roads.

The energy-impacted roads and railroad crossing program provides funds for the reconstruction, resurfacing, restoration, and rehabilitation of public roads used for transportation activities to meet national energy requirements and transportation projects to alleviate the environmental, **social, and economic impacts of increased train traffic associated with the movement of energy commodities. This program is needed to alleviate the impact of increased transportation movements associated with the increased domestic production of alternative energy sources.**

Other sections included in title I of this bill extend funds for car and vanpool programs, expand the emergency relief program, update the bridge replacement program's apportionment formula, increase and grant contract authority to the safer off-system roads program, and raise the Federal-aid highway obligations ceiling.

Although we cannot underestimate the importance of mass transit in petroleum import reduction, I do not want to concentrate energy conservation efforts in the public mass transportation area at the exclusion of the potential energy savings that will result from improvements in our highway programs. We must adopt a comprehensive approach which includes both highway and mass transit elements. I believe that substantial energy conservation benefits will result from the changes in the highway program included in this bill.

Title II of this bill would change sections of the Urban Mass Transportation Act of 1964. The main effect of title II is to increase the existing authorizations for mass transportation programs and extend authorizations through fiscal year 1985. Title II provides an additional $18.9 billion for the various programs during this period. Total authorizations for fiscal years 1981 through 1985 would be $27.65 billion.

The largest increase in authorizations contained in this bill is an additional $10.47 billion for the discretionary grant program. This increases the authorizations in the fiscal years 1981, 1982, and 1983 and extends the program through fiscal year 1985. The bill also earmarks part of the discretionary grant program for new system construction and the expansion of existing systems and reserves 5 percent of the program's funds for projects in areas under 200,000 in population. Cities throughout this Nation must develop and expand their transit systems with the aid of these substantial increases in the discretionary grant program. Our cities need these funds to construct and rehabilitate mass transit systems, purchase rolling stock and equipment, and build maintenance facilities. We must begin to expand our public mass transportation systems to meet the increasing demand for alternatives to automobile travel.

Title II also increases the formula grant program authorizations. An additional $125 million is proposed for the urbanized area program in fiscal year 1982. This would bring the program to $1.89 billion. Authorizations would increase 10 percent annually through fiscal year 1985. This program provides additional funds for operating assistance and bus purchases. Authorizations for the formula grant program in nonurbanized areas are also contained in this bill. The program level is increased by $5 million creating a total program level of $125 million in fiscal year 1982. This program would increase to $185 million by fiscal year 1985. Increases in the nonurbanized formula grant program encourage the development of public transportation programs in our rural and small urban areas.

Another section of title II provides a framework for funding the interstate and intercity commuter trains scheduled to be dropped from the Amtrak system. However, this provision is not set in concrete and the committee may take a different approach depending on later input to the committee regarding the interstate and intercity rail passenger system.

Other changes included in title II of this bill include maintaining existing authorization levels for the intercity bus operating assistance and terminal development programs, continuing funding for university research centers and research and development programs, and retaining the current state and local maintenance of effort requirements.

Mr. Speaker, I believe that Congress must act to increase the efficiency of our highway and mass transportation systems because transportation efficiency is so necessary to an energy independent America. This bill increases our commitment to energy efficient public transportation and streamlining our network of public roads. It is a vital part of a national effort to reduce our dependence on imported oil.

I believe that this bill has tremendous merit and meets a clearly demonstrated need. However, passage of this bill is practically fruitless without an assured source of additional funds to meet transportation energy conservation needs. It is essential that sufficient funds from the crude oil windfall profit tax are made available to im**prove the efficiency of our transportation systems. In closing, I urge my fellow Members of Congress to support this bill, and to make sure that a substantial portion of the revenue generated by the windfall profits tax is committed to transportation systems efficiency. Without such a commitment the scope and content of this legislation's contribution to surface transportation energy efficiency cannot be assured.**

Although this legislation authorizes major long-range increases in the mass transit and highway programs, the Committee on Public Works and Transportation continues to support the concept of a dedicated trust fund for public transportation capital projects and for energy-related improvements to the highway system as presented in title III of H.R. 6207. We believe that a trust fund or similar dedicated fund mechanism is the most responsible method of funding these projects.●

THE HONEY POT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. MICHEL. Mr. Speaker, history may well record that the hidden story of the past 20 years—hidden from our eyes but apparent to those who will come after us—is the gradual but inexorable growth of Federal Government control over American education.

Syndicated Columnist Richard Reeves has recently written about a new educational phenomenon: The purchase of airplanes by universities to fly school officials back and forth from the college to Washington, D.C., where the "honey pot" of tax dollars awaits them. Reeves quite correctly sees in this new trend the seeds of future development along the same lines. In years to come it will be the Government which will decide what is "relevant" and what is "irrelevant" in college courses, because Government—the "honey pot"—will not only pay the bill but give the orders as well.

At this time, I wish to insert in the RECORD, "Takeover of the Colleges," by Richard Reeves, from the Chicago Sun Times, February 4, 1980:

TAKEOVER OF THE COLLEGES

WASHINGTON.—"The 1981 budget includes a $15.5 billion allocation for the new Department of Education,'" President Carter said in his budget message to Congress last Monday. "The establishment of this department will require a great deal of effort in the short run, but it will give our system of education the consistent attention and high priority it deserves."

Coincidentally, that day's Washington Post reported that some people at Ohio State University are seriously proposing that the university buy its own airplane to transport school officials back and forth between Columbus and Washington. It seems that every Monday, 30 or so university bureaucrats and professors are on the morning flight to the nation's capital on business concerned with the $63 million a year Ohio State gets from the federal government.

Checking a couple of other "private" schools, it turns out that Princeton University gets $41 million of its $100 million annual budget from Washington and 45 percent of Princeton's students are receiving federal aid. The University of Miami gets $60 million from Washington, a third of its budget.

Derek Bok, the president of Harvard, told me recently that his school gets about 25 percent of its total revenue from Washington. He said he spends "10 percent or more" of his time dealing with the federal government, federal regulations or federal aid.

We take all this for granted—the loans to students, money for research and restrictions on research, quotas by any name—but the controlling federal presence on campus is really new. Or, at least, it is exploding in size and scope. We are watching the federal takeover of higher education.

When Bok became president of Harvard eight years ago, he said, he spent no time on federal concerns, leaving that to one assistant in his office who spent about five hours a week dealing with Washington. Today, there are four full-time people in his office concerned with nothing but the federal government. And, Harvard is one of 100 universities maintaining full-time offices in the capital.

What do those off-campus offices do? "Our job is to make sure that the honeypots are there and that they are well-filled," said Peter Goldschmidt, the University of California's man in Washington.

So it goes. We are all in on it. Buzzing around the big honeypot. And getting stuck.

"Our graduate program is totally dependent on federal money," said a chemistry professor at a major Catholic university. "Almost all the research here is federally financed, and the laws have been changed so that everything we do has to be 'relevant to society's needs.'"

Who decides what is relevant?

"The government. In my department, the work is controlled by a ladder of bureaucrats leading up to the secretary of defense. But it doesn't have to be defense. Everybody is working under some set of specifications from Washington. A lot of us don't do what we want to do. We do what the government will pay for."

Most of this has happened in the last 10 years. In another 10 years Ohio State will have its own airplane, and so will a lot of other "state" and "private" universities. Their people will be jetting back and forth to Washington to get their honey—and their orders.●

TRIBUTE TO FATHER JOHN R. GALLAGHER

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. TAUKE. Mr. Speaker, today marks the silver jubilee of the ordination of the priesthood of Father John R. Gallagher, a man I am honored to call a friend.

I first became acquainted with Father Gallagher when I attended grade school at Nativity School in Dubuque, Iowa. Father Gallagher was an assistant pastor, the coach for every sport, and the school's most feared disciplinarian. At 6 feet 4 inches, he was a giant—a giant of a man in every respect, a priest we admired and loved.

Father Gallagher is truly an exceptional individual. He was born in Mineral Point, Wis., in 1929, the son of Mr. and Mrs. R. J. Gallagher. He attended Loras College and Mount St. Bernard Seminary in my hometown of Dubuque, Iowa, and was ordained 25 years ago in Christ the King Chapel at Loras College, my alma mater, by Most Rev. Leo J. Binz.

Since his ordination, Father Gallagher has served as associate pastor to parishes in Ames, Cedar Rapids, Charles City, Dubuque, Spencer Grove, Urbana, Walker, and Waterloo; and as the pastor of Jesup and Marion, Iowa. He is presently the pastor of St. Joseph's Church in Marion.

Father Gallagher served as chairman of the Clergy Conference Planning Commission in 1971, and has been a member of the board of regents of Loras College since 1973. Currently, he is the vice chairman of that board. And—perhaps of the most inspiration—is the fact that Father Gallagher was the sparkplug behind Camp Courageous, one of the great humanitarian projects in northeast Iowa. Camp Courageous serves the retarded and handicapped young people of Monticello, Iowa.

I know I speak for many, many people when I thank Father Gallagher for all that he has done and indicate that I am now looking forward to his golden jubilee.●

OUR FOREIGN POLICY ILLUSIONS

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. KELLY. Mr. Speaker, throughout the ages—and most notably during this century—history has taught that peace is more akin to strength than to weakness. Reasonable commonsense and prudence—guided by a steadfast and righteous conviction—require that any political strategy, the objective of which is to guarantee peace and security, must maintain the state's power in peacetime.

In the late 1930's, Winston Churchill, warning an appeasement-minded England that a determined and growing Nazi war machine would lay Europe in ruins, expressed the principle in the following way:

> Virtuous motives, trammeled by inertia and timidity, are no match for armed and resolute wickedness. A sincere love of peace is no excuse for muddling hundreds of millions of humble folk into total war. The cheers of weak, well-meaning assemblies soon cease to echo, and their votes soon cease to count. Doom marches on.

The failure to pay heed to this warning led, relentlessly, to the untold suffering of a world that laid in ruin and ashes—burying a reported 30 to 50 million of its people.

Since the end of the Second World War, America—like England throughout the 1930's—has found it difficult to exercise power in peacetime. As George C. Marshall, architect of our Nation's victory in World War II and champion of the peace as Secretary of State under President Truman, has said:

> We have tried since the birth of our Nation to promote our love of peace by a display of weakness. This course has failed us utterly.

At no time in our history has this been more true than during the past few years—and most notably during the past 3 years. Beginning with the U.S. defeat in Vietnam, the lack of U.S. support for Angola, and the U.S. acceptance of Soviet numerical superiority in SALT I, there has been an escalating kaleidoscope of events inimical to American interests: Soviet troops in Cuba; Soviet and Cuban support of Ethiopia against Somalia; the Communist coup in Afghanistan and South Yemen; Vietnam's invasion of Cambodia; the massive buildup of Soviet conventional and strategic arms given international acceptance through U.S. behavior and codified in SALT II; the Shah's overthrow in Iran; the dramatic seizure of the American Embassy and the holding of hostages in Iran; the burning of the U.S. Embassy in Pakistan; the increasing uncertainty of events in Saudi Arabia; the increasing destabilization of Rhodesia and South Africa; the attacking of the U.S. Embassy in Libya by pro-Iranian demonstrators; the guerrilla drive from the Western Sahara against the King's troops in Morocco aimed at dominating the narrow waters opposite Gibralter; the Soviet invasion of Afghanistan and the massing of Soviet troops on the Pakistan and Iranian border; and the general destabilization of pro-Western governments throughout the Middle East region.

Mr. Speaker, these events—and others around the globe—point to one incontrovertible fact: The world's balance of power has shifted on so clearly projected a scale that unless the United States takes immediate and dramatic steps to reverse the trend, the present military and strategic condition will settle into a permanence which we cannot conceive as acceptable.

Against this background, I would like to direct the attention of my colleagues in the U.S. House of Representatives to an article appearing in the Wall Street Journal, February 4, 1980, entitled "Our Foreign Policy Illusions" by Irving Kristol, professor of social thought at the New York University Graduate School of Business and a senior fellow of the American Enterprise Institute. Mr. Kristol analyzes some of the basic ideas and preconceptions underlying the conduct of American foreign policy—that the United States is naive, sentimental, legalistic, impulsive, short on memory, and fundamentally unaware of the kind of world in which we live. Quite rightly, he points out that henceforth our ability to survive as a free and independent nation will be contingent upon how well the United States can overcome these limitations and exercise its power during times of relative peace. As he says, the United States must accept the real world as it is.

> It is a world ordered by military force and by the willingness to use that force when circumstances require. Whoever does not have such force, or is overly reluctant to use it, ends up living in a world that has been ordered by someone else * * *. It would be ironic—but an irony that history is only too familiar with—if our very reluctance to use our power while we have it resulted in a holocaust that might have been avoided had we been less "peace-loving." As a matter of fact, wasn't it something like this that happened to Britain and France in the 1930's?"

I enthusiastically commend the article to my colleagues as follows:

[From the Wall Street Journal, Feb. 4, 1980]

OUR FOREIGN POLICY ILLUSIONS

(By Irving Kristol)

Just because you have ceased to see reality through the distorting lens of a particular ideology, it doesn't mean that you are now able to see it clearly. You may simply be substituting a weak and wavering vision for a clear if false one.

I am, in this connection, thinking of President Carter's new approach to foreign policy. Though it is obviously superior to the old, in that it is not based on patently false ideological assumptions, it may nevertheless be a dangerously inadequate approach. There is an air of improvisation about it, a desperate reaching for the *ad hoc* response to the exigencies of the immediate situation.

The myths of "detente," of a "North-South dialogue," of an American-led crusade for universal "human rights"—all these are in tatters. But bits and pieces of this ideology still float freely and visibly, if semi-submerged, in the thinking of the White House, the State Department and the National Security Council. They have now been oddly coupled, however, with other bits and pieces of ideological wreckage that the administration has grabbed onto—remnants of the Acheson-Dulles approach of "containing" Communist aggression by means of a complex patchwork of alliances with highly unstable nations.

Yet this older approach gradually crumbled before *its* moments of truth—in Vietnam above all. (Of what use was SEATO then?) It is hard to see how it can be truly revived. We seem to be in the process of wedding yesterday's dead illusions to yesteryear's. Only strange and barren fruit can issue from such a union.

REPUBLICAN INSTINCT

I do not say this in any partisan or captious spirit. If we had had a Republican administration in office this past year, I do think we might have managed our affairs somewhat better—but only "might have," and only somewhat and only temporarily. Republicans don't really *think* much about foreign policy. They tend to be guided more by nationalist instinct, and such instinct is generally less treacherous than false preconceptions.

Still, instinct is not enough, as the record reveals. As for John Foster Dulles' record, the less said the better. He, more than anyone else, may be held responsible for the Middle East chaos of the past two decades.

The trouble with instinct, aside from the fact that it might propel you to an inappropriate or downright wrong response, is that it has no staying power. Even the right decision, if based solely on instinct, will gradually fade into a diminishing series of random, ineffectual decisions. Doing the right thing, whether it be for the wrong reason or for no reason at all, is surely to be preferred over doing the wrong thing for the wrong reasons. But in the end a foreign policy, if it is to be successful, has to be coherent—it has to consist, more often than not, of doing the right thing for the right reason. And, with the possible exception of the administrations of Theodore Roosevelt, the United States hasn't had such a foreign policy since the days of the Founding Fathers.

One does not wish to exaggerate the importance of ideas in the realm of foreign policy. To a very large degree, makers of foreign policy are constantly being made captive to unexpected events, and the notion that Presidents or Secretaries of State should somehow be able to anticipate all crises, and are to be blamed for failing to do so, is preposterous. Professors or Congressmen or journalists, who talk this way ought to be sentenced to investing all of their capital in commodity futures. They would quickly learn how important a role luck plays in the world's affairs, and how even the most sophisticated analyses collapse before the onrush of events over which *no one* has any control. In foreign affairs, most of the time, you are flying blind, in the sense that no one can possibly figure out all the consequences of everyone else's actions—or even of one's own.

Nevertheless, some pilots are better than others when it comes to flying blind. It is a matter of experience, character and a whole set of general principles and ideas—which, in turn, form attitudes and instincts—about the relation of one thing to another. It goes without saying that a skillful pilot must have no sentimental illusions about the nature of the elements he is coping with, or a naive faith in the instruments he employs to cope with them. Above all, he must remember what country he is in, and what the likely terrain is.

The conduct of American foreign policy has long been plagued by all of the attitudes, underlying ideas and preconceptions which one would *not* want to find in the pilot of such a plane. We are naive; we are sentimental; we are legalistic; we are impulsive; our memories are short; and, above all, we have the greatest difficulty keeping in mind what world we are in.

It is a world ordered by military force and by the willingness to use that force when circumstances require. Whoever does not have such force, or is overly reluctant to use it, ends up living in a world that has been ordered by someone else. The advent of nuclear armaments has not really changed the nature of this world. Those armaments have the purpose of deterring one's enemies from using such weapons in the first place. This deterrence having been achieved, we are back to conventional power politics, with conventional arms.

But Americans are taught to believe that power politics is un-American, because immoral, and that the use of force in international affairs ought to be, and can be, replaced by the rule of law—or even by the rule of love, if some official statements are to be believed. It is this naive utopianism that has plagued American foreign policy for three-quarters of a century now. We believe that, in the end, the nations of the world must admire us for what we are, and for the nice things we are always ready to do for them. But the world is full of nations that detest us precisely for what we are—free, democratic, capitalist—and are much more interested in what they might do to us than in what we can do for them. And even those who have no hostile feelings toward us will not be reliable allies unless they also respect us—perhaps even fear us a little. The "hearts and minds" of the world go out to winners, not to nice guys who finish second.

One frequently gets the impression that American statesmen regard other nations the way sentimental criminologists regard a juvenile delinquent—someone to be "rehabilitated" by patient, compassionate therapy. That was the idea behind "detente": As the Soviets "matured" by virtue of closer association with us, they would be more like us, less like themselves. That was the idea, too, behind our foreign-aid programs, and our support of the United Nations. Well, it hasn't worked with our juvenile delinquents, and it won't work in the case of nations who do not for a moment think of themselves as in any sense "delinquent."

The foreign policy of the United States ought to have as its central purpose a world order that has been shaped, to the largest degree possible, in accord with our national interests as a great power that is free, democratic and capitalist. To be sure, this might mean living in an uneasy truce, and for an indefinite period of time, with the Soviet Union and other nations that are in principle hostile to freedom, democracy or capitalism. But we should use our power, as they use their power, to see that the terms of this truce, which are always in flux, are as consistently to our net advantages as circumstances permit.

I do not see that the Carter administration—or even its critics, for that matter have moved toward any such clear conception of our national interest, or of the role of power politics in expressing that interest. Instead, we have responded to the Soviet aggression in Afghanistan by economic and cultural reactions that are signs of weakness, not strength. Simultaneously, our diplomacy is reverting, as if by automatic reflex, to the defensive "pactomania" of the 1950s—a jumble of defensive alliances with highly unreliable allies.

Thus, we are sending arms to Pakistan—a shaky regime incapable of using those arms effectively. It is also a regime that praises the Ayatollah Khomeini and is engaged in creating an "Islamic nuclear bomb" financed by the lunatic rules of Libya, Colonel Khadafy, who will presumably take delivery. At the same time, we are going around the Indian Ocean with a begging bowl, humbly asking for permission to establish naval and air bases in the area. How pathetic! Why aren't we *demanding* bases in Pakistan (or South Yemen or Saudi Arabia) as a condition of support? Indeed, why

aren't we demanding bases on pain of our hostility?

We don't need any more "paper allies," for whose inept regimes we then take responsibility. Just think how much better off we would be in Iran if, as a condition for selling the Shah all those arms, we had insisted on bases in the Straits of Hormuz, instead of trying to build *him* up as the defender of *our* interests in that region.

CUBAN CONTEMPT

Meanwhile, in our very own backyard, Cuba blithely supports insurrectionary movements throughout Latin America, sends troops to Africa and the Middle East and generally behaves as if it holds our interests and our power in utter contempt. Are we helpless before such belligerency by Castro's Cuba? And if we are, how on earth can we be strong in Pakistan?

It will be said that any such American behavior would mar our image (and self-image) as a peace-loving nation. But the way things are heading, we shall awaken one of these days and discover that we can no longer afford to be such a peace-loving nation. As the late G. F. Hudson wrote:

"There is perhaps no factor which drives a state into war so inexorably as a steady loss of relative power. Sooner or later a desperate now-or-never mood overcomes the calculations of prudence. . . ."

It would be ironic—but an irony that history is only too familiar with—if our very reluctance to use our power while we have it resulted in a holocaust that might have been avoided had we been less "peace-loving." As a matter of fact, wasn't it something like this that happened to Britain and France in the 1930s?●

YELLOW RIBBON FOR HOSTAGES

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. CAMPBELL. Mr. Speaker, WFBC television station in Greenville, S.C., has embarked on a campaign which I believe we would all be well advised to join. As our hostages ordeal in Iran stretches toward 100 days; as other national and international crises are replacing Iran on front pages and television news; as the outrage Americans felt so strongly 3 months ago begins to wane, simply through emotional exhaustion, it is important to do everything we can to keep the hostages in our minds and prayers—and to let the hostages know of our continued concern.

WFBC has initiated a public awareness campaign designed to do just that. They are undertaking a comprehensive public service announcement, editorial and news campaign and, on a more personal level, have tied a "yellow ribbon" around an "old oak tree" on their premises and are encouraging station personnel to write to the hostages and wear their own yellow ribbons each day during this period of strife.

Mr. Speaker, WFBC is to be commended for this initiative. My staff and I have joined their "yellow ribbon" effort, and I urge other Members and staffs to participate. WFBC has offered to provide personal yellow ribbons and preaddressed post cards for those who are interested and I will be happy to coordinate your request.

WFBC's kickoff editorial follows, and I commend it to my colleagues attention.

YELLOW RIBBON FOR HOSTAGES

During the Vietnam War days, many of us wore identification bracelets as a daily reminder of the POW's and the MIA's and their sacrifice for their country and the cause of freedom.

In recent times, many of us have sent Christmas cards and words of encouragement to the hostages in Iran. But as the days of imprisonment drag on, and Christmas is behind us, the hostages and their perilous situation are too often forgotten. Now, with the escape of several Americans by means of Canadian help, the hostages may be facing increasing hardships.

We'd like to make a suggestion: Remember the old song, "Tie a yellow ribbon 'round the old oak tree"? We'd like to urge everyone to do just that. And also wear a small piece of yellow ribbon each day until the hostages are safely home.

In this way, we will be keeping them and their families in our thoughts and prayers daily. It may be only a small gesture, but one we think is meaningful and significant. If you don't have a bit of yellow ribbon handy, we invite you to come by the studios of Your Friend Four. We'll be pleased to give you some ribbon, and also the address of the hostages, if you'd like to write them.

Join us, won't you: The hostages and their plight should be remembered in a continuing way.

That's our opinion • • • What's yours?●

CHILE SUPPORTS AMERICAN ACTIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. LAGOMARSINO. Mr. Speaker, whenever the subject of Chile comes before this body, it seems to be for the purpose of condemnation or accusation.

I believe, however, we should also recognize praiseworthy actions by Chile. In this case the Chilean Olympic Committee has decided not to attend the Olympic games in Moscow. President Pinochet had recommended to the committee that Chilean athletes not attend, and the Olympic Committee agreed.

There has been little reason in recent years for the Chilean Government to join with the United States in its foreign policy initiatives. In this case, Chile has overlooked past events and ratified its support of American action in response to the Soviet invasion of Afghanistan.●

TRIBUTE TO FATHER JOSEPH P. HERARD

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. TAUKE. Mr. Speaker, this Thursday, when I participate in the assembly at Wahlert High School in Dubuque, Iowa, to commemorate National Catholic Education Week, a special tribute will be in order for Father Joseph P. Herard. Father Herard, who is the executive coordinator-principal of Wahlert High School, will observe his 25th year in the priesthood the following Sunday with a mass of thanksgiving at St. Anthony's Church.

A recent article in the Witness summarizes some of the highlights of this fine man's life. I ask unanimous consent that the text of this article be inserted in the CONGRESSIONAL RECORD immediately following my remarks:

FATHER HERARD

Rev. Joseph P. Herard, Executive Coordinator-Principal of Wahlert High School, Dubuque will observe his silver jubilee with a Mass of Thanksgiving at St. Anthony's, Sunday, Feb. 10 at 2 p.m. A reception will follow in the parish hall.

Born in Cascade, Iowa on July 23, 1929, Fr. Herard attended Loras College and Mt. St. Bernard Seminary in Dubuque. Son of Mr. and Mrs. Joseph C. Herard, he was ordained on Feb. 5, 1955 in Christ the King Chapel by the Most Rev. Leo Bine.

After serving as secretary to Archbishop Henry Rohlman and associate pastor in New Hampton, he was appointed to Loras Academy. From 1959 to 1961 he took postgraduate studies at Catholic University in Washington.

He was appointed Archdiocesan Director of Vocations and Director of Archdiocesan Council of Catholic Youth during which time he served as Chaplain at Holy Family Hall. He worked in the National Office of Extension Society, Chicago, for one year. In 1967 he became Director of Religious Education under Bishop Loras J. Watters. He served also as spiritual moderator of the ACCW, Director of the Confraternity of Christian Doctrine as well as Chaplain of St. Francis Home until his present position began in 1975.●

WILL THE REAL BUDGET PLEASE COME UP?

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. REGULA. Mr. Speaker, I recently spoke to this body on the topic of the latest budget estimate for 1980. I pointed out that the 1980 budget, as it now stands, is substantially above the 1979 budget. Specifically, estimated outlays are now $32 billion higher than 1 year ago when first proposed. In like manner, the deficit increases $11 billion, and would be worse if it weren't for windfall tax revenues. These increases mean that, for the third time in 5 years, Congress will have to consider a third budget resolution. The fact that budget authority—

which drives present and future spending—increases more than 17 percent from 1979 to 1980 is equally alarming. The distinguished chairman of the Senate Budget Committee, Mr. MUSKIE, has stated that $10 billion can be added to the President's latest 1980 estimates immediately. In our first hearing this year, my distinguished chairman, and others on the House Budget Committee used the same $10 billion figure. This means that, for starters, the 1980 deficit now stands at $50 billion, rather than the $29 billion in President Carter's original 1980 budget proposal.

Let me now turn to the 1981 budget as submitted by the President this week. There is reason for the initial skepticism on the part of both Budget Committees. I hesitate to use the term "phoney," but at best this budget is more political than honest.

Any President has a right—indeed ought—to send the Congress a budget based on what he or she wants in terms of fiscal policy and programs. But Mr. Carter can only identify less than 1 percent—$5.6 billion—of the budget in savings from current law. Regardless of the amount of assumed legislative savings, this Congress has a dismal record on enacting legislative savings, whether recommended by the President or initiated on its own. It is quite safe, therefore, to add another $5 billion to the deficit because of the unlikelihood of realizing even these meager legislative savings.

In addition to the $5.6 billion in assumed legislative savings on the spending side of the budget, the President is also counting on increasing tax revenues by $4.5 billion in 1981, $5.6 billion in 1982, and $2.2 billion in 1983. The problem for the President is that not all of these tax increases can be done by administrative action. Whatever increases are realized in 1981, they, along with the record new social security and oil excise taxes, will contribute to the highest peacetime tax burden ever—21.7 percent of GNP. In 1982, also according to the Carter budget, the tax burden will set an all-time record—22.2 percent—and that record falls again the following year as the new record will become 22.7 percent. Lest you think that these percent changes are small, bear in mind that in a $3 trillion economy, a change of one-tenth of 1 percent in the tax burden amounts to a change in tax revenues of $3 billion.

Add another $4.5 billion to the 1981 deficit, because that is the figure announced by the Department of Defense last Friday, before the budget was submitted, as an added fuel cost. This number is not in the budget, and neither is a companion $3.5 billion for 1980.

Because this is an election year, we can also count on substantial nondefense supplementals not included in this budget. I suspect that these will be directed at traditional Democratic constituencies and will consist of the same programs which have proved helpful politically and so wasteful economically. For example, countercyclical and targeted fiscal assistance—more appropriately termed "targeted political assistance"—quadruple to $1 billion in 1981.

If we examine all of Carter's nondefense proposals—see complete list, table 14 beginning on p. 590 of the budget—the spending explosion becomes apparent. In 1981, the cost of these proposals are estimated to be $26 billion in budget authority and $20 billion in actual spending; but by 1985, these programs triple in budget authority—$77 billion—and nearly quadruple in outlays—$76 billion. The administration is trying to convince the American public that the budget contains a few relatively inconsequential initiatives and that the budget is constrained. These numbers speak in direct contradiction to these numbers.

It is not difficult to cite other specific examples of why this budget is unrealistic, if not phoney:

Only $2 billion was put in the 1980 estimates and only $800 million in the 1981 estimates for the cost of the Russian grain embargo, yet analysis say the cost will be around $4 billion;

One of the most blatent gimmicks used in this budget is to delay the sale of loans and other financial assets. This means that loans and other financial assets that would have been sold in 1980 are now said to be planned for sale in 1981 rather than 1980. Playing with mirrors in this way causes the 1981 numbers to look better—lower outlays and deficits—in the amount of about $3 billion.

Another source of deception in the budget is the alarming increase in the outlays and deficit of off-budget Federal activities, which are excluded by law from budget totals. In President Ford's budget, the off-budget deficits were put right up front with the unified budget's deficit, but in each of President Carter's budgets, the off-budget deficits are relegated to the bowels of the budget tomes. The 1980 off-budget deficit is now estimated to be the largest ever—$16.8 billion—and the 1981 off-budget deficit is now estimated—and I emphasize the "now"—at $18.1 billion, which is more than the advertised unified budget's deficit, for the first time ever. If history repeats, look for the off-budget deficits to rise, smack in the face of the new, but obviously inconsequential, Federal credit monitoring system.

The other night on the "Tonight Show," host Johnny Carson said that there was good news and there was bad news. The bad news was that the Carter administration was predicting a recession; the good news was that they haven't been right yet. I am not so sure we will have a recession this year, and I believe if we do, it will be mild and with relatively low unemployment. It is ironic that our present levels of relatively high employment and low productivity have been achieved in part because of high energy prices, as industry shifts to more labor-intensive production mixes, and to Democrat inspired Government jobs programs which fail to produce permanent and productive private sector jobs. Yet, in this budget we not only see a continuation of expensive—because of substitution—inefficient, and ineffective programs, but also a new job program. At a time when demographic trends are indicating fewer youthful job market entrants, the administration is arguing demographics as the main reason for a new youth job program. Economic logic would argue that the demographics fail to point toward such a program. I suggest that there is no distinction between altruism and constituency politics at the other end of Pennsylvania Avenue.

There is also no small deception in the President's revenue sharing proposal. This Republican-inspired program has been praised by States and localities for its traditional no-strings character. If you want to read the ultimate in budget policy prose, look at page 304 of your budget, where you'll read what is really intended for this program:

> To address this problem and to strengthen the fiscal partnership among all levels of government, revenue sharing payments to the States would be *contingent upon their cooperation* in a participatory process designed to identify and promote necessary changes to achieve a balancing of fiscal resources and service responsibilities among the governments of each State. To commence this process, each State would establish a broadly-based independent commission to assess disparities in access to fiscal resources of the governments within the State, to identify major problems, and to make appropriate recommendation for change. The commissions would also assess the fiscal management practices and make recommendations for improvements. States *would be expected* to act on these recommendations (emphasis added).

My reading of this clever language is that the administration intends to make general revenue sharing into a major vehicle for forcing States to reallocate their income and wealth.

One way to gage the reality of the budget is to look at historic trends. In this budget, one fact in particular stands out; budget authority, which is what drives spending, increases 17 percent from 1979 to 1980, is a continuation of an alarming trend in which budget authority growth rates have consistently exceeded outlay—actual spending—growth rates. Now, we are asked to believe that budget authority will grow only 6 percent from 1980 to 1981. Even recognizing that a lot of spending has been dumped on the 1980 books, there is little believability in the 1981 budget authority in the President's budget. I wish it was believable.

Another telling deception in this budget is the absence of an allowance for a badly needed tax cut. Granted, a tax cut will exacerbate the deficit in the short run, but the toll that inflation is taking in the form of increased taxes is tragic and must be addressed. Double-digit inflation has provided the Government with windfall tax revenues at the expense of the taxpayers who were promised only a few years ago by candidate Carter that he "would never increase the taxes for the working people of our country." You may want to keep this in mind later this year, when the President and congressional Democrats begin falling over themselves to argue for a tax cut.

In conclusion, I have tried to make a case that the President's budget is more of a political instrument than a statement of intended fiscal policy. As the budget numbers change throughout the current fiscal year, I suspect that I will not be alone in calling this to the attention of the American people.●

NIGERIA'S CONSTITUTIONAL GOVERNMENT

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1980

● Mr. CARTER. Mr. Speaker, from January 5 to 17, I had the honor and privilege of accompanying Majority Leader JIM WRIGHT on an extremely informative trip to several countries in Africa and to Saudi Arabia.

One of the countries our delegation visited was Nigeria which only recently adopted a U.S.-style constitutional form of government and elected a house of representatives and a senate patterned after our own.

We paid a call on the Nigerian National Assembly and met with Senate Majority Leader Sola Saraki and Deputy Speaker of the House of Representatives Idris Ibrahim.

While we visited their Senate, proceedings were suspended and we had a chance to meet with the Senators on the floor of their Chamber. Afterward, the Senate reconvened and a resolution was passed inviting JIM WRIGHT to address the Senate on behalf of our delegation.

Our colleague from Texas is well-known and admired in this body for his considerable oratory skill. May I submit that he is at least as equally acclaimed in the Nigerian Senate now on the basis of the superb extemporaneous remarks which he offered.

I would like to include for the RECORD a portion of the transcript from the National Assembly debates on January 7 containing our majority leader's comments:

VISIT OF AMERICAN CONGRESSMEN

The President: Before we come back to this debate which seems to generate a lot of interest, I wish to refer distinguished Senators to Section 61 of the Standing Orders; Under that section, I shall beg leave of the Senate to suspend sitting for the next ten minutes in order to invite our distinguished colleagues from the United States of America for a few minutes' chat with us here. Is that the wish of the Senate?

Several Senators: Yes.

Sitting suspended: 4:00 p.m.

Sitting resumed: 4:20 p.m.

The President: Order! Order! Order! I have a request that the Senate do grant distinguished Senator Wright, Leader of the United States' delegation, permission to say a few words to the Nigerian Senate. Is it the wish of the Senate?

Several Senators: Yes.

The President: The visitor may come in. (Senator Wright enters).

Distinguished Senator Wright from the United States, you are welcome to the Nigerian Senate. Your Colleagues here in Nigeria welcome you and your delegation and have asked me to express their sincere thanks to you for coming along to see what we are doing here and have given permission that you could say a word or two if you wish.

Senator Wright: Mr. President, thank you very much. On behalf of our President, Jimmy Carter, and on behalf of our country and the delegation which has come to see the grand work you are doing here in this great nation of Nigeria, we express our appreciation for the graciousness of your hospitality. It is a pleasure for us to be here to see the thriving, living embodiment of democracy, renewed and revived in this, most populous country of Africa.

It is a personal pleasure for those of us who are privileged to represent our Congress on this occasion to greet you as inheritors and standard bearers of the noblest traditions of free men and women everywhere, to salute you as fellow legislators and law makers, rulers of nothing but self, indeed like us the servants of your native land, and to embrace you as brothers in the struggle for the freedom, equality and dignity of all men and women everywhere.

We are ourselves deeply impressed with the success you have achieved and political stability only thirteen years after the trials and difficulties of your civil war which tore you asunder. We remember that it took us many years to survive and heal the wounds of our civil war in our own nation. But that war, in the words of President Lincoln, needs must come as a woe to those whose Lash has drawn blood. President Lincoln in the darkest days of that war, calling upon the people of the North and of the South jointly to forgive and to love one another and to reunite in nationhood, said: Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said, "The judgements of the Lord are true and righteous altogether."

Those were the words of our great emancipator. What a tragedy that he whose birthday we shall celebrate in one month was not privileged to live to see the reunification of our country. We are ourselves pleased and gratified that in the maturing of your political institutions, you have seen fit to trust the people with power and in looking about for a model upon which to pattern your political institutions you have chosen to look to us.

We know that we are far from perfect even yet; we have committed errors, we have not achieved all the grand dreams and hopes and aspirations that our founders launched but to which we aspire. But in our imperfect way as, mortal human creatures in a legislative body which is the mirror of our nation, reflecting and distilling its vices as well as its virtues and its weakness as well as its strengths, we nevertheless have been able to make steady progress in the democratic society for 200 years. We hope that 200 years from now this great Assembly of freely chosen servants of the people of Nigeria will still stand and shine forth as a beacon to the world. We believe in free political institutions and the philosophy of the public servant reflecting the will of the people and in the belief of equality and dignity of all human kind, and we hope that your inspiration and your example, pursuant to these grand ideals that you have espoused in the creation of this great democracy, shall help in lighting the way to that time promised road.

We are proud to be fellow visitors with you on this planet at this point in time and fellow voyagers with you upon the road to that better day for the humblest of all creatures.

Thank you. (Ovation)

The President: I recognize the distinguished Senator Saraki.

Senator Sola Saraki (Ilorin/Asa): Mr. President, Sir, distinguished Senators, I would like to thank the Leader of the Majority of the House of Representatives and his Colleagues for coming to address us. It was true that Nigeria freely chose this type of Constitution we are now practising.

The problems before us in this system are very colossal and fundamental but I am sure that with understanding, love and affection amongst all of us, we shall succeed.

I would like to seize this opportunity, Mr. President, Sir, to say that we would like our friends in America to bear with us whenever we knock at their doors for assistance, or to learn from the experience which they have acquired in the two hundred years in which their Constitution has been in existence. Some of us have had the opportunity to visit the United States and the Congress to see them in practice, and we have learned a lot. I do hope that other Senators would have the opportunity to visit the American Congress and see how the system is working over there.

On behalf of my colleagues, the Senators, I thank the August visitors for sparing the time to visit us in the Senate. Thank you.

The President: Order! Order! May I make a correction. My attention has just been drawn to fact that Mr. Wright is a Representative and not a Senator. He is the Majority Leader of the House of Representatives.

Senator S. A. Shitta-Bey (Lagos): Mr. President, Sir, distinguished Senators, may I with due respect say that I associate myself with some of the views already expressed about strict compliance with the provisions of Section 8 of the Constitution. Unless one goes by what the President told us, which, according to my learned friend on that side, appears to be documentary hearsay, one cannot definitely ascertain or satisfy oneself that Section 8 of the Constitution has been complied with.●

SENATE—*Wednesday, February 6, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Reverend David K. Kaupu, chaplain, the Kamehameha School, Honolulu, Hawaii, offered the following prayer:

Almighty God, our Heavenly Father, You have been the Alpha of these United States of America, and You have assured us of Omega in our continued relationship of trust and providence with You. Assembled here in this sacred Hall of Congress are the people of our country, our honorable Senators of these United States. We praise You, O Lord, for them; and we now implore Your divine blessings upon their minds and bodies, their hearts and souls, as they legislate together the important concerns of our land: make them to think in the milieu of thought; make them to feel—in places on sensitiveness; make them to laugh—in moments of agonizing concerns; and make them to speak—with tongues of justice, liberty, and love.

Consecrate them all for the high and holy calling of government—in service of the people, by the people, and for the people, only to the glory of Your holy name, through Jesus Christ, our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 6, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, the majority leader is recognized.

HELP FOR AN ALLY

Mr. ROBERT C. BYRD. Mr. President, recent events in the Persian Gulf and western Asia are stark evidence of how political and economic problems in these regions can threaten U.S. interests. Too often, we recognize the dangers inherent in a situation when it is too late to do much, if anything, anything about them. If we are to avoid living from crisis to crisis in the future, we must anticipate problems and respond to them before they reach crisis proportions.

Turkey presents us with an opportunity for recognizing a potential problem before it is too late, and time—too much time—already has passed.

I have been warning of this for a long time, Mr. President. I have been stating that it is important that Turkey be given assistance in aiding it to deal with its very severe economic problems.

Historically, that nation has occupied a key geopolitical position. This makes Turkey a particularly important member of the NATO alliance. That nation struggles to maintain a democratic, parliamentary political system in the face of ongoing internal and external pressures—political terrorism at home and ominous events across Turkey's borders in the Soviet Union and Iran.

Especially grave are Turkey's economic difficulties—inflation currently running as high as 100 percent; unemployment very high, 20 percent or higher; foreign currency reserves sorely depleted. The Turks are finding it increasingly difficult to pay for the importation of the oil they need to keep their economy moving. Without imported oil, shops and factories will close, increasing unemployment even more.

Political extremists have sought to exploit Turkey's economic difficulties. But the Turks have persevered up to now, and they still are persevering. Elections were held last fall, and the leader of the opposition, Mr. Demirel, was elected to be his nation's Prime Minister. The Demirel government has promised a far-reaching austerity program to improve the nation's economy.

Turkey needs help, and Turkey has been needing help, in its efforts to foster economic recovery. After much deliberation, Congress approved an aid package for Turkey for fiscal year 1980, aid that would help to alleviate Turkey's economic problems and help to reduce the economic burden of its NATO defense commitment.

Unfortunately, this aid is part of the foreign assistance appropriations measure that is still in conference. Members of the Senate took a strong stand last year in support of giving Turkey needed assistance. When are we going to recognize what is in our own best interests?

I have said time and time again, on this floor and elsewhere, that it is in the security interests of this country, the United States, that Turkey not go under; that Turkey be given help, enough help. That country is in a very strategic location, strategic position. It ties down 25 Soviet divisions on the border separating Turkey from the Soviet Union. It is the largest unit in NATO, I believe—500,000 Turkish troops. Yet, Congress cannot bring itself to the point of seeing the vitality of helping Turkey, how vital it is to our own interests.

I have urged the administration to try to help Turkey more this year, to put more money in the budget request for Turkey. We put in more money for Egypt. I am for that. We put in more money for Israel. I am for that. But it also is important that we help Turkey.

I believe it is imperative that we demonstrate our determination to work with the Turkish Government to meet its economic problems today, so that tomorrow, Turkey and we will not face political problems of an even greater magnitude.

Turkey, we, and the other members of the NATO alliance will all face greater problems if the situation in Turkey deteriorates.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes, under the previous order, the distinguished acting minority leader, the Senator from Alaska.

AID TO TURKEY

Mr. STEVENS. Mr. President, I am pleased to hear the majority leader once again state such a firm policy of endorsement concerning the assistance which must be given to our friends and allies in Turkey. I hope that during the period ahead, particularly while we attempt to protect the Persian Gulf region and to increase our defense commitments throughout the world, that we do not forget those who have been our true friends through the stormy past.

I concur in the statement of the majority leader.

MINNESOTANS HAVE REASON TO BE PROUD

Mr. STEVENS. Mr. President, last election Minnesotans sent two distinguished young men to represent their State in this body.

Senator RUDY BOSCHWITZ moved quickly to establish his reputation and has become a spokesman in many areas of legislative endeavor, particularly those involving the budgetary process. Likewise, Senator DURENBERGER has taken the lead on many issues of concern to Minnesota and the Nation. He was elected president of our class of newly elected Republican Senators early on and

---

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

his leadership is being recognized by many in the Nation's Capital.

I was pleased to read an article entitled "Durenberger—Too Good To Be True?" printed in a new Capitol Hill news publication.

He is too good to be true, and I am happy to see that my friend and fellow pipe smoker in the Senate has been recognized so positively in a paper that does not come from his own State. It is an excellent article and I wish to share it with all Members of the Senate, I ask unanimous consent that the article from the Hill Rag be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DURENBERGER—TOO GOOD TO BE TRUE?

(By Barbara H. Seeber)

The tall, handsome senator from Minnesota looks like a Midwestern banker or maybe like Ray Milland in a 50's film playing a Midwestern banker. He stuffs his pipe, helps the reporter find a socket for her tape recorder behind the expanse of senatorial desk he inherited from Hubert Humphrey. He is then quick to disclaim taking Humphrey's place—in the real sense.

But filling the Humphrey slot has proved more than significant for Dave Durenberger. Though Durenberger is a Republican who has held no prior elective office, and does not have the iron grip on Minnesota his predecessor did, succeeding Humphrey has given him a political edge that has kept him out front and one step ahead ever since he arrived in Washington.

Dave Durenberger was sworn into office in early November 1978, the day after the Minnesota elections, because Muriel Humphrey declined to take her husband's place beyond election day. This jump on his new colleagues established Durenberger as first in seniority in the freshman class of senators, and helped him land seats on three choice committees: Select Intelligence, Governmental Affairs, and the powerful Senate Finance Committee—with jurisdiction including tax legislation, health and welfare programs, trade matters, revenue sharing, and some aspects of the energy problem. Additionally, the eleven freshmen senators elected Durenberger, the third Republican senator ever from Minnesota, president of the freshman class.

But it is Durenberger's efforts with his health bill, the Health Incentives Reform Act (HIRA), that most clearly reveal him as a grappler and quick learner. HIRA is the first health legislation introduced in Congress to actively incorporate a reform approach—one that gives the consumer a variety of competitive plans to choose from and thus, hopefully, forces health care delivery systems to be more economic and efficient. This competitive approach, recently popularized by Stanford economist Alain Enthoven and a Minnesota-based health policy research group headed by Paul Ellwood, addresses the frustrations of those looking for something that is not regulatory in nature, not a National Health Insurance package, and not an expansion of "Big Government" interference.

While the issue of health care in the 80's is most often associated with Senator Edward Kennedy, many consider his position to be extreme. Durenberger's is a more moderate approach. He says his decision to introduce HIRA is the result of seeing firsthand the marketplace approach operate and flourish in Minneapolis-St. Paul, his home district. His decision was also fueled by the frustration of "sitting through months of hearings on legislation involving Medicare, Medicaid, hospital cost containment, catastrophic coverage and National Health Insurance—when nobody talked about actually reforming any of the present systems."

Durenberger's experience belies what many of us believe—that a freshman senator must sit on his hands and wait for more senior status before he can make his presence felt. He emphasizes that there are ways to get around the frustrations of seniority by carefully working through the processes of Congressional committees. The history of his health bill is a case in point.

Durenberger introduced HIRA in mid-July, 1979. Though hurriedly drafted and imperfect, the introduction of the bill was timed with the discussion of health issues in the Finance Committee before Congress recessed for August. The August recess provided time to reconsider and revise the bill; then Durenberger re-introduced it in October in time for the Finance Committee's discussion of catastrophic health coverage. The catastrophic health package is coverage for long-term and costly illnesses not covered under existing policies. Catastrophic coverage would be triggered when the individual's expenses exceed a specified amount.

In the Finance Committee, the Senator registered his concern over expansion of the national health insurance system. He gained an ally in Jim Mongan, the Administration's spokesman in committee, who conceded that systems reform should be part of the four-day discussion. Senator Russell Long (D-La), chairman of the Finance Committee, agreed.

In the continuing discussion, Durenberger sought the influential Senator Ribicoff's (D-Conn.) support. Ribicoff, chairman of the Governmental Affairs Committee on which Durenberger also serves, was familiar with Durenberger's initiative. After Durenberger pointed out that systems reform could logically address and even absorb Ribicoff's criticism of the health insurance system, Ribicoff indicated that he could support Durenberger's provisions in the health package under discussion.

As it happened, Senator Long felt that a health bill was needed before the effective date of 1983 then under discussion. "I am very much concerned," Senator Long said, "about what we are going to be able to do in the immediate future. I expect to be a candidate next year. Bob Dole is planning to be a candidate. Herman Talmadge is planning to be a candidate, just to mention three [members of the Finance Committee]. We would like to talk about what the folks are going to get, not down the road somewhere, but what we have done for 'you folks' lately . . . 1983 sort of gets to be a philosophical thing." Long's impatience gave further impetus to the Durenberger provisions, which are relatively inexpensive, and can thereby be adopted more quickly within a catastrophic health package.

The bill's movement through the Finance Committee received yet another boost, according to Durenberger health aide John Tillotson, when Jay Constantine, powerful chief of the Committee's health staff, commented that the Durenberger bill had emerged much improved, and demanded the serious attention of even the staunchest opponents from the private insurance industry.

The cautious Durenberger, when asked about the limits of power for a freshman will reply modestly, "I have time to get the work done. Seniority is offset by the drain of time that goes with it." That is the Durenberger who is on time to meetings, who practices conscientious bi-partisanship, who listens and waits for his chance to speak. The Durenberger who has swiftly involved himself with the committee work that is at the heart of the legislative process.

But it's not only caution which helps a freshman senator like Durenberger maneuver his bill through a powerful Senate committee. There is also the compulsive drive of a man who won Man of the Year awards in Minnesota, who stands behind the stewardess shaking hands on return flights he makes from Minneapolis: the Durenberger who has been pushing, pushing since he arrived in this political city fourteen months ago.

Senator Dave Durenberger at forty-five, with temples graying in the right way, draws contemplatively on his pipe and projects a practiced blue-eyed, even-handed, sensible image he has every reason to think you'll buy. Indeed, that may be the real man. The product of a Catholic home and schools in a family of five children, he attended St. John's Prep School and grew up in the academic atmosphere of St. John's University in Collegeville, Minnesota where his father was Athletic Director. He graduated cum laude in political science from St. John's University and received his J.D. from the University of Minnesota Law School in 1959.

For 19 years in Minnesota he was a lawyer, first with the firm of LeVander, Gillen and Miller, a 50-year-old prestigious firm that has produced governors, state congressmen, and a U.S. Senator. The firm became LeVander, Gillen, Miller and Durenberger before he left in 1966. He was also a member or president or director or chairman of over seventy committees and organizations in Minnesota ranging from the Jaycees to Governors' Commissions on Ethics and Art. In 1967 he became a chief aide to his law partner, then Republican Governor LeVander. When LeVander was defeated, Durenberger entered corporate law as general counsel for the H. B. Fuller Co., an international adhesive manufacturing company in St. Paul, in February 1971.

Durenberger is a family man. He married his first wife in 1962. Four sons were born in the next six years before disaster struck his family. His wife died of cancer in 1970.

He met his present wife Penny in the office of the Democratic candidate for governor, Wendell Anderson, where she was working as an assistant news secretary. She was 27 and a Vietnam widow. He was 36; a widower with four small children. They were married in 1971.

Dave Durenberger punctuates his remarks with pipe smoke and disarming grins. Amid the marble and scrolled woodwork of his office, he volunteers a distinction in his values: "Everything around here is called urgent," he gestures vaguely at the polished brass and inner and outer offices of the Russell Building, "but that's different from important. Important is kind of a personal thing—your wife and family, regardless of why you got sent down here." His remarks display his conventional good sense and underplay his sophistication, which is considerable.

He is a contrast to his predecessor in office, Hubert Humphrey. His issues are not the embattled visions of the old civil rights warrior. He is neither dramatic nor rhetorical. His issues are more in tune with the everyday concerns of 80s' Americans—like health and railroads.

Railroads—read Energy in the 1980 catalogue of concerns—have been on Durenberger's mind recently, particularly the Milwaukee Railroad, which stretches through the Midwest from Wisconsin. It is essential for hauling Minnesota grain.

"We woke up one morning," Durenberger says, his Minnesota accent coming through strong and clear, "to find that Senator Magnuson (D-Wash.) was about to do us in on the Milwaukee Road. . . . We had about six hours to build support against him." Warren Magnuson is first in seniority in the U.S. Senate and chairman of the powerful Appropriations Committee. What emerged was a fierce regional issue and a tale of true compromise.

With the midwestern forces of Gaylord Nelson (D.-Wisc.), William Proxmire (D.-Wisc.) and Durenberger aligned against the western forces of Max Baucus (D.-Mont.), John Melcher (D.-Mont.), and Warren Magnuson (D.-Wash.), the fight focused on whether or not the western lines were killing the railroad. A Department of Transportation study in progress maintained that if a third of the lines, mostly in the West, were eliminated, a full 94 percent of the railroad's traffic, mostly in the Midwest, could remain intact. What amounted to Federal subsidization of the western lines was jeopardizing the funding of the more viable midwestern end. The western forces, of course, wanted continued subsidization for all those towns and people along the western lines who had no other livelihood, and who had been working on the railroad all their lives. The Durenberger forces felt that the less effective western lines should be dropped and hopefully picked up by individuals, employees or shippers.

Durenberger and Nelson successfully cosponsored a bill, which was backed by the Administration: It was a compromise that put a December deadline on the DOT study and delivered the final decision into the hands of the Interstate Commerce Commission.

By the final months of 1979, Windfall Profits in the Finance Committee and SALT in the Select Intelligence Committee had overshadowed this small regional skirmish. But the experience highlights Durenberger's concern for the railroads, which he feels are a much-overlooked key to the energy problem, and reveals the dogged effort with which the freshman Durenberger pursues his concerns against even the most senior member of the Senate. The practical, down-to-earth Midwesterner comments on his tale of transportation with a grin: "As a freshman I can sneak around and get support while the senior guy has to chair committees and stay up all night trying to compromise some big issue."

And how does Durenberger feel about other areas?

On being a Senator: "My constituents see me mainly through the media, not the work I do in 2221." (the room in the Dirksen Building where the Finance Committee meets). That work is "not newsworthy, not glamorous, hard to pizazz." While that work "seems to suit Durenberger's temperament and his interest in complicated public policy questions," according to the Minneapolis Tribune, it does not lend itself to "colorful politicking."

He has been advised that the way to get re-elected is to pick an issue, "like Fritz Mondale did with aging, and stick with it. And answer the mail. But I find that almost impossible."

On the Windfall Profits Tax: He favors decontrol and exemptions for new oil which is expensive to find and produce. But as a result of the president's decontrol, he feels there should be a tax on windfall profits as well as tax credits for solar and geothermal energy and other forms of conservation. He supported the package that came out of the Finance Committee which added credits for conservation and incentives for production to the House bill. The Village Voice labeled Durenberger a "consumer champion" when he supported the Danforth Amendment against exemption of oil profits received by states, localities and universities they own. However, in the seven votes of the Finance Committee (often accused of being heavily loaded with pro-oil senators), which according to the Voice "increased the exemptions on the tax and saved oil interests about $135 billion," Durenberger voted with the majority for Big Oil three times.

On SALT II: Durenberger said in the Minneapolis Tribune some months ago, "most of us involved in this process are truly undecided. We don't know which way to go. We all come from the standpoint that we'd like to see arms limitations. We're not sure we can trust this particular form of limitations, however." Minnesota papers predicted he would vote for the treaty. But since the Soviets invaded Afghanistan, Durenberger feels "it would be very difficult to examine SALT II solely on its merits. There is still a need for arms limitations, but in another form in another year."

On being president of the freshman class: "It doesn't make any difference to me, doesn't mean I'm the best of the lot," he protests in that Midwestern style that smacks of false modesty to an Easterner. He quickly steers the talk away from himself and back to competition and public good. He talks about the significant "dent on the leadership" the eleven freshmen senators made at the beginning of the 96th Congress and chuckles about asking senators running for Senate Minority posts—floor whip, caucus leaders, etc.—"to take time out from a Press Club function to come in on a Sunday and tell us why they ought to have the job."

The chuckle, the attentive gaze, the issue-oriented talk, contribute to the picture of a public man who works on Sunday and isn't reluctant to press his seniors to do the same. He brings to mind thoughts of Sinclair Lewis novels, the ramrod-straight heroes like Arrowsmith concerned over pure motive and public health. In that same simplistic mood, one inevitably wonders if he isn't "too good to be true."

Whether Durenberger has the staying power and political vision of a Humphrey remains to be seen. But undoubtedly he is a man who quickly convinces others of his honesty and his objectivity, of his substance and reason. He is not a posturer or the type of senator who asks his staff person in the elevator how to vote.

His campaign materials which billed him as "an active Republican all his life" and "public-spirited rather than partisan" underscore the fact that in Minnesota there are Republicans who consider Durenberger not partisan enough and even left of center.

But most who have dealt with Dave Durenberger in his year in the Senate would classify him as a prudent, moderate Republican, one who looks for ways to limit Federal regulation and expand authority on the state and local scene, who espouses free market and competitive marketplace watchwords that are hard to argue against.

He is a man who writes 17-page memos to his staff and still inspires their praise; a man who aspired to be governor and ended up U.S. Senator; a 45-year-old smiling, public man who in his first year in Washington has moved quickly in the Potomac chess game from pawn to knight.

Mr. STEVENS. Mr. President, there is no request for time on my side. I am prepared to yield back the remainder of my time.

Mr. ROBERT C. BYRD. Will the Senator yield time to the Senator from Wisconsin?

Mr. STEVENS. I yield the remainder of my time to the Senator from Wisconsin.

THE GENOCIDE CONVENTION AND STATES RIGHTS

Mr. PROXMIRE. Mr. President, a series of objections raised by detractors has mired the Genocide Convention in the Senate for 31 years, Mr. President, 31 years. But while time has sorely depleted the opponents ranks, it has only swelled those of the Convention's supporters.

During these years objections to the convention have been thoroughly and exhaustingly rebutted. Defections from the opponents camp have been continual; the prestigious ABA recently voted overwhelmingly to reverse its opposition to the treaty and called for its ratification.

One argument the convention's opponents make is that ratification would blur the distinction between State and Federal jurisdiction and allow dual prosecution. They claim that a State charge of homocide could be made a Federal charge of genocide simply by alleging intent.

Article II of the convention very narrowly defines the crime of genocide as "acts committed with intent to destroy, in whole or in part a national, ethnical, racial or religious group as such." Intent is extremely difficult to prove in ordinary cases; U.S. attorneys would be unlikely to initiate unfounded prosecutions. Furthermore, safeguards in the criminal system insure dismissal of groundless prosecutions.

The narrow wording of article II prevents incursions into State law. Additionally the constitutional protections against double jeopardy prohibit prosecution for the same crime under both Federal and State law.

I reiterate that the Genocide Convention does not infringe on the Constitution.

The Senate must speak out on the Genocide Convention. I urge my colleagues to consider the validity of the Genocide Convention and I call for its immediate ratification.

I thank my good friend, the acting minority leader.

RECOGNITION OF SENATOR MORGAN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for a period not to exceed 15 minutes.

SENATE RESOLUTION 360—SUBMISSION OF A RESOLUTION PROVIDING FOR THE APPOINTMENT OF A PANEL TO INVESTIGATE ALLEGED IMPROPER CONDUCT BY SENATORS

Mr. MORGAN submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. Res. 360

Resolved, That section 2(f) of Senate Resolution 338, 88th Congress, is amended as follows:

"(2) If the Select Committee determines to conduct an investigation, the President of the Senate shall appoint (A) a panel, consisting of three members who are currently serving or have previously served as a Member of the Senate, to receive testimony and other evidence with respect to the alleged violation or violations as specified in a statement of charges prepared by the Select Committee, and (B) a Federal Judge on senior status who shall serve as a nonvoting presiding officer of the panel. The attendance of witnesses before the panel and the production of other evidence may be compelled by means of subpenas issued by the Select Committee upon request of the special counsel appointed for the purpose of presenting evidence to the panel. The panel may suggest to the special counsel the development of additional evidence. The presiding officer shall have the authority to administer oaths to witnesses, to rule on the admissibility of evidence, to decide upon claims of constitutional or common law privileges, to conduct the panel's proceedings in open or closed sessions and to permit or deny media coverage according to Senate rules applicable to the Select Committee, and to maintain order and decorum during hearings. In the event a witness refuses to appear or to produce evidence pursuant to subpena, to be duly sworn upon appearance, or to answer questions asked by the special counsel or the panel unless a claim of privilege has been sustained, or in the event of contumacious conduct by a witness, the panel shall promptly make a report of the circumstances to the Select Committee which shall then determine whether to report a recommendation of contempt to the Senate. Proceedings of the panel shall be conducted pursuant to this resolution and the rules and procedures of the Select Committee in all respects as if conducted by the Select Committee itself. An evidentiary or procedural ruling of the presiding officer shall be conclusive for purposes of the panel's proceedings unless a timely objection is made by a member of the panel, whereupon each member shall vote upon the question and the majority shall prevail. The panel, after receiving the evidence concerning the charges, shall make a report of findings of fact to the Select Committee. The Select Committee may remand the report to the panel for further proceedings, may discharge the panel from any further responsibility, or may itself receive additional evidence. The Select Committee shall then draw such conclusions and formulate such recommendations as it deems warranted by the evidence, and make a full report of the results to the Senate.".

Mr. MORGAN. Mr. President, this morning I shall discuss with my colleagues a resolution that I will be submitting to amend the Senate Ethics Code. I shall talk about the reasons why I think it needs to be considered and acted upon as soon as possible.

Going on 4 years now, I have served on that committee and have had an opportunity to observe the new code and the way in which it has worked, and I think that there are some modifications that we should make which will enhance the ability of the Senate to enforce its own code of ethics.

In the experiences that I have had, I have found that the Ethics Committee is called upon to fulfill several roles in the process which are normally, in most other judicial or quasi-judicial proceedings, fulfilled by several different entities.

First of all, whenever information cames to the committee or to the chairman or the vice chairman of some impropriety on the part of a Member of the Senate they may conduct, if they think the information warrants it, and initial review. This is more or less looking around to see whether or not there is some reason to believe or there is some indication that a Member of the Senate may be guilty of some impropriety.

Once they determine that there is some information, of course, then the committee votes to go into the preliminary inquiry which is more or less a formal proceeding equal to or somewhat equal to the proceedings of a grand jury. In other words, at this stage of the game, the Ethics Committee is determining as best it can from all of its investigations by and with the assistance of its staff whether or not there is sufficient evidence or reason to believe that a Member is guilty or has committed an impropriety. So for all practical purposes up until this point the members of the Ethics Committee are acting somewhat as the investigating officers or the law officers or the sheriffs, if one wants to describe it in those terms.

But, in effect, the Ethics Committee is presenting to itself the evidence on which to consider whether or not we should then move forward into a more formal stage of our hearings, the investigation.

When we do that, for all practical purposes, as we observed in the proceedings last year, it becomes a full-blown trial, so to speak.

So the Ethics Committee first having served as the preliminary investigative body, in the position of the investigative officer, then presents to itself the information contained or that it has discovered in order to determine whether or not a formal charge should be made, as I said, tantamount to a bill of indictment by a grand jury.

At that point in almost every other proceeding—judicial proceeding or quasi-judicial proceeding—whether one uses the civil courts or whether one is talking about the Military Code of Justice, a different and new body will move in that has to hear the evidence and to make recommendations, a body that has not been involved in the investigative process, a group that has not formed any opinions pro or con.

Under the present Code of Ethics the members of the Ethics Committee then proceed to fulfill this role, even though they have served already as investigative officer, as the grand jury; then they sit in the position of judge and jury. But in addition, though, to make that role even more difficult, the Ethics Committee has to supervise the staff, not only during the whole process up to the point where the investigation is ordered but even during the course of the hearings itself.

The Ethics Committee is, in effect, sitting as judge, jurors, and prosecuting attorneys. It is an untenable position, and I think the Ethics Committee, under the leadership of the distinguished Senator from Illinois (Mr. Stevenson) and coleadership of the Senator from New Mexico (Mr. Schmitt), who was serving as vice chairman, did a remarkable job in trying to walk that very narrow line between serving as impartial triers of the fact and at the same time conducting the prosecution, having already fulfilled the role of investigating officers.

I have expressed these opinions, these concerns, for a number of years now, and, even in the latter days of the hearings this past year, I indicated to a number of my colleagues that I had some thoughts and ideas that I thought we should consider, and that I planned to present them to the Senate early this year.

I think the events of recent days, Mr. President, make these proposed changes even more important and, I think, urgent.

I believe we can best enforce our own professional ethics or ethics of this Senate by altering our rules so that once the charges have been made by the committee, that is once the committee has voted to proceed to an investigation, at that time I think the members of the committee should step aside as the finders of fact but should fulfill the role of continuing with the investigation by and through the staff. But the matter, in my opinion, should be heard by Members of this body or by former Members of this body who have been completely removed from the investigative process up until this point.

I practiced law a long time, and one of the questions I almost always asked a prospective juror was whether or not he had read or heard anything about the facts of a given case. If he had I would ask him whether or not he had formed an opinion and, if so, would it take evidence on the part of the person involved to alter or remove that opinion.

I think it is held by most judges throughout this land that if a prospective juror has knowledge of the facts involved in the case, and especially if he has formed or voiced an opinion about it, he is disqualified or excused from serving on that case.

Now, members of the Ethics Committee, whether they agree or not or whether they think so or not, really have formed an opinion with regard to the facts in a given situation whenever they conclude to go forward with a full-scale investigation. In other words, members of the Ethics Committee have to conclude, in my opinion, that there is evidence to support the charges or sufficient evidence to go forward.

Therefore, at this point of the stage of it I believe what should happen is that the President of the Senate should appoint a panel of three Members of the Senate, who are currently sitting as Members, or the former Members of this body to sit as the triers of the facts during the full-scale formal investigation. This would put three persons who had not been involved in building the case, so to speak, against a Member of this body to sit and hear the evidence.

I have included a provision that the President of the Senate could appoint former Members of the Senate. I can think of a number of former Members of this body who could serve in that role with great distinction, names coming to mind such as my own predecessor Senator Sam Ervin; Senator Kaneaster Hodges, who served last year and who I think is a very competent and highly respected lawyer; Senator Clifford Case from New Jersey, and I could go on and name many others who might be willing to come back and serve.

In addition to that I have recommended in my resolution that we have a presiding officer of this new panel during the course of the investigation who would serve much like the law officer in a court-martial hearing. He would be the presiding officer. He would rule on questions of admissibility of evidence and on all motions made during the course of the hearing, subject to approval by the panel.

I have suggested that this presiding officer, who would be appointed by the Senate, should be a senior judge of the Federal judiciary, a senior judge being one who has reached the age of 70 and, I believe, is in a retired capacity or at least senior status, and that person would be one who would be fully competent and who understands the nature of the judicial processes. This is a quasi-judicial process.

He would understand the necessity of due process being afforded to any of our colleagues, and he would make the rulings as the law officer does today in a court-martial. But the three-member panel hearing the case could overrule him.

Then, finally, the question comes up, of course, what about subpenas? Well, there are some problems presented. I am not sure whether we could grant to this panel the authority to issue subpenas. I rather suspect we would have to enact a statute and have the House concur before we could grant to this panel the authority to issue subpenas.

So to eliminate the necessity of doing that and also to make this a process where we in the Senate would actually administer or enforce our own Code of Ethics, I have prescribed that the new hearing panel, along with the presiding officer, could at any time request the Ethics Committee to issue a subpena and enforce the attendance of witnesses or the cooperation of witnesses.

Mr. President, I believe that the suggestions I am going to send forward in this formal resolution would greatly enhance the ability of the Senate to enforce its own Code of Ethics. I think it would greatly enhance the ability of the Senate Ethics Committee to do its job and, at the same time, protect the Senate of the United States and also afford to any Member of this body who may be accused of having committed improprieties, afford to him, due process.

Mr. President, I would not normally urge a committee of the Senate to move expeditiously because I do know that most have agendas of their own. But I hope in light of events of recent days and where there is a high probability that the committee will be called upon shortly to move into a more formal stage of hearings, that the Rules Committee will give serious consideration to this proposed rule change.

I am not saying that what I have in this proposal is the final word. I do not know. I am willing to trust my colleagues. But what I am saying here is a starting point from which we can move forward to improve our system.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. Baucus). The Senator's time has just expired.

Mr. SCHMITT. Will the Senator yield?

Mr. MORGAN. I have no time to yield.

Mr. SCHMITT. Mr. President, has the leadership time been yielded back? The Senator from New Mexico would like to propound a question to the Senator from North Carolina?

The PRESIDING OFFICER. The leadership time has not been yielded back.

Mr. SCHMITT. Mr President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The majority leader has 2 minutes remaining.

Mr. ROBERT C. BYRD. How much time does the distinguished acting Republican leader have remaining?

The PRESIDING OFFICER. Six and a half minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that half of that time may be under the control of Mr. Schmitt and half under the control of Mr. Morgan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, the Senator from North Carolina has, I think, clearly defined the basic problem that he and I and others felt was encountered in recent activities of the Senate Ethics Committee on which we served; the problem being that after the preliminary inquiry or the early fact-finding portions of an inquiry into the activities of a Member of this body was complete, the same group was forced to serve in the final investigative capacity.

As the Senator may recall, the Ethics Committee did try, at the tail end of the 95th Congress, to obtain the appointment of a separate panel of Senators to hear the evidence and report to the Senate on the conclusions of the investigation.

I certainly agree that that break in the sequence would be advantageous and would provide a greater sense of justice in the deliberations of this body, as well as a sense of credibility to the activities of an investigation. Whether it should contain outside persons or former Members, as the Senator has suggested, I think is something that we can debate. But the concept that the Senator proposes is clearly desirable and, in fact, mandatory if we are going to conduct these kinds of investigations.

I will ask the Senator the following question, though: Has the Senator envisioned how the conclusions of the panel would be presented for final ratification or modification by the Senate as a whole?

Mr. MORGAN. I provide in my resolution that the panel would make findings of facts to the committee and then the committee would fulfill its responsibility of making recommendations to the Senate.

Mr. SCHMITT. So it would be up to that committee to make recommendations based upon the findings of fact by the panel to the full Senate?

Mr. MORGAN. From the panel to the committee to the Senate. It may well be that we might want to change that.

Mr. SCHMITT. I thank the Senator for that and congratulate him for the initiative he has shown.

Mr. MORGAN. I thank my colleague. I do think there is some urgency about it.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEWSPAPERS AND ESTATE TAXES

Mr. MORGAN. Mr. President, I believe that many of us in the Senate noted with surprise the recent sale of the Delta Democrat-Times, Mississippi's leading independent newspaper, to a chain operation.

The Democrat-Times spent 44 years producing its own brand of independent journalism, and whether one agreed with its editorial policy or not, it was an institution in the State of Mississippi.

More than an institution, the Delta Democrat-Times represents a problem facing every independent newspaper in this country. Along with the high prices being offered by chain operations, the Federal Government's own estate tax laws are encouraging newspapers to sell out.

An editorial in the Washington Star this weekend noted that estate taxes were one factor in the decision to sell the Delta Democrat-Times.

Mr. President, S. 555, a bill to aid independent newspapers in managing the estate tax burden has the support of some 27 of my colleagues and is currently before the Senate Finance Committee. The sale of the Delta Democrat-Times is one more example of the pressing need for this legislation.

We are losing independent newspapers to chains at a rate of one a week. While I do not indict chain operations, I believe that we all support an independent local press and S. 555 would go a long way toward preserving this vital American institution.

Mr. President, I ask unanimous consent to have printed in the Record the editorial from the Washington Star, along with some articles from the Publishers' Auxiliary, one dated November 26, 1979, and another dated January 21, 1980, in which the names of many newspapers are enumerated that have been bought by chain papers during 1979.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Star, Feb. 3, 1980]

OLD AND NEW IN MISSISSIPPI

In the 1950s and 1960s, when the nation's interest and often its outrage focused so intensely on the struggle for constitutional rights in the Deep South, it was usual to say of certain places, persons and newspapers that they were "enlightened." It meant, in a sort of shorthand, that they took civil rights seriously.

In one of those places, Greenville, Mississippi, one of those persons, Hodding Carter II, made one of those papers, the Delta Democrat-Times, a force of decency in Mississippi politics. Himself an accomplished writer of old-fashioned, almost conservative, personal values and views, Hodding Carter made his newspaper intolerably "radical" to the howling watchdogs of the Old Order. So much so that on one occasion the entire Mississippi legislature resolved that Hodding Carter was a "liar." He was not. His offense, in fact, was a peculiar attachment to the truth.

When he in due course retired, his son Hodding III—now the assistant secretary of state who reveals the day's grim news from Iran—carried on his father's plucky tradition. He even played a bit of politics—though the politics was more serious than play.

It should be said, by the way, that there was an air of condescension in calling such persons and journals "enlightened." Greenville, long a town of civilized writers (in an earlier generation, William Alexander Percy was notable among them), is a complex place. As is Mississippi.

It can only sadden those who value individualistic places and their institutions that the Delta Democrat-Times is now to be sold to a California newspaper group. The pressure of changing times and generations and Uncle Sam's inheritance tax laws have conspired in Greenville, as in so many other places, against localized traditions of publishing. Sometimes the absorption of local newspapers into these groups improves them; sometimes it makes them gray and anonymous. Sometimes a strong editorial voice is muted; sometimes it is amplified. We do not know, and would hardly venture to guess, what Freedom Newspapers, Inc., of Orange County, California, has in mind for the Delta Democrat-Times. Its meeting an asking price that the old owners thought fantastic was unexpected.

Certainly the Delta Democrat-Times will be a different newspaper than it was under the Carters; a 44-year tradition rich in honorable episodes is nearing an end. In journalism, too, the Lord giveth and the Lord taketh away.

What cannot be taken away is a memory. The spectacular travail of Mississippi in adjusting itself to the mandates of a new era in civil rights would almost certainly have been more painful but for the unflinching voice in Greenville.

There is always sadness in the end of an era—and there is a special sadness at the end of the Carter era in Mississippi journalism.

[From the Publishers' Auxiliary, Nov. 26, 1979]

THIS IS ANOTHER BRISK YEAR FOR BUYING, SELLING DAILIES

WASHINGTON—This has been another busy year for the buying and selling of American daily newspapers, recently published statistics suggest.

In fact, the statistics, which were prepared by newspaper industry analyst John Morton for John Muir & Co., suggest that 1979's pace has been a bit more brisk than that of 1978.

Here is a list of the major transactions involving daily newspapers prepared by Morton:

Yankton (S.D.) Press-Dakotian (circulation: 10,500); purchased by Stauffer Publications.

Midland (Tex.) Reporter-Telegram and Plainview (Tex.) Herald (combined circulation: 30,300); by Hearst Corp.

Ada (Okla.) News (9,600); by Thomson Newspapers.

Canon City (Colo.) Record (6,700); by Times Call Publishing Co.

Winter Haven (Fla.) News-Chief (15,000); by Multimedia.

Macomb (Ill.) Daily Journal (12,000); by Park Newspapers.

Carbondale (Ill.) South Illinoisan; Decatur (Ill.) Herald & Review; Edwardsville (Ill.) Intelligencer; Bad Axe (Mich.) Daily Tribune; Midland (Mich.) Daily News (131,000); by Lee Enterprises.

Anchorage (Alaska) Daily News (14,200); by McClatchy Newspapers.

Oelwein (Iowa) Daily Register (7,200); by Thomson Newspapers.

Lebanon (Pa.) Daily News (28,800); by Richard Scaife.

Alexandria (Va.) Gazette (16,000); by Alexandria Gazette Corp.

Ashland (Ky.) Daily Independent (26,100); by Dow Jones.

Portales (N.M.) News-Tribune (4,000); by Walls Newspapers.

Moultrie (Ga.) Observer (7,900); by Multimedia.

Pittsburg (Calif.) Post-Dispatch (7,000); by Lesher Newspapers.

Kilgore (Tex.) News Herald (6,300); by Donrey Media.

Atchison (Kan.) Daily Globe (7,000); by Thomson Newspapers.

Oklahoma Journal (40,000); by Early California Industries.

Princeton (Ind.) Clarion (6,900); by McGiffin Newspaper Co.

Rensselaer (Ind.) Republican (3,800); by Dear Publications.

Newton (N.C.) Observer (4,500); by Park Newspapers.

Sapulpa (Okla.) Herald (8,500); by Park Newspapers.

Waltham (Mass.) News Tribune (14,000); by Post Corp.

Grand Junction (Colo.) Sentinel (27,600); by Cox Newspapers.

Buffalo (N.Y.) Courier-Express (125,000); by Star and Tribune Co.

Oakland (Calif.) Tribune and Cincinnati (Ohio) Enquirer (357,400); by Gannett Co.

Bloomfield (Ind.) World (3,400); by William Miles.

Lynchburg (Va.) News and the Advance; Culpeper (Va.) Star Exponent (48,100); by Worrell Newspapers.

Yreka (Calif.) Daily News (5,300); by Thomson Newspapers.

Mount Vernon (Ind.) Democrat (4,200); by Landmark Communications.

Irwin (Pa.) Standard-Observer (12,500); by Albritton Communications.

State College (Pa.) Centre Times (21,000); by Knight-Ridder Newspapers.

Nashville (Tenn.) Tennessean (129,500); by Gannett Co.

Staunton (Va.) Leader and the News Leader (17,300); by Multimedia.

Flora (Ill.) Daily News Record (3,200); by Clay County Advocate Press.

Hartford (Conn.) Courant (215,000); by Times Mirror.

CHAINS GROW

Fewer newspaper chains are publishing more of America's daily newspapers. That's the bottom line of a report offered recently by Washington, D.C.-based newspaper industry analyst John Morton.

Morton said he counted 163 chains in his annual study, down from 167 a year ago. The decline, says Morton, reflects the absorption of some small chains by larger ones (Gannett's acquisition of Combined Communications, Lee Enterprises' purchase of Lindsay-Schaub, among others).

Morton's report said the 163 groups publish 1,115 daily newspapers with a total daily circulation of 45.7 million. The groups thus own 63.2 percent of the nation's dailies, up from 60.8 percent a year ago, and account for 73.9 percent of daily circulation, up from 72.1 percent.

Morton also emphasized in his study that a great many of these chains are tiny companies publishing two or three papers of small circulation. For example, 49 groups publish only two newspapers, 32 groups publish three and 14 publish four.

[From the Publishers' Auxiliary, Jan. 21, 1980]

GROUPS GAIN 48 IN SALES OF 53 DAILIES IN '79

To comply with a court decision, William H. Rudolph and his family had a choice—a daily newspaper or a radio station license. They elected to keep the station WKAI and sell the *Macomb* (Ill.) *Journal* (circulation 11,700) to Park Newspapers.

A short time later, the Federal Communications Commission extended the time for five other "egregious" crossowners to make a similar decision. They all own radio or TV stations in the same market with their newspapers—Anniston, Ala.: Albany, Ga.; Mascon City, La.; Watertown, N.Y., and Owosso, Mich. They have until June 1, 1980 to sell one or the other property.

The Macomb Journal was one of the 53 daily newspapers whose ownership changed in 1979, and 48 of them went into groups. Park Newspapers, based at Ithaca, N.Y. made four acquisitions. Gannett Company added three, with a fourth sale pending consummation. Hearst Corp. picked up three dailies from Lee Enterprises which had purchased them and two others from the Lindsay-Schaub group, Multimedia and Nixon groups also added three units.

Two groups were dissolved—Lindsay-Schaub, which sold five papers and folded two others; and Carter Glass Newspapers which moved into the Worrell group.

Fargo Forum became a new member of the group list which includes common ownership of two or more dailies in different markets. The Forum bought the West Central Tribune at Willmar, Minn.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 20 minutes and that Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 590, Senate Resolution 314.

Mr. President, may I say that this has been cleared with the acting Republican leader, who is represented on the floor in this matter at the moment by Mr. SCHMITT.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

> A resolution (S. Res. 314), waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1991.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 314) was agreed to, as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1991, a bill to amend the Federal Trade Commission Act.
>
> Such waiver is necessary to permit the consideration of legislation authorizing the enactment of new budget authority for fiscal year 1980 for the Federal Trade Commission.
>
> This authorization will not delay the appropriations process, or interfere with the budget process, since authorizing legislation for this purpose was reported by the Committee on Commerce, Science, and Transportation prior to May 15, 1979 (S. 1020).
>
> Subsequently, the committee held nine days of oversight hearings which resulted in several proposed changes to the Federal Trade Commission Act. The new legislation (S. 1991) will permit consideration of a comprehensive legislative proposal rather than dealing with individual amendments to S. 1020.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate recess for 15 minutes.

There being no objection, the Senate at 10:57 a.m., recessed for 15 minutes; whereupon, at 11:12 a.m., the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. There is no further morning business. Morning business is closed.

UNIVERSITY AND SMALL BUSINESS PATENT PROCEDURES ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 414, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 414) to amend title 35 of the United States Code, to establish a uniform Federal patent procedure for small businesses and nonprofit organizations, to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance, and for other purposes.

Mr. DOLE. Mr. President, I ask unanimous consent that the names of Senator SIMPSON and Senator JAVITS be added as cosponsors of S. 414.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, S. 414 was recently reported out favorably by the Judiciary Committee. The University and Small Business Patent Procedures Act aims at facilitating the transfer to the private sector of technology from the federally funded innovation stage. It allows universities, nonprofit organizations, and industry to obtain limited patent protection on discoveries they have made under Government-sponsored research, while establishing a uniform policy on the granting of patent rights.

During the hearings that were held by the Judiciary Committee in May and June 1979, testimonies were heard by scientists whose inventions were significant in terms of medical advances, and by heads of small, high-technology companies who provided shocking illustrations of the formidable obstacles placed in the field of technology transfer, in which the United States has been steadily losing its traditional leadership.

From these testimonies, it became clear that the Government's lack of a coherent patent policy had greatly contributed to increasing the factor of uncertainty, in an already uncertain area, that of technology end results. Indeed, the Government has been following the general principle of retaining patent rights to inventions that result from federally funded research. This has led to a reluctance by inventors and industry to invest the necessary funds for the development and the marketing of these inventions. Their position is easily understandable, in view of the fact that the development process is not only risky but expensive, and estimated to cost 10 times the cost of the initial research. Consequently, the most experienced and best qualified companies are often excluded from bidding on Government contracts, at a considerable loss to the public.

The Government's retention of rights to inventions it funded leads to the question "Why doesn't the Government engage in the development and marketing of these inventions?" The answer is that the Government has neither the financial resources nor the expertise to do so.

In fact, I think many would be violently opposed to any such effort, in any event.

As a result, out of the 28,000 inventions it funded, only about 5 percent have been used. Denied the modicum of protection that the granting of patent rights for a limited period of time would afford them, the private sector lacks the incentive that would stimulate it into developing and marketing inventions.

We are all aware that large amounts of taxpayers' money are directed to the research field. Against its investment, the public rightfully expects and deserves to reap a return in the form of products available for its consumption. That such expectations too often fail to materialize, is a clear indication that the Government reneges on its promise to the American people. That was repeatedly evidenced by the testimonies heard during the hearings held last spring. Dr. Arthur Obermayer, president of Moleculon Research Corp. in Cambridge, Mass. indicated that—

> When the Government owns a patent, the Government in fact does not use it. It does not need to use it. When a patent isn't used, it really isn't worth anything to anybody and has no real value by itself.

The obstacles placed in the path of U.S. industry are removed in the case of foreign firms, that are able to develop and market ideas gleaned from U.S. funded research. The result is stiff competition on world markets by foreign firms. The problem was highlighted by Dr. Patrick Iannotta, president of Ecolotrol in Bethpage, N.Y., testifying in May:

> Our frustration was that much of the information we gave to the Government in trying to get them interested in our system, subsequently turned up in Japan. And now, they are in the world market competing against us.

As Dr. Arthur Obermayer succinctly put it:

> The Government doesn't have to worry about foreign countries, but not U.S. industry . . . an irony of the situation is that the Government normally retains U.S. patent rights for itself but gives away foreign rights.

This explains some of the frustrations that many of us face in trying to figure out some response to a very real problem.

The role played by the U.S. Government in encouraging the export of technology is painfully illustrated by a case brought to my attention by Dr. Leland Clark. Dr. Clark, professor of pediatrics at Children's Hospital Research Foundation in Cincinnati, had worked on a blood substitute since 1966. Last spring, he applied for a Government contract on it. It was awarded on October 10 to Alpha Therapeutics in California, a subsidiary of the Japanese firm, Green Cross Corp. in Osaka.

There is nothing wrong with foreign competition, so long as we respond to it with vigor and imagination, and not with inertia and passivity. One of the best ways to face it is by an increase in productivity, through the granting of patent rights for a limited period of time, to guarantee business the protection needed in order to provide incentives to produce more and better. Traditionally, innovative, and creative programs have emanated from small businesses and companies who, in turn, have engendered job creation and promotion. One needs only to be reminded of Polaroid and Xerox, who were small concerns when they initially developed Xerography and the Polaroid camera, to agree that this is so. The enormous wealth of American genius has not dried out. It must not be allowed to waste away on account of unnecessary delays and redtape. Complex rules and regulations devised by Federal agencies are detrimental to stimulating enterprise and productivity, and are particularly harmful to small business.

That gets to the purpose of S. 414.

S. 414 aims at replacing the almost adversarial relationship that now exists between business and Government, with a true and genuine partnership in which everyone can benefit: the American public, businesses, and last but not least the Government who will reap tax profits from increased productivity, increased employment, at no cost thanks to the special provision in the bill, section 204 that guarantees the Government return of its investment in research funds. This bill goes a long way in meeting President Carter's objectives, as spelled out in his state of the Union message to this Congress last year, that "we reduce Government interference and give the American economic system a chance to work" so that we can "reassert our Nation's technological leadership.

In an article published in the Washington Post on December 26, 1979, William Claiborne describes the partnership that exists between the Government and the private sector in Israel, a nation poor in natural resources but rich in human ingenuity. That cooperation has resulted in an annual growth of innovative industrial products of 30 percent.

Mr. President, I ask unanimous consent that the full text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INGENUITY IS PROVING TO BE ISRAEL'S MOST VALUABLE EXPORT

(By William Claiborne)

JERUSALEM, December 11.—With its research and development-based industrial products leaving agriculture far behind in the export race, Israel is on the verge of committing itself even more fully to innovative industry.

This will involve increased government infusions of risk capital and the transfer of scientists from academic projects to the private sector, officials said this week.

The government, already heavily extended in subsidizing development of new products for export, hopes to improve its precarious balance of payments position in the next five years by sinking $350 million into industrial research and development, Arie Lavie, chief scientist of the Ministry of Industry, Trade and Tourism, said in an interview.

Coupled with an estimated $150 million that will be privately invested, the commitment will put Israel, on a per capita basis, among the leading nations in the research and development sweepstakes.

"The government recognizes the priority of exporting sophisticated industry. We have to do this thing, not in spite of our economic problems but because of them," Lavie said. Inflation in Israel currently is running more than 100 percent annually.

He said the new policy would retain the current government grants of up to 80 percent of costs for a new product, and add government loans for working capital and broad tax incentives to industries and individual investors to encourage private venture capital.

The export of products based on research and development has soared in Israel, from a paltry $2.5 million in 1967 to $700 million this year, or 30 percent of total civilian industrial export products. Economic analysts predict that by 1981 the total will reach $1 billion and by 1986 $2 billion, or 40 percent of total industrial exports.

Since the founding of the Jewish state 31 years ago, agricultural exports—ranging from cut flowers sold in Europe to oranges and avocados sold worldwide—have dominated Israel's foreign sales. But last year, the country's total $2 billion in civilian and military industrial exports included $540 million in research and development-based products, compared to $495 million in agricultural exports.

The annual rate of growth of innovative industrial products, Lavie said, is 30 percent, compared to 9 percent for industry based on imported technology.

Having found the way to feed its 3.5 million population with food to spare for sale abroad, Israel is now plunging headlong into exporting its ingenuity.

The surge of innovative products, in fact, was inspired by traditional Jewish ingenuity that turned vast areas of desert into productive farmland, and gave rise to a formidable arms exporting industry whose sales this year are expected to total $600 million.

Without an adequate supply of cheap labor and with no abundance of natural resources, Israel would not seem to qualify for accelerated industrial growth. But its academic manpower—10,000 scientists and 20,000 engineers, many immigrants from Eastern Europe and the Soviet Union—gives the country an edge that offsets these deficits.

A recent joint study by the Massachusetts Institute of Technology and the World Bank recognized the potential of ingenuity, while seeking to learn how Israel has increased its industrial research and development in so short a period, and how the country has translated it into export growth.

The government has launched programs to lure more scientists and engineers from academia into corporate laboratories to boost the innovative pace.

Start-ups of new companies dealing exclusively in research and development products are running about 20 a year and approximately $20 million a year is being spent on joint projects with foreign firms, including $12 million invested in projects by 12 U.S. firms.

Israel's semisocialist government currently is investing $35 million a year in conditional grants to private companies, covering 50 percent of research and development on new products and up to 80 percent for products classified of "national importance." The latter category includes such products as a new solar pond and generating turbine near the Dead Sea.

If a research and development results in commercialization of a product, the firm pays the government royalties of 1 percent of sales for seven years, but not exceeding the grant.

"The government should split the risk. There's very high risk involved, and a lot of these companies are too small to absorb any kind of loss," Lavie said.

Lavie said the government is also planning to implement other incentives long used in Western industrialized countries, including tax benefits and government loans for working capital in successful research and development ventures.

The leading Israeli products in the civilian research and development export field now are medical equipment and drugs, electronics, communications products, computers, fine chemicals, machinery and plastics.

In the field of arms exports, Israel has long been in the big leagues, employing 32,000 workers in the defense industry—11 percent of its industrial work force. The government is secretive about its defense industry, refusing to publish sales or market data.

Its biggest investment has been the development of the high-performance Kfir C2 jet fighter. The government-owned Israeli Aircraft Industries is designing a new fighter for the next decade that will perform similarly to the American-made F16. It has been estimated that research and development on the new fighter could reach $2 billion.

In addition, IAI and its subsidiaries produce the Gabriel missile, the Arava Stol military transport, the missile-equipped Dvora high-speed patrol boat, armored vehicles, antiaircraft weapons, field guns and electronic components for ships, small arms—including the renowned Uzi submachine gun and the Galil assault rifle—and ammunition.

About 200 firms reportedly are involved in the manufacture of the Merkhava tank, which was unveiled recently in field trials.

Mr. DOLE. Mr. President, I believe that there is a message to be read in the example of nations such as Israel and Japan, two who have become industrial powers without the benefit of the natural resources that the United States enjoys. I urge Senators to vote in favor of a bill that has gathered enormous support from all sectors of American life, for the reasons enumerated in this statement.

Mr. President, I urge my colleagues to consider seriously S. 414 and to support it, and I also suggest at the appropriate time my opposition to the amendment to be offered by a number of Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1991

Mr. ROBERT C. BYRD. Mr. President, with respect to the time agreement on the FTC bill, I do not remember clearly as to whether or not I specified that as to that the agreement would be in the usual form.

The PRESIDING OFFICER. That has not been specifically stated.

Mr. ROBERT C. BYRD. I make that unanimous-consent request at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Otherwise, the managers of the bill would not have been able to yield time from the bill to Senators on amendments, motions, and so on.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL 11:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 11:45 a.m. today.

There being no objection, the Senate, at 11:25 a.m., recessed until 11:45 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INOUYE).

UNIVERSITY AND SMALL BUSINESS PATENT PROCEDURES ACT

The Senate resumed the consideration of the bill (S. 414).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged to both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, will the Senator yield for 1 minute?

Mr. SCHMITT. I am happy to yield to the distinguished Senator for a unanimous-consent request.

VISIT TO THE SENATE BY MEMBERS OF THE PARLIAMENT OF EUROPE

Mr. PELL. Mr. President, I just wanted to point out that we have the honor of having members of many national parliaments here who are here with the Parliament of Europe. And they, being fellow parliamentarians, wanted to visit the Senate Chamber. I suggest that we give them some applause. [Applause.]

RECESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow us, without losing his right to the floor, to recess for 2 minutes so that we might meet our distinguished guests?

Mr. SCHMITT. Mr. President, the Senator from New Mexico is happy to do that.

There being no objection, the Senate, at 11:48 a.m., recessed until 11:50 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INOUYE).

UNIVERSITY AND SMALL BUSINESS PATENT PROCEDURES ACT

The Senate continued with the consideration of the bill (S. 414.)

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I am happy to yield to the distinguished Senator from Illinois for the purpose of calling up his amendment.

The PRESIDING OFFICER. The Senator from Illinois.

UP AMENDMENT NO. 960

Mr. STEVENSON. Mr. President, I thank the Senator from New Mexico.

Mr. President, I call up an unprinted amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Illinois (Mr. STEVENSON), for himself, Mr. CANNON, Mr. SCHMITT, and Mr. PACKWOOD, proposes an unprinted amendment numbered 960.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 25, lines 15–16, strike " 'University and Small Business Patent Procedures Act'.", and insert in lieu thereof " 'Government Patent Policy and Procedures Act'.".
>
> On page 26, line 9, strike "nonprofit organizations and small business firms", and insert in lieu thereof "government contractors".
>
> On page 26, line 16, strike "and".
>
> On page 26, line 17, strike "area.", and insert in lieu thereof "area; and to assist in the accomplishment of the research and development missions of the Federal agencies.".
>
> On page 28, line 21, strike "nonprofit organization or small business firm", and insert in lieu thereof "contractor".
>
> On page 29, line 11, strike "nonprofit organization or small business firm", and insert in lieu thereof "contractor".
>
> On page 30, lines 15–16, strike "with a small business firm or nonprofit organization".
>
> On page 35, lines 11–12, strike "small business firm or nonprofit organization", and insert in lieu thereof "contractor".
>
> On page 45, line 12, strike "small business firms or nonprofit organizations".
>
> On page 48, strike lines 1 through 16; and on page 48, line 17, strike "(d)", and insert in lieu thereof "(b)".

Mr. STEVENSON. Mr. President, this amendment is offered on behalf of myself and also Senator CANNON, Senator SCHMITT, and Senator PACKWOOD.

The amendment is intended to extend the Federal patent policy proposed in S. 414 for small businesses and universities to all Government contractors. This amendment would cause the bill to carry out its title. It would make patent policy consistent and uniform. The amendment would retain the bill's requirement for repayment to the Government when inventions lead to commercially successful innovation. It retains the Government's right to require licensing in cases where contractors fail to commercialize inventions in a reasonable time. It also retains the preference for domestic exploitation of inventions developed with public funds. But it would give the title to inventions to all contractors. The bill as it is establishes a policy which gives title to some but not other Government contractors.

This amendment is one product of 2 years of study of industrial technology and innovation by the Commerce, Science, and Transportation Committee, including four hearings on Government patent policy legislation.

In order for the public to benefit from inventions derived from Government-supported research and development, they must be developed, marketed and used. The Government can provide assured markets for some inventions by purchasing new products and services for its own use, primarily in defense and space programs. In other cases, Government regulations effectively require producers to use an invention. But for energy development, health care, and transportation improvements, civilian applications of military and space R. & D. and a variety of other domestic purposes, the Government depends on private markets to commercialize the technology it helps to develop. Private investors run some risks in turning these inventions into marketable products. The risks are especially high if their competitors can legally copy an invention because the Government refuses to allow a producer exclusive rights for the period necessary to recoup his investment. The principle of granting exclusivity in return for public disclosure and use of an invention is the very foundation of the patent system, but it is not recognized in many Government R. & D. grants and contracts. And so Government-financed inventions frequently go unused.

Between 1970 and 1975, the Government acquired title to more than 80 percent of publicly financed inventions. Less than 10 percent of the Government's patent portfolio has been licensed to private producers. Less than 5 percent of Government-owned inventions are used commercially.

Our capacity, Mr. President, to compete in a highly competitive world is eroding. The country cannot afford to abandon its inventions for commercial purposes.

This bill recognizes the need to exploit Government financed inventions, but the bill as it stands recognizes that need only for the smallest contractors and universities, and also for the largest, the defense contractors. It establishes a Federal patent policy that discriminates among contractors on the basis of size and their tax status. Small business and not-for-profit organizations get exclusive title to inventions. Agencies that now grant exclusive title to contractors, including the Defense Department, continue to do so.

There is no rationale for this discrimination which grants title to inventions to small firms, nonprofit organizations, and defense contractors and not to others.

The testimony of Government and private sector witnesses before the Committee on Commerce almost unanimously opposed such a discriminatory Federal patent policy.

The bill sets up categories of contractors depending upon the agencies with which they do business. It makes the Small Business Administration the authority which decides what businesses qualify as small businesses.

In the end, Mr. President, this bill, without the amendment, will require more unnecessary Government regulation and red tape, and it will penalize corporations for their success. As soon as they pass over the Small Business Administration's line and are no longer considered small business by that agency, they are deprived of exclusive title to Government financed inventions.

Our amendment gives the Route 128 companies in Massachusetts and the Silicon Valley firms in California an inducement to contribute to Federal R. & D. missions. It gives them incentives to commercialize the technologies which they develop.

In approximately 70 percent of the cases, large defense contractors already obtain unrestricted title to their inventions under DOD policy and will continue to do so under this bill.

Big businesses are able to obtain title from agencies, such as NASA, which have authority to grant it. They will continue to do so under this bill, and with no obligation to repay the Government. Our amendment would primarily affect the board range of medium-size firms engaged in energy, transportation, health, and other civilian research and development where the Government's programs are aimed at pressing national needs.

The Federal research budget of $29 billion includes nearly $10 billion for civilian R. & D. Congress has authorized a massive investment in the development of synthetic fuels. The President has proposed a $500 million program to advance automotive technology. The Commerce Committee will soon report legislation to support the development of new manufacturing and other generic technologies.

The country cannot afford patent policies which discourage the commercialization of inventions financed by the Government. The inventions in these areas are of special importance and they will be, to a very large extent, financed by public expenditure. And they will, to a large extent, go unused unless this amendment is adopted.

This issue has been on the agenda since the 1940's. Any number of commissions and private studies have recommended a comprehensive, uniform patent policy. This amendment would, finally, establish uniformity and consistency. It would grant all industries the right to exploit the technologies they developed, while reserving to the Government its right to use the inventions.

S. 414, Mr. President, discriminates against small business and universities. If nonprofit organizations and small business firms are successful in commercializing or licensing their inventions, they will be required to pay back the Government contribution. These "pay back" requirements would not apply to defense contractors or the contractors of other agencies with title waiver policies.

The policy should be uniform, the redtape should be minimized, and if the United States is to compete in this competitive world, it should encourage innovation by firms of all sizes.

Mr. President, this amendment is a test of the Senate's concern about America's ability to innovate, to produce and compete in a fiercely competitive world.

I urge my colleagues to support it and then pass S. 414 so we can secure the benefits of publicly supported R. & D. for the Nation.

(Mr. STEWART assumed the chair).

Mr. SCHMITT. Mr. President, I am pleased to associate myself with the remarks of the distinguished Senator from Illinois. I am pleased to join with him and the Senator from Nevada and the Senator from Oregon in cosponsoring this amendment to Senate bill 414, of which I am also an enthusiastic cosponsor.

Adoption of the amendment would have the effect of immediately advancing the benefits previously outlined by the sponsors of this bill to all Federal contractors, regardless of size or profit status. Failure to modify S. 414 in the manner proposed by the amendment would further delay the development and diffusion of new technology into the domestic and export marketplace at a time when our Nation is facing ever-increasing technological challenges from our major foreign competitors. Both the distinguished Senator from Kansas (Mr. DOLE) and the sponsor of S. 414 (Mr. BAYH) have talked to this point very persuasively. Let us remember that the point will not be taken care of unless we deal with the majority of the American economy.

The bill under consideration today, S. 414, basically deals with small business and universities, which receives less than 20 percent of the entire Federal research and development funds, whereas all other businesses receive the remaining 80 percent. The amendment proposed by the Senator from Illinois deals with that other 80 percent.

As I am sure most of my colleagues are well aware, or are becoming increasingly aware, recent economic indicators of a broad variety suggest that the United States is experiencing a serious decline in the rate of technological innovation. One of the major factors contributing to the unbelievably high and increasing inflation rate is just this decline in technological innovation and the loss of productivity that has accompanied it. For example, we are faced with a real decline in the rate of our national investment in Federal and private research and development at a time when our free world competitors are increasing their respective expenditures in research and development and in a coordinated, export-oriented way.

Capital investment in the United States is growing more slowly than it is elsewhere, and the U.S. trading position, even in many formerly safe high technology areas, is clearly inferior.

The number of patentable inventions made under federally-supported research has been steadily declining while the share of U.S. patents issued to foreign applicants has doubled in the last 14 years;

Statistics confirm that American productivity is growing at a much slower rate than that of our free world competitors and is approaching a zero rate of growth.

For the past 2 years, the Senate Commerce Committee, in cooperation with the Senator from Illinois and the Banking Committee, has conducted an extensive review of the state of American technology and the role of the Federal Government in promoting technology utilization and the impact of these on our exports and our domestic economy. Witnesses before the committee have repeatedly underscored the need to stimulate the development, application, and diffusion of new products and processes throughout our economy if we are to reverse the alarming downward trend in our economic growth and productivity.

Admittedly, the problems are varied and complex—overburdensome and costly regulations, lack of an overall trade policy, repressive tax policies, and inadequate funding of basic research, both public and private—to name just a few. Yet, too often, we seek solutions which require new and expensive programs rather than taking the time to reexamine and adjust existing policies which have been ineffective and oftentimes counterproductive.

Mr. President, the problem here today is the Federal Government's patent policy. This is one area where there has been a general consensus that existing Federal policies are ineffective and in need of revision with respect to the Federal Government's policy for managing the fruits of the billions of dollars of national expenditures on research and development, our Federal Government's patent policy is in serious need of revision.

Mr. STEVENSON. Mr. President, will the Senator yield for a question?

Mr. SCHMITT. I am happy to yield to the Senator from Illinois.

Mr. STEVENSON. I understood the Senator to say that the present patent policy has proved itself ineffective. Indeed, it has, in general, proved itself counterproductive. But has the patent policy of the Department of Defense proved itself ineffective?

Mr. SCHMITT. The Senator raises an excellent point. The Senator from New Mexico was speaking in general, looking at the entire spectrum and hodgepodge of patent policies. Fortunately, within that spectrum there are examples of excellent patent policies. The Department of Defense has had a very fine record of utilization of inventions performed under its contracts. Its policy is basically a policy that allows titles under certain safeguards to revert to the contractor.

NASA has what is called a waiver policy. That is, under certain circumstances, they can waive title to the contractor. In both cases, the statistics are extraordinarily persuasive that, by factors of four and five, the commercialization rate is higher when the contractor has title than when the Government retains title. That must be realized, whether we are talking about small business or large business, as the fundamental, factual evidence that requires a change in present policy.

Mr. STEVENSON. If the Senator would yield further, this amendment would simply extend the policy already proved effective to the other agencies of the Government, would it not?

Mr. SCHMITT. That is entirely correct. Those agencies of Government that have had access to a title-in-contractor policy have found it extraordinarily successful. The testimony before our committee has been very persuasive on that point. Those agencies have supported a title-in-contractor policy, of course, with safeguards to the public interest. Where it is appropriate for the Government to retain title, those safeguards should be built in.

What we are saying is that the burden of proof should be on the Government.

Mr. STEVENSON. I thank the Senator and I commend him for his efforts.

Mr. SCHMITT. Mr. President, for more than a decade, Federal agencies have funded nearly one-half of this Nation's expenditures on research and development. During this past fiscal year alone, the Federal Government provided more than $29 billion in R. & D. support. Three-quarters of this sum is used in direct support of research in industry, universities, and other private sector laboratories.

As a result of this huge national investment, thousands of inventions are identified each year which have formed a valuable source of new products and ideas. The evidence is overwhelming, however, that overly restrictive patent policies have had a serious dampening effect on the commercialization of new technology and the willingness of American industry to participate in critical national research and development programs—of course, with the exceptions that the Senator from Illinois and I just discussed.

Mr. LONG. Will the Senator yield for a question at that point?

Mr. SCHMITT. I am happy to yield.

Mr. LONG. I ask the Senator, can he point out just one thing, one invention, just one good invention, that has not been developed because the Government cannot give away a private patent monopoly to a private contractor? Just one.

Mr. SCHMITT. Proving the negative, as the Senator well knows by asking the question, is a very difficult thing to do. But we do know that on a statistical base, where the Government has retained title, less than 5 percent of the inventions have been commercialized, where it has waived title the figure is 20 to 25 percent.

Mr. LONG. Will the Senator yield further?

Mr. SCHMITT. I am happy to yield to the Senator.

Mr. LONG. Is the answer not obvious? Wherever something is any good, someone might come in and ask the Government to waive the title. But if it is not worth a tinker, of course, no one will ask to waive it.

Let us assume somebody invented a better light bulb, or invented the light bulb. Does the Senator have any doubt of the fact we would not give away a patent monopoly to let someone develop it, that the light bulb would not be developed? Does the Senator have any doubt?

Mr. SCHMITT. Yes. I have great doubt that would happen. It would not happen for this reason. The person with the greatest financial and intellectual incentive and motivation to commercialize the invention is the person who invented it. That is the basic reason why in the bill and in our amendment we are trying to give those people access to the title of their inventions. They are the ones who will see it move.

If we have an open license policy, the evidence is extremely strong in our testimony, which the Senator has participated in, that says those inventions will not be commercialized, or commercialized at a very low rate.

Mr. LONG. If the Senator will yield further, I say to the Senator that I have conducted hearings on this matter for years myself. I have been involved in this fight for at least 20 years. In the whole 20 years, I have yet to see anybody show me one single example of anything that is any good that has not been developed because the Government could not give away a private patent monopoly. Not one example in 20 years.

Mr. SCHMITT. If the Senator will yield, it is impossible to show him one because they have not been commercialized.

Mr. LONG. It is very simple, there are not any. That is the reason.

All we have to do is just go back to all these patents, the Senator is talking about and find something that would really be a great thing for the public if somebody would develop it and bring in a witness to demonstrate that this is something feasible that should be done, but he is not willing to do it without a patent monopoly.

Every day of the week people go in business to produce almost anything in the public domain, and if it is not being produced by somebody else, they try to move ahead as fast as they can in the area before somebody else discovers there is a market for the product.

I do not care whether it is diet food or a new mousetrap. If we have something that is any good, people will be delighted to go into business and produce it.

But, on the other hand, when the Government has paid to develop something, to then say to the Government, you develop it; but to let somebody that did not develop it, that had nothing to do with it, go out, have a private patent monopoly, and make the public pay four or five times what it ought to cost the consumer to buy that product, what is the sense of that?

Mr. SCHMITT. The sense is, and I think it is very clear, that if the Government really continues to sit on these inventions, the consumer is never going to have any access to them. The net result is that the increase in the GNP will never occur.

Look at what is happening to the patents we do grant abroad. The patents that can be taken abroad—and this happens—are, in fact, licensed and do get commercialized, but they do abroad, not here.

I yield to the Senator from Illinois.

Mr. STEVENSON addressed the Chair.

Mr. LONG. Would the Senator name just one thing? Even something we took abroad. Name just one thing that could not be developed here in this Nation.

Mind, we have 50 years of history to look at. Just name one thing, even something we took abroad, that could not have been developed here, something that is any good, even if we use that loophole to go abroad with something that could not have been developed here in the public domain, just like anything else.

Mr. SCHMITT. There is absolutely no question that in theory the Government could become a member of the free enterprise system. But the Senator knows as well as I do that is why 30,000 patents are sitting on the shelf. Nobody is using them. That is the problem. The Government cannot do it. If it could, it would have been done.

Mr. LONG. It is very simple, that 30,000 which nobody feels like doing anything with is junk, and that is why nobody cares to fool around with them.

But if we come up with Government research, paid for 100 percent by the public, if we come up with the big one, so that instead of having to take atomic power and put that atomic power under a boiler and heat some water and use the water to turn a turbine, and the turbine to generate electricity, we could just take the atomic power, put it against the electric wire, the transformer, and put the electricity into the wire, that that would be worth about $100 billion.

Mr. SCHMITT. That is not what we are talking about.

Mr. LONG. Does the Senator have any doubt it would be worth $100 billion?

Mr. SCHMITT. It would be worth more than that.

Mr. LONG. All right. $100 billion.

If the Government paid for it, why should the Government give away the $100 billion? They have already paid for it.

Suppose this little engineer comes up with this bright idea and he is on Lockheed's payroll. Lockheed is being paid and guaranteed a profit on the deal. The only way they could lose any money is to fail to add up the column of figures of how much the Government will pay them.

So when Lockheed hired this little engineer, they have contracted, which is customary, that Lockheed will get the patent.

The Government has paid for the whole thing, guaranteed Lockheed the profit. Lockheed cannot lose any money except by failing to bill the Government what it owes, and the little guy with the bright idea that invents this is worth $100 billion. He does not get it. Lockheed gets it. That has already been stated, to begin with.

Will the Senator explain, why should Lockheed get $100 billion when they could not invent it or figure it out, and the Government paid for the whole thing and guaranteed the person a profit, and it is this little guy, working for the Government in the last analysis, because the Government is paying Lockheed a guaranteed profit to hire him? Why should Lockheed have all that?

Mr. SCHMITT. So that the American consumer and the American economy can benefit from that invention. The Senator from Louisiana knows that as well as I do.

I wish the Senator had had the time to participate in all our hearings, because the business and Government community came in and almost universally supported a uniform patent policy of the kind advocated by the Senator from Illinois and me.

Mr. LONG. I do not need to participate in the Senator's hearings. I have held many hearings. I have held many times the hearings the Senator from New Mexico has held, before he came to the Senate.

I have yet to hear any of these people say, "Give all this to me. Let me get rich at the expense of the taxpayer." I have yet to see anybody document that case. There is not one thing that could not be developed in the public domain.

Does the Senator have any doubt in his mind that if somebody made the breakthrough I talked about, where you could take atomic power and put it into electricity, people would develop it?

Mr. SCHMITT. I do have doubt that it would be developed.

Mr. LONG. Will the Senator explain?

Mr. SCHMITT. The capital would not be available for its development; and the consumer, in an instance such as that would be the net loser.

Mr. President, a recently released report on Government patent policy prepared by the Federal Council for Science and Technology concluded that there has been a steady decline in the rate of inventive activity by both Government contractors and Federal employees. The number of inventions resulting from the Government's R. & D. effort has dropped nearly 50 percent over the period 1968 to 1975. Fiscal year 1975 marked the lowest number of inventions reported since data collection began.

Even more disturbing is the data which confirms that very few Government-acquired inventions find their way into commercial use. In testimony before our committee, NASA's Deputy Counsel indicated that less than 1 percent of NASA-owned inventions are commercialized, whereas, up to 20 percent of inventions to which the Agency has waived title are in use. An extensive study conducted by Harbridge House in 1968 reported a doubling of the commercialization rate when contractors with commercial background positions were allowed exclusive rights to their inventions. As a result of past Government patent policies, the Federal Government presently holds title to nearly 30,000 inventions, of which less than 5 percent have been effectively utilized.

Mr. President, the reasons for the Federal Government's poor performance in developing and marketing Government-sponsored inventions are manyfold—

First and foremost is the failure of existing Federal patent policies to provide the necessary incentives to stimulate innovation and the commercialization of new technology by the contractor. The vast majority of Government research contracts include provisions which require the contractor to turn over any inventions made in the course of the contract to the Federal agency. The contractor typically is left with only a nonexclusive license. Experience has demonstrated that nonexclusive rights are an insufficient incentive to justify the private contractor's investment of the millions of dollars often essential to develop an invention to the point where it is marketable.

Even the more flexible policies which permit a case-by-case waiver of the title to the contractor have proven to be unsatisfactory because of the high administrative costs and long periods of uncertainty for the contractors. Delays attendant to the processing of normal waiver applications average between 10 and 20 months at the Department of Energy, with extreme cases having been reported to take over 3 years. Agency officials concede that the waiver policies by necessity involve substantial burdens for both the Government and the prospective contractors with respect to the petitioning, negotiating, and determining waiver requests, and that the delays experienced in the contracting process as a result of this policy can affect the commercialization of the inventions involved.

To a certain extent Federal contractors are confused and discouraged by the absence of a single, uniform Government patent policy. Federal agencies currently operate under nearly 20 different statutory directives, innumerable regulatory interpretations, and two Executive orders. It is not uncommon for a single agency to operate under totally different patent policies. In many cases the cumulative effect of these disparate policies is to discourage contractor bidding or the pursuit of new ideas flowing from a Government research contract.

An additional factor is the lack of certainty attendant to the contracting process. In dealing with those agencies that insist on acquiring title to all inventions arising out of the contract, the contractor is in the uncertain position of not knowing what rights, if any, he may subsequently acquire. This problem can be particularly acute where the contractor has a strong background position in the field of the research contract and is concerned about the loss of his exclusive background capability.

Mr. President, this is not a new problem. For the past 30 years, debate has flourished over the most appropriate policy for determining ownership of the products of Government-sponsored research. National commissions, interagency studies, and two Executive orders have failed to achieve the long-desired goal of a uniform Government patent policy. Typically, the debate, and any hope for substantial patent policy reform, becomes bogged down in the "title" versus "license" arguments. A hodgepodge of agency patent policies have been implemented over the years in the misguided belief that the "public interest" precludes the so-called giveaway of public ideas. While the argument on its face may be appealing to some, I believe the evidence is overwhelming that Federal policies have failed to operate in the real public interest. Ultimately, it is the entire Nation which suffers from these misguided policies by the loss of potentially valuable new products and processes.

Mr. President, today the Senate is considering a bill, S. 414, the University and Small Business Patent Procedures Act, which would go a long way toward restoring the incentives inherent in the patent system which have been stymied for the past 30 years. I commend the Senators from Indiana and Kansas for their able leadership and bipartisan support of this most important measure.

As a cosponsor of S. 414, I continue in my support of the basic policy and objectives enunciated in this bill. Moreover, I recognize that the stated purpose of the bill is similar to that of my own bill, S. 1215, the Science and Technology Research and Development Utilization Policy Act, which was referred to the Senate Commerce Committee. Our committee recently concluded 4 days of hearings on this bill and the subject of Government patent policy. The testimony we received during the course of these hearings from industry, business—both large, small, and medium size—and academia was overwhelming in support of a uniform Government patent policy that placed title in the hands of the contractor, subject to appropriate safeguards of the public interest.

In my opinion, Mr. President, S. 414 already contains the necessary provision to insure the protection of the public interest from possible abuses. Section 202 (a) of the bill would permit the Government to retain title to any invention in "exceptional circumstances" when it is necessary to promote the policy and objectives of the act. Moreover, in section 203 of the bill, the Government is authorized to "march-in" and require the contractor to license such an invention if the contractor fails to develop the invention or such action is necessary to alleviate health or safety needs.

It is my own belief that these provisions are adequate to insure that contractors do not utilize exclusive rights to substantially lessen competition or otherwise impact adversely upon the development of new technology. Nonetheless, I would point out that S. 414 does include an additional provision to provide for a return of the Government investment when the contractor has been successful in its commercialization efforts.

While I support the basic objectives of S. 414, I am concerned that the bill does not go far enough. As presently drafted, this bill would establish a uniform Federal patent policy for small business and nonprofit organizations. The bill would not extend the same rights to other Federal contractors. Undoubtedly, S. 414 would alleviate many of the special problems facing these important sections of our national R. & D. base.

Yet, the problems this Nation is experiencing in technological innovation go well beyond small business and universities which together comprise but a small percentage of all Federal contracts. We cannot afford to ignore that segment of private enterprise consisting of medium-sized and larger businesses which account for 80 percent of our federally-sponsored R. & D. effort, more than half of U.S. industrial employment, and 85 percent of U.S. exports.

Our amendment would allow all contractors, regardless of size or profit status, to acquire title to their inventions made under Federal contracts while retaining the structure and essential provisions of S. 414. This amendment is essential to achieve the widest possible application of Government-supported technology at a time of lagging innovation, stagnant productivity growth, and declining U.S. competitiveness.

Mr. President, I believe that the amendment we offer today is in the real public interest and is worthy of favorable consideration by the Senate as a whole.

I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, how much time remains to the proponents of this amendment?

The PRESIDING OFFICER. Thirty-one minutes and 58 seconds.

Mr. STEVENSON. I hope that some of the time of the proponents could be charged to the opponents from here on. We have used up half our time already.

I say, in response to some of the comments of the Senator from Louisiana, that the world is not going backward. It is not standing still. It is changing, and it is changing radically, and it has changed radically since the last time the Senator held hearings on this subject.

We have had hearings in two committees. The distinguished Senator from New Mexico has been a party to many of those hearings and others that have examined the comparative position of the United States in the marketplace for technology.

I ask this question of the Senator from New Mexico: Which country is moving ahead now with the most advanced biotechnology, genetic engineering? That is one of the explosive areas for technology in the future. Does the Senator have an answer to that question?

Mr. SCHMITT. Unfortunately, it does not appear to be—at least in the future—the United States. A great deal of the innovative science has been done here; but because of uncertainties of patent policy and other uncertainties, it appears that Japan and the European nations are going to move much more rapidly in this area than we are.

Mr. STEVENSON. Our studies indicate that Japan already has moved ahead and that American technology is moving abroad, to Europe.

We have held hearings recently on communications, including semiconductors, microprocessors, and computer software as well as hardware. Does the Senator have any opinion as to which country is ahead, or moving ahead this year, not only with the development of this highest technology but also with the production facilities and the marketing structure?

Mr. SCHMITT. Unfortunately, the answer, again, is Japan.

Mr. STEVENSON. It does not take an expert—all you have to do is drive an automobile to form an opinion about the relative merits of automobile technology.

How about lasers? I know that the Senator has a keen interest in that technology, for the future. In fact, he has held hearings on it recently. Are we still keeping our lead in laser development?

Mr. SCHMITT. Lasers is an excellent example of where a great deal of new, innovative activity is being undertaken under Government contract. But if the current policy continues that technology developed outside the Defense Department will have a difficult time getting into our economy and very probably will be usurped by other nations that will recognize its economic potential and undertake to gather the information, which they can get freely in scientific conferences and other mechanisms in this open and free society we have, and begin to take that technology away from us, as they have done in many other areas.

Those who would oppose either the basic bill, S. 414, or its expansion to the larger portion of the economy are defending the status quo, and the status quo has not worked. It obviously has not worked.

Mr. STEVENSON. I ask the Senator about robotics and the most advanced manufacturing processes. Our rates of productivity are declining. In other countries, they are increasing.

Does the Senator have an opinion about the relative status of technology for the most advanced manufacturing procedures? Are we ahead of the world or is it moving ahead of us in this case, too?

Mr. SCHMITT. Once again, the Senator, I am sure, is aware of the answer. The rest of the world is moving and has moved rapidly ahead of us in advanced manufacturing techniques with the combination of microelectronics, to which he has referred, and new concepts of manufacturing and what he refers to as robotics. There is particularly a large effort in Europe, on small- and medium-sized machinery and large machinery of this kind.

All one has to do is to walk into the major manufacturing firms that recently bought equipment for manufacturing, and he will find where that equipment is coming from—from Europe and Japan. Very little of it is coming from this country.

Mr. STEVENSON. And they are developing fully automated manufacturing units, which they will sell worldwide and with Government support.

I could prolong this. We could discuss the materials of the future. We could discuss ocean-bed mining. However, I cannot identify, on the basis of recent hearings, any technology outside of military arms and with some exception for space, in which, by the end of this year, the United States will have a preeminent position in the world. At the end of this year, with those very limited exceptions, it will manufacture, produce, and sell nothing that is unique or of superior quality, and the rest of the world will continue to move ahead.

I ask the Senator another question: In these other countries, including Japan, West German, and others, which innovate and generally, run trade surpluses, steal markets the world over from the United States, and have higher levels of unemployment, lower levels of inflation, does the Government support the development and the commercialization of technology or does it get in the way, as the U.S. Government does?

Mr. SCHMITT. In every instance in which we are under severe competition from foreign manufacturing, we find that the Government and business have found a way to work together in order to capture those markets, to do the basic long-term research and development necessary to benefit these new markets, to bring the inventions to fruition in the commercial sector, and to market those inventions throughout the world.

The Senator is correct: There is a cooperative relationship in other countries which has ceased to exist in this country. The patent policy is one example of that, but it clearly is not the only problem we must face in Congress—and we must face it very quickly.

Mr. STEVENSON. If I may indulge the Senator's patience, let me ask one more question.

The very distinguished Senator from Louisiana mentioned Thomas Edison. If Thomas Edison were today conducting research which produced the electric light bulb, in his own little laboratory, with little expense but at Government expense, would he not, under this bill, receive title to his invention?

Mr. SCHMITT. The chances are under the bill he would receive title. The chances are under the present policy he would not unless he happened to be doing that for some reason for the Department of Defense.

Mr. STEVENSON. Let me ask the Senator, is Thomas Edison's counterpart, the researcher at his little laboratory today, conducting any of the research which we have mentioned, that is, producing the semiconductors, the computers, the biotechnological products, the lasers, and the automative technology of the future? On the whole, is it being conducted today by small businesses?

Mr. SCHMITT. They may be a few examples of where that is happening, but the major new innovative technologies of which we have been speaking take such an immense investment of capital in order just to conduct the research and the preliminary development that it is beyond the capacity of the small inventor. It does not mean that there are not some very important things happening within small business and certainly within the university community. But much of what the Senator is talking about, if it is happening in this country at all, it is happening in the big research institutions that are associated with contractors and under Government contract.

Mr. STEVENSON. Frequently, it must be because of the magnitude, the complexity and the expense involved in the conduct of research at the cutting edge of technology in a highly developed world which did not exist a few years ago.

I thank the Senator.

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. STEVENSON. Could we yield on the bill?

Mr. BAYH. Mr. President, I am glad to yield to the Senator from Louisiana if we run out of time.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. STEVENSON. Just as long as it is not on our time.

The PRESIDING OFFICER. The Senator is recognized on the time of Senator BAYH.

Mr. LONG. Let me ask the Senator. Is he seriously contending that if Thomas Edison had been working for the Federal Government when he invented the light bulb and the Government had taken title to the light bulb no one would have built a light bulb because he could not reap the public monopoly profits?

Mr. STEVENSON. No. I am contending that under this bill, it would be, as it was, developed. But today Thomas Edison and his laboratory do not even exist. Today much of the leading research is done in institutions such as Bell Laboratories. And often it does not take place in Bell Laboratories. It takes place in Japan. It takes place in West Germany. It takes place in Moscow.

All one has to do is set foot on Constitution Avenue and he can see the results. He can go to the Finance Committee, which has jurisdiction over trade, and see the results also.

Mr. LONG. Mr. President, if the Senator will yield for a question, is the Senator aware of the fact that the United States right now, so far as I know, is ahead of the whole wide world in the area of agricultural research? Our agriculture is the most productive in the world.

Mr. STEVENSON. In terms of gross production, yes, if one wishes to get technical.

Mr. LONG. In terms of efficiency, in terms of what the farmer produces, is the Senator aware of the fact the United States is ahead of the world right now?

Mr. STEVENSON. The Senator is aware that many countries produce more food per acre than the United States. I am aware of the fact that gross production is high in the United States and much of that production is owing to Government-supported research.

Mr. LONG. The point I am getting to is that we produce more per worker than any nation anywhere in the world. We have better machinery and better agricultural machinery than anyone else. Generally we are just ahead of the whole wide world in agriculture. I wonder if the Senator knows that. I wish to ask him if he does know it.

Mr. STEVENSON. I think that is, in general, true, but it is not that simplistic.

Mr. LONG. Is the Senator aware of the fact that most of that occurred under Government research programs without private patents?

Mr. STEVENSON. No, I am not aware of that. We have held some hearings on it in the past. I think some of it originated in land grant college research with Government support. Much of it originated in USDA laboratories and was transferred free of charge, and we should continue with successful arrangements of that sort.

Mr. LONG. The point is we are ahead of the whole world in the area and we got there without giving away patents on any research financed by the Federal Government. Is the Senator aware of the fact that the law does not permit the Department of Agriculture in its research programs to give away private patents?

Mr. STEVENSON. And under this bill it would be permitted to do so.

Mr. LONG. Why? Can the Senator show me anything, just anything that has been developed under any of these research programs that is not being developed because someone cannot get a private monopoly patent on it?

Mr. STEVENSON. The Senator does not recognize that the production of soybeans, with which I am familiar, is a little different from the production of computers, let alone the most advanced aircraft, let alone the genetic engineering which could do more than anything that has already been done to increase agricultural production. The Senator is looking backwards. Senator SCHMITT and I are suggesting that, like the Japanese, we start looking to the future. Our welfare in this world does not depend exclusively on our ability to produce food. The most undeveloped countries can produce food and, like Japan, they can produce it more efficiently than we can. They do. I have been there and have seen their technology. It is primitive but they produce more food per acre. Instead of looking back to the production of corn and soybeans, which are of vital importance, we should be looking to the future and new ways of producing items that incorporate high technology, including technologies that will enhance the production of food.

Mr. LONG. Mr. President, if the Senator will yield further, it has always been my thought that the secret of the high standard of living that we have here in the United States is our competitive free enterprise system.

I cannot look upon the free enterprise system as being very free when it is a monopoly and others are not free to compete, and I would like to ask the Senator is he really seriously contending we will make greater headway under monopoly than we will under competition.

Mr. STEVENSON. Under our system, which is not so free, standards of living now are declining, and they are declining because we are not competing effectively, and we are not competing effectively because we are up against systems in other countries which we do not regard as free.

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. STEVENSON. Let me answer. In those other systems the governments support research and development and the commercialization of technology. They support subsidized development of facilities for the manufacture of goods. They even subsidize their marketing. That is what we have to compete with. They are not going to change their rules and adopt our rules however neatly packaged they are with labels called free enterprise.

You may think it is great. They think we are stupid. I am saying to you, Senator, that you can invoke, as we do, all of these old myths about free enterprise and we will continue to sink. We had better start looking to the future and start developing new ways of competing even if it involves the Government.

If I can go back to the Senator's example, the most competitive industries of the United States, including agriculture, but also including aerospace and computers, are those which have benefited the most from Government support.

Now we are suggesting that we just get the Government out of the way and let private enterprise work. It is not working and it will not work as effectively as it could as long as the Government effectively prevents those who are frequently the most capable and willing from using the technology that flows from Government-supported inventions.

(Mr. TALMADGE assumed the chair.)

Mr. LONG. Mr. President, if the Senator will yield further, let me just ask the Senator: If we assume at Government expense someone develops something that is very good, worth hundreds of millions of dollars for a private patent, would it not seem fair that in view of the fact that the taxpayers have paid for this that anyone should have a right to come in and propose that he be permitted to compete in producing a product? What is wrong with that?

Mr. STEVENSON. That is a great theory, but unfortunately, it has no value in practice, and that is why the country is sinking. The $100 million investment does not materialize and, therefore, the taxpayer pays for it but never gets a benefit from it nor does the consumer nor the entire economy.

It is a great program for Japan. It is a Japan-first program. It is a continuation of what we are doing in some agencies. We also have other agencies which have a reverse policy and do stimulate innovation and, therefore, a return to the taxpayer. The taxpayer does not get a thing from an invention that goes unutilized.

Mr. LONG. Let us just assume for the sake of argument that somebody is interested in developing that bunch of junk over there to which reference has been made, a bunch of patents in which nobody has any interest, they do not think they can make any money out of it and, therefore, they have not made any application to use it.

Let us assume for the sake of argument that we should just say, "All right, all that stuff will be made available on a monopoly basis to anyone who wants a monopoly on this, provided, if he asked for a patent monopoly, if somebody else wanted to produce the same thing on a competitive basis and make it available to the public he ought to have an opportunity to make an offer as well."

Why should we not have that right to make a better offer?

Mr. STEVENSON. It is wonderful if it would work, but that is the policy now, and it does not work. If you want to see what works, you can go to Japan and also to the Department of Defense.

Mr. LONG. Mr. President, it somewhat surprises me, and I would like to ask the Senator if it is correct, that he is of the view that the Japanese are making headway not because they are working like a bunch of beavers but because they are organized in a more monopolistic fashion than we are. Is that the Senator's argument?

Mr. STEVENSON. No, that is not correct, and I do not think we should oversimplify the comparisons. Certainly one of the bases for harder work, more innovation, is a greater incentive to work. That is what we are suggesting here, to provide an incentive to contract with the Government, to improve the quality of work for the Government, provide to innovate, and to commercialize. It does not materialize when the Government gets whatever rights there may be and then does not utilize them or let anybody else utilize them, and by the time you get through the redtape nobody is wiling to try. That is what is happening.

Mr. LONG. No, I ask the Senator, why is it that with all these defense contracts, and one would like to have private monopoly rights on them so they can charge 50 times what it takes to produce a product and have no competition in doing that, and all those private contracts are asking for monopoly rights on Government research, why is it after all this time and asking them to provide an example, why can they not present one example that here in the United States was a great thing that would have been developed and would have been put into operation except for the fact that to do that you had to give somebody a monopoly and this Government was not in position to give somebody monopoly rights on that invention? Why can they not produce one example after repeated challenges for the last 20 years before the committees? I know every time I was there I asked it. Why is it they cannot produce a single example to support their case after all these years?

Mr. STEVENSON. Well, we can if you want examples, although you are asking us to prove the negative. But if you just want an example: The video tape recorder technology came from the space program, as I recall, but the equipment is all produced in Japan or under license from Japan. Critical wing technology appeared on Russian aircraft before it appeared on American aircraft.

Mr. LONG. Russia does not give away patent monopolies. How can the Senator explain the fact that Russia did it? They cannot give away patent monopolies out there.

Mr. SCHMITT. Mr. President, if the Senator will yield, it is because they took it from us. We could not get it commercialized.

Mr. LONG. You would say that someone in Japan if he had a patent monopoly he would develop something? What can you give as an example?

Mr. SCHMITT. It is happening every day. If the contractor has title and if he does not——

Mr. LONG. I believe I have the floor.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Louisiana has the floor.

Mr. LONG. The Senator wants to contend that here is something we knew about and the Russians knew about, and they did something about it and we did not. He takes an example of the Soviet Union, when the Soviet Union does not even have free enterprise, much less patent monopolies, so that the whole thing is in the public domain as far as the government over there is concerned. This would tend to prove my point rather than his.

Sure, you may find something the Russians would do that we would not do. But the Senator has referred to about 30,000 patents over there that nobody is interested in; the Senator said that, in order to develop those patents, we have got to give private monopoly power on things yet to be invented. My reaction to all that is you just find any one of that pile of junk and see if you can find somebody willing to develop it, and if you can, I would be glad to go along and support legislation and say that here is somebody who would like to develop something and he is ready to make us the best offer. If so, OK, let us permit him to have it. What is wrong with that?

Mr. SCHMITT. Mr. President, if the Senator will yield. If you will let me get title to it in a timely fashion, I will show you a whole bunch of things to develop.

Mr. LONG. I challenge the Senator to show me one. You are the man who conducted the hearings and you are interested in this subject matter, and you have been involved in this for 14 years, so tell me one——

Mr. SCHMITT. Show me one where you can get title and you can have it exclusively. The whole concept is in the U.S. Constitution, and you, sir, have been arguing on this floor against the idea of the patenting of intellectual property. It is built into the Constitution.

Mr. LONG. My position is very clear. If someone spends his money and develops something at his expense he is entitled to apply for a private patent on it, and the law so provides. The Senator says the Constitution mentions it, and perhaps so, fine, that is great, and it says Congress may provide patent laws.

So we have the right to convey the private patent to someone who does the research and provide who gets it and who does not get it. Now, I am not complaining about that. But I do not believe it ever occurred to anybody, when we started in this endeavor, that the Government would pay the taxpayers' money to develop something for the benefit of the public, and then some person would be permitted to have a monopoly on something that belonged to the public when everybody else wanted it.

In fact, I think that the idea of a research contract on a cost plus guaranteed profit basis, where the contractor would be permitted to keep it, would be unheard of at the time that this Government was founded.

Mr. President, let me give you an illustration of what that would be like. That would be just as though you permitted someone, at Government expense, to have a contract to build a highway and then, having built the highway, that person were permitted to own the highway. Own it; to put tollgates all up and down it.

The interstate highway system, for example, he could put a tollgate on it and charge everybody to go past his tollgate to use the highway. That is exactly the same thing.

He had a guaranteed profit every step of the way. No way he could have lost any money. He could have lost some money on that highway, but he could not lose any money on these research contracts. No way he could lose money. Having done the work and been guaranteed the profit, then you are going to let him own the highway. And if you are going to let him own it, why does the public pay for the highway?

Mr. SCHMITT. Mr. President, the Senator knows that it has no relationship whatesoever to patents.

Mr. LONG. I fail to see the difference. Here is something the public bought and paid for. They paid for it with their hard-earned money. They paid for it to the tune of hundreds of millions and even billions of dollars so he can get rich at public expense.

Now, the public has paid for it once. You are going to make the public pay for it a second time, a third time, a fourth time, and a fifth time.

I want to be charitable to the Senator. I know he is sincere and I would not want to reflect on him at all. But, as they say in Kentucky, that is what makes horseracing—a difference of opinion.

In my opinion, that is stealing. Stealing. It belongs to the Government. It belongs to the 200 million people that paid for it.

Now, here is some guy who did not invent it; he was paid as a Government contractor to go hire someone to do it. The other man did the inventing. The guy who did the inventing does not get it. This guy who got himself in a position with a guaranteed profit gets paid a guaranteed profit and then, by the time it is all over with, the people having paid for it do not get any benefits, because you give away monopoly rights to the person who gets it.

I hope that the Senator is not contending for one of these more ridiculous giveaway bills where, when he gets the patent, he not only has a right to exploit the thing and reap the harvest but, in addition to that, he has a right to deny the public the use of it completely.

Mr. SCHMITT. Will the Senator yield?

Mr. LONG. Yes.

Mr. SCHMITT. No. 1, that is the whole concept of the monopoly rights that are in this bill and should stay there, so that an owner of title to a patent does not have that opportunity. And there is nobody suggesting that that should be changed.

What the Senator from Louisiana is suggesting is that the public should be denied the benefits of the research that is being paid for by taxpayers' money. That is what is happening today.

If the Senator likes the policy of today, then he must defend it. It is not working. Almost everybody testifying before our committee, and almost everybody who has written on this subject knows that present policy is not working and the Senator is defending present policy.

Mr. LONG. Mr. President, I am not defending what they are doing over there at the Department of Defense, where they are giving away monopoly contracts on Government research. I am not defending that. I always thought that was wrong.

I went over and told John Kennedy, when he was President, "You ought to stop that." He had the power of the President of the United States to sign executive orders to stop that giveaway and he ought to stop it.

Mr. SCHMITT. At least the public is receiving benefits from research that is being done from the Department of Defense and other agencies are not getting the benefit.

Mr. LONG. The Senator has been challenged to produce one single example and he has not been able to produce it. I would be glad to keep this debate going long enough for him to go through that whole file of 30,000 patents sitting over there that he says have been developed to see if he can find something and make a convincing case that this is something that would have been developed. But you have to give somebody a private monopoly right in order to develop it and you cannot do that under the law. That being the case, "Sorry, but it can't be developed, so let's let somebody develop it."

Now, if the Senator can find one out of the whole 30,000 he refers to, then, in that case, the Senator from Louisiana would be willing to go along with him and say, "All right, let's say that that one can be parceled out to just anybody who would like to get involved in it and just let him have monopoly rights. Because it looks like nobody wants to develop it, so he can have it."

But when you really get down to saying who ought to have these monopoly rights, Mr. President, in terms of equity, if you are going to give away something that belongs to Government, you could make a better case, or just as good a case, if you want to just give something away, to say that the scientist, the engineer who actually did the developing, should be permitted to have the monopoly rights, because he is the guy that invented it.

I have not read that amendment, but I have seen these things enough around here to know how it probably works. And if it works the way these other patent giveaway bills have worked down through the years, it would say, "Oh, no, the man that really invented it can't have it. All he is going to get is the same little salary he had anyway." Oh, you might give him a bonus or a watch, or maybe even some little token of recognition for what he has done. But that fellow, he does not get it.

The man who gets it is the fellow in between that had this guaranteed profit. Under the Senator's amendment, for example, it is the big business applicant who gets it. It is not the little guy who did the developing.

I talked to a scientist who worked for one of these big companies on airplanes. He told me that when he went to work for that company he had to sign a contract that anything he invented, or anything that he thought of when he was working for that company, belonged to that company.

He said that it did not seem quite fair to him but, after he had thought about it, he realized, after all, "I didn't have to take this job. And if I want this job, I'm going to have to sign that contract and give away all the fruits of my research and my intellect and my education." And he signed the contract because, otherwise, he would not have the job.

But he said, "But, now, if that logic applies to me as an inventor and as a scientist, why shouldn't it apply equally to that guy that made me sign that contract? I am working for pay. That company is working for pay. Now, if that company is working for the Government, most of us in science know, we are sophisticated enough to know that if that guy is a contractor for the Government and I am working for him, my ultimate employer is the 220 million people of the United States. So that if I am not going to get the right to exploit a private monopoly patent on something I invent, why should that guy get it? He has been paid for what he did. All he did was just organize this deal and be the middleman and hire me. But I am the guy who invented it and I am not going to be permitted to keep it. All I am going to be permitted to do is be paid for the work I did. Why shouldn't he be held to the same limitation that applies to me? He has been paid and I have been paid. I am not going to be able to have a private monopoly patent and get rich and he shouldn't be able to further enrich himself on that."

That is the logic that applies in this type situation, as far as the Senator from Louisiana is concerned. I have discussed this matter on the floor down through the years. I have not had an opportunity to discuss it or to attempt to educate the Senator from New Mexico about it, but I have made my views known to the Members of the Senate on occasion that the Government should spend large amounts of money in developing knowledge. But when we develop that knowledge, it ought to be freely available to all Americans.

It should not be limited only to a few, claiming the fellow who got the advantage or somebody who comes up here saying, "give this to me."

I was present when Admiral Rickover appeared before the committee, one of the committees on this matter. Admiral Rickover undertook to say that this thing is a giveaway, it is a rape of the public interest, in so many ways. So he was challenged with, "Well, how can you explain all these contractors, all these wealthy people, all these big corporations, coming in here asking us to give away the Government's patent rights on the Government's research, to give them monopoly rights on something that belongs to the public?"

I recall what the admiral said at that particular hearing, the only day I was able to attend it. He said, "Senator, the only difference between those people and me is that they are after something. They want something at the taxpayers' expense. They want something at the expense of 230 million people. They are up here trying to get some advantage, some special handout. Can you not understand that? In my case, I am not up here asking you to give anything. I am up here trying to protect the public interest, trying to protect the 230 million people who seem to have been ignored at these hearings up to now."

I think that is right.

That great officer, Adm. Hyman Rickover, handled the development of the American atomic submarine. When he had that job, he put us out in front of everybody else. He testified before us down through those years that there was never any problem about finding someone to take one of these contracts. In fact, I recall him testifying before the committee that until he was asked to come up there as a witness, he was not aware of the fact that there was any problem. The fact was that he was privileged in the area of atomic energy to give away patent rights which were in the public domain. He did not know there was a problem at all until someone asked him to come and testify before the committee.

Since that time, the officer has looked into this matter further and the more he has looked at it the more it has caused him to conclude that the public interest was not being protected, and that you really should not give these patents away at all. But, if you are, you could find a far more desirable approach calculated to protect the public interest than what we had there.

In due course, Mr. President, I suppose I will make reference to the statement that Admiral Rickover made on this subject because I think it deserves to be heard. It should be given to the Senate.

Mr. President, I am prepared to yield the floor at this time. If other people desire to speak, they can be heard. Otherwise, I will suggest the absence of a quorum.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, the public interest has been protected to death by present law. With all respect to the long involvement of the Senator from Louisiana, and to the distinguished Admiral Rickover, to whom he referred, they are pretty much alone in recommending a continuation of the status quo. That status quo is not working. It is my understanding that the Senator from Louisiana also is opposed to the bill that we are trying to amend, not just to our amendment.

Mr. President, the justification for the expansion of S. 414 to cover medium and larger businesses who are contractors to the Government, is still very, very good.

In a recent "Dear Colleague" letter that the sponsors of S. 414 put out in opposition to Senator STEVENSON's amendment, one of the grounds that they gave in opposition was that small business is discriminated against and this would further that discrimination.

Mr. President, I agree that small business does have very special problems, and in the instance of the tax structure and the regulatory structure of this country they are discriminated against. As a member of the Small Business Committee and other committees, I hope that we can begin to do something about that.

However, we should be very careful that we not penalize medium size and larger businesses in order to address a problem that is not a problem of patent policy. Current patent policy penalizes all businesses equally. Unfortunately, S. 414 would further the discrimination to patent policy by requiring small businesses and universities to pay recoupment which would not now apply to big businesses that receive title through some other policy to patents developed under Government contracts.

The Stevenson amendment would eliminate that discrimination by applying recoupment across the board when title is in the contractor.

It has also been stated by the opponents of this amendment that this might result in antitrust violations.

The Justice Department position on uniform patent policy has changed and, in fact, it is my understanding that they support the administration's proposals for a Governmentwide patent policy different from that proposed in S. 414 or by the Stevenson amendment, but, nevertheless, which would provide exclusive rights to patents. Not title, but exclusive rights in the field of use.

There are problems with that concept which I will not get into today, but, nevertheless, it appears that the Justice Department has overcome any questions they may have had with respect to antitrust issues on this matter.

Maybe the most unfortunate argument that is put forward against this amendment is that it would be anticompetitive to small business. There is no evidence, Mr. President, no data, or other information, developed in our hearings or any other of which I am aware, that would support this claim. Experience would clearly indicate it is not a problem. The Justice Department apparently no longer believes that this is true since it supports the administration's bill, as I indicated earlier. S. 414 contains march-in rights which would guard against this possibility of anticompetitive behavior.

Patents cover only an infinitesimal area of technology and not something of the scale described by the Senator from Louisiana an often unfortunate misconception of what patents are all about. The patent clearly was designed by our forefathers in the Constitution to act as an incentive for the inventor to commercialize and, indirectly, it can be assumed to be an incentive to competitors to come up with alternatives to that patent.

The most thorough independent analysis of this issue was conducted by Harbridge House in 1969 and recently updated by the Department of Energy. They concluded, and still conclude, that there has been "little, if any, anticompetitive effect from contractor ownership of inventions."

I ask unanimous consent to have printed in the RECORD at this point testimony given by Mr. James Denny, Assistant General Counsel for Patents, which covers this issue very well from the perspective of the Department of Energy on the question of whether there are anticompetitive aspects of granting title to the contractor. His conclusion, as I have indicated, is that there is not.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF JAMES DENNY, ASSISTANT GENERAL COUNSEL FOR PATENTS

In any debate on this policy issue, one always hears charges of windfall profits going to Government contractors, concerns expressed regarding Government give-a-ways, suggestions that valuable technology is either being suppressed by industry or utilized in an anti-competitive sense, and beliefs that making inventions available to all through Government ownership will achieve widespread commercial use. Government supported studies, however, have found no basis in fact for these charges, concerns, and beliefs. Approximately 10 years ago, the Federal Council for Science and Technology supported the most comprehensive study ever conducted on the issue of Government patent policy—commonly referred to as the Harbridge House Report. This report made the following findings:

Government ownership with an offer of free public use does not alone result in commercialization of research results;

The commercial utilization rate of Government-generated inventions was low (approximately 12 percent), but that the rate doubled when contractors with commercial background positions were allowed to keep exclusive commercial rights to the inventions;

Windfall profits do not result from contractors retaining title to such inventions; and

Little, if any, anti-competitive effect resulted from contractor ownership of inventions because contractors normally licensed such technology, and where they did not, alternative technologies were available.

In our effort to complete the report to Congress on the issue of mandatory or compulsory licensing, DOE recently funded an additional study with Harbridge House which is presently under analysis. This study shows that there are few, if any, adverse effects resulting from enforcement of exclusive patent rights, and, in fact, indicates some stimulation of research occurs when exclusive rights are enforced. Accordingly, this data seems to reinforce the original study which found no anti-competition effects when exclusive rights were left with the contractors.

Mr. SCHMITT. Mr. President, I conclude by submitting that the arguments made against extending this policy more broadly than to just small business and universities just do not hold up. If we expect to have this country moving again in technology and productivity, in exports and our general economy, we are going to have to move, not only in this area but in many others, to supply the incentives in the free enterprise system to all inventors to commercialize and utilize their products so that the taxpayers can benefit from their investment.

The taxpayer literally is not benefiting today from those investments except where title has been waived. I shall be happy to take an extended period of time, if Congress would so authorize, to take these 30,000 patents and see which ones, if granted exclusive title, the industry would pick up. Unfortunately, the present policy generally is not to grant exclusive title, so they do not use them.

Mr. President, I yield the floor to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. I yield a minute of our time.

Mr. CHAFEE. I thank the Senator very much.

Mr. President, as a cosponsor of S. 414, the University and Small Business Patent Procedures Act, I rise in strong support of the measure.

This legislation would: First, establish a uniform Federal patent procedure; and second, create a consistent policy and procedure concerning the patentability of inventions made with Federal assistance. It will, in my judgment, vigorously encourage the development and utilization of inventions arising from Government supported university and small business research.

The problems addressed by S. 414 are clear and disturbing. The Federal Government, which cosponsors research that leads to hundreds of valuable technological discoveries in such fields as medicine and energy, lacks the resources to develop and market a product. Yet, the Government, in most cases, retains patent rights to those discoveries and is unwilling to relinquish them. This situation discourages private industry from investing the money necessary for product development.

As many of my colleagues are aware, the Office of Patents and Trademarks is encountering severe difficulties. The case-by-case review of each patent application has resulted in lengthy delays.

These delays have caused the United States to fall behind in its traditional role of international leadership in technological innovation. The number of patents issued each year has declined since 1973, while the number granted to foreign concerns has increased to 35 percent of all patents filed in this country.

Mr. President, we now have a situation where less than 4 percent of 30,000 patents held by the Government have been successfully licensed. These circumstances act as a significant deterrent to the participation of many of our country's leading scientists in high-technology industries.

More importantly, the absence of any incentive for commercial development in these areas costs the United States an inestimable amount of potential revenue. In 1979, we suffered a $24 billion deficit on the importation of foreign manufactured goods. This growing deficit partially reflects stunted American technological development.

The ability of small businesses and universities to obtain patent rights is essential to the stimulation of private-sector interest in product development. This bill, S. 414, will enable them to obtain limited patent protection, if they spend the additional private resources necessary for commercialization.

From my own State, Rhode Island, the presidents of Brown University and the University of Rhode Island have written me in strong support of this measure.

Mr. President, I want to emphasize that small businesses, particularly, would benefit from S. 414. Currently, less than 4 percent of the Federal research and development expenditure is directed to small businesses. The major reason that many innovative small companies have avoided Federal grants is the uncertainty over whether or not they will be allowed to retain the patent rights on resulting inventions. The University and Small Business Patent Procedures Act would end this uncertainty.

I commend the distinguished Senator from Indiana (Mr. BAYH) and the distinguished Senator from Kansas (Mr. DOLE) for their leadership in this area and I urge my colleagues to support the bill.

Mr. President, I thank the Senator from New Mexico.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Indiana has 28 minutes and 31 seconds. The Senator from Illinois has 11 minutes and 51 seconds.

Mr. LONG. Mr. President, since the Senator from Indiana is not here, I assume I have the right to use the Senator's time.

I see he is here. I should like to have an additional 6 minutes.

Mr. BAYH. Mr. President, I yield 6 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, the Senator has made reference to the fact that the Constitution states that Congress would have the right to pass legislation conveying patents. As a student of the Constitution, it seems to me that that clearly has to do with the general traditional concept that when a person does the inventing at his own expense, as an incentive for innovation and an incentive to make invention, that person could be permitted to have a private patent on something that he invents that will be of patentable novelty. That is how the patent law has worked for many years.

Mr. President, I honestly doubt, and I would challenge the sponsors of the proposal for private patents of Government research to find anywhere, in the history of the Constitution, where the Founding Fathers ever conceived of an idea where the Government would pay for all of this, that the Government would pay citizens money for the research, and then give away a private patent monopoly to anybody, be it a contractor or anybody else, so that that person can exploit the public in the use of something that the people have paid to invent.

Mr. President, the idea of public taxation for private gain is contrary to every concept of democracy. In a democracy, you are not supposed to tax the people for the private advantage or the monopoly advantage of the few. That is what we would be doing, Mr. President, if we said that we shall give General Motors a contract, to let them invent something of tremendous benefit to the public, pay them a guaranteed price, then, if they find and develop something worthwhile, give them the right to charge the public through the nose to pay for something that has been developed at public expense.

The Atomic Energy Commission was established during World War II—at least, the Manhattan Project, which led to the Atomic Energy Commission. At that time, Congress very wisely realized that here we were going to develop a whole new source of energy which might make all other energy obsolete.

So Congress provided that there would be no private patent monopoly on any of this atomic power. We developed the atomic bomb, we made the first explosion, we led the world in developing the atom. In doing so. no one was permitted to have private patents.

Now, other nations were engaged in this endeavor at the same time we were working at it. Germany tried it, and perhaps others, but the United States led the way. The United States not only went out front, but stayed out front, year after year, in the people's use of atomic power in situations where the Government did not give any patent rights to any group to exploit the public.

When the public has paid for the research, the public is entitled to the benefit of it. And some of this stuff does not come cheap, Mr. President. This Government is spending, has spent, and will continue to spend many billions of dollars on research. That being the case, the public is entitled to the benefit of it, and they should not have to pay anybody, be it a fine organization like General Motors, a credit to the free enterprise system, or a small business, Mr. President, for the benefit of that for which they have already paid.

They have paid for it once. They have paid for the research, they have bought the research. They bought the right to use all of it, however the public should desire.

Then to suggest, Mr. President, that the people of this Nation should not have the unfettered use of it, but that, instead, it would be given away—literally given away—as some Government favor, on any basis, I do not care where it is the contractor, the engineer, or anybody else, is contrary to the concept that, in a democracy, the people are entitled to have the benefit of that for which they have paid.

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mr. BAYH. I yield 2 more minutes, Mr. President.

Mr. LONG. So, for us to suggest now that all of these billions of dollars will be spent, and then people will be permitted to make a fortune out of it, at the public expense, Mr. President, is contrary to everything that dedicated public servants ought to be working for, in my judgment.

Admiral Rickover gave us an example that would cause anyone to take pause about some of this.

He told us about a family of doctors who first developed the forceps to help in childbirth. A very simple invention, but it saved the lives of many mothers, and it saved the lives of many children.

Those people kept that in their family for generations. They were preeminent in the field of childbirth because they had these forceps, and they worked. They kept it a secret in the family for generations.

Think of the needless suffering that occurred. Think of all the mothers and children who died because these people, having this knowledge, were unwilling to share it with their fellow man.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BAYH. I yield the Senator 2 more minutes.

Mr. LONG. But, Mr. President, at least, these men developed that themselves. They did not develop it at the taxpayers' expense.

But here we have a proposal that someone who is a beneficiary of a contract, usually they make proposals to the Government, but they do not have to bid on a competitive basis, or necessarily have to be able to prove that the Government is going to get more, putting the money with this contractor or that contractor. They come in here and have been given a favor when they are selected to be the contractor, to begin with.

Most of these contracts call for a guaranteed profit. So, that they get this contractor with a guaranteed profit to do the research. Then, having developed something that conceivably can be of untold benefit to all citizens, to make the citizens of this country pay over and over and over again for developing something, when they paid for it to begin with, is contrary to every concept of justice and fairness in the law.

Mr. President, I wish the sponsors of this legislation, who would contend we cannot get people to develop something, we cannot get them to take this Government research to do something because the contractor cannot have monopoly rights, I wish they would go down and do some research to try to prove a single case, just one, to prove their point.

I would be glad, Mr. President, if they could produce it, to join with them in saying that anybody, whoever they would like to give it to, can have it, no cost, just give it to him, I would be glad to help them do it, but they cannot produce a single example.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. What is the time situation?

The PRESIDING OFFICER. The Senator from Indiana has 18 minutes and 10 seconds. The Senator from Illinois has 11 minutes and 51 seconds.

Mr. BAYH. Mr. President, the distinguished Senator from Louisiana has been very articulate, but we have some others who would like to have time if he is through.

Mr. LONG. I am finished.

Mr. BAYH. Mr. President, I yield 10 minutes to the Senator from South Carolina.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the distinguished Senators from Illinois and New Mexico, Mr. STEVENSON and Mr. SCHMITT.

I do so reluctantly because the amendment would extend the new patent policy procedures of S. 414 to a broader range of American industry. The United States is now losing the technological battle. Japan and Western European nations are fast becoming the world leaders in technological advancement. Senator SCHMITT's amendment would go a great step forward in once again making America the No. 1 inventor and innovator in the world.

Mr. President, our current patent policy is not serving America's needs. It is a policy that frustrates innovation and new technological advancement. Almost 30,000 patents, created through Government grants, rest unused in the Patent and Trademark Office. The Stevenson-Schmitt amendment could help reverse that situation. I am sympathetic to it, but cannot support it as an amendment to S. 414 at this time. There are several reasons for my opposition.

First, as I understand the situation, any expanded coverage of S. 414 will result in its being killed in the House. Any delays would not help the chances of S. 414 getting passed this year.

Second, I am told there are still unresolved issues surrounding the original Schmitt bill, S. 1215, which is pending before the Senate Commerce Committee. Therefore, I think it would be better for the Senate to consider a bill that has been fully discussed and considered in committee.

Finally, Mr. President, I have generally taken the position that the committee system should be respected whenever possible. There are occasions when events move so swiftly that time is of the essence. But in this case there seems to be ample time for the Commerce Committee to consider Senator SCHMITT's legislation this year and report it to the Senate floor. I believe this would be the best way to proceed in this particular case.

Mr. President, for these reasons I am opposed to the Schmitt amendment.

Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Minnesota (Mr. BOSCHWITZ) be added as cosponsors to S. 414, the University and Small Business Patent Procedures Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 961

(Purpose: To provide for clarification of a "party" to a funding agreement)

Mr. THURMOND. Mr. President, the distinguished Senator from Utah (Mr. HATCH) has been delayed on his way back to Washington, but has an amendment he would like to offer to S. 414.

The amendment would only clarify the use of the word "person" in section 201 (b) and would make no substitute change in the bill.

This amendment has been agreed to by the majority manager of the bill (Mr. BAYH).

Mr. BAYH. Mr. President, if the Senator will yield, I have no objection to this amendment. That is a perfection of the bill at large.

I do not know what the parliamentary procedure is, but I have no objection to accepting it.

Mr. President, I ask unanimous consent to revise the bill and incorporate therein the modification proposed by the Senator from South Carolina for the Senator from Utah.

The PRESIDING OFFICER. It would take unanimous consent to set aside the pending amendment and adopt another amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the present amendment be temporarily set aside, that the Senator from South Carolina's amendment, proposed for the Senator from Utah, be incorporated in the original text of the bill sponsored by the Senator from Indiana, the Senator from Kansas, and a number of our colleagues, be accepted therewith by the Senate, and that we return to the pending business, which is the amendment of the Senator from Illinois and the Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for the Senator from Utah (Mr. HATCH), proposes an unprinted amendment numbered 961:

On page 27, line 5, strike out "person" and insert in lieu thereof "contractor".

On page 27, line 13, insert " ,"small business firm or nonprofit organization" immediately after "person".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Allen Neece, of the Small Business Committee, have the privilege of the floor during debate on this bill and amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. NELSON. Mr. President, I congratulate my distinguished colleague from Indiana for the fine job he has done on S. 414, the University and Small Business Patent Procedures Act of 1979.

When Senator BAYH and I introduced a series of patent law reform bills last year, we did so in specific recognition of the problems being created by the current maze of patchwork patent arrangements and in particular, of the problems these arrangements are creating for small business. The bills we introduced, S. 414, the University and Small Business Patent Procedures Act; S. 1679, the Patent Law Amendments Act; and S. 2079, the Independent Patent and Trademark Office Act, would go a long way to correcting problems in our patent system. Both S. 414 and S. 1679 have been incorporated as a key part of S. 1860, the Small Business Innovation Act which I introduced last year and which is cosponsored by 20 of my colleagues.

The University and Small Business Patent Procedures Act allows small business to retain exclusive patent rights on inventions made under federally supported research. The Patent Law Amendments Act enables the Patent and Trademark Office to arbitrate patent disputes and thereby reduce the cost of patent reexaminations from an average of $250,000 per case to $1,000. And, the Independent Patent and Trademark Office Act, creating an independent Patent and Trademark Office would help make that office more responsive to patent needs in the modern era. According to one former Patent Commissioner, "dry rot" has set in at the PTO. Making it an independent office would help correct that problem in that the President and the Congress would directly assess its technical and personnel needs.

Hearings held by the Select Committee on Small Business have repeatedly shown that small companies have an impressive record as sources of bold, new innovations. There are untold economic benefits if we can foster innovation among small businesses. For example, in the period of 1969 to 1974, a series of small firms experienced sales growths of 42.5 percent—roughly three times as great as their larger counterparts. Their employment in that period grew by 40.7 percent—almost 10 times the rate of large innovative firms and some 65 times as much as large, mature firms. Small firms have a special role in securing for society the benefits of technological innovation, particularly as it affects our falling rate of productivity and our balance-of-trade deficit.

However, while a National Science Foundation study shows conclusively that smaller firms were responsible for half of all major industrial inventions since World War II, these firms received only 3.4 percent of Federal research and development money. This, in spite of the fact that small firms produced 24 times as many major innovations per research dollar as did large firms.

Small, innovative firms are being

placed in the middle of a closing vice. They receive an inadequate and disproportionate share of Federal research and development dollars, they are being strangled by unnecessary regulations and a prohibitively costly undependable, inequitable patent system, and are being starved of necessary venture capital.

In Small Business Committee hearings witnesses have repeatedly pointed out that one of the greatest discouragements to small, innovative concerns interested in participating in this research effort are current Federal patent policies. These policies require small businesses seeking Federal contracts to give up patent rights to discoveries made while doing federally sponsored research.

In addition, these policies can require small businesses to relinquish their "background rights," which consist of privately financed patents or other information relating to the invention made under Federal contract, to competitors who later work under Federal research and development programs. This constant threat is a very serious one to the innovative small business which is trying to compete in the marketplace against large corporations. Technological edges are the one advantage that small companies have, and when they are forced to license work products to competitors, their ability to successfully compete can be jeopardized or ruined.

There are approximately 24 different policies in effect in various Federal agencies. These dissimilar policies are of a much greater burden for small businesses than for the large corporations which can afford to retain large legal staffs who can develop patent expertise for each agency. Moreover, when small businesses are afraid to involve themselves in Government research and development programs because of fear of losing rights to important patents, it can be very difficult to find alternative means of financing their research and development efforts.

All too often, the only alternative open to small business is to license out or sell an equity position in their promising technologies to larger companies who can afford to conduct expensive research and development programs.

The ultimate effect of present patent policies has been de facto contribution toward greater economic concentration by discouraging the growth of innovative, small and independent enterprises by cutting them off from the use of Government research and development money.

The University and Small Business Patent Procedures Act takes a giant stride toward creating more uniformity in patent policy. Moreover, by allowing small business to retain exclusive patent rights on discoveries made under federally sponsored research, it directly solves one of the major stumbling blocks to spurring more innovation by small business, thus helping to strengthen lagging productivity growth and solve our most troublesome and nagging domestic problem, inflation.

Small business patent problems are enormous—they are immediate and they are unique. Perhaps more should be done to resolve the patent problems of larger firms, but now is not the time. Thorough hearings are needed to study the needs and proposed solutions to the patent problems of larger enterprises. If we focus for right now on helping smaller businesses, we can be assured that we are going to effectively tackle our Nation's productivity and innovation problems. I urge my colleagues to support the University and Small Business Patent Procedures Act.●

UP AMENDMENT NO. 960

Mr. BAYH. Mr. President, I will take a few moments to express my thoughts on the pending amendment. I do this as one who has great sympathy for the concern of the Senator from Illinois and the Senator from New Mexico on the question of productivity.

I must confess, as I have said to both my friends, that I have not yet been convinced that their proposal is not without serious deficiency as it applies to large corporations. I do think there is a problem there; and I will be glad, as one Member of the Senate, to spend a little time on this matter and work with them in any way, to try to address this problem at a later date.

I understand that S. 1215, a measure to accomplish the same purpose as this amendment which has been introduced by the Senator from Illinois and the Senator from New Mexico, is presently pending before the Commerce Committee. I hope that, regardless of the outcome of this vote, this consideration will continue and the questions raised will be answered.

S. 414 has been subjected to thorough hearings by the Judiciary Committee. It was reported by unanimous vote out of the Judiciary Committee and thus is on the floor, after careful consideration and study. It does deal with the question of productivity in a more limited manner than that proposed by the Senator from Illinois and the Senator from New Mexico. As strongly as I support the thrust of S. 414, I do not think it is the only answer to our productivity problem. I must say that I share the concern, expressed earlier by my colleagues who are now presenting the amendment, that the unsurpassed leadership of the United States in the area of productivity has to be recaptured. As I see it, S. 414 is an important first step in that direction.

I believe that the reason why the Senator from Indiana, the Senator from Kansas, and others who have been supporting S. 414, adopted the approach of applying it just to small businesses, and to universities, and nonprofit organizations, still remains a good reason today.

First of all, if one looks at the distinction between small businesses and large businesses, one has to understand that a small business has fewer private resources to develop and market raw products than their big-business competitors. So, there are very few large businesses that are not able to privately develop most of their new ideas. Small businesses cannot do this, and face a real problem trying to develop and market new products with limited financial resources.

I think we can make a distinction between Thomas Edison and General Electric—an example cited previously by the Senator from Illinois. If Thomas Edison were alive and well today, and developed an idea—and if it were a clear financial success, even if it might become as earth-shaking as the electric-light bulb, I wonder whether he would be able today to finance its development and the millions of dollars that would be required to market it.

General Electric, on the other hand, would have very little difficulty financing it privately. Big companies do have some difficulties, I must say. But they are able to get their ideas developed and marketed, because they have the resources. Small businesses need Government and university assistance not today available because of our present patent policies.

The second unique point so far as small businesses are concerned is that if they become involved with the Government, there is a real chance that they will lose what we call their background rights, if they discover anything under Government-supported research. Not only are they precluded from getting ownership of the idea but, also, often the funding agency says, "You have to give up all the ideas you have already had on your own that might relate to this invention."

I do not think that is the kind of jeopardy in which we want to place small businesses and universities.

For that reason, and with great respect and regret, I will have to oppose the amendment of the Senator from Illinois and the Senator from New Mexico.

I think we had better walk before we fly. Let us permit small businesses and universities to have greater patent rights than is now permitted. We have a payback provision in this bill which says that taxpayers' dollars are going to be repaid if the ideas start making money. But let us get these ideas out, see how they work, and then we can address ourselves to the problem of large corporate enterprises.

● Mr. CANNON. Mr. President, in the past 2 years, the Commerce, Science, and Transportation Committee has made a thorough review of American industrial technology and its bearing on the Nation's economic growth, productivity, and competitiveness. Our findings are disturbing.

Today there is scarcely a single technology or industrial sector in which we do not face vigorous competition from other industrialized countries. Last year the United States registered a huge trade deficit in steel, automobiles, and other so-called non-R. & D.-intensive manufactured goods. Our exports of machinery, aircraft, chemicals, and other high-technology products are impressive; but they have not been sufficient to prevent overall trade deficits in manufactured goods in 4 of the last 8 years. Even the surpluses in those categories have dropped about 6 percent, while our trade deficit with Japan in consumer electronics and other sophisticated products grew by 85 percent per year to over $3.5 billion.

In the meantime, productivity growth in the United States—a key source of our economic growth in the early sixties and a result, in large part, of applying new technologies—has come to a virtual standstill. By last year, the growth rate had dropped so drastically that we trailed all of our major foreign competitors, including Britain. Then, last week, the Labor Department reported an absolute decline in output per workhour of nearly 1 percent in 1979—only the second such drop since World War II, and the first in a period of economic growth rather than recession. Combined with high inflation, which it also fuels, the productivity slump is gradually eroding our standard of living and ability to generate new jobs.

The solutions lie in increased investment in new plants and equipment, new products, and new firms. They lie in reform of economic and environmental and safety regulation. They lie in consolidation of industry, trade, and technology analysis and promotion in a single agency of the Federal Government. They lie in cooperative efforts to develop new manufacturing technologies, as we propose in S. 1250. They lie in efforts to aid small-business investment and growth.

But, in no small part, the solution also lies in encouraging the widest possible use of Government-supported technologies, removing disincentives to participation in Federal research and development programs, and promoting collaboration, rather than antagonism, between Government and industry.

We are, therefore, encouraged that the Senate Judiciary Committee has recognized the contribution of technology to economic revitalization, and has taken a lead in reforming Federal patent policy. We commend Senator BAYH, as well as Senator SCHMITT, for their initiatives in this area, and for their efforts to remedy the problems of the patent system generally. We are merely disappointed that the bill reported by the Judiciary Committee, S. 414, addresses only part of the problem that its sponsors acknowledge and have attempted to resolve.

In the course of our innovation study, the Commerce Committee has held 4 days of hearings on Government patent policy, the most recent one in cooperation with the Judiciary Committee. The committee has heard testimony from representatives of universities, venture-capital investors, and businesses of all sizes, as well as officials of the Department of Defense, Department of Energy, Department of Commerce, and the National Science Foundation. With a single exception, these witnesses strongly endorsed the principle of allowing exclusive commercial use of Government-supported inventions as a necessary incentive, in most cases, to provide development and commercialization. Overwhelmingly, they favored a policy of granting title to contractors without discrimination on the basis of size or tax status.

The amendment I am cosponsoring with Senator PACKWOOD, Senator STEVENSON, and Senator SCHMITT would simply extend the policy of S. 414, and the policy followed by the Department of Defense in the vast majority of military R. & D. contracts to the remainder of Federal research and development transactions. It would allow contractors of all sizes, and primarily those engaged in energy, transportation, health, and other vital civilian R. & D. efforts, to acquire title to the inventions they make under Federal grants and contracts.

We recognize the contributions of small businesses and universities to industrial innovation, and we want to encourage them. Small businesses' share of Government R. & D. procurement is pitifully low and ought to be increased. The President is committed to that objective, and Senator NELSON and other members of the Small Business Committee have proposed to accomplish it by legislative mandate. We have consistently supported progressive budget increases for basic research, primarily in universities. On the other hand, we recognize that our major defense contractors already receive unrestricted title to their inventions as a matter of course and without controversy, while a great many other medium-size and larger companies experience the same disincentives and frustrations of civilian agencies' patent policies as do small business. We need to encourage all businesses to be more productive, more innovative, and more competitive. We fail to accomplish that if we ignore firms which, together, have a much larger share of Federal R. & D. contracts, and a greater impact on the Nation's ability to produce and compete.

Our amendment would accomplish a second important purpose. It would remove inequities by extending other provisions of S. 414 across the board. All contractors, not just small business and universities, would be required to pay back the public's contribution from their returns on successfully commercialized or licensed inventions. All contractors, not just small businesses, would be required to observe the preference for domestic production of technologies developed with public funds. Together with the Government's right to require licensing in cases where contractors fail to commercialize inventions in a reasonable time, these provisions adequately protect the public interest. And, they are fair so long as they, too, are applied on a nondiscriminatory basis.

For these reasons, I urge my colleagues to support our amendment, and S. 414, in order to increase the return on the public's investment in research and development, and benefit the Nation's economy.●

Mr. STEVENSON. Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator from Illinois has 11 minutes and 51 seconds. The Senator from Indiana has 5 minutes and 55 seconds.

Mr. STEVENSON. Mr. President, I do not intend to take any more time to debate the issue.

I commend my good friend the Senator from Indiana for his efforts which have led the Senate to its consideration today of S. 414. I believe our objectives are the same. We differ somewhat in method and the extent to which we feel that it is appropriate to pursue those objectives at this point.

I am especially grateful to him for his expressed interest in cooperating on further efforts to assure that publicly supported research does produce increases in productivity and innovation for our economy.

As he mentioned, there is a bill on this subject that is pending in the Commerce Committee. However, it has been referred jointly to that committee and the Committee on Governmental Affairs, so there are at least three committees with some jurisdiction on this subject.

We have spent more than 2 years on this matter in the Commerce Committee and already have held 4 days of hearings on the proposal now incorporated in my amendment. Many members of that committee, including its chairman, are strongly of the opinion that we need to do far more to assure that Government-financed research is commercialized.

So I do welcome the expression of interest by the Senator from Indiana in continued cooperation and in working on this subject. As he concedes, if this amendment is not adopted today, this will be but one step toward our objective. Indeed, even if the amendment I have offered is adopted, the subject will not have been exhausted. More would remain to be done to improve Federal patent policy.

This amendment is a modest step and far less than many of us in the Commerce Committee would like to do to insure that publicly-financed research and development benefits the American public rather than our foreign competitors.

With that, I am prepared to yield back the remainder of my time.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. BAYH. I yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I vigorously oppose the attempt that is being made by my distinguished colleagues to amend the University and Small Business Patent Procedures Act (S. 414). I feel that any alteration would defeat the purpose of S. 414 which is intended, primarily, to solve a major problem, that of technology transfer. For this reason, it addresses itself to small business who are "responsible for half of the most significant new industrial products and processes," according to a study by the National Science Foundation cited in a September 22, 1979, editorial printed in the Washington Star.

It should be understood at this point that S. 141 does not segregate against big business. It would be a serious mistake to consider the bill under the assumption that it does. It merely protects small business. Understanding the legitimate concerns of big business, the sponsors of S. 414 inserted the following clause, in section 212 of the bill, stating that, "nothing in this chapter is intended to alter the effect of the laws cited in paragraph (a) of this section or any other laws with respect to the disposition of rights in inventions made in the performance of funding agreements with persons other than nonprofit organizations or small business firms." This translates in the fact that S. 414 changes nothing in the contract agreements between big business and the Government, contracts that have traditionally favored big corporations, while segregating against small companies.

It might be of interest to point out that the definition of small business is a flexible one. It can mean any company up to 1,500 employees, in manufacturing companies for instance, or can vary according to gross sales, anywhere between under $2 million to $22 million. There are about 10 million "small business" firms in this country, in addition to 3 million farmers classified as small businesses. Ninety-seven percent of firms in this country are small businesses, accounting for 43 percent of the gross national product.

The Senator from Kansas urges his colleagues to join him in opposing any amendment designed to alter the purpose and the essence of S. 414. I point out, in addition, that Senator Schmitt's amendment has not been studied by the Judiciary Committee to the extent that it can be attached to S. 414.

Mr. BAYH. Mr. President, the Senator from Kansas has provided strong support and leadership in the basic thrust of the original bill, S. 414.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), and the Senator from Montana (Mr. Melcher) are necessarily absent.

Mr. STEVENS. I announced that the Senator from Tennessee (Mr. Baker) and the Senator from Utah (Mr. Hatch) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. Hatch), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who have not voted who desire to vote?

The result was announced—yeas 34, nays 60, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—34

Armstrong
Bellmon
Boren
Boschwitz
Bradley
Byrd,
  Harry F., Jr.
Cannon
Cranston
Domenici
Durenberger
Garn
Glenn
Goldwater
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stevens
Stevenson
Tower
Wallop
Warner
Williams

NAYS—60

Baucus
Bayh
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Exon
Ford
Gravel
Hart
Hatfield
Hayakawa
Heflin
Hollings
Huddleston
Jackson
Javits
Johnston
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stewart
Stone
Talmadge
Thurmond
Tsongas
Weicker
Young
Zorinsky

NOT VOTING—6

Baker
Hatch
Inouye
Kennedy
McGovern
Melcher

So Mr. Stevenson's amendment (UP No. 960) was rejected.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAYH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, regular order.

The PRESIDING OFFICER. May we have order in the Senate? Order in the Senate.

Mr. DURKIN. Mr. President, I am pleased to cosponsor and support the University and Small Business Patent Procedures Act. The bill is an important step in our march to promote our small business community and recognize its significant contribution to the health and vitality of the American economy. The measure provides a much needed incentive to tap the innovation of small businesses and universities at a time when our Nation's productivity and inventiveness are increasingly in question.

The record is clear. Small businesses account for over 50 percent of the innovations in America. If we truly desire to promote economic stability through energy conservation and productivity-improving innovations, we must provide the necessary incentives. S. 414 is a good first step in that direction. It establishes a clear policy to use our patent law to encourage the commercialization of federally supported research and development discoveries. In doing so, it helps insure that small businesses and universities will be more likely to participate in Federal research and development—a long overdue change from the past, where our smallest, most innovative firms were neglected or scared away in the Federal research and development effort.

The bill contains important protections to insure that patents resulting from Federal research and development expenditures will not be used in anticompetitive ways. It also provides a reasonable return to the Federal Treasury in the event licensing income exceeds $70,000.

I believe we can return this Nation to an acceptable level of productivity growth, that we can restore small businesses to their rightful status in dealings with the Federal Government, and that we can promote effectively the kinds of innovations that we must have if we are to meet the severe energy and technology challenges that now confront us. This bill is carefully targeted to aid small businesses and universities. It is a wise first step and should be adopted.

● Mr. WEICKER. Mr. President, I rise in support of S. 414, the University and Small Business Patent Procedures Act. I am pleased to be a cosponsor of this legislation which will assist universities engaging in important areas of research, and innovative small businesses, thereby promoting increased productivity.

Hearings held by the Select Committee on Small Business over the past 2 years substantiate the conclusion of a 1977 OMB report on small firms and Federal research and development that the ability of America to innovate—for commercial as well as defense purposes—is in "serious decline." Furthermore, as evidenced in the OMB report, "there is now considerable evidence that product innovation has either leveled off or declined."

Mr. President, I am disheartened to say that America is no longer the leader in technology. A National Science Foundation study shows that the U.S. patent balance declined 47 percent between 1966 and 1975 while foreign-origin patents increased 91 percent over that period. The share of U.S. patents granted to foreign residents has more than doubled in 15 years, to a point of more than 35 percent in 1975.

The decline in American innovation manifests itself in the low productivity growth in the United States—which lags behind that of most of our economic competitors—and has contributed to unemployment, inflation and a serious trade imbalance. The measures contained in this legislation are designed to restore America to a leadership position in innovation.

Mr. President, small businesses have historically been in the vanguard of our Nation's innovative advances. Small businesses and individual inventors have been responsible for the invention of insulin, titanium, helicopters, the Polaroid camera, the ballpoint pen, automatic transmission, pesticides, oxygen steelmaking, and much more.

According to the National Science Foundation, since World War II firms with fewer than 1,000 employees were responsible for one-half of the "most significant new industrial products and processes." Firms with less than 100 employees produced 24 percent of such innovations—and developed 24 times as many major innovations per research dollar as did large firms. All this was accomplished despite the fact that these smaller firms received only 3.5 percent of Federal research and development money. Furthermore, according to an OMB study, small firms are far more cost effective, with a cost per scientist or engineer of only half as much as large firms.

Mr. President, despite these impressive contributions by small, innovative businesses, they are being squeezed out of our national research and development picture. They receive an inadequate and disproportionate share of Federal research and development money. They are prejudiced by regulations and a tax structure which encourages short-term profit at the expense of long-term growth, thereby diminishing the firm's desire to take major risks and plan for the future.

In addition to assisting these deserving, small, innovative firms, S. 414 will further basic research, most of which is carried out at universities. While the goal of basic research is to add to our knowledge of the areas under study, it is not uncommon for a potentially patentable invention to arise as a byproduct of the effort. Because of the amount of public funds invested in research programs in medicine, energy, and the basic sciences, Federal patent policy governs the way many potential inventions must be handled. There are many delays and disincentives in the procedures which must now be followed, procedures which in general frustrate the goal of getting a worthwhile product into the marketplace at a reasonable price. These problems will be remedied by the provisions of S. 414.

Most inventions arising out of university research need a great deal of development and testing before they are ready to be marketed. A new drug, for example, frequently requires careful testing on laboratory animals. If successful, years of carefully controlled clinical trials will follow. This involves an investment which not infrequently exceeds $1,000,000. It is clear that a drug manufacturer will invest the time and money to bring the product to the marketplace only if there is a reasonable certainty that the investment will be recovered through sales.

Supporters of the existing Federal patent policies argue that a loosening of the Government's control over such patents could result in "windfall profits" for those who bring the products to the marketplace. S. 414 addresses this concern by providing for reimbursement of the original Federal investment if income from licenses or sale of products exceeds specified levels within a 10-year period.

Existing Federal policy as implemented by some Federal agencies requires a review of each invention before decisions regarding title and licensing are made. In some cases, title remains with the Government and nonexclusive licenses are offered. In other cases, the agency review takes months or even years. The end result is that potentially beneficial ideas or products remain unused or reach the market years later than they might. By granting to the universities and small companies the right of first refusal for patents arising from their Federal grants or contracts, S. 414 remedies this defect in present Federal patent policy.

Mr. President, I urge my colleagues to support this legislation. We must enact meaningful reforms to encourage the expansion of small innovative firms and to assist deserving universities. S. 414 will go a long way toward meeting this goal.●

Mr. HATCH. Mr. President, the author of a recent Harper's magazine article observed that "progress absolutely depends on the willingness of government to allow the future to prevail * * * that is, government best supports the future by refraining as much as possible from attempting to shape it." Unwittingly, over the past few decades, our haphazard patent policy has resulted in a severe suppression of innovation which, in a very real way, is detrimentally shaping our future inventive progress. Mr. President, we must be willing to bring on the future, and we can best do this by removing our outdated, institutionalized barriers to innovation. I, for one, am ready for that long overdue Yankee ingenuity to come home again.

We have witnessed an unusual phenomenon in recent years: The dominance of the U.S. share of the world's innovation market has begun to dwindle. Since the early fifties, the United States has declined from 80 percent of the world's major innovations to 67 percent in the mid-60's to about 50 percent today. An obvious reason for this alarming trend has been the decline of domestic research and development investment during that same period, while foreign R. & D. investment sharply increased.

Mr. President, small, innovative companies accounted for over one-half of this country's major innovations over the past two decades. Why are these small businesses, who have been highly successful in the past, allocating fewer of their dollars for research? A prime factor is Government bureaucracy. Currently there are 2 dozen different patent policies administered by 2 dozen different agencies who dole out Government R. & D. funds while applying many different license retention policies. Is it any wonder that a small business would turn its back on R. & D. funds which are conditioned upon an endless maze of redtape?

These small businesses are the very lifeblood of our innovative success. A recent National Science Foundation study estimated that the same firms which have given us half of our major innovations also produce four times as many innovations per R. & D. dollar as big business. And over the last decade these same firms have been responsible for the creation of 96 percent of our private sector employment, while the top Fortune 1000 have accounted for only 4 percent of the job growth for the same period.

Mr. President, the conclusion is inescapable: R. & D. funds provided to the most dynamic sector of our economy—small, high technology, innovative businesses—is the most efficient way, perhaps the only way, to innovation leadership, increased employment, and economic growth.

Mr. President, as a member of the Judiciary Committee, and as an original cosponsor of S. 414, the University and Small Business Patent Procedures Act, I feel we have been responsive to a serious need. No longer will small business be faced with a myriad of Government patent policies, but rather, we have provided for a uniform, Government-wide policy for inventions of nonprofit organizations, universities, and small businesses created with the help of Government-supported R. & D. programs.

This uniform policy also affects Government-licensing agreements. No longer will 96 percent of Government-sponsored patents gather dust, but rather, licensing agreements will encourage utilization and commercialization of Government-supported inventions.

Mr. President, this bill is a great effort at removing a major barrier to the inventive genius of America. In a very real sense, it promotes a Government policy of "allowing our future to prevail." Our Yankee ingenuity will prevail.

UP AMENDMENT NO. 962

(SUBSEQUENTLY AMENDMENT NO. 1652)

(Purpose: To amend section 200 relating to the policies and objectives of chapter 18)

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. May we have order in the Senate? Will Senators please take their seats?

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 962:

On page 26, beginning on line 2, strike out "to use the patent system to promote the utilization of inventions arising from federally supported research or development;".

On page 26, beginning on line 15, strike out "and protect the public against non-use or unreasonable use of inventions".

Mr. ROBERT C. BYRD. Will the Senator from Louisiana yield?

Mr. LONG. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. May we have order in the Senate, please? Order in the Senate. Will Senators please take their seats?

Mr. ROBERT C. BYRD. Mr. President, it was anticipated that the Senate would complete action on this bill before 1 o'clock today. The only amendment that I knew about on yesterday was the amendment by Mr. STEVENSON and, of course, there was to be 2 hours on that amendment.

I would inquire at this point what the intention of the distinguished Senator from Louisiana is at the moment with respect to amendments. Under the agreement that was entered yesterday, the majority leader is authorized at any time after 1 o'clock p.m. today to set this bill aside, temporarily, of course, and to proceed to the FTC bill. Under the agreement, final action on that bill has to occur no later than noon on Friday.

I had indication that there were going to be other amendments. The Senator from Louisiana is perfectly within his right to offer amendments. If he is opposed to the bill and wants to delay action on the bill, he is within his right to offer amendment after amendment at this point. I do not challenge his right.

I did not know of his interest in this particular bill, or I would have seen to it that he was contacted before the agreement was entered into.

I merely want to find out what the Senator's expectations are with respect to this bill at this point.

Mr. LONG. Mr. President, I yield myself such time as I may require.

Mr. President, I was unaware of the fact that this bill was going to be called up or the unanimous-consent request to limit debate was going to be asked for. If I had known about it, I would have been here to object to it.

I have been extremely interested in this area down through the years, as the majority leader well knows. I had a note to talk to the majority leader and ask him to not schedule this bill until I had an opportunity to take a good look at it and to make my plans to offer amendments and to oppose the bill if the bill could not be amended.

I must admit that I am guilty of oversight or forgetting about something, just like anybody else does. I neglected to mention that to the Senator when I saw him. So, perhaps my rights have been prejudiced purely as a result of my own fault; the Senator from Louisiana simply not informing the majority leader of his concern about the matter.

But I am very much concerned about this measure. I would have to oppose the measure and offer amendments, with very little preparation, to do the best I can to protect the public interest, as I see it, if the Senator insists on going forward with this measure this afternoon.

The Senator from Louisiana is the chairman of the conference on the windfall profits tax bill. That is something of a priority matter. The Senator from Louisiana would like to attend that conference right now and go back to work on resolving the differences on that bill, hoping that we might be able to resolve the differences on that bill this week. But he will not be able to do that, he will be compelled to stay here, if the Senator wants to stay with this bill.

Mr. ROBERT C. BYRD. Will the Senator answer a question?

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. Mr. President, I do not understand the Senator to mean that he intends to oppose the bill and defeat the bill.

Does the Senator have an amendment that we could vote on that would take care of his concerns about the bill and dispose of that amendment within the next half an hour or hour, so that we could vote on the bill and get on with the other bill?

Mr. LONG. Mr. President, I do not have an amendment in the nature of a compromise at the moment. This Senator is not as concerned about the idea of permitting private patent rights on Government research to be the exclusive right of a university, especially if the university would be nondiscriminatory in licensing it out to people who would like to develop that invention. He would not have nearly the objection to that that he does to letting other companies, private corporations, organizations for profit, have the benefit of Government research to gain monopoly rights for their private advantage.

I hope the Senator would fulfill the commitments that he has made to others about bringing up certain other legislation, and that would give us some time to take a look at this matter and see to what extent we might be able to resolve our differences before we finally vote on the bill.

Mr. BAYH. Mr. President, I did not want to interrupt the Senator, but I feel, as one who has been involved in this legislation for a good long period of time, that I should at least make some comments here. The Senator from Kansas has been equally involved, as well as certain other colleagues.

I shared the concern of the Senator from Louisiana about the previous amendment. Basically, it was because of the concern which he instilled in me probably 10 or 15 years ago, and which we were previously discussing in relation to the Stevenson-Schmitt amendment that led the supporters of S. 414 to limit its coverage to small businesses, universities, and nonprofit organizations.

To address the concerns which the Senator from Indiana shares with the Senator from Louisiana, that we provided a recoupment provision in S. 414 so that whomever gets the patent, even if it is the Red Cross or Louisiana State University or Purdue University, whoever might get it, they have to repay the cost of that research if they begin to make substantial profits from the discovery.

I was hopeful that this might relieve the concern of the Senator from Louisiana. Certainly, he is within his rights to utilize his parliamentary right to amend the bill. As concerned as I am with this legislation which has been reported unanimously out of the Judiciary Committee and has been pending now for 3 months and, anxious as I am to vote on it, I guess there is not a whole lot I can do, except to try to appeal to the understanding and the sense of fairness of the Senator from Louisiana.

Mr. LONG. Mr. President, I was not aware that this bill was going to be called up today. I indicated that I cannot complain about not being present to protect my rights.

But, in the last analysis, what we ought to try to do here is to decide what is best for the Nation. This should not be decided on the basis of who is right, but it should be decided based on what is right, what is best for our country.

I really, honestly feel that the situation is such that those who feel as I do ought to be offered at least 24 hours to see what we can do about resolving our differences.

I know the majority leader is not one who believes in running over opposition roughshod. I have seen him do it sometimes, but he does it only when he finds it necessary.

I think the Senator should move on to the other measures that Senators wish to discuss. I hope that, maybe between now and the time we finally vote on this measure, we might come to terms on some accommodation that might satisfy everyone involved in this matter.

It is true that this measure has been on the calendar for some time, but this Senator did not expect it to be called up at this point. He was very busy with other matters.

Mr. President, I suggest the absence of a quorum without it being charged to either side.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, it is my hope that we will be able to act on this bill after those of us who are interested in it have had a chance to give it further study than we have given it to this moment.

I indicated that I simply was unaware of the fact that this bill was going to be called up when it was. If I had been aware of it, I would have given more study to the provisions that the members of the committee, and particularly the distinguished floor manager of this bill, incorporated into it seeking to protect the public interest.

If given the opportunity I will take a good look at those provisions and try to look at them fairly and impartially, and try to pass judgment on whether, in my judgment, the public interest has been adequately protected.

But the Senator from Louisiana is not able to do that at this moment. That being the case, he would be prepared to offer amendments in whatever way he thinks amendments would be appropriate, and he would have to continue to do that until such time as the bill has been debated to a much greater length than it has been debated at this time. That means, as far as the Senator from Louisiana is concerned, that he would have to call off the conference on the windfall profit tax bill until this bill has been disposed of.

That is an inefficient way for the Senate to operate. I would hope that the distinguished manager of the bill, as well as the majority leader, would be willing to proceed with some other measure at the moment and, in doing so, give those of us who have some reservations about the bill a further opportunity to consider both the work of the committee and also the areas in which we feel it might be meritorious to suggest amendments.

I should like to ask the majority leader, if in his judgment, it would be possible for us to proceed on some other measure, as the unanimous-consent agreement gives him that right, so that those of us who do have a serious concern about the matter will have the opportunity to study it and consider it, not on the floor but in conference with the floor managers and others, and see whether we can accommodate one another.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to do that. I am authorized to do that. I have discussed that procedure with the distinguished Senator from Indiana (Mr. BAYH). He will speak for himself, but he understands and appreciates the situation that we have before us. I do not need to explain—I have already done so—what our problems are with the FTC bill and so on. He very graciously has given his approval and authorization to my doing that. I express my appreciation to him for his understanding in this matter.

I hope that we can dispose of this bill. The Senator from Indiana has been very considerate all along, and I think that he, too, is prejudiced by my putting the bill over until today, in effect, although I called it up yesterday afternoon. I did that at the request of a Senator and in doing so, I may have inadvertently disadvantaged the distinguished Senator from Indiana. He accepted it in the finest spirit and he recognizes that the Senator from Louisiana has some problems with this bill now and, as is characteristic of the Senator from Indiana, he is willing to try to work out these concerns with the Senator from Louisiana.

It will take some time. In the meantime, we shall proceed with the FTC bill and dispose of it on Friday or before Friday noon, at which time, the patent bill automatically will come back before the Senate. If the two Senators are still working on this matter, I shall do everything I can temporarily to lay this patent bill aside further so that they will have more time. But eventually, the Senate ought to dispose of the bill.

It was called up in good faith. The agreement was gotten in good faith; nobody charges anything to the contrary. But I feel obligated to try to dispose of the bill at some point. I think both sides ought to have a reasonable opportunity, however, to work out their concerns. I am prepared to move to the other bill as soon as the distinguished Senator from Indiana speaks to the matter.

Mr. BAYH. Mr. President, I appreciate the almost impossible task that our distinguished majority leader, the Senator from West Virginia has, in trying to reconcile the different interests, different positions, different schedules, different workloads of all of us who are trying our best to fulfill our responsibility. I think it would not be wise to insist on getting a vote, a passage vote, on this measure at this time because of the concerns of the Senator from Louisiana.

I think the matter before us is important, certainly the FTC measure is important: the windfall profit tax being worked on by the Senator from Louisiana is important. Certainly, there is no other than the Senator from Louisiana, so I am sympathetic to him. I hope in the interim, we can do our best—I know the Senator from Louisiana will, but I hope other Senators will, also to work out an agreement for speedy consideration of S. 414.

I say to the Senator from Louisiana and the majority leader that I have a little obligation to those people who have been counting on me to be the chief spear carrier on this measure. We have had hearings in the Committee on the Judiciary, we reported it out without any dissenting votes. It has been out here for 3 months. I should not want anyone to interpret my willingness now to accommodate the Senator from Louisiana as being a retreat from the bill, because I think S. 414 is important.

In the debate that transpired on the Stevenson-Schmitt amendment, there were several questions—I thought good questions—raised by the Senator from Louisiana about the inability to get patent rights under the present system. Although I know of no examples of frustrated inventions from the large companies covered by the Stevenson-Schmitt amendment, I do have a list about half as long as my arm of specific patents that did have difficulty getting developed from universities and small business. One of them involved a diagnosis for cancer that has not yet been marketed because of HEW patent policies. I think we can deal with this issue as far as small businesses and universities and nonprofit organizations are concerned to the satisfaction of the Senator from Louisiana.

I hope the payback provision in our bill, under which the Government will recover the money it invested in the initial research will satisfy him. If not, I hope we can at least agree to disagree and let the Senate work its will on this bill. In that spirit, I am more than happy to relinquish the floor at this time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. LONG. Yes.

Mr. ROBERT C. BYRD. I should like to acknowledge the interest the Senator from Kansas has had in this matter. He is also involved in the conference on the windfall profit tax. If I understood him correctly, I think possibly he appreciates the need at this point to move on with the other bill.

Mr. DOLE. Mr. President, I must say I am surprised I did not find the distinguished Senator from Louisiana as a cosponsor of this amendment. It is my hope that he will be leading the charge on the bill, because there are numerous protections of the Government interest, as the Senator from Louisiana may have already determined, in addition to march-in rights and the payback provision.

I certainly agree to that request as long as the bill is not brought up before the week of the 18th. Some of my colleagues who would not like it brought up, say, next Thursday or Friday when they will not be present. Senator THURMOND, for example, cannot be here next Thursday or Friday. This would come back, as I understand it, and be the pending business, unless it is further laid aside until the following Monday.

There is some hope that we may be finished with the windfall profit tax conference. Of course, maybe the Senator from Louisiana would be willing to lay that aside for a year or 2. That would be all right with some of us.

I am very pleased to accommodate the majority leader and the distinguished chairman of the Committee on Finance.

Mr. BAYH. Mr. President, if the Senator will permit me just one word, I want again to express my appreciation to my friend and colleague from Kansas for the role he has played in this. We have been a two-horse team and it has pulled pretty well until we got to this bend in the road. Now, I guess, we are going to have to let the horses rest temporarily and, hopefully, we shall be able to have the Senator from Louisiana driving the wagon when we get it started again.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader may be authorized, so as to protect Senators against the possibility that this bill might be before the Senate next week, that the bill in no event be called up next week, that, in no event, it be before the Senate, that it be temporarily laid aside beyond next week and that the majority leader be authorized, at any time, beginning with Monday, the 18th of this month, again to call up the patent bill and make it the pending business before the Senate. In this way, I shall protect all Senators against the likelihood of the bill's being up next week by virtue of its automatically coming back before the Senate upon the disposition of the FTC bill. But I would have the authority, then, to call the bill back up the week after next or at any time beginning with that Monday.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Reserving the right to object, the Senator is not setting the 18th, is he?

Mr. ROBERT C. BYRD. No, I am just giving the majority leader, authorizing him, after consultation with the distinguished acting Republican leader—and of course, I shall consult with the Senators involved here—to call the bill back up before the Senate at any time beginning with the 18th of February.

Mr. LONG. Yes. Of course, I do not have my schedule with me. That is why I hope I shall be able to consult with the Senator before it comes back up.

Mr. ROBERT C. BYRD. Yes, I shall consult with the Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, with apologies to the Senator from Indiana, the Senator from Louisiana, and the Senator from Kansas and other Senators, and also with expressions of appreciation to them for their understanding and cooperation, I am authorized after consultation with the distinguished acting Republican leader, to call up the FTC bill. In the meantime, I suggest the absence of a quorum and ask that I may be recognized following the quorum call.

The PRESIDING OFFICER. Does the Senator make that a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL TRADE COMMISSION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, under the agreement of yesterday, I now ask the clerk to lay before the Senate S. 1991.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1991) to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Federal Trade Commission Act of 1979".

RECONSIDERATION OF ORDERS

SEC. 2. Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended by inserting immediately before the period at the end thereof the following: ": And provided further, That the Commission shall reopen any order issued by it under this section, to consider whether such order, including but not limited to affirmative relief provisions, should be altered, modified, or set aside, in whole or in part, if the said person, partnership, or corporation files a request with the Commission stating with particularity the changed conditions of law or fact that require such order to be altered, modified, or set aside. Such request shall be considered by the Commission within 120 days from the date of the filing of such request.".

DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION

SEC. 3. Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended to read as follows:

"(f) To make public from time to time such portions of the information obtained by it hereunder as is in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted to public information and use: Provided, however, That the Commission shall not make public trade secrets, or confidential commercial or financial information, except that the Commission may disclose such information to the Department of Justice or a State law enforcement agency upon such agency's prior certification that such information will be maintained in confidence and will only be used for official law enforcement purposes.".

CONFIDENTIALITY OF LINE-OF-BUSINESS REPORTS

SEC. 4. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by adding at the end of subsection (f), as amended by section 3 of this Act, thereof the following new subsection:

"No employee of the Commission or any Commissioner may publish or disclose information to the public, or any Government agency, whereby the line-of-business data furnished by a particular establishment or individual can be identified. No one other than designated sworn officers and employees of the Commission may examine the line-of-business reports from individual firms, and information provided in the line-of-business program shall be used only for statistical purposes. Information for carrying out specific law enforcement responsibilities of the Commission shall be obtained under existing practices and procedures or as changed by law.".

INVESTIGATIONS OF INSURANCE

SEC. 5. (a) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by adding at the end thereof the following new subsection:

"(i) Except as provided in subsections (c) and (d) of this section, nothing in this section shall apply to the business of insurance.".

ENFORCEMENT AUTHORITY

SEC. 6. The first paragraph of Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended to read as follows:

"Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce any documentary evidence, if in his power to do so, in obedience to an order of a United States district court directing compliance with the subpena or lawful requirement of the Commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.".

ADVERTISING RULEMAKING

SEC. 7. (a) Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) is amended to read as follows:

"(B) rules which define with specificity—

"(i) false or deceptive commercial advertising in or affecting commerce within the meaning of section 5(a)(1) of this Act, or

"(ii) other unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1) of this Act).

Rules under this subparagraph may include requirements prescribed for the purpose of preventing such acts or practices. The Commission's rulemaking authority under this section with respect to commercial advertising shall include authority to proscribe a product claim for which the advertiser did not possess adequate substantiating information relied upon as a reasonable basis for the claim, at the time the claim was made.".

(b) Section 18(b)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(b)(1)) is amended by inserting immediately after "particularity" the following: "the text of the rule including alternatives, which the Commission proposes to prescribe, and".

"(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of enactment of this Act, except that any rulemaking currently in progress (1) which is not in compliance with subsection (b) of this section and (2) in which all hearings have not been completed shall be discontinued. Any rulemaking initiated under section 18 of the Federal Trade Commission Act after the date of enactment of this Act shall be conducted in accordance with the provisions of this section."

(d) Section 19 of the Federal Trade Commission Act (15 U.S.C. 57b) is amended to read as follows:

"SEC. 19. (a)(1) If any person, partnership, or corporation violates any rule under this Act respecting unfair or deceptive acts or practices under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising under section 18 of this Act (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 5(a)), then the Commission may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in a United States district court or in any court of competent jurisdiction of a State.

"(2) If any person, partnership, or corporation engages in any unfair or deceptive act or practice under sections 5 and 18 of this Act (within the meaning of section 5(a)(1)) or false or deceptive act or practice with respect to commercial advertising under section 18 of this Act with respect to which the Commission has issued a final cease and desist order which is applicable to such person, partnership, or corporation, then the Commission may commence a civil action against such person, partnership, or corporation in a United States district court or in any court of competent jurisdiction of a State. If the Commission satisfies the court that the act or practice to which the cease and desist order relates is one which a reasonable man would have known under the circumstances was dishonest or fraudulent, the court may grant relief under subsection (b).

"(b) The court in an action under subsection (a) shall have jurisdiction to grant such relief as the court finds necessary to redress injury to consumers or other persons, partnerships, and corporations resulting from the rule violation, the unfair or deceptive act or practice, or false or deceptive act or practice, as the case may be. Such relief may include, but shall not be limited to, rescission or reformation of contracts, the refund of money or return of property, the payment of damages, and public notification respecting the rule violation, the unfair or deceptive act or practice, or false or deceptive act or practice, as the case may be; except that nothing in this subsection is intended to authorize the imposition of any exemplary or punitive damages.

"(c)(1)(A) If a cease and desist order issued under section 5(b) has become final under section 5(g) with respect to any person's, partnership's or corporation's rule violation, unfair or deceptive act or practice, or false or deceptive act or practice, and (B) an action under this section is brought with respect to such person's, partnership's, or corporation's rule violation or act or practice, then the findings of the Commission as to the material facts in the proceeding under section 5(b) with respect to such person's, partnership's, or corporation's rule violation or act or practice, shall be conclusive unless (i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive, or (ii) the order became final by reason of section 5(g)(1), in which case such finding shall be conclusive if supported by evidence.

"(2) The court shall cause notice of an action under this section to be given in a manner which is reasonably calculated, under all of the circumstances, to apprise the persons, partnerships, and corporations allegedly injured by the defendant's rule violation or actor practice of the pendency of such action. Such notice may, in the discretion of the court, be given by publication.

"(d) No action may be brought by the Commission under this section more than 3 years after the rule violation to which an action under subsection (a)(1) relates, or the unfair or deceptive act or practice or false or deceptive act or practice to which an action under subsection (a)(2) relates; except that if a cease and desist order with respect to any person's, partnership's, or corporation's rule violation or unfair or deceptive act or practice for false or deceptive or practice has become final and such order was issued in a proceeding under section 5(b) which was commenced not later than 3 years after the rule violation or act or practice occurred, a civil action may be commenced under this section against such person, partnership, or corporation at any time before the expiration of 1 year after such order becomes final.

"(e) Remedies provided in this section are in addition to, and not in lieu of, any other remedy or right of action provided by State or Federal law. Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.".

STANDARDS AND CERTIFICATION RULEMAKING

SEC. 8. Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) is amended by inserting immediately before the period at the end thereof the following: ": *Provided*, That the Commission shall not develop or promulgate any trade rule or regulation with regard to the regulation of the development and utilization of the standards and certification activities under this section or any other law".

PREVALENCE OF UNLAWFUL ACTS AND PRACTICES

SEC. 9. Section 18(a) of the Federal Trade Commission Act (15 U.S.C. 57a(a)) is amended by inserting at the end thereof the following new paragraph:

"(3)(A) The Commission shall issue a notice of proposed rulemaking only where it has reason to believe that the unfair or deceptive acts or practices or false or deceptive commercial advertising acts or practices which are the subject of the proposed rulemaking are prevalent.

"(B) A determination of prevalence shall be made by the Commission only if:

"(i) it has issued cease and desist orders regarding such unfair or deceptive acts or practices or false or deceptive commercial advertising acts or practices, or

"(ii) any other information available to the Commission indicates a pattern of unfair or deceptive acts or practices or false or deceptive commercial advertising acts or practices.

"(C) This paragraph applies only to rules for which initial notices are published after the date of enactment of this paragraph.".

ADVANCED NOTICE OF PROPOSED FEDERAL TRADE COMMISSION RULES

SEC. 10. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by adding at the end thereof the following: "Prior to the publication of notice of proposed rulemaking pursuant to paragraph (1) of this subsection, the Commission shall publish an advance notice of proposed rulemaking in the Federal Register. The notice shall contain a brief description of the area of inquiry under consideration, the objectives which the Commission is interested in achieving and possible regulatory approaches under consideration, and shall invite the response of interested parties with respect thereto, including any suggestions or alternative methods for achieving the stated objectives. The Commission shall submit such advance notice of proposed rulemaking to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. In addition, the Commission may use such mechanisms as it finds useful to obtain suggestions regarding the content of the area of inquiry prior to the publication of general notice of proposed rulemaking under such paragraph. The Commission shall, 30 days prior to the publication of a notice of proposed rulemaking pursuant to paragraph (1) of this subsection, submit such notice to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives.".

PRESIDING OFFICER

SEC. 11. Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended by adding at the end thereof the following:

"(5) The officer who presides over the rulemaking proceedings shall be responsible to a chief presiding officer who shall not be responsible to any other staff member. The same officer who presides over the rulemaking proceeding shall make a recommended decision based upon findings and conclusions as to all relevant and material evidence except where such officer becomes unavailable to the Commission. Except as required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.".

PUBLIC PARTICIPATION

SEC. 12. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is amended by redesignating paragraph (3) as paragraph (4), and by inserting immediately after paragraph (2) the following new paragraph:

"(3) The amount of compensation which may be paid to any person under this subsection in connection with the participation by such person in any particular rulemaking proceeding under this section may not exceed $50,000. The aggregate amount of compensation paid under this subsection in any fiscal year to any person for all rulemaking proceedings in which such person participates during such fiscal year may not exceed $50,000.".

(b) Section 18(h)(4), as redesignated in subsection (a) of this section, is amended by striking "$1,000,000" and inserting in lieu thereof "$750,000".

(c) Section 18(h)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended by striking "25" and inserting in lieu thereof "50".

EX PARTE MEETINGS

SEC. 13. Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is further amended by adding at the end thereof the following:

"(i)(1) Within 60 days after the date of enactment of this subsection, the Commission shall promulgate a proposed rule, and within 180 days after the date of enactment of this subsection shall promulgate a final rule, which shall authorize the Commission or any Commissioner to meet with any outside party concerning any rulemaking proceeding. This regulation shall provide that notice of any such meeting be included in the weekly calendar of the Commission and that a verbatim record or summary of a communication or any such meeting be kept, made available to the public, and included in the rulemaking record.

"(2) As used in the subsection, the term 'outside party' means any person who is not a Commissioner, not an employee, not under contract to do work for the Commission, or not a consultant to the Commission.

"(j) Within 60 days after the date of enactment of this subsection, the Commission shall promulgate a proposed rule, and within 180 days after the date of enactment of this subsection shall promulgate a final rule, which, except to the extent required for the disposition of ex parte matters as authorized by law, shall prohibit any employee or agent of the Commission who performs investigative or program functions in a rulemaking proceeding from making or knowingly causing to be made to any member of the Commission, or to the presiding officer of such rulemaking proceeding, or to the personal staff of any Commissioner, any communication relevant to the merits of that or any factually related rulemaking proceeding, and requiring that a verbatim record or summary of any such communication or meeting be kept, made available to the public, and included in the rulemaking record.".

CIVIL INVESTIGATIVE DEMAND

SEC. 14. The Federal Trade Commission Act, as amended, is further amended by redesigating sections 20 and 21 as sections 27 and 28, respectively, and by adding immediately after section 19 thereof the following new section:

"SEC. 20. (a) For the purposes of this section—

"(1) The term 'Commission investigation' means any inquiry conducted by a Commission investigator for the purpose of ascertaining whether any person is or has been engaged in any unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act.

"(2) The term 'violation' means any act or omission constituting an unfair or deceptive act or practice in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act.

"(3) The term 'Commission investigator' means any attorney or investigator employed by the Commission who is charged with the duty of enforcing or carrying into effect any provisions relating to unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act.

"(4) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law.

"(5) The term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

"(6) The term 'custodian' means the custodian or any deputy custodian designated under section 21(a)(1) of this Act.

"(b) For the purpose of investigations performed pursuant to this section with respect to unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act, all actions of the Commission taken under sections 6 and 9 of this Act shall be conducted pursuant to subsection (c) of this section.

"(c)(1) Whenever the Commission has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act, the Commission, may prior to the institution of any proceedings under this Act, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to file written reports or answers to questions, to give oral testimony concerning documentary material or other information, or to furnish any combination of such material, answers, or testimony.

"(2) Each such demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable thereto.

"(3) Each such demand for production of documentary material shall—

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available.

"(4) Each such demand for written reports or answers to questions shall—

"(A) propound with definiteness and certainty the reports or questions to be answered;

"(B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and

"(C) identify the custodian to whom such answers shall be submitted.

"(5) Each such demand for the giving of oral testimony shall—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify a Commission investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

"(6) Any such demand may be served by any Commission investigator at any place within the territorial jurisdiction of any court of the United States. Any such demand or any enforcement petition filed under this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that such court would have if such person were personally within the jurisdiction of such court.

"(7) Service of any such demand or any petition filed under this section may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(8) Service of any such demand or of any petition filed under this section may be made upon any natural person by—

"(A) delivering a duly executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(9) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(10) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(11) Each reporting requirement or question in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed, or, if not a natural person, by a person or persons responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(12)(A) The Commission investigator before whom oral testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(B) The Commission investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

"(C) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the investigator conducting the examination and such person.

"(D)(i) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the Commission may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question.

"(ii) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

'(E) When the testimony is fully transcribed, the investigator shall afford the witness (who may be accompanied by counsel) a reasonable opportunity to examine the transcript; and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transpcript by the investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found or refuses to sign. If the transcript is not signed by the witness within 30 days of his being afforded a reasonable opportunity to examine it, the Commission investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

"(F) The Commission investigator shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the Commission investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

"(G) Upon payment of reasonable charges therefor, the Commission investigator shall furnish a copy of the transcript to the witness only, except that the Commission may for good cause limit such witness to inspection of the official transcript of his testimony.

"(H) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

"(d) Materials received as a result of a civil investigative demand made pursuant to this section shall be subject to the procedures of section 21 of this Act.

"(e) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to such demand cannot be accomplished and such person refuses to surrender such material, the Commission, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section. All process of any court to which application may be made as provided herein may be served in any judicial district.

"(f) Within 20 days after the service of any civil investigative demand upon any person under subsection (c) of this section, or at any time before the return date specified in such demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Commission investigator named in the demand, such person may file with the Commission a petition for an order by the Commission modifying or setting aside such demand. The time permitted for compliance with such demand in whole or in part as deemed proper and ordered by the Commission shall not run during the pendency of such petition in the Commission, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

"(g) At any time during which any custodian is in custody or control of any documentary material or reports or answers to questions or transcripts of oral testimony given by any person in compliance with any civil investigative demand made under the provisions of this section, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section or section 21 of this Act.

"(h) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this Act. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

"(i) Notwithstanding any other provision of the law, the Commission shall have no authority to issue a subpena or make a demand for information, under authority of this Act or any other Act, unless such subpena or demand for information is signed by a Commissioner acting pursuant to a Commission's resolution. The Commission shall not delegate the power conferred by this section to sign subpenas or demands for information to any other person or persons.

"(j) This section shall not apply to any proceeding under section 5(b) of this Act.

"(k) This section shall not apply to or affect the jurisdiction, duties, or powers of any agency of the Federal Government, other than the Federal Trade Commission, notwithstanding that such jurisdiction, duties, or powers are derived in whole or in part, by reference to this Act.".

CONFIDENTIALITY

SEC. 15. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by adding immediately after section 20, as added by section 14 of this Act, the following new section:

"SEC. 21. (a) With respect to any document or transcript of oral testimony received by the Commission pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, the following procedures shall apply:

"(1) The Commission shall designate a duly authorized agent to serve as custodian of documentary material, or written reports or answers to questions, and transcripts of oral testimony, and such additional duly authorized agents as the Commission shall determine from time to time to be necessary to serve as deputies to the custodian. Any person, upon whom any demand for the production of documentary material has been duly served, shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct pursuant to section 20(h) of this Act) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

"(2) (A) The custodian to whom any documentary material, written reports or answers to questions, and transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of material, pursuant to the requirements of this section.

"(B) The custodian may prepare copies of the documentary material, or written reports or answers to questions, and transcripts of oral testimony as may be required for official use by any duly authorized official or employee of the Commission under regulations which shall be promulgated by the Commission. Notwithstanding subparagraph (C) of this paragraph, this material and transcripts may be used by any such official or employee in connection with the taking of oral testimony under this section.

"(C) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material or reports or answers to questions and transcripts of oral testimony shall be available for examination by an individual other than a duly authorized official or employee of the Commission without the consent of the person who produced the material or transcripts. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee of Congress, except that the Commission shall immediately notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider.

"(D) While in the possession of the custodian and under such reasonable terms and conditions as the Commission shall prescribe, (i) documentary material or written reports shall be available for examination by the person who produced the material, or by any duly authorized representative of that person, and (ii) answers to questions in writing and transcripts of oral testimony shall be available for examination by the person who produced the testimony, or his counsel.

"(3) Whenever the Commission has instituted a proceeding against a corporation or other person, the custodian may deliver to any official or employee of the Commission documentary material, written reports or answers to questions, and transcripts of oral testimony for official use in connection with that proceeding. Upon the completion of the proceeding, the official or employee shall return to the custodian any such material so delivered which has not been received into the record of the proceeding.

"(4) If any documentary material, or written reports or answers to questions, and transcripts of oral testimony has been produced in the course of any investigation by any person pursuant to compulsory process and—

"(A) any proceeding arising out of the investigation has been completed; or

"(B) no proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all such material and other information assembled in the course of the investigation;

the custodian shall, upon written request of the person who produced the material, return to the person any such material which has not been received into the record of any such proceeding (other than copies thereof, made by the Commission pursuant to paragraph (2) (B) of this subsection).

"(5) The custodian of any documentary material, written reports or answers to questions, and transcripts of oral testimony may deliver to the Department of Justice, in response to a written request, copies of such material for use in connection with an investigation or proceeding under the Department's jurisdiction. Such documentary material, written reports or answers to questions, and transcripts of oral testimony may only be used by the Department in such manner and subject to such conditions as apply to the Commission under this Act. In addition, the custodian may make such materials available to any State law enforcement agency upon such agency's prior certification that such information will be maintained in confidence and will only be used for official law enforcement purposes.

"(6) In the event of the death, disability, or separation from service in the Commission of the custodian of any documentary material, written reports or answers to questions, and transcripts or oral testimony produced under any demand issued under this section, or the official relief of the custodian from responsibility for the custody and control of such material, the Commission shall promptly (A) designate another duly authorized agent to serve as custodian of such material, and (B) transmit in writing to the person who produced the material or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material all duties and responsibilities imposed by this section upon his predecessor in office with regard to that material, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.

"(b) All information reported to or otherwise obtained by the Commission which is not subject to the requirements of subsection (a) of this section shall be considered confidential when so marked by the person supplying the information and shall not be disclosed except in accordance with the following procedures:

"(1) If the Commission determines that a document marked confidential by the person supplying it may be disclosed because it is not a trade secret or confidential commercial or financial information within the meaning of section 6(f) of this Act, it shall notify in writing that person that it intends to disclose the document at a date not less than 10 days from the date of receipt of notification.

"(2) Any person receiving such notification may, if he believes disclosure of the document would cause disclosure of a trade secret or confidential commercial or financial information, before the date set for release of the document, bring an action in the district court for the district within which the documents are located or in the United States District Court for the District of Columbia to restrain disclosure of the document. Any person receiving such notification may file with the appropriate district court or court of appeals, as appropriate, an application for a stay of disclosure. The documents shall not be disclosed until the court has ruled on the application for a stay.

"(c) Nothing in subsection (b) of this section shall prohibit—

"(1) the disclosure of information to either body of Congress or to any authorized committee or subcommittee of Congress, except that the Commission shall immediately notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider;

"(2) the disclosure of the results of investigations or studies prepared by the Commission, except that no information shall be identified nor shall information be disclosed in such a manner as to disclose a trade secret or confidential commercial or financial information of any person supplying the confidential information; or

"(3) the disclosure of relevant and material information in Commission adjudicative proceedings or in judicial proceedings to which the Commission is a party. Such disclosures shall be governed by the Commission's rules for adjudicative proceedings or by court rules or orders, respectively: *Provided, however*, That the Commission's rules shall not be amended in a manner inconsistent with the purposes of this section.

"(d) Any documentary material, written reports or answers to questions, and transcripts of oral testimony provided pursuant to any demand issued under this Act, or otherwise provided, by any person, partnership, or corporation, shall be exempt from disclosure under section 552 of title 5, United States Code.

"(e) For purposes of this section, the term 'material' means documentary material, written reports or answers to questions, and transcripts of oral testimony.".

DEFINITIONS

SEC. 16. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 21 as added by section 15 of this Act, the following new section:

"SEC. 22. For purposes of sections 23, 24, and 25 of this Act:

"(1) The term 'rule' means any rule prescribed by the Commission under section 6 or section 18 of this Act (15 U.S.C. 46, 57a), except that such term does not include interpretive rules, rules involving Commission management or personnel, general statements of policy, or rules relating to Commission organization, procedure, or practice. Such term does not include any amendment to a rule unless the Commission—

"(A) estimates that such amendment will

have an annual effect on the economy of $100,000,000 or more;

"(B) estimates that such amendments will cause a substantial change in the cost or price of goods or services which are used extensively by particular industries, which are supplied extensively in particular geographic regions, or which are acquired in significant quantities by the Federal Government, or by State or local governments; or

"(C) otherwise determines that such amendment will have a significant impact upon persons subject to regulations under such amendment and upon consumers.

"(2) The term 'rulemaking' means any Commission process for formulating or amending a rule.".

REGULATORY AGENDA

SEC. 17. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 22, as added by section 16 of this Act, the following new section:

"SEC. 23. (a)(1) The Commission shall publish at least semiannually a regulatory agenda. Each regulatory agenda shall contain a list of rules which the Commission intends to propose or promulgate during the 12-month period following the publication of the agenda. On the first Monday in October of each year, the Commission shall publish in the Federal Register a schedule showing the dates during the current fiscal year on which the semiannual regulatory agenda of the Commission will be published.

"(2) For each rule listed in a regulatory agenda, the Commission shall—

"(A) describe the rule;

"(B) state the objectives of and the legal basis for the rule; and

"(C) specify any dates established or anticipated by the Commission for taking action, including dates for advance notice of proposed rulemaking, notices of proposed rulemaking, and final action by the Commission.

"(3) Each regulatory agenda shall state the name, address, and telephone number of the Commission official responsible for responding to any inquiry relating to each rule listed.

"(4) The Commission is authorized to propose or promulgate a rule which was not listed on a regulatory agenda only if the Commission publishes with the rule an explanation of the reasons the rule was omitted from an agenda.".

REGULATORY ANALYSIS

SEC. 18. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 23, as added by section 17 of this Act, the following new section:

"SEC. 24. (a) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

"(1) a concise statement of the need for, and the objectives of, the proposed rule;

"(2) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law; and

"(3) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and adverse economic and other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.

"(b) In any case in which the Commission promulgates a final rule, the Commission shall issue a final regulatory analysis relating to the rule. Each final regulatory analysis shall contain—

"(1) a concise statement of the need for, and the objectives of, the rule;

"(2) a description of any alternatives to the rule which were considered by the Commission;

"(3) an analysis of the projected benefits and the adverse economic and other effects of the rule;

"(4) an explanation of the reasons for the determination of the Commission that the rule will attain its objectives in a manner consistent with applicable law and the reason the particular alternative was chosen, if other alternatives to the rule would attain these objectives in a manner consistent with applicable law and had significantly less economic and other adverse effects; and

"(5) a summary of any significant issues raised by the comments submitted during the public comment period in the response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

"(c)(1) In order to avoid duplication or waste, the Commission is authorized to—

"(A) consider a series of closely related rules as one rule for the purposes of this section; and

"(B) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis issued under this section in the statement of basis and purpose to accompany any rule promulgated under section 18(a)(1)(B) of this Act (15 U.S.C. 57a(a)(1)(B)), and incorporate by reference in any preliminary or final regulatory analysis information contained in a notice of proposed rulemaking or a statement of basis and purpose.

"(2) The Commission shall include, in each notice of proposed rulemaking and in each publication of a final rule, a statement of the manner in which the public may obtain copies of the preliminary and final regulatory analyses. The Commission may charge a reasonable fee for the copying and mailing of regulatory analyses. The regulatory analyses shall be furnished without charge or at a reduced charge if the Commission determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

"(d) The Commission is authorized to delay the completion of any of the requirements established in this section by publishing in the Federal Register, not later than the date of publication of the final rule involved, a finding that the rule is being promulgated in response to an emergency which makes timely compliance with the provisions of this section impracticable. Such publications shall include a statement of the reasons for such findings.

"(e) The requirements of this section shall not be construed to alter the substantive or procedural standards otherwise applicable to any action by the Commission.".

JUDICIAL REVIEW

SEC. 19. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 24, as added by section 18 of this Act, the following new section:

"SEC. 25. Any regulatory analysis by the Commission under this Act shall not be subject to separate judicial review in an independent action or in a proceeding to review the rule. Such regulatory analysis shall be available to the reviewing court as a part of the whole record in connection with the court's review of the rule to determine whether the rule shall be set aside on any ground specified in subparagraph (A), (B), (C), or (D) of section 706(2) of title 5, United States Code (taking due account of the rule of prejudicial error).".

AWARD OF ATTORNEY FEES AND OTHER EXPENSES

SEC. 20. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 25, as added by section 19 of this Act, the following new section:

"SEC. 26. (a) Whenever the Commission conducts an adjudication, fees and other expenses incurred in connection with the proceeding by a prevailing party other than the Commission shall be awarded to such party unless the Commission finds that the position of the Commission as a party to the proceedings was substantially justified or that special circumstances would make an award unjust. The Commission may reduce the amount to be awarded, or deny an award to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A decision of the Commission under this section shall be made a part of the record and shall include written findings and conclusions and the reasons or basis therefor.

"(b)(1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States, and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee; and

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the adjudication was initiated or at the time that the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the adjudication was initiated or at the time that the civil action was filed.

"(c)(1) The Commission shall by rule establish procedures for submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adjudication of the Commission, an award of fees and other expenses may only be made pursuant to subsection (f) of this section.

"(2) A party dissatisfied with a determination by the Commission with respect to the award of fees and other expenses may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the adjudication of the Commission. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants a petition, it may modify the determination of the Commission only if it finds that the failure to make an award, or a calculation of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the Commission from any sums appropriated to the Commission, except that no sums shall be appropriated to the Commission specifically for the purpose of paying fees or expenses awarded under this section.

"(e) The Commission shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.

"(f)(1) A court shall award fees and other expenses to any party other than the Commission which prevails in any civil action brought by or against the Commission in any court which has jurisdiction of that action, unless the court finds that the position of the Commission was substantially justified or that special circumstances may make an award unjust. The court, in its discretion, may reduce an amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within 30 days of final judgment in the action, submit to the court an application which provides evidence of such party's eligible for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

"(2) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication, the court shall include in such award the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the Commission was substantially justified, or that special circumstances make an award unjust.

"(g) For purposes of this section, fees and other expenses may be awarded against the Commission without regard to section 2412 of title 28, United States Code, or any other provision of law.

"(h) Nothing in this section modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the Commission, who prevails in any civil action brought by or against the Commission.

"(i) The provisions of this section shall apply to any adjudication or civil action which is pending on the date of enactment of this section, or which is commenced on or after the date of enactment of this section.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 21. Section 27 of the Federal Trade Commission Act, as redesignated by section 14 of this Act, is amended—

(1) by striking "and" after "1976;"; and

(2) by striking "1977. For fiscal years ending after 1977, there may be appropriated to carry out such functions, powers, and duties, only such sums as the Congress may hereafter authorize by law.", and inserting in lieu thereof "1977; not to exceed $70,000,000 for the fiscal year ending September 30, 1980; and not to exceed $75,000,000 for the fiscal year ending September 30, 1981.".

OVERSIGHT

Sec. 22. The Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation shall hold an oversight hearing of the Federal Trade Commission at least once during the first 6 calendar months, and at least once during the last 6 calendar months, of each year for the period of the authorization provided in section 21 of this Act.

USED CAR WARRANTY AUTHORITY

Sec. 23. Section 109(b) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2309(b)) is amended by inserting immediately before the period at the end thereof the following: ", but any such rule may not require a mandatory warranty or inspection in connection with the sale of a used motor vehicle".

EFFECTIVE DATE

Sec. 24. Except as may otherwise be provided in this Act, the provisions of this Act shall take effect on the date of enactment of this Act.

Mr. FORD. Mr. President, before I make my opening statement, I ask unanimous consent that the amendment in the nature of a substitute, offered by the Committee on Commerce, Science, and Transportation, be agreed to, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, last May, I announced my intention for the Senate's Consumer Subcommittee to hold extensive oversight hearings on the Federal Trade Commission before the year was over. Those hearings, which involved more than 9 days of testimony, are now history and S. 1991 is before us today.

As those who attended these hearings know, there was no shortage of ideas, recommendations and suggestions from the various witnesses concerning the FTC. It was crystal clear from the hearings that the FTC certainly is one agency which is suffering from no identity crisis as far as the general public is concerned.

Let me make it clear at the start that it is not the intent of the Commerce Committee to go as far with this legislation as to take the proverbial "teeth out of the tiger." The basic mission of the FTC is an important one, aimed at protecting both consumers and industry against unfair methods of competition and unfair or deceptive acts or practices.

However, recently we have seen the Commission take its broad statutory mandate—enforcement and administrative authority under 27 separate acts since 1914—and push it above and beyond the limit. Congress created the Commission, but in recent years the Commission has acted as though it is the lone public policymaker—a development which I believe to be contrary to congressional intent. From my perspective, the proper role for the FTC is, as an arm of Congress, to carry out the public policy objectives of that body and be a strong law enforcement agency over business.

The only way Congress can be assured that this agency—or, for that matter, any agency—is following through on its congressional mandate is through regular and vigorous oversight. If it is determined that congressional intent is not being met, then steps must be taken to put the agency back on the proper course.

The 9 days of oversight conducted in September and October revealed that the FTC indeed strayed in several areas from what the committee perceived to be the prescribed course. This legislation attempts to address various problem areas that we were able to identify. I might add that our oversight is not completed and will be continued by the subcommittee every 6 months under provisions of my legislation.

This legislation primarily addresses the actions taken by the committee under the Magnuson-Moss Act enacted in 1975. This act clarified the Commission's authority to issue industrywide trade regulation rules. S. 1991 changes the procedures under the act as well as clarifying and limiting the statutory authority under rulemaking provisions.

It is my hope that S. 1991 will result in an agency that acts in a responsible manner while being responsive to the concerns of Congress.

If there is one thing I have learned from the extensive hearings, it is that this Commission is in trouble. They are living under continuing resolutions, resolutions that say, "Don't go any further in rulemaking. Stop where you are." The present continuing resolution will end on March 15.

S. 1991, I believe, will begin to restore the FTC to a responsible and respected agency.

Mr. President, I will be willing to yield to other Members of the Senate for comment, any opening comment, but in each case I ask unanimous consent that I retain the floor. I will yield for statements only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that I may yield to the Senator from Missouri (Mr. DANFORTH), solely for the purpose of a statement, and that I regain the floor upon conclusion of his statement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DANFORTH. Mr. President, today's Washington Post contains an editorial under the heading "Don't Destroy the FTC." The first two paragraphs of that editorial state as follows:

> The line waiting outside the Senate for the debate on the Federal Trade Commission's routine authorization bill is awesome. It is not made up primarily of bureaucrats worried about their jobs, as such lines sometimes are. Or, even, of the commissioners of this embattled agency. Instead, it includes people from the insurance industry, used-car dealers, breakfast-cereal makers, growers of oranges, funeral directors, the manufacturer of Formica, builders of "mobile homes," professionals like doctors and lawyers, and the makers of antacids.
>
> They (and others) are lined up with one simple hope. They want the Senate to outlaw existing or proposed FTC actions that interfere with tidy (and highly profitable) business arrangements. You will note that the waiting line does not include average citizens. They are not there because nothing in this bill would help them, although many of its provisions would hurt them.

Mr. President, how did Congress get into this situation? How did the Congress of the United States, how did the U.S. Senate, get into the situation in which, when we pass an authorization bill, the Washington Post editorializes that all the special interests are lined up, that they all want us to stop the FTC from taking some specific move or entering into some specific rulemaking proceeding?

How can Congress place any meaningful checks on administrative agencies without putting ourselves in exactly the position in which we find ourselves now? I think that is the broadest question we have to face as we entertain the whole question of the Federal Trade Commission authorization bill.

I believe that the big question concerns the relationship between Congress and administrative agencies and concerns the method by which Congress can and should retain some sort of control on agencies of the Government.

Clearly, it seems to me that very few people would argue the proposition that administrative agencies should proceed without any kind of restraint at all, that they should do whatever they wish to do, without any kind of review possible. However, the situation we have gotten ourselves into with the Federal Trade Commission—and with other agencies as well, I fear—indicates to me that Congress did not do its job in the first place in setting up the the basic jurisdictional mandate of the Federal Trade Commission; and when it does not do its job in the first place, it gets in the position it is in now, of an after-the-fact, ad hoc review of agency determinations exercised under the broadest possible mandate in the first place.

The Federal Trade Commission Act gives the Commission jurisdiction to proscribe—and here are the words—"unfair or deceptive acts or practices." That is all it says.

Then we give to the Federal Trade Commission the power to make the determination of what is unfair or deceptive, and the word is disjunctive—"or."

So what has happened in recent years is that the Federal Trade Commission has seized upon the first word in that three-word set—"unfair." If there is an unfair trade practice, then the FTC, without any further guidance of Congress, has the jurisdiction, has the power, to proceed against those unfair practices.

What does "unfair" mean? President Carter once said life is unfair. Unfair is in the eye of the beholder.

So we have vested the Federal Trade Commission with sweeping responsibility to act against businesses which it perceives as being unfair.

We abdicated in Congress, in the first place, by this very broad definition of FTC jurisdiction our responsibility for determining before the FTC was ever created what it should be doing. So now we have an agency which has virtually absolute power. Why? Not because it usurped that power, not because it wrested it away from the legislative branch of Government, but because we gave it that absolute power.

If we try to get any kind of handle at all on it rather than to just allow it to run totally free, after the fact we are in position now of trying to review what the FTC has done, and to say to it, in effect, "We didn't tell you in the first place what you were to do, we didn't give you any idea in your basic charter in the statute of what you should be doing, but after the fact we are telling you that what you have done is wrong."

It is a totally untenable position for Congress to be in to say, "No, you are wrong." It is kind of like a couple of kids playing hot hot hot, cold cold cold. You do not tell the child where to go in the first place, but as the child get close you say, "Well, you are geting warmer," or "You are getting colder."

If you do that and if you do it after the fact, if Congress does it after the fact, after the FTC has operated, after it has gotten its work in process, then there is absolutely no way that we can have an authorization bill which tries after the fact to put some restraint on the FTC. There is no way we can do that without the Washington Post and others all over the country saying, "Well, all the lobbyists are lined up, the insurance industry, the used car dealers, breakfast cereal manufacturers, growers of oranges, funeral directors, so on, are all lined up." Of course they are.

So I think that one thing we should be considering as we proceed with this bill is what is Congress for? How does Congress operate? How does Congress maintain any kind of restraints on regulatory agencies?

Clearly we just do not say, "Well, go ahead and do just about absolutely anything and we will never take a second look at you." But what kind of restraints can we put on them? I think that is the issue that we face with this bill.

Given the posture we are in with this sweeping jurisdictional mandate we have given the Federal Trade Commission, what we can do right now with respect to each of these little subissues is to use our best judgment. It is an ex post facto decision, but that is all we can make.

The question for the future is does it always have to be this way? And I would contend and will contend as we proceed with this debate that the answer is no, that it does not always have to be this way, that we can review the basic legislative mandate of administrative agencies such as the Federal Trade Commission, and specifically what the Commerce Committee agreed to do with the FTC and is now in the process of doing is soliciting the opinions of law school professors, of people who are knowledgeable about regulatory matters, as to the meaning of unfair.

What does the doctrine of unfairness mean? What kinds of parameters can we place on the jurisdiction of the Federal Trade Commission before it acts, by defining what unfairness means rather than giving it sweeping authority to do absolutely anything and defining its own interpretation of unfairness and then second-guessing it after the fact?

I believe we are moving in the right direction, with this analysis of the doctrine of unfairness, of tightening up the jurisdictional mandate before the FTC acts. And I believe also we are going to have the opportunity in connection with this bill of moving in exactly the wrong direction. We are going to have the opportunity, if we agree to Senator SCHMITT's notion of a legislative veto, of ratifying the concept that you can provide very few directions initially for administrative agencies and then after the fact review that exercise of sweeping authority that they have made in their regulations and try to tinker with it in a kind of deviant form of the legislative process in the hopes that after the fact, after they have taken the lead, Congress can somehow tinker around and make things again.

I believe that the appropriate role for Congress in dealing with administrative agencies is to tell them in the first instance what they should do and what they should not do. I do believe it is the appropriate role for Congress after the fact to tell regulatory agencies that what they have done while properly lawful just happens to be the wrong guess on their part.

But I think that right now from the standpoint of this bill we are stuck with where we are and therefore we have to do our best on an ad hoc, after-the-fact basis, to second-guess the FTC and to use our best judgment on the basis of our experiences as people and Senators and people who have been out in the world to figure out on a one-on-one basis whether the specific rules, regulations, and initiatives of the FTC are in the best interests of the country or not.

Mr. CANNON. Mr. President, will the Senator yield to me?

Mr. FORD. Mr. President, I yield to the distinguished chairman of the Commerce Committee for the purpose of making a statement and I may resume the floor when he has concluded.

Mr. CANNON. Mr. President, first I commend the distinguished colleague from Missouri on the committee on the very fine contribution he has made to this debate and for the fine job he has done for us in the committee, in trying to analyze these issues and find some resolution to what has been a very difficult problem.

Mr. President, I shall briefly explain a little bit of the background of the current legislative proposal, known as S. 1991. The Consumer Subcommittee originally scheduled 4 days of oversight hearings on the FTC, but as more and more controversial issues were brought to the subcommittee's attention, the hearings were extended 9 days and included the testimony of over 50 witnesses. I think most members of the committee at the outset may have felt there were certain cases in which the FTC had acted unwisely or gone beyond its authority and that only minor legislative changes would be needed to remedy this situation. However, as the hearings began to unfold and the issues were developed, it became clear that only comprehensive legislation could set the FTC on a new course with clear limits on its authority. Indeed, one of the most troubling conclusions I drew from the oversight hearings was the fact that the FTC seems to relish stretching its authority to the very limits and beyond.

I shall explain some of the provisions of the bill which are especially important, though other provisions I will not mention are also significant.

First, the committee has presented a limitation on the FTC's rulemaking authority over advertising which would eliminate "unfairness" as a grounds to regulate through rulemaking. In the committee's view "unfairness" is too broad and vague a concept. In addition, the committee concluded that the Commission would have adequate authority if their power was limited to preventing advertising that is "false or deceptive."

Another section of the bill limits the authority of the FTC to issue subpenas.

In the course of the recent FTC oversight hearings, the committee received testimony on the issuance of overly broad industry-wide subpenas by the Commission for the purpose of investigating unfair or deceptive acts and practices. In many cases, these subpenas were issued without any basis to believe that any company was violating the law; the subpenas were issued simply to satisfy "official curiosity." Under S. 1991, the Commission would be required in connection with investigations of unfair or deceptive acts or practices to state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to that conduct. This provision is modeled after the Antitrust Civil Process Act, and I can see no reason why the FTC cannot carry out its duties under the same restrictions on subpenas that are applicable to the Department of Justice. In fact, one of the FTC's own members, Commissioner Robert Pitofsky, said in regard to this proposal:

> I see nothing wrong and indeed a net benefit in an amendment requiring the Commission to be more specific in its investigative demands in consumer protection enforcement.

In addition to limiting subpenas, S. 1991 also requires the Commission to respect the confidentiality of commercial and financial information supplied to the Commission in the course of its investigations. In contrast with the Department of Justice, the FTC has been very liberal in disclosing business information. In their defense, I should say that the FTC felt that the law compelled them to make such disclosure. While I think their view is disputable as a matter of law, that concern will be mooted by the committee's action which will prohibit the Commission from disclosing this type of confidential information. Not only do I feel confidential treatment of this information is justified on the merits, but in addition I think assuring confidential treatment of commercial or financial information will aid the Commission in obtaining compliance with its subpenas.

Finally, the committee has incorporated into S. 1991 several regulatory reform provisions which are similar to the recommendations of the Carter administration. The most important provision is a requirement for a regulatory analysis by the FTC for each proposed and final rule issued by it. This amendment would require the FTC to publish an analysis of rulemaking options, including an assessment of the benefits and adverse effect of any proposed rule and its alternatives. Over the long run, I believe that requiring regulatory agencies to systematically analyze rulemaking options and particularly the cost and benefits of these options will result in more sound, and less burdensome, regulations.

Now let me turn to the standards and certification rule. This rule is certainly one of the most controversial and far-reaching ever proposed by the FTC.

Because of allegations that standards groups had, on occasion, excluded goods from the market by imposing unreasonably high standards, or approved standards providing for insufficient levels of safety, the FTC proposed a far-reaching trade regulation rule intended to prevent these alleged abuses. I must say that this rule had the most drastic remedies of any proposed rule of the FTC. This rule did not simply attempt to prohibit alleged unfair conduct, it sought to entirely reform the voluntary standards system. The rule imposed extensive notice, intervention, and appeal requirements on standards groups and attempted to define substantive criteria for establishing standards.

Now I agree that the voluntary standards system has deficiencies and that unjustified decisions do occur from time to time. However, I strongly disagree with the idea that a trade regulation rule is the proper method for addressing these problems. The FTC staff report cited only 26 alleged cases of improper activity out of the more than 20,000 standards in existence.

I repeat that. The FTC staff report cited only 26 alleged cases of improper activity out of the more than 20,000 standards in existence. This does not indicate a "prevalence" of unlawful conduct sufficient to justify rulemaking. Moreover, there are adequate remedies available through the antitrust laws to remedy unjustified exclusion of products. In the recent Hydro-level case involving a water-level indicator, a trial court awarded $7.5 million as treble damages for an antitrust violation. For these reasons, the Commerce Committee unanimously adopted an amendment to the FTC Act that would terminate this standards proceeding. I strongly urge that this provision be adopted by the Senate.

I have summarized some of the key provisions of the FTC bill, S. 1991, which was reported out of the committee without dissent on December 14. The bill was strongly supported in committee and although I anticipate some weakening amendments will be offered, I am hopeful that it will receive strong backing and prompt approval by the full Senate.

I thank the distinguished Senator from Kentucky for yielding to me.

Mr. FORD. I thank the Senator from Nevada for his eloquent support of the bill.

Mr. President, I ask unanimous consent that I may yield to the Senator from Ohio (Mr. METZENBAUM) for the purpose of a statement, and that I may resume the floor upon the conclusion of the Senator's statement.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, let me preface my remarks by indicating my respect for the work done by the distinguished Senator from Kentucky and the distinguished Senator from Nevada, and the effort and work of the distinguished Senator from Missouri in connection with this legislation. I think they have examined into the problems concerning the FTC, and in their minds have arrived at conclusions that they consider to be eminently fair and reasonable.

I am not prepared to stand on the floor and indicate that on such issues as the breadth of subpenaes that there is not some basis for concern and some restrictions as pertain to the FTC. As a matter of fact, I appeared before the committee and indicated some ideas that I had along that line myself.

But taking the package in its entirety, taking the legislation as it is before us today, and taking into consideration the legislation the House passed on this subject, I rise to express in the strongest possible terms my opposition to both this bill and the House bill.

This legislation is blatantly anticonsumer. It would cripple the one Federal agency whose main job it is to protect the consumer interests in the marketplace. This legislation is cloaked in the rhetoric of free enterprise. But, in fact, the bill includes provisions that fly in the face of the basic principles of the free enterprise system.

We are told by the bill's proponents that its intent is to remove the heavy hand of Federal regulation from the Nation's businesses. How do these proponents propose to do this? By crippling an agency whose function it is to protect and restore competition, the essential mechanism that makes our system function for the good of all.

We are told that the bill is designed merely to bring under control a Federal agency whose zeal for enforcement has been excessive. How does the bill propose to do that? By prohibiting action by the FTC to curb deceptive, unfair, illegal, and anticompetitive business practices.

Mr. President, is it truly an abuse of power for the FTC to move against television advertising directed at the Nation's children? Is there something wholly improper for this Federal agency to concern itself about a problem that is concerning mothers and fathers of children throughout the Nation who are being bombarded with 20,000 television ads a year at a cost of $600 million?

Millions of parents in this country think that there is some reason for concern in this area. Yet the proponents of the legislation before us today maintain that the FTC is out of line in trying to check the manifestly unfair hard-sell bombardment to which small children are subjected for dozens of hours each week.

Is it an abuse of power for the FTC to investigate the insurance industry?

The bill's supporters say it is.

Yet, last year, in hearings that I chaired, the Subcommittee on Antitrust, Monopoly and Business Rights heard shocking testimony on the widespread use of unscrupulous tactics to sell inferior coverage at extraordinary rates to the poorest and most vulnerable members of our society.

This is not an attack upon the industry. This is a question of whether a Federal agency has the right to participate in this area to provide the American people with the information which it needs.

Is it an abuse of the FTC's mandate to

require private firms that set standards for various products—like the American National Standards Institute—to open the certification process to the various interested parties?

Small businessmen, for example, have complained time and time and time again of standards written by certifying agencies, certifying authorities controlled by the leaders in the industry. And those standards are written to favor the products of large companies and against the entry in the free competitive system of small business operators. We have heard time and again of standards that add cost without improving quality or product safety.

Mr. President, that is wrong. It is inflationary. It abuses the system.

Should small businessmen have the chance to make their case before the organizations whose certification can mean success or failure for the product line?

"No," say the sponsors of this bill, and "no," they say, "the FTC should not be allowed to establish minimum standards of access to enhance competition and to insure fair treatment for all."

Mr. President, the bill before us today is regressive. It is unfair. It turns the clock backward.

Its enactment would mean yet another special interest victory in this Congress and yet another setback for the overburdened people of this country.

The American people have already lost too much by congressional action and administration indifference.

A few years ago, Congress refused to spend a paltry $15 million to establish a consumer protection agency—an investment that would have saved hundreds of millions of dollars every year for the people of this country.

One year later, the same Members of Congress who described the consumer protection agency as too costly led the fight to abolish the Renegotiation Board—one of the few Federal agencies that more than paid for itself. Over its lifetime, the Renegotiation Board recovered for the taxpayers over half a billion dollars in excess defense industry profits. For its reward, it was wiped out by Congress.

Today, the FTC faces a somewhat similar dilemma. It too stands to lose out for its troubles. While no one is talking about actually abolishing the FTC, as was the case for the Renegotiation Board, there are those in this body who, through technical sounding amendments, are taking great pains to make sure the FTC is left without the power it needs to do the job with which it is entrusted.

Down this path, the FTC could soon become but a shadow of itself. And what has the FTC done to incur such terrible wrath from Congress and such terrible wrath from the business lobbyists who are found all over the Halls of this Congress these days? It has done something very terrible. It has done something for which it stands accused. What it has done is it has done its job.

Over the past few years, the FTC has changed from a moribund, do-little regulatory agency into a tough and diligent one. It has begun to actively pursue its congressional mandate to root out unfair methods of competition and unfair trade practices in areas where the American people are hardest hit by inflation—in vital consumer areas like health care, food, and energy. The FTC is fighting for the free enterprise system.

In the health care area, the FTC has begun to enforce a rule that removes restrictions on advertising of eyeglasses, contact lenses and eye exams. This action alone could save Americans as much as $5 million a year. And the FTC has launched major actions against the anticompetitive activities of medical associations. For what purpose? In order to help bring down skyrocketing health care costs.

Again, the FTC is fighting the battle for all of us for the preservation of the free enterprise system and to make it work.

In the area of food, the FTC has proposed rules aimed at eliminating false and deceptive claims about the actual attributes of food products. This action will not only help consumers pocketbooks, but will allow them to make more informed, better quality food purchases.

Again, the FTC stands on the side of a viable and strong free enterprise system.

And, in energy, the FTC has had the courage to take on Exxon, the world's largest oil company, and to challenge its unilateral control of the production, refining, distribution, and sale of oil. The FTC's antitrust activities in energy alone could save Americans millions of dollars in energy costs.

The FTC has been the one agency of the Government that has had the temerity to stand up to oil companies of this country. The Antitrust Division of the Justice Department has used great rhetoric, but has taken very little action. And the Department of Energy has been more in bed with the oil companies than it has been in policing them. That is the reason that you need an agency such as the FTC that is willing to stand up and be counted.

Again and again and again, the FTC has stood fast for an effective, viable, free enterprise system.

The list of FTC activities does not end here. Its efforts to help consumers reach all corners of the marketplace. And they have been singularly distinguishable in a Government too often these days indifferent to consumer concerns.

By ordering a major clothing manufacturer to end its policy discrimination against the discount retailers, the FTC will save consumers as much as $50 million.

By requiring that used car dealers inform prospective buyers of major mechanical defects in the vehicles for sale and of the approximate cost of repair, the FTC will help consumers save their hard-earned money and spare them untold hours of misery and frustration.

The FTC serves an invaluable function for Americans who do not have the time, the expertise, nor the resources to watchdog the marketplace. This is the FTC's responsibility. And that is why it is so dangerous and wrong for Congress to step in now and destroy the one Federal Agency which has the public's interest at heart.

There are those who would say this is not destructive, we are not disseminating, we are not devastating, we are not putting the FTC out of business. What we are doing is providing funding and we are providing some restrictions.

The fact is it is a major step in the direction of vitiating the effectiveness of the only consumer protection agency that exists in our Government at the moment.

The public needs the FTC. The FTC is on the side of the public. But too many Senators are not listening to the public on this issue—too many of them are listening to the voices of a few powerful special interests who want this annoying and troublesome agency squashed.

First, we will go after the FTC, say some in the business community. Then we will go after the SEC; then we will move in on some of the other agencies that are exercising power and strength in speaking up.

There is no better example of the congressional clout that special interests have achieved at the expense of consumers than the defeat of the FTC's funeral industry rule in the House of Representatives. That particular part of the bill is not in the Senate legislation at this point.

For most consumers, funerals are the third largest expenditure they will make in a lifetime. Only the purchasing of a home or car costs them more. About 2 million people arrange funerals each year, at an average cost of $2,400.

Six years ago, the FTC began an investigation into the complaints it received on abuses in this industry. Over the years, it has compiled quite a list of these abuses. And in order to help curb some of them, it promulgated rules for the industry.

"Those rules were terrible," they said on the floor of the House of Representatives. But we ought to take a look at those rules because those rules could hardly be claimed by anyone to be onerous.

They would require, for example, that funeral directors provide bereaved families with accurate price information. What is wrong about that?

They would prohibit the sale of unnecessary services like requiring the purchase of caskets and embalming prior to cremation.

Who can argue against that?

It is estimated that, if put into action, these rules could save consumers as much as $100 million a year. The FTC effort has widespread public support.

I have received many touching, supportive letters from people in my State of Ohio.

A woman from Worthington, Ohio, wrote that:

> It is in the area of funerals that the consumer is most vulnerable. Please vote against crippling amendments to negate the good efforts of the FTC in this area.

A couple in Harrison, Ohio, said that:

> The funeral industry in this country is abusing the grieving victims at their saddest moment.

And a Columbus man wrote:

> The elimination of the unfair and deceptive practices within the funeral industry will give consumers the information they need.

Yet in spite of this public support, the powerful funeral lobby worked its way in the House of Representatives, which voted to kill the funeral rule.

Although the Senate may not vote on the funeral rule, we face a similar challenge in other areas. The real issue in this Congress is: Do we give in to the other powerful lobbies that want the FTC off their backs?

Does the Senate of the United States truly want to stop the FTC from doing anything to stop abuses in the advertising to children?

Is it in our people's interest to keep the FTC from investigating ripoffs in the insurance industry?

Can we tell small businessmen and consumers that we oppose an open and honest method for establishing and testing product standards?

And are we going to institutionalize special interest pressure against the FTC by attaching a legislative veto provision to the reauthorization bill?

I believe that we have an obligation to reject these anticonsumer provisions. And I urge my colleagues to demonstrate to their constituents that they see a difference between excessive regulation and necessary, beneficial regulation. We must not accept the complaint that "all regulation is bad." That is an argument that has been used by powerful interests as a smokescreen behind which is the effort to destroy the one Federal Agency that has stood out as a friend of the American consumer.

Mr. President, I ask unanimous consent to have printed in the Record the entire editorial from the Washington Post of today, as well as approximately 60 other editorials that have addressed themselves to the issue of not destroying the FTC.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 6, 1980]

Don't Destroy the FTC

The line waiting outside the Senate for the debate on the Federal Trade Commission's routine authorization bill is awesome. It is not made up primarily of bureaucrats worried about their jobs, as such lines sometimes are. Or, even, of the commissioners of this embattled agency. Instead, it includes people from the insurance industry, used-car dealers, breakfast-cereal makers, growers of oranges, funeral directors, the manufacturer of Formica, builders of "mobile homes," professionals like doctors and lawyers, and the makers of antacids.

They (and others) are lined up with one simple hope. They want the Senate to outlaw existing or proposed FTC actions that interfere with tidy (and highly pofitable) business arrangements. You will note that the waiting line does not include average citizens. They are not there because nothing in this bill would help them, although many of its provisions would hurt them.

The insurance industry, for instance, wants Congress to tell the FTC never to investigate it. Why? The FTC, which can now investigate but not regulate that industry, reported not long ago that the buyers of life insurance paid $1.3 billion in excess premiums during one year. The industry didn't like that.

The growers of oranges, to take another group, want Congress to stop in its tracks an antitrust case aimed at Sunkist. The funeral directors want Congress to remove the threat that they may be required to give customers an itemized price list. The "mobile home" makers don't want the FTC to require them to live up to the warranties they give. The list goes on. And on.

In other words, what started life last year as a proposal to put in an authorization bill language to curb the worst abuses of the FTC has become a Christmas tree for a wealth of interest groups. Almost every industry that has run afoul of the FTC in recent years has taken its plea for relief to Capitol Hill and found a sympathetic ear. In the trading that has gone on, one after another of these pleas has made its way either into the bill reported by the Commerce Committee or into amendments to be offered on the Senate floor. The result is an assault on the knowledge available to consumers—not to mention the attack on their pocketbooks—that puts to shame even the water projects bill passed yesterday by the House.

The FTC is far from being perfect. It deserves some of the cuffing around it is getting on Capitol Hill this year, but it has done nothing to justify this kind of assault.

If the Senate has any sense of what government regulation should be and of what kind of protections the average citizen needs from predatory business practices, it will strip from this bill every single effort to roll back or cut off or bar FTC investigations and regulations. It is too late now to try to figure out which, if any, of these rollbacks, cutoffs and bars has any legitimate justification, and throwing them out would still leave the Senate with more than enough serious proposals aimed at changing the FTC's practices. It would also leave the average citizen with some of the protections he needs but is now, suddenly, in danger of losing.

[From Newsweek, Jan. 21, 1980]

Regulating the Regulators

(Jane Bryant Quinn)

If you believe in consumer choice and the social usefulness of competition, you have to believe in the right of every buyer to find out, easily, what things cost. That seems so obvious a principle of American capitalism that it's a little embarrassing to have to cite what's going on in Congress right now:

Lobbyists for the funeral business got a bill through the House of Representatives, killing a Federal Trade Commission rule that requires undertakers to itemize prices, quote prices over the telephone and let consumers pay for only those elements of a funeral package that they actually use.

A bill reported out of the Senate Commerce Committee, due for consideration next month, stops the FTC from studying the accuracy of price disclosure in the life-insurance industry.

Doctors, dentists and lawyers back an amendment to the same Senate bill preventing the FTC from taking action against them or any other state-regulated profession. Their immediate target: current attempts to loosen restrictions that professional associations put on advertising. Two medical associations appealed a rule striking down 30 state laws that kept optometrists and ophthalmologists from publicizing prices. (Studies showed that where ads are prohibited eyeglasses cost 25 to 40 per cent more than where they are not.)

The rubric under which these and other pro-consumer actions may be killed is "less government regulation," a phrase rapidly replacing motherhood in the dictionary of American virtues. One might think that any rule ending state bans on price advertising would qualify as "less government regulation," but doctors and undertakers like laws that see things their way.

The designated villain is the Federal Trade Commission, established in 1914 to police unfair, false or deceptive practices in the marketplace. For years, the FTC was so ineffective as to be itself a consumer fraud. But in 1975, Congress gave it new authority to write broad rules of fair business practice if evidence showed that consumers were getting the short end of the stick. Some twenty rule-making procedures begun in the mid-1970s are close to completion, affecting sales of such things as mobile homes, used cars, hearing aids, insulation, vocational-school courses and health-club memberships. As a result, all these businesses are out for blood.

Their principal complaints are that the born again FTC has proposed regulations that are so detailed as to be ridiculous, subpoenaed excessive amounts of information, carried on a "vendeita" (the funeral people are especially worked up about that one) and pursued questions that far exceed its mandate. In its mea culpas, the commission concedes that early versions of proposed rules have tended to overdo things and that certain requests for information have been costly and vague. Occasional inquiries open new philosophical territory, with broad implications for the conduct of business as a whole—for example, the kidvid hearing into whether TV advertising, especially that for sugared cereals, should be addressed to children. Pretty clearly, the commission has to narrow its focus. But what should be a fine tuning operation has turned into a lynch mob.

Protection: The House has passed, and the Senate will consider, a bill throttling the commission with a concept called legislative veto. Under it, either house of Congress could veto any rule the FTC proposed, unless the other House overrode the veto within 30 days. An industry with political clout might win protection, even in the face of FTC studies showing a pattern of consumer abuse. Besides the funeral rule. FTC actions already vetoed by the House would stop a lawsuit against Sunkist Growers, Inc., charged with unlawfully monopolizing the Western citrus crop, and prevent studies of marketing orders that fix prices for farm commodities. Even if legislative veto fails to pass, certain industries may get explicit Congressional protection from FTC rules.

Other actions pending at the FTC would force mobile-home manufacturers to pay more attention to whether warranty work was being performd as promised, let buyers return hearing aids within 30 days if they were sold devices that didn't work and make it harder for used-car salesmen to make claims and promises that aren't true. In the view of a spokesman for the National Association of Manufacturers, these and other FTC actions "don't represent the will of the people." A better judgment may be that consumers don't know enough about legislative veto to protest.

Research associate: Virginia Wilson

[From the New York Times, Jan. 16, 1980]

Don't Cripple The F.T.C.

To the Editor:

We urge Congress not to act on the proposals now before it that would strip important powers from the Federal Trade Commission until it has seriously considered the consequences of alternative reform strategies.

The commission has been given important and unique responsibilities for antitrust enforcement and market-place information. A strong and well-directed F.T.C. can make significant contributions to the nation's economic health. We do not necessarily endorse all past F.T.C. actions, nor do we necessarily oppose careful reform of the commission's mandate or structure, but we are convinced that impulsive emasculation of the F.T.C. would be dangerously irresponsible.

The proposed Congressional veto over commission rule-making would benefit special interests at the expense of consumers in general; proposed exclusions of selected industries (such as funeral homes) and professions (such as lawyers) from commission jurisdiction would do this in a particularly blatant way.

Hasty enactment of such crippling special-interest proposals would not be in the public interest.

PAUL A. SAMUELSON.
KENNETH J. ARROW.
J. K. GALBRAITH.
WALTER W. HELLER.
WASSILY LEONTIEF.
ROBERT M. SOLOW.

CAMBRIDGE, MASS., *January 8, 1980.*

[From the New York Times, Nov. 20, 1979]

RUSHING TO GUT THE F.T.C.

It's open season on the Federal Trade Commission. On the pretext of shielding the innocent from wasteful regulation, Congressmen by the dozen are pressing for legislation to exempt their favorite industries from F.T.C. scrutiny. In fact, the commission has generally acted quite responsibly; this assault on its power is nothing more than special-interest politics.

Congress created the F.T.C. in 1914 to encourage competition and deter business misrepresentation. Only in the last decade, however, have the commissioners chosen to invoke all their powers in defense of market competition. Not surprisingly, such new aggressiveness has bruised many toes along the way.

In the last few months, the industries with the most to lose have lashed back. The House Commerce Committee has now reported a bill giving either house a veto over specific commission decisions. That would create an almost dumbfounding precedent, allowing politicians to override the considered findings of independent regulatory agencies.

Rather than back away from so shameless a proposal, the full House seems determined to roll back proceedings the F.T.C. has already begun. The House has approved a move by Marty Russo, an Illinois Democrat, to block the F.T.C. case against unsavory funeral sales practices. Mr. Russo, it appears, has persuaded his colleagues that insisting on straightforward cost disclosure to grieving relatives is overregulation. And after the Thanksgiving recess, Representative Mark Andrews of North Dakota hopes to forbid the F.T.C. even to look to see whether giant agricultural co-ops like Sunkist and Ocean Spray are jacking up consumer prices through monopolistic marketing practices.

Yet by comparison with moves against the commission in the Senate, the House's actions seem almost benign. Wendell Ford, chairman of a Senate Commerce subcommittee, doesn't believe in the Congressional veto—but he doesn't believe in the F.T.C. either. He would end its current investigations of children's television advertising, used car dealers and tobacco industry health disclosure practices. For good measure, he would eviscerate the commission's general powers to prohibit unfair advertising. And he would terminate the F.T.C.'s investigation of how industry standards are set for everything from hospital explosion hazards to residential electrical wiring.

Other senators are sharpening other axes. Howard Cannon of Nevada wants to stop the commission's investigation of the insurance industry. The F.T.C. has no authority to regulate insurance; Congress has specifically delegated that to the states. But Senator Cannon's industry friends are furious with the commission staff's suggestion that certain kinds of life insurance are a bad deal for consumers. Senator Howell Heflin of Alabama wants to eliminate F.T.C. authority to force divestiture as an antitrust remedy, even though divestiture is sometimes the only effective remedy. James McClure of Idaho hopes to prohibit F.T.C. interference in state regulation of professionals—doctors, lawyers, dentists, optometrists—even when such regulations serve mainly to reduce competition.

Opponents of the F.T.C. are surely right that the agency's powers should be reviewed periodically. They are probably right that the commission has not always used its powers wisely. There is no reason, however, to let the F.T.C.'s critics camouflage special interest as regulatory reform. In fact, the success of lobbyists in organizing this Congressional stampede suggests how much an independent Federal Trade Commission is needed. Let us hope that, before they vote to crush the commission, our representatives remember for whom they really work.

[From the Washington Post, Nov. 25, 1979]

GUTTING THE FTC

Those members of Congress who are intent upon ravaging the Federal Trade Commission are sending a dangerous message to the federal bureaucracy. It is not, as they seem to think it is, a warning against excessive regulation of business. It is a warning against *serious* regulation.

In the long run, that distinction can be vital to the business world. It is overregulation, with its mountains of meaningless paper work, that adds unnecessary burdens (and costs) to businesses, both large and small. Yet the attack on the FTC is not aimed at that kind of regulation at all. It is aimed at substantive and, in many cases, useful regulation. The message thus being delivered to the scores of other federal agencies is that survival without congressional harassment is more likely if they regulate trivia than if they try to regulate things that matter.

Of course, any federal regulation is likely to seem excessive and unnecessary to those it affects. Used car dealers and funeral directors—to name two groups that are well on their way to winning congressional approval to ignore the FTC—no doubt feel justice is being done them. But the same regulation—of the condition of used cars and of open pricing policies—is not likely to seem so excessive to buyers of cars and funerals. Nor does it add meaningless paper work to the load that small businesses bear.

As long as the FTC ignored those businesses, and many others, Congress left it alone. Even in those days, not so long ago, when the agency was doing almost anything but generating paper work, its annual appropriations survived intact. But once the FTC rediscovered the missions those who created it had in mind, it suddenly became the villain.

The gutting of the FTC—and that is what is under way on Capitol Hill—is likely to be long remembered in this town. It is a message to dozens of other regulatory bodies not to take their legislative charters too seriously and, above all, not to try to regulate effectively. What a message for Congress to send in the name of regulatory reform.

[From the Washington Star, Nov. 29, 1979]

CONGRESS VS. THE FTC

Having had occasional doubts about the consumer-protection crusades of the Federal Trade Commission, we are not surprised by the going-over it has had this autumn on Capitol Hill. Is it entirely a bad idea, for instance, to subject FTC rule-making powers, when they affect whole industries, to one-house vetoes by Congress?

That would be the effect, at least for a three-year trial period, of Rep. Elliot Levitas' bill, which the House passed Tuesday by a one-sided margin. Mr. Levitas said that his legislation is "the first major effort to recapture control of the government by the American people acting through their legislators," and that it "sends a signal to the bureaucracy . . . that the trend to more government and less control by the people is ended."

Here speaks the unalloyed anti-regulatory idiom of our time, and we would be the last to deplore it where regulatory practices have become meddlesome, overbearing and officious without compensating public benefit.

One can hardly quarrel in principle with the proposition that regulatory agencies like the FTC are creatures chartered by Congress to do its bidding and business. It follows that Congress can pull in the leash of its watchdogs at will and even force them to dislodge their prey from over-sharp teeth.

The question, really, is whether those who are pushing to tighten the FTC's leash clearly understand that Congress is unlikely to be a good substitute for its chastened watchdog. It lacks the independence from the daily pull and tug of politics to be so.

It often seems that the American people are of two minds about consumer regulation. As consumers, we are frequently angered by fraud and shoddy workmanship, restrictive practices and corporate irresponsibility. But when we put on other hats, the hats of our own livelihood, we tend to be equally angered by the penny-ante red tape in which government regulation seems to ensnare us. We want protection from the other fellow's sharp practice; but as honest deliverers of a day's work for a day's pay, we wish to be safe from the prying eye and hand of the regulators.

It is far from clear that all the various congressional proposals for pinning the FTC's ears back are strictly principled—that they would curb or limit the commission's powers in useful ways. There are pending amendments to the FTC authorization bill affecting the funeral industry, the used car industry, the insurance industry, co-ops that market lemons and oranges and even the manufacturers of Formica. Some would dissolve their entanglement with the FTC by procedural limitations; others would arbitrarily place them beyond its reach and attention. Some may be warranted, others not.

Again, it is scarcely to be questioned that Congress may shape the FTC and its powers to its perception of what the public wants and needs in consumer protection, could wants and needs be clearly divined. We are not disposed to quarrel with the one-house veto power, or with the additional requirement that when the FTC makes a rule it must render a detailed cost/benefit analysis of its potential impact.

But it should be remembered, when regulatory agencies are brought to bay by an indignant Congress, that the master sometimes instructs its watchdogs with a forked tongue; and that when bureaucracies stretch a leash too far it is often because Congress has provided an over-elastic leash.

For these and other reasons, Congress should, we think, take care that in amending the FTC authorization bill it is serving a considered perception of the public interest and not merely responding to a transitory public mood. After all, if the curtailment of FTC powers should bring an undesirable resurgence of the old principle of *caveat emptor*—"let the buyer beware"—and consumers should begin to howl, there would be much to answer for. Is Congress prepared to take the heat for filing down the teeth of the watchdog? We wonder.

[From the Boston Sunday Globe, Nov. 18, 1979]

Don't Bury the FTC

Remember the olden days when it was widely said that the federal government regulators were all in the pockets of the regulated? Well, in the view of the industries whose practices are being pondered by the Federal Trade Commission, that has all changed. Industries receiving FTC scrutiny are screaming and the other day their screams brought the first substantive response. The House voted to block FTC rules governing the funeral industry. It is a dangerous precedent that the Senate or, if necessary, the President should block.

A victory by the funeral industry will only be an open invitation for other industries feeling a little heat from the FTC to run to Congress. One by one the FTC initiatives could be blunted; or, even more troubling, efforts to narrow the FTC's powers dramatically or to give a house of Congress a veto power over FTC rules could gain unstoppable momentum. The loser in either event will be American consumers.

Some in the business lobby would like to have the FTC taken over by a bunch of wild-eyed, anticapitalist radicals. The facts are different. First, of the 17 rule-making procedures now before the FTC, 14 were initiated in the days of yore when business-oriented Republicans controled the Executive Branch. Second, the FTC has acknowledged that some of its proposed rules were overly detailed and has retreated from its initial staff-drafted proposals.

This holds true for the funeral industry regulations. The pending regulations would require of funeral homes such things as the provision of detailed price information to consumers, both over the telephone and in person, and would prohibit the embalming of a body without permission. However, earlier proposals to outlaw the marketing of funeral "packages" and to require price cards on caskets in funeral parlor display rooms were rejected by the FTC. Given the possible vulnerability of bereaved families following a death, reasonable restraints on funeral home business practices seem legitimate. It is noteworthy that some funeral home operators have publicly declared that they have no objection to the regulations.

In light of all that, the support of a majority of the Massachusetts congressional delegation—Reps. Boland, Donnelly, Early, Mavroules, Moakley, Conte and Heckler—for the ban on FTC funeral home regulations is disappointing.

There will always be—and should always be—tension between government regulators and some industries. In the pulling and tugging, regulatory pressures will rise and subside. That is as it should be. The courts are always a resort for industries who feel they are being pulled farther than the law allows. But Congress would be making a serious error if it moves to weaken substantially the FTC's strength, its ability to guard the American public against deceptive commercial practices.

[From the Chicago Sun Times, Nov. 18, 1979]

Consumerism, R.I.P.

Hold on to your pocketbooks, consumers. Congress is falling for the moneyed charm of the special-interest groups.

Last Friday, the House defeated President Carter's hospital cost-containment bill, an anti-inflation weapon that could have saved the public millions of dollars.

The day before, the House voted to prohibit the Federal Trade Commission from making undertakers itemize funeral prices.

The House soon will pass a bill that subjects every action of the FTC, the government's most aggressive pro-consumer agency, to a congressional veto. No other federal agency labors under such constraints.

And the Senate will consider proposals to reduce the FTC's ability to stop antitrust violations and regulate advertising, and to prohibit it from studying (let alone regulating) a host of businesses, including the insurance and used-car industries.

There may be more. "If one special interest—the morticians—gets an exception, then we know every other special interest will come to Congress and try for the same thing," said Rep. Bob Eckhardt (D-Tex.).

They'll get a better reception than they would have a few years ago. In 1975 both houses voted to create a Consumer Protection Agency that the Ford administration proposed. Last year the House killed a similar proposal that the Carter administration supported.

Why the change? Money is the big reason. In 1979, corporations and trade associations were just setting up the Political Action Committees authorized by a 1974 law. By 1978, more than 1,200 such committees showered $21.3 million on congressional campaigns.

Candidates look to the moneybags, rather than the increasingly weak political parties, for election help. Once elected, they look again to the moneybags, rather than the weak White House and congressional leadership, for voting instructions.

Federal regulators, to be sure, have contributed to their own undoing. The public resented some of their well-intentioned moves, such as the seat-belt interlock on 1974 cars and the attempted ban on saccharin. Special-interest groups have exploited these resentments.

It's true that government in recent years did go on a regulation binge, churning out many that are unnecessary and inflationary. These should be rooted out.

But, actually many special interests like some of the most inflationary regulations: those that limit competition and keep prices high. Truckers and railroads have been fighting deregulation for years.

Voters have to figure out which kind of regulation their representatives favor. That takes some effort, but it's worth it.

[From the Seattle Times, Dec. 3, 1979]

Assault on F.T.C.

The anti-regulatory winds are howling on Capitol Hill, and the Federal Trade Commission is directly in their path.

Last week the House, by an overwhelming 321–64 vote, approved a bill that would allow either branch of Congress to veto any new rules adopted by the F.T.C.

(In the Washington State delegation, Don Bonker, Tom Foley, Joel Pritchard and Al Swift voted yes; Norm Dicks and Mike Lowry voted no; Mike McCormack did not vote.)

Meanwhile, the Senate Commerce Committee was voting to prohibit the F.T.C. from any attempts to investigate or regulate the insurance industry; to force the F.T.C. to drop a proposed rule regulating children's-television advertising, and to eliminate a proposed rule that would require used car dealers to inspect vehicles and inform potential buyers of any defects.

The House and Senate actions are clear indications of the intensity of the anti-big-government, anti-bureaucracy, anti-paperwork atmosphere on Capitol Hill these days—much of which is justified and reflects the climate nation-wide.

But there are dangers in the air. For one thing news reports on the recent congressional vote have been full of references to high-pressure zones and massive fronts of lobbyists whose interests are not necessarily the same as those of voters.

The Senate Commerce Committee, for example, according to Dean Katz of The Times' Washington Bureau, "acted in a hearing room packed with lobbyists from nearly every industry affected by F.T.C. regulations."

Their presence alone is no proof that the resulting votes were contrary to the public interest. Business and industry with considerable persuasiveness, argue that undue government interference raises the prices that all consumers must pay.

But Congress in its current antiregulatory fervor, may go too far. Making an independent regulatory agency subject to a direct congressional veto of its every major action is a crude, overblown reaction to a series of complicated problems. And an already overburdened Congress may come to regret having to debate and pass on detailed future regulations.

The F.T.C. may indeed have been overzealous in its self-perceived role as a "white knight" of consumer protection. But agency officials can read the weather forecasts as well as anyone, and have already changed course considerably in response to valid criticism

As Senator Magnuson, who was chairman of the Commerce Committee during the years that much of the F.T.C.'s consumer-protection mandate was established, told Katz:

"The F.T.C. was due for a procedural overhaul . . . (It) isn't always right. Some actions have been too sweeping and others may have been a nuisance. But those errors are bureaucratic errors that shouldn't involve a gutting of whole procedures."

The danger is that Congress may huff and puff and blow the whole consumer-protection house down.

[From the Philadelphia Inquirer, Nov. 29, 1979]

Overkill, Not Oversight

Odd, is it not? For years the public has had a chronic and quite justified complaint that the agencies Congress established to regulate in the public interest have not been doing their job. So what happens when one of those agencies springs out of its soporific state and starts doing its job?

The agency is the Federal Trade Commission, established in 1914, on the recommendation of President Woodrow Wilson, to prevent unfair methods of competition and unfair business practices. In the last two and a half years, under the direction of chairman Michael Pertschuk, the agency has gone after false advertising and monopolistic practices, looked into industries previously ignored, and in general played exactly the activist role Congress originally intended and the public has the right to expect.

And how does Congress respond?

It moves to cut off the FTC at the knees.

The House, by an overwhelming vote of 321 to 63, has just passed a bill to curtail the FTC's powers in all sorts of directions. It would, for one thing, subject the commission's industrywide rulings to a veto by either chamber of the Congress. This is not oversight. It is overkill. It means special interests would lobby their cases directly to the Congress, which by its attack on the FTC is showing itself more than subservient to their desires.

The bill also, forbids the FTC to enforce antitrust laws against agricultural cooperatives. The purpose is specifically to stop the FTC's antitrust action against Sunkist Growers, Inc., an unprecedented congressional interference with an ongoing law enforcement proceeding.

The bill also contains the previously approved amendment to prevent the commission from regulating the funeral industry, where notorious abuses have been documented. Meanwhile, the Senate Commerce Committee has voted to prevent the FTC from looking into the insurance industry and from requiring warranties for used cars.

The House bill, declared one of its main backers, Rep. Elliot H. Levitas (D., Ga.), "sends a signal to the bureaucracy and to the American people that the trend to more government and less control by the people is ended." Quite the contrary. The signal is that the trend in this Congress is to more government of the lobbyists, for the lobbyists and by the lobbyists—an ominous trend that must be reversed.

[From the Sacramento Bee, Nov. 29, 1979]

ATTACK ON THE FTC

The Federal Trade Commission, the consumer protection agency that in recent years has actively campaigned against misleading advertising and promotional activities, has managed to alienate a lot of powerful people. As a result, Congress held up its budget for two years in a row and is now considering a host of bills that would not only reduce the agencys' scope, its powers and its finances, but redefine its very purpose.

The Senate Commerce Committee, in its anger about the FTC's campaign against deceptive children's television ads, recently voted virtually to eliminate the FTC's ability to make any industrywide rules about what constitutes acceptable advertising. And to curtail an investigation of tobacco industry health claims, it voted to sharply reduce the agency's ability to collect information for any investigation. Taken together, those and similar measures now going through the committee do more than kill specific investigations; they jeopardize all ongoing FTC inquiries and several existing FTC regulations, among them its highly praised rules banning deception in advertising of eyeglasses and vocational training programs.

In the House, the special interest attack on the FTC has been even more direct. The House called on any interested industry to submit whatever requests for exemptions from FTC investigation they choose and this week passed every exemption requested.

This outcome was predictable from the first test of these special interest bills, when the House, at the request of the funeral industry, overwhelmingly voted to simply overturn the FTC's proposed funeral industry rules. Those rules would have done no more than ban the most unscrupulous practices of the funeral industry. They would have prevented funeral parlors from lying about what were the minimum purchases legally required for burial and cremation. And they would have made it illegal to offer grieving relatives only the most expensive package of burial services, implying that these were all that were available. Although the FTC had conducted years of hearings before deciding on these eminently fair regulations, the House voted to undo them without even the pretense of a hearing on the merits.

The House has now passed several other special interest exemptions, as well as a more general "solution" to the FTC "problem," a bill providing that either house of Congress can veto any FTC ruling—thus opening the door wide to many more travesties like the funeral vote. The full Senate will vote soon on its Commerce Committee's recommendations and the House bills.

The FTC may have brought on its troubles with its own overzealousness, as its congressional critics maintain. But if the effectiveness of certain industries in obtaining indefensible special interest legislation from Congress proves anything, it is the pressing need for a zealous and independent FTC to protect consumers from unscrupulous uses of just such industry power.

[From the Honolulu Advertiser, Dec. 3, 1979]

THREATS TO FTC

What do orphans and widows, used-car buyers, pre-schoolers who watch television, and life insurance customers have in common? For one thing they are not as well represented by trade associations and lobbies as are the funeral industry, auto dealers, TV advertisers or insurance agents, respectively.

As a result, their voices are not heard as clearly on Capitol Hill as are the voices of business groups which would like to see the Federal Trade Commission restrained.

The FTC has been around for 65 years. But only in the last decade—roughly coincidental with increased consumer awareness—has it become an aggressive advocate. It is perhaps the only regulatory agency not generally sympathetic to the industries it regulates.

There has been considerable criticism of the FTC, and not just from those powerful groups it has antagonized—including the American Bar Association, the American Medical Association, large agricultural coops and the drug industry.

The FTC is one of the few agencies pushing for more, not less, government regulation of business. Its rulings have the force of law and, like other agencies, it has not always used its powers prudently.

And like the Occupational Safety and Health Agency, for example, the FTC has at times been overbearing and petty. Some of the hundreds of lawyers working for the commission no doubt have an anti-business bias.

But while its chairman has been called a socialist, many of the FTC's actions are aimed at increasing good old capitalistic competition by ending bans on advertising of prices and services and by requiring businesses to more accurately inform the customer about what they are selling.

Part of FTC activism can be traced to the 1974 Moss-Magnuson Act which gave it extensive powers, like the ability to represent itself in court. But in its last session, Congress defeated the proposal for a consumer protection agency and that encouraged the present attempt to restrain the FTC.

The most important proposal to this end would allow either house of Congress to override an FTC ruling. The "one-house veto" will likey be attached to an FTC funding bill, making it very hard to stop. In addition, Senate committees have passed amendments which specifically prohibit the FTC from looking into various businesses and from pursuing anti-trust investigations.

Much of the rhetoric about reforming the FTC has to do with reducing wasteful bureaucratic interference. But the rush by special interests to protect their particular industries from scrutiny shows where most of the initiative for this legislation comes from. It also points up the danger of the one-house veto which, by ignoring traditional legislative checks-and-balances, increases the influence of lobbyists.

If the FTC is thus restrained it would be the first regulatory agency to lose its independence in this way which many think may be unconstitutional.

By and large, the independent, aggressive FTC has served the American consumer well. Though its targets may not realize it, the FTC could also serve those in fields that are traditionally and stereotypically mistrusted—like used-car sales or insurance—by suggesting clear rules for all to follow.

The FTC's powers should be reviewed from time to time and the commission ought to be accountable for what it does. For this purpose the Congress has the power of the purse and the power to pass other laws—that is, in effect, the two-house veto. But the one-house veto and subservience to powerful special interest lobbies at the expense of the consumer are not the way.

[From the St. Petersburg Times, Nov. 26, 1979]

BULLYING THE FTC

Ever wonder what happened to all the mean, rotten kids who enjoyed bullying the smaller children?

They grew up to be members of Congress.

Nothing else could account for the way they're tripping over each other to beat up on one hapless little government agency, the Federal Trade Commission (FTC).

Some grownup ought to stop it.

First, the House votes to make a bad bill worse. Not to be outdone, the Senate Commerce Committee unanimously approves one that is even more offensive. Amendments awaiting the bill on the Senate floor would destroy what little is left of the FTC.

Who's really winning? This special interests—all of them. Every fast-buck bait-and-switch artist, every here-today-gone-tomorrow junk car salesman. Undertakers who want to keep secret what caskets and flowers really cost. Any conglomerate that wants to corner an industry. Any giant agricultural cooperative that wants to inflate prices by monopolistic marketing practices.

What accounts for the Congressional frenzy to destroy the FTC? It's probably because the FTC started behaving like a real consumer protection agency only about the time that the Congress sensed the consumer movement had peaked. At the same time, the special interests discovered how they could dominate congressional campaigns by mass contributions through political action committees.

The bill in the House would prohibit the FTC from regulating the funeral industry and it would expose any future FTC regulation to being vetoed by either house of Congress.

The Senate Commerce Committee bill, written by Wendell Ford, D–Ky., would bar the commission from interferring with any advertising that is grossly misleading but literally true, such as the bait-and-switch techniques. An ad offering new color TVs for $50 might be literally true, for example, but it would be deceptive if the store failed to disclose that it had only two at that price. That's the kind of stunt which Ford's bill would immunize.

His bill is in part a reaction to the FTC's ill-considered, overbroad attack on television advertising aimed at children. But that mistake doesn't warrant destroying the FTC, as Ford seems to want to do.

Ford's bill also would severely curtail the FTC's investigative powers and require payment of legal bills and fees for certain businesses which win cases before the FTC. That is an outrageous attempt to intimidate the FTC and further enrich the legal profession. Ford's bill would end FTC investigations of used car dealers and tobacco industry health disclosure practices, and would bar it from looking into how trade associations set industry standards affecting consumer goods and public safety.

Other senators are touting amendments that would keep the FTC from exposing mischief in the insurance industry, from requiring divestiture as an antitrust remedy, and from interfering in the cozy, back-scratching, all-in-the-family way in which most professions "regulate" themselves at the state level.

That isn't legislation. That's a lynching. And there's nothing in sight to stop it but the possibility of a presidential veto.

President Carter has had his hands full with another mob, one that doesn't wear business suits. At the earliest opportunity, he should declare his willingness to keep the Congress in session, all winter if necessary, until it learns how to represent the consumer once again.

[From the Philadelphia Inquirer, Nov. 23, 1979]

WHO'S PROTECTING WHOM?

The U.S. House has approved an amendment barring the Federal Trade Commission from regulating the funeral industry, and now the Senate Commerce Committee has acted to prevent consumers from being protected against fraud and from knowing too much about used cars and insurance.

The members who fell all over themselves in succumbing to the importunities of sundry special-interest lobbies didn't put it that way, of course. What they claimed to be doing, in voting to curb the FTC's powers to investigate and issue rules, was to fight the good fight against overregulation by Washington.

So it might be well to make an important distinction right now between deregulation and (let's call it) deprotection. The aim of deregulation—in such industries as airlines, trucking and railroads—is to encourage the forces of free and fair competition, most especially price competition. The aim of deprotection is precisely the opposite. It is to impede competition by keeping consumers from the knowledge of prices. It is to prevent regulatory agencies from cracking down on fraud and misrepresentation which put honest businessmen at a disadvantage in the marketplace.

Consider the funeral industry. Sooner or later, everyone needs a funeral, and it may surprise you to know that, according to the FTC, this is the third largest purchase most consumers make (after homes and automobiles). It also is done when the purchaser—usually a bereaved family—is not in the mood and does not have the knowledge to act prudently. Some funeral directors (and we emphasize some) take advantage of pepole's vulnerability in time of sorrow to persuade them to go to inordinate expense for costly caskets, unneeded embalming and so on—things the deceased doesn't need and the survivors can't afford.

After an investigation that began in 1975, the FTC proposed rules that would allow people to know what they're paying for and get what they're paying for and to forbid certain kinds of misrepresentation and unfair practices. Whom does the House think it's protecting in voting to kill the rules and the FTC's authority to make them?

Consider used cars. When people know what they're getting, they can buy intelligently. When dealers tell them honestly, dealers compete fairly. Why then shouldn't dealers be required, as the FTC proposes, to disclose defects in their vehicles and to state plainly what warranty protection is given?

What is so objectionable about letting the FTC look into sundry practices in the insurance industry (which is, not by law, regulated at the national level), including "redlining" against minorities in determining rates and eligibility? "We have to make absolutely certain the FTC will not investigate the insurance industry," declared Sen. John Danforth (R., Mo.). Why? Is he afraid the FTC might learn something that consumers would find useful to know?

None of this is to say that the FTC doesn't on occasion go overboard, as it may have done in its probe of TV advertising directed to children, or that Congress shouldn't exercise its oversight function. The current attack on the FTC, though, does not look like an attempt to keep the FTC from going overboard but to sink it. That would be bad for the consumer, and, in the long run, bad for business as well.

[From the Washington Post, Nov. 15, 1979]

Save, Don't Sink, the FTC

Rarely has any regulatory agency got itself into as much trouble as the Federal Trade Commission. Some of the trouble is deserved. So Congress is quite properly trying to deal with the FTC's excesses. But the efforts now being made by both houses threaten to destroy the effectiveness of what is one of the government's most active and creative agencies.

The proposal pending before a Senate subcommittee to withdraw the commission's power to prevent unfair commercial advertising is an example. That power, granted to the FTC 40 years ago, has been used to curtail unethical and unscrupulous advertising. While it has occasionally been used in a way that has angered particular corporations or advertising agencies, its existence has been beneficial to both manufacturers and consumers. The FTC's work, as much as anything else, has forced facts into advertising and pure fraudulence out.

The purpose of taking this power away from the FTC is apparently to force the termination of its investigation into television advertising aimed at children. While that investigation should be abandoned, this is not the way for Congress to force the issue. By limiting the FTC's power to prohibit advertising that is both false and deceptive, as the proposal before the subcommittee does, Congress would open the door to a flood of ads that may be true but deceptive or patently unfair and misleading.

The approach taken in the House is much more straightforward. The House is about to vote for or against a regulation that would require funeral directors to provide itemized price information and prohibit them from giving misleading information on legal or cemetery burial requirements. That regulation seems so innocuous and—in light of what has been documented about practices in some parts of the funeral business—so badly needed that the House should not even be reviewing it. But the attack on the regulation is at least not being cloaked in language that would alter substantially a large part of the FTC's jurisdiction.

There are other proposals being pushed in the Senate that have the same fault. They change the FTC's rule-making authority and procedures in order to limit particular proceedings. A better course for Congress would be either to order the FTC to drop those investigations it dislikes or to wait until the agency has finished its work and then review the results, overturning them if a majority wants to.

[From the Christian Science Monitor, Nov. 29, 1979]

Don't Hobble the FTC

There is little disagreement these days that government regulation of business has in many cases exceeded the bounds of reasonableness. But it would be unfortunate if business groups self-servingly exploited the "anti-big government" mood to undermine those aspects of government rule-making which serve the interests of the American consumer. They threaten to do so now in their assault on the Federal Trade Commission, the independent federal agency charged with combatting unfair and deceptive practices in the marketplace.

The House of Representatives has approved legislation which would allow either the House or the Senate to veto FTC trade rules and impose other restraints on the agency. The measure ought to be resisted. If it is not, the authority of the FTC will be severely hobbled. How is it possible to have an "independent" agency and one acting vigorously if every decision is subject to a legislative veto? That would make a mockery of the agency's very purpose.

This is not to say the FTC is above criticism. Even Michael Pertschuk, chairman of the commission, admits that some of the proposed FTC rules have not been well thought out and that the agency's economic analyses and remedies have fallen short of the mark. Other advocates similarly cite an overzealousness in carrying out the FTC's congressional mandate.

But it is ironic that Congress wants to penalize the FTC for doing what it was ordered to do. Four years ago, in order to eliminate the ineffective practice of piecemeal enforcement, which was unfair to consumers and business alike, Congress gave the FTC new powers to write rules applying not just to one company but to everyone equally within a given industry. The FTC responded with zest.

Stricter congressional oversight of the FTC appears needed in the aftermath of the 1975 legislation granting the agency more authority. Certainly someone ought to be watching out for unenforceable FTC rules or regulations entailing undue record-keeping and expense. But the one-house veto proposal in particular would be a caving in to the over-the-counter drug companies, used car dealers, funeral parlors, and other businesses riding the current wave of "anti-bureaucracy, anti-government" sentiment in the country. It would swing the anti-regulation pendulum too far. In the words of Senator Howard Metzenbaum:

"This action, if successful, will say to the FTC, 'Leave the monopolies alone, forget the price gougers, never mind the misleading advertising . . . go back into your shell and leave the American people to their own devices.' "

The legitimate concern of many is that the one-chamber legislative veto, if adopted, could later be extended to other regulatory agencies, such as the Environmental Protection Agency and the Occupational Safety and Health Administration. We hardly think the American people would elect to weaken these independent federal bodies, which for all their faults continue to make the marketplace safer, fairer, and more honest.

[From the National Law Journal, Dec. 10, 1979]

FTC: It's Worth Saving

Ten years ago, consumer groups derided it as "the little old lady of Pennsylvania Avenue." The American Bar Association criticized it for not living up to its mandate—preventing unfair and deceptive business practices.

Today, the Federal Trade Commission is under fire for exactly the opposite reason—doing too much. Businesses, trade associations and the lawyers who represent them, have ganged up on the FTC. As last week's vote endorsing a one-house congressional veto (page 9) reveals, the FTC opponents are being remarkably successful.

This is unfortunate. The FTC has been a creative and healthy counterbalance to business' natural marketing excesses. If Congress wants to cut the fat, it should look first at those agencies which do nothing but spend tax dollars.

The reasons for the current campaign against the FTC are not hard to find. Many of the agency's rules, promulgated in 1975, are just now coming to fruition. The conservative, anti-government movement represented by California's Proposition 13 frightened many legislators. Business groups have become more adept at congressional lobbying and have more to spend. Finally, the present FTC chairman, Michael Pertschuk, has antagonized many in the business community with his forthright views.

Cognizant of congressional criticism, the FTC has already responded. Since Mr. Pertschuk became chairman, the commission has adopted only one new set of rules—that regarding children's television advertising. Many other rules have been cut back; some have been discarded entirely. In the area of professional advertising, the commission has taken a decidedly pro-competitive, anti-regulation approach.

This clearly has not been enough for the business sharks who smell blood. They sense a chance to win a threshold victory, a kind of administrative revolution that will set the stage for government-industry relations for years to come. As one of the agency's few supporters in the Congress, Sen. Howard

Metzenbaum, D-Ohio, said last week, "It is a race in the bottom between the House and the Senate as to who is going to cut off the FTC faster and more effectively."

Whether the American people will support such change brought by, among others, this country's morticians and used car dealers, remains to be seen.

What does appear likely is that regardless of the outcome of the battles in Congress, the FTC will resort more frequently to adjudication rather than to rulemaking to achieve its objectives. In that way, it will try to limit the political pressures brought to bear in rulemaking that now threaten to engulf the entire agency.

While crippling the FTC may not be in the public interest, the attack by business leads one to wonder what agency will be next on the business community's hit list.

[From the Nation, Dec. 15, 1979]

VETOING THE F.T.C.

It is "open season" on the Federal Trade Commission, observed one Congressman three weeks ago, and "the smell of blood" is in the air. From Exxon to the local undertaker, business has ganged up on the commission, and the hapless consumer—already battered by a string of Congressional setbacks—will soon lose one of his few vigorous protectors (see editorial, "Getting the F.T.C.," *The Nation*, October 13). The consumer lobby is the weakest it has been in years, and the Carter Administration, its usual legislative ineptitude compounded by the Iranian crisis, has been unable to stop what one Congressman, who is no F.T.C. partisan, called "a frenzied and foolish crippling" of the commission. Ironically, just a few weeks ago, the Carter Administration's Regulatory Council praised the F.T.C. as one of only three agencies that really analyze and understand the costs and benefits of their actions.

Despite a heavy Democratic majority in both houses of Congress and a President originally praised by Ralph Nader as the consumer's friend, business has never been stronger nor the labor-consumer coalition feebler. Because of its broad mandate to go after unfair practices throughout the economy, the F.T.C. affects more interest groups in the country than any other agency. These interests have enlisted some of Washington's most puissant lobbyists to gut the agency. More than half the agency's investigations are under fire and all may be affected.

Funerals. Almost two million people arrange funerals every year and spend about $2,400 per funeral on the average, making it the third most expensive consumer purchase after a house and car. The abuses are notorious and well documented. Funeral directors pressure bereaved families into buying funerals they can't afford by refusing to quote itemized prices and giving only a lump sum; they sometimes purvey false information about the law on such matters as embalming, and hinder consumers or competitors from providing alternate funeral arrangements. After a six-year study, the commission proposed a trade-regulation rule requiring itemized price disclosure and forbidding misrepresentation and other unfair practices. The consumer savings on embalming alone are estimated to be many millions, and the rule could ultimately result in a savings of $1.5 billion. But because there are so many funeral directors in every Congressional district, their political clout is enormous—and so the House voted to kill the F.T.C. rule.

Insurance. Insurance is supposed to be regulated by the states, but as Senator Howard Metzenbaum of Ohio, supported by numerous Federal studies, has shown, they do a poor job of it. Pursuant to its specific authority to study economic problems, and urged on by various Congressional committees and state officials, the commission issued a report on the cost-disclosure problem in life insurance. The industry didn't come out too well, so Senator Howard Cannon, chairman of the Commerce, Science and Transportation Committee, got the committee to deny the commission the authority even to make studies of the insurance industry.

Children's TV Advertising. Consumer and parent groups have long been dismayed by television advertising aimed at young children that pushes highly sugared cereals. The commission has been studying the issue, and the cereal, advertising, television and other affected industries don't like that. And so, in the International Year of the Child, the Senate commerce committee voted to effectively halt the commission's efforts.

Standards and Certifications. Many private groups set product standards and issue certifications relating to design, safety and performance. These groups have enormous power and there is evidence that some use this power anticompetitively. The F.T.C. is trying to open up the standard-setting procedures, at a possible cost saving to consumers of billions of dollars in hospital, energy and construction costs. The commerce committee killed this F.T.C. action as well.

Agricultural Co-Ops. Agricultural co-ops were given a limited exemption from the antitrust laws, but there are indications that many of these co-ops—often aggregations of huge agribusiness corporations—have gone beyond the exemption. Two years ago the F.T.C. charged that Sunkist Growers controlled 75 percent of the production and marketing of Western lemons and oranges and was engaged in anticompetitive practices. In an unprecedented interference with an ongoing enforcement proceeding, an interference condemned by numerous legal experts, the House voted 245 to 139 to kill the F.T.C. action.

Professionals. There are indications that when the F.T.C. legislation comes to the Senate floor, more special interests will take their licks through amendments blocking the F.T.C.'s activity against them introduced by a neighborly Senator. For example, Republican Senator James McClure has already announced that he will try to block the commission from moving against doctors, lawyers or other professionals regulated by (often ineffective) state laws.

Legislative Veto. Perhaps most far-reaching is the provision passed by the House that would allow either chamber sixty days to veto a commission action affecting an entire industry, subject to reversal by the other chamber within thirty days. The provision is of dubious constitutionality and unprecedented. Although the Senate previously has refused to ratify such a measure, which has been passed three times by the House already, this year it might go along. (See Robert Reich, "Politicizing the Fourth Branch," The Nation, September 15.)

These proposed restrictions on the commission—and there are many more—related largely to the F.T.C.'s consumer-protection responsibilities. Industry lobbyists have gone after the F.T.C.'s antitrust jurisdiction as well. In the last few years, the Justice Department's antitrust activities have been sluggish and uninspired. It has concentrated on conventional price-fixing cases, and even these have languished: The commission, however, has innovatively moved in a variety of areas against oil companies, cereal manufacturers, Du Pont, the banking industry, dominant outboard motor manufacturers and others. Lobbyists for these industries cajoled Alabama Senator Howell Heflin into introducing legislation that would effectively kill all these proceedings. A part of Heflin's staff memorandum supporting his proposal was lifted verbatim from a brief filed a few years ago by the Washington lawyers representing General Mills, a defendant in the FTC cereal case. Apart from direct interference with ongoing litigation, only one day of hearings was held on this proposal. This proved too much for the commerce committee's Republicans, of all people—including Senator Barry Goldwater—who announced they would unanimously vote against the Heflin proposal, and it was shelved. It will probably re-emerge in a few months.

The attack against the F.T.C. is obviously only the first of many; other vigorous agencies such as the Securities and Exchange Commission are almost certainly next. Consumers are ravaged by inflation, abused by the oil companies, soon to be gouged even more by oil-price decontrol, chiseled by many small-business men who are themselves hurt by inflation; they need more protection than ever. But business is in the driver's seat, and it looks as if the rest of us will be taken for a ride.

[From the Miami (Fla.) Herald,
Dec. 27, 1979]

QUESTIONS FOR "REFORMERS" OF FTC

There's no end to the problem of who's going to watch the watchdogs. Ultimately it is the people themselves who must remain alert.

As the recently invigorated Federal Trade Commission comes under heavier attack in Washington by congressional critics of Government regulation, it becomes clear that while the FTC may be in need of some reins, many of the would-be reformers also are worthy of close scrutiny. And such examination demonstrates once again the need for public financing of congressional campaigns.

Members of Congress received more than $5 million in campaign contributions last year from industries that are actively lobbying to pull the FTC's new-found teeth. Granted that those teeth occasionally have been misused. But in other instances they have protected consumers against the ravaging forces of monopoly and greed in certain industries that now are greening the political coffers of the congressmen who oversee the watchdog agency.

Why, for example, should a huge milk company that dominates the market in the Southeastern states contribute to the campaign of a congressman from North Dakota? Could there be a connection between the long-distance contribution and the congressman's bill to exempt agriculture co-operatives from FTC scrutiny, thus ending an investigation of the company's hasty merger with a competitor?

The scenario is repeated throughout the Congress and across the country. Special interests support their friends on key committees in every part of the nation, completely distorting local campaigns and often making it impossible for the people in a local district to unseat an entrenched incumbent who has wealthy friends in faraway cities. Money from outside the district often is tied to issues that are related not to the district itself but to the incumbent's committee work in Washington.

Every member of Congress knows these facts, of course. Many, but not all, profit from them inordinately. No doubt that dependence influenced the House's rejection earlier this year of a bill, cosponsored by 150 members, that would have limited spending on congressional campaigns to about $200,000 and provided up to $60,000 in public money to match small contributions.

That plan and similar proposals would have limited the growing dominance of special-interest contributions from industries, organized labor, and other Political Action Committees. Those reforms also would increase the importance of the small donations that typically are raised within the home district.

That effect is more than desirable. It is essential if the American public is to have any confidence in Congress' independence on issues that concern powerful economic interests in conflict with the general welfare.

[From the Cleveland Press, Nov. 27, 1979]

FTC Under Attack

The congressional attack on the Federal Trade Commission is indicative of the anti-government regulation mood that is gaining ground on Capitol Hill and elsewhere.

But moves to reduce the FTC's authority have reached such proportion that it's time for House and Senate members to ask themselves if they intend to put out of business this 65-year-old agency created to encourage competition and combat business fraud.

We don't doubt that the agency itself is responsible in a major way for the congressional assault. It sometimes seems that under its aggressive new chairman, Michael Pertschuk, the FTC is out to cleanse the business world of all its alleged sins and sinners at one fell swoop.

Pertschuk has dispatched his investigators and regulation writers in all directions. Operating under a 1974 congressional mandate to set guidelines for entire businesses and industries, the FTC is stepping on many toes and touching many raw nerves.

Instead of telling Pertschuk to cool it a bit, committees of the House and Senate are proposing restrictions that would severely cripple the agency. Within the past few weeks, there have been moves to exempt funeral, insurance and used car businesses from FTC authority, to prohibit the agency from investigating children's television advertising and the tobacco industry's health disclosure practices, and to strip the agency of a key provision of its 40-year-old antitrust authority.

A consumer activist was quoted the other day as saying that supporters of the attack on the FTC are "portraying themselves as champions of deregulation" when in reality "they are champions of consumer fraud and monopoly."

That's an exaggeration, of course. The supporters aren't championing consumer fraud and monopoly. But in their zeal to get the FTC off the backs of business, they may unwittingly encourage business practices that ought to be discouraged, and they may destroy the usefulness of an agency created to protect the consumer.

[From the Kansas City (Mo.) Times, Nov. 13, 1979]

Funerals: The Final Stage

If certain Members of Congress and their friends in a crucial industry have their way this week, the Federal Trade Commission will get new life and be emasculated in the same vote by the House of Representatives.

The issue is a bill to reauthorize the FTC, and the danger of emasculation lies in an amendment tacked on that would specifically prevent the FTC from proceeding with its funeral trade regulation rule. Aside from a sadistic burial for the minimal kind of consumer protection contained in the FTC rule (six years in the making), a cave-in by Congress to a powerful lobby will open wide the door for other trade groups, waiting eagerly in the wings to press for wholesale deregulation of their industries. Rhetorical assaults on all stripes of government regulation are as popular as complaints about taxes. Arguing that the solution to poor regulation is the elimination of all regulation would be childish if it weren't so threatening. And such special interest legislation can be expensive.

The FTC rule on the funeral industry is a case in point. Looking at the $5.4 billion spent annually on the American way of death and the abuses revealed by its investigations, the FTC drew up some basic provisions to rein the worst of them: Requiring that itemized price information be given over the phone before the funeral (enabling persons to compare before they buy); prohibiting misrepresentations by undertakers (such as that embalming is required by state law when most states have no such laws); prohibiting unfair merchandising practices (undisclosed padding of bills and requiring caskets for cremation); eliminating restraints on competition (harassing those who try to sell low-cost funerals). The funeral lobby argues that although a few members of the industry may engage in questionable practices, the FTC action is overregulation. We disagree.

Nearly 2 million persons a year arrange for funerals, spending an average of $2,400 for a traditional rite. For most consumers, it is the third largest expenditure of their lives (after a house and car), yet they make decisions with little factual information, at a time of emotional stress compounded by time pressure and other problems attendant on the death of a loved one. What they don't need are "grief counselors" helping them buy more than they need and can afford.

One must wonder at the marshalling of opposition forces, given the skeletal nature of the proposed rule. Aside from the unique nature of the funeral that catches folks at their most vulnerable, one can hardly imagine other businesses operating outside such a frame. How many grocery stores, for example, could convince Congress or customers that itemizing is unreasonable?

The thousands of consumers and hundreds of organizations which have written the FTC in support of minimal regulation aren't making up malevolent stories of abuse. It's not the first time the loudest cries of foul have risen from the ranks of an industry unable or unwilling to police itself. It has had many decades to do so. Problems persist. The House should vote against the amendment throwing out the FTC rule in the interest of average consumers.

[From the Milwaukee (Wis.) Journal, Nov. 30, 1979]

The Mugging of the FTC

The Federal Trade Commission deserves a few knocks. Some of its actions lately have been marred by overzealousness. But the knocks that the agency is receiving from the House exceed the FTC's transgressions.

In its own zeal to pound the FTC, the House has approved legislation that is ill conceived and excessively favorable to special interests.

For instance, the House moved to exempt agricultural cooperatives from FTC jurisdiction at a time when the commission is in the midst of a complex anti-trust suit against Sunkist Growers, one of the country's biggest fruit co-ops. Sunkist will delight in that provision if it becomes law.

Another example is the funeral industry, which has resisted FTC regulation. The bill removes the entire industry from FTC rulemaking.

Worst of all is the House action that would allow either chamber of Congress to overrule an FTC finding. Extreme meddling could result, negating the whole theory of independent regulatory agencies. If Congress wants to pass on every FTC decision, why have an FTC at all?

Unfortunately, what the House has concocted is mild compared to what the Senate reportedly, has in store for the FTC. Emotions against the agency apparently are running higher in the Senate than in the House.

Granted, a case might be made for reducing the general scope of the FTC's authority, for sharpening its role and procedures. But it is ridiculous to exempt an industry here and an industry there. And to let Congress veto FTC actions in specific cases could result in the public welfare being regularly subordinated to political pressure groups.

[From The Hartford Courant, Nov. 26, 1979]

The FTC and Its Enemies

The current deterioration in congressional performance, and the lack of effective leadership on Capitol Hill, is reflected in the assault mounted against the Federal Trade Commission.

Operating from the shaky premise that the citizenry demands less government and less federal oversight, congressmen have offered a variety of bills which would cripple the effectiveness of an independent regulatory agency that has made valuable contributions to the well-being of millions of Americans.

The proposed legislation would, in part, allow Congress to veto any new FTC rules, prior to their taking effect. Many of the agency's wide-ranging regulations are aimed at preventing consumer fraud and deceptive business practices:

Legislation in various stages of development would also exempt some industries and certain business practices from any FTC regulation or investigation. The insurance industry, funeral parlors, agricultural cooperatives, among others, would all be further exempted, to avoid embarrassment to congressmen who run from issues that pit influential special interest groups against consumer interests.

The shame of the current inquisition is that substantive study of the FTC and other regulatory agencies is being avoided, in favor of a few slick, cheap political shots, which will damage the FTC, and do little to improve the regulatory process.

Criticism of the federal regulators has been around and about Washington since long before the FTC began the activist pursuits. The first major study of the independent regulatory agencies was made in 1937, and that the President's Committee on Administrative Management described the regulators as a "headless fourth branch of government" virtually immune to White House or congressional control.

Two studies of the regulators in 1949 and 1955 also found the agencies undisciplined and out of control, with agency regulations replacing "the supremacy of the rule of law."

The bulk of the criticism directed against the agencies is inspired by the very nature of these "independent" creatures. The history of the regulatory agencies is filled with unending battles between Congress and the White House over which side would control the powerful agencies designed to be independent of them both.

The agencies have never been as independent as the civics books suggest. In its early years, Congress dumped political hacks in the Federal Trade Commission, and several presidents have exercised considerable direct influence over the agency decision-making process.

Most important in this permanent struggle for regulatory power between the White House and Capitol Hill has been the philosophical differences that have divided them. Michael Pertschuk, the present FTC chief, has operated under the generally friendly protection of President Carter, in the face of conservative congressional opposition. The last liberal FTC activist head who enjoyed similar protection operated in the early 1960s, when Paul Rand Dixon took on the "hucksters of Madison Avenue," with the blessings of President John F. Kennedy.

The federal regulatory agencies in general, and the Federal Trade Commission in particular, gain power when elected officials delegate hard decisions to them, or abdicate responsibility on matters of policy. The Federal Trade Commission has dabbled in some experimental rule-making that strains its mandate and, perhaps, the will of the people. But those indiscretions can be curbed with congressional action far less drastic than what is being proposed.

The nation's consumers will be better served by an aggressive FTC than by a cautious, indecisive and leaderless Congress.

[From the Alexandria (Va.) Gazette, Dec. 17, 1979]

Destroying an Agency

Short of a presidential veto, there seems to be nothing which will save the Federal Trade Commission (FTC) from being destroyed by the excesses of a Congress responding, its members would have us believe, to the nation's anti-regulatory mood.

The fact is that the FTC is one of the two or three most efficient regulatory agencies in Washington. It is performing more nearly in accordance with the charter which Congress wrote for it than most others. There is less infiltration of it by those groups it was set up to regulate than by such others as the Food and Drug Administration or the Federal Communications Commission.

The FTC's very excellence is probably the major reason that it is being gutted by the limitations which members of Congress, responsive to the lobbying of special interests, are proposing to write into law.

In 1952 the investment banking community with its great political influence in both major parties, allegedly stopped further publication of the FTC's investigations of how directors who served on boards of companies in related businesses met on the boards of unrelated companies to restrain competition. The FTC then became ineffectual. But about four years ago it started to get serious in its investigations and proposed regulations.

What the FTC has been doing is hardly excessive. But it threatens to be effective. The businesses and industries affected object to that. We can understand that insurance companies, professional organizations and used car dealers, for example, don't like federal interference. But the federal government is supposed to operate in the interest of the general public, the majority made up of people whom those regulated would like to profit off without hindrance.

The "customer lobby" hardly exists as representing this majority. It doesn't contribute nearly as much to re-election campaigns as special interest and business political action committees do. It doesn't take a federal investigation to understand to whom Congressmen respond, considering the cost of running for office.

[From the Chapel Hill (N.C.) News and Observer, Nov. 29, 1979]

Going Too Far on FTC

Rep. Richardson Preyer, D-N.C., has some judicious advice for congressional colleagues who are trying to hobble the Federal Trade Commission. "It has been open season on the FTC," say Preyer, "and I admit that I have been one of the hunters. But, fair is fare. We should not let the smell of blood drive us into a frenzied and foolish crippling of the FTC."

Propelled by the trendy scorn for government "intervention" and "regulation," legislation is advancing in both the House and Senate that would severely restrict the FTC's ability to protect consumers. Examples of FTC overreaching are easy enough to find. But the FTC also has a record of success in protecting consumers against shysters in the marketplace. The danger now is that Congress will overreact and, in trying to prevent FTC overreaching, will also weaken protection.

The most dangerous anti-FTC proposal lies in the House bill's provision for what is called a one-chamber veto. Under this provision, either House or Senate could overrule an FTC regulation.

The one-chamber veto is of dubious constitutionality. It is contrary to the spirit of the standard procedure in the United States for making and altering laws, in which there is action by both House and Senate and by the President. FTC rules, by congressional mandate, have the force of law. But a one-chamber veto would allow a repeal of a rule by a majority of either the House or Senate, no matter what the position of the other chamber or the president.

Further, the one-chamber veto would be a lobbyists' delight. Whenever the FTC proposed a rule annoying to a business or professional interest, the lobbyists for that interest would only have to seek a majority in one house of Congress. The groups to be regulated and the consumers to be protected would, then, become largely a matter of which lobbyists were more effective on Capitol Hill.

The bill before the Senate Commerce Committee does not contain a one-chamber veto, but it would limit certain FTC actions and jurisdictions. The problem with this legislation is that it would curtail FTC action in advance, before anyone could know whether any specific action was helpful to consumers or an example of overreaching.

While the FTC has truly been an activist agency, there already exist procedures for keeping the FTC from becoming a runaway agency. Presidential appointment of commissioners is subject to Senate confirmation. Efforts to weed out excess regulations can be useful. Congressional oversight of the FTC through committee hearings, remains a legitimate undertaking. After such hearings, Congress could force the FTC to cease an investigation or withdraw a ruling through the normal process of enacting legislation after thorough, open debate.

Perhaps the FTC ventured into questionable territory in its investigation into television advertising aimed at children, but the regulatory agency has also performed valuable service to American purchasers of appliances, eyeglasses, used automobiles and undeveloped real estate. So, Preyer's let's-not-get-carried-away warning ought to be heeded.

[From the Denver (Colo.) Rocky Mountain News, Nov. 27, 1979]

FTC Serves Public's Interest: Force for Needed Business Regulation

Before they go to bed each night, the nation's congressmen ought to be required to repeat 100 times, "Not all government regulation is necessarily bad."

It seems an obvious enough point. Sure, some regulation is bad; it hampers business and serves no one, not even the consumer. But some regulation is essential to protect the public from dangerous products and outright misrepresentations. The alternative is to grant some businesses the right to cheat you.

That thought, however, never seems to have entered the minds of the Senate Commerce Committee, now trying to dismantle the Federal Trade Commission. With corporate lobbyists gleefully crowded around, committee members have been approving bill after bill to cripple the agency.

Not everything the FTC does or wants to do should be permitted, but by and large it serves the public well. Committee members should quit caving into the special interests.

[From the Louisville (Ky.) Times, Nov. 28, 1979]

FTC Lynchers Aren't Doing Us a Favor

"Conservative" voters from Kentucky and Indiana will, it is said, strew rosebuds beneath the feet of Sen. Wendell Ford, Rep. Ron Mazzoli and Rep. Lee Hamilton when they and other congressmen return home after lynching the Federal Trade Commission.

The folks in our two states are fed up with government regulation, or so the theory goes. They are therefore delighted that Congress wants to limit the FTC's power to stop consumer fraud and fight anti-competitive business practices.

Moreover, they'll express their gratitude to Sen. Ford and the others next November in the voting booth. (A lot of businessmen are grateful, too, as the candidates' lists of campaign contributors will clearly show.)

The political soothsayers may be right. Baiting bureaucrats is known to win a politician instant acclaim these days.

We can't help but wonder, however, whether that generalization is in fact valid. It would be interesting to know how local consumers feel about specific provisions of the legislation before Congress. In combination, the House and Senate bills would all but reduce the FTC to impotence.

For instance, do "conservative" Kentuckians really favor legistlation that would:

Force the FTC to end an investigation of Sunkist Growers Inc., an agricultural cooperative that appears to have become a sort of OPEC of the western citrus fruit industry? The agency claims Sunkist engages in anti-competitive practices to maintain its near monopoly. Maybe that's why grocery shoppers feel stung, rather than kissed, when they buy oranges and lemons.

Prevent the commission from policing "unfair," as well as "false and deceptive," advertising? And end the probe of television commercials for sugared cereal and junk food, which, to the dismay of parents, dentists, educators and reputable businessmen, are aimed primarily at young children?

Prevent the FTC from requiring used car dealers to inspect their autos and inform customers of defects? Experience in Wisconsin has shown that this controversial rule might add $20 to the price of a car and would spare many a consumer the misery of owning a clunker.

Kill a proposed rule requiring funeral directors to itemize the charges for their services and to tell customers what the law requires in the way of burial and cremation procedures?

Prevent the FTC from revealing that consumers get a bad deal when they buy certain types of insurance?

Torpedo a study of private groups that set product standards and confer seals of approval? The agency wants to know if unfair practices are limiting competition at a high cost to the buying public.

Allow one house of Congress to veto FTC regulations for purely political reasons and without serious consideration of the merits of, or the need for, the rule?

Anyone who feels intolerably burdened by these FTC activities should certainly urge his congressman to cripple the agency.

But doesn't a glance through the above list suggest that Congress, for less than noble reasons, is trying to stop the commission from carrying out its responsibility to search out and prevent abuses in the marketplace? Will we really have cause for celebration when our representatives return, in glory, to boast of their assault on the regulatory monster?

[From the Berkshire Eagle, Nov. 21, 1979]

A Pine Box for the FTC?

In its efforts to protect the U.S. public from the worst excesses of the free-enterprise system, the Federal Trade Commission has stepped on toes in any number of industries, including the funeral-home business. Now an effort is being made on Capitol Hill by a wide range of industry lobbyists to provide the commission with an unceremonial burial of its own.

Interment would be under not six feet of earth but a welter of congressional bans on specific FTC investigations and a bill that would grant both the House and the Senate a veto power over any FTC decision. The latter proposal is particularly pernicious, since it would set a precedent of letting congressmen overrule at a whim the conclusions arrived at by supposedly independent regulators.

The regulatory commissions play a unique and important role in U.S. government as they attempt to assure that a wide range of economic activities, from air transportation to the selling of prescription drugs, are carried out according to the laws Congress has passed over the years. If Congress wants to no longer promote open trade and fair advertising and discourage monopolies, it should go about changing those basic economic laws, not hounding regulatory commissions like the FTC.

The FTC, though, is a convenient target because, after more than a half-century of relative passivity, it has finally begun in the last decade or so to take its role seriously. This has brought it into conflict with one lobby after another, including potent ones like the insurance industry's. It was just a matter of time before the lobbyists' complaints were reflected in congressional action.

The FTC is not above criticism. In the whole area of restricting mergers and other anticompetitive developments, there is a great deal of overlap between it and the Justice Department's antitrust division. While most of the FTC's forays into specific economic or advertising abuses are more than justified, some—like the hearings on television advertising for children—are more interesting than genuinely productive.

But the vote by the House of Representatives last week telling the commission it could not require that undertakers make prices available over the telephone is a good example of how not to go about regulating the regulators. Studies by the FTC have shown a pattern of consumer abuse in the funeral-home business that is widespread and costly to families. Instead of correcting these problems, which have been estimated to lead to the waste of at least 10 percent of the $3 billion Americans pay each year for funeral arrangements, the industry would rather just have itself declared above the law.

If the Senate, which has traditionally been less obliging to lobbyists' gripes against regulators than the House; does not stop this bill and the one establishing congressional veto power over individual commission actions, President Carter should. The president deserves credit for appointing aggressive consumer-minded members to the commissions. But that reputation will not last if Mr. Carter stands by while Congress does its best to embalm the FTC.

[From the Albany (N.Y.) Times-Union, Nov. 29, 1979]

PROTECTING CONSUMER FRAUD

You've no doubt at least once in your life bought a used car that turned out to have a major mechanical problem about which, you suspected, the dealer was well aware.

Or you have experienced some of the funeral home schemes described in a Times-Union series in June 1978, schemes designed to distract and lure you into a higher-priced display of grief than you intended.

The FTC, you would be happy to know, has proposed regulations to curb such practices.

The Senate and the House, you will be unhappy to know, are taking action to curb the FTC.

The Senate's Commerce Committee has approved a bill that would kill the used-car rules as well as a number of other FTC projects designed to protect consumer wallets.

The House has voted to prohibit the regulation of the funeral industry. (Rep. Frank Horton voted against that but our other area legislators ducked the vote.)

The House has also voted to end the FTC's investigation of whether Sunkist growers are monopolizing the marketing of oranges and grapefruit. And it has voted to subject each FTC ruling to a congressional veto.

That's odd. The FTC was set up so congressmen wouldn't have to take the heat from businesses that need to be regulated, but the business lobbyists are turning up the heat anyway. Sure enough, Congress can't take it.

Why? Because, one public interest organization leader explained, "widows, kids and poor people who buy used cars don't have trade associations."

There is no doubt that the FTC has been guilty of excessive enthusiasm and nonsense solutions to ill-perceived problems. Congress needs a way to deal with such excesses in a reasonable way.

But the current campaign against FTC is not a campaign for reform of onerous regulation as some claim. It is a campaign to protect consumer fraud.

[From the Portland (Maine) Press Herald, Nov. 22, 1979]

THE FTC NEEDS YOUR HELP

(By Jane Bryant Quinn)

NEW YORK.—The Federal Trade Commission is fighting for your money and your right to honest advertising in the marketplace, and it badly needs your help.

Congress, stuffed to the gills with pleas and threats from lobbyists and campaign contributors, is on the verge of killing the FTC's 41-year-old right to prohibit unfair sales claims and practices. They're also trying to cut other aspects of the FTC's consumer-protection authority off at the knees.

On issues like this, fought out on bureaucratic turf, Congress usually hears mainly from industry lobbyists and a few, standard consumer groups. The average voter doesn't know what he's losing until its all over.

But right now, you can make a difference. The battle is boiling to a head, and Congress is home for Thanksgiving. Your elected representatives really can be moved by a lot of letters from constituents. Call your congressman or senator; write to him at his home office or at the House or Senate in Washington. Also, write to the architect of the most damaging proposals, Sen. Wendell Ford (D-Ky.), chairman of the Consumer Subcommittee of the Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C. 20510.

Here's a partial list of what legislation pending in the House or Senate would do:

Eliminate the proposed FTC rule that requires funeral homes to disclose prices and prohibits them from charging you for services that you don't want.

Prevent the FTC from looking into whether large farmers' cooperatives keep food prices unreasonably high. In a precedent-setting move, Congress would stop a case, now in litigation, against the Sunkist Corporation, which the FTC says controls 75 percent of the Western citrus crop.

Eliminate the right of the FTC to police unfair sales practices, a right it has had since 1938. This rules out the wind of marketplace policing that benefits consumers most.

For example, the FTC could no longer require advertisers to substantiate claims in advance. To take just one instance, the maker of a gasoline additive could claim that it "saves gas" without making any systematic study of whether it does or not. The FTC couldn't question the ads without financing its own, expensive tests to find out if the claim is true. Because of the high price of running such tests, advertisers would be free to undertake a wide range of vague and unsubstantiated claims without fear of government challenge.

According to FTC chairman Michael Pertschuk, the commission also relies on the "unfairness" test to require manufacturers to disclose important buying information. Under this authority, insulation manufacturers, starting next month, will have to reveal the R-value, or insulating value, of their materials, based on standard tests. Consumers will then, finally, be able to tell which products do the best job. If the Ford bill passes, manufacturers could make R-value tests any way they like, or not make them at all.

Without the unfairness standard, the FTC could also be prevented from forcing mail-order vocational schools to disclose how many jobs they really get for their graduates or from opening up the medical, eyeglass-sales and other fields to price advertising.

Prevent the FTC from setting trade rules in the area of anti-trust. The target here is the standard-setting procedures of various industries, that determine which products can or can't be used. In the building industry, for example, concrete pipes may be the reigning standard for outside drains. When effective, and less costly, plastic pipe comes along the concrete-pipe manufacturers could use their influences to keep the plastic out. The result is much higher buildings costs.

Institute a legislative veto of everything the FTC does. Just one house of Congress could, by majority vote, overturn any consumer-protection action taken by the FTC.

The FTC is not always just and wise. But if Congress doesn't like a specific action, both houses should challenge it, after holding public hearings so that everyone could have his say. Instead, they're holding an undisclosed, high-priced funeral for the commission itself. If consumers don't speak up, it will be their loss.

[From the Daily News, Oct. 8, 1979]

CONSUMER PROTECTION ACTIVITIES ARE THREATENED

(By Sylvia Porter)

Do you think that:

Before you buy a used car you should be told that it has been involved in a serious accident?

Before you spend the $2,500 traditional funeral and burial service often costs you should know that immediate cremation or burial would run less than half as much?

Before you spend the money to install insulation in your home to help curb your winter fuel bills you should be able to compare the efficiency of various types of insulation products?

Before you risk spoiling your drapes, carpets and other home furnishings by improper cleaning you should have the same sort of care-instruction labels now attached to most clothing?

If your answer to any of these questions is "Yes," you are at odds with many members of Congress, particularly a House subcommittee that oversees the Federal Trade Commission's funding.

In a harsh and unusual move, a House appropriations subcommittee, chaired by Rep. John M. Slack (D-W. Va.) has directed the FTC to stop most of its major consumer protection moves.

The subcommittee is seeking to cut off the funds the agency needs to issue rules policing the funeral industry, used car dealers and makers of mobile homes, home insulation products, over-the-counter drugs, protein supplements—to give you merely a sampling.

The reason: industry complaints about the FTC's "over-regulation" and the public's general distaste for government interference. The result: The House subcommittee became a target for intense lobbying by industries which felt their profits were being threatened.

Trade regulation rules are in many ways similar to traffic laws. The trade rules set standards for acceptable behavior for everyone within an industry and define practices which are unfair or deceptive. As with traffic laws, not every violation can be caught, but enforcement and even the existence of the rule will be enough to discourage gross and repeated violations.

The proposed funeral home rule, for instance, would among other things require funeral home directors to disclose prices over the phone and prohibit them from misleading customers into believing such services as embalming or such items as vaults are necessary when they are not.

It was only after a five-year exhaustive investigation of the industry and widespread hearings that the FTC concluded such basic rules of conduct were essential to assure consumers a fair deal.

The funeral industry furiously insists "not so!" It wants the FTC's rule-making authority more tightly controlled.

So do many other powerful, well-organized business groups.

An irony here is that most of the trade regulations now causing such controversy were set in motion four years ago, when the FTC was dominated by Republican appointees, reports my associate Brooke Shearer. Now the full Democratic-controlled House has endorsed the main points of the subcommittee's vote—although the ultimate fate of the FTC is still to be decided.

The House has given the FTC funds to continue operating only until November. By that time, the various committees that supervise the agency must decide formally how much the FTC can spend over the next several years.

The FTC has been without such an authorization for the past three years, largely because Congress has not been able to come up with a clear definition of the commission's mission.

Meanwhile, businesses in a wide variety of fields, both large and small, well-organized and determined to force a curtailment in the FTC's independence will be pushing Congress to grant itself the right to veto any FTC rule.

A veto power of that nature almost certainly would cripple the agency's consumer protection efforts.

You don't need to stretch your imagination much to reach the conclusion that heavily-financed organizations of, say, user car dealers and funeral home directors have far more clout with Congress than you, as an individual consumer, or member of a consumer group. And certainly they have more ways to "persuade" Congress than an agency such as the FTC.

Thus, every attempt by the FTC to promote a new regulation for your protection would touch off a new—and most likely, successful—lobbying effort by the industry or industries directly affected to convince Congress to exercise its veto power.

[From the New York (N.Y.) Daily News, Oct. 7, 1979]

LEAVE FTC ALONE, IT'S DOING ITS JOB

(By Bess Myerson)

Consumers should be aware that there's a strong move under way, led by many industry lobbies and members of Congress who agree with them, to change the meaning of the initials FTC. Instead of standing for the Federal Trade Commission, which was created in 1914 with the mandate to keep business competition free and fair, the opponents of the F.T.C. would like to make a few changes in its operation which would result in the initials standing for Forget The Consumer.

Last month, at hearings before the Senate Commerce Subcommittee on Consumer Affairs, which were initiated in response to charges that the FTC was unfair to many industries through excessive industry-wide regulations, there were demands that the agency's authority be cut back and limited. Strangley, the protests came from those industries which at present are being closely looked at by the agency because of numerous consumer complaints: funeral homes; used cars; hearing aids; mobile homes; home insulation; non-prescription drugs; health spas; apparel (re: labeling); television and advertising (re: commercials on children's TV programs); cereals; among others.

There were a few consumer representatives who appeared as witnesses to defend the agency's present efforts, but you didn't have to be an investigative reporter digging for hidden details to see which way the tide was running. The anti-FTC attitude was right out there in the open, and if the lobbyist pressure continues as strongly as it has up to now—and it will, and if consumer support for the FTC continues to be as indifferent as it has been—at least the active and vocal support, then the opportunity for the agency to do an effective job is in trouble.

A few years ago, the complaints were coming from the other direction. Consumers didn't think the agency was working as hard to protect the consumer as their mandate gave them the opportunity to do. And the consumers were right. There were consumer protections that were gained during that period but for the most part—from the consumer view—there were more abuses ignored or half-answered than corrected. More often than not, it was literally business as usual.

There's been a change. In the recent past, and especially under the present commissioner, there have been renewed and strengthened efforts to regulate higher standards of consumer protection in a number of industries which didn't seem to have either the ability or inclination to self-regulate themselves to acceptable consumer protection.

Nobody wants "over-regulation" anywhere. Consumers also pay the price of that. But consumers know that to some industries and to some companies in any industry, any regulation is considered too much, and they plead to be left alone to do the job themselves. But no regulatory agency would ever have been created in the first place if there were not gross violations and abuses by those industries, and companies which were not doing the job themselves.

[From the Washington Post, Jan. 24, 1980]

THE PICTURE IS DELICIOUS

A week ago, our financial section told about a new Federal Trade Commission policy on endorsements.

"From now on," it said, "baseball players, pop singers and others plugging products in commercials must actually use the product if the ad says they do."

The FTC has worked hard to minimize deceptive business practices and because of this, I love the FTC.

Some of my business-oriented friends think I'm nuts. They think the FTC is one of the federal agencies against which Throttlebottom campaigned with the slogan, "We must get the dead hand of government off the throttle of American industry."

Hogwash! I am as business-oriented as the next fellow, and I think that when the FTC keeps advertising honest it helps businessmen as well as consumers.

After all, what could benefit business more than an agency that can make advertising honest and believable, and therefore profitable?

Then I asked: "Why couldn't we just insist that when an advertiser pays for an endorsement, he must reveal how much he paid?"

I assume Fishrow is a lawyer because the sigh he emitted was the same kind I got when I ask my lawyer an innocent question to which there is no quick or easy answer.

"One of the basic principles in the guidelines we put out to advertisers," Fishrow said, "is the one to which you just made reference—that there should be disclosure of any material connection between the endorsement and any benefit given to the endorser, whether it be money or anything else.

"The commission has felt that almost all members of the public are sophisticated enough to realize that prominent people don't give endorsements free. The amount paid is not as important as the knowledge that the endorsement was bought. The public is then in a position to judge the value of that endorsement.

"However, when a TV commercial purports to show an average consumer on a hidden camera and it creates the impression that this is a genuine endorsement from an ordinary person who is not being paid for it, we must insist on an honest presentation. They can use professional actors in these scenes if they want to, but if they do they must say so. They can give the 'average consumer' money or other things of value, but if they do they must say so. We don't tell people how to advertise, we just say that their advertising should not mislead or deceive."

"Bravo!" I said, and this time the sigh was that of a hamburger-lover, not a lawyer. "If you'd really like to pursue that issue. I can give you the name of a person who is an expert on deceptive practices."

"Yes, please do," I said. And he did.

Unfortunately, I am not yet in a position to tell you about the relationship between the half-inch thick full-color beauties in the window and the dismal gray wafers of meat available at the counter inside. I have been calling for the deceptive practices expert for a week, but I haven't gotten through yet.

The FTC people who monitor deceptive practices are obviously busy with practices that involve more important issues than anemic hamburgers. I just hope Congress keeps its grubby hands off the FTC and permits it to do its job.

[From the Hartford (Conn.) Courant, Dec. 1, 1979]

THE FTC FREE-FOR-ALL

The Federal Trade Commission has finally been brought to ground by lobbyists who persuaded the House of Representatives this week to impose anti-FTC curbs. The Senate is expected to follow with restrictions even more severe.

There is no single legislative indignity among the many measures that could signal the end of federal trade regulation. But the hodge-podge of special interest gifts approved by the House, and the anti-regulation mess being brewed by the Senate, is an embarrassing package of bad public policy.

The House-approved legislation contains specific exemptions from FTC jurisdiction for agricultural cooperatives (a target of FTC antitrust investigators) and funeral homes (targeted for regulation of their business practices). The legislation would also allow either the House or Senate to veto any new FTC rules, within 90 days of their difficult birth.

The weakness in this style of legislating stems from the intellectual laziness which inspires it. If agricultural cooperatives are somehow unique in the American marketplace, then the nation's antitrust laws should be rewritten to reflect it. If morticians are blessed with a special privilege that allows them to transcend the greed to which some other businessmen occasionally fall victim, then the FTC mandate to protect against unfair business practices should be revamped to reflect that special grace.

Under present law and congressional intent, FTC scrutiny of agricultural cooperatives, which organize the economic power of farmers in a market strategy that has decidedly anti-competitive features, is quite appropriate.

Under present law and congressional intent, FTC scrutiny of funeral homes, which service families when they are emotionally vulnerable, and which have been the subject of many consumer complaints at FTC public hearings, is quite appropriate.

Congress should not set regulatory policy on a case-by-case show of hands. The nation's independent regulatory agencies cannot become congressional appendages, if they are to continue to protect the public.

The one-house veto of FTC rules has been approved by the House in past years, but the Senate has never acted on it. The Senate should continue that evasion. Regulatory policy should not be subject to the erratic congressional whims.

[From the Advertising Age, Dec. 3, 1979]

FTC GETS FAST SHUFFLE

Even members of the Federal Trade Commission now admit that rulemaking under the Moss-Magnuson Act got out of whack. Many proposals—covering marketing activities of funeral directors, used cars, children's advertising—seemed to encompass everything but the kitchen sink. Though FTC has been willing to pull back as evidence discredited these ideas, businessmen rightly feel it has no regard for the burdens it imposes. Nor is it sensitive to the complaint that procedures often are unfair.

Now we are witnessing an equally heavy-handed effort to set it all straight with a new law. Not simply a law repealing Moss-Magnuson, and returning to the proven legal grounds which existed before 1975, but a composite with gimmicks like the one-House veto, undercutting the political independence which has long been regarded as an indispensable virtue of FTC, and the manipulation of established statutory phrases like "unfair or deceptive" to such a degree that legal precedent dating back as much as ten years could be left in doubt. And all this on the basis of advice which members of Congress obtain from those they contact in private, without a serious effort to record the views of diverse authorities who might shed some light on the implication of these changes.

The present course reflects the judgment of those who believe nothing is more important than putting a lid on FTC, and that this must be achieved when the passions of the moment favor that enterprise. We believe that if they have their way they will discover—too late—that there is something more important. That something relates to how they go about imposing the lid.

Lessons of history long ago demonstrated the importance of orderly procedure as a bulwark of liberty, shielding us from ill-conceived judgments of transient majorities. Our nation is so deeply committed to orderly process that we even provide court hearings for offenses as trivial as a traffic ticket. FTC may need a lid. But the precedent being set by imposing that lid without fully exploring the consequences of our actions is no small thing. For it becomes the stepping stone for some new majority tomorrow which may seek to even the score.

No doubt there are pragmatists who say, "So what?" We can only admire their omnipotence. Without securing expert judgment, how can Congress have an informed defense? In the absence of an informed debate, how can the courts and the commission divine the true intent of the new law? Under such circumstances, how can those who think they have put a lid on FTC feel certain this proposed law does what they think it does?

It is particularly unfortunate that advertising organizations like the American Assn. of Advertising Agencies and the American Advertising Federation have identified themselves with this dubious adventure. Since the turn of the century leaders of this industry have been able to boast of their strong support for necessary regulation, and this record has served the industry well, time and again, when it has been necessary to oppose unwarranted and unworkable laws. The present industry leaders undoubtedly feel they will stand for necessary regulation. But they are likely to have a hard time persuading a public which will wonder how it happened that we went into the 1980s with a Federal Trade Commission less independent and less powerful than the commission which was expected to cope with the marketplace problems of the 1940s.

[From the St. Petersburg Times, Nov. 16, 1979]

THE MISREPRESENTATIVES

Call it the House of Ill Repute, not the House of Representatives. The lower chamber of Congress has prostituted itself to the special interests, and the vote wasn't even close.

The vote, 223 to 147, was to prevent the Federal Trade Commission (FTC) from regulating the funeral industry. It has been a constant scandal, obvious to everyone but the Congress, how some funeral directors exploit the grief and guilt of their clients. The proposed regulations would require nothing to offend the honest majority in that trade—but merely price disclosure, truth-telling and a decent respect for the public.

As every House member knew, there was more than met the eye to the amendment disabling the FTC's funeral investigation. Every anti-consumer lobby had a stake in the outcome.

"If one special interest can beat the rules before final action, then we know every other special interest will ask for an exception," warned Rep. Robert Eckhardt, D-Texas, chairman of the consumer protection subcommittee. "This will open the gate to taking apart FTC authority."

Exactly.

The bill under debate was bad enough without the funeral amendment. As a condition of reauthorizing the FTC itself, it would subject every future FTC regulation to a veto by either house of Congress. This procedure is probably unconstitutional and is bad policy at best.

If the Senate cannot improve on this bill, President Carter must veto it. It will be a great test of whether his administration is committed to public good on private greed. On this issue, there is no in between.

Congress has both the FTC and the White House in a vise. The FTC can do almost nothing until an authorization bill however bad is enacted.

But it would be better to abolish the FTC than to continue it under the House bill. As amended, the House bill institutionalizes fraud and deceit instead of consumer protection.

Florida's delegation did better than most, splitting 7–7 with one absentee on the funeral amendment. Democrats Charles Bennett, Jacksonville; Sam Gibbons, Tampa, Dan Mica, West Palm Beach; Ed Stack, Fort Lauderdale; and Dante Fascell, William Lehman and Claude Pepper of Miami all voted for the public interest.

Voting to sell out the public were Democrats William Chappell, Ocala; Don Fuqua, Tallahassee; Earl Hutto, Panama City; William Nelson, Melbourne; and Andy Ireland, Winter Haven, and Republicans Richard Kelly, New Port Richey, and C. W. Bill Young, St. Petersburg. We had hoped that Young and Kelly, representing districts with many senior citizens, would vote to protect older Americans.

Other great disappointments are Nelson and Ireland, who was a cosponsor of the amendment. When elected, each appeared to symbolize the independent, thoughtful, "new-breed" style of politician. Appearances deceived.

[From the Denison (Tex.) Herald, Nov. 8, 1979]

AN UNFOUNDED FEAR

The American Medical Association (AMA) reacted with predictable consternation recently to the ruling by the Federal Trade Commission that physicians cannot be prohibited from advertising their fees and services.

Two years ago, the American Bar Association (ABA) expressed similar concern over the U.S. Supreme Court decision permitting lawyers to advertise. ABA officials worried aloud that commercial advertising would benefit unscrupulous lawyers at the expense of their more principled colleagues.

There is, as yet, no evidence that anything of the sort has happened. What does seem apparent is that the growing volume of legal advertising has served the public by enhancing competition in the marketplace.

Why should advertising work any differently in the medical profession? The practice of medicine is a service for which the benefits are related to the costs. The more consumers know about both, the better.

The AMA's concern over unethical advertising is justified. But existing laws and regulatory agencies already provide adequate safeguards against this type of consumer fraud.

The likelihood, then, is that advertising in the medical profession will yield results similar to those it has produced in other fields. Namely, greater consumer knowledge and corresponding competitive pressure to produce the best possible product or service at lower costs.

[From The Nation, Dec. 10, 1979]

GETTING THE F.T.C.

They celebrated Christmas early on Capitol Hill this year. A House subcommittee passed a "Christmas tree bill" last month with gifts for just about every corporation or trade association under the sun that has a gripe against the Federal Trade Commission. Specifically, the House appropriations subcommittee adopted a forty-five-day funding resolution that prohibited the F.T.C. from undertaking "any new activities," such as issuing rules or launching investigations or pursuing litigation. Unaccustomedly modest, the subcommittee kept its beneficences quiet: only the members and a few lobbyists were present. Nonetheless, it was a blatant example of the Balkanization of the House by special interests and single-issue groups.

The Appropriations Committee adopted its subcommittee's resolution, and the F.T.C. was left to operate under the contingency funding resolution for the next forty-five days. The House restrictions on the F.T.C. were subsequently swept away in the general budget pandemonium, but never fear, lobbyists. The Senate Commerce Subcommittee is now holding hearings on the F.T.C., before which a parade of representatives from business have appeared to castigate the commission. The best guessing right now is that the Senate will go about eviscerating the F.T.C. in a more genteel way—either by narrowing its enabling legislation or by a "legislative veto" proposal. The latter will enable Congress to accomplish slowly and deliberately what the House appropriations subcommittee did in one whack, i.e., repeal behind closed doors F.T.C. regulations that businessmen don't like.

Back in the 1960s, the first report by Nader's Raiders appeared—on the F.T.C. The image that has stuck in our mind all these years is the commissioners' practice in those days of taking frequent naps to fill their empty afternoons. Chairman Michael Pertschuk has since stirred the F.T.C. out of its somnolence, and it has taken on conglomerates, the oil companies and other large and powerful interests. It is instructive to note that the eighteen new F.T C. rules passed or in the pipeline, which the appropriations subcommittee succeeded in suspending, were actually written under the Nixon Administration, and have been refined and focused under Pertschuk—hardly the depredations of a wild-eyed antibusiness fanatic. Still, it all goes to show that the special interests—and their Congressional errand boys—will only be satisfied with no regulations at all.

[From the Sunday (Md.) Sun, Dec. 16, 1979]

Picking Apart the FTC

(By Arthur E. Rowse and Bob McGrath)

A year ago, Congress' main watchdog over regulatory agencies concluded after study that the Federal Trade Commission, the government's principal consumer protection agency, was having "only limited success" in assisting victims of unfair business practices.

The General Accounting Office recommended that legislators boost the agency's authority to police the marketplace and urged the FTC to use the power it has to protect the public more efficiently.

A year later, Congress is picking the FTC apart as if it were a holiday turkey rather than adding meat to its bones. Enjoying the feast immensely—and quietly—are countless business interests which have become targets of FTC actions in recent years.

The latest blow to the agency came November 27 when the House passed an FTC budget authorization bill that would cut off several pending regulations and set up a legislative veto arrangement that would allow either branch of Congress to knock down any FTC action.

It was the first time either branch of Congress had ever voted to block an FTC regulation before it had even been made final.

The most frequent concern expressed by House members was for small business, which was invariably depicted as the victim of costly and unnecessary regulation. In the debate, scarcely a word was said about the effect of FTC restrictions on the buying public.

The anti-regulation mood was running even stronger when the Senate Committee on Commerce, Science and Transportation met November 20 to vote on its FTC budget authorization for the next two years. The committee approved more restrictions on the FTC than the House.

The committee is also considering proposals to cut back the FTC's power to pursue monopolistic practices by breaking up firms that control prices and supplies.

A proposal to restrict FTC power to issue subpoenas (to force disclosure of certain information) is in the bill reported to the full Senate.

If these proposals are passed by both houses, the FTC may have to drop major antitrust cases, including ones against Exxon and other oil firms, ITT-Continental, du Pont, General Motors, Kellogg, General Mills and General Foods.

Among the people most effected by House and Senate action—if President Carter signs what Congress produces—will be buyers of insurance, cars, cereal, citrus fruits, encyclopedias and funerals.

Also to be affected would be virtually everybody who buys a trademarked item such as Formica, or a product that must conform to privately set standards, such as lighting, plumbing and construction materials.

If the committee has its way, the FTC would also lose much of its broad power to prevent misleading advertising.

Nearly everything that is advertised comes under the FTC's wings, but few of its cases would be able to get off the ground if Congress follows the Senate committee's recommendation and bans any action against ads on the ground that they are "unfair."

The impetus for this particular attack is the agency's controversial proposals to restrict certain television ads aimed at very young children. The complaint is not that they are untrue, but that they unfairly convince impressionable youngsters to demand sugary items, such as candy and cereal, that have potentially harmful effects on the teeth and diet.

A ban against "unfair" ads would end action involving TV ads of this type. It would also prevent the FTC from acting against ads with unsubstantiated claims, says the FTC.

Congressional critics of the embattled agency contend, however, that action against such ads would still be possible under the agency's authority to take action against false or deceptive ads.

Then, too, there may be a ripple effect that extends beyond the actual curbs imposed on the FTC, especially if the agency takes the blunt messages to heart and draws back from actions that might still be within its power to take.

In the past year, the agency has watered down a number of proposals after reading earlier criticism from Congress.

Among proposed rules that have been cut back or delayed after a wave of complaints from affected businesses have been ones regarding the sale of hearing aids, vocational school courses and home insulation products.

The agency originally proposed a number of restrictions on claims made for hearing aids in order to prevent misrepresentation. Most of these were dropped in favor of a 30-day trial period, which some large manufacturers already allow.

Original rules on vocational schools would have required disclosure of numerous facts and required students to reaffirm the contract within 14 days before courses could begin. Many of these requirements were dropped, and a 10-day cooling-off period was set, in which a student can drop out and get a prorated refund.

Recently, the agency has postponed to December 31 the effective date for rules requiring manufacturers to include "R" values (the measure of effectiveness) on labels and insulation products.

Even more important to consumers may be actions taken by the full House and by the Senate Commerce Committee to exempt certain industries—certain firms in some cases—from pending FTC actions.

Among these are:

Insurance—By prohibiting the FTC from even investigating this gigantic industry. Congress will be removing one of the few effective critics of the industry and the way states regulate it.

Since the McCarran-Ferguson Act of 1945, the federal government has been precluded by law from regulating insurance.

But numerous studies, including some done by congressional committees, have concluded that the states are not protecting insurance buyers from deceptive and fraudulent practices costing consumers billions more than necessary each year.

In one year alone, said a recent FTC report on life insurance, buyers lost $1.3 billion they could have earned elsewhere with excess premiums pocketed by the companies.

Another study by the FTC found many elderly people paying through the nose for "Medigap" policies either duplicating each other or providing little protection for the money involved.

These and other studies so enraged the insurance industry that they sought help on Capitol Hill. One senator even suggested that "criminal sanctions" may be necessary to keep the FTC from looking into alleged abuses in insurance.

Automobiles—For five years, the FTC studied the selling of used cars to see what, if anything, could be done to help buyers get what they pay for.

In November, 1978, the agency proposed a series of rules designed to provide buyers with more information. Sellers would be required to inspect each car and put either an "OK" or "Not OK" beside each mechanical item on a list. Stickers would also have to disclose warranty terms, safety defects, mileage, what the car was previously used for and whether it had been totalled in a wreck.

Dealer associations complained that such a sticker would amount to a warranty, which the FTC did not have authority to require. They brought their case to Congress, where they found a friendly reception.

The bill voted by the Senate committee will prevent the FTC from issuing any rules requiring inspection of used cars.

Funerals—The FTC also spent five years investigating the funeral industry, which has been the subject of a series of books and studies alleging widespread abuses and wasteful practices.

One of the most common problems, said the agency staff, was the practice of using package prices rather than itemized prices, thus leaving the buyers often unprepared for the size of the final bill. The FTC proposed that more price information be disclosed.

The agency also proposed that certain practices be changed, including the common one of embalming without permission of relatives or friends of the deceased. Millions of dollars could be saved for consumers, said the agency staff.

Funeral directors fought the FTC all along the way, finally bringing their grievances to Congress. As a result, the FTC pulled back most of its proposed rules, including a ban on package pricing.

Essentially, the rules that are left simply require more disclosure of information. A prominent industry journal concluded that the industry could "live with" the revised rules.

But the funeral industry kept up the fight and succeeded in getting the House to prohibit the FTC from issuing any rules affecting funerals.

Food prices—Two years ago, the FTC launched an investigation to see what effect, if any, Sunkist Growers, Inc., a large cooperative, was having on prices people pay for citrus fruit in a number of Western states.

According to the agency, Sunkist controls no less than 75 per cent of the production of oranges and lemons in the Western states and has used anti-competitive practices to increase that control and set prices.

The FTC has proposed divestiture of some of Sunkist's larger companies in order to bring more price competition.

But Sunkist contends that the FTC has no authority to get into anything having to do with cooperatives because of the Capper-Volstead Act of 1922, which granted agricultural cooperatives immunity from antitrust prosecution. The act is supposed to be administered by the Agricultural Department, but the department has never filed an antitrust case against a cooperative.

Sunkist suggested that the FTC focus instead on the acquisition of food products by large conglomerates. But the agency replied that Sunkist is a large combine itself and that the Capper-Volstead Act was intended to help small farmers, not large organizations. Sunkist sales last year were $513 million.

Representative Mark Andrews (R.-N.D.) won passage of an amendment to the FTC authorization act in the House to block the agency from making an antitrust case against any cooperatives.

Encyclopedias—The FTC has been active in pursuing many alleged abuses in the selling of encyclopedias, particularly the common ploy of posing as interviewers or survey-takers to gain admission into a home.

In a case involving Encyclopedia Britannica, the FTC resolved complaints about misrepresentation by an order requiring among other things, that company personnel carry a card identifying them as sellers of encyclopedias. The cards must be shown to potential customers at the beginning of the conversation.

The company, however, claims that the FTC requirement that sales personnel identify themselves has put the company at a competitive disadvantage with other companies not so required.

In the Senate committee, Senator John Warner (R. Va.) won unanimous passage of an amendment requiring the FTC to reopen any final order if an affected company claims that a major change in market conditions has resulted from the order.

Although the rule change is designed to help Encyclopedia Britannica only, it is written broadly enough to be used by many companies to overturn FTC regulations without court review.

Product standards—Many consumers are required to buy certain products rather than competing ones of equal value or better value because of overly restrictive product standards, according to an FTC study.

Examples cited are requirements for much more electrical lighting than necessary for buildings and requirements for the use of certain kinds of pipe or wiring in new houses and commercial buildings. As much as $3.5 billion in energy waste a year from such standards has been alleged in complaints to the FTC.

The FTC has proposed rules that would require greater consumer representation on standard-setting organizations and would make such groups more responsible for the truthfulness of certifications.

But representation groups, including Underwriters' Laboratories and the American National Standards Institute, succeeded in getting the Senate committee to approve a change in FTC law which would stop the action in its tracks.

The committee voted to prohibit the agency from prescribing "any trade regulation rules with respect to unfair methods of competition."

Although backers of the change said it would affect only the FTC work on standards, the FTC commissioners were not so sure in a letter to the committee urging—unsuccessfully—that it not act on the matter.

General restrictions—In addition to those specific restrictions are several general ones that are virtually the same in both the House and Senate bills.

They include a requirement that the FTC draw up semi-annual agendas of action for 12 months ahead, plus updates describing the status of pending rules. The FTC would be allowed to propose a rule not on the agenda only if an explanation is given to Congress.

Each item on the agenda would have to include the name, address and telephone number of the FTC official responsible for responding to any (congressional) inquiries relating to the item.

Whenever the FTC decides on a rule-making action, it would have to publish a preliminary analysis describing the need for action, any alternatives available and the costs and benefits involved. Deadlines are also set for agency actions.

Semi-annual oversight hearings would also be required, thus doubling the usual annual reviews of the agency by appropriate congressional committees.

The Senate bill also would allow winners of court challenges of FTC actions to collect legal fees from the agency. But the bill does not set up extra appropriations for this purpose, so the FTC would have to dip into its operating funds in such cases.

Money for paying expenses for citizen witnesses at agency hearings would also be cut substantially by both bills.

[From the Philadelphia Inquirer, Sept. 28, 1979]

FTC Is and Should Be, Zealous in Its Work

The Federal Trade Commission has been running into a lot of flack recently. There was a time, a decade or so, when the FTC was widely (and quite correctly) regarded as a refuge of political backs who might as well close up shop for all the good they were doing. In recent years, though, the FTC got its act together and under Michael Pertschuk, who took over as chairman two and a half years ago, it has been doing its job of protecting the American consumer with considerable zeal.

Too much zeal, according to its critics. In the House, attempts are being made to put reins on the agency by forbidding it to engage in "any new activities" and to give Congress a veto over the trade rules it promulgates. In the Senate, a Commerce subcommittee has been holding hearings in which representatives of sundry industries have been testifying about the inconveniences to which the agency has allegedly subjected their industries.

What inconveniences? Well, in accord with Chairman Pertschuk's aim of making the FTC "the best public interest law firm in the country," the agency has been investigating alleged antitrust violations in the oil industry and the health care field.

It has proposed rules to protect buyers of used cars from having lemons unloaded on them. It has proposed regulations aimed at broad reforms of the funeral industry, including requirements that survivors be told clearly of the prices they are paying for everything connected with funerals and that they be protected from various forms of misrepresentation. It has sought to get rid of prohibitions on advertising by physicians, and it did override state laws prohibiting advertising eye-glasses. It has investigated charges that some insurance companies have engaged in unlawful discrimination against minorities by "red-lining" in refusing to write automobile insurance.

Let it be admitted that on occasion FTC staffers have gone overboard, as they did when they looked into the question of whether tobacco advertisers were engaged in deceptive practices by showing pictures of cowboys and happy couples using their product. Let it also be noted that Congress does have the responsibility of oversight to the regulatory agencies it creates. The FTC, created in 1914, is such an agency and its work should be examined periodically.

Attempts to keep it from doing its work, though, are something else. The work is to protect the American consumer from fraudulent and deceptive practices, to encourage competition, and stop antitrust violations. "In fact," one corporating president testified in criticizing the FTC, "the agency clearly functions as an advocate." That is exactly how it is supposed to function as an advocate for the consumer.

[From the Sun-Times, Sept. 25, 1979]

Consumer Interests in Peril

The Federal Trade Commission is one federal agency that really is trying to protect the little guy. So naturally, Congress is trying to destroy it.

The FTC saved consumers at least $60 million a year by forcing Levi Strauss & Co. to allow its jeans to be sold at a discount.

It forced trade schools to tell their applicants how many of their students graduate and get jobs and to give pro-rated tuition refunds to dropouts.

It wants used-car dealers to list the defects in their jalopies or admit they haven't been inspected.

It says funeral homes should itemize prices, rather than soak the bereaved with "package deals" they can't afford.

Special-interest lobbyists, and the members of Congress they control, have had about all of this they can take. Last week the House voted to give the FTC only 45 days' operating money and to prohibit it from approving new rules or starting new projects.

The strategy is to let the agency twist slowly in the wind while the House pressures the Senate to accept its insidious scheme to let either house veto any FTC rule. No other federal agency is subject to such a veto.

That would effectively kill the FTC, and with it any meaningful consumer protection. Powerful business groups could ignore the commission and concentrate on persuading Congress to undo its acts. Campaign contributions carry more weight in congressional cloakrooms than in FTC hearing rooms.

The FTC may have gone too far at times. It wants to cancel the Formica trademark on the grounds that consumers don't realize it's just a more expensive brand of laminated plastic. It's considering banning commercials for highly sugared foods on children's TV. Maybe *caveat emptor* should apply to countertops and baby teeth.

But on the whole, the FTC has helped consumers much more than it has hurt private enterprise. If members of Congress cripple or kill the agency, they will have done a terrible disservice to people who elected them.

[From the Washington Post, Sept. 22, 1979]

Down With Everything?

The Federal Trade Commission seems to have escaped the evisceration threatened a few days ago by a House Appropriations subcommittee. The odds are that some dismemberment of this and other regulatory agencies will occur before the members of Congress go home to face the voters.

This is, no doubt, good news to many critics of government regulations and the agencies that write and enforce them. At long last, the bureaucrats are getting theirs—or so it seems. But the problem of curtailing unnecessary government regulation is tougher than many critics (and many members of Congress) think it is, and the danger is that the 96th Congress will end up making things worse instead of better.

Consider some of the remedies that have been suggested. First, there is the proposal to give the federal courts more supervisory authority over the regulatory agencies. This is likely to create more red tape and lawyers' fees than it eliminates. Then, there is the legislative veto. It's probably unconstitutional and, at least in its one-house form, is certainly a lobbyist's dream come true.

Next comes the idea of cutting off an agency's funds for any investigation that a member of Congress doesn't like. Might as well abolish the agencies altogether as do that—given the ties that every industry has to at least one powerful member. Finally, there is the proposal not to permit commissioners, in particular those of the FTC, to talk to staff members of the commission. This would defeat the whole idea of what regulatory commissions are about.

It is understandable that some members of Congress are attracted to these wild schemes. When OSHA's efforts at expansive regulation backfired, business all over the country learned that if the complaints were loud enough something might happen. Right now, the FTC's regulations are beginning to bite, and when the funeral directors and the used-car dealers back home complain, congressmen listen.

Sen. Wendell Ford, however, seems to have the situation in perspective. He told his colleagues the other day that congressional oversight through its regular committees is the best mechanism for solving problems with overeager regulatory agencies. It seems to have worked with the Consumer Product Safety Commission and it is likely to work with the others.

Unfortunately, congressional oversight is slow and unspectacular. It doesn't have the political appeal of a quick fix that will let members go home a year from now and explain how they have voted to stop those awful bureaucrats dead in their tracks. But it works. And it doesn't destroy the good regulatory agencies and the needed regulations along with the bad and the unnecessary. Congress ought to think about it.

[From the Los Angeles Times, Sept. 16, 1979]

FINANCIAL SABOTAGE IN CONGRESS

The Federal Trade Commission ironically has come to full bloom as an aggressive regulatory agency at exactly the same time that sentiment has increased to cut back on government regulation.

Many businesses and many legislators have legitimate gripes about government rules, but there is a way to go about seeking change that does not include current tactics by some members of the House appropriations subcommittee that handles the commission's money.

At an unannounced meeting last week, subcommittee members tentatively approved a laundry list of specific programs for which they would deny funds to the agency: an antitrust investigation of the nation's eight largest oil companies and another of the auto industry, plus rule-making procedures on funerals, used-car sales, hearing aids, mobile homes, children's television advertising, nonprescription drugs and other activities.

Industry sentiment to curb the FTC has long existed, but it has gained congressional support in recent years, especially in the House and especially since Michael Pertschuk became the agency's chairman. As a Senate staff aide, Pertschuk helped write legislation broadening the commission's powers. The anticommission sentiment has now taken the form of proposed legislation that would give Congress veto powers over any rules that the agency promulgates.

The agency is a creature of Congress. Congress rightfully exercises its control through what is called the "oversight process." That means that senators and representatives hold hearings about how agencies spend their money, what results they obtain and what legislation might—or might not—be needed to correct problems. In fact, Sen. Wendell H. Ford (D-Ky.), chairman of the Senate consumer subcommittee, will start four days of oversight hearings Tuesday.

Meantime, the House subcommittee will make its decision this week. If Congress wants to change the mandate of the commission or any other agency, it should do it through full-dress presentations before its policy-making committees, like Ford's, not at an appropriations subcommittee meeting that only industry lobbyists seem to know about.

[From the Honolulu Star-Bulletin, Aug. 25, 1979]

FEDERAL TRADE COMMISSION FIGHT

Are the following national policies desirable or undesirable?:

Consumers must be given information about major mechanical and safety defects in second-hand cars.

Television advertising aimed at children is subject to restraint by the Federal Trade Commission.

Funeral directors must give bereaved consumers itemized price information detailing costs of a funeral.

Uniform standard setting by groups such as the Underwriters Laboratory for electrical appliances is subject to FTC review to see that it is not anti-competitive.

The FTC may investigate the practices of professional organizations such as the American Medical Association, American Bar Association and American Dental Association.

If most of your answers are "no", you will agree with the business lobbyists in Washington and forces in Congress that now are trying to restrain—some say kill—the Federal Trade Commission.

The FTC is on the spot, with the House expected to pass legislation this year to limit its power in some of the above areas, and to subject its remaining power to legislative veto. FTC's budget also has been threatened.

The FTC seems to have gotten too assertive under Chairman Michael Pertschuk, who was appointed in 1977 to serve until 1984. Pertschuk says he is simply fulfilling FTC's mandate to ferret out "unfair or deceptive acts or practices" in trade, but critics call him an enemy of free enterprise.

Quite the contrary, says Pertschuk, FTC is "trying to strengthen the role of competition . . . the absolute antithesis of socialism."

Our answers to the questions asked above are mostly "yes", reflecting a faith that open practices and full disclosure usually are apt to lead to higher standards and better performance than secrecy. Our reservation is primarily to the free speech aspects of TV ad limitation, though not to the underlying goal of minimizing exploitation of children.

Pertschuk claims that offended businesses are after FTC because they tasted blood after killing the creation of a Consumer Protection Agency. Perhaps so, perhaps no.

To us, one good reason for nixing the Consumer Protection Agency was that the FTC legislation already was on the books and that promised enough government intervention and protection for consumers.

A federal agency to monitor unfair and deceptive practices seems eminently desirable. Congress obviously thought so 35 years ago when it created FTC. In today's more complex society it is even more desirable.

We, too, are fed up with government agencies that overregulate. But policing deceptive trade practices seems to us just as important as having uniformed policemen in every city and town in the nation.

[From the Washington Post, Sept. 15, 1979]

AN ATTACK ON THE FTC

A few years ago, the Federal Trade Commission was in trouble because it wasn't doing its job. It was a moribund agency that did little more than consume tax dollars. Now the Commission is in trouble because it is doing its job well. That's the meaning of a vote by which a House subcommittee has tentatively decided to cut off the money for many of the commission's current investigations.

This reversal in the way the FTC is regarded is a remarkable tribute to the aggressive leadership a series of chairmen have brought it. No one is suggesting any more, as was the case a few years back, that it be abolished for failing to enforce the antitrust laws protecting consumers against unfair practices in the marketplace. Now the complaint is that the FTC is enforcing these laws too strictly and driving big and small businesses wild with investigations into practices the staff believes may be deceptive or unfair.

The catalogue of the FTC's current sins is a long line, if you take the subcommittee's vote seriously. It voted to kill investigations into the operations of the oil and auto industries and the practices used by those who market, among other things, used cars, hearing aids, mobile homes, television advertising, home insulation, apparel, protein supplements, nonprescription drugs, and spa and funeral services.

Few observers are in sympathy with everything the FTC is doing these days. But the blunderbuss approach by the House subcommittee is ridiculous. If Congress thinks the FTC has established bad rules for the funeral industry, for example, it can pass a law eliminating or changing those rules. But this should happen only after hearings by committees concerned with the substance of the rules.

Deregulation of business has become popular on Capitol Hill in recent months and is now being pushed with a vengeance. Like the bill the Senate passed recently to expand the authority of the federal courts over the regulatory agencies, this attack on the FTC says more about Congress than it does about an agency's performance.

[From the New York Times, Sept. 17, 1979]

FIXING TICKETS IN THE BIG LEAGUES

It is no surprise that used car dealers do not like the Federal Trade Commission. It wants to make them disclose any major defects in the cars they want to sell. It is no surprise that funeral directors do not like the F.T.C. The commission wants them to itemize their prices for bereaved customers. It is no surprise that cereal companies do not like the F.T.C. It is considering possible restrictions on the kind of advertising they aim at young children, especially on behalf of heavily sugared cereals.

Nor is it surprising that big oil does not like the F.T.C.'s antitrust case that seeks to divest eight major companies of their eastern refineries. Or that the auto industry does not like the commission's investigation of its competitive structure. Or that many other investigative targets—insulation, mobile homes, hearing aids—wish they could make the F.T.C. go away.

With enemies like these, one might think, a vigorous F.T.C. should have plenty of friends, there being many more abused consumers than abusive manufacturers. But that's not the way political logic works in the House of Representatives. The combined lobbying power of its enemies now threatens to bring the commission to its knees.

For years, the F.T.C. was the doddering grandfather of regulatory agencies. But it came to life in the mid-1970's, and has flourished under its present chairman, Michael Pertschuk. We generally favor the commission's new proposals; yet it might be conceded that its new aggressive warrants Congressional appraisal. That is what a consumer subcommittee is about to give it in five days of hearings in the Senate, an orderly approach that makes all the more repellent what is going on in the House.

The issue in the House arose before an appropriations committee. There were no hearings, no warnings and no debates, only what appears to have been a lobbyists' carnival. The committee would forbid consumer protection investigations and the proposed used car, funeral and other rules. It would ban F.T.C. actions in agriculture, a trademark case and the auto investigation. And, like ward politicians voting to fix traffic tickets for their friends, members seek to muscle into the oil company case. Though it is before an administrative judge, they would forbid the F.T.C. to spend a cent to continue it.

Perhaps the members did not stop to think how such recklessness would look to the public; perhaps they did and don't care. Either way, there is a chance to correct their bald excesses when the House Appropriations Committee reviews the subcommittee's work this afternoon. We hope it undoes the fix.

[From the News Bulletin, American Association of Retired Persons, December 1979]

FUNERALS: HYPOCRISY IN THE HOUSE

What's most upsetting about the action by the House of Representatives last month which prevents the Federal Trade Commission (FTC) from enforcing long-overdue regulation of the funeral industry is the blatant hypocrisy of a number of Congressmen.

During debate in recent years over the proposed Consumer Protection Agency, many members argued that the agency was not needed since existing regulatory bodies—such as the FTC—already had adequate power to protect consumer interests.

Now when the FTC attempts to use its power responsibly in behalf of the millions of Americans who must deal with the funeral industry each year, many of those same Congressmen have voted to take away the agency's power and limit its effectiveness.

If that's not hypocrisy, we don't know what is.

This is not to say that our Association favors blanket government regulation. To the contrary, we have been in the forefront of efforts to eliminate counterproductive rules and regulations at all levels of government.

We have led the fight, for example, to lift unnecessary regulations on price advertising of prescription drugs, eyeglasses and hearing aids, as well as rules that prohibit generic drug substitution. And we have worked closely with other consumer groups seeking deregulation of the airline and trucking industries.

But in the case of the funeral industry, the overwhelming evidence compiled through more than five years of hearings and through thousands of letters from our members and other consumers supported the need for some regulation.

After this comprehensive study, and after discussions with industry representatives, the FTC issued a final set of regulations scheduled to take effect this month. But despite the fact that some industry spokesmen stated earlier this year that they "could live with" the new rules, the funeral industry and its business supporters launched a major lobbying campaign to prevent their enforcement.

Leading the fight to stymie the FTC was U.S. Rep. Martin Russo (D-Ill.), the same Congressman who worked with the medical lobby to kill the vitally needed hospital Cost Containment bill in the House Ways and Means Committee last year.

He and his allies in Congress and industry rode to victory on a wave of the anti-Washington, anti-regulation, anti-consumer rhetoric that has become so fashionable these days. But when all of that rhetoric was stripped away, here's what they were essentially saying:

Despite the fact that funeral homes in this country are a $4 billion-a-year industry, they should be considered as nothing more than "small business";

There is something wrong with requiring funeral homes to disclose itemized price information by phone or in person—a practice that is commonplace in most businesses;

Funeral directors should have carte blanche to embalm without permission of the family; and

Steps to encourage greater free-market competition in the funeral industry are uncalled for.

That the majority of the House of Representatives would buy these illogical arguments and ignore the needs of their most vulnerable constituents—the newly bereaved—is both tragic and insulting to millions of American consumers.

[From the Miami Herald, Oct. 27, 1979]

FUNERAL-TRADE ABUSES MUST STOP

It has been 16 years since Jessica Mitford's shocking best-seller "The American Way of Death" inflamed public opinion against abuses in the $5.4 billion-per-year funeral industry. And it has been at least six years since the Federal Trade Commission (FTC) began developing a much-needed rule to regulate that industry.

All those years of concern and effort should not be allowed to go down the congressional drain now in a mindless flush of anti-Government, anti-regulation rhetoric. Abuses in the funeral trade are as common and persistent as they are ghoulish. The bereaved public needs protection against them.

Illinois Democrat Martin Russo is poised with amendments to kill the funeral-regulation measure when it comes to the floor of the House next week as part of the broader FTC authorization bill. Those amendments should be rejected. The proposed regulations requiring price disclosures and prohibiting misrepresentations, unfair practices, and interference with competition are entirely reasonable.

There's simply no excuse for allowing funeral homes to refuse to disclose itemized prices both by phone and in person. Lump-sum package deals are legitimate as options, but itemization of prices is a standard business practice and should be available to mourners or their representatives, such as clergy, who are helping to make final arrangements.

No other business enjoys tacit Government permission to lie to customers about legal requirements for their services; why should funeral directors be able to lie with impunity about laws concerning embalming, or about the preservative effect of embalming, caskets, or burial vaults? Obviously, they should not. Nor should morticians be permitted to embalm corpses without permission from family members.

When it comes to the FTC's effort to protect free market competition, even the most conservative, anti-regulation member of Congress ought to approve of the proposal. Competition, whether from other funeral homes, from crematoriums, or from non-profit memorial societies, surely should be protected from boycotts or threats by the established special interests.

The bereaved public, which sooner or later includes nearly every American consumer, has waited too long already for relief from exploitation at the moment of extraordinary emotional vulnerability. Congress should approve the FTC's funeral-regulation proposals and put a stop to the final ripoff.

[From the St. Petersburg Times, Wednesday, Oct. 24, 1979]

A FUNERAL FOR THE FTC?

Fair competition! Consumer protection! Noble words, and more than 60 years ago the Congress created an agency, the Federal Trade Commission (FTC), to breathe life into them.

But the FTC was a paper tiger, sleeping in the sun while the hyenas and jackals continued picking the poor consumer's bones.

That is, it was. A few years ago, Congress tired of having the FTC make consumer law ad hoc, one culprit at a time. It gave the FTC power to lay down trade regulations saying in advance how entire industries should behave. Next, Jimmy Carter came along and appointed a fine new FTC chairman, Michael Pertschuk.

The tiger stirred. It roared. And, as one might expect, the jackals and hyenas are scared of lcsing their free lunch. They've ganged up on the FTC, they have it at bay, and they just might be about to pick its bones clean.

The issue is a bill, two years overdue, to reauthorize the FTC. The House has insisted on giving either house of Congress the power to overrule the FTC when it adopts trade regulations that displease special interests. So far, the Senate has refused to go along with this, but the Senate's back finally is bending.

Of course, Congress ought to have the last word over agencies such as the FTC, to which it has delegated lawmaking power. But what two houses give, it should take two houses to take back.

This week or next, the House will vote on an FTC bill that embodies the one-house veto, a gimmick of dubious constitutionality. At least this version is as benign as the consumer protecticn subcommittee dared to make it. If the House voted, say, to toss out an FTC rule protecting people who buy used cars, the Senate would have 30 days to overrule the House.

The veto power is far from the worst of what lurks in the House. Three pending special interest amendments would curtail the FTC's attack on alleged monopoly in the breakfast cereal industry, forbid the FTC from investigating agricultural marketing cooperatives, and prevent the FTC from enforcing some sensible and sadly overdue funeral industry regulations that have been under development for six years.

The funeral industry's front man, Rep. Marty Russo, D-Ill., shilled for the medical lobby last year when he cast the deciding committee vote that killed the hopsital cost containment bill.

The coincidence is striking and significant. If the FTC isn't to be allowed to represent the consumer vis-a-vis funerals, what of the other industries it is investigating, such as medicine, mobile homes, new home construction and used cars? "If we can't win funerals," says a friendly House staff member, "we can't win any of those."

The FTC's investigation proved that funerals cost too much because the consumers have too little choice in how they are carried out and because there is hardly any price competition. It also documented disgraceful conduct by a minority of funeral directors.

In the public interest, the rules would require itemized price disclosure and prohibit such goulish practices as embalming without permission and forcing relatives to purchase expensive caskets when—as in immediate cremation—they are not necessary.

The rules themselves would not be necessary if the states had acted. But, apart from a few such as Arizona, Texas and Florida, state regulation is at the whim of the industry, discouraging competition and shielding the unscrupulous practitioner. Florida's new law, made possible by a "sunset" deadline on the toothless old law, was modeled on the proposed FTC code.

The FTC's rules would benefit citizens of all states, including the few which have responded to the need. On Oct. 10, the Arizona State Board of Funeral Directors and Embalmers emphatically endorsed the FTC's efforts saying:

"... funeral services consumers are uniquely vulnerable . . . The demonstrated need exists for active and aggressive coordinated enforcement efforts by federal, state and local consumer fraud agencies in this area . . ."

There could be no greater consumer fraud than for the Congress to create high-minded laws and agencies, only to repudiate them when they threaten to fulfill their purposes. Adoption of the Russo amendment, and others of it's like, would confirm Mark Twain's theorem that ". . . there is no distinctly native American criminal class exceed Congress." Fortunately, the rest of the House still has a chance to prove Russo—and Twain—wrong.

[From Marianne Means, CBS Radio Network, CBS Radio Network, Sept. 26, 1979]

I'm Marianne Means.

Lobbyists for big business interests have been very successful recentlv in drumming up support for the notion that the federal government imposes too many regulations on too many individuals and industries. They have painted a pitiful picture of honest, hard-working American businessmen and women forced to charge inflationary prices because of the terrible costs of meeting federal standards.

Deregulation has found a sympathetic ear on Capitol Hill. It has become a popular rallying cry, because politicians hate unnecessary paperwork and red tape as much as the rest of us do. But deregulation is also the banner under which business lobbyists may be on the verge of destroying the Federal Trade Commission.

The FTC, you see, has been doing its job too well. It has aggressively been challenging a wide variety of industries which have provoked consumer complaints about unfair and deceptive trade practices. The FTC has initiated proceedngs to regulate funeral directors, used car dealers, children's television advertising, the oil industry, credit bureaus, insurance underwriters, chemical companies, the auto industry, health spas, and other powerful vested interests.

As a result, nobody loves the FTC but the people. The Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, and spokesmen of all those industries affected have mounted a massive campaign to put the FTC out of business. They have been so effective that a House Subcommittee the other day nearly forced the FTC to halt its major antitrust investigations.

The FTC has been denied proper funding for the past two fiscal years, while Congress has wrangled about its future. The politicians have been unable to agree how far they can go in restraining the agency's regulatory powers without looking like they are selling out consumer protection altogether.

The House of Representatives is pressing for a one-house veto over all FTC regulations. This evil little scheme would allow either the Senate or the House, acting alone, to kill any FTC ruling within a specified period of time. This kind of second-guessing has the potential for a political nightmare. Lobbyists would have a field day. Congress is simply not equipped to judge fairly the merits of detailed rules issued by a specialized agency after years of study. The one-house veto may also be unconstitutional.

The Senate thus far has not been enthusiastic about the one-house veto, but it seems to be wavering. The FTC needs more friends—and fast.

This is Marianne Means for Spectrum.

[From Common Cause, December 1979]

Special Interest Politics and the FTC . . .

(By David Cohen)

Waving a banner labeled "Get Government Off Our Backs," special interests continue to dominate Congress. They have hijacked the drive for necessary regulatory reforms and are transforming it into a relief measure for their specific economic interests.

The target is the effective Federal Trade Commission (FTC)—an independent regulatory agency with the mandate to protect the public from unfair and deceptive business practices and to promote competition. On the pretext of shielding the innocent from unnecessary regulation, powerful special interests are asking Congress to free them from FTC regulatory authority.

A New York Times editorial has called the assault on the FTC's power "nothing more than special-interest politics." The National Journal recently listed some of the special interest groups participating in the lobbying battle against the FTC: "Cereal companies and car makers, oil companies and funeral home directors, used car dealers and farmers, radio and television broadcasters and advertisers, the insurance industry and drug companies, even doctors and dentists—all have been affected by the Federal Trade Commission and all are angry with it."

One would think Members of Congress would turn their backs on such determined self interest. But they haven't. The funeral directors' recent victory in the House is a powerful illustration of the political clout a well-organized interest group can wield in Congress. The FTC began an investigation of funeral prices five years ago and found that bereaved consumers were often pressured into buying the most expensive services. Some consumers were told falsely that state law required embalming even for cremations!

The FTC proposed rules to correct these abuses. The National Funeral Directors Association quickly looked for a sympathetic ear in Congress and found one in Rep. Martin Russo (D-Ill.). Russo came up with an amendment forbidding the FTC from regulating funeral homes and presented it on the House floor where it passed by a wide margin—223 to 147—despite strong opposition from a coalition of citizens and consumer groups including Common Cause.

Now similar mischief is being planned by the mobile home industry, the insurance industry, and used car dealers, those opposed to the regulation of children's television advertising and state regulation of professionals—doctors, lawyers, dentists, optometrists.

The Senate Commerce Subcommittee on Consumers, under the chairmanship of Sen. Wendell Ford (D-Ky.), has won committee approval of a bill that would stop several FTC investigations in their tracks.

The most publicized is the agency's investigation of the effects of TV commercials on children's programs. But the huge insurance industry, embarrassed by recent testimony showing fraudulent practices by some agents, also would be removed from the FTC's authority to investigate them. Used car dealers would get assurance under Ford's bill that they will not have to give customers a warranty on their cars or an inspection report.

What it all adds up to is another example of what happens when the special interests with their financial control over Congressional election campaigns band together to influence the political system at the expense of the public good. It destroys effective government and hurts American consumers.

Even if some FTC regulations were unwise, Congress is going about its oversight duties in such a one-sided way that it is giving regulatory reform a bad name. Congress has a duty to create a broad framework within which each federal agency can carry out its responsibilities. After studying the FTC, the General Accounting Office, Congress' independent watchdog, believes it should have even greater authority to protect the marketplace against unfair and unscrupulous practices.

Legislators should not review and thwart every agency rule. Yet that is exactly what Congress is trying to do by promoting legislative veto over FTC rules and stopping specific investigations before they are completed. The House has already passed and the Senate will consider an amendment to allow one legislative body to veto an FTC rule. In other words, any time the FTC moved to exercise its rule-making authority or to enforce antitrust laws, the industry to be affected could run to its friends in Congress. The result: Congress will be an overworked institution that specializes in catering to special interests.

What Congress lacks—and what Common Cause has advocated—is a fair and comprehensive process for overseeing the performance of the agencies. The sunset process that Common Cause is working for provides a thorough and systematic framework with which to look at regulatory agencies, spending programs and tax preferences. If Congress clarified the regulatory laws it passes and adopted a sound sunset law, it would lay the foundation for effective government.

The assault of the special interests on the FTC helps explain why Common Cause continues to emphasize campaign finance reform and sunset legislation. It will give Congress the tools to break the hold the special interests have on it.

[From the Baltimore Jewish Times, Dec. 7, 1979]

The War Against the FTC

If there is a cradle-to-the-grave agency of the United States government, it is the Federal Trade Commission. The FTC is headquartered in one of those nondescript, gray buildings along Pennsylvania Avenue in Washington, sandwiched between the Capitol and the White House.

From there the FTC regulates everything from children's cereals to funeral practices and most of what lies in between. Unless you have somehow managed to exist outside the vagaries of the American mercantile system, the FTC touches your life in many ways every day. If you are a business, the FTC is just another annoying bit of government alphabet soup that you likely view as standing between you and greater productivity and profitability.

Few people are neutral about the FTC. To some it is an unblinking guardian of the consumer. To others it is a meddling bureaucracy.

The FTC is probably a lot of both. Now there is a serious effort in Congress to reduce the FTC to not much at all. Legislation is moving through the House and Senate that would seriously reduce the scope of the FTC's authority and virtually cripple its effectiveness in what territory it had left.

The FTC is not the product of the wave of consumerism brought on by Ralph Nader and his disciples. It goes back 41 years to 1938. For a long time, the FTC was a dumping ground for political backs who needed a job. There was a lot of dead wood there when Lyndon Johnson decided to revitalize the agency. Richard Nixon, of all people, continued the job.

In recent years the FTC has tramped on some fairly tender toes. It has carefully scrutinized advertising to the point where Listerine cannot falsely claim as it did for years that it prevents common colds. It only makes your breath smell like Listerine.

This year the FTC produced a highly controversial report contending that the best form of life insurance was the cheapest—term insurance, the kind you pay for every year until you die. The more expensive programs that provided for a pay off in your sunset years were just that—expensive. FTC figures showed that just putting the same money into an ordinary savings account would yield a better return over the same period.

That set the insurance people off. They argued that insurance ought to be regulated by the state as it has been traditionally.

Farmers jumped into the battle. The FTC has been moving against Sunkist Growers, Inc., who would have you believe that they are just a cooperative made up of struggling California dirt farmers. The FTC says Sunkist is a huge business that controls 75 percent of the market for California citrus.

That and a host of other real and imagined transgressions sent the United States Chamber of Commerce to Senator Wendell Ford (D-Ky.), chairman of the Consumer Subcommittee of the Senate Committee on Commerce, Science and Transportation. (We are all consumers, but all we rate is a subcommittee.)

Ford drafted a bill that the business lobby liked just fine. Among other things it would:

Eliminate the FTC rule requiring funeral homes to disclose prices for each service and to charge you only for those services you want.

Force the FTC to drop its investigation of Sunkist.

Eliminate its authority over unfair trade practices and deceptive advertising.

After all this, whatever action the FTC took in the future would be subject to Congressional veto.

Along the way, Ford's bill has picked up more restrictive amendments, further weakening the FTC.

Loud yelps came from cereal manufacturers who argued that proposed FTC rules on advertising cereal to children on the Saturday morning cartoon shows ought to be carefully controlled. The FTC and its supporters argued that children are impressionable and easily susceptible to the lures of advertising. Harried mommies in the supermarket might give in to demands for worthless products from their kids who saw them glowingly advertised on TV.

The cereal people brought up the not insubstantial argument of their First Amendment rights to say what they like to whomever they like. It is just a smoke screen. They know it is easier to sell a five-year-old on a box of empty calories than his mother.

Business lobbyists taste blood and they are all over Capitol Hill. The FTC must hunker down in its headquarters a few blocks away. Regulatory agencies are expressly forbidden from lobbying Congress.

The FTC can only fall back on its constituency—200 million American consumers.

The danger is great and the hour is late.

[From the Washington Post, Oct. 8, 1979]

FTC HIT FOR DOING ITS JOB TOO WELL

(By Jane Bryant Quinn)

NEW YORK.—Congress is fighting right now over an issue of tremendous importance to consumers. A lot of your money rides on the outcome, as does your chance of getting a fairer break in the marketplace. Yet the terms of the argument are so bureaucratic that few voters realize how deeply this matter affects them. Few of you, therefore, have told your congressmen where you stand.

The battleground is the Federal Trade Commission—the agency charged with fighting unfair and deceptive practices in the marketplace. Certain businesses and their allies in Congress think the FTC has gone too far. There's legislation afoot to cripple its authority to act.

Among the companies allied against the FTC are many mobile-home manufacturers, debt-collection agencies, food advertisers, over-the-counter-drug companies, TV toy advertisers, used-car salesmen, hearing aid makers and funeral directors. Investigations of dubious sales techniques, or new regulations, are pending against all of them. If they win their fight in Congress, the FTC may be unable to halt certain practices that you and I would consider deceptive.

The rules in most immediate jeopardy are those requiring 1) used-car dealers to disclose the car's condition, 2) funeral directors to give prices over the telephone and charge separately for the various services they offer, 3) hearing-aid sellers to take back hearing aids that don't work and 4) an expansion of your rights not to pay for shoddy or misrepresented goods.

At issue is something called legislative veto. But before getting into the details, a brief history of FTC enforcement is in order.

In the bad old days, the FTC took action against deceptive companies one by one. If an encyclopedia salesman misrepresented himself and high-pressured you into buying, the FTC could proceed against his company. Other companies, however, might continue those tactics until the FTC brought separate actions against them.

Due exactly to this kind of selective enforcement. Encyclopedia Britannica salesmen now have to present a card to people they call on, explaining that they are indeed salesmen and will use their best efforts to get you to buy. Salesmen for other encyclopedias, although subject to the general rules against deception, don't have to present cards.

Clearly, piecemeal enforcement is unfair not only to consumers, but also to business. So in 1975, Congress gave the FTC new authority to write specific antideception rules, that would apply equally to everyone. The commission now holds hearings on practices considered deceptive, draws up proposed rules, circulates them for comment, revises the rules and then issues them in final form.

Recent rules prevent deceptive claims for home insulation, require pro-rata refunds for people who drop out of vocational schools without completing the course and before franchise companies, to give more facts about the business to prospective franchisers.

This may sound reasonable to most consumers. But the affected businesses have persuaded a two-thirds majority of the House to weaken the FTC's right to issue trade rules. The Senate still backs the FTC, but support there is weakening.

Under the proposed legislative veto either house of Congress could veto any FTC trade rule within 60 days. The other house would have 30 more days to override the veto. But given the legislative logjam and the possibility of filibuster, that 30-day deadline might be hard to meet.

The House Appropriations Committee just voted to prevent the FTC from issuing the final version of any pending trade rule while this issue is being decided. The Senate is holding hearings.

In its mea culpas, the FTC concedes that it has made some mistakes. Early versions of some rules have required unreasonable record-keeping. Some proposals, while normally sound, have been unenforceable. A spokesman says, "We are now focusing more narrowly on what can realistically be done." They'd settle for stricter congressional oversight, as long as it didn't include legislative veto.

At bottom, however, the agency is in trouble for doing its consumer protection job too well. Whether the FTC can continue this good work depends now on the votes of your senators and mine.

[From Advertising Age, Oct. 22, 1979]

WHY CONGRESS WANTS TO PROTECT CERTAIN GROUPS

(By Stanley E. Cohen)

WASHINGTON.—We were talking about Jimmy Carter's political troubles, the decline of the dollar, and the malaise which allegedly envelops the country. My friend Cynicus, fresh back from ad industry meetings in Brussels and Paris, insisted the heart of the problem is Congress' excessive preoccupation with human rights.

"Every time Congress confronts issues like tax reform, or wasteful public works and defense spending," he argued, "it gets hung up on protecting someone who is about to be hurt. There are so many special interests pleading to keep things as they are that we can't get off dead center."

I protested his use of the term "human rights" in that context.

"Let's not quibble about words," he snapped. "The facts speak for themselves. No oppressed minority is too obscure to be denied sanctuary. Not even the political untouchables. Provided, of course, that they work through the proper channels."

Tears welled in his eyes as he mentioned the funeral directors. "Everyone knows how widows and orphans exploit them, egged on by the bullies at the Federal Trade Commission. Isn't it inspiring to see the members of the House commerce committee voting to put the entire FTC out of business unless it gets off the backs of the funeral directors?"

Used car dealers were another example. "Consumers regularly rip the dealers off. Now Congress is shielding them from oppression, even though the dealers are relatively few in number."

He was particularly touched by the efforts of Congress to rescue the children of America from those who threaten to deprive them of their constitutional right to know about the newest candy bar with nuts, and the breakfast cereal fortified by the most sugar. "Congress intervenes even though few of the kids are sufficiently affluent to make significant campaign contributions, and only a handful are likely to show their gratitude by voting in the next election."

This freedom for legislators to stand up for minorities is a unique characteristic of the American system, Cynicus pointed out, "Presidents and national political parties contribute little to the congressman's prospects for reelection. So he feels free to do the things most likely to work to his advantage."

We appeared to be in agreement, "Isn't this Congress simply responding to its constituents?" I interjected. "Isn't it merely reflecting the rising ground swell of concern about regulatory overkill?"

"Congress serves its constituents," Cynicus replied, "but, in all candor, I think we have to recognize it serves some constituents better than others. A hefty campaign contribution is a good way of getting the attention of a busy congressman. Calls from prominent individuals whose gratitude may be useful to the congressman are remarkably effective at opening the doors to the inner office."

"Interesting," I interjected. "But what has any of this to do with Jimmy Carter's problems, the decline of the dollar and the other weighty matters hanging over our society?"

"Special interests have improved their lobbying techniques at a time when the White House is particularly inept at making its case," Cynicus said, "and there is every sign that the outlook for the future is more of the same.

"Lobbyists and congressmen alike seem to thrive under the existing arrangement. Notice how fiercely they resist proposals for public funding of elections, which might eliminate the opportunity for them to serve each other.

"In a world where congressmen and special interests feather each other's nest, the proposed one-House veto of regulatory decisions is a bonanza. Angry businessmen see it as a legitimate way of curbing a runaway FTC. But for congressmen in strategic positions to activate that veto, it can represent a virtually unlimited source of campaign funds."

Cynicus conceded he has been in a blue mood since attending some ad industry meetings in Brussels and Paris. "Europeans want to know why we have these policy stalemates in America." A top executive of a multinational ad agency had lectured: "Once we felt there was no problem America couldn't solve. You seem to have lost your ability to lead."

Cynicus' usual arrogance faded. "It is hard to lead," he admitted, "when Congress is consumed with helping those who, for the most part, want to keep things as they are. How can we get new approaches on energy, health care and regulatory policy unless we are willing to upset some apple carts?

"The decline of the dollar is a signal that the world no longer has confidence in our future. I believe that those who underestimate us and sell their dollar cheap will regret it," he added. "Just as the Japanese who bombed Pearl Harbor ultimately regretted their assumption that we did not have the guts to see the war to a finish.

"But a nation does not remain great unless it works for policies which assure a safe future.

"If Congress guts the FTC, the worst that can happen is a resurgence of the kinds of marketplace fraud which will open the way for the next Ralph Nader."

But the same techniques which are used to induce Congress to gut the FTC are used to bring about stalemates on almost every other issue before Congress. A legislature which can't legislate represents a far greater threat to our security than several divisions of Russian troops in Cuba.

[From the American Statesman, Austin, Texas, Nov. 29, 1979]

HATCHET JOB

The U.S. House of Representatives, whittling away at the Federal Trade Commission's powers, sliced too deeply Tuesday with a vote to narrow the agency's antitrust authority.

The vote to exempt agricultural cooperatives from the FTC's antitrust jurisdiction would halt a three-year investigation of the giant Sunkist Growers Inc., which the commission charges unlawfully monopolizes West Coast oranges, lemons and lemon products.

The House had already voted to keep the FTC's nose out of the funeral business, and to allow either branch of Congress to veto any FTC regulation of an industry, although the second branch could overrule the veto within 90 days and let the agency action stand.

The curbs on FTC power are designed to ease up on government regulation and allow competition to flourish in a freer marketplace, a laudable goal even though the House approach is shaky. But antitrust power works toward that same end, as a useful tool against monopolies. Several House members said the amendment, if it became law, would mark the first time Congress has ever halted an antitrust investigation in progress. The Senate should put the brakes on the House's FTC hatchet job before dangerous precedent is set.

[From the Quad-City Times, Davenport, Iowa, September 1979]

REGULATING REGULATORS

Not surprisingly, the Federal Trade Commission has become the focal point of the furor fueled by muscular government regulation of business.

This month Congress will consider legislation providing for continuation of the 64-year-old agency. It has operated for two years without congressional authorization and now faces the prospect of trying to function without even a direct appropriation of funds.

Critics in the House and Senate have been compiling ammunition—in the form of constituent complaints—in preparation for the fall showdown with the FTC.

The agency has flexed its muscles, particularly in recent years. In doing so, if has managed to alienate virtually every business in the nation. Some lawmakers have responded by proposing that Congress be empowered to veto any FTC rules.

"The FTC has obtained far too general a transfer of legislative power to an agency of unelected officials. But we're not singling out that agency. There is a good chance of winning this battle for a legislative veto to use as a crucible for vetoes over other agencies," Sen. Harrison Schmitt, R-N.M. says.

At the heart of the dispute is whether bureaucrats separated by layers of government from the public have usurped the lawmaking power of Congress.

We have had several quarrels with FTC actions. And we subscribe to the belief that government is interfering too greatly with private enterprise. Indeed, the regulators frequently seem out of touch with common sense.

But Congress should proceed cautiously before basically stripping the agency of its clout.

The FTC was established as a result of business excesses as a vehicle to promote the general welfare. The reasoning was that an executive-branch agency could fully study threats to that welfare and respond more directly to them. Congress it was reasoned could become too bogged down in detail. Moreover, lawmakers are more susceptible to special-interest lobbying that sometimes impinges upon the general good.

The FTC has undoubtedly gone too far. But just how much should its sails be trimmed? The question is a sensitive one—one that doesn't deserve to be smothered by a legislative bulldozer.

[From the States-Item, New Orleans, Louisiana, Sept. 17, 1979]

SHACKLING THE FTC

The effort of a House subcommittee to tie the hands of the Federal Trade Commission in its investigation of potential antitrust activities by major oil companies and the automobile industry are disturbing Administration officials and members of Congress more attuned to the public interest should put a stop to it.

The subcommittee of the House Appropriations Committee would restrict FTC spending on all but a few regulatory actions. Without sufficient funds, the commission's antitrust investigations of the oil and automobile industries would come to a halt. Other FTC efforts to protect consumers would be crippled by the proposed spending restrictions.

The subcommittee's action is an outgrowth of the anti-regulation sentiment that pervades industry and is reflected increasingly in Congress. In many instances, the sentiment is understandable and justifiable. Government regulations have become a major burden for many businesses and industries. But the action of the House Appropriations subcommittee overkills.

The oil and automobile industries are among the very most important to the success or failure of the nation's economy. Among the severest and most persistent criticisms leveled at both industries is that they could benefit from more internal competition.

The slow response of the U.S. auto industry to the energy crisis and the major challenge posed to its own health by foreign imports is symptomatic to many of an insufficiency of basic competition among the American companies.

The paramount criticisms of the oil industry are that it has major investments in competing energy sources (coal, uranium, etc.) and that the same companies that produce oil also control distribution and marketing.

The FTC should have the necessary capabilities to examine both industries for antitrust practices. The investigations should rise or fall of their own merits. For a congressional subcommittee, responding to pressures from industry lobbyists, to deliberately undercut the FTC investigation is a serious mistake. Rather than clearing the industries, such action encourages the suspicion they cannot withstand objective government scrutiny.

[From the Los Angeles (Calif.) Herald Examiner, Sept. 25, 1979]

SPECIAL INTERESTS TAKE AIM AT THE FTC

(By Marianne Means)

Government deregulation has a nice ring to it. It sounds benign. It conjures up images of increased competition and lower prices in the marketplace. It holds out hope for less red tape and paperwork.

Lobbyists for big business interests have been very successful recently in drumming up support for the notion that the federal government imposes too many rules and standards on too many individuals and industries. Deregulation has become a popular rallying cry on Capitol Hill, and it has the potential for transforming some stultified industries, such as trucking.

Unfortunately, it is also the banner under which selfish special interests may be on the verge of destroying the Federal Trade Commission.

The FTC, you see, has been doing its job too well. It has aggressively been challenging a wide variety of industries suspected of unfair and deceptive trade practices. The FTC has initiated proceedings to regulate funeral directors, used car dealers, children's television advertising, the oil industry, credit bureaus, insurance underwriters, chemical companies, the auto industry, health spas and many other powerful vested interests.

As a result, nobody loves the FTC but the people. It is on the enemies list of the Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, and every industry on which it has focused. And these groups have mounted a massive campaign to put the FTC out of business.

There's more trouble ahead. The House of Representatives is pressing for a one-house veto over all future FTC regulations. Thus far, the Senate has not been enthusiastic about this evil little scheme, but it may be wavering. The one-house veto would allow either the Senate or the House, acting alone, to kill any FTC ruling within a specified period of time.

Unlike normal legislative decisions, the president would have no power to add his own veto.

President Carter opposes the one-house veto as unconstitutional, as President Ford did before him. It may represent a violation of the separation of powers, since the legislative branch would be intruding upon the functions of the executive branch.

The FTC is on the right track and it would be a betrayal of the public trust if the Congress derails it with the one-house veto.

[From the Sacramento (Calif.) Bee, July 8, 1979]

THE HEAT ON THE FTC

Congress is awash with proposals to put crippling restraints on the Federal Trade Commission which has become militant under its current chairman, Michael Pertschuk.

Lobbies for businesses affected by commission actions have joined the U.S. Chamber of Commerce and the National Association of Manufacturers in a three-pronged attack that would give Congress the power to veto all FTC regulatory actions; eliminate or reduce FTC funding for "public intervenors," outside groups paid with federal funds to present testimony before the FTC that would not otherwise be given; and stop the commission from proceeding with regulatory actions, rulemakings, investigations and lawsuits against specific business interests.

No less than a dozen amendments have been tacked on to Senate and House bills to authorize next year's FTC budget. Moreover, a group of conservative senators who call themselves the Senate Steering Committee has set up what amounts to an amendment factory. They have all but invited those with grievances against the FTC to suggest additional amendments to the FTC's budget authorization bills.

Critics charge Pertschuk has used federal funds earmarked for intervenors in FTC proceedings to bring in only those whose point of view is identical with that of the FTC.

However, a study by the majority and minority staff of the Senate Appropriations Committee contradicts the charge, stating that the intervenor program funds are administered fairly.

There is good reason for Pertschuk's militancy. In past years lobbyists could make peace with the commission directly or go to the White House and have the administration put an arm on the commissioners. Under Pertschuk this is no longer possible. Now business interests are trying to weaken the FTC by going to Congress and, since the business lobbies are riding the crest of an anti-government, anti-bureaucracy, anti-regulatory wave, the FTC has become the whipping boy for any group encumbered by federal regulations.

The FTC's new militancy almost certainly makes the burden of complying with federal regulations, admittedly burdensome in many cases, even more difficult. In light of this, Congress has the obligation to see to it that the regulatory process is reasonable and efficient. To this end, Sen. Wendell H. Ford, D-Ky., who chairs the commerce subcommittee which has authority over the FTC, has scheduled hearings later this month when complaints about the agency will be heard.

By and large, however, the FTC is doing the job it ought to be doing—trying to keep business honest. Although militant federal regulation is not the ideal way of achieving that goal, some businesses have, by false advertising and shoddy practices, invited FTC militancy. Until the businesses that the FTC has been concerned about change their policies voluntarily, a militant FTC is needed; not only to protect the consumer but, just as important, to strengthen honest competition and protect the honest competitor in the marketplace.

[From the Nashville (Tenn.) Tennessean, Aug. 25, 1979]

EFFORTS TO CRIPPLE FTC A THREAT TO CONSUMERS

Renewed efforts are being made to reduce the Federal Trade Commission's ability to protect the interest of consumers.

Businessmen have always rankled under the FTC's mild regulatory powers and have sought to abolish it, even though the agency for most of its existence has appeared to be the servant of business.

In the past, the FTC has usually been submissive in the face of corporate power. Its decisions on important matters concerning the consumer have often been made on the basis of what it was told by business without adequate representation for the consumer.

But in recent years the FTC—especially under the leadership of the current chairman, Mr. Michael Pertschuk—has been standing up more firmly against corporate interests.

Consumers are now allowed better representation before the FTC to oppose questionable practices. The agency has assimilated an energetic staff with a keen eye out for consumer interests.

This promises a better deal for consumers but it infuriates business interests more than ever.

Business seemed able to put up with the FTC as long as it favored business. But now that the FTC is trying to give the consumer an even break, business wants to curb its power, or even to abolish it. This should not be permitted to happen.

Business wants Congress to take the FTC in hand and give itself veto power over FTC regulations. For starters business wants to kill one rule requiring car dealers to give purchasers information about what is and is not working in a vehicle, and another requiring directors to give bereaved families itemized price information about funeral costs.

If this move shows any sign of success, there are other interests lined up to help deliver a death blow to the FTC: the insurance, television, advertising, medical and drug industries.

The insurance industry is angry at the FTC for cracking down on some of its practices in selling industrial life insurance policies to low-income persons. The American Medical Association doesn't think the FTC should interfere in the AMA's ban on doctors' advertising. Numerous other industries have gripes against the agency for its efforts to see that the consumer is not cheated.

Business hopes to take advantage of a growing anti-government sentiment in the nation to put shackles on the FTC.

But the people should not be fooled. Those who think used car dealers are treated unfairly if they have to tell purchasers what is wrong with their cars or that funeral homes should not have to itemize the price of funerals, are not thinking about the good of the consumer.

The consumers should not sit by and let such protective measures be taken away or watered down on the grounds that government needs to be curbed.

Big government may need reducing. But about the only time business ever wants to curb government is when business is not getting the advantage. When government is helping business, which is most of the time, there is not as much talk about the need to cut it back.

[From the Boston Globe, July 15, 1979]

LET THE REGULATORS REGULATE

The U.S. Senate will soon be asked to limit drastically the discretion of the Federal Trade Commission and put the Congress itself in the position of regulating fair trading practices in the nation. For its own best interests and for the best interests of the country, the Senate should resist the temptation.

It will arise in the form of an amendment to legislation establishing the authorized budget for the FTC for the next three years. The amendment, which has substantial support, would give Congress the right to void any FTC regulation it did not find to its liking by a relatively novel device that has come to be called the one-and-a-half house veto. Under the proposed procedure, either branch could veto an FTC regulation within 60 days of its enactment and that veto would become effective if the other house did not reverse the action within 35 days.

There are substantial constitutional problems with the proposal. Congress is entrusted with enacting legislation, and the executive branch with enforcing it. Regulations drafted pursuant to laws are part of the enforcing process. For Congress to get into the business of reviewing regulation would be tantamount to enforcing laws. If the FTC does, in fact, appear in a given circumstance to have exceeded its legislative mandate there is another branch of government whose very function is to so declare. That of course, is the judiciary.

There are also substantial practical problems with the veto proposal. Regulatory bodies were established for the very purpose of grappling with highly technical, complex matters affecting the public interest, matters too complicated to be routinely considered in the legislative forum. If, however, Congress attempts to legislate itself an FTC veto, it will soon find itself caught amidst the nuts and bolts of day-to-day regulation. Every business or professional interest that sees itself the victim of some ill-considered FTC regulation will be running to Congress for relief, hoping that a political solution will be more agreeable than the regulatory solution. The Congress will quickly find itself overcome by a welter of detailed matters it is unequipped to resolve properly.

To list some items now on the agenda, Congress could find itself passing on the merits of children's television advertising, on funeral-home pricing practices, on standard-setting from everything from lightbulbs to wood, on private vocational education schools.

Congress is free, is in fact duty-bound, to set the scope of the tasks to be performed by the FTC or any other regulatory agency. It can always amend the FTC's general operating charter. But once it has set the guidelines, it should allow the FTC to do its work and leave any judgment that the agency has overstepped its bounds to the courts. That is, after all, exactly what the whole notion of three separate but equal branches of government is all about.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, before I yield to my distinguished colleague from Michigan, I want to encourage my colleagues to listen to the remarks and remember the remarks of the Senator from Nevada, the chairman of our Commerce Committee, as he outlines the provisions in S. 1991.

I hope my colleagues will listen to the eloquence of the distinguished assistant floor manager, the minority floor manager, the Senator from Missouri (Mr. DANFORTH), on basically what this bill does.

We will hear a lot in the next couple of days about eyeglasses, what a great job has been done to reduce the price of eyeglasses.

That is well and good. We approve of that. This bill does not touch eyeglasses. It approves of what is done.

We will hear something about hearing aids. This bill does not do anything to prevent the path on which FTC is now going as it relates to those items.

We talk about this little-bitty David taking on the Goliath under antitrust.

We have not touched antitrust in this legislation. If David wants to take on Goliath, more power to him. There is nothing in this bill to prevent it.

Then we talk about standards and certification. My goodness gracious, we have been in the private sector, letting the public, the private people, set these standards for a long, long time. Over 20,000 standards have been promulgated, and only 26 cases out of 20,000 of any wrongdoing have ever been justified in rulemaking.

This is not a pattern of wrongdoing. It does not justify rulemaking. Eighteen of the twenty-six cases cited by the FTC staff involved exclusion of products by excessive standards, the classic antitrust violation over which FTC has no authority under the Magnuson-Moss legislation.

Now we come along and talk about used cars. Magnuson-Moss prohibits what the FTC is trying to do and we will help them to do it. We say it is the greatest thing to go out beside the law. Let them break the law. There is no mandate in Magnuson-Moss on what the FTC should do as it relates to the used car dealers.

In fact, the Commissioners agree with what we have in this legislation on used cars. The Commissioners agree.

Let us not fight that battle over again.

We have an agreement between the Congress and the FTC. Let us leave that alone.

Then as it relates to children advertising, the American Civil Liberties Union agrees that unfairness should not be used. They so stated. They had their press release and gave their backup for this, that the advertising rule should not be used for unfair, that it is too broad. All we are trying to do is bring it into what we know should be done.

So, Mr. President, I look forward over the next couple of days to develop what needs to be done as it relates to the FTC.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. FORD. Only for the purpose of a question without losing my right to the floor.

Mr. METZENBAUM. This Senator agrees with the committee report concerning used car sales practices.

Mr. FORD. Let me say that the FTC, the Commissioners, the Senator from Ohio, and this bill agree on one thing. Surely we should not get into trying to damage that part of the bill. We have that in the RECORD.

Mr. METZENBAUM. It has been a great effort.

Perhaps we can agree on another point.

The Senator pointed out that there is no effort to affect the antitrust jurisdiction of the FTC in this legislation. Can the Senator from Ohio assume, therefore, that if any effort is made by amendment to affect the antitrust jurisdiction of the FTC that the Senator will resist it?

Mr. FORD. I assure the Senator that I shall resist as hard against his amendments that he is going to try to put on this bill as I shall the antitrust. If the Senator will leave me alone, I shall leave him alone and we shall get the bill passed this afternoon.

Mr. METZENBAUM. I am very happy to have the Senator's support.

Mr. FORD. The Senator always gets mine, but I cannot always get his.

Mr. METZENBAUM. Not quite always. I am glad to have that assurance of the Senator from Kentucky.

Mr. FORD. Mr. President, it is interesting how people want certain things. It is just like nibbling on your thumb and, the first thing you know, you have your shoulder. I am going to stop at the thumb today.

I have gotten agreement with the Senator from Ohio and I am real pleased with that. It indicates that this piece of legislation might be better off than I thought it was, that we are not going to have any trouble. It is a good piece of legislation and I intend to pursue and defend the position as well as I can.

The Senator from Ohio did not take exception to my statement that there had only been 26 cases out of 20,000 standards and that is a pretty good record, that this is not a pattern of wrongdoing and justifying rulemaking under that provision. Eighteen of those twenty-six cases cited by the staff involved exclusionary problems. I do not believe that the Senator from Ohio, himself, would think that that is an overwhelming number that would set a pattern as it relates to the standards.

The bill does not affect the authority of the FTC to bring individual actions against the standard groups that violate the FTC Act.

Mr. METZENBAUM. Will the Senator yield?

Mr. FORD. For a question only, without losing my right to the floor.

Mr. METZENBAUM. This is a statement, but without losing his right to the floor, if that is all right with the Senator.

Mr. FORD. It sure is.

Mr. METZENBAUM. I want to say that I shall be very much prepared to discuss the issue of the number of cases, which we count to be very substantially higher than the Senator from Kentucky points out. On the question of standards and certification, I think that the amendment is very destructive of public concerns, but rather than belabor that point at this point in the debate, I think I shall withhold it. I did not want my silence to be interpreted as agreement.

Mr. FORD. Mr. President, I am sorry, I was not listening. I was getting a lot of advice.

Mr. METZENBAUM. In essence, I was saying I shall get into standards and certification with the Senator at a later point, but I did not want my silence to be interpreted as agreeing with the point the Senator made.

Mr. FORD. Mr. President, I never interpret the Senator's silence as agreeing with anything.

Mr. President, I yield 5 minutes to the Senator from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. President, I thank the Chair and my friend from Kentucky. First, I want to thank him and the Senator from Nevada and others who have worked on this bill. While I do not agree with all parts of it, obviously, it is a bill that has received extremely careful attention. I commend them and their committee for that work.

I commend also the Senator from Missouri and agree with much of what he had to say. The agencies in this country have taken on too much power for a number of reasons, not the least of which, as he pointed out, is that legislative standards have, too often, been overly broad and wide open. But there are a number of ways to correct this overextension of administrative and regulatory power.

First, we must make the standards more precise, as the Senator from Missouri has pointed out. Second, we must provide a legislative veto mechanism until the legislative standards are made more precise. Such a mechanism is also needed where the problem is not an overly broad delegation, but where the problem is regulatory overreach. That happens just too often.

If standards for agencies were precisely described, as the Senator from Missouri rightly suggested that they be, we would still need a legislative veto mechanism where the overreach exists and where the standards are, nonetheless, clear.

Mr. President, at this time, I call up amendment No. 1651 and ask for its immediate consideration.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

Mr. LEVIN. Mr. President, I withdraw that request and yield the floor back. I understand the Senator from Kentucky does control it.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is entitled to the floor.

The Senator from Kentucky.

Mr. FORD. Mr. President, I now yield the floor and yield 5 minutes to the Senator from Michigan (Mr. LEVIN).

AMENDMENT NO. 1651

(Purpose: To provide for two-House legislative veto of Federal Trade Commission rules)

Mr. LEVIN. Mr. President, I call up amendment No. 1651 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself, Mr. BOREN, Mr. STEWART, Mr. PRYOR, Mr. BAUCUS, and Mr. WARNER, proposes an amendment numbered 1651.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, between lines 22 and 23, insert the following:

CONGRESSIONAL OVERSIGHT OF COMMISSION RULES

SEC. 20. (a) Section 23 of the Federal Trade Commission Act (as added by section 17 of this Act) is amended by adding at the end thereof the following new subsection:

"(b) The Commission shall transmit a copy of any regulatory agenda published under this section to the chairman of the Committee on Commerce, Science, and Transportation of the Senate and the chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives.".

(b) The Federal Trade Commission Act is amended by inserting after section 25, as added by section 19 of this Act, the following new section:

"CONGRESSIONAL OVERSIGHT OF COMMISSION RULES

"SEC. 26. (a) The Commission shall transmit a copy of any proposed or final rule to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on the day on which such proposed or final rule is forwarded to the Federal Register for publication.

"(b)(1) Notwithstanding any other provision of law, no rule promulgated by the Commission may become effective until the expiration of a period of 20 days of continuous session of Congress after the date on which the rule is published in the Federal Register. Notwithstanding any other provision of law, if, between the date on which such rule is published in the Federal Register and the expiration of such 20-day period, the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Interstate and Foreign Commerce of the House of Representatives—

"(A) has held a meeting of the committee at which a majority of the members of the committee were present to review the rule and at which the committee ordered reported a joint resolution disapproving the rule; or

"(B) has been discharged from further consideration of such a joint resolution,

the rule addressed by the joint resolution may only become effective in accordance with paragraph (2).

"(2) Any rule subject to this paragraph may not become effective until the earlier of—

"(A) 60 calendar days of continuous session of Congress after the date on which the committee ordered reported or was discharged from further consideration of a joint resolution disapproving such rule;

"(B) any time after either House of Congress has rejected a joint resolution disapproving such rule; or

"(C) any time after Congress adjourns sine die at the end of the second regular session of a Congress, if at least 30 days of continuous session of Congress have expired since the date on which the rule was published in the Federal Register.

"(3) No rule may become effective under this section unless such rule otherwise complies with the applicable provisions of section 18 of this Act or section 553 of title 5, United States Code, as the case may be.

"(c) The provisions of subsections (a) and (b) may be waived with respect to a particular rule if—

"(1) the Commission determines that the rule is being promulgated in response to an emergency or in response to other exceptional circumstances requiring immediate action in the public interest; and

"(2) the Commission submits a written notice of its determination under clause (1) to the chairman and ranking minority member of the Committee on Commerce, Science, and Transportation of the Senate and the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(d) Compliance by the Commission with the provisions of this section, including any determination by the Commission under this section, shall not be subject to judicial review of any kind.

"(e) Congressional inaction on or rejection of any joint resolution concerning a rule shall not be deemed an expression of approval of the rule involved.

"(f) If a rule of the Commission is disapproved in accordance with this section, the Commission, in amending or modifying such rule due to such disapproval, is required to comply with the provisions of this section, section 18 of this Act, section 553 of title 5, United States Code, or other similar requirement of law only with respect to such amendments or modifications.

"(g)(1) For purposes of this section, continuity of session is broken only by an adjournment of Congress sine die at the end of the second regular session of a Congress.

"(2) For purposes of subsections (b)(1) and (b)(2)(C), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of days of continuous session of Congress and for purposes of subsection (b)(2)(A), the days on which either House is not in session because of an adjournment of more than 15 days to a day certain are excluded in such computation.".

(c) Section 18(a)(1) of the Federal Trade Commission Act is amended by inserting a comma and "subject to the provisions of section 26" after "prescribe".

Mr. LEVIN. Mr. President, I yield myself 7 minutes.

This amendment is being offered by myself and Senator BOREN in our behalf and in behalf of Senators STEWART, PRYOR, and BAUCUS. This amendment provides a two-House legislative veto. The key to this amendment is that the Committee on Commerce, for the first time, could stop an FTC rule from taking effect so that Congress can act to veto. That is a new power, one that presently does not exist. It is the critical part of this amendment.

Under the amendment, the Committee on Commerce would have 20 days to vote out a resolution of disapproval after publication of the rule. If the committee acts within 20 days, then the Congress has 60 days, using the regulatory legislative process, to veto the regulation.

Mr. President, this is an important day in the effort to bring about regulatory reform. It is not the first day, it is not the last day, but it is an important day. I believe that, before this day is over, we shall have adopted on this bill a one-House or a two-House legislative veto. We support the two-House legislative veto. It has been used on other legislation, including the HUD authorization bill just last summer. A legislative veto is needed because of the growth of administrative agencies. They have become the fourth branch of Government, and this amendment is an effort to restore to elected officials the power which has either been handed over to unelected bureaucrats or has been usurped by unelected bureaucrats.

We all have experiences with inflexible, unduly expansive regulations and rules which undermine statutory intent or exceed statutory authority. My own experience was as a local official, where I saw congressional intent thwarted in CETA bills, in HUD bills, in food stamp bills, and where those so-called consumer bills were either undercut or destroyed by the manner in which rules or regulations were phrased by the agencies involved.

Each of us has had these experiences. Many of us, including myself, have campaigned on this issue and said we would work for some form of legislative veto. Late last year, in October, I introduced, with Senators BOREN and SIMPSON, Senate bill 1945. This bill provides, as does our amendment today, for a two-House veto. We held hearings on this bill in the Committee on Governmental Affairs. We heard from a number of witnesses, including Representative MILLICENT FENWICK, who emotionally stated her exasperating experience with HUD regulations and how the very presence of the two-House legislative veto saved the day for her.

There are a number of varieties of legislative veto, and we will be discussing a number of those varieties today.

There is a two-House veto which can be triggered by the action of a committee, and that is the gut of our amendment. There is a one-House veto which will be offered later on today, as I understand it, by Senator SCHMITT.

There is even a veto which operates purely on the basis of committee action, and that veto operates in a number of our States.

Some say a committee veto is the strongest legislative veto of them all. Each of these approaches has its own strengths. We think ours is the strongest.

But I, as one Senator, intend to vote for a one-House veto if our two-House legislative veto bill and amendment goes down to defeat.

Why is our two-House legislative veto stronger?

First, it is invulnerable to legal attack on constitutional grounds. The Attorney General has repeatedly ruled that a one-house legislative veto is in violation of the Constitution, that it violates the legislative clause of the Constitution which says that Congress must legislate through two Houses, and the President then has the right to veto, and Congress then has the right to override.

Even though I, for one, do not agree with the Attorney General on his opinion, I do not think we should underestimate, and we should particularly heed and consider the advice of our good friend from New York (Mr. JAVITS) who in June 1977, in the New York University Law Review, pointed out that, particularly when it comes to vetoes of the actions in the rules of independent regulatory agencies, we must not adopt a one-House veto.

A second reason why our two-House legislative veto is a better approach is that it better counteracts the argument that legislative vetoes will bog us down in detail. A two-House requirement will minimize the possibility of frivolous efforts because two Houses are needed and that means that people who seek vetoes will be more selective because it is harder to get two Houses to work to adopt a veto resolution than it does to get just one House to adopt it.

This provision thus tends to reassure that large number of Senators who are worried about legislative vetoes as bogging us down in detail.

Our approach is also a better approach because it meets the concerns about legislative veto promoting delays and uncertainties in the bureaucratic process, a process which is already much too bogged down in delays and uncertainties.

Our approach does this in two ways. First, there is no retroactivity under this amendment, only new rules are subject to the legislative veto which we provide. This avoids the creation of uncertainty because we do not permit existing regulations and rules to be subject to this new veto.

Second, it also avoids delays and uncertainties because, if the committee under our amendment does not trigger that 60-day period for Congress to act, during the 20 days that the committee has after publication for its own consideration, then the rules can take effect.

There is no automatic 60-day provision in our legislative veto such as there is in the other one which I understand will be offered today. Only where a committee votes out a bill of disapproval within 20 days would that further delay take place.

The key point, Mr. President, is that this amendment provides a new mechanism, a mechanism which does not exist in present law, a mechanism under which the Commerce Committee of either house can stop an FTC rule from coming into effect so that Congress can then act upon it and veto it, if it wishes.

When everything is stripped aside, that is the germ of this amendment.

I am confident today that we will adopt a one- or two-house legislative veto amendment on this bill. In doing so, we will take another step away from the brink of the abyss of unfettered growth of unaccountable agencies.

This approach in our amendment is a strong and a certain step. The FTC accountability is not our only aim. Our aim is the accountability of regulatory agencies across the board.

As I have indicated, Senator Boren and I will be offering a generic bill embodying a two-house veto on the regulatory reform legislation which is coming up later this year.

Mr. President, we must control the regulatory agencies that so dominate our lives, that dominate them without adequate accountability, and that dominate them with great inflexibility. But it is also clear, Mr. President, that if we do not, the public will turn its back on many important social goals that are embodied in these legislative efforts because they are so frustrated by the bureaucracy of agencies that have become the fourth and probably the most powerful branch of our Government.

Mr. President, I ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, I yield to my friend from Oklahoma.

Mr. HART. Will the Senator yield for a question, if he has adequate time?

I doubt any Senator disagrees with the Senator from Michigan's analysis of the regulatory burden.

Although I will probably end up voting for this amendment, I am concerned that the sponsor has not drawn a close enough connection between the regulatory burden and the people's unhappiness with it and the reason that legislative vetoes are the only tool to solve this problem.

Why is it that the sponsor of the amendment believes legislative vetoes——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. Perhaps the cosponsor will be happy to include that answer in his comments.

Mr. HART. All right.

Mr. LEVIN. Mr. President, could I yield additional time to the Senator from Colorado for him to finish with his question?

The PRESIDING OFFICER. How much time does the Senator desire?

Mr. HART. I would like a little colloquy on this, if possible. I generally have some questions about the amendment, if there is sufficient time.

The point seems to be, Why are legislative vetoes necessary to solve this problem, rather than other solutions, such as sunset legislation, increased committee oversight, and so on?

The Senator from Michigan responds to a legitimate problem with the conclusion that only legislative vetoes are the way to solve this problem.

Mr. LEVIN. I thank my friend for asking this question.

Part of the problem with regulatory burden is the lack of accountability, so-called; the inability of our constituents to come directly to us and say that such and such an agency has now proposed a rule or regulation which violates the intention, or which is an overreach, and that they are asking us to do something about it before it takes effect.

That is part of the burden which the regulatory agencies have now imposed and superimposed on our society.

This approach would help solve that particular problem. It would permit the committee, the legislative committee, which in this case is the Commerce Committee, to introduce and pass a veto resolution which would then trigger a 60-day delay in the effective date of any work of the FTC so that the Congress could then by regular legislative process veto that regulation before it takes effect.

Mr. RIBICOFF. Will the Senator yield so that I may respond to the distinguished Senator from Colorado?

Mr. LEVIN. I am happy to yield.

Mr. RIBICOFF. The Senator from Colorado raises a good point.

I, too, am unhappy with the whole process of the legislative veto.

We are in a realistic situation and a pragmatic one, in which, in my opinion, we are faced with either the Levin-Boren proposal or the Schmitt proposal.

In the Governmental Affairs Committee, we started to mark up the generic regulatory reform bill today—we hope to finish it tomorrow—in which we address all the basic problems. As soon as we finish with the markup of the regulatory reform bill, we will go into the whole problem of sunset regulation in the regulatory process. It is my feeling that we will report a sunset bill before the Senate Judiciary Committee marks up the Governmental Affairs Committee bill within 30 days.

I will be expressing my support for the Levin-Boren proposal after the speech by the Senator from Oklahoma.

We have a practical problem, and the Senator's concerns are my concerns, and I share them.

Mr. HART. Mr. President, I have an additional question, but we should wait until opening statements are made and to raise those issues.

Mr. LEVIN. I thank the Senator.

I yield 6 minutes to Senator Boren.

Mr. BOREN. I thank the Senator from Michigan.

Mr. President, I am pleased to join Senator Levin in offering this amendment. It follows the same approach, as he has indicated, as S. 1945, which the Senator from Michigan and I previously introduced and which would apply to all agencies.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Nebraska (Mr. Exon), the Presiding Officer, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, the people of this country are, in a real sense, losing control over their own Government. They are bitter, frustrated, and angry. Having spent just over a year as a U.S. Senator and 4 years prior as a Governor and attempting during that time to deal with elements of the Federal bureaucracy, I can well understand this bitterness and frustration and anger.

Many of the rules under which we live are made by persons who are not elected by the people and all too often are not accountable to anyone.

It is certainly no wonder that the people feel that they do not have a handle on their own Government. It is indicative of the universal nature of this feeling that Senator Levin and I are cosponsoring this amendment. We represent different geographical areas and, to some degree, different philosophical perspectives. Yet we share a common experience of working in State and local governments and a common frustration in dealing with the Federal bureaucracy.

In Oklahoma, for example, Department of Health, Education, and Welfare regulations which were supposed to improve health care would have virtually wiped out all rural hospitals in our State. Many citizens would have been without hospital care within a 50-mile radius of their homes. The regulations required that review of medicare and medicaid cases be conducted by three staff doctors before payment could be made. Forty percent of Oklahoma hospitals did not have three or more staff doctors, and could not meet the requirement. It took a long fight, however, to obtain waivers and to assure that, in spite of the Federal Government, citizens of rural Oklahoma would continue to have adequate medical care.

For myself, I feel it necessary to state very clearly that I support the legislative veto concept. I was an early supporter of Senator Schmitt's amendment, which I understand will be considered on this floor later today, and I remain a cosponsor of that amendment. If the Levin-Boren amendment should fail, I have every intention of supporting Senator Schmitt in his efforts.

There are different methods of achieving the same desired goal and my sole reason for joining in the offering of this amendment in place of the Schmitt amendment is that I believe at this time and in these circumstances, the Levin-Boren amendment has a greater chance to succeed.

Our approach requires action by both Houses and approved by the President. We prefer our approach for several practical reasons, as the Senator from Michigan has indicated.

First, it avoids the extensively debated and unresolved constitutional questions which surround the one-house approach. By including both Houses and the President, we simply eliminate any appeal to opposing traditional principles as a way of defeating this attempt to restore traditional congressional authority and accountability.

Second, our approach minimizes the delay which many people find so objectionable in traditional legislative veto proposals. Instead of subjecting all regulations to at least a 60-day delay, our proposal gives committees 20 days to consider regulations after they are published; and, only if the committee votes to disapprove, is the regulation subject to further congressional consideration.

Third, for those who believe that congressional review of regulations will bog Congress down in too many details, our approach offers two advantages. Unlike the other approach, we restrict congressional review to future regulations rather than opening all the regulations on the books to inspection. By requiring both Congress and the President to act, we minimize the probability that we will be inundated by essentially frivolous requests.

Our approach, then, offers a superior mechanism for implementing a needed policy. By itself, this approach will not fully redress the problems we have discussed here. But, without action of this kind, those problems never can be redressed.

I appreciate what the Senator from Colorado has said. Many other actions need to be taken. The Senator from Connecticut has taken the same point of view and for years has been a leader in trying to improve oversight by Congress. We need cost accountability; we need other actions.

I do think we want to maintain some independence of the regulatory process. We do not want it subject to too much special interest pressure. But this proposal is a balanced one. It is one that maintains the traditional legislative approach, with action by both Houses and the President. I think it strikes a proper balance to assure improved accountability, yet maintain the traditional legislative process. Congress undeniably has delegated too much regulatory authority to the Federal agencies and has exercised too little oversight of abuses of legislative intent.

But authority delegated can be recalled, and it is high time that we did so in a responsible way. The credibility of our Government with our own people demands it.

The 96th Congress was billed as the "Oversight Congress." It has yet to earn that title fully. Action on a one- or two-House veto on the FTC bill will indicate the strength of the desire of this Congress to earn that title. Mr. President, in the final analysis, the cutting edge in solving this problem is the will of Congress to act. It is time for us to act now.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, how much time does the Senator from Michigan have?

The PRESIDING OFFICER. The Senator from Michigan has 10 minutes remaining.

Mr. LEVIN. I yield 5 minutes to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I support the amendment offered by my distinguished colleagues, Senators LEVIN and BOREN. This amendment is an acceptable alternative for the one-House legislative veto that has been proposed for the FTC.

The Levin-Boren amendment is a "report and wait" proposal for reviewing FTC rules. What that means is that Congress receives notice of an FTC rule before it takes effect. For 20 days, the rule lays over in Congress. If, within that time, the Commerce Committee in either House adopts a resolution disapproving the rule, then a further 60-day delay is triggered. The rule could be nullified only by passage of a joint resolution which is signed by the President.

I want to take a few moments to explain my position on this important question.

First, I commend Senator LEVIN and Senator BOREN for their work on this amendment.

It is realistic. I hope the FTC will not be tied in knots, and Congress will not be bogged down in day-to-day interference with the agency. Instead, workable procedures are established to give Congress a structured opportunity to review FTC rules before they take effect. Levin-Boren does not delay all FTC rules—but only those which, in the judgment of a congressional committee, present special concerns. This screening process reduces delay for the agency and the workload for Congress. But if the FTC goes off on a tangent not supported by statute, then Congress can call a halt to that action.

The amendment is also responsible. It does not shortcut the legislative process. Action by both Houses and the President is required to overturn an FTC rule. Those and other advantages of the amendment encourage my endorsement.

Moreover, Levin-Boren is a pragmatic and attractive alternative to the one-House legislative veto. Legislative review, as proposed by Levin-Boren, is certainly a better idea than legislative veto. I think the "veto" is bad policy, whether it is applied to a single regulatory agency or across the board to all agencies. Today, no economic regulatory agency is subject to this device. There are very good reasons why that is the case.

Congress just is not equipped for this task, and, as a matter of policy, it should not be. It is well to remember why regulatory agencies were created in the first place. Congress wanted well-reasoned regulatory decisions made in an independent setting after careful investigation. In other words, Congress wanted an expert judgment. So the authority was delegated by Congress to the agencies.

Now we are told we must pull back that authority for all rules, that one House of Congress should second guess those judgments within 30- or 60-day deadlines. Thus, Congress will have the final say on what is the safe level for cotton dust in a factory, or what a drug label should contain, or what is the proper braking distance for tires, and so on. Make no mistake about it: The legislative veto will mean congressional involvement in those kinds of technical decisions.

More efficient and effective regulation will not result from the legislative veto. Instead, it will produce one of two results. Either the review will be superficial, or Congress will become so bogged down examining regulations that there will be little time for anything else.

There are other compelling reasons why the legislative veto should be rejected. I will not discuss them in detail, but they are worthy of mention. The "veto" will add to the delays that already plague regulation. It will increase the power of congressional staff, who—in all likelihood—will be negotiating the specific details of rules. Much of that negotiation will occur in secret, thus bypassing the important legal guarantees for an open proceeding with opportunity for public participation. What is more, the legislative veto is not needed, since Congress today can reverse agency decisions when it sees fit to do so.

There is a proper role for Congress in reforming regulation. I agree that reform is long overdue. The Governmental Affairs Committee and the Judiciary Committee are, right now, hard at work to achieve that objective. Our committee expects to finish marking-up a comprehensive regulatory reform bill soon. That bill will be before the Senate. A comprehensive approach—and not a legislative veto—holds the promise of regulation that works and works well to achieve important public objectives. I know there is frustration over regulation, and pressing problems in need of remedy. But there's no reason to allow that impatience to lead us to accept a legislative veto as a general remedy for the problems.

While my endorsement of Levin-Boren is a reluctant one, this amendment has clear advantages over the legislative veto. It will mean less delay, and a better process that involves both Houses of Congress and the President. It has a screening device whereby major delay will only occur if a congressional committee deems it to be necessary. That is far preferable to the legislative veto approach, where all rules are automatically delayed under threat of reversal by a single House of Congress. Equally important it applies only to a single agency—an agency which issues relatively few rules.

Yet I still have serious reservations about applying Levin-Boren to all regulatory agencies. The agencywide bill, S. 1945, is now before our committee. We will be considering it very soon. I want to be certain that bill is realistic and responsible, and that it does not present the kinds of workload and process problems inherent in legislative veto. Effective ways must be developed for screening agency rules to avoid routine lengthy delays in Congress. Those concerns must be satisfied before I could support a governmentwide Levin-Boren proposal.

I support this amendment, but the line should be drawn here. To my mind, Levin-Boren is as far as Congress should go in routinely reviewing agency rules. Anything that goes further, anything that moves toward a legislative veto of FTC rules, would be unwise.

Again my commendation for Senators LEVIN and BOREN for a very realistic thoughtful approach, and I do hope that the Senate backs them up and votes for this amendment.

Mr. CANNON. Mr. President, will the Senator yield me 3 minutes?

Mr. LEVIN. Mr. President, I am happy to yield the Senator from Nevada 3 minutes.

Mr. CANNON. Mr. President, I oppose the Schmitt one and a half House legislative veto and support the Levin-Boren alternative. I believe that under the broad shield of legislative veto the Congress will be beseiged with rules and regulations, issues, and decisions with which we have no business to become involved.

We must be seriously involved with our fundamental responsibility for reforming underlying statutes. The Federal Trade Commission was created in 1914, and has been charged by law with assuring that the marketplace is not distorted by anticompetitive practices or by practices which are unfair or deceptive. Congress has given the FTC enforcement and administrative authority under 27 separate acts, 16 of which have been enacted since 1973 It is our responsibility as legislators to examine these underlying statutes in a deliberate fashion and to work for amendment where necessary. Further, if there is a problem with a rule or regulation—if it has not been drawn in accord with congressional intent—we have the necessary authority to call the appropriate officials before one of our committees. The committee has conducted such a review of the FTC's authority under the Magnuson-Moss Act and S. 1991 is a result of this extensive review and over 9 days of oversight hearings.

Finally, I support the Levin-Boren legislative review amendment which would establish a procedure by which every 6 months the head of each agency must submit to the Senate and House Committee having legislative jurisdiction over it, an agenda of all regulations being developed by that agency. The FTC will send to the Commerce Committees of each House copies of proposed and final rules when published in the Federal Register. No regulation can become effective until 20 days after final publication. If during that 20-day period the appropriate committee of either House reports out a joint resolution or bill disapproving the regulation, the regulation cannot go into effect for another 60 days. Congress then has that 60-day period during which it can pass a joint resolution or bill of disapproval.

This procedure was modeled after a similar procedure added to the Housing and Community Development Act Amendments of 1978 as a compromise between House and Senate positions on legislative veto during the conference. This is essentially a report and wait approach to legislative review. Should a resolution of disapproval be reported out of committee within 20 days of publication, then unless both House of Congress and the President act in support of the joint resolution or bill of disapproval within 60 days, the regulation would go into effect. This procedure does not contain a one or one and a half House veto which has been objected to as unconstitutional. It simply provides a process to prevent a regulation from taking effect if Congress, during the 60-day period, acts in a normal legislative way.

Too often, Mr. President, hindsight was shown that we have acted without foresight in some of the decisions reached on this floor. I think a little foresight needs to be injected into the debate over this amendment, and I think a little foresight will prevent us from a grave mistake. Looking down the road, all I can foresee are problems ahead if we approve the one House veto amendment. I strongly endorse the Levin-Boren amendment.

I thank the Senator for yielding.

The PRESIDING OFFICER (Mr. BIDEN). Who yields time?

Mr. SCHMITT. Mr. President, will the Senator from Michigan yield time?

The PRESIDING OFFICER. The Senator from Kentucky controls the time in opposition.

Mr. FORD. Mr. President, does the Senator from New Mexico rise in opposition to the amendment?

Mr. SCHMITT. No. I rise in support of the amendment.

Mr. FORD. How much time does the Senator have remaining in support of the amendment?

The PRESIDING OFFICER. The Senator from Michigan has 2 minutes and 45 seconds remaining in support of the amendment.

Mr. DANFORTH. Mr. President, I am happy to yield the Senator from New Mexico 5 minutes on the bill.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Chair was incorrect. It does not require unanimous consent.

The Senator from Missouri has the right to yield time on the bill.

The Senator from New Mexico has been yielded 5 minutes on the bill. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I rise in support of the Levin-Boren amendment that has been described by those two distinguished Senators.

This amendment reaffirms the power already held by Congress to overrule, by passing a new law, in this case a joint resolution, with that law signed into law by the President, a rulemaking proposal at the Federal Trade Commission, or any other Federal agency, for that matter.

Aside from the fact that the amendment provides for the committee to be able to suspend the effectiveness of a rule for 60 days by proposing such a joint resolution or reporting such a joint resolution, the Levin-Boren amendment is an important endorsement of the current situation which is that a rule can be reversed or changed by joint resolution signed by the President.

Although I think it is important to make this kind of effort, and I commend the distinguished Senators for having done so, I think it is also important to make clear the distinction between what is proposed in this amendment before us and a true legislative veto.

A joint resolution signed into law by the President is not a legislative veto. We will have our chance to make a decision on the legislative veto when amendment No. 1650 to be offered by myself and Mr. NUNN comes before the Senate later today.

Let me explain the differences between this proposal and that of a true legislative veto which is already contained in dozens of Federal statutes, maybe most importantly in the Federal Election Commission authorizing legislation, a veto provision which was exercised on September 18 by this body.

The key distinction is that this amendment before us would require both Houses to pass and the President to sign any resolution to overturn a rule.

A true legislative veto would leave the authority in Congress for disapproving new FTC proposed law, law which basically changes the status quo, certainly within the constitutional prerogative of Congress.

It is important to distinguish in this regard that the FTC is not an executive agency. As the Supreme Court noted in *Rathbun* v. *United States*, 295 U.S. 602, in 1935, in describing the function of the FTC:

> The Federal Trade Commission is an administrative body *created by the Congress to carry into effect legislative policies embodied in the statute*, in accordance with the legislative standards therein prescribed, and to perform other specified duties as a legislative or as a judicial aid. *Such a body cannot in any proper sense be characterized as an arm or an eye of the executive*. Its duties are performed without executive leave and, in the contemplation of the statute, *must be free from executive control*. (Emphasis added)

I must reemphasize the point: When the FTC proposes a rule it is exercising authority that Congress has in a sense loaned to it, nothing more.

Unlike a comparable provision in the House-passed bill, dealing with authorization for the Federal Trade Commission, under the Levin-Boren amendment the President's signature is required to overturn an FTC rule. The amendment does not address the problem of what will occur if the President fails to sign such a resolution of disapproval, nor does it need to because that is already the current situation.

If that happens both houses of Congress will then have to overrule that action by two-thirds majority in order for the rejection of the proposed rule to actually take effect.

Clearly it is better to also have access to a true legislative veto in addition to the proposal now before us.

The White House Conference on Small Business, called at the request of the President to submit legislative recommendations to him and to the Congress, made the one-House legislative veto one of its top 12 recommendations. Thirty thousand small business people participated in the conference. These are the people who have to live with regulations drafted by an unresponsive bureaucracy. These are the people we should be listening to when we make a decision today. The small business community says resoundingly:

> We want a legislative veto for the Federal Trade Commission. We want to be able to get relief through our elected representatives if the FTC is unreasonable.

I believe, Mr. President, that the combination of some amendment along the lines proposed by Levin-Boren, and the legislative veto which I will propose in amendment 1650, is the best solution for this Congress at this time.

I sincerely hope my colleagues will not turn their backs on the small business and professional people of America and their customers who pay the price of overregulation. They are struggling with inflation; they are struggling with high taxes; they are fearful of a coming recession; and they are burdened with too many unnecessary regulations.

Now we have a chance to send them a signal that we have heard their complaints—we have heard their suggestion for solutions. The White House Conference on Small Business completed work only a few days ago. Let us take this chance, while we have it, to show that not only are we going to listen to them—but we are going to take some action as well.

Mr. President, I am going to support this amendment—not because I think it accomplishes what needs to be done, but because I think that it will be useful to reaffirm our existing authority and then move on and pass a true legislative veto to be offered by Senator NUNN, myself and many cosponsors, that will respond to the nationwide outcry for more congressional accountability for the creation of regulatory law, not to the specific special interests that have problems with specific rules, but with a general feeling by the population of this country that we in the Congress have allowed the bureaucracy too darned much rulemaking.

I urge the adoption of the amendment, and I thank the Senator for yielding to me.

The PRESIDING OFFICER. Who yields time?

Mr. HART. I wonder if the sponsors of the amendment might seek time to answer a couple of questions on the amendment?

Mr. LEVIN. We have 2½ minutes left, and I would be happy to yield to the Senator from Colorado.

Mr. HART. Will the Senator from Michigan or the Senator from Oklahoma tell me how many rules and regulations are promulgated by the FTC each year?

Mr. LEVIN. Our best estimate would be 50.

Mr. HART. Fifty regulations and rules?

Mr. LEVIN. Perhaps the Senator from Kentucky can help me.

Mr. FORD. Roughly five a year, and each report will contain somewhere in the neighborhood of 25,000 or 26,000 pages as a description of what that rule really does.

Mr. HART. Mv question then is, Have the sponsors of this amendment calculated what additional staff a committee might need to review in detail five rules that contain 25,000 pages of explanation?

Mr. FORD. The Senator makes a very good point so far as I am personally concerned.

Mr. LEVIN. Let me take a stab at that one first. We have given a great deal of thought to that. It is of real concern to many of our colleagues. There is no way of calculating that because it depends on how many rules per year this agency might seek to review, knows in advance which ones are being proposed and promulgated in any event, knows which are being published in any event.

If none of the five rules bothers anyone through an ordinary review of existing staff it would cause no additional——

Mr. HART. Is there sufficient existing staff to make that ordinary review of at the very least 125,000 pages, of regulations?

Mr. LEVIN. We think this is a priority which present staff should put higher up on the list of priorities, and this kind of action before a rule takes effect is a sufficient priority that they should make time to do it without additional staff.

Mr. HART. What would occur if a rule is proposed or promulgated and the staff gives its ordinary review and finds nothing wrong with it sufficient to raise an objection? Parenthetically, I might point out this would give enormous authority to an anonymous committee staff that people are already as concerned about as they are about bureaucrats. What if a rule passed muster with that committee staff, went into effect, and later on it turned out to be an objectionable one? Would this amendment take care of that problem?

Mr. LEVIN. Two comments on that: First of all, there is no presumption of validity of a rule by its not being overturned by a veto.

Second, the anonymous staff the Senator referred to, in all fairness to the Senator's characterization, he asked me how much additional staff would be required, and I did not——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. Mr. President, if I could ask the floor manager of the bill for an additional 5 minutes——

Mr. FORD. Mr. President, since there is no opposition to this amendment to speak at this time, I ask unanimous consent that 10 minutes of the opponents' time be given to us so that we might apportion it.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. FORD. I yield to the Senator from Michigan 5 more minutes.

Mr. LEVIN. If I could finish my answer to that, that does not give to the staff of any committee any power. This gives to the committee a power to delay a regulation or rule going into effect if the committee decides it wants to do so.

Mr. HART. But the Senator from Michigan understands that no Senator is going to sit there and read 125,000 pages of paper. It is going to be done by staff. It is an anonymous staff, not elected to do anything and just as remote from the American people as the bureaucrats down at the FTC.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. LEVIN. I would be happy to. But, first, each of us is responsible for our staff just as we are in legislation, and that is a great power we have, to legislate in the first instance, and we rely heavily on staff, and we are not going to rely any more heavily on staff in the one instance than in the other. It is a very heavy reliance in both instances.

Mr. HART. Which leads to my other question. In the opening remarks of the Senator from Michigan, he said this will give Congress the authority it needs to do such and such. It also gives Congress an enormous responsibility. It is not just a plus, it is also a minus. We have placed this burden on ourselves to review all these detailed regulations. The Senator says it is not going to stop with the FTC but other agencies, such as the SEC and. for heaven's sake, think of the tons of paper the Senate is going to have to review on SEC regulations. That is a responsibility.

What if our staff is not any more effective than the bureaucrats up in those agencies? The American people are not going to be very happy with that.

Mr. LEVIN. The Senator raises a question we explored in the committee hearings. We explored this with HUD because we put a similar two-house legislative veto on the HUD authorization bill, and we were unable to discern any additional burden on any committee or its staff as a result of doing so, and they issue more regulations per year than does the FTC, as I understand it.

So we have had experience with a legislative veto, both of the one-house variety of Senator SCHMITT, and the two-house legislative veto of this particular amendment, and there has been no showing of any undue burden upon staffs as a result.

They have been used rather rarely, as a matter of fact, where the authorization to use them exists. Perhaps their greatest effect is the awareness they bring to the agencies that the rules of those agencies are indeed subject to be vetoed prior to their going into effect.

I yield at this point to the Senator from Oklahoma.

Mr. BOREN. I thank my colleague from Michigan.

I understand the serious nature of the question raised by the Senator from Colorado. We are talking about going into a new area, we are talking about establishing new procedures, and I, for one, believe we should only do so with great caution.

But I think some of the concerns the Senator has are really, in fact, as we get into the procedure, and will be, in fact, answered, and I think the Senator will be reassured by this as we proceed.

At the State level in Oklahoma I had experience with a similar procedure which was rarely utilized, but yet it was there, and, as the Senator from Michigan has indicated, one of the primary things it did was to discourage the agencies from issuing unnecessary regulations in the first place.

I think, as a practical matter, since Senator RIBICOFF has already pointed it out, we are not saying that every single rule and regulation is going to have detailed review, and we are not saying every single rule and regulation is going to be delayed from going into effect for 90 days. What we are providing is, as a practical matter, not some anonymous review by faceless staff members but what we are really providing is a mechanism so that when the people who sent us here feel they are being wronged by some particular regulation, when the citizens begin to be heard, when we begin to hear from the public, when the Senator from Colorado begins to get the letters and phone calls or I begin to get them, then there is a place for the citizen to go.

I would suggest that it is only on those rules and regulations where there is a substantial outpouring of public dissatisfaction, when it gets your attention as a Member of this body, will we really have the committee then sit down and take action and delay implementation of that regulation until the full Congress can act.

I think what we are saying is it gives the citizen a place to go, and that is what frustrates them so much, that there is no place to go. I know this very weekend, this past weekend, in talking in eight town meetings in Oklahoma that what I heard again and again was, "Don't saddle us down with so many new things until you have better oversight to see that the problems we already have are being carried out properly."

I think what we are doing is just giving the citizen a place to go and get that accountability from the elected official. I do not think we will see this turned over to the staff. I do not think, in fact, we will see a review, except of the important items which really get the attention of the public.

Mr. HART. I think two things will happen as a result of this. One is, that over a period of time we are going to see an enormous growth of staffs and bureaucracies on the Hill to counter the bureaucracies downtown. And the public will have to pay for that. Members of Congress are not going to want to vote up-or-down or let a regulation or rule slide through that they are not pretty sure is going to work.

A second thing is, given the way the power structure in this country works, the people Congress will hear from are the trade associations and the industries that do not want to be regulated at all. We will not hear from the average citizen. They do not have the time or resources to follow every rulemaking as closely. They depend on us to do that. We will hear from the powerful trade associations which do not want any regulation.

Mr. LEVIN. Mr. President, I wonder if I could put in the record——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. LEVIN. Mr. President, may I ask the floor manager for an additional 5 minutes?

Mr. FORD. Mr. President, will the Senator agree to 3 minutes?

Mr. LEVIN. Mr. President, I will be happy to take whatever time the floor manager is willing to offer.

Mr. FORD. Mr. President, I will yield the Senator 3 minutes from the time of the opposition.

Mr. LEVIN. Mr. President, I yield a minute to the Senator from Connecticut (Mr. Ribicoff).

Mr. RIBICOFF. Mr. President, I take very seriously the comments of the Senator from Colorado, because he is raising the questions in the whole regulatory process. Every question raised by the Senator is of deep concern to the Governmental Affairs Committee now marking up the bill. We hope to be able to address exactly those problems in the generic bill that will cover all regulatory agencies. And, of course, those rules that Congress may then adopt on regulatory reform overall will take precedence over the present bill.

But I think it should be kept in mind—and I want to reemphasize the comment of the Senator from Oklahoma—that automatically the Commerce Committee will not look at every regulation that comes out of the FTC. It is only that regulation on occasion where they think the FTC has exceeded its authority, and only in that case. They have 20 days to disapprove and then Congress has 60 days to take final action. So there will not be undue delay.

But the Senator does raise the proper questions and we are working over just those problems. We hope to have some of the answers for the Senator from Colorado in the overall regulatory reform legislation.

Mr. LEVIN. Mr. President, to further comment on the very appropriate questions of Senator Hart, I would like to offer a letter from Ellis M. Rivlin, Director of the Congressional Budget Office, who estimates the maximum likely cost of a detailed congressional review of all rules to be approximately $15 million annually, and for selective reviews about $5 million.

I would ask unanimous consent that this letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Congressional Budget Office,
Washington, D.C., November 19, 1979.

Hon. Howard W. Cannon,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: As you requested, the Congressional Budget Office has re-examined its estimate of the costs of Congressional review of proposed agency rules, as exemplified by Senator Schmitt's amendment number 212 to S. 1020, the Federal Trade Commission Authorization Act.

The original CBO cost estimate of approximately $2 million annually was incorrectly based on the number of proposed rules published annually (approximately 4,000), rather than on the number of final regulations or amendments (approximately 7,000 in 1978). If this estimate is adjusted to reflect the number of final rules, the cost, using the other CBO assumptions, would be about $5 million, compared to the revised Committee estimate of $27 million.

The key element in determining the likely costs of Congressional review is the assumption as to the scope of that review. The possibilities range from a careful review of each proposed rule, on the one hand, to the extensive review of only selected major or controversial rules, on the other. The Committee estimate reflects the first assumption, while the CBO estimate is based on the second. In preparing our estimate, we consulted with a number of staff members and staff directors of both House and Senate Committees, and while most agreed on the range of alternatives, there was no consensus as to the course that Congress as a whole or individual committees would be most likely to follow. Thus, a wide range of assumptions is possible as to the type of Congressional review, with a resulting wide range in possible costs.

CBO believes that the Committee estimate overstates potential costs, even assuming detailed review of all regulations. First, Congress can and does already devote a significant amount of time to reviewing and discussing the most controversial regulations (e.g., air bags), even without an explicit procedure for overriding them. Thus, the review of some major regulations would not be an additional cost to the Congress. Secondly, if regulations are to be reviewed by the committees responsible for the original legislation, committee staffs are likely to have at least some familiarity with the issues and legislative history, thus reducing the time necessary for review. Finally, it seems unlikely, in view of the Congressional workload, that committees would have the time or inclination to hold hearings and/or debate, in both Houses, on 150 major or significant regulations each year.

Based on these considerations, we estimate the maximum likely cost of a detailed Congressional review of all rules to be approximately $15 million annually, with a minimum cost of about $5 million for selective reviews.

Should the Committee so desire, we would be pleased to provide further details.

Sincerely,

James Blum,
(For Alice M. Revlin, *Director*).

Mr. LEVIN. Mr. President, Director Rivlin also points out:

> Congress can and does already devote a significant amount of time to reviewing and discussing the most controversial regulations, even without an explicit procedure for overriding them. Thus, the review of some major regulations would not be an additional cost to the Congress.

Finally, Mr. President, the amendment that we offer does much more than reaffirm existing authority. Again, for the first time, it will give the Commerce Committee the power to delay the effectiveness of an FTC regulation before it takes effect for a period of up to 60 days so that Congress can act. That is the critical new power which this amendment does provide.

I, indeed, welcome—and I know Senator Boren does—the support of Senator Schmitt. It is important to us. But it does go substantially beyond a reaffirmation of existing authority.

The PRESIDING OFFICER (Mr. Hart). The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I claim the opposition time on this amendment—and I will use only about 3 minutes of it—because I understand that is probably the only way I can parliamentarily gain access to the floor. I plan on voting against this amendment, not because I do not think we are overregulated and not because I think the FTC are the good guys and everybody else are the bad guys.

But it seems to me that we have all witnessed a growth of a new phenomenon in American politics recently. I have only been here for 7 years, but there has been a radical change in the way in which this body is lobbied and the growth of single-interest groups and the way in which these single-interest groups are able to have their voice heard, ostensibly in the name of the people of the Nation, but sometimes representing very narrow interests.

It seems to me that, although the effort we are making here on the floor today is a very well-intended one, it is not the most appropriate way to deal with the problem at hand.

It seems to me the most appropriate way to deal with the problem is that suggested by the Senator from Connecticut (Mr. RIBICOFF). And I know the Senator supports this position.

But the totality of the problem is best attacked in totality and not in part. What I fear, I say to Senator RIBICOFF, Senator LEVIN, and others, is that once we pass this legislation we will have set up a mechanism whereby we have granted to the most powerful interest groups in this Nation an access and a procedure in Congress which will be very difficult to displace once it is in place.

I cannot imagine a situation occurring where there is opposition to a particular regulation that the FTC adopts, even if it happens to affect only one industry, and maybe only several companies within a single industry, I cannot imagine that company or that group of companies not coming to a Senator who shares their point of view and tying up the floor and the business of the Nation dealing with, as we observed, without mentioning any particular colleagues—I will mention one who is no longer here—as we did with Coca-Cola, for example.

We spent a whole week on Coca-Cola here on the floor a few years ago, dealing with a minor, insignificant point that a body of this size, stature, and importance should not have a thing to do with.

And so what it seems to me that what we are doing here is inviting and putting in motion a procedure, one that is well intended, designed to deal with overregulation, that will insure that this body spends a greater portion of its time dealing with subjects that it should not even be considering.

If we all stopped and did a little calendar and said, "This is how much time we spent this year on the following subjects on the floor of the U.S. Senate," and we categorized each of those subjects based on their importance to the national welfare on a scale of 1 to 10, I am sure that we would find that we spend a lot of our time dealing with subjects that are at five and below on the scale of importance in terms of the national interest.

Along with some others here, I introduced one of the first regulatory reform bills that did away with whole agencies, to sunset them all, to put the burden on them to prove their existence is worthwhile every several years. That is the way to deal with it totally.

I am not trying to argue for my particular way of dealing with this. But what many of us have done, is to say that we have got to stop this bureaucracy from interceding in free enterprise. All correct. Except one thing: What we have done in the meantime is we have made this a debating society for matters that should not be before the U.S. Senate.

How much of this body's time should we devote to a regulation which, perhaps unwisely, impinges upon an industry when we should be figuring out the priorities in the proposed $615 billion budget?

I guarantee you when this passes, and it will pass, you will see in the next 4 or 5 years marching up on this Hill everyone from a company in my State to small companies in other States who go to their Senator and say: "I have a problem," and it is a real problem, not a fictitious one; really impacts on them.

No Senator, in good conscience, is going to be able to say, "Look, the business of the Nation is too important for me to worry about your problem for which you have other remedies."

How many of my colleagues, especially those who characterize themselves as conservatives, have I heard in the 7 years here saying, "We should not be ombudsmen; we should not be a district Congressman. We should be concerned about the major issues of the day."

Well, let us debate the major issues of the day. But mark my words, I say to Members, when we pass this amendment, we are going to build in, in the name of reform, another 10 percent of the Senate's time. Instead of dealing with energy, which is Senator BOREN's major concern, and justifiably so, and the Nation's Achilles' heel, we are going to be talking about, as we did 2 years ago, whether or not Coca Cola in Alabama got a fair deal; whether or not the company in Delaware was affected.

It seems to me that we should withhold this kind of piecemeal action until the full recommendation comes forward, whereby we can deal in an institutional way with the subject and not continue to shackle this entire body with issues that do not affect the Nation as a whole.

I have said more than I planned on saying so I will stop here. Since I am already going to be in serious trouble with all those companies and with all those people who have legitimate gripes because they are going to view my position as not sympathetic to their legitimate requests, I want to be on record so that in 5 years I have a chance of picking up the RECORD and saying, "I told you so." If I am wrong, I will be delighted to be wrong, but I do not think that will happen. I do not think we are going to get around to the point of doing that overall comprehensive reform of the regulatory agencies that would do away with what could become a legalized, institutionalized avenue for the U.S. Senate to become something akin to the House of Lords in Great Britain, which is not a particularly powerful body but is a fine appeals court.

We are going to become a court of appeals for the regulatory agencies, for the regulatory process.

I did not ask to be elected to the U.S. Senate to do that. If that were the case, I would attempt to have the Senate confirm me for a judgeship so I could be involved in appeals as I was trained to be as a lawyer, within a court where it is supposed to be done, and not in the Senate.

I yield the rest of the opposition's time.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. The Senator from Delaware, as usual, is eloquent, and it is very hard not to agree with him because basically I do. But I would suspect that the Senator from Delaware, with his eloquence, would much prefer to practice law than to be the judge. I think therein he probably would find his niche.

Mr. President, I do support the alternative to the Schmitt amendment presented by Senators LEVIN and BOREN. This concept has a number of advantages over legislative veto. The amendment avoids the constitutionality controversy that surrounds "one-House" or "one and one-half House" legislative veto proposals as a disapproval of a Commission rule would require presidential approval. It prevents one House of Congress from unilaterally changing an agency's statutory mandate. It reaffirms the legitimate role of Congress and the President, acting together, to overrule an agency when they agree that that is appropriate.

Mr. President, I do not support this approach as a government-wide policy. However, I believe that the Levin-Boren legislative review amendment will provide Members with an opportunity to vote for meaningful review of the Federal Trade Commission rules that is both constitutional and effective and I strongly urge the adoption of this amendment.

● Mr. KENNEDY. Mr. President, today we must vote on several proposals to improve congressional review of the rules of the Federal Trade Commission. One amendment, which has been introduced by Senator SCHMITT, provides in essence that one House of Congress can veto the rules of the Federal Trade Commission. Another is an amendment, proposed by Senator LEVIN and Senator BOREN, which would provide for more effective congressional review of an FTC rule before that rule could go into effect.

I join Senator FORD, the bill's manager, in urging the Senate to adopt the Levin-Boren amendment and to reject the one-House legislative veto.

First, let me express my concerns about attaching a one-House legislative veto to the FTC authorization bill. Although there are well over 100 statutes which contain some form of legislative veto of executive action, there is no statute which contains an across-the-board legislative veto for the rules of a law enforcement or economic regulatory agency. Congress has been careful to use the legislative veto discretely, only where there is a particularized need for focused congressional review of an agency action.

In 1973, I voted for the war powers resolution which permits Congress to veto a Presidential decision to introduce Armed Forces into hostilities in the absence of a congressional declaration of war. This veto provision was essential to vindicating Congress constitutional responsibility "to declare war" and "to raise and support armies".

In 1974, I supported the Congressional Budget and Impoundment Act, which permits Congress to veto the decision of the President to impound funds that Congress has specifically allocated for a particular program. This provision was necessary to guarantee that the President does not thwart the will of Congress by diverting "appropriations made by law".

In 1976, I supported the bill which permits Congress, by a concurrent resolution, to veto certain sales of defense articles, services, and major defense equipment. With defense sales above $10 billion a year, this veto provision checks arms sales which can have a direct impact on the balance of power in a particular region, such as the Middle East, and on American involvement in foreign wars.

In these particular cases, the legislative veto was appropriate to prevent an undue exercise of power which was inimical to our most basic constitutional scheme of "checks and balances".

However, an across-the-board legislative veto provision for all FTC regulations without any demonstrated need for the veto, even in specific instances, flies in the face of good policy. It is to use the legislative veto as a meat axe to intimidate Government consumer protection regulation rather than as a finely honed instrument carefully directed to meet specific and compelling needs.

There has been no evidence that the FTC has abused its rulemaking authority. Indeed the FTC has issued only three rules under the Magnuson-Moss Act, none of which have been overturned by Congress or the courts. Critics argue the legislative veto is necessary here to make the FTC accountable because of the broad scope of the standards which it is required to interpret—"unfair methods of competition in commerce" and "unfair or deceptive acts or practices in commerce". These are indeed broad standards. And the FTC does have a broad range of discretion. But these are precisely the reasons that 4 years ago we passed the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act.

Under the Magnuson-Moss Act, the FTC is required to go through elaborate rulemaking procedures before adopting a rule. Ordinary, only minimal "notice and comment" procedures are applicable to agencies under the administrative procedure act. In its rulemaking, however, the FTC must allow a person to present his position orally to the Commission and, if the Commission determines that there are disputed issues of fact, the FTC must allow such cross-examination of persons as is necessary for a "full and true" disclosure with respect to those issues. The agency must also determine the prevalence of the acts or practices treated by the rule and the economic effect of the rule, and include those determinations in a statement accompanying the rule. Most agencies are required only to give a concise general statement of the basis and purpose of the rule. Moreover, the agency is given public participation funding to guarantee active public scrutiny of, and involvement in, the rulemaking process.

Moreover, the standard of judicial review for the FTC is strict. A court may reverse an FTC rule if it is not supported by substantial evidence in the rulemaking record. Many agencies can be reversed only when their rules are "arbitrary and capricious"—a standard much easier for the agency to meet in practice.

I do agree that Congress has a responsibility to scrutinize the rules issued by the FTC because of its extremely broad jurisdiction over unfair trade practices. We in Congress should oversee the extremely complex and difficult policy decisions made by the FTC, and if we disagree, we should enact legislation to change the results.

That is why I support the amendment, proposed by Senators Levin and Boren, which I believe serves the commendable goals of legislative veto without creating its drawbacks. This amendment provides that an FTC rule cannot go into effect until after the Congress has had an adequate opportunity to evaluate the merits of the rule. In this way, those subject to regulation will not have to expend the costs necessary to comply with the regulation until their elected officials have had an opportunity to examine it.

Moreover, this amendment avoids the difficult constitutional controversy which surrounds the one-House legislative veto. It would still take two Houses of Congress and the President to terminate a rule issued by the Commission.

For these reasons, Mr. President, I urge the Senate to support Senator Levin's and Senator Boren's amendment and to reject the one-House legislative veto.●

Mr. FORD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Biden). All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGovern) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Utah (Mr. Hatch) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. Hatch) would vote "yea."

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 10, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—87

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McClure
Melcher
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—10

Biden
Culver
Hollings
Long
Metzenbaum
Muskie
Randolph
Stevenson
Talmadge
Tsongas

NOT VOTING—3

Baker
Hatch
McGovern

So the amendment (No. 1651) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1650

(Purpose: To provide for congressional review of Commission rules)

Mr. SCHMITT. Mr. President, I call up my amendment numbered 1650.

The PRESIDING OFFICER. The amedment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. Schmitt), for himself and Mr. Nunn, Mr. Schweiker, Mr. Morgan, Mr. Levin, Mr. Tower, Mr. Boren, Mr. Warner, Mr. Gravel, Mr. Helms, Mr. Huddleston, Mr. Lugar, Mr. Zorinsky, Mr. Young, Mr. DeConcini, Mr. Pressler, Mr. Humphrey, Mr. Goldwater, Mr. Cochran, Mr. Thurmond, Mr. Armstrong, Mr. Boschwitz, Mr. Garn, Mr. Jepsen, Mr. McClure, Mr. Simpson, Mr. Laxalt, Mr. Wallop, Mr. Hatch, and Mr. Domenici, proposes an amendment numbered 1650.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, line 9, strike out "sections 27 and 28" and insert "sections 28 and 29".

On page 78, between lines 22 and 23, insert the following:

"CONGRESSIONAL REVIEW OF COMMISSION RULES

"Sec. 20. (a) The Federal Trade Commission Act is further amended by adding immediately after section 25, as added by section 19 of this Act, the following new section:

" 'Sec. 26. (a) (1) On the date on which the Commission issues a recommended final rule, the Commission shall transmit a copy of such rule to the Secretary of the Senate and the Clerk of the House of Representatives. A recommended final rule of the Commission shall not become final if within 60 days of continuous session of Congress after the date of transmittal of such rule to the Congress, one House agrees to a resolution of disapproval concerning such rule and at the end of 30 additional such days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not passed a resolution disapproving such resolution.

" '(2) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the recommended final rule with which the resolution is concerned.

" '(3) For purposes of this subsection, the term "resolution of disapproval" means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the
disapproves the recommended final rule recommended by the Federal Trade Commission dealing with the matter of .

which rule was transmitted to the Congress on .", the first blank being filled with the name of the resolving House, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress.

"'(b) For the purposes of this section—

"'(1) continuity of session is broken only by an adjournment sine die; and

"'(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"'(c) The provisions of paragraph (3) of subsection (a), subsection (d), subsection (e), and paragraphs (3) and (4) of subsection (h) are enacted by the Congress—

"'(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but are applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsections (a)(3) and (h)(3); and they supersede other rules only to the extent that they are inconsistent therewith; and

"'(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"'(d)(1) Resolutions of disapproval and resolutions disapproving a resolution of disapproval in the other House shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the committee of the Senate or the House of Representatives having legislative jurisdiction over the subject matter with which the rule to which the resolution relates is concerned.

"'(2)(A) If the committee to which a resolution of disapproval has been referred does not report such resolution within 45 days of continuous session of Congress after the date of transmittal of the proposed rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"'(B) If the committee to which a resolution disapproving a resolution of disapproval has been referred does not report such resolution within 20 days of continuous session of Congress after the date of transmittal of the resolution of disapproval from the other House, it shall be in order to move to discharge the committee from further consideration of the resolution disapproving the resolution of disapproval.

"'(3) Any such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House of Representatives and privileged in the Senate (except that it may not be made after a resolution of disapproval or a resolution disapproving a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"'(e)(1) Except as provided in paragraphs (2) and (3), consideration of a resolution of disapproval or a resolution disapproving a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"'(2) When a committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged in the House of Representatives and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"'(3) Debate on the resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not in order. An amendment to, or a motion to recommit the resolution is not in order.

"'(f) If the Congress adopts a resolution of disapproval which disapproves a recommended final rule which was being proposed subject to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the Commission of its responsibility for adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"'(g)(1) If a recommended final rule of the Commission is disapproved by the Congress, the Commission may issue a recommended final rule which relates to the same acts or practices as the disapproved rule. Such recommended final rule—

"'(A) shall be based upon—

"'(i) the rulemaking record of the recommended final rule disapproved by the Congress; or

"'(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

"'(B) may reflect such changes as the Commission considers necessary or appropriate.

"'(2) The Commission, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (a)(1), and such rule shall only become final in accordance with such subsection.

"'(h)(1) If either House of Congress adopts a resolution for reconsideration of a rule, and at the end of 30 days of continuous session of Congress after the date of transmittal of such resolution to the other House, such other House has not passed a resolution disapproving such resolution for reconsideration, the rule shall be reconsidered in accordance with paragraph (2).

"'(2) Two hundred and ten days after the adoption by either House of the Congress of a resolution for reconsideration of a rule, the rule shall lapse unless again recommended by the Commission. Unless excepted by section 553(a) of title 5, United States Code, the Commission shall, not less than 60 days prior to again recommending such a rule, give notice of a proceeding to consider its recommendation. The notice and proceeding shall comply with subsections (b) and (c) of section 553 of title 5, United States Code, except that the provisions of clause (B) of section 553(b) of such title shall not be available to the Commission and the Commission shall hold a hearing for oral presentations. Rules recommended pursuant to this subsection shall become final in accordance with subsection (a), and during the period for congressional review provided by that subsection the reconsidered rule may remain in effect.

"'(3) For purposes of this section, the term "resolution for reconsideration" means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the directs the Federal Trade Commission to reconsider the rule dealing with the matter of which is found at ", the first blank being filled with the name of the resolving House, the second blank being filled with the title of the rule and such further description which may be necessary to identify it, and the third blank being filled with the citation to the rule in the records of the Commission.

"'(4) The provisions of subsections (d) and (e) apply to the consideration of resolutions for reconsideration and resolutions disapproving a resolution for reconsideration, except that—

"'(A) for purposes of such subsections, the term "resolution of disapproval" shall be deemed to refer to "resolution for reconsideration"; and

"'(B) for purposes of subsection (d)(2)(A), if the committee to which a resolution for reconsideration has been referred does not report such resolution within 45 days of continuous session of Congress after the date of introduction of such resolution, it shall be in order to move to discharge the committee from further consideration of such resolution.

"'(i) The provisions of this section do not apply to—

"'(1) rules of agency organization, practice, and procedure; and

"'(2) rules relating to agency management or personnel.

"'(j)(1) Any interested party may institute an action in an appropriate district court of the United States, including an action for declaratory judgment, as may be appropriate to construe the consistency of the provisions of this section with the Constitution of the United States. The United States district courts shall have jurisdiction, without regard to the sum or value of the matter in controversy, of actions brought under this section. The district court immediately shall certify any action brought under this section to the United States court of appeals for the circuit in which the district court is located. Such court of appeals shall hear the matter en banc.

"'(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

"'(3) The court of appeals and the Supreme Court of the United States shall advance on the docket and expedite to the greatest extent possible the disposition of any matter certified under pargraph (1).'.

"(b)(1) Section 18(a)(1) of the Federal Trade Commission Act is amended by striking out 'prescribe'.

"(2) Section 18(a)(1)(A) of such Act is amended by inserting 'prescribe' before 'interpretative'.

"(3) Section 18(a)(1)(B) of such Act (as amended by section 7(a) of this Act) is further amended by inserting 'recommend, subject to the provisions of section 26,' after '(B)'.

"(4) The proviso in section 18(a)(1)(B)(ii) of such Act as added by section 8 of this Act) is amended by striking out 'promulgate' and inserting in lieu thereof 'recommend'.

"(5)(A) The first sentence of the matter following clause (B) of section 18(a)(1) of such Act (as amended by section 7(a) of this Act) is further amended by striking out 'prescribed' and inserting in lieu thereof 'recommended'.

"(B) The second sentence of such matter is amended—

"(i) by striking out 'rulemaking'; and

"(ii) by striking out 'proscribe' and inserting in lieu thereof 'recommend the proscription of'.

"(c) (1) The first sentence of section 18(a) (2) of such Act is amended by inserting 'recommend or' before 'prescribe'.

"(2) The second sentence of such section is amended by striking out 'prescribe' and inserting in lieu thereof 'recommend'.

"(d) (1) Clauses (1) through (4) of the first sentence of section 18(b) of such Act (as amended by section 7(b) of this Act) are redesignated as clauses (A) through (D), respectively. Such first sentence of such section is redesignated as paragraph (1). The second, third, fourth, fifth, and sixth sentences of such section (as added by section 10 of this Act) are redesignated as paragraph (2).

"(2) Section 18(b) (1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out 'prescribing' and inserting in lieu thereof 'recommending'.

"(3) Section 18(b) (1) (A) of such Act (as amended by section 7(b) of this Act and redesignated by paragraph (1) of this subsection) is further amended by striking out 'prescribe' and inserting in lieu thereof 'recommend'.

"(4) Section 18(b) (1) (D) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out 'promulgate, if appropriate, a' and inserting in lieu thereof 'if appropriate, issues and transmit to the Congress a recommended'.

"(5) Section 18(b) (1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by adding at the end thereof the following new sentence: 'A recommended final rule issued by the Commission under subsection (a) (1) (B) may only become final in accordance with section 26.'.

"(6) Section 18(b) (2) of such Act (as added by section 10 of this Act and redesignated by paragraph (1) of this subsection) is amended—

"(A) in the first sentence, by striking out 'paragraph (1) of this subsection' and inserting in lieu thereof 'clause (A) of paragraph (1)';

"(B) in the fourth sentence, by striking out 'paragraph' and inserting in lieu thereof 'clause'; and

"(C) in the fifth sentence, by striking out 'paragraph (1) of this subsection' and inserting in lieu thereof 'clause (A) of paragraph (1)'.

"(e) (1) Section 18(d) (1) of such Act is amended by striking out 'promulgated' and inserting in lieu thereof 'recommended'.

"(2) The first sentence of section 18(d) (2) (B) of such Act is amended to read as follows: 'A substantive amendment to, or repeal of, a rule recommended under subsection (a) (1) (B) which has become final under section 26 shall be recommended, and shall be subject to judicial review, in the same manner in which a rule is recommended and becomes final under such subsection and section.'.

"(3) Section 18(d) (3) of such Act is amended by inserting 'recommended' after 'any rule' and by striking out 'takes effect' and inserting in lieu thereof 'becomes final under section 26'.

"(f) (1) Section 18(e) (1) (A) is amended by striking out 'is promulgated under subsection (a) (1) (B) by the Commission' and inserting in lieu thereof 'recommended by Commission becomes final under section 26'.

"(2) The first sentence of section 18(e) (5) (B) of such Act is amended by striking out 'prescribed under subsection (a) (1) (B)' and inserting in lieu thereof 'which has become final under section 26'.

"(3) The first sentence of section 18(e) (5) (C) of such Act is amended by striking out 'promulgated under subsection (a) (1) (B)' and inserting in lieu thereof 'which has become final under section 26'.

"(g) The last sentence of section 18(f) (1) of such Act is amended by striking out 'the Commission prescribes a rule under subsection (a) (1) (B) of this section' and inserting in lieu thereof 'a rule recommended by the Commission becomes final under section 26'.

"(h) (1) Section 18(g) (1) of such Act is amended by striking out 'under subsection (a) (1) (B) of this section' and inserting in lieu thereof 'which has become final under section 26'.

"(2) The first sentence of section 18(g) (2) of such Act is amended by striking out 'prescribed under subsection (a) (1) (B)' and inserting in lieu thereof 'which has become final under section 26'.

"(i) Section 22(1) of such Act (as added by section 16 of this Act) is amended by striking out 'prescribed' and inserting in lieu thereof 'recommended'.

"(j) (1) The second sentence of section 23(a) (1) of such Act (as added by section 17 of this Act) is amended by striking out 'promulgate' and inserting in lieu thereof 'recommend'.

"(2) Section 23(a) (2) (C) of such Act (as added by section 17 of this Act) is amended by striking out 'final action by the Commission' and inserting in lieu thereof 'the issuance and transmission to the Congress of a recommended final rule'.

"(3) Section 23(a) (4) of such Act (as added by section 17 of this Act) is amended by striking out 'promulgate' and inserting 'recommend'.

"(k) (1) The first sectence of section 24(b) of such Act (as added by section 18 of this Act) is amended by striking out 'promulgates a final rule' and inserting in lieu thereof 'issues a recommended final rule for transmission to the Congress under section 26'.

"(2) Section 24(c) (1) (B) of such Act (as added by section 18 of this Act) is amended by striking out 'promulgated' and inserting in lieu thereof 'recommended'.

"(3) The first sentence of section 24(c) (2) of such Act (as added by section 18 of this Act) is amended by inserting 'recommended' before 'final rule'.

"(4) The first sentence of section 24(d) of such Act (as added by section 16 of this Act) is amended by inserting 'recommended' before 'final rule' and by striking out 'promulgated' and inserting in lieu thereof 'recommended'.

"(l) The amendments made by this section shall apply from the date of enactment of this Act until September 30, 1982. The provisions of law relating to the amendments made by this section which were in effect on the day before the date of enactment of this Act shall apply on October 1, 1982, and thereafter."

On page 78, line 24, strike out "SEC. 20." and insert "SEC. 21.".

Mr. SCHMITT. Mr. President, this amendment would provide the Congress with an opportunity to review, and possibly disapprove, proposed FTC rules during a 60-day period before they become effective.

That would happen by the action of one House with the possibility of an override of that action by the other House. It is a true legislative veto.

The amendment provides that proposed rules will automatically become effective after this 60-day period if the Congress takes no action. Should one House adopt a resolution to disapprove a proposed rule, such a rule would not take effect unless the other House acts to reject the resolution of disapproval. This procedure has been carefully crafted and is an embodiment of the opening lines of the Constitution which state that—

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

CONSTITUTIONALITY

Several objections have been raised to providing Congress with the use of the legislative veto power, which is embodied in this amendment. The most frequent is the claim that the legislative veto is unconstitutional. It is clear, however, that if it were unconstitutional, we would surely know it by now. Since 1932 Congress has enacted over 295 provisions of law with legislative review or veto powers. On those occasions where the veto has been challenged in court, it has not been ruled unconstitutional.

On September 18, 1979, the Senate vetoed a rule of the Federal Election Commission dealing with candidate debates, similar to that proposed by the Senator from New Mexico. There was no discussion of the constitutionality of the legislative veto during the floor debate. The specter of Congress being overloaded with FTC rules was not raised.

On the contrary, both the chairman and ranking minority member of the Rules Committee felt the action was appropriate, and in this case the legislative veto was used with efficiency and effectiveness. It can in other cases.

It is an enigma why the legislative veto procedure should be thought "appropriate" when used to review the rules of the Federal Election Commission which regulates Members of Congress—but highly objectionable when it might be used to review the rules of the Federal Trade Commission which regulates our constituents.

If an election rule is objectionable to a single Member of Congress, then a resolution of disapproval can be introduced and the concern of that Member given fair consideration, along with whatever constituency he may represent. However, the rules of the FTC are beyond the reach of the Congress; and thus, beyond the reach of the public upon whom the rules may impose tremendous costs, paperwork, and inconvenience, who may be, most critically, in extreme frustration with their Government.

The public must bear the cost and wait a year or two, or more, before an amendment to an authorization bill or a bill to terminate the rulemaking can be considered; if it is considered at all. This inconsistency is troubling; it suggests that we, as Members of Congress, believe we should live by different rules than the ordinary citizen. This double standard should be rejected. I am convinced that the legislative veto procedure will be as appropriate and efficient when it is directed toward the concerns of the public about FTC rules, as it is when it is directed toward the concerns of the Congress about FEC rules.

Small business people, and professional people and their customers, all over the country are asking for greater congressional accountability for Federal regulatory lawmaking. The White House Conference on Small Business recently concluded its deliberations, and as one of its top priorities has endorsed the "legislative veto" as a means of reforming regulatory procedures.

Over 1,500 representatives of the small business community, from every State in the Union, participated in the White House Conference on Small Business.

The delegates to this conference were selected by more than 30,000 small business people throughout the country. They came to Washington to present a "grassroots" view of what changes are needed in the Federal policies to improve the economic environment for small business in America.

One of their greatest concerns is the proliferation of Federal regulation over every aspect of business operation, and the relationship between business and its customers. Federal regulation has grown at an incredible pace over the past 10 years. The FTC, for example, is currently considering rulemaking proposals in over 20 areas. The following is a partial list of some of the industries or trade practices the FTC is investigating with an eye toward increased regulation, and I ask unanimous consent that the list be printed at this point in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Mobile homes;
Funeral homes;
Protein supplements;
Eyeglass II (distributorships);
Used cars;
Credit practices;
Nutrition advertising;
Health spas;
Over the counter drugs;
Hearing aids;
Over the counter antacids;
Warranties-refunds;
Thermal insulation;
Flammable plastics;
Children's television advertising;
Games of chance in food retailing and gasoline industries;
Standards and certification;
Octane posting;
Appliance labeling;
Consumer claims and defenses; and
Care labeling (textiles).

Mr. SCHMITT. Mr. President, Federal regulation may be appropriate in some of these areas; what small business people want is some means for insuring that their elected representative participate in the creation of this kind of regulatory law, which has become so predominant, not only in our country, but in our courts.

From a list of over 300 issues, the delegates to the White House Conference selected the legislative veto as one of the top 15 priorities. These recommendations will be forwarded to the President and then to the Congress in the form of a legislative agenda. The legislative veto recommendation states:

> Congress shall exercise line item veto over regulations within a specified time through congressional oversight committees, with one House floor vote.

The legislative veto amendment to the FTC authorization bill that the distinguished Senator from Georgia, Mr. Nunn, and I have introduced, along with 34 other cosponsors, would accomplish this objective.

The White House Conference on Small Business has arrived at its recommendations through a long and comprehensive process that has tapped into the mainstream of American opinion.

Mr. President, the House of Representatives recently voted to add a similar legislative veto provision as that contained in amendment 1650 to the FTC, by an overwhelming vote of 331 to 63.

I hope the Senate will heed the call of America's small businessmen, as the House of Representatives has done, and that it will act promptly to implement this important recommendation of America's small business community, one which is seconded by the professional community of this country and by most of our constituents, whom we will meet on the campaign trail.

The House has made it clear that an FTC bill which does not contain a legislative veto will be unacceptable; nor is the just-adopted amendment sponsored by Senator Levin and Senator Boren a substitute for the legislative veto.

It is useful to note that last year a similar proposal that was voted on, on the House floor, as a possible compromise, from the FTC authorization bill conference, was rejected by that body.

In light of the fact that the Federal Trade Commission has not had an authorization bill since 1976, the House Appropriations Committee now has become increasingly reluctant to appropriate funds for its continued operations. In order to encourage passage of an authorization bill, severe restrictions have been placed on the Commission in the continuing resolution for appropriations.

These restrictions prohibit the promulgation of any new rules and disallow final rules from going into effect. The result is that the FTC can do little more at present than pay the salaries of its employees. Effective action in legitimate consumer protection initiatives has been hampered by the continuing uncertainty surrounding the FTC authorization bill.

In order to put an end to this uncertainty—and I think we should—the adoption of a floor amendment to provide for legislative review and possible veto of proposed FTC rules is essential; and that amendment is before us now. This is a moderate and reasonable approach that will allow dispassionate consideration of the merits of individual proposed rules rather than the legislative "free-for-all"—with a dozen or more important and wide ranging rules targeted simultaneously for termination by interest groups—which has characterized efforts to pass an FTC authorization bill in the past, more frequently in the other body but now also in this body.

In this kind of atmosphere, mistakes can occur and a solution to the problems at the FTC is only deferred. Passage of a legislative veto amendment will put an end to this unfortunate situation and will allow the FTC to get on with its important business of providing consumer protection in the marketplace.

Our former colleague Walter Mondale, now Vice President of the United States, noted in his book, "The Accountability of Power," that "We simply must use this device more often."

Mr. President, "this device" referred to was a legislative veto. This device will do more than anything else to insure responsible FTC rulemaking, without hamstringing their basic purpose to referee the marketplace, rather than to manage that marketplace in an overburdensome way.

This device will not overburden Congress. If an FTC rule must be reviewed before it can become law, then that review, of necessity, will focus on the national policy issues, the economic commonsense of the proposed rule, and the constitutionality of that rule.

Mr. President, I think it is essential that this body, at this time, go on record as in favor of restoring the responsibility of an agency which is an arm of Congress—namely, the Federal Trade Commission—and not an executive agency, and restore that responsibility for overseeing the making of law to this body and its sister body, the House of Representative. No one else has that responsibility under the Constitution, and no one else can restore it to ourselves.

Mr. President, I yield at this time to the distinguished Senator from Georgia.

Mr. NUNN. Mr. President, when the Senator from New Mexico completes his remarks, I will be glad to speak.

Mr. SCHMITT. I have completed my remarks, and I yield the Senator from Georgia such time as he may require.

Mr. BUMPERS. Mr. President, will the Senator from Georgia yield?

Mr. NUNN. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, in calendar year 1978, over 7,001 rules and regulations were promulgated by agencies of the Federal Government. By September 1979, there were 5,854 rules published in the Federal Register. These rules covered a record high 70,000 pages.

The total cost of regulation to the U.S. economy is in dispute, but most would agree that the amount is very large. A recent study conducted by Arthur Anderson and Co., and published in March, 1979, showed that the direct incremental costs to 48 companies of regulations imposed through just six Federal agencies or programs amounted to more than 10 percent of those companies' total capital expenditures during 1977 and more than 43 percent of their total 1977 research and development costs.

The study did not measure the indirect and secondary costs of regulation, losses in labor and capital productivity, disincentives to investment, delays in construction, misallocation of resources, inflationary consequences and so forth. It merely showed the tip of the iceberg.

These statistics demonstrate most graphically the need to make regulatory agencies more responsible for the regulations they write. There is a divergence of opinion as to the best method of accomplishing this goal.

I introduced an amendment to the Federal Courts Improvement Act (S. 1477) last year which was adopted by the Senate.

My amendment provided that the courts in reviewing determinations by agencies would make their own judgments on all questions of law. Under present judicial precedents, courts defer to agency "expertise" even on issues of law if there is "warrant in the record" for the agency's interpretation of its governing statute.

In addition to providing for court determination of all questions of law, my proposal would also reverse the traditional presumption that all agency rules and regulations are valid, or within the statutory jurisdiction of the agency. In this way, the burden would be shifted from citizens affected by regulation to the Government itself which is better able to carry it.

Control over the agencies by the three traditional branches of Government—executive, legislative, and judicial—must be more vigorously enforced because the regulatory agencies have become a fourth branch of the Federal Government over which no one is exercising effective control and manned by personnel who are not elected representatives.

Our Federal system was built on checks and balances but there is no built-in check of administrative agencies' actions except congressional oversight, which has been woefully inadequate. The agencies today are not really responsible to anyone—the courts, the Executive, or the Congress. So many regulations are written and agency decisions promulgated each day that it is impossible to devise a workable system of review by anyone on a general basis. I believe that we ought to put the responsibility of promulgating regulations where it belongs, back on the agency. My amendment would force the agency to consider carefully every action it takes before it takes it, knowing that it might have to defend the validity of that action in a court of law.

Although I consider my amendment the most desirable method of curbing overregulation, I recognize that my amendment is not the issue before the Congress during the consideration of the FTC authorization bill.

We are confronted with conflicting proposals for legislative review of FTC rules and regulations. Of these alternatives, I favor the Levin-Boren amendment.

The Levin-Boren amendment addresses two of my major concerns about legislative veto proposals, additional manpower and unnecessary delay. I feared that a comprehensive legislative veto would require Congress to develop a technically knowledgeable staff to rival that of the executive branch. I am also concerned that Congress tremendous workload would preclude us from effectively exercising legislative veto. We cannot finish the work we have now, even though we are working 12 to 16 hours a day.

This proposal provides for legislative veto only on new regulations and only after the final regulation is published. In addition, Congress must act within 20 days to disapprove a final rule. These requirements allow Congress to review those regulations most egregious to the taxpayer in an expedited manner. At the same time, this proposal allows those numerous innocuous regulations to go into effect without unnecessary delay and without adding to the already tremendous workload of Congress.

Mr. NUNN. Mr. President, I ask unanimous consent that Mr. Leigh Snell, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, much concern has been expressed by consumer groups, certain members of the news media, and a good many of our colleagues in the Senate that the Congress is intent on gutting the Federal Trade Commission; that the legislative veto provision adopted by the House and presently offered on this floor by more than 30 distinguished Senators represents the most insidious and the most certain way of doing so. That is not the case with this amendment.

I endorse strongly the remarks made by the Senator from New Mexico (Mr. SCHMITT), and I urge my colleagues to pay close heed to the arguments and the remarks he has made. Senator SCHMITT has done an outstanding job in presenting this issue and leading the fight on it, and I am proud to be a cosponsor of this amendment.

I also commend Representative ELLIOTT LEVITAS, of the Fourth District in Georgia, my friend and colleague, who has taken the lead on this measure in the House of Representatives. Year after year, he has added support; and now, in my opinion, he has overwhelming support in that body for this overall approach.

I should like to take a few minutes to attempt to adjust the focus on what is really at issue in this debate.

Mr. President, what we are discussing here today is the question of legislative responsibility: who is ultimately responsible for writing the laws of this land. In my mind, the answer is quite simple and is found in article 1, section 1 of the Constitution of the United States, which vests all legislative powers in Congress. While I will leave the detailed arguments about the constitutionality of the legislative veto to others in this debate, I must say that my opinion is that, without any doubt, it is constitutional, and I think it will be so held.

I also note that we, the elected representatives of the people, not only are clearly vested with the legislative function, but also, such an endowment carries with it a responsibility that cannot be and should not be abdicated. It is the responsibility that follows from this constitutional charge that I think we should consider today.

I would be the first to admit the necessity of a certain degree of delegated rulemaking authority to regulatory agencies. The number and the complexity of issues with which Congress must deal requires this, and the authority of the Congress to do so is well established. For example, there is not one of us here who can claim that every legislative item that bears his name as author was his work alone. We might be the source of inspiration, but we turn to our staffs, to the staffs of the committees, to other experts in the area, and to legislative counsel to draft the details of the work that embodies our ideas and our goals.

On a much larger scale, acting in concert as Congress, we do the same thing in regard to regulatory agencies. Acting as our agents, they must often take the public policy that we enumerate and spell out the details of its implementation. This is particularly true with independent agencies such as the Federal Trade Commission, which are uniquely the creatures of the Congress and are not included under the executive departments or within the Executive Office of the President. Those who served in this body long before us realized the necessity of this arrangement with the creation of the Interstate Commerce Commission in 1887, and the principle behind the legislative veto does not contradict the reality of this situation.

However, just as I am sure that we, as individual Senators, delegate to our staffs the responsibility to create the vehicles for our concepts, I feel equally certain that each and every one of us has the final word of approval on a measure before it is introduced. This is as it should be. It is we, and not our assistants, who were elected to this high office; we, and not our staffs, are therefore responsible to the people. The fact that bills are introduced at the desk in this body by Senators, and not by their staff members, is as much a function of this trust placed in our hands as it is one of tradition.

I think it only follows, then, that we have a similar responsibility in our dealings with the independent agencies to whom we have delegated certain tasks. We can delegate the work to them, but we should not and cannot delegate the final responsibility for this work. This, very simply, is the principle that embodies the legislative veto in the Schmitt amendment. To argue that we cannot reject, before they take effect, the rules and regulations of the Federal Trade Commission, which in most cases or at least in many cases carry the weight of law, would be similar to saying that we cannot reject the proposals that our staffs give us but have to introduce them as presented.

While I am sure that there are some staff members who believe that things would be a lot easier and more effective in the Senate if that were indeed the case, that is simply not the way it is supposed to work and certainly not the way our constituents expect it to work.

Mr. President, if we cannot, through the use of the legislative veto, tell the FTC "no;" if we cannot direct them to go back and try again before their rules and regulations take effect, a lot of our citizens will have to do a lot of work, at a lot of expense, until we can introduce, study, debate, pass and have signed into law a bill to correct the situation. I hope that my colleagues will realize the fact that, if we accept our responsibility as the legislative branch of Government, the necessity for such a process should not arise to begin with.

Some will say, "Well, if we were a little more careful in watching what the FTC was doing, and if we took a little more time to give them better instructions, we wouldn't have a problem in the first place. If we only exercised better oversight, we could take care of the kind of problems we are talking about before they ever developed." They will say, "Don't you keep an eye on your staff? If you hired a good one, and worked carefully with them, you'd probably agree with what they drafted for you." Strict oversight of the FTC, it is said by some who oppose this measure, "will produce the same results."

Mr. President, in response I will say that I know of no Senator who does a better job of maintaining oversight of an agency than does my good friend from Kentucky. Senator Ford's sincere and dedicated interest in the proper functioning of the FTC and the effective enforcement of its mandate is an example for us all in the area of oversight, and he certainly has my sincere appreciation for all of the hardwork he has done and continues to do in this area.

However, we have before us today, under his stewardship, a piece of legislation that will terminate at least two of the FTC's most involved rulemaking proceedings, one involving children's television advertising, and the other concerning the development and utilization of private standards and certification activities. I do not view the fact that it will require legislation such as this to halt the activities of the commission in these areas as an indication of the lack of success of Senator Ford's, or the Commerce Committee's, oversight abilities any more than I view the legislative veto as such an indictment.

The legislative veto does not prohibit stronger oversight, nor is it a substitute for stronger oversight. Rather, it is a logical extension of this duty. To those who agree with the committee's recommendation to terminate these rulemakings, I will say that the legislative veto would be a safeguard, to protect against perceived excesses of the Commission in the absence on occasion of a champion such as Senator Ford. To those who disagree with the committee bill in these areas, I will present the legislative veto as a means of avoiding the termination, in midstream, of a Magnuson-Moss rulemaking proceeding, thereby foreclosing public debate on questions which many perceive to be fundamental to the well being of the country, and on which we do not yet have the benefit of the Commission's recommendations.

The legislative veto is simply a method of indicating our approval of the legislative draftmanship of our agents. It is nothing more or less than a method of assuring and insuring that what we have directed to be done, is done as we instructed the people who work, after all, for Congress to do it. As elected representatives of our constituents and the people of the country, we owe them no less.

Mr. President, I am pleased to be a cosponsor of the Schmitt amendment, and I again congratulate my colleague from New Mexico and I urge my colleagues to join in support of this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. Mr. President, will the Senator yield me 5 or 6 minutes?

Mr. SCHMITT. Mr. President, I am happy to yield the distinguished Senator from Arizona 6 minutes, and it is my understanding that there will be time available off the bill. We have a number of Senators who are asking for an opportunity to speak, and I think that will be available. So I yield 6 minutes.

Mr. GOLDWATER. I thank my friend.

Mr. President, it is a pleasure for me to join with my good friend from New Mexico, Senator Schmitt, in offering an amendment to give Congress a "legislative veto" over the far-reaching regulations of the Federal Trade Commission. I joined my colleague in proposing this amendment in committee and a brief statement of our position is set forth in our joint views accompanying the committee report on S. 1020.

Mr. President, there is little else we could do in the Congress that would have a more positive effect upon restoring balance to our representative Government than to put a legislative veto on regulations by the FTC. The Commission has sweeping and enormous powers over virtually the entire field of business activities in, or affecting, commerce. This authority is about as broad as the power which the Constitution grants to Congress itself to regulate commerce.

By approving a procedure for retaining control over abuses of its regulatory powers by the FTC, we will have gone far toward bringing power back to the people, through their elected representatives, that we have for too long delegated to unelected potentates.

And, if we reassert today the principle that Congress will hold on to its power, and I might add, responsibility, to make law, instead of delegating endless power to bodies which the Framers had never heard of, I am confident we will pass a future law that will apply the legislative veto to all bureaus generally.

Mr. President, I comment that one of the greatest problems we face in the country today is the fact that this Congress facing a problem passes laws to create an agency and then forgets all about the agency and allows the agency to do what it wants to. I think of one other one that comes to my mind which is practically throttling progress in the West, and that is the Environmental Protection Agency, that has written all its own rules and regulations which are slowly cutting down on the industrial might of the country and can well be the end of America if we do not do something about it.

But back to the amendment: Then, we will have done something to bring power back where the Founding Fathers intended it to be.

Mr. President, this is what the Senator from New Mexico and myself are talking about. We are speaking of restoring power to the legislative branch where the framers originally put it.

The original intent of the framers was that there would be checks and balances among the different branches of Government so that no one department would grab power to itself. Also, the Framers wanted to check the power of the Federal Government and not just the power of any single department in it.

What has happened, however, is the complete reversal of the Framers' intent. The country is no longer a democracy run by a tripartite Government, but it has become a collection of bureaus and agencies whose decisions and rules have become the law of the land. These administrative agencies have run roughshod over the laws passed by Congress, ignoring clear legislative intent, and we have not yet done anything serious to stop it. In my opinion, the legislative veto is one very important means by which Congress can get a handle on the problem.

Now, our proposal does not require that Congress review each and every regulation which the FTC might issue from here on. But it does provide us with a procedure for responding instantly and effectively in those instances where the Commission has overreached itself by distorting or completely ignoring congressional intent.

Some question has been raised whether the legislative veto might be challenged in the courts. To me, this is a false issue which diverts attention from the true matter before us, which is restoring checks and balances under the Constitution.

Time and time again, in fact some 300 times in our history, Congress has put legislative review or legislative veto provisions into laws. In fact, the basic purpose of these provisions, which is to retain congressional control over actions by the bureaucracy, can be traced back in a direct line to the Treasury Act of 1789 in the very first Congress.

The congressional resolution specifically was used as early as 1848 to check executive power and a formal opinion by Attorney General Cushing in 1854 actually lays the foundation for the legality of these resolutions. His opinion takes the position that Congress can authorize by statute subsequent resolutions which limit administrative activities. By signing the law subjecting a department or agency to future congressional control, the Attorney General wrote, the President "has consented" to the exercise of such power on the part of Congress.

Mr. President, all doubt has been removed by the recent case of Atkins against United States in which the Court of Claims held that even a one-House veto is constitutional. This case was decided in 1977 in the context of the Federal Salary Act which allowed either House of Congress to disapprove Presidential pay recommendations.

Also, there is an excellent analysis of the legislative veto in the concurring opinion of Supreme Court Justice White in the case of Buckley against Valeo in 1976. Justice White's opinion completely destroys all of the theoretical arguments that have been raised against the legislative veto, and coming from an individual who was formerly an Assistant Attorney General, his views deserve respect. I submit the pertinent part of his opinion for the Record, and I ask unanimous consent that it be made a part of the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr.

BOREN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GOLDWATER. In closing, Mr. President, I believe we have an opportunity to make a mark for the 96th Congress as the Congress which finally controlled agency abuses. The legislative veto is a major weapon in curbing runaway Federal Government, and I am glad my friend from New Mexico has brought the subject before us. I urge my colleagues to vote for it. I thank my friend for yielding.

EXHIBIT 1

BUCKLEY V. VALEO

"I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress. For a bill to become law it must have passed both Houses and be signed by the President or passed over his veto. Also, "every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary . . ." is likewise subject to the veto power.[29] Under § 438 (c) the FEC's regulations are subject to disapproval; but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by nonaction. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulation may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution or vote requiring the concurrence of both Houses.[30]

"In terms of the substantive content of regulations and the degree of congressional influence over agency lawmaking, I do not suggest that there is no difference between the situation where regulations are subject to disapproval by Congress and the situation where the agency need not run the congressional gantlet. But the President's veto power, which gives him an important role in the legislative process, was obviously not considered an inherently *executive* function. Nor was its principal aim to provide another check against poor legislation. The major purpose of the veto power appears to have been to shore up the Executive Branch and to provide it with same bargaining and survival power against what the Framers feared would be the overweening power of legislators. As Hamilton said, the veto power was to provide a defense against the legislative department's intrusion on the rights and powers of other departments; without such power, "the legislative and executive powers might speedily come to be blended in the same hands." [31]

"I would be much more concerned if Congress purported to usurp the functions of law enforcement, to control the outcome of particular adjudications, or to pre-empt the President's appointment power; but in the light of history and modern reality, the provision for congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto. It would be considerably different if Congress itself purported to adopt and propound regulations by the action of both Houses. But here no action of either House is required for the agency rule to go into effect and the veto power of the President does not appear to be implicated."

Mr. SCHMITT. Mr. President, the Senator from Texas (Mr. TOWER) desired to have a chance to speak, but I do not see him on the floor at the moment.

I want to thank Senator GOLDWATER for his comments.

Mr. President, a charge, informally at least, has been made that the Senate should not pass a legislative veto amendment because we have already inserted legislative review language that might be inconsistent with the legislative veto in the passage of the amendment offered by Mr. LEVIN.

The two provisions are not inconsistent since one is a restatement of the current situation and the other is a legislative veto; namely, amendment 1650.

I should point out to my colleagues that the rules specifically permit this action. The rules state:

> No point of order will lie against an amendment on the ground that it is inconsistent with other provisions of the measure.

The House of Representatives has included two veto provisions in H.R. 2313, the FTC authorization bill, which recently passed by a vote of 321 to 63. The House bill has a one House veto subject to override by the other House and it also has a two House concurrent resolution without Presidential signature. There is no reason whatsoever why the Senate cannot insert two procedures into this bill. It is not a question of either/or. We should pass both the legislative review procedure and the true legislative veto amendment that has been recommended to the President and the Congress by the White House Conference on Small Business, and many others.

I would at this point ask the distinguished Senator from Missouri if he will yield to the Senator from North Carolina (Mr. MORGAN) 5 minutes on the bill.

Mr. FORD. Mr. President, I yield 5 minutes to the distinguished Senator from Nevada, 5 minutes to the distinguished Senator from Maine, 5 minutes then to the distinguished Senator from Ohio (Mr. METZENBAUM), and then I will reserve the remainder of my time. I yield in that order.

Mr. CANNON. Mr. President, I would like to make the following observations to underscore my opposition to the pending amendment to which I am opposed.

Congress does not need legislative veto to oversee FTC rulemaking.

The recent oversight hearings are ample proof of Congress ability to give the agency legislative guidance. Regular oversight is as an effective alternative to the impractical concept of legislative veto. Congress does not need the legislative veto to gain control over the FTC.

The FTC is not an appropriate choice for experimenting with legislative veto.

Congressional advocates of the legislative veto argue that the veto is necessary because administrative agencies are free to make rules with little opportunity for the public to participate in rulemaking proceedings. Yet public access to FTC rulemaking is greater than at most other agencies, and is surpassed by none.

In 1975 Congress enacted the Magnuson-Moss Act, guaranteeing the right of all interested persons to participate fully in the rulemaking process through written comment, oral testimony, cross-examination, rebuttal submissions, and comment on the final Commission proposals. This process insures that the Commission is fully informed of public opinion.

The courts provide parties with an additional means of testing the legality and factual basis for FTC rules.

Unlike most agencies, an FTC rule can survive a court challenge only if the Commission can demonstrate that the rule is supported by substantial evidence. Otherwise, the rule will be struck down.

Congress can always legislate directly.

Even after oversight and judicial review are complete, Congress can still legislate directly to overturn an agency rule that it does not support. For example, Congress recently did this with respect to seatbelt interlocks and saccharine. Likewise, in 1964 Congress passed a law overturning an FTC rule concerning cigarette advertising.

Adequate review of the rulemaking record will be impossible.

FTC's rulemaking procedures yield rulemaking records that are larger than those compiled by many other Federal agencies and much larger than those gathered by most State agencies. For example, the records in most proceedings number 25,000 pages or more. Meaningful review of such records would take substantially longer than the 60- to 90-day review period called for by most veto bills. Moreover, longer review periods could result in harmful delay to a rule's implementation.

Veto threat would discourage participation in rulemakings.

Legislative veto may also discourage the public from participating in the rulemaking process. Instead, groups would take their case directly to the Congress. Thus, the veto could accomplish the exact opposite of its intended goal, that is, direct public involvement in agency decisionmaking will suffer.

Moreover, to the extent that the veto encourages the public to ignore agency proceedings, agency decisionmaking will be less than fully informed, creating the possibility of unwise rules.

Possible unconstitutionality.

Many constitutional scholars are concerned that the legislative veto is unconstitutional. The veto appears to violate both the separation of powers doctrine and the President's own veto powers.

Mr. President, I would like to read into the RECORD a letter to the chairman of the subcommittee from the Congressional Budget Office:

---

[29] U.S. Constitution, Art. I, § 7, cl. 3.

[30] Surely the challengers to the provision for congressional disapproval do not mean to suggest that the FEC's regulations must become effective despite the disapproval of one House or the other. Disapproval nullifies the suggested regulation and prevents the occurrence of any change in the law. The regulation is void. Nothing remains on which the veto power could operate. It is as though a bill passed in one House and failed in another.

[31] The Federalist No. 73, at 468–469 (Wright ed. 1961).

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has re-examined its estimate of the costs of Congressional review of proposed agency rules, as exemplified by Senator Schmitt's amendment number 212 to S. 1020, the Federal Trade Commission Authorization Act.

The original CBO cost estimate of approximately $2 million annually was incorrectly based on the number of proposed rules published annually (approximately 4,000), rather than on the number of final regulations or amendments (approximately 7,000 in 1978). If this estimate is adjusted to reflect the number of final rules, the cost, using the other CBO assumptions, would be about $5 million, compared to the revised Committee estimate of $27 million.

* * * * *

Based on these considerations, we estimate the maximum likely cost of a detailed Congressional review of all rules to be approximatley $15 million annually, with a minimum cost of about $5 million for selective reviews.

Mr. President, I ask unanimous consent that this letter in its entirety be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 19, 1979.
Hon. WENDELL FORD,
Chairman, Subcommittee on Consumer Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has re-examined its estimate of the costs of Congressional review of proposed agency rules, as exemplified by Senator Schmitt's amendment number 212 to S. 1020, the Federal Trade Commission Authorization Act.

The original CBO cost estimate of approximately $2 million annually was incorrectly based on the number of proposed rules published annually (approximately 4,000), rather than on the number of final regulations or amendments (approximately 7,000 in 1978). If this estimate is adjusted to reflect the number of final rules, the cost, using the other CBO assumptions, would be about $5 million, compared to the revised Committee estimate of $27 million.

The key element in determining the likely costs of Congressional review is the assumption as to the scope of that review. The possibilities range from a careful review of each proposed rule, on the one hand, to the extensive review of only selected major or controversial rules, on the other. The Committee estimate reflects the first assumption, while the CBO estimate is based on the second. In preparing our estimate, we consulted with a number of staff members and staff directors of both House and Senate Committees, and while most agreed on the range of alternatives, there was no consensus as to the course that Congress as a whole or individual committees would be most likely to follow. Thus, a wide range of assumptions is possible as to the type of Congressional review, with a resulting wide range in possible costs.

CBO believes that the Committee estimate overstates potential costs, even assuming detailed review of all regulations. First, Congress can and does already devote a significant amount of time to reviewing and discussing the most controversial regulations (e.g., air bags), even without an explicit procedure for overriding them. Thus, the review of some major regulations would not be an additional cost to the Congress. Secondly, if regulations are to be reviewed by the committees responsible for the original legislation, committee staffs are likely to have at least some familiarity with the issues and legislative history, thus reducing the time necessary for review. Finally, it seems unlikely, in view of the Congressional workload, that committees would have the time or inclination to hold hearings and/or debate, in both Houses, on 150 major or significant regulations each year.

Based on these considerations, we estimate the maximum likely cost of a detailed Congressional review of all rules to be approximately $15 million annually, with a minimum cost of about $5 million for selective reviews.

Should the Committee so desire, we would be pleased to provide further details.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, *Director*).

Mr. CANNON. Mr. President, I also ask unanimous consent that a letter to the committee from the Department of Justice be made a part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., June 15, 1979.
Hon. HOWARD W. CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This presents the views of the Department of Justice on an amendment proposed by Senator Schmitt to S. 1020, a bill to authorize appropriations for the Federal Trade Commission. Our comments are limited to those provisions of Senator Schmitt's amendment which would permit one House of the Congress to "disapprove" a substantive rule promulgated by the Federal Trade Commission. For reasons stated hereafter, we believe that this "disapproval" mechanism is unconstitutional.

Although the so-called legislative veto provisions in Senator Schmitt's amendment are somewhat complex, they reduce to the following essentials: (1) a rule transmitted to the Congress by the Commission must lay before the Congress for a period of 60 calendar days of continuous session and cannot go into effect if one House of the Congress passes a resolution of disapproval; (2) if one House passes a resolution of disapproval, the other House has a period of 30 calendar days during which it may disapprove the resolution of disapproval previously passed by the other House, in which case the regulation may go into effect; and (3) either House of Congress by passing a resolution of "reconsideration" may trigger a kind of "sunset" process by which the rule, unless repromulgated by the Commission within a period of a 180 calendar days, lapses.

The Department's views on both the constitutionality and wisdom of the kind of legislative veto devices incorporated into Senator Schmitt's amendment were most recently set forth in great detail during the testimony of Assistant Attorney General Harmon before the subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary on September 13, 1978. In his prepared statement, a copy of which we have enclosed for your use, we argued, as had the President in his message to the Congress on legislative vetoes of June 21, 1978, that one negative aspect of legislative vetoes from a policy standpoint was that they tended to treat the symptoms of a problem rather than the underlying problem itself. We believe that that criticism is fully applicable here inasmuch as Senator Schmitt's stated purpose for his amendment is to provide a means for legislative control of the broad statutory grant of power presently reposed in the Commission. If indeed this grant of power to the Commission needs some refinement, a question upon which we take no position, then we believe the Congress should address that issue directly rather than resort to what we believe to be an unconstitutional procedure to deal with the "problem" that has been identified by Senator Schmitt.

With regard to the Constitutional questions raised by Senator Schmitt's amendment, we entertain two fundamental objections: (1) such legislative veto devices give to the Congress an extra-legislative role in administering substantive programs and laws and thereby violate the doctrine of separation of powers; and (2) such provisions authorize Congressional action which has the effect of legislation but denies the President the opportunity to exercise his veto power pursuant to Art. I, § 7, of the Constitution. We believe that the primary function of the Congress under our Constitution is to legislate, and that Art. I, § 7, Cls. 2 & 3 require that legislative action binding on either the Executive Branch or private parties must go through the full process of passage by both Houses and presentation to the President for his approval or disapproval.

The provisions in Senator Schmitt's amendment for "reconsideration" and lapsing of a rule presently in force serves to highlight our constitutional objections. Under the "reconsideration" provision, a Commission rule having been held to be lawful by the courts and which expresses a construction of substantive statutes consonant with that of the President may be overturned by one House of the Congress unless the other House of the Congress takes the initiative to overrule the disapproving House. In effect, substantive statutory law is being amended or nullified through a combination of action by one House and inaction by the other. It is our view that once a substantive law is on the books, the only constitutionally permissible manner in which it may be amended or appealed is through full legislative action pursuant to Art. I, § 7.*

For the foregoing reasons, the Department of Justice strongly opposes the amendment offered by Senator Schmitt. The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General,
Office of Legislative Affairs.

Mr. MUSKIE. Mr. President, the amendment offered today by the distinguished Senator from New Mexico raises an issue of increasing concern to the Congress—that is how can we perform our constitutional responsibilities in a manner which assures that the laws of this country are carried out in an effective and efficient manner and in a way which is consistent with the intent of the Congress.

I am, however, deeply troubled by the solution which the Senator proposes, for I firmly believe that a general legislative veto, which would permit either

---

*Congress may, in a statute subject to Presidential approval or disapproval, establish a "sunset" period for rules or regulations which provides for the lapsing of such rules or regulations after a given period of time. Senator Schmitt's amendment, however, effectively gives such power to a single House on a selective basis.

House of Congress to reject regulations developed by an executive department, is a mechanism which is unconstitutional and which will, in practice, lead to a result that is likely to be the opposite of the intent of its proponents.

The House of Representatives, in considering the counterpart to this bill, adopted a similar amendment which would have provided that no rule or regulation of the Federal Trade Commission would become effective if, within 60 congressional days, either the House or Senate adopted a resolution of disapproval.

The supporters of the amendment expressed concern that laws which have been written by the Congress are being "interpreted" by "bureaucrats in the executive branch," and that these interpretations, which take the form of regulations and have the force of law, have been contrary to the clear intent of Congress in too many instances.

This concern by Members of Congress grows larger with the frustration we hear from our constituents—frustration not from Government having tried to solve problems—but from not having solved them well enough.

This frustration stems in large part from observing a Government grown so large and ineffective that it is suffocating the very goals it seeks to achieve.

Finding a remedy for this frustration is the most important—and difficult—challenge to Government today. For we have little hope of solving the truly serious problems we face as long as Government bears this burden of no trust.

And I am convinced that we cannot meet that challenge unless Government is prepared to change its ways.

In my view, the task of meeting this challenge must fall first of all to the Congress.

Mr. President, while I understand the concern of those Members of Congress who feel the enactment of our laws is often frustrated in their execution, and I must say I share that concern, we must address those concerns in a manner which is consistent with the respective roles and responsibilities assigned to the Congress and the executive branch under the Constitution, and in a manner which will enhance and not diminish the role of the Congress.

I believe it is far more important for us to focus our efforts on strengthening the authorization process and not attempt the impossible task of reviewing each and every regulation that the FTC or other Federal agencies issue.

The use of the legislative veto developed slowly. The first provision appeared in 1932 in legislation granting the President authority to reorganize the executive branch. Since that time the use of this mechanism has accelerated.

The Congressional Research Service has advised that of the 220 provisions inviting legislative vetoes enacted since 1932, more than one-third have been enacted since 1975.

Before many more laws are constructed which delegate authority to the executive branch agencies and which rely on this reservation of authority in the Congress, it is important to have a definitive resolution of the constitutionality of this procedure. The Supreme Court, in 1977, declined to grant certiorari in the case of Atkins against the United States. That case involving the exercise of the one-House veto provision of salary recommendations issued pursuant to executive and judicial salary legislation could have presented us with an opportunity for the Supreme Court to resolve this important question. That opportunity has passed and it may be some time before another case is properly framed around this question.

Until this issue is resolved by the Supreme Court, we should refrain from attaching veto provisions to even more legislative proposals.

In my judgment, the Constitution does not give the Congress the right of review and veto over each and every regulation which the executive branch puts forward to implement a law.

Congress unquestionably has the power to legislate and to delegate to the Executive the authority to supplement and to give effect to statutes passed by the Congress, but the actual execution of such laws can be accomplished only by officers of the executive branch.

Article 1, section 7, clause 2 of the Constitution provides that every bill passed by the House of Representatives and the Senate must be presented to the President for his approval or disapproval and that if it is disapproved, it cannot become law unless repassed by two-thirds vote in each House.

The primary purpose of that procedure is to give the President a defensive weapon against congressional encroachment upon his constitutional powers.

Clause 3 of that same section makes it clear that the purpose of the framers was to prevent congressional invasion of the Presidential veto power by labeling as something other than a bill any congressional action which establishes public policy.

Furthermore, I do not believe we can call upon the "necessary and proper" clause as justification for a general legislative veto provision. That clause gives Congress the power to make all laws which shall be necessary and proper to execute its other powers.

As early as 1819, Chief Justice Marshall read a restriction into the execution of this power in McCulloch against Maryland. The Chief Justice said that this power must be used in a manner in which the end is legitimate and which is consistent with the letter and the spirit of the Constitution.

Certainly Congress could not, because it concluded a measure was necessary and proper to the discharge of its legislative authority, pass a bill attainder or an ex post facto law. Nor could it vest in itself the authority to appoint officers of the United States when the appointments clause prohibits it from doing so.

On the constitutional question, I believe that a general legislative veto provision is constitutionally suspect on three different grounds—it violates the constitutional separation of powers, it derogates the Presidential veto power, and it abrogates the safeguards of our bicameral legislative system.

Putting aside for the moment the constitutional objections to the legislative veto, I cannot believe that it will achieve the results which are hoped for by its sponsors.

Federal agencies issue thousands of complex regulations each year. Many are adopted after months or even years of hearings and are based on many volumes of evidence. In his message to the Congress on the legislative veto, the President pointed out that Congress would have to examine all of this evidence, hold its own hearings, and decide whether to overrule the agencies—all in a few weeks.

Such a provision would introduce yet another element of redtape and delay into an already tedious rulemaking process. Let us take the example of the regulations concerning President Nixon's papers. Three versions of those regulations were vetoed, and it took nearly 3 years to reach agreement on them.

The regulatory process has been criticized for being slow and for creating an uncertainty which cripples planning by business, by State, and local governments and by many others who must depend upon that process. The legislative veto would greatly compound those problems.

It will prolong the period of uncertainty for each regulation by several months and it could mean years of delay. Furthermore, it creates considerable uncertainly when the actions of the executive branch are subject to the judicial review.

Even when the Congress chooses to allow a regulation to go into effect, that regulation has been issued after the agency has published it on the record and provided an opportunity for notice and comments by interested observers. If the details of those regulations have been worked out behind closed doors with congressional committees, under the potential threat of a legislative veto, how is a court expected to know the basis for the agency decisionmaking?

Mr. President, I strongly oppose the pending amendment. I firmly believe if Congress is to gain stronger control over the programs of the Federal Government, it must use the authorization and appropriations processes which are clearly within its constitutional powers.

As most Senators in this body know, we have worked for the past 5 years to develop sunset legislation which would extend the reauthorization process to many programs of the Government which are permanently authorized and over which Congress exercises limited oversight.

The procedures embodied in S. 2, the Program Reauthorization and Evaluation Act of 1979, present the Senate and House of Representatives with an opportunity to improve the authorization process, which is our business, in a manner consistent with the traditional powers and responsibility of the Congress and in a way which will insure more consistent and thorough policy review by the legislative branch of the Government.

Mr. President, only through an improved reauthorization process, by which Congress periodically reconsiders its past actions and enacts new laws in response to the lessons which we learn from such increased oversight, can we most effectively and most appropriately assure that the intent of Congress will be carried out by the executive branch.

Mr. FORD. Mr. President, the Senator from Ohio is not present at this time, so I yield 5 minutes to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I say to the Senator from Kentucky that I do not need the 5 minutes.

Mr. President, although I strongly disagree with portions of the FTC bill, and with many amendments which will be proposed in the course of Senate consideration of the bill, I feel that the bill deals with the issue of legislation veto in a way which is both fair and appropriate.

The bill does not attempt to usurp the complex process of rulemaking. Instead, it requires two things: First, the FTC is required to notify the Commerce Committee 30 days in advance of a proposed rulemaking. Second, the Commerce Committee will conduct comprehensive oversight on FTC activities every 6 months.

I strongly favor this approach, and feel that it is an effective alternative to the concept of legislative veto.

I think it is particularly important to note here that no agency in the Federal Government has taken its mandate for public participation in the rulemaking process more seriously. Through the Magnuson-Moss Act of 1975, all interested parties are guaranteed the right to participate fully in the rulemaking process through written comment, oral testimony, cross-examination, rebuttal submission and comment on the final Commission proposals. This process insures that the Federal Trade Commission is fully informed of public opinion.

In addition, unlike most agencies, the Federal Trade Commission rules can be struck down in the courts unless the FTC can demonstrate that the rules are supported by substantial evidence.

Finally, I would point out that in addition to ample oversight powers, Congress can also act directly to overturn FTC rules through legislation, and there is certainly precedent for this in recent history.

Make no mistake. I thoroughly support active congressional involvement through the process of broad legislative oversight. I feel that this is an area in which we have often been lax. My fear is that if we enact a legislative veto provision, we will actually undermine the concept of broad, thorough, reasoned oversight of agency programs and policies, and get bogged down with single issue investigations. In view of the atmosphere of high-powered lobbying and special interest groups which has prevailed throughout the debate on the FTC bill, I am particularly concerned about who would set the agenda for these single-issue investigations, if we have legislative veto.

In the past months, we have heard a case made for exemptions for every thing from mobile homes to funeral homes; for doctors, lawyers, and used car salesmen. If the Congress places a legislative veto provision in this bill, I can guarantee you that every one of these groups will come trouping back up here to insist that we veto any rules which the FTC proposes in these areas.

I for one cannot condone this as the way for Congress to do business.

I strongly oppose the amendment for legislative veto offered by my colleagues from New Mexico and Georgia. As a Member of the House of Representatives, I opposed every legislative veto and legislative review provision. It should be our clear charge to the Senate conferees on this bill to refuse to take the House provision on legislative veto.

I was not unsympathetic to what my colleagues from Michigan and Oklahoma were attempting to do in terms of a compromise amendment on this issue, and I am sympathetic to the argument that adoption of the Levin-Boren amendment would increase our chances of defeating legislative veto in conference.

I would suggest that what we are doing in this case is to set a precedent whereby any bereaved group, whether legitimate or not so, will feel that the way out is to lobby their Congressmen and Senators. I suggest that we do not have enough appointment secretaries to take care of the influx that would follow.

The **PRESIDING OFFICER.** Who yields time?

Mr. DANFORTH. Mr. President, I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I support Senator SCHMITT's amendment.

This legislative oversight mechanism offers the best opportunity to bring under control the bureaucracies which are stifling the citizens of this country with insufferable regulations.

These regulations are decreasing productivity, increasing inflation and costing the consumer.

Regulation extracts over $100 billion a year from our economy according to some estimates.

Although regulation is a burden upon big business, it is catastrophic for small business.

A Government study recently revealed that more than 850 million pages of time-consuming, costly, duplicative, useless and confusing Government forms are required of the Nation's 10 million small businesses.

My small business constituents plead with me to get Government off their backs. One who had been "introduced" into the Federal Trade Commission's quarterly financial reporting program wrote me that:

> We have just completed one of these programs. A total of eight reports and we really don't have time to do all this paperwork and stay in business. At the present time we're up to our necks in labeling (FDA) changes to comply. Also interested is BATF wanting detailed reports. IRS wants details, the State Comptroller wants records. Today the director of the Bureau of Census advises he wants a census report. When can we have some time to try and make a living for ourselves and our employees?

It is significant that the White House Conference on Small Business has recommended that Congress exercise the one-House veto over regulations.

THE FEDERAL TRADE COMMISSION

Without doubt, the most uncontrollable of the regulatory agencies is the Federal Trade Commission. The nonelected officials at that agency can regulate practically every aspect of our commercial life under a broad mandate to prohibit conduct which they consider "unfair" or "deceptive."

Most of the proposed rules of the FTC target small businesses which are least able to defend themselves against the onslaught of a bureaucratic attack. The problem is particularly acute under sanction empowering the FTC to recover a civil penalty of up to $10,000 for each violation of any FTC rule. With multiple violations a civil penalty could run over $1 million. This is compounded by the fact that the defense of a law suit in a U.S. District Court would run a minimum of $25,000.

ENCROACHMENT ON STATES RIGHTS

Of equal concern is the propensity of the Federal Trade Commission to use its extraordinary legislative authority to override actions of State legislatures as well as Congress. A clear-cut example is the FTC's proposed credit practices rule.

First proposed in 1974, this rule—in 10 out of its 11 provisions—deals with practices already regulated by State law. Nor is this a legislative vacuum being filed by the FTC. It is one of the most highly regulated areas of the economy.

Congress too has acted in this area to protect the consumer. In the last decade, the Banking Committee on which I sit has taken initiatives leading to the passage of the consumer credit protection, fair credit billing, unsolicited credit card, fair credit reporting, real estate settlement procedures, equal-credit opportunity, and fair debt collection practices acts.

Another example of bureaucratic excess may be seen in the FTC's attack upon a State's right to regulate professions to insure the health and safety of its citizens.

The upshot of the Commission's occupational licensure program has been to declare open war upon the "learned professions" and other State-licensed occupations, often giving rise to unjust and inequitable results. Thus, the recent FTC decision against the American Medical Association has resulted in some medical associations peer review committees in my State refusing to intervene in cases where patients allege that they were overcharged by doctors. This denies the public an equitable, low-cost method of arbitration previously used extensively.

The Texas Dental Association has not escaped the wrath of FTC investigators. The sin of the Texas dentists seems to be that they refuse to violate State regulations prohibiting dentists to turn over patient's X-rays to third parties, in this case, insurance carriers. This "informal investigation" is costing Texas dentists thousands of dollars in attorney's fees and related expenses.

CONGRESSIONAL OVERSIGHT INADEQUATE

There is a need for the legislative veto because the present oversight mechanism is inadequate.

Neither judicial review nor current congressional oversight procedures have been successful in stemming the tide of regulation. From 1955 to 1970, the number of pages appearing annually in the Federal Register increased at an annual rate of 5 percent. From 1970 to 1975, the growth soared to nearly 25 percent per annum. Federal expenditures on regulations have been increasing at about 20 percent each year.

Experience with the legislative veto under the reorganization acts and the Federal Election Campaign Act demonstrates its substantial contribution to the effectiveness of legislative oversight. During the period from 1932 to 1978, Congress has enacted more than 200 laws requiring advance submission of agency proposals or regulations to Congress for review. There is no evidence that these veto provisions have placed a burden upon Congress.

CONGRESSIONAL REGULATORY REVIEW

Mr. President, the issue to be decided today is who is to write the laws governing the citizens of our great republic.

Is it to be the nonelected officials in the executive branch?

Or, is it to be the elected representatives of the people in Congress?

For far too long Congress has abdicated to the executive branch its constitutional duty to write the laws.

The legislative veto will help restore to the elected representatives in Congress the responsibility for lawmaking.

I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I yield 5 minutes to the Senator from North Carolina.

I know him better than some of the other Senators. We drank out of the same well. But he is for the amendment and I am against it. It is kind of hard for me to yield him 5 minutes. But, he being a good fellow, I will yield him 5 minutes.

Mr. MORGAN. Mr. President, I thank my distinguished colleague for his generosity.

Mr. President, I do support the amendment of the distinguished Senator from New Mexico to subject the Federal Trade Commission regulations to a veto by Congress.

This issue is, I believe, much more complex than one might suppose. To me, this issue involves much more than the relative powers of the executive and congressional branches of Government and the burdens that Congress may or may not incur through the addition of this responsibility.

The issue has to do with whether or not Congress really is willing to confront the burdensome and costly regulations that come from regulatory agencies as a result of legislation enacted by Congress. In other words, the issue to me is whether Congress is finally willing to live up to the consequences of the legislation it passes.

I will be the first to admit that there are a number of ways, including aggressive oversight, more and better use of evaluative agencies such as the General Accounting Office, our investigative arm, and through other means. But the fact of the matter is that regulations are being written and promulgated in numbers that are stifling the sound functioning of the American economy.

Mr. President, the precedent of a legislative veto has been established at least since 1932 during the administration of Herbert Hoover. Since that date over four decades ago, at least 200 congressional vetoes have been written in the statutes on matters ranging from executive reorganization to war powers to a host of other executive decisions. Clearly, the idea of a congressional veto is not new or without precedent.

The first instance of a congressional veto occurred in the Legislative Appropriation Act of 1932, which authorized President Hoover to prepare and submit to Congress by Executive order plans for the transfer, consolidation, coordination, and abolition of executive agencies and functions.

Section 407 of that act stated that Executive orders implementing these changes would become effective at the end of 60 days unless either branch of Congress passed a resolution disapproving of the Executive order, or it would become effective in less than 60 days if it was approved by concurrent resolution of both Houses.

Since that historic moment, Congress has found it necessary to insist upon the right to review the work of the Executive in implementing the will of Congress. In no way does this review impede the work of the Executive if the Executive fully meets the test of implementing the intent of Congress. Congress writes the laws, and, because regulations designed to implement the laws have the force of law, it is important for Congress to assure itself that regulations are accurately and properly written.

The precedent of congressional veto over executive actions extends into other areas of law as well. As early as 1954 Congress had successfully written legislation stating that Atomic Energy Commission proposals for distribution of certain nuclear materials could be disapproved by concurrent resolution in 60 days. Also, in 1961 Congress amended the Foreign Assistance Act to establish that certain provisions could be disapproved by concurrent resolution.

Other examples where Congress could, by concurrent resolution, disapprove of administrative proposals or actions include:

Lend-Lease Act of 1941 (manufacture, sale and transfer of defense materials to foreign countries).

Federal Airport Act of 1946 (establishing programs of Federal grants-in-aid for construction of airports).

Federal Civil Defense Act of 1950 (interstate civil defense compacts).

Reciprocal Trade Agreement Extension Act of 1958 (making tariff changes).

War Powers Resolution (authorization for use of the U.S. Armed Forces).

Trade Reform Act of 1974 (import relief and restriction provisions).

Functional areas where Congress has legislated provisions for disapproval by simple rather than concurrent resolutions include the limit on Presidential authority to impound funds (Congressional Budget and Impoundment Act of 1974), military construction, establishing Federal employee salaries, Indian claims judgment, emergency allocation of petroleum, reorganization of Federal railroads, campaign controls, improving Amtrak, among others.

These many and varied examples illustrate how Congress by either a concurrent or simple resolution can disapprove proposed executive action. All of these examples are, to at least a small degree, analogous to the amendment before this body today. Clearly, and without question, there are many adequate precedents for this amendment.

I would like to add at this point, Mr. President, that the legislative veto brings our balance of powers into closer harmony. I study the Federalist Papers carefully and often reflect upon the checks and balances that our Founding Fathers had in mind when they established this Government. Since the New Deal, our country has expanded tremendously in agencies and in paperwork that they turn out. The growth of the Federal Trade Commission, especially since the passage of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act in 1975, is a good example of how expansion of powers can go beyond the legislative mandate of the agency. The legislative veto that I support today is an effort to redress this balance. It is an attempt to harness this agency—not an effort to destroy it.

I believe in consumer protection and have made a reputation in antitrust work in North Carolina. I was called the people's attorney general. Mr. President, I believe in responsible regulation, and I also believe that regulation can be best done at the State level. I can say that we made a very good start toward that goal in North Carolina, and I hope that other States will see the value of this approach.

Mr. President, in closing I would like to stress my firm belief that Congress must come to grips with the issue of whether or not it will accept the responsibility to assure that the laws it writes are fully and accurately reflected in regulations proposed by the Federal Trade Commission. My support for this amendment should not be interpreted as criticism of the Federal Trade Commission for any specific set of regulations or individual regulation. Rather, my support should be interpreted to mean that this Senator is willing to accept the responsibility to assure that the regulations of this agency are consistent with the intent of the laws passed by this and future Congresses.

In supporting the legislative veto, I not only argue the precedents that I have made so far but also cite one of our former colleagues, now the President of this body and the Vice President of the United States, the Honorable WALTER F. MONDALE. In his book, "The Accountability of Power: Toward a Responsible Presidency," published in 1975, he argued:

> Another important way to avoid either too much specificity or generality in legislation is through use of the legislative veto.

He gave some excellent precedents before concluding:

> We simply must use this device more frequently.

I agree with the distinguished Vice President and argue that the Federal Trade Commission reauthorization bill begs for the legislative veto.

Mr. President, I believe in consumer protection. I served 6 years as the attorney general of North Carolina and during that period of time, I served as a public advocate against rate increases sought by power companies, telephone companies, insurance agencies, and many others.

I had as effective a consumer protection agency as there was in the country. We brought antitrust suits by the dozens. In fact, we became known as the consumer advocate. We worked time and time again with the Federal Trade Commission. But that is when the Federal Trade Commission was working within its rightful and delegated area. Since that time, the Federal Trade Commission, under the Magnuson-Moss Act and what other authority it claims, has really moved into the field of usurping the roles of the various States. If we have the Federal Trade Commission, if we are going to let it go unbridled as it has been in the past, there would be no need for State legislatures in many areas.

I support this amendment. If the Federal Trade Commission rules and regulations are good and reasonable, then they need not fear about either House of Congress rejecting them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. I yield 1 additional minute from the bill.

Mr. MORGAN. There is one further reason, Mr. President, for enacting this additional safeguard. That is that we must remember that the Federal Trade Commission promulgates its own rules and regulations, it polices them, it enforces them, and it is the court of final appeal for most of them.

For that reason, I think it is entirely appropriate that this Congress agree to this amendment which would be one further check on the actions of an agency created by this Congress.

Mr. FORD. Mr. President, I yield myself 1 minute.

The distinguished Senator from North Carolina made a point that should at least be addressed in opposition.

We are seeing a court act now. He talks about all the suits he brought, how the FTC was a good agency until we got Magnuson-Moss, and this sort of thing. Now we find that the agency is going outside Magnuson-Moss. We see them going into areas that we do not like. They are going into areas this Congress did not give them permission to go into.

So we are calling their hand. We are doing much more than a legislative veto. We are stopping them by legislation. Why wait until a rule is finished and then come in and veto it? All the meanness, all the frivolous actions, will have already been completed, the money will have been spent, the Senator's constituents will have been harassed. Why does the Senator not want to start at the front end instead of letting the water go all the way through and then try to stop it?

I admit the Senator had a good agency in his State. We tried to copy it in Kentucky and did a pretty good job of it. I do not understand why he is looking at the legislative veto. The Senator can go with the FTC now.

I am being very careful not to get into an argument with an eloquent lawyer, since I am not a lawyer, and it worries me if we get into that position. I will need advice and counsel. But I hope the Senator will see the error of his ways and reconsider. What he was saying was an argument against the amendment rather than in favor of it.

Mr. President, I yield 5 minutes to the Senator from Ohio.

Mr. METZENBAUM. Did the Senator from Missouri want to proceed next? It does not matter to me.

Mr. DANFORTH. The Senator from New York was inquiring about some time and I was going to yield him some.

Mr. METZENBAUM. One minute will be sufficient for me to speak.

Mr. President, I rise to express my strong opposition to the amendment providing for a one-House legislative veto of Federal Trade Commission rules. Although this amendment is cloaked as a means for achieving greater congressional oversight of FTC activities. It will in fact serve to prevent the FTC from issuing rules that affect powerful economic interests.

It is fashionable today to attack all Federal rules and regulations as wasteful, burdensome, and unnecessary. And the foes of the Federal Trade Commission have wasted little time in seizing this regulatory reform issue as an argument in favor of applying a congressional veto to the rules this agency puts forth.

But this is the wrong way to go about lightening the regulatory load. A congressional veto of FTC rules will do more harm than good in the effort to curb some of the regulatory excesses which do unnecessarily burden businesses in this country.

A legislative veto will hurt, not help, Congress in its ability to properly carry out its oversight responsibilities. A legislative veto will create more administrative burdens for a Congress that is technically ill-equipped to thoroughly analyze the detailed regulations issued by the Federal Trade Commission. And it will force us to make hasty decisions about complicated matters on which the FTC has spent months and years of investigation.

But the most important, and most disturbing fact about this provision is that a legislative veto over the FTC rules will give powerful economic interests another opportunity to prevent the implementation of laws which help American consumers get a fair deal in the marketplace.

The influence of special interests in the Halls of Congress is already too strongly felt. But this legislative veto proposal will open the floodgates to even more pressure from those powerful interests. It will give them one more chance to work their will in Congress—all at the expense of the American consumer.

We must not allow this to happen.

The Federal Trade Commission must remain independent. It must remain independent in order that it may continue to carry out its congressional mandate to encourage competition and to root out unfair and deceptive practices in trade. The FTC's ability to administer the body of consumer protection laws which cover such matters as honesty in advertising and the safety and labeling of certain products depends solely on its ability to remain free from the uncertainties and pressures of the political arena.

The consumers of this country will be the ones to lose out if Congress straps a one-House legislative veto to the Federal Trade Commission. They will lose out because Congress will have succeeded in politicizing the regulatory process.

We must fight this move.

We will not be alone.

Opposition to the attack on the FTC and the one-House congressional veto is widespread, as reflected by editorials published by newspapers in every section of the country.

An editorial in Hartford, Connecticut's Courant has this to say about the Senate's effort to attach a veto to FTC rules:

> The one-House veto of FTC rules has been approved by the House in past years, but the Senate has never acted on it. The Senate should continue that evasion. Regulatory policy should not be subject to the erratic congressional whims.

In Louisville, Ky., the Times-Opinion editorialized that by applying a veto to FTC rules Congress would be encouraging:

> One House of Congress to veto FTC regulations for purely political reasons and without serious consideration of the merits of, or the need for, the rule.

And Sylvia Porter, syndicated columnist and one of the strongest champions of consumer rights in this country, wrote in her column read by millions of Americans:

> Supporters of the legislative veto hail it as a big stick that Congress would have over the regulators to make them justify their work product. But it's in reality a tool for lobbies to use (out of your sight and mine) to hamstring the FTC.

And finally, perhaps no other editorial points out the major problems with the legislative veto better then does the one which appeared in the Boston Globe in July. It said:

> Regulatory bodies were established for the very purpose of grappling with highly technical, complex matters affecting the public interest, matters too complicated to be routinely considered in the legislative forum.

The editorial went on to note:

> Congress is free, is in fact duty-bound, to set the scope of the tasks to be performed by the FTC or any other regulatory agency. It can always amend the FTC's general operating charter. But once it has set the guidelines, it should allow the FTC to do its work and leave any judgment that the agency has overstepped its bounds to the courts. That is, after all, exactly what the whole notion of three separate but equal branches of government is all about.

Congress currently has the power to oversee the activities of the Federal agencies—including the Federal Trade Commission. Congressional committees can hold oversight hearings. And Congress is free right now to pass legislation to eliminate or change any particular action taken by an agency when it finds such actions to be objectionable.

But the FTC should not be singled out for the haphazard scrutiny of the legislative veto. And most importantly, Congress should not bow to the powerful economic interests that would like nothing more than to institutionalize one more opportunity for crippling the FTCs efforts to protect consumers and enhance competition in our economy.

I urge in the strongest terms defeat of this amendment.

Mr. President, I ask unanimous consent that excerpts from an article by Antonin Scalia, law professor at the University of Chicago, who is also connected with the American Enterprise Institute, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXCERPTS BY ANTONIN SCALIA

The legislative veto—a false remedy for system overload.

Over the years, most of the criticism of the legislative veto has originated in the executive branch, and thus has focused on the propensity of the device to alter the constitutional balance of power between the first and second branches of government. In my view, that is much less fearful than its propensity to alter the balance of power between those two branches combined and the people. Its utility in ensuring agency responsiveness to the people is negligible—but it is an excellent mechanism for enabling the President and the Congress to facilitate the passage of unpopular laws by eliminating the congressional burden of having to vote for them.

By enabling Congress to have its way—that is, effectively to control the outcome—without affirmatively accepting responsibility in a record vote, the legislative veto is an egregious subversion of the democratic process.

In fact, the legislative veto will be worse than ineffective in solving the problem of government by bureaucracy. It will ultimately both increase the problem and breed other threats to democratic self-government. The one scientific study of the effect of existing legislative veto provisions that I am aware of—conducted by Professors Harold Bruff and Ernest Gellhorn for the administrative conference of the United States—concluded that "much settlement of policy occurred in behind-the-scenes negotiations between the staffs of the relevant congressional committees and the agencies." Of course that would be the result. Our elected representatives clearly will not have time to review the torrent of regulations pouring forth every month, so that task will be entrusted to a shadow rulemaking bureaucracy on Capitol Hill. That will become the real body which agency bureaucrats have to please in order to forestall congressional veto. Instead of government by one bureaucracy, we will have government by two—hardly a step towards more democratic government.

Mr. DANFORTH. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I shall be very brief.

Some time ago, in 1977, I did an article for the New York University Law Review entitled "Congressional Oversight and Legislative Veto: A Constitutional Analysis."

While I sustain the constitutional right to have a legislative veto on policy matters within the powers of the Congress, for example, in the war powers resolution, which I authored, I raised considerable doubt as to its constitutionality in respect of reversing the actions of an independent agency, except by law. That is for the Congress to do it itself.

I raised the issue in that connection that the President signed over, as it were, on the powers of the agency with which Congress had delegated its legislative powers when he signed the law to that effect, and, therefore, that the legislative veto suffered the same fate as they both had to be equally treated in what powers they had and what powers they gave up.

I know that the amendment carries a provision for a Supreme Court review, so I shall go no further into that except to express my view as a lawyer.

I do find two fatal defects with the amendment:

First, I hope Members will notice that this amendment calls for the right to reconsider all existing rules. That is an unbelievable situation, Mr. President. I hope Members understand what that can do to the business of this country. That is found at page 7, line 16, et seq, giving a long period of time, some 210 days after the adoption by either House of a resolution for reconsideration.

Nonetheless, it is enabling one body to bring about a repeal of rules which may have been in existence for a very long time.

I think this is most unwise.

Second, I believe that the reason we have these regulatory agencies is we turned a lot of power over to them because of the volume of work that otherwise would fall on the Congress.

We hear talk about that volume of work and here we are—having gone up the hill, we are coming right back down it, as if we were on a toboggan, if we adopt this amendment.

Lastly, as to certainty—and that is what business asks for more than anything else, certainty—you can deal with these matters within the general powers of the FTC and not by rulemaking. That is true of every other agency. Mostly, the reason for rulemaking is to give advance notice of what will be required by the law. That is a very settling, not an unsettling, thing for business. If we are going to throw that in the political arena, I should like to call one other thing to my colleagues' attention.

Now we are insisting that all agencies keep a record of everybody who calls in and everybody who tries to have some influence on everything they do, rules or any other decision. That is a very salutary provision. I ask my colleagues to think of what is going to happen in the offices of 435 Congressmen and 100 Senators: who is in on it, what are the influences, what are they trying to accomplish, what are the motivations, what is the lobbying that is taking place, and why? It seems to me that, there again, we are dispelling a very important safeguard in the regulatory process.

So, Mr. President, because I deeply believe this is a highly retrogressive action and because, whether I agree with the individual provisions of the bill which is before us insofar as it seeks to change some things the FTC has done or not done, Senator FORD has shown us a way in which that can be done—you can correct a situation when you do not like it. You can do it by law. Therefore, I think, Mr. President, this will be highly counterproductive and I hope the amendment is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I yield 2 minutes on the amendment to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I thank the distinguished manager of the bill.

Mr. President, I call to the attention of my colleagues that if we adopt the Schmitt amendment, it will swallow up the Levin-Boren amendment. Levin-Boren will be meaningless because, under the Schmitt amendment, all FTC rules will be automatically delayed. There will be no committee discretion, as provided for in Levin-Boren. The Schmitt procedures will supersede Levin-Boren.

Mr. President, I am opposed to this amendment. We should not impose the legislative veto on the Federal Trade Commission. We should not short-cut the legislative process by allowing one House of Congress to make laws. We must not allow the impatience we feel about regulatory problems lead us to accept this idea.

It is true that the idea of legislative veto is not new. It is contained in various statutes today. But I want to emphasize that no such veto has ever been applied across-the-board to the regulations of a Federal regulatory agency. The complex, and often highly technical regulations of those particular agencies developed have never been subject to general veto review by Congress. Thus what is proposed today is in fact a new and, I think, ill-advised use of this device.

Workload on Congress is one of the most serious drawbacks to the legislative veto. That is true if the device were applied to all agencies. But it is also true even if one agency—like the FTC—had its rules subject to this device. If the amendment passes, an already overburdened Congress will have to review often complex and technical agency regulations. It usually takes years for regulations to be developed, but congressional review must occur within a matter of weeks.

Under this amendment, Congress must act on an FTC rule within only 60 days. If one House acts, then the other House has but 30 days to respond. How can we expect careful review of such technical subjects to occur within such limited time? I think the legislative veto will produce one of two results: either the review will be superficial, or Congress will become so bogged down examining regulations that there will be little time for anything else. In any event, the legislative veto will not make Federal regulation more efficient and effective. Instead, I predict that Congress will rue the day it established this kind of review.

Congress is not equipped for this task—whether for one agency or for all agencies. The proposed FTC rule on children's TV advertising is a good example of what Congress would have to do. The record on that proceeding is still not closed. More hearings and more testimony are certainly expected, but to date, that hearing record exceeds 50,000 pages. Over 200 witnesses have testified in more than 4 solid weeks of agency hearings; 8,000 public comments have been received.

Now, if the legislative veto were in place, Congress would have to review all of that information in order to make an informed decision on whether the rule should be finalized How, I ask, could that be responsibly done in 30 or 60 days? I think the answer is obvious: no meaningful review would occur. Of course Congress would also be subject to intense pressure—from the sugar lobby, cereal interests, broadcasters and so on.

I also think the one-House legislative veto raises serious constitutional questions. I am not an expert in constitutional laws, but I do know that, under the Constitution, for a law to be enacted takes approval by both Houses of Congress and the signature of the President.

The amendment we have before us today lacks at least one of those critical elements: there is no Presidential involvement. Instead, the Trade Commission would directly submit a regulation to Congress, and thereafter it takes effect provided that one House does not exercise its veto. The FTC is an independent Agency not subject to Presidential direction. Laws governing the FTC are thus made or repealed without any involvement by the President. As such, since the President is altogether excluded from the process, the amendment before us almost certainly violates the Constitution.

I am deeply concerned with the performance and impact of the Federal administrative agencies. Our committee has done a comprehensive study of Federal regulation, pursuant to Senate Resolution 71. The committee published its six-volume study during the 95th Congress. As part of the study, the committee closely examined congressional oversight of regulatory agencies, and specifically looked at the legislative veto device. Based on that review, the committee voted overwhelmingly against the use of the legislative veto, concluding that it is an unwise and inappropriate oversight device. The Administrative Conference of the United States also studied this issue and concluded that the legislative veto should not be used for agency regulations.

In addition to the points I have already made, let me briefly mention the other reasons that prompt my opposition.

INCREASED DELAY

The veto creates unnecessary delay, because regulations would be held in abeyance pending congressional consideration. Delay is one of the biggest problems with regulation. If it is true, as proponents of the legislative veto claim, that only a handful of regulations would even be the subject of a resolution of disapproval, it makes little sense to delay implementing each and every rule.

INCREASED POWER OF STAFF

With the legislative veto lever, Congress may not form policy in a politically accountable way. The administrative conference study found that decisions occurred behind the scenes between a few congressional staff members and the agencies.

UNFAIR PROCESS

The secrecy of the negotiations violates two basic standards for informal rulemaking: Decisions should be based on the record, and there should be an opportunity for public comment. Also, these practices violate the notion of equal access to the rulemaking process. Not all interested parties have the resources to effectively lobby congressional committees.

UNNECESSARY

The veto mechanism is simply unnecessary. When it wants to, Congress can act quickly to overturn an agency rule. For example, the Congress speedily passed legislation overturning the safety belt interlock regulations that had aroused widespread public concern. More recently, Congress passed legislation requiring an 18-month delay to the saccharin ban proposed by the Food and Drug Administration. In the FTC area, the Congress passed legislation to alter Commission regulation of cigarette advertising.

Mr. President, for all those reasons, I cannot support this device. I urge that this amendment be defeated.

I believe, Mr. President, the Senate has overwhelmingly made its decision. It favors a Levin-Boren approach by a vote of 87 to 10. It seems to me we should hold to that decision and reject the Schmitt amendment.

Mr. DANFORTH. I yield to the Senator from Illinois 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I appreciate the Senator's yelding.

Mr. President, I bring to the Senator's attention the fact that the Governmental Affairs Committee resumed its markup this morning on regulatory reform. I ask unanimous consent to have printed in the RECORD at this point an article that I wrote for the editorial page of today's Washington Star.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO WILL REGULATE THE REGULATORS?

(By Senator CHARLES PERCY)

The increasing volume of government regulation is one piece of the inflationary puzzle. Last year, the cost of living jumped by more than 13 per cent and productivity took a nosedive. The economy has been sluggish through most of the 1970s, and high inflation was a hallmark of the decade.

Coincident with the high inflation rate was a speed-up in the rate of regulatory activity. For example, in 1970 the Federal Register, a daily index of regulation, churned out 20,000 pages of government directives. By 1977 that had increased to well over 60,000 pages. During the same period, expenditures of federal regulatory agencies skyrocketed by over 400 per cent and the number of employees tripled.

All of this regulatory activity costs the taxpayer, the consumer and the businessman. The total estimated costs to the economy of government regulation go as high as $100 billion a year. While it certainly is not the sole cause of inflation, regulation has had a significant and measurable impact. It cannot be denied that great benefits flow from regulation, but none of us win when regulation becomes outdated or counterproductive.

The Senate Governmental Affairs Committee begins final consideration this week of comprehensive regulatory reform legislation. When the legislation is completed, regulatory agencies throughout the federal government will streamline their proceedings and estimate—for the first time in many cases—the cost of regulatory proposals.

These reforms are valuable additions to the regulatory process that will make the agencies more accountable to the public and more cost-conscious. But the legislation as written contains a gaping loophole that may allow entrenched interest groups to retain cozy relationships with their regulators. It simply avoids the question of who will regulate the regulators.

One possible reason for this glaring omission is the recent success in airline deregulation. In 1978 Congress directed the Civil Aeronautics Board to phase out its regulatory function. Air travel is now governed more by dictates of the marketplace than the notions of a bureaucracy. But only a unique set of circumstances, including the full support of the president and ex-CAB Chairman Alfred Kahn, made the change possible.

The success of airline deregulation may have lulled Congress and the public into believing that other regulatory programs can be swiftly and smoothly reformed. But the CAB was the exception rather than the rule. Most regulatory programs are not reviewed periodically. They simply roll along as originally established with almost no questions asked about their purpose or validity.

Congress cannot claim it is thoroughly addressing regulatory reform unless it writes into the pending regulatory reform legislation a mechanism for review of regulatory programs. Congress began creating regulatory agencies nearly a century ago. According to the General Accounting Office, there are now well over 100 agencies with regulatory responsibilities.

Yet there has never been a systematic appraisal to determine which regulatory programs are performing well, which ones could be more efficient and which ones should be abolished. The basis of regulatory reform should be the periodic reassessment of regulation to meet the changing needs of the nation. This is the heart of regulatory reform. Only Congress can make the process a reality.

For five years I have been working to develop a "sunset" mechanism that will prompt review and reform of regulatory programs. I introduced the first version of regulatory sunset in 1975 with Senate Majority Leader Robert Byrd. In 1978, the Governmental Affairs Committee included regulatory "sunset" in its six-volume study of federal regulation and recommended its passage. I have now proposed this mechanism as an amend-that it fails to cut away the needless and islation. It will force action on regulatory reform by prodding Congress to perform much-needed oversight.

The amendment mandates the review of 28 federal departments and agencies over a 10-year period. This periodic review is flexible. Congressional committees can review regulatory programs as part of their regular work schedules.

But committees cannot block reform by undue delay. If a committee resists such review, the regulatory programs in question can be forced to a vote. This mechanism reverses the usual pattern on Capitol Hill, where delay prevents action.

This approach does not bias the case for or against regulation. Regulatory reform decisions should be left to each new Congress to decide, to meet changing economic and social needs. But we need to protect through law against a federal government so rigid that it fails to cut away the needless and counterproductive underbrush of regulation * * * of the underlying need for regulatory programs is the bedrock of regulatory reform. Without it, we will fail to grapple with the central regulatory issue of the day: How much regulation do we need?

Mr. PERCY. Mr. President, in that article, I tried to point out the problems in regulatory reform. The question is asked: Who will regulate the regulators? That question is very germane to the amendment we now have pending, which I regretfully oppose—regretfully because of my high regard for its author (Mr. SCHMITT). But I oppose it, as I have discussed personally with him, for a number of reasons.

First, we have overwhelmingly adopted the Levin legislative review program, which I think takes into account many of the problems the distinguished Senator (Mr. SCHMITT) has pointed to in his remarks before the Senate.

Second, legislative veto, in my judgment, is unnecessary. Congress has other means at its disposal to affect agency decisions, such as oversight, appropriations and legislation. Where an agency adopts a specific regulation not to Congress' liking, Congress can reverse it through legislation. For instance, Congress passed legislation to suspend the saccharin ban for 18 months. For another example, there are amendments pending to this FTC reauthorization bill to stop various proposed FTC rules, such as standards and certification, funeral homes, and used cars.

There is no reason in the world we cannot handle these issues legislatively in the future as we have in the past.

Third, legislative veto is wasteful. Congress would be forced to duplicate the work and facilities of regulatory agencies. FTC now employs over 600 lawyers and 80 economists. Is Congress willing to hire 600 lawyers and 80 economists to redo the work of FTC staff?

Legislative veto will not result in agency responsiveness. To the contrary, the agency would be able to pass the buck to Congress on every decision, pointing a finger and saying "It's not our fault. Congress approved our rule." Unless Congress is willing to accept the responsibility of implicitly approving rules, it should not take the power simply to disapprove them.

Legislative veto will encumber congressional workload. Any single Member of Congress can raise a veto resolution. Certainly, any regulation issued by an agency with any significant impact would touch at least one of 435 congressional districts. Among FTC issues which would arise in Congress are protein supplements; over-the-counter antacids; thermal insulation; health spas; funeral homes; and so on. The list is endless.

We would have to build six more reception rooms if we did this. That reception room is full today. The halls will be jammed with people, as they are today. You could not get through the corridors if we did this. We would not have room in the new Senate Office Building to house the staffs that we would be required to have if every single regulation laid down were subject to a legislative veto.

The next point: Legislative veto fails to solve the basic problems of broad grants of authority to agencies by Congress. A better approach would be "sunset," as proposed in S. 445, which would require Congress to review agency statutes one by one, make improvements, and weed out those too vague or no longer necessary.

Finally, concerning Senator LEVIN's legislative review, as I have indicated before, I do think that the passage of this proposal by an overwhelming margin indicates a decision by the Senate that we will resolve some of these problems. In that way, the legislative review process is adequate.

I can assure my colleagues that in the markup of the regulatory reform legislation, we shall be moving to satisfy the need of this country to lessen the impact of regulation, in an orderly way, phased over a 10-year period, so as to handle the workload without increasing our staff, without adding to the Senate Office Building, without adding to the reception room.

I think we are just simply bringing chaos upon ourselves if we enact this amendment. I do, indeed, hope that the Senate will see fit to reject this pending amendment. I say so with great respect for its author. On the other hand, I have respect also for the workload the Senate now has and the workload we have imposed upon us.

The PRESIDING OFFICER (Mr. MATSUNAGA). Who yields time?

Mr. FORD. Mr. President, I believe there are 9 minutes left to the opposition?

The PRESIDING OFFICER. The Senator has 8 minutes and 31 seconds left.

Mr. FORD. Mr. President, I shall take 3 minutes and 31 seconds for myself and leave the balance to the Senator from Missouri. If he needs more time, then we shall take it from the bill.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I want to clarify one argument advanced by the proponents of the Schmitt legislative veto amendment. They argue that some 300 legislative veto mechanisms have been passed by Congress. They argue that therefore, passage of their amendment would not be an unusual action by Congress. When one takes a closer look and reviews these so-called 300 legislative veto laws, one quickly discovers how much the proponents overstate their case.

Congress, when it has utilized the legislative veto mechanism, has primarily utilized it to deal with the discretionary acts of the executive branch.

In these cases, the executive often was acting in areas in which there were no standards and there was no recourse for judicial review.

Also, a larger number of legislative vetoes merely require the executive agencies to notify Congress of their actions.

This situation is clearly not true in regard to the FTC rulemaking.

The FTC in its rulemaking proceedings is required to follow very specific procedures and any rule is subject to judicial review.

What this body has been generally unwilling to do is pass blanket legislative vetoes of all potential rulemakings of a particular agency or commission, whatever their nature or subject might be.

Legislative veto is unnecessary because Congress does not need legislative veto to oversee FTC rulemaking. Congress does not need legislative veto. The FTC is not an appropriate choice for experimenting, as the proponents say, with legislative veto.

We do not need this Schmitt amendment because the courts provide parties with additional means of testing the legality and the factual basis of FTC rules.

Congress can always legislate directly, as we are doing now under this bill.

Adequate review of rulemaking record will be impossible. The veto threat would discourage participation in rulemaking.

Member after Member, colleague after colleague, has said that no more will there be vigorous participation of rulemaking. Instead, they will be standing in line at our door to tell us to be against the rule, instead of having input as it relates to the Commission, and their decision about what direction they should go.

So they will let the administrative proceeding go. There will be no input, and all of the associations and all of the interests will be in our offices asking us to veto a particular rule, and the possibility of unconstitutionality hanging like a cloud over legislative veto is very devastating.

Mr. President, I do think, that at some time we are going to have to face an override of the legislative veto by the President. And, we will also have to face the court case. I think we are on very thin ground.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. Mr. President, I encourage my colleagues to not support this amendment.

The Senator from Missouri has the remainder of the time.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. DANFORTH. Mr. President, unfortunately, the way the debate goes on this particular issue, it gives the impression that the people who are for the amendment are those who are concerned about big government, those who are concerned about excessive regulation, those who are anxious to restrain the power of government, and those generally who would cluster under the banner of conservative; whereas, on the other hand, the impression, I think, is given that those who oppose the legislative veto are the champions of runaway government, big government, massive regulation, unrestrained Federal power, and who would like to cluster under the banner of liberal.

Mr. President, I would like to do my best to make what could be called the conservative case against the legislative veto. I will begin by reading a paragraph from a pamphlet put out by the American Enterprise Institute entitled "The Legislative Veto, Unseparating the Powers."

This pamphlet was written by John R. Bolton, an attorney with the firm of Covington and Burling in Washington, and a lawyer who represented Senator Buckley in the case of Buckley against Valeo.

In the conclusion of the pamphlet he says, as follows:

> The story of the legislative veto is a depressing story—depressing because, although the goals sought through the use of the device are commendable, the device itself is, almost necessarily, unconstitutional. Moreover, the goals—greater agency accountability and less arbitrary governmental interference in people's lives—might be harder to reach with the legislative veto than without it because it tends to give the false impression that the agencies are under control. In order for those worthy goals to be achieved, Congress must be willing (or be forced) to make difficult political choices. Statutory grants of discretion must be more carefully structured and periodically reviewed. More attention must be paid to specifics, closer scrutiny must be given to presidential nominees, and there needs to be greater resistance to calls for "immediate legislative action" from interested pressure groups.

Mr. President, I think that paragraph very succinctly states what may be called the conservative argument against the legislative veto.

When I ran for my present office, I ran against the bureaucracy. I have no brief to hold for runaway regulation. Indeed, one of the great problems of America is the excessive power which has been placed in the hands of the regulators. But the point is that that power has been placed in the hands of the regulators. It has not been wrenched from the Congress by the regulators. Rather, by the form that we have put legislation in, we have given regulatory agencies very broad power which they have been happy to utilize.

The relationship between the Congress and regulatory agencies is set out in the Constitution of the United States. Regulatory agencies are created by the Congress. The jurisdictional mandate of regulatory agencies is created by the Congress. The yearly supervision of regulatory agencies through authorization bills and appropriation bills is done by the Congress. It has been done by acts of Congress, both Houses, pursuant to Article 1 of the Constitution, passing duly enacted statutes which are, in turn, signed into law by the President of the United States.

The Congress has the power to abolish the agencies, to abolish their programs, or to change their programs. That is the constitutional scheme of things.

It has been argued that the agencies have usurped power from the Congress. They have not usurped anything, Mr. President. They have been given sweeping powers by the Congress. A case in point is the very Agency we are discussing today on the floor of the Senate, the Federal Trade Commission, which in its congressional mandate, its charter, the act under which it acts, is given authority over unfair or deceptive acts or practices—unfair or—disjunctive—deceptive, and, therefore, the Congress has said, in effect, to the Federal Trade Commission: "Do anything you want to. You define what 'unfair' is. You have sweeping power. You have power to regulate anything that you, in your broad discretion, believe is unfair."

That is all Congress has said.

The PRESIDING OFFICER. The time of the Senator from Missouri has expired.

Mr. DANFORTH. I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

Mr. DANFORTH. Mr. President, the problem is the lack of congressional standards over administrative agencies, in the first place. That is the problem we have gotten into. We have provided such broad standards that, in effect, we do not have any criteria by which we can judge the performance of regulatory agencies. That is the fix we are in with respect to this bill.

We are being accused in the press and we are being accused by consumer advocates of carrying the brief for special interest groups. The reason is that such a broad standard—namely, whatever is unfair—has been created for the Federal Trade Commission that an after-the-fact review of what they have done, placed against no standard at all, gives the impression, as it should, that we are involved in an after-the-fact, ad hoc scrutiny of this particular agency, in order to pull, on an ad hoc basis, the chestnuts of various interest groups out of the fire.

So what we are involved in now, in the legislative veto, is a kind of further refinement or a nuance of this after-the-fact method of trying to review what a regulatory agency has done.

What we are saying by the legislative veto is that we can continue in years to come to provide very broad charters for the Federal Trade Commission or any other agency. We can continue, in the enabling legislation, to say to these agencies, in effect: "You do anything you want. We are not going to face the heat on the floor of the Senate or in the Congress of the United States of making the decisions as to what you can do. We are for consumers. Just do something in general for consumers. We are for safety. Do something in general for safety. We are not going to make the tough decisions as to what you can do and what you cannot do."

We are just going to say that we have our functions; and at some later time and after the fact, maybe we are going to do something about it.

Mr. President, there is no substitute for the careful drafting of a bill. There is no substitute for exercising our responsibility, as Members of the Congress of the United States, to do what we were sworn into office to do—namely, to legislate. There is no substitute for that. There is no gimmick. There is no after-the-fact way of undoing the mischief that is done by sloppy legislation.

What we do if we have a legislative veto is to fool ourselves, to be able to say at some future time, "Well, we can go ahead and pass this sloppy law. We can send out all the press releases of what we have done for the consumers or for job safety, or whatever, in passing this sloppy bill, because at some future time we have a legislative veto, and we can undo it."

Mr. President, as a practical matter, will the legislative veto be used? What does it really accomplish? What it accomplishes, as a matter of law, as a matter of theory, is to try to create—whether it is constitutional or not—a new way of passing a law.

Right now, there is a legislative veto that is called an act of Congress. It is passed by the two Houses of Congress, and it is signed into law by the President. That is how right now, I suppose, we are going to undo some of the work of the Federal Trade Commission, by an act of Congress. But this is to say that we are going to have a truncated act of Congress. We are going to have an act of Congress which looks like an act of Congress, except that it really does not require two houses and it does not require Presidential signature.

The question to be asked is this: How many times in the past have we failed to undo an act of regulatory agencies because we did not go the full route but could use some truncated form? How many times have we failed to undo the work of a regulatory agency because we had to go through the signature of the President? I doubt that too many occasions could be named. I doubt that there would be too many specific instances which would be resolved by the legislative veto, were we to have a legislative veto.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DANFORTH. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. DANFORTH. Mr. President, what we are involved in is something that is very cosmetic. I think it is a cosmetic way of saying to the American people that we can monitor regulatory agencies without drafting tight legislation in the first place; that we can come back at some future time and undo it; that somehow, we, as Members of the Congress of the United States, are going to do a better job of sifting through all this regulation after it is done, without any particular criteria by which to judge it.

I simply ask the Members of the Senate one question as they prepare to vote on this amendment: How many hours, in the typical week, would you, as a Member of the U.S. Senate, be willing to spend personally in reviewing the acts of a regulatory agency? Five hours? Ten hours? Do you have that much time in your schedule, to spend 5 more hours a week looking over regulations? Can you do it? Do you have that much loose time? Are you willing to undertake it? Or, who really is going to do the review, if we are going to have the kind of review that is anticipated by the Senator from New Mexico? Staff. Staff reviewing staff.

So, Mr. President, I believe that this is a cosmetic matter. As a practical matter, it does nothing to check regulatory agencies. Instead, what it does is to invite and give excuses in the future for further sloppiness in drafting bills.

Mr. RANDOLPH. Mr. President, will the able Senator from Missouri yield for a question?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DANFORTH. I yield myself such time as I may require in order to entertain a question from the Senator from West Virginia.

Mr. RANDOLPH. I thank the Senator from Missouri.

I voted against the Levin-Boren amendment with nine other Senators. I strongly support the thrust of the well-reasoned argument of our colleague from Delaware, Senator BIDEN. I shall vote against the pending amendment by our colleague Mr. SCHMITT. In doing so, I am consistent.

Mr. DANFORTH. Yes, the Senator from West Virginia is consistent in voting against both.

Mr. RANDOLPH. I again thank the Senator.

Mr. SCHMITT. Mr. President, will the Senator from Missouri yield me 5 minutes on the bill?

Mr. DANFORTH. I am happy to do so.

Mr. FORD. Mr. President, may I interject for a moment?

I do not mind yielding, but we have gone well over the hour, and we have now gone well into the amendment. I did not know so many people were excited about this piece of legislation and want to get in their 2 cents worth.

The Senator from Utah wants time. Can the Senator from New Mexico give him 2 minutes and then take 3 minutes?

Mr. SCHMITT. That is my intention.

Mr. FORD. Why does not the Senator from New Mexico yield the Senator from Utah 2 minutes and then take 3 minutes?

Mr. DOMENICI. I would like 1 minute.

Mr. DANFORTH. Who wants to start?

Mr. FORD. There is 1, 2, and 3.

Mr. DANFORTH. I yield 2 minutes to the Senator from Utah, 3 minutes to the senior Senator from New Mexico, and 2 minutes to the junior Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Utah is recognized for 2 minutes.

Mr. HATCH. Mr. President, I thank the Senator from Missouri. I wish to make three points.

First, the FTC is not an executive agency. It is an arm of the legislative branch. So control over our own creation in no way infringes upon executive power. In Rathbum against United States, the court clearly indicated that the FTC indeed "must be free from executive control."

Second, this amendment does not veto effective regulations. It only allows the veto of proposed regulations.

Rejection of a proposed regulation does not frustrate the law; it merely maintains the status quo, or present law.

Third, I think the point should be made at this time that the small business delegates to the President's White House Conference on Small Business overwhelmingly endorsed the concept of the legislative veto. It was among their top 15 legislative priorities. Two thousand delegate representatives from more than 30,000 small businessmen involved in regional conferences around the United States have stated the need for the legislative veto.

CONSTITUTIONALITY OF LEGISLATIVE VETO

Mr. President, I am in strong support of the amendment of the gentleman from New Mexico (Mr. SCHMITT) to subject the proposed rules and regulations of the Federal Trade Commission to a legislative veto by Congress. Either House would be permitted to disapprove such proposed rules and regulations within 30 days of promulgation.

Since 1932, Congress has adopted at least 159 pieces of legislation that have contained legislative veto provisions. There are an estimated 214 separate veto provisions contained within these statutes. There have been 50 pieces of legislation during this period, containing 71 separate provisions, that have adopted the mode of legislative veto being proposed by the instant amendment.

Despite this history of usage, and despite the increasing popularity of legislative vetoes, there remains an undercurrent of concern about the constitutional propriety of this procedure. Attorney General Benjamin Civiletti, for example, has suggested that the legislative veto, "circumvents the role of a President in the legislative process." Others have suggested that the veto circumvents the legislative process by enabling a single House of Congress, rather than both Houses acting jointly, to determine whether or not some initiative was to become law.

It is my opinion that the legislative veto, in whatever precise form it is expressed, is consonant with the Constitution. It may or may not be wise public policy—I believe that it is with respect to the FTC—but it is certainly not in contravention of the permanent law of our land.

If Congress is authorized to delegate its authority to the executive branch in some area, I am hard-pressed to understand why it may not delegate only a portion of that authority. I am hard-pressed to understand why it may not reserve to itself whatever portion of the authority that it is otherwise empowered to delegate. The effect of the legislative veto is that Congress—which is free not to delegate legislative authority in the first place—has simply delegated something less than plenary authority to an administering agency or department. Article I, section 1 of the Constitution provides that:

> All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

The legislative veto is a device by which Congress apportions a lesser measure of its legislative powers to another body than it might choose to apportion. There is no inherent right in our system of government in any body but Congress to exercise legislative powers, and there can be no legitimate claim that a legislative veto denies any body a dimension of authority that they might prefer to possess.

There seems to me to be two primary arguments that are relied upon by opponents of the veto. First, it is argued that the veto distorts the legislative process outlined by the Constitution. Second, it is argued that it violates the separation of powers doctrine that underlies the structure of the Constitution.

Opponents contend that the veto turns the normal legislative process on its head with the executive branch placed in the position of proposing legislation and the legislative branch placed in the position of reviewing and possibly vetoing legislation. In addition, the veto decision of Congress is subject to a total absence of veto authority by the President.

Article I, section 7, clause 3 of the Constitution provides that every bill passed by both Houses of Congress must be presented to the President for his approval or disapproval. It reads:

> Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and before the same shall take effect, shall be approved by him, or being disapproved by him shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Opponents of the veto contend that the veto decision is of the nature that requires its submission to the President for approval or disapproval.

I would disagree with this assertion. Congressional action approving or disapproving agency rules and regulations is not an "order, resolution, or vote" which requires that it be presented to the President. Rather, it is the legislation that establishes the framework and circumstances of the legislative veto that must be, and is, submitted to the President. As Justice White noted in concurring remarks in a 1976 Supreme Court decision:

> I would not view the power of either House to disapprove as the equivalent to legislation or to an order, resolution, or vote requiring the concurrence of both Houses . . . the provision for congressional disapproval of agency regulations does not appear to transgress the Constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation passed over his veto, *Buckley* v. *Valeo* 424 U.S. 1.

The authority vested in the President to veto the legislative product of Congress simply guarantees to him the assurance that, in the absence of a two-thirds majority in both Houses of Congress, the laws of the Nation will not be amended without his concurrence. This guarantee is not jeopardized by the legislative veto. The net effect of a legislative veto is the same as if a proposed statute gained the support of only a single House of Congress. Under our bicameral legislative system, such legislation would be of no legal effect. It would, of course, not be subject to the Presidential veto. The Presidential veto is basically a defensive device; to the extent that the legislative veto does not result in an affirmative lawmaking effort—it simply prevents the legislative initiatives of the bureaucracy from taking effect—it would be altogether inappropriate for the President to have any additional role.

As Justice White has further remarked:

> Disapproval by veto nullifies the suggested regulation and prevents the occurrence of any change in the law. The regulation is void. Nothing remains on which the veto power could operate. It is though the bill passed in one house and failed in another, *Buckley* v. *Valeo* 424 U.S. 1, 285.

To accord any higher standard to legislative efforts to review the rules and regulations of executive agencies and departments is to imply, in one sense, that their legislative powers are coequal to the joint efforts of the other two houses. Their proposals could be overcome only by the Senate, the House, and the President acting in tandem.

A legislative veto does not enact a law; rather, it attempts to prevent a law from enactment. It is the nature of what lawyers well versed in contract law refer to as a condition subsequent. The proposed rule or regulation of the agency becomes effective unless Congress affirmatively acts to prevent it from becoming effective. Through implementation of the legislative veto scheme, Congress has, in effect, chosen not to provide the executive agency with independent authority to issue rules and regulations with the effect of law. Instead, such rules and regulations are to have the effect of law only when the specified conditional subsequent has occurred—the foregoing of the exercise of the legislative veto. As the High Court has noted in a 1943 case, Congress has it within its authority to fulfill its legislative function through:

> A statutory command to become operative upon ascertainment of a basic condition or fact by a designated representative of the government, *Hirabaysashi* v. *U.S.* 320 U.S. 81, 104.

In the case of the legislative veto, the "designated representative" is the U.S. Congress.

The fact that the legislative veto results in an inversion of the normal legislative process is true in one sense. It is, however, also true that this effect is more attributable to the fact that Congress has proven increasingly inclined, and the court increasingly inclined to affirm, legislative enactments that delegate extensive lawmaking authority to the executive branch of the Government. Whereas the constitutional propriety of most forms of legislative delegation has long since become a resolved question, the transformation of the traditional lawmaking process has also become a resolved fact of life. The legislative veto is not responsible for this turn of events; it simply represents a logical response to this evolution.

Opponents of the legislative veto argue also that it represents an undermining of the principle of separation of powers that is at the root of our system of Government. The veto represents an undue and inappropriate interference by the legislature with the legitimate prerogatives of the executive branch. It is the executive branch, they contend, which, under article II, is responsible that "the laws be faithfully executed."

Rather than representing an erosion of this doctrine, I strongly believe that the legislative veto offers the realistic prospect of enhancing the vitality of the separation of powers principle. It provides an effective means by which Congress can delegate legislative authority to the agencies and departments of the executive branch—the technical and intersticial authority that is most appropriate for delegation—without thereby foregoing their own review and oversight. It strengthens the ability of Congress to delegate authority of a broad scope without having to entirely sacrifice its own involvement and input in the area of delegation. It is not only compatible with the notion of separation of powers; it is also very strongly promotive of the notion of checks and balances, a constitutional principle of equal significance.

The legislative veto insures that the delegation of authority by the legislative branch does not become identical with the abdication of such authority. Given the traditional notion that Congress is free to delegate authority only under certain limited circumstances, and that such delegations must be accompanied by a reasonable element of congressional direction, I believe that a case can be made that the preclusion of Congress' option to adopt a veto over agency regulations would be unconstitutional by promoting the idea of delegated authority as abdicated authority. The alternative to the legislative veto may well be legislation devoting excessive attention to minute detail, or else an absence of practical oversight ability by Congress. The latter alternative, in fact, has developed over the years to the extent that the legislative veto concept has not become more widespread.

The "necessary and proper" clause of our Constitution, article I, section 8, clause 18, specifies that Congress is empowered to:

> Make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested in this constitution in the government of the United States, or in any department or officer thereof.

In carrying out its general powers under article I, section 1, and its specific powers under article I, section 8, I see no constitutional impediments whatsoever to congressional exercise of the legislative veto. That these laws may be in the nature of procedures rather than substantive laws does not seem relevant to me. As Chief Justice Marshall stated in reference to the implied powers of Congress:

> Let the ends be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adopted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution are constitutional, *McCulloch* v. *Maryland* 17 U.S. 316 (1819).

So long as the authority vested in the FTC is authority that properly resides in the Federal Government, and that may properly be delegated by Congress to this agency of its own creation, I believe that Congress has unequivocal authority to assume whatever means of oversight with respect to that power that it desires. I urge the adoption of the Schmitt amendment.

The PRESIDING OFFICER. The time has expired.

The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I commend my junior colleague, Senator SCHMITT, not only for his dedicated effort on this but also for bringing it here to the Chamber so we can all vote on it.

I listened with interest to my good friend from Missouri and I could not agree with him more. The problem is that, short of this kind of action, we will never force ourselves to amend and modify the charter of the Federal Trade Commission and other bodies where we have given them more power than we ever assumed. After seeing them in the marketplace everyone knows that their inhibiting effect far outweighs their good regulatory schemes.

The point of this amendment is to say loud and clear the time has come, and this amendment will send that message. If this Congress is ready to take a real look at these expansive charters, such as this one, and tailor them, as the Senator from Missouri indicates, then when that comes and we vote for it I am certain that my good friend from New Mexico will gladly watch the veto disappear, but until then we have no other vehicle to solve the ever-increasing problem of regulation that is arbitrary, unreasonable, unrelated to the cost it imposes on consumers and the inhibitions it places on the economic system that we want to work.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. SCHMITT. Mr. President, the time has come to get down to brass tacks. Either we are going to get control of the bureaucracy or not. The FTC is clearly such a bureaucracy that we must control.

I agree also with the distinguished Senator from Missouri in all the things he said about other things we must do. But in addition we must take this kind of control over the creatures that we have created.

I think it is clear that the opinions vary on constitutionality but so far the courts have basically confirmed its constitutionality and recently in a speech the Chief Justice has endorsed congressional veto of actions related to judicial appointment.

The workload argument has been made time and time again. The State experience is to the contrary. Where legislative veto exists States have not experienced an increased workload. Constituents will do a great deal of our work for us by letting us know which regulations are causing or potentially causing them the greatest degree of trouble.

Mr. President, although there have been some very fine statements made I think the facts do not support the arguments against a legislative veto, and I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, the Senator from Arizona needs time yielded to him, and that is the end of it.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I intend to cast my vote in favor of the amendment to establish a legislative veto for Federal Trade Commission rules.

Clearly, any Senator or Congressman who supports such a proposal recognizes that it represents a very serious step. In the first place, it will significantly increase the legislative workload. We will be forced to cover the same terrain as the FTC Commissioners. Second, it will involve Congress in any number of highly charged controversies that most of us would probably rather avoid. Decisions will inevitably take on something of a political hue.

In the face of such obvious disadvantages, why would any Senator or Congressman vote for the legislative veto? The one word answer is, frustration. Like many of my colleagues, I have become increasingly frustrated with the actions of the FTC. The staff seems determined to extend the Commission's activity into every phase of business and professional life. It seems to me, at least, that the FTC has gone well beyond its congressionally defined mandate of assuring free and unhampered commerce. The FTC has, in fact, placed itself in the position of super-agency and super-regulator.

The American economy is stagnating. Labor productivity is down, and where we were once known internationally for the excellence of our products, we are now regarded as second-rate. Not all, but some, of the blame must necessarily fall on the shoulders of government, and most especially the Federal Government. We are regulating and over regulating almost to the point of strangulation. A free enterprise economy works best in an atmosphere of freedom; in an atmosphere where businessmen can adjust to changing economic circumstances based upon the pursuit of profit. Yet, the American economy is coming ever more to resemble the State-controlled economies.

We have regulations that tell business who they can and cannot hire; regulations that tell them what they must pay and under what circumstances employees can be discharged; we have regulations that tell business how they should invest; and we have regulations that define endless types of equipment. Businesses even small businesses, have been overwhelmed by the reams of paperwork required by the Federal Government. Even small businesses are being forced to hire special personnel just to take care of the paperwork.

A recent study estimated that the annual cost of Government regulation is about $60 billion. That does not take into account the hundreds of millions diverted into nonproductive investment by the various agencies of the Government. It is small wonder that the economy is faltering; that for the first time in decades the productivity of labor is down.

My vote for legislative veto reflects the frustration I feel and that my Arizona constituents feel about the present state of affairs. If Government agencies are bound and determined to get out of hand, then Congress must step in and call a halt to their activities. It is extremely disappointing that so many of us feel compelled to take this action. Because it reflects a breakdown in the bureaucracy, a perversion of their original purpose. But, until those agencies demonstrate that they can be responsible, then Congress must shoulder the burden of legislative veto.

Mr. CHURCH. Mr. President, as the author of several legislative vetoes, I support the concept that Congress should reserve the right of review over regulations proposed by executive agencies, rejecting those that are unreasonable, overly burdensome or contrary to the intent of Congress.

I support the Schmitt-Nunn amendment which would reserve a legislative veto over regulations proposed by the Federal Trade Commission. I have opposed a number of FTC actions over the years, and I share the frustration of many Americans over the propensity of this agency to regulate by overkill.

The argument that an FTC legislative veto will lead to special pleadings before Congress misses the point. After all, if a case can be made that the agency proposes to take arbitrary action, those affected should have the right to seek redress. The legislative veto is a way for Congress to open its door for the redress of legitimate grievances.

The legislative vetoes I have helped enact have worked well. Congress has been able to consider arms sales proposals under a legislative veto provision, without wrecking the Government. The War Powers Act, which permits the President to keep American troops in combat, only with the subsequent consent of Congress, establishes a legislative veto over the most fundamental decision the Government can take, whether there shall be war or peace.

Mr. President, through the legislative veto, we are seeking to regain congressional control over the Federal Government. This amendment is a key element in the effort, and the FTC is a prime example of its necessity. I urge adoption of the Schmitt-Nunn amendment.

● Mr. DOLE. Mr. President, with reservations I rise to express my support for the amendment proposed by the Senator from New Mexico, Mr. SCHMITT. Senator SCHMITT has been working diligently since he was elected to this body to insure that the regulatory agencies Congress has created adhere to the legislative intent of the Congress.

That, indeed, is the issue before us today. The regulatory bodies of Washington have often gone beyond their legislative mandates, enunciating policies and regulations never dreamed of by Congress or the people that elect us. Regulatory agencies by virtue of their actions, at times become quasi-legislative bodies, forging new areas of governmental surveillance and interference in the private sector. The morass of rules they issue further burden the American citizen, who is already drowning in a sea of regulatory redtape. It is no wonder that our constituents are complaining of excessive regulation.

The regulatory agencies should not bear all the blame. Congress often attempts to solve problems it does not want to deal with itself by creating new agencies and permitting them to run wild. Regulatory reform must begin in Congress. It is the Congress which must act first to restrain the tendency to further expand Government every time a new crisis or problem appears. In fact, a bloated government bureaucracy often is the problem rather than the solution. We in the Senate and House must increase our oversight activities in regularly reviewing the regulations issued by the multitude of agencies we have created.

We in the Senate must also exercise our responsibility to draft precise legislation which directs regulatory agencies to do only those things we desire. We have often evaded the difficult and critical decisions involved in fully thinking through legislation. We have abdicated our own role all too often. I cannot help but feel we are doing so here as we consider this FTC bill. It was Congress that created the broad FTC mandate we so often complain about. If we do not like the effects of that mandate, we in Congress should alter it.

However, it appears we are not going to do that. It is clear we are going to mouth our concern without addressing directly that concern. Because of this failure to rationally and specifically provide clearer direction for the Federal Trade Commission. I will vote for Senator SCHMITT's legislative veto. If we are unwilling to reasonably define the FTC's realm of responsibility in the first place, we must act to control its activities once completed.

It is clear that the FTC has often gone beyond Congress' intended mandate. The Federal Trade Commission is one of the most powerful entities in Washington. Within the FTC there are enormous and loosely defined powers vested in a five-person appointed body. Many of the activities of the FTC are of great benefit in safeguarding the interests of consumers. However, because of its broad, far-reaching authority, it can often move beyond the legislative intentions of the lawmakers who created the agency. This amendment would serve to give Congress more control over the regulatory activities of the FTC, and provide the Congress with an oversight mechanism to control irresponsible actions.

Mr. President, many have argued that under such provisions Congress is destined to become itself a super-regulatory agency. I hope this is not true. It is my hope that Congress will not monitor every single regulation issued by the FTC. But Congress must have the power to hold the reins on over-zealous bureaucrats. Congress will not by adoption of this amendment be empowered to hire legions of new staffers to keep an eye on the FTC. This provision will merely give Congress the ability and the option to review FTC proposals when a particular need arises. I hope we would use it in that manner.

I am sensitive to the concerns expressed by President Carter, and by President Ford before him, that the legislative veto would shackle the Presidency. We in the Congress do not want this to happen, and it would not occur. The 205 legislative veto provisions already approved by Congress since 1932 have not restricted the ability of the executive branch to act responsibly. The legislative veto simply allows the regulatory process to be responsive to the will of the people as expressed through their elected representatives. It is my hope that this issue will not block passage of the FTC authorization bill as it did last year.

In summary, I believe the legislative veto is a good alternative. In the best of all possible worlds, Congress would not need a legislative veto. In the best of all possible words, we in the Congress would draft detailed, specific legislation which would keep regulatory agencies out of inappropriate areas in the first place and provide greater direction for the FTC. But in this case, the legislative veto can serve to restrain the activities of the FTC so that the people, through their representatives, can again have a voice in controlling regulatory activities.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. STEVENS. Mr. President, I have asked if we could ask the majority leader to respond to a question.

I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STEVENS. Mr. President, to secure time to give the majority leader time to respond to my request, I ask unanimous consent that it not be charged to anyone's time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I shall ask the majority leader that question after this rollcall so we may proceed with this rollcall now.

Mr. SCHMITT. Mr. President, I call for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGOVERN) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators desiring now to vote who have not voted?

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—44

Armstrong
Bellmon
Boschwitz
Byrd,
Harry F., Jr.
Chiles
Church
Cochran
Cohen
DeConcini
Dole
Domenici
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
McClure
Morgan
Nunn
Packwood
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—53

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Cranston
Culver
Danforth
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Heinz
Inouye
Jackson
Javits
Kassebaum
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams

NOT VOTING—3

Baker
Hatfield
McGovern

So Mr. SCHMITT's amendment (No. 1650) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. LEVIN. Mr. President, the Senate has now adopted, by a vote of 87 to 10, a two-House legislative veto.

The Levin-Boren amendment gives the Commerce Committee, for the first time, the power to delay implementation of rules, so Congress can veto a rule before it goes into effect.

That is a legislative veto. It differs in form from that offered by Senator SCHMITT, but it is a legislative veto nonetheless. Whether Congress rejects a regulation by vote of one House or two, it still rejected or vetoed the regulation.

I voted nay on the Schmitt one-House veto amendment because it was inconsistent with Levin-Boren, which contemplates a two-House veto after a committee of either House reports out a resolution of disapproval.●

Mr. STEVENS. Mr. President, without charging the time to either side, will the majority leader respond to a question? There is snow on the ground outside. We have already lost some Members. I have had a number of inquiries about whether it would be possible to have the amendments presented tonight and the arguments completed, but the vote tomorrow morning. Would the majority leader consider that proposition?

Mr. ROBERT C. BYRD. Mr. President, the snow falls alike on the just and the unjust. If there are going to be some Senators here to discuss the amendments, I do not see why they should be selected out. We all either ought to go or all ought to stay.

Mr. STEVENS. Do you want a vote on that?

[Laughter.]

Mr. LEAHY. Will the Senator from West Virginia yield for one observation?

Mr. ROBERT C. BYRD. No, I do not have the floor.

How many amendments are there remaining on the bill? Mr. McCLURE, Mr. PACKWOOD—Mr. McCLURE has 1 hour on his amendment; Mr. SIMPSON has 1 hour on his amendment; Mr. PACKWOOD has 3 hours on his amendment. Mr. MAGNUSON has two amendments——

Mr. PACKWOOD. His amendment and mine are the same amendment.

Mr. ROBERT C. BYRD. That is 6 hours, 7 hours, 8 hours, 9 hours, 10 hours, 11 hours, 12 hours.

Mr. METZENBAUM. I have 4 hours on three separate amendments.

Mr. ROBERT C. BYRD. Sixteen hours, 17 hours.

Mr. FORD. The unanimous consent only gave you 2 on insurance.

Mr. METZENBAUM. Some of mine may disappear.

Mr. ROBERT C. BYRD. Seventeen hours, not counting the time for rollcall votes. Four rollcall votes is 1 hour.

We have an agreement that provides that we have to complete action by 12 noon on Friday. So if we came in at 9 o'clock on Friday, that is 3 hours. If we come in at 10 o'clock tomorrow and go out at 7, that is 9 hours, plus the 3 hours is 12 hours. And we need 18 hours, not counting the rollcall votes.

If Senators want to reduce the time on their amendments——

Mr. PERCY. That is a good idea.

Mr. ROBERT C. BYRD. Who will volunteer to reduce time on their amendments?

I ask unanimous consent that the amendment by Mr. Helms—that is a germane amendment—be 30 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Did I hear some decision made with respect to germaneness of an amendment?

Mr. ROBERT C. BYRD. No. I wanted to be sure the amendment was germane.

Mr. METZENBAUM. There is some question about that. I just want to be certain we have not precluded any Member from raising the issue.

Mr. ROBERT C. BYRD. The time agreement said no nongermane amendments. But I was fearful, by being specific as to a name, that we would let a nongermane amendment in.

Mr. President, I ask unanimous consent that Mr. McClure have one-half hour on a germane amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Do I have any other offers?

Mr. President, I ask unanimous consent that on the amendment by Mr. Jepsen and the amendment by Mr. Proxmire, there be a total of 30 minutes, to be equally divided.

The PRESIDING OFFICER. The Chair makes an inquiry: Is that on two separate amendments?

Mr. JEPSEN. Ours is the same amendment. We are trying to work it out. Then I have another amendment, and I will cut that in half.

Mr. ROBERT C. BYRD. The amendment by Mr. Proxmire and Mr. Jepsen will be 30 minutes, equally divided, and the amendment by Mr. Jepsen will be 30 minutes, equally divided. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I would agree to 30 minutes, equally divided.

Mr. ROBERT C. BYRD. Mr. President, I make that request on Mr. Simpson's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Any others?

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. Proxmire there be 30 minutes equally divided, and on the amendment by Mr. Jepsen there be 30 minutes equally divided, and on another amendment by Mr. Jepsen there be 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I have asked for 3 hours on my amendment. It is one amendment but if there was going to be a division I would insist on the time. However, there may not be a division and it may not take us 3 hours.

Mr. ROBERT C. BYRD. But it could take 6?

Mr. MAGNUSON. I am not going to give up on it because it is too important an amendment.

Mr. ROBERT C. BYRD. It could conceivably take 6 hours, as I understand it. Is that correct?

Mr. MAGNUSON. Yes.

Mr. ROBERT C. BYRD. Well, I ask unanimous consent that the amendment not be divisible.

Mr. MAGNUSON. That is what you get for having a unanimous-consent agreement to have the vote at 12 noon on Friday. I do not know what the rush is on this.

Mr. ROBERT C. BYRD. The President pro tempore has sent out notice that we have to get our work done, and we are trying to get our work out early on Friday.

Mr. MAGNUSON. The President pro tempore seldom keeps the Senate in session.

Mr. ROBERT C. BYRD. The President pro tempore very seldom keeps the Senate late in session. That is why we have this agreement.

Are there any others?

Mr. President, I think we would be wise——

Mr. MAGNUSON. May I say that it is my understanding we will bring my amendment up at 11 o'clock tomorrow?

Mr. ROBERT C. BYRD. We would have to get unanimous consent to do that.

Mr. MAGNUSON. I ask unanimous consent that my amendment, whether it is divided or not, be brought up at 11 o'clock tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President, I do not want to object to the motion of my friend, but if you do split it, or if you bring it at the same time, or if you bring it and do split it, there is another amendment over here that will split that amendment, and if the amendment fails there will be another one that will come to split it again. I think we have to put it in some sort of order so that if the Senator is going to go at a time certain we ought to know what we are going to have at a time certain. Otherwise, we will have to let the chips fall.

Mr. MAGNUSON. I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. CULVER. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The point is well taken. The distinguished majority leader deserves to be heard. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would suggest that the distinguished Senator from Idaho (Mr. McClure) call up his amendment now. The time has been reduced on the amendment to 30 minutes. After that is disposed of, if we can agree on an amendment to be laid down tonight, so we can have an amendment the first thing in the morning to be followed by Mr. Magnuson's amendment, that would put Mr. Magnuson's amendment almost in place, somewhere around 11 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object.

Mr. ROBERT C. BYRD. I did not make a request.

Mr. PACKWOOD. I thought he asked if there were objections.

Mr. ROBERT C. BYRD. I simply suggested that Mr. McClure call his amendment up now and upon the disposition of that amendment, if we can get an amendment laid down, a half hour or hour amendment for in the morning, and then get consent, if we could, that that amendment tomorrow be followed by Mr. Magnuson's and Mr. Packwood's amendment, that would put that amendment in place about 11 o'clock. We would have one more vote tonight, go home, come in in the morning at 10 o'clock, and start out early. How does that sound?

Mr. STEVENS. Good.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 1648

(Purpose: To clarify that the Commission does not have authority to override State laws and preempt State regulation with respect to certain professionals)

Mr. McCLURE. Mr. President, I call up my amendment numbered 1648 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McClure), for himself and Mr. Melcher, Mr. Cochran, Mr. Lugar, and Mrs. Kassebaum, proposes an amendment numbered 1648.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 83, between lines 22 and 23, insert the following:

"(3) by inserting '(a)' immediately before 'There are authorized' and adding at the end thereof the following:

"'(b)(1) None of the sums authorized to be appropriated for fiscal years 1980 and 1981 by this section shall be used by the Commission for the purpose of investigating, taking any action against, or promulgating any rule or regulation (other than a rule or regulation that is already the subject of litigation in the courts of the United States on or before the date of enactment of this subsection) with respect to any State-regulated legal, dental, medical, or other health-related profession, as defined in paragraph (2), or the local, State, or National association thereof.

"'(2) For the purposes of this subsection, a "State-regulated profession" means a profession subject to State licensure that generally requires as a prerequisite to professional practice a graduate, professional, or other advanced degree from an accredited school legally authorized or recognized by the State to train members of such profession.' ".

Mr. McCLURE. Mr. President, I ask unanimous consent that Senators SIMPSON, HELMS, DECONCINI, HUMPHREY, THURMOND, and TALMADGE, be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, this amendment has been printed and is at the desk of each of the Members. It is not a complex amendment, Mr. President.

I had submitted earlier an amendment which would have exempted any person who had a graduate degree——

The PRESIDING OFFICER. The Senator will suspend. The Senate will please come to order.

The Senator from Idaho.

Mr. McCLURE. Mr. President, in addition to those cosponsors I just mentioned, I might mention for those who are listening that this amendment is cosponsored by Senators MELCHER, COCHRAN, LUGAR, and KASSEBAUM, in addition to those just now added as cosponsors.

This amendment we are now considering has been narrowed considerably from the original amendment that had been offered.

Mr. GOLDWATER. Will the Senator add me?

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senator from Arizona (Mr. GOLDWATER) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. This amendment seeks to exempt from FTC jurisdiction those professions which are based upon a graduate degree and have State regulatory function. In nearly all cases they have State professional organizations as well as State law supervision.

Mr. President, it is not my purpose, obviously, under the constraint of time, to enter into a lengthy debate concerning the need for this, nor the desirability for this clear expression on the part of the Congress that it is not our intent that the FTC enter into the regulation of these already regulated professions.

Perhaps one of the strongest reasons why it is necessary even to bring this forward is that each of these professions is regulated under State law as well as professional organizations with their own standards and codes of ethics, and the provision for the expulsion of the members of those professions who violate those standards and ethics. But we have an assertion on the part of the FTC of their right to extend their regulation into these areas, even to the extent of overruling and overriding State law.

Mr. President, I think it is necessary for us to clearly delineate in this very narrow area our insistence that the Federal Trade Commission stay within the mandate established by the congressional enactment and clearly objected to by many, not just in this Congress but elsewhere, when they attempt to get outside that mandated area. It had been my desire to include some other professional organizations, such as the certified public accountants, and others. But I have drawn back from that under the criticism of some that the original amendment was too broad.

Mr. President, in order to be able to get to vote on this as quickly as possible, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senator from California (Mr. HAYAKAWA) be added as an original cosponsor of this amendment.

The PRESIDING OFFICER. (Mr. LEAHY). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I am happy to yield to the Senator from Montana, a cosponsor of this amendment, for any remarks he might make. I yield to him such time as he may consume.

Mr. MELCHER. I thank my friend from Idaho.

Mr. President, I strongly support this amendment that I have cosponsored in an effort to prohibit the Federal Trade Commission from substituting itself for State regulatory agencies and voluntary associations within their proper areas of concern. This amendment would prohibit investigations and other proceedings by the FTC which are attempts to dictate to professionals how they should practice their professons.

In its zeal to help the consumer, the FTC has far exceeded its statutory mandate and has acted arbitrarily, without any congressional approval. We seek in this amendment to clarify that Congress never intended to give the FTC widespread preemption rights. The determination of what is unfair in the relationship between professionals and consumers involves the broadest social and political judgments and responsibilities.

Mr. President, all States supervise and regulate the delivery of medical and legal care to their citizens. The State laws which the Federal Trade Commission seeks to nullify in their investigations and rulemakings have been adopted to meet local conditions and thereby protect the public in the vital field of health.

The FTC seeks to make its decisions on a nationwide basis, however; this would take knowledge of regional variations, not to mention community needs.

I would like to cite the experience of the profession of veterinary medicine with the Federal Trade Commission to emphasize how far they have gone and will continue to go if we do not put reins to this runaway horse. FTC employees have been investigating the veterinary profession for over 4 years now. I have no idea how much this has cost the taxpayers of this country, but I do know it has cost the American Veterinary Medical Association over $100,000 in legal fees alone. The many State and local veterinary associations around the country that have had the pleasure of the FTC's company have spent additional thousands of dollars. And what has the result been? Nothing.

The Commission has accused veterinarians of no past wrongdoing; it has proposed no rules or regulations that would cure abuses in the practice of veterinary medicine, because it has found none; and it has instituted no formal actions. But the FTC has also refused to put an end to the matter. The last I heard, the agency was considered a face-saving recommendation that some limit ought to be put on the veterinarian's decision of when to sell a client a drug and when to write a prescription. Will the result of the expenditure of 4 years' effort and several hundred thousand dollars be an FTC requirement that a veterinarian post a sign in his office advising pet owners that they can buy prescription drugs from pharmacists?

I believe that the Federal Trade Commission has better things to do.

I would like to cite another example of the Commission's efforts to tread where they have no authority to go. In September of last year, the American Optometric Association, the American Medical Association and 17 States presented arguments before the U.S. Court of Appeals challenging the constitutionality of the FTC's trade regulation rule on ophthalmic goods and services. This rule preempts State laws controlling the advertising of ophthalmic goods and professional services. It also restricts the information State legislatures or trade associations may require in ads, and requires that doctors of optometry and ophthalmology automatically give patients eyeglasses and contact lens prescriptions without charge.

In arguments against the rule, it was shown that the FTC does not preempt State jurisdiction and laws regarding such professions as optometry, medicine, and other health professions, and therefore, the FTC does not have jurisdiction to regulate them. This rule has interfered with the patient-doctor relationship and patients are not only confused, but misled by it. Previously, many States had consumer protection laws to guard the health and safety of patients by helping to insure responsible advertising and accurately fitted contact lenses and glasses, which the FTC has tried to overrule and change.

It appears that it is up to us in Congress to give the Federal Trade Commission the sense of priorities it should have which, unfortunately, it cannot develop on its own. The traditional regulatory systems of the professional associations, the States, and the courts are all working well. It would just be a waste of millions of dollars if we have to wait for the FTC to learn these things by themselves.

The professionals themselves, without the long arm of the Federal Trade Commission, have developed over the years the ability to protect consumers from lazy and incompetent professionals. Voluntary associations were established to develop State regulatory systems that answer to the individual needs of their citizens and their problems.

State regulation of professions such as medicine, optometry, veterinary medicine, dentistry, and others have always served the citizens of this country well. We must act now to prevent the Federal Trade Commission from squandering more and more of its limited resources on futile efforts. I can see no good coming from further agency activity in the area of professional regulation. The States are attuned to the needs and problems of their own area, and Federal meddling in their affairs could change the nature of professional practices without any discernible benefit to clients and patients. The practice of a profession is a local enterprise and I do not think it can or should be governed on a nationwide basis.

We all campaigned on the basis of eliminating the heavy hand of Federal Government intervention and it is time we performed.

Mr. President, I have tried to give the Senate some insight as to why I think this amendment is necessary. It has been 10 years or a little longer since I practiced veterinary medicine. I do recall having been on the board of examiners for our State for licensing veterinarians. At one time, I believe, I was president of that board. I know the serious concerns that we had that our profession would be properly guided under State law and also be properly guided on questions of ethics by our State association, which is affiliated with the national association.

At no time, dealing with all of these problems, did it ever cross my mind that the Federal Trade Commission could in any way help us. I have not changed my mind on that subject. They cannot help us in making sure that the practice of veterinary medicine in the State of Montana is, first of all, done under the law. And it is State law, as it properly should be. Nor can they help on the questions of ethics in the practice of veterinary medicine. They will have no concept of what is proper under the law, nor a proper concept of what is good in terms of ethics for the profession.

What have they been doing? Well, as I stated, FTC employees have been investigating the veterinary profession for over 4 years now. I do not know what this costs the taxpayers, but I do have some idea of what it has cost the American Veterinary Medical Association, which has spent $100,000 in legal fees, and this is a fairly small association. It spent $100,000 in legal fees during the past 4 years.

I do not know what each State has spent, but I suppose, when you add it all up, that the State associations have spent much more than that total of $100,000. What has happened after 4 years? The last I heard, the FTC was considering a face-saving recommendation that some limit ought to be put on the veterinarians' decisions of when to sell a client a drug and when to write a prescription.

Mr. Presisdent, that is ridiculous. They would not have the least idea when a veterinarian ought to sell a client a drug. They should stay out of it. It is not an area where there is a problem that they can solve. Whatever problems arise are solved within the State by rigid law and backed up on the ethical question by the State association and the national association.

And there have not been complaints. There just have not been complaints. I am very sensitive, as a member of the profession, to complaints against the profession. We look for those. We do not ask for those complaints to, somehow, mount up into a huge complaint before I am aware of it. We look for those complaints in Montana. We search them out. The complaints simply are not there.

What complaints are there are being addressed. The complaints are not there in any magnitude, but what complaints are there are being addressed through State law and through the State association. It ought to remain that way. The FTC ought to be required not to be in this field. That is all the amendment does.

There are other similar professions that are regulated by State law and have their own association to regulate the ethical problem, and we name those, too, in the amendment. I think the amendment is very much needed.

I thank my friend for yielding.

Mr. McCLURE. I thank the Senator from Montana for his remarks. They illustrate from the standpoint of one of the professions the reason this amendment is being offered and the reason we believe it is in order and not only desirable but necessary.

Mr. President, I would be willing to yield some time at this time to the opponents of the amendment if they would like.

Mr. FORD. Mr. President, how much time does the Senator have left of his 15 minutes?

The PRESIDING OFFICER. Five and a half minutes.

Mr. McCLURE. I reserve the remainder of my time, Mr. President.

Mr. FORD. Mr. President, I yield 2 minutes to the Senator from Nevada.

Mr. CANNON. Mr. President, under the provisions of this amendment, the FTC cannot conduct any activity directed to the dental, legal, medical or other health-related professions. This amendment covers a broad area with complex questions involving State preemption. Senator Ford has indicated his intention to hold oversight hearings in the Consumer Subcommittee on these important and complex questions.

I call the attention of my colleagues to a recent letter from the Attorney General on this amendment in which he strongly opposes adoption of the McClure amendment:

> I believe it would be unwise to conclude that the Commission's investigations of various professional groups are without merit. Many of the Commission's initiatives in this area make a positive contribution to improving the efficiency of the service sector of our economy. As such, the FTC has a legitimate and significant role to play in slowing the economy's overall rate of inflation in the years ahead. Adoption of the McClure amendment will preclude the Commission from making this contribution. We urge the Senate to reject this amendment.

Mr. President, I ask unanimous consent that this entire letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of the Attorney General,
Washington, D.C., January 22, 1980.

Hon. Howard W. Cannon,
Chairman, Committee on Commerce, Science, and Transportation, Washington, D.C.

Dear Mr. Chairman: This letter expresses our concern over an amendment proposed by Senator McClure to S. 1991, legislation authorizing appropriations for the Federal Trade Commission. Under its terms the McClure amendment would prohibit the FTC from taking any action against a profession, which is regulated by the states. In addition, the amendment protects the activities of any state or national professional organization from action by the FTC. The sweep of the amendment is broad; on the average there are about one hundred professions in each state which are subject to some form of state licensing requirements. The trade practices in all of these professions and their associations would be exempt from FTC scrutiny, if the McClure amendment is adopted by the Congress.

Over the past two decades there has been a growing body of economic evidence to suggest that the various markets for professional services exhibit certain anti-competitive characteristics. In a competitive market, a firm cannot price its products or service higher than the industry's marginal cost of production. If a firm attempts to charge a higher price, it will simply be displaced by other firms willing to sell the product or service at the industry's marginal cost. In many of the markets for professional services, however, these competitive forces are frustrated by a number of state regulations and private agreements.

For example, state occupational licensing laws restrict entry into a profession and allow industry members to charge higher than competitive prices. These entry barriers reduce the possibility that the industry's abnormal prices will be undercut by new entrants. Further, state licensing laws, as well as many professional codes of ethics, prohibit price advertising within a profession. These restrictions on price information in the marketplace increase the buyer's marginal cost of searching for lower prices. As the result, consumers are less able to exercise pressure on sellers to reduce price disparities in the market. In addition, professional groups may enter into explicit or implicit agreements to establish price levels higher than an efficient market would dictate. In the past a common form of price protection has been professional fee schedules, which suggest minimum fees for various services.

In short, the markets for many professional services are far from competitive and often exhibit the characteristics of a cartel. Prices in these markets are higher than levels that would exist if more rigorous competition prevailed.

I am confident that the Federal Trade Commission recognizes, as I know the Department of Justice does, that state legislatures as well as many of the state licensing agencies have, and will continue to have, a necessary role to play in their regulation of licensing and other activities. At the same time, we are concerned that the state regulatory process has been used as a cloak behind which private associations unreasonably limit competition.

I believe it would be unwise to conclude that the Commission's investigations of various professional groups are without merit. Many of the Commission's initiatives in this area make a positive contribution to improving the efficiency of the service sector of our economy. As such, the FTC has a legitimate and significant role to play in slowing the economy's overall rate of inflation in the years ahead. Adoption of the McClure amendment will preclude the Commission from making this contribution. We urge the Senate to reject this amendment.

Sincerely,

BENJAMIN R. CIVILETTI,
Attorney General.

Mr. CANNON. Mr. President, this amendment is a significant amendment and I urge the Senators to wait and allow the committee process to work before acting to accept this amendment without benefit of oversight hearings.

Mr. FORD. Mr. President, I yield such time to my colleague as he might need on this bill.

Mr. DANFORTH. Mr. President, this amendment would terminate existing adjudicatory antitrust proceedings by the FTC. It would terminate, stop dead in their tracks, adjudicatory proceedings against the American Medical Association for restrictions on advertising and restrictions disallowing doctors to work on a salary basis.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes.

Mr. McCLURE. I think the Senator is laboring under some misapprehension, because the amendment specifically does not refer to any ongoing litigation. It specifically exempts any current ongoing litigation from the purview of the amendment.

Mr. DANFORTH. Mr. President, the terms of the amendment are that it would exempt ongoing litigation in courts, not ongoing FTC adjudicatory proceedings.

Mr. McCLURE. The Senator is correct. If there is litigation, it would not effect that litigation. If the Senator is talking about what they have underway in their own bill, yes, it would affect that.

Mr. DANFORTH. I am not talking about litigation in the courts, I am talking about ongoing adjudicatory proceedings. So it would terminate existing ongoing adjudicatory proceedings.

Mr. President, it would also be contrary to the history of concurrent Federal-State enforcement of antitrust laws.

In connection with this bill, Mr. President, we had extensive hearings on the consumer protection portion of the FTC Act, but not on the antitrust enforcement portion of the FTC's responsibility. It is my understanding that the chairman of the subcommittee has indicated a receptiveness and a willingness to explore the whole question of FTC antitrust enforcement. But without any hearings at all and, in fact, prior to the kind of hearings that the chairman of the subcommittee anticipates, this would terminate existing adjudicatory proceedings in their tracks and be contrary to the history of concurrent Federal-State enforcement of antitrust laws. Therefore, Mr. President, I think that this amendment is premature and that it should be rejected.

Mr. FORD. Mr. President, do I have 5 minutes left?

The PRESIDING OFFICER. The Senator has 11 minutes and 31 seconds remaining.

Mr. FORD. I yield to the Senator from Ohio 5 minutes.

Mr. METZENBAUM. Mr. President, the amendment before us today to eliminate FTC jurisdiction over professions which are regulated by States will permit doctors, lawyers, and other health-related professionals to continue to use their professional organizations as vehicles for engaging in anticompetitive and monopolistic practices. This amendment will encourage the maintenance of artificially high fees for services that every single American requires.

As a matter of fact, this amendment flies in the face of those who want less regulation because what this amendment is saying, in effect, is that we will protect those who are combining together in anticompetitive practices from the provisions of the Federal laws on the subject.

In recent years, the FTC has diligently pursued investigations and litigation in the health care field in an effort to promote competition and lower prices to consumers. This amendment will torpedo those efforts, and it will do so at a time when health care expenditures have been rising at an annual rate of between 12 and 15 percent. In 1977 alone, Americans spent over $163 billion on health care, making health care the largest single component of the service sector of our economy.

We urgently need to control health care costs in this country—not to encourage them to rise at an even faster pace, as this amendment would clearly do.

This amendment must not be adopted. The Nation cannot afford it.

The Nation cannot afford to forbid the FTC from carrying out antitrust proceedings against private agreements to protect members of the legal and health-related professions from competition and keep prices high.

We cannot afford to tell the FTC not to move against price fixing by medical societies and other groups of physicians. We cannot afford to tolerate instances like one documented by the FTC in which a low-cost preventive heart disease program was shut down because a medical society claimed that publicity for the program was advertising and therefore unethical.

This Nation cannot afford to tell the FTC to back away from its examination of the undue influence by medical societies over some Blue Shield and other prepayment plans.

And this Nation cannot afford to stop the FTC action against doctors who boycott or discriminate against nonphysician health care providers such as psychologists.

Contrary to one of the arguments advanced by the amendment's supporters, the elimination of FTC activity in the area of State-regulated professions will not reduce the amount of regulation governing these professions. It is the FTC, and not the States, whose efforts in this area have been consistently directed at reducing or eliminating costly and burdensome regulation.

Unfortunately, these professions, as well as some of the supporters of this amendment, are not really interested in achieving less regulation. If they were, they would have no choice but to support the FTC's activities. They would support, for example, the Commission's trade regulation rule on eyeglasses which went into effect in 1978 and actually eliminated State restrictions on advertising for eyeglasses. That one FTC action will reduce the cost of eyeglass-related services by as much as 40 percent.

The simple truth is that although efforts like the eyeglass rule benefit the public, they make a powerful few unhappy. The classic double standard is operating here. Interest groups do not call for less regulation when it means that restrictions that benefit them will be eliminated.

And where the legal and health-related professions are concerned, regulation at the State level has generally been highly favorable to the profession. Indeed, State-level regulations are often promulgated at the behest of the professions themselves.

It has been State regulation which has helped to restrict market entry, reduce information to consumers, lower levels of innovation and competition and guarantee higher consumer prices. Not only has State regulation stood in the way of permitting professionals to advertise their services, but it has been State law which has limited the ability of technicians to provide medical, opthalmic, and dental care directly to patients. And it has been State restrictions that have prevented the growth of alternative health care systems, such as permitting health-care professionals to offer their services in department stores and other easily accessible locations.

The FTC is not trying to regulate the legal and health care professions. That responsibility has been, and continues to be, the job of the States. But the Commission is trying to insure that free and fair competition exists in the professions.

If the Senate adopts this amendment, the FTC will be powerless to investigate any monopolistic or anticompetitive practices of these professions and their organizations.

If the Senate adopts this amendment the FTC will be powerless to examine how 50 separate States, with differing rules, regulations, and statutes, affect the quality, cost, and availability of services provided by doctors, lawyers, and other health care professionals.

If the Senate adopts this amendment, American consumers will be left without a strong friend to help them combat unnecessarily high prices and artificial restrictions on the availability of vital professional services.

I urge defeat of this amendment.

Mr. President, the American Nurses' Association stated it well when they said in a letter:

> We believe that it would not be in the best interest of consumers of health care if the FTC were to be stripped of its authority

to conduct investigatory and regulatory activities in this area. The consumer must have guidance, impartial information and protection in his efforts to secure good health care at fair cost.

Past and present FTC initiatives in the area of health care have not attempted to regulate professional practice. Rather they have focused on specific economic questions and activities such as price-fixing and attempts to limit competition through self-regulation.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD, and also an article by, and a letter, with its enclosure, from Mr. Clark Havighurst, a prominent lawyer at Duke University.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, Mo., January 31, 1980.
To the Senate of the United States.

DEAR SENATOR: The Federal Trade Commission Authorization bill, S. 1991, will be considered by the Senate in the near future.

At that time, an amendment will be offered by Senator McClure which would prevent the Federal Trade Commission from taking any action in regard to the activities of legal, medical and dental professional associations and other state-regulated professions.

The American Nurses' Association is opposed to this amendment and we urge you to vote against it.

We believe that it would not be in the best interest of consumers of health care if the FTC were to be stripped of its authority to conduct investigatory and regulatory activities in this area. The consumer must have guidance, impartial information and protection in his efforts to secure good health care at fair cost.

Health care represents the largest component of the service sector of our economy and accounts for 32.5 percent of all expenditures for services. Moreover, health care costs continue to rise at an annual rate of 12 to 15 percent.

Past and present FTC initiatives in the area of health care have not attempted to regulate professional practice. Rather they have focused on specific economic questions and activities such as price-fixing and attempts to limit competition through self-regulation.

Numerous Commission actions have served consumer interests in the health care field. For example, the Commission Eyeglass Rule permits advertising of price information concerning eyeglasses and eye examinations. Following the issuance of this rule, the Consumer Price Index for eyeglasses has increased only 4.3 percent compared to 9.1 percent for all goods and services and over 13 percent for medical care generally.

The McClure Amendment would create an unprecedented exemption for the professions from FTC endorsement of antitrust and consumer protection laws.

We are especially concerned that such arbitrary restriction of FTC activities relative to the health care system be made without any opportunity to get consumer as well as health provider views through public hearings.

We believe there are numerous issues of legitimate national concern that should be explored before any such action is taken.

We urge you to vote against the McClure Amendment, which we believe is not in the best interests of health care recipients.

Thank you very much for your consideration.

Sincerely,

BARBARA NICHOLS,
President.

"FAIR-MARKET COMPETITION" FOR MEDICINE URGED

Medicine's traditional self-regulation must yield to either "fair-market competition" or government controls, the Organization of State Medical Assn. Presidents was told.

Addressing OSMAP's Forum for Medical Affairs, held in conjunction with the interim meeting, Stanford U. economist Alain Enthoven and Duke U. anti-trust law expert Clark C. Havighurst stressed, in Havighurst's words that, "The status quo is not a viable long-range alternative."

Rising medical costs are forcing the issue, Enthoven told the physicians.

"I know for years you have been hearing of the cost crunch. It is an old issue, but it is not about to go away. The sheer size of the numbers will force action. The cost to the federal government of the Medicare program has been doubling every four years. Now, that was not too big a problem in the early days when Medicare cost only $1 billion or $2 billion. But by 1980, Medicare will cost $36 billion, and if that figure doubles within four years, watch out!"

Pointing out that piecemeal government efforts at cost-control—"programs like certificate-of-need, hospital caps, controls on MD fees, public utility rate-setting, and professional standard review organizations—have failed," he warned, "This does not mean that government controls cannot work. They can, if they are made tougher and more pervasive. What could come next is a system of top-down controls similar to those proposed by Sen. Edward Kennedy (D, Mass.)."

The economist said that an alternative to government control is to inject fair-market forces into medicine. One such idea, he said, is his own "Consumer's Choice" health care plan that has previously been described in detail, including 1978 publication in the *New England Journal of Medicine.*

"The details may vary from plan to plan," Enthoven said, "but I urge the AMA to support legislation that would incorporate four major points into the health system:

"A choice of health care plans to the American family; equal outside financial support to competing health plans; equal rules governing the plans; and free choice of physicians within the various, competing plans.

"We have competition in medicine—physicians compete for patients, hospitals compete for physicians—but we do not have a system of economic competition. We must, or we will have government regulation."

Havighurst told his physician audience that although it is unlikely they will think of the FTC "as an ally, I would hope you would not consider it your worst enemy. It's like fighting a two-front war. It seems to me that surrendering to antitrust law is a small price to pay to preserve the strengths of the private system of medicine."

The Duke U. attorney, who was once a consultant to FTC, conceded that early forays by the Federal Trade Commission against medicine were "somewhat unsophisticated and not thoroughly thought out."

These efforts, starting in 1975, he said, included complaints challenging the AMA Principles of Medical Ethics and their ban on the solicitation of patients—which FTC investigators termed an anticompetitive ban on advertising; the AMA's Liaison Committee on Medical Education—which FTC termed a potential conflict of interest; relative value schedules—which FTC termed price-fixing; physician control of Blue Shield boards—which FTC termed conflict-of-interest; and the AMA's role in health manpower—which FTC feared might also constitute conflict-of-interest.

"These early efforts were worthwhile," Havighurst said, "though, perhaps, not pursued in an optimal manner."

Future FTC efforts, he said, "will reflect a more sophisticated focus. The current agenda is, I hate to use the phrase, a 'hit list' that includes:

"Physician boycotts, collective bargaining, use of relative value schedules, fee reviews, and control of third-party payers. The FTC is going to zero in on anticompetitive practices in health care financing. Medicine has pretty much had things its own way in terms of health care financing and this is objectionable in terms of public policy."

During the question-and-answer session, one physician mentioned the "knee-jerk" method by which FTC apparently chose its early medical targets, the heavy legal costs to medical societies to comply with the FTC complaints, and the "kangaroo-court" nature of FTC procedures.

Havighurst replied that FTC is acquiring a more sophisticated understanding of the complexities of the medical system and that FTC administrative practices had been hammered out over time and despite appearances were not self-serving. They can also be appealed to the courts, he noted.

As to the cost of legal compliance, the Duke U. attorney conceded, "This is becoming a serious problem, the cost of legal services. If I ever find time, I intend to investigate this. I am sorry, but there is no alternative to spending money to defend yourself when you are challenged by the FTC.

"Of course, you can always sign a consent decree."

At a joint hearing of the health subcommittees of the House Commerce and Ways and Means Committees, Health, Education, and Welfare Secretary Patricia Harris ripped into the Kennedy bill as a "potential $200-billion-a-year pork barrel" which could put as many as one million people out of work. In addition, she said the Kennedy proposal would drive up the cost of living by 1.5 percentage points.

Significantly, Harris spoke kindly of the efforts under way in the Senate Finance Committee to enact a catastrophic-type NHI. Her remarks were further evidence of the cozy relationship developing between the Administration and Senate Finance Chairman Russell Long (D, La.) on health, and underscored the possibility of a formal alliance on NHI.

The employer-mandate portion of the Finance bill is "reasonably similar" to the Administration plan, Harris said. The actions of the committee are "encouraging," she added. The HEW secretary insisted, however, that any NHI must extend coverage and aid to poorer people.

AFL-CIO President Lane Kirkland said the Carter plan merely "relies on old solutions which are part of the problem." Kirkland endorsed the Kennedy plan enthusiastically, calling it "reasonable, rational, and sound.

"The administration proposal," he said, "would merely pour new money into the present system, which is inherently inflationary and which puts emphasis on reimbursement for sickness, rather than prevention of sickness."

United Auto Workers President Douglas Fraser said Canada's experience with a plan similar to the Kennedy bill has been a success. Health care in the United States is now rationed by ability to pay, he said.

Rep. Charles Rangel (D, N.Y.), chairman of the Ways and Means health panel, has endorsed the Carter bill, but also is sympathetic to the Kennedy plan. Rep. Henry Waxman (D, Calif.), head of the Commerce Health subcommittee, is a champion of the Kennedy bill. Despite the stands of the subcommittee chairman, the subcommittee memberships don't appear excited by either bill.

NOVEMBER 29, 1979.

DEAR: I am writing to share with you my concern about proposed Amendment No. 523 to the Federal Trade Commission's authorization bill (S. 1020). Among other things, this amendment would deprive the Commission of the power to enforce the antitrust laws, against organizations of professionals if the profession is regulated by the states. I strongly believe, on the basis of my extensive research and experience in dealing with antitrust issues in the health services industry and with broader issues of health policy, that to terminate the FTC's antitrust enforcement activities in the health care field would be highly destructive. This letter is to solicit your efforts to defeat the amendment.

My interest in the health services industry reflects my basic academic interests in antitrust law and public regulation of business and ten years of research and writing on legal and policy issues in health care under a series of grants from the Department of Health, Education, and Welfare. As one might infer from my affiliation as an adjunct scholar in law and health policy with the American Enterprise Institute, I tend to be skeptical concerning most government regulation, and I have actively advocated (in print, in congressional hearings, and otherwise) nonregulatory strategies to reform the health care sector. Although I am not usually in the position of defending government agencies against their critics, I am concerned that, in exercising Congress' oversight responsibility with respect to the FTC, some senators and representatives may allow their antiregulatory fervor to overwhelm their judgment. Indeed, to judge from the broad sweep and precipitous nature of proposals such as Amendment No. 523, some legislators appear in danger of losing sight altogether of the policy implications of some of their proposed actions. In particular, I would hope that whatever is done with respect to the Commission's powers will not interfere with what I regard as one of the most promising developments to date in national health policy—namely, the enforcement of time-honored Sherman Act principles in an industry where their long neglect has created many of the severe problems that trouble health policy today.

I have had a unique opportunity to evaluate the FTC's antitrust enforcement efforts in the health care sector. During 1978-1979, while on a sabbatical leave from Duke, I served as a part-time consultant (in residence in Washington) to the Commission's Bureau of Competition. In that capacity, I advised the staff on their activities in the health care industry, and I believe that I helped to redirect some of their efforts into more productive channels. Some of the opinions that I formed concerning the FTC's role in the health care field were reported in a talk that I gave last May at the New York Academy of Medicine. I have attached to this letter a copy of the corrected galley proofs of an edited transcription of that speech which will soon appear in the Academy's Bulletin. (I have also written other articles covering antitrust issues in this field, which I would be glad to share with you or your staff on request.) Although the attached article is mildly critical of the Commission and its staff at several points, its main message is that current antitrust enforcement in the health care sector is an immensely promising undertaking which should yield important cost-containment and other benefits. In general, my view is that the Bureau of Competition has developed substantial expertise concerning the health sector's economic problems and is proceeding to rectify clear abuses of professional power that have had a cumulatively severe impact on the consumer and the cost of health care. The Department of Justice, which shares antitrust enforcement responsibility with the Commission, is not nearly as well equipped at the moment to deal with the problems of this unusual industry.

The medical care industry, despite its many achievements, is essentially out of control with respect to costs. An important cause of this failure of the marketplace is the near-exemption from the antitrust laws which the medical profession and other industry groups enjoyed until recently, when new judicial decisions prompted the FTC staff to examine long-neglected professional and other activities. During the long period when they were spared antitrust scrutiny, the organized medical profession and the hospital industry developed a variety of collective measures to discourage price competition and to prevent third-party payers for health services from devising and implementing cost-containment strategies that were contrary to providers' economic interests. The FTC's investigations in this industry have revealed severe problems that fully warrant prompt and vigorous attention.

All of the offenses being actively investigated or prosecuted by the FTC at the moment are activities that appear to violate the basic Sherman Act prohibition against competitor collaboration damaging either to competition, particularly price competition, among the collaborators or to actual or potential competitors. Most observers of the health care scene are aware that health maintenance organizations (HMOs) have frequently met concerted resistance from the medical community. The damage done would have been worse without earlier antitrust enforcement, and the Commission is usefully engaged today in clearing away obstacles to private HMO development (which Congress has clearly shown that it favors). In an even more important series of actions, the staff has also moved to facilitate competition in the fee-for-service sector itself. Their object here has been to give health insurers and other health plans the freedom they have long been denied to design or redesign their plans to meet consumers' concerns about costs. The target of enforcement activity is a variety of restraints that prevent active competitive bargaining at the interface between competing health care providers on the one hand and competing health plans on the other.

It is important for the Congress to understand that the Commission staff is not engaged, in this area, in contriving novel theories or harassing innocent private parties. They are, for the most part, simply asking physicians and other professionals to compete in the sale of their services. It is not surprising that professionals feel threatened by competition, but there is no good reason why they should not obey the usual rules insofar as the economics of professional practice are concerned. Legislation that would shelter the professions from antitrust prosecution by the only agency that has developed the knowledge and capability to enforce the law in these complex areas would be a grave mistake. Moreover, it would be inconsistent with a number of promising policy measures taken by Congress to strengthen competition in the health care sector. In addition to the HMO legislation, the just-enacted Health Planning and Resources Development Amendments of 1979 also reveal a commitment to a procompetition policy. In that law, Congress wisely identified as a national health priority "the strengthening of competitive forces in the health services industry. . . ." The FTC is currently doing more to strengthen such forces than anyone else.

A somewhat more debatable issue raised by Amendment 523 is the FTC's power to issue regulations overriding anticompetitive state laws and regulations. While it is easy to accept the principle that state laws ought not to be subject to the whim of federal bureaucrats, some other important principles may also be at stake here. In fact, the FTC's positions in the disputes that have arisen may be seen as highly antiregulatory, since the proposals have sought to remove serious restraints of trade that are embodied in state regulatory programs and legislation. The fact must be faced that political processes do not always allow consumers a fair chance to protect themselves against "special-interest" legislation, and it may be seen as desirable to have Congress' time-honored national policy favorable to competition, as embodied in the antitrust laws, occasionally asserted to invalidate egregious violations by the states of the principles of free enterprise and competition. There are many reasons why Congress and the public might wish to have the FTC scrutinize state regulatory programs from this point of view. The Commission—unlike, say, federal judges—is, in the final analysis, accountable to Congress for what it does in the name of competition.

Finally, the point I would most like to impress upon you is that preservation of the anticompetitive status quo in this industry can only end in government's assuming an intolerably large role in the health care sector. Without an increase in competition, the cost of health care will remain uncontrolled until Congress can no longer resist the pressure to intrude in a heavyhanded regulatory manner. To eliminate the FTC as the leading and most expert advocate of competition in this industry within the federal government would greatly increase the already dangerous probability that this huge and singularly important industry will soon be government-controlled in all of its important aspects. Only shortsighted senators will think they are truly striking a blow for freedom and free enterprise in voting to adopt Amendment 523.

Please let me know if I can be of further assistance. If the relevant committees of the Senate should think it would be helpful I would be pleased to be invited to testify on antitrust enforcement in the health care sector in order to state more fully the basis for my view that competition's suppression by industry interests is at the root of the problem of health care costs and that restoring competition is the most promising strategy for solving that problem.

Most sincerely,
Clark C. Havighurst,
Professor of Law.

The Antitrust Laws, the Federal Trade Commission, and Cost Containment[*]

(By Clark C. Havighurst)

Antitrust enforcement in the health care industry has so far raised more questions than it has answered. Many physicians are upset by what they have seen, and a lot of other people are at least puzzled. There is no question that there are major inconsistencies between what the Federal Trade Commission is doing and what other elements of the federal government are doing in health care.

I shall argue that the antitrust enforcement effort makes sense, although there is no way that most observers could know it. Many things that have so far met the public eye are not well calculated to induce understanding of or inspire sympathy with the Federal Trade Commission (FTC) effort. But there is a substantial lag in public perceptions about enforcement policy because the agencies investigate matters at considerable length before they take action, and, during the investigative stage, tend to work somewhat in secret to protect the parties involved. Thus, a complaint in a particular matter will be issued only after a long investigation. Moreover, a definitive decision on a matter raised in a complaint comes only after litigation. As a consequence, the public record does not accurately reveal what is in fact going on today.

---

[*] Presented in a panel, Promising Approaches in Cost Containment, as part of the 1979 Annual Health Conference of the New York Academy of Medicine, *Cost Containment and Resource Allocation in Health Care,* held May 10 and 11, 1979.

This study was supported by Grant No. HS 01539 from the National Center for Health Services Research, DHEW.

Although the author has served as a consultant to the Federal Trade Commission's Bureau of Competition, the views and perceptions expressed are not necessarily shared by the Commission or its staff.

I will argue that, although the FTC first tackled this industry only a short time ago and began its effort in total ignorance, its staff is now further out on the learning curve than the public has any reason to know. I want to show how the enforcement effort has evolved over time and to mention some current developments to establish that this is a more sensible enterprise than it has appeared to be.

At least as antitrust legal doctrine goes, the issues being raised in this industry are not terribly controversial—at least in the areas where I think the FTC is going to be most active. Some areas are indeed quite difficult, but the basic effort these days is in areas where the problem is simply to extend fairly well established and well supported legal principles to facts presented by a somewhat unusual industry. That body of law developed under section one of the Sherman Act,[1] which prohibits contracts, combinations, and conspiracies in restraint of trade. Nearly 90 years of jurisprudence have developed what that prohibition means. In general, the law applies to organizations of competitors who agree and act among themselves in ways that may reduce competition. Medical societies and other professional organizations must all pass muster under the Sherman Law.

Antitrust doctrine leaves very little room to ask whether competition is a good or bad thing. The law presumes that it is the most desirable way to organize and carry on any form of economic activity that Congress has not made exempt from the antitrust laws. The law also presumes that the results that competition would yield will be preferable to anything that industrywide groups might volunteer, and for the most part it does not even permit argument on this point.

The only issue in an antitrust case is whether competition as a process has been harmed. In a recent Supreme Court case [2] the National Society of Professional Engineers argued that it was justified in having an ethical code provision that proscribed competitive bidding for engineering jobs. They argued that competitive bidding would be dangerous because the low bidder would be under pressure to cut corners and not do his work thoroughly, causing bridges and other structures to collapse and people to be injured. The Supreme Court held that, whether or not that assertion was true, it was not legally relevant.[3] The question in an antitrust case is simply whether competition has been injured, and in that case, of course, it had been. If one thinks that competition is destructive or not helpful in this industry, one must take that argument to Congress. The courts are not likely to listen to it.

With these basic principles in mind, we can begin a historical look at the role of antitrust in the health sector. We do not have to go back very far. For practical purposes, the effort began in 1975, although one case in the early 1940s deserves mention. In that case, the American Medical Association was convicted of a criminal violation for the things it did to the Group Health Association in Washington, D.C.[4] But that case stood practically alone until 1975, when in the Goldfarb case, the Supreme Court held that lawyers were subject to the antitrust laws and that there was no implied exemption for the so-called "learned" professions.[5] Previously, many people had thought that somehow professionals were not engaged in trade or commerce and were therefore beyond the scope of antitrust.

When the Goldfarb case was decided, the antitrust enforcement agencies began to look at the professions and their collective endeavors to see whether anything required the prosecutors' attention. They found a good number of things in all the professions, but, particularly because rising health care costs were a significant factor in overall inflation in 1975, the FTC, jumping on a political bandwagon, announced a campaign to promote competition in health care with the object of lowering costs, among other things.

The agencies first looked at what seemed to be rather obvious antitrust violations in health care, judged in the light of precedent. Their approach simply took legal doctrine developed in other industries and applied it by analogy to health care. Because the agencies lacked sophistication about the industry, they were unable to make very refined judgments about whether the law really fit the facts or whether applying the law in a particular case was really a good idea, in the sense that it could be expected to benefit the public. As a result, the "trustbusters" tended to act in a somewhat knee-jerk fashion in exercising their prosecutorial discretion to pursue certain matters.

One of the first cases they brought involved restrictions imposed by the medical profession on professional advertising.[6] One can ask why that particular target was chosen instead of some other ones. Many people seem to think that the enforcement of the antitrust laws in this industry involves only that issue, but my sense is that it is really quite a peripheral matter—certainly not the linchpin of the total effort. It was, however, an obvious violation from the standpoint of the Commission, and it must surely have seemed like a good place to start.

Nevertheless, it is still very unlikely that the benefits from that decision when it is final—assuming that the Commission affirms the administrative law judge's recent decision [7]—will be either immediate or very great. While I think there are some positive aspects to the case, which I will not go into, if one now had to choose the most important trade restraints in the health care industry, I doubt if advertising restrictions would be high on the list.

One thing antitrust enforcers naturally look for in any industry is price fixing. The lawyers in the *Goldfarb* case were engaged in price fixing, but, when the prosecutors looked for comparable activities in the health sector, they found very little. One thing they did find was relative value studies, and they proceeded, by threats of prosecution, to obtain a number of consent orders against such professionally promulgated studies. Their legal theory was rather simple. "Gee," they said, "this is just like what the cement industry did back in the old *Basing Point* cases,[8] where they circulated a pricing formula and everybody's prices looked exactly like everybody else's. Since that is what the medical profession is doing, it must be illegal, too." Now, although that is a simplistic analysis, relative value studies do raise real issues that I shall later try to fit into the context of current enforcement efforts.

Another price-fixing problem quickly perceived by the antitrust enforcers lay in the relation between the medical profession and the Blue Shield plans. The basic idea was that if the profession controls a Blue Shield plan, it in fact fixes prices, because the doctors decide what they will be paid. On the basis of that perception, the FTC launched a major investigation in 1976. Only recently that investigation has resulted in a major staff report recommending that the Commission investigate the matter further and ultimately prohibit professional participation in control of Blue Shield plans.[9]

The price-fixing charge was very slippery and, until analyzed and worked through with care, is unconvincing. In their recent report, however, the staff have worked the issue through with greater understanding and have appreciated and adequately dealt with the complexities. But the FTC's initial plunge into this area was taken without a full understanding of health care financing, the dynamics of the medical marketplace, or the complex forms that price competition can take among health care providers. I shall return to the Blue Shield problem later to show how, when reviewed in context, a great deal more is involved than just the notion that doctors use Blue Shield to fix prices.

Another problem area that the Commission staff jumped into in the early days was the matter of medical school accreditation. They intervened in a proceeding of the U.S. Office of Education to challenge the American Medical Association's (AMA) role in the Liaison Committee on Medical Education.[10] The staff's argument again, I think, reflected a knee-jerk reaction by trustbusters rather than a full appraisal. Looking at some of the economists' older writings about the health sector, they concluded that the profession had restricted the supply of physicians by limiting the size and number of medical schools. This perception seems to have triggered their intervention. We all know now, however, that the supply of physicians is, if anything, out of control in the other direction. Many nonphysicians now perceive that, due to recent increases in the medical student population, we shall soon have too many physicians. For this reason, the FTC has found it hard to state a very convincing objection to the A.M.A.'s role in the accreditation of medical schools.

On the other hand, I think a good case can be made. Indeed, with a colleague, I filed a statement in the Office of Education proceeding supporting the FTC on what I would be the first to admit were very speculative grounds. Our general argument, which I am sure would antagonize physicians, was that too much professional control over medical education tends to narrow the range of products produced—that is, tends to dictate too rigidly the types of physicians available to consumers. In particular, we were concerned that medical education under central control promotes a particular professional ideology that contributes to the problem of health care costs and to the system's unresponsiveness to consumers' other concerns. We argued that professional solidarity fostered by undue uniformity in the educational process reduces opportunities for experimentation in health care delivery and ultimately for competition. I obviously cannot develop this tendentious argument fully here, but it is interesting to observe that concerns of this kind underlie the general antitrust principle that centralizing decisions in producers' hands is an unreliable public policy.

The antitrust enforcers' early concerns in this industry also included a number of things in the area of health manpower. The issue, in its broadest aspect, is who decides who does what in the medical care system. Legally, the problems fall under the headings of market division, boycotts, and control of competitors' market opportunities. Specialty certification, hospital privileges, and control over nonphysician personnel all raised concerns that led the Commission staff to launch various kinds of investigations. Very little action has been taken, however, and none of these areas is at this point a matter of high priority—which is not to say that they are not still being looked at.

All the things I have discussed are variations on traditional restraints of trade, but they constitute a very miscellaneous list. It seems to have no overall coherence, and it reveals no fundamental sense of purpose or any overall concept of how competition can best serve consumer interests in the industry

---

Footnotes at end of article.

or of what the industry would look like if it were competitive. Indeed, in many of the initiatives there appeared to be some significant misconceptions about how competition functions or should function in the health care field. Despite these criticisms, I have no doubt that the early efforts were desirable. My main point here, however, is that more recent enforcement efforts are of much greater importance than these early ones.

I now argue that a new sophistication is at work, and that there is a new and important focus to antitrust enforcement efforts. Those efforts are now directed primarily toward improving the prospects for competitively induced change in the financing system. When I refer to the financing system I mean both financing and delivery because what is needed is increased integration of the financing of care with its delivery. Thus, alternative delivery systems are very much a part of the competitive picture contemplated. There is at the FTC at least a new recognition that the greatest payoff from antitrust enforcement in this industry—in cost containment specifically—will come from this area. Antitrust authorities also sense that the quality of care is not as much involved in initiatives here, and they are more secure when they deal with the hard economics of the industry and with what things cost rather than with things that more directly or obviously affect the quality of care.

This is not to say that antitrust can, by itself, totally reform the financing system. We still have Medicare and Medicaid. We still have tax laws that induce overinsurance and overspending on health care. On the other hand, antitrust may be able to do a great deal, and I propose, though not in much detail, to describe a number of initiatives which the commission and the Antitrust Division of the Justice Department have under consideration and which do affect the financing system's ability to change in accordance with consumers' concerns about costs and other things. Let me simply list a number of practices involving probable antitrust violations by organized medicine that are currently in some way on the prosecutors' agenda.

First is the matter of professional boycotts of third parties or of other professionals and institutions that do things in ways that the medical profession finds objectionable. The commission recently filed complaints against two Indiana dental associations for sponsoring agreements among their members not to supply roentgenograms to dental insurers, who needed them to judge the appropriateness of care.[11] The dentists' claim was, of course, that it interfered with the dentist-patient relation and professional independence. The Indiana Dental Association settled the case, but a splinter group is litigating the matter, partly on the basis that it is a labor organization exempt from the antitrust laws—which it certainly is not.[12] Several other significant boycotts are under study. The Michigan State Medical Society boycotted a large health insurer and got it to change certain cost-containment policies it had adopted. That case has just recently resulted in a complaint.[13]

Several other boycott cases under study involve restraints on HMOs, particularly the denial of staff privileges to HMO physicians and concerned refusals to accept their referrals. One case in Florida, brought by the Justice Department, challenges a medical society which did nothing more than pass a resolution against an HMO.[14] One could argue that the resolution was only an expression of opinion, but when a professional society's opinion triggers overt anticompetitives, then I think it is illegal.[15]

Where the possibility of boycott exists, the profession can usually get the concessions its asks from the insurer. In other words, collective bargaining lends to ensue, and collective bargaining is itself illegal where the labor exemption (available only to employees, not independent entrepreneurs) does not apply. In its *Michigan State Medical Society* complaint, the FTC alleges that the plan and the medical society negotiated over the terms of cost-containment arrangements and entered into agreements. The Commission seeks to have all such collective negotiations declared unlawful. It will surprise a lot of people to learn that collective bargaining is not permitted under the antitrust laws because it has been the standard form of doing business in this industry; but competition requires individual bargaining between individual providers or small provider groups and individual plans. Boycotts and collective bargaining are illegal because they restrain the independent action of the third parties, who should be in a position to design reimbursement methods and other policies to meet the consumer's concern about costs and other matters. Competing solo practitioners and organized group practices must decide for themselves whether to accept the terms and arrangements offered. That is how competition works.

The medical profession has prevented third parties in other ways from procuring physicians' services on competitive terms rather than on the profession's own terms. Relative value studies can be viewed as a way to discourage third parties from independent initiatives, or at least vigorous initiatives, in deciding how physicians should be paid. Despite a recent case holding otherwise,[16] the organized profession should, I think, be denied the opportunity to propose to third parties how physicians should be compensated.[17] Such proposals usually come with some implicit threat of sanction if they are not adopted or are departed from in material ways. Moreover, third parties may not be anxious to compete in procuring physicians' services, and may be glad to have the profession prescribe the limits of their conduct.

Peer review raises the same problems. It will be very difficult for physicians to understand that the antitrust laws would not regard it as a useful public service for the profession to review fees or the appropriateness of utilization for insurance companies. On the other hand, it is quite clear that the profession has felt very strongly that these are matters to be kept in the hands of the profession rather than entrusted to competing health plans. But, in a competitive world—which the antitrust laws require us to create where we do not have it—it is crucial that decisions about economic matters be made on a decentralized basis by plans that have an incentive to satisfy consumers. Obviously, if the antitrust laws and given their due effect, we are in for a rather substantial revolution in the way the profession deals with matters of economics.

The profession has long sought to prevent physicians from entering into contracts with independent third parties who, in effect, retail their services. For example, the AMA's code of ethics includes restrictions on contract practice.[18] That egregiously anticompetitive ethical provision was also overturned by the FTC's administrative law judge in the case involving advertising restrictions.[19] My sense is that that aspect of the case may be more important than lifting the restrictions on advertising. Physicians must be able to sell their services to third parties on terms satisfactory to themselves alone. In a competitive market, physicians will have a variety of opportunities and must decide among them. The antitrust laws will help to prevent a single buyer from limiting those opportunities and will allow small provider groups to organize competitive alternatives.[20]

Next, we return to the Commission's Blue Shield report and proposed rule.[21] In its report, the staff satisfactorily addressed the argument that the marketplace disciplines a Blue Shield plan sufficiently that we need not worry about what it can do to line the doctors' pockets. The conclusion is, as I think it has to be, that the marketplace is not competitive, primarily because commercial insurers are quite unable to deal with physicians directly on a competitive basis. Because the insurers are subject to boycotts and other professional restraints, they have kept their distance from providers and confined themselves to dealing with patients rather than with providers directly. It thus seems that the Blue Shield plans do have market power that they can exert on behalf of physicians, and I think the Blue Shield rule is necessary as a part of the overall campaign to keep the medical profession from dictating how health care is financed and how physician services are bought and sold.

The Commission's Blue Shield report also raises questions about other financing plans that the organized medical profession controls. Foundations for medical care and individual practices associations are frequently sponsored or controlled in some measure by county or state medical societies. The ground for antitrust concern is that these plans resemble Blue Shield plans and help the profession to dominate the economics of medicine. The Blue Shield report simply asks whether individual practice associations should be subject to the same rules that apply to Blue Shield plans and suggests some reasons why they should be.[22] At any rate, it is important that we understand that the issue here is part of the larger issue of the medical profession's domination of the financing system.

These remarks sum up what I regard as the important elements in the recent antitrust campaign in the medical care industry. Most physicians will find all of this quite unpalatable. I expect, and there is no question that it does challenge some very fundamental precepts of their profession. Nevertheless, acceptance of antitrust enforcement as a fact of life is the best route available to doctors because it leads away from government domination in the long run. I think it important that the profession learn to distinguish among its various perceived enemies, particularly between the Department of Health, Education and Welfare on the one hand and the FTC on the other. The analogy that I use, though I always have to apologize for it, is that of a nation losing a war that is being fought on two fronts but with enough power left to choose the enemy to which it will surrender. Physicians, too, can have some say about the kind of regime they would like to live under in the future.

My final point is that an assertion that the antitrust laws have been violated does not always call into question the motives of the people involved or attribute to them a conspiratorial intent to suppress competition and to enrich themselves at the consumer's expense. The point may simply be that particular concerted actions, however well motivated they may have been, are inconsistent with the competitive norm. On this basis alone, they may be declared unlawful. This means that the antitrust laws may be successfully invoked against traditional practices and institutions of the medical profession without impugning the motives either of the profession as a whole or of the dedicated professionals who have sought to improve the profession's performance. That society now seeks a better mode of social control over this industry and invokes the antitrust laws to achieve it requires no apology by either the enforcement agencies or the profession whose traditional practices are questioned. Perhaps these observations will help physicians view antitrust enforcement

---

Footnotes at end of article.

less as an attack on their profession's integrity than as an attempt to invoke the neutral principles of the free enterprise system as a better answer to real problems than the statists' regulatory solutions would be.

FOOTNOTES

[1] 15 U.S.C. § 1 (1976).

[2] National Society of Professional Eng'rs v. United States, 435 U.S. 679 (1978).

[3] 435 U.S. at 694.

[4] American Medical Association v. United States, 317 U.S. 519 (1943).

[5] Goldfarb v. Virginia State Bar, 421 U.S. 733 (1975).

[6] American Medical Association No. 9064 (FTC, Nov. 13, 1978) (initial decision).

[7] Idem.

[8] See, for example, Federal Trade Commission v. Cement Institute, 333 U.S. 683 (1948); Triangle Conduit and Cable Co. v. Federal Trade Commission, 168 F.2d 175 (7th Cir. 1948), *aff'd by an equally divided Court sub nom.* Clayton Mark and Co. v. Federal Trade Commission, 336 U.S. 956 (1949).

[9] Federal Trade Commission: *Staff Report on Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans*, Washington, D.C., 1979.

[10] See the statement of Daniel C. Schwartz, Acting Director, Bureau of Competition, Federal Trade Commission, before the Advisory Committee on Accreditation and Institutional Eligibility, U.S. Office of Education, Washington, D.C., March 24, 1977.

[11] Indiana Federation of Dentists, No. 9118 (FTC, filed Oct. 18, 1978): *In re* Indiana Dental Ass'n. *Antitrust & Trade Reg. Rep.* (BNA), Nov. 6, 1978, at A–17 (IDA agrees to FTC consent order).

[12] The labor organization exemption from the antitrust laws is based on § 6 of the Clayton Act. 15 U.S.C. § 17. Columbia River Packers Ass'n v. Hinton, 315 U.S. 143 (1942), among other cases, makes it clear that the exemption applies only to groups of "employees," not entrepreneurs or independent contractors.

[13] Michigan State Medical Society, No. 9129 (FTC, filed July 27, 1979).

[14] United States v. Halifax Hosp. Medical Center, Civil No. 78–554–ORL–CIV–Y (M.D. Fla., filed Nov. 27, 1978).

[15] For a more detailed discussion of this point, see Havighurst, C. C.; Professional restraints on innovation in health care financing. *Duke L. J.:* 355–60. 1978.

[16] United States v. American Soc'y of Anesthesiologists. *Antitrust & Trade Reg. Rep.* (BNA), July 5, 1979, at F–1 (S.D.N.Y. 1979).

[17] See Havighurst, C. C., and Kissam, P. C.: The antitrust implications of relative value studies in medicine. *J. Health Politics, Policy and Law 4:* 48–46, 1979.

[18] For a summary of the ethical restrictions on contract practice, see American Medical Ass'n, No. 9064 (FTC, Nov. 13, 1978) (initial decision). pp. 207–26.

[19] Idem., pp. 254–290.

[20] See Royal Drug Co. v. Group Life & Health Ins. Co., 99 S. Ct. 1067 (1979).

[21] Federal Trade Commission: *Staff Report on Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans*. Washington, D.C.

[22] Idem., pp. 273–307.

Mr. FORD. Mr. President, I yield myself 3 minutes out of my approximately 5 minutes remaining.

Mr. President, I am not sure but that I would like to support the Senator's amendment, but I have been beat about the ears in this Chamber several times because I wanted to propose an amendment I thought was good, but the committee had not had the opportunity to scrutinize that amendment.

I understand the medical profession, the dentists, and others. They have local peer-review groups. They have State peer-review groups. They have a licensing board. They have those procedures.

As Governor, I thought we had a pretty good one in our State.

But, then we talked to the dentists, we have now talked to the Commission, and they have agreed to hold off. I have a letter I can have printed in the RECORD, and I probably should.

I accepted the chairman's assurance. At the same time, I assure my colleagues in this Chamber I will promptly conduct vigorous oversight hearings in these areas.

So, I want to be helpful. I want to be in a position to do the right thing. But, I am going to have to oppose the Senator's amendment because we just simply have not had time to get into the area which the Senator wants to exclude.

I think we have shown that we are trying to approach our problems here in a responsible manner, 10 long days of hearings, we went into all the facets in those days, and we picked those things that I think the hearings expressed where they needed to change.

I hope the Senator will not bring this up for an up-or-down vote, that he would take my assurance that we will hold vigorous hearings, and, in fact, I believe so much in oversight that I insisted that if this legislation passes, that the committee hold oversight of the FTC at least once every 6 months, and that we will get into that and have that in 60 days.

We have some other things that are important to us. I hope the Senator will not press his amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, let me respond, first, by saying that my amendment recognizes the desire of the chairman of the subcommittee to hold hearings. It is, in fact, a 2-year period to give him the time to do that.

I will accept his assurance, I say to the Senator from Kentucky, that he will hold those oversight hearings. I have no doubt when he makes a commitment he will keep it.

I do not have the same faith in the Federal Trade Commission. I do not have the same belief that, if we give them that room, we can accept the fact they will abide by that.

I think they have shown, by their actions in the past, that if we want to constrain them, we better constrain them.

But, I did draw the amendment so it is not permanent. It is not an attempt to permanently, and in a sweeping way, do away with the possibility forever, but only for 2 years, so that the Congress can hold those oversight hearings, and can conduct that investigation, and can make that decision.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. McCLURE. I yield.

Mr. FORD. We started, I believe, in September and October with the hearings on the legislation that is here now. Does the Senator's amendment preclude us from going ahead with legislation? He said "no" for 2 years.

Mr. McCLURE. It will say absolutely nothing to the Senator concerning the legislative authority of his committee. It has to do only with the regulatory authority of the FTC.

Mr. FORD. If we authorize them to go ahead under legislation, we probably could lose a year.

Mr. McCLURE. If, as a matter of fact, the Consumer Subcommittee of the Commerce Committee, the committee chaired by the Senator from Kentucky, came forward with legislation, and it was passed by Congress, it certainly would supersede the provisions of this amendment.

Mr. FORD. I doubt seriously that if we put in a provision for 2 years, and it becomes law——

Mr. McCLURE. That is a prohibition on the FTC. It is not a prohibition on the committee of the Senator from Kentucky.

Mr. FORD. It is a prohibition on the FTC, and we want to get them straightened out, or put them on the right track, or put them in the corridor. I think the Senator is precluding us. We have not had a chance to do it. We have the letters here.

Mr. McCLURE. I hope this is on the time of the Senator from Kentucky. I do not have much time remaining.

Mr. FORD. Neither of us has much time remaining, if we are going to vote at 7:30.

Mr. McCLURE. Mr. President, in the past few years, each of us in the Senate has become increasingly aware of the growth of Federal bureaucracy and governmental interference in the lives of the public, and the urgent need for congressional oversight of regulatory process. Nowhere in the vast realm of the Federal Government is the need for increased congressional scrutiny better illustrated than with respect to Federal Trade Commission.

Since 1975 the FTC, under the guise of its rulemaking authority which established as a result of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, has launched numerous investigations (over 25) aimed at promulgating trade regulation rules which go far beyond the intent of Congress, and extend the long arm of the Federal Government into areas that are, and have been, regulated by all the States of the Union.

As an example, I am particularly concerned with the FTC's efforts to develop trade regulation rules to determine who is, and who is not, qualified to render certain health-care services directly to the public. My State and all of the other States have statutes and regulations governing this matter—laws that were designed and enacted to assure quality health care, and not, as the FTC would have it, to stifle or impede competition. They were enacted to protect the health of the public. I, for one, do not believe that the FTC has the expertise in health, the omniscience, if you will, to decide for the respective States who has, and who does not have, the professional education and training necessary to provide high-quality health services to the public. But that is precisely what the FTC, the self-appointed agency of supreme knowledge in health, and in most other facets of life, is attempting to do, and vitiate the statutes of all of the States in the process.

I believe my State and all of the other States can get along very well without this kind of intrusion and interference. This is not my opinion alone. In response to the FTC regarding the FTC investigation of the dental services delivery systems, the Attorney General of Kansas said:

> It would appear to me that this is a matter which should be handled exclusively by the states without interference by the federal government. Your concern is appreciated but I believe that the states should be able to select which health care services it will allow on a direct service basis. I urge you to discontinue your activity in this area in the state of Kansas.

In connection with the same rulemaking proceeding another State Attorney General (Montana) told the FTC:

> I also disagree with the concept which the FTC is advocating by this Rule and others it is now proposing, that its regulations or rules supersede and in effect repeal conflicting state law. I personally do not believe this to be the intent of Congress in the granting of rule-making authority to your agency . . . I do not strenuously object to the federal government taking legislative action in areas of social concern when the states have failed or refused to act. I do, however, strongly object to such action when the states have already acted responsibly to resolve a problem in their own way as they have in this instance.

Mr. President, the kinds of activities referred to by these State attorneys general are examples of the extremely questionable, burdensome, and costly proceedings that would be held in abeyance by the amendment I am introducing with my colleagues from Montana and others, until Congress has had an opportunity to consider the entire problem in depth, and subsequently to confirm further that Congress in enacting the Magnuson-Moss Act did not intend to give the Commission in its rulemaking authority the unbridled power to override State laws, nor to preempt State regulatory agencies from carrying out their legitimate and traditional functions.

Since 1976, the FTC has continually, but unsuccessfully, sought in Congress, and advocated in the courts, questionable statutory jurisdiction over nonprofit professional associations by pursuing complaints under section 5 of its act against the American Dental Association, the American Medical Association, and various State and local nonprofit professional associations regarding ethical restrictions on advertising of professional services. These administrative law proceedings have been continued, and are continuing, despite the fact that all of these professional associations have conformed their ethical codes with the Supreme Court decision in Bates against Osteen, regarding lawyer advertising, to allow for the advertising of routine health-care services as long as it is not done in a false or deceptive manner.

In addition, the FTC has also developed and sent out detailed questionnaires to State bar associations seeking, presumably, as a matter of "idle curiosity" information regarding State regulation of the legal profession.

All of the FTC-imposed wisdom, however, raises a fundamental question about the Federal bureaucracy and its role in our system of government—is the FTC, by independently proposing and promulgating trade-regulation rules, in effect, making legislative policy decisions, is it acting within the scope of its congressional mandate, their jurisdictional authority, their expertise, and is it within the basic principles or our Government as embodied in our Constitution?

The answer that I, along with many of my colleagues, have is that the FTC, particularly in its rulemaking authority has not been acting within their congressional mandate, nor has it been functioning in an appropriate manner.

It is, as a result of these unauthorized regulatory incursions by the Commission, that, with respect to State-regulated professions, I, as well as many of my colleagues, including the distinguished Senator from Montana, are introducing an amendment which would temporarily suspend funding authority of the Commission for fiscal years 1980 and 1981 with respect to activities involving State-regulated professions, such as dentistry, medicine, law, veterinary medicine, and other health professions, which generally require as prerequisite to practice a graduate professional degree.

This proposed amendment has been limited in duration to a 2-year moratorium and narrowed in scope to cover only the dental, legal, medical, and other health professions and their respective nonprofit associations in response to numerous concerns raised by my colleagues.

In the first session of the 96th Congress, my honorable colleague from Kentucky and his Subcommittee on Consumers held extensive oversight hearings on the FTC, particularly its rulemaking authority under the Magnuson-Moss Warranty-FTC Improvement Act of 1975.

During those hearings, nearly all the participants, including representatives of American Medical Association and the American Dental Association, testified and/or submitted comments with respect to inappropriate FTC activities, particularly its rulemaking proceedings. As a result of those hearings, nearly all of the participants and members of the subcommittee concluded that the FTC's Magnuson-Moss rulemaking proceedings were not functioning properly.

It is our hope that this proposed amendment, with its 2-year moratorium on FTC regulatory efforts with respect to State-regulated professions, will provide sufficient time for the Congress to continue its oversight responsibilities by clarifying and more carefully delineating the jurisdiction and authority of the FTC, especially in regard to its rulemaking powers to override validly enacted State laws relating to the professions.

During the past several years, the FTC has spent millions of dollars developing proposed trade regulation rules relating to the professions, which are already being monitored by various governmental agencies at the State and Federal levels, and which would be of highly questionable benefit to consumers.

We believe it is time for Congress, the elected representatives of the American people, to call a temporary halt to this uncontrolled misallocation of public funds, and to begin to rectify these unnecessary and unauthorized acts of the FTC by which it is attempting to subsitute its "legislation" judgment for that of the respective States and Congress.

Several points have been raised to my amendment. In order to demonstrate how flimsy and frivolous they are, let me rebut them one by one.

The first is that my amendment would be inflationary and anticompetitive. To establish this point the opponents cite the FTC's "eyeglass rule," which they admit will be totally unaffected by my amendment. The question of whether members of professions will be definitely resolved by litigation currently underway.

Mr. President, in a case which would not be affected by our amendment—because it is in litigation—but which represents a classic example of the type of activity we are trying to address the Court of Appeals in the District of Columbia has just today sent the controversial opthalmic goods rulemaking back to the FTC, saying in effect: "You have gone too far."

Asking whether the rule is even necessary, Chief Judge McGowan writing the opinion for the Court said: "The FTC's proposed preemption of State law is almost as thorough as human ingenuity could make it." And in speaking of its "infringement on State's powers," the Court reprimanded the Commission for "* * * asking it to assume that despite recent decisions of the Supreme Court, States will act against the interests of their citizens and in defiance of the dictates of the Constitution."

Mr. President, this is not the result of any so-called "Special interests" acting against the public or consumer good. It is a case in which 17 State attorneys general joined the optometric and medical professions in protecting the patients and the citizens whom they represent.

But my amendment would have absolutely no effect on this litigation. Rather, what we are talking about here is a massive expansion in the FTC's jurisdiction over such questions as—and I cite from the FTC's own report—"widespread third-party payment," "specialization" in the medical profession, the impact of "technology" on the medical profession, "alternative delivery and financing (of health-care) systems," "public regulation of health personnel," "liscensure of health personnel," Federal "immigration policy," "hospital certification," hospital disclosure of mortality rates, "patient access to medical records," and "national health insurance."

The FTC, with no hint of statutory authority, is investigating all of these questions.

For what reason on earth does the FTC think it is more qualified to examine the question of national health insurance than the agencies with jurisdiction over that problem?

So, the advertising and competition issue is a red herring in this debate.

The second argument raised against my amendment is that it is a special-interest amendment, because it only exempts those professions requiring a graduate degree. Originally, my amendment covered all State-regulated professions. We were persuaded to narrow its scope because of what I believe to be unfounded criticisms that the amendment, as originally drafted, would cover bowling-lane operators, lightning-rod salesmen, and prostitutes. Now, these same critics contend my amendment is too narrow.

Any line which we could draw with respect to this amendment would invariably include some professions and exclude others. Our final formulation was intended to incorporate the suggestions of Senators with respect to the scope of the amendment, and to rebut unfounded criticisms.

The third criticism of my amendment is that "it legitimizes efforts by doctors that are clearly illegal." This is foolish. The Justice Department still retains its full jurisdiction to enforce Federal antitrust laws. State law and State enforcement still remain in place. Finally, State-adopted ethical codes prohibiting unethical activity still remain as grounds for disbarment.

The last attack is that no hearings have been held on this amendment. First, we pleaded for amendments—first in July, then in September. Second, the amendment is limited in time to 2 years. This is intended to retain the status quo sufficiently long that Senator Ford can hold his hearings and take action before any other FTC expenditures have been made on this subject.

Mr. President, the American Medical Association did appear before the committee of the Senator from Kentucky on September 18, and filed a statement. The American Dental Association was heard before that committee on October 4, 1979. I filed a statement with it on October 15, 1979. So this is not a matter totally of first impression.

In response to what the Senator from Ohio has said, with respect to the great virtue of protecting the consumer with respect to eyeglasses, the court of appeals, just today, threw that out. Chief Judge McGowan, of the court of appeals, in Washington, D.C., today made this comment, among others, in that decision:

> The FTC's proposed preemption of State law is almost as thorough as human ingenuity could make it.

In speaking of its infringement on States' powers, the court reprimanded the Commission for "asking it to assume that despite recent decisions of the Supreme Court, States will act against the interests of their citizens and in defiance of the dictates of the Constitution."

Mr. DURENBERGER. Mr. President, will the Senator yield for a question?

Mr. McCLURE. I yield.

Mr. DURENBERGER. I need a definition for the word "profession" in the amendment of the Senator from Idaho. In medical terms, would the term "profession" in the prohibition include, for example, the Idaho State Medical Association?

Mr. McCLURE. Yes; it would include that.

Mr. DURENBERGER. Would it include the Boise Medical Association?

Mr. McCLURE. Let me give the Senator a generic answer, rather than try to look at a particular one.

If the members of that professional organization all qualify individually, then I think the association of those members would qualify.

Mr. DURENBERGER. Would that include, for example, a group practice association and an individual practice association, a health maintenance organization, an association of doctors come together for the purpose of not advancing the standards?

Mr. McCLURE. It would not extend to the association. It would extend to the individual members, not to the HMO.

Mr. DURENBERGER. Would it apply to individual members of a profession?

Mr. McCLURE. Yes; it would.

Mr. DURENBERGER. There could be no investigation? There could be no investigation leading to rulemaking, no taking any action against any individual members of a profession?

Mr. McCLURE. If they meet the tests specified in the amendment, the Senator would be correct.

Mr. DURENBERGER. I thank the Senator.

Mr. McCLURE. Mr. President, it is for the reason that the members of these professions are already regulated under State law, as well as the rules of the professional organization itself; and we do not need, in my mind, another layer of regulation, particularly where nearly all these organizations are regulated under State law; and the FTC presumes, under this regulatory regime, to overrule State law by the regulations issued by the regulatory agency.

This cannot, and does not, have anything to do with any enforcement of existing Federal law by other Federal agencies, including the Department of Justice.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired.

The Senator from Kentucky has 2 minutes and 24 seconds.

Mr. FORD. Mr. President, in response to the question of the distinguished Senator from Minnesota, it just says that nothing is going to happen, nothing can be done against an individual, a group locally, a group statewide, as it relates to shutting off.

That is in keeping with the question I asked earlier, about coming in here after a hearing and we are able to put it down one, two, three—and we take care of the dentists, the doctors, the lawyers, the veterinarians, anybody who gets the postgraduate degree, they all will be excluded.

We cannot get to them for 2 years. We cannot even help them, if we want to.

We do not know what the Senator from Idaho is doing. We never discussed it. We never had it before the committee.

We always hear, "Let the committee system work. Let us pass the legislation."

I think it is about time we allow things to happen in the proper manner. The Senator from Idaho is getting things done for change. We have legislation on the Senate floor today, on which we will be voting on Friday, which does something that never has been done in the last 10 years. The Senator is on the right track. Do not overrun the rabbit and hang so much on this tree that it goes down. I beg him to back off and let us have an opportunity to do the job that people of our States sent us here to do.

Mr. JAVITS. Mr. President, I am opposed to this amendment, which would exempt the legal, medical, dental, or other profession subject to State licensing requirements, from any investigation or regulation by the Federal Trade Commission.

Mr. President, my reasons for opposing this amendment are twofold.

First, I oppose this amendment because I am a strong believer in the free enterprise system and in promotion of competition. This is not a case of overregulation by the FTC. Rather, it is a case of the FTC trying to reduce needless regulation at the State level—regulation that prohibits advertising, permits private price-fixing arrangements, and obstructs innovative methods of providing services.

Let me give a few examples of the kinds of restrictions I am talking about. Many States have laws or regulations that prohibit the advertising of eyeglasses. Eyeglass prices are 25 to 40 percent higher in these States than in States that permit advertising. Similarly, many States prohibit pharmacists from substituting lower cost generic drugs for equivalent higher cost prescription drugs. New York has a pioneer law in this area that permits dispensing of the lower cost generics, but many States have not followed suit. It is estimated that this restriction alone costs consumers in excess of $340,000,000 per year. It seems to me that if we want to talk about ending overregulation, we should be concerned about State laws that permit this to happen. Yet this amendment would bar the FTC from even investigating whether a professional group has shielded itself from competition by erecting barriers to free market competition.

Second, and this is a fundamental point for me, I believe that the Federal Government must always have the residual power to protect its citizens when the States fail to act. This is the lesson we have learned in years of struggle over civil rights legislation, and it applies here too. Simply because a profession is licensed by a State in no way guarantees that the State will actively protect consumers from abuse.

This is an appropriate role for the Federal Government to play to protect consumers. I recognize that the States have an important role to play as well. I expect the FTC's authority to be used sparingly and for good cause. But to provide, as this amendment does, that once a profession is licensed by the State it is exempt from Federal protection of consumers even if needed, goes too far.

● Mr. INOUYE. Mr. President, I would like to express my opposition to the McClure-Melcher amendment to exempt the legal and medical professions from regulation by the Federal Trade Commission.

This bill to authorize funds for the Federal Trade Commission was the subject of 8 days of hearings with more than 50 witnesses before the Committee on Commerce, Science, and Transportation. It has received more intensive scrutiny than any similar independent agency authorizing legislation in recent memory.

The criticism of the FTC has been so sweeping and, in many cases, so unfair, that rational debate about the issues raised by the nature of the Commission's mandate, policies, and procedures has become difficult.

The FTC was established by Congress in 1914, and given the responsibility for insuring that the marketplace is not distorted by anticompetitive or unfair or deceptive practices. Notwithstanding some differences with the Commission and its Chairman, I believe that the FTC is doing a good job under difficult circumstances.

Not every activity, program or procedure engaged in by the Commission has been beneficial or effective. The committee has recognized this fact and has fashioned an effective, responsive measure to deal with the genuine problems. Moreover, under section 22 of this bill the Consumer Subcommittee will hold oversight hearings once every 6 months. Issues which may not receive adequate attention can be dealt with during these hearings. Continuing oversight will be a far more effective means of controlling FTC excesses than any amendment to delete further the Commission's authority.

Economic interests which have suffered from the legitimate attempts of the Commission to encourage greater competition and equity have rushed to destroy the benefits which the public now enjoys because of the Commission.

Although the amendment under consideration now is well motivated, I believe that its effect will be to protect special interest groups, and, therefore, I shall oppose it.

A careful examination of the merits of this amendment show that it will have a chilling effect on competition if approved. It has long been established that professional associations and their members have occasionally operated in ways which are clearly anticompetitive, for example, through boycotts, price fixing, and monopolization, even if such activities are disguised through "codes of ethics" or "professional rules". When these instances occur, they should be treated as any other violation of the antitrust laws.

Second, this argument is not a debate about States rights. Although it is true that all States have regulatory schemes for the legal and medical professions, it does not follow that these professions are in fact effectively regulated. It has been found that some State regulators have conspired with professional associations to violate the antitrust laws.

Third, this amendment is not being supported by the entire legal or medical professions. For example, the American Nurses Association, American Psychological Association, the National Association of Social Workers, and the National Association of the Deans of the Schools of Public Health oppose this amendment.

Finally, and most important, the activities of the FTC to encourage more competition by professionals have already yielded significant economic and social benefits. There is substantial evidence to show that price rises for eyeglasses and contact lenses have slowed and may have even dropped because of the promulgation of the eyeglasses rule. Moreover, lower cost legal assistance is now available to the public thanks to the efforts of the FTC to encourage advertising.

I recently asked Chairman Mike Pertschuk to provide me with a list of activities of the Commission in the health care area. I shall submit for the RECORD his letter to me, a statement on professional deregulation, and an article from the Legal Times of Washington.

Evidence is overwhelming that the FTC's activities to end anticompetitive practices in the medical professions have benefited the public. I urge that any amendment to remove them from FTC regulation be defeated.

The material follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., December 21, 1979.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR INOUYE: We very much appreciate the opportunity to respond to your letter requesting our views on Senator McClure's proposed amendment to the Commission's authorization bill (Amendment No. 523 to S. 1020). This proposal would eliminate the authority of the Federal Trade Commission to conduct investigations, initiate lawsuits, or propose trade regulation rules addressing conduct in the medical, legal, dental and other state-regulated professions. The amendment would also forbid FTC action against state and national professional associations, such as the American Medical Association and the American Bar Association.

Although the stated purpose of the McClure amendment is to limit the Commission's authority to override state law, the amendment would create an unprecedented exemption for the professions from FTC enforcement of the antitrust and consumer protection laws. We are especially concerned about the impact of this proposal on our initiatives in the health care sector. The amendment would wipe out all of these Commission activities and would even preclude the Commission from enforcing existing orders against restraints on competition in the delivery of health services.

As far-reaching as its effects are on health care matters, the McClure amendment goes much further. On average there are over one hundred occupations which are licensed within each state and which may be considered professions within the meaning of the amendment. Thus, the broad coverage of the McClure amendment threatens to remove much of the service sector of our economy from FTC scrutiny. Such a legislative action would carry potentially grave consequences. The FTC would be precluded within each state and which may be conduct by licensed professionals, including price-fixing, boycotts, consumer fraud, and false advertising. The amendment would prevent the Commission from investigating and reporting to Congress, state governments, and the public on the costs and benefits of both new legislative proposals and various existing governmental restrictions on the delivery of professional services. Finally, the amendment would prevent the Commission from challenging state-imposed restrictions in discrete instances where the evidentiary record shows that their costs to consumers clearly outweigh their benefits.

As you know, the FTC's congressional mandate is to eliminate abuses of market power and enhance the role of competition and the informed consumer as regulators of the marketplace. The mandate embodies a determination that the market mechanism must not be distorted by those who would prefer to control markets to their own end, whether under the protective umbrella of government regulations or by private regulation through price-fixing, collusion, or other anticompetitive restraints. In these times of intense inflationary pressures it is even more important that competitive prices prevail, particularly in the provision of costly professional services.

In accordance with your expressed interest, we have focused upon the McClure amendment's impact on the Commission's health care initiatives. The cost of health care has risen precipitously in recent years. In our initiatives in this area we have sought to improve competition and consumer information, thereby enabling the market to provide the best care at the lowest price. Below we describe some of the recently completed initiatives and current matters that would be eliminated if the McClure amendment were enacted.

1. Recent Health Care Initiatives:

In several recently completed initiatives the Commission has sought to lift restrictions from the market in order to provide consumers with truthful health care information and to prevent illegal boycotts. These sorts of initiatives will be terminated if the McClure Amendment is enacted.

In our recently completed adjudicative proceeding against the American Medical Association, the Commission found that the AMA had imposed illegal restrictions on truthful advertising and solicitation of patients by physicians and medical organizations. The Commission also found that the AMA had illegally sought to restrain physicians from working on a salaried basis for hospitals and health maintenance organizations. ("HMO's" are prepaid health plans whose development is encouraged by the Health Maintenance Organization Act of 1973.) The Commission ordered the AMA to stop imposing such restrictions. Our order expressly provides that the AMA may adopt and enforce reasonable ethical guidelines to prevent false and deceptive advertising and certain forms of solicitation of patients.

The decision is not novel—it is firmly grounded in antitrust precedent dealing with the professions—but it is important because it can be expected to produce a better and less expensive health care system. Physicians and HMO's will be able to provide consumers with truthful information about the services they offer, and hospitals and HMO's will be able to seek to hold down costs by employing salaried physicians.

Recently, the Commission issued its "Eyeglasses Rule" that permits—but does not require—truthful advertising of price information concerning eyeglasses and eye examinations. The lifting of the ban on truthful advertising by professionals increases information and enables consumers to engage in "comparison shopping." The benefits of the Commission's action are reflected in price data for the vision care market following issuance of the Eyeglasses Rule. Since the adoption of the rule the Consumer Price Index for eyeglasses has increased only 4.3 percent, compared to 9.1 percent for all goods and services and over 13 percent for medical care generally. While it is impossible to determine the precise amount of this difference attributable to the Eyeglasses Rule, the data are consistent with the anti-inflationary result we sought. Indeed, industry analysts believe that intensified competition resulting from the FTC rule may have already contributed to substantial price decreases for items such as soft contact lenses. Like all such Commission decisions, the AMA case and the Eyeglasses Rule are subject to appeal to the United States Courts of Appeal, and both these matters are currently on appeal.

Finally, the Commission has issued several consent orders prohibiting groups of doctors and dentists from engaging in group boycotts. Two such orders prohibit medical organizations from boycotting or otherwise discriminating against HMO's, which in many cases may be able to provide consumers with high quality medical care at lower costs than more traditional forms of health care delivery. The Commission's staff is currently pursuing additional allegations that HMO's are being boycotted. Another consent order prevents dental associations from obstructing cost-containment measures instituted by insurers.

2. Current Commission Initiatives:

Set forth below is a list of some of the ongoing health care matters that would be terminated by the McClure amendment. With regard to these initiatives, the Commission has made no final determination as to staff's recommendations or analyses.

1. The Commission recently filed a complaint against the Michigan State Medical Society. The complaint alleges that the Society's members conspired to fix prices and to boycott cost-containment procedures instituted by the Michigan Blue Shield plan and the Michigan Medicaid program.

2. In October 1978, the Commission filed a complaint against the Indiana Federation of Dentists. The complaint alleges that the Federation induced its members not to cooperate with health insurers' cost-containment programs.

3. The Commission's Bureau of Competition staff recently released a study which indicates that medically controlled Blue Shield plans have served to increase physicians' fees and exclude or discriminate against non-physician providers of health care, such as psychologists. A second staff study, by the Commission's Bureau of Economics, indicates that Blue Shield plans which are controlled by medical societies have 16% higher reimbursement rates than other Blue Shield plans. The staff has recommended that the Commission consider this matter further in a rulemaking proceeding.

4. Commission staff is currently examining state commercial restrictions on the provision of eye care to determine the effect on quality and cost. Such restrictions prevent licensed optometrists from working for a non-professional corporation, from locating a practice in a high-traffic location (such as a department store), and from practicing under a trade name.

5. Commission staff is examining specific state restrictions on the fitting of contact lenses by opticians to determine whether the presence of opticians in the contact lens market may reduce prices without compromising the quality of care.

6. Commission staff is examining commercial restrictions on the form and location of dental practices, such as the employment of dentists by non-professional corporations and limitations on the permissible number of branch offices. The goal of this investigation is to determine whether they raise the prices of these services.

7. Commission staff is examining state restrictions on the fitting of dentures by denturists, technicians who are trained to perform this service. Staff has noted that denturists are permitted to perform this service in other countries, including Canada. Accordingly, staff is designing a study in conjunction with the American Dental Association and Canadian Denturist Association to assess the comparative cost and quality of dentures fitted by Canadian dentists, Canadian denturists, and American dentists. Reliable data from studies such as this will enable the Commission and the states to determine whether current restrictions in the denture market serve the public interest.

The McClure amendment, of course, would exempt not only the health professions, but all the state-regulated professions, from FTC law enforcement, as we noted above. The amendment would, for example, terminate an ongoing Commission investigation of alleged commercial restrictions upon the provision of low-cost legal services.

We appreciate this opportunity to comment on this important legislative matter. If we can be of further assistance to you or your staff, please do not hestitate to call upon us.

By direction of the Commission.

MICHAEL PERTSCHUK,
Chairman.

PROFESSIONAL DEREGULATION AND THE FTC

While much regulation of the markets for professional services is justified as necessary to assure quality of service, some of it is unnecessary. Typically, competition in the professions is restricted in two ways: private agreements and state regulation. The FTC has sought to reduce private and public restrictions on competition only where there is no substantial concern that quality of care will be affected. Unjustifiable competitive restrictions reduce the availability and inflate the price of professional services.

1. Almost all the economists who have studied the problem have concluded that some types of professional regulation unduly restrict competition and raise prices.

Before an individual may enter a licensed profession, a license to practice must be obtained from the state licensing board. The boards, which are usually comprised of practicing members of the profession, may use licensing restrictions to limit arbitrarily the number of professionals. These arbitrary limitations result in higher prices for professional services and restrict the availability of these services to consumers. Nearly all the studies that have been conducted to date conclude that occupational licensing may unduly restrict competition and raise prices to consumers.[1]

2. Health services is a major market where costs are needlessly increased by some occupational regulation.

A number of economic studies which have focused on health services have indicated that consumers pay substantially higher prices due to certain restrictions which interfere with the free market for health care.

a. In 1945 Milton Friedman and Simon Kuznets identified licensing restrictions as the source of higher prices for medical services and higher incomes for medical doctors.[2]

b. A 1975 economic study revealed that eyeglasses prices were 33 percent higher in states that had certain anticompetitive regulations than in states that did not have such restrictions.[3]

c. A 1978 economic study suggests that the annual cost of licensing restrictions in dentistry may be as high as $700 million.[4]

3. Restrictions on advertising reduce price competition among professions.

State regulatory boards and professional associations often do not allow professionals to advertise in media such as newspapers, radio and television. They may also limit the content of any advertising messages. Restrictions on advertising make it more difficult for consumers to choose lower cost services. For example, restrictions on advertising by lawyers may frustrate the establishment of large scale legal clinics. Some of the clinics that are currently operating charge well under 50 percent of the price charged by traditional law firms.[5]

4. The FTC has helped reduce the cost of professional services.

In the past few years, the FTC has taken several steps to eliminate barriers to competition in the markets for professional services:

a. In 1978 the Eyeglasses Rule became effective. The rule permits truthful advertising of eye examinations and eyeglasses. The results of this Commission initiative appear to have been dramatic:

(i) The rule may have had a significant effect on the prices for eyeglasses. During the first year that the rule was effective the consumer price index for all goods and services increased by 9.2 percent. However, the consumer price index for eyeglasses increased only 4.3 percent.[6]

(ii) The rule may have been a factor in the growth of retail ophthalmic chains, which are now aggressively moving into the market for eyeglasses and are competing in price. These chains already account for more than 25 percent of all prescription eyeglasses sold.[7]

(iii) Business Week magazine has reported that the FTC Rule has intensified competition in the soft contact lens market. This completion has resulted in lower prices for soft lenses.[8]

The FTC is continuing its investigation into restrictions which prohibit lower cost forms of eye care delivery.

b. The FTC is conducting an investigation of Blue Shield Plans which are controlled by physicans. The nonprofit Blue Shield insurance plans offer an opoprtunity for physicians to limit competition among themselves by participating in the establishment of the reimbursement schedules used by the insurance plan. In 1977, 43 percent of all Blue Shield enrollees were covered by plans in which physicans comprised 50 percent or more of the board. A recently released economics study by the FTC staff found that where local medical societies nominated, elected, or approved at least one board member, maximum reimbursement rates or fees were 16 percent higher than for plans which were not under the control of physicians.

c. The FTC is engaged in an investigation of the dental profession. The focus of this investigation is a number of restrictions which prohibit dentists from working for nondentists. The effect of these restrictions may be to increase prices without providing significant improvements in the quality of dental care.

d. The FTC is conducting an investigation of restrictions which impede the growth of legal clinics and third-party closed panel

---

Footnotes at end of article.

legal service plans. The effect of these restrictions may be to stifle innovation in the delivery of legal services and reduce access to legal services for the lower-income segment of our population.

e. The FTC has ordered the American Medical Association to stop imposing restrictions on advertising by physicians. Lifting these bans will allow doctors to provide reliable information to consumers about the services they provide and should result in lower costs for medical care. Under the FTC order the AMA remains free to regulate deceptive advertising by physicians.

FOOTNOTES

[1] Milton Friedman, *Capitalism and Freedom* (1962); Reuben A. Kessel, "Price Discrimination in Medicine," 1 *J. Law & Econ.* 20 (1958); "The AMA and the Supply of Physicians," 35 *Law & Contemp. Prob.* 267 (1970); Alex Maurizi, "Occupational Licensing and the Public Interest," 82 *J. Pol. Econ.* 399 (1974); Rashi Fein & Gerald I. Weber, *Financing Medical Education* (1971); Frank A. Sloan, "Lifetime Earnings and Physicians' Choice of Speciality," 24 *Indus. & Lab. Rel. Rev.* 47 (1970); John F. Cady, *Restricted Advertising and Competition* (Am. Enterprise Inst. 1976); and Lee Benham, "The Effect of Advertising on the Price of Eyeglasses," 15 *J. Law & Econ.* 337 (1972).

[2] Milton Friedman and Simon Kuznets, *Income for Independent Professional Practice* (National Bureau of Econ. Res. 1945).

[3] Lee and Alexandra Benham, "Regulations Through the Professions: A Perspective on Information Control," *J. Law & Econ.* Oct. 1975.

[4] Lawrence Shepard, "Licensing Restrictions and the Cost of Dental Care," *J. Law & Econ.* April 1978.

[5] Timonthy J. Muris and Fred S. McChesney, "Advertising, Consumer Welfare and the Quality of Legal Services: The Case of the Legal Clinics" University of Miami School of Law Working Paper, 1978.

[6] U.S. Department of Labor, Bureau of Labor Statistics, CPI Detailed Report, July 1979.

[7] "Fashion Fuels the Eyeglass Business" *N.Y. Times*, July 25, 1979.

[8] "Hard New Competition in Soft Contact Lenses" *Business Week*, Nov. 5, 1979.

FTC Assault: A Modern-Day Roman Circus

(By Joe Sims and Tom D. Smith)

During the decade of the '70s, one of the most popular art forms was the disaster movie. "Airport" and its progeny—"Earthquake," "Towering Inferno"—there seemed to be a never-ending stream of disasters, each one more horrible, and all leaving the moviegoer shocked, thrilled, and enormously relieved that it had happened to somebody else.

Well, the disaster epic is still with us. In fact, one is being put together right here in Washington. Some (mostly Federal Trade Commission regulators) think this disaster saga should be called "Legislature," but a more descriptive title is "Avalanche." The FTC, which sits at the base of Capitol Hill, is being inundated, and not with mere snow. Instead, this is something called "regulatory reform," although not even a thesaurus will help you understand that particular semantic wiggle.

In a word, the FTC is being manhandled. Of course, there is always tension between Congress and the "independent" agencies. People in Congress seem to think the agencies were created to do what people in Congress tell them to do, and thus have absolutely no qualms about telling agencies what to do.

People in the "independent" agencies sometimes think they have a responsibility to make up their own minds—to act independently, if you will—within the framework of the legislative directives and mandates issued by the Congress. The bridges between these two competing notions are called oversight and appropriation, and sometimes they even work.

Many times, however, "independent" agencies—which after all are frequently formed because Congress wanted to defer and delegate rather than decide—develop "independent" constituencies and these "special interest groups" are able through the exercise and threatened exercise of political power to partially insulate the agencies from direct Congressional influence. This forces Congressmen to pass new laws if they want things changed.

Since passing new laws is very difficult, Congress frequently settles for more oversight hearings, at which people in Congress get to yell at people from the agencies. Sometimes this helps, but frequently it just adds to the frustration.

ZEROING IN

What is happening to the FTC is that all this frustration and impotence is being focused on an agency that, because of the breadth of its mission and a rather consistent pattern of ignoring good public relations and sometimes even common sense, has no constituency—no single "special interest group"—to insulate and protect it.

The result, which might have been predictable but is nonetheless depressing, is that the Congress has declared open war and instituted what can only be described as a "silly season" of attacks on the Commission. There are occasional momentary (one almost thinks accidental) lapses into substantive discussions of the merits of particular issues. But generally what we are seeing is a modern version of the Roman circus, with the FTC the losing gladiator and the members of Congress the audience, all screaming for blood and holding thumbs down.

It is particularly disappointing to watch all this being done in the name of regulatory reform, and there must be a strong taste of irony in the mouth of many at the FTC. That agency, under its Republican Chairman Lew Engman, was one of the early and strongest advocates of regulatory reform and can properly claim some credit for helping that particular bandwagon get rolling. Engman's successors, Republican Cal Collier and Democrat Mike Pertschuck, continued the FTC's strong advocacy for regulatory reform, and the FTC has generally been a positive voice in that effort.

Now this hard-won currency is being badly debased to justify a variety of initiatives designed to limit the FTC's power, some of which only politicians and lobbyists could advocate with a straight face.

It is also disappointing to see all this energy and enthusiasm misused and misfocused and ultimately wasted in a barrage of single-purpose, single-interest attacks on the FTC. There are some legitimate issues of FTC practice and jurisdiction that truly should be debated under a regulatory reform rubric.

Do we need two federal antitrust agencies? If we do, should they have overlapping authority? Can you effectively run what purports to be a law enforcement program through the administrative process, with the same agency (albeit different components) acting as prosecutor, judge and jury? If you do want to retain an administrative agency in the competition policy area, should that agency also have consumer protection responsibility, given the frequent and perhaps inherent differences in approach in the two areas?

TOO COMPLICATED?

These and other issues, including a raft of procedural issues, are not only interesting, they are also important. Some have been raised, like the proposals to improve confidentiality standards and limitations on subpoena power, both of which are long overdue. The proposals on ex parte contracts and the use of advance notice of rulemaking, and the separation of presiding officers from the rest of the agency are all worth discussing. These issues clearly point out that the problems today are different than they were in 1914.

Of course, to decide whether we really want an FTC today, and if so, what kind of FTC, Congress would have to decide what its antitrust priorities are today, and that would be a useful thing indeed. Unfortunately, nobody wants to take this approach, which is a little more complicated than simply exempting funeral directors or used car dealers from FTC attack.

Perhaps the best example of how silly things have gotten is the proposal by Senator McClure to remove from the FTC's jurisdiction the activities of the legal, dental, medical or other state-regulated "professions" or "its state or national professional associations."

The proposal is, quite simply, indefensible. If there is any fact that has been established beyond any doubt (reasonable or otherwise) in the last decade, it is that professional associations of lawyers, doctors, dentists, accountants, architects and other "professionals" have frequently been vehicles for egregious anticompetitive activities—boycotts, price fixing and attempts to monopolize, just to mention a few.

As far back as 1943, the AMA was convicted of a criminal antitrust violation (meaning a willful, hard-core violation) for conspiring to try to destroy an early HMO-type delivery system. In the *Bates* case, the Supreme Court held that the absolute ban on advertising found in the ABA Code of Professional Responsibility and most state association codes was unconstitutional.

Just last year, the Supreme Court held that an "ethical" rule of the National Society of Professional Engineers prohibiting competitive bidding by engineers was illegal under the antitrust laws. The list could go on for quite a while, but the point should be clear to all.

Perhaps as importantly, in many states and many professions, state regulation of the "professions" has been a sham and a fraud—nothing more than a delegation to the "regulated" profession of state power to enforce its frequently monopolistic regulatory dictates. For example, the Texas State Board of Public Accountancy was itself held to have illegally conspired with licensed accountants to violate the antitrust laws by adopting and enforcing a rule prohibiting competitive bidding by accountants in Texas.

It should be abundantly clear to anyone that the mere presence of a state regulatory scheme is hardly any proof that the public interest is being protected or even served. In fact, in many cases, the state has been a cooperative joint venturer in the anticompetitive conduct, even going so far as to adopt unauthorized practice or scope of practice statutes, the monopoly border guards of the professions, that are punishable by criminal sanctions.

And, if anyone really thinks state licensing really ensures quality, take note of the fact that between 1970 and 1975, only six doctors in the whole 50 states were disciplined for professional incompetence; the other professions do little better.

IT'S A FACT

Obviously, most activities of professional associations are perfectly legal and useful. Professional organizations perform many valuable services.

But like business organizations, trade associations, or even just plain people, most of whose activities are positive or at worst neutral, professional associations can and do violate the antitrust laws and act anticompetitively. The references above, and 40 or 50 other examples that could easily be listed, clearly make that point. And the reader will notice that none of the cases cited above involved the FTC. The problem of anticompetitive activities by professionals and their associations is not an invention of the FTC—it is a fact.

The McClure Amendment is at best misguided. Despite this record of problems, it would remove one of the limited sources of solutions from the process. Of course, as drafted, it would arguably apply not only to doctors and lawyers, but also to circus exhibitors, bowling alley operators, lightning rod salesmen and well drillers, who are among the 500 different "professions" supposedly regulated by one or more states.

Today, some 2800 laws require about one-quarter of the work force to be licensed (i.e., "regulated"). Presumably the sponsors of the McClure Amendment weren't aware of this, but given the already broad scope of the amendment as drafted, it might be simpler (and it certainly would make more sense) to just exempt everyone from FTC jurisdiction. At least that would result in relative equity.

More seriously (although but for the strange circumstances it would be difficult to take this seriously), to remove the FTC from this field would lend sad support to the cynics who believe the Congress can't spell public interest, much less watch over it. The FTC's actions in the professional area have, with only a few exceptions, been relatively careful, and generally very much in the public interest. The recent AMA case is a good example.

After a thorough investigation and hearing, the FTC decided that the AMA (although technically non-profit and thus arguably exempt) was subject to its jurisdiction since its actions were intended to benefit its members (a decision that seems impossible to argue with unless you're a lawyer for the AMA). It then determined that the AMA's "ethical" rules limiting advertising and solicitation were illegal under the antitrust laws (hardly a surprising conclusion given the Supreme Court's decisions in Bates and NSPE), and then went out of its way to make clear that the AMA could, legally and properly, formulate ethical guidelines designed to prevent false and deceptive advertising or direct solicitation of patients vulnerable to undue influence.

In short, the FTC decided what any court could and should have decided, and it rewrote the AMA's ethical code the way the AMA should have rewritten it years ago.

Although the AMA case and a recent action against the American Dental Association (also involving ethical restrictions on advertising and solicitation) are supposedly providing the impetus for the McClure Amendment, it is difficult to see why anyone outside the AMA and ADA should be upset with the result in those cases, not to mention so concerned as to hark back to the Great Depression and begin enacting wholesale exemptions that consumers will pay for in higher costs.

Unhappiness of the involved groups hardly seems cause for the United States Senate to rise up in anger. But such is the weakness of the FTC today that even what should be an embarrassing effort like this seems to be taken seriously.

Can there be any doubt that the vast majority of the constituents of every Senator will suffer if this amendment were ever adopted? The notion that the professions should have a blanket exemption from the antitrust laws was decisively rejected in Goldfarb, Bates and NSPE. This seems especially important in the advertising area, where the constitutional right of professionals to advertise has only just been recognized.

But even more generally, the only true lesson of the adoption of the McClure Amendment would be to lump the doctors and dentists in with the funeral directors, used car dealers, local bottlers and small banks as special interest groups that have succeeded in getting the Congress to place their parochial interests above the public interest.

Despite the common perception, this is a relatively small club, but it looks as if it may grow fast. That's too bad, since every new addition is another nail in the coffin of a truly competitive economy. One would think the Congress would be very uncomfortable with replacing government regulation with cartel regulation—after all, that's not what most people had in mind when they called for regulatory reform.

Last week's action throwing out the equally silly attempt to take divestiture authority from the FTC gives hope, however. Maybe the avalance will stop before the whole FTC—the good and the bad—is buried in anticompetitive legislation.

ALLEGED TRADE PRACTICES WHICH WOULD BE PROTECTED BY THE McCLURE AMENDMENT

Under the McClure amendment to the FTC authorizing legislation, the FTC would be precluded from investigating a wide range of alleged trade practices by which state-regulated professions restrict competition. The types of practices which the FTC would be precluded from investigating include:

The use of trade name or advertising restrictions to limit the viability of legal clinics.

Threats by a group of fee-for-service doctors to withdraw emergency room services if a hospital pays a salary to a physician.

The closing of a program sponsored by a non-profit hospital to provide low-cost preventative heart disease services after a medical society claimed that publicity for the program was advertising and therefore unethical.

Boycotts of third-party payers by medical and dental societies opposed to the insurers' cost-containment programs.

Boycotts by physician groups of prepaid health plans such as those encouraged by the Health Maintenance Organization Act of 1973.

Control exercised by the medical profession over some Blue Shield and other prepayment plans to increase physicians' fees and to boycott or discriminate against non-physician health care providers such as psychologists.

Medical society action to prevent a clinic which offered a program to prevent and treat industrial accidents from making its services known to employers.

Denial of medical malpractice insurance to physicians employed by a health maintenance organization on the grounds that it is unethical for a physician to work for a fixed salary.

Reprisals against physicians who work with non-physician providers of health care, such as nurse midwives.

State Board regulations limiting technicians from providing medical and dental care services directly to patients.

Veterinary codes of ethics which prohibit a veterinarian from providing a client with prescriptions for animal drugs. This practice forces consumers to obtain drugs from the veterinarian rather than from a pharmacy; many animal drugs are the same as human drugs.

Mr. LEVIN. Mr. President, I oppose this amendment. I do so because the Senate has earlier today adopted a practical procedure which allows the Congress to examine rules before they go into effect, and if they wish, to veto those regulations and prevent them from ever being in force.

I have a number of concerns about the FTC's involvement in regulating the professions. But I believe that the time to make a decision about the wisdom of that involvement comes after we have had an opportunity to examine any rules FTC might promulgate.

With the protection afforded us by the Levin-Boren amendment, we now have the practical power to prevent FTC from acting in any area we wish, without attempting to predetermine whether the FTC is intending to act in that area.

Mr. FORD. The Senator from Idaho has used all his time, and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. Has everyone in the Chamber wishing to vote voted?

The result was announced—yeas 45, nays 47, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—45

Armstrong
Bayh
Boren
Boschwitz
Bumpers
Byrd, Harry F., Jr.
Cochran
DeConcini
Dole
Domenici
Durenberger
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jepsen
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Morgan
Nunn
Pressler
Pryor
Randolph
Roth
Sasser
Schmitt
Simpson
Stafford
Stevens
Stewart
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—47

Baucus
Bellmon
Bentsen
Biden
Bradley
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
Danforth
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Heinz
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Ribicoff
Riegle
Sarbanes
Schweiker
Stevenson
Stone
Tsongas
Weicker
Williams

NOT VOTING—8

Baker
Burdick
Hatfield
Johnston
Kennedy
McGovern
Stennis
Young

So Mr. McCLURE's amendment (No. 1648) was rejected.

Mr. FORD. Mr. President, I move to

reconsider the vote by which the amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 963, AS MODIFIED

(Subsequently numbered amendment No. 1659)

(Purpose: Technical and conforming amendment to Amendment Number 673)

Mr. SIMPSON. Mr. President, I send an unprinted amendment to the desk. This is a technical and conforming amendment to my previous amendment No. 673, and I request that it be read in full.

The PRESIDING OFFICER. The clerk will report.

Mr. GOLDWATER. Mr. President, will the Senator yield for a very short observation?

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. The Senator has yielded to me.

The PRESIDING OFFICER. The Senator from Wyoming has no time until the amendment is reported.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes an unprinted amendment numbered 963.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

From page 1, line 1 of amendment 673 strike "Section 10(a)" and insert "Section 12(a)".

From page 1, line 2 of amendment 673, strike "page 11, line 20" and insert "page 50, line 11".

From page 1, line 3 of amendment 673, strike "page 11, line 24" and insert "page 50, line 15".

From page 1, line 5 of amendment 673, strike "page 12, line 1" and insert "page 50, line 16".

On page 2, line 8, of amendment 673, after the words "shall be" insert the words "eligible to".

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may modify the amendment that I had sent to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

Section 12(a) of the bill is amended by striking $50,000 from page 50, line 11, and inserting in lieu thereof "$5,000"; and by striking $50,000 from page 50, line 15, and inserting in lieu thereof "$15,000".

2. Renumber page 50, line 16, as section 18(h)(8), and insert the following new sections:

"(4) No group, or representative thereof, shall receive compensation, pursuant to section 18(h)(3), if it has a membership exceeding one thousand persons, or if it has annual revenues from dues, contributions, grants, or other sources, exceeding $25,000 annually.

"(5) No group, or representative thereof, shall be eligible to receive compensation pursuant to section 18(h)(3), unless it has a membership of at least two hundred and fifty persons, each of whom pays annual dues of at least $10.

"(6) No person appearing before the Commission in an individual capacity shall be eligible to receive compensation in excess of $100 plus the per diem and mileage allowance paid to employees of the Federal Government. No person receiving compensation pursuant to this section shall be eligible to receive compensation in excess of $750 during any calendar year.

"(7) No person who was a permanent employee of the Commission, nor a law firm which compensates that person, shall be eligible to receive any funds pursuant to section 18(h)(3), for a period of one year after the termination of that person's employment by the Commission.

Mr. SIMPSON. Mr. President, at this time I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, will the Senator yield to me?

Mr. SIMPSON. Mr. President, having laid the amendment before the body, I will reserve my remarks until the time when this amendment will be taken up in accordance with the majority leader's request for the consideration of amendments on tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no time charged against the amendment tonight, and if there are no amendments that can be accepted by voice vote that the Senate now transact morning business for not to exceed 30 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AMERICAN PEOPLE ARE FED UP WITH GOVERNMENT REGULATION

Mr. GOLDWATER. Mr. President, I do not want to detain the Senate, but I feel I should make a comment to the point that the American people are fed up, completely fed up, with Government regulation.

The President ran on that platform of cutting down Federal regulations, and tonight we watched two straight amendments that would give this body some control over these stupid regulations defeated.

Now either we are not listening to our constituents or we are not listening to the man in the White House. Mr. President, if we are ever going to reduce the burden of Federal regulations upon the business and professional people of this country, it has to come through this body, and I suggest that we go home tonight and think long and hard about the kind of muscle that may be being used upon this body to cause us to turn down controls or some indication to the regulatory bodies that we are sick and tired of what they are doing. Otherwise we might as well quit and just admit that this country is now being governed by bureaucratic agencies nobody has elected, that we have appointed.

The junior Senator from Texas has never seen a coat before that does not have manure on it. It is clean. I will put it on and I will leave. I have said what I have to say. [Laughter.]

Mr. METZENBAUM. Mr. President, in response to my good friend, the distinguished Senator from Arizona, I would just note that he and some of my other distinguished colleagues seem to believe the American public does not need and does not want the kind of regulation the FTC is concerned with. I must say, in all due respect, I wonder whether a legislator who holds that belief is really in touch with his constituents as closely as he thinks he is.

I have some very fresh and compelling evidence that the ordinary citizens of this country are in fact very much in support of what the FTC is doing and proposing to do.

Two weeks ago, the FTC's Chairman Pertschuk appeared on the "Phil Donahue Show." This is a very popular TV show, in which a guest is subjected to questions by the host, Mr. Donahue, as well as a live audience and phone-in callers. Mr. Pertschuk was interrogated about regulation in general, and about his agency's activities in the areas of life insurance, funerals, children's advertising, and others. Viewers were told to send in letters indicating their reaction.

So far the show has only been aired in a fraction of the cities it is ultimately scheduled for. Yet already dozens of letters have been written—and, you may be surprised to hear, the letters are overwhelmingly favorable about the FTC.

They come from places as diverse as Kentucky, Michigan, Louisiana, Texas, and New Hampshire, and cover a range of consumer concerns. But the common theme is—and I am quoting from a letter:

I don't mind the tax money that goes to pay your (that's Chairman Pertschuk's) salary (and that's saying a lot.)

Here are some of the other comments, and I understand they are representative of the flow of mail as a whole.

The FTC is doing a fine job. I hope you and the Commission dismiss thoughts that you are not needed.

I am glad that we have the FTC as the 'cop on the beat' to keep advertisers on their toes and false claims down.

It really makes me feel good that my government really is looking out for my own welfare.

I listened to the end [of the show] and experienced a great feeling of relief to know Uncle Sam has been looking out for our interests.

I approve and greatly support your efforts in giving truthful information to the public.

We need you. The anti-government onslaught is hazardous for the U.S.

I am glad the FTC is working for the people of this country—for our interests not for the interests of big business. Without an agency of this sort to protect our interests it would be "no holds barred" as far as big businesses are concerned. (They could lie, cheat and fix prices all they wanted in order to make as much as they could for each individual—as they were doing before FTC was organized).

I believe my tax dollars are spent wisely by my government when they are spent in a way that protects the people of this country—and FTC does just that.

Most people I talk to think that big businesses run this country—that it is no longer run for the people and by the people. We need an agency to fight for us. We need the FTC.

It was finally driven home to me that the American Consumer stands to lose a very valuable ally—the FTC.

I could go on and on with these quotations, but I think you can see my point. Unless and until we have heard from a fair sampling of individual consumers throughout this country, we'd better be very careful about weakening an agency they seem to see as an important, necessary ally.

Mr. HATCH. Mr. President, as we consider this bill, I would like to take a few moments to ask that we all reflect upon why we are here, as representatives of the people of the greatest civilization the Earth has known. As I have become acquainted with the Members of this body, on both sides of the aisle, I am struck by the quality of character: They are all men of integrity—of sincere and honest purpose. They each represent their singular philosophy of social order, and are committed to the implementation of that way in which they believe. And not one fears confrontation by an opposing philosophy. Not one fears a challenge of his or her right to forge a part of our continuing heritage. And not one fears to pursue a path of mutual concession with another, that both may feel accommodation beyond concession with another, that both may feel accommodation beyond petty advocating for the sake of advocacy.

Mr. President, this body owes it legacy to a band of social outcasts. Men who had the courage to forsake the familiar for an unknown land, an untamed land. And 200 years ago these men forged the contract upon which we today are honored to rely for governing ourselves and upon which we literally act our respect every day we meet.

Mr. President, these were men of honor, men who knew the exercise of unjustifiable dominion over the lives of men, for it was that very abuse of power from which they had fled. And they were men of discretion—not wanting to bear from future generations the burdens of social oppression which past generations had borne, and warned against. These were no petty bearers of unalterable philosophic lifestyle, but men who, through mutual concession, drafted the greatest social document that man has known. Mr. President, those Founding Fathers, with their innovative theories of separative powers, created that most reasonable, and most balanced monument of freedom: our U.S. Constitution.

Mr. President, I shall come directly to the point. I am appalled that we must meet today to legislate checks against that very type of power run amok from which our forefathers fled. I am disgusted by example after example of the petty, unreasonable exercise of unjustifiable dominion by an agency of limited authority. That an unelected body of bureaucrats could take it upon themselves, with a limited legislative mandate, to usurp the very powers which make this Congress answerable to the electorate, is indicative of the very antithesis of the philosophy which made our heritage great. The FTC has not sought mutual concession to bring about a reasonable solution to a problem. They have sought by intimidation and outright oppression to further their own ends with delegated powers, our powers, in a legally binding manner with which any of you here today would be ashamed to be associated.

The reality is that our names and our collective authority sanction every act the FTC undertakes: for it is by our delegation, and as our proxy, the FTC acts. I, for one, here and now, by my votes will manifest my unwillingness to participate in this petty abuse of constitutional power. And I invite, and admonish, my honorable colleagues to join me.

Mr. President, the industry specific list of FTC rulemaking abuses are well known to this body. Some of my colleagues, particularly Senator SCHMITT, have diligently exposed the ridiculous lengths to which the FTC goes in their attempt to control American business. These attempted controls extend to every phase of American life. The FTC has cost the taxpayers millions of dollars to effect the loss of millions of dollars of business revenue.

But my concern over the practices of the FTC go beyond economic justification. My concern is also founded in our Constitution. Time and time again FTC rulemaking attempts to federally preempt State and local law. It attempts to encroach upon the right of local jurisdictions to govern their own affairs, affairs which have no basis for Federal involvement. Time and time again the FTC staff in Washington has fabricated a Federal interest with no justification other than self-interest.

I maintain that no bureaucrat, no matter how clever he thinks he is, can appropriately regulate conduct in Timbuktu better than the Timbuktuians can.

Mr. President, the list of petty attempts to power-grab gets longer every day. And the longer the list gets, the more absurd it gets. The FTC has used their comical techniques to effect tragical results in dozens of small business sectors—from funeral homes to used car dealers to kids' television advertising.

Mr. President, it is a sad commentary on our bureaucracy when agents of the U.S. Government, with such tiny powers, seek to elevate their status by such ruthless advocacy by the letter of the law.

Mr. President, this attitude is not what made America great. This does not reflect our legacy of integrity and the reasonable resolution of differences by mutual concession. This, rather, is the embodiment of that from which our Founding Fathers sought refuge. I again exhort my colleagues to join me in disassociating ourselves from this abuse of our governmental process.

● Mr. KENNEDY. Mr. President, over 60 years ago Congress established the Federal Trade Commission to improve competition in the marketplace and to protect consumers from unfair business practices.

Only 5 years ago, the Congress criticized the FTC for being too lax, too meek. And we enacted a law to broaden its consumer protection powers so that it could take a more aggressive approach to eliminating unfair trade practices. The goal of the Magnuson-Moss-FTC Improvements Act, as stated by Senator MAGNUSON, was to give the FTC the necessary "regulatory tools to fulfill its consumer protection responsibilities" and to make it a "viable" consumer protection agency.

Unfortunately, Mr. President, the FTC is under seige today. It is being attacked precisely because it has actively pursued its legislative mandate. It is being barraged today by a number amendments designed to destroy the agency's ability to regulate effectively in the public interest.

These amendments are being justified under the guise of regulatory reform. Clearly some respond to legitimate concerns. But most are really wolves in sheep's clothing. They have been proposed by special interests—for special interests—to protect special interests.

It is ironic—and most unfortunate—that the Federal Trade Commission has been targeted as the whipping boy for regulatory reform. The FTC is the principal Federal agency which has been entrusted with the dual function of protecting the free enterprise system and the American consumer. For the last 5 years, the FTC has actively explored rules and taken actions to insure that American consumers can get the full advantages of a free marketplace.

These actions are aimed at unfair trade practices, at deceptive advertising, at price fixing. Their impact is immediate and salutory. The FTC brings a price fixing action against sellers of blue jeans. Price competition is restored and the price of jeans falls. The FTC insists upon competition in eyeglass advertising. Competition is restored, and, in real terms, the price of eyeglasses drops.

No wonder our elderly citizens recognize the value of competition. As the National Council of Senior Citizens pointed out to me in a letter supporting the FTC—

> In a time of spiralling inflation in the health care market, consumers must have the cost information necessary to shop wisely for eyeglasses, hearing aids, dentures, and even professional health care services.

And yet now we are asked to consider proposals which will prohibit the FTC from promoting competition in any profession regulated at the State level.

Congress is also considering proposals which would prevent the FTC from providing consumers with better information about the products and services they are buying. The FTC's rule applied to funeral homes has been criticized as unreasonable. But is it? That rule requires funeral home directors simply to reveal the prices for their services before the funeral takes place. It prevents the unscrupulous from taking advantage of grieving families. It imposes no serious burden upon the honest funeral director for it simply asks him to list his prices. Why should Congress enact legislation that would reverse these rules? Why should Congress stop the FTC from helping families in their hour of grievous need?

Other proposals would curtail the FTC's ability to regulate used car warranties; would terminate rulemaking proceedings aimed at stopping unfair advertising to children; would stop investigations of the insurance industry; would stop a rulemaking proceeding which would improve competition in industry-wide standard setting; would stop vigorous enforcement of the antitrust laws; would tie up funds which enable public interest groups and small businesses to participate effectively in FTC proceedings.

Surely the FTC's activities in these areas are highly desirable. And Congress ought not accede to special interests marching in to demand unwarranted exemptions from regulation or from the antitrust laws. To do so does not speak well for the Congress, and undermines the morale of our agencies and their commitment to work vigorously in the public interest.

At a time when "regulatory reform" and less Government intervention in the marketplace is the order of the day, it is particularly ironic that the FTC should be singled out by Congress for attack on its authority.

The irony can be seen once one realizes that the basic job of the FTC is not so much to "regulate" or to second-guess the marketplace. Rather it aims to protect our competitive, free market system by removing restraints on competition and by making certain that buyers have accurate and adequate information to make informed choices. It enforces the economic preconditions of effective competition. And, by so doing, it allows this Nation to rely upon free markets and private enterprise as the basis of its economic system, rather than the Government direction and control so prevalent elsewhere.

I know full well that regulation can often be harmful. That is why I attacked airline regulation and trucking regulation. If we are going to start limiting the power of regulatory agencies, let us do so there, where regulation impedes competition and injures the consumer. Let us not start with those agencies which promote competition and thereby protect the consumer. Those who believe that by crippling the FTC they are striking a blow for "free enterprise" are in fact doing the very opposite. If they hinder effective antitrust enforcement and if, as a result, free markets cease to remain free, the public will have to turn to the only possible alternative to private competition—more direct Government control and regulation of our basic economic decisions. That is the most undesirable alternative. And that is why I believe it is unwise to cripple the FTC.

I fully support the amendment proposed by Senator MAGNUSON and Senator PACKWOOD to eliminate the provisions in the FTC authorization bill which would terminate two existing rulemaking proceedings: the children's advertising rule and the standards and certification rule. My support for this amendment does not necessarily indicate support for the proposed rules. But I believe it is surely premature to terminate rulemaking proceedings before the Commission itself has had an opportunity to examine all the evidence and adopt a rule—or not adopt a rule. Congress should not interfere in Commission proceedings until after the Commission has acted finally, unless there is clear and egregious abuse of discretion on the part of the Commission. And no one has presented any such evidence to the Congress so far. Genuine dispute over the merits of a rule is natural, but, as the administrative conference has also pointed out, such dispute should not be sufficient to elevate a controversy out of the agency to the Congress before the proceedings are even completed.

Of course, certain general improvements in the FTC regulatory procedures should be adopted. I support the provisions in the FTC authorization bill which would require the advance notice of proposed rulemaking; improve the Commission's decisionmaking process by requiring a regulatory analysis; clarify the procedures for ex parte communications with Commission members. These are consistent with the comprehensive regulatory reform legislation currently under consideration in the Judiciary and Governmental Affairs Committees. I also support providing small businesses, that successfully challenge the FTC's actions, compensation for reasonable attorneys fees in certain situations. I supported that concept in the Judiciary Committee, and I support it here.

Unquestionably the FTC's rules raise complex social issues which demand careful congressional consideration. Take the children's advertising rule: To what extent should the Federal Government get involved in regulating advertisements aimed at children? What are the first amendment ramifications of regulating commercial speech? What impact does television advertising have on the health of our children? We in Congress might well be remiss if we failed to examine the decisions of the FTC on this issue. But we would be irresponsible if we ducked these tough questions by terminating the rulemaking proceeding without hearing both sides.

Congress should scrutinize the activities of the FTC, which has such broad jurisdiction over "unfair" trade practices. That is why I support the proposal to improve and intensify congressional review of the FTC's proceedings, which has been introduced by Senator LEVIN and Senator BOREN. Under this proposal, Congress would be able to consider the merits of the FTC's rule before it went into effect, and before businesses had to expend capital to comply with the rule. This maintains accountability where it belongs while avoiding the complex constitutional and policy problems created by giving one House of Congress the ability to veto a rule.

Mr. President, no one has been more committed to meaningful regulatory reform than I have. I fought to restore competition to the regulated industries—in the airline industry, in the trucking industry, in the drug industry. I have supported efforts to improve competition in the banking industry. This year I am working for a comprehensive regulatory reform bill which will improve the quality and fairness of agency proceedings by restoring competition, reducing the burdens of regulation on small business, facilitating effective public participation in the outcome of rulemaking proceedings. This legislation reflects my philosophy that we must eliminate unnecessary Government regulation where the marketplace is working, and where it is not working, we should use the least burdensome regulatory approach.

I believe that reform of our regula- And who knows better than the consumers and businesses. The American public supports regulatory reform. For who knows better that excessive regulation and redtape result in higher prices and contributes to double digit inflation? Who knows better than our businesses the frustrations of needless paperwork? And who knows better than the consumer the frustrations of endless redtape before receiving benefits to which they are entitled? That is why I have received the support of both consumer and business groups in these deregulations and regulatory reform efforts.

But I also believe that regulatory reform should not be used as an excuse to justify the elimination of those FTC regulations which protect the American consumer and which protect competition.

Mr. President, while I disagree with some of the provisions of this bill, nonetheless, I do not underestimate the extremely difficult problems which were raised in connection with it. I commend the members of the Commerce Committee for the work they have done on the FTC authorization bill. But I urge my colleagues to rise above special interest politics and to look at the needs of our citizens as a whole when examining this bill and the proposed amendments. As Woodrow Wilson, the founder of the FTC, said 60 years ago, I believe that our

Government should take care of the people who are not powerful as well as it takes care of those who are.●

THE NEW BUDGET: FEDERAL FUNDS AND TRUST FUNDS

Mr. HARRY F. BYRD, JR. Mr. President, once again I wish to invite the attention of the Senate to some important aspects of the budget which President Carter submitted to the Congress a week ago today.

As I have pointed out each day since the budget was published, the President's proposals if carried out would violate the law. Section 7 of Public Law 95-435, signed into law by President Carter himself on October 10, 1978, prohibits Federal deficits in this language:

> Beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

President Carter's budget for 1981 calls for a deficit of $16 billion. As sponsor of section 7, I can state that the intent of that legislation is precisely to prohibit any such deficit.

Thus, in order to insure compliance with the law, the Congress must reject the deficit proposed by the administration.

Today, I also want to examine an aspect of the budget seldom given much attention—namely, the relationship between Federal funds, the general purpose funds of the Government, and trust funds, the money collected and used for specific uses.

Until 1969, the Government's budget was the Federal funds budget. Trust funds were accounted for separately. But the Johnson administration, noting that trust funds always were in surplus, combined Federal funds and trust funds into a so-called "unified budget," thereby lowering the apparent deficit.

This accounting change, which became permanent, did not change the fact that trust fund money is not available for the general purposes of Government. The new accounting concealed but did not reduce the enormous deficits in Federal funds.

In the current year, for example, the President now estimates a deficit of $40 billion in the unified budget. But there is an $18 billion surplus in the trust funds, so the Federal funds deficit is $58 billion.

For 1981, the President projects a unified deficit of $16 billion. But the trust fund surplus would be $31 billion, and hence the Federal funds deficit would be $47 billion.

The principal reason for the huge increase in the trust fund surplus—from $18 billion to $31 billion in 1 year—is the huge flow of funds that would occur into the President's proposed energy security trust fund. This fund would be financed by the new excise tax on oil, the so-called windfall profit tax. The surplus in the energy security trust fund in 1980 would be $6 billion, but in 1981 it would shoot up to $17 billion.

Of course, if the energy security trust fund is not established, the trust fund surplus would diminish and the Federal funds deficit would be reduced.

Two important points about the budget emerge from this analysis:

First, trust fund surpluses mask huge deficits in general Government operations. Despite an increase of 15 percent—$35 billion—in individual income taxes from 1980 to 1981, the general-purpose funds of the Government will be $47 billion in deficit next year.

Second, claims of "restraint" and "prudence" in the budget ring hollow when we realize that if it did not impose a new excise tax on oil—and then retain most of the receipts—the Government would run a deficit not of $16 billion, but of $33 billion.

Moreover, the retaining of the oil tax receipts is not restraint in any real sense. If there is one thing we can count on, it is that sooner or later, the Government will spend any money it gets its hands on—and then some.

I ask unanimous consent to have two tables printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE C-2.—FEDERAL FUND RECEIPTS AND OUTLAYS

[In millions of dollars]

Description	1979 actual	1980 estimate	1981 estimate
RECEIPTS BY SOURCE			
Individual income taxes	217, 841	238, 717	274, 367
Corporation income taxes	65, 677	72, 303	71, 574
Excise taxes	9, 808	9, 824	10, 135
Estate and gift taxes	5, 411	5, 777	5, 938
Customs duties	7, 439	7, 600	8, 403
Miscellaneous receipts	10, 176	13, 591	12, 734
Total receipts, Federal funds	316, 351	347, 813	383, 151
OUTLAYS BY AGENCY			
Legislative branch	1, 074	1, 329	1, 317
The Judiciary	478	621	647
Executive Office of the President	80	100	105
Funds appropriated to the President:			
Foreign assistance	3, 799	4, 759	4, 738
Other	259	1, 689	872
Agriculture	20, 708	23, 627	20, 082
Commerce	4, 070	3, 559	3, 415
Defense—Military [1]	115, 010	127, 371	142, 689
Defense—Civil	2, 897	3, 215	3, 005
Education [2]	10, 879	12, 864	13, 479
Energy	7, 895	7, 681	8, 689
Health and Human Services [3]	47, 081	50, 954	55, 258
Housing and Urban Development	9, 213	11, 636	11, 776
Interior	4, 207	4, 315	4, 287
Justice	2, 521	2, 563	2, 672
Labor	12, 047	12, 144	13, 258
State	1, 585	2, 007	2, 176
Transportation	7, 228	8, 061	7, 369
Treasury	65, 237	76, 036	80, 628
Environmental Protection Agency	4, 800	4, 984	5, 197
National Aeronautics and Space Administration	4, 187	5, 010	5, 437
Veterans Administration	19, 578	20, 423	21, 279
Other independent agencies	20, 855	25, 408	24, 756
Allowances [4]		100	2, 570
Undistributed offsetting receipts: Rents and royalties on the Outer Continental Shelf	−3, 267	−4, 800	−6, 000
Total outlays, Federal funds	362, 420	405, 653	429, 700
Excess of outlays (−)	−46, 069	−57, 840	−46, 549

[1] Includes allowances for civilian and military pay raises for Department of Defense.

[2] The Department of Education assumes the education activities previously performed by the Department of Health, Education, and Welfare.

[3] The Department of Health and Human Services, formerly the Department of Health, Education, and Welfare (HEW), retains the health and welfare activities of HEW.

[4] Offsetting receipts and outlays for net gains and losses, proceeds and reductions from transactions of the Exchange Stabilization Fund are included in the Department of the Treasury.

[5] Includes allowances for civilian agency pay raises and contingencies.

TABLE C-6.—OUTLAYS AND RECEIPTS OF TRUST FUNDS

[In millions of dollars]

Description	Outlays			Receipts		
	1979 actual	1980 estimate	1981 estimate	1979 actual	1980 estimate	1981 estimate
Federal old-age, survivors, and disability insurance trust funds	104, 073	119, 380	138, 463	102, 089	116, 932	132, 661
Railroad retirement account	4, 279	4, 748	5, 157	4, 158	4, 440	5, 042
Black lung disability trust fund	622	926	933	623	925	969
Veterans life insurance trust funds	856	872	995	1, 021	1, 065	1, 094
Federal employees retirement funds	12, 533	14, 696	17, 094	20, 506	24, 040	26, 134
Unemployment trust fund	11, 173	16, 000	18, 700	15, 890	17, 400	19, 300
Health insurance trust funds	29, 148	33, 542	37, 349	31, 749	35, 922	44, 990
Highway trust funds	7, 154	8, 057	8, 218	8, 046	8, 134	8, 165
Airport and airway trust fund	1, 114	1, 236	2, 302	1, 809	2, 110	2, 579
State and local government fiscal assistance trust fund	6, 848	6, 863	6, 857	6, 855	6, 855	6, 855
Foreign military sales trust fund	7, 111	9, 500	9, 500	8, 545	8, 300	9, 500
Energy security trust fund		1, 858	3, 653		7, 591	20, 615
Other trust funds (nonrevolving)	679	913	969	955	1, 103	1, 120
Trust revolving funds	−1, 681	−1, 859	−1, 938			
Subtotal	183, 909	216, 731	248, 249	202, 244	234, 818	279, 025
Intrafund transactions	−1, 490	−1, 479	−1, 553	−1, 490	−1, 479	−1, 553
Proprietary receipts from the public	−9, 718	−9, 569	−10, 786	−9, 718	−9, 569	−10, 786
Receipts from off-budget Federal entities	−1, 395	−1, 574	−1, 578	−1, 395	−1, 574	−1, 578
Total	171, 305	204, 110	234, 331	189, 641	222, 196	265, 107

EL SALVADOR AND GUATEMALA

Mr. STONE. Mr. President, while our attention is distracted by the recent Russian invasion of Afghanistan, the rapidly deteriorating situation in El Salvador with Guatemala the next target continues to threaten our vital interests much closer to home.

I ask unanimous consent to print in the RECORD two articles from today's Washington Post, one on El Salvador and one regarding Guatemala.

There being no objection, the two articles were ordered to be printed in the RECORD, as follows:

Salvadorans Seize Embassy, Ministry

SAN SALVADOR, February 5.—Leftist militants armed with submachine guns and pistols seized the Spanish Embassy and the Education Ministry here today and took more than 110 hostages, including the Spanish ambassador.

About 15 members of the leftist Jan. 28 Popular Leagues broke into the Spanish mission in the center of the Salvadoran capital and took hostage, some 10 persons, including Ambassador Victor Sanchez Mesas, an embassy source said. No violence was reported.

This Central American nation has been wracked by political violence over the past year. The takeover followed the seizure of the Spanish Embassy in neighboring Guatemala five days ago, where police stormed the embassy and 39 people died in a fire.

The leftists later said they were demanding that Spain break relations with El Salvador's "repressive" military-civilian junta and also were seeking the release of four leftists jailed over the weekend. Spain cut relations with Guatemala.

The militants also said the embassy takeover was "to show our solidarity with the people of Guatemala and Spain."

Among those captured in today's raid on the Education Ministry, on the first day of the school year, was Minister Eduardo Colindre, whose wife Marina has been held hostage for a week by another leftist group.

Witnesses said about 200 members of the Salvadoran Revolutionary Students' Movement marched out of the cathedral on what was announced as a demonstration to protest Education policies. At the ministry, at least 50 youths, some armed with submachine guns, ran into the building, they said.

13 Killed in Guatemala

GUATEMALA CITY.—A guerrilla ambush of a troop-carrying truck in the northern Guatemala province of Quiche Monday left 13 men dead, including two attackers, and five soldiers wounded, an Army spokesman said. Quiche was home of the peasants who occupied the Spanish Embassy here last week. A fire broke out in the embassy as security police assaulted it and 37 people died.

The Spanish ambassador, now the sole survivor, has taken refuge.

Ambassador Maximo Cajal y Lopez moved into the home of U.S. Ambassador Frank Oritz last Friday, the day after a fire leveled the Spanish Embassy, the sources said.

Unidentified gunmen kidnaped the only other survivor of the blaze from the hospital where he was taken because of burns suffered in the fire. He was found shot to death over the weekend on the campus of the national university here.

Mr. STONE. Mr. President, in the case of El Salvador, the moderate democratic government is reeling from violent extremist attacks, particularly those mounted by the left. The leftists sense victory and are not willingly going to give the new government the time it needs to initiate the fundamental reforms to which it is committed.

The administration's primary reaction to what is becoming a desperate situation in this small country is instead to submit a $75 million supplemental aid package for Nicaragua, a neighboring country that already has staked out a leftist course.

Mr. President, I believe we have dangerously confused our priorities. While El Salvador continues to valiantly struggle to institute a peacefully evolving democracy, we throw our major support behind a neighboring government whose Sandinista supporters have joined leftists in fighting the government in El Salvador, according to recent news articles.

Does it not make more sense to throw our full support behind the government in El Salvador in an effort to prevent the type of violent confrontation that wracked Nicaragua?

A FEDERAL SPENDING LIMIT

Mr. PERCY. Mr. President, the Senate Budget Committee recently held 2 days of hearings, on January 24 and 25, to consider legislation regarding a Federal spending limitation. I testified before the committee on January 25 to endorse a Federal spending limitation and I ask unanimous consent that my testimony be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

Testimony of Senator Charles H. Percy

Mr. Chairman, I am pleased to appear before the Senate Budget Committee today to endorse legislation requiring a Federal spending limitation.

I am a cosponsor of S. 2090, sponsored by Sen. Roth, which would amend the Budget Reform Act of 1974. Under the bill, spending would be limited to 21 percent of the Gross National Product in the upcoming fiscal year, FY 81. In subsequent years, Federal spending would be wound down even further, to 20 percent of GNP. Our proposal is not inflexible and provides a workable mechanism for exceeding these limits in extraordinary situations. It does not require a so-called "super-majority"—two-thirds of both Houses of Congress—to suspend the budget limits. Rather, it stipulates that a simple majority vote of both Houses is enough for suspension.

I strongly support the central idea of amending the Budget Act as a way of imposing fiscal discipline. Your Committee may determine, after these hearings, that other mechanisms would be more workable in holding Congress' feet to the fire. I urge you, however, to use the discipline we, on the Governmental Affairs Committee who sponsored this mechanism, tried to build into this Budget Reform Act to bring about spending reform.

No one knows better than this Committee the trials and tribulations of the Congressional budget process. From the very first, when Sen. Ervin, Sen. Muskie and I authored the original budget reform proposal back in 1973, we encountered skeptics who said it could not be done, that Congress would never subject itself to any type of fiscal discipline like the Budget Reform Act as finally adopted in 1974. Yet we managed to implement the process and I believe it has given us an important dose of fiscal reality as we have viewed the budget as a whole instead of in just its many parts. There is no question that there have been ups and downs in the budget process, but overall it can be judged a success.

We should seek to build on this process for spending control. As the Chairman knows, we worked in Governmental Affairs with his and Sen. Roth's leadership for several years to come up with a workable sunset process. We need it and will someday have it. That will be a companion to the budget process and will help Congress get a handle on the authorizing programs that are the basis of spending. It is a process that borrows in many ways from the budget process.

Spending limitation legislation, like sunset, is akin to the budget process and would build on the already-demonstrated strengths of the Budget Act. I have been encouraged in this view by grassroots support for it. The National Taxpayers Conference, an alliance of state taxpayer groups, has endorsed it. The NTC has stated:

"With respect to a statutory limitation, its major weakness is its susceptibility to amendment or repeal. However, in view of the uncertainties of administrative and judicial interpretation, impact on the economy, reaction to emergencies, as well as the time required to obtain ratification of a constitutional amendment, a statutory spending limitation appears preferable. It also offers an opportunity to test the workability of specific provisions prior to adoption of a constitutional amendment."

The entire statement of NTC, goes one step further and states that "a logical place to insert a statutory provision limiting federal outlays each year would be the Congressional Budget Act of 1974 . . ." This study is an invaluable analysis for all of us, as it was prepared at the state and local level, where we all know there is a great concern about the impact of the Federal government on the economy.

Government spending at all levels—Federal, state and local—has grown considerably in the last 20 years. According to the Library of Congress, Federal spending between 1959 and 1979 has increased by over 400 percent. An astounding figure, to be sure, but one that is topped by state and local government expenditures—which rose by 56 percent—for the same period of time.

Looked at in another way, FY 79 Federal outlays were 21.6 percent of GNP and will be an estimated 21.4 percent in FY 80, up from 19.7 percent in FY 59. For the same 20-year period, state and local spending jumped from 10.6 percent of GNP to 14.1 percent.

This growth in government spending was accommodated in the 1970s in part by large budget deficits. It has been the consistently high deficits of the past five years that have given rise to the cry and need for balanced budget amendments and spending limitations. In the decade of the 1960s, for example, total Federal deficits amounted to just over $60 billion; in the decade that just closed, however, the cumulative total was well over $300 billion.

These vast deficits have had a great impact on credit markets, as they have been financed by government borrowing. Rather than see this trend continue, a spending limit will signal an upper budgetary limit within which we will have to live. It is important for us to fashion a way to do this that will impose fiscal discipline without tying our hands when action is needed. I recommend to you S. 2090 and urge the Committee to act expeditiously on it.

In closing, I would like to mention a bill I introduced last year and urge the Committee to schedule hearings on it in the near future. The Federal Credit Program Control Act, S. 2151, would also amend the Budget Reform Act and would require that direct loans and loan guarantees of the Federal government go through the same evaluation process that spending now does. I offered this as an amendment to the Chrysler loan guarantee bill last year to make the point that a procedure was needed for setting targets and ceilings on loan guarantees. We have no way of doing this now. These credit programs have as much an impact on the economy as do the borrowings to finance budget deficits and I hope this Committee will act on this legislation as soon as time permits.

THE PRESIDENT'S ECONOMIC REPORT

Mr. PERCY. Mr. President, on January 30, the President submitted his annual economic report. For well over 30 years, the report has forecast the future potential of the economy and summarized the previous year's performance.

The report has been one of the chief resources that Congress and the public has had at their disposal to gauge where the country and the economy were headed.

In a recent Christian Science Monitor article, Michael Gorham questions the accuracy of the report and points out that "with few exceptions, it has forecast a more attractive economic picture than what actually came to pass." Mr. Gorham is a senior agricultural economist at the Chicago Mercantile Exchange and his article offers an interesting analysis of the annual Economic Report.

The Joint Economic Committee is now in the middle of its hearings on the economic forecasts of the President and his council of economic advisers. I commend this article to the JEC during these hearings, so that they may view the predictions in light of their past accuracy.

When inflation ran at 1.5 percent—as it did through the early fifties and early sixties—and unemployment was below 5 percent, minor statistical discrepancies did not have as much of an impact on national policies as they do today. According to the report, we are to expect the cost of living to rise by 10.4 percent in 1980 (down from 13.3 percent in 1979). Unemployment ran at a 5.8 percent rate in 1979, and the report suggests that this will rise to 7.5 percent by the end of 1980. Productivity actually declined by minus 2.0 percent last year, but the council estimates a 1.5 percent increase in 1980. In short, with greater divergence between forecasts and final economic performance, Congress should take care in enacting policies that correspond to the predictions. They may not always be the right cure for the diagnosed disease.

Mr. President, I recommend that my colleagues on the JEC read the Monitor article and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 16, 1980]

TOP ECONOMIC FORECAST TAKES A GRAIN OF SALT

(By Michael Gorham)

The White House will soon release the report of the President's Council of Economic Advisers, with its prediction of the nation's economic path over the next year. Unfortunately, when the report comes out Jan. 30 you will not be able to put very much confidence in its forecasts, for over the years the council has been too optimistic. With few exceptions, it has forecast a more attractive economic picture than what actually came to pass.

Congress created the Council of Economic Advisers in 1946 and directed the president to use it in preparing an annual report on the economy for Congress. The Economic Report of the President has thus become a January ritual, observed with considerable interest by many of the nation's economists and business analysts. Although its typical distribution of about 50,000 does not qualify it as a best seller, it is the chief vehicle through which the administration explains its economic policies to the public. It is also the vehicle through which official forecasts of economic activity are developed for the coming year.

The policy discussions may make interesting reading. The forecasts, however, are among the worst in the business. Its forecasts of real economic growth are typically too high, those of inflation are almost always too low, and those of unemployment are usually less gloomy than what actually occurs.

In earlier years, the three-member council escaped criticism for inaccurate forecasts by keeping its predictions as vague and nonquantitative as possible. For example, during the Eisenhower years, when Raymond Saulnier was its chairman, a typical forecast was for "continued economic expansion." Since that was equivalent to a prediction that real economic growth would lie somewhere between zero and infinity, there was little risk of error. Only a surprise recession could have negated a forecast of that variety.

It wasn't until Walter Heller took the helm in 1961 that the council grew bold enough to venture quantitative forecasts. The first one by this Kennedy-appointed council went something like this: real economic growth, 7.5 percent; inflation, 1.5 percent; and unemployment by year-end, less than 5 percent. The actual figures for 1962 were: real growth, 5.8 percent; inflation, 1.8 percent; and unemployment at year-end, 5.5 percent. In each case, the forecast was too rosy.

Compared with the councils that followed, the Heller panel didn't do too badly. In fact, its average inflation forecast has been the best of any council since quantitative predictions began. Of course, forecasting inflation in those ancient days, when it waddled along at 1 to 2 percent a year, was considerably easier than it has been since the late 1960s. But in both low and high inflation years, virtually every council has been overly optimistic on inflation. Only three times in the last 18 years has this not been the case. In 1968, the inflation forecast of the Heller council was right on the button, and in both 1975 and 1976, Alan Greenspan (who served under President Ford) thought inflation was going to be much worse than it turned out to be.

Does the accuracy of the council's forecasts depend upon the political party in power at the time? It is difficult to say. Inflation forecasts by Republican councils have been almost six times as bad as those appointed by Democrats. Of course, Republicans have faced a tougher forecasting environment, with some of the most extreme inflationary swings in recent history. As if to balance things a bit, Democratic councils have missed forecasting the nation's real economic growth by margins of error about three times the size of those made by Republican councils.

Why does the economy rarely perform as well as the Council of Economic Advisers promises?

Since top-notch economists are usually appointed to the council, we must rule out gross incompetence as the explanation. Being a part of the administration, it may be that the council makes predictions that are really a mixture of objective forecasts and campaign promises. Since it does not do much for the incumbent president's rankings in the polls, a too-dismal economic projection is something to be avoided. And if the council is to err, far better to err on the side of optimism.

There is, however, another element. The forecasts are usually conditional upon some set of proposed economic policies—a tax cut here, an investment tax credit there. If Congress does not agree with the proposed policy or put it in effect, then the assumptions underlying the forecast have been in error, and so will be the forecast.

But again, the political element comes into play. While private forecasters can make an objective assessment of the probability that a policy will be put through by Congress, the council must play the role of policy advocate and assume that this "best of all policy worlds" will prevail. So no matter how you cut it, it is the political character of the councils that will probably continue to cause them to promise us more than the economy will usually deliver.

MESSAGES FROM THE HOUSE

At 11:14 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2782. An act for the relief of John H. R. Berg;

H.R. 4013. An act for the relief of Jozef Swiderski;

H.R. 5036. An act to require the Secretary of the Interior to convey a parcel of land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development; and

H.R. 5278. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes.

At 3:29 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 272. A concurrent resolution expressing the sense of the Congress that Andrewi Sakharov should be released from internal exile, urging the President to protest the continued suppression of human rights in the Soviet Union, and for other purposes.

HOUSE BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTION REFERRED

The following bills and joint resolutions were read twice by their titles and referred as indicated:

H.R. 2782. An act for the relief of John H. R. Berg; to the Committee on the Judiciary.

H.R. 4013. An act for the relief of Jozef Swiderski; to the Committee on the Judiciary.

H.R. 5036. An act to require the Secretary of the Interior to convey a parcel of land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development: to the Select Committee on Indian Affairs.

H.R. 5278. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes; to the Committee on Energy and Natural Resources.

H.J. Res. 493. A joint resolution providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

H.J. Res. 494. A joint resolution providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 272. Concurrent resolution expressing the sense of the Congress that

Andrewi Sakharov should be released from internal exile, urging the President to protest the continued suppression of human rights in the Soviet Union, and for other purposes; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2925. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the administration of the National School Lunch and Child Nutrition Programs; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2926. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), reporting, pursuant to law, that the Air Force plans to study the conversion from in-house operation to commercial contract of various functions at different installations in Fiscal Year 1980; to the Committee on Armed Services.

EC-2927. A communication from the Director, Defense Security Agency, reporting, pursuant to law, concerning the American Institute in Taiwan's Proposed Letter of Offer to the Coordination Council for North American Affairs for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2928. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordinated Council for North American Affairs for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2929. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2930. A communication from the Administrator, Panama Canal Commission, transmitting, pursuant to law, a report, including financial statements, covering the operations of the Panama Canal during the period October 1, 1978, through September 30, 1979; to the Committee on Armed Services.

EC-2931. A communication from the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a report on the performance of Department of Defense Commercial and Industrial-Type Functions, during fiscal year 1980; to the Committee on Armed Services.

EC-2932. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), reporting, pursuant to law, that the Department of the Army plans to study in fiscal year 1980 the conversions from in-house operation to commercial contract of various functions; to the Committee on Armed Services.

EC-2933. A communication from the Secretary of Commerce, transmitting, pursuant to law, the "Export Administration Report," covering the fourth quarter of 1977 and the first quarter of 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC-2934. A communication from the Attorney General, transmitting, pursuant to law, a report on the activities of the Department of Justice in the enforcement of Title II of the Consumer Credit Protection Act for the fiscal year 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2935. A communication from the Chairman, Migratory Bird Conservation Commission, transmitting, pursuant to law, the Commission's report for the fiscal year ended September 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-2936. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Policy Conflict—Energy, Environmental, and Materials: Automotive Fuel-Economy Standards' Implications for Materials," February 5, 1980; to the Committee on Commerce, Science, and Transportation.

EC-2937. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of November 1979, on (1) total itemized revenues and expenses, (2) revenues and expenses of each train operated, and (3) revenues and total expenses attributed to each railroad over which service is provided; to the Committee on Commerce, Science, and Transportation.

EC-2938. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of October 1979, on (1) the average number of passengers per day on board each train operated, and (2) the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC-2939. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relating to matters contained in the Helium Act; to the Committee on Energy and Natural Resources.

EC-2940. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the Teton Dam Claims Program, for the period ending December 31, 1979; to the Committee on Energy and Natural Resources.

EC-2941. A communication from the Chairman, United States Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's report for fiscal year 1979; to the Committee on Environment and Public Works.

EC-2942. A communication from the Under Secretary of State, transmitting a draft of proposed legislation to amend Public Law 90-553, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries, and for other purposes; to the Committee on Foreign Relations.

EC-2943. A communication from the Acting Administrator, Agency for International Development, United States International Development Cooperation Agency, transmitting, pursuant to law, the agency's report for fiscal year 1979; to the Committee on Foreign Relations.

EC-2944. A communication from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, with respect to the scope of the specialized or technical services provided to State or local governments by NASA during calendar year 1979 under Title III of P.L. 90-577; to the Committee on Governmental Affairs.

EC-2945. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report with respect to certain specially qualified scientific and professional personnel during calendar year 1979; to the Committee on Governmental Affairs.

EC-2946. A communication from the Deputy Comptroller General of the United States, transmitting, pursuant to law, a report for calendar year 1979 concerning positions in GAO in grades GS-16, 17, and 18 and their incumbents; to the Committee on Governmental Affairs.

EC-2947. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report on the activities of the office and of Executive agencies with regard to the minority recruitment program; to the Committee on Governmental Affairs.

EC-2948. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in the cases of aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2949. A communication from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC-2950. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the report of the National Cancer Advisory Board, covering fiscal year 1979; to the Committee on Labor and Human Resources.

EC-2951. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the authorization of appropriations for the National Institute of Education through fiscal year 1985; to the Committee on Labor and Human Resources.

EC-2952. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the seventh report of the National Heart, Lung, and Blood Advisory Council; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table, as indicated:

POM-538. A resolution adopted by the House of Representatives of the State of Kansas; to the Committee on Commerce, Science, and Transportation:

"HOUSE RESOLUTION No. 6083

"Whereas, The economy of the state of Kansas and the entire Great Plains region is dependent on the farmer's ability to market agricultural products throughout this country and the world; and

"Whereas, The people of this country and of the world rely on the availability and accessibility of those life-sustaining products; and

"Whereas, Operations on the Rock Island Railroad move agricultural products to market and feed food into the hungry mouths of this nation and the world; and

"Whereas, Interruption of those operations may irreparably damage, and even destroy, the transportation system which is both this state's lifeline to the world economy and the world's lifeline to food; and

"Whereas, Stoppage of services on the Rock Island will be devastating to the economy of this state and this region and catastrophic to cities, towns, businesses and industries; and

"Whereas, Alternative means for moving agricultural products from the producer to the consumer are not available in many parts of this state and development of those means will be extremely expensive: Now, therefore, "*Be it resolved by the House of Representatives of the State of Kansas:* That the Interstate Commerce Commission is strongly urged to block any attempted embargoes on any segment of the Rock Island Railroad and to extend Directed Service Order No. 1398 an additional ninety days beyond March 3, 1980; and

"*Be it further resolved:* That the Interstate Commerce Commission is further urged, during the extended term of Directed Service Order No. 1398, to reach a decision concerning the sale of parts or all of the Rock Island lines to those parties interested in purchasing and operating the Rock Island properties; and

"*Be it further resolved:* That the Chief Clerk of the House of Representatives is directed to send an enrolled copy of this resolution to the President and Vice-President of the United States, each member of the United States Congress from the state of Kansas, the chairperson of the Interstate Commerce Commission, the United States Secretary of Agriculture and the United States Secretary of Transportation."

POM-539. A resolution adopted by the Legislature of the State of Pennsylvania; to the Committee on Foreign Relations:

"Resolution

"Whereas, The 1980 Summer Olympic Games are scheduled to be held in Moscow, Union of Soviet Socialist Republics; and

"Whereas, The Union of Soviet Socialist Republics regards the holding of the Olympic Games in Moscow as ". . . convincing testimony to the general recognition of the historic importance and correctness of the foreign policy course of our country (USSR), of the enormous services of the Soviet Union in the struggle for peace"; and

"Whereas, The naked, aggressive and unwarranted military actions of the Union of Soviet Socialist Republics in the independent nation of Afghanistan has been considered by many to be the greatest threat to world peace since the conditions which precipitated World War II; therefore be it

"Resolved (the Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the President of the United States, the Congress of the United States and the United States Olympic Committee to continue their efforts to either remove the games from Moscow or boycott the 1980 Summer Olympic Games; and be it further

"Resolved, That the Chief Clerk of the House of Representatives transmit copies of this resolution to the President of the United States, the presiding officers of the Congress of the United States and the Chairman of the United States Olympic Committee."

POM-540. A joint resolution adopted by the Legislature of Palau; to the Committee on Energy and Natural Resources:

"Joint Resolution No. 1041

"Whereas, Palau has been pioneering the new frontier of becoming a nation and so must have all necessary efforts and advice in its on-going future political status negotiations with the United States to achieve its goals; and

"Whereas, the dedicated Chairman and Members of the Palau Political Status Commission, staff and advisors of the Palau Political Status Commission have excellently assisted and brilliantly advised the Palau Legislature on the negotiations that finally brought about the best offer by the United States on June 11, 1979 through the letter of Ambassador Peter R. Rosenblatt; now therefore,

"Be it resolved by the Sixth Palau Legislature, Eighth Regular Session, the House of Chiefs concurring, that the Palau Legislature does hereby congratulate the Chairman and Members of the Palau Political Status Commission and, on behalf of the People of Palau does confer Honorary Citizenship upon Attorney Stuart Beck, Chief Legal Counsel of the Palau Political Status Commission; Professor Marc Roberts, Professor of Economics at Harvard University; Professor Nathaniel Nathanson, Professor of Law at Northwestern University; Attorney Gerhardt Braeckel, Legal Counsel of the Palau Legislature; Attorney Christopher Cernik, Legal Counsel of the Palau Legislation; Attorney Donald Zarin, and Bill Brophy of Status Commission; Mr. Glenn Roberts, Research Assistant to Professor Marc Roberts; and Ms. Susan Trebosh, Office Manager of the Palau Political Status Commission; and

"Be it further resolved that certified copies of this Joint Resolution be transmitted to Chairman Roman Tmetuchl of the Palau Political Status Commission, Attorney Stuart Beck, Professor Marc Roberts, Professor Nathaniel Nathanson, Attorney Gerhardt Braeckel, Attorney Christopher Cernik, Attorney Donald Zarin, Mr. Glenn Roberts, Mr. Bill Brophy, Ms. Susan Trebosh, President of the United States Senate, Speaker of the United States House of Representatives, United Nations Trusteeship Council and the High Commissioner of the Trust Territory of the Pacific Islands."

POM-541. A petition from a private citizen, in opposition to ratification of the SALT II treaty; ordered to lie on the table.

POM-542. A petition from a private citizen, in opposition to ratification of the SALT II treaty; ordered to lie on the table.

POM-543. A petition from a private citizen, in opposition to ratification of the SALT II treaty; ordered to lie on the table.

POM-544. A petition from a private citizen, in opposition to the Equal Rights Amendment; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs, without amendment:

S. Res. 361. An original resolution authorizing additional expenditures by the Committee on Governmental Affairs for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Res. 362. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2194. Referred to the Committee on the Budget.

S. 2194. A bill to amend the Foreign Assistance Act of 1961 to authorize special Azores earthquake relief and reconstruction assistance (Rept. No. 96–568).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

The following-named persons to be Members of the National Commission on Libraries and Information Science:

Helmut A. Alpers, of Connecticut;
Carlos A. Cuadra, of California; and
Margaret S. Warden, of Montana.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' com-

mittee of the Senate.)

mitment to respond to requests to appear and testify before any duly constituted com-

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIBICOFF (by request):

S. 2267. A bill to amend the Civil Service Reform Act of 1978; to the Committee on Governmental Affairs.

S. 2268. A bill to extend to 60 days the period over which subsistence expenses may be paid to Government employees evacuated from Iran during fiscal year 1979; to the Committee on Governmental Affairs.

By Mr. ZORINSKY (for himself, Mr. Talmadge, Mr. McGovern, Mr. Melcher, Mr. Pryor, and Mr. Boren):

S. 2269. A bill to extend the Emergency Agricultural Credit Adjustment Act of 1978; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI (for himself and Mr. Bellmon):

S. 2270. A bill to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of the programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHURCH (by request):

S. 2271. A bill to amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund; to the Committee on Foreign Relations, and when and if reported, to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent.

By Mr. NELSON:

S.J. Res. 143. Joint resolution to authorize and request the President to issue a proclamation designating the week beginning April 28, 1980, as "National Small Business Week"; to the Committee on the Judiciary.

By Mr. ROTH:

S.J. Res. 144. Joint resolution to establish an Independent Investigating Commission on Ethics to conduct investigations of allegations of improper conduct by Members of Congress arising out of the FBI investigation known as "ABSCAM"; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF (by request):

S. 2267. A bill to amend the Civil Service Reform Act of 1978; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the President and Chairman of the Export-Import Bank of the United States, I am introducing legislation which would amend the Civil Service Reform Act of 1978 to permit eligible Eximbank personnel to be included in the Senior Executive Service.

Government corporations are currently excluded from the agencies in which the Senior Executive Service may operate. This bill would allow the Eximbank to fully participate in the SES, despite its status as a Government corporation and without special provisions.

I ask unanimous consent that the text of the bill and the accompanying letter be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 3132(a)(1) of Title 5 of the United States Code is amended by inserting "other than the Export-Import Bank of the United States" immediately after "a Government corporation".

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., January 24, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for your consideration is a proposed bill to permit eligible Eximbank personnel to be included in the Senior Executive Service (SES). Under the provisions of the Civil Service Reform Act of 1978, the SES will operate in all Government agencies with the exception of Government corporations, the General Accounting Office and certain other agencies. Although Eximbank is a Government corporation, we do not know of any justification for excluding Eximbank employees from the SES. Despite its corporate structure, in personnel matters the Bank operates like any other Executive agency. In particular, employees of the Bank are paid under the General Schedule. For these reasons, we urge enactment of the proposed bill.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to submission of the draft bill to the Congress.

Sincerely,

JOHN L. MOORE, JR.●

By Mr. RIBICOFF (by request):

S. 2268. A bill to extend to 60 days the period over which subsistence expenses may be paid to Government employees evacuated from Iran during fiscal year 1979; to the Committee on Governmental Affairs:

● Mr. RIBICOFF. Mr. President, at the request of the Department of the Army, I am introducing legislation which would extend to 60 days the period over which subsistence expenses may be paid to Government employees evacuated from Iran during fiscal year 1979.

It is the purpose of this legislation to alleviate the financial hardship which was incurred by Government employees who were evacuated from Iran during fiscal year 1979.

I ask unanimous consent that the text of the bill and the accompanying letter from the Acting Assistant Secretary of the Army for Manpower and Reserve Affairs, William D. Clark, to be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the period prescribed in section 5724a(a)(3) of title 5, United States Code, during which subsistence expenses may be paid an employee of the Government while occupying temporary quarters is extended to 60 days for any employee ordered to be evacuated from Iran during Fiscal Year 1979.

DEPARTMENT OF THE ARMY,
Washington, D.C., January 9, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Inclosed is a draft of legislation "To extend to 60 days the period over which subsistence expenses may be paid to Government employees evacuated from Iran during Fiscal Year 1979."

The proposal is part of the Department of Defense Legislative Program for the 96th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of Congress. The Department of the Army has been designated the representative of the Department of Defense for this legislation. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the legislation is stated in its title.

Because of the political unrest in Iran, many Government employees were required to be evacuated from that country on very short notice. Most evacuations occurred in January and February 1979 but some took place at other times during the Fiscal Year. For various reasons associated with their hasty and unexpected evacuation, many employees were unable to occupy permanent quarters for some time after their removal and reassignment. Due to these unexpected circumstances, a number of evacuees were required to occupy temporary quarters at new stations for more than 30 days.

Pursuant to chapter 57 of title 5, United States Code, a Government employee and his immediate family are entitled to subsistence expenses for a period of 30 days while occupying temporary quarters when the new official station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. Section 5724a(a)(3) of title 5 allows for an extension of the period of temporary residence for an additional 30 days when the employee moves to or from Hawaii, Alaska, the territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. However, no authority exists to extend the 30-day period for an additional 30 days for employees returning from another country. The proposed legislation would eliminate this distinction for those employees evacuated from Iran during Fiscal Year 1979. Thus, it would authorize payment of subsistence expenses to evacuated employees, if otherwise entitled to such expenses, for 60 days instead of 30 days.

The Department of Defense favors this proposal because it will aid in reducing unusual financial hardship for a number of Government employees caught in a situation beyond their control.

COST AND BUDGET DATA

Any additional costs resulting from the enactment of this proposal will be negligible and will be absorbed in applicable appropriations.

Sincerely,

WILLIAM D. CLARK,
Acting Assistant Secretary of the Army,
(Manpower and Reserve Affairs).●

By Mr. ZORINSKY (for himself, Mr. TALMADGE, Mr. MCGOVERN, Mr. MELCHER, Mr. PRYOR, and Mr. BOREN):

S. 2269. A bill to extend the Emergency Agricultural Credit Adjustment Act of 1978; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. ZORINSKY. Mr. President, I am introducing today a bill to extend the Emergency Agricultural Credit Adjustment Act of 1978. This act, passed as part of the Agricultural Credit Act of 1978 was intended to provide a temporary additional source of credit for farmers hard pressed by the prolonged droughts and depressed agricultural prices of the previous two years.

It was my hope, as I believe it was of all my colleagues on the Senate Agriculture Committee, that when the authority for the economic emergency credit program expired on May 15 of this year, that market conditions would have improved sufficiently to abrogate the need for such an emergency credit program. Unfortunately this is not the case.

Although generally agricultural prices have risen considerably in the past 2 years, they have not kept pace with inflation, and the Department of Agriculture has projected a net decrease in farm income of as much as one-fifth for 1980. The President's announcement last month of the suspension of grain sales to the Soviet Union has further depressed an already bleak financial outlook.

Moreover, the demand for farm credit is steadily increasing. Farmers are expected to serve a total debt next year of over $150 billion. By the beginning of next year, that figure could be as high as $180 billion.

At the same time, financing from conventional sources is becoming increasingly more scarce. A November survey of 117 commercial banks in 26 States taken by the American Bankers Association Agricultural Credit Conference indicated that nearly half of those banks foresaw demand for agricultural credit exceeding the amount that banks could make available. Of the 11 Nebraska banks responding, 82 percent responded that demand for agricultural credit would be above available funds in 1980.

At that same conference the banks were asked if the Farmers Home Administration economic emergency loan program should be continued. The response was an overwhelming yes; nearly 84 percent of the banks indicated that the program was valuable and should be extended.

The bill I am introducing today would do just that. Quite simply this legislation would extend the expiration date for the economic emergency program until the end of fiscal year 1981. At the same time, it would increase the $4 billion outstanding debt ceiling by an additional $2 billion.

Mr. President, the economic emergency program has been invaluable to farmers in the past 2 years. During the limited life of the program, about 60,000 farmers, most of whom have operated as individuals, have benefited from economic emergency loans. The $4 billion statutory limit on principal outstanding has been completely obligated, 2 months ahead of schedule.

I understand, Mr. President, that the Farmers Home Administration is currently holding approximately 14,000 unprocessed applications for economic emergency loans. In my State of Nebraska, on December 31, 1979, there were nearly 500 unprocessed applications; in

Kansas, there were 325; in Iowa, 527; in North Dakota, 635; South Dakota, 690; Wisconsin, 744; the list goes on and on.

During the next 3 months Farmers Home lending under the economic emergency program will be limited to the amount of principal repaid to the agency. That is expected to total only about $250 million, and that too has already been obligated. We need to take immediate action to extend the economic emergency loan program, and to increase the ceiling on outstanding debt to a reasonable level.

The economic emergency program is a good one. Among farmers it is considered to be one of FmHA's most efficient and most valuable programs. From the agencies' perspective, and from the Congress, it also should be viewed with favor. The program has not been subject to the sort of abuses we have seen in other Government lending programs. The loans are made only to farmers who cannot obtain credit from other sources, and are limited by statute to $400,000. Moreover, more and more of the loans are being made by private lenders through the federally guaranteed loan program, allowing Farmers Home to serve a greater constituency.

Mr. President, I am introducing this bill today with the understanding that expeditious action by the Committee on Agriculture, Nutrition, and Forestry will allow the bill to come to the Senate floor promptly. In view of the bill's importance, and the need for quick action, as chairman of the Subcommittee on Agricultural Credit and Rural Electrification, I have joined Senator HAYAKAWA, the ranking member of that subcommittee, in a letter to Chairman TALMADGE requesting that the bill be moved immediately from subcommittee directly to consideration by the full committee. It is my understanding that the full committee is prepared to deal with the bill at its next business meeting on March 5. I wish to thank the chairman and my colleague, Senator HAYAKAWA, for their cooperation on this matter, and I would urge all of my colleagues in the Senate to join us in resolving this issue quickly.●

By Mr. DOMENICI (for himself and Mr. BELLMON):

S. 2270. A bill to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of the programs, and for other purposes; to the Committee on Labor and Human Resources.

OPTIONAL EDUCATION CONSOLIDATED AND DEMONSTRATION ACT

Mr. DOMENICI. Mr. President, today Senator BELLMON and I are reintroducing what we believe is a progressive and far-reaching piece of legislation, the Optional Education Consolidation and Demonstration Act. This bill was originally introduced in the 95th Congress as the Optional Educational Simplification Act, and was supported and endorsed by many educators and national educational organizations throughout the country.

The purpose of this modified bill is to provide an optional State demonstration format to reorganize and consolidate a number of Federal education programs. Our goal in developing the bill has been to improve State and local administration of Federal education programs as a means of improving services to children that are provided by those programs. The act permits greater flexibility in the use of funds, simplifies the categorical requirements, and places greater decisionmaking responsibility at the State and local levels.

Programs are reorganized and consolidated by educational functions and are specifically targeted to the special needs of populations to be served. Participation in the consolidation demonstration plan is optional with States choosing either to administer programs according to this act or according to the current categorical legislation.

In all honesty, we believe a great many people will share our concern that Federal programs in the area of education have become an administrative nightmare for State and local educators. The large number of programs with different funding cycles, separate needs assessments, proposals and reporting requirements, and different sets of rules and regulations have seriously eroded the effectiveness of the programs.

There have been proposals in the past which have attempted to address this critical problem. Unfortunately, these proposals appeared to undermine the original congressional intent for providing funding in the area of education. The unique approach which we propose will solve many of the problems surrounding Federal education programs while maintaining the primary Federal goal of serving specific populations who have special needs.

Very briefly, this goal will be achieved by providing an optional demonstration plan for States that want to participate; by combining related programs to make coordination possible; by carrying forward current authorizing levels with additional authorizations for a planning process grant; and by protecting target populations while maintaining State and local responsibilities.

The features of this bill are quite simple. Title I consolidates programs for students with special needs. It contains separate and distinct programs for educationally deprived children; handicapped children; and children with limited English speaking ability.

Title II addresses vocational manpower training and adult education. Such programs in this category give separate emphasis to vocational education relating to consumer education and youth employment, and to adult continuing education.

Title III consolidates curriculum projects. Libraries and learning resources programs are given special emphasis by being made a separate subsection of this title. The remaining 17 special projects are consolidated into a single program which participating States may use for a wide-range of purposes.

Title IV contains the general provisions which are the technical adjustments in the law needed to implement the first three titles. It also contains the provisions for developing the special planning grants which will be made available to States exercising the option of participation in the consolidation demonstration program.

We believe our goal—to reorganize, simplify, deregulate, and consolidate certain Federal education programs—is addressed by this legislation. This bill will reduce administrative redtape and encourage coordination of service delivery while still maintaining the overall direction of Federal assistance. We would welcome the support of our colleagues for this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Optional Education Consolidation and Demonstration Act."

STATEMENT OF PURPOSE

SEC. 2. (a) It is the purpose of this Act to afford the States the option of consolidating and reorganizing certain programs of assistance to State and local educational agencies for elementary, secondary, vocational, and adult education into three broad categories:

(1) Special educational needs programs including programs authorized on the date of enactment of this Act—

(A) under part A of title I and part B of title I of the Elementary and Secondary Education Act of 1965, subparts 1 and 3 of part B of the Elementary and Secondary Education Act of 1965 relating to migratory children, neglected and delinquent children, and under part B of title V of the Economic Opportunity Act of 1964, relating to Follow Through programs;

(B) under part B of the Education of the Handicapped Act, subpart 2 of part B of the Elementary and Secondary Education Act of 1965 relating to programs for handicapped children, and under section 432(c) of the Elementary and Secondary Education Act of 1965.

(C) under title VII of the Elementary and Secondary Education Act of 1965 (except section 742 of such title) relating to bilingual education, and subpart 3 of part B of the Vocational Education Act of 1963 relating to bilingual vocational training.

(2) Vocational education programs including programs authorized on the date of enactment of this Act—

(A) under the Vocational Education Act of 1963 parts E and F of title III of the Elementary and Secondary Education Act of 1965 relating to consumer education and youth employment; and

(B) the Adult Education Act and title VIII of the Elementary and Secondary Education Act of 1965 relating to community schools.

(3) Special emphasis projects including programs authorized on the date of enactment of this Act under—

(A) part B of title IV of the Elementary and Secondary Education Act of 1965 relating to institutional materials and library resources;

(B) title II of the Elementary and Secondary Education Act of 1965 relating to basic skills, part B of title III of the Elementary and Secondary Education Act of 1965, relating to metric education, part C of such title, relating to arts and education, part D of such title, relating to preschool partnership programs, part G of such title, relating to law-related education, part H of such title, relating to environmental education, part I of such title, relating to health education, part J of such title, relating to correctional education, part L of such title, relating to biomedical sciences, part M of such title, relating to population education, part C of title IV of the Elemenetary and Secondary Education Act of 1965, relating to improvement in local educational practices, part D of such title relating to guidance and counseling, part A of title IX of the Elementary and Secondary Education Act of 1965, relating to gifted and talented children, part B of such title, relating to educational proficiency standards, part C of such title, relating to women's educational equity, part D of such title, relating to safe schools, and part E of such title, relating to ethnic heritage programs; title V of the Higher Education Act of 1965, relating to the Teacher Corps; the Career Education Incentive Act; and the Alcohol and Drug Abuse Education Act.

(b) It is the further purpose of this Act to permit the States that select the consolidation program authorized by this Act greater flexibility in the use of Federal educational assistance and to bring about a simplification of the categorical requirements contained in the provisions of law authorizing each such program.

STATE PARTICIPATION

SEC. 3. (a) Each State desiring to participate in the consolidation demonstration program authorized by this Act shall select the consolidation authorized under title I and title III of this Act and may select the consolidation authorized under title II of this Act, except that in any State desiring to participate in which a single State agency is responsible for elementary, secondary, and vocational education, that State shall select the consolidation authorized under title II.

(b) In order to assure adequate procedures for the conduct of and scheduling for, the consolidation demonstration authorized by this Act, the Commissioner shall—

(1) develop procedures under which States may apply for consolidated assistance under this Act;

(2) develop a schedule for State educational agency and local educational agency planning which includes provisions for a target date of September 30, 1980, for such planning, unless the Commissioner determines that in the case of any individual State a later date would better serve the purpose of this Act; and

(3) develop a schedule for the evaluation of the consolidation and simplification demonstration authorized by this Act to be completed not later than June 30, 1982 for each State desiring to participate in the program.

(c) It is the intent of Congress that if the consolidation authorized by this Act is not adopted in whole or in part when the Congress reauthorizes the Elementary and Secondary Education Act of 1965 the Commissioner will establish orderly procedures for the termination of the consolidation demonstration program for States participating under this Act, and for the phase-in of regular administrative procedures.

APPLICABILITY TO EXISTING LAW

SEC. 4. Except as provided in this Act, no other provision of law authorizing a program consolidated under this Act shall apply to the provision of financial assistance to a State having a comprehensive State plan in compliance with the provisions of this Act, with respect to the programs covered by that plan. All administrative regulations shall be consistent with the provisions of this Act and the General Education Provisions Act for States participating in consolidation.

TITLE I—SPECIAL NEEDS PROGRAMS

Part A—Educationally Deprived Children

CHILDREN FROM LOW-INCOME FAMILIES

SEC. 101. Each State desiring to participate in the consolidation program authorized by this Act shall within the limits of available Federal funds, in the comprehensive State plan required under Section 406, provide for a program designed to—

(1) address the special educational needs of educationally deprived children in local educational agencies having high concentrations of children from low-income families, and through such local educational agencies arrange to meet the needs of such children in private nonprofit schools on an equitable basis unless prohibited by law;

(2) address the special educational needs of neglected and delinquent children in State operated programs.

CHILDREN IN FOLLOW THROUGH PROGRAMS

SEC. 102. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth within the limit of available Federal funding and consistent with other programs for similar purposes a program designed to provide continued development primarily for children from low-income families, including such handicapped children who have not reached the age for compulsory school attendance, and primarily for children from low-income families in kindergarten and primary grades including such children enrolled in private nonprofit elementary schools who were enrolled in Headstart, Follow Through, or similar programs.

EDUCATION PROGRAMS FOR MIGRATORY CHILDREN

SEC. 103. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth within the limits of available Federal funds a program designed to address the special educational needs of migratory children of migratory agricultural workers and of migratory fishermen, including the preschool educational needs of such migratory children.

Part B—Handicapped Children

EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

SEC. 111. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth a program designed to—

(1) provide in the least restrictive environment, special education and related services for handicapped children,

(2) meet the special educational needs of handicapped children for which the State agency is responsible,

(3) provide curriculum improvements through special or innovative programs and projects for the education of handicapped children as authorized under part C of title IV of the Elementary and Secondary Education Act of 1965, and

(4) establish standards for educational programs for handicapped students.

APPLICABILITY; STATE ASSURANCES

SEC. 112. (a) Each State desiring to participate in the consolidation program authorized by this Act may, in the comprehensive State plan required under section 406 set forth a program providing for special education and related services for handicapped children aged three to five.

(b) Each State desiring to participate in the consolidation programs authorized by this Act and described in this part shall assure that—

(1) the State has in effect a policy that assures all handicapped children the right to a free appropriate public education;

(2) consistent with State law, there is established (i) a goal of providing full educational opportunity by 1978 to all handicapped children aged three through eighteen, inclusive, and by 1980 for handicapped children aged three through twenty-one, inclusive, (ii) a detailed timetable for accomplishing such goals, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such goals;

(3) the State will provide services to all such children and the State will provide for continued efforts to identify, locate, and evaluate all handicapped children who are in need of services; and

(4) the State will comply with all the provisions of section 615 of the Education of the Handicapped Act, relating to procedural designed safeguards or shall develop a similar procedure to protect the rights of children and their parents and guardians.

Part C—Children With Limited English Proficiency

BILINGUAL EDUCATION PROGRAMS

SEC. 121. Each State desiring to participate in the consolidation program authorized by this Act shall, in the comprehensive State plan required under section 406, set forth—

(1) a program of instruction designed for children of limited English proficiency in elementary and secondary schools;

(2) a program designed to meet the needs of children who are from an environment in which the dominant language is other than English, and who because of language barriers and cultural difference, do not have equality of educational opportunity;

(3) a program of instruction designed for adults of limited English proficiency carried out in coordination with adult education programs and vocational education programs;

(4) bilingual vocational training programs for persons of limited English proficiency who—

(A) have completed or left elementary or secondary school and who are available for education by a postsecondary educational institution; and

(B) have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing employment opportunity needs, expand their range of skills, or advance in employment;

but the requirement of this clause (4) shall apply only to States selecting the consolidation under title II of this Act; and

(5) a program of training to prepare instructors, aides, or other ancillary personnel for programs designed for persons of limited English language proficiency.

Part D—Distribution of Funds to Local Educational Agencies

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 131. (a) From the funds provided to a State attributable to section 101 of this title for any fiscal year, the State shall allocate to each local educational agency in that State based on the number of students from low-income families at least the amount which each local educational agency would have received had the distribution of such funds been made under the provisions of law authorizing part A and subparts 1 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965.

(b) (1) From the funds provided to a State attributable to section 102 of this title for any fiscal year, the State shall allocate such funds on a project grant basis within the State among the local educational agencies and other eligible agencies in the State as set forth in section 551(a)(4) of the Economic Opportunity Act of 1964.

(2) The State shall give special consideration in the designation of Follow Through agencies to any agency which is receiving funds for such purposes on the date of enactment of this Act. The State shall determine before giving such consideration that the agency involved meets program and fiscal requirements established by the State.

(c) From the funds provided to a State under section 103 of this title for any fiscal year, the State shall allocate such funds on an equitable basis taking into account the number of eligible students in local educational agencies having migrant education programs. A State may serve such students directly.

(d) From funds provided to a State attributable to section 111 of this title (relating to education programs for handicapped children) for any fiscal year, the State shall allocate to each local educational agency and intermediate educational unit in that State an amount not less that the amount which each such local educational agency and intermediate educational unit would have received had the distribution of such funds been made under the provisions of law authorizing the program consolidated in that section.

(e) From the funds provided to a State attributable to section 121 of this title (relating to bilingual education programs) for any fiscal year, the State shall distribute such amount on either a formula or a project grant basis taking into consideration the number and needs of students in that State who have limited English language proficiency.

TARGETING OF FUNDS

SEC. 132. (a) All funds allocated to local educational agencies under section 131(a) shall be used to provide services to educationally deprived children in school attendance areas as required by section 122 of the Elementary and Secondary Education Act of 1965, unless the State submits in writing an alternative proposal to the Commissioner and the Commissioner determines that such alternative proposal meets the requirements of part A of title I of such Act.

(b) All funds allocated to local educational agencies under section 131(c) shall be used to provide services to migrant children.

(c) All funds allocated to local educational agencies under section 131(d) shall be used to provide services to handicapped children.

(d) All funds allocated to local educational agencies under section 131(e) shall be used to provide services to children with limited English-speaking proficiency.

TITLE II—VOCATIONAL, ADULT, AND CONTINUING EDUCATION AND EMPLOYMENT TRAINING

PART A—VOCATIONAL EDUCATION

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this part to assist States in improving planning in the use of all resources available to them for vocational education and employment training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans. It is also the purpose of this part to authorize Federal grants to States to assist them—

(1) to extend, improve, and, where necessary, maintain existing programs of vocational, homemaking, and consumer education,

(2) to develop new programs of vocational education,

(3) to develop and carry out such programs of vocational education within each State so as to overcome sex discrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

(4) to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis,

so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade the skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

VOCATIONAL EDUCATION

SEC. 202. (a) Each State selecting the option to participate in the consolidation program authorized under this title shall set forth provisions for programs to carry out the purposes described in section 201 in the comprehensive State plan required under section 406, and provisions for consumer education.

(b)(1 Funds attributable to the program consolidated by this section may be used for—

(A) vocational education programs;

(B) work study programs;

(C) cooperative vocational education programs operated by local educational agencies with the participation of public and private employers;

(D) energy education programs for training of personnel in the areas of coal mining and solar energy;

(E) construction of vocational education school facilities are not for individuals assigned as the result of delinquent conduct or in which students are segregated by race;

(F) support of full-time personnel to perform the duties described in section 104(b) of the Vocational Education Act of 1963;

(G) the provision of stipends, which shall not exceed reasonable amounts, as prescribed by the Commissioner pursuant to regulations, for students entering or already enrolled in vocational education programs, if such students have acute economic needs which cannot be met under work-study programs;

(H) placement services for students who have successfully completed vocational education programs;

(I) industrial arts programs where such programs will assist in meeting the purposes of this Act;

(J) support services for women who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men, including counseling as to the nature of such programs and the special problems which may be encountered by women in such programs, and job development and job follow-up services;

(K) day care services for children of students in secondary and postsecondary vocational education programs;

(L) vocational education for—

(i) persons who had solely been homemakers but who now, because of dissolution of marriage or other reasons, must seek employment;

(ii) persons who are single heads of households and who lack adequate job skills;

(iii) persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and

(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males;

(M) special programs for disadvantaged students in areas of the State having high concentrations of youth unemployment and school dropouts;

(N) research programs;

(O) exemplary and innovative programs;

(P) curriculum development programs;

(Q) provision of guidance and counseling services;

(R) provision of pre-service and in-service training;

(S) grants to overcome sex bias;

(T) consumer and homemaking education as described in section 150 of the Vocational Act of 1963; and

(U) research, demonstration, or pilot projects in consumer education as described in section 811(a)(1)(B) of the Elementary and Secondary Education Act of 1965.

(2) Not more than 20 per centum of the funds attributable to this section in any fiscal year may be used for purposes described in clauses (O) through (T) of paragraph (1) of this subsection.

(3) At least 35 per centum of the funds attributable to this section in any fiscal year shall be used to serve—

(A) persons who have academic or economic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs;

(B) handicapped persons; or

(C) persons of limited English-speaking proficiency.

(4) Five per centum of funds attributable to this section in any fiscal year shall be used for purposes described in clause (T) of paragraph (1) of this subsection.

(c) State and local advisory councils for vocational education shall be appointed and shall operate according to the provisions of section 105 of the Vocational Education Act of 1963.

PART B—ADULT, CONTINUING, AND COMMUNITY EDUCATION

ADULT AND COMMUNITY EDUCATION PROGRAMS

SEC. 211. (a) Each State desiring to participate in the consolidation program authorized by this Act and including this title shall, as part of the comprehensive State plan described under section 406, shall provide for a program designed to meet the needs for adult basic education, and neglected or delinquent children in adult correctional institutions, and in planning, establishing, expanding, and operating community education projects.

(b) Programs in adult correctional institutions shall be coordinated with other educational programs provided for such children.

PART C—DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 231. From the funds provided to a State attributable to parts A and B of this title for any fiscal year, the State shall allocate at least 80 per centum of such funds to local educational agencies and other eligible institutions in that State, based on enrollment and other criteria set forth in the comprehensive State plan required under section 406.

TITLE III—SPECIAL EMPHASIS PROJECTS

PART A—LIBRARIES AND LEARNING RESOURCES

LIBRARIES AND SUPPORT SERVICES

SEC. 301. (a) Each State designing to participate in the consolidation program authorized by the Act shall carry out a program for making grants to local educational agencies, which program shall be described in the comprehensive State plan submitted under section 406, provide for—

(1) the acquisition of school library resources, text books, and other printed and published instructional materials for the use of children and teachers in public and private nonprofit elementary and secondary schools which are used for instructional purposes only; and

(2) for the acquisition of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools which shall be used for instructional purposes only.

(b) No personnel may be employed by a local educational agency with funds provided by this part.

PART B—SPECIAL CURRICULUM EMPHASIS, GUIDANCE, AND COUNSELING, INNOVATION, AND SUPPORT PROJECTS

SPECIAL PROJECT PROGRAMS

SEC. 311. (a) Each State desiring to participate in the consolidation program authorized by this Act shall, in accordance with subsection (b), carry out a program for providing services and making grants to local educational agencies for—

(1) innovative and exemplary projects to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school projects (including the remodeling or lease of necessary facilities) to serve as models for regular school programs;

(2) programs to assist State and local educational agencies to coordinate available resources to improve instruction so that all children are able to master the basic skills of reading, mathematics, and effective communication, both written and oral;

(3) assisting and encouraging the use of the arts in elementary and secondary school programs;

(4) encouraging educational agencies and institutions to prepare students to use the metric system of measurement;

(5) pilot projects to improve the successful transition of preschool age children carried out in cooperation with project Headstart;

(6) projects to improve understanding of how our system of law and legal institutions works;

(7) environmental education activities in elementary and secondary schools, including the development of curriculums (including interdisciplinary curriculums) in the preservation and enhancement of environmental and ecological balance, the dissemination of information relating to such curriculums, appropriate education training programs, and the planning of outdoor ecological study centers;

(8) assisting State and local educational agencies to support programs in health education;

(9) assisting State and local educational agencies and other institutions to carry on demonstration projects relating to the academic and vocational education of antisocial, aggressive, or delinquent individuals;

(10) projects designed to introduce secondary students from economically disadvantaged backgrounds to the challenges, opportunities, and needs of serving in the biomedical sciences profession;

(11) projects relating to population education in elementary and secondary schools;

(12) programs and projects designed to improve local educational practice including—

(A) the development and demonstration of activities designed to address serious educational problems in elementary and secondary schools, with special attention to—

(i) the need for effective programs for children with special needs, such as educationally deprived children, gifted and talented children, and handicapped children,

(ii) high rates of children who do not complete secondary school, and

(iii) the need of children in private schools for improved educational services;

(B) encouraging the development and demonstration of improved means of carrying out programs for educationally deprived children in school attendance areas having high concentrations of children from low-income families;

(C) activities designed to improve the achievement of children in basic skills;

(D) activities to encourage the participation of parents in the education of their children;

(E) the development of programs to diagnose learning problems and assess the educational achievement of children, including children in nonprofit private schools;

(F) developing and implementing model plans to demonstrate effective means of improving school management and fully coordinating all the Federal, State, and local resources available in a school in a fashion designed to meet the individual needs of every child in that school;

(G) professional development programs for teachers, administrators, and other instructional personnel in the schools of such agencies;

(H) early childhood and family education programs for children not yet enrolled in kindergarten programs and below six years of age for activities related to the identification of potential barriers of learning, the education of parents in child development, homebased programs, and referral services; and

(I) programs to extend the educational process beyond the school building through the use of other resources in the community, such as museums, businesses, cultural organizations, labor unions, and governmental agencies;

(13)(A) programs of counseling and guidance services for students in elementary and secondary schools, including—

(i) occupational, vocational guidance, personal social counseling, and information services,

(ii) pupil appraisal,

(iii) pupil motivation for academic success,

(iv) postsecondary placement assistance,

(v) research, evaluation, and followup activities, and

(vi) staff development;

(B) programs of testing students in elementary and secondary schools; and

(C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools;

(14) advancing the education of gifted and talented children;

(15) programs designed to assist students in achieving levels of educational proficiency comparable with standards established by the State educational agency;

(16) activities to provide educational equity for women;

(17) programs to meet special needs incident to providing security for children, personnel, and facilities in elementary and secondary schools;

(18) development of curriculum materials and dissemination of such materials in elementary and secondary schools relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of any ethnic groups and the contributions of ethnic groups to American heritage;

(19) strengthening the educational opportunities available to children in areas having high concentrations of low-income families, through improved programs of training and retraining for personnel eligible for the Teacher Corps including teachers, teacher aides, other educational personnel, teacher-interns, and volunteers who give instructional assistance in such areas through cooperative arrangements among State and local educational agencies and institutions of higher education for such training;

(20) programs, projects, and leadership activities for career education at elementary and secondary schools designed to—

(A) develop information on the needs for career education for all children,

(B) reassess the status of career education programs and practices including assessment of stereotyping career opportunities by race or by sex,

(C) provide for the demonstration of exemplary career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches, and

(D) provide for the training and retraining of persons for conducting career education programs; and

(21) establishing and supporting drug abuse and alcohol prevention in control projects, including projects for primary prevention and early intervention conducted in elementary and secondary schools.

(b) Each State program developed and carried out under subsection (a) of this section shall reflect the needs and priorities established by the local educational agencies within the State as part of the comprehensive needs assessment conducted pursuant to section 405(a).

PART C—DISTRIBUTION OF FUNDS TO LOCAL EDUCATIONAL AGENCIES

DISTRIBUTION TO LOCAL EDUCATIONAL AGENCIES

SEC. 321. (a) From the funds provided to a State attributable to clauses (1) and (2) of section 301(a) of this title for any fiscal year, the State shall allocate to each local educational agency in that State an amount based primarily upon enrollment, and then on any other relevant factor to be determined by the State such as tax effort, numbers or percentages, or both, of students whose education imposes a higher than average cost per child upon the State or local educational agency, and the ability of the local educational agency to finance public education. The formula for such distribution shall be included in the comprehensive State plan required by section 406. Each local educational agency within the State, based on needs of public and nonpublic school children, will be given sole discretion in determining how much funds will be divided among the various purposes described in section 301.

(b) From the funds provided to a State attributable to section 311 of any fiscal year, the State agency designated pursuant to section 404(a)(1) shall allocate funds to local educational agencies in the State in accordance with criteria developed in the comprehensive State plan, after a consideration of the needs assessments required by section 311(b) for the purposes described in such clauses. Amounts attributable to clause (2) (relating to State basic skills improvement program) and clause (12) of section 311 may be retained by the State for programs conducted by the State education agency.

TITLE IV—GENERAL PROVISIONS

RESERVATIONS OF FUNDS FOR CONSOLIDATED PROGRAMS

SEC. 401. (a)(1) From the amounts appropriated for the fiscal year 1980 and for each fiscal year thereafter ending prior to October 1, 1983, to carry out programs consolidated by this Act, the Commission shall reserve an amount equal to the aggregate amount necessary to make allotments under section 402 to States selecting the option under this Act with respect to programs covered by the comprehensive State plan for each such State.

(2) In reserving funds under this section, the Commissioner shall use formulas for the distribution of funds among the States in provisions of law authorizing programs consolidated by this Act. Wherever State formulas do not exist for programs consolidated by this Act, the Commissioner shall reserve the amount of funds for all such programs which bears the same ratio to such amount as the number of children aged five through seventeen in the States which choose the option to consolidate bears to the number of children in all States except that funds for bilingual education programs will be reserved in accordance with the criteria under section 402(a)(4) of this Act, funds for community education programs will be reserved in accordance with section 402(b)(3)(B) of this Act, and funds for consumer education will be reserved in accordance with the criteria under section 402(b)(2)(B) of this Act.

(b) From the amount allotted to each State under section 402, the Commissioner shall pay to each State having exercised the option to consolidate programs authorized by this Act an amount equal to the amount expended in that State in carrying out a comprehensive State plan adopted pursuant to this title.

ALLOTMENTS

SEC. 402. (a)(1) From the amounts reserved under section 401 to carry out title I of this Act for any fiscal year, the Commissioner shall determine the amount attributable to parts A, B, and C of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amount reserved under section 401 to carry out title I of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State to be expended solely for the purposes contained in part A, the sum of—

(A) an amount equal to the amount which each such State would be entitled under—

(i) part A of title I of the Elementary and Secondary Education Act of 1965, for all local educational agencies within the State, and

(ii) subparts 1 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965, subject to section 193 of the Elementary and Secondary Education Act of 1965; and

(B) an amount equal to the amount which such State would have received under part A of title V of the Economic Opportunity Act of 1964 and an amount determined by the Commissioner to be equitable with respect to grants made under part B of such title V, if such State were receiving financial assistance under such title V.

(3) From the amount reserved pursuant to section 401 (a) for title I of this Act and determined attributable to part B, for any fiscal year, the Commissioner shall allot to each State to be expended solely for the purposes contained in part B, the sum of an amount equal to the amount to which each such State would be entitled under—

(A) part B of the Education of the Handicapped Act, including funds under section 619 for States that provide direct services;

(B) subpart 2 of part B of the Elementary and Secondary Education Act of 1965; and

(C) section 432(c) of the Elementary and Secondary Education Act of 1965.

(4) From the amount reserved pursuant to section 401 for carrying out title I of this Act and determined attributable to part C of such title for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part C, the sum of an amount which bears the same ratio to such amounts as the number of children with limited English-proficiency aged five to seventeen, inclusive, in the State, as identified by the Bureau of the Census, bears to the number of such children in all States, for funds available under—

(A) title VII of the Elementary and Secondary Education Act of 1965; and

(B) subpart 3 of part B of the Vocational Education Act of 1963.

(b)(1) From the amounts reserved under section 401 to carry out title II of this Act for any fiscal year, the Commissioner shall determine the amount attributable to parts A, B, and C of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amounts reserved under section 401 to carry out title II of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part A, the sum of an amount equal to the amount to which each such State would be entitled under—

(A) part A of the Vocational Education Act of 1963; and

(B) an amount equal to the amount which bears the same ratio to the amount attributable to consumer education as the number of children aged fifteen to seventeen, inclusive, in each State bears to the number of such children in all States.

(3) From the amount reserved under section 401 to carry out title II of this Act and determined attributable to part B for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part B, the sum of an amount equal to the amount to which the State would be entitled under—

(A) the Adult Education Act; and

(B) an amount which bears the same ratio to the amount attributable to community schools program as the population in each State bears to the population in all States.

(4) From the amount reserved under section 401 to carry out title II of this Act and determined attributable to part C for any fiscal year, the Commissioner shall allot to each State an amount equal to the amount to which each such State is entitled in accordance with the criteria under section 221 of this Act.

(c)(1) From the amounts reserved under section 401 to carry out title III of this Act and for any fiscal year, the Commissioner shall determine the amount attributable to parts A and B of such title for all States selecting to participate in the consolidation of programs authorized under such title.

(2) From the amounts reserved under section 401 to carry out title III of this Act and determined attributable to part A for any fiscal year, the Commissioner shall allot to each State to be expended solely for purposes contained in part A, an amount equal to the amount to which each such State would be entitled under part B of title IV of the Elementary and Secondary Education Act of 1965.

(3) From the amount reserved under section 401 to carry out title III of this Act and determined attributable to part B for any fiscal year, the Commissioner shall allot to each State an amount equal to the sum of the amount to which each State would be entitled under—

(A) part B of title II of the Elementary and Secondary Education Act of 1965;

(B) part C of title IV of the Elementary and Secondary Education Act of 1965 less the 15 per centum set aside for handicapped education in section 432(c) of such title;

(C) part D of title IV of such Act attributable to guidance and counseling;

(D) an amount equal to the amount which bears the same ratio to the amount attributable to clauses (3) through (11) and (14) through (21) of section 311(a), as the number of children aged five to seventeen, inclusive, in such State bears to the number of such children in all States selecting to participate in the programs consolidated under title III of this Act; and

(E) an amount, if necessary, required to carry out clause (22) of section 311(a).

(4) For the purpose of paragraph (3) of this subsection, the Commissioner shall determine the number of children aged five to seventeen, inclusive, on the basis of the most satisfactory data available to him.

(d)(1) For the purpose of this section, the term "all States" means for any fiscal year all States selecting the option to consolidate authorized by this Act for that year.

(2) For the purpose of subsection (b) of this section, the term "State" does not include Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

(e) Any funds granted to a State under any program consolidated under this Act prior to the consolidation which remain available for expenditure during the succeeding fiscal year pursuant to section 412(b) of the General Education Provisions Act, shall be available for use by that State during that year for the purpose for which they were originally granted or for carrying out the State's consolidated plan for that year under this Act.

(f) Any expenditures made to close out any programs consolidated by this Act may be included as administrative expenses under section 404(c)(1) of this Act.

PLANNING GRANTS

SEC. 403. (a) Any State desiring to participate in the consolidation program authorized by this Act, may in order to prepare a consolidated plan in accordance with the provisions of this Act, receive a one year planning grant. Each State desiring to receive a planning grant under this section shall file an application at such time, and in such manner, and including such information, as the Commissioner may reasonably require consistent with the provision of this section. Each such application shall be submitted together with a certification of intent by that State to select the consolidation program authorized by this Act (with or without the optional consolidation program authorized by title II of this Act). Each such application shall include provisions which—

(1) describe the objectives to be achieved in the development of the State plan with assistance made available under this Act,

(2) set forth procedures to assure an opportunity for comments to be submitted by the Chief Executive of the State, and

(3) set forth assurances that the comprehensive State plan required under section 406 will be prepared in accordance with section 405.

(b) The maximum amount of a grant which a State may receive under this section is equal to not more than 1 per centum of the total allotment of that State under programs consolidated by this Act, for the fiscal year preceding the fiscal year for which the determination is made, except that no State shall receive less than $200,000 nor more than $1,000,000.

(c) There are authorized to be appropriated for the fiscal year 1980, such sums as may be necessary to carry out the provisions of this section.

STATE ADMINISTRATION

SEC. 404. (a) Each State desiring to receive a grant for the consolidation program authorized by this Act for any fiscal year shall—

(1) designate, as provided by the laws of the State, the State educational agency, and if the State selects the consolidation under title II, the State educational agency and the State board for vocational education (if applicable), within the State to administer the

financial assistance made available under this Act;

(2) develop and publish prior to the first year of assistance made to that State under this Act, and each third year thereafter, a third-year comprehensive State plan which—

(A) is developed in accordance with the procedures described in section 405, and

(B) contains the provisions designed to meet the requirements of section 406,

(3) develop and publish an annual update of the comprehensive State plan, and

(4) submit to the Commissioner for his approval the comprehensive State plan or annual update in accordance with the provisions of this title.

(b) A State desiring to receive a grant for the consolidation program authorized by this Act for any fiscal year shall, in addition to the requirements of subsection (a)—

(1) provide for an audit of expenditures for each program year in accordance with generally accepted accounting principles, conducted, as determined by the State by—

(A) an auditor of the State, using certified public accountants, or

(B) a private certified public accountant or auditing firm utilizing certified public accountants;

(2) provide for an annual evaluation of the implementation of the State's final comprehensive plan, and an amendment thereto, adopted under section 405;

(3) submit to the Commissioner for his approval the procedures established by the State to carry out the provisions of clauses (1) and (2) of this subsection, with such supporting material as the Commissioner may require; and

(4) prepare and submit an annual report of that audit and evaluation which report shall include—

(A) such information as the Commissioner may reasonably prescribe consistent with the consolidation and provisions of this Act; and

(B) assurance that funds were expended in accordance with this Act and the comprehensive State plan.

(c)(1) The Commissioner shall pay to each State for the proper and efficient administration of the consolidation program authorized by this Act an amount, in one grant award, equal to the amount such State would have received for administration of each program subject to the consolidation program and selected by that State under this Act plus an additional amount equal to 1 per centum of the aggregate of that State's allotment for the fiscal year for which the determination is made, except that no State shall receive less than it received for the administration of programs consolidated by this Act in the year preceding the fiscal year in which the State selects consolidation.

(2) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1983, such sums as may be necessary to carry out the provisions of this section.

PROCEDURES FOR DEVELOPING THE COMPREHENSIVE STATE PLAN

SEC. 405. Each State shall in the development of the comprehensive State plan establish procedures designed to assure that—

(1) a comprehensive assessment is conducted of the educational needs of the children of that State aged five to seventeen, inclusive, for educational services, the needs of children below age five eligible for services under this Act, the needs of adults in that State for basic educational and continuing educational services, and for vocational education programs, the local labor market requirements, the current status of employment and the economy, the location of training facilities, and the needs of the individuals to be served, and particular attention shall be given to the identification of children with special educational needs, the services which the students are receiving, and the need for continued, additional, and related services for each of the programs specified in titles I, II (if applicable), and III of this Act,

(2) local educational agencies will determine priorities as part of the needs assessment process,

(3) there is participation of interested citizens, local educational agencies, units of general local government, appropriate State agencies and organizations, and, if appropriate, prime sponsors under the Comprehensive Employment and Training Act, prior to and during the development of the comprehensive plan,

(4) the legislature of the State will be informed of the development of the procedures required by this subsection,

(5) as a part of the comprehensive planning process priorities will be established for the use of funds under section 407,

(6) the use of funds for purposes described in titles I, II (if applicable), and III of this Act will be coordinated with the use of State and local funds extended for similar purposes,

(7) the use of funds for purposes described in titles I, II (if applicable), and III of this Act will be coordinated with each other and other Federal programs to avoid duplication of effort,

(8) the proposed comprehensive State plan or the annual update thereof will be submitted to the Commissioner and will be published at least ninety days prior to its effective date and such plan or update thereof will be available to interested parties and to local educational agencies within the State. Comment relating to such plan must be accepted for a minimum of forty-five days after such publication,

(9) a final comprehensive State plan, or annual update thereof, will be published and made available prior to its effective date together with a summary of the comments received and an explanation of the differences between the proposed plan and the final plan and the reasons therefore,

(10) any amendment to the final comprehensive State plan prepared by the State educational agency or other agency designated pursuant to section 404(a)(1) will be published as a proposed amendment on which the public may comment for a period of at least twenty days, and thereafter the final amendment, together with a summary of the comments received and the action taken on such comments will be published,

(11) regulations and rules established, amended, or repealed by that State will be established, amended, or repealed with the counsel of local educational agencies and consistent with State administrative procedures and due process, and

(12)(A) local educational agencies may agree to join together and form consortiums for the purpose of carrying out any of the programs authorized by this Act, and

(B) such consortiums will be considered as a local educational agency for the purpose of distribution of funds under this Act.

PROVISIONS OF THE COMPREHENSIVE STATE PLAN

SEC. 406. A comprehensive State plan meets the requirements of this section if that plan—

(1) sets forth the procedure used and the results of the needs assessments conducted pursuant to section 405(a)(1);

(2)(A) sets forth the goals to be achieved under the plan, the basic program objectives and a description of the programs to be assisted in accordance with the provisions of title I, title II (if applicable), and title III;

(B) sets forth the type of individuals to be served in each such program together with the services or activities to be supported and the estimated enrollment for each such program;

(3) sets forth the policies and procedures to be followed by the State to assure that the distribution of funds under titles I, II (if applicable), and III of this Act to local educational agencies and other appropriate agencies and organizations within the State is in accordance with the provisions of each such title;

(4) contains a description of the organizational structure through which the program consolidated by this Act will be administered;

(5) sets forth the procedures for monitoring activities of the local educational agencies within the State including a provision for technical assistance by the State to each such local educational agency;

(6) contains a description of the process that the State will use to insure that any local educational agency in the State which receives funds under this Act will annually develop or update a comprehensive plan for the use of such funds, that an advisory council will be established at each program site for programs pursuant to sections 101 and 121 to advise in the development of the plan for such programs; and that the plan will be made available to the public for comment in a manner consistent with the manner and provisions required for the comprehensive State plan under this title;

(7) provides, consistent with State law and practice, for audit of local educational agency expenditures under this Act;

(8) sets forth procedures to assure that—

(A) the aggregate amount, or

(B) the amount of the average per pupil expenditure,

whichever is less, to be expended by the State and its local educational agencies from funds derived from non-Federal sources for the consolidation program under each title of this Act for any fiscal year will not be less than the amount so expended for the preceding fiscal year;

(9) sets forth procedures to assure that funds made available under this Act will be used so as to supplement the level of State and local funds expended for the purposes described in the plan and in no case to supplant such State and local funds;

(10) sets forth procedures to assure that funds under sections 101, 111, and 121 of this Act will be used for the excess costs for providing programs to meet the special needs defined in those sections;

(11) provides that the only applications for funds for programs under this Act in addition to the local comprehensive program plan a local educational agency shall make to the State are for programs under the State plan which are competitive;

(12) sets forth procedures to be used by the State to eliminate unnecessary paperwork and duplication of informational requests in regard to local educational agency applications, evaluations, and reporting;

(13) provides due process procedures to be taken by the State in regard to a local educational agency which has failed to develop or implement a comprehensive program plan, including due process procedures for withholding of funds; and

(14) provides a local educational agency appeal process within the State for any local educational agency which is dissatisfied with the action of the State, with respect to the compliance of the State, with substantive and procedural provisions of this Act.

FEDERAL ADMINISTRATION

SEC. 407. (a) The consolidated program authorized by this Act shall be administered by a separate identifiable administrative unit to be established within sixty days after the date of enactment of this Act by the Commissioner in the Office of Education.

(b) The Commissioner shall establish procedures to eliminate all unnecessary paperwork with respect to information required of State and local educational agencies especially monitoring activities under section 408.

(c) The Commissioner shall establish procedures for approval of State plans submitted in accordance with section 404(a)(4) of this Act. In exercising his authority under this section, the Commissioner shall apply only the provisions of this Act and shall have no power of approval concerning substantive educational policy established by the State educational agency.

(d) The Commissioner shall establish procedures to permit a local educational agency to appeal to the Commissioner a State's final ruling on an appeal to the State by that local educational agency under clause (14) of section 406.

(e) Requests from State educational agencies for information concerning legality of State actions under this Act shall be answered by the Commissioner of Education within forty-five days.

(f) The provisions of the General Education Provision Act, unless inconsistent with this Act, shall apply to the program authorized by this Act.

MONITORING AND TECHNICAL ASSISTANCE

SEC. 408. (a) The Commissioner shall define the criteria which State monitoring activities required under section 406(5) shall meet. The criteria shall include criteria to determine—

(1) the extent to which the programs described pursuant to section 406(2)(A) have been implemented;

(2) the appropriateness and effectiveness of services provided to the individuals identified pursuant to the requirements of section 406(2)(B); and the effectiveness of the procedures established pursuant to the requirements of all other subsections of section 406.

(b) The Commissioner shall conduct annually such monitoring programs in each State selected to participate in the demonstration program authorized by this title as he deems appropriate. The monitoring program authorized by this section shall include—

(1) review of the development of the comprehensive State plan for compliance with the provisions of this title,

(2) review of implementation of programs for conformity with this title and with the comprehensive program plan,

(3) review of the monitoring activities of the State for compliance with subsection (a) of this section. Each State shall be notified in advance of monitoring visits.

(c) Whenever as a result of monitoring activities conducted pursuant to this section, the Commissioner identifies areas of noncompliance, the Commissioner shall establish procedures with the appropriate State agency designated under section 404(a)(1) for the necessary modifications.

(d) The Commissioner shall provide advice, counsel, and technical assistance upon request of State and local educational agencies.

EVALUATION MODEL AND REPORTS

SEC. 409. (a) The Commissioner after consulting with the assistance of State agencies designated pursuant to section 404(a)(1) shall prepare and design a model for evaluation of program effectiveness which will be consistent with the purposes of each program described in title I, title II (if applicable), and title III, of this Act. Evaluation of local educational agency programs should focus on the services provided for students, the number of students served by each program, and the effect or results of such services.

(b)(1) Each State participating in the demonstration authorized by this Act shall be responsible for the use of that model in program evaluation of the demonstration authorized by this Act. Such evaluation shall involve participation by local educational agencies of that State.

(2) An evaluation report consistent with the procedures established pursuant to this section and the State comprehensive plan shall be prepared annually by each local educational agency and submitted to the State agency designated pursuant to section 404(a)(1). No other evaluation reports for programs authorized by this Act may be required of local educational agencies by the State educational agency or by the Commissioner.

(3) The annual State agency evaluation report prepared pursuant to this subsection shall be submitted to the Commissioner on such date as the Commissioner shall establish. The Commissioner shall analyze the State evaluations received under this paragraph and shall, not later than March 1 in the year succeeding the year in which the evaluations are submitted, prepare and submit as part of the annual report to the Congress a report on such evaluations.

EVALUATION OF THE DEMONSTRATION CONSOLIDATION

SEC. 410. (a) The National Institute of Education shall carry out a thorough evaluation and study of the effectiveness of the consolidation authorized by this Act. Such evaluation shall include a comparison of the administration of Federal education assistance according to the requirements of this Act with the administration of assistance under applicable statutes prior to the consolidation authorized by this Act.

(b) For purposes of this section, the Institute shall collect data from both State agencies operating under the demonstration consolidation authorized by this Act, and from a representative sample of local educational agencies within such States.

(c) The study required by this section shall include—

(1) an examination of the administrative burden at the State and local levels, to include an assessment of the extent to which operation under consolidation reduces duplication of effort and unnecessary paperwork;

(2) an examination of changes in the decisionmaking process for local program implementation, including the effect of the demonstration on the degree of coordination among Federal programs and local education services;

(3) an analysis of changes in the services provided to target populations, including the extent to which services shift among target groups of changes in the quantity and quality of services for particular target populations;

(4) the effects of the demonstration consolidation on the composition of target populations;

(5) the effects of the demonstration consolidation on the ability to monitor and evaluate the effectiveness of programs for separate target groups; and

(6) the effects of the demonstration on State and local jurisdictions in relation to distribution of educational funds based on fiscal capacity, tax effort and educational need.

(d) The Institute shall make an interim report to the President and the Congress not later than June 30, 1982 and shall make a final report thereto not later than April 2, 1984, on the result of its study conducted under this section together with such recommendations, including recommendations for legislation, as the Institute deems appropriate. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside the Institute before their transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the comments of the reports as each may deem appropriate.

(e) The Institute shall submit to the Congress, within 120 days after enactment of this Act, a plan for its study to be conducted under this section and shall not initiate research proposed to be conducted under that plan until 30 legislative days after such submission.

(f) There are authorized to be appropriated $500,000 for fiscal year 1980, $2,000,000 each for fiscal years 1981 and 1982 to carry out the provisions of this section.

DELEGATIONS, TRANSFERS OF FUNDS, AND CONTRACTS BY THE STATE AGENCY

SEC. 411. The State agency designated pursuant to subsection 404(a)(1) may, to the extent necessary to carry out the provisions of this Act—

(1) delegate their administrative functions, under this Act to other appropriate State agencies,

(2) transfer to such agencies administrative responsibilities and any funds provided to the State under this Act, and

(3) enter into contracts with public and private agencies, organizations, and institutions for carrying out activities authorized under this Act.

Any arrangements entered into under this subsection for any fiscal year shall be set forth in the comprehensive State plan for that year.

ENFORCEMENT

SEC. 412. (a)(1) No payment may be made under section 401(b) to any State that has failed to provide the certification required by section 404(a)(4).

(2) In the case of any State that has provided those certifications, if the Commissioner, after reasonable notice and opportunity for a hearing to the State, finds that the comprehensive plan fails to comply with the requirements of sections 405 and 406, or the State has failed substantially to comply with any provision of that plan or title I, title II (if applicable), or title III, or has failed to inform the Commissioner of any substantial failure to comply with any provision of that plan or those sections, the Commissioner shall—

(A) reduce the amount otherwise payable to the State under section 401(b) until he is satisfied that there is no such failure, but not in excess of 5 per centum of the amount payable to the State, or

(B) make no further payments to the State under section 401(b) for all or any part of such funds until he is satisfied that there will no longer be any failure of the plan to comply with the requirements of sections 405 and 406 or of the State to certify or comply with the plan of such titles I, II (if applicable), or III.

(3) In the case of any State that has provided the comprehensive State plan required by section 404(a)(4), if the Commissioner, after reasonable notice and an opportunity for a hearing to the State—

(A) disapproves, or withdraws his approval, of the procedures submitted under section 404(b)(3), or

(B) finds that the State has substantially failed to comply with the procedures approved under section 404(b)(3),

the Commissioner shall notify the State that further payments will not be made to the State under section 401(b) until he is satisfied that there will no longer be any such failure to comply, and until he is so

satisfied he shall make no further payments to the State.

(b) (1) If any State is dissatisfied with the Commissioner's final action with respect to any action taken under this section, the State may, within sixty days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(c) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, in the exercising of their authority under section 434(a)(2) of the General Education Provision Act may only audit activities undertaken within the State with funds provided under this Act, and such other activities as are necessary to verify compliance with this Act.

CONSTRUCTION

SEC. 413. Funds paid to a State under this Act shall be available for the construction of any facility for which funds would have been available under any program consolidated in this Act.

CIVIL RIGHTS REQUIREMENTS

SEC. 414. (a) Funds made available under this Act shall be subject to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d-6), title IX of the Education Amendments of 1972 (20 U.S.C. 1681–1686), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) Whenever the Secretary of Health, Education, and Welfare determines, pursuant to the procedures applicable to any of the provisions in subsection (a) of this section, that one or more local educational agencies in a State are not in compliance with any of those statutory provisions, none of the funds provided to that State under this Act shall be made available to such local educational agencies during the period of noncompliance; and the allotment to that State under section 402 for that period shall be reduced by the amount of such funds received by those districts in the fiscal year prior to the year in which determination of noncompliance was made.

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

SEC. 415. (a) The State educational agency or agencies designated under section 404(a)(1) of any State and local educational agencies receiving a grant under this Act shall provide that—

(1) to the extent consistent with the number of—

(A) children enrolled in private nonprofit elementary and secondary schools who reside in areas of the State eligible to be served by programs assisted under this Act, and

(B) children in Indian tribal elementary and secondary schools in the State, who have need for the services provided by those programs.

Such children shall be given, after consultation with the appropriate private school officials, an opportunity to participate, on an equitable basis, in activities assisted under this Act; and

(2) title to and control of funds received under this Act and other property derived therefrom will remain in one or more public (including Indian tribal government) agencies.

(b) The means by which the requirements in subsection (a) will be met within a State shall be set forth in the plan of the State adopted under section 406.

(c) If a State is prohibited by law from providing for the participation of children enrolled in private nonprofit or Indian tribal elementary and secondary schools, or if the Commissioner determines, after affording notice and opportunity for a hearing, that a State has substantially failed to provide for such participation, he shall waive the requirements of subsection (a)(1) and he shall arrange, by contract or otherwise, for such children to receive, on an equitable basis, services similar to those provided under this Act to public school children in the State. The cost of providing those services for any fiscal year shall be paid from the allotment of the State under section 402.

DEFINITIONS

SEC. 416. For the purposes of this Act—

(1) The term "adult basic education" means education for adults above the age of sixteen whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability.

(2) The term "area vocational education school" means any such school as defined in section 195 (2) of the Vocational Education Act of 1963.

(3) The term "Commissioner" means the Commissioner of Education.

(4) The term "construction" means the erection, acquisition, alteration, remodeling, or improvement of facilities, including the acquisition of land necessary therefor, and the cost of construction includes the cost of architect's fees.

(5) The term "educationally deprived children" means children who are counted under section 111 of the Elementary and Secondary Education Act of 1965.

(6) The term "excess costs" means costs directly attributable to programs which exceed the average per pupil expenditure for the local educational agency for pupils in the grade or grades included in such programs.

(7) The term "free appropriate education" means special education and related services which have been provided at public expense without charge and under public supervision and which meets the standards of the State education agency.

(8) The term "gifted and talented children" has the same meaning given the term under section 902 of the Elementary and Secondary Education Act of 1965.

(9) The term "handicapped children" has the same meaning given the term under section 602 (1) of the Education of the Handicapped Act.

(10) The term "limited English proficiency" has the same meaning as given the term under section 703 (a) (1) of the Elementary and Secondary Education Act of 1965.

(11) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(12) The term "migratory children" means children who are eligible under subpart 1 of part B of the Elementary and Secondary Education Act of 1965.

(13) The term "program of bilingual education" means the programs defined under section 703(a)(4) of the Elementary and Secondary Education Act of 1965.

(14) The term "State" includes, in addition to the several States of the Union and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

(15) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision for public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(16) The term "vocational education" means the programs defined in section 195(1) of the Vocational Education Act of 1963.

Mr. BELLMON. Mr. President, it is a privilege for me to join the distinguished Senator from New Mexico in reintroducing this legislation for the 96th Congress. Senator DOMENICI is responsible for the concepts which underlie this proposal, and it is to his credit that he has painstakingly incorporated the improvements which have been suggested by various persons and groups who have reviewed the original bill. The Labor and Human Resources Committee has considered this proposal, and we believe it is now time to press forward for final approval by the committee and the Senate.

The full details of the Education Simplification Demonstration Act have been presented by Senator DOMENICI, and I will confine my remarks to several points which I consider to be central to our bill.

First, our approach is optional for each State. The reorganization and simplification which this proposal would enable is not imposed upon every State in the usual manner of a heavyhanded Federal Government. It is up to each individual State to make the determination that this method of organization is advantageous.

Second, this bill consolidates programs which have the same purpose, it makes the resulting programs easier to administer, and it provides greater flexibility in the use of funds. At the same time, the bill retains the targeting of key populations, so that the intended emphasis will not be lost.

Some 35 programs are folded into six programs, so that States which choose the consolidation will have ample opportunity to realize the efficiencies and savings made possible by reorganization. Many Members of the Senate undoubtedly have had school administrators complain to them, as they have to me, that the paperwork and reporting requirements for a multitude of small categorical programs just are not worth the Federal assistance which they provide. In other words, it frequently costs more in administrative time to apply for, and report on, the many Federal categorical assistance programs than a school district receives in Federal aid. Over time, we in the Congress have created these categorical programs, each with its own standards and specifications, and the cumulative effect at the level of the local school has become overwhelming. The bill which Senator DOMENICI and I offer provides one opportunity to redress this unfortunate situation.

Third, under our proposal, Federal assistance continues to be supplementary to State and local financing, but program control is moved closer to the point of service delivery—that is, the local and State agencies. As a principle of organization and accountability, this makes more sense than the present arrangement, where a relatively modest amount of Federal assistance is accompanied by Federal control and decisionmaking.

In short, Mr. President, Senator DOMENICI and I feel that the option to receive Federal education assistance as a consolidation is an important choice for the States to have. It would put State and local agencies in the driver's seat, permitting an intelligent flexibility which has been lacking in present categorical arrangements. It would push educational program decisionmaking down to the State and local levels, where the influence of the citizenry could not be ignored. It would allow States and local education agencies to develop their own capabilities, instead of merely following directions from on high. It would reduce costly paperwork, freeing educators to contribute to the learning process. It would strengthen responsibility at the grassroots level through accountability requirements. It would engage the States in full-fledged planning, a capability which might be transferable to other State activities. It would carry with it evaluation requirements which will protect the taxpayers. It would not impose consolidation upon any State which did not want it or did not find itself ready to undertake such a responsibility.

Mr. President, I urge speedy action on this timely proposal.

By Mr. CHURCH (by request):

S. 2271. A bill to amend the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund; to the Committee on Foreign Relations, and when and if reported, to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent.

• Mr. CHURCH. Mr. President, today, at the request of the administration, I am introducing a bill which provides for a 50-percent increase in the U.S. quota in the International Monetary Fund. This increase amounts to $4.2 billion special drawing rights (SDR's)—approximately $5.4 billion and would bring the total U.S. quota to $12.6 billion SDR's, or $16 billion.

The Fund is the world's principal source of official balance-of-payments financing, designed to support effective and cooperative programs initiated by member countries to correct their balance-of-payments difficulties, and thus to foster world monetary stability. The increase in quotas will constitute a permanent increase in the Fund's resources.

The increase in the quota of the United States is part of an overall increase of 50 percent in Fund quotas, resulting from the Fund's seventh general review of quotas. This larger quota will provide the United States with a larger credit line for the IMF in times of balance-of-payments needs, since the ability to borrow from the Fund is based in large measure upon quota size.

Mr. President, this legislation will be considered first by the Senate Committee on Foreign Relations and then sequentially by the Senate Banking Committee at the request of Senator PROXMIRE. I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Foreign Relations Committee.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with Senator PROXMIRE's letter requesting sequential referral.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286K–2) is amended by adding at the end thereof the following new section:

"SEC. 32. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to $4,202.5 million Special Drawing Rights, to such extent or in such amounts as are provided in appropriations Acts.".

COMMITTEE ON BANKING, HOUSING
AND URBAN AFFAIRS,
Washington, D.C., November 27, 1979.

Hon. FRANK CHURCH,
Chairman, Foreign Relations Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: I understand that the Administration will shortly request introduction of a bill to authorize an increase in the United States quota in the International Monetary Fund. I assume that you will introduce the bill and that it will be referred to the Committee on Foreign Relations.

In accordance with Senate Rule XXV 1 (j) (10) I am formally requesting that the bill in question be referred to the Committee on Banking, Housing and Urban Affairs when it is reported from the Foreign Relations Committee.

All best wishes,
Sincerely,

WILLIAM PROXMIRE,
Chairman.•

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introuced by Senator CHURCH concerning the International Monetary Fund be referred to the Committee on Foreign Relations, and if and when reported to the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. NELSON:

S.J. Res. 143. A joint resolution to authorize and request the President to issue a proclamation designating the week beginning April 29, 1980, as "National Small Business Week"; to the Committee on the Judiciary.

NATIONAL SMALL BUSINESS WEEK

• Mr. NELSON. Mr. President, today I am introducing a Senate joint resolution proclaiming the week of April 28 through May 2, 1980 as "National Small Business Week."

At the White House Conference on Small Business, which completed its mission this past January, approximately 2,000 delegates from Maine to Hawaii established a set of national priorities they believed were important to the future of our Nation and American enterprise. National Small Business Week would commemorate the success of their efforts at the first White House Conference on Small Business as well as the tremendous contribution small business has made to America's technology and economic growth. Small and independent businesses are a vital and integral component of our free enterprise system. A Small Business Week would help educate all Americans on the important role small business plays in our everyday life.

The designation of a National Small Business Week serves to remind all Americans that the perpetuation of small and independent enterprise is crucial to the continued growth and expansion of our Nation. This new respect for small business has developed out of the realization of what small business is and what they have done. Small business is credited with having 55 percent of all private sector jobs. These businesses create 90 percent of all new employment. In fact, almost two-thirds of the net new jobs generated between 1969 and 1976, were created by firms with 20 or fewer employees. These businesses represent 43 percent of the GNP and develop 50 percent of the Nation's innovation at one-quarter of the cost of larger firms.

These are impressive figures, not simply for a White House conference or a National Small Business Week, but for a Nation which is coming to rely on small business for generating vigorous competition, new ideas, new products, and new processes. I urge Congress to sign this resolution so that President Carter can designate the week of April 28 through May 2 National Small Business Week.

I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 143

Whereas small and independent businesses have been the cornerstone of the American economy and free enterprise system and have provided us with a standard of living unequaled in the world;

Whereas small business furnishes 75 per centum of all private sector employment covered by social security, 48 per centum of the entire United States business output, and 43 per centum of the gross national product;

Whereas more than one-half of all innovative and technological developments originate in the small business community; and

Whereas the Congress of the United States, the Senate Select Committee on Small Business, and the House Small Business Committee have consistently recommended the fostering of an economic climate conducive to the development, growth, and expansion of the Nation's small and independent business community as a resource to reduce unemployment, increase production, combat inflation, stimulate economic diversity, and expand competition, and to provide an opportunity for entrepreneurship and inventiveness: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week beginning April 28, 1980, as "National Small Business Week", and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities, in recognition of the achievements and contributions which small businessmen and women and independent family-farmers have made to American society.●

By Mr. ROTH:

S.J. Res. 144. A joint resolution to establish an Independent Investigating Commission on Ethics to conduct investigations of allegations of improper conduct by Members of Congress arising out of the FBI investigation known as "ABSCAM;" to the Committee on Governmental Affairs.

● Mr. ROTH. Mr. President, with the announcement of the "ABSCAM" investigation come feelings that have been felt all too often in the past 8 years—shock—dismay and discouragement. The strength of our American system of justice and fairness is that it requires that each person charged under the law is deemed innocent until proven guilty.

As a Member of Congress, my sense of hurt and outrage is as, or perhaps more acute than, those who elected us to serve. When any one of our group is found—suspected or charged with wrongdoing it is a pain felt by us all—for it is the institution as much as the individual that is on trial—an institution of which we are all a part.

Since Watergate we have had, with the passage of time, the opportunity to look back and ask how did it happen and how did we respond.

The debate continues over how it happened—but little debate is had over how well we responded. For the response was quick—fair and independent and it was, most importantly, accepted by the American people.

Watergate was a measure of the weakness of our system—our response was a measure of the strength of that system.

Eight years later we are again confronted with a test—again not of our choosing—but no less before us. In those years we established extraordinarily complex ethics laws. I voted against those laws because I did not think they would work and unfortunately they have not.

They have not prevented abuses from occurring and in the main I think the American people have felt we have dealt with our colleagues with kid gloves—and in a way that was different than the administration of justice for anyone but those in Congress.

I believe the overwhelming majority of Congress is comprised of hardworking, honest, and decent people.

Unfortunately, we have had, and we may have again a small minority who are willing to break the law.

We face an extraordinary, unprecedented scandal—one requiring an extraordinary, unprecedented response.

Therefore, the legislation I introduce today would establish a five-person independent commission of senior statesmen to assist the Ethics Committees in both the Senate and the House by conducting investigations and making reports concerning the serious allegations of wrongdoing that have been made. These senior statesmen would have the right to independently receive complaints and initiate investigations only of those matters related directly to the FBI investigation known as "ABSCAM." The Ethics Committees, would retain the right to review any findings and to recommend any appropriate action to the full Senate and House.

My proposal is in no way a criticism of the Ethics Committee and its work. By selecting a panel of senior statesmen, known and esteemed by the public, to assist the committees in their investigations of these allegations, I believe the Congress is placed in a much stronger position.

In discussing this proposal we should be fully aware of the problems confronting us. The first problem is obvious: Charges of wrongdoing by Members of the House and Senate have been made. The second problem is our response to these charges. The first was out of our control—the second is not.

The first we will not be held personally responsible for—the second we will be held completely responsible for.

Should an indictment be handed individual Members, it will be handled by law. If we are seen as unable to deal with the scandal, it will be an indictment of us all and will be handled by our constituents.

We should understand there is an obligation not only to make a full investigation but to do so in such a way that if wrongdoing is found, then whatever action is taken is just—and, if wrongdoing is not found—then the finding is perceived as fair, impartial, and more than simply looking the other way by that person's colleagues. For if innocence is not only to be found, but is also to be believed, we must require no less.

We must respond quickly, fairly, and independently. We must be able to look back 8 years from now and say although the wrongdoing by a few individuals was a weakness of our system, our response was evidence for the ultimate strength and integrity of that system.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 144

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a temporary commission to be known as the "Independent Investigating Commission on Ethics" (hereinafter referred to as the "Commission"). The Commission shall be composed of five members as follows:

(1) two members appointed by the Senate, by resolution, upon recommendation of the Senate Select Committee on Ethics (hereinafter referred to as the "Senate committee"), after consultation with the majority leader and minority leader of the Senate;

(2) two members appointed by the House of Representatives, by resolution, upon recommendation of the House Committee on Standards of Official Conduct (hereinafter referred to as the "House committee"), after consultation with the Speaker and minority leader of the House of Representatives; and

(3) one member appointed by both Houses, by concurrent resolution, upon recommendation of the Senate and House committees, after consultation with the majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives.

Of the members appointed under paragraphs (1) and (2), one shall be a member of the Democratic Party and one a member of the Republican Party.

(b) The Senate and House committees shall make recommendations under this section from among individuals who are retired Members of Congress, the Federal judiciary, or the executive branch, and the recommendations shall be based on the integrity, independence, impartiality, and good judgment of the individuals.

(c) Any vacancy occurring in the membership of the Commission shall not affect the authority of the Commission to carry out its duties and shall be promptly filled in the same manner as in the case of the original appointment.

(d) The Commission shall elect a Chairman from among its own members. Three members of the Commission shall constitute a quorum for the transaction of business.

(e) The Senate may, by resolution, remove any member appointed under paragraph (1) of subsection (a); the House may, by resolution, remove any member appointed under paragraph (2) of such subsection; and the two Houses may, by concurrent resolution, remove any member appointed under paragraph (3) of such subsection; but no member may be removed except for extraordinary impropriety or for unwillingness or inability to carry out his duties.

(f) The Commission shall cease to exist one year after all members have been initially appointed under subsection (a).

SEC. 2. It shall be the duty of the Commission to investigate allegations of improper conduct by Members of the Senate and the House of Representatives arising out of the investigation by the Federal Bureau of Investigation known as ABSCAM. All such allegations shall be referred by the Senate committee and the House committee, respectively, to the Commission for investigation.

SEC. 3. (a) In conducting an investigation of an allegation of improper conduct by a Member of the Senate, the Commission shall have all the powers and authority of the Senate committee and, in conducting an investigation of an allegation of improper conduct by a Member of the House of Representatives, the Commission shall have all the powers and authority of the House committee.

(b) Subpenas issued by the Commission shall be signed by the Chairman or any member designated by him.

(c) (1) If the Commission, after initial review of an allegation, finds that there is substantial credible evidence which provides substantial cause for the Commission to conclude that a violation within the jurisdiction of the Senate committee or the House committee, as the case may be, has occurred, it shall notify such committee and the individual involved of such finding, and shall conduct an investigation of such apparent violation.

(2) If the Commission, after initial review of an allegation, finds no substantial creditable evidence which provides substantial cause for the Commission to conclude that a violation within the jurisdiction of the Senate committee or the House committee, as the case may be, has occurred, it shall notify such committee and the individual involved of its findings.

(d) The Commission shall conduct each investigation under subsection (c) (1) as expeditiously as possible and upon the conclusion of each investigation shall report the results thereof to the Senate committee or the House committee, as the case may be. The Commission shall not make any findings of fact.

(e) Any member of the Commission may at his discretion, disqualify himself from participating in any investigation. Notice of such disqualification shall be given to the Senate, in the case of a member appointed under subsection (a) (1) of the first section, to the House of Representatives, in the case of a member appointed under subsection (a) (2) of such section, and to both Houses, in the case of a member appointed under subsection (a) (3) of such section. An additional member shall be appointed to the Commission in the manner provided in the first section to replace such disqualified member solely for purposes of such investigation.

Sec. 4. (a) Members of the Commission shall receive, for each day in which they are engaged in the performance of their duties as members of the Commission, compensation at the daily rate equal to the per diem equivalent of the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of title 5, United States Code; and shall be entitled to reimbursement for transportation expenses and to receive a per diem, in lieu of subsistence, at the same rate as is payable to employees of the Senate, for each day on which they are away from their home or regular place of business or employment and are engaged in the performance of their duties as members of the Commission or in traveling to or from the place where such duties are to be performed.

(b) The Commission shall appoint, prescribe the duties and responsibilities of, and fix the compensation of a staff director and such other employees as may be necessary to enable it to carry out its functions and duties. The staff director may be paid at a maximum annual rate of compensation not exceeding the highest maximum annual rate which may be paid to an employee of a standing committee of the Senate, and other employees of the Commission may be paid at a maximum annual rate of compensation not exceeding the next to the highest maximum annual rate which may be paid to an employee of a standing committee of the Senate.

(c) The Commission is authorized to procure the temporary or intermittent services of individual consultants, or organizations thereof. Such services in the case of individuals or organizations may be procured by contract as independent contractors, or in the case of individuals by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of compensation which may be paid to an employee of a standing committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring advertising.

(d) The Commission is authorized to utilize the services, information, facilities, and personnel of the Office of the Secretary of the Senate, the Office of the Sergeant at Arms and Doorkeeper to the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Office of the Clerk of the House of Representatives, the Office of the Sergeant at Arms of the House of Representatives, the Office of the Doorkeeper of the House of Representatives, the Library of Congress, and the General Accounting Office; and each such officer of the Senate and the House of Representatives, the Librarian of Congress, and the Comptroller General of the United States are authorized to furnish such services, information, facilities, and personnel as may be requested by the Commission.

(e) Office space and office furniture, furnishings, and equipment shall be provided to the Commission in the same manner as offices of the Senate.

Sec. 5. The Commission may, at any time, recommend to the Senate and House committees any additional rules, regulations, rules of conduct, or other legislative measures which the Commission believes would help maintain high standards of ethical conduct in the Congress.

Sec. 6. The Commission is authorized to make such expenditures from the contingent fund of the Senate as may be necessary to carry out its functions and duties. Such expenditures shall be paid upon vouchers signed by the Chairman of the Commission and approved by the majority leader and the minority leader of the Senate and the Speaker and minority leader of the House, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.●

ADDITIONAL COSPONSORS

S. 94

At the request of Mr. Bentsen, the Senator from Montana (Mr. Baucus) was added as a cosponsor of S. 94, a bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes.

S. 414

At the request of Mr. Dole, the Senator from New York (Mr. Javits), and the Senator from Wyoming (Mr. Simpson) were added as cosponsors of S. 414, a bill to amend title 35 of the United States Code; to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes.

At the request of Mr. Thurmond, the Senator from Minnesota (Mr. Boschwitz), and the Senator from New Hampshire (Mr. Humphrey) were added as cosponsors of S. 414, supra.

S. 1435

At the request of Mr. Nelson, the Senator from Nebraska (Mr. Exon) was added as a cosponsor of S. 1435, a bill to amend the Internal Revenue Code of 1954 to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 1808

At the request of Mr. Laxalt, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 1808, a bill to strengthen the American family and promote the virtues of family life through education, tax assistance, and related measures.

S. 1862

At the request of Mr. McClure, the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

S. 1957

At the request of Mr. Eagleton, the Senator from Wyoming (Mr. Wallop), and the Senator from Kentucky (Mr. Ford) were added as cosponsors of S. 1957, a bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes.

S. 1984

At the request of Mr. Wallop, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 1984, a bill to amend the Internal Revenue Code of 1954 to provide an unlimited marital estate and gift tax deduction, to modify provisions relating to special valuation of certain farm and other real property, and for other purposes.

S. 2098

At the request of Mr. Stewart, the Senator from Vermont (Mr. Leahy), the Senator from Vermont (Mr. Stafford), and the Senator from Alabama (Mr. Heflin) were added as cosponsors of S. 2098, a bill to amend section 431 of the Public Health Service Act to provide funds to the National Institute of Neurological and Communicative Disorders and Stroke for research in the area of regeneration of the spinal cord.

S. 2195

At the request of Mr. Tower, the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of S. 2195, a bill to require the Secretary of the Interior, in cooperation with the Secretary of Agriculture, to implement certain requirements relating to animal damage control, and for other purposes.

S. 2208

At the request of Mr. Laxalt, the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) were added as cosponsors of S. 2208, a bill to amend title II of the Social Security Act to provide for a phasing out of the application of the earnings test in the case of individuals age 65 or over.

S. 2222

At the request of Mr. Melcher, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 2222, a bill to extend the time for commencing actions on behalf of an Indian tribe, band, or group or on behalf of an individual Indian whose land is held in trust or restricted status.

S. 2226

At the request of Mr. Packwood, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 2226, a bill to amend the Internal Revenue Code of 1954 to increase the zero bracket amount for heads of households the same level as that for married individuals filing a joint return.

S. 2247

At the request of Mr. McCLURE, the Senator from New Hampshire (Mr. Humphrey), and the Senator from North Dakota (Mr. Young) were added as cosponsors of S. 2247, a bill entitled "Small and Rural Laboratory Protection Act."

S. 2253

At the request of Mrs. Kassebaum, the Senator from Iowa (Mr. Culver) was added as a cosponsor of S. 2253, a bill to provide for an extension of directed service on the Rock Island Railroad and to provide transaction assistance to the purchasers of portions of said railroad.

SENATE JOINT RESOLUTION 82

At the request of Mr. Goldwater, the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of Senate Joint Resolution 82, a joint resolution to designate the week commencing with the third Monday in February of each year as "National Patriotism Week."

SENATE JOINT RESOLUTION 102

At the request of Mr. Robert C. Byrd, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of Senate Joint Resolution 102, a joint resolution providing for the commemoration of the 200th anniversary of the Constitution and other events related to the establishment of the Federal Government during the period 1776 to 1800 and establishing a Commission for the Commemoration of the Federal Government Bicentenary Era.

SENATE JOINT RESOLUTION 126

At the request of Mr. DeConcini, the Senator from Nevada (Mr. Laxalt), the Senator from Mississippi (Mr. Cochran), the Senator from New Hampshire (Mr. Humphrey), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Colorado (Mr. Armstrong), the Senator from Indiana (Mr. Lugar), the Senator from Wyoming (Mr. Wallop), the Senator from North Dakota (Mr. Young), and the Senator from Kansas (Mr. Dole) were added as cosponsors of Senate Joint Resolution 126, a joint resolution proposing an amendment to the Constitution to promote fiscal responsibility.

SENATE JOINT RESOLUTION 135

At the request of Mr. Bayh, the Senator from Arizona (Mr. Goldwater), the Senator from Florida (Mr. Chiles), the Senator from Montana (Mr. Melcher), and the Senator from Maine (Mr. Cohen) were added as cosponsors of Senate Joint Resolution 135, a joint resolution to provide for designation of the first Friday of March as "Teacher Day, United States of America."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. Goldwater, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution relating to freedom of religion in the Ukraine.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. Bayh, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution urging the Soviet Union to allow Irina Astakhova McClellan to emigrate to the United States, and for other purposes.

SENATE RESOLUTION 308

At the request of Mrs. Kassebaum, the Senator from California (Mr. Cranston) was added as a cosponsor of Senate Resolution 308, a resolution to express the sense of the Senate that parity for women's track and field events should be achieved in the 1984 Olympic games.

AMENDMENT NO. 1648

At the request of Mr. McClure, the Senator from North Carolina (Mr. Helms), the Senator from New Hampshire (Mr. Humphrey), the Senator from South Carolina (Mr. Thurmond), the Senator from Arizona (Mr. Goldwater), the Senator from California (Mr. Hayakawa), the Senator from Arizona (Mr. DeConcini), and the Senator from Wyoming (Mr. Simpson) were added as cosponsors of amendment No. 1648 proposed to S. 1991, a bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes.

At the request of Mr. Talmadge, his name was added as a cosponsor of amendment No. 1648 proposed to S. 1991, supra.

AMENDMENT NO. 1651

At the request of Mr. Boren, the Senator from Virginia (Mr. Warner), and the Senator from Nebraska (Mr. Exon) were added as cosponsors of amendment No. 1651 proposed to S. 1991, a bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemakings, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes.

SENATE RESOLUTION 361—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. RIBICOFF, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. Res. 361

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1980, through February 28, 1981, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $4,610,800 of which amount not to exceed $45,235 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public: *Provided,* That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting their particular branch of the Government.

(2) the extent to which criminal or other improper practices of activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the

United States in order to protect such interests against the occurrence of such practices or activities;

(3) syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety;

(5) riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquility within the United States;

(6) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents, and

(C) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(7) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into the discovery and development of alternative energy supplies; *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1980, through February 28, 1981, is authorized, in its, his, or their discretion (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to holding hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1981.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 362—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. CHURCH, from the committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 362

Resolved, that pursuant to section 402(c) of the Congressional Budget Act of 1974, provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2194, a bill to authorize assistance for the Azores earthquake relief and reconstruction effort.

Such waiver is necessary to allow the authorization of $10,000,000 in additional budget authority for fiscal year 1980 to provide for disaster relief and reconstruction in the Azores to assist in alleviating the human suffering caused by a recent earthquake.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline because the earthquake occurred on January 1, 1980.

The effect of defeating consideration of this supplemental authorization will be to limit the ability of the President to provide disaster relief and reconstruction assistance to the estimated 3,000 families left homeless by the earthquake.

AMENDMENTS SUBMITTED FOR PRINTING

UNIVERSITY AND SMALL BUSINESS PATENT PROCEDURES ACT—S. 414

AMENDMENT NO. 1652

(Ordered to be printed.)

Mr. LONG proposed an amendment to S. 414, a bill to amend title 35 of the United States Code; to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance, and for other purposes.

DEPARTMENT OF ENERGY CIVILIAN PROGRAMS AUTHORIZATION—S. 688

AMENDMENT NO. 1653

(Ordered to be printed and to lie on the table.)

Mr. STEWART (for himself, Mr. NELSON, Mr. HATCH, Mr. BAUCUS, Mr. HAYAKAWA, Mr. LEVIN, Mr. KENNEDY, Mr. HUDDLESTON, Mr. CULVER, Mr. METZENBAUM, and Mr. TSONGAS) submitted an amendment intended to be proposed by them, jointly, to S. 688, a bill to authorize appropriations in the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

SETTING ASIDE FUNDS FOR SMALL BUSINESS IN THE DOE SOLAR BUDGET

Mr. STEWART. Mr. President, today, along with Senators NELSON, HATCH, LEVIN, HAYAKAWA, BAUCUS, KENNEDY, HUDDLESTON, CULVER, METZENBAUM, and TSONGAS, I am submitting an amendment which would require that 35 percent of the solar funds authorized in S. 688, the DOE authorization bill, be set aside for small business. This amendment is the product of 2 intensive days of hearings held by the Senate Small Business Committee on the subject of the structure of the solar energy industry. It has the strong support of the solar lobby.

I offer the amendment with some regret—for years, the Congress has been trying to get the Department of Energy to put into effect a strong solar small business program. For as many years, DOE has promised to do so, and in the process to increase the share of solar contracts given to small firms. Just 2 months ago, in fact, the Department testified before the Senate Small Business Committee that it hoped to provide at least 20 percent of both R. & D. and commercialization contracts to small businesses, and that it was confident that the final 1979 figures would show DOE coming very close to these goals. Part of this optimism was based on a new set of small business procurement procedures initiated by DOE in response to a strong GAO critique of their solar small business program.

Unfortunately, these promises to Congress have been empty ones. The latest figures for the solar program show that in 1979, small business received only 1.63

percent of the total dollar amount of R. & D. awards, and only 0.77 percent of the commercial applications awards. These figures represent declines from the 1978 figures of 9.7 percent for R. & D. and 0.77 percent for solar applications. It must be understood, however, that any DOE figures must be viewed skeptically, since in the last several months, DOE has provided at least five different estimates of the percentage of awards to small business, ranging from the lows reported here to a high of 40 percent for R. & D. reported to the Small Business Committee. While the low figures here appear to be the final figures for 1979, DOE's wildly inaccurate estimates to various Congressmen and committees over the last few months suggest that not only does DOE not know how much it is providing for small business, but it really does not care.

This cavalier attitude is resulting in a massive waste of the taxpayer's dollar in the solar program, and, more disturbingly, is channeling Government solar support into the least promising areas, producing the kinds of results that encourage cynicism about the administration's own solar goals. The undeniable fact is that small, onsite solar projects researched, developed, and marketed by small companies are the most cost-efficient and competitive solar investments. Yet, DOE is focusing instead on large-scale, central power generating proposals designed and developed by large businesses.

This conclusion is not one lightly reached or based on mere impressions. The Office of Technology Assessment completed a massive study of the solar industry in 1978 and concluded that "Federal support of solar energy has concentrated disproportionate attention on central electric generating systems instead of exploiting the special opportunities provided by onsite equipment." OTA, arguing that the DOE has placed "major emphasis on the development of large, centralized electric generating systems", recommended that DOE instead "place greater emphasis on accelerating a wide variety of onsite solar energy systems."

Science magazine reached the same conclusion, calling DOE's approach "solar in the nuclear model". Dennis Hayes, the head of DOE's own Solar Energy Research Institute, told the New York Times recently that there has been "too much emphasis on big solar technology and too little on small."

Underlying the DOE bias seems to be the assumption, an assumption all too common in the Government, that bigger is necessarily more efficient, that there are ever-increasing economies of scale. This is simply not true. Economies of scale exist in every industry, but not necessarily large scale. For each industry, there are potential sizes for the production of various products, and there is no reason to believe that these necessarily increase with size. OTA found, in fact, that "there are no clear economies of scale in solar collectors, solar cells, or in many types of engines compatible with solar energy."

Very large conglomerates—the ones getting most of the DOE money—have many built-in diseconomies of scale. Any new idea is discouraged in large organizations, simply because of the nature of the organization. Remember, the huge firms are basically large bureaucracies, often as large as the bureaucracies of many States or nations. Proposals must go through layers and layers of approval, and each additional layer involves highly paid corporate reviewers. This process can only increase costs and decrease the willingness to take risks.

Moreover, the companies that are receiving DOE contracts are, to a large extent, oil and electric conglomerates. These same companies have substantial investments in existing fuels. While these companies surely would want to pursue solar if they were convinced they could make money on it, the institutional and financial commitment to competing fuels can only discourage real breakthroughs in these firms—not to mention the antisolar mindset that pervades their research and development in the area.

This mindset was made very clear by GE's vice president for R. & D., Roland Schmitt, in a 1978 interview with Business Week magazine. According to Mr. Schmitt:

> A plunge into solar energy would be a "real mistake" . . . As an investment opportunity today, solar still stands on shaky grounds.

Right now, GE's director of advanced energy marketing Milton Van Horn says:

> None of the solar options is cost-effective. The risks are too high for industry to go out and develop solar systems itself.

Business Week notes, however, that DOE has given GE 50 percent of the $100 million the company has spent on solar, concluding that:

> Despite its cautious approach, GE has used the Energy Department to build a foundation in just about every area of solar development.

GE is not alone—just read Exxon's or Mobil's ads on the subject. Yet these firms receive huge DOE contracts. If you were an investor, would you invest your money in a company that assured you that it did not see the product you were giving the company money to build as a viable one? Would you not seek out a company that believed in what it was doing? Apparently, if you are DOE, the answer is "No."

What are solar small businesses doing, though? Can they really handle 35 percent of all the DOE awards?

The answer is clearly and resoundingly yes. In fact, 35 percent is a very modest figure.

Eighty percent of all solar businesses are small. According to the National Science Foundation, small firms are 24 times more innovative per dollar invested than large firms. According to OTA, as we have seen, there are no economies of scale in solar, so there is no reason to believe that these findings would not apply to solar. No more esteemed a source than DOE itself agrees that, if anything, the NSF findings are even more true for solar. The capacity and the ability are there. So the small solar firms will use the taxpayer's money more efficiently.

Moreover, most small firms will focus on onsite, diverse solar projects, suited to the climate and local economy. That, after all, is the essence of small firms—they are adapted to the production or development of ideas for use in their local markets.

Solar small firms are already doing this—without DOE's help—and are making major breakthroughs. Remember GE's conclusion that no solar option is cost effective? Consider some of these "ineffective" solar developments:

A California small businessman, Jim Piper, has developed and installed a solar space heating and hot water system in a 254 unit apartment complex for about $2,000 per unit—a cost equal to the cost of installing a conventional unit. The system is now in place at many locations. The Department of Energy has never heard of Jim Piper, even though this is the largest solar installation in the world. The Department of Defense, which uses DOE data, concludes that a solar installation of the type Piper has installed would cost $7,500 per unit for its own housing. This is not someone's paper scheme—this is a system which has been installed, and is working in dozens of places here and abroad.

A Texas inventor has developed a high-technology wind machine that does not use a propeller, but rather uses a series of venetian-blind like devices. The machine has been built and sold for $40,000, and probably will produce electricity at 2 cents per kilowatt hour. The machine produces 40 kilowatts in a 20-mile-per-hour wind. DOE repeatedly turned down project proposals by the inventor. What they did instead was to give McDonnell-Douglas a $1.5 million contract to develop a wind machine that would produce 40 kilowatts in a 20-mile-per-hour wind.

A New England company has developed and installed a rooftop photovoltaic array that provides both electricity and space and water heating. The array now has a payback period of 7 years, but this will fall sharply as the cost of the cells goes down. DOE has contracted with several companies, including Exxon and Mobil, to develop a similar system. That system will, if all goes well, produce a peak watt cost of around $2 in 1986. The New England firm produced a peak watt cost of $1.86 in 1976 and installed the system.

The examples could go on and on, but here we have three major breakthroughs in the three most promising solar areas. Each one has produced commercially competitive solar energy today. Each one was privately developed, with no Government assistance. Each one was developed by a small business. Each one was repeatedly denied DOE assistance or even consideration, although the photovoltaic system may at least now be tested by DOE. And what has DOE done to publicize these major breakthroughs? What have they done to get these products on the market so that 20 percent of our energy needs can be met by solar in the year 2000? They have contracted with large businesses to develop the same systems at several times the cost at some point in the future.

It is truly an amazing spectacle.

There are those who will still argue that there should be no set-aside figure. They will agree that small solar firms have great promise and really are more innovative, but they fear that a set-aside is too rigid. There are others who will argue that 35 percent is too high a figure.

My response is simply that we have already tried everything short of a set-aside, and every effort has failed. All the DOE promises have resulted in a decline in small business participation to virtually 0 percent of DOE solar contracts. As for the figure of 35 percent, I would argue that 50 percent would be more reasonable. Solar experts have agreed, however, that 35 percent is an easily achievable goal. The amendment provides flexibility, however, in that it allows the goal to be reduced to 20 percent if the Secretary of Energy and the Comptroller General agree that DOE has taken all reasonable steps to maximize small business participation, but is nonetheless unable to meet the 35-percent goal.

I urge all my colleagues to support this important amendment.

I ask unanimous consent to have printed in the RECORD a list compiled by the Energy Action group, documenting DOE's bias toward big business in awarding R. & D. grants in the solar energy field.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

1978 Department of Energy Research and Development Awards for Solar Energy Projects

Firm:	*Amount*
1. Rockwell International	$13, 372, 262
2. Martin Marietta	9, 989, 193
3. General Electric	7, 508, 794
4. McDonnell Douglas	6, 289, 550
5. Westinghouse Electric	3, 038, 915
6. Boeing	2, 896, 223
7. Lockheed	1, 767, 571
8. Acurex Corp.*	1, 451, 850
9. Sea Solar Power Inc.*	1, 445, 000
10. JBF Scientific Corp.*	1, 227, 360
11. Science Application	614, 440
12. Motorola, Inc	493, 770
13. Grumman Aerospace	467, 931
14. IG&T	385, 228
15. Rosenblatt & Son*	366, 778

* (An asterisk denotes a small business.)

Mr. STEWART. Mr. President, I also ask unanimous consent to have printed in the RECORD an article from the July 1977 issue of Science magazine, entitled "Solar Energy Research: Making Solar After the Nuclear Model?" I think this article offers great insight into the institutional roots of DOE's mishandling of solar energy.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOLAR ENERGY RESEARCH: MAKING SOLAR AFTER THE NUCLEAR MODEL?

A point about solar energy that government planners seem to have trouble grasping is that it is fundamentally different from other energy sources. Solar energy is democratic. It falls on everyone and can be put to use by individuals and small groups of people. The public enthusiasm for solar is perhaps as much a reflection of this unusual accessibility as it is a vote for the environmental kindliness and inherent renewability of energy from the sun.

But the federal program to develop new energy technology is giving only belated recognition to solar energy's special characteristics. Despite the diffuse nature of the resource, the research program has emphasized large central stations to produce solar electricity in some distant future, and has largely ignored small solar devices for producing on-site power—an approach one critic describes as "creating solar technologies in the image of nuclear power." The program contains virtually no significant projects to develop solar energy as a source of fuels and only modest efforts to exploit it as a source of heat. The massive engineering projects designed by aerospace companies which dominate much of the program seem to have in mind the existing utility industry—rather than individuals or communities—as the ultimate consumer of solar energy equipment.

One consequence of this R & D emphasis on large-scale, long-range systems is to distort economic and policy assessments of solar energy based on the current program, both within the Energy Research and Development Administration (ERDA) and in higher levels of the government. Indeed, the potential of solar energy is still regarded with skepticism by many government energy officials and publicly discounted by spokesmen for oil and electric utility companies. Funds for solar research are leveling off, because of cuts made by the outgoing Ford Administration and confirmed, with minor overall changes but some shift in emphasis, by the Carter Administration. Agency officials concede that even the present federal program—representing an investment less than one-half of that for new coal technologies and a small fraction of that committed to the nuclear field—has survived only because of the immense popular appeal of solar energy and consequent pressure from Congress.

In contrast to this official skepticism is the virtual explosion of optimism and activity elsewhere. Dozens of pieces of proposed solar legislation and hundreds of companies now manufacturing solar components reflect this interest. The number of solar-heated houses built in the United States has doubled approximately every 8 months since 1973, and the rate shows no signs of slackening. The rapid buildup of a fledgling industry has been matched or even exceeded by a staggering rate of technical innovation in designs for solar equipment and in research on advanced methods for capturing and using solar energy. Measured by the number of new ideas or the rate of progress, solar energy has become the hottest property and the most sought-after action in the energy field. The burden of criticism from the solar energy community and from independent analysts is that the federal program has lagged rather than led many of these developments and that it has directed its research toward goals that betray a lack of understanding of the solar resource.

COMING TO GRIPS WITH SOLAR

The government's difficulty in coming to grips with solar energy is understandable because the solar program was born, in an institutional sense, only about 5 years ago. The early work on solar energy was scattered among various government agencies, but much of it was an outgrowth of the National Aeronautics and Space Administration (NASA) effort to find practical spin-offs from space technology. After the 1969 Apollo moon landings, four different NASA labs began to do modest amounts of solar energy research.

In 1972 the National Science Foundation (NSF) became the lead agency for solar energy research, which was funded at only $2 million per year. Many of the early program managers came from NASA and much of the contracted research went to aerospace companies.

In early 1975, all the solar research programs were shifted from the NSF, which has not been organized for commercial technology development, to the newly formed Energy Research and Development Administration, where solar was cast into competition with the nuclear breeder, the government's newly invigorated coal program, and the growing program for fusion. In its first 2 years the ERDA solar program was greatly understaffed and overworked—at one time 60 percent of the mail for the entire agency concerned solar energy. But in spite of institutional handicaps, the program grew rapidly because Congress authorized large increases in the solar research budget—as much as 80 percent above what the agency officially requested.

The program under ERDA moved into a mode of design, construction, and testing of various types of solar power pilot plants on an aggressive timetable. Feeling pressure to build up the solar program rapidly, ERDA delegated a large—some critics would say dominant—role to its national laboratories and to various NASA laboratories. The different subprograms were evaluated in a series of "mission analysis" studies, largely performed by aerospace contractors, and new priorities were set. Much of the evaluation was based on the capability of various solar technologies to approach base-load electric power supply—under the assumption that anything else would fall short of a major contribution. During this crucial period of solidification, the program had no regular review by an outside advisory board and there were no congressional oversight hearings. One of the strongest outside influences on the shape of the program, according to well-informed observers, was the utility industry.

Today, government solar research is a $290 million effort spread among four subprograms for electric applications, one for fuels, and two for heating, cooling, and related direct applications, with a professional staff of about 70 persons. In fiscal 1978, the program recommended by the Carter Administration will grow only modestly to $320 million. Because the various solar technologies are generally unrelated to each other, there is not a great deal of overlap between the research bases needed for the subprograms. The result is that the different solar options are at an even greater disadvantage vis-a-vis other energy programs than the total solar research budget would indicate.

The largest allotment of ERDA funds and staff resources has been for solar electric technologies. The concept which the utility's research arm—the Electric Power Research Institute—sees as the most likely candidate for central electricity generation is the power tower, a system with a boiler on a high tower heated by the sunlight reflected from a field of hundreds or thousands of sun-following mirrors. The power tower with its related solar thermal systems is still the leading subprogram in dollar priority—$79 million in fiscal 1977. Next is research on photovoltaic power systems—an effort to develop low-cost versions of the silicon cells used on space satellites for converting sunlight directly to electricity. Wind-power research, although it is the solar electric technology closest to being economically competitive, receives only about 8 percent of the solar budget. Approximately 5 percent goes to develop methods of extracting energy from the small temperature differences between surface and deep seawater—a concept usually referred to as OTEC (ocean thermal energy conversion) and conceived to produce electricity or perhaps an energy-intensive chemical in a huge floating plant that would provide about 200 megawatts of power. Still less money presently goes to the solar resource that could be most versatile of all—plant matter or biomass, which can be converted into either heat, fuels, or electricity. ERDA officials are generally agreed that biomass is one area in which they have yet to get a strong and coherent program under way.

The solar heating and cooling subprogram is funded at $86 million at present and $96 million in the fiscal 1978 budget. Solar home and hot water heating is nearly competitive in some areas of the country already. However, the ERDA program has paid little attention before now to the benefits of passive solar heating—the capture of solar heat that can be achieved from a well-sealed south-facing window as opposed to a rooftop solar collector used with a water or airflow system to carry the heat downstairs. Such systems are now widely thought to be capable of filling a large fraction of the winter heating needs in many areas at costs generally less than those of active systems.

As the Carter Administration prepares to shift energy research to yet another agency—the proposed Department of Energy—solar energy is still in search of a proper institutional home. Noting that skepticism of the solar program is one of the proper functions of ERDA's management, Henry Marvin, solar program director, nevertheless says that the program has been subject to tight controls by the agency's upper echelons and by the Office of Management and Budget. In his words, "Congress has been the corrective factor," in the growth of the program. According to Marvin, the solar program now has all the money it needs, "but we are still somewhat staff limited and travel-money limited—that has been the mechanism of OMB control." He foresees a program that may have already reached its broadest extent and will focus more narrowly as early decisions are made about solar hardware development projects in 1978 to 1981 and successful technologies are transferred to private industry.

Marvin is credited by several observers with having sought to limit the role in the program of the national laboratories—which, he says, "are not natural stopping places" enroute to developing commercial technologies—and with having managed the program competently within the guidelines set by the agency.

CENTRALIZED VERSUS ON-SITE SOLAR

But critics believe those guidelines still reflect the narrow set of preconceptions with which the program began. One of these preconceptions is the preferred role of centralized energy systems. Several pieces of evidence suggest that the ERDA program has given inadequate attention to the issue of the appropriate scale for solar technologies and, in so doing, has failed to exploit the most promising characteristic of solar systems. A report recently issued by the Congressional Office of Technology Assessment (OTA), for example, points out that federal research on electric generating equipment of all kinds has been focused almost exclusively on a centralized approach and has neglected what OTA sees as a significant potential for on-site power production. The report—one of the most comprehensive studies of emerging solar technologies yet made—concludes that "devices having an output as small as a few kilowatts can be made as efficient as larger devices" and that on-site solar systems capable of generating electricity at prices competitive with those charged by utilities may be available "within 10 to 15 years." "Onsite solar energy," the report declares, "must be regarded as an important option."

The solar thermal subprogram provides an instance of how ERDA's choices of scale were established. Initially, the subprogram was conceived of exclusively in terms of central power stations, as large as possible. Charles Grosskreutz, an analyst with the engineering firm of Black and Veatch during the period when it was involved in the initial program analysis of power towers for ERDA, says that "everyone started by considering a 1000 megawatt size and quickly scaled it down to about 100 megawatts" when it became clear that the tower height and the land acquisition problem were impractical for the larger sizes. "To my knowledge," he says, "there are no good studies of the optimum size of these facilities." Little serious consideration appears to have been given to solar thermal generating facilities in conjunction with community-scale energy systems or biomass fuel refineries—applications for which the optimum size, according to Princeton University physicists Robert Williams and Frank von Hippel, will probably be much less than 10 megawatts. According to Marvin at ERDA, "it may well be that 10 megawatts is the unit size for the power tower—we used 100 megawatts for our calculations."

Likewise, the wind-power program, according to early program documents, did not look carefully at the prospects for improved versions of small wind turbines for distributed applications, or at the potential economies of mass production that might apply to small devices but not to large ones. Instead, the program plunged ahead to build a large, 100-kilowatt prototype as a first step toward a commercial size conceived to be as large as possible with the materials available—1.5 to 2 megawatts.

Williams and his colleagues point out that the ERDA solar program throughout concentrates its main efforts on the largest and smallest scales of energy production, but they contend that an intermediate size may turn out to be the natural scale for many solar technologies. Their analysis points to community-size systems, equivalent to a few hundred or a few thousand houses, as the most cost-efficient, in that they would allow storage of solar energy on an annual basis—something impractical for an individual house—and would also allow the coproduction of solar heat and electricity in a manner that would be impractical for large central power plants.

Other independent analyses have come to similar conclusions. The noted British radio astronomer Martin Ryle, in a study of the applicability of solar energy to the country, concludes that a distributed network of small wind turbines provides the best match of potential supply to demand and would be competitive with coal-fired or nuclear generating stations. Ryle concluded that windpower, used with storage systems, could provide a substantial part of the power needs of the British Isles.

Another criticism of the solar program is that its management has been unnecessarily restrictive. During the last 2½ years, while ERDA has directed the program, it has been guided by a management philosophy of "aggressive sequential" development. In practice, this has meant a policy of giving priority to one solar technology in each subprogram. such as the power lower in the solar thermal program, and pushing it to quickly develop hardware and test its feasibility. What the policy has ruled out—reportedly because of skepticism from the agency leadership and budget-cutting by the Office of Management and Budget—is the parallel development of competing concepts. It is, of course, possible that the best candidates were not chosen initially, but nevertheless a whole solar subprogram could be phased out because of poor performance by an ill-advised solar concept. In particular, features such as scale and type of application have been heavily influenced by the original choices for development, and there is considerable danger that values derived from those choices will be the ones on which engineering and economic evaluations of future support will be made. It is just such considerations that lead environmentalists to make the charge that solar energy is being "set up" to fail.

Commenting on the desirability of pursuing parallel concepts, Marvin says that "it is not clear that we would not be more productive if we could pursue multiple paths." But he believes that it would be disruptive, if not politically impossible, to stop existing programs. He says he has attempted to correct what may be imbalances by bringing in a new group of managers (two of whom just arrived this month), and by supporting some of the neglected options as secondary. follow-on efforts when the budget allows. For instance, the fiscal 1978 budget includes $8 million for small-scale windmills. Marvin notes, however, that "it doesn't gain us time lost."

Another problem with the solar program has been lack of flexibility, leading to too little integration of different solar technologies with each other and with the energy needs they might ultimately satisfy. Storage is a problem with many solar systems, but the program has given little attention to applicants in which biomass fuels would provide the storage element, or in which the need for storage is obviated by using solar energy in conjunction with another energy source. Solar-coal and solar-hydroelectric systems offer tantalizing possibilities for combinations that could approach around-the-clock power, and there is some evidence that direct solar energy and wind energy might complement each other well. Little attention has been given to on-site application of photovoltaic and solar-thermal devices, in which the utility grid could be used as a buffer and thus storage would not be required. In addition, a generally acknowledged problem with the ERDA program is that its sharply divided subprogram structure has limited the development of systems that serve two purposes at once, such as total energy systems that produce both heat and electricity with a considerable improvement over the efficiency of a single-purpose system. The program has only belatedly begun to look at projects that do not fall into any of the predefined categories, such as solar irrigation, which ERDA developed no sooner than did the state of Guanajuato, Mexico.

The organizational structure of the energy agency, moreover, appears to be at cross-purposes with many novel or noncentralized applications. The solar energy division, for example, is effectively prohibited from working on community-scale solar systems because the agency management has decreed community-oriented projects to be in the domain of the conservation directorate.

Cost is the stumbling block most often cited by solar skeptics, and there is no doubt that few of the solar options are competitive today. But current cost estimates are almost certainly deceptive, in the absence of a real market. Furthermore, no one really knows what the costs of small-scale systems will be because so little research has been done on them. The conventional wisdom at the solar program planning office is that, compared to electricity at currnt prices, wind generators are competitive today or within a factor of 2 of being competitive, biomass fuels are a factor of 2 to 4 away from a competitive price, ocean thermal power systems a factor of 4 to 5, power towers a factor of 5 to 10, and photovoltaics a factor of 20 to 40 away. The opportunities for price reduction among these different technologies are controlled by quite different factors, however. Even the technologies for which a market does exist—hot water heating, for example—do not yet benefit from the kinds of implicit subsidies enjoyed by most other energy sources or the advantages of mass production by a well-established industry.

Probably no question about solar energy is more controversial than whether it can become a major energy source in the near term or should be regarded (and funded) as a limited, long-range option. Assessments of this qustion tend to get swept up into what has become a highly polarized debate between environmental advocates and the defenders of coal and nuclear power—a debate whose terms are more nearly philosophical or ethical than economic. The one view holds that a transition to a predominantly solar economy is not only feasible but necessary—to avert climatic disaster from the buildup of carbon dioxide that would accompany massive use of coal, and to prevent the danger of nuclear warfare attendant on the proliferation of the plutonium economy. The other dismisses solar energy and holds that coal and nuclear are essential on the grounds that even if costs were to drop dramatically, it would still be many decades before enough solar-heated houses and solar power stations could be built to make any dent in this country's huge and growing appetite for energy.

But these tactical positions obscure a number of things that tend to argue the importance of solar energy on purely economic grounds, as well as some substantial problems. One of the key problems is that solar equipment tends to be capital-intensive with high initial costs that are a deterrent to consumers unaccustomed to making decisions on a life-cycle basis. Another is that many existing institutional arrangements, from building codes to utility rate structures to federal tax policies, discriminate against unconventional energy sources.

But some institutional barriers are being removed by legislation, and the prices of many solar components are already dropping sharply in response to steadily growing demand. It seems evident that the growth of distributed solar systems, for which equipment can be mass-produced, can be far more rapid than the growth of centralized power plants which must be laboriously assembled in the field. Frost and Sullivan, a respected market research firm, predicts that 2.5 million U.S. homes will be solar heated by 1985. The government itself may become a major market for solar energy—a Department of Defense report done for the Federal Energy Administration estimates that a DOD market for up to 100 megawatts of photovoltaic devices a year may exist at the prices expected to prevail in the early 1980's.

Political fortunes may also play a role in determining the short- or long-term impact. Solar energy fared badly under a Republican administration. President Ford had many opportunities to attend solar project ribbon cuttings but did not do so. Under his administration, the OMB strenuously opposed and nearly gutted the major short-term elements of the government's solar energy program—the demonstration projects for solar heating. ERDA appealed to President Ford but, according to one observer, had the misfortune to argue its case during a week in which Ford was preoccupied with the Angolan crisis. In any case, the OMB position largely prevailed—a circumstance that apparently contributed substantially to the resignation of ERDA assistant administrator John Teem—and the proposed demonstration program, modest though it was, was drastically cut back.

The government program is having some effect—ERDA's work on photovoltaics and wind has stimulated some private investment. And quite apart from the government's program there appears to be a remarkable amount of momentum in solar thermal devices, wood burning stoves and boilers, and other components of a solar energy industry.

After 5 years of rapid but uneven development, solar energy is in need of reassessment. The present federal program has been as much the product of institutional happenstance and various technical predilections as it has been the product of coherent planning. In a broader perspective, the government policy under Republican administrations characterized solar energy as a long-term option comparable to fusion and the breeder, but in fact it has little in common with these potential leviathans. Solar technology is more diverse, and even the most difficult technologies, such as photovoltaics, may be closer to commercial realization. Many solar technologies already work, even though the best designs have not been found, and they are already facing the economic challenges that other long-range options have yet to confront. It is arguably time to reconsider solar priorities and ask whether the distribution of research resources among nuclear, fossil, and solar options reflects a rational policy.

SETTING ASIDE 35 PERCENT OF SOLAR AWARDS FOR SMALL BUSINESS

● Mr. NELSON. Mr. President, I am pleased to join my colleague, Senator STEWART, in sponsoring an amendment to S. 688, the DOE authorization bill. This amendment would set aside 35 percent of all research and development contracts and 35 percent of all solar applications contracts for small business.

This amendment follows 2 days of hearings held by the Senate Select Committee on Small Business on this issue in December of 1979. The committee's hearings provided a very disturbed picture of the role of small business in the solar program at DOE. Despite DOE's acknowledgment that small firms are more innovative than large, and their agreement that this relationship is even more true for solar, their 1979 figures show that only 1.63 percent of all their research and development awards went to small business, while only 0.77 percent of their solar applications awards went to small firms.

This appalling record represents a substantial decline from 1978, when small firms received 9.7 percent of R. & D. awards and 18.1 percent of applications awards. Moreover, this decline comes despite DOE's assurances to the Congress that they would take steps to increase small business participation over the 1978 amounts. In fact, the decrease follows the implementation of a series of new procedures recommended by the GAO, which, in 1979, harshly criticized the DOE small business program.

Clearly, procedures are not the answer. For some reason, DOE officials seem to believe that bigger is better, even though they have told the Small Business Committee that they know that solar small business is more innovative than large. This deeply held prejudice against small firms is not unusual in Federal procurement, but it is especially disturbing in the solar energy program.

There is perhaps no single field better suited to small business than solar energy; 80 percent of all solar firms are small. Solar energy, by its nature, is a diverse industry which works best when adapted to the peculiarities of local conditions. The windmill that may work well in the Northern Plains may have little value in calmer parts of the country. The solar collector that is so efficient in sunny climates may have little value in the Pacific Northwest. The low-head hydroelectric project may be ideal for New England, but makes little sense in the Southwest.

Moreover, solar energy is most efficient when used "on-site"—when it is on or near the site which needs the energy. The reason for this is simple: solar's great advantage is that it can directly transform wind, water, or sun into energy and make it useful where it is generated. Solar units can be made small enough to fit attractively on to homes, buildings, and other sites in need of energy. It simply makes little sense to build enormous central generating plants to turn sunlight into power and then transmit the power over long distances—a process that wastes much of the energy.

While that may seem entirely logical, it is not so clear to the Department of Energy. According to the OTA's massive 1978 study on solar energy—

> Federal support of solar energy has concentrated disproportionate attention to central electric generating systems instead of exploiting the special opportunities provided by on-site equipment.

Science magazine came to the same conclusion, saying that DOE was pursuing solar energy in "the nuclear mode," while the new head of DOE's Solar Energy Research Institute, Dennis Hayes, said recently that DOE must focus more on smaller projects.

Small businesses are the most appropriate businesses to develop these small projects suited to local conditions. After all, this is what small business is all about. As long as DOE continues to pursue the kinds of large projects it has been, however, small business will be shut out.

By enacting this set-aside, therefore, we will be forcing DOE to move towards smaller projects while at the same time giving the taxpayer a bigger bang for his solar dollar.

The reason for this greater efficiency is simply that small firms are more innovative. According to the National Science Foundation, small companies are 24 times more innovative per research dollar spent than large companies. This greater efficiency would, in itself, be reason enough to enact this set-aside.

It might be asked, though, if 35 percent is too much. In fact, 35 percent is probably too little. Solar energy experts have agreed that small firms can easily absorb this amount—remember, 80 percent of all solar firms are small. Moreover, it is the small firms that have come up with the truly significant solar innovations. For instance:

First. The largest solar installation in the world was installed by a small California firm. The installation supplies heat and hot water to a 254 unit apartment in California, and cost no more to install than a conventional firm, exclusive of tax benefits. DOE, at the hearings, testified that it did not know of this development. In the meantime, DOE officials repeatedly and publicly state that solar is a long way from being cost-competitive.

Second. A small manufacturer of wind machines in Texas has developed and sold a wind machine which is 16 times more cost efficient and 8 times more energy efficient than a machine DOE has contracted with McDonald-Douglas to develop. The two machines produce the same amount of power, but the small firm's machine cost its buyer $40,000, while DOE's machine will cost the taxpayer $1.5 million.

Third. A small business in New England has developed a photovoltaic rooftop array that produces heat and electricity simultaneously. The system was first developed and installed in 1976. It has a 7-year-payback period, assuming no real dollar increases in energy prices. It produces this energy at a cost 10 percent below what DOE has contracted with Exxon and others to produce in 1986.

How much help have these innovators received from DOE? Surely the Department would be interested in promoting these breakthroughs. The answer, of course, is that they have received no help at all—not a single penny from DOE or any other Government agency.

We can continue to hope that DOE will see the light. We can continue to write letters and ask questions. We can continue to hold hearings. Frankly, however, all these things will be a waste of time—unless we pass this amendment, DOE will simply continue to ignore small business, and in the process, ignore the best hope we have for a solar future.●

AMENDMENT NO. 1654

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to S. 688, supra.

NUCLEAR WASTE POLICY ACT—S. 2189

AMENDMENTS NOS. 1655 THROUGH 1657

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted three amendments intended to be proposed by him to S. 2189, a bill to establish a program for Federal storage of spent fuel from civilian nuclear powerplants, to set forth a Federal policy and initiate a program for the disposal of nuclear waste from civilian activities, and for other purposes.

● Mr. HATFIELD. Mr. President, when S. 2189 is considered by the Senate, I intend to offer the amendments which I am introducing today. I believe they clarify the intent of the legislation, largely by making explicit what is otherwise implied.

The first provides:

That all obligations of the revolving fund will be covered by charges to the utilities;

That the expenditures from the fund (and therefore the charges to the utilities) will cover all transportation of the spent fuel to which the Government takes title, all use of facilities attendant to such transportation and to the storage or disposal of such waste, and all construction, operation and maintenance of Federal facilities established for such storage or disposal;

That any appropriations made for such transportation, storage or disposal will go into the fund and be completely reimbursable to the Treasury, with interest; and

That expenditures from the fund will be subject to congressional control via approval in annual appropriations acts.

The second clarifies the requirement that a long-term retrievable storage facility must be designed to accommodate reprocessing wastes by adding the proviso "if reprocessing is undertaken in the United States."

The third provides that private industry will be used to transport spent fuel unless it is unable or unwilling to do so at reasonable cost. The bill presently reserves the transportation service for industry without the "at reasonable cost" proviso, although the committee's report clearly states it is their intent that the Government not be forced into contracts involving unreasonable prices.

I ask unanimous consent that these three amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1655

On page 16, strike lines 10–23 and insert in lieu thereof:

"SEC. 501. (a) There is hereby established in the Treasury of the United States a separate account to provide for (1) the construction and operation of Federal away-from-reactor interim storage facilities for spent fuel from civilian nuclear powerplants, (2) the disposal of such spent fuel and high-level radioactive waste from civilian nuclear activities, and (3) the handling and transportation of such spent fuel and waste. Amounts appropriated under section 308 or otherwise appropriated to carry out any of the purposes of this Act (except section 406 and title VI), all charges under section 304, receipts derived from the sale of any reprocessed fuel, and the proceeds from any obligations issued pursuant to section 502 of this title shall be deposited into the account.

(b) The Secretary may, without appropriations but within such specific limitations as are included in appropriations acts, draw on such account as he deems necessary to achieve the purposes of this Act except section 406 and title VI.";

and on page 17, lines 24–25, strike "for the acquisition of an interim away-from-reactor storage facility" and insert in lieu thereof "and any other appropriations made to carry out the purposes of this Act except section 406 and title VI".

AMENDMENT NO. 1656

On page 11, lines 23 and 24, strike "produced from the reprocessing of spent fuel or" and ";", and insert at the end of line 24 ", including reprocessing of such spent fuel if reprocessing is undertaken in the United States."

AMENDMENT NO. 1657

On page 10, line 8, following "services", insert "at reasonable cost".●

FEDERAL TRADE COMMISSION ACT AMENDMENTS—S. 1991

AMENDMENT NO. 1658

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to S. 1991, a bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes.

AMENDMENT NO. 1659

(Ordered to be printed.)

Mr. SIMPSON proposed an amendment (as modified) to S. 1991, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CONSUMER AFFAIRS

● Mr. TSONGAS. Mr. President, the hearing previously scheduled for February 8, 1980 by the Consumer Affairs Subcommittee of the Committee on Banking, Housing, and Urban Affairs has been rescheduled to Thursday, February 21, 1980 beginning at 10 a.m. in room 5302 of the Dirksen Senate Office Building.

The subcommittee has before it two pieces of privacy legislation from the administration, S. 1928 and S. 1929. Both of these bills were sponsored for the administration by Senator PROXMIRE.

This legislation represents the committment of the administration to implement many of the recommendations of the Privacy Protection Study Commission.

This particular hearing will be devoted to reviewing the administration's case for title I—Amendments to the Fair Credit Reporting Act and title II—the Fair Credit Information Practices Act. Title I will plug many of the loopholes and deficiencies of the Fair Credit Reporting Act. Title II will extend fundamental privacy safeguards to major grantors of consumer credit—banks and other depository institutions, finance companies, and credit card issuers.

Anyone interested in further information about the hearing, should contact the subcommittee staff at 224–7391.●

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, on February 14, at 9 a.m., in room 324 of the Russell Senate Office Building, the Subcommittee on Agricultural Research and General Legislation, of the Senate Agriculture Committee, will hold a hearing on the role of research and extension in encouraging alternative energy technology which will impact upon the agricultural community. The hearing will focus specifically on the manner and form of coordination between the Department of Agriculture and the Department of Energy in the President's alcohol fuels program, and the role biomass energy research will play in that program.●

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared by the Minority. I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a hearing on the fiscal year 1981 Department of Defense authorization request.

The PRESIDING OFFICER. Without objection, so ordered.

ADDITIONAL STATEMENTS

THE POSITION OF THE UNITED STATES IN WORLD AFFAIRS

● Mr. COHEN. Mr. President, as Congress begins its debate in the coming weeks about this country's defense posture, we should be aware that the question is a topic of discussion all over America. Many Americans are rightfully concerned about the position of the United States in world affairs. The appearance of decline has spawned actual decline of our influence.

Recently in my State, the Maine American Legion held its annual midwinter conference at which James B. Hubbard, deputy director of the National Security Division of the American Legion, spoke. I ask that these excerpts from his speech be printed in the RECORD.

The excerpts follow:

EXCERPTS

> The American Legion has become seriously concerned about the apparent unwillingness of this country to act forcefully in those areas of the world where forceful action is in our own national interest. We are also concerned about the signals we send other nations, both friends and enemies, when we fail to modernize our armed forces with the ships, planes and manpower necessary to insure a credible deterrent force.
>
> For more than 30 years, we have watched this country's influence in world affairs wane, and our national resolve and military might sink to an all-time low. In spite of the American Legion's diligent efforts to promote a state of military preparedness, the United States has declined in relative military strength.
>
> We emerged from World War II a proud and victorious nation—the most magnanimous and powerful in history. A haven for the oppressed, America opened her ports to millions seeking unparalleled freedom and opportunity. Not willing that even the vanquished should live in poverty or slavery, we sent billions of American dollars to former enemies to rebuild their shattered homelands.
>
> There can be little argument that the U.S. has followed a policy of extreme self-restraint. Our current President announced that his administration will be free from "inordinate fear of communism." He staffed our foreign policy and national security agencies with people whose careers are heavily invested in the most hopeful propositions about Soviet behavior. A U.S.-Soviet "joint communique" invited the Soviets to play a larger role in Israeli-Arab diplomacy. U.S. withdrawal from South Korea was begun. Partial diplomatic relations with Cuba were resumed, and negotiations were opened with Vietnam.
>
> Barriers against private visits to the U.S. by foreign Communist leaders were lowered. The B–1 bomber was cancelled; the MX and cruise missiles have been delayed; the Minuteman III assembly line was closed down. Neutron weapon production was postponed. U.S. proposals in the strategic arms limitation talks for major mutual reduction in nuclear weaponry were shelved. U.S. defense spending was increased by only 1.8 percent, despite a burgeoning Soviet arms build-up and promises to our NATO allies that we would spend more.
>
> Aid has been scrupulously withheld from the popular UNITA faction in Angola. The U.S. has dragged its feet on the internal solution in Rhodesia, and has sought to satisfy the Communist-backed guerrillas. And after some initial boldness, the Carter administration muted its criticisms of Soviet human rights violations. Now the administration has failed to act decisively to the hostage situation in Iran, and the blatant Soviet invasion of Afghanistan.
>
> Nor can there be any more doubt about the character of Soviet response to this American restraint. It has not softened its inordinate ideological hostility toward Western democracy. It has worked to undermine the "Sadat initiative" in the Middle East. It continues its vast arms build-up. It has not matched U.S. postponement of neutron weapons development with any equivalent gesture. Soviet generals commanded the Cuban and Ethiopian forces in Ogaden, as perhaps they will again in Eritrea. The Soviet Union is working to undercut a just and peaceful solution to the conflict in southern Africa. It has brutally invaded Afghanistan with more than 100,000 troops and installed a puppet leader in that once sovereign nation. It has launched a brutal campaign of repression against its own dissidents, the end of which is not in sight.
>
> In short, the Soviet government has seen our restraint not as a model to be imitated, but as an invitation to assert itself. Acts born of hopefulness and good will were taken as signs of weakness. Never before in history has a world power so apathetically accepted such a drastic change in the balance of power.
>
> The biggest challenge of the coming decade will be to restore the image of the United States to that of the proud international power we held after World War II. We must make clear that we are no longer so paralyzed by post-Vietnam guilt that we are incapable of taking any risks in the defense of our interests. No foreign policy is risk-free. The risks of continued retreat are often greater than those of considered action.●

OPTIONS BILL WOULD PERMIT BROADER OWNERSHIP OF SMALL BUSINESS AND ASSIST U.S. ECONOMY

● Mr. NELSON. Mr. President, testimony presented at the Small Business Committee's hearings on capital formation last year made a compelling case that small growth enterprises need effective inducements to attract highly qualified executives to allow these businesses to reach their potential.

Accordingly, the Senator from Oregon (Mr. PACKWOOD) and I are introducing a bill (S. 2239) which proposes to reestablish stock options to fulfill this need. This bill would permit all companies to offer options, if they so desire; but we expect this mechanism will be most useful to small and independent enterprises because of their greater possibilities for substantial growth.

BACKGROUND—THE INCREASED SUPPLY OF VENTURE CAPITAL

During the past 2 years of hearings on capital formation, experts have emphasized that the two most critical factors for the success of a new venture are the capital and leadership.

The February 8, 1978, hearings were the first to dramatize the predominant impact of the 1969–76 increases in capital gains taxes in choking off venture funds. It is thus significant that the consequent reduction of the capital gain rate from 49 percent to 28 percent, by the Revenue Act of 1978, in the opinion of financial professionals, has been the principal cause of generating between $500 million and $1 billion in fresh venture capital for independent enterprises.

While these funds do not solve all of the capital formation problems of small business, they have made a great improvement over the previous 5 years, when venture capital firms raised a total of just over $30 million per year.

THE NEED FOR TALENT

However, even if money can be found to launch or expand a promising business, that enterprise will succeed only if it is able to attract executives of extraordinary talent.

The demands upon the officers of such firms are tremendous in our competitive economy. They must have mastery of the technology involved. But they must also be able to organize effectively, they must deal with labor, financers, investors, government regulators, specialists, other executives, shareholders and the public. This takes a combination of professional and personal skills of a high order.

New companies and their financial advisers are constantly searching for able individuals who have the background, education and experience to perform these many tasks and move the enterprise ahead. But, persons of this caliber already have excellent positions. Why would they want to change their jobs, move their families, and take on the additional risks and uncertainties of a new venture?

Mr. Reid Dennis, chairman of the National Venture Capital Association, testified at our May 22, 1979, hearings on the problems which small enterprises have in attracting this type of executive:

> Young companies, however, are generally not able to offer either job security or the salary levels that can be offered by large, established corporations. Thus, one of the principal inducements for attracting these key employees to young companies is the ability of those employees to participate in the growth of the enterprise through an eventual equity interest.

SMALL ENTERPRISE SHOULD BE ABLE TO COMPETE

In my view, independent enterprises should be able to offer a share in the ownership in order to attract the executive they need.

Time and time again the committee has been impressed by the benefits of business ownership. We all know that business owners work extra long hours. We know that half of the innovations in the American economy are developed by new and small business. There is no substitute for the effort put forth by individuals who are free to develop their own enterprise in their own way and reap the financial rewards and feelings of pride that come with success.

We feel there are multiple benefits from promoting such ownership. The present tax laws restrict the use of options in providing these advantages. So, we would like to open the door a little wider to stockownership of small businesses. Our intent is to make ownership more available not only to executives, but also to middle managers and workers, which we understand is the present trend in high technology industries.

HISTORY OF THE LAW IN THIS AREA

There is a history of controversy over stock option legislation which should be acknowledged.

In the early 1960's, there was a feeling that the option law was too liberal. (See "President's 1962 Tax Message.") This was because high income taxpayers could convert ordinary income—which was taxed at 91 percent—into capital gain—which was taxed at 25 percent. So, in 1964, the law was revised to require that all options be issued at 100 percent of market value—previously it was possible to issue them at 85 percent of market value—and the period for which the option could remain outstanding was reduced from 10 to 5 years.

Then, in 1976, qualified stock options were virtually eliminated. Today the problem is not as great because that rate on earned income is 50 percent and the capital gains rate is 28 percent. The differential is not nearly as large, and if a large corporation wants to confer extra compensation on an executive, it can pay a bonus and the executive will be able to retain half of it without any delays or other technicalities. Small firms are rarely in a position to do that.

We are conscious that, in proposing to restore the option, many technical as well as policy problems remain. However, Senator PACKWOOD and I feel that an effort to do this is worthwhile for small business and for the overall economy.

We are also convinced that any proposal for change of the bill should be well considered and moderate in meeting the problems involved and preventing abuses such as those that arose in the past.

WHAT THE BILL WOULD DO

For this reason, we have tried to construct this bill carefully. It has the following features:

Options must be issued for 100 percent of market value, as under the 1964–76 law. Options below 100 percent, as allowed under the 1945–63 law would not be allowed, on the ground that the goal of the legislation is ownership, and the extra 15 percent preference is not necessary to this objective;

The period over which the option may be exercised would be 10 years, as under the 1945–63 law, for the reason that it often takes 5 to 10 years for a new venture to turn profitable;

The options need not be exercised in the order issued, as was the law in 1945–63. This may be somewhat more generous, but this policy would recognize that if the market goes down, options are lost as incentive unless new options can be issued at the lower level of stock prices. The present law therefore makes options ineffective as an incentive in periods of falling or uncertain stock prices, which has been much of the time during the past decade;

The shareholders of public corporations would have to approve the plan to issue options, as the statute provided between 1964 and 1976, but nonpublic companies would not be bound by that requirement. This is based on the fact that there is not the gap between ownership and management of small companies that there nearly always is in large publicly traded corporations. Approval was required for all companies between 1945 and 1963.

The bill differs from H.R. 5060, introduced in the House of Representatives earlier this year, which adopted the 1945–63 position on all of the above points.

This bill would be open to large as well as small firms. In the past, the law has made no distinction on the basis of size. We feel that the greater proportional growth of small and independent enterprises is an adequate competitive factor for small business in this regard. But we are also aware of a case to be made for limiting the bills to independent business or to giving preferences to smaller businesses.

We acknowledge that there may be merit in such other positions on these questions. We are certainly willing to listen to the debate on this bill and take into account new information that may be forthcoming and the arguments in favor of changes.

A FIRST STEP

But, we consider this bill to be a necessary first step in the Senate in the process of adopting legislation in this area. We welcome the next steps. More information should be developed. Testimony should be taken on the interests of large and small businesses as well as investors, consumers, and the Public. This will give Congress the foundation that will be needed to proceed. We need estimates of the revenue cost involved and we have asked the tax experts for them. We were assured by witnesses in our May 22 hearing that the Treasury would actually gain revenues from the enactment of a bill along these lines, and the Congressional Joint Tax Committee subsequently confirmed that the effect of a similar bill introduced in the House of Representatives would increase revenues by about $15 million per year by 1984 and $30 million in 1985.

The legislative process will provide time. The relevant information can be developed, gathered, and evaluated. Questions that are raised can be answered. Necessary adjustments can be made in the bill.

However, the important point, we believe is that there is a legitimate need for legislation which would allow executives, managers, and workers, particularly those in small businesses, to gain an ownership interest in the enterprises they operate for all of the benefits which that will bring to the American economy. We are committed to go about addressing this need in a sound and constructive manner.

We should be glad to cooperate with all who are interested in small business and in this problem in reaching an agreement on a bill in this area which can ultimately be enacted into law.●

S. 2263—WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

● Mr. JAVITS. Mr. President, I am pleased to join my colleague, Senator MOYNIHAN, in introducing the bill to establish a Women's Rights National Historic Park in New York State. The park will commemorate the formal beginning of the struggle of women for their equal rights.

Almost 132 years ago, in a small town in New York State, the women's rights movement began. It was on July 19, 1848, that a small group of women convened the Equal Rights for Women Convention. After much deliberation, they adopted a series of resolutions in which they demanded the equal right for women to vote; to enter schools, colleges, and the professions; to hold public office; to control their own property; to earn a living and to control their own earnings; to guardianship of their children; to make a will; to enter into contracts; to sit on juries; and to conduct business.

The Women's Rights National Historic Park will include five sites in Seneca Falls and Waterloo, N.Y., associated with the 19th century women's rights movement. These sites include the Wesleyan Methodist Chapel, site of the 1848 convention, and the residences of Elizabeth Cady Stanton, Amelia Bloomer, Jane Hunt, and Mary Ann McClintock, women who dedicated their lives to the fight for equality.

Mr. President, the legislation we are introducing is the result of the active participation of the local citizens who wanted to insure the preservation of the sites associated with the struggle of women for their equal rights, and the innovative study of the National Park Service to investigate sites whose significance is related to themes which are not adequately represented in the National Park System. I want to commend all of the persons associated with this proposal and hope that the Congress will act upon this measure expeditiously so that their efforts may come to fruition.●

WHY U.S. CONTRACTORS ARE NOT COMPETITIVE IN THE MIDEAST

● Mr. INOUYE. Mr. President, as most of us in the Senate are well aware, the U.S. Government—out of the best of intentions—has implemented several policies which have adversely affected the competitiveness of American exporters of goods and services.

At times, we have sought to extend our values into an unreceptive world in the belief that the international world order is still dominated by the U.S. economy. Unilateral restraints have contributed to a decline in the competitiveness of American firms relative to foreign concerns, which do not operate under similar limits.

Nowhere is our plight more graphically illustrated than in the Mideast, where the U.S. share of construction contracts has dropped sharply. In a 13-month period ending June, 1979, the United States ranked 12th after other industrialized countries, Third-World nations, and East-bloc countries. The winner of the largest number of construction contracts was South Korea.

Awards to U.S. contractors amounted to about 1.6 percent of the total compared to 10.3 percent in the preceding 34 months. Although complete figures for all construction contracts let during this period are not available, the evidence of declining American competitiveness in this crucial area of the world is compelling.

The reasons for this sorry situation are manifold. In some cases, the Federal Government has imposed restrictive policies, while in other instances, the private sector has not been sufficiently aggressive. We in the Congress cannot convince business to be more competitive, but we can and should prevent the imposition of self-defeating shackles on business.

The Engineering News Record recently printed a story describing this situation. I ask that the article be printed in the RECORD.

The article follows:

U.S. "ARROGANCE" COSTS FIRMS BILLIONS IN LOST JOBS

The U.S. construction industry, once the most competitive force in the international arena, has seen its edge dulled in recent years by a debilitating paper storm of federal regulations, tax policies and export restrictions. At the same time, governments and contractors in Europe, Japan and elsewhere have sharpened their attack in the third world. Nowhere are the results of this shift more apparent than in the Middle East, the largest export market on earth, where Americans now rank 12th in the race for new construction business.

As U.S. oil imports and trade deficits have grown, destabilizing and inflating the dollar, so has the share of Mideast construction contracts awarded to American companies fallen, a dichotomy that would worry most governments. Washington is worried, but mostly about who will be filling the seats of power next year. Few congressmen and Carter administration officials are even aware of the dismal decline in U.S. construction exports.

"We're losing drastically here, and we're going to continue to lose drastically," says the manager of a U.S. construction company in Riyadh. "Give us some incentive," he says. "If Congress and the President don't change their minds, and if they don't understand what we're losing here, there's no hope."

SEVEN NEW U.S. JOBS

An ENR analysis of 220 construction contracts awarded in 14 Middle East countries during the 13 months ending June, 1979, shows U.S. firms with only seven new jobs worth $346 million. That's 1.6% of the total $21.8 billion worth of new construction counted in that period. An earlier analysis of 542 major construction projects started in the same Mideast countries between June, 1975, and April, 1978, showed U.S. companies had signed up 10.3%, or $8.9 billion, of the $86.3 billion total volume.

These figures are derived from reports in ENR's international construction week newsletter, the U.S. Army Corps of Engineers' Mideast contracts listing and projects reported by the U.S. Agency for International Development. While they do not represent the full market, the $108 billion worth of construction in 762 contracts counted are a valid cross-section of how business is being distributed.

Also, contracts analyzed do not include those for design, construction management or supervision, plant startup or other types of service work. U.S. firms, notably the Bechtel Group of Companies, San Francisco; The Ralph M. Parsons Co., Pasadena, Calif.; and Morrison-Knudsen Co., Inc., Boise, have signed up considerable amounts of this kind of business in addition to construction in the Mideast. But beyond drawing heavily on engineering manpower, design and management work has little direct beneficial effect on the U.S. economy. And that's the critical element in any argument for construction exports, that domestic orders for materials, installed machinery and construction equipment will follow.

SHARP U.S. DROP

The construction contract numbers point to a glaring decline in what was already a poor Mideast market share for U.S. companies. In the most recent figures, for the 13 months ending in June, 1979, American firms were eclipsed by those from 11 other countries, including Yugoslavia, the Soviet Union, India, Taiwan and Brazil.

South Korean contractors, trained by the Corps of Engineers during the 1950s and invited to Saudi Arabia in 1972 to bid on Corps-managed military construction work there, have all but cornered the labor-intensive heavy construction market and are now seeking more sophisticated work. Licensed, supported and controlled by their government, some of the 66 Korean contractors chasing contracts in Saudi Arabia signed 21 new projects worth more than $3.3 billion in the most recent period analyzed. Of the 16 contracts awarded by the Corps from May, 1978, to July, 1979, Koreans signed 12. Elsewhere in the Mideast, Koreans were awarded $1.3 billion in new work. The total puts them at the front of the pack in the new business race.

By comparison, U.S. contractors signed four new Saudi jobs. ABA Electromechanical Systems, Inc., Pinnellas Park, Fla., was the only U.S. firm awarded a Corps job, a $14.9-million contract for work at a weapons training range near Riyadh.

Italian contractors are second in the new business ranking. Snam Progetti, part of Italy's state-owned oil complex, took contracts in Iraq for an oil refinery and a gas gathering and liquefaction job, worth roughly $2 billion, to put them there. Philipp Holzmann AG Frankfurt, West Germany, won a Saudi housing contract worth $1.1 billion, the largest of 18 Mideast awards totaling $3.3 billion that went to West German contractors in the 1978-79 period and put them third in the market share rating. Japanese contractors signed up 33 new jobs and French companies six to put them in the fourth and fifth spots, respectively.

Further down the list, below contractors from the United Kingdom, communist countries and those from developing nations, are the U.S. firms.

REASONS WHY

Why have American contractors fallen so far so fast in the Mideast? Up front, because it's far away, much of the material and most of the labor has to be imported for any project, contractual conditions are onerous, competition is very stiff and the long-sizzling revolution in Iran closed the door to Americans on what had been the best U.S. market in the Mideast. Unless they need technology only U.S. firms can offer, Libya, Iraq and Syria won't have much to do with Americans either.

Even high technology projects, once the bastion of only a few American firms, have been lost to a growing list of competitors. "We're rapidly losing the technical advantage we had about five years ago," says a Bechtel manager in the Mideast. Currently, about 20 companies around the world can do that kind of work, he says. "They're learning the business out here in the Mideast and now the competition is awesome wherever you go for highly sophisticated work."

One result of the intense competition, says an American architect with long experience in the Mideast, is that companies like Bechtel and Fluor Corp. can't compete if they buy U.S. products. "The state of the art is not American," he says.

Statements like that lead to the conclusion that there must be other reasons for the decline, beyond geography, competition and difficult working conditions. U.S. contractors are accustomed to working in inhospitable areas. They've been shot at in Zaire, delivered millions of tons of equipment and materials into the jungles of South America, trained thousands of laborers in the Philippines and seen their assets expropriated in Peru, China and elsewhere.

The real answer is American arrogance in assuming U.S. political and economic influence is sufficient to sway contract decisions and that U.S. products and technical know-how are superior.

The arrogance begins with the U.S. government for ignoring the importance of reclaiming petrodollars by exploiting the $400-billion-to-$500-billion Mideast construction market; for unilaterally legislating the export of U.S. business ethics, human rights policies, environmental regulations and tax philosophies; and for assuming that the American public will tighten its belt another notch while the Japanese, Europeans and South Koreans are busy tooling up for more and more Mideast exports.

(Japan has a 300% freight rate advantage over U.S. firms on export shipments. Likewise, organized foreign exporter representatives in Europe and in the Far East use cartel-like power to keep rates down. In the U.S., official government cargo often crowds out private export goods on U.S. flag carriers, allowing them to exact premium rates for what space remains.)

It's arrogance on the part of U.S. manufacturers for allowing their technology, their physical plant and their attitudes about exports to remain old; for clinging to the church-state separation of business and government so desperately that few even know how to get help from Washington; and for not reacting as their products fall from grace in the international marketplace.

(An internal study done by Fluor Corp., Irvine, Calif., ranks U.S. manufacturers fifth in the world in terms of reliability of supply, getting what you pay for. On the other side of the coin, according to Kaiser Engineers, Oakland, Calif., fully 64 percent of the cement plants under construction in the U.S. today use Japanese technology for a major component.)

And finally, it's arrogance on the part of the U.S. construction industry for failing to develop the kind of salesmanship, market analysis techniques and work ethic required to be successful in a truly competitive international marketplace.

(According to George B. Gray, former head of the Corps' Saudi operation and now in joint venture with a Saudi contractor bidding highway work, most American contractors seeking Mideast contracts don't send top decision-makers to negotiate terms, they don't collect and analyze competitors' bids, they don't move quickly enough among the Saudi ministries to know what's coming up for bid and they overestimate Mideast construction costs. "The executives don't want to give it a real go over there and that's fine," he says, "but then they shouldn't come home and bitch."

On another level, says a U.S. architect, "American contractors know how to get to the bottom line with a Texan, but their ethnocentrism or prejudice makes them unable to deal effectively with an Arab."

There are exceptions, of course, and many reasons—all of them good—for each of these failings. The causes are tied in the complex knots of worldwide political, industrial and economic history. Yet the overriding fact remains that until American attitudes change, the U.S. will continue to see oil and other import bills far larger than export earnings. No country can suffer that imbalance long without succumbing to the sickness of inflation and recession.

GUNS VS. MORTAR

Beyond the effects on the domestic economy, the failure of the U.S. to secure a significant portion of the Mideast construction market has had another less apparent, but possibly more dangerous effect. U.S. arms exports to the volatile Mideast have picked up considerably in the past two years, even after the cancellation of $12 billion in Iranian arms orders and the evacuation of most of the 10,000 technicians employed as advisers on Iranian weapons projects.

Well-organized pressure from the defense lobby and from the Treasury and Commerce departments, seeking to reclaim petrodollars through arms exports, forced President Carter to renege on his campaign promise and, upon entering the White House, his policy of arms restraint. The pressures to balance the oil import drain were too great. The result has been the signing this year of a $3.7-billion arms package for Israel and Egypt, more than $4 billion for the Saudis, and the addition of three new arms customers, Oman, North Yemen and Sudan.

Had U.S. contractors been able to sign up a share of the Mideast construction market on a par with their capabilities—say 25 percent of the total—and if that share could be maintained throughout the 1980s, by promoting construction exports, for example, Carter could have counted on some $125 billion in Mideast trade in steel and concrete. In its absence, he had little choice but to go with F-16's.

Carter inherited the Mideast arms buildup from his predecessors. He also inherited a bureaucracy with an almost absentminded indifference to construction exports and a system of laws and regulations that have the effect of discouraging many contractors from even seeking foreign work. By comparison, the rest of the industrialized world and some less developed countries have formed what in effect are government-contractor teams to promote exports. "We're really competing against foreign governments out there," says H. Neal Spencer, head of Morris-Knudsen, Inc.'s international division.

NO EXPORT GROWTH

U.S. export growth for all goods and services has been negligible since 1974. Compared to the 13.5 percent average increase in imports over the past five years, exports have grown at 7 percent a year, not enough for any real gain in sales. In addition to the Mideast, the total U.S. export market share has dropped since 1977 in Japan, Italy, the Netherlands, several Latin American countries, India and Korea.

The U.S. government spends less each year to promote manufactured exports than do the governments of Japan, the United Kingdom, Italy and France. For each $1 million of manufactured exports France and Japan spend about $600; Italy spends about $1,400; and the British spend $2,500. The U.S. spends $340.

One key to the success of the Europeans and the Japanese in the Middle East and elsewhere is their governments' liberal export financing packages.

In the first six months of 1977, for example, official French government support for exports totaled $18.6 billion. Washington offered $2.7 billion. The gap narrowed somewhat during the same period in 1978, $11.7 billion for the French vs. $4.1 billion for the U.S., but the use of unofficial "predatory" financing by Paris stepped up considerably during that time.

Six loans involving mixed credits, the combining of official export financing and foreign aid into concessionary loans tied to procurement, were offered by the French in the first six months of 1978 and resulted in $605 million worth of French contracts in the Mideast, South America and Africa. The British have set aside 5 percent of their foreign aid for mixed credits. By comparison, the Export-Import Bank, the U.S. agency charged with export financing, has offered two such concessionary low-interest, long-term loans, to Cyprus and Tunisia, that resulted in $104.5 million in contracts tied to exports.

EX-IM EFFORTS THWARTED

Ex-Im is working to increase its lending authority and the scope of the kinds of credits and terms it can offer. Yet its hands are tied by Congress, which decides the agency's annual appropriation. In its March, 1979, report to Congress on export credit competition, Ex-Im concluded that from the standpoint of the U.S. commitment to exports and from the point of view of the exporter, the U.S. is "not only uncompetitive with the principal foreign export credit agencies, but also is making little progress to narrow the gap." The reason—"Like many other U.S. government programs, Eximbank is subject to an extraordinary number of legal and statutory controls."

Ex-Im's 1980 appropriation is $4.2 billion, and $500 million of that is already committed for a nuclear power loan to Korea made earlier this year. Says Ex-Im director Donald E. Stingel, "Unless we get more money you're going to see U.S. contractors losing out more and more on export business."

Another federal bureaucracy with some responsibility for promoting exports, the Agency for International Development (AID), is working tenuously under the assumption that Congress will continue funding it. AID's 1980 appropriation has been held up in a House-Senate conference committee for months and the prospects for a decision soon are considered remote.

In addition, the agency is directed by Congress to allow contractors from certain lesser developed countries to bid on AID-financed projects. The result, according to AGC, is that the U.S. is financing some $25 million a year of Mideast projects that are being built by Koreans.

"We're trying to set a good example for the rest of the world again, and again it doesn't work," says an AID engineer in Washington.

Beyond limited export financing incentives, the key disincentives thrust on American contractors seeking foreign work are federal taxation of expatriate workers and arbitrary statutes.

The U.S. is the only major exporter in the world that taxes its expatriate workers' foreign income. The Philippines, for example, adopted much of the U.S. tax system after World War II, but as soon as its contractors began seeking work outside the country, the taxation of workers' foreign income was dropped. Contractors found they couldn't compete otherwise.

Because of the tax burden, U.S. contractors working in the Mideast have increasingly been forced to hire engineers and managers from Great Britain and other countries instead of Americans in order to stay competitive there. According to Johnie H. Jones, executive vice president of J. A. Jones Construction Co., Charlotte, N.C., a U.S. contractor would have to pay a middle-management American employee $62,500 for that person to take home $27,480. By a comparison, a West German contractor would have to pay its manager $36,700 and that would net him a $29,244 income.

NO HELP FROM WASHINGTON

Any relief from Washington is a long shot. "Senator Proxmire is very, very reluctant to support what he considers a loophole—rich Americans living abroad getting richer," says Robert W. Russell, a staff member in the Senate Banking, Housing and Urban Affairs Committee chaired by Proxmire. "Some cleaning up of the statute is under way but I don't think the people working in the Mideast are going to get much help," he says.

Proxmire has also played a part in assuring that American businessmen are limited to some minor palm-greasing and paying only certain kinds of agent's fees when they work abroad. And contractor executives who argue that they're losing jobs because the rest of the world does business a different way end up in a Catch-22 situation. "If you start citing instances, the people like Proxmire have got you. If you say you've lost business due to bribes, he says you're advocating bribery," says Jack Richards, a Pullman, Inc. vice president based in Washington, D.C.

"In the rest of the world you don't pay commissions to the seller, it goes to the buyer. It's a different morality and that's the way it is," says Richards. Limited discussions are under way in the United Nations and among countries belonging to the Organization for Economic Cooperation and Development to eliminate bribery as a way of doing business throughout the world. In the meantime, says Richards, "Our foreign competitiors are getting the work."

INSURANCE, BANK GUARANTEES

Besides taxes and antibribery statutes, U.S. contractors find themselves at a competitive disadvantage on other fronts as well. Securing political risk insurance, bank guarantees for bids, performance bonds and advance payment bonds are all made more difficult for U.S. contractors than their competitiors.

"We haven't been able to get political risk insurance for any country in the Mideast," says Morrison-Knudsen's Spencer, adding, "None of our U.S. competitors have it either." And, whereas U.S. contractors' competitors in the Mideast can secure bonding and bank guarantees almost at request from their governments or from export trade organizations, U.S. firms must follow an arduous bureaucratic process that, for many, rules out even trying.

"Unless we can get the same coverage our European and Asian competitors get, we have to add the risks to our contingencies and that rules out serious competition from U.S. contractors," says Spencer.

Basically, what it all comes down to is that for a host of reasons most U.S. contractors are not competitive in the Mideast.

The long-term effect is likely to be the building up of a formidable force of very competitive European, Japanese, South Korean and other Asian contractors now learning their trade in the Mideast. For the moment, most are content to satisfy their governments' thirst for foreign exchange by taking on projects there. But what about the future?

"When the work in the Mideast dries up, where are they going to come next?" asks George Stockton, head of AGC's international division. "To the fairest, largest, most open construction market in the world, the U.S."

Last June, Ohbayashi-Gumi, Ltd., Tokyo, underbid America's top tunnelers to take $22.6 million worth of work on two San Francisco sewer jobs.

VAGUE DOMESTIC PROCUREMENT CONNECTION HAUNTS CONSTRUCTION

The key to convincing Washington of the importance of constructon exports lies in the ability of the industry to demonstrate authoritatively how much domestic business is generated when foreign contracts are signed. Yet, such concrete figures have never been gathered by any federal agency or by contractor associations.

In testimony before Congress, the Associated General Contractors and the National Constructors Association, the two trade organizations pushing hardest for export incentives, usually cite a figure for all industry developed by the Commerce Department: for every $1 billion in exports, 40,000 U.S. jobs are created. But because of the varied nature of construction, and the fact that some firms depend heavily on the international market for procurement, few congressmen are convinced by Commerce's figure.

"I don't think there's sufficient understanding yet of the importance of construction in promoting exports," says Robert W. Russell, with the Senate Banking Committee staff.

WHY NUMBERS ARE SCARCE

The failure of construction trade associations to gather the information on domestic procurement may have something to do with the attractiveness of the Commerce figure—it's probably high for construction.

There are other reasons, as well. "I think it's basically ignorance of the importance of doing such a study," says Joseph C. Story, a private consultant now working in Washington after spending years with the Arabian American Oil Co. in Saudi Arabia. He recounts how the American Businessmen's Group in Riyadh had at one time tried to gather procurement information but failed after contractor interest fizzled.

While the proportion of materials, installed machinery and construction equipment required on a Mideast job may be as high as 60 percent of the contract value, where those commodities are purchased depends on which country the project financing comes from, on the construction buyer's preference and on the sophistication of the contractor's procurement network.

According to a Fluor Corp. executive, as contractors become more experienced with the international market, they develop ties with foreign suppliers that sometimes offer better merchandise at lower costs. "On a Mideast job, we'd be buying a lot more out of Japan and Europe than we did 10 years ago," he says.

An internal Fluor study shows that American manufacturers rank fifth in the world in terms of reliability of supply. "The lack of domestic work has put a lot of U.S. shops in a price crunch and one of the first things to go is quality control," he says, adding, "If we buy it here, we've got to spend a lot more man-hours inspecting the work. That's not the case in Japan."

BUY AMERICAN

The other side of the coin is that many U.S. contractors do procure a large percentage of their materials and equipment at home. Of $124.8 million worth of goods purchased by J. A. Jones Construction Co., Charlotte, N.C., for foreign work from 1975 to 1978, 89 percent or $111 million worth was bought in the U.S. "We know the U.S. market best, so we buy at home," says Johnie H. Jones, executive vice president.

An Aramco study of the Saudi construction market puts the percentage of procurement in the U.S. by all U.S. contractors working in Saudi Arabia at 50 percent for materials and at 82 percent for construction and transport equipment. For local suppliers, those based in Saudi Arabia, Aramco figures 6 percent of their materials, 33 percent of the installed machinery they sell, 37 percent of the cranes, dirt movers and other construction equipment and 20 percent of the transport equipment are procured from U.S. suppliers.

Aramco's own procurement figures, however, reflect the fact that many of its contractors come from the ranks of U.S. giants and that its own procurement group, basically Exxon Corp., is probably the most sophisticated in the world. Of all materials and equipment imported for Aramco's Saudi projects, some 35 percent is procured from U.S. firms. It is unclear from the study whether all the goods are manufactured in the U.S. or whether some may be imported from U.S.-owned shops in other parts of the world.

To put these figures in perspective, Aramco figures 80.1 million tons of imported materials and equipment costing $69.4 billion will be required to support $109.6 billion worth of construction in Saudi Arabia between 1976 and 1980. The U.S. share over the five-year period is forecast at $18.7 billion or 27 percent of the total. All of these figures are expressed in 1975 dollars.

HOW THE MARKET IS SHARED IN THE MIDEAST

[Contract awards in millions of dollars]

	June 1975 to April 1978	May 1978 to June 1979	Total June 1975 to June 1979	Percent of total Mideast volume
West Germany	$14,960	$3,327	$18,287	16.9
Contracts	(62)	(18)	(80)	
Japan	14,577	2,662	17,219	15.9
Contracts	(94)	(33)	(127)	
Italy	6,708	3,529	10,237	9.5
Contracts	(39)	(20)	(59)	
United States	8,946	346	9,292	8.6
Contracts	(53)	(7)	(60)	
South Korea	4,585	4,667	9,252	8.6
Contracts	(51)	(34)	(85)	
France	6,573	1,324	7,897	7.3
Contracts	(32)	(6)	(38)	
Netherlands	6,509	72	6,581	6.1
Contracts	(31)	(6)	(37)	
United Kingdom	2,994	643	3,637	3.4
Contracts	(38)	(19)	(57)	
Switzerland	2,114	231	2,345	2.2
Contracts	(25)	(4)	(29)	
Belgium	2,138	87	2,225	2.0
Contracts	(6)	(3)	(9)	
Other European	2,340	447	2,787	2.6
Contracts	(28)	(18)	(46)	
Eastern Europe	4,527	1,279	5,806	5.4
Contracts	(14)	(11)	(25)	
Asian	3,784	1,176	4,960	4.6
Contracts	(36)	(20)	(56)	
Mideast	3,291	586	3,877	3.6
Contracts	(28)	(23)	(51)	
Other (Canada, Brazil, Cuba)	2,265	1,390	3,655	3.4
Contracts	(5)	(4)	(9)	
Total	86,291	21,766	108,057	100.0
Contracts	(542)	(220)	(762)	

Source: International Construction Week Newsletter, Corps of Engineers and U.S. Agency for International Development.●

PENNSYLVANIA COAL AN ALTERNATIVE TO OIL

● Mr. HEINZ. Mr. President, last week the Governor of my home State of Pennsylvania, Dick Thornburgh, convened a conference to discuss means for increasing the utilization of Pennsylvania coal as a domestic energy alternative. The people of Pennsylvania have come to realize that coal has the potential to significantly reduce our Nation's dangerous dependence on imported oil. I commend Governor Thornburgh for making a commitment to implement policies in Pennsylvania which will encourage the utilization of Pennsylvania's vast coal resources. Several steps have been taken already by the State which will have a positive impact on Pennsylvania's coal industry and I intend to work with the Governor and county and local officials to see that Federal policies do not hinder, but rather support the efforts being undertaken in the State.

As the Nation's second largest consumer and third largest producer of coal, Pennsylvania historically has a strong commitment to depending on coal for its energy needs. However, in spite of the impressive ranking of Pennsylvania in terms of national coal production and utilization, there is much more that can be done to increase the utilization of coal within the State.

Recently, the Caterpillar Co. and Howmet Aluminium Corp. installed anthracite-fired coal gasification units at their facilities. In addition, several localities, in conjunction with the Department of Energy, have undertaken the construction of demonstration size fluidized-bed plants to generate steam for city heating plants or industrial process applications. These efforts are examples of new ways in which coal can be used. However, regardless of the progress that has been made in developing new technology, the quickest way to increase coal utilization is to convert existing boilers which are coal-capable, but currently are burning oil or natural gas back to coal.

In his state of the Union message, President Carter indicated that he will send legislation to Congress authorizing $12 billion for aid to utilities who convert oil or natural-gas-fired units that are coal-capable to coal. I hope the President will fulfill his commitment soon and that Congress will enact this legislation without delay.

Mr. President, many speeches have been given extolling the energy potential of domestic coal resources, yet coal production has not grown anywhere near what the Department of Energy anticipated. In fact, tens of thousands of coal miners are unemployed and the coal industry is suffering from excess capacity of nearly 150 million tons. The potential of coal has not been realized for a variety of reasons, many of which can be attributed to the action of the Federal Government.

Coal can make a significant contribution to reducing our dependence on foreign oil. However, if we are to realize this potential we must make the same commitment to the development of coal on a national level that Governor Thornburgh has made in Pennsylvania.

Our commitment can be demonstrated by enacting legislation which makes coal the fuel of preference of industrial and utility boilers, encourages the development of an effective transportation system for coal and promotes technological improvements in the mining, conversion, and direct utilization of coal.

Mr. President, I hope that my colleagues will take time to read the remarks made by Governor Thornburgh at the opening of the conference which make a compelling case for increased coal utilization while underscoring the need for a strong commitment by the Government if our goals are to be achieved.

Mr. President, I ask that Governor Thornburgh's remarks be printed in the Record.

The address follows:

ADDRESS BY DICK THORNBURGH

Welcome to the Governor's Coal Conference.

Those who believe that politicians avoid controversy should take a look around this room.

This is probably the most diverse gathering of views on any one object—since Jerry Brown meditated alone.

Back in the "bad ol' days" of the seventies, some of you accused others of fouling the environment; others accused some of strangling free enterprise; many accused a few of exploiting honest labor; a few accused many of abusing good jobs, and virtually all accused government of every blunder in the book.

Perhaps you can understand, then, that at this particular moment, I envy the guy who cancelled out because of chicken pox.

As Lincoln might have said; at least he had something he could give everybody.

Ladies and gentlemen, the truth is that I have very little to give, but a great deal to ask of you today.

For you have gathered here to discuss a question that reaches far beyond the separate interests of miners, workers, environmentalists, utilities, or even those hand-wringing bureaucrats who keep recycling reports on reports from the courthouse to the state house to the White House and back again.

It's a question that this Commonwealth largely ignored seven years ago—when the Arab world informed us, by embargo, that our addiction to oil was nearing the point of no return.

It's a question we took too lightly in the years that followed—when Pennsylvania faced the threat of jobs and businesses failing victim to the inflated cost of fuel.

It's a question that rose to its rightful place at the top of our agenda only last year—when Three Mile Island and three-mile gas lines demonstrated the enormity of our neglect.

The question, of course, is this: What can we do; what might we do, and what must we do to overcome the problems and fulfill the promise of Pennsylvania coal as a source of energy and jobs for Pennsylvania's people?

I won't ask you to relive the nuclear trauma of March 28, 1979.

Nor do I feel the need to review the fuel pump panic of the summer that followed.

But I want to make it clear to you, as I have to others, that I don't intend to see Pennsylvania face another Three Mile Island. I don't intend to see Pennsylvania permanently crippled by the potentates of foreign oil. And I don't intend to preside over a state of joblessness and despair in the difficult decade ahead.

This is why I've asked the General Assembly, and the people of our Commonwealth, to join in what may become the most ambitious energy diversification effort in America. We seek to make Iranian politics and Iranian oil as irrelevant to us as Dale Carnegie has been to the Ayatollah Khomeini.

We also seek to be prepared for whatever verdict—be it good or ill—might emerge from the continuing national debate over nuclear power.

We seek these things, not as a matter of philosophy or choice, but as a matter of need.

We need to conserve our energy resources in Pennsylvania as never before—because conservation is the cheapest, cleanest and most immediately promising of all the alternatives available today.

We need to tap the sun, the earth, the water and the wind as never before—for those are the sources of new power that will be with us forever, if we but handle them with care.

We need to convert Pennsylvania grain into Pennsylvania gasohol as never before—because doing so would help keep our farmers farming, our tourists touring, and our workers working for untold years to come.

We need, in other words, to tap every energy alternative available—from sunshine to moonshine—because the diversity of our response to this crisis will surely define the horizon of our success.

And most of all, that means coal, ladies and gentlemen, that means coal.

For if it's true, as they say, that "there's no fuel like an old fuel," then it's time we stopped fooling around with one of the greatest sources of energy America will ever have.

We all know the problems we face as we enter the second century of our coal industry here in Pennsylvania.

We know that the environmental abuses of the first century are gone with the wind, because the wind itself has been claimed as the property of us all.

We know about the arguments over acid rain and drain and what they may or may not be doing to our rivers and farmland and trees.

We know, and we worry, about carbon dioxide and those incredible stories that predict a melting of the polar ice caps.

We also know that while environmental questions may be the toughest of our problems, they're not the only ones standing between coal and those who would use it.

The creation of new markets for coal will be worthless if we can't move the coal to market.

The recruiting of new customers will be difficult, if we can't produce a lasting alliance for jobs between management and labor.

The displacement of oil we seek will be impossible, if regulatory whims and fiscal policies make coal a poor competitor in the arenas of cost and pricing.

But of greatest concern to me today is a problem that seems to feed and sustain all the others—our failure to come together, in a Commonwealth consensus, and give our most abundant energy resource the support and attention it needs and deserves.

This is why I've asked you here this week. I don't expect you to come up with all the right answers, but I do hope you will ask the right questions—not only of one another, but of yourselves as well.

I hope that you, at a minimum, will tie each of our problems to those who have the responsibility, and the capability to provide solutions, for a change.

For if the dream of a new day for Pennsylvania coal is ever to come true, ours may be the last generation that can make it so.

We've been trying, at the state level, to do what we can:

We have committed the new state office building in Reading, for instance, to coal, and we're studying the possible conversion to coal of oil-fired boilers in 28 existing facilities.

We have asked the General Assembly for a credit on the railroad gross receipts tax to stimulate investment in our long-neglected roadbeds here in Pennsylvania.

We have cut red tape and broken ground on an anthracite gasification plant near Hazleton, and we've persuaded EPA to lift misdirected restrictions on anthracite, the cleanest of all Pennsylvania coal.

We have granted greater flexibility to steel and other coal-burning customers in choosing the ways in which they will meet air quality standards.

We have drastically cut the backog of mine drainage applications and mining permits.

We have adopted regulations permitting the use of higher sulfur coal in certain areas.

We have asked the General Assembly to give us legislation to assert state primacy over regulation of surface mining in Pennsylvania.

We have sued EPA for allowing West Virginia to use us as the repository of its air pollution, and we've made it clear that we don't intend to tolerate continued discrimination borne of east-bound winds and hide-bound bureaucrats.

We have asked the General Assembly to create a "Pennsylvania Energy Development Authority"—PEDA—to serve as a source of financial, technical and legal assistance to those who would develop our coal and other energy alternatives.

We have asked Congress to create an Energy Corporation of the Northeast—ENCONO—to provide federal guarantees for needed energy investments and to coordinate our efforts on a regional scale.

And we have urged the Carter Administration to place greater emphasis on coal related research, development, regulatory reform, transportation and financial assistance.

More recently, of course, I have read the papers that were prepared for you in advance of this conference, prepared, I might add, not by government officials, but by concerned citizens from each group represented here today.

I find the case some of them make for centralizing our approach to the research and marketing of coal to be especially persuasive, and I look, with anticipation, for more ideas on how this might be done.

I do intend to designate a member of my new Washington office staff to concentrate on federal coal policy and make it his or her primary responsibility in working with Congress and the executive branch.

I'm also considering the adoption of a policy that would, in effect, designate Pennsylvania coal as the most-favored fuel in our Commonwealth.

Under such a policy, utilities, factories, businesses, cities, counties, universities and other institutions that use or propose to use our coal might move to the front of the line in applications for appropriate state permits and other forms of government approval and assistance.

Under such a policy, an independent body like the Public Utility Commission might be further encouraged to provide the financial incentives necessary to build new coal plants, and to convert existing facilities to that fuel.

Your views on whether such a policy would be worth pursuing will be more than welcome, and I hope you will place it high on your agenda.

But you know as well as I that there's only so much the state can do to fulfill the dream I hope we share.

And it's not enough . . . not nearly enough.

There's no way the state alone can rebuild our ports and highways and railroads, or overcome the financial and marketing problems of coal.

There's no way the state alone can provide the research, experience, and money that will overcome the technical and environmental problems of coal.

And there's certainly no way the state alone can wish away memories of a not-so-distant past, and overcome the labor-management problems of the coal industry.

Make no mistake about it, I believe that Pennsylvania can and should become the energy capital of the Northeast—a major provider of fuel for our neighbors, and the principal source of energy for ourselves.

I believe that oil-fired generators can and should be fading away from the Pennsylvania landscape—displaced by new and converted power plants cleanly using Pennsylvania coal or its derivatives.

I believe that coal-fired plants can and should be desgined and located so that they never pose a threat to the health and safety of our people.

I believe the electric power from these plants can and should be delivered to urban centers in ways that minimize disruption of our forests and farms and communities.

I believe that raw Pennsylvania coal can and should be shipped for export to northeastern utilities on rails and barges and other facilities these customers might share with Pennsylvania in restoring.

I believe that Pennsylvania coal can and should be gasified and liquified and used as methanol and other forms of clean fuel for Pennsylvania industries and institutions.

I believe that these and other hopes and plans we share today are not beyond our reach.

But what we believe and what we achieve will depend, in great part, on what we do from this day forward.

If these things can be done at all, it will take us all to do them.

It will take public and private money, at all levels; public and private know-how, at all levels; public and private imagination, at all levels; and public and private influence, at all levels.

But most of all, it will take something that's been too little with us in years gone by—public and private commitment and understanding every step of the way.

I have posed for you the question this conference was called to consider.

Suggested in that question are a host of "how to" items: how to deal with sulfur; how to improve transportation; how to overcome market barriers, how to increase productivity; how to protect health and safety, both inside and outside the industry; how to direct and finance our technological efforts; how to shape our public policies, and how to mold our separate efforts and differing views into a Commonwealth consensus that serves all of our people.

Even more important than the question, in fact, is the spirit in which we consider it.

The challenge before each of us—regardless of interest or affiliation—is to put the "bad ol' days" of discord truly behind us, to be willing to listen as well as instruct, willing to rethink as well as react and, above all, to be willing to give as well as receive.

This is the spirit I hope to leave you with now.

If it's true, as someone wrote, that we've reached an "era of limits" in the history of civilization, there is one limit we must never allow ourselves to accept.

Let it never be said that any challenge was so great, so complex, and so overwhelming that it finally exceeded the limits of our resolve, as Pennsylvanians, to join together when it really counts, to survive, to prosper, and prevail.

Thank you for caring enough to come. God bless you. And good luck.●

YOUNG 1979 AGRICULTURAL SPECIALISTS EXCHANGE PROGRAM—REPORT TO THE SECRETARY OF AGRICULTURE

● **Mr. CHURCH.** Mr. President, the embargo of grain shipments to the Soviet Union raises the question of its potential effect on Soviet agriculture and economy. U.S. feed grains especially have been cited as key to Soviet planning for building livestock herds and increasing meat production. Some dislocation in the rising consumer demand for more and better quality protein sources has been predicted as a result of the embargo.

The fulfillment of these projections awaits to be seen. Although the Soviet agricultural economy may be well understood by academicians and Sovietologists, because the Soviet Union is a closed society, its agriculture and rural life are remarkably little known or understood by Americans in general.

For this reason, I was particularly impressed with a report which was recently sent to me from the National 4–H Council on the experiences of five young Americans who participated in the young agricultural specialists exchange program in the U.S.S.R. in the summer of 1979. It should be noted that this program, which is coordinated by the National 4–H Council in behalf of the Cooperative Extension Service, has been canceled for 1980 because of the Soviet intervention in Afghanistan.

One of the participants in the exchange was an articulate and knowledgeable young man, Russell L. Jesser from Kimberly, Idaho. Rusty visited me both before and after his travel to the Soviet Union to report personally on his experiences. He and the other participants compiled a written report on the highlights of the exchange program which I would like to share with my colleagues. Therefore, I ask that the report entitled, "1979 Young Agricultural Specialists Exchange Program Report to the Secretary of Agriculture," be printed in the RECORD.

The report follows:

1979 YOUNG AGRICULTURAL SPECIALISTS EXCHANGE PROGRAM REPORT TO THE SECRETARY OF AGRICULTURE

INTRODUCTION

For thirteen weeks in the summer of 1979 five young American agricultural specialists from four states lived and breathed the many facets of agriculture and rural life in the Soviet Union.

We were part of the fourth year of the Young Agricultural Specialists Exchange Program, conducted by National 4–H Council in behalf of the Cooperative Extension Service. Our exchange was made possible with financial assistance from the International Communication Agency. Staff members of USDA were most helpful during our orientation training.

During the summer, we visited and toured 15 different types of agricultural operations in the republics of Byelorussia, Ukraine, Moldavia and Georgia. We gained insight into the implementation of the Soviet five-year plan for agriculture, studied at two different university agricultural institutes, observed the day-to-day operation of farms, both collective and state-owned, and participated in the daily routines of farm workers and their families.

This report reflects some of our impressions. While we most likely visited the upper 10 percent of Soviet farming operations, we feel our experiments give insights into the agriculture and life style of the European and Caucasus Mountain areas of the Soviet Union.

AGRICULTURAL BUSINESS

In agriculture, the Soviet best equals our best. We were awed by the tremendous amount of time, energy, resources and capital allocated to all phases of Soviet agriculture. They obviously believe agriculture plays a major role in world policy and total advancement of the Soviet society.

Although the Soviet Union carries out extensive research and development, serious problems persist in applying the new technology to actual practice. A major portion of Soviet agriculture still uses technology we associated with the farming of 40 years ago. It is not uncommon to see on the same farm a massive 400-horsepower four-wheel-drive tractor pulling an eight-bottom plow and a horse and cart carrying 10 men to the fields where they will work with pitchforks.

In part due to heavy agricultural subsidies, average and above-average farms in the Soviet Union manage to show a profit. But the controlled economy reduces flexibility and affects efficiency. Bottlenecks at the grassroots level are frequent, since appropriate action cannot be taken by the local farm management even when climate or other conditions change.

Government subsidies

The government uses a variety of means to subsidize farms and overcome inefficient factors in production. Some examples include:

1. A 150-horsepower Soviet four-wheel-drive tractor sells for 4,500 rubles, contrasted with 8,000 rubles for a small two-door Soviet compact car. One director said, "We need tractors; we don't need cars."

2. Electricity, gasoline and other fuels are supplied to farms at half the regular consumer price.

3. Movement of peat soil (high in nitrogen) from Byelorussia to the Crimea in the

Ukraine, more than 700 miles away, costs only 10 rubles per ton.

4. Land is given to the farms, both collective and state, at no charge.

5. Entire sprinkler systems are installed for thousands of acres at no charge.

6. In the summer of 1978, the government canceled 50 million dollars' worth of low-interest debts owed by unproductive farms.

7. Milk is purchased by the government for 92 kopecks per gallon, and sold to consumers at 86 kopecks per gallon.

Private plots

Private plots of from one-half to one-and-one-half acres are encouraged. The government provides modern, covered market places for farmers to sell their products. Lack of refrigerated trucks and railroad freight cars gives added significance to the markets as a daily supplier of fresh fruits and vegetables, which are generally of better quality and sell at a higher price than state and collective farm produce.

Crop production

Grain and cereal crops in most of Byelorussia and the Ukraine were severely damaged by a drought during the critical months of May and June, 1979. The barley we helped to harvest in Byelorussia would have been put to pasture, chopped for green feed or plowed under in the United States under similar circumstances. Because of the five-year plan, however, the barley, only three to five inches high, with many weeds, was harvested and yielded only 10 bushels per acre. We were told the grain and cereal production in 1979 would be down 25 percent from the record crop of 1978.

The drought also caused shortages in green forage crops such as corn, alfalfa and grass hay. On three state farms, the management resorted to cutting green marsh-willows and bush branches up to an inch in diameter to produce more green feed—some used directly, and some as silage.

A large portion of the grain crop is regularly harvested at 20 to 30 per cent moisture content—far above the U.S. average of 13 percent. This practice stems from an inability to move the commodity from the field to distribution points because of an acute shortage of trucks of all sizes. The result is a high spoilage rate.

Animal production

Reliance on a dual-purpose breed for both beef and milk production creates a real problem. The average rate of gain per day (ARG) for the predominant breed—the Black and White—is 20 per cent less than the ARG in the U.S. Milk production for a majority of the herds of the same breed is half the U.S. average. In Byelorussia, feeds fall short of necessary protein levels for consistently good production. Protein levels are substantially higher in the Crimea and some other parts of the Ukraine, but production of meat and milk per day isn't significantly better. We found that the Red Steppe breed, used extensively in the Crimea, wasn't a sound choice as a beef or dairy breed, either.

Overall Production

We were impressed with the greenhouses in Kiev and Simferopol and the beef, swine and poultry complexes in and near Minsk. Using food wastes from Minsk to feed 10,000 head of pigs showed promise. Grape, corn and fruit production in Moldavia and Georgia also were impressive in the warm Mediterranean climate.

RURAL SOCIETY

Generally, rural citizens are isolated from the world outside their local community or nearby town. Many workers have never traveled more than 100 miles from their birthplace. Most are educated, but few have advanced degrees beyond the accepted 10 years of school.

Agricultural workers appear content and happy. Without doubt, the standard of living has greatly improved in the past 35 years. The Soviets compare their situation today with the poverty and starvation prevalent before and during World War II. Today, no one is starving, and many people dwell in new apartment complexes with plumbing, electricity, black-and-white TV and radios. A few even own their own cars. Nevertheless, half the villagers live in houses with no running water or plumbing facilities. Wood still serves as a major source of energy for heating and cooking.

A typical Soviet worker's schedule consists of an eight-hour day six days per week, with no apparent change, even during crucial planting or harvesting periods. Many workers are employed at menial tasks and seem to be "underemployed." Agriculture continues to be labor-intensive, rather than capital-intensive. With few exceptions, an "easy-going" approach is taken by workers to their jobs. They know that, regardless of their farm's production, they will receive their monthly pay checks and need not fear being fired.

We found the Soviet people basically friendly, warm, hospitable and very curious about the United States. We are often asked questions about our economic system and about such political factors as SALT II.

Inflation is a fact of life, but more serious is simply lack of goods, such as automobiles.

Soviet diets are high in starch, and we noted especially a shortage of beef in the cities, which was blamed on the 1980 Olympics. Evidently beef is being frozen and saved for next summer.

The number-one social and health problem in the USSR is alcoholism. The government recently doubled the price of vodka, but the culture, traditions, social pressure and boredom with life and one's job tend to incline persons of all ages to consume alcoholic beverages. We also found that about 90 per cent of the farm workers smoked from one to two packs of cigarettes per day.

CONCLUSION

We cannot overstress the importance and value of this unique exchange, which allows Americans to see, live (we actually lived with Soviet families during part of the program) and work with the rural Soviet people. It provides insights and understandings that simply cannot be gained in any other way. We feel certain that the Soviets who live and work with rural families in this country share similar feelings.

We departed from the Soviet Union with a much greater appreciation for their problems and accomplishments in agriculture and other endeavors. But even more, we gained a greater appreciation for the blessings of America, which we too often take for granted. We are challenged by the realization that it will take many years to dispel misconceptions about both countries and their citizens, as well as diligent work to expand our knowledge, understanding and cooperation in the vital area of agriculture. We are convinced that this exchange has had a positive influence in promoting international understanding and exchanging agricultural technology.●

THE 32D ANNIVERSARY OF INDEPENDENCE OF SRI LANKA

● Mr. INOUYE. Mr. President, February 4, 1980, marked the 32d anniversary of the Democratic Socialist Republic of Sri Lanka's independence from the British Crown. It also signifies the second year in office of His Excellency J. R. Jayewardene, the First Executive President of Sri Lanka. During the past year, Sri Lanka has taken great steps toward its goal of modernization and international development. The Government's policies to achieve these goals have been carefully formulated so as not to subjugate the principles of democracy.

Democracy is firmly entrenched in Sri Lanka. One indication of this is the universal adult franchise which is freely exercised by its people. For the past 15 years the voter turnout has averaged better than 80 percent at general elections, testifying to the political maturity of the people of Sri Lanka.

Sri Lanka's Constitution guarantees equal opportunity regardless of ethnic origin or religion. For example, by mandating the use of Sri Lanka's two national languages, the Tamil and the more widely spoken Sinhala, in the Government offices and in the law courts, Sri Lanka has demonstrated its dedication to insuring the participation of the Tamil-speaking minority in their Government. This sensitivity to the rights of its people is further exemplified by the fact that the Sri Lankan Constitution contains a chapter dealing with fundamental rights which embodies all 30 clauses of the U.N. Universal Declaration of Human Rights.

Sri Lanka's foreign policy of nonalinement and its goals within the nonalinement movement of introducing a sense of moderation and protecting internationally accepted principles are well known. This position was clearly demonstrated by Sri Lanka's actions at the nonalined Heads of State and Government Conference held in Havana in September 1979. One may remember that Sri Lanka entered a reservation on that section of the Havana Declaration dealing with Puerto Rico, explaining that the United States is protecting the self-determination of the Puerto Rican people. Sri Lanka's belief in the principle of self-determination and the integrity of nations was most recently reiterated by the vote in the United Nations General Assembly denouncing the Soviet Union's aggression against Afghanistan.

Sri Lanka is also moving to further develop its economy. In order to encourage a free market economy, Sri Lanka has unified its exchange rate, dismantled import and export controls, and liberalized its foreign exchange restrictions. With a projected growth rate of 6 percent in the next few years, Sri Lanka has gained the confidence of the international banking community in its economic policies. This is evidenced by the granting in 1979 of its first syndicated loan of $50 million on very favorable terms.

The people and Government of Sri Lanka are to be commended for the advances they have made in insuring democratic self-government. Praise must be given for their sensitivity to equal rights, their increased concern with international affairs, and their marked progress toward developing a more modern economy.●

SMALL BUSINESS MOURNS THE PASSING OF A GREAT LEADER

● Mr. NELSON. Mr. President, it is with deep sorrow that I must inform the Senate that John E. Lewis, president of the National Small Business Association, died today, in Richmond, Va., after being struck by an automobile 2 days ago.

Since Mr. Lewis came to Washington, D.C., to join the staff of the NSBA in 1965, he has given the very highest caliber of leadership to that organization specifically, and to the national small business movement generally.

Under his guidance, the National Small Business Association grew steadily in numbers, stature, and influence, and is now one of the most prestigious small business associations in the world.

In 1976, Mr. Lewis conceived the idea of unifying small business efforts through a Small Business Legislative Council, to be made up of trade associations whose membership is mostly small businesses. The force of his personality made that concept a living reality, and the council now counts 75 associations as members, representing about 4 million independent firms. Its many accomplishments are a tribute to the trust and confidence placed in Mr. Lewis by his fellow association executives, who elected him executive director of the council.

Capitol Hill knew John Lewis as the most senior and one of the most outstanding leaders of the small business movement. He was to us a man of outstanding integrity and dedication. His positions were based on high principle and constructive compromise. He was unfailingly knowledgeable and good-humored. These qualities earned him the respect of this body, as they did with all who were privileged to be associated with him.

The legislative victories of the past few years—in the tax, regulatory, paperwork reduction, and procurement areas—are monuments to Mr. Lewis' successful work. It is doubly unfortunate that he has been lost to the small business community just as the White House Conference on Small Business has helped usher in a new era of greater visibility and sympathy toward the entrepreneur whose cause John Lewis fought for so long, so valiantly, and so well.

We express our profound regrets to Mrs. Dolores Lewis, and to his daughter, Karin, and his son, Brian.●

THE FEDERAL FIREARMS LAW REFORM ACT OF 1979

● Mr. DeCONCINI. Mr. President, I am pleased to join with my distinguished colleague from Idaho, Senator McClure, in cosponsoring S. 1862, the Federal Firearms Law Reform Act of 1979.

During July of 1979, I chaired 2 days of hearings on alleged Bureau of Alcohol, Tobacco and Firearms (BATF) abuses of individual civil rights. The hearings were eye opening. They demonstrated a pattern of activity by a governmental agency that was wholly inconsistent with the purposes of the law or the protection of the general populace from illegal firearms. The reasons for BATF's actions are undoubtedly manifold. Certainly, poor management at various times as well as the idiosyncracies of certain agents contributed.

But, the hearings made it abundantly clear that the real underlying cause of the problem was the law under which BATF operates—that is, the Gun Control Act of 1968. Enacted hastily and in the heat of emotion, the 1968 law is replete with provisions that are so vague that they lend themselves to almost any interpretation. The most obvious of these is the provision which is basic to the structure of the law—that is, who is and is not covered. The legislation does not define what is meant by "engaging in the business" of dealing in firearms. Thus, BATF has applied it quite loosely to cover those persons it had an interest in, regardless of whether commonsense would call them gun collectors and not gun dealers.

Without dwelling on the specific provisions of S. 1862, its purpose is to correct precisely that sort of loophole and vagueness. The result, I believe, will be legislation that more closely matches what was truly congressional intent at the time. Further, it will provide us the opportunity to review what we have done in light of more than a decade's experience. I urge my colleagues on the Judiciary Committee to take up this legislation soon. Each of us should welcome the opportunity to review the record of the 1968 Gun Control Act and the BATF's enforcement of that law.

I submit for the Record at this point my opening statement at the hearings I conducted last July. In that statement I pledged to support remedial legislation if I found that the abuses were part of a pattern related to the structure of the law and not merely isolated incidents. The case was made, and I stand ready to support Senator McClure in his search for equitable legislative remedies.

The statement follows:

Statement by Senator Dennis DeConcini

The hearing this morning is the result of allegations presented to me by a number of my Arizona constituents, some of whom are members of the National Rifle Association. It is their contention that the Bureau of Alcohol, Tobacco, and Firearms has, in certain instances, exceeded its authority in enforcing the Gun Control Act of 1968. More importantly, these individuals claim that the BATF has evolved a pattern of violation of their right as American citizens to own and bear arms.

While the purpose of this hearing is to determine whether the allegations against the BATF have merit—and BATF will be given full opportunity to respond—I would like to make it clear that this Senator is deeply concerned that any agency of the Federal Government might infringe upon any of our fundamental constitutional rights. While I recognize that there is considerable controversy in this country over the issue of gun ownership and gun control, it should not be the implicit or explicit policy of any agency of the Federal Government to determine for itself that one constitutional right is less fundamental or less important than another.

I believe that the Constitution gives every American the right to own and bear arms. That right is contained in the same document that guarantees our right to freedom of expression and due process. Consequently, it is the DUTY of every Federal agency—and especially law enforcement agencies—to protect these rights.

Thus, if the hearings we are about to begin this morning convince this Subcommittee that, indeed, the BATF has engaged in a pattern of violation of the rights of gun owners, I will propose legislation to rectify the situation. If, however, the allegations prove to be isolated incidents of individual agents, I hope that the new leadership of the BATF will make the appropriate commitment to this Subcommittee and to the American people to insure that future incidents do not occur.

Let me also state at this point that I have considerable respect for the BATF. It is an organization which has served this Nation in one form or another for almost two hundred years. On the whole, my experience with BATF agents while I was a county prosecutor was extremely positive. Thus, it is not my intention to denigrate the excellent work they have done. My purpose in conducting those hearings is to explore one limited area of BATF activity that has generated the present controversy. More importantly, I am hopeful that the net result of this morning's hearing will be a resolution of the existing difficulties.●

THE AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979

● Mr. CANNON. Mr. President, yesterday we completed floor action on H.R. 2440, the Aviation Safety and Noise Abatement Act of 1979 and I consider this the final resolution of the aircraft noise problem barring any extraordinary or unusual circumstances. I have no intent of seeking any further changes to the law. However, this is not to say that if the FAA makes further changes, we will not take another look and make changes that appear warranted.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record the notifications I have just received.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., February 1, 1980.
Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–37, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $72.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80-37]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER

(Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Coordination Council for North American Affairs (CCNAA) pursuant to P.L. 96-8.

(ii) Total Estimated Value:

[In millions]

Major defense equipment*	$65.2
Other	7.3
Total	72.5

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Fourteen (14) MK 75 MOD O 76mm gun mounts and associated support.

(iv) Military Department: American Institute in Taiwan for the U.S. Navy (LCQ).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 31 December 1979.

(viii) Date Report Delivered to Congress: February 1, 1980.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 31, 1980.
Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-41, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $350.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA, Director, Defense Security Assistance Agency.

[Transmittal No. 80-41]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER

(Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$0.0
Other	350.0
Total	350.0

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Additional F-15 spares and support equipment.

(iv) Military Department: Air Force (SFA2).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: January 31, 1980.

C. PERRIE PHILLIPS

● Mr. RIBICOFF. Mr. President, C. Perrie Phillips, a superior court judge, and for two decades a senior adviser to Connecticut officeholders, died on Tuesday, January 1, 1980, at his home in Hamden, Conn. He was 56 years old. Mrs. Ribicoff and I send our deepest sympathies to Perrie's widow, Betty, and other members of his family.

Perrie Phillips was a brilliant public figure, a colorful, witty, innovative, thoughtful man, a loyal, trusted, compassionate, and close personal friend. Anyone who was fortunate enough to have known this extraordinary person will never forget him.

When I was Governor of Connecticut, Perrie was one of my principal aides. He gave equally valuable service to Gov. John Dempsey and Gov. Ella Grasso. He was our State's first personnel commissioner, the deputy attorney general, deputy finance commissioner, Democratic State auditor, and a common-pleas court judge. He was appointed to the superior court bench in May of 1978.

Alan Olmstead, a columnist for several Connecticut newspapers, reflected the views of many of Perrie's friends when he wrote that he was sure that as a superior court judge he would go down in the State's history as one of its most brilliant and significant jurists. But cancer ended his judicial career almost as soon as it began.

Perrie was a man of courage and discipline, and he wished to serve as a judge for as long as he could. He did, to the benefit of Connecticut's judicial system.

Some will remember Perrie Phillips as a gifted, facile, quick, and orderly writer. He was all of that. But he wrote well because he thought well. His ideas were sound, his judgment excellent.

Perrie was part skeptic and part visionary. He was neither forlorn nor sanguine in his expectations for the human race. He had high hopes but he was rarely disappointed. Perrie was a restless, impatient intellectual whose very soul rebelled at the superficial and the trite. He could be gentle, he could be irascible, but he could never be dull. He was a delight to know and have as a friend, and we will all miss him.

Mr. President, I request that an obituary from the Hartford Courant, of January 3, 1980; editorials from the Bridgeport Post, of January 8, 1980, and the Danbury News-Times, of January 4, 1980; and columns by Alan Olmstead, in the Bristol Press, of January 15, 1980; Bob Conrad, in the Herald of New Britain, of January 9, 1980; and George Mackie, in the Hamden Chronicle, of January 17, 1980, be printed in the RECORD.

The material follows:

C. PERRIE PHILLIPS DIES; SUPERIOR COURT JUDGE

C. Perrie Phillips of 15 Middle Road, Hamden, who spent 21 years in the trenches of state bureaucracy before he reached his most cherished niche—a judgeship in 1975—died Tuesday at home. He was 56.

His career in state government spanned the administrations of three Democratic governors: Abraham Ribicoff, John N. Dempsey and Ella T. Grasso. Phillips was known among the politicans as a quick-thinking, fast talking philosopher—a penchant that helped him become a close political adviser to the late Democratic State Chairman John M. Bailey.

His natural wit and a tendency to mix constantly his conversation with interesting anecdotes made him popular not only with politicians but all who worked with him in government.

He became the state's first personnel commissioner in 1967. Before that he was deputy attorney general, deputy finance commissioner and Democratic state auditor.

One of Phillips' greatest moments came in May 1978 when he was elevated from the then Common Pleas Court to Superior Court. It was a time of personal trial however.

He had begun his confirmation hearing before the legislature's Judiciary Committee by saying, "Let me bring to your attention a problem."

The judge then said he had cancer. His doctor testified he still would be able to work. His stay on the bench was productive.

His legislative work has had a lasting impact. Leo V. Donohue, Democratic state auditor, has described Phillips as "a brilliant person, a key person in government reorganization, court reform and abolition of county government."

During his tour of duty in both federal and state government and before that in Army intelligence in World War II, Phillips developed a talent for writing. That talent helped him when he began writing judicial decisions in which he never hesitated to cut through dry legalese with a metaphor.

He leaves his wife, Elizabeth Roth Phillips; his father, Chandler Phillips of Lansdowne, Pa.; three daughters, Lupi Robinson, Pamela Wardell and Katherine Phillips, all of Hamden, and a sister, Louise O'Brien of Denver, Colo.

The funeral is Friday, 9:30 a.m., from Hamden Memorial Funeral Home, 1300 Digwell Ave., Hamden, with a mass of Christian burial, 10 a.m., at Our Lady of Mount Carmel Church, Hamden. Burial is in St. Mary's Cemetery, Hamden.

Calling hours at the funeral home are today, 3-6 and at 9 p.m. Memorial donations may be made to Hospice Inc., 765 Prospect St., New Haven.

[From the Bridgeport (Conn.) Post, Jan. 8, 1980]

JUDGE PHILLIPS

Judge C. Perrie Phillips, who died recently, devoted much of his adult life to service in state government. Since he preferred to go about his chores quietly, rarely was he involved in public controversy.

He was brought into the Capitol by Abraham Ribicoff, when the latter was governor. Phillips continued to serve in various capacities in the administrations of former Governors John N. Dempsey, Thomas J. Meskill and Gov. Ella T. Grasso. He was named by Gov. Grasso a Superior Court judge in 1975.

It was an open secret that Phillips, no matter what his official position may have been at the time, was the No. 1 ghostwriter for the Democrats, until he donned the judicial robes. A man of great intellect, who enjoyed telling and listening to a good joke, Phillips was a man with admirable inner strength. This was demonstrated last year when he appeared before the General Assembly's Judiciary Committee and declared, "Let me bring to your attention a problem . . ."

Judge Phillips told the lawmakers he had been struck by cancer, but wished to continue his work. He remained on the bench and gained admiration from many quarters for both his professional performance and personal courage.

For Judge Phillips to die at 56 seems unfair. His death is a reminder of John F. Kennedy's comment that for many life is unfair. Connecticut government is better today because C. Perrie Phillips chose public service over higher paying positions in private business.

[From the News-Times, Jan. 4, 1980]

A UNIQUE CAREER IN STATE SERVICE

The great and the ordinary people in all three branches of Connecticut government gathered today at Our Lady of Mount Carmel Church in Hamden for the funeral of Superior Court Judge C. Perrie Phillips, a man of uncommon abilities who served the state well in a variety of positions during the past quarter century.

He died late New Year's Day after a valiant battle to maintain his work pace in spite of cancer.

While he never held elective office, Judge Phillips had great influence for good in the appointive positions he held. He once said he never became a candidate because he was "too abrasive." We always thought of him as refreshingly frank for someone involved in political life and honest and direct in his appraisal of situations.

Judge Phillips was one of the bright aides former Governor Ribicoff enlisted in state service in the mid 1950s, and he continued as an adviser to former Governor John N. Dempsey. He amassed such a detailed knowledge of state government that he was named deputy finance commissioner, and then shifted to the legislative department as a state auditor.

Judge Phillips became the first Connecticut personnel commissioner when that agency was given department status in the 1960s and returned to that position after the inauguration of Governor Ella Grasso in 1975. From 1971 to 1975, he was the deputy attorney general of the state.

As a Common Pleas judge and then as a Superior Court jurist, Judge Phillips demonstrated the same concern for individuals and their problems as he had shown in earlier state positions. Once during a luncheon break while he was presiding at trials at the Danbury court house he remarked that he preferred hearing criminal cases to civil cases.

With civil cases, he remarked, he sometimes had the feeling of "just sitting there refereeing a couple of lawyers arguing." On the criminal side, he said, "You're dealing with human beings, human problems, often family problems, and you hope that somehow in your wisdom you not only mete out justice but bring compassion and a sense of hope to those before you."

Death has ended his unique career in state service, but the approach he brought to government and especially his spirit of hope should be continued on.

[From the Bristol Press, Jan. 15, 1980]

A FRIEND REMEMBERED

(By Alan Olmstead)

This correspondent was impressed by the intelligence of the late C. Perrie Phillips, not only as it was displayed in the authorship of legislation and policy during his service in the world of politics, but as it was exercised, earlier in his career, in distinguished articles on the potential role of law in world life.

When he finally graduated from service in the administrative side of government and advanced to the judiciary, we felt that he was where he belonged, at last, and we felt sure that he would go down in Connecticut history as one of its most brilliant and significant jurists. Cancer ended his judicial career almost as soon as it had begun.

We are indebted, for the following impression of the whole spirit of Judge Phillips to his close friend and long-time associate in public service, Democratic State Auditor Leo V. Donohue.

The remainder of today's column is Leo Donohue writing a personal reminiscence:

"How come it doesn't seem to be fun any more?" a veteran state official asked the other day. There are a lot of reasons certainly, including the fact that we are all a little older.

"But high among them is the fact that C. Perrie Phillips, who less than quietly joined Governor Ribicoff's staff in 1956 and served for 19 years in a variety of key positions during four administrations, left the executive branch five years ago to become a judge and then succumbed to cancer earlier this month.

"With Perrie's becoming a member of the august judiciary, things were just not the same. There just aren't many governor's aides who will impishly hint that the League of Women's Voters is a subversive organization. There just aren't many personnel commissioners who will describe a meeting with the leaders of the state employes biggest union as 'Their usual spoon banging on their highchairs.'

"There just aren't many state auditors who will ring the Liberty Bell replica in the state capitol lobby to herald every Democratic election victory until a Republican public works commissioner has the bell's clapper muffled. There just aren't many political advisers who will interrupt a conversation between the Senate majority leader and a senator from New Britain to tell the majority leader that the state chairman said to 'kill the New Britain bills.'

"Perrie did all these things and many more while he was a major policy adviser to Governors Ribicoff and Dempsey, the Democratic state auditor, a highly respected and outspoken personal commissioner under Governors Dempsey and Grasso and deputy to Attorney General Killian when they made that dreary office, as Perrie would put it, 'an effective instrument of public service.'

"Political science textbooks tell us that party platforms and gubernatorial addresses articulate established party positions. In fact, many new directions taken and new programs adopted by our state in the sixties were born on a yellow pad at Betty Phillips' kitchen table where Perrie sat late at night drafting a party platform or polishing an inaugural message.

"For example, the department of transportation, created in 1969, was a direct result of Perrie's effort to 'jazz up' a flat section of the Dempsey inaugural message in 1967.

"With his Phi Beta Kappa key and his Yale law degree, he was our resident intellectual, and we were not allowed to forget it. He was our severest friend and best critic. He was impatient when we were slow to recognize that he was always right. He was almost surly when the seats we chose at the Jefferson-Jackson dinner or at lunch at the Parma restaurant were, in his opinion, inappropriate.

"During those years, it was often a chore to remain his friend. As he accepted his illness and prepared for its inevitability, it was a privilege to be and to have been his friend."

[From the Herald of New Britain, Jan. 9, 1980]

OF AN ERA THAT HAS DISAPPEARED—C. PERRIE PHILLIPS, BRAIN-TRUSTER TO STATE LEADERS

(By Bob Conrad)

It isn't our style to write an obituary column. We prefer to write about people who are around to defend themselves. Once in a while we may make an exception, and this is one of them.

It is, after all, supposed to be a column about politics and people who are in that kind of action. But we feel reasonably comfortable in writing about Perrie Phillips because he was one of the best politicians we ever knew and it will take some time to realize that he is gone.

He died last week of cancer. He was 56, a Superior Court judge and, in his day, one of the brightest of the braintrusters behind the superstars of state government.

Phillips wasn't the running-for-office kind of politician. Somehow, he managed to wind up with an impressive list of plums. all of them earned through good and faithful service to Democrats who fought and won the election victories.

He was the Democratic state auditor when this writer landed at the State Capitol in 1965 as a correspondent for a Hartford newspaper. He had been a special assistant to then-Gov. Abe Ribicoff in the late 1950s. He was to become the state's first personnel commissioner in a department created during the administration of Gov. John Dempsey. He was also deputy finance commissioner and deputy attorney general before being separated from politics through appointment to the Court of Common Pleas.

It was when Phillips was being interviewed by the Judiciary Committee in 1978 for appointment to the Superior Court bench that he disclosed publicly and dramatically that he had cancer. He asked that he be allowed to continue serving as long as he was able. The committee and the legislature went along with that request.

All of that may sound as though Phillips touched a lot of bases and had, through those years, his share of public attention. He was never more enjoyable and probably more content with himself, however, than when he was performing as an untitled, unofficial and very much background member of the Democratic party's inner circle around Ribicoff or Dempsey.

Call it a braintrust or whatever, it was the small group of Democratic loyalists who sort of gravitated toward each other when one of those governors sent out the call. Ella Grasso was another one in those days.

Much of the time it was a speech-writing task. Sometimes the inner circle just batted around ideas, or tested each other for reactions, or tried to second-guess press or public questions about a particular move or policy.

Reporters covering the capitol learned quickly enough that when they saw Perrie Phillips sauntering toward the governor's office on the second floor that something was up. Or if they heard that Phillips and Ella and sometimes Bob Killian and certainly the late John M. Bailey were having breakfast out at the residence it was time to nose around for information.

One of Phillips' close friends in government was George Conkling, the state's former finance boss and also a member of the inner braintrust. Conkling and Phillips had a mutual admiration society going, and both had a love affair with the state. Next came the Democratic party for Phillips. And when his bright ideas clicked, such as his suggestion that Dempsey propose a bonus for veterans of the Korean war, Phillips was as happy as a kid catching a home run ball at Fenway Park or Yankee Stadium.

The front men—the ones holding high elective office—usually got the credit for the ideas that were successful. Frequently they were the product of the inner circle, with Phillips a major contributor.

Dempsey acknowledged that this week. "He was very close to me," the former governor said in recalling his association with Perrie Phillips. "He was a brilliant young man, and it was refreshing when he would differ with you."

Dempsey also confirmed what everyone around government knew in those days, that Phillip loved his role as an advisor who had a lot to say about the big decisions in political warfare and in the administrations of his Democratic heroes.

Phillips always said he was too abrasive to be a candidate for any office and perhaps he was. But his sometimes brash, loud and sarcastic manner was usually a cover for communicating with other people so they would remember what he was saying. The guy had a world of wit as well, and great intellect. He had the credentials.

C. Perrie Phillips represented an era that has disappeared, at least temporarily, from state-level politics in Connecticut. He left his mark, all right, in the years he lived it to the hilt.

As for the cancer thing. Phillips provided the best commentary. Life is a terminal run for everybody anyway, isn't it?

[From the Hamden (Conn.) Chronicle
Jan. 17, 1980]

FAREWELL TO A FRIEND

(By George Mackie)

(Superior Court Judge C. Perrie Phillips, who died at his Middle Road home on New Year's Day, and George Mackie, a resident of Piper Road, were close friends. Their friendship began in 1958 when Phillips left Gov. Abraham Ribicoff's staff to become Deputy State Finance Commissioner, and Mackie succeeded him as a special research assistant in the governor's office. Here Mackie reminisces about his friend.)

On March 17, 1978, doctors told C. Perrie Phillips to get his affairs in order because, they said, he didn't have long to live. In the opinion of at least one doctor, the time left might be as little as two weeks.

Then began a fight against cancer that did not end until Phillips died on the first day of 1980.

For nearly two years, until forced to take to his bed in recent weeks, Perrie retained his zest for life and functioned effectively as a judge of the Superior Court.

Day by day, during visits to hospitals for radiation treatment or to a physician's office for chemotherapy, Perrie looked death squarely in the eye and never gave any indication of fear. Unemotionally and in a matter-of-fact way, he would speak of his symptoms and of the treatment he was receiving, and would make light-hearted references to "my impending demise."

This was by no means foolhardy bravado; rather, it was the calm and intelligent acceptance of the fact that death is a part of life.

The emphasis here is on "intelligent acceptance." Perrie Phillips was the most intelligent person I ever knew. Though nearly 14 years my junior in age, he was very much my senior in breadth of experience and in knowledge of an astoundingly wide range of subjects.

BAILEY CONFIDANT

The facts of his career are well known. He held several highly responsible positions in state government before Gov. Ella Grasso appointed him to the bench; he was a protege and confidant of the late John M. Bailey when that Democratic leader was at the height of his power; he was deeply involved in the decision making and policy making process during the administrations of Governors Ribicoff and Dempsey.

That was the Perrie Phillips everybody knew.

The Perrie Phillips I knew was the man with whom I have ridden a good many thousand miles, 30 miles at a time, as we commuted daily between our homes in Hamden and our jobs in Hartford.

If we had taken a leaf out cf Richard Nixon's book and had made tapes of our conversation during those rides, I would have a remembrance that would be priceless to me. We talked about everything from the ultra-frivolous to the ultra-serious.

While driving up and down the Wilbur Cross Parkway and Interstate 91, I probably acquired a broader education in the humanities and liberal arts than I did in four years of college. Perrie Phillips was my professor. Although he never flaunted it, he well deserved the Phi Beta Kappa key he earned at Williams College.

Apparently he never forgot anything he ever read. Mention any of the great poets, for example, and he could and would quote extensively from their works.

The late James Thurber is widely regarded as one of the great humorists of all time, but how many can recite his best known works virtually verbatim? Perrie could. Ditto the works of Robert Benchley, S. J. Perlman and others of that ilk.

A PURE DELIGHT

For anyone with a fondness for the absurd, the bizarre, the off-beat, association with Perrie Phillips was pure delight. Highway directional and warning signs provide just one instance of the nonsense notions in which we would indulge from time to time. Tired of the signs we saw every day, we would make up our own, and speculate about how motorists would react if, somewhere in Wallington, they encountered a sign reading "Dayton, Ohio, Next Exit" or "Toll House 8 Miles Ahead, Slow Down."

That was one of the many faces of Perrie Phillips—light-hearted connoisseur of off-beat humor. But he could be wholly and intensely serious when confronted with a humane problem or when considering how to deal with a situation involving the well being of the state. He had the gift of complete concentration, blotting out all extraneous sights and sounds when dealing with important matters.

Perrie, anything but a workaholic, had as great an appreciation of leisure time as anyone, but he would work around the clock and then some when circumstances called for such effort.

No one will ever know how much benefit the State of Connecticut enjoyed because Perrie Phillips was on hand to lend his expertise to decisions that had to be made, to problems that had to be solved. Had he been spared, I am sure that our judicial system would have enjoyed great benefit also from his service.

ABLEST SERVANT

So it is with much more than an ordinary measure of regret that I say goodbye to Perrie Phillips. I have lost a valued friend, and my state has lost one of its ablest and most devoted servants.

I don't know where you are now, Perrie, or what sort of an existence you are experiencing. Goodness knows we talked about it often enough, both before and after you were told that soon you would be learning the answer. I believe that you are in a world the nature of which cannot be comprehended by the minds of humans; and I have faith and confidence that it is good.

So long, Perrie.

A BUDGET BUILT ON THE INFLATION TAX

● Mr. DOLE. Mr. President, as the President's budget for 1981 is analyzed in the press, considerable attention has focused on the means by which the deficit has been cut to "only" $15.8 billion. To put it directly, the deficit is being held down by allowing taxpayers to drift into higher tax brackets as a result of the Government's failure to control inflation.

Of course, we have learned not to count our deficits until the end of the year because somehow they seem to grow larger while Congress is in session. That is what happened last year. That is why it is frightening to observe that, even by counting on inflation to raise tax revenues, the President cannot submit a balanced budget.

Mr. President, I advocate indexing taxes for inflation in order to avoid the automatic, and unfair, tax increases that inflation brings about. I have introduced legislation to do just that, the Tax Equalization Act, S. 12. A principal argument used by opponents of this bill is that Congress undertakes periodic tax cuts that keep effective tax rates fairly stable. I have argued before that those cuts do not offset the effects of inflation for all income groups, and that they do not prevent tax rates from creeping up over extended periods of high inflation. Now we have a budget built on the assumption that inflation-induced tax increases are an appropriate tool of fiscal policy. The Senator from Kansas would like to know where the opponents of tax indexing stand on this issue.

Mr. President, this Senator believes that financing government through taxflation is an abdication of political responsibility. I was interested to see that Robert J. Samuelson, writing in yesterday's Washington Post, agreed with this view. As Mr. Samuelson puts it—

> All constituencies are "deserving," but governing means making choices. Congress and the White House are simply making the wrong ones; they are sustaining high spending on the revenues flowing from automatic tax increases induced by inflation, augmented by revenues from the 'windfall' oil tax.
>
> Inflation kicks workers into higher brackets. Without a tax cut in 1980 or 1981, a family of four with $15,300 income in 1976—just about average—that received annual increases of 7 to 8 percent in succeeding years would pay 19 percent of its 1981 income in taxes, against 16 percent in 1976. For a family with $22,000 income in 1976, the same calculation shows an increased tax bite from 18 to 24 percent.
>
> It's difficult to be precise about the discouraging effect of higher tax rates on work and investment, but there's little doubt that there is some effect. On the other hand, using a bigger deficit to absorb higher spending simply transfers the pressure to higher interest rates, which will squeeze out needed investment—particularly housing—and lay the groundwork for higher inflation. This is not policy, but evasion.

It is indeed an evasion, and it demonstrates the unwillingness of this administration to face up to the need to control spending and institute economic policies—particularly in the areas of taxation and investment—that can address the problems of our sluggish economy. The administration continues to seek ways to redistribute the national wealth, rather than ways to accelerate the expansion of that wealth without causing inflation. The President does not seem to know what the issues facing the country really are.

Mr. President, the way to shift our focus to the real issues is to index the income tax for inflation. We can achieve that with the Tax Equalization Act, which I urge my colleagues to support. In Monday's Washington Post, columnist R. Emmett Tyrrell, Jr., focused on this issue, and I ask that his column be printed in the RECORD.

The column follows:

YANKEE BOODLE

(By R. Emmett Tyrrell, Jr.)

The inflation rate this past year was, so say the robed leaders of the Consumer Price

Index, 13.3 percent. This is an especially positive development. It is the very best rate of peacetime inflation in 35 years. Our president is to be congratulated.

I say the very best, because as a child of the Keynesian economic enlightenment, my education for years consisted of many long and sometimes sibilant tirades about England's incomparably advanced system of political economy: its nationalized industry, its pervasive welfare system, its emphasis on governmental services over private-sector production. Well, we now have an inflation rate congenial with the schemes of every British social reformer. Can the rest of their governmentally provided paradise be far behind? Thirteen percent inflation, a declining productivity rate, huge government deficits, very little private savings, very little investment—I feel like a citizen of London! Up at the Harvard Club or over on some luscious ski slope in Gstaad, wherever he is, I bet Dr. Galbraith is proud. If only Sidney and Beatrice Webb had lived to see this day. Of course they would be 121 and 122 years old, respectively, but no matter.

Lamentably, inflation is not popular with the *popolo minuto*. In America, things get more and more expensive for the average Yank, and it is getting harder and harder for him to muster the cash to pay for them. This is true for everyone but Uncle Sam. For him, it gets easier and easier. The reason for government's prosperity is that, as inflation forces the average Yank to earn more and more just to remain even, he is thrown into higher and higher tax brackets. Thus the government, aided and abetted by its progressive income tax, carries off ever larger chunks of the sweating Yank's paycheck. According to Lacey H. Hunt, chief economist for Philadelphia's Fidelity Bank, when the average family earns a 10 percent income increase, its federal income taxes rise by about 16 percent. Today the average American is being taxed at the same percentage of his income as yesteryear's rich were taxed. Unfortunately, his income will not buy what the income of yesteryear's rich would buy.

Inflation might force you to cut your budget next year. Yet, as a patriot, I am proud to report that inflation will not commit similar depredations against our government. According to our president's 1981 budget, next year the U.S. government will spend 12 percent more to subsidize housing, 4.6 percent more for education, 13.5 percent more for "health and human services," 15.6 percent more for the Labor Department's employment and training schemes and over 12 percent more for defense. Moreover, remember our government was not stinting on these items in fiscal 1980.

This, Carter tells us, is a "prudent and responsible" budget. Viewed a certain way, it is. He wants to continue his personal growth in the White House after the 1980 election, and so it is only prudent and responsible for him to hand out the boodle. Most of the programs that this boodle supports are failures in terms of social benefits, but in terms of political benefits they are a proven success, making Prof. Harry Hopkins one of the most influential political scientists of modern times.

Not only is the budget prudent; it is also, of course, "humane." Doubtless, throughout America's thousands of shantytowns, millions of candles are being lit before wall shrines to our president. And all the servants of health and humanity—the educators, the welfare workers, the job trainers, the builders of subsidized housing—are breathing easier. Surely the taxpayer should be grateful, too. Conquering inflation is our president's "No. 1" goal. After this felicitous budget he might be able to continue the struggle.

In his fierce war against this diabolical economic phenomenon, he is not without allies. All the pols are with him. The Democrats and Republicans may divide on many issues, but against inflation they present a united front: sonorous in their denunciations of it, selfless in their heeding exertions against it. Yet what can they do?

OPEC taunts them from beyond the three-mile limit. Big Labor and Big Business intrigue endlessly and cunningly. These are powerful opponents even for the heroes of Capitol Hill. What to do? If the pols can have no effect on OPEC, Big Business and Labor, how about government? Is it also beyond their control? If it is, the pols obviously serve no purpose other than to satisfy our needless appetite for low comedy. If government is not beyond their control, I suggest they finally make good on their election-year testimonials to their own compassion and sense of justice. I suggest they prohibit the federal government from clandestinely grabbing ever more of the average Yank's income. They could do this by simply shifting the tax brackets upward in tandem with inflation's rise. This is called indexing. Our heroes on Capitol Hill have figured out how to index government's benefits. Let them index government's taxes.●

CIVIL RIGHTS IN THE SOVIET UNION

● Mr. DECONCINI. Mr. President, our Constitution, created from ideas set forth in the Bible and in ancient Greek and Roman civilizations, recognizes and respects the individual by explicitly guaranteeing the freedom of religion, the freedom of thought and the freedom of expression to each and every American citizen. Ultimately, though, it is a universal philosophy. Its embodiment of the principles of individuality and self-dignity are rooted in the hearts of humanity, and these fundamental rights are essential in the achievement of peace throughout the world.

Nevertheless, blatant abuse of these rights is evident in many countries, particularly in the U.S.S.R. It is a well-known fact that Soviet authorities have consistently violated the basic human rights of that nation's citizens. Men are restricted, deprived and often imprisoned merely because of their religious or political beliefs. Moreover, punishment without crime is intolerable.

The recent arrest and exile of Andrei Sakharov, a renowned Soviet dissident scientist and advocate of individual rights, is just one example of the atrocities carried out by Soviet officials. Sakharov has dedicated many years of his life to the welfare of all mankind. He is the author of the "Manifesto on Progress, Peaceful Coexistence and Intellectual Freedom" which stresses the necessity for political and ideological harmony between the United States and the U.S.S.R. He is the founder of the "Committee for Human Rights" which stresses the vital need for fair trails, free press and freedom for political prisoners within his own country. His ideals formed the basis of the Human Rights section of the 1975 Helsinki accords, and he is the first Russian to ever win the Nobel Peace Prize. His accomplishments are numerous and worthy of praise. And yet, these very achievements are discredited by his own government.

Sakharov has been classified as a "renegade" who has sold out to the West. His "subversive activities" have cost him the renouncement of several state titles and awards. Furthermore, he may be expelled from the elite Soviet Academy of Sciences—his most prestigious honor. Because of his condemnation of the recent invasion of Afghanistan by the Soviet Union and his support for an Olympic boycott, he is now being held "hostage" in the city of Gorky which is isolated from the outside world.

The punishment of a man with such a brilliant scientific career and with such a deep compassion for the suffering of others is beyond comprehension. More importantly, Sakharov's endurance of continual harassment and pain is to be admired by all of us. His sustaining hope for social justice represents the human enterprise that exists outside the totalitarian Soviet system. As Carl Sandburg once said:

> Alike and ever alike we are on all continents in the need of love, food, clothing, work, speech, worship, sleep, games, dancing, fun. . . . From tropics to arctics humanity lives with these needs so alike, so inexorably alike.

Emigration policy in the Soviet Union, particularly in the case of Jews, further exemplifies the individual, cultural, and religious repression that Soviet society places on many of its citizens. With the exception of the Jews, each large group has its own "homeland" in the Soviet Union. Jews are officially suspect, considered disloyal to the state and supporters of Israel. They have been denied the right to speak, the right to publish freely, the right to freedom of expression, and above all they have been religiously persecuted. Many have even been placed under arrest for naturally wanting to learn about their heritage—Jewish history, culture, and tradition.

This random, indifferent, and unprincipled treatment has forced many Jews to apply for emigration visas. However, the emigration process itself is demoralizing. It is unpredictable and arbitrary, and it instills fear and desperation in many citizens.

Before applying to emigrate, a person must first receive a character reference or "visovs" from a relative abroad. Though many citizens request these documents, many are too afraid to actually register for a visa. After this initial step, applications are made to the Office of Visas and Registration (OVIR). Exit requirements include high emigration fees for visas, payments to clear housing in the U.S.S.R., numerous visits to police stations for paperwork, restrictions on what can be taken out of the country and the renunciation of Soviet citizenship. Furthermore, if one is lucky enough to leave, he likely will be separated from his immediate family, perhaps forever, aside from being faced with adjusting to a completely new and different society.

This costly, controlled, and selective process, which is particularly discriminating toward minorities, becomes for many a futile, nightmarish experience. Applicants systematically are demoted or fired from their jobs, harassed, followed, watched, searched, interrogated, silenced by being sent to psychiatric hospitals, and ultimately imprisoned or banished to Siberia to hard labor camps.

It is difficult for free people to understand why such abuse exists for no legitimate reason. The world, however, is fortunate to have such men as Vladimir Slepak and Anatoly Shcharansky, who represent the plight of Soviet Jews wishing to live as Jews. They have risked their lives fighting against such suffering for the benefits of mankind.

For years, Vladimir Slepak, a highly educated and cultured man, has waged a tireless struggle to be granted his constitutional right to emigrate. Like so many others, he has desperately adhered to his deep-rooted desire to return to his cultural homeland, Israel. His plea to the Soviet Government is a legitimate one, and yet he has endured incredible injustices—he has been harassed by other workers to the point of quitting; his apartment has been raided, his telephone has been disconnected, and his mail intercepted. He has been threatened, watched, interrogated, and beaten; and he has served numerous prison sentences. The futility of Slepak's situation was exemplified when he and his wife were arrested in June 1978 for peacefully displaying a banner outside their own window bearing the slogan, "Let us go to our son in Israel." Vladimir is now serving a 5-year sentence in Siberia, he is extremely ill and his spirit and sense of dignity has been nearly destroyed.

Anatoly Shcharansky, a prominent Soviet dissident scientist, has met much the same fate. He was illegally tried and sentenced to 13 years in prison for "treason and espionage" and "anti-Soviet agitation." As a "prisoner of conscience," Shcharansky has endured profound mental and physical pain—living in a small cell with little or no contact with the outside world, laboring long hours with persistent hunger, enduring sickness without adequate medical attention, suffering harassment from anti-Semitic prison authorities, and nearly losing his identity and human worth.

The plight of the Sakharovs, the Slepaks, and the Shcharanskys is a significant one. Their strong determination, tremendous courage, and undying sustaining power must never go unnoticed. Their message to the world is clear. We must never lose sight of what we believe in, and we must never cease striving toward the fundamental rights of freedom of religion, thought, and conscience to which every human being is entitled. Perhaps we will never reach these worthy ideals for all mankind, but that should not stop us from trying.

I, as most Americans, have carefully watched the events which have taken place in the last few months between the United States and the U.S.S.R. With the invasion of Afghanistan, the potential boycott of the summer Olympics in Moscow and the recent exile of Andrei Sakharov, our present relationship is undoubtedly strained and evokes much concern. The Soviet Union's crackdown on dissidents before the Olympic games leads many to believe that internal repression may be getting worse, and I am especially fearful that more and more "refuseniks" will meet the same fate as Sakharov. It is obvious that the Soviet Union is doing a citywide facelift in Moscow to improve its image, and it is clearly important to the Soviets that they present an image to the world of a peaceful and generous society. However, particularly in light of recent events, we cannot allow them to triumph.

Soviet leaders have consistently acted with a lack of willingness to comply fully with what they have agreed to on paper. They have violated the principles of their own Constitution, they have violated the principles of the Helsinki Final Act, and they have violated the principles of the United Nations Charter, which states:

> We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.

At the dawning of a new decade, I am confident that the human rights movement will continue to grow, as those of us who are more fortunate become increasingly aware of the unjust treatment many people endure throughout their lives. There are many powerful groups throughout the world dedicated to the cause of individual rights and equitable treatment for all citizens. Because of these actively involved organizations, who monitor and report blatant human abuse, life in the U.S.S.R. is better than the limitless terror witnessed during Stalin's reign. But, it is essential that we keep this cause alive and growing, that we are relentless in pursuing our ultimate goals of preserving human dignity, and that we let those who are oppressed know that we care and that they are not alone in their humanitarian beliefs.●

COUNTERCYCLICAL FISCAL ASSISTANCE BILL

● Mr. JAVITS. Mr. President, last week the House passed a countercyclical fiscal assistance bill which cut New York State's share of targeted fiscal assistance funds in half. There is, in the legislation a formula designed to reflect need for such aid and this arbitrary cap on funds reduces the allocation only for New York and California, thus penalizing these two States.

In debate on the floor of the House, some of the proponents of this cap seemed to believe that New York City's economy is booming. The truth is, my great city faces a severe economic crisis that is well publicized and much explored. The fact that great wealth and abject poverty exist side by side in a very densely settled area is one of the unique features of the financial distress of our Nation's great older cities. But it is not the basis for a solution to their woes. While New York City has taken great strides in overcoming its past difficulties, fundamental problems do still exist. The New York Times, in a February 3 editorial, responded to the public assertions by some Members of the House that New York did not need its fair share of the money. I ask that the editorial which is most eloquent and to the point be printed in the RECORD.

The editorial follows:

[From the New York Times, Feb. 3, 1980]

FROM: E. I. KOCH, REALTOR,
New York, N.Y.

Hon. CLARENCE BROWN,
The Capitol,
Washington, D.C.

DEAR CLARE: I happen to be delighted to hear that you're looking for property in New York City, and that two of your associates are also interested in acquiring 3- to 5-acre spreads. I learned of your interest only Friday, after you decided to reduce New York City's share of the countercyclical funds because of your belief that city real estate is booming.

I can find the land you and your friends want. There is some in the South Bronx, and some in parts of Brooklyn. It will cost you nothing—zero dollars—although you'll have to pay taxes and water and sewer charges and you'll need a little imagination to find something to do with it. I promise I can get you in on the ground floor. The other floors have disappeared.

Even in parts of Manhattan—consider that: *Manhattan!*—I can find you land for nothing. Apparently nobody wants it. There are apartment houses on the Lower East Side that would cost fewer dollars today than they did in 1880 or 1950. I don't claim they're in very good shape, but in the right hands, watch out.

Although real estate in central Manhattan is booming, as you told the House, more real estate parcels in New York City are declining than rising in value. Which means more bargains every day, right? Next year, the taxable value on 47,953 parcels will go up. But it will go *down* on 81,400—almost twice as many. Since a lot of owners are certain to fight against rising taxes, the final tax figures will be even lower.

New York City does try to auction off to investors like you the *better* properties it owns and doesn't need. In the last twelve months it tried to sell 995 of its most promising pieces at auction. On about a quarter of the properties, there was not one single bid. They're still waiting for a visionary Congressman from Urbana, Ohio, to snatch them up.

I hope you and your friends are willing to move on the vacant land deals you say you're interested in. I advise you each to pay a dollar for your five acres (that dollar will help clear the title) and my friend, Felix Rohatyn, will lend you the first 50 cents. If you do buy the property, you'll be in a good position, there in Washington, to strengthen your investment. In other words, if you expect to realize the full intrinsic value of the land, some of your colleagues may be persuaded to join you in keeping the subways running, the cops paid, the poor fed, the schools open, etc. I'm sure you get what I mean.

Best wishes,

E. I.

(You probably remember me as Ed.)●

ENERGY POLICY AND RADICAL SECULARISM

● Mr. HELMS. Mr. President, John Graham serves ably as the Washington representative of the American Nuclear Society. He is also a North Carolinian.

Writing in the January issue of Nuclear News, Mr. Graham offered a thought-provoking reply to the energy policy statement "The Ethical Implications of Energy Production and Use" adopted last year by the governing board of the National Council of Churches. His response to the NCC document does not deal with the council's energy pronouncements, but rather with the purported religiosity of the proposal itself. He expresses the view that the statement is not all based on theological grounds; instead, he notes that the proposals rest upon the doctrine of radical secularism.

While churchmen everywhere are—and should be—concerned with the gravity of the energy crisis, Mr. Graham has simply reminded us that the National Council of Churches should not presume to speak for the entire Christian community on matters of energy policy.

Mr. President, I ask that the column entitled, "Window on Washington—Radical Secularism" by John Graham which appeared in the January 1980 issue of Nuclear News be printed in the Record.

The article follows:

Radical Secularism

(By John Graham)

A recent proclamation by the National Council of Churches (NCC) is being widely discussed in the Protestant community. Titled "The Ethical Implications of Energy Production and Use," the statement was approved by NCC last spring, but it is only now being debated locally.

The NCC statement is nothing but warmed over Amory Lovins: the antinuclear soft path. It holds that our resources are scarce and finite, and that we must husband them, unpoisoned, for all time to come.

I have searched the document for scriptural content. It is sprinkled with a few religious words; however, its only biblical authority rests on the Sermon on the Mount from Matthew, in which Christ admonishes us to love our neighbor. Other relevant scriptures are ignored; consequently the love theme seems a slender thread. But NCC goes far afield from Matthew. By its own definition, it says the word "neighbor" has been "radically expanded" to encompass "all humans in past, present, and future generations."

Is this not hubris? Indeed, this is humanism—the antithesis of Godism. It's radical secularism. Ethics have replaced morality.

Most college students get a smattering of Matthew in Humanities, where they learn that the Christian love theme has made an enormous impact on western civilization. But is this all there is to Christianity?

I carried the NCC statement to a Presbyterian minister in Washington, and I asked him this: "Is God-is-Love/Love-is-God the complete Christian package? If so, should we not throw away the Old Testament?"

"Absolutely not," he said to both. But first, he agreed with me that the NCC document is not deeply rooted in theology, and then he told me that the love message is valid only if it is God's love reflecting in every human experience. One humanist loving another simply will not cut it.

To understand how modern Christianity got itself embroiled in secularism, one must look at the evolution of American Protestantism.

First, the Puritans came here—like Old Testament characters—to build their "City of God" from which all evil might be excluded. Their God was that of Abraham—distant, omnipotent. Salvation was preordained.

Next, a great Protestant revolution began around 1750 and burned along our frontiers for about 150 years. Lowly circuit riders and great Evangelists went about preaching "salvation is free." This was "experimental" religion. It was Calvary (redemption) centric, and being "saved" was everything. Salvation may have been free, but it wasn't easy. It took lots of praying and shouting to bring in many a tardy soul.

As America became more urban and industrialized, Protestant centricity moved quite dramatically to the living Christ—to the Sermon on the Mount. Salvation became both free and easy, because Christ is perceived as the one who will always say, "I forgive." The experientialists were relegated to the backwoods, and liturgical order was restored in most churches. Along with all this, concepts of social relevance and situation ethics became commonplace in the churches. Political action groups sprang into being, as did a bureaucracy called "The National Council of Churches"—presumably to employ humanists who do not want the care of souls.

These are the roots of the modernist doctrine that is now splitting the Christian community, Catholic and Protestant alike.

The issue is secularism vs. biblical authority, and the NCC energy proclamation must be classified as secular. But NCC cannot have it both ways. It cannot—without challenge—pass off radical secularism under the pretense of giving the world an important religious message.●

THE 1980 FREEDOM OLYMPICS

● Mr. DeCONCINI. Mr. President, the American people have made it abundantly clear that they understand the true meaning and terrible implications of the Soviet invasion of Afghanistan. As much as each of us might enjoy and look forward to the quadrenniel Olympic competition, and as much as we might feel deeply for the many young men and women who have trained and longed to participate in this event, we nonetheless have decided that we must sacrifice to make it clear that the world's greatest democracy does not and cannot endorse naked aggression.

In a recent editorial, Doug Morris, editor of the Sun Citizen called for the establishment of "freedom Olympics" during the same period as the Moscow Olympics. As one of the original proponents of the resolution calling for the moving or boycott of the summer Olympics, I heartily endorse this proposal. A "freedom Olympics" would display the solidarity of the peace-loving nations of the world and the ostracism of those who would flaunt all the values of our civilization.

I believe all my colleagues would benefit from the views expressed by Mr. Morris, and I ask that the editorial, "The Freedom Olympics" be printed in the Record at this point.

The editorial follows:

The 1980 Freedom Olympics

The U.S. should not send a team to the Moscow Olympics.

The U.S. should announce that the 1980 Freedom Olympics will be held, at the same time as the Moscow Olympics, somewhere in the Free World . . . Montreal, Tokyo, Los Angeles, New York, or wherever.

Three purposes and principles should be clearly stated: (1) to return the Olympics Games to their original intention—the promulgation of international sportsmanship through open competition among amateur athletes; (2) to withdraw our support from what will be, inescapably, a Soviet propaganda instrument; and (3) to lead a world protest against a nation dedicated to world domination through force of arms and political/economic conquest.

If a fourth purpose were needed, it could be a positive declaration that the Soviet Union has intentionally and blatantly demonstrated that it is the enemy of freedom, and is, therefore, the enemy of the principle of the Olympiad—and, by definition, the enemy of the U.S.

Withdrawing from the Moscow Olympics would, understandably, be a devastating blow to all those American youngsters who have been looking forward to the Games as the reward for years of arduous training, self-denial, and single-minded dedication to a dream.

Those other youngsters, whose dreams were similarly thwarted when the Olympics of 1916, 1940 and 1944 were cancelled, were no less the victims of circumstances. The circumstances then was war.

The circumstance now is war—perhaps not the cannon-belching kind of conflict, but a war with the same capacity for catastrophe. Again, our young people would make the sacrifice because they are patriots first and athletes second.

But, it doesn't have to be a sacrifice at all. It could be exchanging a lesser honor for a greater value. The winners would mount the platform and bend to receive a medal engraved with inspiration: "1980 Freedom Olympics . . . To Champion Liberty For All."

In later years, with family and friends gathered for recollection, the proud winner says, "This is my pride and joy. That's the year I won a race for Freedom."

Would this mean politicizing the Olympics? Of course . . . but only to the degree that we would be acknowledging the obvious fact that the Games are already politicized beyond expectable redemption. To doubt this is to erase from memory and history the Hitler Olympics of 1936, in Berlin. From that demonstration of pomp and power came the already-plotted explosion of World War II. Then, the clenched-fist dissidents in Mexico City in 1968; and the death of hostages in Munich, in 1972.

The Olympics are politics. To doubt this is to believe in an international tooth fairy.

Is there any plausible reason to expect that the 1980 Moscow Olympics will not be a propaganda campaign orchestrated for the benefit of the host country, the Soviet Union? Is there any rationality to our being a willing instrument of this purpose?

It's hard enough to swallow the uncomfortable and bitter recognition that we don't seem able or willing to do anything significant about the fall of Afghanistan to the brutal force of Soviet invasion. Nor do we seem resolved to prevent the consequent subjugation of Pakistan—and probably Iran—as the Soviets continue their 200-year-old march to a warm water port.

When do we say "enough!"? When do we admit to ourselves, and announce to the world, that the Union of Socialist Soviet Republics is our enemy? They have put it in writing, and shouted it from innumerable rostrums—that they intend to bury us . . . to encircle us, and bring us to our knees by shutting off access to raw materials, especially the oil on which our entire structure depends. When do we start reading, listening, and believing?

This would not be the first time that the "official" Olympics were banned for political reasons. When the Romans took over the Games from the Greeks, that earlier power-hungry, belligerent, land-grabbing Empire so distorted the Games that they became a carnival of political nationalism and intrigue. In 394 A.D., the Emperor Theodosius cried "enough," and the Games were cancelled—for centuries.

We should not ban the concept of the Olympiad. We should take action to restore the concept to its original purpose and ideals. We should give back to the Olympiad its dignity and its significance.

The 1980 Freedom Olympics could bring together young athletes from all the countries who believe that sport should not be an instrument of war—hot or cold.

How much better that our TV screens be filled with open competition rather than ill-disguised confrontation. How much better that we say, loud and clear and often, to the Soviets, "You're not going to get any endorsement from us. We don't like the product you're selling, so we're not going to allow it to be advertised in our homes."

The almanacs will carry the results of two Olympiads for 1980. Those who place high premium on comparisons will find the statistics tabulated.

But around this country, and throughout the Free World, young men and women will be wearing and displaying—with pride in themselves and in their country—the gold, silver and bronze medallions they won in the 1980 Freedom Olympics.

So little to lose; so much to gain.●

ADDRESS BY MRS. MARGARET THATCHER ON THE CRISIS IN SOUTHWEST ASIA

● Mr. **TOWER**. Mr. President, on January 28, the distinguished Prime Minister of Great Britain, Mrs. Margaret Thatcher, delivered an impressive and cogent address to the House of Commons on the matter of the crisis in Southwest Asia.

In her comments, and the dialog which follows, Mrs. Thatcher dispels with great clarity any notion that the Soviet concept of détente is compatible with that of the free Western nations. She points out that the Soviets have not responded to the new prosperity and contacts they have reaped from détente with a moderation of their behavior. Rather, Mrs. Thatcher notes that the Russians have taken the benefits of détente while continuing their "unrelenting hostility to all our ways, traditions, and institutions."

In my view, Mrs. Thatcher demonstrates a realistic perception of Soviet aims, and her message reflects the kind of national will all free nations should have.

I ask that the remarks of Prime Minister Thatcher be printed in the RECORD.

The remarks follow:

THE CRISIS IN SOUTHWEST ASIA

Following is the text of the speech by the Prime Minister, Mrs. Margaret Thatcher, opening the adjournment debate in the House of Commons at 28 (twenty-eight) January 1980.

Last autumn I expressed the view that the West would have to face in the next few years challenges and dangers more testing than any it had faced in the nineteen sixties or nineteen seventies. I called the eighties the dangerous decade but the first challenge has come sooner than many expected.

We face a grave development in East-West relations. Abroad, the Soviet Union has shown that it is prepared to use force to impose its will on a small neighbouring country, at home, by arresting and exiling Professor Sakharov, it has shown once again that it will not tolerate dissent within its own borders.

The Soviet Government's actions reveal a brutal disregard for accepted rules of international behavior, for world public opinion, and for the principles laid down in the Helsinki Final Act of 1975 (nineteen seventy-five)—an agreement signed by President Brezhnev himself.

Detente is an imprecise word. It reflects the common interest of all mankind to avoid a nuclear holocaust, which could come from military conflict between East and West.

For 10 (ten) years and more, the West has built on that feeling to try to reach mutually beneficial East-West agreements on arms control, on Berlin and on Germany. East-West trade has grown, too. So have human contacts between the two sides.

Optimists in the West believed that this process would educate the Soviet Union about the outside world. They hoped that wider contacts and increasing prosperity would soften the harshness of the Soviet political system. They hoped that the Soviets would behave more moderately in the third world, in Europe and in their relationship with the United States.

The Russians have a different interpretation of detente. For them the word has meant the preservation of their security at the same time as they have enjoyed access to western foodstuffs and technology on easy terms, and the chance to extend, by overt and covert means, their influence and political control wherever opportunity offered. They have proclaimed an unrelenting ideological hostility to all our ways, traditions, and institutions. They have meddled in our affairs at every turn, while angrily rejecting the thought that they should conduct their domestic affairs in a civilised and democratic manner.

They have persecuted those of their citizens who have dared to think and speak for themselves. They have built up their armed forces far beyond their defensive needs.

In recent years they have gone further. They have instigated Cuba to intervene in Angola and Ethiopia on their behalf. They have provided arms, military advisers and financial support to the Marxist forces of subversion in the Third World—notably in the Caribbean, Africa and the Middle East. They have worked directly and indirectly against Western interests wherever they could. They have claimed repeatedly that all this is compatible with the rules of detente as they define them.

Regrettably, many people in the West have been prepared to overlook these breaches of the rules in the hope that, with time, the Russians would come to behave more responsibly.

The invasion of Afghanistan and the exile of Professor Sakharov leave no room for illusion. They seriously weaken the basis for the fruitful conduct of East-West relations. They are deliberate acts of policy by the Soviet government.

Afghanistan is a symbol and a warning. It is not just a far distant country, which we can ignore because we face no local crisis in Europe.

This is not the first time that the Russians have used force to invade a neighbour, used it massively, swiftly and callously in a pattern that bears the Soviet hallmark. It is not the first time that they have claimed to have been invited in by a government who, on closer inspection, turned out not to exist, or whose leaders they subsequently killed.

But it is the first time since the World War that they have sent tens of thousands of soldiers, backed by tanks and helicopter gunships, into a country outside the Warsaw Pact, an Islamic country, a member of the non-aligned movement, and a country that posed no conceivable threat to their security or their interests.

Who are the Russians fighting against? The newspapers call them the rebels.

It is a strange word to use of people who are fighting to defend their own country against a foreign invader. Surely they are genuine freedom fighters, fighting to free their country from an alien oppressor.

Commentators speculate about the motives of the Soviet Union in moving into Afghanistan. It is argued that the invasion is a confession of Soviet weakness: that it reflects a defensive mentality: or that it flows from a fear of encirclement. But we cannot know the motives of the Russians for certain. What we know is what they have done.

The Soviet Union has driven a wedge into the heart of the Muslim world. If its hold on Afghanistan is consolidated the Soviet Union will, in effect, have vastly extended its borders with Iran, will have acquired a border more than 1,000 (one thousand) miles long with Pakistan, and will have advanced to within 300 (three hundred) miles of the straits of Hormuz, which control the Persian Gulf. These are the facts. They are a cause for alarm both to the countries of the region and to ourselves.

West of Afghanistan, Iran is now, more than ever, in the front line. The Soviet Union says that its intentions towards that country are benevolent, but who can believe them. After all, the Russians claim that the treaty that they signed with Persia in 1921 (Nineteen Twentyone) is still valid. That treaty says, among other things, that if a third party should attempt . . . to use Persian territory as a base for operations against Russia . . . Russia shall have the right to advance her troops into the Persian interior.

I need hardly comment on the implications of such a text.

The revolution in Iran has stirred up feelings for ethnic autonomy among the Kurds, the Azerbaijanis, the Baluchis and many other ethnic groups. It has fostered ideological dispute, and it has led to differences even among the religious leaders themselves. The temptation to the Russians is apparent. There are signs that the Iranians themselves are increasingly aware of the danger.

At this point, I should like to say a word about the American hostages. We in this country respect the right of peoples to choose their own regimes and governments. We wish the Iranians well in their search for the political system best suited to their needs. We hope that they will emerge from their present difficulties united.

The election of Mr. Bani Sadr as the first president of the Islamic Republic of Iran, if confirmed, is an important new development. Our embassy in Tehran has previously had contacts with Mr. Bani Sadr in his capacity as minister, both of finance and economic affairs and of foreign affairs. We hope that the continued detention of the United States hostages will be one of the first problems to which he devotes his efforts.

The hostages must be released. We admire and applaud the restraint that President Carter has shown in pursuit of this goal. We support him and shall co-operate in every way with policies that will contribute to the release of the hostages. In doing so, we shall bear in mind the situation in the region as a whole.

The Russians would be only too willing to pose as protectors of the Iranian revolution, or as the restorers of order in the country. We shall want both to avoid giving them any opportunity to do so and to make clear the consequences if they tried.

We shall need to be similarly clear about the importance that we attach to Afghanistan's eastern neighbors, Pakistan. The Soviet invasion has driven many Afghan people over the border into Pakistan. There are already half a million refugees in the country, and the number is expected to grow rapidly. These people will be resentful and aggrieved. They come in large part from tribes that in any case span the border of the two countries. The threat to stability is only too obvious, and President Zias' concern only too well justified.

It is a concern that is shared by China and

India. Premier Hua told us last year how seriously the Chinese regarded Soviet global ambitions, of which they saw Soviet activities in Afghanistan as a significant part. Mrs. Gandhi has said that the Russian presence in Afghanistan has increased tension and moved danger closer to the Indian Border. This, I stress, has not happened because of rivalry between the super powers. The Russians are the only super power with massive ground forces in the area.

I hope that recognition of this fact will lead to the development of a better understanding between Pakistan and India.

Mr. Tam Dalywell (West Lothian): Can the prime minister give an assurance that, whatever may be the short-term pressures, efforts to help the London group of Nations to deny Pakistan the wherewithal to make nuclear weapons will go unabated?

The Prime Minister: I know that the Hon. gentleman is pursuing a cause that he has pursued for a long time. We naturally do not wish Pakistan to obtain nuclear weapons. I should like to make that clear.

We were talking about a better understanding between Pakistan and India, which is vital to the future of the whole region. The threat from Afghanistan to her neighbours to west and east is plain and direct. The threat to the south is every bit as dangerous. From southern Afghanistan to the Persian Gulf and the Straits of Hormuz is but a short distance. I do not need to stress the importance to the west of the states bordering the Gulf.

The oil that they produce is the lifeblood of western industrial societies. The Straits of Hormuz are the artery through which it flows. If that flow were abruptly stopped in the years immediately ahead there would be real doubt whether our societies could survive in their present form. The threat is the more compelling when one recalls the control that the Russians can exercise over the entrance to the Red Sea through their client states in South Yeman and Ethiopia.

Of course, we cannot prove that the Soviet invasion is part of a deliberate drive to the Gulf, but we can point to the fact that in a few days the Russians have advanced 500 (five hundred) miles towards it, and, again, to the fact that throughout the Third World, they have worked consistently and patiently against western interests whenever opportunity offered. To some, at least, the implications of their presence in Afghanistan are clear.

In this new situation, the nations of the free world must be resolute and united. We must bring home to the Russians how badly they underestimated the cost to themselves of the invasion and how serious would be the consequences should they try the same thing again. If we are to continue the painful attempt to build a safer world—as we would wish to do—the Soviet government must abide by the normal standards of international conduct.

The Soviet action is an affront not only to the West but to the members of the non-aligned movement, to which Afghanistan belongs. In the United Nations General Assembly earlier this month, 104 (one hundred and four) countries, most of them members of the non-aligned movement, condemned the Soviet government.

Seldom has a great power been censured so publicly, so rapidly and so comprehensively. Russia's claim to be a champion of the developing world has been shattered. The Soviet proxy, Cuba, currently chairman of the non-aligned movement, was forced to withdraw as a candidate for the security council when support for her evaporated in the wake of the invasion. The truth is that the Soviet Union has had little to offer the Third World but weapons and dogma. Such economic aid as they have given has always had ulterior motives. It is noteworthy that in 1954 Afghanistan was the first recipient of Soviet aid. Soviet tanks cross Afghanistan on roads built with Soviet money. Their aircraft land on airfields similarly financed. That is hardly aid without strings.

The countries of the Third World are awakening to the realities of Soviet foreign policy. They are recognizing that Soviet ambitions are incompatible with their wish to determine their own destinies. But it is not for us to tell them how to carry forward the work begun in the General Assembly.

We shall, of course, help if asked to do so, but, in the first instance, they themselves must develop effective answers to the threat of subversion in their own countries. Resistance to infection requires awareness and effort from the potential victim.

We in the West have our own response to consider. A number of immediate measures have already been taken. President Carter, in a move of great political courage, has banned further supplies of American grain to Russia. He has cut back on the supply of high technology, and reduced official contacts in a number of ways. He has said that the Olympic games should be moved from Moscow, postponed, or cancelled if the Soviet troops have not left Afghanistan within a month. Both Congress and the United States Olympic committee have supported him.

The British Government have also responded. We have stopped aid to Afghanistan and have withheld recognition from the new regime in Kabul. We initiated consultations in NATO and in the European Community. My right Hon. Friend the Foreign and Commonwealth Secretary has visited the countries of the region and described in another place the talks that he had and the conclusions that he drew. We shall be reviewing our aid plans for Pakistan. We and our partners will do what is in our power to improve stability in the Gulf and to reassure our other friends in the Arabian Peninsula.

Mr. Eric S. Heffer: (Liverpool, Walton): will the right Hon. Lady explain a little more what she means by reviewing our aid plans for Pakistan?

The Prime Minister: I meant exactly what I said, we shall be reviewing aid to Pakistan, and we shall of course be reviewing the military situation, for the reason, which most people fully understand, that Pakistan is now right in the front line. We shall also be developing our relations with China and we shall develop our co-operation with our Turkish Allies.

We have announced the measures that we shall be taking with regard to the Soviet Union itself, measures to cut back political and official contacts, to cancel military exchanges, to refuse renewal of the Anglo-Soviet credit agreement which expires next month, and, in consultation with our allies, to tighten the rules governing the supply of high technology.

The House is already aware of the government's concern at the prospect of the Olympic games taking place in Moscow this summer. The Soviet government hope, as another government did in 1936, that the games will give an immense boost to the states prestige internationally and to its own prestige domestically. In any circumstances the olympics in Moscow would have been a political event. But to attend the games now would be to give aid and encouragement to the Soviet government in the immediate aftermath of its invasion of an independent country and its arrest and exile of one of the countrys most distinguished citizens.

Of course I sympathise with the athletes who have trained so hard for so long. But surely Sebastian Coe is right to say: athletes cannot have their heads in the sand. They cannot say: I am a runner and, while I sympathise with the people of Afghanistan, that is not my problem. The solution is to move the games to a place or places where politics do not predominate.

This is a move that commands great support from many parts of the House. In response to the government's request the chairman of the British Olympic Association has agreed to propose this to the International Olympic Committee. In the light of their decision, the government will consider further what advice—it could only be advice—we should give.

The actions already announced by the government will have effects stretching well into the future. It is important that we and our allies should persist in our efforts. We must not give the impression that our indignation is synthetic, or short-lived, the most persuasive evidence of our determination will be our willingness to sustain our unity and defence effort. The House will know from last week's defense debate that the governments are resolved to do so. Alliance governments recently decided to increase their defence expenditure in the years ahead. They have decided to modernise NATO's long-range theatre nuclear weapons. They must now demonstrate that they can carry out those decisions.

The new measures that the West has taken, or will take, do not imply that there can or should be a complete break with the past. The business of East-West relations must go on. We have to live in the same world.

There are a number of arms control negotiations in which the West has a real and continuing interest. They are an integral part of our efforts to safeguard the nation's security. We do not propose to abandon them, but recent events once more call Soviet good faith into question, and cast a shadow over the prospects for early progress. President Carter had no choice but to defer the ratification of the SALT II Treaty, but we hope that the treaty will be ratified in due course.

We will persist with our effort to initiate negotiations with the Soviet Union about theatre nuclear forces in Europe. Although it rejected the recent American offer, that offer remains on the table. We will pursue the negotiations in Vienna on mutual and balanced force reductions. Here also the alliance took a new initiative last month. We will carry on the negotiations for a comprehensive test ban. We will continue preparations for the meeting in Madrid in November about the next stage in the process begun at Helsinki, although of course much will depend on Soviet actions meanwhile.

We had a debate on defence last week. I hope that it is clear from that debate and from other statements that the government are resolved to play their full part in NATO and to increase their expenditure by three percent over the outturn this year. The West's efforts, whether in defence or in negotiations, can be effective only if we are united. We and our partners in Europe came together in the community above all for political reasons. A greater ability to resist external pressure was not the least of those reasons. That shared interest lies behind the common action that the community aims to develop in response to the crisis, in its relations with the Gulf, with Yugoslavia, and with Pakistan. The Soviet Government doubtless think that they can detect differences among us. Indeed, some differences of emphasis are inevitable when a free association of nations deliberates on a problem of this magnitude, but the Soviet Government should pause before they conclude that debate is a sign of weakness. They would be making another miscalculation if they thought that their efforts to split us could succeed.

Nor should the Soviet Government expect to succeed in their attempt to persuade us that the interest of Europe in a sensible relationship between East and West is in some way different from that of the United States. The United States is the final guarantor of European security. It is demonstrating clear leadership, and we should back it.

I am reminded of the superb response that General DeGaulle gave to President Kennedy's representative at the time of the Cuba missile crisis. General De Gaulle then said: You may tell the president that France will support him. Europe should send the same message today.

I began by speaking about the meaning of détente. If it means anything, it must mean a process whereby East and West move away from the hostility and confrontation of the years after the Second World War. It is about the management of East-West relations, so that war is avoided while the legitimate interests of both sides are protected.

The process cannot be confined to Europe. In an interdependent and oil-hungry world the interests of East and West are affected by events everywhere. Détente is indivisible, or is it nothing. So long as the Russians refuse to accept this—so long as they go on trying to defeat the West by all means short of war—we shall do whatever is necessary to counter their policies.

We shall strengthen our relations with the whole non-Communist world. We shall look to our defences, but we shall continue to negotiate with the Soviet Union from a position of balanced strength on issues where out interests are mutual. If we are vigilant and steadfast our Democratic values will outlast the sterile dictatorship and the spurious theories of Soviet Marxism.

We can gladly take on the Soviet Union in the struggle for ideas. This is an arena where the defeat, not the victory, of Marxism is inevitable. Meanwhile, we stand ready for cooperation in a search for mutual benefit in a true détente, if, one day, the Soviet Union decides, genuinely, to take the path of peace. The burden of truth now lies with the Soviet Union. ●

CHECKLIST OF ITEMIZED TAX DEDUCTIONS

● **Mr. INOUYE.** Mr. President, taxpayers in Hawaii and throughout the rest of the country have been assisted in the preparation of their annual Federal income tax returns by a very valuable service provided each year by the Senate Special Committee on Aging, in cooperation with the Internal Revenue Service.

The checklist of itemized deductions available to taxpayers, while originally compiled to assist elderly citizens, is also useful for younger taxpayers, because most Internal Revenue Code provisions apply equally to all age groups.

I know that the preparation of individual income tax returns can be a complicated and time-consuming task, yet it is a necessary duty if our Nation is to function.

While this checklist is not intended to be an all-inclusive guide covering every possible circumstance, it does help to insure that typical taxpayers claim every legitimate deduction, exemption, and credit to which they are entitled.

The Internal Revenue Service also provides free tax return preparation assistance, with the help of various community groups, to elderly, handicapped, and low-income taxpayers through its volunteer income tax assistance (VITA) program. For the nearest VITA site, Oahu residents can call the Honolulu IRS office and neighbor island residents can call the toll-free IRS number in their telephone directories.

One final note: This may be a good time to remind Hawaii taxpayers that property damage incurred during the heavy storms in January, such as loss of trees or structural damages, may be eligible for deduction as casualty losses on their income tax returns next year, if properly recorded.

Mr. President, I ask an excerpt from the Senate Special Committee on Aging's publication be printed in the RECORD.

The material follows:

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3 percent of your adjusted gross income (line 31, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3 percent limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3 percent rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3 percent rule) but only to extent exceeding 1 percent of adjusted gross income (line 31, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3 percent limitation):

Abdominal supports (prescribed by a doctor).

Acupuncture services.

Ambulance hire.

Anesthetist.

Arch supports (prescribed by a doctor).

Artificial limbs and teeth.

Back supports (prescribed by a doctor).

Braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. You should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian Science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning, X-ray, filling teeth).

Dentures.

Dermatologist.

Eyeglasses.

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).

Gynecologist.

Hearing aids and batteries.

Home health services.

Hospital expenses.

Insulin treatment.

Invalid chair.

Lab tests.

Lipreading lessons (designed to overcome a handicap).

Medicare A, voluntarily paid, if you are 65 or older and not entitled to social security benefits.

Neurologist.

Nursing services (for medical care, including nurse's board paid by you).

Occupational therapist.

Ophthalmologist.

Optician.

Optometrist.

Oral surgery.

Osteopath, licensed.

Pediatrician.

Physical examinations.

Physical therapist.

Physician.

Podiatrist.

Psychiatrist.

Psychoanalysts.

Psychologist.

Psychotherapy.

Radium therapy.

Sacroiliac belt (provided by a doctor).

Seeing-eye dog and maintenance.

Speech therapist.

Splints.

Supplementary medical insurance (Part B) under Medicare.

Surgeon.

Telephone/teletype special communications equipment for the deaf.

Transportation expenses for medical purposes (8 cents per mile plus parking and tolls or actual fares for taxi, buses, etc.)

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.

Whirlpool baths for medical purposes.

X-rays.

Expenses may be deducted only in the year you paid them. If you charge medical expenses on your bank credit card, the expenses are deducted in the year the charge is made regardless of when the bank is repaid.

TAXES

Real estate.

General sales.

State and local income.

Personal property.

If sales tax tables are used in arriving at your deduction, ordinarily you may add to the amount shown in the tax tables the sales tax paid on the purchase of the following items: automobiles, trucks, motocycles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veteran's pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, dividends untaxed under the dividend exclusion, interest on municipal bonds, untaxed part of unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonoperating foundations, veterans organizations, fraternal societies, or nonprofit cemetry companies, are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible).

Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 8 cents per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in your home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.

Auto loan.

Personal loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Other credit cards—you may deduct as interest the finance charges added to your monthly statement, expressed as an annual percentage rate, that are based on the unpaid monthly balance.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money and only if the charging of points is an established business practice in your area. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the separately stated "finance charge."

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. Report your casualty or theft loss on Schedule A. If more than one item was involved in a single casualty or theft, or if you had more than one casualty or theft during the year, use Form 4684 for computing your personal casualty loss.

MISCELLANEOUS

Appraisal fees to determine the amount of a casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box used to store income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of bond if required for employment.

Expenses of an office in your home if used regularly and exclusively for certain business purposes.

Educational expenses that are: (1) required by your employer to maintain your position; or (2) for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—You may claim a credit (line 38, Form 1040) for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general, or special election. The credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, (4) local committee of a national political party, or (5) certain newsletter funds set up and maintained by a person who holds, has been elected to, or is a candidate for nomination or election to a public office. The amount of the tax credit is one-half of the political contribution, with a $50 ceiling ($100 for couples filing jointly).

PRESIDENTIAL ELECTION CAMPAIGN FUND

Additionally, you may voluntarily earmark $1 of your taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

ADDITIONAL INFORMATION

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$3, 300
Single (age 65 or older)	4, 300
Qualifying widow(er) under 65 with dependent child	4, 400
Qualifying widow(er) 65 or older with dependent child	5, 400
Married couple (both spouses under 65) filing jointly	5, 400
Married couple (1 spouse 65 or older) filing jointly	6, 400
Married couple (both spouses 65 or older) filing jointly	7, 400
Married filing separately	1, 000

Additional Exemption for Age.—Besides the regular $1,000 exemption, you are allowed an additional exemption of $1,000 if you are age 65 or older on the last day of the taxable year. If both a husband and wife are. 65 or older on the last day of the taxable year, each is entitled to an additional exemption of $1,000 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1980, you will be entitled to the additional $1,000 exemption because of age for your 1979 Federal income tax return.

"Zero Bracket Amount."—The "zero bracket amount" is a flat amount that depends on your filing status. In 1979, this amount was increased for each filing status. If you are married filing jointly or a qualifying widow or widower, your zero bracket amount is $3,400. If you are single or a head of household, your zero bracket amount is $2,300. If you are married filing separately, it is $1,700. It is not a separate deduction; instead, the equivalent amount is built into the tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, you will need to make an adjustment if you itemize deductions. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

Tax Tables.—Tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you do not have to deduct $1,000 for each exemption because this amount is also built into the tax table for you.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship, and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $1,000 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence.—You may exclude from your gross income some or all of your gain from the sale of your principal residence, if you meet certain age, ownership, and occupancy requirements at the time of the sale. The exclusion is elective, and you may elect to exclude gain only once. If you were age 55 or older before the date of sale, you may elect to exclude up to $100,000 of gain on the sale if you owned and occupied the residence for 3 of the 5 years ending on the date of sale (or 5 of 8 years under certain circumstances). Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded.

Additionally, payment of tax on the gain on the sale of your personal residence in excess of the excluded amount will be deferred if, within 18 months before or 18 months after the sale, you buy and occupy another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence; (2) you were on active duty in the U.S. Armed Forces; or (3) your tax home was abroad. Publication 523 (Tax Information on Selling or Purchasing Your Home) may also be helpful.

Credit for the Elderly.—You may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if you are:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If you maintained a household that included your dependent under age 15 or a dependent or spouse incapable of self-care, you may be allowed a 20-percent credit for employment related expenses. The expenses must have been paid during the taxable year in order to enable you to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—If you have a dependent child who shares your principle place of abode in the United States, you may be entitled to a special payment or credit of up to $500. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if you reported earned income and had adjusted gross income (line 31, Form 1040) of less than $10,000, you may be able to claim the credit.

Earned income means wages, salaries, tips, strike benefits, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

ENERGY TAX ACT

The Energy Tax Act of 1978 is directed at providing tax incentives for energy conservation measures and for conversion to renewable energy sources.

A credit of up to $300 may be claimed for expenditures for energy conservation property installed in or on your principal residence, whether you own or rent it. The residence must have been substantially completed by April 20, 1977. Items eligible for the credit are limited to the following: insulation (fiberglass, cellulose, etc.) for ceilings, walls, floors, roofs, water heaters, etc.; exterior storm (or thermal) windows or doors; caulking or weatherstripping for exterior windows or doors; a furnace replacement burner which reduces the amount of fuel used; a device to make flue openings (for a heating system) more efficient; an electrical or mechanical furnace ignition system which replaces a gas pilot light; an automatic energy-saving setback thermostat; and a meter which displays the cost of energy usage.

A maximum credit for renewable energy source property is $2,200. Equipment used in the production or distribution of heat or electricity from solar, geothermal, or wind energy sources for residential heating, cooling, or other purposes may qualify for this credit.

Energy credits may be claimed by completing Form 5695 and attaching it to your Form 1040.

Examples of items which do not qualify for energy credit are the following: carpeting, drapes, wood paneling, exterior siding, heat pump, wood or peat fueled residential equipment, fluorescent replacement lighting system, hydrogen fueled residential equipment, equipment using wind energy for transportation, expenditures for a swimming pool used as an energy storage medium, and greenhouses.

For further information, consult the instructions for Form 5695 and IRS Publication 903, Energy Credits for Individuals.●

GOVERNOR COLDWELL OF THE FEDERAL RESERVE BOARD

● Mr. **TOWER**. Mr. President, after serving almost 29 years in various positions in the Federal Reserve System, Philip E. Coldwell, a distinguished member of the Federal Reserve Board of Governors, has announced his intention to not seek reappointment to that position.

Governor Coldwell joined the staff of the Federal Reserve Bank of Dallas in 1952 and, after a succession of promotions, became president of the Dallas Fed in 1968. He served in that position until his appointment as a member of the Federal Reserve Board in 1974.

In his years at the Dallas Federal Reserve Bank and at the Federal Reserve Board, Governor Coldwell has exemplified the highest ideals of public service. The citizens of this Nation, particularly those from his home State of Texas, are deeply indebted to him for his unfailing dedication and service to the well-being of our financial system.

I submit for the RECORD a valedictory statement which Governor Coldwell gave during a recent appearance before the Senate Banking Committee. The statement is an expression of Governor Coldwell's concerns about major economic issues confronting our Nation, highlighting the reasons why we are experiencing economic woes and suggesting some viable solutions.

The statement follows:

PERSONAL STATEMENT BY GOV. PHILIP COLDWELL

This is likely to be my last appearance before this Committee, since my term of office ends next week. I advised the Chairman of the Board in July that I would not seek reappointment, because of a continuing conflict of policy judgment and because of personal financial needs with too low a salary or pension to meet them. Failure to meet competitive salary levels will expose senior government posts to mediocre talent and/or shorter periods of service, and for the Federal Reserve, a potential loss of political independence.

From a perspective of nearly 29 years in the Federal Reserve System, perhaps I might be allowed some personal observations on a few primary policy problems of our nation.

First, it seems to me that government policies are adversely distorting the critical economic balance between production and consumption. Interest rate limits discourage savings for future investment; tax laws and environmental constraints dampen spending for new plant and equipment which slows the growth of productivity; detailed regulations stifle business initiative and competition; and price and wage controls and guidelines reduce the personal incentives in our free enterprise system, and increase potential inflationary pressures. The consequences of these policies are an increasing proportion of consumption, a rising dependence on foreign nations for production, a steadily declining world economic power, and a deteriorating exchange value of the dollar.

Second, it seems almost impossible for the government or the Federal Reserve to seriously and persistently fight inflation. We are reaping some of the results of policies that tolerate inflation and may suffer even more serious ones if dedication toward inflation restraint is not a true first priority. Monetary and fiscal policies of gradualism permit the build up of inflationary expectations, allow the costs of inflation to continue and even rise, and offer only long-run hopes which are usually dashed by intervening short-run events.

Third, international problems of the dollar are inextricably linked to our oil dependency, our fading economic power, an excessive build up of dollar holdings abroad, the lack of a credible international monetary mechanism, and the costs of a reserve currency status. Reliance upon voluntary cooperative intervention is an illusion because, in times of pressure, nationalism will win.

Fourth, monetary policy guided by short-run monetary aggregate estimates has proved faulty. Accurate project'ons are impossible, given the shifting public preferences for transaction balances, the changing regulatory rules and the inadequate coverage for monetary control of financial institutions offering deposit and credit services. Moreover, reliance upon a mechanistic policy guide ignores expectational changes, rate influences market developments, and fiscal policy shifts.

Fifth, credibility is an easily lost virtue which is hard to regain. Federal Reserve policies are not believable if policymakers show less than full commitment or market makers see an eroding capability to act. Public perception at home and abroad of the willingness and ability to act is crucial to the effectiveness of central bank policies. Unfortunately the long standing dispute over Federal Reserve membership is eroding both our capacity and public position. Continued erosion will inevitably weaken the central bank's independent power and with policies grounded upon a smaller base, public confidence can be lost.

In summary, I urge the Congress to lift the "dead hand" of government regulation from our free enterprise system, encourage new capital spending, support central bank coverage of all financial institutions, and insist upon fighting inflation as the continuing first priority status in monetary tax, and spending policies.

Despite this recitation of problems, I believe that we have the best economic system to provide a rising standard of living for our people, and if corrective policy actions are taken, I believe the decade of the 1980's could show one of the most memorable advances in our history.

Thank you Mr. Chairman, it has been a pleasure working with you in the past four years.●

THE SPINAL CORD REGENERATION RESEARCH ACT

● Mr. **STEWART**. Mr. President, last December I introduced S. 2098, the Spinal Cord Regeneration Research Act.

This bill will mandate the expenditure of $16 million for spinal cord regeneration research in fiscal 1981. This is roughly twice the current Federal expenditure in this area. The long-range focus of my bill is to hasten the day when we can cure spinal cord injury.

Spinal cord injuries have rendered nearly a half-million Americans paralyzed for life. While the exact psychological and vocational toll on these unfortunate individuals can never be calculated, economically these injuries cost the American people billions of dollars each year in transfer payments, medical expenses and lost income.

Senators, while these devastating injuries can strike anyone at any time in his or her life, they most frequently happen to young adults entering the prime of life, thereby disrupting families and destroying careers and dreams in one cruel swoop of fate. A cure for spinal cord injury can return the hope for a full life to those victims where such hope has simply not existed before.

Up until now, our medical professionals have seen little hope for a cure, and those so injured have been considered permanently impaired. Today, however, medical researchers believe a cure is close at hand, if only they have the funds to continue their valiant work.

Frankly, it outrages me to find that the Soviet Union has taken the lead in developing a real cure for spinal cord injury, so much so in fact that over the past several years many spinal cord injured Americans have traveled to Russia for treatment. Now, as a result of the current tension in United States-Soviet relations, the Soviets are no longer permitting these Americans to go behind the Iron Curtain for treatment.

In yesterday's Washington Star an article appeared which underscored the need for increased American research into a cure for spinal cord injury. The paper carried a picture of an American in a wheelchair. The headline was "Russians say 'Nyet.' " The caption read:

> Ed Lockman of Newton, Iowa, is paralyzed from the neck down as a result of a motorcycle accident. Lockman said in Des Moines yesterday he wanted to travel to the Soviet Union to receive treatment for his condition, but was turned down by the USSR because of current tension.

You can never convince me that the Soviets have advanced in this area because their scientists are superior to ours. The problem is we have not given our scientists the funds they need to get on with this valuable and much-needed research.

Mr. President, we have superior research and treatment capabilities right here in the United States. There is no reason why spinal injury victims should have to go behind the Iron Curtain for treatment in the first place. Why not provide our own medical scientists with the funds they need to develop a cure for spinal cord injury—a cure, I might add, that will never be closed to anyone because of his or her political or religious beliefs.

My bill will permit us to apply our superior capability to develop a cure for spinal cord injury. I urge my colleagues to join me as cosponsors of S. 2098.●

TESTIMONY OF ALBERT G. PIMENTEL BEFORE THE SUBCOMMITTEE ON THE HANDICAPPED

● Mr. LUGAR. Mr. President, on Wednesday, February 6, 1980, the Senate Subcommittee on the Handicapped held oversight hearings to examine current problems and programs of the hearing impaired and to explore future technological developments designed to handle their special problems. I wish to take this opportunity to thank Senators JENNINGS RANDOLPH and RICHARD SCHWEIKER for their continuing efforts and genuine concern about meeting the special needs of hearing impaired persons. Although I am not a member of the Senate Labor and Human Resources Committee, I share my colleagues' commitment to all handicapped persons and I will look forward to working with them as we consider legislative initiatives in the Senate.

I was especially interested in testimony submitted before the Handicapped Subcommittee by Albert G. Pimentel, executive director of the National Association of the Deaf. I encourage my colleagues to read this impressive statement about the problems of hearing loss and deafness.

The testimony follows:

TESTIMONY BY ALBERT T. PIMENTEL

Mr. Chairman, my name is Albert T. Pimentel. I am the Executive Director of the National Association of the Deaf, which is a consumer organization established in 1880. The NAD has a membership of 18,000, with 47 state affiliated organizations. Because there is no clear demarcation where hard of hearing ends and deafness begins, making the problems of both groups common in many areas of life, the National Association of the Deaf very much appreciates this opportunity to testify before this Committee on behalf of hearing impaired persons in this country.

Hearing loss is an invisible affliction that affects an estimated 15 to 20 million Americans. It is the largest single disability in the United States today. All evidence indicates that the numbers of hearing impaired citizens are growing and in the decades ahead they will increase at a more alarming rate. The primary reasons for this are age and noise pollution.

As the American population continues to live longer, more and more of us will experience hearing loss as a result of the aging process. More importantly, however, is the fact that as our environment becomes noisier each day, the hearing of literally thousands of individuals is being irreparably damaged.

Gradual loss of hearing is a very elusive problem. Often it begins so slowly it can go unnoticed. However, as the problem intensifies, it can change lives and cause serious emotional problems. Left untreated, gradual loss of hearing can ruin careers and destroy families. As one person stated, "ignored and unattended, it grows progressively worse and can eventually doom its victims to lives of depression and isolation."

Despite the terrible damage which hearing loss can cause to the individual and his family, most individuals who experience this problem are unwilling to admit it—to themselves and others. The reasons for this are complex; however, a major cause is that we live in a youth-oriented society People still tend to equate use of a hearing aid with old age.

Individuals who experience hearing loss are not always aware that it is their hearing that is deteriorating. They sometimes perceive the problem as one of losing alertness. Psychologically it is difficult for many people to deal with a changing physical condition, including the loss of hearing. Aside from those individuals who have difficulty confronting their problem, there are many who believe that there is little that can be done about their decrease in alertness and therefore do not seek assistance to remedy their problem. These persons have difficulty dealing with the fact that they have a legitimate physical disability, so their solution is often to ignore it and hope that it will go away. The failure of all hard of hearing individuals to unite and capitalize on their collective needs has resulted in a complete lack of services to them. Many existing programs could very easily meet the needs of hearing impaired persons by making only minor adjustments in their services. This is not occurring because there is no specific commitment in any area or level of government today to encourage greater awareness of the problems with delivery of services to these individuals.

Mr. Chairman, the National Association of the Deaf would make the following recommendations:

1. That funds be earmarked in selected social service programs to assure services to the hearing impaired population.

2. That legislation be amended, Public Law 95-602 (The Rehabilitation Act) is an example, to assure that an appropriately staffed office in the federal government attends specifically to the needs of the hearing impaired.

3. That the Environmental Protection Agency launch a more vigorous campaign to control noise pollution.

4. That buildings and transportation systems be designed to include visual information systems to assure that directional and other information is accurately available to hearing impaired persons. The Architectural and Transportation Barriers Compliance Board should include this need in their program.

5. That Media Services and Captioned Films Division in the Bureau of Education for the Handicapped and the Public Broadcasting Service expand their efforts to cover the needs of the hard of hearing.

6. That a Rehabilitation Engineering Center be established to focus specifically on the development of inexpensive devices and processes, including loop systems for hearing aid users, emergency warning devices for automobiles and various alerting systems for private homes and apartments. (It is our understanding that such a center has been a priority in HEW for several years, but no such center has yet to materialize. This is difficult for us to understand or accept, given the magnitude of the problem.)

The incidence of hearing loss in our population will continue to become greater as Americans become older. The premature withdrawal of persons from participation in society due to hearing loss is unnecessary and a loss of human contribution to our nation. Because the problem is not one that threatens life, it has largely been ignored by our government. Its more pervasive effect can only be more clearly understood and appreciated when the problem strikes closer to home—when a member of one's family is affected. Then the devastating effect on the personality of the individual and the depression that often accompanies hearing loss begins to affect the entire family. That clearly describes the severity of the problem that we are dealing with here today. Sensory handicapping conditions have long been recognized as being especially difficult to serve. Needless complications occur in vocational, employment, mental health, marital, and other family-related problems, which create an additional burden on the welfare rolls. This is an area of need where government investment will result in a positive return on dollars expended. It is time to give this problem attention. We are requesting appropriate and timely action.

Thank you.●

MORGAN DOLLARS

● Mr. LAXALT. Mr. President, on June 11, 1859, Henry Tompkins Paige Comstock known as "Old Pancake," staked out a claim to a silver deposit in Virginia City, Nev.

At that time, "Old Pancake" was unaware that the Comstock Lode, as it came to be called, would be one of the richest deposits of precious ores ever discovered.

From its discovery in 1859 to its decline in 1879, it held the spotlight of the world. During this period, more than $500 million in silver and gold were taken from these mines.

Not only did the Comstock Lode leave an historical legacy of the people of Nevada, but, through the minting of its precious silver, it left a legacy of rare silver dollars.

For only 13 years, the Carson City Mint in Nevada produced silver dollars designed by Mr. George T. Morgan. Known as the Morgan dollars, these coins all bear the unique "CC" mint mark.

In the early 1900's the demand for silver to support our war efforts in World War I resulted in massive coin melts. The stored Carson City silver dollars were thought to have been melted to meet these demands. However, in 1964, when silver was no longer either used in coinage or for the redemption of silver certificates, the General Accounting Office made an audit of the Department of the Treasury's silver dollars and discovered in a Treasury vault nearly 3 million coins, most of which were in uncirculated condition, from the long-closed Carson City Mint.

Under Public Law 91-607, the Bank Holding Company Act Amendments of 1970, Congress authorized GSA to sell these coins, which represent the last of the Government's holding of 90 percent silver dollars. Five sales were conducted beginning in 1972. The sales were discontinued in 1974 because of the high costs involved in conducting them.

Now, once again, Mr. President, these mementos of Nevada's historic past will be made available to the public.

On February 8, 1980, the remaining Morgan dollars will go on sale. Throughout the country, newspapers will carry ads and order blanks making it possible for virtually everyone to purchase these coins.

For the people of Nevada and the entire Nation who hold their heritage to be precious, I urge them to take advantage of this final opportunity to obtain these last remnants of the Comstock Lode and the Carson City Mint.●

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL 9 A.M. ON FRIDAY, FEBRUARY 8, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand recessed until 9 o'clock on Friday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS WARNER, WEICKER, AND BELLMON ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Messrs. WARNER, WEICKER, and BELLMON be recognized, each for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of the three orders for the recognition of Senators tomorrow, the Senate resume consideration of the pending business, the FTC bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF TIME FOR THE TWO LEADERS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the two leaders on tomorrow be reduced to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME FOR VOTE ON AMENDMENT OFFERED BY SENATOR SIMPSON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. SIMPSON not occur prior to 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRALS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 493 and House Joint Resolution 494, which are being held at the desk, be referred to the Committee on Rules and Administration, the committee with jurisdiction over the matter contained therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSPENSION OF PARAGRAPH 2 OF RULE XXVI

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that paragraph 2 of rule XXVI, requiring the printing of committee rules in the CONGRESSIONAL RECORD by March 1 of this year be suspended for those committees who have made no changes in their rules. Since the rules of each committee were already printed in the RECORD of the first session of the Congress and there has been little or no change in the rules of any committee, it appears to be an unnecessary cost to print all of them again in the second session, particularly when we know that such committee prints its set of rules in every issue of its committee calendar.

Mr. STEVENS. Mr. President, I am happy to concur in that request. I think it does save the expense of reprinting those rules when they have already been printed for this Congress.

The PRESIDING OFFICER. Without objection, it is so ordered

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider two nominations on the Executive Calendar under the Department of Defense.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of Joseph Charles Zengerle, III, of the District of Columbia, to be an Assistant Secretary of the Air Force.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President. I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The assistant legislative clerk read the nomination of Robert J. Murray, of Virginia, to be Undersecretary of the Navy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to, and at 7:57 p.m., the Senate recessed until Thursday, February 7, 1980, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 6, 1980:

DEPARTMENT OF DEFENSE

Joseph Charles Zengerle III, of the District of Columbia, to be an Assistant Secretary of the Air Force.

Robert J. Murray, of Virginia, to be Under Secretary of the Navy.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, February 6, 1980*

The House met at 3 p.m.

Dr. Gordon S. Dicker, University of Sydney, Australia, offered the following prayer:

Great God, Creator and Preserver of us all, we thank You for this day and for the opportunities and responsibilities it brings to us. Let us never shrink from the tasks You set us, but give us the vision, the courage, and the strength to match the challenge. Guide with Your spirit the affairs of this Nation, that all that is evil may wither, and all that is good may blossom and flourish. Help each of us to make Your cause our own, in the confidence that nothing done in Your name is ever lost or wasted. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2440) entitled "An act to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5168. An act to extend certain expiring provisions of law relating to personnel management of the Armed Forces.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2225. An act to provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased.

DR. GORDON S. DICKER

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, I am honored to introduce to the House the chaplain for today, Wednesday, February 6, 1980, Dr. Gordon S. Dicker, a distinguished visiting scholar from Australia.

Dr. Dicker is a graduate of Sydney University and completed theological graduate studies at the Melbourne College of Divinity and the Union Theological Seminary in New York. He was ordained to the ministry in the Methodist Church in 1954 and has completed training to become a counselor of the Marriage Guidance Council of New South Wales. He and his wife, Ruth, are both members of the faculty of the University of Sydney and the United Theological Seminary.

Dr. Dicker has just been visiting with friends down in my congressional district, in Mobile, Ala., and we were delighted to show him a little of the hospitality of the New South. Although Dr. Dicker completed his doctoral degree here in the United States, this is his first visit back in the States in 10 years. Dr. Dicker is one of the most distinguished theologians and preachers in Australia, and he has provided significant leadership throughout the South Pacific in the areas of human rights and Christian mission. I know you will want to join with me in welcoming and honoring the distinguished Dr. Gordon Dicker, his son, Russell James, and his wife, Ruth.

VOLUNTARY REGISTRATION PROPOSED AS ALTERNATIVE TO COMPULSORY REGISTRATION

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, the President has said that he will come to Congress in the next 2 days to request additional funding and expanded authority for mandatory draft registration. He has steadfastly indicated that he will not request classification or physical examination of those who are compelled to register. Rather, he strongly supports the all-volunteer concept and opposes peacetime conscription.

Why then force our youth to register under pain of 5 years imprisonment or $10,000 fine for noncompliance.

Two reasons have been offered: First, we must send a strong signal to the Russians; and second, we must test and prove our recently reorganized Selective Service registration system.

I cannot agree that we should imprison or fine our youth should they refuse to participate in a bureaucratic exercise—a mere test of the Selective Service System.

We must, however, send a strong signal to the Russians. A signal of national unity and strength born of our freedom and democratic ideals. Would it be a strong message if our country became divided on the issue, some youth sent to jail? Certainly not. A much stronger message would be to encourage and allow our youth and others who wish to register to do so—voluntarily.

I have no doubt the response would be tremendous.

So I am today proposing a voluntary registration, not compulsory, and intend to introduce a bill setting forth a voluntary registration program, as an alternative to compulsory registration.

FBI LEAKS DEMAND CONGRESSIONAL INQUIRY

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the Justice Department's handling of the FBI "Sting" case demands the immediate attention of the Congress, and I have therefore requested hearings in the Government Information and Individual Rights Subcommittee. Leaks to the press have seriously jeopardized the constitutional rights of many individuals.

Political corruption must not be tolerated because it threatens the very survival of our democracy. So too does the disclosure by Government officials of names and events in an ongoing criminal investigation.

It is difficult to believe, given recent history, that an FBI agent or supervisor would take it upon himself to leak information. The simultaneous publication of detailed articles in some of the Nation's most influential newspapers was more likely the result of deliberate and carefully orchestrated leaks rather than a mere coincidence.

The hearings which I propose must therefore address some very disturbing questions.

Although the Department of Justice intends to conduct an internal investigation, in good conscience, neither we nor the American people can let the matter rest there. An agency conducting an investigation of its own wrongdoings surely will not instill any confidence in the outcome.

REGISTRATION OF WOMEN NOT NECESSARY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I certainly hope that the rumors coming out of the White House are not accurate. The rumor that I have heard is that President Carter will submit today to the Congress a plan that will require women as well as men to be registered with the Selective Service System, and that the ages will be 18 and 19 years of age, which would mean about 8 million young men and women would have to be registered.

As the Members know, I have no problem with registering men, but I think it is absolutely not necessary to require that women be registered. What we need is to know where these young men are

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

in case we have an emergency, in order to train them to go into combat units.

We do not need women to serve in combat. Registering of women is the first step in requiring them to serve in combat units.

My colleague from New York (Mr. ADDABBO) has placed in the RECORD some remarks that oppose women serving in combat. I would certainly recommend to my colleagues that you read what Mr. ADDABBO has said in the RECORD today about opposing women having to register with the Selective Service System.

ANNOUNCING SPECIAL ORDER ON CONGRESSIONAL SCANDAL

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, never before has the integrity of the House of Representatives been more severely questioned than in the recent alleged scandal and accusations leaked by the Federal Bureau of Investigation. I am taking a special order tomorrow afternoon in order that Members may have an opportunity to express their thoughts and feelings on this matter.

NATIONAL PRAYER BREAKFAST

(Mr. BRINKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRINKLEY. Mr. Speaker, I take this moment to remind my colleagues here in the House of Representatives and those back in their offices of a very important day tomorrow. It is the day of the National Prayer Breakfast, to be held at the Washington Hilton. One of our colleagues, Mr. GUY VANDER JAGT, will be the principal speaker.

So, put it on your memory lists and please come. We will have buses leaving from the Capitol steps at the east front at 7 o'clock in the morning. It is going to be a good day. I have not had any direct revelation with reference to the snow being here or not, but I do have some assurance that we will be able to get through the snow. It will be a good day, and I hope the Members will all be there. It begins at 8 o'clock in the Washington Hilton Hotel.

□ 1510

CANDIDATE CARTER PROMISED THE AMERICAN PEOPLE A BALANCED BUDGET BY FISCAL YEAR 1981

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, during the 1976 Presidential campaign, candidate Carter promised the American people a balanced budget by fiscal year 1981. This past week President Carter submitted his fiscal year 1981 budget to the Congress. It calls for outlays of $615.8 billion and a deficit of $15.8 billion. That deficit we are now told will be as high as $40 billion. The only place that this budget could be said to be "balanced" is squarely on the backs of the American taxpayers.

President Carter's 1981 budget proposes a $77 billion increase in taxes. In the absence of a tax cut, the individual will be carrying a heavier income tax burden than he has in any year since World War II. Individuals will be paying at least $14 billion more in 1981 than in 1980, just because of the way inflation has pushed them into higher tax brackets.

In addition, both workers and business will together be paying about $11 billion more in social security taxes, due to tax rate and wage increases already approved by Congress. Furthermore, the proposed windfall profit tax will indirectly dip further into the pockets of consumers as oil producers raise their gasoline and heating oil prices to enable them to pay the tax. Today I am including in the Extensions of Remarks an article by Amway that discusses this problem more fully

In conclusion, President Carter's 1981 budget, proposed in the name of "fiscal restraint," is not representing restraint; it will only serve to increase the burden carried by the already overburdened American taxpayer.

EVERY MEMBER MUST MAKE HIS FEELINGS KNOWN TO CONFEREES ON WINDFALL PROFIT TAX BILL NOW

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, as the cold north winds descend upon the American public, the issue of energy assistance to the beleaguered consumer, who has been wracked by 14 percent inflation, must be raised. Reports have indicated that 6 to 8 percent of that 14 percent figure can be attributed directly to rising energy costs. Energy is not a luxury item that our citizens can forgo, but rather a necessity.

Last May, I had the foresight to sponsor a measure designed to alleviate the overwhelming burden placed upon the 220 million citizens of this country by the OPEC oil ministers. I, along with a number of my colleagues, recognized the need to offer some energy assistance in the form of tax credits to that sector of society which has paid consistently for the hundreds of assistance programs created by the Federal Government—the middle income wage earner. It has been the middle income earner who has supported these large, high cost transfer programs since the passage of the 16th amendment in 1913, the year that the income tax amendment was adopted.

Mr. Speaker, this Government has taken and taken and taken from the pockets of the middle income wage earner. It is high time to give them something in return for a change. Each and every Member of this body must make his feelings known to the conferees on the windfall profit tax bill now. If this middle income tax credit provision for energy is not included in the final package, I daresay that the Henry Thoreaus of this Nation are going to stand up and be counted.

INTERNAL EXILE

(Mr. DORNAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous material.)

Mr. DORNAN. Mr. Speaker, yesterday I was very proud to be a Member of this distinguished body because of the unanimous 402-to-0 vote on House Concurrent Resolution 272 which directs that said resolution be taken to the Soviet Ambassador to the United States and through him be delivered to the Chairman of the Presidium of the Supreme Soviet asking that they release from "internal exile" Dr. Andrei Sakharov. It is a rare day, indeed, when this great body, of such diverse opinion and the daily scene of such vigorous and spirited debate, joins unanimously to do anything. There is always at least 1 "present" vote recorded because of a conflict of interest, or at least 3 or more Members swimming upstream against 400 and sometimes rightfully so. But not yesterday. It was a beautiful 402 to 0.

I think that the symbolism of this unanimous resolution from the House for just one man—although in our statement we also mention the other human rights heroes in the Soviet Union such as Shcharansky, Orlov, Rudenko, Tykhy, and Petkus—is powerful symbolism. Sadly some Americans in both great parties, some conservatives and some liberals, including a Presidential candidate from the other body, find symbolism meaningless if not counterproductive. Some have not stopped attacking the President over the Olympic boycott and the wheat boycott. There are many journalists already criticizing our unanimous vote yesterday.

Well, I suggest these people look at history.

All one has to do is read Lenin to realize how important symbolism is to Communists and communism. As a matter of fact with communism it is much more symbolism than substance, particularly with economics.

Mr. Speaker, I ask that I may include here my statements on the floor yesterday in support of this Dr. Sakharov resolution that I inadvertently withheld. They are as follows:

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Speaker, I commend my colleagues for this powerful resolution on the incredibly courageous Andrei Sakharov, and I would like to share with them some of my impressions gleaned on four trips to the Soviet Union. Two of those trips were before I came to Congress.

Whenever I have met with Soviet dissidents they have given me hope in the future of our small planet. They have always restored my faith in civilization.

In Moscow and Leningrad and also in Kiev and Riga in the summer of 1978 I was inspired by Jewish dissidents and their absolute cheeriness in the face of severe persecution and their dedication to a cause most difficult * * * to inform the whole world of just how extensive, how deep the ethnic and the religious prejudice is in the Soviet Union.

When I went back to the Soviet Union last summer with one of my committee chairmen, the steadfast Mr. WOLFF, who has spoken so eloquently today, we met again with Jewish dissidents who had now become old friends, and this time they brought to us for the first time in a secret meeting Christian dissidents, the persecuted Pentecostals. Remember there are still seven other Pentecostals living in the laundry room of our U.S. Moscow Embassy. A type of hostage really—hostages to religious prejudice.

One of the Christians we met with in August was a strikingly handsome young man, 6 foot 4, married with many children—I do not want to specify the exact number in his family because the KGB was hunting him down last year and I do not want to add to his misery by identifying him. He was under village arrest in Siberia and to meet us he made his way by hook or crook, bumming rides by truck, riding on railroad trains without paying fare, jumping off at one station and getting back on the next train for thousands of miles. He went through this ordeal to meet with 10 Congressmen from the United States of America to express his yearning for freedom. He said if he were a bachelor he would stay in his country to spread the message of Christ and also to spread his love for freedom among his complacent countrymen, but life is short and he wants to raise his children in a nation where the young can enjoy liberty and give praise to God as they desire. Is not it sad the things we take for granted.

The Jewish dissident who brought "Jack Armstrongski, the All Russian Boy" to us was very proud of this superb specimen of Russian manhood. He told a story of how when the KGB arrested the tall young father a few months before they asked why he was not in training to be a decathlon champion in the Olympics. An obvious observation since the tall Russian looks like Bob Mathias, Bill Toomey, or Bruce Jenner. "Bring glory to the Motherland," the KGB agents shouted at him. "What is your favorite sport?" In the Russian language wrestling and struggling are the same word.

So the "All Russian Boy" smiled slowly at his interrogators and with great emphasis on every word he replied, "my favorite sport is struggling."

Dr. Sakharov is just one name, a hero symbolic of thousands. Many U.S. citizens now wear this bracelet bearing the name of another hero, Anatoly Shcharansky. The men and women in concentration camps or village arrest known to us represent the 50,000 Christians and the 2 million Jews who are faceless and feel forgotten. This beautiful resolution for one human being speaks for all of them. I, for one, shall never forget the Russian "decathlon champion" of the summer of 1979 who wins his gold and silver medals fighting for religious freedom and political liberty. The indomitable spirit of men and women of principle can never be crushed. Not in 63 years of Gulags. Not in 1,000 years. I look forward to a unanimous vote.

PERSONAL STATEMENT

(Mr. GRISHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRISHAM. Mr. Speaker, on Thursday, January 31, I was unavoidably absent when three recorded votes were conducted during consideration of H.R. 5980, the recession and targeted fiscal assistance bill—rollcall 23 on the Walker amendment, rollcall 24 on the motion to recommit with instructions, and rollcall 25 on final passage.

I would request that the record show that had I been present, I would have voted in favor of the Walker amendment, in favor of the motion to recommit, and in opposition to final passage of the bill.

□ 1520

JAPAN'S ROLE IN DEFENSE OF FREE WORLD

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I would like to focus the attention of the Members of Congress on an article appearing in yesterday's Washington Post, which should provoke serious thoughts about Japan's role in the defense of the free world.

George Ball, former Undersecretary of State and Associate General Counsel of the World War II lend-lease program, warns that the downfall of the Shah of Iran teaches us "that we ourselves must provide the defense of those strategic outposts that are unquestionably vital to our interests." He goes on to encourage that "since we now know that we cannot depend on local powers for effective regional defense, we should try to share more of the burden with our industrialized allies and particularly with Japan."

Japan, however, seems to be "getting a free ride." While the United States spends 6 percent of its gross national product upon defense-related products and services, Japan devotes only a 1.1 percent share of its GNP to such purchases.

Japan must be asked to shoulder its fair share of the defense burden. Due to recent redeployment of the Seventh Fleet, no U.S. carrier patrols the waters of Japan and Korea. To eventually help fill this dangerous gap, Ball makes the highly innovative recommendation of a reverse lend-lease program with Japan using its great shipbuilding capacity to produce major naval vessels for us. That interesting proposal at least deserves full and immediate consideration.

At the same time it is also widely acknowledged that Japan has been taking advantage of the United States as a trading partner. Japan's bilateral trade surplus with the United States increased from a record $8 billion in 1977 to another record $12 billion in 1978. While Japan has concentrated its recourses on pushing and supporting increasingly sophisticated industries, it has maintained unfair trade practices that prevent the United States from selling in Japanese markets. There must be continued public and private pressure on Japan to more fully open its domestic market to foreign goods. Japan's trade policies are certainly becoming, politically, increasingly unacceptable from the viewpoint of the United States and that point should be emphasized to the Japanese in no uncertain terms.

UNITED STATES-MEXICAN ENERGY RELATIONS

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Michigan. Mr. Speaker, last Thursday, Secretary of Energy Charles Duncan, testified before the Science and Technology Committee presenting the administration's energy research and conservation plans for the coming fiscal year.

In light of recent reports that the United States southern neighbor, Mexico, may be increasing its oil production by as much as twice its current rate, I inquired of the Secretary what the administration plans to do if these accounts are accurate.

Secretary Duncan responded that he was not involved with this development. The reason which was cited was that no "official" statement from Mexico has been received indicating that they will be increasing their oil production.

The Secretary did say, however, that he was certain that American oil companies are very much involved. And then, later Mr. Duncan stated that he considered it "very important" for the United States to diversify its sources of oil. In this light, it would seem that Mexico would play a key role in this policy objective.

Furthermore, Secretary Duncan sees the Department of Energy as an organizational structure which will "manage" the United States energy consumption and production patterns through this transitional period during which we must reduce our dependence on foreign, especially OPEC, oil.

If the Department of Energy really is to fill the role which the Secretary envisions, it is essential that the administration actively supports and encourages public and private participation in Mexico's oil trade deliberations.

In light of the industry's dissatisfaction with the Department's record regarding United States-Mexican energy relations, the Department of Energy should be concerned about encouraging what the Secretary calls diversification of our oil sources. Indeed, the Department, in concert with the State Department and the Oval Office must take a lead role in providing an effective means by which both the United States and Mexico will mutually benefit.

SMALL BUSINESS ACT

Mr. SMITH of Iowa. Mr. Speaker, I move to take from the Speaker's table the Senate bill (S. 918) to amend the Small Business Act and Small Business Investment Act of 1958 and for other purposes, with a Senate amendment to the House amendment and concur in the Senate amendment to the House amendment with an amendment.

The Clerk read the Senate amendment to the House amendmnt and the House amendment to the Senate amendment to the House amendment, as follows:

Senate Amendment to House Amendment: In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20(e)(4) of the Small Business Act is amended to read as follows:

"(4) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $49,000,000 in direct and immediate participation loans, and $75,000,000 in guaranteed loans and guarantees of debentures.".

SEC. 102. Section 20(e)(5) of the Small Business Act is amended to read as follows:

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchase of debentures of preferred securities and to make $198,000,000 in guarantees of debentures.".

SEC. 103. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(h) The following program levels are authorized for fiscal year 1980:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $275,000,000 in direct and immediate participation loans, and $3,630,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $11,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $69,000,000 in direct and immediate participation loans and $81,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $30,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct and immediate participation loans, and $105,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $38,000,000 in direct purchases of debentures and preferred securities and to make $207,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,300,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $100,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $100,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1980, $952,000,000. Of such sum, $715,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $20,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $212,500,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,000,000 shall be available for procurement and technical assistance, including the employment of not less than twenty-seven additional procurement center representatives and subcontracting specialists; of which amount not less than $1,800,000 shall be available for technical assistance, and of this amount not less than $572,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $750,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses; and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, non-concentrated, healthy forest products industry.

"(2) $21,000,000 shall be available for management assistance including the development and implementation of a small business export development program, of which amount not less than $500,000 shall be used to employ not less than fourteen additional staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,000,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,500,000 shall be used to develop an external small business data bank and small business index; and not less than $1,500,000 shall be used for research.

"(4) "$25,000,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $11,285,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $9,000,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,000,000 shall be used to pay for development of such indicative small business data base.

"(6) $12,000,000 shall be available for matching grants to small business development centers, and an additional $500,000 shall be available for the administration of the small business development center program.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(i) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(k) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $300,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $76,000,000 in direct and immediate participation loans and $90,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(*l*) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $115,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $42,000,000 in direct purchase of debentures and preferred securities, and to make $228,000,000 in guarantees of debentures.

"(7) For the programs authorized in part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,530,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $110,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187,000,000. Of such sum, $865,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (6); $76,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2,000,000 shall be available for technical assistance, and of this amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $23,100,000 shall be available for management assistance, of which amount not less than $880,000 shall be usd to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,650,000 shall be used to develop an external small business data bank and small business index; and not less than $1,650,000 shall be used for research.

"(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,414,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,100,000 shall be used to pay for development of such indicative small business data base.

"(6) $20,000,000 shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(l) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(n) The following program levels are authorized for fiscal year 1982:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $330,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans, and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans, and $99,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans, and $37,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $125,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchases of debentures and preferred securities and to make $251,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,780,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $121,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

"(10) There are hereby auhorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g), of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375,000,000. Of such sum, $1,022,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (n), paragraphs (1) through (6); $83,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance, and of this amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $25,400,000 shall be available for management assistance, of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index; and not less than $1,815,000 shall be used for research.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

"(p) The Administrator may transfer no more than 10 percent of each of the total levels of salaries and expenses authorized in paragraphs (1) through (5) of section 20(o) of this Act: *Provided, however*. That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 110. Section 20(a) of the Small Business Act is amended to read as follows: "For fiscal years 1979, 1980, 1981, and 1982 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1983 and every fiscal year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.".

ENERGY SHORTAGE LOANS

Sec. 111. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,".

DISASTER LOAN INTEREST RATES

Sec. 112. (a) The first undesignated paragraph of section 7(b) of the Small Business Act is amended by inserting after "under subsection (b)" the following ", except as provided in subsection (c),";

(b) Section 7(c) of the Small Business Act is amended by adding the following new paragraphs:

"(3) With respect to a disaster occurring on or after October 1, 1978, and prior to October 1, 1982, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b)—

"(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 percent on the first $55,000 of such loan;

"(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain, sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 percent per annum; and

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.".

(c) Section 18 of the Small Business Act is amended by—

(1) inserting after "Sec. 18." "(a)";

(2) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That prior to October 1, 1982, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development ct," and

(3) inserting a new subsection as follows:

"(b) As used in this Act—

"(1) "agricultural enterprises" means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) "credit elsewhere" means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.".

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

INVESTMENT OF IDLE FUNDS

Sec. 113. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

Sec. 114. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof of the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

PRODUCT DISASTER LOANS

Sec. 115. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined causes" and inserting in lieu thereof "other causes: *Provided*, That any small business which intentionally adulterates its product in order to attempt to establish eligibility under this program shall not be eligible for loan assistance hereunder".

DUPLICATION OF DISASTER BENEFITS

Sec. 116. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following: "(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.".

DEVELOPMENT COMPANY DEBENTURES

Sec. 117. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"Sec. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made; and

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff;

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities); and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

Sec. 118. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided*, That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;".

SURETY BOND GUARANTEE

Sec. 119. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

Sec. 120. Section 15(c) of the Small Business Act is amended to read as follows:

"(c)(1) During fiscal years 1980, 1981, and 1982, public and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $100,000,000 for each such year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

"(2) The Administration shall, not later than January 1, 1981, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.".

SEC. 121. (a) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns";

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside:

"(2) concerns which are small business concerns, on the basis of a total set-aside;

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

"(4) concerns which are small business concerns, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e):

"(2) are not small business concerns; and

"(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

ASIAN PACIFIC AMERICANS

SEC. 122. (a) Section 2(e)(1)(C) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

(b) The last sentence of subparagraph (C) of the clause contained in section 8(d)(3) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

(c)(1) The amendment made by subsection (a) shall apply as if included in the amendment made by section 201 of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958", approved October 24, 1978 (Public Law 95–507); and

(2) The amendment made by subsection (b) shall apply as if included in the amendment made by section 211 of the Act so entitled.

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 123. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period.

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by—

(1) striking out the first sentence and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 percent per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent: Provided, That the total amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary."; and

(2) inserting in the second sentence after "Provided, That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the term of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: Provided further, That".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1979".

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section:

"SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State, chartered development, credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as 'applicants') to assist in establishing small business development centers and to any such body for: small business oriented employment or natural resources development programs; studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; delivery or distribution of such services and informations; and providing access to business analysts who can refer small business concerns to available experts.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additonal amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: Provided, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 percent of the non-Federal additional amount: Provided further, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $65,000,000 program based upon the population to be served by the small business development center as compared to the total population in the United States, or $200,000, whichever is greater.

"(b)(1) During fiscal years 1980, 1981, and 1982 financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subjection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

"(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small businesses. A small business development center shall have—

"(A) a full-time staff, including a director to manage the program activities;

"(B) business analysts to counsel, assist, and inform small business clients;

"(C) technology transfer agents to provide state of the art technology to small businesses through coupling with national and regional technology data sources;

"(D) information specialists to assist in providing information searches and referrals for small businesses;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a small business development center shall include, but shall not be limited to—

"(A) furnishing one-to-one individual counsling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small businesses;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

"(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

"(H) maintaining lists of local and regional private consultants to whom small businesses can be referred.

A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

"(4) A small business development center is authorized to utilize and compensate consultants, engineers and testing laboratories for services provided to small businesses on behalf of such small business development center.

"(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

"(e) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such innovation centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(f) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(g)(1) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS–17 of the General Schedule.

"(2) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefor, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this subsection.

"(h)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as 'Board') which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS–18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

"(i)(1) Each small business development center may establish an advisory board.

"(2) Each small business development center advisory board shall elect a chairman an advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

"(j) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

"(1) the impact of the small business development center program on small businesses, including private consultants, and the socio-economic base of the area served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in areas such as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1982.

"(k) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriations Acts.".

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) On or after October 1, 1979, the Administration shall not fund any small business development center or any variation thereof, except as authorized in section 21 of this Act: *Provided*, That in fiscal year 1980 nothing in this section or in section 21 shall be deemed to affect the operation of any small business development center which was funded by the Administration prior to October 1, 1979: *Provided further*, That no small business development center which was funded in fiscal year 1978 may be funded in excess of $300,000 in fiscal year 1979.".

SEC. 204. Sections 201 and 202 of this title are repealed effective October 1, 1983.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

SHORT TITLE

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1979".

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy on an indutry-by-industry basis;

(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, and regulations promulgated thereunder; identify problems generated by such policies, programs, and activities; and recommend legislative and administrative solutions to such problems; and

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses.

(c) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

(d) The Report on Small Business and Competition and all supplementary reports transmitted under subsections (b) and (c) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting thereafter the following:

"(2) The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;

"(vi) investment in plant and equipment;

"(vii) changes in inventory and rate of inventory turnover;

"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;

"(ix) debt to equity ratios;

"(x) exports;

"(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

"(xii) concentration ratios; and

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection.".

SEC. 402. Section 634d(1) of title 15, United States Code, is amended by striking the word "Schedule;" and inserting in lieu thereof "Schedule: *Provided, however,* That not more than ten staff personnel at any one time may be employed and compensated at a rate not in excess of GS-15, step 10, of the General Schedule;".

SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

"(128) Chief Counsel for Advocacy, Small Business Administration.".

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by January 1, 1981, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE V—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SHORT TITLE

SEC. 501. This title may be cited as the "White House Conference on Small Business Act".

AUTHORIZATION OF CONFERENCE

SEC. 502. (a) The President shall call and conduct a White House Conference on Small Business (hereinafter referred to as the "Conference") not later than June 30, 1980, to carry out the purposes described in section 503 of this title.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the regional and State levels prior to the date of the Conference, subject to the approval of the Administrator of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 503 of this title in order to prepare for the Conference.

PURPOSE OF CONFERENCE

SEC. 503. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and women as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

CONFERENCE PARTICIPANTS

SEC. 504. In order to carry out the purposes specified in section 503 of this title, the Conference shall bring together individuals concerned with issues relating to small business: *Provided,* That no small business concern representative may be denied admission to any State or regional meeting.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 505. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this title, the Administrator of the Small Business Administration—

(1) shall provide such financial and other assistance as may be necessary for the organization and conduct of conferences at the regional and State levels as authorized under section 502(b) of this title;

(2) shall provide for the preparation of background materials for use by participants in the Conference, as well as by participants in regional and State conferences; and

(3) is authorized to make grants to, and enter into contracts with, public agencies, private organizations, and academic institutions to carry out the provisions of this title.

(c) Upon presentation of vouchers within thirty days of the completion of the Conference, the Administrator of the Small Business Administration is authorized and directed to reimburse Conference delegates for travel to the Conference, and for actual and necessary expenses related to attending the Conference (including meals and accommodations) not to exceed $44 per day: *Provided,* That, (1) such reimbursement shall be effective for fiscal year 1980 only to the extent or in the amounts as are provided in advance in appropriation Acts, and (2) in the event such appropriated amounts are not sufficient to fully pay each voucher submitted, each voucher shall be paid on a pro rata basis.

(d)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

SEC. 506. Not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

FOLLOW-UP ACTIONS

Sec. 507. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

AVAILABILITY OF FUNDS

Sec. 508. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Such sums as are appropriated to carry out the provisions of this title shall remain available until expended.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this title other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference shall be made available to the Administrator of the Small Business Administration to carry out the provisions of section 20 of the Small Business Act.

TITLE VI—EMPLOYEE OWNERSHIP

Sec. 601. This title may be cited as the "Small Business Employee Ownership Act of 1979".

Sec. 602. The Congress hereby finds and declares that—

(1) employee ownership of firms provides a means for preserving jobs and business activity;

(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

(5) by guaranteeing loans to qualified employee trusts and similar organizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

Sec. 603. (a) The purposes of this title are—

(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

(2) to provide in section 605 of this Act authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a) of the Small Business Act for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees, of at least 51 percent of the stock of a business which is operated for profit and which is—

(A) a small business concern, or

(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act to qualified employee trusts which own less than 51 percent of the stock of a continuing business.

Sec. 604. Section 3 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

"(2) For purposes of this Act, the term 'qualified employee trust' means, with respect to a small business concern, a trust—

"(A) which forms part of a leveraged employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

"(i) which is maintained by such concern, and

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of outstanding common shares voted; and

"(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administration which is binding on the trust and on such small business concern and which provides that—

"(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities (as defined in section 4975(e)(8) of such Code) of such concern,

"(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loan was guaranteed,

"(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the property of such concern shall be available as security for repayment of such loan, and

"(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a non-forfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant's account.

"(3) Under regulations which may be prescribed by the Administration, a trust may be treated as a qualified employee trust with respect to a small business concern if—

"(A) the trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern, and

"(B) such concern maintains a plan—

"(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Revenue Code of 1954),

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

"(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

"(iv) which meets such other requirements (similar to requirements applicable to leveraged employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administration may prescribe, and

"(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).".

Sec. 605. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) The Administration may guarantee under subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administration which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

"(B) The plan requiring the Administration's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administration which is binding on such trust and on the small business concern and which provides that—

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concern who are entitled to share in such allocation,

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

"(iii) there will be adequate management contracts to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this subparagraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.".

Sec. 606. (a) The Administrator of the Small Business Administration shall enter into a contract with an independent consultant which provides for a study by such consultant of the feasibility of making loan guarantees under section 7(a) of the Small Business Act directly to the seller of a small business concern in connection with the installment sale of such concern. Such study shall include an analysis of at least the following:

(1) the extent and nature of the use of installment sales for the sale of small business concerns,

(2) the ability of the Small Business Administration to make credit judgments in connection with installment sales,

(3) the need for Small Business Administration loan guarantees to facilitate installment sales,

(4) the willingness of banks and other financial institutions to participate in the evaluation of installment sales, and

(5) the anticipated cost of such a guarantee program in comparison to other loan guarantee programs of the Small Business Administration.

(b) Not later than April 1, 1980, the Administrator of the Small Business Administration shall transmit the findings of such study, along with his recommendations, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

House amendment to Senate amendment to House amendment: Page 18, strike all after line 13 through page 21, line 20, and insert in lieu thereof the following:

SEC. 112(a). Section 7(c) of the Small Business Act is amended by striking the period at the end and inserting in lieu thereof "; and" and by adding the following new paragraph:

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b) (1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.";

(b) Section 7(c) of the Small Business Act is further amended by striking "October 1, 1982" and inserting in lieu thereof "October 1, 1983";

(c) Section 18 of the Small Business Act is amended by—

(1) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(2) striking subsection (b) and inserting in lieu thereof the following:

"(b) As used in this Act—

"(1) 'agricultural enterprises' means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.";

(d) The amendments made by this section to sections 7(c) (3) (C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act; and

(e) Section 4(c) (5) of the Small Business Act is amended to read as follows:

"(5) (A) The Administration is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under the revolving funds created by section 4(c) (1) of this Act and for authorized expenditures out of the funds. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Administration with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administration under this paragraph. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administration issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administration. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(B) (i) Moneys in the disaster loan fund not needed for current operations may be deposited in the Treasury of the United States to the credit of the fund or invested in direct obligations of the United States or obligations guaranteed by the United States. Any interest received by the Administration on such obligations shall be deposited in the fund and may be used only to the extent and in such amounts as are approved in advance in appropriations Acts.

(B) (ii) Moneys in the business loan and investment fund not needed for current operations may be deposited in the Treasury of the United States to the credit of the fund or invested in direct obligations of the United States or obligations guaranteed by the United States. Any interest received by the Administration on such obligations shall be deposited in the fund and may be used only to the extent and in such amounts as are approved in advance in appropriations Acts.

(C) To the extent and in such amounts as are approved in advance in appropriation Acts, the Administration may purchase with money in the funds any notes issued by the Administration to the Secretary of the Treasury for the purpose of obtaining money for the funds.

(D) The Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest received by the Administration on financing functions performed under this Act and titles III and V of the Small Business Investment Act of 1958 providing the capital used to perform such functions originated from appropriated funds.".

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment to the House amendment and the House amendment to the Senate amendment to the House amendment be dispensed with and that they be printed in the RECORD.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from Iowa?

There was no objection.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this Senate bill and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. Under the rule, the gentleman from Iowa (Mr. SMITH) is recognized for 1 hour.

Mr. SMITH of Iowa. Mr. Speaker, I yield 30 minutes for purposes of debate only to the gentleman from Pennsylvania (Mr. McDADE), pending which I yield myself such time as I may consume.

Mr. Speaker, once again we have before the House an omnibus bill providing assistance to the Nation's 13½ million small businesses. Although the House companion measure was approved overwhelmingly by the House May 22, 1979, by a recorded vote of 398 to 5, the measure remained in conference for many months. However, after protracted negotiations and discussions concerning amendments to the disaster loan program administered by SBA, a conference compromise was finally reached and the House approved the conference report on December 19, 1979.

The Senate took up the conference report on January 24 of this year and initially approved it but subsequently withdrew its approval and passed the bill with further amendments.

Basically, the Senate struck a provision from the conference report which would have eliminated a current provision of law which at times operates to delay the delivery of Federal assistance to disaster victims. It also involves needless paperwork and greatly distorts the budget for disaster funding.

Under existing law, SBA is required to pay interest to the Treasury on the amount of the payments it makes from both the business loan and the disaster loan revolving funds until these amounts are repaid even though the funds involved were appropriated from general funds in prior years and do not represent money borrowed from either off-budget or private sources.

This requirement is apparently based on the premise that payments from these revolving funds are loans which will eventually be repaid. This is not true and as a result SBA is technically required to pay interest on phantom amounts:

First, about 2 percent of these loans will go into default and never be repaid and must be written off;

Second, Congress in the early 1970's provided forgiveness or changed over $1 billion of disaster loans to grants; and

Third, each year Congress must appropriate additional money so that SBA can pay interest to Treasury on these mythical amounts and to compound the problem this interest payment to Treasury is counted as a payment from the revolving fund. The result is that next year Congress must appropriate money to pay interest on the interest.

Due to this system, over $2½ billion of the amount on which SBA now pays interest does not represent loans in SBA's portfolio and is really a mythical figure arrived at by determining all disbursements made from the funds, including grants of over $1 billion as mandated by the Congress.

I am confident that no other agency in the U.S. Government must secure appropriations to pay interest on appropriations made in prior years to pay grants ordered by the Congress. Such a requirement, which is now imposed on SBA, is comparable to saying that out of counter cyclical funds interest must be paid on the grants made in prior years even though money was appropriated expressly for those grants. There is also a disaster grant program administered by HUD which does not have any interest payment requirement and is in no way encumbered by needless appropriations for interest payments to the Treasury on amount previously appropriated.

Some have argued that SBA should pay interest on the appropriations which provide the loan capital because this money comes from Treasury borrowings and not from tax dollars, even though over 90 percent of all Federal outlays are simply a return of tax dollars to the people. The rationale offered to support their position is that the loans will benefit future generations and that it is only fair that future generations pay part of the cost. For some unknown reason, however, they do not argue the same way regarding billions and billions of other Federal dollars which go for capital expenditures for items such as military construction and public works projects which obviously benefit future generations.

However, even if it is assumed that the SBA capital comes solely from Treasury borrowings, the accounting system being used provides Treasury with a profit over and above the cost of its borrowings whenever interest rates increase as they have done for many years. This profit occurs because all loan repayments are arbitrarily credited against the oldest disbursements. Thus even though disaster victims are still repaying loans which SBA made 10, 20, and 25 years ago and even though the grants were made 8 to 10 years ago when interest rates were only a fraction of today's rates, SBA pays interest as if the entire portfolio of loans and the grants had been made in the past several years and the agency pays at today's higher rtes.

Under this system, SBA will be required to keep paying and paying and paying interest on these grants and other disbursements which have been charged-off long ago and then to pay even more as interest on the interest.

This system of paying interest on mythical amounts is merely a paper transaction as the Federal Government neither loses nor makes money; it is purely a bookkeeping entry, but it greatly distorts the cost of the program, and SBA's ability to approve loans for disaster victims is reduced when this paper transaction is made.

For example, last year there were a large number of disasters and as a result SBA's capital funds were depleted in late March; the situation is even worse when the fund is further depleted by a paper transaction removing money appropriated to help victims of disasters. As a result, from late March until enactment of a supplemental appropriation in August many, many disaster victims did not receive their loan funds as the SBA disaster fund was basically broke. I believe it is irresponsible to continue a requirement, a purely bookkeeping requirement, when the net effect is to impose additional harm on victims of natural disasters especially when it does not cost the U.S. Government even one dime to remove this onerous requirement.

Those who opposed elimination of this detrimental provision in the Senate cited some 39 public enterprise funds which pay interest to the Treasury and urged the Senate to maintain the precedent established by these other funds. I instructed the Small Business Committee's staff to review the financing authority of these funds. This has been done and we found, excluding the three SBA programs, that of the remaining 36 funds, 28 of them have the authority to obtain capital by borrowing from the U.S. Treasury, from other Government agencies or from the public. Naturally, they pay interest on these funds as the provision for the payment of interest is contained in the notes which the agency issues. Thus these programs have a method of obtaining capital without having to go through a cumbersome supplemental appropriations process. In many cases, the agencies involved may also bundle up loans and use them as collateral for new loans upon which a discount or interest would be reflected.

They were not comparable to the SBA disaster loan program.

I believe giving an agency the authority to borrow money from the Treasury, subject to the prior approval of an appropriations act, gives the agency needed flexibility which is especially important in the case of a program, such as SBA's disaster loan program, whose capital needs are determined by the occurrence of disasters which no one is able to predict and which may occur when Congress cannot respond rapidly. Many of my colleagues will recall that we proposed giving SBA this authority some three years ago and that the House approved this proposal, but it was eliminated from the bill in conference due to Senate opposition. It now appears that the Senate has recognized the wisdom of this proposal as they cited with approval 28 other programs which obtain capital in this manner. One of the programs cited with approval was the Farmers Home Administration loan program.

The amendment which I have offered and which is before the House includes a provision which is identical to an FmHA section but does not include the authority to sell loans from the portfolio like many agencies do.

Since SBA has been paying interest to Treasury on a mythical loan portfolio for years, one cannot sort it all out to handle it exactly like any other agency but I believe my amendment will much more accurately reflect the program costs without needless paperwork.

This legislation provides a way to reflect the true costs of the program far more accurately than the present formula and more accurately than could be done unless one annually required vast amounts of accounting and paperwork and figuring each outstanding loan in the portfolio separately.

The amendment would do the following:

First. Authorize SBA to obtain capital by selling notes to Treasury and these notes would contain provisions for the payment of interest to the Treasury. This is virtually identical to the provision under which the Farmers Home Administration operates and is similar to 27 of the other funds enumerated in the Senate proceedings; however, unlike some of those funds, such SBA activity would be limited to borrowing approved through the appropriations process;

Second. Require that SBA pay to Treasury the interest received from its borrowers whose loans were made with appropriated funds;

Third. Provide that the disaster program authorization will expire October 1, 1983; and

Fourth. Make technical amendments necessitated by legislation which was enacted subsequently to the conference on this bill.

I believe that the amendment I have proposed should satisfy the Senate objection to our earlier agreement to provide assistance to disaster victims and I urge its support.

Also, Mr. Speaker, I take this occasion to say that I was saddened to learn of the untimely death today of John E. Lewis, president of the National Small Business Association and executive director of the Small Business Legislative Council.

Under his leadership, the Small Business Legislative Council was formed in 1976. The organization has 75 association members representing more than 4 million small businesses.

John Lewis was a good friend of the small business community and represented their interests well on Capitol Hill and throughout Washington. Members of the House Small Business Committee worked closely with John Lewis, often seeking his counsel in a mutual effort to benefit small business.

In 1978, he assisted the committee in putting together a comprehensive hearing record and major report on "the Future of Small Business in America." He was an active contributor to last month's White House Conference on Small Business.

John Lewis was a native of Clarksville, Tenn., and graduated from Notre Dame University. He received a law degree from Vanderbilt University.

The small business community has lost a good friend and a powerful voice with the death of John E. Lewis.

Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to join my colleague and friend, Chairman NEAL SMITH, in expressing my support for the amendment he has offered to the omnibus small business bill.

This amendment is a fair compromise, aimed at addressing some of the financing concerns raised by the other body. It is needed so that this bill, which directly benefits the small-business community, can become law.

The amendment does not alter any of SBA's programs or the services it provides to small business owners throughout the country. It merely addresses the internal financing mechanism used by SBA for its loan programs. SBA, like most agencies which operate loan programs, presently places loan repayments and the interest paid on such loans in a revolving-loan fund. These moneys collected through disaster-loan repayments, or through the various business and investment loans of SBA, may be used for new loans of the same nature. The amendment allows SBA to borrow money from the Treasury, as a means of adding capital to these loan funds, but SBA must also pay interest on the moneys it borrows. The operation of SBA's revolving-loan program will then more closely parallel that used by Farmers Home Administration for its emergency disaster loan and other farm-loan programs. This change is consistent with prior action by the Congress to make the FmHA emergency loan programs and SBA's disaster loan-program more comparable.

I support this amendment because it can strengthen SBA's internal financial management by expanding the tools available for acquiring necessary capital. The amendment will also insure that interest paid to the Treasury by SBA is computed on the funds which SBA has available for re-lending purposes. In addition, this process fully adheres to the appropriations, and budgetary controls, and limitations now in place. In this way Congress continues to exercise full oversight and control of SBA's loan programs.

This amendment is a compromise which has been developed with some care. In fact, the entire omnibus small business bill is the product of compromise. As an outgrowth of these tradeoffs, this is far from a perfect piece of legislation, but it still provides additional financial and management assistance to the small-business community, and I support it for that reason.

Mr. McDADE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I have no further requests for time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 17, not voting 32, as follows:

[Roll No. 32]

YEAS—384

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McKay
McKinney
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NAYS—17

Bedell
Beilenson
Crane, Daniel
Dannemeyer
Fenwick
Giaimo
Holtzman
Latta
McDonald
Madigan
Maguire
Michel
Mineta
O'Brien
Paul
Scheuer
Simon

NOT VOTING—32

Anderson, Ill.
Andrews, N. Dak.
Campbell
Crane, Philip
Davis, S.C.
Emery
Evans, Del.
Fowler
Harsha
Hightower
Ichord
McCloskey
McHugh
Mathis
Mollohan
Murphy, Ill.
Murtha
Nolan
Obey
Pritchard
Railsback
Rhodes
Rodino
Rostenkowski
Runnels
Schulze
Shumway
St Germain
Treen
Williams, Ohio
Wyatt
Young, Mo.

☐ 1540

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Campbell.

Mr. Rodino with Mr. McCloskey.

Mr. Mollohan with Mr. Schulze.

Mr. McHugh with Mr. Shumway.

Mr. Runnels with Mr. Philip M. Crane.

Mr. St Germain with Mr. Anderson of Illinois.

Mr. Young of Missouri with Mr. Andrews of North Carolina.

Mr. Wyatt with Mr. Emery.

Mr. Obey with Mr. Pritchard.

Mr. Fowler with Mr. Railsback.

Mr. Davis of South Carolina with Mr. Treen.

Mr. Mathis with Mr. Williams of Ohio.

Mr. Nolan with Mr. Harsha.

Mr. Murtha with Mr. Rhodes.

Mr. Murphy of Illinois with Mr. Ichord.

Mr. Hightower with Mr. Evans of Delaware.

Mr. MADIGAN, Mr. DANNEMEYER, and Ms. HOLTZMAN changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO STANDING COMMITTEES

Mr. FOLEY. Mr. Speaker, as chairman of the Democratic Caucus and by authority of the caucus, I send to the desk a privileged resolution (H. Res. 568) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 568

Resolved, That the following-named Members be, and are hereby, elected to the following standing committees of the House of Representatives:

Committee on the Judiciary: Robert Carr, Michigan;

Committee on Small Business: Gladys Noon Spellman, Maryland;

Committee on Standards of Official Conduct; Louis Stokes, Ohio; and

Committee on Veterans' Affairs: Claude (Buddy) Leach, Louisiana.

The resolution was agreed to.

A motion to reconsider was laid on the table.

UNIFORM FISCAL YEAR

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, today I am introducing legislation that would revert the Federal fiscal year back to the previous July 1 to June 30 time frame so that it will coincide with the overwhelming majority of State and local fiscal years.

Simply stated, this bill is intended to improve the intergovernmental budget process without adversely affecting the Federal appropriation cycle.

Currently, 46 out of the 50 States have fiscal years beginning on July 1, and out of the 25 largest cities, only three begin their fiscal year on the same day as the Federal Government.

Based on an extensive study of the intergovernmental budget process, I have found that differing fiscal years have caused serious and costly accounting and administration problems for States and localities, without improving the congressional budget process, as intended.

In 1974, the Federal fiscal year's starting date was changed from July 1 to October 1 so that Congress would better be able to complete action on appropriation bills. Unfortunately, the change failed to produce the desired results. Appropriation bills are still not enacted on schedule, and we still resort to continuing resolutions to insure that important Federal programs do not come to a standstill, and Federal workers are not left empty-handed on payday. The only difference resulting from the July to October change has been increased uncertainty for the States and localities.

Mr. Speaker, I offer this legislation in the spirit of commonsense.

RELATING TO TREATMENT OF RETIREMENT BENEFITS UNDER FEDERAL EMPLOYMENT INSURANCE LAW

Mr. CORMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5507) to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Corman).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5507, with Mr. Frost in the chair.

□ 1550

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. Corman) will be recognized for 30 minutes, and the gentleman from California (Mr. Rousselot) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. Corman).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 5507 amends and delays a provision of the Federal unemployment insurance law that, as of April 1, 1980, would require all States to reduce a person's unemployment insurance benefits by the amount of any private or public pension or retirement benefit he or she is receiving.

The bill would modify this provision so that States would have to make such a reduction in unemployment insurance benefits only in the case of a pension or other retirement benefit maintained or contributed to by a "base-period" employer and only if the services performed during the base period would change the individual's eligibility for pension benefits or increase the amount of such benefits.

The treatment of pensions or retirement benefits maintained or contributed to by employers other than "base-period" employers would be left to State law. In addition, a State would be allowed to limit any such reduction in unemployment insurance benefits by an amount related to any contribution toward the pension or retirement benefits made by the unemployment insurance claimant.

A "base-period" employer is any employer who paid wages on which a claimant's eligibility for unemployment insurance, or the amount and duration of such benefits, is based. In 37 States, the "base-period" is the first four of the last five completed calendar quarters prior to the filing of an unemployment insurance claim. In four States, it is the most recent four quarters, and, in most other States, the "base-period" is the 52 weeks preceding filing.

In general, this means that Federal law would require that an individual's benefit would be reduced when his or her pension and unemployment compensation were attributable to the same employer and when the individual earned his or her right to, or increased the amount of, a retirement benefit and the unemployment benefit during the same period.

The effective date of the Federal requirement as amended would be changed from March 31, 1980, to January 1, 1982.

The bill would also establish a 2-year limit on the time within which a person can collect any "extended unemployment compensation benefits" to which he or she is entitled. The 2-year period would begin 1 year after the individual initially filed for regular State unemployment benefits.

This would allow an individual up to 3 years to collect any regular plus extended benefits to which he or she is entitled and would allow States to dispose of benefit files 3 years after the date of initial application.

The bill would cost $100 million in fiscal year 1980, $200 million in fiscal year 1981, and $115 million in fiscal year 1982.

Mr. ROUSSELOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe that we need to take action on some aspects of the unemployment compensation law. I do believe that Congress made a correct decision in 1976 when it required all States to reduce unemployment compensation benefits dollar for dollar by the amount received from any work-related job or private pension or retirement. The pension offset which we are basically discussing here today, as my colleague, the gentleman from California (Mr. Corman) has stated, is currently scheduled to become effective on April 1 of this year, 1980.

Mr. Chairman, H.R. 5507, as we have already learned yesterday, postpones this provision and repeals it altogether for everyone except a person whose pension is derived through the same employer as his or her current unemployment benefits eligibility. Even then, the offset would pertain only to the employer-financed part of the pension and not the entire amount. But as I and several of us tried to express yesterday, members of the committee have concern about some aspects of this bill that I do not feel have been adequately presented.

For instance, it does not take much commonsense to know that a person who can get almost as much sitting home as he can get when working is not going to put much effort into looking for a job. The main purpose for unemployment compensation is to tide over a person who is unfortunately or suddenly put out of work and is not able to properly sustain himself while he is looking for another job. But under this bill a person could conceivably get a pension from a prior job, also get social security, and then get unemployment benefits in addition. Unless the total package comes to $20,000 for a single tax return or $25,000 on a joint return there will be no income tax on the unemployment compensation. Frankly, this could look pretty attractive compared to having to get up every morning to work for a paycheck which has social security and income taxes taken out of it and which requires spending a good part of those earnings on work-related expenses, including the increasing cost of transportation. Under these circumstances, unemployment compensation can be an economically attractive proposition.

I do not believe this is what the unemployment compensation system was supposed to do. It was and still is intended to cushion unemployed workers from the total loss of income so that they can search for any jobs appropriate to their skills and training and not have to settle for the first thing that comes along that puts bread on the table. Under this bill, some workers will get an easy chair instead of a cushion.

Our subcommittee heard very disturbing testimony that in some States the unemployment insurance system is serving as a supplemental pension system.

□ 1600

Witnesses from the Rhode Island Chamber of Commerce Federation told us that in their State, unemployment insurance payments to retirees consumed 12 percent of benefit payments and an amount equal 16 percent of employer contributions.

Now, another point: The price tag on this bill, according to our Congressional Budget Office is $585 million between now and the end of fiscal year 1984, assuming States follow the most liberal course open to them under this bill.

The Federal budget is being hard squeezed as it is to maintain current services, fund defense needs, cut taxes, balance the budget and all kinds of other proposals, without adding this to it.

With these kinds of pressures bearing down on us, I am not sure that we should postpone this termination date of April 1, 1980 imposed upon the States, and I certainly do not see that we should extend it more than 1 year.

For those reasons and some other reasons that I stated yesterday, I do not think we adequately considered the Beard amendment which was offered by the gentleman from New York (Mr. Conable), of our committee, which relates to unemployment compensation benefits conceivably going to those who have only served 91 days in the military.

I think that we should have had a chance to amend this bill further, and we have not been able to do so, even though we had the chance in the committee and narrowly lost on voice votes.

Mr. CORMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Chairman, I would like to pose a question concerning the treatment of social security beneficiaries under the bill. According to the committee report on the bill, 18 of the States that do provide for the deduction of pension or retirement pay from unemployment compensation do not make such deductions in the case of social security payments. Could the gentleman explain for the benefit of the House just how social security beneficiaries would be treated under this legislation?

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. CORMAN. The gentleman from Texas raises an important point and I am glad to have an opportunity to respond to his question.

Under the bill, in the case of a social security beneficiary, a State would only be required to reduce his unemployment insurance payment if his employment during his base period would increase the amount of his social security benefits. The amount of reduction in such cases could be at the rate of 50 percent of the person's social security payment since the bill also allows the States to provide for limitations on the amount of the reduction to take into account the contributions made by the individual toward the financing of his retirement payment.

Mr. PICKLE. The gentleman states that a reduction in an individual's unemployment payments would have to be made only if his employment during the base period increases his social security payments. This would be a very difficult determination for the state employment security agencies to make. Whether or not a person's earnings in the year before retirement at say age 64 would increase the amount of his social security payment is a very iffy proposition. It would depend on the circumstances applicable to each individual. Under the new decoupled benefit formula now going into operation, earnings after age 60 are not indexed as earlier earnings are, but they may be used in the benefit computation if they increase a person's average indexed monthly earnings. But since earlier earnings are indexed and brought up to current levels, earnings at age 64 or 65 or 66 are much less effective in increasing a person's social security payment than they were under the old unindexed benefit formula.

As a practical matter are the State's going to be able to go into these matters in applying their offset?

Mr. CORMAN. States woul be free to do it if they choose. We have established a minimum requirement in this bill which will treat social security beneficiaries equitably in relation to recipients of private pension. We have required States to provide an offset only where an individual's work during the base period actually increases the amount of his or her pension, whether the pension be social security or a private pension. If a State, for whatever reason, including administration, wishes to adopt a broader offset for social security or private pensions, it is free to do so under this bill. Of course, if we do not pass H.R. 5507, a law will become effective which will require States to offset all social security benefits in all cases. Without passage of this legislation, we will effectively bar all social security recipients from ever collecting unemployment compensation.

Mr. PICKLE. I agree it is important that we secure passage so that the other would not go into effect. All I am trying to establish is that with respect to social security, we ought to be giving at least the same kind of treatment as others will get if they worked in private companies for comparable periods of time.

I am assured by what the gentleman said. I know it gets to be very complicated and technical. I want to be sure the social security beneficiaries are not hurt.

I thank the gentleman.

Mr. CORMAN. If the gentleman would yield further, I would like to note that in this attempt on the part of some to raise straw men they are imposing on the States an extremely complicated, expensive requirement.

Mr. PICKLE. I thank the gentleman.

Mr. CORMAN. Mr. Chairman, I reserve the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. Frenzel), a member of the committee.

Mr. FRENZEL. Mr. Chairman, we talked about this bill a little bit yesterday, and the distinguished ranking minority member of the subcommittee has described the bill accurately, I think, to this committee today.

In our previous attempts to shore up the law, we have passed a provision which provided that by 1980 we would no longer permit double dips, that is people who have accepted a pension as retired but are also collecting unemployment compensation.

At that time the Congress seemed to think it was a good idea. I thought it was a good idea. As a matter of fact, it did not excite much comment. We saw no reason then why a person who was retired and had accepted a pension should be collecting unemployment compensation. All that is is a little frosting on the cake, a little extra sugar on the cookie for somebody who most likely was not seeking work in the first place and in any case had voluntarily accepted a pension as a retired person.

That is all the existing law seeks to do. It does not take anybody's pension away. All it says is that if you are on a pension, then you cannot collect unemployment compensation, too. The exception is that if your pension is little and is not as much as the unemployment compensation, we will still give you unemployment compensation as a bonus.

Now, there is nothing unusual, unnatural, unkind or cruel about that kind of law, but somehow, a group of employees who felt that they should get, in addition to pension benefits when they are through working, as much unemployment compensation as they could possibly get, came to the Congress. And the Congress, through this committee and its distinguished chairman, agreed with them and said:

> Yes. In the first place, we will postpone the effect of this law so that everyone can double dip for the next 2 years.
>
> □ 1610
>
> In the second place, we will say if you do not earn your pension with your current base period employer, we will give you unemployment in addition to that previously earned pension for 2 years, 10 years, any number of years down into the future.

If we pass this bill what we will have done is to encourage people who are not in the work force and who are not involuntarily unemployed, and who are not seeking employment, to collect extra unemployment compensation when they may, indeed, not be wanting to work at all. We will have let them, of course, continue to receive their pensions.

That, of course, means that the employers of this country over the next 4 years must pay into the unemployment compensation fund about $600 million more than they would have paid otherwise. If we let the current law go into effect instead of corrupting it by the legislation that is before us today, we would pay $600 million less into the unemployment compensation fund.

That $600 million does not come necessarily out of the hides of the employers. It does in the first instance, but the employer turns around and puts it into the price of the groceries, or the shoes, or the suit of clothes, or the house, or the piece of iron, or the airplane or whatever else he is selling. The people that wind up paying these unnecessary, unfair employment compensation charges are the people of the United States, you and I, the consumers, the people who buy the shoes, the groceries, and the suit, and who ride in the airplane.

Mr. Chairman, that is just downright unfair. It gives to a privileged class, who have decided voluntarily to accept the pension, some extra money which, in my judgment, they do not have coming as a matter of equity.

The unemployment compensation fund is the most important social tool we have against economic distress. It was voted to take care of people who are out of work through no fault of their own and who are engaged in an earnest search for work. That fund ought to be protected so that we can take care of those people to tide them over their period of unemployment and to see that they get a reasonable benefit while they are employed.

Unemployment compensation is, in my judgment, one of the great laws that this country has passed and that the several States have administered. But when we give money out of that fund to people who are less worthy, to people who have voluntarily decided that they are retired, then, Mr. Chairman, we are violating the trust of those people for whom we have accumulated those moneys in the first instance.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. ROUSSELOT. Mr. Chairman, I yield 6 additional minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, if we pay unemployment compensation benefits to people who have already retired, we have corrupted the system for everyone and we have said to everyone who works in the United States: Think of a way to beat the system. Then come to us and probably we will make it all come true for you. If you can find a way to fix your State laws so you can collect money when you really are not looking for work, the Congress will probably approve it because we have approved it for all of these folks who are really not looking for work.

Mr. Chairman, I think this is a really terrible mistake. I think that we are breaking faith with employers and employees who have been a part of the system, who expect it to work for the people who really need to be protected.

As we look forward over the next year, we begin looking at uncertain economic times when we know that there is trouble ahead for many of our people who really want to work. We also know that we have a large percentage of the States who have borrowed from the Federal fund and who are in deficit from the last recession, who have run their employer taxes up to a rate that distresses each of the States. This can only exacerbate that problem.

In my judgment, Mr. Chairman, if we want to ruin the United States' unemployment compensation fund, if we want to sew the seeds of disunity among potential claimants, among employers and employees, if we want to wreck the confidence in the system, and if we want to give unfair rewards to people who are already retired and withdrawn from the employment market, then we ought to pass this bill. But if we have any respect for the work ethic, and if we have any respect for the people who really need the money, then I think we will vote the bill down.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. I thank my colleague for yielding. Would it be correct to assume that if the present law is changed that some States may eliminate or reduce the pension offset laws that they have already put in place in anticipation of the new law taking effect? In effect, no pension offset amounts to double-dipping.

Mr. FRENZEL. In my judgment, what the gentleman says is true.

Mr. HOPKINS. Would that not be because many retirees who collect unemployment benefits for 6 months do not have any expectation of returning to work anyway?

Mr. FRENZEL. In my judgment, a great many of these people are not in the work market, they are not part of the work force, and they are not seeking work. They are simply getting an extra double-dip which the law never intended and should not intend that they have.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield to me?

Mr. FRENZEL. I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. To follow up on what my colleague just stated, many of these people that are retired and getting a pension benefit may go back to work only temporarily and they really are not normal seekers for work in the job market, as the gentleman explained, and may only work for 6 months and do not expect unemployment compensation.

Mr. FRENZEL. I would say to the gentleman, if I may reclaim my time, these are claimants who have fulfilled a career. They have accepted a pension and they may want to do some additional work. We should encourage them to do additional work. But since they have the buttress of the pension under them, and they have a guarantee that they can get no less than the full unemployment plus their pension, then I do not think they need the extra frosting on the cake of the unemployment compensation benefits. I do not think the law ever intended they should.

Mr. ROUSSELOT. I appreciate my colleague's comments.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. The thing I do not understand is that we have a person who is out on pension and who goes back to work. Now, we do not know whether that person is going back to work for 6 months or 6 years. It may just as easily be that they want to stay in the work force. Yet, that person is laid off. Now, that person, under what the gentleman is suggesting, I assume, will not get unemployment compensation. I do not understand why that person does not deserve it. Why are we presuming that he or she is just going into the work force very temporarily?

Mr. FRENZEL. What I am saying is the person who accepted the pension voluntarily has retired from the work force. If they choose another career and want to work, we would encourage such labors. On the other hand, I do not think they need the same protection as a person who has not collected pension benefits and who is a full-time member of the work force.

Mr. MARKS. If the gentleman will yield further, I must say to the gentleman from Minnesota that it seems to me if a person is going back into the work force, that person could have children to educate, they could have very high bills, all of the things that all of the rest of us have.

Mr. FRENZEL. Does the gentleman mean after he has earned his pension?

Mr. MARKS. Yes, certainly. We have a large number of relatively young people today who are out on pensions.

Mr. FRENZEL. Let me give an example to the gentleman. I know of people who collect a military pension, a private pension, social security and a Government pension, and they are also collecting unemployment. That simply is not fair. This bill allows them to do that.

Mr. MARKS. I thank the gentleman.

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I know the gentleman from Minnesota (Mr. FRENZEL) believes in the work ethic. When he served on the Unemployment Compensation Subcommittee, no one worked harder to get this

Congress to reduce the number of Federal unemployment compensation standards. Some of us thought that there ought to be some basic, sound Federal standards. However, my colleague was successful in preventing the enactment of such provisions.

Now, let us look at present systems. We do not have a Federal unemployment compensation system. We have 50 State systems. We allow the States to make decisions about benefit levels, about work requirements, about base period requirements, and about what they do to offset pensions against unemployment benefits. We have set no standards with regard to pensions.

□ 1620

The gentleman is inaccurate in suggesting that anyone receiving a pension has voluntarily separated himself from the work force. On the contrary a great many people are separated from their employment when they reach a certain age. Their income is so meager, they may have to return to work in order to survive. Many people get pensions when they are fairly young. For instance, men in combat who are wounded may receive disability pensions.

Now, the unemployment compensation system is not a needs-tested program. It is not predicated on how badly you need money. It is predicated on whether or not you have been in the work force; whether you have been involuntarily separated from the work force, and whether, under State law, you worked long enough to have rights to unemployment insurance.

Let us compare three workers who work side by side for some long period of time. They are all terminated involuntarily. One of them has nothing; one of them has a veteran's pension that he draws as a result of serious wounds in combat; and one of them has rental income of $1,000 a month.

We would tell the States: "You can give the full benefit to the man who has nothing. You can give the full benefit to the man who has a thousand dollars a month rental income because we will not take that income into account. But, if this man is a wounded veteran who has a pension, you must take away his insurance against unemployment. We do not care whether you want to or not, we are telling you that you must.

That is not good law. We could simply set Federal unemployment standards and let the Federal Government determine what benefits may be paid. But the gentleman from Minnesota was a vigorous opponent of such action. When we are discussing employees' rights, the gentleman is much persuaded by States rights. However, if we are discussing a reduction in employees' rights, regardless of how unfair it may be, he suddenly forgets about States rights.

Mr. Chairman, I reserve the balance of my time.

● Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 5507, a bill that would reduce unemployment compensation only by the amount of retirement benefits a person receives from his most recent base-period employer. This bill would not take effect until January 1, 1982, and would replace the present provision in law scheduled to take effect April 1, 1980, to reduce dollar for dollar a person's unemployment compensation by the amount of retirement benefits. Thus, H.R. 5507 would remove much of the penalty against unemployment compensation claimants by restricting retirement benefit reduction to pensions paid in under their most recent employer upon which their eligibility for unemployment benefits is based.

As a member of the National Commission on Unemployment Compensation, I can assure my colleagues that this bill has the support of the chairman and the members of the Commission. H.R. 5507 represents the best compromise available, in the time remaining before April 1, to extend some measure of retirement benefit protection to unemployment compensation recipients, short of outright repeal of the offset provision scheduled to take place on April 1.

I urge my colleagues to support passage of H.R. 5507.●

Mr. ROUSSELOT. Mr. Chairman, I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except amendments recommended by the Committee on Ways and Means.

The bill reads as follows:

H.R. 104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out paragraph (15) and by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(b) The amendment made by subsection (a) shall apply with respect to certifications of States for 1980 and subsequent years.

SEC. 2. (a) Subsection (c) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "which begin in such extended benefit period" and inserting in lieu thereof "which (1) begin in such extended benefit period, and (2) begin within 2 years after the last day of his benefit year".

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 before January 1, 1982.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On the first page, strike out line 3 and all that follows down through line 7 on page 2 and insert in lieu thereof the following:

That (a) paragraph (15) of section 3304 (a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended—

(1) by striking out "March 31, 1980" and inserting in lieu thereof "January 1, 1982", and

(2) by striking out the semicolon at the end thereof and inserting in lieu thereof the following:

"except that—

"(A) the requirements of this paragraph shall only apply in the case of a pension, retirement or retired pay, annuity, or other similar periodic payment under a plan maintained (or contributed to) by a base period or chargeable employer (as determined under the State law), and

"(B) the State law may provide for limitations on the account of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;"

The amendments made by subsection (a) shall apply to certifications of States for 1980 and subsequent years.

AMENDMENT OFFERED BY MR. CORMAN TO THE COMMITTEE AMENDMENT

Mr. CORMAN. Mr. Chairman, I offer an amendment to the committee amendment.

The clerk read as follows:

Amendment offered by Mr. CORMAN to the committee amendment: Page 2, strike out lines 16 through 21 and insert the following:

"(A) the requirements of this paragraph shall apply to a pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or other payment is under a plan maintained (or contributed to) by a base period employer (as determined under applicable law), and

"(ii) services performed for such employer by the individual during the base period (or remuneration for such services) affects eligibility for, or increases the amount of, such pension, retirement or retired pay, annuity, or other payment, and

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CORMAN. Mr. Chairman, this is a technical amendment that was necessary to carry out the intent of the Gibbons amendment. I do not know of any objection to it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the gentleman knows that we on this side feel that this is an improvement over the confusion that arose because the amendment was not drafted correctly in the first place when it was offered in the committee. I think it is a corrective amendment. It is needed, as we discussed yesterday in committee.

As the gentleman knows, my disappointment is that so long as we were correcting the other language, we did not also correct as a committee amendment, which we had discussed in committee, the Beard amendment, which would have prevented another obvious problem in the law. That is, that people in the military who have only served 91 days could conceivably, under some State law, come in and get unemployment compensation.

We felt that perhaps it should be put in. My understanding is that the Senate committee has done so, and maybe we can achieve that same prohibition in conference, but in any regard the gentleman is correct. Most members of the committee do feel, including even the gentleman from Minnesota who opposes the general bill, that this corrective amendment is needed because the language was not properly passed upon in the full committee.

Mr. CORMAN. I thank the gentleman. As to the Beard proposal, it deals with entirely separate subject matter. The subcommittee had 1 day of hearings on November 1, 1979, during which we heard from those who supported Mr. Beard's bill, H.R. 5533. It was the decision of the subcommittee that we wait until we receive the report of the National Commission on Unemployment Compensation. We have asked them to address themselves to that specific issue.

Present law provides that, if you have been in the service more than 90 days, your period of service will be taken into account in determining if you have worked the required number of weeks under your applicable State law. Some folks who have never been in the service may not consider it work. Some of us have recollections to the contrary.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. CORMAN. I will be glad to yield.

Mr. ROUSSELOT. I just want to respond briefly. We only had 1 day of hearings on the whole bill, so I do not think the gentleman wishes to imply that the Beard amendment was somehow shortchanged. As the gentleman knows, I agreed to help on the bill after we had discussion in the subcommittee. What has happened, as the gentleman knows, and the reason for this committee amendment, is because when we went to the full committee other things were added, and we now need to correct that language that came up in the full committee. A lot of the Members, including the author of the amendment, Mr. Gibbons, were not completely sure of the language. It was after the bill came out of committee that we realized we had to change the language.

So, I do not think the gentleman meant to imply that we just have not given this a lot of consideration; that is, the Beard amendment. There was a vote in the full committee. It was a voice vote. We really do not know what the vote would have been.

Mr. CORMAN. To refresh the gentleman's memory, the bill before us today, H.R. 5507, and the Beard bill, H.R. 5533, are two separate bills. We had a hearing on the bill before us on September 21, 1979, and we had a hearing on the Beard bill on November 1, 1979. The National Commission on Unemployment Compensation has already reported to us their interim findings and recommendations regarding the pension offset. They have not done so with respect to the treatment of benefits to servicemen.

□ 1630

Mr. ROUSSELOT. The gentleman has not cluttered up my mind. I am here today because I understand fully what we are doing, and I just wanted to explain for the benefit of the other Members of the House what some of us have as concerns. As long as we are dealing with amendments to the Unemployment Compensation Act, we might as well take the other part, but the gentleman has declined to do that, and the committee supported him. I am just saying as long as we are discussing this committee amendment, we might as well cover that point also. I hope in the conference we do accept the Senate language.

The CHAIRMAN. The question is on the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, no further amendments are in order. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Wright) having assumed the chair, Mr. Frost, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5507) to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes, pursuant to House Resolution 544, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Rousselot moves to recommit the bill, H.R. 5507, to the Committee on Ways and Means with instructions to report back the same forthwith with the following amendment: On page 2, line 12, strike out "January 1, 1982" and insert in lieu thereof "July 1, 1981".

Mr. ROUSSELOT. Mr. Speaker, may I speak briefly to the amendment?

Mr. Speaker, I have offered this motion to recommit because even in the discussion yesterday in our full Committee on Ways and Means, where we had to go back to reconsider the committee amendment, it was made clear that most States have been aware of this change in the law for 4 years, since 1976.

So I have shortened the time frame from January 1, 1982, to July 1, 1981, because I do not think we need to continue this extra extension of time beyond that point. Mr. Speaker, this amendment, I call to my colleagues' attention, would save $56 million, half in the fiscal year 1981 and half in fiscal year 1982. This saving would occur because the watered-down pension offset would be required sooner under this amendment, beginning July 1, 1981, instead of 6 months later as proposed in the bill.

Also a survey of State legislatures' schedules indicates that all State legislatures will meet long before July 1981 and will have ample opportunity to enact the necessary conforming legislation. I urge my colleagues to support the motion to recommit.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to my colleague, the gentleman from Texas, a member of the committee.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, I would like to comment on another matter, and I know the time is limited on the gentleman's recommittal motion.

Mr. ROUSSELOT. I would be glad to yield to the gentleman time if he is having problems getting time from his own side. I will be glad to yield. The gentleman wants to comment on another part of the bill?

Mr. PICKLE. Yes. I want to mention something else very briefly.

Mr. ROUSSELOT. That is fine.

Mr. PICKLE. Every Member of the House who is familiar with the problem of nurses being on a 24-hour requirement, particularly in rural areas, finds that the waiver granted them some 3 years ago in the old Burlison-Pickle amendment is going to expire.

Mr. ROUSSELOT. It is going to expire April 1, 1980.

Mr. PICKLE. That is correct. H.R. 3990 has a provision, section 12, that would continue this waiver under certain conditions. The Secretary of HEW, Mrs. Harris, is for this amendment. The chairman of the Health Subcommittee is for it. We need to get relief, and I simply want it pointed out to the Members that we need to attach this amendment on some measure within the very near future, within the next week or 10 days in order that great disadvantages will not be worked in these rural hospitals. I have simply wanted to mention that to the Members and ask the chairman of this committee and the chairman of the Health Committee, the gentleman from New York (Mr. Rangel), to help us in any way on any appropriate legislation to take this particular amendment in H.R. 3990 and put it on a germane bill so that small or rural hospitals can get this relief.

Mr. ROUSSELOT. As the gentleman knows, I do not control the conference. My colleague from California as the chairman of the subcommittee and the gentleman from New York (Mr. RANGEL) the chairman of the Health Committee, would have a lot more to say about it.

Mr. PICKLE. The gentleman from California understands the problem and I do not think opposes it. The chairman of the Health Committee and the chairman of the Committee on Ways and Means are for this amendment, and the Secretary of HEW, Mrs. Harris, approves it. It is a matter of finding the right vehicle, and I simply want the committee to be mindful of it in the next week so we can get something done.

Mr. ROUSSELOT. I thank the gentleman for his additional comment. I want to just say this amendment does not kill legislation. This vote is for saving $56 million. The States have had 4 years to work on this. I hope the Members will vote for the motion to recommit.

Mr. CORMAN. Mr. Speaker, I rise in opposition to the motion to recommit. First of all, the States do not know what we are requiring of them until the President signs the bill.

Historically, we have always given the States 2 years to conform to Federal requirements. If the House version of this bill passes, there will be a new minimum Federal requirement. Beyond that minimum requirement, the States may enact any provisions they find appropriate. They may require pension offsets for all pensions under all circumstances. On the other hand, they may decide to protect their employees to the maximum. If they make such a decision, the legislation may be somewhat more complicated and take a bit more time to enact. We have never given the States less than 2 years to respond. I hope that we will give them 2 years in this case.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding. The gentleman knows as well as we do on the committee that the original provision of cutoff time was made in 1976. All States have been notified by the Department of Labor to be ready to comply April 1 of this year. Most States have had better than 2 years to be aware that this was going to go into place. This bill under my amendment would extend it to July of 1981. That is almost better than another year, so I am sure the gentleman will agree that they have had plenty of time.

Mr. CORMAN. First of all, the gentleman has not accurately stated the situation, the provision which is scheduled to go into effect in April 1980, is something very different from this bill. State unemployment insurance administrators have worked very hard to get that provision repealed because they want to retain control of their State systems. Until we have enacted a bill, they cannot be sure what we are going to require of them. They ought to have 2 years to comply with our requirements.

□ 1640

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield briefly?

I asked the question yesterday in the committee, of the Department of Labor. They have notified all the States that they should be ready to comply April 1 in case we do not pass something. They have had lots of notification.

Mr. CORMAN. But they do not know what they will be required to do if this bill is passed. I urge my colleague to give them the 2 years that we always do. If we do not, we will hear from a lot of confused and disgruntled State governments that we have intruded into their system with an extremely complex restraint on what they may do with their own funds and their own program.

Mr. Speaker, I yield back the balance of my time and urge a "no" vote on the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 188, nays 215, not voting 30, as follows:

[Roll No. 33]

YEAS—188

Abdnor
Andrews, N.C.
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Flippo
Ford, Tenn.
Forsythe
Fountain
Frenzel
Fuqua
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hefner
Hinson
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Kelly
Kemp
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Paul
Petri
Porter
Preyer
Quayle
Quillen
Regula
Ritter
Roberts
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Treen
Trible
Vander Jagt
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NAYS—215

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Ashley
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Florio
Foley
Ford, Mich.
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Gonzalez
Gore
Gray
Green
Guarini
Hagedorn
Hall, Ohio
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hughes
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Lent
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
Maguire
Markey
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roe
Rosenthal
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
Stack
Staggers
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—30

Anderson, Ill.
Andrews, N. Dak.
Campbell
Crane, Philip
Davis, S.C.
Emery
Evans, Del.
Fowler
Hightower
McCloskey
McHugh
Mathis
Mollohan
Murphy, Ill.
Murtha
Obey
Pashayan
Pritchard
Railsback
Rhodes
Rodino
Rostenkowski
Runnels
Shumway
St Germain
Stockman
Williams, Ohio
Wilson, C. H.
Wyatt
Young, Mo.

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. McCloskey for, with Mr. Rostenkowski against.

Mr. Emery for, with Mr. Rodino against.

Mr. Philip M. Crane for, with Mr. Obey against.

Mr. Pashayan for, with Mr. McHugh against.

Mr. Williams of Ohio for, with Mr. Mollohan against.

Mr. Shumway for, with Mr. St Germain against.

Until further notice:

Mr. Murtha with Mr. Anderson of Illinois.

Mr. Charles H. Wilson of California with Mr. Stockman.

Mr. Fowler with Mr. Pritchard.

Mr. Hightower with Mr. Railsback.

Mr. Mathis with Mr. Andrews of North Dakota.

Mr. Murphy of Illinois with Mr. Runnels.

Mr. Davis of South Carolina with Mr. Evans of Delaware.

Mr. Young of Missouri with Mr. Wyatt.

Mr. VOLKMER changed his vote from "yea" to "nay."

Mr. LOEFFLER and Mr. BUCHANAN changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LUNDINE). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 306, nays 97, not voting 30, as follows:

[Roll No. 34]

YEAS—306

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chisholm
Clausen
Clay
Clinger
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Huckaby
Hughes
Hyde
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McDade
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stanton
Stark
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Zablocki
Zeferetti

NAYS—97

Archer
Ashbrook
Atkinson
Badham
Bafalis
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Carter
Chappell
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Crane, Daniel
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erdahl
Erlenborn
Evans, Ga.
Evans, Ind.
Fenwick
Fish
Forsythe
Frenzel
Fuqua
Glickman
Goodling
Gradison
Gramm
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hinson
Hopkins
Hubbard
Hutto
Ichord
Ireland
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Latta
Leath, Tex.
Lee
Lott
McDonald
McEwen
McKay
McKinney
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Myers, Ind.
Nichols
Paul
Porter
Quillen
Roth
Rousselot
Rudd
Schulze
Sebelius
Sensenbrenner
Shuster
Snyder
Stangeland
Steed
Stenholm
Stockman
Stump
Symms
Taylor
Walker
Whittaker
Winn
Young, Fla.

NOT VOTING—30

Anderson, Ill.
Andrews, N. Dak.
Campbell
Coelho
Crane, Philip
Davis, S.C.
Emery
Evans, Del.
Fowler
Hightower
McCloskey
McCormack
McHugh
Mathis
Mollohan
Murphy, Ill.
Murtha
Obey
Pashayan
Pritchard
Railsback
Rhodes
Rodino
Rostenkowski
Runnels
Shumway
St Germain
Wilson, C. H.
Wyatt
Young, Mo.

□ 1710

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Anderson of Illinois.

Mr. Rodino with Mr. McCloskey.

Mr. Mollohan with Mr. Railsback.

Mr. McHugh with Mr. Shumway.

Mr. St Germain with Mr. Pritchard.

Mr. Charles H. Wilson of California with Mr. Pashayan.

Mr. Obey with Mr. Emery.

Mr. Young of Missouri with Mr. Andrews of North Dakota.

Mr. McCormack with Mr. Philip M. Crane.

Mr. Fowler with Mr. Evans of Delaware.

Mr. Hightower with Mr. Runnels.

Mr. Davis of South Carolina with Mr. Campbell.

Mr. Mathis with Mr. Murphy of Illinois.

Mr. Wyatt with Mr. Coelho.

Mr. KELLY changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 with respect to the requirement that unemployment benefits be reduced by certain retirement benefits, and for other purposes."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. McCORMACK. Mr. Speaker, I was absent from the floor of the House during the vote on H.R. 5507 and missed voting on the bill because I was meeting with the representatives of Northwest Natural Gas Utilities concerned with price increases levied on my constituents in the Northwest by natural gas exporters from Canada. If I had been present, I would have voted for H.R. 5507.

CROSSWALK ALLOCATIONS

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the crosswalk allocations to the House committees pursuant to section 302(a) of the Congressional Budget Act, as contained in the conference report (H. Rept. 96-582) accompanying Senate Concurrent Resolution 36, the second concurrent resolution on the budget for fiscal year 1980, be considered as meeting the requirements of section 302(a) of the Budget Act.

Section 302(a) requires that the managers' statement accompanying a conference report on a budget resolution allocate the total new budget authority and outlays specified in the resolution among all House and Senate committees with jurisdiction over spending bills.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us if some of the questions raised by my colleague, the gentleman from Maryland, were ironed out?

Mr. GIAIMO. If the gentleman will yield, yes, they were. I have discussed this problem with the gentleman from

Maryland, and he assures me he has no further objections to it.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for his response, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, yesterday I was at a meeting where I had requested, and been assured, that I would be notified if the bells rang for a vote in the House. Unfortunately, I was not notified and, therefore, missed the vote on H.R. 4788, the Water Resources Development Act. Had I been present, I would have voted "nay."

PROVIDING FOR CONSTRUCTION OF H.R. 2551, AGRICULTURAL LAND PROTECTION ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 561 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 561

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2551) to establish internal Federal policy concerning protection of certain agricultural land; to establish a Study Committee on the Protection of Agricultural Land; to establish a demonstration program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 561 provides for the consideration of H.R. 2551, the Agricultural Land Protection Act. The rule provides for 1 hour of general debate, to be evenly divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. It is an open rule allowing the consideration of any germane amendment under the 5-minute rule. The resolution also makes the committee amendment in the nature of a substitute in order as an original text for the purpose of amendment, and it states that the substitute shall be read by titles instead of by sections. The rule waives two sections of the Congressional Budget Act against consideration of the bill. These are sections 401(a) prohibiting contract authority not made subject in the bill of future appropriations acts, and section 402(a) prohibiting consideration of authorizations not reported by May 15 preceding the beginning of the fiscal year to which they pertain.

☐ 1720

The waivers are needed because, as introduced, section 206(c) of the bill authorized contracts with public and private organizations. It did not contain language making this contract authority contingent upon future appropriations action. This violates section 401(a) of the Budget Act. Also, the bill authorized funding for fiscal year 1980, but was not reported by May 15 of last year, thus violating section 402(a) of the Budget Act.

However, during markup, the Committee on Agriculture adopted an amendment in the nature of a substitute deleting the bill's contract authority provision and changing the effective date of the legislation to the beginning of fiscal year 1981.

Since these actions completely remedy the original violations, the Committee on Rules granted a technical waiver of sections 401(a) and 402(a) in this particular case.

As we heard, the bill provides for one motion to recommit the bill either with or without instructions.

Mr. Speaker, the legislation made in order by this rule will allow the Federal Government to assume a supporting role in efforts to reduce agricultural land conversion.

The bill would mandate the first comprehensive study of factors affecting the diminution of agricultural land in the United States and methods of improving and protecting such land.

In addition, the legislation directs the Secretary of Agriculture to assist State and local governments in demonstrating new methods of agricultural land maintenance.

The bill authorizes $60.4 million for these purposes over a period of the next 5 years.

Mr. Speaker, in the last 10 years, while world demand for U.S. food has tripled, the United States has lost between 30 and 50 million acres of productive farmland. This loss is a permanent and continuing one, and if left unchecked, poses in some ways a more serious threat to American security and prosperity than does the present energy crisis, because there are no alternative sources possible for food and land.

This is an issue I think we cannot avoid. America's croplands are its most valuable and irreplaceable resource. They have to be protected, but despite growing awareness of implications of this loss, a thorough review of the magnitude of the problem has yet to occur. State and local governments often lack the information and money necessary to develop approaches to the issue, and the Federal Government has until now avoided the problem entirely. This bill is the first attempt to develop a response to this serious problem.

If approved, H.R. 2551 would permit the first comprehensive examination of American land use and loss in our history and hopefully will result in the applications of policies aimed at the successful preservation of our croplands.

It is a bill, Mr. Speaker, which I strongly support and I urge our colleagues to adopt this rule so we can go on and vote on the bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while this rule is not notable—it just includes a couple of the usual Budget Act waivers—the bill made in order by this rule is a dangerous first step toward national land use planning.

First let me describe what we are doing in the rule, then I want to mention some of the problems in this bill.

The rule provides 1 hour of general debate for the consideration of H.R. 2551, the Agricultural Land Protection Act. Under the rule the bill will be open to amendments which do not violate the rules of the House.

There are two waivers of Budget Act provisions in this rule. First, the rule waives points of order against the bill for failure to meet the May 15 authorization deadline. Since the introduced bill contains fiscal year 1980 authorizations, it should have been reported by May 15, 1979. In fact it was not reported until November 16, 1979. According to the chairman of the Budget Committee, the Agriculture Committee has agreed to cure this problem by amendment on the House floor, making the bill effective in fiscal year 1981.

Second, the rule waives the Budget Act section which prohibits contract authority which is not subject to the appropriation process. Section 206(c) of the introduced bill included contract authority not subject to the appropriation process. However, according to a letter from the chairman of the Budget Committee, this violation also will be cured by amendment on the House floor.

Finally, the rule makes the committee substitute in order as an original bill for the purpose of amendment.

What concerns me far more than the technical provisions of the rule, is the dangerous bill the rule makes in order. Mr. Speaker, we will be told that this bill simply provides for a study and for some demonstration projects—that it is nothing to worry about. But what we are studying and demonstrating are agricultural land protection programs. To the degree that these programs insure land is not used for anything but farming, they may deprive the farmer of his right to use or sell his land as he wishes. I represent a large number of farmers, and I am concerned about farmers losing control over their own land.

My concerns were reinforced recently, when I read some testimony that the Sierra Club presented during hearings before the Subcommittee on Family Farms, Rural Development, and Special Studies of the House Committee on Agriculture. A witness for the Sierra Club testified on June 15, 1977 as follows:

> Since Congress and the Administration are not moving on a comprehensive land use bill, it is imperative that the crucial issue of farmland preservation be handled separately. Next to control of strip-mining, protection of agricultural lands is one of the most critical land-use issues, along with wetland protection. Since agriculture has deep historical roots in America, with many people feeling an affinity for farmland, it may be that developing a program for protection of farmland could be a tool paving the way for acceptance of more comprehensive land-use legislation.

Let me repeat the last part of that—

> . . . it may be that developing a program for protection of farmland could be a tool paving the way for acceptance of more comprehensive land-use legislation.

The Sierra Club sees this kind of legislation as a step toward comprehensive land-use legislation. And I think that is exactly what this bill today is all about.

My concerns are further reinforced when I see some of the amendments that are proposed to be offered to this supposedly innocuous bill.

The House has taken a position against national land-use legislation at various times.

Recently, the gentleman from California (Mr. Panetta) sent a "Dear Colleague" letter around explaining an amendment he will offer to this bill. Let me read from that letter.

> I intend to offer an amendment which will define the nature and extent of the Federal government's commitment to and involvement in efforts to preserve our Nation's precious farmland.

Mr. Speaker, the very fact that amendments such as this are being proposed should put Members on the alert as to the potential magnitude of what we are being asked to undertake.

Mr. Speaker, this is a dangerous bill, and it should be defeated.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. Grassley).

Mr. GRASSLEY. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's comments in opposition to the bill.

I have my reservations about the bill, as well.

I would like to take this opportunity, though, to express the position that even though the gentleman does not like agricultural land use legislation as he perceived this bill to be, and I am not going to argue with that point of view, I think we could additionally make a case that this bill protects agricultural land only in the title, not in any of the provisions of it. For all the strong provisions of the bill to protect prime agriculture land have been stricken from the bill in committee.

I would like to quote from a statement that the gentleman from California (Mr. Panetta) made in his additional views in the committee report, in which he says:

> The committee is reporting a bill that is silent on the issue of the nature and extent of Federal Government's involvement in agricultural land protection.

So on the one hand, as suggested by the gentleman from Ohio, we do have a bill that maybe has dangers in it that it could lead to greater Federal Government involvement in agricultural land use planning, but on the other hand, we have a bill here that is not what it is purported to be by its sponsors or by its title "Agricultural Land Protection Act," because those provisions of this bill that did the most to protect agricultural land from encroachment by nonagricultural interest, is no longer in the bill. This bill carries with it the provision for the expenditure of funds, but nothing for the protection of agricultural land.

Mr. LATTA. Let me say to my friend from Iowa and to the other Members of the House, that we have seen these so-called skeleton bills leave the House and get into the conference with the other body and to see some new language come out that even the sponsors of the legislation originally were not for. Certainly to send even a skeleton piece of legislation that could end up with national land use legislation contained therein, I do not think is what the American farmer wants. They do not want any more direction from Washington as to how to use or sell their land. If we are about to pass this, I am sure the American farmer will be heard from very shortly.

□ 1730

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. GRASSLEY. I think in general debate on this bill and discussions on amendments to it the gentleman is going to find that this bill has evolved from one that had a very strong provision for protection of agricultural land, whether that is right or wrong, into a bill that is a toothless tiger, with an amendment that is going to be adopted, or at least proposed that will once again bring us back at least 180 degrees to the original bill introduced by Mr. Jeffords. I do not know what all of the shenanigans were that had to go on to get this bill out of committee but there was much of that. I think, as the gentleman characterized many of the bills, they have come out a skeleton but become something else after they passed this House.

Mr. LATTA. I thank the gentleman for his remarks.

Mr. Speaker, I yield 5 minutes to the gentleman from Montana (Mr. Marlenee).

Mr. MARLENEE. Mr. Speaker, the legislation before us is designed to promote Federal land control; conduct another study of land use, even though one is currently ongoing; and establish demonstration projects which are premature in light of the mandated study.

The argument that this legislation is not a first step toward Federal land control does not hold up. H.R. 2551 is designed, and I quote from the bill itself, "to establish internal Federal policy concerning protection of certain agricultural land."

Yet the bill does not address the largest and most flagrant abuser of agricultural land—the Federal Government. The Federal Government owns some 762 million acres of the United States—about one-third of the total land area. In addition, the Federal Government has authorziation to acquire up to $4 billion in private land during the next 11 years. A survey of conservation district personnel listed the Federal Government as a significant factor in the indiscriminate conversion of agricultural land to other uses.

While I understand several amendments are to be offered to address this problem, they only "encourage Federal cooperation," direct the use of "existing procedures," and require that Federal action be consistent with actions at the State and county levels. The amendments ignore the wishes of local populations in the West, where vast areas are owned and controlled by the Federal Government. Adding language with no punch will make no difference. It will not cut the Federal acquisition of land, nor will it make Federal officials cooperate any better with the local units of government.

What is needed is simple: local control—not the Federal Government running around the State telling the local people how to manage their land, when the Federal Government cannot even take care of its own land. Forty-five States have initiated some form of agricultural land retention programs. Federal oversight is not needed. What is worse, a provision for local veto of a Federal program has been removed from the bill.

There is very important language in title I to which I would especially call the attention of my colleagues. The study allows the Secretary of Agriculture to, and again I quote, "conduct a comprehensive study of the location, ownership, and financing of agricultural land."

With typical Government reserve, we are about to mandate that another study be conducted when in fact a current study is underway. The Department of Agriculture and the Council on Environmental Quality will complete their study in early 1981. They have requested that any legislation be delayed until the study is completed. The study contained in H.R. 2551 is duplicative and unnecessary. No rationale can be given for authorizing, and spending funds, for yet another study.

Think of the implications and, indeed, the outright threats of that language. Blanket authority, of the nature proposed in this bill, means nothing less than the long hand of Washington, D.C., hovering over every acre of land within a 3,000-mile radius.

The expenditure of the $60.5 million authorized in the legislation for demonstration projects is an unnecessary expense. Projects of this nature are premature in light of the fact that the USDA–CEQ study will not be completed until next year, and the one mandated in H.R. 2551 until a much later date. A recent GAO report on agriculture land loss, while making several recommendations, did not suggest that any demonstration projects be initiated. The legislation before us is what we have all compaigned against, more Federal Government involvement at the local level, additional and duplicative studies, and spending programs and projects which are not justifiable.

I urge my colleagues to consider strongly the language and the nature of this bill, and to reject it.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I thank my friend for yielding.

First of all, let me compliment the Rules Committee for bringing this bill to the floor and this rule to the floor with an open rule. Let me also compliment my friend from Vermont for his long work and leadership on this bill.

The fact that I will not support the bill in general debate and on final vote should not in any way detract from my admiration for my friend (Mr. JEFFORDS) who has worked long and hard on this piece of legislation over the years in our committee. I am opposing this legislation because I believe it is not a proper role for the Federal Government to play in terms of land use. I am not unaware that in the next 20 years if we go on with our present policies of local land policy and land use that we will pave over enough prime agricultural land to equal the size of the State of Indiana. This should be cause enough for local units of government, for State governments and for those agricultural organizations, many of which are opposed to this bill, to start a process at the local and individual landowner level to prevent the continuation of the erosion and the loss permanently of prime agricultural land which, once paved over, cannot be retrieved.

I simply oppose this bill because I do not believe that is a valid function of the Federal Government to involve itself in, and I would hope that the bill does not pass.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I would just like to make sure that everyone realizes that there is bipartisan support for this bill. I will spend more time in general debate talking about the merits of the bill. But, there are 20 Republican cosponsors of this bill and some of the well-respected members of the Republican Party that are no longer here, like the Governor of Minnesota, Al Quie, or the late Bill Steiger of Wisconsin, were strong supporters of this bill when they were here.

Also I would like to say and make the record very clear that I would not and could not support anything which in any way advocated Federal land use planning. I have been opposed to it and continue to be opposed to it. To raise that as an issue here is purely to raise a strawman. I know there are some perhaps that would like to see Federal land use planning, but I do not want to see it that way.

I would also just like to read to my colleagues a list of some of the supporters of this bill and ask if those groups would be up here supporting this bill if it had advocated Federal land use planning. They include the National Grange, the National Association of State Departments of Agriculture, the National Association of Counties, the National Farmers' Union, the National Conference of State Legislatures, and the Northeast-Midwest Coalition. None of these would be advocating such a controversial thing as Federal land use planning. That is not the issue here.

The issue is do we have courage enough to, in my estimation, do something now which may be the last possible chance to prevent that which we fear. What this bill does is try and help the State and local governments find ways to stem the tide and the loss of prime agricultural land. That is all this bill attempts to do. It is written to proscribe any possible Federal land use planning. That issue is just being raised here really as a ghost or a strawman and has nothing to do with this bill.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I take this time because I will not be able to be here during general debate.

I voted for this bill in committee, but I rise reluctantly to oppose the legislation on final passage. Not because of the strawman of Federal land use control. I think probably the gentleman from Vermont is correct on this issue. I rise to oppose it primarily because I have come to the conclusion that we simply cannot afford the $60 million that this bill would authorize to get the Federal Government involved in an activity that should primarily be State and local responsibility.

Furthermore, it is premature for the Congress to approve the bill. There is currently now a study by the Department of Agriculture to assess just what the nature of the problem is, and the study is not complete. But this bill would add over $3 million for further study between now and 1985 on top of the existing study.

Under the bill there would be demonstration grants available to help State and local governments respond to the problem beginning in fiscal 1982, even though this study of the problem will not have been completed.

If we are going to have this kind of legislation, I think it is responsible to know that we have the study and the results of the study before we move on to answering the problem.

Finally, as a member of the Agriculture Committee I believe I have some special responsibility to assure that our priorities in our own agricultural budget function are proper. Looking at the status of the farm economy and the need to help farmers make ends meet, particularly with higher loan and target prices which I feel are so desperately needed, it is all too clear to me that we have more compelling needs as far as allocating Federal dollars to address agricultural concerns.

□ 1740

Yes, this is a very serious problem. The encroachment of commercial and residential land use into prime agricultural land is serious, but there is not money in the Federal budget. State and local governments have enormous surpluses in many parts of the country. To have some credibility, I cannot come before the House in a period of large deficits and ask the Members to approve higher loans, higher target prices, and at the same time urge that this is another new agricultural program that needs to be funded. It is a serious problem, but at this stage of the Federal deficit I would urge the House to reject the bill.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, no matter what is said on the floor of this House, this vote is going to be considered a vote for Federal land use planning. We know there are some people here who have named some names of people who are for the bill. There are also substantial agricultural interests against the bill, such as the American Farm Bureau.

In addition to the American Farm Bureau our own Secretary of Agriculture, a former Member of this body, Bob Bergland, is opposed to this bill. I refer the Members to the additional views of several members of the committee which quotes Secretary Bergland's letter opposing the bill. He says, and I quote:

> At this point we are not prepared to state: (1) How serious the problem is in a national context; (2) What role, if any, the Federal Government should play beyond that of assisting local units of government make their own decisions concerning conversion or retention of agricultural land; and (3) If an expanded Federal role is desirable, what additional authority would be necessary.

So, here again we are asking this Congress to pass a bill that would cost several million dollars at a time when our agricultural economy, if we wanted to do something for the farmers, I think what the Congress ought to be doing is passing legislation to buy the grain that has been embargoed and isolate it from the marketplace.

Here we are, talking about some kind of social engineer planning scheme at a time when it is unnecessary, unwanted by the farmers, unwanted by the taxpayers. I think it would be in our best interests just to vote down the rule and end this discussion. That is what I intend to do.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Speaker, I urge support for the rule and also for the bill that is before us this afternoon. No, I am not one of the older Members of the House, but during my adult lifetime I have watched the land in just the area around the city of Dubuque, my hometown, be converted from prime agricultural land into housing developments, into industrial developments, into plats of land, for school campuses and any number of other things.

I do not think it takes anyone from Iowa, nor does it take a genius, to realize that there is going to be something that will happen very disastrously to our country if we do not take action such as that proposed in this legislation today. I think it is most important for us to recognize that one of our most valuable resources, specifically our agricultural land, is being taken away from us at a very rapid rate, and unless we at the Federal level do take some action in order to prevent this from occurring, I can assure the Members that we will regret it a few years down the road.

Some people suggest that this legislation is somehow a Federal grab; a grab of Federal power over private landowners; a grab of Federal powers over an area that really belongs to the counties or to our local governments. Let me tell the Members that in our State we have tried through the local government route, county zoning and other methods, to try to control this loss of agricultural land. It has not worked effectively.

We have tried in our State legislature when I was a member there to try to do something about this loss of agricultural land. We were not able to do anything that was very effective. I do not know if this proposal will work, but I believe that it is worth a try.

Those who suggest that it is a Federal power grab or that it is going to somehow deny the rights of individuals I think are inaccurate. This bill does nothing of the kind. It protects the concept of private property, and therefore does not violate those principles on which our country is based.

What it does do, however, is that it does give us another chance and another method of trying to preserve the agricultural land that is so vital to our Nation.

I rise in support of H.R. 2551, the Agricultural Land Protection Act, particularly as it is amended by my colleague from California (Mr. Panetta). It is a reasonable approach to the problems caused by the conversion of agricultural land to nonagricultural uses.

The need for this legislation is great. Approximately 1 million acres of productive farmland are displaced each year by factories, office buildings, and housing and water projects. At this rate, a dangerously large portion of high quality farmland will be taken out of production in the next decade. The loss of American farmland has serious implications for the continued production of food at reasonable prices.

Despite the implications of the present trend toward conversion of agricultural land to nonagricultural uses, a comprehensive study of this phenomenon has not occurred. Partial studies by the national agricultural land study (NALS) have helped, but its current 18-month investigation is limited by a small staff and a small budget. As a result, it will not be able to effectively deal with the long-range problems of land conversion.

The Agricultural Land Protection Act will address the long-range questions of land conversion by expanding the NALS effort. In its analyses, the NALS will also be able to investigate the effects of Federal actions on land protection programs.

Most everyone would agree that the goals of the NALS, as set out in the bill, are worthy. A study of the issues involving agricultural land conversion is crucial if our farmlands are to be preserved.

However, controversy has arisen over the role of the Federal Government in efforts designed to protect our Nation's farmland. Historically, States and local governments have held the authority—and properly so—over issues of land use conversion. It has been argued by some that this role will be undermined by Federal involvement in land use planning. I would argue, on the other hand, that H.R. 2551, as amended by Mr. Panetta, will not only focus national attention on a serious problem, but it will also preserve the traditional rights of States and localities in establishing land use policy.

Let me highlight the strengths of the bill in this regard:

The bill will direct the Secretary of Agriculture to gather information related to the conversion of agricultural lands and to make that material available to States and local governments.

The bill will prohibit Federal funds from being used to acquire farmland.

The bill will prevent the Federal Government from imposing or requiring restrictions on the use of privately owned land.

The bill, as amended, will prevent the Federal Government from taking away the existing authority of State and local governments to develop farm protection policies. Prior to its deletion in committee, a portion of title I was designed to protect the role of State and local governments in agricultural land conversion policymaking by requiring Federal activities to be totally consistent with State and local plans. Mr. Panetta's amendment will put the substance of title I, as originally introduced, back into the legislation by requiring that Federal actions be compatible with State and local plans to the maximum extent possible. While the language is not identical to that of the original title I, the effect is the same: to prevent the usurpation of State and local control over agricultural land protection programs by the Federal Government and to encourage cooperation between Federal, State, and local government bodies in the policymaking process.

When all is said and done, H.R. 2551, as amended, will provide a limited role for the Federal Government in the protection of agricultural properties. It will encourage the Federal Government to support State and local efforts to deal with the problem of agricultural land conversion.

I urge support of the measure.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from Iowa.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I compliment the gentleman on his statement. Obviously, the gentleman has not only read the bill, but has followed closely the deliberations of the Agriculture Committee in reporting the bill. The gentleman is exactly on point on all the issues he has raised.

This is a bill that restricts the Federal Government. It does not expand its powers, but restricts its power. The amendment which the gentleman from California (Mr. Panetta) will offer, which I intend to accept on this side, will restrict those powers further, and provide for even closer cooperation between the Federal Government and State and local governments by requiring the Federal Government to consider and evaluate State and local laws. This is a bill that protects private property, protects local government planning, and should be supported by all those concerned by those values.

Mr. TAUKE. I agree with the chairman's interpretation of the bill. I am delighted to hear that the chairman is going to accept Mr. Panetta's amendment, because I think that will improve the bill even more.

Mr. BEILENSON. Mr. Speaker, this is a nice little bill. It is a much better bill than the remarks of some of the gentlemen would lead us to believe.

I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 301, nays 94, not voting 38, as follows:

[Roll No. 35]

YEAS—301

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Conyers

Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Leach, La.
Lederer
Lehman
Leland
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McKay
McKinney
Maguire
Markey
Marks
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Roe
Rosenthal
Roth
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolpe
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NAYS—94

Abdnor
Albosta
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Bennett
Bethune
Bevill
Bowen
Broomfield
Carney
Carter
Cheney
Cleveland
Coleman
Collins, Tex.
Corcoran
Crane, Daniel
Daniel, R. W.
Dannemeyer
de la Garza
Derwinski
Devine
Dornan
Edwards, Okla.
Erlenborn
Evans, Ind.
Flippo
Goldwater
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hinson
Holt
Hopkins
Huckaby
Ichord
Ireland
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Kazen
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Loeffler
Lott
Lujan
McDonald
McEwen
Marlenee
Marriott
Mattox
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Nowak
Patten
Paul
Porter
Quillen
Rousselot
Rudd
Satterfield
Sensenbrenner
Shuster
Snyder
Solomon
Stenholm
Stockman
Stump
Symms
Taylor
Trible
Whitten
Wolff
Wright

NOT VOTING—38

Anderson, Ill.
Andrews, N. Dak.
Campbell
Crane, Philip
Davis, S.C.
Diggs
Emery
Evans, Del.
Fowler
Hall, Ohio
Hightower
Jenrette
Kindness
McCloskey
McHugh
Madigan
Mathis
Mollohan
Moorhead, Pa.
Murphy, Ill.
Obey
Pashayan
Pritchard
Railsback
Rhodes
Roberts
Rodino
Rose
Rostenkowski
Runnels
Shumway
St Germain
Treen
Waxman
Wilson, C. H.
Wyatt
Yates
Young, Mo.

☐ 1800

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Shumway.

Mr. Mollohan with Mr. Madigan.

Mr. Obey with Mr. Pashayan.

Mr. Rodino with Mr. McCloskey.

Mr. Jenrette with Mr. Railsback.

Mr. Roberts with Mr. Kindness.

Mr. Fowler with Mr. Emery.

Mr. St Germain with Mr. Rhodes.

Mr. Yates with Mr. Evans of Delaware.

Mr. Murphy of Illinois with Mr. Andrews of North Dakota.

Mr. Hightower with Mr. Philip M. Crane.

Mr. Davis of South Carolina with Mr. Campbell.

Mr. Mathis with Mr. Anderson of Illinois.

Mr. McHugh with Mr. Hall of Ohio.

Mr. Waxman with Mr. Pritchard.

Mr. Young of Misouri with Mr. Wyatt.

Mr. Charles H. Wilson of California with Mr. Runnels.

Mr. Rose with Mr. Moorhead of Pennsylvania.

Mr. Diggs with Mr. Treen.

Mr. ARCHER and Mr. WOLFF changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I take this time to advise the Members of the House that it is my intention following the conclusion of general debate on the bill H.R. 2551, to move that the Committee of the Whole House rise tonight following general debate.

AGRICULTURAL LAND PROTECTION ACT

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2551) to establish internal Federal policy concerning protection of certain agricultural land; to establish a Study Committee on the Protection of Agricultural Land; to establish a demonstration program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2551, with Mr. SABO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. WAMPLER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I rise in support of H.R. 2551, the Agricultural Land Protection Act.

H.R. 2551 is a fair and responsible bill designed to deal with the problem of conversion of agricultural land to nonagricultural uses. H.R. 2551 will direct the Department of Agriculture to study the problem of conversion of agricultural land to nonagricultural uses and provide a limited amount of Federal assistance to State and local governments which are attempting to develop methods for dealing with the problem of farmland conversion.

Implicit in this legislation is the recognition that this is primarily an issue which must be dealt with at the State and local level and that the appropriate role of the Federal Government is to: First, develop an information clearinghouse which will assist State and local efforts; second, provide a limited amount of Federal assistance to States and localities which are attempting to deal with the problem; and third, require the Federal Government to be more sensitive to the concerns of State and local governments regarding agricultural land conversion.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I thank the gentleman from Washington. I simply want to commend him and commend the gentleman from Vermont and any others who had any part in bringing this to the House. I think it makes sense economically. I think it makes sense from a humanitarian viewpoint, any way you look at it. This is something this Nation needs as we look at the long range picture.

I want to join in urging adoption of it.

Mr. FOLEY. Mr. Chairman, I thank the gentleman.

The Agricultural Land Protection Act deals with a problem which is becoming increasingly serious in many areas of the country. According to the Soil Conservation Service, the United States loses 20,000 acres of its agricultural land base each week. The conversion of this large amount of farmland to nonagricultural uses may soon impact on the ability of the United States to maintain its high level of crop production. Additionally, this conversion is often accompanied by cropland pattern shifts from prime to marginal farmland. Both of these effects can have serious social, economic, and environmental impacts.

Despite a growing national awareness of this problem, a comprehensive examination of the issue has never been made. The present effort by the administration's National Agricultural Lands Study is a good beginning but, because of limited time, funding and manpower resources, is unable to fully address the issue. The study required by H.R. 2551 will expand on these limited efforts to insure that this issue is adequately treated.

At the present time State and local governments do not have the data needed to analyze existing methods of agricultural land preservation or to develop new innovative approaches to the problem. H.R. 2551 will address both problems by requiring that a comprehensive study be conducted and by providing a limited amount of financial assistance to State and local governments which request assistance for the conduct of their programs.

It is important to note that the present level of feed grain production in this country was achieved primarily through significant advances in farming methods and practices such as the development of artificial fertilizers and hybrid seeds in the post-World War II period. Were it not for these developments these high production levels could only have been achieved if vast new areas of land had come into production.

As the worldwide demand for agricultural products continues to increase we cannot presume that comparable technological advance will continue to be made. It is doubtful that we will experience a new revolution in farming comparable to the development of hybrid seeds or chemical fertilizers and therefore we must pay closer attention to the unnecessary conversion of farmland if we wish to continue enjoying the benefits of an agricultural economy which meets all our domestic needs and provides large surpluses for export.

As reported by the Committee on Agriculture, the bill will direct the Secretary of Agriculture to conduct a study and submit a report on issues relating to the conversion of agricultural land to nonagricultural uses. The study will evaluate methods which have already been attempted by States and local governments to reduce the rate of such conversion and will also include an analysis of the results obtained by those State and local governments which have requested and been provided assistance under the demonstration program provided in the bill. The study will place special emphasis on an analysis of the role of Federal departments and agencies in the conversion of agricultural land since those actions are viewed as having a significant effect on the loss of farmland.

H.R. 2551 will provide assistance to State and local governments desiring assistance in the financing of programs they have developed to deal with local farmland conversion problems. In addition to providing direct assistance to these communities, the results of these local efforts will be compiled by the Department of Agriculture in its report thereby providing useful information to other communities which are concerned about this issue.

H.R. 2551 recognizes that the primary responsibility for issues affecting the use of private land rests with individuals and State and local governments. For that reason the bill contains a provision which prohibits the use of Federal funds provided in the demonstration program for the acquisition of any interest in privately held land by the State or locality conducting the project.

Additionally the bill contains a limitation which makes clear that nothing in the act authorizes the Federal Government to: First, restrict or regulate the use of privately owned land; second, deprive landowners of their rights to property; and third, restrict existing authorities and responsibilities of State and local governments respecting land use, zoning, taxation, or any other aspect the regulation, utilization, and disposition of public or private lands within their respective jurisdictions.

I am fully aware of the historic role and rights of individuals, and State and local governments regarding the use and disposition of public and private property and believe strongly that these rights must not be subverted or abrogated. H.R. 2551 is specifically designed to safeguard those traditional and historic rights and roles.

The bill authorizes appropriations for the study in a total amount of $3.6 million over 5 years beginning with fiscal year 1981 and for the demonstration program in a total amount of $60.5 million over the 4 years beginning with fiscal year 1982.

I urge the members to join me in support of this bill.

Mr. LOWRY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Washington.

Mr. LOWRY. Mr. Chairman, I thank the gentleman for yielding. I rise in support of this very important legislation and compliment the committee on its work.

The gentleman from Vermont, as the gentleman has referred, we in King County, which I have the pleasure of representing, just voted with over 63 percent of the people in King County to tax ourselves at the rate of $9 per 1,000 of evaluation to save our very valuable urban farmlands; so the public is seeing the very necessary action that this bill moves to support. In Washington State we are very appreciative of this action. I compliment and thank the gentleman.

Mr. WAMPLER. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, the floor manager for this bill, the gentleman from Washington (Mr. FOLEY), has ably set forth a brief summary of this bill in a concise, understandable way. However, it is a bill that probably has about as many pluses as it does minuses.

The bill was not reported unanimously by the committee. It was on a vote of 26 to 13. However, even that vote does not perhaps reflect the substantial amount of amendments, discussions, and controversy which took place in the full committee before the committee favorably reported the bill.

I voted to report the bill because I believe that the House should have an opportunity to work its will on this measure, notwithstanding the fact that there is some likelihood that the matter may never be reported by the Senate Committee on Agriculture, Nutrition, and Forestry. The Senate committee, as I understand it, is closely divided on this issue. It may well be that whatever action we take here today may never see final enactment into public law of this measure.

The American Farm Bureau Federation has contacted me, as I am sure they have contacted many of you, urging opposition to this bill for the following reasons:

> We oppose any federal land use planning . . .
>
> We oppose federal assistance to states for land use planning.
>
> Forty-five states have implemented agricultural land protection programs. GAO, Administration, and private studies have repeatedly shown that federal policy actions are the biggest deterrents to the success of state programs.
>
> This bill would not protect farmland from federal actions. It is quite simply, an effort to use federal dollars to supplement efforts that have already been carried out successfully at the state and local levels in 90 percent of the states.

I must confess that title II of this bill, which provides for demonstration programs and technical assistance, may possibly be used by certain States or units of local government who obtain assistance thereunder to experiment in land use planning. I gather this is also the concern of the American Farm Bureau Federation.

At least I do not see any prohibitions under such demonstration program that land use planning is forbidden under title II, which is funded under title III to the tune of $60 million over the period of fiscal years 1982, 1983, and 1984.

On the other hand, the National Association of Counties has indicated their strong support for this measure claiming that the loss of farmland is a serious problem.

Now I want it clearly understood that I am very concerned about the loss of farmland in this country to anyone who uses it for other purposes which are not an effective, reasonable use, and not in the community interest.

The problem is that our expanding population must live somewhere. If they are going to move into rural areas, is there then to be Federal land use planning to assure that prime agricultural land be reserved and only the nonprime land will be used for housing developments. How does one get at this problem without exposing a countervailing problem of land use planning?

I presume that the National Association of County Executives, the National Conference of Mayors, and others representing urban and suburban populations would object to any Federal provision which would alter the zoning suburban and urban areas increasing density in certain portions of the city or suburbia where local zoning laws currently apply. I have been contacted by other groups such as the National Grange and the League of Women Voters who urge the passage of this measure.

I think the question each of us must ask ourselves is: "Is this bill going to provide answers to the preservation of farmland in this country?" I wish I could tell each of you that the answer to that is an emphatic "Yes." However, I must say that it is not. The General Accounting Office on September 20, 1979, issued its report, "Preserving America's Farmland—A Goal the Federal Government Should Support." However, you will look hard in this bill to find any provision that calls for Federal compliance with farmland preservation standards. There may be amendments offered, and I am sure that questions will be raised when they are offered as to whether they are substantively going to require Federal compliance or whether they are mere window dressing for Federal compliance.

Meanwhile, the U.S. Department of Agriculture is currently conducting a study and has held hearings throughout the country within the last year concerning the issue of farmland preservation.

In addition, the General Accounting Office issued its report on December 14, 1979, discussing Federal Government authority for the acquisition of $4 billion of additional private land during the next 11 years. Now, admittedly, this acquisition is mainly through the National Park, Forest, Fish and Wildlife Services, but those acquisitions impact on private landowners, and the GAO was recommending that the Secretaries of Agriculture and the Interior critically evaluate the need to purchase additional lands in existing projects. I do not question for a minute that the Federal Government is one of the principal acquirers of farmland in the United States in one form or another through its highway systems, its defense installations, et cetera.

In conclusion, I point out to you that this bill presents something of a dilemma. I urge you to listen attentively to the Members who will argue both the benefits of this bill and the dangers involved in its enactment. There may be a panacea to the problem we deal with here today. I doubt that this bill is it, but on the other hand, it may be better than no bill at all. You will have to judge for yourself after listening to the arguments and looking at the bill as it perhaps is amended in the course of its consideration by this body.

□ 1820

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the committee for bringing this bill to the floor. I do not have the apprehension the gentleman from Virginia (Mr. WAMPLER) seems to have about this legislation. I am happy to be a cosponsor of the legislation and hope that it will be overwhelmingly passed.

Mr. Chairman, every day 12 square miles of American farmland are converted to nonagricultural use—representing a loss of over 3 million acres per year. In the course of the past decade, an area the size of the States of Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, and Delaware combined has been converted into new housing, factories, shopping centers, highways, water reservoirs, and other uses.

This loss has touched every corner of America: New England has witnessed the disappearance of half her farmland. The Midatlantic States have lost 22 percent of theirs, and even the vast Midwest has suffered a loss of 9 percent of its prime cropland.

Mr. Chairman, according to the U.S. General Accounting Office and the Soil Conservation Service, only 35 million acres of the potential cropland remaining in the United States could easily be put into production without expensive treatment to correct its soil, water, and slope deficiencies. However, this assumes that the effective landowners would be willing to grow crops where there are now pastures and woodlots. At the present rate of farmland conversion, America's cropland "frontier" could be closed within another decade.

During the 1950's and 1960's, very few people considered that the ongoing loss of farmland would pose a serious problem. Due to favorable weather, new technology and hard work, the American farmer continued to produce record yields while actually reducing the amount of farmland under cultivation.

Moreover, the Government continued to pay farmers not to produce or plant so as to avoid a further glut on the market caused by years of record surplus.

But as the 1970's wore on, rising world demand caused American farmers to bring more available acreage back into cultivation and the Federal Government temporarily suspended its farmland set-aside programs. It dawned on many that the loss of private agricultural land could represent a serious threat to continued high production levels of American agriculture. We need to study this problem and to arrive at considered, deliberate solutions. That is why I have cosponsored this legislation. And I urge my colleagues now to join me in support of H.R. 2551.

Mr. Chairman, it is important for all of us to understand what this measure does not do, as well as what it hopes to accomplish. This bill contains some vital limitations: It expressly prohibits the Federal Government from regulating the use of land; it expressly prohibits the Federal Government from purchasing any interest in land; it expressly prohibits the Federal Government from abridging private property rights; finally, it prohibits the Federal Government from infringing on the rights and responsibilities of States and local governments with respect to the management of their land. In short, H.R. 2551 places the emphasis on State and local initiatives to preserve farmland, while respecting private property rights. In no way can this act be construed as a blueprint for eventual Federal control over America's agricultural land.

What does this bill do? The bill would create a Presidential Study Committee to determine the quantity, quality, location, and ownership of "prime agricultural land" and to examine the effects of competition between agricultural and nonagricultural demands for land, water, and energy. At the end of 4 years, the committee would report its findings and recommendations for safeguarding our prime agricultural cropland. I emphasize to my colleagues that the Committee would have no power to issue orders concerning the use of any particular portion of land and in no way would it constitute a national zoning or land use agency. More specifically, the Agricultural Land Protection Act would:

First. Require the Secretary of Agriculture to conduct a comprehensive study of the factors affecting the conversion of agricultural land to nonagricultural uses. The study report would include an in-depth analysis of the impact of Federal actions on the conversion of agricultural land;

Second. Direct the Secretary to gather information on the quantity, quality and ownership of the Nation's agricultural lands and make it available to State and local governments to assist them in making responsible decisions involving agricultural land;

Third. Establish demonstration programs and authorize the Secretary to make grants to State and local communities on a 50-to-50 matching basis to test methods for protecting farmland; and

Fourth. Authorize the Soil Conservation Service of the USDA to provide technical assistance to State and local units of government pursuing methods for protecting farmland.

Mr. Chairman, the Presidential committee would gather information about the problem; it would simply direct Federal agencies to establish and adhere to their own policies for protecting prime farmland and mandate close cooperation with State and local governments for programs of farmland protection. Already growing numbers of States and local governments have passed laws in this area and my own State of Illinois is now considering such legislation.

Mr. Chairman, a number of prestigious organizations have joined in support of this bill, among them the National Farmers Union, the National Grange, the National Family Farm Coalition, the National Association of Conservation Districts, the National Conference of State Legislatures, the National Association of State Departments of Agriculture, the Natural Resources Defense Council, the League of Women Voters of the United States, and the National Wildlife Federation.

In my own State of Illinois, which has 29 million acres of farmland—amounting to almost 82 percent of the State's total area—the preservation of agricultural land is obviously a matter of vital concern. According to a recent Harris poll, 53 percent of the Nation's population consider the loss of good farmland to be a serious problem worthy of Federal attention and study. The Agricultural Land Protection Act which I support provides a modest and sensible method for determining how best to preserve my State's—and our Nation's—most vital natural resource, its prime agricultural lands.

Mr. FOLEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. NOLAN), the chairman of the subcommittee.

Mr. NOLAN. Mr. Chairman, in the last 10 years we have poured concrete over 30 million acres of farmland. That is more cropland than presently exists in the State of Iowa. Land that can never again grow food for our hungry world.

In the next 20 years, world population is expected to increase by 50 percent, while we lose another 60 million acres of farmland.

American agriculture has made tremendous strides in improving food production yields over the last 20 years, but not without cost. Farmers used an average of 21 pounds of petroleum based fertilizer in 1950. By 1970, fertilizer use increased to 143 pounds—a 570-percent increase. Machinery use increased by 68 percent. From 1910 until the present, the fossil fuel energy needed to produce food has risen from nearly zero to a ratio of 9 energy units to 1 food energy unit. Today's energy crisis will likely diminish rather than increase use of these improvements, meaning that more land will be needed to meet food production needs.

The immediate problem is the direct displacement of 3 million acres per year of productive agricultural land by housing, office buildings, factories, commercial development and public works projects. In addition to these direct losses there are often spillover effects for nearby farms, and agricuiltural support services, as well as social, economic, and lifestyle changes for nearby rural communities.

Most States have recognized the value of retaining agricultural land but have been unable to effectively deal with the problem. For example, 42 States have preferential tax assessment statutes intended to keep farmland in farm use. However, preferential tax assessment, although helping farmers, has not been effective in protecting farmland. A recently completed report to Congress by the General Accounting Office entitled "Preserving America's Farmland—A Goal the Federal Government Should Support" concludes that existing State and local protection techniques have had limited impact on the loss of farmlands.

Even with the attention of the State and local level to agricultural land protection, America is still a long way from solving the problem. Of the 15 States producing 86 percent of our wheat, only 1, California, has a State farmland protection program. Of the 15 States that produce 91 percent of our corn, only 1, Wisconsin, has a State farmland protection program. There is a need for more of these programs to insure future maintenance and productivity of our agricultural lands.

H.R. 2551 vests the Federal Government with a strong supporting role in assisting States and local units of government to deal with the problems of conversion of agricultural land to nonagricultural uses. The Federal Government has an obligation to provide such support to States and local units of government if the loss of our Nation's farmland is to be effectively and appropriately addressed. At the same time, H.R. 2551 vigorously supports the traditional authority of State and local governments in making public interest decisions concerning the use and disposition of agricultural land.

H.R. 2551 will provide State and local governments with comprehensive, current, and reliable information on all issues affecting cropland conversion and various methods of retaining this land in agricultural use. In addition the bill is designed to stimulate new and innovative farmland preservation techniques at the State and local level, and to encourage Federal agencies to be more sensitive to this problem and more sensitive to State and local efforts to preserve farmland.

As chairman of the subcommittee responsible for this legislation, I want to assure you this matter has received very thorough consideration.

Subcommittee hearings were first held in June 1977 on the subject of the loss of agricultural land. Since that date, over 200 witnesses have testified in subsequent hearings on the need to protect farmland from conversion. Over 300 of the Nation's newspapers have recently carried stories on the problems of agricultural land loss, many with editorials calling for legislation. In a recent Louis Harris poll commissioned by the USDA, 53 percent of the national sample said they considered the loss of good farmland to be a "serious" issue.

By enactment of H.R. 2551, we can begin to stimulate the voluntary efforts of State and local governments to bring this problem under control before we face a national emergency. I urge your prompt support. Thank you.

AGRICULTURAL LAND PROTECTION ACT, H.R. 2551

1. Why should the Congress enact H.R. 2551?

The U.S. loses over 3 million acres of agricultural land each year and this loss has been accelerating since 1942 according to USDA. Agricultural production peaked in 1972. Our ability to increase production through additional technology appears to be leveling off and is threatened by scarce and expensive energy and water, and higher transportation costs.

Much of the agricultural land "reserve" of approximately 100 million acres is forestland or pasture, is in need of irrigation or expensive treatment, or presently not suitable for farming, according to the General Accounting Office.

Continued farmland loss has serious implications for our ability to produce food at reasonable cost for both the export market and domestic consumption. Agriculture as an economic enterprise is threatened in many areas. The family farm is often the first to feel the pressure for agricultural land conversion.

The U.S. will need additional productive capacity and land for alcohol fuels and gasohol production to enhance our energy independence and national security.

A recent Lou Harris public opinion poll showed that 53 percent of the nation's population consider the loss of good farmland to be a serious problem.

2. What is the role of State and local governments under H.R. 2551?

State and local governments alone have responsibility for developing and carrying out agricultural land protection programs in cooperation with land owners. The programs they adopt under H.R. 2551 would be of their own choosing. They would be supported by matching, demonstration grants authorized at $60 million over a three-year period. Demonstration projects are completely voluntary and would result in testing new approaches or improving current ones. State and local officials would decide and might use improved tax incentives, agricultural districts, development rights transfer or purchase, new approaches to easements or other approaches. Most importantly combinations of improved or new approaches could be tested for the first time. No more than two projects using the same method could be funded, so as to encourage the development of a variety of approaches.

3. Will H.R. 2551 result in Federal control?

No. To the contrary, the bill places all responsibility at the state and local level. It would strengthen state and local efforts by improving current methods or developing new ones. An amendment offered during floor debate, would require federal actions to be consistent with state and local farmland programs, adopted and approved by state and local elected officials.

Section 302 would expressly prohibit the federal government (on its own behalf or through requirements imposed on state and local governments) from regulating or restricting private property rights, or infringe, diminish or increase state and local government authority.

4. What role will farmers play under H.R. 2551?

Experience has shown that no county, local or state agricultural land protection program can be effective without the strong support of the agricultural community. Those states and local governments that have taken action to protect farmland have done so with the approval and involvement of farmers, both in the development and implementation of their programs.

5. How does the administration's national

agricultural land study (NALS) relate to H.R. 2551?

The first National Agricultural Land Study report will be completed this summer, but will not show new or improved methods for protecting farmland. The current study includes the quantity and quality of farmland lost, current state and local programs, and the economic impact of continued farmland loss. The current study will not result in the development of improved state and local approaches as would H.R. 2551. But the information available between now and next summer will benefit state and local officials developing demonstration projects.

6. What would the national study contained in H.R. 2551 do?

The National Study provided in Title I of H.R. 2551 would authorize USDA to further study farmland losses and:

Report on the results of the demonstration projects in testing new or improved methods, and provide information to state and local policy makers throughout the nation for their use in developing their own programs.

Identify in detail the effects of current federal programs resulting in farmland conversion and recommend procedures for assuring compatibility with state and local farmland protection programs.

7. Could land be purchased by the Federal Government or State and Local Governments with funds authorized by H.R. 2551?

No. Federal funds under H.R. 2551 either directly or through grants could not be used to buy land nor any interest in land. (Section 302(b))

8. Are current State programs doing the job?

Most states which have addressed the loss of farmland have differential tax programs which have not been doing the job, according to the National Conference of State Legislatures; the GAO; and the President's Council on Environmental Quality Report, Untaxing Open Space. In most states this is the only method presently in use. Farmland is still being lost at an accelerating rate of over 3 million acres per year. H.R. 2551 would attack this national problem through state and local action to improve known methods and develop and test new ones.

9. Who supports H.R. 2551?

Over 60 cosponsors.

National Association of State Department of Agriculture.

National Association of Counties.

National Farmers' Union.

Natural Resources Defense Council.

National Conference of State Legislatures.

The National Grange.

Wildlife Management Institute.

National Wildlife Federation.

National Association of Conservation Districts.

National Family Farm Coalition.

League of Women Voters of the United States.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Chairman, I rise in support of the bill H.R. 2551. I have joined in cosponsoring this legislation, and I would just like to make a few brief remarks concerning the importance of an adequate supply of farmland to our Nation's economy.

In my home district, which is principally an agricultural one, farmers are very concerned and alarmed by the continuing loss of productive farmland. I sense also a growing national concern regarding this mater, realizing that agricultural commodities make a substantial economic contribution to our country's welfare. I think most people would now agree that income from agriculture is the only source of "new wealth" in any economy. A noted agricultural economist recently stated that, "real money is coined by agriculture" as raw materials travel through economic channels producing a multiplier effect.

It is vitally important today that the Members of this body consider the legislation now before it in the proper context. This bill is not a prelude to pure Federal land use planning, or an unwarranted duplication of existing efforts. Nor, is it an unnecessary and excessive expenditure of Federal funds. The fact is, there is a clear and present threat of danger in the rate at which agricultural cropland is being converted to nonagricultural uses, and if Members fail in their duty to recognize the need to neutralize the threat and avert its danger, our current dependence on foreign oil and the crisis that now exists in the Middle East are only matters of history and do not merit any real concern. But the Members of this body know that there is great cause for concern. Due primarily to a world shortage in energy supplies, nations are now moving along the dangerous path of global military confrontation.

At a much earlier point, not just in the history of our Nation but in the history of man, a time when the principal concern of all men was food and shelter, we learned that our continued existence would forever depend on an adequate and constant supply of food. Finally however, some of us became free to engage in other pursuits, when agricultural technology advanced to a stage that permitted one man to supply his need and yet retain a surplus. Today, we are told that there are genuine doubts as to whether increased farm production through technology will sustain increasing food demand. And this news comes at a time when 3 million acres of productive cropland is being lost on an annual basis. Though I would prefer to see this loss come to a screeching halt, I realize as I am sure many of the Members do, that the problem did not appear overnight and certainly cannot be solved instantly. Therefore, I have endorsed the legislation now before us because I think it is a reasonable and necessary approach to the development of positive restraints on farmland conversion, and I certainly hope the Members of this body will act wisely and support this legislation.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. DE LA GARZA), the vice chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I rise in opposition to H.R. 2551, the Agricultural Land Protection Act.

As a member of the committee, I am deeply concerned about our Nation's agricultural land and immensely interested in protecting it for future generations.

The 15th Congressional District of Texas has always been an agricultural area devoted in great part to family farms and ranches as well as large landholdings devoted to farming and ranching.

As a nation in this time of trouble, we should all be worried about the Nation's agricultural land loss. Food and fiber are our most essential needs and would obviously be the most essential in time of war.

I commend the gentlemen who have sponsored this piece of legislation for their intended purpose; that is, keeping close tabs on issues relating to the conversion of agricultural land to nonagricultural uses and conversion into Federal land by Federal agencies. However, I do not believe that this piece of legislation would accomplish this task for the following reasons:

First. Almost every State and local unit of government have ongoing programs to monitor these particular issues at present. If anything is needed at this time it is an overall examination of these programs and their effectiveness.

Second. At present, the USDA and the President's Council on Environmental Quality are conducting just such an evaluation. The results will be published in January 1981. Should we therefore authorize legislation of this nature at this time? I think not.

Third. Government control of our Nation's land use should in fact remain at State and local levels with support from the Federal Government through its own ongoing programs such as USDA's and only in guiding and assisting the State and local efforts to retain our Nation's farmlands.

Fourth. We cannot afford it.

For these reasons, Mr. Chairman, I oppose the enactment of this bill and would ask my colleagues to vote against this bill.

Mr. WAMPLER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Chairman, H.R. 2551, the Agricultural Land Protection Act, is a bill whose time has come. As a Member of the House Agriculture Committee and as a cosponsor of the legislation, I believe that this legislation addresses a concern faced by all of us—whether we represent urban, suburban or rural constituencies. Very simply, America is losing its farmland reserve. The natural extension of that trend is the loss of food production for both domestic and foreign consumption. The accompanying decrease in our balance of trade is a decrease we can ill afford.

H.R. 2551 would establish internal Federal policy concerning the protection of agricultural land, it would create a Study Committee on the Protection of Agricultural Land, and it would set up a demonstration program designed to test methods of protecting agricultural lands. The ultimate goal is the development of a successful program to reduce the rate of land conversion.

The role of the Federal Government vis-a-vis State and local governments is that of a support role. The Federal Government may provide up to 50 percent of the cost of developing and testing agricultural land protection programs, but no Federal funds may be used to acquire land. The Federal Government will provide State and local governments with up-to-date comprehensive information on cropland conversion issues and tested programs used succesfully elsewhere. In addition, new preservation techniques and model programs will receive Federal support.

The scope of the problem underscores the need for legislation. The United States loses 20,000 acres of its agricultural land base each week, according to Soil Conservation figures. At this rate, American cropland available for production with a minimum of investment and without serious environmental damage will be nonexistent within another decade. When that point is reached, only land now considered marginal will be available for new production to replace high quality land.

My State of Massachusetts is a prime example of the problem. In the span of 4 years, from January 1975 to January 1979, the decline of farmland in Massachusetts was 3 percent or 20,000 acres—11th in a ranking of percentage losses by States.

Even so, Massachusetts has at work two conflicting trends. Although the Commonwealth is losing significant farmland acreage to development, local farmers markets have grown in popularity during the past two summers spurred by people's interest to buy "Massachusetts Grown" products. In an area already dependent on foodstuffs imported from other regions of the country, I see the growth of farmers markets and the encouragement this provides to our local agriculture industry as a plus. Thus, any significant loss of cropland is particularly distressing.

However, there are encouraging signs. Recognizing the problem earlier than some States, Massachusetts has acted. Since 1973 the Commonwealth has had in effect a local property tax program whereby farmland is assessed at its agricultural value rather than its market value based on development potential. The Massachusetts commissioner of agriculture has said that without this change, all the agricultural land in the eastern portion of Massachusetts would have been lost by now.

In addition, the December 1977 enactment of the development rights purchase program has real potential. It provides for the Commonwealth to pay a seller of agriculture land the difference between the value of the land in agriculture use and the market value of the land in exchange for a permanent restriction on use of the land for agricultural purposes. The first purchase agreements under the new program are now underway. State officials report that this will be an effective mechanism to stem the loss of agricultural land. Once farmland is converted to other development, it is irreversible. This program addresses that reality.

The nationwide impact of lost cropland is felt across our economy and internationally. One out of every three U.S. farmland acres grows food for export. In the past 10 years, U.S. food exports to the world have tripled. In addition to addressing a humanitarian concern of feeding the world's hungry, our agriculture exports provide a plus in the critical balance-of-trade figures. The agricultural trade surplus reached record proportions in 1979 at $15.8 billion, offsetting nonfarm trade deficits. The United States must retain strong agriculture exports.

The case for passage of H.R. 2551 is ironclad. I urge my colleagues to vote in favor of this legislation. Our children and our children's children will be the true beneficiaries.

Mr. WAMPLER. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, there has been a lot said about this bill in the 2 years that it has been discussed in the Committee on Agriculture. The first time, 2 years ago, it did not get to the floor, but this time it did get out of committee in different form and has now come before the Whole House.

I have had a great deal of interest in the bill as the ranking minority member of the Family Farms, Rural Development and Special Studies Subcommittee. I have given it serious consideration.

I rise in opposition to the bill, not because of any opposition to trying to do something about the problem of the conversion of agricultural land to nonagricultural uses—but because this bill is not what it purports to be. It will do little to protect agricultural land. The heart of the bill as far as its proponents are concerned is the authorization for demonstration projects to cost some $60 million in the next 3 years. Such an authorization is premature at best, and should not be considered until the ongoing study being conducted by the U.S. Department of Agriculture and the Council on Environmental Quality is completed at the end of this year, and provides us with some substantive indication as to whether such projects would be helpful or necessary.

Mr. Chairman, I would like to address some other points that I have not talked about, following the train of thought that I left with the Members during the debate on the rule on this bill. At that time I said that the only protection for agricultural land that is in this bill is that which is in the title.

I heard during that debate my colleague, the gentleman from Iowa (Mr. TAUKE), tell us how necessary it is for us to protect agricultural land. I agree with that. The gentleman mentioned that he saw outside of Dubuque agricultural land being consumed year after year.

☐ 1830

But to my colleague from Iowa I would say that there is nothing in this bill that is going to stop that.

I heard him say that he has watched attempts by the State and local governments in our State do something about it to no avail, and I would like to say that Black Hawk County in my district has a program for the protection of agricultural land that works and has worked for a considerable number of years. It has not been necessary for the Federal Government to intervene to accomplish that. But there is no protection of agricultural land in this bill because the original title I of this bill the Federal accountability section has been stricken. In its place has come a sentence directing the Secretary of Agriculture to "develop, gather, and make available such information as may be necessary to allow States and units of local government to make informed decisions concerning agricultural land."

I think the concern about the State and local governments may be misplaced because the problem is this simple: The Federal Government, through its policies, through its expenditures of money around the country on various and sundry programs, has promoted the consuming of prime agricultural land by concrete, by buildings, and by many other things. The problem is not State and local governments. The problem is the Federal Government itself.

We Members of Congress, being a part of the Federal Government, having nothing to do with State and local governments, ought to, by and of ourselves, be able to solve a problem that the Federal Government causes without resorting to land-use planning, without the queries about intervening with State and local government, because we are the cause of the problem—the Economic Development Administration, for instance, extending sewerlines beyond the boundaries of a city, causing industries to be built on prime agricultural land, or the Farmers Home Administration bringing a rural industrial development park on prime agricultural land. That does not deal with the subject of land-use planning. That does not deal with the subject of preserving private property rights. That does not deal with the subject of State and local government involvement with prime agricultural land or land-use planning. That is a problem caused by the Federal Government and that you and I can solve and if you and I cannot solve it no other bill we can pass is going to solve it.

So if we are interested in preserving prime agricultural land and the General Accounting Office, through their reports, and the National Association of Conservation Districts, through their testimony to our committee on this bill, say that the Federal Government is the main culprit, why do we not zero in on that problem and solve it and not have some smokescreen legislation that is going to divert attention from the main problem and spend a lot of money in the process?

Mr. Chairman, I would ask the leaders in this area in this Congress to get to the source of the problem and not divert attention from it.

Mr. FOLEY. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I rise to offer an amendment to H.R. 2551, the Agricultural Land Protection Act of 1980. My amendment defines the nature and extent of the Federal Government's commitment to and involvement in the preservation of our Nation's precious farmland. It is supported by the National Association of Counties, the National Conference of State Legislatures and the National Farmers Union. It is essential to a meaningful effort to address this serious problem that we establish a policy to guide the actions of the single largest converter of agricultural land to nonagricultural uses—the Federal Government.

My amendment states that it is the policy of the Federal Government to encourage cooperation with State and local government for the purpose of preserving our Nation's agricultural land. It directs the use of existing procedures for notifying and consulting with State and local government regarding Federal actions likely to result in the loss of agricultural land. It requires that such Federal actions be consistent with the agricultural land preservation efforts of local and State government. Finally, it limits standing to challenge such Federal actions to those State and communities directly affected.

As my colleagues on the House Agriculture Committee are well aware, the question of defining Federal policy in this area was one of major concern and debate in the consideration of this measure during markup. The legitimate concerns that were expressed reached from one extreme to the other. There were those who argued strongly for greater accountability on the part of the Federal Government; who proposed measures ranging from a complete review and rewrite of existing Federal rules and regulations to the implementation of a new procedure for assessing the impact of all proposed Federal actions on agricultural land conversion. On the other hand, Mr. Chairman, there were those who quite forcefully argued that such measures would tie the hands of the Federal Government and lead to endless litigation, paperwork, and increased Federal bureaucracy. In the end the latter argument won out and the committee voted to eliminate the provisions I just mentioned.

In doing so, however, the committee also eliminated any requirement for Federal accountability for its actions resulting in agricultural land conversion. In effect, the bill we have reported to the House is essentially a study and demonstration bill. If we are serious about preserving our Nation's agricultural land we must address ourselves to the problem of requiring the Federal Government to be accountable for its actions. But we must do so in a responsible manner, utilizing existing procedure and limiting the potential for creating insurmountable obstacles to Federal action.

Throughout this debate, it has remained clear that the underlying objective of all parties is essentially the same—to meaningfully address the fundamental problem of the loss of our Nation's most precious and vital resource, its farmland. There is an overriding realization today that the seemingly boundless frontier of yesteryear is no longer a reality and that the land upon which we depend for sustenance and life is a finite resource that must be preserved for ourselves and for humanity. It is this realization that brings us together in support of the idea behind this legislation.

The manner in which the Federal Government will address itself to this problem is the essential issue that we must resolve today. The two fundamental principles that set the boundaries for our actions are the strong constitutional prohibitions against federally imposed land use restrictions over States and localities and the national interest in preserving our Nation's farmland. We must, therefore, adopt a policy to preserve agricultural land and to insure that Federal actions are consistent with the land preservation practices and policies of State and local government. That is precisely what my amendment seeks to accomplish.

It states a policy of cooperation, notification, and consultation with State and local government on all Federal actions likely to result in the loss of agricultural land. By stipulating that this notification and consultation shall take place via the procedure established in the Intergovernmental Cooperation Act we obviate the need for establishing yet another mechanism for reviewing Federal actions.

The Intergovernmental Cooperation Act of 1968, which has been referred to as a mechanism for consultation and notification in other pieces of legislation, is a means by which State and local government influence Federal actions to conform to local objectives. The Office of Management and Budget has, in circular A-95, outlined the procedure for carrying out the purposes of the act. Communities and States throughout the Nation are familiar with and accustom to the A-95 process and will be able to effectively utilize it in exercising their rights under this new legislation.

In addition to requiring that Federal actions be consistent with the agricultural land preservation efforts to State and local government, my amendment provides to the States and localities the right to challenge in the courts the consistence of Federal actions. This provision works both to preserve the legitimate rights of States and communities to seek enforcement of their own agricultural land protection policies, and to prevent litigation brought by those who simply seek another means of blocking Federal activities.

My amendment is a balanced approach to this most difficult problem. It addresses the concerns that have been expressed by most of the participants in the discussion on this matter. While it gives a policy direction to Federal departments and agencies, it also protects the rights of States and localities to make land use determinations. It utilizes existing procedures to avoid costly and burdensome bureaucracy. It provides protection from the kind of obstructionist litigation we have experienced in recent years.

The irreversible loss of prime agricultural land is a problem that has vital consequences for the future of our Nation and the world. Unless we take action now, we will undoubtedly witness in the balance of our lifetimes the further dwindling and destruction of the most precious source of our Nation's real wealth and well-being. We are at a unique moment in history that presents us with the rare opportunity to strike a new balance in our policies. A balance borne of the realization of our obligation to protect and preserve our Nation's food-producing capacity. We cannot shrink from this responsibility. We must take action today. I urge my colleagues to support my amendment to the Agricultural Land Protection Act of 1980.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I rise in strong support of this bill and I commend its sponsor, Congressman JIM JEFFORDS, along with all of the members of the House Agriculture Committee. This is much-needed legislation that will augment the national agricultural lands study to take into account serious issues relating to the conversion of agricultural land to nonagricultural uses.

Since we are a largely urban society, many of us may ask: In a country as big and rich as America, why should we be concerned if the total acreage of agricultural land is declining? The seriousness of the threat posed by current trends of vanishing agricultural land is graphically illustrated by a few excerpts of a series of articles by Washington correspondent George Anthan that appeared last July in the Des Moines Register:

> Every time a baby is born in the United States, agriculture loses 1⅓ acres of cropland. The connection is not direct—it is a mathematical comparison of population and land-loss trends—but it dramatizes a problem: Our population is growing, our available farm land is shrinking, and our per acre crop yields are leveling off.

Anthan goes on to list the following projections for the year 2000 if current agricultural land losses continue and if the Congress persists in ignoring the situation:

First. All food produced in the United States will be consumed here.

Second. Consumer food prices will be pushed sharply upward. This will be a "real" price increase, not just an "inflation" increase.

Third. Food exports no longer will be available to help offset massive trade deficits such as payments for foreign oil. This almost certainly would have a major negative effect on our national economy.

Fourth. The hungry people of other nations will be on their own for food supplies.

Often it occurs to me that one of the primary causes of our Nation's current energy woes was the failure of past Congresses to foresee and alert the American people to foreboding trends with regard to the production, marketing, and consumption of oil in the 1950's and 1960's. Let us make sure that this Congress does not repeat past mistakes.

America's agricultural land is a natural resource of profound national and international importance. This land enables our people to be among the best fed in the world and, at the same time, to generously contribute more than any other nation toward fighting world hunger. Now is the time to plan for the protection and wise use of this precious natural resource. Passage of H.R. 2551 would be a promising step toward that worthy goal.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. Mr. Chairman, I rise in support of this bill.

Mr. Chairman, the United States is losing over 3 million acres of agricultural land each year. In my own State of Georgia 140,000 acres per year of agricultural land were converted to office buildings, shopping centers, parking lots, and industrial parks, between 1967 and 1977. Perhaps another 140,000 acres of farmland were lost each year because of development patterns which isolate acreage and make farming impractical. We cannot afford to wake up 20 years from now and find that we do not have enough farmland to feed our people and others who depend on American agriculture. And we certainly do not want to wake up and find that the Federal Government did nothing to prevent excessive conversion of land from agricultural use and may in fact have encouraged the trend.

This is why we must act now to pass this legislation. The National Agricultural Lands Study and the demonstration projects authorized in this bill will lend States and localities the assistance and support they need in dealing with this problem. The NALS study and the demonstration projects would enable us to not only identify the problems of preventing excessive conversion of agricultural land, but to test new approaches and improve on current approaches to solving this problem.

At the same time, this bill recognizes that State and local governments alone have responsibility for developing and carrying our agricultural land protection programs in cooperation with landowners. The demonstration projects would be funded by matching grants and would be completely voluntary. H.R. 2551 expressly prohibits the Federal Government from diminishing the existing authority of States and local governments and from acquiring any interest in land by virtue of the funds appropriated for the demonstration program. Passage of this legislation will insure that the Federal Government acts responsibly in support of State and local governments attempting to reverse the serious trend of farmland conversion.

We are all aware of the tremendous contributions to this country which have been made by American agriculture. American farmers have succeeded in expanding production per acre to feed all of our people and much of the rest of the world. Agricultural production helps our balance of trade and will play an increasingly important role in energy development. As the share of U.S.-grown crops going abroad has risen from one-fifth to one-third, a record agricultural trade surplus of $15.8 billion has helped to offset the deficit in nonfarm products.

In spite of these successes we will continue to make increasing demands of American agriculture for grain to produce alcohol fuel and for increased supplies of wood to replace our traditional sources of petroleum fuel. To do this we can try to increase the yield of land in production. We can irrigate dryland, we can drain wetland, we can fertilize poor soil, and we can develop faster growing crops. But, we cannot replace the most important factor. We cannot replace the land that is lost to development. I urge you to protect that land and I urge you to support this bill.

Mr. WAMPLER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I realize that the time of the day is late and we wonder somewhat the utility of the general debate at this hour, but I certainly do want to raise some points and to make a dry run on what hopefully may be more persuasive tomorrow.

First of all, I think we all recognize that this is one of the most serious issues facing the country and that what we are dealing with is the basic strength of the country. If we fail to preserve the prime agricultural land, we may not have the same standard of living for the country as we have today.

To emphasize that, I would like to quote from people who appeared before our committee, the members of the Department of Agriculture and, particularly, the first gentleman who appeared, the Assistant Secretary for Conservation, Research, and Education, who brought this very point out. I quote him:

> The retention of America's prime farmlands in production may well be the most important land resource issue to face this Nation now or in the future.

☐ 1840

He goes on to say:

> For many reasons—economic, social, environment—we must place our concern for the future of the Nation's prime farmland at the top of our priority list.

Secretary Bergland emphasized and gave one of the most stirring speeches in favor of the principles involved with the bill and then of course came out, because of OMB's problems with it, in opposition, but he emphasized this.

The GAO report demonstrates how seriously the States had been affected and points out that some States lost over 50 percent of their prime agricultural land.

I would like to turn to a couple of charts. Anyone who just looks at them will recognize that in the very near future we will have a serious problem. The first chart shows that what we have right now with our cropland in reserve, with the green line, and then it demonstrates what our trend is with respect to our needs for domestic consumption and exports.

It is obvious that with the green line going down and the red one rising rather significantly, we are going to have a problem in the mid-early 1980's. If we take and add to that the fact that the population of the world is increasing by 50 percent, we have a serious problem.

One witness testified that between now and the end of the century, we are going to have to produce as much food in this world as has been produced since the beginning of time. He realizes what will happen if we do not have the farmland. Not only will we be unable to take advantage of the tremendous economic advantages that this country can have by increasing our exports, but we will not be able to feed our own people. Another thing that will happen if we do not act is a problem which is occurring all over the country, but in little dribs and drabs. That is the problem of a little loss here and a little loss there. When you add it all together, you come up with millions of acres of loss.

The National Association of Soil Conservation Districts went out and asked people around the country who were involved with these problems about the significance of the problem.

This chart indicates the seriousness of the problem from the public response.

It is obvious that we have a serious problem in the country.

What is going to happen to the country, in addition to the fact we are going to be unable to take full advantage of exports if we do not do something, is the fact that food costs will rise.

If the Members are concerned about inflation; if the Members think the cost of food is high now; they should just take a look at some of the statistics which show the impact when we move from our prime agricultural land to our marginal land.

The cost of production is three times greater on marginal land than it is on prime land. If we are forced off the prime lands by converting them, then you are going to have tremendous increases in food cost in the years ahead.

Fertilizer costs are also increasing. If you go to your marginal land, you have to dramatically increase the use of fertilizers.

If the Members are interested at all in food costs and inflation, they should be more concerned about the future than you are concerned now.

As pointed out, this bill does not do anything dramatic or drastic. Some of us wish it did. I happen to be one of those who believes while we have time left, and we have just about sufficient time left, to get the kind of action at the local and State levels we need, that we should take advantage of it and see if we can solve it as this bill proposes. I think we can. But we can only do it if we provide the kind of coordinated efforts necessary to help the State and local governments to find the answers. The Farm Bureau supported that provision of the bill when they originally testified early last year. They came out and said they liked the demonstration projects. They were in favor of the bill.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

Mr. WAMPLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. So there is recognition that something has to be done. What this bill attempts to do is utilize the time left to find the answers where they should be found, at State and local levels.

It does not do anything to establish national land use planning. I am adamantly opposed to national land use planning and would not support the bill if that were what the bill would do.

I am glad to see the gentleman from California is offering an amendment to strengthen what must be done to bring the Federal Government under control. I support such an amendment to strengthen the bill.

We have time to act.

I hope the Members will support this bill, a modest attempt to do it in a reasonable fashion. As I already mentioned, it is one of the most serious problems facing this Nation.

Thank you, Mr. Chairman.

I yield back the balance of my time.

Mr. DASCHLE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in support of H.R. 2551, the Agricultural Land Protection Act, legislation designed to implement a comprehensive study of the Nation's trend toward diminishing agricultural land. I want to commend the ranking minority member, Mr. JEFFORDS, and the chairman of the Subcommittee on Family Farms Rural Development and Special Studies, Mr. NOLAN, for the leadership they have shown bringing this legislation before the entire body today.

The conversion of agricultural land to nonagricultural uses has posed a serious threat to the welfare of our agricultural community. According to Soil Conservation Service figures, a total area in excess of 3 million acres of agricultural land is taken out of production annually.

H.R. 2551 attempts to halt this trend through a number of different measures to insure that proper consideration is given to the effects of Government policy on this loss of prime agricultural land.

It is because of this trend toward the loss of prime agricultural cropland to urbanization that the provision in this legislation that directs the Secretary of Agriculture to complete an analysis of this problem becomes all the more important.

In addition, this legislation has the foresight to recognize the fact that State and local governments are the best judge of what is needed in their areas by authorizing the Federal Government to participate in demonstration projects with matching funds from State and local governments. These demonstration projects will aim at new and innovative methods of preventing this urbanization of agricultural land.

Finally, this legislation forbids the Federal Government from getting into the business of holding land as a result of the demonstration projects. Not only does it prohibit this, but the authors of the legislation have assured me that projects continuing beyond the conclusion of the demonstration project must obtain funds from non-Federal sources.

Mr. Chairman, the legislation before us today has earned the support of many respected organizations. The National Farmers Union, the National Association of Counties, the League of Women Voters, and the National Wildlife Federation to mention a few, have all given their endorsement to this important legislation.

I urge the committee to act expeditiously and approve this very important piece of legislation.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I rise in strong support of this legislation. I want to commend the gentleman from Vermont (Mr. JEFFORDS) for fighting as hard and effectively as he has to bring this legislation to the floor.

I recognize that the main objection to this kind of legislation arises from those who fear that it is an effort at Federal land use planning.

There seems to be something that automatically frightens people at this kind of a concept, and it is raised in connection with this legislation. Of course, this is not Federal land use legislation or land planning legislation. It is an effort to meet a very serious problem, the diminution of agricultural land, which is going to pose a serious threat to us in the years to come.

There is nothing wrong with land use planning. I would hope that the Members of this body would recognize it is not the planning but who does the planning that is the problem.

I do not personally think that the Federal Government should be involved in making land use planning decisions for individuals or for States or for local government; however, I encourage it, and the House has repeatedly voted strongly for better efforts on the part of the Federal Government to plan the land which it itself controls. This is enlightened stewardship, not authoritarian planning, when it is done by the person who should be responsible, at the State and local level.

From the beginning of my political career, I have been involved in trying to upgrade the kind of land use planning done at these levels, where it is appropriate to do it.

Now let me make just one point in the short time that I have available.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

Mr. DASCHLE. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. The protection of prime agricultural land is important not only because of the vital importance of prime agricultural land to the future of this country, but because the protection of that land forces those who are engaged in urbanization of land and those who control the urbanization of land to do a more effective job of planning for the development of cities and counties, and we have seen this occur in California time after time.

☐ 1850

Today the course of development is to bury your mistakes and move out and take over the next piece of cheap farmland. If you cannot do that, you will be forced to do a better job of planning to use the land that is available in the urban centers. I think this might do more, this kind of legislation, in protecting agricultural land, might do more to improve urban land planning than anything else that this Congress could do.

Mr. DASCHLE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in opposition to this bill. I do so not because there is not a problem. So many speakers have eloquently described the problem of the loss of farmland throughout the United States. But I object to this bill, and I oppose this bill strenuously for two main reasons. One reason is the $64.8 million provided for studies in revenue sharing with State governments. Basically we are sharing moneys we do not have on a Federal level. I find it very ironic that we continue to say that we must solve problems for State and local governments with funds we do not have.

Second, I object to this bill because no matter how you sugar-coat it, in my opinion, this is Federal land-use planning. It is a beginning step, because many of the arguments that I have heard for the small amount of funds, and the fact that we must do these things to assist local and State governments, if we really and truly believe what we are saying in regard to the need for these funds, then we must recognize that this is a small step in the door for what will eventually be Federal land-use planning.

We do have a problem with the loss of farmland. No one can argue with that. But, in my opinion, the best place to start solving this is at the local level. I do not in my district or in the State of Texas yet hear a hue and cry from those local people that have demanded this of us from a local property owner standpoint.

So I will object to this bill and I hope that my colleagues will join in opposition to the bill and save this $64.8 million. But, better yet, stop us from beginning Federal land-use planning.

Mr. WAMPLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I rise in support of this legislation. It seems to me from the speakers I have heard here that it somewhat depends upon how close you are to the problem as to how much you think the problem is really of concern to the Nation.

I agree with much of what has been said here about the need to preserve crop land, but I think there is something more important, there is something needed here from the Federal Government to encourage individuals to keep their farms. In large part, the Federal Government has moved us in exactly the opposite direction over the years, and individuals are being encouraged to sell their farms for development, particularly close to urban areas. I think we need a commitment to those individuals to say that the Federal Government is going to begin to turn things around, and that is what this bill represents.

It breaks your heart up in my area to see the Amish community in my area try to bid together as a group to keep a developer from taking a prime farm and not be able to afford to do so because of the taxes the Federal Government imposes. I think it is high time we recognized the Federal Government is part of the problem, as even the opponents to this legislation admit, and say it is time the Federal Government made a commitment in the other direction. This bill makes that kind of commitment, but it leaves it to the State and local governments as to how they are going to protect the land, not only from residential and industrial encroachment, but also from Federal controls.

Also I think we have to take cognizance of the fact that the Federal Government should look at what the public is saying. In a recent Lou Harris poll 53 percent of the public were saying that they think good farmland is being eaten up and that something should be done. So the first step is to find out just how extensive the problem is, find out where the problem is and where it occurs most seriously, and what tools are available to local and State and the Federal Government to deal with it.

That is what this bill is all about and I think it deserves our support.

Mr. WAMPLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. ERDAHL).

Mr. ERDAHL. Mr. Chairman, I rise in support of this bill. I admit that it is not perfect, we have heard that today, but then I guess few bills we try to pass are.

This bill is dealing with a very real problem. I want to recite the statistics we have heard about agricultural land, prime agricultural land being paved over, built over, taken out of production forever. It was not too long ago as our forebears came to this country they found forests that could never be depleted, they found mines that could never be dug out, and they found oil wells that could never be pumped dry. Yet we have come to realize in the last couple of decades that we do live in a world with finite resources.

Certainly one of the most precious resources we have in this country is our prime agricultural land. I think we recognize that the wealth of this country is not found at Fort Knox; it is in that fragile 8 and 10 inches of topsoil we find in our fertile farms from coast to coast and from border to border in this great Nation.

So I hope we do have bipartisan support for this bill. We recognize, I think, while there is some reservation in even my mind, it deals with the proper concerns of local and State authorities, and I urge support of the bill.

Mr. DASCHLE. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Chairman, I commend the chairman of the Committee on Agriculture for his efforts in supporting the bill, and also the gentleman from Vermont (Mr. JEFFORDS) for his work for over 2 years.

Mr. Chairman, I rise in strong support of this legislation. Since we first started working on this legislation in 1978, the situation has worsened. The time to act to preserve what remains of our Nation's farmland is now.

In Hawaii, development is a fact of life. The economic gains the State enjoyed have resulted from commensurate industrial growth. The growth in the tourist industry in the last 10 years has been dramatic, and we can expect continued growth in the future. The State depends, to a large extent, on this industry and the continuing development that is part of it. However, in Hawaii, we have long been proud of our agriculture as well. In my State, 62 acres is a huge amount, and many vegetable farmers subsist on what seems to the mainland observers to be tiny acreage. Development and agriculture are often at odds, and it is agriculture that too often loses. This bill would go a long way to restoring that balance.

Between 1967 and 1977, 6,000 acres per year of agricultural land were converted to urban, builtup, rural transportation and water. Of this amount, 2,000 were prime farmland before conversion. Again, this is a State where land is counted in single acres and not hundreds or thousands. On the Island of Kauai at this moment, 10 farmers stand ready to divide a parcel of 62 acres. This land was previously owned by a developer, and public outcry against a rezoning of this land from agricultural to developmental stopped the loss of this land. The reason why these 10 farmers place such great stock in 6-acre plots is that there is no other choice. Land comes at a premium, and the chance to farm their own land may never come again. This is the situation that the bill is aimed for.

This bill serves notice that the Federal Government recognizes the serious implications caused by loss of farmlands and that the Federal Government is to take proper steps to gather information, provided for demonstration projects and set limitations on the role of the Federal Government and permit State and local governments to participate in agriculture land protection in their jurisdiction.

Gentlemen, we will hear arguments today that this bill is too expensive in these times of fiscal restraint. I do not believe that we can do anything more expensive than to allow our agricultural lands to disappear.

Let us do something substantive about our disappearing agricultural land and pass this bill.

Mr. DASCHLE. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Chairman, I rise today to voice my strong support for H.R. 2551, the Agricultural Land Protection Act. As a cosponsor of this important legislation, I applaud the efforts of the House Committee on Agriculture to bring this bill to the floor, and I urge my colleagues to offer their full support to this effort to preserve American farmland.

The current data on the loss of prime agricultural land in our Nation is deeply alarming. National estimates indicate that about over 1 million acres of prime farmland is lost each year to development activities, and can never again be returned to productive agricultural use. This trend is particularly disturbing in the Northeast, where skyrocketing development values often force farmland owners to sell their property for conversion to commercial or residential use. With the reserve of prime farmland rapidly dwindling, we cannot act too quickly to halt this uncontrolled development process.

The legislation before us today offers a sound approach to the problem of farmland preservation. H.R. 2551 authorizes $60 million in demonstration grants over a 3-year period to support State and local experiments in agricultural land protection. The bill also continues and expands upon current Federal studies on this serious problem, without blocking an appropriate response to the problem in this Congress. Finally, the legislation includes the necessary protections to insure that Federal support does not infringe upon State and local control of land use, or State and local rights and responsibilities regarding current property rights.

As a Representative of the State of Connecticut, the Agricultural Land Protection Act is of special interest, because it responds to a challenge which the State has already addressed in innovative legislation enacted by the Connecticut General Assembly. Using an approach based on the purchase of development rights to agricultural land, one of the main options provided for under this Federal legislation, the State of Connecticut has now provided revenue bond financing totaling $7 million which promises to save as many as 5,000 acres in the State from nonagricultural development. Under the guidance of an advisory board, and relying on a land use appraisal system already in place in the Connecticut Department of Environmental Protection, this new Connecticut law offers an exciting solution to farmland preservation which is being viewed by other States as a model for application across the Nation.

Mr. Chairman, our agricultural production serves as the backbone of our national economy and our national heritage. The bill before us will insure that the economic forces of the future do not obscure the past, and that we will not face a heavy reliance on imported food in 1990 as we now face a dependence on foreign oil in 1980. I am proud that Connecticut has offered some leadership to the Congress in this important area, and I enthusiastically endorse the proposal of Mr. JEFFORDS and the Agricultural Committee in moving forward to preserve our agricultural lands for the coming generations.

☐ 1900

Mr. WAMPLER. Mr. Chairman, I yield the remainder of the time to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Chairman, I rise in strong opposition to the bill. I do not do so because I think it is some insidious Federal plot to impose authoritarian land use planning on the country. As a matter of fact, the bill is pretty innocuous. It is a little study and experimental demonstration money. I do not think anybody can quarrel with this, but

I tend to be a believer in Bert Lance's view of public policy, which says, "If it ain't broke, don't fix it."

I would suggest, after listening to the debate and reading the material on behalf of this measure, that I do not think the committee has proved the premise established, that somehow we are running out of farmland and we need to even initiate the beginning of a program to deal with the problem.

As a matter of fact, I find the situation rather ironic. Here we are today, this week, with a bill on the floor from the House Agricultural Committee premised on the view that farmland is inexorably being exhausted, disappearing; the studies in the committee tend to show that we are going to have a farmland shortage. But next month or the month after we are going to have a wholly different bill from the same committee which will propose action for set-asides on feed and feed grains on the grounds that we have an excess, a surplus of farmland, and therefore we need to deal with that situation.

I know the answer that the committee will give me is that, "You are confusing the short run with the long run. Yes, we have a surplus of acreage today, but that is only a temporary condition, and in the long run we have got to take these protective and preventive steps."

But I would like to remind the Members that the long run is nothing more than a sequence of short runs, and for the last 40 years the condition in the agricultural sector has been that we have had an excess or surplus of farmland despite all this farmland that has been paved over; despite the steady encroachments of developers which remains persistently. We have had excess acres, and that is why we have had to have a farm bill every couple of years, and farm profits are much higher than 40 years ago, and real prices are lower. Why does this happen? The answer provides the key to understanding why we do not need this legislation. The answer is that we have had this persistent surplus in the last 40 years, despite the 3 million acres disappearing every year, because technology has changed. Fifty years ago we used 100 million acres a year to grow fodder, to feed draft animals. The draft animals have disappeared. The land is opened up to produce corn for human consumption. The fact is that in yields for this year we are going to produce a huge amount of corn—8 billion bushels on 70 million acres of land, a yield of 100 bushels per acre. If we had the yield in effect 30 years ago, we would need 200 acres to produce the same amount of corn, but the yields have steadily increased over that time.

Third, what has happened? What is considered prime farmland is not some inherent-given quality of land, but changes with changing conditions of technology. In the Imperial Valley today they produce half a billion dollars worth of farm goods every year when that area gets 2 inches of rain. If one would have gone back to 1900 and asked people to classify farmland, they would never have considered it because it was a desert.

The point I am trying to make is, to balance the merits, we do not know what the demands of technology will be. We do not know what changes of physiology there will be. We do not know what the trend in yield increases will be, but it will probably continue to grow. If we put all these things together, there is absolutely no case to be made in a finite, physical sense that we will be running out of farmland whether it is the year 2000 or any year thereafter.

I would suggest that before we launch into a new responsibility for the Federal Government, launch into a program based on a premise that has not been proved, that we ask the sponsors of this bill to prove the premise, because they have not.

Mr. DASCHLE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, the Agricultural Land Protection Act is a farmer-consumer-environment-foreign trade bill all wrapped up into one.

Rural land is being consumed for highways, housing or industrial use at the rate of 3 million acres a year. During the 1970's, this rate of urban and suburban growth consumed an area the size of Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, and Delaware combined—43,386 square miles.

This loss of rural land includes the loss of 8 million acres of prime farmland.

New England has lost nearly 50 percent of its farmland.

Middle Atlantic States have lost 22 percent of their farmland.

The Midwest has suffered the loss of 9 percent of its cropland.

In Minnesota, some of the most productive farmland in the country is lost each year with the expansion of the Minneapolis-St. Paul metropolitan area.

It is time we begin to look seriously at the future consequences of unrestrained suburban growth. This legislation does not impose Federal constraints; rather, its purpose is to support State and local initiatives and may prevent a need for drastic Federal action in the future.

America's farmland is a national resource, as much as national parks, national forests, and national wildernesses; it is a resource that should be protected and enhanced. But there is a dilemma—the right of individuals to retain or dispose of his land, and the national interest. This legislation balances that individual interest against the national interest and comes down on the side of the individual landowner, preserving his options, while safeguarding the national interest in the productivity of the land.

The bill encourages State and local initiatives and imagination in devising solutions that fit local circumstances: Many States are assessing land at its agricultural value, rather than its development potential value. Other States have initiated programs allowing local government units to purchase farmland development rights—to prevent diversion of farmland for housing or commercial development, and to protect it for agricultural development. Agricultural districts, farm-use zoning, and capital gains taxes to discourage agricultural land speculation, are other approaches States have used to protect farmland.

The Eighth District of Minnesota, which I represent, encompasses the northeastern portion of the State. The northernmost reaches of the district incude some of the most beautiful lakes and forests in the country. Iron mining, forest products industries, and shipping through the port of Duluth are the major industries in the north and central part of the district.

The six counties which stretch south from Duluth to the Minneapolis/St. Paul suburbs rely substantially on farming for their economic base. Dairy production is the predominant agricultural activity. It is the southernmost of these counties—Anoka, Isanti, and Chisago Counties—which are now feeling the impact of rapid suburban growth. Farms in this area are subject to an "impermanence syndrome" that discourages agricultural development long before suburban development begins. It has been noted that as taxes begin to rise because of the development potential of farmland, farmers may be unwilling to invest in long-term improvements to their land. In addition, when pockets of development crop up, clashes may ensue between farmers and suburbanites and farm support industries move elsewhere or go out of business. The aggregate effect of these actions is a decline of the farming sector. It is not difficult to see this happening in my district where development pressures on farmland are increasing. The loss of my district's farms is representative of a national problem. Farmland is being lost in small amounts throughout the country. But those small amounts add up to 3 million acres annually, and 1 million of those acres are prime agricultural land. If these losses continue, we will erode our agricultural production capacity.

The United States has been blessed with the greatest expanse of agricultural land in the world. Intensive use of that land has helped us remain self-sufficient in food production and to be a major food exporter—$34.7 billion last year—financing, to a large extent, our imports of energy.

We cannot maintain our agricultural preeminence without the land. This bill is a major step toward achieving that goal.

● Mr. CORRADA. Mr. Speaker, dear colleagues, today before us a major piece of legislation is being considered. H.R. 2551, also known as the Agricultural Lands Protection Act is an effort to halt and reverse a trend in the use of agricultural lands. According to the U.S. Soil Conservation Service, the United States loses approximately 20,000 acres of its best cropland each week, or 1 million acres in a year to nonagricultural uses.

We should take the necessary steps to detain these losses before it is too late. The more we wait, the more we will regret in the future. The continuing loss of American farmland has serious implications for our ability to produce food at reasonable cost for both export and domestic consumption.

Rural areas are obviously affected by the disappearance of farmlands as local agricultural businesses, that buy and sell to farmers, find that their markets are whithering away. The possible effects of the losses of farmland to nonagricultural uses has a good example in Puerto Rico, where a once vigorous agricultural production has nearly disappeared and we have to import nearly 75 percent of our food consumption.

I urge you, fellow Congressmen, to vote and support this bill, which will enable States and local government to devise new, effective methods of protecting farmland. We should keep in mind that once our farmlands are gone, there will be no alternative sources of food to which we can turn.●

● Mr. LEE. Mr. Speaker, I rise in support of H.R. 2551, the Agricultural Land Protection Act. Early in the 96th Congress I enthusiastically agreed to cosponsor H.R. 2551 because of my growing alarm at the increasing rate at which we are losing our prime cropland. H.R. 2551 will, I believe, provide a vehicle for our State and local units of government to address this increasingly serious situation.

Certainly, few of us realize the extent of agricultural land loss taking place. Twelve square miles of American farmland are converted to nonagricultural uses every day. That amounts to 3 million acres annually. We have lost enough of our farmland during the past 10 years to make up an area the size of Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, and Delaware combined. According to the General Accounting Office and the Soil Conservation Service, only 35 million acres of the potential cropland remaining in the United States' could easily be put into production without expensive treatment to correct its soil, water, and slope deficiencies. This assumes that landowners would be willing to grow crops where there are now pastures and woodlots.

Not only are we losing agricultural land because of conversion to nonagricultural uses, but since 1935, about 100 million acres of farmland have been idled because of soil erosion. The annual loss of soil from U.S. cropland has been conservatively estimated to average about 5 tons per acre. So in addition to the 3 million tons of farmland we lose each year to nonagricultural uses, the equivalent of another 3 million acres is washed into our rivers. As the present rate of farmland loss, our cropland frontier in this country could be closed within another decade.

In the past the gradual loss of lands available for planting purposes has been offset by the steady increase in per acre yield. In fact, increasingly sophisticated technology, and a period of benign weather, allowed us to double crop yield in the two decades after 1950. The question is, just how much longer can we continue to depend upon technology—the development of which has relied on cheap energy—and the weather, always unpredictable, to keep agricultural production high while farmland disappears?

Agricultural technology now appears to be running up against economic and ecologic limitations. Foremost among these is the availability and cost of energy—according to one calculation, it now takes nine units of fossil fuel energy to produce each unit of food energy that comes from American farmland. The extraordinarily heavy dependence of modern agriculture on energy is not surprising, considering that farm machinery runs on diesel fuel; fertilizers are made from natural gas feedstocks; pesticides and other chemicals come from petroleum; natural gas is also used to dry enormous quantities of grain; and electricity is used to run the pumps for irrigation.

The extent of the agricultural community's dependence on energy can be vividly illustrated by looking at the example of fertilizer. A study at the University of Illinois concluded that the amount of corn that can be grown on 100 acres, using 120 pounds of nitrogen fertilizer per acre, would require up to 300 acres to produce without fertilizer. A cutback in the use of fertilizer, either because of prices that are out of reach or an absolute shortage of natural gas feedstocks, would limit productivity and make it essential that more acreage be put into production. Can we be assured that farmland will still be available?

The conversion of farmland to other uses could have profound effects on our economy. A shortage of food in the future, caused by a shortage of farmland, would begin to squeeze consumers' pocketbooks. Shortages of specialty crops like oranges, caused by conversion of citrus groves to subdivisions, just as they are now caused by frost damage, would make these commonplace foods luxury items. If all of this sounds familiar, consider the fact that every time you go through the checkout line at the supermarket on a weekly shopping trip, another 60,000 acres of American farmland has disappeared.

Finally, let us look at the effects of farmland loss at the community level. The leading cause of conversion of agricultural land is unplanned suburban development, sometimes called leapfrog or scattershot development because it often skips over land close to town and sprawls out over the countryside in a random pattern.

Such development not only takes farmland directly out of production, but also tends to create conditions that make it unpleasant for farmers and homeowners alike.

Of greater importance is the fact that as more and more farms succumb to development, fewer suppliers of farm implements, seed, fertilizer, and other agricultural necessities can stay in business due to the decreased demand for their products and services. The agricultural businesses close up or move away, forcing the remaining farmers to travel greater distances and to pay more for supplies. Jobs and income in the community are lost when these businesses go. Ultimately, everyone pays for scattershot development of agricultural lands.

The problem of agricultural land loss is exacerbated by Federal policies which force more and more farmers to sell their land. Not only does Federal tax law discriminate against the farming community by requiring an exorbitant inheritance tax on farmland that is passed from one generation to the next, but the farmer often ends up taking the brunt of the Nation's foreign policy actions—witness the grain embargo. The cost of doing business, taking into account constantly rising fertilizer and fuel costs, is skyrocketing. This was the first year the farming community expected to break even, but the grain embargo that sent prices plummeting coupled with the cost of doing business itself, eliminated any possibility of a healthy financial situation for our farming industry, particularly family farmers tilling a limited number of acres.

The legislation before us today would provide States and local communities the opportunity to look into the extent that Federal actions impact the conversion of agricultural land to nonagricultural uses. This bill would also direct the Secretary of Agriculture to gather information on the quantity, quality, and ownership of our farmlands. In light of recently expressed concerns in many quarters about foreign ownership of American farmland, I think many of us will find this information to be valuable indeed.

Finally, that provision of H.R. 2551 establishing demonstration programs and authorizing grants to the States and local governmental units on a 50–50 matching basis, provides, I believe, an opportunity for those closest to the problem to address the matter of cropland loss in a more effective manner. I want to emphasize that this Federal initiative to provide assistance for the States and localities to address this situation is purely voluntary on their part. There is no attempt to set up specific procedures to control land. Our bill does, however, provide seed money to encourage innovative techniques to deal with a pressing national problem on a community-by-community basis.

I urge my colleagues to join me in supporting this bill.●

Mr. DASCHLE. Mr. Chairman, I yield the remaining time to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I rise today in wholehearted support of this legislation.

My interest in this issue and this bill goes back a long way. I sponsored the bill last year and am among the original cosponsors this year. This legislation addresses an issue which is of great importance to the people in my district—and to the people of the entire Nation, I am sure.

The United States cannot afford to tolerate the steady disappearance of prime agricultural lands. At a time when the world's population is increasing at a frightening rate and people are dying of starvation by the thousands each day, we need to think about the productivity of our farmlands and their important role for America and the world.

It is widely recognized that when prime agricultural lands are lost, marginal land is used for farming. Using this marginal land means using more pesticides, more fertilizers, more herbicides. And that is not only potentially dangerous to the environment, it also helps drive up the cost of food.

In my own district, I know there is widespread recognition of the importance of preserving our prime agricultural lands. This may come in part because of the proximity of Seattle's Public Market. The Public Market is a local and national landmark, but it is also a place where local farmers can directly market their produce.

Residents of the Seattle-Tacoma-Everett area have come to value the Public Market. It is a constant, visible reminder of the importance of agriculture to the economy—and the culture—of the region.

This awareness led to the passage last November of a bond issue which will permit King County, Wash., to purchase the development rights to prime agricultural lands if the landowner wishes to sell them. It is a great and noble effort to give farmers an alternative to selling their lands out to developers when the taxes go too high.

It is significant that the people of King County are willing to tax themselves for this purpose. These days, the trend has been just the opposite. So when a large, mostly urban population decides to fly in the face of proposition 13 and vote for a bond issue, I think it's an indication of how important the people of this country consider farming.

In King County's neighbor to the south, Pierce County, part of which lies in my district, the problem is shaping up to be much the same. King County's farm acreage went from 165,000 acres in 1945 to 55,000 acres in 1975. In Pierce County, the drop for the same years was from 170,000 to 62,000. That is a 63.5-percent decrease.

Does this mean that Pierce County should copy King County and pass a bond issue to purchase development rights? Possibly, but possibly not. There are many potential solutions to this problem, and each locality should be free to seek and find its own.

That is why I think this legislation is so good, and so necessary. The new study to be undertaken by the Department of Agriculture can help identify some of the solutions. Some we know about, but I have no doubt a thorough study will turn up some more.

Next, we need the demonstration projects now. We are losing our lands too fast to wait for a study. The potential solutions that have already been identified need to be tested. In localities which think they have a solution but do not have all the resources to begin, a demonstration project could mean the difference in saving thousands of acres of land—and paving the way for other localities to do the same.

And, finally, I support this legislation because it makes amply clear that the Federal Government does not have any interest in making local land use decisions, or in forcing land owners to do certain things with their land, or in acquiring more land. This legislation assures local control and local solutions. And that is the keystone for success.

The CHAIRMAN. All time for general debate has expired.

Mr. DASCHLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Sabo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2551) to establish internal Federal policy concerning protection of certain agricultural land; to establish a Study Committee on the Protection of Agricultural Land; to establish a demonstration program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes, had come to no resolution thereon.

APPOINTMENT AS MEMBERS FROM PRIVATE LIFE TO THE NATIONAL COMMISSION ON SOCIAL SECURITY

The SPEAKER. Pursuant to section 361(a)(2), Public Law 95–216, the Chair appoints the following Members on the part of the House from private life to the National Commission on Social Security: Mr. Wilbur J. Cohen, Ann Arbor, Mich., and Mr. Robert Julius Myers, Silver Spring, Md.

BUREAUCRATIC ERROR POSTED AT HOSPITAL

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CLINGER. Mr. Speaker, I would like to call the attention of my colleagues in the House to something I consider a classic bureaucratic foul-up—a taxpayers' nightmare that is all too symptomatic of what is wrong with our bloated Federal bureaucracy.

Mr. Denny Bonavita, city editor of my hometown newspaper, the Warren, Pa., Times-Observer, recently wrote an article about several regulations imposed by the Department of Health, Education, and Welfare on the Warren General Hospital. Although these regulations are absurdly contradictory, they carry with them the weight of law. Compliance with these conflicting regulations is virtually impossible, yet the hospital stands to lose all Federal assistance if it does not comply.

Mr. Speaker, I insert this article into the Record as an example of the kind of bureaucratic idiocy we must prevent in the future:

Bureaucratic Error Posted at Hospital

(By Denny Bonavita)

Warren General Hospital must take down the non-discrimination notices beside signs for its admissions, business and emergency room areas.

And the hospital must post in their place signs supplied by the federal government—in English and Spanish.

But the federal regulation requiring the English-Spanish signs to be posted is probably all a mistake, and a move to change that regulation's effect on areas like ours is under way.

In the meantime, though—the signs must go up.

The chronology of this latest exercise in absurdity, federal-style, began in August. Warren General Hospital received an Aug. 17 letter from Dr. Florence B. Fiori of the Bureau of Health Facilities Compliance, Health Resources Administration, Public Health Service, Department of Health, Education, and Welfare, in Hyattsville, Md.

That letter contained the notices—a gift from HEW. And it said they would have to be posted if the area served by the hospital contained a Spanish-speaking population of 10 percent or more—an effort to perpetuate Spanish as an official language in this country, without Congress ever having decided to do so.

Warren General Hospital was exempt, it seemed, so the signs went into storage.

Then on Nov. 20, a followup letter came. It said the August letter was in error.

"The posting of notices in English and Spanish is required of all facilities assisted under Title VI or Title XVI of the Public Health Service act," it said. The requiring was done by a regulation, called 42 CFR Part 124, paragraphs 124.506(c) and 124.604 (a).

Those are regulations written by somebody (Friday, nobody knew who), and they carry the same force as federal law. If the hospital does not comply, and if anyone subsequently complains, the hospital's entire federal assistance funds package could be held up.

Joan Shear, a program analyst in the Hyattsville office of HEW–PHS–HSA–BHFFC&C, offered some explanation.

"Our division supports an amendment to that regulation," she said. Somehow, it got into force through an inadvertent oversight, and Dr. Fiori's office was now trying to request an amendment, which would have to be authorized, then published in the Federal Register for comment, then perhaps implemented.

But in the meantime, the signs are being sent out to 7,000 facilities in the country which receive Hill-Burton Act funds, because "It's too late now to erase a federal regulation; it will just have to be amended, but in the meantime, we have to enforce it."

Shear didn't know how much the signs cost the federal government. In her view, it would be no great hardship for a hospital to comply. When told that absurdity, and not hardship, was the reason for the inquiry, she was noncommittal.

However, Shear was the "backup" to the Region III person in Hyattsville who handled Pennsylvania. That person wasn't in the office on Friday. That person works for Catherine Buckner, the acting director of the compliance division—who also wasn't in the office Friday. Buckner works for Dr. Fiori, who sent the letter out in the first place—and who also was not available Friday.

Shear said this newspaper could support an amendment to the regulation by writing a letter to Dr. Fiori. Could Dr. Fiori change the regulation? No, she would have to request such a change from her superiors. Would it do any good to contact her superiors? No, because they'd just send the letter to her, since any request to change the regulation would come from her office first, anyway. Who actually wrote the regulation? "That's irrelevant now," offered Shear.

Oh—how many Spanish-speaking people are in this area, anyway? Dr. J. Blair Logan of the 8,800-student Warren County School District knows of two, one in the Tidioute area and another in the Eisenhower area. Logan knows of more people who speak several other languages as their primary tongue—but there is no requirement (yet) that those languages as well be included on the posting of signs for the admissions, business office and emergency areas of Warren General Hospital.

Should anyone wish to check the matter out. HEW thoughtfully provides a toll-free number for questions, according to Dr. Fiori's letters. The number is 1–800–638–0742.

A caller is treated to a 30-second recorded monologue describing what kinds of complaints can be aired over the line, and what kinds cannot. Then the caller is asked for six identifying criteria (name, address, social security, etc.), and is given 2½ minutes to tell the machine how frustrating all this is.

A call to Bell Telephone information produces a Maryland telephone number for the Health Resources Administration. But that is not Dr. Fiori's number. A call to Dr. Fiori's number leads to another call to Catherine Buckner's number, and, Friday at least, to Shear, who was helpful, understanding—and powerless to explain either why the requirement was made to apply to all federally-aided hospitals in the entire nation, or who could suspend the requirement, or how much all this costs.

As for the signs, well, the hospital has them, and presumably the hospital will put them up if HEW really insists on it—and if the regulations are repealed and HEW wants its signs back, the hospital will presumably dutifully take them down and ship them back. Then, if the repeal regulation contains another "inadvertent" slip (remember, the unknown regulation-writer is still at large), perhaps they'll be shipped back here again.

And you-know-who pays for all this.

CARTER BUDGET GIMMICKRY

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, there are a number of problems with the Federal budget for 1981 that President Carter proposed last week.

One trenchant analysis of these appears in the National Journal, written by Robert J. Samuelson.

He makes a number of points worth the careful attention of our Members as they review the budget proposals.

First, he points out that while much Government spending is called "uncontrollable," this term usually signifies an "unwillingness, not an inability, to control."

Also, he indicates how inflation continues to ratchet wage earners into higher tax brackets. For a family of four persons with a $15,300 income in 1976—just above the average—16 percent of income went in the form of taxes. Assuming annual wage increases of 7 to 8 percent in each of the succeeding years, this same family would pay 19 percent of income in 1981 to governments in the form of taxes.

President Carter's proposed budget avoids the tough issue of effectively controlling the so-called uncontrollable expenditures. It also continues the philosophy of the Democrat party, which apparently is to tax the common man into poverty under the guise of providing Federal funds to special interests.

The Wall Street Journal today editorialized this budget buffoonery in a commendable manner, as follows:

PART OF THE PROBLEM

(By Robert J. Samuelson)

In the 1960s, there was a glib slogan that went like this: If you're not part of the solution, you're part of the problem. Somehow, that's the thought inspired by the White House's latest batch of budget and economic proposals.

Except for the budget's size, which at $616 billion in fiscal 1981 is so large that the numbers seem increasingly meaningless, its theme is that there is no theme. For all the rhetoric—deploring inflation, promoting energy savings and urging restrained spending—the latest proposals do little to stem dependence on oil imports and promise significantly higher levels of taxes and spending.

The White House is mostly drifting, accommodating the constituencies—mainly for sustained spending—that seem nearest, most visible and most politically important. The budget is progressively less a tool used to promote needed economic growth and change, and increasingly one used to redivide and apportion a national wealth that is expanding at a slower and slower rate.

This goes to the heart of the President's intellectual and political failure. He still lacks, as he always has, an underlying vision of how government economic policy needs to be reoriented to encourage adjustment to long-term problems—of diminished productivity growth, of a gradually aging population, of reduced worldwide economic power, of excessive popular demands for limited resources—that underlie today's inflation and economic stress.

Having failed to devise policies that can be placed in a larger context of economic change—and, thereby, command public opinion—Carter has willingly allowed himself to become the prisoner of short-term political pressures. He has used his budget, trade policies and other government favors (the latest being the rescue of the Chrysler Corp.) in ways that ultimately create more problems than they solve.

What typifies the Administration's political weakness is the absence of measures—a stiff gasoline tax of 30 to 50 cents per gallon would be best—to reduce oil demand. America's domestic economic policy and its foreign policy—and power—are ultimately linked, but, even in time of "crisis," Carter cannot make an effective political connection.

A gasoline tax shouldn't be so difficult to sell. By reducing spending for foreign oil, a large tax—whose proceeds would be used to cut the deficit or other federal taxes—would keep purchasing power at home and promote growth just when the economy seems headed into a recession. By taking pressure off world oil markets, it would foster price stability, or less instability, and enhance America's diminished authority with its European and Japanese allies. It is a price increase that is antiinflationary.

A skillful politician, a "leader," can demonstrate the virtues of superficially unpopular proposals; that's what "being presidential" is all about. But Carter can't.

As for the rest of the budget, it now threatens to become top-heavy in ways that do the economy more harm than good. Carter has now effectively abandoned his pledge to reduce government spending to 21 percent of output (gross national product) which itself is a full percentage point above the national average for 1964–74—and projects spending above 22 percent of GNP until at least 1983.

A few percentage points GNP may seem small, but, with the economy's output approaching $2.4 trillion, the amounts involved are roughly $25 billion to $50 billion in 1980 dollars. The danger is that the resulting high tax rates or deficits will simply blunt economic growth further, creating yet further demands for government assistance and yet a greater drag on the economy.

Congress and the White House find themselves in a dilemma of their own making. By consistently reducing defense spending as a proportion of the budget and GNP in the late 1960s and most of the 1970s, they financed large new programs without sharply increasing over-all levels of spending. Defense fell from two-fifths of the budget in 1965 to one-fourth in 1976.

New constituencies from railroad riders who receive Amtrak subsidies to artists who receive grants from the National Endowment for the Arts—arose, and old ones expanded their dependence on Washington. Federal assistance jumped from 17 per cent of state and local spending in 1969 to 26 per cent in 1977. The current bipartisan support for higher defense spending means that Congress and the White House must tell other constituencies to do with less or impose higher taxes or higher deficits.

Calling much spending "uncontrollable" usually signifies an unwillingness, not an inability, to control. Social security is the biggest "uncontrollable" program, accounting for $107 billion out of a $466 billion budget in fiscal 1979. Automatically increased for rises in the consumer price index, benefits will jump an estimated 13 per cent in July after a 9.9 per cent increase last year; nearly a 25 per cent rise in a period when average wages have increased 15 to 18 per cent. Nothing says the Congress could not reduce this large automatic benefit rise.

All constituencies are "deserving," but governing means making choices. Congress and the White House—by sustaining high spending on the revenues of automatic tax increases induced by inflation, augmented by revenues from the oil "windfall" tax—are simply making the wrong ones.

Inflation kicks workers into higher brackets. Without a tax cut in 1980 or 1981, a family of four with $15,300 income in 1976—just above average—that received annual wage increases of 7 to 8 per cent in succeeding years would pay 19 per cent of its 1981 income in taxes, against 16 per cent in 1976. For a family with $22,000 income in 1976, the same calculation shows an increased tax bite from 18 to 24 per cent.

It's difficult to be precise about the discouraging effect on higher tax rates on work and investment, but there's little doubt that there is some effect. On the other hand, using a bigger deficit to absorb higher spending simply transfers the pressure to higher interest rates, which will squeeze out needed investment—particularly housing—and lay the groundwork for higher inflation. This is not policy, but evasion.

COUNTERFEIT SPENDING LIMITATION

Big spenders are proving themselves adept at turning efforts to control spending into ways of increasing spending. The Budget Act of 1974, which was supposed to control spending and balance the budget, was promptly turned into a spending machine, spewing out more dollars and red ink over every stage of the business cycle. Since the act was passed, Congress has run a cumulative budget deficit of $286 billion, and annual spending has about doubled. Fresh from this triumph, House Budget Committee Chairman Robert Giaimo (D., Conn.) is now setting out to do the same thing to the spending and tax limitation movement. He has introduced his own version of "spending limitation," which would limit federal spending to 28.5 percent of GNP in FY 1981, 28 percent in FY 1982 and 27.5 percent in 1983. Since federal spending is now in the 20 percent range, Rep. Giaimo's "spending limitation" boosts spending by about one-fourth.

The wrinkle is that his bill includes in spending not only outlays but "payments made by the federal government through a reduction of taxes." This is the familiar "tax expenditure" argument; that the government letting you keep some of your own money is the same as the government giving you some of its money. So under Mr. Giaimo's bill the politicians can continue their spending game by eliminating whatever they choose to define as tax expenditures, or loopholes. That is, by raising taxes.

Under the Budget Committee's accounting, the largest tax break consists of the pension plans that employers provide for their employees. The employer's contribution is not taxed as income to the employee when payment into the fund is made. In Budget Committee quarters this is regarded as a "tax break," a "tax loophole," or a "tax expenditure." According to the U.S. Treasury, employer-provided pension plans were a $10 billion tax break in 1978. If you add in individual pension plans such as IRAs, the total rises to $11.6 billion.

Rep. Giaimo's bill clearly carries the risk of diverting individuals' retirement income to current federal spending programs. This, of course, would not come about all at once. The big spenders would start by introducing progressivity and only taxing pension contributions over some limit. Eventually inflation would push most people over the limit.

Other large tax breaks are the deductions of mortgage interest and real estate taxes and employer-provided medical insurance. Once these items have to compete in the same budget with spending programs, you can expect homeowners to be split into high and low income groups and limits placed on deductions for mortgage interest and real estate taxes. Tax revenues would then automatically rise as inflation erodes the value of the deductions.

And by making employer-provided medical insurance a budgetary rival to national health insurance, politicians would soon find a way to derail the former and hand out health benefits themselves.

On the business side, any departure from historic straight-line depreciation qualifies under the Giaimo bill as a tax break, as do the investment tax credit, the tax rate on capital gains and any exclusions of savings from taxation. The bill would treat the much needed Jones-Conable "10–5–3" bill, which would permit depreciation to catch up with inflation, as just another spending program. And that would likely cancel its intended effect. Businessmen are not likely to commit funds that Congress can decide to divert in election years to countercyclical revenue sharing or some other politically more advantageous spending program.

The way Congress currently does business, tax legislation is the prerogative of the tax committees. The Giaimo bill would allow the Budget Committees to push aside the Committee on Ways and Means and the Finance Committee. It would divert power away from the committees whose constituency is the taxpayers to the Appropriation Committees that service the spending and transfer lobbies—which is a clever way to put down the tax revolt.

Fortunately, there's a real spending limitation bill introduced by Jim Jones (D. Okla.) that doesn't treat lower taxes as the equivalent of higher spending. It's different enough from the Giaimo counterfeit that people can vote for budget restraint without watching their taxes go up.

MORE CAPITAL INVESTMENT MEANS MORE JOBS—MORE PAY

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, there is an urgent need for capital accumulation in this country. Our industry is lagging and workers are suffering because capital saving and investments are down.

Ruben F. Mettler, chairman of TRW Inc. of Ohio, pointed out in Leaders magazine that until 1965 American industry was able to finance 75 percent of its investment needs without borrowing from the outside. However, today, business corporations are able to meet only 40 percent of their capital needs through their own retained profits and reserves.

Dr. Mettler points out that business savings and investments are the foundation of employment opportunity, improved wages and benefits, better product quality and performance. Germany is moving so fast that we need, according to Dr. Mettler, to invest $150 billion more in business every year to equal Germany's ratio of investment to gross national product.

Peter Grace, president of W. R. Grace & Co., has spoken out many times on the need for more capital funds. One of his points is that capital formation is job formation. Grace compared in Leaders magazine the three successive 5-year periods from 1963 to 1978. All economic activity showed substantial deterioration.

The annual growth rate of GNP, for example, declined from 4.8 percent in the first period to 2.3 percent in the third—a slowdown of 52.1 percent in the progress of our output of goods and services;

The unemployment rate went up from 4.2 to 7 percent;

Productivity per manhour, a crucial indicator of our ability to compete and often an indirect indicator of business investment dropped from 3.3 to 0.9 percent annual growth rate;

The direct measure of growth in business investment showed that its annual rate fell from 8 to 1.3 percent;

The outstanding failure of the 15-year period, however, was government fiscal control; and

The average annual deficit rose from $4.7 billion to $42.5 billion, a jump of 804 percent, with all that signifies of tax burdens and inflation.

Government mismanagement has dissipated much of the hard-won gains of American industrial, agricultural, commercial and professional workers.

It should be the aim of Congress in the eighties to revive the natural upsurge of American investment and innovation. Our tax structure should provide substantial incentives in the form of accelerated depreciation and the elimination of capital gains taxes. The successful industrial economies of Japan, Germany, France, Belgium, and Holland are completely free of the capital gains tax; and every one of them has had rates of productivity growth far ahead of the United States rate. These foreign competitors exceeded America's business investment as a proportion of GNP by at least 24 percent and as much as 82 percent.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977—ADDRESSING THE CONSTITUTIONALITY OF PORTIONS OF THE ACT

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, on January 3, 1980, U.S. Federal District Court Judge Glen M. Williams for the western district of Virginia entered a final order granting a declaratory judgment and injunctive relief to the plaintiffs in civil action No. 78–0224–B. This action, brought by the Virginia Surface Mining and Reclamation Association, Inc., and others, will have a major bearing on implementation of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as it addresses the constitutionality of portions of the act.

The issues discussed in the opinion and the implications of this decision are of great interest to a number of our colleagues and to the Congress as a whole. Given the lengthy nature of the opinion and the prohibitive cost of printing this document in its entirety, I will not request consent for its inclusion in the CONGRESSIONAL RECORD. However, copies of Judge Williams' ruling and opinion are available to interested colleagues by contacting my office.

The Bristol Herald Courier carried an excellent editorial on January 6, 1980, in which the major points of this landmark decision are addressed. Because of the widespread interest in surface mining and actions affecting implementation of the Federal law, I insert the editorial in the RECORD as follows:

WITH WISDOM

Given the propensity of federal courts—and the Supreme Court, particularly—to mix law with politics and their perception of what is "best for society," it is too early to proclaim "final victory" for those who believe federal strip mining laws, at least in part, are unconstitutional. (That the laws are ridiculous, at least in part, is, of course, to state the obvious.)

For the moment, though, an important battle has been won. U.S. District Court Judge Glen M. Williams, sitting at Abingdon, has ruled that major provisions of the U.S. Surface Mining Control and Reclamation Act are unconstitutional and has permanently enjoined their enforcement.

What is unconstitutional, among other things, Judge Williams wrote, are those parts of the law which:

Require miners to return steep slopes to their approximate original contour after strip mining. If you tear down a mountain, you've got to build another one to replace it.)

Permit the government to order mines to close, and to levy civil penalties against mine owners without a hearing. (Due process goes out the window on this one.)

Permit any citizen, for whatever reason (or none at all, we suppose), to file a petition to have a certain area declared unsuitable for mining. That action alone could halt all mining in the area for at least a year.

At the heart of Judge Williams' decision are individual property rights—and the right of individuals to their "day in court" before they are subjected to penalties (punishment) for alleged violations of the law.

The judge also made some pertinent comments concerning state's rights, and expressed some views on the lack of logic inherent in the strip mining law's "original contour" requirement.

His observations are thoughtful and, we hope, instructive for the Congress and for those higher courts which probably will be asked to review and overturn his decision.

He took Congress to task for adopting a law which allows "the state to elect to have its own regulatory program (for strip mining) instead of having federal regulation, but then mandates that the state law comply in complete detail with the federal law.

The choice that is purportedly given is no choice at all."

Referring to the "original contour" requirement of the strip mining act, he noted:

"Virginia is particularly affected by this legislation because 95 percent of its strippable reserves are located on slopes in excess of 20 degrees. In enforcing this requirement, the state has lost control over the economic development that could take place in Southwest Virginia." In point of fact, he continued, Virginia's coal counties need flat land, and returning the land to its "original contour" actually decreases its value.

He added:

"Besides having been forced to spend $1.5 million to meet the mandates of the federal law, the state has been deprived of its choice as to how best to protect Virginia's environment.

"A return to approximate original contour on a steep slope increases sedimentation because of the increased erosion from the unstable mass. In addition, a dangerous condition may be created by backfilling the bench."

Getting to the power of the Office of Surface Mining to shut down mines and impose fines without hearings—without due process—Judge Williams opined:

"This court considered the evidence regarding the enforcement procedures used by the OSM inspectors to be shocking, and it appeared obvious that the power of bureaucrats to close down a legitimate business at their whim simply means that the power to regulate is also the power to destroy."

And of the strip mining act's infringements on the rights of property owners, the judge wrote:

"There are those in every generation who believe that private property should be taken without compensation whenever it is for the public good as conceived by them. This generation is no exception and exponents of this belief fill the halls of Congress and the bureaucracy and infiltrate the courts."

A product of Southwest Virginia, Judge Williams has an advantage not enjoyed by most of the nation's judges and most of the nation's senators and most of the nation's congressmen. He knows what he's talking about when coal mining is the subject.

And in his decision last week, he also demonstrated that he knows what he's talking about when the subject is the Constitution and the rights guaranteed under that Constitution. We hope some of his wisdom rubs off on the right people at the right time.

WHO'S ON FIRST?

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LAGOMARSINO. Mr. Speaker, I wish to call to the attention of my colleagues an article in yesterday's Washington Post. It is a commentary by columnist Joseph Kraft discussing the confusing nature of the "Carter Doctrine," vis-a-vis the Persian Gulf.

Trying to follow all the players and their respective positions in this game, one is left wondering "who's on first?" if not "who's in charge?"

In most competitions, you cannot tell the score without a program, but I am beginning to think that even a program would not clear up the contradictions that we hear from one minute to the next.

The only conclusion I have reached is that "I don't know who's on third" and probably in charge as well.

CARTER DOCTRINE CONFUSION

Does the Carter administration know what it is doing in the Persian Gulf? That is the question that has to be asked two weeks after the president supposedly laid down a new doctrine for the area in his State of the Union address.

Carter has himself pulled back from his initial position. His chief envoy to India has talked at cross-purposes with his chief envoy to Pakistan. Both have been undermined, first, by the secretary of defense and, then, by the secretary of state.

On Jan. 23, in the State of the Union message, the president engaged the deterrent. He said: "Any attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America, and such an assault will be repelled by any means necessary, including military force."

On Jan. 29, speaking to a group of editors, Carter conditioned U.S. deterrence on allied cooperation. He said: "I don't think it would be accurate for me to claim that this time or in the future we expect to have enough military strength and enough military presence there to defend the region unilaterally."

Clark Clifford, the former secretary of defense, had gone to India as the president's special emissary. He tried to reassure Prime Minister Indira Gandhi about U.S. aid to India's old foe, Pakistan, in several ways.

He said the aid to Pakistan would be "modest" and consist mainly of "symbols" of resistance. He said India would get the truly sophisticated weapons. If it came to real trouble, he added, the United States would bear the brunt. He said the Russians "must know that if part of their plan is to move toward the Persian Gulf that means war."

Pakistan heard a very different message from the president's special assistant for national security, Zbigniew Brzezinski. Brzezinski persuaded the Pakistanis that a previously announced U.S. offer of $400 million in assistance was "only a beginning." He went up to the Khyber Pass and talked to refugees from the Soviet invasion of Afghanistan. He at least implied—by alluding to a "march on Kabul"—that the United States would help the Afghans take their country back from the Russians.

Secretary of Defense Harold Brown, in testimony to the Senate Armed Services Committee, made it clear the United States was much, much less gung-ho about resistance in the Persian Gulf. He said the "president's doctrine" depended upon "support from the people in the area"—not just military support either, "but political support from the people in the region and their willingness to fight."

When asked whether the United States had assurances about the will to fight, the secretary made it seem that it would be improper to ask. "I think," he said, "it is appropriate to assume that countries will fight if attacked rather than say to them you have to tell us that you are going to do that." In other words, what the United States did was up to the Saudis, Iranians and Pakistanis, and if they weren't too eager that was okay with Brown.

Secretary of State Cyrus Vance did the ultimate rug-pulling. In testimony to a Senate Foreign Affairs subcommittee, Vance explicitly repudiated the comment made by Clifford that a Soviet shot at the Persian Gulf would mean war. "The language was more dramatic than necessary," Vance told reporters. For the senators, he further questioned the commitment to deterrence. He was asked whether the administration was preparing for a general or limited war. Vance replied: "I think it is a mistake to try to define with too much precision the kind of situation. . . . I just think it draws lines that tend to confuse people on the other side."

More confusion than now exists could hardly be imagined. Indeed, seeing the administration's skill in gratuitously parading opposite views in public, the Spirit of Irony must have shrieked with insane laughter when Rosalynn Carter said her husband could not debate Sen. Edward Kennedy because it would show division.

To be sure, the confusion may simply proceed from a want of direction—the orchestra playing without Toscanini. In which case the president could easily clear up matters by placing in the White House a person of high renown and wide connections to manage the day-to-day play of the Persian Gulf crisis.

My impression, however, is that the confusion expresses a deeper reality. I think political requirements obliged the president to make a strong stand in his State of the Union message. Believers in that position—notably Clifford and Brzezinski—tried to hammer it home as they could in India and Pakistan.

But the president and his closest advisers—Vance and Brown—have no stomach for striking a deterrent posture. They would rather play it by ear and make accommodation. So they are trying to back down from the Persian Gulf commitment, much as they have done elsewhere around the world. Which confuses everybody, especially the Russians, who are both more tempted and better placed to pursue dangerous games.

THE CARTER DOCTRINE OF WAR FOR OIL

The SPEAKER pro tempore (Mr. FARY). Under a previous order of the House the gentleman from Colorado (Mr. JOHNSON) is recognized for 60 minutes.

GENERAL LEAVE

Mr. JOHNSON of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. JOHNSON of Colorado. Mr. Speaker, God is on the side of the Afghan people. No less a religious authority than Zbigniew Brzezinski says so. One would think that would suffice, but the gradual enunciation of the Carter doctrine by administration spokesmen indicates that God is going to get some old-fashioned American aid in the form of war.

Clark Clifford said in New Delhi "it means war" if Soviet troops in Afghanistan push into the Persian Gulf area. The theological National Security Adviser (Brzezinski) has convinced President Zia of Pakistan that "there is someone else to care for our security." Zia told reporters he had been assured that the $400-million aid package was only the beginning, that he has no reason to disbelieve President Carter or Dr. Brzezinski, and that while he does not expect American troops to protect Pakistan from a small Soviet incursion, he is "quite positive" of American aid in the event of a Soviet invasion.

So there we have it. The Carter doctrine, his and hers, is this:

> An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America. And such an assault will be repelled by any means necessary, including military force.

The area for this holy war, then, includes India, Pakistan, Iran, Iraq, Kuwait, Saudi Arabia, Qatar, Oman, the United Arab Emirates, Bahrain, North Yemen, South Yemen, Djibouti, and perhaps even Somalia and other places because the extent of this regional commitment has not been defined. In the four major wars fought by the United States in this century, not one was justified on commercial grounds. But the specter of holy war raised by the administration in the Persian Gulf region is to protect the "vital interest" of oil. War to maintain our oil supply; war so we can continue to consume lavishly and drive aimlessly. War to avoid building mass transit, to avoid limiting consumption, to avoid developing our own petroleum resources or alternate energy sources. One would think it might be cheaper to develop our own resources than to fight—not to mention the bloodshed, though that is relatively unimportant in holy wars. We are given a new beatitude—"Blessed are the war makers for they shall have oil."

Poor God, his name is being invoked again in the name of patriotism and commercial preferences. I prefer Thomas Jefferson's brand of atheism to this administration's religiosity. Jefferson said:

> Indeed, I tremble for my country when I reflect that God is just.

To that I would add that I despair for the lives of the young men and women of this country when I contemplate our Government's willingness to sacrifice them upon the alter of undefined vital interests halfway around the world in the Kyhber Pass and the Persian Gulf. Let us examine the Carter doctrine of war in the Persian Gulf region in some detail.

First. Under our Constitution, the President makes foreign policy, but Congress has the warmaking power. Every time the country has allowed a President to ignore that principle it has regretted it. The President does not have authority to declare war, much less to declare it in advance. If we are to go to war anywhere in the world it must be in accordance with the law of the land. If we are to declare that an action in some part of the world means war, as in the case of NATO, then Congress must decide. To allow a President to decide such matters in an election year is a travesty of our constitutional process.

Second. It is beyond our capability to fight a major land war in the Persian Gulf region, and everyone knows it. The oil from that region is more important to Japan and Western Europe, than it is to the United States, but those countries were not consulted before the doctrine was enunciated, and they have not indicated their willingness to support it militarily. The petroleum-producing states of the Persian Gulf region are most vitally affected by the Carter doctrine, yet not one of them has invited the United States to establish military bases there thus far. Probably that is because our policy has always been one of apathy or hostility toward Moslem countries—except when oil is involved. Whatever the reasons, the countries we are willing to fight over have not shown their willingness to be the bone in this dogfight.

Third. The notion that we could fight a conventional war with the Soviet Union in the Persian Gulf region without its escalating into a nuclear exchange is questionable. Is that a risk we need to incur? I do not think so.

Fourth. Henry IV's deathbed advice to his son was this:

> Be it thy course to busy giddy minds with foreign quarrels, that action, hence borne out, may waste the memory of the former days.

What could be a more appropriate description of the administration's doctrine? There must be a Shakespearean scholar on the National Security Council, as well as a theologian. To reinstate registration for the draft, give back the CIA the power it so shamefully abused, spend additional billions for defense, create an atmosphere of heroic defiance to protect oil supplies, appeal to patriotism and whip up militaristic fervor will waste the memory of former days—and reelect a President.

In 1957, in attacking a large defense budget, General MacArthur said:

> Our government has kept us in a perpetual state of fear—kept us in a continuous stampede of patriotic fervor—with the cry of grave national emergency. Always there has been some terrible evil * * * to gobble us up if we did not blindly rally behind it by furnishing the exorbitant funds demanded. Yet, in retrospect, these disasters seem never to have happened, seem never to have been quite real.

Mr. Speaker, the Carter administration cannot convert water into wine, grain into gasohol, coal into gas, or shale into oil, and it cannot convert oil into a holy war which justifies the expenditure of young people's lives in Rudyard Kipling country.

In his poem, entitled "The Young British Soldier," Kipling, in biting cynicism, wrote:

> When you're wounded and left on Afghanistan's plains,
> And the women come out to cut up what remains,
> Jest roll to your rifle and blow out your brains
> An' go to your Gawd like a soldier.
> Go, go, go like a soldier,
> . . . So-oldier of the Queen!

This is the ultimate reality, the final consequence of the Carter doctrine.

Young Americans should not be victimized or beguiled by the present hysteria. I ask them and all who are concerned about them to reject this spurious policy emphatically and immediately.

□ 1920

I yield to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I would like to thank the gentleman from Colorado for bringing this very important subject to our attention. I think the real issue here is whether or not we should reconsider an interventionist foreign policy which we have followed now for quite a few decades, unfortunately, and, ill-advisedly, I think the last several skirmishes we have had—some call them wars; yet they have never been declared wars—have led only to disaster for us, especially the Korean episode as well as the Vietnam episode.

Here we are stirring again, getting prepared, talking about a draft, and getting the young people lined up. They are so blatant about it. Sadat said it very plainly:

> This is the beginning of the war for the oil wells.

I think this is rather tragic. It is tragic because it is not necessary. Tragic because it is the policies of this Congress here that have driven us into this dependency on foreign oil. And yet it is only the policies of the free market, that if we would only follow then we could be totally dependent on ourselves and independent of other nations for energy sources.

Sometimes we hear figures thrown about that we are in tremendous need of the foreign oil coming from the Persian Gulf. I would like to point out something that might make us reconsider: In spite of the fact that we obstruct so much in this country the production of energy, in comparison the amount of energy we get through the Strait of Hormuz is only 6.8 percent of all our energy. That is all that came through the strait in 1978. So it is a small amount. We certainly could adjust, adjust either with increased production or decreased consumption.

In 1979 approximately 5 percent of our energy came through the strait. Yet we have four new nuclear powerplants standing idle today, ready to be opened but obstructed by excessive regulation. Enough energy could be produced in these four nuclear powerplants to be equivalent to all the oil we have been getting from Iran. Yet we foolishly continue to plan for war and intervention in this area.

We must really think seriously about this. When we talk about going over to defend Pakistan. It was only a few weeks ago that we offered them $400 million in foreign aid and they said that was just "peanuts."

Last March the President requested and got $400 million in emergency military aid for Yemen so it could protect itself from communism. Now Yemen has become pro-Soviet and is talking about reunifying with the Communist neighbor South Yemen. So we have just poured more dollars over there for the use of the Communists.

What happened to the support we gave Iran? It is being held now by the leaders of Iran who hold our people hostage. It makes no sense at all for us to go in and plan for and have military intervention under these conditions.

We are a lot less dependent on this area of the world than they would lead us to believe.

Consider West Europe, consider Japan who import 100 percent of their energy needs, of their oil. Why are they not stirring? Why are they not rushing troops over there? Why are they not concerned? How much are they spending on their national defense?

Yet we continue to spend our defense dollars to protect them and defend them and now it is our country that is suffering economically and unfairly losing our military strength. All this military intervention has led to a weakened American position. They claim if we reinstitute the draft that will send a message to the Russians that we are strong. If that is the strongest message we send to Russia, we are in sad shape. The message we need to send to Russia and to any hostile nation is that we have a strong defense and that we can defend a free and prosperous America. We cannot be free and prosperous unless we have free economy. It is the destruction of our economy in this country that has led us to being so dependent on other nations and it is the interventionist policy that has driven us to the point where we waste so many dollars and now we are talking about wasting lives, again, in another war in a land very, very many miles away.

I think it is time that we reassess this idea, not only the Carter policy, because the Carter doctrine is just an outgrowth of the doctrine we have had for 40 to 50 years or even longer. What is the purpose of our foreign policy? Is it to police the world and protect the world at the expense of our economy and our dollar? There is an excellent argument for defending, on moral and constitutional grounds, our obligation here in the Congress to defend America, to protect and to provide for a prosperous strong America, but not to pretend that we know how and are capable of protecting and defending the whole world. If people in those countries are hostile toward us and not desirous of defending and protecting their own freedom, all the money and all the lives that we send will not do any good. If we have not learned that from Vietnam, we have learned nothing.

I again thank the gentleman for bringing this subject to our attention and I think it deserves more consideration and much further debate. I think there should be serious consideration to reorienting our foreign policy.

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for his remarks. The gentleman is one of the outstanding voices on behalf of sane analysis I believe. The gentleman spoke at length sometime ago about the draft and continues to fight against the draft.

I think our position is sometimes characterized as being that of an isolationist. We probably should address ourselves to that.

What we are advocating is military restraint and military restraint is being characterized in some derogatory manner and the way that you do that is to call the person who advocates military restraint an isolationist.

Our policy is so unstable and has been for some time as a result of our interventionist proclivities of which the gentleman has spoken, that, a few years from now as people look back on the history of this period, they will note that the United States who was on the side of Russia and China in World War II, that within a 2-year period they became our mortal enemies.

Then we fought a war in Korea because of the Chinese Communist threat and we said that we learned after that Korean war our lesson, and it was repeated all around Washington. It was repeated in the Military Establishment, it was repeated in all the intellectual circles. Never again would we be involved in a war on the mainland of Asia.

□ 1930

Eight years later we were back in Vietnam. After the Vietnamese experience we said never again will we allow a President unilaterally to make a decision to involve us in warfare. We have learned our lesson about the mainland of Asia once again.

Now, 7 years later here we go again and this time our mortal enemy, our former mortal enemy that we fought two wars on the mainland of Asia against is now our ace in the hole.

We talk about playing the Chinese card. Well, the Chinese probably do not want to be a member of our card games. I am sure that the Chinese have more restraint, more long-range considerations in their policymaking than we evidence and this flip-flopping attitude of ours that does nothing more than, as the gentleman points out, kills our soldiers in one futile, useless war after another is a disgrace.

In the end of her book about General Stilwell and the American experience in China, Barbar Tuchman said in her book, I do not have the quote directly in front of me, but I am sure this is it. She said:

> After all the time in China, after all the expenditure of lives and property and money and effort, when the Americans left it was as if they had never been there.

That is the case in Korea. That is the case in Vietnam and that will be the case in a military intervention in the Persian Gulf region.

Mr. PAUL. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I would be glad to yield.

Mr. PAUL. Mr. Speaker, the gentleman is so correct that frequently the isolationist term is thrown at us when we start to talk about less intervention throughout the world in the internal affairs of other nations. That word happens to be a very unfair and inaccurate word, because if a noninterventionist foreign policy is associated with a free trade and a free market policy, you happen to have more intermingling and intermixing of people and goods under those conditions than you have under the conditions of today where we have an interventionist economic policy, where we destroy our own production and then we have to rely on tariffs and trade barriers; to protect our interests. Under the economic conditions of today, a more nationalistic spirit arises.

This is what we are seeing today in the world. In an age of intervention in the economy and in an age of inflation, there is a lot of competition to protect the assets and the economies of each nation. Under today's conditions you have less free flow of people and goods, than there would be in an open and free market. A free society with less intervention, is the furthest thing from isolationism. A policy of nonintervention in the internal affairs, of other nation's is not walling ourselves up into a condition where we do not associate and deal with other nations. On the contrary, we deal with them in a much more open and in a much more productive manner to the benefit of all nations. This is the goal that I think we should work toward and not be trapped into thinking that we have to defend a position that isolates us from the world, with various trade barriers.

Mr. JOHNSON of Colorado. Mr. Speaker, I want to thank the gentleman for his participation in this special order. Hopefully, this will be just the beginning of a prolonged national debate about this subject.

THE ARTHRITIS RESEARCH AND TRAINING AMENDMENTS OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. CARTER) is recognized for 25 minutes.

● Mr. CARTER. Mr. Speaker, today I am pleased to introduce the Arthritis Research and Training Amendments of 1980. I am especially pleased that my good friend PHIL GRAMM of Texas is joining me in introducing this measure. This legislation reaffirms the commitment of Congress to combat arthritis, a commitment originally set forth in 1974 through the passage of the National Arthritis Act.

Arthritis is one of the Nation's greatest health problems, one which afflicts 31.6 million people or 15 percent of the American population. One out of every seven of our constituents suffers the unremitting pain characteristic of this disease. These victims are afflicted with one of 100 or more different types of diseases of the joints and connective tissues with symptoms ranging from mild pain in the joints of fingers, hands, or knees, to severe crippling and pain that leaves a person totally disabled.

Clearly, Mr. Speaker, this is a disease which extracts a substantial toll in human suffering. Moreover, this is a disease about which we have a great deal more to learn, and an area in which a sustained effort will be of benefit to millions of Americans. To fight arthritis effectively, we must maintain a well-supported and well-coordinated Federal effort on all fronts: research, treatment, education, and hopefully in the future, prevention.

Fortunately, previous Congresses recognized the well-documented need for a broad-based and concerted effort to combat this disease. Over the years, I have been pleased to sponsor such measures, and work for their passage. I believe that the need to continue our anti-arthritis efforts is as unassailable today as it was when we began this effort several years ago. For this reason, the legislation which I am introducing today revises and extends three expiring programs in the arthritis field, including the authority for the activities of the National Arthritis Advisory Board, the multipurpose arthritis centers, as well as the arthritis demonstration projects and data systems. The bill places a high priority on epidemiological research in arthritis while also encouraging the development of projects to insure that new research findings are translated into better treatment for those patients suffering from arthritis and related diseases.

Mr. Speaker, in order that my colleagues might appreciate the need to support a continuing effort to subdue arthritis, I would like to review briefly the scope of the arthritis problem.

Nearly 6.5 million people in the United States are victims of rheumatoid arthritis, a disease marked by chronic inflammation and overgrowth of the joint linings, erosion of bone, and destruction of joint cartilage and, ultimately, contraction of muscles adjoining the joints.

Degenerative joint disease (osteoarthritis) is by far the most common form of arthritis, affecting an estimated 16 million persons in the United States. Characterized by a breakdown of cartilage and changes in the bone, it most commonly develops in the fingers and in the weight-bearing joints of the knees, hips, and spine.

Juvenile rheumatoid arthritis (JRA) can cause severe crippling in children, retard their growth, cause serious emotional and social problems, and, in some, can lead to serious kidney disease, blindness, or death. An estimated 250,000 children under 18 years of age are afflicted with arthritis. It is now clear that JRA is only one of several forms of arthritis in children and adolescents.

Although diffuse connective tissue diseases are less common than degenerative joint diseases or rheumtoid arthritis, they can involve internal organs such as the heart, kidneys, and lungs, sometimes with fatal results.

Systematic lupus erythematosus (SLE), which primarily strikes women of child-bearing age, and progressive systemic sclerosis (scleroderma) are two such conditions of unknown cause and cure.

The cost of arthritis in terms of its emotional and social impact is enormous. Diagnosis is frequently complicated because symptoms are so wide ranging. The course of the illness is often erratic and victims are subject to spontaneous flareups of pain and discomfort. Remissions can also occur just as spontaneously, providing temporary relief for weeks, months or even years.

Arthritis can strike any age group, although the chances increase dramatically with age: Forty-one percent of persons 65 years of age or older have arthritis. Several forms of arthritis are more common in women than in men, although in the case of gout, and ankylosing spondylitis (inflammation of the spine), the opposite is true.

The economic cost provides another index to the impact of arthritis. Temporary and permanent disability results in lost wages and tax revenues and requires drug therapy, homemaker services, hospitalization, rehabilitation, unemployment compensation, and research costs. A 1975 estimate by the Arthritis Foundation set the cumulative price tag for that year at over $13 billion.

The cause or causes of most types of arthritis are as yet unknown. By the same token, there is no cure.

Methods of treatment such as physical and drug therapy have greatly improved the outlook for management of arthritis in recent years. Research efforts of the National Institute of Arthritis, Metabolism, and Digestive Diseases (NIAMDD) have focused on finding the cause of arthritis, improving drug therapy and investigating surgical techniques that alleviate the symptoms of arthritis.

Recognizing the magnitude and scope of the problem, the Congress unanimously voted to enact the National Arthritis Act (P.L. 93-640) signed by President Ford in January 1975. One of the provisions of the act established the National Commission on Arthritis and Related Musculoskeletal Diseases, which was directed to design a coordinated master plan for action against arthritis and its devastating consequences.

The Commission, whose members included physicians, allied health professionals, members of the general public, arthritis victims, and concerned government officials, met for 13 months. Information was gathered from over 300 persons during 12 public hearings held at various locations throughout the country.

In April 1976, Commission members submitted a four-volume report entitled "Arthritis: Out of the Maze." Organized along three fronts—research, professional and patient education, and community involvement in patient care—the report was a blueprint for action to alleviate the problems faced by arthritis victims in this country.

As a result of the submission of the plan, as well as subsequent congressional action, and the efforts of NIAMDD and other Public Health Service Agencies, various initiatives have been undertaken to enhance our ability to combat arthritis. The proposal I am introducing today builds upon that strong foundation and renews the commitment which Congress has made to address this national health problem by providing for continuation of the three expiring authorities relating to arthritis, all of which I believe are crucial to our efforts in this field.

First, in order to assure effective coordination and guidance of the national arthritis effort, my bill would extend the authority for the National Arthritis Advisory Board, established by Public Law 94-562, for an additional 3 years at a funding level equal to the fiscal year 1980 authorization of $300,000 per year. I would submit that the need for this continuing authority is well-demonstrated by the positive record of the Board as the national focus for review, evaluation, and advice with respect to the national arthritis plan as well as the coordination of disparate Federal activities in the arthritis field. It should be kept in mind that one-third of the Federal support provided through the National Institutes of Health for arthritis research is in institutes other than NIAMDD.

Moreover, the activities of many other Federal agencies, including the Bureau of Community Health Services, the Rehabilitative Services Administration, the Bureau of Health Manpower, the Bureau of Health Planning, and the Health Care Financing Administration impact directly on the care provided to arthritis patients. Perhaps most importantly, much of the effort in arthritis research and virtually all of the direct care provided to arthritis patients is undertaken by private organizations and individuals. The National Arthritis Advisory Board is a unique and indispensable forum with broad participation from both private and public sectors, professionals as well as nonprofessionals. Continued support for its activities will enhance our ability to insure that the resources needed to combat arthritis are used as effectively as possible.

The second major component of the Federal arthritis effort extended by this legislation is the authority for the multipurpose arthritis centers. The purpose of these centers is to demonstrate and promote available knowledge for the treatment of patients with arthritis and to serve as primary resources for providing new knowledge and generating new information on the causes and control of arthritis and related musculoskeletal diseases. In order to do this, 24 geographically dispersed centers have been established to provide for activities in three areas: professional and patient education, research, and community demonstration programs related to patient care.

Mr. Speaker, in just a few short years the multipurpose arthritis centers have demonstrated their ability to conduct important and innovative activities in arthritis research, education, and training, and in the delivery of arthritis care. The commitment of these centers to an integrated program of research and patient care gives each the ability to apply the results of research advances to patients with arthritis. For this reason, I strongly support continued funding for this important program.

The legislation I am introducing today will extend the authority for the multipurpose arthritis centers for 3 more years, beyond current law's 1980 expiration date. My bill would authorize $15 million for fiscal year 1981, $18 million for 1982, and $20 million for 1983. Included in the funding for these centers, the legislation would provide up to two training stipends for each center to strengthen the education component of their programs. Allowing the centers to provide training stipends to qualified individuals will be a small step toward remedying the existing deficiency of rheumatologists in research, academic, and clinical roles.

Finally, Mr. Speaker, my bill provides continued authorization for arthritis demonstration projects and data systems with three substantive changes proposed to deal with gaps in our anti-arthritis effort. First, my bill makes clear that the Secretary may provide authority to agencies of the Public Health Service other than NIH to make grants for community demonstration projects in the arthritis field. I believe we need to do more in establishing community projects to develop and demonstrate methods for screening, detection, and referral of arthritis patients.

Similarly, the lack of programs to disseminate these methods and other research findings to the health and allied health professions is one of the most serious deficiencies in the arthritis program. For this reason, I believe it appropriate that the Secretary provide authority to agencies of the Public Health Service directly involved in patient-care programs, such as the Bureau of Community Health Services, or the training of health professionals, such as the Bureau of Health Manpower, to provide support for arthritis programs under the arthritis demonstration project authority. To further underline our commitment to the activities I have described, my bill also directs the Secretary to give priority to projects designed to disseminate information about arthritis to practicing health professionals.

The third substantive change which I am proposing under the arthritis demonstration projects authority is a new 3-year authorization of $2 million per year in order to support epidemiological research in arthritis. It is my strong belief that useful epidemiological data is urgently needed so that we might better understand the causes of and potential treatments for various rheumatic diseases. There are a number of new discoveries needing further investigation which have provided the background for intriguing hypotheses relating to the etiologic factors that cause arthritis.

These discoveries include such important concepts as the relationship of genetic markers to spondyloarthropathies and other forms of rheumatic disease, and the importance of sex and age variables to onset, course, and response to treatment in such diseases as systemic lupus erythematosus, Reiter's syndrome, and osteoarthritis. Undoubtedly, exploitation of these discoveries through a modestly funded program of epidemiological research will pay large dividends in our understanding of these diseases.

In conclusion, Mr. Speaker, I believe that the Federal arthritis effort has resulted in a remarkable record of achievement over the past half-decade. Through the combined efforts of many dedicated individuals—including those associated with the National Institutes of Health and the members of the National Arthritis Advisory Board, as well as the National Arthritis Foundation, effective arthritis research, retraining, and treatment programs have been established. The framework for a broad-based, well-coordinated effort to fight arthritis has been set in place and its activities are well underway.

Nevertheless, there is a great deal more to learn, and a great deal more to be done. We are now at a critical juncture and we cannot afford to lose the momentum already gained. For this reason, I strongly believe that we must show support for our antiarthritis efforts, while at the same time scrutinizing those efforts carefully to insure that resources are used effectively and efficiently. I am hopeful that the proposals which I have made in the legislation introduced today—as well as those which my colleagues may propose—will lead to improvements in our Federal arthritis effort. I strongly urge my colleagues to support that effort so that it can continue to mature—millions of Americans will benefit if we do.

Thank you, Mr. Speaker. A summary of the proposed legislation follows:

ARTHRITIS RESEARCH AND TRAINING AMENDMENTS OF 1980

SUMMARY

SEC. 1: Short Title.—The Arthritis Research and Training Amendments of 1980.

SEC. 2: Advisory Council Subcommittee.—Establishes within the National Arthritis, Metabolism, and Digestive Diseases Advisory Council, Subcommittees on each of the major disciplines of the National Institute on Arthritis, Metabolism, and Digestive Diseases (NIAMDD)—diabetes and related endocrine and metabolic diseases, arthritis, and kidney diseases. The subcommittees shall review research grants in their respective areas.

SEC. 3: Interagency Committee on Arthritis.—The name of the Arthritis Coordinating Committee is changed to the Arthritis Interagency Coordinating Committee. The Committee is required to submit its mandated report to the National Arthritis Advisory Board as well as the Secretary of Health and Human Services.

SEC. 4: Demonstration Projects and Epidemiological Research.— In making grants under this section, the Secretary is directed to work through "other appropriate agencies" of the Public Health Service as well as the Assistant Secretary for Health. Furthermore, in awarding such grants, the Secretary is directed to give priority to projects designed to disseminate knowledge to practicing health professionals about advances in arthritis care.

A new grant program is established by this section to provide support for projects for the investigation into the epidemiology, etiology, and prevention of all forms and aspects of arthritis. This program is authorized for three years at $2 million per year.

Continued funding for the demonstration projects program is provided for three years at a level equal to the program's fiscal year 1980 funding of $5 million per year. Continued funding for arthritis data systems is provided for three years at a level equal to the program's fiscal year 1980 funding of $1.5 million per year.

SEC. 5: Multipurpose Arthritis Centers.—Continued funding for multipurpose arthritis centers is provided at a level of $15 million for fiscal year 1981, $18 million for fiscal year 1982, and $20 million for fiscal year 1983.

Authority is provided to the Secretary to provide up to two training stipends through each arthritis center grant in order to increase the supply of those trained in arthritis care or research.

The three-year limitation on arthritis center grants in present law is repealed.

SEC. 6: National Arthritis Advisory Board.—Continued authority for the Board is provided for three years with a funding level equal to the fiscal year 1980 authorization of $300,000 per year. Provision is made for rotation of the Board's members.

The Board's report to the Secretary and the Congress is required to be submitted by January 15 of each year.●

THE ROCK ISLAND TRANSITION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 5 minutes.

● Mr. SEBELIUS. Mr. Speaker, today I introduced a bill designed to maintain service on the Rock Island Railroad, while removing some of the legal barriers which will slow the orderly transition of Rock Island properties to other railroads willing to maintain service over those lines.

The bill does three things: First, we provide additional time for directed service so that shippers can make other arrangements and so that interested railroads can make their offers. Second, it provides incentives to encourage other railroads to buy those lines that they think can be profitably incorporated into their systems and directs the Interstate Commerce Commission to move expeditiously on those proposed acquisitions. Finally, it keeps the lines operating where offers to purchase have been made until those purchases are completed.

This bill was introduced earlier this week on the Senate side by the distinguished Senator from Kansas, NANCY KASSEBAUM. This is a good, solid, commonsense approach to the problem of keeping the Rock Island lines in business and I urge my colleagues to support it. Thank you.●

CONSUMER CONTINUES TO BATTLE EVER-HIGHER PRICES ON SUGAR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

● Mrs. HECKLER. Mr. Speaker, the absence of a steady hand on the sugar trade tiller indicates the administration's indifference to the consumer's bat- against ever higher prices at the supermarket and grocery store. A review of recent history sets the scene:

In October of last year, the House resoundingly defeated H.R. 2172 by a vote of 152 to 248. That sugar price support bill was a boon to domestic sugar producers and a bust to American consumers who would have paid at least $400 million more each year for sugar and the multitude of products containing sugar. But with that vote the House did more than merely defeat an increase in the sugar subsidy. It simultaneously sent a message to the President the text of which was simplicity itself: Keep sugar prices as low as possible.

Ever since the House vote, sugar has become a maelstrom of commodity trading. The U.S. price of raw sugar increased from 15.79 to 24.37 cents since the defeat of the bill. That upward price movement was fueled by speculative trading, not by any substantial or intrinsic change in sugar supplies.

The President has had a weapon—a powerful weapon to deal and cope with this speculation fever. He has had the authority to reduce the 2.8125 cents a pound duty on imported sugar to the statutory limit of 0.625 cents a pound. Not until last Friday, February 1, did he act to promote stability in sugar prices. The administration procrastination coupled with widespread rumors as to whether they would act, and if so, when, pushed the price steadily higher. Every consumer in our country has paid a price for that nonfeasance.

Now, the American consumer/taxpayer through the House of Representatives and Senate action, is being asked to support U.S. participation in the International Sugar Agreement—a treaty which in my judgment does not give our country the fair treatment we deserve.

The world price of sugar has doubled in 3 months while the ISO has played no constructive action to temper the increase. American consumers have been the victims of that lassitude.

Article 44 of the ISA states that the ISO should "normally act in anticipation" of automatic changes. Though speculation ran rampant in November and December, the ISO did not increase sugar production quotas and, when action finally occurred on January 4, quota increases of 10 percent were announced rather than the 15-percent increase which were mandated by the hyper market activity.

A subsequent suspension of quotas put into effect when the average price exceeded 15 cents failed to temper the rapid increase in prices even though State Department officials suggested this would be the case.

ISO action was late, inadequate and ineffective. And, current discussions about raising the trigger levels at the March session of the ISO give alarming credence to the ISO's proclivity for favoring exporting countries by almost rote action with little regard for the facts. Any increase in ISA trigger levels would be highly inflationary and totally unjustified.

H.R. 6029, legislation to implement the International Sugar Agreement was reported out of the House Ways and Means Committee on December 13. I urge my colleagues in the House to familiarize themselves with the agreement's provisions. And shortcomings. This legislation must not be brought before the full House for disposition until the Congress has the benefit of further evaluating the ISO in action.

The next opportunity for analysis and judgment of the ISA in action will probably come soon if the world sugar prices reaches the stock release trigger at which point stocks presumably being stored by producing countries will be released for sale to consuming countries.

In addition, the decisions of the ISO in the upcoming March meeting regarding the proposal to increase the entire trigger mechanism upward—to the disadvantage of consuming countries and the advantage of producing countries—deserves the most careful scrutiny.

Our vote of last October did not ring down the victorious curtain on the fight for fair sugar prices for the American consumer. The war continues and those of us who won the first battle must be prepared to wage the good fight again.●

LEGISLATION TO PROVIDE COST-OF-LIVING INCREASE FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 20 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, today I am introducing legislation that will provide a 13-percent across-the-board cost-of-living increase for those veterans who receive compensation for service-connected disabilities.

The present administration has indicated in its budget proposal that it will propose a cost-of-living increase of this same magnitude. Furthermore, it is budgeting other automatically indexed entitlement programs, both in the Veterans' Administration and elsewhere, at a 13-percent level. Although it is my earnest hope that the present rate of inflation will soon reverse itself, I see nothing in the economic outlook, nor in the plans of our Government's economists, to provide such encouragement. As such, I am supporting the administration proposal with legislation of my own.

Service-connected disabled veterans, those who suffered wounds and injuries in the performance of military duties that this country called upon them to perform, are the most deserving of all recipients of Federal stipends. They truly earned these benefits, Mr. Speaker, by spilling their blood and leaving their limbs on those many battlefields across our globe, in an effort to preserve our way of life.

Consequently, Mr. Speaker, although I share the deep concern of many of my colleagues over both inflation and Government spending, I believe it not only justified but essential to provide for this most deserving group of recipients. They took care of us, at great personal cost. It is up to us to now take care of them.

H.R. 6441

A bill to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1980".

SEC. 2. Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$48" in subsection (a) and inserting in lieu thereof "$54";

(2) by striking out "$88" in subsection (b) and inserting in lieu thereof "$99";

(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$150";

(4) by striking out "$182" in subsection (d) and inserting in lieu thereof "$206";

(5) by striking out "$255" in subsection (e) and inserting in lieu thereof "$288";

(6) by striking out "$321" in subsection (f) and inserting in lieu thereof "$363";

(7) by striking out "$380" in subsection (g) and inserting in lieu thereof "$429";

(8) by striking out "$440" in subsection (h) and inserting in lieu thereof "$497";

(9) by striking out "$495" in subsection (i) and inserting in lieu thereof "$559";

(10) by striking out "$889" in subsection (j) and inserting in lieu thereof "$1,005";

(11) by striking out "$62" both places it appears, "$1,104", and "$1,547" in subsection (k) and inserting in lieu thereof "$70", "$70", "$1,248" and "$1,748", respectively;

(12) by striking out "$1,104" in subsection (l) and inserting in lieu thereof "$1,248";

(13) by striking out "$1,217" in subsection (m) and inserting in lieu thereof "$1,375";

(14) by striking out "$1,383" in subsection (n) and inserting in lieu thereof "$1,563";

(15) by striking out "$1,547" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,748";

(16) by striking out "$664" and "$989" in subsection (r) and inserting in lieu thereof "$750" and "$1,118", respectively;

(17) by striking out "$995" in subsection (s) and inserting in lieu thereof "$1,124"; and

(18) by striking out "$192" in subsection (t) and inserting in lieu thereof "$217".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 314(1) is amended—

(1) by striking out "$54" in clause (A) and inserting in lieu thereof "$61";

(2) by striking out "$91" in clause (B) and inserting in lieu thereof "$103";

(3) by striking out "$121" in clause (C) and inserting in lieu thereof "$137";

(4) by striking out "$151" and "$30" in clause (D) and inserting in lieu thereof "$171" and "$34", respectively;

(5) by striking out "$37" in clause (E) and inserting in lieu thereof "$42";

(6) by striking out "$67" in clause (F) and inserting in lieu thereof "$76";

(7) by striking out "$97" and "$30" in clause (G) and inserting in lieu thereof "$110" and "$34", respectively;

(8) by striking out "$44" in clause (H) and inserting in lieu thereof "$50";

(9) by striking out "$98" in clause (I) and inserting in lieu thereof "$111"; and

(10) by striking out "$82" in clause (J) and inserting in lieu thereof "$93".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$240" and inserting in lieu thereof "$271".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

“Pay grade	Monthly rate
E–1	$368
E–2	381
E–3	390
E–4	415
E–5	426
E–6	436
E–7	457
E–8	481
E–9	[1] 504
W–1	467
W–2	486
W–3	499
W–4	529
O–1	467
O–2	481
O–3	516
O–4	545
O–5	601
O–6	676
O–7	732
O–8	802
O–9	862
O–10	[2] 944

“[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $542.

“[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,011.”.

(b) Subsection (b) of such section is amended by striking out “$38” and inserting in lieu thereof “$43”.

(c) Subsection (c) of such section is amended by striking out “$98” and inserting in lieu thereof “$111”.

(d) Subsection (d) of such section is amended by striking out “$49” and inserting in lieu thereof “$55”.

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended—

(1) by striking out “$165” in clause (1) and inserting in lieu thereof “$186”;

(2) by striking out “$237” in clause (2) and inserting in lieu thereof “$268”;

(3) by striking out “$306” in clause (3) and inserting in lieu thereof “$346”; and

(4) by striking out “$306” and “$62” in clause (4) and inserting in lieu thereof “$346” and “$70”, respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND IDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out “$98” in subsection (a) and inserting in lieu thereof “$111”;

(2) by striking out “$165” in subsection (b) and inserting in lieu thereof “$186”; and

(3) by striking out “$84” in subsection (c) and inserting in lieu thereof :“$95”.●

SMALL BUSINESS SUFFERS A GREAT LOSS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, the small business community in America suffered a great loss today. John A. Lewis, president of the National Small Business Association, died this morning, a result of injuries he suffered in a traffic accident on Monday.

Mr. Lewis has been a leader of the small business community for many years. Under his able direction, first as executive vice president and later as president, the National Small Business Association has become a strong, respected voice in Washington.

Mr. Lewis and the NSBA were instrumental in forming the Small Business Legislative Council, an umbrella group consisting of dozens of independent small business groups. Through his leadership, these diverse organizations have come to recognize and work for their common interests. The success of this new council is attested to by the new awareness in Congress and throughout the government of the importance of small business.

As the chairman of the House Small Business Subcommittee on Antitrust and Restraint of Trade, I am especially aware of John Lewis' role as a champion of the Robinson-Patman Act and his tireless efforts to assure the small business operator a fair chance to compete in the marketplace. I trust that his colleagues at the National Small Business Association and throughout the small business community will carry on his important work. But his absence surely will be felt.

Mr. Lewis is survived by his wife, Dolores, and their children, Brian and Karen. They reside in Fredericksburg, Va. No date for the funeral has been announced.●

THE MOTOR CARRIER ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, I am pleased to join Surface Transportation Subcommittee Chairman JAMES HOWARD, along with ranking minority committee member BILL HARSHA and ranking minority subcommittee member BUD SHUSTER, in introducing the Motor Carrier Act of 1980. This bill represents a significant step forward in our committee's efforts to perfect needed reform of Federal regulation over America's trucking industry. At the same time, it reflects the commitment of the Congress as well as our committee to making much needed regulatory reform, cutting needless redtape and bureaucratic burdens.

Last year I introduced two bills relating to reform of motor carrier regulation. One was introduced on behalf of the administration while the other reflected the views of the trucking industry. Those bills provided a diverse spectrum of alternatives. In August, the Surface Transportation Subcommittee commenced hearings all across the Nation in seven major cities, receiving testimony from a wide range of persons involved in or affected by the trucking industry.

Following those hearings we were joined by our counterparts in the Senate, the Committee on Commerce, Science, and Transportation, in a commitment to craft a bill in a timely fashion that would best meet the needs of the public. Senators HOWARD CANNON, the Commerce Committee's distinguished chairman, and its ranking minority member BOB PACKWOOD, introduced their committee's bill last Friday, February 1.

Our bill is the product of a great amount of thought and deliberation as well as extensive congressional hearings. We often heard it said that America's system of truck transportation is the best in the world. True, it may well be. But consistent with the American spirit of seeking excellence, we have sought to draft a bill to make important improvements in the way this industry is regulated, reflecting changing times and current needs.

The Interstate Commerce Commission and its regulation of motor carrier business started 44 years ago. Since then, a struggling truck industry has grown and prospered along with America's economy. We are proposing changes with this bill that are consistent with changes in our transportation system. It comes about as the result of a recognition that regulation of this industry is as burdensome as it is complex, and that there is a need to encourage further competition while maintaining stability.

With full appreciation of the needed balancing of various public interest objectives that exist today, we want with this bill to provide for an even higher level of quality from our motor carrier transportation system, promote energy conservation, safety, increased competition and reliable, stable service, especially to smaller communities.

With this bill, increased market entry is provided. The existing regulatory structure is substantially modernized, reducing unneeded, burdensome controls. The whole system of rate bureaus is reformed to provide sunlight and openness where there has been none, along with procedures to promote fairness, increased competition, and stability. There are a large number of other improvements provided for by this bill which also deserve close inspection.

In the weeks to come, like our Senate colleagues, we will be holding a series of hearings to receive comments on our proposals, so as to be able to mark up and produce the best legislation possible.●

TAXES, DEBT AND MR. JONES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, as a cosponsor of the Capital Cost Recovery Act authored by the gentleman from Oklahoma (Mr. JONES), I want to bring to the attention of my colleagues a recent article featuring our distinguished colleague from Oklahoma.

In the Sunday, February 3, 1980, edition of the New York Times, Edward Cowan drew a picture of JIM JONES that I think aptly sums up his superior abilities and the contributions he has made to the House, particularly in the tax field. His evenhanded, logical approach to tax matters, coupled with the fact that he always does his homework, make him one of the more influential and sought-after members on the Ways and Means Committee.

Though the gentleman from Oklahoma and I may not always agree, I know that proposals bearing the stamp of Jim Jones have been thoroughly scrutinized.

I commend this article, entitled "Taxes, Debt and Mr. Jones" to my colleagues.

The article follows:

[From the New York Times, Feb. 3, 1980]

Taxes, Debt and Mr. Jones

(By Edward Cowan)

Washington.—President Jimmy Carter, a Georgia Democrat who sometimes wraps himself in populist rhetoric, says the country cannot afford a tax cut in fiscal 1981 because inflation is high and it is more important to cut the budget deficit.

Representative Jimmy Jones, Democrat of Oklahoma and the business community's new darling on the Ways and Means Committee, disagrees. And as a consequence, Mr. Jones, perhaps the most effective tax expert in Congress, is seeking to forge a coalition of Republicans and Democrats behind a $20 billion reduction in business taxes and the Social Security payroll tax.

If unemployment climbs rapidly this spring and inflation abates, President Carter—as he indicated this week in his 1981 budget message—could swing behind tax relief in this election year. But as of now, Washington insiders say the odds are against it.

It may seem inconsistent that James R. Jones, the son of a postman who fell heavily into debt during the Depression, supports tax cut now, with the 1980 budget $40 billion in the red and the 1981 budget, as projected this week by President Carter, $16 billion in deficit. Is the 40-year-old lawyer, who has swept to four consecutive victories in Republican Tulsa, less conservative than his President?

Mr. Jones's answer is no. After all, he says he is "very alarmed at debt financing" by business and government. He cites his sponsorship of a bill to put a statutory limit—of sorts—on Federal spending. The limit would be 21 percent of the gross national product in fiscal 1981, which starts next Oct. 1, and 20 percent thereafter.

By a simple majority on a separate vote in each house of Congress, the lawmakers could override this restriction. In other words, the Jones inhibition would be essentially procedural and political. But it would force the members to stand up and be counted as explicitly favoring more spending. Mr. Jones' argument is that such a requirement would strengthen the budget process and move Congress toward exercising tighter control over specific "entitlement" spending programs, including such items as food stamps, welfare, health benefits and Social Security benefits.

This is an odd position for a protege of Lyndon B. Johnson, the President who sponsored "Great Society" social programs, but Mr. Jones is no longer a special assistant in his 20's. The times have changed. Government is more suspect than it was. Mr. Jones, who likes to recall that he served President Johnson at the White House right up until Richard Nixon's inauguration at noon on Jan. 20, 1969, can say now: "Government can be just as excessive and obstructionist to human development as any other institution—big business, big labor."

Mr. Jones' path to the White House and the Congress was proverbial in a standard American way. Born on May 5, 1939, in Muskogee, Okla., he worked as a news reporter while an undergraduate at the University of Oklahoma and became acquainted with Democratic Party personalities, including Representative Ed Edmondson.

After college he went to work in Mr. Edmondson's House office and earned a law degree at Georgetown University here. A friendship with Thomas Hale Boggs, Jr., whose late father was a Democratic power in the House, led to a White House job. When President Johnson returned to private life in Texas, Mr. Jones returned to Oklahoma to practice law in Tulsa and prepare for his own political career.

The Oklahoma Democrat now has his own political power base. He won 60 percent of the vote in 1978 against a strong Republican challenger, in a district that traditionally returned Republican incumbents before Mr. Jones captured the seat in 1972. That year, he pulled 54 percent of the vote while President Nixon rolled up 81 percent to George McGovern's 19 percent. That tells something about the nature of Tulsa, an oil boom town since the early years of this century.

Some sense of where Mr. Jones is coming from, literally, and where he is headed, legislatively, can be gleaned from "The Almanac of American Politics 1980." It says of Tulsa: here don't resent the big companies "People here don't resent the big companies and the new rich; they identify with them. They see government as only interfering with corporate efforts to produce goods that people want and are ready to pay for."

The big companies, or at least their political action committees, evidently like Mr. Jones. Federal Election Commission records show that he reported $43,218 of contributions from corporate P.A.C.'s for the 1978 campaign, three times the total for the next highest Oklahoma candidate. Labor gave him $4,175 as against $26,410 to an incumbent Democrat who lost his House seat.

Mr. Jones' contributions did not come just from oil companies, but from a broad scattering of business interests including:

E. F. Hutton, which had a special interest in the 1978 tax act; Chrysler and General Motors; cattle interests; apparel manufacturers, with an eye on tariff issues handled by the Ways and Means Committee; Kellogg, which would like the House to eviscerate the Federal Trade Commission, whose antitrust complaint Kellogg is battling; Lockheed Aircraft; mutual funds, and International Paper, among others.

In all, Mr. Jones reported 1978 campaign contributions of $235,000. That was enough to pay all the bills and still have something left over to pay a bonus or two to campaign workers.

Mr. Jones came into the spotlight in 1978 when with the late Representative William A. Steiger, Republican of Wisconsin, they formed a Ways and Means coalition of Republicans and conservative Democrats in favor of reducing capital gains taxes, which Congress did that year, despite White House and Treasury opposition.

As he related it in an interview over breakfast in an almost empty House dining room, that was step one in a program to encourage capital formation. The theory, he said, was that lower capital gains levies would help corporations to raise equity capital.

Step two, set down on the Jones calendar for 1980, is to shorten the periods in which business can depreciate buildings and equipment for tax purposes. That would promote capital formation by increasing the internal flow of funds. (A deduction for depreciation reduces taxable income and taxes owed.) This is the Capital Cost Recovery Act sponsored by Mr. Jones and Representative Barber B. Conable Jr. of upstate New York, the ranking Republican on the Ways and Means Committee, with 275 House cosponsors.

The act, supported by a broad coalition of businesses, is opposed by the Administration on the ground that it would scatter relief willy-nilly rather than concentrate it where it would do most to stimulate investment and productivity.

It is axiomatic on Capitol Hill that business tax relief cannot be passed without something for individuals. The Jones strategy contemplates Social Security payroll tax relief in the form of income tax credits equal to a fraction of the payroll levy. This would not be inflationary, he said, because it is not "across-the-board" tax relief.

Step three, Mr. Jones said, is reducing corporate income taxes next year. He billed that as beneficial to labor-intensive industries, which get little out of accelerated depreciation of capital goods, but acknowledged, when pressed, that it would be a boon to corporations of every stripe.

"Tax Simplification" is another Jones theme. Under that rubric he speaks of the possibility of moving toward a tax on gross income of individuals in the 1980's. It was also under that rubric that he tried to induce a deadlocked House-Senate conference on the oil "windfall" profits tax to accept a constant severance tax on each barrel produced instead of the tougher rising-scale tax finally adopted. "It was very seductive," said a liberal Democratic House aide who regards Mr. Jones, as do many such Democrats, as a pro-oil member of Congress.

Mr. Jones is regarded as a comer, some say as a successor to former Representative Joe D. Waggonner Jr., the funny, sometimes abrasive, Louisiana Democrat who, until he retired in 1978, was the forger of Ways and Means majorities consisting of 12 Republicans and seven or eight center-right Democrats. Mr. Jones is likely to be more successful than Mr. Waggonner, House sources said, because "he does his homework" and "has a good relationship with the members."

Earnest (he does not joke in committee) and polite, acquaintances say he never seems irritated or too busy to return a phone call. "Wholesome" and "a hard worker" are phrases tax lobbyists use about him.

He has one blemish on his record. In 1976 he pleaded guilty in Federal Court in Washington to the misdemeanor of failing to report a campaign contribution of between $1,000 and $2,000 in cash. The money was allegedly part of what the Gulf Oil Corporation disbursed illegally in 1972, but the prosecutors did not contend that Mr. Jones knew the money had come from the corporate treasury. He was fined $200.

Mr. Jones has ruled himself out of the race for the Senate seat from Oklahoma that will be open next fall. He says he likes concentrating on economic, budget and tax issues. He enjoys the status he has achieved in the House, and is interested in more.

Should he run for House majority whip or leader, he could point to support for civil rights legislation in the 1960's, the Equal Rights Amendment, the Panama Canal Treaty Implementation Act and for the labor law reform bill as evidence that he votes with the liberals on some issues.

The liberals, however, would pillory him for opposing the Consumer Protection Agency, common situs picketing and Government financing of abortions and for supporting the B–1 bomber, deregulation of natural gas, and oil company positions in general.●

THE MUSES FLEE HITLER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, the Smithsonian Institution today begins a 3-day colloquium designed to recall an aspect of one of the most dreadful periods in world history. Entitled, "The Muses Flee Hitler," the colloquium focuses on the flight of European artists and intellectuals to the United States between 1930 and 1945, the years of Nazi terror and conquest.

The program concludes an observance of the 100th birthday of Albert Einstein, the most renowned of those refugees who found in the United States a haven which offered them an opportunity to continue their work and contribute to the intellectual, cultural, and scientific development of their adopted nation.

The benefits that have accrued to us from these remarkable people are incalculable and I wish to congratulate the Smithsonian Institution and its Hirshhorn Museum for reminding us of those refugees and the debt we owe them.

Mr. Speaker, I would like to insert in the RECORD at this time an article from the Washington Star describing the colloquium and the program of events. The article follows:

[From the Washington Star, Feb. 3, 1980]

REMEMBERING A MIGRATION OF TERROR, STEALTH

(By John McKelway)

The Smithsonian this week takes note of a migration of intellectuals. It was a migration filled with terror and stealth, which included at one point a price tag of $350 for freedom—the cost of draining one more brain out of Europe.

The three-day colloquium, Thursday through Saturday, deals with the migration of European artists and intellectuals to the United States between 1930 and 1945. The title of the affair is "The Muses Flee Hitler."

Perhaps this aspect of the Nazi era has been largely forgotten. Yet it produced in the United States a profound renaissance in the arts and sciences which culminated, it might be said, with the explosion of the atom bomb and the end of World War II. For better or worse.

EINSTEIN OBSERVANCE

The program marks the end of the Smithsonian's observance of the 100th birthday of Albert Einstein, best known of all the refugees from Nazi Germany. Various scholars will discuss the experiences of the refugees—where they came from and how they got here—and explore their impact on American culture.

Those who were able to make it across the sea included an astonishing number of brilliant individuals. A partial list: Enrico Fermi, Hans Bethe, Leo Szilard and Edward Teller, scientists; Thomas Mann, Bertolt Brecht and Vladmir Nabokov, writers; Herbert Marcuse and Hannah Arendt, political philosophers; Walter Gropius and Ludwig Mies van der Rohe, architects; Arthur Rubinstein, Kurt Weill, Igor Stravinsky and Antal Dorati, musicians; Hans Hofmann, Josef Albers, Jacques Lipchitz and Hans Richter, artists.

The flight of these artists and scientists was not easy. Cynthia Jaffee McCabe, curator for exhibitions at the Hirshhorn Museum and co-chairman of the colloquium, points out that the refugees faced not only the anti-intellectualism and anti-Semitism of the Nazi movement, but the restrictive immigration policies of the United States.

According to McCabe, who has looked into the period, the United States and elements of the State Department harbored strong feelings against foreigners. The country was, after all, in a depression.

McCabe will turn the spotlight on a little-known group of people who sort of took it upon themselves to rescue the intellectuals, particularly those trapped in France after the German invasion of 1940.

RESCUE COMMITTEE

The group was called the Emergency Rescue Committee, organized in New York three days after the capitulation of France. The committee—whose membership included Elmer Davis, Raymond Gram Swing and Dorothy Thompson—came out with an appeal to those who would "help in the rescue of those distinguished Europeans whose lives are directly menaced by the Gestapo." Contributions of $350 were requested "to make possible the evacuation of one man or one woman."

Lists of artists and intellectuals were drawn up and turned over to a man named Varian Fry, a 32-year-old, Harvard-trained classicist. Fry headed for Marseilles and set up a rescue mission. He was kicked out of France in 1941. But by that time, as McCabe tells it, "Fry and a small, devoted staff had aided more than 1,000 carefully screened artists, musicians, writers, scholars, politicians and labor leaders and their families to leave France, either legally or illegally."

One of those working behind the scenes in the United States, McCabe reports, one who applied some pressure here and saw to it that immigration corners were cut there, was Eleanor Roosevelt.

SOMETHING SPECIAL

One of the participants in the colloquium will be Daniel J. Boorstin, Librarian of Congress. Boorstin has written of that "galaxy" of intellectuals who fled the Nazi holocust:

"In a new sense, these were 'new immigrants.' When these men and women arrived, they had already been educated in their homelands, and so arrived at the height of their achievement. They had actually been expelled because of their vigor, originality and distinction. The United States received them full-grown, without the social cost of nurturing and training. But the economic advantage was trival compared to another special benefit.

"Those who were already fully formed and equipped—and they were thousands—could add something special to civilization here and through America to the world. They brought the most advanced and most original European modes of art for a new encounter with the American scene, not merely in the minds of tourists or casual travelers—but in the persons of newly committed Americans. They brought the Immigrants' Vision."

Speakers at the sessions will also include writer and physicist Alfred Kazin; Gerald Holton, a Harvard physicist and specialist on Einstein; and S. Dillon Ripley, secretary of the Smithsonian Institution.

PROGRAM FOR COLLOQUIUM

The program for the Smithsonian's "The Muses Flee Hitler" colloquium is as follows:

Thursday, Feb. 7—"Background to the Migration," 9:15 a.m. Hirshhorn Museum auditorium. Speakers: S. Dillon Ripley; Charles Blitzer, assistant secretary for history and art, Smithsonian; Alan Beyerchen, associate professor of history, Ohio State University; Herbert A. Strauss, professor of history, City College, City University of New York.

1 p.m., Hirshhorn Museum auditorium. Free film, "Hans Richter: Artist and Filmmaker."

2:30 p.m., "The Great Flight of Culture," Hirshhorn Museum auditorium. Speakers: Boorstin; Roger Daniels, chairman, department of history, University of Cincinnati; Cynthia McCabe, Hirshhorn exhibition coordinator; Wolf Von Eckhardt, architectural critic, The Washington Post.

8 p.m., "The Interaction of Cultures: Transplanting the Arts, Part 1," Carmichael Auditorium, National Museum of History and Technology. Speakers: Joseph D. Duffey, chairman, National Endowment for the Humanities; Alfred Kazin, critic and professor of English, City University of New York Graduate Center and Hunter College; Boris Schwarz, professor emeritus of music, Queens College, City University of New York.

Friday, Feb. 8—9:30 a.m., "The Interaction of Cultures: Adaptation and Influence," Hirshhorn Museum auditorium. Speakers: Abram Lerner, director, Hirshhorn Museum; Helmut F. Pfanner, professor of German, Prudue University; Jarrell C. Jackman, historian, Alexandria Archaeology Research Center; H. Stuart Hughes, professor of history, University of California, San Diego.

2:30 p.m., "The Interaction of Cultures: Transplanting the Arts, Part 2" Hirshhorn Museum auditorium. Speakers: John Beardsley, adjunct curator, Corcoran Gallery of Art; Christian F. Otto, associate professor of architecture, Cornell University; Cynthia Goodman, adjunct curator, Fine Arts Museum of Long Island; Hans-Bernhard Moeller, professor of literature and film, University of Texas, Austin.

8 p.m., "An Evening of Music by Emigre Composers," Baird Auditorium, Museum of Natural History. Concert performed by the 20th Century Consort.

Saturday, Feb. 9—9:30 a.m., "The Interaction of Cultures: The Sciences," Carmichael Auditorium, Museum of History and Technology. Speakers: Robert Kargon, professor of history, Johns Hopkins University; P. Thomas Carroll, doctoral candidate in the History of Science, University of Pennslyvania; Nathan Reingold, editor, Joseph Henry Papers, Smithsonian; Michael M. Sokal, associate professor of history, Worcester Polytechnic Institute.

2:30 p.m., "The Muses Flee Hitler," Carmichael Auditorium, Museum of History and Technology. Speakers: Gerald Holton, Mallinckrodt Professor of Physics and professor of the history of science, Harvard University; Fritz K. Ringer, professor of history, Boston University; Susan Jacoby, writer.●

THE TAX REDUCTION ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. SHANNON) is recognized for 5 minutes.

● Mr. SHANNON. Mr. Speaker, the recession of 1979, long predicted by both administration and private economists, has failed to materialize. Nevertheless, there are reasons to believe that a business downturn may soon strike the economy. OPEC price increases and oil decontrol are expected to constrict both consumer spending and business investment in the coming months. In 1981, a major increase in payroll taxes will go into effect, thereby further reducing purchasing power and adding to business costs. Unemployment, already above 6 percent, could rise much higher.

Budgetary considerations require that the Congress act carefully when considering a tax cut. Reductions put into effect prematurely, and under the wrong economic conditions, can make inflation worse by overstimulating the economy. The experiences of the seventies, however, have shown that inflation, if it is of the cost-push variety, is not necessarily cured by a recession. A serious economic downturn effects not only total employment and the gross national product, it reduces the level of business investment, and hence, restricts productivity growth. If a recession should arrive, the Congress should be prepared to enact without delay a tax cut.

Any such tax cut considered by this Congress should be designed to achieve a number of objectives. It should reduce the tax burden of individuals, especially those who have been hardest hit by increases in energy prices. It should also raise productivity and business investment without further aggravating inflation.

Mr. Speaker, today I am introducing a bill to reduce taxes and to improve productivity. I do not believe that the bill should be enacted immediately. I do, however, believe that it should be studied and debated, especially in comparison with other proposed tax reduction legislation, so that the Congress can have an equitable, effective, and comprehensive plan to cut taxes if and when the economy requires that we do so.

Mr. Speaker, my proposal is complete and well rounded. It does not ignore any important sector of our economy. It is not slanted toward business or toward individuals. It is a modest tax cut of $31 billion, a tax cut which would counter a mild recession without a significant increase in the deficit. It is a flexible cut. If the economy dictates, the package can be easily modified to provide for either a smaller or a larger reduction in revenues.

The package is composed of three proposals reducing personal taxes and four reducing corporate taxes. These include a 10-percent credit against income tax for social security taxes, a 10-percent credit for research and experimental expenditures, a reduction in both personal and corporate tax rates, and a reduction in taxes for small businesses. Also included in the bill is a provision which simplifies depreciation deductions for small business, but which does not entail any revenue loss. The sum of $12 billion, or 40 percent of the cut, goes to business, while $19 billion, or 60 percent, goes to individuals.

The bill is not a wholesale change in the Tax Code. It does not legislate hidden revenue losses which will balloon in future years—see table 1. It does not make the mistake of concentrating solely on one method of cutting taxes or of stimulating productivity. It is a comprehensive, innovative, and forward-looking tax cut which leaves open our options for the future.

TEN-PERCENT CREDIT FOR FICA CONTRIBUTIONS (SECTION 4)

One of the most important goals of present tax policy should be to reduce the burden of social security payments. There are many reasons for this.

First, the payroll tax is a regressive tax. It makes no concessions for small incomes or for large families. The recent OPEC increases, which affect lower income groups particularly harshly with skyrocketing gasoline and heating oil prices, make a reduction in social security taxes particularly appropriate.

Second, payroll taxes are an important component in business costs. Given the current business preference for markup pricing, a cut in these taxes will be anti-inflationary.

TAX REDUCTION ACT—CONGRESSMAN SHANNON

[Revenue losses in billions of dollars]

TABLE 1

	Calendar year—				
	1981	1982	1983	1984	1985
Individual (total)	(19.2)	(22.3)	(25.6)	(29.7)	(34.8)
Zero bracket amount	1.4	1.5	1.5	1.6	1.6
Rate reduction and bracket changes	11.0	13.0	15.3	18.1	21.4
Social security	6.8	7.8	8.0	10.0	11.8
Corporate (total)	(12.4)	(13.9)	(15.7)	(17.5)	(20.0)
Rate reduction and bracket changes	4.1	4.5	5.0	5.5	6.0
R. & D. tax credit	.9	1.0	1.1	1.2	1.3
Social security	7.4	8.4	9.6	10.8	12.7
Small business 1244	(1)	(1)	(1)	(1)	(1)
Total (calendar)	31.6	36.2	41.3	47.2	54.8

[1] Less than $10,000,000.

TABLE 2

	Fiscal year—				
	1981	1982	1983	1984	1985
Individual (total)	(12.8)	(21.3)	(24.6)	(28.3)	(33.2)
Zero bracket amount	1.0	1.5	1.5	1.6	1.6
Rate reduction and bracket changes	6.9	12.2	14.5	17.0	20.1
Social security	4.9	7.6	8.6	9.7	11.5
Corporate (total)	(7.4)	(13.4)	(15.1)	(16.9)	(19.5)
Rate reduction and bracket changes	1.8	4.3	4.7	5.2	5.7
R. & D. tax credit	.4	.9	1.0	1.1	1.3
Social security	5.2	8.2	9.4	10.6	12.5
Small business 1244	(1)	(1)	(1)	(1)	(1)
Total (fiscal)	20.2	34.7	39.7	45.2	52.7

Source: Joint Committee on Taxation, Jan. 29, 1980.

Every dollar cut from an employee's payroll tax is an increase in take-home pay. This can be an additional compensation to workers for accepting newer and more actively enforced wage and price guidelines. In the face of what is primarily a cost-push inflation, the importance of easing wage and price pressures has a particular relevance.

The bill would provide employees, self employed persons and employers with a refundable credit against income taxes equal to 10 percent of payroll taxes paid for years beginning in 1981. The existing employer's ordinary and necessary expense deduction for payroll taxes would be reduced by the amount of the credit taken.

Social security taxes are scheduled to increase from 6.13 to 6.65 percent in January of 1981. The 10-percent credit proposed in this bill will negate the effects of the increase, but will do so without effecting the long term stability or integrity of the trust fund. The Joint Committee on Taxation has estimated that the revenue loss from this provision will be $14.2 billion in calendar year 1981. The benefits from the reduction will be evenly divided between business and individuals.

REDUCTION IN THE CORPORATE RATE, REDUCTION IN RATE FOR SMALL BUSINESS (SECTION 5)

The most efficient and most equitable way to reduce taxes on business is through a reduction in the corporate tax rate. Reducing this tax provides for more after tax earnings. It stimulates growth by improving the performance of capital markets, and by encouraging a higher rate of business investment. It does not favor either labor or capital intensive industries. In addition, a reduction in the corporate tax rate means a reduction in business costs. This will have a positive effect upon inflationary cost-push pressures.

Smaller businesses are a crucial component of our economy. Testimony before the Committee on Small Business has shown that the majority of industrial innovations and much of the Nation's productivity increases have been made by small business. Independent, locally owned businesses have historically provided a foundation for community stability. Of even greater importance, smaller businesses are creating most of the new jobs in the United States. A recent MIT study of Dunn and Bradstreet records found that 77 percent of the employment growth in the economy from 1969 to 1976 came from firms with fewer than 50 employees.

This bill provides for a corporate tax cut which will cut taxes for larger businesses while providing a significant reduction in liabilities for smaller businesses. The top corporate rate is reduced to 45 percent. The lower corporate rate brackets are expanded, with companies whose taxable income is under $50,000 paying 17 percent, over $50,000 but less than $100,000 paying 25 percent, and over $100,000 but under $150,000 paying 35 percent. This provision, according to the Joint Committee on Taxation, will result in a loss of revenue of $4.1 billion in calendar year 1981. The benefits will be divided almost evenly between corporations which make under $150,000 and those which earn more.

10-PERCENT TAX CREDIT FOR RESEARCH AND EXPERIMENTAL EXPENDITURES (SECTION 6)

Much of America's economic strength has resulted from constant innovation. If we are to become more competitive as a Nation, and if we are to manufacture products which are competitive internationally, we must continue to improve the quality of those products. No one will buy an American car or an American computer unless they are the best on the market. We as a Nation cannot afford to become the makers of obsolete goods.

Traditionally, American industry has taken the lead in developing new or improved products. In the past decade, however, we have witnessed a decline in American innovation. Total research and development spending in the United States has fallen from over 3 percent of GNP in the early sixties to only a little over 2 percent last year. the nondefense component of these figures has declined as well, from about 1.9 percent of the GNP to approximately 1.5 percent, a reduction of almost 25 percent, in the past few years.

Our trading partners have not been so

shortsighted. As recently as 1967, we led the world in nondefense research and experimental spending as a percentage of GNP. Since the beginning of the last decade, however, both Germany and Japan have overtaken us. The Japanese now spend more than twice as much as we do, in absolute dollars, on non-defense-related basic research.

The relative decline in expenditures is illustrated by our patent balance—the percentage of U.S. patents granted to foreigners. That percentage has grown from about 20 percent of all patents granted in 1967 to 40 percent in 1977. In this age of technological innovation, falling behind in research and development means producing products which are less competitive internationally. With a $30 billion balance-of-trade deficit, we cannot afford to fall behind.

There is conflicting evidence as to why our research and development spending as a percentage of the gross national product is declining. Some economists have suggested that American business has become too much a prisoner of the bottom line, and that investments in research and development usually take a number of years to pay off. Others have mentioned that the 10 percent investment tax credit is an incentive to purchase existing machinery and to use existing technology. This creates a perverse disincentive against research and development. This trend must be reversed.

This bill extends a 10-percent tax credit for research and experimental expenditures as defined by section 174 of the Internal Revenue Code. The bill limits the credit to those investments above 2.5 percent of the gross receipts of the firm. This provision, besides eliminating the current disincentive to invest in research and development, will greatly improve the cash flow and profitability of smaller firms, many of whom are taking the lead in developing new products and new technologies. The credit will apply only to items which are not capitalized and which cannot receive an investment tax credit under existing law, thereby eliminating the possibility of "double dipping." The Joint Committee on Taxation has estimated that this provision will result in a revenue loss of $900 million in calendar year 1981.

SIMPLIFIED DEPRECIATION FOR SMALL BUSINESS (SECTION 7)

Over the past few years, small business organizations have pointed repeatedly to the difficulty of using the asset depreciation range system of capitalizing assets. Because of its enormous complexity, many smaller companies have been unable to take advantage of the tax savings and the improved cash flow which ADR provides.

Under present law, a corporation is permitted to use asset depreciation range useful lives only if it follows a series of complex rules. This bill will permit small businesses to use ADR useful lives, including the 20-percent variance, without having to follow any complex rules. A small business may qualify under these proposed changes if its total depreciable assets at the beginning of the taxable year do not exceed $500,000, and if the depreciable assets placed in service during the taxable year do not exceed $250,000. The depreciable property which is relevant in determining whether a taxpayer qualifies under these dollar limitations includes only the depreciable personal property for which useful lives are prescribed under the ADR system. This provision should have a negligible effect upon revenues.

SMALL BUSINESS CAPITAL LOSS PROVISIONS (SECTION 8)

Small corporations have had difficulty in the past with raising the necessary capital to expand or diversify. Smaller firms have a much larger debt to equity ratio than do larger firms. Greater incentives are needed to encourage investment in small business corporations.

Under section 1244 of the Internal Revenue Code, taxpayers may claim as a loss up to $50,000 from the disposition of certain types of stock. To qualify, the amount of this special stock issued by the corporation cannot exceed $1 million. This limit is determined by the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid in surplus at the time of issuance of the stock. Under this bill, the $1 million limit will be raised to $2 million. This will permit more smaller and younger industries to take advantage of the expanded capital loss provisions of section 1244. The Joint Committee on Taxation has estimated that the loss in revenues due to this provision will be under $10 million.

REDUCTION IN PERSONAL INCOME TAXES

Any tax cut package must include a cut for individuals. Individuals currently carry a full 83 percent of all tax liabilities, with business paying 17 percent. Because our graduated system of personal income taxes provides for higher taxes on larger incomes, inflation has pushed individuals into higher and higher tax brackets. This invisible tax increase, unlegislated and unintended, takes a larger and larger bite into individual incomes every year. Any tax cut should address itself to relieving those who suffer the most from high taxes, the individual wage earner. This can best be done by adjusting our basic schedule of personal income taxes.

This bill increases the zero bracket amount in the joint return schedule from $3,400 to $3,600. The increase is from $2,300 to $2,400 for single person head of households, or one half as much for married couples. For married persons filing separate returns, the increase is from $1,700 to $1,800.

A new tax rate schedule is provided with 13 brackets for joint returns and 13 brackets for single taxpayers, a reduction from 15 and 16 brackets respectively. Consequently, the size of the remaining brackets is increased. Rates on each bracket are changes, but direct comparison is impossible due to an increase in the size of the brackets.

The reduction is geared primarily to the lower and middle income taxpayer. The average family of four earning $20,000 will have its personal taxes reduced, due to both the social security and rate cuts, by $226. The Joint Committee on Taxation has estimated that the changes in zero bracket amount, bracket widening, and rate changes will result in a loss to the Treasury of $11 billion in 1981.

CONCLUSION

Mr. Speaker, I do not believe that we should enact a tax cut immediately. I do believe, however, that we should have an intelligent, fair, and comprehensive tax reduction plan ready to go if and when the economy requires one. We should be careful not to cut taxes in a way which might be beneficial to some industries but which might be harmful to others. We should be careful not to cut taxes in a way which would break the budget and fuel inflation. We should be careful not to favor individuals or favor businesses. We should be careful not to commit ourselves to a cut which would radically restrict our options for the future, or which we might regret 5 or 10 years from now. I believe that the bill I have introduced today is fair, is modest, is flexible, and is comprehensive. It is neither as inflationary nor as regressive as other pending tax cut proposals. It is the best approach should a tax cut be in the best interests of this Nation's economy. ●

THE SAFE TRUCK SPEED ACT OF 1980

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, we are today facing a virtual epidemic of major highway accidents involving big trucks on our Nation's roads. According to the National Highway Traffic Safety Administration, the number of fatalities involving big trucks is up by almost 40 percent compared with 1975 figures. The rising toll of highway deaths can be traced to a combination of factors, including improperly maintained trucks, overweight vehicles, an inadequate system of licensing which permits drivers with a history of poor driving to keep working, and, last but not least, speed.

I doubt if there is a single motorist in the country who uses the Interstate Highway System and who has not had the experience of being almost shoved off the road by monster trucks roaring past at speeds of 70 or 80 miles per hour. Most truck drivers are courteous and law abiding. Unfortunately, the minority who are not are a lethal menace to everyone else on the highways. Because most truckers have CB radios, it is almost impossible for police to effectively enforce the speed limit against them.

I am convinced that a significant share of highway accidents could be avoided if heavy trucks could be made to comply with the 55-mile-per-hour speed limit. With this in mind, I am today introducing legislation to require heavy-duty trucks to carry a road-speed governor device limiting their maximum speed to 55 miles per hour. This legislation, the Safe Truck Speed Act of 1980, would do the following:

First. Require all trucks over 10,000 pounds gross vehicle weight rating, beginning with the 1982-model year, to carry a road-speed governor limiting maximum speed to 55 miles per hour.

Second. Require all trucks manufactured before the 1982 model year to be retrofitted with a road-speed governor by July 1, 1982.

Third. Authorize the Secretary of Transportation to exempt such vehicles as are deemed necessary.

Fourth. Authorize the Secretary of Transportation to set, by rule, minimum performance standards for road-speed governors. Since the National Highway Traffic Safety Administration has already embarked on a study of speed governors, this provision will tie in with the findings of an ongoing study.

Fifth. Authorize the President to issue regulations designed to maximize the use of speed-governed trucks by the Federal Government.

Sixth. Set penalties for operating trucks without governors at $2,500 per violation, with a maximum fine of $50,000 for a single series of violations. The bill further protects drivers who refuse to operate trucks which do not have governors, or which carry governors that have been tampered with.

The 55-mile-per-hour speed limit makes sense. For example, aside from the safety benefits inherent in observing the limit, the Department of Transportation estimates that truck operators could save significant amounts of money on fuel costs for every mile per hour truck speed is reduced toward the 55-m.p.h. limit Compared with 1972 figures, estimates show that trucks are already saving in the neighborhood of 400 million gallons of fuel by traveling at slower speeds. If compliance with the 55-mile-per-hour speed limit were greater, NHTSA estimates that fuel economy would improve by another 400 million gallons per year.

Recent events in the Middle East have demonstrated concretely how fragile our oil lifeline has become. We simply must reduce overconsumption of petroleum products as rapidly as possibe. Limiting truck speed will not only reduce gasoline and diesel oil consumption by trucks, it will also tend to lower auto speeds and hence auto fuel consumption. Many motorists are inclined to speed to keep from being passed by trucks, or simply to imitate them. Once motorists see that all the trucks are observing the speed limit, the motorists will be more likely to do so. On the other hand, as long as many trucks are speeding, it is going to be very hard to get the rest of the motoring public to obey the speed limit.

Important though fuel economy is, however, the most significant result of the bill would be a reduction in the alarming rise in highway fatalities involving heavy trucks. As the percentage of smaller cars on our highways increases, this rise in fatalities is sure to continue unless we can bring the big trucks into compliance with the law.

SECTION BY SECTION ANALYSIS OF THE SAFE TRUCK SPEED ACT OF 1980

Section 1: Short Title: "The Safe Truck Speed Act of 1980."

Section 2: Amendments, Definitions, Installation of Road Speed Governors, Penalties, Exemptions, Inspection Provisions, Performance Criteria, Appropriations Authorization.

Section 2 provides for the following:

(1) Amends § 402, Title 23, United States Code by requiring that each state highway safety program provides assurance that road speed governors are being installed and maintained on trucks using public roads.

(2) Amends Chapter 4, Title 23, United States Code to include a new Subchapter II with the following provisions:

Sec. 421. Definitions. Self explanatory. Of note is the definition of truck to exclude vehicles under 10,000 pounds gross vehicle weight, so as to exclude light trucks.

As defined in § 103, Title 23, United States Code, a public road is "any road or street under the jurisdiction of and maintained by a public authority and open to public travel."

Sec. 422. Governor Installation. This section requires that no truck shall be manufactured in or after the 1982 model year that is not equipped with a road speed governor. The section also requires the Secretary of Transportation to prescribe a regulation, effective January 1, 1982, to provide for the retrofitting of governors on trucks manufactured before the 1982 model year.

Sec. 423. Expressly forbids tampering with the road speed governor installed on a truck. The section does permit servicing of governors, and does permit them to be disconnected in conjunction with other necessary engine servicing.

The section also provides for the protection of any employee of a trucking company who refuses to operate a truck which does not have a governor in violation of the Act.

Sec. 424. Exemptions. Authorizes the Secretary of Transportation to provide for exemptions from the governor requirement where necessary.

Sec. 425. Inspection and Certification. Requires the Secretary to establish a program to ensure compliance with the speed governor requirement. Permits the Secretary to enter into agreements with each state such that the state would act as the agent of the Secretary for the compliance monitoring program. Under such circumstances, the state would be reimbursed for its expenses.

This section also provides that the provisions of subsections (a) and (b) of section 104, and the provisions of section 105 of the Motor Vehicle and Cost Sayings Information Act (Title 15, United States Code, § 1914 (a) and (b) and §1915) shall apply to this subchapter. Additionally, references in 15 U.S. Code 1914 and 1915 to passenger automobiles shall be considered to refer to trucks, and references to standards shall be considered to refer to §422 and §423 of the Safe Truck Speed Act of 1980. This provison, therefore, gives the Secretary of Transportation authority to:

(a) hold hearings and subpena testimony to carry out the provisions of the Motor Vehicle and Cost Savings Information Act.

(b) have access to documentary evidence of compliance.

(c) require truck manufacturers to maintain records to certify that they are complying with the installation of governors on trucks.

(d) issue rules to require truck manufacturers and distributors to certify to truck dealers that the delivered trucks comply with the road speed governor requirement.

Sec. 426. Civil Penalties. Sets a maximum penalty of $2,500 for a single violation of the Act, and sets a maximum penalty of $50,000 for a single series of violations of the Act. Violations are presumed to be the fault of the truck owner, unless it can be demonstrated that the operator or another person committed the violation and that the owner took reasonable precautions to avoid violations.

The section also permits any accrued penalties to be deducted from any sums the federal government owes the individual in violation.

Sec. 427. Federal Government Trucking. This section requires the President to promulgate rules to provide that trucks used by the federal government be equipped with a road speed governor.

Sec. 428. Performance Criteria. This section requires the Secretary of Transportation to set minimum performance standards for road speed governors. The standards are to be designed to assure, insofar as practicable, the safe operation of the truck, the reliability of the governor, ease of maintenance of the governor, and the relative tamper-proof qualites of the governor.

Sec. 429. Appropriatons Authorization. Authorizes the appropriation of such funds as are necessary to carry out the terms of the Act.

(3) Section 3: Technical and Clerical Amendments. Self explanatory.

(4) Section 4: Effective Date, Provides that the effective date of the Act is the date of enactment.

[From U.S. News & World Report, Sept. 17, 1979]

BIG TRUCKS, LITTLE CARS: RISING HIGHWAY WORRY

A mounting toll—in lives and road damage—is triggering a battle between truckers and those demanding tough safety curbs on huge vehicles.

A tractor-trailer loaded with 20,000 pounds of cement goes out of control down a steep grade in Pennsylvania and collides with a Volkswagen, killing the trucker and the motorist—a young mother.

Such accidents involving large trucks, statistics show, are being repeated with alarming frequency on the nation's highways. The trend is sparking new concern among people who argue that big trucks and little cars—both on the rise—don't mix.

Worries about truck safety have come into sharp focus, now that President Carter has asked Congress to approve emergency legislation requiring all states to allow trucks weighing up to 80,000 pounds on interstate highways in times of energy shortages.

Higher fuel costs. The President's move, designed to aid independent truckers hurt by rising fuel costs, is directed at a handful of states that refuse to allow the 80,000-pound maximum permitted by a 1975 federal law.

Because those states form a curtain down the midsection of the country and can't be easily avoided, truckers argue that they are forced either to break the law and run overweight or lose money by carrying smaller loads.

On the other side are government investigators, auto groups and state highway officials—all of whom say that heavier trucks have caused a jump in highway deaths and have accelerated the decay of the nation's roads.

Says Harry Close, an official with the National Highway Traffic Safety Administration: "There is a rapid increase in fatal accidents involving heavy trucks. One reason is that there are simply more big trucks on the road. Another is that inspections reveal an appallingly high percentage of safety hazards on vehicles."

Testifying before the House Ways and Means Oversight Committee in late July, Jerry Connors, government-affairs director for the American Automobile Association. cited federal statistics showing that fatal accidents involving heavy trucks—those over 26,000 pounds—increased 47.6 percent between 1975, the year the heavier weights were permitted, and 1978, the last full year of available data.

Senator Charles Percy (R-Ill.), who in June introduced a new truck-safety bill. notes that 17,578 of the 50,226 highway fatalities last year were caused by trucks and buses. He says heavy trucks, which make up less than 1 percent of vehicles on the road, accounted for 11 percent of fatal accidents in 1978.

Says Percy: "Unsafe trucking practices on our nation's highways have reached epidemic proportions, threatening the health and safety of truck drivers and the motoring public."

Rollback on weights. A report released in mid-July by the General Accounting Office, the watchdog arm of Congress, warned of the threat to safety and damage to the country's highways caused by heavy trucks. It noted that at least 22 percent of all loaded tractor-trailers exceed state weight limits. From inspections around the country, GAO cited these examples:

More than 60 percent of coal deliveries to the Tennessee Valley Authority were in trucks that were overweight for state roads.

About 90 percent of grain shipments trucked to a Houston storage facility exceeded limits.

Sixty-five percent of the trucks hauling sand and gravel in Ohio were overweight.

The U.S. Forest Service issued overweight permits for 76,000 trips on roads in Oregon in 1978, but did not require trucks to unload excess weights after leaving Oregon forests.

The GAO report went on to claim that heavier truck weights allowed by the 1975 legislation have not saved fuel, as the proponents of the measure predicted, and are instead increasing repair bills for roads.

GAO called for a crackdown by the states on overweight vehicles and a ban on special permits for higher weights than are ordinarily permitted on interstates. In Colorado, for example, truckers pay only $25 annually for special permits that allow them to haul an extra 3½ tons per trip.

GAO wants an end to "grandfather clauses," which allow loads even higher than the maximum established in 1975—as much as 143,000 pounds in Michigan. It also wants to make federal weight limits apply to noninterstate highways that are maintained with federal aid.

"Losing ground." B. K. Cooper, chief engineer for the Arkansas State Highway and Transportation Department, says that increasing the maximum weights in his state from the current 73,280 to 80,000 pounds would decrease the life of interstate highways there by at least 10 percent at a time "when we are losing ground every day maintaining the roads." He adds: "When roads deteriorate, you increase costs for everyone. Fuel consumption is higher on poor roads, and there is more wear and tear on vehicles."

In Illinois, Transportation Secretary John Kramer says higher weights in his state would increase repair costs on interstate roads by 36 million dollars over the next four years. He also cites research indicating "that fatal accidents may increase with a greater number of heavier trucks on our highways at the same time that automobiles are becoming smaller and lighter."

Trucking firms say that critics have greatly exaggerated the overweight problems and safety hazards. They argue that weather, shoddy construction and other factors are the main culprits in road decay. Over the next 20 years, according to estimates, states will need 18 billion dollars to offset deterioration of the interstate system.

"You can't make a living running overweight because of the fines and the lost time avoiding weigh stations," says James Johnston, president of the Owner-Operators Independent Drivers Association of America.

Trucking companies using union drivers add that union contracts prohibit firms from asking drivers to haul overloaded vehicles.

Johnston claims that over the last four years drivers in his association have not had one accident that could be attributed to increased weight limits. He insists that the pending legislation to mandate the 80,000-pound maximum is crucial, particularly for independent operators, so that they can haul bigger loads and offset diesel-fuel costs—which have risen 45 percent since the beginning of the year.

Others add that 230 million gallons of fuel would be saved annually if the 80,000-pound standard were in effect in all states, thereby reducing the number of trips that trucks have to make.

Despite these protests from truckers, the move now seems to be in the direction of tighter controls. In late July, the Department of Transportation warned four states—Massachusetts, Delaware, Texas and Wyoming—that they could lose part of their federal highway funds if they don't step up enforcement of truck-weight laws.

Tougher safety rules also are being urged—even by major trucking organizations such as the American Trucking Associations, Inc. William Johns, ATA's director of technical services, notes that DOT's Bureau of Motor Carrier Safety has only 152 inspectors nationwide.

Kenneth Pierson, the bureau's deputy director, concedes that only 1 percent of heavy trucks are inspected each year. He observes, too, that judges tend to be lenient with truckers who violate weight and safety rules, and that the leniency leads drivers to take more risks.

The upshot is that many overweight and hazardous vehicles continue to ride the road. In May, a one-week special inspection program by the bureau at 10 checkpoints along the Mississippi River resulted in 44 percent of the vehicles stopped being placed out of service because of safety violations. These involved brakes, tires and lights.

Nothing that 42 percent of the 26,000 trucks inspected by the bureau in 1978 were found to be "imminently hazardous," the Percy truck-safety bill calls for use of money from the highway trust fund to bolster state enforcement of truck-safety rules. There also would be steeper fines for safety violations and protection for truckers who tell authorities about hazardous vehicles that trucking firms force them to drive.

The National Highway Traffic Safety Administration is planning to propose a rule requiring lower underguards on the rear of truck trailers to prevent small cars from getting pinned beneath. Tougher standards for truck brakes, tires and lighting also are being investigated. In addition, federal authorities are studying whether drivers should be required to take more rest periods or work a shorter week.

Speed controls. There is rising concern, too, about truck speeds. Under study is a plan to require large trucks to install speed governors that would prevent vehicles from exceeding the 55-mile-per-hour speed limit.

Trailways, Inc., the nation's second largest intercity bus company, is already in the process of installing such devices on its vehicles and has asked the federal government to require governors on all vehicles under interstate commerce.

Some states have stepped up efforts to snare speeding truckers. This summer, Maryland state police, responding to complaints from motorists, launched a special bus-and-truck patrol featuring plainclothes troopers who patrol the roads with leased, unmarked cars equipped with radar.

Although stressing that many truck drivers observe speed laws, State Police Superintendent Thomas Smith says: "We want to cut down on the heavy-footed truckers who are intimidating other motorists and creating unsafe situations on our highways."

ATA officials support such efforts to control speeders. They also are pressing for a national commercial-driver-license register that would provide trucking firms with a complete record of the driving history of persons applying for jobs. As it stands now, drivers can easily hide a poor record by not informing employers about states where they have piled up violations.

Others urge that the government examine the safety impact of deregulation of the trucking industry, now being pushed by the White House. Daryl Wyckoff, a Harvard University transportation expert, charges that many truckers not regulated by the Interstate Commerce Commission are engaged in "cutthroat competition and revert to short-cutting safety for economic survival."

From a five-year study of 10,500 truckers, Wyckoff found that exempt drivers reported receiving three times as many tickets for safety violations as regulated drivers, had four times as many accidents and routinely drove more than 10 continuous hours—the limit allowed in the regulated sector by the ICC.

Strike call? Independent truckers say too much blame is placed on them for accidents and are threatening a strike, to begin September 15, unless Congress moves to boost truck weights.

Most truckers—both independents and union drivers—complain that smaller cars give motorists a poorer line of vision than large models and offer little protection in crashes. One study shows that the small size of the vehicle was a major factor in 18 percent of highway deaths in 1977.

"We tell our drivers that the small car is here to stay and that they have to be on the defensive every minute," says Alton Canady, vice president of transportation for McLean Trucking Company, a large interstate hauler.

One thing that everyone agrees on is that the big-truck, little-car problem is not going to go away. While auto companies are rushing to produce smaller cars, truck traffic continues to go up. The Highway Users Foundation projects that the number of trucks on the roads will double in the next 15 years.

Budget limitations rule out the optimum solution to the problem—construction of special freight corridors that separate heavy trucks from cars. For that reason, experts insist, tougher enforcement of weight and safety rules is more important than ever.

THE CASE AGAINST REGISTRATION

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, President Carter is expected to announce his proposal to resume draft registration in the near future. Last September, the House rejected, by an overwhelming margin, a provision in the defense procurement bill which sought to require the President to resume registering 18-year-old males for the draft. At that time, the President himself, and many top officials, ranging from the Secretary of Defense to the Acting Director of the Selective Service System, took the position that the resumption of draft registration was not necessary, and that, with a slight increase in funds and personnel, the Selective Service could develop the capability of inducting personnel in an emergency mobilization well within the Defense Department's timetable. During congressional debate on registration, administration statements included the following:

> The administration opposes new legislation to reimpose peacetime registration for the draft * * * We do not believe it is necessary to impose this burden on our nation and its youth at this time when there are effective

> ways to improve the capability of the Selective Service System so that it can respond quickly in time of emergency.—Stuart E. Eizenstat, letter to Congressman Seiberling, 7-23-79.
>
> We are concerned that the Selective Service System cannot now meet the 30-day (mobilization) requirement. That circumstance does not, however, lead to the conclusion that peacetime registration is necessary. In the near term, we think that the proper course of action is to enhance the standby ability of the Selective Service System, including its computer resources, its staffing and its planning . . . Our view and the view suggested in all studies of the question that I have seen, is that the critical step towards achieving our goals is not immediate collection of names through registration, but rather the immediate improvement of our ability to prepare for processing people, and in case of mobilization actually to process them, through the Selective Service System.—Secretary of Defense Harold Brown, letter to Senator William Cohen, 6-8-79.
>
> We believe that peacetime registration is not needed from an operational point of view because registration can be conducted after M-Day in time to obtain the first wartime inductee by M+30, as we desire.—Assistant Secretary of Defense Robert B. Pirie, letter Senator William Cohen, 9-17-79.

So far, the case for the necessity of resuming draft registration has not been made. In fact the main justification that has been given for this dramatic reversal of the administration's position on registration is that it is necessary to send the Soviet Union a "message." The symbolic gesture of resuming draft registration when there are other workable alternatives places an unnecessary burden on our young people, and will be a divisive issue in the months to come.

The Soviets will not be fooled by an empty gesture. In fact, I suspect that they know as well as anyone else that the resumption of peacetime registration does nothing concrete to address our mobilization capability that could not be done with taking the Selective Service out of deep standby. As such, it seems to me that a resumption of draft registration would be counterproductive in the absence of a clear demonstration of its necessity. There are better ways of improving the capability of the Selective Service System which are in keeping with our democratic principles, rather than the unnecesary burden of resuming peacetime registration without a clear threat to our national security.

An article by Martin Anderson of the Hoover Institution in the February 3 edition of the Washington Post provides a clear account of what is wrong with choosing draft registration as a symbol to send to the Soviets. In his article, Mr. Anderson points out that registration will send a false signal to the Soviets, and will do nothing to address the issue of shortfalls in reserve strength. Instead, he suggests that several steps could be taken without registration or a draft which would be a far more effective counter to Soviet global aggressiveness than the President's proposal. These include:

First. Improving the quality of equipment of the active forces;

Second. Providing greater incentives for enlistment in the Reserves;

Third. Utilizing older volunteers in appropriate positions of responsibility, and;

Fourth. Improving the equipment used by the Reserves and the Guard.

As Mr. Anderson points out, the resumption of draft registration is ineffective as a symbol, and may, in fact, lead us to overlook concrete steps that can be taken to improve our military posture.

At the time of the House debate on last year's draft registration proposal, I took this position that I would support registration and even the draft if its necessity for the national defense was clearly demonstrated. I also said that the burden of justifying either of them was on those who would impose such restraints on the privacy and liberty of our young people. So far, the Administration has failed to meet that burden.

The full text of Mr. Anderson's article follows:

BUILD UP THE RESERVES, NOT REGISTRATION LISTS—WE DON'T NEED MILLIONS OF UNTRAINED DRAFTEES, AND THE RUSSIANS KNOW IT

(By Martin Anderson)

President Carter's call to "begin registration" for the military draft was obviously a part of his effort to send the Soviets a message about our concern for their naked aggression in Afghanistan. But in this case he is sending Moscow the wrong message.

Carter is right in his belated recognition of the potential military threat that the Soviet Union poses to world peace and to our own security. But taking down the names and addresses of the young people of America under the threat of five years in jail or a $10,000 fine is a weak and possibly dangerous response.

What the Soviets would understand is a clear, effective move to strengthen the combat capability of the armed forces of the United States. Registration does not do this. Rather, if enacted, it could easily lull us into a truly dangerous state of complacency.

If there ever was a sudden threat to our national security, any form of a military draft would be virtually worthless. Even with the names and addresses of young men and young women neatly typed on computer printouts, it would take at least three to four months to contact them, induct them and hastily train them—if the training facilities were ready. Without advance registration, it would take a few weeks longer. The end result—with or without registration—would be hundreds of thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the armed forces many months too late.

As the Defense Manpower Commission noted in its report to the President and the Congress on April 19, 1976: "The changing nature of war and its technology will not allow for any lengthy period of time for national mobilization for a major conflict. Thus, the national security relies on the ability to mobilize our reserve forces from a peacetime 'citizen soldiers' status to a combat-ready status in a relatively short time."

What is vital to our national security is a large, well-trained reserve force, one that is really ready, one that can be called into service in a matter of days in case of an emergency.

Registration for the draft would not do this, but it will do something else. The conventional wisdom that seems to be held by many in the upper ranks of government, the academic world and the media is that our all-volunteer force has problems, especially in the reserves, and that the military draft will solve them. Half of that wisdom is true. We have severe problems, particularly in the reserves. We should have 1 million men and women in the active reserves; we have about 800,000. There should be 700,000 members of the Individual Ready Reserve; we have about 200,000. But the draft, or its advance proxy, registration, will not solve these deficiencies in a timely or sensible fashion.

As Richard Danzig, the principal deputy assistant secretary of defense for manpower, reserve affairs and logistics, stated a few weeks ago, "although, if constantly updated, peacetime registration would give us a ready list of people that we could call instantly in an emergency. I think our capacity to call them would exceed our ability to begin training . . . we would not be able to accept draftees within the first weeks of an emergency mobilization."

The danger is that so many people sincerely believe that our military manpower problems can be solved by the draft. If registration is enacted, they will view this as leading directly to the reinstitution of the draft. sigh contentedly and turn their efforts and talents to solving other problems. The passage of a draft registration law will only give a false sense of security to our people and to many of our political leaders. It will be used as a reason by some, and as an excuse by others, for not taking the hard steps that will strengthen our reserve forces to the point where they can effectively back up our active forces.

It will also give a false signal to the Soviets. The political-military leadership of the Soviet Union understands and respects military power. They are fully capable of distinguishing between the military capability of computer lists as potential additions of young, inexperienced draftees and that of a significantly strengthened reserve force. They will view registration more as a stamping of our feet than as a shouldering of arms. And they will act accordingly.

What we should do is:

Immediately bring our active forces up to full combat capability. While our active forces are very close to their targeted manpower levels, the quality of their weapons and other equipment—including tanks, planes, and ships—often falls far short of the military needs of the 1980s.

Announce that from now on the reserves are serious business, not a paid routine gambol. Anyone staying in the reserves or the National Guard should fully realize that in the event of a military threat to this country they will be called first to supplement our active forces. And that they will be called regardless of whether they are married, have children or know a congressman.

Arm the reserves and National Guard with modern weaponry and other equipment that is fully comparable to what the active forces will have.

Take steps to encourage more people to join the reserves and, for those already serving, to reenlist. These steps should include improved recruiting efforts, competitive levels of pay, reenlistment bonuses and improved management of our current reserve forces. For example, current planning in the Department of Defense assumes that only 70 percent of the Individual Ready Reserve would show up if we mobilize. This percentage could be increased significantly if assignments were made in advance and addresses were kept current. Some of these relatively simple measures are now beginning to be taken, but there is still vast room for improvement.

Institute an effective program of lateral entry into the armed forces so that more mature men and women, from their late 20s through their 40s, and, in special cases, up to 65, can enlist for a period of time—both in the active forces and the reserve forces. This could provide the armed forces with a potential pool of talented people that could be utilized in many positions, and could reduce their almost total reliance on people coming up through the ranks. Further, it is the one effective way to ensure that the upper ranks of the military do not become isolated from the rest of our society.

And, finally, the president of the United

States should address the nation and explain clearly and comprehensively exactly why he feels that the Soviet invasion of Afghanistan is such a threat to world peace and the United States. The history of this country's response to a call to arms shows that Americans have always turned out in overwhelming numbers when they felt their country was threatened and they believed that our cause was just. There is no evidence to suggest that this would not also be the case today. If the only way we can induce our citizens to participate in the defense of this country is to threaten them with five years in jail or a stiff fine, then our leadership has failed to convince them of the seriousness of the situation and the validity of the course of action proposed to deal with it.

Enactment of the draft registration law would diminish our national security by increasing the chances that our reserve forces will be left in limbo, at a time when we need to strengthen them the most. It would in time lead to a new military draft, one that would almost certainly include women. And it would call into question the commitment this nation made almost a decade ago when we decided to raise an armed force in a manner consistent with the principle of freedom on which this country was founded.

If we really wish to respond to the Soviet move in Afghanistan, let us do it directly by arming and training a combat-ready active and reserve force that is second to none. Let's forget about making lists.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Porter) to revise and extend their remarks and include extraneous material:)

Mr. Johnson of Colorado, for 60 minutes, today.

Mr. Carter, for 25 minutes, today.

Mr. Sebelius, for 5 minutes, today.

Mrs. Heckler, for 5 minutes, today.

Mr. Hammerschmidt, for 20 minutes, today.

(The following Members (at the request of Mr. Daschle) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Bedell, for 5 minutes, today.

Mr. Johnson of California, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Shannon, for 5 minutes, today.

Mr. Peyser, for 60 minutes, on February 7, 1980.

Mr. Cavanaugh, for 5 minutes, on February 7, 1980.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Porter) and to include extraneous matter:)

Mr. Young of Alaska.
Mr. Michel.
Mr. Findley.
Mr. Schulze.
Mr. Lee in two instances.
Mr. Daniel B. Crane in two instances.
Mrs. Holt.
Mr. Paul in three instances.
Mr. Clausen.
Mr. Bob Wilson in two instances.
Mr. Kemp.
Mr. Pursell.
Mr. Royer in two instances.
Mr. Goodling in two instances.
Mr. Dornan in two instances.
Mr. Frenzel in two instances.

(The following Members (at the request of Mr. Daschle) and to include extraneous matter:)

Mr. Guarini in two instances.
Mr. Hall of Ohio.
Mr. Dodd in two instances.
Mr. Wolff in two instances.
Mr. Stark in five instances.
Mr. Mazzoli in two instances.
Mr. Hamilton.
Mr. Skelton.
Mr. Markey.
Mr. Shannon.
Mr. Edwards of California in two instances.
Mr. Won Pat.
Mr. Barnes in two instances.
Mr. Heftel.
Mr. Drinan in five instances.
Mr. Edgar in four instances.
Mr. Alexander.
Mr. Hall of Texas.
Mr. Pepper.
Mr. Dellums.
Mr. Ottinger in two instances.
Mr. Swift.
Ms. Mikulski in two instances.
Mr. Howard.
Mr. Eckhardt.
Mr. Fary.
Mr. Vanik in three instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2225. An act to provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased; to the Committee on House Administration.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2440. An act to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes; and

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office.

ADJOURNMENT

Mr. DASCHLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 34 minutes p.m.), the House adjourned until tomorrow, Thursday, February 7, 1980, at 11 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and delegations traveling under authorization from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the second, third, and fourth quarters of calendar year 1979 in connection with foreign travel pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON CONGRESSWOMEN'S CAUCUS DELEGATION TRIP TO THAILAND AND KAMPUCHEA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 9 AND NOV. 15, 1979

	Date			Per diem[1]		Transportation		Other purposes		Total	
Name of Member or employee	Arrival	Departure	Country	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Elizabeth Holtzman, M.C.	11/9	11/13	Thailand	6,126	300.00			741.66	36.32	6,867.66	336.32
Military air transportation (round trip)							8,826.87				8,826.87
Local transportation						5,282	258.69			5,282	258.69
Lindy Boggs, M.C.	11/9	11/13	Thailand	4,326	211.84			741.66	36.32	5,067.66	248.16
Military air transportation (round trip)							8,826.87				8,826.87
Local transportation						5,282	258.69			5,282	258.69
Patricia Schroeder, M.C.	11/9	11/15	Thailand	5,213.75	255.33			741.66	36.32	5,955.41	291.65
Military air transportation (1 way)							4,974.95				4,974.95
Commercial air transportation (1 way)							1,199.15				1,199.15
Local transportation						5,282	258.69			5,282	258.69
Barbara Mikulski, M.C.	11/9	11/13	Thailand	3,626	177.57			741.66	36.32	4,367.66	213.89
Military air transportation (round trip)							8,826.86				8,826.86
Local transportation						5,282	258.69			5,282	258.69
Total					944.74		33,689.46		145.28		34,779.48

Table continues on next page

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON CONGRESSWOMEN'S CAUCUS DELEGATION TRIP TO THAILAND AND KAMPUCHEA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 9 AND NOV. 15, 1979—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Margaret Heckler, M.C	11/9	11/13	Thailand	6,126	300.00			741.66	36.32	6,867.66	336.32
Military air transportation (round trip).							8,826.87				8,826.87
Local transportation						5,282	258.69			5,282	258.69
Millicent Fenwick, M.C	11/9	11/13	Thailand	2,346	114.89			741.66	36.32	3,087.66	151.21
Military air transportation							8,203.88				8,203.88
Local transportation						5,282	258.69			5,282	258.69
Olympia Snowe, M.C	11/9	11/13	Thailand	3,960	193.93			741.66	36.32	4,701.66	230.25
Military air transportation (round trip).							8,826.87				8,826.87
Local transportation						5,252	258.69			5,252	258.69
Arthur P. Endres, Jr	11/9	11/13	Thailand	6,126	300.00			741.66	36.32	6,867.66	336.32
Military air transportation (round trip).							8,826.87				8,826.87
Local transportation						5,252	258.69			5,252	258.69
James J. Schweitzer	11/9	11/13	Thailand	6,126	300.00			741.66	36.32	6,867.66	336.32
Military air transportation (round trip).							8,826.87				8,826.87
Local transportation						5,252	258.69			5,252	258.69
Total					1,208.82		44,804.81		181.60		46,195.23
Billie Gay Larson	11/9	11/13	Thailand	6,126	300.00			741.66	36.32	6,867.66	336.32
Military air transportation (round trip).							8,826.87				8,826.87
Local transportation						5,282	258.69			5,282	258.69
Christine Sullivan	11/9	11/13	Thailand	6,126	300.00			741.66	36.32	6,867.66	336.32
Military air transportation (round trip).							8,826.87				8,826.87
Local transportation						5,282	258.69			5,282	258.69
Janean Mann	11/9	11/13	Thailand	2,356	115.38			741.66	36.32	3,097.66	151.70
Military air transportation (round trip).							8,826.87				8,826.87
Local transportation						5,282	258.69			5,282	258.69
Sally Brown	11/9	11/15	Thailand	2,356	159.94			741.66	36.32	3,097.66	196.26
Military air transportation (1 way)							4,974.95				4,974.95
Commercial air transportation (1 way).							1,138.38				1,138.38
Local transportation						5,282	258.69			5,282	258.69
Total					875.32		33,628.70		145.28		34,649.30

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ELIZABETH HOLTZMAN,
Chairman.

Jan. 23, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DOORKEEPER OF THE HOUSE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
James T. Molloy	11/7	11/10	Canada	221	187.53		154.00			221	341.53
Total											341.53

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES T. MOLLOY,
Doorkeeper.

Nov. 29, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SPEAKER OF THE HOUSE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV 16 AND 18, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Vanda McMurtry	11/16	11/18	Nicaragua	950	95.00		268.03				363.03
Michael Marek	11/16	11/18	Nicaragua	825	82.50		268.03				350.53
Total					177.50		536.06				713.56

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

VANDA B. McMURTRY.

Dec. 19, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SPEAKER AUTHORIZED TRIP TO ATTEND BUREAU MEETING OF NORTH ATLANTIC ASSEMBLY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN DEC. 18, AND DEC. 20, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jack Brooks	12/19	12/20	Belgium	3,024	107.00		1,905.00			3,024	2,012.00
Peter A. Abbruzzese	12/19	12/20	Belgium	3,024	107.00		1,905.00			3,024	2,012.00
Total					214.00		3,810.00				4,024.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JACK BROOKS,
Chairman.

Dec. 21, 1979.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Charles H. Wilson	8/5	8/7	Japan[3]			34,487	154.26				154.26
	8/7	8/10	Korea[3]			34,706	71.71				71.71
	8/10	8/12	Hong Kong[3]				288.85				288.85
	8/12	8/15	Thailand[3]				150.11				150.11
	8/15	8/18	Singapore[3]				363.11				363.11
Hon. William Clay	8/5	8/7	Japan[3]			34,487	154.26				154.26
	8/7	8/10	Korea[3]			34,706	71.71				71.71
	8/10	8/12	Hong Kong[3]				288.85				288.85
	8/12	8/15	Thailand[3]				150.11				150.11
	8/15	8/18	Singapore[3]				363.11				363.11
Kenneth R. Harding	8/5	8/7	Japan[3]			34,487	154.26				154.26
	8/7	8/10	Korea[3]			34,706	71.71				71.71
	8/10	8/12	Hong Kong[3]				288.85				288.85
	8/12	8/15	Thailand[3]				150.11				150.11
	8/15	8/18	Singapore[3]				363.11				363.11
Howard Cook	8/5	8/7	Japan[3]			34,487	154.26				154.26
	8/7	8/10	Korea[3]			34,706	71.71				71.71
	8/10	8/12	Hong Kong[3]				288.85				288.85
	8/12	8/15	Thailand[3]				150.11				150.11
	8/15	8/18	Singapore[3]				363.11				363.11
John Pontius	8/5	8/7	Japan[3]			34,487	154.26				154.26
	8/7	8/10	Korea[3]			34,706	71.71				71.71
	8/10	8/12	Hong Kong[3]				288.85				288.85
	8/12	8/15	Thailand[3]				150.11				150.11
	8/15	8/18	Singapore[3]				363.11				363.11
Herman Thompson	8/5	8/7	Japan[3]			34,487	154.26				154.26
	8/7	8/10	Korea[3]			34,706	71.71				71.71
	8/10	8/12	Hong Kong[3]				288.85				288.85
	8/12	8/15	Thailand[3]				150.11				150.11
	8/15	8/18	Singapore[3]				363.11				363.11
John Godwin	8/5	8/7	Japan[3]			34,487	154.26				154.26
	8/7	8/10	Korea[3]			34,706	71.71				71.71
	8/10	8/12	Hong Kong[3]				288.85				288.85
	8/12	8/15	Thailand[3]				150.11				150.11
	8/15	8/18	Singapore[3]				363.11				363.11
Total							7,196.28				7,196.28

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Local transportation.

JAMES M. HANLEY,
Chairman.

Jan. 23, 1980.

AMENDED REPORT OF EXPENDITURES FOR OFFICAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. James M. Hanley	12/11	12/12	Japan	22,504	97.00					22,504	97.00
	12/12	12/18	China	681.80	450.00					681.80	450.00
Intracountry transportation in the People's Republic of China was furnished by the PRC Ministry of Posts and Telecommunications. Transpacific and Intercountry transportation provided by DOD.							2,778.40				2,778.40
Thomas DeYulia	12/11	12/12	Japan	22,504	97.00					22,504	97.00
	12/12	12/18	China	681.80	450.00					681.80	450.00
Intracountry transportation in the People's Republic of China was furnished by the PRC Ministry of Posts and Telecommunications. Transpacific and Intercountry transportation provided by DOD.							2,792.40				2,792.40
Committee total					1,094.00		5,570.80				6,664.80

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES M. HANLEY,
Chairman.

Jan. 28, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Joseph P. Addabbo	10/20	10/22	West Germany		225.00		1,741.00				1,966.00
Hon. David Obey	11/16	11/18	Nicaragua		106.00		[3] 268.03				374.03
Hon. Matthew McHugh	11/16	11/18	Nicaragua		77.00		[3] 268.03				345.03
Hon. John Murtha	10/21	10/22	Guantanamo Bay, Cuba		9.00		508.00				517.00
Hon. Carl Pursell	10/26	10/30	France		320.00		894.00				1,214.00
George Allen	10/23	10/26	Germany		225.00		1,802.00				
	10/26	10/27	England		150.00		[3] 195.00				
Total					375.00		1,997.00				2,372.00
Robert V. Davis	10/19	10/22	Germany		300.00		1,741.00				2,041.00
Aubrey A. Gunnels	11/14	11/17	Canada		300.00		546.80				846.80

Table continues on next page.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Terry Peel	12/2	12/3	United States		100.00		535.27				
	12/3	12/5	Cuba		150.00						
	12/5										
	12/5	12/7	Puerto Rico		100.00		[3] 294.00				
Total					350.00		829.27				1,179.27
Austin Smith	10/19	10/26	West Germany		600.00		1,333.00				1,933.00
Donald P. Smith	12/2	12/3	United States		100.00		535.27				
	12/3	12/5	Cuba		150.00						
	12/5	12/7	Puerto Rico		100.00		[3] 294.00				
Total					350.00		829.27				1,179.27
Derek Vander Schaaf	10/19	10/26	West Germany		600.00		1,333.00				1,933.00
Committee total					3,612.00		12,288.40				15,900.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Transportation furnished by Department of Defense.

Jan. 30, 1980.

JAMIE L. WHITTEN,
Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, SURVEYS AND INVESTIGATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
George C. Baird	10/1	10/5	United Kingdom		506.00		[3] 34.00				540.00
James B. Denney	10/1	10/19	Germany		1,406.00		(3)				1,406.00
Charles S. Collins	12/13	12/16	Japan		300.00		1,513.00				1,813.00
William Fleshman, Jr	10/1	10/5	United Kingdom		506.00		[3] 61.00				567.00
William P. Haynes, Jr	10/1	10/19	Germany		1,406.00		(3)				1,406.00
Henry P. McDonald, Jr	12/13	12/16	Japan		300.00		1,513.00				1,813.00
Harold W. Switzer	12/13	12/16	do		300.00		1,513.00				1,813.00
James S. Van Wagenen	10/1	10/19	Germany		1,406.00		(3)				1,406.00
H. Branch Wood	12/13	12/16	Japan		300.00		1,513.00				1,813.00
Committee totals					6,430.00		6,147.00				12,577.00

[1] Per Diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. $ equivalent; if U.S. currency is used, enter amount expended.

[3] Air fare reported on prior report for the period ending Sept. 30, 1979.

Jan. 30, 1980.

JAMIE L. WHITTEN,
Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S.-dollar equivalent or U.S. currency [2]	Foreign currency	U.S.-dollar equivalent or U.S. currency [2]	Foreign currency	U.S.-dollar equivalent or U.S. currency [2]	Foreign currency	U.S.-dollar equivalent or U.S. currency [2]
DELEGATION TO AFRICA, NOV. 16-27, 1979											
Badham, Hon. Robert E	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Byron, Hon. Beverly B	11/16	11/18	Nigeria	50.96	80.00					50.96	80.00
	11/18	11/20	South Africa	187.42	225.00					187.42	225.00
	11/20	11/21	Rhodesia	(4)	(4)						
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	118.300	150.00					118.300	150.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 6,952.10				6,952.10
Evans, Delegate Melvin H	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/20	South Africa	187.42	225.00					187.42	225.00
	11/20	11/21	Rhodesia	(4)	(4)						
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 6,952.10				6,952.10
Mollohan, Hon. Robt. H	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Price, Chairman Melvin	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1979—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Wilson, Hon. Bob	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/20	South Africa	187.42	225.00					187.42	225.00
	11/20	11/21	Rhodesia	(4)	(4)						
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 6,951.10				6,952.10
Wilson, Hon. Charles H	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Bauser, Edward J	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	150.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Brown, Emma M	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	150.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Emmerichs, Robert M	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/20	South Africa	187.42	225.00					187.42	225.00
	11/20	11/21	Rhodesia	(4)	(4)						
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 6,952.10				6,952.10
Ford, John J	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/20	South Africa	187.42	225.00					187.42	225.00
	11/20	11/21	Rhodesia	(4)	(4)						
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 6,952.10				6,952.10
Lally, John F	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Price, Wm. David	11/16	11/18	Nigeria	83	144.00					83	144.00
	11/18	11/21	South Africa	187.42	225.00					187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00					1,230	150.00
	11/23	11/25	Sudan	145.228	184.00					145.228	184.00
	11/25	11/27	Italy	123,000	150.00					123,000	150.00
							[3] 8,126.05				8,126.05
Delegation control room expenses in Sudan funded by Department of State.									386.77		386.77
Delegation incountry transportation in Sudan funded by Department of State.							551.10				551.10
OFFICIAL TRAVEL PERFORMED BY INDIVIDUAL MEMBERS AND STAFF											
Cofer, Williston B., Jr	11/18	11/24	Korea	217,800	450.00					217,800	450.00
	11/25	11/30	Philippines	3,319.65	450.00					3,319.65	450.00
Transportation funded by the Department of the Army							2,500.18				2,500.18
Hahn, Thomas S	10/25	10/27	Canada	177	177.00					177	177.00
Transportation funded by the Department of the Army							481.71				481.71
Marshall, Ralph	10/4	10/6	Bermuda		389.00		351.00				740.00
Transportation and per diem funded by the Department of the Air Force.											
Committee total					12,457.00		103,652.89		386.77		116,496.66

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Transportation funded by the Department of the Air Force.

[4] Per diem advanced in South Africa.

Jan. 31, 1980.

MELVIN PRICE,
Chairman.

REPORT OF EXPENDITURES FOR OFFICAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Fernand J. St Germain	9/28	10/1	Greece		225.00		325.69				550.69
	10/1	10/4	Yugoslavia		300.00		(3)				300.00
	10/4	10/8	Turkey		300.00		(3)				300.00
Hon. Joseph J. Minish	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yugoslavia		300.00		(14)				300.00

Table continues on next page.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John J. Cavanaugh	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yugoslavia		300.00		(3 4)				300.00
Hon. Les AuCoin	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yugoslavia		300.00		[3,5] 949.78				1,249.78
Hon. Douglas Barnard, Jr	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yugoslavia		300.00		(3)				300.00
	10/4	10/8	Turkey		300.00		(3)				300.00
Hon. Chalmers P. Wylie	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yugoslavia		300.00		(3 4)				300.00
Paul Nelson	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yugoslavia		300.00		(3)				300.00
	10/4	10/8	Turkey		300.00		(3)				300.00
Michael P. Flaherty	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yuroslavia		300.00		[3,5] 905.47				1,205.47
James C. Orr	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yuroslavia		300.00		(3)				300.00
	10/4	10/8	Turkey		300.00		(3)				300.00
Graham Northup	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yuroslavia		300.00		(3)				300.00
	10/4	10/8	Turkey		300.00		(3)				300.00
Gregory P. Wilson	9/28	10/1	Greece		300.00		325.69				625.69
	10/1	10/4	Yuroslavia		300.00		(3)				300.00
	10/4	10/7	Turkey		225.00		(3)				225.00
Curtis Prins	10/21	10/23	Canada		225.00		[6] 78.00				303.00
Hon. James A. S. Leach	11/23	11/26	Saudi Arabia		380.00		(7)				380.00
	11/26	11/27	Abu Dhabi		0		(7)				
	11/27	11/28	Kuwait		(3)		(7)				
	11/28	11/29	England		(3)		(7)				
Hon. Edwin R. Bethune	11/23	11/26	Saudi Arabia		380.00		(7)				380.00
	11/26	11/27	Abu Dhabi		0		(7)				
	11/27	11/28	Kuwait		(3)		(7)				
	11/28	11/29	England		(3)		(7)				
Anthony Valanzano	12/6	12/15	England		(3)		[3,5] 439.00				439.00

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Per diem and transportation costs not available from State Department at time of filing.

[4] Accompanied Secretary of the Treasury on return from Europe.

[5] Commercial air transportation.

[6] Military air transportation.

[7] Accompanied Secretary of the Treasury.

HENRY S. REUSS,
Chairman.

Jan. 30, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Richard A. Gephardt	11/23	11/23	England	Figures are not available at this time. An amendment will be filed when information is available.							
	11/23	11/26	Saudi Arabia								
	11/26	11/27	United Arab Emirates								
	11/27	11/28	Kuwait								
Peter Storm	12/09	12/11	France	288	96.00	153	38.25				134.25
	12/11	12/13	Belgium	2,996	107.00	[3] 1,255	738.00				845.00
Committee totals					203.00		776.25				979.25

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency issued, enter amount expended.

[3] Airline tickets purchased with Deutsche marks.

ROBERT N. GIAIMO,
Chairman.

Jan. 30, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31,1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Berdes, G	11/17	11/19	Egypt		150.00						150.00
	11/20	11/22	Saudi Arabia		322.50						322.50
	11/22	11/23	Jordan		88.00						88.00
	11/23	11/26	Israel		225.00				10.00		235.00
	11/26	11/27	England		115.00						115.00
Commercial transportation							2,618.00				2,618.00
Boyer, R	11/20	11/27	Solomon Islands		525.00						525.00
	11/27	12/2	Papua, New Guinea		375.00						375.00
	12/2	12/4	Singapore		150.00						150.00
	12/4	12/14	Thailand		750.00		196.96				946.96
Commercial transportation							4,352.36				4,352.36
Brennan, K	11/16	11/18	Nicaragua		127.00		447.20				574.20
Military transportation							268.03				268.03
Committee total					2,827.50		7,882.55		10.00		10,720.0
Chambers, M	11/20	12/4	Solomon Islands		775.00						775.00
	12/4	12/9	Papua, New Guinea		212.00						212.00
	12/9	12/10	Singapore		75.00						75.00
	12/10	12/14	Thailand		300.00		196.96				496.96
Commercial transportation							4,205.18				4,205.18
Chester, J. C	11/11	11/20	Switzerland		918.00						918.00
Commercial transportation							1,905.00				1,905.00
Fascell, D. B	11/16	11/18	Nicaragua		79.50		447.20				526.70

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Military transportation							268.03				268.03
Finley, M	11/16	11/18	Nicaragua		88.50		447.20				535.70
Military transportation							268.03				268.03
Fox, E	11/16	11/18	Nicaragua		124.45		447.20				571.65
Military transportation							268.03				268.03
Friedman, G	11/16	11/18	Nicaragua		130.00		447.20				577.20
Military transportation							268.03				268.03
Committee total					2,702.45		9,168.06				11,870.51
Goodman, M	11/20	12/4	Solomon Islands		710.00						710.00
	12/4	12/7	Papua, New Guinea		128.29						128.29
	12/7	12/13	Philippines		354.00						354.00
Military transportation							4,238.06				4,238.06
Hall, T. P	11/17	11/19	Egypt		150.00						150.00
	11/19	11/22	Saudi Arabia		160.50						160.50
	11/22	11/23	Jordan		88.00						88.00
	11/23	11/26	Israel		225.00				10.00		235.00
	11/26	11/27	England		115.00						115.00
Commercial transportation							2,618.00				2,618.00
Hamilton, L. H	11/16	11/18	Nicaragua		82.00		447.20				529.20
Military transportation							268.03				268.03
Lagomarsino, R. J	11/16	11/18	Nicaragua		99.00		447.20				546.20
Military transportation							268.03				268.03
Majak, R	11/12	11/16	Mexico		300.00						300.00
Commercial transportation							504.16				504.16
Committee total					2,411.79		8,790.68		10.00		11,212.47
Mann, J	11/9	11/13	Thailand		110.43						110.43
	11/12	11/12	Cambodia								
Military transportation							2,068.68				2,068.68
Schlundt, V. M	11/11	11/24	Switzerland		1,326.00						1,326.00
Commercial transportation							1,905.00				1,905.00
Soriano, R	10/21	10/28	Canada		354.70						354.70
Military transportation							72.00				72.00
Yatron, G	11/16	11/18	Nicaragua		124.97		447.20				572.17
Military transportation							268.03				268.03
Committee total					1,916.60		4,760.91				6,677.01
Grand total for this quarter											40,480.04

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CLEMENT J. ZABLOCKI,
Chairman.

Jan. 31, 1980.

REPORT OF EXPENDITURES FOR OFFICAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 13, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
John E. Moore	10/21	10/27	Canada	615	525.00		[3] 119.00				644.00
Richard C. Barnes	10/26	10/28	Senegal	32,916	156.00					32,916	156.00
	10/28	10/31	Ivory Coast	99,590	472.00					99,590	472.00
	11/1	11/2	Liberia		150.00						150.00
	11/3	11/4	Italy	62,675	78.00					62,675	78.00
	11/4	11/8	Egypt	210,000	300.00					210,000	300.00
	11/8	11/12	Spain	20,358.80	308.00		[4] 1,911.00				2,219.00
Robert Moreno	10/26	10/28	Senegal	32,916	156.00					32,916	156.00
	10/28	10/31	Ivory Coast	99,590	472.00					99,590	472.00
	11/1	11/2	Liberia		150.00						150.00
	11/3	11/4	Italy	62,675	78.00					62,675	78.00
	11/4	11/8	Egypt	210,000	300.00					210,000	300.00
	11/8	11/12	Spain	20,358.80	308.00		[4] 1,911.00				2,219.00
C. Don Stephens	10/26	10/28	Senegal	32,916	156.00					32,916	156.00
	10/28	10/31	Ivory Coast	99,590	472.00					99,590	472.00
	11/1	11/2	Liberia	62,675	78.00					62,675	78.00
	11/4	11/8	Egypt	210,000	300.00		1,886.00				2,186.00
Guadalupe R. Flores	10/25	10/25	England	53.86	115.00					53.86	115.00
	10/26	10/31	Kenya	2,795.75	375.00					2,795.75	375.00
	10/31	11/3	The Sudan		276.00						276.00
	11/3	11/8	Egypt	262,500	375.00					262,500	375.00
	11/8	11/13	Italy	310,500	375.00	17,000	20.53			327,500	395.53
Commercial air							1,212.00				1,212.00
Cynthia K. Meadow	10/25	10/25	England	53.86	115.00					53.86	115.00
	10/26	10/31	Kenya	2,795.75	375.00	2,273.25	304.92			5,069	679.92
	10/31	11/3	The Sudan		276.00						276.00
	11/3	11/8	Egypt	262,500	375.00					262,500	375.00
	11/8	11/13	Italy	310,500	375.00	17,000	20.53			327,500	395.53
Commercial air							1,212.00				1,212.00
Thomas F. Houston	10/25	10/25	England	53.86	115.00					53.86	115.00
	10/26	10/31	Kenya	2,795.75	375.00					2,795.75	375.00
	10/31	11/3	The Sudan		276.00						276.00
	11/3	11/8	Egypt	262,500	375.00					262,500	375.00
	11/8	11/13	Italy	310,500	375.00	17,000	20.53			327,500	395.53
Commercial air							1,212.00				1,212.00
Elmer W. Henderson	10/25	10/25	England	53.86	115.00					53.86	115.00
	10/26	10/31	Kenya	2,795.75	375.00					2,795.75	375.00
	10/31	10/31	The Sudan		276.00						276.00
	11/3	11/8	Egypt	262,500	375.00					262,500	375.00
	11/8	11/10	Turkey		150.00						150.00
	10/10	11/13	Greece	8,482.50	225.00		[5] 1,674.00				1,899.00

Table continues on next page.

REPORT OF EXPENDITURES FOR OFFICIAL FORIEGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 13, 1979—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Wilson R. Abney	10/25	10/25	England	53.86	115.00					53.86	115.00
	10/26	10/31	Kenya	2,795.75	375.00					2,795.75	375.00
	10/31	11/3	The Sudan		276.00						276.00
	11/3	11/8	Egypt	262,500	375.00					262,500	375.00
	11/8	11/10	Turkey		150.00						150.00
	11/10	11/13	Greece	8,482.50	225.00		[5] 1,674.00				1,899.00
Total					12,039.00		13,177.51				25,216.51

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Transportation provided by U.S. Military aircraft. Estimated cost for each individual traveler.

[4] The amount of the original ticket was $2,014. The amount of the refund for the unused portion of the original ticket has not been processed as of yet, but it is in the works at Pan Am refund offices.

[5] Commercial air.

JACK BROOKS,
Chairman.

Jan. 21, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Lent, Hon. Norman F.	11/16	11/18	Nigeria	83	144.00	0	0	0	0	83	144.00
	11/18	11/21	South Africa	187.42	225.00	0	0	0	0	187.42	225.00
	11/21	11/23	Tanzania	1,230	150.00	0	0	0	0	1,230	150.00
	11/23	11/25	Sudan	145.23	184.00	0	0	0	0	145.23	184.00
	11/25	11/27	Italy	123,000	150.00	0	0	0	0	123,000	150.00
Military							6,952.10				6,952.10
Potter, Frank	11/07	11/09	Chile	8,043.75	206.25	1,257.75	32.25	0	0	9,301.50	238.50
Commercial							1,701.00				1,701.00
Committee total					1,059.25		8,685.35		0		9,744.60

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HARLEY O. STAGGERS,
Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Richard Bolling, MC	10/6	10/8	Germany	362.56	206.00					362.56	206.00
	10/8	10/15	England								
Air transportation all inclusive							1,893.00				1,893.00
Albert A. Sayers	10/6	10/8	Germany	362.56	206.00					362.56	206.00
	10/8	10/15	England								
Air transportation all inclusive							1,893.00				1,893.00
Christopher J. Dodd, MC	10/12	10/15	England	207.88	460.00		1,827.00			207.88	2,287.00
Committee total					872.00		5,613.00				6,485.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD BOLLING,
Chairman.

Jan. 31, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Lloyd		10/1	United States				[3] 1,969.00				1,969.00
	10/1	10/3	England	104–31	228.75		[4] 498.75			104–31	727.50
	10/3	10/5	France	69–39	152.17		[4] 498.75			69–39	650.92
	10/5		United States								
Brill		10/1	do				[3] 1,291.80				1,291.80
	10/1	10/3	England	104–31	228.75		[4] 498.75			104–31	727.50
	10/3	10/6	France	110–20	243.00		[4] 498.75			110–20	741.75
	10/6		United States								
Staub		10/1	do				[3] 1,291.80				1,291.80
	10/1	10/3	England	104–31	228.75		[4] 498.75			104–31	727.50
	10/3	10/6	France	110–20	243.00		[4] 498.75			110–20	741.75
	10/6		United States								
Ketcham [5]			Switzerland						320.00		320.00
Wydler		11/23	United States				[3] 3,100.77				3,100.77
	11/25	11/28	New Zealand	612.08	600.00					612.08	600.00
	11/28	12/2	Antarctica								
	12/3		United States								
Kramer		12/1	do				[3] 799.00				799.00
	12/2	12/8	Austria	5,863.25	470.00					5,863.25	470.00
	12/8		United States								
Committee total					2,394.42		11,444.87				14,159.29

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Commercial air return trip refund due State Department.

[4] Military air.

[5] Trip canceled due to House schedule—Registration fee nonrefundable.

JIM LLOYD,
Chairman.

Jan. 30, 1980.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1, AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Robert A. Bermingham	11/4	11/5	England	55.15	115.00					55.15	115.00
	11/6	11/16	South Africa	749.64	900.00		[3] 336.10				1,236.10
Returned R. 62.47 in Johannesburg				−62.47	−75.00						− 5.00
Transportation paid by State Department.							3,261.00				3,261.00
A. Raymond Randolph	11/4	11/5	England	55.15	115.00					55.15	115.00
	11/6	11/16	South Africa	749.64	900.00						900.00
Returned R.62.47 in Johannesburg				−62.47	−75.00						−75.00
Transportation paid by State Department.							3,261.00				3,261.00
Committee total					1,880.00		6,858.10				8,738.1

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Ground transportation for Bermingham and Randolph.

Jan. 30, 1980.

CHARLES E. BENNETT,
Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1979

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [3]
Hon. Wyche Fowler, Jr	11/2	11/5	Switzerland	508.50	306.00		2,256.15				2,562.15
Hon. Charles A. Vanik	11/17	11/18	Nigeria	83.15	144.00						144.00
Refund				(21.60)	(37.20)						(37.20)
	11/18	11/21	South Africa	187.42	225.00						225.00
Refund				(3.70)	(4.44)						(4.44)
	11/21	11/23	Tanzania	1,230	150.00						150.00
	11/23	11/25	Sudan		207.00						207.00
Refund					(30.00)						(30.00)
	11/25	11/27	Italy	123,000	150.00						150.00
Transportation by Department of Defense.							8,126.05				8,126.05
Mary Nell Lehnhard	11/24	11/27	Japan								
	11/27	12/10	China								
	12/10	12/13	Hong Kong								
All-inclusive expenses for entire trip.											3,100.00
David B. Rohr	10/14	10/22	Belgium	24,610	856.00		778.00				1,634.00
Arthur Stein III	11/17	11/26	Japan	215,631	873.00		1,419.00				2,292.00
Committee total					2,839.36		12,579.20				18,518.56

---

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used enter amount expended.

Jan. 30, 1980.

AL ULLMAN,
Chairman.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3418. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of State for "Emergencies in the diplomatic and consular service," for fiscal year 1980, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriations, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

3419. A letter from the Deputy Assistant Secretary of the Interior, transmitting certification that an adequate soil survey and land classification have been completed on certain lands of the Central Valley Project, Calif., and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation, pursuant to Public Law 172, 83rd Congress; to the Committee on Appropriations.

3420. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Services.

3421. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that the Army plans to study the conversions from in-house operation to commercial contract of various functions during fiscal year 1980, pursuant to section 860 of Public Law 96–107; to the Committee on Armed Services.

3422. A letter from the Assistant Secretary of the Air Force for Research, Development and Logistics, transmitting notice of the Air Force's plans to study the conversion from in-house operation to commercial contract of various functions at different installations in fiscal year 1980, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

3423. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting his determination and certification that downward fluctuations in foreign currency exchange rates have made it necessary to provide additional funds to maintain the budgeted level of operation for Radio Free Europe/Radio Liberty, Inc., during the fourth quarter of fiscal year 1979, pursuant to section 8(a)(2) of Public Law 93–129 (90 Stat. 402); to the Committee on Foreign Affairs.

3424. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3425. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3426. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

3427. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on scientific and professional positions established in the agency during calendar year 1979, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

3428. A letter from the Deputy Comptroller General of the United States, transmitting a report on positions in grades GS-16, 17, and 18 in the General Accounting Office during calendar year 1979, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

3429. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual reports on poverty-related research and demonstration projects; and experimental, pilot, demonstration or other projects financed with Federal funds under the Social Security Act for fiscal year 1979, pursuant to section 232(b) of the Economic Opportunity Act and section 1120(b) of the Social Security Act, respectively; jointly, to the Committees on Education and Labor, and Ways and Means.

3430. A letter from the Comptroller General of the United States, transmitting a report on the competition among national energy, environmental, and material goals, (EMD-80-22, February 5, 1980); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Public Works and Transportation.

3431. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Federal Financing Bank for fiscal year 1979, pursuant to section 15 of Public Law 93-224 (GGD-80-30, February 6, 1980) (H. Doc. No. 96-262); jointly to the Committees on Government Operations, and Ways and Means and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BEARD of Rhode Island:

H.R. 6435. A bill to amend title XVI of the Social Security Act to increase the amount of earnings to be disregarded in determining an individual's eligibility for supplemental security income benefits and in computing the amount of such benefits; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 6436. A bill to amend section 237 of the Revised Statutes of the United States to change the fiscal year to begin on July 1 of each year and end on June 30 of the following year, and for other purposes; to the Committee on Government Operations.

By Mr. CARTER (for himself and Mr. GRAMM):

H.R. 6437. A bill to amend the Public Health Service Act to revise and extend the provisions of that Act relating to arthritis; to the Committe on Interstate and Foreign Commerce.

By Mr. FLORIO (for himself, Mr. BEILENSON, Mr. WON PAT, Mr. MOAKLEY, Mr. GUARINI, Mr. MCKINNEY, Mr. ROE, Mr. DOUGHERTY, Mr. MARKEY, Mr. ST GERMAIN, Mr. HUGHES, Mr. D'AMOURS, Mr. PATTEN, Mr. PEYSER, Mr. GRAY, Mr. MITCHELL of Maryland, Mr. VAN DEERLIN, Mr. FAZIO, and Mr. RINALDO):

H.R. 6438. A bill to amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor Improvement Project and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GUARINI:

H.R. 6439. A bill to amend the Internal Revenue Code of 1954 to exclude $9,000 of income from the gross income of each individual who has attained age 65, and to reaffirm the fact that benefits payable under title II of the Social Security Act are exempt from Federal taxation; to the Committee on Ways and Means.

By Mr. GUYER (for himself and Mr. GRADISON):

H.R. 6440. A bill to establish priorities in the payment of claims against the People's Republic of China; to the Committee on Foreign Affairs.

By Mr. HAMMERSCHMIDT:

H.R. 6441. A bill to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans; to the Committee on Veterans' Affairs.

By Mr. JONES of Oklahoma:

H.R. 6442. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of gain on the sale or exchange of foreign investment company stock; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 6443. A bill to provide assistance for the construction, acquisition, and renovation of State and local prison facilities, and for other purposes; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.R. 6444. A bill to require the Director of the Federal Emergency Management Agency to establish a pilot program of designing and constructing buildings to withstand nuclear explosions; to the Committee on Armed Services.

By Mr. PATTERSON:

H.R. 6445. A bill to direct the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, to conduct a study comparing the amount of energy expended in the manufacture of factory built houses with the amount of energy expended in the manufacture of onsite built houses and comparing the amount of energy expended in the use of factory built houses with the amount of energy expended in the use of onsite built houses, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 6446. A bill to direct the Secretary of Transportation to study the feasibility of adding high occupancy vehicle lanes to certain freeways in southern California; to the Committee on Public Works and Transportation.

By Mr. PAUL:

H.R. 6447. A bill to repeal the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. RINALDO:

H.R. 6448. A bill to amend the Internal Revenue Code of 1954 to increase to $500 the dividends which may be excluded from the gross income of an individual; to the Committee on Ways and Means.

By Mr. SEBELIUS (for himself, Mr. WINN, Mr. BEREUTER, and Mr. JEFFRIES):

H.R. 6449. A bill to provide for an extension of directed service on the Rock Island Railroad and to provide transaction assistance to the purchasers of portions of said railroad; to the Committee on Interstate and Foreign Commerce.

By Mr. SHANNON:

H.R. 6450. A bill to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to provide a credit against income tax for social security taxes, to provide a credit against income tax for research and experimental expenditures, and for other purposes; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 6451. A bill to amend title 23 of the United States Code to promote highway safety and increase fuel conservation by requiring road speed governors to be installed and maintained on trucks with gross vehicle weights of 10,000 pounds or more; to the Committee on Public Works and Transportation.

By Mrs. SPELLMAN:

H.R. 6452. A bill to require payment of interest by Federal agencies on overdue contract payments, to amend the Office of Federal Procurement Policy Act, and for other purposes; to the Committee on Government Operations.

By Mr. VANIK:

H.R. 6453. A bill to amend the Tariff Schedules of the United States regarding the rate of duty that may be proclaimed by the President with respect to sugar imports; to the Committee on Ways and Means.

By Mr. JEFFRIES:

H. Con. Res. 275. A resolution expressing the sense of the Congress that the International Olympic Committee should allow Taiwan to participate in the 1980 winter Olympic games under its own name, flag, and national anthem; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BIAGGI:

H.R. 6454. A bill for the relief of Edward Carbellini; to the Committee on the Judiciary.

By Mr. FITHIAN:

H.R. 6455. A bill for the relief of Dewey J. Hassler; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. BUTLER, Mr. BOWEN, Mr. HUGHES, Mrs. HOLT, Mr. MOLLOHAN, Mr. LUNGREN, Mr. LEACH of Louisiana, Mr. WON PAT, Mr. GUDGER, and Mr. CARTER.

H.R. 135: Mr. TRAXLER, Mr. HARRIS, Mr. BEARD of Tennessee, and Mr. ROE.

H.R. 466: Mr. ROUSSELOT.

H.R. 837: Mr. DOUGHERTY.

H.R. 2139: Mr. WAXMAN, Mr. DELLUMS, and Mr. TAUKE.

H.R. 4513: Mr. HUBBARD and Mr. WOLPE.

H.R. 4782: Mr. ALBOSTA.

H.R. 5040: Mr. MINISH.

H.R. 5119: Mr. EDGAR.

H.R. 5304: Mr. WAXMAN.

H.R. 5649: Mr. BEDELL and Mr. DELLUMS.

H.R. 6027: Mr. CARNEY, Mr. RICHMOND, Mr. FORSYTHE, Mr. CLAY, Mr. DOUGHERTY, Mr. MATHIS, Mrs. COLLINS of Illinois, Mr. EMERY, Mr. VENTO, Mr. SCHEUER, Mr. JEFFORDS, Mr. WALGREN, Mr. LLOYD, Mr. PORTER, Mr. PICKLE, and Mr. BEDELL.

H.R. 6070: Mr. ICHORD, Mr. STENHOLM, Mr. DAVIS of Michigan, Mr. CHENEY, Mr. CORCORAN, and Mr. SLACK.

H.R. 6171: Mr. DAVIS of Michigan, Mr. ROE, Mr. CARTER, Mr. HEFTEL, Mr. DOWNEY, Mr. RINALDO, Mr. BALDUS, Mr. BUCHANAN, Mr. NEAL, Mr. STEED, Mr. LEE, and Mr. FAZIO.

H.R. 6301: Mrs. SMITH of Nebraska.

H.R. 6345: Mr. GLICKMAN, Mr. AUCOIN, Mr. ROYER, Mr. EDGAR, Mr. MOORE, Mr. STOCKMAN, and Mr. KEMP.

H.J. Res. 145: Mr. LLOYD and Mr. FORSYTHE.

H.J. Res. 300: Mr. MITCHELL of New York.

H.J. Res. 417: Mr. Kildee, Mr. Symms, Mr. Paul, Mr. Heftel, Mr. Lundine, Mr. Young of Missouri, Mr. Wolpe, Mr. Petri, Mr. Harris, Mr. Dannemeyer, Mr. Lloyd, Mr. Emery, Mr. Stenholm, Mr. Montgomery, Mr. White, Mr. Volkmer, Mr. Wylie, Mr. Lee, Mr. Hanley, Mr. Brown of Ohio, Mrs. Holt, Mr. Quillen, Mr. Leach of Louisiana, Mr. Price, Mr. Florio, Mr. Mottl, Mr. Bowen, Mr. de la Garza, Mr. Dicks, and Mr. Whitten.

H.J. Res. 471: Mr. Florio, Mr. Rodino, Ms. Oakar, Mrs. Holt, Mr. Richmond, Mr. Fazio, Mr. Long of Maryland, Mr. Thompson, Mr. Won Pat, Mr. Brown of California, Mr. Conte, Mr. Nolan, Mr. Kindness, Mr. Frenzel, Mr. Murphy of Pennsylvania, Mr. Myers of Pennsylvania, Mr. Walgren, Mr. Cleveland, Mr. Roe, Mr. Gradison, Mr. Sebelius, and Mr. Guyer.

H.J. Res. 477: Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Badham, Mr. Bafalis, Mr. Bereuter, Mr. Bevill, Mr. Boland, Mr. Bonker, Mrs. Bouquard, Mr. Brodhead, Mr. Brown of California, Mr. Buchanan, Mr. Burgener, Mrs. Byron, Mr. Carter, Mr. Cavanaugh, Mr. Chappell, Mr. Clausen, Mr. Clinger, Mr. Coelho, Mr. Conte, Mr. Corman, Mr. Corrada, Mr. Courter, Mr. D'Amours, Mr. Dan Daniel, Mr. Danielson, Mr. Daschle, Mr. de la Garza, Mr. Derwinski, Mr. Dickinson, Mr. Diggs, Mr. Dixon, Mr. Dodd, Mr. Donnelly, Mr. Dornan, Mr. Dougherty, Mr. Downey, Mr. Duncan of Oregon, Mr. Carr, Mr. Erdahl, Mr. Ertel, Mr. Evans of the Virgin Islands, Mr. Fary, Mr. Fazio, Ms. Ferraro, Mr. Findley, Mr. Fish, Mr. Fisher, Mr. Forsythe, Mr. Frenzel, Mr. Frost, Mr. Fuqua, Mr. Giaimo, Mr. Gibbons, Mr. Ginn, Mr. Goldwater, Mr. Gore, Mr. Grassley, Mr. Grisham, Mr. Guarini, Mr. Gudger, Mr. Hall of Texas, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hance, Mr. Hanley, Mr. Harris, Mr. Hawkins, Mr. Hefner, Mr. Heftel, Mr. Hightower, Mr. Hinson, Mrs. Holt, Mr. Horton, Mr. Howard, Mr. Hubbard, Mr. Huckaby, Mr. Hughes, Mr. Hutto, Mr. Ireland, Mr. Jenrette, Mr. Johnson of California, Mr. Johnson of Colorado, Mr. Jones of Tennessee, Mr. Kelly, Mr. Kemp, Mr. Kildee, Mr. Kindness, Mr. Kogovsek, Mr. Kostmayer, Mr. Kramer, Mr. LaFalce, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Leath of Texas, Mr. Lederer, Mr. Lehman, Mr. Leland, Mr. Levitas, Mr. Lewis, Mr. Loeffler, Mr. Long of Louisiana, Mr. Lott, Mr. Lundine, Mr. Lungren, Mr. Madigan, Mr. Markey, Mr. Matsui, Mr. Mavroules, Mr. McCloskey, Mr. McCormack, Mr. McDade, Mr. McDonald, Mr. McEwen, Mr. Miller of California, Mr. Mitchell of New York, Mr. Moakley, Mr. Moffett, Mr. Montgomery, Mr. Moorhead of California, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murphy of New York, Mr. Murphy of Illinois, Mr. Myers of Pennsylvania, Mr. Nedzi, Mr. Nelson, Mr. Nichols, Mr. Nolan, Ms. Oakar, Mr. Oberstar, Mr. Panetta, Mr. Pashayan, Mr. Patten, Mr. Patterson, Mr. Pepper, Mr. Perkins, Mr. Porter, Mr. Price, Mr. Pritchard, Mr. Pursell, Mr. Rahall, Mr. Richmond, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Rousselot, Mr. Roybal, Mr. Royer, Mr. Russo, Mr. Sabo, Mr. Santini, Mr. Scheuer, Mr. Sebelius, Mr. Shumway, Mr. Simon, Mr. Skelton, Mr. Slack, Mr. Smith of Iowa, Mrs. Spellman, Mr. Spence, Mr. Stack, Mr. Staggers, Mr. Stangeland, Mr. Stanton, Mr. Stark, Mr. Steed, Mr. Stenholm, Mr. Stewart, Mr. St Germain, Mr. Stratton, Mr. Stump, Mr. Symms, Mr. Synar, Mr. Tauke, Mr. Thomas, Mr. Thompson, Mr. Traxler, Mr. Van Deerlin, Mr. Vento, Mr. Volkmer, Mr. Walker, Mr. Waxman, Mr. Weaver, Mr. Whitehurst, Mr. Whitley, Mr. Williams of Ohio, Mr. Bob Wilson, Mr. Charles H. Wilson of California, Mr. Yatron, Mr. Young of Florida, Mr. Zeferetti, and Mr. Stokes.

H. Con. Res. 215: Mr. Young of Alaska, Mr. Badham, and Mr. Gingrich.

H. Con. Res. 225: Mr. Kogovsek, Mr. Williams of Ohio, Mr. Albosta, Mr. Yates, Mr. Weaver, Mr. Beard of Rhode Island, Mr. Dellums, Mr. Stack, Mr. Dixon, Mr. Brodhead, Mr. Dodd, Mr. Hansen, Mr. Kemp, Mr. Duncan of Tennessee, Mr. Simon, Mr. Waxman, Mr. Addabbo, Mr. Ertel, Mr. Tauke, and Mr. Rangel.

H. Con. Res. 234: Mr. Fazio, Mr. Lungren, Mr. Ichord, Mr. Charles Wilson of Texas, Mr. Frenzel, Mr. Quillen, Mr. Simon, Mr. Montgomery, Mr. Pritchard, and Mr. Guyer.

H. Con. Res. 257: Mr. Goldwater, Mr. Whittaker, Mr. Davis of Michigan, Mr. Rudd, and Mr. Charles Wilson of Texas.

H. Res. 354: Mr. Rousselot.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2609

By Mr. BROWN of California:

—Page 5, line 6, insert "(a)" after "Sec. 5.".

Page 6, insert after line 5 the following new subsection:

(b) (1) Section 109 of the Act (as so redesignated by subsection (a) of this section) is further amended by adding at the end thereof the following:

"(b) No funds in excess of $356,400,000 may be expended or obligated for the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110 unless the Wellton-Mohawk Irrigation and Drainage District enters into a contract with the Secretary of the Interior under which such District agrees, as a condition of the receipt of such funds, to expand from non-Federal sources (for the activities for which the funds are to be made available) an amount equal to 50 percent of the Federal funds to be made available to such District for such activities.".

(2) The amendment made by paragraph (1) of this subsection shall be effective as of October 1, 1979.

—Page 7, after line 20, add the following new section:

Sec. 8. The Act is amended (effective October 1, 1979) by adding after section 111 (as added by section 7 of this Act) the following:

"Sec. 112. No funds in excess of $356,400,000 may be expended or obligated for the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110 unless the Wellton-Mohawk Irrigation and Drainage District enters into a contract with the Secretary of the Interior under which such district agrees, as a condition of the receipt of such funds, to expend from non-Federal sources (for the activities for which the funds are to be made available) an amount equal to 50 percent of the Federal funds to be made available to such District for such activities.".

—Page 3, line 9, insert "(a)" after "Sec. 2."; after line 12, add the following new subsection:

(b) Section 101(f) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) Acquire, by purchase or through eminent domain or exchange, to the extent determined by the Secretary to be appropriate, any of the lands in the Wellton—Mohawk Irrigation and Drainage District, using any funds appropriated under this title.".

—Page 7, after line 20, add the following new section:

Sec. 8. The Act is amended by adding after section 111 (as added by section 7 of this Act) the following:

"Sec. 112. The Secretary may use any funds appropriated under this title to acquire, by purchase or through eminent domain or exchange, to the extent determined by the Secretary to be appropriate, any of the lands in the Wellton-Mohawk Irrigation and Drainage District.".

—Page 7, after line 20, add the following new section:

Sec. 8. The Act is amended by adding after section 111 (as added by section 7 of this Act) the following:

"Sec. 112. The Secretary may use any funds appropriated under this Act for onfarm irrigation improvements, if such improvements are designed to reduce the size and cost of the Yuma Desalting Plant. The Secretary shall make maximum use of the authority provided under this section in order to demonstrate the practicality of onfarm improvements as a salinity control measure.".

—Page 7, after line 20, add the following new section:

Sec. 8. The President shall take such actions as may be appropriate to begin negotiations with the Republic of Mexico with regard to salinity problems of the Colorado River (as such problems may exist through the year 2000) and with regard to opportunities which may be available to the United States and the Republic of Mexico to remedy such problems during such period. The following topics shall be included in such negotiations:

(1) New crop research which focuses on saline-resistant or drought-resistant crops.

(2) The reuse and recycling of water.

(3) Irrigation efficiency and other onfarm improvements.

(4) Salinity control programs in the Colorado River Basin, which would reduce the overall salinity of the water which enters the Republic of Mexico.

(5) The development of more cost-effective means of meeting the water quality commitments of the United States to the Republic of Mexico.

—Page 7, after line 20, add the following new section:

Sec. 8. The President shall take such actions as may be necessary to provide for a thorough and comprehensive evaluation of projections (through the year 2000) for the water supply, water demand, water quality, and water use for the Colorado River. The President shall provide for an interim report containing such evaluation to be submitted to the Congress not later than one year after the date of the enactment of this Act, and for a final report to be submitted to the Congress not later than two years after the date of the enactment of this Act. To the extent practicable, the President shall provide for the utilization of existing studies prepared by the various departments and agencies of the Federal Government. Notwithstanding any other law, any funds appropriated under the Colorado River Basin Salinity Control Act may be expended to carry out this section.

—Page 7, after line 20, add the following new section:

Sec. 8. (a) Within 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, the Administrator of the Environmental Protection Agency, the Secretary of State, the Secretary of Agriculture, and the Secretary of the Interior (or their delegates) shall meet to conduct a study of the alternatives to the desalting plant complex identified in the General Accounting Office report of May 4, 1979 (CED–79–11). Within 6 months after the date of the enactment of this Act, such individuals shall issue a report containing the results of their study, which report shall be submitted to the Congress.

(b) The study required under subsection (a) shall be prepared under the following guidelines:

(1) The alternatives to the desalting plant complex shall be evaluated to determine

which would provide the lowest overall lifetime costs to the Federal Government.

(2) Such alternatives shall be evaluated to determine which could be used throughout the Colorado River Basin to alleviate salinity problems.

(3) The energy efficiency and water efficiency of the alternatives shall be taken into consideration.

(4) The alternatives to be considered shall include, but shall not be limited to, those suggested by the Wellton-Mohawk Irrigation and Drainage District or by the States within the Colorado River Basin.

(c) No Federal funds may be obligated or expended for the construction of the desalting complex described under subsection (a) until the date 30 days after the date the report required under subsection (a) is submitted to the Congress.

By Mr. WEAVER:

—On page 7, after line 20, insert the following: "SEC. 8. A new section shall be added to the Act, as follows:

"SEC. 112. The Secretary shall, within thirty days after the effective date of this Act, begin a review and study of the desalting complex as authorized in section 101(a) of Title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act. Such review and study shall be carried out in consultation with the Secretary of State, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and representatives of the Governors of the Colorado River Basin States. The Secretary is authorized and directed to finance from funds available to him the reasonable expenses of the review and study authorized by this section.

(b) The Secretary shall submit to the Chairman of the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources no later than two hundred seventy (270) days after the effective date of this Act a report embodying the results of the review and study authorized by this section. Such report shall include:

(1) a statement, together with complete supporting data, as to whether or not the requirements of Minute No. 242 of the International Boundary and Water Commission, United States and Mexico, are presently being met, and a statement as to whether or not the requirements would be met in the absence of the present discharges of State-owned water from Imperial Dam.

(2) an analysis of the smallest possible capacity desalting plant necessary to meet the water quality requirements of Minute No. 242 of the International Boundary and Water Commission, United States and Mexico, given the present existence of the bypass drain authorization by section 101(a) of title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act, and, separately, given the cessation of the present discharges of State-owned water from Imperial Dam, such analysis to include both the direct and indirect fiscal, environmental, and social costs of such plant;

(3) an examination of the fiscal, water quality, and water quantity benefits of the desalting complex as authorized in section 101(a) of title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act, along with the recipients of such benefits;

(4) an analysis of alternative means of meeting the obligations of the United States under Minute No. 242 of the International Boundary and Water Commission including, but not limited to, those identified in the General Accounting Office report of May 4, 1979 (CED-79-11); and

(5) a statement of the effect, or potential effect, on salinity requirements to Mexico of the use by the upper and lower basin States of all of the waters they are entitled to under the Colorado River Compact of 1922.

(c) The Secretary shall not expend the additional funds authorized by this Act for the construction of the desalting complex as authorized in section 101(a) of title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act, until ninety calendar days (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) have elapsed following the submittal of the report required by subsection (b) of this section."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of December 24, 1979 (page 37744).

H.R. 5753. October 31, 1979. Armed Services. Stipulates that certain full-time training or duty performed by a member of the National Guard shall be creditable as active duty for training in Federal Service for benefit purposes.

H.R. 5754. October 31, 1979. Ways and Means. Amends the Internal Revenue Code to permit an income tax deduction for contributions to retirement savings plans even if the taxpayer was a participant in a tax qualified pension plan for any part of the taxable year. Increases the allowable amount of such deduction.

H.R. 5755. October 31, 1979. Interstate and Foreign Commerce; Science and Technology. Directs the Administrator of the United States Fire Administration to establish and conduct smoke detector placement demonstration projects.

Directs the Consumer Product Safety Commission: (1) to evaluate information from such projects and to disseminate to consumers information pertinent to the purchase and use of smoke detectors; and (2) to take account of project information relating to potential fire hazards from household appliances or other consumer products in promulgating consumer product safety standards.

H.R. 5756. October 31, 1979. Interstate and Foreign Commerce; Ways and Means. Amends part B (Professional Standards Review) of title XI of the Social Security Act to permit a Professional Standards Review Organization to delegate its review responsibilities when: (1) a hospital or skilled nursing facility is able to carry out its own review responsibility; (2) some members of an institution approved by the organization can carry out such responsibilities at a related institution; or (3) the delegated long-term care review staff is part of the same hospital delegated review staff. Requires such delegation of review responsibilities to be approved by the Secretary of Health, Education, and Welfare.

H.R. 5757. October 31, 1979. Judiciary. Grants a Federal charter to the Italian American War Veterans of the United States.

H.R. 5758. October 31, 1979. Post Office and Civil Service. Authorizes and requests the President to designate September 23, 1980, as "National Farmers' Day."

H.R. 5759. October 31, 1979. Post Office and Civil Service; Rules. Amends the Legislative Reorganization Act of 1946 and the Federal Salary Act of 1967 to prohibit congressional pay adjustments from taking effect until the beginning of the next following Congress. Requires a recorded vote in each House for annual congressional pay adjustments. Requires appropriations of funds for congressional pay to be considered separately from appropriations for any other purpose.

H.R. 5760. October 31, 1979. Ways and Means. Amends the Internal Revenue Code to set the basis of the income tax deduction for casualty loss of timber at not less than the fair market value immediately before such casualty. Provides for a ten-year carry back and a four-year carryover of such deduction.

H.R. 5761. October 31, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for casualty loss of depreciable fruit or nut trees. Sets a minimum deduction of the fair market value on the date such loss occurs, with a further allowance for an up to ten year carryback and an up to four year carryover.

H.R. 5762. October 31, 1979. Public Works and Transportation. Revises provisions of Federal statutes with respect to the regulation of the trucking industry.

H.R. 5763. October 31, 1979. Veterans' Affairs. Provides that progressive muscular atrophy or amyotrophic lateral sclerosis developing a ten percent or more degree of disability within seven years after separation from active wartime service shall be presumed to be service connected for purposes of veterans' disability compensation.

H.R. 5764. October 31, 1979. Interstate and Foreign Commerce; Science and Technology. Establishes the Acid Precipitation Task Force to prepare a comprehensive plan of action to ameliorate the harmful effects of acid precipitation.

H.R. 5765. October 31, 1979. District of Columbia. Redesignates the RFK Stadium in the District of Columbia as the Martin Luther King, Jr., Memorial Stadium.

H.R. 5766. October 31, 1979. Armed Services. Authorizes Army Reserve Officers' Training Corps scholarships for cadets at military junior colleges under specified conditions.

Sets forth the rights and obligations of a cadet appointed under such a financial assistance program.

H.R. 5767. October 31, 1979. Public Works and Transportation. Amends title I of the Federal Water Pollution Control Act to authorize a demonstration project for the reclamation of the Hudson River.

H.R. 5768. October 31, 1979. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5769. October 31, 1979. Interior and Insular Affairs. Deems certain oil and gas leases to be in full force and effect under specified conditions.

H.R. 5770. November 1, 1979. Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to guarantee loans made to the Chrysler Corporation.

H.R. 5771. November 1, 1979 Ways and Means. Amends the Internal Revenue Code to exclude from gross income any gain from the sale of land to the United States, a State, or a tax-exempt conservation authority to be used for fish and wildlife conservation or preservation as a natural area.

H.R. 5772. November 1, 1979. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to include the acquisition of band instruments for the use of children and teachers in elementary and secondary schools for such uses as the school administration considers desirable among those purposes for which the Commissioner of Education is directed to carry out a program of making grants to States for libraries and learning resources.

H.R. 5773. November 1, 1979. Ways and Means. Amends the Tariff Act of 1930 and the Trade Act of 1974 with respect to standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in non-market economy countries.

H.R. 5774. November 1, 1979. Ways and Means. Amends the Internal Revenue Code to permit an income tax deduction for expenses incurred in attending conventions outside the United States but within the North American area.

H.R. 5775. November 1, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Establishes a Nuclear Safety Board to monitor nuclear incidents and to make recommendations regarding nuclear safety.

H.R. 5776. November 1, 1979. Interstate and Foreign Commerce; Judiciary. Provides for a Special Prosecutor for the audit, review, investigation, and prosecution of violations by major oil companies of any provision of the Emergency Petroleum Allocation Act of 1973, of all other Federal laws governing and relating to energy pricing and the purchase from foreign sources of crude oil and refined petroleum products and sales thereof, and of the Federal Trade Commission Act as amended, the Sherman Antitrust Act, and the Clayton Antitrust Act or any regulations promulgated under those authorities.

H.R. 5777. November 1, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act to authorize the Secretary of Labor to fund solar energy and energy conservation employment and training programs for the unemployed or underemployed or for those in school between the ages of 16 and 24.

Allows Governors or prime sponsors to operate such programs directly or by contracting with public or private nonprofit agencies or employers organized for profit.

Directs the Secretary to use a portion of such funds for certain apprenticeship projects and to implement such programs at suitable Job Corps centers.

H.R. 5778. November 1, 1979. Public Works and Transportation. Directs Federal department and agency heads to insure that new Federal buildings and new federally leased building space use solar energy to provide all or part of the energy needed for hot water, heating, and cooling.

H.R. 5779. November 1, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from the gross income of an individual amounts contributed to a rollover account. Requires inclusion in gross income of any payment or distribution from such an account.

H.R. 5780. November 1, 1979. Interstate and Foreign Commerce. Directs the Secretary of Health and Human Services to establish a program to alert women who received DES while pregnant of the health hazards of such drug to them and their daughters and to reimburse such women and their daughters for one-half the diagnosis and treatment costs resulting from receiving such drug.

H.R. 5781. November 1, 1979. Public Works and Transportation. Designates the Department of Labor Building in Washington, D.C., as the Frances Perkins Department of Labor Building.

H.R. 5782. November 1, 1979. Interior and Insular Affairs. Establishes the Cougar Lakes National Recreation Area in the State of Washington. Designates specified lands in such area as wilderness.

H.R. 5783. November 1, 1979. Interior and Insular Affairs. Amends Federal laws relating to the reclamation program to establish revised limitations on acreage which may be served by Federal water.

H.R. 5784. November 1, 1979. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to extend the authority of the Secretary of Commerce to provide war risk insurance for American vessels.

H.R. 5785. November 1, 1979. Education and Labor. Amends the Black Lung Benefits Act to stipulate that certain benefits paid to miners who filed claims under title IV of such Act shall not be considered workers' compensation benefits for the purposes of title II of the Social Security Act (Old Age, Survivors and Disability Insurance).

H.R. 5786. November 1, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the residential use of heating oil.

H.R. 5787. November 1, 1979. Judiciary. Authorizes the classification of a certain individual as an immediate relative of a U.S. citizen for purposes of the Immigration and Nationality Act.

H.R. 5788. November 1, 1979. Judiciary. Authorizes the classification and a named individual as a natural-born alien for purposes of the Immigration and Nationality Act.

H.R. 5789. November 2, 1979. Judiciary. Establishes two divisions for the central judicial district of California.

H.R. 5790. November 2, 1979. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to provide authority to respond to releases of hazardous waste which are presently unregulated at the Federal level and which endanger public health and the environment. Establishes a Hazardous Waste Response Fund to be funded by a system of fees. Establish prohibitions and requirements concerning certain unregulated releases of hazardous waste. Provides for liability of persons responsible for releases of hazardous waste.

H.R. 5791. November 2, 1979. Interior and Insular Affairs. Establishes the Native Hawaiians Study Commission to investigate the events which led to the annexation of Hawaii by the United States.

H.R. 5792. November 2, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to provide for the recreational use of the Federal lands and waters at Henry Hagg Lake, Oregon.

H.R. 5793. November 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax exclusion for interest earned on savings accounts in certain financial institutions.

H.R. 5794. November 2, 1979. Public Works and Transportation. Designates the Federal Building in Evansville, Indiana, as the Winfield K. Denton Building.

H.R. 5795. November 2, 1979. Agriculture. Amends the Agricultural Adjustment Act of 1937 to authorize the Secretary of Agriculture to issue marketing orders respecting grapefruit, lemon, or orange development projects which provide for crediting certain direct expenditures of a handler for such marketing, if such fruits are grown in the State of Arizona or the State of California.

H.R. 5796. November 2, 1979. Science and Technology. Directs the Secretary of Energy to prepare a comprehensive plan for the conduct of research, development, and demonstration of ocean thermal energy conversion systems.

H.R. 5797. November 2, 1979. Rules; Banking, Finance and Urban Affairs; Government Operations. Amends the Congressional Budget Act of 1974 to implement a two-step budget process which requires the budget surplus or deficit, and the level of revenues and outlays to be agreed upon in a concurrent resolution on fiscal policy which will dictate the corresponding amounts contained in concurrent resolutions on the budget.

H.R. 5798. November 2, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for expenditures made to enhance the productivity of forest lands.

H.R. 5799. November 2, 1979. Post Office and Civil Service. Limits the amount an executive agency may expend for personal services contracts.

Requires certain individuals receiving compensation under such a contract to submit financial disclosure reports to the contracting agency.

Directs the Office of Personnel Management to implement a system providing cash awards to employees for outstanding public service.

Requires an agency to consider performance on administering personnel and contract ceilings when evaluating the performance of senior executives and managers.

H.R. 5800. November 2, 1979. Banking, Finance and Urban Affairs. Authorizes the President, on behalf of the Congress, to present a gold medal of appropriate design to Bryan Lewis Allen, the first aviator to cross the English Channel in a self-propelled plane.

H.R. 5801. November 2, 1979. Public Works and Transportation. Directs the Secretary of the Army, acting through the Chief of Engineers, to undertake erosion control measures at Lexington Harbor, Michigan.

H.R. 5802. November 2, 1979. Banking, Finance and Urban Affairs. Amends the Gold Reserve Act of 1934 to require Congressional authorization of all sales and purchases of gold on behalf of the United States except for those effectuated to maintain or establish a permanent relationship between the dollar and a specified quantity of gold.

H.R. 5803. November 2, 1979. Judiciary. Authorizes the issuance of a visa and admittance to the United States of a named individual under provisions of the Immigration and Nationality Act.

H.R. 5804. November 2, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5805. November 5, 1979. Banking, Finance and Urban Affairs. Authorizes emergency loan guarantees to the Chrysler Corporation.

H.R. 5806. November 7, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from the gross income of an individual taxpayer dividend income paid by domestic corporations and certain amounts of interest income earned on a savings account.

H.R. 5807. November 7, 1979. Interior and Insular Affairs. Repeals the authority to construct the irrigation project for the Oahe unit, James division, Missouri River Basin project in the State of South Dakota.

H.R. 5808. November 7, 1979. Merchant Marine and Fisheries. Revises laws relating to the shipment, discharge, and protection of seamen.

H.R. 5809. November 7, 1979. Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Atomic Energy Act of 1954 to authorize States to enter into agreements or compacts with other States for the establishment of regional disposal sites for low-level radioactive waste. Establishes certain rules respecting the ownership of low-level radioactive waste.

H.R. 5810. November 7, 1979. Ways and Means. Amends the Internal Revenue Code to allow suppliers of home heating fuel an income tax credit for the cost of fuel discounts granted to elderly and disabled individuals and to households which include such individuals.

H.R. 5811. November 7, 1979. District of Columbia. Allows the Interest Rate Modification Act of 1979, passed by the District of Columbia Council and signed by the Mayor, to become effective upon enactment of this Act, notwithstanding any other provision of law.

H.R. 5812. November 7, 1979. Education and Labor. Amends the Department of Education Organization Act to transfer authority with respect to rural education to the Assistant Secretary for Elementary and Secondary Education.

H.R. 5813. November 7, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the deportation of nonimmigrant alien students who knowingly participated in a violent political demonstration or otherwise participated in activities inconsistent with the terms of their admittance to the United States.

H.R. 5814. November 7, 1979. Banking, Finance and Urban Affairs. Requires that $50 bills bear a portrait of Georgia Neese Clark Gray, the first woman to serve as Treasurer of the United States.

H.R. 5815. November 7, 1979. Ways and Means. Amends the Internal Revenue Code to tax income of married individuals filing tax returns separate from their spouses at the same rates applicable to unmarried individuals.

H.R. 5816. November 7, 1979. Agriculture. Replaces the program established under the Food Stamp Act of 1977 with a five-year federally funded program established by the States.

H.R. 5817. November 7, 1979. Interior and Insular Affairs. Designates certain lands in the Los Padres National Forest, California, as the Dick Smith Wilderness. Requires that the management plan for such wilderness authorize the Forest Service to take any actions necessary for fire prevention and watershed protection therein.

Amends the Act establishing the San Rafael Wilderness to transfer a portion of the lands in such wilderness to the Dick Smith Wilderness.

H.R. 5818. November 7, 1979. Judiciary; Interstate and Foreign Commerce; Small Business. Declares that exclusive territorial arrangements made as part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the Federal Trade Commission Act and the antitrust laws provided such product is in substantial and effective competition with other products of the same general class and the elimination of the territorial provisions in such agreement would adversely affect the quality of the environment, significantly increase energy consumption, cause inflation in the cost of soft drink products, or lead to concentration of economic power in the soft drink industry.

H.R. 5819. November 7, 1979. Science and Technology; Interior and Insular Affairs; Interstate and Foreign Commerce. Directs the Secretary of Energy to: (1) establish, operate, and maintain at least nine but no more than 14 low-level radioactive waste repositories located at appropriate sites in the continental United States; (2) recover the costs of operating and maintaining the repositories from fees charged for disposing of low-level radioactive wastes in or by such repositories; and (3) establish a research and development program associated with new and improved methods for the concentration, solidification, and safe storage of low-level radioactive wastes and their residues.

H.R. 5820. November 7, 1979. Post Office and Civil Service. Prohibits the opening of mail which is sealed against inspection except: (1) with the consent of the sender or addressee; (2) pursuant to a search warrant; (3) by a Postal Service employee for the purpose of determining an address of delivery or upon suspicion that the mail contains an explosive device; or (4) by an employee of the Customs Service upon suspicion that an item weighing more than one ounce contains material which is being imported illegally.

H.R. 5821. November 7, 1979. Armed Services. Allows the military departments to accept voluntary, uncompensated services from persons desiring to provide such services for military department museums.

H.R. 5822. November 7, 1979. Armed Services. Repeals the requirement that before a member of the Standby Reserve may be involuntarily ordered to active duty, in time of war or national emergency, the Director of Selective Service must determine that the member is available for active duty.

H.R. 5823. November 7, 1979. Judiciary. Amends the Gun Control Act of 1968 to revise provisions relating to the licensing of manufacturers, dealers, and importers of firearms and ammunition and prohibited activities concerning firearms. Adds new provisions relating to the control of handguns.

Repeals title VII (Unlawful Possession or Receipt of Firearms) of the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 5824. November 7, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit the transmission by television, radio, cable, of televised coverage of the floor proceedings of the House of Representatives for the purpose of influencing the outcome of any election for public office.

H.R. 5825. November 7, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income up to $100 ($200 for married couples filing jointly) of the interest earned on a savings account in a bank, savings and loan association, credit union, or similar savings institution.

H.R. 5826. November 7, 1979. Ways and Means. Amends the Internal Revenue Code to repeal the estate tax carryover provisions enacted by the Tax Reform Act of 1976. Restores prior law relating to the basis of property passed by a decedent.

H.R. 5827. November 7, 1979. Ways and Means. Amends existing Federal law regarding the submission by the Foreign-Trade Zones Board of annual reports to Congress.

H.R. 5828. November 7, 1979. Ways and Means. Amends the Internal Revenue Code to permit employees who are participants in tax qualified pension plans a limited income tax deduction for contributions to an individual retirement account.

H.R. 5829. November 7, 1979. Ways and Means. Directs the Secretary of the Treasury to admit free of duty certain articles for use by a church in the District of Columbia.

H.R. 5830. November 7, 1979. Judiciary. Directs the Postmaster General to pay out of the Postal Service Fund a specified amount to a named corporation in settlement of all claims against the United States Postal Service arising out of negligence in the delivery of bulk mail.

H.R. 5831. November 7, 1979. Judiciary. Declares that the disabilities suffered by a named veteran shall be considered to be service-connected disabilities and authorizes compensation to such veteran accordingly.

H.R. 5832. November 7, 1979. Judiciary. Declares a named individual to be lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5833. November 8, 1979. Judiciary. Amends the Gun Control Act of 1968 to revise provisions relating to the licensing of manufacturers, dealers, and importers of firearms and ammunition and prohibited activities concerning firearms.

Repeals title VII (Unlawful Possession or Receipt of Firearms) of the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 5834. November 8, 1979. Education and Labor. Requires the United States to make a lump sum payment of $50,000 to the survivors of any Federal fire fighter or law enforcement officer, special policeman, or Federal protective officer employed by the General Services Administration and killed in the line of duty.

H.R. 5835. November 8, 1979. Judiciary. Amends the Federal criminal code to make it unlawful to kill any Federal protective officer employed by the General Services Administration or any nonuniformed special policeman.

H.R. 5836. November 8, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require infant formulas to provide certain nutrient levels. Requires seizure actions to be instituted against an adulterated infant formula if the manufacturer has not initiated a satisfactory recall.

H.R. 5837. November 8, 1979. Post Office and Civil Service. Authorizes payment from the Civil Service Retirement and Disability Fund for the expenses incurred by the Merit Systems Protection Board in the administration of retirement appeals.

H.R. 5838. November 8, 1979. Judiciary. Establishes a Commission to hear, determine, and pay claims against the United States for money damages for the injuries to individuals who contracted the Guillain-Barre Syndrome after receiving immunization under the national swine flu immunization program.

H.R. 5839. November 11, 1979. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to increase the authority under that Act to assure the safety and nutrition of infant formulas.

H.R. 5840. November 8, 1979. Ways and Means. Amends the Internal Revenue Code to permit farmers to obtain the investment tax credit for certain types of business property acquired from a related party.

H.R. 5841. November 8, 1979. Interior and Insular Affairs; Banking, Finance and Urban Affairs. Develops a plan for a national hostel system to encourage the development of hostels by State and local governmental agencies and private, nonprofit groups. Establishes the National Hostel Advisory Council to assist in the development of such plan.

H.R. 5842. November 8, 1979. Education and Labor; Government Operations. Prohibits the making available of funds, authorized under any program to aid higher education, to any institution that enrolls or has enrolled on the date of enactment of this Act any person who is not a citizen of the United States and whose country of origin or residence immediately prior to entry into the United States is Iran.

Prohibits making available funds authorized under any program to any such person.

H.R. 5843. November 8, 1979. Judiciary. Stipulates that in any district court proceeding relating to eligibility for, or the amount of, benefits under title II (Old Age, Survivors and Disability Insurance) or title XVI (Supplemental Security Income) of the Social Security Act or under the Black Lung Benefits Act of 1972 the filing fee shall be $15.

H.R. 5844. November 8, 1979. Merchant Marine and Fisheries. Establishes a Wildlife Information Clearinghouse within the Office of Endangered Species of the Fish and Wildlife Service, Department of the Interior, for the purpose of providing information to the general public on endangered species and wildlife conservation.

H.R. 5845. November 8, 1979. Interior and Insular Affairs. Revises requirements under the Federal reclamation laws relating to acreage limitations, equivalency, and residency. Provides for validation of repayment contracts and written representations.

H.R. 5846. November 8, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the deportation of certain nonimmigrant alien students.

H.R. 5847. November 8, 1979. Ways and Means. Amends the Internal Revenue Code to permit the issuance of tax free industrial development bonds to finance the improvement of existing wharf facilities.

H.R. 5848. November 8, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the deportation of nonimmigrant alien students who knowingly participated in a violent political demonstration or otherwise participated in activities inconsistent with the terms of their admittance to the United States.

H.R. 5849. November 8, 1979. Public Works and Transportation. Amends title I of the Federal Water Pollution Control Act to authorize a demonstration project for the reclamation of the Hudson River.

H.R. 5850. November 8, 1979. Interstate and

Foreign Commerce. Permits the use of dimethyl sulfoxide for the relief of inflammation from arthritis, bursitis, rheumatism, and other disorders of the muscular-skeletal system.

H.R. 5851. November 8, 1979. Interstate and Foreign Commerce. Makes an approved new drug application effective for the use of dimethyl sulfoxide as an intravenous drug for the treatment of acute brain and spinal cord injuries.

H.R. 5852. November 8, 1979. Judiciary. Provides for the deportation from the United States of certain aliens who engage in demonstrations of support of acts of anti-American terrorism.

H.R. 5853. November 9, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the annual review of immigrant student visas. Provides for the automatic review of such a visa whenever the student is convicted of a criminal offense. Makes a nonimmigrant student who is convicted of a criminal offense subject to deportation.

H.R. 5854. November 9, 1979. Ways and Means. Amends the Internal Revenue Code to treat certain assessments on real property as real property taxes for purposes of the income tax deduction for such taxes.

H.R. 5855. November 9, 1979. Judiciary. Permits the deportation of aliens participating in violent demonstrations.

H.R. 5856. November 9, 1979. Armed Services. Allows Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the rank of colonel.

H.R. 5857. November 9, 1979. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to establish a program of financial and technical assistance to States and municipalities for the development and operation of systems designed to recover energy and material resources from municipal waste.

H.R. 5858. November 9, 1979. Rules. Establishes as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures.

H.R. 5859. November 9, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act and the Internal Revenue Code to provide that an individual who has attained age 65, and who is eligible for old age insurance benefits but has not filed application therefor, may elect (on an annual basis) to treat his or her employment or self-employment as not covered for social security benefit purposes and as exempt from social security taxes.

H.R. 5860. November 9, 1979. Banking, Finance and Urban Affairs. Authorizes loan guarantees to the Chrysler Corporation.

H.R. 5861. November 9, 1979. Government Operations. Amends the Freedom of Information Act to require each Federal agency to notify any person submitting information to the agency (submitter) of any request for disclosure of such information.

Authorizes the submitter to present written arguments to the agency regarding such request. Directs the agency to notify the submitter of the right to appeal any agency decision to disclose such information to the head of the agency.

Grants jurisdiction to the United States district courts, on complaint, to enjoin an agency from disclosing such information. Sets forth guidelines for the judicial review of an agency decision to disclose information.

H.R. 5862. November 9, 1979. Interstate and Foreign Commerce. Repeals the Federal requirement on incremental pricing under the Natural Gas Policy Act of 1978.

H.R. 5863. November 9, 1979. Government Operations. Makes any Iranian citizen who is in the United States on a student visa ineligible to receive any form of Federal assistance.

H.R. 5864. November 9, 1979. Judiciary. Declares certain named individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5865. November 13, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the immediate deportation of any alien in the United States on a student or other nonimmigrant visa who, while participating in a political demonstration, engages in violent or illegal activity.

H.R. 5866. November 13, 1979. Interior and Insular Affairs. Designates certain areas located in the Francis Marion National Forest, South Carolina, as wilderness areas.

H.R. 5867. November 13, 1979. Merchant Marine and Fisheries. Authorizes the Secretary of Commerce to charter the NS Savannah to Patriots Point Development Authority, South Carolina, for public display.

H.R. 5868. November 13, 1979. Ways and Means. Amends the Internal Revenue Code to permit taxpayers who do not itemize income tax deductions to claim a deduction from gross income for charitable contributions.

H.R. 5869. November 13, 1979. Education and Labor. Amends the Department of Education Organization Act to make the Assistant Secretary for Elementary and Secondary Education responsible for the promotion and coordination of Department programs of assistance to rural education and school districts.

H.R. 5870. November 13, 1979. Post Office and Civil Service. Specifies requirements which must be satisfied in order for an air traffic controller who is to be removed as a controller after being judged as unfit for duty to qualify for training.

Directs the Secretary of Transportation to: (1) designate regional career counselors to assist controllers in planning training programs; and (2) establish regional review boards to evaluate training programs and applications.

H.R. 5871. November 13, 1979. Public Works and Transportation. Authorizes the apportionment of funds for the Interstate Highway system.

H.R. 5872. November 13, 1979. Public Works and Transportation. Modifies the New Melones Dam and Reservoir project, California, to authorize appropriations for archaeological research and recovery operations.

H.R. 5873. November 13, 1979. Judiciary. Sets forth grounds and procedures for the involuntary retirement and discipline of Federal judges. Establishes a Court of Judicial Conduct and Disability to conduct hearings with respect to such alleged conduct.

H.R. 5874. November 13, 1979. Ways and Means. Amends the Internal Revenue Code to exempt from the excise tax on the use of civil aircraft any qualified person using an aircraft equipped for agricultural operation, if such person uses it primarily for such agricultural operation.

Provides for the refund by the Secretary of the Treasury of the gasoline excise tax for the use of any liquid as a fuel on a farm for farming purposes if such fuel is used in an aircraft and by an aerial applicator who was the actual ultimate purchaser of such fuel.

H.R. 5875. November 13, 1979. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free entry of field glasses, opera glasses, and prism binoculars.

H.R. 5876. November 13, 1979. Education and Labor. Directs the Secretary of Labor to: (1) enter into a contract with Opportunities Industrialization Centers, Incorporated, for the creation of jobs and the provision of skills training for unemployed and unemployable youth; and (2) enter into contracts with other national community-based organizations for the provision of comprehensive employment services to such persons.

Directs each agency administering authority under any of specified Acts or programs to assure that consideration will be given to national community-based organizations for the provision of comprehensive employment services and job opportunities to youth.

H.R. 5877. November 13, 1979. Ways and Means. Amends the Internal Revenue Code to require a court order before property of a taxpayer may be levied upon for the collection of tax.

H.R. 5878. November 13, 1979. Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to guarantee loans made to the Chrysler Corporation.

H.R. 5879. November 13, 1979. Judiciary. Authorizes and directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the United States.

H.R. 5880. November 13, 1979. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 5881. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to permit businesses an income tax credit for the establishment and financing of a reserve fund to pay the expenses of basic research by an institution of higher education in the scientific or engineering fields.

H.R. 5882. November 14, 1979. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to limit the Civil Aeronautics Board's authority to find any rate for foreign air transportation of property unjust or unreasonable on the basis that such fare is too low or too high.

H.R. 5883. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to treat the proceeds from the redemption of Series E and EE United States savings bonds as capital gain.

H.R. 5884. November 14, 1979. Judiciary. Prohibits any State or political subdivision of such State from imposing an income tax on any Federal officer or employee who is not a resident of such State or political subdivision.

H.R. 5885. November 14, 1979. Intelligence. Authorizes the Secretary of Defense to establish within the National Security Agency a Senior Cryptologic Executive Service comparable to the Senior Executive Service.

Authorizes the Director of the Agency to establish a merit pay and cash awards system for Agency employees.

H.R. 5886. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income all interest income earned by the taxpayer.

H.R. 5887. November 14, 1979. Ways and Means. Repeals the estate tax, the gift tax, and the tax on generation-skipping transfers under the Internal Revenue Code.

H.R. 5888. November 14, 1979. Education and Labor. Requires the Secretary of Labor to pay a benefit of a specified amount to any Federal law enforcement officer or fire fighter killed in the line of duty.

Prohibits payment of such benefit if death was caused by the intentional misconduct, suicide, or intoxication of the fire fighter or law enforcement officer.

H.R. 5889. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to qualify electric forklift vehicles for the additional ten percent investment tax credit for energy property.

H.R. 5890. November 14, 1979. Judiciary. Provides that the United States District Court for the Judicial District of New Jersey shall be held at Jersey City, New Jersey, in addition to those places currently provided by law.

H.R. 5891. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to modify the formula for the determination of the basic of the deduction for disaster losses to take into account the replacement cost to the destroyed property.

H.R. 5892. November 14, 1979. Science and Technology. Establishes a program for research, development, and demonstration of wind energy. Authorizes the Secretary of Energy to enter into contracts and to make grants for the development of wind energy systems.

H.R. 5893. November 14, 1979. Science and Technology; Judiciary. Amends the National Aeronautics and Space Act of 1958 to specify that any person who makes an invention in connection with the production or modification of materials, equipment, or facilities which (under contract with NASA) are to be transported into orbit or into space shall retain all patent rights to such invention if NASA's functions with respect to such items are limited (under the contract) to the furnishing of such transportation.

H.R. 5894. November 14, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to authorize: (1) the automatic transfer of funds; (2) negotiable order-of-withdrawal accounts at depository institutions; (3) federally chartered savings and loan associations to establish remote service units; and (4) federally insured credit unions to receive share draft accounts.

H.R. 5895. November 14, 1979. Armed Services. Authorizes the transfer of surplus aircraft in order to obtain one B–17 aircraft for the Tucson Air Museum of Pima County, Arizona.

H.R. 5896. November 14, 1979. Interior and Insular Affairs. Amends the Indian Judgment Funds Act with respect to the use and distribution of judgment funds awarded by the Indian Claims Commission or the Court of Claims.

H.R. 5897. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income gain on the sale or exchange of certain farmland if the owners of the farmland, in a nonrevocable covenant binding upon themselves and all future owners of the land, restrict the use of such land to use as farmland.

H.R. 5898. November 14, 1979. Interior and Insular Affairs. Establishes the Rattlesnake National Education and Recreation Area and Wilderness in the State of Montana. Establishes the Rattlesnake Wildland Education and Research Center within such area.

H.R. 5899. November 14, 1979. Post Office and Civil Service. Limits the applicability of certain penalty provisions relating to failure to answer questions presented in the decennial and mid-decade census.

H.R. 5900. November 14, 1979. Interior and Insular Affairs. Includes the Moses Allotment, Numbered 10, Chelan County, Washington, among those restricted Indian lands which may be leased by the Indian owners, with the approval of the Secretary of the Interior and for specified purposes, for a lease term of up to 99 years.

H.R. 5901. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to provide a system of accelerated capital cost recovery for investment in business facilities and equipment.

H.R. 5902. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to allow income, estate, and gift tax deductions for charitable contributions for the construction or maintenance of buildings to house tax-exempt fraternal organizations.

H.R. 5903. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to prohibit any State, or political subdivision thereof, which imposes an income tax on a corporation from taking into account any amount of income belonging to, or attributable to, any foreign corporation which is also a member of an affiliated group to which the domestic corporation belongs, unless such amount is subject to Federal income tax.

Prohibits any State, or political subdivision thereof, from taxing or otherwise taking into account a certain percentage of any dividend received by a corporation from a foreign corporation.

H.R. 5904. November 14, 1979. Ways and Means. Amends the Internal Revenue Code to provide a tax exclusion for personal income earned abroad by an individual performing qualified charitable services for a tax-exempt employer created or organized in the United States. Sets a formula for the maximum amount of exclusion for an individual who performs such charitable services and also performs other services while residing in a camp located in a hardship area.

H.R. 5905. November 14, 1979. Judiciary. Declares a named individual to be lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5906. November 14, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5907. November 14, 1979. Agriculture. Amends the Food Stamp Act of 1977 with respect to food stamp program administrative procedures.

H.R. 5908. November 15, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the deportation of nonimmigrant alien students who knowingly participated in a violent political demonstration or otherwise participated in activities inconsistent with the terms of their admittance to the United States.

H.R. 5909. November 15, 1979. Foreign Affairs. Provides for payment by the Government of Iran of the claims for damages resulting from the personal injuries suffered by the U.S. citizens held in the U.S. embassy in Tehran.

H.R. 5910. November 15, 1979. Public Works and Transportation. Revises provisions of Federal statutes with respect to the regulation of the trucking industry.

H.R. 5911. November 15, 1979. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Establishes a program to provide grants to cities and counties for basic planning, advanced planning, and capital investment related to energy conservation, renewable resource development and utilization, and other energy-related community programs.

Establishes a Local Energy Reference Center as a data bank and clearinghouse for information on locally-based energy conservation and renewable resource development efforts.

Establishes an interagency task force to improve Federal policies and programs related to the purposes of this Act.

H.R. 5912. November 15, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from a decedent's gross estate for purposes of the estate tax the value of certain real property used in farming.

H.R. 5913. November 15, 1979. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to extend the construction-differential subsidy for the construction of new vessels to be used in the foreign commerce of the United States.

H.R. 5914. November 15, 1979. Education and Labor. Amends the Comprehensive Employment and Training Act to revise certain restrictions on wages.

H.R. 5915. November 15, 1979. Armed Services; Merchant Marine and Fisheries. Revises the structure and purpose of the Reserve components of the armed forces. Declares that it is the intent of Congress that the Reserves shall be an equal element in a partnership with the active components of the armed forces.

Establishes the position of Assistant Secretary for Mobilization and Reserve Affairs in each of the branches of the armed forces. Makes organizational changes within the Department of Transportation with respect to the Coast Guard to carry out the purposes of this Act.

H.R. 5916. November 15, 1979. Ways and Means. Amends the Internal Revenue Code to allow homeowners an income tax credit for the cost of home heating oil purchased during the taxable year.

H.R. 5917. November 15, 1979. Judiciary. Amends the Federal criminal code to establish criminal penalties for anyone who, with intent to interfere with any person freely exercising his religion, damages or destroys a religious house of worship or any religious object contained in such house.

H.R. 5918. November 15, 1979. Ways and Means. Amends the Internal Revenue Code to extend certain tax provisions to Indian tribal governments on the same basis as such provisions apply to States.

H.R. 5919. November 15, 1979. Judiciary. Amends the Immigration and Naturalization Act regarding: (1) student entry; (2) the annual worldwide, Mexican, and Canadian immigration ceilings; (3) reapplication after deportation; (4) admission with defective entry papers; (5) reentry permits; (6) deportation and suspension of deportation; (7) non-immigrant change of classification; (8) aliens who are treaty-exempt from United States military services; and (9) naturalization residence exceptions, witness requirements, and court fees.

H.R. 5920. November 15, 1979. Banking, Finance and Urban Affairs. Establishes the Reconstruction Finance Corporation to make loans and loan guarantees to business concerns which would otherwise be unable to obtain needed financing.

Authorizes the Corporation to issue notes, debentures, bonds, and other such obligations which will be fully guaranteed by the United States.

H.R. 5921. November 15, 1979. Judiciary. Amends the Immigration and Nationality Act to direct the Attorney General to order deported any nonimmigrant alien who, while participating in a political demonstration, engages in violent activity.

H.R. 5922. November 15, 1979. Judiciary. Declares a named widow of a United States citizen to be within the purview of certain provisions of the Immigration and Nationality Act.

H.R. 5923. November 16, 1979. Armed Services; Interior and Insular Affairs; Interstate and Foreign Commerce. Amends the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954 to require the Secretary of Energy or the Secretary of Defense to notify affected State legislatures of any proposed construction of a radioactive waste storage facility. Provides for disapproval of construction by the State legislature.

H.R. 5924. November 16, 1979. Judiciary. Provides that the United States District Court for the Central District of California shall be held at Santa Ana, California, in addition to those places currently provided by law.

H.R. 5925. November 16, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the deportation of certain nonimmigrant alien students.

H.R. 5926. November 16, 1979. Interior and Insular Affairs. Establishes the Biscayne National Park in the State of Florida. Abolishes the Biscayne National Monument and makes all lands, waters, and interests therein acqired for such monument part of the park.

Authorizes the Secretary of the Interior to accept donations for the purposes of rehabilitating and stabilizing the historic structure within the Fort Jefferson National Monument, Florida.

H.R. 5927. November 16, 1979. District of Columbia. Sets forth the conditions under which the Council of the District of Columbia may enact emergency acts.

H.R. 5928. November 16, 1979. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to eliminate the congressional review period for certain acts of the Council of the District.

H.R. 5929. November 16, 1979. Ways and Means; Interstate and Foreign Commerce. Amends the Internal Revenue Code to allow an income tax credit for amounts paid for basic health insurance.

Amends title XIX (Medicaid) of the Social Security Act to permit coverage for medical costs compensated under such title by private health insurance plans.

H.R. 5930. November 16, 1979. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to provide that any creditor who requires insurance to be purchased as a condition for granting an extension of credit may not require that such insurance be purchased from a source specified by such creditor. Permits the cancellation of insurance sold by a creditor with its replacement with insurance from another source.

H.R. 5931. November 16, 1979. House Administration. Prohibits the use of Federal funds to purchase certain portraits painted by Gilbert Stuart.

H.R. 5932. November 16, 1979. Ways and Means. Amends the Internal Revenue Code to qualify fuel efficient government motor vehicles for the investment tax credit.

H.R. 5933. November 16, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that an individual may become entitled to widow's or widower's insurance benefits at age 50 whether or not disabled, subject to the existing actuarial reduction prior to age 65, but with full benefits after attaining that age.

H.R. 5934. November 16, 1979. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to promulgate Federal radiation guidelines with respect to radiation matters affecting public health.

Transfers the consultative and advisory functions of the Administrator of the Environmental Protection Agency with respect to radiation matters affecting health to the Secretary of Health, Education, and Welfare.

Directs the Secretary to promulgate voluntary minimum standards for: (1) the accreditation of educational institutions conducting education programs in radiologic services; and (2) the licensing of radiologic technologists.

H.R. 5935. November 16, 1979. Government Operations; Interstate and Foreign Commerce; Ways and Means. Provides for protection of the privacy of medical information maintained by medical care facilities.

H.R. 5936. November 16, 1979. Judiciary. Requires public notice on matters relating to Federal contracts, grants, and loans.

H.R. 5937. November 16, 1979. Banking, Finance and Urban Affairs. Places a moratorium on foreign takeovers of domestic banks and other depository institutions until one year following the submission to Congress of a report prepared by the financial institutions regulatory agencies and the antitrust enforcement agencies on the impact of such takeovers on the domestic economy and banking system.

H.R. 5938. November 16, 1979. Ways and Means. Amends the Trade Expansion Act of 1962 with respect to the powers of the President to adjust imports of petroleum and petroleum products.

H.R. 5939. November 16, 1979. Foreign Affairs. Provides for payment by the Government of Iran of the claims for damages resulting from the personal injuries suffered by the U.S. citizens held in the U.S. embassy in Tehran.

H.R. 5940. November 16, 1979. Interstate and Foreign Commerce. Amends the Uniform Time Act of 1966 to extend the period of daylight savings time in each year.

H.R. 5941. November 16, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to repeal certain provisions of such Act relating to the domestic and international distribution of telegraph traffic by wire or radio.

H.R. 5942. November 16, 1979. Judiciary; Rules. Requires each executive agency to submit to each House of Congress a copy of each rule it publishes in the Federal Register. States that such a rule shall become effective 60 days after it is published unless: (1) either House adopts a resolution disapproving it; or (2) it is withdrawn by the agency.

Permits certain emergency rules to become effective on the dates they are published.

H.R. 5943. November 16, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5944. November 20, 1979. Interstate and Foreign Commerce. Amends the Motor Vehicle Information and Cost Savings Act to permit the inclusion of a manufacturer's imported automobiles for model years 1980 through 1986 for purposes of determining such manufacturer's compliance with the average fuel economy standards required under this Act where the average fuel economy standard is dependent upon reasonably selected technology which is not within the ability of such manufacturer to develop.

H.R. 5945. November 20, 1979. Foreign Affairs. Directs the President to impose a total trade embargo on Iran.

H.R. 5946. November 20, 1979. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to establish an exclusive domestic fishing area within the fishery conservation zone of the United States.

H.R. 5947. November 26, 1979. Banking, Finance and Urban Affairs. Authorizes the President, on behalf of the Congress, to present a gold medal of appropriate design to Louis L'Amour in recognition of his distinguished career as an author and his contributions to the Nation through his historically based works.

H.R. 5948. November 26, 1979. Judiciary. Includes conviction of desecrating the United States flag as a ground for deportation.

H.R. 5949. November 26, 1979. Judiciary. Amends the Antitrust Civil Process Act to authorize the Department of Justice to retain agents in connection with the enforcement of antitrust laws.

H.R. 5950. November 26, 1979. Veterans' Affairs. Increases the maximum amount of mortgage protection life insurance which the Veterans Administration may provide veterans with service-connected disabilities.

H.R. 5951. November 26, 1979. Veterans' Affairs. Amends relevant portions of statutory law to provide an incentive for severely disabled veterans entitled to an aid and attendance allowance for non-service-connected disabilities to live outside of an institutional setting.

H.R. 5952. November 26, 1979. Ways and Means. Continues the existing suspension of duties on concentrate of poppy straw.

H.R. 5953. November 26, 1979. Interior and Insular Affairs. Provides for the preservation, protection, and maintenance of the original boundary stones of the Nation's Capital.

H.R. 5954. November 26, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to authorize appropriations for economic assistance to Nicaragua and other countries in Central America and the Caribbean.

H.R. 5955. November 27, 1979. Post Office and Civil Service. Appropriates funds to maintain the pay and benefits of any Federal employee or former employee for any day of a fiscal year for which such funds are unavailable to the responsible Federal agency.

H.R. 5956. November 27, 1979. Agriculture. Amends the Packers and Stockyards Act to direct the Secretary of Agriculture to: (1) establish and maintain the Packers and Stockyards Administration as an agency within the Department of Agriculture; (2) appoint and supervise the Administrator of such agency; and (3) enforce and administer such Act through such agency.

H.R. 5957. November 27, 1979. Veterans' Affairs; Interior and Insular Affairs. Provides for the establishment of a national cemetery within the boundaries of the San Luis unit of the Central Valley project in the State of California.

H.R. 5958. November 27, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for physician administered drugs used for treating neoplasms.

H.R. 5959. November 27, 1979. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to plan and construct recreation facilities on Quinsippi Island in the Mississippi River at Quincy, Illinois.

H.R. 5960. November 27, 1979. Banking, Finance and Urban Affairs. Amends the Currency and Foreign Transactions Reporting Act to authorize the Secretary of the Treasury to pay a reward to any individual providing original information which leads to recovery of at least $50,000 by way of a criminal fine, civil penalty, or forfeiture for a violation of such Act.

H.R. 5961. November 27, 1979. Banking, Finance and Urban Affairs; Ways and Means. Amends the Currency and Foreign Transactions Reporting Act to revise the reporting requirement and enforcement authority. Authorizes the Secretary of the Treasury to pay a reward to any individual providing original information which leads to recovery of a criminal fine, civil penalty, or forfeiture for a violation of such Act.

H.R. 5962. November 27, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire specified lands in the State of New Mexico. Designates such lands, in addition to the lands now comprising the Gran Quivira National Monument, as the Salinas National Monument.

Abolishes the Gran Quivira National Monument and makes any funds available for such monument to be available for purposes of the Salinas National Monument.

H.R. 5963. November 27, 1979. Interior and Insular Affairs. Establishes the San Joaquin de Canon del Rio de Chama Grant Commission.

H.R. 5964. November 27, 1979. Ways and Means. Amends the Internal Revenue Code to allow income, estate, and gift tax deductions for charitable contributions for the construction or maintenance of buildings to house tax-exempt fraternal organizations.

H.R. 5965. November 27, 1979. Ways and Means. Amends the Internal Revenue Code to provide for equipment which conserves irrigation water an additional investment tax credit and an election to depreciate such equipment based on a useful life of three years.

H.R. 5966. November 27, 1979. Judiciary. Establishes a Lufkin Division in the Eastern Judicial District of Texas.

H.R. 5967. November 27, 1979. Ways and Means. Amends the Internal Revenue Code to exempt from unemployment taxation commercial fishermen who, pursuant to an agreement with the fishing boat owner, receive a share of the boat's catch of fish in lieu of cash remuneration.

H.R. 5968. November 27, 1979. Ways and Means. Amends the Internal Revenue Code to permit tax-exempt voluntary employees' beneficiaries associations to provide life insurance benefits to their members through the use of whole or ordinary life insurance policies.

H.R. 5969. November 27, 1979. Banking, Finance and Urban Affairs. Amends the National Housing Act to: (1) limit the insurance recovery under fair access to insurance requirements (FAIR) plans for owners who do not intend to rebuild their structures destroyed by fire; (2) provide for the development of model clauses for insurance contacts to implement such limitation; and (3) establish minimum Federal standards for arson investigation and prosecution and for information disclosure by insurance applicants.

H.R. 5970. November 27, 1979. Banking, Finance and Urban Affairs. Amends the Bretton Woods Agreements Act to authorize consent to an increase in the U.S. quota in the International Monetary Fund.

H.R. 5971. November 27, 1979. Judiciary. Directs the Secretary of the Treasury to redetermine the tax liability of a named individual for a specified taxable year.

H.R. 5972. November 27, 1979. Judiciary. Declares a named individual to have satisfied the naturalization requirements under the Immigration and Nationality Act.

H.R. 5973. November 28, 1979. Ways and Means. Amends the Internal Revenue Code to: (1) permit U.S. citizens living abroad to waive residency requirements for the foreign living expense tax deduction in certain circumstances; (2) permit the tax free roll over of distributions from a money purchase pension plan; and (3) raise age requirements for participation in certain youth employment programs for purposes of the targeted jobs income tax credit. Exempts certain sales of real property by tax-exempt organizations from the tax on unrelated business income.

H.R. 5974. November 28, 1979. Ways and Means. Amends the Internal Revenue Code, regarding the exclusion from the estate tax of the adjusted consideration furnished by a decedent's spouse with respect to jointly held property, to require treatment of services performed by such spouse as consideration in money or money's worth.

H.R. 5975. November 28, 1979. Interstate and Foreign Commerce. Amends the Controlled Substances Act to decriminalize certain activities with respect to marihuana, including the possession of not more than one hundred grams of marihuana for private use.

H.R. 5976. November 28, 1979. Interstate and Foreign Commerce. Provides for a Uniform Product Liability Act.

H.R. 5977. November 28, 1979. Judiciary. Provides for payments to certain individuals of Japanese ancestry who were interned, detained, or forcibly relocated by the United States during World War II.

H.R. 5978. November 28, 1979. Interstate and Foreign Commerce. Directs the Administrator of the Environmental Protection Agency to conduct an epidemiological study of the occurrence of fluorosis in areas served by public water systems subject to the Safe Drinking Water Act in which fluoride from natural sources occurs in concentrations greater than the maximum contaminant level specified in regulations issued pursuant to such Act. Exempts from such regulations, until the date of submission of the required report, any drinking water system which serves an area described in this Act.

H.R. 5979. November 28, 1979. Ways and Means. Amends the Internal Revenue Code to exclude full time students who work for camps during part of the year from the coverage of the Federal Unemployment Tax Act.

H.R. 5980. November 28, 1979. Government Operations. Amends the State and Local Assistance Act of 1972 to establish a countercyclical revenue-sharing program for State and local governments and a targeted fiscal assistance program for units of local government experiencing high rates of unemployment.

H.R. 5981. November 28, 1979. Interior and Insular Affairs. Establishes the Barrier Islands National Parks.

H.R. 5982. November 28, 1979. Judiciary. Amends the Immigration and Nationality Act to make deportable any alien who, at any time after entry, is convicted of a crime of moral turpitude.

H.R. 5983. November 28, 1979. Agriculture. Amends the Commodity Credit Corporation Charter Act to direct the Commodity Credit Corporation to make unsecured and secured conservation loans, in specified amounts and for specified periods, to agricultural producers for conservation and environmental enhancement measures recommended by county and State ASC committees and approved by the Secretary of Agriculture as necessary to maintain or improve the productivity of farmland.

H.R. 5984. November 28, 1979. Judiciary. Amends the False Claims Act to redefine the fraudulent claims against the United States which give rise to liability and forfeiture and to revise and expand the procedural requirements governing such actions.

H.R. 5985. November 28, 1979. Interstate and Foreign Commerce; Judiciary. Amends the Controlled Substances Act of 1970 to authorize any officer or employee of the Drug Enforcement Administration or any State or local law enforcement officer designated by the Attorney General to enforce the provisions of such Act.

H.R. 5986. November 28, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 5987. November 29, 1979. Judiciary. Requires courts reviewing Federal agency actions to decide all relevant questions of law. States that there shall be no presumption in any such proceeding that any rule of any agency is valid but requires that such validity be provided by a preponderance of the evidence shown except when such a rule is set forth as a defense in a criminal trial or action for a civil penalty.

H.R. 5988. November 29, 1979. Armed Services. Authorizes leave to be granted to members of the Armed Forces in addition to regularly accrued leave in cases of extreme emergency.

H.R. 5989. November 29, 1979. Ways and Means. Amends the Internal Revenue Code to permit a limited tax exclusion of corporate dividends and savings account interest received by a taxpayer during a taxable year.

H.R. 5990. November 29, 1979. Interior and Insular Affairs. Designates specified lands in the DeSoto National Forest, Mississippi, as wilderness.

H.R. 5991. November 29, 1979. Ways and Means. Amends the Internal Revenue Code to allow businesses located in economically distressed areas an income tax credit for fuel oil expenses incurred in heating such businesses.

H.R. 5992. November 29, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the cost of fuels used to heat a taxpayer's principal residence.

H.R. 5993. November 29, 1979. Rules. Amends the Congressional Budget Act of 1974 to limit the level of total budget outlays contained in the concurrent resolutions on the budget to specified percentages of the gross national product.

H.R. 5994. November 29, 1979. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 5995. November 29, 1979. Post Office and Civil Service; Armed Services. Appropriates the funds necessary to pay specified Federal employees and members of the uniformed services during any period when such funds are not available because the legislation making appropriations to the Government entity employing such individuals has not been enacted.

H.R. 5996. November 29, 1979. Ways and Means. Amends the Second Liberty Bond Act to prohibit the Secretary of the Treasury from selling Treasury bills in amounts less than $25,000.

H.R. 5997. November 29, 1979. Post Office and Civil Service. Provides for the distribution of the Code of Ethics for Government Services.

H.R. 5998. November 29, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to display and preserve, at national seashores, artifacts from historic shipwrecks.

H.R. 5999. November 29, 1979. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to cause a named vessel to be documented as a vessel of the United States with the privilege of engaging in coastwise trade.

H.R. 6000. November 29, 1979. Judiciary. Relieves a named company of all liability to repay a specified sum to the United States. Authorizes and directs the Secretary of the Treasury to pay such company a specified sum in settlement of all claims against the United States.

H.R. 6001. November 29, 1979. Judiciary. Declares a named deceased member of the United States Naval Reserve to be lawfully entitled to retired pay in determining the eligibility of his widow for a survivor annuity.

H.R. 6002. November 29, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6003. November 29, 1979. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 6004. November 29, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6005. December 3, 1979. Science and Technology. Establishes a program for research, development, and demonstration of wind energy. Authorizes the Secretary of Energy to enter into contracts and to make grants for the development of wind energy systems.

H.R. 6006. December 3, 1979. Interior and Insular Affairs. Designates specified lands in the Allegheny National Forest, Pennsylvania as wilderness and components of the National Wilderness Preservation System.

H.R. 6007. December 3, 1979. Ways and Means. Amends the Internal Revenue Code to tax nonresident aliens and foreign corporations engaged in a trade or business in the United States on the same basis as U.S. citizens with respect to income earned in the United States and the disposition of real property situated in the United States.

Overrides tax treaties which would exempt foreign investors from tax liabilities imposed by this Act.

H.R. 6008. December 3, 1979. Small Business. Amends the Small Business Act and the Small Business Investment Act of 1958 with respect to: (1) small business export expansion assistance; (2) export promotion centers; (3) small business export financing assistance; and (4) small business investment companies.

H.R. 6009. December 3, 1979. Judiciary; Ways and Means. Amends the Internal Revenue Code to permit taxpayers to designate on their income tax returns a contribution to the United States Olympic Fund.

Establishes the United States Olympic Fund for the purpose of financing the work of the United States Olympic Committee.

H.R. 6010. December 3, 1979. Government Operations. Allows the heads of Executive agencies to pay to certain individuals amounts equal to ten percent of the amounts saved by the detection and reporting by such individuals of waste or fraud in such agencies.

H.R. 6011. December 3, 1979. Judiciary. Authorizes and directs the Secretary of the Treasury to pay a specified sum to a named Federal employee in satisfaction of all claims against the United States arising out of real estate expenses incurred during a move from one duty station to another.

H.R. 6012. December 4, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to prohibit the taxation of any title II benefits.

H.R. 6013. December 4, 1979. Public Works and Transportation. Amends the Federal Water Pollution Control Act to revise the allotment formula for grants for construction of treatment works.

H.R. 6014. December 4, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to construct, operate, and maintain the Santa Margarita Project, California.

H.R. 6015. December 4, 1979. Ways and Means. Amends the Interal Revenue Code to repeal provisions which permit farmers to elect to treat expenditures for clearing farm land as currently deductible business expenses.

H.R. 6016. December 4, 1979. Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to authorize the Secretary of Health and Human Resources (formerly, the Secretary of Health, Education, and Welfare) to make grants to hospitals meeting specified requirements for their provision of health services during a one year period to individuals who are not eligible for Medicaid (title XIX of the Act), are not covered by insurance, and are otherwise unable to pay for such services.

H.R. 6017. December 4, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that the requirements of such Act relating to equal broadcasting opportunities for political candidates shall not apply to candidates for the offices of President and Vice President.

H.R. 6018. December 4, 1979. Ways and Means. Amends the Internal Revenue Code to exempt certain corporations from the payment of estimated taxes.

H.R. 6019. December 4, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income interest earned on certain obligations issued by the Tennessee Valley Authority.

H.R. 6020. December 4, 1979. Ways and Means. Amends the Internal Revenue Code to permit individual taxpayers an income tax deduction for the charitable contribution to tax-exempt organizations which care for the handicapped of the right to use the taxpayer's residence for the care of such handicapped.

H.R. 6021. December 4, 1979. Rules. Amends the Congressional Budget Act of 1974 to limit the level of total budget outlays and tax expenditures contained in concurrent resolutions on the budget to specified percentages of the gross national product.

Establishes procedures for setting targets and ceilings, in the congressional budget process, for loans and loan guarantees under Federal credit programs.

H.R. 6022. December 4, 1979. Merchant Marine and Fisheries. Establishes the Tensas River National Wildlife Refuge in the State of Louisiana.

H.R. 6023. December 4, 1979. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to promulgate Federal radiation guidelines with respect to radiation matters affecting public health.

Transfers the consultative and advisory functions of the Administrator of the Environmental Protection Agency with respect to radiation matters affecting health to the Secretary of Health, Education, and Welfare.

Directs the Secretary to promulgate voluntary minimum standards for: (1) the accreditation of educational institutions conducting education programs in radiologic services; and (2) the licensing of radiologic technologists.

H.R. 6024. December 4, 1979. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to increase the penalties imposed for the disclosure of restricted data thereunder. Provides that any person disclosing such data shall be subject to such penalties without regard to his employment by, or relationship to, the Federal agency or agencies involved.

H.R. 6025. December 4, 1979. Interior and Insular Affairs. Designates the Ansley Wilcox House in Buffalo, New York, as the Theodore Roosevelt Inaugural National Historic Site.

H.R. 6026. December 4, 1979. Judiciary. Amends the Civil Rights Act of 1964 to eliminate the exception of coverage for contracts of insurance or guaranty.

H.R. 6027. December 4, 1979. Banking, Finance and Urban Affairs. Requires each one-dollar, two-dollar, five-dollar, ten-dollar, and twenty-dollar bill to be trimmed in a manner which will enable the blind to determine its denomination.

H.R. 6028. December 4, 1979. Agriculture; Ways and Means; Education and Labor; Judiciary. Limits the authority of the Federal Government to control State and local educational institutions with respect to prayer in public schools, parental involvement in the classroom, and the employment conditions of teachers.

Amends the Internal Revenue Code to provide various tax incentives for the care and education of family members.

Requires federally-funded abortion or venereal disease treatment centers to notify the parents of unmarried minors receiving treatment. Grants tax-exempt status to organizations providing care for abused children or spouses and for children who run away from home.

Places restrictions on the Legal Services Corporation in providing legal assistance.

H.R. 6029. December 4, 1979. Agriculture; Ways and Means. Authorizes the regulation of sugar imports by the President to implement the International Sugar Agreement, 1977.

H.R. 6030. December 4, 1979. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 6031. December 4, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6032. December 5, 1979. Ways and Means. Amends the Internal Revenue Code to treat donations of blood as charitable contributions deductible from gross income.

H.R. 6033. December 5, 1979. Interstate and Foreign Commerce; Judiciary. Amends the Federal Trade Commission Act to declare that exclusive territorial arrangements made as a part of a licensing agreement for the manufacture, distribution, or sale of a trademarked soft drink product are lawful under the antitrust laws provided such product is in substantial and effective competition with other products of the same general class.

H.R. 6034. December 5, 1979. Judiciary; Education and Labor. Prohibits any Federal employee or officer or any person engaged in interstate commerce from: (1) requiring employees or employee applicants to take a polygraph test in connection with such individual's employment; (2) denying employment or disciplining an employee for refusing to take such a test; or (3) using the results of such test in connection with such individual's employment. Exempts specified Federal employees from such provisions. Sets forth civil and criminal penalties for violations of such provisions.

H.R. 6035. December 5, 1979. Veterans' Affairs. Provides for judicial review of administrative decisions by the Administrator of the Veterans Administration. Makes the due process requirements of the Administrative Procedure Act applicable to the rules, regulations, and orders of the Veterans Administration.

H.R. 6036. December 5, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide coverage under the Medicare program for services and supplies furnished in connection with enterally or parenterally administered chemically defined elemental formula diets.

H.R. 6037. December 5, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that any individual who is entitled to a monthly benefit under such title for the month preceding the month in which such eligible individual dies shall be entitled for the month in which he or she dies to a prorated benefit.

H.R. 6038. December 5, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the cost of purchasing and installing residential fire detectors.

H.R. 6039. December 5, 1979. Ways and Means. Grants tax-exempt status upon an annuity contract purchased by the Uniformed Services University of the Health Sciences for any employee who is a member of the civilian faculty or staff of such university.

H.R. 6040. December 5, 1979. Judiciary. Amends the Administrative Procedure Act to require the publication of the general notice of a proposed rulemaking at least 90 days before the effective date of the rule. Requires that such notice describe the benefits, costs, and adverse effect likely to result from the rule and the alternative public and private means of achieving such benefits.

Requires an agency to allow interested persons to present oral evidence and cross-examine agency experts at a rulemaking proceeding.

Prohibits any rule from taking effect unless the responsible agency determines that the benefits outweigh the costs and adverse effects of the rule.

H.R. 6041. December 5, 1979. Ways and Means. Amends the Revenue Act of 1978 to qualify tax-exempt organizations for the rules governing the tax treatment of private deferred compensation plans which were in effect prior to the issuance of proposed regulations by the Internal Revenue Service in 1978.

H.R. 6042. December 5, 1979. Interior and Insular Affairs; Public Works and Transportation. Authorizes the Secretary of the Interior and the Secretary of the Army to plan, design, construct, rehabilitate, operate, and maintain certain hydroelectric power facilities not specifically authorized by the Congress at existing projects under their jurisdictions.

H.R. 6043. December 5, 1979. Judiciary. Authorizes and directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the United States arising out of negligently performed surgery at an Air Force Base facility.

H.R. 6044. December 5, 1979. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 6045. December 5, 1970. Judiciary. Declares a named individual to have satisfied certain requirements of the Immigration and Nationality Act relating to periods of residence and physical presence within the United States.

H.R. 6046. December 6, 1979. Judiciary. Includes conviction of desecrating the United States flag as a grounds for deportation.

H.R. 6047. December 6, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit unsolicited commercial telephone calls to a telephone subscriber who has notified the telephone company that he does not wish to receive such calls.

H.R. 6048. December 6, 1979. Post Office and Civil Service. Provides for the placement of a plaque in the Hessville Post Office, Hammond, Indiana, in memory of the late Fred W. Dedelow.

H.R. 6049. December 6, 1979. Ways and Means. Amends the Internal Revenue Code to allow employees who are participants in tax-qualified employer retirement plans an income tax deduction for contributions to such plans or to individual retirement accounts. Excludes such contributions from the gross income of such employee.

H.R. 6050. December 6, 1979. Veterans' Affairs. Expands readjustment benefits for Vietnam-era veterans through a program of career development, advancement, and training. Increases funding for health and psychological care for such veterans. Extends the delimiting period for veterans' educational assistance eligibility.

H.R. 6051. December 19, 1979. Public Works and Transportation. Modifies the boundaries of the Big South Fork National River and Recreation Area to exclude an area known as the Lick Branch Oil Fields.

H.R. 6052. December 19, 1979. Interior and Insular Affairs. Amends the act establishing the Big Thicket National Preserve in the State of Texas, by increasing the authorization of appropriations for the acquisition of lands and interests in lands.

H.R. 6053. December 6, 1979. Ways and Means; Education and Labor. Amends the Employee Retirement Income Security Act (ERISA) to: (1) establish the Employee Benefit Administration as an independent executive agency to administer employee benefit plan laws; (2) revise certain definitions and provisions relating to reporting, participation and vesting, funding, fiduciary responsibility, and plan termination; and (3) authorize individual retirement payroll deduction plans for employees not covered by pension plans.

Amends the Internal Revenue Code to permit employees participating in employer pension plans an income tax deduction for contributions to an individual retirement account and make other revisions relating to employee benefit plans.

H.R. 6054. December 6, 1979. Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to pay interest to compensate investors for delays by the Department of the Treasury in effecting payments of principal, interest, or discount on marketable Treasury securities.

H.R. 6055. December 6, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder.

H.R. 6056. December 6, 1979. Rules. Amends the Congressional Budget Act of 1974 to limit the level of total budget outlays contained in concurrent resolutions on the budget to specified percentages of the gross national product.

Establishes procedures for setting targets and ceilings, in the congressional budget process, for loans and loan guarantees under Federal credit programs.

H.R. 6057. December 6, 1979. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to promulgate radiation protection standards for: (1) the accreditation of educational programs conducted by institutions for persons administering radiologic procedures; (2) the certification of persons who administer radiologic procedures.

Authorizes the Secretary to provide assistance to States and nonprofit organizations for accreditation and certification activities.

H.R. 6058. December 6, 1979. Ways and Means. Amends the Internal Revenue Code to require annual cost of living adjustments to individual income tax brackets and to withholding tables.

H.R. 6059. December 6, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XI (Professional Standards Review) of the Social Security Act to provide that a Professional Standards Review Organization shall not be considered an agency of the Federal Government.

H.R. 6060. December 6, 1979. Judiciary. Provides that the United States District Court for the Central District of California shall be held at Santa Ana, California, in addition to those places currently provided by law.

H.R. 6061. December 6, 1979. Merchant Marine and Fisheries. Extends for two years the authority to employ certain foreign citizens on the vessel Arctic Trawler (formerly the Seafreeze Atlantic).

H.R. 6062. December 6, 1979. Judiciary. Amends the Immigration and Nationality Act to provide for the deportation of any alien in the United States on a nonimmigrant visa who knowingly participates in a political demonstration.

H.R. 6063. December 6, 1979. Judiciary. Amends the Federal criminal code to increase the maximum penalties for desecration of the United States flag.

H.R. 6064. December 6, 1979. Public Works and Transportation; Science and Technology; Interstate and Foreign Commerce; Banking, Finance and Urban Affairs. Requires that at least one-third of the revenues from the windfall profit tax shall be available to the Secretary of Energy for grants to States to carry out programs of: (1) mass transit; (2) business and residential energy conservation; and (3) incentives for the development and use of alternative energy sources. Requires States seeking such grants to submit an application and plan for carrying out any such program or programs.

H.R. 6065. December 6, 1979. Post Office and Civil Service. Entitles Federal and District of Columbia employees to military leave on a fiscal year basis rather than a calendar year basis.

H.R. 6066. December 6, 1979. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide coverage under the Medicare program for influenza and pneumococcal vaccines.

H.R. 6067. December 6, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to prohibit the taxation of any title II benefits.

H.R. 6068. December 6, 1979. Judiciary. Authorizes the issuance of a visa to a named individual for admittance to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6069. December 6, 1979. Judiciary. Authorizes the classification of a named individual as a child for purposes of the Immigration and Nationality Act.

H.R. 6070. December 10, 1979. Agriculture; Interior and Insular Affairs. Provides for multiple-use management under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, of national forest lands not included in the National Wilderness Preservation System.

H.R. 6071. December 10, 1979. Ways and Means. Amends the Internal Revenue Code to impose a conservation surtax on sales of gasoline, diesel fuel, and special motor fuels. Requires deposit of surtax proceeds in specified social security trust funds.

Reduces social security tax rates.

Establishes an income tax credit for qualified motor fuel expenses paid or incurred by a taxpayer engaged in a trade or business.

Establishes an income tax credit for an individual in an amount equal to a stipulated social security rate reduction equalization amount.

H.R. 6072. December 10, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to add $10 a month to an individual's benefits.

Directs the Secretary of Health and Human Services (formerly, the Secretary of Health, Education, and Welfare) in computing cost-of-living increases in benefits to disregard any portion of the increase in the Consumer Price Index which is directly attributable to increases in retail gasoline prices resulting from higher Federal excise taxes on gasoline.

H.R. 6073. December 10, 1979. Foreign Affairs. Directs the President to take certain actions with respect to any country which engages in certain hostile actions against property of the United States or U.S. officers or employees assigned to duty abroad.

H.R. 6074. December 10, 1979. Merchant Marine and Fisheries; Ways and Means. Provides additional funds for certain projects relating to fish restoration.

H.R. 6075. December 10, 1979. Public Works and Transportation. Amends the Public Buildings Act of 1959 to authorize the Administrator of General Services to issue obligations for the construction and acquisition of public buildings.

H.R. 6076. December 10, 1979. Armed Services. Revises the structure and purpose of the Reserve components of the armed forces. Declares that it is the intent of Congress that the Reserves shall be an equal element in a partnership with the active components of the armed forces.

Establishes the position of Assistant Secretary for Mobilization and Reserve Affairs in each of the branches of the armed forces.

H.R. 6077. December 10, 1979. Post Office and Civil Service. Authorizes the Office of Personnel Management to enter into contracts to provide dental benefit plans for Federal employees (including United States Postal Service employees). Specifies benefits which are required to be provided under such plans. Sets forth provisions governing; and (2) the contributions of the Government and enrolled individuals toward the subscription charge of such a plan.

Requires that an eligible individual be provided specified information concerning such plans. Creates the Employees Dental Benefits Fund.

H.R. 6078. December 10, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to prohibit the taxation of any title II benefits.

H.R. 6079. December 10, 1979. Judiciary. Declares certain named individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6080. December 11, 1979. Interior and

Insular Affairs. Amends the Geothermal Steam Act of 1970 to accelerate the priority development of geothermal energy in the United States.

H.R. 6081. December 11, 1979. Foreign Affairs. Amends the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America.

H.R. 6082. December 11, 1979. Government Operations. Increases the maximum rates of per diem and actual subsistence allowances for Federal employees on official travel.

H.R. 6083. December 11, 1979. Government Operations. Discontinues or amends certain requirements for agency reports to the Congress.

H.R. 6084. December 1, 1979. Intelligence. Amends the National Security Act of 1947 to establish criminal offenses and penalties for the unauthorized disclosure of classified intelligence information.

H.R. 6085. December 11, 1979. Ways and Means. Amends the Internal Revenue Code with respect to the tax treatment of charitable contributions to tax-exempt organizations from which the taxpayer receives services.

H.R. 6086. December 11, 1979. Judiciary. Provides for the settlement and payment of claims of civilians and military personnel against the United States for losses in connection with the evacuation of such personnel from a foreign country.

H.R. 6087. December 11, 1979. Public Works and Transportation. Excludes from the jurisdiction of the Interstate Commerce Commission transportation of certain property used in agricultural or horticultural production, in connection with the transportation of exempt property.

H.R. 6088. December 11, 1979. Public Works and Transportation. Amends the Federal Water Pollution Control Act to require the United States to pay for lateral sewer connections between any single family residence of a low-income person 65 years of age or older and a sewage collection system which has received any grants under such Act.

H.R. 6089. December 11, 1979. Ways and Means. Prohibits until January 1, 1982, the conversion of the rates of duty on certain unwrought lead to ad valorem equivalents.

H.R. 6090. December 11, 1979. Interstate and Foreign Commerce. Amends provisions of the Safe Drinking Water Act concerning: (1) underground injection control related to the production or recovery of oil or natural gas; (2) the standard for the promulgation of primary drinking water regulations; and (3) emergency powers of the Administrator of the Environmental Protection Agency to protect public health from contaminants entering public water systems.

Directs the Administrator to conduct studies on the health effects of barium, barium ion, radium, and fluoride occurring in public water systems.

H.R. 6091. December 11, 1979. Agriculture; Interior and Insular Affairs; Public Works and Transportation. Provides for the development of a plan for a Mountain Experience Center in western North Carolina to serve as a model for similar tourist information projects nationwide.

H.R. 6092. December 11, 1979. Ways and Means. Amends the Internal Revenue Code to allow members of the Armed Forces who are stationed overseas without their families a deduction for travel expenses between their duty station and their residence in the United States.

H.R. 6093. December 11, 1979. Ways and Means. Amends the Internal Revenue Code to allow certain elderly and disabled individuals an income tax credit for real property taxes paid on their principal residences.

H.R. 6094. December 11, 1979. Interstate and Foreign Commerce. Amends the Safe Drinking Water Act to provide that the underground injection of natural gas for purposes of storage will not be regulated by such Act.

H.R. 6095. December 11, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to prohibit the taxation of any title II benefits.

H.R. 6096. December 11, 1979. Judiciary. Amends the Immigration and Nationality Act to make certain nonimmigrant aliens subject to deportation if convicted of a crime.

H.R. 6097. December 11, 1979. Armed Services. Provides for the establishment of a nutritionally adequate, consumer-acceptable ration for the Armed Forces. Authorizes the issuance and sale of rations. Prescribes special rations.

H.R. 6098. December 11, 1979. Armed Services. Authorizes training of personnel of the armed forces of North Atlantic Treaty Organization (NATO) member countries.

H.R. 6099. December 11, 1979. Judiciary. Amends the Military Personnel and Civilian Employees' Claims Act of 1964 with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service.

H.R. 6100. December 11, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act, the Federal Deposit Insurance Act, the Home Owners' Loan Act of 1933, and the Federal Credit Union Act to authorize the following banking services: (1) automatic funds transfers from savings to checking accounts by federally-insured banks; (2) remote service units for Federal savings and loan associations; and (3) share draft accounts by Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980.

H.R. 6101. December 11, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income interest earned on industrial development bonds which are used to bolster a financially unsound business whose demise would have an adverse effect on the economy.

H.R. 6102. December 11, 1979. Ways and Means. Amends the Internal Revenue Code to reduce individual income taxes.

H.R. 6103. December 11, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to specify that any use of a broadcasting station by candidates for the office of President or Vice President without payment of any charge shall not be subject to the requirements of such act relating to equal broadcasting opportunities for political candidates.

H.R. 6104. December 11, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified amount to a named individual in settlement of all claims against the United States arising out of wrongful termination of his employment with the Federal Government.

H.R. 6105. December 11, 1979. Judiciary. Declares that the claim of a retired member of the U.S. Army, relating to transportation of household goods, shall be considered timely received by the Secretary of the Army.

H.R. 6106. December 11, 1979. Judiciary. Authorizes a named individual to file a claim for credit or refund of Federal income taxes for the taxable year ending December 31, 1974.

H.R. 6107. December 12, 1979. Education and Labor. Amends the Fair Labor Standards Act of 1938 to exclude from coverage under such Act aliens who have not been: (1) lawfully admitted for permanent residence; or (2) authorized by the Attorney General to accept employment.

H.R. 6108. December 12, 1979. Education and Labor. Amends the Higher Education Act of 1965 to make elementary, secondary, and vocational students eligible for basic educational opportunity grants under such Act.

H.R. 6109. December 12, 1979. Ways and Means. Authorizes the President to impose higher or additional rates of duty on the products of any foreign country that does not cooperate with the United States in its diplomatic or economic initiatives to terminate actions by any other foreign country that violates international law with respect to United States diplomatic personnel.

H.R. 6110. December 12, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to extend the payment of wife's or mother's insurance benefits, to an individual entitled to such benefits on the basis of having in care a nondisabled child entitled to child's insurance benefits, beyond the child's attainment of age 18 so that such an entitled wife or mother may continue to receive benefits until the child finishes the 12th grade or attains age 19 while still in school, whichever comes first.

H.R. 6111. December 12, 1978. Ways and Means. Amends the Internal Revenue Code to permit individuals age 65 or older to exclude certain amounts of income from gross income.

H.R. 6112. December 12, 1979. Interior and Insular Affairs. Directs the Secretary of the Interior to convey specific lands to Miles City, Montana, and to remove specified limitations in prior conveyances of certain lands to Miles City and Custer County.

H.R. 6113. February 12, 1979. Agriculture. Amends the Perishable Agricultural Commodities Act, 1930, to redefine "dealer" to include specified packers of perishable commodities, as well as retailers who purchase more than $100,000 worth of such commodities per year. Excludes specified producers and buyers from such definition.

Requires that specified unlawful misrepresentations be knowing or negligent.

Declares other unwitting misrepresentations to be unlawful and authorizes the Secretary of Agriculture to impose civil fines for their commission.

Requires complainants who are assignees of nonresident claims to furnish bonds. Terminates the authority of the Secretary to waive the nonresident bond requirement in specified cases.

H.R. 6114. December 12, 1979. Veterans' Affairs. Authorizes an eligible veteran to pursue a course of flight training outside of a State where: (1) such facilities necessary for part of such training are not available in a particular State; (2) out-of-state training facilities have Federal approval; and (3) such training has the approval of the Administrator of Veterans' Affairs.

H.R. 6115. December 12, 1979. Education and Labor. Amends the General Education Provisions Act to extend the authorization of appropriations for the National Institute of Education for five fiscal years.

H.R. 6116. December 12, 1979. Interior and Insular Affairs. Interstate and Foreign Commerce. Amends the Energy Reorganization Act to provide for the licensing of high-level radioactive waste and spent fuel storage facilities.

H.R. 6117. December 12, 1979. Ways and Means. Amends the Internal Revenue Code to extend for two years the time by which certain corporations must liquidate in order to exempt a taxpayer who holds at least a ten percent interest in such a corporation from the application of the foreign loss recapture rules enacted by the Tax Reform Act of 1976.

H.R. 6118. December 12, 1979. Judiciary. Confers jurisdiction to the United States District Court for the Central District of California for any action filed by a named individual relating to alleged employment discrimination.

H.R. 6119. December 12, 1979. Public Works and Transportation. Prohibits discrimination with respect to the issuance, renewal, or termination of any airman certificate for a named individual because of his age.

H.R. 6120. December 12, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the United States arising out of medical care and treatment at an Air Force Base Facility.

H.R. 6121. December 13, 1979. Interstate and Foreign Commerce. Revises the regulation of telecommunications activities under the Communications Act of 1934. Establishes a system of intraexchange access fees for the use of intraexchange telecommunications services by interexchange carriers. Establishes a National Telecommunications Pool in which the intraexchange access fees are to be deposited and disbursed in accordance with the purposes of this Act by the transitional joint board established by this Act.

H.R. 6122. December 13, 1979. Government Operations. Authorizes payment of the costs of transporting the remains, dependents, and effects of a Federal employee who dies while performing official duties: (1) outside the continental United States if the employee's home is within the continental United States; or (2) in any area other than the United States, State, territory, or possession outside the continental United States where the employee's home is located.

H.R. 6123. December 13, 1979. Merchant Marine and Fisheries. Amends the Shipping Act, 1916, to stipulate that a State, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, or a foreign nation be deemed a "person" for purposes of such Act.

H.R. 6124. December 13, 1979. Ways and Means. Amends title XVI (Supplemental Security Incomes) of the Social Security Act to provide that the income and resources of parents shall not be attributed to their children (for purposes of determining the eligibility of such children for SSI benefits) in certain cases where the payment of such benefits is necessary to enable the parents to provide disability-related home care without which the children would require continued institutionalization.

H.R. 6125. December 13, 1979. Interstate and Foreign Commerce. Amends the State Drinking Water Act to exempt the underground injection of natural gas for storage purposes from being regulated under such Act.

H.R. 6126. December 13, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income any commuter passes received by an employee from an employer.

H.R. 6127. December 13, 1979. Ways and Means. Amends the Internal Revenue Code to deny the foreign tax credit for oil and gas extraction taxes paid to specified oil cartel countries. Empowers the Secretary of the Treasury to add or delete names of foreign countries specified in this Act, subject to congressional review.

H.R. 6128. December 13, 1979. Agriculture: Interior and Insular Affairs; Interstate and Foreign Commerce. Limits investment in the United States by nations which are members of an oil cartel, and by the residents and other legal entities of such nations.

H.R. 6129. December 13, 1979. Interstate and Foreign Commerce. Amends the Energy Policy and Conservation Act to direct the Secretary of Energy to establish a program for the creation and maintenance of an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve. States that such reserve shall consist of petroleum products acquired by refiners and importers and stored by them in readily available inventories, in an amount of at least 250 million barrels.

H.R. 6130. December 13, 1979. Interstate and Foreign Commerce; Judiciary. Prohibits major petroleum producers, transporters, refiners, and marketers from acquiring control of businesses unrelated to the petroleum industry until domestic production accounts for a specified proportion of the petroleum and natural gas requirements of the United States.

H.R. 6131. December 13, 1979. Judiciary. Prohibits any person from raising as a defense to any proceeding commenced under the laws of the United States that such person was compelled by a foreign state to take the action which is the basis of the proceeding.

H.R. 6132. December 13, 1979. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to require competitive bidding for leases on Federal lands with oil or gas deposits.

Revises the limitations on leases bid on by major oil companies and on the amount of land which may be leased to such companies.

Limits assignments of such leases.

H.R. 6133. December 13, 1979. Banking, Fiance and Urban Affairs Amends the Bretton Woods Agreements Act to authorize the actions necessary to establish a substitution account in the International Monetary Fund.

H.R. 6134. December 13, 1979. Judiciary. Amends the Ethics in Government Act of 1978 to extend from two to five years the prohibition on former officers and employees of the United States representing persons before the United States, if such persons are Foreign governments or instrumentalities of foreign governments. Applies such prohibition to former Members of Congress.

H.R. 6135. December 13, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for expenses incurred by a taxpayer in connection with an audit or final judicial determination of tax liability which establishes that there is no tax deficiency on the part of the taxpayer.

H.R. 6136. December 13, 1979. Education and Labor; Science and Technology; Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income individuals and families, and severely handicapped individuals, to participate in energy assistance programs.

H.R. 6137. December 13, 1979. Interior and Insular Affairs. Provides for the transfer of certain interests in public lands to the City of Angels, California.

H.R. 6138. December 13, 1979. District of Columbia. Extends the period for congressional review of the act passed by the Council of the District of Columbia entitled, "The Location of Chanceries Amendment Act of 1979."

H.R. 6139. December 13, 1979. Interstate and Foreign Commerce. Amends the drinking water provisions of the Public Health Service Act to authorize a State with primary enforcement responsibility for drinking water standards to grant variances from turbidity requirements to public water systems within their jurisdiction upon a finding that due to compelling factors, including economic factors, the public system is unable to comply with such requirements with respect to not more than one percent of the users of such system and the granting of such variance will not result in an unreasonable risk to health.

H.R. 6140. December 13, 1979. Ways and Means. Amends the Internal Revenue Code to aggregate employees of adjunct professional organizations and the employees of the professional organizations which are related to such adjunct organization for purposes of determining the eligibility of such organizations to participate in tax-qualified pension plans.

H.R. 6141. December 13, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6142. December 14, 1979. Merchant Marine and Fisheries. Establishes the Madrona Marsh National Wildlife Refuge in the State of California.

H.R. 6143. December 14, 1979. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to extend, until September 30, 1981, the 100 percent Federal reimbursement level for the cost of compensating or training personnel to conduct health and safety inspections of institutions providing long-term care to Medicaid recipients.

H.R. 6144. December 14, 1979. Interior and Insular Affairs; Merchant Marine and Fisheries. Amends the Black Bass Act as it applies to steelhead trout.

H.R. 6145. December 14, 1979. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to permit States to limit Medicaid eligibility with respect to individuals who dispose of resources to qualify for Medicaid benefits.

H.R. 6146. December 14, 1979. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to provide headstones and markers for certain close relatives of veterans if such relatives are buried in State veterans' cemeteries.

H.R. 6147. December 14, 1979. District of Columbia. Amend the District of Columbia Self-Government and Governmental Reorganization Act to reduce from 30 to seven legislative days the period for congressional review of acts of the Council of the District of Columbia which do not involve a Federal interest.

H.R. 6148. December 14, 1979. Education and Labor. Amends the Older Americans Act of 1965 to provide that area agencies on aging shall have authority to award funds to the providers of home delivered meals for older persons without requiring that such providers also furnish meals to older persons in a congregate setting.

H.R. 6149. December 14, 1979. Banking, Finance and Urban Affairs. Permits depository institutions in the State of New Jersey to offer negotiable order of withdrawal accounts.

H.R. 6150. December 14, 1979. Education and Labor. Amends the Older Americans Act of 1965 to require States to provide assistance to older persons with limited English-speaking ability for the purpose of enabling such older persons to participate in programs and receive benefits under such Act.

H.R. 6151. December 14, 1979. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 (ERISA) to provide for emergency assistance to beneficiaries of a multiemployer pension plan terminated due to certain circumstances.

H.R. 6152. December 14, 1979. Interstate and Foreign Commerce. Directs the Secretary of Commerce to promulgate rules and regulations which set forth the requirement for approval of product liability risk retention groups and the purchase of product liability insurance on a group basis.

H.R. 6153. December 14, 1979. Veterans' Affairs. Revises the special pay provisions for physicians and dentists employed by the Department of Medicine and Surgery of the Veterans Administration. Grants permanent authority to enter into special-pay agreements with such physicians and dentists.

H.R. 6154. December 14, 1979. Merchant Marine and Fisheries. Establishes procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products. Amends the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships.

H.R. 6155. December 14, 1979. Armed Services. Increases the amount the Federal Government may pay for treatment of handicapped dependents of members of the uniformed services.

H.R. 6156. December 14, 1979. Judiciary. Relieves a named individual of all liability to the United States relating to real estate expenses incurred pursuant to a change of positions within the United States Government.

H.R. 6157. December 17, 1979. Public Works and Transportation. Modifies the navigation project for Moriches and Shinnecock Inlets, New York.

H.R. 6158. December 17, 1979. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax exclusion for interest earned on savings accounts.

H.R. 6159. December 17, 1979. Judiciary. Declares certain named individuals lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6160. Dec. 17, 1979. Judiciary. Authorizes and directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the United States arising out of loss of his household goods incident to his service in the United States Air Force.

H.R. 6161. Dec. 18, 1979. Agriculture; Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Amends the Rural Development Act of 1972 to authorize the Secretary of Agriculture to guarantee loans for the construction and maintenance of plants for the production of fuel alcohol from corn and other agricultural commodities.

Amends the Agricultural Act of 1949 to set the loan level and the established price of the 1982 crop of corn.

H.R. 6162. Dec. 18, 1979. Government Operations. Discontinues or amends certain requirements for agency reports to the Congress.

H.R. 6163. Dec. 18, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to prohibit the taxation of any title II benefits.

H.R. 6164. Dec. 18, 1979. Interstate and Foreign Commerce. Amends the Public Health Service Act to establish the Reye's Syndrome Coordinating Committee to provide financial assistance to public and nonprofit private entities for a three-year project to establish two comprehensive Reye's syndrome diagnostic and treatment centers.

H.R. 6165. Dec. 18, 1979. Veterans' Affairs. Allows certain veterans with active duty service prior to January 1, 1977, to participate in the contributory educational assistance program.

H.R. 6166. Dec. 18, 1979. Veterans' Affairs. Provides for disbursement of unused veterans' educational assistance program contributions upon the death of the participant.

H.R. 6167. December 18, 1979. Veterans' Affairs. Precludes tutorial assistance by certain family members to veterans eligible for educational assistance.

H.R. 6168. December 18, 1979. Veterans' Affairs. Increases the rates of specified educational benefits for eligible veterans and their survivors and dependents.

H.R. 6169. December 18, 1979. Merchant Marine and Fisheries. Establishes the Bogue Chitto National Wildlife Refuge in the States of Louisiana and Mississippi.

H.R. 6170. December 18, 1979. Education and Labor. Amends the Higher Education Act of 1965 to authorize the garnishment of wages of Federal employees for the collection of student loans.

H.R. 6171. December 18, 1979. Ways and Means. Amends the Internal Revenue Code to increase the cost of used property which is eligible for the investment tax credit.

H.R. 6172. December 18, 1979. Ways and Means. Amends the Internal Revenue Code to allow an income tax exclusion of retirement income received by individuals who have attained age 65.

H.R. 6173. December 18, 1979. Ways and Means. Amends the Internal Revenue Code to grant a limited tax exclusion of interest earned on savings accounts.

H.R. 6174. December 18, 1979. Interstate and Foreign Commerce; Ways and Means; Judiciary. Establishes a Federal corporation with authority to purchase foreign crude oil and petroleum products for importation.

H.R. 6175. December 18, 1979. Interior and Insular Affairs. Conveys certain lands constituting part of the El Dorado National Forest, California, to certain persons who purchased and held such lands in good faith reliance on an inaccurate surveyor's map.

H.R. 6176. December 18, 1979. Interstate and Foreign Commerce. Amends the Public Health Service Act to provide that seamen employed on vessels of the United States registered, enrolled, "or" licensed (currently "and") under the maritime laws are entitled to medical treatment at Public Health Service hospitals and stations. Extends such coverage to certain other seamen.

H.R. 6177. December 18, 1979. Education and Labor. Amends the Farm Labor Contractor Registration Act of 1963 to redefine "farm labor contractor" and define "incidental basis."

H.R. 6178. December 18, 1979. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in settlement of all claims against the United States relating to reimbursement for attorney fees in prosecuting a claim against the United States.

H.R. 6179. December 18, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6180. December 19, 1979. Government Operations. Provides for an allowance to Federal employees for the use of bicycles on official business.

H.R. 6181. December 19. 1979. Veterans' Affairs. Establishes certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration. Provides for judicial review of certain final decisions of the Administrator of Veterans' Affairs. Provides for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration.

H.R. 6182. December 19, 1979. Ways and Means. Amends the Internal Revenue Code to exclude from gross income certain unemployment compensation payments resulting from a specified work stoppage.

H.R. 6183. December 19, 1979. Interstate and Foreign Commerce. Directs the President to establish the National Energy Public Utility Commission to investigate the feasibility of applying to the oil industry the regulatory mechanisms currently applicable under Federal and State law to public utilities.

H.R. 6184. December 19, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to: (1) prohibit the taxation of any title II benefits; and (2) provide that the automatic cost-of-living increases in benefits be made on a semi-annual basis (rather than only on an annual basis as at present).

H.R. 6185. December 19, 1979. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to increase the amount of outside earnings permitted each year without any deduction from OASDI benefits.

H.R. 6186. December 19, 1979. Science and Technology. Directs the Secretary of Commerce to establish and maintain an Office of Industrial Technology to enhance technological innovation for the improvement of the economic, environmental, and social well-being of the United States.

Establishes an independent committee to be known as the Industrial Technology Review Panel which shall review annually the activities of the Office and advise the Secretary and the Director of the Office with respect to such activities.

H.R. 6187. December 19, 1979. Post Office and Civil Service. Repeals provisions providing reduced postal rates for political committees.

H.R. 6188. December 19, 1979. Interior and Insular Affairs. Extinguishes aboriginal title in land within Seneca and Cayuga counties, New York, if such lands were conveyed prior to the enactment of this Act.

H.R. 6189. December 19, 1979. Ways and Means. Amends the Revenue Act of 1978 to qualify certain fiscal year taxpayers for the exemption of capital gains as an item of tax preference under such Act.

H.R. 6190. December 19, 1979. Ways and Means. Amends the Internal Revenue Code to increase the deductible amounts for contributions to individual retirement accounts and owner-employee retirement plan accounts. Allows a new deduction to individuals for contributions for their own benefit to certain retirement plans.

H.R. 6191. December 19, 1979. Government Operations. Amends the State and Local Fiscal Assistance Act of 1972 to terminate, beginning with fiscal year 1980, the State government share of revenue sharing funds without affecting the local government share.

H.R. 6192. December 19, 1979. Judiciary. Prohibits anyone from using or attempting to use a computer which: (1) is operated on behalf of the Federal Government or a financial institution; or (2) operates in interstate commerce, with intent to defraud, obtain property by false pretenses, embezzle, steal, or knowingly convert the property of another.

Specifies factors which Federal law enforcement officers must consider in determining whether to exercise jurisdiction over such offense, where concurrent jurisdiction exists with a State or local government.

H.R. 6193. December 19, 1979. Ways and Means. Prohibits any increase in the public debt in any fiscal year if, during the previous fiscal year, Federal outlays (including net Government lending) exceeded Federal receipts (including returns on outstanding loans).

H.R. 6194. December 19, 1979. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to authorize a State to apply to have Federal payments to home health care and certain community based services made at a higher rate than the rate for other care and services provided under title XIX. Requires any application: (1) to provide for a comprehensive assessment of each individual eligible for Medicaid relating to such individual's need for long-term institutionalized care; and (2) to provide home health care to individuals determined pursuant to such assessment to need institutionalization and for whom such care is a feasible alternative to institutionalization.

H.R. 6195. December 19, 1979. Ways and Means. Amends the Internal Revenue Code to provide that the Internal Revenue Service shall send a notification of responsibility for Federal income taxes in lieu of tax return forms to individuals electing not to receive such forms.

H.R. 6196. December 19, 1979. Interior and Insular Affairs. Provides for the implementation of recommendations for Federal action by the Interagency Task Force on Mono Lake, California.

H.R. 6197. December 20, 1979. Banking, Finance and Urban Affairs. Amends the Emergency Home Purchase Assistance Act to make the mortgage amount, sales price, and interest rate limitations on the purchasing authority of the Government National Mortgage Association identical to the limitations applicable to Federal mortgage insurance programs under the National Housing Act.

H.R. 6198. December 20, 1979. Banking, Finance and Urban Affairs. Amends the Federal banking laws to require the elimination of interest rate ceilings on deposits in financial institutions and minimum denominations on time deposits. Authorizes negotiable order of withdrawal and share draft accounts. Extends the powers of Federal savings and loan associations. Requires federally insured associations to meet specified liquidity requirements. Expands the investment authority of Federal mutual savings banks and authorizes such banks to take deposits from any suorce. Adjusts the interest rate on loans to members of Federal credit unions. Permits the financing of cooperative housing through such loans. Increases Federal deposit insurance.

H.R. 6199. December 20, 1979. Education and Labor. Authorizes the Chairman of the National Endowment for the Arts to make grants to cities, through the chief elected officials of such cities, to help finance municipal arts programs.

H.R. 6200. December 20, 1979. Interstate and Foreign Commerce. Amends the Safe Drinking Water Act to exempt the underground injection of natural gas for storage purposes from being regulated under such Act.

H.R. 6201. December 20, 1979. Banking, Finance and Urban Affairs. Authorizes the President, on behalf of the Congress, to present a gold medal to Simon Wiesenthal in recognition of his contribution to international justice through the documentation and location of war criminals from World War II.

H.R. 6202. December 20, 1979. Ways and Means. Amends the Internal Revene Code to allow individuals who rent their principal residences an income tax deduction for rent paid during the taxable year.

H.R. 6203. December 20, 1979. Ways and Means. Amends the Internal Revenue Code to reduce the tax effect known as the marriage penalty by permitting the deduction, without regard to whether deductions are itemized, of ten percent of the earned income of the spouse whose earned income is lower than that of the other spouse.

H.R. 6204. December 20, 1979. Post Office and Civil Service. Changes the dates of specified legal public holidays so that such holidays occur on Sundays.

H.R. 6205. December 20, 1979. Armed Services. Provides that members of the uniformed services on active duty and their dependents are entitled to free preventive dental care.

H.R. 6206. December 20, 1979. Ways and Means. Provides for a limited exemption from the windfall profits tax for independent oil producers.

H.R. 6207. December 20, 1979. Public Works and Transportation; Ways and Means. Establishes within the Treasury a Public Transportation Trust Fund to fund public transportation projects under the Urban Mass Transportation Act of 1964 and under title 23 (Highway) of the United States Code. Amends the Urban Mass Transportation Act of 1964 to establish a grant program to fund transportation systems management projects on Federal-aid system highways.

Provides Federal financial assistance for the repair of highways which have incurred an increase in use to meet national energy demands.

Establishes a grant program to separate rail highway crossings where there is an increased use in the rail facilities in transporting coal.

H.R. 6208. December 20, 1979. Education and Labor; Ways and Means. Amends the Comprehensive Employment and Training Act to establish a Youth Education and Work Entitlement program to guarantee employment opportunities to eligible youth in poverty areas.

Directs the Secretary of Labor and the Secretary of Education to jointly administer such program.

Amends the Internal Revenue Code to exclude specified remuneration paid to youths who are enrolled in or have completed such program from the definitions of "wages" for specified employment tax and unemployment tax purposes.

Establishes the Academy of Education and Work.

H.R. 6209. December 20, 1979. Ways and Means. Amends the Internal Revenue Code to subject all taxpayers, regardless of marital status, to the same income tax rates. Requires taxable income to be computed without regard to community property laws.

H.R. 6210. December 20, 1979. Merchant Marine and Fisheries. Permits certain vessels formerly in the reserve fleet to be converted for use and operation in the fisheries of the United States.

H.R. 6211. December 20, 1979. Interior and Insular Affairs. Authorizes the Secretary of the Interior to issue certain patents under the Color of Title Act to any applicant for a patent covering lands within the Rio Grande Occupancy Resolution Program Area, New Mexico.

H.R. 6212. December 20, 1979. Interior and Insular Affairs. Interstate and Foreign Commerce. Requires each State to provide for the disposal of low-level radioactive waste generated within that State. Authorizes States to enter into agreements or compacts with other States for the establishment of regional disposal sites for low-level radioactive waste. Provides financial assistance to the States in which such sites are located.

H.R. 6213. December 20, 1979. Ways and Means. Amends the Internal Revenue Code to extend eligibility for the earned income credit to members of the armed forces assigned to duty outside the United States.

H.R. 6214. December 20, 1979. Banking, Finance and Urban Affairs. Amends the Gold Reserve Act of 1934 to require congressional authorization of all sales and purchases of gold on behalf of the United States except for those effectuated to maintain or establish a permanent relationship between the dollar and a specified quantity of gold.

H.R. 6215. December 20, 1979. Education and Labor. Amends the Federal Mine Safety and Health Act of 1977 to exempt from the requirements of such Act independent construction contractors engaged by a mine operator for: (1) the construction, repair, or alteration of structures, private ways, or roads located on or next to the surface area of a mine; or (2) excavations or equipment installations attendant to such activities.

H.R. 6216. December 20, 1979. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act, the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the Home Owners' Loan Act of 1933 to: (1) require increases in the interest rate on passbook savings to the market rate; (2) reduce required reserves against insured deposits in savings and loan associations; (3) increase Federal deposit insurance; and (4) empower Federal savings and loan associations to deal in consumer loans, commercial paper, corporate debt securities, and bankers' acceptances.

H.R. 6217. December 20, 1979. Banking, Finance and Urban Affairs. Prohibits any sale of gold bullion on behalf of the United States unless Congress authorizes such action by law.

H.R. 6218. December 20, 1979. Interior and Insular Affairs. Makes changes in the boundaries of the Florida Keys Wilderness.

H.R. 6219. December 20, 1979. Ways and Means. Provides for the reduction of the quantity of petroleum and petroleum products imported into the United States through 1985.

H.R. 6220. December 20, 1979. Interstate and Foreign Commerce. Revises and extends the programs of the National Institute of Arthritis, Metabolism, and Digestive Diseases with respect to diabetes. Establishes within the Institute the position of Associate Director for Diabetes. Revises the duties of, and extends, the National Diabetes Advisory Board.

H.R. 6221. December 20, 1979. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to require recipients of assistance under such Act to establish plans for crime prevention for public mass transportation systems.

H.R. 6222. December 20, 1979. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation of certain Cuban agricultural articles including citrus, winter vegetables, and tropical fruits.

H.R. 6223. December 20, 1979. Merchant Marine and Fisheries; Public Works and Transportation. Repeals a provision of law relating to the naming of the National Aquarium in Baltimore, Md.

H.R. 6224. December 20, 1979. Judiciary. Prohibits the Federal district courts, courts of appeals, and the Supreme Court from issuing in a defamation action for damages any judicial process which requires the disclosure of information by a journalist or communication entity relating to the editorial process of a publication, broadcast, release, or report, unless the individual bringing the action establishes the defamation to the court.

H.R. 6225. December 20, 1979. Merchant Marine and Fisheries; Interior and Insular Affairs. Authorizes the establishment of a cooperative program involving the United States, the State of Washington, the Treaty Tribes, and other appropriate parties to: (1) encourage stability in commercial and charter fishing industries; and (2) improve the quality of and opportunity for salmon and steelhead recreational fishing.

H.R. 6226. December 20, 1979. Veterans' Affairs. Provides hospital and medical care to certain members of the Canadian Armed Forces.

H.R. 6227. December 20, 1979. Interstate and Foreign Commerce. Repeals the Federal requirement on incremental pricing under the Natural Gas Policy Act of 1978.

H.R. 6228. December 20, 1979. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that the Federal Communications Commission, in considering applications for the renewal of broadcasting station licenses, shall not take into account any ownership interests of the applicant in other broadcasting stations or in other communications media.

H.R. 6229. December 20, 1979. Judiciary. Declares a named individual lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

H.R. 6230. January 23, 1980. Judiciary. Directs the Secretary of the Treasury to pay specified sums to certain named individuals in settlement of any claims against the United States arising out of the deaths of their respective sons at a Government facility.

H.R. 6231. December 27, 1979. Judiciary. Grants the Court of Claims jurisdiction over claims against the United States for certain losses sustained by producers, processors, manufacturers, distributors, dealers, or other persons resulting from the ban on apparel, fabric, yarn, or fiber containing Tris phosphate.

H.R. 6232. December 27, 1979. Agriculture. Amends the Cooperative Forestry Assistance Act of 1978 to limit the amounts of appropriations authorized to carry out a forestry incentives program and to specify that such authorization is for fiscal years 1981 through 1983.

Directs the Secretary of Agriculture to undertake an immediate study of the efficiency and effectiveness of the forestry incentives program and to submit findings and recommendations to the appropriate committees of Congress.

H.J. Res. 443. November 9, 1979. Post Office and Civil Service. Authorizes and requests the President to designate the week beginning on November 23, 1980, as "National Family Week."

H.J. Res. 444. November 13, 1979. Post Office and Civil Service. Authorizes and requests the President to designate January 15, 1980, as "Martin Luther King, Junior, Day."

H.J. Res. 445. November 13, 1979. Post Office and Civil Service. Designates the third week of September of each year as "National Cystic Fibrosis Week."

H.J. Res. 446. November 16, 1979. Post Office and Civil Service. Defers the pay of Members of Congress in the same manner and to the same extent as the pay and benefits of other employees and individuals are deferred due to the unavailability of funds.

H.J. Res. 447. November 16, 1979. Post Office and Civil Service. Designates January 15 of each year as "Martin Luther King, Junior, Day."

H.J. Res. 448. November 20, 1979. Post Office and Civil Service. Designates the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

H.J. Res. 449. November 27, 1979. Post Office and Civil Service. Designates December 7, 1979, as "National Unity Day."

H.J. Res. 450. November 28, 1979. Post Office and Civil Service. Designates January 15 of each year as "Martin Luther King, Junior, Day."

H.J. Res. 451. November 29, 1979. Post Office and Civil Service. Designates the third week of April of each year as "National Coin Week."

H.J. Res. 452. December 3, 1979. Post Office and Civil Service. Recognizes the Polish holocaust of World War II.

H.J. Res. 453. December 3, 1979. Post Office and Civil Service. Requests the President to issue a proclamation calling on the people of the United States to set aside a period of time each day to show their support for the hostages at the United States Embassy in Iran.

H.J. Res. 454. December 4, 1979. Foreign Affairs. Amends the Export Administration Act of 1979 to prohibit all exports of grain or soybeans to the Soviet Union until the Soviet Union ceases its religious persecution of Christians, Jews, and the religious groups.

H.J. Res. 455. December 5, 1979. Post Office and Civil Service. Authorizes and requests the President to designate May 4, 1980, as "National Songwriters' Day."

H.J. Res. 456. December 5, 1979. Post Office and Civil Service. Designates the period of December 26 through December 31 of each year as "Blood Donor Week."

H.J. Res. 457. December 5, 1979. Post Office and Civil Service. Designates January 6, 1980, as "Haym Solomon Remembrance Day."

H.J. Res. 458. December 5, 1979. Post Office and Civil Service. Designates December 7, 1979, as "National Unity Day."

H.J. Res. 459. December 6, 1979. Interstate and Foreign Commerce. Proposes that a Presidential commission be established to study full implications of compliance with the Clean Air Act, as amended. Adjusts the criteria that is used in monitoring air quality.

H.J. Res. 460. December 6, 1979. Agriculture. Requests the Secretary of Agriculture, in cooperation with the Secretary of Health, Education, and Welfare, to develop a plan for local nutrition monitoring including: (1) the identification of priority target areas; (2) the development of a structure for monitoring specified regions; and (3) the choice of methodology and a timetable.

H.J. Res. 461. December 6, 1979. Foreign Affairs. Directs the President to prohibit the exportation of all agricultural commodities to Iran.

H.J. Res. 462. December 10, 1979. Public Works and Transportation. Expresses the support to Congress for the work of the White House Preservation Fund in preserving and enhancing the historic and museum character of the White House.

H.J. Res. 463. December 12, 1979. Post Office and Civil Service. Designates the week of October 5 through October 11, 1980, as "National Diabetes Week."

H.J. Res. 464. December 13, 1979. Post Office and Civil Service. Designates June 15, 1980, as "National Prayer Day for the Vietnam Dead and Missing."

H.J. Res. 465. December 13, 1979. Judiciary. Constitutional Amendment—Limits the term of office of a Justice of the Supreme Court to a single twelve-year term during good behavior.

H.J. Res. 466. December 17, 1979. Post Office and Civil Service. Designates the week beginning June 15, 1980, as "National Oldtime Fiddlers Week."

H.J. Res. 467. December 19, 1979. Appropriations. Appropriates specified sums for administrative expenses in fiscal year 1980 authorized by the Chrysler Corporation Loan Guarantee Act of 1979. Establishes a ceiling on the amount of loan guarantee commitments which may be extended during fiscal year 1980.

H.J. Res. 468. December 20, 1979. Extends the dates for submission of the President's Budget and Economic Report.

H.J. Res. 469. December 20, 1979. Post Office and Civil Service. Designates February 19, 1980, as "Iwo Jima Commemoration Day."

H.J. Res. 470. December 20, 1979. Post Office and Civil Service. Authorizes and requests the President to designate June 27, 1980, as "Helen Keller Day."

H.J. Res. 471. December 20, 1979. Post Office and Civil Service. Designates the week beginning June 1, 1980, as "National Garden Week."

H.J. Res. 472. December 20, 1979. Post Office and Civil Service. Proclaims October 19, 1981, as a Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia.

H. Con. Res. 219. December 5, 1979. Foreign Affairs. Expresses the sense of Congress that the United Nations should convene an international conference on Cambodia.

H. Con. Res. 220. December 6, 1979. Judiciary. Expresses the sense of Congress that the President should establish a Federal strike force and implement a program in each Federal judicial district for the purposes of investigating and prosecuting members of outlaw motorcycle gangs who commit Federal crimes.

H. Con. Res. 221. December 10, 1979. Foreign Affairs. Declares the concern of Congress for the present and future welfare of the hostages in Tehran.

H. Con. Res. 222. December 10, 1979. Foreign Affairs. Expresses the sense of the Congress that the Soviet Union, Bulgaria, Yugoslavia, and Romania are urged: (1) to release certain political prisoners; and (2) to halt the incarceration of individuals contrary to the Helsinki accords.

H. Con. Res. 223. December 10, 1979. Foreign Affairs. Expresses the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics.

H. Con. Res. 224. December 10, 1979. Foreign Affairs. Expresses the sense of the Congress that the American people should immediately send Christmas cards to the hostages being held in the U.S. Embassy in Tehran.

H. Con. Res. 225. December 12, 1979. Ways and Means. Expresses the sense of Congress that social security benefits should remain exempt from all taxation.

H. Con. Res. 226. December 12, 1979. Foreign Affairs. Disapproves the sale of certain defense articles to Saudi Arabia.

H. Con. Res. 227. December 13, 1979. Banking, Finance and Urban Affairs; Judiciary; Foreign Affairs; Interior and Insular Affairs. Expresses the sense of Congress that the United States should adopt as policy the elimination of the Organization of Petroleum Exporting Countries' power to control the supply and price of oil.

H. Con. Res. 228. December 13, 1979. District of Columbia. Expresses the disapproval of the Congress of the Location of Chanceries Amendment Act of 1979, passed by the Council of the District of Columbia on October 9, 1979, and signed by the Mayor on November 9, 1979.

H. Con. Res. 229. December 17, 1979. Post Office and Civil Service. Expresses the sense of the Congress that December 23, 1979, should be observed as a national day of prayer and meditation for the hostages in Iran.

H. Con. Res. 230. December 18, 1979. Foreign Affairs. Disapproves the sale of smart bombs and missiles to Saudi Arabia.

H. Con. Res. 231. December 19, 1979. Makes corrections in the enrollment of S. 918.

H. Con. Res. 232. December 19, 1979. Provides for the adjournment of the first session of the 96th Congress, and for the convening of the second session.

H. Con. Res. 233. December 20, 1979. House Administration. Authorizes the printing as a House document of an anthology of Captive Nations Week proclamations, addresses, and other relevant material.

H. Con. Res. 234. December 20, 1979. Foreign Affairs. Calls upon the President to consult with certain friendly nations in order to devise a Sealane Security System whose purpose would be to insure safe, secure, and free passage through international sealanes adjacent to East and Southeast Asia.

H. Con. Res. 235. December 20, 1979. Post Office and Civil Service. Expresses the sense of the Congress that December 23, 1979, should be observed as a national day of prayer and meditation for the hostages in Iran.

H. Con. Res. 236. December 20, 1979. Foreign Affairs. Calls upon the Union of Soviet Socialist Republics to cooperate with efforts to resolve the Cambodian crisis.

H. Res. 490. November 20, 1979. Elects a specified Member of the House of Representatives Speaker pro tempore during the absence of the Speaker.

H. Res. 491. November 26, 1979. Foreign Affairs. Recommends that Iranian assets within the jurisdiction of the United States be seized in payment of debts owed by Iran to the United States in reparation for damages to United States property under the protection of Iran and for damages resulting from personal injuries suffered by the U.S. citizens held in the U.S. embassy in Iran.

H. Res. 492. November 28, 1979. House Administration. Authorizes funds for the standing and select committees of the House of Representatives.

H. Res. 493. November 28, 1979. Calls upon the U.N. Security Council to take all necessary measures to secure the release of all U.S. personnel held hostage in Iran.

H. Res. 494. December 3, 1979. Foreign Affairs. Expresses the sense of the House of Representatives in support of the "Day of Solidarity With Oppressed Jewry."

H. Res. 495. December 3, 1979. Foreign Affairs. Requests the Secretary of State to expel any diplomat to the United States who incites individuals residing in the United States to engage in illegal actions which threaten the public safety or public tranquility.

H. Res. 496. December 3, 1979. Judiciary. Requests the Attorney General of the United States to expedite certain deportation proceedings with respect to certain Iranians.

H. Res. 497. December 4, 1979. Sets forth the rule for the consideration of H.R. 5461.

H. Res. 498. December 4, 1979. Sets forth the rule for the consideration of H.R. 2977.

H. Res. 499. December 4, 1979. Sets forth the rule for the consideration of H.R. 2816.

H. Res. 500. December 4, 1979. Foreign Affairs. Urges the President to take certain actions with respect to ongoing negotiations to conclude an agreement between the United States and Canada concerning air quality.

H. Res. 501. December 5, 1979. Foreign Affairs. Condemns the use of lethal chemical agents in Indochina.

H. Res. 502. December 6, 1979. Ways and Means. Urges both Houses of Congress to act promptly in their consideration of pending legislation to impose a strong windfall profits tax.

H. Res. 503. December 12, 1979. Sets forth the rule for the consideration of H.R. 5295.

H. Res. 504. December 12, 1979. Sets forth the rule for the consideration of H.R. 3927.

H. Res. 505. December 12, 1979. Sets forth the rule for the consideration of H.R. 5860.

H. Res. 506. December 13, 1979. Sets forth the rule for the consideration of H.R. 5980.

H. Res. 507. December 13, 1979. Foreign Affairs. Condemns the use of lethal chemical agents in Indochina.

H. Res. 508. December 17, 1979. Expresses the agreement of the House of Representatives, with amendments, to the Senate amendments to H.R. 4998.

H. Res. 509. December 18, 1979. Commends the Government of the Kingdom of Thailand for its efforts to assist and feed Indochinese refugees. Pledges continued United States support for such country.

H. Res. 510. December 19, 1979. Elects a specified Member to the House Committee on Small Business.

H. Res. 511. December 19, 1979. Waives certain points of order against the conference report on H.R. 2440.

H. Res. 512. December 19, 1979. Foreign Affairs. Condemns the use of lethal chemical agents in Indochina.

H. Res. 513. December 20, 1979. Sets forth the rule for the consideration of H.R. 4788.

H. Res. 514. December 20, 1979. Sets forth the rule for the consideration of H.R. 2471.

H. Res. 515. December 20, 1979. House Administration. Establishes in the House of Representatives and under the direction of the Committee on House Administration a Congressional Child Care Center to provide child care services for children of Senators, Representatives, congressional employees.

H. Res. 516. December 20, 1979. Sets forth the rule for the consideration of H.R. 3051.

H. Res. 517. December 20, 1979. Sets forth the rule for the consideration of H.R. 5741.

H. Res. 518. December 20, 1979. Directs the appointment of a House of Representatives committee to inform the President of the completion of business of the session.

H. Res. 519. December 20, 1979. Elects a specified Member as Speaker pro tempore during any absence of the Speaker.

EXTENSIONS OF REMARKS

THE END OF DECENCY

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. FARY. Mr. Speaker, distinguished colleagues, I am greatly disturbed by the fact that NBC has chosen to air a movie, "The End," on February 12. I have long supported a campaign opposing the obscene denigration of Polish Americans that takes place in this film. I first brought this film to the attention of my colleagues in a statement on the House floor on August 1, 1978, when I first became aware of its existence. In that statement, I explained why the film is offensive not only to Polish Americans but to all civilized people because it denigrates the Polish national anthem in such a crude manner that it is indirectly an insult to all peoples whose anthem is an expression of their unique heritage.

Mr. Speaker, I still feel the same way I did back in 1978 when I said that—

> The questionable propriety displayed by the motion picture industry in presenting this obscene production for "entertainment" is against the customs and manners of polite society, and such films should be censored by the motion picture industry.
>
> Thinking back on the early days of America, I recall the history of hardships and struggles our forefathers endured fighting for America's freedom. I remember with pride the contributions made by the Polish patriot Thaddeus Kosciuszko, the brilliant military engineer who laid out the fortification at West Point, and his defense strategy of amphibious maneuvers at the Battle of Saratoga expediting the final defeat and surrender of the British at Yorktown.
>
> Here again I recall from history another Polish hero of the American Revolution, Gen. Kazimierz Pulaski, who fought gallantly in the Battle of Savannah, Ga., where his body rests in sacred grounds. On his monument are the words: "Perhaps a braver man than Pulaski never drew a sword."
>
> Mr. Speaker, it grieves me to think of the stigma of disrepute labeled against the Polish peoples as a result of the film "The End." The innuendoes as presented stain the memories of those great Polish patriots and thousands of other Polish Americans who not only fought for and help build, but contributed greatly to the arts and science of our great country.
>
> If this type of film is permitted to be displayed, we have reached a low ebb in American behavior, as this ethnic slur is unpardonable and unforgivable.

Mr. Speaker, now that this film is to be shown again, I have heard from various Polish-American groups and organizations protesting its insulting and obscene presentation of people who are just as American as Burt Reynolds, coproducer, director, and star of "The End." A Washington based group, the Polish-American Arts Association of Washington, D.C., Inc., contacted Mr. Clifford Curley, the director of programing at WRC-TV, NBC's local station, and obtained a verbal assurance that he would prescreen the film and possibly edit or remove it from the schedule.

The following is the text of the letter:

> DEAR MR. CURLEY: Thank you for your telephone call of earlier this week regarding expressions of concern voiced to your station by members of the local Polish-American community regarding the planned airing of the film, "The End," on Tuesday evening, February 12. Your stated intention to pre-screen the film in light of these expressions of concern and, if necessary, to edit the broadcast tape or possibly even remove it from your viewing schedule was greatly encouraging to me.
>
> With regard to your apparent concern that individuals of Polish extraction might be over-reacting to a film which they have not personally viewed, please let me assure you again that the offensive and ethnically defamatory nature of many portions of the film in its unexpurgated form are well documented. In order to provide you with some insights in this regard, I have taken the liberty of attaching two excerpts from the Congressional Record representing statements made in the House of Representatives by members of that body denouncing the film's outrageously defamatory content. The remarks by Mr. Fary of August 1, 1978, speak with some dramatic specificity to materials and themes of the picture which are inherently vilifying of Polish-Americans as a group. Mr. Zablocki's entry into the record of September 8, 1978, focuses more on an example of community reaction to the film.
>
> Let me take this opportunity to repeat that we members of the Polish-American community who lend our efforts to helping ensure that defamatory instances of this nature are condemned, rather than condoned and supported, do not claim to act as society's censors. Instead, we hope to serve to educate and sensitize the public at large to the sensibilities of a proud and patriotic ethnic minority group.
>
> In this spirit, I look forward to hearing from you following your pre-screening of the film in question, and to working further with you on this matter should you consider our assistance appropriate.
>
> Very truly yours,
>
> STEFAN M. LOPATKIEWICZ,
> *Director.*●

YELLOW RAIN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. PAUL. Mr. Speaker, the thugs who run the Soviet Union are apparently using chemical and biological warfare—CBW—in Afghanistan as well as Laos. Of course, nothing is beyond the men who administer the Gulag, but the specter of CBW is chilling nonetheless.

Chemical and biological warfare is in clear violation of a number of solemn agreements. What does this say about those still willing to trust the U.S.S.R. in a SALT Treaty?

Let us permanently scrap the SALT II Treaty, withdraw—as we legally can—from the SALT I Treaty, and concentrate on the defense of the United States. These days, that means defending against CBW as well as missiles.

On the subject of CBW, I would like to call to my colleagues' attention an eloquent editorial from the February 4 Wall Street Journal:

> YELLOW RAIN
>
> Government officials privately confirm that Soviet forces have used nerve gas known as Soman against Afghan tribesmen. Soviet chemical weapons were also used in 1978 against Meo tribesmen in Laos and in Yemen in 1964. The willingness of the Soviets to employ such loathsome weapons, not as a desperate last step but as an opening shot, is something that the U.S. and its allies had better start thinking realistically about.
>
> The Soviet Union is a party to the Geneva Protocol of 1925. Unlike SALT and other arms control treaties, the Geneva Protocol is binding in time of war and bans the first use of chemical weapons. Legally the Soviets have loopholes for using chemical weapons in Afghanistan. They signed the Protocol with a reservation that they are bound only in relation to other parties. Afghanistan is not a party to the Protocol and, furthermore, the Soviets do not admit that they are at war against Afghanistan.
>
> Legalisms aside, large scale and expensive Soviet chemical warfare preparations indicate that the Soviet Union may not intend to be bound by the Protocol in conflict against anyone, party to the Protocol or not. Chemical warfare capability is fully integrated in Soviet forces. Soviet divisions are prepared to attack with chemical weapons and to operate in contaminated environments. Under the Protocol the Soviets could only make "second use" of this capability, but no one else has "first use" capability.
>
> The U.S. has renounced the first use of chemical weapons against any nation whether or not a party to the Protocol. There is a small amount of money in the defense budget for chemical warfare research, and the U.S. has some deteriorating stocks of chemical weapons which are largely World War II leftovers that served as insurance against first use by the Germans and Japanese. But U.S. forces at the present time do not have the capability to employ chemical weapons and, indeed, have scant defensive capability against chemical weapons.
>
> Gassing people with deadly substances as if they were so many mosquitos is abhorrent to the moral conscience of the West. Civilized people have a hard time confronting the issue—which may be the reason that Soviet use of inhuman weapons against technologically primitive tribesmen has not produced a barrage of moral protests. It is one of those unmentionables that diverts our human rights concerns to Guatemalans

swinging nightsticks against left-wing students.

But we are going to have to steel ourselves for there may be worse to come. Intelligence sources now believe that the Soviets have used biological weapons in Afghanistan. Soviet use of "microbe bombs" would be a clear violation of the 1972 biological treaty that bans not only the use of such weapons but also their development, production and possession. The arms control community is unsure whether the Soviets are complying with this treaty. Under its provisions, evidence of a violation can be brought before the UN Security Council, forcing the world to confront an issue that it doesn't want to confront.

The repeated use of chemical warfare, meanwhile, gives a good indication of the general regard in which the Soviets hold treaties and conventions. It is a powerful reason not to ratify a Strategic Arms Treaty with unverifiable provisions such as range limits on cruise missiles. And also a reason not to proceed with negotiations on a comprehensive nuclear test ban treaty just when the government is wondering whether there was or was not an atomic test off Antarctica last year.

Meanwhile, Meo tribesmen in Laos have seen the effects of "yellow rain," descending on the men, women and children of primitive villages. And whether as a systematic anti-guerrila weapon or merely to indulge Soviet curiosity, in the vicinity of Feyzabad, in areas west of Kabul and around Jalalabad, canisters of Soman have burst open in the air, spreading vapors that penetrate the skin, paralyze the central nervous system, and cause violent seizures and death.●

PRIOR RESTRAINT?

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. MARKEY. Mr. Speaker, how would you like it if every time you wanted to ask questions, you had to submit them in advance to a review board for approval? This is a most disturbing thought. But the Department of Health, Education, and Welfare has taken a provision of the Public Health Service intended to protect human subjects from unscrupulous research, and expanded it to limit free speech itself.

Dr. Ithiel de Sola Pool, a distinguished professor of political science at the Massachusetts Institute of Technology, explains in an essay which appeared in the New York Times on December 16, 1979, that the HEW regulations do not take into consideration exemptions for research on public affairs, interviews, documentaries, or any other academic or journalistic projects. Dr. Pool is one of our leading experts on first amendment rights, and I recommend his article to my colleagues.

PRIOR RESTRAINT

(By Ithiel de Sola Pool)

CAMBRIDGE, MASS.—Prior restraint is alive and kicking in American universities.

A student journalist at The Harvard Crimson proposed to his tutor to write a description of The Crimson's editorial process. He would have to check first, he was told, with a university review board that would judge whether the study would injure his fellow editors.

A professor at the Massachusetts Institute of Technology (I) was told that before he interviewed television executives about program sales or interviewed Government officials about broadcast-spectrum allocations, he would have to submit his plan to a review board to assure that those officials would suffer no harm from his inquiries. In both instances, such prior review was said to be mandated by regulations of the Department of Health, Education, and Welfare.

The Harvard senior felt the chill of the rules and chose another topic. I quixotically claimed a constitutional right to interview any consenting adult. The M.I.T. administration backed me; in so doing it placed M.I.T. in possible jeopardy of losing all H.E.W. funding.

Can that be legal? Prior restraint has come upon us, largely unnoticed, in regulations that the old Department of Health, Education, and Welfare has imposed on universities. Regulation of "research using human subjects" and the requirement of prior review of such research by an "institutional review board" grows out of exposés of a couple of scandals in the mid-1960's. Poor and seriously ill patients had been experimentally given dangerous treatments without having been told. In one case, cancer cells were injected into them; in another, they did not get a syphilis cure they thought they were getting. The United States Public Health Service properly worried that research it supported might involve it in such scandals, so it created the review process. These arrangements were on a strictly biomedical matter; they had nothing to do with speech or the press. Then began a typical history of bureaucratic elephantiasis. The regulations were extended from the Public Health Service to apply to all H.E.W. grants for research on human subjects, not just to biomedical studies.

Then in 1974 Congress passed an ambiguous law that H.E.W. has interpreted as authorizing the institutional review boards to act on all research on human subjects at institutions receiving H.E.W. funds, whether or not the particular study was funded by H.E.W.; that interpretation is made in revisions of the regulations currently proposed by the department. Finally, the definition of a "human subject" has been expanded: The proposed revised regulations, published in the Federal Register last August, define a human subject as an individual about whom an investigator obtains data by "interaction" or on whom he obtains "identifiable information." The same regulations will require review of all research on human subjects conducted "by" or "at" institutions that receive H.E.W. funds.

Under those new rules, a student doing a research paper would have to seek permission before recording from a newspaper how identified Congressmen had voted. A visiting scholar studying H.E.W.'s system of review boards would have to get permission, too. So would a professor inquiring into what went wrong with United States policy in Iran. The proposed regulations do contain a long list of exemptions that are supposed to correct absurdities in the present rules, but none of the examples just given would be exempt from prior restraint.

It is a nightmare of bureaucracy run wild, producing results that no one intended. Until the last few months, scholars outside of medicine and experimental psychology hardly knew that the regulations existed or what they said. The rules were honored largely in the breach. Now suddenly we discover that they exist and that they are supposed to apply to us. Such regulations, no matter how far they get polished free of their worst absurdities, violate not only the two-century-old ban on prior restraint but also the millennium-old concept of a university. A university is a loose collection of independent scholars, not a staff of directed employes. But H.E.W. proposes to hold funds for universities hostage to the actions of each university member. If universities are to be thus responsible for studies that occur on their premises, they must convert their students and faculty into disciplined agents, instead of what they always have been: independent thinkers guided by individual curiosity.

As a result of a well-intentioned reform carelessly adopted, we may wake up to discover that we have lost long-established freedoms without even knowing it. The department now has a new Secretary, Mrs. Patricia Roberts Harris, unburdened by liability for the past; perhaps she will have the courage to reverse the current toward censorship.●

FADING DREAM OF EQUALITY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wedesday, February 6, 1980

● Mr. EDWARDS of California. Mr. Speaker, I want to bring to the attention of my colleagues a recent editorial of the San Jose Mercury, my hometown newspaper. This editorial cogently and graphically describes the continuing need in our country to press forward with progressive and intelligent approaches to combating discrimination in our society. It should be noted that the article describes evidence of discrimination in housing in very many instances. The House will have before it this spring a strong and comprehensive fair housing bill. The continuing evidence of abuses in this area demands passage of this long-sought legislation.

FADING DREAM OF EQUALITY

This country's commitment to equality is adrift, according to a report recently released by the U.S. Commission on Civil Rights.

That's distressing news.

The commission said fair housing enforcement efforts failed in the late '70s, and equal education opportunities for all children remained an unrealized goal.

As a country, we may think we have come a long way toward ending discrimination, but both the commission report and a 1979 Lou Harris poll on the state of prejudice in the United States against blacks, Hispanics and women show we still have a lot of unfinished business.

There is a big difference in the way whites, minorities and women perceive discrimination. White males do not perceive the discrimination that minorities and women claim they experience day after day.

For example, 73 percent of all blacks say they are discriminated against in promotions to managerial jobs, but only 28 percent of all whites agree with them; 68 percent of blacks feel discriminated against in getting skilled labor jobs, but only 22 percent of whites agree. A majority of blacks (65 percent) say they are discriminated against by local police, but only 17 percent of whites think police are racially biased.

And when black leaders were polled, 64 percent said anti-black feeling is on the rise in the country today.

According to the poll, Hispanics say they are heavily discriminated against in four areas: in the way their children are treated by Anglo teachers, in the wages they earn, in encounters they have with local police, and in getting skilled and unskilled jobs.

Yet most whites do not think Hispanics suffer discrimination.

Eighty-nine percent of the total public feels "things are better for women" than they were a decade ago, according to the poll. Men, however, tend to see more progress than women, and women, across the board, are more convinced that sexual discrimination exists.

White males may argue that if women and minorities want to get ahead they will have to earn their way just as the white majority did ahead of them. We suspect that many white males do not know what it is to experience discrimination, and thus cannot perceive the added problems that exist in "getting ahead."

We agree with the findings of the commission, which points out that the "lack of enforcement by the executive branch of the government, the weakening of good legislation by Congress and the diminishing will and vision on the part of the American people" all contribute to increased discrimination.

We see examples locally of minorities and women perceiving discrimination against them.

Earlier this month about 100 Santa Clara County blacks asked the board of supervisors to end discriminatory hiring and promotion practices in the county.

A discrimination complaint filed against the city of San Jose in 1978 is pending. The Chicano Employment Committee charged that San Jose has failed to meet its Hispanic hiring goals, that Hispanics are confined to low-paying, semi-skilled jobs and that testing procedures discriminate against Hispanics.

Last week the CEC said if the city does not respond quickly, it will ask the federal Office of Revenue Sharing to intervene again, as it did in 1978. The federal agency already has issued preliminary findings that the city discriminates against Hispanics. It also found that women on the city work force are discriminated against in hiring and promotion.

Discrimination in the rental or sale of property still takes place. According to the Midpeninsula Citizens for Fair Housing, 157 racial discrimination complaints were handled by the group in 1976, 155 in 1977, and 177 in 1978. As a spokesperson for the group said, "The complaints are the tip of the iceberg. Many people don't realize they are being discriminated against and many don't bring their complaints to us."

We have seen school districts, such as San Jose Unified, drag their feet in developing a desegregation plan.

We also have witnessed California voters overwhelmingly support a statewide antibusing initiative.

This is not to say that progress has not been made. The poll shows that since 1963, the number of whites who would be worried if a black family moved next door has declined from 51 percent to 27 percent. The number of whites who would be "deeply concerned" if their child brought a black friend home to dinner dropped from 42 percent to 20 percent. And a sizable number (67 percent) of whites in this country now favor affirmative action programs for blacks in industry and higher education.

The Harris report concludes that there is a majority conscience in this country that needs to be challenged by minorities.

We agree. We have made progress as a nation, but we still have a way to go.●

THE 1981 BUDGET

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. LEE. Mr. Speaker, right away, it is easy to see where the fiscal year 1981 Federal budget is headed.

In the first place, if you want a copy of the 456-page "Special Analyses" of the budget, it will cost you $5 instead of the $4.25 it cost last year. In the second, this year you can put it on Visa or Master Charge.

For reading excitement, the budget ranks just below the dictionary. But for its impact on 220 million Americans, it is unrivaled by "Gone With the Wind." This year, the President has offered a $616,000,000,000—that is billion—budget, enough to buy 87 new Cadillacs each for every man, woman, and child in the 33d Congressional District.

The budget was, to many of us, a disappointment. Fiscal 1981 was the year in which the President promised to present Congress with a balanced budget. Instead, it projects a deficit of more than $16 billion, and it pushes America's credit tab to nearly $1 trillion—that's $1,000,000,000,000.

Instead of making the really tough choices that could end some of the costly "sacred cow" programs in this Government, the President has continued with an "all things to all people" approach to spending. Even in this time of heavy emphasis on defense spending, the actual defense budget has not risen significantly in comparison with other items. By the same token, social programs seem not to have suffered, either.

It would appear that the real sufferer is the taxpayer. In the past 3 years' budget summaries, the familiar pie-sliced dollar—always the book's first graphic—tells much of the story. The proposed fiscal year 1979 dollar showed that individual income taxes paid 38 percent of the Government's burden. In 1980, personal taxes paid 43 percent of the load. In the projected 1981 budget, you and I will pick up 45 percent of Government's tab.

The second graphic, the, "Where it goes * * *" dollar, balances the story. In 1979, 37 cents of every Federal dollar went to individuals in what are called transfer payments, essentially transferring money from the pocket of those who work and pay taxes to the pocket of those who do not. In 1980, 39 cents of the dollar went to individuals; in 1981 transfer payments take 43 cents.

When we look at the illustrations together, it shows vividly that Government's biggest job seems to be the shifting of money from those who work to those who do not, effectively killing incentive for them both. Not since 1944, at the peak of World War II spending, did America contribute such a huge percentage of its gross national product to Government taxes.

Nine cents of every Federal dollar is spent just to pay the interest on the national debt. At the same time, Uncle Sam is going deeper and deeper in debt with this budget, driving inflation rates higher by the day. With the exception of 1969, we have increased the debt every year since 1961—two solid decades of spending billions more than we take in. It is really no wonder that we cannot see the surface.

Line 1 of the President's budget message says: "This budget for 1981 is prudent and responsible." "It is neither," responded the Wall Street Journal the following day. I agree with the newspaper.

I am expecting the House of Representatives to take a serious look at the needs of this country in the days ahead. We need a strong defense budget, stronger than this administration document provides.

We need a personal and corporate tax structure that promotes growth, initiative, and new profits—which cleverly bring in new but fair tax revenue. This budget does not give us those kinds of tax programs.

We need a tighter grip on Government itself. More than 75 percent of the spending in this budget is in areas which the administration writes off as "uncontrollable." Those are basically the transfer areas such as welfare, social security, medicare, and similar programs.

With an honestly critical eye, I believe we can eliminate waste in those "uncontrollable" areas, possibly even eliminate entire programs that are just plain counterproductive. We can provide assistance to persons who need assistance and we can clean the rolls of those who only want spoon feeding.

Congress it appears, has now been passed the responsibility to apply commonsense to the President's projections, to hold him to his word to balance the budget in 1981, and to rekindle the spirit to live within our means.

We have put America's budget on Visa and Master Charge for too long.●

UNIFORM FISCAL YEAR

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. BIAGGI. Mr. Speaker, I am introducing legislation today that would revert the Federal fiscal year back to the previous July 1 to June 30 timeframe so that it will coincide with the overwhelming majority of State and local fiscal years.

Simply stated, this bill is intended to improve the intergovernmental budget process without adversely affecting the Federal appropriation cycle.

The legislation, entitled "Fiscal Year Revision Act of 1980," is the result of an extensive investigation into the current Federal budget process and the ability of States and localities to function under differing fiscal years.

Prior to drafting this measure, I contacted the Governors of the 50 States and heads of the largest cities and counties throughout the Nation to obtain their views on this issue.

Based on this investigation, the message is clear—differing fiscal years have caused serious and costly problems for States and localities, without improving the congressional budget process, as intended.

According to the Governor of Indiana, Otis R. Bowen:

> There is no question in my mind that differing fiscal years do create problems for the varying levels of government. The Federal government's change in the starting date of its fiscal year, from July 1 to October 1, has added to that problem.

Although the Congressional Budget Act of 1974 changed the start of the Federal fiscal year from July 1 to October 1, an overwhelming majority of our Nation's States and cities follow a different fiscal year schedule. For example, 46 of the 50 States have fiscal year closings on June 30. Of the remaining four States, only Alabama and Michigan have a fiscal year closing on September 30. Of the 25 largest cities, only 3 begin their fiscal year on the same day as the Federal Government.

The mayor of Honolulu, Frank F. Fasi, commented:

> The change by the Federal government to a different fiscal period has caused problems in planning and budgeting of many of our activities. This has resulted in a great deal of uncertainties about availability of Federal appropriations and in the delivery of local services to the public.

These problems have caused some States and local governments to change their fiscal year, at significant cost, to coincide with the Federal schedule. Other governmental units have considered such a change in order to increase budget planning efficiency, but decided that the cost was too great.

A prime example of the inconsistencies in the budget process that now exist can be seen in my home State of New York. Under the current system, the fiscal years of New York State, New York City, and the Federal Government end March 31, June 30, and September 30, respectively.

Commenting on this arrangement, New York's Suffolk County executive in New York, John V. N. Klein, said:

> I fully support any efforts which would be designed to provide for a coincidence of fiscal years of all governmental units in the United States. The current disparity of fiscal years among local governments in New York State, between local governments and the State, and between the State and local governments and the Federal government, creates enormous problems from a budgetary and planning standpoint.

New York's Westchester County executive, Alfred B. DelBello, also expressed those same thoughts:

> This (New York's differing fiscal years) leads to major difficulties in not being able to plan for a full 12-month period at the local level. Unpredictable decisions made by the higher levels of government often directly impact the integrity of the Westchester County budget during the year. Insofar as your proposal to make uniform these various fiscal years is concerned, the single year planning for budget allocations would be an improvement over existing procedures.

Some of the other comments I received indicate a serious problem encountered under the current system in the administration of programs that rely on intergovernmental transfers and grants, especially those requiring matching funds from local appropriations.

In some cases, the differing fiscal year has created the necessity of maintaining two accounting ledgers. In this same regard, the Louisiana State Budget Director, Ralph R. Perlman, stated:

> The accounting problems caused by the change (in the fiscal year), which is in direct conflict with our normal fiscal process, have cost the State additional expenses in the form of accounting time, computer time and in personnel. Since we have to seek special administrative permission to carry Federal funds forward beyond June 30 of each year, and accounting for them separately, I would venture to say that the cost in time and actual dollars is in excess of a million dollars a year.

In numerous instances, major concerns were expressed about a uniform fiscal year ending during the school year. When commenting on the idea of a uniform fiscal year that would begin on October 1, Maryland's Prince Georges County Executive, Lawrence J. Hogan, said:

> I foresee a major problem area with this approach and that is the appropriation of funds for the Board of Education. Our present fiscal year coincides with that of the school year. With the budget in our County adopted and in place by June 1st, the Board of Education, which receives 60% of our total appropriation, has three full months to plan for the school year ahead. Often the adjustments that have to be made between school years are major ones and the three month period between June and September represents a critical planning period for school administrators.

During my investigation, I also found that the merits of a uniform fiscal year were recognized several years ago in the State of Iowa. On July 1, 1975, Iowa completed the transition whereby all 1,800 of its local governments were placed on a July 1 to June 30 uniform fiscal year.

In addition to the feedback I received from State, and local leaders, a major reason for introducing this bill is the failure of the October 1 to September 30 Federal fiscal year to improve the congressional budget process.

During consideration of the Congressional Budget Act of 1974, the major reason cited for changing the start of the fiscal year from July 1 to October 1 was to enable the Congress to complete action on appropriation bills prior to the start of the new fiscal year. There was talk that such a change would eliminate the need for continuing resolutions and the confusion about final program levels and spending. We all know those goals were not achieved.

Instead, out of the 13 appropriation bills for fiscal year 1979, only 6 were passed prior to the October 1, 1978, starting date.

Fiscal year 1980 began no differently. Half a dozen agencies, including the two largest—Defense and HEW—still did not have their appropriation bills enacted well into November. Finally, after the blame was passed back and forth between the two Houses, and with Government workers facing yet another threat of a payless payday, the Congress was forced to resort to a second continuing resolution for foreign assistance, Labor-HEW, and legislative branch appropriations for fiscal year 1980. Those continuing resolutions are still in effect.

Perhaps the comptroller of New Hampshire, Arthur H. Fowler, described the situation best when he said:

> The change to the October 1 date accomplished nothing other than in the year of inception when Congress had an additional three months to make budgetary decisions. I note that already certain programs are unfunded at this date (May 25, 1979) in spite of all great expectations that accompanied the change. Parkinson's Law relative to work filling the available time will prevail regardless of the date ultimately established.

I agree wholeheartedly with Mr. Fowler on this matter and firmly believe that the additional 3 months provided for under the Congressional Budget Act of 1974 simply managed to procrastinate the process. Appropriation bills are still not enacted on schedule and we are still forced to resort to continuing resolutions to insure that important Federal programs do not come to a standstill and Federal workers are not left empty-handed on payday. The only difference resulting from the July to October change has been increased uncertainty for the States and localities.

Mr. Speaker, in the words of Juan Luis, Governor of the Virgin Islands,

> Should a uniform fiscal year be established, I can envision substantial cost savings resulting from the opportunity to plan adequately and provide needed services with certainty about the availability of Federal appropriations.

In an attempt to clarify the severity of this situation, I am inserting a typical response I received from the Pennsylvania Deputy Secretary for Budget, Robert A. Bittenbender, commenting on the need for a uniform fiscal year:

GOVERNOR'S OFFICE,
Harrisburg, Pa., June 1, 1979.

Hon. MARIO BIAGGI,
The House of Representatives, Congress of the United States, Washington, D.C.

DEAR CONGRESSMAN BIAGGI: I am writing regarding your letter to former Budget Secretary McIntosh asking for our comments on your proposal to establish a uniform fiscal year.

I would hope that your proposal regarding the establishment of a uniform fiscal year would take the direction of converting the Federal fiscal year to coincide with the vast number of State and local governments that have July 1 to June 30 fiscal years. To do the reverse would involve conversion costs for the majority of local and state governments that until recently had conformed to the Federal fiscal year.

In Pennsylvania we converted our fiscal year in 1962 to conform to the July 1 to June 30 fiscal year the Federal government was using at that time. In 1975 we also proposed to the General Assembly that our fiscal year be converted to an October 1 to September 30 fiscal year in order to conform to the new Federal fiscal year. The General Assembly did not accept that proposal and we continue to operate under a fiscal year ending on June 30.

The problems caused from the present lack of uniformity are not so much a matter of high administrative costs as the uncertainty which is injected into our budgetary planning. For example, a year ago we anticipated that the Federal Countercyclical Aid programs would be continued and that we would receive over $20 million of Federal aid in our Fiscal 1978-79. Many weeks after our budget had been adopted, Congress decided not to continue the program and we were left with only $5 million received in July from the Federal fiscal year that was ending.

Likewise we have budgeted $110 million of Federal Revenue Sharing monies for our Fiscal 1979-80 as presently authorized by the Federal Revenue Sharing law. If Congress in its final deliberations immediately prior to the beginning of the Federal fiscal year decides to discontinue the program this would leave a serious gap in our 1979-80 budget, which by that time will be one quarter finished.

A uniform fiscal year would facilitate our planning and would eliminate some of the uncertainty we presently experience.

Sincerely,

ROBERT A. BITTENBENDER,
Deputy Secretary for Budget.

Mr. Speaker, I offer this legislation with the sincere hope that it will evoke discussion and corrective actions in regard to our current budgetary policies. The confusion which has developed since the establishment of the new Federal fiscal year has brought many areas in this Nation close to disaster in terms of disruption of important programs providing social and human services to our needy citizens.

I sponsor this legislation in the spirit of commonsense, and I am hopeful it will receive consideration in the committee, and ultimately on the House floor. I would certainly welcome and appreciate any additional views on this important issue from my colleagues.●

WHAT SECRETARY MILLER KNEW

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. MAZZOLI. Mr. Speaker, the New York Times published an editorial on February 2, 1980, headed: "What Secretary Miller Knew * * *" I ask permission that it be extended in the RECORD following my remarks.

The Times editorial questions Secretary of Treasury G. William Miller's assertions that he knew nothing of Textron, Inc.'s $5.4 million in payoffs and bribes to foreign officials, nor of its $600,000 in improper entertainment costs to wine and dine Pentagon officials.

Secretary Miller headed the conglomerate known as Textron during the period these bribes and payola were handed out.

He might not have known of all this hanky-panky. But, the Textron board of directors—in a report of July 1979—asserts that he knew of the Pentagon slush fund and of its concealment on the books and record of the firm.

I ask—as the Times does in its editorial—that Secretary Miller address these issues under oath in a full and exhaustive examination.

Our Nation's chief monetary and financial officer cannot serve with effectiveness with so much as a hint of wrongdoing over his head:

WHAT SECRETARY MILLER KNEW

Did G. William Miller know about illegal or improper payments to help get business for Textron, Inc., the big manufacturing conglomerate he used to run? That question first arose two years ago when he was nominated to be chairman of the Federal Reserve Board, and again last summer when he was named Secretary of the Treasury. His answer, emphatically and consistently, has been no.

People have wondered; how could he have been so crisp and effective an executive and *not* known. "Whether he knew about those bribes, we don't know, but he should have known," said Senator Proxmire, the Banking Committee chairman. But no one has had grounds to dispute Mr. Miller. Now, a complaint against Textron from the Securities and Exchange Commission raises the question anew. Mr. Miller again says no—and this time it is hard to see how both sides can be right.

In the first part of its complaint, the S.E.C. accuses Textron of making $5.4 million in improper payments to get foreign business. Nonetheless, the complaint says, Mr. Miller assured Textron shareholders at their annual meetings in 1976 and 1977 that there had been no illegal or improper payments anywhere by the company. In language that drips with incredulity, the S.E.C. not only suggests that he should have known. It says his assurances were "erroneous and misleading" and that he lacked reasonable basis for making them. Still, it does not say that he knew them to be wrong.

That's why a second part of the S.E.C. complaint, one that involves less money, is more interesting. It does not allege bribes to foreign officials but improper entertainment of Defense Department officials. From 1971 through July 1978, the complaint says, Textron paid out $600,000 for that purpose, in violation both of Defense Department directives and Textron's own procedures. Indeed, the S.E.C. says, Textron concealed the payments on its books. What may be the most important word in the complaint appears in this sentence: "Senior Textron officials and its chairmen . . . knew of this practice . . ." What does "knew" mean?

If Mr. Miller did not know about these payments, then why did the Textron board, in a report issued last July, say that he did know of them, and of their concealment, as long ago as 1968? Contrarily, if Mr. Miller did know, how does that square with his assurances to his shareholders that there had been no illegal or improper payments by Textron? And how does it square with his emphatic words at his Treasury confirmation hearing: "At Textron, none of these situations involved any slush funds, corporate officials or directors, any bribes, any kickbacks, any falsification of records. . . . Everything has been a question of how far we want to go in being super-clean."

It may be that these inconsistencies can easily be clarified. Easily or not, they must be. There should be a forum—the Senate Banking Committee comes quickly to mind—in which the S.E.C. material and Mr. Miller's responses can be addressed. For the issue is not merely what a corporate executive knew about improper payments and when he knew it. It is whether the nation can give the word of its Treasury Secretary the confidence to which it, and he, are entitled.●

NATIONAL CATHOLIC SCHOOLS WEEK

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. GUARINI. Mr. Speaker, the fact that this week, February 3 to 9, is National Catholic Schools Week, makes it an especially appropriate time to spotlight the contributions that the parochial school system has rendered to our society.

While public education provides instruction to the majority of Americans, we must never forget that private institutions have played an indispensable role in training our citizens and educating our leaders in every field of endeavor. The private sector has made an outstanding contribution to the education of our young and has helped to maintain our Nation's academic competitiveness. It is of paramount importance to the health and vitality of communities throughout America to maintain an effective and viable private educational system. We need their leadership and the many contributions they continue to make to our society. We cannot afford to lose their effectiveness.

For statistics indicate that the public school dropout rate and the performance level of their students is worsening with each succeeding year, despite the massive and ever-growing amount of Federal funding being pumped into the system. The parochial schools, on the other hand, play a crucial role in maintaining quality academic standards for the youth who are enrolled in their curriculum. In addition, they provide parents with a viable and meaningful educational alternative for their children.

In Hudson County, N.J.—the county that I represent—there are 28,045 students enrolled in Catholic schools. In addition, St. Peter's College, operated by the Jesuits, has 4,000 students in its day and evening sessions.

It is essential that the private school sector receive full participation in all of the Federal educational programs for which they are eligible. That is why I have introduced H.R. 6289, legislation to amend to Department of Education Organization Act to establish an Office of Private Education Organization Act to establish an Office of Private Education administered by an Assistant Secretary: To guarantee that the structure of our educational system will provide a superior and reliable education for all of our youth, regardless of whether they are public or private school students.

President Carter has already committed his administration to my legislation, and in fact, has agreed to implement the intent of my bill administratively during the reorganization period of the new Department.

Mr. Speaker, it is paramount that we continue to work to maintain and promote the private school sector by aiding the parents and families of the students, as well. The most direct and beneficial means to this end would be the institution of a voucher system, whereby parents could select the schools they wish their children to attend. This is an inherent right guaranteed by the principles of our Government. It is unfair to parents of parochial schoolchildren to pay taxes for public schools, and then have the extra burden of paying tuition for a parochial school.

Accordingly, I urge all of my colleagues to join me during this week—National Catholic Schools Week—in recommitting our efforts to insure that our private educational sector remain vibrant, viable, and strong, so that it will be able to continue to serve our youth with both excellent educational opportunities and high academic standards.●

MARCH FOR LIFE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, the March for Life on January 22, 1980, again brought red roses to each Member of this 96th Congress—petitioning for the "paramount" human life amendment (H.J. Res. 300).

March for Life—in the name of prolife American throughout the country—also delivered a large bouquet of red roses to the President, asking for his personal and official assistance to stop abortion in our land.

These prolifers have been turned away time and time again from the White House and this present administration. Their frustration is poured out in a "declaration of grievances" addressed to Mr. Carter on January 22, 1979, and reiterated on January 22, 1980.

We Members of the House can be proud that we have been able to pass legislation which has been directly responsible for saving the lives of thousands of innocent preborn children who would have been aborted with public moneys.

We must look to our Chief Executive to assist this Nation to turn away from abortion for any and all reasons, and to turn toward a prolife mentality and practice.

Much of the frustration of prolife Americans is well stated in the March for Life letter to President Carter dated January 22, 1980. It would be well if each Member of the Congress took a look at this message. Therefore, I want to submit for the RECORD the following letter to Mr. Carter and the accompanying "declaration of grievances:"

MARCH FOR LIFE,
Washington, D.C., January 22, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Prolife Americans are sending you these red roses to mark the seven years since the Supreme Court handed down its infamous abortion decisions, to tell you that we shall not tolerate even "a little bit of abortion", and to remind you of your privilege and responsibility as Chief Executive to protect the victimized innocent preborn child and that child's mother and father and our society.

An estimated 1,000,000 innocent preborn children die each year through abortion, much of which is federally financed. Almost half of the period in which America has endured the anguish of abortion has been under your Administration without your taking any positive steps to remove the evil of abortion from our land. Contrariwise, both your positive acts and your passiveness or inaction, as stated in the attached "Declaration of Grievances", have contributed to our American holocaust of abortion. Your human rights program does not embrace preborn children. Yet, abortion is still not respectable, any more than is racism. As racism is a disqualification today for public elective or appointive office, so shall be abortionism.

Americans by the thousands March for Life today in Washington, in local areas and at state capitols across the nation at great personal sacrifice. Inasmuch as you have told us too often that you do not have time for us and that you will not join us to fight the evil of abortion in our land, we march today and all year long without you.

We are marching to reaffirm the inalienable right to life in America. We are petitioning Congress for the Helms-Dornan "Paramount" Human Life Amendment—S.J. Res. 12 and H.J. Res. 300. It would be good if you would work sincerely and diligently for the prolife cause. But, Mr. President, we no longer await your pleasure or plead with you in this matter. We shall have a prolife America, with or without you. And soon!

Sincerely in Life,

Miss NELLIE J. GRAY,
President.

DECLARATION OF GRIEVANCES, 1979-80

Two years and two days ago, a new administration was installed with a solemn pledge to uphold human rights throughout the world. Yet with regard to the most fundamental of all human rights—the right to life—the record of this administration has been an unrelieved series of betrayals and hypocrisy.

From the time President Carter first presented himself before the American people, the people from whom he pleaded for trust, he has paid lip service to the principle of the right to life, and to his purported belief that abortion is an evil that must be eliminated. Yet his actions, both political and administrative, have been directed at supporting abortion and suppressing the right to life.

Instead of recommending to Congress the passage of a Human Life Amendment which would assure every human being the right to life from the moment of fertilization, he has used the influence of his office to oppose such a measure.

As head of the Democratic Party, he willingly ran on the Party's 1976 platform plank opposing a Human Life Amendment and has not attempted to remove this abhorent plank.

He has appointed to key positions in his administration people who are notorious for their pro-abortion bias.

He has violated the rights of conscience of taxpayers through his failure to issue executive orders that would have freed them of the odious burden of participating in abortions by paying the abortionists.

He has violated the rights of conscience of federal civil and defense employees by permitting their charitable contributions to be diverted into the coffers of abortionists.

He has not sent White House lobbyists to join with prolife action on Capitol Hill to promote legislation that would protect the rights of conscience of taxpayers.

He has let his own active support, and that of his family, to the so-called "reproductive freedom" proposals of the International Women's Year Commission.

He has issued executive orders to continue expenditure of public funds on programs that foist anti-life viewpoints upon the public and upon Federal and State legislators.

He has permitted agencies of his administration to promote, and at times to impose, educational and health policies that are destructive of family life, emotionally damaging to many children, and a positive danger to the health and welfare of young people.

He has permitted agencies of his administration to seduce or to coerce the poor into limiting their childbearing with the false promise that his abdication of their procreative rights would bring them material rewards.

He has permitted agencies of his government to adopt officially an unscientific and ideologically motivated definition of pregnancy—a definition which, by the stroke of a pen, wipes a whole class of innocent human beings out of existence.

He has permitted agencies of his administration to provide massive financial support to special interest groups whose avowed purpose is to erect an anti-life mentality into official national policy, and to increase the availability in a public funding of abortion.

He has not sent his Justice Department to enforce existing laws against unscrupulous abortion profiteers who are responsible for maiming and killing untold numbers of women; and, in fact, he has permitted those profiteers to enrich themselves at the expense of the taxpayers.

He has exported an alien anti-life mentality and technology to Third World nations, imposing this vicious form of cultural imperialism as a precondition to legitimate developmental aid.

He has made it impossible for the United States to become a signatory in good faith to international rights covenants that recognize and protect the right to life before birth.

He has displayed a hostile attitude toward pro-life citizens, refusing to enter into dialogue with their representatives, and treating them with a haughty unconcern when they have come to seek his aid.

He has refused to meet with thousands of pro-life Americans who come to Washington each January 22nd, while flying great distances for small remote gatherings to display a concern for grass roots Americans.

And while the President through the power of his office has parlayed political opportunism into a fine art, using pro-life rhetoric to mask his anti-life actions, millions of babies have been killed, and adults agonize over this senseless bloodletting in their beloved America.●

MR. BALL'S BRIGHT IDEA

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. WOLFF. Mr. Speaker, in Tuesday's Washington Post, our distinguished former Under Secretary of State, George Ball, presented as a specific suggestion something which brings into focus an idea I have been pressing on our Asian friends and allies for the past 3 years—that they must assume an increasing share of the cost burden in our common defense.

As I said most recently in Japan, in a speech to the Tokyo Press Club, and as I discussed with Prime Minister Ohira, his Foreign Minister, Mr. Okita, and his Defense Minister, Mr. Kubota, I feel that the debate over Japan's overall defense expenditure of 0.9 percent of her gross national product—GNP—misses the essential point.

That point, I suggested, is that Japan can and must do more to share in the common defense cost burden to the United States. We are not suggesting that Japan must rearm as we are fully cognizant of Japan's domestic political sensitivities. But we are suggesting that Japan can contribute more to those nations, particularly the United States, which actually provide the defense umbrella under which Japan's economic success rests so comfortably.

I am frequently asked just what, specifically, I have in mind by this suggestion. Mr. Ball, with his usual originality and clarity of expression, has provided a suggestion which I think merits serious consideration. It is exactly the type of thing I have had in mind.

Mr. Ball, in the following article I am presenting for the RECORD, suggests that it might be appropriate for Japan to construct one or two aircraft carriers, and lend-lease them to the United States as a contribution to sharing the overall responsibility and burden of Japan's regional defense.

Mr. Ball uses the term "lend-lease" for its specific resonance in the U.S. experience, because this concept was so successful in the early stages of World War II. The common interest of the United States in defending Britain dictated that we do something, yet because of domestic political factors, something short of active involvement in hostilities at that time.

Today, we do not face the threat of imminent hostilities. Hopefully, we never will in North Asia again. But surely a key component of maintaining the peace will be a credible U.S. military deterrent in the region. At the present time, when one of our Pacific Fleet carriers would seem to be permanently on detached service in the Persian Gulf region, and when our Asian friends and allies—and particularly the Japanese—are exhibiting some concern over the real meaning of the so-called swing strategy, what better way to alleviate the specific need for a permanent U.S. carrier force off Japan and the Korean Peninsula than a Japanese lend-lease to the United States?

In any event, it seems to me this idea has real merit, and should be seriously discussed. The United States, in this era of rising inflation, rising energy costs, and increasingly limited resources of all types, can and must persuade our friends and allies to help assume their fair share of the common defense burden.

The article follows:

RENT-A-CARRIER

(By George W. Ball)

Alarmed by the Soviet move into Afghanistan, we are now frantically rushing to fill the power vacuum in the Persian Gulf area that we failed to fill when the British withdrew in 1971. At that time we recklessly turned over the defense of the area to the shah with the understanding that we would stay out. That decision was made in the name of the "Nixon Doctrine," which events have now shown to be a dangerous fatuity; for, if we have learned anything from the drama of the year just past, it is that we cannot secure the protection of a strategic region by entrusting its defense to a local ruler whom we then overload with sophisticated weapons. We do not strengthen that ruler's military clout by indulging his passion for elegant hardware; we are more likely to inflate his imperial pretensions and hasten the demise of his regime.

Thus the clear lesson of our searing experience in Iran is that we ourselves must provide the defense of those strategic outposts that are unquestionably vital to our interests. To do that, we must build up our combat and logistic resources.

Our present stringency is dramatically illustrated in the Western Pacific. The Seventh Fleet's two carriers have been redeployed to the Indian Ocean, so for the first time in many years there has been no carrier patrolling the waters around Japan and Korea—even at a time when the current political uncertainty in Seoul might inspire the North Korean leader, Kim Il Sung, to another invasion.

We are caught in an awkward strategic conjunction. If the Soviets continue their aggressive adventures, we must have a capability for quick response that requires some pre-positioning of force in critical areas. Since small countries are now wary of granting forward bases, the emphasis is on floating air fields in the form of carriers. But while the Soviet Union has for the past decade been expanding its naval reach, the United States has dangerously curtailed the number of ships and personnel at its command.

Since we now know that we cannot depend on local powers for effective regional defense, we should try to share more of the burden with our industrialized allies—and particularly with Japan, where the disparity in relative defense efforts is becoming increasingly exasperating as Japanese industries steadily enlarge their share of the American market. Someone should tell Japan that its present happy situation cannot continue—that, increasingly, public awareness of our mounting defense burden will inflame the already formidable agitation for protection against Japanese products.

Today the United States spends 6 percent of its gross national product on defense; Japan spends only 1.1 percent. Sensitive to the tender memories of other Asian nations, our government has never encouraged Japan to build a large defense establishment. But even without expanding its own armed forces, Japan could contribute more to the common defense.

Let us suppose that the Japanese construct two large carriers. They now have excess merchantship building capacity, which presumably could be expanded and adapted for the construction of carriers, and they would benefit by obtaining our carrier technology. Japan would, on completing the carriers, turn them over to the United States under a lend-lease agreement of the kind used effectively during World War II, when we and our allies pooled our efforts to resist a common enemy: Britain contributed its soldiers and sailors to fight the Nazis; the United States provided the supplies and equipment used in the common struggle. Once victory was achieved, the lend-lease equipment still extant was either returned to America or acquired by Britain through financial settlement.

Though the exact terms of an arrangement with Japan would have to be negotiated, its broad lines are easy to envisage. By providing two carriers, Japan could be assured that one would be constantly on station for the defense of Japan, Korea and the neighboring Pacific area; only with Japanese approval would it be deployed elsewhere—perhaps to the Indian Ocean to guard the tanker lanes that are Japan's lifeline.

Though both carriers would remain under United States command and control, they would be returned to Japan whenever the Japanese declared the intention to assume full responsibility for the common defense of the area or both parties agreed that the carriers were no longer needed.

I mention carriers only to show how the lend-lease concept could be utilized to narrow the disparity in the defense burden between Japan and the United States. The total cost of two carriers—roughly $4 billion—would, when spread over three years, increase the defense share of Japan's GNP by merely 0.3 percent. Though that, of course, would only modestly reduce the disparity with America, there could obviously be other applications—including, for example, support ships for the carriers—once the principle of pooling resources was established.

Meanwhile, we should use the present moment of shared anxiety to inject that principle into our relations with Japan—and we should do it promptly. If the Japanese continue to enjoy their current unfair advantage, Americans will grow increasingly resentful as our own defense burden increases and our economy slows down. That will not be good for either country.

It is time for the Japanese government to awake and respond; it has had a free ride too long.●

LEGISLATION TO GRANT CITIZENSHIP TO MRS. MANGAHAS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation that would correct an injustice caused by errors of the U.S. Government in the citizenship of the wife of a U.S. serviceman.

Mrs. Mangahas, a Philippine citizen, would like to become a U.S. citizen as soon as possible. She is married to a U.S. serviceman but has been informed by the Immigration and Naturalization Service that she is not eligible until December 1, 1980. If it had not been for certain errors made by the U.S. Government she would already have been eligible.

Mrs. Mangahas' husband, Armando E. Mangahas, enlisted for active duty with the U.S. Coast Guard in the Philippines while he was a Philippine citizen, and reenlisted in 1973 on board the USCGC *Northwind* (WAGB-282) at the South Pole. Had he reenlisted within the U.S. territory he would have qualified for immediate citizenship under special provisions of immigration law (8 U.S.C. 1440(b)(2)). Since the U.S. Coast Guard failed to advise Mr. Mangahas of his rights under these provisions—such advice now is required by Coast Guard regulations.

The Coast Guard corrected his records to indicate his reenlistment within U.S. territory. However, he was denied citizenship from 1973 until March 1977 while the Coast Guard was processing this correction or records.

Had Mr. Mangahas been granted citizenship in 1973 as he originally applied, then Mrs. Mangahas could have applied for permanent resident status upon her arrival in the United States in 1974, and would further have been eligible for citizenship in 1977.

As it was Mrs. Mangahas was not granted permanent resident status until 1977 the time of her husband's naturalization. Immigration and Naturalization has denied her request for appropriate relief. My bill simply exempts her from the requirements that she should not have to meet.

I ask your support of my bill.●

REPORT ON THE MIDDLE EAST

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. FINDLEY. Mr. Speaker, traditional warm attitudes toward Americans by Arabs in the Middle East may be cooling, and the vast reservoir of friendship drying up. That is the finding of a distinguished team of experts on the Middle East that has just returned. Their report is sobering and should be read by everyone concerned over the future of our country and its pervasive security interests in that part of the world. Unless the United States acts quickly to satisfy legitimate Arab complaints against the West, our position may be permanently compromised. Central to the whole issue is recognition of the Palestinian problem, which so far the United States has been unwilling to help solve.

Until the United States deals forthrightly with the Palestinians in the Middle East, little progress will be made in protecting all of our other vital interests. That is the message of this report, which I place in the CONGRESSIONAL RECORD for all of my colleagues to read:

THE SITUATION IN THE GULF

(Report on Arab perceptions in Kuwait, the United Arab Emirates, Oman, Qatar, Bahrain, and Jordan.)

From January 9th through the 25th, 1980, a delegation from Georgetown University's School of Foreign Service visited the Gulf states to discuss ongoing educational associations with Georgetown's Center for Contemporary Arab Studies. The delegation of four have such varied backgrounds and interests, and so many friends and acquaintances at all levels in the Gulf, that it was possible to sample opinion across a broad social spectrum, to a degree not always possible through official visits or normal Ambassadorial reporting. Discussions were held with: heads of state; ministers; presidents of the educational institutions in the area; heads of major private sector activities (airlines, steel mills, petrochemical plants, etc.); members of the PLO; a former Iranian communist; and many other individuals at all levels of the official and private sectors. Countries visited were Jordan, Kuwait, The United Arab Emirates, Oman, Qatar and Bahrain. The Georgetown group was impressed by the intensity and near unanimity of views expressed separately at all levels of these societies, and considers it important that these views be transmitted to the media and to appropriate decision centers of United States agencies: the Congress, the Department of State, the Department of Defense, and if possible, the White House. The group speaks only for its four members and does not represent the University or its Center for Contemporary Arab Studies. It has no interest in involving itself in the decision-making process, but it does feel a responsibility to make available to those who will listen the views of those who live in the area; for in the opinion of the group, such views are not adequately reflected in the chemistry of the evolving major decisions regarding the area.

The documents which make up this report are:

Tab A: A list of the individuals making the trip; their backgrounds and current activities.

Tab B: A list of the individuals seen during the visit; arranged by country (omitted to save space).

Tab C: A short summary of the opinions of the travellers as a result of the trip, with appropriate recommendations.

Tab D: Sampling of the news as it appeared in the local papers during the visit (omitted to save space).

It should be noted that the opinions expressed in this report are unanimous. Given the variety of background and experience of the travellers, such unanimity is remarkable.

It should also be noted that the recommendations made are not in accordance with established foreign policy, as it is understood by the group. If these views are ignored the group believes that it would be unfortunate, for in them somewhere lies an opportunity to begin to calm down the rapidly escalating bid for power and control in the region.

PETER F. KROGH.
MICHAEL C. HUDSON.
HISHAM SHARABI.
MARMADUKE G. BAYNE.

TAB A

Dr. Peter F. Krogh, White House Fellow, selected in 1979 as one of the 100 leading young educators in the United States, and since 1970 Dean of Georgetown's School of Foreign Service.

Dr. Michael C. Hudson, Political Scientist, Author: Education through Ph.D. Yale and Princeton—Latest Book—*Arab Politics: the Search for Legitimacy;* Currently, Professor of International Relations and Director of the Center for Contemporary Arab Studies, Georgetown University's School of Foreign Service.

Dr. Hisham Sharabi, Tenured Professor of History at Georgetown University, born in Jaffa, Palestine—educated through Ph.D. at University of Chicago—a naturalized American—past President, National Association of Arab-Americans.

Vice Admiral M. G. Bayne (USN ret.), Former President National Defense University and Commandant National War College, Washington, D.C.; Commander U.S. Middle East Force in the Persian Gulf and Indian Ocean—Currently consultant to the Dean of the School of Foreign Service, and Chairman, Executive Committee, Center for Contemporary Arab Studies.

TAB C

(Summary of opinions formed during trip, and resultant recommendations.)

Increasingly, even in the Gulf, there is a, cohesive Arab position on the crises in the region. It can be loosely defined as a determination to prevent the United States from separating the matter of Gulf regional security from what they call the "real problem" further north; achievement of the legitimate rights of the Palestinian people.

In the past, Arab states have spoken by their own admission with two voices, one public, which spoke out agianst some superpower influence in the Gulf, and one private which suggested to the West that they really wanted U.S. presence and influence, but could not say so publicly because of the unsatisfactory U.S. position on the Palestine problem.

Today one hears at all levels that this dual effort to be understood has resulted only in further misunderstanding by the Americans of the Arab view. The inner councils of U.S. policy makers act as if they only believe the private voice and wrongly denigrate the implication of the public one. Therefore the view persists in the United States that the Gulf Arabs really will go along with U.S.-Israeli policy because they see in U.S. economic ties the most secure market for Middle East oil. The ambivalence must end. The problem is Palestine, and until and unless the United States soon recognizes it, Arab concensus over the matter will harden, efforts to work with the Soviets will increase (after all, the Soviets support the PLO in its efforts), and the simmering anger at the lack of U.S. support for Palestine will take increasingly anti-U.S. forms. The anti-U.S. forms will emerge as closer ties with the Soviets, and little likelihood of support for U.S. security interests, including "ports of call", and military cooperation. An exception to this may be Oman which feels strongly the Soviet presence on her doorstep, and fears an awakening of the Dhofari rebellion, fueled by Soviet activities and weapons.

The wide gap between United States and Gulf Arab perceptions can be gleaned from what we heard as the gulf Arab perceptions of American views and Arab views on major issues.

GULF SECURITY

American view: The greatest threat to the security of the Gulf states is posed by the Soviet Union and its expansionist designs and actions.

Arab view: The greater threat to Arab security enamates from Israel.

HUMAN RIGHTS

American view: The most serious subjugation of a people in the contemporary period is unfolding in the Soviet occupation of Afghanistan.

Arab view: The most serious subjugation of a people in the contemporary period stems from the Isreali occupation of the West Bank, the Gaza strip, the Golan Heights and Arab Jerusalem.

INTERNATIONAL LAW

American view: The taking of 50 American hostages in Teheran constitutes a grave breach of international law and civilized behavior that should produce immediate and unanimous international outrage and disciplinary action.

Arab view: Israeli military rule over 1,200,000 Palestinian Arabs in the West Bank, Gaza, and Jerusalem is a far more serious breach of international law and civilized behavior than the taking of 50 American hostages.

REGIONAL COOPERATION

American view: What is needed now is for the Arab Gulf States to enter into an informal security alliance supported in some manner by the United States to defend the area against Soviet penetration. Such an alliance might feature American basing rights and joint military undertakings.

Arab view: Even an informal security alliance with the United States is politically impossible so long as the United States subsidizes Israeli occupation of the West Bank, the Gaza Strip, Arab Jerusalem and the Golan Heights.

FREE WORLD ASSOCIATION

American view: The Soviet invasion of Afghanistan provides an occasion for those whose identifications—political, economic and religious—run strongly toward the free world, to declare their alignment and fraternity with the United States.

Arab view: The Soviet invasion of Afghanistan provides an occasion for the Americans to place the question of Palestine on the back burner and to revert to military concerns which ignore the urgent human needs of the Arab world.

MILITARY RESULT, IF STATESMANSHIP FAILS

American view: If push comes to shove with the Soviets in the Arab Gulf, we will successfully counter the Soviets and preserve, militarily if necessary, the integrity of the key oil producing states in the region.

Arab view: If push comes to shove, the Soviets and Americans will avoid war by engaging in a Middle East "Yalta" and divide the area into spheres of influence adequate to meet the oil needs of the respective superpowers and their camps.

UNITED STATES-ISRAELI POLICY

American view: The United States prides itself in supporting Israel as an island of democracy and stability in a sea of authoritarian and radical regimes.

Arab view: The United States has a double standard in the Middle East—it sees what its domestic politics want it to see. While Israel functions formally as a democracy, it is a theocratic state. Moreover it functions as a military government on the West Bank and Gaza, denying the Palestinian people their democratic right to self-determination.

ISLAM

American view: Islam, symbolized by Khomeini, is reemerging to force Arab dissociation from the West and to revive the historic confrontation between Christianity and Islam.

Arab view: Khomeini, although a religious leader of the Shiite branch of Islam, does not speak for the Islamic world as a whole, which is primarily of the Sunnite persuasion. But Khomeini's movement does represent an authentic revolutionary uprising against a corrupt regime and a popular reaction against political and cultural domination by the West.

MODERNIZATION AGAINST TRADITION

American view: The Arab Gulf is in the process of rapid modernization impelled by oil wealth. Such problems as they may have are primarily technical having to do with resource allocation and absorption.

Arab view: The countries of the region are still trying to find their way and feet. Their politics and economic institutions are still in their infancy and lack the authority and legitimacy that comes with maturity.

Recommendations

The wide gap between these views leads us to suggest that consideration be given to the following recommendations. What is important about these recommendations is their spirit rather than their exact form.

The United States must find a way to make believable its concern for the Palestinian people. This need transcends all other approaches to the area, and if accomplished paves the way for closer cooperation on all other matters, political, military, social and economic. The U.S. must also immediately and visibly demonstrate its cultural respect for and human interest in the Arab world.

The following specific suggestions stem from these basic requirements:

(1) Appoint a senior statesman with bona fides in the Arab world (e.g. former Secretary of State William Rogers or former Under Secretary of State George Ball) as special Presidential envoy to the Arab countries to undertake a process that directly addresses the issue of Jerusalem and Palestinian self-determination in the West Bank and the Gaza Strip. This statesman, whose efforts would add to the Camp David process, might begin his meetings with King Hussein of Jordan and follow the footsteps of Hussein's recent trip through the Arab Gulf.

(2) Make a policy statement that the United States realizes that Gulf Security and Palestine are linked, and will be treated as one matter.

(3) Deploy small delegations from the United States—drawn from both the public and private sectors—to visit each Arab state to listen and to conduct indepth discussions of how the societies of the two countries can be linked in mutually beneficial ways. Allocate public and private resources for implementation of the results of these discussions.

(4) Embrace fully, and with much publicity the current U.S. efforts in the country to observe the 1400th Centennial of Islam in an effort to place before the country the true nature of the culture and contribution of the Islamic peoples; not only the Iranian version of radical Islam.

(5) Seek a united front with the Europeans in pursuing the solution for the West Bank and Jerusalem.

(6) Indicate to the Arab world that as Americans we consider demonstrations of anti-Arab sentiment just as distasteful and threatening to our values as demonstrations of anti-Jewish sentiment.●

EASY MONEY—AND HARD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. PAUL. Mr. Speaker, the eloquent Tom Bethell has another great article on hard money, this time in the February 1980 American Spectator, that I would like to call to my colleagues' attention.

EASY MONEY—AND HARD

(By Tom Bethell)

Nineteen seventy-nine was the Year of Economics as far as I was concerned, the dismal science quite agreeably matching my pessimistic nature. All of the sudden I am alert to the difference between marginal and average effects (too complicated to explain here, but important, even if ignored by the Congressional Budget Office); I laugh out loud when I see such headlines as "France Raises Taxes To Forestall Recession" (the joke is that without taxes there would be no recessions); I draw Laffer Curves on paper napkins, patiently point out the difference between tax rates and tax revenues, quote Jude Wanniski (who is a tad optimistic for my taste), lecture people on the difference—big difference!—between the cause of inflation (too much money printed) and its effect (price increases).

In short, I go around boring people to tears, such is the general level of indifference to economic theory. Indeed, this vast public unconcern strikes me as constituting a threat to the Republic. With theory neglected, economic practice is left to the manipulations of left-wing academics, charlatans, professional economists, the eager handmaidens of politicians, just plain ignoramuses, and people like Dr. Alice Rivlin.

Consider, if you will, the price mechanism—the central nervous system of a market economy. I doubt that it is understood by one person in a thousand, despite its simplicity. This is not because people are stupid, but because they rarely think about something that is invisible, hence taken for granted. About a year ago a friend told me about a group of Chinamen visiting Capitol Hill. They were eagerly trying to learn all they could about capitalism, their great new discovery. "How do you set prices?" one asked. Mouths gaped open in response. Ummmmm . . . how do you set prices . . . mumble mumble mumble. How many people reading this could confidently answer the curious Chinamen?

A peculiar feature of the price mechanism is that it works perfectly well even though those using it, businessmen and their customers, could no more describe how it functioned than they could explain the folkways of Outer Mongolia. (The reason for this oddity is that the price mechanism continually avails itself of literally tens of millions of very elaborate calculating machines which work about 16 hours a day. Despite this industry, these calculating machines are never included in any inventory of economic resources and are, in a sense, invisible. They are called brains.) Thus, when the price mechanism is under attack, as it is today—with worse no doubt to come in the form of price controls—there are very few people around capable of mounting the appropriate defense. Again, how many people understand the consequences of price controls?

I am convinced, after much surreptitious observation of the species, that most people in the news media don't. A few years ago, while President Nixon's price controls were still in effect, *Newsweek* published a cover story entitled "Running Out of Everything?" with a picture of an inverted cornucopia on the cover. A couple of weeks later, Milton Friedman wrote a column pointing out that the editors had failed to realize that price controls create shortages.

More people do realize this today. Even in Washington, D.C., people are beginning to realize it. Rent controls were imposed here in 1975 and not one new apartment building has been constructed in the city since then. After a large enough percentage of the population has moved the mile or so necessary to escape rent controls (across the Potomac River), the politicians themselves may come to appreciate the effects of their actions.

Price controls create a wide range of destructive effects, which have been lucidly explained by George Reisman in an excellent volume entitled *The Government Against the Economy* (Caroline House). It says something about the current power of fashionable ideas that Reisman apparently had great difficulty getting this well-written and thoughtful defense of market principles published at all.

As Reisman observes, price controls, in addition to creating shortages, "paralyze rational action." The signals of price are not allowed to travel through the central nervous system of the economy. That, at bottom, is the cause of the energy crisis: a refusal to allow the oil companies to bring us the bad news of higher prices. (The current attempt to punish the oil companies for bearing these price-tidings by imposing a "windfall profits tax" is comparable to the punishment meted out to messengers in the Middle Ages for bringing bad news to the royal presence.) Reisman analyzes the effects of price controls in the field of energy as follows:

"They bring together at an auction for the use of oil a trucker needing fuel to deliver food supplies and a housewife needing gasoline to take an extra shopping trip to the supermarket, and they prohibit the trucker from outbidding the housewife. . . . Price controls make it *illegal to act rationally.*"

In effect, price controls disconnect those millions of calculating machines called brains, and at the same time transfer a tremendous amount of power to a tiny number of people working in the central planning bureau that is almost certain to appear, in time, as a logical consequence of such controls. This small number of brains working at central planning can never function with anything like the efficiency of the millions distributed throughout a market economy. And that is the main reason why market economies are so much more prosperous than the command economies of totalitarian states.

The problem that we all face in the coming year, and possibly for the next five years, is that the people in Washington with the economic reins in their hands would most certainly not understand the foregoing reflections about markets, price controls, and planning. You may think that I am engaging in a little hyperbole here, and really mean to say that our economic leaders would not *agree* with what I have said. But I have gradually and reluctantly come to the conclusion that the situation is worse than that. Jimmy Carter, for example, simply would not understand the preceding quotation from Reisman, no matter how long and conscientiously he puzzled over it. Nor would the chairman of the Senate Budget Committee, Ed Muskie. It's not that they are particularly enthusiastic about the Soviet model (although I have always thought that Carter's comment, made on February 12, 1979, that "I don't have any inclination to condemn the Soviets as a people or even as a government" deserved more attention than it received). Rather, they really don't understand the effects of government intervention in the economy, and believe that it is sufficient to have good intentions (demonstrated by administering occasional punishment to the productive sector).

All this is quite worrying, of course. It is possible—probable, I more and more think—that we are heading for some not-quite-foreseeable (but nevertheless widely sensed) economic disaster in 1980. If this disaster strikes—and it could be triggered by the occurrence of a Khomeini-like takeover in Saudi Arabia, for example—all economic decisions made in Washington would tend to make things worse.

That's why I advise almost everyone these days to buy gold. It probably won't be too late by the time you read this. I've noticed creeping into the newspapers more and more references to "paper money." We've had paper money for quite some time, but only in 1979 have people begun to describe it as such. This could well be an ominous development, implying as it does the preception of a *new* form of money—hard money. The ultimate emergence of hard money has of course long been predicted by gold bugs and others, who have always been condescendingly dismissed as "nuts." Now they are more and more vindicated with every passing day.

The reason so many people are turning to gold is that the political and monetary authorities have shown themselves to be totally irresponsible in their custodianship of the paper currency. The printing presses at the Bureau of Engraving and Printing are kept switched on for too long. The amazing thing is that we are all perfectly well aware that throughout history many governments have had a tendency to treat their currencies irresponsibly: that Diocletian clipped the coins; that Robespierre inflated the assignat; and so on. But the current liberal consensus in the U.S. clings pitifully to the brief that *this* government is different: that this time, the cause of inflation lies not with government officials, but with greedy businessmen or greedy labor unions or "market imperfections," as chief inflation fighter Alfred Kahn suggested before he was awarded the job at which he has failed so dismally.

The media in the 1970s has prided itself on its adversary stance toward government. But how many times have you seen it so much as suggested in the pages of the *New York Times*, or on the network news, that the government has any responsibility at all for the inflation of the currency? Hardly ever. Nicholas von Hoffman recently wrote an article for the *New York Times Magazine* explaining the role the Federal Reserve Bank plays in adding to the money supply, and my impression was that this might very well have been the first time that a whisper of such monetarist heresy had been allowed in the paper in the 1970s. The *Washington Post* has been just as bad, recently running a series of huge and utterly absurd articles about the effects of inflation—higher prices—without so much as a minute's consideration given to the cause.

The reason economic reporters won't mention the true cause of inflation—government—is that they depend on high government officials for nearly all their stories. They simply parrot what such officials say—do not have the nerve to challenge it. Well, do you think government officials are going to say that *they* cause inflation? Not bloody likely.

In short, the outlook is bleak. Go out and buy gold before it's too late. In fact, I think I'll take my own advice and do just that.●

OIL SHORTAGE—A MYTH

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, M. Stanton Evans, one of the most perceptive thinkers writing today, has penned a much-needed explanation of our oil supply situation.

As Mr. Evans clearly shows, the notion that we are running out of oil is simply a myth. What we are running out of is patience with Government meddling which has created the shortages in the first place.

If any of my colleagues still doubt the truth of this, I invite them to study Mr. Evans' article, from the January 19, 1980, issue of Human Events newspaper:

[From Human Events, Jan. 19, 1980]

WHY AMERICA HAS PLENTY OF OIL

(By M. Stanton Evans)

For several years now, the idea has been pounded into our heads that the United States and the world in general are running out of oil.

This alleged fact of life has been used to explain the recent seige of shortages at the gas pump, and to justify a no-growth, conservationist ethic as an appropriate reply from government. Confronted by natural depletion, we allegedly have no choice except to learn to do with less, and to develop alternative energy resources.

There has never been much evidence to support this thesis, but since it fits the regulatory mind-set of the era, it has generally prevailed in political and press discussion. Efforts here to deflate such notions ("There Is No Energy Shortage," May 28, 1977, "The United States Has Plenty of Energy," Sept. 22, 1979), have been in the nature of a minority report. Now, however, the fact that we have plenty of gas and oil available to us—if we will simply go out and get it—is beginning to make a bit of headway.

Witness a recent article in the Wall Street Journal by petroleum geologist Michael Halbouty. He observes that, though the United States has been heavily explored for oil compared to other countries, much more exploratory drilling can and should be done within our borders. He notes that the oil potential of the western United States has not been adequately explored at all, while the Appalachian region in the East has high, untapped potential.

Equally important, Halbouty comments that there is considerable oil out there awaiting us which has already been found—some 300 billion barrels of the 450 billion so far discovered. This is the harder-to-get oil which must be retrieved with secondary and tertiary methods, and perhaps 30 per cent of it (or about as much as the U.S. has so far produced in all its history) can be recovered on this basis.

Because of geological warping, oil has often been found in unpredictable places—such as the six-billion-barrel bonanza in East Texas. Other such discoveries are possible, but will happen only if wildcatters have incentive to make them happen. "I believe the oil is out there," Halbouty says, ". . . waiting for the daring and the resourceful who can hunt it, unencumbered by restrictive government regulations administered by pessimists."

In comparison to the United States, of course, the rest of the world has hardly been explored at all. Halbouty notes that 73 per cent of 3.4 million oil wells drilled in the world through 1978 are in the United States, even though we have less than 11 per cent of the world's prospective petroleum basins.

Similar points were made a few weeks back by Jude Wanniski, author of The Way the World Works, in an article for Harper's. Wanniski observes that of 645,500 exploratory oil wells drilled on earth by 1975, 482,000—roughly 75 per cent—were drilled in the continental United States. More than 95 per cent of the total have been drilled in the industrial countries of the world including the U.S., while Africa, Asia and Latin America have been relatively untouched.

Wanniski illustrates the point by noting that all the oil so far produced on earth would fill a lake the size of Chicago—an area of about 227 square miles—"to a depth of only 300 feet. The estimated petroleum worldwide, that could be recovered at current prices and technology, would fill the lake to a depth of 2,300 feet."

If all this be so, where does the petroleum shortage come from? The answer, both writers make clear, is—government policy. The reason many countries of the world have had so little oil prospecting is that they have economic institutions hostile to investment and exploration: Government ownership or tight control of land, lack of property rights in minerals, confiscation of business holdings, punitive treatment of business profits, etc.

Because oil prospecting is a high-risk venture anyway, nations with such economic conditions are not good candidates for expensive exploration. The United States and other societies that have historically offered greater access to mineral resources and greater rewards for risk-taking have attracted most of the economic action in this area.

Unfortunately, the United States has taken to emulating other nations in this matter, rather than the other way around. Wanniski, for example, deplores the tendency to close off more and more U.S. lands from mineral exploration: Before the Carter presidency, 500 million acres—three times the size of Texas—were unavailable for such prospecting. Mr. Carter has added another 185 million to the total.

This problem is especially acute in the Western states, such as Nevada and Alaska, because the federal government owns the vast majority of the land. Wanniski notes that "the North Slope field in Alaska, the largest field discovered in the United States (the East Texas field being the second), covers an area of only 400 square miles in a state of 566,000 square miles."

On top of all this, our government has inhibited petroleum exploration and production with a straitjacket of price controls, and is now moving to replace these with a "windfall profits tax" that would have much the same effect. These are solid barriers to highrisk wildcat drilling, and also stand in the way of developing new, higher-cost techniques for recovering some of that 300 billion barrels already discovered and waiting in the ground.

There is, in other words, no natural shortage of petroleum in the United States, and even less is there a shortage throughout the world. What there is instead is an entirely artificial shortage created by the practices of government.●

INTERNATIONAL PROBLEMS CONFRONTING THIS COUNTRY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. CARTER. Mr. Speaker, we have heard repeatedly in recent weeks that the international problems confronting this country are as great as any we have faced since World War II.

In a recent address in New York, former President Gerald R. Ford offered his analysis of the present situation and his opinion as to actions over the past 3 years which helped foster those problems.

In that speech Gerald Ford put the present administration on notice that he would not stand silent while inaccurate or misleading statements are made by the Carter administration officials.

I believe the comments of our former President deserve widespread circulation in their original form, and I offer for the RECORD these excerpts from his speech before the Monroe County Republican luncheon in Rochester on January 23:

EXCERPTS FROM SPEECH BY GERALD R. FORD

Now let me turn to foreign policy and related programs. From the outset of my political career in 1949 as a freshman member of Congress, I believed in a bipartisan foreign policy. As a Republican, I consistently supported Democratic Presidents' Truman and Johnson as they sought to implement foreign policy decisions in our national interest. Since leaving the White House three years ago, President Carter has asked for my direct assistance on a number of foreign policy issues.

I responded affirmatively on the Panama Canal Treaty, the sale of military aircraft to Israel, Egypt, and Saudi Arabia, the lifting of the Arms sale embargo to Turkey and the recognition of the Peoples Republic of China. From the first day the American hostages were seized in Iran I have urged national unity and supported the President's efforts to resolve the crisis. So far I have refrained from any criticism as the Carter Administration seeks a solution to the Soviet invasion of Afghanistan. The crisis is too grave, the threat to peace is too real.

However, the President and his advisors must recognize that cooperation is a two-way street. I have and will continue to give bi-partisan support when our national security is challenged. Having been there, I know how important it is for a President to have bi-partisan support when Oval Office decisions are made affecting our nation's future. I will not, however, tolerate inaccurate or misleading partisan statements by the Carter Administration. In recent weeks the White House has been guilty of these untrue partisan attacks. The Carter Administration can't have it both ways—one day asking for Republican help and the next day blaming us for their weaknesses in defense and indecision in foreign policy.

While the Carter Administration foreign policy slides from crisis to crisis, the White House tries to rewrite history by blaming previous Republican Administrations for current Carter weaknesses and failures. In an attempt to hide deliberately from responsibility for their foreign and military policy failures, the White House, through National Security Advisor Zbigniew Brzezinski is clearly falsifying the record for partisan political purposes. Such Carter Administration propaganda, to cover up the current mess, comes with illgrace at the very time the President is calling for national unity and bi-partisan support in foreign policy.

Let me cite the facts. On January 15, 1980, Mr. Brzezinski, the Assistant to President Carter for National Security Affairs, said in an interview published in the Wall Street Journal, "After eight years of sustained Republican neglect for the requirements of defense, the President reversed the trend and in three successive years increased defense spending."

The truth is—the Ford Administration in fiscal years 1976, 1977, and 1978 in budget authority and in fiscal years 1977 and 1978 in outlays (expenditures) reversed the downward trend in defense spending, despite annual reductions by a Democratic majority in the U.S. Congress.

The record shows President Carter in the 1976 Presidential campaign promised to reduce defense spending by $7 billion dollars. Unfortunately, he lived up to those naive promises. Within the first few months after taking office in January, 1977, he cut the (or my) military budget by approximately $2 billion.

The Carter Administration reduced my proposed defense budgets for 1979 through 1983 (a six year period) by $57 billion, an average cut of $9.5 billion per year. Carter slashed our strategic program $24 billion (26.9 percent), general purpose forces were cut $25 billion (7.3 percent) and research and development was reduced by $10 billion (12.6 percent). President Carter cut my planned Navy budget over the six year period by almost $26 billion (41 percent of the total). Ford budget approved a five year Navy shipbuilding plan of 157 new ships by 1982, an average of 31 per year. President Carter in his first two years in office slashed this program 54 percent.

The Ford Administration approved a plan to deploy the MX Missile by fiscal year 1984. Tragically, the Carter Administration held back on the MX. Consequently, its deployment date will be delayed at least four years at a time when our Minuteman missiles will become increasingly vulnerable to Soviet strategic strength.

President Carter in 1977 cancelled the B-1 bomber program, of 244 modern aircraft with no replacement to take its place. The aging B-52s, now 25 years old, are not adequate for the decade of the 80s.

The Trident submarine procurement under Carter was cut back and the initial operational deployment was delayed by two years.

A legendary New York statesman—Al Smith—used to say—"Let's look at the record." In this case the facts expose the Carter White House to a partisan distortion of history. Mr. Brzezinski, who should know better, is guilty of outright misrepresentation.

During his 1976 Presidential debates, candidate Carter repeated his campaign pledge to reduce military budgets by at least $7 billion. I challenged him during the debates to justify his commitment to irresponsible cuts in defense spending programs. Now with the Soviet Union stronger militarily and more aggressive worldwide, in 1980 it would be interesting to see and hear in a debate, President Carter's alibies for his cutbacks in U.S. military programs and funding during his three years in office.

In the 1976 Presidential campaign and during his first 2½ years in office, Mr. Carter naively misread Soviet military and diplomatic intentions. In the last three years the Russians have beefed up their Pacific fleet and now use the Camranh Bay Navy base in Vietnam. There is a continuing build up of Soviet naval strength in Cuba which has followed the introduction of a Russian combat brigade on Cuban soil in the last two years. The Soviet Union has now moved into Afghanistan with the obvious target the vast oil reserves in the Middle East. Their Warsaw Pact military forces, augmented by the S.S. 20 missile and Backfire Bomber, are stronger not weaker.

Yes, the United States faces the most serious confrontation since the end of World War II and the American People are ready to follow strong leadership in this hour of crisis. My advice to the President and his staff—admit your mistakes and don't falsely blame others. 221 million Americans—Democrats, Republicans and Independents will join together to save this blessed land.●

TRIBUTE TO JIMMY LEA

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mrs. HOLT. Mr. Speaker, it is with mixed emotions that I join my colleague from Maryland (Mr. BAUMAN) in wishing Jimmy Lea and his wife a happy, healthy, and prosperous retirement.

Since my first day in Congress, Jimmy has been an able mentor to me. He is extremely knowledgeable about House procedure and has kindly advised and counseled us. We will miss him sorely.●

BLACKBOARD JUNGLE REVISITED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. MICHEL. Mr. Speaker, about 20 years ago, Hollywood presented us with a movie that gave a new catch phrase to our language: the "Blackboard Jungle." The movie told of the problems faced by a teacher working in a tough urban high school. As I recall, the supposed bad behavior of the film's students consisted of making tough faces, listening to rock and roll, and wearing black leather jackets.

The problems depicted in the "Blackboard Jungle" are minor and perhaps even laughable compared with those faced by teachers in today's urban schools. The Wall Street Journal reports that in some schools fences are needed to keep out intruders, theft is commonplace, violence occurs as a matter of course, teachers are not allowed to stay after school because of threats to their safety and, in general, the atmosphere resembles a State prison rather than a school.

This real-life blackboard jungle happens to be located in California. But studies show that the disruptive and even violent behavior that has made the California schools in question incapable of real education exist across the Nation. In one such school half of the graduates go on to college—a fact that says more about the sad state of colleges than it does about the students' abilities. And what is the Federal answer to all this? Spend more money. That's not an answer. That's an evasion.

At this time I wish to insert in the RECORD, "Blackboard Jungle in Inner-City School, Getting an Education Is Often a Difficult Job," from the Wall Street Journal, February 5, 1980:

BLACKBOARD JUNGLE—IN INNER-CITY SCHOOL, GETTING AN EDUCATION IS OFTEN A DIFFICULT JOB

(By Laurel Leff)

COMPTON, CALIF.—In my first day as a substitute teacher, the 30 students in my high-school class start the day by pledging allegiance to a nonexistent flag.

"Where's the flag?" I ask innocently afterward. "Aw," one student answers, "somebody stole it."

I soon learn that flags aren't the only things that are stolen in the schools of the Compton Unified School District in this predominantly black area just south of the Watts District of Los Angeles. Theft, vandalism and violence are such routine occurrences here that it sometimes seems that no one notices. A science teacher I substituted for was taking the day off to replace the cards from his stolen wallet; he returned the next day to find his file cabinet had been ransacked.

Thievery isn't the only problem. Like a lot of other school districts, Compton has also been plagued in recent years by students' drug and alcohol use, physical attacks on the staff, and general disruptive behavior, sometimes by nonstudent intruders. Nationwide last year, the National Education Association says, one out of 20 teachers was physically attacked by students, up 57% from the rate in the 1977-78 school year. One of four teachers reported some personal loss from theft or vandalism. In many inner-city schools, the rates are no doubt much higher.

PERVASIVE POVERTY

Compton says it has made headway against the problems through tightened security and other disciplinary actions, but getting a good education in the Compton schools still isn't easy. Although about 52% of Compton's high-school graduates go on to college, not far below the national rate of 59%, most of those enroll in community-college programs. The educational process at Compton remains mired in such matters as inadequate supplies, crowded classrooms and the community's pervasive poverty. The dropout rate is high, and absenteeism at the district's high schools averages more than 18%.

Despite the efforts of some administrators and teachers, the despair that hangs over Compton schools is nearly as debilitating as any actual crime and violence, I found in seven days of substitute teaching at three of the 11 regular secondary schools in the district.

Being hired as a substitute without the district's knowing I was a reporter was relatively easy. In California, districts can hire substitutes without teaching credentials when it has a shortage of qualified substitutes, as Compton does.

After filling out an application form, I was asked only for my transcript from Princeton University, where I received a B.A. degree. (I didn't make any false representations, and after my seven days on the job, I returned the pay I received and explained my purpose in taking the job.)

NO RACIAL TENSION

Compton is unquestionably a very poor community, but it isn't a changing one. For years, the student body has been predominantly black, and the composition today is 85% black and 10% Hispanic. I saw only one white student during my tour of duty. The administrators and teachers are about 30% white, however.

Aaron C. Wade, the district's superintendent, says that with the enrollment almost completely minority, racial tension has been minimal and that "a few" attacks on teachers have occurred in the past year. Georgia Maryland, union representative for the district's teachers, says that increased security has helped to reduce the number of attacks.

During my stint, I was never accosted, or even threatened. Nor did I see any violence beyond student roughhousing. Yet the teachers' worries were evident from informal conversations and from the elaborate security precautions.

CENTENNIAL HIGH SCHOOL

At one school where I taught, Centennial High School, each student now must wear an identification badge bearing his picture, name and address. Students must enter the school each morning through a single door so that a teacher can check the badges. Any student without a badge is sent home. Five minutes into each class period, teachers are told to lock their classroom doors and check IDs. Security guards then sweep through the halls and send any roaming students to "Room 100" for a class euphemistically labeled "survival skills center." Students in this class are put to work on jobs such as painting over the graffiti in the halls, classrooms and bathrooms.

It was at Centennial, a sprawling redbrick school with 1,500 students, that I substituted for the teacher whose wallet had been stolen. The next day, when he found more things had been taken from his cabinet, he said, only half-jokingly, "Sometimes you have to approach the students with whips and chains."

The nervousness that prompted the use of the IDs and other tightened security this year is echoed in the Centennial Teacher Handbook, which warns: "If you observe a student destroying or defacing school property, do the following: Make him aware you see him and intend to report him (if you have the nerve). If not, follow Example 2. 2. Don't tell him but report him to the dean anyway."

Many teachers say conditions have improved with the tighter security, but they aren't completely convincing. Although Principal Willard McCrumby tells me there hasn't been an attack on a teacher in two years, other teachers say that an assistant football coach had his car vandalized earlier this year and that last year he had been jumped by some of his football players.

The Centennial principal says violence has abated because of the security measures and because of a growing wariness among students about the use of drugs. "Students realize that isn't the way to go because they've lost a lot of friends to death from drug overdoses," Mr. McCrumby says.

To some teachers, however, the security doesn't get at the real problems—disruptive behavior and lack of respect and motivation. The oft-repeated refrain is that teaching just isn't what it used to be. One Centennial teacher who has been teaching girls' physical education there for over 15 years laments, "Students used to have drive. They really wanted to succeed. They would clean up the campus after lunch and take pride in having it look good. Now you have to push them. The campus is a mess. They won't do anything. They just don't care. Like in my fourth-period class, 26 were absent in a class with 47."

COMPTON HIGH SCHOOL

At the second high school where I taught, Compton High School, the 2,500 students don't wear IDs. The cluster of white buildings painted with colorful murals, however, is surrounded by high fences to keep students in and troublemakers out. Three security guards also patrol the campus, each armed with a walkie-talkie, a club and a gun. Since September, the school has also had a policy that prevents teachers from staying after school in buildings far from the main building. The school's principal, William Hill, terms it "a preventive measure" after widely reported school attacks on teachers in other districts; but teachers here say there were some "incidents" at Compton High as well.

Theft, in particular, remains a problem. During my first day at Compton High, the school's master keys are stolen from a janitor. Over the school intercom system, an administrator offers a $25 reward for the return of the keys, "no questions asked." The keys aren't returned, however, and one teacher comments during lunch that the school's keys are stolen repeatedly.

A year ago, she recalls, she once locked the door to her room, leaving her purse inside. Then, as she stood nearby in the hall, a student she didn't recognize calmly opened the door with a key, entered the room and grabbed the purse, which she never recovered.

Most teachers take precautions against robbery. A male teacher warns me, "Don't leave anything around ever or students will take it." Another teacher says that when she carries money, it is always tucked in her bra.

Vandalism and security measures take a considerable chunk of the district's limited funds. The district spends $1 million annually on security. The amount spent to repair damage from vandalism dropped to $12,000 during the 1978–79 school year from $20,000 the previous year.

A STOLEN CLASS

A Compton High School teacher, who formerly taught shop and now teaches a class called "guidance, health, and world culture" (it covers everything from drivers' education to birth control and Chinese civilization), says that last summer some large shop equipment was stolen from a locked classroom and that the shop class was subsequently canceled. Both the high school's principal and the district's superintendent nevertheless later tell me that they aren't aware of the theft. In another incident, several typewriters were loaded into a truck painted the district's colors. Superintendent Wade says this theft was "an inside job," and some of the typewriters were retrieved.

While I am teaching a business class at Compton High, a student bursts into the room in the middle of the period. Several students proclaim, "He's hiding out from the security guard." Soon, the intruder dashes out of the room with the security guard in pursuit.

Lack of discipline heightens tension between teachers and students. A large male Compton teacher tells a student loitering in the hall to "move on." The student snaps "Shut up." "You shut up," the teacher retorts, "or I'll bust your head in." The shouting match ends without further ado, and the student moves on.

"It helps if you talk their language," a female counselor who was raised in Compton tells me later. "You can say, 'I'll punch your head in.' You put in your bluff before they put in theirs." Then she adds sadly, "they drain everything out of you. I used to teach before kids were like they are now—with no respect."

EXPECTATION OF VIOLENCE

The mere expectation of violence is disquieting. As I walk through Compton High's dim halls with a group of students, we spy a cluster of people. "Somebody must have shot somebody," one student calls. The other nods in agreement. But we quickly discover that the group is simply talking to a teacher.

Later, I talk with a junior girl about an incident at a football game between two Compton high schools last fall. "It wasn't that bad," she says. "Only three people got shot. They weren't shooting across the field at each other like the O.K. Corral."

Even as violence is controlled somewhat, the underlying problems remain. The student-teacher ratio is officially 30 to 1, but in seven days with about five classes each day, I never have a class with fewer than 30 students enrolled. (Absenteeism was high, but that problem is always aggravated when students learn there is a substitute teacher.)

A white male business teacher at Compton High says that students aren't as "aggressive" as they were in the 1960s, when Black Panthers and Black Muslims reigned, but that "they've also mellowed academically." "I have a couple kids in each of my classes who are functional illiterates," he says.

BENJAMIN DAVIS JUNIOR HIGH SCHOOL

At Benjamin Davis Junior High School, the other school I visit, gang warfare seems to be a way of life. In the teachers' lounge, a security guard tells me he is waiting until school's end so he can escort away from the school two gang members he caught fighting. "You never know, anything can happen," the guard says, visibly nervous. "They only fight at school, where the other kids can see. They love that."

Each junior high school in the district has one security guard who has the option of carrying a gun. (The elementary schools employ "security counselors" who aren't registered as guards and don't carry guns.) The guard at Benjamin Davis chooses not to carry a gun. "It would only make things worse," he says. "After all, some of them are just little kids."

After school, as the security guard follows the gang members away from the campus, another fight breaks out away from the school grounds. Hundreds of students dart across the lawn and around the corner to watch the fight. A female teacher assigned to supervise the end-of-school exodus remarks to a colleague, "When they're off school ground, this lady doesn't go around the corner." Eventually, the guard returns to break up the fight.

The general tension in Compton schools creates a high turnover among the teaching staff, union representative Maryland says. But most teachers keep going back, and not simply to hold onto a job. Many teachers seem to realize the extent of the students' difficulties and to want to do something about it.

A PERSONAL PERSPECTIVE

It's impossible to separate the community's problems from the schools. They creep into everything you do. Left without a lesson one day, I begin a discussion of abortion with a 10th-grade class. In the midst of a rather raucous discussion about whether it's worse for a fetus to be aborted or a child to be abused, a student raises his hand.

He says he wants to say something personal on the subject. In a rush of sentences he tells a heart-rending story of his early years, when his unwed mother shuffled him between relatives and foster homes. He concludes quietly, "I'd rather be aborted than go through that." The class was respectfully silent.

Another reason teachers seem to remain almost blindly optimistic is the essential goodness of many students. Take the junior-high boy who asks me for change for a quarter. I only have three dimes, so I hand them to him without asking for the extra nickel.

"I owe you a nickel," he says. "I think I've got it in my sock," he mumbles quickly, as he carefully removes his worn-out sock, minus toes, and then hands me a nickel.●

MILITARY PRESENCE IN AFGHANISTAN

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. EDWARDS of California. Mr. Speaker, I would like to share with my colleagues two articles which appeared on Monday, February 4, 1980, in the Washington Post and the New York Times respectively.

I concur with these articles that any amplification of our military presence in Afghanistan at this time would be premature and unwarranted.

The articles follow in their entirety.

[From the Washington Post, Feb. 4, 1980]

DULLES DOCTRINE, REHEATED

As the underlying significance of the president's State of the Union message on foreign policy gradually sinks in, it shapes up not so much as a new Carter Doctrine as a revival of the old, discarded Dulles Doctrine of "massive retaliation."

When John Foster Dulles became secretary of state in the early 1950s, he found that there was no dependable way of opposing Russia with limited conventional forces on far-flung fronts of Soviet choosing, where Moscow, with its vast army, had all the advantages. Dulles' answer was the threat of countering with massive retaliation, meaning the use of nuclear weapons.

Today, President Carter finds himself, in the wake of Afghanistan, in much the same dilemma as Dulles. Few, if any, military experts believe the United States could successfully challenge Russia in a conventional war on or near the Soviet borders, 7,000 miles from home base.

Nevertheless, Carter, without consulting Congress or our allies, declared on his own that any "attempt by outside forces to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States, and such an assault will be repelled by any means necessary, including military force."

So far, Carter has declined to define just what that commitment or ultimatum means. The limited forces available to the president for action halfway around the world seem to preclude a major conventional confrontation with Russia in that area. After all, it took years for the United States to get 500,000 troops to Vietnam, and even then they didn't prevail, although the Hanoi military machine was a fraction of the size of Moscow's.

Hence, it must be concluded that Carter's message to Russia implies a resort to nuclear war if necessary. In short, back to the Dulles Doctrine, which failed because it lacked credibility.

Although in the 1950s the United States enjoyed enormous superiority over the Soviet Union in strategic weapons, and our army was then reinforced by conscription, the Dulles formula did not deter Soviet military aggression when it thought its vital interests were at stake.

There was no U.S. response when Soviet tanks in 1953 crushed a workers' rebellion in East Berlin. In 1956, when the Russian troops marched into Czechoslovakia to put down another revolt, there was only a *pro forma* protest from Dulles.

It is now becoming increasingly clear that, while our allies and "friends" in the Arabian peninsula disapprove of the Soviet occupation of Afghanistan, they are much less alarmed by it than is Carter, and have no stomach for an allout showdown in the region where the president has just drawn an ambiguous line.

Moreover, reservations are being expressed by leading American hawks like Sen. Henry Jackson and former deputy secretary of defense Paul Nitze, who are fearful about sweeping extensions of U.S. commitments until the military establishment is much stronger than it is now. "With the Soviets," says Jackson, "you have to be credible; you have to deliver."

The Senate's minority whip, Ted Stevens of Alaska, says, "If the Carter Doctrine had been in effect before Afghanistan, we'd be at war with the Soviet Union right now." He thinks "the Persian Gulf is the worst place in the world to meet the Russians." Another hardline conservative, House Republican leader John Rhodes, hears "a lot of saber rattling, but not much in the saber."

In his recent pax Americana mood, Carter has not confined himself to the Persian Gulf, but reaffirmed a 1959 defense agreement with Pakistan and a 1962 pledge of military support to Thailand against communist aggression. The administration has also been making supportive sounds for Yugoslavia.

That's covering a lot of territory, particularly in view of a Jan. 15 Gallup poll that showed the American people were 12-to-1 against "taking direct military action to contravene the Soviet presence in Afghanistan," which is next door to Pakistan.

Is Afghanistan, as Carter says, really the gravest threat to peace since World War II? Is it, as Sen. Edward Kennedy asks, "a graver threat than the Berlin blockade, the Korean War, the Soviet march into Hungary and Czechoslovakia, the Berlin Wall, the Cuban missile crisis, or Vietnam?" Exaggeration and hyperbole, Kennedy says, "are the enemies of sensible foreign policy."

As he points out, the Russians have dominated Afghanistan not for five weeks, but for 22 months. Years ago, he notes, Afghanistan passed under Soviet influence. And he adds, "It passed behind the Iron Curtain not in 1980, but in 1978, with hardly a word of regret from the Carter administration."

[From the New York Times, Feb. 4, 1980]

THE MILITARY BALANCE: ABOUT EQUAL

(By Adam Yarmolinsky)

WASHINGTON.—The periodic charge that the military balance has shifted or is about to shift across the board in favor of the Soviet Union is worrisome enough in the light of the Soviet Union's ugly military adventure in Afghanistan, other possible moves toward the Persian Gulf, and the continuing United States dependence on Middle Eastern oil. It is even more worrisome when coupled with the charge that the overall balance cannot be restored until late in the new decade.

Neither charge, however, stands up under examination.

While the facts do not suggest any grounds for complacency, they do tell us that if we pursue a sensible spending policy, emphasizing combat readiness, mobility and flexibility, there will be no "window" in the 1980's through which the Russians can with impunity reach for the "cookie jar." The Russians must measure any local advantage that they think they can gain against the overall United States-Soviet Union military balance.

In the air, on the sea, and on the ground, United States and North Atlantic Treaty Organization forces outpoint the Warsaw Pact's in quality where they do not actually outnumber them. Overall, considering that there is a rough equivalence of the forces, factors such as training, tactics and readiness become decisive.

The Russians' numerical edge in combat aircraft is balanced by our qualitative superiority. They cannot match the F-15 in air combat, nor do they have any plane comparable to the A-10, an armored close-support aircraft that can knock out tanks. Our new F-16 fighter, which is very capable in both air-to-air combat and ground support, is now coming off the production line. In combat tactics and training, we have a significant margin.

Our naval forces remain superior to the Russians'. Over the last 15 years, we have launched more than twice the tonnage and more than 20 percent the number of surface ships they have launched. Only if one compares numbers of ships without regard to size or firepower do they loom as a serious threat. They outnumber us in particular types—for example, attack submarines—since they as primarily a land power see the destruction of American shipping as a primary mission. The Soviet Union is indeed building a blue-water navy, but that navy is still the stepchild of its military establishment whereas ours commands one-third of the entire defense budget and substantially more than either the Army or Air Force.

On the ground, NATO has almost as many men under arms as the opposing forces of the Soviet bloc. The Russians have more tanks than we do, but this is at least partly offset by NATO's planes and antitank weapons. Further, the United States Army started last year the biggest modernization program in its history, and NATO has begun an ambitious modernization program of its own.

Given our general qualitative superiority, if we choose to increase quantities of particular weapons, we do not need to await the development of new systems, with resulting delays into the late 1980's but often can reopen, continue or accelerate existing production lines.

Nor should the Soviet military performance in the invasion of Afghanistan give us pause about our relative military capabilities. If the Russians could not move 100,000 men across their own borders—most of them on existing highways—after months of preparation, they ought to turn-in their uniforms.

The central issue remains one of combat readiness.

Historians generally agree that at the onset of World War II, the Germans did not have more tanks or men than the Allies, but those they had were fully combat-ready. The Pentagon's emphasis on elaborate weapons systems has tended to keep training and readiness activities on short rations. Unrealistic comparisons of weapons strengths divert military spending from less glamorous but more essential purposes.

There are a number of unsettled issues in comparing United States and Soviet military strength, from the question of theoretical vulnerability of our Minuteman land-based missiles to the utility of theater nuclear weapons in the European theater to the combat ready capability of our existing forces.

But poor-mouthing United States military strength only tends to promote unnecessary inflation of the United States defense budget—and dangerous inflation of Soviet estimates of their own capacity for mischief.●

NOMINATION OF RUTH BADER GINSBURG

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● **Mr. DANIEL B. CRANE.** Mr. Speaker, President Carter's intention to nominate Ruth Bader Ginsburg, a professor of law at Columbia University, to serve on the U.S. Court of Appeals of the District of Columbia, should require intense scrutiny from members of the Senate Judiciary Committee which must pass on this nomination.

The District of Columbia Court of Appeals is considered by many legal experts as our Nation's second highest court. Although recognized as a writer on legal subjects and a teacher, Mrs. Ginsburg has had no prior judicial experience and will be sitting on a court in which she will be reviewing the decisions of other judges and complex legal issues.

Besides this lack of judicial experience, Mrs. Ginsburg has been very strongly tied into the so-called feminist movement which has its own interpretation of where the Federal law should be going regarding cases involving gender. She has not only been interested in the issues promoted by this group but has been one of the major proponents of their programs. She accepted a job as law professor at Columbia University on condition that she could share her time with the women's rights project. She has served on the board of the women's law fund and on the executive committee of the Women's Action Alliance. Her writings reveal an excessive concentration on the law as interpreted from a viewpoint in accord with the political program of groups like the National Organization of Women.

Mrs. Ginsburg has been a strong enthusiast and active worker for the passage of the equal rights amendment and a strong supporter of the time extension. She takes a view of the ERA which could bring about a vast revolution in cases involving jobs, the family, abortion, and so forth.

Mrs. Ginsburg will be sitting on an important Federal court deciding major constitutional issues. However, she will be bringing with her a predetermined viewpoint combined with political advocacy. Can we expect impartial and balanced judicial decisions on issues which organizations such as NOW have a viewpoint and on issues which Mrs. Ginsburg has promoted a certain viewpoint? I doubt it.

The Senate Judiciary Committee has a special responsibility to carefully examine this nominee and the significance of putting such an advocate on the U.S. Court of Appeals for the District of Columbia.●

DOMESTIC VIOLENCE AGAINST THE ELDERLY—A HIDDEN PROBLEM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. BIAGGI. Mr. Speaker, several months ago, I placed an article entitled, "Battered Grandparents: Hidden Family Problem" into the Congressional Record. This far reaching but little known problem of domestic violence against the elderly is especially significant because of the fact that our society is an aging one. The individuals born during the post World War II baby boom are well on their way to becoming the senior boom of the 21st century. Today, there are about 24 million Americans aged 65 and over; this population is expected to reach 31 million by the year 2000, and climb even higher to 45 million by 2020.

Despite this demographic phenomenon however, large numbers of our Nation's elderly lack formal care arrangements. Unlike England, this country provides no respite care services to help alleviate the financial, psychological, and physical burden felt by many family members who must care for their aging parents. A study by the General Accounting Office in Cleveland, Ohio, found that 9 out 10 elderly persons customarily turned to family and friends for most of their outside needs. It is reasonable to suspect then that lack of adequate support systems may be contributing to the largely neglected and hidden problem of grandparent abuse.

This type of domestic violence, sometimes referred to as grandparent battering, involves a wide range of abuse. Such behavior may include benign neglect, abandonment, physical or psychological assaults, financial exploitation, and violation of basic human rights. Victims are usually caught in the reversed role of being dependent on their children who must now offer financial and emotional support as they, as parents, once did. Sadly, abusers are commonly the adult children or spouse, but they may include other relatives, neighbors, friends, housekeepers, or nursing home staff.

Although there is uncertainty regarding the number of abused elderly—some believe the figure to be over 1 million—experts do agree that the incidence is probably underestimated. Such violence may continue officially undetected because of fear of reprisals, unwillingness to report on ones own children, or lack of information regarding sources of assistance. Unfortunately, the consequences can be devastating. Dr. Marvin Ernst of the Geriatric Research Institute in Dallas, Tex., estimates that nationally, 10 percent of the frail elderly—that group of individuals 75 years and over—receiving care from their children may be at risk of being abused.

In their January 27 edition, the nationally syndicated Parade magazine featured an article on the problem of elderly abuse. It cited a recently completed study conducted at the Chronic Illness Center in Cleveland, Ohio, which identified 39 cases of abuse during a 12-month period. Although the sample size was small, the study did reveal some significant findings, including the following: In the majority of the cases, the presenting problem was health related, most of the abused were women, and almost three-quarters of the cases involved physical abuse while over one-half involved psychological harassment. The authors of the study identified four areas of abuse—physical, psychological, and material abuse, and violation of rights—and concluded that abuse of the elderly usually involved more than one type.

Although sociologists have published a number of theories regarding abuse of the aged, the problem has not been well researched. It is interesting to note that authors Johnson and Bursk have reported a positive correlation between the quality of the family relationship and the health of the parent. The Cleveland study moreover, found that over three-fourths of their cases had at least one major physical or mental impairment. Indeed, one significant factor to consider in dealing with the care of the aged is the very stressful effect that such a responsibility may have on the caregivers. Constant pressure on an individual who is not prepared emotionally, or equipped with appropriate skills or financial resources may lead to tremendous anxiety and a potentially explosive situation. To make matters worse, our society tends to cast the elderly aside as being no longer economically productive and thus looked upon as a useless individual who merits little respect.

What can be done to stem the tide of abuse of the elderly? The first step is to acknowledge the problem and publicize it to encourage further research and collection of data, experimentation of effective modes of intervention, and passage of legislation to protect both the victim and the informant. As the elderly continue to grow in numbers existing primary support networks will become increasingly inadequate, heightening the need for a wider range of health and human services. If presented properly, family counseling and community supports can provide relief to overburdened family members and thereby lessen the shocking incidence of elderly abuse.

As chairman of the Subcommittee on Human Services of the House Select Committee on Aging, I intend to conduct congressional hearings to help document the scope of this serious national problem. I am also hopeful that the hearings will help to insure that provisions to aid elderly victims of domestic violence are included in the Domestic Violence Prevention Act, legislation Congress will soon consider. The House has already passed its version, and the Senate is now beginning its consideration. It is most important that we not shy away from this problem and work, instead, toward its eradication. In doing so, let us be certain that we help all the unfortunate victims.

The article follows:

Parent Abuse—A New Plague

(By Lewis Koch and Joanne Koch)

"Parent abuse," a new term in the lexicon of family violence, may become the hidden crime of the 1980s. Abused parents are elderly people who live with and depend upon their adult children and who are psychologically or physically mistreated by them. The public is virtually unaware of the battered aged, yet there may be a million or more elderly parents suffering abuse at the hands of their own children.

Suzanne K. Steinmetz, associate professor of Individual and Family Studies at the University of Delaware and author of several books on family violence, finds that the battered parent problem—first labeled in England as "granny bashing" and "gramslamming"—is growing here in numbers and ferocity.

"In the U.S.," notes Steinmetz, "the care of 22 million people over 65 is left to chance." When overburdened and unprepared adult children take on the care of their parents, many of them become abusers:

In Chicago, a 19-year-old woman confessed to torturing her 81-year-old father and chaining him to a toilet for seven days. She also hit him with a hammer when he was asleep: "I worked him over real good with it. Then after I made him weak enough, I chained his legs together. After that I left him and rested. I watched TV for a while."

In Delaware, Mrs. A., 78, has a 37-year-old retarded daughter who is the mother of a 13 year-old daughter. The grandchild physically abuses the grandmother.

In Chicago, a 69-year-old father was charged with involuntary manslaughter after his son died during a scuffle with him. "I just knew I couldn't stand for him to beat on me," the elderly man said. Chicago homicide investigator Victor Tosello said cases involving a grown child beating up on parents "happen all the time. It's not at all unusual for these kids to beat up on their elderly, who are at a disadvantage. Parents are terrified of their children."

Professor Steinmetz cites many incidents of benign neglect—tying elderly kin to beds or chairs while housekeeping or shopping is finished, giving them excessive doses of medication or alcohol to make them more manageable. But after examining a recent survey on family violence, she reports that much of the documented abuse is openly violent—parents battered with fists and objects to "make them mind," to force them to change provisions in their wills, or to sign other papers. She says nursing homes have even complained that they can't prevent family members from abusing parents during visiting hours.

In one of the few parent-abuse studies available—this one conducted by Elizabeth E. Lau and Jordan I. Kosberg at the Chronic Illness Center of Cleveland's county hospital system—one out of every 10 elderly persons living with a member of the family had been subjected to abuse.

Lau and Kosberg believe the rate of actual abuse is even higher. Dependent parents are often incapable of reporting abuse—afraid to be evicted or ashamed to admit that they have suffered at the hands of their own children. Many become resigned to their fate.

Of the cases actually reported, they found four types of abuse to be most prevalent:

Physical abuse, which included direct beating and the withholding of personal care, food, medicine and necessary supervision.

Psychological abuse, including verbal assaults and threats provoking fear.

Material abuse or theft of money or personal property.

Violation of rights—forcing a parent out of his or her own dwelling, usually into a nursing home.

Three-fourths of the cases in the Cleveland study involved physical abuse; almost half included psychological abuse; and in almost every case, there was a violation of rights. While every state has laws against child abuse, Lau and Kosberg point out that many states still have no laws specifically for the protection of the abused elderly. If they do go to court, Lau and Kosberg say, "they have less rights than the average criminal."

The victims of family violence—battered parents, battered children and battered wives—have common disadvantages, notes family sociologist Diane Levande of Michigan State University: "Victims are smaller. They have less physical strength and feel helpless in relation to the aggressors. Victims are dependent on their aggressors for financial, physical and emotional support and care. Victims are seen by the society as less important in status of productivity." This is particularly true of the abused elderly. As Suzanne Steinmetz has written: "The aged are at the end of their economically productive life, which is the basis on which our culture values individuals and provides them with deference, status, respect and rewards."

Maggie Kuhn—founder of the Gray Panthers, a senior citizens' rights organization—hopes the aged will be able to maintain a valued position in our society while their caretakers begin to receive more support. "We get calls all the time from people who are at the end of the line. They say, 'Help me. My mother's home. She's had a stroke. We can't leave her alone.' They feel guilt, rage, frustration, the enormous fatigue of caring for a person through the night and then having to get up to go to work the next morning. That can make people very angry, very frustrated—even violent."

Maggie Kuhn remembers feeling rage mingled with compassion and pity when caring for her own mother, who died at the age of 92. She claims the thing that helped her with those last trying years was the friendships she had established with her mother when Maggie was in her late 20s and early 30s. It was easier to move from this base of friendship and equality gradually into her role of caretaker. Kuhn believes people in their middle years need to be educated to prepare for the role-reversal that inevitably comes when aging parents require care.

If middle-aged children have a chance to prepare for their parents' growing dependency, and if the process is a gradual one, they are less likely to be overwhelmed by the caretaker role. This was one of the findings of social worker Amy Horowitz, who studied New York families that were caring for an elderly parent. In her report at an annual meeting of the Gerontological Society, Horowitz noted that support from other family members and a history or reciprocal loving concern between child and parent reduced the possibility for conflict. Seeds of rage and retribution can be planted, Horowitz found, when care is given "in spite of, not because of, the past relationship."

Even if the relationship has been reasonably good in the past, assuming the care of an elderly parent is fraught with stress. The woman—and in most cases it's a woman who assumes this burden—must play the dual role of daughter and wife. Many wives, said the Horowitz study, attempted to protect their husbands from involvement rather than sharing the burden. This was true even when the woman was the daughter-in-law.

A woman may have many motives for assuming the care of a parent: Love, a sense of obligation, an inability to face the guilt of consigning the parent to a nursing home, the need for additional income, or at least a financial need to avoid the cost of good nursing care. Even when children assume this responsibility out of love, witnessing the aging of one's own parent is painful.

The best of parent-child relationships can deteriorate as the burden of caring persists. Yet there are virtually no support systems for the caretakers, no useful roles for those who require care so that they will continue to feel like persons. According to Kuhn, less than 4 percent of the outpatient mental health centers around the country are reaching anyone over 60.

As life expectancy increases and the U.S. population shifts, more and more Americans will find themselves confronted with an aging parent who requires care. Between 65 and 72, only one person in 50 needs long-term care. But at age 73 and over, the chances rise to one in 15. In 1978 under 5 percent of the elderly population were living in nursing homes. Horowitz and others who work with the elderly say that bigger and better nursing homes are not the answer. Help will come, Horowitz predicts, from "developing ways to support a family caring system which is struggling to survive."

With the cost of living rising and more women working, the problem of parent care and parent abuse is not likely to diminish. A nationwide alert to the presence of battered parents could lead to a network of "hot-lines" and community-support systems like those that have been set up to combat child abuse and spouse assault.

Meanwhile, people nearing middle age might follow Maggie Kuhn's advice and prepare for the almost inevitable role-reversal: "When the parent becomes the child, the child must become the parent."●

THE PEACETIME DRAFT IS A SYSTEM OF INVOLUNTARY SERVITUDE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. PAUL. Mr. Speaker, Senator MARK O. HATFIELD of Oregon was recently interviewed by U.S. News & World Report on whether or not we should revive the antiquated and unconstitutional registration and draft. Senator HATFIELD is especially knowledgeable on this important question, and I would like to call excerpts from his interview to my colleagues' attention:

THE PEACETIME DRAFT IS A SYSTEM OF INVOLUNTARY SERVITUDE

(By Senator MARK O. HATFIELD)

Question. Senator Hatfield, why do you oppose registration for a possible draft in the future?

Answer. Because registration cannot be separated from a draft; it's all part of the same program. The peacetime draft is more characteristic of a totalitarian system than of a free society. It is a system of involuntary servitude.

If we had not had the draft, we would never have been at war for the length of time we were in Vietnam. As long as each President had that unlimited supply of manpower, he could sustain that policy without a congressional declaration of war.

A draft is not the proper means for responding to an international emergency. The 1.3-million reserve force is for that. They are already trained. A draft should be used only to sustain a military commitment in protracted international conflict.

Let me state the obvious: I am not a pacifist, and I am not antimilitary. But I believe that the true vulnerability of America today lies not with our lack of military manpower or arms; it lies with our massive dependence upon energy imports, our inflation and our underproductive economy.

Q. Would registration really make a draft inevitable?

A. Absolutely. I am thoroughly convinced of that. In the last five budgets, the Selective Service was prohibited from using any funds in connection with induction of any person into the armed forces.

The President's new budget seeks to delete that important check and balance that the Congress has placed upon the war-making powers of the President.

Q. Advocates argue that without advance registration, U.S. mobilization efforts in future crises would be impaired—

A. That is not so. The Defense Department wants the first draftee registered and processed in 30 days—ready for basic training. But the Selective Service says that even today we can beat that time schedule by five days, or have the first person ready for basic training in 25 days—without any preregistration procedure. Under the early registration called for by the President, we would surpass that 30-day target by only 13 days.

Q. Then you see registration as a political move—

A. Certainly. It would do nothing to add to our national strength. In fact, it would be a minus. It would create dissension and problems we have not had since the 1960s. Remember, the penalty for failing to register is precisely as severe as refusal to be inducted into the military: Up to five years in prison and a $10,000 fine. . . .

Q. Wouldn't registration in this country send a useful signal to the Soviet Union?

A. We can send more-effective signals without restoring the warmaking powers of the President, which Congress deliberately circumscribed after Vietnam.

Q. Is it possible to sustain the volunteer army without a draft, given this high personnel costs?

A. Absolutely. Statistics prove it can be done: In 1979 the numbers of the Reserves went up. In recent weeks, the numbers of volunteers have increased considerably.

Today we have over 2 million in uniform and we have 1.3 million in the Reserves. We have a right to ask the question: What kind of commitment is the President making? What kind of foreign policy requires such an increase in our level of military manpower? Are we again to assume alone the role of world policeman?

Q. How would you propose to make up what the military claims are serious recruiting and manpower shortages?

A. I have supported and will continue to support appropriations for military-pay increases and for increased fringe benefits. I have supported the retention of men in the Reserves in the past when efforts have been made to reduce the numbers. I have consistently supported everything that could be justified to strengthen the volunteer and reserve programs.

Q. Isn't there a potential Soviet military threat facing us in the Middle East?

A. What is the national interest in the Persian Gulf? Oil—the dependency upon imported oil. But could we really secure the oil fields?

The truth is that there is no real security out there for us under any circumstances, irrespective of what the Soviet Union does. The oil supply could be cut off by internal disruptions in those countries tomorrow. . . .

Q. Do you have a fundamental quarrel with the concept of military service?

A. This nation was founded to serve the people, not vice versa. And to believe that we're serving the nation only when we are in uniform is completely fallacious.

A schoolteacher, a nurse, a farmer or anybody in a legitimate pursuit is serving the nation. A coercive, mandatory service to the state is one basis of totalitarianism.●

DOES MFN REALLY PROMOTE HUMAN RIGHTS?

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. SCHULZE. Mr. Speaker, as a member of the Ways and Means Subcommittee on Trade, I recently had an opportunity to visit several Eastern European countries including the Socialist Republic of Romania.

While several members of our visiting congressional delegation have attempted to paint a very bright picture of Romania's current emigration and human rights policies, I would like to take this opportunity to share with you a recent article written by a distinguished scholar, Juliana Geran Pilon, entitled "The Free Trade-Human Rights Nexus."

Since the Congress must renew most-favored-nation trade status for all Communist countries on a yearly basis, I highly recommend that everyone in this legislative body take a few moments to read this excellent critique of the Jackson-Vanik amendment. I would like to enter this article into the CONGRESSIONAL RECORD at this point:

[From the Asian Wall Street Journal, Dec. 7, 1979]

THE FREE TRADE-HUMAN RIGHTS NEXUS

(By Juliana Geran Pilon)

As U.S. Vice-President Walter Mondale was wined and dined recently by officials in Peking, there was optimistic talk of trade and "cooperation" between the two nations. Conspicuously absent, as even some TV newspeople observed, was any mention of human rights. Instead, there were confident predictions that China would obtain most-favored-nation status. But favors such as that, extended under the 1974 Trade Act, must get by the hurdle known as the Jackson-Vanik Amendment, which forbids the granting of most-favored-nation status to any country unwilling to respect the human rights of its citizens.

Current official wisdom, we expect, has it as follows: trade promotes human rights; to disregard the Jackson-Vanik Amendment, therefore, will eventually lead to fulfilling the goals of that amendment. Experience, however, indicates that once again we have here an instance of the fallacy—so pathetically characteristic of Uncle Sam—commonly known as "wishful thinking."

Consider, for example, the case of the Socialist Republic of Romania, the first Communist country for which the human rights amendment was waived in 1975. For the past few years, Romania has managed to persuade the U.S. government and the press that it pursues a policy "independent" of the Soviet Union. The liberalism such presumed independence might imply, however, is nowhere to be seen. At this point, in fact, it is legitimate to wonder whether America has been getting its credit's worth.

It seems clear that one reason Moscow doesn't object to Romania's occasional departure from the monolithic party line is President Nicolae Ceausescu's exceptionally ruthless internal style. He is by no means a threat to the basic totalitarian communism that the Soviets are known to cherish. After a brief thaw between 1965 and 1967, Mr. Ceausescu announced a tightening of party control over every facet of life. Intensified discipline in the labor force, a sharp limit on the number of people allowed to go into "nonproductive" careers such as the arts, persecution of other national groups so as to create even greater "unity," the stepping up of censorship to Stalinist levels, to say nothing about the rigid economic centralization that may be blamed for the dire shortages of food and consumer goods—all of this translates into a situation that has nothing whatever to do with liberalism, as the thousands of desperate letters pouring into Radio Free Europe indicate.

But did U.S. trade concessions buy at least an ounce of freedom? On the contrary. Several congressional members of the "Helsinki watch" committee presented a letter to the U.S. Congress only a few weeks ago expressing alarm that "deplorable practices have increased rather than diminished in the five years since the signing of the Trade Act and the Helsinki agreement." Among these practices; greatly increased barriers to Jewish emigration, believed to be motivated by a desire to discourage other ethnic groups, such as the Germans, from leaving Romania; stepped-up religious persecutions; harsh suppression of non-official workers' unions; and "exportations" to the West of common criminals who have no wish to emigrate, this to satisfy the Jackson-Vanik emigration requirements.

A poor bargain, surely, even for America's inflated dollar. Yet some kind of capitalist death wish doesn't permit the U.S. to learn from experience. Washington now appears ready to waive the human rights provision once again, by extending most-favored-nation status to the Soviet Union and China.

Unless perhaps it really isn't all that committed to defending those rights. William Verity, co-chairman of the U.S.-U.S.S.R. Trade and Economic Council, told Congress in July that be believes the U.S. can't afford a policy that restricts trade with Communist countries in view of its balance of payments deficit. This prompted Sen. Paul Tsongas to wonder at the suggestion that affluence is preferable to integrity.

In truth, one must wonder whether the U.S. can afford *not* to be principled. Isn't it plausible to suppose that many current U.S. problems—the sharp decline of the dollar and such serious political setbacks as Angola and Iran, for example—are a direct result of a decline in American credibility? That credibility can hardly be enhanced by the hypocrisy implicit in U.S., behavior: first Washington flaunts its morality by pretending to be concerned with human rights, then it trades with countries that disregard them. What's worse, it subsidizes such trade with generous credits.

The Chinese will continue to wine and dine Americans—and why should they not, when the U.S. is prepared to loan them the billions they want, on terms more favorable than could be gotten by the taxpayers who underwrite these loans. Lenin expected that the capitalist world would be selling him the rope with which to hang itself. In fact, he went even further to predict that they'd pay for it too. Half a century ago, he wrote: "The capitalists of the entire world, and their governments, in the rush of conquering Soviet markets, will close their eyes to the above mentioned realities, and will thus become blind deaf mutes. They will open credits which will serve as a support for the Communist Party in their countries and will provide us with essential materials and technology thus restoring our military industries, essential for our future victorious attacks on our suppliers. Speaking otherwise, they will be working to prepare their own suicides."●

REACTION TO AFGHAN CRISIS

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. SHANNON. Mr. Speaker, I am submitting for the RECORD an editorial by George F. Kennan entitled "On Washington's Reaction to the Afghan

Crisis: 'Was This Really Mature Statesmanship?' ", Kennan's analysis of the Afghan crisis is both instructive and enlightening. He correctly identifies our dependence on Persian Gulf oil as the real and immediate danger to this country's national security. If there was ever a time for realism, prudence, and restraint in American statesmanship, Kennan believes it is now.

I commend Kennan's insight into this important matter and am pleased to bring it to the attention of my colleagues in Congress:

[From the New York Times, Feb. 1, 1980]

George F. Kennan, on Washington's Reaction to the Afghan Crisis: "Was This Really Mature Statesmanship?"

Princeton, N.J.—On Christmas Day 1979, after more than a century of periodic involvement with the internal affairs of its turbulent neighbor, and after many months of futile effort to find a pro-Soviet Afghan figure capable of running the country, the Soviet Government suddenly expanded what was already a sizeable military involvement in Afghanistan into a full-fledged occupation, promising that the troops would leave when their limited mission had been accomplished.

This move was not only abrupt—no effort had been made to prepare world opinion for it—but it was executed with incredible political clumsiness. The pretext offered was an insult to the intelligence of even the most credulous of Moscow's followers. The world community was left with no alternative but to condemn the operation in the strongest terms, and it has done so.

So bizarre was the Soviet action that one is moved to wonder whence exactly, in the closely shielded recesses of Soviet policy making, came the inspiration for it and the political influence to achieve its approval. It was a move decidedly not in character for either Aleksei N. Kosygin or Leonid I. Brezhnev. (The one was, of course, ill and removed from active work. The limitations on the other's health and powers of attention are well-known.) Andrei A. Gromyko, too, is unlikely to have approved it. These reflections suggest the recent breakthrough, to positions of dominant influence, of hard-line elements much less concerned for world opinion, but also much less experienced, than these older figures.

Such a change was not unexpected by the more attentive Kremlinologists, particularly in the light of the recent deterioration of the Soviet-American relations, but it was assumed that it would take place only in connection with, and coincidental with, the retirement of Mr. Brezhnev and other older Politburo members. That it could occur with the preservation of Mr. Brezhnev as a figurehead was not foreseen.

Be that as it may, this ill-considered move was bound to be unacceptable to the world community, and the United States had no alternative but to join in the condemnation of it in the United Nations. But beyond that point, the American official reaction has revealed a disquieting lack of balance, both in the analysis of the problem and then, not surprisingly, in the response to it.

In the official American interpretation of what occurred in Afghanistan, no serious account appears to have been taken of such specific factors as geographic proximity, ethnic affinity of peoples on both sides of the border, and political instability in what is, after all, a border country of the Soviet Union. Now, specific factors of this nature, all suggesting defensive rather than offensive impulses, may not have been all there was to Soviet motivation, nor would they have sufficed to justify the action; but they were relevant to it and should have been given their due in any realistic appraisal of it.

Instead of this, the American view of the Soviet action appears to have run overwhelmingly to the assumption that it was a prelude to aggressive military moves against various countries and regions farther afield. No one can guarantee, of course, that one or another such move will not take place.

A war atmosphere has been created. Discussion in Washington has been dominated by talk of American military responses—of the acquisition of bases and facilities, of the creation of a rapid-deployment force, of the cultivation of military ties with other countries all along Russia's sensitive southern border. In these circumstances, anything can happen. But the fact is, this extravagant view of Soviet motivation rests, to date, exclusively on our own assumptions. I am not aware of any substantiation of it in anything the Soviet leaders themselves have said or done. On the contrary, Mr. Brezhnev has specifically, publically and vigorously denied any such intentions.

In the light of these assumptions we have been prodigal with strident public warnings to the Russians, some of them issued even prior to the occupation of Afghanistan, not to attack this place or that, assuring them that if they did so, we would respond by military means. Can this really be sound procedure? Warnings of this nature are implicit accusations as well as commitments. We are speaking here of a neighboring area of the Soviet Union, not of the United States. Aside from the question of whether we could really back up these pronouncements if our hand were to be called, is it really wise—is it not in fact a practice pregnant with possibilities for resentment and for misreading of signals—to go warning people publicly not to do things they have never evinced any intention of doing?

This distortion in our assessment of the Soviet motivation has affected, not unnaturally, our view of other factors in the Middle Eastern situation. What else but a serious lack of balance could explain our readiness to forget, in the case of Pakistan, the insecurity of the present Government, its recent callous jeopardizing of the lives of our embassy personnel, its lack of candor about its nuclear programs—and then to invite humiliation by pressing upon it offers of military aid that elicited only insult and contempt? What else could explain, in the case of Iran, our sudden readiness—if only the hostages were released—to forget not only their sufferings but all the flag-burnings, the threatening fists, the hate-ridden faces and the cries of "death to Carter," and to offer to take these very people to our bosoms in a common resistance to Soviet aggressiveness? What else could explain our naive hope that the Arab states could be induced, just by the shock of Afghanistan, to forget their differences with Israel and to join us in an effort to contain the supposedly power-mad Russians?

This last merits a special word. I have already referred to the war atmosphere in Washington. Never since World War II has there been so far-reaching a militarization of thought and discourse in the capital. An unsuspecting stranger, plunged into its midst, could only conclude that the last hope of peaceful, nonmilitary solutions had been exhausted—that from now on only weapons, however used, could count.

These words are not meant to express opposition to a prompt and effective strengthening of our military capabilities relevant to the Middle East. If what was involved here was the carrying of a big stick while speaking softly rather than the carrying of a relatively small stick while thundering all over the place, who could object? But do we not, by this preoccupation with a Soviet military threat the reality of which remains to be proved run the risk of forgetting that the greatest real threats to our security in that region remain what they have been all along: our self-created dependence on Arab oil and our involvement in a wholly unstable Israeli-Arab relationship, neither of which is susceptible of correction by purely military means, and in neither of which is the Soviet Union the major factor?

If the Persian Gulf is really vital to our security, it is surely we who, by our unrestrained greed for oil, have made it so. Would it not be better to set about to eliminate, by a really serious and determined effort, a dependence that ought never have been allowed to arise, than to try to shore up by military means, in a highly unfavorable region, the unsound position into which the dependence has led us? Military force might conceivably become necessary as a supplement to such an effort: it could never be an adequate substitute for it.

The oddest expression of this lack of balance is perhaps in the bilateral measures with which we conceive ourselves to have punished the Russian action. Aside from the fact that it is an open question whom we punished most by these measures—Russia or ourselves—we have portrayed them as illustrations of what could happen to Moscow if it proceeded to one or another of the further aggressive acts we credit it with plotting. But that is precisely what these measures are not; for they represent cards that have already been played and cannot be played twice. There was never any reason to suppose that the Soviet Government, its prestige once engaged, could be brought by open pressure of this nature to withdraw its troops from Afghanistan. But this means, then, that we have expended—for what was really a hopeless purpose—all the important nonmilitary cards we conceived ourselves as holding in our hand. Barring a resort to war, the Soviet Government has already absorbed the worst of what we have to offer, and has nothing further to fear from us. Was this really mature statesmanship on our part?

We are now in the danger zone. I can think of no instance in modern history where such a breakdown of political communication and such a triumph of unrestrained military suspicions as now marks Soviet-American relations has not led, in the end, to armed conflict. The danger is heightened by the fact that we do not know, at this time, with whom we really have to deal at the Soviet end. If there was ever a time for realism, prudence and restraint in American statesmanship, it is this one. Nothing in the passions of electoral politics could serve as the slightest excuse for ignoring this necessity.●

THE CIA'S FAIRYLAND ESTIMATES OF MOSCOW'S BUILDUP

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. STARK. Mr. Speaker, what are the relative military strengths of the United States and Russia? I am convinced that we are roughly equivalent in strategic weapons, and that each superpower is fully capable of defending its vital interests when these are wisely defined.

When it comes to projecting its power beyond its own borders or the borders of its primary allies—the NATO allies in our case and the Warsaw Pact allies in Russia's—each superpower faces similar constraints—those of finite resources—and I think this always will be true absent the all-out mobilization of either or both societies.

My views were reinforced recently when I read James J. Treires' February 1 Christian Science Monitor article: "The CIA's Fairyland Estimates of Moscow's Buildup." Treires expertly challenges the often relied on CIA estimates of Russia's military expenditures.

We should not suspend our critical judgment as we look at our adversary.

There is no readily available objective measure of how strong Russia is. We do not have that sort of information, in part, because Russia is a closed and regimented society.

But while Russia denies us that information, Russia denies itself much more: The benefits that flow from an open and free society.

Russia is a formidable adversary. But we are not a pitiful helpless giant.

The Treires' article follows:

[From the Christian Science Monitor, Feb. 1, 1980]

THE CIA'S FAIRYLAND ESTIMATES OF MOSCOW'S BUILDUP

(By James J. Treires)

For at least a decade, US intelligence agencies have had excellent information on the size, weaponry, and deployment of Soviet armed forces. With today's sophisticated satellites and other types of monitoring, it is impossible for either superpower to develop, test, and put into operation a significant new weapon system without the knowledge of the other.

How, then, did we suddenly discover that there has been an "unprecedented Soviet military buildup" that now threatens to make the United States the Number Two power in the world? How could the Russians have sneaked up on us when we were watching them closely all the time?

If one carefully studies the military debate over the past few years, it becomes clear that the sudden Soviet buildup occurred not in their arms factories and military bases, but in the accounting department of our Central Intelligence Agency. About three years ago, the CIA analysts decided that their previous estimates of the cost of the Soviet military establishment were way too low, so they simply doubled their old figures.

Americans concerned with our safety in a dangerous world might well ask what difference it makes. If the military has been taking twice as much of the Soviet budget as we had thought, does that tell us anything significant about the threats their forces might pose to American interests? Of course not.

Why, then, is so much emphasis being placed on the allegation (not, as we shall see, a documented fact) that the Soviets are spending 12 to 13 percent of their gross national product (GNP) on national defense while we are spending only a little more than 5 percent? The only obvious reason for making this argument is to convince the American people that we should be spending more.

It is unfortunate but true that reliable information on Soviet military spending is practically nonexistent. The few figures they publish are aggregates that are based on different statistical concepts and conceal as much as they reveal. Furthermore, prices in a socialist economy reflect government policy rather than market values and are therefore a poor indicator of true costs.

Since credible data are not easily available, anyone can play the game of estimating Soviet military spending, and those who put the most effort into the enterprise are the people who have a vested interest in the result. This includes, of course, the CIA and other members of "the intelligence community."

The method used by the CIA to estimate what the Russians are spending is simple in concept but difficult to defend. They estimate ". . . what it would cost to produce and man in the United States a military force of the same size and with the same weapons inventory as that of the USSR and to operate that force as the Soviets do." What the CIA measures, then, is *not* what the Soviets actually spend but what they *would* have spent had they paid their servicemen at US rates, bought their weapons at US prices, and spent the same amount as the US to keep each unit in operation—none of which they actually do.

This may be a "dollar cost comparison," but it is in no way a valid comparison. All the cost data on the Soviet military are US data. Soviet quantities at US prices equal a fairyland budget. The estimating techniques used and the flimsy assumptions underlying them would be laughable if produced by a private researcher. Only the official aura of a government agency and the implied assurance that the CIA knows more than it is telling enables its estimates to be taken seriously.

We know what forces each side has, and we know what ours cost us. But the CIA tells us we must also know how much they are paying for theirs, as if this money comparison could tell us something we need to know to provide an adequate defense for the United States.

The latest CIA report tells us that the Soviet Union spent 50 percent more than the US in 1979 ($165 billion versus $108 billion) and that, for the 1970-79 decade, they spent almost 30 percent more. Since the US has a GNP about twice that of the USSR, the CIA's figures can only mean that the Soviet people have been undergoing a much greater economic strain than we have experienced. But what does the evidence show?

As the Washington Post noted recently, "Since the beginning of the 1970's, there has been no increase in the average [US] factory worker's take-home pay, the longest plateau of that kind in the country's history." In contrast, it reported in November that "drinking and related problems soar despite increasing Soviet prosperity." While no one claims the Russians enjoy an American standard of living, it is undeniable that theirs has shown some improvement over the past decade while ours has not.

Contrary to what the CIA says, it is the United States, not the Soviet Union, that is overburdened with military expenditures. Our government's exclusive concern with the defense sector and benign neglect of consumer goods industries have so weakened the US economy that is is having great difficulty supporting the military establishment at the current level, let alone the grandiose levels now being talked about.

Anyone who believes the Pentagon's claim that America's current defense burden is the lightest we have borne since 1940 is in for a rude surprise in the months ahead.●

THE PRESIDENTIAL MESSAGES: THE STATE OF THE UNION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, February 6, 1980, into the CONGRESSIONAL RECORD:

THE PRESIDENTIAL MESSAGES: THE STATE OF THE UNION

The State of the Union address often draws a few yawns from the media and the public at large, but because it provides a fairly clear view of the general direction in which a President hopes to go it merits careful reading. The speech President Carter gave on January 23, coming as it did during a critical phase of world politics, was probably the most important of his first term. Proposals in it deserve extended debate.

In his somber message the President outlined dramatic initiatives in foreign policy and defense. His speech was remarkable for a State of the Union address in that it focused almost exclusively on foreign affairs. As the President said, "The state of our union depends on the state of the world." As if to underscore the militant tone of his words, the President's top priority in foreign policy was increased American strength.

The President's speech reflected a change in his thinking on defense. He stressed the need for higher military spending, improved capacity to deploy armed forces abroad, a stronger Atlantic alliance, a more visible naval presence in the Indian Ocean, and air and naval facilities in Northeast Africa and the Persian Gulf. This statement is an unmistakable warning to the Soviet Union not to threaten oil supplies in the area, and it effectively extends the American "security umbrella," which until now has covered only Western Europe, the Far East, and Israel, to the Persian Gulf. I welcome such resolve as useful in preventing a miscalculation by the Soviet Union, but I also recognize that it represents a major overseas commitment on the part of the United States. Experience has surely taught us that we must guard against giving the President a blank check to wage war. Congress is obliged to scrutinize and then pass judgment on the implications of that commitment. Many questions have been raised, and Congress should demand a new conceptual framework in which our policy can be assessed, a clear articulation of the objectives of our policy, and a coherent strategy to achieve those objectives.

In a sharp reversal of previous policy, the President favored emergency aid to Pakistan and marked SALT II for Senate action "when appropriate," but not immediately. Expressing the hope that it would not be necessary for him to reimpose the draft, he nonetheless sought congressional consent to resume selective service registration to assure that the nation could meet future mobilization needs. The President also rejected the notion, previously espoused by him, that our relation with the Soviet Union could be treated as less important than global issues like human rights, energy, and nuclear proliferation. He has clearly proposed to toughen American attitudes and defenses to meet the Soviet challenge.

In domestic policy the President's central decision was evident in what he did not say. He announced that his budget for 1981 would contain no tax cut. Restraining inflation, he said, was his overriding goal. He affirmed that as long as double-digit inflation continued and there were no signs of recession, his top budgetary priority was the reduction of the federal deficit. He left open the possibility of a tax cut later in the year, but only if the economy weakened more than expected. Recognizing the limits of political support for novel domestic initiatives and placing greatest attention on proposals left over from last year, the President listed only a few new programs: efforts to educate and train disadvantaged young people for jobs, measures to assist utilities in converting from natural gas to coal during the next decade, a reorganization of the Nuclear Regulatory Commission, and steps to handle nuclear wastes.

Several features of the speech caused me some unease. To begin, I found myself uncomfortable with the heavy accent on a military response to the Soviet challenge. American military power, essential as it is, is no substitute for political cohesion, social development, and economic vitality in the nations menaced by the Soviet Union. I have been impressed by the impotence of military force to resolve the truly difficult problems faced by these countries. One of the greatest dangers in Asia, for example, is the possibility of internal turmoil or subversion in Iran or Pakistan, yet military force alone is an instrument inadequate to deal with that possibility. In response to what he termed "a clear and present danger to our national security," our dependence on foreign oil, the President's words were not vigorous. He did not press hard for energy efficiency, and his cap on oil imports for 1980, 8.2 million barrels per day, did not imply any sacrifice. If oil in the Middle East is critical enough to defend with American lives, it must be worthwhile for Americans to make a strenuous effort to cut down their consumption of it. Furthermore, in committing the United States to meet international challenges without any curtailment in domestic spending, I fear that the President runs the risk of worsening inflationary trends in the economy. He has spelled out the crisis for us, but not its costs.

The State of the Union address was criticized mildly by some for its belated acknowledgment of the Soviet threat. Others praised it for its uncompromising line against the Soviets. Overall, it was warmly received and widely endorsed. In the political context of an election year it was a master stroke that added to the President's electoral momentum at least for the time being.●

ZBIGNIEW BRZEZINSKI PLAYS "GUNS" AT KHYBER PASS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. MAZZOLI. Mr. Speaker, if these are the perilous, delicate, and dangerous times the President so eloquently described to us in his state of the Union message, then how can one of our Nation's chief defense strategists and security experts act so childishly on his recent visit to a Pakistani outpost near the Khyber Pass.

National Security Chief Brzezinski appeared more like a youngster playing guns than a Presidential adviser on a mission to defuse an international trouble spot in his self-described arc of crisis.

Both the New York Times and the Washington Post carried reports of his madcap and bizarre behavior. They are well worth my colleagues' time.

The articles follow:

[From the New York Times, Feb. 4, 1980]

BRZEZINSKI AT THE PASS: BONHOMIE, BULLETS

KHYBER PASS, PAKISTAN, February 3.—As Zbigniew Brzezinski looked down from an observation point four miles from the tree lines that mark the border with Afghanistan, he stepped up the questioning of his escort, Lieut. Gen. Fazle Haq, the military governor of the region.

"Have the Soviets come up to the border?"

"No," the general replied. "As far as we can tell they have come no further than Jalalabad."

"Can you hold them here?"

"Not really," the general said. "We'd try to slow them down, down there," he said, pointing to the terrain below the lookout post, at the end of the Khyber Pass.

Mr. Brzenzinski suddenly changed his tone from serious to impish. He decided to pose for a picture with the members of the press who had accompanied him from the United States. Before the general could slip away, Mr. Brzezinski stopped him and insisted that he be in the group too.

"It'll be a historic photo," President Carter's national security adviser said. "Three weeks before the march on Kabul."

TALK IS CONSTANTLY OF WARS

Everybody laughed at the joke. Throughout this trip, perhaps his most important overseas mission, Mr. Brzezinski has been talking constantly of wars—past, present and future—in a region where war is no stranger.

He has been grimly serious, but occasionally he jokes and sometimes he poses historical parallels. "Will the Pakistanis act like Poles or Czechs?" That is a question born of World War II when the Poles fought the Nazis and the Czechs capitulated. It is important to Mr. Brzezinski, himself a Pole, who feels that the Pakistanis will also fight.

Mr. Brzezinski was so interested in the fighting ability of the Pakistanis that he asked a sentry if his Chinese-made submachine gun was in working order. He declined the guard's offer to shoot it himself but as the guard demonstrated it by firing off a rapid burst the gun slipped. Instead of firing out into space, the gun almost fired into Mr. Brzezinski and a group of Americans and Pakistanis with him.

War was on Mr. Brzezinski's mind in a different way at the first stop on his helicopter tour of the border region. At a small refugee camp, the Americans slogging through the mud found themselves hailed by the Afghans as potential saviors.

In an emotional dialogue through an interpreter with some of the Afghan chiefs, Mr. Brzezinski was told:

"We don't want wheat or tents. We want arms and ammunition to fight with. We have fled from terror and cruelty perpetrated by the Communists. We don't want food and rations but arms and ammunition."

CARRIED AWAY BY THE CHEERS

The Afghans were asking for American military assistance and Mr. Brzezinski could not respond directly because if Washington has decided on covert aid word of it has not yet come out.

Instead, carried away a bit by the cheers and clapping and the militancy of the Afghan warriors who asked for missiles to shoot down helicopters, Mr. Brzezinski waved in the direction of the mountains dividing Afghanistan from Pakistan and declared:

"That land over there is yours and you will go back one day because your cause is right and God is on your side."

"You should know that the whole world is outraged," he told the Afghans. "Not only the world of Islam but the world of Christianity is outraged."

RESPECT AND SYMPATHY

Later, at the Peshawar airport, Mr. Brzezinski was asked by reporters if the United States would give arms to the Afghans.

"It's a fact that people who are determined to fight for their own freedom end up winning the respect and sympathy and something more than that from the rest of the world," he said. "That's a historical fact, not a statement of policy."

It seemed apparent from accompanying Mr. Brzezinski to military briefings with Pakistani officers, to the refugee camps and to the Afghan border, that Mr. Brzezinski would very much like to help the Afghan insurgents fight the Russians.

At an intelligence briefing at the headquarters of the Khyber Rifles at the far end of the pass, Mr. Brzezinski asked repeated questions about the different ethnic groups that populate both sides of the border and whether either side tried to stop the flow back and forth.

BRZEZINSKI'S APPARENT MESSAGE

He was assured that neither the Pakistani nor the Afghan authorities blocked the flow, meaning that it would be virtually impossible to prevent arms emanating from the Pakistani side from being carried into Afghanistan.

If Mr. Brzezinski has had a message on this trip it is that the world is closer to conflict than many people want to believe and that the only way to prevent war is by the United States and other nations to take the necessary measures to deter the Russians.

Some in his delegation seem worried that the United States is being too eager to embrace the President of Pakistan, Mohammad Zia ul-Haq, who has gone back on his pledges to hold elections and whose popularity is said to be very low.

Moreover, resentment remains over the destruction of the American Embassy in Islamabad only two months ago. Some believe that General Zia could have done more to prevent it.

But for Mr. Brzezinski these are secondary problems, as is the possibility that Pakistan might explode a nuclear device, compared with the need of heading off war by mobilizing the region to what he sees as the Soviet threat.

[From the Washington Post, Feb. 4, 1980]

"ZBIG" HOLDS HIS FIRE AT KHYBER PASS

(By Stuart Auerbach)

KHYBER PASS, PAKISTAN, February 3.—President Carter's national security adviser peered resolutely with gun in hand at Soviet-controlled Afghanistan from the top of a Pakistani military outpost high above the strategic Khyber Pass.

It looked like a scene from a late-night Grade B television movie called "Zbig at the Khyber Pass" as Zbigniew Brzezinski, high White House aide, hesitated for a second and then declined an offer to fire the Chinese-made light machine gun toward Afghanistan. Instead he invited the Pakistani soldier at the gunport to shoot the weapon.

The soldier got off one shot and the gun jammed.

After clearing it, he squeezed off a fast round. But the recoil knocked the soldier back into Brzezinski and the gun started spraying bullets wildly out the gunport.

"Thank God the Russians haven't started firing back," said a Pakistani officer accompanying the Brzezinski tour.

The madcap scene at the old British-built stone picket post—really a tiny fort perched on top of a hillock two miles from the Afghan border—climaxed a day's tour of Pakistan's frontier.

Brzezinski had asked to be taken from the Khyber Rifles officers mess in Landi Kotal to one of a string of picket posts overlooking the Khyber Pass, the route of invading armies since 1600 B.C. when the Aryans moved down from Central Asia into what is now India.

"This would be smashed right away?" he asked Lt. Gen. Fazle Haq, the military commander and civil governor of the Northwest Frontier Province.

"In the first engagement the artillery would knock down all these," said Fazle, pointing to the post he was standing at and others down the pass. "They are all right for observation and for keeping track of tribals, but not for modern warfare."

Brzezinski clearly enjoyed the chance to see at first hand the frontier he has been talking about from Washington since the Soviet Union moved more than 80,000 troops into Afghanistan late last year.

As he strode up the rocky hillside to the picket post, he opened his U.S. Army parka to show a highly ornamental dagger stuck in his waistband. The dagger, the type used by tribesmen in this area, had been presented to him at lunch by Fazle.

Earlier, he walked down a line of tribal chiefs who each placed a garland of flowers around his neck. Before long Brzezinski, up to his ears in flowers, quipped, "Friendship is a heavy burden, especially around the neck."

The tour started with an early morning helicopter visit to a remote refugee camp in the Kurram Agency, a finger of Pakistan that juts into Afghanistan halfway between Jalalabad and Gardez. The camp, known as Sadda, was 12 miles from the Afghan border.

The poorly clad refugees—mostly old men, women and children with no men of fighting age visible—told Brzezinski through a translator that they had been driven from Afghanistan within the past six months because the Soviet-dominated government had attacked their mullahs, destroyed their mosques and villages and attempted to change their fundamentalist Islamic religious traditions.

They now live in tents with 40 cents a day to feed themselves.

There were no weapons present in the camp, really a straggly collection of tents in a barren spot in the rugged terrain except those of the security guards. Officials said the weapons that tribesmen always carry had been taken away for the Brzezinski visit.

One tribal leader acknowledged that young men come and go across the open border to fight in Afghanistan.

Brzezinski was careful not to promise military assistance to the rebels, but he told them of America's support for the efforts and said. "The entire world is outraged," by the Soviet invasion of Afghanistan.

Deputy Secretary of State Warren Christopher added, "the American people admire your fight for freedom and believe in the long run you will persevere."

As if rehearsed, the refugees replied in chorus, "Inshallah," God willing.●

AGRICULTURAL LAND PROTECTION ACT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. DODD. Mr. Speaker, today the House is considering H.R. 2551, the Agricultural Land Protection Act, that would encourage State and local efforts to prevent the unnecessary conversion of prime farmland to nonagricultural use. I support passage of this vital bill which would help to deter the urbanization of high yield cropland that is becoming a vanishing resource.

The Agricultural Land Protection Act is a direct response to the fear that the disappearance of farmland will not only affect consumer prices and world trade but also the security of our country. At a time when we are constrained by a dependency on foreign fuel supplies, America has maintained its status as the world's largest producer and exporter of food. Scores of nations, including the Soviet Union, Poland, and Romania, are as reliant upon a steady supply of American wheat and grain as we are upon OPEC's oil.

Over the past 10 years developers have swallowed a total of 30 million agricultural acres according to USDA figures. Malls and industrial complexes have paved over prime agricultural lands, and the rate of farmland loss has accelerated to a point where our ability to produce sufficient food products to meet our needs could be seriously jeopardized.

The Mid-Atlantic States have lost 22 percent of their farmland and the Midwest 8 percent, but the greatest decline has occurred in New England States which have lost half of their agricultural acreage. If this disastrous trend continues, it is possible that by the end of this century the last farm will have vanished from New England.

Agriculture Secretary Robert Bergland has warned:

> Our land and water resources are being whipsawed between the demands for greater food and fiber production and the demands from commerce and a mass society for space and water for suburbs, roads, and other developments.

So far, in New England, urbanization is winning out over food production.

In my State of Connecticut, more than 200,000 acres of farmland have been lost to housing and industrial development over the past 20 years. Three years ago Connecticut established its own agricultural preservation program. During that time the State received a total of 158 applications for the purchase of 19,611 acres of farmland, 3,370 acres of which the State has bought or will soon purchase. A total of $5 million has been spent by Connecticut to combat conversion of valuable cropland to commercial development. The program has only $2 million remaining and can only purchase a meager portion of the 17,026 acres worth over $27 million that farmers are offering to the State.

This lack of funding is mirrored in similar land preservation programs in 44 other States. Passage of H.R. 2551 would authorize $60 million worth of matching grants over a 3-year period to enhance or improve upon current State farmland protection programs. The bill would also allow the Soil Conservation Service to provide badly needed technical assistance to States to help devise methods for farmland preservation.

Most importantly, this legislation prohibits the Federal Government's purchase of State lands, regulation of land use, and infringement on the operation of State and local programs.

As a nation we have overextended our energy supplies. Planning now could prevent a similar depletion of agricultural resources. I would ask my colleagues to remember that we cannot afford to lose our agricultural self-sufficiency and urge you to vote for H.R. 2551.●

RETIREMENT OF CONGRESSMAN DAN FLOOD

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. GOODLING. Mr. Speaker, it is difficult to say goodby to my colleague from Pennsylvania, DAN FLOOD. The loyalty, attachment, and personal affection which his constituents bear him have spread to other congressional districts as well. When I first came to Congress in 1975, from the 19th District of Pennsylvania, there were few other members in the delegation whose name I knew. But not only did I know the name of DAN FLOOD, most of my constituents did as well. He was well known throughout our State for his industry, colorful personality, and unparalleled oratory. He knew how to command a stage and command it well. Far more importantly, he had genuine compassion for the underdog, worked hard to improve their lot, and succeeded in doing so. I join them and thousands of others in wishing him a fond farewell.●

AMERICAN CITIZENS ABROAD

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. ALEXANDER. Mr. Speaker, I would like to insert into the RECORD two more issues facing Americans living and working abroad.

Issue Number 7—Loss of Citizenship by American Children Abroad Due to Actions of Their Parents

SUMMARY OF THE PROBLEM

U.S. law calls for the loss of American citizenship for anyone who obtains naturalization in a foreign country even if this naturalization results from the actions of a parent, guardian, agent or by the naturalization of a parent having legal custody of such an individual.

Children can lose their American citizenship even though they could do nothing to defend themselves against this loss.

The law provides that a child can retain his American citizenship, despite the provisions of the law calling for such loss, if he returns to the United States to commence permanent residence before the age of twenty-five.

At issue here is involuntary expatriation and whether it is really Constitutional, especially in light of the Supreme Court's ruling in Afroyim vs. Rusk.

ACA'S QUESTION

Should children born with American citizenship be forced to lose this precious possession through actions taken when they were minors, or taken on their behalf by a parent or custodian?

THE PRESIDENT'S REPLY

"The Act specified that a United States citizen, who, while under age twenty-one acquires foreign nationality upon application of a parent or through naturalization of the parent, will lose United States citizenship if such person fails to enter the United States to establish a permanent residence prior to his twenty-fifth birthday. Loss of citizenship, however, does not occur automatically; it can occur only when it is clear that the subject willfully failed to comply with the requirement of the express purpose of transferring or abandoning allegiance. Evidentary requirements to support a finding of intent to transfer or abandon allegiance are very high. As a result, few findings of loss of citizenship are made under this section, and these provisions no longer serve to revoke a person's citizenship unless the citizen wishes to lose citizenship."

Nevertheless, the President further recommended: "Although this provision of law is no longer viable, it still remains in force and, when applicable, must be administered. To avoid the difficulties and inequalities that the law imposes on young American citizens by requiring their return to the United States before the age of twenty-five and in view of the fact that Congress has repealed a similar proviso in Section 301 of the Act, the Justice Department will propose legislation to amend Section 349(a)(1) to provide that loss of nationality shall occur only when a citizen applies for naturalization in a foreign state on his own behalf after age twenty-one."

ACA applauds the initiative of the President in seeking to nullify this unfortunate law. ACA calls upon the Congress to act swiftly to bring about this proposed change.

Issue Number 8—Citizenship Loss by Naturalized Americans Going Abroad Within Five Years of Naturalization.

SUMMARY OF THE PROBLEM

Present U.S. law requires not only that an immigrant be lawfully admitted for permanent residence, and must reside subsequently for five years in the United States as conditions precedent to being eligible for acquiring American citizenship. The law further requires that such naturalized citizens must subsequently reside for a further five years in the United States. If during the first five years after acquiring U.S. citizenship the newly naturalized American chooses to reside abroad, he is presumed by law, although with the possibility of submitting countervailing evidence, to have obtained his naturalization by concealing a material fact or by willful misrepresentation when he did not reveal his true intentions with respect to residence.

ACA'S QUESTION

The basic issue involved here is what constitutes the essence of the acquisition of U.S. citizenship? Does it simply consist of an immigrant's wanting to reside within the geographical confines of the United States? Or does it rather constitute an allegiance by an individual to a unique way of life with all of the material and ideological implications that this entails? Further, is a naturalized American a real American when he obtains his new citizenship, or does he have a further condition to fulfill before being the equal of other citizens? He can be sent to war. He must pay taxes. But he cannot choose where he will live.

One finds once again in the present law an overwhelming emphasis on the physical location of the individual, much akin to the other sections of the Immigration Act of 1952, most of which have now been successively abandoned.

THE PRESIDENT'S REPLY

The President's reply to this issue was lengthy. Only the concluding paragraph is quoted here. The full text is found in the annex to this report.

Said the President: "It is clear that Congress did not intend to extend naturalization benefits to those whose intention was to reside permanently abroad rather than in the United States. Limiting naturalization to those who intend to reside in the United States permanently is not discriminatory simply on the basis that a natural-born citizen does not have to have such an intent. Naturalized citizens are required to meet other requirements that are not imposed on natural born citizens, such as literacy in the english language, good moral character, and certain periods of residence and physical presence in the United States. It seems reasonable, in conferring the benefit of citizenship through naturalization, to take account of whether or not the individual seeking citizenship intends to maintain a permanent residence in this country. The five-year residence obligation is designed to gauge this intent."

The President defends the present law and does not propose any change.

ACA'S RENEWED QUESTION

There have been some major innovations in U.S. law concerning immigration and naturalization in the 20th Century. Two very different concepts have been developed in parallel. One concerns the elaboration of conditions precedent to the acquisition of citizenship. The other concerns conditions subsequent to the acquisition of U.S. citizenship.

The elaboration of conditions precedent to granting U.S. citizenship to an immigrant are the most fundamental and incontestable right of the Government. They merely define the conditions of entry for any newcomer to our privileged society.

The elaboration of conditions subsequent, however, is a most unfortunate innovation because it de facto, and de jure, creates automatically two classes of citizenship.

The 1952 Immigration and Nationality Act was replete with condition subsequent requirements. Naturalized citizens could never live more than five years in the country from which they originally came (ruled Unconstitutional by the Supreme Court in the Schneider case); children born with more than one nationality at birth risked losing their citizenship later in life if they ever lived more than three years in the country of their other nationality (struck from the Statute books in 1978); children born abroad with only one American parent risked losing their citizenship if they did not return to live for a specified period in the United States later in their lives (also struck from the Statute books in 1978).

The conditions subsequent still applying to the naturalized citizen are the last significant vestige of this innovative and multi-class of citizenship mentality.

What is most offensive in this requirement is the automatic assumption that fraud or deceit was the "intent" of the naturalized citizen if he goes abroad within five years of naturalization. The Government needs to offer no proof of such fraud or deceit. This is a most distressful contradiction of the usual legal principle that an individual is considered to be innocent until "proven" guilty.

ACA asks the President to reconsider his support for this unfortunate legal principle. If ten years' residence is felt to be necessary to establish that one really wants to be an American citizen, the law should be changed to recognize this real intent. Once a person has become an American citizen he should be the equal to all of the others without any restriction or presumption of moral turpitude because of some innocent act.

ACA asks the President to work toward the elimination of any such laws that set up different classes of citizenship. All Americans should be equal before the law in all respects. We seek redress.●

CRISIS SITUATION IN MILITARY MANPOWER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. BOB WILSON. Mr. Speaker, we are indeed reaching a crisis situation in terms of some categories of military manpower. The Navy presently faces a shortage of nearly 20,000 in skilled petty officers—these are the men and women who are the backbone of the fleet. Regardless of the decision made by Congress on a draft for new members of the armed services, we must face up to the realities of retaining our top quality personnel, particularly those with specialized skills. The decline in the buying power of the military paychecks since 1972 is certainly not the only reason for our retention problems but it is definitely a high contender for the top of the list. The situation is so severe that the Chief of Naval Operations recently said that he would forego money for ships in order to put a few extra dollars in the pockets of the sailors.

Our former House colleague, Melvin Laird, who served with great distinction as Secretary of Defense, has recently completed a very timely study entitled "People, Not Hardware—The Highest Defense Priority." Senator GOLDWATER included this document in the February 4 RECORD on pages 1649-1654 during debate on increasing military pay and allowances. The entire report is short and can be read in a few minutes and I strongly commend it to my colleagues' attention and careful study.●

REGISTERING FOR THE DRAFT: A QUESTION OF NATIONAL SERIOUSNESS

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. WON PAT. Mr. Speaker, the President has asked that Congress authorize a national register for military conscription. In doing so he has cast the spotlight on a controversial issue that has never been popular in any county either in time of war or peace.

No one likes war. And no one likes the thought of sending our young people into battle. But the facts are such that this Nation which is based on peace and humanity may not have the choice of having a draft or staying as we are.

First, we see increased turmoil on the international scene. Iran, Afghanistan, Korea, Cambodia—these are the catch phrases of international conflict today. Who knows where trouble will crop up next?

Further, we see no end to Soviet belligerence. While I am no Cassandra, clearly the recent decision by the Russians to use their own troops in foreign territory cannot be viewed in any but a perjorative sense. We can make all the public statements we desire which figuratively wave the flag before our potential adversaries but after a while, this kind of rhetorical exercise fails to convince anyone—particularly the Soviets who believe that force is indeed mightier than the pen.

Finally, like it or not, the volunteer enlistment system advocated by the Congress as an alternative to the draft is not working. It has been a failure from the beginning. During the past several years, we who serve on the Armed Services Committee have witnessed a steady stream of experts tell us the volunteer program is hurting our military efforts. We lack top-level enlistees who could be the leaders of tomorrow. We are short thousands of young men and women to fill our present military requirements. And it seems that not even inducements of thousands of dollars given for volunteer enlistments will persuade doctors and other medical personnel to forgo the rewards of private practice to serve their Nation in the military. The picture seems to get bleaker all the time. The Navy says it may mothball some ships on the line because of a lack of personnel to run them. Other vessels may be given extended sea duty which translates to putting an extra burden on those who do serve because others prefer the comforts of civilian life.

The litany of problems could go on and on but the picture is clear: If we intend to maintain a strong military we have to change our ways.

I fear that because the draft is so political a question it will become the cynosure of our debate over military policies in this Nation. This would be a shame because the stakes are much higher than we realize. The real question is not whether we should register young people for the draft but whether we as a nation are willing to do more than wave the flag at those who would challenge our desire to remain free and independent.

No one abhors war more than those who have lived through the horrors of combat. I have and so have my people. Yet, as much as the people of Guam hate the thought of war, it is noteworthy that Guamanians have always been willing and ready to serve this Nation in times of conflict. This reflects our belief that the only way we can prevent others from imposing on our way of life is to be strong and show we are serious about maintaining our freedom.

I support the President's call for draft registration with these facts uppermost in mind. I wish we could do otherwise. But as Gen. Maxwell D. Taylor, the illustrious Chairman of the Joint Chiefs of Staff said in the February 1 Washington Post we as a nation have no choice but to reinstate the draft in this world of constant threats against our security. As he put it:

> Finally, we can swallow hard and restore some form of conscription, capable of improving the quality of the active forces and filling the ranks of the reserves essential for sustained combat. No other action we could take would so clearly demonstrate our seriousness of purpose; none is more essential to a genuine rearmament effort.

I expect the House Armed Services Committee to take up the question of draft registration soon. One aspect of the proposal made by the President will be whether to register women for the first time. To this I say yes, but only if we add a proviso which would grant women the right to elect to serve in the front line units or be stationed with support forces. This would resolve the emotional conflict many have with any proposal which would force women to serve in combat units—a concern I certainly share. Yet, one which in this day or equal rights movements for both sexes offer the opportunity to those who wish to share the privileges and hazards all men in uniform must face in war.

The bottom line is this: Are any of our young men and women willing to put their country before their own immediate desires. I am convinced they are if we assure the Nation that a call for draft registration will not be treated by their leaders as a right to needlessly interfere in their lives.

Thank you.●

TRIBUTE TO LITHUANIAN INDEPENDENCE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Ms. MIKULSKI. Mr. Speaker, let us take special note this year of February 16, the 62d anniversary of Lithuanian independence. It is ironic that during this year's tribute we are again concerned with Russian aggression, this time in the Persian Gulf. The lessons we have learned from the captive nations must not be repeated in other parts of the world.

As an American of Polish descent, I share the feelings of Lithuanians who continue to hope for the freedom of their native land. We currently see distinct parallels between the Soviet aggression in Afghanistan and the Soviet invasion of the Baltic States. Lithuanians fought valiantly, alone and without aid from other nations, in an effort to dispel the invasion. When this effort was unsuccessful, the Soviets moved in and installed a puppet government.

Today, we witness the same scenario in Afghanistan. Have we not learned a lesson from the Russian occupation of the Ukraine, Estonia, and Latvia as well as the later examples of Poland, Czechoslovakia, and Hungary? We must also turn our eyes to the current developments in Yugoslavia. Tito's death could result in further Soviet encroachment to assure an even stronger Russian presence in Eastern Europe.

During this commemoration, we must not forget those Lithuanians who have been condemned to exile within the Soviet Union. Only to mention a few: there is Nijole Sadunaite, a nurse sent to Siberia for having typed a church bulletin which was claimed to have contained anti-Soviet propaganda; Balyis Gajauskas, who has spent more than half of his life in Soviet concentration camps and who worked closely with Alexander Ginsburg; and Viktoras Petkus who along with Andrei Sakharov worked on monitoring the Helsinki Accords in Lithuania, was nominated for the Nobel Peace Prize, but is currently serving a 10-year sentence of hard labor.

Congress has now taken action in passing a resolution urging the transfer or cancellation of the Moscow Olympic games if the Soviet Union does not withdraw from Afghanistan, and on behalf of Andrei Sakharov. We must not let the lesson learned from the domination of Lithuania by the Soviets be forgotten: we must continue to show our support for the captive nations within the U.S.S.R. and the brave dissidents like Nijole Sadunaite.●

SOVIETS TRYING TO SQUELCH NATIONALISM IN ESTONIA

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVE

Wednesday, February 6, 1980

● Mr. HOWARD. Mr. Speaker, recently there have been a number of incidents in Soviet-controlled Estonia involving Estonian youth and their desire for freedom. This clearly shows that in spite of almost four decades of

Soviet oppression, the hope of the Estonian people for freedom and national independence has not been lessened.

There is an air of growing nationalism throughout Estonia. Every day there are incidents in which the growing spirit of nationalism can be seen. These people possess the innate desire for the restoration of their human rights and personal freedom.

The following article, taken from the Christian Science Monitor, by David K. Willis, illustrates a few examples of the current restlessness taking place in Estonia. I feel it is up to the United States to set an example in encouraging and supporting Estonia and its neighboring countries in their fight for freedom and independence.

The article follows:

[From the Christian Science Monitor, Jan. 16, 1980]

Soviets Trying To Squelch Nationalism in Estonia—Police Break Up Public Meeting in Tartu, Detain Four

(By David K. Willis)

Moscow.—Three new examples of minority restiveness in the Soviet Union have come to light—this time in the Baltic republic of Estonia.

It has just been learned that several hundred Estonians, many of them high school students, staged a rare public demonstration in the university city of Tartu on Christmas Eve. They lit candles, sang Estonian patriotic songs, and called for independence.

A leading Estonian activist, Mart Niklus, says he was fired from his teaching job and now is applying to emigrate to Sweden.

Estonian scientist Jurii Kukk says he has resigned from the Communist Party after being a member for 12 years. He also has been fired from Tartu State University and is thinking of emigrating.

All three examples follow the signing of a "Baltic charter" last August. It called for Baltic independence and public disclosure of reportedly secret clauses in the Soviet-German pact of 1939.

Of 45 signatures, four were Estonian. Sources say all four, including Mr. Niklus, now are being harassed by the authorities.

They include Erik Udam (fired from his engineering job), Enn Tarto (fired from a heating plant), and Endel Ratas (threatened with sacking from his post as an auto mechanic).

The nationalist demonstration followed a Lutheran Christmas Eve service at St. Peter's Church in Tartu, a city of 90,000 people (one in four of them students) about a hundred miles from the capital of Tallinn. Estonia's population today is about 1.5 million.

Sources say at least 400 people from the congregation gathered in the church cemetery to pay homage at the monument of Julius Kuperjanoz, an Estonian hero killed in 1919 in the fight for independence against the Russians. That independence lasted until the Russians moved in again in 1940 after the Molotov-Ribbentrop pact of 1939.

Homage is paid every Christmas Eve, usually by only a handful of people. Sources say the latest demonstration was due to word of the "Baltic charter" broadcast of Western shortwave stations, including the Voice of America.

The crowd, watched by a roughly equal number of bystanders, lit candles and placed them on the monument.

In a 10-minute speech a young man called for Estonian independence.

After shouting nationalist slogans, about 40 high school students walked to the Tartu town square, some 1½ miles away. Other students shouted greetings down at them from the windows of hostels en route.

Police did not appear until the students reached the town hall square, and one demonstrator stood on the edge of a fountain to make another brief speech. A busload of police turned up, and four or five students were detained. They were released several hours later. Sources say they know of no arrests.

"Many of the boys found they didn't know the words to our patriotic songs," said one source later. "They made a resolution to learn them by Feb. 24, which is the day we celebrate the independence we won in 1919."

A smaller crowd gathered the same night in the grounds of another church. Some people returned to St. Peter's on New Year's Eve but sang no songs and shouted no slogans.

Meanwhile, Mr. Niklus says he was fired from the Tartu foreign languages evening school on Nov. 13, 1979. He had worked there 12 years, teaching English, French, and German. He said his troubles began when he signed the "Baltic declaration" Aug. 23.

His classes were reduced to the minimum. He offered to teach students for no payment and was dismissed for "systematic violation of work discipline."

He appealed to the Tartu city court for reinstatement. The ruling went against him Nov. 30. He appealed to the Estonian Supreme Court—which on Dec. 28 ordered the lower court to hold another hearing.

He now says he wants to emigrate to Sweden. "I don't want to leave," he said in an interview, "but it's either emigration or another term in prison."●

SEARCHING FOR FRIENDLY PORTS AND AIR-STAGING AREAS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. BOB WILSON. Mr. Speaker, the State Department and Defense Department are searching around the Indian Ocean area for friendly ports and air-staging areas from which to project our military actions to defend the Arabian Gulf oil if such becomes necessary.

If we exhibited any enlightened self-interest, we would turn to South Africa which has modern port facilities in Durban, Simonstown, Capetown, and other ports in the Indian Ocean. We must put aside our constant carping criticism of South Africa for her racial policies and recognize two facts of life.

We have made real progress in civil rights only in the past 28 years after centuries of slavery and neglect, and we have no reason to adopt a holier-than-thou attitude about South Africa's racial problems, which appear to be on the road to a solution.

We should also realize that survival of freedom, which includes black freedom, as well as other freedoms, is in grave danger unless the United States is in a position to defend the Indian Ocean area.

Let us get Uncle Sam's head out of the sand. I enclose portions of a letter I received recently which states one aspect of our policy which I believe is deplorable.

I include this as a portion of my remarks:

Why Not Use Ports in South Africa?

The tragic turn of events in Iran and the shocking invasion of Afghanistan by the Soviet Union have prompted growing concern about the lack of adequate naval and air facilities for Western forces in the Indian Ocean.

These events also serve as a dramatic illustration of how Western military preparedness is undermined by the arms embargo against South Africa and the self-denial by Western military forces of the superior harbor, drydock and industrial facilities of South Africa.

In addition three recent events in the area around the tip of South Africa, with some of the globe's busiest sea lanes, have reminded one of the potential danger to the United States and its Western allies of a continuation of the arms embargo against South Africa:

1. In December 1977 two American supertankers, Venoil and Venpet, sister ships each with a displacement of 330,000 tonnes, collided in waters off South Africa's Cape St. Francis. With South African assistance, a major catastrophe was averted.

2. In October 1979 the Norwegian ore-tanker, Berge Vanga, disappeared without trace somewhere between South America and the Republic of South Africa, but nearer to the latter. Contact was lost outside normal shipping lanes. The 228,000 tonne Norwegian ship with a crew of 40 simply ceased to exist. Relatives and friends of the 30 Filipinos, nine Norwegians and one Dane waited anxiously for coordinated effective air-sea rescue operations to start. Meanwhile, the owners of the Berge Vanga did everything possible to trace the vessel.

The United States and the Soviet Union were asked to assist through means of "spy satellites". Time went by and there was still no trace of the ship and the crew. Eventually the South African Air Force was approached. Norwegian shipowner, Mr. Jan Staubo, chairman of the Marine Committee of the International Chamber of Shipping, and chairman of the Norwegian Nautical Committee, had the following to say in an interview with the South African Defense Force magazine, Paratus:

"I am very much aware of the matter of safety at sea. An aid is the U.S. Coast Guard AMVER organization, which processes ships' daily reported positions. In theory this should work well.

"Yet in view of nations closely guarding their own interests, such as military considerations, the feed-in of information is not always complete.

"After some delay, as described above, SAAF Shackletons entered the search. Regrettably they did not have the range nor the equipment to be of major use at that stage.

"I would like to see the Republic of South Africa being provided with effective air-sea rescue facilities, such as planes and equipment, to help save civilian lives at sea.

"Such facilities—planes and equipment—must satisfy international requirements. Precious lives are at stake."

3. Last week another naval tragedy was averted when South African aircraft and helicopters were able to go to the rescue of a Danish freighter, Pep Ice, grounded on a coral reef in the Mozambique Channel. The South African Air Force airlifted 21 sailors

from the freighter. Ten of the 21 crew of the Pep Ice were flown to the Waterkloof air base in Pretoria after a Puma helicopter, supplied by the French before the United Nations imposed a mandatory arms embargo on South Africa, hoisted them off the grounded vessel.

Earlier, the South African helicopter landed on the deck of a Dutch freighter to transfer nine Filipino sailors taken aboard after their rescue attempt failed. Their small boat capsized in heavy seas.

After the magnificent rescue operation Mr. R. F. Botha, the South African Minister of Foreign Affairs, attacked the West, especially the United States, for its continuing boycott of South Africa, in particular of modern and sophisticated equipment necessary for sea rescue operations.

Mr. Botha said he pointed out at the time of the Berge Vanga disaster that South Africa was in a unique and extremely suitable position to execute sea rescue operations in the vast ocean areas south and east of Cape Town.

"One wonders when the United States will come to its senses. I trust it will not be necessary for its sailors to pay with their lives before the U.S. administration will lift sanctions in this connection," Mr. Botha said.

May I remind you what the chairman of the House's Armed Services Committee, the Honorable Melvin Price, had to say after a Committee visit to Africa during November 1979:

"In our flight, for example, up the coast to Dar-es-Salaam from South Africa we continually observed tanker traffic. At times we had six tankers under observation at the same time. This line of tankers, in the truest sense, is the jugular vein of the free world."●

BOYCOTT OF SUMMER OLYMPICS

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. CLAUSEN. Mr. Speaker, there has been an incredible amount of time, effort, and newsprint devoted to the issue of whether or not we should boycott or relocate the 1980 summer Olympics due to the Soviet invasion of Afghanistan. However, as a thoughtful editorial in the Lumberjack, the newspaper of Humboldt State University in my district, pointed out so succinctly, this "is all so trivial compared to the possibility of a nuclear war or a conventional war."

Clearly, when we consider the magnitude of the overall problem in the Persian Gulf region and the need for some meaningful solutions, whether or not the Olympic games are held in Moscow is indeed trivial.

I supported the boycott resolution passed by Congress because I believe that a united stand by the nations of the Free World against Soviet aggression may tend to reduce Russian political influence in the Third World. However, I feel that rather than devoting so much time to symbolic protests of the invasion, we should concentrate on developing effective measures to establish a realistic energy policy that will make the United States energy self-sufficient. We must move toward reducing our dependence on OPEC and its Persian Gulf oil. Further, I would like to see the Olympic issue depoliticized. For that reason, I have supported returning the Olympics to the place of its birth—Greece.

Mr. Speaker, I am inserting the full text of the Lumberjack's editorial at this point in the RECORD:

SHOW OF STRENGTH

I agreed to write this editorial favoring a U.S. boycott of this year's Olympic Games which are scheduled to be held in Moscow.

I started by researching all of the Olympiads that have been used as a political sounding block.

In the 1936 Berlin Olympics, Hitler tried to prove he had built the "master" race, but a black runner from the United States, Jesse Owens, embarrassed him by winning four gold medals.

The last thing I can remember of the 1972 Munich Olympics, was television commentator Jim McKay tearfully telling the fate of members of the Israeli team who were killed by a Palestinian terrorist group.

Canada banned the Taiwanese team from competing in the 1976 Montreal Olympics while Tanzania refused to participate if New Zealand did.

This year is another Olympic year, and it is the United States that is using the Games as a political sounding block by talking "boycott."

The development which have caused the United States to consider a boycott is the Russian invasion of Afghanistan which could eventually lead to a U.S.-Russian war.

Talk of a U.S.-Russian war always raises the possibility of nuclear warfare and obliteration of both countries. But what is grabbing all of the headlines and garnering all the talk? It's the inconveniences a boycott would cause the athletes who have dedicated a portion of their lives with the hope of representing the United States.

Of course we should do anything that may prevent a war with Russia, and an Olympic boycott, if other nations follow suit, could be the show of strength necessary to prevent a war.

The Olympics are important to Russia. After all, they are Russia's chance to propagandize to the rest of the world.

In the end, it will be Russia who loses.

I was caught up, in the should-we-or-shouldn't-we-boycott-the-Olympics syndrome, when I stopped to realize that it is all so trivial compared to the possibility of a nuclear war or a conventional war for which I would be prime draft choice.●

A DECLARATION OF ENERGY INDEPENDENCE

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. ROYER. Mr. Speaker, I would like to share the views of Raymond Leonard, a constituent from Montara, Calif., with my fellow Members of Congress. While Mr. Leonard and I may not be in absolute agreement with every item mentioned in his proposal, I agree with the underlying theme—urgency. The time to act on developing alternative liquid transportation and other fuels to solve our energy problem is now. His statement follows:

A DECLARATION OF ENERGY INDEPENDENCE

(By Raymond Leonard)

In order to demonstrate that energy independence and freedom from fuel shortages is feasible and possible, the following declaration of energy independence is set forth for national debate and action.

It shall be the avowed policy of the United States to move away from a hydrocarbon based energy economy over the next 10 to 30 years. In order to establish that this policy is a firm and definite commitment, the following mandates are set forth.

I. Each year imports of oil and oil products shall be reduced another 2 percent using the amount of oil and oil products imported by this nation in 1976 as a basis for calculating each years reduction. This program shall start January 1, 1981 and shall continue until such time as the United States is importing only 20 percent of the oil and oil products it imported in 1976.

II. The manufacturing or importation of trucks and buses which use hydrocarbon derived fuels shall be forbidden after January 1, 1991.

III. The manufacturing or importation of automobiles or vehicles under 6000 pounds gross weight which use hydrocarbon derived fuels shall be forbidden after January 1, 1996.

IV. After January 1, 2001 the relicensing of ground vehicles 20 years old or older which use hydrocarbon derived fuels shall be forbidden unless they are certified to be a collectors item and are restricted in the amount of mileage they can be driven each year.

V. The Federal Aviation Administration (FAA) or its successor shall be directed not to issue after January 1, 1991 any new type certificates for aircraft of any type which will use hydrocarbon derived fuels, regardless of when the design effort started.

VI. The Federal Aviation Administration (FAA) or its successor shall be directed to start on January 1, 2001 revoking certification on a plane by plane basis planes which are 30 years old or older and which use hydrocarbon derived fuels.

VII. Starting January 1, 1981 automakers will be allowed to apply a one time credit of 25 mpg toward meeting their gasoline powered vehicle fleet's minimum mileage requirement for each electric car that they produce and sell in a given sales year.

VIII. U.S. industry shall be encouraged to add a synthetic fuel production capacity of 1/2 of one percent of the 1976 liquid petroleum consumption each year for the next 20 years starting January 1, 1986.

IX. The Department of Energy will coordinate the nuclear power industry's effort to produce standardized 1000 MWe BWR and PWR power plant designs which may be mass produced. These designs shall be available by January 1, 1984.

X. The Department of Transportation shall undertake by January 1, 1982 to either convert several types of semitrucks and trailers to operate on hydrogen (either liquid or gaseous storage) or to develop several prototypes. These demonstration units shall be placed in a commercial operating environment in order to obtain design information, operating data, and cost information. This data will be made freely available to the public and industry.

XI. The National Aeronautics and Space Administration (NASA) shall undertake by January 1, 1982 to either convert several types of existing commercial transport aircraft which will operate on hydrogen. The goal of this program will be to develop design information, operating data and cost information which may be used to develop a follow on to the current hydrocarbon fueled aircraft fleets. Maximum involvement of the free enterprise system shall be encouraged.

XII. On January 1, 1986 the government shall institute a sales tax on hydrocarbon derived fuels that will result in an equal market cost between hydrogen and hydrocarbon derived fuels. Revenue from the sales tax shall be used for installing a standardized electric mass transit system and for the development and building of Satellite Solar Power Systems.

XIII. The National Aeronautics and Spcae Administration (NASA) shall develop, build and begin to deploy by January 1, 1986 a 100 MWe proof-of-concept Satellite Power System

XIV. The National Aeronautics and space Administration (NASA) shall institute by January 1, 1982 a program geared to bringing on line by January 1, 1996, a 10,000 MWe power satellite and at least another one every six months thereafter unless it is determined that the environmental impact of this method of electric power generation has a greater environmental impact and higher societal costs than other methods of generating large quantities of electrical energy on almost a 24 hour a day basis, day in and day out.

XV. Congress and the President shall establish a commission by January 1, 1983 whose charter will be to attempt to involve both industry and other nations in the development and deployment of Satellite Power Systems provided the above environmental requirements are met. However any actions or inactions by this commission shall not slow the efforts of the United States in meeting the above stated intentions and dates.

XVI. The Department of Transportation shall report to Congress by January 1, 1982 on possible alternative methods for powering the nation's railroads using the assumptions that after:

(a) January 1, 1995 the manufacturing of new locomotives use hydrocarbon derived fuels shall be forbidden except for the use of yard switching.

(b) January 1, 2011 all locomotives using hydrocarbon derived fuels will be phased out over a ten year period.

(c) Maximum involvement of the free enterprise system through the use of investment credits and tax incentives shall be encouraged.

XVII. The United States government shall establish by January 1, 1982 a nuclear merchant marine program under the jurisdiction of the U.S. Coast Guard. Standardized nuclear powered cargo and bulk cargo ships shall be authorized, designed and produced using standard U.S. Navy approved nuclear propulsion systems, whose operation shall be monitored and regulated by the U.S. Nuclear Regulatory Commission. Ships will be leased or sold to U.S. transportation companies for operation, but their crews will be employees of the civilian nuclear merchant marine branch of the U.S. Coast Guard. The U.S. Coast Guard will furnish crews on a contract basis and have responsibility for their training and certification.

Normal management-labor relationships will be used although salaries will be paid by the nuclear merchant marine. Firms will have the right to hire and fire without recourse to a civil service type organization.

XVIII. The Department of Energy shall determine the number of government owned and operated breeder reactors necessary to provide fuel for the power industry, Navy and the merchant marine through the year 2101 and institute a building program to ensure that this nation has the required fission fuel production capacity.

XIX. The Department of Energy shall proceed with the investigation, research and development of advanced methods of energy generation, conservation and the use of renewable energy sources for intermittent and/or small users. These methods will be substituted for conventional means of power generation, i.e. those using hydrocarbon fuels, as they become cost effective. Costs shall take into account economics, social costs and environmental costs or benefits.●

THE DILEMMA IN FAST TRACK LEGISLATION

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. ECKHARDT. Mr. Speaker, as a House conferee on S. 1308, the Priority Energy Project Act, I have been involved over the past few months in the frustrating process of trying to develop workable legislation to speed up the construction of energy projects. I worked rather extensively on this legislation in two committees and on the House floor. My experience in the conference committee has only reaffirmed my concerns over the concept of fast tracking.

The fast track legislation proposes a dilemma. It is this:

First, the legislation is not general legislation of the usual type which sets rules for all to abide by. It is legislation providing for special treatment for those who are held to merit an exception from the ordinary rules. Therefore, it has a peculiarly judicial character: it calls for judgment by a tribunal as to the specific merits of an individual claim. No one would question that the process of determining that one is guilty of an offense and should receive the special treatment of punishment is of a judicial character. The same is just as true of the process of determining that one is entitled to the special treatment of being placed on the fast track.

As Senator WALLOP of Wyoming has forcefully pointed out, to afford fast track treatment to one company may give a multimillion-dollar advantage to that company over others. Therefore, he successfully offered his amendment to the Senate bill that permits a company failing to get the boost to review in court the refusal of the Energy Mobilization Board to give it. When the general rules of law are waived, one injured or disadvantaged by the special treatment given others ought to be able to have the validity of his complaint decided in court.

But, if this be the rationale of the Wallop amendment, the same argument militates against denying judicial review to those who do not want the boost but who may be injured by the special treatment afforded the company on fast track. For example, a small town in Montana may be injured by fast tracking an industrial enterprise in a remote and environmentally pristine area. It may be potentially injured by air pollution and by the boomtown effect resulting from too rapid growth, and it may contend the Energy Mobilization Board has not properly evaluated the claim for fast tracking under the terms of the statute. The case for judicial review at the instance of the town is just as compelling as that for the spurned industrial suitor. To deny judicial review to either is a denial of the right of one who suffers an injury to have a day in court.

But here lies the dilemma: If this serious fault be cured by extending the right of judicial review to the rejected industrial suitor and to the public agency, there are so many persons and institutions potentially affected that extending the right would turn the fast track into a very slow track indeed.

This points up the basic fallacy of the whole fast-track approach. It purports to cure the failures of one bureaucratic process by creating another with the power to grant specific exceptions. Congress commonly delegates a great deal of power but such is usually exercised through rules applicable to all who bring themselves within such rules. The fast-track legislation permits the Energy Mobilization Board to give away so many free passes to ride on its fast-track train. If free passes are to be given, they should not be given at the unreviewable discretion of the conductor.

What is said here demonstrates that there is no way to cure a fatal flaw in this bill without destroying its potency to satisfy the original purpose of speeding up agency and court action. But I wish to suggest that that is not so bad. Indeed, if big companies, able to successfully press for exceptions from agency process, are to be relieved of cumbersome and costly process, they will cease to be in the ranks of those who would reform that process. The very obdurate nature of the process would protest their haven as a hostile terrain protects the castle of the privileged.

The only remedy for cumbersome administrative process in legislation and for bureaucratic officiousness and meddling is careful congressional oversight and legislative reform of the acts which prescribe the rules under which all must play.

As I have shown, there is also no quick way that fairness in choosing the favored selectee can be afforded. Oversight and legislative reform may be a hard and demanding process, but it is the only one that will work, and it is a great deal shorter than its alternative. The process of judicial review is a necessary accompaniment of granting special exceptions to the general rules if we are to extend that due process that our Constitution—with a little "c"—demands.

I am not saying that the bill is unconstitutional. It preserves court review on the question of whether the Energy Mobilization Board has acted beyond the absolute limits of constitutional action. But it gives no guidance as to where these limits are to be drawn through congressional definition. Thus, it leaves to the courts the hard burden of drawing them wholly on philosophical grounds at the very outside boundary of constitutionally permissible limitation of judicial review. This is to beg the question. Congress should define in more tangible terms what is to be reviewable and what is not. It is the Congress that primarily interprets the Constitution of Government, and this is its deepest obligation and most important function. It is, of course, the court that determines when the limitations of the Constitution are transgressed.

There are many foolish things that the Constitution wisely permits Congress to do, but we are not well advised to do them; and it is usually undesirable to push congressional power to its utmost limits. That is what is done in this bill in its provisions limiting judicial review. This very fact is likely to invite the constitutional contest and extend litigation rather than contract it. Furthermore, such litigation will be at the front end of the process, at the very important time for expedition.

If we ignore these considerations and push through this bill, we will be left with the inevitable result of having legislation which is either unfair or unworkable and is perhaps unconstitutional.●

PERSONAL EXPLANATION

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. ROYER. Mr. Speaker, during rollcall vote No. 7, I was not present and am listed as not voting. I am paired against the measure whereas in fact if I had been present, I would have voted "yea."●

COFFEE TRADE: A STATUS REPORT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. VANIK. Mr. Speaker, late last year, the Ways and Means Committee ordered reported legislation implementing U.S. obligations under the International Coffee Agreement. The report itself has not been filed yet, and no further action has been taken on that legislation.

Following is an excellent speech by the Deputy Assistant Secretary of State for International Resources and Food Policy, describing the current status of coffee trade and problems which have arisen within the International Coffee Agreement.

I doubt that any action will occur on coffee legislation until the problems described in this speech are addressed, either unilaterally by the Bogota group or multilaterally through the ICA.

The speech follows:

STATEMENT BY MICHAEL CALINGAERT

I am delighted to have this opportunity to participate in the NCA's 69th Annual Convention. Since assuming my duties a year ago in the Department of State, I have been pleased to continue the close working relationship we have had with many of the leaders of your industry. We value highly the soundness of their advice and the candor with which they offer it.

Your convention theme, "Coffee Takes Stock, Now the 80s", is most appropriate. As we begin a new decade, it is natural to reflect on what has gone before and on what the future may hold. Today I would like to share with you our perceptions of recent events and trends in the international coffee economy and also to discuss possible future directions.

THE MARKET OUTLOOK

For the coffee industry the latter half of the 1970's was a tumultuous period. There were wide fluctuations in production, stocks, prices, and consumption. The central event, of course, was the Brazilian frost of 1975. At one stroke, this catastrophe transformed a comfortable supply-demand situation into a tight balance. Even now, almost five years after the frost, Brazilian production and world stocks have not yet returned to their pre-frost levels. As a result of the frost and other subsequent supply disruptions, coffee prices during the last four years have been volatile and. on average, high.

We can be hopeful now, however, that we are entering a period of greater stability. The consensus is that Brazil is one frost-free winter away from producing 25–30 million bags. Overall world production has been climbing steadily for the past four years. USDA's most recent estimate for 1979–80 production is 81.8 million bags—the third highest total ever.

Global consumption trends are also encouraging. International Coffee Organization statistics indicate that consumption in member countries has now recovered to the pre-frost level. As you know, the figures for the United States are not as reassuring, but even here coffee consumption has rebounded strongly from the low point reached in 1977. On balance I think it is fair to say that the fundamental supply-demand outlook for the world coffee economy is favorable.

RECENT DEVELOPMENTS IN THE ICO

Turning to the International Coffee Agreement, the situation is less encouraging. We have now passed the half-way point of the present Agreement—yet important issues relating to the ICA's economic provisions remain unresolved. More significantly, several producing countries, dissatisfied with the operation, or, as they see it, the non-operation of the Agreement, have joined together and intervened in world coffee markets to achieve their own unilateral price objectives. Consequently U.S. Congressional approval of ICA implementing legislation is in doubt. Within the executive branch, we are reviewing our coffee policy and the U.S. role in the ICO.

Thus, while the outlook for the coffee economy is promising, prospects for multilateral producer-consumer cooperation are not good. To understand how we have reached this current impasse, I think it would be useful to review what has occurred in the ICO in recent years.

The most convenient starting point is July 1978. That month green coffee prices reached the bottom of their long decline from the record highs reached the year before. In 1977, coffee prices hit $3.27/lb. In July 1978 they fell below $1.20/lb.

Producers reacted by proposing that ICA export quotas be imposed on the market immediately. The position of the U.S., and the other consuming countries, was that such action would be premature—it would be more prudent to wait until the September 1978 Coffee Council meeting, when the Brazilian frost season was over, to decide whether to impose quotas. This seemed to us to be an appropriate response since, even at $1.20/lb., coffee prices were well above historical averages, both in nominal and in constant terms.

A frost did occur in August and by the time of the Council meeting prices had risen above $1.50/lb. At the Council the unanimous consumer position was that immediate quota imposition was out of the question. The Council session instead focused on revising the price levels that automatically trigger imposition of export quotas.

The main concern for the U.S. was that any council decision should be consistent with the need to facilitate a resumption in coffee consumption—which was then only beginning to recover from the disastrous lows reached in 1977 and early 1978. Nevertheless, the U.S. was prepared to support a revision in the trigger prices that more than compensated for increases in coffee production costs and general inflation that had occurred since the Agreement entered into effect in 1976.

Unfortunately, the 1978 Coffee Council ended its deliberations without agreement. Although there was a consensus that the trigger prices should be increased, Council members were unable to agree on a specific level. In effect, the producers preferred no revision in the trigger prices to acceptance of an increase they deemed insufficient.

In many respects last September's Coffee Council was similar to the 1978 Council: a Brazilian frost had boosted prices; consumers agreed that immediate quota imposition was unwarranted; the principal issue was the price level at which quotas would automatically be imposed; and again the Council was unable to reach agreement. There was, however, an important new factor that influenced the 1979 coffee council deliberations: The Bogota Group.

THE BOGOTA GROUP

I have reviewed in some detail the market events of July-September 1978. This is an important period because at the same time they were negotiating within the ICO, producers were taking steps on their own outside the ICO.

The Bogota Group originated in August 1978, when representatives of eight Latin American coffee organizations met in Bogota and reportedly agreed to establish a $140 million fund to "stabilize" coffee prices. The Group seems to have first intervened in the New York and London coffee futures markets later that year after the meeting of the Coffee Council. These market operations continued throughout 1979.

The U.S. position regarding these activities has been clear and consistent. The unilateral actions of the Group violate the basic premise of the International Coffee Agreement—producer-consumer cooperative action to deal with the problems of the international coffee market. We have informed the Bogota Group countries of our serious concern on many occasions and through various channels. The Group, however, continues to operate on world markets.

I mentioned that the Group was a factor in the unsuccessful negotiations at last September's Coffee Council. In fact, there was general agreement at the Council on a revised price level that would automatically trigger quota imposition. The issue was whether that price would be guaranteed for more than one year. The United States and several other major consuming countries favored limiting the price revision to one year. This reluctance to go beyond one year was based in large part on concern about the Bogota Group. Consumers wanted to be able to review the market situation at the end of the 1979/80 coffee year before committing themselves to an extension of the price revision. Producers refused to accept this limitation, and the Council ended without resolving this issue.

The U.S. Congress also has taken note of the Group's activities. A year ago the Administration submitted to the Congress legislation that would enable the United States to comply fully with its obligations under the International Coffee Agreement if quotas were to be imposed. Before approving this bill, the House Ways and Means Committee amended the authorization to make it contingent on the absence of market manipulation. Further Congressional action on the bill depends now on coffee market developments, particularly Bogota Group activities.

THE CURRENT SITUATION

This brings us to the present. Matters are at a standstill in the International Coffee Organization and in the Congress. As I have explained, our current problems can be traced to a series of events that has occurred over the past two years. There is, of course, another version of these events, which justifies the producer actions as simply responses to what they regard as consumer intransigence. The root of these difficulties, however, goes deeper than arguments over trigger prices; it goes to the question of the purpose of the Agreement.

The 1976 Agreement, like the two previous International Coffee Agreements, relies on a system of export quotas as its basic operating mechanism. The purpose of export quotas is to stabilize prices when supplies are in surplus. The current Agreement, however, differs from the earlier Agreements in important aspects. The 1962 and 1968 Agreements were based on the premise that coffee was in permanent surplus. Consequently, quotas were always in effect.

The current Agreement was negotiated under very different circumstances than those of earlier Agreements. The overproduction phase of the coffee cycle had clearly ended. We faced a situation in which world supply and demand would be, at best, in close balance for the next three to four years. An even longer period would be needed to rebuild both production and adequate stock levels. The 1976 Agreement was designed to deal with situations of shortage as well as surplus by allowing a greater play to market forces. Consequently, quotas come into effect only after certain price conditions have been reached. In addition, quotas are automatically suspended when prices rise sharply.

The intent and effect of these provisions, then is that quotas are to be imposed only when there is a surplus or potential surplus in the coffee market. The Agreement is not a guarantee to producers of a certain level of coffee export earnings. Rather it is a mechanism to dampen the effects of the coffee cycle and provide long-term benefits for producers and consumers.

The coffee market has taken longer than anticipated to "settle down." When the 1976 Agreement was negotiated, I doubt that anyone anticipated the sharpness of the ultimate consumer reaction to the soaring prices. The unusual frequency of damaging Brazilian frosts since 1975 has also upset patterns and forecasts based on earlier experience. The unexpected market behavior which resulted has revealed differing philosophies between the U.S. and the producers as to when quotas should be imposed on the market and when the market should be left alone. The failure to reconcile these differences has led to disenchantment on both sides with the ICA.

Regardless of the version one accepts regarding the root problems of the ICA, the fact remains that coffee exporting countries are operating outside the framework of the Agreement. The direct market activities of the Bogota Group are not consistent with the principles of the Coffee Agreement.

In the U.S. view, the Agreement and the Bogota Group are contradictions. They cannot operate concurrently. Nor can this issue be left to be resolved in a leisurely fashion. We cannot be expected to accept the Agreement as a safety-net to break the fall of unsuccessful price support schemes. Thus, for our part the Coffee Agreement's economic provisions must be seen as being in suspense, at least until the issue of the Bogota Group is resolved.

Nonetheless, I would not wish to end on such a pessimistic note. The United States continues to believe that a viable International Coffee Agreement is in the interest of both producing and consuming countries. We support the agreement. Previous Coffee Agreements have overcome what seemed to be insurmountable problems. If both sides respect the Agreement, if both sides are willing to discuss the issues in a flexible and pragmatic manner, we can resolve our present difficulties.●

LETTER BY EDWARD J. DERWINSKI

HON. WILLIAM F. GOODLING

OF PENNSLYVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. GOODLING. Mr. Speaker, I recently reread a letter written by a colleague of ours which was dated December 31, 1976. Among other things, Congressman Edward J. Derwinski appears to be a prophet.

The letter follows:

Hon. Clement J. Zablocki,
Rayburn House Office Building,
Washington, D.C.

Dear Clem: Last month at an UNESCO general session in Nairobi, Kenya the Soviet delegation tried unsuccessfully to get the conference to adopt a resolution that stated "all states are responsible for the activities in the international sphere of all mass media under their jurisdiction." It was widely construed to be a Soviet attempt to get UNESCO to give its moral sanction to government control of all news media operating within a country. With that as a backdrop, one can more readily understand why the current negotiations for exclusive TV rights to the 1980 Moscow Olympics are already swirling in controversy.

It is quite apparent that the Soviet negotiators are attempting to fleece American media interests for the privilege of covering the games. (The $100 million price under discussion is 4 times what was paid for the same rights to the 1976 games in Montreal.) Moreover, they are also insisting upon dictated broadcasting conditions that are designed to ensure the coverage will serve to propagandize Soviet life.

If we thought the 1976 Olympics were politicized wait until 1980! Indeed, given the precedent of the Taiwan exclusion from the Montreal games this year, it is well within the realm of possibility that Israel and other teams could be excluded from the Moscow Olympics. If this should happen the U.S. would most assuredly withdraw, thereby confronting a U.S. network with an obligation to televise an Olympics devoid of U.S. participation.

A full committee hearing on this subject should be considered early next session. The matter clearly is of considerable international import, and I believe we could justify a full committee inquiry on the grounds that we are looking into it in the context of Soviet compliance with the letter and spirit of the Helsinki Accords provisions pertaining to the flow of information between the signatories to the agreement.

Sincerely yours,
Edward J. Derwinski, M.C.●

ANALYSIS OF DEFENSE BUDGET

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. DELLUMS. Mr. Speaker, today, the Congressional Black Caucus presented its detailed analysis of the fiscal year 1981 defense budget. Our statement challenges the assumptions that underly the military budget and the massive long-term increases proposed by this budget. It is neither prudent nor responsible; it is misleading. It does not provide even the same level of spending on the domestic side as last year, yet it commits this country to spending over $1 trillion on defense over the next 5 years. I urge my colleagues to read the following analysis:

Statement of the Congressional Black Caucus

The President's defense budget is predicated on the claim that "the implications of the Soviet invasion of Afghanistan could pose the most serious threat to world peace since the Second World War." The Congressional Black Caucus challenges the assumptions underlying this position, and the massive long-term increases proposed for the military budget.

The fact of the matter is that the enormous projected increase in the military budget was planned before the hostages were taken in Iran, before the Soviet invasion of Afghanistan, and at a time when the Administration was expecting passage of the SALT II Treaty.

Despite this, Mr. Carter chooses to call his budget "prudent and responsible." It is neither. Worse, it is misleading.

The present proposals would commit the nation to a massive military build-up by 1985, one which would exceed one trillon dollars in military spending in the next five years alone. And now, in the wake of Afghanistan and the demise of the SALT II Treaty, Secretary of Defense Harold Brown has already informed the Congress that he will be back for additional supplementals before the year is out.

The budget documents submitted to the Congress indicate that only 24 cents of the budget dollar are being allocated for "defense." But, of the relatively controllable portion of the budget (less than one fourth of the total $615.8 billion) over which the Congress has discretionary control, more than 60 percent of the funds for fiscal year 1981 will go to military spending.

The question then becomes are these outlays justified in the light of the actual current world situation, as viewed through the prism of reality rather than that of Presidential election politics?

All too often the U.S. response has been one of political over-reaction and alliance with corrupt dictatorships, so long as they profess the proper amounts of anti-communist sentiments. As conventional weapons give way to nuclear weapons, this government has begun to conceptualize, and plan for, all-our nuclear war, including a first-strike capability against both the Soviet Union and the People's Republic of China. In the process we have extended the nuclear umbrella around the world. But, instead of making allies such as those in Western Europe and Japan more secure, we have increased their vulnerability—and their very survival—by making them nuclear hostages to a superpower nuclear showdown.

The facts of history are at variance with the assumptions on which the present policy is predicated. The world of the 1980s is, and will continue to be, one of rapid change—one in which the legitimate aspirations of Third World peoples must have consideration in American planning equal to that accorded our obsessive concerns with over-reactive responses to the real or imagined menace of Soviet expansionism.

What the Soviets have done in Afghanistan is morally wrong and politically stupid, both from a short-term and long-term perspective. One must ask why they chose to do so. Surely they must have known—and understood—that, in a Presidential election year, it meant an inevitable swing to the right in both political parties. The hardliners on both sides have now been reinforced in their prejudices that a SALT treaty is unfeasible, and that the only recourse left is a further escalation in military budgets and weapons escalation.

The Russians have lost more than they have gained by this action. They have angered the Third World and fundamentally damaged their own credibility with those countries. They have allowed the American hard-liners to play their China card, thus further intensifying the prospects for direct confrontation between the superpowers. They have provided an excuse for intervening in the internal affairs of Pakistan on the pretext of aiding the Afghan rebels. Such aid will be meaningless; it will do little more than help keep in power another dictator, General Mohammed Zia ul-Haq, a despot who totally lacks the support of his own people.

Also, it is ludicrous to think that the Soviet invasion of Afghanistan presages a similar move into Iran. The invasion route to Iran runs directly south from the plains of Soviet Georgia—and not west from the mountains of Afghanistan.

If such are the realities in Afghanistan and Iran, then why has this Administration responded with such hysteria at this time? Election politics aside, where is its sense of proper priorities in assessing what truly constitutes the vital national interests of the United States?

Where does Afghanistan stand in terms of our strategic interests? What is the most effective, sophisticated means of responding to this Soviet invasion, in terms of our real national security interests? If we are threatening to go to the brink of nuclear war in a situation involving a country already in the Soviet orbit, then what options do we leave ourselves when a country more vital to our national survival is threatened, much less attacked? At what level, other than total war with the Soviet Union, will the concept of the employment of nuclear first-strike weapons be considered as an integral part of American diplomacy? In a nuclear war, variations in the numbers of weapons and "throw-weight" will be meaningless. The global holocaust created in the first 30 minutes will see to that.

Finally, these questions must be asked: Is oil the bottom line in this entire scenario? Is it necessary to go to the brink of nuclear war to preserve our excessive consumption of energy, rather than practice as well as preach energy conservation? Will the further militarization of the Middle East bring stability to an area which has seen four major wars between the Arabs and Israelis in the past 32 years? These are hard questions to which there are no easy answers—in an election year or any other year.

It is our contention that the solutions proposed by the Carter Administration, in the form of this so-called "defense" budget, are ill-conceived, over-reactive and a definite danger to the constructive search for world peace. It is our responsibility to begin offering an alternative to the madness which we see evolving before our very eyes.●

METROPOLITAN STATISTICAL AREAS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. WOLFF. Mr. Speaker, on January 3, 1980, the Department of Commerce published in the Federal Register, the final standards for designating and defining metropolitan statistical areas. The final criteria are to be used following the 1980 census.

I have followed very closely the progress of this matter since the proposal was first published back in August of 1978 and since have introduced legislation which would lessen the impact the criteria revision would have on the economic growth, the statistical data collection and the eligibility for Federal assistance for a particular area. I was asked by the distinguished and able chairman of the House Subcommittee on Census and Population, Robert Garcia to submit to the subcommittee my views on the final standards. A copy of my response to Chairman Garcia is printed below.

House of Representatives,
Washington, D.C., January 30, 1980.

Congressman Robert Garcia,
Chairman, Subcommittee on Census and Population, U.S. House of Representatives.

Dear Chairman Garcia: Thank you for your recent letter in request of comments on the final standards for designating and defining metropolitan statistical areas following the 1980 census. I very much appreciate the diligent work you and the Subcommittee have done in keeping this issue before the Congress.

On January 29, 1979, I introduced H.R. 1612 and H.R. 1613 into the Congress. These two bills were intended to ensure that careful consideration would be given to the impact the criteria revision would have on the economic growth, the statistical data collection, and the eligibility for federal assistance for a particular area. In lieu of the final criteria's treatment of these issues, I urge the Subcommittee to continue its review of this matter with the goal of approving legislation that would assure that a statistical redefinition does not adversely affect a community.

During testimony presented before the Subcommittee, Dr. Joseph Duncan of the Office of Federal Statistical Policy and Standards (OFSPS) proposed a five year "hold harmless" provision for statistical definitions as they relate to determining program benefits. The Statistical Policy Coordination Committee has stated that the "hold harmless" provision would be implemented "through statistical policy directives, discussions with agencies, and other means . . ." My concerns are the same as they were at the outset of this issue. I continue to feel that the administrative remedies, as outlined in this particular case, are not sufficient. Although I am pleased with the efforts of the Commerce Department to ensure a smooth transition, the authority in terms of requiring agency-wide compliance of the "hold harmless" provision does not rest with the Commerce Department. This effort should be spearheaded by the agency charged with the responsibility of coordinating the implementation of government activities and assuring agency-wide cooperation of policy directives, the Office of Management and Budget (OMB). In the absence of any formal directives regarding compliance to the hold harmless provisions in the final regulations, I would urge the subcommittee to continue its review of this issue and the legislative remedies proposed in H.R. 1613.

In regard to the provisions in H.R. 1612, the Department of Commerce, as outlined in the final criteria, has determined that the "proposal is not a significant regulation requiring the preparation of a regulatory analysis under Executive Order No. 12044." Section Three of the Order requires an agency head to prepare an economic impact analysis for those regulations that would have a "significant impact" on the economy. Currently there are a wide range of federal programs which utilizes the designation of a metropolitan statistical area as a factor in determining eligibility and allocations for federal funding. These federal allocations are essential to the economic viability of a number of areas in the country. I continue to believe that an economic analysis, similar to the one proposed in H.R. 1612, must be undertaken to gauge the impact of these regulations on economic growth.

Finally, I was pleased to see the emphasis that was placed on the soliciting of public opinion in regards to any changes in a metropolitan designation. It is evident that the

OFSPS and the Commerce were cognizant of the comments they heard during the public hearing.

Thanks again for your cooperation in this matter. I look forward to the subcommittee's review of this very important issue.

Sincerely,

LESTER L. WOLFF,
Member of Congress.●

FOR "NEW NURSE": BIGGER ROLE IN HEALTH CARE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. PURSELL. Mr. Speaker, a large number of important health-related issues are pending on the agenda of the 96th Congress, not the least of which are those associated with Federal health manpower programs expiring at the end of the current fiscal year. The administration is expected soon to submit its proposals for extension of these valuable programs involving the training of various medical personnel, including members of the nursing profession.

Nursing is taking on an expanded role in the delivery of health care, while at the same time the Nation faces both a shortage and maldistribution of trained nurses. I would like to call the attention of my colleagues to an excellent article concerning this dynamic situation that appeared in the January 14 issue of the U.S. News & World Report:

FOR "NEW NURSE": BIGGER ROLE IN HEALTH CARE

They give shots, prescribe drugs, deliver babies, perform physical examinations—even have their own patients. But these medical practitioners are not physicians. They are nurses—a new breed in an old profession that's in the process of transition.

Across the country, the "new nurse" is coming to the forefront of medicine with a more advanced academic background, increased knowledge of patient care and a greater professional commitment to get ahead.

No longer content merely to follow doctors' orders, these heirs of Florence Nightingale are striking out on their own. They see themselves not as handmaidens to physicians but as their colleagues, even competitors.

"The most important trend in nursing is being independent," says Gretchen Osgood, associate director of nursing at the Department of Health, Education, and Welfare. "Nurses are now taking on decision-making responsibilities and being held accountable for the care of patients."

Greater responsibilities and expectations of nurses, however, are matched by problems in training and morale in the face of relatively low pay, long hours and overwork. Even as their status rises, there is a nationwide shortage of nurses, and strikes and slowdowns by nurses are a threat in many cities.

As Phil Goodwin, president of the Tulsa Hospital Council in Oklahoma puts it: "The nursing profession is in turmoil as to just what a nurse is. Within the profession itself, there is a role-identity problem."

This comes at a time when medicine itself is undergoing major upheavals as patients demand more services, doctors slip off their godlike pedestals and health costs become a political issue in an age of crippling inflation.

SHORTAGES—HOSPITALS' NIGHTMARE

America's 1.4 million nurses make up the largest group of health-care professionals in the country. Yet declining enrollments in hospital-based nursing schools and shortages on hospital nursing staffs have become a way of life for many institutions.

At Parkland Memorial Hospital in Dallas, where the annual turnover rate for nurses is almost 50 percent, 136 out of 683 full-time positions are vacant. In Colorado, the nursing shortage is so severe that a 36-bed floor at Denver General Hospital was closed.

In response to shortages, hospitals are hiring recruiters to scour the country in search of nurses. A Las Vegas hospital promotes itself as "the working vacation" with "a beautiful climate, year-around recreation and one of the world's largest critical-care units."

Houston's Hermann Hospital advertises in five national magazines as well as in the local newspapers. The hospital also has two full-time recruiters who do nothing but entertain applicants, visit nursing schools and make calls on prospective candidates.

EDUCATION: KEY TO "NURSE POWER"

Significant in the emergence of "nurse power" is the upgrading of nursing education in the past decade. More and more are entering the profession with at least a college-level degree in nursing. Many are going on to get master's and doctor's degrees.

Among the nation's 1,400 nursing schools, the traditional hospital diploma school that offers a two-year, post-high-school training program is being phased out. Boston's Massachusetts General Hospital, for example, will graduate its last class of 100 nurses next June. Many health officials foresee the day when all nurses will be required to have a college-level degree.

"For nursing education to become respectable, it has to get out of the control of hospitals and take root in academia," asserts Helen Grace, dean of nursing at the University of Illinois.

Today, the focus in nursing education has shifted to the 349 college-baccalaureate schools that offer two years of liberal arts and two years of clinical training for a college degree in nursing. In addition, an academic stampede is under way to train more nurses at the graduate level for leadership positions in hospitals and in universities. Institutions with graduate programs in nursing report long waiting lists, and more universities are setting up programs in advanced nursing. Example: Georgetown University School of Nursing in Washington, D.C., will initiate a program leading to a master's degree in nursing next September.

"You can't be considered an equal partner without more education," says Luther Christman, dean of nursing at Rush-Presbyterian-St. Luke's Hospital in Chicago. "Otherwise, all you will be are baby-sitters."

SPECIALITIES OF THE NEW NURSE

Spearheading nurse power is the nurse practitioner, or N.P. In rural Pennsylvania, for instance, Lucille Thoman runs the Welsh Mountain Medical Center, 7 miles from the nearest town. As an N.P., she has her own patients, working under written protocols with a physician at the center.

Thoman performs physical examinations, does some lab tests, makes diagnoses and prescribes medication according to protocols required by state law. Thoman's forte, she says, is health promotion—counseling patients how to keep well. So successful is this program that the center plans to add another N.P. to the staff.

Nurse practioners have come a long way since 1965, when the first program was set up at the University of Colorado's School of Nursing. Today, some 15,000 nurse practioners have been trained in specialities including family, community, geriatric, pediatric and maternity practice. In California, hospitals in the Kaiser Health Plan employ 330 nurse practitioners.

Since 1971, 38 states have amended laws to allow nurses to diagnose, prescribe drugs and perform other duties that were once barred to them by medical-practice acts.

Also in the forefront of independent nursing practice is the increasing use of nurse midwives to deliver babies. At New York City's Maternity Center Association—a free-standing ambulatory center equipped for prenatal, labor and delivery care—charges are 37.6 percent of what a normal delivery would cost in a hospital, according to Blue Cross records. "We're demonstrating that maternity care can be safe, satisying and economical," says Ruth Lubic, general director of the Maternity Center Association.

At first, midwifery ran into a great deal of opposition from physicians. The American College of Obstetricians called the practice unsafe. Now, nurse midwives are gaining acceptance. Lubic reports that the center has delivered 550 babies since January, 1976, without any casualties. In Minneapolis, nurse midwives in the Twin Cities Health Care Plan are delivering half of all the babies born to participants in the plan.

Nurses are also in another growing medical specialty: Care of the dying. Many have shifted from hospitals to nursing homes and hospices. "Nurses like the feeling of going from positions of subservience to ones of authority," explains an official at the Marin Hospice in California. "While hospice nurses do work closely with doctors, they deliver the bulk of the care and have more of a say than they ever would in a hospital."

HAZARDS OF BURNOUT, LOW MORALE

The beginning of independence for nurses came in the 1960s with the revolution in medical technology and the development of intensive-care and coronary-care units. No longer was it always the doctor who saved lives. Now it was often the nurse, wielding spaceage machines of medicine, who assumed much of the power to heal.

Yet power and responsibility have brought new problems. Burnout and low morale are major hazards of the profession. Turnover rates are particularly high in hospital intensive-care, coronary-care, burn and cancer units.

The average duty tour of nurses in intensive-care units, for example, is 18 to 24 months. Nursing officials point out that in an ICU, the nurse is in constant contact with the patient. Often there is no time even for a coffee break. Many patients, moreover, are terminally ill. "A nurse needs to feel that some of her patients have a future," says HEW's Osgood.

As Loretta Ford, dean of the University of Rochester School of Nursing, describes the situation: "Many patients in hospitals today are very ill. Nurses have got to be in gear every single minute. This is wearing on them emotionally and psychologically."

To combat burnout and increase job satisfaction, many hospitals such as Rush-Presbyterian-St. Luke's in Chicago have developed primary nursing programs. In these programs, each patient is put under the continuous guidance of one nurse from admission to discharge. Hospital administrators say that as a result nurses have a much closer bond with their patients, enjoy more responsibility and are much more likely to stay on the job.

Psychological counseling also helps. At Herrick Hospital in Berkeley, Calif., intensive-care-unit nurses attend a weekly support group with a psychiatrist. At Denver General Hospital, pediatric-intensive-care nurses rotate to the general ward every four weeks to break the stress.

For hospitals, high turnover rates are a tremendous economic burden. "Every time we replace a nurse, it costs between $1,000 and $2,000 for recruiting, training, and orientation," says Beverly Brewer, recruiter for Houston's three-hospital Memorial system.

To many nurses—frustrated by bureaucratic hassles, long hours, constant stress and lack of advancement—the medical workplace has not kept pace with the new academic professionalism of nursing.

As more careers—including that of physician—open up to women, officials say that nurses are bailing out at an alarming rate. One example is Karen Scholer, a graduate of the University of California's five-year nursing course, who left the profession after six years to become a lawyer. She points to the lack of opportunity to use her education in the rigid hierarchy that exists in many hospitals. "At times I felt like I had prepared myself for a job that didn't exist," Scholer says.

COMPETITORS OR COLLABORATORS?

The growing independence of nurses also has fueled a national dispute pitting doctors against nurses—and nurses against nurses. The issue: What are these new medical whiz kids? Supernurses or semidoctors?

Spurred on by the women's-rights movement, many new nurses regard older practitioners who follow doctors orders as "the Phyllis Schlaflys" of nursing—an unflattering reference to the leader of the crusade against the equal-rights amendment.

Yet for the nurse with a high-school education who got her training in a hospital-based diploma school soon after World War II, today's assertive nurse with a Ph.D., who wants equal time with the physician, is an anathema. "It's terribly confusing for folks inside nursing now," says Grace of the University of Illinois.

A key source of friction is the wide discrepancy in pay between doctors and nurses. In 1977, the average income for nurses ranged from $9,072 in Rhode Island to $14,216 in California—compared with an average income of $65,000 for doctors. Although nurses have come a long way in wages in the last 10 years, many still feel short-changed and are frustrated by the lack of opportunity to advance.

"The economic rewards are in no way equitable, especially when you compare nursing to other professions requiring comparable education and carrying as many responsibilities," declares Margretta Styles, dean of the University of California Nursing School in San Francisco.

Yet in the eyes of government officials looking for ways to hold down medical costs, it is precisely the relative low cost of nurses that makes them an attractive alternative to doctors. As Thomas Philips, in charge of advanced nurses' training at HEW, points out: "If you can show that a nurse practitioner does the job, why—as costs become increasingly important—should you train a much more costly physician to do the same work?"

Some of the new breed of nurses say many physicians regard them as competitors and see the use of nurse practitioners as an economic threat. In Atlanta, for example, nurse practitioners compete directly with doctors for patients in the same neighborhood.

At the same time, a growing number of doctors are setting up joint practices with nurses. Many nurses also are willing to serve in places where physicians have been reluctant to practice, such as inner cities and rural areas.

As health officials see it, the doctor-nurse relationship is slowly changing from hierarchal to collaborative practice—with benefits on both sides. Meanwhile, a consensus is developing among health planners that nurses, old and new, will play an increasing role in health care—particularly as the country pays more attention to preventive medicine and diseases of the aged.

"Right now there are many problems in nursing," says Elizabeth C. Good, director of nursing at Parkland Hospital. "We're just beginning to establish leadership in nursing and sort out the dilemma of who we are, where we want to go and how we are going to get there." ●

DR. RON PAUL AND GETTYSBURG COLLEGE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. GOODLING. Mr. Speaker, Dr. Ron Paul, our colleague from Texas, is a graduate of one of the 19th District's great educational institutions: Gettysburg College. The January 1980 issue of the college's alumni magazine has an article on Ron and his accomplishments. I would like to call this article to my colleagues' attention.

AN ALUMNUS IN THE HOUSE

He's charming, witty and well-educated. He's comfortable with young and old alike. He's outspoken and refreshingly candid. He's "our" man on The Hill—Congressman Ronald E. Paul '57, Republican Representative from the 22nd District of Texas.

Ron Paul majored in biology while at Gettysburg, then went on to the Duke University School of Medicine. He completed his internship and one year of residency in internal medicine at Henry Ford Hospital in Detroit, did specialty training in obstetrics and gynecology at the University of Pittsburgh, completed a primary course in aerospace medicine, and served as a flight surgeon in the United States Air Force and the Pennsylvania Air National Guard.

So, what is Dr. Paul doing in Washington? This unusual physician has interrupted his practice and taken a salary cut because he believes that our founding fathers intended that we have "citizen" politicians. That is, he believes representatives of various professions should serve the people in government, then return to their professions to live under the legislation they have created.

Married to the former Carol Wells while a senior at Gettysburg, Paul is the father of five children—Ronnie, Lori, Randy, Robert and Joy Lynette. He admits that shuffling between Washington and Texas causes inconvenience in family life. However, he notes that the transition for his family "has not been too difficult" because they had been conditioned to the irregular hours of his life in medicine.

Paul first served in the U.S. House of Representatives after winning a special election in April 1976. He was sworn in for his first full term in January 1979. The freshman Congressman has not followed the path taken by many other politicians—that is, selling his family home and moving his family to Washington. He feels it is important to maintain a residence in the district he represents. Further, he does not anticipate a lengthy stay in Washington since he is a firm believer that Congressional terms should be limited. He believes there are too many lawyers and long-term professional politicians on the Washington scene, and Paul would prefer to see Congressional representatives limited to eight years of government service. Lengthy terms in Washington, he believes, can lead to possible corruption.

His political beliefs make him relatively unique in Congress. Neither a liberal nor conservative, he is, instead, characterized as the "libertarian" member of Congress. To Paul, that means following the ideas espoused by Thomas Jefferson, specifically that government should be limited in scope and should be out of the business of running the economy and controlling individual lives.

Though a minority voice in Washington, Paul believes strongly that government regulation is the chief cause of many of our current problems. As a member of the House's Committee on Banking, Finance and Urban Affairs, he was involved in reviewing the Chrysler Corporation's recent request for government funds. According to Paul, over half the total capital requirement of $13.8 billion needed by Chrysler in the next five years is necessary to comply with government regulations. He estimates that government regulations cost the American consumer between 100 and 300 billion dollars in increased cost of goods.

Further, Congressman Paul views the economic woes of our country as having been created largely because of government regulation. "The energy situation," he says, "is caused totally by government regulation, taxing structure, and inflation. There is no true energy shortage. Our government created it. We could have unlimited supplies and could be totally self-sufficient. Total deregulation is the answer." Although we have a great deal of reserve oil and gas, Paul notes that the government provides incentives for foreign imports rather than for domestic production. With total deregulation, Paul believes other alternate sources would evolve naturally in a free market.

He views nuclear power as a viable energy source and notes that "the Three Mile Island incident illustrated the relative safety of nuclear power." When queried on this opinion, he asks, "How many people were hurt? How does this compare to hydroelectric power? An entire town was wiped out when a dam broke in Idaho. There are 30,000 deaths from coal mining in Pennsylvania. Every energy source has some danger."

Paul believes that the government should neither subsidize nor restrict nuclear energy. Anyone who develops it should have complete responsibility for any harm done. "Relatively speaking, I think it's safe. We get more radiation from a coal plant than from a nuclear plant," he asserts.

The only solution Paul sees to our economic problems is education. He believes young people "need to be made to understand where the problems are, what mistakes there have been, and be able to accept ideas that are different."

"That is the only reason I will go into high schools and colleges at the 'drop of a hat'," he says.

Unless economic problems in our country can be turned around, Paul believes the middle class is doomed to extinction. "A characteristic of the last stage of inflation is that the middle class gets wiped out," he says. If the situation continues in the current patterns, Paul fears both class strife and possible racial strife.

He does not believe that the present Congress will make any significant changes. "What we need," he asserts, "is about 100 eager, new Congressmen. I hope that change will come before it's too late. I'm a perpetual optimist that next year we're going to get some new people in there [Congress] who will really cut back."

On the subject of foreign affairs, Paul believes that our government is too involved in the internal affairs of other nations. He sees the U.S. intervention policy as a prime source of the problems we have experienced in the Middle East. Paul sees no benefit to our "propping up certain governments. . . . My responsibility as a representative is to protect American interests, regardless of how sympathetic I may be for anyone in the world."

A defense budget, he believes, should defend Americans. He would favor increasing expenditures for the protection of the United States, but decreasing overall expenditures. Currently at least 50% of the National Defense Budget is earmarked for the protection of other nations. When we "carelessly insist on protecting the world, we provide no incentives for these individuals to worry about protecting themselves," he says, and points to Vietnam as a prime example.

On the home front, Paul is obviously looking forward to another Presidential election. When asked whom he would support for President, he says jokingly, "I suspect I will be compelled to support a Republican." When pressed on the issue, Paul notes that his political and economic views most closely coincide with Congressman Phil Crane's. In considering front-runners, however, Paul points out that in the last election he was a delegate for Ronald Reagan and would be inclined to support Reagan again.

All in all, this "citizen" politician in many ways marches to the music of a "different drummer." Although his views may be in the minority, he does not hedge on tough questions and voices his opinions frankly and definitively. What he may accomplish remains to be seen. Whether he can, indeed, leave the Washington scene after becoming saturated in its various facets remains to be seen. What is impressive is his candor and his sincere desire to accurately represent his constituents.●

AMERICA'S FOREIGN POLICY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● **Mr. BARNES.** Mr. Speaker, as all of us reexamine our concepts of the correct directions for U.S. foreign and international policy, I am pleased to note that two former distinguished officers of the Government, Gov. John J. Gilligan and Paul C. Warnke, have teamed together to offer a continuing contribution to our Nation's public policy debate. Governor Gilligan, the former Administrator of the Agency for International Development, and Mr. Warnke, the former Director of the Arms Control and Disarmament Agency, are now chairman of the board and chairman of the Policy Action Committee, respectively, of New Directions, the citizens lobby for world security.

They have just released a statement which I believe offers an important contribution to the current debate on America's foreign policy, and I would like to call it to the attention of my colleagues. The statement follows.

STATEMENT BY THE POLICY ACTION COMMITTEE OF NEW DIRECTIONS

There is a difference between national security and national defense. National security should encompass economic, political, and diplomatic, as well as military, factors. The response to the dramatic crises in Iran and Afghanistan should not become a one-dimensional military approach.

While it is understandable that there will be a tendency to want to fight fire with fire, to make a violent response to the violence being inflicted upon American hostages in Iran, and to respond to Soviet armed aggression in Afghanistan by vastly expanding America's armed might, we need to keep in mind that such reactions in no way improve our ability to deal with the global problems of hunger, disease, illiteracy, unemployment, the waste of natural resources, the pollution of the environment, and runaway population increase.

These problems were threatening global and U.S. security before the eruption of the crises in Iran and Afghanistan, and they will continue to menace world peace and security long after these current crises have been resolved.

Within weeks of the issuance of the Preliminary Report of the Presidential Commission on World Hunger, which urges that "* * * The United States make the elimination of hunger the primary focus of its relations with the developing world—with all that implies for U.S. policy toward development assistance, trade, foreign investment and foreign affairs," the President will propose in his budget message to the Congress approximately a 10 percent increase in spending for all U.S. programs devoted to global economic development, which will not even keep pace with inflation and the reduced purchasing power of the dollar. At the same time, the President will propose an increase of almost $15 billion for armaments! The proposed military increase will be almost twice as large as the total amounts budgeted for the critically important efforts to build a more prosperous, more peaceful and safer world for all.

The obvious points is that bullets are not a wholesome diet for the millions of malnourished throughout the world. Rockets and bombs cannot be used to increase agricultural productivity. Aircraft carriers won't modify birthrates. Nuclear submarines cannot provide the health care and education needed by hundreds of millions of deprived and desperate people.

The decisions which the Congress will be called upon to make in the next few, fateful months will send a very strong and clear signal to a watching world that is anxiously concerned about the kind of world leadership which the American government and people are ready to give.

Are we really content to imitate the Soviet reliance upon armed force, and to simply divide the world into two nuclear armed camps, while coldly ignoring the plight of the world's hungry and helpless people? Or are we ready—while doing what must be done to counter Soviet aggression—to commit some reasonably balanced share of our technology, our financial resources and our leadership to the supremely important task of building a better and more equitable world society?

The Report of the President's Commission flatly declared that: "promoting economic development in general, and overcoming hunger in particular, are tasks far more critical to the U.S. national security than most policy makers acknowledge or even believe. Since the advent of nuclear weapons, most Americans have been conditioned to equate national security with the strength of strategic military forces. The Commission considers this prevailing belief to be a simplistic illusion. Arms might represent merely the physical aspect of national security. Military force is ultimately useless in the absence of the global security that only coordinated international progress towards social justice can bring."

We respectfully urge both the President and the Congress to give the most careful consideration to the findings and recommendations of the Presidential Commission of World Hunger.●

SURVIVAL IN A COLD CLIMATE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● **Mr. OTTINGER.** Mr. Speaker, in these difficult and dangerous times, it is not easy to formulate a response to the Soviets that is resolute yet not hysterical. Anthony Lewis made a significant contribution to that difficult task in an insightful article "Survival in a Cold Climate," which appeared in the New York Times recently. I commend the article to my colleagues' attention:

SURVIVAL IN A COLD CLIMATE

(By Anthony Lewis)

BOSTON, Jan. 23.—The suppression of Andrei Sakharov is in its way even grimmer evidence of the state of mind in the Kremlin today than was the occupation of Afghanistan. This time there can be no idea that Soviet leaders miscalculated the reaction. They knew what the world would think. They simply did not care.

Sakharov is a litmus test of Soviet attitudes. His dissent—his witness for human rights—was for years one small shaft of light in a closed society. The Government let him alone because he had won its highest honors as a nuclear physicist and had an international following. That it now has moved against him, stripping away his honors and transporting him out of Moscow, is an ironic testament to the power of one voice in a society of fear.

No one should have had any illusions about Soviet respect for human rights or for the agreements signed at Helsinki. But there have been prudential Soviet reasons for restraint. Now they have evidently lost their force. A decent respect for the opinions of mankind is not high on the list of Soviet concerns.

For the West, for Americans especially, the brutal Soviet actions are as severe a test as we have had in a long time. The test is of more than military strength. It is a psychological and moral challenge: a test of our maturity, our wisdom, our commitment. The details of our response will be debated in the months ahead. But some general principles ought to be clear.

1. Whatever we undertake we must be prepared to carry through. Steadiness is vital. It is worse than useless to make fire-eating speeches about standing up to the Russians and then to oppose a grain embargo for domestic political reasons.

2. Hysteria has no place in our response. Loose remarks about the likelihood of nuclear war—the sort of comments apparently made to reporters in the White House the other day—ought to be absolutely ruled out.

3. The response must involve not just governments but private organizations and citizens. Scientists have no business holding friendly meetings with Soviet counterparts, for example, while Sakharov is treated as a

pariah. Only the most fatuous of sports officials, pretending that the Olympics are nonpolitical, will be prepared to boost Soviet prestige by going to Moscow for the Games.

4. The United States must take care to work with its allies, preventing what will surely be a Soviet attempt to divide the opposition. That again means steadiness and an absence of hysteria, reassuring the allies that American policy has solid, lasting foundations. But it does not mean giving way to any friendly government's doubts. If the Germans or the French are obtuse about the legitimacy that the Olympics would bestow on Moscow, we should say so, forcefully.

5. Self-righteousness is to be avoided. As we deplore the Soviet forces marching into Afghanistan and murdering its President, we Americans ought to remember that we once removed a Prime Minister in Iran, and led a coup in Guatemala, and conspired against an elected President in Chile. An illusion of innocence will not make us more effective now. The point is not innocence but an assertion of national interest—ours and many other countries'—against the Soviet threat.

6. Our military response should be carefully focused on the nature of the present threat. To talk about new systems of strategic weapons at this time is damagingly irrelevant. The priority in military planning and spending must be for nonnuclear forces and means of deploying them quickly. Would it be credible to threaten nuclear war over an Afghanistan?

7. we must not make the mistake of letting East-West concern blind us to the hard facts of local and regional situations. A classic example was the clumsy 1975 U.S. involvement with South African forces in the attempt to oppose the Cubans in Angola—an involvement that would have added to American burdens in Africa if it had continued. Similarly now we must be careful of entanglement with unstable regimes in Southwest Asia.

8. We are going to go on living in the same world with the other nuclear superpowers, and we have to remember that. Whatever happens now, the reasons for seeking some stability in strategic weapons—some rules of the game—will remain. We bear a shared responsibility. If the United States grows cold on the strategic arms treaty or introduces new theater weapons in Europe, it should not be surprised at a Soviet reaction.

9. Our attitude toward the Soviet Union should be clearly defined as opposition to aggrandizement, not a threat to the Soviet regime itself. In the Cuban missile crisis John Kennedy understood, crucially, that he must leave Khruschev a way out. Our resolve can be ample without agitating the paranoid nerves in the Kremlin.

10. We must be true to ourselves, to our own vision of humanity. It would be terrible, and self-defeating, if the exigencies of time led us to copy the Soviets and say that the end justified the means. That would be the final betrayal of Andrei Sakharov.●

CONGRESSMAN ROSENTHAL RELEASES STUDY ON REFINERS' PROFIT MARGINS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. DRINAN. Mr. Speaker, late last week my friend and colleague from New York (Mr. Rosenthal) released a study analyzing the profits U.S. oil refiners currently enjoy on their sales of heating oil and diesel fuel. That study, which was prepared by the staff of the gentleman's Subcommittee on Commerce, Consumer, and Monetary Affairs, concludes that the refiners' net profit on heating oil increased over 800 percent from September 1978 to September 1979.

This new analysis further strengthens my belief that the President should have acted early last fall to control the skyrocketing price of heating oil, that he should immediately direct the Department of Energy to carefully analyze the refiners' current pricing policies, and that he should seek price rollbacks where warranted.

I commend Congressman Rosenthal for his leadership on this issue. I know that my colleagues will be interested in the remarks he made when he released this important study, and I ask that they be included at this point in the Record:

Statement of Congressman Benjamin S. Rosenthal, January 30, 1980

The House Subcommittee on Commerce, Consumer and Monetary Affairs, which I chair, is assigned oversight responsibility for the Council on Wage and Price Stability (COWPS). During the first session of the 96th Congress the subcommittee held 11 days of hearings into the various operations of the Council, including its enforcement of the price standards for refined petroleum products. During a hearing on June 28, 1979, COWPS witnesses acknowledged that "at the refinery level the increase in the average price of refined products . . . is going up far more rapidly than can possibly be justified by increases in crude oil costs to the refiners."

Today, I am releasing an analysis, prepared by the subcommittee's technical support staff, which provides confirmation that U.S. oil refiners are indeed guilty of massive overcharges for essential distillate fuel oils.

The analysis of national average wholesale price increases for heating fuel oil and diesel fuel oil between September 1978 and September 1979 (the latest period for which full data is available) indicates that:

Domestic oil refiners' profits increased by more than 800 percent for heating fuel and 700 percent for diesel fuel during this 13-month period;

American consumers have been overcharged as a result of these profit increases by more than $3 billion for heating and diesel fuel purchases; and

These distillate fuel oil price rises were way out of proportion to increases in the price of crude oil.

These unconscionable price and profit margin increases can be blamed, in significant part, on lax governmental enforcement of the price standards for distillate fuel oils, particularly by the Council on Wage and Price Stability. The Council's failure to enforce these price guidelines against our domestic refiners relates to the fact that:

Only four COWPS employees monitor and enforce compliance with the price standards in a $400-billion-a-year industry;

COWPS responsibility for energy price increases must be shared with the Department of Energy, an agency whose national energy goals are based on higher not lower energy prices;

COWPS guidelines are difficult to enforce because they apply to the total petroleum product of the firm and not to specific products such as heating oil and diesel fuel; and

Until very recently, COWPS price guidelines encompassed a firm's non-energy as well as its energy related activities.

America's fight against inflation depends to a significant extent on the ability of the Council on Wage and Price Stability and the Department of Energy to enforce their price standards for petroleum products. Thus far, these agencies have apparently failed in that important mission. The Commerce, Consumer and Monetary Affairs Subcommittee intends to aggressively scrutinize COWPS performance in this area so that we can determine whether new programs or expanded resources are required. Moreover, the General Accounting Office has been asked by the subcommittee to prepare a full investigative report on COWPS operations in the energy field. That report will be completed by the first of March and should shed important new light on this subject.●

EXPERIENCES WITH NEW AMTRAK

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. SWIFT. Mr. Speaker, with all the words we Members of Congress utter in this Hall, it still remains for our constituents sometimes to say it best. A redoubtable 68-year-old woman in my district wrote about her experiences with new Amtrak. Her letter says it well and I insert excerpts from that letter in the Record at this point:

I began riding the trains when I was eleven months old. That was almost sixty-eight years ago. I have been a train buff all my life. I have written two books with a train as the locale—one was published by Dell in 1974—the other is almost finished. I love the trains. I like to see where I'm going; I like to see all the towns, big or little, of this great big wonderful country of ours. But, in the new Amtrak, I think I have met my nemesis.

On December 20, 1979, at 5 p.m., at Seattle, Washington I boarded the Empire Builder with the excitment and thrill of a kid. My roommette was on the second level and I was very impressed with the plate glass windows on the corridor and the attractive decor—until—I realized there were no facilities!

On inquiring just what one did in this circumstance, I found I had to go down the hall, down those narrow stairs to a washroom about 30 inches wide. I just couldn't believe that in this time of acute energy shortage . . . making it necessary for many people to turn to the trains for transportation, that any, hopefully, profitable business would accept such a boo-boo in the design of the new cars. . . .

In addition, the bed is now a do-it-yourself thing. Two exercises require skill, strength and agility to get the seats . . . flat. You are then left with four segments of a hard ridged base. From an upper compartment, reached by standing on your toes and grasping a black lever to pull it down, you extract a long narrow one inch foam rubber pad around which a porter has wrapped two sheets, two blankets and folded the pad in half. This you remove from the compartment, along with two pillows, unfold and lay over the rigid ridged base. Then, as in Thanatopsis, you "wrap the drapery of your couch about you and lie down to pleasant dreams."

The hell you do! You spend the whole night getting out of one set of ridges and into the others and out again!

And when nature calls . . . you clutch your robe around you and venture out into a dim hallway, hoping no nice young, or old, man will have the same call and find you with your hair going in all directions and your face shining with miracle cream. Then, casting aside all modesty, you let the robe go . . . and grasp the railings as you descend.

When you are inside the washroom, you turn yourself around, bumping all joints—wrists, elbows, knees, hips . . . against the walls of this "powder room"—and . . . hope you'll sit at the right swerve.

That accomplished you begin the ascent once more.

Fortunately, on my trip back to Seattle I had an old car and a robmmette with facilities.

It wasn't all bad. I had a wonderfully kind porter who, I might add, is no more enchanted with those cars than I am. It was he who went all the way to the lounge to get me a double martini. After seeing that roommette I needed it. My dinner was excellent, and very reasonable. The personnel were well trained, courteous and helpful.

However, at the end of the trip the baggage was dumped on the platform instead of the area inside and all those many many many people were charging about with those handy handcarts, bumping into each other, pushing, pulling, frantically trying to find their baggage.

Oh. It was a ball.

But in my opinion Amtrak has committed suicide with those cars. I wish you well but I think I'll stay home and read about the broken limbs and complaints instead of getting myself killed and (then be) unable to complain, loud and clear. Someone has ruined our trains!

Mrs. Eleanor E. Cameron,
Lynnwood, Wash.●

OUTRAGE AND ANGER AT THE HOODLUMS IN TEHRAN

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. BARNES. Mr. Speaker, I know that all across America—as well, I'm sure, as in many countries around the world—individuals and groups of concerned citizens have joined together in a thundering chorus of outrage and anger at the continued criminal actions of the hoodlums in Tehran who hold our citizens hostage in the U.S. Embassy.

Among those expressing their anger, and their empathy for the hostages and their brave families, is the Maryland Federation of Business and Professional Women's Clubs. I would like to share with my colleagues a resolution adopted by this federation. The resolution follows:

Whereas the Maryland Federation of Business and Professional Women's Clubs, Inc., is appalled at the action of the Iranian Government in holding the employees of the United States Embassy hostage; and

Whereas we condemn the Iranian Government and support the action of the Government of the United States and the families of the prisoners; and

Whereas we offer our moral support and prayers for their safe return: Be it

Resolved, That the Iranian Government be urged to immediately return all hostages unharmed.

Carolyn J. Lamb,
President.●

MOBILIZATION OF OUR NATION

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. HEFTEL. Mr. Speaker, it is my privilege to share with you the observations of retired Brig. Gen. Ed F. Black, my constituent, my neighbor, and my friend:

MOBILIZATION OF OUR NATION

(By E. F. Black)

America has just made a historic public commitment to defend the Persian Gulf region with U.S. military forces.

Now that we've said it, we must prepare to do it. If we are bluffing, the bluff is sure to be called. Not long ago we blustered about the Soviet combat brigade in Cuba, declaring the "status quo was unacceptable." The brigade is still there and the whole world knows that Cuba is a lot easier place to bring to bear the full weight of U.S. military power than the Persian Gulf.

President Carter stated a simple fact of life: Persian Gulf oil under control of the Soviet Union would be a direct and lasting threat not only to our own national security, but to that of our allies as well.

This being the case, two things must be done immediately. First, we must get on with the mobilization of our nation so that we can fulfill this public commitment. Second, having first stepped forward ourselves to meet the threat, we must then call for an alliance of free world powers whose national security interests, like ours, are in peril.

As to the first, we are already at least a move behind in the strategic chess game. We must expect Iran to drift into anarchy and civil war in the months ahead. With Soviet troops already in Afghanistan prepared to channel massive quantities of military supplies across the border to pro-Communist elements in Iran, there is a high likelihood that Iran will be under Communist control before the year is out.

By tightening our collective belts, we and our allies can adjust to the loss of Iranian oil. But none of us could stand for long the loss of the remaining Persian Gulf oil, particularly that from Saudi Arabia. We have perhaps a year to prepare the military defenses required to prevent this from happening.

Time is the key. A year is a short time. Billions of dollars of supplemental appropriations will be required to get the defense production lines going again. But we must recognize that there is no way that within the next year they will be able to provide the numbers of ships, planes, and tanks required for large scale sustained military operations in the gulf.

President Carter's statement is a recognition of a national emergency. So let's stop pussyfooting around. Let's stand together, declare a national emergency and get on with the job. Certainly the problems in the gulf are not going to go away. The task ahead will not be easy or pleasant. It will require such draconian measures as the draft, establishment of a War Production Board, rationing of gasoline and other essential materials which may fall into short supply.

In short, it means getting ready to fight a World War III if such becomes necessary.

Once we have done these things, we can turn to our allies and ask them to join with us in meeting the common danger. There is no time to waste in elaborate international negotiations to create such an alliance.

When we have given unmistakable evidence that we mean business and have started our own national mobilization, we can then turn to our friends and say, "We're all in this together. We need your help. Those of you who are with us, send your representatives to Washington so that we can pool our collective resources under a Combined Mobilization Authority. This body will establish a combined military headquarters and will initiate such international political, economic and security measures as are required to meet the threat."

Our true friends will respond. Those who show up will be those we can count on so we can sit down with them and begin the serious work immediately.

The faint-hearted will say such a program will set the world on an irrevocable course to war.

This is not so. It is a course of prudence and preparedness. We have demonstrated time and again that we can demobilize far more rapidly than we can mobilize. We certainly would have no reason not to do so again once the threat to the gulf oil is removed.

What we can be sure of, however, is that if we allow the present course of events to drift along the way the West did after Hitler moved his divisions into the Rhineland in 1936, history will repeat itself.

Eventually we will be forced to fight a war for survival from a position of far greater strategic disadvantage than we face today with few if any allies at our side.●

FOUR DANGEROUS MYTHS ABOUT NUCLEAR POWER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. OTTINGER. Mr. Speaker, a recent letter to the editor in the New York Times deserves special attention, as it concisely dispels four common myths about nuclear power. Written by a noted group of doctors and scientists associated with Physicians for Social Responsibility, the letter effectively rebuts the arguments of those who attempt to argue that nuclear plants present no radiation hazard in normal operation, that nuclear waste containers are safe for highway transportation, that nuclear wastes have been stored for years without harm and that remote siting may reduce costs of future nuclear plants.

I urge my colleagues to note this important letter, the text of which follows:

FOUR DANGEROUS MYTHS ABOUT NUCLEAR POWER

To the Editor: Dangerous myths about nuclear power have appeared in recent Times editorials (Dec. 23 and 27) under the guise of truth.

MYTH 1

"Nuclear plants in normal operation are not a radiation hazard."

Nuclear plants and their supporting facilities routinely release radioactive effluents into the air and water. These may contain elements that concentrate in the bones, muscles, thyroid and other organs. The magnitude of the health risk is inestimable since it may take time for the material to circulate through the food chain before human exposure reaches significant levels. Leukemias would not then appear for at least five more years; other cancers, 15 to 30 years, and latent genetic damage might only become manifest generations hence.

What we know now is that reactors create and release particles that, unlike "natural" or background radiation, concentrate in biological systems and stay in those systems for long periods. Workers especially receive high radiation doses from "normally" operating reactors. On July 16 The Times reported that "the rising and 'unexpectedly high' radiation dosage received by the industry's 50,000 fulltime workers has encouraged the use of . . . jumpers . . . unskilled, short-term employees who expose themselves to quick doses of relatively high radiation for relatively high pay, often for only minutes of work." Most are of college-age, when radiation exposure to reproductive organs can be most damaging.

MYTH 2

"The most lethal elements are shipped in containers that can withstand high-speed crashes and jolting falls onto sharp spikes."

The record shows consistently improper packaging and handling. Nevada recently closed a nuclear-waste disposal site because trucks had caught fire, wastes were deposited in wrong areas and a truck had dripped waste through Las Vegas. A 1976 Colorado accident involved a truck which spilled one quarter of its 40,000-pound cargo of uranimum concentrate when it swerved to avoid three horses.

MYTH 3

"[Radioactive wastes] have been stored for years at power plant sites and military installations without harm and they can continue to be stored that way indefinitely."

In 1973 leaks were discovered in 16 tanks at the Hanford waste storage facility: 537,000 gallons of high-level waste had escaped. In the Columbia River, 10 miles away, abnormally high levels of radiation have been found in fish, plankton and wildlife. Other major leaks have occurred at Maxey Flats, Kentucky; West Valley, New York, and Rocky Flats, Colorado.

A panel of expert geologists commissioned by the E.P.A. in 1978 found "no evidence of survivals longer than a decade" for high-level waste storage cannisters. They said the wastes, however, have to be isolated for several hundred thousand to several million years (not one thousand years, as The Times stated). That is 20 to 200 times the duration of recorded history.

MYTH 4

"Remote siting [of reactors] might actually reduce overall costs by defusing opposition that causes delays."

Removing reactors from densely populated areas is certainly wise. But remote siting might increase costs since bringing qualified labor to remote areas and transmitting electricity over long distances are expensive. And in the absence of Federal funding for public-interest groups, calculated siting of reactors away from opposition may jeopardize public safety by silencing constructive criticism. A reactor that's out of sight, hence out of mind, does not put us out of danger.

A mythical picture of nuclear power, such as that painted by The Times, continues to hinder the development of existing, less hazardous, less expensive alternatives: conservation and renewable energy. The resources needed to solve the energy crisis are scarce and now being squandered on nuclear energy. We cannot dally any longer.

Herbert Abrams, M.D., Geoffrey P. Bernstein, Helen Caldicott, M.D., H. Jack Geiger, M.D., Mitchel A. Kling, Robert J. Lifton, M.D., Jennifer L. Link, M.D., and Linus Pauling.

Cambridge, Mass., January 4, 1980.

The writers are associated with Physicians for Social Responsibility.●

TAXATION OF U.S. CITIZENS ABROAD

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. FRENZEL. Mr. Speaker, on September 7, 1979, I introduced legislation which would have a significant impact on the hundreds of thousands of Americans living and working abroad. It would eliminate U.S. income taxes on their wage income only.

My bill, H.R. 5211, would eliminate all U.S. income taxes on the earnings of U.S. citizens abroad, but would not alter the tax laws pertaining to unearned income—such as dividends and interest. This legislation would correct existing unfavorable tax laws regarding overseas Americans—tax laws which have had a devastating effect both on individuals and on their employers, the American corporations which are trying to generate new business in foreign markets.

Prior to 1976, under section 911 of the Tax Code, Americans living abroad were provided with a flat $20,000 income exclusion, provided they were bona fide residents of a foreign country for at least 17 out of 18 months. In addition, if individuals were residents of a foreign country for at least 3 years they would be entitled to take a $25,000 income exclusion. Americans were also permitted to deduct the amount of income taxes that they had paid to the Government of their resident country from their U.S. tax bill. These laws had been passed to help offset the often higher costs of living in foreign countries, and also provided an incentive to many Americans to accept assignments outside of the United States, thereby expanding U.S. exports and business activities abroad.

In 1976 the Congress, in an excess of enthusiasm, made the unfortunate decision that section 911 was a loophole that needed closing. In the Tax Reform Act of 1976, the Congress mistakenly reduced the amount of the income exclusion to $15,000, except for employees of nonprofit organizations, who were allowed a $20,000 income exclusion. The Congress went too far, but even worse economic damage was caused to Americans working abroad by inflation and rising costs all over the world.

By 1978, the Congress realized the enormity of its error. American business had called back Americans working abroad and replaced them with foreign nationals who did not pay home country taxes when living out of their country. At the strong and repeated urging of a strong and unified business community, the House therefore proposed a measure which would have restored the income exclusion.

The Senate, however, favored a series of deductions and credits for all Americans abroad, not only those in less developed countries. The bill which came out of conference committee provided for a series of deductions for excess living expenses for all Americans abroad, with the $20,000 exclusion being permitted for those individuals who lived and worked in hardship areas, or "camp" situations. Ironically, those individuals who probably had the least amount of need for the income exclusion, those in low-cost, largely underdeveloped areas, receive the most favorable tax treatment, while those individuals who lived in the high cost areas received the most unfavorable treatment.

Despite the 1978 improvements, the tax treatment of Americans abroad over the past few years has had a serious effect on individuals seeking employment in foreign countries, as well as on American companies attempting to develop new markets. The taxes which Americans are forced to pay, coupled with the recent declines in the value of the dollar and the effects of inflation, have caused many Americans to be priced out of the local markets, as they must be paid a substantially higher salary in order to maintain parity with other nationals who don't pay home country income taxes. The net effects of this has been that many American companies have been forced to recall U.S. citizens abroad and replace them with foreign employees. The foreign nationals are good and loyal employees, but they don't instinctively buy and specify U.S. products the way Americans abroad do.

U.S. corporations—especially construction contractors—have been hurt even more, as they are finding that they must increase their bids substantially in order to cover the higher labor costs that they are forced to pay their American employees. American contractors have found themselves in a noncompetitive position since the 1976 act took effect. There has been a substantial dropoff in the number of Middle-Eastern contracts that are being awarded to American firms. During the period from June 1975 through April 1978, for example, U.S. firms received contracts in the Mid-East totaling approximately $8.9 billion, or approximately 10 percent of the $86 billion which was awarded during this period. However, from May 1978 through June 1979, after the Foreign Earned Income Act of 1976 had taken effect, U.S. contracting firms received only $346 million in contracts in the Middle-East, which was a mere 1.5 percent of the more than $21 billion which was available. This loss of contracts shows that the Foreign Earned

Income Act actually will generate less revenues for the Treasury, because there are fewer Americans left abroad to pay it. Moreover, the unfavorable tax laws have contributed to billions of our oil dollars going to our foreign competitors, instead of flowing back into the United States.

My bill seeks to improve this situation by removing the taxes on wages which American citizens must pay to the United States when they do not live or work in this country. Removing this almost unique provision of American tax law—no other important trading country taxes the wages of its nonresident citizens—would benefit the many Americans living and working abroad, but would more importantly help to make American companies more competitive overseas.

A more competitive industrial position is essential if we are going to bring back home some of the billions we are spending overseas for oil, and it is also necessary to help to eliminate our current balance of trade deficit. I would urge all of my colleagues to support this important piece of legislation, as it would benefit all Americans, both abroad and those here at home.●

DÉTENTE AND SOVIET HUMAN RIGHTS

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. **EDGAR**. Mr. Speaker, a number of Members expressed their thoughts on Soviet Jewry at the close of legislative business on January 22. I would like to add my remarks on that subject.

The Soviet act of aggression against the sovereign state of Afghanistan requires that we reassess our policy toward the Soviet Union. The Carter administration has emphasized a foreign policy of avoiding intervention in global conflicts and détente with the Soviet Union has been consistent with that policy. The United States has tried to achieve a strategic balance with the Soviet Government and has relied on mutual claims of "peaceful coexistence." Unfortunately, Soviet officials have not interpreted détente the same way as American officials. The former have argued that détente does not preclude Soviet support for "liberation" movements in the Third World. This argument has been used to justify the Soviet expansionist policy most recently seen in Afghanistan.

Détente has rapidly eroded in the aftermath of the Afghanistan invasion. President Carter has acted decisively to condemn the Soviet action, embargo grain sales, and call for a boycott of the summer Olympic games in Moscow. I support these steps, firmly believing that we cannot conduct "business as usual." At the same time, I recognize that the erosion of détente will worsen the plight of Soviet Jewry and dissidents. The willingness of Soviet officials to grant emigration visas to Jews and dissidents—which has always been forced—may well cease. That makes it even more necessary for concerned groups and individuals, Members of Congress, and American officials to maintain pressure on Soviet officials. We cannot abandon our concern for human rights while our attention is focused on responding diplomatically and militarily to the Soviet aggression in the Persian Gulf region.

I will continue to write to Soviet officials on behalf of individuals who have been denied basic human rights. I share the concern expressed by my colleagues for the health and future of Anatoly Shcharansky on his 32d birthday. The plight of Andrei Sakharov has also been receiving attention. I have cosponsored a resolution calling upon the Soviet Union to release Sakharov from internal exile. This resolution was adopted by the House on February 5 and it is my hope that it will have a positive bearing on his case.●

ANOTHER ATTEMPT TO DENY THE ELDERLY THEIR JUST DESERVES?

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. **PEPPER**. Mr. Speaker, as of March 31, 1980, Public Law 94-566 will become effective, thus reducing unemployment compensation benefits dollar for dollar by the amount of any retirement benefits received. At present, compliance with this law is optional among States; however, Public Law 94-566 would make compliance mandatory. Just think of the implications this law will have on senior citizens whose retirement benefits are already subject to innumerable reductions.

An individual who is collecting pension income from an employer to whom he has dedicated many years of service can decide to accept a position with another employer to supplement his pension income. Should this individual become eligible for unemployment compensation, he must forfeit $1 of these benefits for every dollar he is receiving from his pension. Is this fair and equitable that a person be denied these benefits that he or she justly deserves?

Mr. Corman, the chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means, thinks not. It is for this reason he has introduced for himself, Mr. ROUSSELOT, Mr. RANGEL, Mr. STARK, Mr. BAFALIS, and Mr. CRANE, H.R. 5507, which would postpone the effective date of this law until January 1, 1982.

Mr. Speaker, I would like to commend my colleague, Mr. CORMAN, and his cosponsors for introducing this legislation, to which I would like to lend my strong support. Recent figures released by the Bureau of the Census in a report on the poverty status of Americans in 1978 reveal that the poor still constitute a disproportionate part of the elderly population. Of all persons found to be moving into poverty during 1977-78, persons over 60 constituted 59 percent of the total. These figures suggest that the elderly are losing the fight against inflation in greater numbers than any other age group.

I would like to emphasize that this bill would affect only those people who are receiving pension income and unemployment benefits from different employers. Thus, a single employer will not be required to pay two benefits to one individual.

The passage and enactment of H.R. 5507 would be a positive and responsible step in helping senior citizens to cope with the enormous pressures they face in attempting to live on their fixed incomes. I would like to insert for my colleagues consideration a letter from many of the national aging organizations which explains the need for enactment of this bill. I urge my colleagues to consider the effect that Public Law 94-566 will have on the already low income of our senior citizens and to join me in support of H.R. 5507.

The letter follows:

NOVEMBER 9, 1979.

Re Fair Unemployment Compensation Rules for Older Workers.

DEAR REPRESENTATIVE: You will soon be considering on the floor of the House the bill H.R. 5507, recently reported by the Ways and Means Committee. This bill would virtually repeal the federal requirement that, beginning early next year, states reduce individuals' unemployment insurance benefits dollar for dollar by the amount of any retirement benefits they receive from public or private sources. The bill would retain a mandatory reduction only in cases where the pension is paid by the unemployment compensation "base-period employer," and would not require reductions where the pension recipient contributed to the pension. The mandatory offset would not go into effect until 1982.

Our organizations strongly urge your support for this bill.

The stated theory behind the general pension reduction requirement is to end "double dipping" of a sort—to prohibit a pensioner from receiving unemployment compensation—and thereby save money. Those directly affected by this requirement will be older persons who seek other jobs, after retirement, to supplement their pensions. The reason they seek employment is absolutely clear: economic necessity. According to the Social Security Administration, the median private pension and annuity level for men over sixty-five in 1976 was a mere $2,060; for women it was an even more disturbing $1,340—less than $112 a month! To confuse these meager amounts with adequate incomes is to err substantially.

The purpose of the unemployment compensation program is to provide financial support during periods of temporary, involuntary unemployment. An employee's right to compensation is based on his or her current employment. It bears no relation to past participation in the labor force. Older workers whose qualifications are equal to other employees' should not be discriminated against on the basis of their work histories. We cannot fail to point out that the pension deduction requirement is in direct contradiction to the spirit of the Age Discrimination in Employment Act, which forbids discriminatory employment practices on account of an individual's age.

Pensions are based on an entirely different concept from unemployment insurance. Pensions generally represent deferred income. In many cases the pension is financed directly by the employee; in all other cases, the employee has agreed to accept smaller wage increases in exchange for pension benefits at a later time. The employee contributes to a pension fund over a period of years, directly or indirectly, and has the right, independent of any future connection to the labor force, to collect that pension at a specified time.

Reducing individuals' benefits by the amount of their pensions is in effect imposing a means test on employees. If we are to introduce means testing into a program which has traditionally operated on an entitlement basis, a variety of interrelated questions need to be carefully considered.

At what level is it fair to reduce benefits and still assure that individuals are receiving an income at least adequate enough for survival?

Is this requirement placing an inequitable tax on employees?

What other types of income, such as interest, dividends, and rent should be subject to deduction requirements?

Such a significant structural change in the unemployment insurance program should not be made without detailed consideration of the impact of the change and how it relates to the actual intent of the program.

Significantly, to the extent that these issues have been addressed, the conclusion reached supports the thrust of H.R. 5507. You may recall that the reduction provision, originally enacted as part of P.L. 94-566, stimulated such controversy that Congress extended the date it would become effective to March 31, 1980. The National Commission on Unemployment Compensation was charged with evaluating the feasibility and desirability of the requirement. After much consideration, the Commission, in its Interim Report, recommended to the President and the Congress that the pension reduction requirement of the Federal Unemployment Tax Act be repealed.

The Commission concluded that "this is not presently an area in which a federal requirement is appropriate," since detailed standards for eligibility are determined by the states. States should have the freedom to develop regulations which fit the needs of their own state programs.

In addition, discouraging older workers from participating in the work force places an incremental burden on the already troubled Social Security trust funds. Presently demographic trends assure us there will be a dramatic increase in the proportion of older people in the population in the next 25 to 35 years. Rather than encouraging older workers to continue to contribute actively to the economy, this provision will discourage employment and place a heavier responsibility for supporting the entire Social Security structure on a smaller labor force.

The major thrust of the opposition to H.R. 5507 revolves around the cost factor. Since states vary greatly in their particular pension deduction requirements, it is difficult to estimate how many states would repeal or modify their requirements if the federal provision is repealed. We recognize that some savings would probably be made in both state and federal funds if this provision went into effect next year. However, we believe that the human costs of such a rule would far outweigh those speculative savings.

The pension reduction requirement is due to go into effect March 31, 1980. It is imperative that this restrictive legislation be replaced this year to ensure equitable treatment for the older worker.

Our organization, concerned with the protection of the basic rights of older Americans, urge your full support for H.R. 5507.

Thank you for your consideration and interest in this important matter.

> Jack Ossofsky, National Council on the Aging; Daniel A. Quirk, National Association of State Units on Aging; Joseph C. Davis, Gray Panthers of Metropolitan Washington; Ruth E. Kobell, National Farmers Union; Raymond Mastalish, National Association of Area Agencies on Aging; Cyril F. Brickfield, National Retired Teachers Association/American Association of Retired Persons; William R. Hutton, National Council of Senior Citizens; Ruth C. Braver, Urban Elderly Coalition.

Also on behalf of the following organizations: American Personnel and Guidance Association; Association for Gerontology in Higher Education; and National Association of Counties.●

ANALYSIS OF THE FEDERAL WELFARE AND FOOD STAMP BUDGETS

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. EDGAR. Mr. Speaker, the Northeast-Midwest Congressional Coalition has compiled the following analysis of the Federal welfare and food stamp budgets for fiscal year 1981:

BUDGET BRIEF NO. 7: WELFARE REFORM

HIGHLIGHTS

The president's budget proposal assumes the estimate net costs of implementing his welfare reform proposal, a two-pronged, incremental approach combining cash assistance and jobs for the needy. These assumptions are not explicit and are tempered with all other contingency allowances in the budget. The Administration's package has been considered in Congress as H.R. 4904, the Social Welfare Reform Amendments, and H.R. 4425, the Work and Training Opportunities Act. Congressional approval of both pieces of legislation will substantially alleviate the welfare burden shouldered in the Northeast-Midwest region, offering nearly $500 million in combined measures of fiscal relief to its financially strapped states and a more equitable and rational welfare system for recipients.

I. Cash assistance

Background

On November 7, 1979 the House passed H.R. 4904, a bill designed to address the basic problems of the cash assistance program at a relatively modest price tag: $3.0 billion above current expenditures in fiscal 1982, according to estimates by the Department of Health, Education, and Welfare. The legislation establishes a national minimum benefit level (cash plus food stamps) of 65 percent of the poverty line, offers fiscal relief to the states, mandates a two-parent program of cash assistance (AFDC-U), makes needed administrative improvements, removes work disincentives, and expands the Earned Income Tax Credit (E.I.T.C.) for the working poor. First-year implementation will bring $762 million in immediate fiscal relief to the states, as well as $186 million in cost-savings realized by administrative reforms.

Regional Implications

H.R. 4904 contains several provisions of vital importance to the Northeast-Midwest region. Of primary significance is the fiscal relief this bill offers states and localities through an increase in the federal matching rate for the Aid to Families with Dependent Children (AFDC) program and a cash assistance program for two-parent families (AFDC-U). Most states now choose to receive federal matching funds according to the Medicaid formula, inversely proportioned to a state's per capita income level. Because no adjustments are made in the allocations for regional variations in the cost of living, the formula is heavily biased against Northeastern and Midwestern states. A "hold-harmless" clause guarantees each state at least 5 percent of 1979 costs in fiscal relief. Establishment of a federally subsidized AFDC-U program will allow many states to shift these two-parent families from state-financed programs.

In addition, the bill will simplify and streamline the current administrative system by standardizing certain deductions and tightening eligibility procedures, thereby reducing chances for error and fraud. Given their above-average error rates, Northeastern and Midwestern states will realize substantial gains through measures designed to lower costly error rates.

In combination with federal grants for administrative implementation and an emergency needs program, Northeastern and Midwestern states could gain nearly a half-billion dollars from the enactment of this legislation.

State Implications

The following chart gives a state-by-state breakdown of fiscal relief to Northeastern and Midwestern states provided under H.R. 4904:

FISCAL RELIEF PROVIDED UNDER H.R. 4904

[In millions of dollars]

State	Fiscal relief plus hold harmless
Connecticut	14.1
Delaware	.8
Illinois	7.3
Indiana	3.0
Iowa	17.9
Maine	.9
Maryland	4.9
Massachusetts	53.0
Michigan	43.5
Minnesota	13.5
New Hampshire	.5
New Jersey	35.9
New York	129.8
Ohio	15.8
Pennsylvania	56.1
Rhode Island	5.8
Vermont	.7
Wisconsin	18.3
Regional total	492.8

II. Jobs

Background

In announcing his welfare reform legislation, the president placed great emphasis on the role of his proposed "Work and Training Opportunities Act" (H.R. 4425) in enabling current AFDC recipients to become "self-sufficient."

The bill essentially expands existing employment and training programs, primarily CETA and WIN (Work Incentives), to provide assistance for an estimated two million "able" welfare recipients, through the development of an intensive job placement service, classroom and on-the-job training, use of the WIN jobs tax credit, and public service employment (PSE) positions. The Administration has estimated that of the two million participants, 620,000 would require jobs, entailing the creation of 400,000 employment and training slots with gross outlays of $5.0 billion above current funding levels. Savings achieved by a reduction in cash assistance and Medicaid payments, however, would reduce the net cost to $2.7 billion.

The legislation proposes the creation of 400,000 new jobs under a new CETA Title 11-E, and the reallocation of 220,000 existing slots from CETA Titles 11-B and 11-D. The bill assumes the remainder of the two million will be served by the job search assistance program and placed in unsubsidized employment.

Based on different assumptions about the overall demand for jobs, the numbers assisted through the job search program, and cost per PSE position, the Congressional Budget Office calculated a need for 766,000 jobs, of which 176,000 could be met through existing slots. Gross outlays were projected at $7.48 billion for fiscal 1982; cost savings achieved through cash assistance and Medicaid would effectively lower the net cost to $4.8 billion.

Regional Implications

The Department of Health, Education, and Welfare estimated that Northeastern and Midwestern states would be allocated 46 percent of the employment and training positions authorized by this legislation (see chart). The Congressional Budget Office has calculated that a one percent increase in the national unemployment rated adds 300,000 persons to AFDC rolls, disproportionately increasing the welfare burden of the already strained Northeastern and Midwestern states. With Chase Econometrics forecasting a 7.7 percent national unemployment rate for 1981, and projections for the Northeast-Midwest region averaging 8.4 percent, enactment of the jobs portion of welfare reform becomes all the more urgent.

The Administration's reliance upon the capacity of the private sector to absorb nearly 1.4 million of the structurally unemployed is a matter of concern for states in the Northeast-Midwest region, because the region has created relatively few new jobs over the last decade compared to other sections of the nation.

State Implications

The following chart gives a state-by-state breakdown of estimated allocations of work and training positions under H.R. 4425:

ESTIMATED NEED FOR FEDERALLY ASSISTED WORK AND TRAINING POSITIONS UNDER H.R. 4425

State	Percent[1]
Connecticut	1.0
Delaware	.3
Illinois	4.6
Indiana	1.8
Iowa	.8
Maine	.6
Maryland	1.3
Massachusetts	2.0
Michigan	6.7
Minnesota	.8
New Hampshire	.2
New Jersey	3.7
New York	9.7
Ohio	6.0
Pennsylvania	4.6
Rhode Island	.4
Vermont	.3
Wisconsin	1.5
Regional total	46.2

[1] Share of total jobs nationwide.

BUDGET BRIEF NO. 8: FOOD STAMPS

HIGHLIGHTS

The president has requested $9.7 billion in budget authority and $9.6 billion in outlays for the food stamp program, a figure contingent upon congressional willingness to lift the ceiling on program expenditures, allowing benefit levels to keep pace with the impact of double-digit inflation on the value of the food dollar.

BUDGET SUMMARY

[In millions of dollars]

	1979	1980[1]	1981	Percent change, 1980–81	
				Actual	Adjusted for Inflation
Food stamp program:					
Budget authority	6,878	8,745	9,739	11.4	2.5
Outlays	6,822	8,745	9,622	10.0	1.3

[1] Assumes supplemental appropriation of $2.55 billion now pending in Congress.

Background

The president's budget calls for food stamp outlays of $9.6 billion in fiscal 1981, based upon the Congressional Budget Office's July 1979 calculations of the cost of maintaining the food stamp program at current policy levels, and in anticipation that Congress will remove the ceiling, or "cap," on the level of expenditures for the program.

The food stamp program is a federally funded entitlement program designed to help those individuals in poverty or temporarily in need of assistance obtain a minimal diet (although not necessarily at subsistence levels). Benefit levels are based on Agriculture Department calculations for the "Thrifty Food Budget," indexed for the cost of living. They now average $33 per person, or slightly more than $1 per day for the 19.4 million program participants.

Seeking to control expenses, Congress in September 1977 set a cap for fiscal 1981 funding of $6.2 billion, based on the current projections that food prices would increase annually at a rate of 3 to 4 percent. But there has been a 22 percent increase in the cost of food, and the cost of the program has risen accordingly. The real culprit in the escalating cost of the food stamp program is double-digit inflation in the marketplace, not increased benefits. The level of benefits has remained stable over time: In fact, per capita monthly benefits—expressed in real dollars—have increased only 33 cents since the inception of the program in 1970.

Some have questioned whether the president's proposed $9.7 billion in budget authority will be sufficient to keep pace with food stamp program costs if unemployment and inflation continue to rise at spiraling rates. The Congressional Budget Office has estimated that a 1 percent increase in the national unemployment rate places 919,000 new participants on food stamps. Although CBO indicators predict food inflation costs will level off at 8.7 percent between fiscal 1980 and 1981, this will be more than matched by accelerating housing and heating costs, thus keeping the overall rate of inflation high.

Regional Implications

Because residents of Northeastern and Midwestern states spend a proportionately greater amount of their income for housing and heating, recipients in the region are particularly vulnerable as a result of the cap on food stamp expenditures and inflation in the marketplace. Failure to lift the cap will mean a direct loss of purchasing power for recipients, forcing many—caught in a fiscal squeeze of spiraling food, fuel and shelter costs—to make the unenviable choice between "heat or meat."

State Implications

The following chart provides a state-by-state breakdown of participant and benefit levels in the Northeast-Midwest region:

MONTHLY PROFILE OF FOOD STAMP PROGRAM IN NORTHEAST-MIDWEST REGION, FEBRUARY 1979

[In thousands]

	Number of participants	Value of benefits
New England:		
Connecticut	156	$3,880
Maine	127	4,203
Massachusetts	554	17,194
New Hampshire	42	1,486
Rhode Island	70	1,565
Vermont	40	1,135
Total	990	29,463
Mid-Atlantic:		
Delaware	39	1,207
District of Columbia	99	2,879
Maryland	276	8,918
New Jersey	495	25,464
New York	1,737	45,345
Pennsylvania	911	23,916
Total	3,557	107,729
Midwest:		
Illinois	849	26,384
Indiana	226	7,015
Iowa	658	14,610
Michigan	147	3,867
Minnesota	719	23,069
Ohio	200	4,389
Wisconsin	2,799	79,334
Total	2,923	82,842
Regional total	7,469	220,034

AN ASSESSMENT OF SALT II

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. HALL of Texas. Mr. Speaker, while the Russian invasion of Afghanistan has temporarily shelved the SALT II Treaty, there still seems to be some euphoria on the part of the administration for eventual enactment of the treaty. Once the Russians have lulled us asleep by making so-called peaceful gestures after Afghanistan is neutralized, there is no question that those who advocate SALT at any price will be pushing it again.

Afghanistan or no Afghanistan, the SALT II Treaty, if enacted, would be the biggest fleece job since the purchase of Manhattan from the Indians. The entire treaty has been negotiated from a position of weakness on the part of the United States. It locks our Nation into second place in a game where second place gets you killed. The treaty subjects us to military mediocrity.

Just recently my good friend, Edward Clark, delivered an address that very succinctly spells out the built-in superiority in weapons that accrues to the Soviets in the SALT II Treaty. Edward Clark knows what he is talking about. At one time he was a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency. His address, which was given to a joint meeting of the service clubs of San Augustine, Tex., which is in my congressional district, deserves careful consideration by everyone interested in the security of America. I commend his speech to the Congress and the Nation as follows:

SALT II AND AMERICAN SECURITY

(By Edward Clark)

The subject of nuclear weapons has been so shrouded in secrecy and dealt with in such complex terms that it is largely incomprehensible to most American citizens. Underlying the matter are larger issues, also complex, such as East-West trade, human rights, international patterns of behavior, global military strategies of various nations and this country's substantive and procedural relationships with foreign nations.

Because nuclear armaments are a complex subject, entrustment of the handing of arms controls negotiations to Federal officials is a practical necessity. Only experts can effectively deal with the problems. Conversely, National referenda on sub-issues such as acceptable megatonnage and throwweight limits are not practical. Yes, on an issue of this importance—an issue which determines the very survival of our society and way of life—Americans deserve an explanation of at least the concept on which our negotiators proceed so that we can make a judgment whether a given treaty is or is not consistent with our National goals and expectations, and whether it will or will not enable the United States to maintain its security and play a positive role in International affairs.

For that reason, I'd like to take the next few minutes to describe, in simple terms some basic criteria for judging the SALT II Treaty so that you can judge for yourselves whether or not this Treaty serves American interests and, thus whether or not it deserves your support.

The strategic weapons with which Salt II deals are the bombers, land-based missiles, and submarine-based missiles of each party to the proposed Treaty which can hit the territory of the other party. For reasons of geography, military doctrine, and technological differences, the strategic forces of the United States and the Soviet Union are not symmetrical. The Soviets have more land-based and sea-based missiles while we have more bombers. In order to formulate a method of controlling the growth of nuclear arms on both sides, President Ford devised the concept of overall numerical equality in 1974. That is, each side could build whatever it wanted—land-or-sea based missiles and bombers—as long as each side's aggregate number of launchers did not exceed 2,400.

Equality is not a bad concept as long as three conditions are met. First, that quantitative limit ought to be matched by verifiable qualitative restraints which prevent an imbalance from developing, as, for example, one side's significantly improving the accuracy and destructive power of their missiles. Second, all truly strategic—that is intercontinental—systems ought to be counted. Thirdly, we must recognize the essentiality of planning ahead to make sure that we have new systems coming on line to replace old ones so that equality today remains equality throughout the life of the Treaty.

I must say that after studying the Treaty and talking to experts, such as Senator John Tower, who has devoted ten years to studying this issue, that I am seriously concerned on each of these three counts.

President Ford was aware of the potential pitfalls in the principle of equality or "equal aggregates" as it is called, and was well along toward negotiating safeguards that prevented loopholes. At the same time, he had launched a vigorous program designed to maintain our strength as represented in the B-1 Bomber and Cruise and M-X Missile programs. But over the past two-and-a-half years not only have these programs been delayed or cancelled, but our basic military strategy has been changed and the forces which support it have been allowed to deteriorate to the point that I and many of our leaders in Washington have become seriously concerned.

Let's look at the three criteria for judging equality.

First, with respect to the qualitative equality, it is important to realize that the Soviet ICBMs are much larger than ours—an advantage which allows them to put many more warheads on their missiles. Right now, the Soviets outnumber us by almost three to one in ICBM warheads, and this ratio will worsen during the life of the Treaty. When you consider the total forces of both sides, the Soviets will have a three-to-one superiority in megatonnage, an almost two-to-one advantage in throwweight, and almost two-to-one advantage in total area destructive potential. In sum, by every important measure of destructive potential, this Treaty is grossly unequal.

With respect to the second criteria—counting all strategic systems—the facts are even more alarming. The Backfire Bomber, which the Joint Chiefs of Staff acknowledge to have the unrefueled capability of attacking all of the United States, is not even counted. this is manifestly unequal. It is estimated that the Backfire has four times the destructive capacity of the Soviet bombers which are counted, but this enormous capability is completely outside the Treaty. I should note also that the deployment of the Backfire and SS-20 Missile is particularly worrisome to our European allies who have witnessed in a few short years Western superiority in theater, or regional nuclear systems reversed to a position of three-to-one Soviet advantage.

Finally, with respect to the third criteria—making sure our forces are kept modernized to the degree essential to maintaining the balance—the facts are very alarming. Holding to a policy of unilateral restraint, the Carter Administration has either cancelled or delayed every U.S. strategic program begun by the Ford Administration—the B-1, the Trident Submarine, the M-X, the cruise missiles—to the point where the Joint Chiefs of Staff acknowledged in their testimony last month that the U.S. will lose "essential equivalance" with the Soviet Union by 1982. In short, that means that we will be number two.

I don't need to explain for you what being number two means to you and me as Americans. Over the past two years, we have seen how the geopolitical balance has shifted against the U.S. while we were still roughly equal. Soviet expansion in areas ever closer to vital U.S. interests has accelerated dramatically. Soviet ascendancy in such far-flung areas as Angola, Ethiopia, Afghanistan, South Yemen, and Indochina express a trend which will inevitably accelerate as the Soviets achieve nuclear superiority—which the terms of the Salt II Treaty virtually guarantees.

The growing dependence of the United States, Japan, and Europe in Middle East oil is well known. However, the security of our access to that oil will become very tenuous in the early 1980's in view of the dramatic rise in Soviet abilities to project their power far from Soviet soil. We cannot allow this to happen.

I could continue for several hours citing other examples of the serious flaws in this Treaty: Loopholes which allow the Soviets to deploy a complete fifth generation of five new missiles while we are allowed but one: the very uncertain ability of the U.S., after the fall of the Iranian government, to verify Soviet adherence to the terms of the Treaty: and our unilateral restraint in deploying new systems, such as cruise missiles, but I believe the point is clear. By any measure, the Salt II Treaty is grossly unequal and presages the emergence of Soviet nuclear superiority. The question is, what can we do about it?

I believe two things are necessary. First, these areas of unequal treatment in the treaty must be corrected. The Senate must act to amend the Treaty in each of these important areas—reducing the Soviet advantage in heavy missiles, requiring them to count the Backfire and closing the "new types" Loophole. Only through renegotiation of a truly equal Salt II can be have any hope of bargaining from strength during Salt III and beyond. Second, we must recognize that we must make a substantial increase—at least 5 percent—in our investment in defense to avoid falling into a position of being number two in both strategic and conventional forces. Vietnam is behind us, and it is time that we pull up our socks and show that the U.S. still has the strength and resolve to defend its interests in the world.

Many in Washington are calling for spending on dozens of programs. We are told we need a national health care program which is a sure recipe for bankruptcy. Conversely, did you know that in the last 20 years, we have allowed defense spending to fall to its lowest point in real terms since 1938? Meanwhile, the Soviets are outspending us on military hardware by $50 billion each year.

I believe that the first responsibility of the Federal government—as stated in The Constitution—is "to provide for the common defense." There is no greater priority. Unless our defense is secure, we must seriously question whether other spending makes any sense as a long-term investment.

In closing, I want to say that I believe our responsibility is clear. The Salt II debate can serve as a useful occasion to refocus our attention on the growing threat and to rededicate ourselves to restoring our capabilities for national defense. Otherwise, it can be the milepost marking the inevitable deterioration of the U.S. as the preeminent leader of the free world. There is no doubt in my mind as to which road informed Americans would choose. We are a great people and have the will to remain great. We have not lost our confidence in ourselves, only our confidence in the ability of the Federal government to marshall our strength and get on with solving the great issues before us. I believe that a vigorous expression of that will—through a resounding call for prompt restoration of our military strength—is a responsibility we all face. It is up to you and me, and I encourage you all to join me in sending that signals to Washington.

Think, my friends, of our beloved country. We need a leader like General Washington, Mr. Jefferson, Mr. Lincoln, Col. Teddy Roosevelt, charging up San Juan Hill, or our own Gen. Sam Houston to lead us to a proper, fair, and sensible arms control Treaty which will protect, not destroy, our country.●

COMMENDATION OF EVELIO GRILLO FOR HIS CONTRIBUTION TO THE COUNTY OF ALAMEDA

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. STARK. Mr. Speaker, Evelio Grillo has been an involved east bay citizen for over 30 years. Organizations, institutions, programs, and projects dedicated to the betterment of Oakland, especially its minority and poor populations, have benefited greatly from Evelio's involvement. His personal dedication to the development of cooperation and harmonious relations between the many groups that comprise greater Oakland is known to great numbers of people active themselves in the affairs of the area.

On February 15, 1980, a group of admiring friends are sponsoring a dinner honoring Evelio Grillo's contributions to our people. Many fine words and deserved testimonials will be voiced. Although I will not be there in person, I will be there in spirit and I did want Evelio to know of my admiration for him and to express my good wishes to him. By spreading notice of his good deeds across the pages of this Record, I alert my colleagues to his significant accomplishments, and especially to his efforts to develop a cooperative spirit and respect between the black and Hispanic communities of Oakland.●

RUSSIAN ESPIONAGE: A NOTE ON THE QUIET OFFENSIVE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. DORNAN. Mr. Speaker, on January 27, the CBS news program, "60 Minutes," carried an interview with the Soviet defector Arkady Shevchenko, the former Undersecretary for Political Affairs at the United Nations Secretariat. Shevchenko revealed the extent of Soviet espionage operations based at the U.N. headquarters in New York City. On January 28, I told the Members of this House that I would insert the transcript of the CBS report as quickly as the CBS New York offices could get it down to me. The contents of the report are shocking and should serve as a sharp reminder to the Members of this House of the immediate need to rebuild our defeated, decimated, and demoralized intelligence agencies. They are integral to our national defense. The non-Communist world looks to us for intelligence leadership, not to some James Bond fantasy.

It is my privilege to submit the transcript for the benefit of my colleagues of this outstanding Mike Wallace effort at truth seeking and waking up "America, the 'Sleeping Giant'":

RUSSIAN SPIES IN THE U.S.A.

(Produced by Gail Eisen)

Mike Wallace. Détente is dead. The cold war is back on again. And nonetheless, according to a man who should know, a small army of Russian spies continues to operate with remarkable freedom in the United States. The man who says that is Arkady Shevchenko, who, until his dramatic defection to the United States in 1978, was thought to be a Soviet hardliner, close to Brezhnev and Gromyko. It turned out he was something different.

This man who talked to us about Russian spies in the U.S. told the House Select Committee on Intelligence two days ago in Washington that he had defected because "democracy in the Soviet Union is a mockery," and that "elementary human rights do not exist" there. For five years before his defection, Shevchenko served as undersecretary for political affairs in the United Nations Secretariat. In that post, he was in a position to know what went on in Moscow, at the Russian UN Mission in New York, and in the UN Secretariat itself.

I asked Shevchenko how many spies the Russians have now working under cover of UN headquarters in New York.

Arkady Shevchenko. Half of the Soviet diplomatic staff would be either KGB officers or the GRU officers.

Wallace. That means that in the United Nations building on New York's East River, among the clerks and Ambassadors, the functionaries and reporters who roam these corridors, the Soviets have succeeded in planting literally hundreds of their spies.

Shevchenko. The professional KGB and the GRU, at least 300 it would be.

Wallace. We wondered whether Shevchenko's figures, his estimates as to the number of KGB and GRU officers—GRU is Soviet Military Intelligence, working under cover of the UN, we wondered if those figures were accurate. For 12 years, FBI officer Larry McWilliams, now retired, worked in counter intelligence against the Soviets in the city of New York.

You would say then 350 would be in espionage?

Larry McWilliams. Yes.

Wallace. That's a lot.

McWilliams. That's an awful lot. It's a horrendous task to try and counter.

Shevchenko. The more personnel they have, the more difficult FBI task to follow them, if you have hundreds of these people wandering around in this country. That's why the UN Secretariat is so important for them, because there they can have such a huge army of the KGB professionals or GRU professionals, that gives them advan— advantages. They don't— they don't care about how much personnel. They— they could— if they would be allowed, they would send thousands here. The UN staff member, they— unlike the Soviet diplomats, they could travel without prior identification in this country.

Wallace. In other words, you, as a member of the UN Secretariat, can travel any place?

Shevchenko. Yes, any place, except the military bases or restricted area, where even American are not allowed to— to come.

Wallace. The United Nations then, Mr. McWilliams, is the single most important spy nest, if you want to call it that, in the world today.

McWilliams. Hm-mmm. My view, definitely. No doubt about it, because of their basic freedom of travel. But beyond that, they're in a marvelous position in this city that contains everything. It contains the head corporations of industry. It contains finance. They're interested in economics. My gosh, there's no better place on earth to be. You see, it's got— there's so many of the headquarters of industrial empires that deal with sophisticated weapons, communications, all sorts. It's a marvelous place for a spy to be.

Wallace. A marvelous place, partly because of the opportunities there are here in New York for electronic eavesdropping. For example, at the Russian UN Mission on the East Side of Manhattan, or at their apartment complex in the suburb of Riverdale, at their estate in Oyster Bay, Long Island, and especially at their retreat in Glen Cove, Long Island. The Soviets have the most sophisticated equipment for listening, for electronic surveillance.

Shevchenko. They have the highly sophisticated electronic equipment for— as interception of the telecommunications, the radio communications in this country, eyedropping and all the thing. So that—

Wallace. Eavesdropping.

Shevchenko. Yes. (laughs) Not eyedropping. It's eavesdropping. Yes.

Wallace. You mean that they— they do eavesdrop and intercept telecommunications, telephone calls, cables?.

Shevchenko. Yes, that's correct. That is— that is exactly so.

McWilliams. Soviet military attache's office in Washington, the Soviet Embassy, just go past them, and you look up and you'll see nothing but a massive amount of sophisticated antenna. And that's used for monitoring of all types of communications— satellites, telephones, radio. Now, if you get into the scientific field and start talking about computerization, (there) are multiple listening devices. My God, they can sit up there with one of those antenna and just listen to thousands upon thousands of telephone conversations wandering around this area.

Wallace. Of course the FBI can listen too, as they did during an operation against the Soviets in April of 1977. They chose U.S. Navy Commander Arthur Lindberg to flush out some Russian UN spies. Posing as a tourist, he boarded a Russian cruise ship, and on leaving the vessel, he handed over a note addressed simply: "To the Russian Ambassador."

Commander Arthur Lindberg. The note said, "I am a career American Naval officer stationed in the New York City area, and will retire in six years. I'm interested in making additional money prior to my retirement and can provide you with information which may be of interest to you. If you are interested, telephone me at 201-922-9724 at 11:45 AM, August 30th, 1977."

Wallace. Lindberg reconstructed for the cameras what happened.

Commander Lindberg. Precisely 11:45 on August the 30th, the phone rang and the whole operation commenced. The notes that I would receive at phone booths were generally put in magnetic key containers and left underneath the ledge of the telephone booth.

WALLACE. First, they sent him this questionnaire. "Do you have camera?", it asked. "Do you familiar with photo?" was another question.

Commander LINDBERG. They wanted secrets that were dealing primarly with the anti-submarine warfare, and most sensitive Naval secrets that I could obtain.

WALLACE. The Russians put two KGB officers in touch with Lindberg. And then, unbeknownst to them, the FBI monitored every development. This videotape, secretly shot by FBI agents, was to prove crucial in identifying the UN spies. It shows one of the Russians in snowy weather visiting one of the phone booths in the New Jersey area where the operation took place. The technique of the Russians was to move Lindberg from booth to booth, leaving messages, changing routes, making it almost impossible for anyone else to interfere. Unknown to the Russian, his phone call is being tape-recorded at Commander Lindberg's end.

RUSSIAN. You have the stuff?

Commander LINDBERG. Yes, I do.

RUSSIAN. You do. Proceed now to the stop. And just after the Essex Toll Plaza—

Commander LINDBERG. Yeah?

RUSSIAN. You'll see the phone booth, public phone booth.

Commander LINDBERG. Uh-huh.

RUSSIAN. Now the second phone booth from the right, if you look at in front of you. You know, right after the booth. The number is seven-four-eight.

Commander LINDBERG. Seven-four-eight.

RUSSIAN. Nine-six.

Commander LINDBERG. Nine-six.

RUSSIAN. Eleven.

Commander LINDBERG. Eleven.

RUSSIAN. Yes. And follow the instructions completely. And you'll find everything there, all right?

Commander LINDBERG. Right. I'll talk to you later.

RUSSIAN. Hm-mmm. Okay, bye-bye. (He hangs up phone)

WALLACE. At the end of the call, the Russian carefully places the magnetic key case, together with the next message for Lindberg, underneath the phone shelf, and he leaves and returns to the car. Incredibly, he was using his own vehicle registered in his own name. Commander Lindberg arrives to enter the phone booth and collect the message in the magnetic box that's been left for him by the Russians. Once the spies had been identified on the tape, Commander Lindberg had to pass real secrets over, so they could be charged with a real offense. The man in the phone booth was Vladik Enger, a Russian UN civil servant.

SHEVCHENKO. I knew that the both of them KGB.

WALLACE. You did know?

SHEVCHENKO. Yeah, I did, because Enger had been working in my department. I was officially told by the Soviet KGB resident that he is a KGB professional officer.

WALLACE. Rudolf Chernyayev was the other spy. He too was a Russian UN civil servant. No real defense was offered at their trial and they were sentenced to 50 years in prison. Eventually, they were exchanged for five leading Russian dissidents.

I asked Mr. Shevchenko about the cost of the KGB operation at the UN.

The United States pays about 30 percent——

SHEVCHENKO. Yes.

WALLACE. —of the cost to the United Nations Secretariat, right?

SHEVCHENKO. Correct. Correct.

WALLACE. And half of the people at the UN Secretariat who are Russians are KGB, you say?

SHEVCHENKO. Yes. Yes.

WALLACE. So——

SHEVCHENKO. Or—or GRU.

WALLACE. Intelligence. So, in effect, the U.S. taxpayer——

SHEVCHENKO. Yes, certainly.

WALLACE. —is paying Russian spies at the UN in New York.

SHEVCHENKO. Exactly. That—that is—it's—it's exactly so.

WALLACE. Now, in New York, there is a gentleman by the name of Victor Lessiovsky. He's a personal assistant to Secretary General Kurt Waldheim. And the story goes that he is simply well-known as a KGB agent. True?

SHEVCHENKO. I think he well-known as a KGB officer, and—but people sometimes, even knowing that, don't hesi—not only don't hesitate to talk to him and to meet with him, but even interested sometimes to—to—to meet and to discuss some of the things with a high-level KGB officer. He's intelligent man, very sociable, and very knowledgeable.

WALLACE. Of what use is he if everybody knows that he's KGB?

MCWILLIAMS. He's of great value to them, Mike. They have—he has access to so many Americans that disregard the fact that he's an intelligence officer.

WALLACE. I know of—of reporters, I know businessmen, I know attorneys here in New York who spend a good deal of time socially with Lessiovsky.

MCWILLIAMS. If I was in business, let's say, and knew Lessiovsky, and he was exposed as a KGB officer, I'd say, "I'm sorry. I'll talk to a businessman or I'll talk to a legitimate diplomat, but I won't talk to you."

WALLACE. And Victor Lessiovsky declined to talk to us. Neither would Waldheim discuss Lessiovsky or espionage at the UN.

The UN oath, which is taken by everybody who works for the Secretariat, says that they're going to exercise the functions entrusted to me as an international civil servant of the UN and not to seek or accept instructions illegal to the performance of my duties from any government or other authority external to the organization. Now obviously you had to sign that oath. Lessiovsky, everybody signs that oath.

SHEVCHENKO. Well, certainly. Everybody sign that. And a good many—a good deal of people pay no attention of that, but especially the Soviets pay no attention to that at all.

WALLACE. In other words, you are working—you are working for the UN ostensibly, but—in fact, you are working for the Soviet Union?

SHEVCHENKO. That is correct.

WALLACE. Recently, Shevchenko has been living quietly near Washington with his new American wife, Elaine, and writing a book about his life in the Soviet foreign service. I asked him about the circumstances of his break with the Soviets.

Mr. Shevchenko, shortly after your defection in 1978, there were two private meetings with you held at the request of the Russians. Present at those meetings were the Russian ambassador here in Washington, Dobrynin, the UN Ambassador, Troyanovsky, your lawyers, and some State Department people. The Russians knew that they had lost you, and they wanted you back. They said that you had been—quote—"reading top secret documents in the Soviet mission up to the last day and sending reports back to Moscow."

SHEVCHENKO. That is so. It's correct.

WALLACE. They must have been stunned.

SHEVCHENKO. I would say so. (laughs)

WALLACE. And—and wanted you back desperately.

SHEVCHENKO. That, they—they tried to do that, but they failed.

WALLACE. Some of what you have seen here appeared first on the BBC in London. We are grateful for their cooperation in this report.●

SAVING THE ST. JOHN RIVER

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. EDGAR. Mr. Speaker, I am very pleased that the Public Works and Transportation Committee has deauthorized the Dickey-Lincoln project in Maine that would have destroyed 57 miles of the awe-inspiring St. John River. The following article from the Dartmouth Alumni magazine describes a 5-day wilderness trip taken on this river. This article will help convey to my colleagues the correctness of their support for deauthorization on the Dickey-Lincoln project:

A JOURNEY: FIVE DAYS TO BIG RAPIDS

(By Dan Nelson)

When we arrived at Dave Larson's place on Wilson Pond, near Moosehead Lake and the town of Greenville, Maine, it was almost dark and we were nearly two hours late. We wound our way down to the pond through a maze of narrow roads overhung with branches that scraped the two canoes tied to the top of the truck. We pulled up beside the house, anxious, after the six-hour trip from Hanover, to put driving behind us, to meet Larson, the sixth member of our party, and to get ready for the river.

The St. John is best run in late spring or early summer, shortly after the ice goes out. Because of extensive logging in the watershed, and because the upper St. John, despite the logging, is still a wilderness river without dams to maintain an artificial level in the summer, the water runs out fast, making for good canoeing while it lasts. If the proposed Dickey-Lincoln dams are built, low water will be a problem no longer. A battleship could float over the 88,000 acres of created reservoir. But 57 miles of river would be missing.

The river was named by Pierre de Guast and Samuel de Champlain on June 24, 1604, the feast day of St. John the Baptist. The upper section hasn't changed much. It "drains the remotest part of the north woods in Maine," the Maine Canoeing Guide says, "an area which has no equal in the eastern United States in the number and diversity of wilderness canoe trips which can be made." The lower sections are settled, dammed and polluted. Writing about the section we canoed, Professor Warren K. Moorehead reported, "There is no canoe trip equal to it in the country, so far as my observation extends. It has been my pleasure to voyage by canoe, bateau and power boat on the lakes, rivers and along the seashore of Maine for more than three thousand miles. The St. John easily ranks first, and if the lumbermen and railroad companies do not ruin it, this river will continue in its matchless natural charm for generations." Moorehead paddled the St. John in 1914. Now the lumbermen are allied with the conservationists, opposing the dams which would submerge or isolate thousands of acres of timber.

"Canoe the St. John before it's gone," I'd been told. An indirect invitation from Greg Hines, who has taught economics at Dartmouth since 1948 and paddled canoes since before then, gave me the chance. The St. John, for Hines, was familiar territory, a warm-up for a two-week run down the Coppermine in the Northwest Territories later in the summer. His other passion is tennis. I don't know how many racquets he owns, but he has two canoes hanging in his garage, plus a dozen hand-made paddles.

Hines recruited Bob MacArthur '64, the director of the Dartmouth Outward Bound Center and also an Episcopal priest, who recruited me, a canoeing novice. We invited Ed Geehr, a former Dartmouth Medical School student, a specialist in emergency medicine, and a veteran of a previous St. John trip. Geehr invited his "bowperson" Laura Dickson, who came to Hanover as a one-year college exchange student four years ago. Larson, a canoeing cohort of Hines', graduated from Dartmouth in 1952 and teaches political science at the University of New Hampshire. He has spent the previous week at his cabin on Wilson Pond, fishing. I was to be Larson's bowman on the trip.

My white-water canoeing baptism had been with MacArthur on the White River in Vermont, where I had dunked the preacher along with myself. Would Larson mind getting wet? He came booming out of the house, one hand grasping a glass, the other supporting Helen, an émigré from Hanover to Greenville, who was to pick us up at the end of the week when we came off the river. "Where the hell have you been, Hines?" Larson hollered as he barged out into the yard to welcome and admonish us for postponing dinner so long.

"We've been driving, you sot," Hines retorted, "something that in your condition you would be totally incapable of doing."

"Well, you probably can't tell but we've been drinking," Larson admitted, grinning.

Hines, gray-haired and slender, feigned a punch at Larson, burly, red-haired and, after a week in Greenville, unshaven and scraggly. Hines would probably describe himself as wiry; Larson calls him wispy, "the oldest jock in Hanover." The two of them laughed and embraced, Helen between them, trading insults, greetings, and gossip about life in Hanover and life in Greenville. Larson, scoffing at the canoes, paddles, and equipment we brought, shooed us inside to bottles and glasses and a box of stale pretzels. The rest of us, strangers to Wilson Pond, milled about, overwhelmed by the tone of the hospitality, uncertain if we should best be polite by exchanging pleasantries or gibes. Larson, Helen, and Hines, all talking at once, at length agreed, at Hines' insistence, that we ferry over to his island camp to grill steaks.

Dinner was a party to excess, a homecoming for Hines and a reunion with Larson and Helen, who was beside herself with delight at having company from the world beyond Greenville. Afterward, Laura and Geehr went back with Larson while MacArthur, Hines, Helen, and I slept on the island. At least I slept. Hines and Helen talked until late. MacArthur said he fretted. It wasn't the river that was a worry, or the competence of the party, but rather the spirit of what at midnight boded to be a long, six-day party.

A late-May day breaks at 4:30 in Maine. Hines said that the morning mist hanging over Wilson Pond promised a good day for flying from Greenville to Fifth St. John Pond, the last of the ponds forming the headwaters of the St. John, inaccessible except by float plane or a long, upstream paddle with several portages. By 6:30 we were eating breakfast at Larson's—eggs and bacon, seasoned with more of the previous evening's raillery. Larson took off on Hines' "undergraduate" suede saddle shoes, which Hines had worn hoping they'd be noticed. From shoes it went to ancestry—Hines is Irish, Larson is Norwegian—and canoes—Hines has an Old Town, Larsons paddles a Mad River. The debate would have extended to packs, but the two of them discovered they each had purchased the same model from L. L. Bean. Larson is the more assertive character, but Hines is crafty, able to slip the rug out from under an insult and wrap you in it. Hines despises hunting, but in a hunting camp he'd be formidable company.

Sorting food for the trip, packing gear, and making sure we had two cast iron skillets for frying the fish we intended to catch, we regained the momentum mislaid the night before. Despite our precautions, we found when we came to cook the first night's dinner that the skillets also had been mislaid. All of the evidence pointed to Hines, who packed the pots and pans, criticized the weight of the skillets, and touted the virtues of his aluminum cook kit, which did make the trip. At the last minute before leaving Wilson Pond, Larson won my allegiance by lending me a good paddle to replace the six-foot club I brought from Hanover.

It cost $35 apiece to fly the six of us and three canoes from Greenville to Fifth St. John Pond. Our plane could carry only canoes and duffle for four, so Laura and Geehr flew ahead of us, a pattern they followed on the river. We flew in an old Beaver, purchased used by Folsom's Flight Service in 1958. It has logged more than 6,000 hours, a fraction of the time our pilot, "Cranky" Charlie Coe, a veteran of World War II fighters, has reputedly spent in the air. Charlie wore a belt buckle the size of a pancake with "Bush Pilot" stamped on it. He also wore a red baseball cap probably as old as his plane.

The area north of Moosehead Lake looks empty on a map. It looks emptier from the air. After a half-hour flight, Charlie set us down in Fifth Pond and told us to take care. The week before, one of the other pilots had recovered three bodies from Allagash Lake. Wind and high waves swamped the canoe. The water was too cold for swimming long.

The flies, not the cold, were bothering us. The previous week of hot weather and no rain had warmed the shallow ponds feeding the St. John and had accelerated the hatch. We bolted our lunch, portaged around an old loggers' dam, and started downstream. The north-flowing St. John is a mighty river by the time it is joined by the Allagash and reaches Ft. Kent, 160 miles away on the border of New Brunswick. By the time it flows another 260 miles and reaches the Atlantic it's as wide as the Mississippi and 220 feet deep. But when it leaves the pond where we started it's only a shallow brook, a thin squiggle on even a large-scale map.

I was relieved to discover the first few miles of paddling were not on white water. I had apprehensions of stepping into the canoe and being swept to the ocean. There was a current to contend with, but the riffles were manageable. It was a beginner's stream the first day, with just enough action to be educational. As a beginner I left my mark—green paint from the bottom of Larson's canoe—on some prominent rocks. Larson was patient.

I was busy untangling my draw stroke from my sweep when we heard a great shouting and splashing from Hines and MacArthur in the lead boat. They had turned a bend to face a choice of two small channels, one on each side of an obvious boulder. As they were deciding, they hung up on a not-so-obvious sleeper, a barely submerged rock, and swung broadside to the current. The upstream side of the canoe tipped, the water rushed in and swamped the boat. None of the gear was lashed to the canoe and everything fell out, including the paddlers and Hines' new waterproof pack, which turned out to be not so waterproof. It did hold water though, as Hines discovered when out of its depths he fished his clothes, binoculars, cameras, and lenses. The clothes dried, the rest was ruined.

While Larson and I, with great discretion and not much valor, slipped through an easy third channel to chase wreckage floating downstream, and while MacArthur and Hines, diving for canned goods, wondered to themselves who was to blame, Laura and Geehr narrowly missed swamping on the same rock that sank our flagship. "My weight in the back was tipping us over," Geehr said later, "so I jumped out." Geehr's dunking helped dry two soggy egos.

As we neared Baker Lake, our destination for the first night and the usual starting point for a St. John trip, the stream slowed, grew deeper and wider, and began to look more like a river. There were fewer deadfalls and logjams to carry around. The last few miles were through open, marshy country where we saw muskrat and beaver, a cow moose, hawks, herons, and loons. Camped on the beach at the head of the lake we heard at sunset the whirring of woodcock as they worked themselves up for mating. "Those horny birds kept me awake all night," Larson said in the morning.

I was awake at 4:30 and fishing at 5:00. By 5:15 I was up to my waist in the water, trying to untangle my lure from the bottom. MacArthur was soon patrolling the beach, too, but neither of us contributed anything to breakfast except our appetites. Our fishing mentor, Larson, ordinarily would have nothing to do with spin-casting, but he left his fly rod at the first portage. Hoping to make the three-mile paddle down Baker Lake before the wind came up, we were underway by 8:00, Larson and I trolling for lunkers with a sure-fire Allagash Supervisor. Maybe it was the name the fish didn't like.

Baker Lake contributes volume to the St. John. Immediately below it are sets of rapids which alternate with sections of smooth water. Wide, shallow sections with riffles are separated by miles of deeper slow water. Laura and Geehr, carrying the lightest load, led most of the way. Hines and MacArthur followed, and Larson and I tended to drag behind, dragging bottom as well. When queried, we pointed to the wooden footlocker, lashed amidships, containing most of the canned goods. The others pointed to the scratched, v-shaped hull of Larson's canoe.

Although breakfast had been finished by 6:30, and lunch, unaccountably, had been postponed until 1:00, the first order of business when we finally stopped was swimming. We had anticipated cold, high water because the ice had broken out two weeks later than usual. What we hadn't counted on was the lack of rain and the week of mid-eighties temperatures before we arrived. During our week on the river the hot dry-spell didn't let up, and the river dropped about four inches a day. Another week, we kept saying to each other, and we'd be walking instead of paddling. Another week and the St. John would be too warm to mix with bourbon.

Lassitude set in after lunch. We paddled for only 20 minutes before deciding to camp on an island below the confluence of the Southwest Branch. "Too hot to continue," we said as we beached the canoes and stripped for swimming. "Tough day tomorrow," was the consensus when we later looked at the map, discovering we were 40 miles from Seven Islands, our prospective third night's campsite. But our schedule was becoming increasingly flexible after two days on the river, the amount of time it takes, we agreed, to relax fully, to remember reasons for coming and to forget what was left behind on the desk.

Stories, frequently but not alwasy canoeing stories, followed dinner every night. Whatever the topic of conversation, Larson or Hines had story, typically tangential, to go with it. One story, sometimes only half completed, would lead to another. Geehr and Laura did more listening than talking, even when tempted with bait like "Doctors are a bunch of crooks," or "Did I ever tell you may feminist story?" Attempts to provoke Laura always failed, squashed by her accomplished smile of sarcasm. MacArthur, usually addressed as "The Reverend" after dinner, was distinguished by his efforts to salvage serious discussion when it degenerated. "Have you guys ever had a serious conversation in your lives?" he asked once, half in jest, half seriously. "It's very disconcerting."

"Did I ever tell you my mathematics story?" Hines inquired one evening when we were trying to figure how many miles we were from the next set of rapids. "We don't want to hear it. Math is for dullards," Larson cut in. "Easy now," MacArthur objected, "some of us go into theology because we can't do math." "You're just another compulsive Protestant," Hines retorted. "Did I ever tell you my fallen-away Catholic story?

Hines and Larson did talk seriously one evening, about why certain ethnic groups excel in certain endeavors. "Why," Larson asked, "are there so many Irish writers?" Hines' first response was that "Ireland is a country of low productivity," that there is "nothing to do but drink, talk, and write." The question engendered much speculative discussion, replete with references to obscure but worthy writers and pubs, before Larson succumbed to the temptation to comment on the title of one of Hines' economics books, *Persuasion of Price. "Persuasion of Price,"* repeated Larson with a pronounced lilt. "What kind of an Irishman's title is that?"

Because of the previous day's heat, and because we wanted to camp at Seven Islands, we were on the river at 6:30 Monday morning. By 8:00 the temperature was nearing 80. Larson was looking after me, pointing out the holes where he figured the big trout were lurking. My lack of success didn't seem to discourage him. Through each set of rips he asked me how I was reading the river. Where was the most water flowing? On which side of that rock would I go? Later in the day he took the bow and gave me the stern, flinching only occasionally when we bumped or scraped.

While we paddled we kept up an intermittent conversation, the changes in topic punctuated by a mile or two of silent drifting. We'd give Dartmouth an education a mile's worth of talk, marriage and home ownership another two or three, and canoeing and the river mile after mile. "I can't understand why anyone would want to dam this river. What they ought to do with anybody in favor of the dams is make them take this canoe trip," Larson said, with Senator Muskie in mind. "Can you think of any other river in this part of the country that flows this far through this much wilderness?" he asked. "There isn't one. This is the last one."

The river continued to broaden and, as the stretch of the Connecticut near Hanover was the summer before it was dammed, it was shallow enough to wade across. Although we supposedly paddled 40 miles our third day, it seemed considerably less. We saw a deer crossing the river, another moose and her calf, a number of merganser ducks, an osprey, and more loons. What we didn't see, because there weren't any, were signs of human habitation other than a couple of empty hunting camps and a logging bridge or two. We saw other canoeing parties, but the river wasn't crowded the way the neighboring Allagash usually is.

A mile below the remains of Nine-Mile Bridge, a tough-looking character, a friendly but firm representative of the North Maine Woods Association, beckoned us to shore. Toll for the troll, I guessed. He charged us $14 for the privilege, which we acknowledged it was, of camping on the logging association's land.

I noticed there were more than seven islands as we paddled to the farthest island to camp. A large party camped at one of the upper islands was using 12-foot set poles, normally employed for polling up or snubbing down a river, for vaulting into it. Extensive meadows cover the low-lying islands and the land along the shore. Hines said this place was once farmed to support logging operations. Now the area supports the birds and moose we saw. Since the reservoir created by the Dickey Dam would flood the St. John drainage to a 910-foot elevation, the islands would be under hundreds of feet of water if the dam were approved.

The next day we went through Big Black Rapids, the second-largest rapids on the river. After ten days without rain, the water wasn't as heavy as it had been during previous trips Hines, Larson, and Geehr had taken, but it was heavy enough for me. The way those three approach medium-sized rapids, a bit disconcerting until the rest of us could adapt, is to maneuver to the middle of the channel, stand up in the stern, see where the most water flows, and follow it. I was surprised to find how much the canoe can be controlled in rapids, delighted to learn about back-padding and ferrying across the current to hold a position, or how to turn 180 degrees and pull into an eddy behind a rock to rest and reconnoiter. It was a great accomplishment, it seemed to me, to slip purposely close by a rock to pick up speed from the heavy water rushing past it.

Big Black, which we had intended to scout, begins innocuously. Larson and I found ourselves in it before we knew where we were. We came around a bend and saw Hines' and Geehr's canoes pulled up on the right bank, the wrong side for scouting, according to the guide book. While we were making up our minds whether or not to join them, we drifted into heavy water and hung up on a rock. Larson said all he could think about was the ignoming of dumping at the head instead of the bottom of the rapids.

Later that day a jet, an FB-111 with missiles slung from the wing, flew over. Hines remarked that we weren't far, as jets fly, from Loring Air Force Base in Limestone, Maine. He said the last death on the St. John occurred in 1975 at Big Rapids, below us yet, when three men from the base decided, after a few beers, that they could all make it through together in one aluminum canoe. Two of them made it, although the canoe didn't, and it took a while to find the body of the third.

Camped at Seminary Brook Tuesday night, our last night on the river, we were visited by another party of six. Feeling protective of our seclusion and of our record of having previous campsites to ourselves, we feigned smiles and greetings while eavesdropping on the group's debate over whether or not to camp with us. Half of them were tired of paddling, the rest wanted to continue and look for another spot. After a narrow vote they departed. When the leader of the tired faction sat down in his canoe, he missed his seat. There was a moment of embarrassed silence before we all laughed and exchanged sincere farewells.

We alternated the cooking and cleaning chores according to canoes. What Geehr and Laura didn't contribute to the daily banter, they made up for in the meals they prepared. They concocted our memorable last supper before Big Rapids. We had hors d'oeuvers of kippered herring, corned beef, and peanut butter on English muffins. The main course consisted of a three-pound, $9 Danish canned ham which had come perilously close to being crossed off the shopping list in Hanover. The ham was smothered with pineapple rings and glazed with raisins and brown sugar. Potatoes, baked in Geehr's reflector oven, and semi-fresh carrots and peas were served on the side. Dessert was a gingerbread cake laced with bourbon and raisins and topped with chocolate pudding and peanuts. There was pudding left for breakfast. Larson and I had a different culinary style. For dinner one night we opened two cans of beef stew; for breakfast we set out a box of dry cereal.

Big Rapids, according to the guidebook, is "two miles long and very beautiful, constantly dropping among large boulders. Caution: This is a very dangerous rapid and several persons have drowned in trying to run it. . . There is one part near the bottom which is difficult in any stage of water and dangerous in high water. . . . There is a road on the left if the canoeist decides to carry the rapid."

Stories told by Geehr, Larson, and Hines intimated that the Big Rapids could be frightening. Larson has a story, which Hines says originated in fantasy inspired by terror, about what happened when he acquiesced to his son's suggestion that they ferry across the rapids to try the water on the right-hand side. Larson maintains they were driven up on a ten-foot-high haystack of turbulent water, and that while from the stern he was frantically digging with his paddle to keep the canoe upright, his son in the bow was hanging in space, padding air. At the last moment, the story goes, they slid off the side into the hole behind the haystack. "All people could see above the waves," Larson concluded, "was the top of my red hat as we bobbed up and down."

Hines has as story about an accomplished friend, a Dartmouth drop-out, whose feat of shooting Big Rapids solo, standing up all the way down, assumes mythic proportions. The best part of the story is when Hines mimics the look on the faces of a more conservative Sierra Club group which witnessed the spectacle.

I don't remember very much about Big Rapids; we went through them so quickly. The three veterans of heavy water tell me the flow was light, "just enough to make things interesting." I remember Larson yelling instructions above the roar, and I remember Hines observing, when we beached our canoes at our pick-up point at the base of the rapids, that "of all the commands in canoeing, the one that is probably the most counterproductive is 'watch that rock!' It sets up terror, panic, and hysteria, since at that moment there are probably 50 to watch for."

It probably isn't practical to follow Larson's suggestion of sending supporters of the dams on a week-long canoe trip. I'd settle for sending then down Big Rapids—if not three to a canoe, at least at high water, just so they'd be familiar with more than electrical current. After running Big Rapids, it might be difficult to watch Dickey Reservoir slowly working its way upstream, spilling over the banks, drowning the St. John. "We'd better slow down," Larson said the last morning of our trip. "We're running out of river."●

CHANGES IN THE FOUNDATION LAWS

BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. FRENZEL. Mr. Speaker, free access to contributions is the lifeblood of virtually all charitable institutions. Unfortunately, the Internal Revenue Code differentiates between the various types of charitable organizations, permitting some types of charitable organizations to receive more in contributions from individuals than others. In order to remove this unnecessary differentiation, yesterday I introduced the bill H.R. 6402 which would permit contributions to all types of charitable foundations, both those which are nonoperating private and those which are public, to be treated equally.

Under present law, individuals may only contribute 20 percent of their gross income to a private, nonoperating foundation, while contributions to public foundations may be made up to 50 percent of an individual's gross income. In addition, excess contributions—more than 50 percent—made to a public charity may be carried forward for 5 years, while contributors to private foundations have no such option available. My bill would remove all of these distinctions between contributions to private foundations and contributions to public charities, so that contributions can be made to both on an equal basis.

The bill also makes some necessary changes in the penalties for violation of any of the laws governing foundations. Under current law, any infraction, regardless of how minor or whether it was committed willfully, can be subject to harsh penalties. While I agree that penalties are necessary to assure compliance with the law, I do not think that foundations should be penalized for their inadvertent errors. My bill provides for the abatement of first tier penalties in cases where it is determined that the infraction was unintentional, or where the event is corrected within a reasonable period of time.

The bill contains several other important changes in the foundation laws. I hope that my colleagues will examine this bill carefully, make suggestions for changes where appropriate, and support it, so that our great system of private foundations will be able to continue to do the charitable and educational work for which it is renowned. A copy of the bill follows:

H.R. 6402

A bill to amend the Internal Revenue Code of 1954 to make certain changes in the tax treatment of private foundations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR CONTRIBUTIONS TO PRIVATE FOUNDATIONS.

(a) PERCENTAGE LIMITATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 170(b) of the Internal Revenue Code of 1954 (relating to percentage limitations) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) GENERAL RULE.—The total deductions under subsection (a) for any taxable year shall not exceed 50 percent of the taxpayer's contribution base for such taxable year."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 170(b) of such Code is amended—

(i) by redesignating subparagraph (C) as subparagraph (B),

(ii) by striking out subparagraph (D), and

(iii) by redesignating subparagraph (E) as subparagraph (C).

(B) Any reference in the Internal Revenue Code of 1954 to an organization described in section 170(b)(1)(A) of such Code (or in any clause thereof) shall be deemed to be a reference to an organization described in such section (or clause thereof) as in effect on the day before the date of the enactment of this Act.

(b) CONTRIBUTIONS OF CAPITAL GAIN PROPERTY.—The first sentence of section 170(e)(1) of such Code (relating to certain contributions of ordinary income and capital gain property) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) in the case of a charitable contribution of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), 40 percent (28/46 in the case of a corporation) of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution)."

(c) CARRYOVER OF EXCESS CONTRIBUTIONS.—Subparagraph (A) of section 170(d)(1) of such Code (relating to carryover of excess contributions) is amended by striking out "described in subsection (b)(1)(A)" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

SEC. 2. EXEMPTION OF CERTAIN SMALL GRANTS FROM EXPENDITURE RESPONSIBILITY REQUIREMENT.

(a) GENERAL RULE.—Paragraph (4) of section 4945 of the Internal Revenue Code of 1954 (defining taxable expenditure) is amended to read as follows:

"(4) as a grant to an organization unless—

"(A) the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h),

"(B) such grant is to an organization described in paragraph (1), (2), or (3) of section 509(a), or

"(C) such grant is made during a calendar year to an organization described in section 501(c)(3) and the aggregate amount of grants made by the private foundation to such organization during such calendar year does not exceed $15,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants made after December 31, 1980.

SEC. 3. ABATEMENT OF FIRST TIER TAXES IN CERTAIN CASES.

(a) GENERAL RULE.—Chapter 42 of the Internal Revenue Code of 1954 (relating to private foundations; black lung benefit trusts) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Abatement of First Tier Taxes in Certain Cases

"SEC. 4961. ABATEMENT OF FIRST TIER TAXES IN CERTAIN CASES.

"(a) GENERAL RULE.—If the Secretary determines that—

"(1) a taxable event was due to reasonable cause and not to intentional disregard of rules and regulations, and

"(2) such event was corrected within the correction period for such event,

then any first tier tax imposed with respect to such event (including interest, additions to tax, and additional amounts) shall not be assessed, and if assessed, the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) FIRST TIER TAX.—The term 'first tier tax' means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, or 4945.

"(2) TAXABLE EVENT.—The term 'taxable event' means any act (or failure to act) giving rise to liability for tax under section 4941, 4942, 4943, 4944, or 4945.

"(3) CORRECT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'correct' has the same meaning as when used in the section which imposes the first tier tax.

"(B) SPECIAL RULES.—The term 'correct' means—

"(i) in the case of the first tier tax imposed by section 4942(a), reducing the amount of the undistributed income to zero,

"(ii) in the case of the first tier tax imposed by section 4943(a), reducing the amount of the excess business holdings to zero, and

"(iii) in the case of the first tier tax imposed by section 4944(a), removing the investment from jeopardy.

"(4) CORRECTION PERIOD.—The term 'correction period' has the same meaning as when used in the section which imposes the first tier tax."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 42 of such Code is amended by adding at the end thereof the following new item:

"SUBCHAPTER C. Abatement of first tier taxes in certain cases."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1981.

SEC. 4. DEFINITION OF FAMILY.

(a) GENERAL RULE.—Subsection (d) of section 4946 of the Internal Revenue Code of 1954 (defining members of family) is amended to read as follows:

"(d) MEMBERS OF FAMILY.—For purposes of subsection (a)(1), the family of an individual shall only include the individual's spouse, ancestors, and children, and the spouses of the individual's children."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1981.

SEC. 5. AMOUNT OF REQUIRED DISTRIBUTIONS.

(a) GENERAL RULE.—Paragraph (1) of section 4942(d) of the Internal Revenue Code of 1954 (defining distributable amount) is amended by striking out "or the adjusted net income (whichever is higher)".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 4942(f) of such Code (defining adjusted net income) is amended by striking out "For purposes of subsection (d)" and inserting in lieu thereof "For purposes of subsection (j)(3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

SEC. 6. INVESTMENT EXPENSES TREATED AS QUALIFYING DISTRIBUTIONS.

(a) GENERAL RULE.—Paragraph (1) of section 4942(g) of the Internal Revenue Code of 1954 (defining qualified distributions) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(C) any ordinary and necessary expenses paid or incurred for the production or collection of gross investment income (as defined in section 4940(c)(2)) or for the management, conservation, or maintenance of property held for the production of such income."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

SEC. 7. EXCLUSION OF CAPITAL GAIN INCOME FROM EXCISE TAX ON INVESTMENT INCOME.

(a) GENERAL RULE.—Paragraph (1) of section 4940(c) of the Internal Revenue Code of 1954 (defining net investment income) is amended by striking out "the sum of the gross investment income and the capital gain net income" and inserting in lieu thereof "the gross investment income".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 4940 of such Code is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.●

A GRIM CHAPTER IN THE AFGHANISTAN WAR

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1980

● Mr. STARK. Mr. Speaker, in Monday's Christian Science Monitor there appeared a copyrighted story under the byline of Edward Girardet giving what is known to the outside world about "one of the worst massacres of unarmed civilians in recent history." The characterization is from the Monitor's subheadline.

The details are so grisly, the action so inhuman that I hesitate to depart from the journalist's report for fear of lessening the story's impact. I would only add that this massacre—directed by Russians—took place many months before the Russians moved troops across the international border dividing Russia and Afghanistan.

Afghanistan only proves again what was discovered in Vietnam. Civil wars are most violent and superpower involvement only makes them even more violent. How much bloodier would our bloody Civil War have been if the superpowers of that era had actively participated?

The Girardet article and a Monitor editorial from the same edition follow. The words and tone of the editorial have my full support. The international community must make certain that the killings at Kerala do not go soundlessly ignored:

[From the Christian Science Monitor, Feb. 4, 1980]

A GRIM CHAPTER IN AFGHANISTAN WAR

(By Edward Girardet)

RAGHNAI PASS, AFGHAN-PAKISTAN BORDER

It was an unforgettable five minutes.

"They forced all the men to line up in crouching positions in a field just outside the town and then opened up with their machine guns from behind," recalls Abdul Latif, a bearded Afghan traffic policeman. "Then they spread out through the town gunning down all the remaining men they could find."

Mr. Latif, now living in western Pakistan, is one of the few male survivors of a Soviet-ordered massacre of more than 1,000 people last April in Kerala, a small riverside town in eastern Afghanistan's Kunar Province.

According to Mr. Latif and other survivors, some 200 Afghan soldiers and policemen, together with 20 Soviet advisers, cold-bloodedly machine-gunned almost the entire male population of the town.

Afghan soldiers had accused the townspeople of collaborating with anti-government Muslim "mujahideen" fighters hidden in the surrounding pine-forested mountains, eyewitnesses say. The shooting was ordered by a dark-blond, green-eyed Russian officer who wore an Afghan uniform without rank insignia.

"You can be sure that next year's potato crop will be a good one." Using words to that effect, a senior Soviet military adviser looked on as the town's wailing women folk struggled vainly to push past a cordon of soldiers toward the bodies of their slaughtered husbands, brothers, and sons. Survivors say that as they watched, an army bulldozer plowed the bodies into the soft earth of an open field.

The April 20, 1979, shooting of an estimated 1,170 unarmed males from Kerala, including boys in their early teens, is the first reported case of a mass scale military reprisal against Afghanistan's civilian population since the fighting began almost two years ago. Numerous rumors of mass shootings have previously circulated among antigovernment groups, but no corroborating, eyewitness evidence has up till now been forthcoming.

The massacre took place before the Soviets invaded Afghanistan in force at the end of last year. It occurred under the regime of President Nur Muhammad Taraki and Prime Minister Hafizullah Amin, when the Soviet presence was beginning to build up. And far more people were killed in this Afghan massacre than when the entire male population of Lidice, Czechoslovakia, was slaughtered during World War II by the Nazis or when American troops killed civilians in the Vietnamese village of My Lai in March, 1968.

Almost 10 months later, with rumors of the massacre filtering down from western Pakistan's mountainous but fertile Bajaur region in the restricted tribal areas bordering Kunar Province in eastern Afghanistan, this reporter with three others (Nicholas Proffitt of Newsweek, Kare Verte of Norway's Morgenbladet, Rauli Virtanen of Finland's Helsingin Sanomat) sought to verify the reports.

Kerala lies on the banks of a small tributary just before it forks into the Kunar River in a broad cultivated valley of wheat fields at the foot of the rising snowcapped Hindu Kush mountains. As the crow flies, the small town of mud and stone houses lies only 12 miles northwest of the ancient mule track that leads from Pakistan into Afghanistan through the Raghnia Pass.

Now almost deserted by its almost 5,000 Pushtun inhabitants, Kerala is under Soviet-Afghan military control. But with the regime's soldiers hardly daring to move into the countryside unless accompanied by heavy air support, anti-government forces firmly hold the surrounding hills.

We hoped to at least catch a glimpse of Kerala from the mountains overlooking the Kunar River. But our attempts to slip into eastern Afghanistan in the company of armed Mujahideen guides were twice foiled by Pakistani authorities who adamantly refused to allow us to trek across the rocky Raghnai Pass. On both occasions, we were escorted back by rifle-carrying police.

But among the more than 33,000 Afghan refugees who have converged on the verdant terraced valleys and scattered smoking villages of Bajaur in Northwest Frontier Province, we discovered some 400 families, survivors of the Kerala massacre.

Sharing accommodations with local armed tribesmen and relatives, or living in Spartan government dwellings, many of these families consist only of destitute black-shawled women and dirt-caked children.

Barely 200 of their menfolk survived the killings, they say. Some of them had been absent from the town when the soldiers had arrived, others had succeeded in running the military gauntlet and escaping execution.

Overall corroboration of testimonies by the survivors, many of whom live miles apart, confirms the magnitude of the killings—although the exact number of victims must remain an estimate. There is a general consensus also that the mass slaughter was ordered by the Soviet advisers, some of who were known by sight to the people of Kerala.

According to the accounts of these survivors and eyewitnesses, what happened is as follows:

On April 20, last year, an Islamic holy Friday, a column of 30 tanks and a number of armored personnel carriers (APCs) from nearby military garrisons, rolled into Kerala. The day before, there had been heavy fighting between the rebels and government forces. With many townspeople still at home, the vehicles took up position around Kerala with their guns facing the center of the town.

"All the men were ordered to come to a giant Jirga (meeting) to discuss the rebel fighting in the area," explains Mr. Latif. "None of the men were armed. The women and children were herded into the mosque. There they could hear and see everything that was going on."

To illustrate his description, Mr. Latif hastily draws a map of Kerala on a piece of paper showing its houses, its mosque, the tank and APC positions, as well as the field where the men had assembled. With the vast majority of Kerala's male population gathered in one spot, the Soviet advisers and Afghan officers began to loudly berate them for aiding and abetting the mujahideen.

"The government soldiers were very annoyed about the mujahideen attacks," said Khalil Ullah, a teacher wearing a stained black jacket over his grey pajama suit. "They knew very well that we had been secretly giving the mujahideen food, ammunition, shelter, and money."

Another teacher, Abdul Hadi, who had managed to slip away after being told by Afghan soldiers that they would all be executed, added: "They were particularly angry because the governor of Kunar had previously called on us all to take up arms against the rebels, but we flatly refused."

With tanks blocking the riverside part of the field, the soldiers pointed their AK-47 automatic rifles at the men and demanded that they shout pro-communist slogans.

"They wanted them to cry 'Hooray for the regime!' " said Mr. Latif who had helplessly watched the proceedings from nearby. "But instead they all shouted 'Allah o Akbar' (God is the greatest)."

Further incensed, the soldiers roughly shoved the men into line. An army officer moved forward to take photographs of the assembly. "They wanted to prove that the men of Kerala were supporters of the mujahideen and therefore had to die," explained Mr. Latif.

Nabi Madez Khan, a short and stocky schoolboy who lost his father, uncle, and four cousins in the massacre, describes what happened in the final minutes.

"I accompanied my father to the field to the meeting," says Nabi, standing in front of a large gathering of anti-regime Afghans outside the Bajaur refugee headquarters. Many of the refugees carry guns. Nabi, with his brown woolen chitrali cap perched on the back of his closely cropped hair, looks younger than this 18 years.

"People were afraid and knew that something was going to happen. Some of the men tried to join the women and the children in the mosque, but they were turned back at gunpoint."

A military helicopter suddenly emerged from beyond the river and hovered in a stationary position above the field. The senior Soviet adviser on the ground conversed rapidly by field radio with the helicopter. "I became scared and wanted to leave," says Nabi. "I tried to ask the commandant (Russian adviser) if I could go, but he ignored me."

Nabi then turned and started to hurry away toward the Mosque. He looked back several times. Abruptly, the helicopter swooped away. Orders were shouted and the townsmen were sharply told by the soldiers to crouch down facing the tanks. Behind them stood the armed Afghan soldiers with their guns pointing forward. Several Soviet advisers including the senior officer placed themselves to the rear. Then the shooting started.

"I was running but turned to look back," says Nabi. "I saw everything. The soldiers were firing their guns and the men were falling to the ground. I could not see my father."

In the confusion, the youth made his way to the mosque without being noticed by the swarm of armed guards who were intently watching the shooting.

A few women quickly handed him female clothes to hide in. Several other men also slipped in and tried to disguise themselves in dark chadors (veils).

The firing only lasted five minutes. When the women saw their men being executed, they began screaming and flailing their arms. They ran forward holding up holy Korans in their hands for the soldiers to see and pleaded for mercy. They tried to push their way through to the bodies but were warned back by the guards who shot into the air.

Within minutes, the bulldozer appeared on the scene. It began plowing the bodies into the field. Survivors said that some of those buried were still alive and moving. Several women noticed the army photographer taking more pictures.

Bibi Rakhara, a wizened, unvieled woman lost her husband, four brothers, one son, and two nephews in the slaughter. Dejectedly she stands outside a stone building in Bajaur with her nine remaining children at her side. Her face taut with emotion, she describes the massacre. "When the shooting started, we could see our men falling. We had known what was going to happen. We wanted to reach them to touch them but the soldiers stopped us."

Soldiers then fanned out into the village tracking down the remaining men. Some entered the mosque and tore away the veils of suspects. Three or four men were discovered and were dragged screaming down to the field where they were shot.

Only a few escaped. "I was in my house when I heard the shooting," says one man gesturing toward the Afghan mountains beyond the ridge. "I could hear the women screaming and realized what was happening, so I ran." Near the river, he hid among the trees.

Mr. Latif, the traffic policeman, also was fortunate to survive. But as a government official, he was assumed to be loyal to the Khalq (People's Party) communist regime of Kabul. Three days later, however, he too had fled across the border.

Within hours groups of tearful women and children as well as a handful of stunned male survivors emerged. Together this particular group—15 men, 30 women, and 20 children crossed the Kunar River by boat and then walked four days to Pakistan.

"It was a tragic sight," explains a Pakistani Army major. "I watched all these wretched women and children gradually trickle over a period of days into Bajaur. They were all weeping. There was hardly a man among them."

The Monitor's View—The Kerala Massacre

The world must stand appalled at the cold-blooded massacre under Soviet orders that has virtually destroyed the village of Kerala in Afghanistan. As detailed in today's front-page dispatch, an estimated 1,170 unarmed male villagers, including young teen-age boys, were pitilessly shot and, while some were still alive, bulldozed into a mass grave. The facts are stark, but they have to be confronted by an international community with any pretense to concern for ordinary human decency, let alone human rights.

The killings, unverified until now, took place on April 20 last year. Kerala, which had a population of close to 5,000, is almost deserted. The women and few male survivors who fled are left to confirm the slaughter from their haunted memories.

What remains is the mass grave. What is required is an independent official investigation of the atrocity by an organization such as the Red Cross or the United Nations Commission on Human Rights.

No time should be lost. Recall the lingering controversy over the mass killing of Polish prisoners found buried in the Katyn forest during World War II. Moscow no doubt will seek to avoid responsibility for the Kerala murders as it did for the Katyn massacre. The world should have a full accounting before the grim trail grows cold.

The sort of ruthlessness displayed at Kerala may not be surprising in view of reports from Afghanistan indicating the continuation of it. An eyewitness told the Monitor of events last August in another village where he saw Afghan soldiers, accompanied by Soviet advisers, maiming children before killing five of them along with 28 adults.

Brutality toward even one individual ought to be too much for the conscience of humankind. The scale of the Kerala outrage cruelly dramatizes the suffering of each victim caught between the Soviet invaders and their totalitarian objectives.

Do the people of the Soviet Union want such acts carried out in their name? We cannot believe they do—and not only because they have a populace of the bereaved to testify to Nazi brutality in the past. Two decades ago Soviet poet Yevgeny Yevtushenko seemed to touch the Russian people by accepting Russian guilt for anti-Semitism and for failing to memorialize the thousands of Jews killed by the Nazis at Babi Yar in the Ukraine. He wrote of himself as "a totally soundless shriek" over the buried victims.

There must be no soundless ignoring of the Afghanistan victims. Those tempted not to care cannot escape the thought in Yevtushenko's bygone words: "I am each old man that was slaughtered here/ I am each child that was slaughtered here./ Nothing in me can forget this."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, February 7, 1980, may be found in the Daily Digest of today's Record.

Meetings Scheduled

FEBRUARY 8

10:00 a.m.

Banking, Housing, and Urban Affairs

To receive testimony from G. William Miller, Secretary of the Treasury, on the Securities and Exchange Commission's report on the activities of Textron.

5302 Dirksen Building

Environment and Public Works

Environmental Pollution and Resource Protection Subcommittees

To continue joint markup of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

1:30 p.m.

Appropriations

*Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of the Assistant Secretary for Health, Scientific Activities Overseas, and Retirement Pay for Commissioned Officers.

S-128, Capitol

FEBRUARY 13

10:00 a.m.

Energy and Natural Resources

To resume hearings to review those items in the President's budget for fiscal year 1981 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee, to hear officials from the Department of the Interior.

3110 Dirksen Building

FEBRUARY 14

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold oversight hearings to examine the Federal Government's efforts in energy research.
324 Russell Building

10:00 a.m.
Labor and Human Resources
To hold hearings on the nominations of Elizabeth S. Carpenter, of Texas, to be an Assistant Secretary of Education (Public Affairs); Carl W. Fischer, of Maryland, to be an Assistant Secretary of Education (Budget and Planning); and John B. Gabusi, of Arizona, to be an Assistant Secretary of Education (Management).
4232 Dirksen Building

FEBRUARY 18

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To review those programs administered by the Department of Education.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Communications Commission.
S-146, Capitol

FEBRUARY 19

8:30 a.m.
Energy and Natural Resources
To resume closed hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade. S-407, Capitol

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for Elementary and Secondary Education and Impact Aid programs.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Arms Control and Disarmament Agency, Commission on Civil Rights, Equal Employment Opportunity Commission, and the Legal Services Corporation. S-146, Capitol

Banking, Housing, and Urban Affairs
To hold hearings on proposed legislation to renew the Home Mortgage Disclosure Act.
5302 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To resume hearings of S. 1938, proposed Federal Radiation Protection Management Act. 3302 Dirksen Building

Rules and Administration
To hold hearings on resolutions requesting additional funds for Senate committees.
301 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Emergency School Aid, and Libraries and Learning Resources.
S-128, Capitol

Technology Assessment Board
Business meeting on pending Board business.
EF-100, Capitol

FEBRUARY 20

9:00 a.m.
Veterans' Affairs
To hold hearings on S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration 412 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration. 235 Russell Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Vocational Education, Student Assistance programs, and Student Loan Insurance Fund.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Commission on Security and Cooperation in Europe, International Communications Agency, and the Japan-U.S. Friendship Commission.
S-146, Capitol

Energy and Natural Resources
Business meeting, to consider proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.
3110 Dirksen Building

Governmental Affairs
To hold hearings on S. 2164 and 2165, bills to protect the confidentiality of certain export information required by the Bureau of the Census for statistical purposes.
3302 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To hold hearings on S. 1652, proposed Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act.
4232 Dirksen Building

Rules and Administration
To continue hearings on resolutions requesting additional funds for Senate committees.
301 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Special Institutions.
S-128, Capitol

FEBRUARY 21

8:30 a.m.
Energy and Natural Resources
To resume closed hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade. S-407, Capitol

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold oversight hearings on the activities of the Commodity Futures Trading Commission.
324 Russell Building

9:15 a.m.
Veterans' Affairs
To hold hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society and finding employment opportunities.
318 Russell Building

9:30 a.m.
*Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.
5110 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Agency for International Development, Congressional Research Service, and the Senate Legal Counsel (Sec. 115, Public Law 95-481).
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Higher and Continuing Education, Educational Activities Overseas, Higher Education Facilities Loan and Insurance, and College Housing Loans.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Small Business Administration.
S-146, Capitol

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To resume hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on S. 2245, proposed Motor Carrier Reform Act.
235 Russell Building

Governmental Affairs
To continue hearings on S. 2164 and 2165, bills to protect the confidentiality of certain export information required by the Bureau of the Census for statistical purposes.
3302 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for special projects of the Department of Education.
S-128, Capitol

FEBRUARY 22

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on a proposed amendment to establish standards for developing a cost ratio trigger for burden of proof in rate cases, to S. 1946, to provide railroads with more pricing rate flexibility and contract provisions.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs

International Finance Subcommittee
To resume hearings on the U.S. embargo of grain and technology exports to the Soviet Union.
5302 Dirksen Building

FEBRUARY 25

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold oversight hearings on the conduct of monetary policy.
5302 Dirksen Building

Energy and Natural Resources
To hold hearings on S. 1280, proposed Energy Management Partnership Act.
3110 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To resume hearings on S. 1652, proposed Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act.
4232 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Human Development Services.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the administration of foreign affairs within the Department of State.
S-146, Capitol

FEBRUARY 26

9:30 a.m.

Commerce, Science, and Transportation
To continue hearings on S. 2245, proposed Motor Carrier Reform Act.
235 Russell Building

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Department of the Treasury, and the Export-Import Bank of the United States.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Health Care Financing Administration.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for international organizations and conferences within the Department of State.
S-146, Capitol

Banking, Housing, and Urban Affairs
To continue oversight hearings on the conduct of monetary policy.
5302 Dirksen Building

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1981 congressional budget.
6202 Dirksen Building

Energy and Natural Resources
To continue hearings on S. 1280, proposed Energy Management Partnership Act.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.
3302 Dirksen Building

Labor and Human Resources
To consider those matters and programs which fall within the committee's jurisdiction with a view to submitting its views and budgetary recommendations to the Committee on the Budget by March 15.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2066, to convey certain land in Colorado to the Ute Mountain Ute Indian Tribe.
5110 Dirksen Building

11:00 a.m.

Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1981 from Disabled American Veterans.
318 Russell Building

2:00 p.m.

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for International Commissions of the Department of State, and the Office of the U.S. Trade Representative.
S-128, Capitol

Budget
To continue closed hearings in preparation for reporting the first concurrent resolution on the fiscal year 1981 congressional budget.
6202 Dirksen Building

FEBRUARY 27

9:30 a.m.

Commerce, Science, and Transportation
To continue hearings on S. 2245, proposed Motor Carrier Reform Act.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.
6226 Dirksen Building

10:00 a.m.

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Social Security Administration.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the International Trade Commission, and the Federal Trade Commission.
S-146, Capitol

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings to examine the scope of rental housing.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 1934, proposed Municipal Solid Waste to Energy Act.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.
3302 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
Business meeting, to consider S. 1839, authorizing funds through fiscal year 1985 for programs under the Higher Education Act.
4232 Dirksen Building

2:00 p.m.

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of Inspector General, Office of Civil Rights, Policy Research, and Departmental Management.
S-128, Capitol

FEBRUARY 28

9:00 a.m.

*Veterans' Affairs
To resume hearings on S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration.
412 Russell Building

10:00 a.m.

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Community Services Administration, and the Railroad Retirement Board.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Board for International Broadcasting, and the Securities and Exchange Commission.
S-146, Capitol

Banking, Housing, and Urban Affairs
Insurance Subcommittee
To hold hearings on proposed authorizations for fiscal year 1981 for the crime and riot-reinsurance program of the Federal Emergency Management Administration.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To continue hearings on S. 1934, proposed Municipal Solid Waste to Energy Act.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.
3302 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
Business meeting, to continue consideration of S. 1839, authorizing funds through fiscal year 1985 for programs under the Higher Education Act.
4232 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 2223, to allow members of Indian tribes to transfer restricted Indian lands to heirs who are not members of the reservation where the land is located.

457 Russell Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the National Commission on Libraries and Information Services, Corporation for Public Broadcasting, Occupational Safety and Health Review Commission, Mine Safety Review Commission, and the Soldiers' and Airmen's Home.

S-128, Capitol

FEBRUARY 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.

235 Russell Building

Labor and Human Resources

Employment, Poverty and Migratory Labor Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for the Legal Services Corporation.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for domestic programs of ACTION, National Labor Relations Board, Federal Mediation and Conciliation Service, and the National Mediation Board.

S-128, Capitol

Banking, Housing, and Urban Affairs

Insurance Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for the crime and riot-reinsurance program of the Federal Emergency Management Administration.

5302 Dirksen Building

MARCH 3

9:30 a.m.

Labor and Human Resources

Handicapped Subcommittee

To hold oversight hearings on the implementation of the Education for All Handicapped Children Act (P.L. 94-142).

4200 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To resume hearings on proposed legislation to renew the Home Mortgage Disclosure Act.

5302 Dirksen Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To review those programs administered by the Department of Labor.

S-128, Capitol

MARCH 4

8:00 a.m.

Veterans' Affairs

To resume hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society and finding employment and education opportunities.

412 Russell Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs administered by the Department of State.

1318 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Public Service Jobs, Special Youth Programs, the Job Corps, and Jobs for the Elderly.

1223 Dirksen Building

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds through fiscal year 1985 for the Urban Mass Transportation program.

5302 Dirksen Building

Energy and Natural Resources

Business meeting, to resume consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.

3110 Dirksen Building

11:30 a.m.

Veterans' Affairs

To hold hearings to receive legislative recommendations for fiscal year 1981 from Veterans of Foreign Wars.

318 Russell Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for General Manpower Training programs, Private Sector Initiatives, State Employment Security Agencies.

1114 Dirksen Building

MARCH 5

9:00 a.m.

Labor and Human Resources

Employment, Poverty, and Migratory Labor Subcommittee

To hold hearings on S. 1129, 2021, and 2218, bills to provide career employment opportunities for disadvantaged youth; and S. 1312, proposed Work and Training Opportunities Act.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Labor-Management Services Administration, Pension Benefit Guaranty Corporation, Occupational Safety and Health Administration, and the Mine Safety and Health Administration

1114 Dirksen Building

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To continue hearings on proposed legislation authorizing funds through fiscal year 1985 for the urban mass transportation program.

5302 Dirksen Building

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 2248, authorizing funds for fiscal year 1981 for the U.S. Travel Service.

235 Russell Building

Energy and Natural Resources

Business meeting, to continue consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.

3110 Dirksen Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Employment Standards Administration, Bureau of Labor Statistics, and President's Committee on Employment of Handicapped.

1114 Dirksen Building

MARCH 6

9:00 a.m.

Labor and Human Resources

Employment, Poverty, and Migratory Labor Subcommittee

To continue hearings on S. 1312, proposed Work and Training Opportunities Act.

4232 Dirksen Building

9:30 a.m.

Veterans' Affairs

Business meeting, to consider those items in the President's budget for fiscal year 1981 which fall within its legislative jurisdiction and to consider recommendations which it will make thereon to the Budget Committee by March 15.

412 Russell Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain international security assistance programs of the Department of State.

1114 Dirksen Building

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To continue hearings on proposed legislation authorizing funds through fiscal year 1985 for the urban mass transportation program.

5302 Dirksen Building

Energy and Natural Resources

Business meeting, to continue consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.

3110 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River, San Diego, California, to be held in trust for, and operated and maintained by certain boards of Mission Indians.

5110 Dirksen Building

MARCH 7

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume hearings on S. 864, 1499, 1663, 1744, bills to facilitate the formation of U.S. export trading companies to expand export participation by smaller U.S. companies.

5302 Dirksen Building

MARCH 10

9:30 a.m.

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings on S. 2144, proposed Health Professions Educational Assistance and Nurse Training Act.

4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To resume hearings on S. 1928, proposed Fair, Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfer Act.
5302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for general administration and legal activities of the Department of Justice.
S-146, Capitol

MARCH 11

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Bureau of Investigation, Department of Justice.
S-146, Capitol

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 1928, proposed Fair, Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 1699, proposed Energy Impact Assistance Act.
3302 Dirksen Building

Labor and Human Resources
Business meeting, to markup S. 1076, to improve the regulation of multiemployer pension insurance plans, and to provide sufficient funds to pay benefits.
4232 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Immigration and Naturalization Service, Department of Justice.
S-146, Capitol

MARCH 12

9:00 a.m.
Labor and Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 1129, 2021, and 2218, bills to provide career employment opportunities for disadvantaged youth.
5110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for the National Bureau of Standards.
235 Russell Building

Labor and Human Resources
*Health and Scientific Research Subcommittee
To resume hearings on S. 2144, proposed Health Professions Educational Assistance and Nurse Training Act.
4232 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

Banking, Housing, and Urban Affairs
Business meeting, to consider those matters and programs which fall within the committee's jurisdiction with a view to submitting its views and budgetary recommendations to the Committee on the Budget by March 15.
5302 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 1699, proposed Energy Impact Assistance Act.
3302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Prison System, and Office of Justice Assistance, Research and Statistics, Department of Justice.
S-146, Capitol

MARCH 13

9:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold hearings on proposed legislation to establish Commissions on National Youth Service and Volunteerism.
4232 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the International Development Cooperation Agency, and certain programs of the Agency for International Development.
1114 Dirksen Building

MARCH 14

9:00 a.m.
*Veterans' Affairs
To hold hearings on the recruitment and retention of qualified health-care professionals to staff the Veterans' Administration's health-care facilities.
412 Russell Building

MARCH 17

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 2097, proposed Joint Export Marketing Assistance Act, and on the substance of S. 2040, proposed Small Business Export Expansion Act and S. 2104, proposed Small Business Export Development Act.
5302 Dirksen Building

MARCH 18

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on S. 2097, proposed Joint Export Marketing Assistance Act, and on the substance of S. 2040, proposed Small Business Export Expansion Act and S. 2104, proposed Small Business Export Development Act.
5302 Dirksen Building

MARCH 19

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for programs under the National Climate Program Act.
235 Russell Building

MARCH 20

9:00 a.m.
Veterans' Affairs
Business meeting, to consider S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration.
412 Russell Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development, and for the Peace Corps.
1114 Dirksen Building

MARCH 21

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1981 for programs under the National Climate Program Act.
235 Russell Building

MARCH 24

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Bureau of Census, general administration, and economic and statistical analysis, Department of Commerce.
S-146, Capitol

MARCH 25

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development; the international narcotics control program of the Department of State; and for the Inter-American Foundation.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Economic Development Administration, and Regional Planning Commission, Department of Commerce.
S-146, Capitol

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development

Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

MARCH 26

9:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
Business meeting, to mark up S. 1843 and H.R. 2977, proposed Domestic Violence Prevention and Services Act; and proposed legislation to establish Commissions on National Youth Service and Volunteerism.
4232 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Industry and Trade Administration, Minority Business Development Agency, and the U.S. Travel Service, Department of Commerce.
S-146, Capitol

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the National Oceanic and Atmospheric Administration, Department of Commerce.
S-146, Capitol

MARCH 27

9:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1981 from AMVETS, Paralyzed Veterans, Blinded Veterans, W.W.I. veterans, and Military Order of the Purple Heart.
1202 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Patent and Trademark Office, National Telecommunications and Information Administration, and science and technical research, Department of Commerce.
S-146, Capitol

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To resume hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Maritime Administration, Department of Commerce.
S-146, Capitol

MARCH 28

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

MARCH 31

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Department of Commerce.
S-146, Capitol

APRIL 1

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for foreign assistance programs.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1981 for the Department of Commerce.
S-146, Capitol

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

APRIL 2

9:30 a.m.
Veterans' Affairs
To resume hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society, and the use of excepted appointments for disabled veterans.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs, and the Urban Development Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

APRIL 15

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed authorizations for fiscal year 1981 for the international affairs programs of the Department of the Treasury; and on proposed legislation to increase the U.S. quota in the International Monetary Fund.
5302 Dirksen Building

APRIL 16

9:30 a.m.
Veterans' Affairs
Business meeting, to consider proposed legislation on the recruitment and retention of qualified health-care professionals to staff the Veterans' Administration health-care facilities, S. 759, to provide for the right of the United States to recover their costs of hospital nursing home of outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts, and H.R. 4015, proposed Veterans Senior Citizen Health Care Act.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for the international affairs programs of the Department of the Treasury; and on proposed legislation to increase the U.S. quota in the International Monetary Fund.
5302 Dirksen Building

APRIL 17

9:30 a.m.
*Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the development of children who benefit from adoption by facilitating their placement in adoptive homes.
4232 Dirksen Building

MAY 1

10:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold hearings on issues Congress might consider which would affect youth in the coming decades.
4232 Dirksen Building

MAY 22

9:30 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings to examine issues affecting infant mortality, and preventable birth defects.
4232 Dirksen Building

MAY 29

9:30 a.m.
Veterans' Affairs
To hold hearings on proposed legislation to establish a cost-of-living increase for service-connected disability compensation.
412 Russell Building

JUNE 11

9:30 a.m.
*Veterans' Affairs
To hold oversight hearings on the activities of the Inspector General of the Veterans' Administration.
412 Russell Building

HOUSE OF REPRESENTATIVES—*Thursday, February 7, 1980*

The House met at 11 a.m.

The Reverend Ronald Coyne, St. Margaret's Church, Dorchester, Mass., offered the following prayer:

Almighty God, You watch over us as Your sons and daughters. You have given us this vast and beautiful land so that we might grow and develop, not isolated from the rest of society but as a vital part of Your creation.

The peoples of our world are sacred because You have created each of them, and You dwell within them.

When You called Moses to lead Your people, You told him that before he accepted that privilege and responsibility, he should take off his shoes, for he was about to walk on sacred ground. That sacred ground was the human lives for which he would now be responsible.

Today, this Congress of the United States meets as the leaders of Your people. Help us, like Moses, to realize how sacred each human life is.

Laws must be enacted which not only encourage us to love, but more basic than that, demand that we respect.

We come to You for guidance because You have called us. We pray that our day never begins without acknowledging Your presence, because You are God forever and ever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 19. Joint resolution to authorize the President to issue a proclamation designating March 1980 as "Youth Art Month."

FATHER RONALD COYNE

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, it is my pleasure to introduce to the Congress the chaplain for Thursday, February 7, 1980, Rev. Ronald Coyne, curate at St. Margaret's Church in Dorchester, Mass.

Reverend Coyne was born and raised in the West Roxbury section of Boston. He is the son of Alexander and Eleanor Coyne, the brother of the Reverend John Coyne and Elaine Coyne. He attended Mozart and Holy Name Grammar School in West Roxbury and Catholic Memorial High School. After graduating from Catholic Memorial High School, Father Coyne entered St. John's Seminary and was ordained into the priesthood in May 1973.

As a young man of 32, Father Coyne is building an impressive record of leadership and spiritual guidance for members of his Dorchester Parish. He is recognized as one of the most energetic and involved priests in the Boston Archdiocese, performing both his religious and secular responsibilities in a most outstanding manner.

Because of Father Coyne's relative youth, he has had great success in relating to the young people of his parish, and they have become a very important and deep part of his ministry. He has organized athletic and social events at St. Margaret's so that neighborhood young people have a place to go in the evenings and on weekends.

His special children's Masses are a highlight of all the activities at St. Margaret's. These special masses are fun for the young people, while at the same time, they are informative and uplifting. These special masses help the young parishioners of St. Margaret's to better understand the love that God has for them. Because of the time and attention that Father Coyne has devoted to his youth ministries, a waiting list has developed for vacancies for altar boy positions.

All who know Father Coyne love him. He is a 7-day-a-week priest and I know that I speak for all the parishioners of St. Margaret's in recognizing his good works and devoted service here today.

WILL PRESIDENT CARTER PARDON THOSE WHO REFUSE TO REGISTER?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, President Carter pardoned those persons who violated the Selective Service Act, August 4, 1964, to March 28, 1973.

In pardoning them, President Carter was saying, although not in these words, "Presidents Johnson, Nixon, and Ford said sending American soldiers to Vietnam was in the national interest. Draft-dodgers disagreed. They did not want to fight. I don't think they deserve legal punishment."

Well, there may be many who do not want to fight for what President Carter now says is in our national interest.

If, as we are told, forgiveness of draft-evasion is a sign of good will and pious character, should not the President logically assure all potential draft—and registration—evaders they can expect a Carter pardon? Or does this good will and pious character only extend to those who opposed a war other Presidents had to fight?

The President has basked in the glow of self-righteousness over his pardon.

What will he now say to those who shout: "Hell no, to the Persian Gulf we won't go."

TWENTY-FIVE YEARS—A DEMOCRAT CONGRESS

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, our Nation faces serious problems. Our defenses are weak. Foreign terrorists invade our embassies and seize U.S. officials. The Soviets threaten further expansionism.

At home inflation soars at double-digit levels. The average working person is paying taxes at the highest rates since World War II.

Meanwhile the Democrat-controlled Congress proceeds to spend these tax dollars at the rate of $1 million a minute. Do not blame the President, blame the Congress.

Mr. Speaker, things do not have to go on this way. Our problems started 25 years ago when the Democrats took over control of Congress.

We can end those discredited policies. We can strengthen our Nation's defenses, end inflation, and cut wasteful Government spending.

With a Republican Congress, things will be better—a lot better. It is time for a change.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following announcement.

There will be no session tomorrow. If the House does not complete today's business, the remainder of this week's business will be considered on Monday following the suspensions on that day. The House will remain in session today until about the hour of 5 o'clock, at which time the House will adjourn until 12 o'clock noon on Monday.

AGRICULTURAL LAND PROTECTION ACT

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2551) to establish internal Federal policy concerning protection of certain agricultural land; to

---

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

establish a Study Committee on the Protection of Agricultural Land; to establish a demonstration program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2551, with Mr. SABO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, February 6, 1980, all time for general debate had expired. Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2551

SHORT TITLE

SECTION 1. This Act may be cited as the "Agricultural Land Protection Act".

TITLE I—AGRICULTURAL LAND PROTECTION STUDY AND REPORT STUDY

SEC. 101. The Secretary shall—

(1) develop, gather, and make available such information as may be necessary to allow States and units of local government to make informed decisions concerning agricultural land;

(2) conduct a comprehensive study of—

(A) the quantity, quality, location, availability, ownership, and financing of agricultural land in the United States;

(B) the relationship of such land to the supply, demand, and production of food;

(C) the relationship between the national concern for agricultural land and other national concerns (including energy, the economy, the environment, population growth, urban growth and development, foreign relations and trade, and humanitarian aid);

(D) the impact of urbanization, industrial development, and other nonagricultural activities (including such effects as air and water pollution, soil contamination, and losses due to theft, trespassing, and vandalism) on agricultural and, incuding the productivity of such land;

(E) the effects of existing Federal laws and regulations on the use of agricultural land, including the productivity of such land;

(F) the effects of variable and unpredictable factors (including climate, agricultural technology, genetic vulnerability, availability of future supplies of energy and fertilizer, and soil salinity) on productivity of agricultural land;

(G) the effects of competition for water between agricultural and nonagricultural users; and

(H) methods of protecting and improving agricultural land, especially in and around urban areas, including an analysis of the relative costs and benefits of such methods.

(3) hold public hearings and invite public comment on issues considered during such study.

REPORT

SEC. 102. The Secretary shall prepare and transmit to the President, the Committee on Agriculture of the House and Committee on Agriculture, Nutrition, and Forestry of the Senate, not later than April 1, 1985, an analysis of the study conducted under section 101 and the demonstration projects required by title II of this Act. Such report shall include findings and recommendations of the Secretary concerning Federal policies, programs, regulations, laws, and activities which affect the quantity or quality of agricultural land in the United States. In preparing such report, the Secretary shall consider comments and recommendations received during the study required by section 101.

ASSISTANCE OF FEDERAL DEPARTMENTS AND AGENCIES

SEC. 103. The President may direct the administrative heads of other Federal departments and agencies to assist the Secretary in conducting the study and preparing the report required by this title.

IMPLEMENTATION OF RECOMMENDATIONS

SEC. 104. The Secretary shall assist Federal departments and agencies in developing such procedures as may be appropriate to implement such recommendations as may result from the National Agricultural Lands Study and the report required by this title.

USE OF EXISTING PERSONNEL AND FACILITIES

SEC. 105. In carrying out the provisions of this title the Secretary may use the personnel and facilities involved in conducting the National Agricultural Lands Study.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. Are there any amendment to title I? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—DEMONSTRATION PROGRAM AND TECHNICAL ASSISTANCE

PROGRAM ESTABLISHMENT

SEC. 201. (a) The Secretary shall develop, in consultation with the personnel conducting the National Agricultural Lands Study and interested State and units of local government, and administer a program which will provide financial assistance to States and units of local government for the purpose of demonstrating, and testing methods of reducing the quantity of agricultural land (including agricultural land in and around urban areas) being converted from agricultural uses to nonagricultural uses.

(b) Assistance provided under this title shall be subject to such fiscal control and fund accounting procedures as the Secretary determines are reasonable and consistent with the objectives of this Act.

APPLICATION

SEC. 202. Any State or unit of local government interested in obtaining assistance for a project developing, demonstrating, or testing methods of reducing the quantity of agricultural land being converted from agricultural uses to nonagricultural uses may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may, by rule, require.

APPROVAL OF APPLICATION

SEC. 203. (a) The Secretary shall establish and publish in the Federal Register criteria on the basis of which applicants will be selected to receive assistance under this title. Such criteria shall give priority to applications which the Secretary is satisfied will provide—

(1) timely and new information useful to the Secretary in carrying out the duties under this Act at a reasonable cost; and

(2) a range of different projects in terms of geographical locations and methods of reducing the quantity of agricultural land being converted from agricultural uses to nonagricultural uses.

(b) The Secretary may not—

(1) approve applications for projects which will be dependent upon Federal funds for their continuing operations after September 30, 1985; and

(2) provide assistance under this title to more than two projects demonstrating or testing the same method or combination of methods of reducing the amount of agricultural land being converted from agricultural uses to nonagricultural uses.

AMOUNT OF ASSISTANCE

SEC. 204. (a) Subject to the provisions of subsection (b) of this section, the amount of assistance which may be provided under this title with respect to any project shall be determined by the Secretary but may not exceed 50 per centum of the cost of establishing, demonstrating, conducting, and testing such project. The remainder of such costs shall be provided by the applicant from non-Federal sources in a manner which the Secretary determines is satisfactory.

(b) The Secretary may not provide more than 20 per centum of funds appropriated pursuant to this title for any fiscal year as assistance for any project being carried out under this title during such fiscal year.

TECHNICAL ASSISTANCE

SEC. 205. (a) The Secretary, acting through the Soil Conservation Service of the Department of Agriculture and other agencies the Secretary may deem appropriate, shall provide to States and units of local government technical assistance concerning methods of protecting agricultural land and reducing the quantity of such land being converted from agricultural uses to nonagricultural uses.

(b) As a part of the technical assistance provided under this section, the Secretary shall disseminate the latest information available concerning the study and other activities being carried out under title I of this Act and concerning the demonstration projects being conducted under this title.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

DEFINITIONS

SEC. 301. For purposes of this Act—

(1) the term "agricultural land" means any land (including forest land and rangeland) which—

(A) has the combination of physical and chemical characteristics for producing food, feed, fiber or forage, and is also available for any such use; and

(B) has the soil quality, growing season, and moisture supply needed to economically produce sustained yields of food, feed, fiber or forage when treated and managed, including water management, according to acceptable farming methods.

(2) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, or any territory or possession of the United States;

(3) the term "unit of local government" means the government of a county, municipality, town, township, village, or any combination thereof, or other unit of general government below the State level;

(4) the term "National Agricultural Lands Study" means the study created by a Memorandum of Understanding dated June 14, 1979, between the United States Department of Agriculture and the Council on Environmental Quality; and

(5) the term "Secretary" means the Secretary of Agriculture.

LIMITATIONS

Sec. 302. (a) Nothing in this Act authorizes, or may be construed to authorize, the Federal Government on its own behalf or through requirements imposed on a State or unit of local government to—

(1) restrict or otherwise regulate in any way the use of privately owned land;

(2) deprive landowners of their rights to property or to income from the sale of property; or

(3) in any way increase, diminish, abrogate, or restrict existing authority and responsibilities of States and units of local government respecting land use, zoning, taxation, or any other aspect of the regulation, utilization, and disposition of public or private lands within their respective jurisdictions.

(b) The Federal Government, any agency or subdivision thereof, any State, or any unit of local government, shall not expend any funds appropriated under title II of this Act, to obtain any right, title, or interest in any land either by purchase, lease, assignment, default, inference, or by operation of law: *Provided*, That this section shall not prohibit the expenditure by any State or unit of local government of funds appropriated under title II for planning and administrative expenses associated with a program involving the expenditure of State or local funds for the acquisition of an interest in land.

AUTHORIZATIONS FOR APPROPRIATIONS

Sec. 303. (a) There are authorized to be appropriated to carry out the provisions of title I of this Act $500,000 for the fiscal year ending September 30, 1981, $800,000 for the fiscal year ending on September 30, 1982, $850,000 for the fiscal year ending on September 30, 1983, $900,000 for the fiscal year ending on September 30, 1984, and $500,000 for the fiscal year ending on Sepetember 30, 1985.

(b) There are authorized to be appropriated to carry out the provisions of title II of this Act $15,000,000 for the fiscal year ending on Sepetmber 30, 1982, $25,000,000 for the fiscal year ending on September 30, 1983, $20,000,000 the fiscal year ending on September 30, 1984, and $500,000 for the fiscal year ending on September 30, 1985.

TERMINATION DATE

Sec. 304. The provisions of this Act shall terminate on September 30, 1985.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Are there any amendments to title III?

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Panetta: On page 33, after line 9, insert the following new title—

TITLE IV—INTERGOVERNMENTAL COOPERATION

Sec. 401. It is the policy of the Congress to encourage and foster cooperation among the Federal agencies, States and units of local government in making decisions which will likely result in the significant conversion of agricultural land to non-agricultural uses.

Sec. 402. In planning activities which are likely to result in the significant conversion of agricultural land, all agencies of the Federal Government shall, as soon as practicable, notify States and units of local government with jurisdiction over such land of such activities and consider and evaluate the viewpoints of such States and units of local government.

Sec. 403. In proposing activities which are likely to result in significant conversion of agricultural land, all agencies of the Federal Government shall, based on information received from States and units of local government with jurisdiction over land affected by such actions and other information, determine whether or not such projects or programs are, to the maximum extent possible, consistent with national objectives, consistent with agricultural land protection laws, ordinances or programs established by such States and units of local government.

Sec. 404. For purposes of complying with this title, Federal agencies shall make use of the procedures established pursuant to Title IV of the Intergovernmental Cooperation Act of 1968.

Sec. 405. This title or any other provision of law shall not be deemed to provide a basis for any action either legal or equitable by any person or class of persons (other than the affected State or local unit of government) challenging a Federal activity or planning activity which may affect agricultural land.

Mr. PANETTA. Mr. Chairman, the amendment I offer here is intended to deal with two of the concerns that have been raised by this legislation, the first being that there is nothing in the legislation that primarily focuses on one of the primary villains involved in eating up agricultural land in this country, which is the Federal Government.

The second concern is the fact that we must recognize that the primary responsibility for land-use planning rests at the local level, with local counties, with local communities, with States that are directly involved in dealing with the property matters that affect their people in their communities.

This legislation, while it does provide some limitations, does not clearly address the question of whether the Federal authorities must, in their activities and in their projects, insure that they are consistent with local planning efforts.

When this bill was first introduced, there was a title I which provided a policy statement as to what the position of the Federal Government should be, and then secondly a procedure for notification and a consistency requirement that would involve cooperation with local governments.

Title I was removed from the bill in committee. By removing title I, what was removed was a protection for local government in dealing with Federal policies.

What my amendment seeks to do is to essentially restore the essence of title I as now title IV in this bill. My amendment declares that it is the policy of the Congress to encourage and foster cooperation among the Federal agencies, States and units of local government in making decisions that will likely result in the significant conversion of agricultural land to nonagricultural uses.

I think it is most important that there at least be a policy statement in this legislation with regard to what the position of the Federal Government is. The legislation as it stands now contains absolutely no statement with regard to what the policy is of the Federal Government with regard to protecting agricultural land.

□ 1120

Second, in planning activities, the amendment provides that the Federal Government shall notify States and units of local government as to activities that impact on those States and units of local government, and that they shall determine whether the Federal activities are consistent with agricultural land protection laws, ordinances and programs established by such States and units of local government.

In fact, what we are recognizing by this amendment is the need to insure that Federal activities are indeed consistent with local planning and that we recognize that the primary responsibility for planning in property matters rests with the States and the units of local government.

The last point is that in order to avoid the myriad of litigation that often results as a result of requirements placed on both the Federal as well as the State and local units of government, any legal action here is restricted to only States and local units of government to be able to challenge these activities in Federal court. We do not open up this legislation to litigation by persons or by a broad class of persons who could, I think, involve delays with regard to needed projects that have to take place.

The amendment basically, as I said, restores the essence of title I. It recognizes as policy that the Federal Government will preserve agricultural land. It requires that these Federal activities be consistent with local planning efforts and insures that local government maintains its power and its control over land-use planning, as it should be.

Third, it limits actions and causes of actions to the States and local units of government.

I think whether you are for or opposed to the overall legislation, that the Members surely should be for this amendment. It recognizes those concerns and those needed limitations that must be a part of this legislation, and should be adopted by the House and by the Congress.

I urge this body's support for this amendment. I urge its adoption.

I yield back the balance of my time.

Mr. JEFFORDS. Mr. Chairman, I move to strike the last word, and I rise in support of this amendment.

I think it is an excellent one. As the gentleman who offered it knows, the original bill had a stronger title I. I admit that the original title would have been abused. It might have been counterproductive. We have made an excellent step forward in reaching a compromise which will establish a Federal policy in this area. I would like to say that there is some hope within the Federal Government for controlling Federal impact on agricultural land.

I would like to give my colleagues a little bit of history how this came about.

In the midsixties a survey was done on the amount of agricultural land available in this country. According to the survey, 267 million acres of surplus land, was available. The Department of Agriculture said we did not have to worry about agricultural land.

Ten years later, another study was done. The results were staggering. We had lost and gone from 267 million acres down to 111 million, of which only 25 million was prime land readily available for use. Much of that other land was forest land.

This drastic loss of land caused a shift in the Department of Agriculture policy. As I pointed out yesterday, the Assistant Secretary said the loss of agricultural land is the most crucial problem in the resource area facing us and ought to be the top of our priority.

Unfortunately, the concern which has been expressed by the Department of Agriculture, has not swept through the rest of the Federal bureaucracy. Some of the agencies are running roughshod over local governments. I can give my colleagues an example. In Suffolk County, a county which recognizes a serious problem of disappearing land, so serious they are willing to tax themselves to protect it, a Federal agency came in to condemn prime agricultural land. They could have used Federal land already available around an airport; already-purchased Federal land could have been used, but they said, "No, we want this land." Ridiculous. Absurd. But they got the prime agricultural land.

These are the kinds of things this will help focus attention on the issue. I think it is an excellent amendment and should be supported.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to compliment the gentleman from California for his amendment, and for trying to work out something that is satisfactory to all causes.

I do say, in regard to his amendment, that I think that there is undue emphasis on the Federal Government's relationship with State and local governments, which point I tried to make yesterday, based upon the fact that we have plenty of testimony before the Committee that a large part of the problem with the loss of prime agricultural land comes from Federal policies of many different departments, that they consume or promote consumption of prime agricultural land for Federal projects, or they give no regard to the problem.

We have been concentrating so much in this debate on the subject of whether or not we are interfering with private property rights, whether or not this is leading to Federal land use or whether or not we are interfering with some State and local land-use plans, not on the Federal Government giving them due consideration.

The point in regard to the Federal Government is simply this, that the Federal Government can take care of that problem by themselves, irrespective of the property rights problems, irrespective of the debate over land-use planning, irrespective of State and local land use plans and ordinances, because the Federal Government is a leading cause of the problem.

I want to point out that in this respect, neither the gentleman's amendment, nor this bill, does much about that problem, and until we get down to that problem, we really are not solving a great deal.

Through this amendment we would have some reports given to the State and local governments. We would have some information given to the State and local governments. By this amendment we would allow specific State and local governments to go to court if they want to, but until we grapple with the main problem here that as long as the Farmers Home Administration will allow a senior citizen's low-income housing project to be built on prime agricultural land, as long as the Economic Development Administration will build a sewer beyond the city limits in the prime agricultural land, and as long as HUD will build a low-income housing project on prime agricultural land, we are not going to solve the main problem.

We can worry all we want to about private property rights. We can worry all we want to about State and local land-use plans, but the problem is right here in Washington, D.C., in the policies of the Federal Government.

So why do we allow the smokescreen of the Federal Government or the smokescreen of private property rights or the smokescreen of the State and local government land-use plans to interfere with getting at the basic problem that we ought to be dealing with here today?

That is why, through 2 years of debate on this subject, I tried to make the point in committee that a strong title I was essential if we were going to do it. And it was never written from the standpoint of really dealing specifically with the Federal Government. It was only dealt with in the way that the Federal Government's policies might interfere with State and local policies.

I am not saying that should not be a consideration, but I think the one thing that we have the constitutional prerogative as well as the constitutional responsibility to deal with are the problems that we cause here, and if we deal with those specific problems, we are not going to interfere with the constitutional reservations of power left to the States under the 10th amendment. We are not going to interfere with the problem of private property rights.

☐ 1130

The CHAIRMAN pro tempore. Time of the gentleman from Iowa has expired.

(By unanimous consent Mr. GRASSLEY was allowed to proceed for 1 additional minute.)

Mr. GRASSLEY. Nor are we going to then deal with the problem of land use, only in the sense that the Federal Government does have the constitutional right to decide what land it might buy or not buy under eminent domain. Within those rights we ought to do it.

So, in conclusion, I agree, the gentleman's amendment is an improvement over the bill and over title I, and it strengthens it; but neither it nor the bill, nor the title, deal with the major problem we have a responsibility to deal with and have not dealt with.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I have no objection to this amendment based on a cursory review of its contents.

I would however favor even a stronger provision for Federal compliance based on my experience with innholder problems in my own congressional district.

Whether it perfects this bill sufficient to make it palatable for those who oppose the concept of demonstration projects which may go further than many of us would endorse individually in our own States and local units of government.

Mr. PANETTA's amendment in section 405 does appear to exempt most Federal activity since it does not permit legal or equity actions "challenging a Federal activity or planning activity which may affect agricultural land."

Fostering cooperation in congressional 4th of July language is not strong influence against Federal actions when we prohibit totally court challenges against Federal activity.

However. Mr. PANETTA's amendment is a step in the right direction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Maryland served on the House Interior and Insular Affairs Committee for a period of 5 years and on the major subcommittee that had jurisdiction over then proposed Federal land use legislation. Much of the discussion at that time, which ultimately resulted in rejection of Federal land use control, hinged on just such problems as this legislation purports to address.

Quite frankly, I am very much opposed to this legislation because I think it leads in the direction of Federal land use control, even as just amended by the gentleman from California (Mr. PANETTA).

In my own State of Maryland we have a very strong statute that deals with the preservation of agricultural land. This Federal legislation would simply make available to our State government, which already has a nearly $200 million surplus, more Federal funds to do what the State is already doing. I am informed 47 other States have some degree of development of this kind of agricultural land preservation.

I do not know when it will be that this House will build up enough courage to resist the temptation to respond to every problem that arises with another study, another expansion of Federal power, another expenditure of taxpayers' money. This bill is more than $60 million. That is more than most American taxpayers would ever dream of, and it is their money we are spending.

This is not an idea whose time has come. I hope that the House will reject this legislation.

May I add that some of my colleagues have cautioned me that I do not have to worry about this bill, it is not going anywhere in the other body. Well, I have heard that argument made many times, and the result has been some disastrous legislation signed into law. So my own feeling is we should reject the legislation here and now.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. I occasionally find myself in disagreement with the judgment of the gentleman from Maryland. But I certainly want to agree with him about the future of this legislation if passed. This bill is not brought to the floor today with the idea that it will not, if passed here, move through the other body. I certainly agree with the gentleman that no one should vote for this bill on the assumption that it is an empty act and that we do not intend to try to get the Senate to pass it.

I happen to disagree with the gentleman on its value as legislation—it is a good bill—but I certainly agree with him that it is a real piece of legislation and not a sham.

Mr. BAUMAN. I thank the distinguished chaiman of the Agriculture Committee, the gentleman from Washington (Mr. FOLEY), for strengthening my argument, because the chairman has indicated every effort will be made to pass this legislation in both bodies. To me, that makes even stronger the reason why we should oppose it now, so that no legislative vehicle to promote Federal land use would be available.

I would also add, too, that we ought to consider that already the agencies of Government have the power to give technical assistance to States and local governments. We already have a Federal ongoing study. If my colleagues object to this in principle they should also object that it is simply duplicating work already being done by the Federal Government at still additional cost to the taxpayer.

At that point I include in my remarks letters from the Maryland and National Farm Bureaus in opposition to this bill.

MARYLAND FARM BUREAU, INC.,
Randallstown, Md., January 29, 1980.

Hon. ROBERT E. BAUMAN,
House of Representatives,
Washington, D.C.

The Hon. ROBERT E. BAUMAN: It has come to our attention that the House is scheduled to vote on H.R. 2551, the Agricultural Land Protection Act, on Thursday, January 31.

This particular piece of legislation would provide 60.5 million dollars for land use planning. As I am sure you are well aware, we currently have here in the State of Maryland instruments at the state and local level designed for the purpose of land use planning as well as the preservation of agricultural land. Furthermore, it is our understanding that 47 other states likewise have land use planning instruments.

The bill would also authorize a study of agricultural land losses. The USDA and CEQ have, for the past year, been jointly conducting a study for the same purpose.

We conclude that the bill would do nothing for farmers here in Maryland and virtually the entire nation and would only increase federal spending at a time when we need to be concerned about excess federal spending which is the principal cause of inflation. We are concerned also that such a bill increases the possibility of federal land use control.

We strongly urge you to oppose H.R. 2551 and appreciate any cooperation you are able to give us.

Sincerely,

JERRY Y. PLACEK,
Executive Secretary.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., January 29, 1980.

Hon. ROBERT E. BAUMAN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BAUMAN: We understand that H.R. 2551, the Agricultural Land Protection Act, will be considered on January 31 or February 1. Farm Bureau urges your opposition to this bill.

At the January, 1980 annual meeting of American Farm Bureau Federation, the voting delegates of the member State Farm Bureaus adopted the following policy on land use planning:

"We oppose any federal land use planning."

"We oppose federal assistance to states for land use planning."

Forty-five states have implemented agricultural land protection programs. GAO, Administration, and private studies have repeatedly shown that federal policy actions are the biggest deterrents to the success of state programs.

This bill would not protect farmland from federal actions. It is, quite simply, an effort to use federal dollars to supplement efforts that have already been carried out successfully at the state and local levels in 90 percent of the states.

We urge your opposition to H.R. 2551.

Sincerely,

VERNIE R. GLASSON,
Director, National Affairs Division.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to take this opportunity to enlighten the Members of the House on the work of the General Accounting Office in regard to the general problem of preservation of prime agricultural land. In two recent reports, that agency has pointed out the need to reassess the role of the Federal Government in acquisition and conversion of private lands. One issued September 20, 1979, is entitled "Preserving America's Farmland—A Goal the Federal Government Should Support." The other, issued December 14, 1979, is entitled "The Federal Drive to Acquire Private Lands Should Be Reassessed." My colleague, the gentleman from Texas (Mr. STENHOLM) and I have now asked the General Accounting Office by letter to expand the work they have already done in this area by developing information and recommendations on four points.

First, determine approximately how much agricultural land is being converted to nonagricultural uses each year due to various actions of the Federal Government, ranging from outright acquisition to the numerous indirect policy and program actions that encourage farmland conversion.

Second, determine what forms these actions take, and how they interact with or relate to State and local governments for the retention of agricultural land.

Third, consider what changes in public law or administrative policy can be made to conform these Federal actions to a greater extent with the agricultural land retention program and policies of State and local governments, and what problems might arise from such changes.

Fourth, make recommendations as to what forms of Federal compliance with farmland preservation programs might be enacted that would insure compliance and yet not tie up the Federal Government in endless litigations.

We have urged the General Accounting Office to use to the maximum extent possible information and data obtained by the ongoing study being conducted by the USDA and the Council of Environmental Quality. The results of this General Accounting Office study should shed additional light on the complexities presented by the issue of Federal compliance and accountability.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, we are drawing to the end of the consideration of this bill. I hope there is no misunderstanding about the purpose or the intent of the bill. The purpose is clear, which is to raise the consciousness of the Federal departments and agencies about the impact that their policies may have on the unnecessary conversion of agricultural land to nonagricultural uses.

The amendment offered by the gentleman from California (Mr. PANETTA) which was adopted, strengthens that aspect of the bill. It requires that, in all of its land planning and program activities, the Federal Government make a determination as to whether those policies are consistent with or not consistent with State and local government agricultural land preservation policies.

This provision directs the Federal Government to pay attention to, and to the extent possible coordinate with local and State government planning.

Second, anyone who has read the bill will discover that the bill contains an extremely explicit statement that the legislation is not designed in any way to diminish the authority, power, rights, privileges, title, and so forth, of private landowners over their land; nor does the bill enhance in any way the powers of State or local governments over land planning. It is not in any way a new dimension of power to the Federal Government or to any other government agencies with respect to private land or land holding rights. This must be made explicitly clear again and again because of the misleading statements that have been made inadvertently I am sure, by Members in opposition to the bill, that the bill constitutes some kind of Federal land planning or Federal land planning program. That is absolutely untrue. Its consequences is entirely in the opposite direction. It is to preserve private property rights, to insure that they are respected but, at the same time, to raise the concerns about the Federal Government actions that may be contributing directly to the problem that many see of the disappearing agricultural land base.

The gentleman from Michigan (Mr. STOCKMAN) the other day took the floor to suggest that the case had not been made, that there was a problem with disappearing agricultural land.

☐ 1140

It is certainly true, and I would agree with him, that there is no present crisis in the number of acres available for the production of food and fiber in the United States. It is certainly true, as he suggested, that technology has given us enormous new capacities to produce on a smaller number of acres food and fiber that would have required millions of acres before. In fact, if we were producing at level experienced in 1900, the great corn crops in the United States would require additional land acreage equivalent to the acreage of Colorado and Wyoming to produce the same crops.

However, we cannot assume—as the gentleman from Michigan calmly did—that the increases in productivity, brought about by increases in agricultural technology which were particularly dramatic in the last 20 years, and particularly in the 1950's and 1960's with the development of, particularly, hybrid seeds and new chemical fertilizers, pesticides, and herbicides, that that kind of productivity will continue to increase at the same rate forever. So, I think we have to begin to be concerned in one case, at least, before the crisis reaches us. The 20,000 acres a week which are disappearing from our agricultural land base ought to be a matter of some concern. We must use some thought, some planning—if that is not too harsh a word—in trying to devise Federal policies which do not unnecessarily destroy the great agricultural land resources of the country which has made this country the agricultural storehouse of the world.

Of all of our great national assets, as one Member so rightly said, the greatest is not in Fort Knox, the greatest is in the enormous agricultural patrimony that this country has retained over its 200 years of history. This Nation's agricultural production capacity is admired around the world. It is the capacity to produce the greatest quantity of food and fiber that any people has been able to produce from similar acreage. It is a level of production capable of providing for not only our own people but for hundreds and hundreds of millions of people around the world.

This bill is not a threat. This bill is the beginning of a sensible, rational approach to this problem. It is moderate. It is not coercive. It is cooperative. It requires some overall policies on the part of the Federal Government which will require the Government to be more sensitive to this issue and more sensitive to State and local concerns in this area.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. FOLEY. Again, I would hope that all the Members of the House will understand the character of this bill. It is not properly described; indeed, it has been somewhat villified as Federal land use planning, or the beginning of such. That is clearly not what the bill is intended to do. It would not have received the support it did from the Agriculture Committee, I can assure the Members, if that were the case.

It is my understanding that there is one amendment on unanimous consent that will be offered by the gentleman from Ohio (Mr. PEASE). At this time I will conclude with my compliments to the gentleman from Vermont (Mr. JEFFORDS) and the gentleman from Minnesota (Mr. NOLAN), who worked very cooperatively to bring this bill to the floor in a form which I think can be supported by all Members.

Mr. PEASE. Mr. Chairman, I ask unanimous consent to return to title I for the purpose of offering an amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I do so to address a question to the gentleman from Ohio. The first amendment which the gentleman had proposed originally referred to the disposal of Federal agricultural land, and then tied that to section 102 of the bill. As I read the two together, it would prevent until the filing of the report required by the bill, which is April 1, 1985, the disposal of any U.S. surplus agricultural land.

I have recently had an instance in my district where such land was disposed of, and it would have tied up that transaction. Now, I understand the gentleman has a new amendment that has just been written, and it goes to the GSA report about such proposed disposals and requires that the Committees on Agriculture of the House and Senate pass upon such disposal.

Can the gentleman tell me, will this first tie up disposal of land until 1985; and second, have the appropriate committees asked for such authority?

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Of course.

Mr. PEASE. I am pleased to comment on the gentleman's question. The language as it will be offered, if this unanimous-consent request is granted, would not tie it up until 1985. Rather, it would provide that the GSA would have to report to the Agriculture Committees of the House and the Senate 30 days prior to going ahead with such sale. Furthermore, it would narrow down the definition of agricultural land so that it is not just any agricultural land or any land that is potentially available for agricultural use, but rather to U.S.-owned agricultural land which is currently being used for the production of agricultural commodities.

Mr. BAUMAN. Further reserving the right to object, I do not see any definition in the gentleman's latest amendment. It simply says U.S.-owned agricultural land. The definition of what that agricultural land may be is not contained within his amendment. For instance, in the case I mentioned in my district, it was the disposal by the Central Intelligence Agency through GSA of a tract of land which will continue to be used for agricultural purposes. I see no reason why that should be restricted, and it seems to run contrary to the purposes of the bill.

Mr. PEASE. If the gentleman will yield further, this amendment, it seems to me, would not hold up that sale except if the land is currently being used for farming purposes. Then, the GSA would submit to the respective Agriculture Committees a report on its intentions. It would not require GSA to go beyond that in holding up the sale.

Mr. BAUMAN. Is the gentleman referring to the definition in title III under "general provisions"? Is that the agricultural land he is seeking to restrict? In other words, the general purpose definition of the bill?

Mr. PEASE. The definition goes only, in my proposed section, to land which is currently being used for agricultural purposes.

Mr. BAUMAN. Well, I say to the gentleman, in all due respect, it seems to me an extension of the duties of GSA. I am not sure what the USDA's position is. It does in some respects smack of an additional restriction that may or may not be necessary, but again it is a brandnew amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. PEASE

Mr. PEASE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pease: On page 33 at the end thereof insert the following new title V:

TITLE V—SALES OF AGRICULTURAL LAND BY GSA

Sec. 501. No transaction by GSA which involves the sale of United States owned agricultural land which is currently being used for the production of agricultural commodities shall be entered into until 30 days after GSA files a report with the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry.

□ 1150

Mr. BAUMAN. Mr. Chairman, I reserve a point of order.

Mr. PEASE. Mr. Chairman, this amendment now in shortened form because of the objection to my unanimous consent request goes to a problem that is very much in tune with the purpose of this bill. The purpose of this bill is to try to prevent agricultural land from slipping away, from being used for nonagricultural purposes. I am very much in agreement with that. I think our agricultural land is a precious heritage which we must do everything we possibly can to preserve. Even though we are considering this bill to find ways to keep agricultural land for agricultural uses, at the same time the General Services Administration in its disposal policies sells agricultural land to the highest bidder on the open market, to anyone who wishes to buy it for any purpose. It seems to me that that goes contrary to what should be our national policy. The GSA, I might say, is acting pursuant to the law in doing so. It was my hope that we could add as a purpose of this study now underway asking that the Commission examine the GSA's policies on land disposal and determine whether it is not desirable to return to the policy which was the law of this country prior to 1948, which gave preference to those landowners who had originally owned the land to the sale to the Federal Government. It seems to me that we ought to, if we are concerned about saving agricultural land, try to get a change in the law and the practices of GSA to allow them to specify that agricultural land which is currently being used for agricultural purposes would be offered first to the farmers who are farming the land under lease from the Federal Government, to offer it to them first at the appraised market price so that the interests of the taxpayers are protected and at the same time we do not allow agricultural land currently being used for farming to be sold to developers or for some other nonagricultural purpose. That is the reason for my amendment.

The amendment I have offered would really require that the GSA, before it proceeds with such a sale of agricultural land, consult first with the Committees on Agriculture of the House and the Senate.

Mr. FOLEY. Mr. Chairman, I rise in support of the amendment. I have no problem with the amendment offered by the gentleman from Ohio. I think the purpose of the amendment would be clarified if after the word "sale" the words "for nonagricultural purposes" were included so that the amendment will read:

No transaction by the General Services Administration which involves the sale for nonagricultural purposes of United States-owned agricultural land which is currently being used * * *.

Mr. Chairman, I ask unanimous consent to insert those words in the gentleman's amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington (Mr. Foley)?

Mr. BAUMAN. Reserving the right to object, I would state to the gentleman regarding the land in my own district which gave rise to my concern, that land for the most part is used for agricultural purposes, but it also contains a residence and other facilities that would not be strictly related to the farming of the land. When we start drafting amendments on the floor sometimes we produce unintended results from well-intentioned changes. I wonder whether or not the gentleman's unanimous-consent language might not produce a situation where, because of a different use in a larger agricultural tract, restrictions unnecessarily would be placed on its transfer.

Mr. FOLEY. If the gentleman will yield. In fact, the effect of the suggested language I offered would reduce rather than enlarge the scope of the amendment.

The amendment as offered by the gentleman from Ohio would require the reporting by the GSA to the committees even where agricultural land was being transferred for agricultural uses. The suggested words that I offered would limit that scope to only required reporting when the parcel was being transferred from agricultural uses to nonagricultural uses.

As the gentleman from Maryland (Mr. Bauman) knows, the amendment only requires that information be made available. It does not inhibit otherwise the authority of the GSA to make disposals of land. I have the same concern that the gentleman expressed about the original language as proposed in the amendment offered by the gentleman from Ohio (Mr. Pease). I do not think the House should adopt language which would hold up all agricultural land disposals for 5 years. To ask the GSA to report when actively produced agricultural land is to be disposed of for nonagricultural purposes is a moderate and reasonable requirement.

Mr. BAUMAN. With that understanding, Mr. Chairman, I withdraw my reservation of objection and my reservation of a point of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington (Mr. Foley)?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Pease), as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there any further amendments?

Mr. HANCE. Mr. Chairman, I move to strike the last word. First of all, I would commend the chairman and also the gentleman from Vermont (Mr. Jeffords) and the gentleman from Minnesota (Mr. Nolan) for the outstanding work they did on this bill, but I rise in opposition to the bill. I think what the Chairman said when he spoke was correct, this is not a land-use planning bill. My concern is that this is what one might call the father of land-use planning and that after this bill has been enacted, we will see a hue and cry go out that the next thing we have got to do to save some of this farmland is to have some type of land-use planning, so I think it is a bad bill. I would urge a no vote.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HANCE. I would yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I just wanted to not only agree with the gentleman but call attention to the fact that the American Farm Bureau Federation on January 29 sent a communication to all Members of Congress in opposition to this bill, quoting their 1980 annual meeting in January as opposing any Federal land-use planning. Speaking of this bill they said:

We oppose Federal assistance to states for land-use planning.

I would suspect that the largest national agricultural organization should be listened to in this instance.

Mr. HANCE. I agree with the gentleman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HANCE. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding. I would like, with respect to the Farm Bureau to point out to the Members so that there is no misunderstanding here, that originally the

Farm Bureau spoke in support especially of certain provisions of this bill. Their strong concern was over the elimination of title I. Now we have moved it back with the Panetta amendment which should certainly alleviate some of the problems of the Farm Bureau—not indicating at all that they are going to support it with the Panetta amendment. I do not know. I doubt it.

I would propose the other part of this bill, a demonstration project of much help to local and State governments to find an answer to a serious problem. I would like to read testimony of the American Farm Bureau last year when they appeared before the committee:

> We support the provisions of title III which authorize financial assistance to states for the implementation of established, innovative programs for the protection of agricultural lands.

So I want people to understand that although they have come out against it, it is a close issue with them. They recognize there is a problem. They recognize that something needs to be done, but they are not just really sure this is the best way to go, so this is not a burning issue with them. In fact, they even supported at one time what is the guts of the bill, the demonstration project for States and local governments to find ways to prevent that which we are afraid of and to intervene in this area.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HANCE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I will read further from the January 29 Farm Bureau communication:

> This bill would not protect farmland from federal actions. It is, quite simply, an effort to use federal dollars to supplement efforts that have already been carried out successfully at the state and local levels. . . .

That seems to negate the statement of the gentleman from Vermont.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words. Again I find that while I do not quarrel at all with the statement made by the gentleman from Maryland (Mr. BAUMAN) that the Farm Bureau is currently opposed to this legislation, this position is, in my judgment, one of the most confusing statements on a piece of legislation that has ever been made by this great organization. The American Farm Bureau Federation is one of the leading farm organizations in the United States, one which has over the years, whether one agreed with them or not, presented an intelligible and consistent policy with respect to legislation.

□ 1200

I must report in this situation that the twisting and turning, the stopping and starting, the saying and nay saying, the contradictory statements made by the Farm Bureau over this particular bill do not do that organization great credit. Its unusually fine legislative staff have had some trouble focusing on a position on this legislation. We could read at length the testimony of the Farm Bureau officially given before the subcommittee, in which the gentleman from Vermont (Mr. JEFFORDS) and the gentleman from Minnesota (Mr. NOLAN) participated, in which the Farm Bureau endorsed the legislation with certain recommended amendments. Virtually every one of those suggestions has been incorporated in this bill. The bill is on every substantive point identical to the bill they originally said they would support.

Of course, like large organizations of this kind, they are not able to respond on a day-to-day basis in line with changing circumstances. They do not have the capacity to convene their decisionmaking bodies on a daily basis to reflect changes in the legislation. All we can say is that their present statement is against the bill. Whether their full decisionmaking body would reiterate that position if the bill in its present form could be presented to them, is an arguable matter.

In any case, Mr. Chairman, this bill reflects in my strong judgment—and I continue to press this upon the House—a strengthening of State and local government responsibility with respect to the land-planning function. The bill imposes a sensitivity on the Federal Government, requiring it to respect that planning function. Additionally, the bill in no way encroaches on private property interests. Those interests are of great concern to every farm organization including the Farm Bureau and are also of great concern to every supporter of this bill.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I should also like to point out, as the gentleman from Washington well knows, at least in my area probably one of the most conservative organizations we have in this State, but one which is really interested in farming and preserving farming, and the national organization, the Grange, came out in support of this legislation. I would like the Members to know that. It is more of a critical issue for the small farmer. I think the National Grange is more representative of the interests of the small farmer than perhaps is the American Farm Bureau.

It is they who know it is the small farmer who is hurt worst by this problem, who has the most pressure put on him and it is the preservation of the small farm that has brought the National Grange behind this bill. We have worked closely with them and all the farm organizations.

As the chairman has pointed out, we have looked at the objections of the American Farm Bureau, considered them all. Unfortunately title I was stripped but hopefully now with the Panetta amendment that area ought to be reduced in the dimensions of their turnabout in support.

Mr. DASCHLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just reiterate it is very rare indeed that we would find almost unanimity of view in farm organizations. Frankly that is what we are finding with this bill. The Farm Bureau is perhaps the exception to the rule when it comes to support from farm organizations.

The fact of the matter is we are losing 20,000 acres of land every week and that is an issue in which all farm organizations are deeply concerned. I think they can all agree we need to study this matter and when we do we need to put the control of those studies and those demonstration projects where they belong, and that is in the hands of the State and local government.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Vermont (Mr. JEFFORDS) just alluded to the plight of the small farmer. Let me just say at the outset there is no one I respect more than the gentleman from Vermont. His district is adjacent to mine. Our districts are very similar in nature and both of them represent small farmers.

In New York State we have no large farmers. We have only small farmers.

Mr. Chairman, the venerable Senator Everett Dirksen once said—"we spend a billion here and a billion there and pretty soon we are talking about a lot of money."

I know many of us go home every weekend just as I go home every weekend. I talk to many senior citizens. I talk to many people who are working, who are having tough times getting along today, and when you look at what has happened to the Federal budget in the last 6 years when it has increased 80 percent in just 6 years; the national debt has grown from $500 billion to $900 billion in just 6 years, it has been caused by legislation like this which is duplicative in nature.

Mr. Chairman, I just came out of the New York State Legislature where we were dealing with the problems of the small farmer. This is duplicative legislation. We dealt with the problems of the small farmer by establishing agricultural districts, by giving them tax incentives and tax breaks in forming these agricultural districts, where we only taxed the value of the property and the house and not the farm land that was being used for productive farm use.

Mr. Chairman, we have problems in New York State with people coming out of Connecticut and New Jersey and New York City and buying up farms, but by establishing the agricultural districts we helped the farmer deal with this problem.

Mr. Chairman, in closing let me just say this: The gentleman from Iowa (Mr. TAUKE) spoke in support of this bill. I disagreed with him. He said he had served in his State legislature and they had falied to deal with the problem. We dealt with the problem in New York State and that is why the New York State Farm Bureau is unalterably opposed to this legislation. If it was good for small farmers, I am sure that those people would not be opposed to it. I urge defeat of this unnecessary legislation.

Mr. JEFFORDS. Will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I would like to point out, as the gentleman knows, his department of agriculture strongly supports the bill and it has helped us a great deal in achieving some success.

I would like to point out, first of all, I would take it the gentleman's concern is inflation. If we look at what is going to happen to food costs in this country if we do not do something to be sure we have an adequate supply of prime land—when you move off your prime land, which we are in danger of doing by the end of this decade, the cost goes threefold in increase when you go to the more marginal land. If we are really interested in inflation we ought to be supporting this bill. This more than anything else will keep our food costs within reasonable bounds in the future.

Second, Mr. Chairman, if we recognize the importance as we all do of exports at this time when we are sending billions of dollars to OPEC, that the only hedge against that that we have had which has been satisfactory has been our exports of agricultural products. We have a $13.8 billion surplus in our exports of agricultural products. If we want to keep that up, if we want to be able to be in a position to even increase it, the only way it can be done is by preserving our prime agriculture land. That is what this bill is intended to do.

Mr. Chairman, there are 43 States that have tried programs similar to that in the State of New York, land-use taxation and all those things. The GAO report which came out just recently said none of them work. I hope the New York program works. I sincerely do. However, the gentleman's people in agriculture would not be here supporting this bill if they were absolutely sure their program was going to work.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take exception to one comment made by my colleague from Vermont, that this bill more than anything else will continue to provide reasonable food costs. I do not believe that this bill is going to do anything like that. I think the one thing we could do in this Congress to accomplish that would be to provide a little fairer price structure for the farmers of this Nation in the next few days and weeks.

Mr. Chairman, I want to associate myself with the remarks of my colleague from Texas (Mr. HANCE), where he made a prediction on what this bill was going to do. I find myself in a great amount of agreement with our chairman, the gentleman from Washington (Mr. FOLEY). I do not disagree at all with the analysis the gentleman has made of this bill. It is still my concern that we are creating, or putting a foot in the door and no matter how you sugar-coat it, in my opinion what this is is a small step in the direction of Federal land-use planning. We are having revenue sharing again and I find myself again having to ask this Congress how we can continue to share funds with State and local governments, that we do not have. That is why I continue to obect strongly to this bill and believe it is not in the best interests of the free enterprise system and the food producers of this Nation for us to pass this bill.

□ 1210

Mr. BALDUS. Mr. Chairman, I move to strike the requisite number of words.

I was hoping perhaps to get in the last word, but I rise in strong support of the bill.

I think that we have to consider that not only are we losing 20,000 acres a week, but almost invariably those are the best acres. It is just human nature for people to settle on the best lands. That is where the population center grows and that is where the land then as the population grows is used up. It is not only the 20,000 acres in this country that is being used up, but the same thing is happening around the world.

The gentleman from Vermont showed yesterday very graphically that we are going to have a food problem in 10 years. We all know and agree that we have an energy problem now. Ten years ago people were saying that we are going to have an energy problem. Ten years from now we are going to have a food problem and I think it is worthwhile and a very worthy project for the Government now to recognize that and to help the local units of governments react to it.

It is a very difficult problem for local units of government. It is true that there is not much direction. I, too, worked with that kind of bill in the State legislature. People come from all different sides of the question trying to solve the problem. It is very difficult. We need some assistance. If that does not occur, then it will grow to be a large enough problem so that perhaps it will then be recognized as a Federal problem to be dealt with on the Federal level.

This is an opportunity to allow the local units of government to solve this and give them the assistance to solve it. That is the proper place for the solution to come from.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in strong support of this legislation. I think that where we ought to aim our efforts toward that individual family farmer and the individual farm families across this country who, when you talk to them, you find that they are wanting to preserve the land. In nearly every case the love of the land is a part of their reason for staying on the farm, even at times when it is economically difficult for them. They stay on the land because they love it. In this particular case with this piece of legislation, we will be sending a signal from the Federal Government that, in fact, we do believe that that love of the land should be in some way recognized by Federal action. All the signals are going the opposite direction at the present time. Every time farm families turn around the Federal Government is impacting adversely on their ability to keep the farm, to keep it in agriculture. The signals there from the Federal Government today are to put your land in the hands of a developer. Get your money out of it now.

Well, I think this is one little step that we can take. It is a faint-hearted, halting step, in my opinion, that we can take so that farm families may continue to have a right to keep their land in agriculture if they so desire. This will allow State and local governments to begin the process of giving them that opportunity, whether it is through tax incentives, whether it is through deed restrictions, whatever it happens to be the choice of those governments. It will give them an opportunity to keep the land in agriculture, because they, themselves, determine it should be kept productive. I think that is the most important aspect of all of this. We must come to some kind of Federal policy decision that allows individuals to make a choice of keeping their land as farmland. Here is such a chance and I would hope that the House will take that chance and will begin moving the Federal Government toward helping farm families keep their farms growing for America.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to just kind of wind up here a little bit. I think first I would like to talk a little bit about need. Hopefully they will have my charts out here again to demonstrate, which I think makes it obvious from looking at the trend lines that this is, and I do not think we should in any way get away from it, but as has been pointed out by the Department of Agriculture, this is the most serious resource problem facing the country today. As has been pointed out, where were we 10 years ago talking about energy?

Well, agriculture is more important to this country than energy is in that sense. There is less we can do about it, because when we lose that resource, we have lost the basic strength of this Nation.

Now, when you take a look at the trend lines here, take a look at the crop lands in reserve and take a look at our increasing domestic use and our increasing exports, and as I pointed out yesterday, if you take into consideration that the population of the world is going to increase by 50 percent, when you take into consideration that we are going to have to produce as much food between now and the end of the century as has been produced since the beginning of the world, you can kind of begin to see the kind of demand we ought to be ready to provide for.

OK. We have not even talked about other problems. The soil depth of this country was an average of 30 inches when we took over 200 years ago. It is down to 6 inches now.

Our ability to produce is being severely impaired by that alone.

Competition for energy, thousands of acres are going out because we cannot irrigate any more, because the cost of energy is too high.

Water competition in the West; California, for instance, when they had their drought, thousands of acres of agriculture went out of production temporarily, maybe permanently later. That is why 76 percent of the people in the State of California say something needs to be done.

For these reasons, the majority of the people in this country in the latest Harris poll say something needs to be done. What needs to be done?

This bill takes a modest approach. As has been pointed out, we have improved title I to really focus attention on the problems of the Federal Government, what they have done to really destroy some of our prime agricultural lands.

The other part of the bill, one which the State and local governments of the country supported, the National Association of Counties, the National Association of State Legislatures, the National Association of Commissioners of Agriculture, say that we need help at the local and State level. We want to do it ourselves, but we do not know how.

We have got to gather that broad national expertise which is being built up by the present study which is going on and that study will help us.

We have got to move to the second step. The second step is demonstration projects. Let us take a look at the length of time that is going to take. The demonstration projects will end in 1985. We then have a short time after that to implement those before we reach the end of the decade. We do not have much time. We need those demonstration projects now.

I urge you to support this legislation.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I want to commend the gentleman for his work in this area. Certainly it is a problem we all must realize is a serious problem that we need to face.

I commend the people who have brought forth the importance of addressing it at this time.

Mr. Chairman, I rise in strong support of this legislation.

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman.

I just hope that we will preserve the strength of this country and the decision is up to us today.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 2551, the Agricultural Land Protection Act. Cropland is, without a doubt, the foundation of civilization itself, yet a foundation which in recent years has begun to crumble under the increasing pressures we have placed upon it. The burgeoning populations which the Earth has been forced to accommodate, have increased land requirements not only for greater food supplies, but for urbanization. Transportation systems and energy sources for these populations. Other nations are already reaping the bitter fruits of excessive sowing of this fragile system—soil erosion, deforestation, and ultimately desertification are problems characteristic of those countries which have pursued random land-use policies. Yet they are problems which could have been avoided had appropriate policies been implemented. This is precisely what H.R. 2551 intends to do. It will begin to chart a course for U.S. farmland which will help to insure that we do not fall victim to these same pressures and problems.

Mr. Chairman, the issue of vanishing cropland is one of the more grave matters we face today. Every day, 12 square miles of U.S. land are converted to nonagricultural uses, a number which when multiplied equals 3 million acres per year. And this is a loss which has touched every corner of our Nation. My native New England has seen one-half of her farmland vanish. The Mid-Atlantic States have lost 22 percent of theirs. Even the Midwest heartland has suffered a loss of 9 percent of its cropland. Once, such declines in acreage could be offset by increased productivity. But this, too, is a thing of the past. The law of diminishing returns has begun to exercise itself. We have taxed the land to its capacity. Years of irrigation, terracing, fallowing and fertilizers have produced amazing gains of productivity in the past. Such gains will not be repeated in the coming decades.

Thus, we are faced with a situation in which we have the conflicting pressures of diminishing acreage and declines in productivity pitted against the requirements of an increasing population. We are subsequently forced to make major trade-offs in order to satisfy even the basic needs of such populations. A closer look at some statistics will show the complicated problem associated with these trade offs.

For every additional human being in the United States, more than one-tenth of an acre is required for so-called urban sprawl. With respect to energy, land areas converted per effective plant year are 300 to 600 acres for each coal plant, 60 acres for each nuclear plant, 70 to 300 for solar facilities, 10,000 acres for biomass plants, and a whopping 2,000 to 3,000 acres for oil shale. And these figures do not even begin to account for additional costs of reclamation, groundwater loss, and other environmental consequences. Finally, as far as transportation goes, our auto centered systems are voracious consumers of land. Millions of acres are required to just park the Nation's 143 million licensed motor vehicles. And this figure is small when compared to the amount of land covered by streets, highways, and filling stations.

Such statistics demonstrate that responding effectively to the threats to our cropland associated with the mounting demands of Americans poses a dilemma for farmers and Government planners alike. Economic as well as political pressures encourage a short-term focus which we must avoid if we wish to reap the benefits of this valuable resource. Agriculture has been keystone of our historical economic growth and continues to play a vital role in our economic prowess today. With one-third of all productive acreage in the United States geared for exports, not only do agricultural products feed the hungry of the world, they help to offset our skyrocketing balance of payments deficits by approximately $28 billion per year. As such, it only stands to reason that we would plan the future use of this valuable system. There are no easy answers to the problem of resource depletion. But effective planning and protection of such lands can ease the often painful consequences of a diminishing resource base both at home and abroad. I urge that this legislation be adopted.

Mr. RICHMOND. Mr. Chairman, I rise in support of H.R. 2551, the Agricultural Lands Protection Act. Our Nation will face a serious problem in the years to come unless we act now to curb the annual loss of prime agricultural land that is being taken out of production.

Every year, we suffer a net loss of over 3 million acres of farmland, that is permanently converted from crop production to nonagricultural uses. New office buildings, factories, highways, commercial and public works projects, and general urban sprawl are destroying our prime agricultural lands at an increasingly alarming rate.

While depleting our Nation's finite reserves of prime cropland, this conversion is also causing agricultural production to shift to land of lower quality where reduced yields per acre and environmental damage is more likely. The consequences of losing our farmland will be felt by consumer and producers, in both rural and urban areas of our country, unless we act to halt this trend.

H.R. 2551, the Agricultural Lands Protection Act, addresses the problem of agricultural land loss. It takes a step toward developing methods of protecting our farmland by directing the Department of Agriculture to study the issues related to the conversion of agriculture lands to nonagriculture uses and the methods for reducing the rates of such conversion. State and local governments will be called on to carry the responsibility of developing new methods of land protection. The Federal Government will support local programs with matching and demonstration grants that will also serve as incentives for States to develop improved methods of land protection. I feel this bill correctly places the responsibility of developing farmland protection programs on State and local governments.

It is often difficult to imagine that agricultural production in our Nation could ever be in doubt, but we must look at the facts. Much of the agriculture land reserve, of approximately 100 million acres, is forest land or pasture and is in need of irrigation or expensive treatment in order to be farmed.

We need to be cautious of our faith and dependence on new technology to assist agricultural production as our ability to increase production through additional technology appears to be leveling off and is threatened by scarce and expensive energy and water, and high transportation costs.

Continued farmland loss has serious implications for our ability to produce food, for both the export market and domestic consumption. As the Representative of an urban area, I realize what the consequences to the consumer end of our Nation's food production chain would be if farmland continues to be converted to nonagricultural uses at the present rate.

I urge my colleagues to support H.R. 2551, and help preserve our Nation's prime agricultural lands from further conversion to nonagricultural uses.

● Mr. HAGEDORN. Mr. Chairman, debate on the merits of H.R. 2551, the Agricultural Land Protection Act, has begun. While I am extremely concerned over the loss of agricultural land in this country, I feel that the avenues paved in this legislation are premature, unnecessary, and potentially costly. H.R. 2551 is an inappropriate response to the goal of retaining our agricultural land base.

Preservation of our agricultural lands is not new. A recent report prepared for the Council on Environmental Quality by the National Conference of State Legislatures shows that 48 States and many local governments have adopted agricultural land retention programs of one form or another. However, until early last summer, no comprehensive attempt had been made to analyze the workability and effectiveness of these diverse programs.

In June 1979 the Department of Agriculture and the President's Council on Environmental Quality began an 18-month interagency study on the availability of land for agricultural and competing uses. This study will analyze the extent and causes of agricultural land conversion to other uses and the effects of this conversion on future food and fiber production. Furthermore, it will evaluate the effectiveness of the various agricultural land protection efforts from a national perspective and make these evaluations available to State and local government officials and others concerned about this problem. The study is to be completed by January 1, 1981.

In a May 23, 1979, letter to the House Agriculture Committee, Secretary Bergland emphatically stated the Department of Agriculture's opposition to this legislation. At that time he indicated that the Department was not prepared to state:

> (1) How serious the problem is in a national context; (2) What role, if any, the Federal Government should play beyond that of assisting local units of government make their own decisions concerning conversion or retention of agricultural land; and (3) If an expanded Federal role is desirable, what additional authority would be necessary. Once our interagency study is completed early in 1981, we believe that we will be in a better position to provide recommendations for any needed action on the problem. Meanwhile, we believe that action on the Agricultural Land Protection Act or similar legislation should be deferred pending the outcome of the interagency study.

A GAO report of September 20, 1979, confirms the Department of Agriculture's position and does not recommend initiation of new demonstration projects.

In times of runaway inflation and national support for budget restraints, the expeditures of $60.5 million for demonstration projects is difficult to justify. I question the wisdom of once again putting the cart before the horse by authorizing money for demonstration projects before we have a full account of the problem.

While it has been argued that the sum of $60.5 million is substantially below the original request of $200 million in H.R. 11122, I can only look back on other Federal programs such as the food stamp program and WIC that were given birth by a "small" authorization under similar disguises and have now mushroomed into uncontrollable giants.

Mr. Chairman, in light of the ongoing USDA study, GAO's recommendation and nationwide sentiment for less Government spending, I believe passage of H.R. 2551 at this time would authorize an unnecessary, duplicative and unwarranted land retention study and urge my colleagues to vote against this bill.●

● Mr. EDGAR. Mr. Chairman, I want to stress to my colleagues, particularly to those members from urban and suburban districts, the importance of this legislation. It has been said that if you eat, you are involved in agriculture. All too often we fail to make the connection between this Nation's agricultural productivity and the resulting benefits to the Nation as a whole. The bill before us today gives us the opportunity to make that connection.

In 1978, $27 billion—the equivalent of one-fifth of all U.S. exports—were agricultural products. These exports have been an important source in helping to balance the payments necessary for imported oil.

Our agricultural surplus has enabled us to provide food to countless millions throughout the world. In many cases, this assistance has meant the difference between life and death.

Agricultural products promise to make a significant contribution to our domestic energy supply.

Finally, and most importantly, this Nation's agricultural productivity has allowed us to remain virtually food self-sufficient.

As Jim Jeffords has brought to our attention, however, our agricultural productivity is now seriously threatened. Each year some 1 million acres of prime agricultural land is irreversibly converted to other uses. This is the equivalent of 4 square miles every day. If this trend continues, our options concerning our agricultural surpluses will be severely limited. In addition, we can expect food costs to rise considerably in this country. As the most productive lands for farming disappear, American farmers must move to marginal land. Since farmers must pay more to develop marginal land, that cost will ultimately be passed on to the consumer.

State and local governments throughout the country have recognized the threat to their agricultural land base and have initiated pprograms to stem the land loss. To date, however, these preservation techniques have proven to be largely ineffective.

The demonstration grant program provided under this legislation will assist those States and localities most concerned over the loss of farmland. The matching grant program would be completely voluntary and would test new approaches to preserve farmlands or enhance current approaches.

If we are to maintain our agricultural productivity, the land base must be retained. I urge all my colleagues to support this vitally important legislation.●

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Rosenthal) having assumed the chair, Mr. Sabo, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2551) to establish internal Federal policy concerning protection of certain agricultural land; to establish a Study Committee on the Protection of Agricultural Land; to establish a demonstration program relating to methods of protecting certain agricultural land from being used for nonagricultural purposes; and for other purposes, pursuant to House Resolution 561, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GRASSLEY

Mr. GRASSLEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GRASSLEY. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Grassley moves to recommit the bill, H.R. 2551, to the Committee on Agriculture, with instructions to report the same back forthwith with the following amendments: Page 27, title II, strike everything after line 14 through page 29, line 23, and strike "Sec. 205" on line 24, page 29, and insert "Sec. 201".
>
> Page 32, title II, line 19, strike "(a)" and on page 33, strike lines 1 through 6.

□ 1220

The SPEAKER pro tempore. The gentleman from Iowa (Mr. Grassley) is recognized for 5 minutes in support of his motion to recommit.

Mr. GRASSLEY. Mr. Speaker, I do not rise to offer this amendment to tell the Members that the reason for doing it is to save $60 million, even though an argument was eloquently made yesterday by the gentleman from Kansas (Mr. GLICKMAN) that by the passage of this bill we are putting our priorities in the agricultural budget in the wrong place. That argument can be made. That is not my reason for offering this motion with instructions.

This motion would strike the demonstration projects from this bill and the authorization of appropriations for those demonstration projects. This bill calls for a study that ought to be completed and made public before a determination is made by this House of Representatives that demonstration projects be financed.

The problem that this legislation is attempting to correct is the consumption of prime agricultural land by the Federal Government or by commercial interests generally. That issue is not very well addressed in title I. It is addressed better now in title I than it was when the bill came out of committee. That problem, however, as inadequately as it is addressed, will be taken care of by title I of this bill.

Presently there is being conducted in the U.S. Department of Agriculture and by the Council on Environmental Quality a study that would equal what this bill hopes to accomplish in the way of determining what public policies contribute to the decrease in prime agricultural land in America. Those studies ought to be completed. The study that this bill authorizes ought to be completed before we make a determination of whether or not $60 million be expended.

Mr. Speaker, it is in that vein that I offer my motion to recommit with instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. FOLEY. Mr. Speaker, the motion to recommit with instructions would strike from the bill authority for demonstration projects in title II and authorization for the funding of $60.5 million over a period of 4 years as the Federal contribution to the conduct of such demonstration projects.

This bill contains an extremely modest authorization. The demonstration projects are to be conducted by the States and by local governments. The authority in title II does not enhance or detract from the responsibility or authority of State or local governments over any land-planning function. The funds that are authorized here are in the sum of $60.5 million over 4 years.

I am as sensitive, I think, as any Member to the fact that economy has to be an across-the-board consideration in Congress, but certainly the problem of the multibillion-dollar value of our land base is not overstressed by an authority to expend up to $15 million a year for 4 years.

It often strikes me that the more moderate and responsible and cautious a program authorization is, the more it is attacked, on the theory that we have to start economizing somewhere. Yet time and time again I have been on the floor when we fought over a few hundred thousand dollars or a few million dollars and, following that, appropriated billions after a very short debate.

Again, Mr. Speaker, this is a cautious, responsible, moderate response to the problem, and the authorizations that are provided are extremely limited and still subject to the Committee on Appropriations. I think the authorizations are certainly well justified in view of the potential serious character of the problem which is addressed.

Mr. Speaker, I urge the Members to reject the motion to recommit.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I would just like to point out, as has been pointed out over and over again, that we are losing about 20,000 acres of agricultural land a week. If we would just multiply that by $1,000, which is probably a low value per acre, we are losing $20 million per week from our agricultural land base.

So, Mr. Speaker, if we consider that, we must realize that this is a very, very minimal amount of money to attack a very serious problem.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GRASSLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 227, nays 163, not voting 43, as follows:

[Roll No. 36]

YEAS—227

Abdnor
Albosta
Anderson, Calif.
Andrews, N.C.
Applegate
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erlenborn
Evans, Del.
Evans, Ind.
Findley
Fish
Fithian
Flippo
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gingrich
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hefner
Heftel
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McDade
McDonald
McEwen
McKay
McKinney
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Neal
Nichols
Nowak
O'Brien
Oakar
Paul
Perkins
Petri
Pickle
Porter
Preyer
Quayle
Quillen
Rahall
Railsback
Regula
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Taylor
Traxler
Trible
Vander Jagt
Volkmer
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Mo.

NAYS—163

Addabbo
Akaka
Alexander
Ambro
Annunzio
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonior
Brademas
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Byron
Chisholm
Clay
Collins, Ill.
Conyers
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Florio
Foley
Gephardt
Giaimo
Gilman
Ginn
Gray
Guarini
Hall, Ohio
Hamilton
Harkin
Hawkins
Heckler
Holland
Hollenbeck
Horton
Howard
Hughes
Jeffords
Jenrette
Kastenmeier
Kildee
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Lowry
Lundine
McClory
McCormack
Maguire
Markey
Mathis
Matsui
Mavroules
Miller, Calif.
Mineta
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Nedzi
Nelson
Nolan
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Price
Pursell
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roe
Rosenthal
Rostenkowski
Roybal
Sabo
Sawyer
Scheuer
Schroeder
Seiberling

Shannon
Simon
Slack
Snowe
Solarz
Spellman
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Wilson, C. H.
Wirth
Wolff
Wolpe
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—43

Anderson, Ill.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Bonker
Campbell
Coehlo
Corman
Crane, Philip
Davis, S.C.
Emery
Ford, Mich.
Fowler
Garcia
Goodling
Gudger
Hightower
Holtzman
Levitas
McCloskey
McHugh
Madigan
Minish
Mitchell, Md.
Murphy, Ill.
Obey
Pashayan
Pritchard
Rhodes
Rodino
Rose
Runnels
St Germain
Steed
Tauke
Thomas
Thompson
Treen
Whitten
Wilson, Bob
Wright
Wyatt

☐ 1240

The Clerk announced the following pairs:

On this vote:

Mr. Levitas for, with Mr. Rodino against.

Mr. Goodling for, with Mr. McHugh against.

Mr. Archer for, with Mr. Mitchell of Maryland against.

Mr. Ashbrook for, with Mr. Ford of Michigan against.

Mr. Thomas for, with Mr. Garcia against.

Mr. Pashayan for, with Mr. Thompson against.

Mr. McCloskey for, with Mr. St Germain against.

Mr. Bob Wilson for, with Mr. Minish against.

Mr. Runnels for, with Mr. Corman against.

Until further notice:

Mr. Hightower with Mr. Anderson of Illinois.

Mr. Rose with Mr. Gudger.

Mr. Steed with Mr. Tauke.

Mr. Murphy of Illinois with Mr. Treen.

Mr. Obey with Mr. Madigan.

Mr. Wright with Mr. Andrews of North Dakota.

Mr. Davis of South Carolina with Mr. Campbell.

Mr. Fowler with Mr. Philip M. Crane.

Mr. Wyatt with Mr. Emery.

Mr. Anthony with Mr. Bonker.

Mr. Coelho with Ms. Holtzman.

Mr. Whitten with Mr. Pritchard.

Mr. STACK changed his vote from "yea" to "nay."

Messrs. YOUNG of Alaska, WILLIAMS of Ohio, LLOYD, CAVANAUGH, BURLISON, MITCHELL of New York, and NATCHER changed their votes from "nay" to "yea."

Mr. BAFALIS changed his vote from "present" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. FOLEY. Mr. Speaker, pursuant to the instructions of the House, I report the bill back to the House with amendments.

The SPEAKER pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments: Page 27, title II, strike everything after line 14 through page 29, line 23, and strike "SEC. 205" on line 24, page 29, and insert "SEC. 201".

Page 32, title II, line 19, strike "(a)" and on page 33, strike lines 1 through 6.

The SPEAKER pro tempore. The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SYMMS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 210, not voting 46, as follows:

[Roll No. 37]

AYES—177

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boland
Bolling
Brademas
Brinkley
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Florio
Foley
Ford, Mich.
Forsythe
Frost
Giaimo
Gilman
Gingrich
Ginn
Gonzalez
Gray
Guarini
Hagedorn
Hall, Ohio
Hamilton
Harkin
Hawkins
Heckler
Holland
Hollenbeck
Horton
Howard
Hughes
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kildee
Kogovsek
Kostmayer
Lederer
Lehman
Leland
Lowry
Lundine
McClory
McCormack
McKinney
Maguire
Markey
Mathis
Matsui
Mavroules
Miller, Calif.
Mineta
Mitchell, N.Y.
Moakley
Moffett
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Nedzi
Nolan
Nowak
Oberstar
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Price
Pursell
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Roe
Rosenthal
Rostenkowski
Roybal
Sabo
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Staggers
Stangeland
Stark
Stewart
Stokes
Studds
Swift
Udall
Ullman
Van Deerlin
Vanik
Vento
Walker
Wampler
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolpe
Yates
Zablocki
Zeferetti

NOES—210

Abdnor
Albosta
Applegate
Archer
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Boggs
Boner
Bouquard
Bowen
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Carney
Carter
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Findley
Fish
Fisher
Fithian
Flippo
Ford, Tenn.
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Gibbons
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hefner
Heftel
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McDade
McDonald
McEwen
McKay
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Neal
Nelson
Nichols
O'Brien
Oakar
Panetta
Paul
Petri
Pickle
Porter
Quayle
Quillen
Rahall
Railsback
Regula
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Taylor
Traxler
Trible
Vander Jagt
Volkmer
Walgren
Watkins
White
Whitehurst
Whittaker
Wilson, Tex.
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—46

Anderson, Ill.
Andrews, N. Dak.
Anthony
Ashbrook
Bonior
Bonker
Breaux
Byron
Campbell
Coelho
Crane, Philip
Davis, S.C.
Drinan
Emery
Fowler
Garcia
Goodling
Gudger
Hightower
Holtzman
Levitas
McCloskey
McHugh
Madigan
Minish
Mitchell, Md.
Moorhead, Pa.
Murphy, Ill.
Obey
Pashayan
Preyer
Pritchard
Rhodes
Rodino
Rose
Runnels
St Germain
Steed
Tauke
Thomas
Thompson
Treen
Whitten
Wilson, Bob
Wright
Wyatt

☐ 1250

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Levitas against.

Mr. McHugh for, with Mr. Thomas against.

Mr. Tauke for, with Mr. Goodling against.

Mr. Emery for, with Mr. Ashbrook against.

Mr. Mitchell of Maryland for, with Mr. Pashayan against.

Mr. Thompson for, with Mr. McCloskey against.

Mr. St Germain for, with Mr. Madigan against.

Mr. Minish for, with Mr. Philip M. Crane against.

Mr. Garcia for, with Mr. Bob Wilson against.

Mr. Moorhead of Pennsylvania for, with Mr. Runnels against.

Until further notice:

Mr. Anthony with Mr. Anderson of Illinois.
Ms. Holtzman with Mr. Gudger.
Mr. Rose with Mr. Treen.
Mr. Whitten with Mr. Pritchard.
Mr. Breaux with Mr. Campbell.
Mr. Coelho with Mrs. Byron.
Mr. Davis of South Carolina with Mr. Andrews of North Dakota.
Mr. Drinan with Mr. Wyatt.
Mr. Fowler with Mr. Steed.
Mr. Murphy of Illinois with Mr. Bonker.
Mr. Obey with Mr. Bonior of Michigan.
Mr. Preyer with Mr. Wright.

Mr. LLOYD changed his vote from "aye" to "no."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker. I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just rejected.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2609, INCREASING APPROPRIATIONS CEILING FOR THE COLORADO RIVER BASIN SALINITY CONTROL ACT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 558 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 558

Resolved, That upon the adoption of this resolution it shall be in order to move, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 7 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2609) to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 2609, the House shall proceed, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill (S. 496), and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2609 as passed by the House.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 558 provides for the consideration of H.R. 2609, a bill to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act of 1974 and for other purposes. The resolution provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. This is an open rule permitting any germane amendment to be offered when the bill is considered under the 5-minute rule.

The rule waives points of order against the bill as introduced for failure to comply with section 401(a) of the Congressional Budget Act. Section 401(a) prohibits the consideration of any bill or resolution which provides new contract authority not made subject in advance to appropriations for such contract authority. While committee amendments cure the 401(a) violation, this technical waiver is necessary to permit consideration of the bill by the House.

The rule also waives points of order against the bill for failure to comply with clause 7, rule XIII, which states that the report accompanying each bill shall contain a committee estimate of the costs which would be incurred in carrying out the bill in the fiscal year in which it is reported and in each of the 5 succeeding fiscal years.

While the report contains the cost estimate of the Congressional Budget Office, as required by section 308(a) of the Congressional Budget Act, the Committee on Interior and Insular Affairs failed to break out the costs of H.R. 2609 by year and did not specifically concur with the CBO estimate, thus necessitating the waiver of clause 7, rule XIII.

The resolution also waives points of order against S. 496, the Senate companion measure, for failure to comply with section 401(a) of the Budget Act and provides that should the House pass H.R. 2609, it shall be in order to proceed to the consideration of the Senate bill and to strike all after the enacting clause and insert in lieu thereof the provisions of H.R. 2609 as passed by the House.

Mr. Speaker, H.R. 2609 amends the authorizations ceiling set in 1974 in the Colorado River Basin Salinity Control Act by repealing the existing authorization ceiling that is indexed to the annual rate of inflation and substituting a flat ceiling of $356.4 million. These funds are to be used in the construction of a desalting plant near Yuma, Ariz., designed to improve the quality of the water of the Colorado River going downstream to Mexico from the Imperial Dam.

Under the terms of a 1944 treaty with Mexico, the United States became obligated to deliver 1.5 million acre-feet of water to Mexico annually in that section of the Colorado River which is the boundary between the United States and Mexico. The quality of the water became an issue in 1961 when the Mexican Government formally protested to the United States about the quality of the water being delivered under the terms of the treaty. In 1972 an interagency task force was appointed by the President of the United States to seek a permanent solution to the problem and joint recommendations were approved in August of that year and the resulting 1974 act was designed to implement the 1972 agreement.

Mr. Speaker, I would urge my colleagues to adopt this resolution so that the House may proceed to the consideration of H.R. 2609.

☐ 1300

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule, providing for 1 hour of debate. The rule waives section 401(a) of the Budget Act against consideration of the bill. Section 401(a) provides that it is not in order to consider a bill providing new contract authority unless this new authority is to be effective for any fiscal year to such extent as provided in advance in appropriation acts. Section 3 of the bill would be subject to a point of order since it fails to limit the availability of such contract authority. Although a committee amendment cures this Budget Act violation, it is necessary to waive section 401 (a) in order to permit consideration of the bill by the House.

In addition, the rule waives clause 7 of rule XIII against consideration of the bill. This clause requires a committee cost estimate.

This is one motion to recommit.

After passage of H.R. 2609, the rule makes in order consideration of S. 496. It will then be in order to strike all after the enacting clause of the Senate bill and insert the provisions of the House-passed bill. Section 401(a) of the Budget Act is waived against consideration of the Senate bill also.

Mr. Speaker, there is some controversy surrounding this legislation which increases the appropriation ceiling for the construction of a desalting plant at Yuma, Ariz. Construction of such a facility would assist us in fulfilling our commitment to deliver an acceptable quality of water to Mexico from the Colorado River. There are, however, some Members who feel that we must investigate other alternatives which would be less costly and provide a more effective solution.

Since there are questions to be raised about the direction of our national policy approved by the 1974 act, I am fully supportive of the open rule which is before us. If we are to make changes in this area, they should only be made after full debate on the House floor.

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield 10 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I hesitate to take this time on the rule to discuss the bill (H.R. 2609), but I did oppose the rule in the committee and will oppose the bill when we get to it. I wanted to have a reasonable amount of time to explain my reason for opposing both the rule and the legislation.

This is a bill which was voted out of the Interior Committee last May, and has been held since that time in part because a number of members of the Interior Committee, as well as myself, felt that there were superior alternatives to the plan proposed in this bill, which is to increase funding for a large desalting plant in the Colorado River by a substantial amount, up to about $350 million, in order to meet the salinity problem in the Colorado River.

Following the Interior Committee action last year, I met with Secretary Andrus—I and several other Members—and discussed this matter with him. We were led to expect that the Secretary would come forth with a new analysis of this program which might lead us in a more productive direction. Unfortunately, the Secretary has not done that, and it is my personal view that we should not take up the bill until he does. Of course, we will have amendments, I and Congressman WEAVER and others, which will attempt to delay the implementation of the bill until the Congress has had an opportunity to analyze reports from the Secretary with regard to alternatives.

Let me just explain very briefly, if I may, what we are talking about. Some Members perhaps do not know where the Colorado River is, so I have some maps here, which I will leave at the desk, which show its location and the site of the proposed plant. The Colorado drains a very large area, including all or parts of seven States, and supplies most of the water for irrigation and domestic purposes within this area. The Colorado is a naturally salty river, with the salinity level rising as one approaches the United States-Mexico border. The problem of salinity during the 1960's became so serious that it resulted in a meeting of the Presidents of Mexico and the United States to try and resolve the problem.

I might say at this point that water with salt content in excess of 500 parts per million is not considered suitable for drinking. Water with more than 1,000 parts per million of salt is not considered suitable for agriculture. During the 1960's, the salinity of water going to Mexico went into the 1,600 parts per million range, and ruined a good part of half a million acres of land just below the border in Lower California. This is what resulted in the protest from the President of Mexico.

To put this in perspective, there are over a million people in the area south of the border who are dependent upon the half million acres or so that are irrigated by the Colorado River. The problem on the U.S. side is that there are 150 farms just above the border which are farming some highly saline land, and the return flow from this irrigation district going into the river has elevated the salinity of the water which we deliver to Mexico. The purpose of this project is to take that return flow from this irrigation district just north of the border, and at a cost set forth in the bill of $356 million, we propose to build a desalinization plant which will make the water coming out of this irrigation district suitable for use in the area below the border.

Now, I recognize that there is considerable momentum behind this legislation. I sense that the mood of the Congress is that Members want to spend a lot of money these days. We think this bill is a suitable vehicle for doing that. It will cost considerably more than $356 million before it is completed. I have had the cost analysis checked, and most of the people who have checked it agree with me that the actual cost will run closer to $500 million, or a half billion dollars.

In addition to this problem, the project uses power which is not available at the present time, and it will cost to operate it somewhere in the area of $20 million to $25 million per year, in perpetuity. The overall cost for operating it for 50 years will run to another billion dollars or so.

So, if the mood of the House is to spend a lot of money, I think we have an open-ended invitation here to spend a lot of money. Now, in addition I think I sense the mood of the House that the States of the Northeast and the Midwest and other parts of the country want to do something to help the impoverished States of the Sun Belt, and this is a good vehicle for doing that. It will help encourage more people to move to Arizona and California, and I trust will lead to our having more congressional seats in those areas. I hope the loss is not too much in the other parts of the Union.

I would not object to this if I thought it was going to achieve the goal set forth in the bill, which is to supply usable water in the Colorado River. In fact, the proponents of this bill will say that that is the only purpose of the bill, to meet our treaty obligations.

□ 1310

The fact of the matter is this desalting plant does not meet our treaty obligations. What it will do is to create the illusion that we are going to meet our treaty obligations and then when it does not succeed it will let us fall with a crash, as far as our relationships with Mexico are concerned, and we will have the Mexican Government accusing us of bad faith. We will have a situation where we have not solved the problem. It may create irreparable damage because this has been one of the of the most serious issues between the two governments for at least the last 35 years. If we, after repeatedly promising to do something about the difficulties, go through these motions, spend a half billion dollars of the taxpayers' money, and still do not solve the problem, I think the people of Mexico very rightly are going to say, "We have been led down the primrose path again by the giant of the North," and they are going to feel very bitter about the whole thing.

I am going to propose, when the bill is before us, alternatives which I think will remedy this problem, which will really correct the salinity problems of the Colorado, which can only be done by a program of salinity control which extends throughout the river. But I wanted to explain in this debate on the rule what the background of this situation was. I think it would be more appropriate if we did not approve the rule and did not move forward with this legislation and make this very wasteful expenditure.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TO AMEND SMALL RECLAMATION PROJECTS ACT OF 1956

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 559 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 559

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 7 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3275) to amend the Small Reclamation Projects Act of 1956, as amended, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Mississippi, Mr. LOTT, pending which I yield myself so much time as I may consume.

Mr. Speaker, House Resolution 559 provides for the consideration of H.R. 3275, a bill to amend the Small Reclamation Projects Act of 1956, as amended. The resolution provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. This is an open rule which allows the offering of any germane amendment when the bill is considered under the 5-minute rule.

The rule waives points of order against the bill as introduced for failure to comply with section 402(a) of the Congressional Budget Act. Section 402(a) prohibits the consideration of any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported on or before May 15 preceding the beginning of such fiscal year. Section 1 of H.R. 3275 as introduced would increase the current authorization ceiling for loans and grants under the Small Reclamation Act of 1956 from $400 million to $600 million during fiscal year 1979. Since the bill was not reported until July 13, 1979, it would be in violation of section 402(a). During consideration of H.R. 3275, the Committee on Interior and Insular Affairs adopted a committee amendment that made the new authorization level effective October 1, 1980, thereby curing the existing Budget Act violation. However, a technical waiver of section 402(a) is still necessary to permit consideration of the bill by the House.

The resolution further waives points of order against the bill for failure to comply with clause 7, rule XIII, which states that the report accompanying each bill shall contain a committee estimate of the costs that would be incurred in carrying out the bill in the fiscal year in which it is reported and in each of the 5 succeeding fiscal years. While the report contains the cost estimate of the Congressional Budget Office, as required by section 308(a) of the Congressional Budget Act, the Committee on Interior and Insular Affairs failed to break out the costs of H.R. 3275 by year and did not specifically concur with the CBO estimate. It is for this reason that the waiver of clause 7, rule XIII is necessary.

Mr. Speaker, the Small Reclamation Projects Act provides small loans and grants for the construction or rehabilitation of single-purpose irrigation, irrigation drainage or multipurpose water resource projects. This program has been of invaluable assistance in 17 western States and Hawaii providing much needed water to farm lands. The purpose of H.R. 3275 is to increase the authorized loan and grant ceiling of $400 million, which is nearly depleted, to $600 million to enable the Department of the Interior to keep the program operational in the future and to process those loan applications presently pending.

Mr. Speaker, this legislation is of great value to our Western States, and I would urge my colleagues to adopt the rule so that we may proceed to the consideration of the bill.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule. The rule waives clause 7 of rule XIII against consideration of the bill since it lacks a complete committee cost estimate.

In addition, the bill as reported would be subject to a point of order under section 402(a) of the Congressional Budget Act. Section 402(a) requires legislation authorizing new budget authority to be reported by May 15 preceding the beginning of the fiscal year. Section 1 of the bill would increase the authorization ceiling for loans and grants under the Small Reclamation Act of 1956 from $400 to $600 million. Since this section would become effective upon enactment and since the bill was not reported before May 15, 1979, it would be subject to a point of order under section 402(a) of the Budget Act. The Interior Committee adopted an amendment making the new authorization effective October 1, 1980, thereby curing the existing Budget Act violation. Since a point of order would still lie against the original bill, it is necessary to waive section 402(a) in order to permit consideration of the bill by the House.

The rule also provides one motion to recommit.

The legislation made in order by this rule is H.R. 3275, Small Reclamation Projects Act Amendment. Enacted in 1956, the Small Reclamation Projects Act established a program under which non-Federal organizations located in the 17 contiguous Western States and Hawaii can obtain loans and grants for the construction or rehabilitation of single-purpose irrigation or multipurpose water projects. The purpose of H.R. 3275 is to increase the loan and grant authorization ceiling for the program from the current level of $400 million to $600 million and to enable the Department of Interior to keep the program operational for the future.

I know of no opposition to the legislation, having been reported from committee by unanimous voice vote, and I have no objection to adoption of the rule.

Mr. Speaker, I yield back the remainder of my time, unless there is some further request, which I do not have at this time.

Mr. FROST. Mr. Speaker, I have no requests for time. I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3275) to amend the Small Reclamation Projects Act of 1956, as amended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3275, with Mr. LLOYD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. KAZEN) will be recognized for 30 minutes, and the gentleman from New Mexico (Mr. LUJAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, the purpose of H.R. 3275 is to increase the authorization ceiling of the Small Reclamation Projects Act of 1956, as amended, from the current level of $400 million to $600 million. The Small Reclamation Projects Act of 1956 established a program under which non-Federal organizations located in the 17 Western States and Hawaii can obtain small loans and grants for the construction or rehabilitation of single-purpose irrigation, irrigation drainage, or multiple-purpose water resource projects similar to those which might be constructed by the Water and Power Resources Service.

The act, as amended, sets a maximum limit on the estimated total cost of a product which may be constructed or rehabiliated with funds made available pursuant to it. This limit is established by applying the Water and Power Resources Service's composite construction cost index for January of the current year to a January 1971 base of $15 million. For calendar year 1979, the maximum total project cost could not exceed $29.3 million. The maximum loan or grant that can be obtained under the act is limited to two-thirds of the maximum allowable estimated total project cost. For example, for calendar year 1979, the maximum loan or grant allowed would have been $19.5 million.

Over the years, this program has resulted in the development of urgently needed water resources projects by smaller local irrigation and multipurpose water organizations throughout the West. As of June 1, 1979, the Department of the Interior had expended or obligated approximately $327 million for projects completed, under construction, approved but unfunded, and for projects in the fiscal year 1980 budget. The Department of the Interior anticipates that it will shortly obligate $5 million for cost escalation loans for presently funded small reclamation projects and approve $23 million worth of loans for loan applications now being finalized. Consequently, approximately $355 million out of the current $400 million authorization ceiling has been effectively obligated.

Mr. Chairman, as just noted, the current authorization ceiling is nearly exhausted. However, the Department of the Interior testified during the subcommittee's June 19, 1979, hearing on H.R. 3275 that it has received seven draft applications for loans, along with 14 notices of intent to file loan applications, which the Department of the Interior estimated will require an additional $200 million to fund. This would bring the loan total to approximately $555 million. Well above the current $400 million ceiling. H.R. 3275, by increasing the authorization ceiling of the Small Reclamation Projects Act of 1956 from $400 million to $600 million, would allow the Department of the Interior to process these additional loans and to keep a valuable loan program operational for the future.

□ 1320

Mr. Chairman, I urge adoption of this bill.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to join the chairman of the subcommittee, my friend the gentleman from Texas (Mr. KAZEN), in support of this legislation We do not find any opposition to this legislation because it is something that is needed and is a program that most of us would agree with. It is a grant and loan program but as a matter of fact grants have not been made for a number of years. It is primarily a loan program and 96 percent of these projects are fully reimburseable and at pretty good interest rates also, so it is not really a grant program but a loan program.

Mr. Chairman, let me take a minute to point out where we are. We have authorization for $400 million. We have used roughly $350 million, leaving a cushion of about $45 or $50 million. There are a number of projects pending, either they are under way or they are planned so we need to raise this authorization level. The need is for another $200 million.

There is one other thing we are doing under the bill and that is, because of the times in which we live; the maximum—the ceiling is $10 million—there is $10 million under the present law and it is being increased to $19 million.

I think, Mr. Chairman, it is reasonable to expect that with this new $600 million limit we will have operating elbow room. We will not have to come back to the House for an increase for quite some time. That coupled with the repayments, it is a revolving fund, so I would ask the Members of the House to support this legislation because it is very needed and is accepted by almost everyone as something that is needed now.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be glad to yield to the gentleman.

Mr. CLAUSEN. Mr. Chairman, I rise briefly not only to support this legislation but also to commend once again the leadership of the subcommittee and those who have joined me over the years in supporting and perfecting the Small Reclamations Projects Act.

I strongly urge that the committee and the House fully support this legislation and move it on with dispatch. It concerns one of the most successful—and most needed—programs in water resources development.

I have been closely associated with a number of multiple-purpose projects that were made possible by the loans provided in this program, and I can tell you firsthand that the results produce benefits far in excess of the amount of money involved.

These are loans that permit non-Federal agencies to finance improvements in land and water use for such wide-ranging purposes as irrigation, drainage, domestic and industrial or municipal water supply, commercial power, flood control, fish and wildlife enhancement and recreation.

Throughout the West, where both water and energy are very precious commodities, projects are underway or under consideration to conserve water and improve energy efficiency. Projects like the updating of old earth canals by lining them with concrete to prevent seepage water losses, like replacing leaky conveyance systems with modern pipelines, and installing very expensive new valves to save energy by making pressure systems leakproof.

These are projects initiated at the grassroots, by farmers and other water-use groups who are using their own initiative and ingenuity to do their part in the current energy and water crisis. And they are doing it with loans—not grants—that must be repaid with interest. The program is a reflection of resourceful Americans at work to help themselves and their Nation move safely through this crisis.

Just 16 months ago, Mr. Chairman, the National Water Resources Association, at its annual conference in San Antonio, passed a resolution calling for an increase in the authorization for these loans. Our committee reported this bill last July and it has been waiting for a rule ever since. I commend the leadership for finally bringing it to the floor, and I urge my colleagues to give it the unanimous vote it so richly deserves.

Mr. KAZEN. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. LUJAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 3275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended, is further amended as follows:

(a) Section 10, as amended, is further amended by deleting "$400,000,000" and inserting in lieu thereof the amount of "$600,000,000".

Mr. KAZEN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 3. After "(a)" and before "Section" insert "Effective October 1, 1980,".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California:

"(b) Subsection (c) of section 5, as amended, is further amended by adding the following: Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which poriton shall bear no interest;"

Mr. JOHNSON of California. Mr. Chairman, this amendment, if adopted, will assure that in any repayment contract between the United States, acting through the Water and Power Resources Service, and any private or public agency or individual which provides for the payment of interest on that portion of a Public Law 84-984 loan which is attributable to furnishing water for recreation or fish and wildlife purposes, no such interest shall be charged if the intended recipient of such recreation or fish and wildlife water is an agency of the United States.

Also, this amendment shall be applicable to those contracts executed after September 1, 1979.

I will appreciate my colleagues giving favorable consideration to this amendment since it would, I believe, correct an existing inequitable situation where water is being supplied to Federal Government facilities of the type mentioned above.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, we have had the opportunity to study the gentleman's amendment. We find absolutely no fault with it. We all accept the amendment on this side of the aisle.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I want to be sure I am clear on the thrust of the amendment. The amendment would essentially apply to the loan portion that is described, where there will be an interest forgiveness, to that which represents generally a Federal interest, is that correct?

Mr. JOHNSON of California. That is correct.

Mr. CLAUSEN. Mr. Chairman, we are prepared to accept the amendment. We will support the amendment.

☐ 1330

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Johnson).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Brown of California) having assumed the chair, Mr. Lloyd, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3275) to amend the Small Reclamation Projects Act of 1956, as amended, pursuant to House Resolution 559, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INCREASING APPROPRIATIONS CEILING FOR THE COLORADO RIVER BASIN SALINITY CONTROL ACT

Mr. KAZEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2609) to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2609, with Mr. Lloyd in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. Kazen) will be recognized for 30 minutes, and the gentleman from New Mexico (Mr. Lujan) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Kazen).

Mr. KAZEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of H.R. 2609 is to increase the authorized ceiling for appropriations contained in title I of the Colorado River Basin Salinity Control Act.

In 1944, the United States entered into a treaty with our southern neighbor, Mexico, whereby the United States became obligated to deliver to Mexico from the Colorado River, in that section of the river which is the boundary between the United States and Mexico, 1½ million acre feet of water annually.

The 1944 treaty did not address the question of water quality and it did not become an issue until 1961. Beginning in that year, two events occurred which changed the quality of water delivered to Mexico. First, the drainage system for the Wellton-Mohawk division of the Gila project in Arizona began to operate and discharge quantities of highly mineralized water into the Colorado River upstream from Morelos dam where much of the irrigation water is diverted for use in the Mexicali Valley. Second, the storage of river flows was increased at Lake Mead, reducing the amount of stored water available for dilution of drainage flows.

As a consequence of the increased salinity content of the water being delivered, the Mexican Government filed a strong protest with the United States in 1961. From that time until 1972, the salinity problem was the subject of constant negotiations between the two governments.

In June of 1972, the President of the United States made a commitment to the President of Mexico to develop a permanent, definitive and just solution to the salinity problem. In keeping with the commitment, a task force headed by former Attorney General Herbert Brownell, Jr., was appointed to examine the problem and make recommendations to the President for a permanent solution.

As a result of the work of the interagency task force headed by Mr. Brownell, and negotiations with Mexican officials, joint recommendations for a permanent solution were made by the representatives of the two governments, which were approved by the respective Presidents on August 30, 1973. The recommendations were incorporated in minute 242 of the International Boundary and Water Commission to become effective upon enactment of implementing legislation.

Mr. Brownell examined all of the proposed alternatives for solution of the salinity problem and recommended, among other things, the construction of a desalting facility near Yuma, Ariz. to treat a major portion of the Wellton-Mohawk drainage flow.

As an interim measure, it was agreed that the United States would bypass all Wellton-Mohawk drain water and substitute higher quality water to be delivered to Mexico in place of the drain water. This is how the United States is now meeting its commitment pending construction of the desalting facility.

It is important to note that the Federal Government is not the owner of any of the water presently being delivered to Mexico. That water belongs to the river basin States and is, in effect, being borrowed by the United States. Part of the borrowed water is being replaced by another work authorized by the 1974 act—the lining of the Coachella Canal in southern California to reduce conveyance losses through seepage.

The water demands of the arid Southwest for increased agricultural production and an increasing population will soon demand that the river basin States utilize all of their entitlements to Colorado River water and the United States will no longer be able to satisfy the commitment to Mexico by borrowing water from them.

Mr. Chairman, I should note that other measures have already been effected to reduce the salinity problem in the lower Colorado. The irrigable acreage of the Wellton-Mohawk has been decreased by 10,000 acres—from 75,000 to 65,000. Irrigation efficiency measures have been introduced and this effort is continuing with the full cooperation of the irrigation district.

However, every expert who appeared before the Subcommittee on Water and Power Resources agreed that a desalinization plant would be required to meet our commitment to Mexico.

☐ 1340

The 1974 act, which would be amended by H.R. 2609, was enacted to implement our treaty obligation and the 1973 agreement. The authorization for appropriations for the desalting facility contained in the 1974 act has proven to be insufficient. Also, authorization is required for some additional works, including measures for the mitigation of damage to fish and wildlife habitat which were not anticipated in 1974.

The present authorization for all of the works authorized by title I of the 1974 act is approximately $155 million—1973 prices. With cost indexing, the ceiling is $219,831,000. H.R. 2609, as amended by the Committee on Interior and Insular Affairs, would increase the ceiling to $356,400,000—January 1979 prices—to provide for the increased cost of the desalting plant and the additional measures not authorized in the 1974 act.

Mr. Chairman, I would like to point out that the committee amendment provides an authorization at January 1979 prices, but does not make the usual cost indexing provision allowing the ceiling to increase without further legislation in the event of price increases. It is the purpose of the committee amendment to assure continuing oversight of the implementation of the provisions of title I and to require additional legislation before the estimated 1979 project cost can be exceeded. This will encourage the Department of the Interior to make every effort to construct the authorized facilities at the lowest possible cost.

Mr. Chairman, some questions concerning the Yuma desalting facility have been raised which should be addressed.

It has been suggested that there should be further negotiations with the Government of Mexico, and that the Mexican Government may not have been fully aware of the means by which the United States proposed to improve the quality of water delivered to Mexico—that such further negotiations could result in some new means of improving the quality of water delivered to Mexico.

How we meet our commitment under the 1973 agreement is properly considered by the Government of Mexico to be a domestic problem for the United States. However, the Mexican Government was fully aware of the proposals made by Mr. Brownell to the President and fully aware of the enactment of legislation in 1974 to implement those recommendations—the principal one being to construct the Yuma desalting plant.

The Government of Mexico's concern is not how we do the job, but that we get on with it. I can assure you, Mr. Chairman, that they are extremely sensitive to any delay in doing whatever is necessary to arrive at a permanent solution to the salinity problem.

It has also been suggested that the salinity problem could be solved if all of the Wellton-Mohawk irrigation district were to be bought by the United States and irrigation halted.

Mr. Chairman, the experts who appeared before our subcommittee all agreed that a complete buy-out of Wellton-Mohawk would not solve the problem because there are other sources of salinity along the river above Wellton-Mohawk,

I would point out, Mr. Chairman, that the total cost of a buy-out of the Wellton-Mohawk has been estimated at $530 million. This includes the acquisition cost of the land in the district, displacement of the families farming the lands and the labor force required for farming, loss of tax revenues and the adverse economic impact on communities in the area. In 1976, the average crop value for irrigated lands in Arizona was $820 per acre. The present irrigable acreage in the Wellton-Mohawk is 65,000 acres. A buy-out could result in the loss of over $50 million in crops annually.

Almost as important as the cost of buying out the Wellton-Mohawk irrigation district is the delay that proposal could cause in implementing a permanent solution to the salinity problem. The negotiations and possible litigation could consume as much as 15 years.

Mr. Chairman, this Nation made a commitment to Mexico in 1973. The Congress adopted legislation in 1974 which would enable the United States to meet that commitment in the most expeditious manner. Enactment of H.R. 2609 is in keeping with those commitments—which are national commitments. The word of this country has been given, and let it not be broken.

The opponents of H.R. 2609 offer no solutions—they offer only further delay—delay which could severely damage our relationship with our closest neighbor.

Finally, Mr. Chairman, while I have mentioned our commitments to Mexico, I would not want to end this discussion without mentioning another commitment which the Federal Government has—to supply water to Mexico at no cost to the water supplies of the seven river basin States which, as I have pointed out, they, not the Federal Government, own.

Mr. Chairman, while the Members who will offer these amendments will be talking to us about the Federal Government spending this money, let me assure the Members that although I agree with them, we must remember that the obligation belongs to the Federal Government. The Nation as a whole made the deal with Mexico, and certainly the basin States should not be called upon to bear the cost of this project.

Mr. Chairman, I urge favorable action and passage of H.R. 2609, as amended by the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Certainly, I am delighted to yield to the chairman of the committee.

Mr. UDALL. Mr. Chairman, I want to congratulate the distinguished chairman of the subcommittee, the gentleman from Texas (Mr. KAZEN), for the way in which he has handled an emotional, difficult, and very important piece of legislation. I congratulate him on behalf of all the members of the committee for the good work he has done, and I certainly support him in the comments he has made.

Mr. KAZEN. Mr. Chairman, I thank the committee chairman. He is very generous.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. BROWN of California) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

INCREASING APPROPRIATIONS CEILING FOR THE COLORADO RIVER BASIN SALINITY CONTROL ACT

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

(Mr. LUJAN asked and was given permission to revise and extend his remarks.)

Mr. LUJAN. Mr. Chairman, I concur with the statement of the very able chairman, my good friend from Texas, and wish to associate myself with his remarks.

In 1969 and 1970, I was appointed to the Interparliamentary Conference with the Republic of Mexico. We were briefed by the State Department as to the major issues that would come up—one of the issues was the Colorado River salinity problem, but I was really quite unprepared for the attitude that confronted us in Mexico City.

Nine years had passed since the Mexican Government had lodged a protest with our Government concerning the quality of water being delivered to Mexico via the Colorado River. But nothing had been done.

At the conference, we tried to talk about our mutual concerns with migrant labor, and the Mexican legislators asked us what we were going to do about the mud and salt we were dumping into northern Mexico's newly irrigated farms. We tried to talk about improved trade relations and joint economic development plans, and they asked when we were going to respond to their government's protest.

It was almost the same situation that members of an Iranian legislature would find themselves in if they were to come here today to talk about improved relations without mentioning the hostages.

We all came back determined to find a solution.

There are many of you who sat in this Chamber in June of 1972 when the President of Mexico, Luis Echeverria, addressed a joint session of the Congress. We heard him refer to the salinity problem as the most delicate issue then existing between our two countries.

Within 2 days after President Echeverria appealed directly to the Congress for action, President Nixon appointed Herbert Brownell as his special representative to find a permanent solution to the problem. And in August of 1973, the Brownell interagency task force reached an agreement with the Mexican representatives which was immediately approved by both Presidents and incorporated in minute No. 242 of the International Boundary and Water Commission.

The following year, in 1974, the administration brought to Congress a proposed bill that would implement the treaty and authorize the necessary appropriations.

This was no minor bill. It called for the expenditure of hundreds of millions of dollars. It called for the construction of the world's largest desalting plant and for the allocation of a sizable block of electric power in the power-hungry Southwest. All of these issues were loaded with political dynamite.

There were those at that time who said there were viable alternatives available to us. We looked into every single alternative—and we always came back to the bottom line: The desalting plant would be necessary, no matter what else we did.

We worked out a delicate agreement whereby the States would temporarily give up 200,000 acre-feet of water per year to meet the treaty requirements until we could get the desalter built. We added title II to the bill, providing for projects upstream on the Colorado River that would help reduce the salinity. Two commitments were written into the bill. The loan of 200,000 acre-feet of water was temporary and we would not take the power needed to run the plant away from preference customers.

That bill passed both bodies in 1974 and became law.

That was 6 years ago. During those 6 years we have made some progress. The Interior Department has reduced the size of the Wellton-Mohawk Irrigation District from 75,000 irrigated acres to 65,000 irrigated acres. It did this by buying 10,000 acres from the private owners as provided for in the act.

Some progress has been made in the relining of the Coachella Canal as provided in the act, but that part of the project is not yet complete.

A desalting test facility was constructed at Yuma to test pretreatment systems and provide data that was needed for the design of the plant.

During those 6 years, all of the costs associated with this project have gone up. The bill before us today will bring the authorization into line with actual costs and will permit the project to proceed.

But there has been another development during those 6 years that should be noted by each of us as we consider this bill.

During that time, the energy crisis has come upon us full blast. Right at the height of that crisis, huge oil and gas discoveries were made in Mexico.

All of a sudden the shoe was on the other foot.

Now, today, you will hear from a number of our colleagues who will ask you to delay the implementation of this treaty for a few more years. To consider other alternatives—we already have looked into other alternatives and any feasible alternative will have as a cornerstone the building of a desalting plant. And if we do delay, I am certain there will be those a few years from now who will stand before you and ask for more delay.

My colleagues, I have gone into considerable detail in outlining the history of this legislation, and I have taken more time than I had intended. But I have done it for reason. I want you to understand the full implications of what we are doing here today.

I have taken this time to try to convince you that being a good neighbor is a two-way proposition. That it means keeping our word and doing the things we promise we will do. By passing this bill today, we will finally be clearing the way so we can keep our word with our neighbor to the south. We will be clearing the way for the keeping of our promise to the Colorado Basin States relative to the borrowed use of their water. We will be moving ahead with the project that should have moved ahead 6 years ago.

I ask you to reject the voices of delay that you will hear today. I ask you to pass this bill by a vote large enough to convince our own States and our Mexican neighbors that this Congress stands behind the commitments our Government has made.

☐ 1350

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I want to commend the gentleman in the well for his statement, and I rise in support of the bill and urge its passage.

This project has very considerable advantage for the United States, and particularly for the State of California and the other Colorado River Basin States that share in the use of Colorado River water. Above all, it removes the uncertainties of the effect the salinity problem might have caused on further development of the Colorado River Basin. As long as the two government's might have to resort to international adjudication—which was a possibility prior to the treaty agreement—a part of the basin's water would be in jeopardy.

But by drawing on the financial and technological resources of the United States, rather than on our scarce water resources, we remove this vital supply of water from that jeopardy.

I will point out, also, that prior to this agreement being made in 1973, Mexico had installed large pumping fields just across the border that were drawing down the groundwater tables on our side of the border. This put us in the position of having to deliver a given amount of surface water to Mexico via the Colorado River while at the same time Mexico was getting water from the underground acquifers but not counting it against their quota.

Under the agreement which this bill implements, Mexico has consented to limit her pumping in that area to a specific amount, and agrees further that the United States may pump water from that acquifer on the American side and use it to help dilute the salts in the Colorado River, thus aiding us in meeting the water quality standards.

Further, under the agreement, this groundwater that we pump and place in the river will count against the amount of water that we are obligated to deliver in the river.

What this does is to reduce the amount of new water supplies the United States will have to develop to replace the water it is now borrowing from the States to comply with the treaty. And it hastens the day when the Federal Government will be able to stop using State water for that purpose.

Mr. Chairman, this is a good bill and a very necessary bill. It does not give the basin States anything that they did not have prior to the treaty. Instead, it simply helps restore to the States that which they have agreed to lend to the Federal Government while the desalter project is under construction.

I urge my colleagues on this side of the aisle to give the bill their support, and to resist the efforts that will be made to delay that which has already been delayed far too long.

Mr. LUJAN. I thank the gentleman.

Mr. KAZEN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I very reluctantly rise to oppose the passage of this bill at this time because of several factors. Before enumerating some of those factors, I would like to express my appreciation to the distinguished chairman of the subcommittee, who is managing the bill, and to the chairman of the full committee for their courtesies to me over the last year and their willingness to hear the arguments which I advanced. I have no complaints about that. I think we have some fundamental disagreements which I hope the Members will understand after they have heard the discussion here this afternoon.

Mr. Chairman, I am very familiar with the problems of the Colorado and of the Southwest. I spent half of my life in close proximity to them. I was born about 50 miles from where this plant is proposed to be built. I have been nourished on Colorado River water for a good part of my life, and I want to see the Colorado used as effectively as possible for the benefit of the people of the Southwest. I also very strongly want to keep our commitments to Mexico. I think this is critical, this is essential, at the present time.

My main objection to this bill is that it presents the facade of meeting our commitments without meeting them. I think this is worse than no action at all. I urge the Members to listen to my reasons for saying this.

We have heard expressed already by both the gentleman from Texas and the gentleman from New Mexico the problems of the Colorado. It is a river which is highly saline, and it is a river on which the demands for its water far exceed its capacity. I will tell the Members that the best estimates of the over-demand of the Colorado is that it is in the order of about 50 percent. In other words, where there is an average mean annual flow of about 14 million acre-feet per year, when fully developed and after adjudication of all of the claims, it is likely that there will be somewhere close to 20 million acre-feet of demand on the river. Some of these claims have never been adjudicated; the Indian tribes, for example, in Arizona and New Mexico, which have outstanding claims of 5 million acre-feet which have not yet been resolved.

☐ 1400

The problem, therefore, is how do we distribute this water in a way that will be most useful? I can assure this body that that will not come about through the continued expansion of highly water-intensive agriculture. There will be demand from the millions of people who are pouring into the Southwest for industrial and domestic water which will more than take up the available water. Every present claimant will have to make sacrifices.

What will happen as that is done is that the salinity in the water will continue to go up. Right now, agriculture contributes about a third of the salt in the water.

I mentioned earlier in debate on the rule that water at a level at 500 parts per million is no longer considered potable, useful for drinking. Water above 1,000 parts per million is not considered adequate for agriculture. That is the condition which we either have now or will have before this desalinization plant is built.

When the central Arizona project comes on line, there will be hundreds of thousands of tons of salt returned in the irrigation return flow from that central Arizona project. It is very likely that at the time the plant is built, the actual salinity of the water delivered at the border to Mexico will go up, and that is the condition which I wish to see avoided.

You have 10 times the amount of acreage being farmed just below the border than is being farmed in the Wellton-Mohawk District, which contributes the bulk of the salt.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

Mr. KAZEN. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. BROWN of California. Let me get to the point I am making most strongly. It is said this project will meet our commitment to Mexico.

Let me tell this body what the Mexican Minister of State said at the time minute 242 was signed. "Therefore, the final result will be that the Mexicali farmers will have forever, they and their children and their children's children, water whose annual average salinity will never exceed 960 parts per million."

We are not meeting that commitment, and we will not meet it by 25 percent after this plant is built.

Furthermore, as the gentleman from Texas pointed out, Mexico does not care how we meet this requirement.

The Mexican officials said they did not care what projects or works we built as long as the end result was that Mexico could count on waters of guaranteed good quality. We are not going to be able to guarantee that with this plant. It will require a program that controls the waters of the entire basin to do that, and this bill completely neglects that overriding responsibility.

Mr. LUJAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I would like to take this time to express my strong support for H.R. 2609, increasing the appropriation ceiling for programs under the 1974 Colorado River Salinity Control Act, in order to enable the Department of Interior to operate a desalting plant and well field from excess electrical power obtained from the Navajo generating station.

Mr. Chairman, and my colleagues, as you know, the United States signed a treaty with Mexico in 1944, entitling them to 1.5 million acre-feet of water from the Colorado River, which flows into that country. However, U.S. water uses and development, especially in the Wellton-Mohawk irrigation and drainage district in Arizona, had greatly increased the salinity of water downstream, flowing into Mexico. Naturally, Mexico complained, and, in 1972, the administration agreed to decrease the water's salinity to specified minimum limits.

The 1974 Colorado River Basin Salinity Control Act directed the Secretary of Interior to implement this agreement in several ways—by constructing a desalting facility near Yuma, Ariz., reducing irrigation return flows and, thereby, salinity, lining a portion of the Coachella Canal to minimize the canal's water losses and constructing a well field near the Mexican border to pump up to 140,000 acre-feet of water per year, in order to decrease salinity, Mexico's water losses and fulfill part of the U.S. commitment.

Progress has been made since 1974—irrigation in the Wellton-Mohawk District has been reduced, the Coachella Canal lining project is targeted for completion next year, subject to additional funding, and the wellfield has been constructed. But the desalting facility has been hampered by lawsuits revolving around contract awards. While original cost estimates for the Yuma plant authorized $155.5 million, inflation has increased the cost by $89.3 million in 1979, while unforseen plant design changes and efforts to alleviate possible adverse impacts on fish and wildlife habitat have added another $113.6 million. Currently, the program is estimated to cost $356.5 million.

Mr. KAZEN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. MILLER).

While the project is costly, I believe that inflation is responsible for much of the increase over original cost estimates. In addition, these estimates may have been low because they did not anticipate design changes and changes necessary to mitigate adverse environmental impact. Further project delays only serve to increase cost, and further endanger our credibility with Mexico at this very critical time in our relations.

The Department of Interior has stated that it will award a prime contract for the desalting plant this year, if granted this additional authorization. Until the plant is constructed, State reservoirs continue to be drained. This plant is urgently needed to satisfy our long overdue commitment to Mexico. We have been promising such a facility since 1972 and, I believe, it is vital to our integrity that we follow through on this obligation which was taken in good faith by our Mexican neighbors. It is urgent that we proceed expeditiously to satisfy our commitment without further costly delays.

Mr. Chairman, I urge that my colleagues support, H.R. 2609, to fulfill our promise to Mexico.

Mr. MILLER of California. Mr. Chairman, I would urge my colleagues to give careful consideration to this legislation and to look at the "Dear Colleagues" that they have received which outline the GAO's problems with the desalinization plants or to read the dissenting views by me and other members of the committee in the committee report, because it has become very clear that what we are doing is we are embarking on a very expensive solution to a problem that, one, in fact may not be the solution at all, and, two, that overlooks other possible solutions to the problem that would cost much less.

So what we are doing in effect is to spend $178 million, plus $14 million a year to try to deliver 88,000 feet of high-quality water in the Colorado River, and we do that by proposing a desalinization plant that was never studied by the Bureau of Reclamation, because they were not requested, nor were they authorized to investigate the feasibility of this desalting complex.

In fact, it has undergone substantial design changes, including reducing the size, and yet the price has continued to go up, because it was all hastily put together, as the GAO says, to comply with the agreement that President Nixon had.

As the gentleman from California (Mr. BROWN) has pointed out, we are not required to build the desalinization plant. We are required to try and deliver better quality water than they have now.

☐ 1410

The fact of the matter is when all of the other uses of the Colorado River Basin come online we will not be able to meet that agreement and the $178 million we are talking about spending—actually $330 million, the $178 million just being the increased cost, $330 million of taxpayers' money—so the farmers will not have to change some of their farming practices and look to other alternatives that are available to us. If I were a person concerned about budget deficits, this is one that I would turn down.

Mr. LUJAN. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

Mr. KAZEN. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

The CHAIRMAN. All time has expired. The Clerk will read.

The Clerk read as follows:

H.R. 2609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 24, 1974 (hereafter referred to as the "Act"), is hereby amended as follows:

SECTION 1. Section 101(b)(2) is amended, by inserting "(A)" after (2), by deleting the last sentence of the paragraph, and by adding thereafter the following:

"(B) The Secretary is authorized to use electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to title I of the Act: *Provided,* That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to title I of the Act, and finally for other uses.

"(C) The Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.".

Sec. 2. Section 101(c) is amended by inserting ", Colorado River waters used for the mitigation of fish and wildlife habitat losses" after "from the desalting plant" in two places.

Sec. 3. Section 103(a) of the Act is amended by adding a new subsection (4) as follows:

"(4) Enter into contracts under the terms and conditions of the Act of June 17, 1902 (43 U.S.C. 371 et seq.) as amended and supplemented for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided,* That such contract shall contain terms and conditions as substantially provided in sections 9(c)(1) and 9(d) of the Reclamation Project Act of 1939: *Provided,* That no contract shall be executed to deliver irrigation water to lands not irrigated on January 1, 1978: *Provided further,* That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred and forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.".

Sec. 4. A new section 106 shall be added to the Act, as follows, and succeeding sections shall be renumbered accordingly:

"Sec. 106. The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this title, and revenues received in connection with this authority shall be credited to the general fund of the Treasury.".

Sec. 5. Section 108 of the Act is changed to section 109 and is amended by striking the first sentence and inserting in lieu thereof: "There is hereby authorized to be appropriated the sum of $333,382,000 for the construction of the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,960,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, based on July 1977 prices plus or minus such amounts as may be justified by reason of ordinary fluctuation in construction costs involved therein, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 104.".

Sec. 6. A new section 110 shall be added to the Act, as follows:

"Sec. 110. In order to provide measures determined by the Secretary of the Interior to be appropriate to mitigate loss of fish and wildlife habitat associated with other measures taken under this title:

"(a) The Secretary is authorized to—

"(1) acquire lands by purchase, eminent domain, or exchange;

"(2) dispose of land, facilities, and equipment;

"(3) construct, operate, maintain, and make replacements of facilities: *Provided, however,* That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities.

"(b) All costs authorized by this section are nonreimbursable.".

Sec. 7. A new section 111 shall be added to the Act, as follows:

"Sec. 111. As used in this title:

"(a) Navajo Generating Station means—

"(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

"(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

"(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

"(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.".

Mr. KAZEN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 8, strike "use" and insert "obtain from the Secretary of Energy";

Mr. KAZEN. Mr. Chairman, section 1 of H.R. 2609 provides that electrical energy available from the Navajo generation station, which is in excess of Central Arizona project pumping requirements, can be used to supply energy requirements of the desalting plant and other title I facilities. It is anticipated, Mr. Chairman, that under certain conditions the United States may have power available from the Navajo generating station which is in excess of both Central Arizona project and title I facility requirements, and which could be marketed by the Federal Government.

The purpose of the committee amendment No. 1 to H.R. 2609 is to clarify that this excess power will be delivered to and marketed by the Department of Energy pursuant to existing law.

Mr. UDALL. Mr. Chairman, I rise in opposition to the committee amendment.

Mr. Chairman, section 1 of H.R. 2609 provides that electrical energy and power from the Navajo generating station which is in excess of Central Arizona project pumping requirements can be used to supply the energy requirements of the desalting plant and the protective pumping well field constructed pursuant to title I of the 1974 act.

The Federal Government, in the form of the Water and Power Resources Service of the Department of the Interior, became associated with the Navajo generating station in 1969 for the purpose of securing power for the Service's Central Arizona project. Since the initial involvement, the Water and Power Resources Service has always had control over the U.S. ownership interest in the Navajo generating station.

Mr. Chairman, the Committee on Interior and Insular Affairs adopted two amendments to section 1 of H.R. 2609, the purpose of which was to give the Secretary of Energy the authority to market any energy from the Navajo generating station which is in excess of the requirements of the central Arizona project and the desalting complex and related facilities. The second committee amendment fulfills this purpose and the Department of the Interior has no objection to it.

Unfortunately, the first committee amendment inadvertently goes beyond the stated purpose and actually transfers control over the U.S. ownership interest in the Navajo generating station from the Water and Power Resources Service of the Department of the Interior to the Western Area Power Administration of the Department of Energy. The Department of the Interior objects to this amendment since it eliminates the Department of the Interior's control over the U.S. interest in the Navajo plant.

Consequently, Mr. Chairman, I am in opposition to this amendment to section 1 of H.R. 2609 and urge retention of the original language of H.R. 2609. This will preserve the status quo in regards to control over the U.S. interest in the Navajo plant while giving the Department of Energy the authority to market any of the excess power from Navajo.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I am happy to yield to the gentleman from New Mexico (Mr. Lujan).

Mr. LUJAN. Mr. Chairman, I want to tell the gentleman that we have looked at this and I do not see really any difference whether it is the Western Area Power Administration or the Bureau of Reclamation that controls the output here. It is a very basic policy decision, however, and it is the guts of a fight that is going on between the Department of Energy and the Department of the Interior. I think perhaps it might be better settled in a larger context than just on this particular amendment.

So I would have no objection to what the gentleman is saying, but I think we should at some point maybe hold hearings to see what we could do with all of this Bureau of Reclamation power and who is to be in charge of it.

Mr. UDALL. I thank the gentleman. I am not prepared to make a major fight here today on this issue, but I would only point out that the Interior Department consistently has had the jurisdiction and authority to use the Navajo generating station for the central Arizona project pumping water, and also for the desalting system. I do not think anybody intended, when we took this up, that those old, ancient, well-established Interior Department functions were going to be transferred to the Department of Energy.

I urge the defeat of the committee amendment.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

I just want to take this occasion on this amendment dealing with the power supply for the desalting plant to point out that on top of the costs of the desalting plant, which are astronomical, we are going to have to build a facility or get the power from some other means, 35 megawatts which, in today's prices, will require another $100 million of new capital equipment simply to provide the power to run this desalting plant.

So, that is $100 million increase in costs, and that should be considered when we evaluate the entire bill.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was rejected.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 8, following "Secretary" insert "of Energy".

Mr. KAZEN. Mr. Chairman, the purpose of committee amendment No. 2 to H.R. 2609 is to clarify that any power available from the Navajo generating station which is in excess of Central Arizona project requirements and the requirements of the desalting plant and other title I facilities should be marketed by the Department of Energy pursuant to existing law.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. KAZEN. Mr. Chairman, I ask unanimous consent that the remaining committee amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the remaining committee amendments en bloc.

The Clerk read as follows:

Committee amendments: Page 3, line 3, strike "The" and insert "Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, the";

Page 3, line 15, strike "Enter" and insert "Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, enter";

Page 3, beginning on line 23, strike the proviso ending with "1939:" on line 25 and insert: "*Provided*, That such contracts for municipal and industrial purposes shall contain terms and conditions as substantially provided in Section 9(c)(1) of the Reclamation Project Act of 1939, and that contracts for replacement irrigation water supplies to prevent damage to existing water users on privately developed lands include water charges no greater than if such water users had continued to pump their own wells without the United States lowering the water table and that the acreage limitation and related provisions of the Reclamation Law will not be applicable to such privately developed lands now irrigated with non-Federal water supplies:";

Page 5, line 7, following "109 and" insert "effective October 1, 1979";

Page 5, line 9, strike "$333,382,000" and insert "$356,400,000";

Page 4, lines 16 to 19, strike the words "based on July 1977 prices plus or minus such amounts as may be justified by reason of ordinary fluctuation in construction costs involved therein,";

Page 5, line 22, strike "section 104.'." and insert

SEC. 104. In order to provide for the utilization of significant improvements in desalinization technologies which may have been developed since the Bureau's evaluation, the Secretary is directed to evaluate such cost effective improvements and implement such improved designs into the plant operations when the evaluation indicated that cost savings will result: *Provided, however*, That no more than five percent of the amount authorized to be appropriated is used for these purposes."; and

Page 6, line 8, strike "In" and insert "Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, in".

Mr. KAZEN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. KAZEN. Mr. Chairman, included among the committee's amendments to H.R. 2609 are four technical amendments designed to conform the bill as to contract and purchasing authority with the provisions of section 401(a) of the Congressional Budget Act and, as to the authorization for increased appropriations contained in section 5 of the bill, to the provisions of section 402 of the Congressional Budget Act.

The committee also adopted an amendment to section 1 of the bill the purpose of which is to clarify that, if there is electrical energy available from the U.S. ownership interest in the Navajo generating station which is in excess of the requirements of the Central Arizona project and the requirements of the desalting plant and other title I facilities, then that power can be delivered to, and be marketed by, the Department of Energy pursuant to existing law.

Mr. Chairman, the original 1974 act authorized the Secretary of the Interior to construct, operate and maintain well fields along a 5-mile zone along the Mexican border for the purpose of furnishing water to Mexico in fulfillment of the 1944 treaty. However, the 1974 act failed to provide the Secretary of the Interior with any authority to market any excess water from the well field to entities within the United States. Section 3 of the bill corrects this deficiency by giving the Secretary this authority, provided that the repayment provisions of the Reclamation Project Act of 1939, which includes the residency and acreage limitation provisions of reclamation law, apply to any contracts for domestic, municipal, and irrigation water supply entered into by the Secretary.

Unfortunately, Mr. Chairman, there is a private irrigation district in the area which is now utilizing its own wells to irrigate but which will be forced to contract with the Secretary for a water supply because the U.S. well field will take away the groundwater normally used by this irrigation district. Of course, the irrigation district would then be subject to the residency and acreage limitation provisions of reclamation law even though it is a private irrigation district which has never been subject to these provisions and which, but for the U.S. well field, would not be subject to these provisions.

The committee adopted an amendment to section 3 of the bill to correct this inequity by, in effect, exempting the irrigation district from these provisions and by providing that the costs which the district will be required to pay for the replacement water, which it would not exceed except for the wells being drilled by the United States, will not exceed the amount it would be required to pay to pump their own waters were the U.S. wells not drilled.

Finally, Mr. Chairman, as I explained in my opening remarks, the committee adopted two related amendments pertaining to the authorized appropriation ceiling contained in the bill. The original authorized appropriation ceiling for the title I facilities was $155,500,000 which, when indexed as provided for in the 1974 act, brings the authorized appropriation ceiling to $219,831,000 based on July 1977 prices.

As introduced, H.R. 2609 would increase the authorized appropriation ceiling to $333,382,000 with cost indexing. This figure is based on July 1977 prices and is designed to cover proposed additions and changes in the title I facilities. The committee adopted an amendment replacing this amount with a figure based on January 1979 prices—$356,400,000. However, the committee deleted the cost indexing provisions contained in the original bill. This will prevent the ceiling from automatically rising in the future and force the Department of the Interior, in the absence of additional legislation, to complete the title I facilities for $356,400,000.

Mr. Chairman, the committee amendments I have just described are necessary and I urge the Members support for them.

☐ 1420

The CHAIRMAN. Are there any amendments to the committee amendments? If not, the question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: Page 3, line 2, change the period to a colon and add the following: "*Provided further*, That prior to delivering power from the Navajo Generating Station under the authority of this subsection, the Secretary shall complete an

> analysis of alternative sources of supply, including but not limited to the possibility of developing an agreement with the Republic of Mexico whereby the United States (or a non-Federal entity) would enter into contractual arrangements with Mexico for a sufficient supply of power to operate the desalting plant, the regulatory pumping fields and appurtenant facilities.".

Mr. LUJAN. Mr. Chairman, I offer this amendment simply as an alternative. If the thing does not work out and everything proceeds as it now is under the legislation. The present legislation, before the passage of this bill, makes the Secretary do certain things. It says:

> The Secretary shall use sources of electric power supply for the desalting complex that will not diminish the supply of power to preferenced customers for the Federal power systems operated by the Secretary.

What we are directing, then, in this legislation, is that the power come from the Navajo Generating Station. If we look at line 9 on page 2, it reads:

> The Secretary is authorized to use electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements to the desalting plant and protective pumping well field constructed pursuant to title I of the Act.

That, in a sense, is contradictory because in the present law the call is for the power to come from non-Federal operated systems. It is technically correct because the Federal Government does not operate the Navajo Generating Station. It does have the rights to 24 percent of the power.

We would be better off if we were not required to use that power, because ultimately it will be denying the preferenced customers the right to that power.

This proposal calls for allowing either the Federal Government or a non-Federal entity to enter into agreements with the Republic of Mexico to be able to purchase the electricity to run the desalting plant. The reason that I do that, Mr. Chairman, is because there are plans now by several utilities to build power generating plants on the Mexican side of the border. They have plenty of gas; they have plenty of oil. It just makes sense that the generating plant be built over there rather than using our oil, gas, or coal.

So, Mr. Chairman, this would allow the Secretary to buy that energy output and not have to use our own. It is a good alternative. If it does not work out, then we go back to using our power.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be happy to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, this amendment will merely give the Secretary an additional alternative; if and when he can enter into that type of a deal, then he should make it.

Mr. LUJAN. Exactly.

Mr. KAZEN. Mr. Chairman, we have no objection to this amendment.

Mr. LUJAN. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this amendment is strongly supported by the municipal and public power users in Arizona. It is supported, I am told, by a letter from the National Rural Electric Cooperative Association.

Mr. LUJAN. Exactly.

Mr. UDALL. It simply requires that they can look around and check the other option before finally committing themselves to using the Navajo plant capacity.

Mr. LUJAN. Exactly.

Mr. UDALL. Mr. Chairman, I support the amendment.

Mr. LUJAN. I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

Mr. Chairman, I want to compliment Mr. LUJAN on this amendment, which I have discussed with him. I think it represents an extremely important initiative. I would like to point out that it indicates that this bill is by no means perfect, that it can be improved by a little foresight, which I think the gentleman has shown.

It is true that one of the serious problems with this desalinization plant is the likelihood that it will consume very large amounts of energy which will not be available in the United States, and which will be available in Mexico; and probably will be available at costs which are more reasonable than in the United States. So, I think that it is wise and farsighted for us to enter into an examination of this alternative.

If I might, I would like to point out—and this will be involved in one of the other amendments which will be offered—that there are other similar opportunities to improve this legislation if we are going to go the route of a desalinization plant. There is no technical reason why the entire plant cannot be built in Mexico. In fact, it would probably be built far cheaper.

☐ 1430

The present return flow from this irrigation project is routed into Mexico now and runs through Mexico down to the gulf. It would be far simpler to put the plant in Mexico to desalinate the water at that point and have it credited against the U.S. commitment to Mexico, and delivered directly to the Mexican farmers who are going to use the water. I would venture that this would save somewhere between 25 and 50 percent of the total cost of the project, particularly if coupled with the construction of the powerplant in Mexico, as the amendment of the gentleman from New Mexico (Mr. LUJAN) proposes.

I am not going to offer the amendment to build the entire plant in Mexico; I am going to offer an amendment which requests that we investigate the possibility of doing some other things of a similar nature, studies that are not intended to delay the project but which will bring Mexico into a discussion here of the problem so that it will be fully alert to the fact that when this plant is built, it is still not going to give them water within the thousand-parts-per-million range which is necessary for it to be usable for agriculture.

This study that my amendment will propose will include cooperation in research on crops which can tolerate saline water, the reuse and recycling of saline water, a number of things which are currently in negotiation with Mexico as a possible joint scientific effort. I would like to see this bill include an additional impetus for us to move forward in this sort of a healthy way which might in some degree mitigate the adverse impact of our moving ahead on a project which we contend will solve their water problems but which will actually not solve their water problems. So I am in support of the gentleman's amendment. I think it is an excellent amendment, and I hope that a few other similar amendments can be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The amendment was agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

I take this time to express my concern that the debate up to this point leads me to believe that we may be treading on some very dangerous diplomatic and sensitive foreign policy grounds in relation to the overall problems related to salinity of the Colorado and the water resources of the United States and Mexico, those which are shared by treaty. First, let me say that I associate myself with the remarks of the gentleman from Texas (Mr. KAZEN) in relation to our obligation on not only the treaty but the protocols and minutes that have been signed since then and the fact that we gave our word that we would arrive at a solution to the problem of the salinity of the Colorado. In relation to that I would say that practically unknown to all of the people that relate it to the salinity of the Colorado was the salinity of the Lower Rio Grande in my congressional district where the reverse occurred but on a much smaller scale.

The Morillo drain was bringing salt beyond the thousand-part-per-million into the Rio Grande, into the lush valley of the Lower Rio Grande Valley, and after the attempt at a solution to the Colorado, the Lower Rio Grande was initiated, and that is working exceedingly well. I say that we have now the responsibility for this reason that proved to be one of the rarest occurrences of international cooperation probably in the history, not necessarily of the United States and its neighbors but of the world, wherein the fruits of the project were shared by both my side of the river, the north side, and by the south side of the river. But the project is entirely on Mexican territory on the south side of the river, and it was paid for also in a very unique way, one-half by the Government of Mexico, one-fourth by the Government of the United States of

America, and one-fourth by the water users on my side of the river. Then a most ingenious method was used of having a dam on the drain dredging a canal under a city, under an existing lake, and channeling it to the Gulf of Mexico, and that is working exceedingly well. It is being run by the International Boundary and Water Commission which is composed of commissioners of the United States and Mexico. When you are dealing with one, you cannot disassociate yourself from the other. That is why I say that we are flirting here with a possible dangerous foreign policy situation, and that with all due regard to amendments that may be offered, and with never challenging in the slightest the intent and the good will of those involved, we are, I am afraid, attempting to do what sounds to be something that would be favorable, dealing unilaterally and trying to go back to projects or proposed projects that have already been explored, that have been recommended and have not been utilized. We are behind schedule. Any delay to the possible ultimate solution will be a major breach of not only our foreign policy but our commitment to our friends from the Republic of Mexico.

Therefore, I urge that we deal very carefully with this. It is still a very emotional issue on both sides because the need for water has gone above and beyond even the need for petroleum for energy as far as the resources of our country are concerned. I listened to the gentleman from California (Mr. BROWN) and I concur with him, I daresay almost without exception, that every river in the United States has in the areas of fertile land an excess request for the waters of that river.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 3 additional minutes.)

Mr. DE LA GARZA. So this becomes, then, a very important and very emotional issue. In my area it was finally decided by court action that allocated the water of the Rio Grande to the water users below the dam, below Falcon Dam. It was adjudicated by a court of law, and the people were given the rights according to that decision. But the commitment that we have with Mexico is such that in these dangerous times, Mr. Chairman, and they are indeed very difficult for everyone concerning the situation throughout the world. If we unilaterally go into some aspects of something that is already committed by treaty and by protocol and that is committed to by the word of the United States and of this Congress, which passed the enabling legislation, I think that, as well-intentioned as our actions might be, how they are perceived by the other party is going to be very important and we cannot negotiate that. Many times it is not what we do but how it is perceived by the other side. Again I repeat very sincerely, Mr. Chairman, we are flirting with very serious foreign policy matters, as well-intentioned as we might be. I would caution you that perhaps if this is to be done that it be done through the normal courses of foreign policy and not unilaterally here on the floor of this House.

□ 1440

We have now a working consultative mechanism with Mexico. I think the better course of valor at this point would be for us to take the suggestions of the gentleman from California and the gentleman from New Mexico and address them through the legitimate proper channels in order that we might again explore those avenues which I again say have been explored in the past.

Mr. Chairman, I would not want to be a part or share in any blame if that might get to be the case, that we acting unilaterally, perhaps as well intentioned as we were, have fallen into a situation where we have taken a very serious miscalculation in an attempt to do what we hope was the right thing.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. I say that the proper channels are available to us to explore, again, that area that has been mentioned and possibly will be mentioned later today. We have a legal, indeed a moral commitment to the Government and the people of Mexico and we should not attempt in a unilateral action, do anything that might in the slightest way cast any doubt on our intentions to carry out that commitment.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

I would say to my good friend from Texas that I too agree that the chairman of the subcommittee, the manager of this bill, has done a tremendous job and I commend him for all his efforts. He is meeting an urgent problem. I cannot congratulate him more.

I say to my friend, the gentleman from Texas, who has just spoken, that the issue is not whether we meet or do not meet the treaty agreement with Mexico. We all support, strongly, meeting every last inch of that treaty agreement with Mexico. We all want to, we know we must, we know we should meet that treaty agreement with Mexico and we know we can meet that treaty agreement with Mexico. That is not the issue. The issue is how best we do this. What is the best long-term solution, the best solution in terms of the fundamental water use of the west, what is the most cost-effective solution and I am absolutely convinced that the desalinization plant that is projected is not the best solution. It may not even work, it may not even provide the salt-free water to meet 242.

Mr. Chairman, I submit there are many other possible alternatives that will more readily assure and more soundly assure Mexico that we mean to meet this commitment and guarantee them today and forever their portion of the salt-free water of the Colorado River. That is the issue.

I do not believe throwing money into a desalinization plant that is without real analysis as to whether it is going to produce what we want it to produce or how much it is going to cost, is the way to do it.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 5, line 6, insert "(a)" after "SEC. 5.".

Page 6, insert after line 5 the following new subsection:

(b) (1) Section 109 of the Act (as so redesignated by subsection (a) of this section) is further amended by adding at the end thereof the following:

"(b) No funds in excess of $356,400,000 may be expended or obligated for the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110 unless the Wellton-Mohawk Irrigation and Drainage District enters into a contract with the Secretary of the Interior under which such District agrees, as a condition of the receipt of such funds, to expend from non-Federal sources (for the activities for which the funds are to be made available) an amount equal to 50 percent of the Federal funds to be made available under this title for such activities.".

(2) The amendment made by paragraph (1) of this subsection shall be effective as of October 1, 1979.

Mr. BROWN of California. Mr. Chairman, I will tell you very frankly this amendment is offered merely to express my complete lack of confidence in the estimates made with regard to the cost of this project.

Mr. Chairman, the amendment is very simple. It says that after we have spent the amount in the bill that the Federal Government will not spend any more unless the district itself puts up one-third of the money. In other words, I am saying one-third of the overrun will be borne by the local people.

At the present time the taxpayers of the United States as a whole are paying 100 percent of the cost of this project.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, does the gentleman not agree that this is a national commitment, a Federal commitment, not necessarily a commitment of the Wellton-Mohawk District? As a matter of fact, if we look at the economics of the situation the Wellton-Mohawk District, were it not for the fact that we have an agreement with Mexico, could care less whether we desalt it after they get done with it.

Mr. Chairman, what the gentleman is doing is placing a national burden on a particular segment of the population and it is really not fair to do that.

Mr. BROWN of California. Mr. Chairman, does the gentleman ask me a question?

Mr. LUJAN. It was a statement in the form of a question, yes.

Mr. BROWN of California. Mr. Chairman, I contend it is not fair to ask all of the taxpayers of the United States to support a project which will be absolutely useless from the standpoint of meeting our treaty commitments and which will merely encourage a form of agriculture which within 5 years will not be economically feasible anyway.

Mr. Chairman, I think it is the grossest form of fraud to continue to make the point that we can allow the desert of the Southwest to bloom like a rose garden when as soon as the Central Arizona project comes online there will be an overall shortage of water in the Colorado.

Mr. Chairman, I do agree with the gentleman that it is neither right nor proper to put all the blame on the few hundred farmers who are at the end of the pipeline, which is the Wellton-Mohawk District. Frankly, it is the users of the Colorado throughout the basin who are responsible for the salt that is in the water, who should share a part of the cost of making sure that the water is usable both by the farmers of Wellton-Mohawk and by the farmers on that half million acres of vital farmland below the United States-Mexico border which is going to be ruined in the very near future.

Mr. Chairman, I say to the gentleman this amendment is a subterfuge. If the House will pass it, the bill will be killed. No money will be spent because very honestly everyone knows there will be $100 million in overruns and that you cannot get the Wellton-Mohawk or the State of Arizona or all of the seven basin States to agree to pay any part of it because they have a nice free ride now.

□ 1450

It is a half-a-billion-dollar project and another billion dollars to operate it for the next 50 years that they do not pay a penny for to meet this commitment, to Mexico, but which will not meet the commitment, and that is the point that I am making with this amendment.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I really do not see any need for this amendment, because in my opinion it has absolutely no value, since the bill contains provisions for the expenditure of $356,400,000, which is the same amount that is included in this amendment. There cannot be any cost overruns because there is no cost indexing under the bill. Under the provisions of the bill, not more than $356,400,000 can be spent, so this is a superfluous amendment. I do not think it adds anything to the bill.

Mr. BROWN of California. Mr. Chairman, would the gentleman yield?

Mr. KAZEN. Certainly, I would be glad to yield.

Mr. BROWN of California. Well, if it has no adverse effect, then surely the gentleman would be willing to accept it.

Mr. KAZEN. All I say is that it is unnecessary, because that provision is already in the bill.

Mr. BROWN of California. It is an insurance policy.

Mr. KAZEN. I do not believe in putting superfluous things in the bill and I do not believe the gentleman from California does, either.

I think that under the provisions of the bill, what the gentleman is trying to provide here will just muddy up what is already in the bill, because no more than that amount can be spent under the provisions of the bill. Therefore, I rise in opposition to it.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment. Earlier the gentleman from Texas (Mr. DE LA GARZA) explained that when we had a similar problem where we had this low-grade water coming in from Mexico that they got together, they solved the problem with the Mexican Government paying half, with the Federal Government, this Government, paying a quarter and with the land users, the water users in that area paying a quarter. That seems like a reasonable arrangement; but here we have it when it comes our turn to solve the problem, old Uncle Sam runs in with the potential of about a half a billion dollars.

I appreciate what my chairman says, with the lid on this legislation; but does anybody believe for a moment that with their cost overruns that they will not be back here asking for additional money, because you have sunk $330 million into a program that simply will not work and it is, in fact, a subsidy of those water users. They can go on using the water however they will, irrigating whatever crops they will and they will be fully subsidized in that operation to the tune of $300 million by Uncle Sam, because we claim we have this obligation to build the desalinization plant based on this treaty with Mexico. That is not what the treaty with Mexico says. What it says we should do, in fact, is try to deliver high-quality water to them. We will do that to the best of our ability, but as the facts have already been pointed out, our ability is not going to ever exist to meet the demands of that treaty, with or without this plan; so there are options and, in fact, the GAO has urged the Congress to look at the options and, in fact, has recognized that many of those options were brushed aside in hurrying on to get the public relations of this big desalinization American technology to solve somebody else's problem.

Here we are, we are asking for another $178 million in overruns and the amendment offered by the gentleman from California (Mr. BROWN) simply says that if there are additional overruns, how about some of the people we are bailing out helping us to pay for this?

Sure, this is a national obligation, but the cause of the problem is very limited in scope. It is a very few farmers, a very few water users who have returned lousy water back to the river and now we are stuck with the national cleanup.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I think the gentleman's point is well made. I just wanted to say that the Rio Grande solution did not involve a desalinization plant. They used an alternative method.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. BROWN of California. Mr. Chairman, I have to comment on this point. At the present time we are doing exactly what they are doing on the Rio Grande. We are diverting the entire return flow from the Wellton-Mohawk to the ocean.

Is the gentleman familiar with the present salinity figures on the Colorado?

Mr. MILLER of California. I am not.

Mr. BROWN of California. With the diversion of all of the waters, we are out of conformity with the treaty.

Mr. MILLER of California. Well, I think that points out the case. Do we want to spend another half a billion dollars?

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. Yes, I yield.

Mr. KAZEN. Mr. Chairman, I can see the position that the gentleman is taking, but it does not go to this particular amendment. This particular amendment has a limit which is already in the bill and which the gentleman from California (Mr. MILLER) offered an amendment in the committee to take out the indexing.

Mr. MILLER of California. I understand that. That is right, because otherwise, if I can have back my time, we will do as we have done at other times. The cost overruns come and go. The Congress gets no review and the money is simply spent, because they say that is due to indexing; so we have some controls. I think the Brown amendment would provide a little incentive, because those people who are part of the problem then may want to be part of the solution if they are going to have to pay the bill. There is no incentive for them to participate in the solution, because old Uncle Sam is there bailing them out with money. That is the difference.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, there will be no problem, because if they follow the mandates of the bill, and they must, that problem will not arise, because they cannot go over this limit.

Mr. MILLER of California. Well, that statement sounds to me like before I came to the Congress. Somebody said about the black-lung bill, there was the famous story, they said that if you give all the widows a mink coat and the benefits it will never cost us a billion dollars.

I am a little worried about this, because I do not think given the construction schedule that the $178 million additional overruns is going to be sufficient.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield.

Mr. BROWN of California. Mr. Chairman, I do want to point out the factual figures here. The last published figures on the salinity of the Colorado at Imperial Dam and at the border indicate that at the border the salinity is 929 parts per million averaged throughout the year for 1978. This is very close to the point of no longer being usable.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(At the request of Mr. BROWN of California, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, if the gentleman will yield further, this is very close to the condition in which water is no longer usable for agriculture.

Now, the proponents of this legislation will say that the desalting plant will correct that. The fact is that none of the water from the irrigation district goes into the river now. It is all diverted through this channel which has been built to the ocean; so with all the water diverted, we are still in violation of the requirements of minute 242 and we are very, very close to the upper limits of what can be used to irrigate agriculture.

This is before the Central Arizona project, which will pour another half million tons per year of salt into the river has been brought onstream.

Mr. MILLER of California. Well, I think the gentleman makes a very good argument for those Members of the House who are terribly concerned about how we spend our money, because I think we can show and demonstrate in this debate that they are pouring money down a rat hole with this one. This is just a case of where I am afraid the Federal Government is being taken for being a sucker in this case, that we are going to provide all the money to solve other people's problems and I do not think that is what we ought to be doing.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment.

Mr. Chairman, the bill before us today asks the American taxpayer to dig still deeper into his pocket to pay $1 billion for a desalting plant that will not do the job. The proposed plant was designed to meet the salinity problems of the last decade, not the next. By the time the proposed plant could be built, the salinity problems will be beyond the plant's capacity because of increased salinity caused by the irrigations systems of the Central Arizona Project. We do a disservice to our constituents and to Mexico to pretend that this plant will solve the problem. We must either build many such plants while spending many times the enormous authorization of this bill, or look to other alternatives in dealing with the salinity problem.

We need to treat the source, not the symptoms, of the problem. The issue is not what to do about salty water; it is what to do to prevent the water from becoming salty. The problem does not involve one project; it involves the irresponsible application of water to lands throughout the Colorado River Basin—without regard to either the economic or the environmental costs. We have learned this lesson over and over again: There is no free lunch. Because the creators of this problem have not paid the true price of their harvests, it falls to the Nation to bear the burden. We cannot in good conscience ask the Nation to pay $1 billion for a desalting plant that will not do the job.

Any alternative we adopt will involve costs. Now is the time to consider those costs, and how they might be reduced by alternative means of meeting our treaty commitments. We need a real solution. We might as well get what we pay for.

We should defer this authorization until there is time to examine less expensive and more effective alternatives.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. I just wanted to clarify a couple of points, if I could. Back in the 1920's, in fact, the year I was born, after a whole generation of squabbling, the seven Colorado Basin States got together at Santa Fe and made a compact to divide the water.

□ 1500

While they were unduly optimistic about the amount of water to divide up, they actually did enter into a compact approved by the Congress, allocating the water of the Colorado River to the seven States.

This is a very highly mineralized part of the United States. This river drains one-seventh of the land mass of the United States, and it happens to flow through the most mineralized soil of any place. As people take water out and use it and it goes back into the river, the Colorado, which starts out as a very beautiful, low-salt river in Colorado and Wyoming, gets more salty on its way to the sea and down to the United States-Mexico border.

We have heard a lot of talk about what the local people should do. Why should they not do more? Why should they not contribute more? I think there are two things that ought to be understood in all this, and we in the West know this most painfully.

In 1944 we were engaged in a world war. The United States very desperately needed the help of the Mexican people and the Mexican Government on a number of things, and the one item holding up cooperation between our two countries was the fact that we had not made a water allocation to our neighbor, Mexico. The seven States had divided it all up among themselves, and there was nothing left for Mexico.

The U.S. Government moved in, in 1944, and made a treaty and an arrangement with Mexico under which they took off the top of the supply a million-and-a-half acre-feet of water that we agreed to deliver to Mexico. At that time the seven Colorado River States were assured that this was a national obligation, that there was enough water, and that this had all been done for the benefit of the Nation, and we were not going to require Arizona, Colorado, California, and the others to sustain an obligation that was really a national obligation. That has been made very clear.

Twenty years later, in the late sixties and early seventies, one of the hottest and most difficult problems between the Mexican Government and ourselves was the kind of water we were delivering to Mexico. It was salty; it was ruining their crops. The Mexican media had pictures of their farmers standing by the canal with salt coming down and ruining their crops.

So Herbert Brownell, appointed by President Nixon, went to Mexico and negotiated with the Mexican Government and agreed that we would give the Mexican people their entitlement of water in a condition that was no worse than what we gave to our people at the end of the river in Arizona and in California. This was clearly understood in those negotiations. It was clearly understood in all the official records that were made that improving the saline content of the water delivered to Mexico was a national obligation. It was going to be paid for by all the people of the United States and not by the water users in Arizona, California, and the other five States forced to suffer those consequences.

So we have a clear, long-standing, historic record of being honorable with our Mexican friends and delivering on our promises to them, but at the expense of the people of the United States, and not at the expense of those Americans who happen to be located along that river.

Mr. Chairman, I just wanted to make this clear in responding to some of the arguments that have been made today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 3, line 9, insert "(a)" after "SEC. 2."; after line 12, add the following new subsection:

(b) Section 101(f) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) Acquire, by purchase or through eminent domain or exchange, to the extent determined by the Secretary to be appropriate, any of the lands in the Wellton-Mohawk Irrigation and Drainage District, using any funds appropriated under this title.".

Mr. BROWN of California. Mr. Chairman, this amendment does just one thing. It says that with the funds authorized in this bill the Secretary may acquire additional lands in the district in order to reduce the irrigation return flow by lessening the amount of land in irrigation.

In other words, what I am trying to do here is to suggest that we give the Secretary the flexibility to reduce the cost of the desalinization plant by taking certain land out of production. Actually this has been recommended by the people in the States themselves. This was part of the discussions at the time the treaty was adopted in 1972, and, as I think the committee report points out, one of the first steps taken was to reduce the amount of irrigable land in the Wellton-Mohawk District by 10,000 acres. A reduction of 10,000 acres made a substantial difference in the size of the desalinization plant because it reduced the amount of return flow by that which would come from 10,000 acres, and hence they could handle it with a smaller plant.

So the whole purpose of this amendment is to say to the Secretary, "You have the option of using this money either to build the plant"—and it does not prohibit him from going ahead and building the plant at the currently contemplated size—"or if you can reduce the amount of the return flow by acquiring irrigated lands and taking them out of production, you may do so."

That would then, of course, reduce the size of the plant and the cost of the plant, and it would also be much more effective.

I hesitate to point out again—but I will—that this step will be necessary anyway in the very near future. There will not be enough water in the Colorado after 1985 to irrigate all of the land now under irrigation or with claims for irrigation on the Colorado.

I do not have the material directly in front of me, but the General Accounting Office study made this point, and there is no disagreement with it. The Committee of Fourteen representing the States recognizes this also, and the General Accounting Office report says that this 5-year period, when there is still enough water in the Colorado, is the period in which we can negotiate on a reasonable basis to bring about some solutions to this problem before we are in the position of actually being forced to do so, which will occur by about 1985.

So I consider that this option should be given to the Secretary to begin the process, using moneys of all the taxpayers of the United States—a process which is inevitable—of reducing the amount of irrigated farmland. I think the Secretary needs and would want to have this kind of flexibility in the long-range interest of all the people in the basin to the extent that there are reductions in acreage in the Wellton-Mohawk District. That means that the people in Phoenix who want to farm some of that land up there would have extra acres that they can farm, using the water authorized for the Central Arizona project.

So this would benefit all the people in the area. It is a continuation of a process which has already started. As I mentioned, 10,000 acres has already been removed from irrigation in the district, and it would appear to me that this would provide the Secretary with a flexibility which would allow us to go in a direction which I can support and which I think everyone who is familiar with the problems of the Colorado would say is absolutely necessary.

Mr. LUJAN. Mr. Chairman, I rise in opposition to the amendment.

What the gentleman from California (Mr. Brown) is attempting to do by authorizing the Secretary to go ahead and buy the Wellton-Mohawk Irrigation District is, in the final analysis, to reduce the salinity of the water as it crosses over into Mexico. That is a very good aim, and I commend the gentleman for it.

□ 1510

However, the present law gives the Secretary sufficient authority to be able to do just that. The present law mandates, as a matter of fact, that programs be initiated to improve the irrigation efficiency of the district. And then in paragraph 2 it allowed the Secretary to do exactly what the gentleman is saying that he ought to do, except that he limited it to 10,000 acres. Now that has been done. The Secretary went into the Wellton-Mohawk District, purchased 10,000 acres from people who wanted to sell them, did not have to go into condemning the lands using the right of eminent domain. And that is how things ought to be done in this country.

I can imagine what would happen, because we are having the trouble, the gentleman knows, in the relocation of the Navajo because we decided that we were going to run them out of there, just like is being proposed to be done to the 9,000 or so people who live and make their living because of the Wellton-Mohawk Irrigation District.

The gentleman is proposing that we go in and buy it. What are we going to do with these 9,000 people, people who have grown up there, people who have been born and raised up there and have their means of livelihood now taken away from them? What are we going to do with them?

So, Mr. Chairman, I think there is sufficient authority in the present legislation to reduce the salinity of the water so that it will be acceptable to Mexico. One of the solutions, of course, is to put that desalting plant. But we look at every single alternative that the gentleman talks about and we could do away with the Wellton-Mohawk District completely, and still the quality of the water might not be as good as we would like for it to be.

Therefore, for those reasons, Mr. Chairman, I must oppose the amendment of the gentleman.

Mr. KAZEN. Mr. Chairman, I move to stroke the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to associate myself with the remarks made by the gentleman from New Mexico (Mr. Lujan) and just add that the experts who appeared before our committee all agreed that a complete buy-out of Wellton-Mohawk would not solve the problem. As the gentleman from New Mexico has said, there are many other sources of salinity along the river in addition to the Wellton-Mohawk.

Mr. Chairman, I would point out that if this were done, it would cost over $530 million and still not solve the problem, which is the salinity of the water as it goes into Mexico.

For those reasons, I oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Brown).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment No. 5.

The Clerk read as follows:

Amendment offered by Mr. Brown of California: Page 7, after line 20, add the following new section:

Sec. 8. The Act is amended by adding after section 111 (as added by section 7 of this Act) the following:

"Sec. 112. The Secretary may use any funds appropriated under this Act for on-farm irrigation improvements, if such improvements are designed to reduce the size and cost of the Yuma Desalting Plant. The Secretary shall make maximum use of the authority provided under this section in order to demonstrate the practicality of on-farm improvements as a salinity control measure.".

Mr. BROWN of California. Mr. Chairman, may I call the attention of my good friends on the committee to the fact that I have not offered amendments No. 2 and No. 4. I did not propose in my last amendment that there be a buy-out of the district. I proposed only that the Secretary have the discretion to continue the program which the gentleman agreed to in his own committee of acquiring certain lands in order to reduce the amount of irrigable land.

This amendment proposes to give the Secretary the same flexibility to improve the irrigation efficiency on these acres.

The Members know as well as I do that a key answer to the total problems of the Colorado is improving the irrigation efficiency on all of the lands which are currently being irrigated. It is an actual fact that probably as much as 50 percent of the water now being diverted to irrigation is being wasted, that the development of improved practices such as a better leveling of the land, use of concrete lining in the laterals, a number of other things that the Department of Agriculture has recommended and has put into practice already in about 25 percent of the acreage of the Wellton-Mohawk, is the best way to achieve a long-run solution to the total problem of stretching the waters of the Colorado as far as possible.

This amendment is as straightforward as I know how to make it. It says that the Secretary can use some of this money to continue this practice and to expand it to the degree that it will reduce the return flow from the district and allow him to downsize the plant, which he is engaged in studying now, to determine the size that will actually be required.

I think we are actually handicapping the Secretary in fulfilling the purpose of this bill not to allow him the authority to proceed with the kind of practices which have demonstrated their effectiveness and which, if carried out throughout the States of the Colorado River

Basin, might give us the long-run solution to the kinds of problems which this desalinization plant by itself is not going to solve.

Mr. KAZEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman's amendment provides that the Secretary may use appropriated funds for on-farm irrigation improvements if such improvements are designed to reduce the size and cost of the Yuma desalting plant.

I would like to point out to the Members that the present law already requires the Secretary to carry out irrigation efficiency improvements and, pursuant to section 104 of the 1974 act, the Secretary is authorized to make modifications of the projects authorized by this act if he determines that they are appropriate.

This could include a reduction in the size and the cost of the Yuma desalting plant if warranted. Consequently, the Secretary already has the authority the gentleman's amendment is designed to give him, and the amendment is entirely unnecessary.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Mr. Chairman, I offer an amendment numbered 6.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Page 7, after line 20, add the following new section:

SEC. 8. The President shall take such actions as may be appropriate to begin negotiations with the Republic of Mexico with regard to salinity problems of the Colorado River (as such problems may exist through the year 2000) and with regard to opportunities which may be available to the United States and the Republic of Mexico to remedy such problems during such period. The following topics shall be included in such negotiations:

(1) New crop research which focuses on saline-resistant or drought-resistant crops.

(2) The reuse and recycling of water.

(3) Irrigation efficiency and other onfarm improvements.

(4) Salinity control programs in the Colorado River Basin, which would reduce the overall salinity of the water which enters the Republic of Mexico.

(5) The development of more cost-effective means of meeting the water quality commitments of the United States to the Republic of Mexico.

Mr. BROWN of California. Mr. Chairman, this amendment follows the thrust of the similar amendment of the gentleman from New Mexico (Mr. LUJAN), and it carries out the spirit of the recommendation made by the distinguished gentleman from Texas (Mr. DE LA GARZA), in that it says that the President shall take such actions as may be appropriate to begin discussions with the President of Mexico with regard to a series of problems whose solution would be in the mutual benefit of both countries.

□ 1520

The amendment that we adopted, and which I supported, of the gentleman from New Mexico, said that we should begin such discussions with the President of Mexico with regard to the provision of an alternate source of energy for this desalinization plant.

Of course, energy is one of the big problems of the Southwest and the entire United States, but I can assure this body that the problems which we have in the Southwest and in Mexico involving the optimum utilization of the scarce water resources is, if anything, more important than energy.

So we have listed a series of items here—five—which relate to the matter of water shortage and water salinity, on which the President would be empowered, or requested, to begin discussions with the President of Mexico.

I pointed out earlier that the real danger that we face at this point is that we will proceed with the action contemplated in this bill or building a desalinization plant. We will put it on line in 1985 or 1986, and at the same time the water quality below the border will get worse.

I think this is exactly what is going to happen. I think that if we begin now, as contemplated in my amendment, to enter into discussions with the proper Mexican authorities at the highest level to discuss this problem and to discuss longer-range solutions to it, we might have some chance of ameliorating the adverse impact of the situation which will develop.

On that point, Mr. Chairman, if I may, I would like to give this body the projections on salinity of the Colorado made by the Department of the Interior in their final environmental impact statement on the Colorado River water quality improvement program in 1977. I hope this body will pay very close attention to it.

In table 1-1 of this environmental impact statement, there are projected the concentrations of total dissolved solids, that is salts, at Imperial Dam for the years 1980, 1990, and the year 2000.

Remember what I have said about the magic number 1,000, that at above 1,000 parts per million, the water is no longer suitable for agriculture.

Here is what the average of five estimates by five Government agencies is for water salinity in 1980 at the Mexican border. The figures I gave the Members awhile ago were actual figures for 1978, which are the latest published. These are the projections made in 1977. For water delivered at the border in 1980, the average estimate of these five agencies, 1,170 parts per million salt; for 1990, 1,281 parts per million dissolved salt; and for the year 2000, 1,353 parts per million of salt. That is for water delivered at the border with all anticipated desalinization projects in operation. I have calculated these figures by averaging the figures given for salinity at Imperial Dam, and adding the 115 parts per million called for in minute 242.

So I think it is important that we begin discussions now with the Mexican Government, in the light of these projections, as to what we are actually going to do to solve the problem. The Members will remember what the Mexican Minister of Foreign Affairs said:

> This guarantees in perpetuity that we will get water at 960 parts per million.

There is no point in the future as far as I can see, that we are going to deliver water at 960 parts per million.

Mr. LUJAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I certainly agree most wholeheartedly with the aims of the gentleman from California (Mr. BROWN). I think he is on the right path talking about the things that we ought to do. I will support him in all of those efforts, because I think that we ought to do it.

I would agree that perhaps building a desalting plant at the end of the water run is probably not the best way in the world to do it. It would be so much better if we could keep the water clean all the way down the river, but the measures that he is talking about to go back to the Republic of Mexico and talk to them about doing, are, as a matter of fact, either ongoing projects or projects that are already authorized that for some reason or another we have not been able to get along with.

On the question of using some kind of plants that are more resistant to salt, beautiful. That is really a good goal, and as the gentleman knows, there is research going on into that sort of thing, but it is not there yet. We are not in a position yet to where it is more attractive for those who irrigate to be able to use those kinds of plants.

Concerning irrigation efficiency, the gentleman from Texas cited from the law itself, not the bill that we are proposing, but the law that exists, Public Law 93-320, where it says that the Secretary must do everything possible to improve irrigation efficiency, so that mandate is there.

The salinity control of the entire Colorado River, I could not agree with the gentleman more, I think that those are the things that we ought to look at. That is where we ought to control the salinity. But again under Public Law 93-320, which is the basic authorization act of this plant, title II is measures upstream from Imperial Dam.

We have authorized, and by name as a matter of fact, have sought out those areas that most contribute to the salinity: The Paradox Valley unit in Montrose County, Colo.; the Grand Valley unit, Colo.; Crystal Geyser unit in Utah; Las Vegas Wash unit, Nevada; and on and on.

We have those authorized. Here we have not been able to get the whole program going, but certainly a desirable thing, and perhaps we do not need additional legislation to do the things that the gentleman wishes to accomplish.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

I am convinced that everyone who is as knowledgeable about the Colorado as the gentleman is, recognizes the realities that exist there and recognizes basically what needs to be done. There is not that much argument.

As the gentleman knows, the original act which he quoted provides for a number of projects upstream from the desalinization plant. The gentleman listed them. Paradox Valley, for example, pours 200,000 tons or more of salt per year into the river. The others are responsible for similar amounts. They add up to at least 1 million tons per year of salt coming in from those projects.

It was contemplated that along with this plant, there would be steps taken to alleviate the inflow of salt from those projects.

As the gentleman knows, the technical plans and other requirements were never completed. Things were found to be unsatisfactory. Those projects are not going forward. Plans for additional projects which were authorized were never completed.

I think the gentleman knows very well that my making an issue out of this is in the hopes that this body would look at projects which it has already authorized, but which have never been done, and in some cases have been canceled, and go back and say, "We were right the first time. The solution of the problem of the Colorado requires that we do these things along the whole stem of the Colorado."

Frankly, that has been the purpose of my efforts here in this exercise. I do not enjoy doing it, but I think this body has overlooked steps that it once knew had to be taken.

The CHAIRMAN. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. LUJAN was allowed to proceed for 2 additional minutes.)

☐ 1530

Mr. BROWN of California. Will the gentleman yield further?

Mr. LUJAN. I yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. I want to commend the gentleman for his statement on this matter. I hope he will persevere, and I will follow him devotedly in getting accomplished some of these things which will do far more for the overall health of the basin States than this project which, if completed without these others, will still leave us with the problem with Mexico, as I think the gentleman knows.

Mr. LUJAN. I think the gentleman has made a great contribution by just talking about these other alternatives and that we have to continue to move in that direction. I applaud the gentleman for his efforts, even though we happen to be on the opposite side on this particular amendment. I do not think we are on the opposite side; I think we are very much together on what the needs are that need to be accomplished.

Mr. BROWN of California. If the gentleman will yield further, I thought the gentleman was supporting my presentation.

Mr. LUJAN. No, I was not.

Mr. BROWN of California. I had a misapprehension, then.

Mr. LUJAN. I support his objective, but there are other ways to do it.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, there is a wry joke in Mexico which goes like this: "Poor Mexico—so far from God and so close to the United States!" It is said by some in Mexico that living beside the United States is almost like sleeping beside an elephant. He may turn over, while meaning you no harm, and crush the very life out of you.

This, unfortunately, is how Mexicans have viewed the United States. Not that we are venal, not that we are bad people essentially, but we are sometimes absolutely careless. We are people who often do not ever think about their rights or their interests in the matter. I am afraid sometimes we have acted in a way that gives them justification for feeling that way.

For many years we have dumped crop-destructive salt on their very best farmlands. Now, is that the act of a good neighbor? Most Americans want to be good neighbors. They would not have approved doing that if they had known about it. They just did not know. There was Mexico, and they just did not observe what was happening. It would be almost as though someone were to dump slop or the refuse from their garbage disposal in their next-door neighbor's well. It is just about that bad. It is dumping pollution through the water which we agreed by treaty to provide to Mexico. It is being dumped on their very best cropland, and it has been going on since the very early 1960's.

The Mexicans who meet with our representatives annually in parliamentary meetings have been telling us about this, to my personal knowledge, since 1963. They have been patient. How patient would we be if the situation were reversed?

Bear in mind that in that part of Mexico water is much more precious than oil or gold or uranium or any other resource of the Earth. Perhaps we can make synthetic oil. God has not given any of us the wisdom to know how to make synthetic water.

We entered into a solemn agreement with Mexico to provide them with this water. Finally, after years and years of patient entreaties to us, we entered into a further agreement that we would cure that problem through desalinization treatment of the water before it entered Mexico. That was a solemn agreement entered into by then-Attorney General Herbert Brownell. Oh, that was how long ago? It was in the early 1970's, I think, almost 10 years ago.

This Congress, for that period of time, has been committed to curing this problem for Mexico. Now, I know the gentleman from California (Mr. BROWN), who offers this amendment, does not want to welsh on that agreement. But how would it be seen in Mexico? Look at the way the amendment is structured. It says the President shall take such actions as may be appropriate to begin negotiations—begin negotiations with the Republic of Mexico. Then it says we are going to discuss all of these things. Every single one of the things that the amendment would command the President to discuss in negotiations with Mexico is something that would have to be done by the United States on our own land, within our own borders.

Why should we negotiate with Mexico if it is a wise thing—and I do not disagree with the gentleman that perhaps it is a wise thing to enter into a more comprehensive treatment system for upstream.

But that is not the problem of Mexico. We do not have to negotiate that with them. We have already negotiated with them and made a deal. We promised them—our word is out, our word as a Nation is on the line—that we will do this for our neighbor.

Now, what if we say, "Oh, well, we are going to start negotiations with you and talk about how we do it." Mexico's position would be, "Wait a minute, we have suffered for almost 20 years. You promised us almost 10 years ago you were going to do this. It was a solemn agreement, your word of honor."

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. Now do we want to instruct the President to enter into beginning negotiations with Mexico to discuss these things that we may or may not want to do on our own soil?

Why, of course not. It would be seen by Mexico, rightly or wrongly, as an abrogation of our solemn word of honor. I do not think the gentleman from California wants us to do that.

If the gentleman will withdraw this amendment I would agree with him and I would support appropriations and authorizations to do these things he wants done on the Colorado River for the benefit of the United States. These are not for the benefit of Mexico; these are for the benefit of the United States. I will support him in that.

Mr. BROWN of Calfornia. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my friend from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I would like to ask the gentleman two questions. He knows the very high respect and regard I have for him and his knowledge of the situation in Mexico. In the gentleman's opinion, what would be the reaction of the public and the officials of Mexico if in 1985 we completed this desalinization plant and the quality of the water delivered across the border became unusable for agriculture?

Mr. WRIGHT. Well, it is unusable now. It has been. We have been dumping unusable water on Mexico for many years.

Now, if we do not improve that system, if we do not improve that situation, of course they are going to have a negative reaction. There is no question about that.

But the point of it is that after almost 20 years of negotiations and 10 years after we made them the promise we were going to cure it, we cannot turn around and act as though nothing had been promised. We cannot instruct our President to begin negotiations with them about things we can or cannot do for the benefit of the United States anyway. Obviously, they would see that as an attempt to welch out of our agreement. I am sure the gentleman would not want us to do that.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. Brown of California and by unanimous consent, Mr. Wright was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Will the gentleman yield?

Mr. WRIGHT. Of course I yield to the gentleman.

Mr. BROWN of California. The gentleman's answer was they would not like it if the water got worse after we built the plant.

Mr. WRIGHT. They have not liked it for 20 years while it has been getting worse.

Mr. BROWN of California. I am sorry that the gentleman missed the earlier debate. We are now almost meeting the requirements of the treaty, not quite, but we are doing it by diverting all of the return flows of this irrigation district into the lower Gulf of California.

Mr. WRIGHT. I understand.

Mr. BROWN of California. So the question is: After all of these years of promises if we fail to keep that promise, even after building a plant, what would the Mexican Government and people feel?

Second, what would we do then?

Mr. WRIGHT. I will tell the gentleman how I would feel. I would feel that we had committed an unconscionable act and I would be in favor of rectifying it.

I am in favor of doing whatever is necessary to make good our promise to Mexico.

But I am not in favor of stopping what we have been doing in good faith and saying: "Mr. President, you go and start new negotiations with Mexico." I would say to my friend that the President has a hard enough time negotiating with Mexico on two or three things that we are interested in right now. We should not load his negotiators down with evidence of what the Mexicans would regard as poor faith on a commitment we already have to them, and raise in their minds the prospect that we now are trying to go back on our word and find some way not to perform what we promised we would perform.

If we did, we would render it absolutely impossible, I am afraid, for the President to get any kind of an agreement from the Mexicans on those few things we are already trying to negotiate with them.

□ 1540

So, if the gentleman would take this amendment and withdraw it, and then suggest that we enter into studies as to the need to do some of these other things, I would agree to that; but not to stop what we are doing, nor to give Mexico the impression that we are unwilling to abide by our word.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. Brown of California and by unanimous consent, Mr. Wright was allowed to proceed for 1 additonal minute.)

Mr. BROWN of California. Mr. Chairman, will the gentleman yield further?

Mr. WRIGHT. I yield.

Mr. BROWN of California. I would be strongly moved to withdraw that amendment by the gentleman's request, except for the fact that I know that he feels that the things that are in this amendment are desirable, and he would never refuse to support them merely because I withdrew the amendment. So, I am going to persist in the amendment.

Mr. WRIGHT. Well, I honor the gentleman's right to do that, of course, but I do plead with my colleagues simply on the basis that we made a good faith commitment. The word of our Nation is out; the word of the Congress is out, and I think we need to keep our word. If there is any one thing that is precious among the family of nations, it ought to be a nation's reputation for keeping its word.

So, I ask that we vote this amendment down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Brown).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Weaver: On page 7, after line 20, insert the following:

Sec. 8. A new section shall be added to the Act, as follows:

Sec. 112. The Secretary shall, within thirty (30) days after the effective date of this Act, begin a review and study of the desalting complex as authorized in section 101(a) of title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act. Such review and study shall be carried out in consultation with the Secretary of State, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and representatives of the Governors of the Colorado River Basin States. The Secretary is authorized and directed to finance from funds available to him the reasonable expenses of the review and study authorized by this section.

(b) The Secretary shall submit to the Chairman of the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources no later than two hundred seventy days after the effective date of this Act a report embodying the results of the review and study authorized by this section. Such report shall include:

(1) a statement, together with complete supporting data, as to whether or not the requirements of minute No. 242 of the International Boundary and Water Commission, United States and Mexico, are presently being met, and a statement as to whether or not the requirements would be met in the absence of the present discharges of state-owned water from Imperial Dam.

(2) an analysis of the smallest possible capacity desalting plant necessary to meet the water quality requirements of minute No. 242 of the International Boundary and Water Commission, United States and Mexico, given the present existence of the bypass drain authorization by section 101(a) of title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act, and, separately, given the cessation of the present discharges of state-owned water from Imperial Dam, such analysis to include both the direct and indirect fiscal, environmental, and social costs of such plant;

(3) an examination of the fiscal, water quality, and water quantity benefits of the resulting complex as authorized in section 101(a) of title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act, along with the recipients of such benefits;

(4) an analysis of alternative means of meeting the obligations of the United States under minute No. 242 of the International Boundary and Water Commission including, but not limited to, those identified in the General Accounting Office report of May 4, 1979 (CED-79-11); and

(5) a statement of the effect, or potential effect, on salinity requirements to Mexico of the use by the upper and lower basin States of all of the waters they are entitled to under the Colorado River Compact of 1922.

(c) The Secretary shall not expend the additional funds authorized by this Act for the construction of the desalting complex as authorized in section 101(a) of title I of the Colorado River Basin Salinity Control Act (Public Law 93-320), as amended by this Act, until ninety calendar days (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) have elapsed following the submittal of the report required by subsection (b) of this section.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WEAVER. Mr. Chairman, I offer this amendment, and I think that the distinguished majority leader, the gentleman from Texas, might wish to support this amendment following, as it does, some of the ideas that he vouchsafed to the House just earlier in the well.

My amendment allows the bill in the process of the bill, if enacted into law, to continue. It simply says that the Secretary shall within 30 days of the effective date of this act, begin a review and study of various elements in this issue raised today.

Those elements are:

First. Are we now meeting minute No. 242 as the gentleman from California says we are, and the data that was developed in our hearings says we are presently meeting the treaty commitments with Mexico? We are now meeting it, but as that is somewhat our due, we want a review and to have the Secretary come back and tell us whether or not we are meeting it, and whether or not the requirements will be met in the absence of present discharges of State-owned water from the Imperial Dam.

The second part is to examine the fiscal, water quality and water quantity benefits of the desalting complex to see if this really is the way to solve this problem; to analyze more deeply the desalting plant, and then to analyze the alternative means of meeting our commitments to Mexico as outlined in the General Accounting Office report of May 4, 1979.

Among those, of course, are whether it would be best to lower the water usage of the Wellton-Mohawk, which if done, might well meet the requirements at one-tenth the cost. I am sure the gentleman from Maryland would be interested in reducing the cost of this down to 10 percent.

All we are doing here is asking them to come up with an evaluation as to what we could do. Then I think, and highly significant—No. 5 in the amendment is very significant—would be a statement of the effect or potential effect of the salinity requirements to Mexico of the use by the upper and lower basin States of all the waters they are entitled to under the Colorado River Compact of 1922.

Now, Mr. Chairman, I just want to say that in committee and on the floor of this House just in the last year or so, we have passed bills that are going to tax the waters of the West, the Colorado River, incredibly. I do not know where this water is going to come from. We passed an $88 billion synthetic fuel bill that will require staggering amounts of water in the West if put into effect. We are going to have continuous increases in the demands of irrigation water, of municipal and industrial waters. Where is the water all going to come from?

Is this little desalinization plant going to do it? I say little because it does not, as the gentleman from California (Mr. BROWN) says, does not even come close to meeting the problems in the Colorado. Yet, it is going to cost, in my estimation, at least a half billion dollars and probably twice that. So, in terms of money it is big, but in terms of solving the problem it is small.

As the gentleman from California has said in his extremely good presentation of the detailed documentation and evidence, what this bill is, Mr. Chairman, is really avoiding the problem of the Colorado River. It is a way of blinking the problem away. It is a way of saying, "Hey, this problem does not exist. We are going to spend a half billion dollars of your money, Mr. Taxpayer."

But, we in the Congress are going to say, "OK, we will push the problem under the rug."

My amendment simply says, let the process go through. Let the bill for desalinization, the increased authorization, continue. Hold up just for a few days the time to let these various analyses be made by the Secretary, and then report back to the committees of the Congress. I would hope, then, more clear solutions would come about.

I would hope at that time we could find a better route than this, but my amendment does not impede the eventual progress of the bill as it exists.

AMENDMENT OFFERED BY MR. UDALL TO THE AMENDMENT OFFERED BY MR. WEAVER

Mr. UDALL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL to the amendment offered by Mr. WEAVER: On page 1, section 112: In the second sentence of section 112, after the words "Environmental Protection Agency," strike "and representatives of the Governors of the Colorado River Basin States." and insert in lieu thereof, "the Committee of Fourteen, representing the seven Colorado River Basin States."

Mr. UDALL. Mr. Chairman, I oppose the pending amendment offered by Mr. WEAVER, but in the event it passes it would have an undesirable impact on the study that is called for under the amendment. There is a group called, "The Committee of Fourteen," two from each of the seven Colorado Basin States. It is a group that is in existence, and if there is to be a new study, this group could do it.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, the amendment is perfectly acceptable to me.

Mr. UDALL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL) to the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment to the amendment was agreed to.

□ 1550

Mr. KAZEN. I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Oregon (Mr. WEAVER). A similar amendment was offered by the gentleman in committee, and it was rejected. The committee recognized that the amendment would accomplish little in view of all the studies of the problem of meeting our commitment to Mexico which have already been made, and it would only cause unnecessary delay and further expense. The amendment offered today on the floor establishes an even longer time frame for completion of the study which it mandates and submission of the report on the study. It would cause even more delay than the amendment offered by the gentleman in committee, which was rejected.

Under the provisions of the amendment the delay would be up to 1 year which is considerably longer, and it serves no useful purpose except for delay and to send a message to our friends in Mexico that we are still dragging our feet.

Mr. WEAVER. Mr. Chairman, will the gentleman yield briefly?

Mr. KAZEN. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding. I want to again commend both the chairman of the subcommittee and the chairman of the full committee for their great and fine work on this bill, and I know that their conviction is this is the way we must go in order to help assure Mexico that we are working on it. I understand that. I sympathize with it. I do have to ask the gentleman: I do not think the question is going to have anything to do with the gentleman from Texas, but if there is such urgency, why, then, was this bill reported out of the Interior Committee on the 15th of May 1979, almost a year away, and not brought to the floor until this time? Why, if there is such urgency?

Mr. KAZEN. I would just say this to the gentleman, that we had requested a rule. The rule was just called up.

Mr. WEAVER. If the gentleman will yield further, I was going to ask that question of the distinguished majority leader when he was in the well.

Mr. KAZEN. But it is very simple. Let me in passing say that I appreciate the work that the gentleman from Oregon (Mr. WEAVER) has done as a member of this subcommittee, and I appreciate his attitude and his tremendous help in pointing these things out to us. Whether or not the gentleman's views prevail, he has given us the thought that will be needed to go into these things, and a lot of these things the gentleman has talked about in committee are being taken into consideration by the Department of the Interior as we go along and I commend him for his attitude.

Mr. WEAVER. If the gentleman will yield just briefly, I want to say that my esteem for the chairman remains extremely high, and we just simply have an honest disagreement here.

Mr. KAZEN. I understand.

Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEAVER. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 38]

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Clinger
Coleman
Collins, Ill.
Collins, Tex.

Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Hopkins

Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCormack
McDade
McDonald
McEwen
McKay
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle

Porter
Preyer
Price
Quayle
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

☐ 1610

The CHAIRMAN. Three hundred and fifty-eight Members have answered to their names, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Oregon (Mr. WEAVER) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 83, noes 286, not voting 64, as follows:

[Roll No. 39]

AYES—83

Ambro
Anderson, Calif.
Applegate
Atkinson
Bailey
Barnes
Bedell
Beilenson
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Byron
Carr
Clay
Conable
Conyers
Corman
Danielson
Deckard
Dellums
Derwinski
Dingell
Dodd
Donnelly
Downey
Duncan, Tenn.

Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fazio
Fenwick
Ferraro
Florio
Forsythe
Glickman
Gradison
Gray
Guarini
Harkin
Harris
Heckler
Hughes
Jacobs
Jeffords
Kastenmeier
Kostmayer
Lederer
Leland
Levitas
Luken
Maguire
Markey
Miller, Calif.

Mineta
Mitchell, Md.
Moffett
Mottl
Murphy, Pa.
Ottinger
Pease
Porter
Rangel
Richmond
Ritter
Russo
Seiberling
Shannon
Spellman
Stack
Stark
Stokes
Studds
Thompson
Vanik
Vento
Waxman
Weaver
Weiss
Wirth
Wolpe
Yates

NOES—286

Akaka
Albosta
Alexander
Andrews, N.C.
Annunzio
Anthony
Archer
Ashley
Aspin
AuCoin
Bafalis
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.

Dannemeyer
Daschle
Davis, Mich.
de la Garza
Derrick
Dickinson
Dicks
Dixon
Dornan
Dougherty
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Fary
Fascell
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harsha
Hawkins

Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Lundine
Lungren
McCormack
McDade
McDonald
McEwen
McKay
McKinney
Marks
Marlenee
Marriott
Martin
Mattox

Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Patten
Patterson
Perkins
Petri
Peyser
Pickle
Preyer
Price
Quayle
Rahall
Ratchford

Regula
Reuss
Rinaldo
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Staggers
Stangeland
Stanton
Steed

Stenholm
Stewart
Stockman
Stratton
Stump
Swift
Symms
Synar
Taylor
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NOT VOTING—64

Abdnor
Addabbo
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Badham
Bonior
Bonker
Broomfield
Campbell
Chisholm
Cleveland
Coelho
Crane, Philip
Davis, S.C.
Devine
Diggs
Emery
Fish
Fowler
Garcia

Goodling
Gudger
Hansen
Hightower
Holland
Holtzman
LaFalce
Long, Md.
McClory
McCloskey
McHugh
Madigan
Mathis
Matsui
Minish
Murphy, Ill.
Murtha
Nolan
Obey
Panetta
Pashayan
Paul

Pepper
Pritchard
Pursell
Quillen
Railsback
Rhodes
Roberts
Rodino
Rose
Rosenthal
Runnels
Simon
St Germain
Tauke
Thomas
Treen
Wilson, Bob
Wilson, C. H.
Wyatt
Wylie
Zeferetti

Mr. DANIELSON changed his vote from "no" to "aye."

So the amendment, as amended was rejected.

The result of the vote was announced as above recorded.

☐ 1620

Mr. WOLFF. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. WOLFF was allowed to speak out of order.)

ANNOUNCEMENT OF SCHEDULED MEETING WITH DAUGHTER OF ANDREI SAKHAROV

Mr. WOLFF. Mr. Chairman, I take this time to announce to my colleagues that the daughter of Andrei Sakharov will be in room 369 at 5:15 p.m. to tell the real story about Andrei Sakharov. All Members are invited to meet with her.

I thank the Chair.

The CHAIRMAN. If there are no other amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. LLOYD, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2609) to increase the appropriations ceiling for title I of the Colorado

River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes, pursuant to House Resolution 558, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker protempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 275, nays 94, not voting 64, as follows:

[Roll No. 40]

YEAS—275

Akaka
Albosta
Alexander
Ambro
Annunzio
Anthony
Archer
Ashley
Aspin
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Carney
Carter
Chappell
Cheney
Chisholm
Clausen
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Dickinson
Dicks
Diggs
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Ferraro
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gramm
Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hefner
Heftel
Hillis
Hinson
Holt
Hopkins
Howard
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCormack
McDade
McEwen
McKay
McKinney
Marks
Marlenee
Marriott
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Patten
Perkins
Petri
Peyser
Pickle
Preyer
Price
Quayle
Rahall
Ratchford
Regula
Reuss
Rinaldo
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Santini
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stump
Swift
Symms
Synar
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—94

Anderson, Calif.
Andrews, N.C.
Applegate
Atkinson
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Boner
Brown, Calif.
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Clay
Conable
Conyers
Corman
Dannemeyer
Dellums
Derrick
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Edgar
Edwards, Calif.
Erlenborn
Evans, Ind.
Fazio
Fenwick
Florio
Ford, Tenn.
Forsythe
Fountain
Garcia
Glickman
Gradison
Grassley
Gray
Harkin
Hawkins
Heckler
Hollenbeck
Horton
Hughes
Jacobs
Kastenmeier
Kostmayer
Latta
Lloyd
Luken
McDonald
Maguire
Markey
Martin
Michel
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mottl
O'Brien
Ottinger
Pease
Porter
Rangel
Richmond
Ritter
Russo
Sawyer
Seiberling
Shannon
Snyder
Solomon
Stack
Stark
Stokes
Stratton
Studds
Vander Jagt
Vanik
Vento
Waxman
Weaver
Weiss
Wolpe
Wydler
Yates

NOT VOTING—64

Abdnor
Addabbo
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Badham
Bolling
Bonior
Bonker
Broomfield
Campbell
Cleveland
Coelho
Crane, Philip
Danielson
Davis, S.C.
Devine
Emery
Fish
Fowler
Goodling
Gudger
Hightower
Holland
Holtzman
Hutto
LaFalce
Lent
McClory
McCloskey
McHugh
Madigan
Mathis
Matsui
Miller, Calif.
Minish
Murphy, Ill.
Murtha
Nolan
Obey
Panetta
Pashayan
Patterson
Paul
Pepper
Pritchard
Pursell
Quillen
Railsback
Rhodes
Roberts
Rodino
Rose
Rosenthal
Runnels
Simon
St Germain
Stockman
Tauke
Thomas
Treen
Wyatt
Wylie
Zeferetti

□ 1640

The Clerk announced the following pairs:

On this vote:

Mr. Rhodes for, with Mr. Ashbrook against.
Mr. Thomas for, with Mr. Devine against.
Mr. McCloskey for, with Mr. Emery against.
Mr. Pashayan for, with Mr. Lent against.
Mr. Badham for, with Mr. Tauke against.

Until further notice:

Mr. Addabbo with Mr. Madigan.
Mr. Murtha with Mr. Railsback.
Mr. Pepper with Mr. Fish.
Mr. Rosenthal with Mr. Paul.
Mr. St Germain with Mr. Quillen.
Mr. Zeferetti with Mr. Wylie.
Mr. Rodino with Mr. Pursell.
Mr. Roberts with Mr. McClory.
Ms. Holtzman with Mr. Pritchard.
Mr. Danielson with Mr. Treen.
Mr. Rose with Mr. Abdnor.
Mr. Coelho with Mr. Anderson of Illinois.
Mr. Davis of South Carolina with Mr. Andrews of North Dakota.
Mr. Patterson with Mr. Campbell.
Mr. Nolan with Mr. Broomfield.
Mr. Panetta with Mr. Cleveland.
Mr. Obey with Mr. Philip M. Crane.
Mr. Minish with Mr. Goodling.
Mr. Runnels with Mr. Gudger.
Mr. Simon with Mr. Mathis.
Mr. Holland with Mr. Hightower.
Mr. McHugh with Mr. Matsui.
Mr. Bonker with Mr. Fowler.
Mr. LaFalce with Mr. Hutto
Mr. Bonior of Michigan with Mr. Wyatt.
Mr. Murphy of Illinois with Mr. Miller of California.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTION OF CLERICAL ERROR IN COMMITTEE AMENDMENT TO H.R. 2609

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the word "indicated" be changed to "indicates" in the ninth committee amendment, at page 6, line 3, on the bill just passed.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Arizona?

There was no objection.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, pursuant to the provisions of House Resolution 558, I call up from the Speaker's table the Senate bill (S. 496) to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill, S. 496, and to insert in lieu thereof the provisions of the bill, H.R. 2609, as passed by the House, as follows:

That the Act of June 24, 1974 (hereafter referred to as the "Act"), is hereby amended as follows:

SECTION 1. Section 101(b)(2) is amended, by inserting "(A)" after (2), by deleting the last sentence of the paragraph, and by adding thereafter the following:

"(B) The Secretary is authorized to use electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to title I of the Act: *Provided*, That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary of Energy for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to title I of the Act, and finally for other uses: *Provided further*, That prior to delivering power from the Navajo Generating Station under the authority of this subsection, the Secretary shall complete an analysis of alternative sources of supply, including but not limited to the possibility of developing an agreement with the Republic of Mexico whereby the United States (or a non-federal entity) would enter into contractual arrangements with Mexico for a sufficient supply of power to operate the desalting plant, the regulatory pumping fields and appurtenant facilities.

"(C) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.".

SEC. 2. Section 101(c) is amended by inserting ", Colorado River waters used for the mitigation of fish and wildlife habitat losses" after "from the desalting plant" in two places.

SEC. 3. Section 103(a) of the Act is amended by adding a new subsection (4) as follows:

"(4) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts under the terms and conditions of the Act of June 17, 1902 (43 U.S.C. 371 et seq.) as amended and supplemented for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided*, That such contracts for municipal and industrial purposes shall contain terms and conditions as substantially provided in section 9(c)(1) of the Reclamation Project Act of 1939, and that contracts for replacement irrigation water supplies to prevent damage to existing water users on privately developed lands include water charges no greater than if such water users had continued to pump their own wells without the United States lowering the water table and that the acreage limitation and related provisions of the Reclamation Law will not be applicable to such privately developed lands now irrigated with non-Federal water supplies: *Provided*, That no contract shall be executed to deliver irrigation water to lands not irrigated on January 1, 1978: *Provided further*, That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred and forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.".

SEC. 4. A new section 106 shall be added to the Act, as follows, and succeeding sections shall be renumbered accordingly:

"SEC. 106. The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this title, and revenues received in connection with this authority shall be credited to the general fund of the Treasury.".

SEC. 5. Section 108 of the Act is changed to section 109 and effective October 1, 1979, is amended by striking the first sentence and inserting in lieu thereof: "There is hereby authorized to be appropriated the sum of $356,400,000 for the construction of the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,960,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 104. In order to provide for the utilization of significant improvements in desalinization technologies which may have been developed since the Bureau's evaluation, the Secretary is directed to evaluate such cost effective improvements and implement such improved designs into the plant operations when the evaluation indicates that cost savings will result: *Provided, however*, That no more than five percent of the amount authorized to be appropriated is used for these purposes."

SEC. 6. A new section 110 shall be added to the Act, as follows:

"SEC. 110. Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriate Acts, in order to provide measures determined by the Secretary of the Interior to be appropriate to mitigate loss of fish and wildlife habitat associated with other measures taken under this title:

"(a) The Secretary is authorized to—

"(1) acquire lands by purchase, eminent domain, or exchange;

"(2) dispose of land, facilities, and equipment;

"(3) construct, operate, maintain, and make replacements of facilities: *Provided, however*, That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities.

"(b) All costs authorized by this section are nonreimbursable.".

SEC. 7. A new section 111 shall be added to the Act, as follows:

"SEC. 111. As used in this title:

"(a) Navajo Generating Station means—

"(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

"(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

"(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

"(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (Act of June 24, 1974; 88 Stat. 266), and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2609) was laid on the table.

ELECTION OF MEMBER TO STANDING COMMITTEES

Mr. MICHEL. Mr. Speaker, as acting minority leader and by authority of the Republican Conference Committee on Committees, I offer a privileged resolution (H. Res. 570) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 570

Resolved, That JOHN EDWARD PORTER, of Illinois, be and he is hereby elected a member of the following Committees of the House of Representatives:

Committee on Banking, Finance and Urban Affairs; and

Committee on Small Business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I would like to inquire of the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), as to the program for the remainder of this week and for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, there will be six suspensions debated on Monday.

The House will come in at noon on Monday, there being no session tomorrow, Friday, since we have completed all of the legislative schedule for the week.

When we adjourn, as we shall shortly, it will be my purpose to ask unanimous consent that we adjourn over until Monday, February 11, 1980, at 12 noon.

The six suspensions are:

H.R. 4774, to permit conscientious objection to joining labor organizations;

H.R. 6374, gold medal for Canadian Ambassador;

H.R. 5913, negotiated pricing;

H.R. 5784, war risk insurance;

H.R. 3748, statute of limitations; and

H.R. 6080, Geothermal Steam Act amendments.

Votes on those suspensions will be put over until Tuesday.

The House will meet on Tuesday, February 12, at noon.

We will have the recorded votes on those bills which have been debated on Monday, and then take up H.R. 3995, the Noise Control Act authorizations for fiscal year 1980 and 1981, under an open rule with 1 hour of debate.

Then we would meet on Wednesday at 10 o'clock and take up H.R. 4119, the Federal Crop Insurance Act of 1979, under an open rule, with 1 hour of debate.

Upon completion of business on Wednesday, it would be our purpose to adjourn over—to observe the Lincoln birthday period—until Tuesday, February 19, 1980.

I shall ask unanimous consent for those various purposes and submit a concurrent resolution to permit the adjourning at the close of business on Wednesday.

Mr. MICHEL. Since this is not exactly an earth-shaking schedule for next week, this gentleman is compelled to make an observation. The gentleman will recall that earlier there were indications that next week Members would be free to return to their districts and make their appointed rounds. Then the schedule was changed to provide for a 3-day workweek next week and the recess period was shortened.

Members had to cancel some of those original engagements they had with the expectation there was going to be a stiff legislative program for next week. When we discovered that the program is as sparse as it is, Members inquired of me personally as to just what goes into this whole scheduling operation.

I personally do not happen to think the House itself has to be in session to prove that we are working. Each of us has our committee assignments. If one of our problems is a failure of the legislative and appropriations committees to report their bills out here on time, it might really facilitate matters if we simply did not go through the motions here with the House in session with little or nothing to do.

As a matter of fact, we might even save energy and a few tapayers' dollars. The lights could be turned off and a large staff would not be needed. I am advised in our Subcommittee on Legislative Appropriations that to run these cameras, we have to have people here at 6 o'clock in the morning to get the cameras running by 10 o'clock which requires us to pay them overtime.

So there are good and sufficient arguments for really having the House in recess with simply pro forma sessions while Members are busily engaged doing their committee work.

I think my friend from Texas would concede that if we did a better job at the subcommittee level, and the full committee level, we would not be forced to be rewriting so many bills here on the floor of the House.

I had to make that observation and further inquire of the distinguished majority leader whether or not he has any particular objection to the suggestion I have made here. What are these pressures that force us to have these on-again, off-again schedules that really confound the Members when they are trying to make those engagements they have to make back home?

□ 1650

Mr. WRIGHT. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. WRIGHT. I would like to respond with some candor to the suggestion the gentleman made. I just say in all honesty I find a lot of merit in some of the things that have been said by my distinguished friend from Illinois (Mr. MICHEL).

Let me just state to the gentleman some of the problems we have. One of those problems is criticism which has come upon the House as an institution, in my judgment largely unjustified, on the ground that we have become a Tuesday to Thursday club. I believe the facts refute that conclusion if one just looks at the broad sweep of legislative activity that characterized this House last year, the year before, and the year before that. I think it is absolutely a supportable conclusion that in the past 3 years this House has been in session longer hours in official session here on the House floor, we have voted on more legislation, had more record votes by which the public may judge the rectitude of the decisions of its selected representatives, and passed more bills by volume than almost any 3-year period preceding these past 3.

I am not at all certain one can judge the value of a legislative session by the number of bills passed, but I do think that establishes the fact that we have been diligent, we have worked hard.

Nevertheless, there has been criticism from some of the Members and reflected in the glowing editorial commendation for them who have attacked the processes and procedures of the House and had rather bitter criticism editorially for those of us whose responsibility it is to schedule the House's business on the ground that the House really just works about 3 days a week. So it was decided by the Speaker and the leadership that so long as we had legislation to consider, we would be in session.

Now, as a concession to the realities of the occasion and in recognition of the principles of that great emancipator Abraham Lincoln, we have just in the last few minutes agreed we will not have votes on Monday, but would put off those votes until Tuesday, which I think the gentleman from Illinois will recognize is a grand concession.

Mr. MICHEL. The gentleman from Illinois has to be here for all 3 days because we have rearranged our schedule now to hold hearings before our appropriations subcommittees and I gladly accepted that responsibility. I submit that there are other Members who similarly will be occupied with committee business. I would reaffirm what I said earlier, I do not happen to think that the measure of our effectiveness around here resides solely in the number of hours we spend on the floor of the House, or the number of votes that are cast during the course of a given year. I think there are other standards of measurement that are just as equally important.

Mr. WRIGHT. If the gentleman will yield further, I find it very hard to quarrel with the gentleman's conclusion. I would share with him a letter I wrote to the editor of the editorial page of the Fort Worth Star Telegram, a newspaper with some circulation in my district. There had appeared an editorial roundly criticizing the House for not meeting enough and for not having votes scheduled on Mondays and Fridays, and concluding that we only worked about 3 days a week around here. I felt called upon to write to my friend, and he is my friend, not as a letter to the editor, but as a personal letter. I suggested to him that for him to say the House works only 3 days a week, if it is in formal session voting on legislation only 3 days a week, would be like saying that a reporter or an editorialist or a newspaperman is working only when he is sitting behind a typewriter.

I happen to feel these distinguished representatives of the fourth estate are working while they sit in the galleries, and lo and behold, following our sessions, they go back to their typewriters and they work some more. I would love to cultivate among all of the fourth estate, and particularly those who sit at home and write editorials, a fuller appreciation of the fact that the House, indeed, is working when it is in committees. As Woodrow Wilson wrote in his great book, long before he thought of running for President, the Congress in committee is Congress at work. Indeed, it is a part of our function and we are working when we are at home in our districts consulting with our constituents and giving them that opportunity vouchsafed to them by the Constitution to petition us for a redress or whatever grievances they may feel. So we are working when we are doing all of those things.

Mr. MICHEL. I really did not realize when I began this subject that it was going to be so expansive. I have a hunch that my friend from Minnesota wants me to yield to him.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I have been very concerned about this program. Many of us did have schedules for next week at home and other places, and the fact that the leadership decided that we would meet next week led us to believe we had some very important, urgent legislation that had to be taken care of. We find that this week we handled a program which could hardly be called urgent. Next week we have hardly any program at all.

In response to some of the Members' willingness to be curmudgeons on Monday, you have kicked over some votes until Tuesday to those of us who have canceled our Monday schedules are now in the soup again. We will have to try to rebuild them.

Mr. Speaker, this House is being run as though it were a Chinese fire drill. Why do we not run it in a business-like way? Why do we not tell our Members when they are needed here so that they can do the job? We are not to be measured by the passage of time; we are to be measured by the legislation we produce.

I am not going to comment on how I

would rate that particular measure over the last couple of years. But I do say in courtesy to the Members, and just common courtesy, and in the name of business-like operations, the leadership owes it to the membership of the House to tell us when we are supposed to be here and why we are supposed to be here.

I think it is a real outrage and a gross discourtesy to the Members to discommode them like this. Most of us are going to try to be here most of the time when the leadership schedules work. We are going to do our very best to be here. I am going to do my best to be here next week, and I am going to do my best to create a record that we were all here next week, because you have summoned us back. Everytime you ask us to be here now, I am going to do my very best to see that the world will know that I have been here for the record.

I note that the other body has been able to tell their Members there will be no meetings of substance until June. Now, the other body is behind us in work, so they apparently do not feel this compulsion to prove to the fourth estate how assiduous we are in carrying out our constitutional duties.

I also find on final passage votes they are able to accumulate Members on Thursdays for votes. We are not able to do that. For some reason the House is unable or unwilling to try to help the Members to balance their workloads to be able to communicate with their constituents at home and to do their best work in fulfilling their duties here. I must say I am terribly disappointed, and I would urge as strongly as I can for the leadership to take a look at the way they schedule and try to help the Members perform all their duties, not just sitting on the floor, but going home and communicating, trying to listen to their constituents, committee work, and the whole thing. I really think you have been derelect in your duty, and I hope certainly that it will improve.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I have the privilege of serving on the Democratic whip organization. We do meet with the leadership every Thursday morning. In defense of the Democratic leadership, we really have a tough time on scheduling. Chairmen do not want to bring up a particular piece of legislation, or a minority ranking member on a committee does not want to bring up a bill on a Monday. Maybe they do not want to have a vote on a Friday. It causes a lot of problems for the Democratic leadership.

But I recall several years ago before we had the now present leadership that we would not know what time of night we would finish or how long it would last. Many times we would stay until 2 o'clock in the morning, and the next day we would get out at 1 o'clock in the afternoon. The leadership has improved on the times that we do get out in the evening, and we know something about the schedules.

Now, I agree with the gentleman from Illinois, we do not need a lot of legislation any more. The few applause I get when I go home is when I say that the Congress should pay the bills and then come home.

□ 1700

They say, "That suits us fine."

I wish we would oversight some of this legislation and not worry about passing new programs, but I think our leadership over here does the best job they can do under the circumstances.

Mr. MICHEL. Mr. Speaker, I would certainly agree that there has been an improvement over some of the years during which all three of the gentlemen on their feet have served in this body, but I guess there is one thing for certain around here: That the schedule is definitely indefinite, as the gentleman from Minnesota has so ably said. If there were a little bit more preciseness about the scheduling it would certainly help the Members to do a better job.

Mr. HOPKINS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to my friend from Kentucky.

Mr. HOPKINS. Mr. Speaker, I thank the gentleman for yielding. I would just simply like to make an observation, if I may, to the majority leader and my friend, the minority whip.

I think probably you have done your work as best as possibly could be done. I have not been here long enough, maybe, to criticize this leadership, but I listened very intently to the remarks. Someone apparently has been complaining of a club of Tuesday through Thursday. I would simply add credit perhaps to that and tell the Members that I have constituents that would be thankful if we never met up here.

That is true. They really question what we are doing up here. I do not mean that to be coy or cute in any way. I am very sincere about that. They really question what good we are doing the people, and so I think that is an observation that is to at least be considered.

Mr. MICHEL. Mr. Speaker, I would simply respond to the gentleman by saying that I have had more than one constituent come up to me over a period of time and say, "Bob, I will be happy to see Congressmen simply stay out of Washington, because the more you are down there the more you are piling on to me by way of rules, regulations, taxes, or the like."

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just want to say that the gentleman from Maryland has enjoyed this discussion immensely, and the interest shown in the program. Usually, it is left to maybe one or two or three of us on Friday or Thursday to discuss these matters, but could I ask the gentleman who represents the Fort Worth-Star Telegram, the majority leader, one practical question?

I notice that he has the noise control bill for Tuesday, a 1-hour bill, and also the crop insurance bill for Wednesday, a 1-hour bill. Would there be any reason why we could not act on both of them Tuesday? If we are just meeting on Wednesday to handle a bill just for the purpose of having something to do so that we can say we were in for 3 days, it seems that it might be in the spirit of not only Lincoln, but Lincoln's vice presidents, Hannibal Hamlin and Andrew Johnson, to also rearrange the schedule on that. It is a minor point, but it might make the gentleman from Minnesota feel better.

Mr. WRIGHT. If the gentleman will yield——

Mr. MICHEL. I will be happy to yield.

Mr. WRIGHT. Mr. Speaker, as one who yields to no man in his respect for the memory of President Andrew Johnson, I would ask unanimous consent that the gentleman from Maryland be allowed to extend his remarks at such length as he may desire, because I enjoyed them, although I am afraid I have not enjoyed this discussion quite as much as the gentleman from Maryland.

I appreciate all the comments and the constructive advice and suggestions, and I shall convey those to the Speaker and to the members of the leadership. It will be our intent to try to create a schedule that will facilitate and expedite the performance of our duties here without unduly harassing the membership.

Mr. MICHEL. May I just conclude, Mr. Speaker, by a further observation. It cuts both ways. It is a very special year. It is a Presidential election year. My party has to take time off for a convention to pick our next President. The gentleman's party is taking time off. That is necessary to make the process work. I believe a normal vacation period of time and the time for campaigning is also legitimately in order, but it telescopes the period of time we have available to us to work. I suspect that if my party had the responsibility for running the show, we would have to be pretty disciplined about admonishing the membership.

We cannot have this indefinite scheduling over a long period of time and expect the House to work the way it ought to work. I thank the gentleman for his reasoned contribution during the course of this exchange.

(By unanimous consent Mr. WRIGHT was allowed to proceed out of order for 1 minute.)

FURTHER LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Speaker, the purpose for proceeding out of order is simply to comment that there are approximately 133 days of available business remaining for us this year, when we take into account those periods that we already have scheduled for home district work periods and those times that we will have off for the respective national conventions of the two great political parties. Therefore, it seems logical to us that perhaps by getting out of the way some of these matters that pend right now, we could have time remaining for the really important duties that lie before us.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to dispense with business in order under the Calendar Wednesday rule on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FRENZEL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO MONDAY, FEBRUARY 11, 1980

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, FEBRUARY 13, 1980

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday next, it adjourn to meet at 10 a.m. on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT FROM WEDNESDAY, FEBRUARY 13, 1980, TO TUESDAY, FEBRUARY 19, 1980

Mr. WRIGHT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 276) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 276

Resolved by the House of Representatives (*the Senate concurring*), That when the House adjourns on Wednesday, February 13, 1980, it stand adjourned until 12 o'clock meridian on Tuesday, February 19, 1980.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 262, nays 49, not voting 122, as follows:

[Roll No. 41]

YEAS—262

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnes
Beard, Tenn.
Bedell
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Bolling
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
D'Amours
Daniel, Dan
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Fary
Fascell
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gingrich
Ginn
Glickman
Gore
Gradison
Gramm
Gray
Grisham
Guarini
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hillis
Hinson
Holt
Howard
Huckaby
Hughes
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCormack
McDonald
McKay
Maguire
Markey
Marks
Marriott
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Patten
Pease
Petri
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Ritter
Robinson
Roe
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki

NAYS—49

Archer
Bauman
Bereuter
Bethune
Carney
Clinger
Coughlin
Courter
Crane, Daniel
Daniel, R. W.
Dannemeyer
Dornan
Edgar
Edwards, Okla.
Evans, Ga.
Fenwick
Gilman
Grassley
Hammerschmidt
Hansen
Hollenbeck
Hopkins
Hubbard
Jeffries
Kelly
Kindness
Lagomarsino
Lee
Loeffler
Marlenee
Martin
Moorhead, Calif.
Neal
Regula
Roth
Rousselot
Sawyer
Schroeder
Schulze
Sensenbrenner
Shumway
Snyder
Solomon
Stangeland
Taylor
Walker
Wampler
Winn
Young, Fla.

NOT VOTING—122

Abdnor
Addabbo
Anderson, Ill.
Andrews, N. Dak.
Applegate
Ashbrook
AuCoin
Badham
Barnard
Beard, R.I.
Beilenson
Bevill
Boggs
Boland
Bonior
Bonker
Brodhead
Broomfield
Burton, John
Butler
Campbell
Chisholm
Cleveland
Coelho
Cotter
Crane, Philip
Danielson
Daschle
Davis, S.C.
Devine
Dicks
Diggs
Duncan, Oreg.
Early
Emery
Evans, Ind.
Fazio
Fish
Flippo
Forsythe
Fowler
Gephardt
Goldwater
Gonzalez
Goodling
Green
Gudger
Hall, Ohio
Hefner
Hightower
Holland
Holtzman
Horton
Hutto
Hyde
Jacobs
Jones, N.C.
Kazen
LaFalce
Livingston
Long, La.
Luken
McClory
McCloskey
McDade
McEwen
McHugh
McKinney
Madigan
Mathis
Matsui
Miller, Calif.
Minish
Moffett
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Nolan
Obey
Panetta
Pashayan
Patterson
Paul
Pepper
Perkins
Porter
Pritchard
Pursell
Quayle
Quillen
Railsback
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Rose
Rosenthal
Rostenkowski
Runnels
Scheuer
Simon
Skelton
St Germain
Stewart
Stokes
Tauke
Thomas
Thompson
Treen
Watkins
Waxman
Whittaker
Williams, Mont.
Wilson, C. H.
Wirth
Wyatt
Wydler
Wylie
Young, Alaska
Zeferetti

☐ 1720

Mr. GILMAN changed his vote from "yea" to "nay."

Mr. LEWIS changed his vote from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ASSISTING DEVELOPMENTALLY DISABLED SERVICES

(Mr. EVANS of the Virgin Islands asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of the Virgin Islands. Mr. Speaker, today I am pleased to introduce legislation to amend the public health and welfare law that would assist greatly the developmentally disabled services in the U.S. Virgin Islands, and in the other U.S. territories.

This amendment provides for an increase in the minimum allotment to each of the U.S. territories for purposes of protection and advocacy programs. Presently, the Virgin Islands receives an administratively determined minimum allotment of $30,000 rather than the minimum amount allotted to each State, which is $50,000.

My amendment will correct this difference and give State treatment to the U.S. territories in this regard.

I believe strongly that this increased allotment to the U.S. territories is justified. In my congressional district, the U.S. Virgin Islands, the current administration allotment of $30,000 cannot meet adequately the needs of the developmental disabled protection and advocacy council.

The estimated total population of developmentally disabled persons in the U.S. Virgin Islands is estimated at 3,835 persons, with 1,123 of these persons considered substantially handicapped. These figures are expected to increase due to the recent expansion of the definition of "developmental disabilities."

Moreover, the developmental disabilities office in the U.S. Virgin Islands is in dire need of funds to purchase equipment and public information material to implement promotional services, conduct training and community education, and to hire much needed additional staff to serve the disabled.

The handicapped in the U.S. territories should be treated similarly to the handicapped in the United States. I ask that my House colleagues support this important legislation.

Thank you, Mr. Speaker.

CATHOLIC SCHOOLS WEEK

(Mr. DOUGHERTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DOUGHERTY. Mr. Speaker, this week 3.2 million of the Nation's children who are enrolled in Catholic schools, along with their families and their teachers, are celebrating "Catholic Schools Week." America's Catholic schools deserve our special recognition on this occasion for their valuable contribution to our Nation's educational and spiritual life.

The theme, "Catholic Schools, One of the Family," chosen this year for Catholic schools' recognition week sponsored by the National Catholic Education Association and the U.S. Catholic Conference, is especially appropriate in 1980, which has been named national "Year of the Family." The theme accents the vital relationship which exists between the school and the family. And, to quote John Cardinal Krol, Archbishop of Philadelphia:

> Every parish in our Archdiocese is a family and, within that family, the parish school has a key role in the mission of family renewal.

In Philadelphia, which encompasses my district, Catholic schools have provided outstanding academic and spiritual education for 2½ centuries. Since 1741 Catholic education has flourished in the "City of Brotherly Love" and today the archdiocese of Philadelphia has 263 parish elementary schools and 30 archdiocesan high schools which continue to offer education of the highest quality to a student population which now numbers 174,259 young people.

Mr. Speaker, in this time of declining moral and spiritual values and erosion of family life, we offer our congratulations and our gratitude to America's Catholic schools for a long history of outstanding religious, moral, and academic training for the youth of our Nation.

CATHOLIC SCHOOLS WEEK

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, I join with the gentleman from Pennsylvania (Mr. DOUGHERTY) and his salute to "Catholic Schools Week."

LEGISLATIVE PROGRAM

(Mr. FINDLEY asked and was given permission to address the House for 1 minute.)

Mr. FINDLEY. Mr. Speaker, I wonder if I could have the attention of the majority leader.

Mr. Speaker, the gentleman from Texas, our distinguished majority leader (Mr. WRIGHT), I am sure is aware of the longstanding tradition against legislative business on Lincoln's Birthday which will be next Tuesday. I know a compromise has been worked out but it is, I think, worth noting that this would be the first time since 1946 that the House has done business on Lincoln's Birthday. The Senate will not do any business that day.

I notice an agreement under which recorded votes for Monday would be put over until Tuesday which would be Lincoln's Birthday. I wonder if the majority leader would consider putting the Monday recorded votes over until Wednesday instead of putting them over until Tuesday. Is that something the gentleman could consider?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, we had a colloquy which lasted about 30 minutes earlier this afternoon about this very subject. I do not think it is a disservice to the memory of Abraham Lincoln that we have scheduled our recess in the fashion that we have. We are going to have a home district work period which will begin at the end of business on Wednesday and will continue through the following Monday.

□ 1730

That will be a substantial recognition, it seems to me, of that event.

Mr. FINDLEY. Mr. Speaker, if the gentleman will permit me, I do not suggest that what is being scheduled is a desecration of his memory at all; but there probably will be at most two recorded votes for money. Why could these not easily be added to the Wednesday schedule without causing any inconvenience to anyone?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, there will be about six recorded votes.

I ask the gentleman from Illinois, has the gentleman heard that great parable sometimes told by the distinguished raconteur, the gentleman from Arizona (Mr. UDALL) about the man and the boy and the donkey? It goes like this:

Mr. FINDLEY. I would be pleased to hear it.

Mr. WRIGHT. If the gentleman would yield, I knew the gentleman would be eager to hear about it, because it is apropos of the decisions being made and announced by the majority leader about when we adjourn and when we recess and when we go into session.

The man and the boy and the donkey, wanting to please the public, set out to town. The man was riding the donkey. The boy was walking along. They passed a group of people and the man overheard them say, "Look at that lazy old man riding that donkey and that poor little boy having to walk along in the dust beside him."

So they got around the corner and he said, "Here, son, I want you to get up here. You ride and I am going to walk."

So they went a little farther and passed some other people and the man overheard them say, "Would you look at that fool? Look at the way he is allowing that big old lout of a boy to ride on that donkey, spoiling him and the poor old daddy has got to walk along in the dirt beside him."

Well, he did not like that. That was displeasing the public; so he got around the corner and he said, "Hey, son, I'll tell you what. We both will get up on the donkey and ride him." Then they passed some other people and the man overheard them comment, "Would you observe those two cruel creatures, the way they are mistreating that poor little donkey. We ought to report them to the SPCA."

That grieved him to hear them speak that way, and so he said, "Son, I'll tell you what, we are going to get off and both of us will just walk along a ways."

They went along a ways and came upon some other people whom he heard says, "Have you ever seen anything as stupid as that, a perfectly good donkey and both of them walking along in the road?"

Now, if there be a moral to it, it just is that there "ain't" no way we can please every Member, try though we might.

Mr. FINDLEY. Mr. Speaker, if the gentleman would permit me, the gentleman reminds me of a Lincoln story.

Lincoln observed a man in the saddle outside of the courthouse in Springfield one day and the horse had his left hind leg twitching around and finally got his left hind hoof caught in the saddle stirrup. When the rider saw what was underway, he said to the horse, "If you are going to get on, I'm going to get off."

I can see the drift of things. If the gentleman is going to get on this way, I will just get off.

I thank the gentleman.

HOSTAGE BRACELETS

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. DORNAN. Mr. Speaker, on December 20 before we departed for the Christmas recess, I said, God forbid, if the hostages were still in captivity when we came back on January 22, that I would resurrect the POW-Missing-In-Action bracelets with the names of our 53 hostages in Iran. This is a perfect day to announce the hostage bracelets because today is the 10th anniversary of the birth of the bracelets campaign for our suffering men rotting in Hanoi dungeons. Over 5 million POW/MIA bracelets were worn across our country by caring Americans. It is also a very special day for me because it was a quarter of a century today that I won my U.S. Air Force wings of silver. A good day to honor an Air Force brother rotting in Tehran captivity.

I am going to make available for every Member of this House, the Senate, the nine Supreme Court Justices, the Joint Chiefs of Staff and Cabinet Secretaries an "Iran Hostage Bracelet" with the name of U.S. Air Force Lt. Col. David M. Roeder, our air attaché at the U.S. Embassy in Iran. He is the man the terrorist-students have threatened to humiliate with a kangaroo court trial inviting North Vietnamese Communists to Iran to testify against Colonel Roeder for serving honorably as an F–105 "Thunderchief" fighter pilot in Indochina. Every one of you will have a hostage bracelet within a week to 10 days. I never dreamed it would come to this, but the 100th day of captivity comes up the first of next week. Unbelievable. I hope that every one of us in Government will proudly join in this remembrance, so that we do not forget even for a few hours the 53 brave men and women, maybe more, that are still held in degrading captivity in Tehran.

Mr. Speaker, I submit for background reference excerpts from my December 20 speech in the House promising to start a bracelet remembrance campaign:

> Mr. Dornan. Mr. Speaker, you do not touch the foreign servants of another nation. Nations have gone to war frequently for the abuse or imprisonment of their citizens overseas.
>
> I know that we all share in this body the anger and anxiety of every American citizen over the degrading treatment of our fellow countrymen, bound like animals there in the captured American Embassy in Tehran. I want to say again that in spite of the simmering anger I feel over this outrage, and the intense frustration over the passage of 46 days for our hostages. This Congressman has fully supported the President of the United States in the manner in which he has handled this delicate problem so far. I am especially supportive of this policy of gradually applying the pressure, tightening the diplomatic and economic screws on the Khomeini regime, and pursuing every available avenue in order to secure the release of our fellow Americans short of counterproductive direct military strikes.
>
> But we have not suffered such national humiliation since North Korean barbarians seized the U.S.S. Pueblo in January of 1968.
>
> So, I am thinking of initiating a program that I started during the Vietnam war of wearing bracelets, "symbolic shackles," with the names of our hostages engraved thereon. During that humanitarian campaign of the Vietnam war, over 5 million Americans wore these metal bracelets with the names of their fellow citizens, signifying to their North Vietnamese captors that we would simply never forget them.
>
> I can remember the pride many of us felt when young naval and Army men fighting in the jungle were captured wearing these bracelets; they had to convince their Communist captors that the name on the bracelet was, in fact, not their own name, but that they were remembering someone else who had been captured years before they had ever come to Vietnam themselves.
>
> Many, many Americans and many Members of Congress have not forgotten that bracelet program. God forbid that our hostages spend another month in captivity but I guess it's possible.
>
> Mr. Speaker, I am enclosing for the Record the list of names I have been able to glean out of the newspapers, with the yeoman assistance of the Congressional Research Service, along with the States of the hostage military personnel overseas. The State Department would not release the names. I find myself in disagreement with the State Department here.
>
> The State Department takes the position that somehow or other we are subjecting the families of the hostages to some sort of undefined harassment if we make known a hometown or a State. So I am not going to release the names of the hometowns, but I will release the names of the States.
>
> My feeling is, after working 13 years on the missing in action and the prisoner of war problem, that the best friend of these families is publicity. That policy was decided upon by Defense Secretary Melvin Laird on July 10, 1969; that openness, public awareness, was the best way to protect Americans in captivity anywhere in the world. It is wise to inform as many people as we possibly can. Even if it means brief, little, ugly moments of harassment for the families, the families will appreciate getting their sons' names out or, in the case of Ann Swift, or Kathryn Koob, their daughters' names out to the world, so that we can all focus in on personal names and not just keep reading the abstract expression, "50 hostages held, 50 hostages held."
>
> So I look at the list of 27 names that I have, 24 in the Embassy—and we are not so sure they are all in the Embassy—3 held under house arrest in the Foreign Ministry of the nation of Iran; that is 27 out of 53 names; and we are not even sure that that is a hard figure.
>
> I have 18 States for the 27 names that I have. And for my colleagues, I will read the names of the States that I have to this point: Colorado, Wisconsin, Arkansas, Illinois, Arizona, Texas, Nevada, Delaware, Missouri. All of those States have a marine that they can adopt and that their Governor can talk to the people in his State about daily.
>
> Georgia has Col. Charles Scott; Ohio has WO1 Joseph Hall; Pennsylvania M. Sgt. Regis Ragan; California has Specialist Donald Hohman; Michigan has an Army S. Sgt. Joe Subic, Jr.; Virginia has Col. Leland Holland. He, along with Victor Tomseth and Bruce Laingen, is over in the Foreign Ministry of Iran. Ann Swift is from New York. I do not know where Kathryn Koob is from. Jerry Plotkin is from California. I do not have a State for Tom Ahern or John Limbert or Malcolm Kalp or Bill Daugherty. The last two particularly need our help. I noticed that the father of David Cooke of Maryland, right here in our own area, did an interview on television last night. Mr. Cooke, Sr., understands that the most important thing he can do is to get his son's name out before the public so that among ourselves here in the Congress, and in the other body, and across the great open news services of this country, we can talk about these people by name. It is my hope that young Americans in high schools and grade schools, very similar to the way they wore POW bracelets, can say, as they kneel down to say their prayers next to their bed at night, "I am praying for Sgt. Gregory Persinger here in my State of Delaware." And his whole State is going to begin to have parades for him, try to get him home, to let these Iranians know that they are going to have to let our people go. I think the most beautiful moment I saw in my years as a Congressman was when the halls of our congressional office buildings, the Rayburn, the Longworth, and the Cannon Building came alive in the hallways with all of the flags that set behind our congressional desks, a symbol that we have, sworn to uphold the Constitution of the United States. It made me swell up with pride to walk through the halls the last few days and know that every one of us was trying to help the President keep before us the vivid image of these 50 Americans at the Embassy and 3 Americans at the Foreign Ministry and hundreds of others, maybe, across Iran—hiding in apartments, afraid to seek safe conduct to the airport, just as our No. 2 man in the Embassy, Bruce Laingen, could not get himself safely conducted to the airport.
>
> So I submit this list of names, and I hope that all of the Congressmen in this great House and our brothers in the other body will begin to talk about these men and these two women by name and not just keep referring to the 50 or the 53 hostages and, God willing, this special order of mine will all be a forgotten page in history because we will be able to celebrate a fantastic Christmas or a great New Year and know that all of these people are back with their families. I will look forward to some of the beautiful television coverage that we saw on Lincoln's Birthday in 1973 when our American POW's came home from a decade of cruel imprisonment in Indochina. And I look forward to a thrilling return, letting the tears flow as we see America families joined together all over this country. And then we will begin the tough analysis of how we got ourselves into this position and how will we prevent it from happening again.

Again here following is a listing:

Bruce Laingen, David Cooke (Maryland), Bill Daugherty, Malcolm Kalp, Richard Morefield, Kathryn Koob, Jerry Plotkin (California), Thomas Leo Ahern, Victor Tomseth, John W. Limbert, Jr., Army Staff Sgt. Joseph Subic, Jr., (Michigan), and Anne Swift (New York).

Col. Charles Scott (Georgia), WOI Joseph Hall (Ohio), M. Sgt. Regis Ragan (Pennsylvania), Specialist Donald Hohman (California), Col. Leland Holland (Virginia), Cpl. Wm. Gallegos (Colorado), Sgt. Kevin J. Hermening (Wisconsin), Cpl. Steven Kirtley (Arkansas), Sgt. Paul E. Lewis (Illinois), Sgt. James M. Lopez (Arizona), Cpl. John D. McKeel, Jr. (Texas), Staff Sgt. Michael E. Moeller (Nevada), Sgt. Gregory Persinger (Delaware), and Sgt. R. V. Sickman (Missouri).

BUDGET OF THE DISTRICT OF COLUMBIA FOR FISCAL YEAR 1981—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–263)

The SPEAKER pro tempore (Mr. Atkinson) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting for your consideration the budget of the District of Columbia for fiscal year 1981.

JIMMY CARTER.

THE WHITE HOUSE, *February 7, 1980.*

SECOND ANNUAL REPORT TO CONGRESS ON ACTIVITIES OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Interior and Insular Affairs, the Committee on Interstate and Foreign Commerce, and the Committee on Science and Technology:

To the Congress of the United States:

I am pleased to transmit the second Annual Report to Congress on the activities of the Department of Energy.

JIMMY CARTER.

THE WHITE HOUSE, *February 7, 1980.*

INTRODUCTION OF LEGISLATION TO AMEND THE CLEAN AIR ACT

(Mr. SATTERFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SATTERFIELD. Mr. Speaker, recently, I have detected an increasing awareness around the country that in our pursuit of the highly desirable goal of a cleaner environment, we may have committed ourselves to some policies which are both unnecessary and unwise.

In particular, my own State of Virginia, along with 28 other States, is now faced with an ultimatum from the Environmental Protection Agency. It must establish a program, satisfactory to the EPA, for the compulsory inspection and testing of motor vehicles for compliance with auto emissions standards. Failure to do so will result in a cutoff of Federal funds and the even more draconian sanction of a freeze on all new industrial construction in the offending State.

I strongly believe that air quality standards sufficient to protect the public health should be achieved within a reasonable period of time. However, I believe equally strongly that each State should be free to choose how to achieve those standards. For this reason, I have today introduced a bill to amend the Clean Air Act to allow each State to determine whether or not a mandatory inspection and maintenance program for motor vehicles is necessary and practicable. Enactment of this bill would not relieve the States of their responsibility to achieve compliance with the national air quality standards. It would simply allow each State to choose the best way to achieve those standards.

The need for this legislation is particularly urgent in light of increasing doubt about the effectiveness of such inspection and maintenance requirements as a pollution control technique. A persuasive case has not been made for the reliability of the inspection and maintenance methods presently available. Evidence of the ultimate effect of inspection and maintenance upon ozone levels is conspicuously lacking. On the other hand, the theoretical benefits of inspection and maintenance programs require the imposition of quite substantial costs upon the motoring public. Estimates vary widely, but the best figures I have been able to obtain indicate that, in my State, an inspection and maintenance program applying only to northern Virginia and the Richmond area would cost motorists somewhere between $8 and $23 million every year, not including the hundreds of thousands of wasted man-hours involved, or the administrative costs to the State. The total cost to all of the States subject to the inspection and maintenance requirements would be in the range of $300 to $800 million a year.

Assuming that the benefits of inspection and maintenance programs are more than theoretical, how do they compare with these burdensome costs? What exactly would we be getting?

In the overwhelming majority of the areas which are subject to this requirement, the 1987 deadline for attainment of the ozone standard will be achieved regardless of whether an inspection and maintenance program is imposed. The dominant influence upon total automotive emissions will be changing fleet composition. As newer, low-emission automobiles replace older, dirtier cars, total emissions will fall, regardless of whether inspection and maintenance is required. More reliable emissions control technology and a reduction in total mileage driven as a result of high gasoline prices can also be expected to have a significant impact. At best, inspection and maintenance programs will have only a relatively small impact. Does attainment of the ozone standard 6 months or a year earlier than would otherwise be the case justify the costs of such programs? I suggest that this kind of decision is best left to the States.

Nearly 4 years ago I wrote the following words in the committee report which accompanied proposed amendments to the Clean Air Act, including a provision to require an automotive inspection and maintenance program:

> A State is not prohibited by the present Clean Air Act, and it should not be, from imposing motor vehicle registration and testing should it decide to do so. Some States have elected to inaugurate such systems. There is a distinct difference, however, between a State system adopted by its legislative body and a system imposed upon a State, wanted or not, by the Federal legislature.
>
> This effort to insinuate the Federal Government into the exclusive jurisdiction of a State to regulate the registration of a vehicle and license its operation on the public streets and roadways in that State would raise a serious constitutional question. Under the expressed terms of the proposed section, the prohibitions dealing with registration and operation of vehicles would be achieved by a revised implementation plan subject only to approval of the administrator. The essential connection between provisions of that plan and State legislative action which would be required to implement it is obviously absent. Considering the doctrine of separation of Federal and State governments inherent in our political system, the inviolate exclusive jurisdiction of the State, and the contsitutional hiatus this provision could produce should the legislature of an affected State refuse to enact the required legislation, the problems of this provision are obvious and offensive to our Federal system of government. Congress should not precipitate this confrontation by enactment of this provision.

The bill to which those views were appended was not enacted that year, but in legislation enacted by the 95th Congress its provisions served as a basis for the requirements which are now in effect.

I believe events have fully justified the concerns which I expressed in 1976, and that the time has come to allow the States to pursue the goal of a cleaner air in a more flexible and rational manner.

STATEMENT OF HON. CLEMENT J. ZABLOCKI ON HOUSE RESOLUTION 551

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, I rise to inform the House of the action taken by the Committee on Foreign Affairs on February 6, 1980, with respect to House Resolution 551, a resolution of inquiry directing the Secretary of State to provide certain information on U.S. objectives and policies on human rights.

The resolution which is privileged in nature was introduced on January 30 by Representative JAMES COLLINS of Texas and referred to the Committee on Foreign Affairs.

On January 31 the Chair requested the State Department in writing to comment on the resolution. On February 4, the Chair received the executive branch reply in the form of a letter from Brian Atwood, Assistant Secretary of State for Congressional Relations.

On February 6, the sponsor of the resolution testified before the committee that the executive branch reply was responsive to the request set forth in House Resolution 551. After hearing further testimony from Assistant Secretary of State for Humanitarian Affairs, the Honorable Patt Derian, during which Secretary Derian responded to specific questions posed by Mr. COLLINS, the committee agreed to a motion to table the resolution.

The texts of the resolution and the executive branch reply follow:

H. RES. 551

Resolved, That the House of Representatives directs the Secretary of State to report to the House within thirty days the factual information at present available to him concerning statements of the Department of State, its officers, employees, and representatives to implement in the years 1977, 1978, and 1979 the human rights objectives and policies in respect to each of the following countries:

Argentina,
Brazil,
Cambodia,
Chile,
Grenada,
India,
Indonesia,
Iran,
Israel,
Jamaica,
Libya,
Nicaragua,
Pakistan,
Panama,
Paraguay,
Philippines,
Rhodesia,
Salvador,
South Africa,
South Korea,
Taiwan, and
Uruguay.

DEPARTMENT OF STATE,
Washington, D.C., February 4, 1980.

HON. CLEMENT J. ZABLOCKI,
Chairman, House Committee on Foreign Affairs, House of Representatives

DEAR MR. CHAIRMAN: It is my pleasure to respond to your letter of January 31, requesting the comments of the Department of State on H. Res. 551, a proposed resolution of inquiry introduced on January 30 by Mr. Collins of Texas. The proposed resolution seeks information "concerning statements of the Department of State, its officers, employees, and representatives to implement in the years 1977, 1978, and 1979 human rights objectives and policies" regarding each of twenty-two listed countries. We firmly believe that the resolution is unnecessary.

On January 31, the Department delivered to the Congress a 900-page report on human rights practices in virtually every country of the world, prepared in accordance with sections 116(d) (1) and 503B(b) of the Foreign Assistance Act of 1961, as amended. Each of the twenty-two listed countries is covered. The reports go into considerable detail concerning the human rights practices of each country, using the following categories, which are drawn from international standards:

Respect for the integrity of the person, including freedom from: torture; cruel, inhuman, or degrading treatment or punishment; arbitrary arrest or imprisonment; denial of fair public trial; and invasion of the home.

Governmental policies relating to the fulfillment of such vital needs as food, shelter, health care, and education.

Respect for civil and political liberties, including speech, press, religion and assembly; freedom of movement within the country, foreign travel, and emigration; and freedom to participate in the political process.

The reports also describe the government's attitude and record regarding international and nongovernmental investigation of alleged violations of human rights.

The reports are thorough, detailed, and comprehensive. We have made every effort to ensure scrupulous accuracy and full coverage of the human rights situation in the countries. No single document constitutes a more important statement in the implementation of human rights objectives and policies. As you know, these reports are prepared on an annual basis. Reports covering 1977 and 1978 were delivered to the Congress on January 31 of the last two years, and copies are enclosed with this letter. We understand that your committee will make copies of the reports delivered on January 31, 1980, publicly available on February 5.

A second important category of relevant statements consists of testimony offered by Department witnesses concerning human rights conditions in these countries and the measures the United States has been taking to implement its human rights objectives. In the past year alone, your subcommittee on International Organizations held hearings on human rights in Africa and hearings on the topic of disappearances, which covered many of the countries on the list. That subcommittee will hold hearings on February 6 on human rights in non-Communist Asia, and Assistant Secretaries Derian and Holbrooke will present statements regarding implementation of our policies in the countries in that region. I have enclosed the Department's testimony in the 1979 hearings, as well as important testimony from the last three years relevant to implementation of human rights policies in the countries listed in the proposed resolution. (Also enclosed is a list of hearings held by Congressional committees during 1977 and 1978 at which Department witnesses presented statements regarding human rights policy and its implementation.)

I have enclosed a third set of materials consisting of statements made in public forums or submitted to international bodies relating to the subject of the resolution. This includes a lengthy 1978 submission regarding human rights violations in Kampuchea, speeches before the United Nations Commission on Human Rights, statements concerning apartheid in South Africa, and many others.

Finally, our diplomats throughout the world regularly discuss human rights topics in their interchanges with officials of other governments. This has become an established and central part of our diplomacy. (Much of the testimony enclosed with this letter includes accounts of these efforts.) There is, however, no ready way to separate from such discussions those statements meant "to implement" human rights policies, within the apparent meaning of the proposed resolution.

As you can see, a substantial amount of information concerning the subject of the resolution has been provided and is regularly provided to the Congress through the normal channels. Moreover, we stand ready to respond to inquiries from individual members of Congress and regularly respond in writing or by arranging briefings, with appropriate security arrangements where classified information is involved. For illustrative purposes, we have attached a sampling of some of those letters responding to Congressional inquiries concerning human rights and the listed countries over the past few years. Like the other compilations of materials enclosed herein, this collection is not complete, as it was compiled from computer and other records under the pressure of the short time available to respond to your letter. Nevertheless it affords an indication of the kinds of information we have supplied and will continue to provide.

Let me reaffirm that we are delighted to work with your committee and with any interested Member of Congress to provide information relating to our human rights policy. Our first indication that Congressman Collins sought information on this subject came on January 21. On that date, a member of his staff telephoned an officer of the Bureau of Human Rights and Humanitarian Affairs with a lengthy list of questions—some concerning human rights in certain countries listed in the resolution, and some concerning matters other than human rights, such as narcotics traffic and the murder of U.S. Ambassadors. The officer explained that such comprehensive information would take some time to assemble, but he recorded each request and undertook to get the process underway.

He then related the substance of the phone conversation to the Congressional Relations Bureau, and an officer of that Bureau phoned back to the staffer to make arrangements for supplying the information. A series of briefings on these matters was agreed to as the best way to provide information on the wide-ranging questions that were raised. Preparations were begun for those briefings, and we are ready to begin them immediately if they are still desired in light of the resolution.

The Department has tried to handle Mr. Collin's request in a responsive and timely fashion. As you are aware, assembling such information on a large number of countries can be a time-consuming process. In addition to the arrangements already underway, we are prepared to work further with the Congressman to provide any information he seeks. For all these reasons, we hope that this resolution of inquiry will be deemed unnecessary.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.

THE NEED FOR A SPECIAL PROSECUTOR

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, the recent revelation of an FBI investigation involving Members of Congress has raised a variety of serious questions that demand immediate answers—not in 4 or 6 or 8 months, but as soon as possible.

It is clear that we have a situation that touches on important constitutional issues. Specifically, one branch of the Federal Government is implicated in pursuing another, and the behavior of both is now very much open to question in the public's mind.

But in the midst of the publicity, the leaks, the delays inherent in the prosecution process, the need of the accused to respond in some fashion to the myriad of allegations, there is a real danger that this entire situation could turn into a circus atmosphere that will only further undermine the credibility of both the executive and legislative branches of Government.

I can think of no greater threat to our Nation's security than a Congress or an executive branch that is so weakened by lack of trust of the American people that it is unable to respond to the very real dangers of war and peace that currently exist in the world.

It is imperative, therefore, that there be swift action. Unfortunately, the Ethics Committee which is responsible for the investigation and disciplining of Members of Congress is prevented from action because all of the evidence rests with the Justice Department. The Department, on the other hand, has indicated that indictments will not be forthcoming for at least 3 months with the prospect that trials are anywhere from 4 to 6 to 8 months away, depending on various motions and appeals.

Thus, we face the very real prospect that the constitutional balance inherent in the separation of powers is threatened at a time of serious international and domestic crisis, and that the response to this threat will be prolonged by procedural delays and by the color of prejudice on both the part of the Congress and the Justice Department.

This situation screams for an independent force—one that is not a regular part of either the Congress or the Justice Department. I am calling on the Attorney General to appoint a special U.S. attorney—a special prosecutor if you will—as provided for in 28 U.S.C. 515 to handle all aspects of this case. The special prosecutor would be responsible not only for pursuing the criminal prosecutions but hopefully recommending to the Ethics Committees and to the Congress appropriate disciplinary action if necessary. The time for action is now, not later. The time for a special prosecutor is now, not later.

□ 1110

ALI'S FOLLY

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BAUMAN. Mr. Speaker, until recently, I thought nothing the Carter administration does could surprise me. But the President has sent Muhammed Ali on a delicate diplomatic mission to Africa. While it is not true that the President will ask Cyrus Vance to fight Sugar Ray Leonard, it is clear that the administration has brought us into a new age of diplomacy.

Ambassador Ali's latest contribution to international understanding came as he referred to South Africa as "a racist, devilish, slavish" spot.

Oddly enough, this piece of delicate, restrained diplomatic language comes at a time when the very survival of our Nation depends upon the good will of the South African Government.

Do I exaggerate? Do not take my word for it. The New York Times reports that "the most extensive military study of the Persian Gulf area ever done by our Government" says our ability to deny Soviet submarines a resupply sanctuary depends on "cooperation from South Africa." If the Soviets do get this sanctuary, they can cut us off from every drop of oil we now get from the region.

Does the President agree with his new-found Bismarck of the Boxing Ring? Will the President grant American citizenship to Omar Sharif and make him envoy to Saudi Arabia? Who knows? With this administration anything is possible.

[From the New York Times, Feb. 7, 1980]

Ali: Planet's No. 1 Trouble Spot Is "Racist, Devilish" South Africa

NAIROBI, KENYA, February 6—Muhammad Ali took his campaign against the Moscow Olympics across Africa to Nigeria today after stepping up his separate personal campaign against South Africa.

"I'm going out as a warrior for Allah, as a fighter for Islam, as a fighter for all people of all races and all colors who have been deprived of human rights. The number one trouble spot on the planet is racist, devilish, slavish South Africa," he said.

"South Africa is supported by so many countries, Israel, America, doing business—it would be difficult for us to get some airplanes and some guns and bombs and solve the problem. Allah, God, will find a way to free our people."

Ali was expected to arrive in Lagos, Nigeria, late tonight for the third stop on his five-country tour on behalf of President Carter's campaign for a boycott of the Moscow Olympics if the Soviet troops are not withdrawn from Afghanistan.

[From the New York Times, Feb. 3, 1980]

United States Sees Need for Nuclear Arms To Repel a Soviet Attack on Iran

WASHINGTON, February 1.—A Defense Department report on the military situation in the Persian Gulf region has concluded that American forces could not stop a Soviet thrust into northern Iran and that the United States should therefore consider using "tactical" nuclear weapons in any conflict there.

At the same time the report said that the United States could possibly handle any Soviet threat to oil tankers in the area and might be able to match any effort by Moscow to move forces into Saudi Arabia.

The Pentagon report "Capabilities in the Persian Gulf," was described by officials as the most extensive military study in the region ever done by the Government. It was prepared as a study of various options open to the United States and has not been adopted as Administration policy.

Completed after the fall of the Shah of Iran a year ago, but before the Soviet drive into Afghanistan in December, the report examined the ability of the United States to respond to a number of potential contingencies, including a Soviet attack on Iran, an attempt by the Russians to bomb major oil facilities in the Persian Gulf and a Soviet submarine campaign against Western oil tankers in the Indian Ocean.

[An article in the Saturday editions of Pravda, the Communist Party newspaper, said that the Soviet Union had no designs on Middle East oil and had no intention of seeking warm-water ports in the Indian Ocean.]

The 70-page Pentagon report was commissioned by Secretary of Defense Harold Brown almost two years ago, after an interagency study concluded that the Persian Gulf was the most likely flashpoint for a confrontation between the Soviet Union and the United States.

The study was prepared by military officers as well as civilian analysts in the office of the Secretary of Defense. It is said to have laid the groundwork for the Administration's present effort to bolster local defenses and to establish a presence in the region by American forces.

GROWING DEBATE ON STRATEGY

The disclosure of the report comes amid a growing debate over the so-called Carter Doctrine, the President's pledge to use military force, if necessary, to protect "vital interests" in the Persian Gulf.

In hearings on Capitol Hill last week, Secretary of Defense Harold Brown and other military officials were repeatedly pressed to state whether the United States could actually defend oil supplies against any large Soviet attack.

One of the most outspoken skeptics of the ability of American forces to carry out Mr. Carter's new commitment to the Persian Gulf is Senator Henry M. Jackson, the Washington Democrat. He asked Mr. Brown "whether it's wise to lay down a doctrine when there is serious doubt whether it can be upheld?"

While Mr. Brown and other officials contended that it was possible to deter any major Soviet attack, they acknowledged that Moscow had important military advantages in the Persian Gulf area. The report reinforced this point and stressed that unlike Western Europe, the Soviet-American military balance consisted not of the forces that Washington and Moscow kept in the region but the men and equipment that each could rapidly move to the area in the event of conflict.

LARGE SOVIET FORCES NOTED

After stating that Moscow's control of Persian Gulf oil would "destroy NATO and the American-Japanese alliance without recourse to war by the Soviets," the report listed the large forces available to the Soviet Union to the north in the Caucasus, Transcaucasus and Turkmenistan military districts—23 mechanized divisions, consisting of about 200,000 troops; 70 tactical fighters, including 35 advanced fighter-bombers code-named Fencer by NATO, and 193 longer-range bombers, including 19 of the new type code-named Backfire.

In addition, the report said that Moscow had 103 navy bombers and about 10 submarines that it could commit against American aircraft carriers in the Indian Ocean.

Calling a "sudden seizure" of Iran "the worst case from the U.S. point of view," the report maintained that Moscow might be tempted to exploit political turmoil in the country "in order to seize a historical opportunity to change the worldwide balance." It said that all 23 of the Soviet divisions to the north could be mobilized and moved into northwest Iran in about a month.

While the report noted that Soviet forces opposite Iran were not so well-equipped as units in Eastern Europe, it added that "that the Iranians will not soon be able to contribute effectively to their own defense." And in the unlikely event that American forces were invited to bolster Iranian defenses, the report estimated that it would take 30 days to get about 20,000 soldiers and four tactical fighter squadrons, a total of about 72 planes, to the country, leaving the Russians with more than a five-to-one advantage in forces.

The only opportunity for stopping a Soviet thrust, the report continued, would be to impede the invaders in the rugged terrain along the Soviet border and in mountains to the southeast. "Unless the mountains can be exploited or substantial assistance can be obtained from allies," it added, the Soviets will surely prevail easily because of their large advantage over us in ground forces."

"To prevail in an Iranian scenario," the report concluded, "we might have to threaten or make use of tactical nuclear weapons." The report was silent on what weapons could be used, but a senior Pentagon official said yesterday that nuclear-armed cruise missiles launched from ships in the Indian Ocean might be able to perform this role.

OUTLOOK ON SEA DEFENSE BETTER

While gloomy about the chances of stopping Soviet forces in Iran, the report was more optimistic about ability to deal with other threats in the region, particularly any attempt to disrupt the movement of oil by tankers in the Persian Gulf.

"Until recently," the report said, "it was widely believed that the Soviets could close the sea lanes rather easily through mining and through attacks by submarines and aircraft. However, our analysis indicates that Soviet submarines would have severe problems because of the long distances between the region and their home bases," in the North Pacific and in the White Sea area of the northwest.

The report estimated that in 30 days Soviet submarines and bombers could sink about 30 percent of 550 loaded oil tankers in the sea lanes leading from the Persian Gulf. But after a month or so it added, American antisubmarine warfare planes and interceptors flown into the region would quickly produce "results favorable to the west."

In making this assessment, however, the report assumed that the United States could make full use of local naval bases in such countries as Oman and Djibouti. It also noted that it "would be an ominous development if the Soviets built major regional port facilities for resupplying submarines" in the area and also maintains that "our ability to deny the Soviets a submarine resupply sanctuary near the Cape of Good Hope will depend on cooperation from South Africa."

2 WEEKS TO REOPEN VITAL STRAIT

While acknowledging that Moscow, in a surprise move, could use submarines and planes to put mines in the Strait of Hormuz, the 25-mile-wide waterway connecting the Persian Gulf and the Indian Ocean, the report said "the strait could be reopened in about two weeks by helicopter sweeping forces."

REPORT ON AMERICAN PRODUCTIVITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 60 minutes.

Mr. LUNDINE. Mr. Speaker, in the chaos of September 1978, as the 95th Congress lurched its way toward a hectic finale, I am sure few of us noticed the appearance of yet another report from the Government Printing Office. But the study I have in mind deserved some attention. It was a report on American productivity and its message to Congress and the Nation was a somber one.

The report announced:

> Economic and social developments during the past decade have made clearer than ever that the processes of productivity growth are not automatic. The growth rate of productivity has been slowed down by the burdens of high rates of inflation, low capacity utilization, a sluggish rate of investment, a declining rate of expenditure on research and development, and demographic and industrial shifts.

The report concluded:

> We urgently need a national productivity effort which can overcome some of the problems and guide us toward the opportunities ahead.

Ironically, these were the parting words of the National Center for Productivity and Quality of Working Life, whose authority was about to expire. For 3 years, the Center funded productivity experiments around the country, studied the results, reported on other similar activities in the United States and abroad and disseminated all this information within the public and private sectors. The Center was phased out of existence in 1978, when the Congress acquiesced in the administration's decision to abolish it. The problem it had been created to solve, however, had not gone away. On the executive level, the Center has been succeeded by an interagency council on productivity which rarely meets and accomplishes little.

Despite this setback, national interest in improving productivity did not expire. In fact, hopes that a major initiative would still emerge were buoyed at the beginning of the current Congress. For example, the Joint Economic Committee's report of January 1979 contained several productivity recommendations, including this exhortation:

> We urge the Administration and Congress to develop specific proposals to stimulate productivity growth. In our view, an underlying rate of productivity growth of 1.5 percent does not constitute the adequate productivity growth called for by the Humphrey-Hawkins Act.

In the same month, the economic report of the President highlighted the productivity issue, observing that:

> The slow productivity growth over the last two years adds to the accumulating evidence that the underlying trend in productivity growth since 1973 has been substantially lower than at earlier periods.

And yet, with such clear recognition in Congress and the Executive of the serious problem, very little progress was made during 1979. Despite many references to the problem in connection with a wide range of issues, serious public debate is really just beginning. And we are far from having a strategy, or much of a consensus as to what specifically should be done.

And so I take the well this afternoon, Mr. Speaker, during this initial period of our second session, to try to refocus this Congress attention on the critical need for a comprehensive initiative to stimulate productivity growth. Today, I am introducing legislation, based on recommendations of the General Accounting Office, to create a national productivity council and advisory board, which I have explained elsewhere in today's RECORD. Supported by a permanent staff and an annual budget of $5 million, it is my hope that such a group would resume the defunct Center's role as researcher, clearinghouse, and catalyst in a national effort for productivity growth. And I am calling today upon the Subcommittee on Economic Stabilization, chaired by my good friend from Pennsylvania (Mr. MOORHEAD), to begin—as soon as possible—a series of hearings on the Federal role in that initiative.

It is my hope that my colleagues will join me in the months ahead in devoting serious time and effort to developing realistic solutions to the problem of our lagging productivity. A few Members have already developed some of those solutions. I have examined their legislation, and have lent my support to several proposals whose provisions I will return to a bit later. For the moment, let me urge my colleagues to add their cosponsorships to these same bills so that we can secure prompt congressional action. And as we examine these options in the days ahead, I do not think we should feel—as the administration seems to feel, judging by its 1980 budget—that new initiatives are off limits.

If we learn one thing from the grim economic landscape that now surrounds us, it must be that we cannot afford not to invest in a productive future.

As one report of the Council on Wage and Price Stability observed, the effect of slow productivity growth just since 1967 has been to reduce total real incomes by some 20 percent—more than $300 billion—from what they would have been if the pre-1967 productivity rate had been sustained. Clearly, any reasonable amount we may spend to boost productivity will be well invested.

Why do I believe productivity growth is so essential? Above all, because I am convinced it is the neglected key to our fight against inflation. Without improvement in productivity, wage increases will ultimately be translated completely into higher prices, adding to the momentum of the inflationary spiral. Productivity gains, on the other hand, allow real wages to increase, and production and employment to expand.

The main alternatives we have relied upon in efforts to combat inflation have proved unsatisfactory. The experience of the last decade has amply demonstrated the ineffectiveness of such "solutions" as recession or the use of mandatory wage-price controls. I continue to believe we can reduce inflation without resorting to either of these extremes, if we devise a broad program directed to the multiple sources of inflationary pressures. And central to that program should be the achievement of a strong, stable rate of productivity growth, on the order of 3 percent per year.

Why has so little been accomplished, on the Federal level, in the campaign to stimulate productivity? I suspect the main reason is that lagging productivity is a problem with many dimensions—none of them simple. In all the assessments of America's productivity troubles, there is consensus on at least one point: Our productivity decline has been brought about by a convergence of complex factors. As the Joint Economic Committee (JEC) noted last year:

> The lack of major new proposals to stimulate productivity may arise from a feeling that little can be done to raise productivity in the short run. The Committee goes on to observe, however. While there may be some truth to this, such a view may become a self-fulfilling prophecy.

There is a further danger which the committee does not mention. Resignation or complacency leave the door wide open for simplistic remedies, advanced in the name of productivity improvement. In the past year we have seen precisely that phenomenon evolve in the form of the proposed Kemp-Roth tax cut. While there is little question that a substantial tax cut would have some impact on productivity, the cost in terms of inflationary impact renders this seemingly simple solution inappropriate. Even the Jones-Conable proposal to revise accelerated depreciation rules, while aimed at increasing investment, passes the point of diminishing returns with its pricetag of $52 billion by 1984. Surely we can tailor tax incentives which are less expensive and more cost effective.

Rather than contemplating a massive economic jolt to improve productivity, we should be working on the specific factors we know are involved: Human resource development, capital formation, technological innovation, regulatory reform, and so on. I would like to take a few moments to examine some of the more promising options.

HUMAN RESOURCES

Improving the rate of productivity growth is attractive as a macroeconomic measure allowing increased economic opportunity without intensifying inflation. More importantly, I am convinced that productivity initiatives can make a positive difference in the lives of working people. Ten years ago, as mayor of Jamestown, N.Y.—a small manufacturing city with a deeply troubled local economy—I became involved in a successful effort to turn that situation around. By forming a labor-management committee that focused on ways to improve the utilization of human resources, we were able to substantially improve productivity and revive the local economy. This led to new investment, new jobs, and new concepts for improving the quality of working life.

The productivity benefits of labor-management cooperation run the gamut from psychological to technological—from forestalling strikes and reducing antagonism in the workplace, in extreme instances, to enhancing efficiency and making better use of existing manpower in most other cases. Experience has demonstrated that workers in the production process are often the most qualified to suggest better use of resources or improvements in the work environment, and that the quality and quantity of their work increases if given greater say in that process.

The results can be impressive: Whole assembly lines reorganized and workers retrained for more essential skills; a New York glass factory reduces its breakage by half and a Tennessee auto parts plant increases worker output from $132 to $170 per day. Indeed, a National Science Foundation survey of almost 60 field studies of worker participation experiences in the United States found that 4 out of 5 reported productivity increases.

The labor-management initiative in Jamestown capitalized on the entire range of possible benefits. The result was sufficiently impressive to make as jaded an observer as Newsweek stand up and take notice. In an article entitled "Closing the Productivity Gap," that magazine decried the indifference at the national level which seemed to greet the Jamestown experiment. That was in 1973.

Seven years later, I continue to believe that better use of human resources holds the greatest potential for increasing productivity. But, from where I stand today, the Federal Government seems only a little closer to taking the lead. When I first came to Washington in 1976, I introduced, along with Senator JACOB JAVITS, legislation creating a Federal program to support local labor-management committees. There are hundreds of such committees in individual plants, communities, and industries throughout the country and they are doing good work. But, I am convinced there would be hundreds more and that many of them would be stronger if we had some Federal leadership and support in this area.

Our legislation was finally passed by the Congress as part of the CETA reauthorization, on the final day of the session in 1978. However, an agonizing process of seeking a modest appropriation has dragged on for more than a year. The administration finally submitted a supplemental request for the program last week. The fiscal 1981 request is, unfortunately less than one-quarter of the $10 million initially authorized by the Congress, and I will be pushing in the days ahead for a larger commitment in the 1981 budget. We are only paying lip-service to productivity if we cannot commit more than this amount to a concept with such proven potential.

Jamestown and Chautauqua County became the testing ground for another experiment in labor productivity. Like many other distressed communities, the area has been faced with plant shutdowns. In several cases, the employees, with some help from Government agencies, decided to buy out and operate the firms themselves. Under employee ownership, each of these firms has become a profitable enterprise.

The House Subcommittee on Economic Stabilization, in hearings on employee-ownership, has received testimony on similar episodes around the country, and on the success of employee-ownership in spurring productivity growth. Faced with the alternative of unemployment, workers have banded together and reorganized what is typically a poorly managed operation. The change in worker attitude and motivation that comes with having a personal stake in a business' future are also important to the success of such efforts.

A study by the University of Michigan's Survey Research Center demonstrated that employee-owned firms not only improve upon their previous rates of productivity but can compete favorably with other businesses in the same sector. On the average, employee-owned firms were 1.5 times as profitable as conventionally owned firms, the study concluded.

In the last Congress, I was joined by two colleagues, Mr. KOSTMAYER and Mr. McHUGH, in introducing the Voluntary Jobs Preservation Act which would authorize the Economic Development Administration (EDA) to provide loans and technical assistance to employee-ownership plans in cases where plant closings occur. The thrust of that legislation was embodied in an amendment to this year's economic development and public works bill, which seeks the use of at least 5 percent of EDA's annual lending authority to encourage employee ownership of business. I hope this will inspire EDA to take the lead in encouraging higher productivity through employee ownership wherever jobs are threatened.

In addition, I recently offered, and this House approved, an amendment to the Chrysler legislation which makes the Federal loan guarantee contingent upon the establishment of an employee stock ownership plan within Chrysler. I am convinced that the prospects of Chrysler's reversing its financial troubles are considerably stronger if the employees have this kind of stake in the future of the company.

I began with strong reservations about Federal aid to Chrysler. I do not believe it is the Government's place to prop up or bail out failing businesses: Our economic system depends upon the forces of competition to reward efficiency and to eliminate firms which cannot operate profitably. I became convinced in Chrysler's case, however, that Government assistance could be properly structured to maintain employment, production, and competition in this industry. By providing for significant employee ownership of Chrysler, the assistance plan we devised should foster improvements in productivity and thus contribute positively to the vitality of American industry.

Productive use of our human resources depends on one other crucial factor: Education and training. Given the startling transformation of American life over the past century, we have not done a very good job of keeping modern education abreast of modern work. I am reminded of Henry Adams' awe and wonder when he first beheld an electric generator at Chicago's Great Exhibition in 1900. Adams' first reaction, he later recalled in his famous autobiography, was that "Nothing in education is so astonishing as the amount of ignorance it accumulates in the form of inert facts." Of course, Adams pointedly exaggerated the deficiencies of his own education. But I am afraid it is no exaggeration to say that many of the teenagers emerging from (or discarded by) today's education system are in for as great a shock when confronting the most basic work situation. Our failure to relate education to work affects productivity in two ways.

First, we are wasting a tremendous human resource in our unemployed youth. Youth unemployment is unacceptably high—14 percent on average and almost 35 percent among minorities. As we enter what appears to be another recession, there will be even fewer jobs for young people. Yet, all of the current indicators and experiences suggest that a large section of American youth is not only unemployed, but unemployable. That is, they do not have the basic writing and computational skills nor, in many instances, the fundamental work habits which are essential to becoming productive members of the labor force.

In the last decade, the theory has been advanced that the sudden influx of less experienced minorities and women into the labor force accounted for some decline in productivity growth. Whether this factor has significantly affected our performance or not, it is indisputable that attaining higher skill levels will positively influence productivity. This is particularly important in the growing service-oriented sector of the economy.

In this regard, I am heartened by the administration's youth employment initiative. While we have yet to see the actual legislation, I am intrigued by what I understand will be its focus on the education of those who are still in school, beginning as early as the junior high level. This is an area which deserves more attention. I hope my colleagues on the Education and Labor Committee will give careful attention, in fashioning this legislation, to how we can prepare young people with the background, the exposure, the attitude and the skills needed to take on today's working world.

The importance of education and training is not restricted to youth. A society of rapid technological change depends on a workforce that is educated and trained to its full potential, one that has access to retraining commensurate with changes in production. In some industries—particularly where strong labor-management cooperation has developed—retraining programs have emerged spontaneously. But in many cases there is neither initiative nor incentive. To meet that challenge, I have cosponsored H.R. 4404, originally introduced by Senator BENTSEN. This legislation would require that 5 percent of CETA training funds be used to retrain workers who lose their jobs because of the adoption of new technology or other measures taken to improve productivity. The bill also directs the Department of Labor to review Federal job training programs to suggest new ways of addressing the problems of displacement.

CAPITAL FORMATION

Having participated in the development of human resources, I have become increasingly frustrated with our failure to integrate labor productivity with other important dimensions of this issue. Accordingly, last October, I returned to the site of my "initiation," as it were, to convene a national conference on productivity in Jamestown. The aim of that weekend was to set in motion a broad dialog to fit all the essential pieces together.

The results were encouraging: There seemed to be some consensus, cutting across all the sectors represented at the conference, that certain key issues lie at the root of our productivity problem. Chief among them, in addition to human resources development, were the issues of capital investment and technological innovation.

Obviously, these are related. Adequate supply of capital is essential for transforming technological advances into commercial innovation—especially in the manufacturing sector. In that context, it may also be needed in the form of venture capital for the emergence of small new firms where most of our new products and processes, in fact, have developed. Capital, however, is also needed even in the absence of substantial innovation: For the replacement or expansion of physical plant. This is particularly important in the context of an expanding labor force or in those distressed areas where business commitment is already tenuous.

Overall, except in periods of recession, business investment has been strong. There are significant gaps, however, in the functioning of our capital markets which have put small new firms and firms in distressed areas at a disadvantage. A year ago, this city was awash in proposed remedies for the problem of capital "shortage": "urbanks," "capital development banks," and the like. Whatever the rubrics involved, it seemed likely that Congress would approve some new financing mechanisms for new ventures and for distressed areas.

Today, only the expanded authority for the Economic Development Administration has emerged from the shadows of all those phantom banks to see the light of day. The administration's EDA bill, which promises to provide some $2 billion in annual subsidies, loans and loan guarantees to stimulate business development is now before a House-Senate conference. I have strongly supported the expanded authority and I hope the conferees will reach a speedy agreement. I believe this is precisely the program which, coupled with the recently augmented urban development action grant (UDAG) program, will encourage commercial expansion and new development in areas of hardship. From the standpoint of improving productivity, I consider it most important to target financing assistance to areas of lagging growth. To meet additional needs of smaller firms, I recently introduced legislation (H.R. 6273) which realistically raises the loan guarantee limits of certain Small Business Administration programs.

But these measures still leave a crucial problem unanswered: The availability of venture capital for small businesses. A recent study, for example, of development financing conducted by the Northeast-Midwest Research Institute concludes from a survey of public offerings of securities that "the public sale of equity for smaller firms has been a difficult alternative for several years." The report further cites the New England Regional Commission's study of the New England market which "indicated a problem in raising equity capital for new ventures involving high technology."

In this context, I did support attempts in this House to add an equity financing provision to the EDA authorization bill. I have reservations about the efficacy of direct Government ownership, but I think it is clear that in some areas that are crucial to innovation and productivity, loans will not be enough to stimulate development. The strong UDAG program is, of course, of some use in this context, but its grants are essentially limited to governmental functions (for example, public facilities improvements in tandem with a private development) and are generally not used as equity. Ultimately, I am persuaded that the best solution would be an independent entity—patterned as a private corporation in the public interest similar to COMSAT—which would be initiated with Federal funding and would be empowered to invest in small innovative firms. Along these lines, I am interested in President Carter's proposal for a corporation for innovation development, contained in his innovation initiatives last October.

The debate over how to improve capital formation (as distinct from how to solve the capital "shortage") has focused less on Federal supply of capital and more on methods of altering the business picture to encourage investment. Among the causes for slow investment, last year's JEC report cited the uncertainty of the economy, high interest rates, and certain provisions of the tax code. Of course, improving the stability of the economy is our main goal in the first place. But, the second factor we clearly have more control over. The Federal Reserve's decision to attack inflation by imposing the highest interest rates ever experienced threatens to throw our economy into further disarray without any perceptible gains over inflation.

Fourteen percent interest rates have not only caused a crisis in America's housing market—with all the economic ramifications such a construction stoppage entails—but they also have served as a deterrent to business investment. The capital stock/labor force ratio fell by more than 3 percent between 1974 and 1979, even before the really high interest rates arrived. It seems to me that the Fed's policy constitutes a stubborn application of textbook remedies which no longer fit. Some reassessment is in order.

On the third matter of tax policy, there is an emerging consensus that our current rules for accelerated depreciation have outlived their own "useful lives." It has seemed to me for some time that a depreciation policy based only on historical costs rather than replacement costs is counterproductive. Moreover, given rapid technological advances, depreciation should be accelerated to encourage replacement by more efficient capital stock.

I believe the accelerated depreciation rules need substantial revision, but I am not sure the magic numbers are "10–5–3." The nickname refers to a measure proposed by Representatives JONES and CONABLE, which would standardize and shorten the tax writeoff periods for capital expenditures to 10 years for nonresidential structures, 5 years for most machinery and equipment, and 3 years for cars and trucks used in business.

The cost estimates—once the changes are fully effective—appear enormous: Revenue losses have been projected by Treasury to exceed $50 billion a year by 1984. In view of the costs, it seems essential to assure that the changes provide a sufficiently strong investment incentive and do not contain inequitable or perverse effects. Under the present version of the Jones-Conable bill, for example, the auto industry is projected to face a tax increase in the first few years while other sectors may reap windfalls. It would also seem important to provide inducements to the sectors characterized by low productivity growth, such as construction, mining, and certain manufacturing industries which in general are not the main beneficiaries of the Jones-Conable proposal.

INNOVATION

Another major area of productivity improvement which I want to address is perhaps the most complex: Encouraging technological innovation. Basically, improvement in technologies increase the amount of output per unit input by improving the quality of a product or process.

Critical to policy formation to impact innovation performance is an understanding of the innovative process and where to direct Federal efforts. A common misconception is that research and development (R. & D.) alone results in or is synonymous with innovation. R. & D. really encompasses only the first step in the innovation process by advancing the State and/or application of knowledge about a given product or process. Research and development must then be applied to yield a particular invention, or way of utilizing the R. & D. to advance the state of the art technology. And, finally, the innovation process can only be completed when the invention enters the marketplace and is adopted by customers, creating demand.

As with other economic indicators, America has experienced a decline in R. & D. funding as a percentage of gross national product over the last several years. Most of that decline has been registered in the public sector—especially as we have edged away from the age of Sputnik and Appollo. Our goal in developing Federal research policy must be to find ways of making Federal R. & D. complement and stimulate meaningful private sector R. & D. Moreover, we must recognize that increased Government spending on research or across the board tax cuts to stimulate private sector spending on research may not in themselves contribute to overall improvements in productivity performance. I have heard compelling testimony, both at the Jamestown conference and in congressional committee hearings, about the wealth of new ideas that are out there waiting for an encouraging investment environment.

Additional, and perhaps more serious challenges are awaiting us in the later stages of the innovative process as we attempt to take our advances in the state of knowledge and bring them to commercialization. Analysis, I think, will show that it is at this stage in the process where we have most often lost out to international competitors such as Japan and West Germany.

Focusing in on the precise reasons we are failing to take better advantage of the results of our research and development efforts is difficult and applying solutions can be expected to be more difficult yet. The Commerce Department recently completed an intensive study of the innovative problem. This study resulted in several policy recommendations from the White House last October. While these recommendations can be regarded as a first step in our efforts to stimulate innovation, a deeper commitment to ongoing review and action on innovation is critical to implementing a national program to improve productivity performance.

One area which has received particular attention as a deterrent to innovation is the labyrinthine patent system. I have cosponsored two pieces of legislation in this area. First, the Uniform Federal Research and Development Act (H.R. 5715) promises to maximize the commercial use of innovations developed under Federal auspices by offering sufficient exclusive rights as an incentive for early commercialization. I have also joined in support of H.R. 4407, the Patent Depreciation Act which will shorten from 17 to as little as 5 years the period over which businesses can depreciate patent costs. Finally, I intend to support efforts made by the administration and others to streamline and improve our patent procedures and eliminate impediments arising from patent litigation .

Creative small businesses, as I indicated earlier, play an important role in the latter stages of the innovation process. A lot of necessary support must come in the form of venture capital, which I also have already mentioned. Beyond this, Government programs such as the National Science Foundation's small business innovation research program deserve enhanced support.

The program has as its goal the expansion of small businesses capable of conducting innovative research for the Federal Government that can be commercialized. Finally, in this area, efforts such as those proposed under the Small Business Innovation Act that would require the Small Business Administration to provide technical assistance to small high technology R. & D. firms and would further stipulate that a minimum portion of purchase and contract R. & D. dollars go to small firms should be adopted.

A third area which can help complete the innovation process is improved linkage between universities, which are the primary creators of new knowledge, the Government and industry. One way of fostering a closer working relationship in this regard is the establishment of innovation centers around the country to train entrepreneurs and focus on specific technological innovations. To help advance the concept, I am supporting the efforts of my colleagues, Representative GEORGE BROWN, embodied in H.R. 4672, legislation pending consideration by the House Science and Technology Committee. Another approach which deserves support is the concept of cooperative research undertakings between industries and universities, such as we are now witnessing in the automotive area.

Obviously, there are many aspects of the innovation component of productivity that are not discussed here and which demand our further attention and study. But, when all is said and done, I suspect that any comprehensive stimulus to innovation will depend on creating an awareness—among business people at all levels—of the need for certain innovations in their field. Such a prospect might well entail the Federal Government's giving detailed attention to each sector of industry.

A persuasive argument for this new Government role was recently expressed in a letter I received from Dr. Myron Tribus, director of the Center for Advanced Engineering Study at MIT. Dr. Tribus observes that our future success rests on our ability to develop "collaboration between government and industry." "We need," he declares, "to develop mechanisms whereby each industry is confronted with the facts regarding its international and internal competitiveness and its relationship to other industries. This strategy would call for collaborative studies by industry and Government, industry by industry, to discover the competitive situation. In some cases the required action may mean the removal of barriers. In other cases it may mean the acquisition of technologies. * * * where there is a threat from foreign competitors. * * * it will be necessary for the people in the industry to comprehend this in some depth."

In any event, Dr. Tribus notes, "this strategy requires breaking new ground." The key word here, I think, is collaborative. It will take the full resources of the public and private sector to promote innovation and lasting productivity growth.

REGULATION

Any systematic effort to improve productivity growth in the private sector must focus sharply on the impact of Government regulations. There are literally hundreds of ways that Federal actions have served to protect special interests, distort market behavior, and raise the costs of doing business. While I am not a flat opponent of regulation, I believe the benefits must clearly outweigh the costs.

There are basically two kinds of Government regulation. In certain sectors, such as transportation, communications, and financial institutions, the Government determines what rates can be charged and who can provide particular services. In each, I believe, deregulation could greatly strengthen competition and lead to more efficient provision of services.

The other type of regulation involves issues that are not adequately dealt with by the market. These typically involve subjective choices that are difficult or impractical for individuals to make (such as worker health and safety) or external costs (like pollution) that society as a whole will end up paying for.

We can undoubtedly do much more to encourage efficient choices in these situations as well. Regulatory agencies, to a much greater extent, should utilize performance standards rather than specific technological requirements, to encourage the private sector to find ways to minimize compliance costs. And in setting standards, we should insist upon a careful assessment—and balancing—of costs and benefits. In aiming for thorough analysis, however, we must not simply impose cumbersome new procedures or layers of additional paperwork on Government agencies.

I have cosponsored a bill (H.R. 76) originally introduced by Senator BENTSEN to establish a "regulatory budget" which would set annual ceilings on the costs each agency could impose through regulatory requirements. I would want to begin by testing the concept in selected agencies, to see if it results in better regulatory analyses and appropriate choices among regulatory requirements.

There are many other areas which I do not have time to touch upon this afternoon. There is the question, for example, of increasing productivity in the public sector—an enormous issue where a great deal of work can be done, particularly in some of the older regions of the country where the proliferation of political jurisdictions yields duplication of services. I have cosponsored one bill, H.R. 4409, which would make a start in the area of public sector productivity by requiring certain improvements in the quality of productivity data on governmental agencies compiled by the Bureau of Labor Statistics. The bill also directs the agency to develop comparisons of productivity gains in the public and private sectors.

But, when all is said and done, what is most needed to improve productivity is a commitment from this Congress to focus its efforts on putting the puzzle together and launching a comprehensive strategy. There will be no quick solutions. And when we find the solutions, there will be no instant progress. Our decline in productivity growth has crept upon us stealthily—like the boulder slowly rolling back upon King Sisyphus. We can hardly expect to achieve a reversal overnight.

One thing is certain. We cannot, as a Congress, seek refuge in John Milton's poetic defense that "They also serve who only stand and wait." Indeed we serve no purpose by standing and waiting except to allow the situation to worsen and to allow Americans to lose faith in their Government as well as confidence in their own futures.

As I returned to the towns and cities in my district last year, I detected an increasing anxiety among constituents. I think I know what it is made of: Frustration, weariness at the same old problems, and a growing skepticism about the future. And one of its root causes is inflation—at growing rates and with no end in sight. Inflation, for example, is eroding a bit of the generosity in each of us. I am convinced that the renewed attacks upon social programs have arisen not because we were convinced such programs are universally mismanaged but because inflation has diminished our own horizons. It cuts short future aspirations and pushes each of us closer to the credo, "Looking out for number one."

Under the circumstances, I wonder that the Carter administration, given the insufficiency of current anti-inflation polices, could evince such indifference to the productivity issue in last week's Economic Report of the President for 1980. I have supported the President's program for voluntary wage and price guidelines, but it should be clear to all of us—in the wake of the highest inflation rate of the postwar era—that a great deal more is needed.

The President's latest Economic Report, for the second year in a row, concludes that little can be done about productivity. "Since it is difficult to identify a single cause for a slowdown in productivity growth, the immediate prospects for improvement in productivity are not good," the report states. It goes on to predict a trend rate of productivity growth on the order of 1 to 1.5 percent.

The adminstration's budget sent a similarly negative message: That slow growth and high unemployment must be endured in order to fight inflation. I do not question the need for restraint, but I believe any effective anti-inflation strategy must include a positive program to improve productivity.

Our recent track record may be grim, but I am not discouraged. I believe we can draw on our native store of determination and ingenuity. In the words of Henry David Thoreau, "nor are we to judge of man's capacities by what has been done, so little has been tried."

□ 1750

RESOLUTION OF INQUIRY ON ABSCAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PEYSER) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PEYSER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PEYSER. Mr. Speaker, let me say that one of the proudest days of my life was when I was privileged to become a Member of the House of Representatives. Today it is still one of the proudest moments of my life to be a Member of this organization.

There is, however, today, Mr. Speaker, a fear in the House of Representatives, and there is also anger.

The fear is not because of alleged wrongdoings by Members in the so-called ABSCAM scandal, but of how Members feel they may be perceived by their own constituents. There is also anger, Mr. Speaker, and that anger is directed at any Member of this House who may be responsible for weakening or destroying the public trust in our Government.

Those of us who hold this public trust must keep it as our most sacred duty, or if found to have violated it, they should be expelled from this body.

There are also questions concerning this ABSCAM investigation that must be answered now. Eight Members of Congress have been, at least in the public press, accused of accepting bribes or indicating their willingness to use their influence for a price. If those charges are true, whether entrapment was used or not used, those Members do not belong in the U.S. Congress.

Let us not lose sight of the fact, however, that one of the duties of Members is to strengthen growth within their congressional districts. If those Members who have been accused attended meetings to discuss ways of bringing business and industry into their district, believing that they were dealing with honest businessmen who were offering no inducements, and those Members in turn accepted none, then they are guilty of nothing. These men have all received the trust of their constituency by being reelected to this Congress. It is for this reason that it is absolutely necessary that the Federal Bureau of Investigation immediately bring to light the circumstances surrounding this situation.

I might say, Mr. Speaker, that yesterday I spoke with some members of the Federal Bureau of Investigation and with the Justice Department, and I told them of this special order and I asked them if they would like to make a statement, at least clarifying their position on what happened in this matter. At that time yesterday afternoon, in the phone conversation, it was indicated to me that they would like to make a statement. And, as a matter of fact, shortly after noon today a member of my staff went down to the Justice Department to pick up that statement. Somewhere between the time that we initially spoke and when we went to pick up the statement, the signals must have changed because no official statement was waiting, and I was informed that they wished at this time not to make any statement.

I do not think, Mr. Speaker, that the country, the Congress, can wait, or those who may be accused, for a grand jury investigation or for a trial. We must know now what has happened. If ever the public, the American public, needed to have confidence in its Government, in all branches of its Government, it is now.

We are faced with international crises, the youth of our country are faced with the potential of military registration, our economy is certainly in trouble, we have an unacceptable rate of inflation, and these are things that the American people, having faced them before, have always been able to work out, and the reason they have been able to work it out is because they have had confidence in their Government. This confidence is an essential today if this country is going to continue to prosper and, in fact, to survive.

Mr. Speaker, it is for this reason that I have today introduced a resolution of inquiry. A resolution of inquiry, as you know, is something that is not often used in the Congress of the United States. But this is a resolution of inquiry requesting that the Department of Justice furnish pertinent data to the Congress so that we all may be aware of the total ramifications of these charges.

In effect, Mr. Speaker, after this reaches the appropriate committee within 7 legislative days, this can be brought up on the floor of the House. And as the situation now stands, Mr. Speaker, it would be my intention to do that. I think that we need to move rapidly. We can no longer delay, we can no longer accept headlines that one day indicate that eight or more Members may be guilty of a crime, another day that indicate maybe only five are really guilty, three may not be, and I have no idea what tomorrow's leaks from the Justice Department may be as to the status of this particular scandal.

The time is now. It is my hope that the Justice Department will move rapidly and will let the proper committees in the Congress act.

Mr. Speaker, I have nothing further at this time to say on this matter, and I would yield back at this time the balance of my time.

RIDERS FLOCK TO ZEPHYR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

●Mr. CAVANAUGH. Mr. Speaker, I want to draw the attention of my colleagues and the Department of Transportation to the 60-percent jump in annual ridership figures for the San Francisco Zephyr, the transcontinental train which serves the city of Omaha, and the overall continued upsurge in Amtrak ridership. The Department of Transportation's January 1979 plan called for the discontinuation of the Zephyr and the rerouting of passenger train service through Kansas City. This plan, if it had gone into effect, would have left the State of Nebraska without any major railway service. Due to congressional initiatives, the Zephyr and many other trains threatened with "discontinuation" are running today.

When Congress debated the National Railway Passenger Reauthorization Act there were some who argued that Amtrak's increased ridership was only a consequence of the summer gasoline shortage and would decline when the gasoline supply was restored. Obviously this prediction was in error. More than 1½ million people ride on Amtrak trains each month and the passenger corporation attracted 120,000 additional riders in October/November of 1979 than it had in October/November of 1978. This increase took place despite the abandonment of five routes that failed to meet the congressionally mandated performance criteria.

Those of us in the Congress who fought against the Department of Transportation's plan to reduce Amtrak's route system by 43 percent should derive a great sense of satisfaction from these continued increases. In addition, the management of Amtrak is to be congratulated for successfully implementing both the spirit and the letter of the reauthorization bill.

As the price of imported oil continues to climb and more people decide to use Amtrak, the innate efficiency of railway passenger service will become increasingly evident. It is my hope and the hope of many of my constituents that eventually there will be enough additional demand for Amtrak service that the passenger corporation will add a second train to the Zephyr route and that this second train will stop in Omaha during daylight hours.●

COUNTRY REPORT ON HUMAN RIGHTS—LAOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

● Mr. ZABLOCKI. Mr. Speaker, the U.S. Department of State is required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended, to report each year to the Congress on human rights conditions in those countries receiving or proposed to receive U.S. economic and/or military assistance. A 1979 amendment to the Foreign Assistance Act required the State Department to expand its coverage and include reports on the human rights conditions in all U.N. member states, not just those receiving U.S. assistance. The report for 1979 which has just been published by the Committee on Foreign Affairs covers 154 states and runs to a record 854 pages.

Inadvertently, the "1979 Country Report on Laos" was not printed in its entirety. I would like to take this opportunity to insert in the RECORD the full report on Laos which the State Department has just provided. The text is as follows:

LAOS

Cultural, institutional, and historical factors have profoundly affected the human rights situation in Laos. Historical factors include political struggles and armed fighting that has been going on for decades, causing rifts that have still not healed. Past foreign involvement has made the government suspicious of Westerners. The population of Laos is about three million (approximately 50 percent Lao, 20 percent tribal Thai, 15 percent Phoutheng (Kha), and 15 percent Hmong (Meo), Yao and others, thinly and unevenly distributed over more than 91,000 square miles of generally rugged terrain. Governmental institutions in Laos are weak. Literacy is estimated at 12–20 percent.

Under the Lao People's Democratic Republic (LPDR) established on December 2, 1975, there was an initial severe deterioration in human rights conditions. Government leaders relied on force to control those people recently brought under LPDR control. Several thousand officials of the former government who were not trusted by the new regime have been confined indefinitely for "reeducation." Some officials of the former government, however, continue to hold positions of responsibility within the bureaucracy.

There has been some improvement during the past two years in several aspects of human rights in Laos, though notable shortcomings persist in many areas.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Torture:

In previous years there have been isolated reports of torture in "reeducation camps" and prisons. There has been no independent investigation of the camps or prisons, and these reports thus cannot be confirmed. This year, the Department of State has not had any reports of torture.

b. Cruel, Inhuman or Degrading Treatment or Punishment:

Refugees have described conditions in "reeducation" camps (for political prisoners) as primitive, with limited medical facilities and poor food often resulting in malnutrition and disease. The inmates reportedly grow much of their own food. These sources state the prisoners are forced to perform hard labor; prisoners reportedly receive the same salary as a private in the Lao Army. Lao Government officials have publicly denied reports of mistreatment of persons in the reeducation camps. These officials often maintain that camp inmates lead a life which is no more difficult than that led by most rural Lao.

The Lao authorities have taken a number of foreign observers to see "rehabilitation" centers for "social evils" on islands in the Nam Ngun Reservoir, which they apparently regard as a showcase effort. Conditions of these detention centers appear spartan but adequate.

The Lao People's Democratic Republic also has normal prisons and prison work camps where those convicted of crimes are held together with some persons accused of undefined political offenses. There have been a number of reports of executions, some as late as 1978. Official policy calls for execution of the leaders of resistance groups, and Lao authorities have announced the execution of a few "reactionaries" charged with sabotage activities. One report about Vientiane's Sam Khe Prison alleges that in 1977 and 1978 several inmates were beaten to death following "People's Courts," held inside the prison. A recently released prisoner from Sam Khe reported that he had not witnessed any overt brutality during nine months of detention. According to refugees and to sources in Vientiane in prior years, the authorities in Southern Laos had executed a number of people, some publicly, in an effort to clamp down on armed resistance there. Such reports are difficult to verify. There have been some refugee reports of executions of those attempting to escape from reeducation camps.

c. Arbitrary Arrest or Imprisonment:

Shortly after the establishment of the new regime, several thousand Lao citizens as well as a few foreign residents were arrested for their association with the previous government (or with the United States), and were sent, without public hearing or trial, to remote camps for "reeducation." The reeducation camps in Phong Saly were closed in early 1979 and most of the camps' inmates released, reducing the number of those in captivity to some extent. Former Prime Minister and adviser to the Lao Government Souvanna Phouma told a visiting U.S. reporter in March 1979 that he estimated about 10,000 (15,000 at the most) were being held in re-education camps. In November and December, at least two more camps were closed down, and there were unconfirmed reports that this may have been part of a broader program to close down all camps.

Persons accused of hostility to the regime or socially undesirable habits (prostitution, drug abuse, idleness, and wrong thought) are sent to rehabilitation centers without trial, and can be held there for indefinite periods. Most of these persons have been allowed to return after several years of hard labor, political indoctrination, and admission of guilt.

Under the LPDR concept of justice, those undergoing reeducation or rehabilitation are not necessarily charged with specific crimes. The Lao Government attempts to portray these camps as learning and indoctrination centers, differing only in degree from the "seminars" attended by government officials themselves. However, in order to be released one must reform and recant past mistakes. Thus, the eventual release of these prisoners depends on the subjective views of their captors as well as the prisoner's behavior. Individuals are still being arrested for "social evils" and sent to "rehabilitation camps" for periods from a few months to several years. There is turnover in the camp's population, but the number of inhabitants appears to remain about the same.

The Lao have promulgated interim rules and regulations for the arrest and trial of those accused of specific crimes, including armed resistance to the government. These regulations were disseminated to local authorities in October 1978, primarily because of the haphazard way in which lower-level authorities were handling their criminal and judicial duties.

d. Denial of Fair Public Trial.

Since those confined for reeducation or rehabilitation are not technically considered to have committed a crime, they have no recourse to a trial. Their period of reeducation is determined by government authorities based on their progress in becoming "new socialist men."

As for those accused of specific crimes, the LPDR admits that a number of individuals have been wrongfully confined or executed without trial. It was in an initial attempt to correct this situation that the rudimentary system of rules for criminal investigation and trial was distributed in October 1978. However, even if regulations were followed, they would provide no real opportunity for the accused to defend himself. Rather the government has issued instructions on how to investigate, prosecute, and punish wrongdoers. There is some provision for appeal, with the key exception that important political cases are tried by people's courts and are without appeal. Death sentences must be cleared by the Ministerial Council.

Lao regulations call for judgment to be given in public. This is in effect public announcement of sentence rather than public trial.

There is no constitution in the LPDR, although the Ministry of Justice has for the past four or five years reportedly been drafting one, and an interim order and trial has been issued.

e. Invasion of the Home

According to LPDR regulations, search of private homes requires written orders from the Prosecution Department, Ministry of Justice or from the concerned provincial Prosecution Service. The search is supposed to be conducted in front of the accused or other witnesses and a written inventory made of confiscated goods. Except in urgent cases, house searches are required to be conducted during the day. In practice, these regulations are reportedly sometimes violated. Even in cases in which they are followed, they provide little protection for the individual, since search and seizure are authorized by the peace keeping authorities themselves rather than an independent authority.

2. Governmental Policies Relating to the Fulfillment of Such Vital Needs as Food, Shelter, Health Care and Education:

Laos is an underdeveloped country with a population of about 3 million people, 85 percent of whom are engaged in subsistence agriculture. The avowed primary goal of the Lao Government is to improve the economic condition of the people by a socialist transformation of the economy, most importantly by collectivization of agriculture. In early 1978, instances of attempted coercion of some farmers to join agricultural cooperatives were reported, causing for the first time some lowland Lao farmers to join the refugee stream. According to the Lao Government, this coercion was the result of lack of understanding by both cadre and farmers, and not a LPDR government policy. As a result, the formation of new cooperatives has been halted until after the 1979 harvest.

The country's economic problems are further complicated by inadequate internal transportation and isolation from the sea. The Government has announced an ambitious program for economic development with emphasis on agriculture and forestry. It has nationalized most industries and has at times tried to impose strict controls on urban private enterprise. However, the Lao authorities have allowed some private trade to continue. The rapid inflation of previous years has been halted, and the consumer price index has actually shown a modest decline in 1978 and 1979. In December, a currency substitution followed by a devaluation brought the official exchange rate liberation kip, in line with the unofficial exchange rate. Official procurement prices of commodities were also raised to more closely approach free market prices. Officials of international organizations have reported instances of malnutrition, but no starvation. The government is attempting to establish a national rural health system, but shortages of trained personnel (many fled in 1975), medicines, facilities, and equipment have continued to frustrate this effort. These shortages, also hamper the use of medicine and hospital supplies and other public health assistance received in foreign aid.

The Lao authorities have instituted a new campaign to wipe out illiteracy. (Outside agencies have estimated that more than 80 percent of the population is unable to read and write.) It is not yet possible to tell how successful this campaign will be, although the Lao claim that good progress is being made.

3. Respect for Civil and Political Liberties, Including:

a. Freedom of Speech, Press, Religion and Assembly,

The press is government-controlled and is a principal instrument for disseminating government and party positions. Written or spoken opposition to the government is not considered a legitimate activity. Some persons who have engaged in such activities have been jailed.

Laos has traditionally been a Buddhist nation with a minority of other religions represented. The Government has taken over some Buddhist and Christian places of worship for use as seminar halls, but the practice of Buddhism and Christianity has been allowed to continue. The government has been attempting to use the Buddhist clergy as teachers and to explain and endorse government policies. Donations to support monks are tax exempt. Monks are the only remaining social group still entitled to special honorific terms of address.

In 1979, Vientiane celebrated the Lao New Year in April with a return to traditional ceremonies. Despite official government statements, including instructions to avoid waste, warnings to maintain public security and constant reminders of the threat from foreign troops, this year's celebration appeared to reflect the traditional Lao New Year's spirit more than has been the case in the past few years.

b. Freedom of Movement Within the Country, Foreign Travel and Emigration

Until December 1979 Lao citizens were required to seek permission from the authorities for most internal travel of any distance. Foreign travel is permitted for officials and students of government-approved programs; Border crossing permits are available for those with business in Thailand. The Lao Government has said that those wishing to emigrate will be allowed to do so. In fact tens of thousands have fled Laos; some were fired upon and some killed by Lao border guards, as they crossed the river to Thailand. Many Lao caught seeking to leave illegally have been imprisoned, although in some cases they have only been sent for short indoctrination seminars before being allowed to return home.

The Lao have recently agreed with the Thai Government that each side will take back, on a case by case basis, those of its citizens who have illegally crossed into the other country and wish to return home. The Department of State has had reports of returnees who have been treated well by the Lao authorities. However, there have also been rumors from refugees in Thailand of executions of those who had been repatriated. It has not been possible to confirm these stories. It is clear, however, that certain categories of refugees can return without major reprisals.

c. Freedom to Participate in the Political Process

Local elections were held by the new authorities in the autumn of 1975. Voters in villages and districts were allowed a choice from a list of candidates who had been preselected by the state/party organization. Provincial and nation-level representatives were reportedly chosen by these locally-elected officials, although the latter process was not public. In November 1979, a number of Lao officials were arrested for "political activity." The number arrested and the nature of their activity are not known.

The LPDR is attempting to overcome traditional Lao attitudes and to integrate minority groups and women into their system. Lao women are treated equitably in most cases, and are encouraged to take part in economic and state controlled political activity.

d. Treatment of Minorities

There is no evidence that the government is seeking to destroy any particular ethnic group, per se, such as the Hmong. Rather the government is equally repressive toward all who fought against its takeover, and most especially toward those who continue to resist its authority by force of arms. The war with the Hmong is surely brutal; but the main differences between the Hmong and other resistance groups is that the Hmong have attempted to defend specific tribal areas, and there is a traditional ethnic antipathy. The Hmong and their families thus constitute concrete targets for the Vietnamese and Lao military. Also, they are heavily armed, requiring conventional military operations to dislodge them from their strongholds. The Hmong themselves are split along clan lines, with many on the side of the LPDR and Vietnamese.

There is also an ongoing military campaign to suppress resistance from lowland Lao groups, mainly in southern Laos and around Vientiane. Many of the insurgents are former Royal Army troops. Both sides are reported to use brutal tactics, with the anti-government insurgents engaging in assassination and ambush.

The LPDR has begun a program to resettle some ethnic minorities who inhabit mountainous areas into the low-lands under better government control and where they can engage in agricultural production. Villagers of some tribal peoples have been forcibly relocated. The government undertook this program because there has been significant armed resistance, chiefly by those Hmong (Meo) dissident groups who had been armed and trained by the U.S. and, before that, by France in the war against the communists. A joint Lao and Vietnamese army campaign to suppress hilltribe resistance in Laos had been in progress for a number of months. Refugees have reported that large numbers of women and children have been killed in bombing raids and that captured Hmong soldiers have been dealt with harshly, and in some cases killed. There have been refugee accounts of attacks using some sort of lethal chemical agent against Hmong. We do not have absolute proof of these charges. However, the results of U.S. Government investigations support the conclusion that some chemical agent or agents were being used in Laos from 1974 to as recently as May 1979.

The deterioration in Sino-Lao relations has resulted in increasing Lao Government suspicion of and surveillance of local Chinese. So far, however, there has been no policy of expulsion or persecution. The Chinese school is open, the Chinese Association is in operation, and Chinese merchants are in business, though many have left the country.

4. Government Attitude and Record Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights:

Laos allows little independent travel by persons capable of investigating human rights violations. Foreigners are not allowed to travel outside Vientiane without specific permission. Foreign journalists have been allowed to visit Laos with increased frequency during 1979, even though their reports have caused the government some embarrassment. Within Vientiane, foreign diplomatic and other observers are able to talk relatively freely to a cross section of the city population. However, most of these individuals have no direct information on the situation outside the capital. There have been several official visits to rehabilitate centers, but no travel by outsiders has been authorized to the more remote reeducation camps.

A number of UN agencies are present in Laos, but there have been no groups visiting Laos specifically to investigate human rights conditions there.●

TAXES AND THE INDEPENDENT CONTRACTOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SCHULZE) is recognized for 60 minutes.

● Mr. SCHULZE. Mr. Speaker, I would like to advise my colleagues that the Ways and Means Committee report dealing with legislation to clarify the status of the independent contractor is now available.

This bill, H.R. 5460, was reported by the Ways and Means Subcommittee on Select Revenue Measures on Tuesday, November 27 on a 5 to 4 vote.

Mr. Speaker, during the public hearings on this issue the Internal Revenue Service placed a great deal of emphasis on the so-called underground economy. During his testimony, Assistant Secretary of the Treasury, Donald Lubick stated that $600 million in taxes could be realized from the imposition of a 10 percent withholding tax on independent contractors. With this statement, Mr. Lubick has attempted to leave the impression that most of the problems of the underground economy could be solved by taxing independent contractors. Yet, the report on this legislation which has emerged from the Select Revenues Subcommittee contains a number of exemptions to the 10 percent withholding requirement and noted that "the revenue * * * cannot be estimated."

In my judgment, this lack of a revenue estimate must give rise to several reactions in Congress. The first of these is that the Internal Revenue Service has allowed certain organizations to write the "safe harbor" criteria contained within the bill in exchange for their support for the 10 percent withholding requirement. And, second, that the IRS has adopted a strategy of convincing Congress to impose a withholding tax and then at some later date will attempt to remove the exemptions.

At this point, I would like to call attention to the "Dear Colleague" letter of December 20, 1979, sent to us by the gentleman from Missouri, Congressman DICK GEPHARDT, who has played a key role from the beginning on this critical issue. I quote from that letter in opposition to the subcommittee's reported version, H.R. 5460:

> I feel this study (IRS) is inadequate in many respects but most importantly it provides no basis for taking such a radical approach. It would be an administrative burden on the self-employed; it is unnecessary in light of the increased reporting requirements in Section 3 of the bill; and, it would be costly to the point where the Treasury will end up losing money. In addition, the Subcommittee bill contains so many exemptions that the independent contractors who allegedly are not paying their taxes will be exempt from withholding under the bill.

Mr. Speaker, my intuition tells me that in full committee, instead of including a part of the report for "revenue effect", if the bill were to remain as is, we would have to include an "inflationary impact statement."

I would also like to share with my colleagues the reactions of Senator HOWARD CANNON and Senator STROM THURMOND who recently spoke on the Senate floor on the issue of the underground economy. In Senator CANNON's remarks of December 13, he included stories from the Las Vegas Sun which noted:

> The more people who escape the IRS clutch the harder the IRS squeezes those it can reach. It needs to produce more money from those who dutifully file their annual returns. The IRS clings to the notion that if it catches and punishes enough people—and publicizes these "victories"—it will deter tax evasion and quell tax rebellion.

Senator THURMOND included in his remarks of December 4, a followup story written by the editor of U.S. News and World Report, Mr. Marvin Stone which I would like to quote in part:

> The reaction to our recent article on tax cheating in the "underground economy" was both sizable and surprising. In two weeks, people wrote to us from 24 states, and 3 out of 4 defended or sympathized with the tax dodgers.

Mr. Speaker, it is legislation such as H.R. 5460 that generates the view as summed up in the aforementioned article by Marvin Stone from the person identified only as—"from Illinois"—

> So now it is the evil waitresses, cab drivers, tomato sellers and the godless unemployed who are behind the plot to destroy America.

According to the testimony of Assistant Secretary of the Treasury Donald Lubick, 76.2 percent of the compensation provided to independent contractors was reported and so we on the Ways and Means Committee and in the Congress do wonder about those who did not report. The GAO study on this issue, I feel, gives us a good insight into the problem. The GAO said:

> IRS has not taken the action needed to get a good understanding of how many nonfilers exist, who they are, why they fail to file, and what action will prompt their compliance.

Those of us who supported an amendment offered by Mr. JOHN DUNCAN of Tennessee to provide for a study in lieu of the 10 percent withholding tax did so for two reasons. First, there is a need to correct the inherent biases built in the IRS compliance study and to find out what action would prompt nonfilers to comply. And, second, we need to avoid the so-called squeezes referred to in the Marvin Stone article on those citizens who dutifully file their returns.

One might be shocked to find that the Internal Revenue Service is thinking along the same lines. Senator HENRY BELLMON in a speech on the Senate floor on September 10, 1979, pointed out that there is currently between $7 to $14 billion in unreported interest and dividend income. He went on to emphasize:

> However, the Treasury Department proposes only to extend information reporting to interest derived from certain money markets and other debt instruments to reduce underreporting.

It is interesting to note that the IRS never mentioned this study to improve compliance during the course of our deliberations and they would be well advised to commission a similar study on the independent contractor issue, if such study has not been previously undertaken. Nevertheless, since the IRS only proposes to change the reporting form on interest and dividends and advocates a 10-percent withholding tax on the independent contractor, one can see why they might be embarassed to discuss their compliance study.

In addition, to the Duncan amendment, I supported an effort by the distinguished gentleman from South Carolina (Mr. HOLLAND) which would have had the effect of eliminating the 10-percent withholding tax outright. While this amendment was also defeated by a single vote, I sense a growing feeling among my colleagues that it is improper to even consider a withholding tax on independent contractors because such a tax would eventually destroy the basis of the entrepreneurial system.

Mr. Speaker, we must thoroughly examine those individuals who will be detrimentally affected by enactment of H.R. 5460, in addition to the muteness and the incorrect information that was supplied to the subcommittee regarding one of my amendments, as well as Mr. DUNCAN's during the markup process.

The first place one would look to begin drafting criteria for a safe harbor is the IRS revenue rulings. We find that one, pertaining to independent contractors, does exist under employment tax procedures, revenue manual—audit 46 (10)2. This 1976 ruling is based on two Supreme Court decisions and six criteria are clearly set out to show when a contract operator is an independent contractor. I include the ruling at this point:

[IRS Revenue Manual, part IV—audit, employment tax procedures 84/9–5, 46(10)2]

TRUCKING INDUSTRY—CONTRACTS OPERATORS

(1) The issue of whether contract operators of trucking equipment are independent contractors or employees of a carrier for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (WT) will, under present law be decided in favor of an independent contractor relationship where the facts are substantially similar to those in the cases of *United States* v. *Mutual Trucking Co.*, 141 F. (2d) 655 (6th Cir., 1944) and *United States* v. *Silk and Carter H. Harrison* v. *Greyvan Lines Inc.*, 331 U.S. 704 CT. D. 1683. 1947–2 C.B. 167.

(2) The factual situation in the cases indicated that no control over the contract operators was contemplated by the agreement or, generally, was practiced in the performance thereof beyond those elements of control made necessary through governmental regulations and through the need to adequately establish or set out the result to be accomplished Revenue Rulings 95–593, 1955–2 C.B. 610, and 56–453, 1956–2 C.B. 687, involve these principles Revenue Rulings 70–441 and 70–602, 1970–2 C.B. 210 and 225, respectively, are distinguishable.

(3) The combined effect of the above is to create a strong inference that a contract operator is an independent contractor when the following six factors are present:

(a) he/she owns the equipment or holds it under a bona fide lease arrangement.

(b) he/she is responsible for the maintenance of the equipment.

(c) he/she bears the principal burdens of the operating costs, including fuel repairs, supplies, insurance, and personal expenses while on the road.

(d) he/she is responsible for supplying the necessary personal services to operate the equipment.

(e) his/her compensation is based upon a division of the gross revenue of a fee based upon the distance of the haul, the weight of the goods, the number of deliveries or combination thereof, and

(f) he/she generally determines the details and means of performing the services in conformance with regulatory requirements, operating procedures of the carrier and specifications of the shipper.

(4) The factors in (3)(a) through (e) above give contract operators substantial opportunity for profit and loss and the risks of enterprise, which are indications of independent contractor relationships.

Mr. Speaker, during our deliberations an amendment was offered based on this ruling which included practically verbatim four of the six provisions. Criteria (e) was taken out because a 1977 case heard in the Ninth Circuit Court decided that independent contractors could be paid by the hour or by a fee. Criteria (f) was also excluded. This criteria is a restatement of the Mutual Trucking case, which is fine, but was applied to only shippers and carriers. This amendment was designed to apply to all blue collar independent contractors across the board.

What is absolutely astounding is that the IRS, not once, in our discussions or markup sessions pointed out that the above revenue ruling existed and would be helpful to the subcommittee in clarifying the status of this large group of independent contractors. Then, equally appalling, when the amendment was offered the members of the subcommittee were advised by committee staff that the amendment applied to one industry only, which is contrary to the very reasons criteria (f) was excluded.

I am happy to report that the Joint Committee on Taxation has recognized this oversight and have indicated that they will clarify the matter in the full Ways and Means Committee. Nevertheless, the fact remains that the IRS was silent throughout this entire matter despite the fact that relevant information was available.

Mr. Speaker, I am confident that the Ways and Means Committee will eliminate the 10-percent withholding tax, yet what will remain in the bill, it seems to me, will be only a small step in the right direction. The task force and the Select Revenue Measures Subcommittee will have spent all this time and what is left does not change anything substantially. It will be business as usual with an insurance policy for a few independent contractors.

The original purpose of this legislation was to clarify the status of as many independent contractors as possible. With this in mind, our committee colleague, PHIL CRANE, wrote to the distinguished Member from Missouri, DICK GEPHARDT, on September 7, 1979, to inquire if the latter would expand the "safe harbor" provisions contained within his bill, H. R. 3245.

Mr. GEPHARDT, who is also a member of the Ways and Means Committee, and whose bill I have cosponsored, replied to Mr. CRANE on September 19, 1979. I would like to include the first paragraph of his reply.

Dear Phil: Thank you for your letter of September 7, 1979 concerning the status as independent contractors of workers who own or lease their own equipment. As you note in your letter, there has been judicial recognition under current law that workers who invest substantially in equipment and bear the burden of operating and maintaining that equipment should be classified as independent contractors.

As I mentioned, DICK GEPHARDT has been in the front of the effort to eliminate as much of the grey area as possible and I am pleased that he supports the principle of the "assets test safe harbor." Further in his letter to PHIL CRANE, Congressman GEPHARDT said:

In fact, I have told representatives of such workers that I would endeavor to have such language placed in the Committee Report on their behalf.

Mr. Speaker, I was delighted to learn that DICK GEPHARDT will offer the amendment to eliminate the 10 percent withholding tax and I hope he will also offer the amendment concerning the blue collar safe harbor. Since his exchange of correspondence with PHIL CRANE much more information regarding these judicial doctrines has been made available. We should join together to work for language in the statute rather than the committee report. The sins of omission can ruin the spirit of this bill and the integrity of our committee.

It is interesting to note that originally the Internal Revenue Service argued against any safe harbor criteria. Now that we are beyond that point and have adopted the safe harbor principle, it is fitting and proper that, in keeping with the purpose of this bill, we look to see what various doctrines fit within that principle.

This was best expressed by the distinguished member of our committee from South Carolina, KEN HOLLAND. In a letter to the subcommittee chairman, dated October 12, 1979, Mr. HOLLAND wrote:

I have noted that there is judicial recognition under current law that workers who invest substantially in equipment and bear the burden of operating and maintaining that equipment should be classified as independent contractors. By the very fact that the common law "control" test has been made statutable and included in H.R. 3245 and H.R. 5460, it seems reasonable to assume that this can and should be done for the "investment" test. It is my opinion that the Subcommittee has rejected the IRS arguments opposing the safe harbor concept. If I am correct, the question then is not one of compromise with the IRS but of the Subcommittee judiciously considering two legal precedents on their merits.

Mr. Speaker, Mr. HOLLAND is correct and to be helpful to the members and the joint committee staff, I will include a detailed listing of the self-employed provided by the Bureau of Labor Statistics computer. I note there is a 1978 total of 7,912,000 self-employed; 713,000 are defined as white collar sales workers many of which are now exempted by specific industry; and, as I count, some 59 categories of blue collar self-employed, totaling 1,595,000, who, probably in most cases, could not meet all the safe harbor criteria in H.R. 5460.

This would be particularly the case with respect to their inability to control their own hours of work and/or scheduling proposed in H.R. 5460. But the Supreme Court said in the Mutual Trucking case that it is all right for the payor to control the independent contractor as to the results to be accomplished. But the IRS, after citing this in a revenue ruling, chose to remain silent during the hearings on the law, and, who are the workers that could easily and deservedly be covered by a logical extension of the ruling.

There is no accurate way to tell the fate of the remaining 5.6 million self-employed listed on the tables. For example, I did not include 32,000 miscellaneous mechanics and repairmen and 15,000 printing craftsmen who probably could not control their own hours of work, but could have a substantial investment in equipment, yet not be protected under H.R. 5460.

At this point, I include my estimate of those that would need the second, assets safe harbor to clarify their status:

The Bureau has listed 276 categories by class and detailed occupation. Those listed below, in most cases will have a substantial investment in assets (which could include a vehicle) needed to perform the service and would have to be controlled by the payor as to hours worked and the results to be accomplished.

Engineers	26,000
Life and physical scientists	10,000
Engineering and science technicians	14,000
Photographers	32,000
Carpenters	292,000
Bricklayers and stonemasons	55,000
Bulldozer operators	15,000
Cement and concrete finishers	10,000
Electricians	43,000
Excavating, grading, and road machine operator (excluding dozer)	35,000
Floor layers (excluding tile setters)	7,000
Painters	129,000
Paperhangers	14,000
Plasterers	8,000
Plumbers and pipe fitters	43,000
Roofers and slaters	30,000
Structural metal craftsmen	1,000
Tile setters	12,000
Machinists	6,000
Metal craftsmen	13,000
Blacksmiths	4,000
Pattern and model makers	1,000
Sheetmetal workers	4,000
Tool and die makers	3,000
Automobile body repairmen	36,000
Automobile mechanics	141,000
Airconditioning, heating and refrigeration mechanics	32,000
Aircraft mechanics	1,000
Farm implement mechanics	4,000
Heavy equipment mechanics	18,000
Household appliances and accessory installation mechanics	23,000
Radio and television mechanics	30,000
Cabinetmakers	26,000
Carpet installers	23,000
Cranemen, derrickmen and hoistmen	2,000
Shoe repairmen	10,000
Sign painters	10,000
Tailors	6,000
Upholsterers	15,000
Craftsmen and kindred workers	18,000
Asbestos and insulation workers	4,000
Assemblers	3,000
Blasters and powdermen	1,000
Earth drillers	9,000
Dry wall installers and lathers	23,000
Filers, polishers, sanders and buffers	1,000
Metal platers	1,000
Photographic process workers	1,000
Precision machine operative	7,000
Welders and flamecutters	24,000
Boatmen and canalmen	1,000
Busdrivers	3,000
Deliverymen and routemen	27,000
Fork lift and tow motor operatives	1,000
Truckdrivers	160,000
Gardeners and groundskeepers	89,000
Lumbermen, raftsmen and woodchoppers	30,000
Vehicle washers and equipment cleaners	5,000
Policemen and detectives	3,000
Total	1,595,000

Source: Bureau of Labor Statistics computer run—self employed current population survey: 1978 annual average.

Mr. Speaker, it is clear that I view with alarm many aspects of the IRS testimony and one in particular is highlighted in a colloquy I had with Assistant Secretary Lubick in markup concerning the assets test in the safe harbor now in H.R. 5460 as reported. I am personally convinced, and will introduce an amendment to this effect in full committee, that a vehicle which is used to transport the tools on one's trade should be considered as tangible property furnished by the individual to perform the service.

I described a situation with which I am familiar and I gave as an example, the transportation of a craftsman's equipment. Mr. Lubick advised the subcommittee that this circumstance included only a small number of vehicles which were too difficult to define and involved insignificant property assets.

As a result of this conversation, I obtained the most recent truck inventory and use survey for the State of Pennsylvania from the Bureau of the Census in order to confirm or refute the IRS's alleged wisdom and knowledge on this subject. The figures for Pennsylvania alone are most impressive. These statistics for the year 1977 are quite detailed and the most recent available.

First, we note from the "operator classification" table, there were in Pennsylvania 942,600 privately owned trucks. This figure excludes exempt carriers, contract carriers, common carriers, local cartage, for hire daily rental and the nonreported classification. This figure, of course, not only includes independent contractors, but also company owned trucks and those owned for personal transportation.

Operator classification

Not for hire: private owner or individual	942.6
For hire interstate:	
Exempt carrier	1.5
Contract carrier	9.8
Common carrier	15.7
For hire intrastate local cartage	10.3
For hire daily rental	3.5
Not reported	5.9

Next we note from the "major use" table that 59.6 percent of the trucks are for personal and other noncommercial use.

VEHICULAR AND OPERATIONAL CHARACTERISTICS

	1963	1967	1972	1977
Total trucks	100.0	100.0	100.0	100.0
Major use:				
Agriculture	13.9	13.1	11.4	7.5
Forestry and lumbering				.3
Mining and quarrying		1.7	1.4	.8
Construction	12.2	10.4	11.5	7.8
Manufacturing	6.6	3.6	3.4	2.2
Wholesale and retail trade	20.9	15.9	11.7	9.0
For hire transportation	8.2	6.8	7.0	3.4
Utilities and services	8.6	9.1	12.6	9.1
Personal transportation	24.6	31.9	38.9	57.4
Other	5.0	7.5	2.2	2.2

Therefore, we can eliminate 59.6 percent from the 942,000 trucks and we can see that in Pennsylvania, in 1977, there were 380,810 privately owned trucks used for commercial purposes, not including the big intrastate and interstate carriers.

We are specifically interested in knowing how many of those 380,810 trucks are owned by the driver/independent contractor, and, if some are driven by employees, how many of those owners find the trucks necessary in performing their service as an independent contractor?

Unfortunately, the Bureau of the Census did not ask those specific questions on their survey. Inquiries with the Motor Vehicle Manufacturers Association of the United States and the Automotive News in Detroit were not able to uncover any specific data. However, the Chilton Co. of Radnor, Pa., publishers of Owner Operator Magazine and Commercial Car Journal does keep statistics on owner/operator (independent contractors) for class 7 and 8 (heavy duty) trucks. Mr. Brant V. Clark, publisher of the Owner Operator, said:

> The percentage of sales to owner/operators (independent contractors) compared to total sales is now over 25 percent.

Since we know the number of commercial trucks in Pennsylvania—380,810—and have eliminated heavy-duty trucks from that figure, I was interested to know if the percentage remained the same for class 1–6 trucks.

Mr. Patrick Close, director of the American Truck Dealer Division of the National Automobile Dealers Association, said:

> The percentage of commercial sales of class 1–6 trucks to independent contractors would probably be higher. I estimate between 25 percent to 35 percent.

So, if we use the average 30 percent figure, we can estimate that Pennsylvania in 1977 had over 100,000 vehicles owned by independent contractors and used in the performance of their service. This seems about right since the Bureau of the Census survey listed about 70,000 as carrying "craftsman's equipment" and most all of the latter would be independent contractors. Also, probably all of the latter and many of the others would be excluded from the safe harbor in H.R. 5460.

At any rate, notwithstanding the comments of Mr. Lubick, I do not think 100.000 vehicles for one State is a small number. Moreover, if we apply this percentage for just 22 States included on the Ways and Means Committee, we are talking about 2.1 million vehicles and perhaps as many as 5 million vehicles nationally—definitely no small number.

We are also interested in the products carried by these trucks. At this point, I include that table:

Products carried

Farm products	66.2
Live animals	7.0
Mining products	7.0
Logs and other forest products	14.9
Processed foods	38.0
Textile mill products	6.9
Building materials	73.8
Household goods	10.7
Furniture or hardware	7.4
Paper products	5.4
Chemicals	10.5
Petroleum	9.6
Primary metal products	4.9
Fabricated metal products	10.6
Machinery, except electrical	6.5
Electrical machinery	19.6
Transportation equipment	17.6
Scrap, refuse, or garbage	16.3
Mixed cargoes	52.1
Craftsman's equipment	69.5
Special equipment	9.4
Personal transportation	502.8
Other	10.1
Not reported	12.7

We note that 69,500 trucks carry "craftsman's equipment." It is logical to assume that most of these trucks are owned and managed by independent contractors which, as indicated, for some reason, are excluded from the safe harbor in H.R. 5460.

There are 21 products listed. H.R. 5460 states that a vehicle which is used primarily to transport the individual and any tools, shall not be taken into account.

This eliminates "craftsman's equipment" but includes the trucks carrying the other 20 products. This is a total absurdity for if anything is needed to perform a service it is the tools of one's trade. How does the painter get his ladder to the jobsite—by magic carpet?

My amendment, which I include at this point in my remarks, will correct this inequity:

PROPOSED AMENDMENT TO H.R. 5460

Section 3508.

(B) Tangible Property Furnished By Individual.—

(i) In General.—More than one-third of the value of the service is attributable to tangible property furnished by the individual performing the service.

(ii) Certain Property Taken Into Account.—For purposes of clause (i), the following shall be taken into account:

(I) a vehicle which is used in the performance of the service and qualifies under Sec. 162 (a) of the Internal Revenue Code for a trade or business deduction and, or qualifies under Sec. 167 of the Internal Revenue Code for depreciation expenses.

(iii) Certain Property Not Taken Into Account.—For purposes of clause (i), the following shall not be taken into account:

(I) any asset which is leased from, or the financing of which is in any manner assisted by, by the service recipient (or any person related to the service recipient).

Subclause (I) of the preceding sentence shall not apply to the leasing or financing of a vehicle on terms and conditions comparable to those available in the open market.

(iv) Other Rules.—For purposes of clause (i)—

(I) if an asset is leased by an individual for a period which is long-term in relation to the useful life of the asset, such asset shall be treated as tangible property furnished by the individual, and

(II) the payment (without direct or indirect reimbursement) of maintenance costs and of fixed operating costs with respect to tangible property shall be treated as the furnishing of tangible property.

As you must realize by now, H.R. 5460 purports to create a "safe harbor"; those who qualify will not be treated as employees and those making payments to them will not be considered employers for employment tax purposes. H.R. 5460 also requires the users of independent contractor services to withhold 10 percent of the payments due as a withholding tax; finally H.R. 5460 imposes information return reporting obligations.

The purported "safe harbor" in H.R. 5460 can more accurately be viewed as a Bermuda Triangle. The criteria for qualifying as independent contractor contained in H.R. 5460 are novel, if not revolutionary, for they disregard the fundamental premise on which all independent contractor or employee definitions depend.

Furthermore, the 10-percent withholding tax provision is of admittedly dubious value from a revenue standpoint and an unfortunate example of legislative "overkill" in light of the fact that more than 75 percent of all self-employed persons presently file tax returns. But the 10 percent withholding tax provision carries with it far greater evils than those. It would, I submit, seriously compromise our other legislative objectives, including those directed toward encouraging minority business enterprise, assuring elderly persons that they will not be unjustly "put out to pasture," as well as encouraging and sustaining small business.

The clearest example of the devastating impact on, if not destruction of, minority business enterprise is best revealed by looking at the construction industry. As many of you are probably aware, construction contractors and subcontractors receive progress payments, typically on a monthly basis, for the value of the construction work completed over that period of time, with the payor, either the owner or the general contractor in the case of subcontractor payments, retaining a percentage of the amount due.

These retained funds, commonly known as retainage, normally constitute 10 percent of the progress payment and are withheld for a variety of sound reasons, such as a reserve for defects or improper work, and economic security to assure continued work on the project by the contractor or subcontractor.

As I understand H.R. 5460, it proposes to tack on a 10 percent withholding tax in addition to the 10 percent retainage customarily withheld in the construction industry. You don't need to be a construction contractor or accountant to realize that the typical minority subcontractor faces economic ruin when 20 percent of his cash flow is being withheld.

Similarly, the so-called safe harbor is of no use to many of these minority construction subcontractors, since they typically use a portion of their personal residence for their business activities but clearly do not have a wing in their home devoted exclusively to such use; nor are they so well capitalized that they can easily, or for that matter prudently, enter equipment lease agreements for long terms.

Similarly, the elderly whom we want to afford the opportunity to remain active participants in our economy will find this bill to provide strong disincentives for their continued service as outside consultants following their retirement from employment. Many such persons have been able to continue making valuable contributions to their former employers and to others requiring their experience and expertise acquired over the years. This experience and expertise is not something that you buy a truck to transport, need a warehouse to store, and is not the "tangible property furnished" necessary to satisfy the criteria for nonemployee status under H.R. 5460.

The damage to small businesses to be worked by H.R. 5460 is also readily apparent since they too will suffer serious curtailment of cash flow as a result of the 10-percent withholding tax, face considerable difficulty in meeting the so-called safe harbor and will be less likely to have recourse to the accountants and tax lawyers who will explain the purported exemptions available to them.

Underlying this entire discussion of H.R. 5460 is the very real threat that the trades and businesses who provide opportunities for such small business enterprise, provide opportunities for fledgling minority businesses, who provide opportunities for remunerative services for the retired persons, face significant risks in engaging in utilizing such services for how are such, to use the language of H.R. 5460, "service-recipients" to know whether these individuals meet the complex and, more importantly, novel formula provided under H.R. 5460 for nonemployee status.

In short, can we say with positive assurance that service recipents will be willing to run the risk and the attendant significant liabilities of guessing wrong. My personal view is that businessmen being prudent in such matters will be advised to play it safe and use corporate entities for subcontracting work or perform such work inhouse or not at all.

I believe, however, that my amendment will do the two jobs which need to be done. We need to remove the cloud of uncertainty concerning the employee or independent contractor status of many Americans and do so by using well-known and long-standing concepts of independent criteria and codify these criteria under our Internal Revenue Code.

We must also fill the informational void on the question of individuals performing remunerative services failing to file tax returns. My amendment contains information return requirements which will provide this data. It seems obvious to me that once IRS has this information concerning who made payments, to whom, when, for what, and for how much, the IRS will be able to ably discharge its responsibilities, while avoiding the grave dangers of the approach taken by H.R. 5460.

Mr. Speaker, hopefully we can also eliminate the one-third rule which is part of this criteria and is equally absurd. In addition, by adopting the Duncan amendment, which provides for a second safe harbor based on a realistic assets test, further confusion in this area will be removed.

Finally, I recall that Mr. Lubick said that these vehicles were too difficult to define for tax purposes. It is interesting to note that the Department of Commerce, Bureau of the Census, had no problems in this regard. I include the table from the Pennsylvania survey that defines the body type according to major use:

VEHICULAR AND OPERATIONAL CHARACTERISTICS

	Total trucks	Standard error	Major use										
			Agriculture	Forestry and lumbering	Mining and quarrying	Construction	Manufacturing	Wholesale trade	Retail trade	For hire transportation	Utilities	Services	Daily rental
Total trucks	989.4		74.0	4.9	8.3	77.2	22.0	39.9	48.9	30.1	20.0	70.3	3.4
Standard error			8.9	1.7	2.3	8.9	3.7	5.9	7.1	3.1	4.7	9.1	1.6
Body type:													
Pickup	556.7	17.1	50.4	1.9	3.1	30.8	3.6	5.1	14.7	1.9	3.5	21.0	
Panel or van	228.5	15.9	1.8			9.4	5.0	3.8	16.5	1.9	4.7	27.1	
Multistop or walk-in	24.4	5.8	.2			.2	.1	14.7	2.1	.1		1.9	.1
Platform with added devices	12.0	1.9	2.7	.3	.6	1.8	.8	.7	.9	.5	.1	2.7	
Low boy or depressed center	2.1	.5	.1			1.0	.1	.1	.1	.6	.1		
Other platform	37.8	4.6	6.4	.9	.4	11.5	3.1	2.5	1.7	4.1	.9	4.3	.1
Cattle rack	5.2	2.3	5.0							.2			
Insulated nonrefrigerated van	2.9	.5	.5				.4	.5	.7	.6			
Insulated refrigerated van	6.8	.8	.4				.3	4.3	1.0	.8			
Furniture van	9.4	2.8				1.7	.7	.7	2.6	3.1		.2	
Opentop van	1.9	.5		.1			.4	.2	.4	.5		.1	.1
Other enclosed vans	26.6	2.2	.3	.1	.1	.4	4.0	3.8	1.9	11.4	.2	.6	2.9
Beverage	2.2	.4						1.4	.7				
Utility	14.5	3.9			.1	3.4	.2			.1	10.0	.5	
Winch or crane	4.8	2.2			.3	.5	.1		.2			3.6	
Wrecker	2.6	1.6										2.5	
Pole or logging	1.4	.4		1.2		.1				.1			
Auto transport	.4	.2								.3			
Boat transport													
Mobile home puller	.3	.2						.1		.2			
Garbage hauler:													
Front loader	.3	.2										.3	
Rear loader	2.1	.5					.1		.2			1.8	
Roll off	.3	.2					.1					.2	
Not specified	.3	.2										.3	
Dump	31.1	3.1	5.3	.4	3.2	14.6	1.5	.4	.8	1.5	.2	1.7	.2
Tank for liquids	10.5	1.0	.7		.1	.4	.5	1.4	4.1	1.7	.2	1.0	
Tank for dry bulk	1.9	.5	.2		.4	.3	.3		.2	.4			
Concrete mixer:													
Front discharger	.1	.1				.1							
Rear discharger	1.6	.4				.9	.6					.1	
Not specified													
Other	.5	.2						.1				.2	
Not reported													

Mr. Speaker, the nationwide Truck Inventory and Use Survey has not yet been released by the Department of Commerce's Bureau of the Census. I was fortunate to obtain, however, the surveys for each of the States represented on the Ways and Means Committee, with the exception of Oklahoma which is not yet available.

In just those 22 States, using the same procedure as I outlined for Pennsylvania, there are 7,152,760 privately owned trucks used for commercial purposes, of which, over 2 million are estimated to be used by independent contractors.

As to the assets involved nationally, for all trucks used by independent contractors, I read with interest the special magazine issued by the publishers of Owner Operator, titled, "The Power of The Owner Operator." I quote from that publication:

> The annual expenditure by the owner operator segment of the trucking industry is staggering. The dollars spent for new trucks, used trucks, fuel, lubricating oil, parts, tires, accessories, service work, trailers and pick-up trucks runs well into the billions. Current studies (1974) indicate that a $10 billion annual expenditure is very realistic.

With the increased costs of fuel and other inflationary impacts, I would say the $10 billion figure is unquestionably realistic. Mr. Speaker, I feel the basis for my amendment and the Duncan amendment is self evident.

So each member on the Ways and Means Committee can see for himself, it is my intention to send to them the State-by-State tables from the Department of Commerce's Bureau of the Census transportation survey.●

● Mr. VANDER JAGT. Mr. Speaker, I also compliment the gentleman from Pennsylvania (Mr. SCHULZE) for exposing the deficiencies of H.R. 5460. It is most important that this legislation be shown for what it really is—a paradox.

Initially, the purpose of the legislation was to clarify the status of the independent contractor. Then the IRS suggested it become a revenue measure. H.R. 5460 is promoted as doing both—but it does neither.

Now the President even considers it a revenue measure. On page 66 of the Budget For Fiscal Year 1981, under "other receipt proposals," we note that the claims of Secretary Lubick made during the hearings are again repeated. At that time, Mr. Lubick said the Treasury would realize $600 million a year in revenues.

If it is a revenue measure, why does the subcommittee report state that "the revenue effect of this bill cannot be estimated?" If it is a clarification measure, why are the great majority of independent contractors excluded when judicial doctrines recognize their status under the common law?

H.R. 5460, which I opposed in subcommittee, not only is a direct threat to the American entrepreneurial system, but also would clearly injure a majority of payors and independent contractors who dutifully file their returns.

So what action can be taken regarding the 23.8 percent of unreported income? The GAO said:

> IRS has not taken the action needed to get a good understanding of how may nonfilers exist, who they are, why they fail to file, and what action will prompt their compliance.

For that reason I supported the Duncan amendments to provide for a 4-year study to improve the compliance instead of the 10-percent withholding tax and will do so in full committee markup. I am delighted that Mr. GEPHARDT will introduce a measure to knock out the withholding tax and that our good colleague from Georgia on the committee, ED JENKINS, will offer the amendment to give statutory recognition (safe harbor) for the "assets test."

I will certainly support both these measures and will urge my colleagues to vote for the Gephardt and Jenkins proposals.●

● Mr. BAFALIS. Mr. Speaker, I wish to commend my distinguished colleague from Pennsylvania (Mr. SCHULZE), for his very thorough and logical approach to the overall problem concerning the tax status of the independent contractor as well as the matter concerning a vehicle to be used as a necessary asset in performing a service. I also applaud his votes in subcommittee which reflect the spirit of the task force report.

This question in the past has been answered, with certain limited statutory exceptions, by reference to the so-called usual common law rules. These rules included two, and probably three distinct types of independent contractors. One group controlled their own destiny. They controlled their hours of work, their scheduling and they controlled the results of their work or lack of work. The courts consistently ruled they were independent contractors under the "control" test. This group, often referred to as the white-collar group, includes, for example, real estate and insurance salespersons and direct sellers.

The second group, strange as it may seem, had to be controlled by (or share control with) the payor as to the results to be accomplished. This was due primarily to practical necessities imposed by the work context. For example, a dump truck operator could not dump sand and gravel or pick up dirt on a construction site whenever he wanted—it would be chaos. The payor had to tell him when to arrive and depart in order to accomplish certain results. The courts again, consistently held these blue collar self employed to be independent contractors based on the substantial investment and management in their own equipment.

As the gentleman from Pennsylvania (Mr. SCHULZE) has pointed out, the IRS even published a revenue ruling on this common law doctrine developed in two Supreme Court cases, one being United States against Mutual Trucking Co.

Here the Supreme Court said the independent contractor generally determines "the means and methods" of performing the services, but the independent contractor "is subject to the control and direction (of the payor) as to the result to be accomplished."

The other Supreme Court decision cited in the revenue ruling, the Greyvan case, said:

> That where the arrangements leave the driver-owners so much responsibility for investment and management as here, they must be held to be independent contractors.

So we have a judicial doctrine that has been supported in many subsequent cases. The distinguished gentleman from Tennessee (Mr. DUNCAN), for the purposes of the amendment that he offered in subcommittee, referred to this doctrine as the "assets test" and quite correctly argued for equal statutory recognition.

I do want to point out that the concurring opinion issued by Justice Rutledge in the Greyvan case issued a warning. He wrote in criticism of the lower courts:

> Here the District Courts and the Circuit Courts of Appeal determined the cases largely if not indeed exclusively by applying the so-called "common law control" test as the criterion. This was clearly wrong in view of the Court's present ruling.

Mr. Speaker, if we allow only the "common law control" safe harbor to be included in the legislation we report from our committee, we will have done exactly what the lower courts did in Greyvan, which is clearly wrong.

The third group of independent contractors must be controlled (or share control) as to the results to be accomplished, most particularly scheduling. Like the second group these contractors generally determine the means and methods of performing the services. They do not, however, have a substantial investment in capital assets. Included in this group are both blue collar and white collar contractors. They have some assets, special skills and a distinct occupation. Moreover, in the case of certain professionals, they have made a substantial investment in education and training to acquire their special skills and license to practice those skillls. In this group, for example, we will find emergency room doctors, also carpenters and loggers, who do not have a vehicle—which would give them substantial assets—that must be used in the performance of their services.

Not much equitable consideration has been given to the second and third groups, particularly the latter group. Fortunately, Mr. JOHN DUNCAN did focus attention on the blue collar problem with his bipartisan amendment which lost by only one vote in subcommittee.

For many years, the common law rules served us well until the IRS began its program of reclassification in the early 1970's. At that time, IRS did not say to the independent contractors, you are not paying your taxes. They said, you should be paying them as employees rather than independent contractors.

The reclassifications understandably alarmed taxpayers. Many of these took place in the white collar group and Congress reacted as early as 1976, urging, in the conference report on the Tax Reform Act of 1976, that IRS should refrain from future action until the Joint Committee on Taxation completed a study. To stop the IRS, however, Congress had to write into the Revenue Act of 1978, a specific moratorium on IRS action.

Because of this scenario, I feel that the second and third groups of independent contractors that I have described above, were overlooked in early legislative drafting sessions and the special task force report was ignored. It was as though the white collar group had preempted the stage because of early reclassifications. However, they cannot logically claim the problem as their own when we look to the future (and the past performance of the IRS) as should be the case when drafting any legislation. And for that very reason, the task force, as I mentioned, in an effort to remove as many payees as possible from the "gray area," recommended three "safe havens."

Then, when the hearings began, another issue came into the picture with the revelations of the underground economy. The IRS did an about-face on their view of the common law and to get the subcommittee to focus on something other than clarifications said, by-the-way, these people are not paying their taxes. The Department of Treasury went to great lengths to explain how an additional $600 million would be obtained from a 10-percent withholding tax.

The gentleman from Pennsylvania, Mr. SCHULZE, has ably pointed out the subcommittee report quotes IRS as saying that it is now impossible to estimate the revenue. This is to make a joke of any argument in support of a withholding tax.

We can speculate, of course, since withholding is an indication of employee status, IRS hopes to eliminate the exemptions in the future and return to their scheme of the early 1970's—to require the entrepreneurs to pay taxes as employees rather than independent contractors.

This is a very dangerous possibility, and one of the reasons I will vote against the withholding tax. For example, in construction, literally all independent contractors are small businesses. I see no reason to jeopardize the American entrepreneurial system here, or in any area, just for the sake of having payors assume the responsibilities of the IRS and the risks of the entrepreneurs.

I do want to emphasize my concern for the change in direction in the drafting of the subcommittee bill (H.R. 5460) from the original attitude of the special task force. H.R. 5266, introduced by our task force and committee colleague, Mr. CRANE, expanded the coverage, but was not even discussed in subcommittee.

Our special task force report stated quite clearly, when considering prior tax liability controversies—

> The Task Force intends that this reasonable basis requirement be construed liberally in favor of taxpayers.

My feeling is this attitude should be maintained for future problems. If we do not get a substantial number of independent contractors out of the "gray area," our efforts will have been a waste of time and we might as well return to the common law.

Originally the psychology was for clearing up the problem and preserving the entrepreneurial system. Now we hear about the strict requirements of the safe harbor because IRS has not yet found a way to improve compliance so that the 23.8 percent unreported compensation is realized. As Mr. SCHULZE has emphasized, there are some who would push withholding and strict criteria regardless of the impact on the entrepreneurial system and those who do file their returns.

Mr. Speaker, our special task force report in commenting on "safe havens," now called "safe harbors," stated:

> The third statutory method for a taxpayer to establish a reasonable basis for the treatment of an individual as other than an employee is to show that such treatment coincided with a long-standing, recognized practice of a significant segment of the industry in which the individual whose status is at issue was engaged. This test does not require that a practice be uniform throughout an entire industry.

There should be statutory recognition for these people which we designated in our report and which I described earlier in these remarks as the third group of independent contractors. Hopefully, this matter will be addressed in full committee markup.●

GENERAL LEAVE

Mr. DAVIS of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Pennsylvania (Mr. SCHULZE).

THE NEW DISTRICT OF COLUMBIA WORKERS' COMPENSATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ERLENBORN) is recognized for 5 minutes.

● Mr. ERLENBORN. Mr. Speaker, an event of significance to this body is unfolding in the District of Columbia. The City Council is considering legislation which would substantially rewrite the District's workers' compensation law imposed by Congress in 1928. The bill represents a vast improvement over the current statute. In time, benefits will be fairer, insurance carrier liability more defined, and workers' compensation insurance generally more affordable for the District's private sector employers. To that extent, the employment climate in the District will improve. This bill, introduced, and shepherded through committee, by Chairwoman Willie J. Hardy, deserves the support of the Council and the Mayor, both on its intrinsic merits as a pro-jobs bill and as an expression of the growing sense of the Council's legislative responsibility under home rule.

Normally, I do not comment on District affairs; I do not serve on the House District Committee. However, the Subcommittee on Labor Standards, on which I am ranking Republican, recently concluded oversight hearings on the Longshoremen's and Harbor Workers' Compensation Act which provides workers' compensation protection to longshoremen and sundry other maritime employees and, since 1928, to private sector employees of the District. The subcommittee devoted 1 day of hearings to the workers' compensation problems of this District, in particular. They are substantial—and worsening.

The significantly higher cost of workers' compensation in the District relative to Maryland and Virginia has eroded the District's private economic and tax bases and, accordingly, job opportunities. In testimony before Mrs. Hardy's committee on housing and economic development, Knox Banner, executive director of the Mayor's Office of Business and Economic Development, concluded that from 1970 to 1976, the District lost 108 firms and approximately 15,000 jobs. Assuming an average income of $12,000 per employee, which may be a conservative estimate, the District loses $180 million in payroll per year. Although there are numerous disincentives to doing business in the District, not the least of which is a minimum wage higher than the Federal minimum wage, Mr. Banner stated:

> One of the most frequently cited disincentives that is presently discouraging business development in the city is the current workers' compensation law . . . as a result of changes in the Act in 1972, District workers now enjoy unnecessarily high compensation benefits, and employers pay unnecessarily high premiums.

Since 1973 the surge in District workers' compensation rates has been stratispheric. Testifying before the Subcommittee on Labor Standards, Acting District Superintendent of Insurance James R. Montgomery III supplied the following table:

[In percent]

Year		Cumulative
1979 (1st half)	8.60	503.62
1978	33.89	435.82
1977	36.89	315.13
1976	37.89	203.26
1975	20.45	119.93
1974	27.10	82.59
1973	43.66	43.66

Mr. Montgomery has since granted an additional 22.7 percent boost, bringing the total 1979 increase to 31.30 percent and the cumulative total since 1973 to 629.99 percent. The comparable figures for Maryland and Virginia through the first half of 1979 were 106 and 173 percent respectively.

The contrast in workers' compensation rates for different employment categories among the District, Maryland, and Virginia is striking:

WORKERS' COMPENSATION RATES—DISTRICT OF COLUMBIA, MARYLAND, VIRGINIA, 1973–78

Types of businesses	Jan. 1, 1978 rate			District of Columbia rate as a percent of Maryland/Virginia rates	
	District of Columbia	Maryland	Virginia	Maryland	Virginia
Clothing store No. 8008	2.23	0.79	0.63	282.28	353.87
Department store No. 8039	2.32	1.16	1.02	200	127
Retail store—not otherwise classified No. 8017	3.39	1.07	1.01	316.82	335.64
Restaurant No. 9079	3.21	1.97	1.72	162.94	186.63
Hotel No. 9052	4.15	2.34	1.40	177.35	296.43
Clerical office employees No. 8810	.39	.25	.18	156	216.67
Outside salesmen No. 8742	.99	.61	.40	162.30	247.50
Carpentry No. 5403	15.46	4.96	7.01	311.69	270.54
Electrical wiring No. 5190	8.99	4.22	3.50	213.03	256.86
Masonry No. 5022	20.15	4.97	4.67	405 43	431.48
Concrete work No. 5221	10.89	4.87	2.62	223.61	415.65
Excavation No. 6217	14.31	5.58	7.68	256.45	186.33
Printing No. 4299	3.72	1.89	1.19	196.83	312.61
Plumbing No. 5183	10.14	4.15	3.42	244.34	296.49

The present rate differential for several particularly high-risk classifications is even more significant:

	District	Maryland	Virginia	District of Columbia rate as a percent of Maryland/Virginia rates
Roofing	36.47	18.92	12.71	192.76/286.94
Window cleaning	76.98	48.40	19.96	159.05/385.67
Painting metal structures	85.26	31.05	23.50	274.59/362.81
Wrecking	67.00	41.08	21.16	163.10/316.64

How have these costs impacted on specific District employers?

Example: A large institutional meat distributor paid $114,982 in premiums in 1978. Had it been located in Maryland, its cost would have been $40,248, and if in Virginia $25,869. The firm is planning to relocate outside the District.

Example: An iron works company allocated 6 percent of payroll in 1973 to workers' compensation; today the rate is 24.58 percent. The comparable rate increases for this type of business in Maryland and Virginia are respectively, 3.8 to 6.14 percent and 2.69 to 5.46 percent. This company is subjected to a dual rate—an onsite construction rate and a fixed plant fabrication rate. Given the wide disparity in workers' compensation costs, District-based fabrication is cost uncompetitive with Maryland and Virginia. Accordingly, companies are locating fabrication plants outside the District. Using a phantom bid for a $1 million fabricating job, the District-based firm would lose to a comparable Maryland shop by $55,781, and to a Virginia shop by $60,863 solely due to workers' compensation costs. This firm recently lost a bid for work at Gallaudet College to a Virginia firm; the bid was $10,000 higher in compensation costs alone.

Example: A District-based construction company faces a premium of $288,966 which in Maryland and Virginia would be $192,286—a $96,680 difference. The carrier is now charging District (Longshore) Act premiums for all employment classifications regardless of where work is performed.

Example: District printers pay more in workers' compensation premiums—$4.23 per $100 of payroll—than printers anywhere else in the Nation except Alaska. The national average is $2.41 per $100 of payroll. In Maryland the rate is $1.79, in Virginia, $1.44. A particular District printer paid $31,220 in premiums in 1978. In Maryland and Virginia the costs would have been $13,184 and $8,904 respectively.

Example: Lumbermen's Mutual of the Kemper Group, the sole provider of workers compensation coverage for Metro construction since 1971, reports that claims to date exceed $111 million or $1.7 million for each mile of subway constructed or under construction—63.7 miles. For every $1 million of construction, $38,770 has been incurred in compensation claims. The cost of insurance in 1971 was $7 per $100 of payroll. Now the average rate is $53 per $100, despite a declining number of accidents over the past 5 years and an absence of catastrophic or multifatality accidents.

Metro's nonconstruction operations are self-insured. Its claims costs since fiscal 1975 have risen from $1.6 million to a projected $9.2 million in the current fiscal year (1980). If a "containment program" is successful—awarding prizes to employees claiming an injury for not filing a compensation claim—fiscal 1981 costs may decline slightly to $9 million. Metro hopes in this fashion to reduce "phantom claims." One suspects there are many; out of 6,000 Metro union employees, 2,900 claims are pending. Metro estimates that three out of five union employees will file and win benefits in fiscal 1981.

Metro has just announced its fiscal 1981 operating deficit will rise $22.4 million to $163.7 million. The reasons cited: union cost-of-living pay hikes, diesel fuel, and workers' compensation. Even at Metro's estimate of $1 per gallon diesel fuel—Metro currently pays 0.77 per gallon—Metro's $9.2 million in workers' compensation costs represents over 60 percent of its expected total fuel bill of $15 million.

Example: An Arlington, Va.-based mechanical contractor bidding on a project located in the District has been faced with a District workers' compensation premium of $4,338 on labor costing $27,400 or a rate of $15.80 per $100 of payroll. In Virginia the company's premium would have been $1,058, a difference of $3.280 or 310 percent.

As disturbing as these figures are, the trend is even more ominous. Had this contractor bid in February 1979 rather than 1980, the District's premium would have been $2,809 and the Virginia premium, $911, "only" a 209-percent difference. Thus, District rates are increasing at an accelerating pace. Virginia rates in 1979 rose 16.2 percent; District rates rose 54.4 percent.

The National Council on Compensation Insurance, the District's licensed rating bureau for workers' compensation insurance rates, filed for an additional 29.4 percent increase to become effective October 1, 1979. Mr. Montgomery, as previously noted, has since granted a 22.7-percent increase. Even more depressing than this latest increase, was the National Council's admission that 29.4 percent was far too low, that an increase of 58.8 percent was closer to the mark.

Naturally, a price is also paid for granting lower-than-necessary rate increases. Insurance carriers, according to the National Council, base their premium determinations on allocating, for each premium dollar, 78.6 percent for claims costs and investigation, 4.8 percent for taxes—excluding Federal income taxes—8.9 percent for acquisition and field supervision, 5.2 percent for general expenses, and 2.5 percent for profit and contingency. When a carrier pays out more in claims than anticipated and on which a premium is predicated, the result is an underwriting deficit.

In 1978, the underwriting deficit for the District was $51 million, or an astronomical 64 percent of premium. The cumulative underwriting deficit since 1972 is $151.6 milliion. The underlying message to insurers is clear: Rate increases are insufficient to recover claims payout. Not surprisingly, the voluntary market for District workers' compensation insurance has shrunk, and the number of assigned risk policies has risen.

The data actually understate the problem, for while the number of assigned risk policies for the District are available, the total number of policies covering the District Act includes the Virginia and Maryland suburbs, as well. Nevertheless, the trend is unmistakable. In 1972 assigned risks represented 3.66 percent of all District Act policies. By 1978 this figure had risen to 14.5 percent.

However, as mentioned above, this percentage is somewhat underrepresentative. Meanwhile, premiums collected on assigned risk policies rose from $612,000 in 1972 to $9.5 million in 1978, and to $12 million in 1979. In 1972 assigned risk premiums represented just 3.6 percent of all District Act premiums. In 1978 the ratio was 12.3 percent.

The foundation for the horrendous cost escalation in District workers' compensation was laid in 1972 when Congress approved the most far-reaching amendments since the Longshore Act's initial passage in 1972.

The impetus to amend the Longshore Act in 1972 began innocuously with a recognition that maximum benefits were insufficient—and that stevedore-employers had suffered, increasingly, the brunt of indemnity actions by vessel owners in recovering the amount of judgments against them by longshoremen, who in addition to collecting workers' compensation from their stevedore-employers, won third-party actions based on the admiralty doctrine of unseaworthiness. The amendments were intended to raise benefits in exchange for eliminating these third-party suits.

However, at a now infamous midnight meeting involving Senate Labor Committee staff, unions, the Department of Labor, and several employers, the bill was rewritten entirely, and numerous controversial provisions added. The employers' representatives claim they were not apprised of them. What were these provisions and how does the Hardy bill address them?

Jurisdiction: Although the jurisdictional provisions of the District Act were not amended in 1972, the extensive liberalization of benefits that year has exacerbated the adverse cost impact of its existing extra territorial application. Section 36-501 of the District of Columbia Code confers Longshore Act jurisdiction:

> In respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, irrespective of the place where the injury or death occurs, except that in applying such provisions the term "employer" shall be held to mean every employee of such person.

District court decisions through the years confirm a policy of liberally construing the statute:

> A workmen's compensation statute must be liberally construed and applied in favor of the workman.—*Great American Indemnity Co. et. al.* v. *Britton, Deputy Commissioner etc.* (D.C.D.C. 1960, 186 F. Supp. 938).
>
> Workmen's compensation acts are remedial statutes and must be liberally construed in favor of injured employees or deceased employees' dependent families.—*Liberty Mutual Insurance Co. et. al.* v. *Donoven et. al.* (D.C.D.C. 1954, 124 F. Supp. 320).
>
> Longshoremen's and Harbor Workers' Compensation Act is to be construed with a view to its beneficient purposes, and doubts, including the factual, are to be resolved in favor of the employees or his dependent family.—*Friend* v. *Britton* (1955, 220 F 2d 820, 95 U.S. App. D.C. 139, cert-den-350 U.S. 836).

Thus, an employee, a resident of the District, but employed in Maryland, injured in Maryland, and who lost his claim under the Maryland Workers' Compensation Act, won a subsequent claim filed under the District Act, jurisdiction predicated on findings that the employer did 26 percent of his business in the District; and the employee had traveled to the District on six occasions during the prior year for this employer. The District Act awarded the claimant a 25-percent permanent disability.

In another astonishing instance of the act's extraterritoriality, the survivors of an employee who died of a heart attack in California, all of whom were residents of California, won District Act death benefits, because the decedent's union pay checks were processed in the District. The Hardy bill would restrict jurisdiction to an employee whose employment is principally localized in the District.

Indexing: Each year benefits rise steadily due to indexing based on increases in the national average weekly wage. There is no limit to the escalator, and the benefits are tax-free. This uncapped escalator was cited repeatedly by subcommittee witnesses to make liability so unpredictable as to be uninsurable. Citing the actual cases of 28-year-old and 24-year-old widows receiving uncapped death benefits, without indexing, the total expected payout over their lifetimes would be $1 million; a 6-percent indexing factor raises liability to $6,700,009; and if indexing continues at the level of the past 7 years, the total will be $9,500,000. A difference of 1 percent in the escalator—from 6 to 7 percent—increases an insurer's liability 42 percent. The Hardy bill caps the escalator at 3 percent. The National Council on Compensation Insurance estimates that a 3-percent cap would reduce premiums 7.6 percent.

Benefits: The basis on which current maximum benefits to injured employees are indexed is 200 percent of the national average weekly wage, since October 1979, $426. The National Commission on State Workmen's Compensation Laws which issued its report in 1972 recommended maximum benefits of 100 percent of the State's average weekly wage—although its preferred alternative is 200 percent.

Furthermore, in cases of temporary total and permanent total disability, the Commission recommended minimum benefits of 66⅔ percent of the employee's gross weekly wage or, preferably, 80 percent of an employee's net spendable earnings. The Hardy bill provides for either 66⅔ percent of gross weekly wage or 80 percent of net spendable earnings, whichever is less. It also provides a cap of 100 percent District average weekly wage or $396.78, which ever is greater. The average weekly wage in the District presently is $270. The current maximum weekly benefit in Maryland and Virginia is $220 and $198, respectively.

With respect to death benefits, the Supreme Court ruled last year in the Rasmussen case that Congress did not intend to place the 200-percent cap on death benefits which applied to living employee beneficiaries. Even the Department of Labor admits this was an oversight in drafting of the 1972 amendments. Thus, the act now permits survivors of injured workers to receive more in benefits than the injured worker would have, had he lived. No other compensation law contains this premium on death. The widow's example above illustrates the destructive interaction of this provision with the uncapped escalator. The Hardy bill places a cap on death benefits of 100 percent of the District's average weekly wage, or $396.78, whichever is greater—the same cap applicable to living employee beneficiaries.

The act also provides full death benefits to survivors of employee beneficiaries receiving compensation for permanent disabilities, although death was caused by events unrelated to employment. No other workers' compensation law, State or Federal, includes this life insurance provision. The Hardy bill eliminates unrelated death benefits except for employees receiving scheduled permanent partial disability payments, in which case, as under the present act, the balance to be awarded under the scheduled award is distributed to survivors.

The National Council estimated that the combined effect of removing unrelated death benefit and of placing a 200-percent maximum on weekly benefits in death cases—the Hardy bill places a 100-percent cap on $396.78—would reduce premiums 2.5 percent. Accordingly, the total combined premium reduction—including the 3-percent escalator cap—would be 9.9 percent.

The conclusion is clear: The District's workers' compensation environment is suffocating employers and destroying a climate conducive to private sector growth and jobs creation. Ultimate responsibility is also clear: It lies with 13 Council members and the Mayor, for they have the opportunity, in the form of Mrs. Hardy's bill, to correct the multitude of abuses Congress has permitted to develop. Congress and the Labor Department have utterly failed so far in their responsibility to make the difficult, controversial decisions required to amend the act. I hope it is an example the Council and Mayor will find themselves unworthy of emulating.●

CARSON CITY SILVER DOLLAR SALE BEGINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, starting tomorrow, February 8, the General Services Administration begins its sale of nearly 1 million historic silver dollars minted in Carson City, Nev., during the 19th century.

These coins were minted between 1878 and 1893 from the fabulous silver discoveries of the day in Nevada. During the two World Wars hundreds of millions of silver dollars were melted for use in the war efforts. It was long assumed that the coins from the Carson City Mint had been included in the great meltdowns. In a 1964 audit of Treasury vaults by the General Accounting Office, approximately 3 million silver dollars were discovered. Many of these coins were still sealed in the original bags from the Carson City Mint.

In 1970 Congress ordered that these coins be transferred to the General Services Administration and sold to the public. The coins were placed in velour lined boxes in plastic display cases and offered to the public in five sales from 1972 to 1974. Those sales resulted in the public buying 1.9 million coins, netting over $55 million for the benefit of taxpayers. Diminishing demand led to the sales being discontinued.

Last year, this Congress passed a bill I introduced authorizing the sale of the remaining 1 million silver dollars. Public interest in the sale has been tremendous. Over half a million people have written to the General Services Administration for information on the sale.

The coins will be sold in two sales. The first sale begins tomorrow, February 8 and ends April 8, 1980. There will be three categories of coins offered: 1883, 1884, and "mixed-year" coins. There is no limit on the number of coins that may be ordered, however, orders for more than 500 coins will be filled only up to that number until all other orders are filled. I have written to Administrator Rowland Freeman of the General Services Administration and asked him to lower that limit because I fear that such a high limit may deprive some people of an opportunity to purchase some of these coins.

Advertisements with order forms will appear on February 8 and February 11, 1980, in 55 daily newspapers, including the Chicago Tribune, New York Times and the Wall Street Journal, in the February 18 issue of Time magazine and in two issues of the coin publications Coin World and Numismatic News. Prices are $65 for 1883 coins, $60 for 1884 coins and $45 for the coins in the "mixed-year" category. Prices are also available within the continental United States by calling (800) 336–4745, a special toll-free telephone number. In Virginia, the number is (800) 572–0386. Federal Information Centers across the country will also have the prices available. These centers are listed under "U.S. Government" in the white pages of telephone books.

A second sale, later in the year, will offer Carson City silver dollars from 1880, 1881, and 1885. Those coins will be sold by public auction by mail order. A minimum bid price will be set just prior to the sale. Bids will be limited to five coins from each category.

In both sales, the prices include shipment by registered mail to any place in the United States, its territories and possessions, and to APO and FPO addresses.

These sales will be of benefit to the purchasers of the coins and to all taxpayers. Buyers will obtain a beautiful and historic coin reflecting the development and settlement of our country. Taxpayers will benefit from the millions of dollars in revenues the sale will bring into the Treasury.

Mr. Speaker, I hope this sale is a success so that buyers and taxpayers can both share the benefit that these coins hold.●

SURFACE TRANSPORTATION ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, I have today joined Congressman JIM HOWARD, the able chairman of the Surface Transportation Subcommittee, in introducing the Surface Transportation Act of 1980.

This legislation provides for much needed increases in the authorization levels for our public transportation and highway programs. The goal of this legislation is to promote energy self-sufficiency for America by increasing the availability of funds for energy efficient public transportation and energy related changes in our system of public roads. New authorizations in this bill total $27.5 billion for fiscal year 1981 through 1985. This includes an additional $490 million for developing public transportation in rural areas. This is a substantial amount of funding during a period of budgetary constraint. However, because of its importance to energy conservation, these authorization levels are justified with funding from the crude oil windfall profits tax.

The availability of the increased authorizations included in the legislation depends on the availability of revenue generated by the crude oil windfall profit tax. Thus, if the windfall profit tax is not adopted, this bill will have to be revised substantially. Therefore, whether in the form of increased program authorizations as contained in this legislation, or a specific public transportation trust fund as outlined in title III of H.R. 6207, introduced December 20, 1979, a dedicated source of funds for public transportation capital projects, and energy-related improvements to our system of public roads is necessary.

I urge my colleagues in the Congress to support this legislation and assure that funds are available for transportation systems efficiency. We must promote efficient transportation as one important means of reducing our Nation's dependency on imported oil and securing an energy self-sufficient America.

Mr. Speaker, I would like to stress the need for transportation systems efficiency. It is a need which exists in all areas of this country, in rural and urban areas, in public transportation, and on our public roads. The concept of transportation systems efficiency presented in this legislation is consistent with the original initiative contained in H.R. 6207. It is a broad-based need which will benefit all regions of this country. I commend it to the House.●

PERSONAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ANTHONY) is recognized for 5 minutes.

● Mr. ANTHONY. Mr. Speaker, today I missed two votes while I was attending a meeting of the American Forestry Association and addressing the Southeastern Lumber Manufacturers Association. Had I been present, I would have voted "nay" on rollcall No. 36, a motion to recommit H.R. 2551, the Agricultural Land Protection Act, with instructions, and I would have voted "nay" on rollcall No. 37, final passage of H.R. 2551, the Agricultural Land Protection Act.●

POTENTIAL USE OF U.S. SUBWAYS FOR CIVIL DEFENSE PURPOSES

(Mr. SKELTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SKELTON. Mr. Speaker, recently, the Library of Congress Congressional Research Service prepared a study, at my request, regarding the potential use of U.S. subways for civil defense purposes. I include it herewith:

POTENTIAL USE OF U.S. SUBWAYS FOR CIVIL DEFENSE PURPOSES: A BRIEF DISCUSSION

(By Jonathan E. Medalia, analyst in national defense, Foreign Affairs and National Defense Division, and John W. Fischer, analyst in transportation, Economics Division, Jan. 31, 1980)

INTRODUCTION

Anyone recalling films of the World War II bombings of London probably remembers film sequences showing Londoners living in the Underground (Subway) system to escape the havoc being wrought by German bombers above. It is highly unlikely that the designers of the London Underground had any inclination to design a transportation system that could also protect people from aerial bombardment, as the first sections of the Underground were completed almost 40 years before the invention of the airplane. Even without the benefit of such forethought, the system proved highly effective as a shelter and contributed significantly to the saving of lives during the war.

Since World War II, there has been sporadic interest in the potential use of U.S. subway systems as bomb shelters. Concepts of warfare have changed to include the possible use of nuclear weapons, so that the type of protection required has changed significantly since the London blitz. This paper discusses in very general terms some issues involved in converting subways to civil defense use.

THE STATUS OF U.S. SUBWAYS

In order to understand what might be required to convert subways to use as civil defense shelters, it is necessary to be aware of the size and character of current and projected rapid transit systems to which this proposal might apply.

Subways in the U.S. are found only in a number of large metropolitan areas. If current plans for construction are carried through, it could be reasonably expected that there would be a total of 292 miles of subway structure in the contiguous U.S. within the next few years. Of this total, approximately 49 percent would be in the New York City region, the remainder being found in nine additional areas. The following list shows the current and future location of U.S. subway structures, and the miles of actual underground structure of each.

LOCATION AND LENGTH OF U.S. RAPID TRANSIT SYSTEM SUBWAY STRUCTURES[1]

Location	Urderground mileage	Status
New York:		
New York City Transit Authority.	137.0	In place.
Port Authority Trans Hudson.	7.4	Do.
Atlanta	10.1	In place, under construction, and planred.
Baltimore	4.5	Under construction.
Boston	30.0	In place, and under construction.
Buffalo	5.2	Under construction.
Chicago	10.1	In place.
Cleveland	.5	Do.
Philadelphia:		
Southern Pennsylvania Transportation Authority.	11.2	Do.
Port Authority Transit Corp.	4.4	Do.
San Francisco:		
Bay Area Rapid Transit	23.5	Do.
MUNI	(?)	Under construction.
Washington, D.C	48.4	In place, under construction.

[1] Phone conversation with John Neff, Director of Statistics, American Public Transit Association, Nov. 27, 1979.

Over the last decade the cost of constructing new rapid rail systems, with significant subway sections, such as Washington, D.C.'s, has become almost prohibitively expensive. As a result, there is little future rapid transit construction under consideration, with the possible exceptions of Los Angeles and Detroit. In those communities where transportation planners see a future need for rail transit, there is increasing interest in light rail transit, an updated version of the streetcar. Light rail normally operates at grade, though it may operate in a tunnel in the central business district. The shift to light rail and other modes of urban transit would appear to make it unlikely that any significant additional underground mileage would be added to the current inventory in the foreseeable future.

REQUIREMENTS TO CONVERT SUBWAYS TO CIVIL DEFENSE USE

Subways might be used as protection against fallout only or against fallout and blast. Because blast protection is more demanding than fallout protection, this section considers fallout protection first, then examines additional requirements for blast protection.

Fallout protection

A subway fallout shelter must be able to keep shelterees alive from the time fallout arrives until it has decayed sufficiently to permit shelterees to leave the shelter safely, perhaps two weeks. The shelter must have adequate food, water, and medical supplies. Each of these has its own special requirements: foods must be easily digestible, should have a long shelf life, should not be those to which many people are allergic. Water in containers does not keep indefinitely, so wells are preferable to containers. Medical supplies must be sufficient in quantity and type for the sicknesses and injuries induced both by fallout and by potential conditions in shelters (e.g., hunger; contagious illnesses; limited sanitary facilities; limited medical care, if any).

Ventilation is critical. One study shows that the air in small hermetically sealed shelters (6500 cubic feet for 100 people) becomes unendurable in 3.5 to 5.5 hours because of the buildup of carbon dioxide.[1] During the same time, water vapor, heat, and carbon monoxide build up and oxygen is depleted. Therefore, some means of bringing outside air into the shelter is needed. Air filtration is not essential for fallout shelters (as opposed to blast shelters). Since fallout is essentially small granules of sand rather than dust, even the large fans needed for shelter ventilation would be unlikely to draw much fallout into the shelter.[2]

Ventilation would require an independent supply of electric power for lighting, radios, heat if needed, and so on. Generators burning any kind of fuel would need to be operated in a room isolated from sheltereers so that the consumption of oxygen and the generation of heat, carbon dioxide, and carbon monoxide would not harm them. Fuel would need to be kept accessible to the generator yet maintained so as to minimize the fire threat to shelterees.

It would be important to provide sufficient sleeping facilities. It could be unwise to assume that shelterees would sleep in shifts and plan that only a third as many beds as shelterees would be needed, for several reasons. Because people consume less oxygen when inactive than when active, and still less when sleeping, it would be desirable that there be a sufficient number of beds to allow everyone to rest at the same time. In addition, some shelterees are likely to be sick, and many others would not want to use beds in shifts for fear of communicable diseases. Toilet facilities, communication equipment, radiation detection equipment must also be provided in sufficient numbers.

Space for supplies and equipment would need to be separated from the part of the subway in everyday use to prevent theft and damage, yet must be rapidly available when needed without the assistance of subway personnel.

Existing subways have many shortcomings in these areas. Most subway systems are equipped with extensive ventilation systems that are designed to expel fumes from tunnels which might assist in providing ventilation during civil defense use, but the problem remains whether power for these systems would be available. (Air intake often is accomplished through station entrances and tunnel porticos.) Subways, as a rule, are not equipped with facilities that could sustain life for any large number of people for any length of time. Such facilities would require new construction at considerable expense.

Blast protection

The physical requirements for blast shelters are far more demanding, as the shelters must be designed to protect against nuclear blast, an intense pulse of radiation, fires, firestorms, and burial in rubble, as well as fallout. This protection must be completely self-contained, as outside assistance cannot be relied on near a nuclear explosion.

The shelter must be sealable against blast and outside air. The blast doors and blast shields for air vents must be able to deflect a blast strong enough to knock down any building. The doors would have to close rapidly so as to be effective with short warning and to enable as many people as possible to enter shelter before the doors are closed. Yet the doors would need to be openable after the attack. Emergency exits, also blast-resistant, would be required in case the main doors were blocked by tons of rubble.

It would be necessary to install heavy blast plugs at intervals to seal off sections of the tunnel if the nuclear fireball cuts into the tunnel and injects extremely hot gases into it. The plugs would prevent flood-

---

Footnotes at end of article.

ing if the fireball dug a crater that diverted a river into the tunnel, as could happen in Washington and New York. Indeed, for fear of this possibility, preliminary plans to use subways as shelters have envisioned using only the subway platforms and not the tunnels for shelterees.[3] Although platforms could also be flooded, they have large exits that permit many people to leave rapidly, unlike tunnels.

Subway tunnels, as a rule, are separated from other utility conduits in the same area, but are subject to occasional inundation by broken water mains, etc. The effects of a nuclear blast could rupture water and gas lines around a subway, which could preclude the use of at least a portion of the tunnel. To prevent this, significant upgrading of these utilities in the same corridor might be required, also at considerable expense.

Because of the need to seal the shelter hermetically to prevent entry of gases from fires and to prevent fires from consuming oxygen in the shelter, the air quality control systems would be much more complex in a blast shelter than in a fallout shelter. It would be necessary to maintain tolerable air quality for some hours without outside air. Besides carbon dioxide, heat would be another potential problem. One source notes: It was demonstrated in a recent study that highly motivated, healthy young men had reached their limit of endurance after about one week at an average effective temperature of 85° F. This finding has been confirmed by other studies."[4] Yet "the heat produced by the combustion of one pound of cellulose, or one half pint of kerosene, is enough to raise the average temperature of the air in the shelter by 42° C (75° F)—admittedly, this calculation assumes no heat loss by other means, but this will be essentially the case if the fire is fast."[5]

Therefore, a blast shelter should have equipment to absorb carbon dioxide and carbon monoxide, provide additional oxygen, and control temperature. Fire extinguishers must be provided, and most not use carbon dioxide. Devices must be installed to test the carbon monoxide content and temperature of outside air to avoid using unsafe air (such as from a firestorm).

Nuclear explosions emit an immediate pulse of radiation, particularly gamma rays (high energy x-rays) and fast-moving neutrons that are lethal in sufficiently large doses. Shielding from these types of radiation is discussed in the context of blast shelters because the doses are much higher near a explosion than from fallout. Moreover, the first pulse of radiation arrives a second after an explosion, while fallout may take hours or days to arrive.

The radiation protection level for a blast shelter is linked to the hardness of the shelter against blast, since both depend on distance from the explosion and since it would make little sense to protect shelterees from blast but lease them vulnerable to lethal radiation. One report observes that "it might not be unreasonable to expect that 100-psi [pounds per square inch] shelters should reduce radiation levels by at least a factor of 10^4." That is, a shielding factor of 10,000 is desirable to protect against radiation effects associated with a blast at distances which produce 100 psi.[6]

Protection is obtained by placing mass of some sort between the radiation source and the shelterees. The exact degree of protection provided by a specific amount of substance is difficult to calculate, however, because a given substance provides different degrees of protection against neutrons and gamma rays and because the substances above a subway are likely to be asphalt, cement, gravel, earth, metal, etc., mixed in vaguely-known proportions. As a rough guide, The Effects of Nuclear Weapons, a recent study, indicates that three feet of earth would transmit 0.2 percent to 0.4 percent of the initial gamma rays and 0.2 percent to 1.0 percent of the neutrons.[7] Three feet of earth transmit up to 1 percent of the neutrons; six feet would transmit up to 1 percent of 1 percent, or one ten-thousandth, of the neutrons. If only one ten-thousandth of the neutrons is transmitted, then a shielding factor of 10,000 is achieved. Thus six feet of earth would be needed to have reasonable confidence in attenuating radiation by a factor of 10,000.

All subways by their nature as underground structures offer some protection from blast. How large a blast any section could withstand would be determined by its depth and construction characteristics. These characteristics often differ from section to section within the same city, making it difficult to estimate any system's total potential to protect people from the blast of a paricular size conventional or nuclear weapon. Any "windows," such as air ducts and entrances, which might permit radiation or blast waves to enter, would need to be redesigned to attenuate radiation or protect against blast. In addition, modern subway station design favors large, open-spaced platforms for crime prevention and crowd control. The hardening of subway stations for civil defense use would favor a design with more supports and lower ceilings which would eliminate many of the advantages sought during normal transportation use.

This discussion has focused on only some of the physical requirements of converting subways into shelters. Effective use of these shelters, however, also imposes many organizational requirements. For example, simply having people already in the shelter move away from the entrance of a subway shelter in the minutes before an attack would enable many more people to enter before the blast door closes instead of being trapped outside. People would also need to be told the location of the nearest shelter. To a certain extent, trained personnel to use much of the equipment in the shelters, such as that for first aid, communication, radiation detection, air quality monitoring, etc., would be needed. Perhaps most important would be organization and control of shelterees, to keep people less active in order to make the air inside the shelter last longer, to prevent panic, and to ration supplies. It would be necessary to plan an effective form of organizing shelterees, to ensure that they receive adequate care and information to maintain calm, and thus greatly improve the chance of survival.

COSTS

Converting a subway into a shelter is a matter of detailed planning. Many small and technologically simple things, most of them relatively inexpensive, must be done. But all life support requirements must be met, and in numbers adequate for at least the expected numbers of people. To do the job right could thus prove expensive. while to take shortcuts to save money could jeopardize the value of the entire project.

The cost of subway tunnel construction was estimated in 1974 to be between a low of $29.13 million and a high of $33.73 million[8] per one route mile of double track tunnel, for cut and cover type construction.[9]

A 1962 study of possibly incorporating shelter use into the design and construction of the proposed Washington, D.C. rapid rail system estimated that the additional cost to provide fallout and blast protection would be $176 per linear foot, or an additional $929,280 per mile.[10] In the 17 years since 1962, construction techniques and subway design have gone through some significant changes, making direct comparisons using these figures difficult. Using the Bureau of Economic Analysis' implicit price deflator for nonresidential structures (1.364) the 1974 low estimate for tunnel construction had risen to $39.73 million per mile and the high estimate to $46.01 million per mile by the end of 1978. The cost of providing additional features for protection from nuclear weapons, using the implicit price deflator since 1962 for nonresidential structures (2.775) had risen to $2,578,752 per mile. By way of comparison, the FY 1980 budget for all Federal civil defense expenditures is $99.3 million.

The construction and major upgrading of U.S. rapid transit systems normally is financed with 80 percent Federal and 20 percent State and local funding. The total amount of Federal funds available for such projects is limited by Congressional appropriations. In order to obtain Federal funding for such a project, an urbanized area is required to go through a lengthy alternatives analysis study, which has as a major emphasis the funding of those transportation projects that would provide the most transportation for the smallest amount of Federal funds possible, keeping local needs in mind. As adding shelter capability to a proposed or existing subway project would significantly increase costs, this factor would weigh heavily on any decision by a local planner to add these requirements to a project, unless it were certain that additional sources of Federal funding were made available.

Finally, the cost calculations above are extremely rough. In light of the extent to which subway construction and nuclear weapons effects have changed since 1962, estimates of the current costs should be viewed with extreme care.

SOURCES CONSULTED

Boegley, W. J., Jr., W. L. Griffith, and K. P. Nelson. Conceptual Design of a Dual-Use Utility Tunnel Blast Shelter for White Plains, N.Y. Oak Ridge National Laboratory, Oak Ridge, Tenn., March 1969. ORNL–4362, contract W–7405–3ng–26. 61 p.

Cristy, G. A. Transportation Systems and Dual Purpose Blast Shelters: Final Report. Oak Ridge National Laboratory, Oak Ridge, Tenn., October 1971. ORNL–4675, Contract W–7405eng–26. 138 p.

Goure. Leon. War Survival in Soviet Strategy: USSR Civil Defense. Center for Advanced International Studies, University of Miami, 1976. 218 p.

Narver, David L., Jr., and Donald T. Robbins. Engineering and Cost Considerations for Tunnel Grid Blast Shelter Concept. Holmes and Narver, Inc., Los Angeles, Aug. 1965. Prepared for Oak Ridge National Laboratory, Oak Ridge, Tenn.; document ORNL–TM–1183. 125 p.

National Academy of Sciences/National Research Council. Proceedings of the Symposium on Protective Structures for Civilian Populations. Washington, 1965. 357 p.

Parsons, Brinckerhoff, Quade and Douglas, engineers. Proposed Subways as Dual Purpose Fallout Shelters: Preliminary Study of Incremental Costs. New York, Sept. 1962. Prepared for National Capital Transportation Agency, Washington, D.C. 37 p. + figures.

Ryan, John, and Sanford Baum. Analysis of Slanted Blast Shelter Programs. Stanford Research Institute, Menlo Park, Calif., Dec. 1972. Prepared for Defense Civil Preparedness Agency. SRI Project EGU–1368.

U.S. Congress. House. Committee on Armed Services. Subcommittee on Investigations. Civil Defense Panel. Hearings: Civil Defense Review. 94th Congress, 2d session. U.S. Govt. Print. Off., Washington, 1976. 428 p.

U.S. Congress. Joint Committee on Defense Production. Hearings: Federal, State, and Local Emergency Preparedness. 94th Congress, 2d session. U.S. Govt. Print. Off., Washington, 1976. 384 p.

Footnotes at end of article.

U.S. Department of Defense. Defense Civil Preparedness Agency. DCPA Attack Environment Manual. CPG 2. (June 1973) 9 volumes.

U.S. Departments of Defense and Energy. The Effects of Nuclear Weapons, Third Edition. Compiled and edited by Samuel Glasstone and Philip Dolan. U.S. Govt. Print. Off., Washington, 1977. 653 p.

FOOTNOTES

[1] Johnson, J. Enoch, and Eugene Ramskill. Fire and Noxious Gases: Effect on Internal Environments of Protective Shelters. In National Academy of Sciences/National Research Council, Proceedings of the Symposium on Protective Structures for Civilian Populations. Washington, 1965. pp. 50–60.

[2] Telephone interview, Mr. George Sisson, Federal Emergency Management Agency, November 9, 1979.

[3] Telephone interview, Mr. George Sisson, Federal Emergency Management Agency, November 9, 1979.

[4] Johnson and Ramskill. Fire and Noxious Gases: Effect on Internal Environments of Protective Shelters, p. 61.

[5] Ibid., p. 63.

[6] Five psi is sufficient to demolish an unreinforced brick house. A 20-megaton bomb will produce 100-psi pressure at a distance of about 1.7 miles, while a 200-kiloton bomb produces that pressure out to about 0.4 miles. At these distances, radiation is extraordinarily intense; a 200-kiloton bomb at 0.4 miles produces radiation nearly 900 times the (median) lethal dose. Spencer, Lewis V. Problems of Shielding Against Initial Radiation. In National Academy of Sciences/National Research Council, Proceedings of the Symposium on Protective Structures for Civilian Populations, p. 89.

[7] U.S. Department of Defense and Department of Energy. The Effects of Nuclear Weapons, third edition (Washington: U.S. Govt. Print. Off., 1977), Samuel Glasstone and Philip J. Dolan, eds. p. 349.

[8] Thomas K. Dyer, Inc. Rail Transit Cost Study. U.S. Department of Transportation, Urban Mass Transportation Administration, Washington, March 1977, p. 57.

[9] The cut and cover method involves making a trench, building the structure inside, and returning the surface to its previous contours, as opposed to tunneling, which is used infrequently.

[10] Parsons, Brinckerhoff, Quade & Douglas. Proposed Subways As Dual Purpose Fallout Shelters. Washington, National Capital Transportation Agency, September 1962, p. iii.●

INTERRELIGIOUS TASKFORCE ON U.S. FOOD POLICY COMMENTS ON PRESIDENTIAL HUNGER COMMISSION'S PRELIMINARY REPORT

(Mr. NOLAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. NOLAN. Mr. Speaker, in December 1979 the Presidential Commission on World Hunger, of which I am a member, released its preliminary report. The preliminary findings were released in order to give the public a chance to respond to the work the Commission has done so far. George A. Chauncey, chairman of the Interreligious Taskforce on U.S. Food Policy responded by sending his organization's comments to the commissioners.

In order to assure wider public discussion of the issues raised by the Interreligious Taskforce, I am inserting its comments in the RECORD.

Chauncey's cover letter and the taskforce comments follow:

INTERRELIGIOUS TASKFORCE ON
U.S. FOOD POLICY,
Washington, D.C., January 11, 1980.

DEAR COMMISSIONER: The Interreligious Taskforce on US Food Policy is a team of Washington-based staff of national religious agencies, in whose work over two dozen Protestant denominations, and Roman Catholic, Jewish, and ecumenical agencies cooperate. We have followed the work of the Commission since its inception with keen interest. Now, as the Commission prepares for its last meetings before issuing a Final Report, we would like to share our reactions to the Preliminary Report and our recommendations for the Final Report.

The Commission is to be commended for stressing that hunger at home and abroad is primarily a political, economic and social problem with poverty as its central cause. Likewise, it is to be applauded for redefining national security in terms of human needs in a hungry world. The Commission's major recommendation to make the elimination of hunger the primary focus of US relationships with developing countries, if given further interpretation and specificity, could be a useful starting point for raising the issues of basic needs and rights, and Third World concerns in general, to a level of top priority in US foreign policy.

We strongly support the recommendation calling for increased appropriations for domestic food programs and a systematic effort to assess the nutritional status of Americans. We believe, however, that such measures should always be put in the context of longer-range efforts to correct the basic economic, political, and social conditions that perpetuate hunger and malnutrition.

We are less concerned with the actual levels of development assistance than with the composition, beneficiaries, and effectiveness of aid in terms of meeting human needs and protecting human rights. In this connection, development assistance that does not meet human needs and/or weakens human rights should be eliminated and aid concentrated where it can be most effective in the elimination of hunger and poverty. We would urge, therefore, that greater stress and more elaboration be given to the second half of the recommendation on development assistance, especially with regard to guidelines for "country specific" allocation. A more detailed analysis of the many problems with and criticism of development aid, as well as alternative approaches needed to improve development programs, would also strengthen the report considerably. We strongly support strengthening the International Development Cooperation Agency in the fashion suggested.

The Commission has provided a valuable service in bringing to the attention of the US government and the general public the protocols adopted by the International Conference on Humanitarian Law in Armed Conflict. We would urge that this recommendation be broadened and strengthened by urging, in addition, the ratification of the UN Covenant on Civil and Political Rights; the Covenant on Economic, Social, and Cultural Rights; and the Genocide Convention. All three were signed by President Carter in 1977 and submitted to the Senate for ratification. The Commission would do well to use its weight to give new momentum towards the ratification of these covenants which so clearly relate to its work and complement its existing recommendations.

At several points in the text of the Preliminary Report the assertion is made that while direct development and food assistance is the area of US policy most often associated with efforts to end hunger and poverty, there are other policy areas which may, in the long-run, have more of an effect, positive or negative, for hungry people and the possibilities for self-reliant development. We agree strongly and would urge the Commission to include hard-hitting recommendations on trade, debt, the role of multinational corporations, and food security. Some of these areas are complex and controversial, but they are absolutely crucial to a comprehensive and far-reaching report.

In our review of the Preliminary Report and the November 2 drafts of sections yet to be included in the full Report, three related areas stood out to us as major deficiencies. First, the report lacks a clear and consistent structural analysis. For example, the negative effects of maldistribution of land resources are laid out in brief in the chapter entitled "The Causes of Hunger." In the chapter on "Prospects for Overcoming World Hunger," however, structural changes are mixed in with technical remedies (e.g., irrigation projects, improved control of post-harvest losses, etc.) in such a fashion that the reader is left in doubt as to the priority of basic structural reforms. Furthermore, no policy implications are drawn in any of the preliminary or draft recommendations. The same is true of the analyses of income, employment, and food access reforms.

Second, conspicuously absent from most of the analysis are details related to the conclusion on III.4 of the Preliminary Report which reads, in part, "US domestic and foreign economic policies, as well as private activities, sometime hinder rather than help efforts to overcome hunger." Without this important perspective, the report is incomplete and lacks that comprehensive analysis which would give it credibility in the Third World as well as at home.

Third, the report by and large lacks a critical perspective. Throughout the text there are phrases like "under the right conditions trade can accelerate . . . and "development assistance can contribute significantly to . . ." without further elaboration of qualifications or conditions. While the recommendations call for more aid, trade, investment, and commodity agreements at what might be referred to as the "macro-level," there are few details presented on how, at the "micro-level," these actions will affect poor people, basic food production, employment generation, agrarian reform and the like. The report needs to be candid in presenting the problems, pitfalls, and criticisms associated with the issues it addresses.

In this regard, Appendix B, "US Food Aid, takes an approach that could be usefully followed in other sections. Adherence to its four-part format (Overview; Components of the Program, Policy or Subject Area; Criticisms of the same; Conclusions) throughout the report would represent a significant improvement.

The Commission has come a long way towards developing a useful report and set of priority recommendations. We believe, however, that the report could be improved by making specific recommendations in the areas of trade, debt, multinational corporations, and food security. Our suggestions are enclosed for your consideration. Please note that our comments are in light of the November draft entitled "Solutions to the Problem of Hunger." Feel free to contact us for any assistance or documentation we may be able to supply. Best wishes in your important tasks ahead.

Sincerely,

GEORGE A. CHAUNCEY,
Chairman.

COMMENTS OF INTERRELIGIOUS TASK FORCE ON FOOD POLICY

I. TRADE: EARNINGS FROM COMMODITIES

This section properly emphasizes the negative effects of sharp price fluctuations on LDCs' investment and development plans. The analysis would be greatly strengthened, however, if there were more discussion of several key factors:

1. Higher Prices: The report tilts strongly to the position of several of the developed countries (DCs), as opposed to the Group of 77's position, that the Common Fund and Integrated Program for Commodities should merely stabilize prices, not raise them. The text refers to a study by Jere Behrman on the effects of commodity stabilization. That study indicates that a stabilization approach alone would benefit LDCs to the tune of $5 billion over a ten year period in the simulated model, whereas stabilization at a 2 percent increase in the trend price of 8 of the UNCTAD group of key commodities would have brought the LDCs an estimated $87 billion over the same period. While the benefit to the US from reduced inflation under the first scenario is large ($15 billion), it is still positive, if considerably less, under the second scenario. The import of this and other studies is that in order to truly benefit the LDCs, commodity agreements need to keep prices relatively stable, but at somewhat higher prices (which, in any event, will often more accurately reflect actual costs of production). To paraphrase Mahbub Ul Haq of the World Bank, stabilizing LDC commodity prices at chronically low levels is simply to stabilize poverty conditions.

2. Role of Multinational Corporations: Any evaluation of commodity trade must address the role played by MNCs which often control the processing, transport, marketing, and sometimes even the production, of primary products. A major cause of the undervaluing of LDC commodities is the disproportionate power yielded by purchasers (most often multinationals supported by their home country governments) over producers. A major portion of commodity trade between LDCs and DCs actually occurs between a parent company and a subsidiary or closely related third party. Over two-thirds of all US cotton and banana imports, for example, reach this country in that manner. In addition, monopoly purchasing power is exercised over many commodities. For instance, only four major buyers by and large determine world auction prices for tea. Lack of control over marketing and processing, often the most profitable aspects of commodity trade, together with extreme price fluctuations, compounds LDC resource and planning problems.

3. Cash Cropping: Since many key Third World commodities are agricultural products, it is important to offer at least some critique of cash (or export) cropping patterns. While this is by no means a simple or clear-cut situation, much evidence suggests that emphasis on production of cash crops for export often occurs at the expense of production of basic foods for local consumption. Hence, higher prices for commodities without production controls could result in the diversion of more land to cash cropping, with perverse effects on human needs. A related critical issue is the long-term sustainability of LDC natural resources. Some evidence suggests that cash cropping is accelerating, directly or indirectly, the deterioration of LDC land.

Both US multinationals and the US government have actively supported export cropping strategies in a number of ways. Sadly absent from the report is any evaluation of MNC involvment in direct resource ownership and production in LDC's or in the more common practices of leasing, contracting or joint ownership (in which most of the risks are shifted to the local producers). The US government, through aid programs and OPIC loans, has supported such MNC activities. In the absence of strong developing planning and an equitable sharing of resources, the wisdom of such intervention must be called into serious question.

The cash crop dilemma presented by commodity agreements might be solved, in part, by international acreage allotment agreements. While admittedly difficult to negotiate, reduced acreage would have the dual benefit of freeing more land for the production of basic foods and reducing supplies of traded commodities (hence raising prices). Another partial solution would be an international tax on commodity trade, with revenues being used for equitable agricultural development.

4. Diversification and Value-Added: The report makes a brief reference to the need for diversification, but fails to address the "value-added" situation. In most commodities, LDCs receive a very low (and for some commodities still decreasing) percentage of the final sales prices of products made from their primary products. On the average, less than 15 percent of final prices accrues to LDCs. Given the importance of both diversification and increased processing and marketing capabilties, a discussion of the so-called "Second Window" of the Common Fund is warranted, especially since to date the US (though not all DCs) has been unwilling to contribute to this Fund.

5. LDC Responsibility: Even the best possible commodity agreements and financing facilities will not assure that benefits reach farmers, workers, and poor people. While improved terms of trade would give developing countries a badly needed economic boost, they would not guarantee commitment to self-reliant or equitable development strategies. Strong unions and cooperatives, decent wages, well-planned agrarian reforms, employment generation strategies, and the like—all of which are primarily the responsibilities of LDC governments and peoples—are necessary corollary steps if the benefits of development are to be shared by the many and not just the few.

Recommendations

1. Work towards implementing effective commodity agreements which will raise and stabilize LDC commodity earnings.

2. Explore the possibility of working acreage reduction schemes into future commodity agreements.

3. Support the Common Fund, but at levels higher than those currently agreed upon.

4. Support U.S. participation in the "Second Window" of the Common Fund and in other efforts towards diversification.

5. Create a new policy within all other aid-related agencies, including the Ex/Im Bank, to cease funding export cropping programs in food-deficit countries if it is demonstrated that such programs would have a negative effect on food self-reliance in any particular country. It is our opinion that OPIC is counter-developmental and should be abandoned altogether.

II. TRADE: EARNINGS FROM MANUFACTURED GOODS

This section does a good job of laying out some of the basic topics involved in North-South trade in manufactures, especially with regard to protectionism. It lacks, however, a critique of export-led development strategies from the standpoint of one of the report's major themes—basic human needs satisfaction.

While this topic is equally germane to a discussion of commodity trade, it is perhaps a more glaring problem in the newly industrializing LDCs such as Brazil, Mexico, the Philippines, or Egypt. In countries such as these, rapid growth or industrialization has been accompanied by a widening of the disparities between rich and poor, an increase in the absolute number and perhaps even the percentage of poor people, and in some estimations, an absolute as well as a relative worsening of the physical quality of life for the poorest sectors.

This is not to say that trade in manufactures has no constructive role to play for the LDCs. If governments are firmly committed to self-reliant, basic human needs—oriented development, and trade deficits can be kept within manageable bounds, foreign trade can indeed play an important positive development role. But in the absence of self-reliant policies, trade often compounds the problems of development. It is our premise that the bottom line in each case must be whether or not the benefits of trade (if any) accrue to the poor as well as the rich and middle class.

In this connection, more discussion is needed as to the most appropriate terms and conditions for investment, transfer of technologies, plant locations, and specific types of manufactured goods to be produced, as well as of the need (acknowledged by the report) for fair labor standards. This strongly implies the need for international as well as national planning—admittedly a tremendously difficult undertaking, but an essential one if trade wars or other "beggar they neighbor" policies are to be avoided. In such an exercise, measures will be needed to give the Third World—and particularly the resource- and capital-poor "Fourth World"—a more equitable and growing share in world markets. The initial collective rejection of the most recent multilateral trade package by the Group of 77 highlights the inadequacies of existing international trade structures. The LDCs perceive that they have been left out of the real decision-making in GATT and that UNCTAD lacks decision-making status.

One final point—we feel strongly that while trade adjustment assistance (TAA) is important, in the absence of a national commitment to full employment and balanced growth, TAA will remain essentially a palliative measure. In addition, priority commitment to full employment and balanced growth strikes us as a prerequisite for gaining the full support of the American people for more just and liberal patterns of world trade.

Recommendations

1. Support increased access to DC markets, accompanied by improved international planning and market sharing.

2. Encourage LDC initiatives for greater South-South trade, as well as more trade in necessities and less in luxury goods.

3. Explore and begin negotiations towards a merger of GATT and UNCTAD.

4. Establish comprehensive full employment and balanced national growth policies and improve economic dislocation programs.

III. THE DEVELOPING WORLD'S TRADE: DEBT

This section does succeed in identifying most of the key aspects of the LDC debt situation. However, there is little analysis as to why and how the LDCs have incurred such large debts. As a result, there is little insight as to what might be done to correct the situation.

As we have noted in our remarks on trade, higher prices for LDC commodities and larger shares of world markets in manufactures are necessary if the LDCs are to break even, let alone prosper. Absent such measures, continued borrowing will only bring a higher and more onerous debt burden, and no amount of internal "adjustment" (as prescribed by the IMF and Northern governments) will be able to bring about lasting balance of payments relief (at least not without mass starvation—a not impossible scenario as the Peruvian situation demonstrates).

Not only have IMF arrangements hurt the poor, they have also failed to substantially alleviate debt. In part this is related to the above point—internal changes prescribed to deal with external forces. In part it is because the IMF generally believes in fighting inflation through deflationary measures above all other socioeconomic goals such as employment, growth, or especially meeting basic human needs (as acknowledged by the report).

Recommendations

1. We believe that a major restructuring of the IMF is called for. At a minimum, its goals and operating procedures need to be revised to give at least equal weight to human needs, employment, and equity concerns.

2. Third World governments should be given increased voting strength in the IMF, whether or not their quotas are increased.

3. IMF staff missions should be supplemented with representation from groups reflective of broader concerns—including perhaps the ILO, UNICEF, UNDP, WHO, as well as local labor and/or peasant organizations.

4. The debt burden of the Third World should be eased through longer repayment periods, and for the poorest countries, lowered interest rates.

IV. THE DEVELOPING WORLD'S ECONOMIES: PRIVATE ENTERPRISE CONSIDERATIONS

This section suggests some of the limitations and possibilities of multinational corporations in development. A number of important topics, however, are not discussed.

1. Definitions: There is a clear need to present an overview of the basic characteristics of the multinational firm, as well as a better differentiation of types and levels of MNC involvement. For example, companies involved in primary production or extraction will have different impacts, interests, and outlooks than companies primarily interested in marketing agricultural inputs or consumer goods in LDCs.

2. Terms of Trade, Transfer Pricing, and Repatriation of Profits: The power of the MNCs to influence the terms of trade (particularly in commodities) has already been noted. While more data may be needed, it appears likely that MNCs generally have a significant negative balance of payments effect on LDC economies. Because they are able to import and export freely to and from their subsidiaries, often at artificially high or low (transfer) prices, because products marketed by them in the LDCs often utilize imported materials, and because they are able to shift and/or repatriate capital and profits with few constraints, MNCs are able to frustrate the most ambitious LDC national economic policies and programs. Indeed, even the most advanced industrial nations have been substantially unable (or unwilling) to control the MNCs. How much harder control must be for LDCs whose total GNPs are often much lower than the sales of MNCs they host.

3. Appropriate Technology and Commodity Prices: When MNCs enter the agriculture sector, it is most frequently in connection with the sale of farm inputs—tractors, pesticides, fertilizers, seeds, etc.—or the export marketing of LDC cash crops—sugar, coffee, tea, cocoa, beef, palm oil, etc. In the first case, the range of available technology choices is usually narrowly defined, with inappropriate offerings the rule rather than the exception. US-scale farm machinery, for example, is usually labor saving—or more accurately, labor displacing—which is extremely inappropriate in the LDC context, where unemployment and underemployment are rampant. In the second case (cash crops for export), we have already remarked on the substantial ability of large MNCs to determine the prices at which LDC commodities are purchased. Since these firms often have less ability to set the prices which consumers in the North will pay, there is a strong built-in interest in keeping their (commodity) purchasing prices low.

4. Consumer Goods: The impact of new consumer goods on LDC societies deserves careful evaluation. For example, Dr. Derrick Jelliffe, former head of the Caribbean Nutrition Institute, has estimated that the use of infant formula alone under typical LDC circumstances probably results in about 10 million cases of severe malnutrition and gastroenteritis, often leading to death, each year. Similar results occur whenever extensive, basically luxury foods are aggressively marketed in the Third World. In the absence of countervailing information and constraints, many consumers become convinced that there is a correlation between use of Northern/Western products and material prosperity and/or good health. When already very limited family budgets are reduced further by purchases of luxury goods, nutritional status suffers. Women and particularly young children usually suffer most.

5. LDC Bargaining Power: The economic power of external private investors is often so great that the options for control of their activities open to host governments are quite limited. Yet, host government controls are probably the most effective means of regulating MNCs and subordinating their activities to broader development objectives.

Efforts by LDCs to take joint action in negotiating with MNCs so as to minimize competition among countries (e.g., tax concessions) and create common rules (e.g., local participation, technology transfer, repatriation of profits) constitute a potential source of bargaining power for developing countries deserving of US support. Another similar source might be widening the availability of knowledge and information concerning accounting methods, transfer pricing, realistic management fees, royalties, tax havens, and the like. A multilateral agency, run by and for the LDCs, which could provide such technical assistance deserves serious consideration.

Recommendations

1. Support the formulation of a comprehensive code of conduct under UN aegis, including international fair labor standards, and support UNCTAD's work on special codes of conduct.

2. Support the Infant Nutrition Act (HR 4093), as well as the formulation of an international code on infant feeding practices as is now being pursued by the World Health Organization and UNICEF.

3. Study ways in which the US could participate in international programs to assist LDCs in bargaining with MNCs.

WORLD FOOD SECURITY

The chapter on world food security needs to maintain a difficult balance: stressing the importance of the suggested measures while making it clear that they are short and intermediate term measures which are by no means sufficient conditions for eliminating hunger. This section helpfully speaks to reserves, food aid, and US farm structure. At least two other issues deserve consideration.

1. Export Sales Reporting: Export sales reporting by major grain traders to USDA, while improved since the 1972/3 disaster, is still seriously deficient. Two loopholes in the current reporting law which have important implications for world food security merit attention.

First, reports are not required until sales are actually delivered rather than when they are contracted. This allows the grain trading corporations time to hedge their sales on the US futures markets, long before the farmer and the rest of the public has any knowledge of the new market situation. Second, only US firms are required to report. Others, including foreign firms, foreign affiliates of US firms, and foreign firms with US affiliates, are under no obligation to report at all. The five large transnational grain trading corporations which control over 80 percent of the US trade (two US firms have a 45 percent share) have not been shy to take advantage of this loophole. For instance, since the passage of the law, the percentage of sales made to Russia directly through the US office of domestic firms has declined from nearly one-half to practically none.

USDA has indicated that it would support legislation which would give the Secretary of Agriculture discretionary authority to expand export reporting requirements to cover foreign firms and overseas subsidiaries of US firms, but only in times of extremely tight supply. While this would be an improvement, it is largely after the fact. Legislation similar to HR 4992, which would extend reporting requirements to all traders, under threat of civil penalties and/or denial of the right to trade on US futures markets, and require reporting at the time of contract, deserves strong support.

2. Genetic Diversity and Seed Patenting: Genetic diversity is a key to the survival of our food supply. It is agriculture's primary defense against pests, diseases and changing environmental conditions. Yet, according to the National Academy of Sciences, many of our food crops are now "impressively vulnerable" due to their lack of genetic diversity.

This vulnerability has been given a big boost by plant patenting laws. In Europe, these laws have created so many legal nightmares that the Common Market is now actually outlawing many unpatented varieties. Dr. Erna Bennett of the FAO estimates that by the end of this decade three-quarters of all the vegetable varieties grown in Europe will be extinct due in large part to the enforcement of patenting laws.

Congress is currently considering legislation which would, among other things, allow the U.S. to join an international agency dominated by European governments and established to promote and standardize these laws world wide. At the very least, there should be a thorough and careful review of this proposed legislation and all related laws currently on the books. Establishing laws to patent forms of life raises serious ethical questions and may establish dangerous precedents. Appropriate federal agencies should be directed to do long-range reviews of these laws in light of world food security, conservation, and diversity. Appropriate policies and legislative remedies would hopefully follow.

Closely interrelated with patenting laws are distressing trends within the seed industry. Patenting laws, strongly supported by some large seed companies, have encouraged concentration within the industry. The number of seed company takeovers, particularly by large pesticide, fertilizer, and drug companies, has increased dramatically over the last few years. This could well lead to oligopoly pricing and the potential that narrow economic self-interests will be determining the fate of humankind's common heritage—agricultural diversity.

Recommendations

1. Negotiations need to resume as soon as possible with the goal of establishing an internationally coordinated system of grain reserves. The U.S. should continue to press for a larger reserve than the EEC would like to see. Price bands should reflect actual costs of production and storage. To avoid the pitfalls of the last negotiating round, Third World interests, including such things as special access and stocking provisions, should be given a much higher priority. LDCs should have full representation in all phases of negotiations.

The U.S. should support the FAO's Food Security Assistance Scheme and other measures which assist the formation of national and regional reserves. Food insurance schemes should receive further serious study and consideration.

The U.S. should improve its own farmer-owned reserved by raising the "release" trigger prices to reflect actual costs of production and storage, and by increasing the spread between trigger levels. This reserve should also be increased significantly to a level of not less than 35 million tons.

2. The Food Security Act (HR 3611/12 or HR 4489) deserves strong support. A reserve of at least 4 million tons of wheat (and preferably 6-plus million tons, which roughly equals annual food aid commitments) is essential to backstop PL 480, to be used only for emergency or development purposes and only in time of critical need.

The U.S. should also take the lead in concluding the Food Aid Convention.

3. The strongest possible statement should be made in support of a widely dispersed family farm system of agriculture because of its resiliency, adaptability, and productivity—all of which are important food security concerns. There are, of course, many other reasons for such support, including positive effects on rural communities, increased employment opportunities, utilization of voluntary family labor, inability to engage in price manipulation, and the like. Support should be given to a thorough review of all current federal policies which provide incentives for concentration within the farm sector and to appropriate follow-up legislation to focus federal benefits (including commodity programs and tax rules) on family farms of small and moderate size.

4. There should be support for the passage of an export sales reporting act (HR 4992) or similar legislation to improve public access to important world food security information in the area of grain sales.

5. An extensive administrative and congressional review of genetic diversity should be encouraged. Particular attention should be given to plant patenting laws and currently pending amendments to the Plant Variety Protection Act of 1970. Public funding for plant storage and research should also be reviewed.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness.

Mr. Tauke (at the request of Mr. Michel), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Zablocki, for 10 minutes, today.

(The following Members (at the request of Mr. Davis of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. Schulze, for 60 minutes, today.

Mr. Dornan, for 10 minutes, today.

Mr. Erlenborn, for 5 minutes, today.

(The following Members (at the request of Mr. Anthony) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Johnson of California, for 5 minutes, today.

Mr. Anthony, for 5 minutes, today.

Mr. Vento, for 60 minutes, on February 12.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Skelton, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $982.50.

Mr. Nolan, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,376.

(The following Members (at the request of Mr. Davis of Michigan) and to include extraneous matter:)

Mr. Bereuter.
Mr. Jeffords.
Mr. Royer.
Mr. Gingrich.
Mr. Solomon.
Mr. Daniel B. Crane.
Mr. Snyder.
Mr. Gilman in two instances.
Mr. Derwinski in two instances.
Mr. Conable.
Mr. Kemp.
Mr. Dornan in two instances.
Mr. Michel.
Mr. Rousselot.
Mr. Coleman.
Mr. Carter.

(The following Members (at the request of Mr. Anthony) and to include extraneous matter:)

Mr. Sabo.
Mr. Guarini in two instances.
Mr. John L. Burton.
Mr. D'Amours.
Mr. Aspin in two instances.
Mr. Alexander in two instances.
Mr. Harris in two instances.
Mr. McDonald in three instances.
Mr. Patten.
Mr. Richmond.
Mr. Simon in two instances.
Mr. Skelton.
Mr. Akaka.
Mr. Waxman.
Mrs. Chisholm.
Mr. Lundine.
Mr. Nolan.
Mr. Oberstar.
Mr. Hall of Ohio.
Mr. Edgar.
Mr. Conyers in two instances.
Mr. Murtha.
Mr. Hubbard.
Mr. Corrada.
Mr. Synar.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 19. Joint resolution to authorize the President to issue a proclamation designating March 1980 as "Youth Art Month"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. PEYSER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 p.m.) under its previous order, the House adjourned until Monday, February 11, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3432. A letter from the Secretary of Agriculture, transmitting the ninth annual report on the location of new Federal offices and other facilities in rural areas, for fiscal year 1979, pursuant to section 901(b) of the Agricultural Act of 1970, as amended; to the Committee on Agriculture.

3433. A letter from the Secretary, American Battle Monuments Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3434. A letter from the Secretary of Interior, transmitting a draft of proposed legislation to provide for the settlement of the land claims of the Cayuga Indian Nation in the State of New York, and for other purposes; to the Committee on Interior and Insular Affairs.

3435. A letter from the Acting Assistant Secretary of Interior, transmitting a draft of proposed legislation to amend the act of December 22, 1974 (88 Stat. 1712); to the Committee on Interior and Insular Affairs.

3436. A letter from the President and Chief Executive Officer, U.S. Railway Association, transmitting the sixth annual report of the Association, covering fiscal year 1979, pursuant to section 202 (e) and (f) of the Regional Rail Reorganization Act of 1973; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XX, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6080. A bill to amend the Geothermal Steam Act of 1970 to accelerate the priority development of geothermal energy in the United States; with an amendment (Rept. No. 96–750). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BADHAM:

H.R. 6456. A bill to amend section 404 of the Federal Water Pollution Control Act relating to permits for dredged or fill material; to the Committee on Public Works and Transportation.

By Mr. CHENEY:

H.R. 6457. A bill to remove certain restrictions imposed by Public Law 89–345 on a conveyance of land from the Administrator of Veterans' Affairs, to the city of Cheyenne, Wyo.; to the Committee on Veterans' Affairs.

By Mr. CORMAN:

H.R. 6458. A bill to amend title 5, United States Code, to provide that commissions received by employees of the House of Representatives barber shop shall be treated the same as basic pay for civil service retirement purposes; to the Committee on Post Office and Civil Service.

By Mr. EVANS of the Virgin Islands:

H.R. 6459. A bill to provide that the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be entitled to the minimum allotment provided by section 113 of the Developmental Disabilities Assistance and Bill of Rights Act to assist States in placing into effect systems to protect and advocate the rights of persons with developmental disabilities; to the Committee on Education and Labor.

By Mr. HALL of Ohio:

H.R. 6460. A bill to establish within the Office of Management and Budget the Administrative Information Management Office, to consolidate certain paperwork reduction functions of the Government, to reduce the Federal paperwork burden on small business enterprises and others, and to amend the Small Business Act to establish a means for assessing the effectiveness of Federal paperwork reduction efforts with respect to small business enterprises; jointly, to the Committees on Government Operations and Small Business.

By Mr. KRAMER:

H.R. 6461. A bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from the gross estate of a decedent of a portion of the value of certain interests in a farm or ranch or trade or business if the spouse or children of the decedent materially participate in such farm or ranch or trade or business; to the Committee on Ways and Means.

By Mr. LUNDINE:

H.R. 6462. A bill to establish the National Productivity Council and the National Productivity Council Advisory Board; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MINETA (for himself and Mr. Edwards of California):

H.R. 6463. A bill to amend the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970; to the Committee on Public Works and Transportation.

By Mr. NEDZI (for himself, Mr. Blanchard, and Mr. Bonior of Michigan):

H.R. 6464. A bill to authorize the Secretary of the Army to convey to the Michigan Job Development Authority the lands and improvements comprising the Michigan Army Missile Plant in Sterling Heights, Macomb County, Mich., in return for two new office buildings at the Detroit Arsenal, Warren, Mich.; to the Committee on Armed Services.

By Mr. RAHALL (for himself, Mr. Perkins, Mr. Clinger, Mr. Bevill, Mr. Murphy of Pennsylvania, Mr. Synar, Mr. Wampler, Mr. Whittaker, Mr. Murtha, Mr. Mollohan, and Mr. Hopkins):

H.R. 6465. A bill to amend section 102 of the Energy Policy and Conservation Act to provide for more effective implementation of the incentives under that section for development of coal mines; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. SATTERFIELD (for himself and Mr. Stockman):

H.R. 6466. A bill to amend the Clean Air Act to repeal the requirement that State Implementation Plans provide for periodic inspection and testing of motor vehicles; to the Committee on Interstate and Foreign Commerce.

By Mr. SKELTON:

H.R. 6467. A bill to amend the Food and Agriculture Act of 1977 with respect to loan levels applicable to certain commodities when commercial export sales of such commodities are terminated by a member of the executive branch of the Government; to the Committee on Agriculture.

By Mr. YOUNG of Florida:

H.R. 6468. A bill to amend the Public Health Service Act to provide for research concerning Reye's syndrome, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLAND:

H. Res. 569. Resolution to provide for the expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence; to the Committee on House Administration.

By Mr. PEYSER:

H. Res. 571. Resolution of inquiry directing the Attorney General of the United States to furnish certain information to the House of Representatives; to the Committee on the Judiciary.

By Mr. WOLFF (for himself and Mr. Railsback):

H. Res. 572. Resolution to provide for the expenses of investigations and studies to be conducted by the Select Committee on Narcotics Abuse and Control; to the Committee on House Administration.

By Mr. MURPHY of New York:

H. Res. 573. Resolution to provide for the expenses of investigations and studies to be conducted by the Select Committee on the Outer Continental Shelf; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials of the following titles were presented and referred, as follows:

338. By the SPEAKER: A memorial of the Legislature of the State of West Virginia, proposing an amendment to the U.S. Constitution with respect to the right to life; to the Committee on the Judiciary.

339. By the SPEAKER: A memorial of the Legislature of the State of South Carolina, relative to offsetting income loss to the States due to the reduction of excise taxes on gasohol; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BADHAM:

H.R. 6469. A bill for the relief of Daniel D. Cole; to the Committee on the Judiciary.

By Mr. DERWINSKI:

H.R. 6470. A bill for the relief of Richard B. Port; to the Committee on Armed Services.

By Mr. VAN DEERLIN:

H.R. 6471. A bill for the relief of James Daniel Bronson; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 801: Mr. Stenholm.

H.R. 1603: Mr. Ginn.

H.R. 2813: Mr. Dornan.

H.R. 3076: Mr. Howard.

H.R. 3345: Mr. McKinney, Ms. Oakar, and Mr. Markey.

H.R. 3571: Mr. Hamilton.

H.R. 3990: Mr. Weaver, Mr. Richmond, Mr. Gingrich, and Mr. Oberstar.

H.R. 4140: Mr. Grassley.

H.R. 4782: Mr. Traxler.

H.R. 5529: Mr. Long of Maryland.

H.R. 5643: Mr. Glickman, Mr. Whittaker, Mr. Steed, Mr. White, and Mr. McDonald.

H.R. 5666: Mr. Dickinson.

H.R. 5858: Mr. Breaux, Mrs. Byron, Mr. Daschle, Mr. Dixon, Mr. Ginn, Mr. Hall of Texas, Mr. Huckaby, Mr. Jones of Oklahoma, Mr. Lagomarsino, Mr. Lowry, Mr. Mavroules, Mr. Rose, Mr. Sabo, Mrs. Schroeder, Mr. Shelby, Mr. Stenholm, Mr. Synar, and Mr. Williams of Montana.

H.R. 6008: Mr. Mavroules and Mr. D'Amours.

H.R. 6053: Mr. Gibbons, Mr. Heftel, Mr. Ashbrook, Mr. Buchanan, Mr. Coleman, Mr. Edwards of Oklahoma, Mr. Erdahl, Mr. Goodling, Mr. Hinson, Mr. Kramer, Mr. Petri, Mr. Regula, and Mr. Tauke.

H.R. 6153: Mr. Danielson and Mr. Gramm.

H.J. Res. 463: Mr. Anderson of Illinois, Mr. Beard of Rhode Island, Mr. Blanchard, Mr. Campbell, Mr. Carter, Mr. Cotter, Mr. Daschle, Mr. Davis of Michigan, Mr. Dixon, Mr. Donnelly, Mr. Fauntroy, Mr. Flippo, Mr. Grisham, Mr. Guyer, Mr. Hall of Ohio, Mr. Hanley, Mr. Howard, Mr. Hutto, Mr. Jacobs, Mr. Kastenmeier, Mr. Kemp, Mr. Kogovsek, Mr. Lederer, Mr. Lee, Mr. Lott, Mr. Leach of Iowa, Mr. Lent, Mr. Madigan, Mr. Matsui, Mr. Mattox, Mr. Mitchell of Maryland, Mr. Murphy of New York, Mr. O'Brien, Mr. Patten, Mr. Pepper, Mr. Peyser, Mr. Ratchford, Mr. Rhodes, Mr. Richmond, Mr. Scheuer, Mr. Solomon, Mr. Stenholm, Mr. Stewart, Mr. Stokes, Mr. Swift, Mr. Synar, Mr. Weaver, Mr. Alexander, Mrs. Bouquard, Mr. Goldwater, and Mr. Rinaldo.

H.J. Res. 469: Mr. Abdnor, Mr. Akaka, Mr. Anderson of Illinois, Mr. Anthony, Mr. Archer, Mr. Badham, Mr. Bafalis, Mr. Beard of Rhode Island, Mr. Boland, Mr. Bowen, Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. Butler, Mr. Campbell, Mr. Cavanaugh, Mr. Cleveland, Mr. Corcoran, Mr. Cotter, Mr. Courter, Mr. D'Amours, Mr. Daschle, Mr. de la Garza, Mr. Devine, Mr. Dickinson, Mr. Dicks, Mr. Diggs, Mr. Dornan, Mr. Downey, Mr. Edgar, Mr. Emery, Mr. Ertel, Mr. Evans of the Virgin Islands, Mr. Evans of Delaware, Mrs. Fenwick, Mr. Findley, Mr. Fisher, Mr. Flippo, Mr. Frenzel, Mr. Gilman, Mr. Gingrich, Mr. Goldwater, Mr. Goodling, Mr. Gradison, Mr. Grassley, Mr. Gray, Mr. Fish, Mr. Hamilton, Mr. Hance, Mr. Hanley, Mr. Hansen, Mr. Hefner, Mr. Hightower, Mr. Howard, Mr. Hubbard, Mr. Hutto, Mr. Hyde, Mr. Ireland, Mr. Jeffries, Mr. Jenkins, Mr. Jones of Tennessee, Mr. Kogovsek, Mr. Kramer, Mr. LaFalce, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Lederer, Mr. Loeffler, Mr. Lott, Mr. Lundine, Mr. Marriott, Mr. McClory, Mr. McCloskey, Mr. McKinney, Mr. Michel, Mr. Mineta, Mr. Mitchell of New York, Mr. Mollohan, Mr. Montgomery, Mr. Moore, Mr. Moorhead of California, Mr. Myers of Pennsylvania, Mr. Nolan, Mr. Nowak, Mr. O'Brien, Mr. Oberstar, Mr. Pashayan, Mr. Patten, Mr. Perkins, Mr. Pickle, Mr. Porter, Mr. Pritchard, Mr. Pursell, Mr. Quayle, Mr. Quillen, Mr. Rahall, Mr. Railsback, Mr. Rhodes, Mr. Robinson, Mr. Roth, Mr. Rousselot, Mr. Roybal, Mr. Royer, Mr. Sabo, Mr. Sawyer, Mr. Skelton, Mr. Slack, Mrs. Smith of Nebraska, Mrs. Spellman, Mr. Spence, Mr. Staggers, Mr. Stangeland, Mr. Stanton, Mr. Stockman, Mr. Stratton, Mr. Stump, Mr. Swift, Mr. Synar, Mr. Tauke, Mr. Thompson, Mr. Traxler, Mr. Treen, Mr. Udall, Mr. Vander Jagt, Mr. Volkmer, Mr. Wampler, Mr. Weaver, Mr. Whitley, Mr. Whitten, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wolff, Mr. Wydler, Mr.

YOUNG of Alaska, Mr. YOUNG of Missouri, Mr. MATHIS, Mr. GIAIMO, Mr. WOLPE, Mr. YATRON, Mr. ALBOSTA, Mr. BLANCHARD, Mr. BROOMFIELD, Mr. CLAY, Mr. CONYERS, Mr. BRODHEAD, Mr. EDWARDS of Oklahoma, Mr. BROWN of Ohio, Mr. GREEN, Mr. HOPKINS, Mr. HUCKABY, Mr. KILDEE, and Mr. LENT.

H.J. Res. 480: Mr. CONTE and Mr. VENTO.

H.J. Res. 481: Mr. BALDUS, Mr. ROBINSON, Mr. SATTERFIELD, Mr. COELHO, Mr. YOUNG of Florida, and Mr. BUTLER.

H.J. Res. 490: Mr. STEED, Mr. JONES of Oklahoma, Mr. WATKINS, Mr. ALEXANDER, Mr. HIGHTOWER, Mr. ANTHONY, Mr. STENHOLM, Mr. HANCE, Mr. SEBELIUS, Mr. HAMMERSCHMIDT, Mr. BEREUTER, Mr. SMITH of Iowa, and Mr. KOGOVSEK.

H. Con. Res. 199: Mr. MAGUIRE.

H. Con. Res. 275: Mr. GOLDWATER, Mr. NICHOLS, Mr. SOLOMON, Mr. QUAYLE, Mr. DICKINSON, Mr. DORNAN, Mr. SYMMS, Mr. MCEWEN, Mr. RICHMOND, Mr. DERWINSKI, Mr. STRATTON, Mr. CAMPBELL, Mr. CARNEY, Mr. DANIEL B. CRANE, Mr. HALL of Texas, Mr. SNYDER, Mr. JONES of Tennessee, Mr. SEBELIUS, Mr. LEATH of Texas, Mr. GINGRICH, Mr. BONER of Tennessee, Mr. BAFALIS, Mr. MARRIOTT, Mr. HYDE, Mr. SPENCE, Mr. TAYLOR, Mr. STANTON, Mr. RUDD, Mr. KINDNESS, Mr. STANGELAND, Mr. FRENZEL, Mr. BEREUTER, Mr. BAUMAN, Mr. ROUSSELOT, Mr. WALKER, Mr. BURGENER, Mr. MICHEL, Mr. EDWARDS of Oklahoma, and Mr. GRASSLEY.

PETITIONS, ETC.

Under clause 1 of rule XXII,

276. The SPEAKER presented a petition of the Administrative Committee and Board of Trustees, Jewish Community Council of Metropolitan Boston, Mass., relative to supporting proposed legislation to make a Federal crime of vandalizing a house of worship or any articles therein; to the Committee on the Judiciary.

SENATE—*Thursday, February 7, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Almighty God, we thank Thee for the "faith of our fathers, living still" which unites us today in a season of prayer at our breakfast tables. Make us a praying people, in peace and in war, in prosperity and in adversity. May the vision of Thy majesty and Thy greatness keep all lesser persons and powers in perspective. Deliver us from all fear except that of failure to do Thy will. Make us strong in the hope of the Gospel. Keep this Nation praying that it may be strong in soul as it is in substance, strong in the spiritual as it is strong in the material. And to Thee shall be the praise and the thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 7, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized for not to exceed 3 minutes.

STUDENT AID PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, an important item on the Senate's agenda this session will be the Education Amendments of 1980. This legislation would reauthorize the numerous Federal higher education programs. Last extended in 1976, the Higher Education Act of 1965 expired at the end of fiscal year 1979. However, the act provided for an automatic 1-year extension in the event reauthorization was not completed.

The House passed the Education Amendments of 1980, H.R. 5192, in the last session. The Senate Labor and Human Resources Committee completed hearings on the measure at the same time. Its Subcommittee on Education, Arts and Humanities expects to begin markup the latter part of February.

Title IV of the legislation, which contains the six major Federal student aid programs, will be an important item of discussion. Over the last few years, much attention has been focused on the high default rates in these student aid programs. Two programs in particular have been beset with problems. One is the guaranteed student loan, in which the student borrows from a lending institution and the Government guarantees the loan. The other is the national direct student loan, in which the Government supplies funds to the education institution, which then lends money to the student.

In the more than 15 years these programs have been in operation, former students have defaulted on nearly $2 billion in loans of $200 to $10,000 each. Under pressure from Congress, the Department of Health, Education, and Welfare set up a section called the Office of Student Financial Assistance to step up collection efforts. Some progress has been made. For example, in October 1977, the Office of Education had on record 300,000 guaranteed student loan (GSL) accounts, of which only 24,000 were being paid on a regular basis. As of September 30, 1979, 106,000 accounts were receiving regular payments, and over 51,000 had been paid in full. More significantly, in fiscal year 1977, $9.6 million was paid on the loans; during fiscal year 1979, a total of $42.4 million had been collected.

While I am encouraged by this progress and hope that the new Department of Education will continue these efforts, problems with the programs persist. Testifying last year on Federal higher education programs, education officials noted that the forms and procedures for obtaining loans were overly complex. In addition, they cited collection and repayment problems.

Student assistance constitutes over 90 percent of Federal aid for higher education. While I support the Federal commitment to advancing the goal of equal education opportunities through financial assistance, student aid programs must not be viewed as sources of free money reservoirs for students needing help to pay for their educations. When a student accepts a loan, he or she also accepts the responsibility to repay it under the agreed-upon terms. If a student defaults on a Government-backed loan, this creates an unavoidable obligation for the Federal Government, both in terms of honoring the unpaid loan and administering collection efforts.

Several proposals to strengthen the loan programs as well as step up collection efforts will be examined when the Human Resources Committee proceeds with its work on the Higher Education Act amendments. I support efforts to improve the student aid programs and I hope that Congress will review closely the committee's proposal.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized for not to exceed 3 minutes.

REALLOCATION OF TIME

Mr. STEVENS. Mr. President, with the agreement of my good friend, the majority leader, I ask unanimous consent that the special order which has been reserved for the Senator from Virginia (Mr. WARNER) be vitiated and the time be allocated between the Senator from Connecticut and the Senator from Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GOING HOME TO RED ROCK

Mr. STEVENS. Mr. President, I see my good friend from Oklahoma is here and I shall not use his time, except to say that almost 12 years ago, when we came to the Senate, I found that there was not an office for me and my new staff and the Senator from Oklahoma was in the same circumstance. The two of us moved in and shared a Senator's suite for almost 6 months. During that period, we formed a warm and secure friendship, as did our wives. In fact, our wives later became not only close friends, but business partners too.

It was with deep regret that I learned that the senior Senator from Oklahoma will not seek reelection. This morning's Washington Post contains an article concerning Senator BELLMON and his efforts. He has been known as a budget watchdog, but he has not been hidebound by the concept of foolish consistency. He has shown a willingness to meet the challenge of compromise and still perform with legislative responsibility. There is no question about his sincere commitment to fiscal restraint, even when it has adversely affected his own State to the detriment, perhaps, of his own political future.

I take this occasion, Mr. President, in his presence, and probably will catch a little grief for it, to tell my good friend

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that we are sorry that he is leaving. We shall miss him and will surely have some more detailed things to say about it later.

I know of no more honest and trustworthy Senator and I am sorry that he has decided to go. If he would only change his mind, I am sure that Members on both sides of the aisle would be willing to go to Oklahoma and convince the people that it would be to their continued benefit to have him remain in the Senate.

Mr. President, I ask unanimous consent that the article concerning Senator BELLMON be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOING HOME TO RED ROCK—AFTER 12 YEARS, HENRY BELLMON IS LEAVING THE SENATE

(By Helen Dewar)

For most members of Congress, ascending to the lofty perch of chairman or ranking minority member of a major committee means power, prestige and perquisites. For Sen. Henry Bellmon (R-Okla.), the honors have included hanging in effigy from a neighbor's porch back home in Red Rock, Okla.

A plain-spoken, round-faced, barrel-chested rancher who came to the Senate 11 years ago with little more than a reputation for having made Republicanism respectable in Oklahoma, Bellmon struck many of his colleagues as a perfect specimen of predictable and rock-solid Western conservatism.

"Maybe even a hick," said one of them.

Few if any had immediate cause to expect Bellmon would emerge as one of the Senate's most thoughtful and independent members, often rowing against the tide of his party, his constituency and his own political philosophy to hold the line on defense and farm spending, resist tax cuts and even support deficit spending at times.

But that is what has happened.

Now that Bellmon has decided to go back to Red Rock next year at the end of his second term, saying simply that "12 years is enough," his impending departure is being mourned by Democrats as much as Republicans.

"It's going to be a real loss," said Senate Budget Committee Chairman Edmund S. Muskie (D-Maine), who, together with Bellmon as ranking minority member, fashioned the Senate's latest experiment with budget control into an exercise in bipartisan self-discipline.

Some even say the process, as it was shaped jointly by the generally conservative, easy-going Bellmon and the more liberal, volatile Muskie, may not survive the breakup of this senatorial "odd couple" act.

It was as the senior Republican on the Budget Committee over the last four years that Bellmon's reputation as a prairie statesman began to emerge, even though friends say it was more a case of rising to a challenge than any basic change in the man.

"I think it was a case of [unrecognized] qualities being given a chance to express themselves," said Muskie, describing Bellmon as a "true moderate . . . with a lot of common sense."

The 58-year-old Oklahoman has charted a distinctly independent course on other matters as well, voting consistently against anti-schoolbusing resolutions and supporting the Panama Canal treaties—to the dismay, and in some cases outrage, of his conservative constituents and colleagues.

But it was for his budget-inspired resistance to demands of the American Agriculture Movement for huge subsidies that Henry Bellmon had to look at Henry Bellmon hanging in effigy every time he went back to Red Rock. And it is in his budget role that he has made his mark on the Senate.

Bellmon's unusual role arose not so much from law, tradition or political conniving as did it from the almost accidental convergence of two people who, despite glaring differences in temperament and outlook, shared a common background.

Republican Bellmon, like Democrat Muskie, helped build his party in his native state from next to nothing. Each was elected governor when his party was still a tiny minority and had to rely on bipartisan cooperation to get anything done.

So the move toward accommodation was almost second nature when they confronted each other in the recently formed Budget Committee in 1975. They decided then to aim for consensus in committee and to stand together on the floor to defend the compromise budget resolution—under which Congress sets spending priorities and limits—from assaults by either left or right.

Time and again, this has brought Bellmon to his feet to oppose GOP efforts to fatten the defense budget; even though he considers himself a strong defense advocate, just as Muskie arises to oppose expansion of domestic social programs that he favors. And it has found Bellmon opposing tax cuts and fixed taxing limits, despite the fact he joined the committee to help carry out his belief in spending restraints and balanced budgets.

Natural as the cooperation may have seemed to them, the House, operating with a different cast of characters and different scenario of pressures, has taken the opposite approach. House Republicans have generally let the Democratic majority write the budget and then opposed it, although some of them say they would cooperate more if only the Democrats would let them.

Bellmon's approach is not without its critics. Some, such as Sen. Orrin Hatch (R-Utah), contend that the GOP should be more aggressive in pushing for a balanced budget rather than, as he puts it, "condoning deficit spending." Even some of Bellmon's admirers say he could fight a little harder.

As the former governor of a no-deficit state, Bellmon acknowledges that his views have changed since joining the Budget Committee.

"I probably came here with an overly simplistic approach to federal financing due to my experience in the governor's office and due to my conviction that government budgets ought to be balanced every year," he said in a recent interview.

"Here, we have two responsibilities that states don't have: for national defense and economic stability. As I've gotten into this thing, I've come to appreciate those additional responsibilities and to accept the fact that there are good reasons for occasional unbalancing of the federal budget," added Bellmon, although he made it clear he wants to see the budget balanced this year even though he will also press for an increase in defense spending.

As for those who prefer the more aggressive partisanship of the House Republicans, he notes that the Senate's version of the budget has nearly always provided for higher defense outlays, lower domestic outlays and less spending in general than the House version.

As for Muskie, Bellmon says "he's a real prince."

Difficult as some of his fiscal votes may have been, he probably took the greatest heat for his support of the Panama Canal treaties. Newspaper editorials back home called him a "traitor," which is tough for a former Marine like Bellmon to take.

Acknowledging it was a tough decision, he said a colleague gave him a book on Panama's history, which led him to the conclusion that the old treaty was "just not equitable to Panama." Moreover, he concluded that Congress was not prepared to support a "mean, costly and distasteful" military campaign to retain the canal. Besides, he said simply, "We don't stay where we aren't wanted."

Reared by parents who came from Iowa and Kansas and brought up in an area of north-central Oklahoma where the local minority was Indian rather than black, he came by his pro-civil rights votes much more easily.

Although Oklahoma City had been thrown into turmoil by a court-mandated busing order, "I became convinced we had to integrate and that local school boards couldn't handle it alone. There was a role for the federal courts. Otherwise we were headed down the road to civil strife," he explained. For reasons he still doesn't understand but deeply appreciates, Oklahoma City reelected him by a bigger margin after his busing votes than before.

Bellmon professes no further political ambition and plans to return to his 3,000-acre wheat and cattle farm near Red Rock. He acknowledges he was tempted to stay on longer but, paraphrasing former senator John Pastore (D-R.I.), said he thought it was better to leave while friends urged you to stay than to stay so long that friends urged you to leave.

"It's sad to see people here so long they have no home to go back to," said Bellmon. "When it comes to the point where we belong here rather than there, we've stayed too long."

Mr. BELLMON. Mr. President, I thank my good friend from Alaska. As he said, he embarrasses me with all these fine comments.

I might say before he leaves the floor that if I were going to be a candidate for reelection, I think the last thing I would want in this current climate is for a lot of folks from Washington to go to Oklahoma to ask Oklahomans to vote for me. I think I would rather run as a farmer and not have too much identification with the national scene.

Mr. President, I thank my friend from Alaska. He is very kind in what he said.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BELLMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATORS WEICKER AND BELLMON

The ACTING PRESIDENT pro tempore. Under the previous orders, the Senator from Connecticut is recognized for not to exceed 15 minutes, and the Senator from Oklahoma (Mr. BELLMON) is recognized for not to exceed 15 minutes.

Would the Senators like to agree to change the order?

Mr. BELLMON. Mr. President, the Senator from Connecticut is here. I am happy to yield to him.

Mr. WEICKER. Mr. President, I defer to my elders. I am delighted to have the Senator from Oklahoma, my very good friend, go first. Let us swap the order here.

Mr. BELLMON. Mr. President, I appreciate the kindness of my friend from Connecticut.

FREE WORLD'S OIL SUPPLY

Mr. BELLMON. Mr. President, for the past several weeks the Senator from Oklahoma, along with other members of the Energy Committee, has been participating in a series of briefings, some closed, some open, regarding the stability of the free world's oil supply.

As a matter of fact, such a briefing is going on at this minute in another part of the Capitol.

The information we have received is terrifying. Among knowledgeable authorities there is great concern that well before the decade of the 1980's has passed oil supplies will be interrupted in a far more serious and more lasting way than has been experienced heretofore.

With the Russians in control of Afghanistan, they are within 30 minutes by jet of the Straits of Hormuz. Seventy percent of the free world's crude oil goes through this waterway. Control of the straits by the Russians would enable them to control the flow of oil to most of the countries of the world. They would be able to decide which nations get oil and which will not.

Unless prompt and correct action is taken the resulting impact upon the economic stability and security of the industrialized nations is certain to be devastating.

At the same time, House and Senate conferees are laboring to reach agreement on the misnamed "excess profit tax"—more properly called the domestic crude oil excise tax. This tax will cripple the ability of the U.S. energy industry to make the investments necessary to develop our still abundant domestic energy resources. The United States is known to have within its borders enough coal and oil shale to meet our national needs for hundreds of years. In addition, more oil remains in existing oilfields than has been produced to date and new fields are being discovered every day.

Mr. President, it requires enormous investments to bring increased quantities of liquid hydrocarbons to market. Consider these facts:

First. The United States is currently importing 8 million barrels of oil daily.

Second. To build a single synthetic crude oil plant to make 100,000 barrels of oil per day from coal or oil shale requires the investment of $5 to $6 billion in 1980 terms.

Third. To meet current U.S. oil needs—to say nothing about the future, just to meet current U.S. oil needs—would require the construction of 80 such plants for a total investment of $400 to $500 billion.

Fourth. At the same time additional hundreds of billions of dollars are needed to drill 50,000 to 100,000 new wells annually, start tertiary recovery projects, construct the refineries, the pipelines, the chemical plants, and the other facilities needed to process and distribute the increased volumes of domestic crude oil.

Fifth. In addition to building a capacity to meet U.S. needs, this country should build surplus capacity to share with our allies in time of international crisis. Until recently this has traditionally been our role.

The United States is not out of energy, but the fact is that our country has used up its cheap oil and now we must pay more for the oil we use whether it is imported or produced domestically.

Mr. President, what Congress is about to do is to tax at least $227 billion away from oil producers and spend it for more Government programs. The figure will be much higher than this since the tax is calculated on $30 oil. The Government recently sold Elk Hills oil at $41 per barrel. Figured with oil at that price, the tax will take over $400 billion away from producers during the next 10 years.

Mr. President, $400 billion—or even $227 billion—is an enormous sum of money. It is by far the largest tax ever voted at one time on one industry by the U.S. Congress.

The Senate version of the crude oil excise tax contained a provision for phasing out the tax once the desired level of revenues had been collected. How many Members realistically believe that once Congress has become "hooked" on spending an extra $20 to $40 billion per year that we will ever agree to reduce the cost of Government and allow this tax to terminate? This simply will not happen. Once the domestic energy industry is saddled with this enormous tax increase and once Congress has increased the costs to Government to absorb these new revenues, we will be locked into a higher cost Government and lower investments in energy production.

Mr. President, this situation is intolerable. The country is short of oil. The free world is short of dependable supplies of oil. The situation is certain to get much worse. Already we have wasted 6 years since the oil embargo. We cannot waste more time.

If we are to solve the energy problem, we must use less oil and produce more. Therefore, if more revenues are needed, which they are not, we should be considering a tax on consumption, not on production. We should provide cost restraints on consumption and incentives, not disincentives, for producers.

What is the problem?

Mr. President, the problem is political. We have a Congress which makes political capital by kicking the oil industry around. We have a President who saw the need and had the courage to end the abomination called the oil price control program but who lacked the will to simply terminate this evil. He has proposed, and Congress apparently is ready to accept, a confiscatory tax upon oil producers.

Consider where we have come since 1973. During this time, the price of "old oil" has been controlled at around $6 per barrel. Imported oil prices have risen to five times that amount. Inflation has increased the cost of finding a new barrel of oil year after year so that "old oil" is now being sold at about 20 per cent of the cost of replacement. Is it any wonder that U.S. oil production from the 48 contiguous States has gone down and down?

Let us consider where the United States would be now if the oil industry had successfully resisted the politically inspired price controls which were put in place in 1973. These controls artificially held the price of "old oil" to $6 per barrel while replacement costs and world prices soared. The result: Wasteful overconsumption, reduced domestic production, vastly higher costs of imported oil and now greater dependence on less and less secure supplies for all Western nations.

I have asked myself: Why has the oil industry sat still for the price control program? Why does it not resist this new tax? The industry was promised a phase-out of price controls. This will not happen except with a tax. Now the industry is promised a phase-out of the tax. I say to the industry: Wake up. You are being had.

In the interest of national security and economic stability this situation must be reversed. Decontrol is the first step toward increased production and reduced consumption. But the imposition of a confiscatory tax defeats the goal of energy independence.

This retroactive tax must not be approved.

Mr. President this tax will be ultimately damaging to consumers, as well as producers. It stands to reason that if the Government siphons away up to $400 billion, there will be less production. This will result in a lower energy supply, and the price will naturally increase. Consumers will pay this tax in the long run.

If consumers think a dollar a gallon for gasoline is high, wait until the new cost of producing energy shows up on the gas pump.

On the other hand, there is evidence that increased profits mean increased production, and consequently lower energy costs.

Now is the time for dramatic, even drastic, action, if necessary, to bring American politicians to their senses.

Mr. President, throughout our history the United States fortunately has been blessed with patriots who were willing to risk personal well-being in the national interest. Consider the patriots who launched the "Boston Tea Party." They were farsighted enough and courageous enough to understand the injury which was about to be done to the country they loved. They took a risk to prevent a miscarriage of justice and to protest an unjust and unwise act.

In more recent times, we witnessed another example in which citizens took action to protest an injustice. I refer to the civil rights movement which started in the 1950's and eventually forced the Federal Government to right the wrongs of many years. These citizen protests were necessary because politicians did not have the courage to face reality and produce workable solutions to an existing evil.

I am convinced that the time has come when another dramatic act is called for to bring reason to the U.S. political scene.

Mr. President, the tax on tea which the Boston patriots opposed was assessed by authorities in England, and the Americans had no voice. The "excess profits tax" is being assessed by "consumer interests," so-called, and the voice of producers is ignored.

Consider this: The tax is called an "excess profits tax," yet it applies to oil to be produced from wells which have not even been drilled. It also applies to oil to be produced from tertiary recovery projects which have not even been started. It applies to old stripper wells which are operated to get the last few barrels from the ground before the wells are abandoned and salvaged.

This tax is a threat to our national survival far more surely than the tax the British levied against the colonists' tea. It will cut U.S. production, increase the cost of energy to consumers, place our great country at the mercy of foreign governments, weaken our ability to defend ourselves, and destroy the quality of life we now know. This cannot be allowed to happen.

Mr. President, as patriots came forth to defend our country against an ill-advised and destructive tax by dumping tea into the Boston Harbor, we now need patriots who will resist this more deadly tax.

Throughout the colorful history of the American petroleum industry, oil was known by many names. It was called "black gold" (which makes one wonder why we have not imposed a windfall profit tax on gold prices, which have risen 2,000 percent since the early seventies—much more than oil). Oil also was known as "Texas Tea."

I believe the time has come for a "Texas Tea Party."

I call upon American oil producers, from coast to coast and from border to border, to protest the imposition of this dangerous tax.

Next Tuesday is the birthday of Abraham Lincoln, the President revered in American history as the "Great Emancipator." This would be a most appropriate day for oil producers all over the country to begin to strike a blow for freedom—freedom from unfair taxation, freedom from "government-knows-best" over regulation, freedom to produce the energy our country must have to be truly independent.

Next Tuesday should become "Energy Emancipation Day"—the day when this Nation finally turns toward policies that will make us free again from foreign control of our vital energy needs.

On that day, every oil drilling rig should be idled (or as soon thereafter as safety and legal requirements will allow) and every producing oil well should be shut down (for maintenance, if necessary, as the law allows). This condition should continue until the House and Senate conferees produce a bill which will provide the incentive to produce oil needed for national security and economic stability.

A 30-day or even 90-day disruption in this Nation's oil production will not paralyze the country, since our present stocks are as high as they have been in a long, long time. This disruption in the Nation's oil production will help wake up the country. It will be a small price to pay for the security our country and our allies would gain from an abundant and dependable domestic oil supply.

If the so-called excess profit tax is allowed to go into effect, this Nation's energy security will be damaged beyond repair. I call upon the members of the oil industry to do what politicians are either too uninformed or too weak to do. Politicians cannot solve the energy problem. The industry can if it will free itself from its shackles.

Patriots in the oil industry who join in this "Texas Tea Party" can perform a greater service for their country than all politicians put together. They can set the stage for solving our energy crisis within the decade of the eighties. Everyone who participates should be dedicated to maximum effort within the limits of capital and technology available to bring more oil to market in the shortest possible time once the shackles are removed.

The U.S. energy problem can be solved. The solution lies not in the minds of the politicians but rather in the hands of the oil producers—hands unfettered by politically popular but economically deadly restraints on production. The solution is to use the billions of dollars decontrol will bring in to produce more oil, not spend this money for more Government.

Mr. President, the Senator from Oklahoma has been in the Senate since 1969. The energy problem was not popularly recognized when he came here, though its development had long been detected and proclaimed by knowledgeable persons in the industry. During these last 11 years, dozens of bills, many by the Senator from Oklahoma, have been introduced to deal with the problem. No legislation to enhance oil production has passed, nor will any pass. I despair of political solutions. The voice of the consumer is strong, but not fully informed. The voice of the producer is weak and considered self-serving. This is one of the few times in our Nation's history, as with the Boston Tea Party and the civil rights movement, when those affected by ill-informed and shortsighted lawmakers are justified in taking direct action to call public attention to a law or policy which is destructive to national interests.

Whatever hardships, and there will be many, come from decontrol can be dealt with through the Nation's welfare system. The existing corporate and personal income tax will generate far more revenues from increased oil prices than needed to help pay increased heating costs, provide incentives to conserve and make fuel substitution possible.

To sum up, Mr. President, the domestic crude oil tax, or "excess profits tax" is a threat to our national survival. The Russian presence in the area of the Persian Gulf, threatening to cut off the free world's oil supply, is the final signal to the United States to face squarely the need to produce from our own abundant domestic resources.

We politicians lack the will to face an electorate angered by the consequences of a realistic energy program. The only solution lies in the hands of oil producers who must do as patriots have done in the past and act to deter a national disaster.

I again call upon every oil producer in this great land to cease drilling for oil and producing oil by every legal means at their disposal until removal of the debilitating economic shackles which have made this Nation energy dependent and which threaten our national survival.

We can be free from foreign energy domination. We can produce our own oil. We have the resources and the technology. Give American ingenuity the opportunity it must have before it is too late.

A "Texas Tea Party" is as timely now as was the "Boston Tea Party" of colonial times.

RECOGNITION OF SENATOR WEICKER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut is recognized for not to exceed 15 minutes.

S. 2272—PUBLIC PROSECUTOR ACT OF 1980

Mr. WEICKER. Mr. President, in the opening of my final report submitted to the Senate Watergate Committee on June 27, 1974, I stated that:

> For this Senator, Watergate is not a whodunit. It is a documented, proven attack on laws, institutions, and principles. The response to that attack was and is a nation of laws at work, determining whether men shall prevail over the principles of a Constitutional democracy. It has been and will be the testing of a great experiment in government begun some two hundred years ago.

That was the essence of Watergate. We were not solving a mystery. We were testing whether we would have the courage, as a nation, to check unbridled power by an often secretive Executive and whether we would have the wisdom to enforce fair and equal justice from a multitude of Government departments.

In the case of Watergate, it was the executive branch that had misused its power. However, misuse of power is not indigenous to the executive branch of Government. The legislative branch has not been beyond reproach.

Mr. President, in the Federalist No. 51, James Madison said:

> If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed, and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government, but experience has taught mankind the necessity for auxiliary precautions.

The sagacity of Madison's words is brought home to us daily in press accounts of alleged misconduct by those in the executive and legislative branches.

The voting public is the final arbiter of Government—but there must be additional precautions taken to insure that there are adequate controls on the Government. These precautions are essential to insure faith in our Nation's Government. Faith in Government, in its fairness, is founded on equal application of the law. That principle must be above suspicion, especially in a nation whose survival depends on the rule of law and public belief in that rule.

Mr. President, today I am introducing legislation to create the office of an independent, permanent public prosecutor. This legislation is needed to dispel the Nation's perception of an unequal system of justice that treats the powerful few in a manner different from other citizens suspected of breaking the law.

Article II, section 2 of our Constitution grants the President control over his Cabinet, including the Attorney General. Over the last decade we have seen how this grant of power has been used by the President to fill the Nation's top law enforcement positions with brothers, campaign managers, law partners and old friends. More often than not, blindfolded justice has not been holding scales but instead the President's hands.

The continued viability of our democratic Government requires that the American system of justice, its Constitution, never can play a subservient role to the political aspirations and whims of those charged with preserving it. Yet, three Attorneys General and three Assistant Attorneys General either bowed to White House pressure or were forced to resign when they stood their ground during Watergate. Clearly, our system as it now exists does not insure the separation of politics from the judicial process.

The Public Prosecutor Act of 1980, which I am introducing today, will insure a single standard of justice in the United States. The independent, permanent public prosecutor created pursuant to this legislation not only will appear to be, but will in fact be, impervious to the political and personal demands of officials in both the executive and legislative branch. He will possess the requisite independence and statutory authority necessary to investigate—with unimpeded access to Government documents and officials—and to prosecute allegations of Government misconduct. There would not be any possibility of high level interference in sensitive investigations and prosecutions.

In recognition of the inherent institutional conflicts of interests which can compromise the ability of the Justice Department to vigorously and objectively investigate and prosecute charges against high Government officials, Congress passed the Ethics in Government Act of 1978, creating a mechanism for the appointment of temporary special prosecutors. However, as evidenced by the statements of Attorney General Civiletti made yesterday before the State, Justice, Commerce, the Judiciary, and Related Agencies, Subcommittee of the Appropriations Committee, the Attorney General still plays a crucial role in the process. Mr. Civiletti indicated that he would not recommend the appointment of a special prosecutor to investigate Secretary of the Treasury Miller, despite serious allegations being made by the Securities and Exchange Commission against Mr. Miller. Further evidence that the mechanism established by the Ethics in Government Act of 1978 can be circumvented is found in the failure to appoint a truly independent special prosecutor to investigate allegations of financial improprieties at the Carter peanut warehouse and to examine the alleged White House intercession on behalf of fugitive financier Robert L. Vesco.

Mr. President, the failure to appoint a special prosecutor to investigate allegations of impropriety such as these undermines the faith of the American people in the integrity of their Government. The ramifications of this are tremendous. As Professor Woodward pointed out in "Responses of the Presidents to Charges of Misconduct," the American Revolution was prompted in part by the perception of low ethical standards in Government:

> The sale of office was accepted and assumed as a matter of course, and sinecures abounded. Administrative standards were generally lax, corrupt, and class-ridden. The revolt against the mother country was at least in part a revolt against those standards. One firm tenet of the revolutionists was that corruption led inevitably to tyranny and the loss of liberty. They thought this has been the history of all governments and were prepared to expect the worst of their own. Their revolutionary puritanism inspired the direst suspicions and an excessive zeal in criticism.

The Public Prosecutor Act of 1980 will help allay the public's fear of corruption in Government by insuring fair and impartial enforcement and administration of our laws. The Office of Public Prosecutor would be established within the Department of Justice under the direction of the Public Prosecutor. The Public Prosecutor would be appointed by the President, by and with advice and consent of the Senate and for a term of 6 years. There would also be a Deputy Public Prosecutor whose party affiliation cannot be the same as that of the Public Prosecutor and whose term would overlap that of the Prosecutor. The Public Prosecutor would have jurisdiction over offenses committed by members of the Cabinet, employees and officers of the Federal Government, the national campaign manager or chairman of any national campaign committee for the election or reelection of the President, and Members of Congress and officers or employees of either House compensated at a rate of at least $35,000. Both the Public Prosecutor and the Deputy Public Prosecutor must concur in any indictment returned by a grand jury or criminal information. Any appointee to the Office of Public Prosecutor must agree not to occupy or run for any Federal elective office for 5 years after termination of service.

Mr. President, I urge my colleagues to closely examine this legislation which will reassure the American public that Federal investigation into charges against top Government officials will be carried out fairly and impartially, without even the merest possibility of deference to political office. We must take affirmative action to insure that the public trust in Government is maintained.

I ask unanimous consent that the text of the bill, together with a section-by-section analysis of the bill and a comparison of it with the mechanism created in the Ethics in Government Act of 1978 for the appointment of a special prosecutor, be printed in the RECORD at this point.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Prosecutor Act of 1980".

FINDINGS OF FACT AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the continued vitality of American constitutional Government requires the confidence of the electorate that the laws of the United States shall be executed faithfully and be enforced without favor against all persons, including officers or employees of the Government and of national political parties, and without conflicts of interest on the part of the individuals charged with their enforcement, and that the integrity of the electoral processes of the United States shall be preserved;

(2) public confidence in the faithful execution and fair and impartial administration of the laws of the United States, and in the electoral processes of the United States, requires that the individuals officially involved in such activities discharge their responsibilities free of conflict of interest and without misconduct, and free of the appearance of conflict of interest or misconduct;

(3) in cases involving officers and employees of the executive branch of the Government and individuals involved in Federal election campaign activities the danger of political considerations influencing the Attorney General of the United States and those officials under his supervision and control may impair the vigorous enforcement of the criminal laws, may impair the morale of the Department of Justice, and may thereby undermine public confidence in the faithful execution and fair and impartial administration of the laws of the United States and in the electoral processes of the United States; and

(4) maintenance of such public confidence requires the establishment of an independent office charged with insuring that the criminal laws of the United States are vigorously enforced against officers and employees of the executive branch of the Government and against misconduct in the course of Presidential election campaigns.

(b) It is the purpose of this Act to establish within the Department of Justice, an official, independent of the President and the Attorney General, empowered and authorized to take such steps as may be necessary to assure the public that the criminal laws applicable to the conduct of Members of Congress, officers and employees of the executive branch of the Government and of Presidential election campaigns are vigorously enforced.

TITLE I—JUDICIAL CODE AMENDMENTS

ESTABLISHMENT OF OFFICE

SEC. 101. (a) Title 28, United States Code, is amended by adding after chapter 39 the following new chapter:

"Chapter 40—PUBLIC PROSECUTOR

"Sec.
"591. Establishment of Office of Public Prosecuter; Deputy Public Prosecutor.
"592. Term and vacancies.
"593. Qualifications.
"594. Removal.
"595. Jurisdiction.
"596. Powers.
"597. Notification to Attorney General of initiation of prosecution.
"598. Actions with respect to an incumbent President.
"599. Administrative provisions.
"600. Report to Congress.

"§ 591. Establishment of Office of Public Prosecutor; Deputy Public Prosecutor

"(a)(1) There is established within the Department of Justice the Office of the Public Prosecutor (hereinafter referred to as the 'Office'), which shall be under the direction of the Public Prosecutor who shall be appointed by the President, by and with the advice and consent of the Senate. The Public Prosecutor shall, subject to the provisions of section 595 of this title, exercise the powers conferred on him by this chapter independent of supervision by the President, the Attorney General, and their subordinates or delegates.

"(2) There shall be in the Office a Deputy Public Prosecutor who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform, in addition to those duties specifically prescribed by law, such duties as the Public Prosecutor may direct.

"(3) Any individual holding office under this section shall not accept or hold any other office under the United States while so serving.

"(b)(1) The Office shall be administratively a part of the Department of Justice, but shall be located in physically separate facilities.

"(2) Notwithstanding the provisions of paragraph (1), the Public Prosecutor and the Attorney General may confer in any manner contemplated in this chapter or at such other time and in such other manner as either of them may deem appropriate.

"§ 592. Term and vacancies.

"(a)(1) The Public Prosecutor shall hold office for a term of six years and except as provided for in subsection (c)(2), shall not be eligible for reappointment to a consecutive term as Public Prosecutor.

"(2) The first Deputy Public Prosecutor shall hold office for a term of three years and each subsequent Deputy Public Prosecutor shall hold office for a term of six years. Except as provided for in subsection (c)(2), no Deputy Public Prosecutor shall be eligible for reappointment to a consecutive term as Deputy Public Prosecutor.

"(b) At no time shall the Public Prosecutor and the Deputy Public Prosecutor be appointed from or affiliated with the same political party.

"(c)(1) In the event of the disability of the Public Prosecutor or of a vacancy in that office, the Deputy Public Prosecutor shall serve as Acting Public Prosecutor until the expiration of such disability or the appointment of a successor to fill such vacancy. Any vacancy in the office of Public Prosecutor or Deputy Public Prosecutor before the expiration of a term prescribed in subsection (a) of this section shall be filled in the same manner as the original appointment, except that the Public Prosecutor or Deputy Public Prosecutor so appointed shall serve for the unexpired portion of such term.

"(2) Any individual appointed, pursuant to paragraph (1), to fill an unexpired portion of less than one year of a term as Public Prosecutor or Deputy Public Prosecutor shall be eligible to be reappointed for a full term following the expiration of the portion of the term for which such individual was first appointed.

"§ 593. Qualifications.

"(a) No individual shall be appointed Public Prosecutor or Deputy Public Prosecutor unless such individual—

"(1) is eligible to receive the security clearance required by section 596(4) of this title;

"(2) is, and for a period of at least fifteen years prior to such appointment, has been admitted to the practice of law before the highest court of a State or of the District of Columbia and at the time of such appointment is a member in good standing of the bar of at least one such State or the District of Columbia; and

"(3) is, at the time of such appointment, a member in good standing of the bar of the Supreme Court of the United States and for a period of at least ten years prior to such appointment has been such a member.

"(b) No individual shall take the oath of office for the position of Public Prosecutor or Deputy Public Prosecutor unless such individual has agreed in writing not to occupy or assume or discharge the duties of any other office of the United States, vacancies of which are filled by popular election, for a period of five years after the date on which such individual's services as Public Prosecutor or Deputy Public Prosecutor are terminated.

"§ 594. Removal.

"(a) The Public Prosecutor or Deputy Public Prosecutor may be removed from office by the President only for neglect of duty, misconduct in office amounting to a crime, violation of the provisions of this chapter, or physical or mental disability persisting for more than four months.

"(b) The President shall specify in writing and with specificity the cause for which any individual serving as Public Prosecutor is removed pursuant to subsection (a).

"(c) The United States District Court for the District of Columbia, on application of any individual removed as Public Prosecutor pursuant to subsection (a), shall have jurisdiction over a civil action and shall, on an expedited basis, hear any facts bearing on the dismissal of such individual. Such court shall determine de novo whether the cause specified in subsection (b) exists, and order appropriate relief.

"§ 595. Jurisdiction.

"(a) The Public Prosecutor shall have jurisdiction, which, except to the extent provided for in subsection (c), shall be concurrent with that of the Attorney General, to exercise the powers specified in section 596 with respect to any matter that he has reasonable cause to believe involves the commission, by an individual specified in subsection (b) of this section, of a violation of any Federal criminal law other than a violation constituting a petty offense.

"(b) The individuals referred to in subsection (a) are as follows:

"(1) The President or Vice President.

"(2) A Member of Congress.

"(3) The Director of Central Intelligence.

"(4) The Deputy Director of Central Intelligence.

"(5) The Commissioner of Internal Revenue.

"(6) Any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(7) Any individual who, at the time of the alleged commission, held any office or position described in paragraphs (1), (3), (4), (5), (6), (8), or (9) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President.

"(8) Any individual working in the Department of Justice and compensated at a rate not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(9) Any individual serving in a position listed in section 5312 or 5313 of title 5, United States Code.

"(10) An officer or employee of the Senate or the House of Representatives who is compensated at an annual rate of not less than $35,000.

"(11) The administrative assistant, the chief legislative assistant, and the press secretary, or their respective equivalents, for the office of each Member of Congress.

"(12) An officer or employee of the Senate or the House of Representatives designated under the rules of the respective body to handle campaign funds.

"(13) A national campaign manager or chairman of any national campaign committee for the election or reelection of the President.

"(c) The Public Prosecutor shall notify the Attorney General of the initiation or termination of an investigation or proceeding with respect to any matter within his jurisdiction under subsection (a) of this section. After the receipt of any such notification and while any investigation or proceeding to which any such notification relates is pending, the Attorney General shall, and shall cause other divisions of the Department of Justice to, refrain from conducting any investigation or prosecution with respect to the subject matter of such notification of any related or overlapping matter, and to refrain from taking any related action with respect thereto, except to the extent that the Public Prosecutor has given prior written approval thereof.

"(d) If at any time the Attorney General believes or has reason to believe that an investigation conducted under his supervision involves or is likely to involve any matter that would fall within the jurisdiction of the Public Prosecutor under subsection (a) of this section, he shall promptly notify the Public Prosecutor thereof and of the reasons for such belief. Upon receipt of any such notification, the Public Prosecutor may in his discretion elect to—

"(1) assume sole responsibility for any further conduct of such investigation;

"(2) participate with the Attorney General in any further conduct of such investigation; or

"(3) defer to the ongoing investigation under the supervision of the Attorney General, in which case the Attorney General shall keep the Public Prosecutor fully informed as to the further progress of any such investigation.

"§ 596. Powers.

"The Public Prosecutor shall, with respect to any matter within his jurisdiction under section 595 of this title, have full power and authority, consistent with the Constitution of the United States, to—

"(1) conduct such investigation thereof as he deems appropriate;

"(2) obtain and review such documentary, testimonial, or other evidence or information as he deems material thereto as may be available from any source, and, if in the possession of an agency of the United States (as defined in section 6001(1) of title 18, United States Code), without regard to the provisions of section 552(b), other than paragraph (6), of title 5, United States Code;

"(3) issue appropriate instructions to the Federal Bureau of Investigation and other domestic investigative agencies of the United States (which instructions shall be treated by the heads of such agencies as if received from the Attorney General) for the collection and delivery solely to the office of the Public Prosecutor of information or evidence relating to such investigation, and for the safeguarding of the integrity and confidentiality of all files, records, documents, physical evidence, and other materials obtained or prepared by the Public Prosecutor;

"(4) receive appropriate national security clearances and review any evidence or information sought to be withheld on the ground that it is classified or relates to the national security of the United States, except evidence or information claimed to be subject to an evidentiary or testimonial privilege (including evidence or information claimed to be privileged by virtue of the necessity to the proper functioning of the executive branch that such evidence or information remain confidential);

"(5) issue subpenas to such individuals, entities, or officers or employees of the United States (or any agency or department thereof) as he may deem necessary to obtain any evidence or information he is authorized to obtain and review pursuant to paragraph (2) or (4), and initiate or defend appropriate proceedings in any court of the United States of competent jurisdiction relating to compliance with any such subpena;

"(6) determine whether, in a proceeding pursuant to paragraph (5) or any other proceeding, to contest the withholding of any evidence or information he is authorized to obtain and review pursuant to paragraph (2) or (4) because such evidence or information is claimed to be subject to an evidentiary or testimonial privilege, including a claim that such evidence or information is claimed to be subject to an evidentiary or testimonial privilege, including a claim that such evidence or information is privileged by virtue of the necessity to the proper functioning of the executive branch of its remaining confidential;

"(7) conduct proceedings before grand juries;

"(8) make application to any court of the United States of competent jurisdiction in a manner consistent with part V of title 18, United States Code, for a grant of immunity to any witness;

"(9) frame and, with the independent concurrence of the Deputy Public Prosecutor and subject to sections 597 and 598 of this title, sign and file criminal indictments and informations, and prosecute criminal proceedings in the name of the United States, which proceedings shall, except as otherwise provided for in this chapter, comply with the requirements of the law governing the conduct of such proceedings;

"(10) conduct such civil proceedings as he may deem appropriate to enforce any provision or obtain any remedy for violation of any law he is charged with enforcing; and

"(11) notwithstanding any other provision of law, to exercise all other powers as to the conduct of criminal investigations, prosecutions (including prosecutions for perjury committed in the course of any investigation or judicial or legislative hearing with respect to any matter within the jurisdiction of the Public Prosecutor), civil proceedings, and appeals, within his jurisdiction, that would otherwise be vested exclusively in the Attorney General and the United States attorney under the provisions of chapters 31 and 35 of this title and any regulation promulgated pursuant to either chapter, and act as attorney for the Government in such investigations, prosecutions, proceedings, and appeals.

"§ 597. Notification to Attorney General of initiation of prosecution.

"(a) The Public Prosecutor may, together with the Deputy Public Prosecutor, sign and file any indictment returned by a grand jury convened at his request or under his direction and may, together with the Deputy Public Prosecutor, sign and file any criminal information, with respect to any matter within his jurisdiction under section 595 of this title, except that in each such instance the Public Prosecutor shall give the Attorney General five days' prior written notice thereof.

"(b) If the Attorney General of the United States disapproves the filing of any indictment or information, or any subsequent action or position taken by the Public Prosecutor in the course of any judicial proceeding pursuant thereto, the Attorney General shall be entitled to appear and present his views amicus curiae to any court before which any such proceeding is pending.

"§ 598. Actions with respect to an incumbent President.

"(a) Notwithstanding any other provision of this chapter, the Public Prosecutor shall have no authority to initiate any criminal proceeding against an individual then serving as the President or Vice President of the United States.

"(b) Notwithstanding the provisions of subsection (a), the Public Prosecutor shall have authority to submit any evidence or information obtained by him which, in his judgment, furnishes reasonable grounds for a belief that the President or Vice President has committed any impeachable offense (including, subject to the approval of the court supervising any grand jury convened at the request or under the direction of the Public Prosecutor, any relevant report prepared by such grand jury), to the Committee on the Judiciary of the House of Representatives.

"§ 599. Administrative provisions.

"(a) The Public Prosecutor may appoint, fix the compensation, and assign the duties of such personnel as may be necessary to carry out his duties and functions under this chapter. The Public Prosecutor may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(b) The Deputy Public Prosecutor, in addition to such staff as may be furnished him by the Public Prosecutor, may appoint and fix the compensation of such personal assistants as may be necessary to carry out his responsibilities under section 596 (9).

"(c) The Public Prosecutor may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer or employee of the Office of any function of the Public Prosecutor except the function prescribed by section 598(b) of this title.

"(d) The Public Prosecutor is authorized—

"(1) to adopt, amend, and repeal such rules and regulations as may be necessary to carry out his duties and functions under this chapter; and

"(2) to utilize, with their consent, the services, equipment, personnel, and facilities of any department or agency of the United States on a reimbursable basis.

"(e) Upon request made by the Public Prosecutor, each Federal department and agency is authorized and directed to make its services, equipment, personnel, facilities, information (including suggestions, and statistics) available to the greatest practicable extent consistent with the laws, to the Public Prosecutor in the performance of his duties and functions.

"(f) The Public Prosecutor shall be compensated at the rate provided in section 5313 of title 5, United States Code, and the Deputy Prosecutor shall be compensated at the rate provided in section 5314 of title 5, United States Code, except that such compensation shall not be subject to diminution during the period of any individual's tenure as Public Prosecutor or Deputy Public Prosecutor.

"§ 600. Report to Congress.

"The Public Prosecutor shall report annually to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives with respect to the implementation of this chapter. The Public Prosecutor may include in such report any legislative recommendations to Congress that would insure ethics and integrity within the Federal Government.".

(b) The table of chapters for part III of title 28, United States Code, is amended by adding after the item relating to chapter 39 the following:

"40. Public Prosecutor............... 591".

(c) Chapter 39 of title 28, United States Code, entitled "Chapter 39—SPECIAL PROSECUTOR" is repealed.

INTERLOCUTORY APPEALS FROM CERTAIN DECISIONS

SEC. 102. Section 1292(a) of title 28, United States Code, is amended by striking out the period at the end of pargraph (4) and inserting in lieu thereof a semicolon and "and", and adding the following new paragraph:

"(5) Orders of such district courts or the judges thereof, issued in proceedings relating to compliance with any subpena issued by the Public Prosecutor pursuant to section 596 (5) of this title, quashing any such subpena on the grounds that, or enforcing any such subpena against a claim that, the information sought to be obtained thereby may be withheld because it is classified or relates to the national security of the United States, or because such information is subject to an evidentiary or testimonial privilege, or because such evidence or information is privileged by virtue of the necessity to the proper functioning of the executive branch of its remaining confidential.".

TITLE II—CRIMINAL CODE AMENDMENTS

CONFLICTS OF INTEREST

SEC. 201. Section 202 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) As used in sections 205, 207, 208, and 209 of this title, the term 'officer or employee' includes the Public Prosecutor, the Deputy Public Prosecutor, and member of their staff; and as used in section 201 of this title, the term 'public official' includes the Public Prosecutor, the Deputy Public Prosecutor, and professional members of their staff.".

SECRECY OF RECORDS

SEC. 202. (a) Section 1905 of title 18, United States Code, is amended—

(1) by inserting "(a)" immediately before "Whoever"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or the member of any grand jury convened at the request or under the direction of the Public Prosecutor who, in the course or under color of his duties as such officer, employee, or member, has had any direct contact with an employee or officer lawfully participating in an investigation being conducted by the Public Prosecutor pursuant to section 596 of title 28, United States Code, by virtue of which such person has come into the possession of any evidence or information obtained by or in the possession of the Public Prosecutor or the product of an investigation conducted by the Public Prosecutor pursuant to such section, to disclose, or to cause the disclosure, or in any manner to further the disclosure, of such evidence, information, or product to any person other than an officer or employee of the Office of the Public Prosecutor or the Department of Justice, or of a court in which a grand jury convened at the request or under the direction of the Public Prosecutor is proceeding, or (to the extent otherwise provided for by law) to a person who is likely to or has become the subject of an investigation by the Public Prosecutor, except that the Public Prosecutor may make such public disclosure as is permitted by law of such information as he deems necessary, appropriate, or required by law in connection with a proceeding instituted by him with the concurrence of the Deputy Public Prosecutor.

"(2) Whoever violates any provision of paragraph (1) of this subsection shall be subject to a civil penalty of not less than $1,000 or more than $25,000 and, if the violation is willful, shall be fined not more than $50,0000 or imprisoned for one year, or both.

"(3) Nothing in this subsection shall be construed to prohibit the Public Prosecutor from taking any action he is authorized to take under section 598(b) of title 28, United States Code, or to preclude any defendant in a criminal case from obtaining any information concerning grand jury proceedings or in the possession of a prosecuting official of the United States to which he would otherwise by law be entitled.".

(b) (1) The hearing of section 1905 of such title is amended to read as follows:

"§ 1905. Disclosure of confidential information generally and with great respect to investigations or proceedings conducted by the Public Prosecutor".

(2) The table of sections of chapter 93 of such title is amended by inserting immediately before the period at the end of item 1905 the following: "and with respect to investigations or proceedings conducted by the Public Prosecutor".

TITLE III—MISCELLANEOUS

COMPENSATION

SEC. 301. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"(25) Public Prosecutor.".

(b) Section 5314 of such title is amended by adding at the end thereof the following:

"(70) Deputy Public Prosecutor.".

FACILITIES

SEC. 302. The Administrator of General Services shall provide the Office of the Public Prosecutor with such offices and support facilities as may be necessary, and such additional offices and support facilities as may from time to time be required to carry out the provisions of this Act and the amendments made by this Act, except that such offices and facilities shall be physically separate from the office of the Department of Justice or of any division thereof.

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS OF THE PUBLIC PROSECUTOR ACT OF 1980

Section 1 of the bill provides that the popular name of the legislation is the "Public Prosecutor Act of 1980."

Section 2 states the congressional findings and declaration of purpose of the legislation. The bill declares that the confidence of the public in the faithful and impartial enforcement of our laws, free from favoritism and conflicts of interest by the enforcers of those laws, is necessary for the continued vitality of our Government. To obtain the public's confidence, those individuals involved in the enforcement of our laws must discharge their duties free from conflicts of interest, the appearances of conflicts of interest, and misconduct. The bill states that the danger of political considerations upon the Attorney General concerning cases involving certain Federal Government officials and those involved in presidential elections might undermine the public confidence in the fair and impartial enforcement and administration of our laws, and that the maintenance of such confidence requires the establishment of an independent office to insure the vigorous enforcement of the criminal laws against executive branch officers and employees and persons in the conduct of presidential campaigns. The purpose of the legislation is to establish within the Department of Justice such an independent office.

Title I—Judicial Code Amendments:

Establishment of Office:

Section 101 of the bill adds a new chapter, chapter 40, to title 28 of the United States Code. The new chapter is entitled "Public Prosecutor". The amended sections within title 28 are discussed as follows:

Section 591—Establishment of Office of Public Prosecutor; Deputy Public Prosecutor.

Subsection (a) (1) of Section 591 establishes the Office of Public Prosecutor within the Department of Justice under the direction of the Public Prosecutor, who is appointed by the President with the advice and consent of the Senate and who is to exercise his powers independent of the supervision of the President, the Attorney General, or any of their subordinates. The Office of Deputy Public Prosecutor, also appointed by the President with the advice and consent of the Senate is established in subsection (a) (2). Paragraph 3 of subsection (a) provides that neither the Deputy or Public Prosecutor may hold any other Federal office while serving in their respective positions.

Subsection (b) (1) of section 591 states that while the Office of Public Prosecutor is administratively within the Department of Justice, it is to be located in physically separate facilities. The Public Prosecutor and the Attorney General, however, may confer with each other as contemplated by this legislation as they deem appropriate (subsection (b) (2)).

Section 592—Term and vacancies.

The Public Prosecutor will hold office for six years and will generally not be eligible for reappointment to a consecutive term (592(a) (1)). Similarly, the Deputy Public Prosecutor will hold office for six years, except for the first Deputy Public Prosecutor who will hold office for three years, and also will not be eligible for reappointment to a consecutive term (592(a) (2)).

At no time may the Public Prosecutor and the Deputy Public Prosecutor both be appointed from or affiliated with the same political party (592(b)).

Subsection (c) (1) of section 592 provides that the Deputy Public Prosecutor shall act as Public Prosecutor in the event of disability or vacancy of the office until the disability expires or until the vacancy is filled, in the same manner as an original appointment, for the unexpired portion of the term. Subsection (c) (2) states that a person who is appointed to fill an unexpired portion of a term of less than one year will be eligible for reappointment for a consecutive term.

Section 593—Qualifications.

Subsection (a) sets out the following required qualifications for the Public Prosecutor or Deputy Public Prosecutor: (1) eligibility to receive necessary national security clearance; (2) admission to practice, for at least 15 years prior to appointment, before the highest court of a state or the District of Columbia, and membership in good standing of the bar of at least one such state or District of Columbia; (3) membership in good standing of the bar of the United States Supreme Court for at least 10 years.

Subsection (b) of section 593 requires appointees to the Public Prosecutor and Deputy Public Prosecutor positions to agree in writing not to occupy or run for any Federal elective office for a period of five years after termination of service as Public Prosecutor or Deputy Public Prosecutor.

Section 594—Removal.

Subsection (a) provides that the Public Prosecutor and Deputy Public Prosecutor may be removed from office by the President only for neglect of duty, criminal misconduct in office, violations of this chapter, or mental or physical disability extending for more than four months.

Subsection (b) provides that the President must specify in writing the cause for removal of a Public Prosecutor.

Subsection (c) grants jurisdiction over civil action to the United States District Court for the District of Columbia upon application of any person removed as a Public Prosecutor to hear facts bearing on such dismissal, to determine whether cause exists for such removal, and to order appropriate relief.

Section 595—Jurisdiction.

Subsection (a) states that the Public Prosecutor will have jurisdiction concurrent with that of the Attorney General, except in those cases where the Prosecutor has sole jurisdiction to act as discussed below in subsection (c), concerning any matter which the has reason to believe involves a violation of Federal criminal law, other than a petty offense, by any of the persons listed below.

Such individuals over whom the Public Prosecutor has jurisdiction include, at subsection (b):

(1) The President or Vice President.

(2) A Member of Congress.

(3) The Director of Central Intelligence.

(4) The Deputy Director of Central Intelligence.

(5) The Commissioner of the Internal Revenue.

(6) Individuals in the Executive Office of the President and compensated at not less than the rate for level IV of the Executive Schedule.

(7) Any individual who held any position described in paragraphs (1), (3), (4), (5), (6), (8), or (9) during the incumbency of the current President, or during the term of

the last President if he were of the same political party as the current President.

(8) Individuals working in the Department of Justice and compensated at a rate not less than level III of the Executive Schedule.

(9) Individuals serving in a position in section 5312 or 5313 of title 5, United States Code, that is, levels I and II of the Executive Schedule.

(10) Officers or employees of the Senate or House compensated at a rate of at least $35,000.

(11) The administrative assistant, the chief legislative assistant, and the press secretary for each Member's office.

(12) An officer or employee of the House or Senate designated under the House or Senate Rules to handle campaign funds.

(13) The national campaign manager or chairman of any national campaign committee for election or reelection of the President.

Subsection (c) provides that the Public Prosecutor shall notify the Attorney General of the initiation of any investigation or proceeding under this section, and that the Attorney General shall refrain from investigating or prosecuting that matter or any related matter except when agreed to in writing by the Public Prosecutor.

Subsection (d) states that if the Attorney General believes that an investigation under his supervision involves matters under the jurisdiction of the Public Prosecutor, that he shall notify the Public Prosecutor. The Public Prosecutor may then (1) assume responsibility for any further investigation; (2) participate with the Attorney General in the investigation; or (3) allow the Attorney General to continue the investigation, keeping the Public Prosecutor fully informed on the matter.

Section 596—Powers.

The Public Prosecutor is given the power and authority to (1) conduct investigations as deemed appropriate; (2) obtain and review documentary, testimonial or other evidence or information material to an investigation; (3) issue instructions to the FBI for the collection and delivery of information or evidence relevant to an investigation; (4) receive national security clearance to review classified information; (5) issue subpenas and initiate actions to defend and enforce them; (6) determine whether to contest the withholding of information claimed to be subject to evidentiary or testimonial privilege; (7) conduct proceedings before grand juries; (8) apply for a grant of immunity to any witness; (9) frame, and with the concurrence of the Deputy Public Prosecutor, sign and file criminal indictments and informations, and prosecute criminal proceedings in the name of the United States; (10) conduct civil proceedings as may be deemed necessary; (11) exercise all powers as to the conduct of criminal investigations, prosecutions, civil proceedings and appeals that would otherwise be vested exclusively in the Attorney General and the United States attorney under chapters 31 and 35 of title 28, United States Code.

Section 597—Notification to Attorney General of initiation of prosecution.

Subsection (a) provides that the Public Prosecutor must give the Attorney General five days' prior written notice of any signing and filing by the Public Prosecutor and Deputy Public Prosecutor of any indictment returned by a grand jury or criminal information.

Subsection (b) allows the Attorney General, if he disapproves of the filing of any indictment or information or any other such action, to appear and present his views amicus curiae to any court before which that proceeding is pending.

Section 598—Actions with respect to an incumbent President.

Subsection (a) provides that the Public Prosecutor has no authority to initiate a criminal proceeding against an individual then serving as President or Vice President.

Subsection (b) provides that when the Public Prosecutor has obtained evidence or information providing in his judgment reasonable grounds to believe that the President or Vice President has committed an impeachable offense, such information and evidence may be turned over to the House Judiciary Committee.

Section 599—Administrative provisions.

Subsection (a) allows the Public Prosecutor to appoint and compensate the necessary personnel, and to hire consultants and experts.

Subsection (b) authorizes the Deputy Fublic Prosecutor to appoint and compensate the necessary personal assistants.

Subsection (c) provides that the Public Prosecutor may authorize other officers or employees of the Office of Public Prosecutor to exercise the functions of the Public Prosecutor except with respect to the submitting of evidence to the House Judiciary Committee concerning the President or Vice President.

Subsection (d) authorizes the Public Prosecutor to (1) adopt, amend or repeal regulations necessary to carry out his functions and (2) to utilize the facilities and personnel of other Government departments or agencies.

Subsection (e) authorizes and directs each Federal agency to make available to the Public Prosecutor, upon his request, such services, equipment, personnel and information needed by the Public Prosecutor for the performance of his duties.

Subsection (f) provides that the salary of the Public Prosecutor will be at level II of the Executive Schedule (5 U.S.C. § 5313), that of the Deputy Public Prosecutor at level III of the Executive Schedule (5 U.S.C. § 5314), and that the salary of neither the Public Prosecutor or Deputy Public Prosecutor may be diminished during their respective tenures.

Section 600—Report to Congress.

The Public Prosecutor is required to file an annual report to the House and Senate Judiciary Committees concerning the implementation of the provisions of the bill. The report may include legislative recommendations concerning ethics in Government.

Subsection (b) of section 101 of the bill adds chapter 40, "Public Prosecutor's to the table of chapters for part III of title 28, United States Code, and subsection (c) of section 101 repeals current chapter 39 of 28 U.S.C. entitled "Special Prosecutor".

Section 102 of the bill—Interlocutory Appeals from Certain Decisions.

28 U.S.C. § 1292 (a) is amended by adding paragraph (5) to that section giving the Court of Appeals jurisdiction of appeals from orders of the District Court concerning the enforcement or quashing of subpenas issued by the Public Prosecutor as to claims that the information sought is classified or relates to the national security of the United States, is subject to evidentiary or testimonial privilege, or that it must be confidential to protect the proper functioning of the executive branch.

Title II—Criminal Code Amendments.

Section 201—Conflicts of Interest.

Section 201 of the bill provides that the Public Prosecutor, the Deputy Public Prosecutor, and members of their staff are among those to whom the bribery (18 U.S.C. § 201), and conflict of interest provisions concerning self dealing (18 U.S.C. § 205), post-employment restrictions (18 U.S.C. § 207), acts affecting a personal financial interest (18 U.S.C. § 208), and outside compensation (18 U.S.C. § 209) are applicable.

Section 202—Secrecy of Records.

Title 18 U.S.C. § 1905 concerning the confidentiality of certain information received in the course of one's Government employment is amended by adding a new subsection (b) prohibiting at paragraph (1) any officer or employee of the Government or any member of a grand jury from disclosing information relating to an investigation being conducted by the Public Prosecutor, except that the Public Prosecutor may disclose such information as he deems necessary, appropriate or required by law. Information may, however, be disclosed to officers or employees of the Office of Public Prosecutor, the Department of Justice, a court in which the grand jury is convened at the request of the Public Prosecutor, or as provided by law to a person who is the subject of an investigation by the Public Prosecutor.

Paragraph (2) of new subsection (b) provides penalties for violations of the prohibition of fines of not less than $1,000 nor more than $25,000, and if the violation is willful, fines of not more than $50,000 or imprisonment for one year, or both.

Paragraph (3) of new subsection (b) would provide that nothing in this restriction would prohibit the Public Prosecutor from submitting information to the House Judiciary Committee on possible violations of law by the President, Vice President, or Members of Congress as provided in section 598(b) of title 28 U.S.C. added by this bill, nor to prevent defendants from receiving information on grand jury proceedings to which they would otherwise be entitled.

Section 202(b) of the bill changes the heading of 18 U.S.C. § 1905 to read: "Disclosure of confidential information generally and with respect to investigations or proceedings conducted by the Public Prosecutor".

Title III—Miscellaneous.

Section 301—Compensation.

Section 301(a) of the bill provides that the Public Prosecutor will be compensated at Level II of the Executive Schedule (5 U.S.C. § 5313); and section 301(b) of the bill states that the Deputy Public Prosecutor will be compensated at level III of the Executive Schedule (5 U.S.C. § 5314).

Section 302—Facilities.

The Administrator of GSA is to provide the Office of Public Prosecutor with the necessary offices and support facilities which must be physically separate from the office of the Department of Justice.

Section 303—Authorization of Appropriations.

Section 303 authorizes the appropriation of funds necessary to carry out the provisions of the legislation.

Summary Comparison of Proposed Public Prosecutor Act of 1980 With Current Provisions Regarding Special Prosecutor in Title VI of the Ethics in Government Act of 1978, Public Law 95-521

	PUBLIC PROSECUTOR ACT OF 1980	ETHICS IN GOVERNMENT ACT
1. Appointment of Prosecutor	Establishes permanent Office of Public Prosecutor within Department of Justice, with an independent Public Prosecutor and Deputy Public Prosecutor appointed by the President, with the advice and consent of the Senate, to six year terms. (Proposed 28 U.S.C. § 591).	No permanent office or position of special prosecutor. Attorney General of United States will conduct preliminary investigations whenever specific information is received concerning a violation of Federal criminal laws by covered U.S. officials. If matter is deemed by Attorney General to warrant further investigation, or if no decision is made within 90 days that the charges are unsubstantiated, the Attorney General will apply for the appointment of a special prosecutor by a special panel of judges and justices of the U.S. Court of Appeals for the District of Columbia (referred to as "the division of the court"). (28 U.S.C. §§ 49, 591–593).
2. Vacancies in Office	Deputy Public Prosecutor will act as Public Prosecutor in event of disability or vacancy until disability expires or vacancy is filled in same manner as original appointment for unexpired portion of term. (Proposed 28 U.S.C. § 592(c)).	Division of the court may appoint a special prosecutor to complete work of former prosecutor. If prosecutor has been removed, then court may appoint an acting special prosecutor to serve until the judicial review of the removal is completed. (28 U.S.C. § 593(e)).
3. Political Affiliations	At no time may the Public Prosecutor and the Deputy Public Prosecutor both be appointed from or affiliated with the same political party. (Proposed 28 U.S.C. § 592 (b)).	No comparable provision.
4. Qualifications	Public Prosecutor and Deputy Public Prosecutor must be eligible to receive necessary national security clearance; admitted to practice before highest court of State or D.C. for at least 15 years and currently member in good standing of bar of such jurisdiction; member in good standing of bar of U.S. Supreme Court for at least 10 years. Neither Deputy nor Public Prosecutor may hold any other Federal office while serving. Public Prosecutor and Deputy Public Prosecutor must also sign agreement not to occupy or run for any Federal elective office for a period of five years after termination of service. (Proposed 28 U.S.C. §§ 593, 591(a)(3)).	Division of court must appoint an "appropriate" special prosecutor. A person may not be appointed if he holds or recently held any office or position in the Federal Government (28 U.S.C. § 593(b), (d)).
5. Removal	Public Prosecutor and Deputy Public Prosecutor may be removed from office by the President only for neglect of duty, criminal misconduct in office, violations of this chapter, or mental or physical disability of more than four months. The President must specify in writing the cause for removal of Public Prosecutor. U.S. District Court for the District of Columbia has jurisdiction to hear facts concerning such dismissal, to determine whether cause exists for such removal, and to order appropriate relief. (Proposed 28 U.S.C. § 594).	Other than by impeachment and conviction, a special prosecutor may be removed only by the Attorney General for extraordinary impropriety, physical disability, mental incapacity or condition that substantially impairs capabilities. Attorney General must submit report specifying facts and grounds for removal to the division of the court and to the House and Senate Judiciary Committees. A special prosecutor may seek judicial review of the removal by the division of the court, and if removal was based on error of fact or law, may obtain reinstatement or other relief. Office of special prosecutor may be terminated when special prosecutor notifies Attorney General, or when division of the court determines, that investigations of all matters within prosecutorial jurisdiction of prosecutor, and resulting prosecutions, are completed or substantially complete such that Justice Department may finish. (28 U.S.C. § 596 (a) and (b)).
6. Jurisdiction	Concurrent with Attorney General covering matters which prosecutor has reasonable cause to believe involve violations of Federal criminal laws, other than petty offenses, committed by the following persons:	Prosecutorial jurisdiction defined by division of the court (28 U.S.C. 593(b)), relating to preliminary investigation by the Attorney General conducted upon his receipt of specific information of a violation of Federal criminal laws, other than petty offenses, committed by the following persons:

SUMMARY COMPARISON OF PROPOSED PUBLIC PROSECUTOR ACT OF 1980 WITH CURRENT PROVISIONS REGARDING SPECIAL PROSECUTOR IN TITLE VI OF THE ETHICS IN GOVERNMENT ACT OF 1978, PUBLIC LAW 95-521—Continued

	PUBLIC PROSECUTOR ACT OF 1980	ETHICS IN GOVERNMENT ACT
	1. President or Vice President.	1. President or Vice President.
	2. Member of Congress.	2. Director of Central Intelligence.
	3. Director of Central Intelligence.	3. Deputy Director of Central Intelligence.
	4. Deputy Director of Central Intelligence.	4. Commissioner of Internal Revenue.
	5. Commissioner of Internal Revenue.	5. Individuals in the Executive Office of the President compensated at not less than rate for level IV of Executive Schedule.
	6. Individuals in the Executive Office of the President compensated at not less than rate for level IV of Executive Schedule.	6. Individuals who held positions described in numbers (1)-(5), (7), and (8) below, during the incumbency of the current President or during the term of the last President if he were of the same political party as the current President.
	7. Individuals who held positions described in numbers (1), (3), (6), (8), and (9) during the incumbency of the current President or during the term of the last President if he were of the same political party as the current President.	7. Individuals working in the Department of Justice and compensated at a rate not less than level III of the Executive Schedule.
	8. Individuals working in the Department of Justice and compensated at a rate not less than level III of the Executive Schedule.	8. Individuals serving in a position at level I of the Executive Schedule, 5 U.S.C. § 5312.
	9. Individuals serving in positions at levels I and II of the Executive Schedule, 5 U.S.C. §§ 5312 and 5313.	9. Any officer of the principal national campaign committee seeking the election or reelection of the President. (28 U.S.C. § 591)
	10. Officers or employees of the Senate or House compensated at a rate of at least $35,000.	
	11. The administrative assistant, the chief legislative assistant, and the press secretary for each Member's office.	
	12. An officer or employee of the House or Senate designated to handle campaign funds.	
	13. The national campaign manager or chairman of any national campaign committee for election or reelection of the President. (Proposed 28 U.S.C. § 595)	
7. Powers	The public Prosecutor shall exercise full power and authority, independent of supervision of the Attorney General, the President or their subordinates (see proposed 28 U.S.C. § 591(a) (1)), to:	The special prosecutor shall have full power and independent authority, concerning matters within his jurisdiction, to:
	1. conduct investigations;	1. conduct investigations (§ 594(a) (1));
	2. obtain and review documentary testimonial, or other evidence or relevant information;	2. review all documentary evidence available from any source (§ 594(a) (4));
	3. issue instructions to the FBI for collection and delivery of relevant information;	3. no specific comparable provision;
	4. receive national security clearance to review classified information;	4. receive appropriate national security clearance and contest in court claims of privilege based on national security (§ 594(a) 6));
	5. issues subpenas and initiate actions to defend and enforce them;	5. make applications for warrants, subpenas and other court orders (§ 594(a) (7));
	6. determine whether to contest the withholding of information claimed to be subject to evidentiary or testimonial privilege;	6. determine whether to contest the assertion of any testimonial privilege (§ 594(a) 6));
	7. conduct proceedings before grand juries;	7. conduct proceedings before grand juries (§ 594(a) (1));
	8. apply for a grant of immunity to any witness;	8. apply to Federal court for grant of immunity to any witness (§ 594(a) (7));
	9. frame, and with the concurrence of the Deputy Public Prosecutor, sign and file criminal indictments and information, and prosecute criminal proceedings in the name of the United States;	9. initiate and conduct prosecutions in any court, frame and sign indictments, file informations, and handle all aspects of the case in the name of the United States (§ 594(a) (9));
	10. conduct civil proceedings;	10. participate in court proceedings and engage in any litigation deemed necessary (§ 594(a) (2));
	11. exercise all powers as to the conduct of criminal investigations, prosecutions, civil proceedings and appeals that would otherwise be vested in the Attorney General and the U.S. Attorney. (Proposed 28 U.S.C. § 596)	11. exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other Office or employee of the Department of Justice (28 U.S.C. § 594(a));
		12. appeal any decision of any court in a case in which prosecutor participates (§ 594 (a) (3));
		13. inspect, obtain or use the original or copy of any tax return (§ 594(a) (8).

SUMMARY COMPARISON OF PROPOSED PUBLIC PROSECUTOR ACT OF 1980 WITH CURRENT PROVISIONS REGARDING SPECIAL PROSECUTOR IN TITLE VI OF THE ETHICS IN GOVERNMENT ACT OF 1978, PUBLIC LAW 95–521—Continued

	PUBLIC PROSECUTOR ACT OF 1980	ETHICS IN GOVERNMENT ACT
8. Relationship with Department of Justice and Attorney General	Office of Public Prosecutor administratively within Justice Department, but must be physically separate from Justice Dept. Public Prosecutor and Attorney General may confer as deemed appropriate. (Proposed 28 U.S.C. § 591(b)). Public Prosecutor to notify Atty. General of initiation of any investigation or proceeding, and Attorney General shall refrain from investigating or prosecuting any related matter unless agreed to in writing by Prosecutor. If Attorney General believes any investigaion under his supervision is in jurisdiction of Prosecutor, must notify Prosecutor for Prosecutor's decision on assuming or participation in investigation. (Proposed 28 U.S.C. § 595(c) and (d)). Public Prosecutor must give Attorney General five days prior written notice before signing and filing indictment or information. If Attorney General disapproves of such action, he may appear and present his views amicus curiae to appropriate court. (Proposed 28 U.S.C. § 597)	Office of special prosecutor not specifically in Justice Department. Prosecutor may ask for and receive assistance from Justice Dept., including records, files and personnel (28 U.S.C. § 594(d)). Prosecutor, to extent he deems appropriate, is to comply with written policies of Justice Dept. concerning enforcement of criminal laws. (28 U.S.C. § 594(d)). Attorney General may ask prosecutor to accept referrals of relevant matters within prosecutor's jurisdiction (28 U.S.C. § 592(e)). Prosecutor may ask Attorney General or division of court for referrals of matters relating to his jurisdiction and accept such referrals upon notifying the division of the court. (28 U.S.C. § 594(a)). Whenever a matter is within jurisdiction of special prosecutor or has been accepted as a referral, the Attorney General and all offices and employees of the Justice Department shall suspend all investigations and proceedings on the matter, unless continuation on such matters has been approved in writing by the special prosecutor. The Attorney General may, however, make a presentation as amicus curiae to any court on issues of law concerning any case brought by the special prosecutor (28 U.S.C. § 597.
9. Acts With Respect to Incumbent President or Vice President.	Public Prosecutor has no authority to initiate a criminal proceeding against the President or the Vice President. When the Public Prosecutor has obtained evidence or information providing reasonable grounds to believe that the President or Vice President has committed an impeachable offense, such information may be turned over to the House Judiciary Committee. (Proposed 28 U.S.C. § 598).	No comparable provision.
10. Administrative Provisions	Public Prosecutor may appoint staff and hire experts and consultants; authorize employees to exercise certain functions; adopt, amend or repeal necessary regulations; and utilize facilities or personnel of other agencies. Salary of Public Prosecutor set at level II of Executive Schedule and that of Deputy Public Prosecutor at level III of Executive Echedule. (Proposed 28 U.S.C. § 599).	Special prosecutor may appoint and compensate employees, including investigators, attorneys and part-time consultants. Special prosecutor may request and receive the use of resources and personnel of the Department of Justice. (28 U.S.C. § 594(c) and (d)). Salary of Special prosecutor is equal to rate at level IV of Executive Schedule (28 U.S.C. § 594(b)).
11. Reports	Public Prosecutor is required to file an annual report to House and Senate Judiciary Committees concerning implementation of provisions. Report may contain suggestions for legislation in area of official conduct and ethics. (Proposed 28 U.S.C. § 600).	Special prosecutor may make public and send to Congress reports on his activities. Prosecutor must, before termination of office, make a report to the division of the court setting forth completely a description of the work of the prosecutor, including disposition of all cases brought and reasons for not prosecuting a matter. The division of the court may release to Congress or to the public, the report or any portion of it. A special prosecutor shall advise the House of Representatives of any substantial and credible information received by him which may be grounds for an impeachment. (28 U.S.C. § 595). The Attorney General is to make a written notification of any action taken with respect to investigations or applications for a special prosecutor which were requested by a majority of either party of the House or Senate Judiciary Committees. (28 U.S.C. § 595(e)). The Attorney General is to make an annual report to Congress concerning any investigation or prosecution of violations of Federal criminal law by Federal officials or State or local officials when violations relate to such person's official duties, and concerning violations of Federal conflict of interest, lobbying, campaign or election laws committed by any person. (28 U.S.C. § 529, not specifically repealed by Public Prosecutor Act of 1979).

Summary Comparison of Proposed Public Prosecutor Act of 1980 With Current Provisions Regarding Special Prosecutor in Title VI of the Ethics in Government Act of 1978, Public Law 95-521—Continued

	PUBLIC PROSECUTOR ACT OF 1980	PUBLIC PROSECUTOR ACT OF 1980
12. Interlocutory Appeals	Gives Court of Appeals jurisdiction over appeals from District Court concerning orders as to the enforcement or quashing of subpenas based on claims of national security, evidentiary or testimonial privilege, or confidentiality to protect functioning of executive branch (Adds 28 U.S.C. § 1292(a)(5))	No comparable provisions.
13. Conflicts of Interest	Public Prosecutor, Deputy Public Prosecutor, and staffers are subject to the bribery and conflict of interest provisions of 18 U.S.C. §§ 201, 205, 207, 208, and 209. (Section 201 of bill)	Provides that Attorney General shall promulgate rules requiring that any officer or employee of the Justice Department including a U.S. Attorney, must disqualify himself from participation in any investigation or prosecution if his participation would result in a personal, financial or political conflict of interest, or the appearance of such. (28 U.S.C. § 528, not specifically repealed by Public Prosecutor Act of 1979).
14. Secrecy of Records	Amends 18 U.S.C. § 1905 to provide that no officer or employee of the Government or member of a grand jury may disclose information relating to an investigation of the Public Prosecutor, except the Public Prosecutor may disclose such information as deemed necessary. Information may, however, be disclosed to Office of Public Prosecutor, Department of Justice, court in which grand jury is convened, or to person subject to investigation as provided by law. Nothing in this section is to prevent Public Prosecutor from giving information on impeachable offenses to the House Judiciary Committee. (Section 202 of bill).	No comparable provision.

FEDERAL TRADE COMMISSION ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1991 which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1991) to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1659

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to amendment of the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I refer to the amendment previously laid before the Senate, amendment No. 1659.

During the past 6 months, I and my colleagues have thoroughly reviewed this issue of intervenor funding. During the past 3 years the Federal Trade Commission has been doling out hundreds of thousands of dollars to various self-proclaimed public interest groups who then appear before the FTC Commissioners and commend them and their latest regulatory scheme as being a remarkable effort by the Commission to protect the public interest.

In reality I have found there is far more personal interest and far less "public interest" in the administration of this program than is permissible under the statutes that control the FTC; so much so that I think reform legislation is overdue.

This amendment would take care of each of the abuses that I feel have occurred in the intervenor funding program while preserving its essential features. I have no desire to dismantle the entire FTC operation, although I must admit that that sensation does creep up on me during the night sometimes.

The first abuse that I perceive is that far too much money is being presented by the Commission to each of the recipients. For example, one group calling itself Action For Children's Television received $84,614 during 1978 and 1979. During that same time period, the Americans for Democratic Action received nearly $203,000 to participate in five different FTC rulemaking proceedings.

One of those grants was for $53,000 for funerals given jointly to the National Council of Senior Citizens and another was for $47,860 for a health spa rulemaking proceeding, a subject about which the ADA knows little. No matter how qualified the recipient—and I question the technical qualifications of some of those recipients, especially the ADA and their participation in the funerals proceeding. Although, as I have said in earlier remarks before the committee, at least they may have some expertise in funerals—they have been out trying to bury their own Democratic President. But I do not believe that any private groups should be receiving so large a taxpayer subsidy.

Therefore, the first provision of this amendment would limit any group to receiving no more than $5,000 per proceeding and no more than $15,000 in total in any one year. That is, I think, a reasonable limitation, and I think that the FTC can live with it.

The second abuse of the program, as I see it, is that many of the groups who receive the funds do not deserve it—the difference between wanting it and needing it. They have huge memberships, and substantial financial resources of their own, they can, in no way, be classified as the "deserving poor."

For example, according to my investigation Americans for Democratic Action has a national membership of about 75,000 people, and a treasury in excess of $1½ million. They received $203,000, quite a war chest. Similarly, the Sierra Club, which shared in a $28,000 grant, is so impoverished that it is able to maintain offices in New York City, Washington, D.C., Denver, Colo., and Berkeley, Calif. Another "underfinanced" recipient of the FTC's largesse is the aforementioned Action for Children's Television. It is so "undercapitalized," and in need of a subsidy, that it readily attracts substantial grants from giant conglomerate corporations such as International Business Machines, Mobil Oil, F. W. Woolworth, United Technologies, and various foundations, to the tune of $84,000 from the Federal Treasury, in the 1978 to 1979 fiscal year.

Groups with these types of memberships, and that type of financial backing, do not need a public subsidy, therefore, the next provision of my amendment would limit funding to those groups having fewer than 1,000 members, or receipts of less than $25,000 annually, from all sources.

The opposite side of this problem is what I call the "one-man one-typewriter one-Xerox machine" operation. There are many of those minigroups, and they receive a good deal of money from the

Federal Trade Commission, even though they cannot possibly speak in the public interest, since the public does not belong to those groups, or contribute money to them. Therefore, they cannot possibly be speaking for the public.

For example, a group calling itself the Community Nutrition Institute received $7,298 from the FTC in fiscal 1978/1979. Yet this self-styled minigroup received only $7,945 in contributions—and I emphasize this was contributions, not dues that would indicate a measure of public support for the year ending December 31, 1977.

Similarly, another minigroup, calling itself the Center for Auto Safety, received three different grants from the FTC, totaling $26,000 in 1978/1979. Yet, according to this group's June 1978 balance sheet, it received major contributions of only $8,000 and small contributions, again not dues, of only $1,486. Thus, out of total income of $207,000 in 1978, less than 4 percent was contributed by the public. On that basis, this organization can scarcely call itself a spokesman for the public.

Therefore, the next section of my amendment would require that a group have at least 250 members, each of whom paid dues of $10 per year, before the group could qualify for any subsidy. Again, obviously I believe that this is a reasonable restriction.

Third, in order to avoid creating a channel through which funds often can be ladled out to individuals, the next section of my amendment provides that no person appearing in any individual capacity may receive more than $750 in any calendar year. This section also stipulates that for each proceeding in which a person does appear he may receive $100 plus the mileage and per diem allowance paid to Federal employees when they travel on official busines. I think that is appropriate, because I have no desire to prohibit the individual from receiving the Federal funds to come to testify.

Finally, in order to prevent even the appearance of impropriety, the last section of my amendment provides that no former employee of the FTC may receive any intervenor funding money for a period of 1 year after he or she has left the Commission. If we are to restore public confidence in our Federal regulatory agencies, then they must be free of even the hint of a conflict of interest. As we have already prohibited policymaking employees from appearing in front of their old agencies for this same time period, I see no harm in applying that same standard to lower level employees who might wish to seek a subsidy from their former employer.

I hope that you will agree that each of these restrictions is a reasonable one. In one form, or another, I have discussed them in testimony before both the Senate Judiciary Committee, and the Senate Commerce Committee, last year and with Senator WENDELL FORD, the very able floor manager of this legislation. He at least has been very courteous in listening to me.

On both occasions I felt these proposals met with a fair degree of acceptance, and I trust they may have that same reception, here, today. This is the opportunity to cut back on the intervenor funding program. It is a message that will not be lost on the FTC and other agencies with this type of program in mind. Here is a real growth industry waiting in the wings to see what we do with the FTC's program, and I hope we will disappoint them, on behalf of the beleaguered taxpayer.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 15 minutes.

Mr. FORD. I thank the Chair.

My good and congenial and affable friend from Wyoming is typical of those who would oppose the merits of S. 1991. For some time now he has talked about the past but I hope he will remember that he testified before the committee as to the problems that existed in the public participation program, and I hope he would understand that in order to make changes we must have the input from all of those who have had the experience in this field.

In order to help small business we, in this legislation, increased the ceiling of the public participation program to 50 percent for small businesses.

We also limited the amount of money, and the reduction was considerable, given to any one group in any one proceeding.

This seems to me to be the proper approach. If we have not tightened it up enough, I think we have the opportunity to do that.

Second, the Senator would require any group to have as many as 250 in the membership of that group, not to exceed 1,000, with a minimum membership fee of $10.

I am sure the Senator from Wyoming is more compassionate than that. How in the world can we impose here in this body what a group should charge as membership dues? What are we going to do about the senior citizens? What are we going to do about those on low and fixed incomes? "You cannot be a member, you cannot join in, you cannot have your voice heard unless you have a $10 membership fee." That may be the difference between making it that month or not.

What if you had 1,500 senior citizens at $2 apiece, where you can have a broader-base input, what is wrong with allowing that?

But the Senator from Wyoming would say, "No, let's not include the senior citizens, let's not include those on fixed and low income. We don't want their voices to be heard."

So, Mr. President, I believe the Senator, in his very concerned and serious interest in curtailing the operation of the FTC, has gone too far.

I said yesterday that we better be careful or we might overrun the rabbit. And the Senator from Wyoming understands that phrase.

I say to my colleagues, at a time of growing concern over the unresponsive democracy, the FTC public participation program has given individual citizens, small businesses, and community groups a chance to participate in Government.

The Senator from Wyoming would like to say no to them through the imposition of his amendment. I hope the Senator from Wyoming would understand that for the first time in any legislation presented to this Chamber that I know of we have mandated oversight. The Consumer Subcommittee of the Committee on Commerce, Science, and Transportation, will bring the FTC in every 6 months, find out where they have been, find out where they are spending their money, and then find out where they are going and what the cost is to the taxpayers.

We will keep a very tight rein on that Commission under those circumstances. If we find that this part of S. 1991 is not working, we have the ability then to change it.

I hope the Senator from Wyoming would not continue to emphasize the problems of the past, because we have moved decisively, I think, to correct those problems. I do not believe that the Senator from Wyoming wants to exclude the American people from having an opportunity to participate in their Government.

Mr. President, I wish to yield myself, outside of the amendment, 2 minutes on the bill.

The ACTING PRESIDENT pro tempore. The Senator has that right.

Mr. FORD. Mr. President, I shall submit for the RECORD a February 7, 1980, article from the Washington Post regarding the Federal Trade Commission eyeglass rule.

The article states that the appeals court, in sending the rule back to the Commission, emphasized that it reserved judgment on whether the FTC has the evidence to support the rule or whether it had properly exercised or even has the power to preempt State law.

Mr. President, as a former Governor, I have concerns about the State preemption issue. Before debate commenced on S. 1991, I announced that the consumer subcommittee would hold extensive hearings on this issue. The recent decision of the court of appeals to suspend FTC rulemaking and to reserve judgment on the serious issue of whether the FTC overstepped its authority when it approved the rules preempting State and local laws emphasizing the necessity for the Congress to study the question.

I do not believe Congress should act in immediate response to this decision. The responsibile approach is for the Consumer Subcommittee to review the issues in hearings and then decide on the legislative remedies.

I think I will, before the day is over, have related to this body what has occurred in the courts as its relates to FTC and the positions it has taken. They have taken the position to go to the outer bounds of their authority and if, somehow, the court agrees, they can reach out further the next time. But the court has said to the FTC, "You have gone too far. We think you have gone beyond the legal limits."

Mr. President, I ask unanimous consent that this article from the February 7 Washington Post be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

FTC RULES SUSPENDED ON EYE EXAM ADVERTISING

(By Laura Kiernan)

The U.S. Court of Appeals yesterday suspended Federal Trade Commission rules that allow advertising about eye examinations, goods and services and directed the FTC to consider whether a 1977 U.S. Supreme Court decision now makes the rules unnecessary.

The FTC rules, unanimously adopted in May 1978, severely restrict state and local governments, and private associations, from imposing limitations on such advertisements.

The appeals court said, however, that since the Supreme Court's decision lifting the ban on lawyer advertisements, several states have changed laws on ophthalmic advertising, diminishing the need for sweeping action by the FTC.

In a 47-page decision, the appeals court left open the key question of whether the FTC overstepped its authority when it approved the rules, preempting state and local laws. The FTC "has at least approached the outer boundaries of its authority and may have infringed" on states' rights to regulate their own activities, Judge Carl McGowan wrote for the appeals court.

Richard W. Averill, the executive director of the American Optometric Association, said yesterday that the court decision suspending the FTC rules "will give everyone a fresh opportunity to keep the FTC from taking over the states' regulatory functions in this field that traditionally belongs to the states rather than to the FTC." The AOA, the American Medical Association and nine states had asked the appeals court to review the Commission's rules.

The associations and the states had argued that the FTC rule-making ignored significant developments in professional advertising since the 1977 Supreme Court decision. The FTC had contended, however, that states could still impose some rules that would effectively discourage ophthalmic advertising.

In his opinion for the court, McGowan noted that—primarily in response to the Supreme Court's decision—at least 14 states have revised their laws on information about eye examinations and services, two state attorneys general have said total bans on such advertisements are unconstitutional, and bans in six states have been overturned as a result of lawsuits.

The real controversy left in the FTC rules, McGowan said, is provisions which prohibit the states from requiring certain disclosures in advertisements and imposing other regulations directed at ophthalmic information.

But, McGowan said, there is "scant evidence" at this point to support the FTC's contention that without those prohibitions, the states will make regulations so harsh that they will curtail advertising.

The appeals court noted that in Virginia, for example, where state officials have adopted rigorous disclosure rules for ophthalmic advertising, there is no evidence that advertisers have been deterred. Judge Patricia M. Wald, and U.S. District Court Judge John Garrett Penn, sitting on the appeals court by special designation, joined McGowan in his opinion.

The court let stand a portion of the rules which allows consumers to have copies of eyeglass prescriptions, so that prices and services can be compared with those offered by other doctors.

The appeals court, in sending the rules back to the commission, emphasized that it "reserved judgment" on whether the FTC has the evidence to support the rules or whether it had properly exercised—or even has—the power to preempt state laws.

Mr. FORD. Mr. President, I yield on the amendment to my distinguished friend from Virginia (Mr. Warner).

Mr. WARNER. Mr. President, I have the privilege of serving on the subcommittee of which my distinguished colleague from Kentucky is the chairman, and I wish to associate myself completely with his remarks.

As a new member of the subcommittee, I was a skeptic when I first examined its program and what appeared to be some abuses during its early experimentation period.

Nevertheless, I feel it is important that we preserve the principle of the program and the integrity of the program. There has been a pledge now by the chairman of the subcommittee, in which I join, that the subcommittee will now carefully monitor the program in the future and, in exchange, we ask our colleagues to let the program continue.

Regrettably, it is my opinion that for all practical purposes the amendment, as submitted by the distinguished Senator from Wyoming, would virtually eliminate the program.

None of the 58 small business and consumer groups which have participated thus far in the rulemaking cost reimbursement program would have qualified under Mr. Simpson's amendment and criteria. In effect, these restrictions would mean that substantially fewer viewpoints would be available to inform Commission decisionmaking and that many groups, small business and consumer, deeply affected by the regulations, would be unable to make their voices heard.

Therefore, Mr. President, I urge my colleagues to support the committee position and permit this program to continue.

I yield back to the Senator from Kentucky.

Mr. FORD. Mr. President, I am sure the distinguished Senator from Wyoming would want some rebuttal. I would be glad to let him have some time.

Mr. SIMPSON. Mr. President, I do have a comment or two.

Let me address the remarks of my good colleagues, Senator Ford and Senator Warner.

I am well aware that many of the problems that are confronting the FTC today come from past abuses. They are very prevalent, they are very real, they are very blatant, and they have become a serious concern to the American people.

I have no desire to dwell on what has happened in the past, but I am not going to accept assurances about the future without putting some meaningful restrictions into the legislation.

My amendment does not in any way prohibit participation of the people in their Government. And I am also interested in the Senator's comment about the dues paying structure of the various organizations. I think, if I recall correctly, that the membership dues for Common Cause, the minimum dues, that you must pay is $15 per year. If I recall correctly, there are some 3 million members of the American Association of Retired Persons who pay dues over $10 per year; and clearly, it is not a hardship to do so.

This is what my amendment addresses. Groups, if they are going to be speaking in the public interest, must have a meaningful constituency. As my good colleague from Kentucky knows, he speaks of overrunning the rabbit, out in my neeck of the woods, we say, "Keep your eye on the rabbit." And you keep your eye on the rabbit when you see what the FTC has done in this area.

I have no quarrel with the receipt of public funds by certain individuals who wish to come to Washington, D.C. to testify or people who own small businesses, who wish to come to Washington, D.C. to testify. That is what the program should be used for. That was the intent of it.

But it has been gimmicked so badly and so completely by groups that they have received a public subsidy, when they did not require it; that is our basic problem.

Through this amendment I am saying "no" to those groups with plenty of muscle, whose only reason and purpose for testifying is the fact that they are going to testify in support of what the FTC wants to do. I realize that a few corrections are being made. I am perfectly aware of the shifting of funds to proponents and opponents.

I was very fascinated with the argument that the Congress should not spend time in this tedious examination of regulatory rules and procedures. I believe I heard that argument yesterday, concerning legislative veto, from the capable manager of the bill; that that was too much for Congress to undertake. Yet in this instance we are led to believe that now we should spend more time, and more attention, on what the FTC is doing through its profligate intervenor funding procedure.

I think that is a curious dichotomy.

Somewhere out there are many groups who need to be heard. There is no problem with their being heard under present legislation.

I think the most extraordinary statement on this program was one of John Gardner, the president of Common Cause.

> If the concept of conflict of interest means anything, then there is danger in potential critics of an agency being financed by the very agency they criticize. We could easily create a class of kept critics and damage the future of an independent public interest movement.

That is a quotation of John Gardner, president of Common Cause.

Mr. President, I reserve the remainder of my time.

Could I have a reading on the remainder of my time?

The PRESIDING OFFICER (Mr. Baucus). The Senator from Wyoming has 2 minutes remaining and the Senator from Kentucky has 6½ minutes.

Mr. SIMPSON. Let me just say, then, that the FTC tells us and the sponsors tell us that the FTC would be denied access to valuable technical information and valuable points of view it would not otherwise receive. I have no desire to do that. It is not what this amendment does. This amendment simply requires that the people who speak with the aid of public moneys have some degree of knowledge and expertise on what they are speaking on. I reserve the remainder of my time.

Mr. FORD. Mr. President, the Senator said he heard me say yesterday that I did not want to take a closer look at the bureaucratic maze in the Federal Government. If I said that, I was in error. I am going to peruse the RECORD to see if I said that yesterday. I may have said something about the legislative veto, that I thought it was unconstitutional and that we had the ability to legislate already.

On oversight, I do not believe the Senator can say that I have not been looking into agencies, that I have not exercised the responsibiilty which has been given to me since I have been here. One of those responsibilities is the Consumer Protection Agency. It took us 18 months. I think we have an agency which is doing much better. It is not perfect. I am not perfect and I do not think the Senator from Wyoming is perfect. But I do try to be.

Now we are on the FTC. We have had 10 days of hearings. We have worked hard. We had a lot of input. We received a unanimous vote in the committee on what is before the Senate today.

Those Senators listened to the Senator from Wyoming, and to those who opposed him. We came down somewhere in the middle, and I believe we made a decent recommendation for the future.

The Senator says this amendment in no way prohibits public participation. But I refer him to page 2 of his amendment, to (5), "each of whom pays annual dues of at least $10."

Well, a senior citizen group cannot get in. If they have 251 who each pay $5 they cannot come up here and have their voice heard. The Senator excludes them.

I think the Senator ought to reconsider his position and say, "Look, I did not mean to exclude senior citizens. I did not mean to exclude those small groups in Wyoming who have a long way to come, who have a lot of expertise, who can help the Government make the right kind of decision."

The Senator says he does want to straighten out the FTC, but I think this is a backdoor approach, to eliminate public participation in the rulemaking procedure. If there ever was a place where the consumers should go to protect themselves, it is the FTC. If there ever was an agency that should have input from the consumer and the small businessman, the FTC is it. I do not believe the Senator is going down the path of support for the small businessman. I do not believe he is going down the path of help to the consumer. I am going to urge my colleagues to reject this amendment overwhelmingly.

I see my friend from Ohio is on the floor and I am sure he wants to speak in opposition to this amendment.

How much time would the Senator desire?

Mr. METZENBAUM. Perhaps 8 minutes, with a few minutes off the bill.

Mr. FORD. How much time have I remaining, Mr. President?

The PRESIDING OFFICER. Two minutes 40 seconds remaining on the amendment.

Mr. FORD. I will yield 2 minutes 40 seconds on the amendment and 4 minutes from the bill.

Mr. METZENBAUM. I thank the Senator from Kentucky.

Mr. President, I rise in opposition to the Simpson amendment. I am a bit disturbed about it. The Senator from Wyoming is a broadminded individual who has concern for people. Yet I think he has not adequately understood the implications and the extent to which his amendment would limit public participation in the rulemaking process. Some of the provisions that the amendment would provide are extremely stringent and difficult. They require that eligible groups have at least 250 but not more than 1,000 members, require that eligible groups collect dues of at least $10 but not have revenues over $25,000, and limit to $100 the amount of compensation an individual can receive for appearing before the FTC.

Really, what we are saying is we will make the limitation so strict and so tight that very few groups would ever hope to appear. And, indirectly, we will do that which the Senator's amendment does not do: Totally eliminate the public participation program.

As a practical matter, if this amendment had been the law, none of the 58 small business and consumer groups which have participated in rulemaking since the inception of the FTC's cost reimbursement program in 1975 could have qualified for funds under that program.

What we are doing, in effect, is saying, "We are going to kill, we are going to decimate, we are going to eliminate the public participation program."

The FTC funds those who oppose the rulemakings. Would the Senator truly want to eliminate the $49,000 that was paid to the National Hearing Aid Society, or the $20,000 that was paid to the National Manufactured Housing Federation that had to do with mobile homes?

What we are really talking about is the fact that 37 percent of the public participation funds in 1979 went to small businesses, and 85 percent went to organizations outside of the District of Columbia, little groups that wanted to be heard.

What could be more right in our democratic system of government than when going up against the goliaths of the business world, the small have the opportunity to be heard?

Ninety-five percent of the people the FTC has funded had never participated in an FTC proceeding before. Maybe what we really ought to do is try to figure out an amendment to keep some of those from appearing before the FTC who have unlimited budgets? Maybe we ought to have some procedure so that they have some restrictions placed upon them?

There are many in this country who do not agree with the Senator from Wyoming, and they represent groups that are respectable and reputable. The National Council of Senior Citizens and the League of Women Voters are opposed to the amendment. J. C. Penney Co. is opposed to the amendment. The National Farmers Organization is opposed to the amendment. The PTA, Giant Foods—a large chain of retail food stores, and the American Association of Retail Persons are also opposed.

I do not want to impose upon the time that is available and my friend from Kentucky has been very kind in making 7 minutes and 40 seconds available to me. Rather than use all that time, at this point, Mr. President, I offer a list of groups that have supported public participation funding, 250 groups that would stand up and be counted against the Simpson amendment. I ask unanimous consent that the entire list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF PUBLIC PARTICIPATION FUNDING

The following is a list of groups that have supported public participation funding:

Accountants in the Public Interest.
Action for Children's Television, Boston, Mass.
Alaska Consumer Protection Agency.
American Association of University Women.
American Association of Retired Persons.
American Bar Association.
American Civil Liberties Union.
American Council of Independent Laboratories.
American Dental Hygienist Association.
American Public Health Association.
Arizona Consumer's Council.
Arkansas Community Research.
Association of the Bar of the City of N.Y.
Association for Childhood Education.
Association of Massachusetts Consumers.
Association for Union Democracy.
Attorney General of Illinois William Scott.
Automobile Owners Action Council.
Aviation Consumer Action Project.
California Citizen Action Group.
California Food Policy Project.
California Nutrition Action Committee.
California PIRG-San Diego.
California PIRG-Santa Clara.
Center for Auto Safety.
Center for Community Change.
Center for Governmental Responsibility, Holland Law Center.
Center for Law & Social Policy.
Center for National Policy Review.
Center for Public Representation—Wisconsin.
Center for Rural Affairs, Walthill, Nebraska.
Center for Science in the Public Interest.
Center for Womens Policy Studies.
Cherokee Hills Resource Conservation & Development Project, Tahlequeah, Okla.
Children's Foundation.
Children's Rights Group, San Francisco, California.
Citizen's Communication Center.
Citizens for Better Care.
Citizens V.O.I.C.E.
City of Syracuse-Consumer Affairs Unit.

Clark County Welfare Right Organization—Operation Life, Inc., Las Vegas, Nevada.
Clean Water Action Project.
Cleveland, Ohio Office of Consumer Affairs.
Colorado League for Consumer Protection.
Commission on Social Action of Reformed Judaism.
Common Cause.
Community Nutrition Institute.
Connecticut Citizen Action Group.
Consolidated Tenants League.
Consumer Action Now, San Francisco, California.
Consumer Affairs Committee of the Americans for Democratic Action, Washington, D.C.
Consumer Affairs Dept., Detroit, Michigan.
Consumer Association of Kentucky.
Consumer Congress of the Commonwealth of Virginia.
Consumer Federation of America.
Consumer Federation of California.
Consumer Protection Association of Ohio.
Consumer Protection Center, Baton Rouge, Louisiana.
Consumer Protection and Education Service, Orlando, Florida.
Consumers Union.
Continental Association of Funeral & Memorial Societies.
Co-op League.
Co-op of Berkeley, Inc.
Council for Public Interest Law.
Council of State Credit Institutes.
Council of Vietnam Veterans.
Colorado PIRG.
Cremation Association of America.
Dade County, Florida Office of Consumer Services.
Day Care and Child Development Council.
Defenders of Wildlife.
Derechos de Familias, Tierra Amerilla, New Mexico.
Division of Consumer Protection, Office of the Governor, Baton Rouge, LA.
DOL-ETA, Topeka, Kansas.
Dorchester Community Development Corp.
Elmore Community Action Committee, Wetumpka, Alabama.
Energy Action.
Energy Policy Task Force.
Environmental Action.
Environmental Defense Fund.
Environmental Law Institute.
Equal Justice Foundation.
Food Action Project, Ohio State Legal Services.
Food and Nutrition Service, Navajo Tribe, Window Rock, Arizona.
Food Law Center, San Francisco, CA.
Food Law Project of Community Action for Legal Services, New York.
Food Research and Action Center.
Free Stores of Cincinnati, OH.
Friends Committee on National Legislation.
Friends of the Earth.
Georgia Citizens Coalition on Hunger.
Giant Food Corporation.
Golden State Mobile Homeowners Association.
Gray Panthers.
Idaho Consumer Affairs.
Indiana Home Economics Association.
International Association of Machinists.
Industrial Union Dept. AFL–CIO.
Institute for Public Representation.
International Ladies Garment Workers Union.
Iowa Consumers League.
Iowa PIRG.
Jackson, Mississippi Gray Panthers.
Jacksonville Urban League.
Kenai Peninusla Consumer Council, Alaska.
Kentucky Task Force on Hunger.
Laborers International Union of America.
Leadership Conference on Civil Rights.
League of Women Voters.
Legal Aid Society of Minneapolis.
Hon. H. Leventhal-U.S. Ct. of Appeals—D.C.
Life of the Land.
Louisiana Consumer League.
Maryland Citizen's Consumer Council.
Mary PIRG.
Mass PIRG.
Media Access Project.
Mental Health Patient Civil Liberties Project.
Mexican-American Legal Defense and Education Fund.
Michigan Association for Consumer Protection.
Michigan Environmental Action Council.
Michigan Legal Services, Food Project.
Mountain Dominion Resource Conservation and Development Project.
NAACP Legal Defense Fund.
National Association of Elementary School Principals.
National Association of Farm Workers Organization.
National Association of Home Insulation Contractors.
National Child Nutrition Project.
National Citizen's Committee for Broadcasting.
National Citizen's Communications Lobby.
National Coalition for Nursing Home Reform.
National Committee Against Discrimination in Housing.
National Committee for Citizens in Education.
National Consumer Information Center.
National Consumer's League.
National Council of Senior Citizens.
National Farmer's Organization.
National Farmer's Union.
National Hearing Aid Society.
National Housing Law Project.
National Lawyers Committee for Civil Rights.
National Legal Aid & Defender Association.
National Manufactured Housing Federation.
National PTA-Congress of Parents & Teachers.
National Organization for Women.
Natural Outdoor Coalition.
National Resource Center for Consumers of Legal Services.
National Resources Defense Council.
National Retired Teachers Association.
National Rural Housing Coalition.
National Senior Citizen's Law Center.
National Urban Coalition.
National Urban League.
National Wildlife Federation.
National Women's Political Caucus.
Northeast Arkansas Citizen's Committee.
NETWORK.
New York Accountants in the Public Interest.
New York Public Interest Research Group.
New York State Home Economics Teachers Association.
North Carolina Consumers Council.
N.C. Hunger Coalition.
Northwest Michigan Resource Conservation & Development Area Project.
NOW Legal Defense & Education Fund.
Officina Legal del Pueblo Unido.
Oklahoma Nutrition Council.
Oil Chemical & Atomic Workers.
Oregon Consumers League.
OPIRG.
PROD, Professional Drivers Association.
Paralyzed Veterans of America.
J. C. Penney Corp.
Pre-Arrangement Association of America.
Project F.E.A.D. Comm., Connecticut.
Public Advocates, San Francisco, CA.
Public Citizen.
Public Interest Economics.
Public Interest Economics West, San Francisco, CA.
Public Interest Law Center of Philadelphia.
Hon. Charles Renfrew, Judge U.S. District Court for the Northern District of CA.
Rhode Island Consumer Council.
Safe Food Institute, San Francisco, CA.
San Francisco Consumer Action.
San Francisco Lawyer's Committee of Urban Affairs.
Seattle Consumer Action Network.
Service Employees International Union.
Sierra Club.
Small Business Legislative Council.
Society for Nutrition Education.
South Carolina Attorney General Daniel McLeod.
Southern Media Coalition.
Southern Poverty Law Center.
Southern Regional Council.
Texas Consumer Association.
Texas Committee on Natural Resources.
Top of the Ozarks Resource Conservation and Development Project.
Turtle Mountain Welfare Rights.
United Auto Workers.
United Mine Workers.
United Presbyterian Church.
United Steel Workers.
University of Wisconsin Extension, Center for Consumer Affairs.
U.S. Commission on Civil Rights.
U.S. Office of Consumer Affairs.
Utility Consumers Council of MISSOURI, Inc.
Virginia Citizen's Consumers Council.
Washington Association for Television & Children.
Wisconsin State Office of Planning & Energy.
Women's Law Foundation.
Women's Law Project.

● **Mr. CULVER.** Mr. President, I rise in opposition to the Simpson amendment limiting the Federal Trade Commission's "public participation" program. This program is intended to help open up the regulatory process to the views of a wide range of Americans. It has been found to lead to more sensible and better-informed decisions by the Commission.

Last month, Mr. President, I spoke to the White House Conference on Small Business, attended by nearly 2,000 delegates from around the Nation. One of the most frequently heard complaints there was that small business persons are never consulted by their Government nor can they generally afford the time or money needed to comment on rules and regulations which will greatly affect them.

This program, when administered properly, can deal with precisely that complaint. It can serve to insure that the FTC Commissioners hear from all vital sides of an issue—that they are not merely inundated with testimony from high-powered, well financed Washington lobbyists and lawyers.

Now I admit that several groups have been funded under the FTC program which I or some of my other distinguished colleagues may have found to be questionable. But the remedy to fix that is in taking reasonable steps—like Senator FORD and the Commerce Committee have done, and not in crippling the program as this amendment proposes.

The Subcommittee on Administrative Practice and Procedure, which I chair, held hearings on the proposal to institute a governmentwide public participation program. Based upon arguments raised and debated at that hearing, the subcommittee is preparing to mark up a bill which would accomplish that purpose. And the proposal is gaining support from more and more individuals, senior citizens, labor groups, and I note to my colleagues, large and small businesses.

Why is this proposal gaining that support? Because those who really spend the time to take a close look at the FTC program find it has worked.

In one instance, the National Association of Home Insulation Contractors were funded to present evidence before the Commission on the home insulation rule. This group of small home insulation businesses has subsequently stated, "without the public participation program, we would have been trampled."

In another rulemaking, the National Manufactured Housing Federation, Inc., comprised of small mobile home dealers, developers, and operators, testified before the Commission on the difficulties of small dealers in meeting demands for major, costly repair of their products. Again, without public participation funds, this group would have been unable to present its important view to the Commission; a view, I might add, which could never have been articulated adequately by the FTC staff.

Mr. President, this is precisely why we need to maintain a strong "public participation" program at the FTC. By giving small businesses and other qualified individuals an ability to influence, for the first time, a Government decision which directly affects them, this will serve to retain faith in a responsible Federal Government by allowing the Commission to hear the needs of both sides of every issue—not just those of the privileged few.

I thank the Chair and urge my colleagues to vote against the Simpson amendment.●

● **Mr. LAXALT.** Mr. President, the public interest movement has received, of late, considerable coverage in the press, and is the subject of considerable debate in Congress. Particularly, we are being asked to authorize the funding of members of that movement when they appear as intervenors in agency proceedings.

The Federal Trade Commission has a program of funding such intervenors, which we will be discussing shortly on the floor as part of S. 1991, the FTC bill. Additionally, the Administrative Practice and Procedures Subcommittee of the Judiciary Committee, of which I am the ranking minority member, will soon markup a bill authorizing $80 million, over a 4-year period, of taxpayers funds to fund the public interest movement.

Many of us in Congress are alarmed at the increasingly loud cry by the public interest movement that it must receive taxpayers funds when its members act as lobbyists before administrative agencies. We are told that the movement does not have sufficient resources to fund its own appearances before agencies, but what it has to say is so important that society will suffer if we are not given the benefit of their wisdom.

In early January, a meeting was held at Georgetown University for the purpose of discussing public interest law in the 1980's. One of the speakers at that conference was Abram Chayes, a professor of law at Harvard University and one of the intellectual grandfathers of the public interest movement. In a truly remarkable speech, he defined, for the public interest movement, just what that movement really was, and outlined what its political aims were. Without hesitation, he told the participants that the public interest movement was a political tool, which had as its purpose the redistribution of goods and power from those who have to those who have not, and that the members of the public interest law movement were in the forefront of that fight.

As my colleagues are asked to fund the public interest movement with taxpayers money, I ask them to carefully reflect on what Professor Chayes had to say about that movement, and to ask themselves if their constituents would really approve of their voting to spend their tax dollars to keep that movement alive.

I ask that the full text of Professor Chayes' speech be included in the RECORD.

The speech follows:

PUBLIC INTEREST LAW CONFERENCE

(By Abram Chayes)

Wither thou goest I go and all that sort of thing. I am very glad to be here at this meeting, but as you heard from my introduction, my credentials are a little thin and most of you are probably asking what I'm doing here. After all I've never litigated a case or organized a coalition or even given a grant. I sit on a few boards of public interest groups, but as most of you know Boards of Directors are as much a part of the problem as the solution. I guess I should say that my capacity here is the capacity of a fan, who stands on the sidelines and hollers. I cheer when you win, and I feel down when you lose. When you lose badly I say wait until next year.

There is a certain atmosphere of that kind about this conference, I guess. But it is from this perspective of a fan that I'm going to talk to you a little bit today and hope to get some reactions from you.

As a fan, of course, I am entitled to admire you all without shame, and I do. I heard Ramsey Clark in a very moving speech opening this conference but the thing that I thought was least necessary in that speech was his encouragement to all of you to work for something less than commercial rates, and in that sense he was preaching to the choir as we say. But I do think you are to be congratulated in that and I want to get that firmly on the table.

I teach law students, and most of them come to law school expressing, and I think honestly expressing, ideals of service and ideals of change; that's why they come to the profession. As we all know, with dismaying and depressing regularity they either abandon or at least no longer profess those ideals after a three year period. I don't want to absolve the law schools or what we do there from any responsibility for that. But after all, each one of those people is an individual person, responsible for his or her own life. Each one is able if he or she so desires to resist the pressures of the institution and of their peers, and you've done that, and for that I think you are to be congratulated. But I also admire you in a different sense. I envy you and I think perhaps in the end that is a better way to be admired, because not many people have found, certainly not many people in our profession, a way to integrate their professional skills, their intellectual and professional lives with their values as people and with their commitment as people. As I look at most of my students after 10 or 20 years out, struggling with that problem of the bifurcation of their lives and their work, sometimes the paychecks look pretty small in comparison to what that means to them as people.

So looking at the contemporary legal and constitutional landscape from my position on the sidelines, I am tempted to resuscitate that old Churchillian phrase about so many owing so much to so few. When I say many, also, I want to say that I don't mean only your clients: the black, the other minorities, the poor, the welfare recipients, the mental patients, but I mean all of us in this society are in your debt and I'm glad to say as I look around the place today that it is not as few as it once was to whom we are in debt. There are a lot of you here and that too, is a tribute.

Yet, as I've already said, I've been evesdropping at some of the seminars and workshops [and to] corridor-talk here in the last day and a half, and I have not sensed very much of Ramsay Clark's optimism around the place. I wouldn't say, however, that the prevailing atmosphere here is one of gloom or even pessimism. I would say more that there is a sense of being embattled, of circling the wagons and hunkering down for a long seige. I don't want to pretend that that attitude is not realistic, essentially, but I do think it needs some balancing elements in it, and so I'm going to continue as I have started by providing some encouragement and maybe even a little coaching from the sidelines.

I have essentially three things to say. The first is that public interest law is here to stay. And just a short diversion at the beginning. Ramsey Clark asked how we got the right to say this is a public interest law movement. Weren't we kind of arrogant in saying that we knew what the public interest was and how to identify it. Well, I don't know how we got it, I think Charlie Halpern probably invented it as a con to the foundations, but it's sort of like the People's Republic. Once you get it you relax and enjoy it if it sticks. And you don't get guilty about whether you deserve it all that much or not.

But I do want to say that we ought not be fooled either. We are, as I see it at least, this movement has a significant ideological content and will continue to have a significant ideological content. Although Charlie tells me both in his instructions and in his many writings that we are trying to develop the process elements of the system, so as to insure that everybody gets a crack at the decision process and so on. Ramsey Clark yesterday talked about representing the "un" and "under" represented, and that gives it a kind of neutral cast which again might be useful for some purposes. I think all of us know that there is an ideological element in public interest law and thank goodness there is. This is not a neutral enterprise. We are for social change. We are for social change in a particular direction. We are attempting to secure redistribution of goods and power from those that have to those that have not, and I don't think any of us either should or really feel like dissembling about that. In fact, I think it's part of the honor of the movement.

Now to get back to my point that public interest law is here to stay. This conference is entitled "Public Interest Law: The Second Decade". I was glad to hear Al Bronstein and I see some others around who kind of protested that. Al said, "I've been around in public interest law for the last 30 years. It's the fourth decade, for me, and for some it's longer than that." And I think it does behoove us to remember that this concept or movement was not invented 10 years ago in a presentation to the Ford Foundation. It has been around for a long time. But our sense of "Public Interest Law: The Second Decade", in this conference, tells us something about the assumptions that prevailed perhaps 10 years ago, and I want to challenge those assumptions. I think the assumptions that prevailed were that, well, if not a government in exile, public interest law was a good place for people to hang their hats until they went on to become Assistant Secretaries, or General Counsels or some high government official in a restored liberal or progressive government, and what we were simply doing was waiting out the ice age which hopefully would end, and then we would all be back running things the way God intended.

Well, of course, not only hasn't it happened that way, but I think, as I say, that was a mistaken assumption, and Al Bronstein's experience tells us that that was not only an unrealistic but a false assumption.

Public interest law is a political tool. It's a way of approaching the political system, and it is part now and has been for some time of the ongoing political process of the United States. *United States* v. *Button* says so. Says that it is part of the First Amendment freedoms guaranteed to everyone and "guaranteed" means to be used. Not just to be looked at in the case somewhere.

We know that it can be a lever for social change of the kind I've talked about, social change involving redistribution of power and changing the allocation of goods and prerogatives in our society. But if that's so, social change, as we all know, is a tough, hard, long-haul business. In it we don't change institutions and power allocations of the kind that we are facing every day in this society and in other societies by getting a favorable court decision or passing a law or something like that. It is a long-range process and while not everyone of you has to sign up for the duration when he or she comes into the public interest law business, the movement has got to be in it for the duration. And I would say the movement in some sense is even more sorely needed when our friends, and I don't want to criticize them, are in office than when our opponents or adversaries are in office.

When our adversaries are in office we know who they are, we can generate at least coalitions and clienteles. We can organize to defeat them, and that's a kind of good, concrete and blood-rousing objective. But when our friends are in office, and they are subject to many of the same bureaucratic and institutional pressures that they fought against when they were outside, those are very real, you can't escape them when you get into office no matter where you come from. I have had an experience in the government myself and when Jim Moorman or Joe Onek tells us how tough it is in there in the White House, we tend to chuckle a little bit, but the fact is that their freedom of action is severely limited; they are on the defensive all the time in those positions and if we are not outside putting their feet to the fire the losses are going to be severe.

So in many ways, it seems to me that we are more needed when our friends are in office than otherwise. And in any event, in any event as I'll say the third thing I'm going to be saying is that somebody has got to be defining targets. People inside of government don't set priorities, people inside of government don't get new ideas, people inside of government are not the innovators. That comes from outside. They're the people who are setting the targets, the objectives, the goals and at best the people inside of government can move a little way in the direction of those goals and targets.

Now the second thing I want to say is that the federal courts are here to stay. And we've heard a lot of talk at this session, first of all about other goals of public interest activity appropriate to lawyers and I don't want to discount any of that. Obviously, we've got to be operating in the administrative area, we've got to be operating on the hill, we've got to be operating in the area of community and constituency organization and so on. You can't be too court centered.

But I still believe that the essence of our special contribution as public interest lawyers is our ability to mobilize the judiciary. That is something we can do as lawyers that no other element of, if you want to call it the progressive or liberal—[movement] I don't know what euphemism we use anymore—[something] no other element or group can do is to have access to the possibility of mobilizing the courts.

Now some say that we've fallen on evil days. There are obviously concerns about the Burger Court and its doctrinal development, and even more [about] the results that it is reaching and the kind of ripple out into the judicial system. I don't want to minimize those, either on the procedural side where we've seen a shrinkage in the area of standing, in the area of class actions, the whole problem of deference to state decisions—the federalism heritage unfortunately of our old friend Justice Black. Or on the substantive side in situations where the Court has narrowed the scope of substantive rights or of available relief. I don't want to minimize the fact that those things happen.

But I think if you look at this, and here is one kind of perspective that perhaps an academic can bring that is a little harder for somebody in the trenches to see, if you look at these in a longer perspective, I think it's quite clear that this is a kind of cyclical downturn. It's a kind of a blip on a graph in which the long-term secular trend is up, both on the procedural and the substantive side in the federal courts and indeed in the state courts as well. If you look at the history of judicial procedure over the last 100 years it is a history of steady evolution in the direction of flexibility and access, and every change in the procedural system has been a change in that direction, and I think that evolution of the system has been a response to very real and still continuing pressures in society that aren't completely localized to people who feel as we do on the merits.

The same thing I think is true on the substantive side. We tend to think, if we look back to the 1960's and 1970's to the Warren Court in particular, that we tend to sort of to look at that as a kind of static period from which we have declined. But the fact is, growth, if you will, of the constitutional rights that we are interested in *Marre* v. *Minnesota* is the first First Amendment case striking down a state statute. And what was it, a prior restraint statute. Now there is what all of us take to be a sort of geological right in its firmness and accepted character. But the first time the Supreme Court asserted that right is less than 50 years ago. The great Fourth Amendment cases, the first Fourth Amendment and Fifth Amendment cases, the cases about mob dominated trials, and so on, all date from the 1920's and 1930's, and if you think of that as the beginning and think of what the curve looks like from there, you'll see that it's a very difficult curve than if you think of the curve beginning in 1954 or 1963 and look at the curve from there.

My belief is that essentially the right curve is the curve that begins in the 1920's and if we are on a slight downturn now, as there is no doubt we are, we ought to take a certain amount of comfort from the [basic] direction. And in my view, the causes for this trend are built very deeply into our legal and political system.

We live in a public law system, and in an administrative state and that is not going to change despite the hows of the deregulators. I was interested to see that the Natural Gas Deregulation bill I think contains 8 or 10 titles, establishes a dozen or so categories of deregulated gas, has about 250 pages of regulations already issued, and has a hot line at the FERC for spot interpretations of those regulations. So if the deregulation process is going to look like that, it's not going to leave us all in need of something to do.

The fact is, that first of all we live in a very complex society, and the government can't withdraw from it. The second point is that Americans are not a fatalistic people. They are not going to sit around forever and be told that there is nothing that they can do about all the things that bother them, from inflation to poverty to slums to environmental degradation to energy shortages and so on. They are not going to sit around and say the thing to do is to withdraw the government and let everybody go his own way.

As long as we have a government that is directed managing a system, well or ill, then the courts in performing their usual functions of applying law, in deciding cases—the courts necessarily adopt a positivist and activist stance because the law itself embodies some kind of purposive qualities which the judge as judge must himself engage with.

Moreover, the alternative to a major judicial role is not no government action, it is government by bureaucracy. As I sense what the public is talking about, the last thing they want is government by bureaucracy. In a sense, judicial intervention is in tune with the frustration of the U.S. public at an unresponsive and ineffective bureaucracy.

And finally, a reason that I think the federal courts are here to stay, and this is something we can all have our views about the current administration, but the legacy of this administration on the bench is superb, and will be with us a long time. I look only at the D.C. Circuit and we've got Ab Mikva and we've got Pat Wald and we've got Harry Edwards and if all goes well, we'll have Ruth Ginsburg. And the D.C. Circuit is going to be able to hold up its head for a long, long time with those people on it. And I will only mention one place. This judicial appointment process, I believe, has been a great success, and I think obviously there are exceptions and we all understand that. But taken as a whole, an opportunity to appoint a third of the judiciary or a quarter of the judiciary, has been an important opportunity which will live long beyond the 1980 elections.

I want to say that I think Charlie Halpern is to be congratulated on this score, as well. He saw that this was going to be a problem; with his usual skill he wangled a few thousand bucks and a little office space and set up the Judicial Selection Process; got people activated out in the states and localities to make sure that this panel process that was set up, that the right people got on the panels, or some of the right people got on the panels, and some of the right people got into the hopper, and I would hate to see that Judicial Selection Process die now that we are back to just the normal replacement of judicial turnover. And I hope that among our fund raising efforts one of the things we can talk about is how to keep that network in place because in my view it's exceedingly important.

The last thing I want to say is, and this perhaps is closer to the title of this event than anything else, is that we, you, must begin now, to lay the foundations for the next surge of change. I've heard it said around here that this is not time for innovation, particularly constitutional innovation. We've got to take care with the cases we bring, don't want to get ourselves mouse-trapped, and things of that kind. I'm sure that's true and I'm not suggesting that one throw caution to the wind or avoid simple strategic prudence in litigation planning and so on.

But it's always a bad time for innovation. In the 1950's, when the foundations for the civil rights movement were being laid, it was a terrible time for innovation. In the 1970's, when Nixon was in the White House and we were in a war in Viet Nam, it was a lousy time for innovation. And yet those were the times and places that we now look back to as the creative and forward moving times in our activity. We look back to them and we see the successes. We see that it all came out right and it looks as though all of that was inherent at the beginning, and the people who were there at the beginning knew all the time that it was going to be a great triumph. Believe me, they didn't. They were just as down and just as worried and just as embattled, and felt just as bad about the Supreme Court as you do. But they went ahead and they defined the agenda of the 1960's and 1970's as in the 1920's the progressive capital, the intellectual capital, for the New Deal was laid down, and in the 1890's the intellectual capital for the progressive movement at the turn of the century was laid down.

As I said before, when you're in is no time to start looking around for ideas, the time to have the ideas is when you're out. And if we look at what the problems are, they're not so different from the problems we've been talking about in the past, but in a sense we are moving closer to the heart of those problems.

In the next 20 years, the central problem again is the problem of power in our society, the distribution of power in our society. Corporate aggregates are the locus of power in our society. Who's going to run them? How are they to be made accountable? That's the central problem.

And the second problem, it seems to me, is that the time has come to quit beating around the bush and (for us to) say that our society has a commitment, a legal and if need be, a constitutional commitment, to a decent minimum of the necessities of life for every person living in it. Now, if we can say the government is required to provide humane, minimum conditions to people in prisons or people in mental hospitals, why can't we say that it is required to provide a minimum level of decency and humanity for every citizen who is not in prison or not in a mental hospital?

Now I understand that the problem of how much we can do through the courts and through litigation in this area is a difficult one. John Shattuck yesterday read a quote from Abe Fortes, in which he presented to us an example of the hubris of lawyers who think that everything can be resolved in a law suit, and if only the lawyers get there and write the briefs right, the world will soon perk up.

Well I think we're all more sophisticated than that. We know that lawyers can't do it all, that courts are not the only institutions in the society, and even to the extent that they do move on these problems, they can't do it alone. They're part of a larger political process. But the definition and articulation of rights in legal terms is one of the major entry points into the political process, one of the major catalytic elements in the system. It activates the political process and that's what we can do. Now you say, well where is the doctrinal material for the kinds of things I'm talking about: limitations on aggregated corporate power, a minimal decency and humanity on the economic necessities. Well were the doctrinal materials for prisoners' rights or mental patients' rights, or any of the things we look on now as triumphs of the movement of the 1970's? If you started out in 1968, there was a hands off doctrine. None of those rights had been articulated, defined, established in any way. It took ingenuity, it took intelligence, it took an understanding of how the legal system worked to bring those cases, sometimes getting beat over and over and over again before somebody finally got it right and some judge finally got it right.

I said before, and I think I should stress again, this is a long haul. There's not a quick and easy fix for any of these problems. But society must be staking out its new goals, its new directions, its new aspirations and I say if not you, who? Not certainly your classmate who went off to a 200 person law firm and is combing commas out of bond indentures. I guess Manheim talks about two kinds of societies. This may not be Manheim and maybe you'll tell me where it comes from if I'm wrong. But he talks about societies whose utopias, whose golden ages are in the past, and societies whose utopias or golden ages are in the future. And Wilson said, I think it's Wilson so you can correct me again, the same thing: that mankind is divided into two parties. The party of memory and the party of hope. The public interest law movement is firmly in the party of hope and that will not change in the 1980's.●

● Mr. RIBICOFF. Mr. President, I oppose the amendment to the FTC authorization bill offered by my distinguished colleague, Senator SIMPSON. I support the recommendation of the Commerce Committee that the FTC program should be continued.

By imposing various restrictions Senator SIMPSON suggests, the amendment would for all practical purposes bring the FTC program to a standstill. And for that reason, I cannot support this amendment.

Like so much else at the FTC, the public participation program has been carefully reviewed over the past year. Congress authorized this program over 4 years ago, and in that time about $2 million has been obligated. How has the program worked? Recent reviews by the Comptroller General, the Administrative Conference of the United States and the Senate Commerce Committee tell us that it is worthy of our continued support. In October 1979, the Comptroller General's audit gave the FTC's financial management efforts a clean bill of health. An administrative conference report last December stated that the agency had "faithfully and efficiently" implemented the statute. And the Commerce Committee has recommended that the funding program be continued with only minor changes. The committee has reported that the FTC "responded commendably" to suggestions for internal improvements.

All of which leads me to conclude that the program should not now be overhauled on the floor of the Senate.

There may, however, be additional safeguards which we should consider for this program and others like it. Our committee is now considering a proposal to establish a Government-wide program for public participation. We have before us various proposals to insure proper and fair administration of these programs. This important question warrants that kind of careful and deliberate consideration.

For those reasons, I urge that the Senate continue the existing FTC program which has been endorsed by the Commerce Committee.

In closing I want to add that I believe public participation programs are fully justified, provided they have proper safeguards and procedures. This issue was one of the subjects addressed by our committee's study on Federal regulation. The findings of that study are, in my opinion, directly relevant to our discussion today.

Our study found that in agency after agency, participation by the regulated industry predominates—often overwhelmingly. Citizen group representation accounts for a very small percentage of participation before Federal regulatory agencies. In more than half of those proceedings, there is no such participation whatsoever. In those proceedings where participation by public groups does take place, it is often dwarfed by that of the regulated industry.

We all know that the single greatest obstacle to greater public participation is money. Simply put, many groups with direct interest do not have the funds to participate effectively. For example, in 1976, the Nation's airlines spent more than $28 million in lawyers' fees for CAB proceedings. In stark contrast, the principal public interest group had a total 1976 budget of only $40,000. That situation is not unusual—it is typical of what we found in virtually every regulatory agency.

Public funds for qualified intervenors will help to redress that balance. What the agency gains is the opportunity to hear and consider viewpoints that otherwise would not be presented. More balanced information means the agency is better equipped to identify the public interest in a particular matter.●

● Mr. DURENBERGER. Mr. President, I speak today in favor of the public participation provision of S. 1991, and in opposition to the Simpson amendment.

The FTC's public participation funding program is an important tool for improving the quality—the rationality and effectiveness—of the FTC's decisions. I oppose the Simpson amendment, not because it establishes some standards of eligibility for funding, but because the standards it imposes are totally unrelated to the purposes of the public participation program. The Simpson amendment would not set up safeguards against abuse—it would simply exclude groups if they have more than 1,000 members and $25,000 of income from dues and contributions, or less than 250 members, and if they did not meet some other artificial requirements.

What does the number of members or dues income have to do with your ability to reflect or to represent a public perspective? Perhaps everything if you believe as the author of the amendment believes that public participation funding belongs, to quote him, "to the needy not the greedy."

But it is not just the impact of regulation on the poor or the needy we need—nor just the views of the poor—but the views of the public. A public which may be rich or poor, needy or greedy—but a public which is made up of so many that few lack the information, the specific concern, the time, or the resources to participate in the regulatory process.

Rather than excluding organizations like the Consumers Union or the National Consumer League from the process they should be encouraged. Public funds expended to utilize these historic, lonely voices of the public, the consumer, the needy and the poor are much more wisely spent than the same funds spent on agency bureaucrats or formal hearings that are too complicated, too remote, and too expensive for the person who is a member of "the public" to attend.

The purpose of the FTC public participation program is to permit groups with limited resources but with a legitimate stake in a rulemaking and the capacity of making a valuable contribution, the opportunity to take part. These groups may represent business interests, consumer interests, or any other interest so long as they meet three criteria:

First. They do not have adequate funding to participate in the proceeding without reimbursement;

Second. Their presentation does not duplicate the presentations of other participants; and

Third. Their involvement is necessary to a fair determination of the proceeding.

I believe these criteria are fair. If, in practice, they have been abused, then let us define the problem and design a solution. In my opinion, the Simpson amendment does not present a solution. It precludes some groups from participating because they are too small and poor, and precludes others because they are too large.

The rulemaking process should be an open process. The decisions of the Commission—like those of any agency—can only be as good as the information they are based on. Often, however, important interests—interests that would be directly affected by Commission proposals and that the Commission should hear from—are not represented before the FTC because of the high costs of effective participation. Many small businesses, citizen groups, and individuals simply cannot afford to pay for research, attorneys, experts, travel, clerical costs, and so on. Public participation funding, by helping potential participants over these financial hurdles, enables the Commission to make its decisions on the basis of more complete and balanced records.

I am familiar with the complaints with the FTC's public participation program—that the Commission funds groups to represent its own point of view; that some groups could afford to participate in the rulemaking without being reimbursed; that small businesses are excluded. If these are the problems, then let us define them more explicitly and propose some sensible safeguards. The Simpson amendment does not deal with these issues; it would close the policymaking process to some groups without leading to any kind of reform. I hope my colleagues will join with me to defeat this amendment.●

● Mr. KENNEDY. Mr. President, we are being urged today to adopt an amendment to cripple the FTC's public participation program—a program which, since 1975, has insured that consumers and small businesses can participate effectively in FTC rulemaking proceedings. I oppose this amendment.

The Congress should be proud of the success of the public participation program. It is a tribute to the foresight of the architects of the new Federal Trade Commission, Senator Magnuson and former Congressman Moss, who believed—as I believe—that the FTC should listen to all points of view in its consumer protection activities.

Because of this program, almost 60 small businesses and consumer groups have been able to participate forcefully and persuasively in the FTC's rulemaking proceedings, and to provide the Commission with needed information and expertise.

Without such funding, these groups would have lacked the financial resources necessary to develop the kind of effective legal arguments and statistical studies routinely advanced by well funded regulated interests and the Commission itself.

We have learned from our experience with public participation funding that citizens have much to contribute to the policies formulated at the FTC:

Before Magnuson-Moss, would we have seen senior citizens participate alongside businesses in proceedings to protect consumers against unfair practices in the sale of hearing aids?

Before Magnuson-Moss, could families of deceased persons or members of memorial societies participate in proceedings to establish disclosure requirements of funeral costs?

Before Magnuson-Moss, could small business groups like the National Association of Home Insulation Contractors have been able to participate fully and effectively, with adequate financial resources, in rulemaking proceedings which will have a major impact on their daily business activities?

Critics of the public participation program argue that the taxpayers should not have to finance private lobbying groups. This criticism misses the point of the program. Its purpose is to provide the FTC with points of view which would not otherwise be adequately presented and which are relevant to the rule under consideration. It also provides the Commission with expertise and information it would not otherwise receive.

For example, the National Manufactured Housing Federation, a Trade Association which represents mobile home dealers, was able to provide its critical perspective in a proposed trade regulation rule on mobile homes sales and service because of the public participation program. This trade association testified that without public participation funding, there was "no way" that it could have taken part in the proceeding, and that its viewpoints would not have been represented "by any other group appearing before the Commission."

Another example is the eyeglass rule. There the San Francisco consumer action group received funding for a survey of prices in a State that prohibited price advertising for eyeglasses and in a State that permited advertising. The survey found that prices were as much as 43-percent higher in the State without price advertising. Clearly such information was essential to a reasoned decision on the need to permit eye doctors to advertise eyeglass prices.

The Magnuson-Moss Act places strict limitations on those who are eligible to receive funds. Under the statute there are three clearly drawn criteria. First, the person must represent an interest which would not otherwise be adequately represented in the proceeding. Second, the person must represent an interest which is necessary for a "fair determination of the rulemaking proceeding taken as a whole." Third, the person must be unable to afford to pay the costs of effective participation in the proceeding.

Critics of the program are arguing that these limitations are not strict enough. They come to us with amendments which they claim will eliminate abuses in the administration of the FTC's public participation program. But we in the Senate are not fooled. These amendments are designed not to improve the program, but to destroy it.

Last July, the critics of the FTC did not bother to masquerade their opposition to the program. Senator Simpson, the proponent of the amendment to eliminate public participation funding, that there is no "logical reason for continuing to ladle out the taxpayer's money to finance the endless, tortuous and often self-destructive litigation and intervention fostered by these self-proclaimed public interest groups."

Senator Simpson comes here today with a series of amendments which he claims are "reasonable restrictions on the manner in which the Commission ladles out the Federal money." But the limitations in these amendments are unrealistically set. He knows, and we know, that for all practical purposes, this amendment would terminate the public participation program. To qualify a group would have to have over 250 members and under 1,000 members. A group would have to receive more than $2,500 annually in dues and less than $25,000 in financial revenues. Moreover, individual recipients of funding would be prevented from receiving more than $100 a day or $750 a year in compensation to represent their point of view regardless of the length of the proceeding. Virtually none of the small businesses and consumer groups which have participated thus far in the rulemaking proceedings would have qualified under the amendment's criteria.

Senator Simpson argues that the FTC has administered the program poorly. Yet every objective study of the implementation of the FTC public participation program has agreed that in the past few years the program has run well. The administrative conference concluded in its study of the administration of the

FTC's program that the "present system of administration appears to implement faithfully and efficiently the reimbursement program established by the statute." The Commerce Committee in its report on the program praises the FTC for "responding commendably to (the committee's) recommendations for reforming the administration of the program." The committee also pointed out that the FTC has adopted a number of its accounting recommendations to improve the Commission's control over the program. The Government Accounting Office, which has performed full financial field audits of all recipients of public participation funds, has concluded that there were no major problems in the distribution of funds.

Of course, improvements in the program are always possible. The Commerce Committee has made two statutory changes in the program to respond to some of the legitimate concerns about the program. First, the authorization bill limits the amount any one group can receive in any one year or proceeding to $50,000. This insures that no one group receives an unduly large share of the program's funds. S. 1991 also increases the amount which small businesses can receive from 25 percent to 50 percent. I fully support both of these changes. Moreover, the Commerce Committee has committed itself to holding oversight hearings every 6 months. This will enable the Senate to examine closely the fairness and effectiveness of the FTC's procedures to distribute funds. The Commerce Committee's proposals clearly obviate the need for the draconian measures suggested by Senator SIMPSON.

To justify their amendments, the critics of the program narrowly focus on the granting of funds to a few groups—in particular the Americans for Democratic Action—which they feel should not have qualified for funds. But they cavalierly ignore the vast majority of groups which have received funding, and which deserve funding. The statistics bear out my point that the program has on the whole been well administered. A wide diversity of groups have received funding. Indeed, over 95 percent of the groups receiving funding in the last 3 years had never participated in an FTC proceeding before. At least 85 percent of the organizations and individuals the FTC has funded have come from outside Washington, D.C. The FTC has not given funds to every group which has walked in the front door; it has denied 45 percent of the applications in whole or in part. Finally, the FTC has not just given funds to so-called public interest groups. Over the past 4 years, 25 percent of the funding has gone to business interest, thereby meeting the statutory cap.

For the past 4 years, I have endeavored to create a public participation program both at the FTC and on a Government-wide basis to enable consumers and small businesses to have a direct and meaningful voice in the outcome of agency proceedings. Without such a program, we have found out from Senate studies that consumer and small business interests are not represented at all in many proceedings, and in those proceedings where they are represented, industry outspends them by a large margin—as much as 50 to 100 times more. We have also found at the FTC that even with such a program, consumer and small business groups are outspent three to one. It is my firm belief that we can not accomplish meaningful regulatory reform until all our citizens can have an effective voice in the agency rulemaking process.

Mr. President, I urge my colleagues to reject these amendments to cripple the FTC's public participation program. They would virtually guarantee that wealthy regulated interests with unlimited financial resources will dominate FTC rulemaking proceedings. To adopt them will be to yield to powerful interests that urge this Senate to announce that financial might makes right—a position which I am proud to say this Senate soundly rejected 5 years ago. I hope that the Senate reaffirms its commitment to public participation in agency proceedings.●

Mr. PERCY. Mr. President, I oppose this amendment as the issue of intervenor funding is currently before the Senate Committee on Governmental Affairs as part of its ongoing markup of S. 262, regulatory reform legislation. Governmental Affairs is considering various approaches to "intervenor funding" on a Government-wide basis, among them, mandating stricter supervision and administration of the program, and abolishing the program altogether.

Senator SIMPSON's amendment prejudices Governmental Affairs' consideration of this issue. FTC's program is experimental in nature, and S. 1991 contains various provisions assuring that alleged abuses in the program will not recur. Senator SIMPSON's amendment, as drafted, will cripple the program by disqualifying virtually all currently funded groups and individuals from participating. In opposing Senator SIMPSON's amendment, I have reserved judgment on the larger question of whether "intervenor funding" should be instituted for Federal regulatory agencies.

Mr. FORD. Mr. President, do we have the yeas and nays?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. FORD. How much time do I have left?

The PRESIDING OFFICER. The Senator from Kentucky has 2 minutes and 19 seconds remaining.

Mr. SIMPSON. Mr. President, what is the balance of my time?

The PRESIDING OFFICER. The Senator from Wyoming has 1 minute and 30 seconds.

Mr. SIMPSON. Mr. President, let me say that, certainly, emotion will always triumph over reason, but reason will always persist somewhere in this Chamber. I have no desire to get into disenfranchising people. That is not my intent in any way.

Let me say that Senator FORD, and I have discussed this for many weeks. I admire him very much for the responsibility he has undertaken here. He has handled it with great skill in the midst of buffeting and pounding from every source, including this Senator from Wyoming. But these funds are for the needy and not the greedy, and it is on that basis that I offer this amendment.

Mr. President, there should be no reason why the Americans for Democratic Action should receive these funds, or why the Sierra Club should receive these funds. CU has a publication from which they make great deal of money. Other groups with publications, make hundreds of dollars selling them, and then they come to the Federal Treasury with their hands out looking for a subsidy. There is something wrong with that.

My amendment does not stop an individual from coming to Washington, D.C., to testify. That is a very key point. He should come here. All he has to do is make an application. He writes the FTC, gets an application, fills it out, they send him an airline ticket, and he comes to Washington. I would not want to destroy that in any way, and I do not want to prohibit that.

What we want to do is, when you are testifying as a public interest group, is to be sure that you represent a true segment of the public, and not some lawyer or lobbyist who left the FTC 3 years ago and decided to go into business on his own.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMPSON. I ask for an additional 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. That is the group we are trying to get at, that group that was involved in the process at one time, left the process, set up their little shop across the river, and now uses its money for the operating expenses, and overhead—not for the purpose of testifying. They use it for staff. We have one statistic here, $125,000 for staff for a group, that gets $2,000 in dues. There is something wrong with that, too.

What we are after here is when you have a public interest group, to be sure there is one, be sure it has a constituency, and be sure they need the money. I think the taxpayers are entitled to that.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I shall take my minute and a half or 2 minutes.

The Senator still talks of the past. The Senator still does not refer to what is in the legislation. The Senator still does not give credit to the criteria that have been developed here that must be met before an individual can receive the money. The Senator does not give credit to the reduction in the amount of funds that are allowable. So the Senator, I think, is trying as best he can to present his position on problems in a program that this legislation corrects and that oversight has corrected.

I say to my colleagues, now that we are ready to go to an up-or-down vote, I had given serious consideration to tabling, but the distinguished Senator from Wyoming has asked that we have an up-or-down vote. Therefore, Mr. President, since the Senator from Wyoming's time has run, whatever I have of my time, I yield back the remainder, and we can proceed to vote in opposition to Mr. SIMPSON's amendment.

The PRESIDING OFFICER. Pursuant to an order, the vote will occur on this amendment after noon today.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. SIMPSON occur today at 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I thank the Senator.

Mr. President, I appreciate very much the courtesy of the majority leader in this situation. It is very appropriate, and I thank him very much.

Mr. ROBERT C. BYRD. I thank the Senator.

20-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I know of no Senators who are willing to call up amendments at this point or are in a position to do so. Some of them are engaged in hearings and cannot call up amendments until later.

So I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 11:36 a.m., recessed until 11:56 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without obection, it is so ordered.

Mr. FORD. Mr. President, I yield to my distinguished friend from Wyoming for a couple of minutes.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I appreciate very much the remarkable courtesy to me shown by the Senator from Kentucky. In conclusion, before we cast our votes on his issue, I wish to share with my colleagues, some interesting data that I have from the National Federation of Independent Businesses, which is an organization consisting of 600,000 members in America; the largest business group in America, that really does represent small business.

They polled their membership on this issue of intervenor funding, and I share with Senators this data: 61 percent of their membership voted against intervenor funding, regardless of what we have heard in previous remarks on this issue; 31 percent voted in favor of it; and 9 percent were undecided, rather overwhelming 2-to-1 consensus of those opposed to the issue of intervenor funding by taxpayer money being given to groups that can well afford to express whatever opinions they care to.

Intervenor funding, which was hatched in an era of compassion fatigue in this country, was originally a fine and noble theory, that has been rigged and gimmicked, to the detriment of the public, who has been badly abused in the process.

I have no desire to discontinue or abolish intervenor funding, but I certainly believe this amendment is a reasonable approach to cutting back on a very much abused program that, even though it worked in the past, is going to get worse in the future, and I hope this is a reasonable cure for its problems.

I thank the Chair.

Mr. JAVITS. Mr. President, I am convinced that the public participation funding program at the Federal Trade Commission has helped the FTC make its decisions with a better understanding of the issues and the interests involved. The program has brought into FTC proceedings citizen groups, small businesses, and others who in the absence of financial assistance would not have been able to participate. And these funded participants have provided the Commission with information and insights that have enabled the FTC to make better informed judgments.

The amendment offered by Senator SIMPSON would debilitate this valuable program by saddling it with draconian and unwarranted restrictions. For example, the amendments would limit the amount of funding any person could receive up to $5,000 per proceeding. Given the complexity of the issues involved in many FTC proceedings and the need to retain experts and attorneys in order to address these issues effectively, $5,000 would be much too low a ceiling. I think that the $50,000 ceiling already contained in the bill before us would help to insure that the public participation money gets spread around, without denying the FTC the benefits of well-researched and fully developed arguments, studies, and presentations.

The Simpson amendment would permit money to be awarded only to groups with at least 250 members, but no more than 1,000, and with annual revenues of at least $2,500, but no more than $25,000.

These limitations are both arbitrary and hurtful. They are arbitrary because there is no reason to believe that there is any relationship between these boundaries and the need of applicants for funding or their capacity to contribute to FTC proceedings. And they are hurtful because the lower limits shut out smaller, grassroots groups that need funding desperately and may have important contributions to make, and the upper limits shut out larger ongoing groups that have accumulated valuable experience and expertise in an area, but do not, with their rather limited resources, have enough money available to finance effective participation.

If the Simpson amendment were to be agreed to, the FTC's ability to decide issues on the basis of a truly balanced record would suffer very seriously.

Mr. FORD. Mr. President, we have about 30 seconds remaining. I appreciate the Senator from New York adding his eloquent comments in opposition to this amendment.

The Senator from Wyoming says that it will be worse in the future than it has been in the past. I hope he is wrong, because that becomes my responsibility to try to see that it improves and it gets better. I think the language in this bill shows that we are improving on the past.

The Senator's rhetoric today has been interesting, but I hope he would have an eye to the future on improving it. We look forward to him coming to the committee and giving his time, to say where we are wrong so we can make those corrections.

I urge my colleagues to give the committee an opportunity to improve upon the past and then improve upon the present.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. All time has expired.

Mr. SIMPSON. I appreciate the invitation to join in the Commerce Committee's deliberations on this issue.

The PRESIDING OFFICER. The hour of 12 o'clock having arrived, the question is on agreeing to the amendment of the Senator from Wyoming (Mr. SIMPSON). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Utah (Mr. HATCH) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER (Mr. EXON). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 56, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—38

Armstrong
Bentsen
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
Cohen
Danforth
Dole
Domenici
Garn
Goldwater
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Morgan
Muskie
Nunn
Pressler
Pryor
Roth
Schmitt
Schweiker
Simpson
Stevens
Talmadge
Thurmond
Tower
Wallop
Young

NAYS—56

Baucus
Bayh
Bellmon
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Percy
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Stone
Tsongas
Warner
Weicker
Williams
Zorinsky

NOT VOTING—6

Baker
Hatch
Kennedy
McGovern
Matsunaga
Pell

So Mr. SIMPSON's amendment (No. 1659) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the nominations on the Executive Calendar.

Mr. STEVENS. Mr. President, I have no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

The second assistant legislative clerk proceeded to read the nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, all nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Helmut A. Alpers, of Connecticut, to be a member.

Carlos A. Cuadra, of California, to be a member.

Margaret S. Warden, of Montana, to be a member.

NOMINATION OF MARGARET S. WARDEN

● Mr. BAUCUS. Mr. President, I am delighted that one of my most distinguished fellow Montanans, Margaret Warden, has been appointed to the National Commission on Libraries and Information Services. I can think of no more qualified or enthusiastic supporter of libraries to serve on this important Commission.

Margaret Warden was born in Glasgow, Mont., and has lived most of her life in Great Falls. Still, Margaret Warden's many activities and enormous energies have had a profound and positive impact not only on the local and State level, but on the national level as well.

Margaret Warden has been active in a great many community affairs in and around her own community of Great Falls—the March of Dimes; Easter Seals; Boy Scouts; Campfire Girls; the PTA; the College of Great Falls; and the Red Cross Board, to name just a few.

Margaret Warden has also served with distinction as a member of the Montana State Senate and has been a member of the Montana Constitutional Society since 1973.

Throughout her outstanding career, Margaret Warden has received many accolades: She was chosen Woman of the Year in 1955 by the Business and Professional Women. She received the outstanding award for the State Blood program for Red Cross given by the Montana Kiwanis Club. She was also elected an honorary member of the Delta Kappa Gamma Society International in 1975.

Margaret Warden has always maintained a strong and vital interest in libraries. She has been a trustee of the Great Falls Public Library since 1958, and served as the chairwoman of its board of trustees for a number of years. She also helped found the Friends of the Library Group in Great Falls, and, along with her husband, R. D. Warden, she established the College of Great Falls Library Foundation to further develop library sciences. Somehow, Margaret Warden also found the time to contribute to the Encyclopedia of Library and Information Science.

Margaret Warden is also an active member of the Montana Library Association, serving as its president in 1973. She also served as chairman of the Montana State Library Commission, and is a member of the Montana State Library Advisory Council. In addition, Margaret Warden spearheaded the Governor's Conference on Libraries, helping to plan and participate in the first Governor's Conference on Libraries in Montana in 1971.

Margaret Warden is also a vigorous and active spokeswoman on behalf of libraries, working with the Montana State Legislature as well as on the national level to further the interests of libraries throughout the country. She also served on the advisory committee for the recently held White House Conference on Libraries. Indeed, Margaret Warden's vision, insight, and firm belief in libraries and the services they can provide, have placed her in a leadership role, locally, in Montana, and in the Nation.

Mr. President, it is good to know that we will have someone of Margaret Warden's outstanding ability serving on the National Commission on Libraries. Her record of contribution to libraries is outstanding, and I am sure Margaret Warden will continue to be an inspiration and a leader in her capacity on the National Commission on Libraries and Information Services.●

The PRESIDING OFFICER. The Senate will be in order. Will Senators please take their seats? There seems to be an unusual flurry of activity on the floor. I hope the conversations will break up so that we can proceed to the business of the Senate.

With my apology to the majority leader, the majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, the Chair does not need to apologize. The Chair has a duty to maintain order in the Senate without any request by any Senator and the Chair has just performed his duty well.

Mr. President, I move en bloc to reconsider the votes by which the nominees were considered and confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair, in his capacity as the Senator from Nebraska, suggests the absence of a quorum. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL TRADE COMMISSION ACT OF 1979

The Senate continued its consideration of the bill.

Mr. FORD. Mr. President, I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I yield myself as much time on the bill as I require.

Mr. President, I have attempted to bring the amendments to the floor in a timely manner. My colleagues are very anxious to move along expeditiously with the legislation and we have attempted to accommodate them. When the time comes and they are to introduce their amendments, it is somewhat disquieting for me to be left with a quorum call. Any of my colleagues that wish to bring up amendments, I am delighted to accommodate. I see some on the floor now who would not hesitate for a minute to bring their amendments up and debate the issue, so I earnestly solicit the cooperation of my colleagues.

Mr. METZENBAUM. Will the Senator from Kentucky yield for a question?

Mr. FORD. I am delighted to yield.

Mr. METZENBAUM. The understanding was that at this point in the debate, we would go to the Magnuson-Packwood amendment. Would the Senator from Kentucky edify the rest of us as to what has happened?

Mr. FORD. I would let those who are supposed to be here for this amendment make those remarks. One of the participants is not here at this time. He has been here since early this morning, but the time was changed. I understand that. The procedure last night, when we left the Senate floor, was that at around 11 o'clock, the Magnuson-Packwood amendment would be considered. Senator PACKWOOD is here and ready to go. I see Senator MAGNUSON here.

Mr. President, I yield the floor.

UP AMENDMENT NO. 964

(Purpose: To strike sections 7 and 8 from the bill)

Mr. MAGNUSON. Mr. President, I call up my amendment No. 964 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) for himself and Mr. JACKSON, Mr. PROXMIRE, Mr. KENNEDY, Mr. RIBICOFF, Mr. JAVITS, Mr. TSONGAS, Mr. WEICKER, Mr. METZENBAUM, Mr. BRADLEY, and Mr. BIDEN, proposes unprinted amendment numbered 964:

On page 42, beginning on line 9, strike all down through line 9 on page 47.

Mr. MAGNUSON. Mr. President, I shall be very brief. I know there are other Senators who wish to be heard.

My amendment would delete sections 7 and 8 of this bill and thereby permit the completion of two current proceedings, now in process at the Federal Trade Commission; namely, the children's advertising and standards and certification rulemakings.

Section 7 deals with the children's advertising matter and section 8 deals with the standards and certification rulemaking. The amendment—I want to make this clear—takes no position on the merits of these two proceedings. Rather, it is based on a premise that premature termination of pending administrative proceedings sets an unfortunate precedent, with adverse implications for the integrity of the process, the whole integrity of the Federal Trade Commission process under the law at present.

In 1974 Congress adopted special procedures in the Magnuson-Moss Act to assure widespread public participation and a full exploration of the complicated issues involved in FTC rulemakings. By providing opportunities for oral testimony and appropriate cross-examination, Congress sought to give the FTC a means of weeding out proposals that in light of the record prove to be unnecessary or unworkable as well as a solid basis for prescribing rules that are found to be necessary for protecting the consumer.

That is what the Federal Trade Commission is all about. That is what it was created for, protection of the consumer. And the Magnuson-Moss Act procedures, I think, did that job well. This bill would cut out the rulemaking procedures, stop them before they even come to some conclusions.

Sections 7 and 8 of S. 1991, as presently formulated, would undermine this process by terminating two ongoing proceedings before a full record can be compiled and therefore before effective decisionmaking, one way or the other, is possible. The amendment is based on the belief that Congress is in the best position to assess the wisdom and appropriateness of agency action after all of the evidence is in and the agency has proposed specific regulatory action based on the full administrative record. If Congress wants stronger supervisory control of the regulatory process, there are better ways and more appropriate times than with this bill.

Under the Levin-Boren amendment that we adopted on yesterday, we now have a built-in congressional review procedure for evaluating final FTC rules. There is no danger that unnecessary regulations can slip by without congressional scrutiny. It makes no sense to terminate pending rulemakings—of the important nature of the ones I have mentioned—before the record is complete, and that is what this bill does, it cuts it all off right now. Congress should have the benefit of a complete record compiled after thorough public debate.

How else can Congress determine what to do in this matter if they decide to review a Federal Trade Commission ruling? All interested parties should have the opportunity to confront the issues that the FTC addresses. If the FTC decides to issue rules in either of these two proceedings, the Congress will have the direct opportunity to review a complete record and decide the propriety and the wisdom of the FTC action.

If these two rules are terminated we will undoubtedly face future requests by special interests for similar action to terminate proceedings pending at all regulatory levels, and with all Government agencies, not only the Federal Trade Commission, but the ICC, the Federal Power Commission, the Consumer Products Safety Commission. I can name a long list of them.

Why just do this to the FTC? We have not suggested that we terminate proceedings with the other independent agencies who have the same type of rulemaking.

This view was endorsed forcefully by the Administrative Conference of the United States, a congressionally created nonpartisan body of law experts, which recently adopted an unprecedented resolution criticizing proposals to terminate pending FTC rulemakings and cases as "premature legislative intervention in administrative proceedings" which "precludes orderly development and consideration of the complex issues involved and undermines respect for the administrative process."

This amendment will permit the rulemaking process which Congress envisioned in the Magnuson-Moss Act to be concluded, so that reasoned decisionmaking—the goal of regulatory reform, and in this case the protection of the American consumers—can take place.

Mr. President, the administration itself objects to certain portions of this bill. I voted for much of the procedural reforms involved. I thought the Federal Trade Commission needed some procedural reforms, which they agreed to, and I voted for some of the amendments to curtail a portion of the FTC's authority, or assumed authority.

But this has gone too far, and the administration is strongly opposed to this.

The President of the United States made a speech at 11 o'clock, I believe, at the Consumer Federation of America meeting here in Washington, in which he strongly suggested that if this amendment is not carried, that he might veto the bill.

Mr. FORD. Will the Senator yield at that point?

Mr. MAGNUSON. Yes.

Mr. FORD. Does the Senator have a copy of the President's speech?

Mr. MAGNUSON. No, I do not.

Mr. FORD. It is my information that he said he would veto it if the legislative veto was in it. He did not make any mention of this amendment.

Mr. MAGNUSON. I have no copy of the speech. But I know of their feeling as to these two amendments. Whether he mentioned it or not, I do not know.

But I mentioned that there is a threat of veto on the one the able Senator from Kentucky mentions, the congressional veto of rulemaking.

With that, Mr. President, I yield to the Senator from Oregon such time as he may wish, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President, there are two sections of the bill addressed by the amendment of the Senator from Washington and myself, section 7 which relates to advertising, or specifically, often thought of as children's advertising on TV, called kidvid; and section 8 which relates to private standards of certification, groups like the Underwriters Laboratory.

Mr. President, in my comments, I am going to address the issue of section 7, the advertising.

I want it clearly understood what the law is today and what section 7 of the bill changes.

Today, the law is that the Federal Trade Commission is empowered to protect consumers against unfair or deceptive acts or practices. I will say that again: unfair or deceptive acts or practices.

That phrase appears in two sections of the Federal Trade Commission's authorization. One is in section 5 where the FTC is authorized to proceed on a case-by-case basis to stop unfair or deceptive practices—but it is case by case.

Literally, if General Mills advertises that Wheaties cure cancer, the FTC could proceed against them to cease and desist, and say, "Stop that ad," and they would have the power to stop it, but not prohibit General Mills from saying that Wheaties cure hemorrhoids, whereupon, the FTC would have to act, to go and get a cease and desist order.

There is a second section of this bill under which it operates. Section 18 allows the FTC, again using the same words "unfair or deceptive," to act against an industry in general and to promulgate regulations that generally say, "You cannot advertise dry cereals as curing cancer," and it is a prospective order. They do not have to go case by case. This second part is what we are here concerned with. The second part. The first part is not changed. The case-by-case standard of unfair or deceptive is left as it is.

The generic way of proceeding is left as it is, unfair or deceptive, except for one industry which this bill changes, and that is the advertising industry.

It is not just advertising for children on television. This bill, for that industry, changes the words to "false or deceptive," instead of unfair or deceptive. We have changed it only in the part of the bill that relates to generic rulemaking, rather than case-by-case, cease-and-desist orders, and we have changed it only for the advertising industry.

We are going to hold hearings next Monday on the whole subject of unfair versus false and deceptive; but for some reason, we have singled out the advertising industry for preferred treatment in this bill.

Every other industry, even under the generic, broad-based, wide, rulemaking powers, will still have to meet the standard "unfair or deceptive," except for the advertising industry, which will be allowed a much higher leeway—"false or deceptive."

How did this come out? It comes out of the kidvid problem. That is where it started. Many of us are parents. We have all seen the advertising that appears for toys, heavily sugared cereals, Saturday morning kid shows.

The Federal Trade Commission, sometime ago, started—they have not finished—to move toward the possibility of generic rules that would limit or maybe prohibit—we do not know, because they have not finished their rulemaking—limit or maybe terminate the advertising of heavily sugared cereals on children's programs. What did the Commission find in their investigation? This is what they found:

TV commercials targeted to children work, in that they persuade children to ask the parents to buy them advertised products. There is nothing new about that.

Parents generally accede to children's TV-inspired product requests.

Sugar causes dental caries.

Dental caries is a serious health problem among children, despite the salutary effects of fluoridation and proper dental hygiene.

Sugar consumption contributes to obesity.

The overwhelming body of professional medical, dental, and nutritional opinion recommends against encouraging children to consume heavily-sugared foods or to snack on such foods between meals.

That is commonsense. We know that. If anybody is going to stand here and attempt to say there is no relation between sugar and cavities, they are wrong. We all know they are wrong.

I find a great frustration with the business community on occasion. They will argue that there is no beyond-a-reasonable-doubt, proven cause and effect. I say that in the case of sugar and cavities, it is beyond a reasonable doubt; but I would like to think that the standard of the marketplace is not that of whether or not you can be convicted of bank robbery. I would like to think that you have a higher standard than, "Am I guilty beyond a reasonable doubt?"

However, in this case, the advertising of heavily sugared products works. Children dog their parents to buy those products, they eat them, and they have bad teeth. The question is, should we try to stop that kind of advertising. That is where this situation started.

This bill is going to go a lot farther than that. This bill, as I said before, is aimed at the entire advertising industry. It changes the word "unfair" to "false," and it is going to apply that standard to advertising for toys, automobiles, or anything else you want; but it stems from the kidvid problem.

Mr. FORD. Mr. President, will the Senator allow me to correct him?

Mr. PACKWOOD. Yes.

Mr. FORD. It is unfair. The Senator has gone too far. He has overreached. He has now taken the position of the FTC. He has gone beyond what the law requires. On advertising for automobiles and other things—I think this bill does not touch that.

Mr. PACKWOOD. Pardon me?

Mr. FORD. False or deceptive.

Mr. PACKWOOD. I am not quite sure I understand the Senator's point. I think that is all I am saying.

Mr. FORD. I did not understand it that way. I just want to be sure we do not get into a misunderstanding as to what the bill does.

Mr. PACKWOOD. The bill changes the standard for the entire advertising industry for "false or deceptive."

Mr. FORD. But the "unfair" is still there.

Mr. PACKWOOD. Not for the advertising industry.

Mr. FORD. In other instances.

Mr. PACKWOOD. In section 5, on a case-by-case basis, it is still "unfair or deceptive." On the generic law applying to all industries, it is still "unfair or deceptive," except for advertising, which we change to "false or deceptive."

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. BOSCHWITZ. Does that mean that the word "unfair" will not apply to advertising?

Mr. PACKWOOD. That is correct. In terms of the generic, across-the-board, industry-wide rulemaking, it will not apply.

Mr. FORD. On rulemaking, the Senator is correct.

Mr. BOSCHWITZ. On case-by-case, it still will apply?

Mr. PACKWOOD. It will be "unfair or deceptive," although that is post facto; and you cannot prospectively issue rules and say, "You can't advertise such and such." Under that section, after the ad is run, you try to get them to cease and desist.

Mr. BOSCHWITZ. I am not sure I understand the answer. Does the word "unfair" still apply to a case-by-case examination of advertising?

Mr. PACKWOOD. Yes.

Mr. FORD. The answer is "yes."

Mr. BOSCHWITZ. However, the word "unfair" does not apply to the rulemaking with respect to advertising; or, what the Senator from Oregon is saying is that "unfair" only comes into play after the ad is run, and then you can make a case-by-case determination.

Mr. PACKWOOD. That is the only way you can do it, and it is a one-of-a-kind, case-by-case situation.

Mr. BOSCHWITZ. But it can he done with respect to specific ads?

Mr. PACKWOOD. It can be done retroactively with respect to specific ads. If a company runs an ad saying, "Wheaties cure cancer," the Federal Trade Commission can say it is unfair and get them to take it off. But under this, it cannot use any prospective rules that it is unfair.

Mr. FORD. In this case, we have eliminated "unfair" and substituted "false or deceptive" because of constitutional problems, because of first amendment problems, and because of special problems as related to the advertising industry. The articulate Senator, who is in the legal profession, can tell the Senator from Minnesota more about that than I can, but I think I have pretty good advice.

Mr. PACKWOOD. The Senator from Kentucky has talked about the first amendment, freedom of speech. Whether or not the law as it presently exists, which is "unfair or deceptive," generically and prospectively violates the First Amendment, I am not sure he or I can answer that question. The Supreme Court has said on a number of occasions that commercial advertising is not subject to the same freedom of speech regulations that other speech is. They have said that.

Whether or not the standard of "unfair" versus "false" is one in which they would draw a distinction between the two, I do not know.

However, that was not the argument made at the time this bill was begun. That is not the argument heard in lobbying this bill, except as a secondary or tertiary argument.

This section of this bill, changing the standard of "unfair" to "false," has been sought after specifically by the broadcasting industry and the advertising industry. They want to stop the Federal Trade Commission from having any power to issue any prospective generic rules that say, "You can't advertise heavily sugared foods for children. You can't advertise products that are harmful." They want that out.

Let us make no mistake about the argument on constitutionality. Sooner or later, this will go to court. We are here talking not about constitutionality. We are talking about policy for the advertising industry alone—no other industry. Should the present standard or rulemaking of "unfair or deceptive" be changed to "false or deceptive"; and if so, why should it be just for that industry? Why not for the funeral industry? Why not for the insurance industry? Why not for all other industries? Why just for the advertising industry?

Of all the groups that this was aimed at, and out of which it came, of all the groups that need protection more than any other group, it is children.

It is almost a shame and hypocritical that because of ads aimed at them, this action has been started by the FTC, and it never will be finished if this bill is passed. They have not gotten to the rulemaking change yet. It would stop them from investigating and prospectively issuing rules—stopping it dead in its tracks.

It would say henceforth to one industry, and one industry alone, "You will be subject to a different standard from that of the other industries. Henceforth, if you want to issue unfair advertising, we will do nothing about it prospectively, but will look at it only afterward, after the damage has been done, and take it off television or take it off radio, on a case-by-case, one-at-time basis, after you have run it."

That is sum and substance of the argument about section 7 of this bill. It is not complicated. I think the policies are clear.

My conclusion is we should not change the standards for any of the industries; but of all of the industries that they should not be changed for the advertising industry ranks highest.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I yield myself a couple of minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, supplementing what the Senator from Oregon has said, I simply wish to place in the RECORD the importance of having this matter subject to public debate.

There is $600 million a year in advertising directed to children, and the rulemaking addresses the important area of children's health. This is the important thing. That is why one cannot do it case by case. The rulemaking must direct itself to the industry itself.

There is $600 million directed to children, and the rulemaking addresses important areas of children's health, which is the common complaint by parents and people who look at these ads.

I yield the floor.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. FORD. Mr. President, I yield such time as the Senator from Nevada wishes.

Mr. CANNON. Mr. President, the Commission's principal authority over advertising stems from section 5 of the Federal Trade Commission Act. Under section 5, as presently written, the Commission may prohibit "unfair or deceptive acts or practices". This section which gives the Commission authority to remedy unfairness is so vague and the penalties for violation are so severe that one would have expected the agency to proceed deliberately and carefully—instead the FTC has charged ahead with new and virtually unbounded definitions of this vague term unfairness. It is clear that this agency is determined to push its authority to the legal limit and beyond.

Nothing points this out better than the children's television advertising rulemaking. Operating under a broad statutory mandate and manned with enthusiastic staff determined to rebuff criticisms of regulatory impotence, the FTC plunged into a sensitive area, an area permeated with first amendment concerns.

The Supreme Court has shown no small amount of determination to protect speech, commercial speech included. Indeed, in one recent case, the Supreme Court struck down a State statute regulating certain advertising saying that its effect was to suppress truthful information about entirely lawful activity and thus the statute violated the first amendment. No one would dispute that the FTC has the authority to regulate false or deceptive advertising but regulating truthful, nondeceptive advertising is a new exercise in overregulation—overregulation made more objectionable by the presence of the first amendment.

And what is unfair? This term is ambiguous, broad, capable of being molded to fit the ideas of the one who is defining it. One need look no further than the current kidvid rulemaking. I quote from the FTC staff, report on children's advertising, "unfairness arises out of the striking imbalance of sophistication and power between well-financed adult advertisers, on one hand, and children on the other, many of whom are too young to even appreciate what advertising is."

The problem with this concept of unfairness is that, taken to its logical conclusion, the money and sophistication of every advertiser could be considered unfair, especially compared with the sophistication and economic power of a hungry 10 year old.

I do not believe that Congress ever intended the FTC to impose a Magnuson-Moss rule on advertisers because some advertisers had more money or more sophistication than the average consumer, when their advertisements were not false, misleading or deceptive. I am hard pressed to figure out how an advertiser violates the law by using truthful, nondeceptive ads simply because he is not in the same economic bracket as the third grader who sees one of his ads.

One of the proposals in the kidvid proceeding is a total ban on children's advertising. I cannot help but wonder (aside from my concerns about the regulation of free speech) what will happen to children's programing if a ban is imposed. Is children's television to be virtually eliminated as the FTC uses the unfairness doctrine as a broad charter to sweep away children's advertising solely because it is contrary to the Commission's concept of fairness?

In limiting the Commission's rulemaking power to regulating false or deceptive advertising in section 7, the Senate can redirect the Commission to its primary and long-standing function of determining whether advertising contains false representations or has the capacity to deceive or mislead consumers. This limitation is necessary to diminish the danger that the FTC will infringe on first amendment rights or impose its own concepts of public policy on lawful activity.

The kidvid proceeding has come under considerable attack for other major defaults as well. Not only was a novel, overbroad theory of unfairness employed to reach advertising the FTC found objectionable, the Commission neglected to propose a specific rule to be considered. The Commission simply noted the proposals of the staff, one of which was a total ban. I think that it would be difficult to fight a rule one feels may be unnecessary, especially when you do not know what rule is being considered. And it is nice to know that the D.C. Circuit Court of Appeals agrees. The court in a recent case involving this proceeding referred to it as a guessing game and commented that the game is made and I quote "more difficult by the fact that the children's advertising notice does not reveal what rule the Commission proposes to promulgate."

Because of these inadequacies, S. 1991 requires termination of the children's proceeding and further requires that all future rulemakings be brought in accordance with the false or deceptive standard, with publication of the text of a specific proposed rule, and alternatives.

Mr. President, I thank the Senator for yielding.

Mr. FORD. I thank the distinguished Senator from Nevada for his support in this particular case.

Mr. President, there will be the emotional side as it relates to any amendment or any position that this piece of legislation takes.

I hope that in the next 1½ or 2 hours we can look at the many problems that are involved as it relates to the decision by the committee to propose this change.

I hope that I can blow away the smoke of emotion here and try to get down to the problems that were scrutinized very closely by the full committee, not only the subcommittee in hearings but the full committee in several days in markup.

In its children's advertising rulemaking, the FTC is considering an industry-wide rule which would ban advertising to young children and extensively regulate the content of advertising to older children even though such advertising may not be false or deceptive but because, in the Commission's view, its content is "unfair." This exemplifies a newly formulated theory of power to regulate "unfair" advertising that is a step beyond the Commission's long-recognized authority to prevent false or misleading advertising and one with such potentially far-reaching consequences and constitutional implications that the Committee believed it desirable to place a modest check on the Commission's activities in this area by expressly limiting its authority in industrywide rulemaking to advertising which is false or misleading.

It should be remembered that the Commission's basic charter, section 5 of the Federal Trade Commission Act, makes no mention at all of advertising. The agency's authority over advertising was very early established by court decision declaring that the publication of false or deceptive advertising was an unfair method of competition within the meaning of section 5. Sections 12 through 15 of the act, added in 1938, expressly prohibit false advertising of food, drugs, devices or cosmetics and define false advertising as that which is "misleading in a material respect." Nothing contained in the act is a warrant for the Commission to regulate the nondeceptive advertising of a lawful product or activity because the content of its advertising message is deemed to be "unfair" in the eyes of the Commission.

Nor has any court ever ruled in an advertising case that the Commission has such broad power as it is now claiming over the content of truthful commercial speech. Indeed, the Supreme Court's recent pronouncements on the first amendment protection given to commercial speech have recognized an exception only in the case of false, deceptive or misleading speech. In the Virginia State Board of Pharmacy case, the Court expressly denied the right of the State under the first amendment to prevent the dissemination of advertising which contained "concededly truthful information about entirely lawful activity" because it was "fearful of that information's effect upon its disseminators and its recipients."

Because of the serious implications of the FTC's expansive application of the "unfairness" doctrine, the Committee has made plans immediately to undertake a thorough review of the entire issue of "unfairness" and will hold extensive hearings on that subject in the coming months. Meanwhile, the proposed amendment will limit the Commission's "unfairness" authority only with respect to advertising in industrywide rulemaking proceedings under the Magnuson-Moss Act. It does not in any way affect the Commission's authority in adjudicatory proceedings under section 5 of the Federal Trade Commission Act, nor does it limit the Commission's authority in rulemaking proceedings with respect to practices other than advertising, including unfair practices, such as "bait and switch" tactics, which pertain to advertising but are not themselves advertising.

This limitation of the Commission's authority in advertising rulemaking to "false or deceptive" advertising is coupled with a provision requiring the advance publication of the text of any proposed rule—and in the present case the rule was never published, which is outside of normal procedures of the FTC—a requirement made applicable to any pending proceeding which hearings have not been completed. So the rule was never published, and I doubt if the Senator from Oregon would like to go down a track and not know what he was going to see.

Together those provisions would cause the children's advertising proceeding to be terminated but would not affect other pending proceedings. Nor would it prevent the Commission from reinstituting rulemaking proceedings on children's advertising that concerned itself solely with deceptive or misleading aspects of such advertising.

Mr. President, the ACLU has submitted a very interesting statement as it relates to this particular portion of the Magnuson-Moss Act or the present S. 1991. I have a press release and a letter from the associate director of the American Civil Liberties Union which forwarded to me the press release.

I ask unanimous consent that this press release be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

ACLU COMMENTS ON MAGNUSON-MOSS ACT

The American Civil Liberties Union today criticized the Federal Trade Commission's proposed bans on children's advertising as an abridgement of the First Amendment.

The FTC rule would ban all TV advertising for products directed to "audiences composed of a significant proportion of children who are too young to understand the selling purpose. . . .;" and TV advertising for sugared food products directed to older children because of health risk.

In a letter to Judge Needleman, presiding officer in the FTC hearings, ACLU Chairman Norman Dorsen stressed that "however well intentioned the commission may be and however serious the problems of children's nutrition may appear, we believe the rules under discussion exceed FTC authority."

"The obvious administrative difficulties in regulating such a ban would very likely lend to arbitrary judgments at the expense of free expression" Dorsen stated.

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., March 12, 1979.

HON. MORTON NEEDELMAN,
Federal Trade Commission,
Washington, D.C.

DEAR JUDGE NEEDELMAN: I am writing to present for the record the comments of the American Civil Liberties Union on the proposed rules relating to children's television, as embodied in the Commission's Notice of Rulemaking dated April 27, 1978.

The ACLU has tried to keep abreast of the proceedings relating to this issue. Members of the Commission staff provided us with background material and met with our Communications Media Committee to discuss the proposed order.

On March 3, 1979, the ACLU Board of Directors voted without dissent that, if adopted, the FTC's proposed bans on children's TV advertising would abridge freedom of communication. Specifically, we oppose the proposed rules that would:

(1) Ban all televised advertising for any product which is directed to, or seen by, audiences composed of a significant proportion of children who are too young to understand the selling purpose of or otherwise comprehend or evaluate the advertising;

(2) Ban televised advertising for sugared food products directed to, or seen by, audiences composed of a significant proportion of older children, the consumption of which products poses the most serious dental health risks.

Our examination of this issue was conducted against the background of ACLU's long concern about any government action that threatens First Amendment rights. However well-intentioned the Commission may be, and however serious the problem of children's nutrition may appear, we believe the rules under discussion exceed the FTC's authority and that alternative means must be found to achieve the Commission's objectives.

We do not question the Commission's power to regulate deceptive advertising. We recognize fraud, deception and misrepresentation as permissible grounds for the regulation of commercial speech. But what the FTC now proposes is in effect to label all advertising aimed at young children as inherently deceptive. This in our view is too sweeping a remedy that catches protected speech in its net.

Our opposition to the proposed ban on children's advertising is strengthened by the obivous administrative difficulties that very likely would lead to arbitrary judgments at the expense of free expression. The FTC would ban all ads directed at children "too young to understand the selling purpose of or otherwise comprehend or evaluate the advertising." But how young is that and how can it be determined? To trigger the ad ban, the viewing audience would have to be composed of "a significant portion" of young children, or, in the case of the ban on sugared products, of other children up to the age of 12. What would constitute "a significant portion?" And how would the FTC handle the problem of adult viewers of children's TV, which, according to surveys, amount to a "significant portion" of the Saturday morning TV audience, or the converse problem of children's viewing of TV advertising in adult programming during the evening hours? We think the proposed restrictions could lead the government into a First Amendment morass.

The ACLU of course does not oppose appropriate government action to protect the health and welfare of children. Promoting good nutritional habits, helping young consumers to develop their critical faculties, and helping parents to instruct their children about such matters—these are all proper activities of a regulatory agency charged with the oversight of fair trade. But in seeking the advertising bans contained in the proposed order, the Commission in our view contravenes the First Amendment, and we accordingly oppose them.

The Commission notice of rulemaking invites comment on a third proposed rule which would:

(a) Require televised advertising for sugared food products not included in Paragraph (b) which is directed to or seen by, audiences composed of a significant proportion of older children to be balanced by nutrition and/or health disclosures funded by advertisers.

The ACLU takes no position on this rule. The extent to which the FTC may require advertising content in pursuit of its regulatory goals is a complex question with implications far beyond the scope of advertising affecting children. We intend to give this issue further study and in due course to communicate our views to the Commission.

Sincerely,

NORMAN DORSEN,
Chairperson.

(Mr. BRADLEY assumed the chair.)

Mr. FORD. I read the first paragraph:

> The American Civil Liberties Union today criticized the Federal Trade Commission's proposed bans on children's advertising as an abridgement of the First Amendment.

Mr. President, I make one additional statement: We have threaded a pretty narrow line here. The Senator from Oregon and the Senator from Washington both were present and voted on this particular piece of legislation as it came out of the committee. I hope they will understand that we are trying in this piece of legislation to do the proper thing.

The Senator from Nevada brought our attention to a recent court case in the District as it relates to this particular section, and I call to your attention the second circuit's decision recently that overturned the first rule promulgated under the Magnuson-Moss legislation. I do not have the case in front of me, but I recall that they overturned that rule which was based on unfairness and the judge said, in overturning that rule, that Congress expected more from the FTC than they were getting.

It is my understanding that no case brought by the FTC has ever been upheld in the advertising area on unfairness alone.

It seems to me if we are to follow our proper course, which would be to give to this Commission an understandable route to follow as it relates to rulemaking, and give this Congress an opportunity to look at "unfair," that we then thread our way through these treacherous waters to a proper answer.

Sure, the courts are going to have an opportunity to look and see whether we are right or wrong. That is the way this Government is organized. But let us do our best job.

So I say to my colleagues we are doing and have been doing the right kind of job, and if we are going to have our rules overturned under the Magnuson-Moss Act, it seems to me that those who brought this ingenious method to give the consumers an opportunity to be protected, to pass Federal legislation, that they would not want the consumers' money spent on a rule when it would be overturned in court and all their work would be down the drain.

I think we have moved in the proper direction under this piece of legislation, and I hope my colleagues will allow this portion of the bill to stand, and to give us an opportunity to have our hearings on unfairness. Both the Senators presenting this amendment would have an opportunity to have their input without in any way curtailing them.

Mr. President, I yield to my colleague, the distinguished Senator from Virginia (Mr. WARNER) such time as he may desire.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, section 7 of the bill should be supported because it clarifies a question of constitutional importance.

Present law empowers the FTC to promulgate rules governing commercial advertising which it deems to be "unfair." Such a standard is too broad, too loose; it provides no reasonable guidance to either the FTC nor to those businesses which advertise their products. It should be replaced with a standard which is more definite. The committee bill has done this by adapting the language "false or deceptive" in section 7.

None of us want to see any advertising permitted which is either false or deceptive. These are objective standards, susceptible of proof, whereas unfairness is so vague as to raise reasonable doubt as to its constitutionality.

This is particularly true, Mr. President, in light of the 1976 Supreme Court decision in Virginia State Board of Pharmacy against Citizens Consumer Council, in which the Court held that truthful commercial speech had protection under the first amendment.

The present authority of the FTC must be redrawn to insure that it does not run afoul of constitutional protected free speech.

The language suggested by the committee in section 7 does this, while at the same time directing the FTC to continue its efforts to regulate advertising so that no false or deceptive material will mislead the public. This is a proper and necessary role for the Commission, one I support.

I urge my colleagues to support the committee and section 7 of the bill.

Mr. President, I yield to the distinguished Senator from Nebraska (Mr. EXON).

Mr. EXON. I thank my friend from Virginia.

Mr. President, the FTC bill has been debated now on the floor for some time. It was debated at great length in the committee.

It is interesting to note that most of the rollcall votes that we have had on this matter so far have been to further restrict, overly restrict, if you will, what the majority of the Commerce Committee feels is the legitimate function of the Federal Trade Commission. And I believe in every case so far, the majority position of the committee or the amendment that they have agreed to have prevailed on the floor of the Senate.

I once again urge my colleagues to oppose the amendment that has now been advanced, because this is the first amendment which I think could be generally describes as giving the Federal Trade Commission more power, more authority, than the committee felt it should have.

Let me put it another way: It seems to me that the long hearings and discussions that we had in the Commerce Committee were designed, if you will, to save the Federal Trade Commission from itself. I suspect that most would agree there are possibly somewhere between 20 and 30 Senators in the Senate today that would like to abolish the Federal Trade Commission altogether. That is not and I do not think was the intention of a single member on the Commerce Committee.

There are legitimate differences, and two of our members are making a good case here for the amendment that they have offered.

But I think, Mr. President, we should go back and recognize that the committee had to come up with a balance. The majority of the committee felt very strongly about the points that have been made previously on this particular amendment.

Therefore, I think that we should not tamper with the bill as it came out of the Commerce Committee, where it was indeed given very careful consideration to attempt to put some restraints on the Federal Trade Commission where the vast majority of the committee felt that those restraints were necessary. But there was no intention on the part of the committee at all to cripple the Federal Trade Commission to where they could not do their job, as the majority of the committee saw the job that had to be done and within the scope of the legislation.

Therefore, I urge my colleagues to support the committee approach and oppose the amendment that has ben offered.

I thank the managers of the bill, and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I ask for 5 minutes.

The amendment now before us combines two very important separate issues into a single vehicle; that is, whether to allow the FTC to continue its rulemaking proceedings on the topics of, first, advertising aimed at children, and, second, standards and certification.

Mr. President, I support that portion of the amendment which would reinstate FTC's 2-year development of a trade-regulation rule restricting television advertising aimed at children.

Advertisers argue that commercials aimed at children are not "unfair" ways of promoting products. In my judgment, however, their case, has not yet been conclusively made.

FTC began its rulemaking proceeding in response to many parents' complaints over the high sugar content of the cereals and snack foods that are advertised to children. FTC has gathered considerable evidence that children cannot understand commercials' selling purpose.

We had a considerable amount of testimony on this subject before the Select Committee on Nutrition and Human Needs, in which some of our distinguished colleagues served, along with myself. Since those hearings, the industry has come forward and recognized that some real problems do exist. I have been gratified at their cooperative attitude.

However, there is still evidence that the problems associated with commercials aimed at children persist, and that we should continue our search for a reasonable solution.

In general, I am opposed to terminating regulatory proceedings before final agency rules are adopted. If exceptions are to be made, Congress should adopt a very high standard for termination of a proceedings. Unless there is a strong case that an agency is violating either its mandate or general good judgment, Congress should not intervene.

FTC has not yet completed its own hearings on the proposed rule governing children's advertising, nor has the Commission yet developed a full record of the evidence. I support that portion of the amendment which would allow the Commission at least to complete its inquiries.

Although I encourage FTC to take sufficient time to complete its work, I would also urge that FTC do so as expeditiously as possible and take into account criticisms leveled against regulatory agencies that unduly delay making their ultimate recommendations.

Finally, Mr. President, I oppose that portion of the amendment which would reinstate FTC's standards and certification proceeding.

The fundamental document on which the rulemaking is based fails to demonstrate that the level of industry abuse is so prevalent as to require an industry-wide rule. More disturbing is the Commission's failure to work with the industry informally to correct the unintentional inequities that do arise. Alternative mechanisms such as case-by-case negotiation or litigation were not even tried before the Commission began its rulemaking proceeding.

The FTC may issue trade regulation rules dealing with individual industries. Yet the voluntary standards and certifications organizations do not constitute a separate industry. They are each, in fact, a segment of a distinct industry. The FTC rule thus would not regulate on an industry basis but be an unprecedented and unwarranted extension of the Commission's statutory authority.

I fail to see how a reasonable rule could emerge from this Commission proceeding, and so I oppose that portion of the amendment reinstating the standards and certification proceeding.

I do agree with the philosophy of the Magnuson-Packwood amendment that Congress should exercise great restraint before intruding prematurely on an agency proceeding before the agency has assembled a full factual record. The two issues combined in the amendment are different enough in content that, I believe, Senators should have an opportunity to vote on them separately.

For this reason, I demand a division of the amendment. Vote 1 should be on that portion of the amendment deleting section 7; and vote 2 on the portion of the amendment deleting section 8.

The PRESIDING OFFICER. The amendment is so divided.

Mr. FORD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Now that the amendment introduced by the Senator from Washington has been divided, one on the so-called children's advertising and the other on standards and certification, which one is up and how much time is allocated?

The PRESIDING OFFICER. The first division striking section 7 is pending.

Mr. FORD. How much time remains on that?

The PRESIDING OFFICER. All 3 hours that may be used on both divisions must be yielded back or used before voting begins.

Mr. FORD. Then we have 6 hours that we can debate both of these before any time is being yielded back?

The PRESIDING OFFICER. No. There is no doubling of the time. It is a 3-hour total time limit. After the 3-hour time limit has been either yielded back or used, they will be voted on back to back on both amendments.

Mr. FORD. I thank the Chair.

Mr. MAGNUSON. Mr. President, I want to yield to my colleague from Washington, but I have some further remarks I want to make on the unfair or deceptive advertising section.

This provision would have the effect of altering a standard which the Commission has applied at least since the passage of the Wheeler-Lea Act of 1938, which was mentioned by the distinguished Senator from Kentucky, including commercial advertising on a case-by-case basis. In the following year, this phrase evolved into a term of art with a complex but well-defined meaning. The committee would overturn this lengthy judicial and legislative history on the basis of speculative fears.

The Senator from Nevada pointed out that they came to the conclusion that the FTC would ban children's advertising. We have no such information at all. They have not come to a final rule. Congress would look at any such thing as that and would overturn it. This sort of premature reaction should be avoided, I believe.

Mr. FORD. Will the Senator yield for a question?

Mr. MAGNUSON. Yes.

Mr. FORD. It is my understanding that they have just completed what they would refer to as their fact gathering period.

Basically, if they have their information, and with the courts repeatedly knocking down the rule as it relates to unfairness, would it not be proper at this time to give them the direction of false or deceptive and then allow this rulemaking to start over? We have to take into consideration that at least two of the Commissioners cannot sit in judgment of this rule, so that eliminates two-fifths of the Commission from even giving it consideration.

On balance, it seems to me, and I hope the Senator would agree, that we would give all five Commissioners an opportunity to make this decision.

Mr. MAGNUSON. But this would kill what has already been done in the process of moving. I do not know what the status of the rulemaking is, or of the investigation. I do not know how far they have gone. I have read a lot about it in the papers. At least, they claim that this would make a substantial change in their authority, that they would have to stop what they have been doing. I do not see how they can start all over again under the rule as proposed by the committee.

Mr. FORD. The Senator is a learned individual in the legal profession. Is it not his judgment or his recollection that concerning unfairness, and as far as the rules are concerned and the courts' judgment on unfairness, that the rules have been overturned by the court? Therefore, all we are changing is one word, "unfairness" to "false." It would give them a better opportunity to make a decision.

Mr. MAGNUSON. But the case law is not decisive on the issue of unfairness. A case has been cited, with which I am not familiar, which does not direct itself to the issue of unfairness at all. There is only one case. This matter has been going on since the passage of the Wheeler-Lea Act of 1938.

Mr. FORD. I understand, but the advice I have is that the only time a broad interpretation of unfairness was given by the courts was in an antitrust case.

Mr. MAGNUSON. I am not familiar with that case, but I know there have been several cases along the line on the constitutionality of the Federal Trade Commission under the Magnuson-Moss Act, which has been well established, and I understand that. But the general rulemaking as relates to the Federal Trade Commission has not been thrown out by the courts at all.

Mr. FORD. The Senator has been on the Commerce Committee for a good many years, and he is the coauthor of the Magnuson-Moss legislation. Can the Senator cite one court case that has been found where they have held on unfairness?

Mr. MAGNUSON. No. I do not think there are any court cases. The case that the Senator is referring to does not direct itself to the unfairness principle. That is my understanding. I have not read the whole thing.

Mr. FORD. There are several cases. The most recent case was in the second circuit where under the first rule under Magnuson-Moss the judge remanded the rule.

It was based on the unfairness portion of the decision. It seems to me that if the committee could work out something as it relates to unfairness, and leave false or deceptive for the Commission to start on now, given a full complement of the Commissioners down there, we might have a better decision. Otherwise, if the Senator's amendment is agreed to, there will be two Commissioners on the Commission who cannot make a judgment in this case.

Mr. MAGNUSON. That is no argument against the amendment because by the time this amendment is passed there will be two more vacancies down there.

Mr. FORD. If we pass it today or defeat it today I hope we do not get it up tonight.

Mr. MAGNUSON. If they start a new investigation, there will be two more who will be declared ineligible. That goes on all the time.

Mr. FORD. I did not declare them ineligible. A district court declared him ineligible, and then he withdrew voluntarily.

Mr. MAGNUSON. All right. I yield such time as he may desire to my colleague.

Mr. JACKSON. Mr. President, I rise in support of the Magnuson-Packwood amendment because I believe in due process of law. I believe that the procedures established by the Congress to guarantee fairness and openness in FTC rulemaking hearings can and will work, if we only allow them to do so. For this reason, I favor eliminating those portions of the Commerce Committee bill which would terminate two FTC rules before the proceedings have run their full courses.

The issue here is not regulatory reform, for we have already made great strides in improving the process by which the FTC develops its rules. First, as far back as 1975 Congress carefully laid down in the Magnuson-Moss Act procedures which the FTC must follow to promulgate a trade regulation rule. There have to be public comments and public hearings, so that anyone interested has a full opportunity to make his views known to the Commission on the record. And those who become involved in the process have rights of cross-examination and rebuttal to insure that fact will be separated from opinion. On top of these procedures, we will shortly add the reforms contained in S. 1991—like advance publication of rule proposals and mandatory cost-benefit analysis. I wholeheartedly endorse these sincere efforts to make the regulatory process better and more responsive.

What I cannot understand is the reason for blocking any further proceedings on the proposed children's advertising or standards and certification rules. I frankly do not know enough to take a position on the merits of either one of these proposals, and that is precisely the point. Both proceedings are in midstream. More hearings are scheduled, affected business and consumer participants are entitled to cross-examination and a face-to-face meeting with the Commissioners, and the FTC itself has yet to weigh the evidence and decide what, if any, rule is appropriate. We will be denying those members of the public who have a vital interest in the issues raised by these proceedings the benefit of this process if this amendment is defeated.

We may want to consider legislative review of these FTC rules if and when they become final. I am willing to address that issue, because it is the type of responsible and legitimate decision this body is supposed to make. But, at this stage, we should vote not to stop the administrative process in its tracks, not to block further input from the public, and not to prevent the agency charged with enforcing the law from giving us its best judgment based on hard evidence. We should vote for and support the Magnuson-Packwood amendment.

Mr. President, I yield back whatever time I may have left.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I yield to the distinguished Senator from Missouri as much time as he desires.

Mr. DANFORTH. Mr. President, relating to the amendment on children's advertising, I should like to read a paragraph from a letter addressed to the Honorable Morton Needelmann, presiding officer, Children's Television, Federal Trade Commission, from Norman Dorsen, chairperson of the American Civil Liberties Union, dated March 12, 1979. The paragraph is as follows:

> We do not question the Commission's power to regulate deceptive advertising. We recognize fraud, deception and misrepresentation as permissible grounds for the regulation of commercial speech. But what the FTC now proposes is in effect to label all advertising aimed at young children as inherently deceptive. This in our view is too sweeping a remedy that catches protected speech in its net.

Mr. President, I think that that is exactly the point. The combination of the sweeping term "unfair" and the rulemaking authority under Magnuson-Moss have created a situation where the Federal Trade Commission can create a per-se rule that all advertising, regardless of what it is, directed toward children under the age of 8 years is, per se, unfair and, therefore, all advertising falling within this category can be banned. Even though it is advertising, Mr. President, we are dealing with speech. We are dealing with matters within the purview of the first amendment to the Constitution. Therefore, the proposed rulemaking on children's television is an overbroad use of regulatory prohibition against all speech falling within a very broad category and, as the American Civil Liberties Union has pointed out, is too sweeping a remedy that catches protected speech in its net.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I yield as much time as the Senator from Nevada wants.

Mr. CANNON. Mr. President, I want to speak on the voluntary standards system, because this has now been divided and time will expire. When the time expires, the votes will occur back to back on these two issues.

Mr. President, the voluntary standards system of the United States has served this Nation well for more than 60 years. Perhaps the greatest measure of its success lies in the fact that so few of us are even aware that such a system exists, for the system has apparently worked so well that its fruits are taken for granted.

One of the reasons the voluntary standards system has been productive, effective, and timely, both in the technical sense and in the national and international marketplace is found in the ability and willingness of the system to assess itself and effect changes within itself.

No system is perfect, and it is my understanding that the voluntary standards system does not claim to be different in this sense. It is also my understanding, however, that, of its own volition, the voluntary standards community, in a joint effort during 1977 and 1978, funded through a highly respected private consultant a project which resulted in a proposed national standards policy and implementation plan , published in final form in December 1978. The National Standards Policy Advisory Committee was a blue ribbon committee, composed of 30 individuals representing Government, consumerism, small business, and industry. I quote from the "Foreword" to the National Policy on Standards:

> Standards are used by buyers and sellers to define their mutual obligations. They are also used by government to assert its regulatory authority on behalf of the health and safety of citizens. Standards are essential for the orderly and efficient conduct of domestic and international commerce and for the protection of the economic, social, environmental, and safety interests of sellers, buyers, and consumers—both individual and industrial.
>
> Standards can favorably or unfavorably affect consumer costs, availability and performance of products, domestic and international trade, and the use of scarce materials. They are significant media for technology transfer among relevant groups, nationally and internationally. They also serve to introduce technology into the social value system of the society.
>
> The United States possesses a sizable capability—public and private—for developing standards. What it has lacked, until now, is a national policy to ensure that these resources can be employed most effectively, economically, and equitably in the national interest.
>
> Both the policy and implementation plan were developed by a group designated as the National Standards Policy Advisory Committee (NSPAC). NSPAC is an independent body established in early 1977 as a public service under the auspices of, but free from any policy direction from, the American National Standards Institute.
>
> A national standards policy implies a definite course or method of action to be pursued. It should generate, foster, and maintain a basis or series of guidelines under which various organizations and people comprising the nation's standards capability can develop consistent working policies and procedures.
>
> . . . (NSPAC's) assigned task was to prepare a recommended U.S. National Policy on Standards that would, if implemented, go a long way toward creating a working environment within which the nation's public and private standards capability could be effectively, economically, and equitably used on behalf of the national interest.

I maintain that this is responsible action—action that indicates that the voluntary standards system, of its own volition, has moved to assess its directions and establish responsible guidelines for the conduct of its business. Respected members of the Federal bureaucracy sat on the committee that developed this plan; the Department of Commerce aided by publishing the proposed plan in the Federal Register for comment.

In a parallel effort, the Office of Management and Budget developed, published for comment, and redrafted an OMB circular dealing with the interface between the Federal Government and its employees, and standards development. This OMB circular, narrowed to deal primarily with procurement activities, was issued on January 17, 1980, just a few weeks ago.

Mr. President, these documents, joined by the GATT standards code adopted under the MTN agreements, and approved by the 96th Congress, represent a code of procedure for public and private standards development.

The FTC has moved to impose regulation on a sector of our economy which is way ahead of the FTC. The voluntary standards system in the United States has moved, as it has done in the past, to meet the challenges presented by the times. Before the FTC proposed its rule, the standards community had already moved toward self-regulation. The compatability of the three documents—with public, private, and international orientation—is a tribute to the effectiveness of the system and its determination to police itself.

In this instance, Mr. President, the FTC appears to be regulating for regulation's sake—saying in essence: "Why not regulate?" rather than "Why regulate?"

I maintain it is not necessary to regulate for the sake of regulation. Regulations—Federal regulations—present a method of remedying excesses, of righting wrong directions. They can be burdensome. They can be onerous. They can be unnecessary. This one is all of these.

The Senate should approve section 8, which will end this unnecessary and burdensome rule.

I may say, Mr. President, that there were only 26 cases of wrongdoing out of 20,000 standards. Those are the facts that we have developed. This is certainly not a pattern of wrongdoing justifying rulemaking.

Mr. President, 18 of 26 cases cited by the FTC staff involve exclusion of products by allegedly excessive standards—a classic antitrust violation, over which the FTC has no authority under Magnuson-Moss.

The bill does not affect the authority of the FTC to bring individual actions if a standards group violates the FTC Act.

I thank the Senator for yielding to me.

Mr. HELMS. Will the Senator yield?

Mr. FORD. How much time does the Senator need?

Mr. President, I will yield the Senator as much time as he needs, up to 5 minutes.

Mr. HELMS. Mr. President, may I direct a question to my good friend from Nevada (Mr. CANNON)?

Mr. CANNON. Yes.

Mr. HELMS. First of all, I want to commend the Senator for his comments, with which I am in full agreement.

The Senator mentioned the 26 cases out of, I believe, 15,000?

Mr. CANNON. Twenty thousand. Twenty-six cases out of 20,000.

Mr. HELMS. Well, I computed it on the basis of the 15,000 cases investigated by the FTC for the staff report. I discovered that amounts to 0.00173 percent, or less than 2 cases per 1,000.

Mr. CANNON. Correct.

Mr. HELMS. In any event, I commend the Senator on his comments.

Mr. President, to an unprecedented degree, our free enterprise system is threatened by unwarranted Government intrusion. The Federal Trade Commission is one of the most onerous offenders.

Congress gave the FTC a broad statutory mandate. The Agency is empowered to regulate virtually every aspect of commercial life in America. Its rules and regulations have the force of law. And the faceless bureaucrats who staff the agency are not accountable to the voters.

It is therefore incumbent upon the Congress to oversee this Agency. In recent years, Congress has not performed this task well. Consequently, the FTC has participated in a number of activities in which its involvement is neither desired nor justified.

The Federal Trade Commission needs to feel the restraining hand of Congress. The notion that Congress should not terminate ongoing agency rulemaking proceedings ignores the fact that the Members of Congress, who are elected by the people, are responsible for making the laws that affect the people of this country. And by virtue of their oversight responsibilities, the elected Members of Congress are also ultimately responsible for the acts of the regulatory agencies.

The single overriding question before us today is simply this: Who is going to make the laws that govern this country—Members of Congress, elected by the voters; or the unelected faceless bureaucrats?

This is the question we are going to have to face up to sometime, and today, in my judgment, is the day. The folks back home are going to be upset if we do not own up to our responsibility as legislators and retrieve a measure of control over the runaway Federal regulatory process.

Mr. President, for a generation now the political game has been to regulate and regulate and regulate. We have given so much power to regulatory agencies that the bureaucrats are now trying to control our lives rather than serve us.

We cannot shirk our duty. The responsibility lies right here where we work, with the Senate and House of Representatives of the United States.

Mr. President, I support the principles embodied in S. 1991. It incorporates a number of changes essential for clarifying the role of the Federal Trade Commission.

I am particularly pleased that S. 1991 contains two provisions based on amendments I had previously offered to S. 1020, the original FTC authorization bill. One provision, now section 8 of S. 1991, would terminate FTC rulemaking in the area of voluntary standards and certification activities. The other provision, now section 23 of S. 1991, would prevent the FTC from requiring a mandatory inspection or warranty in connection with the sale of a used automobile.

Now I believe everyone, including the FTC Commissioners, is going to be content with section 23. The FTC rulemaking on used cars will continue. The scope of the inquiry, however, will be limited to questions of disclosure.

Section 8, I understand, is another story. But I wish to impress upon my colleagues the significance of this section, not only on the voluntary standards and certification community, but upon the American public as well. The voluntary standards and certification process affects the lives of millions of Americans daily.

The National Bureau of Standards library contains over 20,000 standards, and that number is growing, as some 400 new or revised standards are submitted each month. We are surrounded by the effects of voluntary standards, and yet most Americans are so accustomed to them that they take them for granted.

Mr. President, on December 7, 1978, the Federal Trade Commission published in the Federal Register notice of proposed rulemaking on standards and certification. In response to the FTC's proposed regulations, I introduced last April an amendment to the Federal Trade Commission authorization bill to cut off funding for the FTC's standards rulemaking. This amendment, slightly modified, is now section 8 of S. 1991. It was added to the bill in Commerce Committee markup following extensive oversight hearings by the Subcommittee on Consumer Affairs.

Section 8, as it is now written, would have the effect of stopping the FTC rulemaking proceeding on standards and certification. There are a number of good reasons for Congress to stop this rulemaking at this time.

First. The FTC rulemaking regarding voluntary standards and certification constitutes an attempt by the FTC to legislate administratively where Congress has expressly seen fit not to act.

In 1976, and again in 1977, Senator Abourezk introduced measures calling for Government regulation of the voluntary standards and certification process. In both years, hearings were held in Senator Abourezk's Antitrust and Monopoly Subcommittee. The hearing records are extensive. And in neither year did the subcommittee even vote on the proposed measures.

The only conclusion I can draw from such congressional inaction is that the well-informed subcommittee found nothing to warrant legislative action regarding the voluntary standards and certification process.

In 1978 the FTC decided to get into the act by publishing in the Federal Register notice of proposed rulemaking on standards and certification. The proposed rule is remarkably similar to the Abourezk proposals.

I am deeply concerned by the prospect of regulatory agencies legislating administratively where Congress has expressly seen fit not to act. If an agency does so, then it is only fair that Congress exercise its prerogative and terminate the rulemaking.

Second. The FTC rulemaking proceeding on voluntary standards and certification is unnecessary.

There is no perceptible, valid evidence of serious, widespread deficiencies in the present standards development process to justify general Government regulations.

In 1971, the FTC completed a preliminary staff report regarding standards development, and in 1972 announced the formation of an agency-wide task force to explore the competitiveness and consumer protection aspects of standards and certification programs. The report of that task force, which was completed in 1978, is the basis of FTC rulemaking underway today.

The full report took seven years to complete, at a cost to the American taxpayer of over $1 million. The published findings cover almost 600 written pages.

And what did the FTC find? Twenty-six cases of alleged unfairness based on the current voluntary method of determining standards; 26 cases out of 15,000 investigated, that is. Statistically, that amounts to about 0.00173 percent, or less than 2 cases per 1,000.

Furthermore, the hearings uncovered 157 additional cases of alleged abuse; 95 percent of these cases, however, are product exclusion cases, which the FTC could have attacked under its antitrust enforcement authority.

Instead, the FTC moved against an entire industry in a rulemaking proceeding. Such regulatory overkill is routinely strangling our economy, and it is imperative that Congress put a halt to it.

Third. The FTC rulemaking proceeding on voluntary standards and certification constitutes misuse of rulemaking authority to pursue antitrust allegations.

As I have previously stated, of the alleged cases of abuse examined in the FTC staff report and the rulemaking proceedings, 95 percent involved allegations of product exclusion. As the Commerce Committee noted, "there are adequate remedies available through the antitrust laws to remedy unjustified exclusion of products."

In the recent Hydrolevel case, for example, the trial court awarded $7.5 million as treble damages in a product exclusion antitrust case.

Mr. President, Congress is certainly entitled to stop a regulatory rulemaking proceeding that exceeds the authority of the agency. The Commerce Committee has taken this position, and I agree.

Fourth. The FTC has yet to demonstrate that any deficiencies in the present voluntary system would be remedied by Government regulation.

Moreover, Government lacks the technical capacity, meaningful experience, and unique insight to produce standards. Not everyone can write a standard. Standards development is an inherent part of the industrial process. We must draw on the experts. Within industry, there is a direct link between those responsible for advances in the state of the art and those developing the standards that allow exploitation of new technology. Government is particularly unsuited as a substitute for private industry in either capacity.

Fifth. Standards development is a delicate and complex process with limited, precise objectives. Normally, the process cannot be used to gain socioeconomic objectives that lie beyond the traditional scope of the standards concept.

Sixth. A Government-controlled standards and certification process would subvert the voluntary process that has proven so effective and reliable. It would not only politicize the standards process, but turn it into an adversary process as well, accompanied by the incumbent expense and delays invariably caused when lawyers are involved.

Seventh. Finally, standards development depends on input from many sources. They charge that the voluntary standards development system is not open to all voices is simply not correct. The American national standards system, for example, has procedures that require input from various affected users, including producers, distributors, regulators, and consumers. No one group can dominate the system.

Opening up the process is good business. When many voices are heard in the standards forum, the resulting standard is more likely to be unbiased. Moreover, a balanced interest group is more likely to produce a national standard that is authoritative. A standard written by representatives from all affected segments of society is more likely to be used because it will enjoy the highest credibility. And finally, a standard for which all interests feel some responsibility is most likely to be kept current.

Mr. President, we are down to one tough question: How can Congress properly and efficiently discharge its oversight responsibilities regarding the regulatory authority of an independent regulatory agency? The only answer is for the members of this body to accept their responsibility, exercise their prerogative, and stop rulemaking deemed excessive and beyond legislative authority.

Mr. MAGNUSON. Mr. President, I understand that when the Senator from Kentucky and I yield back the remainder of our time, we will vote back to back, is that correct?

Mr. FORD. That was the decision.

Mr. MAGNUSON. So any discussion on 108 should be elaborated on now.

Mr. FORD. Mr. President, it is my understanding that the total time will run at the end of 3 hours, regardless of whether we talk on so-called kidvid or the standards of certification. At the end of the 3-hour period, we will vote back to back.

Mr. MAGNUSON. We might get through before that.

Mr. FORD. That is very possible, and we have saved 3 hours.

STANDARDS—SHERMAN ACT

Mr. MAGNUSON. Mr. President, the Sherman Act and other antitrust laws do not provide adequate remedies in this area. It is unreasonable to expect consumers to bring suits against standard setters, and to bring criminal charges against them would inevitably result in years of litigation. The Commerce Committee has implicitly recognized that the antitrust laws are not sufficient by allowing the FTC to make rules for other unfair methods of competition. Singling out one industry for special treatment should be avoided. Rulemakings in this area help both industry and consumers by clearly setting out the rules of the game and avoiding lengthy and expensive lawsuits. If Congress does not like the rules the FTC develops, it can always overrule them later.

STANDARDS—PREVALENCE

The argument that the FTC has not demonstrated "prevalence" can be answered by another section of the committee's bill. Section 9 of the bill requires that before the FTC can undertake a rulemaking, it must show that it has already issued cease and desist orders or that a pattern of violations exists. If the FTC cannot make this showing of prevalence, then it cannot proceed. While section 9 by its terms applies only to future rulemakings, it could be made applicable to ongoing rulemakings, such as the standards proceeding, if that is the real objection of the proponents of section 8.

Mr. President, I yield such time as the Senator from Ohio may wish.

Mr. METZENBAUM. I thank the Senator from Washington.

Mr. President, I rise to express in the strongest possible terms my support for the amendment offered by Senators MAGNUSON and PACKWOOD. I will address my remarks to both parts of this amendment, because this amendment would strike two of the most objectionable prohibitions that the legislation before us today would impose upon the FTC.

One section, 7, of the bill would make changes in the FTC's commercial advertising authority. It would, in effect, terminate the FTC's proceeding on television advertising directed at children. The other section, 8, would bring to an end the FTC's efforts to open up the private standards and certification process to small business, innovators, and others whose interests have in the past been ignored.

Mr. President, I do not believe that the Senate can in good conscience vote to squelch the FTC's investigation of television advertising aimed at this Nation's young children.

There are 34 million children in this country between the ages of 2 and 11.

Our children see, on the average, 20,000 television commercials a year. That comes to 63 commercials a day, each and every day of the year.

Every year, companies spend at least $600 million on advertising designed for and directed at young children.

Anyone who has ever turned on Saturday morning television can testify as to how intensive, how expensive—and how hardsell—this advertising can be. And millions of parents in this country can tell volumes about shopping trips dominated by the insistent cries of their children for products like toys and candy and sugar-laced cereals promoted by high-pressure television advertising campaigns.

These are all these cereals they tell us about on these TV ads, Mr. President, Sir Grapefellow, Cocoa Puffs, Kaboom, Frankenberry, Count Chocula, and Boo Berry.

As a matter of fact, there should be a prize given for the magnificent quality of the names that the cereal manufacturers have been able to dream up to sell our children on high-priced television as to why they ought to be eating that product rather than some other.

When we look at the percentage of sugar that is in so many of these products, one becomes flabbergasted, astounded, and much concerned about the future health of our children.

Mr. President, I have before me a list showing the names of the cereals and their total sugar content. The total sugar content on this list of about 20 to 25 names runs from about 41 percent up to 71 percent. That, Mr. President, is absolutely incredible.

Mr. President, I ask unanimous consent that the entire list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

[In percent]

Product	Sucrose	Glucose	Total sugar
Alpha Bits	40.3	0.6	40.9
Sir Grapefellow	40.7	3.1	43.8
Super Sugar Crisp	40.7	4.5	45.2
Cocoa Puffs	43.0	3.5	46.5
Cap'n Crunch	43.3	.8	44.1
Crunch Berries	43.4	1.0	44.4
Kaboom	43.8	3.0	46.8
Frankenberry	44.0	2.6	46.6
Frosted Flakes	44.0	2.9	46.9
Count Chocula	44.2	3.7	47.9
Orange Quangaroos	44.7	.6	45.3
Quisp	44.9	.6	45.3
Boo Berry	45.7	2.8	48.5
Vanilly Crunch	45.8	.7	46.5
Baron von Redberry	45.8	1.5	47.3
Cocoa Crispies	45.9	.8	46.7
Trix	46.6	4.1	50.5
Froot Loops	47.4	.5	48.9
Honeycomb	48.8	2.8	51.6
Pink Panther	49.2	1.3	50.5
Cinnamon Crunch	50.3	3.2	53.5
Lucky Charms	50.4	7.6	58.0
Cocoa Pebbles	53.5	.6	54.1
Apple Jacks	55.0	.5	55.5
Fruity Pebbles	55.1	1.1	56.6
King Vitaman [sic]	58.5	3.1	61.6
Sugar Smacks	61.3	2.4	63.7
Super Orange Crisp	68.0	2.8	70.8

Mr. METZENBAUM. Mr. President, the cereal ads are more than an annoyance to parents, they are a real danger to the health and welfare of our children.

Over 50 percent of the products advertised on children's television are things to eat, most of them loaded with sugar. They can truly add little to the healthful future of our young children.

Young children are constantly bombarded with attractive fast-paced commercials, usually far superior in graphics and production to the kid programs themselves, which create a demand for products whose names are self-explanatory—Sugar Pops, Sugar Smacks, Sugar Frosted Flakes, Cocoa Pebbles, even something called Count Chocula, as I have already mentioned.

It is no secret that excessive sugar consumption is detrimental to all age groups not just to children.

Ask any dentist about what too much sugar will do to a child's teeth. By age 11, the average American child has three permanent teeth damaged by decay. By age 17, eight or nine permanent teeth have decayed, been filled, or are missing.

Tooth decay afflicts 95 percent of Americans and costs the people of this country $2 billion a year in dental bills.

Ask any doctor and you will learn that the overwhelming body of medical, dental, and nutritional opinion strongly opposes the consumption by children of heavily sugared food. Aside from dental problems, excess sugar has been linked in a Surgeon's General report to childhood obesity and related problems like hypertension, heart disease, and diabetes.

And finally, ask any psychologist or child development specialist—he or she will tell you that children's advertising works, that young kids just do not have the ability to resist the constant bombardment of commercials to which they are exposed, day in and day out.

Mr. President, the FTC is now conducting a rulemaking to examine the fairness of children's television advertising.

Over 200 witnesses appeared before the commission during 6 full weeks of hearings. Witnesses represented broadcasters and the advertising industry, food and toy manufacturers, medical and dental authorities, consumer groups, labor and interested citizens.

No one, regardless of persuasion on the issues, has questioned the fairness and throughness of the judge conducting the proceeding.

We are confronted today with a choice between the profits of the food processors, advertising agencies, and TV broadcasters, and the welfare of the children who are this Nation's future.

I, for one, do not intend to go back to the people of my State and tell them I voted for the special interests against the children of America.

Some may have suggested that there is a first amendment problem with regulating unfair statements. It is well-established that commercial speech is only entitled to a low standard of judicial scrutiny.

Even more important, just 2 years after the Virginia State Board of Pharmacy case quoted in the committee report (p. 17), the Supreme Court explicitly sanctioned regulation of commercial speech to avoid unfair exploitation in *Ohralik* v. *Ohio State Bar Association,* 436 U.S. 447 (1978.) The Supreme Court allowed the Ohio bar to regulate solicitation by lawyers in order to prevent over-reaching of accident victims and others in circumstances that are "inherently conducive to over-reaching." In language very pertinent to the FTC's concerns about advertising directed at children, the court said:

> Unlike a public advertisement, which simply provides information and leaves the recipient free to act upon it or not, in-person solicitation may exert pressure and often demands an immediate response, without providing an opportunity for comparison or reflection. The aim and effect of in-person solicitation may be to provide a one-sided presentation and to encourage speedy and perhaps uninformed decisionmaking . . . (436 U.S. at 457–58.)
>
> Although it is argued that personal solicitation is valuable because it may apprise a victim of misfortune of his legal rights, the very plight of that person not only makes him more vulnerable to influence but also may make advice all the more intrusive.
>
> Thus, under these adverse conditions the overtures of an uninvited lawyer may distress the solicited individual simply because of their obtrusiveness and the invasion of the individual's privacy, even when no other harm materializes. (Id. at 464–66.) . . . "Appellant . . . approached two young accident victims at a time when they were especially incapable of making informed judgments or of assessing and protecting their own interests." [Id. at 467. (Emphasis added.)]

The court has therefore made it crystal clear that governmental regulation of commercial speech need not be limited to false statements, but can also include unfair statements—"unfair," because directed at a class especially susceptible to pressure or other forms of exploitation.

In addition to the children's television issue, the Magnuson-Packwood amendment would also strike section 8. A provision that would eliminate the Commission's authority to proceed with its current rulemaking proceeding on standards and certification. As you have heard, the procedures of these industry standards groups have been widely criticized by labor, small business, consumers, and others.

The standards have been criticized for inflating hospital costs, excluding innovative energy conservation devices from the market, jeopardizing the health and safety of workers and consumers, and generally controlling the kind and quality of products available in the marketplace. These groups operate with very little oversight or public scrutiny, although their standards affect all of us.

I believe that section 8 is ill timed and ill considered. It represents an unprecedented and unwarranted interference with an ongoing inquiry.

A close look at the issue shows clearly that the FTC rulemaking has been conducted in accordance with procedures mandated by Congress. The proceeding is now in its final phases, with comments and written testimony from over 1,200 parties representing the full range of industry, Government, consumer, labor, and other groups affected by the standards. The record closed January 15—less than 1 month ago. It is thousands of pages long, bearing on the full range of fact, law, cost-benefit and other issues that must be considered.

Can anyone here honestly say that he or she could at this time, in good faith, terminate this proceeding on the merits? Obviously not. And may I remind my colleagues that a Federal court was presented with precisely the arguments we have heard. The court refused to enjoin the rulemaking proceeding. We too, should refuse.

Opponents have misrepresented the Commission's proposal. All the Commission proposed to do is let a little sunshine into the industry standards process, and to force the system to be more responsive when standards are shown to cause competitive and consumer injuries.

Opponents have also understated considerably the evidence of unfair and anticompetitive standards that has been presented. In fact, a substantial number of controversies involving these industry standards, each affecting literally thousands of marketplace transactions, have been presented. The injuries recounted include enormous energy waste, inflated hospital and housing construction costs, fire hazards, workplace health and safety risks, and exclusion of small businesses and innovative products from the marketplace. Senators may be interested to know that these claims have been made by a wide range of small business, environmental, labor, consumer, and energy conservation interests.

For example, let us look at the area of fire safety. The Underwriters Laboratories is the name of the certifying group for aluminum wire and connectors. The fact is that there is an obvious conflict of interest here. The industry group that is involved with the Underwriters Laboratories consists of people from Kaiser, Reynolds, Alcoa, Anaconda, and Leviton. Government and private research documents show that hundreds of fires and deaths have been caused by Underwriters Laboratories approved aluminum wire connectors and that the 2 million homes with the faulty connectors have been described as time bombs.

Is there some reason why the FTC should not concern itself with the public interest in an area such as this?

Take the Illuminating Engineering Society—certainly a fine-sounding name. The fact is that that organization masquerades as a professional society; but, in fact, its officers and directors are marketing people from General Electric, Westinghouse, Sylvania, and the largest electric utility companies in this country.

In other words, these are companies which sell light bulbs, fixtures, and electricity and they play a role in determining what lighting standards should be. Of course, if you are in the industry, you would want to draft the standards in such a way so you can sell your own product more and more. But where is the consumers' interest or the public interest?

According to architects, lighting designers, and Government studies, the standards drafted by Illuminating Engineering Society actually call for excessive lighting levels that waste $700 million a year and use up our scarce fossil fuels.

Then there is another group called the American Society of Heating, Refrigeration and Air Conditioning Engineers. That organization is dominated by General Electric, GTE-Sylvania, Commonwealth-Edison, and Honeywell. That organization is supposed to be involved in a energy conservation code being widely adopted in the United States.

But the fact is that the Government and industry studies have documented that there is a clear bias in several parts of the code in favor of the electrical industry. Efficiencies of gas, passive solar, and other technologies are being and have been suppressed.

There is another organization that sounds good, the National Fire Protection Association. That group sponsors a national electrical code in use throughout the United States. That group again is made up of private groups that are electrical equipment manufacturers such as Western Electric, Eastman-Kodak, Alcoa, GTE-Sylvania, Westinghouse, and Du Pont.

That group is apparently supposed to be involved with all electrical equipment and components in hospitals.

But a prominent association, and I direct the Senators' particular attention to this, a prominent association representing 6,200 hospitals has documented the fact that the code requires excessive electrical requirements, not related to electrical safety, but which have inflated hospital costs by over $2 billion. The code requirements are "equipment intensive" because of the influence in the code process of equipment manufacturers.

Mr. President, let me refer to one more. There is the American Society of Mechanical Engineers. That group is headed up by dominant manufacturers that hold key standards committee positions, and they are able to suppress boiler safety innovations that would reduce their markets.

The fact is that a large firm used its position in the group to exclude an innovative boiler safety device from code acceptance, and comparative insurance loss statistics proved that the new device could significantly reduce boiler explosions. The firm is McDonald-Miller, a subsidiary of ITT.

This last example, on boiler safety, some may recognize as the Hydrolevel case. The Commerce Committee report cites Hydrolevel to support its view that small businesses with innovative products have a Sherman Act remedy.

The committee was 100 percent wrong. Hydrolevel is the best illustration of why there is no realistic Sherman Act remedy. That problem first arose in 1971. The jury verdict referred to by the Commerce Committee came in 1979. And that case, 8 years after it started, is still on appeal.

In addition, the president of the company has since died, and the company has been sold for scrap. The firm that controlled 90 percent of the market for these devices—and controlled the standards commitee—has since invented around Hydrolevel's innovation, and still controls 90 percent of the market.

Mr. President, it is quite obvious that is not much of a remedy.

Under the FTC proposal, Hydrolevel could have had its remedy in 1973.

Mr. President, we have been told that only 26 abuses have been found, but that was by the staff. Before the full hearing at the Commission, 130 more abuses were revealed.

I am aware of legitimate concerns raised in opposition to the FTC's proposed rule. For example, opponents have stated that there is insufficient evidence of abuse to justify a rule of broad application or that the rule is so overbroad that it will discourage legitimate standards activities.

But I believe that the very existence of these widely divergent views on a subject so important underlines the importance of allowing this proceeding to run its course.

The real issue is, Does striking section 8 from S. 1991 mean that we necessarily endorse the Commission's original proposal? Not at all. It means only that we allow the proceeding to run an orderly course, as Congress planned, through to some result that can be considered on the full record of the proceeding.

Mr. President, I urge the Members of this body to vote to strike section 7 and to vote to strike section 8. It would be folly to terminate these proceedings until we and the Commission have the benefit of judging the merits of the full rulemaking records.

Mr. President, I believe that the case for both provisions of the Magnuson-Packwood amendment is overwhelming, and I urge in the strongest terms that they be adopted.

I thank the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, President Carter said this morning he will veto any bill that cripples the ability of the Federal Trade Commission to protect the American consumer.

He also said:

> The Federal Trade Commission is one of the greatest weapons the American public has to guarantee truth and integrity in competition in the marketplace. I will not let it be picked to pieces.

I submit that these two sections of the bill picks to pieces the integrity of the Federal Trade Commission.

The PRESIDING OFFICER (Mr. BOREN). Who yields time?

Mr. FORD. Mr. President, I cannot let the opportunity pass without making an observation or two, as I am surrounded by my distinguished legal counsel, that a statement was just made that the committee was 100 percent wrong.

Then I hear the statement about low standards of judicial protection. I did not know there was any high protection or middle ground protection or low ground protection. I thought everyone was entitled to 100 percent of the best protection that they could get.

If that is what is imposed upon advertising, a low standard of judicial protection, then this provision that the committee has put in this legislation needs to remain because we cannot allow the FTC to make industry-wide rules and then go to court and only receive a low standard.

We have heard a lot about sugar.

How much is too much sugar? How in the world can we say that a certain cereal is going to give our children too much sugar?

There has been disagreement for 2 years at the FTC as to whether cereal sticks to the teeth or not. I wonder how much that cost the taxpayers.

I watched TV the other day—I never watch TV during working hours, I never have an opportunity to do so—but since the distinguished chairman of the Federal Trade Commission was on an hour's program, I thought I should listen. The parents in the audience of that program overwhelmingly said, "We would like to take care of our children. We would like to make some parental decisions without Big Brother getting into our business." The applause was spontaneous.

There are 41,000 regulations on a hamburger—41,000, and what some want to do is to give the regulators more authority, make it broad and let them do anything they can get away with. You must cut this off at the front end of the pipe. You cannot let them go through all the procedures, must we take up all the time, years, volumes, and money and then get a case that is taken to court and is thrown out?

Why do not we change the standard—make it false or deceptive, and let us have a hearing, let the Congress do the best job it can to figure out what unfairness is and then structure the FTC accordingly? That is what we ought to do.

What did we do to saccharin? We heard all of these things that were wrong with it, but we voted to keep it in. That is what we did, we voted to keep it in.

Let me read you from a paper:

> The FTC can help its case by doing internal soul-searching. Some careful legislation strings also are needed to halt the regrettable erosion of credibility and trust in the FTC. On its part, business must resist the understandable impulse to be automatically hostile toward an agency whose recent excesses have overshadowed its valuable contributions.

That is a paper down in Kentucky. Does the Senator (Mr. PACKWOOD) want to read the rest of it? It might enlighten him. It does not have any legalistic terms in it, but it sure does make a lot of sense.

Does the Senator wish to make a statement?

Mr. MAGNUSON. I wanted to yield to the Senator from Maine as much time as he wishes.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I have listened off and on to the debate on this pending measure and have done what I could in the last day or two to develop an understanding of the basic issues involved and what the committee has tried to do, and the purpose of the various amendments that are being considered.

So, as all Senators must in dealing with serious legislation, I have formed some conclusions of my own—sometimes conclusions that conform with those of the committee bill, and other times not.

It was easy on the Simpson amendment to vote with Senator SIMPSON because his amendment reflected a longstanding conviction of mine with respect to that issue, divorced from the FTC legislation.

With respect to the amendments pending before us now, I would like to discuss them and make clear for the record my view about those amendments which are rather fundamental modifications of the FTC legislation.

The bill before us, Mr. President, contains language which changes the statutory authority of the Federal Trade Commission. In addition, it strikes at the heart of the Commission's mandate by a preemptive prohibition against a current Commission action. Both provisions undermine the very basis on which the Commission functions, and I might add the basis on which Congress has ordered the Commission to function.

I will address myself to each of these questions individually but, first, I want to make just one point: If Congress wants the Federal Trade Commission to be nothing more than a law-enforcement agency, Congress can surely make that judgment and write such a bill. But Congress has done just the opposite. We have given the Commission a mandate, and a degree of independence to carry out its mandate, which goes far beyond mere law enforcement.

It is pointless to undermine that mandate piecemeal simply because the possible outcome of one or another Commission action may have questionable results.

The 1914 statute establishing the Trade Commission made it the most broadly-based investigatory and law-enforcement agency of the Government. Succeeding Congresses have seen fit to strengthen that mandate and expand it.

In the 1974 Magnuson-Moss amendments to the Commission Act, the agency was given additional powers and, more importantly, additional independence.

The Federal Trade Commission is a unique congressional creation, and it properly serves a unique role.

Because the agency's mandate is broad—unfair or deceptive acts or practices in commerce and affecting commerce—its actions potentially impinge on every commercial transaction. Surely we knew that at the time and it is no mystery today. But this broad authority did not develop in a vacuum. The Congress voted the basic authority. And the Congress expanded its investigatory powers.

Congress saw a need to do so and Congress responded.

If today Congress believes the agency's existence is unjustified, the responsible step is to narrow its broad authority, reduce its independence—perhaps dismantle the agency.

If Congress truly feels that the results of so many Commission actions will be irrevocably harmful that pre-emptive prohibition is necessary, then Congress should straightforwardly declare its willingness to shoulder the regulatory and investigatory duties of the agency forthwith.

I do not believe Congress can or should do so.

Congress has neither the time, the staff, the expertise nor the processes to duplicate the carefully delineated rulemaking of the Federal Trade Commission.

What committee of Congress could undertake the econometric studies of market conditions that the Commission is now undertaking? Studies, I might add, that throw serious doubt on the traditional assumptions of "shared monopolies." What committee of Congress can adequately review, for instance, the standards and certification processes on which so much Federal legislation is necessarily based? Or are we willing to propose a massive expansion of our corporate body to assume such a task?

Unless we honestly face these questions and resolve them, the provision in the bill that makes a negative judgment on the standards and certification proposal is totally unwarranted.

Let me briefly describe the nature of that much-maligned standards and certification procedure:

There are some 20,000 products made in this country for which quality controls are certified according to standards established by industry-related associations and laboratories. Because of the tremendous range of products involved, the standards-setting and certification procedures themselves affect each and every American to a very great degree. The Federal Trade Commission has been examining the question of whether these procedures are sufficiently open to producer and consumer interests. It has suggested ways to maximize input from both producers and consumers. It has also proposed permitting the appeal of any standard's fairness by interested or affected parties.

I believe that this is an area of legitimate concern to the FTC. And, further, I believe that agency is best able to evaluate the product standards-setting and certification process. It is certainly an area which demonstrates the difficulty Congress would have making the kind of very specific judgments we ask of the FTC.

For these reasons, I think it would be a mistake to exempt this specific trade practice, or any particular business for that matter, from Federal Trade Commission scrutiny.

If Congress is to substitute its judgment in specific areas for the FTC's, then it will have to rely on the expertise of the specific groups whose practices raise public policy questions.

It is my contention that Congress would be inviting every party of special interest to petition us for exceptions—exceptions to laws which we ourselves enacted.

One of the most disturbing trends I have observed in my political career is the growing presence—and indeed pressure—of special interest groups of all kinds. It is a disturbing trend that I have seen distort the basic nature of the representative process.

I ask my colleagues, What does the precedent of terminating specific rulemaking activities by the FTC—or any other agency for that matter—mean for us in Congress? It is an open invitation to special interest groups to petition us for exemption from Federal statutes.

I do not wish to be party to such an invitation. And I cannot help but believe that the American people do not endorse such a gesture on our part.

Public confidence in Government being what it is, I think we should be bending over backwards to avoid implications of special interest favoritism. If any more substantiation is needed to convince my colleagues that the proper function of Congress is to enact laws for all Americans, then this question should provide it.

We are simply not in the business of legislating for particular groups or interests and we must make that clear to our constitutents.

For this reason, I urge my colleagues to consider their position on these issues affecting particular trade practices and to permit the Federal Trade Commission to carry out its mandate.

The proposal before us to retain the statutory authority of the Federal Trade Commission to regulate unfair and deceptive advertising practices warrants our support.

The 1914 statute of the Federal Trade Commission declared "unfair methods of competition" unlawful. In 1938, Congress strengthened that basic mandate in the Wheeler-Lea amendments to declare "unfair or deceptive acts or practices in commerce" illegal.

Yet the bill before us seeks to strike the word "unfair" from the criteria by which the Commission must judge advertising practices in an effort to stop one current Commission action.

This, Mr. President, is overkill.

I hold no brief for the contention that advertising directed at children should be banned. I am not at all persuaded that such a conclusion can be reached.

But I do not think we need to undermine the Commission's authority to fairly regulate advertising practices to assure a fair outcome on this issue.

A change in the basic statutory language that substitutes "false" for "unfair" as a criterion does far more than simply stop the so-called "kidvid" investigation. It goes to the heart of the congressional mandate which the Commission must carry out.

Under the existing language, the Commission must prove that an advertising practice is unfair and deceptive to be illegal. If we require a finding of "false and deceptive" instead, a major change has been effected, and one that does no service to responsible advertisers.

The concept of "deceptive" contains within itself both the elements of falsity and intent to mislead. The addition of the term "false" emphasizes the element of intent at the expense of the other meaning in the word. Thus, it seriously changes the entire basis on which the Commission must judge advertising.

This change does not restrict itself to the single question of whether, indeed, advertising directed at children is inherently misleading. It affects the basis on which any advertising claim can be made, whether that claim concerns the sale of land which is covered with water at high tide, or the sale of energy-saving gadgets that do not work.

The commission has not abused the present standard. There is no record of massive commission intervention in advertising based on the criterion of "unfairness." In fact, the conjunction of the terms is a protection against abuse, since all the elements of misrepresentation, falsity and motive must be present to meet the "unfair and deceptive" test. With the substitution of the "false and deceptive" test, we have weakened the practical ability of the agency to make its case without adding an iota of protection for legitimate advertisers.

The change serves no valid purpose. To the extent that it makes the practical case more difficult to prove against determined swindlers, it does a great disservice to all responsible advertisers and businessmen.

As a practical matter, motive is most difficult and the most unsatisfactory element to prove in a court of law.

If the purveyor of a medigap insurance policy, for instance, represents his product as providing coverage for a certain illness, the current standard of "unfair and deceptive" permit the Commission to demonstrate that the coverage is duplicative and the advertisement is not complete enough to meet the standards of fair advertising. But if "false and deceptive" advertising must be demonstrated, the commission has the obligation of proving that the representation was willfully made in a manner intended to deceive.

Congress has already demonstrated its concern about the peddling of misleading insurance coverage to old people.

What public policy goal is served by taking away from this agency a rational and just legal test of unfairness in advertising?

There is no justification for undermining the statutory basis on which unfair advertising practices can be rectified, any more than there would be in an effort to eliminate the 1914 language on unfair methods of competition or the 1938 language on unfair or deceptive acts or practices in commerce.

I urge my colleagues to accept this amendment and retain in the basic authority of this agency its necessary ability to regulate unfair and deceptive advertising practices.

Mr. President, as the Senate deliberates on the future of the Federal Trade Commission, I think we would do well to step back for a moment and consider why this agency was created in the first place, and why it exists today.

No other agency of government, I daresay, can claim as its primary mission protection of the consuming public—the people who elect us—from false, deceptive and overreaching marketplace abuses. Nor does there exist any other part of Government with so great a statutory commitment to protection of the honest businessmen of this Nation from the unfair competitive tactics of less scrupulous and often more powerful business rivals.

The Federal Trade Commission was created in 1914, and charged with preventing unfair methods of competition. In 1938, this mandate was modified to include deceptive and unfair acts and practices. The statutory language was left deliberately broad, and subject to future definition by the Commission and the Federal courts, because after many, many months of careful deliberation, the Congresses of 1914 and 1938 realized that there was no real way to define in advance the many sorts of unfair practices that might arise to oppress consumers and disadvantage honest businesses.

In 1975 the Congress directed the FTC to address consumer abuses by making rules, where abuses are found to be widespread within an industry.

The combination of these three enactments frame the FTC's current mission: To preserve the processes of unrestrained competition in this country by enforcing the antitrust laws, and to protect consumers against unfair and deceptive business practices. These two functions, however, are really just part of one overriding goal, and that is to insure that our free enterprise capitalist system works as it is supposed to. Free enterprise assumes buyers who are not deceived, and know what they are buying. Free enterprise assumes sellers at liberty to compete with each other to satisfy consumers' search for the best possible product at the lowest possible price. The FTC exists to insure that these assumptions are met, and that our system works as it should, and as the public will insist.

To enable the Federal Trade Commission to meet these important responsibilities, its creators designed the Commission to be an expert economic agency, capable of studying in depth the endless variety of business practices before attacking those shown harmful to competition and the consuming public. Thus the FTC, although nominally a law enforcement agency, has always had one of the largest staffs of economists around, long before it become fashionable in this city to include economic analysis as an essential part of the regulatory process.

The Federal Trade Commission was also intended by Congress to be independent of the executive branch, so that it might administer the timeless policy of its organic statute with relatively greater continuity.

The Federal Trade Commission has used its independence and its expertise to serve the common weal. Long before the cause of "deregulation" became legion in the halls of Congress, the FTC recognized the baneful effects of public and private restraints on competition, and acted to stop them.

For example, the FTC used the rulemaking authority that this Congress granted it back in 1975 to attack State and private restrictions that prevented the sellers of eyeglasses from advertising the price of their products to the poor and the elderly for who the ability to find the best buy is a necessity of economic life.

Similarly, the FTC has responded to skyrocketing medical costs, by taking action against arrangements that prevent doctors and dentists and many others from even making available to members of the public information about the costs of the services they have to offer—the linchpin of a free economy.

These and numerous other activities of the FTC, begun years ago, are truly in the spirit of the deregulation of business that supposedly underlies efforts to shackle this agency today. It is indeed ironic that in the name of deregulating and freeing businessmen to maximize the fruits of the competitive process, the Senate today considers legislation to hamstring one of the few agencies in government whose mission is precisely that.

The FTC is also unique in another respect. Most regulatory agencies are concerned with the activities of one or a few particular industries. Historically, these industries in turn have developed a symbiotic relationship with the agency, coming to depend upon it for protection from the rigors of competition, and defending its prerogatives in the Congress. The FTC has no such wealthy, powerful champion. Its only constituency is the consuming public, those people who do not make large campaign contributions or hire high priced lobbyists to represent their point of view.

This makes the FTC an easy target for the arguments of those who would advance their special interests in the misguided name of "regulatory reform." And it also means that we must take care that in the name of curbing regulatory excesses we do not cripple or destroy an agency whose purpose is, if anything, as vital today as when it was created 66 years ago.

In this regard, the legislation and the amendments before us trouble me. They trouble me because they are riddled with special treatment for special interests, changes in laws, exemptions from laws, whose origin appears to be the complaint of one or a few interests that feel inconvenienced by the law's application. The legislation would also subject the FTC to certain cumbersome restrictions on the way it conducts its business that are so novel that Congress has thus far been unwilling to impose them on any other agency.

To me, regulatory reform does not mean overregulating the regulators, and making them less efficient in doing their jobs. Nor, to me, does regulatory reform mean compromising the goals of consumer protection and antitrust to satisfy the complaints of a few special interests. The FTC is an arm of this Congress, delegated authority by us to protect consumers and preserve a competitive marketplace. It has exercised its authority with ability and vigor, and I do not think it wise to mutilate or cut off our arm simply because it has made a fist. To the extent that the legislation and amendments before us do just that, they deserve our most careful scrutiny, for I do not think this Congress would wish to see the noble aim of regulatory reform confused in the public mind with less worthy goals.

The PRESIDING OFFICER. The time of the proponents of the amendment has expired.

Mr. FORD. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Did I understand the Chair to say that the time of the proponents has expired?

The PRESIDING OFFICER. That is correct, and there remain 48 minutes to the opponents.

Mr. FORD. We have 48 minutes remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Mr. President, we are about ready to go to a vote because I do not know of anyone on my side who has a desire to speak or to ask for additional time.

I should like to sum up, if I may. First, Mr. President, I yield such time as the Senator from Nevada may need.

Mr. CANNON. Mr. President, I ask unanimous consent that an article, written by the chief counsel of the Senate Commerce Committee, Aubrey Sarvis, which appeared in the Washington Post be printed in the RECORD. The article provides a good explanation of the actions taken by the Commerce Committee when it marked up the FTC bill, S. 1991, and our rationale for the committee's recommendations to the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RESTRAINING, WITH RESTRAINT, THE FTC

(By Aubrey L. Sarvis)

To hear some of the more vociferous proclaimed consumer advocates tell it, and to read certain press accounts, the Senate Commerce Committee recently bowed obediently to the powerful special interest groups that had stormed the corridors of Capitol Hill to ravish the unsuspecting and defenseless American consumer.

When the committee reported out the Federal Trade Commission authorization bill, it bowed to no one. Rather, it fully met its oversight responsibilities by providing clear and firm direction to a troubled agency obviously confused as to how best to serve the American public.

To better understand the committee's actions, one needs to reflect upon the awkward and sometimes schizophrenic state the FTC has found itself in during the last decade. Nearly 10 years ago, eager Nader's raiders, as well as the American Bar Association, rightly criticized the FTC for being a failing agency without the wherewithal and spirit to effectively take on American business.

Following those attacks, the commission regrouped and picked up new congressional authority in the nature of the Magnuson-Moss Act. What emerged was a revamped FTC with new commissioners accompanied by aggressive, talented new faces in key policy staff slots. This was now a commission prepared to embark upon a course of action designed to ensure that the previous criticisms of impotence and no guts would never again be hurled in its direction. If the FTC was once the paper tiger on Pennsylvania Avenue, it would now be the toughest, most unrelenting regulator in town.

The purpose and direction seemed quite appropriate, but somewhere along the way it all fell apart. In its zestful determination to reverse the way it once regulated, or failed to regulate, the FTC appeared to be fully prepared to push its statutory authority to the very brink and beyond. Equally disturbing to many observers was that the FTC had lost sight of the necessity to listen to the evidence and legal arguments of its opponents and to accord those opponents the respect normally prevalent in adversarial relationships. Good judgment and wisdom had clearly been replaced with an arrogance that seemed unparalleled among independent regulatory agencies.

Sensing the futility of the situation, some industries did begin looking to the Hill as an alternative. They did so, not because the commission's rules were beginning to bite or the FTC was finally serious about regulation, as some have suggested, but because they were convinced of the basic soundness of their arguments. The commission mistakenly assumed Congress would ignore, or be indifferent to, those arguments.

Many who initially turned to the Hill for relief did so with considerable reluctance. Surely American industry would prefer to see its business regulated by an independent agency rather than subjected to the unpredictable whims of each new Congress.

As to be expected, some businesses, with less than compelling arguments against the FTC, seized upon its current vulnerability to press Congress for relief on specific problems. The Senate Commerce Committee did not respond to such groups or the pressures they asserted.

Instead, the committee addressed only those instances in which the commission had exceeded its legal authority, as in the used-car rule; or where the commission initiated rule-making under questionable circumstances, as in the standards rule; or where the FTC acted unwisely and precipitously in launching the children's advertising inquiry on the basis of spurious and undefined legal theories. Additionally, the committee was precise in providing the FTC with clearer guidelines as to when subpoenas might be appropriately used. In several instances in which proposals were offered narrowing the commission's authority but there was uncertainty as to their full implications, the committee deferred action.

Little mention has been made of the barrage of so-called "special interest" amendments (to stop rule-making proceedings at the FTC) that were not adopted by the Commerce Committee.

Stung by the breadth of the committee's proposals, the FTC has understandably overreacted. The commission asserts that making its subpoenas in consumer cases reasonably specific will cripple enforcement. But one sitting member of the commission, Robert Pitofsky, has stated this will not be the case. The commission also insists that eliminating "unfairness" as an independent basis for regulating commercial advertising will gut enforcement power. Yet the commission fails to note that until the 1970s in virtually all cases it alleged some element of deception in advertising cases.

Sen. Howard Cannon summed it up when he observed that senators had exercised remarkable restraints in view of their frustrations with the FTC. He says he will urge his Senate colleagues to respond with similar restraint when this bill comes to the floor for debate. If appropriate restraint had been exercised earlier by the FTC and its staff, it is quite possible the agency would not be facing the difficult dilemma that confronts it today.

● Mr. RIBICOFF. Mr. President, I am pleased to support the Magnuson-Packwood amendment to the FTC authorization bill (S. 1991). If this amendment is passed, two important FTC rulemakings—the proceedings on children's advertising and standards and certification—would be allowed to continue. Without this amendment, those proceedings would be nullified by S. 1991.

In the children's advertising rulemaking, the Commission is now in the process of determining what problems are posed by television advertising directed to children, and what remedies are necessary. The record on that proceeding is still not closed—more hearings and more testimony are certainly expected. But to date, the hearing record exceeds 50,000 pages. Over 200 witnesses have testified in more than 4 solid weeks of agency hearings; 8,000 public comments have been received. A proposed rule on standards and certification has been recently published for public comment. The suggestion is that certain minimal procedures for notice, public participation and complaint handling be established. Today voluntary standards are set by industry groups without any such guidelines or safeguards. The public comment period has still not closed in that proceeding.

Therefore both of these rulemakings are now in midstream. While substantial FTC energies have been devoted to each of them, no final Commission judgment has occurred on the merits. The FTC expects no final decision on the standards rulemaking until sometime in 1981. I think we can assume at least the same time frame for the rule on children's advertising.

Earlier in this debate on the FTC, I supported the Levin-Boren amendment, which would permit Congress to review FTC rules after they are issued in final form. That device would allow Congress to reverse an agency regulation—but only after the agency has concluded its investigation and reached a decision. I think that is the proper approach for congressional review.

But that is a far cry from what we have here. In S. 1991, the agency's consideration and the public discussion of these issues are prematurely cut-off. Obviously congressional intervention now will end any orderly development of the complex issues involved in both those proceedings.

My support of the Magnuson-Packwood amendment is not an endorsement of an FTC rule either on standards and certification, or children's advertising. I have not made up my mind on these questions one way or another. And neither has the FTC for that matter, since no final decision has been issued. All that the FTC has determined is that there is a sufficient case to commence a rulemaking under the Magnuson-Moss Act in each of those areas. After the record has been developed and presented, the Commission will reach its decision.

I think we should allow that process to take its course. We should not intervene at this point. And for that reason, I support the Magnuson-Packwood amendment.●

● Mr. WEICKER. Mr. President, I am pleased to join with my distinguished colleagues from Washington, Mr. MAGNUSON, and from Oregon, Mr. PACKWOOD, in cosponsoring this amendment to delete sections 7 and 8 from S. 1991, the FTC authorization bill. The purpose of this amendment is to permit the completion of two current FTC proceedings regarding children's advertising and standards and certification rulemakings.

At this point, Mr. President, I would like to make perfectly clear that my position on this amendment is not based strictly on the merits of these two proceedings. Rather, my concern is that two ongoing, quasi-judicial proceedings will be terminated before a full record can be compiled. I believe that this action sets a dangerous precedent by allowing legislative intervention in ongoing administrative proceedings.

The FTC's authority to issue binding regulations is governed by the Federal Trade Commission Improvement Act of 1975, more commonly known as the Magnuson-Moss Act, the FTC's trade regulations can be adopted only on the basis of Commission proceedings which must be virtually as formal and elaborate as those required in a courtroom. Congress has no more basis to interfere midstream in an FTC proceeding than it does in the midst of any judicial proceeding.

Mr. President, the Federal Trade Commission was created by Congress as an independent agency to protect against unfair trade practices and promote competition. Congressional intent emphasized the need to create a regulatory body which would police the marketplace and thereby exempt the Congress from daily deliberations on trade rules. I believe that to terminate these two proceedings "midstream" is premature and unwise. I urge my colleagues to support this important amendment.●

Mr. PROXMIRE. Mr. President, I applaud my colleagues from Washington and Oregon for offering the Magnuson-Packwood amendment.

While there is much in S. 1991 that is laudable, I share the concern of my colleagues that this bill sets an unfortunate precedent by ending two pending rulemakings: Children's advertising and voluntary standards and certification development.

While I take no position on the merits of either of these rulemakings, I agree that it makes no sense to end them in midstream, thus denying the public the opportunity to make its views known on the issues.

Last night by a decisive vote the Senate adopted the Levin-Boren amendment to provide for review of FTC rules after they are finished. Given that we have this mechanism in place, why do we need to set an unfortunate precedent for the administrative process (for this agency and others) by rushing in and cutting off what is admittedly a vigorous and healthy debate? It just makes no sense. Substantial sums of money have been spent by the FTC and the public to generate detailed factual information on these two issues. What could be more wasteful than to terminate the proceedings before the inquiries are complete?

Much has been said here and in the editorial pages about the special-interest odor this bill has taken on. We could take a significant step toward clearing the air by allowing these two rulemakings to be completed.

Therefore I applaud the amendment and I urge my colleagues to support it.

● Mr. HEFLIN. I agree with the Committee on Commerce, Science, and Transportation that the Federal Trade Commission has overstepped the bounds of its authority in its proposed rulemaking on children's television advertising. In that proceeding, the Commission is apparently seeking to establish an authority which it has never been recognized to have, and which it should not have, and that is the authority to regulate truthful and nondeceptive advertising because the content of the advertising is deemed by the FTC to be "unfair."

The Commission is being less than candid when it claims that the power to regulate "unfair" advertising—that is the power to censor nondeceptive advertising accordance to bureaucrats' notions of propriety—has been in the law since the passage of the Wheeler-Lea Act in 1938.

The truth of the matter is that the only power the FTC has ever had over advertising is the authority to prevent false, deceptive, or misleading advertising, and it has had that power since the original Federal Trade Commission Act was passed in 1914. At least as long ago as 1922 the courts held that advertising which misrepresented the quality of goods was an unfair method of competition. This was not changed in any way by the Wheeler-Lea Act which was enacted in order to permit the FTC to prevent unfair business practices on the basis of a showing of harm to the general public. Previously, when the prohibitions of the law spoke only in terms of "unfair methods of competition," the courts required the FTC to show actual injury to a competitor. Injury to the consumers who were misled was not sufficient. The Wheeler-Lea Act changed this by adding "unfair or deceptive acts or practices" to the language about unfair methods of competition to make clear that FTC could issue a cease and desist order against unfair acts even if it could not meet the frequently difficult burden of proving actual injury to a competitor.

Nothing in the law before or since Wheeler-Lea has authorized the FTC to regulate nondeceptive advertising simply because the FTC thought its content was not "fair"—whatever that means. The FTC has said that children's television advertising is unfair because the advertisers have more power, sophistication and money than children do. Of course, advertisers generally have more money, power and sophistication about their products than individual consumers, which would make virtually all advertising unfair and justify the FTC's intervention as a censor to dictate what advertisers must say in their ads.

It does not matter to the FTC that no one has been deceived or misled. As Federal Trade Commissioner Pitofsky has written in the Harvard Law Review, a nondeceptive advertisement should be regarded as unfair if it fails "to provide consumers with information necessary to make clear choices among competing products." This concept would, of course, virtually eliminate competition in advertising and change the character of advertisements to information bulletins about product specifications and prices.

This kind of censorship, even of commercial speech, is completely contrary to American principles. No court has ever said, or ever suggested, that the FTC has the authority which it is claiming to prevent unfair advertising which is not false or deceptive. In fact, the Supreme Court has only recently affirmed that the protection of the first amendment extends to commercial speech, a principle with which the FTC's action is in direct conflict. The Court has recognized that the Government can prevent commercial speech which is false, deceptive or misleading, but it has said specifically that under the first amendment the Government cannot prohibit truthful advertising about entirely lawful activity simply because the Government's agents or officers are fearful of its effect upon the recipients, which is a perfect statement of the justification the FTC gives for letting it regulate the content of nondeceptive advertising which in its view is unfair to the recipients.

The committee is clearly correct in scheduling hearings to review the entire issue of "unfairness" under the Federal

Trade Commission Act and it has acted wisely in proposing a limitation meanwhile to FTC's authority over nondeceptive advertising in industry-wide rulemaking proceedings. As the committee stated in its report, the potential for abuse of this far-reaching power claimed by the FTC is magnified considerably by the scope of industrywide rulemaking.

Recently, Judge Newman of the United States Court of Appeals sounded a warning to us about the vast nad uncontrollable authority being wielded by the FTC in its rulemaking activity under the Magnuson-Moss Act. Dissenting from the majority decision which in December overruled the FTC's Trade Regulation Rule on Proprietary Vocational and Home-Study Schools, Judge Newman said:

> The petitioners' major assault on the Rule . . . is that it ushers in a new era of N.R.A.-type industry-wide codes. That fear is not groundless. Whether codes of the type exemplified by the Rule challenged in this case are a sound way to protect consumers from misleading trade practices and whether the resulting burden of regulation is worth the benefits are policy issues for the Congress. When Congress gives an agency substantial rule-making authority, it accords it a large measure of legislative power. It is the responsibility of Congress to determine how wisely that power is being used.

Therefore, S. 1991 would limit, and rightly so, the power of the Federal Trade Commission to issue rules to prevent false or deceptive commercial advertising. This is consistent with congressional intent with the views expressed by the Supreme Court with respect to the allowable scope of the regulation of commercial speech, and which is also consistent with the traditional application of the law by the FTC itself.●

Mr. LEVIN. Mr. President, we cannot allow catchall and vague words like "unfair" to remain undefined in the statute that the FTC is applying to advertising practices. Such an untrammeled and undefined hunting license in the area of opinion and speech, is dangerous because it is so subjective.

The FTC has and should continue to have the power to take action against deceptive advertising and will continue to do so under the committee bill.

The FTC will also continue to have the authority over "unfair" business acts or practices. The word "unfair" can more justifiably be enforced and interpreted in such latter instances because they do not involve speech or opinion and because the word "unfair" has been used by statutes and been interpreted by court opinions relative to such acts and practices with some frequency over the years.

To give the FTC the authority to move against advertising which, although not deceptive, is thought by some to be unfair is simply to give too much legislative power in a critical area of speech and opinion to an unaccountable, unelected agency.

Mr. President, I generally oppose amendments providing specific exemptions to industry or occupations in the process of their being scrutinized by the FTC under a proper standard. But that is not the issue here. The committee bill does not specifically exempt children's commercials from FTC jurisdiction. The committee bill amends the dangerously overbroad and undefined standard under which the FTC is apparently proceeding.

Mr. President, I am one who favors a review of the impact of television commercials on children. If an amendment gave the FTC the specific authority to do so, I would vote for it. But firmly as I express that sentiment, I also express with equal strength that the word "unfair" as applied in the area of speech and opinion, or even on the fringe of that area, is an overly broad delegation of authority in the most sensitive and protected area of our Constitution and I, therefore, must oppose the amendment to restore it.

Mr. FORD. Mr. President, as it relates to children's advertising, we are just making an effort to see that the legislative process and that the regulatory process is improved upon. Nothing in the legislative history of the FTC Act indicates an attempt to give a broad meaning to "unfair" as applied to advertising. It is a very simple statement.

Mr. President, no decision of the Supreme Court has ever upheld regulating advertising that was "unfair" but not "deceptive." So we have never had a clear decision on "unfair."

Mr. President, nothing in the bill prohibits the FTC from regulating false or deceptive children's advertising. Further, there is no basis for letting the children's proceedings go on because we are talking about the proper legal standards, not the weight of the evidence. We are talking about the legal standards. The bill permits the FTC to restart the children's proceedings under a false or deceptive standard if this is justified. Moreover, in this case, no proposed rule was ever issued. I repeat, no proposed rule was ever issued. I think those arguments are weighty enough to say that the committee made the right effort.

Mr. President, in the standards rulemaking proceeding, there were only 26 cases of wrong-doing out of 20,000 standards and, Mr. President, this is not a "pattern" of wrongdoing justifying rulemaking. Eighteen of the twenty-six cases cited by the FTC staff involved exclusion of products by allegedly excessive standards, a classic antitrust violation, over which the FTC has no authority under the Magnuson-Moss Act.

The distinguished Senator from Ohio said there were 130-some-odd violations, but over 95 percent of those were found to be in the same position as the first 18—antitrust. There is no authorization under Magnuson-Moss whatsoever for antitrust violations. Finally, the bill does not affect the authority of the FTC to bring individual actions if a standards group violates the FTC Act.

So, Mr. President, I hope my colleagues will vote nay on both points as they relate to giving us an opportunity to straighten out what we, the committee, feel is the proper procedure, and I think even some of the proposers of the amendment will vote to sustain the committee's position as it relates to standards. I understand they want a voice vote now because it is a foregone conclusion. I may be willing to give them that.

Mr. President, I am ready to yield back the remainder of my time. First, a point of information.

Mr. METZENBAUM. Mr. President, I should like to suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Kentucky has the floor. Will the Senator state his inquiry?

Mr. FORD. Mr. President, have the yeas and nays been ordered on either question?

The PRESIDING OFFICER. The yeas and nays have not been ordered on either question.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on the first division.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, the distinguished Senator from North Carolina, if he has not changed his mind, wanted the yeas and nays on section 8, also.

Mr. SCHMITT. Mr. President, for the Senator's information, I know of no requests on this side now for an opportunity to speak, so I think we are very close to a vote.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I am ready now to yield back the remainder of my time so that we may proceed to the vote, if there is no objection.

Mr. MAGNUSON. Mr. President, the Senator from Massachusetts wanted to speak, and the Senator from Connecticut, but I do not see them.

Mr. FORD. Mr. President, then I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, and a division having been requested, the question is on agreeing to the first part of the amendment of the Senator from Washington. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. This rollcall is on section 7, is that correct?

The PRESIDING OFFICER. Section 7, the Senator is correct.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. HELMS (when his name was called). Mr. President, because I own stock in a broadcasting company, I feel obliged to vote "present" on this vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGovern) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

The PRESIDING OFFICER (Mr. Muskie). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 30, nays 67, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—30

Bellmon
Biden
Bradley
Church
Culver
Durkin
Gravel
Hart
Hatfield
Jackson
Javits
Kennedy
Leahy
Magnuson
Mathias
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Sarbanes
Stafford
Stennis
Tsongas
Weicker

NAYS—67

Armstrong
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Long
Lugar
Matsunaga
McClure
Melcher
Morgan
Nunn
Pressler
Pryor
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Williams
Young
Zorinsky

ANSWERED "PRESENT"—1

Helms

NOT VOTING—2

Baker
McGovern

So division 1 of the amendment (UP No. 964) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which division 1 of the amendment was rejected.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, a point of information.

Mr. LEAHY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. FORD. Mr. President, it is my understanding that the next question before the Senate is a back-to-back vote as related to division 2 of the amendment by the Senator from Washington. We have just completed division 1, and the next vote will be a vote on standards. We do not have the yeas and nays, but I understand the Senator from North Carolina (Mr. Helms) wishes to ask for the yeas and nays.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator's point is correct. The vote is on division 2.

The question is on agreeing to division 2 of the amendment of the Senator from Washington. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. McGovern) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—28

Biden
Bradley
Church
Cranston
Culver
Durkin
Gravel
Hart
Jackson
Javits
Kennedy
Levin
Magnuson
Mathias
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Proxmire
Ribicoff
Sarbanes
Stennis
Stevenson
Tsongas
Weicker
Williams

NAYS—70

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Matsunaga
McClure
Melcher
Morgan
Nunn
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—2

Baker
McGovern

So division 2 of Mr. Magnuson's amendment (UP No. 964) was rejected.

(Mr. BURDICK assumed the chair.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I yield to the Senator from Connecticut (Mr. Ribicoff).

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I am not going to wait around, I hope, all day to try to work out this bill. I think we are on the way. If Senators have amendments they want to bring up, I think we ought to go ahead and get to it. If not, we ought to go to final passage.

Are there any of my colleagues here who have amendments, other than those who have talked with me, who are ready to go?

Can we go on the insurance amendment? That is the major amendment that is remaining. We have a 2-hour time agreement on the so-called insurance amendment. We have some other amendments that have been cut to 15 minutes to a side. Those could be moved very quickly. I do not think either side will take that much time.

I am looking at the time here. This is Thursday and we might just set a record.

Mr. METZENBAUM. Mr. President, I am very aware of the time constraints. The Senator from Kentucky knows that I have been in the Chamber constantly while this bill has been presented. The Senator from Kentucky is apprised of the fact that the Senator from Nevada, the chairman of the overall committee, made some statements in the Commerce Committee concerning the issue of insurance.

The Senator from Ohio has spent the latter part of yesterday and the early part of today attempting to work out with the Senator from Nevada language that would conform in the exact language to that which he used at the committee level.

We were making some headway in that direction, I felt, although we had not resolved the matter. As of today, there was a reversal of signals from the Senator from Nevada—and I certainly respect his right to do that. In fact, we are to the point where the language that was proposed vis-a-vis a colloquy that might have eliminated the necessity of an amendment at all came up with a nullity.

Since that time, the chairman of the Senate Banking Committee and the chairman of the subcommittee of the Banking Committee, having jurisdiction over matters pertaining to insurance, have also entered the discussion. It is my understanding that they have had some discussions within the last half hour with the staff of the Commerce Committee and that at the moment the matter is being further discussed with those from the FTC.

In view of the fact that the Senator from Ohio is prepared to accept the statutory language of the chairman of the Commerce Committee but the Senator has now seen fit to wish to constrain that language, we are still attempting to work out some arrangement on the subject.

Mr. FORD. Mr. President, I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, at the time of the markup in the Senate Commerce Committee on the FTC bill, I held the firm belief, and still do, that the Senate Commerce Committee was the sole committee in the Senate with broad jurisdiction over the economic regulation of the insurance industry. I would certainly concede that the Judiciary Committee has legislative jurisdiction solely with respect to the antitrust immunity granted to the insurance industry.

Therefore, under S. 1991, I would envision that only the Commerce Committee would have the authority to direct the Federal Trade Commission to undertake studies pertaining to regulation of this industry, and then only within those circumstances provided for in the McCarren-Ferguson Act.

We had a long discussion on this matter during the markup, the distinguished Senator from Missouri, myself, and others. What we are attempting to do in section 5 of the bill, and what we intend to do if we can get the votes, is to be sure that the FTC keeps its nose out of the investigation of the insurance industry, as was envisioned when the McCarren-Ferguson Act was passed. That is exactly what we intend.

As far as I am willing to go in any form of a compromise is just what I have stated to the Senator from Ohio. If he does not agree with that section of the bill as reported and now before us, he should offer his amendment to strike.

Mr. METZENBAUM. Has the Senator from Nevada completed his remarks?

Mr. CANNON. Yes.

Mr. METZENBAUM. I ask the Senator from Kentucky to yield me such time as I may require.

Mr. FORD. I yield, Mr. President.

Mr. METZENBAUM. Mr. President, the Senator from Nevada certainly has a right to change his opinion. The language which was read by him today is not the language or the position that was indicated to me yesterday by his staff. More important than that, however, were the Senator's remarks when this issue was raised by the junior Senator from Missouri during the Commerce Committee's hearing.

At that point, the Senator from Nevada, the chairman of the Commerce Committee, stated as follows:

> I would say that if the committee took official action to request them to make a study for the purpose of aiding the committee in some particular, that they would have the authority to proceed, but they would not have the authority to go out on their own and initiate an investigation in this field.

That had to do with the fact that prior to that time the Senator from Oregon (Mr. PACKWOOD) had said:

> And if we were going to do something like that and wanted an investigation first, there would be nothing that would prohibit us from asking the FTC or an ad hoc body or anybody else to investigate and gather facts for us before we chose to act.

Mr. Mullen, a staff member of the committee, indicated, "The Senator is correct."

The chairman went on to state:

> We can do that now and nothing in this amendment would preclude that.

This exchange had to do with whether or not a committee of this Congress has the right to ask, if it has jurisdiction, for the FTC to conduct an investigation.

On page 102 of the transcript of this hearing, the chairman of the Commerce Committee answered in unequivocal language that a committee would indeed have such jurisdiction.

As a matter of fact, on page 105, the chairman of the Commerce Committee went on to state as follows:

> If we made an official request for them to do a precise investigation in this area, for us to determine whether we wanted to review the question of the McCarran-Ferguson Act, whether we wanted to take that exemption away from the States and bring it back here, we could make that decision in an intelligent manner. But the request—

And this is the important language—

> the request would have to be from the committee of Congress having jurisdiction as an official body of the Congress, of which this agency is an arm.

The Senator from Nevada made that statement under what I believe to be a misunderstanding as to who has jurisdiction in connection with the McCarran-Ferguson Act. When I pointed out to him yesterday that it is the Judiciary Committee and its Antitrust Subcommittee that has that jurisdiction, I then found that there was a new approach because the Senator from Nevada apparently has the belief that his committee, and his committee alone, has jurisdiction in this area.

But the fact is that the Parliamentarian has stated in unequivocal language that the Judiciary Committee has that jurisdiction, that jurisdiction which pertains to antitrust matters and the repeal of the McCarran-Ferguson Act.

The Senator from Ohio has spent many hours attempting to work out language on this subject. The Senator from Wisconsin and the junior Senator from Massachusetts have now both entered into this issue because they feel that their committee has some jurisdiction as pertains to credit life insurance.

So I would say to my friend from Kentucky that just as soon as we can resolve this matter, hopefully on an amicable basis, and put in legislative language or a colloquy, if that be the case, on the very point that the Senator from Nevada made in committee, then perhaps we will be able to resolve the issue of the insurance matter.

Mr. DURKIN. Will the Senator yield?

Mr. METZENBAUM. I am acting on time yielded to me by the Senator from Kentucky. I have no objection to yielding to the Senator from New Hampshire but I do not have the time.

Mr. DURKIN. Will the Senator yield me 3 minutes?

Mr. FORD. I am delighted to let the Senator from New Hampshire have 5 minutes.

Mr. DURKIN. I thank the Senator.

Mr. President, this issue of whether the Federal Trade Commission should be involved in the regulation of insurance has been around for some time.

I ask unanimous consent, Mr. President, that my testimony in April 1971 before the Consumer Subcommittee of the Commerce Committee be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN DURKIN, COMMISSIONER, STATE OF NEW HAMPSHIRE, INSURANCE DEPARTMENT, CONCORD, N.H.; ACCOMPANIED BY JON S. HANSON, EXECUTIVE SECRETARY, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Mr. DURKIN. Thank you, Mr. Chairman. Thank you, Senator Cotton.

My name is John A. Durkin. I am appearing on behalf of the National Association of Insurance Commissioners, commonly referred to as the NAIC, both as the insurance commissioner of the State of New Hampshire and as the cochairman of the NAIC subcommittee on Unfair Trade Practices. As Senator Cotton said, with me is Jon Hanson, the executive secretary of NAIC. Having its inception in and regular meetings since 1871, the NAIC is the oldest voluntary association of State officials. It includes the principal insurance regulatory authorities of the 50 States, the District of Columbia, and territories of the United States.

Acting on your suggestion, Mr. Chairman, rather than read our full statement, I shall summarize the highlights orally and submit our written statement for your consideration and for the record.

Senator Moss. Thank you. You may proceed in that manner.

Mr. DURKIN. Senator Magnuson's bill, S. 984, the Administration's bill, S. 1222, and Senator Bayh's bill, S. 1378, seek to enhance the protection of the consumers from unfair trade and deceptive practices. The NAIC concurs with this general objective since the protection of the consumer is the fundamental purpose upon which State insurance regulation is based. However, until we complete our current review, the NAIC has taken no position either favoring or opposing the concept of class action. Nevertheless, the NAIC is vitally concerned over the potential adverse impact these Federal class action bills, as they are currently drafted, may have in diminishing the overall level of consumer protection for the insurance consuming public.

In short, for several reasons, the NAIC opposes the inclusion of insurance services in the bills due to adverse ramifications posed by the McCarran Act problem. Application of the Federal Government triggering concept to insurance could lead to an adverse effect on the carefully constructed balance between antitrust concepts and the complex system of insurance regulation.

In the area of protecting the consumer against unfair trade practices there already exists a detailed and comprehensive insurance regulatory mechanism at the State level. State insurance regulation provides a wide range of standards, powers, and remedies which go far beyond those available to the Federal Trade Commission. The intrusion of a Federal regulatory agency would create a duplication and conflicts between State and Federal law, both substantive and procedural, and at an increased cost to our taxpayers, or such inclusion might ultimately preempt this regulatory area thereby resulting in a more narrow, less protective system of regulation than that now provided by the States.

We submit it would be poor public policy to interject the FTC in the complex insurance regulation when it is currently overburdened, understaffed, and subject to much unanswered criticism, especially when you consider the field is already comprehensively and effectively covered at the State level.

While the NAIC has taken no position for or against class action, intense regulation on behalf of the consumer lessens the need for class action. Furthermore, the State provides an effective local, readily accessible complaint mechanism available to the consumer which serves as an alternative to class action.

The proposed legislation provides no means of coordinating the FTC, Federal court decisions, and State insurance department activities. This, in turn, might well lead to anarchy in regulation and hence diminish insurance industry effectiveness in serving the public need. If someone set out to create intentionally a symphony of chaos, a more effective vehicle is difficult to comprehend.

The involvement of the FTC, we feel, is unnecessary inasmuch as there has been no demonstrable need. The States are solving the problem today. They have the power and the knowledge of how to apply it, while the FTC is untried and untested in this area. States have many powers. We have the complaint procedure. We license agents and brokers, adjusters and companies. We have annual reports—quarterly reports. In New Hampshire the domestic companies are on a quarterly reporting system. We have periodic examinations, approval of policy forms, rate regulation. We have the Unfair Trade Practice Act, the model act which has been enacted in all 50 States. We have the rehabilitation and liquidation procedures available to the commissioner in the event that he is having an undue amount of difficulty with a company, and we have civil and criminal penalties.

I submit that State controls are more extensive than those available under the Federal Trade Commission Act. They are tried and tested methods. Enactment of these proposals with insurance services would overburden the Federal Trade Commission and disrupt, if not destroy, an effective State supervisory system.

Let me give you some of the New Hampshire experience with respect to complaints. Last year we had 1,250 complaints and we were instrumental in recovering some $306,000 for the people in New Hampshire. Our complaint setup is as follows: We have an adjuster who has had 10 years experience in industry who is primarily in charge of our complaint procedure. He can refer to the department attorneys, the department actuaries, life actuary, or casualty actuary, and the life and property division for any areas he is not completely familiar with. He delivers a claim reporting form to me monthly which lists the companies and number of complaints, and if it appears that a company has an undue number of complaints we look at the annual statement. In days past there has been a correlation between the increasing number of complaints and the dwindling amount of surplus. This is a very effective tool we have with which to keep an eye on the financial stability of a company.

Also, it gives us an opportunity to talk to the responsible officials in that particular company if the claims and complaints reach what we consider an inordinate level. Last year we talked to some 15 companies and informed them that we would like them to improve their handling of claims, and they have agreed and the situation has improved.

In addition to the particular complaint procedure, we have one of the toughest automobile cancellation and nonrenewal laws in the country, and anyone who is concerned that their insurance might have been cancelled or nonrenewed not in accordance with the law is encouraged to contact the department, and some 250 people did last year. The number is increasing this year as they are more and more aware of the procedure.

One of the beauties of a small State, and how we can regulate in a small State, is indicated by a story, an actual incident of a couple of years ago. On a Wednesday before the Thanksgiving weekend, with the first snowstorm of the year predicted, I received a call from one of our agents in the north country saying he had received a solicitation from a company offering snowmobile insurance at bargain rates. By moving as quickly as possible, that night at approximately 9:00 o'clock, we had determined that there was no such company and they probably were not going to offer any coverage, and we were able to get out a press release warning the people in the State of New Hampshire; and it subsequently turned out that we could not find anyone that was victimized by this particular strategy.

Again, there has been some criticism of the small States but the small States have the beauty of usually knowing what is going on. To put it plainer, we sort of have our finger to the wind. It is not long before a person who has a complaint—in New Hampshire, a man can get to the Governor in 2 or 3 days, so you can figure out how fast he can get to the insurance commissioner.

Senator Cotton. If I may interrupt with a quick question, what did you do with the fellow who was perpetrating that fraud?

Mr. Durkin. He was from out-of-state and we could not get jurisdiction over him, but we turned the matter over to the attorney general, but there was difficulty in getting jurisdiction. The interesting thing was we prevented anyone from being victimized.

I think New Hampshire is a good example of what a small State can do to effectively regulate insurance. Some of the other States—some of the larger States—I think you are all familiar with the record of the larger States. I would just like to update the California figures from those in the statement. In 1970, the State of California processed some 20,200 complaints as opposed to below 18,000 last year. In 1970, they recovered approximately $3.7 million as opposed to $3.5 million last year.

A medium sized state or a little smaller than California, I suppose, is Missouri, and just recently they have been instrumental in requiring a company to refund in excess of $4,000 for overcharges on assigned risk policies.

So I hope this demonstrates that the States are better equipped to do the job and they have the staff. They have a budget that greatly exceeds that of the FTC, and as the Nader Report indicated on page 87, paraphrasing the report, the present—which I believe would be the 1968—budget of the FTC would have to be increased eight or nine times, as a minimum, and I do not know that they contemplated the insurance aspect of it when they used that eight or nine times figure.

Senator Tydings, in his statement, has indicated his opinion that one agency could not be responsible for protecting the whole country. One could not do it all. And Commissioner Jones indicated on page 104 of her testimony at one of the hearings, and I quote.

I don't know whether she realized it or not, but I think she was referring to the informal system that the States have.

We can go to court or we can have a little "woodshed" session. We have complete flexibility. We have both formal and informal procedures.

I submit that any function that can be provided at the State level should be provided there, and it makes better sense to me—and I hope to you gentlemen—that it would be wiser to test the provisions of S. 984 in the general business area before disrupting an effective system of State insurance regulation with the resultant anarchy and chaos and lack of protection of the consumer, or reduction of the amount of protection.

The FTC has yet to prove itself, whereas the NAIC and the States have never more effectively operated and are improving steadily. The track record of the NAIC in the last 5 years is exemplary, and due to the recent changes in power in many of the State capitals last November we have seen a number of new commissioners appointed. I have met most of them and I can say that they are exemplary individuals. I think the NAIC is bound to improve with the addition to our ranks of these high-type individuals.

Therefore, my recommendation and the recommendation of the NAIC, is insurance services be stricken from section 101, No. 6.

Mr. Chairman, I will be glad to try to field any questions that you might have.

Senator Moss. Thank you very much, Mr. Durkin, for your statement, and your full printed text which will be in the record.

As I understand it, although you do not take a position—or the NAIC does not take a position either for or against the concept of class action, you do feel that insurance should not be included as one of the items to which class actions would apply should this bill become law. Is that right?

Mr. Durkin. Yes, sir.

Senator Moss. Do you have class action procedure within the State of New Hampshire that would lie in the State court in the event the policyholders, for instance, wanted to sue as a class?

Mr. Durkin. We do not have it under the insurance laws. However, if we had a case where there was demonstrable fraud established we have the implied power as the State of California has, to go a long way toward forcing the companies to make refunds, and this power was demonstrated in New York some years ago on overcharging, and in California, and we have that same power. But the class action power per se, in the insurance law, no.

Senator Moss. Well, if the State and the Federal Government courts had concurrent jurisdiction so that a class action could be brought within the State if the members of the class were all in that State or in Federal court if there were members of the class widely dispersed in several States, do you think that would be desirable in the insurance field or not?

Mr. Durkin. No, sir. I think the best remedy would be to remove insurance services completely from the bill.

One problem with having the concurrent jurisdiction that comes to mind immediately is that you run the risk of having case law growing out of the class action suits that would conflict and disrupt the very effective State system we now have without adding any increased degree of protection. I think it would probably detract or lessen the amount of protection the people have now.

Senator Moss. Well, under the regulatory system that the States have on insurance, if the insurance company becomes bankrupt, they have to avail themselves then of the Federal court procedures in bankruptcy; is that right?

Mr. Durkin. No, sir. We are quite proud of that. We have—New Hampshire was one of the first States to enact an insolvency protection law, which in its original form covered only automobile insurance, which provides that the other companies are assessed an amount sufficient to remove the deficit. So every claimant is made whole and the liquidation proceedings under one NAIC model act are vested basically in the States.

It is primarily a State jurisdictional problem and is handled very well on that level.

Senator Moss. This is getting off into another field and I will not pursue it any further, but we have been considering a bill in this committee about whether or not there ought to be that kind of an insurance pool fund on a national basis for insurance companies that become defunct. Many of the States have not been as enlightened as New Hampshire and have had insolvencies of insurance companies where the policyholders lost.

Mr. Durkin. Mr. Chairman, I think that highlights the point that I intended to bring up and I may have glided over it.

The track record of the NAIC is excellent. I think today the Insolvency Protection Act is a law in over 30 States—I think 32, the last I knew, and this all since 1969 when we first started in New Hampshire and Michigan and California. So the NAIC has shown it has its finger to the wind and can move quickly.

Senator Moss. As part of your statement you said that the FTC, because of its limited personnel and for other reasons, could not protect the whole country. I wondered if that was not a bit of a rationale, perhaps, for this idea of having class action.

If the consumer must move through FTC or Justice in order to recover, and they cannot cover the whole country, which obviously I think is a truism, would it not then release the consumer mechanism so that he does have some place where he can get relief by bringing class action?

We are not talking now about insurance, but just general consumer frauds or deceptive acts that brought on this loss.

Mr. Durkin. It might provide the rationale for general business practices that are not extensively regulated, but conversely, I think it provides the rationale for excluding insurance when you realize the degree of regulation of the insurance industry; and I submit that in most cases that the insurance department action is quite rapid.

Another local story, a friend of mine practicing law in Manchester complained to me one night—some of the lawyers keep their offices open on Thursday night—that this lady came in and said, "I have a complaint. I have a claim. My neighbor went to the Insurance Commissioner and got the claim settled in 3 days. Can you beat that or shall I go to the Insurance Commissioner?" I think that indicates the speed, as opposed to the class action, with which the Department can move.

Senator Moss. Maybe you are being unfair to lawyers up there. You are taking business away from them. That, of course, is a remarkable thing if within 3 days you could get a claim settled. I do not suppose any lawyer could offer to compete with that, even if the jurisdiction was there.

You mentioned a current review that your association is undertaking. Could you tell me what this current review is that you are talking about?

Mr. Durkin. Yes, sir. Fletcher Bell, the commissioner from Kansas, and I are cochairmen of a subcommittee to review the Unfair Trade Practice Act, the model act. One of the things we want to review is the possibility of restructuring that act to possibly reflect the conditions that exist today as opposed to the mid-40's when that was enacted after deliberations by the NAIC.

In that light, we had a meeting Tuesday, the first meeting of this subcommittee, in Santa Fe, N. Mex., and we hope to meet again and we will meet again at the June NAIC full plenary session in New York.

Even as proud as we are of the State system, we realize that there is a possibility that it could be improved, too, and this is what we are looking at.

Senator Moss. I see. Thank you very much. Senator Cook?

Senator Cook. Commissioner, in effect, what you are really saying is that under the present system, the respective States would give more protection to the insurer than any of the inclusions in the respective bills that are presently before this committee. Is that, in essence, what you are saying?

Mr. Durkin. Yes, sir.

Senator Cook. In essence, you are saying that the FTC, which has a $15 million budget, and has all of the other problems that it has, cannot compete with the respective States, which have over a $40 million budget for the protection of the citizens of the respective States in regard to insurance claims. Is that not true?

Mr. Durkin. Yes, sir.

Senator Cook. We talked last year about the fact that in the so-called Playboy Clubs, the lawyers were paid $270,000 in fees. This has very little consequence when you look at the record of the State of California, where the State agency processed over 20,000 claims and collected for its insurers over $4 million. So there really is not much of a comparison, is there?

Mr. Durkin. No, sir. Even in New Hampshire, we collected $306,000, which is a lot of money for a small State.

Senator Cook. Are you concerned that under these acts the FTC may, in fact, preempt the entire field in regard to State laws?

Mr. Durkin. That is a distinct possibility and, the preemption could occur without the physical resources or the manpower to adequately protect the area once they have preempted it.

Senator Cook. What protection would an insured have in a given State in which the FTC must hold a hearing, the FTC must come to a conclusion, in which the FTC must have evidentiary hearings; where respective State laws right now could serve notice on complaints rendered on a series of complaints, that an insurance company many have its charter in that State revoked unless it gets its house in order?

The people in that State would stand back and say, "Well we wonder how many of us will be bilked while the FTC gets around to holding a hearing," do you not think so?

Mr. Durkin. Sir, the story I gave about the agent calling me on the snowmobiles—I do not think he would have called any Federal agency or tried to reach one.

Senator Cook. I say this because remarks that were made 2 years ago to the Commerce Committee in regard to some legislation that was presently before it dealing with the FTC, referred to the FTC, in terms of the chronic neglect of consumer needs. incapable, bureaucratic, inept and neglectful.

Now, is that the kind of agency to which you want to turn over, conceivably, all of the life blood of the insurance companies of the United States; rather than leave it to the respective agencies that now have over 5,000 employees who deal exclusively with insurance companies; when the FTC in all of the work that it does, have only 1,200 employees? Do you think this is saying to the American people that we are going to give you better protection and that we are going to look after you better by preempting the field, and by giving authority to the FTC, which cannot get its work done now?

Mr. Durkin. I would not think so. I think you would have less protection.

Senator Cook. Mr. Chairman, I would like to put in the record, by reference if I may the statement of the Hon. Richard Barger, who was the commissioner of insurance of the State of California, who testified before the Judiciary Committee last year in this regard, and who set forth very plainly the fear of preemption in this field, the fear that the FTC is now so totally and completely overburdened, that the insured in the United States will get practically no service at all; whereas now, he is getting very fine, and certainly more than adequate, service from the respective insurance departments in the respective States.

Senator Moss. I think Mr. Barger testified before us last year, too, and it is in our record there.[1] So we will include that, of course, by reference, and the statement before the Judiciary Committee [2] as well.

Senator Cook. Thank you.

Senator Moss. We appreciate your statement, Mr. Durkin. I might point out, whether we throw them at the mercy of the FTC or not is the antithesis of what this bill proposes. It says, let the consumer have access to the courts rather than having to go to the Trade Commission and have the Trade Commission serve them or Justice. But we do appreciate your testimony, and we have had this question about whether insurance ought to be included or excluded up before, and I think you will find in at least some of the bills that it is definitely excluded.

Thank you very much.

Mr. Durkin. Thank you.

[The statement follows:]

STATEMENT OF COMMISSIONER JOHN A. DURKIN, INSURANCE COMMISSIONER OF THE STATE OF NEW HAMPSHIRE, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

My name is John A. Durkin. I am appearing on behalf of the National Association of Insurance Commissioners, commonly referred to as the NAIC, both as the Insurance Commissioner of the State of New Hampshire and as the Co-Chairman of the NAIC Subcommittee on Unfair Trade Practices. Having its inception in and regular meetings since 1871, the NAIC is the oldest voluntary association of state officials. It includes the principal insurance regulatory authorities of the 50 states, the District of Columbia, and territories of the United States.

With your permission, Mr. Chairman, rather than read our full statement, I shall summarize the highlights orally and submit our written statement for your consideration and for the record.

Senator Magnuson's bill (S. 984), the Administration's bill (S. 1222) and Senator Bayh's bill (S. 1378) seek to enhance the protection of the consumers from unfair trade and deceptive practices. The NAIC concurs with this general objective since the protection of the consumer is the fundamental purpose upon which state insurance regulation is based. However, until we complete our current review, *the NAIC has taken no position either favoring or opposing the concept of class actions*. Nevertheless, the NAIC is vitally concerned over the potential adverse impact these federal class action bills, as they are currently drafted, may have in diminishing the overall level of consumer protection for the insurance consuming public. We refer to this as the McCarran Act problem and will explore in this statement how it may arise and its potential ramifications.

A. WHEN IS THERE A M'CARRAN ACT PROBLEM?

In 1944, in the *U.S.* v. *Southeastern Underwriters Association* case, the U.S. Supreme Court for the first time held that insurance was interstate commerce, thereby subjecting the insurance business to Congressional power under the commerce clause. This, in turn, cast doubt on the validity of the long existing structure of state insurance regulation. Furthermore, the potential application of the federal antitrust laws created a crisis of fundamental proportions of the functioning of the insurance industry and the public it served.[1] Thus, Congress enacted the McCarran Act [2] providing that the insurance business shall be regulated and taxed by the states.[3] Furthermore, the Act declares that federal legislation adversely affecting state insurance regulatory law shall not apply to the insurance business "unless such Act specifically relates to the business of insurance." [4]

Consequently, for federal class action legislation to raise the McCarran Act problem, it must (1) specifically refer to insurance and (2) possess sufficient adverse regulatory import on state insurance regulation. Unlike S. 1222, both S. 984 and S. 1378 specifically include "insurance services." Thus, the key question from our perspective is the regulatory import of the latter two bills.

S. 984 sets out a laundry list of 16 unfair consumer practices, including a general omnibus provision which is couched in terms of goods and services with "services" defined to include "insurance services." The bill au-

---

[1] See p. 371 of the Senate Committee on Commerce hearings record serial No. 91–48, Pt. 2.

[2] See p. 136 of the Senate Committee on the Judiciary hearings of August 28, 1970.

Footnotes at end of article.

thorizes a consumer allegedly injured by an unfair consumer practice to bring a civil action following the "trigger" of a successful FTC action under Sec. 5 of the FTC Act as to unfair consumer practices. This trigger, coupled with specific reference (and hence applicability) to insurance would seem to implicitly authorize the FTC to exercise regulatory authority over insurance. Hence, it raises the McCarran Act problems. In turn this could conceivably lead to the creation of broad substantive federal insurance law. Thus, such a statute may place a much greater emphasis on regulation, vis-a-vis consumer suits by private individuals, than is commonly realized.

S. 1378, which does not have the trigger, as well as S. 984, raises the McCarran Act problem in another context, although to a lesser extent. To the extent that the statutory (laundry list) definition of unlawful consumer practices (enforceable by class actions) and court decisions interpreting and applying such definition influence the conduct of the insurance industry, it may do so in a manner so as to conflict with the state insurance regulatory law.

In short, S. 984 and S. 1378 in attempting to apply the federal class action concept to the insurance business goes significantly beyond implementing that concept. S. 984 interjects a federal regulatory mechanism into an area long and comprehensively regulated by the states. Both S. 984 and S. 1378 create law potentially conflicting with that of the states. These we submit are contrary to the public interest. Thus, the NAIC opposes the inclusion of "insurance services" in these bills.

B. THE ADVERSE RAMIFICATIONS POSED BY THE M'CARRAN ACT PROBLEM ARISES

What are some of the adverse ramifications posed by a federal class action bill which creates the McCarran Act problem?

1. Impact on congressional policy of blending antitrust and insurance regulatory concepts and upon the availability of coverage

S. 984, as it might apply to insurance, could severely affect, if not destroy, the long standing Congressional policy of blending antitrust concepts with the complex system of insurance regulation in a manner to permit the insurance industry to effectively function in serving the insurance buying public. This is especially true in light of today's market capacity problems.

You may recall that when the Supreme Court in 1944 held for the first time that insurance was interstate commerce, a crisis of monumental proportions was imminent, particularly concerning the potential application of the federal antitrust laws. Overnight, coordinated activity by insurers, to spread risks among a number of insurers for those businesses with large risk exposure were threatened with loss of protection as were occupations with heavy risk concentrations covered by workmen's compensation, group insurance, etc. Such businesses, for example, might include aviation, oil, natural gas, agriculture, cotton, chemicals, mining, steel, livestock, lumber, railroad, manufacturing, retailing, and construction.

After many months of extended joint hearings and deliberation by the Senate and House judiciary committees, Congress concluded that (a) across the board application of the antitrust laws would bring many legitimate and essential functions of the insurance business to a virtual standstill and (b) the failure of Congress to act would result in overturning the long existing system of state insurance regulation which was specifically attuned to regulating the insurance business on behalf of the public in a multitude of ways alternative to the application of the antitrust laws. Consequently, Congress sought to blend the antitrust laws with the complex system of insurance regulation by enacting the McCarran Act which stated that "continued regulation and taxation by the several states of the insurance business is in the public interest." However, Congress did provide that (a) the Sherman, Clayton and FTC Acts should apply to insurance to the extent that antitrust concepts prohibiting coercion, boycotts and intimidation would apply. In response, the states, among other things, enacted unfair trade practice acts which include prohibitions against unfair methods of competition as well as against unfair or deceptive acts or practices. In short, through the McCarran Act and subsequent state action, insurance regulation and antitrust concepts were carefully combined in a balanced legislative program.

The inclusion of insurance in a class action bill ignores this essential and careful balance. It could enable the FTC to alter the application of antitrust laws to insurance as well as regulate unfair trade practices. The bills make no effort to blend their proposed powers with the complex system of insurance regulation. In marked contrast to the careful course followed by Congress in 1944–45,[5] the inclusion of "insurance services" reflects little thought as to the endless confusion, regulatory overlap and the impairment of the insurance industry's ability to serve the public in providing needed coverage for an evergrowing insurance market.

2. State Unfair Trade Practices Act

In the area of protecting the consumer against unfair trade practices, there already exists a detailed, comprehensive, and highly effective insurance regulatory mechanism at the state level paralleling that of the FTC.

Responding to the McCarran Act's invitation,[6] the NAIC developed a model unfair trade practices act.[7] Every state has enacted legislation of this type which the Supreme Court has held to preclude FTC jurisdiction.[8] Similar to Sec. 5 of the FTC Act, Sec. 3 of the model act prohibits unfair methods of competition or unfair or deceptive acts or practices in the business of insurance.[9] Sec. 4 defines eight general areas of unfair practices which fall within the prohibition:

(1) Misrepresentations and false advertising of policy contracts;

(2) False information and advertising generally;

(3) Defamation;

(4) Boycott, coercion and intimidation;

(5) False financial statements;

(6) Stock operations and advisory board contracts.

(7) Unfair discrimination; and

(8) Rebates.

Furthermore, the insurance commissioner has authority under an omnibus provision to define additional practices as being unfair. Provisions is made for cease and desist orders, injunctions and penalties. In short the state unfair trade practices acts provide a comprehensive and flexible regulatory mechanism which parallels the FTC Act, but unlike the proposed federal bills, they are specifically tailored to the complex problems of the insurance business.

3. Synopsis of State Powers, Remedies and Sanctions

The report of the Senate Committee on Commerce on the Consumer Protection Act of 1970 (S. 3201 in the last session)[10] maintains that such legislation is needed because of the "incapacity" of the FTC and of the judicial system and the lack of sufficient sanctions, remedies and deterrents. At the same time, however, the report evidenced no consideration or awareness as to insurance concerning the panoplies of powers functioning at the state level and the extent to which these go far beyond that available to the FTC. Thus, we believe it important to summarize some of the highlights of the state insurance regulatory system.

(1) Insurers and agents as well as claims adjusters in many states must obtain and continue their licenses in order to do business. This, in turn, requires meeting financial standards concerning assets, investments, reserves, and qualifications as to character of management, experience and knowledge of the business. Licenses may be suspended or revoked for failure to comply with the law or when the public interest so requires.

(2) Insurers must file comprehensive annual reports under oath in each state in which they do business.

(3) Insurers are subject to comprehensive periodic examinations which includes, among other things, a review of whether claims are paid on a fair and prompt basis and whether policyholder complaints are handled promptly and fairly.

(4) By virtue of statutory standards on policy content and the commissioners policy form approval or disapproval power, much of the source of misrepresentation or other unfair practices is deterred in advance.

(5) Control is exercised over the pricing practices of property and liability insurers through implementing the standards that rates shall not be excessive, inadequate or unfairly discriminatory. Health policies must meet the standard requiring benefits to be reasonable in relation to premium.

(6) Market practices are controlled by, among other things, the unfair trade practice acts discussed above.

(7) The insurance commissioner may, for a variety of causes (e.g., insolvency, refusal to comply with orders, failure to remove officers, etc.), apply for a court order of liquidation, rehabilitation or conservation.

(8) Among the sanctions available for enforcement of the insurance laws are criminal and civil penalties; cease and desist orders; injunctions; removal of officers and directors; fines; revocation of (or refusal to renew) licenses of agents, adjusters, brokers, insurers; etc. These powers and sanctions, plus the informal powers, sanctions and alternative modes of relief stemming therefrom, extend far beyond what is being talked about in connection with the proposed federal class action bills even though the Committee report makes no reference to them.

4. Impact on Overall Consumer Protection

Today we have summarized some aspects of state regulation on behalf of the insurance buying public with particular attention focused in the area of unfair and deceptive practices. State controls are persuasive. In the insurance field, they fully occupy the area covered by the FTC Act in non-insurance businesses. Furthermore such state controls are not only similar to but also more extensive than those available under the FTC Act. In this light, what would be the impact of a proposed federal class action legislation which includes "insurance services," especially if it also provides for a federal trigger?

S. 984, for example, could very well, in effect, supersede part of the McCarran Act as to the inappropriateness of FTC regulatory jurisdiction of the insurance business. In turn, this would do one of two things.

(1) It would set the stage for duplication or concurrent regulation by the FTC and the states. The enumerated unfair consumer practices would also be covered by state law. There would be duplicative or overlapping state and federal procedures. Furthermore, in dealing with the broad and general concepts, inevitably disagreements would occur between state and federal authorities which may very well result in conflicting procedures and incompatible rules of substantive law. The taxpayers would be asked to bear increased costs of an already large overburdened regulatory agency to merely duplicate some functions already assumed at the state level. This certainly seems inconsistent with the trend to retain or move functions back to the

---

Footnotes at end of article.

states—a trend which is so necessary to a federal system.[11]

Or, the bills might be construed as creating a federal preemption of this field or ultimately lead to this result. If this occurs, a more narrow and less protective system of regulation would supplant a more comprehensive time tested system of state regulation.

Incidentally, the trigger concept was apparently introduced to prevent nuisance or strike class action. But, because of the criticism that the consumer would have no relief in the event of FTC inaction, this safeguard has been significantly watered down. It seems ironic that a prime cause of the McCarran Act problem—i.e., the trigger—no longer effectively serves the purpose for which it was designed, yet it is nevertheless retained.

5. Unnecessary Overburdening of the FTC

In light of current criticisms of the FTC's failure to perform its consumer protection functions with respect to business in general, it would be unsound public policy to further dilute whatever effectiveness it has by delegating to the FTC those functions in the specialized insurance area already being performed by the several states.

The FTC is involved in over 50 different types of business enterprises whereas the state insurance departments specialize in one. The FTC has 13 field offices whereas the states provide a regulatory machinery with at least one local office in every state and multiple offices in several states. The FTC's budget was approximately $17 million (for the fiscal year ending June 30, 1969) in contrast to state insurance department budgets aggregating over $46 million (for the year 1969). The FTC employs approximately 1200 persons in contrast to the states nearly 4800. Thus the interjection of the FTC at the taxpayers expense, would duplicate or supersede state insurance regulation with an agency having fewer offices, dollars and people spread over the entire spectrum of American business, an agency which the Commerce Committee described in terms of "the chronic neglect of consumer needs," "incapacity," "bureaucratic ineptitude and consumer neglect."

It might be noted that the Annual Report of the FTC (1968) indicated that the Commission received 7500 complains annually. Testimony last year suggested that the FTC acted upon only 10 percent of those filed due to understaffing and underfunding. Contrast this to the service provided by the state insurance departments. Individual state activity ranges as high as handling and closing approximately 22,000 complaints and investigations per year.[12] For these reasons, among others, we submit that it would be poor public policy to add to the burdens of this allegedly ill equipped malfunctioning organization and further dilute what effectiveness it might have by interjecting the FTC into the complex system of insurance regulation.[13] Furthermore, the FTC report states that "still another approach to bringing its workload down to managable proportions was to actively encourage the states to move more effectively against business chicanery." [14] Thus, it seems ironic to enact legislation which would impede state's efforts in an area which is already comprehensively regulated by them.

6. Insurance Department Complaint Procedures: An Alternative to the Class Action

Whatever the merits of the class action approach, the existing system renders this concept less necessary in the insurance area. First, unlike most business areas to which the proposed bills would apply, insurance is subject to intense regulation on behalf of the consumer. The need for private class action is less than in other areas. Inadequacy of private remedies gave rise to insurance regulation in the first place.

Second, insurance departments have established some type of complaint procedure available to the consumer seeking relief from an alleged wrongful practice. As indicated by my earlier summary of powers and sanctions available to the insurance commissioner, he occupies a strategic position possessing extraordinary influence to compel redress of justified complaints (e.g. the possibility of license revocation, public hearing, injunctions, policy disapproval, fines, penalties, etc.).

A few states can illustrate the nature and extent of state insurance department activity in servicing complaints of the insurance public. Among the larger states, for example California, processes approximately 18,400 complaints and investigations per year. In 1969 the complaint bureau in New York City and Albany closed nearly 22,000 complaints and investigations of which 47 percent were unheld or adjusted. In 1969 Illinois opened more than 11,000 cases and closed 10,900 with an indication that approximately 30 percent of the complaints were meritorious. During a three year period ending in 1970 the Pennsylvania Insurance Department's Policyholders Service Division opened nearly 45,000 cases (on average 15,000 cases per year) and closed nearly 38,000 (nearly 12,500 cases per year). Furthermore over the same period it processed 241,000 inquiries (80,000 per year). Among other things, in doing so, the Department assisted Pennsylvania citizens in recovering over $3.6 million by compelling insurers to make refunds to affected blocks of policyholders. This also served as a forceful reminder to insurers and agents to comply with the insurance law in dealing with its customers. Similarly, during the last four or five years, the California Department of Insurance has taken action against admitted insurers that resulted in mass refunds of premiums of $850,000 by an insurer to defrauded members of the public who had purchased policies of insurance by misrepresentation; the filing of an Accusation by the Department of Insurance against a life and disability carrier with the resulting mass refunds of $300,000 to its policyholders and a complete revision of the company's claims practices were made, new auditing procedures were installed and refund of $50,000 was made to its policyholders; and the filing of an action against an insurer for alleged fraud and misrepresentation in the sale of its products with the result that $100,000 was made in restitution of moneys paid and also rescission was made to every person who purchased the company's product.

Smaller states are similarly very active. During 1970, the New Hampshire Insurance Department processed approximately 1,250 claim complaints thereby assisting the people of New Hampshire in recovering some $306,000 in settlements. During the same period, pursuant to our very stringent law regarding the cancellation, nonrenewal, or refusal to write automobile insurance, we reviewed approximately 235 complaints. Early this summer we are going to implement the Oregon practice of sending department personnel around the state on a regular schedule to assist the public with its insurance inquiries or complaints.[15] (Several larger states have permanent multiple offices to better serve their citizens.)

In 1969, the Missouri department received approximately 4,500 complaints. In Nebraska the scope is closer to 2,200. Of course many complaints prove to be invalid or no more than misunderstandings which are cleared up.

These illustrative facts demonstrate that state insurance departments serve as an effective local (and hence readily accessible) vehicle through which the insurance buying public can obtain effective redress. Furthermore, by preceeding through informal as well as formal administrative process, the consumer can seek relief at relatively little or no cost in time or money. Prompt results can be achieved without the necessity of long trials, rules of evidence, employment of counsel, etc.[16]

This is in marked contrast to class actions, which are notoriously slowmoving, which involve elaborate and protracted examinations before trial to secure the facts, and which utilize frequent consultations with the court and extended trials. Consequently, the lawyers' fees are apt to be very large. Months and sometimes years pass before some aggrieved customers obtain refunds, often a relatively small amount. By contrast, in complaints involving insurance companies, investigators paid by the state dig out the facts without cost to the complainant. No law suit is required and no lawyers need be employed, though the complainant may employ counsel if he so desires.[17]

Keeping in mind the extent of insurance department powers and the prompt, effective and inexpensive means of redress through the complaint procedure, on balance the exclusion of insurance would be sounder public policy.

7. Chaotic three part insurance regulation

The enactment of the current version of S. 984 or S. 1378 could lead to chaotic insurance regulation which, in turn, would impede the insurance industry in effectively serving the public. The insurance industry could be subject to a three part regulatory scheme; (1) state regulation coordinated through the NAIC, (2) federal regulation both in terms of federal substantive law and enforcement procedures via the FTC and (3) judicial law stemming from court decisions in class action suits. None of the proposed bills provides for machinery to tie together the case law resulting from independent judicial actions and the regulatory activities to be conducted by the FTC with these activities of the states. If someone intentionally sets out to create anarchy in a regulatory system, a more effective vehicle is hard to imagine. The economic and social system of this nation cannot effectively function without orderly insurance markets regulated in an orderly way. We ask Congress to consider carefully before taking this legislative plunge.

C. SUMMARY AS TO THE M'CARRAN ACT PROBLEM

In short, for several reasons, the NAIC opposes the inclusion of "insurance services" in those federal class action bills which would pose a McCarran Act problem.

(1) Application of the federal government triggering concept to insurance could lead to an adverse effect on the carefully constructed balance between antitrust concepts and the complex system of insurance regulation.

(2) In the area of protecting the consumer against unfair trade practices, there already exists a detailed and comprehensive insurance regulatory mechanism at the state level paralleling that of the FTC.

(3) State insurance regulation provides a wide range of standards, powers, sanctions and remedies which go far beyond those available to the FTC.

(4) The intrusion of a federal regulatory agency would create a duplication and conflicts between state and federal law (both substantive and procedural) at an increased cost to taxpayers. Or, such intrusion might ultimately preempt this regulatory area thereby resulting in a more narrow, less protective system of regulation than that provided by the states.

(5) It would be poor public policy to interject the FTC into complex insurance reg-

---

Footnotes at end of article.

ulation when it is currently overburdened, understaffed and subject to much unanswered criticism, especially when the field is already comprehensively covered at the state level.

(6) While the NAIC has taken no position for or against class actions, intense regulation on behalf of the consumer lessens the need for class actions. Furthermore, the states provide an effective, local, readily accessible complaint mechanism and administrative relief to the consumer which serves as an alternative to class actions.

(7) The proposed legislation provides no means of coordinating FTC, federal court decisions and state insurance department activities. This, in turn, will lead to anarchy in regulation and, hence, diminished insurance industry effectiveness in serving the public need.

Accordingly, we submit that the deletion of "insurance services" by providing an express exemption would be in the consumer and public interest at this time.

FOOTNOTES

[1] See pp. 4 to 6 infra for further exploration.

[2] 59 Stat. 33 (1945); 15 U.S.C.A. Secs. 1011–1015.

[3] "The business of insurance, and every person engaged therein, shall be subject to the laws of the several states which relate to the regulation or taxation of such business." Id. at Sec. 1012(a).

[4] *Id.* at Sec. 1012(b). This section goes on to provide that the Sherman, Clayton and FTC Acts shall apply to the extent that the insurance business is not regulated by state law. However, due to state regulation of Insurance unfair trade practices, the FTC has had trouble asserting jurisdiction under this provision.

[5] As evidence of the extensiveness of the inquiry, we note that the Senate and House Judiciary Committees held joint hearings commencing on Oct. 20, 1943, and continuing through June 23, 1944, covering 6 parts and 642 pages of testimony. In addition, the Congressional Record shows 11 pages of discussion on the Conference Report on Jan. 25, 1945, and 12 pages on Feb. 27, 1945.

[6] 15 U.S.C.A. Sec. 1012(b). See note 4 *supra*.

[7] Reprinted in 2 *Proceedings of the NAIC* 509 (1960). Although prior to 1945 many states had statutes or regulations on false and misleading advertising, the McCarran Act supplied the catalyst for a comprehensive nationwide effort resulting in the Model Act.

[8] See FTC v. National Casualty Co., 357 U.S. 560 (1958).

[9] The general standard and prohibition of the Model Act is very similar to Sec. 5 of the FTC Act. NAIC Model Act Sec. 3 provides that "No person shall engage in this state in any trade practice which is defined in this Act as, or determined pursuant to this Act to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance."

FTC Act Sec. 5 provides that "(a) Unfair methods of competition in commerce, and unfair or deceptive acts or practices to commerce, are hereby declared unlawful."

[10] S. Rep. No. 91–1124, 91st Cong. 2d Sess., August 14, 1970.

[11] When the Consumer Protection Act of 1970 was introduced last session it exempted from the definition of "services" the providing of credit and the adequacy of service of common carriers "to the extent regulated." The Senate Commerce Committee report, August 14, 1970, p. 14, states that these exclusions are "intended to prevent duplicating and possibly contradictory regulation of goods and services elsewhere federally regulated." Clearly the avoidance of duplicatory regulation is sound public policy. It is also federal policy, by virtue of the McCarran Act, to keep insurance regulation in the states. Both existing federal policies, as well as consistency, lead to the conclusion that insurance services should be deleted from the bill.

[12] See pp. 12 to 14 *infra* for additional detail on individual states.

[13] "By law, the FTC's enforcement jurisdiction covers virtually the entire nation. In practice, *the commission has never had financial or manpower resources commensurate with the vastness of its legal jurisdiction.*" Kohlmeir, *The Regulators* 90 (1969).

[14] Annual Report of the FTC: 1968 p. 3.

[15] In February of this year the Oregon Department received 468 complaints, closed 486 complaints of which approximately 50% were valid and recovered $29,500. On an annualized basis, this would translate into closing 4,800 cases and recovering $350,000 which would be slightly more than the $320,000 recovered last year.

[16] Of course, insurance department action is subject to judicial review.

[17] If by any chance the commissioner does not act on the complaint—and such cases are very rare—the complainant can contact his state legislator or governor to get action. Furthermore, the company does business in more than one state, as is usually the case, the insurer knows that its handling of the case must be consistent and must command acceptance by the regulatory authorities in the other states in which it does business. With the availability of this simple, prompt, and inexpensive machinery, and with the existence of the system of checks and balances, it can be argued that expensive and slow-moving class actions would seem to be an expensive luxury in the already extensively regulated insurance business.

Mr. DURKIN. Mr. President, before I began serving as a U.S. Senator, I served 5 turbulent years as insurance commissioner for the State of New Hampshire, and one of the reasons that I got elected as a U.S. Senator was for establishing a national reputation as a consumer advocate. I believe I did prove that insurance commissioners could do an effective job of regulating the insurance industry on behalf of the public.

I think insurance regulation should be left to the States. I think the lowest level of Government that can get the job done should be the highest level to get the responsibility. That opinion has not changed since April 1971 when I testified before the Senate Commerce Committee.

There are plenty of things that the States cannot do. There are things that the Federal Trade Commission can do—investigating the oil industry, for one, and persevering on that investigation without being impeded by the Congress. But the States can effectively regulate insurance at the local level, and have done so.

We all know that some commissioners are more effective and more aggressive as consumer advocates than others. But I believe it would be a mistake to let the Federal Trade Commission get its nose under the tent and involve itself in insurance at this time.

I consider Mike Pertschuk a personal friend and have known him for some time. But some of the stuff that Mike Pertschuk and the Federal Trade Commission are dredging up on insurance today is stuff that, if they want to look at the New Hampshire hearing records, has been the subject of hearings in New Hampshire as early as the fall of 1968.

The way we are going to get effective regulation of insurance across the country, I believe, is to follow the example of New Hampshire. We passed a number of bills which have been adapted across the country. My good friend from Washington (Mr. MAGNUSON) was proposing a Federal guarantee corporation for solvent insurance companies. New Hampshire was the first to set up a program, followed by Michigan and California, and now 45 or 46 States have solvency protection, not just for casualty insurance but life insurance as well.

In many States we have strengthened the Federal Trade Commission Act, the Unfair Claims Practices Act, and the States have far greater powers than the Federal Trade Commission.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DURKIN. I thank the Chair. I believe my statement speaks for itself today as it did in 1971.

I thank the Senator from Kentucky for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield myself 3 minutes.

I understand, Mr. President, what the Senator from Ohio was saying in support of his proposed amendment, but I want to point out that committee members made abundantly clear that they do not want the Federal Trade Commission authorized to conduct investigations merely at the request of any committee or subcommittee or individual Member of Congress. During the colloquy we had on this amendment, the Senator from Missouri (Mr. DANFORTH) indicated that he "would like to make it clear that it would have to be done by an Act of Congress."

He went on to say that he understood my intent in introducing this amendment to "absolutely close any and all loopholes (and) that we are now saying once again to the Federal Trade Commission that we do not want you to instigate any investigations into the insurance business." Senator DANFORTH asked if my intent was to make "absolutely clear that under no circumstances and under no readings of law, no matter how strained, will the Federal Trade Commission get into the business of investigating the business of insurance." I told Senator DANFORTH and I repeat here today that is precisely the purpose of my amendment.

I suggest to the Senator from Ohio, if he feels he does not agree with that section of the bill and the interpretation that we have placed on it, that he should offer his amendment to strike.

Mr. METZENBAUM. Mr. President, at this time, I ask unanimous consent that I be permitted to make a statement in connection with the subject of insurance without actually having called up my amendment, but that the time in connection with that statement be charged against my time if and when I call up the amendment.

Mr. FORD. Reserving the right to object, Mr. President.

Mr. CANNON. May I ask the Senator, do I understand correctly that this is under the time assigned to the insurance amendment, which is 2 hours, and the Senator would be yielding himself time as though that amendment were pending?

Mr. METZENBAUM. The Senator from Nevada is 100 percent accurate.

Mr. FORD. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I follow that procedure so I do not impose upon the time of my friend, the Senator from Kentucky.

Mr. President, I repeated before some of the language that the Senator from Nevada had used in committee. The Senator from Nevada and I are not in disagreement. If we can get the matter resolved that what he said in committee is to be the applicable law, then we have no problem.

The fact is that I did not read that language which he used on page 107 of the transcript, but the issue is not whether or not the FTC can go off on an investigation of the insurance industry on its own. I am not arguing that point. I accept that as a point of view that the committee has made, and I am not insisting that the FTC ought to have the right to do so.

Nor am I suggesting, as the Senator from New Hampshire has intimated, that the Federal Government ought to move in and regulate the insurance industry. Nothing that I have said or proposed or talked about on the floor of the Senate or in any committee has indicated that I am suggesting Federal regulation of the insurance industry.

All I am saying, Mr. President, is exactly what the chairman of the Committee on Commerce said at page 107 when he said, in response to the Senator from Missouri, "I think we can cover this adequately in the report and make it absolutely clear that what we intend is that they will take no action unless they are officially directed by the committee of the Congress having jurisdiction and providing for it."

I agree with that. As long as we are in agreement on that, and I guess that we are, then I do not know whether or not we even need an amendment, because if that is what the Senator from Nevada and the Senator from Ohio and the Senator from Kentucky and the Senator from Missouri are saying, then we are in total accord.

My strong opposition to section 5 of S. 1991 is that it would prevent the Federal Trade Commission from investigating the insurance industry even when the committee of Congress having jurisdiction asks it to do so. This effort to put a halt to the FTC's ability to examine abuses in the insurance business is very dangerous. It will have severe consequences for the millions of policyholders who have been the victims of unfair and unscrupulous insurance practices. This particular cut in the FTC's authority is being justified as one more step in the long march toward less Government regulation.

Frankly, Mr. President, that argument is very, very misleading. This restriction on the FTC authority is nothing more than another attempt by a very powerful special interest group to work its will through Congress. I know firsthand about the harm we shall be causing consumers if we exempt the insurance industry from further examination at the Federal level. Last year, the Antitrust and Monopoly Subcommittee, which I chair, held a series of hearings to investigate allegations of abuse in the insurance industry and to explore how well States regulate the business of insurance. The testimony presented at these hearings was truly shocking.

In March, the subcommittee examined industrial life insurance. Among other things, witnesses pointed out that by targeting sales to the poor and the uneducated, some insurance companies have been able to sell policies at prices two to five times the going rate for comparable coverage. That is not true of the industry generally, but there are segments of it that do just that, and the evidence was clear that they are doing it at this very time.

The poor and the uneducated, who are particularly vulnerable, are often deceived by agents into lapsing ther policies before cash values can accumulate. And it is an all-too-common practice to sell consumers a large number of small policies, rather than a single package that could be had at a lower cost.

Mr. President, at the request of former Congressman John Moss and myself 2 years ago, the General Accounting Office looked into the effectiveness of State insurance regulation, particularly with regard to automobile and home insurance policies. The GAO found serious shortcomings in the States' regulation of insurance. Chief among the problems was the fact that, for the most part, the States were sorely lacking in systematic procedures to determine whether insurance consumers are being treated properly with respect to such matters as claims payments, ratesetting, and protection from unfair discrimination.

Mr. DURKIN. Will the Senator yield just for a question?

Mr. METZENBAUM. I shall be very happy to yield at the conclusion of my remarks.

Mr. DURKIN. I have to preside, so I shall have to listen to it. I cannot question.

Mr. METZENBAUM. I shall be very happy to work out some procedure so the Senator can make his inquiry, but I should like to complete the thrust of my remarks first.

Mr. DURKIN. I shall be very happy to set aside all the time the Senator wants to debate this, at his convenience.

Mr. METZENBAUM. I shall be happy to do so, because I respect the Senator from New Hampshire as one of the abler Members of this body, and formerly an excellent insurance commissioner. Unfortunately, they did not clone him, and all the other commissioners in this country are not nearly as able nor as dedicated as he. As a matter of fact, if we looked throughout the breadth of this country, we probably would find less than half a dozen insurance commissioners who are truly dedicated and determined that they will protect the consumers' interest in the field of insurance.

(Mr. DURKIN assumed the chair.)

Mr. METZENBAUM. The fact is, Mr. President, that there is a revolving-door policy at most insurance commission offices. The insurance commissioners come from the insurance companies and they wind up going back to the insurance companies. The Senator from New Hampshire does not fit that description but there have been hosts of other insurance commissioners who fit that description very well and who have not provided the effective regulation of the industry that is called for.

But we are not now talking about the Federal Trade Commission or the Federal Government regulating the insurance industry. The States have primary responsibility here. But what the FTC has been able to do is to provide Congress, States, and the American public with invaluable information and suggestions for curbing improper and unethical practices in this area.

The FTC has already helped substantially in the effort to make certain that consumers get the most for their insurance dollars. Recently, for example, the FTC released a 2-year study which substantiated the findings of my subcommittee hearings on life insurance cost disclosure. The FTC study reported that life insurance companies hold as much in consumer savings as do savings and loan institutions—almost $140 billion—yet pay consumers an undisclosed and frequently very low interest rate on these holdings—an average return on the order of 1.3 percent on whole life policies.

That finding, that determination, probably caused an avalanche of insurance company lobbyists to come to Washington to say, "We have to get the FTC out of this whole area, we cannot let them report the facts."

And it was the FTC that proposed a model regulation for the States to consider in order to promote more price competition in the life insurance industry and to provide consumers more information on the rate of return they will receive on the policies they buy.

What is so wrong with a Federal agency, requested by a committee of the Congress having jurisdiction over the subject, to attempt to get at the facts? For what purpose? So that there may be more competition in the life insurance industry.

There are 100 Members of the U.S. Senate. There are 435 Members of the House of Representatives. I challenge any one of them to be able to make a responsible, reliable, understandable comparison on the basis of price when they try to buy life insurance, or many other kinds of insurance, for that matter.

But, certainly, in the area of life insurance, there are so many whereases and ifs and exceptions and provisions and extras and nonextras and deletions and exclusions that we cannot make a comparison.

And why not? What is so terribly bad about being able to say, "I want to buy a life insurance policy from one company instead of from another because the rate is less"?

It is one of the major industries in our Nation and it is almost impossible to make a true price comparison.

The FTC is being criticized for trying to help the American consumer in that respect.

The model regulation the FTC proposes would require that consumers be told the rate of return earned on the savings element of cash value life insurance policies if the policy is held 5, 10, 20, or 30 years. And it would require that consumers be told this important information prior to sale.

I say that the fact there is a problem has been recognized by the NAIC, the National Association of Insurance Commissioners, the model bill they sent to the States is so complicated that when we had a witness before our committee who was one of the senior executives of one of the major companies, and I asked, "Do you think your agents would be able to make a comparison based on the formula required under this?", he said, "No, they could not do that."

The model the FTC is proposing would make it easier for consumers to compare life insurance policies offered by different companies. And it would allow them to compare life insurance policies with other financial investments like savings accounts, bonds, and combinations of term insurance and savings programs.

In other words, this FTC effort would encourage competition and help provide to millions of consumers more information about the life insurance they buy.

In addition, the FTC has looked into complaints from consumers and State regulators about abuses in the area of private health insurance policies which are sold to the elderly to supplement medicare. The FTC estimates that 23 percent of the 23 million Americans over the age of 65 have two or more of these "MediGap" policies. As a result, these senior citizens are spending their limited funds for unnecessary, overlapping, and excessively costly insurance coverage. The problem is compounded, the FTC has noted, by misleading sales practices which prey upon the vulnerability of these older citizens and by the low ratio of benefits paid to the premiums collected.

Just the other day, as a matter of fact, this body added an amendment offered by Senator Baucus on this very issue of MediGap insurance. Although it did not go as far as it might have, it was a major step in the right direction to provide some protection for our senior citizens who purchase MediGap insurance.

To me, the FTC's activities in these areas prove just how hollow and misleading are the arguments for eliminating the FTC's investigatory jurisdiction in the insurance field. Critics claim that the agency's involvement with insurance matters directly threatens the states' authority to regulate insurance. And they also claim that the agency's efforts are excessively burdensome.

These arguments cannot stand close examination.

For one thing, how does the FTC's jurisdiction to report on the business of insurance to Congress, the States, and the public jeopardize the States' role as the principal regulators of insurance?

I do not believe it does. On the contrary, it helps State regulation by providing an economical way to accomplish in-depth studies of insurance problems which are national in scope.

Second, has not the FTC's record with respect to insurance shown time and again that the agency is more interested in encouraging competition among insurance companies than in adding to the industry's regulatory burden?

I believe it has.

The arguments against an FTC role in insurance are misleading and they are wrong.

They are being used to mask the real reason for this assault on FTC authority—the fact that this one small Federal agency has been too aggressive, too diligent in uncovering abuses and improper practices in the insurance industry. And there are those in the insurance industry who think they have enough clout, enough power, in Congress to make sure that this thorn is removed once and for all.

The insurance lobby should not have its way at the expense of the American consumer. We in Congress, the State regulators, and every consumer in this country need the resources and expertise of the FTC which would only be available to us at the request of a committee having jurisdiction.

The insurance industry should not be above the law. And it should certainly not be insulated from the investigative eye of the Federal Trade Commission.

That is the reason I have suggested that the language be clear and unequivocal along the lines of the language of the chairman of the Commerce Committee, with which I agree, that if a committee of the Congress having jurisdiction makes a request of the FTC, then an investigation could take place.

I think by doing that, it would prevent the FTC from investigating insurance issues on its own initiatives. It would prevent uncontrolled forays by the FTC into insurance regulatory issues. And it would insure close congressional and executive oversight of the FTC's insurance activities.

At the same time, it would preserve the opportunity for Congress and the President to take advantage of the FTC's unique expertise and resources to examine insurance issues.

Frankly, I cannot believe that this body genuinely wishes to cut off all future opportunity for Congress to avail itself of the FTC's capabilities in this area. That is why I am so pleased at the clarification that was made by the chairman of the committee, in the transcript of the hearing, that the committee having jurisdiction over this subject has the right to make a request of the FTC for an investigation.

As shown by its recent reports on MediGap and life insurance, the FTC can put together materials which are extraordinarily helpful to Congress, State regulators, and consumers.

I believe it is essential that the ability to profit from this invaluable resource not be lost through a legislative ban.

(At this point, Mr. Baucus assumed the chair.)

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. METZENBAUM. I will yield on the time of the opposition or on the time of the manager of the bill.

Mr. CANNON. I yield 5 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Nevada.

I want the Senator from Ohio to know that I strongly resent the implication—while I was acting as Presiding Officer—that I am part of the insurance lobby. I want the record to show that the only halo in the U.S. Senate is not possessed by the Senator from Ohio.

Mr. METZENBAUM. The Senator from New Hampshire knows that I did not suggest that he is part of the insurance lobby. I did not suggest it then; I do not suggest it now. I do believe that the insurance lobby has had great strength around here, but that does not mean that every Member of the Senate who votes in a way contrary to mine is a part of the insurance lobby, and the Senator from New Hampshire is sophisticated enough to recognize that.

Mr. DURKIN. Mr. President, for the edification of the Senator from Ohio, I want the record to show that in 1973 and 1974, the insurance industry took out full-page ads attacking me and attacking some of the proposals I was making.

I do not think this is going to protect the senior citizens. We solved the problem in New Hampshire with a tough advertising regulation, stating that the insurance companies could not advertise anything in a paper that was not contained in the policy.

Neither Art Linkletter nor anyone else could come in, through the Boston and New Hampshire newspapers, with those things that fall out of newspapers, advertising the "purple rocket ship" policies—that if you get hit by a purple rocket ship at noon, you get a thousand dollars a week for life. We took care of that in the State of New Hampshire long before the Federal Trade Commission became involved.

What happens if the Federal Trade Commission reverts to the same Federal Trade Commission that took 9 years to change the label on the Geritol bottle? Then we have the Federal Government preempting State regulation and preventing effective State regulation.

Mr. METZENBAUM. Mr. President, will the Senator yield on my time?

Mr. DURKIN. I am happy to yield.

Mr. METZENBAUM. I think that when the Senator was assuming the chair as Presiding Officer, he did not hear my comments concerning his service in New Hampshire.

Mr. DURKIN. Maybe I need a hearing

aid, and I guess that is covered by the Federal Trade Commission, as well.

Mr. METZENBAUM. What I said was that if every insurance commissioner in the 50 States were as zealous and as committed to the public interest as the Senator from New Hampshire, we would not be concerned about this isssue; I said that the Senator from New Hampshire, when he was insurance commissioner, and a handful of other insurance commissioners in this country have provided yeoman leadership in the field; but that there are more who have not done it than there are those who have done it.

I recognize the fine work that the Senator from New Hampshire has done. My guess is that that is one of the reasons—I hope so—why the people of New Hampshire saw fit to send him here, and I hope they send him back.

Mr. DURKIN. I thank the Senator from Ohio.

Will the Senator from Ohio answer a question? Does the Senator favor repeal of the McCarran Act?

Mr. METZENBAUM. Not only do I favor repeal of the McCarran-Ferguson Act, the antitrust immunity, but also, the President's antitrust commission favors repeal, and the administration favors repeal.

Mr. DURKIN. If the McCarran-Ferguson Act is repealed, will we not end up with a Federal insurance commission?

Mr. METZENBAUM. Not in my view. I never have advocated a Federal insurance commission and am not advocating it at present.

As a matter of fact, we have worked with the chairman of the appropriate committee in the House, the Judiciary Committee, to determine exactly how the gap should be filled. But I never have advocated a Federal insurance commission. I have indicated the possibility of supporting Federal minimum standards, but to retain jurisdiction in the States, if the States come up to those minimum standards.

That would not be a new direction for us to go in, because Congress has done that in a number of other areas.

Mr. DURKIN. I am glad the Senator from Ohio does not recommend a Federal insurance commission, because we might end up with Dr. Schlesinger as Federal insurance commissioner, after he did the job on the Department of Energy.

The Senator from Ohio mentioned that the Federal Trade Commission had taken a number of steps to protect the senior citizens and other consumers. Will the Senator be kind enough to elucidate those for the record? Just what has the Federal Trade Commission done?

Mr. METZENBAUM. The Federal Trade Commission's report on Medigap insurance has been extremely helpful. It was helpful to Senator BAUCUS and to me and to others when that matter was presented to the Senate and was adopted as an amendment the other day.

Mr. DURKIN. Has that interrupted the sale of one of those purple rocket ship policies?

Mr. METZENBAUM. No. I do not think that the Federal Trade Commission, in their efforts, should be interrupting the sale of one policy or causing the sale of one policy. I believe it can be helpful in providing the American people with information so that they may make their own wise decisions.

They also had an excellent report, and that is the one I mentioned in my remarks, which I think caused the insurance industry to react as strongly as it did. It provided for life insurance cost disclosure. The Senator from New Hampshire probably will agree that that would be helpful to the American people. There is no other way to obtain it that I know of.

Mr. DURKIN. I have a certain familiarity with life insurance cost disclosure. Back in 1973, we proposed a regulation on life insurance cost disclosure, but the regulation ended up to be more complicated than the policy itself. One of the methods of disclosure actually would benefit some of the companies that provided the lowest return on the premium, and policies could be tailored to take advantage of one form of the cost disclosure.

I think we all would like more cost disclosure, but how do you make everybody in America a life insurance actuary, with two pages of descriptive material? It may be a desirable goal.

I testified before the committee of the late Senator Phil Hart. My actuary, Jim Hunt, who is now with the Massachusetts insurance department, devoted many hours to this. He is a well-respected actuary.

It is a very difficult process to come up with a cost disclosure that is relevant to the prospective purchaser and not subject to tailoring policies to look good, under the cost disclosure, and still not provide a substantially greater return on the premium.

Mr. METZENBAUM. I think the Senator from New Hampshire will agree with me that he and I have indicated our concerns with respect to the facts pertaining to the energy industry, and we have had great difficulty in finding what those facts are. But that does not mean we do not want to make the effort to get them.

We are dealing with a similar situation here. It is true that the facts are complicated and they may be confusing, but without some body such as this making that information available—particularly when it is requested by a committee of Congress—I know of no other way by which the American people can even try to get the information in order to make that comparison.

Mr. DURKIN. That is where my friend from Ohio and I part company. I think it is a much stronger system and has the potential for being a much stronger regulatory system when you have 54 commissioners trying different ways to improve regulations. There is a certain competition among commissioners, as there is competition among Senators, to be the closest to a consumer group or a particular group.

It gives us the ability. We experimented in New Hampshire. Some things we tried did not work. We were able to drop those. Many of the things we tried in New Hampshire have been enacted in States all across the country: The modifications of the classification system for automobile insurance, postconveyancy assessment, which never existed before, on and on. We have the strongest unfair trade practice act in the country. We can fine companies and take away their license.

What I am afraid the Senator is tending to is a national body to regulate insurance or worse yet a dual body.

One of the best kept secrets in the State of New Hampshire was that I was also securities commissioner as well as insurance commissioner. Most of my responsibilities as securities commissioner involved hassling with the SEC. We had two sets of regulations, many times in conflict.

That is where I parted company with my friend. I think he is headed down the road to Federal regulation of insurance which ironically some of the biggest casualty companies of the company want because they would rather come to Washington and do business with one Federal insurance commissioner than have to do business with 50 State commissioners.

I think one reason we have not had a major countrywide scandal on insurance regulations is that there has not been any Federal insurance regulator to corrupt.

Mr. METZENBAUM. I say to my friend from New Hampshire that I wish that every State had an insurance commissioner who shared his dedication and concern. But I am satisfied from the investigation that I have done in this area, and it goes back about 30 years, that the States just have not been doing their job, with some notable exceptions. The Senator was one of them. Mr. Stone of Massachusetts was one of them. The commissioner down in North Carolina is one of them. There are a few others. I do not mean to say there are not others.

But, as a matter of fact, the GAO just recently came out with a report in which they said very clearly that the States are not doing an effective job of regulation and stated they have neither the time nor the money nor the expertise. That does not mean to suggest either by implication or otherwise that I think the Federal Government should provide the regulation, but I think that information provided to a committee of Congress which has jurisdiction is entirely appropriate and I think that is apparently where we are as the Cannon statement seemed to indicate.

Mr. DURKIN. I am not going to belabor this, but I think the consumer has a better chance of protection when he can bring his grievance to the State capitol and has a greater opportunity to influence the political outcome in State elections, whether it be the House, the Senate, the Council, the Governor, or what have you.

But I do not think the Senator and I are going to agree on that today.

So I thank the managers for the time.

Mr. DANFORTH. Mr. President, it is my understanding that the Senator from Ohio without calling up his amendment asks unanimous consent that the time that he would have used in arguing for his amendment be used in the debate which took place. I wonder if I could get unanimous consent at this time and I ask for unanimous consent that I may be allocated time which otherwise would be in opposition to the amendment for the purpose of addressing this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, my response to the Senator from Ohio is in the nature of a demurrer because I am not interested in particularly debating with him the facts. I am not interested in debating with him his view of the insurance industry or his view of State insurance commissions, or his view of the efficacy of the Federal Trade Commission because to my mind those are not the essential questions that are before us right now.

The questions before us right now have to do with the relationship between the States and Federal Government with respect to the regulation and investigation of the business of insurance and also the way in which Congress makes laws and then either amends or repeals those laws.

In 1945, Congress enacted the McCarran-Ferguson Act, and that act provided as follows: That the Federal antitrust laws shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

Therefore, in the McCarran-Ferguson Act Congress granted to the State governments the power to preempt the business of regulating insurance. It specifically said that Federal antitrust laws, including the Federal Trade Commission law, would not be applicable to the business of insurance so long as it was regulated by State law.

Mr. President, perhaps it is arguable that that was a mistake. I do not happen to believe so personally. I think there are some things that States do well. I am a child of State government myself. I spent years there.

I am not willing to jump to the conclusion that the State governments do not do a good job or that we should vest more responsibility in Washington.

The fact of the matter is that in 1945 this bridge was crossed and the decision was made to get the Federal Trade Commission, among other portions of the Federal Government, out of the business of supervising, regulating, studying, and analyzing the business of insurance.

There was not any specification of what section of the Federal Trade Commission Act was to apply. Section 6, as well as other sections, was deemed inapplicable by virtue of this statute so long as State governments got into the business of regulations which, of course, they are all in.

In 1978 and 1979 the Federal Trade Commission instituted several studies of the business of insurance, including the very controversial study of the life insurance business, and there are a number of people, myself included, and I think probably every member of the Commerce Committee, who believe that that study of the life insurance industry and other insurance studies conducted by the Federal Trade Commission is flatly contrary to the terms of the McCarran-Ferguson Act.

What happens when the FTC begins getting involved in the business of insurance? Is it just a matter of a study? Is it just a matter of some report that is put together to gather dust somewhere?

I think it is more than that. I think that the insurance business was very much shaken and that its reputation was very much shaken by the study of life insurance.

Beyond that, on November 20, the Commerce Committee unanimously voted affirmatively on an amendment, which is now included in this bill, clarifying the lack of authority for the FTC to be engaged in the business of studying insurance. That was on November 20 when that particular vote was taken in the Commerce Committee, clearly stating the view, at least from the standpoint of the committee, that we wanted to clarify what the law was in our opinion.

Then, Mr. President, on January 14 President Carter sent a letter to the Governors of the 50 States. The letter, over the President's signature, said among other things:

> The Federal Trade Commission has recently recommended a model State regulation on life insurance cost disclosure.

And the President then said:

> I am enclosing a copy of the model State regulation and other material which summarizes the key findings and recommendations.

In other words, this study of life insurance was distributed by the President of the United States to the Governors of the 50 States.

What is involved here is a basic matter of comity between the Federal Government and the State governments. First, we give the States the power to preempt the field. Then the President of the United States is busily sending out model regulations to the Governors of the 50 States.

The issue that is before us, that has been raised by the Senator from Ohio, concerns what can committees of the Congress do. The concern here is that if Congress, by law, removes from the Federal Trade Commission the power to investigate the insurance industry, then what kind of steps must Congress take in order to permit the Federal Trade Commission to investigate the insurance industry?

The position of this Senator, I think the position of most, if not all, of the members of the Commerce Committee, was that if a statute duly enacted by both Houses of Congress and signed into law by the President in 1945 removes from the FTC a certain power, then to reinvest into the FTC that same power should take an act of Congress, and that we cannot get into the position of a committee of Congress or a group of individual Members of Congress or even maybe committee staff somewhere requesting the very kind of study, analysis, report, investigation which the McCarran-Ferguson Act forbids by law.

So the basic issue is not the substance of the matter, whether or not it is a good thing to preempt the field. That has already been done, and maybe we should review that. Maybe we should look at that. Maybe there is a case to be made for giving the FTC this kind of jurisdiction. But if that is done it should be done by statute, and it should not be done informally.

It is curious that I wrote Chairman Pertschuk a letter asking him for the history and the authority behind the President's letter to the Governors, and in responding to my letter he wrote me on February 5 saying:

> To my knowledge, prior to the Commerce Committee's October 17, 1979, hearing on the FTC life insurance report, no member of the Committee had ever expressed doubt as to the Commission's authority to conduct such study. Indeed, when I presented the report to the Committee on July 10, neither you nor any other member questioned our jurisdiction to study life insurance.

So the position of Chairman Pertschuk apparently is that silence on the part of members of a committee of the Senate is sufficient to justify an act which is prohibited by the statute itself.

Then the chairman goes on to refer to other, what he calls, positive signals "about our insurance activities," and he talks, for example, about a letter sent in March of last year and signed by three Senators who wrote as members of the Senate Committee on Aging to urge the FTC to continue studying medicare supplement insurance.

So the problem we were talking about when we met in the Commerce Committee in the discussion that the Senator from Ohio has been referring to is to try to make it clear that, as a matter of process around here, as a matter of procedure, it is not proper, in effect, to amend or repeal a statute duly enacted by Congress by informal means, and that if Congress by statute tells the Federal Trade Commission it cannot do something then particular Members of Congress, even a whole committee of Congress, cannot informally repeal or modify or amend the terms of that statute. That is all that is involved here. It is not a matter of trying to please some special interest.

I have been very active in this particular concern solely as a matter of process. I could not care less whether the insurance industry is delighted or infuriated by this. But it just seems to me that one of the problems we get into in Congress is that we lose sight of process altogether, and we begin talking about what objective do we want, and procedure, therefore, has nothing to do with it.

I think that was what was involved with the legislative veto. I think that is the best argument against the legislative veto, that we are so busy trying to scotch tape together some kind of appropriate ad hoc response to what is going on in an administrative agency or what is going on out there in the world that we lose sight of process altogether.

So that is the concern that was reflected in the transcript of the Commerce Committee meeting last November; that was the concern to which I addressed myself at that meeting, and that is the same concern I have today in responding to the Senator from Ohio in his comments about why not let a committee request the FTC to go out and conduct an inquiry.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 1658

(Purpose: To suspend for a period of two years the Federal Trade Commission's current investigation of the automobile industry, but not foreclosing any future investigations of the auto industry under existing statutes)

Mr. EAGLETON. Mr. President, I call up my amendment No. 1658.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an amendment numbered 1658.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Federal Trade Commission shall suspend its current investigation of the automobile industry (file number 761-0083) for a period of two years after the date of enactment of this bill. The suspension of activity shall not foreclose or limit the Federal Trade Commission from conducting any other investigation of, or taking any action against the auto industry, or promulgating any rule or regulation pertaining to the automobile industry.

Mr. EAGLETON. Mr. President, today I had intended to ask for a vote on my amendment (No. 1658) to suspend for 2 years the Federal Trade Commission's current automobile investigation. However, in view of the action taken by the Federal Trade Commission this week, it does not appear to be necessary to pursue the amendment at this time. The Commission's decision to suspend the present subpenas of the automobile industry, and to narrow the scope is a step in the right direction.

In 1979, Congress directed the Secretary of Transportation to conduct an annual comprehensive assessment of the state of the auto industry and its interaction with other segments of our economy. The scope of this annual study will include the competitive structure of the industry.

The Federal Trade Commission has been engaged in a similar study since 1976, and has issued broad subpenas in connection with its study of the "structure, conduct and performance" of auto competition. Critics of the FTC have contended that the subpenas are far too broad. The industry estimates that compliance will cost more than $167 million, or about $30 per new car produced. Furthermore, the FTC conceded in appropriations testimony that they are not investigating any specific violation of law, but in fact, are on what can only be described as a fishing expedition.

My amendment would have suspended for 2 years the FTC's authority to conduct its investigation. That would have given the Department of Transportation time to finish the work mandated by Congress, as well as the Regulatory Council time to finish its current study on the impact of Government regulation on the auto industry.

Just last week, the Wall Street Journal reported another milestone in the auto industry's march down an economically troubled road. The Journal noted that for the first time in history, Japan has displaced the United States as the world's number one auto producer. The latest Japanese production figures are the most recent in a continuing series of upheavals in an industry which touches one out of every five American workers.

Clearly, we need to know the problems facing our auto industry in regard to competition, imports and regulation. The last thing we need are duplicative studies on the same subject matter, and we cannot afford to wait for information while the industry and the FTC fight lengthy court battles over subpenas.

The action by the Federal Trade Commission on Wednesday to narrow substantially the scope of its automobile industry investigation, with consultation of both the Department of Transportation and the President's Regulatory Council, is a welcome effort to avoid duplication in Federal auto studies.

I met with Chairman Pertschuk this week to discuss in greater detail the reduction of this study. For a long time I have been concerned over the burdensome approach the Commission has taken in studying the automobile industry. The chairman has given me this assurances that the Commission's restructured study will be coordinated with similar work being done by the Department of Transportation and Regulatory Council, and will lessen the burden on the beleaguered auto industry. I am hopeful that the fishing expedition of the past 4 years is over, and the Commission and the auto companies can cooperate in a good faith effort to gather this information.

Mr. President, I intend to withdraw my amendment at this time in light of the Commission's action. Frankly, I have some reservations that the FTC study is all that has been promised. In a letter to Chairman Pertschuk on February 4, 1980, I asked that I be advised in more detail the nature of the Commission's action. I plan to follow more closely the agency's work in the weeks ahead.

Congress and the American consumer will be well served by the information that these Federal studies can provide. The FTC has an important task to perform. It is time that it gets underway in a cooperative spirit.

Mr. President, I ask unanimous consent that a letter dated February 4, 1980, from me to Chairman Pertschuk, and a response dated February 7, 1980, from Chairman Pertschuk to me be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., February 4, 1980.
Mr. MICHAEL PERTSCHUK,
Chairman, Federal Trade Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate your coming by to discuss the Commission's proposed plans for restructuring its present investigation of the U.S. automobile industry.

As you know, all of the automobile companies have complained about the enormous cost of the present study and its general lack of focus. I, too, am concerned about these matters, especially with the industry facing a serious market decline and in view of the fact that both the Department of Transportation and the Regulatory Council are embarked on independent studies of the auto industry.

I appreciated hearing from you that the Commission is now prepared to withdraw its subpoenas and to sharpen the focus of its concern by issuing a new resolution. While I realize that any recommendation must be approved by your fellow Commissioners, I nevertheless would appreciate having a more detailed understanding of the study's new direction. Specifically, I would like to have your response to the following questions:

1. In dollar amounts, what kind of reduction is the Commission contemplating?

2. What will be the specific questions addressed in the new study?

3. How will the new FTC study coordinate with the ongoing DOT and Regulatory Council studies?

4. Would the proposed cooperative effort not have a greater chance of success if the FTC's participation is on a voluntary basis, without the use of compulsory process?

5. Will the Commission study the effects of the structure of major foreign producers on the U.S. market?

Your earliest response will be appreciated.

Sincerely,

THOMAS F. EAGLETON,
U.S. Senator.

FEDERAL TRADE COMMISSION,
Washington, D.C., February 7, 1980.
Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: Thank you for the recent opportunity to discuss with you the Commission's plans to narrow the focus of its pending antitrust investigation of the automobile industry. I do appreciate the concerns you expressed during the discussion, and I welcome the further opportunity your letter of February 4th provides for addressing the issues you raise.

The Commission has focused the investigation to discover whether violations of the antitrust laws have occurred, and, in particular, to determine whether economic efficiency or illegal exclusionary conduct accounts for the continuing dominant positions of the market leaders, especially General Motors Corp.

The investigation, although now more narrowly defined, will, as it has from its inception, require information from the major foreign firms which market automobiles in the United States. These foreign auto companies collectively occupy a substantial share of the U.S. market and significantly affect events in the industry.

Below are the questions you asked in your February 4th letter and my answers to each question.

"1. In dollar amounts, what kind of reduction is the Commission contemplating?"

Because the Commission does not have direct access to the companies' files and personnel I am simply unable to provide a dollar figure for the reduced costs of complying with the cutback subpoenas contemplated by the Commission. The best estimate I can provide is based on the percentage reduction in categories of information the subpoenas seek.

In previous actions, the Commission had reduced the burden of the original Ford subpoena by approximately 50 percent and the burden of the original Chrysler subpoena by approximately 75 percent.

(Chrysler is not presently challenging the burden of the subpoena.) As a result of the Commission's action yesterday, we are confident that the burden of the Ford and General Motors subpoenas will be reduced by perhaps as much as 70 percent (Ford by an additional 20 percent) and the Chrysler subpoena by an additional amount. The AMC subpoena is being withdrawn pending production of documents under a limited subpoena to AMC's primary lender. After review of the material produced, the Commission will decide whether additional information should be sought from AMC. In addition, the Volkswagen subpoena will be substantially reduced.

One way in which we will reduce the burden of the subpoenas is to limit the amount of historical information requested. In general, the subpoenas will seek information for the last ten years, although it will probably be necessary to seek certain financial information for the last fifteen years. In addition, we may seek documents concerning meetings of certain corporate committees and other limited information going back further in time.

With regard to the dollar estimates of compliance provided by the auto companies, I can only say that in this and other investigations such estimates have sometimes been substantially greater than actual costs. A good example of such inflated estimates in similar circumstances was noted by the court in the Line of Business litigation. *In re Corporate Patterns Report Litigation*, 1977–2 Trade cases (CCH) ¶ 61,544 (D.D.C. 1977), *aff'd sub nom. In re FTC Line of Business Report Litigation*, 1978–2 Trade Cases (CCH) ¶ 62,152 (D.C. Cir.), *cert. denied*, 439 U.S. 958 (1978).

"2 What will be the specific questions addressed in the new study?"

The narrowed focus of the investigation is whether violations of the antitrust laws have occured, and, in particular, whether economic efficiency or illegal exclusionary conduct accounts for the continuing dominant positions of the market leaders, especially GM. In both of these areas, specific issues are to be resolved. With regard to the relative market positions of the firms, the Commission is seeking to determine the degree to which market shares and differential profits may be indicative of economies of scale achieved by the largest firms through production, distribution and other size-related cost advantages. If the leading firms' market positions and possibly differential profits seem not to be explained by technological and economic factors, the Commission will seek to examine: (1) whether GM has employed rapid style change to the disadvantage of small firms who may be forced to try to keep up with the market at greater expense; (2) whether the exclusive dealership system has had anticompetitive effects on some smaller firms; (3) whether the greater degree of vertical integration of the leading firms may have been used to inhibit or foreclose other firms from entry or growth in the industry; and (4) whether other possibly exclusionary conduct indicates violations of the antitrust laws. The Commission's investigation will address these long-standing questions in the most efficient and least burdensome manner possible—including the use of subpoenas—and will, in the process, contribute toward the analyses and studies being conducted by DOT and the Regulatory Council.

"3. How will the new FTC study coordinate with the ongoing DOT and Regulatory Council studies?"

DOT plans three studies: a six month assessment of Chrysler's long term viability, an annual comprehensive assessment of the state of the automobile industry and its interaction in an integrated economy, and a further nine month study requested by the President. Because of the complex nature of the questions to be studied and the study deadlines, DOT has indicated that it will call upon agencies throughout government for expertise. Because of the Commission's expertise in questions of competition in the automobile industry, the Commission will stand ready to assist DOT in designing its studies. After discussions between myself and Secretary Goldschmidt, we agreed that the Commission's investigation will not duplicate the DOT studies.

One of the fundamental questions of the Commission's investigation concerns the necessary scale of operations of automobile manufacturing. The long-term viability of Chrysler and the other U.S. automobile manufacturers may depend upon the answer to that question. The Commission's investigation will deal with the question of optimal scale and DOT can use that analysis in its later reports.

In addition, the scale economy data we are seeking by subpoena relates to the controversial issue of whether government regulation has imposed upon smaller firms a cost disadvantage. As a member of the Automobile Committee of the Regulatory Council, the Commission has participated in discussions concerning the conduct of a study of the impact of government regulation upon the automobile industry. While no final decision has been made regarding the study, it is expected that the Regulatory Council will proceed and will draw upon the Commission's expertise on competitive questions. The information developed in the Commission's investigation will be useful not only to DOT and the Regulatory Council, but also to Congressional policymakers.

"4. Would the proposed cooperative effort not have a greater chance of success if the FTC's participation is on voluntary basis without the use of compulsory process?"

I believe exclusive reliance on a voluntary approach is not feasible. Subpoenas are the customary approach for obtaining confidential information from businesses for law enforcement purposes because firms usually are unwilling to produce sensitive financial and product information in the absence of a subpoena. Since the automobile investigation began the automobile firms have made it clear that they would not produce documents absent a subpoena. On the other hand, it should be emphasized that more recently there has been excellent cooperation by Chrysler in narrowing its subpoena once it had been issued. By making personnel available and showing staff samples of the documents called for by the subpoena, the burden of the Chrysler subpoena was reduced by 75 percent. In fact, Chrysler is no longer contesting the burden of the subpoena. (It should be noted that the burden of the Chrysler subpoena will be further reduced as the result of the refinement of the investigation).

The Commission has directed the staff to redraft the subpoenas and the resolution authorizing compulsory process. After the redrafting, the automobile firms will be given an opportunity to comply voluntarily with the subpoenas and staff will be available to discuss the nature of the information requested. We invite the firms to use that opportunity, as Chrysler did in the past, to work with the staff to further narrow the documents requested. Staff has asked all the companies at various times in the past to engage in such an effort.

"5. Will the Commission study the effects of the structure of major foreign producers on the U.S. market?"

Because foreign firms have had a significant effect on the U.S. auto industry, the Commission has from the outset of the investigation sought information from the foreign firms selling automobiles in the United States.

The Commission staff is following a carefully planned approach to acquiring the necessary information regarding foreign automobile manufacturers. Interviews were held with personnel of the major auto import companies. These were followed by 22 investigational hearings with top executives of these importers.

Based in part on information obtained from these hearings and interviews, the Commission has issued subpoenas *duces tecum* to the U.S. subsidiaries of our foreign manufacturers who compete in the United States, Toyota, Nissan (Datsun), Honda, and Volkswagen. These companies sold over 1.6 million new cars in 1979 and accounted for 70 percent of imported new car sales (15.3 percent of total new car sales) in the United States.

The intent of all the subpoenas is to request the same type of information as requested from the domestic firms, including such subject areas as corporate organization, profitability, pricing practices, marketing, advertising, product planning, dealership system, plans to manufacture or assemble cars in the U.S. None of the subpoenas issued in this investigation, however, seeks precisely identical types of information from all companies. Because of the wide range in their size, market share, and importance, subpoenas to the domestic firms vary in terms of the information sought. Similarly, the subpoenas to the import companies are not identical to the subpoenas issued to the domestic companies. The subpoena to Volkswagen does contain requests for information pertaining to manufacturing and scale economy issues but these requests are necessarily limited to the recent years Volkswagen began assembling cars in the U.S. Similarly, the time period of the import subpoena is limited by the fact that none of these companies became significant factors in the U.S. market until the early 1960's. Indeed, Japanese firms, which now sell about 70 percent of the cars imported into the United States, did not become important until the late 1960's.

I hope this letter has adequately responded to your questions. I and the Commission's staff obviously stand ready to discuss the automobile investigation with you or your staff at any time.

By direction of the Commission.

MICHAEL PERTSCHUK,
Chairman.

Mr. EAGLETON. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PROXMIRE. Mr. President, as chairman of the Senate Banking Committee, which has a longstanding involvement in insurance sold or promoted by creditors, I would like to obtain a clarification on section 5 of S. 1991.

I am sure that the Senate Commerce Committee did not intend to preempt the Banking Committee from continuing to rely on the expertise of the FTC in these areas.

I want to ask Senator CANNON: Is my understanding correct that section 5 does not preclude the Banking Committee from requesting investigations and studies from the FTC under the Truth in Lending Act and the Equal Opportunity Credit Act?

Mr. CANNON. The Senator from Wisconsin is correct. There is no intent in section 5 to affect any authority given to the FTC under the Truth in Lending

Act and the Equal Credit Opportunity Act.

Mr. PROXMIRE. Mr. President, I thank the chairman very much. That is very helpful.

Mr. CANNON. Mr. President, what is the time situation?

The PRESIDING OFFICER (Mr. HART). The Senator from Nevada has 77 minutes and the Senator from Missouri has 111 minutes remaining.

Mr. CANNON. That is on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. CANNON. Mr. President, is there any unused time remaining on the amendment which is not an amendment yet?

Mr. METZENBAUM. Thirty-five minutes.

The PRESIDING OFFICER. If the amendment is offered, the Senator from Ohio has 35 minutes; the opposition has 42 minutes.

Mr. CANNON. Mr. President, I might say on behalf of the opponents to the amendment that has not been offered, we are prepared to yield back our time if the amendment is not going to be offered.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, it is my understanding that the Senator from Mississippi has an amendment.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I think the Senator from Mississippi wishes to be recognized for the introduction of an amendment.

UP AMENDMENT NO. 965

(Purpose: To amend S. 1991 to amend the Federal Trade Commission Act to reduce the paperwork for small businesses under the Quarterly Financial Report program)

Mr. COCHRAN. Mr. President, I have an amendment which I send to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN), for himself and Mr. LEAHY, Mr. HATCH, and Mr. MUSKIE, proposes an unprinted amendment numbered 965.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, line 5, after "3." add "(a)".

On page 40, between lines 20 and 21, add the following:

(b) Section 6 of the Federal Trade Commission Act is further amended by adding at the end thereof the following:

"(j) On or before October 31, 1980, the Federal Trade Commission shall reduce the number of small businesses required to participate in the Quarterly Financial Report Program to 75 percent of the small businesses participating in the program as of the date of enactment of this Act, in each of the following categories: manufacturing, mining, retail and wholesale operations. The Commission, in consultation with small businesses required to respond or potentially required to respond shall establish a significantly simplified filing form which is used in such program.".

(Mr. TSONGAS assumed the Chair.)

Mr. COCHRAN. Mr. President, I am offering an amendment aimed at reducing paperwork burdens currently being shouldered by our Nation's small businesses.

I would ask unanimous consent at this point, Mr. President, that the following Senators be listed as cosponsors of the amendment: Senator LEAHY, Senator HATCH, and Senator MUSKIE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, a couple of weeks ago I received a letter from a constituent of mine in Mississippi. He operates a small manufacturing firm. He received notice from the Federal Trade Commission advising him that he had been selected to participate in the quarterly financial report program of the Federal Trade Commission.

The cover letter, which he sent to me, informed him that the report was mandatory and "with no exception;" that he had 25 days to complete the report; and he subsequently learned that failure to file the report was punishable by a fine of $100 per day.

The report itself is intricate and involved. I have sent a "Dear Colleague" letter to all the Members of the Senate, and I have attached a copy of this report with the instructions from the Federal Trade Commission which purport to explain how you fill out this questionnaire.

Among the items required to be divulged are quarterly sales, receipts and operating revenues, depreciation, depletion and amortization of property, plant and equipment, operating expenses, extraordinary gains and losses, retained earnings, cash and demand deposits inside and outside the United States, securities held, inventories, total assets, short- and long-term loans, trade accounts and trade notes payable, income taxes accrued—prior and current years, and on and on.

I ask unanimous consent, Mr. President, that a copy of the report and the instructions of the Federal Trade Commission be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INSTRUCTIONS—PLEASE READ BEFORE COMPLETING THIS REPORT

(For purposes of this report, domestic operations refer only to those located within the 50 States and the District of Columbia; e.g., an export to another country or a U.S. possession is a domestic operation, while manufacturing in another country is a foreign operation.)

RULES FOR CONSOLIDATION

Consolidate the domestic operations of every corporation which is taxable under the U.S. Internal Revenue Code and is owned more than 50 percent by your corporation and its majority-owned corporations, and consolidate every DISC (Domestic International Sales Corporation) which is owned more than 50 percent by your corporation and its majority-owned corporations. Except—

Do not consolidate:

Foreign entities, either corporate or noncorporate;

Foreign branch operations (see instruction below);

Domestic corporations primarily enaged in foreign operations; and

Domestic corporations primarily engaged in banking, finance, or insurance (as defined in major groups 60 through 63 and in group 672 of the Standard Industrial Classification Manual, 1972 edition).

Consolidation is optional for any domestic corporation required to file quarterly financial statements with the Interstate Commerce Commission, Civil Aeronautics Board, Federal Communications Commission, or Federal Power Commission. If you do consolidate any of these corporations in this Federal Trade Commission report, you are required to submit with this report a copy of the corresponding quarterly financial statement filed with the respective regulatory agencies.

REPORTING ON NON-CONSOLIDATED DOMESTIC AND FOREIGN OPERATIONS

Foreign branches. Report the net income (or loss) of foreign branches in item 9 and the equity in foreign branches in item 27.

Non-consolidated entities (foreign or domestic). If you use the equity method of accounting, report in item 9 your equity in earnings (or losses) of all non-consolidated domestic and foreign entities and investments; report the investment in these entities in item 27. If you do not use the equity method of accounting, report the dividends received in item 6; the investment in item 27.

SPECIAL INSTRUCTIONS FOR SELECTED ITEMS

21b. Federal agency securities. Include: debentures and participation certificates of all Federal agencies and Federally-sponsored agencies including GNMA, CCC, Exim-bank, FHA, TVA, Department of Defense, Banks for Co-ops, FICB, FHLB, FHLMC, FLB, FNMA, and Postal Service; and notes insured by Farmers Home Administration, GNMA, or other agencies.

24. Inventories. Report book value of all inventories. Include: finished products; work-in-process; and materials, supplies, fuels, etc. Exclude: land, buildings, and other real estate and securities held for resale; these should be reported in item 25.

26a. Depreciable and amortizable fixed assets, including construction in progress. Report gross value (acquisition or original cost or other basis) of all depreciable and amortizable fixed assets. Include: all improvements and new construction in progress but not yet completed; all fixed assets owned by your company and its consolidated entities that are leased or rented to others; capitalized exploration and development costs of mineral properties.

26b. Land and mineral rights. Report gross value (acquisition or original cost or other basis) of all land, except land held for resale. Include: timber and mineral rights except capitalized exploration and development costs of mineral properties.

Please read instructions before completing this report.

Audited figures are not required. Estimates may be used wherever necessary.

Schedule A. Statement of income and retained earnings for your 3-month period from ———, 19— to ———, 19—, inclusive.

(Report all dollar figures in thousands)

1. Sales, receipts, and operating revenues (net of returns and allowances), including excise and sales taxes, $——.

2. Excise and sales taxes included in item 1, $——.

3. Depreciation, depletion, and amortization of property, plant, and equipment, $——.

4. All other operating costs and expenses (net of purchase discounts), including selling, general, and administrative expenses, $——.

5. Income (or loss) from operations (item 1 less items 2, 3, and 4), $——.

6. Non-operating income (dividends, interest, rent, royalties, etc.), $——.

7. Non-operating expenses (interest, etc.), $——.

8. Income (or loss) before income taxes and extraordinary items (items 5 and 6 less item 7), $——.

9. Net income (or loss) of foreign branches and equity in earnings (or losses) of domestic and foreign non-consolidated entities and investments accounted for by the equity method, net of foreign taxes, $——.

10. Provision for current and deferred domestic income taxes on items 8 and 9 (accumulate credits in items 32 and 36):

a. Federal, $——.

b. Other, $——.

11. Income (or loss) after income taxes (items 8 and 9 less items 10a and 10b), $——.

12. Extraordinary gains, less applicable income taxes of $——.

13. Extraordinary losses, less applicable income taxes of $——.

14. Minority stockholders' interest in income (or loss) of consolidated corporations, $——.

5. Net income (or loss) for quarter (items 11 and 12 less items 13 and 14), $——.

16. Retained earnings at beginning of quarter (if not the same as item 38b of report for preceding quarter, explain below), $——.

17. Cash dividends charged to retained earnings in current quarter, $——.

18. Other direct credits (or charges) to retained earnings (net), including stock and other non-cash dividends, etc., $——.

19. Retained earnings at end of quarter (same as item 38b), $——.

Schedule B. Balance sheet as of ——, 19— (The same as ending date of Schedule A above).

ASSETS

20a. Cash and demand deposits in the U.S., $——.

b. Time deposits in the U.S., including negotiable certificates of deposit, $——.

c. Deposits outside the U.S.:

21a. U.S. Treasury securities (i) Subject to agreements to sell, $——.

(ii) Other, due in 1 year or less, $——.

(iii) Other, due in more than 1 year, $——.

b. Federal agency securities (i) Subject to agreements to sell, $——.

(ii) Other, due in 1 year or less, $——.

(iii) Other, due in more than 1 year, $——.

22a. Commercial and finance company paper of U.S. issuers, $——.

b. State and local government securities due in 1 year or less, $——.

c. Foreign securities due in 1 year or less, $——.

d. Other short-term financial investments, including bankers' acceptances, $——.

23a. Trade receivables from U.S. Government, $——.

b. Other trade accounts and trade notes receivable (less allowances for doubtful receivables), $——.

24. Inventories, $——.

25. Current assets not elsewhere specified, $——.

26a. Depreciable and amortizable fixed assets, including construction in progress, $——.

b. Land and mineral rights, $——.

c. Accumulated depreciation, depletion, and amortization, $——.

d. Net property, plant, and equipment (items 26a and 26b less item 26c), $——.

Non-current assets not elsewhere specified, including investment in non-consolidated entities, other long-term investments, intangibles, etc., $——.

Total assets, $——.

LIABILITIES AND STOCKHOLDERS' EQUITY

Short-term loans (original maturity of 1 year or less), a. Loans from banks, $——; b. Commercial paper, $——; c. Other short-term loans, $——.

Advances and prepayments by U.S. Government, $——.

Trade accounts and trade notes payable, $——.

Income taxes accrued, prior and current years, net of payments, a. Federal, $——; b. Other, $——.

Installments, due in 1 year or less, on long-term debt (Classify non-current portion in item 35), a. Loans from banks, $——; b. Other long-term debts, $——.

Current liabilities not elsewhere specified, including excise and sales taxes, and accrued expenses, $——.

Long-term debt due in more than 1 year, a. Loans from banks, $——; b. Other long-term debt, $——.

Non-current liabilities not elsewhere specified, including deferred income taxes, $——.

Minority stockholders' interest in consolidated domestic corporations, $——.

Capital stock and other capital, $——.

Retained earnings (same as item 19), $——.

Treasury stock, at cost, $——.

Stockholders' equity (items 38a and 38b less item 38c), $——.

Net liabilities and stockholders' equity, $——.

This report is required by Law (15 U.S.C. 46). It will be used only in combination with reports from other corporations to estimate national totals to be received in and afforded confidential status and will not be available for use in any Commission adjudication or in connection with any investigation for purpose of initiating adjudicative proceedings except as they relate to legal action for failure of a corporation to submit a timely and acceptable report.

Within 25 days after the end of the period for which this report is requested, complete and return one copy in the enclosed envelope. Timely transmittal is required to meet rigid deadlines for publishing the results of this survey. No exception can be made.

This report is for your 3-month period:

If your annual closing date is in—

March, June, September, or December, you should report for—your 3-month period* which ended in——.

February, May, August, or November, you should report for—your 3-month period* which ended in——.

January, April, July, or October, you should report for—your 3-month period* which ended in——.

Consolidate the domestic operations of those majority-owned corporations that are specified in the enclosed instructions and Rules for Consolidation. Do not consolidate those explicitly excluded. (Please read the enclosed instructions before completing this report.)

Audited figures are not required. Estimates may be used wherever necessary.

Report all dollar figures in thousands.

1. The person to contract regarding this report is —— ——.

2. This corporation's annual closing date is —— —— and it currently reports income and payroll taxes under Employer Identification Number(s) —— ——.

3. This corporation (check one): ☐ is active. ☐ discontinued business on ——.

4. This corporation (check one): ☐ is not owned more than 50 percent by another corporation. ——. ☐ is owned more than 50 percent by ——.

5. This corporation (check one): ☐ does not own more than 50 percent of any other corporation. ☐ directly or indirectly owns more than 50 percent of ☐ corporations consolidated in this report and ☐ corporations not consolidated in this report. (Explain in space at right any change from previous report, including name, State where incorporated, date of incorporation, and Employer Identification Number(s) of each majority-owned corporation involved. Reconcile the number of corporations not consolidated indicating the specific broad category involved, i.e., foreign corporation; banking, finance or insurance; or reporter to regulatory agency. See instructions.)

---

*Companies on a 13-period year should submit a 16-week report for the third quarter of their fiscal year and 12-week reports for the other quarters.

Mr. COCHRAN. Mr. President, aside from the question of privacy, which is, in my mind, a very real question, there is the problem of the burden imposed on small businesses, such as that operated by my constituent and constituents of all Senators. For 2 years this person is going to be required to fill out this sophisticated, detailed report. He has to fill it out on a quarterly basis. It is just like requiring him to file his income tax return every quarter for 2 years instead of simply filing it once a year; without any consideration whatsover as to the accounting method that he may be using in his business; with the full consent of the Federal Government, the Internal Revenue Service; without any regard for whether his fiscal year is the calendar year or whether he has chosen to elect a different fiscal year.

I suggest, Mr. President, that it is time the Members of the Senate respond to the very real problem that we have, illustrated by this kind of reporting requirement that is imposed on small business men and women in this country.

My constituent, just like many constituents who are forced to file this kind of report, does not have a full-time accountant working on his staff. He does not have an in-house legal counsel. He has to hire somebody, or a staff of people, to come in and help fill out this very complicated, hard-to-understand and detailed report.

He is going to have to spend hours of his own personal time going over his records, reviewing these documents, looking at this form, making sure that what is submitted to the Government is accurate.

He has to value his inventory and, essentially, compute his taxes four times every year. In the long run, he will probably cost himself a lot of money because of inattention to his regular problems of running a business, trying to cope with the economic realities of life, including a high rate of inflation which has been imposed on him by his Government, in my judgment, a very high tax burden, and other complicated rules and regulations which are being sent out by Federal agencies and by State governments.

My amendment essentially does two things: By October 31, 1980, the number of small businesses required to participate in the program would have to be reduced by 25 percent below the current level; the report would have to be significantly simplified after consultation with current and prospective participants.

By small businesses, I mean those firms which currently are required to report for 8 quarters under the FTC rules. Large firms, I understand, are permanently required to file once they are in the program.

I might add, Mr. President, that this amendment falls squarely within the recommendations made by the Government Accounting Office last May when they reviewed the program under the Federal Reports Act. In the GAO analysis they said:

> We urge you to take all reasonable steps to reduce the number of small business participants and to make filing by small businesses easier.

I think we need, by Senate action, to underscore the recommendation made by the GAO. We need to impose a congressional mandate which would require specific action to be taken on this very important matter.

There was a similar evaluation of this program reflected in the report of the Commission on Federal Paperwork in June 1977. In that report, it states:

> Smaller firms appear to have the most difficulty meeting QFR reporting requirements. Many small firms do not prepare quarterly financial statements, have limited resources to gather the data requested, and have minimal information systems.

I know the Government has a need to keep up with what is going on out there in the business world in America. We need to keep tabs on the economy. There are some legitimate reasons why Federal agencies should pay close attention to the health and vitality of small businesses. But what worries me, Mr. President, is that by imposing these strenuous, burdensome, expensive regulations and requirements on small businesses, we are doctoring the patient to the extent that we are about to kill him. We keep examining and examining to see where the economy is hurting, whether unemployment is growing in the small business area or not, and we are examining the patient to death. These small businesses cannot continue to withstand the burden and expense of the help they are getting from the Federal Government.

It is kind of like that story they tell down home, Mr. President, about the three biggest lies that you will hear.

One is, "My check is in the mail."

Another is, "I will pay you Saturday."

The third is, "I am from the Government and I am here to help you."

Well, the point is, Mr. President, that the Government is about to give small business all the help small business can stand, and this kind of quarterly reporting requirement is too burdensome. We can do something positive about it. We can reduce the numbers of small businesses that have to be subjected to this kind of burden by 25 percent by voting for this amendment.

That is a small contribution that this Senate can make to helping relieve a very real and genuine burden that is imposed by this Commission on small businesses.

I very seriously invite the attention of my colleagues to this amendment. I believe it is appropriate that we pass it. I hope that maybe we can encourage the leadership of the committee to accept this amendment.

Mr. President, I ask unanimous consent to add as a cosponsor to the amendment the distinguished Senator from New Hampshire (Mr. DURKIN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I reserve the remainder of my time.

Mr. DANFORTH. Mr. President, I believe this to be an excellent amendment. I am prepared to support it and to fight for it in conference. I think this is exactly the right kind of approach to take. The American people are being overburdened by paperwork. This is a commendable effort to reduce that burden.

Mr. FORD. Mr. President, I have no reason to object to the reduction of paperwork. I would be very hopeful that the Senator from Mississippi could assure me that the need for this vital information, as it relates to other businesses, would not be jeopardized. Could the Senator from Mississippi assure me that with the reduction of this paperwork and the elimination of a certain number of businesses, the ability of the Department of Commerce, the Federal Reserve Board, HUD, the Council of Economic Advisers, and others to make projections and understand them would not be jeopardized?

Mr. COCHRAN. If the Senator will yield, I cannot say that they would not want to survey every small business and argue that the more small businesses they have participating in a reporting program like this, the better quality of information they are going to have. But I can assure the Senator, I think, that the simple reduction by 25 percent would not, in the opinion of this Senator, impair the ability of the Government to make those kinds of decisions that it has to make based on economic data that it does receive under this survey.

I cannot speak for the departments or the agencies downtown. I understand that the Department of Commerce does not support the amendment, I have to say to the distinguished Senator.

Mr. FORD. Is the Senator aware that the number of companies required to participate in the program have been significantly reduced, I think within the last year, that categories of about 3,100 small businesses have been freed from the reporting requirements?

Mr. COCHRAN. If the distinguished Senator will yield further, I do not have that information. I do have information that indicates that, at this time, there are between 7,600 and 8,500 of the 15,000 participants in this program which are in the category of small business. We are talking about an actual reduction under this amendment in those numbers of participants of between 1,900 and 2,100 small businesses.

Mr. FORD. But already 3,100 have been relieved.

Mr. COCHRAN. I do not have that information. If the Senator has that information, I cannot argue with him. I am suggesting that, since 1976, the FTC has been saying that it is going to reduce the number of participants, but my information is that they really have not. The Federal Paperwork Commission project back in 1976, said that the FTC said it was in the process of reducing the number of small businesses and simplifying the form. But to this Senator's knowledge, there is no evidence of any progress that has been made by the FTC since that time.

Mr. FORD. I am in sympathy with the Senator's amendment. I find myself in the same position I have been all along. If this particular amendment had not been taken up before the committee during our discussion, I would have been in the position of opposing it. But any company that has less than $10 million in assets is now replaced after 2 years' participation in the program. Is that the Senator's understanding, that all small businesses, and small business in this category is $10 million or less, will only have to participate for 2 years?

Mr. COCHRAN. My understanding is that the cut-offs for small businesses under the program are, for a manufacturing business, $10 million in assets; for a mining business, $25 million; for a retail business, $25 million; for a wholesale business, $25 million. So the cut-off recited by the Senator from Kentucky, the chairman, refers only to manufacturing businesses.

Mr. FORD. Mr. President, I ask unanimous consent that the time under the quorum not be charged to the amendment or the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, the Senator from Mississippi, I believe, wants to modify his amendment. If he will do that, I believe the managers of the bill can support it wholeheartedly.

Mr. COCHRAN. Mr. President, I ask unanimous consent to modify the amendment by changing the date shown on line 5 as October 31, 1980, to October 31, 1981.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

> On page 40, line 5, after "3." add "(a)".
>
> On page 40, between lines 20 and 21, add the following:
>
> (b) Section 6 of the Federal Trade Commission Act is further amended by adding at the end thereof the following:
>
> "(j) On or before October 31, 1981, the Federal Trade Commission shall reduce the number of small businesses required to participate in the Quarterly Financial Report Program to 75 percent of the small businesses participating in the program as of the date of enactment of this Act, in each of the following categories: manufacturing, mining, retail and wholesale operations. The Commission, in consultation with small businesses required to respond or potentially required to respond shall establish a significantly simplified filing form which is used in such program.".

Mr. COCHRAN. Mr. President, I ask unanimous consent to add as a cosponsor to the amendment the distinguished Senator from New Hampshire (Mr. HUMPHREY).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I have no one else who wants to talk on this side. Before I yield back the remainder of my time, I might say we have only three more amendments; we need Senator JEPSEN, Senator PROXMIRE, Senator WEICKER. We have a colloquy by Mr. LEVIN, and Senator DOLE would like to have 3 minutes.

Mr. President, if the Senator from Mississippi is willing to yield back his time——

Mr. COCHRAN. I yield back my time.

Mr. FORD. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment .

The amendment was agreed to.

Mr. FORD. I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask to have the Senator from Kansas recognized for 3 minutes and then the Senator from Connecticut for his amendment.

UP AMENDMENT NO. 966

(Purpose: To define unfair and deceptive acts and practices.)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask that it be stated. I shall withdraw it later.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 966.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

DEFINITION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES

SEC. 25. Section 5(a)(1) of the Federal Trade Commission Act is amended by adding at the end thereof the following:

"An act or practice shall be deemed deceptive only if the Commission is able to show that (i) the act or practice is misleading to a reasonable person, or (ii) a substantial number of people have relied to their detriment upon such act or practice.

"An act or practice shall be deemed unfair only if the Commission shows that (i) the act or practice does cause actual injury to a substantial number of consumers who behave reasonably in protecting their own interests, and (ii) the act or practice is reasonably widespread."

INTENSE LOBBYING

Mr. DOLE. Mr. President, consideration of this Federal Trade Commission bill has been dominated by the discussion of provisions and amendments aimed at exempting specific groups and interests from the scrutiny of the Federal Trade Commission. These groups have literally swamped the Halls of Congress with lobbyists and information in an effort to convince those of us in the Senate that the FTC's investigation of their industry is unfair, discriminatory, and unnecessary.

MANY PROCEEDINGS ARE UNJUSTIFIED

Often, I am sympathetic. The Federal Trade Commission has embarked upon a number of proceedings that are clearly unjustified and excessive. The broad and undefined mandate of the FTC has allowed it to investigate nearly anything it chooses.

AD HOC NATURE OF THIS BILL

However, many of us in the Senate are also troubled by the ad hoc nature of the consideration of this bill. We are troubled by the specter of amendment after amendment intended to exempt group after group from FTC scrutiny already begun. In the first place, stopping the funding of individual investigations in this manner is unstatesmanlike. It gives the appearance of favoritism. Second, exempting specific groups from investigation provides no principled guidance for the future activities of the Federal Trade Commission. It merely encourages the Commission to try harder to justify its decisions. I do not quarrel with that.

Neither is this in the best interests of those groups currently under the scrutiny of the Federal Trade Commission. In order to address their grievances, they are forced to initiate expensive, time-consuming lobbying efforts here in Congress.

This is simply not the way to consider legislation. Everyone loses—the consumer, business and industry, the Senate, and the Federal Trade Commission.

BROADER PROBLEM

The problem we are now facing is much broader. We must consider solutions which will focus the powers of the Federal Trade Commission in a principled and evenhanded manner. The basic statutory mandate which prohibits "unfair and deceptive acts or practices" does not define what is "unfair" and what is "deceptive." The courts have also failed to define these terms, and have left them largely to the agency's own discretion. Under these circumstances, the agency is placed under tremendous strains from its public interest group constituents to expand these concepts to their limits. Inevitably, these public interest groups will continue to be influential, because, if the agency is to do its job, it cannot allow itself to be co-opted by the competing business group interests who also might provide the support that the agency needs in fending off its critics.

MORE REASONABLE APPROACH

For those reasons, I would argue that the most reasonable solution to the problem is for the Congress to give more content to the statutory standards of "deception" and "unfairness." Approving this kind of defining language will have several beneficial effects:

It would preclude the need for ad hoc "stop-the-funding" amendments by making clear that a longer range approach is feasible and desirable.

It would prevent many of the unjustified and unnecessary FTC proceedings from being initiated in the first place.

It would give more guidance to the agency as it attempts to address those unfair and deceptive practices that clearly must be dealt with.

DEFINING DECEPTIVE

My amendment would define an act or practice as deceptive if the Commission can show that: First, it is misleading to a reasonable person, and second, a substantial number of people have relied to their detriment upon the act or practice.

The need for the first requirement, that an act be misleading to a reasonable person, can best be explained with an example. In one recent case, the FTC was able to prevail by showing that hair dye ads stating that the dye "colors hair permanently" were deceptive. The FTC argued that some consumers would infer from the ad that the dye would color hair not yet grown. A reasonable person standard would preclude such a ridiculous result.

The second requirement, that the Commission show that a substantial number of people have relied to their detriment upon the act, would force the FTC to focus the taxpayer's dollars on those practices that are hurting a significant number of consumers. As the law now stands, the FTC can assume, with no factual basis, that the practices are significant to consumers in making decisions.

DEFINING "UNFAIR"

Second, my amendment would define a practice as "unfair" only if the Commission is able to show that: First, it causes actual injury to a significant number of consumers and; second, the act is reasonably widespread.

The first requirement, that the practice cause actual injury to a significant number of consumers, would prevent the Federal Trade Commission from becoming involved in speculative or intangible problems. I believe it is reasonable to require that the Federal Trade Commission act only when the injury is real. The Federal Government does not have the resources to protect people from their own foolishness.

That an unfair practice be reasonably widespread to justify Commission interference is clear. It is unacceptable to impose tremendous costs on an entire industry in order to address only two or three violations.

THIS IS ONLY REASONABLE SOLUTION

My amendment is not complicated, but its effects would clearly be great. It would focus the resources of the Federal Trade Commission on those practices most deserving scrutiny, those practices which affect a significant number of consumers in a significant manner. It would define more specifically the FTC's areas of responsibility and provide it with guidance for the future. It would eliminate many investigations which are not justifiable. It would save business and industry the expense of lobbying Congress to stop Commission activities.

As I observe the mess we have gotten ourselves into, this seems to me to be the only reasonable solution. We all agree that the consumer needs a Federal Trade Commission to monitor blatantly unfair and deceptive practices. Most of us agree that the Federal Trade Commission has often overstepped its bounds. And I think we all agree that we are troubled by the Senate's present role of determining which investigations will proceed and which will not. Clearly, the answer is to more specifically define the mandate and role of the Federal Trade Commission.

Mr. President, in conclusion, I say that the Senator from Kansas has more than a passing interest in the FTC. I am not certain the votes I cast today will be met with great enthusiasm when I arrive home this evening.

In any event, it does seem to me that one of the areas that needs attention is looking at the basic act. I hope that in due course the committee may have time to focus on the act and give the FTC some guidance on what we perceive to be unfair and what we perceive to be deceptive.

I thank the distinguished manager of the bill for permitting me to make this statement. I withdraw the amendment.

The amendment (UP No. 966) was withdrawn.

Mr. FORD. I yield to the Senator from Connecticut.

UP AMENDMENT NO. 967

(Purpose: To set aside funds for the public participation and small business outreach programs)

Mr. WEICKER. Mr. President, I send to the desk an amendment to the pending bill and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 967.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, strike out lines 19 through 21, and insert in lieu thereof the following:

(c) Section 18(h)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended—

(1) by striking out "25" and inserting in lieu thereof "50";

(2) by inserting "(A)" immediately after "(2)"; and

(3) by adding at the end thereof the following:

"(B) Twenty-five percent of all funds appropriated in each fiscal year for purposes of providing compensation under this subsection shall be set aside and reserved exclusively for compensation to persons who (i) would be regulated by the proposed rule, or (ii) represents persons who would be so regulated and who meet the requirements of subparagraph (A).

"(C) Any portion set aside under subparagraph (B) not expended for purposes of compensation to such persons shall be returned to the United States Treasury and may not be expended for any other purpose.".

(d) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended by adding at the end thereof the following:

"(5) The Commission shall establish a small business outreach program responsible for carrying out the purposes of this subsection. The program shall solicit public comment from small businesses, whose views would not otherwise be adequately represented, in order to insure a fair determination of the rulemaking proceeding. This program shall attempt to attract more small business applicants for public participation funding through the dissemination to small businesses of information which explains the procedures and requirements to apply for such funding.".

Mr. WEICKER. Mr. President, this amendment addresses the primary concerns that have been raised in reference to the Federal Trade Commission's public participation program.

Briefly, the purpose of my amendment is twofold. First, the amendment would require that 25 percent of the total funds appropriated for the FTC public participation program would be specifically earmarked or set aside for the exclusive use of small businesses and trade association groups. Second, my amendment would direct the Commission to establish a small business outreach program to insure greater dissemination of information concerning the program to small businessmen and others who wish to participate.

Mr. President, Congress established the public participation program in order to enhance the balance needed between competing concerns. Without the program, and without the funds allocated under that program, many small businesses as well as other interested parties who cannot afford to participate would not have the opportunity to be heard. This would leave the rulemaking procedure open only to larger businesses who could afford to participate without Federal funds. In sum, the public participation program insures that all interests are represented.

Those seeking funding must meet three requirements: First, the interest must be an interest otherwise not represented; second, the information presented must be essential for a fair determination on the merits in the proceeding; and finally, the financial need requirements must be met.

Much of the criticism of the public participation program has centered around the fact that the great majority of those organizations being funded represent interests alined with the FTC staff-recommended position and that most of the groups funded are Washington, D.C.,-based organizations, not necessarily representative of other interests through the Nation.

Mr. President, my amendment specifically addresses these two concerns.

The amendment would insure that 25 percent of the funds appropriated for this program would be set aside for small businesses and trade associations. Coupled with the outreach program that my amendment would also mandate, we would be assured that small business interests would be appropriately represented. Small businesses and trade associations would have exclusive access to these funds assuming all other program requirements were met. Should any of the funds set aside be remaining at the end of the year, that amount would be returned to the treasury.

Last year, through much effort by the Commission, small businesses and trade associations received 22 percent of the public participation funds; my amendment would merely insure that this effort be continued in the future.

Mr. President I urge the adoption of my amendment.

Mr. FORD. Mr. President, I have discussed this amendment with the distinguished Senator from Connecticut (Mr. WEICKER).

We attempted in our bill now on the floor to increase the amount of funds available to small business concerns up to 50 percent.

The Senator makes two points in his amendment.

One is that we set aside a minimum of 25 percent for small business. The second is a program of outreach, to be sure that those who are interested in participating in the small business arena have the opportunity—at least the knowledge—that this is available to them, that they can come and apply for it.

Mr. President, I see no difference in what the Senator from Connecticut is trying to do and what the committee is trying to do, except that he puts it in more concrete language in the legislation. I have no objection to the amendment and will be pleased to accept it.

Mr. WEICKER. I thank the distinguished Senator from Kentucky for his remarks.

I hope the distinguished minority manager of this legislation also will concur and that I have his support in the matter.

Mr. DANFORTH. Mr. President, I support this amendment. As the chairman of the subcommittee knows very well, I have some real problems with the whole concept of public participation. I view this as a marginal improvement in a bad situation, and I am happy to accept the amendment.

Mr. WEICKER. Mr. President, I yield back the remainder of my time.

Mr. FORD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, it is my understanding that section 7 of S. 1991 accomplishes basically two things: First, section 7(a)(c) directs the FTC to discontinue its pending proceeding concerning children's advertising and second, section 7(b) requires the Commission to issue, at the outset of any trade regulation rule proceeding, the text of the rule the Commission proposes to adopt.

I want to comment on section 7(b). Without a proposed rule, there exists a danger that those affected by a final rule will be left in the dark as to the purpose and substance of the regulatory action contemplated by the Commission, and will be deprived of a fair opportunity to challenge the basis of that action. In fact, the procedural protections included in the Magnuson-Moss Act are rendered largely meaningless if the Commission fails to issue a proposed rule whenever it initiates a trade regulation rule proceeding.

It is my understanding that since passage of the Magnuson-Moss Act the Commission has failed to issue a proposed rule at the outset of only two trade regulation rule proceedings—the children's advertising proceeding and the antacid proceeding. While the pending children's advertising proceeding is terminated by section 7—thereby curing the defect of the Commission's failure to issue a proposed rule—the antacid proceeding has not been so terminated. I would like to ask the chairman of the Consumer Subcommitee whether section 7 of the bill, as presently drafted, presents the risk of an interpretation by the Commission as an invitation to issue a final rule in the antacid proceeding, even though the Commission has yet to issue a proposed rule in that proceeding.

Mr. FORD. The Senator is correct in stating that the purpose of section 7(b) of the bill is to confirm the Commission's obligation to include in the initial notice of proposed rulemaking the text of the rule being considered by the Commission. The importance of that requirement is amply documented in the report issued by the presiding officer in the antacid proceeding. That report refers repeatedly to the diffuse and unfocused nature of the hearings in the antacid proceeding, a defect that the presiding officer traces directly to the Commission's failure to issue a proposed rule prior to the hearings.

It would be inappropriate for the Commission to conclude that any provision of this bill amounts to an invitation for the Commission to proceed without considering those specific concerns raised in the presiding officer's report. The committee would expect the Commission to take a close look at the proceeding—particularly those problems associated with the failure to propose a rule at the outset of the proceeding. As the Senator from Missouri has pointed out, those affected by a TRR proceeding should be afforded the procedural protections contemplated by the Magnuson-Moss Act.

Mr. WARNER. Mr. President, I concur in the remarks of Senators DANFORTH and FORD. As the Senators pointed out, the problems that surfaced during the antacid proceeding evidence the importance of requiring the Commission to issue, with particularity, a proposed rule before initiating a section 18 trade regulation rule proceeding. Without a proposed rule, the procedural protections incorporated into the Magnuson-Moss Act are indeed hollow.

Mr. LEVIN. Mr. President, several months ago I, along with Senator WEICKER, chaired 2 days of hearings in the Small Business Committee on the impact of commercial credit reporting practices on small business.

Credit has a profound impact on small businesses in our economy; indeed, many small businesses depend on the extension of credit for their survival. The days of doing business on a strictly cash basis are, for the most part, long gone.

Because credit is so important to business, accurate credit information is so vital to a successful business operation. In fact, the credit losses experienced as a result of the panic of 1837 spurred the formation of the first commercial credit agency, the Mercantile Agency of New York, founded in 1841.

We live in a complex society in which most enterprises must depend on other businesses for survival. Even the small business may have dealings with several hundred suppliers. And most of that business is done on credit. This type of "trade credit" is not long-term in nature but usually short-term with turnover occurring within 30 to 45 days. The small business often depends on this credit in order to stay in business. Without the extension of credit, the small business person frequently would not be able to maintain an adequate sales or production inventory; and such inventories can make the difference between success or failure. To get this credit, the small business person must maintain his or her own credit standing, paying bills fully and on time. A history, or even a single instance or slow, late or inadequate payment can have a profound impact on the ability of a business to continue receiving credit.

Commercial credit reporting services play an essential role in the granting of this "trade credit." They are often the ones who will provide the answers to the important questions: "Can the account pay?" and "Will the account pay?" The customer of the commercial credit agencies depend on the information being accurate, complete and timely because their report will often form the basis for the decision to grant credit at all and in what amounts on what terms. Inaccurate information can prevent an otherwise good credit risk from getting the necessary "trade credit" and thereby undercut his or her ability to do business.

This denial of credit may be only temporary, until the error can be corrected. However, if the inaccurate information has received wide circulation or the process for correction takes a long time, the damage to the business may be serious and long lasting.

Currently small businesses are not afforded any protection from such inaccuracies. Unlike individuals, they do not have the legal right to see, copy or request correction of credit reports issued by credit agencies on their businesses. Nor are these businesses informed when an adverse credit report is issued on their business. Millions of these credit reports are issued every year; millions of small businesses in the United States depend on the accuracy of these reports for their livelihood.

Businesses which feel they have been effected adversely by a report should be able to make a complaint with the FTC, who, even without an amendment to existing law should be able, in turn, to forward that complaint to the commercial credit agency. That latter agency hopefully will attempt to get together with the aggrieved party and resolve the complaint. I would hope that both parties would get back to the FTC with a status report so that the FTC could have a record of what transpired. In this way, we would have an idea of the number of complaints, their nature and how they were resolved. We would then have a better idea as to the extent of the problem and whether legislation is needed.

As I indicated, we held 2 days of hearings on this subject in the Small Business Committee. At those hearings, we heard from a number of small business persons, organizations representing small businesses, the FTC, and representatives of the commercial credit reporting industry. All the small businesses and business organizations called for Government regulation of the industry. Now, it is an unusual circumstance when a small business asks for Government regulations, for as I am sure my colleagues know, small business believes, for the most part, that regulations imposed on business is often counterproductive. We also heard from the commercial credit reporting industry who testified that in their experience the problems were minimal and that regulation was unnecessary. We should, of course, be confident of the need for regulation before we burden an industry with a complicated regulatory process. We need sufficient data which indicates that small businesses are being hurt and that this is a widespread problem.

Consequently, we need the Federal Trade Commission to solicit, receive, record, and forward to the party complained of complaints concerning the practices of commercial credit reporting agencies. We also need the FTC to make an annual report to the Small Business Committee on the number and types of complaints received, including data which may be available on the status of such complaints.

Mr. FORD. I understand the concern of the Senator from Michigan. It would be desirable to have the FTC be of assistance to small business while not getting itself involved at this time in a new and complicated regulatory procedure. The FTC is to make an annual report to the Small Business Committee on the number and types of complaints received, including data which may be available on the status of such complaints concerning the practices of commercial credit reporting agencies.

Mr. BAYH. Mr. President, will the Senator from Kentucky yield to the Senator from Indiana?

Mr. FORD. I am delighted to yield.

Mr. BAYH. Mr. President, as my good friend and colleague, the distinguished floor manager of this bill, the Senator from Kentucky, knows, I had intended at this time to offer an amendment to S. 1991, the FTC authorization bill. My amendment would have prohibited the FTC from prescribing any trade regulation rule concerning mobile home sales and service. We had discussed this at some length with the staffs of our respective offices as well as the staff of the subcommittee.

I decided to take this step because although I have often been sympathetic of the FTC's mission, in this instance I perceive an example of what I regard as duplicative and harmful overregulation of an industry which is already extensively regulated by the Department of Housing and Urban Development.

Mr. President, we are proud in Indiana to have a major industry which makes homes available to citizens, who otherwise could not have them, by building these homes in a very efficient manner. They are called mobile homes. In fact, it is the largest industry in the State of Indiana. Indiana has the largest component of the manufacture of mobile homes in the country.

The present practice is to govern the construction of mobile homes through a rather complicated set of regulations promulgated, by law, by the Department of Housing and Urban Development.

Anyone who visits a mobile home plant or factory will observe that HUD has a regulator on the scene. Every mobile home that is manufactured is inspected by HUD examiners. They look at the wiring; they look at the plumbing; they look at the fixtures; they look at the quality of all merchandise. In essence, they are inspecting to see that the person who buys a mobile home gets what he is paying for. They certify that that home comes off the line with certain standards having been met, and I believe it is accurate to say a warranty is provided with each home.

Despite this, there have been complaints that the FTC should become involved in this industry. It seems to me to be inconsistent with the efficient running of a business and certainly not a requirement to protect the consumers to have one agency investigating everything about an industry and then to have the Federal Trade Commission come along and investigate as to whether the investigators are doing the job right.

That was the purpose of my amendment—to say that we should let the Department of Housing and Urban Development deal, as they have been dealing, with the mobile home industry.

I ask the distinguished floor manager of this bill if he is aware of this particular concern of the Senator from Indiana.

Mr. FORD. Mr. President, I am aware of the problem as it is presented by the Senator from Indiana (Mr. BAYH). I have some familiarity with the proposed FTC trade rule regarding mobile homes, and I am sympathetic with the concerns of the Senator that this might be an area where coordination of agency efforts is needed. Certainly none of us wants to encourage conflicting or overlapping regulation which is going to prove burdensome to the business community and, ultimately, costly to the consumer. That has been the philosophy of the Commerce Committee throughout this oversight procedure.

Mr. BAYH. I appreciate the observation of the Senator from Kentucky. I know of his personal concern for this.

I also know of the very difficult responsibility he has had in trying to move legislation forward. It is in the spirit of wanting to help him complete this regulatory reform, and yet accomplish my purpose, that I proceed here in a manner this afternoon that is different from that I had proposed originally, some time ago, when first addressing this question.

I have been in contact with the Department of Housing and Urban Development on this matter, and I have asked them to reply in writing on how they evaluate the effectiveness of their program and how they feel their program would overlap with the Commission's proposed rule. I had hoped to be able to have a final answer, a critique, from them at this time to put in the record. However, I do not have it in hand. However, they have indicated to me that they do, indeed, see conflicts between their work and the rule and that they are covering many of the areas which the FTC's rule would affect.

So it seems to me, Mr. President, that in this instance, Congress has a duty to be sure of the facts regarding the efforts of these two agencies to which we have delegated responsibility.

We want to protect the consumers. We want to see that they get a good product. But it seems to me that one agency, one department, could make that assessment and not have a double-barreled effort at regulation.

Mr. FORD. I agree with the Senator from Indiana. This appears to be a case where the Congress should take the time to coordinate what two agencies are doing. I would propose to Senator BAYH that the Commerce Committee hold oversight hearings within the next several months to study the regulation of the mobile home industry under its present program by HUD, and how the proposed Commission rule would relate to that.

Mr. BAYH. I appreciate the offer of the Senator from Kentucky. It is heartening, indeed. I think oversight hearings are very much needed right now. I believe it would be a wise course, typical of the kind of leadership the Senator from Kentucky has provided in this reform area. I hope it will be possible for the hearings to begin by April.

Mr. FORD. I do not want to be pinned down to an April hearing. As the Senator may be aware, we have had several amendments on the floor today on which we must have hearings. But I will say I will make every effort to have it by that time. I think the committee could arrange the hearings in that period.

Mr. BAYH. I appreciate the recognition of the Senator from Kentucky of the urgency of this problem.

I appreciate the fact that the Senator from Indiana is not the only one who has asked the Senator to labor further in the hearing department. I thank the Senator.

I am also happy to say that the Commissioner of the FTC, who has been bombarded mightily during the debate presently before us, has seen the merit of such an approach and has agreed to delay the promulgation of any final rule until January 1, 1981, with no rule becoming effective for at least 90 days after its publication—in other words, not before April of 1981.

Chairman Pertschuk and the Commission have been most reasonable and cooperative in this matter, and I would like to compliment them on their willingness to work with the Congress until the Commerce Committee can have a chance to hold oversight hearings. In the discussion I had with Mr. Pertschuk and in a communication with Mr. Albert Kramer, the Director of the Bureau of Consumer Protection of the FTC, we have tried to enunciate this, so that there would be no further proceedings by the Commission except the completion of their staff report until the hearings have been held by the subcommittee.

So that all parties involved can know what has been going on and what the Commission has said, I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., February 7, 1980.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: This letter will respond to your request regarding the schedule for promulgation of the Commission's proposed Trade Regulation Rule on Mobile Homes.

The Staff Report containing a recommended Rule will be published sometime in the near future. The publication of the Staff Report will trigger a public comment period followed by several additional procedural steps before the Commission would take action on the Rule. We recognize that the Staff Report and recommended Rule may be the subject of Commerce Committee oversight hearings during the public comment period. Should that event develop and should an appropriate request for an extension of the comment period be filed, I would recommend favorable action on the request.

The staff work necessary to promulgation of a Rule will not be completed to allow a final Commission vote before December 31, 1980 so that no Rule could be promulgated before that date. Further, a period of at least 90 days would be necessary to allow the industry to come into compliance. Therefore, no Rule could become effective before April 1, 1981.

Sincerely,

ALBERT H. KRAMER,
Director.

Mr. BAYH. Mr. President, I said earlier a number of things about the proposed rule. I wish to list in further detail my concern about the problem.

In the early seventies it became clear that there were product difficulties with mobile homes. The FTC began investigating the problems in 1973. In 1974 Congress responded to complaints from consumers by passing the National Mobile Home Construction and Safety Standards Act of 1974.

At that time, the Congress decided that mobile homes were part of the housing industry, and gave authority to HUD to regulate all aspects of the manufacture and design of mobile homes in order to insure their quality and soundness. At about the same time Congress also enacted the Magnuson-Moss Warranty Act. The mobile home industry became subject to the Magnuson-Moss Act because mobile homes are also considered consumer products.

Despite this background of congressional action, the FTC continued its hearings, until now, as I understand, it has compiled a record of some 600,000 pages. Despite the widely acknowledged success of the HUD program, and the resolution of many of the problems which drew the Commission into its investigation, the FTC announced in late November its intention to prescribe a TRR on sales and service of mobile homes, a rule that will have great economic impact on the industry, and will, in my opinion, be of dubious value to the consumer.

Mr. President, I have always considered Congress' action in regard to the mobile home business as one of the most successful resolutions of a consumer product problem. The present arrangement works. HUD has carried out its mandate vigorously and the industry has responded responsibly and cooperatively. It has proved to be a workable and beneficial program for all parties concerned. Today the buyer of a mobile home can probably be more sure of the quality and safety of his new purchase than any other homeowner in America.

The extensive HUD code demands approval of the design and construction of each manufacturing plant, as well as of the blueprints and specifications for mobile homes themselves. HUD's agents are stationed in each plant, and inspect each unit as it is made. If a mobile home does not receive the HUD seal of approval, it does not leave the plant.

HUD also requires that each purchaser receive a complete consumers manual, containing all warranties, wiring diagrams and other technical information on all major components of the unit, and most importantly, the names of the State agencies designated by HUD to receive any complaints. If safety hazards or major construction defects appear anytime during the lifetime of the product, HUD has the authority to order manufacturers to recall, repair or even replace the mobile home within 60 days.

The result of the HUD program has been what Congress hoped for when it enacted the Mobile Home Act: A minimum of consumer complaints and a vastly increased confidence in the quality of mobile homes. The FTC has decided, however, that regulation under HUD is not enough.

The proposed FTC rule would raise the price of a mobile home at a minimum of hundreds of dollars. Mobile homes are the only affordable housing for many young and retired older citizens left in the country. While the average site-constructed home today costs $62,000, the average mobile home costs $10,000. The median income of the average mobile home buyers is only around $11,000; a person with such an income can ill afford to pay such a price for double regulation.

Further, FTC regulation would threaten many of the small manufacturing firms and dealers which comprise the industry. The small business association has made known its strong opposition to the proposed trade regulation rule, because there is little doubt that the rule as proposed will be more onerous on small manufacturers than large.

Mr. President, I am grateful that the Congress will have oversight hearings in this matter and I thank Senator FORD and the FTC for the opportunity. Now we will have a chance to study effect of the FTC's role in the context of HUD's program. Perhaps there are still problems which need to be addressed. Perhaps those problems could be best met by a slight extension of HUD's existing program, without laying the burdensome machinery of a second agency on top of another agency which is already 80 or 90 percent set up to handle all problems. There is no reason to have two agencies if one can be just as effective. We shall se what needs to be done. I am happy with the arrangement for oversight we have made, and I am grateful to my colleague from Kentucky.

Mr. President, I again thank the Senator from Kentucky for his understanding of this. I think it will go a long way to thinning out or prohibiting additional redtape in the mobile home industry and thus make it possible for folks in my State and his and other States providing a high-quality product to continue to do so without being further labored by additional costs for unnecessary secondary regulation.

I certainly appreciate his cooperation on this matter.

Mr. FORD. Mr. President, I thank the Senator from Indiana for his kind remarks and the attitude he has taken in order to help me with my oversight and the management of this bill.

I might say that there is one area in which the Senator from Indiana touches that bothers a lot of people, and that is the overlapping in the various agencies within the Federal Government where you wind up with two or three agencies trying to do the same thing.

I shall give a case in point. When I was Governor in Kentucky we were short on engineers, but we found out that several departments had engineers. So we created a Department of Engineering and we had three or four times as many engineers to do work because we only sent one out to do a job.

So I think what the Senator is saying here is where you have one agency supervising we should not let another agency regulate the regulators.

I think the Senator makes a good point. I hope to dwell on that in-depth when we have our hearing.

Mr. BAYH. I appreciate that.

I think the Senator knows, because he has a significant number of his constituents who are employed in and managing mobile home companies, that we are proud of the contribution those folks make in our State.

There was a major trade show for mobile homes in Louisville, as I recall, not too long ago. This last summer we had an unbelievably large mobile home show in South Bend which has a major concentration of that industry in my State.

I must say it is exciting to see what ingenuity has been brought into the manufacture of homes being produced by the tens of thousands. This has made it possible to turn out a high quality product with the minimum amount of money necessary and so, as I said earlier, we have not only provided an important industry employing a lot of people building homes but we are making these homes available to literally millions of our people throughout this country at a cost they could not otherwise afford if they had to go out and build them from scratch.

So I appreciate the contribution the Senator from Kentucky made to try to see that we regulate them just once. We do not want any fly-by-nighters ripping off the public. That is not what we are talking about. We are talking about seeing that the job is done right and we do not have the kind of duplication the Senator from Kentucky alluded to.

UP AMENDMENT NO. 968

(Purpose: To prohibit the Federal Trade Commission from bringing an enforcement action against a party who has relied in good faith on the advice of a rulemaking authority)

Mr. JEPSEN. Mr. President, on behalf of Senator PROXMIRE and myself, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN), for himself and Mr. PROXMIRE, proposes an unprinted amendment numbered 968.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. . Title 15, United States Code, is amended by adding at the appropriate place, the following new section:

SEC. . With regard to any civil action, adjudicative proceeding, or other judicial or administrative proceeding involving an alleged violation of law under which an agency or department other than the Commission has been given rulemaking authority, the Commission shall take no action, either directly or through the Attorney General on behalf of the Commission, against any such party, if the conduct or practice at issue was undertaken in good faith in conformity with any rule, regulation, interpretation or approval issued by the rulemaking agency or department, notwithstanding that after such conduct or practice occurred such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason. Whenever an agency or department having rulemaking authority over a statute enforced by the Commission, receives a request from a party, subject to Commission jurisdiction, for an official interpretation, ruling, or approval, concerning a conduct or practice of the party, the agency shall respond to such request as soon as practicable.

Mr. JEPSEN. Mr. President, I yield myself 10 minutes under the rule.

Mr. President, this is a very short amendment which I hope can be disposed of by a voice vote.

Very simply, this amendment would prohibit the Federal Trade Commission from bringing a civil action or adjudicative proceeding against anyone under the Truth in Lending Act, Equal Credit Opportunity Act, or any other law in which another Federal agency or department has been given rulemaking authority by Congress, if a party has acted in good faith and relied upon a rule, regulation, interpretation, or approval issued by the rulemaking authority.

It further safeguards any party acting in good faith by providing that in the event the interpretation or approval relied upon is amended or rescinded or even held invalid in the future by judicial or other authority, the party's conduct would not be subject to after the fact enforcement.

The purpose of the amendment is simple. X, Y, Z, company from Iowa or anywhere should be allowed to rely on an official interpretation by a Federal rulemaking authority so long as they are acting in good faith. They should not be subject to the arbitrary whim of some Federal bureaucrat who decides that his view of things is more correct than the rulemaking authority's.

The result of such arbitrary enforcement practices is costly to individuals and businesses alike. It is time that we here in Congress shift the burden of proof in such cases away from the individual to where it ought to be—the Federal Government.

In particular, Mr. President, this amendment addresses itself to a commission abuse frequently encountered by persons subject to FTC enforcement proceedings based on alleged violations of a law or regulation, rules, or official interpretations issued by another agency. In many cases, the Commission has either ignored the law and such rules or regulations, or has interpreted them contrary to the issuing agency's own interpretation, or, in the extreme, has fashioned a rule of its own in order to reach the finding of a violation.

This effectively results in what is popularly termed "rulemaking by enforcement" and is usually favored by the Commission over a section 5 proceeding. Acts or practices which can be made to appear to violate—as a matter of law—rules or regulations are much easier to prove than acts or practices which must be found to be unfair or deceptive. Further, if the Commission is successful in establishing what it considers to be a violation of a proposed rule or regulation, the result can bind an entire industry, whereas a consent order based on a section 5 proceeding would be applicable only to the party in the proceeding.

Some examples of current and past Commission activities in this area are:

First. Equal Credit Opportunity Act of regulation B. Sole responsibility for issuing regulations and interpretations dealing with equal credit lies with the Federal Reserve Board. Nevertheless, in a variety of enforcement proceedings, the Federal Trade Commission has compelled a creditor to disclose to applicants specific criteria most significantly affecting credit decisions. This requirement is not imposed by law, regulation B, or any official interpretation thereof. More recently, the Commission has sought to limit a creditor's right to rely on the use of the regulation B model form of notice on credit denials. Although the regulation B model form calls only for a general statement of reasons, the Commission enforcement staff is seeking to compel an additional, detailed explanation—a requirement which flies in the face of the Equal Credit Opportunity Act, and the Federal Reserve Board's implementing regulation.

Second. Truth in Lending Act and regulation Z. In two distinct areas involving truth in lending enforcement, the Commission has created rules which are nowhere to be found in the act or its implementing regulation Z. The Commission has held that it is a violation of the Truth in Lending Act to prepare the "note or other evidence of indebtedness" before obtaining the customer's written approval of insurance purchase. There is no requirement in that act or regulation Z that loan papers not be "prepared" prior to providing the consumer with an insurance option. The only requirement is that such disclosure shall be made before the credit is extended.

In another truth and lending proceeding, an administrative law judge has made a ruling to the effect that amounts reaffirmed in bankruptcy and incorporated in a new note must be included in the finance charge (as interest) instead of in the amount financed (as principal). Such a requirement is novel and finds no support in that act, regulation Z, any judicial decision, or the law of any State. Indeed, the proposal is completely at odds with the long-established doctrine that a debt is not extinguished by bankruptcy, but is merely barred from collection, and therefore may be revived by a new promise to pay.

As you know, the 95th Congress completely revised the bankruptcy laws. Reaffirmations are now subject to the approval of the bankruptcy court, but no requirement was imposed by Congress as outlined above.

The above, Mr. President, are clear-cut examples of how the FTC has circumvented its authority.

If adopted, my amendment would achieve more uniform enforcement by the FTC of Federal law and of rules and regulations issued by other agencies and departments.

I want to emphasize to my colleagues that in no way does this amendment diminish the power given to the FTC under the FTC act or the Moss-Magnuson Act. It does, however, reaffirm the intention of Congress when it gives a specific agency or department rulemaking powers. What we are saying to the FTC is enforce the law—do not write the law.

Mr. President, we listened yesterday to a very eloquent debate on the Schmitt-Nunn and other amendments. The FTC is getting a lot of attention and deservedly so for it has become a constant source of harassment for American business both large and small.

When one Federal agency has the power to inject itself into every aspect of business from funerals to used cars, from eyeglasses to hearing aids, from prescription drugs to children's television, from house plants to creditor practices—when one Federal agency presumes the authority to determine who can be a member of the board of directors of a savings and loan, to cancel a trademark, to regulate bicycle commercials, to set standards for standard setters, to interfere in the practices of physicians, lawyers and other professionals such as accountants, and yes, even preempt State and Federal law—then it is time to restrict the activities of the agency.

I urge the adoption of the amendment.

Mr. President, I now yield to my distinguished colleague from the State of Maryland (Mr. MATHIAS).

Mr. MATHIAS. May I follow the Senator from Wisconsin?

Mr. JEPSEN. Yes.

Mr. PROXMIRE. Mr. President, I thank my good friend from Iowa.

Mr. President, I am pleased to join my colleague from Iowa, Senator JEPSEN, in presenting the amendment to S. 1991.

Both Senator JEPSEN and I firmly believe that a business should not be subject to enforcement actions by the Federal Trade Commission or any other agency, where that business has been operating in good faith compliance with an official rule, interpretation or approval of its conduct or practice issued by the agency having rulemaking authority for the statute covering that conduct or practice.

Under the truth-in-lending law, we have already exempted creditors from civil or criminal liability under these circumstances. The Jepsen-Proxmire amendment will extend this protection to cover administrative enforcement as well.

Certainly, a creditor or any other business should be able to operate in good faith reliance upon the official interpretations or rulings of the agency having rulemaking authority in their field, without fear of administrative enforcement actions someday overriding those interpretations or opinions.

Our amendment further requires the rulemaking agency, which receives a request for an interpretation or opinion of the law, to respond as soon as practicable. While we appreciate that the agencies are not able to provide definitive opinions in all cases, we certainly expect the agencies to be as responsive and helpful, as possible.

Senator JEPSEN, in his statement this afternoon, expresses his own view of the enforcement activities of the Federal Trade Commission with respect to the Truth-In-Lending Act and the Equal Credit Opportunity Act. In order to avoid any misunderstanding, I wish to state, quite emphatically, that I do not, in any way, share my colleagues views of the FTC enforcement activities in these areas.

As I stated before, however, we share a belief in the need for this amendment to provide adequate protection against administrative enforcement actions for those parties who have been operating in good faith reliance in conformity with official agency interpretations.

Mr. JEPSEN. Mr. President, I now yield to the distinguished Senator from Maryland.

Mr. MATHIAS. I thank the Senator.

I have an inquiry. We have had a situation exactly of the sort the Senator describes, which situation exists in the State of Maryland.

I must say, in fairness, that the FTC is not involved in this case, but it relates to the Park Sausage Co. in Baltimore which recently had an order from one governmental agency to wash down the floors of the packing house five times a day which, being law abiding and anxious to insure the quality of their products, they certainly complied with.

But no sooner had they begun to comply with this order, then another Federal agency came in and said, "Well, if you wet the floors, the wet floors are a danger to the health and safety of the employees. So at all times during the working hours, the floor must be dry."

That is the kind of situation which drives the ordinary American citizen up the wall and, as I understand the Senator, his amendment, which is joined in by the Senator from Wisconsin, is aimed at correcting that kind of conflicting jurisdiction, which makes it so very difficult for people to carry on their daily lives and daily businesses; am I correct?

Mr. JEPSEN. That is correct.

Mr. MATHIAS. I would ask the two distinguished sponsors of this amendment if I might join them as a cosponsor.

Mr. JEPSEN. If the Senator from Wisconsin has no objection.

Mr. PROXMIRE. Of course, never, not from the Senator from Maryland. I would be proud to have him cosponsor anything.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further discussion?

Mr. FORD. Mr. President, I fully agree with Senator JEPSEN, Senator PROXMIRE, and Senator MATHIAS that there is no reason why business should not be able to rely upon official interpretations of a statute in the conduct of their business.

This amendment, I think, would provide the necessary protection, and I have no reason to object to the amendment and would be very pleased to support it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. FORD. Does the Senator from Missouri wish to say anything?

Mr. DANFORTH. Mr. President, I completely concur with the comments made by the manager of the bill. I think this is a worthy amendment, and I would be pleased to accept it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. JEPSEN. I yield back my time.

Mr. FORD. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senators from Iowa and Wisconsin.

The amendment was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 969

(Purpose: To allow the Federal Trade Commission to participate in a study with the Department of Health, Education, and Welfare on Medigap insurance)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) and the Senator from Montana (Mr. BAUCUS) propose an unprinted amendment numbered 969.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, after line 19, add the following:

(b) The amendment made by this section shall not preclude the Federal Trade Commission from collecting information for the purposes of, or from participating with the Department of Health, Education, and Welfare in, a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of health insurance policies sold to Medicare-eligible persons.

Mr. CHILES. Mr. President, the amendment modifies section 5 of S. 1991 to allow the Federal Trade Commission to complete a valuable study on MediGap insurance.

Last year, I and other members of the Committee on Aging specifically asked the Commission to undertake this study after hearings on abuses in the sale of medicare supplemental health insurance policies to elderly medicare beneficiaries.

The study is of the relative impact of different State approaches to regulation of MediGap insurance. It is now in progress, and the FTC is working cooperatively with the Department of Health, Education, and Welfare.

There has been close consultation with Congress on this study. Members of the Committee on Aging and others have given it active support. After our hearings, we concluded that the information it would produce would be of great help to Congress, the administration, and State insurance departments as we address long-range concerns about the relationship between the Federal medicare program and supplemental health insurance programs.

An investment of time and public funds has been made. It would be an unwise use of these funds if we cut off the study now without seeing it through to its completion, which will take no longer than December 31, 1981. We will be acting in bad faith if we force this work, encouraged by the Senate, to be abruptly stopped.

The study is not controversial. I am not aware of any opposition from insurance companies, or State insurance departments, or anyone else on this particular study. The FTC has, to its credit, worked closely with a number of State insurance departments in the study.

No rulemaking activities have ever been proposed or considered. The study is simply designed to provide information, which will be of greatest use to States, on how well some new and very different State approaches to regulation of medicare supplemental health insurance sales are actually working.

Those States which have moved to adopt regulations governing MediGap insurance sales have used a wide variety of approaches. Some have focused primarily on information disclosure; some have included standards for policy loss ratios. Some States, notably Wisconsin and Massachusetts, are implementing new regulations which would bring some standardization to MediGap insurance policies sold in those States.

The FTC's MediGap study is designed to look at the effect of these new approaches on a number of aspects of the MediGap insurance market: Changes in the amount and quality of insurance information available to Medicare beneficiaries; changes in the premiums charged for MediGap policies; changes in benefits offered by health insurance companies and the range of different types of policies offered; and changes in consumer satisfaction under the new regulatory programs.

The Senate has already clearly stated that we want this kind of work on MediGap insurance problems to continue. We passed a bill on January 30 (H.R. 3236, social security disability amendments section 508) which would set some model minimum standards for health insurance policies sold to medicare beneficiaries. The bill directed the Department of Health, Education, and Welfare to develop a program of voluntary certification for policies meeting those standards.

We also directed HEW, in cooperation with appropriate Federal and State regulatory agencies, to make a study of existing State regulation before certification procedures are put into place in any State. One purpose of that study is to determine where the certification program would be needed, as of January 1, 1982. Another purpose of this study, as clearly stated during debate on the bill, is to determine whether States have identified approaches that might be useful in making the Federal program of certification more effective.

The MediGap study now underway by the Federal Trade Commission, in cooperation with HEW, serves these purposes and was intended to remain a part of this overall effort. Those of us who have spent so much time and effort on this issue want to see this cooperative relationship between HEW and the FTC to continue until the study is completed.

That will not be possible unless this amendment is adopted.

Regulation of MediGap insurance sales is an area of new importance for all States, as well as for the Federal Government. The legislation passed by the Senate on January 30 will have the effect of putting additional pressure for quick action on those States which have not implemented comprehensive regulation of insurance sales.

The FTC study will produce exactly the type of information which will be most helpful to those States wanting to consider new MediGap regulation. They will be able to look to a body of information comparing and evaluating the actual performance of a number of different approaches.

The study will also provide extremely valuable information for the Department of Health, Education, and Welfare as it takes up its new responsibilities to promote an effective, efficient, and responsible relationship between the Federal medicare program and the private health insurance industry.

Important information will also be developed for HEW and for Congress on older American consumers' knowledge about medicare and its gaps and how services to medicare beneficiaries can be improved.

HEW supports this amendment and has informed me that it wants to be able to continue to draw upon the expertise of the FTC in this joint work on MediGap insurance problems.

Mr. President, this study was never specifically mentioned in the committee report on section 5 of S. 1991. It has not caused comment or complaint. It is clearly included, however, in section 5's blanket prohibition against FTC study or investigation in any insurance area.

The committee appears to have taken the position that even this MediGap study is "unlawful" under the terms of legislation which Congress passed in 1945, the McCarran-Ferguson Act.

I do not intend to debate the legal points on this argument. I would simply like to point out that there are certain unique aspects of MediGap insurance which make these arguments meaningless.

The arguments made by the committee report are based on legislation passed prior to enactment of medicare. The situation has changed. The Federal Government did not then have a responsibility to medicare beneficiaries.

A whole new insurance market has developed since then. And it has developed as a direct result of actions taken by Congress and the Federal Government in establishing and administering the medicare program.

We have discovered that there are serious problems in the relationship between the Federal medicare program and this new market for supplemental health insurance policies, some of which have come about partly because of our own inability to make medicare directly responsive to the most basic health care needs of older Americans.

The Senate approved legislation on January 30, 1980, to establish a Federal program of voluntary certification of MediGap insurance policies in States which have not enacted comprehensive regulation. By doing this, we have already gone on record as accepting a responsibility to assure the quality of suitable additional insurance protection against health costs not included within the Federal medicare program.

If we now say we cannot allow this study to continue, we are in effect saying that our earlier statement was all well and good—but we were not really serious and we do not care how this responsibility is carried out.

Mr. President, the purpose of this amendment would be to provide that a study which is presently being done by the Federal Trade Commission, participating with HEW in regard to MediGap insurance would be allowed to be completed notwithstanding the provisions of this bill S. 1991.

We recently passed a bill (H.R. 3236) which basically has provided for a program of voluntary certification of MediGap insurance policies. That bill will be the driving force that provides MediGap insurance protections, but it is going to be necessary that the FTC complete a study that is now going on. Nothing in my amendment is giving the FTC any right to regulate insurance or do anything like that. However, it does allow them to continue their current study of different State approaches to MediGap regulation, with HEW being the lead agency.

Mr. FORD. Mr. President, I am going to have to oppose the Senator's amendment at least for the time being.

What we have been trying to do, and we just finished a colloquy with the distinguished Senator from Indiana (Mr. BAYH) as to the overlapping of the various fields, and if I understand the distinguished Senator from Florida correctly, as a member of the Committee on Finance he is now coming forward with a piece of legislation that would be the lead——

Mr. CHILES. No, I am not on the Committee on Finance.

Mr. FORD. It is their bill that is going to be the lead bill. I wrote it down, and the Senator said the Finance Committee.

Mr. CHILES. Mr. President, I introduced a bill that dealt with problems in the sale of MediGap insurance policies. The bill that the Finance Committee reported out and we agreed to has made the assurance that we are not invading the McCarran-Ferguson Act in regard to the MediGap insurance. McCarran-Ferguson is going to be violated in any way.

All this amendment says is that the study that is now going on in the Federal Trade Commission that Congress has been supporting, has been funding money for—and we have done that in their appropriations bill—that they complete that study, with HEW.

Mr. FORD. Mr. President, it seems to me that just a few days ago we passed an amendment asking HEW to do it.

Mr. CHILES. To be the lead agency.

Mr. FORD. Now we are putting another amendment in to say the FTC.

Mr. CHILES. No, the Senator has not read the amendment.

Mr. FORD. Has the Senator changed it since he showed it to me?

Mr. CHILES. No.

Mr. FORD. Mr. President, it is on the verge of not being germane and I think almost a point of order could be made on it that it is not germane. But I am not in a position yet to do that. We might get a different interpretation.

I am not opposed to what the Senator is trying to do. But this is a Finance Committee matter—you had an amendment to get HEW to be the lead agency. Now you want the FTC to cooperate. It is bound to cost more money, more bureaucracies, more forms. HEW, with all that big area over there, they cannot handle it and you have got to call on the FTC to bring that bulldog in, in addition to the Finance Committee. I think the Senator is just asking for too much.

Mr. CHILES. Mr. President, I say to the distinguished Senator from Kentucky, knowing of his propensity to want to save money, that what this amendment attempts to do is to save money, because the study is already going on. The information is already there.

Mr. FORD. Mr. President, is the Senator on his time or on my time? Which time are we on?

Mr. CHILES. No one asked me about whose time it is. I thought we were wasting some time here while the Senator was getting some signals.

Mr. FORD. I have my signals. It is just the Senator worrying about whom I am going to get them from.

I read the Senator's amendment. If the Senator has not changed it——

Mr. CHILES. Mr. President, I just wanted to say to the Senator's last argument, if I could, on my time, that in talking about whether we are going to save any costs, we are going to save some costs if we go through with this amendment because we are saying the Federal Trade Commission can complete a study that they are already involved in. We just want to allow them to finish. We are not saying that HEW has got to begin again, and spend again the money invested in the FTC study.

Mr. FORD. Mr. President, the Senator is trying to put words in my mouth and I am not going to allow him to do that.

The amendment made by this section states that it does not preclude the Federal Trade Commission from collecting information for the purpose of or from participating with the Department of Health, Education, and Welfare in a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of health insurance policies sold to the medicare eligible person.

It seems to me that the Senator is putting the FTC in the information collecting business, putting them into the comprehensive study, and the whole gamut.

We have already had insurance amendments. I do not want to get into the merits of issues in insurance field.

My comments only go to the question of whether the amendment is needed; because they already have the ability under legislation just passed in the last few days.

Mr. CHILES. Mr. President, we just want to be able to complete the study that is now going on. We are not trying to initiate any new study. The amendment does not call for initiation of anything new.

But we are trying to say that the work that has been done in this MediGap area—which is the work that this whole Congress has been concerned about, has voted on—should continue. We have had all kinds of hearings about MediGap insurance problems, about how older people have been whipped around with bad insurance information and low-value MeliGap policies. In attempting to deal with that, we are just trying to gather the information that is already out there.

I do not see any reason, as we are talking about reforming the Federal Trade Commission, that we want to say that you have to stop what is there at the time we pass this bill.

Mr. DANFORTH. Mr. President, will the Senator from Kentucky yield me a few minutes?

Mr. FORD. Mr. President, the Senator may have all the time that is remaining.

Mr. DANFORTH. Mr. President, maybe a half hour ago Senator Chiles showed me a copy of this amendment and asked my comments on it. I do not know anything about this study. I do not know whether it is a good study or a bad study, whether it is an important study or an insignificant study.

I do know that a year or so ago Senator Chiles, along with two other Senators, did ask the FTC to conduct the study. Earlier in the afternoon, Senator Metzenbaum and I had a conversation on the floor relating to the circumstances under which the Federal Trade Commission should undertake studies of the insurance business. The McCarron-Ferguson Act, as I read it, precludes the Federal Trade Commission from doing that.

Therefore, it was and is my position that since, by law, the FTC is precluded from studying the business of insurance, individual Senators or even whole committees of the Senate should not be able to, in effect, amend what Congress did by statute in enacting the McCarron-Ferguson Act.

When I stated to the Senator from Florida that I did not have any problem with this particular amendment, it was with that particular subject matter in mind. Because if the Congress were, by law, to direct the FTC to inquire into the insurance business, or any part of the insurance business, including MediGap, that would be doing something by statute rather than just by letter or by committee action or by some informal action of individual Members of Congress.

I did not address in my mind the question of germaneness. I do not know whether that question is going to be raised. It will not be raised by me. I have not analyzed the amendment with that in mind.

I do know, as a member of the Finance Committee, that the whole question of MediGap has been addressed by the committee, most notably in an amendment offered by Senator Baucus which, in effect, authorizes the Department of Health, Education, and Welfare to grant what amounts to a good housekeeping seal of approval for various MediGap plans.

Senator Baucus is now in the Chamber and he can describe his position in the Finance Committee much better than I can. I do not know the degree of overlap between what the Senator from Florida is trying to accomplish and what Senator Baucus is trying to accomplish.

I do not know the wisdom or lack of wisdom of this particular amendment. But I did want to clarify to the Senator from Florida what I meant when I said that I did not have any problem with it; which is simply that, in light of an earlier exchange that I had with Senator Metzenbaum, this particular way of legislating with respect to FTC studies of the insurance industry does not cause me any problem.

Mr. CHILES. Mr. President, I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I regret I was not here for the entire debate on this amendment.

Let me say, though, that I fully support the efforts of the Senator from Florida and I have asked to be a cosponsor of the amendment. He simply is offering an amendment to enable the FTC to continue to study the insurance industry, only so far as it relates to MediGap insurance coverage.

There is widespread fraud and abuse in the sale of MediGap health insurance to the elderly. Last week the Senate passed legislation designed to curb these harmful practices.

Under the legislation, the Secretary of Health, Education and Welfare will establish a voluntary certification program for medicare supplemental health insurance policies. The Secretary will certify that these policies meet minimum standards for coverage and benefits. This program will permit senior citizens to make informed choices in purchasing health insurance coverage.

An integral part of this program is the section providing for the Secretary of HEW to conduct a comprehensive study of State regulation of MediGap health insurance. In preparing this study, the Secretary is authorized, and, indeed, urged, to consult with other Federal and State regulatory agencies.

The findings of the Secretary will determine whether the voluntary certification program will be implemented in any State. In my opinion it is crucial that the Secretary of HEW conduct a thorough and objective evaluation of State approaches to MediGap insurance. We want to know how States are dealing with the problems of marketing and agent abuse, whether they are disseminating information to individuals entitled to benefits under medicare so as to permit informed choices, whether they are promoting policies which will provide high economic return, whether they are reducing the purchase of duplicative and worthless coverage, and what they are doing to improve price competition.

When the Secretary submits the findings of the study to Congress, I want my colleagues to have confidence in the recommendations. To accomplish this objective, I expect the Secretary to take advantage of resources and information available at other Federal and State regulatory agencies.

The Federal Trade Commission has identified problems in the medicare supplemental field and documented the efforts by State to remedy these problems. The FTC's work in this area has not been directed toward promulgating restrictive rules. The FTC's research has enhanced Congress understanding of the magnitude of abuses in the MediGap field. Their work has proven to be invaluable to Congress and I believe they can be helpful to us in the future.

It is for this reason that I want the FTC to assist, upon request, the Secretary of HEW in conducting the MediGap study. The Secretary will need all the help she can get in doing a good job in preparing this document. The Secretary of HEW will need the help of the FTC, the National Association of Insurance Commissioners, and others.

It is my judgment that the FTC can contribute to our knowledge of the various approaches in regulating MediGap health insurance.

I might say, Mr. President, just a short while ago when we adopted the amendment I sponsored to provide for a voluntary certification program with respect to medicare insurance coverage, the insurance industry very vociferously argued that there should be a study.

I do not see any argument against this amendment. It simply enables the FTC to continue and to assist the Secretary of HEW. As I said, Mr. President, the industry told me personally they do want a study of this problem.

It is for these reasons that I am offering the amendment with the distinguished Senator from Florida. By adopting this amendment, Congress can reaffirm its commitment to protecting the elderly from being victimized by unscrupulous and unethical practices.

I thank the Senator from Florida for yielding.

Mr. CANNON addressed the Chair.

The PRESIDING OFFICER (Mr. Levin). Who yields time?

Mr. FORD. I yield all the time remaining on the amendment, if necessary, to the Senator from Nevada.

Mr. CANNON. Mr. President, the distinguished Senator from Florida has proposed an amendment which would permit the FTC to continue its ongoing investigation into alleged abuses in the sale of MediGap insurance. I oppose this amendment, because I believe that an amendment to an authorization bill is not the proper procedure for Congress authorizing FTC investigations. The proper vehicle is a concurrent resolution or separate bill. Indeed, the FTC agrees with this procedure. In recent testimony before Congress, on S. 395, the FTC staff requested that Congress authorize a full-scale MediGap investigation. In short, the FTC apparently believes that it needs additional legislative authority before it can embark on a broader inquiry.

Congress should make this decision only after having an opportunity to discuss and deliberate on the issue. A last-minute floor amendment is not the proper way to proceed. I should also emphasize that the need for an FTC investigation may become entirely moot. Only a few days ago, in passing the Social Security Disability Act, the Senate authorized the Department of Health and Welfare to conduct an investigation of State regulation of MediGap insurance and report its results to three congressional committees. At a minimum, we should wait to determine if the Senate's provision is accepted in conference before deciding to authorize an additional FTC investigation. Then, and only then, would Senate debate and action on an FTC MediGap investigation be appropriate.

If the Senator will yield for a question, I wonder why he feels FTC should be involved in this when we have just recently authorized HEW to do a study.

Mr. CHILES. I would say to the distinguished chairman of the Commerce Committee, the Senator from Nevada, that the FTC has been conducting a study partly as a result of a request made from the Aging Committee.

We have talked with them since that time. If, as the Senator from Nevada was saying, they were looking for authority to enter into a comprehensive investigation, that is new to me. I do not know about that. We are simply using information they are collecting.

In the bill passed by the Finance Committee we were saying that HEW would be the lead agency. But we do not want to allow this bill to stop what the FTC is now doing. We want them to complete the study and evaluation they are now doing.

We are simply trying to do this in the most efficient way.

The Committee on Aging held several days of hearings on the MediGap fraud situation in the Senate and in the House. They disclosed monumental ripoffs where our senior citizens are being bilked by policies that are not any good, by unscrupulous insurance agencies from some companies that are preying on those people.

As a result of those hearings we asked the Federal Trade Commission to help determine how widespread that was and to conduct a study. As the Senator from Montana (Mr. BAUCUS) said, insurance companies themselves came forth in those hearings and said we ought to get information on this. we ought to know what companies were doing this; we ought to know how the policies were set up. We ought to know the best way to clean this up. It was information we needed. A lot of work has been done.

But this bill, without us doing something, is going to say all of that is for naught.

We are not trying to launch any new investigation. I think that should go as the distinguished chairman said, by a joint or concurrent resolution. We are simply saying, "What you are doing now you can complete." That is all I am interested in, to see that the work that has been done, the dollars that have been spent, the information that we have gathered, now is utilized to try to protect our senior citizens. I think that is a motive that all of us have.

Mr. CANNON. I would agree with the Senator. I was in support of action we took on the Social Security Disability Act.

I should like to suggest that the Senator look at his amendment. If he would be willing, on line 3, to strike that—he says all he wants them to do is use the information they have. Would he be willing to strike "from collecting information for the purpose of, or," then go down to the end and add "to the extent they have such authority under the Social Security Act?"

I think that language would make it clear that we are not trying to bypass McCarran-Ferguson.

The Senator contends that they may have information that should be useful, and certainly, if they have it, if they have gathered information, it ought to be used. But as I said earlier, they apparently believe there is no longer an ongoing FTC investigation. I think if the Senator could agree to that language change, I, for one, would be willing to accept it.

Mr. BAUCUS. Will the Senator yield?

Mr. CANNON. Certainly.

Mr. BAUCUS. Earlier, and quite properly, the Senator from Nevada asked why should the FTC be involved when the MediGap amendment was passed a short while ago. He stated HEW should conduct the investigation.

The relevant language of the MediGap amendment passed a short while ago reads as follows, with respect to the study:

> The Secretary shall, in consultation with Federal and State regulatory agencies—

Then it lists other departments.

Mr. CANNON. Right.

Mr. BAUCUS. It seems to me this language means that the Secretary shall, in consultation with relevant Federal agencies, conduct this investigation. The slight problem I have with the Senator's suggestion is that I think we have an obligation, for the sake of clarity, to avoid lawsuits and avoid controversy as much as possible, to state as specifically as we possibly can what in fact we do intend here. If it is the opinion of the Senator that this phrase means that the FTC shall properly be one of the agencies that shall be consulted in the compilation of these studies, then I think that would serve a purpose here in signaling to all parties involved that, yes, FTC is the proper agency that should be involved. If that is the case, it seems to me that the amendment of the Senator from Florida is a further clarification and, therefore, should be adopted.

If the Senator from Nevada feels that this language in the MediGap provision does not mean that the FTC is a proper agency to consult, then we have a problem here. I am curious as to the Senator's interpretation of the language.

Mr. CANNON. Is the Senator's question, do I think that FTC is the proper agency?

Mr. BAUCUS. Yes; is the FTC one of the proper agencies contemplated in this language in the MediGap amendment.

Mr. CANNON. Would the Senator read it to me again?

Mr. BAUCUS. Yes; "the Secretary shall, in consultation with Federal and State agencies, and the National Association of Insurance Commissioners, private insurers," et cetera.

Mr. CANNON. I should think there would be no prohibition of HEW consulting with FTC on it. That is why I question the need for the amendment. I would accept even the language here. "The amendment made by this section shall not preclude the Federal Trade Commission from consulting with or from participating with the Department of Health, Education, and Welfare in a comprehensive study," and so on, then add, "to the extent that they have such authority under the Social Security Act."

That is the Social Security Act. That is the thing that delineates their authority. If the Senator could accept that modification, I think I can accept it. I am not opposed to the FTC being consulted under the provisions of the Social Security Act disability amendments, and participating with the Department of HEW.

Mr. DANFORTH. Mr. President, will the Senator from Nevada yield for a clarification on that point?

Mr. CANNON. Yes.

Mr. DANFORTH. What I would not like to see us get into is a new process whereby departments or agencies of the Federal Government can now do exactly what we have been talking about committees not being able to do. Namely; I should hate to see, for example, the Secretary of Health, Education, and Welfare, now and forever after, being able to call up the Federal Trade Commission and say to the Federal Trade Commission, "We would like a little analysis on some kind of an insurance program."

I think that the basic issue is that, under the McCarran-Ferguson Act, the Federal Trade Commission does not have jurisdiction to study the insurance business and it does not matter who asks them to do it. It does not matter if it is a committee of Congress, it does not matter if it is a Cabinet officer; they simply do not have the power to do it unless it is otherwise provided by law. That is, unless it is provided for in the McCarran-Ferguson Act itself, for example, in connection with some antitrust measure, or unless it is provided for in some other law.

Therefore, if we are going to go this route, and I personally do not have any objection to it, what I would like to do is make it clear that we would be authorizing it by an act of Congress rather than recognize some kind of free-floating, extraneous power in the hands of the Secretary of HEW to make general inquiries of whomever he pleases with regard to the insurance business.

I wonder if the chairman of the Committee on Commerce could respond to that?

Mr. CANNON. Let me say that I agree with the Senator from Missouri. I think that is what we have intended here and in the committee and by putting this amendment in, that when we were precluding a committee of Congress from doing so, we did not intend some agency of Government to go out and be able to do precisely what we said a committee of Congress cannot do. If they want to do a thing of that nature, as I said earlier, I think they ought to get an authorization through a joint resolution of Congress.

I do believe that if the Senator is willing to accept the language which I suggested here, I think that, I hope that it would make it clear, and certainly with our colloquy, it would make it clear, that we do not intend to have this as a vehicle to bypass the McCarran-Ferguson Act.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I sent to the desk a modification of my amendment. In that modification, I strike "from collecting information for the purposes of, or".

The PRESIDING OFFICER. The Senator from Florida has the right to modify his amendment.

The amendment was modified.

The amendment as modified is as follows:

On page 41, after line 19, add the following:

(b) The amendment made by this section shall not preclude the Federal Trade Commission from participating with the Department of Health, Education, and Welfare in, a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of health insurance policies sold to Medicare-eligible persons.

Mr. CHILES. Mr. President, I ask the Senator from Nevada if he would agree now with this language. It would not prohibit the Federal Trade Commission, working in cooperation with HEW, from collecting information on a survey that they, in coordination, would agree should be done to provide information in this area?

Mr. CANNON. I would say that if the Secretary of HEW is the lead agency and it is in coordination with the Secretary of HEW, I see no problem.

Mr. DANFORTH. Mr. President, may I inquire of the Senator from Florida, is it his understanding that what we are dealing with is the completion of a specific study?

Mr. CHILES. That is correct.

Mr. DANFORTH. We are not dealing with a generic issue at all? We are not dealing with anything that has any precedential value beyond the particular study that is now underway?

Mr. CHILES. That is correct.

Mr. CANNON. That is it. I would agree to that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Ohio?

Mr. METZENBAUM. Will the Senator from Nevada yield for a question?

Mr. CANNON. Certainly.

Mr. METZENBAUM. The Senator from Nevada, as I understood him, indicated to the Senator from Missouri that the Commerce Committee would have no right to request an investigation from the FTC. That was the substance of the response to the Senator from Missouri, that was the thrust of the remarks of the Senator from Missouri.

The Senator from Nevada has not taken that position, has he?

Mr. CANNON. That the Commerce Committee would not have authority to request a study from the FTC?

Mr. METZENBAUM. Correct.

Mr. CANNON. No. I do not take the position that the Commerce Committee, the committee of jurisdiction, would not have authority to request a study from the FTC on the issue of regulation, or whatever.

I said that earlier.

Mr. METZENBAUM. I am fully aware of the fact that the Senator from Nevada said exactly that. But the Senator from Missouri started to postulate some new law on the floor and I think the Senator from Nevada did not understand him. That is the reason I wanted some clarification.

Mr. DANFORTH. If I may inquire of the Senator from Nevada, as I understand it, the Commerce Committee could clearly make such inquiries of the FTC as permitted by law, but clearly the Commerce Committee could not require of the FTC any act that the FTC is forbidden from doing by statute.

Mr. CANNON. Correct.

Mr. METZENBAUM. Even the chairman of the Senate Commerce Committee could not ask them to violate the law. None of us would suggest that.

But we really say, as a committee has jurisdiction, it has the right to request the FTC for an investigation, if it has jurisdiction.

Mr. DANFORTH. Providing that the investigation that it is requesting is not prohibited by the McCarran-Ferguson Act, or any other act of Congress.

Mr. CANNON. That is correct.

Mr. METZENBAUM. Correct.

The PRESIDING OFFICER. Who yields time?

Do Senators yield back their time?

Mr. CANNON. Mr. President, we are prepared to yield back our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (UP No. 969), as modified, of the Senator from Florida.

The amendment, as modified, was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, we are nearing completion of the consideration of the FTC legislation. I have several technical and clerical amendments.

UP AMENDMENT NO. 970

(Purpose: Ex parte)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) proposes an unprinted amendment numbered 970.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amendment

On page 51, line 6 insert the word "pending" immediately after "any".

On page 51, strike lines 16 to 25 and on page 52, strike lines 1 to 5 and insert in lieu thereof:

"(j) Within 60 days after the date of enactment of this subsection, the Commission shall publish a proposed rule, and within 180 days after the date of enactment of this subsection, shall promulgate a final rule, which, except to the extent required for the disposition of ex parte matters as authorized by law, shall prohibit employees or agents of the Commission with investigative or other responsibility for the rulemaking proceeding within the operating bureau, from communicating or causing to be communicated to any member of the Commission or to the personal staff of any Commissioner any fact relevant to the merits of that proceeding that is not on the rulemaking record of that proceeding, unless the communication is made available to the public, and included in the rulemaking record.".

Mr. FORD. Mr. President, the distinguished Senator from Connecticut has expressed his concerns about sections of the bill which deal with regulatory reform. After consultation with the Senator and others, I offer this amendment to the ex parte section of the bill and some further clarifying amendments on regulatory analysis and judicial review.

This amendment would require that when the Commissioners communicate with the rulemaking staff on matters not in the record concerning a pending rulemaking that a summary of those conversations be kept.

Mr. RIBICOFF. Mr. President, last December, I joined with Senators Javits and Levin in proposing four amendments to the FTC authorization bill. All of those amendments concerned the regulatory reform proposals that were reported by the Commerce Committee.

I am pleased to report that Senator Ford has agreed to an accommodation on these amendments. Senators Javits and Levin have also agreed. I commend Senator Ford for his cooperative approach to these issues.

Our amendments resulted from our committee's study and consideration of regulatory reform. S. 1991, as reported by the Commerce Committee, contains broad regulatory reform proposals not unlike those proposed for all agencies in the comprehensive regulatory reform bill, S. 262, which I introduced last session. For example, S. 1991 would require a regulatory analysis on proposed rules—something that was first advanced in S. 262. The FTC bill also contains—as does S. 262—proposals to improve the efficiency of the administrative process, and increase the ability of members of the public to effectively participate in agency proceedings.

Our amendments were directed to those provisions. Briefly they would:

Substitute the S. 262 regulatory analysis language for that contained in S. 1991. (Amendment No. 1619.)

Substitute the S. 262 language on judicial review of the regulatory analysis for that contained in S. 1991. (Amendment No. 1620.)

Limit the ex parte restrictions on communications between commissioners and staff to those matters which are new and not already on the public record. (Amendment No. 1621.)

Reaffirm that the standard for awarding lawyers' fees to small businesses in that the FTC must fail to show that the action had a "reasonable basis in law and fact." (Amendment No. 1622.)

Let me briefly restate the agreement we have reached on these amendments. First, we will withdraw amendments number 1619, 1620, and 1622. Senator Ford has accepted amendment No. 1621. Senator Ford has also agreed to language clarifications in those provisions of S. 1991, which concern regulatory analysis and judicial review. Finally, we are agreed that the language on lawyers' fees now contained in S. 1991—that the agency must show that its action was "subtantially justified" in order to avoid payment of legal expenses—is to be determined by a test of reasonableness. Specifically, the Agency action will be viewed as "substantially justified," if the FTC can show there was a "reasonable basis in law and fact" for bringing the action. There will be a colloquy on the record between Senator Ford and myself on that question.

I just want to say a few words on the purposes we have in mind with the language changes in the regulatory analysis and judicial review provisions. The changes are intended to clarify the meaning of S. 1991 in three ways:

First, we emphasize that any compliance, procedure, or determination by the FTC on the regulatory analysis will not be subject to judicial review. It is the legislative intent that those matters shall not be considered by any court either for determining whether the regulation is valid, or for any other purpose.

Second, there is a further clarification that the regulatory analysis requirement must not be construed to alter in any manner standards on substance or procedure which, in the absence of regulatory analysis would apply to the Commission's decisionmaking process. This reinforces the notion that regulatory analysis is a useful tool for regulators—but it is not a rule for how to reach decisions.

Finally, language is deleted from section 18 which tended to imply that a kind of cost-effectiveness requirement applied to the regulatory analysis. We want the FTC to consider costs—as well as all other effects; we want the FTC to explain its selection of available alternatives; but there must be no implication that the Commission is locked into any option on the basis of costs. After proper consideration of the regulatory analysis, the Commission must be free to select that alternative which, in its judgment, best accomplishes its statutory mandate. This particular deletion underlines that important direction to the agency.

Thus, these issues are resolved. And in my opinion, that means improvement in the important regulatory reform proposals contained in S. 1991.

I have a question for Senator Ford concerning the proper standard to be applied in determining whether a private party is eligible for an award of legal expenses under the provisions of S. 1991. The bill states that the award will be made unless the FTC can show that it was "substantially justified" in bringing the action. However, the Commerce Committee report states that the test for "substantially justified" is whether the Agency had a "reasonable basis in law and fact" for bringing the case.

Here is my question: If the FTC can show that it had a "reasonable basis in law and fact" for bringing the action, then no award of legal expenses can be made. Is that correct?

Mr. FORD. That is correct. The legislative intention is that the FTC can establish it was "substantially justified" through a showing of reasonable basis in law and fact. Such basis is the intended meaning of the phrase "substantially justified." The test is thus one of reasonableness.

Mr. RIBICOFF. That leads to an additional question. Senator Ford, am I right in assuming that there would be no award, under this standard, based on the fact that: First, the FTC simply lost the case, or second, that the FTC was unable to show that it decided to bring the action based on a substantial probability of prevailing? Am I right in making those assumptions?

Mr. FORD. The Senator's assumptions are accurate. They restate the legislative intent.

Mr. RIBICOFF. I thank the Senator for his assistance in this clarification.

Mr. FORD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 970) was agreed to.

UP AMENDMENT NO. 971

Mr. FORD. Mr. President, I send to the desk technical and clarifying amendments and I ask for their immediate consideration; and I ask unanimous consent that such amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) proposes certain technical amendments numbered UP 971.

The amendment is as follows:

On page 71, line 20, strike "or".

On page 72, line 3, strike "section." and insert in lieu thereof "section; or".

On page 72, line 4, strike "(d)" and insert in lieu thereof "(g)", and on page 72, line 10, strike "(e)" and insert in lieu thereof "(h)".

On page 76, strike lines 15 through 18, and insert in lieu thereof the following: "sen; and".

Mr. FORD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 971) was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask if there are any other amendments now that anyone has that they would like to present, and whether there are any colloquies we have overlooked?

Mr. HEFLIN. Mr. President, section 12 of the bill would place certain limits on the FTC's power to issue investigative subpenas. Under the bill, where the Commission investigates unfair or deceptive acts or practices, it would have the power to compel testimony and the production of documents by means of a civil investigative demand, similar to that used by the Justice Department—instead of its present totally open-ended subpena power.

Our committee received evidence that the FTC has misused its present subpena power by framing demands for documents that are impossibly broad. Too often, the Commission has not seen fit to state clearly what conduct it is investigating—leaving the recipients of its subpena with no basis on which to question the relevance of anything that might be asked for.

When the Committee states, as it has done on occasion, that its purpose in investigating a company is to see whether that company may have been engaged in acts or practice violating section 5 of the FTC Act, and combines that all-inclusive statement of purpose with broad subpena specifications, what it will get in response approaches the entire contents of that company's files. This is bad for the respondent and, I think, bad for the Commission as well.

For this reason, the real heart of section 12 of the bill is a simple requirement applying to the proposed civil investigative demands, as follows:

(2) Each such demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable thereto.

That requirement, allowing some means of challenging the relevance of what the Commission asks for, would become section 20(c)(2) of the act as amended.

The supporters of the bill have defended placing these minimal limits on the FTCs subpena power by arguing, not only that it would ease an unjustifiable burden now borne by the recipients of overboard Commission subpenas, but that at the same time it would make the Commission more effective. If the FTC staff has to define what it is after before it starts, rather than asking for everything, then fighting in court to get it, and later sorting out what it really wants, it is likely to make more actual progress in its investigations.

We received support for this view from FTC Commissioner Pitofsky, who told our committee that:

> I see nothing wrong, and indeed a net benefit, in an amendment requiring the Commission to be more specific in its investigative demands in consumer protection enforcement. The Commission will be required by such amendment to think through more clearly and thoroughly what information it seeks, and the recipients of investigative demands will be in a better position to resist unnecessary investigations or comply in a reasonable way. In the long run, more specificity in information demands should discourage, rather than invite, dilatory challenges.
>
> In consumer protection work, there is no reason why the Commission cannot know in advance the nature of the conduct that it is concerned about, and no reason why it cannot disclose that information at the beginning of any investigation.

A few examples show just how far afield the Commission can go in the exercise of the unchecked subpena power it has. The present bill would not affect the Commission's power in the antitrust field, where some of the worst abuses have taken place. But even these examples help to make the point that the FTC has had a tendency to waste its own time and money, as well as that of subpena respondents, by failing to bring its subpena demands under control.

Our committee heard testimony about a set of investigative subpenas issued a few years ago to the tobacco industry. The demands for documents were very broad, and the Commission was very evasive about what it was really after. The Commission and the companies fought a pitched battle in the Federal courts over whether these subpenas could be enforced in their broad form, and the Commission eventually prevailed. But after it won the lawsuit, the FTC introduced a new twist. Either the companies could submit everything that had been asked for in the subpenas, or—if they were willing to keep themselves on the hook for the indefinite future—they could submit a much smaller number of documents, which were separately identified for the first time on a special list. Presumably, the items on the short list were what the Commission was really interested in.

One company, Brown & Williamson of Louisville, Ky., decided to submit everything that had been called for and get out from under the FTC subpena. They sent their documents to the FTC last July. Brown & Williamson had to hire a truck to carry them. They sent in some 700,000 separate items, filling more than 200 cartons. Brown & Williamson employees had worked for years preparing the submission, at a direct cost—not including things like attorney's fees—approaching a million dollars.

The other companies decided to limit themselves to the items on the FTC's short list. One company made its entire submission in a large manila envelope. Of course, the Commission is eventually going to ask for more materials from these companies—but the experience suggests a vast contrast between what the FTC staff will initially ask for, and fight to get, and what it really wants in order to do its work.

As overbroad and oppressive as the Brown & Williamson subpena may have been, there have been FTC subpenas that make it look, by comparison, like nothing more than a minor annoyance. The best examples are the subpenas prepared by the Commission for the major companies in the automobile and oil industries.

Last July, GM, Ford, Chrysler, and American Motors all received a subpena issued in connection with an FTC investigation of "the structure, conduct and performance" of the domestic automobile industry. That subpena is 57 pages long and contains 199 separate specifications.

The U.S. Court of Appeals for the Sixth Circuit described the scope of the subpenas as follows:

> The subpenas seem to require [each company to produce] copies of *just about all of its records bearing on production and sale of automobiles* for the years running back to 1946 and, as far as forecasts are concerned, extending forward through at least the year 1980.

Besides asking the automobile companies for everything having to do with the automobile business—which presumably means almost every document they possess—the FTC was apparently using the subpena to pursue some of its more exotic conspiracy theories. Specification No. 195 of the subpena issued to Ford Motor Co. read as follows:

> Such documents as reflect or reveal, with respect to each officer of your company located in this country holding a rank of Vice President or above:
>
> (a) the name of the officer and his or her title;
>
> (b) the city, town or village, county, state and Zip Code in which he or she principally resides;
>
> (c) all clubs, societies or social organizations to which he or she belongs where membership dues are wholly or partially paid by your company.

A Federal district judge in Michigan found that GM had to spend $700,000 just to determine what its cost of compliance would be. The judge went on to find that GM's ultimate cost of compliance could reach $16 million. Chrysler Corp., whose financial position is a source of concern to the rest of the Federal Government, estimated that it would have to spend $10 million to comply with the subpena issued to it by the FTC. If the Commission had ever gotten the documents it had asked for—once all the inevitable litigation over these subpenas had been resolved—it would have been interesting to see how long it took the staff to do anything with them.

I noted in the morning paper, however, that the Federal Trade Commission now says it will restrict the reach of the subpena. This is most gratifying, although it would be interesting to know what prompted the Commission to finally change its mind.

The subpena that outdoes them all is one that did not get issued: it is the subpena that the FTC staff wanted to issue to the major oil companies. That subpena never happened, because the FTC's own Administrative Law Judge told the Commission staff that its incredible demands, even supposing they could be enforced, would result in an unmanageable case.

The FTC's investigation of the oil companies, known as the Exxon case, got started in the summer of 1973 when the FTC was under great pressure to do something—or to seem to be doing something—about the oil companies. The case has now been pending for 6½ years. For some of those years, the FTC budget for this case alone was almost $6 million.

The case is nowhere near trial. Almost no one outside the FTC has ever heard of it, because—despite the extraordinary expenditure of time and money—almost nothing has happened yet. A large part of the explanation is surely the amazing subpenas proposed by the staff, which had the effect of paralyzing the Commission itself.

On February 20, 1976, after 2½ years of preparation, the Commission staff filed a motion with the administrative law judge for the issuance of subpenas to the oil companies. The proposed subpena, including statements of justification and definitions, was more than 1,800 pages long. It contained approximately 700 numbered specifications, calling for documents from 1950 to the date of submission. It demanded documents located all over the world. It required detailed data concerning over 2,000 products refined from crude oil. It required documents of any company or operation in which respondents, at any time since 1950, owned at least a 5-percent interest. Some specifications required the production of documents that had been referred to in the depositions in this and other proceedings. The transcripts were incorporated by reference, so that compliance would have meant referring to some 12,000 pages of depositions apart from the subpena itself.

The staff acknowledged that the subpenas as drawn would require the production of tens of millions of documents. The companies were asked to number each document to show the specification to which it was responsive.

A month later, the staff filed an "addendum" consisting of 140 "errata sheets" with corrections, substitutions, and additions for the 13 volumes and 1,800 pages of the subpena. Two weeks later, the staff filed a second set of "errata sheets" together with 295 substitute pages which could be used by respondents to produce a corrected version of the subpena.

One company (Texaco) reported that it had used 700 people working 7,000 man-hours at a cost of $200,000 just to evaluate the burden that the proposed subpena would impose, if it were enforced.

The companies' estimates of that potential burden reveal staggering figures. Exxon, for example, estimated that the subpena would require it to search 879 million pages in this country alone; the task would take 6,752 man-years, not including the time spent by attorneys; the cost, excluding attorneys' fees, was estimated at $150 million. What would have to be submitted for Exxon's domestic division alone was estimated at 93.5 million pages—a pile of paper 9.8 miles high or reaching 16,233 miles laid end to end.

The FTC staff offered a revised subpena in the face of these objections—only 1,200 pages instead of 1,800. The FTC's Administrative Law Judge refused to issue the 1,200-page subpena, saying that it represented "an overwhelming and unreasonable burden and an unmanageable case." The staff appealed this decision to the full Commission, which sat on the appeal for 9 months without doing anything. Then the staff withdrew its appeal and filed much more limited subpena requests. Production of documents has finally begun; but the end, needless to say, is nowhere in sight.

Ironically, the Court of Appeals for the Ninth Circuit ruled last May that there was a question requiring determination by the district court whether the FTC had actually had any "reason to believe" that the complaint against the oil companies was justified in the first place—back in 1973, when the Exxon case was started in such a hurry. So far as I can tell, the district court has not yet answered that question.

Whether or not you consider yourself, as I do, a supporter of the Federal Trade Commission, I think you will agree that this is no way for the Commission to do business. Although the proposal for civil investigative demands would not directly affect an antitrust case, like Exxon, I believe that it will convey to the FTC a valuable notion: That paying greater attention to subpena demands at the time they are being drawn up will be of more benefit to the work of the Commission than litigating to preserve its legal right to get documents it does not really need. Like Commissioner Pitofsky, I think the suggestion is a salutary one for every one concerned.

Mr. FORD. Mr. President, I yield 3 minutes to the Senator from Ohio on the bill.

Mr. METZENBAUM. Mr. President, as we come to a conclusion on this bill, I rise to commend the Senator from Kentucky for his handling of this very difficult measure. He has been fair. He has done his job. He has fought amendments I opposed and he opposed. He fought amendments I was for. But I think in all respects he has handled this very difficult, very challenging, bill in a most commendable manner, a fair and objective manner.

Mr. President, I rise and say that I have a lot of respect for the manner in which it has been done.

● Mr. TALMADGE. Mr. President, I congratulate my colleagues on the Committee on Commerce, Science, and Transportation for their fine work in reaching unanimous agreement on S. 1991, the Federal Trade Commission Authorization Act. The committee had to wrestle with difficult and controversial issues during its consideration of a new 2-year authorization for the FTC. I am especially grateful for the distinguished leadership of Senator CANNON, chairman of the Commerce Committee, and Senator FORD, chairman of the Consumer Subcommittee that had initial responsibility for S. 1991. I also appreciate the generous spirit of compromise displayed by Senators MAGNUSON and PACKWOOD during the committee's deliberations.

Mr. President, the FTC authorization bill that the Senate began debating yesterday represents a small victory in what is sure to be a long campaign to overcome excessive Federal regulation. I am encouraged by this effort to restrain one overzealous agency. Much more needs to be done, however, in our larger struggle against an oppressive Federal bureaucracy.

Every citizen in this country is fed up with our Government bureaucracy which has often taken the law into its own hands. We must restrain unelected bureaucrats from meddling into almost anything they seem to choose. During my more than 23 years in the Senate, I have consistently criticized the regulatory process that has now gotten completely out of control. I have regularly defended the rights of States, local governments, and private citizens against an encroaching Federal Government.

Fortunately, I believe that Members of Congress are finally beginning to get the message. They have discovered that their constituents are indeed fed up with unnecessary Government regulation and costly new Federal programs. As I have said before, that is why I believe that the 96th Congress has thus far been one of the most satisfying Congresses in which I have had the honor to serve. It has been a good Congress because we have abstained from enacting a lot of costly new programs that the American taxpayer cannot afford, does not need, and does not want. We must continue to strengthen our efforts in this regard.

I am delighted that the Senate Committee on Governmental Affairs chaired by the able senior Senator from Connecticut, Senator RIBICOFF, has begun evaluating the various regulatory reform proposals that have been introduced and referred to that committee. One of them, S. 1569, the Regulatory Accountability Act, is a measure that I drafted and introduced last year. The bill is a follow-up to Senate rule 29.5, known as the Talmadge rule, which mandates that each committee report contain a regulatory impact statement. The Talmadge rule is the only true regulatory reform proposal the Senate has adopted during my 23 years in the Congress. My new legislation would strengthen the Talmadge rule by closing loopholes and by applying it to both Houses of Congress and the executive branch. In addition to my own proposal, I have cosponsored S. 262, another major regulatory reform bill that was introduced by Senator RIBICOFF. I am hopeful that the Governmental Affairs Committee will report out a strong bill later this year.

Mr. President, I am pleased that this current debate on the Federal Trade Commission has given the Senate an opportunity to make some progress in eliminating excessive intervention by the Federal Government in the U.S. economy. I understand the FTC's role in insuring that the marketplace is not distorted by anticompetitive practices or by practices which are unfair or deceptive. I only wish that the FTC itself would remember its place. Several FTC investigations have proceeded without clear legislative authority or without acknowledgement of States' prerogatives. For these reasons, I wholeheartedly support S. 1991 as reported by the Commerce Committee as well as additional amendments that would further define the FTC's authority.

I fully support the Nunn-Schmitt legislative veto amendment. When the concept of a congressional veto over agency regulations was first discussed, I was unsure that it was practical and constitutional. However, I am now convinced that Congress does have the constitutional authority and the resources to exercise this kind of control over irrational and burdensome regulations. I will support the legislative veto because I believe that we must send a strong signal to the Federal agencies that the Congress and the American people will no longer allow our free enterprise system to be stagnated by oppressive Government redtape and regulations.

I also support the McClure-Melcher amendment to restrain the FTC's overzealous investigations of the professions. This amendment would prohibit the FTC for 2 years from taking action against State-regulated professions and their respective nonprofit professional associations. FTC regulation of lawyers, doctors, dentists, and other health-related professions is just another example of the Federal Government usurping a responsibility that has rightfully belonged to the States for more than 100 years. As a consistent advocate of States' rights, I will always continue to defend this State prerogative against attack by the Federal bureaucracy.

During the Senate's consideration of S. 1991, I intend to vote to protect another right expressly reserved by act of Congress to the States—regulation of the insurance industry. I strongly support the provision of S. 1991 that bars the FTC from investigating the insurance business. FTC meddling in this area flies in the face of the plain meaning of the McCarran-Ferguson Act which says:

> The Sherman Act, the Clayton Act and the FTC Act shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

Currently, all 50 States have adopted rate regulatory statutes for property or liability insurance or both. In addition, every State has adopted some form of an unfair trade practices act which prohibits activities which are unfair, anticompetitive, or discriminatory. This pervasive State regulatory system and the clear exemption from FTC jurisdiction in the McCarran-Ferguson Act argue forcefully for keeping the insurance provision in S. 1991. As long as I am in the U.S. Senate, I will defend the McCarran-Ferguson Act against attack.

It is my understanding that a proposed amendment affecting FTC jurisdiction over the moble home industry may be withdrawn in favor of careful oversight hearings by the Consumer

Subcommittee of the Commerce Committee. Although I support this compromise, I favor limiting the FTC's authority to regulate sales and services in the mobile home industry and hope that the Consumer Subcommittee will recommend such legislation. Congress mandated effective regulation of the mobile home construction and sales as long ago as 1974 when it passed the National Mobile Home Construction and Safety Standards Act. Additional consumer protection is afforded by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act which applies to the warranties of mobile home manufacturers as "consumer products." Curtailing the FTC's authority in this industry is a justified effort to avoid overregulation.

Mr. President, I believe that the FTC authorization bill as reported by the committee together with certain amendments constitutes a responsible attempt to restrain a Federal bureaucracy that we all agree has simply gone too far. The American people both need and want the relief that this legislation would provide.

I will continue my efforts in this regard and I urge my colleagues to work with me as we move toward lessening the overwhelming regulatory load now imposed on our people by the Federal Government. Government regulation alone costs in excess of $100 billion annually. These are nonproductive dollars which add fuel to the inflation fires. If we want to get our economy out of the ditch, we must start by cleaning up our own Government shop. This can be done by spending, taxing, and regulating less.●

● Mr. BAUCUS. Mr. President, today the Senate considers the Federal Trade Commission authorization bill. The members of the Committee on Commerce, Science and Transporation have worked diligently to address the problems expressed about the Commission. I have studied carefully their recommendations.

I consider much of the criticism leveled at the Commission to be legitimate. I agree wholeheartedly with Montanans that limitations must be placed on this agency's rulemaking powers. It is the responsibility of Congress to deal with the problems arising from the Commission's activities. We should take a well-reasoned and balanced approach. On my part, there are five principles I will keep in mind as legislation is considered.

One, I will actively support efforts to strengthen congressional oversight of the Commission's activities. Two, I will support provisions consistent with principles of sound regulatory reform. Three, I will support preserving State jurisdiction over those subjects that the States have traditionally regulated and are clearly capable of doing so. Four, I will not support efforts to grant certain interests unwarranted exemptions from the Commission's jurisdiction. Five, I will continue to support a Federal Trade Commission designed to protect businesses and consumers from anticompetitive behavior.

GREATER CONGRESSIONAL OVERSIGHT

In my opinion, Congress should see to it that the Federal Trade Commission's actions are truly in the public's interest. I hear repeatedly from Montanans that the Commission has too often unnecessarily interfered with their everyday lives. Their angers and frustrations are justified. The Commission issues rules and regulations having the effect of law. Yet neither the agency nor its staff are accountable to those most affected by such laws.

From time to time Congress should insure that the Commission's rulemaking activities are of benefit to the public. My constituents tell me and I know firsthand that bureaucrats are often insensitive and unresponsive. In my view, Congress needs a workable mechanism to curb the growth of regulations issued by over-zealous bureaucrats.

This is why I have joined with Senators LEVIN and BOREN in cosponsoring an amendment to S. 1991 that would provide for a two-house legislative veto of newly issued Commission rules. We in the Congress have primary responsibility for determining public policy. The number and complexity of Federal regulations has proliferated greatly over the past decade. We have reached the point where citizens and businesses cannot function without being subject to the overriding hand of big Government. The time has come to put a halt to regulatory abuses and return to a system of government accountable to the people. A legislative veto will give Congress the time needed to analyze and improve Commission rules prior to their becoming law. In the long run more sensitive and responsible regulations will be issued.

I want to make clear that I am willing to take the time to evaluate the legitimacy of certain Commission activities and take aggressive action to overturn it when necessary. A good example would be remedial legislation like S. 598, the soft drink bottler bill. In this case, the Commission's actions threatened to put small Montana bottlers and others out of business. S. 598 would have the effect of halting the Commission's harmful activity in this area.

The negative impact of Federal regulations can be reduced substantially by Congress engaging in continuous oversight of the Commission. This is one of the reasons I introduced the Legislative Oversight Act of 1979. I support Senator FORD and the Consumer Subcommittee's commitment to conduct periodic oversight hearings on the Commission's activities.

RESPONSIBLE REGULATORY REFORM

America's small businesses are most burdened by overregulation. As a member of the Select Committee on Small Business, I have actively supported legislation designed to make Federal agencies more aware of and sensitive to the small business community. In this respect, I will support the regulatory reform provisions of S. 1991, particularly the conforming amendments which Senators RIBICOFF, JAVITS, and LEVIN will offer.

In my opinion, procedural reform at the Commission will lessen the present regulatory burden and lead to a more efficient administrative process. Allowing individuals affected by the Commission's rulemaking activities to participate in the process will insure that all viewpoints are considered fully.

REGULATION BY THE STATES

I want to reemphasize my concern that we take a balanced approach in defining precisely the parameters of the Commission's jurisdiction. By and large, I support restricting the Commission's jurisdiction in those areas where the States are clearly capable of identifying and preventing anticompetitive practices. It is my view that we should not tolerate the Commission's second-guessing State legislatures. In dealing with this problem, Congress should observe the basic precepts of checks and balances. This sort of approach will result in Congress and the Commission being more sensitive to the State's regulatory authority.

I want to make clear, however, that I remain unpersuaded by the argument that because a State agency performs basic licensing functions it is equipped to deal with egregious business practices. In all fairness to America's consumers, I believe Congress should examine carefully the State's ability to enforce Federal laws. For the most part, I have a high degree of confidence in the integrity of those individuals serving at the State level. But caution should be observed in situations where the fox is left guarding the chicken coop.

SPECIAL INTEREST EXEMPTIONS

Recently, many private interests have lobbied the Congress to exempt totally their conduct from the Commission's jurisdiction. I support the idea of limiting the Commission's authority pursuant to a proper congressional inquiry. In my opinion, such an inquiry must necessarily include hearings in which all parties have the opportunity to present their viewpoints. Fundamentally, we in the Congress have a duty to see that America's consumers and businesses are effectively represented in matters vital to their well-being. Therefore, I will not support unwarranted legislation which gives certain groups exemptions from the Commission's rulemaking authority.

Such action would, in my judgment, set an undesirable precedent and encourage others to seek exemptions whenever their conduct is affected by the Commission's activities. There is no sense in Congress spending hard-earned tax dollars on a Federal Trade Commission amounting to a piece of swiss cheese, with gaping loopholes in its jurisdiction.

The question is not whether a particular group or industry should be entirely exempt from the purview of an agency's jurisdiction. Rather, the question is whether an agency is acting unreasonably.

The Levin-Boren legislative review alternative will be an effective way for the Congress to check any abuses of authority by the Commission.

A VIABLE FEDERAL TRADE COMMISSION

There continues to be an important role for the Commission in the area of consumer protection. I believe that the Commission's work in this area has proven beneficial to both consumers and businesses. However, the antiregulatory mood existing throughout the country is justified. Although many have benefited from the Commission's activities, their regulations do impose heavy costs on business, which in turn get passed along to the consumer.

In the 1980's Congress should work to design a Federal Trade Commission that can adequately protect consumers and business from anticompetitive practices. The Commission should be more structured to reflect the economic realities of the times. A minimum amount of intrusion coupled with a clearly defined mandate will lead to an effective and efficient Federal Trade Commission. American business will be better able to do its job and competition in the marketplace will be truly enhanced.●

● Mr. LAXALT. Mr. President, I am pleased to support S. 1991. This is responsible legislation which reflects a clear need to reassert congressional control over an agency quite clearly given to bureaucratic excess. This bill will send a clear signal to the executive branch that the Congress intends to reassert its constitutional oversight function.

The original intent behind the Federal Trade Commission Act was to improve economic efficiency. By strengthening our economic markets, Congress intended to protect both producers and consumers from unfair methods of competition and unfair or deceptive acts or practices.

To do this it was thought that the best method of protecting consumers was to insure a freely functioning competitive economy. Direct regulation of industry was to be avoided whenever possible, and undertaken by the States in those instances where it was unavoidable.

But over the years, this original intent has been lost. The FTC lost its focus on strengthening economic markets. Instead, in the guise of protecting consumers the FTC has launched massive investigations and blanketed entire industries with stifling regulations.

A few examples will suffice. Allegations were made by the FTC staff that some standards groups—organizations of private companies that set minimum standards for the industry—had excluded goods from the market by imposing unreasonably high standards. At the same time the FTC said that other standards groups refused to set sufficiently stringent safety standards. The agency proposed a wide-reaching rule to correct both of the conflicting alleged abuses.

Obviously, this proposal was not designed to strengthen the market but to impose the FTC's version of social policy. If standards were too high they were illegal for excluding products. If they were too low they were illegal for not providing adequate product safety or reliability. Only standards that fit within the agency's conception of adequate would be allowed, even though this would in itself eliminate competition as industries fell into line and developed uniform products.

The most outrageous aspect of this whole affair is that the FTC staff based this proposed rule on the basis of 26 alleged violations out of 20,000 standards in existence. On the basis of these 26 violations, the FTC was claiming jurisdiction to regulate the other 20,000 standards involving hundreds of industries.

This is not an isolated case. The FTC prosecuted doctors, lawyers, and other professions for not advertising. It prosecuted the cereal industry for advertising too much. In other investigations, the FTC would issue overly broad industry-wide subpenas without any basis to believe that any company was violating the law. The FTC announced a wide investigation into the gasoline additive industry—just when due to the energy crunch and clean air acts the industry was dying. Once investigations were started and intimate business documents subpenaed, the FTC was very liberal in disclosing the confidential information. In the words of my esteemed colleague Senator CANNON "In contrast with the Department of Justice, the FTC has been very liberal in disclosing business information."

One of the most serious abuses of the FTC, however, has been the attempted regulation of State regulated industries and professions. Not only is this overburdensome on the industry, at times it verges on unconstitutionality.

Professions such as law and medicine and industries such as insurance are carefully controlled, monitored, and regulated by the States. This has worked well to provide efficient, affordable service to consumers. By permitting the FTC to meddle in these areas several harms occur. First, at a minimum, there is yet another layer of bureaucracy on the respective industries increasing costs and decreasing productivity. Second, if proposed FTC rules conflict with State regulations a constitutional confrontation arises. Finally, the FTC rules bring us one step closer to a nationally regulated society.

In short, Mr. President, the problem is clear. Despite the best of intentions, the Federal Trade Commission has lost sight of its original mission. Instead of promoting competition, it often hinders it. It has added another layer of regulations on our country and often it tramples on States rights.

Congress must bear its share of responsibility for this unfortunate circumstance. Despite clear legislative intent of the drafters, the actual wording of the FTC legislation is very broad. The FTC was to stop "unfair and deceptive acts or practices." Obviously, that language imposed few legal bounds. While this was not a problem in the limited Government and limited business days of 1914, over the years our economy grew increasingly complicated and complex. Local business grew into multinational enterprises. At the same time, the Federal jurisdiction over the economy has grown far beyond the vision of the drafters. Currently, almost every aspect of the economy is subject to Federal jurisdiction. As that jurisdiction has expanded, so has the mandate of the FTC until almost any economic target was legitimate.

As the years progressed, Congress failed to conduct periodic reviews and oversight of the agency. Without these, the FTC was without guidance of where or when to proceed. That is made the wrong choices is partly our fault.

For these reasons, I was pleased when the Commerce Committee and the Consumer Subcommittee held careful oversight hearings on the FTC. I commend their actions and S. 1991, the product of their efforts. Under the direction of Chairmen FORD and CANNON, the two committees have gone a long way toward reforming past abuses of the Federal Trade Commission and providing guidance for its future actions.

I would like to point out some of the features of S. 1991, which are particularly important. Although the bill did not include some of the provisions that I hoped it would, the measures proposed are balanced and necessary.

Section 7 would restructure the FTC's investigations into advertising by requiring that the alleged false advertising must be "false and deceptive" and not just merely "unfair." By investigating advertising that was just unfair but not false I believe that the FTC threatened to impinge on the first amendment freedoms of speech and press. Nobody can define "unfair" leaving the regulatory body to set its own standards. This is regulating speech on the basis of content—a clear first amendment violation.

Sections 3 and 4 will help preserve the confidentiality of business secrets and information when they are turned over to the FTC pursuant to an investigation. One of the greatest safeguards to economic competition in our society is keeping businessmen in the dark about the business secrets of others. Our strongest antitrust cases are against firms which share information and plan their actions on a concerted basis. If the FTC discloses secrets of all firms in an industry this vital guarantee to competition is lost and our antitrust laws become unenforceable. If only one firm's information is released that firm suffers a serious disadvantage relative to the other buusinesses. Further, with this new protection, firms will be more willing to comply with the FTC's requests for documents.

Section 5 would remove the FTC's investigative jurisdiction over the insurance industry. FTC investigations of insurance not only tread on the constitutional issue of States' rights, they also clearly violate the mandates of Federal law as set down in the McCarran-Ferguson Act. Clear congressional mandates should not be circumvented by a regulatory agency.

Other sections would end the standards and certification rulemaking, limit the power of FTC subpenas, and strengthen the procedures within the agency. In total, the bill curbs many abuses of the FTC and establishes a sound framework for the future.

Beyond that framework however, some additional fine tuning has been done on the Senate floor. I have welcomed the debate and ideas of all my colleagues. The high level of debate and the many potential amendments has served to demonstrate to me the importance of this issue to our country. This bill is not a meat-axe job, nor does it represent a cave-in to special interest groups. It is a carefully crafted balance of competing interests which will curb the bureaucratic excesses of the FTC.

I strongly supported the McClure amendment and I was sorry to see it lose. The McClure amendment would have removed the FTC jurisdiction over State-regulated professions. This amendment would have avoided potential State-Federal confrontations while at the same time it would have maintained that already high level of State regulation. The FTC should concentrate its resources elsewhere and not second-guess State operations over their professions.

I am pleased however to see the Senate institute a two-House veto over FTC final rules. This amendment would guarantee that the reforms instituted in S. 1991 are not forgotten by the FTC in the future. Independent agencies such as the FTC are creatures of Congress. We are ultimately responsible for their final actions. Particularly when the actions affect the American economy, the Congress should reserve for itself the power to review and, if necessary, reverse their rulings. Although I preferred the one-House veto embodied in the Schmitt amendment, I am glad that some type of legislative review was incorporated in S. 1991.

In short, Mr. President S. 1991 is a good piece of legislation I am proud to support. Some past and current abuses of the FTC have been limited. Some guidance is provided for future action and Congress has reserved the ultimate right to review the final rules of this agency which touch on our vital economic freedoms. This legislation will go a long way toward meaningful bureaucratic reform and to ending the regulatory abuses that plague our society.●

● Mr. **BIDEN**. Mr. President, I am pleased that the Senate has finally begun to consider a reauthorization for the activities of the Federal Trade Commission. This important agency has gone too long without a regular authorization. I hope that we can now end that threat to its stability. On the other hand, I am less than pleased at efforts to undermine its authority to deal with important consumer and antitrust issues that are constantly before it. These threats to its independent action are contained in the bill and in amendments that will be offered from the floor. I hope that these proposals will not pass.

I yield to no one in my concern about overregulation and bad regulation. And the FTC has done its share. In 1975 I introduced a special sunset bill for regulatory agencies—including the Federal Trade Commission. This would have required the FTC and other agencies periodically to justify their activities, improve them, or go out of business. In 1975 I also introduced a general sunset bill that would terminate all programs, including regulatory programs, unless their continuance could be justified. A modified version of the latter bill passed the Senate last year by 87 to 1. I am also a cosponsor of several pieces of regulatory reform legislation.

These are all careful, deliberative means of improving government. But what we are doing now to the FTC is different: less reasoned, more emotional. The FTC is in a sense "the people's regulatory agency." I am convinced that Americans want the Federal Trade Commission to take strong action to promote competition and to prevent deceptive and unfair trade practices. While Americans want saner regulation, I do not believe they want that used as an excuse to hamper the legitimate activities of the FTC.

Yesterday we voted here in the Senate to defeat one legislative veto proposal, while accepting another that is less harmful but still unwise in my view. There is probably less reason for Congress to review FTC regulations than those of many other agencies of the Federal Government. So, if legislative veto is justified we could be reviewing as many as 7,500 regulations every year. Most of these would deal with difficult technical issues which are singularly unsuited to debate and resolution by a body of 100 people. The Senate would bog down in a sea of minutia, and business uncertainty would be even greater than now. Every regulation would be challenged by those being regulated and Congress would take over an appeals process that the courts exist to handle.

I am also concerned by efforts to undermine public participation in the hearing process of the FTC. If we really want regulations that benefit the American people, we should be acting to encourage greater public participation, not limiting it. Increased public participation will be more effective in improving FTC activities than any congressional review and veto. But opponents want to place artificial limits on funds available to help those who otherwise could not meet the expense of researching and presenting their case. I hope these efforts to limit public participation will be defeated.

Finally there will be a series of specific efforts to remove or limit the authority of the FTC to act on behalf of the public. Two of these are particularly unfortunate because they would stop proceedings currently being actively pursued by the FTC. The Federal agency charged with investigating deceptive trade practices and anticompetitive practices should be free to pursue its investigations without fear of meddling from any source. If Congress disapproves the end result of anv proceeding, it can reverse it. But it should not establish the practice of interfering. For that reason, I have cosponsored amendments to strike these provisions from the bill.

The Senate will apparently also be faced with a series of floor amendments to exempt certain industries or professions from the jurisdiction of the FTC. These have not been carefully reviewed in committee. We have no real idea of the effect of these restrictions on the role of the FTC as the consumers' representative. I cannot support ad hoc limitations on the role of one of our major proponents of free and open economic competition.

In summary, Mr. President, I would join the Washington Post editorial on February 6 in saying, "Don't destroy the FTC." One paragraph of that editorial said:

> The FTC is far from perfect. It deserves some of the cuffing around it is getting on Capitol Hill this year, but it has done nothing to justify this kind of assault.

I agree with that sentiment as well as other points in the editorial which I ask be inserted in the RECORD at this point.

The editorial follows:

DON'T DESTROY THE FTC

The line waiting outside the Senate for the debate on the Federal Trade Commission's routine authorization bill is awesome. It is not made up primarily of bureaucrats worried about their jobs, as such lines sometimes are. Or, even, of the commissioners of this embattled agency. Instead, it includes people from the insurance industry, used-car dealers, breakfast-cereal makers, growers of oranges, funeral directors, the manufacturer of Formica, builders of "mobile homes," professionals like doctors and lawyers, and the makers of antacids.

They (and others) are lined up with one simple hope. They want the Senate to outlaw existing or proposed FTC actions that interfere with tidy (and highly profitable) business arrangements. You will note that the waiting line does not include average citizens. They are not there because nothing in this bill would help them, although many of its provisions would hurt them.

The insurance industry, for instance, wants Congress to tell the FTC never to investigate it. Why? The FTC, which can now investigate but not regulate that industry, reported not long ago that the buyers of life insurance paid $1.3 billion in excess premiums during one year. The industry didn't like that.

The growers of oranges, to take another group, want Congress to stop in its tracks an antitrust case aimed at Sunkist. The funeral directors want Congress to remove the threat that they may be required to give customers an itemized price list. The "mobile home" makers don't want the FTC to require them to live up to the warranties they give. The list goes on. And on.

In other words, what started life last year as a proposal to put in an authorization bill language to curb the worst abuses of the FTC has become a Christmas tree for a wealth of interest groups. Almost every industry that has run afoul of the FTC in recent years has taken its plea for relief to Capitol Hill and found a sympathetic ear. In the trading that has gone on, one after another of these pleas has made its way either into the bill reported by the Commerce Committee or into amendments to be offered on the Senate floor. The result is an assault on the knowledge available to consumers—not to mention the attack on their pocketbooks—that puts to shame even the water projects bill passed yesterday by the House.

The FTC is far from being perfect. It deserves some of the cuffing around it is getting on Capitol Hill this year, but it has done nothing to justify this kind of assault.

If the Senate has any sense of what government regulation should be and of what kind of protections the average citizen needs from predatory business practices, it will strip from this bill every single effort to roll back or cut off or bar FTC investigations and regulations. It is too late now to try to figure out which, if any, of these rollbacks, cutoffs and bars has any legitimate justification, and throwing them out would still leave the Senate with more than enough serious proposals aimed at changing the FTC's practices. It would also leave the average citizen with some of the protections he needs but is now, suddenly, in danger of losing.●

SECTION 20

Mr. DECONCINI. Mr. President, I am pleased to have the privilege to speak in support of section 20 of S. 1991. This section addresses the award of attorney fees and other expenses that by virtue of this section would be payable to prevailing parties in successful agency proceedings or civil litigation with the Federal Trade Commission. This aspect of S. 1991 has special meaning for me. During the last session the Senate passed S. 265, commonly known as the Equal Access to Justice Act, by an overwhelming vote of 94 to 3. I then had the privilege of cosponsoring and conducting hearings on that important legislation. The essence of S. 265 is embraced by section 20 of S. 1991, and I am grateful for the opportunity to speak in support of this legislation.

Mr. President, I would first like to express my gratitude to my distinguished colleagues, Senators FORD and CANNON. Through their efforts and leadership the Committee on Commerce, Science and Transportation has reported a bill that preserves our work on S. 265.

The commitment to the principles embodied in S. 265 as expressed last session by Senator FORD has been maintained in S. 1991, and the distinguished Senator is to be congratulated for his diligence and fine work. I would also like to express my thanks to my colleagues, Senators DOMENICI and NELSON, whose continued support for the premise of S. 265 is most appreciated. And I would like to compliment Representative RAILSBACK, who quite recently introduced H.R 6336, which is virtually identical to S. 265 and reflects the import of section 20.

GENERAL BACKGROUND

Mr. President, whether we are considering S. 265 or section 20 of S. 1991 before us today, the results should be the same, because the premise is identical. As noted in the report on S. 1991, section 20 is modeled after S. 265, which found that certain individuals, partnerships, and other organizations may be deterred from seeking review, or defending against arbitrary agency action because of the expense involved in securing the vindication of their rights in civil and administrative proceedings." Simply stated under this section, individuals and small businesses which prevail in agency adjudications or in civil actions brought by or against the Federal Trade Commission will be able to recover their attorney fees and other expenses unless the Commission can show that its action was substantially justified or that special circumstances would make such an award unjust. The fee award will come directly from the operating budget of the commission.

The concept of this section of S. 1991 is simple. Through the device of fee-shifting, the section attempts to overcome the financial obstacles which prevent citizens from contesting or challenging the unreasonable exercise of Commission authority. At the present time, citizens do not have viable remedies in such matters, because it simply costs too much to resort to agency or court proceedings to vindicate their rights. It is often much easier, much cheaper and much more practical to give in than to challenge the Commission's vast resources and legal expertise.

In this regard, I would like to note that the purpose of this section is not only to compensate people who have been the victims of arbitrary commission actions. It is also intended to affirmatively encourage citizens to challenge actions which they believe to be unreasonable or irresponsible. It recognizes that those who choose to litigate an issue against the commission are not only representing their own vested interests. They are also refining public policy, correcting errors on the part of Government, and helping to define the limits of Federal authority. In short, these people are serving public policy and a public purpose.

By encouraging citizen access to courts and administrative proceedings with respect to the Commission, I believe this legislation will become an instrument for making the Commission more accountable in the exercise of its powers and more responsive to its citizens' needs. It will help insure that administrative decisions of the Commission reflect informed deliberation. It will make the Commission take a closer look at its rules, its procedures and its personnel. It will also aid effective congressional oversight by providing an objective measure of whether the Federal Trade Commission is engaging in excessive, unreasonable regulation. This section would be an extension of a current FTC statutory authority (15 U.S.C. 57a(h)(1)) to permit the award of attorney fees in FTC adjudication proceedings.

As Americans we are proud of the fact that we are a nation governed by laws. And we are equally proud that we are able to resort to our courts to challenge those laws as well as to vindicate our rights under them. Unfortunately, however, the system today is out of balance. Regulation is excessive. The laws have grown into a pernicious web of rules, regulations, responsibilities, and rights—complex, confusing, and sometimes conflicting. At the same time, justice has simply become too expensive for the average American, particularly when he must litigate against the seemingly unlimited resources and legal expertise of the Government.

Because of these economic deterrents, many citizens today have no effective remedy against unreasonable Government regulation. When the cost of contesting a Government order exceeds the amount at stake, a citizen or small business has no realistic choice, even if he believes the Government action is unwarranted or unfair. Under these circumstances, it is obviously more practical to pay a fine than to contest it.

The danger here, however, extends beyond the individual case. When citizens cannot afford to challenge unreasonable regulations, the result is a type of coerced compliance which undermines the integrity of the entire decisionmaking process. Administrative decisions should reflect informed deliberations. But where citizens are forced to comply with regulations simply because it is too costly to fight them, precedent is established on the basis of an uncontested order rather than the thoughtful presentation of opposing views. And this precedent then can be applied industrywide.

In fact, there is evidence that small businesses bear the brunt of administrative regulation and enforcement precisely because they do not have the resources to fully litigate the issues. They are, in short, the easiest targets.

We must give the individual and small business at least a fighting chance to challenge the unreasonable exercise of governmental power. I believe that the Federal Trade Commission Act we address today can be an effective instrument toward this end. By allowing an award of reasonable fees and expenses against the Commission when its action is not substantially justified, this legislation provides an effective legal or administrative remedy where none now exists. By allowing a decision to contest Commission action to be based on the merits of the case rather than the cost of litigation, this legislation promotes informed administrative decisionmaking. And even more important, I think, is that by taking this fee award from the budget of the Commission, we will provide a quantitative measure of whether the Commission is overstepping its boundaries.

I recognize, of course, that this section represents a significant change in the general American rule that each party must bear his own costs. But this is the same change we addressed during the deliberations on S. 265. And after lengthy evaluations and revisions we accepted this change by an overwhelming vote. The section I address today mirrors the resolution of our previous debate.

S. 265 BACKGROUND

The background of S. 265 bears repeating inasmuch as section 20 of the Federal Trade Commission Act before us today is directly drawn from S. 265 as noted in the report to S. 1991.

The American rule is grounded in the belief that a losing party should not be penalized for merely exercising his or her right to prosecute or defend a lawsuit. Thus, one of the stated purposes of the American rule is not to discourage or deter litigation. However, in many cases, particularly in litigation with the Government, the American rule is in fact having the opposite effect. For many citizens, the costs of securing vindication of their rights and the inability to recover attorney fees preclude resort to the adjudicatory process.

The deterrent effect created by this inability to recover fees against the Government is particularly disturbing in light of the rapid growth in Government regulations in recent years. While the influence of the bureaucracy over all aspects of life has increased, the ability of most citizens to contest any unreasonable exercise of authority has decreased. Thus, at the present time, agencies such as the Federal Trade Commission, with its greater resources and expertise, can in effect coerce compliance with its position. Where compliance is coerced, precedent may be established on the basis of an uncontested order rather than the thoughtful presentation and consideration of opposing views. In fact, there is evidence that small businesses are the target of agency action precisely because they do not have the resources to fully litigate the issue. This kind of truncated justice undermines the integrity of the decisionmaking process.

The exception created by S. 1991 focuses primarily on those individuals for whom cost may be a deterrent to vindicating their rights. An adjudication or civil action provides a concrete, adversarial test of Government regulation and thereby insures the legitimacy and fairness of the law. An adjudication, for example, may show that the policy or factual foundation underlying a Commission rule is erroneous or inaccurate, or it may provide a vehicle for developing or announcing more precise rules. S. 1991 thus recognizes that the expense for correcting error on the part of the Commission should not rest wholly on the party whose willingness to litigate or adjudicate has helped to define the limits of Commission authority. Where parties are serving a public purpose, it is unfair to ask them to finance through their tax dollars unreasonable Government action and also bear the costs of vindicating their rights.

Under S. 1991, fees will be awarded unless the Commission can show that its action was substantially justified for that special circumstances make an award unjust. This standard balances the constitutional obligation of the executive branch to see that the laws are faithfully executed against the public interest in encouraging parties to vindicate their rights.

Mr. President, as I mentioned in the beginning of my remarks, section 20 of S. 1991 reflects the lengthy process of evaluations, reevaluation and compromise attendant to S. 265. For this reason, I think it is important to put the standard for the award and fees in that perspective. As introduced by my distinguished colleague from New Mexico in the 95th Congress a predecessor bill to S. 265 provided for a mandatory award of fees. However, when I held a hearing on the bill, the Department of Justice expressed concern over the bill's potential cost and its potential chilling effect on legitimate Government enforcement efforts. The Department drafted an alternative proposal which would allow fees where the Government action was "arbitrary, frivolous, unreasonable or groundless."

Both S. 265 and the bill we have before us today represents a middle ground between the mandatory award and the Department's standard. The mandatory award was rejected as too broad. It might prevent the Government from vigorously fulfilling its proper constitutional enforcement obligations. However, the Department's standard was simply too narrow to overcome the strong disincentives to the exercise of legal rights. It was based, in fact, on language from the Christiansburg Garmet case which was narrowly drawn to address the limited situation of prevailing defendants in civil rights actions. Under its standard a party must prevail and must produce facts proving that the Government action had no legal or factual basis and that it was completely without foundation. Clearly, awards under this standard would be very difficult to obtain.

For these reasons, we chose instead language for S. 265 which had precedent in rule 37 of the Rules of Civil Procedure. This standard has the benefit of some definition in case law. More importantly, it places the burden on the Government to justify its actions in order to defeat an award. It is therefore strong enough to encourage people to vindicate their rights. At the same time, it protects the Government when its case, though not prevailing, has a reasonable basis on law and fact. Thus, the test of whether or not Commission action is substantially justified is essentially one of reasonableness. Where the Commission can show that its case had a reasonable basis both in law and fact, no award will be made. In this regard, the strong deterrents to contesting FTC action require that the burden of proof rest with Government. This allocation of the burden, in fact, reflects a general tendency to place the burden of proof on the party who has readier access to and knowledge of the facts in question. I believe that it is far easier for the Commission, which has control of the evidence, to prove the reasonableness of its action than it is for a private party to marshal the facts to prove that the FTC was unreasonable.

Certain types of case dispositions may indicate that the Commission action was not substantially justified. A court should look closely at cases, for example, where there has been a judgment on the pleadings or where there is a directed verdict or where a prior suit on the same claim had been dismissed. Such cases clearly raise the possibility that the Commission was unreasonable in pursuing the litigation.

The standard, however, should not be read to raise a presumption that the Commission position was not substantially justified, simply because it lost the case. Nor, in fact, does the standard require the Commission to establish that its decision to litigate was based on a substantial probability of prevailing. Furthermore, the Commission should not be held liable where "special circumstances would make an award unjust." This "safety valve" helps to insure that the Commission is not deterred from advancing in good faith the novel but credible extensions and interpretations of the law that often underlie vigorous enforcement efforts. It also gives the court discretion to deny awards where equitable considerations dictate an award should not be made.

The report to S. 1991 agrees with this analysis; it concludes that "(t)he Committee intends to give this term (substantially justified") the same meaning it was given in S. 265, * * * previously passed by the Senate."

Under existing fee-shifting statutes, the definition of prevailing party has been the subject of litigation. My intention is that the interpretation of the term in S. 1991 be consistent with the law that has developed under existing statutes. Thus, the phrase "prevailing party" should not be limited to a victor only after entry of a final judgment following a full trial on the merits. A party may be deemed prevailing if he obtains a favorable settlement of his case; if the plaintiff has sought a voluntary dismissal of a groundless complaint; or even if he does not ultimately prevail on all issues.

Nothing has changed since passage of S. 265 to suggest that we accept today anything less than our intentions as embodied in S. 265 and as echoed in S. 1991. Indeed, I continue to see evidence of strong support for enactment of this type of legislation from the small business community and the general populace. This legislation means a great deal to the small businessman; it will encourage him to stand for what he believes is right rather than turn away from our judicial system in frustration and despair. It will make participants out of spectators who would otherwise be deterred from the courts in fear of expensive court encounters. Economically coerced compliance with a suspect Commission ruling undermines the integrity of a free and open system of justice.

To make this legislation more meaningful, S. 1991 further provides that the Commission make the award out of its operating budget; special-fee appropriations would be prohibited * * * and rightly so. This aspect is essential to S. 1991 as it would make the Commission directly accountable for its exercise of unwarranted power, and the logical end result would be a more responsible agency.

Mr. President, in closing I would like to emphasize again that the imbalance between the power of the bureaucracy and the power of the American citizen must be redressed. Congressional oversight alone will never be a sufficient safeguard against regulatory abuse. Individual citizens and small businesses, the persons who bear the brunt of administrative regulation, must be able to check arbitrary agency actions by contesting them. Through the device of fee shifting, this legislation will improve our citizens' access to courts and administrative proceedings. It will encourage them to vindicate their rights and not to acquiesce in a ruling or sanction which they believe arbitrary, misguided, or unfair. And it will, I hope, make the Commission more accountable in the exercise of its regulatory powers and more responsive to its citizens' needs.

● Mr. GLENN. Mr. President, I can be counted among those Senators who agree that there is a problem of overregulation, that it affects our economy and the ability to do business efficiently, and that the Federal Trade Commission can be identified as one of the most obvious culprits in this development in recent years. I share the opinion that the FTC has, in a number of areas and instances, overreached. Perhaps all that says is that "where there is smoke, there is fire."

The smoke and fire have been apparent on the FTC issue for several years now, evidenced by the fact that the Agency has been operating without authorizing legislation, and evidenced even more by the intense lobbying pressures which have surrounded the issue and each of the various subissues incorporated in S. 1991 and the amendments under consideration here in the Senate over the past few days.

I was impressed by the opening comments of my colleague from Missouri (Mr. Danforth), who said:

> The situation we have gotten ourselves into with the Federal Trade Commission—and with other agencies as well, I fear—indicates to me that Congress did not do its job in the first place in setting up the basic jurisdictional mandate of the Federal Trade Commission; and when it does not do its job in the first place, it gets in the position it is in now, of an after-the-fact, ad hoc review of agency determinations exercised under the broadest possible mandate in the first place.

Mr. President, it has been a most edifying experience for me as a member of the Governmental Affairs Committee to be engaged in markup of S. 262, a broader regulatory reform measure, even while the FTC debate was being pursued here on the Senate floor. Clearly, the simple juxtaposition of these issues indicates that the question of regulatory reform applies to more than one agency.

The generic regulatory reform proposal now under consideration in the Governmental Affairs Committee recognizes this fact and will, I am confident, do much to redress the past failures of the Congress to insure the presence of adequate means of auditing the regulatory process and of providing safeguards against abuse of regulatory discretion.

Shortly after consideration is completed on the regulatory reform legislation, the committee, as Chairman Ribicoff stated here on the floor Wednesday, will take up sunset legislation, which includes regulatory sunset. This is an action-forcing mechanism intended to insure comprehensive review of various programs, including regulatory programs, by the Congress.

These approaches, both of which I was pleased to cosponsor, represent reasonable and appropriate responses to the often-heard complaints about the direction of Federal regulation. They do not address, necessarily, the down-to-earth issues presented by S. 1991 and the amendments proposed to that bill over the past few days.

Those issues, however, do indeed stem in large part from congressional action in giving to the FTC a very broad mandate in the first place—a mandate broad enough to encompass most any commercial activity which the Commission might judge "unfair." So we have come to the position of having to pick and choose, if you will, from among a myriad of arguments on each of the issues. As have my colleagues, I have weighed the arguments on each of the issues presented in this debate, and I have made my decisions on the basis of my best judgment, informed by experience, testimony, and, I would hope, a fair amount of commonsense.

Experience, testimony, and commonsense have guided me in my judgment that the FTC, despite its excesses, has not been all wrong. I am among those who have specifically favored a study of the approaches taken by States to regulate rules of the MediGap policies sold to the elderly. The need for improved enforcement has been demonstrated by testimony before the Special Committee on Aging, which has heard of horrible examples of unscrupulous preying upon the elderly. I remain concerned that this situation be fully examined.

Too, I supported the amendment by the Senator from Michigan (Mr. Levin) which, in my mind, establishes a satisfactory mechanism for insuring that Congress will not overlook its duty to review major rules adopted by the FTC. In the main, however, I have supported throughout the debate on this measure the position of the committee which reported the bill to the Senate and believe that the members of the committee who have grappled with the thorny, even combative, nature of this legislation for so long deserve commendation for their efforts.

It is time that the Federal Trade Commission enjoyed a proper congressional authorization, which it will obtain through this bill. That the FTC has been reined in somewhat cannot be denied. Indeed, I believe it proper. I do not believe that the actions taken by the Senate hamstring the agency. Plenty is left for the FTC to do. I would hope that, given a little less to do, the agency might do a better, more efficient job with respect to some of its other duties, such as antitrust enforcement. Just last year, I was utterly distressed when an Ohio firm, whose acquisition by another manufacturer was challenged by the FTC, ultimately was pushed to shut down because of FTC's failure to render a timely decision. The decision, in fact, was finally favorable to the proposed sale, but it came too late. This foot-dragging did not increase competition. It did cost us needed jobs for people in my State. The whole proceeding was unnecessary and nonproductive.●

ATTORNEY'S FEES—A PROVISION OF S. 1991

Mr. JEPSEN. Mr. President, last June I introduced the Small Business and Individual Regulatory Relief Act. The basic purpose behind the legislation is to remove the burden of a financial penalty from the small business and individuals who prove themselves innocent of charges brought by the Federal Government. At the same time, it provides an incentive for those people to challenge an agency when they feel they are innocent of alleged violations, and but for the reimbursement, would have to give in because of the heavy cost of contesting the agency in court.

It is no secret to any of us that national regulatory agencies have developed a seemingly limitless capacity to harass private citizens and small businesses. A large part of the controversy surrounding the FTC authorization is based upon this same feeling.

Those agencies are staffed by tax paid attorneys. A private citizen or small business, however, is not quite so fortunate. Each must consider the legal costs of contesting Federal edicts. It has reached the point where today in order to head off the possibility of citations or heavy legal costs these people give in, or even worse, take action which even the agency would find unnecessary. Compliance by coercion and intimidation, rather than justice and due process, seems to be the rule now, rather than the exception.

For this reason, I introduced an amendment to the FTC authorization bill when it was first on the calendar as S. 1020, which mirrored the original Regulatory Relief Act. It provided for the compensation of successful defendants in civil suits filed by the FTC. The compensation included reasonable attorney's fees and other reasonable litigation costs. However, the court would have the discretion in awarding the compensation to determine what is reasonable in way of fees and costs.

The scope of my proposal was limited. While it made compensation mandatory in certain instances, it only applied to defendants, not plaintiffs. Its provisions applied only to small businesses that employ less than 100 people. And the money to pay the costs came from the agency's already existing budget with the added limitation that the FTC could not seek additional appropriations to comply with the act.

Mr. President, the need for regulatory reform is obvious to us all. Indeed, in response to the need, with a limited view towards actions by the FTC, the distinguished chairman of the Consumer Subcommittee, Mr. Ford, held several days of hearings to address many of the concerns expressed by other Senators. While I am sure not everyone is pleased with every aspect of S. 1991, most will agree that the first step was made and that the problem is not with S. 1991 per se, but more with what is not included in S. 1991. To be honest, I guess I, too, fall into that category. And much of what happens in floor debate will dictate my vote on final passage.

But I want to take a few minutes to praise the committee. In response to my attorney's fee amendment, the committee, after deliberations, included in its reform package a provision dealing with reimbursement of attorney's fees. It is more expansive than my proposal in that it includes plaintiffs as well as defendants; it applies to administrative proceedings as well as civil suits; and it qualifies reimbursement by establishing a substantial justification threshold.

Having served as a legislator for a few years, though, I recognize the need to compromise. I still feel my approach is preferable, but because we are suggesting a fundamental shift in American law as regards the awarding of attorney's fees in cases involving the Federal Government, it is my opinion that at this point in time, the most important thing is to get the concept accepted by this Congress. Because the Judiciary Committee has worked so hard on issue already, it would ill serve my purpose to try to complicate the issue now.

Thus, I wholeheartedly support the action by the committee in the area of attorneys' fees and pledge my support and efforts to its adoption in conference.

I realize that the House has never been warm to this whole idea of reimbursement, but the committee's approach is reasonable.

Given the sunset provision of 3 years, it is really only an experimental program. With this in mind, I do not think I am being overly optimistic when I say that the House conferee's could be persuaded to adopt the Senate provision.

Again, I thank the chairman and the ranking minority member for their open mindedness on this issue. And I urge my colleagues to voice their support for the concept of reimbursement of attorney's fees provided in S. 1991.

The PRESIDING OFFICER. Is there further amendment?

Mr. FORD. Mr. President, I find myself in a very unusual position. The majority leader has asked me to yield him some time and I am glad to be in a position to help the majority leader.

I yield whatever time the majority leader wishes under the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, the Federal Trade Commission authorization bill had become the focus of an intense campaign to curtail Government regulation and place a rein upon the power of independent regulatory agencies. Congressmen have been beseiged by industry representatives seeking to exempt certain businesses from FTC scrutiny. In many instances, the purpose of the FTC—to encourage competition and deter business misrepresentation—became lost in a barrage of charges and countercharges over the propriety of agency action.

In particular, small businessmen expressed genuine concern over the tangled web of Federal regulation which cuts into profits and inhibits economic growth. Some mechanism was sought to bring the agency under congressional review without detracting from the FTC's charter to investigate and prohibit business abuse. Overregulation, with its mountains of meaningless paperwork that adds unnecessary burdens and costs to small businesses, needed to be brought under control while leaving intact the integrity of one of our most important independent consumer agencies.

The legislative review procedure which is incorporated in the FTC authorization bill now before us is a real step in the right direction. Legislative review provides the proper mechanism for congressional oversight of the agency's actions while allowing the FTC the discretion to pursue those rulemaking proceedings which are deemed to be in the public interest. This is the proper balance if the agency is to carry out its mandate as both a consumer advocate and business regulator.

I want to commend the outstanding efforts of the distinguished chairman of the Consumer Subcommittee (Mr. FORD), who managed this bill. This was not an easy task and it was carried out in the midst of an intense campaign to subject the FTC to stringent and inappropriate constraints. Senator FORD guided this debate over the course of several months with the greatest integrity and wisdom and he is to be congratulated.

In addition, the contributions of the distinguished chairman of the Commerce Committee (Mr. CANNON) and the distinguished junior Senator from Missouri (Mr. DANFORTH) must be noted. Their responsible action and hard work added significantly to the outcome of this debate. Finally, the distinguished Senator from Michigan (Mr. LEVIN) and the distinguished Senator from Oklahoma (Mr. BOREN) were instrumental in achieving the result we applaud today.

The powers of the FTC and other independent regulatory agencies should be reviewed from time to time and the agencies should be accountable for their actions. On the other hand, it would not be prudent for the Congress to excessively interfere with the work of these agencies which provide an important regulatory function in our Federal system. I believe we have moved in the right direction toward accommodating the responsibilities of Congress and the public interest.

Mr. STEVENS. Mr. President, this bill authorizing funds for the Federal Trade Commission has been on the calendar for approximately 2 months due to problems in scheduling as a result of the bill's controversial nature.

Many attempts were made to reach a time agreement with respect to this legislation but until this past week all were in vain. Expedited passage, as well as the time agreement, were possible only after the consultation and cooperation of numerous interested Senators. I took the occasion to thank those Members last night after finalizing the time limitation with the majority leader, but let me again express my appreciation to Senators SCHMITT, SIMPSON, WEICKER, HELMS, PACKWOOD, DANFORTH, JEPSEN, and McCLURE.

I also want to give particular credit to the distinguished Senator from New Mexico, Mr. SCHMITT, for all the time and hard work he put into his effort to attempt passage of his amendment concerning the legislative veto. Senator SCHMITT spent many long hours working out the details of this major legislative initiative and even though he was just short of winning passage of the amendment, I just want to commend him for his perseverance and patience in seeking out the most responsible approach to achieving his end.

I thank the distinguished Senator from Kentucky.

Mr. FORD. Mr. President, I yield back the remainder of my time on the bill.

Mr. DANFORTH. I yield back the remainder of my time.

Mr. FORD. Mr. President, I could not have reached this point of completion of this bill early without the distinguished floor leader, the chairman of the committee, and my colleague, Mr. DANFORTH. I could not have done it without their 101-percent help.

I compliment Amy Bondurant, Mike Mullen, Loretta Dunn, Martha Maloney, Aubrey Sarvis, Ed Hall, Steve Halloway, and Butch Almstedt for their extraordinary and dedicated help as it relates to the completion of this bill.

So, if there are no further amendments, we are ready for third reading.

Mr. METZENBAUM. Mr. President, have the yeas and nays been requested?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the yeas and nays be ordered on the House bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment, if there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 2313, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause will be stricken, and the text of the Senate bill will be inserted in lieu thereof.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. MELCHER), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Minnesota (Mr. DURENBERGER) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. DURENBERGER) is paired with the Senator from New Mexico (Mr. DOMENICI). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from New Mexico would vote "nay."

The PRESIDING OFFICER. Are there

any other Senators in the Chamber who wish to vote?

The result was announced—yeas 77, nays 13, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—77

Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Exon
Ford
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McClure
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—13

Armstrong
Garn
Goldwater
Helms
Humphrey
Laxalt
Lugar
Metzenbaum
Nelson
Proxmire
Ribicoff
Schmitt
Tsongas

NOT VOTING—10

Baker
Bellmon
Church
Domenici
Durenberger
Inouye
Kennedy
McGovern
Melcher
Morgan

So the bill (H.R. 2313), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

> A bill to amend the Federal Trade Commission Act to change procedures for agency investigations and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes.

Mr. FORD. Mr. President, I ask unanimous consent that S. 1991 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that S. 1020 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the bill be held at the desk until the conferees are actually appointed, no later than the 20th of February.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein up to 5 minutes each.

MARVIN COHEN

Mr. DeCONCINI. Mr. President, I would like to take this opportunity to say a few words concerning Marvin Cohen's confirmation as a member and Chairman of the Civil Aeronautics Board.

Marv Cohen was appointed to the Civil Aeronautics Board in October 1978. Prior to that time, Marv had been personally, professionally and humanistically one of the outstanding leaders of the Tucson, Ariz. community. At Marv's original hearing, I noted that rarely had I observed, in one person, the combination of integrity, intelligence and industry that Marv Cohen possesses. I, of course, continue to have those feelings about Marv and now I believe that the respect and reputation that Marv has gained throughout the United States underscores my original comments.

Marv Cohen became Chairman of the Civil Aeronautics Board within several weeks of his initial appointment to the Board and his record, as chairman and as a member of the Board, dictates that Marv Cohen not only be reappointed and reconfirmed, but that we thank him for his outstanding service during the past year and a half.

Marv Cohen should be reconfirmed as a member of the Civil Aeronautics Board, and I appreciate this opportunity to be heard.

REINSTATEMENT OF DRAFT REGISTRATION

Mr. HEFLIN. Mr. President, I have today sent President Carter a letter urging him on my own behalf and on behalf of my constituents in the State of Alabama, not to include young women in his call for a return to draft registration.

Mr. President, I think it would be unwise and counter to the best interests of the Nation to extend the registration call to young women at this time and I think that I am expressing the view of an overwhleming majority of the people of Alabama when I make that statement.

Since the President, in his state of the Union message, indicated that he would move to reinstate draft registration for young men and that he was considering extending this order to young women, while the overwhelming majority of the people of Alabama support the return of registration of young men, and, indeed many even call for the return of the draft, the vast majority of Alabamians apparently do not wish to require young women to register at this time.

As I mentioned, I have conveyed these sentiments and my own personal views to the President by way of a letter.

As I mentioned in my letter to President Carter, there are a number of reasons why I feel that it would be unwise to register young women at this time.

First and perhaps foremost, I think that is clear that this country is being tested by the Russians and it is important that we show the Russians a united front. In my judgment, the opposition to registering young women is so widespread and pervasive that if young women were required to register, it might jeopardize the whole registration program. This is certainly no time for the country not to wholeheartedly support whatever programs and initiatives the President and this Congress deem to be in the national interest; thus, we should not run the risk of decisiveness by calling upon young women to register at this time.

The young men and young women of this country have always exhibited a strong sense of duty to country and patriotism during times of emergency and, in my judgment, if a national emergency ever necessitated the need to return to a draft, then I think many young women as well as young men would hasten to volunteer to serve their country. I believe that the need for women in the armed services can be fully met by the volunteering process.

Another reason why I think it is unwise to register young women at this time is that, of course, if they were registered and the world situation reached the point such that it was necessary to reinstitute the draft, men and women having been registered together, would probably be drafted side by side. I am informed that this Nation's training base really is not ready to accept large numbers of men and women recruits simultaneously and the result would probably be a great deal of confusion and wasted effort at our training facilities. Given the fact that a mobilization and return to a large scale induction of troops is always a time of confusion anyway, I think the fact that our military leaders would have to deal with the problem of handling large numbers of both men and women draftees would compound the already complex and difficult task and might actually interfere with our mobilization effort.

For example, Mr. President, in October 1977 the Department of Defense informed the Selective Service System that its manpower contingencies would require a total of 650,000 inductees, 450,000 of which would be for the Army, within 6 months after a mobilization date. The first inductees would be needed within 30 days after mobilization and by 60 days after mobilization 100,000 inductees would be needed.

The Congressional Budget Office in its November 1978 report on the Selective Service System suggested that the DOD's requirement might be short of the actual manpower needs in case of mobilization but that it "fills the training facilities to capacity."

Moreover, the joint posture statement of the Secretary of the Army and the Chief of Staff of the Army over the Army's fiscal year 1980 budget appears to corroborate this estimate. In this report it is stated that the Army's training bases could not support the Army's mobilization requirements. Thus, Mr. President, if we would have difficulty in training the first 650,000 inductees, in my judgment, having to deal with large numbers of female inductees would merely compound the problem and actually be counterproductive.

Another problem as I understand it, Mr. President, is that the presence of female service members causes some particular problems for certain of our armed services. While it is clear that the women who have been serving and continue to serve in the volunteer army are doing a commendable and even outstanding job, still this country's national policy, expressed in several statutes, is that women should not serve in combat roles.

This national policy places a severe strain on our Navy, for example, because of the fact that the Navy's ships are always poised to play a role in combat operations. If large numbers of women were assigned to serve aboard ships, many, if not most of them would have to be removed from the ships in the event hostilities broke out since the ships would be expected to partcipate in combat operations. This turbulence and confusion might be disastrous.

On the other hand, if women in the Navy were assigned only to shore duty, this would place a serious strain on the Navy's policy of rotating sailors from ship duty to shore duty so they could be close to their families at least during part of their career.

Thus, Mr. President, the Navy has an extremely difficult problem in utilizing female sailors and this problem becomes even more acute if actual hostilities should occur. Of course, if hostilities did occur, then the problem might tend to work itself out, because women could then perform the shore duties and free the male sailors to fulfill the combat assignments.

Again, Mr. President, the peculiar problems of the Navy mitigate toward bringing large numbers of women aboard only after the advent of an actual emergency.

Mr. President, one of our greatest battlefield commanders, Gen. George S. Patton, had some ideas about tactics which he claims to have learned from a brilliant German tactician known as the "Desert Fox," Field Marshal Rommel. According to Patton, decisive victories could be won if you would but hold the enemy by his nose and then kick him in the seat of his pants. Of course, General Patton had much more colorful language for this theory but he proved it to be a workable tactic over and over again during World War II. I think that this tactical concept has been extrapolated to a strategic concept by our potential enemies, in that Russia is today holding us by our nuclear nose and perhaps preparing to kick us in our conventional seat of the pants in much the same way General Patton so vividly described. If we are to prevent this kick in the seat of the pants, it is imperative that this Congress put a high priority on restoring our defense establishment to a position of strength and power. This is especially true with regard to conventional general purpose forces which can be used to counter the Soviet threats around the world while each nation holds each others nuclear forces in a stalemate. I think that the President's decision to increase defense spending this year and in the next 5 years to come is a step in the right direction but I speculate as to whether or not the step is big enough. I certainly plan to give this issue a great deal of additional thought in the days to come but from what I already know about the condition of our defense forces, massive increases in expenditures and efforts may be needed to put us in a position of clear superiority over any potential enemy.

I also think that draft registration plays an important role in this overall reawakening and that it will stimulate more of our young people to volunteer today and will enable us to better fulfill our manpower needs if a return to the draft is ever necessitated.

Mr. President, I again want to urge all of my colleagues here in the Senate to support the registration of young men but I hope that many of you will do as I have done and let the President know of your thoughts and the thoughts of your constituents with regard to the registration of young women.

CAPITAL COST RECOVERY ACT

Mr. HEFLIN. Mr. President, I have asked the distinguished Senator from the State of Wisconsin, Senator NELSON, to add my name as a cosponsor to the Capital Cost Recovery Act, S. 1435. This measure was introduced in the Senate last June and since that time I have been contacted by businessmen from my home State of Alabama and from around the country urging me to support this bill, and I have already indicated my support for the bill in my contacts with members of the Finance Committee. It has been my policy since coming to this body, however, to refrain from cosponsoring legislation until I had an opportunity to study the measure and get a feel for the long-range implications of the proposed legislation. Over the months I have given this matter a good deal of thought and have talked to many persons both in the business community and in Government. It is my conclusion based on my investigations, that the Capital Cost Recovery Act is not merely good legislation, it is essential legislation which must be enacted if our Nation is to compete with foreign economies in the years ahead.

As I understand this bill, the Capital Cost Recovery Act would scrap the useful life concept of depreciation and set up instead a cost recovery system based on broad asset categories and fixed recovery periods. Productive assets would be grouped in three general classifications: First, buildings and their components; second, most other tangible property including machinery and equipment; and third, automobiles and light trucks. These classifications would be subject to write-off periods of 10, 5, and 3 years respectively. Together with some important changes in the application of the investment credit, this new scheme would provide significantly faster cost recovery and substantial tax savings to the business sector, both large and small businesses.

Mr. President, the United States currently ranks last in a list of seven major industrial nations with respect to productivity growth. The reason for our standing is rather obvious. In the steel industry, for example, over the past 10 years, capital investment averaged only about $2.2 billion a year. That level of investment is totally inadequate as is demonstrated by the age of the facilities used in producing American steel. The average age for machinery and equipment used in our steel industry is now more than 17 years. Although investment in the last decade has been a little over $21 billion, only about one-fourth of the industry's current productive equipment was installed during that decade. The steel industry, like other segments of our great industrial base, must continue to modernize so as to maximize our productive capacity, to decrease our energy usage, and to preserve current jobs and to create new jobs for the American worker.

If American industry is to remain competitive with foreign nations such as Germany and Japan which have extremely high rates of productivity, capital investments will have to be made which will provide substantial improvements in our energy efficiency, labor productivity, and in cost competitiveness. Achieving this level of productivity will require substantial increases in capital expenditures and these increases should begin immediately. In order for our industrial base, including steel and other heavy industry, to have the resources for substantially higher capital expenditures, a revised system of capital cost recovery is a must. Again, to use the steel industry as an example, David M. Roderick, chairman of the United States Steel Corp., testified on October 22, 1979, before the Subcommittee on Taxation and Debt Management that—

> We project capital requirement to approximately 7 billion dollars annually for the steel industry. Such a sum is more than double the capital expenditures level of recent years.

Mr. President, although the enactment of the Capital Cost Recovery Act will not cure all the problems with regard to capital formation, I think the shortfall of capital funds would be significantly reduced by this measure.

Mr. President, this bill has other features which commend it to us also. The legislation provides faster depreciation deductions for all businesses, large and small. The bill would help combat inflation by encouraging investment in plants and equipment needed to boost productivity by small business as well as large business. Moreover, the measure would substantially simplify the methods of computing depreciation deductions under the Internal Revenue Code which would be particularly important to small businesses. For many small businesses, the complexity of existing accelerated depreciation methods have discouraged their use and have actually resulted in higher tax burden than required under present law.

Moreover, Mr. President, one of the key results expected from implementations of this measure is that it will go a long way to reverse our staggering trade deficit, since American businesses will be more competitive in world markets. Our trade imbalance, which reached $34 billion last year also contributes to domestic inflation; thus, this measure cuts at inflation with a two-edged sword.

Mr. President, as I stated earlier, I have felt all along that the passage of this bill was a sound idea and I now feel that it is more than sound—it is absolutely necessary if our industrial base is to be regenerated and brought up to date. We need only look at countries like Germany and Japan which, because of the necessities of war, have completely rebuilt their industrial base in the last 30 years to see what modernization can do to productivity. The German mark and the Japanese yen are among the most stable currencies in the world while our dollar continues to falter as a result of our low productivity. I think that the passage of this measure will go a long way toward solving many of our problems with inflation, the balance of payments, and will tend to stabilize the value of the U.S. dollar abroad. I urge my colleagues to press for the early passage of this bill.

BRAZIL'S SUCCESS IN CONVERTING FROM OIL TO ALCOHOL

Mr. PERCY. Mr. President, since President Carter announced the embargo of U.S. grain to Russia, there has been a great deal of concern and speculation over what the United States is to do with those 17 million metric tons of grain.

One of the major solutions proposed by the President is to use substantial quantities of the grain for the production of alcohol for fuel. I am a strong supporter of such a proposal and have been promoting alcohol fuels for quite some time.

In discussing this idea, however, we find that there are conflicting facts and figures tossed around, depending on what position the speaker has taken.

No matter what side is taken on this issue, it cannot be denied that Brazil has successfully turned much of its oil consumption into alcohol fuels use. This was recently discussed on NBC's television show "Prime Time Sunday," hosted by Tom Snyder.

Mr. President, I would like to share with my colleagues the information about Brazil's successful transition to alcohol fuels and ask unanimous consent that the portion of the show's transcript covering this subject be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TOM SNYDER. If we have learned anything at all from the energy crisis it is this, the United States may well run out of oil some day but we seem to have an almost unlimited supply of hot air. The Congress has yet to complete any action on business that might help in the areas of conservation such as synthetic fuel development that sort of thing—and not much action, here, in the United States . . . but no shortage of talk. Only last night the President said the 17 million tons of grain being denied the Russians could be used to produce gasohol, a mixture of gasoline and alcohol, enough gasahol, as a matter of fact, to drive more than 15 million cars for an entire year, this year, if we had the facilities to turn all that grain into gasohol . . . but we don't. The trouble is we've spent all kinds of time and energy complaining about OPEC but we haven't done very much.

But today in Brazil actions there are speaking much louder than words.

Jack Perkins reports from California tonight on what Brazil is doing to make certain it is not at the mercy of OPEC. Here's Jack.

JACK PERKINS. Tom, the President of Brazil rides around these days in a limousine powered completely by . . . gasohol. Now, in this country, there is esoteric argument about alcohol as a fuel. Isolated experiments but, sadly, to find a place where they're really doing it and making it work you have to go to Brazil.

Brazil, let us remind ourselves at the start, is more than a land of Cariocas, carnival and coffee beans. This is no huddling of Samba dancers oblivious to the rest of the world.

Brazil is one of the fastest growing industrial powers, is the 5th biggest nation in the world. Its capital, Brasilia, a city designed for the automobile, is the symbol of this country's dependence on oil which, since it has little oil of its own, means mainly foreign oil.

It was after the Arab oil boycott that Brazil like many nations decided it must do something to relieve its dependence on OPEC or it would be economically bled to death. Well, it found an answer out here in its vast and rich interior. Here, in fields where sugar cane grows tall, where a potential fuel for its automobiles grows tall.

It was a perfect solution for 2 problems because, about the same time the Arabs were squeezing the world for oil, the world's sugar market was falling apart, prices plummeting, and Brazil, the world's biggest sugar producer, found itself stuck with a glut of unwanted cane . . . too much sugarcane . . . too little oil. So, the solution . . . haul cane, not to refineries but to refineries converted into distilleries.

Process cane not into sugar but into alcohol.

Use the debris from the grinding, which is called the gas, to fire the boilers that do the distilling. It's a splendid, simple process.

And here's the finished product Anhydrous Ethynol, Ethynol alcohol. They say it's about 96 per cent pure.

Put another way that means it's about 192 proof, you could either make a martini with it or put it in your gas tank.

For some time all the gasoline sold in Brazil has had alcohol added to it, 20 per cent mixture. But now Brazilian automakers are going one step further producing cars to run on pure alcohol . . . and they promise to run well.

We checked with the president of Ford of Brazil, Bob Graham. Tell me what has the testing shown about alcohol cars, are they as powerful?

BOB GRAHAM. Well, the performance of an alcohol powered car is actually better than the same car operated on gasoline.

JACK PERKINS. What about cost for an alcohol car?

BOB GRAHAM. Perhaps 7, 8 per cent more than the gasoline powered car.

JACK PERKINS. Why?

BOB GRAHAM. It's a more elaborate engine system in terms of the design characteristics of the design. At the moment, it requires a supplemental gasoline source to handle a cold start so we have a supplementary system. We actually use a windshield washer bottle filled with gasoline and on the initial cold start in the morning we inject perhaps 1 C.C. of gasoline directly into the carburetor to affect the start.

JACK PERKINS. Here's what it looks like, in this case a Volkswagen pulling into a station to fill up with alcohol.

The Brazilian Government does not tax alcohol as it does gasoline so in effect it subsidizes it to keep it cheaper than gasoline.

Information Minister Saheed Fahat.

Every car that you see in Brazil runs now either on what you call in the States gasohol, which is gasoline plus alcohol, or on pure alcohol.

JACK PERKINS. One ton of cane produces about 17 gallons of alcohol. Brazil, the world's largest sugar producer, suddenly finds itself the world's biggest alcohol producer. It makes more alcohol than the rest of the world consumes.

Cane transforms into alcohol quite efficiently, the residue of the distillation even becomes fertilizer for next year's cane.

So Brazil has the perfect product, motivation and government leadership, to pioneer the world's way into alcohol powered traffic.

The Brazilian Telephone Company fields a fleet of alcohol cars, they are forerunners . . . but this year 17 percent of the 1 million cars made in Brazil will run on pure alcohol.

And, experimentally, diesel trucks and buses are being converted to alcohol, Mercedes-Benz is trying that.

Here is Jean Cordian.

JEAN CORDIAN. Instead of diesel oil, like all the other buses we produce in this country, it is fueled with sugar cane alcohol which has received an additive . . . about 10 percent. The additive is a so-called combustion accelerator. I have a sample here. This additive so far has been imported from the United States. The additive can be made out of many raw materials but in this case it's made just out of the same sugar cane alcohol. The important thing is that one day it will be extended, to the seven hundred thousand buses and trucks that transport about 80 percent of the Brazilian economy . . . without changing the engine.

JACK PERKINS. Will there be a time when Brazil becomes an exporter of alcohol to other countries to power their cars?

JEAN CORDIAN. It could be.

JACK PERKINS. And you will have a new organization formed in this world APEC, the Alcohol Producing Exporting Countries?

JEAN CORDIAN. Well, if all the (name) countries who have enough land, and the right climate, and the right technology to produce sugarcane, yes, there will be alcohol producing countries who probably should get organized as the oil producing countries have.

JACK PERKINS. And we will all find ourselves and the rest of the world hostage not only to OPEC but to APEC?

JEAN CORDIAN. No, sir, because in every country—a country like the United States, which produces corn like you do, can produce alcohol from corn, in fact anything which ferments produces alcohol, like you know the Kentucky distillers have shown over the years and the Swiss have done with apples and pears.

JACK PERKINS. Well, the fact is corn cannot be grown and made into alcohol as efficiently as cane so maybe in the United States this will not be practical. That will be argued.

But, in Brazil, they're not arguing or fretting or appointing government commissions . . . they're doing something.

JEAN CORDIAN. We import 85 percent of our petroleum needs, but if we plant 1 percent of the Brazilian territory with sugarcane, we wouldn't need any more imports of oil, 1 per cent of the surface of Brazil.

Jack Perkins. So. clearly for Brazil, alcohol is the way to go—which means 2 things: 1st, that Brazil has decided that it is the way to go; but second that it's already started going. Tom.

Tom Snyder. Jack, I'm certain you know this week that one oil company, Texaco, took out ads in some of the papers advertising the fact that it was about to start selling gasohol, 90 percent gasoline, 10 percent alcohol. A number of other oil companies are considering test marketing gasohol. They've been resisting this for a long time. Why all the sudden activities in the marketing and selling gasohol?

Jack Perkins. I think several reasons, Tom. Of course oil companies are paying more and more for their oil and that hurts them. While, on the other hand, the federal government, in 16 different states, are offering tax incentives for the use of gasohol so that's something. But I think, most important, companies have finally decided that there's a demand among the public for gasohol. There was a market study done recently that showed the consumers, for patriotic reasons, would prefer to buy gasohol made with alcohol produced by American farmers, in other words they would prefer that their money go for alcohol produced from Iowa corn or Louisiana sugar beets or Maine woodchips than go off to the sheikhs in the Arab countries.

Tom Snyder. What about the economics involved here. How do the costs compare with gasoline?

Jack Perkins. Well, let's see? In places around the country that I've been to recently gas has been selling for from a dollar to a dollar twenty I guess.

In Iowa and Indiana and the corn belts, you can find gasohol selling now for a dollar eight to a dollar ten. Gasohol is about 91.5 octane, that's roughly equivalent to an unleaded premium, so as you can get an idea it's price competitive now with gasoline. This is not to say that it's cheaper to make alcohol, it's not, it costs about twice as much to make a gallon of alcohol, it costs about a dollar sixty. To make a gallon of gas costs about 80 cents. But, the costs of gasoline are bound to go up and the cost of making alcohol, as more is made, ought to come down.

Tom Snyder. Almost bound to come down.

What about the politics of Brazil, what is there about their politics that allows them to get on with this while we seem to be dragging our feet?

Jack Perkins. Well, Brazil's not a democracy . . . so there were none of the niceties to worry about discussing it with Congress and everything.

Tom Snyder. Exactly.

Jack Perkins. The government could fairly well require industry and consumers to accept gasohol and bring it to the point where now you can drive into a gas—a service station—you can't even call them gas stations anymore—and you have only 2 choices, either gasohol with a 20 per cent mixture of alcohol or a hundred per cent alcohol, that's all you can get.

But, I think the real point that we must remind ourselves is that Brazil saw the handwriting on the wall 6 years ago and started doing something about it. We just saw the handwriting on the wall.

Brazil today is spending 10 times as much for research and development, development in the use of alcohol as we are in this country.

And the difference in goals between our two countries is staggering. In this country, our Congress is debating a resolution offering the hope that by 1990 all of us will use gasohol. Brazil has already passed that and is well on the way toward their goal of a hundred per cent alcohol cars by 1982.

THE U.S. MARINES ON IWO JIMA

Mr. DOLE. Mr. President, on February 1, 1980, I introduced a Senate joint resolution designating February 19, 1980, as "Iwo Jima Commemoration Day." A similar resolution has been introduced in the House of Representatives by my distinguished colleague and veteran of the Iwo Jima assault, Congressman Barber Conable.

D-DAY ON IWO JIMA

Mr. President, February 19, 1980, will mark the 35th anniversary of the United States Marine Corps assault upon Iwo Jima. On this day, 35 years ago, the Marines began a fierce confrontation with the Japanese, a confrontation that was later to be regarded as one of the most significant battles of all time. The battle on Iwo Jima lasted from February 19, 1945, to February 28, 1945.

Mr. President, I think it is only fitting that we recognize this day as a very important date in American history in that it produced the most famous and lasting symbol of the courage and resolute determination that brought victory to the Armed Forces of the United States during World War II and also in memory of the 5,931 lives lost and 17,272 casualties. I trust the respective House and Senate committees to which this resolution has been referred will favorably act on this measure in time to officially recognize this historical event on February 19, 1980.

Mr. President, for the benefit of my colleagues, I would like to recall, briefly, the historical U.S. Marine assault on Iwo Jima.

THE BATTLE FOR IWO JIMA

Iwo Jima, the island defended by Lt. Gen. Tadamichi Kuribayashi, commander of all Japanese Army Forces on Iwo Jima, was almost valueless. Iwo Jima, known only for its sulfur deposits, measured 4⅔ by 2½ miles. At the southern tip of the fan-shaped island loomed Mount Suribachi, a 550-foot extinct volcano. A plateau scarred by twisted gorges and broken by ridges 340 to 368 feet in height took up the northern part of the island. Between the northern plateau and Mount Suribachi was a plain covered with black volcanic ash.

Nature had given Iwo Jima nothing worth fighting for, but the industrious Japanese had completed two airfields on the island and were beginning work on a third. These fields provided the staging area for aerial attacks on American-held Saipan. From the same airstrips, Japanese fighters soared aloft to attack American heavy bombers en route to the Japanese home islands only 660 miles away. Once it had been wrestled from the enemy, Iwo Jima could serve as a base for American fighter escorts and as a way station for bombers raiding Japan.

American intelligence showed how zealously Kuribayashi had dedicated himself and his energies to the defense of Iwo Jima. A total of 642 blockhouses, pillboxes, and other gun positions were located prior to the assault. To blunt the quills of Kuribayashi's porcupine, the Navy and Army Air Forces subjected Iwo Jima to the "longest and most intensive preparation given any objective in the Pacific in World War II." Beginning on June 15, 1944, when carrier planes first hit the island, the American attacks continued steadily through summer and fall and culminated in a 74-day round of continuous strikes by Saipan-based bombers. The effect of the intensive 3-day preinvasion bombardment, far shorter than what the Marine landing force had asked for, was partially nullified by bad weather. Fortunately, the Sun burned away the mists on the third day and the naval gunfire and covering force of six old battleships and five cruisers was able to batter targets adjacent to the landing beaches.

TROOPS ON IWO JIMA

Selected as assault troops for the Iwo Jima operation were the 4th Marine Division (23d, 24th, and 25th Marines (infantry), and 14th Marines (artillery)), led by Maj. Gen. Clifton B. Cates, and the 5th Marine Division (26th, 27th, 28th, and 13th Marines), under the command of Maj. Gen. Keller E. Rockey. These two divisions together with a myriad of supporting units were part of the V Amphibious Corps, a force commanded by Maj. Gen. Harry Schmidt. The 3d Marine Division of V Corps (3d, 9th, 21st, and 12th Marines), Maj. Gen. Graves B. Erskine commanding, was designated as expeditionary troops reserve. Lt. Gen. Holland M. Smith, assigned the post of commanding general, expeditionary troops, had overall responsibility for the conduct of the fighting ashore.

THE LANDING

D-day for the assault upon Iwo Jima was February 19, 1945, and H-Hour was set at 0900 hours. At 0902, the leading wave of armored amphibian tractors hit the beach and ground ashore; 3 minutes later, the first troop-carrying amphibian tractors cleared the water. The Marines scrambled down the ramps, and began wading inland through an ankle-deep sea of volcanic ash. Initial opposition was negligible, and it seemed for a time that the 4th and 5th Marine Divisions would be able to knife swiftly across the plain to the opposite shore. Plans called for the capture of airfield No. 1 by the 4th Division—both objectives to be gained on the first day. In spite of the heartening start, however, the goal established for the corps was not realized.

THE IWO JIMA FLAG RAISING

Early on February 23, a small patrol started to reconnoiter suitable routes to scale the slopes of Suribachi. The patrol leader reported as he went along that the Japanese were holed up. The battalion commander then decided to send a 40-man combat patrol to seize and occupy the crest. A Leatherneck Magazine photographer attached himself to the patrol to record in detail the attempt against Suribachi.

After the mission had been outlined, the officer in charge handed a junior officer a flag to be raised if the patrol gained its objective. This small (54 by 28 inches) flag had been brought ashore from the attack transport *Missoula* by the battalion adjutant. As the Marines scrambled over the rim of the crater, a small defending force challenged the patrol and a short, hot fight developed. Even while this skirmish was in progress, some of the men located a length of Japanese iron pipe, secured the small American flag to one end, and raised the Stars and Stripes. It was an inspiring sight for thousands of Americans on Iwo Jima as the flag waved bravely from the summit. Those who took part in this flag raising were Lt. Harold G. Schrier, Sgt. Ernest T. Thomas, Jr., Sgt. Henry O. Hansen, Cpl. Charles W. Lindberg, and Pfc. Louis C. Charlo and James Michels. The flag raising was photographed by Sgt. Louis R. Lowery.

Shortly after the raising of this flag an unidentified marine went aboard LST 779, beached near the base of the volcano, to obtain a larger set of colors. As this second and larger flag was being carried up the slopes of Suribachi, AP photographer Joe Rosenthal, noticed it and instantly started in close pursuit. Sgt. Michael Strank, Cpl. Harlon Block, Pfc. Franklin R. Sousley, and Pfc. Ira H. Hayes were the four members of the patrol that carried this set of colors up Suribachi's slopes. When the marines arrived at the top, Lt. Schrier decided that the new flag should be raised as the original one was lowered. Strank and the others fastened the larger colors to a second pipe and then tried to set the makeshift staff in the rugged ground. Since the four men appeared to be having difficulty in getting the pipe firmly planted, two onlookers, Pharm. Mate 1c. John H. Bradley and Pfc. Rene A. Gagnon, came to their aid. All six were struggling to raise the flag when Rosenthal snapped a picture of the scene. According to Rosenthal, luck played an important part in the taking of his famous photograph. Rosenthal took 18 photographs on Iwo Jima that eventful day: Among them was a shot posed by men of the 28th Marines around the flag. When queried a few days later by his wire service picture editor as to whether "the flag raising picture" had been posed, Rosenthal, unaware of which picture had had the sensational reception in the United States, though the editor meant the one which had actually been posed. Out of Rosenthal's affirmative reply to the editor grew the misconception that the flag raising picture was really a fake.

The testimony of Rosenthal himself and of the eyewitnesses who survived the battle, however, attest that the photograph was in no way rigged. As it was, the picture became perhaps the most famous single photograph ever taken. It was used as the symbol of the seventh war loan drive. It appeared on literally millions of posters and on a 3 cent postage stamp. And it was forever immortalized in the largest bronze statue in the world—the Marine Corps War Memorial in Arlington, Va.

GENOCIDE, THE MOST HEINOUS CRIME

Mr. PROXMIRE. Mr. President, as I have shown over the past several days constitutional objections to the Genocide Convention are insubstantial. What objections can we have then?

Surely nobody can oppose the convention on philosophical grounds. As despicable as it is, the murder of an individual cannot compare with genocide. Genocide is the most heinous crime because it is committed with the intent to destroy a national, ethnical, racial, or religious group.

A person who commits genocide has decided that an entire group does not have the right to survive. His contempt and intolerance transcends hate for separate individuals to encompass an entire group. Such blind prejudice is despicable, but when an individual decides to act according to that prejudice, he violates every value we hold true.

No single murder can compare morally with the cold-blooded attempt to eradicate an entire group. We have no trouble condemning murder; an individual is entitled to life. But on this more serious issue, the right to life of an entire group, we are curiously silent.

I call on my colleagues to consider the philosophical implications of continued inaction. Silence can be construed at best as moral insensitivity.

I know we all find genocide repugnant. How could we not? Now we can do something about it. The best way to express our outrage and the outrage of the American people is to ratify the Genocide Convention.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

1981 BUDGET OF THE DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT—PM 163

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying document, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting for your consideration the budget of the District of Columbia for fiscal year 1981.

JIMMY CARTER.

THE WHITE HOUSE, *February 7, 1980.*

REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT—PM 164

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I am pleased to transmit the second Annual Report to Congress on the activities of the Department of Energy.

JIMMY CARTER.

THE WHITE HOUSE, *February 7, 1980.*

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2440. An act to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes.

H.R. 5176. An act to establish an independent personnel system for employees of the General Accounting Office.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 11:14 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that, pursuant to section 261 (a)(2), Public Law 95-216, the Speaker has appointed Mr. Wilbur J. Cohen and Mr. Robert Julius Myers as members from private life to the National Commission on Social Security.

At 12:21 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4788. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

At 1:39 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 918) to amend the Small Business Act and Small Business Investment Act of 1958, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5507. An act to amend the Internal Revenue Code of 1954 with respect to the requirement that unemployment benefits be reduced by certain retirement benefits, and for other purposes.

At 6:22 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 276. Concurrent resolution providing for an adjournment of the House from February 13 to February 19, 1980.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 4788. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5507. An act to amend the Internal Revenue Code of 1954 with respect to the requirement that unemployment benefits be reduced by certain retirement benefits, and for other purposes; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2953. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the ninth annual report on the location of new offices and other facilities; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2954. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of State for "Emergencies in the diplomatic and consular service" for the fiscal year 1980, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC–2955. A communication from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, relating to certification as to adequacy of soil survey and land classification, La Grande Water District, Central Valley project, California; to the Committee on Appropriations.

EC–2956. A secret communication from the Secretary of Defense, transmitting, pursuant to law, the sixth annual report on "Rationalization/Standardization Within NATO"; to the Committee on Armed Services.

EC–2957. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Increased Standardization Would Reduce Costs of Ground Support Equipment for Military Aircraft," February 7, 1980; to the Committee on Armed Services.

EC–2958. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Services.

EC–2959. A communication from the Attorney General, transmitting, pursuant to law, a report on the administration of the Equal Credit Opportunity Act for calendar year 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–2960. A communication from the President, United States Railway Association, transmitting, pursuant to law, the association's sixth annual report for fiscal year 1979; to the Committee on Commerce, Science, and Transportation.

EC–2961. A communication from the Secretary of the Interior, reporting, pursuant to law, that CNG Producing Co. has submitted an application for repayment of excess gas royalties totaling $13,572.69 for leases OCS–G 1568–1 and OCS–G 1569–1, South Timbalier Blocks 184 and 185, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC–2962. A communication from the Secretary of the Interior, reporting, pursuant to law, that Aminoil USA, Inc., has submitted an application for repayment of excess minimum royalties totaling $30,000 for leases OCS–G 2254 and 2255, East Cameron Area, South Addition, Blocks 32 and 323, respectively, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC–2963. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty days prior to February 4, 1980; to the Committee on Foreign Relations.

EC–2964. A communication from the Comptroller of the Washington Gas Light Co., transmitting, pursuant to law, a balance sheet of the Washington Gas Light Co., as of December 31, 1979; to the Committee on Governmental Affairs.

EC–2965. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Federal Financing Bank for the year ended September 30, 1979"; to the Committee on Governmental Affairs.

EC–2966. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a proposed new system of the records for the Department of Defense for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–2967. A communication from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the act of December 22, 1974 (88 Stat. 1712); to the Select Committee on Indian Affairs.

EC–2968. A communication from the Secretary of the Interior, transmitting a draft of proposed legislation to provide for the settlement of the land claims of the Cayuga Indian Nation in the State of New York, and for other purposes; to the Select Committee on Indian Affairs.

EC–2969. A communication from the Secretary of the American Battle Monuments Commission, reporting, pursuant to law, on the administration of the Freedom of Information Act during calendar year 1979; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–545. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION NO. 334

"Whereas, Agriculture in general and the problems of Michigan farmers in particular are of great concern to the Michigan Legislature; and

"Whereas, The Michigan sugar beet growers are a vital segment of Michigan's agricultural industry and economy; and

"Whereas, The current structure of import fees on refined sugar are such that they enable Canadian imported refined sugar to be sold in Michigan at a price lower than the current loan rate from the Commodity Credit Corporation; and

"Whereas, Michigan sugar beet growers have no recourse but to sell their produce to the Commodity Credit Corporation, which in turn means that our taxpayers are subsidizing this practice; and

"Whereas, Michigan sugar beet growers as well as sugar beet growers across the nation are entitled to fair and equal treatment by and under the laws which govern them; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That the Michigan Legislature respectfully memorialize Congress to give due and careful consideration to increasing the import fee on refined sugar by four cents per pound above the loan rate for raw sugar, which amount is reflective of the cost of refining the sugar, and would thereby effectively enable Michigan producers as well as other domestic producers to compete in this market and at the same time ease the tax burden on the citizens of our nation; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to the members of the Michigan Congressional Delegation."

POM–546. A resolution adopted by the House of Representatives of the State of Michigan; to the Committee on Foreign Relations:

"HOUSE RESOLUTION NO. 377

"Whereas, The Soviet Union has unilaterally shattered East-West detente and hopes for peaceful cooperation between the Soviet Union and the United States as a result of its cruel and calculating invasion of the sovereign nation of Afghanistan; and

"Whereas, The Soviet seizure of Afghanistan poses a critical threat to world peace and the security of free peoples everywhere; and

"Whereas, The Soviet government is seeking to gain political advantages by hosting the 1980 Olympic games in Moscow, viewing the games as an opportunity to legitimize its totalitarian regime, both to its own people and to the world at large; and

"Whereas, It would be inappropriate for the United States to participate in an event lending legitimacy to a regime that has just flaunted all accepted international law and refused to withdraw from an invaded nation despite a United Nations General Assembly resolution requesting such a withdrawal; and

"Whereas, Despite the understandable desire of many American athletes to participate in the next Olympiad, these athletes are first and foremost American citizens, who can be expected to accept personal sacrifice in the pursuit of reasonable national goals; now, therefore, be it

"Resolved by the House of Representatives, That this legislative body expresses its firm support of presidential actions concerning U.S. involvement in the 1980 Summer Olympics, should the President of the United States determine that an action to move, cancel or boycott the Summer Olympic games is in the best interest of this nation and free nations everywhere; and be it further

"Resolved, That this body expresses its support that Michigan sponsor alternative games in as many sports as practicable if a boycott or cancellation is declared; and be it further

"Resolved, That this resolution of support be forwarded immediately to the President of the United States."

POM–547. A concurrent resolution adopted by the House of Representatives of the State of West Virginia; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 9

"Whereas, Millions of abortions have been performed in this country since the Supreme Court of the United States rendered its landmark opinion concerning abortion laws on January 22, 1973; and

"Whereas, Since such decision there has been in the United States an unending controversy over the issue of an unborn person's right to life; and

"Whereas, It is the firm belief of the Legislature of West Virginia that there should be a uniform and consistent law among all the states concerning an unborn person's right to life; therefore, be it

"*Resolved by the Legislature of West Virginia:* That the Legislature of the State of West Virginia hereby urges the Congress of the United States to propose a constitutional amendment that will protect the life of all human beings including unborn children at every stage of their biological development; and, be it

"*Further Resolved,* That certified copies of this resolution be presented to the President and Secretary of the Senate of the United States, the Speaker and Clerk of the House of Representatives of the United States, and to each member of the Congress from this State attesting the adoption of this resolution by the Legislature of the State of West Virginia."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MELCHER, from the Select Committee on Indian Affairs, with an amendment:

S. 2222. A bill to extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status (Rept. No. 96–569).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL (for Mr. CHURCH), from the Committee on Foreign Relations:

James W. Spain, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to Turkey.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: James W. Spain.

Post: Turkey.

CONTRIBUTIONS

1. Self: None.
2. Spouse: Edith J.: amount $100; amount $20.00 each: 1975–79, to the Democratic National Committee.
3. Children and Spouses Names: (Patrick J., Sikandra, Stephen J., William J.); amount none.
4. Parents names: Mary E.; none.
5. Grandparents names: Deceased.
6. Brothers and spouses Names: None.
7. Sisters and spouses names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL (for Mr. CHURCH), from the Committee on Foreign Relations:

Charles Conway Flowerree, of Virginia, for the rank of Ambassador while serving as the U.S. Representative to the Committee on Disarmament.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Charles C. Flowerree.

Post: U.S. Representative to the Committee on Disarmament.

CONTRIBUTIONS

1. Self: Amount, none.
2. Spouse: Amount, none.
3. Children and spouses names: William Flowerree, amount, none; Elisabeth Flowerree, $1, date 1976, donee Jimmy Carter.
4. Parents names: Deceased.
5. Grandparents names: Deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: Mary F. Rhett, Edmund Rhett; None; Sally F. Harrison, Thomas S. Harrison; None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL (for Mr. CHURCH), from the Committee on Foreign Relations:

Matthew Nimetz, of New York, to be Under Secretary of State for Coordinating Security Assistance Programs.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Nominee: Matthew Nimetz.

Post: Under Secretary for Security Assistance, Science and Technology.

Nominated: December 19, 1979.

Contributions and amount:

Self and Spouse: $125, April 22, 1976, Carter campaign; $35, May 1, 1976, O'Hara for Senate Committee; $290, June 29-October 4, 1976, New Yorkers for Koch; $150, August 11, 1976, Citizens for Moynihan; and $35, October 23, 1976, Congressman John M. Murphy.

Children: Alexandra, Lloyd, none.

Parents: Joseph L. Nimetz, Annie Nimetz (stepmother), none.

Grandparents: none.

Brothers and Spouses: Daniel and Janice Nimetz, Jeffrey Nimetz, none.

Sister: Joann Nimetz, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL (for Mr. CHURCH), from the Committee on Foreign Relations:

Philip Mayer Kaiser, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to Austria.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Statement of Political Contributions

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Philip M. Kaiser.

Post: Ambassador to Austria.

CONTRIBUTIONS

Self: See attached sheet.

Spouse.

Children and spouses names: Robert G. and Hannah J. Kaiser, David E. and Catherine Kaiser, Charles R. Kaiser (bachelor).

Parents' names: Deceased.

Grandparents' names: Deceased.

Brothers' and spouses' names: Mr. Ben Kaiser and Mrs. Beryl Kaiser, Mr. Henry Kaiser and Dr. Paula Kaiser.

Sisters' and and spouses' names: Deceased.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of any pertinent contributions made by them.* To the best of my knowledge, the information contained in this report is complete and accurate.

FEDERAL CAMPAIGN CONTRIBUTION STATEMENT— PHILIP M. AND HANNAH E. G. KAISER

Amount, date and donee:

None; 1975.

$200; January 1976; loan to Democrats abroad (U.K.) since converted to contribution.

$260; July–November 1976; several contributions to Democrats abroad and National Committee.

$60; July–November 1976; several contributions to Democrats abroad and National Committee.

None; 1977.

$120; August 1978; contribution to the President's Club of the Democratic Party.

None; 1979 to date.

INTRODUCTION OF BILLS AND JOINT RESOLUIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER:

S. 2272. A bill to insure the separation of constitutional powers and to insure the administration of justice with respect to the commission of crimes by officers and employees of the executive branch of the Federal Government, and with respect to Federal elections, to remove enforcement responsibilities in such cases from individuals with actual or apparent conflicts of interest, and to establish an independent Public Prosecutor; to the Committee on the Judiciary.

By Mr. LAXALT:

S. 2273. A bill to provide a remedy against the United States for persons who are injured as the result of negligence in the release or escape from custody of any person charged with a Federal offense; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 2274. A bill to authorize the Secretary of the Interior to issue patents to the numbered school sections in place, granted to the States by the Act approved February 22, 1889, by the Act approved January 25, 1927 (44 Stat. 1026), and by any other Act of Congress; to the Committee on Energy and Natural Resources.

By Mr. GRAVEL:

S. 2275. A bill to amend the Internal Revenue Code of 1954 to make technical amendments in the provisions relating to general stock ownership corporations; to the Committee on Finance.

---

*To the best of my knowledge they have made no contributions but if they report they have I will pass the information on immediately.

By Mr. STONE:

S. 2276. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Finance.

By Mr. TALMADGE (for Mr. McGovern (for himself and Mr. Zorinsky)):

S. 2277. A bill to provide emergency relief to farmers adversely affected by the export embargo on grain sales to the Soviet Union, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURKIN:

S. 2278. A bill to amend the Social Security Act to provide for the payment of out-of-hospital prescription drugs, eye glasses, hearing aids and dentures; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. Schmitt):

S. 2279. A bill to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 2280. A bill to amend the Internal Revenue Code of 1954 to repeal the estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

By Mr. THURMOND:

S. 2281. A bill to amend title 10, United States Code, to designate the medal of honor award for military heroism as the "congressional medal of honor", and to amend subchapter IV of chapter 15 of title 38, United States Code, relating to the Medal of Honor Role; to the Committee on Armed Services.

By Mr. TALMADGE:

S. 2282. A bill to amend the Food Stamp Act of 1977 to provide the Secretary of Agriculture forfeiture authority; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 2272. A bill to insure the separation of constitutional powers and to insure the administration of justice with respect to the commission of crimes by officers and employees of the executive branch of the Federal Government, and with respect to Federal elections, to remove enforcement responsibilities in such cases from individuals with actual or apparent conflicts of interest, and to establish an independent Public Prosecutor; to the Committee on the Judiciary.

(The remarks of Mr. Weicker when he introduced the bill appear earlier in today's proceedings.)

By Mr. LAXALT:

S. 2273. A bill to provide a remedy against the United States for persons who are injured as the result of negligence in the release or escape from custody of any person charged with a Federal offense; to the Committee on the Judiciary.

FEDERAL CRIME VICTIMS REMEDIAL ACT

● Mr. LAXALT. Mr. President, I am introducing legislation today which will provide a legal remedy to the victims of crime who are injured by prisoners released from Federal institutions as a result of the negligence of employees having custody over them.

My bill, in the form of an amendment to the Federal Tort Claims Act, will give many crime victims the option of bringing negligence actions against the very persons most responsible for their injuries, and will provide a defendant—the Federal Government—who has the ability to pay a judgment. The result will not only be the provision of a remedy to such crime victims, but will also be a very strong incentive to Federal wardens, parole officers and probation officers to think twice before allowing dangerous criminals to go free.

The concept of such suits is not new, and there are an emerging number of cases which have held that such crime victims have the right of action against public officials who, because of their own negligence, have allowed dangerous prisoners to go free.

In *Grimm* v. *Arizona Board of Pardons and Paroles*, 564 P. 2nd 1227 (1977) a prisoner confined to the State penitentiary for a number of violent crimes was released by the State Parole Board after serving one third of his sentence, despite the warning of a prison psychiatrist that the prisoner was dangerous and would victimize again. Upon his release, the convict murdered a man in the course of an armed robbery, and the man's widow sued the Parole Board in Arizona. The Arizona Supreme Court ruled that the members of the board did not enjoy absolute immunity as a result of their negligence.

In a 1976 case in Virginia, *Semler* v. *Psychiatric Institute*, 538 F. 2d 121 (4th Circuit), a young man went to the Maderia School in Virginia and molested two young girls. He was convicted and sentenced to prison; however, his defense attorney, psychiatrist and probation officer urged the court to put him into a secure psychiatric facility. The court acquiesced, but ordered that the defendant, Gilreath, not be placed on out-patient status without further order of the court.

Gilreath was, nevertheless, placed on out-patient status by the psychiatrist and probation officer without consulting the court; he returned to the Maderia School and murdered a 14-year-old girl. The victim's parents sued the psychiatrist and the probation officer and recovered a judgment from them.

The Supreme Court, in a case entitled *Martinez* v. *California* — U.S. — (1980) recently denied the right to bring such a case in California, by upholding the statutory immunity of California parole authorities who released a convicted rapist who has been determined to be a "mentally disordered sex offender not amenable to treatment" and who was sentenced to a term of prison of 1 to 20 years with a recommendation that he not be paroled.

The California Parole Board, however, in its wisdom, decided to take a chance with the safety of society 5 years later and paroled the defendant, who proceeded to molest, torture and murder a 15-year-old girl at the same site where he had committed his first crime. The Supreme Court, despite finding the parole board negligent "the members of the parole board were fully informed of his history, his propensities and the likelihood that he would commit another violent crime" upheld the State statute giving absolute immunity to parole officers on constitutional grounds.

Nevertheless, the Martinez case is a narrow one which only discusses the issue involving State statutory immunity for parole boards in the context of violating the Federal Constitution and civil rights statutes. It does not overturn earlier cases, and in fact, through implication, states that the legislature has the authority to either grant immunity or liability in such cases.

My bill will place liability on the Federal Government in cases where convicts are released or escape through the negligence of Federal officials. In my view, public policy would be well served by allowing such suits, under the Federal Tort Claims Act, for two reasons. For one thing, parole and probation officers would be considerably more cautious in releasing potentially dangerous convicts and would be forced to think about recidivism and the dangers to society inherent in the release of violent-prone criminals, instead of only thinking about the rehabilitation of the prisoner. It would force those officials to be accountable to the public for what are often grossly negligent and careless acts, and to force them to confront the now remote and anonymous victims of wrong decisions.

Second, and perhaps most importantly, my bill will provide a remedy to people who have been wrongly victimized as a result of another negligence; people who often have no other remedy, and who are certainly as deserving of recovery as are the victims of any other negligent act.

Employers are, of course, usually liable for the negligent act of their employees. Why should the law protect the Federal Government, as employer, where its parole and probation officers act in a careless and negligent way which results in the injury or death to a member of society?

In a time when our society is becoming more violent, where there are increasing numbers of crime victims, and where a disturbing number of crimes are committed by people released from penitentiaries on parole with the full knowledge of those releasing them that they are likely to commit other violent crimes, it seems to me that Congress has the obligation to provide a meaningful remedy to those who are injured. The cost to the taxpayers, in comparison to the return both to society and to the victims themselves, will certainly be minimal, and as compared to much of the money wasted by the Government, could only be considered to be money well spent.

I ask unanimous consent that the text of the Federal Crime Victims Remedial Act be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Crime Victims Remedial Act".

REMEDY AGAINST THE UNITED STATES FOR INJURY AS THE RESULT OF RELEASE OR ESCAPE OF A FEDERAL PRISONER

SEC. 2. (a) Section 1346(b) of title 28, United States Code, is amended by inserting "(1)" immediately after "(b)".

(b) Section 1346(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(2) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of any civil action on a claim against the United States for damages, accruing on and after October 1, 1980, for injury or loss of property, or personal injury or death caused by any person charged with a Federal offense who is released from, or who escapes from, lawful custody of an employee of, or any person acting as the lawful agent of, the United States as a result of the negligence of such employee or person. For the purposes of this paragraph 'negligence' includes, but is not limited to, the failure to warn reasonably foreseeable victims that the person charged with the offense was released or had escaped, and the violation of a statute regulation, or court order which results in such release or escape.".●

By Mr. JACKSON (by request):

S. 2274. A bill to authorize the Secretary of the Interior to issue patents to the numbered school sections in place, granted to the States by the act approved February 22, 1889, by the act approved January 25, 1927 (44 Stat. 1026), and by any other act of Congress; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to authorize the Secretary of the Interior to issue patents to the numbered school sections in place, granted to the States by the act approved February 22, 1889, by the act approved January 25, 1927 (44 Stat. 1026), and by any other act of Congress.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall upon the application by a State cause patents to be issued to the numbered school sections in place, granted for the support of common schools by the Act approved February 22, 1889, by the Act approved January 25, 1927 (44 Stat. 1026), and by any other Act of Congress, that have been surveyed, or may hereafter be surveyed, and to which title has vested or may hereafter vest in the grantee States, and which have not been reconveyed to the United States or exchanged with the United States for other lands. Such patents shall show the date when title vested in the State and the extent to which the lands are subject to prior conditions, limitations, easements, or rights, if any. In all inquiries as to the character of the land for which patent is sought the fact shall be determined as of the date when the State's title attached.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 30, 1980.

Hon. WALTER F. MONDALE,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill "To authorize the Secretary of the Interior to issue patents to the numbered school sections in place, granted to the States by the Act approved February 22, 1889, by the Act approved January 25, 1927 (44 Stat. 1026), and by any other Act of Congress."

We recommend that the proposed bill be referred to the appropriate committee and that it be enacted.

The enclosed bill would reenact the Act of June 21, 1934 (48 Stat. 1185; 43 U.S.C. 871a), which directed the Secretary of the Interior to issue patents to States for school lands which had been conveyed to the States. Patents issued under the 1934 Act were to show the date when title vested and the extent to which the lands were subject to prior conditions or rights. Such patents did not actually grant title, since title had already vested in the State; they merely provided evidence of title. Many States have found that under their laws it is necessary for them to have patents describing the date on which title to land vested in them.

Section 705(a) of the Federal Land Policy and Management Act of 1976 (FLPMA) repealed a number of laws relating to the administration of public lands, including the Act of June 21, 1934. Although section 208 of FLPMA authorizes the Secretary of the Interior to issue patents or other documents of conveyance, we believe that that Act does not authorize the Secretary to issue "confirmatory" patents such as those provided for in the repealed 1934 Act. However, we believe that the original intent of Congress in enacting FLPMA was to retain the Secretary's authority, which was granted in the 1934 Act, to issue "confirmatory" patents.

Section 208 of FLPMA is derived from section 211 of S. 507, 94th Congress, 1st Session, which provided: "Consistent with his authority to dispose of national resource lands, the Secretary is authorized to issue deeds, patents, and other indicia of title. . . ." We believe that this provision, if enacted, would have retained the authority to issue confirmatory patents which had been granted in the 1934 Act. Section 208 of FLPMA, however, does not allow such a construction, since it authorizes the Secretary to issue patents only "after any disposal authorized by this Act." The numbered school section grants to States are not "disposals authorized by FLPMA." Section 208 further directs the Secretary to insert in any such patent or other document of conveyance which he issues "such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest. . . ." We do not believe that it was intended that the Secretary insert in confirmatory patents the types of terms and conditions required by section 208 of FLPMA.

Although the Act of June 21, 1934, was repealed without enactment of comparable authority, another statute, the Act of January 25, 1927, as amended (43 U.S.C. 870(d)(4)), still requires that the Secretary "shall, upon application by a State, issue patents to the State" for mineral lands in place granted to a State for support of schools. It is our view that it would be proper for any such patent for mineral lands to include the information concerning title and prior conditions and rights required by the repealed 1934 Act. However, where lands in place granted to the State are found to be nonmineral in character, there is now no authority to issue, as evidence of title, a document in the form of a "patient."

While there is nothing to prevent issuance of a document to a State, in the form of a letter or otherwise, which is not designated a "patent," but which provides the information necessary to determine the date on which title vested in the State, this apparently is not sufficient for the States' needs. The Bureau of Land Management has on file numerous applications under the 1934 Act and has received several indications that patents, rather than letters or other documents, are needed. Further, the Western States Land Commissioners Association has adopted resolutions in support of reenactment of the 1934 Act. Although the Department does not necessarily agree that issuance of a patent is the only appropriate evidence of the previous vesting of title in the State in these cases, we would like to assist the States in this regard, and to facilitate the processing of the applications on file.

For these reasons, we recommend speedy enactment of the enclosed draft bill, the text of which is identical to that of the 1934 Act. Until its enactment, the Bureau of Land Management will use existing authority to meet State needs to the greatest extent possible.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

GUY R. MARTIN,
Assistant Secretary.●

By Mr. STONE:

S. 2276. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Finance.

● Mr. STONE. Mr. President, I am today introducing a bill, which I also introduced in the last Congress, to provide for a Federal tax deduction for tenants for that part of their rental payment which is in fact a payment of local property taxes.

Under present law, landlords pay State and local property taxes. They are in turn entitled to deduct such payments in the computation of their Federal income tax liability.

Landlords generally pass their property tax liability on to tenants in the form of rent. However, inasmuch as tenants are not legally liable for payment of property taxes under State and local law, they are not eligible to deduct this portion of their rent for Federal income tax purposes. In other words, while tenants indirectly pay State and local property taxes, they are not entitled to a commensurate deduction in computing their Federal income taxes.

This present situation is unfair to the increasing number of American taxpayers who rent rather than own their homes. It has the effect of imposing double taxation on that part of a tenant's income which is spent for rent. Landlords, on the other hand, are permitted to avoid such a result by deducting local property taxes in determining their Federal tax liability.

The present situation has a regressive tax impact in that most of those who are caught in this double-taxation trap are in lower income brackets. Over one-half of all taxpayers earning less than $5,000 per year now rent their dwellings while only 13 percent of those earning more than $25,000 do so.

The tax liability of the landlord would remain unchanged under the bill. The bill would simply insure that the tenant, like the landlord, will not be taxed on income which has already been used to pay taxes.

Mr. President, in some State legislatures there are efforts to transfer the State or local property tax from the landlord to the tenant. If this happens, the States will by their own initiative have shifted the property tax and the property tax deduction to the tenant. However, because it is impossible to predict what State legislatures may do and because many renters are suffering unfairly from the present tax structure, I think it is important for Congress to take action.

Mr. President, I ask unanimous consent that the text of the bill I am introducing be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. DEDUCTION OF REAL PROPERTY TAXES IN CASE OF INDIVIDUALS WHO RENT THEIR PRINCIPAL RESIDENCE.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of the rent (not otherwise deductible) paid or incurred by the individual during the calendar year in which the taxable year begins for any dwelling unit used by the individual as his principal residence, but only to the extent that such amount does not exceed the individual's proportionate share of the State and local real property taxes (within the meaning of section 164(a)(1))—

"(1) which are imposed on such dwelling unit, or on the building in which such dwelling unit is located, and on the land on which such dwelling unit (or building) is situated, and

"(2) which are paid or accrued during such calendar year.

"(b) PROPORTIONATE SHARE.—

"(1) IN GENERAL.—For purposes of subsection (a), an individual's proportionate share of the real property taxes described in such subsection which are paid or accrued during any calendar year with respect to any dwelling unit shall be an amount equal to—

"(A) the amount of such real property taxes—

"(i) in the case of a dwelling unit located in a building which contains one or more other units, which are attributable to such dwelling unit, or

"(ii) in the case of any other dwelling unit, which are imposed with respect to such unit; multiplied by

"(B) a fraction the numerator of which is the number of days in the calendar year on which such dwelling unit was used by the individual as his principal residence and the denominator of which is the number of days in such calendar year.

"(2) TAXES ATTRIBUTABLE TO CERTAIN DWELLING UNITS.—For purposes of paragraph (1), the amount of the real property taxes described in subsection (a) which are attributable to any dwelling unit located in a building containing one or more units is an amount which bears the same ratio of the aggregate amount of such taxes imposed on the building and the land on which it is situated as the number of square feet of floor space in such unit bears to the total number of square feet of floor space in all the units in such building. For purposes of the preceding sentence, there shall not be taken into account the amount of any floor space in the building which is a common area or is used by the lessor of such building for purposes of maintenance.".

(b) The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"SEC. 220. Deduction of real property taxes in case of individuals who rent their principal residence.

"SEC. 221. Cross references.".

(c) The amendments made by this Act shall apply to rent paid or incurred after December 31, 1980, in taxable years ending after such date.●

By Mr. TALMADGE (for Mr. McGOVERN) (for himself and Mr. ZORINSKY):

S. 2277. A bill to provide emergency relief to farmers adversely affected by the export embargo on grain sales to the Soviet Union, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURE EMERGENCY ACT OF 1980

Mr. TALMADGE. Mr. President, on behalf of the distinguished Senator from South Dakota (Mr. McGOVERN), I introduce and send to the desk a bill entitled the "Agriculture Emergency Act of 1980."

Mr. President, at the request of Senator McGOVERN, I ask unanimous consent that a statement by him be printed in the RECORD, together with the text of the bill.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows.

STATEMENT BY SENATOR McGOVERN

I am pleased to introduce for appropriate reference the "Agriculture Emergency Act of 1980," an Act to provide emergency relief to farmers adversely affected by the export embargo on grain sales to the Soviet Union, and for other purposes.

The grain sales embargo announced by the President on January 4, 1980, sent shock waves through the agricultural community. January 4th marked the fourth time in less than a decade that the Executive Branch, under the authority of the Export Administration Act, had ordered embargoes or suspensions in sales of agricultural commodities to overseas customers. In each instance the effect on farm prices was devastating. Candidates for high office without exception deplore embargoes. Chief Executives for a variety of reasons continue to impose them. Is there any reason that embargoes strike as deeply at the heart of America's farmers as droughts, floods, or famines?

Farmers as well as all Americans are repulsed by the acts of the Soviets in Afghanistan. They are as patriotic as the urban dweller. This question, however, ties in a simple equation: 75 percent of our trade with Russia is in agricultural commodities; farmers comprise only 3 percent of the domestic population. Therefore, 3 percent of the people are called upon to bear 75 percent of the economic sanctions imposed by our nation.

Without belaboring the wisdom of the embargo or the reasons the President has expressed for taking this action, the time now is to accept it as a fact of national policy. Hopefully it will inflict the blow on the enemy envisioned by the President.

The concern of the moment is to act as swiftly as possible to assist the President in his commitment to American farmers to minimize the economic dislocation farmers will be required to absorb. Taking the President at his word that farmers will be made whole, now is the time to strike a blow for American agriculture that is long overdue.

To contribute to the dialogue on this issue, I today introduce the "Agriculture Emergency Act of 1980." For easy reference, I capsulize the bill as follows:

Wheat loans are raised to $3.90 a bushel, corn loans would be $2.50, cotton would be supported at $.60 a pound and the soybean rate would be $6.25 a bushel.

The CCC would be prohibited to sell commodities it took title to under the loan program at less than 10 percent above the repayment of the loans or 20 percent above the then current level of price support, whichever is higher.

Food for Peace levels would be raised to 1,600,000 metric tons of which not less than 1,300,000 metric tons shall be distributed through voluntary agencies.

Section 1002 of the Food and Agriculture Act of 1977 would be amended to eliminate Presidential discretion in declaring embargoes.

A 10 percent Paid Diversion Program is mandated for both wheat and feed grains.

Interest is waived for all loans on all crops for one year after January 10, 1980.

With that explanation, let me say that I would welcome cosponsorship of this legislation from farm state Senators as well as non-farm state Senators. The Chairman of the Agriculture Committee (Mr. Talmadge) plans to schedule Committee hearings on a number of bills, including his own, which are designed as responses to the embargo announcement, in February. Of course, I urge immediate consideration of the measure I introduce today.

S. 2277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agriculture Emergency Act of 1980".

SEC. 2. (a) Subsection (a) of section 107A of the Agricultural Act of 1949 (7 U.S.C. 1445b) is amended by striking out "and $2.35 per bushel for each of the 1978 through 1981 crops of wheat" and inserting in lieu thereof ", $2.35 per bushel for the 1978 crop of wheat, and $3.90 per bushel for each of the 1979 through 1981 crops of wheat, adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period (the first such adjustment to be made six months after the beginning of the marketing year for the 1980 crop of wheat)".

(b) Paragraph (1) of section 105A (a) of the Agricultural Act of 1949 (7 U.S.C. 1444c (a)(1)) is amended by striking out "not less than $2.00 per bushel, for each of the

1977 through 1981 crops of corn" and inserting in lieu thereof the following: "not less than $2.00 per bushel for each of the 1977 and 1978 crops of corn and not less than $2.50 per bushel for each of the 1979 through 1981 crops of corn, adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period (the first such adjustment to be made six months after the beginning of the marketing year for the 1980 crop of corn)".

(c) The first sentence of paragraph (1) of section 103 (f) of the Agricultural Act of 1949 (7 U.S.C. 1444(f)) is amended by striking out the period at the end of such sentence and inserting in lieu thereof the following: "for the 1978 crop of cotton and 60 cents for each of the 1979 through 1981 crops of cotton, adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period (the first such adjustment to be made six months after the beginning of the marketing year for the 1980 crop of upland cotton).".

(d) Subsection (e) of section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446(e)) is amended by striking out the colon after "factors" and inserting in lieu thereof a comma and the following: "except that the level of loans and purchases for the 1979 through 1981 crops of soybeans shall be not less than $6.25 per bushel, adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period (the first such adjustment to be made six months after the beginning of the marketing year for the 1980 crop of soybeans):".

SEC. 3. Subsection (d) of section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e(d)) is amended by striking out the matter preceding clause (1) and by inserting in lieu thereof the following:

"(d) Notwithstanding any other provision of law, whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 10 per centum above the level at which the Secretary may call for the repayment of loans under subsection (b) or at less than 20 per centum above the then current level of price support for the commodity, whichever is higher: *Provided*, That such restriction shall not apply to—".

SEC. 4. Subsection (b) of section 201 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721(b)) is amended to read as follows:

"(b) The minimum quantity of agricultural commodities distributed under this title—

"(1) for fiscal year 1978 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

"(2) for fiscal year 1979 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

"(3) for fiscal year 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through the World Food Program; and

"(4) for fiscal year 1981 and each fiscal year thereafter shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies of the World Food Program;".

SEC. 5. Subsection (a) of section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310) is amended (1) by striking out ", based upon a determination of short supply,", and (2) by striking out "with which the United States otherwise continues commercial trade" and inserting in lieu thereof "of the world".

SEC. 6. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall announce and put into effect as soon as practicable after the date of enactment of this Act a cropland set-aside program for wheat under section 107A of the Agricultural Act of 1949 (7 U.S.C. 1445b) and for corn and feed grains under section 105A of such Act (7 U.S.C. 144c). The Secretary shall require that cropland acreage on the farm equal to not less than 10 percent of the wheat, corn, or feed grain acreage, as the case may be, planted for harvest for the 1980 crop year be set aside and devoted to conservation uses as required under the appropriate section referred to above.

(b) The Secretary of Agriculture may make such adjustments in the operation of the 1980 cropland set-aside program for such commodities as he deems necessary because of the delay in initiating the program.

SEC. 7. Notwithstanding any other provision of law, any producer of wheat, corn, grain sorghum, barley, rye or oats who obtained a price support loan from the Secretary of Agriculture before January 11 1980, on any quantity of the 1979 crop of any such commodity shall not be required to pay any interest on such loan for any period after January 10, 1980. Any such producer who obtained a price support loan after January 10, 1980, on any quantity of such crop of such commodity shall not be required to pay any interest on such loan.

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DURKIN:

S. 2278. A bill to amend the Social Security Act to provide for the payment of out-of-hospital prescription drugs, eye glasses, hearing aids and dentures; to the Committee on Finance.

● Mr. DURKIN. Mr. President, today I am introducing an important piece of health care legislation to assist our senior citizens. This bill would extend medicare reimbursement to include the purchase of eyeglasses, hearing aids, dentures, and out-of-hospital prescription drugs. Its prompt passage is essential in order to help our elderly keep pace with runaway health care costs and to insure that these necessary items are available to all seniors.

Today there are millions of older Americans who have worked hard, day in and day out, for 40, 50, even 60 years and who will not have the money to pay next month's heating bill.

There are millions of senior citizens in this country who will not be able to read or hear about many of the important programs available to them because the cost of a desperately needed hearing aid or a pair of eyeglasses is out of the question.

And there are millions of Americans who daily live in fear. Fear of a costly accident or illness. Fear from the ravages of double digit inflation. Fear of crime. And most importantly fear of losing their independence and their dignity.

These are men and women who pulled us through the depression, protected our country in times of war, and built this Nation into the leading democracy in the world.

Today in New Hampshire, as temperatures drop and heating costs rise these men and women find themselves in a new war; a war against energy-fueled inflation and a battle against prohibitively high health care costs. I am fighting for our senior citizens and I urge my Senate colleagues to join me in support of this bill so that older Americans can secure the kind of life they so richly deserve; free from fear and full of promise.

I am also cosponsoring a number of other major pieces of legislation which demand the Senate's immediate attention. These measures are all sensible and sensitive approaches to help our senior citizens keep pace in their race against runaway inflation. Lowering medical and energy costs, improving housing and health care services for our elderly, eliminating the social security earnings limitation, and providing incentives for saving and investing are all necessary, inflation-fighting steps which must be brought to the top of our legislative ladder. I will continue my fight for our older Americans and I invite my Senate colleagues to join me in this effort.●

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 2279. A bill to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955; to the Committee on Energy and Natural Resources.

● Mr. DOMENICI. Mr. President, the petitioner seeking relief by this bill Senator SCHMITT and I are introducing has persuaded me that this case needs to be reviewed to prevent an inequitable determination resulting from strict adherence to the law.

Simply, the petitioner paid $1,280 to the New Mexico Bureau of Land Management as a year's lease rental. In fact petitioner was to pay $2,560 of which he was aware. But through a bureaucratic error of the sort the business community usually claims only the Government is capable of only one half of the amount required was tendered. At the time no one noticed and $1 million was spent in the development of the site. Now the underpayment has come to light and the petitioner, according to law, has been informed he has lost the lease.

The purpose of this bill is to allow the petitioner to pay the additional $1,280 to protect his $1 million investment as he should have done some months before. The lease has not been claimed by any other party.

It seems that this is a classic case where the Congress should study the facts and act to provide relief if merited.●

By Mr. HATCH:

S. 2280. A bill to amend the Internal Revenue Code of 1954 to repeal the estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Finance.

● Mr. HATCH. Mr. President, I am introducing a bill to repeal chapters 11, 12, and 13 of the internal revenue code of 1954 relating to the estate tax, gift tax, and generation-skipping transfers. In theory these taxes were established for the taxation of windfalls, the taxation of property once each generation, and the taxation to reduce concentrations of wealth. In practice there are many complications with the application of these taxes which render them unequal and discriminatory.

Estate and gift taxation is inherently complicated since property transfers can take many forms. There are major problems with the treatment of transfers of husband and wife, farms and small businesses, and charitable contributions—not to mention the problems with the imperfect unification of the estate and gift taxes under the 1976 Tax Reform Act, and the manner in which trusts and outright transfers are used to escape or avoid taxation for one or more generations.

Mr. President, I am very concerned about the discriminatory impact of the estate tax on women since the heir to an estate is most often a widow. It is sad that a man who has worked hard all his life to provide for his family and has paid taxes all those years, is taxed again upon the last dignified event of his life to the detriment of that wife and those children for whom he has spent his life.

I am also concerned about the unfair impact of this tax on orphans. It is a tax that robs the child of some of the means the parents have left behind to provide for that child.

The discriminatory estate and gift taxes only amount to about $6 billion in Federal revenue which is very little compared to the problems caused by these taxes. They are very difficult taxes to enforce and the cost of adequate enforcement is prohibitive.

Mr. President I hope the Senate will support this bill to end these discriminatory and ineffective taxes.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) is hereby repealed.

(b) Chapter 12 of such Code (relating to gift tax) is hereby repealed.

(c) Chapter 13 of such Code (relating to tax on generation-skipping transfers) is hereby repealed.

(d) (1) The repeal made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(2) The repeals made by subsections (b) and (c) shall apply with respect to transfers made after the date of the enactment of this Act.

SEC. 2. The Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 90 days after the date of the enactment of this Act such technical and conforming amendments to the Internal Revenue Code of 1954 as may be necessary to carry out the purposes of this Act.●

By Mr. THURMOND:

S. 2281. A bill to amend title 10, United States Code, to designate the Medal of Honor award for military heroism as the "'Congressional Medal of Honor," and to amend subchapter IV of chapter 15 of title 38, United States Code, relating to the Medal of Honor roll; to the Committee on Armed Services.

Mr. THURMOND. Mr. President, I rise today to introduce a bill to eliminate the longstanding confusion by changing the name of the Medal of Honor to the Congressional Medal of Honor.

This legislation does not change the established criteria or selection process. Neither does it dilute the honor and prestige which rightfully accompanies this high award. This change is strongly supported by the Congressional Medal of Honor Society. This society consists of the approximately 300 living recipients of this great honor.

Mr. President, a number of medals are known as medals of honor. There would only be one Congressional Medal of Honor and this high decoration has generally been so designated, although unofficially. The very fact that these men have formed an organization known as the Congressional Medal of Honor Society speaks for itself.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD. I urge this bill be referred to the Senate Armed Services Committee, where I would hope the committee will give it early consideration.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 3741, 3744, 3745, 3747, 3752, 6241, 6248, 6253, 8741, 8744, 8745, 8747, and 8752 of title 10, United States Code, are each amended by inserting "congressional" immediately before "medal of honor" each time the latter term appears in such sections.

(b) Section 6254 of title 10, United States Code, is amended by inserting "congressional" immediately before "medals of honor".

(c) The catchlines of sections 3741, 3744, 3745, 3747, 3748, 6241, 8744, 8745, 8747, and 8748 of title 10, United States Code, are each amended by striking out "Medal of honor" and inserting in lieu thereof "Congressional medal of honor".

(d) The table of sections at the beginning of chapters 357, 567, and 857 of title 10, United States Code, are each amended by striking out "Medal of honor" each time such term appears and inserting in lieu thereof "Congressional medal of honor".

SEC. 2. (a) Section 560 of title 38, United States Code, is amended—

(1) by inserting "Congressional" before "Medal of Honor Roll" in subsection (a); and

(2) by inserting "congressional" before "medal of honor" in subsection (b).

(b) Section 561 of such title is amended—

(1) by inserting "Congressional" before "Medal of Honor Roll" in the first sentence of subsection (a);

(2) by striking out "Medal of Honor" each time it appears in the second sentence of subsection (a) and inserting in lieu thereof "congressional medal of honor";

(3) by inserting "Congressional" before "Medal of Honor Roll" in subsection (b); and

(4) by striking out "the Medal of Honor" and inserting in lieu thereof "the congressional medal of honor" in subsection (b).

(c) Section 562 of such title is amended—

(1) by inserting "Congressional" before "Medal of Honor Roll' in subsection (a); and

(2) by inserting "congressional" before medal of honor" in subsection (d).

(d) The catchline of section 560 of such title is amended by inserting "Congressional" before "Medal of Honor Roll".

(e) The subchapter heading at the beginning of subchapter IV of chapter 15 of such title is amended by inserting "Congressional" before "Medal of Honor Roll".

(f) The table of sections at the beginning of chapter 15 of such title is amended—

(1) by striking out the heading relating to subchapter IV and inserting in lieu thereof the following:

"Subchapter IV—Army, Navy, Air Force, and Coast Guard Congressional Medal of Honor Roll"

(2) by striking out the item relating to section 560 and inserting in lieu thereof:

"560. Congressional Medal of Honor Roll; persons eligible.".

SEC. 3. On and after the date of enactment of this Act, any reference contained in any law, regulation, document, record, or other paper of the United States to the medal of honor awarded for military heroism shall be deemed to be a reference to the congressional medal of honor.●

By Mr. TALMADGE:

S. 2282. A bill to amend the Food Stamp Act of 1977 to provide the Secretary of Agriculture forfeiture authority; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. TALMADGE. Mr. President, I am today introducing a bill to make it clear that the Secretary of Agriculture has forfeiture authority in the administration of the food stamp program.

Many of us have become aware of the recent disclosures of the efforts of the Department of Agriculture's Office of the Inspector General to root out and prosecute individuals who were involved in the illegal trafficking in food stamps in San Francisco, Denver, Chicago, and New York City. The Office of the Inspector General has been involved in this particular investigation for 2 years. Inspector General McBride and his staff are to be congratulated for their efforts.

This latest investigation brings to light the need for a specific forfeiture provision in the Food Stamp Act of 1977. Agents of the Department of Agriculture come into possession of money or items of value that the food stamp traffickers use to make their illegal purchases of food stamps. In the past year, these agents have recovered more than $450,000 as a result of their operations.

Currently, this property is disposed of, after its use for evidentiary purposes in the criminal trials of these defendants has ended, in various ways: Money is deposited to the miscellaneous accounts of the U.S. Treasury; contraband is either destroyed or turned over to the appropriate law enforcement agencies; vehicles are kept for use in future operations in accordance with an agreement with the General Services Administration.

However, the authority of the Department to retain the money it obtains in these illegal trafficking cases has been called into question. The Department of Agriculture has been recently sued in New York and Philadelphia for the return of moneys paid for the illegal purchase of food stamps. In one case, the criminal defendant seeks the return of $8,000 and in the other case, $14,500 is demanded.

I, and I am sure my colleagues, are repulsed by the prospect that food stamp traffickers, who have engaged in perpetrating large-scale fraud against this program, might be able to come into court and demand that the Department return the money or property used to make their illegal purchases. The bill that I am introducing today will remove that possibility.

Mr. President, I ask unanimous consent that there be printed in the Record the statement of Robert E. Magee, Assistant Inspector General for Investigations, presented to the House Committee on Agriculture on February 8, 1980, an article from the February 7, 1980, Wall Street Journal, and the text of the bill.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (g) as follows:

"(g) The Secretary may subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished or intended to be furnished by any person in exchange for coupons or authorization cards in any manner not authorized by this Act or the regulations issued under this Act. Any forfeiture and disposal of property forfeited under this subsection shall be conducted in accordance with procedures contained in regulations issued by the Secretary.".

Statement of Robert E. Magee

Mr. Chairman and Members of the Committee, we are pleased to be here today to share with you the progress of a major investigation into illegal traffickers in Food Stamps.

The Food Stamp trafficking investigation which resulted in 47 arrests in San Francisco, Denver, Chicago and New York City began in California with two unrelated events.

OIG Special Agents in San Francisco investigated a liquor store, whose owner was one of those arrested last week, on intelligence information that this store was trafficking in Food Stamps. The investigation established that store employees were, in fact, buying Food Stamps at cash discount.

A Food Stamp Center in Redwood City, California, was burglarized of $35,000 in Food Stamps. Our investigation of this incident did identify the perpetrator but we failed to turn up any of the stolen Food Stamps.

We received additional intelligence that some of the Food Stamps stolen in this burglary were passed through this store.

Based upon this information we reopened our investigation. Undercover Special Agents then participated in felony-level transactions with an individual connected with the store and traced the ultimate redemption of Food Stamps showing up in the accounts of two grocery stores in the general area. Our background investigation of the involved stores indicated that both the owner of the liquor store and the owner of one grocery store bought their establishments with money borrowed from another person who owned or had interests in a number of other stores.

At this point we were informed that all the involved principals were recent immigrants who, in conversations with the OIG undercover Agents, characterized themselves as "Palestinians".

Investigations were then initiated at all the establishments associated with the redemption of the trafficked stamps. One principal, following a larger transaction, immediately purchased an airline ticket to New York City and departed, under surveillance. In New York City he was observed in the company of others, and several thousands of dollars of the Food Stamps were eventually redeemed through the accounts of five grocery stores in that area.

Special Agents of the New York Office subsequently participated in corroborating felony offenses with principals in each of these stores. The responsible United States Attorneys in both the New York and San Francisco Districts were apprised of these developments, in accordance with our standard practice, and kept informed of developments. No immediate legal action was instituted in order to avoid jeopardy to undercover investigations still active in California, but these subjects were arrested last Friday as the covert phase of this investigation was terminated.

Also, some months ago, our Denver Office initiated an independent investigation based on criminal intelligence information that grocery stores in that area were trafficking in Food Stamps. When this information was confirmed through undercover operations, and it was ascertained that the targets also described themselves as "Palestinians", coordination was established with our San Francisco Office.

By this time, liaison had been established with local police and other federal law enforcement agencies, which is routine, because we ensure that our operations do not jeopardize any other law enforcement unit's operations, and because subjects of Food Stamp trafficking groups are often found to be engaging in other illicit actions within the jurisdiction of other agencies.

The operations in Denver had already established that criminal offenses occurred involving five persons there and the level of Food Stamp transactions was escalated to identify any out-of-area redemption outlets. Food Stamps trafficked by undercover OIG Agent in Denver showed up in the accounts of two grocery stores in Chicago, which were operated by persons who described themselves as "Palestinians". Agents of the Chicago Office then began an undercover investigation and engaged in substantial transactions, and the United States Attorney there was apprised of the situation.

Meanwhile, in San Francisco, OIG Agents were working jointly with San Francisco Police and later Oakland Police when the Food Stamp redemption patterns identified additional stores, also operated by persons who characterized themselves as "Palestinians", through which illicit Food Stamps were redeemed.

The subjects of the Denver and Chicago investigations were indicted by Federal grand juries on December 19, 1979, and January 15, 1980 These events made it possible to close down the covert operation in San Francisco. Undercover personnel from OIG and San Francisco Police met with principals and carried out one final transaction, following which these targets were arrested along with thirty-five others, implicated in previous operations.

This operation, two years in development, while a major trafficking investigation, is not unprecedented. An appreciable amount of our criminal investigative resources are directed at major abusers of this vital program. In the last Fiscal Year, our investigations resulted in 320 indictments for Food Stamp Program criminal offenses.

The cautions exercised by persons who are well aware that they are violating the law require careful case development, coordination with other agencies, extensive surveillance and undercover operations.

In this, as in most trafficking investigations we have to give to the traffickers large quantities of Food Stamps, up front, some of which may not be recovered. We minimize the cost to the Government through the cash received in transactions, and recovery of large amounts of Food Stamps, as well as the cash exchanged in final transactions which we term "Buy-Busts". The cost is further reduced by fines imposed by courts and claims established by the Department against authorized retailers and wholesalers who are shown to have handled illicit Food Stamps.

In the operation just concluded, the total face value of Food Stamps invested in this operation, about $400,000, was reduced by about $100,000 in cash received and $225,000 in Food Stamps recovered, leaving a net Food Stamp expense of about $75,000 which will be further reduced by fines and claims.

We are able to maintain this reassuring level of law enforcement in this program through the excellent cooperation of other Federal, State and local law enforcement agencies, close coordination with the Food and Nutrition Service, and fine cooperation and direction by United States Attorneys. We are grateful to this Committee for its understanding, support, and legislative initiatives to tighten control of the Food Stamp Program and protect it from fraud and abuse.

We, of course, directed our investigation to illegal trafficking in Food Stamps. We did not inquire, indeed we do not have the jurisdiction to investigate what the traffickers did with the profits of this illegal enterprise. As indicated, some Food Stamps were moved to other cities where they were redeemed, but that is not unusual. However, we have no evidence that these different individuals and establishments are under any single control or influence.

This completes my prepared statement. We will be pleased to attempt to answer any questions subject to the limitations imposed by the on-going investigative and legal process.

[From the Wall Street Journal, Feb. 7, 1980]

An 'Abscam' Evolves With Actual Arabs, In Grocery Business

(By Jerry Landauer)

Washington.—In big-city ghettos all over the land, Arab immigrants are buying up "mom and pop" food stores by the score. In the San Francisco area alone, Arab-Americans own or operate 700 such stores, mostly in neighborhoods rife with crime.

One explanation for this phenomenon goes like this: Being independent-minded and desirous of preserving old-world customs Arab-Americans much prefer self-employment, no matter how dangerous, to a safe job in some factory.

That may generally be true, but in some cases there now may be another explanation. Law-enforcement authorities suspect that certain Arab-owned stores were acquired to facilitate illegal trafficking in many millions of dollars worth of stolen U.S. government food stamps.

In recent weeks, undercover agents working for the Agriculture Department's Office of Inspector General raided suspected trafficking rings in Denver, Chicago, New York and San Francisco. Total arrests exceed 50, and all but three of the suspected traffickers are Arab-Americans.

FUNDS FOR THE PLO?

The underworld rings in various cities apparently communicate with each other, at least occasionally. At least one enforcement agency (not the Agriculture Department) harbors lingering suspicions that the rings operating these stores are funneling part of the profits to the Palestine Liberation Organization.

Some months ago, Agriculture Department agents sold a quantity of food stamps to Mahmud "Mike" Ghanem, a suspected West Coast leader in the trafficking ring. Mr. Ghanem promptly boarded a jet for New York. There, other agents observed him trading the stamps for cash to confederates in Brooklyn. Then Mr. Ghanem boarded another jet for Tel Aviv. There, at U.S. government request, Israeli intelligence tailed him, seeking to discover possible contacts with the PLO. But none developed.

After his return to the U.S., Mr. Ghanem reestablished contact with the undercover agents, who had floated word that stolen food stamps having a face value of $100,000 or so were for sale. Soon he showed up at an apartment in San Francisco to inspect the contraband and haggle about price. The apartment was wired with hidden microphones. Outside, a surveillance team of his Arab associates cruised about. Later, Mr. Ghanem returned to the apartment with $23,000 in cash to pay for the stamps. The agents arrested him.

OTHER ARRESTS

On that same day, authorities in San Francisco and Oakland issued arrest warrants for 36 other store owners, operators or employes. Thirty-three are Arab-Americans, and nearly all emigrated to the U.S. from the strife-torn West Bank of the Jordan River. All told, the undercover agents, posing as petty street thieves, sold the suspects perhaps $400,000 worth of pre-marked stamps at numerous times for more than a year.

Jack Ford, Mr. Ghanem's lawyer, says any crime that may have been committed by his client was induced by government entrapment. "I don't think you can claim that Arabs bought up these little grocery stores to perpetrate frauds," Mr. Ford says. "In Boston the Irish went into construction work. In Washington all the blacks went into politics, and in New York the Jews went into the jewelry business. There isn't any design to these things."

Thomas McBride, the Agriculture Department's inspector general, won't comment about involvement of Arab-Americans in food-stamp frauds. But that subject will be explored today in briefings to the House Agriculture Committee by Mr. McBride's associates, deputy inspector general Margaret Gates and Robert Magee, the assistant inspector general for investigations. Mr. Magee apparently coordinated the undercover work that enabled agents to penetrate trafficking rings in four cities thousands of miles apart.

One undercover man describes the wholesale takeover of small food stores in the San Francisco bay area:

"It's a hell of a thing to watch, over a period of time," this agent says. "First you'd see one Arab and then you'd look around and you'd see another Arab in the store who had just come here. Pretty soon, the first Arab gets to speak pretty good English and he moves out, leaving the second Arab to run the store. And pretty soon he's got another Arab in there who doesn't speak English very well, which is suggestive of the fact that he's an even newer immigrant. And this process goes on and on, like a daisy chain."

Even so, as the Agriculture Department's Mr. Magee is expected to tell the House Committee, the department hasn't any evidence of any conspiracy to milk the food-stamp program for political purposes overseas. Nor has the FBI found evidence to support recurring rumors that Arab immigrants in several cities are being "assessed" payments to support the PLO.

Illicit dealings in food stamps (the "stamps" actually look like currency, each with a serial number) generally consist of converting stolen or otherwise illegally obtained stamps to cash. Typically, the stamps are stolen from banks or welfare offices. The federal government is spending about $8 billion this year on the food-stamp program for the needy. According to a "Fraud Alert Bulletin" issued by Mr. McBride's office, stamp schemes constitute "one of the most profitable areas for criminals intent on defrauding a U.S. government program."

Dishonest store operators rip off food-stamp program by buying stolen stamps at discounts of 30 percent to 50 percent from face value. The operator takes the stamps to a bank, verifies a redemption certificate stating that the stamps were acquired in payment for food at his store, and collects cash equal to the face value of the stamps he is turning in. In theory at least, only properly authorized food stores can convert stamps to cash.

Big-time fraud requires control over a network of stores, or at least a degree of coordination among them. If a single store owner turned in too many stamps, he would probably be caught: The Agriculture Department's computers in Minneapolis are programmed to identify stores showing a rapid, unexplained increase in redemptions.

Thus, much like a bookmaker who lays off bets too big for him to handle, traffickers spread contraband stamps around to their networks of stores for redemption at various banks. Marked stamps bought at huge discounts by Arab-American food stores in Denver have been redeemed for full value by Arab-American stores in Chicago. And stamps sold by undercover agents in San Francisco have turned up at banks in New York.●

ADDITIONAL COSPONSORS

S. 92

At the request of Mr. THURMOND, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 92, a bill to amend title 5 of the United States Code to permit present and former civilian employees of the Government to receive civil service annuity credit for retirement purposes for periods of military service to the United States as was covered by social security, regardless of eligibility for social security benefits.

S. 299

At the request of Mr. CULVER, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 299, a bill to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts, and for other purposes.

S. 1789

At the request of Mr. CULVER, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1789, a bill to facilitate the ability of product sellers to establish product liability risk retention groups, to purchase product liability insurance on a group basis, and for other purposes.

S. 2071

At the request of Mr. COHEN, the Senator from New Mexico (Mr. SCHMITT), and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of S. 2071, a bill to provide cancellation of student loans made or guaranteed under the Higher Education Act of 1965 for military service, and for other purposes.

S. 2082

At the request of Mr. ZORINSKY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2082, a bill to amend title 17 of the United States Code to exempt nonprofit veteran's organizations and nonprofit fraternal organizations from the requirement that certain performance royalties be paid to copyright holders.

S. 2197

At the request of Mr. BAUCUS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2197, a bill to credit, for certain purposes, each employee of the Federal Government and each member of a uniformed service who was seized and held hostage by terrorist forces in Iran with 1 year of service in addition to all other periods of service to which such employee or member is entitled to be credited.

S. 2222

At the request of Mr. MELCHER, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2222, a bill to extend the time for commencing actions on behalf of an Indian tribe, band, or group or on behalf of an individual Indian whose land is held in trust or restricted status.

S. 2249

At the request of Mr. TALMADGE, the Senator from Florida (Mr. STONE), the Senator from Texas (Mr. TOWER), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 2249, a bill to increase the minimum level of price support on quota peanuts for the 1980 and 1981 crops.

S. 2253

At the request of Mrs. KASSEBAUM, the Senator from Oklahoma (Mr. BOREN), the Senator from Texas (Mr. TOWER), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 2253, a bill to provide for an extension of directed service on the Rock Island Railroad and to provide transaction assistance to the purchasers of portions of said railroad.

S. 2269

At the request of Mr. ZORINSKY, the Senator from South Carolina (Mr. THURMOND), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2269, a bill to extend the Emergency Agricultural Credit Adjustment Act of 1978.

S. 2270

At the request of Mr. BELLMON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2270, a bill to reorganize, simplify, deregulate, and consolidate certain elementary and secondary education programs in order to provide improved State and local administration of the programs, and for other purposes.

SENATE JOINT RESOLUTION 39

At the request of Mr. RANDOLPH, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S.J. Res. 39, a Joint Resolution to provide for the designation of the second full calendar week in March of each year as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 132

At the request of Mr. CRANSTON, the Senator from Maine (Mr. COHEN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Senate Joint Resolution 132, a joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week."

SENATE JOINT RESOLUTION 135

At the request of Mr. BAYH, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arizona (Mr. DECONCINI), the Senator from Indiana (Mr. LUGAR), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 135, a joint resolution to provide for designation of the first Friday of March as "Teacher Day, United States of America."

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. BAYH, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution urging the Soviet Union to allow Irina Astakhova McClellan to emigrate to the United States, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

WATER RESOURCES DEVELOPMENT ACT OF 1979—S. 703

AMENDMENT NO. 1660

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. DOMENICI (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, and Mr. JAVITS) submitted an amendment intended to be proposed by them, jointly, to S. 703, a bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

NATIONAL WATER RESOURCES POLICY AND DEVELOPMENT DEMONSTRATION ACT OF 1980

● Mr. DOMENICI. Mr. President, I am today submitting, on behalf of myself and Senators MOYNIHAN, DURENBERGER, and JAVITS, an amendment to S. 703. This amendment seeks to get our national resources program moving forward once again.

For those of us who believe strongly in effective Federal action to develop our national water resources, we must confront the reality that the Nation's water resources program is in trouble.

We are not starting many new projects. The present system provides no effective method for establishing priorities among projects. The program's constituency is shrinking. Construction spending on corps projects has declined, in real dollars, by nearly 10 percent over the past 4 years. It takes a generation to get a typical corps project under construction, with about half that time created by congressional delays in funding the study, authorizing the project, and funding construction. The States are not involved in planning or project selection. The administration in Washington, be it the present one or a future one, can be expected to find that water resources projects are an easy target of an economy effort.

A need for reform exists: reform that will get the program moving; reforms that will help us obtain a Presidential signature on an omnibus water projects bill.

I am convinced that we must seek a new approach, one that broadens the constituency for the program, and one that involves the individual States to a far greater degree than now.

In the search for such a program, Senator MOYNIHAN and I last year introduced S. 1241, the National Water Resources Policy and Development Act of 1979. That bill sought to make major changes in the method for accomplishing water resources projects. S. 1241 would expand the existing water resources program dramatically, and convert much of it to a system providing a block allocation among the States, with the States selecting the priorities for work. More specifically, S. 1241 would:

First. Allocate $4 billion a year among the States to be spent by Federal agencies (the Corps of Engineers, the Water and Power Resources Service, and Soil Conservation Service) on federally designed projects. The money would be distributed to the States on a formula—half land, half population (with 3 percent for Alaska).

Second. Declare that 10 large, regional projects could go forward at a particular time, outside the formula program. The Congress would select these projects which have an obvious multistate character;

Third. Provide that projects under the allocation system would carry a flat, 25-percent local cost, rather than the present system of nearly 200 differing cost-sharing formulas. The 10 multistate projects would go forward at full Federal expense;

Fourth. Authorize new project automatically, if the State and the Federal agency agree on the need for the project, reducing sharply the time needed to move from the study phase into construction;

Fifth. Eliminate the need that projects carry a positive benefit-to-cost ratio, if they are to be built under the allocation system;

Sixth. Expand the types of projects covered under the program to include single purpose water supply and renovation, desalination, and dam safety;

Seventh. Require each State to hold a public hearing annually in order to develop its priority list of water projects; and

Eighth. Authorize new water studies automatically, at State request.

Since last spring, there has been much discussion of S. 1241 and the entire process of how we authorize and how we implement a national water resources development effort. That discussion has been most fruitful.

While there has never been anything sacred about many of the mechanics of S. 1241, I believe the concept represents an innovative effort to set the water resources program off dead center, to accelerate spending in this vital area. I continue to urge anyone who is interested in water resources to examine carefully this approach, possibly with suggestions on how to assure that it will do what we seek to do: Lay the framework for a more dynamic water resources effort in the final fifth of the 20th century. But because of the inherent resistance to great change in any Federal program, Senator MOYNIHAN and I subsequently developed a compromise proposal that would, in effect, demonstrate a block allocation alternative for a period of 5 years.

While I still believe the nation would be best served by enactment of a broader approach, such as S. 1241, I recognize that every long journey begins with a single step. Our compromise, as represented in the language of this amendment, provides that initial step.

The demonstration effort would cover the same programs, with $1 billion to be authorized yearly, on the same formula as S. 1241. But there would be no change in the present cost-sharing arrangements, and there would be no limits on the present, line-item program of authorization and appropriations. Thus, the $1 billion is intended to be over and above the current program.

In addition, the compromise establishes an independent Water Resources Council that would study the implementation of the demonstration program—to see if it does work better—and to report back to Congress at the end of the fourth year of the demonstration.

The 1980's offer great opportunities and great challenges on the issue of water resources. If we ignore these challenges, I am convinced that we will look back, by the end of the decade, on a water resources development program that is in even deeper trouble than now, and on a nation facing severe, even crippling, water problems. We must act in 1980 to begin the reforms that will prevent such a calamity.

Mr. President, I ask unanimous consent that an outline of our amendment, as well as the amendment itself, be printed at this point in the RECORD.

There being no objection, the amendment and outline were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1660

At the end thereof, insert the following:

"TITLE IV

"SEC. 401. That this Title may be cited as the 'National Water Resources Policy and Development Demonstration Act of 1980.'

"CONGRESSIONAL FINDINGS

"SEC. 402. (a) The Congress finds that development of important and necessary water resources projects and the wise expenditure of Federal and State funds has been frustrated by increasing delays in the implementation of Federal water resources programs. The Congress finds further that it has taken a generation from the time of authorization of the planning of a typical water resources project to the initiation of its actual construction, and that such a protracted period is not in the national interest, and has been caused by a variety of factors, including the lack of expeditious Congressional action, as well as the failure of the Federal Government and the States to establish any effective system of priorities that would identify those water resources projects most needed for national and regional economic development, environmental quality, and social well-being.

"(b) The Congress, therefore, declares that the Nation's water resources development effort will operate more effectively and efficiently when projects are developed in accordance with a system of Federal and State priorities, and administered with an increased degree of State participation.

"(c) It is, therefore, the purpose of this Title to establish and demonstrate a cooperative Federal-State program to solve water resources problems throughout the Nation, providing the States with greater responsibility for determining priorities and the pace of projects, while maintaining reliance on the basic expertise and financial assistance of the United States and its water resources agencies.

"FEASIBILITY STUDIES

"SEC. 403(a) Any State may submit requests to the Water Resources Council (hereinafter referred to in this Title as the "Council") for detailed feasibility studies of specific, identified water resource needs and problems within such State or its region. The Council shall, within 15 days of receipt of any such request, publish notification of such request in the Federal Register and transmit such request to the appropriate Federal water resources agency or agencies, and such transmittal shall be deemed to be authorization for such study.

"(b) From the study requests submitted as a result of subsection (a) of this section, as well as any other studies previously authorized, each State shall, after public hearings, submit to the Council, no later than August 1, 1981, and annually thereafter, a list of those studies, in order of priority, which such state wishes to have undertaken or completed by the appropriate Federal water resources agencies. Within the funds available under this section, the appropriate Federal water resources agencies shall make detailed evaluations of specific water resources needs or problems, analyze alternative solutions, determine the most effective and desirable solution to such need or problem, and determine whether such solution or solutions should be recommended for implementation. The Federal water resources agency shall take into account the requirements of any affected interstate compact relating to water use and any relevant court decrees.

"(c) Before a study can be initiated under the terms of this section, the Governor or Governors of the State or States in which implementation would be likely to occur shall approve the plan and term of study, and shall appoint at least one employee from each State where implementation would be likely to occur to work in coordination and cooperation with the Federal water resources agency or agencies on such study.

"(d) Any Federal water resources agency may contract with a State or States for the preparation of a study under this section.

"(e) At the conclusion of any study under this section, the Federal water resources agency or agencies shall, as soon as possible, submit a detailed report on such study to the Council, together with the specific recommendations of that agency or agencies regarding whether or not a project should be implemented, together with certification by the appropriate Governor or Governors that implementation of the project described in such study would be desirable, needed, and entitled to priority consideration within such State or States.

"(f) To the extent practicable and reasonable, Federal and State agencies shall consolidate hearings and studies required by law in order to expedite completion of any study under this section.

"(g) To the extent practicable and reasonable, the Council shall seek to assure that expenditures under this section are allocated among the States on the same basis as the funds are allocated under Section 405 of this Title, and meet the priorities established by each State under subsection (b) of this section.

"(h) For the purpose of undertaking feasibility studies under this section, there is authorized to be appropriated to the Council, for distribution among the appropriate Federal water resources agencies, $150,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986, to remain available until expended.

"PROJECT AUTHORIZATION

"SEC. 404(a) Within 30 days of the submission of a study report, as required by subsection 403(e) of this Act, the Council shall publish in the Federal Register a summary of the project described in such report, together with the recommendations of the Federal water resources agency and the certification of the Governor or Governors. Ninety days after such publication the project described in such report shall be deemed authorized for implementation under this Title, and eligible for inclusion on a State's priority list for implementation under the terms of Section 405 of this Title, and eligible for funding utilizing monies authorized by section 405 of this Title.

"(b) Notwithstanding the provisions of subsection (a) of this section, any study report involving implementation of a project in one State, where the Governor of another State in the affected watershed objects in writing to the Council within 90 days after the publication in the Federal Register required in subsection (a) of this section, and shows that such project would adversely affect the quantity or quality of water available in such other State, such study report shall, within 60 days of the receipt of such objection, be submitted to Congress. Implementation of the project described in any study report so submitted to Congress may only be authorized by Act of Congress.

"(c) Notwithstanding the provisions of subsection (a) of this section, any study report shall require the approval of the Council when the Federal water resources agency or agencies recommend against implementation of the project described in such study, and the Council shall, if it approves implementation of the project described in such study report, publish a summary of the project described in such report in the Federal Register, as provided by subsection (a) of this section. Should the Council fail to act on a study report within 180 days of the receipt of such report, implementation of the project described in such study report shall be deemed authorized for the purposes of this Title. Whenever the Council sustains the recommendation of a Federal water resources agency or agencies against implementation of a project described in such study report, such recommendation and study report shall, within 30 days, be transmitted by the Council to the Congress. Implementation of the project described in any study report so submitted to Congress may only be authorized by Act of Congress.

"(d) When the implementation of any project described in a study report, as required by subsection 403(e) of this Title, will be undertaken outside the terms of this Title, such project may only be authorized by Act of Congress.

"DEMONSTRATION PROGRAM

"SEC. 405(a) Following public hearings to be held at least annually by each State for the purposes of reviewing authorized water resources projects in such State, each State shall develop a priority list of such projects in such State, and submit such list to the Council by August 1, 1981, and annually thereafter. Each such list shall be published by the Council in the Federal Register no later than September 1, 1981, and annually thereafter, and such lists shall determine the order of funding for those water resources projects that are implemented under the terms of this section in each State during the following fiscal year.

"(b) In considering projects for inclusion on the priority lists required by subsection (a) of this section, each State shall take into account recommendations, which any appropriate river basin commission shall submit at the time of public hearings.

"(c) Any list submitted by a State under the terms of subsection (a) of this section shall be deemed approved within 30 days of its publication in the Federal Register unless the Council determines that such list was developed without opportunity for a public hearing. If the Council determines such list was developed without opportunity for a public hearing, the Council shall immediately notify such State, which shall conduct such public hearing and submit a new list as soon as practicable. Such new list shall be published in the Federal Register within 30 days of its submission, and be approved in accordance with the procedures described in the first sentence of this subsection. For any fiscal year, no funds shall be expended under this section in a State until that State's priority list for that fiscal year has been approved under the terms of this subsection.

"(d) Any project to be implemented, using funds authorized by this section, may be implemented, notwithstanding the required computation to the project's benefit-to-cost ratio, so long as such project is on a State's priority list under the terms of subsection (a) of this section, and the Governor determines that the project will provide other significant benefits, included benefits for environmental quality, social well-being, or regional development.

"(e) The sum of $1,000,000,000 is authorized to be apropriated to the Council for allocation under the terms of section 406 of this Title for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986. Such sums shall be available for the detailed engineering and design and implementation of projects that were authorized prior to the enactment of this Title, as a result of this Title, or are authorized subsequent to enactment of this Title. Funds under this subsection shall be available only for projects undertaken at the direction of a Federal water resources agency, and shall provide that share of total project costs that was applicable to such project at the time project implementation was initiated.

"(f) Nothing in this Title shall be construed to limit the authorization or appropriation of funds for specific water resources projects authorized prior to enactment of this Act, in this Act, or subsequent to this Act.

"STATE ALLOCATION

"SEC. 406(a) Beginning with the fiscal year that ends September 30, 1982, sums appropriated pursuant to subsection 405(e) of this Title shall be allocated by the Council among the States on the fifteenth day following such appropriation in accordance with regulations promulgated by the Council within one year of the enactment of this Title, one-half in the ratio that the population of each State bears to the population of all of the States, and one-half in the ratio that the area of each State bears to the area of all States: *Provided*, That no State shall receive less than one-third of 1 per centum of the sums allocated annually among all the States; *And provided further*, That the sum of $25,000,000, or 3 per centum of the funds appropriated pursuant to subsection 405(e) of this Act, whichever is the lesser, shall be allocated annually to the State of Alaska, and that the area and population of the State of Alaska shall not otherwise be included in any computation under this subsection.

"(b) Sums allocated to a State under subsection (a) of this section shall be available for obligation on and after the date of such allocation: *Provided*, That the State's priority list has been approved under the terms of section 405(c) of this title. Such sums shall remain available for obligation by such State through September 30, 1986.

"CLARIFICATIONS

"SEC. 407. Nothing in this Act shall alter the requirements of the National Environmental Policy Act (42 USC 4343), the Fish and Wildlife Coordination Act (16 USC 661), or the Endangered Species Act (16 USC 1530 et. seq.).

"DEFINITIONS

"SEC. 408. As used in this Act:

"(a) The term 'Federal water resources agency' includes the United States Army Corps of Engineers, the Water and Power Resources Service, and the Soil Conservation Service;

"(b) The term 'project' means any water resources facility, device, or system, including nonstructural programs, designed for flood protection, erosion control, reclamation, hurricane protection, municipal and industrial water supply systems including rehabilitation of existing systems, inland, coastal, and ocean navigation, power generation, saline water conversion, water-based recreation including river-oriented recreation, sediment control, water conveyance, water conversion, water resources protection and restoration, safety of dams, or related water purposes;

"(c) The term 'State' means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific, except that initial proviso of subsection 406(a) of this title shall apply only to 50 States.

"TITLE V

"WATER RESOURCES COUNCIL

"SEC. 501. The Water Resources Planning Act as amended (42 USC 1962 et seq.) is amended by deleting section 101 and inserting in lieu thereof the following:

" 'SEC. 101. There is hereby established an independent Water Resources Council (hereinafter referred to as the "Council"), which shall be composed of nine members, including the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, plus a chairman and four other members elected by the President, with the advice and consent of the Senate. Decisions by the Council shall be made by majority vote.'

"EVALUATION REPORT

"SEC. 502. (a) The Water Resources Council shall, after conducting public hearings and consultation with the states, submit to Congress, no later than September 30, 1985, a detailed report on:

"(1) The implementation of projects and reports undertaken under Title IV of this Act, compared with water resources projects that are implemented under other authorities, with particular reference to (A) the time required to implement projects, (B) the effect of requiring State priority lists on the merits of projects studied and implemented, (C) the effect of greater state involvement in planning on the selection, merit, and effectiveness of projects, and (D) the impact of removing a requirement that all projects produce national economic benefits exceeding their cost, together with an analysis of methods to measure other objectives of water resources development. The Water Resources Council shall also submit recommendations, if appropriate, on methods to implement an effective, national water resources development process, which emphasizes rapid implementation of priority work;

"(2) A detailed estimate of needs and costs regarding (A) the national priorities for water resources management through the year 2000, together with an estimate of the needs for cost-effective implementation of projects throuhout the Nation by the year 2000, (B) the needs, over a 20-year period, in each state for water resources projects, and (C) in cooperation with the Office of Water Research and Technology, a study of the best ways to achieve the maximum efficient use of water supplies from existing Federal projects, and;

"(3) A review of present cost-sharing mechanisms for water resources projects, including any changes adopted subsequent to the enactment of this Title.

"(b) For the purpose of this section, there is authorized to be appropriated to the Water Resources Council the sum of $5,000,000 for the fiscal year ending September 30, 1982, or any fiscal year thereafter, to remain available until expended."

OUTLINE OF THE DOMENICI/MOYNIHAN FIVE-YEAR DEMONSTRATION FOR WATER RESOURCES DEVELOPMENT

DEMONSTRATION PROGRAM FUNDING

(1) $1 billion a year is to be distributed among the states for five fiscal years, beginning FY 1982. The money is allocated to the construction of Federally designed water resources projects, including non-structural alternatives.

(2) The money is to be distributed to the states on a formula—half land, half population (with 3 percent for Alaska).

(3) There is no limit on the present, line-item program for authorizing and appropriating for water resources projects. The $1 billion is in addition to the present program.

(4) There is no change from present cost-sharing formulas, although Senator Domenici and Moynihan have suggested that the Administration's 5% up-front cost-sharing might be included on those projects that go forward under the demonstration program.

FEASIBILITY STUDIES

(1) New water resources surveys are automatically authorized at State request and undertaken according to a state priority list.

(2) $150 million is available annually.

PROJECT AUTHORIZATION

(1) If built under the demonstration program, authorization of a new project is automatic after the State and Federal governments agree.

(2) A benefit-to-cost ratio greater than one is not required for projects built under the demonstration program, if the State so decides.

(3) The types of projects covered is expanded to include water supply and renovation, desalination, and dam safety.

(4) Each state is required to hold at least one public hearing annually to develop its priority list for demonstration water projects.

(5) The demonstration covers projects of the Corps, the Bureau of Reclamation (WPRS), and the Soil Conservation Service.

EVALUATION OF DEMONSTRATION PROGRAM

An independent Water Resources Council is established. It will study the implementation of the demonstration program and determine whether it works better than the current project-by-project process. The Council will report its findings to Congress at the end of the fourth year of the demonstration.●

● Mr. MOYNIHAN. Mr. President, I join my colleague from New Mexico, Senator DOMENICI, and our cosponsors Senator JAVITS and Senator DURENBERGER in submitting an amendment to S. 703, the water resources omnibus bill.

Our amendment proposes a 5-year demonstration of the block allocation approach to funding water projects, the same method outlined in our original bill, S. 1241. In addition to money appropriated by the current process, each state would receive a percentage of $1 billion made available each year. Under our proposal, each State would select projects for construction according to its own priorities. Regional projects will continue to be authorized directly by Congress.

The demonstration program is modest in comparison to our original proposal, but we are no less committed to bringing about a rational reform of this ad hoc and outdated arrangement for authorizing water projects.

The current arrangement is simply not working. With all due respect to the vigor of my colleagues, few of us will live to see the completion of many of the projects now being suggested for study and construction in S. 703. The congressional authorization process may delay a project for over a decade.

Some people feel that those of us who propose reform of the status quo are against development. On the contrary, what we see is the steady demise of water resources development in our Nation as the congressional delays, the regional inequities and the lack of priorities grind it to a halt.

The 1981 budget proposes no new starts in water project construction. The Army Corps of Engineers construction funds have declined over 30 percent in real dollars over the last 4 years. Is this a policy of development? The Middle Atlantic region receives $4.63 per capita less than the national average of $9.10 in water project construction funds. Is this equity? Is this a policy responding to pressing water needs in all regions of the country?

We think otherwise and for that reason propose our amendment as an alternative, an attempt to lead our policy for water resources development out of the past.●

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE

● Mr. TALMADGE. Mr. President, 1 month ago the President announced an embargo on grain sales to the U.S.S.R. as a protest against Soviet aggression.

Despite administration efforts to minimize the impact of this halt in export sales, I have decided stronger action must be taken to lessen the economic burden of the embargo on the American farmer.

To this end, I have recently introduced S. 2258, the National Agricultural Security Act of 1980. Several other Members of the Senate have also introduced similar legislation, or will do so shortly.

In order to move this legislation as quickly as possible through the Congress, I have scheduled hearings in the Agriculture Committee beginning Monday, February 25. These are public hearings, and I hope to accommodate all those who wish to testify during that week. Due to time constraints, I would ask that all witnesses summarize their statement. Written statements may be of any length and will be printed in full.

The hearings will begin each morning at 10 a.m. in room 324 Russell Senate Office Building.

Anyone wishing to testify should contact Denise Alexander, hearing clerk of the Agriculture Committee at 224–0014.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Thursday, February 14, 1980 at 10 a.m. in room 4232 Dirksen Senate Office Building, on the following nominations:

Elizabeth S. Carpenter, of Texas, to be an Assistant Secretary of Education for Public Affairs;

Carl William Fischer, of Maryland, to be an Assistant Secretary of Education for Budget and Planning; and

John B. Gabusi, of Arizona, to be an Assistant Secretary of Education for Management.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources of the Senate Energy and Natural Resources Committee.

The hearing is scheduled for February 22, 1980, beginning at 10 a.m. in room 3110, Dirksen Senate Office Building. Witnesses from the Department of the Interior will testify regarding the wilderness review and rangeland management programs of the Bureau of Land Management.

For further information regarding the hearings you may wish to contact Deborah Merrick of the subcommittee staff on extension 4–7150.●

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, the Senate Agriculture Subcommittee on Agricultural Research and General Legislation has scheduled an oversight hearing on the Commodity Futures Trading Commission on Thursday, February 21 beginning at 9 a.m. The subcommittee has invited the chairman and commissioners to testify on the activities of the commission.

The hearing will be held in room 324 Russell Senate Office Building.

Anyone wishing further information should contact the Agriculture Committee staff at 224–2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Nuclear Regulation Subcommittee of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a markup session on nuclear waste legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

OPPOSITION TO TAX ON SOCIAL SECURITY BENEFITS

● Mr. DURKIN. Mr. President, I would like to voice my strong opposition to a recent recommendation by the Social Security Advisory Council to tax social security earnings. I am flatly opposed to taxing or reducing social security benefits.

In light of today's energy-fueled, double-digit inflation, I find it inconceivable that such an ill-advised, unfair proposal could even be considered. Our older Americans need immediate tax relief, not an additional tax burden.

The social security program was instituted over 40 years ago and it is an essential measure of economic protection for millions of our Nation's senior citizens. Under present law, social security and railroad retirement benefits are not taxable. I firmly believe that they should remain free from tax.

Social security benefits represent long years in the labor force. They are hard-earned and well deserved. To begin taxing these benefits would be tantamount to changing the rules in the middle of the game. This would be extremely unfair to recipients and workers alike. While some reform of the social security system may well be necessary, taxing benefits is far from necessary.

It is also important to note that taxpayers are not allowed to deduct their social security contributions while computing their tax in their earning years. A tax on social security benefits would then in effect be a form of double taxation. Taxes are objectional enough, but double taxation is simply out of the question.

Most importantly, however, is that this untimely proposal will substantially and detrimentally affect the millions of senior citizens across the land who rely heavily on these hard-earned but modest benefits. Social security benefits must remain tax free if our older Americans are to remain free from the ravages of today's energy-fueled inflation.

Additionally I want to reiterate my long-standing objection to any proposal which would reduce social security benefits. While I am in favor of reducing the payroll tax of our already overburdened workers, one proposed tax cut under current consideration would result in an immediate savings of almost $150 to many of New Hampshire's workers, I am confident that this can be done without jeopardizing the quality of this vitally needed program.

I will continue in my efforts to assist our Nation's senior citizens and I urge my Senate colleagues to join me in opposing any proposal to tax or reduce social security benefits.●

AMERICAN HOSTAGES IN TEHRAN

● Mr. KENNEDY. Mr. President, I welcome reports of progress toward the release of the American hostages in Tehran.

The most important reasons for this progress are that the Carter administration has suddenly abandoned its counterproductive call for economic sanctions, and has belatedly decided, after over 3 months of captivity for the hostages, to accept a negotiated solution.

At long last, President Carter has changed his view of an international commission to investigate Iranian grievances, and has finally made it likely that the hostages will come home.

The Iranians had said consistently that an international commission should be established before they would release the hostages. But President Carter resisted this solution until I proposed it in my speech at Georgetown University last week.

It is now clear that this proposal will become the basis of a negotiated settlement. I regret that President Carter waited so long to seek a diplomatic answer.

I am also troubled—as every American should be—by his original failure to heed the many warnings that our diplomats would be jeopardized if the Shah were brought into the United States.

The administration had no contingency plan to protect our diplomats. And for 3 long months, the administration had no serious plan to free them from their captivity.

The American people do not want a nonpolicy of weakness and vacillation, or a bankrupt policy of interventionism in the affairs of other countries. They want a clear and consistent policy of political, economic, and military strength—a policy of peace with justice.

The American people want a policy which will bring the hostages home. We can do so by establishing the Commission on Iran which I proposed last week at Georgetown. After the Commission on Iran is established, the hostages can be released either directly or to a third party, for example the International Red Cross or other mutually agreed groups. They can be released to the United States or to a third country, proceeding to the United States when the Commission begins its work.

This is the 96th day of a crisis that never should have happened—and now the time has come to end it.●

ELDERHOSTELS

● Mr. DURKIN. Mr. President, the most successful services for our country's senior citizens are those which provide stimulating leisure activities. New Hampshire resident Marty Knowlton has developed a program which is a model of Yankee ingenuity. Through his "elderhostels," people over 60 are returning to college life for a week of learning and adventure.

Hostelers live in dormitories, eat in campus cafeterias, and participate in classes and group activities. Classes are noncompetitive, emphasizing use of nearby cultural and historical facilities and landmarks. Elderhostels are open to any senior citizen, regardless of previous education.

The success of the program is growing yearly. In 1979 a record 14,000 participants from 30 States enrolled in the summer classes. The success of elderhostels has led at least one campus to begin year-round programs to accommodate increased interest.

Elderhostels' $115 tuition and scholarship programs for those on fixed income put classes within the reach of many of the Nation's elderly. I ask that the following article on elderhostels from the Retired Officers' Association magazine be printed in the Record.

The article follows:

Elderhostel—A Celebration in Learning

(By Barbara N. Schroeder)

In room 210, the students are swinging and swaying to the sounds of the big-band era. Moments later, their instructor will ask them to describe their feelings—are their spirits lifted, moods changed? The music and instrumentations of composers such as Goodman, Kaye and Dorsey will be discussed to help the class learn why each band had such a specialized sound. There will be time, too, for shared remembrances and memories that this music evoked. Tomorrow, the fun begins when a bluegrass band complete with jug, kazoo and banjo visits to inform and invite a few adventurous virtuosos to assist them in their own unique, homespun music-making. It may not be the "sweetest music this side of heaven," but it will set feet to tapping and unleash some uninhibited hand clapping!

Under a cloudless sky, a biology professor leads a small group on a foraging expedition to a nearby county park. Here the group will dig for elusive ginseng, try to discover the hiding places of the trailing gentian, and hopefully gather enough wild fruit and herbs to prepare a nutritious, imaginative and totally organic lunch. This class is enrolled in a course aptly titled, "Wild Flowers and Weeds for Fun and Food." Today's efforts will result in more fun than food, and some members will unfortunately gain a first-hand knowledge of recognizing that common curse of the open fields—poison ivy.

Returning to the classrooms, one finds scholars viewing and discussing a slide presentation on art of the Renaissance. A few doors away, a forum in an ethics class explores contemporary moral problems. Across the street, in the university computer center, an instructor explains and unravels the complexities of computer programming.

The scenes above are representative of college-level curriculum, but with a noticeable difference—all students are 60 years of age or older. They're participants in Elderhostel, a sparkling new star on the horizons of advanced education. Already, this organization has won national approval and support from educators, senior citizenry advisory groups and most of all, the new scholars themselves. Since its rather tenacious beginnings in 1975, Elderhostel has attained such remarkable record growth and participation levels that in 1979, a record 14,000 older adults representing more than 30 states became lucky recipients of the program's enormous benefits. But to fully understand and appreciate the success story of Elderhostel, one needs to go back to its early days in New England, and to its founder, Martin P. Knowlton.

Marty Knowlton is a man with many titles—almost a Walter Mitty type, with an exception: his dream came true. He's a dynamic combination of teacher, research engineer, world traveler, backpacker and social activist. In 1974, he returned from an extended hiatus in Europe, highlighted by a four-year walking tour of the continent. During his trip, he became part of, and was most intrigued by, the youth hosteling movement, which is an established European tradition. Hostels, for the most part, provide simple low-cost housing and meals for visitors wherever their travels lead them. The accommodations are not deluxe by any means. Rooms can be a bit Spartan in decor, and quite often guests are asked to share their quarters with one or two others in a dormitory-type lodge. The cuisine will not rival Maxim's of Paris, but it is filling, well balanced and served-up cafeteria style. Knowlton observed that these inexpensive, communal living conditions seemed to create an atmosphere of spirited unity among youthful guests, and often opened doors to friendships and personal comaraderie. He was impressed and inspired.

Returning to New Hampshire, Marty recalled his tales of adventure to family and friends. The hostel experience had left a big impact on him, and he toyed with the idea of expanding the movement here—mainly to introduce our youth to America's vast natural and cultural resources. A colleague and long-time friend of Knowlton's, David Bianco, rather jokingly remarked that once Marty got his youth hostels going, he'd have to establish something for the oldsters, a type of elderhostel. The joking suddenly came to a halt as the two immediately realized they had stumbled on an exciting concept, with a catchy term. The two educators brainstormed, and hit on the notion of combining the essence of hosteling with the best of traditional education. They felt certain that they could provide older adults with a stimulating college experience, in addition to the adventurous climate of campus life. Topic resources were limitless, they realized, but could they get the approval and cooperation of educators and colleges? And how would people in a 60-plus age bracket respond? Knowlton was determined to find out.

ESTABLISHING THE PROGRAM

Over the next year he worked feverishly to make his dreams into a reality. Program guidelines were established, and by applying a bit of tactical persuasion, Knowlton got five New Hampshire colleges and universities to host Elderhostel under sponsorship of the University of New Hampshire. It was decided that the program would be held for one week during the summer months when campuses were less crowded and classroom space more readily available. In order to achieve a one-to-one ratio between student and teacher, groups would be limited to 30–40 persons. Each participant would have a class schedule and be offered three different courses. Ideally, it was hoped that the new students would choose all three course studies, but if they wished to concentrate their efforts on one or two subjects, this would be acceptable. Actual classroom periods would run for one and one-half hours, with intermittent break times for moving to the next class, lunch and independent study or socializing. Evening activities were planned to culminate the hosteler's busy day. A small registration fee was also levied to cover the cost of room, board and tuition, as well as extracurricular events.

Local directors who would function as Knowlton's on-campus liaison were contacted and given the organizational task of seeking out suitable faculty members and subject material for their respective schools. Instructors chosen would have to meet the highest professional and educational criteria, yet have that certain special quality that would enable them to spark and ignite imaginative minds, regardless of age level. Campus coordinators would also work with state consultants, assuming the taxing role of promotional agents—working to "sell" their program to eligible seniors. Advertising techniques such as brochure, distribution, radio and television spots and personal contacts were implemented in an all-out advertising campaign.

Probably the best part of formulating Elderhostel was Knowlton's mandate that previous education credentials would not be necessary to attend the session. Both college graduates or high school dropouts would be made welcome. This innovative, open-door policy removed the barriers that for years prevented many older adults entrance to a university.

Next came the question of exams and grades. Marty knew from his experience as a teacher how testing often creates frustration and anxieties. He felt certain the "fear of failure" element might just tend to discourage and inhibit prospective scholars; his solution: no quizzes and no grades. His program was to be one of learning balanced with enjoyment, not a ground for performance testing.

When it came to choosing the courses to be taught, topic matter was left wide open, but was not to focus on the so-called problems of aging and retirement. Professors were asked to select subjects that could be condensed to fit a one-week study period and also be stimulating and somewhat provocative. Existing facilities on campus, such as theatres and laboratories, and nearby geographical landmarks, were to be utilized to their full extent. If, for example, the university science department had a planetarium, classes on astronomy and skylore could easily be offered, and if a school was located in an area rich with history, tours to these sites might be arranged.

And what about the hosteling aspect? Participants would be arriving from various parts of the state and were expected to share reserved dorm space. Because the living arrangements were modest and clean, Knowlton felt this would provide an excellent introduction to campus life, plus draw on the ingenuity of the group to overcome small inconveniences. The endearing down-the-hall and around-the-corner bathroom facilities were nothing new to seasoned university students, but for some first-time-ever hostelers, it was a jarring challenge. Meals were to be taken in the school food center and would be typical campus fare—no frills or extras. Since most school food factories cater to the feeding of young men and women, meal proportions and additional helpings were geared to satisfy even the seemingly unsatiated appetite. From a personal standpoint, Knowlton felt that if hostelers arrived with a positive "I'll make do" attitude, they would surely conquer all—the campus, their studies and dorm life.

OVERWHELMING SUCCESS

At long last, after endless arrangements were finalized and fingers crossed, the organization was ready for initiation. Elderhostel began then, in the summer of 1975, and much to the delight of Marty Knowlton and his staff, it captured prizes and plaudits from both faculty and the new scholars themselves. Professors were elated and surprised by the teachability of this age group, and their willingness to share the knowledge that is accumulated by 60 to 70 years of life experiences.

Hostelers (the word elder was discriminately dropped), seemed to flourish in their new environment, supported by their expressed desires to enrich and expand their lives both mentally and socially. That single summer provided the springboard for the forward leap of Elderhostel, and in the following year, 21 institutions in six New England states adopted this rewarding venture. Elderhostel was fast becoming of age.

William D. Berkely, president of Elderhostel, Inc., has warm praise for this senior citizen student body, "They're truly exceptional individuals with physical and intellectual energy. The past success and future promise of Elderhostel is due largely to them." Generally speaking, the senior citizen students are as diverse a crowd as one would care to find, ranging from nurses, factory workers, homemakers, doctors, civil servants and farmers. Studies indicate that 84 percent of them are retirees with the remaining 16 percent still working, and statistics show that more women than men enroll in the program.

But these numbers and scales still cannot give one an accurate profile of Elderhostel participants. Sister Bernyne Stark, a Franciscan nun and Elderhostel coordinator for Viterbo College, a Catholic liberal arts institution in La Crosse, Wis., describes her hosteling friends, "I was so pleased with our group. It was made up of marvelous people—so flexible, eager to participate and highly motivated."

Viterbo's hostelers, who came to this Wisconsin campus from as far away as Colorado and Oklahoma, represented an interesting combination of married couples, single vagabonds and those who traveled in small groups. "I'll never forget the delightful trio of ladies from a small community in Iowa," said Sister Bernyne. "They managed to put so much enjoyment in their lives and openly shared their charm and humor with all of us. Their brand of laughter and fellowship became contagious."

As coordinator, Sister Bernyne remained in constant touch with the hostelers and faculty to alleviate any difficulties that might develop. When her busy schedule permitted, Sister Bernyne audited different classes to check on the progress of her special students. "During one class," she recalled with a smile, "the instructor announced that we were all going to learn to disco. Can you imagine a nun teaching a room of 60 to 70 year olds to disco?" The John Travoltas can relax, however, Sister explained, as this particular disco number was performed sitting down, incorporating musical rhythm with synchronized body movement—a type of lesson in mind and body control.

Following their afternoon classes, the hostelers at Viterbo had time to explore the campus on their own or prepare for the evening's planned activity. In the offing was a city tour, a wine and cheese tasting party, a symphony concert, a twilight cruise on the nearby Mississippi River and even a tour of a local brewery.

ONE HOSTELER'S STORY

Ask Betty Fitzpatrick of Brownsville, Minn., about the good times and rewards of Elderhostel. Sparkling eyes and a resurging zest for life belie her 67 years. For Betty, a hospital nursing assistant, the program was just what she needed to fulfill her long-time dream of attending college. She talked about her decision to enroll, "I never finished grade school when I was young. We lived in the country and times were hard . . . there just wasn't the extra money. When the Elderhostel brochures were distributed at work, I thought here's my chance. Of course, I wondered if I really belonged or would fit in."

With a gentle push from her family and encouraging support from her employer, Betty plunged ahead and registered for the week-long session. So pleased with her interest, her employer made arrangements to pay one-half of her tuition fee—a gesture she proudly points out. She soon realized her fears of fitting in were unfounded. "Oh, I managed to get my directions turned around a few times," she laughed, "but everyone was so helpful and kind and kept saying, 'Betty, you'll do fine. It was reassuring'." That first night Betty and her dorm roommate talked until the early hours of the morning. "We were like two teenagers," she chuckled, "we just couldn't stop visiting."

Her classes, which included studies in literature, music and psychology, presented a new challenge, and she readily admits to not always understanding the theories. "I think though," she added, "we taught the professors a few things too." Betty remains one of elderhostel's greatest proponents. "It was so good for me in so many ways. I had the opportunity to make some new friends and meet some very interesting people. Sometimes she added with a grin, "I have often felt that I had more than my fair share of personal problems and disappointments, but after talking to others, I found we all have had some 'tough rows to hoe'." She said fellow hostelers discussed frustrations and tried to help each other. She compared its worthwhile effects to group therapy.

Betty's hosteling experience also gave her a boost in self-confidence. She said she learned that all goals are possible, but one has to put forth some personal effort to gain them, "Sure, I had misgivings at first, but they disappeared as time went on. Now I only look ahead and think, 'Okay, I'm prepared and ready for whatever comes next'." Is she planning to return next summer? "You bet!," was her reply.

Many hostelers have found an innovative way to combine their summer vacation plans with an Elderhostel session. A national Elderhostel information center, located in Massachusetts, will send, upon request, a listing of schools across the United States that will be hosting the programs. By contacting these various institutions, one can usually obtain a detailed description of course offerings, registration dates and cost. These cosmopolitan commuters begin and complete their week-long activities at one college, then travel to another school for additional classes and different surroundings. Most couples say this gives their vacation a refreshing new dimension, and countless learning opportunities.

EDUCATIONAL BARGAIN

Elderhostel's cost factor makes it an educational bargain. In 1979, tuition cost (including meals, lodging, registration fees and most outside activities) was set at $115 per person. In order to keep the program accessible to persons on a fixed income, participating colleges agreed to offer it at no profit. Better still, a limited number of scholarships or "hostelships" are available for those who need assistance to help cover the program costs.

Considering the extremely reasonable fee, one may wonder how this organization remains financially solvent. The answer lies in early substantial aid from the philanthropic community and various foundations. Elderhostel has never received any assistance from state or federal levels. The present long-term strategy of Elderhostel is to become independent of outside support, and projective studies indicate that as the number of hostelers increase, dependency on this type of assistance will gradually be phased out.

Since its creation four years ago, Elderhostel hasn't been standing still. Challenging social conditions and public demands have called for new course studies to encompass everchanging interest areas. One midwestern college presented a highly successful class in cryptography, the study of codes and ciphers. Hostelers learned how these secretive messages were devised, implemented and eventually broken. Poor Mary Queen of Scots lost her head, and the Japanese lost the battle of Midway, because of decrypted messages—attesting to the seriousness of this business. Updated classes in freelance writing; theatre; American foreign policy; the art of creating raku; parapsychology; and even a rather spicy sounding "Exotic Exercises for Adults" are just some of the courses in the offing. In fact, one Florida campus is working on a year-round Elderhostel program to accommodate their increasing enrollment requests. To obtain more information on Elderhostel, write to: National Elderhostel Offices, 55 Chapel Street, Newton, Mass. 02160.

Charles E. Odell, chairman of the board for Elderhostel, Inc., sums up the effectiveness of this exciting organization, "Education represents a powerful strategy for enriching the lives of older citizens. Elderhostel is a program which challenges older people, encouraging them to participate in the stimulating world of new ideas, books, science, cultural traditions and history." It has been the hostelers who have proven the validity of Mr. Odell's statement. Backed by perseverance, patience and personal enthusiasm, they have met this challenge and made Elderhostel a truly modern-day success story! ●

GASOHOL DEVELOPMENT BREAKTHROUGH

● Mr. CULVER. Mr. President, I have long been a supporter of the development and use of gasohol as a means to extend our short motor fuel supplies and reduce the Nation's dependence on foreign oil. I was an original cosponsor of S. 1775, the Agricultural Forestry and Rural Energy Act, which would provide support for research and production of alcohol from farm and forest products. This bill is now part of the synfuels bill passed last year by the Senate. I have also cosponsored legislation to reduce unnecessary paperwork and bonds for small alcohol producers and to provide tax incentives for alcohol and gasohol production.

One of the major arguments against gasohol has been that the net savings in oil can only be delivered through cogeneration using waste heat, using solar or other renewable sources or coal to vaporize the alcohol in the distillation process. In addition, the cost of alcohol is still significantly higher than gasoline.

Mr. President, it gives me great pleasure to tell you today of a new method of ethynol production discovered by Dr. Charles Oulman and Colin Chriswell of the Ames Laboratory at Iowa State University. This process eliminates the need for heating and distillation process by selectively absorbing the alcohol with a silica-based substance. The alcohol can then be removed and the silica material recycled. The process can be used with readily available equipment and can greatly reduce costs.

Mr. President, I feel that this breakthrough represents an outstanding example of American technical ingenuity and ask that an article in the Cedar Rapids Gazette giving the details of this breakthrough be printed in the RECORD.

The article follows:

New Method Is Good News for Gasohol

(By Ken Sullivan)

Ames.—"Breakthrough!"

It's an overused word, one sometimes randomly applied to any technological development that has puzzled researchers for years. Often what is first called a breakthrough turns out to be only another step in the evolution of a more sophisticated concept.

That is why, perhaps, the term is being used cautiously on the Iowa State University campus, where researchers in the Ames Laboratory have hit upon a process that may revolutionize production of ethanol alcohol, a grain alcohol that can be used to create gasohol.

A handful of Iowa legislators representing energy and education committees received a briefing on the discovery Tuesday during a field trip designed to acquaint lawmakers with energy production facilities at ISU.

Dr. Charles Oulman, a civil engineer temporarily assigned one-quarter time to the Ames Laboratory, outlined the discovery, crediting the initial revelation to another Ames Lab researcher, Colin Chriswell.

Typically, ethanol is produced through a distillation process. Grain (corn) mash is processed into a "beer," then refined still further until the high potency alcohol is yielded through evaporation.

Under the concept now being explored with considerable intensity, alcohol of equal, or higher, purity, can be produced through an absorption process, a much simpler method that also uses far less energy. In other words, instead of the evaporation step, the corn mash "beer" can be subjected to an absorbent material that extracts the alcohol and a limited amount of other impurities from the liquid, while rejecting the water, sugar, protein and other undesirable agents.

"It's exciting," said Oulman.

"It's amazing," said Chriswell.

In his presentation to legislators, Oulman compared the absorption process with the mechanics of a water softener. The liquid is introduced into a container in which the absorbent material, in this case a silica-based substance, is contained, and the alcohol is absorbed.

The remaining liquid is withdrawn, the alcohol is extracted from the absorbent material and the cycle is repeated. "It is," said Oulman, "a potential replacement for the still" as a tool for producing ethanol additive used for creation of gasohol. "Substantially, the process looks feasible at this time . . . as a substitute for the still in the production of fuel."

Chriswell, whom Oulman credits with recognizing the possibilities of an absorption process, suggests that corn, although the target rate is 2.5 gallons. Cost-per-gallon is in the $1.25 to $1.50 price range, and energy demands are high due to requirements that the "beer" be heated several times.

On that basis, said Oulman, it appears the absorption process will be about one-third more energy efficient, since it requires one less boiling of the mixture and the overall treatment can be accomplished at a lower heat.

Chriswell said he discovered the potential for such a process while experimenting with a new compound developed by a major national company. Upon learning the synthetic was available, Chriswell said, he contacted the firm and asked for a supply to be used for research.

A year later, he said, with the substance on hand, he subjected it to a test he had conducted several times previously, to determine whether the compound would absorb alcohol. Ironically, the experimental sample had been suggested as a device to remove impurities from water. That was the reason for Oulman's involvement; his specialty is water purification.

The substance, however, opened a new realm for the researchers, who immediately recognized its potential applications in alcohol production.

The hardware to accomplish the absorption process exists, said Oulman, adding, "It's not as if we're dreaming up a process that has never been used before." He conceded, however, that a specific method to extract the alcohol from the absorbent material needs to be perfected.

In part, this is where the Legislature fits into the picture. Additional research needs to be funded, to the tune of half a million dollars for a three-year program, according to information provided Tuesday.

Both Oulman and Chriswell were enthusiastic about the possibilities offered by the absorption process.

Both, for example, agreed the equipment required for the process is simpler and more readily available than that required for distillation.●

ENVIRONMENTAL REGULATIONS AND THE CAYMAN TURTLE FARM

● Mr. JEPSEN. Mr. President, like most Americans, I am concerned with the environmenal and conservation problems facing our world today. I think many people have become aware of the complex structure of our natural environment, and steps are being taken by individuals and private groups; every level of government; and various groups in other nations to make us all more aware and concerned about the problems.

However, because this is an issue which has sprung up almost overnight, in a manner of speaking, and an issue in which all the answers are far from clear, will-intentioned actions many times go awry. Such is the case with a regulation against mariculture sea turtle operations which was promulgated by the Department of Commerce—National Marine Fisheries Service—and the Department of the Interior—Fish and Wildlife Service.

In an effort to prevent the green sea turtle from becoming extinct, the Departments have leaned heavily on the prohibition ethic—if we prohibit all trade in the species, that will take care of the problem. I submit that there are other more workable alternatives and that farming of the green sea turtle, or any endangered or threatened species for that matter, in order to provide a steady reliable trade for an already developed market, is a workable solution. No one has proven that farming is not part of the answer to saving the green sea turtle, yet it has already been prohibited.

I believe that the green sea turtle population has dwindled to such a point that sea turtle farming is necessary to save the species. At the very least, established farms should be allowed the right to continue to exist; the right to continue to perform necessary research; and the right to keep the sea turtle life cycle in tact so that somewhere on this Earth we know that the green sea turtle, one of the most unique creatures known to man, will continue to exist. Sea turtle farming will work because man, who often in the past has been responsible for reducing the sea turtle population, will have a vested interest in seeing that the species is perpetuated. The regulation against sea turtle mariculture has made it very difficult for the only established green sea turtle farm in the world, the Cayman Turtle Farm on Grand Cayman Island, to continue to exist.

Mr. President, almost every kind of sea turtle has become endangered over the last decade or so. The reasons for this are many; natural predators; the taking of turtles by man for food; a loss of protected sandy beaches for the turtles to lay eggs—because of various kinds of development; and natural erosion of beaches. Consequently, under the authority of the Endangered Species Act, the U.S. Commerce Department—National Marine Fisheries Service—and the Department of the Interior—Fish and Wildlife Service—proposed a rule in 1975 to add the sea turtle to the list of threatened species. There was little argument from anyone that the sea turtle was indeed threatened.

An exception to the rule, which had the effect of prohibiting the importation of sea turtle products into the United States, was proposed for mariculture operations. provided that the farms became self-sufficient within 2 years after the rule was finalized. However, in July of 1978 the final ruling was printed in the Federal Register and no provision was made to exempt the farming of sea turtles. This ruling primarily affected the Cayman Turtle Farm on Grand Cayman Island in the Caribbean.

I became acquainted with the Cayman Turtle Farm a few years ago on a trip down to the Grand Cayman Island. I was impressed with the farm's facilities and with the evidence everywhere of good scientific work. Although a commercial mariculture operation, the owners also felt that they were doing a good thing—that farmed sea turtle product would take over the already large market for sea turtle products and would therefore reduce the demand on the threatened wild population.

There are a number of reasons why the owners thought—and still believe—the farm to be an integral factor in saving the sea turtle. The International Union of Conservation of Nature and Natural Resources (IUCN), a prestigious group of scientists from all over the world, had, and still maintains, a special task force dedicated to sea turtle conservation and research. In the late 1960's, the primary figure in this group was Dr. Archie Carr, an American scientist who had written what was commonly thought of as the definitive book on sea turtles.

Professor Carr, at that time, favored the farming of sea turtles as a way to save the green sea turtle. The original turtle farm, Mariculture, Ltd., was started in part because of the endorsement of "green turtle husbandry" by Dr. Carr and the IUCN. The present owners, the Mittiags, took over most of the financing of the farm in 1975, after assurances from the IUCN that turtle farming was a legitimate enterprise which would help save the sea turtle population. The IUCN never actually publicly endorsed the farm itself because it does not endorse specific commercial enterprises.

When I visited the farm, its importance to the Grand Cayman Island struck me; indeed, the farm employs approximately 2 percent of the working population of the island. The Grand Cayman Government has always been supportive of the farm and in fact owns a small percentage of it. The turtle farm seems even more important when one realizes that Grand Cayman Island, located below Cuba, is one of the last capitalist countries in that specific region of the world.

After the ruling became finalized the turtle farm filed for a reconsideration, and a 1-year stay was given. On May 29 of 1979, a district court judge ruled that the National Marines Fisheries Service and Fish and Wildlife's ruling was not in violation of the Endangered Species Act. The judge's ruling was not surprising because, according to precedent:

> A reviewing court is to be particularly deferential where an agency has been delegated discretion to reach a decision based upon technical and scientific data.

The judge's order further states:

> The expertise required to assess disputed scientific facts properly lies within the province of the agency rather than the reviewing court.

Therefore, we accord "a strong presumption of validity" to the joint decision of Fish and Wildlife and NMFS.

The 1978 final regulation gave three reasons for not exempting turtle farming and the Cayman Farm itself:

First. No scientific benefit has been gained from the farm.

Second. If an exemption is allowed, it would make monitoring of the sea turtle products coming into the United States more difficult.

Third. Allowing farming to continue would lead to bigger markets for the products which the farms could not fulfill; therefore it would open the way to increased demand for sea turtles, and thus, for illegal poaching.

In addition, the respective agencies were concerned that the Cayman Farm did not meet the definition of what a closed-cycle self-sufficient farm should be under the language approved by the Convention on International Trade in Flora and Fauna. (CITES). Of course, in the proposed rule, farms were given 2 years to become self-sufficient after the rules were finalized.

All of these arguments can be refuted. In fact, at various times, in meetings; letters; and conversations, officials and other interested parties have admitted that one or another of these arguments is not really a problem, and have maintained that one of the other arguments is the real reason.

First. No scientific benefit has been gained by the farm.

This is the most easily refuted. All one has to do is look through the comments of the Cayman Turtle Farm on reconsideration of the final rule to see page after page of letters or scientific papers either attesting to the benefits of the farm or revealing some fact which they have learned as a result of study at the farm.

A great deal of information has been gained about the biology and breeding habits of the turtle. Efforts have also been made to overcome disease problems peculiar to the sea turtle. Scientists have always been welcome on the farm and the farm has even sponsored several research projects.

Second. If an exemption is allowed, it would only make monitoring of sea turtle products entering this country more difficult.

It would seem to me that monitoring efforts similar to those designed for use in prohibiting the illegal entry of other threatened or endangered species could also be used to monitor turtle products. Two examples come immediately to mind—Fish and Wildlife's strict set of rules and regulations on the sale of alligator products and a House Merchant Marines and Fisheries Committee bill to regulate the flow of ivory and other elephant products.

With regard to alligator products, the Fish and Wildlife Service has recently introduced a loosening of restricting on the sale of alligator products which will include the sale of farmed alligator products. The Fish and Wildlife Service announced a strict set of rules and regulations on the sale of alligator products which must be followed in order to insure that illegally obtained alligator products do not enter the market. Under these new rules, international and domestic commerce in alligator hides and hide products will be controlled through a "closed system" designed to insure that only legally taken hides enter the system and only products made from them leave it. Each of the alligator hides must be tagged by the State where the hides are taken, and only tagged hides can be sold legally.

Foreign and domestic businesses must obtain Federal permits to buy, tan, or fabricate alligator hides. Permittees then are allowed to do business only with one another until a Fish and Wildlife Service tag is applied. After that, the labeled products may be sold to others. Permittees, must, however, meet stringent recordkeeping and reporting requirements. Why could not sea turtle products be monitored in a similar fashion?

With regard to trade in elephant products, members of the House Merchant Marine and Fisheries Committee have reported a bill to regulate the flow of ivory from elephants, another animal on the endangered species list. The bill would impose a 6-month moratorium on imports of elephant products, then follow that with a tightly regulated imports system. Import permits would be granted only to those nations which actively manage their elephant populations. Also, ivory products could only come to the United States through two ports, New York and Seattle, thus insuring firm and more easily managed customs control. Why could not something like this be worked out for farmed sea turtle products if monitoring those products coming into the ports is difficult for customs officials?

Third. Allowing farming to continue would lead to bigger markets for the products which the farms could not fulfill; therefore it would open the way to increased demand for sea turtles, and thus, for illegal poaching.

There is already a very large market for turtle products—as meat, and as a luxury good. The farm did not, and has not, created or tried to create additional markets, other than to obtain markets previously supplied by the wild population.

The Fish and Wildlife Service has already made this argument in several recent regulations, for legal and controlled trade in endangered species as a means to prevent exploitation of the species from the wild.

An October 12 Fish and Wildlife Service press release on the new alligator trade regulations states:

> We also hope that the availability of a reliable supply of legal alligator hides on the international market will result in less exploitation of other endangered crocodilians.

The rationale for allowing trade in endangered elephant products seems to be similar—to encourage legal trade so that demand on wild populations by poachers and the like will be reduced. The Fish and Wildlife Service suggested easing of the rules for legal trade of certain captive species covered by the Endangered Species Act in another regulation published on September 17. That regulation would ease Federal rules for those breeders of endangered species who have been allowed to breed them in order to protect and propagate the species. Fish and Wildlife stated that the new captive breeder rule "will reduce the demand for wildlife that might otherwise be taken from its natural habitat."

Why coud not the same hold true for the legal farming of sea turtles? Surely, a regular, reliable, and probably cheaper supply of farmed sea turtle products will cut down on the demand for wild turtle products and also cut out the profitability of illegal poaching, thereby giving the wild population a much better chance of survival.

Dr. Archie Carr, who sometime between 1967 and 1978 when the final ruling came down, became opposed to the Cayman Turtle Farm and turtle farming in general, has also used this argument against the farm. In the January 14 Newsweek he is quoted as saying that turtle meats "aren't feeding protein-poor Indians, but rich gringos in high-rise hotels." Farming, says Dr. Carr, "keeps alive markets that should be forever closed."

I am afraid that I must disgaree with Dr. Carr. It has rather consistently been proven that totally restricting the supply of items which are in large demand by individuals does not cut out the market for that product—in effect, a ban such as this only leads the way to a black market. Leathers, furs, and skins of various animals on the endangered species list have become big items in the black market. They are things that people will pay exorbitant amounts to obtain. The black market trade in rare bird species is right up at the top of the list of illegally obtained endangered species. Fish and Wildlife knows this, and I believe that is why they have made the two previously mentioned rulings—to cut down on the illegal trade of wild endangered species in order to assure the species' survival.

The other argument, and one that was

especially considered in the judge's decision, is that the farm is not, and cannot, become a self-sufficient closed turtle farming operation.

The Cayman Turtle Farm took doomed eggs from the wild—under a plan approved by the IUCN—to begin their farming operation. However, the last wild egg gathering was in 1978.

Even though it takes approximately 10 years for a sea turtle to become sexually mature, some of the farm-reared turtles have begun to produce eggs. Like many creatures, they produce more prolifically as they get older. A couple of farm-reared turtles which are producing eggs for the third time have an 85 percent hatchling rate, extremely high for sea turtles. Since the farm-reared turtles are just becoming old enough to begin laying eggs, their first couple of hatches will not be as good as those turtles which have been producing eggs for a number of years. However, farm-reared turtles which are producing for the third time have a hatchling rate which is possibly higher than captive-wild turtles.

Additionally, I have some trouble understanding why an agency or committee should care whether the turtle farm is totally self-sustaining at this time so long as they take no eggs or turtles from the wild. If the farm goes under because it cannot financially sustain itself, with farm-reared turtles, so be it. That is the farm's problem, not ours.

Although I was familiar with the Cayman Turtle Farm and its problems, our office did not make an inquiry to the NMFS until after several newspapers in Florida printed stories quoting a National Marine Fisheries administrator in Florida as saying that the farm was "simply a vehicle, a front" for illegal poaching. We knew this was not true and requested a meeting with NMFS officials to discuss this and the entire situation. The main excuse given by NMFS officials at that time for not allowing the farm to import turtle products into the United States was that monitoring would be too difficult. The officials seemed to discount most of the other reasons, including the self-sufficiency argument.

On November 8, a regional director of the NMFS in St. Petersburg sent a letter to the St. Petersburg Times stating that the NMFS "has no reason to believe that Cayman Turtle Farms is anything other than a legitimate operation for raising marine turtles." I have since learned that NMFS in Florida is conducting an investigation of illegal poaching activities which I am certain will vindicate the farm.

The facts are that at one time, nearly all members of the scientific community felt that turtle husbandry was the way to save the green sea turtle. Apparently, there are large numbers of sea turtle experts who still feel this way but are afraid to say so, because they know that they will be shouted down by the other side, or because they are afraid that research funding will be lost if they express an unpopular view. I have spoken with some of these people and most of them feel that the farm has gotten a raw deal, that there have been unfair accusations and lies made about and against the farm, and that these accusations have been sanctioned or at least overlooked by people who should know better.

The opinion of many of those in the environmental and conservation community has been swayed so that they believe the agencies are wearing the white hats; that the farm is nothing but a bunch of greedy and selfish exploiters of the helpless turtles; that the farm is an "illegal front" for poaching. Nothing could be further from the truth. The farm fills a market which will not go away and in cutting off the farm to the American market—and in fact to other markets, since the Miami port is the farm's most reliable port for shipment all over the world—we are doing irreparable harm to the farm; the island and its inhabitants; and most of all, the sea turtle whose very survival is at stake.

According to reliable sources, there are indications of some illegal trade in sea turtle products. As I previously stated, an investigation of such trade is in progress. Based on my own personal knowledge and information, I am confident that the trade does not emanate from, or is in any way related to, the Cayman Turtle Farm.

The Cayman Turtle Farm is important to the Grand Cayman Island and is more important to the conservation of the green sea turtle.

Dr. Johnson, chief executive of the Cayman Turtle Farm recently wrote to me that he felt that "prejudice would appear to play a very large part in shaping the opinions of the majority" of conservationists and environmentalists opposed to the farm. "I can only hope," he stated, "that eventually the American sense of fair play will permeate through" to the Department and others involved in attempting to save the sea turtle from extinction.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN GOVERNMENT OR FOREIGN EDUCATIONAL OR CHARITABLE ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD a notice of a Senate officer or employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. Charles E. Horner, during the period from November 9, 1979 to November 11, 1979, to participate in a program sponsored by the Institute for European Studies of the City of London Polytechnic. It has been determined that Mr. Horner's travel, the cost of which will be borne by the City of London Polytechnic, is in the interests of the Senate and the United States.●

UNITED HOSPITAL FUND OF NEW YORK

● Mr. JAVITS. Mr. President, the United Hospital Fund of New York is a highly respected nonprofit organization which provides philanthropic aid and leadership for the New York City health care community. Each year, the United Hospital Fund hosts a breakfast for the New York City congressional delegation at which time my long-time friend and the United Hospital Fund's president, Joesph V. Terenzio, discusses with the delegation the projects and activities undertaken or sponsored by the UHF in the previous year.

As an example of the United Hospital Fund's many outstanding contributions in the area of health care data collection and analysis, the UHF last year compiled for each member of the congressional delegation a comprehensive analysis of all health resources for each congressional district in New York City. This document has proven invaluable to me on countless occasions when I have required information about health care services in New York City. This year, the UHF conducted a major patient origin study for all New York City hospitals as well as a study which examined the use of hospitals in three disadvantaged communities in New York City. I would like to commend Joe Terenzio, his staff and all those individuals who worked diligently on these important projects. I am certain that this information will prove to be as useful and valuable as the health resources guide we received last year.

Mr. President, if there are no objections, I request that Joe Terenzio's remarks before the congressional delegation last Tuesday, January 5 be printed in the RECORD.

The material follows:

REMARKS OF JOSEPH V. TERENZIO

At the United Hospital Fund's Breakfast for New York City's Congressional delegation last year, we presented the first edition of "Health Resources: A Guide to Your District and New York City." This publication, which I hope you have found helpful over the past year, is a reference to the health needs, services and utilization in your Congressional district and the city as a whole. It is our intention to provide information to you on an ongoing basis and to update the publication every two years.

This morning I am proud, on behalf of the Fund, to present to you the first in a series of special studies which will serve to supplement the Health Resources publication. This special study, conveniently designed to be added to the binder of your Health Resources book, is entitled, "A Profile of Hospitalization in Three Disadvantaged Areas in New York City." The study describes the use of hospitals in three communities in New York City which are generally considered to be among the City's most disadvantaged areas. These communities are the South Bronx, Central Brooklyn (including the Bedford-Stuyvesant community) and Harlem. Additionally, I am providing you with a study we conducted last summer at the United Hospital Fund of the origin of patients who use New York

City hospitals. This patient origin study, entitled, "Origin of Patients in New York City Hospitals: A Comprehensive Study of Zip Code of Residence for All Inpatient Discharges in New York City," provides data for every inpatient discharged from New York City hospitals in calendar year 1978. These data indicate each patient's place of residence by zip code, the hospital utilized and the service category from which the patient was discharged.

A number of hospital administrators had indicated concern about how the future bed need for the City of New York would be determined. All of us have been aware for some time that a significant number of people who use our hospital beds come from outside the city. Many of us began to realize that some precision was urgently needed in ascertaining just how large our health care population really is and where they come from. The United Hospital Fund was requested by the Health Systems Agency to undertake a patient origin study for use in development of the City's Health Systems Plan.

Taking the lead in the face of this task, we pulled together an unprecedented coalition of health care experts and authorities to work together as a group to define the methodology and steer the implementation of the study. The Patient Origin Study Steering Committee was a group remarkable in its divergent representation. Included in it were representatives from the Mayor's Office, New York City Office of Management and Budget, Blue Cross and Blue Shield of Greater New York, private health care insurers, New York City Health and Hospitals Corporation, New York State Health Planning Commission, State Department of Health, New York State Hospital Review and Planning Council, voluntary hospitals, proprietary hospitals, Greater New York Hospital Association, New York State Association of Private Hospitals, Alpha Center for Health Planning, Office of Health Systems Management, Department of City Planning, Health Systems Agency of New York City and others. The United Hospital Fund acted as a catalyst for this convergence of talent and provided staff and support vital to the successful completion of this massive study.

A tremendous measure of gratitude is owed to every hospital in the City of New York; voluntary, proprietary and municipal. Each participated in what no doubt will become one of the more significant studies of hospitals—by hospitals—in the City's history. Over 1,110,000 patient discharges were analyzed for 1978 from data generously supplied and tabulated by the individual hospitals themselves to the United Hospital Fund staff. The patient origin study for the first time makes it possible to examine in detail each hospital and each community and the hospitalization patterns within them.

The study told us a number of things. It reflected that fully 11 percent of the patients utilizing New York City hospital beds come from outside the city. In the Borough of Manhattan alone that figure approaches 19 percent. In addition to the obvious economic implications, the patient origin study also gives us insight into the patterns of utilization by inpatients between boroughs and between the City itself and areas outside it. But the study also tells us something much more than that; it tells us that the voluntary sector is still called upon to serve the community and still delivers the leadership and support necessary to achieve these goals.

The implications of this kind of data with regard to the health planning issues of bed need methodology and certificate of need are obvious. What is not so immediately obvious, however, are the numerous types of special analyses and studies which can result from use of the patient origin data base in conjunction with other existing sources of information; such as geographic service area, type of institution by auspice or other category, or other hospital statistics such as occupancy rate, length of stay and the like.

The special study of disadvantaged areas was made possible by the data base of the patient origin study and provides one example of its application. It represents the first of what we hope will become a series of special studies focusing on some of the unique problems confronting the health care delivery system of the City of New York.

I would like to describe the study for you in more detail. My remarks will touch upon both the substance of the study and its format.

The purpose of this special study is to examine whether people living in the South Bronx, Central Brooklyn and Harlem receive hospital care at the same rate, in similar types of institutions and with the same ease and convenience as other residents of the City of New York. This is accomplished by describing in detail the hospital utilization patterns for residents of these three disadvantaged communities. This special study does not attempt to draw inferences or make conclusions about the quality and adequacy of hospital care received. We feel that the study will be successful if it does nothing more than describe existing conditions in these disadvantaged communities, contrast them to conditions existing for the majority of New York City residents, and present these data in such a way as to enable health policymakers, legislators and planners to engage in a rational debate, supported by facts, concerning the various proposed solutions to the problems facing us in New York City.

The first chapter of the study provides a quick and convenient executive summary of the study's findings. The second chapter gives an introduction and explanation of the study procedure and data sources. From chapter three, one is able to obtain an overview of trends for the three disadvantaged areas as well as each of New York City's five boroughs and of New York City as a whole. The last three chapters treat each of the disadvantaged areas individually and provide maps which indicate the boundaries of the area in relation to the borough and Congressional districts. Also displayed on the maps are the hospitals in and surrounding the area.

Each of the sections treating the individual disadvantaged communities examines in greater detail the patterns of use for residents of the South Bronx, Central Brooklyn and Harlem. These use patterns are compared to the patterns of others within their borough and other residents of the City. The data graphically displayed answers questions regarding the amount of hospital care used by the residents of the disadvantaged communities, the proximity of hospitals used, which particular hospitals provide the major amount of care, and the types of institutions utilized according to ownership category, that is, utilization of voluntary, municpal, proprietary and state hospitals. Also examined in these chapters is the relationship between the distances traveled to a hospital and the type of hospital use.

As most of you know, there is no one definitive geographic definition or delineation of what constitutes any given neighborhood or community in New York City. The three communities for this study were delineated by aggregating New York City Community Districts based on definitions and discussions with representatives of the New York City Planning Commission. The boundaries of the three communities addressed in this study have been modified to conform to zip code areas, since there is not an exact correspondence between community district boundaries and zip code areas.

A number of assumptions must be made in a study of this nature. Among them, is the obvious fact that not every individual living within the boundaries of these communities is necessarily poor or disadvantaged. Additionally, the difference in utilization of services by distinct ethnic, racial and socio-economic groups within these areas is not treated by this study; neither are differences in use patterns within the communities. The data from which this study is derived does not permit an explanation as to why the community uses one hospital rather than another. It should be noted that in some cases, the use of hospitals outside a community may be a result of convenience or physician referrals rather than a lack of appropriate facilities within the area.

Nonetheless, bearing these caveats in mind, much valuable information and data can be obtained and before I conclude my remarks I would like to highlight some of the more significant findings of this special study:

Annually 138 out of every 1,000 people who live in the three disadvantaged areas of the South Bronx, Central Brooklyn and Harlem are discharged from a New York City hospital. This compares with the citywide average use rate of 123.5 per 1,000 people.

Over 70 percent of residents of the three disadvantaged communities receive hospital care in their own community or in the immediate surrounding vicinity. In fact, almost 9 out of 10 residents use hospitals located in their own borough.

Residents of disadvantaged areas rely on municipal hospitals to a greater degree and on voluntary and proprietary hospitals to a lesser degree than do their New York City counterparts. Almost two-fifths of the study's disadvantaged residents used municipal hospitals as compared to less than one-fourth of the New York City population as a whole.

Residents of the three disadvantaged study areas who travel outside their community for hospital care are more likely to go to voluntary hospitals than to municipal hospitals. Over 30 percent of those who use voluntary hospitals receive care outside their community and surrounding areas compared to a 20 percent rate for municipal use.

More than half of the patients served by hospitals located in disadvantaged areas live outside the area. The voluntary hospitals within the disadvantaged areas receive more than three-fifths of their patients from outside the area as compared to one-third for the municipal hospitals.

It is our hope that this reference document will enhance your familiarity with the health needs and utilization patterns, not only of the City as a whole, but also by the residents of these special areas. Health policy issues will continue to arise, the responses to which will in one way or another affect the residents of these disadvantaged communities. We at the United Hospital Fund feel that it is imperative that legislators, planners and other health policymakers have before them as complete a set of facts as is possible to aid in this decision making process.

I am very pleased to present you with the special study, "A Profile of Hospitalization in Three Disadvantaged Areas in New York City," and with a copy of the summary report of the patient origin study. Together these documents add to your resources of information on New York City hospitals and health care institutions and represent an example of our growing portfolio of data and publications which we believe can provide information of specific interest to you. If you have any comments or suggestions for future special studies or improvements in our publications that would make our services more useful to you, please do not hesitate to contact me.●

FARMER COOPERATIVES

● Mr. JEPSEN. Mr. President, I was born and raised on a farm in northeast Iowa and during my adolescent years was employed by a dairy cooperative in Cedar Falls. It has long been my belief that the success of the family farm system in the United States is dependent largely upon the growth and development of farmer cooperatives. Farmer cooperatives which are wholly operated and controlled by their farmer members, are a principal marketing tool for American agriculture. Farmers in Iowa and throughout the Midwest are now under great economic and psychological hardship due to the recent embargo of grain and other agricultural commodities to the Soviet Union. The Federal Government has yet to provide the farmers with the proper relief from this action. The family farm in this country cannot survive unless the outreached hand of Government is cut off, preventing unnecessary interference. In recent years, cooperatives, farmer-owned businesses, have been harassed by the actions of the Federal Trade Commission. To understand the Capper-Volstead Act, the most significant statute relating to farmer cooperatives, a brief review of the history is in order.

Toward the end of the last century, farmers acting together to market their production could be and, in some instances, were, determined by the courts to be legal trusts or combinations restraining trade under the antitrust laws. Thus, it was necessary to get a law permitting farmers to associate for these purposes. The statute which sanctioned the right of farmers to collectively process, handle, commingle, market, and have market agencies in common, was the Capper-Volstead Act signed into law in 1922.

Why this distinction in the general antitrust laws for farmers? The essential reason is that true competitive pricing takes place in a free market where it is assumed that those who buy and those who sell have equality in their bargaining power. Obviously, this is not true of agricultural products. The individual farmer, acting alone, certainly has no equality with the chainstores or with large processors.

Congress at that time also recognized the uniqueness of agriculture, a uniqueness that the ability of farmers to negotiate for a fair price is so weak that it is nearly nonexistent. Our lawmakers realized that:

First. Farmers must decide what and how much to produce long before they know what and how much buyers will want;

Second. Once the commodity is produced, the farmer must dispose of it regardless of how much is available in the marketplace;

Third. Actual production cannot be accurately forecast to match desired output because of the vagaries of weather, disease, insects, and the like.

Fourth. Once a crop is planted, or the dairy herds size decided, it is not subject to easy adjustment;

Fifth. Individual farmers have no control over what or how much their neighbors or farmers in similar production areas will send to the market; and

Sixth. Capital invested in one type of agricultural production is not easily transferred to another phase of agriculture. For example, farmers cannot switch from dairy to orchard or to row crop.

These unique features of agriculture are also the basis for market orders.

When the need for Capper-Volstead was debated in Congress, a concern was expressed about the possibility of all producers of a particular commodity getting together and forming a monopoly through one cooperative or a market agency in common through a number of cooperatives. Cooperative leaders responded to this opposition by saying such fears were unrealistic. What was once pointed out is still true today—that because there is so much substitute ability among agricultural products, a monopoly hold on a market is virtually impossible. American agriculture is so abundant and so varied there is no one commodity that can demand a price.

The true test of market power is not whether you have a substantial share of a market but whether you can use your position to control price or exclude competition.

Even if the cooperative could control the price of agricultural products, this could be only for a short period. As soon as the price goes up for a particular commodity, many other producers seek to share in the returns and plant the same items or increase the herd size. Then we are in a situation where a surplus is created and a commodity is grown at a loss. However, Congress, realizing that a practical and objective approach was necessary, recognized there was a possibility for a farmer cooperative to have a significant share of a market, it decided to enact some public safeguard into the Capper-Volstead Act.

Section 2 of the law says that if the Secretary of Agriculture has reason to believe that an association monopolizes or restrains trade to such an extent that the price of any agricultural product is unduly enhanced, the Secretary may order the cooperative to cease and desist from such monopolization or restraint of trade.

It was only after prolonged debate that the duty to monitor "undue price enhancement" was placed in the U.S. Department of Agriculture. The Senate wanted the policy function to be in the Federal Trade Commission but the House version of the bill prevailed and the responsibility was placed in the USDA.

This prohibition against undue price enhancement is found only in the Capper-Volstead Act and the Fishermen's Cooperative Act, a similar law. No law says that an oil company or computer manufacturer cannot unduly enhance the price of the product it sells.

In the 57 years that the Capper-Volstead Act has been on the books, in fewer than a dozen instances has it been alleged that a cooperative, or group of cooperatives, unduly enhanced prices. The Department of Agriculture has investigated each complaint and has not found a single case that warranted legal action. The fact that a number of Secretaries of Agriculture have found no reason to believe that a farmer cooperative has unduly enhanced the price has led many critics to point to such inaction as a lack of proper supervision rather than acknowledge the fact that no undue price enhancement has taken place.

The basic reason for this criticism is that outside the U.S. Department of Agriculture, ivory tower Government economists do not understand production and marketing of farm products and clearly do not understand the economics of the family farm. There is not now and there has not been in recent years one recognized and competent agricultural economist at the Department of Justice, the Federal Trade Commission, or on the Council on Wage and Price Stability. When General Motors has a lot full of vans they are not selling, it cuts back production. When American Standard sees that housing construction is off, it cuts back on the number of bathtubs and sinks it produces until its inventory has been reduced and new housing has increased.

Farmers cannot do this because agricultural production, unlike manufacturing, cannot be controlled by turning a spigot on and off. Our present administration, and our agencies of Government, have failed again and again to realize this distinction. After studying the legislative history of the Capper-Volstead Act a thoughtful person cannot help being impressed by the knowledge of agriculture shared by many in Congress at the time the act was being passed. Now, Mr. President, after more than half a century has passed by, the Congress of the United States, and the Federal Government, and this administration, are seemingly many times void of the understanding and interest of this unique and important part of the American economy. I know that many of my distinguished colleagues share my concern.

In September 1975, the Federal Trade Commission released a staff report on agricultural cooperatives and marketing orders. The Department of Agriculture, after reviewing this staff report, found that it gave a particularly inaccurate and distorted picture of marketing orders. The USDA comments contain many observations pointing out untrue, inaccurate, and misleading statements regarding farmer cooperatives and market orders. The USDA critique stated:

> Because the authors of the report did not fully appreciate the nature of the farmer cooperative and the special nature of agricultural production and distribution, the report misinterprets some of the statutory provisions and judicial decisions.
>
> The fundamental defect in the report is that the nature of the cooperative form of enterprise is not thoroughly understood and many complexities and exceedingly peculiar features of economics involved in agricultural production and distribution are not fully appreciated.
>
> It is understandable that the authors feel very uncomfortable, as industry regulators, with the laws and judicial decisions concerning farmer cooperatives. The hostility is unjustified.

The FTC has been guilty of more than preparing inaccurate and misleading reports on Federal market orders and cooperatives. It has burdened the agricultural industry with innumerable requests for detailed business records but has abused its subpena power.

The Northeast Dairy Cooperative (Dairylea Cooperative, Inc.) was served with a fishnet subpena 17 pages in length, demanding that the co-op produce its records covering a 10-year period. In order to comply with this demand, the farmer cooperative was required to spend approximately 46,500 man-hours at 42 different locations in 5 States, collecting approximately 29,200 documents requested. After assembling these data at the estimated cost of $10 per hour, a reasonable estimate, the FTC after a cursory look at the records, dismissed its investigation. No action was filed, yet dairy farmer members of this cooperative were out nearly half a million dollars, not including legal fees.

In another area, the FTC brought an action against the farmer cooperative (Central California Lettuce) for alleged antitrust violations. This matter was twice argued before the whole Commission, at considerable expense to the farmer members over questions of interpretation of the Capper-Volstead Act. Before the FTC rendered its decision the Federal court ruled that the challenged activities were within the scope of the Capper-Volstead Act. The Federal antitrust suit was formed by the original FTC action. Following decision in the Federal courts, the Federal Trade Commission dismissed its complaint.

The FTC must be prohibited from usurping the power of the Secretary of Agriculture in the area of market orders and farmer cooperatives. The farmers in their cooperatives have two Federal agencies monitoring their activities in the antitrust field: The Department of Justice and the Secretary of Agriculture; and they do not need a third agency—the FTC.●

THE RESPONSIBILITIES OF AN AMERICAN

● Mr. BIDEN. Mr. President, it is not my usual practice to insert statements into the CONGRESSIONAL RECORD unless in my judgment they make useful reading for Members of the Senate, House of Representatives, and the general public. I believe the following essay, "My View on Involvement," by Regina Ciritella, a student at St. Elizabeth High School in Wilmington in my own State of Delaware, meets that standard. Therefore, I ask that it be reprinted in the RECORD in full.

Regina's essay was selected as Delaware's entry in the national "Voice of Democracy" contest sponsored each year by the Veterans of Foreign Wars. Delaware VFW Commander Paul R. Phillips, Jr., called my attention to the essay because he feels it speaks directly and eloquently to a central concern of most Americans today. I join him in that opinion.

While we as a nation grapple day by day with domestic problems and foreign crises, it is sometimes difficult to maintain a proper balance between the rights and privileges we enjoy as Americans and the responsibilities we all face as citizens. It is the eternal problem of democracy, and I think Regina's essay provides an interesting and functional perspective on that problem.

Mr. President, I ask that Regina's essay be printed in full in the RECORD.

The essay follows:

MY VIEW ON INVOLVEMENT

(By Regina Ciritella)

My personal experience in these United States is so minimal that at first it didn't seem as if there were that much I myself could do to affect its future. This country has always fascinated me because of its large size. There are so many different people here, and yet this country functions as a whole. When people study history, most of what they learn is taught in a general view. There are a few people who are studied individually because of the effect their lives had on the people they were involved with. People like George Washington, Abraham Lincoln, Susan B. Anthony, or Martin Luther King. I never looked at myself as being able to influence my country in such a grand style as they did. But now I realize that isn't fair to say, about me or about anyone.

I believe the education I've had in this country has formulated my present attitude. That attitude is that every single person in this country affects the future of us all in some way. And that includes me.

I asked myself the question, "What are my responsibilities as a citizen growing up in America?" It occurred to me that there are two that stand out as very important. These two responsibilities are so closely related that it's very difficult to see any difference between them. They both are vital to each other, they are a team. The first can not work without the second, and the second doesn't exist without the first.

My first responsibility is to get an education. I have a responsibility to learn all about the things I am or may come in contact with. Besides studying such topics as physics, English, and sociology (to name a few) it's important to study this country: to study America's history, its people, and its makings. My second responsibility involves what I do with this knowledge. I must do something with what I've learned. It seems that the one word that is most important in carrying out my responsibilities, is the one word that turns most people away. The word is Involvement. I must involve myself in the things I've studied. It's my second responsibility. It's my choice. And when I choose to become involved, I choose to affect the future.

There are many young people who involve themselves outside of the classroom with people who share their ideas. There are students involved with groups against nuclear power, and in groups for nuclear power. There are young people who express beliefs about such issues as discrimination, drugs, and abortion. There are students involved in groups for women's rights, and students involved in bettering their neighborhoods and their environment.

In addition to these groups that young people give their time freely to, some jobs may allow young people to contribute to and understand more fully their role in America's future.

For example, in many of our cities students can find jobs as errand runners for various law firms. They run messages, affidavits, and other materials to other law firms and to the different courts. They have a first hand look at how the country's judicial system works, and at the same time are learning the practical value of the dollar.

Another example of how a job can show a young person's integrity is counseling at a summer camp. In this situation young people spend time asserting their leadership qualities, giving example to younger children, and developing a sense of worth at having accomplished something good. These young people have the responsibility of controlling the children they are in charge of. Probably the best part of this job is the chance to share, the chance to share talents and imagination. And sharing is involvement.

Through these issues and jobs it is possible for me and others to take a stand, and through them I can have a role in America's future. Therefore I am on my way to fulfilling my two responsibilities.

People can study, think, and talk all they like. But if no one gets involved, then it doesn't mean a thing.●

TAXES AND THE BUDGET

● Mr. JEPSEN. Mr. President, I have often spoken out against the high taxes and deficit spending which are destroying our Nation's private sector. The President's 1981 budget calls for a $40 billion increase in taxes on the American people—the result of inflation pushing people into higher tax brackets—yet he stands opposed to any tax reduction this year, in order to combat inflation.

Mr. President, the fact of the matter is that high taxes do not reduce the amount of dollars in circulation, which is the principal cause of inflation. High taxes only reduce the incentive to work and produce and shift resources away from the private sector to the already bloated public sector. In my view, a tax reduction targeted toward increasing work incentives, saving and investment would be the single best thing we could do to reduce inflation.

In recent months my thoughts on these matters have paralleled those of Mr. Richard Lesher, President of the Chamber of Commerce of the United States, in his excellent newspaper column, "The Voice of Business." I submit for the RECORD three of his recent columns relating to taxes and the budget.

The material follows:

THEY'RE OUTNUMBERED IN CONGRESS, BUT WHAT ABOUT IN THE COUNTRY?

WASHINGTON.—Have pity for Congresswoman Marjorie Holt of Maryland, and while you're at it, for Congressman Del Latta and Ralph Regula of Ohio, Barber Conable of New York, Dave Stockman of Michigan and John Rousselot of California. They and legislators of similar persuasion in both parties all share a common concern. The better they try to do their jobs, the more they seem to annoy and embarrass their colleagues. The problem, you see, is that they keep asking the same awkward questions—the ones the American public wants answered, but that Congress as a whole wants to avoid.

What they are trying to determine is simply this: Why won't Congress cut taxes . . . or spending . . . or both? It's been a frustrating quest. When they push for tax cuts alone, they're told in effect: "Stop that! You'll worsen inflation." They disagree, but for the sake of progress they offer a proposal linking tax cuts to spending cuts. Next answer: "Your cuts are too large. You're advocating a meat ax approach!" Undaunted, they try again, returning with a request for smaller cuts, only to be told: "Don't bother us with that. Now is not the right time."

Will there ever be a right time? You have to wonder. Having been defeated on three different attempts to reduce the federal budget during the last two months, Holt, Latta and company recently decided to make one last offer—an offer no one could refuse. Exempting defense and veterans affairs, they proposed a general spending reduction totalling barely two percent of the budget—mere crumbs within the giant $550 billion federal pie. Then they challenged the House to prove it was at least willing to eliminate this tiny amount of waste.

How greedy of them! The House, unable to stomach such sweeping cutbacks, instead swallowed its pride and voted down their motion. Indeed, the budget-cutters were even given a lecture and accused of trying to subvert the entire budget process. It's true, of course, that passage of this two percent reduction would have delayed the budget process. It would have meant sending the budget resolution back to committee where the specific spending cuts would have to be decided. But remember, the whole purpose of establishing a budget process was to get a better handle on federal spending. So what the spenders were really saying to the budget-cutters was: "If we pass your motion to limit spending, we'll destroy our process to limit spending!" How's that for tortured logic?

The bottom line is this: In the name of saving the sacred budget process, the House has approved another double digit increase in the federal budget itself—a comfortable continuation of policies that have witnessed a quadrupling of the federal budget since 1962, and a doubling of the national debt in the last eight years. The bill will have to be paid through higher taxes, higher inflation, or both. If, during the past 20 years, all private businesses were run as poorly as that, there would probably be no profits to tax, no revenues to collect, and thus, no programs to fund!

What can you do? First, you must realize that spending other people's money gives government tremendous power, so it will say almost anything to make you believe it has the right and the ability to spend your money better than you can. In a recent issue of Policy Report, Paul Craig Roberts described this approach: "Recessions justify deficits to get the economy moving again; recoveries justify deficits to keep recoveries going; good times justify deficits to ward off the downturn that is predicted to be around the corner. Signs can be found upon which to predict a recession." It's time for Americans to wake up and reject this so-called economic expertise.

Second, Americans, as taxpayers, must become much more politically involved in trying to reduce the burden of government. As Senator William Proxmire of Wisconsin, a tireless foe of government waste, recently noted: "Who comes to Washington to ask us to cut a particular program? You will wait a long time for an answer. Who comes? No one. Not ever. But hundreds come purporting to represent millions, asking us to increase spending . . ."

People like Proxmire in the Senate and the budget-cutters in the House are trying to work for us. Why can't we start coming to Washington by the hundreds, thousands, or even millions to help them? If we don't, we might lose the most important battle of our lives, without ever having put up a fight.

Our Government Never Met a Tax It Didn't Hike

Washington.—How, a reporter asked him, would you describe in capsule form what ails the United States? The answer: "When you tax something, you get less of it. When you reward something, you get more of it. In America today, we tax work, thrift, investment, employment, production, incentives and success, while rewarding non-work, unemployment, welfare spending, consumption, leisure, idleness and mediocrity."

Meet Jack Kemp. Formerly a star NFL quarterback, and presently a Congressman from Buffalo, Mr. Kemp has become one of the most articulate leaders of the growing national drive to limit federal spending and slash the rate of taxation. Recently, he and Senator Lloyd Bentsen of Texas, the very knowledgeable chairman of the Joint Economic Committee, were featured speakers at a Washington news conference on tax reform.

The news conference was organized by Citizens Choice, a 40,000 member grassroots taxpayers group, with the purpose of calling on Congress to enact specific tax reforms. They include: Lowering tax rates across the board and setting a maximum rate of less than 50 percent; ending the taxation of interest on savings; ending the double taxation of income, whereby government taxes income first in the form of corporate profits and later in the form of individual dividends, and encouraging business to increase investment by making it cheaper to replace outdated plants and equipment.

There is a common thread running through each of these proposals and it can be summed up in one word: incentives. Senator Bentsen signalled this approach earlier this year when his Joint Economic Committee issued an historic report that rejected Washington's 30-year preoccupation with more government spending and printing of money. Instead, the report stressed the need for policies to encourage savings and investment in view of increasing worker productivity and lessening inflation.

Senator Bentsen, Congressman Kemp and the members of Citizens Choice share a common conviction. Washington's almost exclusive preference for pumping up the economy with more spending, with more demand for goods and services, has severely impaired the ability to our economy to supply them. So, in Kemp's words: "We need to build a consensus to stimulate supply and production instead of consumption and deficits." Thus, his call for incentives in the form of tax rate reduction to spur greater production, investment, risk-taking and entrepreneurship.

The Administration resists tax reduction with two arguments. First, it blames inflation on working Americans rather than the government's printing presses—even though the supply of new dollar bills has been increasing more than twice as fast as the production of goods and services. Never mind. Blaming others permits the Administration to announce with a straight face that inflation prevents it from granting us a tax cut.

Second, by claiming its policies are basically sound, the Administration disclaims the need for new supply-oriented tax policies. This line of reasoning is fine as long as you are willing (as the Administration apparently is) to ignore our competitive record against our major trading partners in recent years. As noted in a prior column, we have experienced: the lowest rate of savings; the lowest rate of productivity increase; the second lowest rate of investment, and a declining rate of growth.

Ultimately, the greatest victim of this charade has been the American worker. Federal tax receipts have soared from $195 billion in 1970 to $514 billion in fiscal 1980, without Congress ever voting an income tax increase. Pure magic? Not at all. Everytime you think you receive a cost of living increase, you are actually being forced into a higher tax bracket, and so you will pay a higher percentage of your income in taxes. The progressivity of the tax code ensures that taxes always increase faster than inflation, and inflation ensures that taxes increase automatically. Think you can beat those odds?

Chances are you won't, because the bottom line is this: Today, many blue-collar workers are closer to the 50 percent tax bracket—one formerly reserved for those of wealth. Why work that extra hour or day when government taxes half your reward away? We cannot solve this problem with one-shot election-year tax rebates that ignore the real problem of inflation relentlessly pushing more people toward confiscatory rates of taxation. We simply must cut the rate of federal spending and concentrate on producing and investing America back toward new jobs, new technological breakthroughs and new world leadership. Substantial tax rate for reductions to restore incentives for individuals coupled with tax changes to generate more funds for business to invest and grow are what we need, and they are what supply-side economics is all about.

Must He Declare War on American Taxpayers?

Washington.—I think it's time someone asks the President a simple question: Why, after promising never to increase the taxes of lower and middle-income Americans, has he asked these same people to pay the largest tax increases in peacetime history?

Clearly, he has . . . and is. The President has tried to raise taxes on: Crude oil, the industrial use of oil and natural gas, gas guzzlers, gasoline and just recently, on the so-called "windfall profits" of the oil companies. And that's just for energy. Mention Social Security and we're talking about another $227 billion tax increase over the next decade. And the list goes on and on.

The key point is this: Every cent of tax proposals like these must always be paid—through higher taxes and/or higher prices—by the very people Mr. Carter promised to protect. It's not really that complicated as long as you agree your money belongs to the government.

That's the whole idea behind his "windfall profits" tax which he says the oil companies must pay because they have not "earned" the higher prices they will receive under gradual decontrol. But how could a company "earn" what the President calls "fair" when the government itself kept prices controlled below what it costs to explore and drill for oil?

Obviously it couldn't. And now he delights in using words like "profiteering" and "cheat" to insinuate the industry is untrustworthy. Forget the facts. Forget that while the oil industry's profitability averaged less than other industries during the last three years, it consistently invested more than it earned (nearly twice its profits) for production and new exploration. Forget that the independent producers, who drill and find much more oil than the majors, are even more heavily in debt.

And of course, let's gloss over the entire Department of Energy which spends almost as much as the majors earn . . . but produces no energy. All governments can already take up to 65 cents of every energy dollar you spend. Under the big, new tax proposals, they could get more than 80 cents.

Will all those taxes keep your car running and heat your home? Possibly, but only if you honestly think those who already explore, produce, refine and market their product at one of the most competitive rates in the world are less qualified to invest your money than the bureaucrats, whose idea of competition is to outstaff, outspend and overpower rival departments, and whose policies of price controls and environmental extremism actually produced the mess we're now in.

Senator Orrin Hatch has signalled a more disturbing consequence of the President's proposed "windfall profits" tax: The seizure, or theft of private property.

The oil companies are owned by millions

of stockholders, the majority of whom are moderate-income, blue and white-collar workers and retired people who have been saving and investing for years. Now they're suddenly being told that although they might have invested their life-savings and assumed all the risks, the government will grab the rewards because these people didn't earn them. Sound fair? And if it happens, where might the ax fall next—on you perhaps, because you really didn't earn enough of that profit you made on the sale of your land, your crops, your family business or your home?

Let's talk about the real windfall—the one that's truly unearned, and enormous, and that goes to the government because of the higher taxes you must pay everytime you get a raise trying to stay even with inflation. During the past 15 years, prices have risen about 130 percent. But federal taxes have shot up nearly 300 percent. That means a one-income family earning the median income of $8,132 in 1964 must earn at least $20,000 this year just to retain its purchasing power. Will your family succeed?

Maybe that's why people are so frustrated and frightened. Maybe that explains the national malaise the President tried so hard to put his finger on with all those slashing hand gestures during his recent speech. And if that is true, can't he find another way to get tough and be a leader without declaring war on American taxpayers? ●

THE HUMAN ELEMENT IN PRODUCTIVITY

● Mr. JAVITS. Mr. President, William M. Batten, chairman of the New York Stock Exchange, put forward last November a compelling case for greater worker participation as the key to improving worker satisfaction and productivity in our country. In an address in the Dean's Lecture Series at the Wharton School of the University of Pennsylvania, he argued persuasively that we need to have employee involvement in U.S. industry as a natural evolution of our basic principles of human dignity and equal opportunity.

He correctly urges the cooperation of unions and management in improving communication and encouraging "employees to participate in the key decisions that affect and determine day-to-day work patterns."

Drawing upon his lifetime of experience and wealth of knowledge of American business. Mr. Batten said of worker involvement that—

> It seeks to draw upon the expertise and creativity of a better educated workforce to help redesign and reorganize work in ways that meet the needs and demands of working people today and encourage them to maximize their contributions to the productivity of the organizations that employ them.

Mr. President, in adding his voice to those—including me—who have been urging greater labor-management cooperation and worker involvement in plant decisionmaking as key routes to improving stagnant U.S. productivity, William Batten is performing an inestimable service to our country. That so distinguished a leader of U.S. business should urge greater consideration of this critical "human element in productivity" and recommend greater labor-management cooperation as a necessary means to enlist worker creativity and enterprise will advance the cause of productivity improvement in this new decade.

It is well known that the use of labor-management committees which I have advocated for years is a vital element in these "quality of work life activities."

Mr. President, I ask to have William Batten's address printed in today's Record, and hope my colleagues find it as instructive as I did.

The address follows:

Commitment to Productivity: An Economic Act of Faith

Some years ago, I came across a cartoon that seems increasingly relevant to our national economic situation. The drawing showed two women sipping tea in a pleasant living room, while the husband of one of them glared out the window at a pretty pastoral scene. And one woman said to the her:

"Oh, Harold never smiles, He's an economist!"

I come before you today without that handicap—but it's difficult even for a layman to contemplate our national economy without scowling. Instead of marching confidently into a new decade, America seems about to stagger across the threshold of the '80s, dragging the tattered economic baggage of the '70s: chronic inflation, slow growth, a battered dollar, and not much optimism about the future.

In terms of after-tax purchasing power, the typical American worker is worse off today than ten years ago. And the efforts, to date, to improve the situation call to mind another cartoon character—the fellow who can't seem to get rid of a strip of flypaper. If we step up the growth rate, inflation moves into high gear and our international payments deficits pile up. If we come down hard on inflation, the economy skitters off toward recession.

If there is a lesson to be learned from the decade we're about to leave, it's that inflation, economic growth and international payments problems are so closely intertwined that we must have policies designed to address all of them simultaneously if we're going to shake the economy free from the flypaper.

One policy objective that cuts across all of our most serious economic problem areas is productivity growth. And the time has come to acknowledge that the only real alternative to improving productivity growth will be to give up some of our most cherished economic ideas and aspirations.

Traditionally, economic policy in this country has focused on contracyclical measures rather than on productivity. Short-term changes in the economic environment have little effect on the basic productivity growth rate, however; and, in fact, the downward trend of productivity growth has weakened the economy's response to the traditional contracyclical measures. The productivity drag is really the negative catalyst that has given us slow growth plus high inflation—that debilitating hybrid that economists have dubbed "stagflation."

We cannot realistically hope to control inflation, improve the quality of American life, and play a constructive economic role, internationally, if private sector productivity continues to limp along at a growth rate of less than 1 percent—as it has since 1973. Unfortunately, even some responsible observers seem prepared to accept that—or not much more—in the 1980s. But I don't believe most Americans are ready or willing to settle for minimal improvements in their living standards—and I don't believe they have to.

We have economists at the New York Stock Exchange, too. And while they don't smile all the time either, they do have some sensible ideas about what needs to be done—and how.

If they were magicians as well as economists, they might find a way to chart a quick return to the 3.2 productivity growth rate that sparked economic prosperity in the U.S. between 1947 and 1965. But even though we have no easy tricks up our sleeves, we think we ought to be able to more than double the current rate of growth. Specifically, we believe it is entirely possible to match, in the 1980s, the 2.2 percent annual productivity growth rate of 1965-to-1973, provided—and, admittedly, this is a large-size if—we translate growing national concern over productivity into positive economic policies.

WHAT OTHERS ARE DOING

Looking at the bright side first: Even though productivity and economic growth in this country have lagged behind what most of the industrialized world has been accomplishing for quite a while, the American worker remains at or near the top of almost every common measure of physical and material well-being. The reason is, simply, that our working people still produce more per hour than their counterparts in other countries. But the American lead is rapidly dwindling.

High output per worker is not achieved in some great leap forward. It results from a complex combination of forces working together over time. Seemingly small, but steady, annual improvements in productivity growth gradually add up to large gains—in both output and income—as the years roll by.

Saving and investment is the single most important element in determining productivity. And this is where the bright picture clouds over. We just haven't been saving or investing as diligently as other industrialized countries have.

For example, since 1960, the Japanese have funneled more than 30 percent of their Gross National Product into fixed investment—compared with 14 percent in this country. This shows up dramatically in the average annual manufacturing productivity growth rate of nearly 9 percent in Japan—about four times the U.S. rate. In West Germany and France, the investment ratios have been 25 percent and 22 percent, respectively—and annual manufacturing productivity growth exceeds 5½ percent in both countries.

In 1960, the typical American worker in manufacturing annually produced as much as four Japanese workers or two French or German workers. Today, the American's output is matched by 1½ Japanese and by 1¼ Germans or Frenchmen. If the trend continues, all three will be outproducing us by the end of the new decade.

Higher output per worker means, of course, that there's more of everything to go around—more goods, more services, and more opportunities to enjoy leisure time. Indeed, one of the few things on which just about all economists seem to agree is that the long-term rate of increase in the average worker's purchasing power goes in tandem with—and is limited by—the rate of increase in worker output.

Our long-term experience with high productivity growth rates has built into the American psyche the expectation of an ever-rising standard of living. But the economy's ability to deliver on that expectation has been seriously impaired over the past decade or more by the alarmingly steep decline in productivity growth.

For example, if U.S. productivity growth had continued jogging along at the healthy pre-1966 rate of 3.2 percent—instead of slumping to a 14-year average of 1.7 percent—per capita disposable income in America would be about $1,700 more than it is today—$9,300 instead of $7,600. At the 1.7 percent annual average, however, it will take until 1990 to reach $9,300 in terms of today's purchasing power. But, remember, we're now crawling along at not much more than half that rate; and at the present rate, we won't get there until the turn of the century.

As some of you may be aware, the New York Stock Exchange's first major effort to join the widening national discussion of our cranky economy was a study, published early this year, that focused on the urgent need to improve productivity, and suggested how new public policy initiatives might help achieve that goal.

In the hope of making a further contribution, we will publish next week a follow-up study that looks ahead to the 1980s. This new study will shed additional light on our national productivity needs, and analyze how different sets of policy options could alter the economic outlook for the decade.

Our analysis is based on simulations of the economy prepared for the Exchange by Wharton Econometric Forecasting Associates. What emerges is a clear need to reorient government policies to ease the costly drag of over-regulation, and to encourage saving and investment to stimulate growth. It's far from a pie-in-the-sky exercise. In fact, the best of three economic scenarios developed in the study would still fall short of bringing productivity growth up to the historic post-World War II peaks.

Although both studies are aimed at providing responsible background analyses for public policy formulation, they acknowledge that government can do no more than establish a climate that will encourage growth. In fact, our productivity study concluded that:

". . . a successful national productivity growth policy will also require a high degree of cooperation among government, management and labor. The effort to maximize productivity requires a major management commitment to capital investment as well as a commitment at the individual workplace and throughout the ranks of every business organization."

A national commitment to productivity improvement is simply a fancy way of saying that we must all pull together to do things as well as we can. Government is really a supporting player. Ultimately, it is how management and labor act and interact that determines the scope of productivity improvements.

THE HUMAN ELEMENT IN PRODUCTIVITY

The great British economist, Alfred Marshall insisted that "the most valuable of all capital is that invested in human beings." And in this country, our national investment in people has paid high long-term social and economic dividends. Whatever the shortcomings of our educational system, each succeeding generation of Americans has been better-educated, better trained and, yes, more skilled, than the last.

Paradoxically, however, the training and educational advantages that have increased the potential of our national work force over the years have also played a part in generating new attitudes toward jobs and work patterns—both in the office and on the factory floor, or wherever people are employed. Better education and training have reshaped and redirected people's requirements and expectations. A stronger sense of self-worth and greater assertiveness and self-confidence inevitably have prompted searching questions about the values of the past. Changes in the social climate and a growing insistence on individual rights have given new dimensions to such concepts as human dignity and equal opportunity. And whether you like it or not, factory and office walls give management no shelter from rapidly changing social values and attitudes.

Daniel Yankelovich has described a "New Breed of Americans" that, he says, now constitute a majority of the labor force. And he tells us, very persuasively, that this new majority holds "a set of values and beliefs so markedly different from the traditional outlook that they promise to transform the character of work in America."

Perhaps the strongest focus of scorn for the old value system is the perceived "depersonalizing" aspect of large organizations—whether they happen to be engaged in business, or government or, for that matter, educating. One consequence is that, frustrated, people withdraw from emotional involvement in their work. Higher wages are often viewed today not as an incentive to perform better—as they were when my contemporaries and I were starting out on our careers—but rather as compensation for a job's lack of appeal. As Yankelovich rather harshly puts it, "the less they give to the job, the more they demand."

What this tells us, of course, is that while working conditions have improved tremendously, changes in the human relations aspects of work have, by and large, failed to keep pace with the changes in the attitudes, values and expectations of the labor force.

There is an unfortunate tendency to equate negative job attitudes and poor job performance with deteriorating societal perceptions of the value of work. Frankly, I start to simmer when I hear otherwise intelligent people declare that "the work ethic is dead"—or that "people nowadays are just too lazy or disinterested."

Nonsense! While there may be some people who would rather not work at all, there is a very great difference between not wanting to work and being dissatisfied with the particular job you happen to be working at. Perhaps the biggest problem today is to reorganize work in ways that will enable workers to derive satisfaction from it.

A 1977 survey by Opinion Research Corporation revealed that a majority of non-managerial employees felt their employers did not treat them with respect. Whatever the reality, that perception cannot help but hinder the development of productive, cooperative work relationships.

Three-quarters of the clerical and blue-collar workers surveyed—and more than half the managers—rated their companies "poor" in dealing with work-related problems and complaints. The survey showed a widespread feeling that employers were not even willing to listen to them.

Non-managerial personnel were particularly critical of companies' inability or unwillingness to deal fairly with them—and more than half the managers agreed. In startling contrast, comparable surveys in the 1950s showed that nine out of 10 managers then rated their companies favorably in terms of fair dealing.

COPING WITH JOB DISCONTENT

On the other side of the coin, we all know that American industry has traveled a long road since the days of the sweatshop. Corporate managers today point with pride to the scope of employee benefit programs that would have been regarded as frivolous—or worse—only a generation ago.

In a sense, discontent today testifies to the success, rather than to the failure, of past efforts. Non-economic concerns—such as job challenges, self-fulfillment and the need to feel appreciated are likely to matter most to employees who feel relatively secure economically.

With dollar-compensation no longer the overwhelmingly most important factor in job motivation, management must develop a better understanding of the more elusive, less tangible factors that add up to "job satisfaction"—and that hold the key, today, to encouraging workers to be more productive.

The way work is organized today is still rooted in the so-called scientific-management theories developed by Frederick Taylor back in the early days of this century. Though most companies have long-since softened the precisely measured, dehumanizing time-study approach to work efficiency, the basic thrust remains. Generally speaking, management identifies and closely monitors all aspects of the work day—from how each job is to be performed to, in some cases, the exact number of minutes employees may spend at the water-cooler during the work day.

Too often, management seems tacitly to regard the worker as simply a machine that happens to have inconvenient emotional and physical needs instead of particular parts that wear out and have to be replaced. And, too often, a well-intentioned management committee constructs a profile of a "typical" employee, designs standard procedures to be followed by that "typical" employee, inscribes the procedures in an attractive company manual—and settles back, content in its belief that it has adopted a sensitive, "human" approach to all its employees.

One problem with that approach is that there is probably no one in the company who precisely fits the description of the "typical" employee on whom all that effort has been spent. Another, more specific problem is that this approach overlooks the primary psychological need of every worker today to be recognized as an individual and to be fairly treated as someone who also has a life, problems and concerns that are unrelated to the work that goes on in the factory, the office or the shop.

Clearly, we need to develop better systems and approaches to work organization if a large, well-educated and well-trained labor force is to realize its full productive potential. We require a management philosophy that is in tune with what motivates working people today. And if we fail to develop the necessary philosophy and programs, we had better resign ourselves to coping with job tensions, attitudes and behavior that will limit productive output—with all that implies for our national economic well-being.

THE QUALITY OF WORK LIFE MOVEMENT

I believe the best prospects for overcoming the problems I've been describing are offered by what has come to be known as the "Quality of Work Life" movement.

Now, Quality of Work Life does not pretend—or presume—to envision some airy fantasy of a workers' paradise. It does not contemplate a four-hour work day with time off for long lunches and coffee breaks. According to Ted Mills, Director of the American Center For The Quality Of Work Life, it is "a new social technology" to help companies and unions bring out the full potential of worker skills and creativity—by moving U.S. management away from the traditional mechanistic view of work, to a view that is genuinely, and not cosmetically, people-based.

The core of this approach is to encourage employees to participate in the key decisions that affect and determine day-to-day work patterns. It recognizes that the person who does a job is the person who knows that job best. And it seeks to draw upon the expertise and creativity of a better-educated work force to help redesign and reorganize work in ways that meet the needs and demands of working people today and encourage them to maximize their contributions to the productivity of the organizations that employ them.

Although the Quality Of Work Life movement springs from much the same impulses as the so-called "Industrial Democracy" movement in Europe, it is very different. Industrial Democracy is politically based, reflecting the European tradition of government involvement in determining the details of working conditions and arrangements between employers and employees. A major thrust of Industrial Democracy is labor's direct involvement in business policymaking, including participation on corporate boards of directors.

The Quality Of Work Life concept is closer to the Japanese system of informal discussion and consultation among management and employees on work-related matters—including workers' grievances, even in companies which also maintain formal grievance procedures. Despite frequent discussion at every organizational level in the typical Japanese corporation, however, management makes the final decisions. The important point is that Japanese managers are able to draw upon a wide range of employee views and ideas—and to consider employee needs and concerns—in shaping their decisions; and employees gain a much better understanding of why, when and how decisions affecting their work lives are made. Not at all coincidentally, the strongest advocate and supporter of this system has been the Japanese Productivity Center.

I should perhaps make clear that the emerging Quality Of Work Life movement in this country is not based on the notion that we can somehow copy the Japanese success. We can't. Their system draws heavily on deeply embedded social and cultural traditions that we do not share.

Our approach assumes that there is a common basis for mutual trust and respect among the individual worker, supervisory personnel and higher management. It acknowledges that the individual can contribute to the decisionmaking process, and it encourages him or her to participate in organizing and improving work patterns. And it acknowledges, too, that management has a responsibility to keep the individual informed about company developments and plans.

SUCCESS AT TARRYTOWN

Perhaps the best-known Quality Of Work Life success story began just about a decade ago at the General Motors plant in Tarrytown, New York. Two production supervisors in the trim department—over the objections of many of their supervisory colleagues—urged the plant manager to disclose to workers in the department the company's plans for redesigning the so-called "hard trim" operation. The workers responded enthusiastically to the opportunity to help plan their own work arrangements. The quality of job performance and departmental productivity improved so dramatically that other departments at the plant began similar experiments in worker participation. Within a few short years, a plant that many people feared would be shut down because of poor performance moved from number 18—dead last—in its division, to number one in every index of quality.

The early successes led management and the Tarrytown Local of the United Auto Workers to cooperate in developing a formal Quality Of Work Life Program. Today, some 3,500 hourly employees—about 95 percent of the total—are voluntarily enrolled in training programs in participation and problem-solving.

Like all good success stories, this one had a sequel. Tarrytown was selected as the pilot plant for the company's new line of cars. And, of course, the people on the assembly line were involved from the beginning in planning how to organize the various jobs involved in producing the new cars, to assure maximum production efficiency.

Not surprisingly, both General Motors management and the union are enthusiastically committed to the Quality Of Work Life concept. And in fact, in 1973, they agreed to establish a joint top-level program to develop new Quality Of Work Life techniques—the first time Quality Of Work Life was explicitly addressed in a labor-management contract.

Soon after the widely reported improvement in the financial situation at Lockheed Aircraft became evident, that company also began pioneering in Quality Of Work Life techniques. Company officials who had visited Japan were impressed by what the Japanese call Quality Control Circles. And in 1973, Lockheed—then well on the way to recovery—became the first U.S. corporation to introduce that concept, which focuses on regular meetings of employees in related activities to identify common work problems and develop solutions. Lockheed attributes a major improvement in production quality to the program.

Once the early results of the Lockheed program became apparent, other aerospace companies—Hughes Aircraft, Northrop, Martin-Marietta, and Sperry Vickers' AMD Division, among others—developed similar efforts. And while the total number of companies with Quality-Control Circles is still relatively small, they represent the full spectrum of industries—and programs have proven as successful among white-collar as among blue-collar workers.

Guardian Life Insurance Company, for example, succeeded in boosting productivity in its Group Policyholders Department by one-third—over a four-year period—by eliminating the old assembly-line approach to paperwork and giving each employee both full responsibility, and recognition, for maintaining a group of clients' complete files and providing related services.

These are just a few of many examples of the tremendous potential of the Quality Of Work Life approach to better job performance and, even more important, to greater job satisfaction.

Whatever the specific approach, the Quality Of Work Life objective is to stimulate greater individual job satisfaction as a basis for building a more effective employee-management team—in which management can spend less time on day-to-day problem-solving and more time on longer-range policy formulation and planning.

To be sure, Quality Of Work Life experiments have not recorded an unbroken string of success stories. The new concepts are sometimes viewed with suspicion and they can create new stresses, particularly among supervisory and lower-level management personnel. Then, too, management may not always give the new approaches its full support, or have the patience to see them through to measurable results.

Neither should Quality Of Work Life programs be expected to provide a quick fix for productivity problems. Productivity improvements develop over time, as people become comfortable with a new working environment and relationships.

Quality Of Work Life is an adventure in cooperation and consultation among people who must function together in work situations. There are no set formulas for success—except that success is unlikely unless free and easy interchange is encouraged at all levels. Management, particularly, must be genuinely willing to consult with employees, to consider their ideas and opinions, and to communicate frankly before implementing decisions. Obviously, the cooperation of unions, too, is essential in moving Quality Of Work Life programs out of the conceptual stages and into thousands of individual workplaces. Thus, it is very significant, as Ted Mills tell us, that more and more companies and their unions are becoming deeply, and cooperatively, involved in Quality Of Work Life programs.

If the proper work environment is created, the long term payoff will be productivity improvement through better interpersonal relationships, stronger employee job interest and satisfaction, less absenteeism and waste, and a more useful flow of ideas about how to improve operations.

The essence of the Quality Of Work Life concept was captured—not at all surprisingly—by Pope John Paul II, during his historic visit to Poland last Spring, when he firmly rejected the idea that:

". . . man be considered, or that man will consider himself, merely as a means of production, or that he be appreciated, esteemed and valued in accordance with that principle.

"This must be remembered (the Pope added) both by the workers and the employer, by the work system as well as by the system of remuneration."

AN ECONOMIC ACT OF FAITH

Now, I do not mean to leave you with the impression that these very important human factors in the production process are the only ones that matter—or that high employee job interest and satisfaction alone will guarantee the kind of productivity improvements we need. Obviously, many other factors play crucial roles in determining the total productivity picture—including high standards of education, strong and relevant labor skills, creative development and management of new technologies, economies of scale and—most important of all—healthy infusions of capital investment.

In terms of what we do in this country, we must recognize that we simply cannot afford to under-utilize any of our physical, financial or human resources. As an economic act of faith, we should make a strong national commitment—for the new year and for the new decade—to improve productivity growth. An important part of that commitment must be to recognize that while government tax and regulatory policies clearly must be revamped to provide the kind of climate in which this country can overcome the economic anemia of recent years, another essential key to shaping our economic future lies in effectively utilizing the creative talents and energies of people.

Beyond developing new approaches to work organization and employee-management relations, we need to re-examine our perspectives on education. Not only must we improve the teaching of basic skills, but we must do a better job of matching labor's skills and training to the needs of the economy. We must also find ways to improve the mobility of the labor force. It is both frustrating to the individual and economically inefficient to send potentially creative and productive young people out into today's—and tomorrow's—job markets armed only with skills and training that are no longer relevant or needed. It is equally frustrating and inefficient to have important, productive jobs go unfilled in one part of the country because the people who are best-qualified to fill them are someplace else.

In short, it will be necessary for government, the educational system, labor and management to develop a massive cooperative effort aimed at:

First, bringing down inflation and developing tax and other economic policies needed to create a healthy climate for economic growth;

Second, preparing our steadily growing work force to contribute—up to the full potential of each individual—to building a larger economic pie and expanding our national wealth; and

Third, developing the motivational concepts and techniques that will encourage all Americans to join the adventurous quest for a high Quality Of Work Life that will bring an abundant measure of prosperity and job satisfaction into every American home.

Over two centuries of unparalleled economic growth, Americans have built a tradition of expecting and demanding a great deal—and of going out and getting what they want. Today, as we move into a new decade, Americans expect—and demand—a higher standard of living.

Once the perception spreads that the key to the higher standard of living is accelerated productivity growth, I believe we will quickly start translating our national hopes and expectations into action.

And perhaps, then, even the economists will be able to smile.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN GOVERNMENT OR FOREIGN EDUCATIONAL OR CHARITABLE ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD a notice of a Senate officer or employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Mr. Charles E. Morrison during the period from January 10, 1980 to January 20, 1980, to participate in programs sponsored by the Jakarta Center for Strategic and International Exchange in Jakarta, Indonesia and by the Japan Center for International Exchange in Tokyo, Japan. It has been determined that Mr. Morrison's travel, the cost of which will be borne by the Jakarta Center and the Japan Center, is in the interests of the Senate and the United States.●

REPEAL THE POWER TO SEIZE GOLD

● Mr. JEPSEN. Mr. President, my good friend and colleague, Senator JESSE HELMS of North Carolina, has brought to the Senate's attention an antiquated and potentially very harmful provision in the United States Code. A remnant of legislation from the darkest days of this country's worst depression, this provision gives to the Secretary of the Treasury the authority to confiscate at his discretion all privately owned gold.

As we know, such a confiscation would not be the first in U.S. history. I am proud to cosponsor S. 30, a bill which repeals that law.

This law (12 U.S.C. 248(n)) was passed in 1933 about the time the U.S. Treasury raised the official price of gold from $21 to $35 an ounce. At that time, Congress also passed a bill calling for the confiscation of all privately owned gold and gold certificates. This was done in order that holders of gold certificates and hoarders of gold would not stand to "profit" 67 percent from what really amounted to a massive depreciation of the U.S. dollar.

Gold ownership was banned in this country until 1975. On January 1 of that year, Senator JAMES MCCLURE and Senator James Buckley became two of the first American citizens in 42 years to legally purchase an ounce of bullion gold.

Both the extent of the dollar's decline since 1933 and the gross abuse of power committed by the U.S. Government upon its citizens in that year are now obvious. Unwilling to let private citizens "profit" from the devaluation of our currency, the Government confiscated their gold. In effect, from 1933 to 1975, the Government profited at the expense of the people, hampering their efforts to protect themselves against ever-increasing inflation.

Now gold sells for more than $400 an ounce, indicating that the dollar might be worth only 5 percent of its pre-1933 value. The dollar is depreciating at the rate of almost 15 percent per annum, and many people see gold as a hedge against the constantly decreasing value of our currency.

Since so many of our citizens are interested in owning gold (the United States constitutes one-half of the current world market), the implementation of 12 U.S.C. 248(n) would undoubtedly cause great consternation across the country.

People fear that with this provision already on the books today's Treasury Department might seize private gold at any time. Concerned citizens would not even be able to effectively protest the action through their elected representatives. Resentment against the Government would soar, and public confidence in the strength and future of our currency would become even more tenuous.

Compounding the problem with this legislation is the fact that not only is it unfair, but it is also simply not enforceable. Americans have learned a lesson from the 1933 confiscation of their gold and the subsequent depreciation of the currency for which they exchanged that gold. It is extremely doubtful that citizens would again freely admit to possessing the metal should the Treasury send word for it to be delivered to its door. The Treasury would find great resistance for if they issued that order, I would guess that much privately owned gold would simply "disappear."

In summary, let me reiterate that this provision is archaic, absurd, and as gold confiscation was unfair in 1933 so it would be in the 1980's. I was surprised to learn that such a law has remained part of the United States Code for so long, and I hope we will be successful in achieving a prompt repeal of this section.

A recent issue of the Bulletin of the Institute on Money and Inflation, contained the testimony of Prof. Gerald Dunne on this important issue. The Institute has done much to increase Congress awareness of sound money economics and I ask that the article from the IBM Bulletin be printed in the RECORD at this time.

The article follows:

PROFESSOR GERALD DUNNE ON GOLD SEIZURE

Last month, the Chairman of the House Banking Committee's Subcommittee on Domestic Monetary Policy requested that the Institute on Money and Inflation send an expert witness to testify on the gold seizure issue. Gerald Dunne, noted monetary legal authority and a member of IMI's Board of Advisors, delivered the following statement at the hearings on October 15.

I am Gerald T. Dunne, Professor of Law at St. Louis University, Editor-in-Chief of the Banking Law Journal, and formerly general counsel and vice-president of the Federal Reserve Bank of St. Louis. Also, I am the author of three books: Monetary Decisions of The Supreme Court (Rutgers Univ. Press, 1960) and biographies of Joseph Stery and Hugo Black. I am honored to appear here today on behalf of the Institute on Money and inflation in support of HR 1853 and HR 2658, bills to repeal Section 11m of the Federal Reserve Act (12 USC 284n) relating the seizure of privately owned gold; logically, such repeal should encompass Sections 5(b) of the Trading with the Enemy Act of 1917.

Indeed in the present set of the matter, this provision is part and parcel of what Mr. Justice Douglas called "derelicts of the law", being totally inconsistent with contemporary declarations of the Congress, legitimating gold ownership and permitting private contractual against ruinous price instability, thereby inducing a chilling effect on the knowledgeable and sophisticated.

But as to the ingenuous and unsophisticated, the foregoing provisions might well be analogized, not to a derelict in a system, but to a rusty bear trap in the high grass, all the more dangerous for low visibility.

To be sure, quite apart from the foregoing issue of statutory coherence the two constraints involve different vices in authorizing sequestration of privately held gold. Section 11n of the FRA does so in the virtually unfettered discretion of the Secretary of the Treasury to assert the protection of the currency system of the United States may sequester gold, paying therefor "an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States"—or, in other words sanctioning the expropriation of property for which the holder may have paid $500 an ounce for an adjudicated reparational exchange of perhaps $42 plus. Section 5 of the TWTEA certainly implies as much in terms of compensation, after conditioning the operative authority upon the existence of war. Both provisions were enacted into law in an environmental context totally different than the one prevailing today, both are at radical variance from contemporary enactments of monetary policy, and both should be expunged from the statute books in the interest of the coherence and consistency alone.

However, let me add one consideration which might not be amiss. The foregoing amendments would surely be consistent with the conclusion that Congress does bow to the lessons of experience and will reinstate the original intent of the founding fathers, which has been vividly restated by Dr. Frederich von Hayek that there is one apparatus no government on earth should be allowed to get its hands on—a printing press.●

THE PRESIDENT'S BUDGET

● Mr. TOWER. Mr. President, on January 28, President Carter presented to the Congress the proposed Federal budget for fiscal year 1981. That package contained well over 600 pages and represented countless hours of preparation by untold numbers of individuals. One would expect, therefore, to be able to rely on the forthrightness of such an important and far-reaching compilation.

But such is not the case. The budget which the President submitted to this Congress 10 days ago is filled with examples of part-truths, false assumptions, and outright lies. The President, for the sake of making it appear that he has tightened the fiscal belt of some programs, has proposed reductions principally in areas where he knows through past experience that Congress must restore funding to maintain program efficiency. Other areas of "anticipated savings" rely on passage of legislative proposals whose success the President knows is unlikely at best—and in some cases where defeat has already resulted.

There are a number of examples of this misrepresentation in the education areas of the budget. For example, the President has proposed a $333 million cut in impact aid. The proposed reductions would greatly reduce payments for some categories of children and would virtually eliminate payments for others. Yet the President is well aware that such a reduction has never been favorably received by the Congress—and for a very good reason.

Impact aid is one of the most legitimate areas of aid to education. Through this assistance, the Federal Government is compensating school districts for the burden caused largely by the loss of a tax base which it has placed on the district by the presence of large military complexes and associated personnel. It is only right that the Federal Government should pay its own way in this manner.

School feeding programs are another area where the President claims up to $458 million can be saved by reducing the amount of food assistance going to children from middle-class families. Yet Mr. Carter knows full well that this identical proposal last year went absolutely nowhere.

The education budget includes about $800 million in projected savings from the administration's plan to eliminate national direct student loans and to phase out guaranteed student loans. Yet the President knows that the bill to restructure the college loan program has yet to get anywhere in Congress. The volume of loans has increased enormously in the last 2 years. In fact, the administration's supplemental request for 1980 included $662 million for guaranteed loans. But none of this is taken into consideration in his budget.

Fiscal year 1981 educational outlays appear to have slightly more than a 1-percent increase. But that is partly because the new Department of Education plans to spend only $50 million in fiscal year 1981 of its $900 million share of the President's unemployed youth initiative. The $2 billion previously announced will involve both education and labor. This $2 billion is on top of $4 billion the Federal Government is already spending to try to solve the problem of youth unemployment. Creating this new program will not add to the general quality of education.

The administration is still ignoring one of the biggest stumbling blocks in the path of youth employment—a soaring minimum wage now at $3.10 an hour. With that sort of cost, employers cannot afford positions which could be filled by a young person with a minimal education and work skills. So even if a Federal program of the sort the President has proposed were to accomplish its goals, young workers would still find themselves priced out of the job market. Funds and efforts would be much better spent reevaluating the effectiveness of existing Federal programs to weed out the ineffective ones in favor of those that work.

Courageous action by the President in recommending a youth differential to the minimum wage so that employers could still afford to hire some of these young people would have been such a workable solution. But in an election year, the President apparently just would not do that.

Mr. President, the area of education is not the only one in which the administration has played games with the budget. In the area of health, for example, the budget shows an estimated savings of $780 million in the area of hospital cost containment. Yet I am sure that the President is well aware of the substantial defeat which the core of his cost containment proposal met in the House of Representatives on November 15.

In the area of health manpower education programs, the President has assumed that Congress will eliminate the $88 million it approved for fiscal year 1980 and will spend nothing on the capitation program in fiscal year 1981. Mr. Carter knows full well that last year capitation grants for educating some health professionals were restored at the same level as prior funding.

A major program proposed by the administration and already passed by the House is the child health assessment program—CHAP. The expanded version of that program which was passed by the House and endorsed by the administration is expected to cost $2 billion a year by 1984. However, one is easily misled by seeing budgeted for CHAP the amounts of $403 million for 1981, $650 million for 1982, and $860 million for 1983.

Finally, in the area of welfare, the administration has distorted the realities of the budget picture. The new welfare reform package (H.R. 4904) which the President is pushing has already passed the House and is being considered by the Senate Finance Committee. The budget did not include the proposal's expected $6 billion 1982 cost in the regular spending projection for future years. Instead, the costs were included in the contingent account for possible future Federal costs. However, the budget did assume passage of parts of the reform package that would save money in fiscal year 1981.

Mr. President, these are only a few of the glaring examples appearing throughout the administration's fiscal year 1981 budget where the President again has dealt less than fairly with this Congress. This action—indeed misrepresentation—on the part of the President confirms his reputation for not knowing how to work with the Congress. He has taken this opportunity to present a budgetary picture suited to his own needs rather than to the needs of this Nation. The time of the people who compiled this unrealistic and unworkable budget would have been much better spent giving an honest, rather than a political, assessment of the realities and necessities of Federal spending.

The President has passed up a perfect opportunity to recommend some real budget reductions. This would have been the ideal forum for the administration thoroughly to examine Federal spending and to cut out those costly programs which benefit only a few. But because of the Presidents' obviously misplaced budgetary priorites—and because this is the year for Americans to show their evaluation of the current administration by way of the ballot box—this opportunity has been wasted. And the Congress has been left to its task of trying to sort out this budget and come up with some realistic recommendations.●

UNIFORMITY OF TRUCK WEIGHTS AND LENGTHS

● Mr. JEPSEN. Mr. President, the current inflationary spiral has brought to light the need for increased efficiency in the trucking industry. With constantly rising fuel prices, the trucking industry is faced with ever higher costs which the American consumer must ultimately pay. Furthermore, it is in the national interest to conserve fuel, especially in view of our dependence on foreign oil. Greater efficiency in the trucking industry will result in lower transportation costs for shippers and decreased use of fuel by truckers. This can be accomplished if Congress moves expeditiously to establish nationwide uniformity of truck weights and lengths.

Uniformity is necessary because some States have weight and length standards for trucks which are less than those in the majority of States, forcing truck traffic to waste fuel and time by going around the States with lesser standards. For instance, if a particular State has limits of less than 60 feet and 80,000 pounds as is the case in 40 of the 50 States, a trucker must either circumvent the State(s) with the lower limit, or they must load their trucks below capacity. Both circumventing the States and loading below capacity are inefficient, expensive, and use more fuel than is necessary to move goods to their destination.

It has been estimated by the Federal Energy Administration that 225 million gallons of fuel could be saved annually by establishing uniform weight and length standards for all 50 States. In a study done by the Iowa Department of Transportation it was concluded that—

> The benefit-cost ratio shows that for each dollar in increased highway wear, society will receive 4.2 billion dollars in benefits in the form of reduced transportation costs.

Uniformity will also reduce truck traffic because fewer trips will be needed to transport the same amount of goods.

It seems apparent to me that S. 1383 will conserve energy, provide certainty with respect to regulations, and promote safety. It is necessary that these standards be established with some degree of permanency. It should be remembered that it is the American consumers who stand to benefit from these steps to make the trucking industry more efficient and productive.

Mr. President, S. 1383 is the strongest of bills, to my knowledge, introduced at this time concerning uniform truck weight and length standards. Before it can be passed, I assume that certain compromises and corrections will be necessary; for example, practical application of 80,000-pound gross weights and 60-foot semis and 65-foot doubles. But on the whole this legislation is a step in the right direction, and I hope that some action will yet be taken this Congress.●

LULAC WEEK

● Mr. BENTSEN. Mr. President, for over half a century LULAC, the League of United Latin American Citizens, has been a leading and effective advocate of the Hispanic community in this country.

LULAC, which is now the largest Hispanic organization in the United States, is celebrating its 51st anniversary this year. The organization has set aside the week of February 11–17 to honor those individuals who have been in the forefront of efforts to win equal rights and equal opportunity for at least 15 million Americans with Hispanic surnames.

Hispanic Americans, Mr. President, are the fastest growing ethnic group in this Nation, and will soon become our largest minority. They were a vital part of the American experience a hundred years before the Pilgrim Fathers landed at Plymouth Rock.

Despite their numbers and the important role they have played in building this Nation, we have been slow to appreciate the problems and injustices suffered for so long by Hispanic Americans. Due in no small part to the efforts and advocacy of groups such as LULAC, America has finally acknowledge that Hispanics have every right to demand the quality education, the access to employment, and the freedom of opportunity that is their birthright as American citizens. We are moving to correct the injustices of the past.

LULAC, Mr. President, has been fighting the battle of discrimination and equal opportunity for generations. Back in the decade of the forties, long before Hispanic Americans became a significant political factor in this country, LULAC recognized the distinct educational requirements of Spanish-speaking children. The organization moved to meet this need by founding the "Schools of 400" which offered innovative educational programs to disadvantaged Hispanic children in an effort to insure their future success in the standard school system. In many respects the "Schools of 400" can be seen as the precursor of our Head Start program today.

LULAC's commitment to educational opportunity has been consistent over the years. The organization has sponsored a generous scholarship program for Hispanic youth aspiring to a college education. This program of financial assistance was reinforced by a precedent-setting recruitment and counseling program, the educational service centers for college students.

More recently SER-Jobs for Progress, a cosponsored organization of LULAC, has embarked on an historic high school program, El Colegio Bilingüe, which has opened its doors to students in the Nation's Capital. This program will provide special education programs for high school students who have recently arrived in the United States from Spanish-speaking countries and have encountered difficulty in the traditional school setting due to language problems.

Through programs such as these, and with its continuous commitment to the ideals of equal opportunity, LULAC has pressed hard for changes in policies and programs that conflict with the right to equal education for all Americans.

LULAC's achievements of the past are impressive, but there remain important challenges for the future. Reacting to incidents of police brutality against Hispanics and recognizing the significance and emotional nature of this problem, LULAC has played an important role in fostering a dialog between law enforcement officials and the Hispanic communities in many areas of this country. The organization has sponsored pioneer symposia that have served as an important forum for the exchange of ideas. Through these meetings a deeper understanding of the issues has been gained and greater progress has been achieved in bridging the gap of misunderstanding and mistrust between law enforcement officials and the Hispanic community.

The ad hoc committee to the U.S. attorney is a tribute to LULAC leadership and an important example of how progress can be made in this important and sensitive area.

The spirit of LULAC dialog extends to other areas, including our relations with Mexico. A joint Commission between Cabinet officials of the Mexican Government and Hispanic-American leaders has been established and is serving as another focal point of LULAC interest and endeavor. As a result of this Commission's formation, another forum is available for the discussion of issues affecting our border communities. The Commission has identified immigration, trade, energy, education, the administration of justice, and industrial development along the border as key areas requiring special attention.

LULAC's achievements have been extensive and significant; they have served as an inspiration to the Hispanic community, and it is a privilege for me to join in commending the leaders and members of LULAC on their 51st anniversary.

The struggle for social justice, human dignity, better opportunity in education, and greater access to employment will remain in the forefront of LULAC concern. As this new decade brings new challenges, it is good to know that LULAC can be counted on to maintain a key voice and guiding force in helping to shape responses to the issues of the eighties.●

FLORIDA JEWISH WAR VETERANS DEDICATE JANUARY AND FEBRUARY AS "BROTHERHOOD MONTHS"

● Mr. STONE. Mr. President, I would like to share with my colleagues an article which was brought to my attention by Willard Zweig, director of media for the Jewish War Veterans in Florida.

The Florida Jewish War Veterans have dedicated January and February as "Brotherhood Months" in an effort to combat bigotry. So far, they have started two programs.

Approximately 300 posts in Florida have participated in Operation Good Neighbor. The members volunteer at hospitals and other public service corporations on Christmas to relieve the Christian employees for at least 3 hours.

The second program involves displaying brotherhood posters on buses traveling throughout the State.

I commend the Jewish War Veterans of Florida for these activities. Perhaps we can see more of this type of charitable work in other States.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

AREA JEWISH WAR VETERANS FIGHT DAILY BATTLE AGAINST PREJUDICE, ANTI-SEMITISM

(By Gay Brock)

(Each post in the state has been alerted to volunteer their services for at least three hours on Christmas to the Salvation Army, hospitals, police departments and public service corporations. We are going to do non-technical assignments, relieving our Christian neighbors from their jobs and allowing them to spend a few hours with their families on Christmas.)

The Jewish War Veterans of the United States have fought for this country during times when battles were very tangible things. Now, in times of peace, they are waging a war against an intangible enemy called bigotry, an enemy that is most threatening to national unity.

In response to the prejudices and anti-Semitic attitudes that are dividing this country, the Florida Jewish War Veterans have designated the months of January and February as "Brotherhood Months" in Florida. And they have initiated two programs to further the brotherhood cause.

"We are inaugurating in the state of Florida an 'Operation Good Neighbor Program,' said Willard Zweig, director of media for the Florida Department of the Jewish War Veterans. "Each post in the state has been alerted to volunteer their services for at least three hours on Christmas to the Salvation Army, hospitals, police departments and public service corporations. We are going to do non-technical assignments, relieving our Christian neighbors from their jobs and allowing them to spend a few hours with their families on Christmas," he said.

The approximately 300 posts in the state will participate, including the Edward Goldberg Post 519 in Tamarac. The 22 members of the Tamarac post each will donate three hours of their time to Florida Medical Center, Plantation General Hospital or the Salvation Army, where they will help serve a Christmas dinner.

"Most people teach brotherhood but they don't follow through with it. This is brotherhood in action," said Zweig, who has been a member of the veteran's organization for more than 20 years.

The second program designed to put brotherhood in action involves displaying brotherhood posters on the outsides and insides of buses traveling through the state. The posters will espouse the Department of Florida brotherhood theme, which is, "United in Brotherhood, Fight Bigotry."

Arrangements are in progress with national bus advertising agencies, according to Zweig. Space for the placards will be donated.

Zweig teamed with Alvin F. Rose, state commander, to conceive the ideas for the brotherhood programs. He says they saw a need that could not be ignored.

"The Department of Florida has taken the initiative with providing brotherhood, because in these troubling times there is a greater need for brotherhood than in any time in our history," Zweig said.

Such efforts are not foreign to the veterans. They are in the process of establishing a Jewish chapel at the U.S. Military Academy at West Point and are involved in a program of planting trees in Israel for those departed. The Jewish War Veterans also have erected a shrine in Washington for all servicemen.

"We are interested in community affairs. We feel that is the cornerstone of our great country. We are the voice of patriotic American Jewry," Zweig said. "We feel there is no one more eligible to speak for the Jewish population than the Jewish war veteran. We have given our lives to the country. We feel we have proven our worthiness."●

GOING PUBLIC FOR THE PRIVATE ENTERPRISE SYSTEM

● Mr. JEPSEN. Mr. President, Mr. Willard C. Butcher, president of the Chase Manhattan Bank, recently spoke in Des Moines, Iowa, on defending the free-enterprise system from its many detractors. I think his remarks are most interesting and I offer them for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GOING PUBLIC FOR THE PRIVATE ENTERPRISE SYSTEM

Dick Leavitt is quite a persuasive fellow. A few months ago he called and told me about this wonderful forum here in Des Moines. "Bill," he said, "you're a staunch advocate of our system—right?"

I said, "Right."

He said, "You like to share your thoughts with others—right?"

I said, "Right."

He said, "And you believe strongly in *free speech*—don't you?"

I said, "Yes Dick, I do."

He said, "Good. How about coming out here and giving one!"

And here I am.

It is a pleasure to be in Des Moines amid the most efficient and productive agricultural land of the world, and among the many thriving business and financial institutions of Mid-America.

I would like to share with you today a major marketing opportunity. If diligently pursued and professionally implemented, it will raise your productivity . . . supply your energy needs . . . and boost your profits. What's even more important, it will help secure jobs, economic growth and prosperity for all Americans.

I recognize that's a mighty impressive claim. But I am talking about something far more powerful and profound than any chemical or machine. I am suggesting we market an idea—specifically, the idea of private enterprise.

Any successful marketing effort requires good timing and I believe the best time to promote free enterprise is now.

Record levels of inflation and negligible real economic growth have caused many Americans to question the statist and socialist concepts that have been a near-global orthodoxy over the past 50 years.

True, American capitalism is still on trial. But I believe the time is right for a fair trial. We're no longer being lynched, as we were in the 60's and early 70's. But if we fail to argue our case effectively, economic erosion in the U.S. will continue and public confidence and faith in America's future will decline.

It is the challenge of the business community to help channel growing public discontent with U.S. economic performance into constructive action—proposals for greater capital investment, improved productivity and a return to stable growth . . . concrete measures that will restore confidence in our system of private enterprise. To succeed we must obtain greater public understanding and active public support. Thus far, our efforts to rally the public have been less than adequate. The challenge to correct this deficiency is critical . . . the need urgent . . . and the task formidable. Witness the stakes involved:

Investment capital, the seed corn of economic growth and our future prosperity, has been generated in the U.S. at the lowest level in a decade.

For the past 10 years, the United States has had the lowest rate of productivity growth of any modern industrialized nation.

Contributing to our productivity lag, Government regulation is costing business over $100 billion annually.

Our record $34 billion balance of trade deficit in 1978 and a $28 billion deficit this year are tangible signs of our growing dependence on imported energy and the declining competitiveness of U.S. goods in domestic as well as foreign markets.

Meanwhile, rampaging inflation, which will reach a 13-percent annual rate in 1979, has battered our currency, shattered the retirement hopes of countless thousands of Americans and seriously undermined the confidence of Americans in their future, as well as having eroded the capital saved by our parents and grandparents.

For two centuries, economic expansion and growth provided increasing numbers of Americans with a better life. Yet, today we hear from a number of different sources that economic growth is unattainable or even undesirable. In essence, many Americans have lost faith in the institutions . . . the system . . . and the process that have generated our prosperity.

It is disturbing to see a sizable American movement that advocates surrender and retreat from the major challenges of our day. Instead of seeking new oil we're told we need to rigidly allocate what oil we already have. Instead of working toward even safer nuclear power we're told we must abandon nuclear power altogether. Instead of eliminating the disincentives that make it difficult for the small entrepreneur to thrive, we are asked to hobble our most efficient and competitive large companies.

"Small is beautiful" has become the rallying cry for those who tell us to reduce our expectations and learn to live with a static or declining standard of living.

Yet, I don't really believe that you, or I, or for that matter the vast majority of Americans, are prepared to deny our children tomorrow, the privileges that we enjoy, today.

How can we, the business community, counteract the sentiment against private enterprise and reverse government initiatives that impede economic growth, profit and incentive?

What can we do to foster the awareness and support necessary to revitalize and refurbish the system and institutions that generated our nation's 200-year economic ascendency?

I believe we have one critical task: to go public. We must take our message directly into American homes . . . to the people . . . to the ultimate deciders of our society's fate. We need nothing less than a major and sustained effort in the marketplace of ideas. As Judge Learned Hand noted, "Words are not only the keys to persuasion but the triggers of action."

I believe this is a top management concern. Speaking out is a constitutional right under the First Amendment and a duty in our representative democracy. The framers of our Constitution created a system where citizens, responsibly, yet aggressively, pursuing their self-interest are what determine the public interest.

We've been hearing a lot lately about "special" interests This tag has been used to suggest that some of us have less of a mandate to speak out and exercise our rights than others. The truth is that social workers as well as bankers . . . Common Cause as well as the Chamber of Commerce . . . and, yes, even Ralph Nader, all represent "special" interests.

DeTocqueville and other students of our democracy have marveled at how private, voluntary associations formed by citizens to advance their interests are a bulwark of our freedom, a fortress against oppression.

Interestingly, some of the friends of private enterprise as well as our critics, have cautioned the business community against active participation in the public policy process.

Both our proponents and our opponents tell us we shouldn't speak out because, in point of fact, they fear we will be effective.

Many of our friends tell us we shouldn't speak out because we lack credibility. Yet, only by speaking out will we achieve credibility.

I would agree that we are not effective when our efforts are defensive, apologetic or half-hearted. Reactive or lukewarm marketing measures are ineffective. It doesn't matter whether you're marketing an ideology or a product or service.

In that context, I think business has done a superior job over time in marketing its products. But we have done an inferior one in marketing ideas. And today we can't afford not to be involved in this "idea marketplace."

Business must have more than a casual commitment to the idea marketplace. Indeed, it seems to me that as individual companies and industries, we have succeeded in craving out our own deserved piece of the "economic pie." What we must now address collectively is preserving the pie itself.

We must apply the same sophistication discipline, resource commitment and courage in the marketing of ideas as we apply in the marketing of products. This implies an obligation to use all the opinion avenues open to us in our democracy:

Meetings with the media, customers and suppliers,

Issue advertising,

Congressional testimony, trips to campuses and meetings with community groups,

Participation in associations such as the Chamber of Commerce, the American Enterprise Institute, and the National Association of Manufacturers.

In short, participation in the idea marketplace should be a living, breathing part of everything we do in our everyday business lives.

In the past year or two, many large corporations have begun to take a more active and visible role in communicating and private enterprise perspective on a variety of critical public issues. This welcome activity has included a number of issue advertising campaigns that have generated wide exposure and some controversy. I believe the public was surprised and generally pleased to see business step forward to defend, report and explain its activities and positions. These efforts, although useful, are only a toe in the water. We will need wider and more sustained efforts.

Small business may not command the same resources as a Chase or Mobil, but it plays an equal, or perhaps even more critical, role in the public arena. The individual entrepreneur enjoys personal contact with his customers, employees, elected officials and fellow citizens in his community. This one-to-one exposure is far more difficult for an executive in a far-flung global corporation to achieve. Opinion polls have shown that despite the battering business in general has received, the public holds small business in higher esteem than nearly any other American institution. The independent businessman is the embodiment of the competitive and entrepreneurial spirit of our country. Reflecting the esteem in which he is held, the small business executive has proven to be highly effective in the halls of Congress, particularly in concert with organizations such as the National Federation of Independent Businessmen. Excellent examples were the successful efforts of the N.F.I.B. to defeat the consumer agency and their continuing efforts to promote tax reform that would encourage capital formation.

By lending support to the N.F.I.B., the Chamber, the American Productivity Center and other private enterprise groups, we not only enhance our lobbying efforts but we help provide platforms for some of the outstanding advocates of private enterprise—individuals such as former Fed Chief Arthur Burns, scholar Irving Kristol and academician Jack Grayson who, when accorded the necessary exposure, are every bit as effective as our most articulate critics.

Also the media are important for promoting public understanding and support of private enterprise.

The media have a major role in reporting and explaining the dynamics of our economy to their audience. This is not a matter of serving as a mouthpiece or even an advocate of business. I recognize that one purpose of a newspaper is to "comfort the afflicted and afflict the comfortable." Yet, the outstanding newspapers of our nation have always served as communicators, interpreters and educators as well as advocates and watchdogs.

One of the founders of the highly-respected, Pulitzer-prize winning Des Moines Register, Harvey Ingham has said, "Two avenues of popularity are open to newspapers. The first is to yield, to flatter, to cajole. The second is to stand for the right things unflinchingly and win respect."

I must say that the press has not always been as accurate or fair as it might be. For example, when the Commerce Department earlier this year announced sizable percentage hikes in corporate profits, these increases were emblazoned in large and provocative headlines. Yet, too often, the underlying stories failed to mention the recession-level troughs from which profits had recovered or the importance of profits for growth and productivity.

But is every misguided story the fault of the media?

Clearly not. The fact is business has not done all that it can to keep the media informed and accurate. We have been, in many instances, less than forthcoming with needed information. And the result, most often, has worked to our detriment.

How can we reverse this fact? I believe by accepting, as former AT&T Chairman John DeButts once put it, "A sufficient openness to public inquiry—and a sufficient readiness to respond to public challenges." Stated another way, in the public arena—we must be bold not bland, forceful not fearful, courageous not cowardly. And proactive not reactive.

When I travel on business throughout the U.S., I make an effort to meet with the business and financial writers and editors of the local press. I've found from these visits that the majority of the business press is conscientious and responsible. But they do need information and that's where you and I can play a role.

In the same spirit, we can't withdraw and whine over biased reporting. We have a right and obligation to hit back. We must effectively rebut inaccurate or distorted media coverage through letters to the editor, advertisements and other communications. This encourages dialogue, and causes reporters to think twice before they commit another distortion. In recent years, the media have taken a good deal of interest in themselves and often an effective rebuttal to poor journalism generates wider coverage than a stand-alone business communication.

Communicating the case for private enterprise in the electronic media is a far more difficult task. However, I think it's a healthy sign that all three major networks have added bona fide business reporters to their staffs.

It's difficult though to articulate the complex workings of our economic system within the brief flashes of TV and radio newscasts. At the same time, glib and glamorous spokespeople for the left have often succeeded in capturing the greatest share of attention while most business executives haven't yet mastered the necessary techniques.

But I think we must find new and better ways to use radio and TV to communicate our position. Effectively communicating in the electronic media requires preparation, experience and agreement over fair ground rules. It is not easy going before a camera and not all of us may be well-suited to it. But it must be done, professionally and on a regular basis.

Earlier this year, Cliff Garvin, the Chairman of Exxon appeared on both the Today Show and the Phil Donahue show to discuss the energy situation. Cliff was concise, effective and above all, he reached a large audience of people who may only casually read newspapers.

I believe the networks recognize the difficulty in providing accurate and fair coverage of a wide range of viewpoints. Yet it is unfortunate that, in the guise of fairness, the public has been shielded from serious discussion on many important issues.

How can the networks, who have a primary responsibility to courageously probe key public issues, deny Kaiser Aluminum the right to use TV advertising to discuss issues such as energy, bureaucracy and free enterprise? The networks cited the FCC's fairness doctrine, which requires that all responsible viewpoints on a controversial issue be represented, as the reason. Ads for political candidates are seasonal fare on T.V. Why not permit issue ads? The absence of dialogue is as dangerous as blatantly biased media. An informed public will be able to ferret out fact from opinion and reach its own conclusions. But if spirited debate on important issues is excluded from the media, we encourage ignorance which is the greatest enemy of the democratic process. I would hope, as a matter of public policy, this issue be reexamined.

Oliver Wendell Holmes, Jr. once said, "The best test of truth is the power of the thought to get itself accepted in the competition of the market." We must bring the public into the forefront of the idea marketplace. We must openly and vigorously debate with our opponents the critical issues of our day. We must stand for freedom of the press but insist on a responsible and fair press. We must speak out for the system that we believe safeguards our freedom . . . generates our prosperity . . . and provides for the greatest common good. We owe it to ourselves and the enterprises we represent. But far more importantly, we owe it to our children.●

INSPECTING IMPORTED MEAT

● Mr. BAUCUS. Mr. President, imports of foreign beef, pork and mutton have enormous impact on the domestic livestock industry. During 1978, over 2 billion tons of imported meat entered this country; approximately 6 percent of the red meat consumed in the United States.

Recently, President Carter signed legislation establishing a countercyclical formula that will reduce imports of meat when domestic supplies are excessive. Conversely, when domestic supplies are short, additional import authority will be available. Public Law 96–177 also sharply curtails the President's authority to suspend meat import quotas.

As a Senate cosponsor of the countercyclical legislation, I am pleased this long overdue legislation has finally been enacted. The Senate should now turn to equally serious problems—the inspection of imported meat.

Several months ago I introduced S. 1038, a bill that would require imported meat and meat products to be subject to the same rigid inspection standards required in domestic products.

My bill, and an identical measure introduced by Congressman BEDELL also would require these meat products to be labeled as "imported" and require that eating establishments using imported meat inform their customers of this fact.

TASK FORCE REPORT ON IMPORT INSPECTIONS

A recent task force report on the inspection of imported meat and poultry (USDA-Food Safety and Quality Service, November 1979) verifies the need for this legislation.

The task force report raises serious questions about both the effectiveness and efficiency of Federal efforts to assure the wholesomeness of imported meat products. According to the report:

> We have no basis for determining the level of effectiveness achieved by the present program. We know that it provides some protection against the entry of adulterated products into United States food channels, but we do not know precisely how much.

USDA inspectors constantly monitor domestic plants which produce meat to move in interstate commerce.

Federal inspectors examine animals both before and after slaughter to insure that they are free from disease and contamination. Samples taken from carcasses and internal organs are tested for the presence of chemical residues and disease organisms.

Federal inspectors insure that clean operating practices are used and that sanitary conditions are maintained in domestic slaughter facilities. Inspectors also assure that only permitted amounts of acceptable ingredients are used in product formulation.

This is in sharp contrast to the relatively haphazard inspection of foreign meat markets. The USDA does not conduct continuous inspection in foreign plants.

Rather, countries wishing to be eligible to export meat request USDA and State Department approval. Before granting approval, the USDA evaluates the countries' laws, regulations, and inspection staff and conducts on-site reviews.

Once a country is authorized to export, its inspection procedures are not routinely re-examined. For example, the task force report points out that although foreign countries are supposed to maintain laws and regulations to limit biological residues to levels permitted in the United States, the USDA has only recently begun to monitor compliance in this area.

Officials of the U.S. Food Safety and Quality Service do make periodic inspections of foreign plants. However, only 17 inspectors are available to monitor 1,159 certified foreign meat plants. At best, USDA inspectors visit foreign plants quarterly. Some overseas establishments are visited only once every 2 years.

These infrequent inspections cannot insure compliance with U.S. standards. The problem is aggravated because inspections must be announced in advance; plant operators thus have ample warning to prepare for inspections.

During 1978, only 38 times did an inspection result in plants being rejected for failure to meet U.S. standards.

Imported meat must undergo an additional inspection when it arrives at a U.S. port. But this inspection—supposedly a second line of defense—also is minimal.

Eighty-five inspectors examined the 2 billion pounds of meat imported in 1978.

In fact, imported product is routinely marked "U.S. inspected and passed" before it is actually inspected. Later, if for some reason the product fails to pass inspection, these "U.S. inspected and passed" marks are supposed to be removed or obliterated. There is at least a great potential for abuse under this procedure.

REMEDIAL LEGISLATION

The legislation I have introduced will tighten procedures for inspecting foreign meat. It will require that tests be conducted on carcasses and internal organs of animals slaughtered overseas to insure that these products do not contain more of any substance than the maximum level permitted in domestic meat or meat products.

Foreign inspectors would be required to meet criteria established by the Secretary of Agriculture that would be equivalent to the qualifications of domestic meat inspectors.

Appropriate officials in foreign countries would be required to certify to our Secretary of Agriculture that the products being imported have been tested and meet the standards established. Under current law, there is no such assurance.

If my bill is enacted, rather than inspecting foreign plants on an ad hoc basis, USDA inspectors will operate in an oversight capacity. They will, periodically, take samples of meat animals and products in foreign countries and send these to the United States for appropriate testing.

Mr. President, the USDA task force report points out that no inspection system can be perfect. The present inspection system, however, is so disjointed that it is impossible to even estimate its effectiveness. But no matter how much we improve this inspection system, the possibility exists for unsafe or unwholesome food products to be imported.

Thus, as a last line of defense, foreign meat and meat products must be labeled as imported. Consumers must be given the opportunity to avoid purchasing and consuming potentially unsafe food.

Consequently, S. 1038 requires that all imported meat products, and all products produced from imported meat, be clearly labeled to indicate their origin. Furthermore, eating establishments which serve products produced from imported meat would be required to inform their customers of that fact.

Mr. President, my proposal is necessary to protect American cattlemen from unfair foreign competition and to protect consumers from potentially harmful foreign meat products. I would urge my colleagues to join me as cosponsors of this important legislation.

Mr. President, I would ask that S. 1038, which has not previously appeared in the RECORD, be printed at this time.

The bill follows:

S. 1038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MEAT LABELING AND INSPECTION

SEC. 101. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) is amended by inserting "(1)" after "(a)", and by adding at the end thereof the following:

"(2) Any imported meat or meat food product referred to in paragraph (1), and any meat food product made in whole or in part of such imported meat, or its package or container, shall be labeled as 'imported', 'imported in part', or 'may contain imported meat', as appropriate. This paragraph shall not apply if the meat or meat product, or its package or container, is marked and labeled to show the country of origin as required under regulations referred to in paragraph (1).

"(3) If any person other than the ultimate consumer cuts meat or a meat food product into pieces or breaks a package or container containing meat or a meat food product and such meat, product, package, or container is required to be marked or labeled as provided in paragraph (1) or (2), such person shall affix a label to each piece of such meat or product or to each package or container in which any such meat or product is placed to provide the information required by paragraph (2). For purposes of this paragraph and paragraph (2), the term 'label' includes 'labeling' as defined in section 1(p).

"(4) No carcasses, parts of carcasses, meat or meat food products of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food shall be imported into the United States unless—

"(A) tests have been conducted on the carcasses, parts of carcasses, and meat and meat food products, including internal organs, of the animals from which such articles came, to determine whether such articles (i) contain any substance prohibited in any carcass or meat or meat food product from any domestically produced animal referred to above, and (ii) contain a level of any substance in excess of the maximum level of such substance permitted under law or regulation in any carcass or meat food product from any domestically produced animal referred to above;

"(B) such tests have been conducted, in the country from which such articles are being imported, by persons who have been initially certified (and subsequently recertified) in the same manner or similar manner and under the same criteria as persons who are initially certified (and subsequently recertified) by the Department of Agriculture to conduct such tests on articles of animals produced in the United States; and

"(C) the appropriate government official of the country from which any such article is being imported has certified to the Secretary that such article has been tested in accordance with regulations issued by the Secretary and that such article does not contain any substance referred to in subparagraph (A) or contain a level of any substance in excess of the maximum level referred to in such subparagraph, as appropriate.

"(5) In order to verify the accuracy of testing required for substances referred to in paragraph (4), the Secretary shall conduct a program under which inspectors of the Department of Agriculture take, from time to time, samples of carcasses, parts of carcasses, and meat and meat food products of animals referred to in paragraph (4) which are intended for export to the United States, including the internal organs of the animals from which such carcasses and meat and meat food products came, and send such samples to the United States for appropriate testing.

"(6) As used in paragraphs (4) and (5) of this subsection, the term 'substance' means any chemical matter for which the Department of Agriculture conducts tests on carcasses, parts of carcasses, and meat and meat food products, including the internal organs, of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food, for the purpose of determining whether residues of such chemical matter are present in such articles or to determine whether the residues of such chemical matter present in such articles exceeds levels authorized by law or regulation.

"(7) (A) The Secretary shall prescribe such assessments and fees on imported meat and meat food products as he determines necessary to cover the costs of inspections, certifications, testing, and labeling (or other marking) required under this section.

"(B) In establishing the level or rate of assessments and fees to be imposed under this title, the Secretary shall take into consideration the volume of exports, the value thereof, and such other factors as he deems appropriate in order to achieve a fair and equitable allocation of such assessments and fees among exporters.

"(8) The Secretary shall have authority to suspend or revoke the privilege of any exporter of meat or meat food products to export such meat or products to the United States if such exporter fails to pay the assessments or fees for which he is responsible to pay under this title.".

TITLE II—REQUIREMENT OF CERTAIN EATING ESTABLISHMENTS TO INFORM CUSTOMERS THAT IMPORTED MEAT OR MEAT FOOD PRODUCTS ARE SERVED IN SUCH ESTABLISHMENTS

SEC. 201. (a) The owner of any eating establishment shall inform individuals purchasing food from such establishment that such establishment serves meat or meat food products imported from a foreign country, or meat food products containing meat imported from a foreign country. The owner shall inform such individuals.

(1) by displaying, in a conspicuous place in such establishment, a sign indicating that food containing meat imported from a foreign country are served in such establishment; or

(2) by indicating such fact on the menus offered to such individuals.

(b) Any owner of an eating establishment who knowingly violates subsection (a) of this section, or whose employee or other agent knowingly violates such subsection, shall be fined an amount not to exceed $100 for each day such subsection is violated.

(c) For purposes of this section—

(1) The term "eating establishment" means any restaurant, cafeteria, lunch counter, or other facility (including any such facility located on the premises of any retail establishment)—

(A) which engages in operations affecting commerce; and

(B) which sells (for consumption on the premises) meat or meat food products which have been imported from a foreign country, or food containing meat imported from a foreign country.

(2) The term "commerce" means travel or transportation between any of the several States, or between any foreign country and any State, or between points in the same State but through any other State or any foreign country.

(3) The term "owner" means a corporation, partnership, association, any other legally organized entity or an individual.

(4) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(d) For purposes of this section, an eating establishment engages in operations affecting commerce if (1) such establishment serves or offers to serve food to any individual engaged in commerce, or (2) a significant portion, as determined by the Attorney General of the United States under section 202, of the food which such establishment offers for sale has moved in commerce.

SEC. 202. The Attorney General of the United States shall prescribe a regulation defining the term "significant portion", as used in section 201(d) of this Act, within thirty days from the date of the enactment of this Act.

SEC. 203. The provisions of this title shall become effective ninety days after the date of the enactment of this Act or thirty days after the effective date of the regulation described in section 202 of this Act, whichever occurs later.●

QUESTIONS AND ANSWERS ON THE FEDERAL CRIMINAL CODE

● Mr. **BAUCUS**. Mr. President, I am about to return to Montana to meet with constituents. One of the subjects I will be asked about is S. 1722, the proposed reform of the Federal criminal laws. Because of all of the interest in many aspects of the legislation I am providing responses to many of the questions most asked about the bill. I hope these responses are helpful:

Is it true that the Criminal Code bill heavily emphasizes the sanction of imprisonment?

This is not true. First, the Code specifies that an individual may be sentenced to a term of probation, a fine, a term of imprisonment, or a combination of these (§ 2001(b)). Nowhere in the general sentencing provisions of the Code is there any emphasis in favor of imprisonment. Indeed, the Committee Report spells out in some detail, that, of all the penalties available to the sentencing judge, it is the use of the criminal fine that should be encouraged (Committee Report at 971).

It is true that the bill does mandate that the sentencing commission impose "a substantial term of imprisonment" for a designated class of repeat offenders and "professional" criminals (Title 28 § 994(h) p. 334); but at the same time the sentencing commission is mandated to "insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense."

No such provision can be found in existing law. Two other innovative provisions cut against the argument that imprisonment is encouraged in S. 1722: First, the Commission is mandated to take into account "the nature and capacity of the penal, correctional, and other facilities and services available in order . . . to assure that the available capacities of such facilities and services will not be exceeded", (Title 28 § 994(g), p. 334); second, a major advance in penology is achieved for the first time in S. 1722 through a provision which prohibits use of a defendant's conviction as a bar to gainful employment or other right once the defendant is released from prison (§ 4031). In sum, the Code takes an important step forward in a variety of areas in promoting alternatives to incarceration and assisting the convicted offender in his return to society.

Second. Are the statutory maximums under the Criminal Code reform bill longer than current law?

The fact is that as a general rule statutory maxima under S. 1722 are considerably shorter than the maxima found in current federal law. In addition, one must remember that the maximum sentence which can be imposed for a specific offense is simply Congressional recognition of the maximum which should be imposed in the most egregious situation. Under the proposed sentencing guidelines system, the Sentencing Commission will promulgate guidelines reflecting the average presumptive sentence which should be imposed, taking into account "the average sentence imposed in such categories of cases prior to the creation of the Commission" (Title 28 § 994(1) p. 335). The new statutory maxima are irrelevant to this determination

Third. Does the bill provide for any sanction other than imprisonment?

Imprisonment is only one option available to the judge. Rehabilitation is another. The bill simply says that prison should be viewed as the punitive sanction. This does not preclude rehabilitation in prison, it simply prevents rehabilitation as a basis for release.

The bill specifically spells out that "the court, in determining the particular sentence to be imposed, shall consider . . . (3) the kinds of sentences available." (§ 2003(a)(3)), including imprisonment, fines and probation.

Fourth. Does the bill provide for preventive detention?

Technically, no.

What the Committee did do is provide that once a defendant has been ordered released on bail, considerations of community safety may be taken into account by the court in restricting the bailed offender's freedom (§ 3502). Opponents may legitimately question the value of allowing any consideration other than "likelihood of appearance" to be taken into account in the bail process. But "preventive detention" is a layman's phrase that promotes an inaccurate assessment of what the bill does and does not do. This point is critical.

The Committee Report spells out exactly what is intended by the new provision: "the Committee has approved an innovative proposal which would allow community safety to be taken into account for the first time, not in the initial decision as to whether or not a suspect should be bailed, but in the subsequent decision concerning what conditions should be placed on the suspect's freedom once released." (Committee Report at 10). The statute itself spells out the difference; it distinguishes between the decision to release or detain pending trial (§ 3502(a)), with the decision pertaining to the imposition of conditions once released (§ 3502(b)). Opponents sees § 3502(d)(11)—allowing the court to impose "any other condition reasonably necessary to assure . . . the safety of any other person or the community" as a backdoor way to impose preventive detention.

Although this catchall provision does give the court discretion in imposing other restrictions on a suspect's freedom, it defies the clear wording of the statute and legislative history to conclude that this discretionary condition in subsection (d) allows for the imposition of preventive detention in direct conflict with 3502(a). (See Committee Report at 10; see also, Kennedy, A New Approach to Bail Release: The Proposed Federal Criminal Code and Bail Reform, 48 Fordham L. Rev.—(March 1980)). Again, reasonable people can differ on whether or not considerations of "community safety" are justified even when the suspect has been released pending trial; but when opponents call the proposal in S. 1722 "preventive detention" (Civil Liberties Alert: Emergency Issue, December 1979), it immediately changes the whole tenor of what should be a legitimate debate.

Fifth. Aren't there numerous offenses covered by the criminal attempt section which are not covered under current law?

This statement is accurate. The theory underlying enactment of a general criminal attempt statute—similar to the attempt statutes found in most modern state codes—is to make conduct criminal which, if completed would be a crime.

It is important to keep in mind that the Baucus amendment exempted 22 crimes related to first amendment activities from the general attempt section.

Sixth. Isn't the conspiracy provision vague and doesn't it weaken the requirements of current law?

Opponents believe that the conspiracy provision of S. 1722 is "ambiguous" what does it think of current law (18 U.S.C. 371) which makes no mention of specific intent or any bilateral agreement requirement. They completely ignore the legislative history of this section in which the Committee reaffirms both the specific intent requirement and the need for a bilateral agreement:

"The Committee wishes to emphasize that it intends by this formulation to perpetuate the scope of current conspiracy law as it has developed under 18 U.S.C. 371. The term "agree" is used to continue the concept that a conspiracy must involve a combination of minds—a partnership in crime—to accomplish an unlawful object by lawful means, or by unlawful means a lawful object. There is thus no such thing as a 'unilateral' conspiracy and this formulation does not change that situation. Moreover, the actors must intend to commit a crime at the time the agreement was made.

Thus, if more than two actors are involved in the agreement and one of the actors does not have an intent that a crime be committed then that actor cannot be convicted of conspiracy. If only two actors are involved in the agreement and one actor does not have the intent that a crime be committed there is no conspiracy. To the extent that some have suggested that the language in this provision may be susceptible to a construction different from current law concepts, the Committee reiterates that such a construction would be contrary to its intent." (Committee Report at 165.)

In addition, in criticizing this section, no mention is made of the civil liberties improvements found in the section—the requirement of an overt act for every conspiracy (such is not the case today. See Committee Report at 163 n. 53); and the inclusion for the first time of a specific renunciation defense (§ 1002(b)).

Seventh. Isn't it true that under the provision of "obstructing government function by fraud" that Daniel Ellsberg could be prosecuted?

It is important not to ignore a very important improvement found in § 1301(b) which makes it a bar to prosecution if the obstruction is committed "solely for the purpose of disseminating information to the public". Such a bar does not now exist in current law and is aimed at avoiding a repetition of a federal prosecution against Daniel Ellsberg for his acquisition of the Pentagon Papers.

Eighth. If you give a mailman wrong directions are you guilty of "obstructing a government function by fraud"?

No. You have to have specifically intended to defraud.

Ninth. Does the offense "obstruction of a government function by physical interference" apply to all public servants?

The provision is now narrower than existing statutes insofar as the general term "public servant" in (a) (1) has been replaced with a very specific, defined term of "United States official, a judge, a juror, a law enforcement officer, an employee of an official detention facility, or an employee of the United States Probation System." This change substantially reduces the number of federal officials subject to obstruction under existing law.

Tenth. Doesn't the section of "obstructing government function by physical interference" interfere with basic free speech?

In citing this section as a threat to "the exercise of First Amendment rights" (p. 3), the criticism ignores § 1302(b) which makes a defense that the obstruction was "otherwise protected by rights of free speech or assembly", did not involve violence and "did not significantly obstruct or impair a government function." No such defense exists in current law; It is a recognition for the first time in federal criminal law that an otherwise illegal obstruction must give way to first amendment activity in certain cases.

Eleventh. Wouldn't the section of "obstructing govrnment function by physical interference" mean that a person who rips a wiretap off his phone be guilty of an offense?

One can always think up some fact situation which would lead an unscrupulous prosecutor to invoke a provision never intended to cover the hypothetical. Nevertheless, there are two answers to the hypothetical: (1) It is technically already a crime to engage in this activity if a conspiracy is involved (18 U.S.C. 371 and various physical obstruction statutes); (2) in any event, whether or not either of these statutes are violated in the fact pattern proposed would depend on a factual determination by a jury as to the specific intent of the defendant in evading the FBI surveillance or removing a telephone wiretap. §§ 1301 and 1302 are "specific intent" crimes; if the intent underlying the acts is not to obstruct a government function but, rather, to protect one's privacy regardless of the government function, then no crime has been committed.

In the hypotheticals offered, the question remains—are the acts undertaken because the defendant does not like the FBI and wants to make life difficult, or because he wishes more privacy. This distinction is critical concerning the application of the sections.

Twelfth. Does the bill weaken white collar crime provisions in current law?

The exact opposite is true; if there is one area of the new code which substantially strengthens existing law, it is in the area of white collar crime. A partial list of the major improvements includes: a new section making it a federal offense to engage in conduct that "places another person in imminent danger of death or serious bodily injury and . . . manifests an extreme indifference to human life or . . . an unjustified disregard for human life." (§ 1617—Endangerment); a new criminal fine structure that distinguishes for the first time between individual and corporate offenders and raises maximum fine levels from $50,000 (current law) to $1,000,000, (§ 2201); a new restitution section (§ 2006) which makes it easier for the victims of white collar fraud to gain recovery for the loss suffered; a requirement that the victims of white collar crime be notified (§ 2005) and be allowed to come into court to argue for restitution; government appeal of sentence (§ 3725), a new provision aimed specifically at the white collar offender who today benefits from consistently lenient sentences; application of federal jurisdiction to overseas bribery involving U.S. citizens (§ 204), a provision aimed at situations similar to the Lockheed Bribery Scandal. And this is not the complete list of improvements.

None of these provisions can be found in existing law. It must be reemphasized, that many of those who encouraged the Committee to cut back or delete further new white collar enforcement weapons, e.g., solicitation (§ 1003) and government appeal of sentence (§ 3725). One can agree or disagree with the position as to these offenses; but to argue that they should be deleted and then maintain that S. 1722 has been seriously weakened in this area, is not only unfair but also untrue. It is true that S. 1722 is not quite as strong in the white collar crime area as was S. 1437; but not only are the differences are minimal in terms of overall law enforcement improvements.

Thirteenth. Do the obscenity provisions impose new local community standards?

It is true that the current federal obscenity law (18 U.S.C. 1461–1465), enacted almost 100 years ago, makes no reference to "local community standards". But the recent Supreme Court caselaw has held that juries may constitutionally be instructed to use such a local standard (see e.g., *Miller* v. *California*, 413 U.S. 15 (1973); *Smith* v. *United States*, 431 U.S. 291 (1977); Committee Report at 879–880). But beyond the single unfortunate change from current statutory law S. 1722's "new" obscenity provision (§ 1842) offers important improvements over existing law: (1) the current provision prohibiting the mailing of "Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion" (§ 1461) is repealed; (2) the scope of the new section no longer includes private use of obscene materials or the gratuitous transfer of such materials (except to minors) (§ 1842(a)); (3) the new provision prohibits any federal prosecution in a locality where the material is legal (§ 1842(c)), this is not the law today; and (4) the venue for a conspiracy prosecution under the federal obscenity statute is sharply restricted by limiting such prosecutions to the federal district where the allegedly obscene material was disseminated or where the offense was completed. (§ 3311(g)) (See also *Committee Report* at 1064–1065) None of these "new" protections are found in existing law.

Fourteenth. Isn't false oral statements a totally new offense?

False oral statements are already a federal crime, covered in 18 U.S.C. 1001. Opponents continually makes reference to the fact that one Circuit steadfastly refuses to permit false oral statement prosecutions under 18 U.S.C. 10001. Never has so much effort been expended on defending such an anomalous ruling which has not been followed by other courts. See Committee Report at 379.) But beyond this opponents are unfair in minimizing the value of a new corroboration requirement not now found in current law (§1346(b)(4)) which was offered by Senator Baucus. Great concern was raised over the possibility of a "my word against your word" prosecution for a false oral statement (Committee Hearings at 10181); This fear has largely been negated by the new corroboration requirement. Opponents also minimize other important changes not now found in current law—the need for *Miranda* type warnings before an oral statement is given, a new affirmative defense of retraction (§ 1346(c)) and a specific requirement that the defendant must know that the person to whom the statement was made was a law enforcement officer. None of these protections are found in existing law.

Fifteenth. Do the extortion provisions mean that Federal officials can bring extortion prosecutions against labor union member who picket or puncture tires?

This year's labor extortion provision is limited to labor conduct causing "death or severe bodily injury", i.e., property damage is exempt. In addition, the provision is only applicable if state or local authorities are unable or unwilling to prosecute.

Sixteenth. Is the crime of perjury substantially changed?

As reported out of the Committee under a Baucus amendment, attempted perjury is now prohibited (§ 1004(b)(2)). This is an important improvement over existing law. The remaining criticisms of the section voiced by opponents are largely criticisms of existing perjury statutes. Opponents are wrong in stating that S. 1722's "definition of materially unjustifiably expands existing case law" (Committee Hearings at 10180). Opponents acknowledge current law speaks in terms of perjury "capable of influencing the tribunal"; S. 1722 speaks in terms of falsifications which "could have affected the course" of the matter. There is no difference; neither the current law formulation nor S. 1722 require that any perjurious harm actually ensue. Nor can opponents reasonably criticize the Code rule making materiality a question of law. This is the universal rule in all federal courts today (see e.g., *Sinclair* v. *United States*, 279 U.S. 263, 298–299 (1929) and its progidy). Nor are opponents on sound footing when it argues that materiality should require a "reckless" state of mind on the part of the defendant.

Not only is this not the law today in any federal court, but it is no longer the rule in Congressman Drinan's House bill. Materiality is a question of law; the defendant's state of mind is and should be irrelavent. Finally, opponents would retain the archaic "2-witness rule" for perjury prosecutions (Committee Hearings at 10181). But the 2-witness rule has already been repealed in current federal law for all judicial and grand jury proceedings (18 U.S.C. 1623). There is simply no sound, logical reason for retaining the 2-witness rule for other non-judicial proceedings. (Cf. 18 U.S.C. 1621)

Seventeenth. Did the Committee weaken environmental provisions?

The Senate Judiciary Committee adopted two significant amendments in this area.

The underlying philosophy was to strenghen the enforcement of federal anti-pollution laws and to stiffen first offense penalties by changing them from misdemeanors to Class E felonies. In addition, second offenses of all such statutes would be considered felonies.

(1) Sect. 1853, this amendment raised from misdemeanors to Class E felonies first offense violations of the most important federal anti-pollution statutes. Most widely abused among these laws were: The Clean Water Act, and the Solid Waste Disposal Act. The jurisdictional base of Sect. 1853 was broadened to include the Toxic Substances Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Outer Continental Shelf Lands Act and the Rivers and Harbors Act of 1899.

(2) Sect. 1617, this amendment addresses crimes against the environment which also

potentially place persons in imminent langer of death or serious bodily injury. It upgrades all offenses under this section to a federal level. As a further expansion of the list of offenses it cross-references Sect. 1853 as well.

Senators Leahy and Baucus added to Sect. 1617 the following federal acts for which a person could be charged with endangerment: the Occupational Safety and Health Act of 1970; the Federal Hazardous Substances Act; the Federal Food, Drug and Cosmetic Act and the Federal Metal and Non-metallic Mine Safety Act.●

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this has been cleared with Mr. STEVENS, and if it has not I will undo it, but on my word it has been or I will vitiate it—that the Senate proceed to the consideration of Calendar Orders 596, 597, and 601.

ARTS AND HUMANITIES ACT OF 1980

The PRESIDING OFFICER. The clerk will state the first bill by title.

The legislative clerk read as follows:

Calendar 596, a bill (S. 1386) to amend and extend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Arts and Humanities Act of 1980".

DEFINITION OF HUMANITIES

SEC. 2. Section 3(a) of the National Foundation on the Arts and the Humanities Act of 1965 (hereinafter referred to as the "Act"), is amended by striking out "theory, and practice" and inserting in lieu thereof "and theory".

PURPOSES OF ARTS GRANTS

SEC. 3. (a) Section 5(c)(1) of the Act is amended by inserting "and cultural diversity" after "American creativity".

(b)(1) Section 5(c) of the Act is amended by redesignating clause (5) as clause (6) and by inserting after clause (4) the following new clause:

"(5) programs for the arts at the local level; and".

(2) The last sentence of section (5)(c) of such Act is amended—

(A) by striking out "clause (5)" and inserting in lieu thereof "clause (6)"; and

(B) by striking out "Labor and Public Welfare" and inserting in lieu thereof Labor and Human Resources".

STATE ARTS GRANTS

SEC. 4. Section 5(g) of the Act is amended—

(1) by striking out all that follows "State plan" in the text of paragraph (2)(A) and inserting in lieu thereof a semicolon; and

(2) by adding at the end of paragraph (4) the following new subparagraph:

"(E) For the purpose of paragraph (3)(B) of this subsection, the term 'State' includes, in addition to the several States of the Union, only the special jurisdictions listed in section 3(g) of this Act having a population of 200,000 or more, according to the latest decennial census.".

INTERAGENCY AGREEMENTS

SEC. 5. Section 5(k) of the Act is amended by adding at the end thereof the following: "The Chairman may enter into interagency agreements to promote or assist with the arts-related activities of other Federal Government agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized for the purposes of section 5(c) of this Act for the costs of such activities.".

CHALLENGE GRANTS

SEC. 6. The matter preceding paragraph (1) of section 5(l) of the Act is amended by inserting "strengthening quality by" after "for the purpose of".

REPEALER

SEC. 7. Section 5 of the Act is amended by repealing subsection (m).

NATIONAL COUNCIL ON THE ARTS

SEC. 8. Section 6 of the Act is amended by inserting after the first sentence of subsection (c) thereof the following: "The term of office of all Council members shall expire on the third day of September in the year of expiration.".

ACTIVITIES OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

SEC. 9. (a) Section 7(c)(2) of the Act is amended by striking out the word "loans," in the matter in parentheses and by deleting all that follows the first semicolon.

(b) The last sentence of section 7(c) of the Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

STATE HUMANITIES COUNCILS

SEC. 10. (a) Section 7(f)(2) of the Act is amended to read as follows:

"(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council, or other entity, in existence on the date of enactment of the Arts and Humanities Act of 1979, as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) of this subsection relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this paragraph, the State shall submit, prior to the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairman finds—

"(i) designates or provides for the establishment of a State agency (hereafter in this section referred to as the 'State agency') as the sole agency for the administration of the State plan;

"(ii) provides that the chief executive of the State will appoint new members to the State humanities council, or other entity, designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council or entity, until the chief executive has appointed all of the members of the council or entity;

"(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) of this subsection relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

"(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) and which are designed to bring the humanities to the public;

"(v) provides assurances that funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph; and

"(vi) provides that the State agency will make such reports, in such form, and containing such information, as the Chairman may require.

"(B) In any State in which the chief executive officer of the State fails to file an application under subparagraph (A), the grant recipient in that State shall—

"(i) establish a procedure which assures that four members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State except that in no event may the number of such members exceed 20 per centum of the total membership of such governing body; and

"(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection in the fiscal year involved.".

(b) Section 7(f)(3) of the Act is amended to read as follows:

"(3) Whenever a State selects to receive Federal financial assistance under this subsection in any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such grants at such time as shall be specified by the Chairman. Each such application shall be accompanied by a plan which the Chairman finds—

"(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B) of this subsection;

"(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c) of this section;

"(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

"(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

"(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

"(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

"(G) establishes procedures to assure public access to information relating to such activities; and

"(H) provides that such grant recipient will make reports to the Chairman, in such form, at such times, and containing such information, as the Chairman may require.".

(c)(1) Section 7(f)(4) of the Act is amended—

(A) by inserting "State and" immediately before "grant recipient" each time it appears;

(B) by inserting "States and" immediately before "grant recipients" each time it appears; and

(C) by inserting before "entities" the following: "States and regional groups and".

(2) Section 7(f)(5)(A) of the Act is amended by striking out "Whenever the provisions of paragraph (3)(B) of this subsection apply in any State, that part of any" and inserting in lieu thereof the following: "The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant

recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any".

(3) Section 7(f)(5)(B) of the Act is amended by inserting "State agency or" before "grant recipient".

(4) Section 7(f)(6) of the Act is amended by inserting "a State or" before "any entity".

(5) Section 7(f)(7) of the Act is amended—

(A) by inserting "group or" before "grant recipient" in clause (A);

(B) by inserting "State agency or" before "grant recipient" in clause (B);

(C) by striking out "plan" in clause (B) and inserting in lieu thereof "State plan or grant recipient application";

(D) by inserting "group or State agency or" before "grant recipient" in clause (C); and

(E) by inserting "group, State agency, or" before "grant recipient" each time it appears in the matter following clause (C).

(6) Section 7(f)(8) of the Act is amended by striking out "paragraphs (4), (5), and (6)" and inserting in lieu thereof "the third sentence of paragraph (4), and paragraphs (5) and (6)".

(7) Section 7(g) of the Act is amended by inserting "agency or" before "entity".

(d) Section 7(f)(5) of the Act is further amended by adding at the end thereof the following new paragraph:

"(E) For the purpose of paragraph (4)(B) of this subsection, the term 'State' and the term 'grant recipient' include, in addition to the several States of the Union, only the special jurisdictions listed in section 3(g) of this Act having a population of two hundred thousand or more, according to the latest decennial census.".

(e) Section 7 of the Act is further amended by inserting immediately after subsection (h) the following new subsection:

"(i) The Chairman may enter into interagency agreements to promote or assist with the humanities-related activities of other agencies of the Federal Government, on either a reimbursable or nonreimbursable basis, and may use funds authorized for the purposes of section 7(c) of this Act for the costs of such activities.".

GRANTS BY THE CHAIRMAN

SEC. 11. Section 8(f) of the Act is amended by striking out "$17,500" and inserting in lieu thereof "$30,000".

ADMINISTRATIVE PROVISIONS

SEC. 12. (a) Section 10(a)(4) of the Act is amended by inserting "and culturally diverse" after the word "geographic".

(b)(1) Section 10(b) of the Act is amended by striking out "January" and inserting in lieu thereof "April".

(2) Section 10(c) of the Act is amended by striking out "January" and inserting in lieu thereof "April".

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a)(1) The first sentence of section 11(a)(1)(A) of the Act is amended to read as follows:

"(A) For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $115,500,000 for the fiscal year 1981, $135,500,000 for the fiscal year 1982, $158,000,000 for the fiscal year 1983, $184,750,000 for the fiscal year 1984, and $213,200,000 for fiscal year 1985.".

(2) The first sentence of section 11(a)(1)(B) of the Act is amended to read as follows:

"(B) For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $114,500,000 for the fiscal year 1981, $132,500,000 for the fiscal year 1982, $153,500,000 for the fiscal year 1983, $178,000,000 for the fiscal year 1984, and $206,000,000 for the fiscal year 1985.".

(b) Section 11(a)(2) of the Act is amended to read as follows:

"(2)(A) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1985, to the National Endowment for the Arts an amount equal to the total amounts received by such Endowment under section 1(a)(2) and by the grantees of such Endowment for the purposes of section 5(c), except that the amount so appropriated to the National Endowment for the Arts shall not exceed $18,500,000 for fiscal year 1981, $18,500,000 for fiscal year 1982, $18,500,000 for fiscal year 1983, $20,000,000 for fiscal year 1984, and $22,500,000 for fiscal year 1985.

"(B) There are authorized to be appropriated for each fiscal year ending prior to October 1, 1985, to the National Endowment for the Humanities an amount equal to the total amounts received by such Endowment under section 10(a)(2) and by the grantees of each Endowment for the purposes of section 7(c), except that the amount so appropriated to the National Endowment for the Humanities shall not exceed $12,500,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $17,000,000 for fiscal year 1983, $19,500,000 for fiscal year 1984, and $22,500,000 for fiscal year 1985.".

(c)(1) Section 11(a)(3)(A) of the Act is amended to read as follows:

"(A) There is authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Arts an amount equal to the total amounts received by such Endowment and by the grantees of such Endowment for the purposes set forth in section 5(l)(1) pursuant to the authority of section 10(a)(2), except that the amount so appropriated to such Endowment shall not exceed $27,000,000 for fiscal year 1981, $32,000,000 for fiscal year 1982, $38,500,000 for fiscal year 1983, $44,250,000 for fiscal year 1984, and $52,300,000 for fiscal year 1985.".

(2) Section 11(a)(3)(B) of the Act is amended to read as follows:

"(B) There is authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Humanities an amount equal to the total amounts received by such Endowment and by the grantees of such Endowment for the purposes set forth in section 7(h)(1), pursuant to the authority of section 10(a)(2), except that the amount so appropriated to such Endowment shall not exceed $30,000,000 for fiscal year 1981, $34,500,000 for fiscal year 1982, $40,000,000 for fiscal year 1983, $46,000,000 for fiscal year 1984, and $53,000,000 for fiscal year 1985.".

(d) Section 11(a)(4) of the Act is amended to read as follows:

"(4) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraphs (2) and (3) of this subsection which are consistent with the requirements of sections 5(e), 7(f), 5(l)(2), and 7(h)(2), as the case may be.".

(e) Section 11(c) of the Act is amended to read as follows:

"(c)(1) There are authorized to be appropriated to the National Endowment for the Arts $14,000,000 for fiscal year 1981, $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, $17,000,000 for fiscal year 1984, and $18,000,000 for fiscal year 1985 to administer the provisions of this Act, including not to exceed $35,000 in any fiscal year for official reception and representation expenses, or any other program for which the Chairman of the National Endowment for the Arts is responsible.

"(2) There are authorized to be appropriated to the National Endowment for the Humanities $13,000,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $15,500,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $17,500,000 for fiscal year 1985, to administer the provisions of this Act, including not to exceed $35,000 in any fiscal year for official reception and representation expenses, or any other program for which the Chairman of the National Endowment for the Humanities is responsible.".

Mr. PELL. Mr. President, today we are considering S. 1386, a bill to reauthorize the National Endowment for the Arts and the National Endowment for the Humanities for 5 years or through fiscal year 1985.

The legislation contains a number of features which will allow the endowments to serve their respective constituencies from a broader financial base and yet at the same time operate more effectively and efficiently. Accordingly, the bill provides for a continuation of the arts and humanities challenge programs. These grants, which were a major feature of the 1976 reauthorization legislation, have had an important impact in assisting cultural institutions to raise the levels of their financial support from private sources. The required match of $3 nonfederal for each Federal dollar has produced a uniquely successful cultural partnership of the public and private sectors. While continuing to serve the major cultural institutions, I believe that the Arts Endowment should expand the challenge grant concept to include a greater diversity of cultural organizations, especially those whose own fundraising capabilities are not yet highly developed. Challenge grants should assist all institutions in achieving better financial and managerial stability.

In order to administer the Challenge and Treasury grant moneys as efficiently as possible, the legislation allows those who receive these grants to certify to the endowments that the matching dollars are actually in hand rather than transmit these same dollars to the Treasury for retransmittal to the grantee as is required at present. Paperwork will be substantially reduced as a result of these changes made in the committee bill, since the cumbersome transfer of funds will no longer be required.

Another feature of the bill which is of special interest to me authorizes the chairman of the National Endowment for the Arts to support the arts at the local level.

The emergence of strong local or community arts agencies is a tremendously positive development on the national art scene. Partly due to the assistance and expertise of the State arts councils, the number of community arts agencies, has increased from 200 to well over 2,000 in the last 10 years. These agencies are large and small, urban, suburban, and rural and they are causing the arts to touch the lives of more people across the country. I sincerely hope that the arts endowment will develop a program of support for these increasingly important local arts organizations.

The section of the bill which deals with the humanities programs in the States is the result of many months of thought and concern. As some of my colleagues may recall, I have been especially interested in the success of State humanities programs for many years. The 1976 reauthorizing legislation, which I sponsored, helped bring the programs of the humanities committees in each State to a broader and a very receptive public. The increased participation in an ever-widening variety of humanities programs is tremendously encouraging to me.

I am disappointed, however, in one important aspect of these programs since the 1976 reauthorization, and that is the general lack of communication between the humanities committees and the State governments and, often, the citizenry of the State.

The legislation under consideration today provides an option which, I believe, will strengthen humanities programs at the Federal, State, and local levels by allowing the governor of a State to establish a full-fledged State humanities council. For such a council to be designated, the humanities organization already in existence as the recipient of the State's allotment of funds must be named. In addition, the State must match 50 percent of the minimum State grant or 25 percent of the total amount of Federal assistance, whichever is higher for that fiscal year. These moneys must come from newly appropriated State funds and should not be transferred from other State programs such as those in the arts. The committee believes that separate programs are important to the continued strength and vigor of each area.

Should a State elect to establish a State humanities council, the Governor will be entitled to appoint new members to the council as the terms of current members expire. Moreover, it is important that these State humanities councils continue to carry out humanities programs that are accessible, useful, and meaningful to as broad a public as possible.

If a State should fail to meet any of these requirements for a State humanities council, the existing humanities organization will continue to operate as it does at the present time, except that four members will be gubernatorially appointed instead of two. The gubernatorial appointees, however, shall not constitute more than 20 percent of a council's membership.

One additional section of this legislation which I wish to bring to my colleagues' attention concerns the practice at each endowment of using privately raised funds for entertainment and other representational purposes. In order to avoid any situations involving a potential conflict of interest, the committee bill provides a separate reservation of administrative funds for representational purposes. It is the intent of the committee that all independent fund raising by the endowments for these purposes be ended, since the reserved sum should be ample to meet all entertainment and other representational needs.

Mr. JAVITS. Mr. President, as an author, with Senator PELL, of the original National Foundation on the Arts and Humanities Act of 1965, and as the author in the other body, 31 years ago, of legislation designed to establish ongoing Federal support for the arts, I am pleased to support these extensions of programs to assist the arts and humanities, and provide institutional aid to our Nation's museums.

Mr. President, Senator PELL, like myself, has been working at this for years with the many other members who perceive our cultural enrichment as a critical national need, are deeply gratified by the extraordinary growth in programs for the arts and humanities in the States and rural communities since the crowning of our efforts in 1965. From somewhat meager—in current terms—beginnings in Federal appropriations in 1966—a total of $5 million for both the Arts and Humanities endowments, appropriations have grown in fiscal year 1980 to over $300 million. More importantly, support for the arts and humanity, in particular, at the State and local level has expanded tremendously in response to the establishment of the endowments, which triggered receipt of Federal funds for State arts and humanities programs on the establishment of State arts and humanities agencies. Since 1966, State effort has increased from a total of $4 million to more than $97 million today, far overmatching the Federal involvement in State programs.

I am especially gratified, Mr. President, that my own State of New York, recognizing the critical role of the arts in the life of our citizens, even in the midst of severe fiscal constraints, has continued to see fit to allocate substantial sums to the New York State Arts Council, chaired so admirably by Kitty Carlisle Hart. New York's appropriations for the arts currently approach $35 million, constituting almost 40 percent of the effort by States nationwide.

Moreover, the growth in Federal and State support has had a resounding effect on local arts activities. Community arts programs have grown from 150 in 1966 to over 2,000 today. As Livingston Biddle, Chairman of the National Endowment for the Arts noted in testimony before the Subcommittee on Education, Arts, and Humanities, since 1965, the number of professional symphony orchestras eligible for assistance has grown from 58 to 144; opera companies from 27 to 65; professional theaters from 22 to 270; dance companies from 37 to 200. This magificent growth has been accompanied by a concomitant improvement in the quality of cultural programs. And, equally important, the infusion of Federal, State, and local support have both generated, and responded to, public involvement in the arts. Orchestras have tripled their audiences since 1965, from 8.6 million to over 23 million today. Opera audiences have doubled. Theater audiences have increased sixfold. As Lee Kimche, Director of Museum Services stated before the subcommittee, over 500 million persons visited our Nation's 5,500 museums last year, more than nine times the paid attendance of professional baseball, football, and basketball games.

This authorization of arts, humanities, and museum programs reflects the subcommittee's general satisfaction with the operation of the two endowments and the Institute of Museum Services, and this is basically a simple extension of these activities—5 years for the endowments and 2 years for the Institute. S. 1386, the Arts and Humanities Act of 1980, recognizes an expanded role for community arts agencies and envisions the possibility of establishing a community arts program in the arts endowment to support arts at the local level.

The bill encourages the endowment to expand the highly successful Challenge Grant program—which Senator PELL and I initiated in 1976, and which has proven to be a critical link in establishing a strong cultural partnership between the public and private sectors—to include a greater diversity of cultural institutions, while maintaining the highest standards of quality we have come to expect from Challenge Grant recipients.

The principal feature of our reauthorization of the Humanities Endowment programs relates to the role of the State humanities programs. Current law provides that the Governor of a State may appoint two members to a public State humanities council, unless the State chooses to match Federal financial assistance, in which case the Governor may appoint one-half the membership of the council.

My friend, and the initiator of the humanities endowment concept, Senator PELL, believes strongly that the States should officially play a greater role in the development of State humanities programs, similar to their activity in arts programs. Accordingly, the committee reached an agreement whereby the State may establish an official State humanities council based upon a requisite level of State appropriation for the humanities and the designation of the existing humanities organization as the State council. If a State elects to meet these criteria, the Governor of that State will be entitled to appoint new members as terms of current members expire. It is especially important to stress that, in its action to allow for a change in the status of the State humanities councils, the committee desired that the public, "citizen-steward" character of the existing councils be retained, while seeking to guarantee that State councils be more assertive in their stewardship of public funds. The committee also emphasized that any officially designated council is to be the central, policymaking organ of a State humanities agency, rather than an advisory adjunct of a new State bureaucracy under the aegis of a State's Governor.

Mr. President, S. 1429 reauthorizes the Institute of Museum Services for a period of 2 years, rather than a longer period, to allow the subcommittee to determine the proper placement of the Institute—in the Smithsonian, as part of a triad with the two endowments, or in the Department of Education, which is its current home. As the Institute is a fledgling entity, established only 4 years ago, we will have the opportunity over the next 2 years to examine its functioning as a relatively autonomous segment of the new Department, and whether the necessary improvements in management of the Institute's grant-making procedures specified in S. 1429 will render moot an alternative location.

Finally, Mr. President, I would like to note that my friend and colleague from the House, TED WEISS, has introduced innovative legislation, which we did not have the opportunity to consider prior to S. 1386's reaching the floor, to establish a program, under the auspices of the Arts Endowment, to employ artists in community-related creative projects. This Federal artists' program would channel funds from NEA to local sponsoring organizations selected by regional, State, city, and community arts agencies to reduce endemic unemployment and underemployment among artists and simultaneously increase the availability of cultural experiences to the public. Sponsoring organizations would supply a portion of the artist's salary and supply necessary materials, with the endowment providing the remaining share. I believe that Congressman WEISS' proposal merits serious consideration as the other body continues its deliberations on NEA programs, and I hope that we will be able to review this proposal, or a modification thereof, when we reach conference on this bill.

Mr. President, last June 26, my dear friend Agnes DeMille opened her most eloquent statement in support of an extended Federal role in cultural affairs by quoting Bernard Shaw: "Next to torture, art persuades fastest." With this caveat in mind, I urge my colleagues to support these measures.

UP AMENDMENT NO. 972

Mr. PELL. Mr. President, I send to the desk technical amendments which have been worked out in cooperation with the Budget Committee, and I ask the clerk to state them.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment numbered 972.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 7, line 16, strike out "may" and insert in lieu thereof "shall".

On page 7, line 17, strike out "authorized" and insert in lieu thereof "appropriated".

On page 8, line 22, strike out "1979" and insert in lieu thereof "1980".

On page 14, line 21, strike out "may" and insert in lieu thereof "shall".

On page 14, line 22, strike out "authorized" and insert in lieu thereof "appropriated".

Mr. PELL. These amendments are designed to avoid any implication that contract authority vested in the endowments could be back-door funding in violation of the Budget Act. These amendments have been cleared on both sides. I move the adoption of the amendments at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MUSEUM SERVICES AMENDMENTS OF 1980

The PRESIDING OFFICER. The clerk will state the next bill by title.

The legislative clerk read as follows:

Calendar 597, a bill (S. 1429) to extend the Museum Services Act for 2 years, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Museum Services Amendments of 1980".

SEC. 2. Section 205 of the Museum Services Act is amended by adding at the end thereof the following new subsection:

"(c) The Director may appoint without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates not to exceed one-fifth of the number of full-time regular technical or professional employees of the Institute. The rate of basic compensation for such employees may not equal or exceed the rate prescribed for GS–16 of the General Schedule under section 5332 of title 5, United States Code.".

SEC. 3. (a) Section 206 of the Museum Services Act is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:

"(b) (1) The Director, subject to the policy direction of the National Museum Services Board, is authorized to enter into contracts and cooperative agreements with professional museum organizations to provide financial assistance to such organizations in order to enable such organizations to undertake projects designed to strengthen museum services.

"(2) (A) No financial assistance may be made under this subsection for any project for a period in excess of one year.

"(B) No grant may be made under this subsection to pay for the operational expenses of any professional museum organization.

"(3) The aggregate amount of financial assistance made under this subsection to professional museum organizations shall not exceed 5 per centum of the amount appropriated under this Act for that fiscal year.

"(4) The term 'professional museum organization' means a nonprofit professional museum-related organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.".

(b) Section 206(c) of such Act (as redesignated by subsection (a)) is amended—

(1) by inserting ", contracts and cooperative agreements" after "Grants";

(2) by inserting "or financial assistance" after "grant"; and

(3) by inserting "or financial assistance" after "grants".

SEC. 4. Section 206 of the Museum Services Act is further amended by adding at the end thereof the following new subsection:

"(d) The Director shall establish procedures for reviewing and evaluating grants, contracts and cooperative agreements made or entered into under this section. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this section may not be subject to any review outside of the Institute.".

SEC. 5. (a) Section 209 of the Museum Services Act is amended by striking out "and" and by inserting before the period at the end thereof a comma and the following: "$21,500,000 for fiscal year 1981, and $28,000,000 for fiscal year 1982".

(b) Section 209(d) of such Act is amended by striking out "1980" and inserting in lieu thereof "1982".

Mr. PELL. Mr. President, today the Senate is taking up S. 1429, the Museum Services Amendments of 1980. This legislation would extend the life of the Institute of Museum Services for 2 years, through fiscal year 1982.

The Institute was initially created in 1976, and is currently located within the Department of Health, Education, and Welfare, although it is slated to be transferred to the new Department of Education when that agency comes into being. The committee decided to extend the Institute's authorization for only 2 years, rather than the usual 5, so that it could reexamine the question of the Institute's location within the Federal Government at the end of that period.

Museum popularity is at an all-time high, with attendance of nearly 500 million persons per year. At the same time, inflation is taking a heavy toll on museum programs and services. Many museums have been forced to curtail their hours and limit their services to the public, in order to stay within their budgets. Therefore, S. 1429 authorizes appropriations of $21.5 million for fiscal year 1981 and $28 million for fiscal year 1982, to allow room for reasonable growth in the assistance the Museum Services Institute is able to provide.

S. 1429 makes minor changes to the existing statute. One allows the institute to use up to 5 percent of its appropriation to make contracts and cooperative agreements with professional museum organizations. These organizations, which are currently not eligible for assistance, engage in activities designed to advance the well-being of museums and the museum profession. Contracts would be limited to 1 year, and would be required to be used for specific projects rather than for general operating support.

A second change authorizes the Institute to establish its own grant review procedures. This would allow the Institute to utilize peer review, similar to that employed by the Endowments for the Arts and Humanities, if it believed that such an advisory panel system would result in the highest quality judgments.

A third change authorizes the Institute to hire a limited number of experts in the museum field as excepted personnel. There is at present no specific civil service classification for museum specialists. The excepted personnel would fill this gap in the Institute's staffing.

I believe S. 1429 provides an excellent basis for the future of the Museum Services Institute. I urge my colleagues to support the legislation.

UP AMENDMENT NO. 973

Mr. PELL. I send to the desk a technical amendment which has been worked out in cooperation with the Budget Committee. This amendment merely corrects technical errors in the bill, and it has been cleared on both sides. I ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Rhode Island (Mr. PELL) proposes an unprinted amendment numbered 973.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without obection, it is so ordered.

The amendment is as follows:

> On page 4, line 24, insert after "amended" the following: "by inserting 'and for the purpose of entering into contracts and cooperative agreements under section 206(b), and' after 'section 206(a)', and".

Mr. PELL. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SAVE THE CHILDREN DAY

The Senate proceeded to consider joint resolution (S.J. Res. 130) to authorize and request the President to proclaim May 1, 1980, as "National Save the Children Day."

● Mr. WEICKER. Mr. President, I would first like to express my sincere appreciation to the Senate Committee on the Judiciary for their expeditious action in favorably reporting Senate Joint Resolution 130, which I introduced December 20, 1979, to proclaim May 1, 1980 as "National Save the Children Day." Second, I would like to express my thanks to Senators RIBICOFF, JAVITS, HATFIELD, MOYNIHAN, HEINZ, STAFFORD, MCGOVERN, CRANSTON, LAXALT, TSONGAS, WILLIAMS, and HART, who joined with me in cosponsoring this resolution.

Mr. President, for centuries the first day of May has been the traditional symbol of spring, the flowering of new life and the rebirth of hope for the future. Children represent that new life and hope for the future of our Nation. With this in mind, I believe we can all agree that there is no better measure of the spiritual strength of our Nation than the commitment we make to our children.

By designating May 1, 1980, as "National Save the Children Day," we will begin a new decade with the reaffirmation to our children as a national priority and our most precious resource. On that day, our Nation will rejoice in our youth's resilence, tenacity and adaptability. But we will also concentrate on their naievety, volnerability, and defenselessness so that we can be fully aware of what it is that is necessary to create a better future for them as they grow toward adulthood.

All of us are the beneficiaries of generations of Americans who cared about us. Because that was so we are fed, housed, educated, and healthy. For us opportunity abounds. However, with that blessing comes the obligation of stewardship for the Americans of tomorrow. We must in a positive way, assess the unique opportunity to broaden the horizon of growth and enjoyment and productivity of our children's lives so that they may be the future beneficiaries of those things that make America great.

Therefore, we must keep faith in those who need our faith, our children. They have no voice in the day-to-day decisions being made by the public and private sectors of our society. So they must put their trust in adults, responsible adults, for comfort, direction and inspiration until they reach adulthood themselves. John Stuart Mill said it well, more than a century ago:

> The existing generation is master both of the training and the entire experience of the generation to come.

Mr. President, Eglantyne Jebb, an Englishwoman, founded the worldwide Save the Children movement after World War I, in 1919. She also authorized the original version of the Declaration of the Rights of the Child for the League of Nations. Twenty years ago, the United Nations issued a similar declaration based on the original League of Nations' version. The 10 basic rights of the child are as follows:

The right to affection, love, and understanding.

The right to adequate nutrition and medical care.

The right to free education.

The right to full opportunity for play and recreation.

The right to a name and nationality.

The right to special care, if handicapped.

The right to be among the first to receive relief in times of disaster.

The right to learn to be a useful member of society and to develop individual abilities.

The right to be brought up in a spirit of peace and universal brotherhood.

The right to enjoy these rights, regardless of race, color, sex, religion, national or social origin.

The essential rights outlined above are very important to these members of the human family, and they should also be important to us, the parents.

Mr. President, I urge full support of Senate Joint Resolution 130 by my colleagues in the Senate. Our Nation must focus on our children, we must listen to their voices of concern, seek remedies and provide solutions so that they will be able to carry on the future of this country.●

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 130

Whereas for centuries the first day of May has been the traditional symbol of spring, the flowering of new life, and rebirth of the hope for the future; and

Whereas children represent that new life and hope for the future of our Nation; and

Whereas our Nation should focus on the joys, the rights, and the needs of children so as to create a better life for them; and

Whereas our Nation should concentrate on creating a better future world in which our children will grow so that they will feel secure in the knowledge that they will have every opportunity to achieve their maximum potential as adults; and

Whereas twenty years ago, the United Nations, in recognition of the importance of these members of the human family, issued a declaration outlining the essential rights of all children; and

Whereas during the year 1979 forty-two of our Nation's State Governors issued proclamations declaring May 1 as "Save the Children Day"; and

Whereas into the 1980's and beyond, Americans should continue to acknowledge children as a national priority and our most precious resource; and

Whereas our Nation should reaffirm its commitment to preserve and protect our Nation's children so that they will be able to carry on the future of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating May 1, 1980, as "National Save the Children Day", and calling upon Federal, State, and local government agencies, interested groups, organizations, and the people of the United States to observe such day with appropriate ceremonies, programs, and activities.

TRADE WITH CHINA

Mr. THURMOND. Mr. President, the recognition of the People's Republic of China offers the United States a huge new market for international trade.

It is vital, however, that the United States carefully monitor the pattern of trade with China so that large commodities of cheap goods, such as textiles, will not flood U.S. market.

Mr. President, a recent editorial by WSPA Radio and TV of Spartanburg, S.C., offers excellent insight into this important matter. In order that I may share this interesting editorial with my colleagues, I ask unanimous consent that the editorial be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

China: Most Favored Nation Status

Congress is now considering most favored nation status in our trade relation with China. This means that China would be able to trade with us on terms equal with our best trading partners. This is a milestone in a relationship with a Communist nation with whom we exchanged virulent propaganda blasts only a few years ago, and it is a relationship that we continue to deny to the Soviet Union because they restrict free emigration of their citizens which is a human rights issue.

No doubt China's long-term modernization program will result in buying large amounts of goods and technology from the United States, under their most favored nation status, which will help redress our suffering balance of payments deficit—as well as strengthen China as a buffer to Soviet ambitions in Asia.

What concerns WSPA is that the United States preferred policy of free trade has not always proven sound in the face of dumping tactics and cheap labor. We think it is imperative for our government, especially concerning the textile industries of the Carolinas, to keep a watchful eye on the pattern of trade that develops with China. We must always remember that China, like many developing nations, does not have a strong international law tradition that requires the protection of patents and copyrights. Nor does China, as a Marxist nation, have any reason to respect free trade principles. While we want better trade relations with China, WSPA urges our government not to make foreign policy gains with domestic losses.

TRANSFER OF HIGH TECHNOLOGY TO SOVIETS BY UNITED STATES

Mr. THURMOND. Mr. President, the misguided policies of the Carter administration in the transfer of high-tecnnology defense-related items to the Soviets is outlined in Jack Anderson's column which appears in today's Washington Post.

Under the heading "Technology of the U.S. Benefits Soviets," Mr. Anderson gives examples of a number of defense-related high-technology items sold recently to the Soviets.

Mr. Anderson also correctly reports that this practice is not unique to the Carter administration, but was followed to our disadvantage by past administrations.

Mr. President, I ask unanimous consent that the column be printed at this point in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

Technology of U.S. Benefits Soviets

Any suggestion that American officials and businessmen helped the Soviet Union invade Afghanistan would raise cries of outrage from the White House and Wall Street alike.

Unfortunately, it happens to be true.

Both the military trucks and the transport jets that disgorged Red Army troops and supplies in Afghanistan during Christmas week were built with the indispensable technological know-how provided by profit-hungry U.S. firms and approved by high-level U.S. officials.

In an incredible replay of pre-Pearl Harbor days, when American businessmen sold the Japanese war machine scrap metal that later rained down on U.S. and allied troops in the Pacific, we have been selling the technically backward Russians U.S. computers and other sophisticated equipment that have enabled the Kremlin to threaten our economic lifeline in the Middle East.

For years, I have warned against the openhanded giveaway of American technology—the one field in which the United States was clearly miles ahead of the Soviet Union. There was one momentary success: A May 24, 1977, column stopped the shipment to Russia of a Control Data computer, which was more than a decade ahead of the Soviets' own technology.

I also published warnings against the sale of other sophisticated equipment to the Russians, including IBM computers. But the warnings were drowned out by eager corporate salesmen and an administration eager to believe the Russians. The CIA has now learned that the IBM computers were used to build military trucks, which hauled Soviet troops into Afghanistan.

Over the objections of Sen. Henry M. Jackson (D-Wash.) and members of the National Security Council, President Carter personally approved the sale of $144 million worth of sophisticated equipment, ostensibly to be used by the Soviets for deep-well oil drilling. Experts cautioned that the American machinery could easily be converted to the manufacture of antitank ammunition.

To quiet critics of the deal, Carter appointed a special task force of technological experts, headed by Fred Bucy, chairman of Texas Instruments, to study the sale. But it went through anyway.

According to Dr. Miles Costick of the Institute on Strategic Trade, the Russians also acquired their know-how to build wide-bodied jet transports from American firms. The Soviets' technique was simple: "They kept after the three U.S. aircraft firms bidding on a contract to submit more and more detailed information—until the Russians had enough data to build their own planes.

Costick also said the Soviets went so far as to send their technologists to U.S. plants wearing special shoes that picked up traces of the special alloy metals used in construction of American products.

Armored cars and amphibious vehicles produced at the Gorki automobile plant were built with technical assistance from the Ford Motor Co. Truck chassis used for antiaircraft and antitank guns were made at a factory outfitted by U.S. firms.

Submarine detection devices that make our Trident submarine vulnerable were developed with the help of equipment the Russians bought from Geospace Corp. and Litton Industries.

President Carter personally approved the sale of a Sperry Rand Univac 1100/10C computer the Kremlin had been thirsting after for two years. According to intelligence sources who talked to my reporters Vicki Warren and Mark Zusman, the computer is being used to upgrade the Soviets' Backfire bomber.

The Russians originally wanted a super-Univac, supposedly to help Tass in its coverage of the Olympic Games. Administration advisers warned against the sale. After initially vetoing the Soviets' purchase, Carter okayed the sale of a scaled-down version of the computer.

So to give U.S. businessmen a few lucrative contracts, and to promote the now-shredded hope of detente, the United States has given the communists the one thing they lacked in their arsenal of aggression—American know-how.

SENATOR ALAN K. SIMPSON

Mr. THURMOND. Mr. President, recently I was pleased to read in the Washington Post an excellent feature article on the distinguished and very capable Senator from Wyoming, Senator Alan K. Simpson.

Having had an opportunity to work very closely with Senator Simpson on the Judiciary Committee, of which I am the ranking member, and on the Veterans' Affairs Committee, where he is ranking, I can honestly say that I believe he is one of the brightest, hardest working, and most able legislators to come to the Senate in some time. Senator Simpson is a man of sound, conservative philosophy who understands and is devoted to the principles of fiscal restraint and carefully limited Government at the Federal level. He is an excellent student of the U.S. Constitution and the law. As this Post article indicates, the junior Senator from Wyoming is a man who does his homework well, a legislator who is sensitive to citizen concerns, but yet tough and independent-minded, and one who has rapidly gained the respect of his colleagues in the Senate.

Mr. President, I recommend that all Senators who have not yet done so, read this article on Senator Simpson, which appeared in the Washington Post of January 22, 1980, and which was placed in the Record on January 23 by the senior Senator from Wyoming, Senator Wallop.

CHIEF J. P. STROM

Mr. THURMOND. Mr. President, since 1956, J. P. Strom has been the top law enforcement official in South Carolina.

Chief Strom has been involved in law enforcement for 43 years and during that time he has always exhibited the courage, leadership, and initiative which have made him one of the finest lawmen South Carolina has ever produced.

During his tenure as chief, Mr. Strom has initiated new techniques to help battle crime. For example, he instituted the first statewide teletype network in the Nation and was instrumental in the establishment of computerized crime information systems.

Chief Strom's selfless dedication to his duty and his untiring efforts to improve law enforcement in South Carolina have contributed greatly to the people he so ably serves. He has been an inspiration to all who have worked with him and will long be remembered for his exemplary service.

Mr. President, in order that I may share an interesting article about Chief Strom with my colleagues, I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Life in Crime

(By Katherine King)

"I guess I got into law enforcement 'cause I could run faster'n any bootlegger in McCormick County," says the soft-spoken, genial chief of the State Law Enforcement Division (SLED), J. P. "Pete" Strom.

Leaning back in his chair at SLED headquarters in Columbia, Strom's mild-mannered demeanor belies his occupation as South Carolina's top law enforcement official, a job he's held continuously since 1956 under seven different governors.

"My daddy was sheriff of McCormick County, and I just followed 'em around from the time I was a little boy. My specialty was running down bootleggers. I could run faster'n any deputy and faster'n any two bootleggers.

"I outran two of 'em one time—handcuffed the first one to a tree and took off after the other. When I caught the second fella, I couldn't find that tree. Well, I just kept looking and hollering for the guy cuffed to the tree—no answer.

"Finally I ran up on him, and he was just laying low—hoping I couldn't find him and he could work out of those cuffs. But I took 'em both in. I was just 16 then. But the deputies liked having me along to do their running for 'em."

And he's been running with the law ever since. Strom's career spans 43 years. He began as a deputy for his father, Walter T. Strom, served in World War II and joined SLED after the war.

He's been there ever since and is credited with many innovations in the area of law enforcement including use of the polygraph, computerized crime information systems, voice prints and modern communications.

Strom instituted the first statewide teletype network in the nation. Every county in South Carolina has at least one teletype for the dissemination of police information.

And even though Strom has won numerous state and national awards for excellence in his field, he is perhaps best known among his close friends as a raconteur par excellence.

"The first dealings I ever had with the dope problem were in 1955. I was with SLED then and about to get married—had $500 in my pocket for my honeymoon, and back then that seemed like a lot of money," he recalls.

"Well, Jim Wilson (SLED agent) and I got the word from this informant that there was a dope dealer selling morphine from a drug robbery. And old Jim, well, he was gonna try to make a buy. But he needed some money.

"So on the way to the house, I took out my honeymoon money, recorded the serial numbers and gave that money to Jim.

"After Jim made the buy, the guys came out of the back—he hadn't expected that—and we had to chase 'em down the road in the car. Dope's flying out of every window of their car and we're in hot pursuit—of them and my money!

"Well, we finally ran 'em down and, first thing, I got out my list of serial numbers and got that money back in my pocket. I got married all right, too; and we went to Miami on our honeymoon," Strom adds.

"I remember another drug robbery I worked. We had gotten the information from a buy in Spartanburg that a certain drugstore would be robbed on a particular night.

"Another agent and I hid in the store behind the counter and waited. Man, it was cold and this boy with me, he was kinda nervous, and his teeth started chattering to beat the band.

"So I storta turned to him and said, 'Here, if you're scared put a pencil between your teeth; we don't want 'em to hear us when they break in.'

"Dead silence. 'You don't hear 'em now do you,' he said. And we made the arrest. Afterwards, he reached in his pocket and out came a full set of false teeth. He put 'em back in his mouth and we took those guys in."

"I'm getting older now," Strom says (he's 62), "but when I was young, I'd do most anything. I remember once Leon Dollard (SLED agent) and I were looking for a CCI escapee, and we figured he had headed for the freight train.

"So we see this woman on Gist Street and ask her if she's seen anybody catch that freight. She says, 'Yeah. I saw 'im, and when he caught that train it was moving out pretty breezy.'

"So Leon and I drive up to Sandtuck in Union to catch the train. I went up on the pole steps to look in the coal cars; and, sure enough, I see this prisoner lying down flat in one of those cars when the train goes by.

"Well, Leon and I took off and followed that train to a steep grade where it had to slow down. I jumped on and walked the top down to the car where the boy was hiding. All the time the train's picking up speed.

"When I get in the car with him, he picks up a chunk of coal and starts to raise his arm, so I put my gun on him and signalled to Leon to stop the train.

"Well, Leon would wave at the train with his handkerchief, and that engineer would just wave back. He'd go down the road and try again and just get another wave. I thought I would have to go all the way to Washington.

"He finally got it stopped and we had our man," Strom says. He adds with a wry smile, "I'm too old to walk those trains now, but I still like to get my man."

"The only time I ever had to deal with the real, organized Mafia was a case I worked in 1953—the Mafia has basically stayed out of South Carolina," Strom says.

"An informant I knew—he was a gambler, not a robber—told me that a Mafia gang from Minneapolis was in the state doing a series of jobs (robberies) and he knew where they were staying in Myrtle Beach.

"B. R. Peake (SLED agent) and I went to Myrtle Beach, staked out the house and identified the men—there were four of them coming and going from the house—and eventually we caught them for the robbery of Huggins' Store in Aynor.

"One of the men was a young guy named Tony DeVito. He talked to us some, and we figured we could get more information from him; but all four made bond and went back to Minneapolis before the trial.

"When they came back to South Carolina for the trial, DeVito wasn't with them. He never did show up.

"Later, we found out from the Minneapolis authorities that the other Mafia guys had taken DiVito at gunpoint to a housing project, put a noose around his neck, put a stick in it and twisted 'til his neck broke.

"They stripped off his clothes, put him in a sewer line and covered him with two cases of Red Devil lye. Then they put two pounds of red pepper on the grave—that was to keep the dogs away from the smell.

"They must have been real worried that Tony would talk.

"Those guys were bad . . . we got a conviction and I was happy to get 'em off the streets. They got something like 80 years," Strom concludes.

One of the most celebrated cases in which Strom was involved was the Rocky Rothschild case in 1958. James Foster, an ex-con, had been arrested and convicted of the murder of a wealthy Georgian, Charles Drake.

Although Foster denied guilt, he had been identified by the dead man's wife as the assailant.

"There were a couple of inmates at CCI who knew what had happened in that Georgia case, so I cultivated their friendship, gave 'em a pack of cigarets now and then and tried to get 'em to talk.

"I said to those boys, 'You come from nice families and were brought up right. You can't afford to let an innocent man die.'

"Foster was scheduled to die in the electric chair in 11 days," Strom recalls. "So they gave me a statement implicating Rocky Rothschild, another inmate at CCI. I went to see Rocky and showed him the statement and asked him, 'If you were in my shoes what would you do now?'

" 'I'd go to see A. B. Allen,' said; 'He was in the car when I killed Drake.' I took his statement and found out that everything he had said was true—like where he had stashed the coveralls he'd worn, where he stopped and unloaded his gun—things he couldn't have made up.

"Finally they took Foster to court and let him go. Rocky got another life sentence, but then, he was already serving one.

"When I met Foster, who was a house painter by trade, he offered to paint my house for free," Strom laughed. "I told him, 'No thanks, it's just my job.'

"I always like to see the best attorneys appointed in criminal cases so that justice will be done. But, after they get a fair trial and exhaust all appeals, I believe in capital punishment. I'm sure that it acts as a deterrent to potential murderers," Strom says.

He is quick to praise local law enforcement officials in the state for their cooperation and help in solving various cases. "Be sure and give them credit, 'cause we couldn't do our job without them," he says.

Strom's geniality and impartiality have helped to create the fierce loyalty SLED employees feel for him. He was voted "Boss of the Year" by the Palmetto Chapter of the National Secretaries Assn. in 1959.

Around SLED headquarters his nickname is "Big Possum." I think Walter Powell put that one on me," he says. An appropriate moniker, since it's the "big 'possum who walks early in the morning and knows what's going to happen in the day."

THE ADMINISTRATION'S CONTRIBUTION TO THE BUDGET PROBLEM

Mr. THURMOND. Mr. President, the very real and serious concern that I expressed in this Senate Chamber earlier for the obvious lack of leadership and responsibility exhibited by President Carter in his proposed budget for 1981 and his economic message to the Congress is further underscored and reaffirmed in a recent article by the nationally recognized economist, Robert J. Samuelson.

In his article titled, "Part of the Problem," which is printed in the February 2, 1980, issue of the National Journal, Mr. Samuelson states:

> Except for the budget's size, which at $616 billion in fiscal 1981 is so large that the numbers seem increasingly meaningless, its theme is that there is no theme. For all the rhetoric—deploring inflation, promoting energy savings and urging restrained spending—the latest proposals do little to stem dependence on oil imports and promise significantly higher levels of taxes and spending.
>
> The White House is mostly drifting, accommodating the constituencies—mainly for sustained spending—that seem nearest, most visible and most politically important. The budget is progressively less a tool used to promote needed economic growth and change, and increasingly one used to redivide and apportion a national wealth that is expanding at a slower and slower rate.
>
> This goes to the heart of the President's intellectual and political failure. He still lacks as he always has an underlying vision of how government economic policy needs to be reoriented to encourage adjustment to long-term problems—of diminished productivity growth, of a gradually aging population, of reduced worldwide economic

power, of excessive popular demands for limited resources that underlie today's inflation and economic stress.

Mr. President, it is most unfortunate that the American people are being subjected to such a distorted presentation of economic and budgetary facts by the current administration. Apparently short-term political pressures have been allowed to influence the administration in its fiscal policy decisions.

Mr. President, I sincerely hope that we in the Senate will not allow ourselves to be drawn into similar misguided and detrimental thoughts and actions as we consider this Nation's fiscal policy for future years.

Mr. President, in order to share this outstanding article from the National Journal with my colleagues, I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PART OF THE PROBLEM

In the 1960s, there was a glib slogan that went like this: If you're not part of the solution, you're part of the problem. Somehow, that's the thought inspired by the White House's latest batch of budget and economic proposals.

Except for the budget's size, which at $616 billion in fiscal 1981 is so large that the numbers seem increasingly meaningless, its theme is that there is no theme. For all the rhetoric—deploring inflation, promoting energy savings and urging restrained spending—the latest proposals do little to stem dependence on oil imports and promise significantly higher levels of taxes and spending.

The White House is mostly drifting, accommodating the constituencies—mainly for sustained spending—that seem nearest, most visible and most politically important. The budget is progressively less a tool used to promote needed economic growth and change, and increasingly one used to redivide and apportion a national wealth that is expanding at a slower and slower rate.

This goes to the heart of the President's intellectual and political failure. He still lacks, as he always has, an underlying vision of how government economic policy needs to be reoriented to encourage adjustment to long-term problems—of diminished productivity growth, of a gradually aging population, of reduced worldwide economic power, of excessive popular demands for limited resources—that underlie today's inflation and economic stress.

Having failed to devise policies that can be placed in a larger context of economic change—and, thereby, command public opinion—Carter has willingly allowed himself to become the prisoner of short-term political pressures. He has used his budget, trade policies and other government favors (the latest being the rescue of the Chrysler Corp.) in ways that ultimately create more problems than they solve.

What typifies the Administration's political weakness is the absence of measures—a stiff gasoline tax of 30 to 50 cents per gallon would be best—to reduce oil demand. America's domestic economic policy and its foreign policy—and power—are ultimately linked, but, even in time of "crisis," Carter cannot make an effective political connection.

A gasoline tax shouldn't be so difficult to sell. By reducing spending for foreign oil, a large tax—whose proceeds would be used to cut the deficit or other federal taxes—would keep purchasing power at home and promote growth just when the economy seems headed into a recession. By taking pressure off world oil markets, it would foster price stability, or less instability, and enhance America's diminished authority with its European and Japanese allies. It is a price increase that is anti-inflationary.

A skillful politician, a "leader," can demonstrate the virtues of superficially unpopular proposals; that's what "being presidential" is all about. But Carter can't.

As for the rest of the budget, it now threatens to become top-heavy in ways that do the economy more harm than good. Carter has now effectively abandoned his pledge to reduce government spending to 21 per cent of output (gross national product)—which itself is a full percentage point above the national average for 1964–74—and projects spending above 22 per cent of GNP until at least 1983.

A few percentage points of GNP may seem small, but, with the economy's output approaching $2.4 trillion, the amounts involved are roughly $25 billion to $50 billion in 1980 dollars. The danger is that the resulting high tax rates or deficits will simply blunt economic growth further, creating yet further demands for government assistance and yet a greater drag on the economy.

Congress and the White House find themselves in a dilemma of their own making. By consistently reducing defense spending as a proportion of the budget and GNP in the late 1960s and most of the 1970s, they financed large new programs without sharply increasing over-all levels of spending. Defense fell from two-fifths of the budget in 1965 to one-fourth in 1976.

New constituencies from railroad riders who receive Amtrak subsidies to artists who receive grants from the National Endowment for the Arts—arose, and old ones expended their dependence on Washington. Federal assistance jumped from 17 per cent of state and local spending in 1969 to 26 per cent in 1977. The current bipartisan support for higher defense spending means that Congress and the White House must tell other constituencies to do with less or impose higher taxes or higher deficits.

Calling much spending "uncontrollable" usually signifies an unwillingness, not an inability, to control. Social security is the biggest "uncontrollable" program, accounting for $107 billion out of a $466 billion budget in fiscal 1979. Automatically increased for rises in the consumer price index, benefits will jump an estimated 13 per cent in July after a 9.9 per cent increase last year: nearly a 25 per cent rise in a period when average wages have increased 15 to 18 per cent. Nothing says the Congress could not reduce this large automatic benefit rise.

All constituencies are "deserving," but governing means making choices. Congress and the White House—by sustaining high spending on the revenues of automatic tax increases induced by inflation, augmented by revenues from the oil "windfall" tax—are simply making the wrong ones.

Inflation kicks workers into higher brackets. Without a tax cut in 1980 or 1981, a family of four with $15,300 income in 1976 just above average—that received annual wage increases of 7 to 8 per cent in succeeding years would pay 19 per cent of its 1981 income in taxes, against 16 per cent in 1976. For a family with $22,000 income in 1976, the same calculation shows an increased tax bite from 18 to 24 per cent.

It's difficult to be precise about the discouraging effect of higher tax rates on work and investment, but there's little doubt that there is some effect. On the other hand, using a bigger deficit to absorb higher spending simply transfers the pressure to higher interest rates, which will squeeze out needed investment particularly housing—and lay the groundwork for higher inflation. This is not policy, but evasion.

THE PRESIDENT'S BUDGET MESSAGE

Mr. HARRY F. BYRD, JR. I rise again for the 9th consecutive day to protest President Carter's budget message to the Congress.

Candidate Jimmy Carter in 1976 told the American people day after day that if he were elected President he would submit a balanced budget for fiscal year 1981. Instead the President submitted last month a budget that is heavily in deficit.

President Carter's budget message provides for an increase in spending of $68 billion over the amount approved by the Congress for fiscal 1980.

Such a huge spending increase is totally unjustified and will stimulate an inflation that already is running at the rate of 13 per cent.

In addition, President Carter's budget for the fiscal year beginning in October, if approved by the Congress, would be an illegal act.

In 1978, the Congress approved legislation requiring a balanced budget for the fiscal year beginning October 1, 1980. The President himself signed this legislation into law on October 10, 1978.

The legislation is Section 7 of Public Law 95–435.

Section 7 is only 18 words and say this:

> Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

Government spending is totally out of control and the Congress has an obligation to get spending under control. It also has an obligation to comply with the law which Congress itself enacted.

Will the Congress comply, or will the Congress and the President take the country further down the road of a continued weakened dollar and continued high inflation?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS TERRITORIES LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 499.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 3756) to authorize appropriations for certain insular areas of the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection the Senate proceeded to consider the bill which had been reported from the Committee on

Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

TITLE I—TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 101. Section 2 of the Act of June 30, 1954 (68 Stat. 330), is amended by inserting after "for fiscal year 1980, $112,000,000;" the following: "for fiscal years after fiscal year 1980, such sums as may be necessary, including, but not limited to, sums needed for completion of the capital improvement program, for a basic communications system, and for a feasibility study and construction of a hydroelectric project on Ponape.".

SEC. 102. The Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159; Public Law 95–134) is amended by inserting after section 105, the following new section:

"SEC. 106. (a) In addition to any other payments or benefits provided by law to compensate inhabitants of the atolls of Bikini, Enewetak, Rongelap, and Utirik, in the Marshall Islands, for radiation exposure or other losses sustained by them as a result of the United States nuclear weapons testing program at or near their atolls during the period 1946 to 1958, the Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') shall provide for the people of the atolls of Bikini, Enewetak, Rongelap, and Utirik and for the people of such other atolls as may be found to be or to have been exposed to radiation from the nuclear weapons testing program, a program of medical care and treatment and environmental research and monitoring for any injury, illness, or condition which may be the result directly or indirectly of such nuclear weapons testing program. The program shall be implemented according to a plan developed by the Secretary in consultation with the Secretaries of Defense, Energy, and Health, Education, and Welfare and with the direct involvement of representatives from the people of each of the affected atolls and from the government of the Marshall Islands. The plan shall set forth, as appropriate to the situation, condition, and needs of the individual atoll peoples:

"(1) an integrated, comprehensive health care program including primary, secondary, and tertiary care with special emphasis upon the biological effects of ionizing radiation;

"(2) a schedule for the periodic comprehensive survey and analysis of the radiological status of the atolls to and at appropriate intervals, but not less frequently than once every five years, the development of an updated radiation dose assessment, together with an estimate of the risks associated with the predicted human exposure, for each such atoll; and

"(3) an education and information program to enable the people of such atolls to more fully understand nuclear radiation and its effects;

"(b)(1) The Secretary shall submit the plan to the Congress no later than January 1, 1981, together with his recommendations, if any, for further legislation. The plan shall set forth the specific agencies responsible for implementing the various elements of the plan. With respect to general health care the Secretary shall consider, and shall include in his recommendations, the feasibility of using the Public Health Service. After consultation with the Chairman of the National Academy of Sciences, the Secretary of Energy, the Secretary of Defense, and the Secretary of Health, Education, and Wefare, the Secretary shall establish a scientific advisory committee to review and evaluate the implementation of the plan and to make such recommendations for its improvement as such committee deems advisable.

"(2) At the request of the Secretary, any Federal agency shall provide such information, personnel, facilities, logistical support, or other assistance as the Secretary deems necessary to carry out the functions of this program; the costs of all such assistance shall be reimbursed to the provider thereof out of sums appropriated pursuant to this section.

"(3) All costs associated with the development and implementation of the plan shall be assumed by the Secretary of Energy and effective October 1, 1980, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary to achieve the purposes of this section.

"(c) The Secretary shall report to the appropriate committees of the Congress, and to the people of the affected atolls annually, or more frequently if necessary, on the implementation of the plan. Each such report shall include a description of the health status of the individuals examined and treated under the plan, an evaluation by the scientific advisory committee, and any recommendations for improvement of the plan. The first such report shall be submitted not later than January 1, 1982.".

SEC. 103. Paragraph 104(a)(3) of Public Law 95–134 (91 Stat. 1159) is hereby amended by deleting all after the word "cause" and inserting in lieu thereof the following words, ", even if such an individual has been compensated under paragraph (1) of this section.".

TITLE II—NORTHERN MARIANA ISLANDS

SEC. 201. (a) The salary and expenses of the government comptroller for the Northern Mariana Islands shall be paid from funds appropriated to the Department of the Interior.

(b) Section 4 of the Act of June 30, 1954, as amended by section 2 of Public Law 93–111 (87 Stat. 354) is further amended as follows:

(1) strike the words "government of the Trust Territory of the Pacific Islands" wherever they appear and insert in lieu thereof the words "governments of the Trust Territory of the Pacific Islands or the Northern Mariana Islands,";

(2) after the words "High Commissioner of the Trust Territory of the Pacific Islands" insert the words "or Governor of the Northern Mariana Islands, as the case may be,";

(3) wherever the words "High Commissioner" appear and are not followed by the words "of the Trust Territory of the Pacific Islands" insert the words "or Governor, as the case may be,"; and

(4) after the words "District Court of Guam" insert the words "or District Court of the Northern Mariana Islands, as the case may be".

SEC. 202. Effective October 1, 1980, there are hereby authorized to be appropriated to the Secretary of the Interior $24,400,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs from October 1979 price levels as indicated by engineering cost indexes applicable to the types of construction involved, for a grant to the Commonwealth of the Northern Mariana Islands to provide for health care services. No grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

SEC. 203. Subsection (g) of section 5 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), is amended by changing "not to exceed $3,000,000" to "such sums as may be necessary, but not to exceed $3,000,000 for development,".

TITLE III—GUAM

SEC. 301. Subsection (c) of section 204 of Public Law 95–134 (91 Stat. 1159, 1162) is amended by deleting the second sentence of said subsection.

SEC. 302. The Act of November 4, 1963 (77 Stat. 302), to provide for the rehabilitation of Guam, and for other purposes, is hereby amended as follows:

(1) in the first sentence of section 3, delete the comma after "United States" and delete the words "with interest as set forth below," and

(2) after paragraph (c) of section 3, delete the last paragraph before section 4 and insert in lieu thereof:

"All amounts heretofore withheld from sums collected pursuant to section 30 of the said Organic Act as interest on the amounts made available to the government of Guam pursuant to this Act shall be credited as reimbursement payments by Guam on the principal amount advanced by the United States under this Act.".

SEC. 303. Section 11 of the Organic Act of Guam (64 Stat. 387; 48 U.S.C. 1423a), as amended, is hereby amended by deleting all after the words "December 31, 1980.", and substituting the following language:

"The Secretary, upon determining that the Guam Power Authority is unable to refinance on reasonable terms the obligations purchased by the Federal Financing Bank under the fifth sentence of this section by December 31, 1980, may, with the concurrence of the Secretary of the Treasury, guarantee for purchase by the Federal Financing Bank; and such bank is authorized to purchase, obligations of the Guam Power Authority issued to refinance the principal amount of the obligations guaranteed under the fifth sentence of this section. The obligations that refinance such principal amount shall mature not later than December 31, 1990, and shall bear interest at a rate determined in accordance with section 6 of the Federal Financing Bank Act (12 U.S.C. 2285). Should the Guam Power Authority fail to pay in full any installment of interest or principal when due on the bonds or other obligations guaranteed under this section, the Secretary of the Treasury, upon notice from the Secretary, shall deduct and pay to the Federal Financing Bank or the Secretary, according to their respective interests, such unpaid amounts from sums collected and payable pursuant to section 30 of this Act (48 U.S.C. 1421h). Notwithstanding any other provision of law, Acts making appropriations may provide for the withholding of any payments from the United States to the government of Guam which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the government of Guam or the Guam Power Authority pursuant to this guarantee. For the purpose of this Act, under section 3466 of the Revised Statutes (31 U.S.C. 191) the term 'person' includes the government of Guam and the Guam Power Authority. The Secretary may place such stipulations as he deems appropriate on the bonds or other obligations he guarantees.".

SEC. 304. The provisions of sections 111 and 123(a)(2) of the Clean Air Act (42 U.S.C. 7411 and 7423(a)(2)) shall not apply to the Guam Power Authority.

TITLE IV—VIRGIN ISLANDS

SEC. 401. (a) Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1545(b)), as amended, is further amended by numbering the existing paragraph "(1)" and by the addition thereto of the following new paragraph:

"(2) Subect to valid existing rights, title to all property in the Virgin Islands which may have been acquired by the United States from Denmark under the Convention entered into August 16, 1916, not reserved or retained by the United States in accordance with the provisions of Public Law 93-435 (88 Stat. 1210) is hereby transferred to the Virgin Islands government.".

(b) The General Services Administration shall release from the mortgage dated January 26, 1922, given by the government of the Virgin Islands to the Administrator of the General Services Administration, approximately ten acres of such mortgaged land for construction of the proposed Saint Croix armory upon payment by the government of the Virgin Islands of the outstanding principal due on such ten acres.

Sec. 402. No extension, renewal, or renegotiation of the lease of real property on Water Island in the Virgin Islands to which the United States is a party may be entered into before 1992 unless such extension, renewal, or renegotiation is specifically approved by Act of Congress.

Sec. 403. (a) Subsection 28(a) of the Revised Organic Act of the Virgin Islands, as amended by subsection 4(c)(3) of the Act of August 18, 1978 (92 Stat. 487, 491) is amended by inserting after the phrase "and naturalization fees collected in the Virgin Islands," the phrase "less the cost of collecting, except any costs for preclearance operations which shall not be deducted, of all of said duties, taxes, and fees from August 18, 1978, until January 1, 1982,".

(b) Section 4(c)(2) of the Act of August 18, 1978, is amended by inserting the phrase "less the cost of collecting all of said duties, taxes, and fees, occurring before January 1, 1982," after the phrase "the amount of duties, taxes, and fees" wherever the latter phrase appears.

Sec. 404. Subsection (d) of section 4 of Public Law 95-348 (92 Stat. 487, 491) is hereby repealed.

TITLE V—AMERICAN SAMOA

Sec. 501. The salary and expenses of the government comptroller for American Samoa shall be paid from funds appropriated to the Department of the Interior.

Sec. 502. The Secretary of the Treasury shall, upon the request of the Governor of American Samoa, administer and enforce the collection of all customs duties derived from American Samoa, without cost to the government of American Samoa. The Secretary of the Treasury, in consultation with the Governor of American Samoa, shall make every effort to employ and train the residents of American Samoa to carry out the provisions of this section. The administration and enforcement of this section shall commence October 1, 1980.

TITLE VI—MISCELLANEOUS

Sec. 601. Title V of the Act of entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1160) shall be applied with respect to the Department of the Interior by substituting "shall" for "may" in the last sentence of subsection (d).

Sec. 602. (a) Any amount authorized to be appropriated for a fiscal year by this Act or an amendment made by this Act but not appropriated for such fiscal year is authorized to be appropriated in succeeding fiscal years.

(b) Any amount appropriated pursuant to this Act or an amendment made by this Act for a fiscal year but not expended during such fiscal year shall remain available for expenditure in succeeding fiscal years.

Sec. 603. To the extent practicable, services, facilities, and equipment of agencies and instrumentalities of the United States Government may be made available, on a reimbursable basis, to the governments of the territories and possessions of the United States and the Trust Territory of the Pacific Islands. Reimbursements may be credited to the appropriation or fund of the agency or instrumentality through which the services, facilities, and equipment are provided. If otherwise authorized by law, such services, facilities, and equipment may be made available without reimbursement.

Sec. 604. Any new borrowing authority provided in this Act or authority to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Sec. 605. (a) Prior to the granting of any license, permit, or other authorization or permission by any agency or instrumentality of the United States to any person for the transportation of spent nuclear fuel or high-level radioactive waste for interim, long-term, or permanent storage to or for the storage of such fuel or waste on any territory or possession of the United States, the Secretary of the Interior is directed to transmit to the Congress a detailed report on the proposed transportation or storage plan, and no such license, permit, or other authorization or permission may be granted nor may any such transportation or storage occur unless the proposed transportation or storage plan has been specifically authorized by Act of Congress: *Provided*, That the provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

(b) For the purpose of this section the words "territory or possession" include the Trust Territory of the Pacific Islands and any area not within the boundaries of the several States over which the United States claims or exercises sovereignty.

Sec. 606. (a) Section 8 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 749), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section (1) 'submerged lands underlying navigable bodies of water' include lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide, all lands underlying the navigable bodies of water in and around the island of Puerto Rico and the adjacent islands, and all artificially made, filled in, or reclaimed lands which formerly were lands beneath navigable bodies of water; (2) 'navigable bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters' extend from the coastline of the island of Puerto Rico and the adjacent islands as heretofore or hereafter modified by accretion, erosion, or reliction, seaward to a distance of three marine leagues; (3) 'control' includes all right, title, and interest in and to and jurisdiction and authority over the submerged lands underlying the harbor areas and navigable streams and bodies of water in and around the island of Puerto Rico and the adjacent islands and waters, and the natural resources underlying such submerged lands and waters, and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such natural resources and submerged lands beneath such waters.".

(b) Section 7 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 747), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section 'control' includes all right, title, and interest in and to and jurisdiction and authority over the aforesaid property and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such property.".

UP AMENDMENT NO. 974

Mr. ROBERT C. BYRD. Mr. President, I send to the desk three technical amendments on behalf of Mr. Johnston. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will state the amendments.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. Byrd), for Mr. Johnston, proposes an unprinted amendment numbered 974:
>
> On page 15 of the Committee reported bill, at line 25, delete "Ponape." and insert in lieu thereof "Ponape;".
>
> On page 23 of the Committee reported bill, beginning on line 6, delete section 304 in its entirety.
>
> On page 23 of the Committee reported bill, at line 23, delete "1922" and insert in lieu thereof "1972".

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

● Mr. JOHNSTON. Mr. President, the amendment which I have submitted would make two clerical corrections to the text of the Committee substitute amendment and would delete the provisions of section 304.

Section 304 was inserted in H.R. 3756 at the request of Congressman Won Pat on behalf of the Guam Power Authority. The committee has been informed by the Guam Power Authority that it would prefer that the provision were deleted at this time. Accordingly, the committee will defer consideration of this issue.

Mr. President, one of the major problems being experienced in the territories is the indiscriminate applications of stateside standards and regulations with little consideration of the economic and social costs of their application. The requirement for stateside minimum wage levels in a subsistence economy is a primary cause of the near ghetto-like conditions on Ebeye in the Kwajalein Atoll and the virtual abandonment of many outer islands in the Marshalls. Environmental legislation of only marginal benefit is requiring vast commitments of capital to construct state of the art facilities which island economics are unable to fund and for which management expertise is unavailable. Housing and building standards appropriate for North America are enforced on South Sea islands.

The situation of the Guam Power Authority is a classic example of the imposition of stateside standards in an insular area where such standards are singularly inappropriate. At the request of the Guam Power Authority and based on extensive documentation submitted to the committee after our hearing on this legislation, H.R. 3756 was amended to exempt GPA from certain sections of the Clean Air Act. I ask unanimous consent that the relevant portions of the committee report be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Mr. President, what was and is an appropriate response to the situation in Guam has taken a particularly distasteful turn. After the committee had reported, I received a telegram from the Guam Power Authority requesting that the committee defer this provision until the scheduled revisions to the Clean Air Act are considered based on "negotiations and certain representations made to us by EPA." I ask unanimous consent that a copy of that telegram be printed in the RECORD. These "representations" purport to be a commitment by EPA to delay enforcement of mandatory provisions of the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JOHNSTON. Mr. President, I want the record to indicate clearly and without any question that neither I nor any other member of the Committee on Energy and Natural Resources in any way, shape, or form support, endorse, or approve any executive branch agency committing or purporting to commit itself to delay or evasion of law. In fact, I doubt that EPA has any intention of not enforcing the section 120 penalties. I believe this is a fraud being perpetrated on the people of Guam in order to delay consideration of this amendment. Having obtained the deletion of the amendment, I am sure that EPA will wring its hands and apologize for not being able to fulfill its commitment, but since such a commitment would be illegal anyway, GPA should not really have expected it to be fulfilled. The scenario is all too evident. I ask unanimous consent that a copy of the letter from EPA be printed in the RECORD at the close of my remarks as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. JOHNSTON. I do want to acknowledge the sensitivity shown by the chairman of the Subcommittee on Environmental Pollution to the unique situation of our insular areas and I welcome his assurance that his subcommittee will review this situation. I hope that by working together, the generic problem can be resolved.

There is one final note to this sorry episode, and that is the failure of the Department of the Interior to protect the interests of the territories. The Secretary of the Interior has to date refused even the courtesy of acknowledging our request of his views. It is conceivable that different agencies with different mandates might have different views. The formal administration position might reflect one view or the other or a compromise, but those views remain. I am extremely concerned when an agency charged with the direct responsibility for the health, safety, and economic wellbeing of U.S. citizens in the territories refuses to represent them and in effect defers to some other agency which has no statutory concern for those people. EPA has a responsibility to administer and enforce the Clean Air Act, not to represent the people of Guam. I expect an explanation from the Secretary of the Interior over his agency's lack of action on this subject and failure to respond to the committee's request for his views.

Mr. President, it is with great reluctance and a sense of foreboding that I withdraw this particular amendment and I do so only because of the assurances and genuine concern of the chairman of the Subcommittee on Environmental Pollution and only because the Guam Power Authority has requested it.

EXHIBIT 1

Sec. 304.—This section would exempt the Guam Power Authority from compliance with Section 111 (New Source Performance Standards) and Section 123 (prohibition in the use of certain control techniques) of the Clean Air Act.

Generally speaking, the Clean Air Act imposes two sets of requirements on emitting sources. All sources built after the promulgation of certain regulations adopted pursuant to Section 111 of the Clean Air Act ("the Act"), as amended in 1970, 42 U.S.C. § 7411, are subject to emission limitations known as New Source Performance Standards ("NSPS"). Additionally, every State must adopt a State Implementation Plan ("SIP") under Section 110 of the Act for the purpose of meeting National Ambient Air Quality Standards ("NAAQS"). Every SIP must impose on local sources sufficient controls to assure the attainment and maintenance of NAAQS. All emission limitations, whether imposed by NSPS or by an applicable SIP, must be met through the use of continuous emission control techniques. Clean Air Act, Sections III (NSPS) and 123 (SIP), 42 U.S.C. § § 7411 and 7423.

GPA operates two 66-megawatt fossil fuel fired steam electric generating facilities on Cabras Island at Piti, Guam ("Cabras 1 and 2"). These facilities were built after the promulgation of New Performance Standards for steam electric generating facilities. The New Source Performance Standards impose a limitation on the amount of sulfur dioxide that Cabras 1 and 2 can emit. Additionally, GPA must meet these standards by means of continuous emission control. Both the emission limitation and the continuous control requirement are imposed without regard to air quality.

GPA also operates two fossil fuel fired steam electric generating facilities at Tanguisson Point, Guam ("Tanguisson 1 and 2"). Tanguisson 1 and 2 were built before 1970 and are not subject to NSPS. They are, however, subject to the requirements of continuous emission control, without regard to whether air quality standards could be attained with a lesser degree of control.

Guam lies in an easterly trade wind belt and experiences winds from the east almost constantly.

The Cabras and Tanguisson facilities are all located on the western side of Guam. Accordingly, their emissions are almost constantly blown directly out to sea.

GPA currently utilizes the prevailing winds as part of its system of sulfur dioxide control. When the wind blows from the land toward the sea, which is 88.6 percent of the time, GPA burns fuel with 3 percent sulfur. The remaining 11.4 percent of the time, when the wind blows toward land, GPA burns low sulfur fuel (0.75 percent sulfur).

Monitoring data demonstrates that this strategy is more than adequate to meet the annual NAAQS for sulfur dioxide. Indeed, the average annual concentration of 10 micrograms per cubic meter far exceeds the standard of 80 micrograms per cubic meter. The NAAQS also include a 3-hour and a 24-hour standard. Data in the possession of the Guam Environmental Protection Agency is understood by GPA to demonstrate that the present control strategy is adequate to meet all standards.

The wind-based emission control strategy is implemented without difficulty. At its station on Guam, the U.S. Navy monitors wind conditions throughout the South Pacific and wind direction information is constantly available. The conversion from high to low sulfur fuel is accomplished in a minimal amount of time by simply closing the valve on one fuel line and opening it on another. The Guam Environmental Protection Agency oversees the control strategy and is able to do so without any significant resource commitment because of the dearth of emission sources on Guam.

The Clean Air Act does not permit the present control strategy on a long-term basis. As noted earlier, the act requires a system of continuous emission controls. In terms of specific control methods, this requires either burning low sulfur fuel continuously, or installing flue gas desulfurization technology ("scrubber"). At Tanguisson there exists the third alternative of building a tall stack.

There is no provision in the Clean Air Act for a waiver or variance from these requirements. Only Congressional legislation can accomplish such a result. GPA uses the present strategy at Cabras only because it is expressly permitted by a consent decree entered into with EPA pending the installation of a scrubber or the construction of sufficient storage facilities for the continuous burning of low sulfur fuel. GPA uses the present strategy at Tanguisson because it is permitted by the latest revision to the Guam SIP adopted by the Guam Environmental Protection Agency. This SIP revision is presently before EPA Region IX for approval, but in the absence of legislative relief EPA must reject the revision under Section 123(a)(2) of the Act.

Based on GPA's most recent low sulfur bid solicitation, it would cost GPA $15 to $16 million annually above present fuel costs to burn low sulfur fuel continuously. This represents a fuel cost increase of 50 percent over present fuel costs, approximately $30 million to $40 million. This cost increase would have to be passed on to the people of Guam in the form of a fuel rate increase.

The cost of scrubbers would be between $12 and $20 million in capital expenditures at Cabras alone and another $5 to $15 million at Tanguisson. Additionally, annual operating costs would be $2 and $2½ million at Cabras and $1½ to $2 million at Tanguisson. Although Tanguisson has an alternative to a scrubber—a tall stack—even this would cost $5 to $10 million for the necessary installation.

The wide variation in potential scrubber costs derives from the fact that GPA's least expensive option is an innovative seawater-based technology that is not yet commercially proven. If the seawater system fails to meet expectations a more conventional lime-limestone system will be required, with capital costs between $18 and $20 million for Cabras and $10 to $15 million for Tanguisson.

Neither GPA nor the people of Guam can afford these costs. GPA was recently granted a 10.7-percent rate increase for fiscal 1980 and an additional 2.1 percent for 1981. In addition to this rate increase the people of Guam will soon be subject to expensive fuel cost passthroughs as world oil prices continue to skyrocket. Adding scrubber or low-sulfur fuel costs to this would strain the people of Guam beyond their financial capacity. GPA would quickly find itself with thousands of uncollectable accounts, as it has experienced during adverse conditions in the past.

Additionally, GPA is presently unable to obtain the funds to finance a scrubber. Over 50 percent of GPA's present debt consists of a $36-million loan from the Federal Government. This loan was extended for two years in December 1978 and H.R. 3756 contains provisions for further extensions, all based on GPA's inability to obtain private financing.

Of critical significance is the fact that compliance with the NSPS and continuous control requirements of the act would have *absolutely no clean air benefits* for the people of Guam or for any people elsewhere. The entire required expenditure would accomplish nothing; it would be a complete waste of the limited financial resources of the people of Guam.

Specifically, there are no inhabited land masses for approximately 1,500 miles to the west of Guam. When the prevailing winds blow, GPA's emissions affect neither the people of Guam, nor any other people. These emissions wash out of the atmosphere over hundreds of miles of empty ocean. Burning low sulfur fuel or operating a scrubber during prevailing winds would therefore benefit no one. The effort and the expenditure would have the sole effect of improving the air quality over hundreds of miles of uninhabited ocean. When the prevailing winds do not blow, GPA already burns low sulfur fuel, so there is absolutely no difference between continuous emission controls and the present strategy during these periods. Accordingly, requiring GPA to meet the act's present requirements would have no effect on the quality of the air on Guam.

Meeting the act's present requirements also makes no sense from an overall environmental perspective. The cost of low sulfur fuel on a continuous basis is simply prohibitive for GPA. At Cabras, therefore, GPA would be forced to install a scrubber. But the scrubbers have a waste product which must be treated somehow. The seawater scrubber, for example, creates a contaminated effluent which must somehow be returned to the sensitive marine ecosystem at Guam. Conventional lime-limestone scrubbers create a semi-solid sulfate by-product which must be ponded or landfilled. On Guam, land for ponding is scarce and there is the risk of contaminating the limited freshwater drinking supplies. Given the good air quality, the present wind control strategy appears eminently more sensible for Guam.

In view of the foregoing, the most sensible approach is to permit the continued use of the present control strategy. This can be accomplished by simply exempting GPA from sections 111 (NSPS) and 123(a)(2) (intermittent control prohibition) of the Act.

By exempting GPA from NSPS Cabras need not meet an absolute emission limitation requiring the continuous burning of low sulfur fuel or the use of a scrubber. By removing the prohibition on intermittent controls, the present control strategy can be continued indefinitely at both Tanguisson and Cabras.

NSPS were intended to provide for future industrial growth while maintaining clean air by imposing strict emission limitations on all new sources. This rationale does not apply on Guam where the air is already clean and industrial growth is limited. Indeed, since the establishment of NSPS, there do not appear to be any major new sources of sulfur dioxide on the island except Cabras 1 and 2. Moreover, the only likely new sources in the future are new GPA generating facilities. All will be built on the coast, principally near Cabras for the efficiency and cost benefits of sharing support facilities. These new generators will be built solely to replace older existing facilities. Because of modern efficiences these new facilities will produce the same amount of electricity while burning less fuel than the facilities they replace. Accordingly, overall emissions will actually decrease without *any* emission controls as GPA builds new facilities.

Similarly, the rationale for prohibiting intermittent control strategies does not exist on Guam. The principal argument for this prohibition as applied to wind-based strategies is that pollution will be "exported" to other populated areas (*e.g.*, across State lines). As explained above, GPA's pollution is not exported to any populated areas. Another problem with intermittent control strategies is difficulty of administration. This problem does not exist on Guam for several reasons. First, there are few sources to oversee and the Guam Environmental Protection Agency needs to commit few resources to enforcing implementation of the strategy. Second, since the Navy constantly monitors wind conditions, wind data is always available without any further resource commitment. Third, the low sulfur switch-over is easily and quickly effected, as necessary. Fourth, the prevailing winds are so regular and so dominant that little administration is necessary; low sulfur fuel is required only 11.4 percent of the time.

It is to be emphasized that under the proposed legislation Guam would continue to be required to have a SIP and that SIP would continue to be required to satisfy NAAQS. The SIP would also remain subject to EPA approval as to its adequacy and to EPA jurisdiction as to its enforcement. The purpose of the proposed legislation is simply to alleviate the threat of burdensome and unnecessary expenditures for the people of Guam. Most importantly, this is a goal which can be accomplished without any sacrifice in air quality.

EXHIBIT 2

HON. BENNETT JOHNSTON,
Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR JOHNSTON: Guam Power Authority has recently been involved in negotiations with the U.S. Environmental Protection Agency ("EPA") in an attempt to avoid costly litigation while at the same time avoiding potential disastrous mandatory noncompliance penalties under section 120 of the Clean Air Act as they might apply to our Cabras Island facility. Based on these negotiations and certain representations made to us by EPA, we are, subject to your advice, concurrence, and approval, inclined to defer pursuing a statutory exemption for Guam from certain provisions of the Clean Air Act until the scheduled revisions to the Clean Air Act in 1982.

This matter is of such importance to us that we respectfully request a meeting with you on the afternoon of December 17 or December 18 to discuss the situation with you. The meeting would be attended by our counsel, Messrs. Richard Poulson and Edward McDermott from Hogan and Hartson, and by one or more high level EPA officials.

On behalf of Guam Power Authority and the people of Guam, I want to express our deep and sincere appreciation to you for your loyal help and efforts on our behalf. Without your help we would not have been able to reach any reasonable settlement with EPA on the current dispute involving the application of the mandatory noncompliance penalties to the Cabras Island facility. It is essential to us, of course, that nothing is done to deter the implementation of our loan extension with the Federal financing bank and it is for that reason that we wish to have the benefit of your wisdom and advice before any final decision is made to defer on the legislation as it applies to Guam Power Authority either on the EPA matter or on the loan extension.

Mr. McDermott or Mr. Poulson will telephone you to attempt to arrange a meeting.

Thank you for your help.

Respectfully yours,
JOHN L. KERR,
Chairman, Guam Power Authority.

EXHIBIT 3

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 11, 1979.

RICHARD J. M. POULSON, Esq.,
Hogan & Hartman, 815 Connecticut Ave., NW., Washington, D.C.

DEAR MR. POULSON: This is in response to your letters of November 27, 1979, to Matthew Walker of our Region IX office, and December 4, 1979, to David Andrews, regarding the Guam Power Authority (GPA) case. You suggested in those letters that EPA should concur in a stipulation as to the facts in this case in Guam District Court. The purpose of this stipulation would be to facilitate an expeditious resolution of the issue of whether EPA should immediately grant GPA an innovative technology order under Section 113(d)(4) of the Clean Air Act (the Act) (42 U.S.C. § 7413(d)(4)). We do not believe such a stipulation is appropriate.

The current violation in this case is of the New Source Performance Standard (NSPS) promulgated under Section 111 of the Act. Guam has recently submitted a State implementation plan (SIP) revision to EPA which would establish the NSPS as the SIP emission limit. EPA has been considering the revision and will be proposing approval of the revision shortly in the Federal Register. As you know, EPA does not believe that issuance of the innovative technology order will affect GPA's potential liability for § 120 penalties for the underlying NSPS violation. EPA believes such an order would insulate GPA only from enforcement actions based on violations of the SIP.

Your concern about GPA's potential liability under Section 120 of the Act (42 U.S.C. § 7420) is premature. Issuance of a formal notice of noncompliance is a necessary prerequisite to the assessment of any noncompliance penalty. EPA has not issued any notices to date and will not do so prior to promulgation of the regulations. We expect to promulgate these regulations in early 1980.

However, to avoid the prospect that this purely potential fear, based on regulations that have not even been issued, will disrupt GPA's ability to comply with NSPS in accordance with its previous commitments. EPA is willing to commit not to issue a Section 120 notce to GPA at least until the date of final agency action on the pending SIP revision. Furthermore, we will not issue a Section 120 notice to GPA until we have taken final agency action on GPA's timely request for an innovative technology order.

This commitment is made with the full knowledge and concurrence of Barbara Blum, the Deputy Administrator.

Sincerely yours,
JEFFREY G. MILLER,
Acting Assistant Administrator for Enforcement.●

● Mr. MUSKIE. Mr. President, I am pleased that the Senator from Louisiana has seen fit to delete section 304 from the pending territories legislation. I appreciate his cooperation in this matter.

Section 304 would have exempted the Guam Power Authority from certain critical provisions of the Clean Air Act. Specifically, section 111, requiring compliance with new source performance standards, and section 123, prohibiting the use of intermittent control strategies, would have been made inapplicable to the powerplants operated by the Guam Power Authority.

I strongly objected to the consideration of these amendments by the Committee on Energy and Natural Resources. The Clean Air Act is solely within the jurisdiction of the Committee on Environment and Public Works, and specifically the Subcommittee on Environmental Pollution which I chair. It is our responsibility to examine any issue arising under that law and to consider any necessary amendments to it.

I would like to assure both the Senator from Louisiana and the Congressman from Guam, Mr. Won Pat, that these issues will receive thorough examination by the Committee on Environment and Public Works when we review the Clean Air Act in the next Congress.

I would also like to commend Mr. Won Pat for his effective representation of the Territory of Guam. I look forward to continued dialog with him in this matter. I ask that the relevant portions of my correspondence with the Congressman be printed in the Record at this point:

The correspondence follows:

House of Representatives,
Washington, D.C., December 10, 1979.

Hon. Edmund Muskie,
Chairman, Subcommittee on Environmental Pollution, Washington, D.C.

Dear Mr. Chairman: The Senate Committee on Energy and Natural Resources recently marked up H.R. 3756, the Territories Omnibus Bill to include an amendment to exempt the Guam Power Authority (GPA) from Sections 111 and 123(a)(2) of the Clean Air Act ("the Act"). This amendment is very important to me and my constituency, and I would like to take this opportunity to brief you on the background and rationale for this particular amendment, and to solicit your support.

GPA operates several generating facilities at which the Act requires continuous sulfur dioxide controls. In order to comply, GPA will have to either (1) continuously burn low sulfur fuel at an annual cost of $15–16 million above present fuel costs, or (2) install two scrubber systems at a minimum capital cost of $12 million for one and $5–10 million for the other and an annual operating cost of $2–2 and ½ million for the former and $1 and ½–2 million for the latter. GPA is required to undertake these expenditures in spite of the fact that under present pollution control strategies the air quality of Guam exceeds the national standards.

GPA currently utilizes the prevailing winds as part of its system of sulfur dioxide control. When the wind blows from the land toward the sea, which is 88.6 percent of the time, GPA burns fuel with 3 percent sulfur. The remaining 11.4 percent of the time, when the wind blows toward land, GPA burns low sulfur fuel (.75 percent sulfur).

Because Guam lies in an easterly trade wind belt and experiences winds from the east constantly, any emissions from GPA generating facilities are almost always blown out to sea. Since the facilities are all located on the western side of the island and since there are no inhabited land masses for approximately fifteen hundred miles to the west of Guam, all emissions wash out of the atmosphere over hundreds of miles of empty ocean.

Compliance with the above-mentioned sections of the Act would have absolutely no clean air benefits for the people of Guam or for any people elsewhere. The only result will be somewhat cleaner air over the uninhabited ocean to the west of Guam, which will be purchased at a capital cost which GPA cannot finance and operating costs which my constituents simply cannot afford.

The consent order entered on August 15, 1979 simply extends the amount of time by which GPA has to comply with applicable requirements of the Act. Moreover, the consent order does not protect GPA from section 120 penalties which could easily exceed $2 million per year. This is so because section 120 is, by its terms, applicable regardless of any consent order. Consequently, I do not view the order as a solution to the basic problem. I believe that the problem can only be resolved legislatively in the manner set forth in the amendment. I do not view with any enthusiasm the prospect, in the event the amendment is not passed, of introducing separate legislation appropriating millions of dollars to enable compliance with certain sections of the Act which bear no rational relationship to conditions on Guam and surrounding areas.

All these points were presented at the hearing on H.R. 3756 on October 10, 1979. Further detailed documentation was supplied to the Committee soon after the hearing. Review of these materials can only convince you of the merits of the amendment.

Needless to say, Mr. Chairman, your support of this amendment is crucial to its passage. If you have any questions or comments please feel free to call me anytime.

I look forward to continued cooperation with you in any matters which require my assistance.

With best regards.

Sincerely yours,

Antonio B. Won Pat,
Member of Congress.

U.S. Senate,
Washington, D.C., December 11, 1979.

Hon. Antonio B. Won Pat,
Rayburn House Office Building,
Washington, D.C.

Dear Congressman Won Pat: I am sorry that I missed your phone call yesterday regarding the Guam Power Authority exemption from the Clean Air Act. I know that my Administrative Assistant discussed my concerns with you but I wanted to respond personally.

I am deeply disturbed by the precedent of legislating a specific exemption from the Clean Air Act for a pollution source. I am more concerned with that exemption being included in a bill reported by a committee which does not have jurisdiction over the Clean Air Act. Therefore, I have asked the Majority Leader not to agree to any unanimous consent requests regarding the Territories Omnibus Bill until I have been consulted.

I would prefer that the Energy Committee drop this amendment from the legislation and that any problem with the Clean Air Act which your constituents face be brought to the Environment and Public Works Committee in an orderly fashion. Because no effort was made to contact me or my staff prior to the Energy Committee's decision to include this exemption, I have no view as to the appropriateness of the relief requested.

I remember and appreciate your help on Loring Air Force Base and I assure you that I will give Guam Power Authority a fair hearing should their problem be brought before the Environment and Public Works Committee when it reviews the Clean Air Act in the next Congress.

With best wishes, I am

Sincerely,

Edmund S. Muskie.

Mr. MUSKIE. Mr. President, we have reached the only appropriate resolution of this issue. I wish to thank all of the parties involved in reaching this agreement.●

● Mr. GLENN. Mr. President, I call the Senate's attention to section 605 of the committee amendment to H.R. 3756, which addresses the storage or transportation of spent nuclear fuel or high-level nuclear waste on any territory or possession of the United States. This provision is identical to S. 1119 which passed the Senate on July 31, 1979. During floor consideration of S. 1119, a number of statements and other materials concerning the bill were introduced into the Record.

Of particular importance were the assurances I received from Senators Jackson and McClure which appear at pages 21574–21575 of the Congressional Record for July 31, 1979, confirming that: First, this measure is neutral on the question of overall desirability of establishing an international spent nuclear fuel storage facility on an isolated Pacific island, and second, that the sponsors of the measure would agree to a unanimous-consent agreement providing for a joint referral of any legislation establishing such an international storage facility to the appropriate committees with the understanding that if one of the committees reports legislation authorizing such a spent fuel facility, the other committee would also be required to report the legislation within a specific number of days, to be agreed upon at the time of the introduction of the bill.

I have been assured that these same assurances will apply to section 605 of the committee amendment to H.R. 3756 and I therefore ask that the legislative history embodied in the floor debate on S. 1119 be printed in the Record at this point and be considered to apply to section 605 of the committee amendment.

The legislative history follows:

LEGISLATIVE HISTORY

Mr. Glenn. Mr. President, one of the most serious threats to world peace is that posed by the proliferation of nuclear weapons.

A central concern running through the Nuclear Non-Proliferation Act, which we passed last year, and the Carter administration's policies to curb the spread of these weapons has been the fear that nations around the world will acquire, as part of their civilian nuclear activities, large stockpiles of plutonium, a material that may have some future use as a nuclear fuel but which is also directly usable in nuclear explosives. In the past 2 years the United States has been active on many fronts in seeking to gain international acceptance of the concept that reprocessing of used nuclear fuel to extract plutonium should be deferred until it is absolutely essential and until adequate international controls and, perhaps, new technologies are available to rule out the risk that plutonium might be diverted for military uses.

Obviously, a most effective means to insure that nations do not extract the plutonium from their spent nuclear power reactor fuel is to have them place that fuel in international custody beyond their borders. This is why the current efforts to find a location for such an international storage facility are of such importance. In this regard, I believe the preliminary studies undertaken by the State Department on the possibility of establishing on a U.S.-owned island in the Central Pacific an international facility for the temporary storage of spent fuel from countries in the Pacific basin area is a particularly promising approach. At the same time I fully concur with the sponsors of this bill that the people inhabiting U.S. territories and possessions, because they lack representation here, are entitled to certain added procedural safeguards to insure that any plan to place nuclear wastes in their area receives full consideration by the Congress.

I would like to ask the Senator from Idaho whether I am correct that the bill is neutral on the question of the overall desirability of establishing an international spent fuel storage facility on an isolated Pacific island which met all appropriate technical requirements?

Mr. McClure. Yes, that is my understanding, as well. It is not the purpose of this bill to in any way impede the administration's important initiatives in this regard or to suggest to any foreign government that the Congress is opposed to this concept. The bill merely provides for Congress to be fully informed and for the interests of persons living in the U.S. territories and possessions to be fully protected.

Mr. Glenn. I would also like to ask the Senator from Idaho whether I am correct that the basic purpose of this measure is to provide such added procedural safeguards for this particular group, which has no direct representation in the Congress, to insure that their concerns over the possible storage of foreign spent fuel in their vicinity receive adequate consideration.

Mr. McClure. Yes. The purpose of this measure is to insure that Congress will be kept fully and currently informed of the development of such proposals and activities designed to analyze specific sites, and to insure that no proposal will go into effect without the opportunity for full consideration of any concerns which the people of the area might have. The Congress has a special responsibility with respect to the territories and possessions of the United States, one which justifies the procedures embodied in this legislation.

Mr. Glenn. It is also my understanding that you would agree to an unanimous consent arrangement providing for a joint referral of any such legislation to the appropriate committees with the understanding that if one of the committees reports legislation authorizing such a spent fuel facility, the other committee would also be required to report the legislation within a reasonable period of time or be discharged, and that the specific number of days after which the other committee would be discharged would be agreed upon at the time of introduction of the bill.

Mr. McClure. I fully understand the Senator's concern that such legislation should not be permitted to languish in committee in light of the vital importance of nonproliferation to world peace and security. Consequently, I am prepared to agree to the unanimous consent agreement which the Senator has suggested in order to insure prompt consideration of any such measure consistent with the need to insure full consideration of the views of the interested parties.

Mr. Jackson. I also am prepared to agree to the unanimous consent agreement which the Senator from Ohio has suggested.

Mr. Glenn. Finally, I would like to clarify certain language of the bill. It is my understanding that this bill would only require a single authorization for any facility. That is, if legislation is enacted authorizing a proposed transportation and storage plan, such legislation would satisfy the requirements of this bill with respect to initial and subsequent shipments of spent fuel and radioactive waste and the storage of such materials at that facility.

Mr. McClure. It is my intention also that a single authorization would satisfy all requirements of the bill for the transportation of spent fuel or radioactive waste to any one facility and for the storage of such material at that facility. It is not my intention to require a series of authorizations related to the use of a single such facility.

The Presiding Officer. The Senator from Idaho.

Mr. McClure. Mr. President, I am prepared to yield back the remainder of my time.

Mr. Matsunaga. Mr. President, I urge passage of S. 1119 as a necessary bill in order to insure the role of the Congress in matters such as the storage of spent nuclear fuel in any of the U.S. possessions and territories. I ask for third reading.

The Presiding Officer. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The Presiding Officer. Does the Senator from Hawaii yield back the remainder of his time?

Mr. Matsunaga. Mr. President, I yield back the remainder of my time.

Mr. McClure. Mr. President, I yield back the remainder of my time.

The Presiding Officer. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1119), as amended, was passed, as follows:

S. 1119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That prior to granting of any license, permit, or other authorization or permission by any agency or instrumentality of the United States to any person for the transportation of spent nuclear fuel or high-level radioactive waste for interim, long-term, or permanent storage to or for the storage of such fuel or waste on any territory or possession of the United States, the Secretary of the Interior is directed to transmit to the Congress a detailed report on the proposed transportation or storage plan, and no such license, permit, or other authorization or permission may be granted nor may any such transportation or storage occur unless the proposed transportation or storage plan has been specifically authorized by Act of Congress: *Provided,* That the provisions of this Act shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

For the purpose of this Act, the words "territory or possession" include the Trust Territory of the Pacific Islands and any area not within the boundaries of the several States over which the United States claims or exercises sovereignty.

Mr. Matsunaga. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. McClure. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.●

Mr. STEVENS. Mr. President, I have some amendments to this bill. They pertain to various territories. I have discussed the particular amendments and in very particular, the amendments that pertain to the Virgin Islands, with the Senator from Louisiana. I am satisfied that those amendments will be given consideration in the conference in order that this bill may go to conference. I have not offered the amendments. I did want to make that statement so that it is clear that I believe they will be considered in full in the conference.

The PRESIDING OFFICER. The bill is open to further amendment. If there are no further amendments, the question is on agreeing to the committee amendment as amended.

The committee amendment as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION TOMORROW OF HARRY F. BYRD, JR.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees are recognized under the standing order, Mr. Harry F. Byrd, Jr. be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE MAJORITY LEADER AND MINORITY LEADER

The PRESIDING OFFICER. The Chair on behalf of the majority leader and the minority leader appoints the following Senators to serve as congressional advisers to the U.S. delegation to the Committee on Disarmament:

The Senator from Rhode Island (Mr. Pell) and the Senator from Illinois (Mr. Percy).

PRIVILEGE OF THE FLOOR

Mr. GRAVEL. Mr. President, I ask unanimous consent that Pat Pourchot and Heida Boucher of my staff be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 39

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 442, the Alaska lands bill, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: That there be a total of 20 hours of debate on the bill, to be allocated as follows: 5 hours under the control of Mr. Jackson, 5 hours under the control of Mr. Gravel, 5 hours under the control of Messrs. Hatfield and Stevens, 5 hours under the control of Messrs. Durkin and Tsongas; provided further that no nongermane amendments be in order and that the following amendments are the only amendments that will be in order: 2 hours on each of five amendments which may be offered by Mr. Tsongas, 2 hours on each of three amendments which may be offered by

Mr. STEVENS, 2 hours on each of three amendments which may be offered by Mr. GRAVEL, and 2 hours on each of three amendments that may be offered by Mr. JACKSON; provided further that on any amendments offered to the foregoing amendments, time be limited on such amendments to 30 minutes; provided further that a substitute amendment by Mr. TSONGAS, if offered, not be in order until after all of the aforementioned amendments have been disposed of; provided further that no amendments to the substitute amendment be in order and that there be an up-or-down vote on the substitute amendment; provided further that time on the substitute amendment be limited to 4 hours if offered; provided further that the agreement be in the usual form and with the understanding that the bill not be called up before July 4.

Mr. STEVENS. Reserving the right to object, I see the distinguished Senator from Massachusetts is here. It is my understanding that there was a discussion concerning amendments that might be offered to the substitute amendment and, in particular, the Wrangell Mountain areas were addressed. The substitute would not generally be subject to an amendment, but I thought that, in particular, the amendments of the Senator from New Hampshire would be considered as possible amendments to the substitute before it was brought up. Am I in error there?

Mr. TSONGAS. Yes.

Mr. DURKIN. That is two of us.

Mr. TSONGAS. The agreement was that the substitute would be voted up or down without amendments if offered.

Mr. STEVENS. Those amendments would be in order against the five amendments that might address——

Mr. TSONGAS. That is correct.

Mr. STEVENS. Is that right?

Mr. TSONGAS. Yes.

Mr. President, reserving the right to object, if we could have some clarification on the July 4 day, Secretary Andrus has said if we do not move on this by April 1, he will exercise his authority under the Antiquities Act.

Obviously, I do not argue with him that he should withhold that until this can be resolved, but could we have some indication of when after July 4?

Mr. ROBERT C. BYRD. Yes.

If agreeable, I would ask that the majority leader be authorized to call this up at any time after July 4, after consultation with the distinguished acting Republican leader, or the Republican leader, whichever is appropriate at this time, and I would be willing to give the Senators the understanding that I would make that bill the first order of business after the Republican convention, with the condition that there not be some other measure which would be of an emergent nature which would have to come first in the judgment of practically everyone.

I am thinking, for example, let us say that there had to be an extension of the debt limit, which would not be the case in this instance, but something like that, or if there were a second concurrent budget resolution which was supposed to be in place by September 15, some type of bill of that nature which, obviously, ought to go first.

But I would do everything within my power to move this bill as soon as possible after the recess.

Mr. TSONGAS. I say to the majority leader that is adequate enough assurance for me and for the people I represent.

I would also say, as one Senator, that I do not expect to take the time allocated to me and I hope that attitude would be contagious when the time comes.

Mr. DURKIN. Mr. President, reserving the right to object, I would like to ask the Senator from Massachusetts a question.

It was my understanding, as we discussed this, that the substitute would be, if offered, the last, would not be in order until all the amendments had been offered, that there would be a provision to offer my three amendments with respect to hunting at the Barnard Glacier, Jacksina, and Malaspina, and the question of exploratory drilling on the North Slope, that there would still be a possibility to offer those amendments because the substitute amendment would be an amendment in the first degree, but only subject to those amendments.

Mr. TSONGAS. Well, that is not my understanding at all, because if we end up doing that, the Senator has two bites of the apple. The Senator can do it on the amendments and on the substitute. Double jeopardy is written into the Constitution as not allowable.

I have no problem with a decision to do one or the other, and the Senator can choose which one he wants. But do not have me subject to that situation where I have to run the same gamut twice.

The Senator has to win only once. I have to win twice.

Mr. DURKIN. I am not sure we are on the opposite sides, at least I did not think we were. But I will not let this fall apart because of the difference in understanding.

Mr. TSONGAS. Let me, if I may, reassure the Senator from New Hampshire that, in a practical sense, the substitute would only be offered by myself if everything else began to fall apart on me, in a need to have an up or down vote on the substitute.

I do not anticipate that happening. So what we are discussing now, in many senses, is really not likely to ever occur.

Mr. STEVENS. Will the Senator yield?

Mr. DURKIN. If I may reply, then I will be happy to yield.

I would hate to see the day where the Senator from Massachusetts and the Senator from New Hampshire disagreed and we found ourselves on opposite sides of the fence. But when we are faced with gaslines this year, I think we would have trouble explaining to the people that we represent that we had locked up the North Slope and prevented any exploratory drilling done under the most benign and safety-conscious environmental standards.

I would not want to find myself in a position of voting against the amendments that I did offer with respect to hunting and at Barnard Glacier and Malaspina, and the Jacksina area.

I would add that, theoretically, we have no objection and we have no separate views. But I am afraid as it unfolds that we could find ourselves on the opposite side of a yea or nay vote. I am trying to avoid that.

But I have worked too hard on this bill to object to the time agreement.

Mr. STEVENS. Mr. President, reserving the right to object, it would be my hope we could have an up or down vote on the Tsongas substitute and then an up or down vote on the bill itself.

All these issues will be in conference. This is not the time to argue the bill on the merits.

I do want one understanding. It is my understanding from the Senator from Massachusetts that the five amendments are generic amendments. We are not limiting him to what the total content is, but there would be one park amendment, one wildlife refuge amendment. They are dealing with geographical areas and park systems or wildlife systems or forest systems or wild and scenic river systems.

Is the Senator from Alaska correct on that? Is the Senator from Alaska correct in his understanding that that is the Senator from Massachusetts' intentions?

Mr. TSONGAS. Without meaning to be evasive, since I have not seen the final language of the amendments, I would be hesitant to answer the Senator and to then be locked in. But I will send the amendments over to the Senator's office, and I suspect he is as familiar as I am with what they are generally about.

I do not think we will have a problem. But not having seen them, I could be very ill at ease making a commitment that I really would be ill-advised to make.

Mr. STEVENS. I want to make sure I understand. It is a very complicated bill. We had 44 mark-up sessions in the first instance, and about 16 this year.

I do think if we have five amendments, that we ought to have some understanding of what they are about.

Mr. TSONGAS. Let me, perhaps, illustrate. One will be on Southeast. One will be on the Arctic Wildlife Refuge. One will be on the parks. I think those are familiar to the Senator.

Mr. STEVENS. Yes.

Mr. TSONGAS. And the amendments that will be introduced will be of no surprise, I can assure the Senator in that respect.

Mr. STEVENS. In connection with that, I want to make certain the amendments in the first degree to be offered by the Senator from Massachusetts will be subject to perfecting amendments.

We have had some substantial arguments as to whether certain State selections which are approved by other sections of the bill would be within or without, for instance, the Gates of the Arctic, if the Senator from Massachusetts sees fit to draw those lines in his amendment, so they might put those State selections back in the park.

I would like to have the opportunity to

offer an amendment to take them out. Those amendments, perfecting amendments to the amendments, or the Senator's to mine, are not covered by the limit of three amendments I might offer.

It is my understanding we may offer perfecting amendments to the Senator's amendment, the Senator may offer them to ours.

Is that understood?

Mr. TSONGAS. That is correct.

Mr. GRAVEL. Reserving the right to object, on one point, it is my understanding that in no case will there be an amendment that will be offered that is identical to the House bill, which would thereby preclude the necessity of a conference.

The second point, I have been given the word of the chairman of the committee and the majority leader that, since I do not serve on the committee, I would be appointed by the Senate to act as one of the conferees, recognizing the importance of this to my State. I am more than satisfied with that verbal commitment from these gentlemen.

Mr. ROBERT C. BYRD. Mr. President, first, let us take the substitute question.

Is the Senator correct that the House bill would not be offered as a substitute?

Mr. STEVENS. That is my understanding. The only substitute would be offered—if he determines to do so—by the Senator from Massachusetts, and it is currently known as amendment 626 to S. 9.

Mr. TSONGAS. Let me respond. I will give the Senator my assurance that H.R. 39 will not be the substitute. I do not want to get locked into the particular substitute, because perhaps there may be things in it that would require some adjustment to pick up support even among Senators here.

Mr. STEVENS. The Senator has a right to modify this substitute up to the time he offers it. But that is the basic framework of the Tsongas substitute.

Mr. TSONGAS. Yes.

Mr. ROBERT C. BYRD. Could we include in the order that no substitute would be offered that is identical to the House bill?

Mr. TSONGAS. That is correct.

Mr. ROBERT C. BYRD. I make that part of the request.

Mr. TSONGAS. I understand that Secretary Andrus is obviously a party to all this and is on the phone and would like to make a comment. I should like to respond to that phone call before we put this issue to bed.

Mr. ROBERT C. BYRD. Before the Senator from Massachusetts does that, however, let me clarify another matter.

I have included in the request that no nongermane amendments be in order. Is it understood that all the amendments that have been enumerated here are germane amendments? So that we will have no conflict in the statement that no nongermane amendments will be in order.

Mr. DURKIN. That is right.

Mr. GRAVEL. That is right.

Mr. STEVENS. It is my understanding that there will be no nongermane amendments.

Mr. ROBERT C. BYRD. While the Senator from Massachusetts is talking to the Secretary, I suggest that he tell him that the Secretary does not know how difficult it is to get an agreement, so he should not hold me up too long.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. It is my understanding that all the amendments that were enumerated—the three I might offer, that my colleague might offer, that the Senator from Washington might offer, and the five that the Senator from Massachusetts might offer—must be germane to the Senate-reported committee bill.

Mr. DURKIN. And they are amendments in the first degree.

Mr. STEVENS. And they are amendments in the first degree. The amendments in the second degree must be germane to the amendment to which they are offered. Can we have that agreement, also? That was our understanding, that they were to be perfecting amendments.

Mr. ROBERT C. BYRD. But the proviso of no nongermane amendments would rule those out if they were not germane.

Mr. STEVENS. That is correct.

Mr. ROBERT C. BYRD. But the amendments that have been defined here are definitely, germane amendments.

Mr. STEVENS. Yes.

Mr. DURKIN. Yes.

Mr. STEVENS. We are also trying to isolate issues, so that we would not expect to see an Arctic wildlife range amendment offered as an amendment in the second degree to an amendment pertaining to the Wrangells. We want it understood that we are dealing with issue by issue, and we are talking about perfecting amendments.

My good friend sees my problem. We do not want to get these issues confused in one amendment.

We might want to repeat that when the Senator from Massachusetts gets off the phone, but that is my understanding.

Mr. ROBERT C. BYRD. While the Senator from Massachusetts is talking on the phone: The distinguished chairman, Mr. JACKSON, has indicated that Mr. GRAVEL will be a conferee; and I believe that my colleagues who are present on the floor heard Mr. JACKSON say that, and I support that 100 percent.

Mr. STEVENS. May I add that, not having had any advance opportunity to discuss this with the Senator from Oregon—I did catch him as he was leaving and have discussed this with him briefly—I informed him of that condition; he indicated that that and the general outline of the agreement were agreeable to him.

I apologize to him. I must state for the RECORD that I did not have an opportunity, the way this came up, to discuss this agreement with the Senator from Oregon; but he has told me that he would accept the conditions.

Mr. ROBERT C. BYRD. I do not want to include in the unanimous-consent request the proviso that Mr. GRAVEL be included as a conferee. I do not want to start doing that. But it is a gentlemen's agreement and is understood all the way around, and it is supported specifically by the chairman, Mr. JACKSON, that Mr. GRAVEL will be a conferee, and we all will work with that understanding.

Mr. GRAVEL. I am satisfied.

Mr. STEVENS. Mr. President, the Parliamentarian has pointed out to me that I made the statement that we intended that the amendments to be offered must be germane to the Senate bill. He indicates that that may be contrary to the Senate precedents, since we also technically have the House bill present.

It is my understanding, and I hope that is the agreement, that the amendments to be offered must be germane to the Senate bill; that if a subject is not included in the Senate bill, no amendment other than the substitute—the substitute has been specifically cleared as being a complete substitute—could be offered.

Mr. DURKIN. Mr. President, reserving the right to object, I am not sure that that does not add an element that we had not discussed. Covering 375 million acres, there could be areas that were deleted from S. 9 that were covered in H.R. 39; and that would preclude us from offering a refuge amendment covering areas that were not in S. 9 as a refuge. It could preclude us from offering a park amendment. It could preclude us from offering a wild and scenic amendment.

Mr. STEVENS. Take the National Petroleum Reserve of Alaska. It is not included in S. 9. It is included in H.R. 39. I hope we do not have to face a series of amendments concerning an area that the Senate committee has deleted from the bill, which will be in conference, and we want an opportunity to discuss it in conference. We do not want amendments concerning an area that has been totally deleted by the Senate committee added by an amendment on the floor.

Mr. DURKIN. Mr. President, further reserving the right to object, that would unduly restrict the scope of amendments that would be able to be offered on the Senate floor; and I am afraid that I would have to discuss that and the implications of that. Otherwise, I might have to object.

If the Senator would agree that the amendments be to S. 9 but not preclude any geographic area in Alaska, or any category of ecosystem protection, or one of the four systems, then I think maybe I could live with his understanding.

Mr. STEVENS. To bring the Senator from Massachusetts up to date, we are talking about my comment that the amendments to be offered—the five amendments of the Senator from Massachusetts, the three I have reserved, those my colleague has reserved, those Senator JACKSON has reserved—would be germane to the Senate bill. It was pointed out that that statement might be interpreted as being contrary to the precedents, since the House bill is technically before the Senate.

Normally, a matter that is germane to the House bill or the Senate bill would be in order. I said it was my understanding that these amendments must be germane to the Senate bill, that we could not go into areas that are not covered by the Senate bill in amendments, other than the Senator's substitute, which does contain areas that are in H.R. 39 that are not in S. 9.

Is that contrary to the understanding of the Senator from Massachusetts?

Mr. DURKIN. While the Senator was off the floor, talking to Secretary Andrus, I mentioned my concern that we may be limiting geographic areas, one of the four systems, to substantial parts of the 375 million acres; that if the Senator from Alaska would agree that his suggestion did not preclude amendments to any of the 375 million acres or any of the four systems, then perhaps we could live with that.

Mr. STEVENS. I say to the Senator that if he offers an amendment to increase the size of the Gates of the Arctic, that is germane; but if he offers an amendment to create a second Gates of the Arctic that is separate and apart from that proposed park in S. 9, then I do not think it would be germane.

We want to limit the issues so that we can get the matter resolved and get to conference. That was my understanding.

That is why we have specifically delineated an amendment that we are considering.

Mr. TSONGAS. If I might respond, this is a bill of enormous significance, and I would hate, on the basis of a vague understanding of what may or may not be germane, to agree to something that is going to have implications or go on long after we are laid to rest, and I think that the time limit agreement gives us the certainty. I just do not want to turn around and wake up tomorrow and find out that I agreed to something that precludes the substance of the amendments that we are talking about.

The Senator knows very well what kinds of things we are discussing, and he knows that we are operating in good faith.

Mr. STEVENS. We are talking about the NPRA. That is not in the Senate bill. It is in the Senator's substitute. It is my understanding. I have asked several times about the amendments to be offered, and it is my understanding there were amendments concerning specific matters in the Senate bill and decisions were made in the committee that the Senator disagrees with. If we are going to face the NPRA and all these other areas that the Senate committee deleted then I think we have a different agreement. We are talking about perfecting the Senate bill or facing the Senator's substitute which does include NPRA as alternatives.

Mr. TSONGAS. That is not my agreement.

Mr. DURKIN. If the Senator from Alaska will yield, I think that the thrust of our agreement as fashioned in the cloakroom was that the five amendments that Senator TSONGAS and I have talked about involving parks in any area of Alaska, refuges in any area of Alaska, wild and scenic rivers, southeast Alaska, applying one of the four protective systems to any area within Alaska, were germane and would be not subject to a point of order or not fall without the four corners of the agreement.

I mean we are not going to try to make downtown Anchorage a national park or refuge or what have you. But by being tied just to S. 9, and even though I have lived with this thing a long time I do not have an instant recall of everything in S. 9, I am afraid we will be giving away a right to amend to say to make Porcupine National Forest the Yukon wildlife refuge.

Mr. GRAVEL. Mr. President, if the Senator will yield, I requested, and everyone is in general agreement, that in no case would we countenance an amendment that would be equal to the House bill. The purpose and the general agreement of that was, of course, that we would go to conference. So I think that that is our area of concern.

Mr. DURKIN. I do not have any problem with that.

Mr. GRAVEL. I know that. I think we might solve this impasse if maybe the majority leader and the minority leader would put their minds to a modification that would say that the final disposition of this issue would be a product of the conference report, and that would lay that to rest once and for all.

Mr. DURKIN. I do not know. I have been up that street once before last year with 47 sessions including 3 with the Senator in conference.

But what I want to make sure is that any part of our amendments on anyone of the four protective systems, applying to any of the area that is in question in either H.R. 39 or S. 9, is not precluded by virtue of this agreement.

If the Senator from Alaska would agree to that I think we should have the thrust of the agreement we fashioned in the majority leader's office.

Mr. STEVENS. There must be a misunderstanding, I will say that, because in the conference in the majority leader's office it was my understanding that we were talking about amendments that would be germane to S. 9. We were not talking about amendments that would be germane to H.R. 39.

I might say to my good friend that I assume if he wanted to he could expand any one of those parks to include the whole State under the germaneness rule if it were one contiguous park. We have specific areas that were left out of the Senate bill and under the circumstances if we are to preserve any issues for the conference those are the issues that should remain for the conference.

I thought we were talking about S. 9 and amendments to S. 9 or the Tsongas substitute. In the event the Senator from Massachusetts did not agree with the result of the individual amendments as they were voted on by the Senate, he had the option to offer that as a final amendment, and it does contain many of the items that were in H.R. 39 that were deleted by the Senate committee.

Mr. DURKIN. Mr. President, if the Senator will yield, I do not think Senator TSONGAS and I are arguing that we would not offer H.R. 39 as a substitute in toto and then try to do it in five installments and foreclose the Senator.

I say that I think, the Senator from Massachusetts and I can agree we will not try to chop the dog's tail off an inch at a time in five segments so the Senator is not precluded from a conference as long as he does not ask us to give up the ability to amend a certain area, any area in Alaska with respect to one of the four protective systems.

If we can lay this on the record and agree to it I think the Senator is protected and we are protected.

I yield to the Senator from Massachusetts.

Mr. STEVENS. There are a lot of other areas.

Mr. TSONGAS. I might say to the Senator from Alaska that I engage in this agreement in some jeopardy. I have not consulted with the Alaska coalition and just now have informed the Secretary what I am doing.

I take that responsibility seriously, and I am quite willing to shoulder whatever that responsibility might be.

But to fall into a trap where without knowing exactly the details of an amendment that I have given something away, the outlines of which are very vague, is irresponsible and there is no way that I can do that.

I will be perfectly willing to give the Senator those amendments within a short period of time, and he can look at them. I do not think he will be surprised by them. We have discussed them before.

Mr. STEVENS. Do they include the pet–4 reserve in Alaska? The Senator from Washington has left but as the Senator knows that was one of the areas that he specifically wanted left out of this bill.

Mr. DURKIN. Mr. President, if the Senator will yield, they have already drilled 16 holes on 23 million acres. There was almost unanimity that we should encourage more drilling in the pet–4 reserve to take the pressure off Beaufort Sea which is going to have a blowout and wipe out God knows what the way the Interior Department is going. Do we want to preclude an amendment which encourages drilling in pet–4 and postpone drilling in the Beaufort Sea where there is no technology?

Mr. STEVENS. No; the conference committee can put NPRA back. It is in the House bill. It will be within the scope of the conference.

Mr. TSONGAS. We can discuss this all night long. I cannot agree in good conscience to anything other than what we agreed to in that room. I have five amendments which will include the Hart-Culver concerns, and I wanted to be free to do what I think is right and the people I represent think is right on those amendments and not to have agreed to something here the details of which are very vague in my mind.

I just would feel irresponsible agreeing to that, and the Senator can decide what he wants to do on the basis of that. I am not trying to be irresponsible. The Senator knows how I tried to deal with him throughout the whole process.

Mr. STEVENS. I understand that. I leave the matter to my colleague from Alaska. That was not my understanding in the majority leader's conference room. I thought we were dealing with amendments that were germane to S. 9 and I so stated before the argument started, and it was pointed out by the Parliamentarian it might be inconsistent with the precedents of the Senate.

Mr. DURKIN. We can do anything but amend the Constitution by unanimous consent.

Mr. STEVENS. I understand that, and that is what I was trying to do.

Mr. DURKIN. Could I propose a resolution of this, that we will not offer H.R. 39 as a substitute either in toto or in five installments and we will not be precluded from trying to attach any one of the four protective systems to any geographic area of Alaska, whether it is in S. 9 or H.R. 39?

I think we are protected and you are protected, and it is laid on the record. We just do not want to be surprised.

You know, you heard the story, about the guy playing cards. He has an ace, three, five, and seven and he wins the pot. The guy says, "Well, look at the sign 'Old Cat beats anything in the house.' "

So 3 hours later he has bet the wife, the cattle, the ranch, and he has ace, three, five, and seven and he loses to a pair of deuces. The other guy says to him, "Look at the other sign, 'Old Cat only wins once a night in this place.' "

We just do not want to get involved in such a situation.

Mr. TSONGAS. I would just point out for the record that that is a Massachusetts anecdote.

Mr. STEVENS. I find myself in the position of having argued for a time agreement for some time but not being entirely secure in the outline of this time agreement in terms of the fact that we may face entirely new areas that are not within the Senate bill.

Again, my colleague from Alaska, Senator GRAVEL—it is a good question, if he wishes to proceed and get the agreement, then I think it is an agreement and it is going to make the job much tougher because until we see those amendments we do not know what we are talking about.

Mr. GRAVEL. Let me just say that I have no motivation at all to proceed with the bill. I am the last one to come in the room, so I feel there is no question but that we are in jeopardy. If a bill is passed, I appreciate the Senator's concern.

Mr. STEVENS. I would really like to see the Senator's amendments, and I will say to my good friend from West Virginia I think I have a genuine disagreement or misunderstanding on the germaneness rule, and I started this discussion on that basis, and that is apparently where we are hung up. If we could make the agreement contingent upon our seeing those five amendments, with the opportunity to vitiate the agreement if we have basic concerns later on either side, it would be all right with me.

You have not seen mine either, but I can assure you mine are germane, and I think you know what they are. But I do not know what is going to happen in any new areas. We could be looking at a whole new configuration of these parks in areas that are not—four areas that are not—within the bill.

Mr. TSONGAS. Mr. President, if the Senator will yield, perhaps the resolution of this would be to agree subject to the parties' seeing the amendments of the other parties when we come back and have a session, but with the understanding that we would vitiate the agreement only—well, there is no point in getting to that.

Mr. ROBERT C. BYRD. Yes, I think it should be "only." I do not think we ought to open up a lot of doors by which the agreement could be vitiated. There is genuine concern about the contents of these amendments. If we could condition it on that——

Mr. TSONGAS. Yes. The concern is about the amendments being substantive not, perhaps, a nit-picking procedure, and there is, perhaps, nothing that I would offer that has not been talked about long before this session began.

Mr. ROBERT C. BYRD. Could we carefully state the condition on which the agreement might be vitiated so that we could proceed?

Mr. STEVENS. So far as I am concerned I would like to have the right to vitiate any agreement if the amendments offered by the Senator from Massachusetts go beyond the concept of dealing with the areas that are covered by the Senate bill to the extent that I think it becomes a bill that, if passed, would not go to conference. I do believe that you could do it on the basis where we would end up with a bill here that the House would take and we would not get to conference at all. Those areas we deleted make the bill conferential, and it means they would be resolved in conference. That is where I want this bill to be written, in conference, if at all possible.

I am prepared to enter into an agreement. I want to work it out with the Senator, but I am sure he can see if we end up with a bill that is entirely acceptable to the Alaska Coalition and to the administration but is going to not get through conference we do not have any chance. There are some things in the House bill we would like to see in the Senate bill. They are not in there because we knew we would have those to discuss in conference.

Mr. DURKIN. Mr. President, will the Senator yield? That is why I think what I have proposed, that we will agree not to replace H.R. 39 in five installments, and you agree not to foreclose—not to apply the germaneness rule to any geographic area in any one of the four protection systems, because under what you are saying you can end up in conference, and the only issue that would be in conference would be whether it is the Yukon Wildlife Refuge or Porcupine National Forest, and nothing else would be within the scope of the conference.

Mr. STEVENS. No, I understand. I think the amendments the Senator from Massachusetts is going to offer—and we have been over it enough to know the boundaries and the boundaries of the Senate bill or the House bill and the original coalition bill, it seems to me that is what we ought to be dealing with, not whether we are going to create additional areas that go beyond the bill that is before the Senate.

Mr. DURKIN. Mr. President, will the Senator yield? What about, say, we come in with a refuge amendment and sweep in the entire North Slope in the amendment, Pet 4 all the way to the Canadian border. Under what you are asking that would be nongermane except as it related to areas already in S. 9.

Mr. STEVENS. I am sure the Parliamentarian will tell you that if you extended it to cover the whole of the Arctic it would be germane, but if you created contiguous areas, areas not within the Senate bill under my interpretation they would not be germane, the new areas not covered by the Senate bill, the individual areas, would not be germane.

Mr. TSONGAS. Is the Senator concerned about a particular amendment?

Mr. STEVENS. I am particularly concerned about all NPRA. I think the Senator from Washington would agree that if we have separate legislation, the President has recommended a course of action concerning it. We left it out intentionally and the House put it in intentionally, and I do think that is a conferential item, and the kind of item that ought to be considered between the two Houses and not foreclosed here by an amendment which makes the NPRA a part or something like that, of a wildlife refuge.

Mr. TSONGAS. Does the Senator have potential objection to that one issue?

Mr. STEVENS. It is primarily that issue and also the question of the interior forests and what would happen to those interior forests. I have no idea what your amendment does with that.

Mr. TSONGAS. That makes two of us.

Mr. STEVENS. I just think it would be better if we had the right to—let us enter an agreement—you have not seen my amendments either. They might send you up the wall. But I do not think they will because I think we want to get the matter in conference.

Mr. TSONGAS. I think at this point we either have to be operating on good faith and show each other our amendments and then see where we are—the disadvantage that I have is that you know Alaska much better than I do by definition, and for me to enter into an agreement with considerably less knowledge, representing an entire movement that has spent years on this, not knowing what I am talking about I just do not think is proper. That is the basis for my hesitation.

Mr. DURKIN. What about letting it go over until morning?

Mr. STEVENS. Take the Susitna River. It was included in the House bill and not included in our bill, and we have a very vital interest in the Susitna River. If we do not find it in the House bill we are not going to face it as a wild and scenic river. It will be in conference, however, because it is in the House bill, and it would apparently be germane in the House bill, an amendment in the House bill, since the Senate rules pertain to germaneness over House bills. We could argue over individual issues that were settled in over 60 committee meetings during the past 3 years.

Mr. DURKIN. I think we have made a lot of progress. I think we have the framework.

Mr. STEVENS. Can we not get the time agreement subject to a conference? I do trust my friend from Massachusetts. As a matter of fact, we have never failed to reach a final amicable resolution of what is a fair balance. After you see ours and I see yours, we will sit down with the Parliamentarian and work it out on the basis of a comity as it is fair. I am not seeking to rewrite the Senate rules, either.

But I do not think we ought to face every one of those issues that we created to have conferential items with the House on a basis that wipes out our conference.

Mr. DURKIN. Well, TED——

Mr. ROBERT C. BYRD. Mr. President, may we observe the Senate rules? I do not want to throw a thorn in this. But could we address the Chair and address Senators in the third person?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The majority leader's point is well taken.

Mr. GRAVEL. I think we are preciously close to an agreement. What has been propounded by the majority leader is satisfactory, that it could be vitiated if there is disagreement on the issue of germaneness to the amendments submitted by all parties, that that should be done as soon as possible in the next 30 days, and that would be the only grounds for a vitiation of the agreement. That seems adequate. No one is giving up a thing. We will see everybody's amendment. If there is a germaneness dispute, and it is only to the ground of germaneness, then we could vitiate the agreement. Does that come close?

So, if the Senator from Alaska looked at your amendment and said, "This, in my mind, is not germane," that vitiates the agreement. But at least we have made a step in the right direction. And there is no doubt to what the majority leader wanted to do and that was only to have a vitiation as a result of one particular item.

Mr. TSONGAS. Will the Senator yield?

Mr. GRAVEL. Yes.

Mr. TSONGAS. My concern is what happens if we get to a point where an amendment could be objected to on the issue of germaneness and yet be clearly within the spirit of the negotiations for the past year plus.

Mr. GRAVEL. Then my colleague is back to the point where there has not been a clear case of good faith, and that somebody is using a device to thwart the realization of this agreement. Other than that, we can make some progress tonight on this. And if, later on, there is acrimony, then this agreement will be vitiated.

At least we are starting out with the desire to do that. As has been stated by my colleagues, in the past these areas have been accommodated by the goodwill of the people involved.

Suppose, in my case, people are suspicious that I might want to sabotage this. I will look at your amendments and say, "To me, they are not germane." That kills the agreement.

But I am prepared to exercise an agreement, because I feel all parties will act in good faith. They may not.

Mr. TSONGAS. If I could have the agreement that we could be subject to a response that says: "Yes, we expected these amendments. We have been discussing it for a year and a half. It is proper that you bring it up. We have got to get the issues resolved, but there is a germaneness problem."

Mr. STEVENS. Will the Senator yield?

Mr. TSONGAS. Yes.

Mr. STEVENS. Could we have the agreement and the understanding with the Senator from Massachusetts that we will all submit the amendments to the Parliamentarian within 30 days and we will have his decision as to whether the amendments are germane to the House bill, are they germane to the Senate bill, and the ones that would not be germane to Senate bill but are germane to the House bill will be the subject of a conference? If they clearly violate the spirit of the conversation we have had here tonight, if that is the determination, then the majority leader or minority leader can vitiate the agreement.

Mr. DURKIN. Mr. President, reserving the right to object, what sort of a framework do you contemplate? Would the ruling of the Parliamentarian be subject to appeal?

Mr. STEVENS. I am just saying if the majority leader and the minority leader, based upon the advice of the Parliamentarian, think these amendments would violate the agreement, they may vitiate the agreement. They may not, too. They may determine to go ahead with it. But we will leave it to their option on the basis of the comity and if they feel that either of us is seriously grieved by the procedures that have been followed——

Mr. DURKIN. Reserving the right to object, you say the Susitna is not in the Senate bill?

Mr. STEVENS. No, it is not. It is in the substitute of the Senator from Massachusetts.

Mr. DURKIN. And if the Senator from Massachusetts or anyone else would offer an amendment to make the Susitna a wild and scenic river, is it your opinion that it would be nongermane under the agreement that is propounded?

Mr. STEVENS. It would depend on the way it is done, really. Because the wild and scenic rivers are a series of rivers and the Susitna could be connected in a manner that would make it germane.

Mr. DURKIN. Say the dam site, the place where you have contemplated putting the dam, and we made that a wild and scenic river or a national park with the highest degree of protection, is it your vew of this unanimous-consent agreement that that would be nongermane because it is not addressed in any way?

Mr. GRAVEL. Wait a minute. You are pushing me on that. You are getting into the merits of the situation. The Congress has already acted to authorize this dam site and the State is expending millions of dollars on this project. The Federal Government has already expended unusual sums. And now to act to preclude the people of Alaska, in this period of an energy crisis, to not enjoy a renewable resource is really preposterous.

Mr. DURKIN. Will the Senator yield? You know, we damn near got killed looking at that dam site flying in that little plane.

Mr. ROBERT C. BYRD. Mr. President—go ahead and finish your sentence.

Mr. DURKIN. The Susitna was brought up. I am not arguing about the Susitna itself. But we are sort of like the blind man feeling the brown bear, not quite sure what we are up against. And we do not want to foreclose the ability to offer an amendment involving any one of the four prospective units or systems to any geographic area in the State of Alaska. We will agree that we will not replace H.R. 39 in five installments.

Mr. GRAVEL. Will the Senator yield? With the suggestion I made, not even tying it down to the Parliamentarian, if you wanted to move to vitiate the agreement because you felt that there were things happening on the basis of germaneness of the amendments, then you could do that. There is really no diminution of any individual's prerogatives in this agreement, except that if we do go forward in the spirit of comity to try to arrive at something, to accommodate the difficulty of leadership.

You could do the same thing as I could do if you want to vitiate it later on these grounds.

Mr. DURKIN. Will the Senator yield? Maybe the majority leader could help me answer this question. If we do that, do we really have a unanimous-consent agreement or do we have an agreement to try to reach an agreement?

Mr. ROBERT C. BYR. I think you would have an agreement that could be vitiated on certain conditions.

Mr. STEVENS. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Does the majority leader feel uncomfortable with the suggestion I made that the final decision would be made by the leadership? I have discussed the matter with the Senator from Massachusetts. I think he and I have the same feeling; and that is if the final decision would be such that we feel that somehow or other we have been totally betrayed by the system, we want out. But it would have to be a total betrayal to get to that point. And I trust the leadership to make that judgment and he apparently would, also.

Is that agreeable with you? We have an agreement subject to being vitiated by the leadership if they feel we are so disturbed that it might affect the future operation of the Senate?

Mr. DURKIN. What is your definition of "total betrayal"?

Mr. STEVENS. That was the concept of my friend from Massachusetts and I felt very akin to those words.

Mr. TSONGAS. If the Senator from

Alaska would delete the word "total" and accept the word "betrayal," I think we have an agreement we can all live with.

Mr. STEVENS. The condition is that we have gotten an agreement, subject to being vitiated by the minority leader and majority leader, if they are convinced any one of the parties involved has really been misled by this concept.

Mr. DURKIN. Reserving the right to object, I do not want to have this more involved than we already have it, but I am not sure what the procedure to vitiate is, what the form is for deciding whether it can be vitiated or not, and the framework that the trier of the fact, if you will, will utilize to determine whether there has been betrayal to cause vitiation.

Mr. TSONGAS. If the Senator will yield, if we ended up in a situation where I offered my five amendments, and those were no surprise to anyone, particularly in view of their being discussed for these many months, and they were presented to the Senator from Alaska who said, "No; you cannot have one of these for purely parliamentary reasons in the process," that process would so undermine this environmentalist effort that I could see that I could not proceed in good faith and I could go to the majority leader and say that the spirit of the last 13 months has been betrayed. I would ask him to honor my request to vitiate the agreement. We have been through a number of amendments and a number of controversies and have been able to work them all out. Here we are discussing a hypothetical. I hope that since we have gone this far, we can continue on.

Mr. STEVENS. I am prepared to accept that. The majority and the minority leader together can authorize committees to sit in the afternoon, they can do a lot of things contrary to the rules, if they both agree. They both would have to agree to do this. I do not see any reason why we cannot give that power to them.

Mr. ROBERT. C. BYRD. Well, if it is agreeable to all parties.

Mr. DURKIN. While we are waiting for Senator GRAVEL, can I ask another question of Senator STEVENS?

Mr. ROBERT C. BYRD. Yes.

Mr. DURKIN. Under the agreement to vitiate if somebody cries foul, what about if there is a totally different treatment of Misty Fields?

Mr. STEVENS. It would not surprise me that it would be germane. Misty Fjords is in the bill. You can rename it or refigure it, or do almost anything you want with it. It would not be a new area. But if you went to some other islands in southeastern not covered by this bill, subject to existing contracts for cutting, and you said you wanted to make that into the Purple Fjords, then I would say you had violated the spirit of this agreement.

Mr. DURKIN. What about if we proposed that the Admiralty Islands be a wilderness; would that be germane?

Mr. STEVENS. When we talk about S. 9, we are talking about the Senate committee version, I assume we agree with that, as reported to the floor of the Senate. It is in S. 9. It would be germane to do whatever you wished to do with the Admiralty Islands. That does not foreclose me from being as vociferous as I can about what you might propose.

Again, I am trying to avoid getting new areas in here and, in effect, making this bill a bill that covers areas we have not even prepared studies on. We have areas that have been suggested by the coalition and we have not even studied them. They are coming up with new ideas for new parks and new wildlife refuges that none of us have discussed. I think that would be unfair, if we came in with something that none of us has reviewed and we had no idea as to what was going on. Some of those are NPRA, incidentally. They have ideas of new refuges that we have not even looked at. That is all I am saying, for us to talk about existing areas, and the expansion, redefinition, reclassification. Those are entirely germane.

But I do not want to face the problems of having entirely new concepts come on the floor of the Senate that we are not prepared to meet. That is what I would say would be unfair from my point of view. I do not think the Senator from Massachusetts feels contrary to that, but I do think that there are some who do confer with my good friend who might suggest such an avenue of approach.

Mr. ROBERT C. BYRD. So what is the condition, if I can ask the distinguished acting minority leader? What is the condition by which the agreement could be vitiated?

Mr. STEVENS. If after consultation with the parliamentarian one of us raises the question of a departure from the understanding, and the majority and minority leader are convinced together that that is the case, the majority leader could vitiate the agreement. He might not even call it up under those circumstances.

Mr. ROBERT C. BYRD. One further question: When the Senator says, "all of us"——

Mr. STEVENS. I am talking about those of us who are involved, the Senator from Washington, the Senator from Oregon, the Senator from Massachusetts, the Senator from New Hampshire, and the two Senators from Alaska.

Mr. ROBERT C. BYRD. Very well. Is that agreeable?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair and I thank all Senators.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the order is for the Senate to convene at 9 a.m. tomorrow morning, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Are there any orders for the recognition of Senators other than the order for Senator HARRY F. BYRD, JR.?

The PRESIDING OFFICER. That is the only order.

Mr. ROBERT C. BYRD. I thank the Chair.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE FROM FEBRUARY 13 TO FEBRUARY 19, 1980

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a House concurrent resolution. I ask that it be stated by the clerk, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The second assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 276) providing for an adjournment of the House from February 13 to February 19, 1980.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 276) was agreed to.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess for 12 hours and 31 minutes until the hour of 9 o'clock tomorrow morning.

There being no objection, the Senate, at 8:29 p.m., recessed until tomorrow, Friday, February 8, 1980, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 7, 1980:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be Members of the National Commission on Libraries and Information Science for terms expiring July 19, 1984:

Helmut A. Alpers, of Connecticut.
Carlos A. Cuadra, of California.
Margaret S. Warden, of Montana.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

NUCLEAR WASTE ISSUES NEED RESOLUTION—ARTICLE REVIEWS HISTORY AND OPTIONS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, February 7, 1980

● Mr. RANDOLPH. Mr. President, I call to the attention of the Senate a thoughtful article, "Radioactive Waste, Nuclear Energy's Dilemma," which appeared in the fall 1979 issue of Amicus, published by the Natural Resources Defense Council. The author, Terry Lash, provides a reasoned discussion of the nature of nuclear waste and of the woefully inadequate attempts of industry and Government to dispose of it. Seen in light of the record developed at the extensive hearings on nuclear waste of the Subcommittee on Nuclear Regulation, chaired by my able colleague Senator HART, this article enunciates a number of principles against which pending legislation on this subject should be measured.

Perhaps most disturbing in Lash's account is the pattern of repeated shifts in policy on the desired means of disposal, while the fundamental question of whether safe, permanent disposal of the most toxic forms of nuclear waste is possible remains unresolved.

That there is no disposal capacity for high-level waste available more than 25 years after commercial generation of this waste began is a very persuasive argument for the creation of an action-forcing mechanism. Legislation that would delay further the final resolution of this national problem by authorizing an expensive program of long-term storage of civilian high-level waste, would be counterproductive.

In devising a mechanism to speed action on permanent disposal, however, we must be careful to allow for deliberate consideration of the serious technological questions and potential long-term impacts. Failure to do so would undermine public confidence in the entire disposal program. On the vital question of nuclear waste disposal, we must assure the sort of reasoned decisionmaking so often lacking in the formulation of Federal policy on nuclear power in the past.

Central to such a decisionmaking process is alternatives analysis. The Nuclear Regulatory Commission in proposed regulations published in the Federal Register of December 6, 1979, employed an alternatives approach to the geologic disposal of high-level nuclear waste; this is consistent with the recommendations of the President's Interagency Review Group on Nuclear Waste Management.

Specifically, the Commission would require the Department of Energy to investigate a minimum of three sites representing a minimum of two geologic media. However, the Commission fully expects the Department to submit a wider range of alternatives than the minimum suggested. Further, the Department would be required to analyze the suitability of a variety of waste forms to be used in disposal.

We must be confident that our knowledge permits us to determine whether permanent disposal of high-level waste presents a socially acceptable risk. If it does, we must be satisfied that our knowledge permits us to determine the combination of geologic medium and waste form which will best protect the public health and safety. We are currently unable to answer these questions.

Even when and if our expertise allows for these determinations, there will be little public confidence in the nuclear waste management program unless there is genuine public involvement. This involvement must extend not only to the procedures for licensing a facility, but also to the ultimate question of whether a State wants such a facility located within its borders. This has been a matter of legitimate concern to the States for almost 20 years.

It is true that there is also a national interest to consider. Past policy deficiencies have left us with a problem of national proportions. Disposing of the existing volume of nuclear waste is a national undertaking. The very existence of this accumulation represents a major Federal interest in proceeding with permanent disposal, provided it does not pose an unacceptable risk. This interest must be acknowledged in defining the State role.

The article documents the formidable difficulties in waste management encountered by the Atomic Energy Commission and its successor, the Department of Energy. There can be little doubt this history requires an independent and vigorous regulatory program that is consistent with other national objectives.

These difficulties are not merely of historical interest. A report of the Inspector General's Office of the Department of Energy released on January 22, concludes that important management policies and practices at the Department's Hanford nuclear waste reservation are in need of complete overhaul. Further, a State task force appointed by Idaho Gov. John Evans concluded on December 13, of last year, that low-level waste injection into the Snake Plain aquifer at the Department's Idaho National Engineering Laboratory:

> While meeting Department of Energy guidelines, * * * violates existing and proposed Environmental Protection Agency injection regulations as well as State regulations.

Independent regulation of all Department of Energy nuclear waste activities is consistent with two precedents estabished by the Congress in 1974 and 1975. First, in dividing up the functions of the Atomic Energy Commission and the Joint Committee on Atomic Energy Commission, we acknowledge in the nuclear context that the responsibility for protecting the public health and safety must reside in an entity separate from the organization charged with promotional and programmatic responsibilities. Second, in extending Nuclear Regulatory Commission authority over long-term storage facilities for high-level nuclear waste generated by defense production activities, we affirmed that independent regulation of management of defense generated waste can be accomplished in a manner consistent with national security objectives.

The Senate must acknowledge in the context of waste management, as it did in the Price Anderson amendments of 1975 respecting tort liability for a nuclear accident, that the nuclear fuel cycle represents an inherently dangerous technology. The principal objective of nuclear waste management must be to protect the public and the environment, not merely to expeditiously eliminate an impediment to the future growth of commercial nuclear power.

According to the Government Accounting Office, the Federal Government has expended $12.1 billion through 1978 in subsidies to the nuclear industry. This estimate is exclusive of the subsidies conferred by Federal programs to stimulate the mining of domestic uranium and to indemnify and limit the liability of utilities suppliers and contractors in the event of an accident at a nuclear powerplant. This last program of indemnification and liability limitation, established by the Price-Anderson Act, was essential for the very existence of the nuclear industry.

Despite such an enormous investment, this Nation is today faced with a Three Mile Island accident on the one hand, and an entirely unresolved nuclear waste situation on the other. This situation suggests that we must now decide whether the Federal Government should continue to promote the commercial nuclear fuel cycle, or should instead assume a posture of greater neutrality.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. President, I commend this article to the attention of my colleagues and ask that it be printed in the RECORD.

The article follows:

RADIOACTIVE WASTE—NUCLEAR ENERGY'S DILEMMA

Nowadays the unresolved problem of radioactive waste disposal is often mentioned as the Achilles' heel of nuclear power. With increasing frequency the unknowns and uncertainties about geologic disposal of high-level wastes are emphasized in official reports. The non-technological problems, furthermore, seem no closer to resolution today than in earlier years. This situation contrasts sharply with the optimism of 20 years age that technical solutions existed.

The lack of substantial progress can be attributed largely to two factors: gross technological optimism and neglect of non-technological issues. Also, efforts to solve the waste disposal problem were greatly underfunded until recently. The character of the problem is different today because of past mistakes and the new national atmosphere of distrust of government and large technological systems. Solving the waste disposal problem now, in other words, is much more complicated than 20 years ago, when there was an opportunity to find a solution before large quantities of wastes were created and nuclear power became a major national issue.

Improved federal programs are needed for disposing of radioactive wastes. Greater public understanding also is required to develop a broadly accepted approach for solving the existing waste disposal problem and for determining whether more wastes should be created by operating nuclear power plants.

TYPES AND ORIGINS OF WASTE

Nuclear power plants generate electricity by using the heat created by nuclear fission, or the splitting of atoms. The splitting occurs when a fissionable atom, either the isotope uranium-235 or the isotope plutonium-239 in existing power plants, is bombarded by a neutron. In addition to heat, the splitting releases new neutrons, some of which bombard other fissionable uranium or plutonium atoms, splitting them in turn and creating a chain reaction. In a nuclear bomb the splitting occurs very rapidly, releasing vast amounts of energy in a short period, while in a nuclear reactor the splitting is normally controlled in an equilibrium condition. (A nuclear reactor cannot explode like a nuclear bomb, even if there is a serious accident, because the physical conditions required for a nuclear explosion cannot exist.)

Two broad categories of radioactive atoms result from the splitting process. First, there are the fission products such as the radioisotopes strontium-90 and cesium-137. The fission products are the smaller atomic fragments of the split uranium atoms. The second category consists of the fission by-products. These are larger atoms, formed when other, non-fissionable large atoms, such as uranium-238, capture neutrons. In fresh fuel, only the isotope uranium-235, which comprises approximately 3 percent of the uranium in light water reactor fuel, is fissionable. The predominant uranium isotope, uranium-238, rather than splitting when bombarded by neutrons, may absorb a neutron and through a series of nuclear reactions, become plutonium-239, which also splits when it captures a neutron. The concentration of plutonium-239 increases with time so that when a reactor is refueled about one-half of the nuclear energy results from its fissioning.

The build-up of new non-fissionable atoms and the depletion of uranium-235 makes sustaining a chain reaction difficult in a nuclear power reactor. Therefore, each year, about 30 percent of the fuel in a nuclear power reactor is removed and replaced with fresh fuel. The removed fuel is said to be spent.

In contrast, in a reactor operated to produce weapons grade plutonium—plutonium that has a high percentage of the 239 isotope—the fuel is withdrawn before a lot of uranium-235 fissions. Thus, the concentration of fission products and by-products in spent fuel from power reactors is much higher than in the fuel removed from the so-called production reactors.

In the past, both types of used fuel were reprocessed in order to separate the unfissioned plutonium from all of the other atoms. The liquid residue from reprocessing, which contains very high levels of radioactivity, is waste.

Currently, there is a moratorium on commercial reprocessing in this country, although plutonium is still being extracted at reprocessing plants on government reservations in Idaho and South Carolina as part of the nuclear weapons production and nuclear navy programs. Unless commercial reprocessing is allowed to resume, the spent fuel from power reactors will be high-level radioactive waste.

Although the high-level wastes are the most toxic, other potentially dangerous radioactive wastes are produced from operating nuclear power plants. Supporting nuclear power plants is a series of activities, constituting a fuel cycle, that begins with the mining of uranium ore. This ore contains many natural radioactive isotopes from the radioactive decay of uranium. These natural radioactive materials can cause cancer if they irradiate people. The uranium miners have suffered the most from such exposures. Because radiation protection standards have been too lax, the premature deaths of hundreds of miners is occurring. Uranium mining also results in releases of radioactivity into the general environment, causing additional radiation exposures. Although the added rates of exposure are very low, some deaths probably occur.

More radioactivity escapes into the environment after the uranium ore is extracted and purified from the rest of the ore. The residue, or tailings, remains radioactive indefinitely from a human perspective. Small amounts of the radioactivity from the tailings enter the environment each year. In the past piles of tailings were poorly located and protected. Natural radioactive isotopes leached into rivers and were even used to construct homes and schools. As a result people were exposed to hazardous amounts of radiation. Although better practices are followed today and more improved measures are suggested for the future, there will remain an element of risk associated with uranium tailings.

If there is reprocessing of commercial spent fuel in the future, then large amounts of low- and intermediate-level radioactive wastes will be produced. Now, substantial amounts of commercial low-level wastes are produced only at nuclear power plants. Additional quantities of low and intermediate-level wastes are produced at government facilities and as a result of industrial, medical and research activities using radioactive materials. These other than high-level wastes have widely varying physical, chemical and radiological properties.

In some notorious cases, the low-level wastes have not been disposed of properly. Four out of six commercial low-level waste burial sites are now shut down because of unsatisfactory performance. Problems at these sites have included fires, poor packaging, theft of radioactive materials, flooding of trenches containing radioactive wastes, and unexpected migration of wastes away from trenches. The current situation is sufficiently bad that the federal government may resume responsibility for the burial of commercial low-level wastes as well as its own wastes.

Despite the ongoing problems with disposing of uranium tailings and low-level wastes, however, the greatest concern is about the high-level wastes. Currently, the inventory of spent fuel is building up in water-cooled pools connected to nuclear power plants. Space for storing more spent fuel is running out, potentially jeopardizing operation of nuclear power plants during the 1980s and beyond. The storage problem occurs principally because the federal government did not plan adequately for the *backend* of the nuclear fuel cycle. Federal managers were overconfident about the ease of transferring reprocessing technology to the commercial sector, and they were negligent in assessments of the risk posed by reprocessing and wide-spread commercial use of plutonium. Also, too little effort was made to find an acceptable way of ultimately disposing of high-level radioactive wastes.

When measured by amount of radioactivity (as an indicator of potential hazard) significant quantities of commercial radioactive wastes have been generated already, and the waste inventories are growing rapidly. At present about 70 commercial nuclear reactors are operating within this country, and by the year 2000 perhaps 300 or more such reactors may be operating. When measured by the radioactivity of two of the more troublesome radionuclides, strontium-90 and cesium-137, the current inventory of radioactive wastes in temporary storage is expected to double within three or four years; and the inventory produced by commercial reactors by the end of the century may be 10 to 20 times greater than that currently on hand. Additional quantities of radioactive wastes will be produced as a result of nuclear weapons programs and research and development activities. The amounts of this type of radioactivity in spent fuel and military high-level wastes are approximately equal today. Under current projections for nuclear power, however, the amount of radioactivity in commercial wastes will far exceed the amount in military wastes before the year 2000.

The existing review of reprocessing and recycling of plutonium produced in domestic nuclear power plants has introduced major uncertainties about how to proceed in developing a waste disposal system. There is the possibility that no acceptably safe reprocessing technology will be found. In that event, the spent fuel will be the high-level waste. Within the past year the federal government has begun work to plan for such a contingency. The technology for disposing of spent fuel has not been developed to date, because the presumption until very recently had been that there would be reprocessing. The nuclear fuel cycle where the spent fuel is disposed of as high-level waste is often referred to as the once-through fuel cycle. The current fuel cycle—based on an indefinite deferral of recycling—may be called the stowaway fuel cycle.

The large size of the current and anticipated inventory of radioactive wastes precludes its dispersal into the general environment, making permanent isolation mandatory. Despite the absolute necessity to contain the wastes permanently, the degree of risk inherent in schemes to dispose of the wastes has not been assessed fully by any competent organization. Indeed, a paper prepared for the Nuclear Regulatory Commission by its own staff noted that existing analyses of the radioactive wastes disposal issue "are based on limited data" and "inconclusive."

The underlying fact about the fission process utilized in nuclear reactors is that it unavoidably produces large quantities of man-made radioactive materials that are so destructive of life that they must be permanently prevented from entering the living environment. The special hazards of these wastes result from the emission of radiation, which cannot be detected by human senses except in massive doses. Radiological effects are cumulative and may not be evident for some time—as in the case of cancer development and genetic damage. Radiation can harm both an individual and, by impairing the reproductive cells, future generations of our descendents. To the best of our knowledge, any increase in the background level of radiation will inevitably result in injury to a proportion of the exposed population.

Shortly after the congressional decision in 1954 to commercialize nuclear power, a National Academy of Sciences committee of geologists and geophysicists that was established to consider ways to dispose of radioactive wastes stressed the need for great care in their handling: "Unlike the disposal of any other type of waste, the hazard related to radioactive wastes is so great that no element of doubt should be allowed to exist regarding safety."

Many radioactive elements do not disperse in the environment, but rather concentrate in some plants and animals and, thereby, work their way up food chains to man. In general, the complex behavior of radioactive materials in the often subtle interrelationships among the various life forms and their physical environment makes prediction of the harm caused by releases of radioactive wastes highly uncertain.

Unlike other possible environmental contaminants, radioactive wastes are immune to outside influence. Each radionuclide decays and emits radiation at its own particular rate regardless of temperature, pressure or chemical environment and continues to do so no matter what is done to it. Currently, allowing radionuclides to decay naturally is the only practical means of eliminating the radiological hazards of radioactive wastes. Therefore, all processing and storing of radioactive wastes must be considered as only intermediate steps leading finally to disposal by decay—a very long process for some radioactive materials. Some wastes must be securely stored for centuries while other wastes, particularly those containing plutonium and the other man-made transuranic elements, must be isolated from the environment for hundreds of thousands of years.

The hazardous properties of radioactive wastes are quite different from the toxicological characteristics of chemical contaminants in the environment.

The toxicity of chemical non-nuclear waste is dependent upon the detailed molecular configuration of its constituent elements. For instance, the aromatic hydrocarbon benzene is highly toxic when inhaled. If the benzene is completely burned, the combustion products, carbon dioxide and water, possess relatively innocuous characteristics that are entirely different than the toxicological properties of the original benzene. In other words, the ring-shaped benzene molecule is the toxic entity, not the individual elements forming the molecule. In contrast, if the original benzene molecule were formed from radioactive isotopes of carbon and hydrogen, the combustion products would continue to be radiologically toxic and pose a hazard if released into the environment. Chemical or physical changes in materials containing radionuclides do not reduce the basic radiotoxic properties of the materials, except insofar as the modified materials may behave differently in the environment or human body. Atom for atom, or molecule for molecule, the radiotoxicity tends to be far greater than the chemical toxicity of any given substance, including heavy metals which with radioactive wastes share the property of not being destroyed in the environment. For example, on an atom-for-atom basis, the radioactive isotope lead-210 is 20 million times more toxic than the non-radioactive form of lead. This high toxicity of very small amounts of radioactive substances is another important basic difference between chemically toxic and radiotoxic materials.

High-level waste management began at the federal Hanford Reservation in the central part of Washington. The Reservation remains the country's largest waste storage facility. The high-level radioactive wastes at Hanford are stored as alkaline liquid solutions in carbon steel tanks—some with only single walls. This storage method was selected because prior experience with it during the 1940s had been satisfactory. The choice, however, turned out to be unwise. Shortly after they were placed in use, some of the tanks began to leak. The principal problem was the inherent susceptibility of carbon steel to chemical attack—a problem not nearly as severe with stainless steel. There have been 18 such tank leaks and several leaks in pipes connecting the tanks. Approximately 500,000 gallons of high-level radioactive wastes have seeped into the Hanford soil and permanently contaminated it. The radioactivity in the soil at Hanford will have to be monitored for as long as man inhabits the area, in order to ensure that physical and biological transport mechanisms are not releasing radionuclides into an exposure pathway for humans.

A large leak during the spring of 1973—which went undiscovered for 55 days, allowing 115,000 gallons of high-level wastes to seep into the soil—suggests what can happen with a little carelessness. Among other things, although waste-level readings were taken in the tank each day, on-site personnel did not recall the previous day's readings, and their superiors, charged with comparing readings, were over-burdened with other work and did not make the comparisons.

Another common problem which has adversely affected waste management at Hanford is institutional disinclination to spend the money required to provide safety margins. A 1968 General Accounting Office study revealed, for example, that the majority of tanks at Hanford were over ten years old and, therefore, vulnerable to leaks, but that the only spare tanks available for transfer in case of a leak were used tanks which studies had indicated should not be brought back into service.

Required to halt the tank leaks as quickly as possible, the AEC at Hanford was forced into another well-known institutional problem—fixing errors in ways that often lead to other larger, long-term problems. To limit leakage the AEC began to solidify the high-level liquid wastes at Hanford. While this minimizes leakage, at the same time it greatly aggravates the problem of finding an adequate long-term storage solution for these wastes. This is because the alkaline wastes (in contrast to wastes in other liquid solutions) must be reduced to a salt cake/sludge form which will be extremely difficult to remove from the tanks or handle but which will over time require a more permanent storage treatment. So, in this case, the response to an immediate problem has led to another larger, but perhaps deferrable, problem.

Another dubious practice at Hanford was that of pouring concentrated radioactive liquids into the soil. Despite protests from an investigating committee of the National Academy of Sciences dating as early as 1955, the AEC and then ERDA refused to stop using the soil as a radioactive garbage dump. Instead, so-called intermediate-level liquid wastes were simply poured into open-bottom trenches and cribs where the soil was relied on to retard their migration into the groundwater and the Columbia River.

Shortly before it was disbanded by the AEC, the NAS-NRC Committee re-emphasized its opposition to the discharge of radioactive liquids to the soil: "Throughout the fabric of the 10-year history of the Committee's deliberations run some continuing threads of purpose and conviction. Prominent among them is the realization that none of the major sites [including the Hanford Reservation] at which radioactive wastes are being stored or disposed of is geologically suited for safe disposal of any manner of radioactive wastes other than very dilute, very low-level liquids * * *."

By 1972 the AEC admitted there was a risk involved in ground disposal of radioactivity. In fact, the AEC even concluded that the possibility of a spontaneous nuclear chain reaction existed in one such open-bottom trench.

Up to the present time the Department of Energy's commercial waste management program can be most aptly characterized as ad hoc. Disposing of nuclear garbage has never been a priority during the development of commercial nuclear power. At the outset, the AEC and its advisors focused on bedded salt deposits as the most likely geological formation for disposal of the long-lived wastes. Then, in the 1960s, the AEC de-emphasized the goal of achieving federally regulated, deep geologic disposal. Instead, it proposed to delegate responsibility to industry under a plan that contemplated indefinite storage of reprocessed high-level waste in liquid form in near-surface storage tanks and the repeated transfer of these wastes to new tanks as the old storage tanks wore out.

This program, instituted at a storage facility near West Valley, New York, was marked from the beginning by inadequate study and unforeseen safety problems. Although the liquid wastes at West Valley were placed in storage tanks, no plan was established in advance to ensure that the wastes could be safely removed when it came time to transfer them to new tanks. Then, in 1970, the problem at West Valley was compounded when the AEC promulgated new regulations requiring all high-level wastes generated in the future to be solidified within five years of their generation. This new policy also stated that a specific proceeding on the future of West Valley wastes would be initiated. Almost a decade later, no such proceeding has started. Even worse, no satisfactory, safe removal method has been developed, and additional special research must now be conducted to rectify past errors in decisionmaking.

The cost of rectifying the waste disposal problem at West Valley may be a billion dollars. Although the state of New York is ultimately responsible for managing the radioactive wastes at West Valley, the state indicated that it is unable to resolve the technical and economic issues for an adequate waste clean-up operation. The state, DOE and Congress are still looking for an acceptable sharing of responsibility. In the meantime, the wastes are still stored under wholly unsatisfactory conditions. In sum, the West Valley disposal experiment has been a radioactive waste nightmare from the 1960s to the present.

In the late 1960s the government renewed its emphasis on the development of a deep geologic repository for commercial wastes, and the AEC selected an abandoned salt mine near Lyons, Kansas, as the location for a pilot repository. However, later investigation disclosed that water from adjacent mining operations might seep into the repository and dissolve the salt; and there were uncertainties resulting from the presence of old wells near the mine, among other technical questions. Because of these technical problems and opposition to the burial of wastes by scientists, politicians, and citizens in the state, in early 1972 the Lyons, Kansas, project was abandoned.

Next, in May 1972, the AEC announced its plan to build a so-called "retrievable surface storage facility" or "RSSF"—an engineered facility constructed near the surface of the earth—to store the wastes for an indeterminate period of time, while the prolonged search for an acceptable, safe geological site continued. Three years later, however, the waste program changed direction once again. In the spring of 1975, the Energy Research and Development Administration (ERDA) withdrew the request for budgetary funding for the RSSF, although the RSSF was purportedly retained as a back-up system in case "other repository plans failed."

With a resurrected emphasis on the development of a deep geologic repository, ERDA expanded its efforts to locate a potential geologic formation, and in 1976 focused ultimately on a salt formation in the state of Michigan. However, in June, 1977, after residents of northern Michigan had voted overwhelmingly to prohibit the siting of a waste repository within their state, the federal government abandoned its efforts to locate the commercial waste repository in the state of Michigan.

The government is now beginning another search for potential salt or other geological formations that can serve as a permanent disposal facility. However, in addition to the unresolved technical problems, serious political and social resistance to the development of a geologic repository is mounting throughout the country. For example, ten states already have introduced bills banning high-level waste disposal repositories within their borders.

Most recently, the once strong political and citizen support for the proposed waste disposal facility near Carlsbad, New Mexico, has dramatically changed to opposition as a result of a DOE task force report which concludes that there is a significant danger of groundwater intrusion into the proposed site. For several years DOE representatives had reassured the local populace that the wastes would be buried only in a fully retrievable mode. Even the scientist who is in charge of the Waste Isolation Pilot Plant for Sandia Laboratories has said, "I think it [the DOE report] is very damaging to everybody's credibility, especially the administration's." As a result of citizen opposition, DOE appears to have returned to the concept of retrievable burial of the wastes.

TECHNICAL UNCERTAINTIES

A common and naive explanation for the failure to develop a high-level waste disposal facility is that sound technical proposals have been stopped by irrational fears. But even the NRC staff acknowledges that many uncertainties must be resolved before safe waste disposal is achieved:

"Past work does not, however, fully cover the risk situations that should be explored. Representative studies have been done with varying degrees of depth and sophistication, but there are still uncertainties in areas such as the effect of waste presence on repository stability; the probabilities and consequences of intrusive acts by humans; the validity of data used in modeling studies; the design and regulatory actions needed to minimize possibilities of repository failure; projection of future societal habits and demography, and, finally, the relative importance of various potential initiating events."—Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle, NRC, 1976.

A report prepared by the Jet Propulsion Laboratory for the President's Office of Science and Technology Policy, reached a similar conclusion: "The results of this study indicate that the U.S. program for high-level waste management has significant gaps and inconsistencies. Areas of greatest concern include: the adequacy of the scientific data base for geological disposal; programs for the disposal of spent fuel rods; interagency coordination and uncertainties in NRC regulatory requirements for disposal of both commercial and military high-level waste."—Jet Propulsion Laboratory Publication 77-59, August, 1977.

The United States General Accounting Office has concluded that the facts do not support strong optimism that safe waste disposal is assured: "After several decades of work, AEC did not, and ERDA has not yet (1) demonstrated acceptable solutions for long-term storage and/or disposal of its high-level waste and (2) satisfied the scientific community that present storage sites are geologically suited for long-term storage or disposal."

* * * * *

"The Energy Research and Development Administration has begun a program to demonstrate by the mid-1980s the feasibility and safety of placing radioactive wastes in deep geological formation. GAO points out that not only has progress been negligible to date, but that future program goals are overly optimistic because the Energy Research and Development Administration faces many unsolved social, regulatory, and geological obstacles."—Nuclear Energy's Dilemma: Disposing of Hazardous Radioactive Waste Safely, GAO, 1977.

DOE officially continues to express confidence that geological waste disposal will pan out. The primary basis for DOE's technological optimism was expressed most recently as follows:

"There appears to be a substantive consensus and valid technical basis for the view that present plans and actions should rely on geological containment of wastes which can be achieved in a safe and environmentally acceptable manner."

This view has been promulgated by independent assessments ranging from that of the National Academy of Sciences in 1957 (and subsequent reaffirmations by that body) through a 1977 report of the American Physical Society.—Report of Task Force for Review of Nuclear Waste Management (draft) DOE, 1978.

These opinions by experts and informed scientists deserve serious consideration and weight. But they should not be accepted as scientific fact and conclusive for several reasons. First, they are based on little detailed technical analysis but on the expert's general understanding of the stability of geological formations and assumptions about the characteristics of waste forms and repositories and the types of interactions that may take place within the loaded repository.

Second, thorough independent review of geological disposal of high-level wastes has been limited. Few researchers in universities, for instance, have studied geologic disposal. And third, the existing analyses generally have not been subjected to rigorous peer review. Until competent, independent earth scientists have reviewed the bases for DOE's expressions of confidence in detail, there will not be anything even approaching a scientific consensus that geologic disposal as proposed by DOE will achieve adequate isolation of radioactive wastes from the biosphere.

From the mid-1950s to the present time the federal waste geologic disposal program has focused on bedded or domal salt deposits. The attractive features of salt formations are frequently cited. Usually unstated, however, are the potentially serious disadvantages of salt formations for the disposal of high-level wastes.

First, salt is highly soluble. If groundwater should intrude on a repository in salt, its integrity will be lost.

Second, salt is chemically corrosive, and water with a high dissolved salt content would more readily transport waste than typical groundwater. Waste containers placed in direct contact with salt probably will be breached in less than 10 years. Thus any such containers will be important only for handling purposes and not as barriers to release of the waste. Because salt formations always contain some water (so-called brine inclusions) the waste inevitably will be in direct contact with highly salty water and steam. These conditions could lead to the conversion of the radioactive wastes from a relatively insoluble oxide form to the soluble chloride and hydroxide forms. If there is groundwater flow through the repository the high salt concentrations also would reduce the sorption of radionuclides on other rocks and soils, as the waste was carried to the biosphere.

Third, salt is often associated with valuable natural resources (e.g., oil, gas, potash, gypsum) and it is itself a valuable mineral. This is of concern both because disposal of wastes should not preclude the use of valuable resources and because the repository should not be breached by unintentional actions of man. Future generations may invade a repository by searching for resources, or they may want to mine the salt itself. If they are unaware of the presence of the wastes, the consequences could be severe, particularly in the latter case. Thus, salt formations are unattractive for waste disposal.

These disadvantages of salt are of immediate practical concern, because DOE apparently still hopes to locate the first high-level waste disposal facility in salt. In particular, DOE would like to emplace high-level wastes in the proposed Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico. The proposed site highlights the generic concerns about salt summarized earlier. A recent report to Sandia Laboratories, the entity responsible for developing the Carlsbad facility, points out that there is a significant threat of groundwater intrusion into the proposed site. (A better site nearby does not exist, because the proposed site is probably the best one in the entire Delaware basin.) The final recommendation of the report is as follows: "Extensive regional and localized dissolution in the Delaware basin and the random distribution and ongoing nature of localized dissolution suggests that this particular basin may have already progressed to a stage of dissolution where geological estimates of site integrity may not be obtained with the required degree of certainty. Studies of the statistical probability of the present and future occurrence of localized dissolution should be undertaken. This information . . . [combined with other information] should be used to review and reevaluate the Delaware basin itself as an acceptable site for disposal of high-level radioactive waste.—Report to Sandia Laboratories on Deep Dissolution of Salt, 1978.

Clearly, if the hypothesis about the so-called deep dissolution of the Delaware basin is confirmed, the proposed site for WIPP would be unacceptable. At the very least, the plant should be delayed while this possibility is investigated further.

The most important and immediate issue is whether the generation of large quantities of additional high-level radioactive wastes should be permitted to continue unabated in light of the extended period that will be necessary to develop a satisfactory disposal facility. The House Committee on Government Operations has concluded that:

"It is incumbent upon the Federal decisionmakers, whoever they may be, to carefully weigh the costs and dangers relative to the back end of the fuel cycle before blindly forging ahead, even for a moment and for whatever distance.

"The time for that evaluation is now. The nation cannot wait any longer."—H.R. Report No. 95-755.

In the past, the impetus for resolution of the waste disposal problem has been lacking precisely because reactor licensing and the development of a waste disposal facility have proceeded in isolation of each other. Because the continued licensing of reactors was not conditioned on the speedy development of safe waste disposal, the government has lacked adequate incentive, and consequently its waste disposal program has been beset by a host of delays, missteps and changes in direction.

A real danger of present policy is that as our dependence on nuclear power increases, the nation's tolerance of inadequate and possibly dangerous waste disposal options will also increase. Indeed, most nuclear power proponents already argue that it is too late to turn back from nuclear power while we seek to develop an acceptable solution to the waste disposal problem. They argue that we should place our trust in those same engineers who have been trying for 30 years to find a waste disposal solution.

The second major policy issue vigorously debated today is the degree of states' authority to control DOE's activities to site a geological repository for ultimate disposal of commercial high-level wastes. Some states such as Ohio and Michigan have instructed DOE not to study their geological formations for suitability as a host for a waste repository. There is, not surprisingly, substantial public pressure on other states to veto any proposed repository within their boundaries. A few states are allowing geologic investigations and, in some, testing and experimentation have been permitted; but these federal activities take place under the close supervision of state officials.

DOE is attempting to develop detailed plans for working with states so that prohibition on studies will not occur and so that, eventually, several repositories can be built. DOE's proposed "consultation and concurrence" process remains basically undefined, however, because of disagreement over the appropriate role of states in relation to the federal government, and because there is a wide diversity of views among state officials about what authority and responsibilities they want. But without strong presidential leadership this issue may not be resolved for some time.

Soon after assuming office, President Carter officially recognized the need to improve the federal radioactive waste, management and disposal programs. A year later he established an Interagency Review Group on Nuclear Waste Management (IRG) which spent another year reviewing all aspects of the problem and obtaining extensive public comment and independent scientific advice. The White House has had the IRG's report for months but has delayed action. In the meantime, opportunities for new initiatives by the Administration are fast disappearing.

Congress has held numerous oversight hearings on questions concerning radioactive wastes, but no clear conclusions have emerged. Several bills that address the majority policy issues have been introduced or are being prepared, but the lack of widely accepted alternatives to the current situation suggests that meaningful legislation will not be passed soon. In this respect, Congress reflects the indecisiveness in the Administration and the states.

Given the history of mistakes in handling wastes, lack of attention to waste disposal issue, and the connection with the debate over nuclear power, there are no apparent simple solutions to the current stalemate. But there are several actions that would improve the chances for progress in safely disposing of wastes. Most importantly, the Administration must establish mature, technically competent leadership that will be widely respected by state officials, Congress and public interest groups.

In particular, the job of directing waste management programs must be elevated in bureaucratic importance so that the problem will receive needed attention and funding. Perhaps we should have an assistant secretary for radioactive wastes at DOE. A mechanism for coordinating the programs of different agencies and ensuring their adequate support also should be created, possibly by continuing the Interagency Review Group.

Improvements are also needed in federal-state relationships so that DOE can conduct a thorough search for geologic sites to build waste repositories. The national interest is best served by these investigations. The states, however, must be able to represent their citizens' interests effectively. It appears that precise mechanisms for achieving these two goals will have to be developed separately for each state. The productiveness of these discussions probably will depend upon the perceived technical competency and credibility of DOE's program. Increasing the states' capability to understand the technical aspects of waste disposal and evaluate DOE's plans would also increase the likelihood of gaining states' agreement to allow searches for possible repository sites.

Measures should be taken, furthermore, to assure the states that NRC licensing proceedings for repositories will be fair, complete inquiries into the adequacy of DOE's plans. States should feel that the NRC would not permit DOE to build repositories that would not adequately protect the health of their citizens.

The federal government should admit that there is not an immediately available technical solution to the problem of ultimate disposal. Before a repository can be constructed, additional research and testing must be completed; and the basic concept of geologic disposal of high-level radioactive wastes must be validated. Several specific sites suitable for constructing repositories must be found. Completing these activities will require years of work.

In the meantime, decisions must be made about whether additional large amounts of wastes should be created by operating nuclear power plants. Debate over this issue continues to be bitter. Satisfactory resolution only can occur if fair, open decisionmaking processes are initiated soon. There are at least three components to an acceptable overall process.

First, the Administration must openly recognize the linkage between nuclear power development and safe waste disposal. Federal officials must accept that unrestrained operation of nuclear power plants cannot occur without significant progress in the waste disposal program. Second, the NRC should conduct a thorough review of both the technical basis for confidence that wastes can be permanenently disposed of safely and the adequacy of DOE's programs for assuring safe disposal. NRC's proceeding should be a national forum for objectively addressing waste disposal issues. Third, states should be given explicit authority to condition siting of nuclear power plants on the progress made in disposing of wastes. Because failure to develop a repository in a timely manner could interrupt operation of nuclear power plants, the states might have to exercise their traditional responsibilities of assuring reliable supplies of electricity. California already has asserted this right, but the nuclear power industry has challenged the state in court.

To increase the technical capability of the waste management and disposal program, and to enhance the program's scientific credibility, the resources of universities, professional societies, and independent think tanks must be utilized to a greater extent. Such efforts could be funded in part through the National Science Foundation, the National Academy of Sciences, and state organizations. Federal agencies other than DOE, such as CEQ, also should fund studies of waste disposal issues and problems.

To the greatest possible degree, scientific research should be subjected to peer review. As is customary in areas of academic research, papers should be presented at professional meetings and published in referred journals. Original technical critiques of waste disposal plans, such as were used in Sweden recently, should be encouraged. Additionally, technically capable public interest groups should be funded to review the scientific merit of the federal program.

The most important aspect of the program is the quality of the federal waste management decisionmakers. In the past, the best nuclear scientists and managers were concerned about reactor design and safety. Although in recent years there has been some improvement, more highly capable decisionmakers must be put in charge of the federal program. Reorganization, increased funding, and more studies will not solve the waste disposal problem unless some of the best talent in the country is focused on it. The importance of waste disposal for human health justifies assigning our best people to the job.●

REPRESENTATIVE McHUGH PROVIDES GRAIN RESERVE ARTICLE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. SIMON. Mr. Speaker, the President's decision to embargo all grain scheduled for the Soviet Union has generated a lot of discussion on the economic impact on the Soviet Union and on our own country. To date, little attention has been focused on what are the potential effects on other countries, particularly developing countries, who have been the recipients of a variety of food aid programs in the past.

Our colleague, Matt McHugh, one of the finest Members of our body, has written a thoughtful piece which appeared in the New York Times on February 6. He has addressed an issue which has been debated in this body for several years—a grain reserve. Although I do not fully agree with the grain embargo, it is a reality. If we are to maintain this policy, then I think his suggestion warrants close attention. I urge my colleagues to read the following article which appeared in the New York Times:

USING EMBARGOED GRAIN

WASHINGTON.—Now that Congress has reconvened, it must come to grips with a number of issues raised by President Carter's decision to embargo grain shipments to the Soviet Union in retaliation for the invasion of Afghanistan, including what to do with surplus grain purchased by the Government.

American farmers are rightly concerned that this grain could adversely influence the domestic market, exerting significant downward pressure on prices. Although a drop in farm prices could have a modest short-term impact on inflation at home, lower prices could also force many farmers to throw in the towel. Thus, it is important to isolate Government purchases from domestic markets, a policy the Carter Administration has said that it will pursue but that depends solely on administrative discretion.

If grain purchases are isolated from domestic markets, what should be done with the grain? One view that enjoys substantial public support is that the surplus should be disposed of abroad in the developing nations. At first blush, such a course may look attractive. It would allow us to continue putting pressure on the Soviet Union, help maintain crop prices at home, reduce Federal budgetary pressures, and could be justified as another gesture to help starving and malnourished people.

At a time when per-capita food production in Africa has dropped to a level 10 percent below what it was a decade ago, and when one out of every three children on that continent will die before the age of five, an appeal to our conscience may well be in order. Indeed, some of the surplus grain can be disposed of to meet emergency needs in countries such as Cambodia, East Timor, Somalia and Pakistan.

On the other hand, any systematic effort to dispose of surplus grain abroad could have devastating long-term consequences for the developing nations.

Those nations' food deficits will increase dramatically in the next two decades unless they substantially improve their own agricultural productivity. The United Nations Food and Agriculture Organization has projected a net annual grain deficit exceeding 90 million metric tons by 1985 barring such progress, and the International Food Policy Research Institute, a private Washington-based research organization, puts the figure at 120 million metric tons by 1990.

The United States will not be able to make up deficits of these magnitudes, and this is why the major thrust of our development assistance in recent years has focused on improving agricultural productivity in the developing nations themselves. Much of the progress that has resulted from this new direction could be undermined if the United States were now to resume a policy of systematically dumping surplus grain abroad.

Small farmers scattered throughout the third world would be deprived of incentives to improve production, and their governments might be encouraged to subsidize cheap food as a way of dampening public unrest.

One alternative to a policy of dumping would involve creation of a Government-owned food reserve, as recommended in testimony to the Presidential Commission on World Hunger.

This could be accomplished by early passage of the Food Security Act of 1979, legislation that has been co-sponsored by 96 members of the House.

Originally proposed by the late Senator Hubert H. Humphrey, this bill would authorize the Government to purchase and store up to four million metric tons of wheat. The reserve could be used solely to meet emergency food needs in developing countries when sufficient supplies were not available under our Food for Peace Program, and would effectively isolate from domestic markets wheat now being purchased by the Carter Administration.

Establishment of such a reserve would not solve all the problems created by the embargo. It could not, for example, be a means for storing surplus feed grain. It also does not represent a complete answer to world food problems. However, as the United Nations-sponsored World Food Conference in Rome pointed out in 1974, reserves can play a vital role in helping to assure survival under emergency conditions and in promoting some measure of political stability.

The President's decision to embargo grain is an appropriate response to Soviet aggression. Beyond demonstrating American resolve, however, the embargo provides the President and Congress with a fresh opportunity to establish a permanent food reserve. It is an opportunity that should not be missed.●

CARDINAL STEPINAC REMEMBERED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. GUARINI. Mr. Speaker, I have been honored by an invitation to participate in the dedication ceremonies of "Cardinal Stepinac Place" in New York City, on Sunday, February 10, 1980.

It is indeed, my pleasure to take part in this ceremony proclaiming West 41st Street in New York City, "Cardinal Stepinac Place." This ceremony marks the 20th anniversary of the death of the martyred Croatian, Aloysius Cardinal Stepinac.

Because of the great contributions Saints Cyril and Methodius Church and Saint Raphael's Church have made to our Nation, and specifically in this area, the designation of "Cardinal Stepinac Place" is an ideal one.

Many Croatian Americans live in the 14th District of New Jersey that I represent. The families residing in west New York, Weehawken, Jersey City, Union City, Hoboken, and Guttenberg are making valuable contributions to the American way of life.

American Croatians uphold the principle of family cohesiveness, the single most important element in our society today. Hard-working God-fearing individuals, they cherish the religious freedom America has to offer, and strive to instill the spirit of love and respect for their neighbors. These are the values Cardinal Stepinac upheld, and the ones for which he suffered. But Cardinal Aloysius Stepinac and his spirit will live forever.

His rise from a peasant background in Krasic, Croatia, through military service and his dramatic and momentous leadership qualities as a prince of peace of the Catholic Church, will live on in the hearts of free men forever.

His 16-year prison sentence in 1945 for denouncing the evils of communism was a horrendous one. After Pius XII named him Cardinal in 1952, and despite the urging of Tito to leave the country, he chose to remain with his flock, and died on February 10, 1960, in the small town where he was born.

I am honored to join with the hundreds of thousands of Croatian Americans throughout the United States at this dedication. I wish to commend Rev. Slavko Soldo, pastor of Saints Cyril and Methodius Church and Saint Raphael's Church, as well as all those who worked to have the city of New York unanimously pass a resolution on November 27, 1979, dedicating this area.

Cardinal Stepinac Place will be located in this—perhaps, the most heavily trafficked area in the world. This is doubly symbolic because it befits Cardinal Stepinac's love for humanity. Tender and loving in his dealings with those in need, he was indeed a man of steel when it came to defending the right of all people to worship in the manner they choose.

How right he was to fight the Communist menace, which again today is on the march seeking to crush all those who love individual freedom. The annals of history will indicate that the U.S. Congress joined the free world in hailing Cardinal Stepinac as a martyr for faith and freedom.

"To live in the hearts of those you love is not to die." Aloysius Cardinal Stepinac indeed will live forever.

I am sure that my colleagues will join on Sunday in silent tribute to this man of strength whose human mortar will cement the faith of generations—fighting for the freedom of mankind—for many years to come.●

TAX-EXEMPT HOUSING BONDS WORTH SAVING

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, Feburary 7, 1980

● Mr. SABO. Mr. Speaker, I would like to include in the RECORD, for the perusal of my colleagues, an editorial published in the Minneapolis Tribune on February 2, 1980, regarding H.R. 5741, the Mortgage Subsidy Tax Act of 1979. The bill is being considered in conference committee with the windfall profit tax bill.

TAX-EXEMPT HOUSING BONDS WORTH SAVING

Tax-exempt state and city bonds to finance construction and rehabilitation of single-family homes are a valuable housing tool in Minnesota and many states. But these bonds are in real danger of being outlawed in Congress. That would be a mistake—at least until Washington finds a better way to subsidize this needed housing.

Two main arguments are used against the tax-exempt bonds. First, investors don't pay federal taxes on their bond earnings. That's true, but the subsidy for housing is nonetheless worthwhile, and serves a better purpose than many other state and local tax-free bonds. Second, a few states and cities have provided housing to families with incomes well above average. That's true, too, but the cure is a simple congressional limit on the income of eligible families.

Instead, the cure that the Carter administration and the House Ways and Means Committee have offered for that illness is to kill the patient. That indicates an overriding interest in the treasury's take at the expense of urban housing needs. The Ways and Means Committee has approved a bill that would eliminate tax-exempt housing bonds while providing an ill-advised tax break on savings accounts (discussed in an editorial on this page yesterday).

Although the bill would eliminate the housing bonds, the Ways and Means Committee also sent an amendment along to the full House for floor debate. The amendment would restrict the use of state and local tax-exempt housing bonds, but not eliminate them outright. The White House and the Treasury Department, ignoring the Housing and Urban Development Department's housing concerns, support the amendment. That is consistent with the Carter administration's basic position since shortly after hearings on the issue began last May.

The catch is that amendment's restrictions are so severe—by design—that they all but rule out the use of tax-exempt bonds, housing lobbyists maintain. The Minnesota Housing Finance Agency, for example, would find it "virtually impossible" to continue its single-family mortgage or rehabilitation programs, says director James Solem. That mortgage program has provided nearly 9,000 new housing units since 1973, or about a third of the agency's units, which also include townhouses and apartments.

The amendment has only one virtue. It stops short of freezing the House into a position of flat opposition to tax-exempt housing bonds. This makes it more likely that the House might eventually agree to a more flexible Senate bill, which contains income limits and other sensible, workable restrictions. As Rep. Bill Frenzel put it, "We will have to rely on the Senate to repair the flaws."

So the outlook is shaky for housing proponents. But another catch makes their situation even worse. The issue of tax-exempt housing bonds is not even being debated at the moment on its own merits—it has been added to maneuverings of a House-Senate conference committee on the windfall-profits tax. For complicated reasons, that is permissible under congressional rules. But it is also highly unusual, since the full House has not voted on its housing-bonds bill, and the Senate's superior version hasn't even been considered in committee.

A few senators and representatives are protesting, on procedural grounds, that the housing issue should not be discussed in the conference committee on windfall profits. They want the House and Senate to deal independently and fully with their separate tax-exempt-bond bills. We hope they are successful; that would at least give the Senate an opportunity to "repair the flaws" in the House's meat-axe approach.●

AFGHANISTAN AND THE SOVIET STRATEGIC CHALLENGE

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. SOLOMON. Mr. Speaker, the Soviet invasion of Afghanistan represents a new and extremely dangerous turn in world events. It is most significant for what it suggests about present and future Soviet strategy in the world arena. The lesson for us is no less than alarming.

What is important to recognize about the Afghan crisis is the qualitative change in Soviet geopolitical doctrine which it signifies. Until recently, Soviet-American relations were marked by a relative balance. The leadership in the Kremlin was aware of and respected the military strength of the United States. Firsthand experience in the Berlin and Cuba crises had shown Moscow that the United States was prepared to use that power in the defense of its own interests and that of its allies. So long, as the United States retained a clear military edge or at the least a relative balance of military power with the Soviet Union, therefore, the Soviets were deterred from any overt challenge to American interests in the world.

This was an uneasy balance, and increasingly a precarious one. As the balance of power and influence shifted steadily in favor of the Soviet Union, Soviet meddling in third countries became increasingly open and activist. The recent history of Asia and particularly of Africa is a testament to this change. Still, the possibility of a substantive American or Western response led the Soviets to take a cautious approach. Surrogates or proxies from Cuba were sent into areas of the Third World where the presence of Soviet combat forces might have been considered overly provocative.

Like a slowly opening flower, the truth of the international situation must have become clear to the Soviet leadership only in stages, and when they at last perceived it, I am sure they could not have been more delighted. Their proxy forces, deployed in the tens of thousands throughout Africa, met no challenge from the West. In one case, in fact, the American Ambassador to the United Nations described them as a "stabilizing force." At the same time, the covert action capability of our Central Intelligence Agency was progressively sapped, even as the crises around us mounted. Major weapons systems were canceled from the defense budget or postponed, while Soviet military expenditures continued to mount.

And so we find ourselves at our present pass. Apparently confident that they can in fact play havoc on the world stage without challenge, the Soviets have for the first time in modern history committed their own troops to the physical invasion of a country outside their traditional sphere of influence. This is a qualitative change of the first magnitude. It reflects a new Soviet judgment of both their own capabilities and of the risks they perceive in engaging in adventurism abroad. We have to assume that they believe their own capabilities to be high and the risks low. Developments so far appear to be proving them right.

And so we are entering a very dangerous period—both for ourselves and our allies. The Soviet Union is now in a strong strategic position in Afghanistan from which they can threaten not only Pakistan and Iran, but also traffic through the Persian Gulf itself. The hard truth of the matter is that today, as a result of decisions taken over the past several years, the United States does not have the ability to project force credibly into the Middle East or other distant areas of the world. We do not have the strength to face down the Soviets in the event of a major confrontation. We can rebuild our strength, but this will take time. In the meantime, our security and that of our friends in the world hangs in the balance. If there is any positive result which might come from the Afghan crisis, it is that at last the American people and many of the nations of the world have been awakened to the danger of Soviet expansionism. For the people of Afghanistan this realization has come too late. I only hope that it has not come too late for us.●

WHAT'S RIGHT WITH CONGRESS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. SIMON. Mr. Speaker, certainly one of the most respected Members of Congress, not only in this session, but in this century, is our colleague PETER W. RODINO, JR. of New Jersey.

Some weeks ago he had an article in the Washington Star titled "What's Right With Congress."

It suggests both some things that are right and some areas where we need to have some improvement.

I call it to the attention of my colleagues who may not have seen the article when it originally appeared:

[From the Washington Post, Dec. 9, 1979]

WHAT'S RIGHT WITH CONGRESS

(By PETER W. RODINO, JR.)

As another election season approaches, an array of political arrows is again poised to point at democracy's favorite scapegoat: Congress.

It is, as usual, an enticing target. Congress is big, cumbersome, apparently impersonal, and without the institutional agility to strike back. And it is hovering at an embarrassing 13 per cent public approval rating, according to a recent Associated Press-NBC News poll.

The aggressive critics of Congress are legion: presidential candidates and presidential assistants, governors and mayors, special interest advocates and the press.

There is also the biennial phenomenon in which candidates—including incumbents—run for Congress partly on a platform of attacking Congress as a wicked and unwieldy federal dragon.

Criticism and challenge of Congress are healthy aspects of our system of open, accountable government.

And there are fundamental flaws in the contemporary Congress which merit tough scrutiny. An extreme, every-man-for-himself preoccupation with re-election has led to a disintegration of institutional party discipline. The proliferation of subcommittees, and chairmen has diffused the capacity for decision. Most members are almost swamped with work because many members try to solve every social, economic and human problem with legislation. Congress was created to deliberate, but the deliberative quality, which a turbulent nation desperately needs, is severely eroded.

WHAT'S RIGHT

The 1980 campaigns will bring another torrent of condemnation of these weaknesses and everything else wrong with Congress. It seems fair to devote a few thoughts now to what's right with Congress, both as a parliamentary institution and as a body of political human beings.

Six institutional strengths of Congress have varied in degree throughout our history, but they endure.

(1) Congress reflects the moods of the American people. The reflection is not often exact, and frequently the parliamentary result is disagreement or inaction. But that is an inevitable consequence of our representative system of government.

(2) Congress can check arbitrary action or abuse of authority at other levels of government, as we witnessed through the hearings on Watergate and the subsequent impeachment resolutions in 1973 and 1974.

(3) The passions, the tensions and the conflicting aspirations which often simmer in America need to be expressed and relieved. Open debate, in Congress, covered by the news media, can provide—at times—a release of excessive national tensions.

(4) Through the necessity to reach decisions on the most pressing issues, Congress finally brings some national order to the mass of opinions, yearnings, conflicts and viewpoints of all the people. And—though the members must attend to local needs—they try to articulate a national identity.

(5) The Congress and the Constitution are vitally linked. Congress is as responsible for the preservation of the Constitution as are the other two branches of government. It is thus one of the bulwarks in protection of individual rights and freedoms in America.

(6) The institutional traditions, precedents and rules of Congress provide an order and continuity to the legislative process. But Congress also has the internal flexibility to permit each member to function as an influential and creative individual, which is the only way imaginative leadership can evolve.

HUMAN STRENGTHS

Some special human strengths of Congress have become apparent to me in recent years.

The most obvious personal strength of today's Congress is the conscientiousness of the members. They are, generally, a harder-working group than any I have observed in my 31 years in Congress. The habit of hard work transcends political self-interest. It is not uncommon to see members who have decided on retirement, continue to work at a fast pace from early in the morning until late at night, with no further hope of reward or recognition.

Most members of Congress today are willing to make severe sacrifices to do their jobs responsibly. Few members have not had to give up some degree of personal privacy, normal family life and professional security.

The growth of government and its ubiquitous effect on Amercian life has obliged members of Congress to become ombudsmen. They perform well in that role, not just because they have to respond to constituent needs but also because they relish the tasks of cutting through the red tape, the indifference or the arrogance which too often characterize the bureaucracy.

There are frequent selfish actions in the modern Congress, to be sure, but I am also convinced that principles—even ideals—guide the majority of members. They care about the problems of the nation and are committed to trying to solve them fairly, and they so express themselves in private as well as on the public platform.

Few of the exaggerated stereotypes of Congress—either negative or noble—fit my view from the inside.

Congress is neither a citadel of heroic statesmen nor is it a den of conniving cynics. It is, to be realistic, a body of varied human beings with a tough and complex job to do, an imperfect representative institution trying to sustain some sense of unity for a politically fragmented nation.●

PARENTS OF OLYMPIC ATHLETE CONCERNED ABOUT BOYCOTT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues a letter from some dear friends of mine from back home. They have a son who is a champion athlete and is on the Olympic team. He does not want to miss out on the main event after training many years and getting as far as he has. His parent's letter expresses the pain of people in such a delicate position. It is sad to see this family's dreams put in limbo.

The letter follows:

DEAR NEWT: Speaking as concerned parents of both an Olympic hopeful and a son in the U.S. Army, and as friends of athletes, we ask your help in urging President Carter to reconsider his Summer Olympic boycott decision. It is not too late to send our country's best athletes to the Soviet Union and show the Soviets that indeed we Are the Superior Nation! Our athletes can do that for us, for they will win for us. The pride of being the best can help this nation a great deal at this time when our self-esteem is so low. We need to feel more powerful—and our athletes can help us to that end.

If we do not support the Summer Olympic movement, only our summer sports athletes will be deprived—not the U.S. public, not the U.S. Government; only our summer sports athletes. If the President's boycott is to be valid and fair, it must also include barring Russian participation in the Lake Placid Winter Olympics. In addition, without support of all our other Allies, the boycott will fail. With the support of but a few of our Allies, the boycott will be ineffective, and only those athletes of counties opting to pull out with us will be deprived. Certainly those countries who remain in competition will be given fuel for their braggadocio of "the best" in the world. We can be assured that if the U.S. in particular fails to attend, the Soviets will publicize that they are indeed the Superior Power—and our U.S. athletes will not have been permitted to refute this false claim. Why give the Soviets this opportunity when we know we can win if we are permitted to!

There is also much concern for our athletes as they are forced by the boycott into guilt feelings and an unfavorable public spotlight if they admit that they want to do what they have been training to do for years for the prestige of our country. These athletes should be assured by all of the decision makers here that their choice about the Olympics will remain individually confidential. Many athletes, because of their ages and immaturity, will be forced into hasty and immature decisions that they will in their futures regret. It is a disservice to these fine young people to put them in such an unpopular public position only because of their desires to fulfill their Olympic dreams. In many instances, and most particularly with female athletes, their physical maturation processes will change them so drastically that soon some will be forced out of top competition as their bodies are redistributed. Many of these people cannot afford to wait for another time to participate.

Of course personally, we as parents want to attend the Olympics; however, as spectators we would stay home in order to prove a point and create a financial loss for Russia. Even this we would do, but please relate to President Carter that this is the Most we feel should be done in boycotting. Also, as parents of a son in our U.S. Army, we personally feel that he has been given the opportunity to make his decision of service and sacrifice for our Country: please urge President Carter not to deny our other son his own freedom of choice without fear of repercussion. Somehow there must be an alternative route to take.

In sharing our concern, there is a good lesson we learned early in the competition. The example is of a sporting family attending a large competitive affair, bringing along others, athletes from their home town. During the competition, they became disenchanted with the officiating. Instead of protesting and awaiting the due process, they got up and left, taking along all the athletes they had brought with them. Who lost out? The athletes. The "adults" got mad and went home. What kind of a lesson was this for young impressionable people? Likewise, do we want our Country to appear as these people just mentioned? Please think about the consequences.

At this time, we are hearing that the U.S. boycott is being supported by some other countries. Please be assured that few if any of these countries are the great sports powers that we are. They do not stand to lose as much as we do, and most are not, in fact, committed to the boycott.

Please, let's let freedom ring—let our National Anthem ring in the ears of the World as each of our U.S. athletes stands up for his medal each time "we the U.S. wins!"

Our family would be pleased and honored, Newt, to meet with anyone who could aid us in our efforts to help our President see that the Olympic athlete boycott will give the Soviet Union and unfair political and athletic advantage, will be a sacrifice by only our summer Olympic athletes, and unless supported by all nations, it will necessarily be ineffective.

Let's somehow find a better way!

Sincerely,

BOB AND LOIS LUNDQUIST.●

CHRONOLOGY OF AMERICA'S SLIDE TO NO. 2 POSITION IN THE WORLD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. McDONALD. Mr. Speaker, while we may all argue about the details of this or that past event, there is no doubt that the position of America in the world has sadly declined since 1945. Our prestige has seldom been lower in the world and militarily we are No. 2 despite some huffing and puffing from the White House and its spokesmen. Therefore, it might be useful to recite how we got to this sad state. A chronology of this retreat from greatness follows:

CHRONOLOGY OF EVENTS

1945—U.S. (and allies) won WW II. The world was in a shambles and the U.S. was in the driver's seat. At the Yalta and Potsdam Conferences, the U.S. gave all of Eastern Europe to the Russians, including East Germany, Poland, Czechoslovakia, Hungary, Rumania, Yugoslavia, and Bulgaria.

1949—U.S. lost Mainland China to the communists (650 million people) by cutting vital arms and support to our wartime ally, Chiang Kai Shek.

1951—U.S. fought our first "non-win war" in Korea against the communists. MacArthur was fired for advocating winning.

1956—Hungarian Revolution was crushed by Russia. The West didn't lift a finger.

1958—Cuba fell to Russia. U.S. Government first pulled the rug out from under Batista by cutting off vital arms and supplies and giving covert aid to Castro forces.

1962—Vietnam War began. Our second "no-win war."

1968—Czechoslovakian independence revolt crushed by Russia. The West didn't lift a finger.

1972—U.S. pullout from Vietnam began—after 10 years and 50,000 American dead—on terms the communists had demanded in 1964. Called "peace with honour". (The first U.S. military surrender in our 200-year history.)

1973—Arab oil embargo—instigated by Soviets.

1974—South Vietnam fell to communists—17 million souls and billions of dollars in U.S. weapons lost. (The U.S. first cut aid to South Vietnam and then reneged on our peace treaty promises.)

1974—Portugal had communist revolution, and narrowly escaped communist rule.

1975—Portugal pulled out of Angola and Mozambique. Soviets took over both countries with the help of Cuban troops (15,000 in Angola).

1976-1979—The Carter Era—the Decline Accelerates.

1976—Rhodesia forced to accept Black Rule by the U.S. (under Kissinger—pre-Carter).

1976-1977—Lebanese Civil War—pro-West government toppled. Effective control taken by pro-Soviet Syria and PLO.

1977—Pro-Western Zaire invaded by Soviets (using Cuban, East Germans, and Black guerrillas). U.S. cut military aid to Zaire in midst of invasion. France, Morocco, Egypt, and Saudi Arabia intervened to save Zaire.

1978—Rhodesian war escalated by Soviet/Cuban-backed Patriotic Front—as Rhodesia moved toward Black Rule, U.S. and Britain reneged on all Kissinger promises (September 1976) and gave diplomatic support to the Patriotic Front.

1978—Zaire invaded by Soviets using Cuban and East German troops. Carter again cut back on aid to Zaire. France and Belgium intervened and again saved the Mobutu Regime.

1978—The Horn of Africa conquered by the Soviets with the most massive airlift since WWII and the use of 20,000 Cuban troops. Carter reneged on promised arms aid to Somalia and forced Iran and Saudia Arabia to cut arms aid to Somalia subsequently lost the war to Ethiopia, Russia, and Cuba.

1978—Panama Canal was given by the U.S. to the pro-Cuban, pro-Soviet Marxist Torrijos regime.

1978—Nicaragua revolution began, led by Soviet/Cuban-backed Marxist Sandanistas guerrillas, Carter Administration backed Sandanistas against the pro-Western Somoza.

1978—U.S. began pullout of troops from South Korea amidst massive North Korean military buildup. General Singlaub fired by Carter for warning of coming war.

1978—Afghanistan fell to Soviets.

1978—Soviet backed Vietnam invaded Chinese-backed Cambodia.

1978—U.S. broke relations with Taiwan, scrapped U.S.-Taiwan Mutual Defense Treaty, recognized Red China and established diplomatic and trade relations with the PRC.

1978—Iranian Revolution heated up.

1979—Shah of Iran toppled by radical Moslems, Soviet KGB, Iranian Communist Party, PLO, and Libya. 20 billion in U.S. arms lost. Iran became radically anti-Western, Carter Administration withdrew support from Shah at critical point in revolution.

1979—Communist South Yemen Invaded pro-West North Yemen. Thousands of Cuban troops and Soviet advisors currently massing in South Yemen for conquest of North Yemen and Oman.

1979—China invaded Vietman in defiance of the Soviets and won a limited war.

1979—Saudi Arabia moving to normalize relations with the Soviet Union and moving away from the United States.

1979—Turkey hangs by a thread and braces for an Iranian-style Soviet-backed revolution.

1979—Uganda invaded by Marxist Tanzania. Idi Amin overthrown. A Marxist regime should follow.

1979—A pro-Soviet coup in Ghana—former leaders executed.

1979—Nicaragua invaded by communist troops from Marxist Sandanista National Liberation Front, Panama, Cuba (all armed and backed by the Soviet Union and supported by the Carter Administration). Honduras, El Salvador, and Guatemala will all come under communists attack with the fall of Nicaragua to the Marxists. All of Central America expected to fall to Soviets within 18 to 24 months.

1979—The Soviets and Cubans massing arms and troops for imminent attacks on Zimbabwe-Rhodesia and Zaire.

1979—Radical Islam beginning to rise in the Arab countries for the first time in over 700 years. This fanatical religious movement is rabidly anti-West and anti-Israel and advocates the elimination of all "infidels" through "holy war".

1979—Radical Moslem occupation of U.S. Embassy in Teheran—still occupied—no solution in sight.

1979-80—Massive occupation of Afghanistan by Soviet troops.●

EVADING POLICY DECISIONS

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. CONABLE. Mr. Speaker, the new budget submitted to Congress by the President demonstrates again an unwillingness to make tough decisions on spending which would restrain the growth of Government, the increase of taxes, and the surge of inflation. He is letting spending and taxation rise unchecked so that taxpayers will pay a greater portion of their income in taxes and the ratio of taxes to the gross national product will be the highest in our history, excepting only the peak World War II year of 1944.

Robert J. Samuelson, a respected economic writer for National Journal, recently examined this failure of economic leadership in an article reprinted in the Washington Post of February 5. While I do not concur with all of Mr. Samuelson's observations, he presents an important analysis which I submit for the RECORD and commend to the attention of my colleagues:

WHITE HOUSE DRIFTING, BUDGET PLAN SHOWS

In the 1960's, there was a glib slogan that went like this: if you're not part of the solution, you're part of the problem. Somehow, that's the thought inspired by the White House's latest batch of budget and economic proposals.

Except for the budget's size, which at $616 billion in fiscal 1981 is so large that the number seems increasingly meaningless, the theme is that there is no theme. For all the rhetoric—deploring inflation, promoting savings and urging restrained spending—the latest proposals do little to stem dependence on oil imports and promise significantly higher levels of taxes and spending.

The White House is mostly drifting, accommodating the constituencies—mainly for sustained spending—that seem nearest, most visible and most politically important. The budget is progressively less a tool used to promote needed economic growth and change, and increasingly one used to redivide and apportion a national wealth that is expanding at a slower and slower rate.

This goes to the heart of the President's intellectual and political failure. He still lacks, as he always has, an underlying vision of how government economic policy needs to be reoriented to encourage adjustment to long-term problems—of dimished productivity growth, of a gradually aging population, of reduced worldwide economic power, of excessive demands for limited resources—that underlie today's inflation and economic stress.

Having failed to devise policies that can be placed in a larger context of economic change—and, thereby, command public opinion—Carter has willingly allowed himself to become the prisoner of short-term political pressures. He has used this budget, trade policies and other government favors (the latest being the rescue of the Chrysler

Corp.) in ways that ultimately create more problems then they solve.

What symbolizes the administration's political weakness in the absence of measures—a stiff gasoline tax of 30 to 50 cents a gallon would be best—to reduce oil demand. America's domestic economic policy—and power—are—intimately linked, but, even in a time of "crisis," Carter cannot make an effective political connection.

A gasoline tax shouldn't be so difficult to sell. By reducing spending for foreign oil, a large tax—whose proceeds would be used to cut the deficit or other federal taxes—would keep purchasing power at home and promote growth just when the economy seems headed into a slump. By taking pressure off world oil markets, it would foster price stability, or less instability, and enhance America's diminished authority with its European and Japanese allies. It is a price increase that is anti-inflationary.

A skillful politician, a "leader," can demonstrate the virtues of superficially unpopular proposals; that's what "being Presidential" is all about. But Carter can't.

As for the rest of the budget, it now threatens to become topheavy in ways that do the economy more harm than good. Carter has now effectively abandoned his pledge to reduce government spending to 21 percent of output (gross national product)—which itself is a full percentage point above the average for 1961-74—and projects spending above 22 percent of GNP until at least 1983.

A few percentage points of GNP may seem small, but, with the economy's output approaching $2.4 trillion, the amounts involved are roughly $25 billion to $50 billion in 1980 dollars. The danger is that the resulting high tax rates or deficits will simply blunt economic growth further, creating more demands for government assistance and yet a greater drag on the economy.

Congress and the White House find themselves in a dilemma of their own making. By consistently reducing defense spending as a proportion of the budget and GNP in the late 1960s and most of the 1970s, they financed large new programs without sharply increasing over-all levels of spending. Defense fell from two-fifths of the budget in 1965 to one-fourth in 1976.

New constituencies—from railroad riders who received Amtrak subsidies to artists who receive grants from the National Endowment for the Arts—arose, and old ones expanded their dependence on Washington. Federal assistance jumped from 17 percent of state and local spending in 1969 to 26 percent in 1977. The current bipartisan support for higher defense spending means that Congress and the White House must tell other constituencies to do with less or impose higher taxes or higher deficits.

Calling much spending "uncontrollable" usually signifies an unwillingness, not an inability, to control. Social security is the biggest "uncontrollable" program, accounting for $107 billion out of a $466 billion budget in fiscal 1979. Automatically increased for rises in the consumer price index, benefits will jump an estimated 13 percent in July after a 9.9 percent increase last year: nearly a 25 percent rise in a period when average wages have increased 15 to 18 percent. Nothing says that Congress could not reduce this large automatic benefit rise.

All constituencies are "deserving," but governing means making choices. Congress and the White House are simply making the wrong ones; they are sustaining high spending on the revenues flowing from automatic tax increases induced by inflation, augmented by revenues from the "windfall" oil tax.

Inflation kicks workers into higher brackets. Without a tax cut in 1980 or 1981, a family of four with $15,300 income in 1976—just about average—that received annual wage increases of 7 to 8 percent in succeeding years would pay 19 percent of its 1981 income in taxes, against 16 percent in 1976. For a family with $22,000 income in 1976, the same calculation shows an increased tax bite from 18 to 24 percent.

It's difficult to be precise about the discouraging effect of higher tax rates on work and investment, but there's little doubt that there is some effect. On the other hand, using a bigger deficit to absorb higher spending simply transfers the pressure to higher interest rates, which will squeeze out needed investment—particularly housing—and lay the groundwork for higher inflation. This is not policy, but evasion.●

THE 32D ANNIVERSARY OF SRI LANKA'S INDEPENDENCE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. RICHMOND. Mr. Speaker, during my recent trip to the Middle East and Asia, I had the great pleasure of visiting the tropical wonderland of Sri Lanka, the resplendent land, a country blessed with marvelous fertility, incredibly beautiful beaches, and a magnificent climate.

Earlier this week, on February 4, Sri Lanka celebrated the 32d anniversary of its independence, and I am sure my colleagues will be interested in knowing more about this successful, democratic nation and reviewing Sri Lanka's many social and economic achievements. Following are excerpts from an aide memorie I received from the High Commissioner for Sri Lanka, Ernest Corea, outlining the progress and promise of Sri Lanka:

Democratic Socialist Republic of Sri Lanka, National Day—February 4, 1980

February 4, 1980 marks the 32nd anniversary of Sri Lanka's achievement of independence. The transformation from British colonial rule to independent nationhood was brought about by persuasion and negotiation. In the same spirit, the country's people and leaders have worked together to establish and nurture a politically stable society, in which the forms and values of democracy are firmly entrenched. Universal adult franchise, introduced to the country in 1931, is a cherished and freely exercised right. Seven general elections have been held in Sri Lanka since independence was achieved in 1948. The reins of Government changed hands at six of them, thus establishing for Sri Lanka a record of democracy-in-action, which is unmatched in post-colonial Asia. For the past 15 years, voter turnout at general elections has averaged over 80 percent, testifying to the political maturity of Sri Lanka's people.

Until 1972 Sri Lanka retained the British monarchy as the constitutional head of state. In 1972, a Republican constitution was adopted, and with its inauguration in May, 1972, the traditional name of Sri Lanka (meaning Resplendent land) was restored. The Governor General who had represented the British Monarchy was replaced by a titular President, nominated by the Head of Government (Prime Minister) elected by the people of Sri Lanka. This essentially British type of Parliamentary Government continued until 1978, when a further constitutional change was made.

Mr. J. R. Jayewardene, under whose leadership the United National Party was returned to office with an overwhelming majority in Parliament, in July 1977, had consistently campaigned for the establishment of a Presidential form of Government capable of increasing the level and pace of national development without in any way eroding the country's democratic freedoms. Such a constitution was endorsed by Parliament, and became effective on September 7, 1978. It reflects the best in the constitutional practices of the U.S.A., France and Britain, adapted to the specific conditions and desires of the country and people of Sri Lanka. Sovereignty of the people is exercised through Parliament, which has been declared supreme. Legislative power is vested in Parliament and, unlike the American system, the President has no right of veto over legislation passed in Parliament. The executive power of the people is vested in the Presidency. The President is elected directly by the people for a fixed term of six years, and he is not dependent on a majority in Parliament. This arrangement, which provides for executive stability is considered indispensable for a developing country like Sri Lanka. Parliament initiates legislation and voices the aspirations of the people. The President, on the other hand, ensures that the vital connecting links in the execution of such legislation are maintained.

The rule of law is ensured in the constitution by a strict separation of powers between the executive, the legislature and the judiciary. An independent judicial system ensures the right of every citizen to equality before the law.

The constitution also ensures a fair and just solution to the historic grievances of the Tamil speaking minority in Sri Lanka, particularly in the area of language rights. While Sinhala, the language of the majority remains the official language, both Sinhala and Tamil were made national languages under the 1978 constitution, the use of Tamil in Government offices and in the Law Courts has been constitutionally guaranteed.

Equal opportunities for every Sri Lankan citizen, irrespective of ethnic origin or religion are guaranteed under the constitution. Past experience had shown a certain looseness in the provision of the constitution as regards the fundamental rights to be enjoyed by the people. In the new constitution there is a specific chapter dealing with fundamental rights. This chapter embodies all 30 clauses contained in the U.N. Universal Declaration of Human Rights.

Sri Lanka's foreign policy has been one of non-alignment, in its purest form. Sri Lanka's perception of non-alignment, and its overall approach to world affairs, were articulated in the following terms, by President J. R. Jayewardene, speaking at Havana last year:

"Let not man raise his hand against man. Let him speak the language of peace and friendship. Let the love that passeth human understanding prevail. May they seek to solve their problems by discussion and not by war."

From August 1976 when the Conference of the Heads of State and Government of Non-Aligned countries was held in Sri Lanka until September 1979, Sri Lanka served as the Chairman and the Co-ordinator of the Non-Aligned Movement. This Movement which now consists of over 90 members has been a vital force in the deliberations of the United Nations, and has played an increasingly significant role in international affairs. As Chairman, Sri Lanka sought to maintain the founding principles of non-alignment, and when it gave up the gavel of office, President Jayewardene said that he was "glad and proud" to hand it down with the movement "untarnished and unaltered". Sri Lanka's consistent aim within the Non-Alignment Movement has been to introduce a sense of moderation, in discussion, and to protect internationally accepted principles as basic as non-interference and sovereign integrity.

Sri Lanka's truly non-aligned position was demonstrated during the Non-Aligned Heads of State and Government conference held in Havana (September 1979) where the Sri Lanka delegation consistently pursued the objective of moderation and restraint.

BASIC HUMAN NEEDS

Successive governments in Sri Lanka have shown their commitments to meeting the basic human needs of the people. Sri Lanka's achievements in the realm of food, education and health are particularly impressive. In the last 25 years, Sri Lankans have:

Increased their food consumption by about 15 percent to 2,200 calories per capita;

Increased their life expectancy to 68 years;

Decreased their infant mortality to 45 per 1,000;

Decreased their population growth rate to 1.5 percent; and

Achieved an adult literacy rate of 78 percent.

In recent decades income distribution has also become more equitable to benfit the lower 40 percent of the population.

ECONOMY

When the present Government of President J. R. Jayewardene assumed power in 1977, it was clear that the previous governments commitment to social and economic welfare had not been without its costs: notably a stagnating economy which had been particularly hard hit by the energy crisis and an unacceptable rate of unemployment.

The Government of President Jayewardene has taken a number of important steps to reverse this trend and generate and redirect resources from consumption to investment: from welfare programmes and subsidies to efforts to stimulate economic growth and investment in production. At the outset, in 1977, the government initiated a series of far-reaching financial and economic reforms to bring about a free market economy through such moves as the unification of the exchange rate, the liberalisation of foreign exchange restrictions and the dismantling of import and export controls. As a result, Sri Lanka has achieved an impressive growth rate of 8.2 percent in 1978, nearly twice the growth rate of 4.4 percent, recorded in 1977. After the initial spurt in 1978 following the liberalisation, the economy is expected to settle down to an appreciable growth rate of about 6 percent in the next few years, a satisfactory growth rate given the present gloomy world economic situation.

Positive steps have also been taken to stimulate investment in the private sector. The tax system of the country has been completely overhauled to restore incentives to save and invest. The Budget for 1980 extended concessions in the form of tax holidays on company profits in a number of new industrial areas. Measures have also been taken to encourage savings and it is gratifying to note that time and savings deposits with commercial banks rose to Rs.1,250 million in 1977 and Rs.1,584 million in 1978 in sharp contrast to an increase of Rs.463 million in 1976 and Rs.68 million in 1975. In the first eight months of 1979 alone these deposits rose to Rs.1,698 million.

FREE TRADE ZONE

Particular emphasis is also being given to attracting foreign investment through the Government's Free Trade Zone proposal. As at the end of 1979, the Greater Colombo Economic Commission has approved about 77 industrial projects from 21 countries involving an investment of $140 million of which about 70% is from foreign investment. By the end of 1979 around 15 industries were already in production and another 20 under construction.

In pursuit of these objectives of attracting private capital to Sri Lanka, the Government has also allowed new foreign banks to open branches in the country. The American Citibank has already opened a branch in Colombo and other banks have also expressed similar interest. In 1979 Sri Lanka arranged for the first time in its history a syndicated loan of US $50 million in the Euro-currency market on very favourable terms. The fact that the loan was heavily over-subscribed is further proof of the international banking community's confidence in the economic policies of Sri Lanka.

MAHAWELI DEVELOPMENT PROGRAMME

With its twin priorities of increasing employment opportunities and increasing agricultural production for self-sufficiency the Government of President Jayewardene has also decided to embark on the Accelerated Programme of Mahaweli Development. This ambitious multi-purpose irrigation scheme is based on exploiting the resources of Sri Lanka's largest river, the Mahaweli. In the first stage of development under the accelerated programme, 5 dams are to be constructed, 4 of which would have a major hydro-power component amounting to about 500 to 600 megawatts and lead to the opening up of approximately 117,000 hectares of new land. The project is being completed with financial assistance from the World Bank and its affiliate the IDA (International Development Association) in conjunction with the U.S., Canada, Netherlands, EEC, U.K., and Sweden.●

BUFFALO COURIER-EXPRESS JOURNALIST PETER C. ANDREWS DETAILS THE CRITICAL AND PRACTICAL PROBLEMS OF CONFRONTING SOVIET AGGRESSION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. KEMP. Mr. Speaker, the President's state of the Union message in which he enunciated what has been called the Carter doctrine has greatly sharpened the national dialog on how Congress and the administration can act to strengthen our Nation's military capability to deter further Soviet aggression, probes and subversion and such actions by Soviet surrogates.

Although some of my colleagues and I have long been concerned with the deterioration of our country's military weaponry, both conventional and strategic, in the face of the dangerous and unparalleled Soviet buildup, the general news media has, for the most part, not generally shared that concern in newspapers and on television and radio until the shocking invasion of Afghanistan.

Consistently heedful to the growing Soviet threat over the years, however, especially in relation to that in the region of the Persian Gulf, the Middle East, and Africa has been Mr. Peter C. Andrews, the Washington bureau chief and national columnist for the Buffalo Courier-Express.

Peter has been and remains a confident and close observer of military and political leaders of Israel and other friendly nations of this sphere and has, through repeated trips to these areas, built up an expertise on military and geopolitical issues now making headlines in the general press.

Last Sunday, the Buffalo Courier-Express published a column in which Peter Andrews incisively detailed the practical problems facing our Nation and our military leaders in backing up the President's stated determination to draw the line against Soviet imperialism.

For the benefit of my colleagues, Mr. Andrews' column follows:

U.S. MILITARY PREPAREDNESS BELOW PAR

(By Peter C. Andrews)

WASHINGTON.—If there is a war, let us hope it is a phantom war because we are going to have to fight it with a largely phantom army, navy and air force.

As the dust is settling from President Carter's ringing State of the Union Address which all but threatened war with the Russians if they advance a step further toward the Persian Gulf, military observers around Washington are wondering what the president is going to use to fight if a conflict does break out.

We are not a totally helpless giant, but at the same time we are nowhere near being as prepared as we should be to back up our strong stance. We could be, and we will be—but it will take us a minimum of five years to get there, and nobody can be sure the Russians will wait that long.

The lead time for producing military hardware such as tanks, aircraft, missiles and submarines is so long that 10 years is a better estimate of the time it will take to get our armed forces up to their required capability.

It is a shocking fact that the state of our military preparedness is so low that we have not even fully replenished our supplies of ammunition which we drew down to help out the Israelis during the 1973 war with Egypt.

Our production of tanks has been so slowed by indecisiveness in selecting a design for the new Main Battle Tank that the first ones are just now being built—a good 10 or 15 years after it was decided we needed a newer, more modern and sophisticated tank. As I understand it, there is just one plant in the nation producing the new tanks—hardly a situation that any planner can defend as being ideal.

The backup in orders on precision parts is such that it would take three years to increase our production of the F-14, one of our main-line fighter aircraft.

But equipment is not the only problem. We are desperately short of trained manpower. Despite what the president said in his speech, the new all-volunteer military recruitment system is simply not working out. Last year, every branch of the services failed to meet their minimum recruitment needs. And the situation will get worse, since there is a decline in the number of 18-21-year-olds coming up in the mid-1980s, a result of the sharp dropoff in babies after the contraceptive pill came into more common use 20 years ago. We need 62,000 more men in service this year over last.

Not only are we not getting enough young men and women to join the military services, but those who have joined are not staying in. Recent figures show that 8 percent of the volunteers do not complete their full enlistment terms.

Worse still, in certain categories like pilots, the Pentagon reports that re-enlistment is an abysmal 28 percent. When you consider that it takes about three years to train a pilot to his full military capabilities, that means most of these men are doing little more than just completing their training and then leaving.

Lead time is the key word in military affairs. It is interesting now to reflect that the famous Messerschmitt 109, the mainstay of Germany's air force during World War II, was first shown to the public when one did a fly over at the Olympic Games held in Berlin in 1936.

In 1937, a group of five of the new planes demonstrated their superior capabilities in an international air show in Zurich. At the same time, a squadron of 25 was sent to fight on the fascist side in the Spanish Civil War, and in 1939 they began their terrible raids against an unprepared Europe. It was not until about the middle of the war that the Allies could get a plane into production that was clearly the master of the 109.

And so if the Russians decide to test their strength against the United States and its allies, it will be a tough struggle. On the conventional weapons side and on the manpower side, the Russians would clearly dominate, unless almost all the other nations in Western Europe came in with their full forces to join us.

The U.S. would not allow itself to lose a war with Russia and so that leaves only one alternative—the superweapons.

Whether the United States would go to the extent of using nuclear bombs to protect Persian Gulf oil is a question most Americans, and perhaps even President Carter and his advisers, haven't faced yet, at least publicly.

But with very little in conventional forces to back up his threats, there are not too many choices open. The Russians apparently don't respond to reason. Force is about the only thing they seem to understand.

The lack of fully prepared armed forces makes us rely on the superweapons whether we really want to or not. It will be at least 2 to 5 years before we can rely on conventional forces.

Part of the game is how the Russians evaluate not only our military forces, but also our will to use them.●

FDA TO BACK ANTURANE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. PATTEN. Mr. Speaker, I was delighted to read in several recent newspaper articles about the study showing that anturane has been proved to be effective in significantly reducing sudden cardiac deaths among patients who have suffered earlier heart attacks. I am especially pleased that this product was developed by CIBA Pharmaceuticals Co. which is headquartered in my home State.

I am well aware from the hours of testimony before my Labor-HEW Subcommittee on Appropriations of the importance of seeking an effective means of reducing the number of deaths resulting from heart attacks. The results of the study published recently in the New England Journal of Medicine indicate that between 15,000 and 18,000 lives could be saved each year through the use of anturane. The potential for saving so many lives calls for prompt and immediate action on the part of the Food and Drug Administration so that the drug can be licensed for this purpose. I have contacted the Commissioner of the FDA urging that this administrative process be expedited. I would like to share with my colleagues an article published in the Internal Medicine News last month which goes into further detail about the testing of anturane and the status of the licensing procedure at the FDA.

[From Internal Medicine News, Jan. 15, 1980]

FDA EXPECTED TO BACK ANTURANE FOR USE AFTER MI

ROCKVILLE, MD.—Anturane, an antigout drug, will in all likelihood be approved by the Food and Drug Administration for use during the first 6 months following an acute myocardial infarction to prevent sudden cardiac death.

After presentation and discussion of the final results of the anturane (sulfinpyrazone) reinfarction trial, the FDA Cardiovascular and Renal Drugs Advisory Committee agreed that "the trial provides substantial evidence that sulfinpyrazone prevents cardiovascular death and sudden death, in particular, during the first 6 months following a myocardial infarction" and recommended approval of this new indication for the drug at its November 1979 meeting.

That recommendation will be forwarded to Dr. Robert J. Temple, director of FDA's division of cardiorenal drug products; he will make a recommendation to the FDA's associate director for new drug evaluation, who will make the final decision.

It will take a few months for the final decision to be made, but "by history, we usually follow the committee's recommendations," he told Internal Medicine News after the meeting.

Erwin H. Margulies, Ph.D., director of long-term intervention trials for Ciba-Geigy, the pharmaceutical firm that sponsored the multicenter trial, said the results indicate that sulfinpyrazone converts the very high-risk period for sudden death during the first 6 months following a myocardial infarction to one of significantly less risk.

Sulfinpyrazone given to patients beginning 1 month after an acute myocardial infarction and continuing for 6 months reduced the total cardiac death rate by about 50 percent and the sudden cardiac death rate by about 75 percent during this period. Thereafter, no additional benefit of the drug was observed, he said.

Of 1,631 patients accepted into the randomized double-blind program from November 1975 through July 1977, 1,558 were eligible for entry into the trial. Eligibility was restricted to outpatient men and women 45-70 years old who had had proved infarctions 25-35 days earlier.

During the average 16-month follow-up, 105 cardiac deaths occurred (106 total deaths), 62 in the placebo group and 43 in the sulfinpyrazone group. Of these 59 were sudden deaths (37 placebo, 22 sulfinpyrazone), defined as death within 60 minutes of the onset of symptoms or an unobserved unexpected death without an obvious cause, Dr. Margulies said.

Thirty-five of the cardiac deaths were the result of reinfarction (equally distributed between the two groups), and the remaining 11 were due to other cardiac causes, primarily congestive heart failure (7 placebo, 4 sulfinpyrazone).

The annual total cardiac mortality during the high-risk period, from 1 to 7 months after infarction, was 10.2 percent for the placebo group and 5 percent for the sulfinpyrazone group, representing a 50 percent reduction.

The annual sudden death rate during the high-risk period was 7 percent for placebo patients and 1.7 percent for sulfinpyrazone patients, a 74 percent reduction, he said.

Beyond the high-risk period, from 7 to 24 months after infarction, no difference in annual total cardiac mortality or sudden death was observed between the two groups.

The effect of sulfinpyrazone on total cardiac mortality appears to be a major blunting of the high-risk mortality period, which is primarily the result of its effect on sudden death, Dr. Margulies said.

A major question raised by the advisory committee when the preliminary results of the study were presented in March 1978 was the exclusion of patients who did not meet a "7-day rule."

This rule excluded patients from analysis who were not on the drug for at least 7 days or were off the drug for more than 7 days. The exclusion of these patients was based on prior clinical studies showing that sulfinpyrazone's protective effect begins after 7 days of therapy and is lost 7 days after the patient stops taking the drug.

The analysis of the final trial results focused on analyzable deaths (those that met the 7-day rule) of eligible patients, but also included a more conservative analysis using all deaths and all eligible patients and the most conservative analysis using all deaths and all patients.

These additional analyses yielded the same statistical significance for sulfinpyrazone's prevention of sudden cardiac death. This statistical significance was maintained regardless of the statistical technique used, he said.

Gerald J. Kelliher, Ph.D., professor of pharmacology, the Medical College of Pennsylvania, Philadelphia, said animal studies indicate that sulfinpyrazone seems to act as a "quite different antiarrhythmic agent."

It appears to block excess catecholamine release caused by an ischemic myocardium, and its action is time dependent, requiring 30–60 minutes for its antiarrhythmic action to take effect, he said.

Dr. Richard S. Ross, dean of the medical faculty and vice president for medicine, Johns Hopkins University School of Medicine, Baltimore, who was asked by Ciba-Geigy for an independent opinion of the trial, said, "I'm here as an advocate of good clinical trials, and I believe this is a good one.

"We have better evidence about the efficacy of this drug from this trial than we do about many drugs that are a part of routine medical care. The results seem clear-cut to me. I believe the drug should be approved for this indication," he said.

Richard A. Kronmal, Ph.D., a member of the advisory committee and professor of biostatistics at the University of Washington School of Public Health, Seattle, said the data were strong, but it is only one trial. "I would like to see another study to verifv this result."

Other committee members, however, said it would be difficult to ethically justify another placebo-controlled trial with the strong results from this trial.

Dr. Jeffrey S. Borer, another committee member, said, "We're saying that all myocardial infarction survivals should be treated with Anturane."

However, there is a large subgroup of patients who are at virtually no risk of death over the first 7 months following a myocardial infarction. They should be identified and excluded from the expense of taking the drug, said Dr. Borer, director of the cardiocatheterization laboratory, New York Hospital, New York.●

NEBRASKA GOVERNOR PROMOTES GASOHOL

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. BEREUTER. Mr. Speaker, I would like to bring to the attention of my colleagues a recent article that appeared in the Lincoln Star, one of the largest newspapers in my congressional district.

The article describes the positive action taken by Nebraska's Governor, Charles Thone, to promote the use of gasohol in our State. Nebraska is a pioneer in the development and use of gasohol, so the Governor's action is consistent with a State that is willing to do its part to reduce our Nation's dependence on foreign oil.

I call this article to my colleagues' attention so that they can learn what one State is doing. Our action can also serve as a model for similar Federal programs. Moreover, I use this opportunity to call for quick action on pending legislation to promote the use of gasohol. Further delays are unwarranted.

The article follows:

[From the Lincoln Star, Jan. 26, 1980]

THONE ORDERS STATE CARS FILLED WITH GASOHOL

(By Gordon Winters)

Seeking to add luster to Nebraska's reputation as a leader in the production and use of gasohol, Gov. Charles Thone ordered that the alcohol-gasoline blend be used in most State-owned vehicles.

The governor also sent President Carter a letter urging a similar policy for federal agencies.

"By showing this kind of leadership, we can encourage greater development and production of alcohol fuels made in the U.S.A., and take a big step toward ending our dependence on foreign sources of energy, and provide a new market for our farm products," Thone wrote.

Thone said at a press conference that he recognizes there currently is not enough gasohol available to meet the demand for the State's fleet of about 2,000 vehicles.

But he said the fuel companies which supply State government have been asked to search for gasohol, and he said independent gasohol producers will be asked to supply the State so it can dipense the fuel at State pumps.

Agencies which purchase their fuel supplies from private vendors have been directed to buy from stations which now offer gasohol.

Thone made gasohol mandatory for the agencies, boards and commissions directly under his control and asked that similar bodies over which he has no direct control do likewise.

Department of Administrative Services Director Brent Stevenson said at Thone's news conference the higher price of gasohol will be partly offset by mileage increases of 5 to 7 percent.

The mileage increases were documented in a 2-million-mile study conducted jointly by the Department of Roads and the Agricultural Products Industrial Utilization Committee.

Thone also said he hopes to testify before the agriculture subcommittee of the House Appropriations Committee in Washington, and recommend Carter budget $10 million for alcohol fuel research at colleges and universities.

Thone said he was responsible for amendments to the 1977 Farm Bill which called for spending $24 million for such research in the next four years. He said he is disappointed that appropriations in 1979 and 1980 total only $985,000.

Thone said it is believed Carter will recommend only $500,000 for research next year. "This is totally inadequate," Thone said.●

MORE ON OUR SHRINKING FARMLAND

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, during the past 3 years about 3 million acres, much of it prime farmland, has been paved over for shopping centers, subdivisions, factories, and expressways.

Progress? Perhaps. But with this progress has come a bitter harvest; the slow disappearance of our best farmland. In fact, many people are convinced that if this trend is not stopped, the United States may well have to import food by the year 2000.

Will a "food OPEC" someday cause shortages and long lines at the grocery store much as the oil cartel has caused at the gas station?

Some possible solutions to the problem have been raised, but many of them are clear violations of our constitutional right to own and dispose of private property. However, one area that deserves further exploration is the suggestion of land-use expert Bernard Siegle, who has advocated the inclusion of restrictive covenants in land deeds which would insure that the land would be kept in agricultural production.

Restrictive covenants are in force in a number of areas around the country, including the city of Houston, Tex., which enjoys freedom from zoning laws.

Of course, the problem of disappearing farmland would be solved if it were more profitable to farm than to build shopping centers. Unfortunately, this is not the case, due primarily to Federal Government tampering with agricultural markets.

The Decatur, Ill., Herald has reminded us of the importance of saving our domestic food supplies, and I commend the November 29, article to the attention of my colleagues.

The editorial follows:

PAVING FARMS IS DANGEROUS

As people drive along the country roads of central Illinois and other areas of prime farm land, it's hard to believe a crisis is brewing.

No one sees a steady flow of concrete out over lush fields of soybeans and corn and the apple and peach orchards more common just to the south.

But whether seen or not hundreds of thousands of farm acreage is being taken out of production each year to provide for shopping centers, roads, housing developments, industrial parks, airports and the other aspects of modern society.

During the last three years about three million acres, much of it prime farm land, has been converted to nonagricultural uses.

Nor is this something that happens somewhere else.

In Macon County and elsewhere in central Illinois in recent years much acreage has been taken out of production with the expansion of cities into the countryside and development of shopping centers and factories to serve the new rural population.

These are usually taken as signs of progress. And until now little concern over this has been shown because there was always more farm land to be reclaimed elsewhere. But we are rapidly running out of prime land.

A Department of Agriculture study reveals there are just 135 million acres of cropland available for potential development. But only 22 million acres is considered prime farm land.

Right now about 400 million acres of land is under cultivation, which seems like an awful lot. Enough food is produced to feed about 200 million Americans and still export enough food to feed hundreds of millions of others around the world.

Looking down the road to around the turn of the next century, many experts believe that the United States will have no surplus to export if the current trend of conversion continues unabated. Inevitably, the U.S. would become a net importer of food.

"Land is not an unlimited source," says Al Hidlebaugh, now finishing a study of government land use policies. "We're running out."

And once the land has been converted, there is no way to restore it later to food production.

To some it might be simple to just pass a law keeping agricultural land in food production. But this would run counter to our traditions of allowing people within reason to dispose of property to their best interest. Currently, land is more valuable for other functions such as shopping centers than for agriculture.

Besides, there is a need for some conversion to take care of the needs of people for homes and jobs. To make this an all or nothing question is wrong.

First, there is a need for people to be sensitive to this problem. Less farm land will mean less food and higher prices in the future unless some unforeseen technological breakthrough rescues us as mechanization and the use of fertilizers have done in the last century. Right now it seems we're running out of miracles.

In debate over the conversion of agricultural land to other uses, this should be one of the central matters of discussion. Loss of farm land should be a key factor in the final decision.

By itself this awareness isn't completely the answer. There are steps government must take to make it less punishing economically to keep land for agricultural use.

This isn't simply a matter of preserving the countryside from encroachment by the city. It is, literally, a matter of survival.●

EUBIE BLAKE

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mrs. CHISHOLM. Mr. Speaker, I would like to invite my colleagues in the House of Representatives to join me in celebrating the 97th birthday of Eubie Blake, the fame ragtime pianist, composer, and vaudeville performer who was born February 7, 1883, in Baltimore, Md. Since 1945, Mr. Blake has resided in the Bedford-Stuyvesant area of Brooklyn which is a part of my congressional district.

Mr. Blake's career spans well over three-quarters of a century and this year marks his 82d year in show business. Some of his most famous pieces include: "Charleston Rag," "Shuffle Along," and "You Were Meant for Me," which was used by Harry Truman as a campaign song in 1948.

I have enjoyed the music of Mr. Blake since I was a teenager, and I would like to take this time to congratulate him on his many accomplishments and to wish him a very happy 97th birthday.●

ECONOMIST HANS SENNHOLZ

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. McDONALD. Mr. Speaker, as we in the Congress prepare again to grapple with the annual budget process, it might be well to pause and consider just where we are headed. Consideration of the budget should not just be a tug of war between contending factions for the Federal dollar. It certainly behooves us to sit and take a long philosophical look at the matter. In that vein, I am today placing in the RECORD an interview with Economist Hans F. Sennholz, whom I consider the leading advocate of a free market economy in the United States. We would do well to consider and follow his advice. His interview with John Rees, which appeared in the Review of the News on January 9, 1980, follows and I commend it to the attention of my colleagues:

ECONOMIST HANS F. SENNHOLZ

AN EXCLUSIVE INTERVIEW WITH THE LEADING FREE MARKET ECONOMIST

(By John Rees)

Hans F. Sennholz in one of the most able advocates of an American return to economic sanity through balanced federal Budgets and gold-based money. His early education was in Germany where he received his M.A. from Marburg University and his Ph.D. in political science from the University of Cologne. Dr. Sennholz earned his second Ph.D. in economics from New York University in 1955. Since 1956 he has taught at Grove City College where he is chairman of the department of economics.

Hans Sennholz is a member of the Mont Pelerin Society, an international association of Conservative scholars, and serves as the shadow Treasury Secretary in the conservative Citizens Cabinet. Professor Sennholz' most recent book is *Age Of Inflation*, a brilliant and highly acclaimed popular commentary just published by Western Islands at $8.95.

Q. Dr. Sennholz, what has gone wrong with the American economy since World War II?

A. Putting it very simply, we have traveled the road of inflation via deficit spending. As a result, dollar savings and investments have depreciated at the inflation rate. Pre-World War II savings have lost some 90 percent of their value, and post-war savings have lost at least one-half of their value. The value of money invested in savings accounts, savings bonds, life insurance, pension funds, and all other dollar investments has shrunk continually. The middle class, which customarily invests in such savings, has lost at least one-half of its financial substance in recent years.

Q. How did we get in such a mess?

A. The old forces of "Liberalism" in the United States, identical with those of socialism in Europe, gained power with Roosevelt's New Deal. These forces have shaped the policies of the American Government for half a century. They have brought us to the borders of economic stagnation, disastrous inflation, and falling standards of living. In the name of benefiting the poor and underprivileged, the leaders of "Liberalism" have ravished the producers through taxation, impoverished the middle class through inflation, strangled economic life through regulation, and divided American society through social conflict and strife. But above all their "Liberal" preoccupation with economic redistribution of wealth has permitted world communism to become an ominous threat to American security and independence.

Q. Given our confiscatory taxes, crippling regulations, and the myriad of problems these cause, do you foresee Americans organizing politically to remove government controls and high taxes, or do you expect more of the same?

A. There is a possibility for change. If "Liberalism" drags on for another five years after carrying the day at the next Presidential election, and say a determined "Liberal" like Senator Kennedy is put in the White House, you would have a continuation of these conditions. "Liberalism" would stimulate the economy artifically with many new government programs and higher deficit spending. The Federal Reserve would infuse massive doses of inflationary credit into the economy. The federal bureaucracy would swell considerably as the many programs are put into effect or old ones are expanded. And finally government control and regulation of enterprise would reach new heights of oppression. The rule of the day would be price controls, price support programs, corporate rescues, credit guarantees, and government takeovers of failing businesses.

Q. And what if a more conservative President were elected with a Congress to match?

A. Then there might be a new approach. There is a new buzz word and it's called "supply side" economics. This is favored by a new brand of economist and politician emphasizing the importance of production. The advocates of "supply side" fiscal policies expect to be able to stimulate economic growth and output. They favor growth-oriented tax reductions which in due time will bring about economic expansion and achieve a larger economic "pie," as they say.

Q. That sounds like the Kemp-Roth bill voted down in Congress recently.

A. The defect is that by itself it is unlikely that a Conservative Administration could readily halt the inflation. A tax-cut that is well directed to promote production will indeed stimulate the economy in the long-run; but it does not address the question of a balanced Budget without deficit spending, which alone will stop inflation.

So I am skeptical that even if the "supply side" politicans were to come to power we could get things turned around. I think inflation would rage on because Conservatives do not yet have the influence and the political power to reverse the trend by ending current programs. Even with the "supply side" people in power I would expect very high rates of inflation for the next four or five years.

Q. President Nixon, who was presented to the electorate as a conservative of sorts, tried to cope with inflation with price controls.

A. I'm suspicious that the "supply side" politicians would also be tempted to try to cope with inflation symptoms by fraud and force via wage and price controls and other "emergency" restrictions similar to those imposed by President Nixon and his reportedly conservative lieutenants in the period 1971 to 1974.

Q. You have mentioned the probability of more government bail-outs of failing companies, and even of federal takeovers. What are your thoughts on the Chrysler bail-out?

A. Other failing companies will be demanding more of the same; it's part of a trend.

Q. If Chrysler were allowed to move into bankruptcy in a normal fashion just as any other unsuccessful entrepreneur, what would be the effect on the economy?

A. Surely it would be felt, and felt immediately, because it would produce a rise in unemployment. It would have made the recession of 1980 a little more severe. But the unions and the American people would have learned an important lesson and this would have been beneficial in the long run.

Q. There is a strong laissez-faire cadre among Conservative economists; what measures would they recommend to correct the American economic malaise?

A. They would depend on the forces of the market. They would not interfere. Any business that makes market mistakes such as Chrysler did, even though compounded by the intervention, the blunders, and regulatory burdens imposed by the federal government, would be permitted to fail. People would learn a lesson. The market would adjust both to the labor situation and to the supply and demand for cars and transportation. We would not invite wholesale federal takeovers of our basic industries.

Q. The sad state of the American dollar is another problem of grave concern. Do you think that a return to the gold standard in some form is possible in the near future?

A. Definitely. I think that within three to five years we will see a return to some measure and form of the gold standard in international relations, agreements, and settlements between central banks and perhaps commercial banks.

However, domestically, I don't think it's in the cards. After all, you have to bear in mind that the gold standard is the one chosen by an honest society. It is honest money, and only an honest society that refrains from stealing and plundering through the political process can tolerate the gold standard.

Q. There have been substantial rumors that some of the oil-producing countries, particularly Saudi Arabia, are thinking in terms of trading gold for oil.

A. That's part of what I was referring to a minute ago. In international affairs, gold as a medium of exchange in one form or another will return. As a matter of fact, gold constitutes more than half of the monetary reserves of central banks even today, and as the paper dollar (the other world reserve of currency) has depreciated, gold has risen in price. I believe the Arab nations and others will provide part of the trust for the return of gold in international payments.

Q. How should we cope with the O.P.E.C. cartel?

A. Simply answered: through freedom. Only by freeing our own domestic industrial producers to produce us out of trouble will we be able to address and cope with the oil cartel.

I believe that the crowning folly of 1979 was the imposition of the so-called Windfall Profits Tax, a punitive tax, on our own oil and gas industry at a time we are depending more and more on O.P.E.C. oil imports. The U.S. Government is giving sustenance and support to the O.P.E.C. cartel and its policies through its blind antagonism toward domestic oil producers. I repeat: The way to break the cartel is to free American producers to produce our way out of trouble.

Q. Why do you think the Administration is so blind to this obvious supply solution?

A. Well, there you're asking me about motivation. As an educator, my answer might be stupidity and ignorance. But this Administration is permeated with the social philosophy of class conflict and government redistribution of wealth which you may term Marxian or socialistic, and which has swayed official American thinking for the past half-century. So, while we are dealing with ignorance, that ignorance is animated by the philosophy of class conflict, of exploitation, and other Marxian connotations.

Q. And yet the Chrysler executives and many others among America's business leaders are obviously prepared to go along and accept these eventually ruinous economic policies of regulation, taxation, and takeover. Why is that?

A. I expect nothing from business leaders. They are specialists in the manufacture of iron and steel, shoes, air conditioners, hair dryers, carpets or whatever. They have no philosophical and intellectual training in answering a Communist or Marxian propagandist—especially one backed by the force of government. They certainly don't know how to defend the Free Enterprise system. It is a few forward-looking leaders and intellectuals in whose hands our free system rests. If they fail, then society also will surely fail. So don't blame the businessmen for their shortcomings, encourage them to do better.

Q. As you know, in response to the hostage situation in Tehran, President Carter has frozen Iranian assets and has urged similar actions by the nations of Western Europe. Was this, in your opinion, an appropriate response?

A. No, it definitely was not. The freezing of assets jeopardized the already weak American dollar. We should have chosen other actions that would not have further discounted the dollar.

Q. When we discuss other ways to cope with the Iranian problem, you are probably aware that there is quite a popular movement in the Midwest that argues the U.S. should deny food exports to countries that act against us, or at least that we should relate the price of wheat to the price of oil. What are your thoughts on that?

A. I would not react by adding more government controls over the agricultural industry. I would react by freeing our own industry from regulations. Most especially I would immediately free the American oil industry from regulations and see what happens in the way of increased domestic oil and gas production.

Q. What is your forecast for the next decade if "Liberals" retain control of Congress and the Presidency in 1980?

A. Well, if "Liberalism" drags on, surely by 1985 Americans will be experiencing the problem of hyper-inflation. By that time, Americans will be fighting mad at the economic failure of the socialist dream and the Conservatives will come to power. But then come the questions:

Can the dollar be saved or must it be replaced with a new currency? Can government spending be slashed without an outbreak of violence by beneficiaries of the social Welfare programs who are deeply convinced of their "moral right" to the redistribution of wealth to which they've become accustomed by government largesse? Can the American economy be restored without violent protests by the profiteers of private rent control?

These are some of the questions that will occupy the American people in the 1980s. Can Conservatives straighten a listing ship? Well, certainly if Conservatives come to power the economy will be permitted to grow. In other words, they will make some tax cuts to aid capital investment. But until the American people understand the problem I'm skeptical that even the Conservative politicians will be able to cope politically with inflation whose root cause, deficit spending programs, is now so deeply rooted in American policies. So I think inflation will rage on in any case.

But of course the greatest question is that of the military strength of the Soviet Union compared to that of the United States. If we have another five years of "Liberalism," America may have declined to such an extent that we are mortally threatened. On the other hand, if we begin to repair defenses in the next four to five years, I think we have a fighting chance.

Q. If hyper-inflation lies in our future, how can an individual best protect his savings?

A. First there is what I call a financial law of survival. Let us be thrifty, self-reliant, and independent individually. But all our savings must be in non-monetary form. In other words, they cannot be in savings accounts, pension funds, savings bonds, or life insurance—which are dollar investments. Our savings must be in such forms as real estate or gold and silver.

Furthermore, I believe that 1980 will be the year of the stock market. The stock market is posted for a phenomenal rise. Stocks are greatly underpriced and it is time for stock prices to rise in order to adjust to the past 20 years of inflation. I think we will see that happen in 1980.

Personally, I may even reduce some of my gold and silver holdings in order to participate in this upward adjustment of the market.

Q. What about bonds?

A. Well, the bond market has gone all to pieces and will recover much more slowly. There will be periodic rises, but be warned unless you are going into bonds strictly for speculation, because there will be collapses. Frankly, I believe stocks are very cheap now. I am talking about a Dow Jones Average of 2500 for 1985. Even there, of course, we will have chills and fever which are characteristic of the advanced stages of inflation.

Q. Where can people best turn for sound financial advice on coping with inflation through investments?

A. There are a number of Conservative investment services to which one can turn and which I admire such as Gary North, Richard Russell, Jerome Smith, James Blanchard, and so on. All are of our school of thought.

Q. Let's return to the discussion of gold investments since they are something that small investors have been highly interested in following. With current prices at $500 an ounce, has a ceiling been reached, and is it time for gold prices to fall?

A. No, not at all. I think the present move is for gold to go to $550 to $570 an ounce before there will be a substantial correction in the price.

Q. Do you foresee extreme government intervention to drive down the price of gold?

A. No, but even so, it only means gold drops in price for a few days, and then resumes its old upward march. Government intervention in gold is merely a harassment. It doesn't change the basic market forces at work. The only real force that drives up the price of gold is the deficit spending and monetary expansion policies of the U.S. Government. I certainly do not expect the present Administration to halt that!

Q. Have you noticed that both Red China and the Soviet Union are taking advantage of our inflation to offer gold coins for sale in America?

A. I've heard about it, but in volume they are insignificant. I certainly wouldn't buy any. I limit my own purchases to old American coins—the double eagle, the eagle, the five dollar, and two dollar, and fifty-cent coins; and, once in a while, I'll buy a Krugerrand or an Austrian gold ducat.

In fact, the faculty members of my economics department here at Grove City College started an investment club 10 years ago. We have been investing in gold mining shares, in silver, and in gold coins, and I must say we have done very well.

Q. Do you expect gold mining shares to be particularly attractive this year?

A. That's right. In particular, South African gold mining shares. Since the political and racial situation with respect to Rhodesia appears at least temporarily settled there, I would expect some of these shares to undergo an adjustment and to double in price.

Q. Will you discuss real estate as an investment?

A. Again, I personally am a real-estate investor. Real-estate investments have done extremely well in recent years against inflation. But while I am not bearish and do not foresee a crash as some analysts have been predicting, I do believe that real-estate will lose its luster because it depends so heavily on the mortgage market. When you have very high rates of inflation, you have very high rates of interest. When mortgages reach 15 to 20 percent, then the real-estate business will come to a grinding halt because of lack of mortgage money.

Q. How can Americans be persuaded to begin investing, and not simply spend all they have before inflation destroy's its value?

A. I'm urging people to be very thrifty and self-reliant and independent. But today people have an additional task. They cannot merely save dollars. Those sorts of investments in the traditional middle-class fashion now are suicidal. They must learn to invest like businessmen in real assets. And above all they must learn to invest their time, talents, and money in fighting to return economic freedom and sane policies to our country.●

CARTER REVIEW

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. SNYDER. Mr. Speaker, the following "letter to the editor" appeared in the February 5, 1980, edition of the Kentucky Post. This letter spells out very definitively where the trust that the American people placed in Jimmy Carter has gotten our great country. I commend it to the readers of the CONGRESSIONAL RECORD:

CARTER REVIEW

The following brief is Jimmy Carter's first three years in office.

January 21, 1977—Draft Dodgers pardoned.

March 9—Korea Troop Withdrawal.

September 2—Bert Lance resigns because of banking improprieties.

March 7, 1978—Cancellation of B-1 Bomber.

April 7—Cancellation of Neutron Bomb.

April 18—Ratification of the Panama Canal give-a-way.

April 27—General Singlaub removed from his command . . . for his patriotism.

April 28—Afghanistan falls.

June 30—Inflation rate is 11 percent.

July 20—Dr. Peter Borne resigns White House Post due to illegal drug incident.

August 20—Cancellation of the Trident Submarine.

November 14—Russia sends MIG-23s to Cuba.

December 15—Taiwan sellout.

January 16, 1979—Shah leaves Iran.

February 7—Andrew Young calls Khomeini a "Saint".

February 14—America's ambassador to Afghanistan is killed.

March 31—"Real" Gross National Product down to 0.7 percent.

April 24—After free elections in Rhodesia, U.S. still refuses to recognize them.

May 1—Gas shortage hits America.

May 23—Bert Lance indicted.

June 19—Salt II Treaty is signed. Carter kisses Brezhnev.

June 30—Inflation rate is 13.9 percent.

July 17—Carter replaces many of his advisors.

July 20—Nicaragua falls to Communists with help from U.S.

August 15—Andrew Young's secret meeting with the PLO terrorists.

October 1—Carter backs down over troops in Cuba.

October 31—Prime interest rate up to 15 percent.

November 3—American hostages taken in Iran.

November 14—Carter's Declaration of National Emergency (Rule to suspend Law).

December 27—Russia's intervention into Afghanistan.

After three years of the Carter administration, I pray America can survive one more year. For sure, we cannot survive a reelection of Mr. Jimmy Carter!

LLOYD ROGERS.●

CAPITAL PUNISHMENT

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. JEFFORDS. Mr. Speaker, I would like to share with my colleagues a very intelligent dissertation on capital punishment, presented by one of my constituents from Burlington, Vt., Mr. Robert Knotts. Mr. Knotts has submitted the following open letter to Congress with the sincere hope of contributing to the public debate about capital punishment.

Although his position is different from mine in certain important respects, I have found Mr. Knotts dissertation to be thought provoking and commend it to your attention:

OPEN LETTER TO THE U.S. CONGRESS

I am a writer and a citizen of this nation who has become gravely disturbed about an issue which is confronting all concerned Americans. It is an old issue, but it has risen again, still unresolved. I feel that I can no longer sit idly by as public opinion swells and judicial decisions seem increasingly to lead us toward a most tragic course of action. Once more the cries and demands may be heard, the voice of the angry and the disheartened and the bereaved, calling for a renewed use of the death penalty. I cannot hear this with dispassion or with discouragement over my own chances of preventing such a wave of emotion from clouding the real questions involved. It is with this in mind, then, that I challenge those who seek to justify the practice of capital punishment.

While there are surely some who feel no constraints to be rational in this matter, I believe that most of the death penalty's proponents consider their views to be justifiable. But it is necessary for us to very carefully examine whether this is true, when human lives are at stake. We must look at the ideas which underlie their position. We must question the assumptions which are behind their stand. And I believe their most common arguments may be boiled down to roughly two main points. First, the belief that the people who commit capital crimes are just as capable as any one of us of avoiding violent behavior. They are people, it is said, who command the resources of their minds no differently than you or I, people fully in control of themselves, and thus are rightly held accountable for their offenses. Secondly, the advocates assert that capital punishment is an effective deterrent, instilling within the potential criminal in overriding fear of being put to death which thereby reduces the number of victims who would otherwise fall prey to violence. I am of the opinion that both these claims are in error. It is the intent of this letter to explain some of my reasons for possessing these doubts.

Further debate over this latter contention just now seems unlikely to produce any consensus. But what, if it is granted to capital punishment's supporters, for the sake of discussion only, that their claim is correct, that the death penalty does act as a deterrent? Does this, then, really constitute the justification they assure us it provides? I believe that it does not. And if we are to fully appreciate why this is so, it is important for us to start with a very clear and realistic understanding of the people who commit violent crimes. Why do some men do such extreme and heinous things? Was it really a choice to "go bad," to ignore the laws of governments and men in support of some cause or for money? Or are they in some respect innately different, simply spiteful or evil, less than human beings in a sense? By first addressing ourselves to these questions and doubts we will acquire a more solid footing for grappling with the problem of capital punishment.

Because of their horrible acts, it is always more pleasant to think that the men in the cells of "Death Row" are somehow inherently different from ourselves. And yet, they are not of a different species, without the same sort of flesh and bone, blood and brain and muscle that all of us possess. Common sense tells us this. And it is no less foolish to believe that these people were simply made more guileful or evil than any other person. There are some who still cling to such comforting delusions, holding that it is intrinsic, fundamental differences which explain the behavior of the murderer. And there is, perhaps, a remnant of this fallacy lying somewhere within many of us. But we must discard all such unfounded beliefs. They are an impediment to understanding the complexities of a human personality. The character of a man will not yield itself to those who insist on such pat and easy explanations.

But if the differences between these men and ourselves may not be ascribed to inborn traits, it is nonetheless evident that profound dissimilarities do exist. They are unlike us, but not in kind, only in condition. It is analogous to comparing a healthful person to one afflicted with cirrhosis or muscular dystrophy or, better, with some cancer. Such people are subject to the torments of a severe illness which progressively holds them in its grip. They are acted upon by pernicious elements not experienced by the healthy. And so it is, also, with violent men. For they are human beings, yes, but human beings deeply diseased. Their tumors, though, can be detected neither by eye nor x-ray as can those of a more organic nature. Only reason can help us to realize that the murderer is someone stricken with a cancer of the soul, a malignancy begun in his earliest years which has spread to dominate his thought and emotion and action.

Being a writer, and one especially concerned with the individual man, I spend a great deal of my time watching and thinking about people. One of the things which has impressed me most is the way in which emotional conflict can affect what we do. We are all necessarily familiar with these internal conflicts, what I would call conflicts of the soul. We recognize their presence in our lives, if only in the moods and passions they can produce, in the hate or the fear or the grief, as well as the sway these feelings sometimes have upon our actions. When such problems are of a nature more serious and lasting, have been ingrained, as it were, into a personality, their influence on a man's behavior may be enormous. This type of inner tangle appears to begin at a very early age and, if sufficiently severe, can turn a youngster's soul into a knot of conflicting beliefs and fears and desires. Such an illness grows over time, increasingly imposes itself upon the life of the child, and of the adolescent, and finally, of the adult. This course need not be inevitable, I am sure, but as with any of us, in order to change they must learn how to help themselves. In the absence of this knowledge, their condition makes demands within them for some manner of release, a way to mollify the heightening tensions to which they are subjected. There are some for whom violence comes to offer this outlet. In my view, these people engage in brutality very much as others among them turn, say, to drugs or promiscuity or fanatical racism, all for the same underlying reason: because they have found in it a kind of emotional satisfaction, a kind of relief of their own unique conflicts. And this holds true as much for the man who plots and carries out premeditated acts as for the one who murders in an instant's rage. All are deeply troubled, frightened men in whose distorted minds human life has come to have no meaning. They do not control but are controlled by life, are subtly pushed and driven to the very act of violence we condemn. No real or assumed manner, no clarity of thought in other respects, can mask this deeper aspect of such a mind's state. Capital crimes are not committed by healthy people, they are committed by lost people, by sick people. This may be regarded with suspicion because nothing tangible has been identified at which to point as the source of illness. This may be misunderstood because it seems to smack of alibis and the sympathies of "bleeding hearts." But the truth remains. The assassin, the murderer, the terrorist, these are not so much evil men as they are men riddled with disease. This does not mean that their violence should be excused or dismissed. We cannot afford that. But neither can we afford to adopt an attitude that ignores the profound and powerful elements which produce these terrible results.

In confronting the aftermath of violence, we must call upon both judgment and compassion. Its victims must, of course, be helped when feasible, but we must also deal humanely with the criminal. All are part of the same tragedy. Clearly, we must prevent any repetition of the crime and, if possible, would like to discourage other, similar actions by our response. But it shoud be equally clear that there is some point beyond which we cannot take another step, some line or limit which we must impose upon ourselves if we are not to lose something even greater than we gain. We would not, for example, permit the castration of a rapist, although we could. We would not condone the lynching of a kidnapper, although we could. We will not tolerate the torture or abuse of any criminal, although we could. The point I am making is that, even if such methods helped to reduce the crime rate, we would reject them because their use would put us in opposition to the very principles we hold most dear. This is also the case, I believe, with capital punishment.

There are those who question the reasoning of this argument. Why should we exercise restraint in our treatment of murderers, when they exercised none? There are many reasons for doing so, but I believe that perhaps the most cogent is to be found in a well-known maxim. And, it is no less true for being a truism: the ends do not justify the means. Men cannot explain their behavior as being the means to achieve some high end. This is not sufficient. The means themselves must be justifiable. What is capital punishment, after all? It is the decision to legally end a human life in the hope that doing so will prevent a given number of illegal killings. It is willfully sweeping away from another human being all his remaining years of natural life because he was compelled by the demands and pressures of illness to murder. This is the means by which the advocates of the death penalty would add a certain measure of safety to our lives. But, just as with those other practices and punishments I have named, it is something which we cannot allow. Means of this sort can be justified in one way only, in terms of the ends they achieve, unless we wish to deny the value of human life altogether. Capital punishment is an act which must be justified, and in clear terms, by any who would use it and yet it is a means for which no clear or logical justification exists. The value of human life can never be reduced. Each of us, every man and woman, has a profound common bond and an inherent value simply because each is human. This knowledge lies at the very heart of a healthy understanding of ourselves and of our fellows. With its loss we lack a precious piece of that which makes a person most fully human and alive. At bottom, it is not merely the fate of the murderer being decided by us in the question of capital punishment. It is also something of our own fate, as individuals and as a society, which is being weighed.

In closing, I must make reference to a man I admire greatly, Dr. Jacob Bronowski, and to the final, powerful book he wrote entitled, The Ascent of Man. Completed shortly before his death, its pages forcefully affirm a belief in man's ability to move upward from his past, to rise gradually from darkness into light, to again and again ascend. I believe passionately in the ascent of man. I know that man will continue to progress, taking one step after another, in spite of any limitations or failings or fears which may burden him. Because of this, I am confident that one day the death penalty will be universally abolished and condemned. It is a submission to fear which man will not continue to allow. All the electrocutions and the gassings and the firing squads, all the horrors of this practice, will in time go the way of the witch burnings and the inquisitions. But history will not judge kindly those generations which fail to respond to this need for reconciling their laws with their values. Unless we begin to examine our own attitudes as individuals, we will invite this scorn. It is not by the workings of a society but rather through the efforts of its individuals that humanity advances. We must each, therefore, assume our full share of the responsibility in this endeavor. History is watching us, waiting to see what legacy we will leave behind to those who follow, what contribution we will make toward the fulfillment of that vast potential called Man.

Yours most sincerely,

ROBERT KNOTTS.●

LOS ANGELES COUNTY BOARD OF SUPERVISORS TAKES STAND ON THE OLYMPICS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. ANDERSON of California. Mr. Speaker, there has been some controversy in this country and throughout the world regarding the status of U.S. involvement in the 1980 summer Olympics in Moscow. The Board of Supervisors of Los Angeles County, representing 7 million Americans, has made its feelings clear on the subject. They believe the International Olympic Committee should select an alternate site. I would like to share a copy of the resolution with our colleagues:

RESOLUTION

Whereas, the Soviet Union has invaded Afghanistan and the President of the United States has said that unless the Soviet troops leave Afghanistan, the 1980 Olympic Games should be transferred from Moscow or be boycotted by the nations of the world; and

Whereas, all Americans should support the President because our national honor and national security are involved; and

Whereas, the sacrifices demanded by this action represent a price worth paying in order to preserve our freedom and national prestige: Now, therefore, be it

Resolved, That the Board of Supervisors of Los Angeles County, representing 7 million people, requests Lord Killanin, President of the International Olympic Committee, to convene an emergency meeting of the International Olympic Committee to designate an alternate site to hold the 1980 Olympic Games; and be it further

Resolved, That the Clerk of the Board send copies of this Resolution to Madame Monique Berlioux, Executive Secretary of International Olympic Committee; Robert J. Kane, President of the United States Olympic Committee; Mayor Tom Bradley; members of the Los Angeles City Council and to the President of the United States, Jimmy Carter, and members of Congress.●

CONGRESSMAN CHRIS DODD BECOMES A CANDIDATE FOR THE U.S. SENATE

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday February 7, 1980

● Mr. NOLAN. Mr. Speaker, our friend and colleague, Congressman CHRIS DODD of Connecticut, is a candidate for the U.S. Senate. At a time when so much negativism fills our country, and fills this Chamber, CHRIS' statement of candidacy stands out as an expression of hope and confidence in himself, our country, and our people. I believe it deserves inclusion at this point in the CONGRESSIONAL RECORD:

CHRISTOPHER J. DODD, U.S. SENATE ANNOUNCEMENT, JANUARY 9, 1980, NORWICH, CONN.

I am a candidate for the Democratic nomination to the United States Senate.

While I am sure this announcement comes as no surprise to those who are here this morning, I would like to take this opportunity to tell you, and the people of Connecticut, why I am running for the Senate, and what my aspirations are for the state and nation as we begin a new year and a new decade.

For the past five years, I have represented Eastern Connecticut in the United States Congress. No other experience in my life has been as challenging or gratifying. I believe I have fulfilled my Congressional responsibilities with competence and integrity. Through this experience I have become familiar with the complex issues facing the state and the nation, and I understand what must be done if we are to deal effectively with these issues.

As we enter the 1980's, the problems we face seem overwhelming, without solution. Yet, I am confident we possess the ability to overcome these difficulties. We underestimate our riches and minimize our collective strength as a free people. Rather than being on the brink of national collapse, I believe we can be on the threshold of a new era of unimagined opportunity.

The decision to seek any public office is an ambitious one; however, along with personal ambitions, I have ambitions for Connecticut, for New England, and for the nation.

I believe the United States Senate is the best forum in which to fulfill these ambitions. More than any other legislative body in the world, the United States Senate offers broad opportunities to affect the course of national and international events, to participate in events which will shape the destiny of mankind.

Because I know Connecticut, because I know and understand the problems facing our nation, because I believe we have the necessary resources—both physical and moral—to meet the challenges before us, because I am ambitious for my State and country, and because the United States Senate is the best place from which to implement change, I have decided to seek the seat being vacated by Senator Ribicoff.

The problems which confront America as she enters a new era are staggering. The rules of international law are no longer functional in the face of recent Iranian terrorism and blatant Soviet aggression. Foreign cartels control our economy, sending the cost of goods and services far beyond the earning power of working men and women. Large private interests show record profits, while small businessmen fail and unemployment lines lengthen. Adequate housing, proper health care, and higher education, which only yesterday lay within the reach of the majority, have again become the private preserve of a privileged few.

In our efforts to resolve these concerns, we cannot resort to old bromides and oversimplified solutions; easy answers do not address a complex world. Nor can we continue to react to events after the fact, when they have overtaken us at home and abroad.

"Originality and initiative," Robert Frost wrote, "are what I ask for my country." I ask the same.

Originality and initiative are not lofty ideals in this age. They have become the practical necessities of our national survival. Originality and initiative require more effort, more thought than the slogans which litter the ground of politics.

That there is a role for government in the resolution of challenges which lay before us, is clear. For nearly half a century, however, debate has centered on the size and scope of government, rather than the effectiveness of government.

Some would grant unlimited decision-making power to government. They dismiss what is best *in* us, doubting our ability to decide what is best *for* us. Others would dismantle government. They would leave what is in the public interest to be decided exclusively by private interests. This same debate continues today. However, debate alone does not yield solutions, and the fundamental questions remain unresolved. Energy, inflation, Iran, Afghanistan cry out for answers. We cannot afford the luxury of extended debate amidst such cries.

Our house of government is strong. The machinery of our system is in working order. All we lack is the determination to make the institutions of government more effective, more creative, more responsive. The essential decisions ahead of us involve the marshalling of existing resources—combining and mobilizing them in new and ingenious ways.

Imaginative leadership can transform challenges and threats into exciting opportunities and set an example of what can be accomplished only in a democratic environment. Originality is as intrinsic to the American heritage as independence.

Initiative is the esssence of leadership—the ability to identify needs and respond with definitive action. As a nation, we have assumed this role in the past. The tragic events of the 60's and 70's have shaken our confidence, but I believe we still possess the means of regaining that confidence and resuming our domestic and international responsibilities. Government which fails to grasp initiative is, in the final analysis, no government at all. For what is the function of governing, if not to lead?

Leadership and government which are original, which take the initiative, are what I wish for Connecticut and for America in the 1980's. These are the cornerstones of my ambition.

I welcome the personal challenges before me in the next ten months. I will welcome even more the opportunity to serve Connecticut and the nation in the United States Senate. I hope the people of this State share my ambition, and that together we can bring them to fruition.●

DEVELOPMENT OF UNDERGROUND COAL MINES

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. RAHALL. Mr. Speaker, today, on behalf of 10 members of the congressional coal group and myself, I have introduced legislation to amend section 102 of the Energy Policy and Conservation Act for the development of underground coal mines.

As our Nation begins to turn more and more toward coal, increased reliance will be put on producers to assure that the coal will be available at an affordable price. This will require the development of new mines throughout the country.

Section 102 of Public Law 94-163 authorizes the Secretary of Energy to make loans up to $30 million for the development of underground mines. On paper and in theory the program is worthwhile, but in reality the program has been a failure. Due to unrealistic and outdated requirements in the law, no applicant has qualified for a loan.

The legislation we have introduced not only clarifies the statutory problems but opens the program to surface mines as well as underground.

How ironic it is that as we continue to call for greater reliance on coal, thousands of miners throughout the coalfields are unemployed. This legislation when enacted will enable many of these miners to return to work through the development of new mines.

I urge my colleagues to support this measure so that we can reduce our reliance on foreign oil, become energy independent, and provide employment opportunities for the thousands of unemployed coal miners.●

HENRY WINKLER: CHILDREN'S ADVOCATE AND HUMANITARIAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. WAXMAN. Mr. Speaker, Henry Winkler, who created the role of the Fonz on the popular television series "Happy Days," will be in Washington on Wednesday, February 13, to present Fonzie's leather jacket to the Smithsonian. Mr. Winkler has succeeded in making Fonzie a genuine folk hero. Mr. Winkler is a constituent of mine and I thought I would share with Members of Congress today his humanitarian off-stage accomplishments, which are well known in the 24th Congressional District, but certainly merit wider recognition.

The Fonz character was an overnight success when "Happy Days" first went on the air 5 years ago, yet Mr. Winkler had worked long and hard to establish his professional credentials as one of our finest television actors today.

Born in New York, Mr. Winkler received his B.A. degree from Emerson College in Boston where he majored in drama, and was awarded an M.A. degree from the Yale School of Drama.

Appearing with the Yale Repertory Company in Long Island for a summer of story theater, Henry received critical acclaim as the original Grosbard in Philip Roth's "Defender of the Faith."

Returning to New York, he starred in "The Great American Dream Machine" and "Masquerade" on National Education Television. He then toured with the Children's Story Theater and with friends, he put together "Off the Wall," an evening of improvisations in which he appeared off Broadway. He made his motion picture debut in "The Lords of Flatbush."

After signing to do his second feature film, "Crazy Joe," he moved to California in September 1973. His network television credits include "The Mary Tyler Moore Show," "The Bob Newhart Show," "The Paul Sand Show," and "Rhoda." During the 1975-76 season, he also starred in "Katharine," a motion picture for television, and the stage production of "Room Service" with the Kenley Theater in the Midwest.

In 1977-78, Mr. Winkler starred in the motion picture "Heroes," a Universal Production, and in two outstanding television specials: "Henry Winkler Meets William Shakespeare" and "America Salutes Richard Rodgers," in which he costarred with Gene Kelly.

In 1976 and 1977, Mr. Winkler won the Golden Globe Awards for "Best Actor in a Comedy Series." He was named the Hollywood Radio and Television Society's "Man of the Year" and received the "Personality of the Year" Award from the National Association of Theater Owners. Three times he has been nominated for an Emmy for "Best Actor in a Comedy Series."

What is more remarkable than the professional recognition Mr. Winkler has received is his generous use of his professional success in many notable humanitarian causes. For example, when Mr. Winkler learned that an award-winning documentary film about a family of adopted and handicapped children "Who are the DeBolts and Where Did They Get 19 Kids?" had been rejected by all three networks, he convinced two ABC executives that the film had enormous potential interest for the general public. The film, which won an Academy Award in 1977, was then edited for network television and Mr. Winkler produced, hosted, and narrated the broadcast.

The network broadcast did attract a large viewing audience and critical acclaim. ABC television will rebroadcast "Who Are the DeBolts and Where Did They Get 19 Kids?" on June 10 because of its popularity.

The broadcast of "Who Are the DeBolts and Where Did They Get 19 Kids" had tremendous national impact. The documentary changed attitudes about adopting handicapped children, whom the DeBolts prefer to think of as "physically challenged." Since the broadcast, 12,000 families a month have been contacting the DeBolts for more information on how to raise children with special needs.

For the past 7 years Mr. Winkler has spent at least 1 day a week making personal appearances at youth facilities and child abuse centers. He has shared his time and his success unselfishly. He recently hosted the United Cerebral Palsy Telethon which raised more money than that charity's telethon has ever done in previous years. Mr. Winkler served as national chairman of the Annual Toys for Tots Campaign. He was the first national youth chairman for the Epilepsy Foundation of America. He has also worked on behalf of the National Hemophilia Foundation and the teenage alcohol and drug abuse program.

For his tremendous contribution to better public understanding of children's needs, and for his many community efforts, Mr. Winkler has been awarded the Humanitas Award, the B'nai B'rith Youth Organization's "Man of the Year" Award, and the National Council of Juvenile and Family Court Judges Award.

Mr. Winkler has balanced fame and celebrity with sincere efforts to bring happiness to others less fortunate. The Fonz has brought laughter to millions of television viewers, but off stage Mr. Winkler has enriched the lives of children who look to him as a model of all life has to offer. I am proud to pay tribute to him, and I think his personal generosity should inspire us all.●

CANADIAN FRIENDSHIP AND HEROISM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. SKELTON. Mr. Speaker, recently, we witnessed an act of friendship by the Canadian Government when their Ambassador in Tehran assisted six Americans to escape from Iran. Howard Hill, publisher of the Daily News, Richmond, Mo., wrote an excellent editorial on this subject:

Thanks to Canada

American gratitude toward Canada whose ambassador in Tehran provided shelter for six American diplomatic personnel who otherwise might have been taken hostage in the capture of the American embassy Nov. 4 has been expressed in many quarters.

This act of both governmental and personal bravery in a very dangerous situation is inspiring and leads to the hope that other countries of the world will recognize, as Canada has, that not just United States interests are involved in the continued captivity of the 50 Americans still being held in Tehran by the "students."

In all of this depressing story, brightened for a few days by the Canadian heroism, there is some ironic humor that Iran is now condemning Canada for a violation of international law in smuggling the Americans out of Iran with counterfeit Canadian and Iranian documents.

One of the oldest principles of international law—centuries old, in fact—was flouted when the government of Iran failed to protect the sanctity of embassy property and the personal safety of embassy personnel on Nov. 4.

The unhesitating willingness of Canada to provide a haven for Americans in jeopardy and ultimately help them escape even at the price of discontinuing diplomatic relations should be a message to other countries that their interests, if not personnel, are also menaced in the entire Middle East, including Iran, Russian-occupied Afghanistan, Pakistan, Saudi Arabia and others.

President Carter has already declared the determination of the United States to resume its role of leadership in defending the Free world.

Now it is time for the other major nations of the Free World—notably Western Europe and Japan—to lend their assistance to the United States in meeting the danger that threatens all of us.

Canada has shown the way, and we want to add our word of thanks to those of so many other Americans who today enjoy the happiness of seeing at least six of our people brought to safety from Iran.

It is only through a solid front of cooperation among the major oil-importing nations of the world that the other American prisoners will some day be liberated and the vital interests of all of those same nations will be protected in the Middle East.●

VOICE OF DEMOCRACY

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. D'AMOURS. Mr. Speaker, it is with great pride that I present to the Congress the 33d annual prize-winning essay in the New Hampshire Veterans of Foreign Wars, voice of democracy contest.

Over one-quarter of a million high school students participated in this year's voice of democracy contest whose theme was "My Role in America's Future." Each year promising students from around the country compete for over one-half million dollars in scholarship money provided by the VFW and its various auxiliaries.

This year New Hampshire's prize-winning essay was written by John Kelly, an 11th grade student at Trinity High School in Manchester, N.H.

In his essay John challenges his generation to act with unity and responsibility to overcome the adversities of mind and spirit which confront our Nation.

As editor in chief of the school newspaper, director of the band, and former class president John knows whereof he speaks because he understands the trials and tribulations of leadership.

Despite a myriad of extracurricular activities which resulted in his being named "Good Citizen of the Year" by the DAR and receiving the AD Altare Dei Award from the Boy Scouts, John is also a straight "A" student and has received special academic awards in French and English.

John hopes to attend either St. Anselm's College or Catholic University and lives at 630 Maple Street in Manchester with his parents Richard and Mary Kelly and his brother Thomas:

John Dennis Kelly, New Hampshire Winner of 1979-80 V.F.W. Voice of Democracy Scholarship Program

In this age of uncertainty in which we live, it is becoming increasingly difficult for all Americans to define their role. It is, perhaps, most difficult for America's youth. Indeed, the adversities faced by former generations, form their struggle for independence down through all successive defenses of American democracy, have, though discomforting, granted a true sense of American Spirit to our forebearers.

The present generation also faces adversity, but of a different sort: a hidden sort. The preservation of our democracy, of our very way of life, will require our facing an unnamed adversary. In the past, these trials have come in wars, depressions, and various other hardships physically endured. However, that which now plagues America most, and that which is our responsibility to defend America against, is of the mind and spirit. Until we know better what troubles these, we know not our adversary.

My role in this defense and preservation will be one in communion with my fellow countrymen. We must act, as the very title of this contest would imply, as a voice: a "Voice of Democracy" crying out in hope for a world blinded by its own ends. The feeling in the world now is one of expectancy; not the joyful expectancy it should be, either. We find ourselves at once experiencing the yet burgeoning youth of our world, and the possible impending end of that world by Man's own folly. Our unified voice must lead the world through this to safety.

This is certainly an awesome responsibility; but, as an international "Voice of Democracy," the responsiblity is ours.

Our nation as a whole cannot speak together when its citizens speak alone. When the precepts of our country were set, they must have been set with this in mind. The laws of our country are as much progressive as they are limiting; as much for the enactment of good as the prevention of wrong. We become as one by obeying these precepts and growing within these progressive norms.

The fulfillment of these guidelines that we call the law is not merely an option, but yet another responsibility: a responsibility to ourselves, our dignity, and the freedoms we enjoy; freedoms which further aid in our development of a unified voice. Without these freedoms, we cannot know truth, and we cannot fulfill our role, and without the fulfillment of individual responsibilities, these freedoms are not ours. In effect, as may plainly be seen, all of our actions in the end have world effect.

If we, in this generation, the generation now in its youth, act as we should and with a sense of responsibility, posterity will forever thank us rather than condemn us for our actions. They met yet live a life free from the adversity our fathers have known, and free from the adversity in mind and spirit that we must overcome. They will praise us for having withstood and for having shown the world the way. The path of the future is in our hands. The decision and responsibility are ours.●

NUCLEAR ACCIDENTS

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. AKAKA. Mr. Speaker, as part of the continuing public information project, today, I join with my colleagues in inserting an excerpt from "The Secret History of the Atomic Bomb," by Anthony Cave Brown and Charles B. MacDonald. This nuclear "accident" occurred in Los Alamos, N. Mex., in 1944.

I urge my colleagues to educate themselves and their constituents on the "accidents" that have been documented in the work of Mr. Leo Goodman. It is incredible that this public information is not the subject of our society's most intense scrutiny. As representatives of the people of the United States, we owe a duty to them to bring this information on nuclear "accidents" to light.

The excerpt follows:

ATOMIC ACCIDENT NO. 9—PLUTONIUM EXPLOSION IN FACE OF CHEMIST—LOS ALAMOS, N. MEX.

Despite these precautions the members of the Health Group and the Chemistry and Metallurgy Division were not satisfied with the progress of biological studies on plutonium made by other projects responsible for this work. This dissatisfaction was crystallized by an accident which occurred in August 1944, when by a minor chemical explosion a number of milligrams of plutonium were thrown in the face of the chemists * * *.●

MURTHA OUTLINES VIEWS ON COAL, U.S. ENERGY POLICY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. MURTHA. Mr. Speaker, I wish to insert the following remarks into the CONGRESSIONAL RECORD.

The initial remarks are from a speech I made recently in Clarion County in the 12th Congressional District. The second section is a summary of key energy activities in Congress:

STATEMENT OF REPRESENTATIVE JOHN P. MURTHA

I believe our energy problems must be solved to preserve our Nation. With our present dependence on foreign oil, we face an economic catastrophy greater than the Depression of the 1930s if those supplies are cut-off. Even with full supplies, we are dependent on whatever price those oil suppliers set. We have made some energy progress in Washington since the 1973 oil embargo, but much of that progress has been very difficult to achieve.

One of the great frustrations we've had in Washington is when you represent a coal area and you hear the President, the Secretary of Energy, and many others argue that the answer to our problems is burning more coal, yet we continue to import increased amounts of imported oil while production of coal has increased only 2-4% in the last four years. Also, we see men laid-off in our own neighborhoods because we haven't gone to coal, and it gets to the point where you wonder where it's all going to end.

We have seen some signs of change. I think there's some optimism in Washington for those of us who believe the real answer to this critical problem rests with coal. And let me tell you something, ladies and gentlemen, the problem is critical. In fact, we're in the most critical period in the history of this country. Former Secretary of Energy James Schlesinger said if we were to lose access to the oil in the Middle East we would see a devastating economic blow to this country.

And yet we have not been able until very recently to change the thrust from oil back to coal. Of course, it took us 50 years early in this century to switch initially from coal to oil and natural gas. As you know, because of environmental regulations, industries were made to switch to oil, particularly in the Northeast, and at great expense. Now, we're saying the opposite. We're saying, you have to switch back to coal, and, of course, it's at a substantial expense and there's been a great debate in Washington for several years over how to best reach this goal. Many people don't think we're moving fast enough, and I agree with that. And, increasingly people are beginning to realize that we're in a very vulnerable position, a very dangerous position, and that major changes and tough decisions are needed. America uses over one-third of the world's oil, though we have only 6% of the world's population. Many new developing countries have come into the oil market in recent years, and the bottom line is that throughout the world about 60 million barrels of oil a day are needed to meet all present needs, and that's just a little bit less than what is presently being produced.

A new concern, though, is that in the next few years the Soviet Union may run short of supplies and come into the international market for the first time. It's 10 years since they found a major oil field in the Middle East or the Soviet Union. Once the Soviet Union comes into the market and starts to bid for that Middle East oil, that is so much closer to them geographically, it's going to mean we could lose access to much of the oil that comes from there. Presently, it comes 12,000 miles, and at the very beginning of that journey it goes through a 2½ mile strait. If desperate for the oil the Soviet Union could block that with one major tanker, and disrupt our ability to get oil from the Middle East. Obviously, they could also do that in time of war. Those are facts we cannot ignore.

There have been a number of us saying over and over that the only way we'll replace that dependence on foreign oil and insure that our economy survives, and that the country survives, is to start burning more coal. There are millions of dollars we can and must spend to switch to coal, hydro power, electric cars, and so forth. You name the energy option, and we're willing in Congress to spend the money to research those areas, but none of them have the potential that coal has. We've been working in the last few years, and intensified that effort in the last few months, to convince the Administration that something needs to be done to rely more on coal.

I received a letter from Frank Moore, President Carter's Congressional Liaison, not long ago saying they're issuing 72 of 74 permits for utilities to burn coal in the future, 5 or 6 years away. They are also going to require 100 out of 140 oil burning plants to switch over from oil to coal. Obviously, that will take a couple of years, but it marks a significant change in the attitude of Washington.

Let me give you a little history so you'll understand better what's happened. In the first place, the public in the U.S. didn't believe for many years that there's an energy crisis. Probably some of you in this room don't believe—even today—that there's been an energy cut-back or that there's a crisis. The second thing is you have to overcome the tremendous publicity there's been about environmental protection over a period of years. There's a period of 15 years that there was great publicity about those rules, and nobody in Congress voted against environmental rules. Oil and natural gas were cheaper than coal, the public supported those changes, and in many cases we closed off opportunities to use coal.

So, you have to start by changing the attitude. This started to happen in Congress. To show you the indications of how it changed, the synthetic fuels bill (to make oil from coal) was one of the things we should have passed immediately after the 1973 embargo and we didn't. We didn't do a darn thing. We tried, but a synthetic fuels bill was defeated by 1 vote. A couple of years later it failed again, so we had several years go by without action. One reason was that the public was not satisfied there was an energy crisis and a majority of the members of Congress were not willing to guarantee a price for synthetic fuels that are more expensive than other fuels. There wasn't enough public support for it. Now, to show you the difference in attitude, this year (1979) we passed a synthetic fuels bill and only 25 people out of 435 voted against us. That shows you the tremendous change in Congressional attitude and reflects the change in public attitudes. Two years ago you could have no more passed a bill to waive certain environmental changes than you could have jumped out of a plane without a parachute and survived. It could not have been done. Yet, now we have passed a "fast-track" bill that will allow us to move at a much faster pace. These significant changes, in my estimation, should make a tremendous difference in the demand for coal, which so affects this area.

I don't think we could live in any more precarious time than we live in right now. Energy affects us economically—one-third to one-fourth of our inflation is coming from rising energy prices. It affects jobs—because if oil supplies decrease rapidly, without replacement, it will lead to very high unemployment. It effects every life style—because we all depend on energy every day. Those are high stakes. It is essential that Congress and the people face the energy problem together, and confront it squarely to insure the future growth and stability of America.

SUMMARY OF KEY ENERGY ACTIVITIES IN CONGRESS

In addition, here is a summary of some of the key positions, votes, and actions I have taken on energy in the past couple years.

COAL CAUCUS

Congressman Nick Rahall of West Virginia and I joined in 1979 in pulling together 65 Congressmen from coal producing areas to lobby in Washington for a higher energy priority on coal use. In November we held a rally with over 600 coal miners and operators (many of them from our area) to impress Washington officials with the public demand for coal use. In December a group of us met with President Carter at the White House where we received the firmest commitment given by a President since the energy crisis began to increased coal use.

COAL PROGRESS

Two key Congressional actions in recent months can help with coal production. One bill stimulates the move toward synthetic fuels (making oil from coal, for example) and directs the President to reach a production of 500,000 barrels of oil equivalent a day by 1990. I co-sponsored this bill in the House of Representatives. A second bill creates an Energy Mobilization Board to put key energy projects on a "fast track" to speed up federal, state, and local decision making so we end cases like the one where a western oil pipeline plan was dropped because the company had to face some 700 different permit requirements.

GAS RATIONING

I join with a majority of Washington officials in hoping we can get by without gasoline rationing. The reasons for that opinion are: 1) the bureaucratic cost of any rationing plan; 2) the fact that any rationing plan is unfair to some people; and 3) that rationing represents another intrusion by Washington into our private lives. In 1979, however, I voted to give the President stand-by gasoline rationing power. This gives the Administration the power to draft an emergency plan to be used in case a major cut-off of oil creates a potential disaster where rationing is a necessity. Our best rationing, though, comes from voluntary actions by individual citizens which are starting to provide considerable energy savings.

OIL SUPPLIES

A key question during the gas lines of 1979 was where all the oil actually was. At the time I wrote to the Energy Department complaining the allocation system was unfair to rural areas, and some adjustments have been made since. Also, I voted for a bill requiring Congress be given more information on the oil supply situation. Also, the Department of Energy has now developed its own supply figures rather than relying on the oil industry as in the past.

WINDFALL PROFITS

I voted for the House-passed bill to impose a 60 percent windfall profits tax on crude oil prices where they result from increased oil prices. The billions of dollars raised by this tax would be used for energy research projects. I felt the House bill (changed from the original Carter proposal) struck a fair balance between raising needed revenue and leaving the oil companies with an incentive to search for new domestic oil supplies.

LOW INCOME ENERGY ASSISTANCE

I voted for a new round of $1.35 billion in emergency assistance to help needy people pay fuel costs. I am also reviewing many of the rules of that plan because it seems some needy families have been excluded. While we all share a primary desire to see that no family suffers ill health because of simply being unable to pay for heating their home, I also want Congress to focus more on aid programs, because the high fuel prices are also causing hardships for middle class and retired families.

NUCLEAR ENERGY

I voted in 1979 to reject a moratorium on future nuclear powerplant construction, but I also voted for stiffer safety regulations and requirements. Our dependence on foreign oil makes our situation so precarious that we simply cannot afford not to use nuclear power to provide energy through the plants we already have. But Washington agrees very strongly that steps must be taken to insure greater safety than was evident prior to the Three Mile Island accident.

SOLAR POWER

As I believe coal is one of the keys to our short range energy future, neither can we forget about the long range, and solar power is well on the way to being the key for 1980 and beyond. Solar research is still needed and last year I voted for solar power research.

GASOHOL

Some experts are still uncertain about the long-term impact of gasohol on car engines and whether modifications in those engines may be needed. Still, gasohol can provide significant savings and I voted for an expanded program of gasohol research.

HIGH MILEAGE CARS

Because of Congressional mandates the fleet mileage average for cars has increased from about 14 mpg to 19 mpg. I was one of the Congressmen who arranged the visit to Washington of Ralph Moody and his 80 mpg car in 1979. He has developed some problems in his research, but we need to encourage this kind of work, and I understand the major auto manufacturers are also now involved in this type of research.

MASS TRANSIT

The President has proposed a new 10 year $13 billion mass transit program. Congress is now considering it. While most of the work would be done in urban areas, any savings in energy makes more supplies available for rural areas like ours that are more dependent on automobiles.

ENERGY DEPARTMENT

Some people have suggested doing away with it as a bureaucratic nightmare. I was one of the co-sponsors of the bill that created the Energy Department a couple years ago. We drafted that bill to end a bureaucratic nightmare where energy responsibility was split between many agencies and bureaus. I agree it has not met all its goals in the early years of its operation, but it now has a new management team, and I am optimistic it will function better during the coming years.

THE ENERGY ACT OF 1978

I served on the Task Force that passed the major energy bill approved late in 1978. Many of its provisions on natural gas pricing, electric utility requirements, building conservation, and other areas are only now starting to take hold. The key part of that bill survived in Congress by only 1 vote. That shows how difficult it has been to reach agreement on most energy issues. Now, though, it is the cornerstone of our policy, and with the ideas outlined here, plus others, we can build upon it for the kind of major energy activity our Nation needs.●

NORMA RAE

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. HALL of Ohio. Mr. Speaker, "Norma Rae," a film depicting the struggles of J. P. Stevens textile plant workers to gain union representation, was released last year. For the first time, the real story of this battle for employee rights was revealed. On February 15, 1980, Crystal Lee Sutton, the "real" Norma Rae will be in Dayton. In addition to numerous media appearances, she will be present at a special showing of the film. At this event, she will speak about the conditions in J. P. Stevens plants and factual events behind scenes in the movie.

In reviewing the practices of the J. P. Stevens Co. and its flagrant violations of labor laws, I was startled to learn the magnitude of business this firm conducts with the Federal Government. Despite 18 encounters with the National Labor Relations Board, all of which found J. P. Stevens to be in violation of National Labor Relations Act provisions, the Government continues to award this company contracts which total millions of dollars each year. Through such actions we are, in essence, condoning the practices of a firm that chooses to violate Federal law and continues to deny prescribed employee rights.

I believe, Mr. Speaker, that the time has come for us to amend our actions. We must take steps to insure that the U.S. Government, which enforces the laws passed by this very Congress, does not continue to reward those who stand in flagrant violation of our laws.

I am writing President Carter to request a special investigation which will encompass a close scrutiny and review of our Federal contracting policies. I believe that our Government should assume the necessary role in reaffirming the foundations of fair labor practices, rather than encouraging their repeated abuse.●

ANALYSIS OF CETA BUDGET AND YOUTH EMPLOYMENT INITIATIVE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. EDGAR. Mr. Speaker, the following is an analysis of the President's proposed budget for CETA and his youth employment initiative. The analysis has been done by the Northeast-Midwest Congressional Coalition.

BUDGET BRIEF—COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA)

HIGHLIGHTS

In his fiscal 1981 budget proposal, President Carter has chosen to "hold the line" on expenditures at $9.7 billion for the Comprehensive Education and Training Act (CETA), preferring to target some new employment and training assistance to selected needy populations, and to emphasize long-term job skills development and private-sector job creation. The administration's request represent a decrease in the number of real dollars available for CETA employment and training when the $1.1 billion proposed budget authority for "new" youth initiatives is taken into account. The impact of this decrease will be disproportionately felt in Northeastern and Midwestern states.

BUDGET SUMMARY

[Dollars in millions]

	1980	1981	Percent change, 1980–81	
			Actual	Adjusted for inflation
General training and employment programs:				
Budget authority	$2,054	$2,117	3.1	−5.1
Outlays	1,948	2,011	3.2	−5.0
Number of jobs	250,000	250,000		
Private-sector program:				
Budget authority	325	150	−53.8	−57.5
Outlays	164	309	88.4	73.5
Public service employment:				
Budget authority	3,112	4,598	47.8	36.1
Outlays	3,977	4,415	11.0	1.0
Number of jobs	200,000	200,000		
Youth programs:				
Budget authority	2,101	[1] 2,789	32.7	22.2
Outlays	2,500	2,784	11.4	2.5
CETA total:				
Budget authority	7,592	9,654	27.2	17.1
Outlays	8,589	9,519	10.8	2.1

[1] $1.1 billion will be requested for the Labor Department's portion of the President's youth initiative.

Background.—The administration's budget request fixes the number of employment and training positions under CETA at 450,000—the same number of positions provided in fiscal 1980.

The reauthorization of CETA programs in 1978 gave the president the authority to adjust the number of public service jobs and training slots with fluctuations in the prevailing national unemployment rate. Under the countercyclical funding mechanism adopted by Congress in Title VI of CETA, when employment rose above 4 percent nationally, sufficient funds were made available to provide positions for 20 percent of those out of work. If the unemployment rate reached 7 percent, additional monies were released to subsidize public service employment for 25 percent of the unemployed in excess of 4 percent.

By funding the program below authorized levels, the president is limiting the capacity of the CETA program to respond to downward fluctuations in the economy.

In assessing the CETA budget, it is important to note that two of President Carter's major domestic policy initiatives will affect the number of CETA jobs. The president's welfare reform legislation proposes to reapportion 195,000 existing job and training positions from CETA Title 11-B and 11-D. The president's youth employment initiative will have a major impact on CETA Title IV, which is up for reauthorization at the end of this year.

Regional Implications.—Economic projections for fiscal 1981 made by Chase Econometrics, Inc. indicate that unemployment rates could be significantly higher than administration figures of 7.4 percent, with unemployment in Northeastern and Midwestern states averaging 8.4 percent, considerably above the 7.7 percent level Chase predicted for the entire nation.

Northeastern and Midwestern states were particularly hard-hit by, and slow to recover from, the recession of 1973-74, and a study conducted by the Advisory Council on Intergovernmental Relations (ACIR) indicates the same pattern is likely to occur in another recession. CETA programs were seen as an effective tool in reviving the economy after the last recession.

In 1978, Northeastern and Midwestern states were receiving 58 percent of CETA's total allocations. Therefore, if the economy sours appreciably, the Northeast-Midwest region will bear disproportionately the brunt of a short fall in CETA jobs.

BUDGET BRIEF—YOUTH EMPLOYMENT INITIATIVE

HIGHLIGHTS

In recognition of the prevailing high unemployment rate among youth and the even higher rate among minority youth, the administration has proposed what it calls a $2 billion "new initiative" to be shared by the Departments of Labor and Education. The new initiative will raise total budget authority to $6 billion in fiscal 1982.

In real dollar terms, the new initiative will increase current youth training and employment outlays of the Labor Department by slightly more than 1 percent in fiscal 1981, while real spending in the Department of Education for youth actually will decline by 0.5 percent.

BUDGET SUMMARY

[Dollars in millions]

	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Elementary and secondary education:					
Budget authority:					
Existing programs	$3,671	$3,742	$4,094	33.5	22.9
New initiative			900		
Outlays:					
Existing programs	3,133	3,409	3,631	8.0	−.61
New initiative			50		
Youth training and employment:					
Budget authority:					
Existing programs	2,024	2,101	1,664	32.8	22.2
New initiative			1,125		
Outlays:					
Existing programs	2,048	2,330	1,844	9.9	1.2
New initiative			717		

Background.—Recognizing that one-quarter of the nation's unemployed is between the ages of 16 and 19, President Carter proposed a $2 billion youth employment and education initiative to be shared by the Labor and Educaiton Departments. When added to existing budget authority, the new programs will "dovetail": the Education Department component will aid youth in school while Labor Department activities will help those outside the educational system.

The Labor Department's portion of the initiative will refinance three existing programs slated to expire in 1980 under CETA Titles IV and VIII: Youth Community Conservation and Improvement, Youth Employment and Training, and Youth Incentive Entitlement. In addition, the administration proposes an additional new program, the details of which have yet to be announced. To **fund even the three existing programs at current real dollar levels in fiscal 1981, however, would require outlays of $1.045 billion. The proposed new initiative replaces these programs with additional outlays of $717 million to consolidate and refinance the three existing programs as well as to provide for the new one. Because of modest increases in some existing programs and some carryover of outlays for soon-to-expire programs, the president's new initiative will mean real spending increases of 1.2 percent for youth employment in 1981.**

According to the Labor Department's promotional material, when fully implemented, the program "will provide education, work experience, training, labor market informa**tion, and other services to an additional 450,000 young people." Although budget authority of more than $2 billion will be available in 1982, outlays for fiscal 1981 are only $717 million. No information on the proposed expenditure pattern for these outlays has been released. The labor Department component will provide work "experience,"** but no salaried jobs. The administration may be proposing to substitute a program which spreads some additional services to a greater number of youth for current programs providing jobs and services to a smaller number. The proposal appears to be relying on the private sector to provide the jobs for youth who would be somewhat better prepared for the labor market. But projections for the Northeast and Midwest suggest these jobs will not materialize in the region.

The administration has not revealed how it plans to provide "financial incentives" to encourage greater cooperation between CETA sponsors, local employers, and school systems. This program apparently is designed to lure students who have dropped out before high school graduation back into some sort of training program, but details as to how this will take place, where it will occur, and who will get money have not been announced. Coincidentally, this new initiative comes at a time when the number of youth in the nation, both employed and unemployed, is decreasing every year.

The Education Department's parallel program, as of yet unspecified, is intended to provide basic employment education and skills to one million junior and senior high school students in the nation's 3,000 "poorest" school districts. Budget authority will be $2 billion over current services when fully implemented in 1982, but actual outlays in 1981 are only $50 million. Because of inflation, real education spending for youth training will fall by 0.5 percent.

According to Education Department promotional materials, the program will go to school districts for remedial education, English skill training, finding new ways to motivate students to stay in school, and vocational education.

Unanswered questions about the Education Department's component of the youth initiative include how the term "poor school districts" will be defined and what services will be added to those already provided for the one million students.

Regional Implications.—To properly reflect the education needs of youth in the Northeast-Midwest region, geographic differences in living costs must be taken into account when determining eligibility. Moreover, the administration has not determined the method which will be used to select the 3,000 recipient school districts. If determination is based on sheer numbers of students currently eligible for aid under the Aid to Families with Dependent Children (AFDC) program, the formula will favor the nation's very large school districts. On the other hand, if eligibility is based on the proportion of "poor" students in the district, as a percentage of total district enrollment, small rural districts may be favored.

The unemployment rate for youth in the Northeast-Midwest region currently is 16 percent, about the same as the national average. Several large states, however, have rates substantially higher, while others are much lower. The region's minority youth unemployment is currently more than 40 percent, higher than the national average of 36 percent.

TOTAL YOUTH AND MINORITY YOUTH UNEMPLOYMENT RATES [1]—1978

	Total youth unemployment	Minority youth unemployment
U.S. total	16.3	36.2
Northeast-Midwest region	16.1	40.2
New England:		
Connecticut	16.0	43.0
Maine	16.3	(2)
Massachusetts	15.9	44.4
New Hampshire	12.2	(2)
Rhode Island	18.2	(2)
Vermont	9.1	(2)
Total	16.1	40.2
Mid-Atlantic:		
Delaware	20.7	50.0
Maryland	15.7	33.3
New Jersey	17.6	42.3
New York	21.1	35.8
Pennsylvania	18.0	44.4
Total	18.9	38.3
Midwest:		
Illinois	15.0	44.2
Indiana	17.3	53.0
Iowa	9.8	(2)
Michigan	17.0	40.8
Minnesota	9.8	14.3
Ohio	14.9	45.4
Wisconsin	12.8	22.2
Total	14.5	42.0

[1] Regional totals, U.S. totals, and some total minority and youth minority data are staff calculations. These figures are subject to large sampling errors and did not meet Bureau of Labor Statistics standards of reliability.

[2] Negligible.

Source: Bureau of Labor Statistics, "Geographic Profile of Employment and Unemployment: States, 1978 Metropolitan Areas, 1977–78.●

A. C. MacKINNEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. SKELTON. Mr. Speaker, a fine public servant and a good friend of mine in Lafayette County, Mo., recently passed away. A. C. MacKinney, former probate judge of Lafayette County, served the people of our county faithfully and well for 10 years in that position.

Judge MacKinney has been a resident of Higginsville for 20 years and was a former minister of the Central Christian Church in Higginsville. He was a member of the Lafayette County Bar Association, the Missouri Association of Judges and Kappa Sigma and has practiced as an attorney in the area.

He was born on April 16, 1894, in Cincinnati, Ohio, the son of John William and Virginia Leora MacKinney. He was married to Doris Kathryn Long on March 14, 1926.

He is survived by his wife, Doris MacKinney of the home, a son, Arthur C. MacKinney, Jr., and three grandchildren.

Judge MacKinney left many friends and fond memories among all who practiced before him and who knew him.●

AMERICAN CITIZENS ABROAD

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. ALEXANDER. Mr. Speaker, I would like to continue presenting the issues which the American Citizens Abroad consider crucial to their situation living and working overseas:

ISSUE NO. 9—NATURALIZATION OF ALIEN SPOUSES

SUMMARY OF THE PROBLEM

U.S. law establishes that an alien spouse can be naturalized as an American citizen by two different methods. Either the spouse comes to reside for three years in the United States, or the spouse can acquire U.S. nationality without any residence in the United States if the American citizen marriage partner is one of a privileged group of citizens.

The law states that special privileges for the immediate naturalization of an alien spouse accrue to U.S. Government Employees, employees of American institutions of research, employees of an American firm or corporation engaged in promoting foreign trade, employees of international organizations, priests and ministers, and missionaries.

ACA'S QUESTION

Why has the Government found it necessary to separate overseas Americans into two classes of citizens? Why is a Government filing clerk deserving of a privilege that is withheld from a university professor, a doctor, lawyer, poet, consultant or architect? Why are not all Americans equal before the law?

THE PRESIDENT'S REPLY

"In recognition of the fact that many United States citizen spouses are regularly assigned abroad in the course of their employment, and that these assignments are for extended periods of time, Congress enacted section 319(b) which waives the three-year residence requirement in those cases where the citizen spouse is directed abroad on a regular (as opposed to temporary) assignment of the type set forth in the statute. Under the statute, many military spouses and those married to employees of organizations or firms defined in the subsection have been naturalized early to accompany or join the employed person abroad. The statute requires such persons to declare their intention to resume permanent residence in the United States upon termination of the tour of duty abroad."

"Section 319(b) attempts to define certain types of obligatory employment abroad which furthers the interests of the United States Government. It was not the intention of Congress to benefit those who choose to go abroad to run their own businesses, work for foreign employers, or for leisure purposes. If all spouses of United States citizens living abroad were entitled to immediate naturalization, discrimination would be effected against those United States citizens who choose to live in this country and whose spouses have to fulfill the three-year residence requirement provided in section 319."

The President's answer is extraordinary. The law gives privileges to those who further the interests of the United States Government. That premise is in itself doubtful given the heterogeneous categories of privileged Americans identified by the statute. Even more basic, again, is the notion that selections should be made among Americans who live abroad in terms of some a priori judgement of the merit and contribution being made by classes of American citizens.

The will to create privileged and deprived groups of U.S. citizens, and to justify privileges for those who are bureaucrats rather than entrepreneurs is a determined and pervasive one.

ACA'S RENEWED QUESTION

We wonder how the President will explain why overseas missionaries, ministers and priests serve the "interests of the United States Government". It was our understanding that the Government was supposed to stay out of religious activities at home and abroad.

Secondly, even accepting that the citizens of the cloth are somehow doing the Government's work abroad is it really true that they are contributing more to the United States than American doctors, lawyers, engineers, professors, poets or architects also working abroad? It would rather severely strain credulity to make such a claim.

Thirdly, why is the criteria that of furthering the interests of the Government and not that of the "people" of the United States?

Fourthly, why have any such value judgements at all?

The President seeks to justify the present discrimination in the law by saying to make the immediate naturalization of a spouse abroad a privilege available to all overseas Americans would be an injustice to alien spouses in the United States who would still have to fulfill their three year residency requirements for naturalization. It is not clear why discrimination needs to take umbrage in an equally questionable legal requirement. The President surely doesn't wish to suggest that there must be at least one group that must sit at the back of the bus abroad to avoid having to reconsider a related law back home.

We ask the President to work with us to continue to rid U.S. law of all attempts to make value judgements among Americans living away from home. All Americans abroad should be equal before the law. We seek redress.

ISSUE NO. 10—EDUCATION OF AMERICAN CHILDREN ABROAD

SUMMARY OF THE PROBLEM

While considerable amounts of Federal revenues are returned to the individual States of the United States each year to help provide for the education of American children, there is almost no comparable support given to Americans living overseas to educate American children abroad.

ACA'S QUESTION

Why does the United States not take better care of the overseas American child in terms of providing more adequate educational assistance?

THE PRESIDENT'S REPLY

"Some have proposed that the Federal Government contribute in some direct way to the education of children of all Americans living abroad, pointing out that some other governments make substantial budget expenditures for this purpose. The United States Government, under the authority of the Fulbright-Hays and Foreign Assistance Acts has for some time provided support to many American-sponsored primary and secondary schools abroad. This program is administered by the Department of State. The Congress annually appropriates funds to the State Department, the Agency for International Development and the International Communication Agency to finance this support. As in the United States, no Federal funds (except for special cases of compensatory education for disadvantaged children) are provided for tuition grants to private schools. Such grants would raise a serious constitutional question in many cases."

ACA'S RENEWED QUESTION

One of the major objectives of the Carter Administration has been the creation of a Cabinet-level Department of Education. That there was felt to be such a need for a Department at the highest level of government is eloquent testimony to the role that the Federal Government is expected to play in education matters in the United States. To then claim that it would be improper for the U.S. Government to be more greatly concerned with the educational problems of overseas children does not seem consistent.

The U.S. Government should be concerned with helping educate the American child abroad for two basic reasons. First it is in the interest of the United States for all of its citizens to have an education which will best prepare them to fulfill their full obligations of citizenship and participation in our nation, whether this is by being physically present at home, or abroad. Secondly, it is important that help for the education of our children abroad be given in a way that will insure that overseas Americans are competitive with the nationals of other countries.

Each year the Government of France spends more than $90 million to provide educational facilities and services abroad to their overseas citizens. The Government of France has publicly stated that there is no obligation to spend as much, if not more, to insure the proper education of a French child abroad as is spent for the same child in France. By subsidizing overseas French schools in a major way, the French Government helps overseas Frenchmen compete in markets around the world.

Each year the West German Government spends over $100 million to build, staff and service overseas German schools for its citizens abroad. This direct educational subsidy also helps make the overseas German competitive in many markets around the world.

Japan and a number of other countries also have important programs of subsidizing education facilities abroad.

Compared to these other countries, the schooling aid given by the United States to American children abroad is woefully inadequate. While some programs have been developed for supporting schools abroad, much of this money goes to educate foreigners in "American type" educational establishments rather than to help American children abroad. Also, the selection of locations where much of this aid is to be given reveals the fact that much of this expenditure is a disguised form of foreign aid for political purposes rather than for educational aims.

It is a simple fact that the present policy of the United States to essentially ignore the overseas American child's educational needs not only harms the individual children but also handicaps the parents in their ability to compete in many markets around the world.

ACA calls upon the President to address two basic questions. Would it not be in the best interest of the United States to help provide for the education of American children abroad? Secondly, why should American parents have to suffer the competitive handicap of not having educational institutions subsidized abroad when rivals of other nationalities have such support from their own governments?

We appeal for a basic policy statement on this issue from these two fundamental perspectives.●

THE ROPE TO HANG US

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. ANDERSON of California. Mr. Speaker, in the 1930's, Hitler wrote, for all the world to read, his basic philosophies. But the world chose to ignore them. They were ignored while he marched through Europe, and they were ignored while Jews were being persecuted in Germany and German-dominated lands. And then the world expressed surprise when they woke to find that Hitler really meant what he had earlier written.

We cannot repeat this mistake with the Soviets. Eventual world domination is a basic tenet of Soviet philosophy. It has been since the Russian revolution, and it is still taught in their schools. Why should the world choose to believe that it is not still their goal? The list of captive nations is growing. These are facts that we must not ignore the next time the Soviet leadership begins talking about détente and world peace. Of course, we all want détente, but it must not be on traditional Soviet terms. We cannot ignore their basic philosophy.

KHJ-TV in Los Angeles issued a fine editorial on this subject that I believe merits the attention of our colleagues. It concerns the sale of American technology and goods to the Soviet Union, characterizing these sales as "the rope to hang us."

The article follows:

KHJ-TV EDITORIAL COMMENT

THE ROPE TO HANG US

It was Lenin, idol of the Russians, who said "the capitalist countries will sell us the rope we shall use to hang them." Now, President Carter's announced action to cut back on shipments of grain, and of sophisticated technology to the Soviets seems proper. But, we must ask if this does not come a half a century too late. There is no doubt ever since America's all-out effort to supply everything needed by Russia to fight the Germans in World War II, this country has actually been the source of most of what the Russians have needed to bring that vast land and its people into the twentieth century. The result, it now seems clear, is another round of the same naked aggression we sought to stop when we first undertook to help an ally.

Lenin also said: "First we will take the countries of Europe, then the masses of Asia, then that last bastion of capitalism, the United States, will fall into our hands like an overripe fruit. We will not have to attack them." That was sixty years ago. Today's news should tell us all we need to know about Soviet designs. While calling us "imperialists and capitalists," they have shown the world who is really the "imperialist warmonger," as they have called Western nations.

Let's call the roll of once free nations now a part of the Red Empire: Latvia, Estonia, Poland, Hungary, Czechoslovakia, Romania, East Germany, Bulgaria, Cuba, several others, and now Afghanistan. Where will it end? Let's just remember what Lenin said. And, yes, let's stop selling them "the rope to hang us."●

LESS FREE, LESS SECURE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. CONYERS. Mr. Speaker, the proposed revision of our Nation's criminal laws is an undertaking that has overwhelming implications for our system of government and the civil liberties of each and every citizen. It has been the source of controversy for several years since the introduction of S. 1 under the Nixon administration.

In the 95th Congress, the House Judiciary Committee, Subcommittee on Criminal Justice, carefully studied this task. The consensus of the subcommittee was that wholesale revision was impractical and the idea of an omnibus approach should be scrapped. Its published document, the Mann report, recommended that impact and cost analyses should be done before implementing any future criminal codes and the revision of criminal laws should be handled incrementally.

In the 96th Congress, within the last few months, the Senate Judiciary Committee, under Senator KENNEDY, reported out its finished product—complete with a modified form of preventive detention and Government appeal of sentences.

The House Subcommittee on Criminal Justice, of which I am a member, has also been assiduously working toward reporting a bill to its full Judiciary Committee within the coming month. There have been over 100 markup sessions and the subcommittee is on the threshold of finishing its work.

However, despite the length of time devoted to this task, and I commend Chairman BOB DRINAN for his energy and enthusiasm, many writers and scholars have found features of the bill to be antilabor, anticivil liberties, and antipress. Others have also felt that it neither pragmatically nor philosophically addresses the entire issue of sentencing.

In light of the debate the code has generated, I would like to share with my colleagues some of the views and opinions which have been expressed.

I would like to include in the RECORD this editorial from the Los Angeles Times, February 3, 1980. It is a sensitive and objective overview of the code:

LESS FREE, LESS SECURE

The short of it is that S. 1722, now pending in the U.S. Senate, should be defeated.

Intense effort has gone into the legislation and prior versions to achieve a complete overhaul of the chaotic federal Criminal Code. That is a monumentally complicated legal task involving the consolidation and redefinition of more than 3,000 laws.

But, on a deeper level, the revision of the code represents a profound political undertaking that is far more significant than its legal complexities. The code embodies the governing philosophy of the American people and their leaders.

This is well understood by the framers of the bill and by its opponents. It was well understood by former President Richard M. Nixon. The history of S. 1722 is the history of a political struggle over what instruments of power should or should not be given to government.

The struggle began, absent much public interest, with the appointment by President Lyndon B. Johnson of a National Commission on Reform of Federal Criminal Laws under former Gov. Edmund G. Brown Sr. of California.

After the commission presented its report in 1971, a Senate subcommittee held two years of hearings, and introduced Senate bill 1. Nixon instructed the Justice Department to write separate legislation (S. 1400) that contradicted most of the national commission's recommendations. The Senate committee spent two years in an effort to reconcile S. 1 and S. 1400, and in 1975 a revised version of S. 1 was put before the Senate. This S. 1 was an attack on basic American liberties. In sum, it would have enhanced the power of government, diminished individual rights and gone far to insulate the government from effective political criticism. Former Sen. Sam Ervin (D-N.C.), a distinguished authority on the Constitution, charged that the bill would have established "what is essentially a police state."

S. 1 failed, but the cause of revising the code was taken up under the powerful sponsorship of Sen. Edward M. Kennedy (D-Mass.), chairman of the Senate Judiciary Committee, and the late Sen. John McClellan (D-Ark.). With the technical aid of Justice Department lawyers who had drafted and redrafted the legislation through three Administrations, a new bill surfaced as S 1437, immediately dubbed Son of S. 1.

Hailed by its supporters as a "masterful compromise" between liberals and conservatives, S. 1437 glided through the Senate with ease, but collapsed in the House. It would have been less repressive than prior versions, but would have retained many of their defects. The House subcommittee on criminal justice rejected the omnibus reform approach, and favored revising the code step by step.

With Kennedy as the driving force behind it, this latest measure, S. 1722, is said to be a significant improvement over its predecessors, and it does contain some beneficial changes. One would be the repeal of the Smith Act, which made it a criminal offense merely to talk about the overthrow of the government. Another would narrow the power of judges to punish for contempt of court persons engaged in First Amendment activities. In the inchoate-crimes area (an inchoate crime is an offense started but not completed), the number of crimes would be reduced. The new crime of solicitation would be limited in application to certain specific serious offenses.

But the current legislation before the Senate is substantially similar to the prior bill. Its overall effect would lay a heavy burden on American freedoms, and especially on many forms of protest during a time of political tension.

Scattered through S. 1722 are provisions saying implicitly that the government must be given firmer control over the actions of the American people.

It would become a crime (Section 1301) to obstruct any government function by "misrepresentation, chicanery, trickery, deceit, craft, overreaching or other dishonest means." This statute is so broad that making a misleading statement on a government questionnaire could raise the threat of federal prosecution.

The bill would prohibit picketing, parading, displaying a sign or otherwise demonstrating within 100 feet of a federal courthouse while any judicial proceeding was in progress (Section 1328). And the crime of conspiracy could be brought to bear on the planning of a demonstration that potentially could cause a disruption of a government function, even though the demonstration did not occur (Sections 1001, 1002).

First Amendment rights are subjected to particular stress in times of emergency and national excitement. Under this bill (Section 1116), civilians writing or speaking against a war could be subject to prosecution, if military authorities interpreted their actions as "inciting insubordination." A state of war is not defined, and the bill's drafters refused to accept as a definition that it exists only after Congress has declared war.

S. 1722 would reenact the 1917 Espionage Act (Section 794 of Title 18, U.S. Code) and the 1950 Mundt-Nixon Subversive Activities Control Act (Section 793 of Title 18, U.S. Code). These laws have been interpreted in the past to cover a broad area of information relating to national defense, and could severely restrict the kind of information needed by the public to reach judgments on government policies relating to national defense. In effect, these laws (Sections 1121-24) would become an Official Secrets Act.

Sections 1344 and 1525 would make it possible for the government to prosecute federal employees who reveal information about government wrongdoing, or news reporters who receive such information. Under another section, 1311, news reporters could be charged with the offense of hindering law enforcement if they refused to identify news sources, or of defrauding the government if they disclosed, under certain circumstances, information given to them by a government official.

In criminal-justice administration, S. 1722 would come down heavily against individual rights. It would give judges broad discretion to deny bail, and to lock up accused persons before they had been tried. This would undercut a basic assumption of American justice—that a person is innocent until proved guilty.

The bill would incorporate the present so-called immunity-use law that forces witnesses to testify even after they have claimed their Fifth Amendment privilege to remain silent. Use immunity is a device to savage the Fifth Amendment by granting witnesses partial immunity from prosecution as a result of their testimony.

S. 1722 would make it an offense to give a false oral statement to a law-enforcement officer. Although some corroboration would be necessary, usually the word of another officer, this provision would open the door to abuse by government agents.

Sentences for similar crimes may vary widely at the present time in different jurisdictions, and the bill addresses this serious problem. Judges would give fixed prison terms under guidelines to be established later by a U.S. Sentencing Commission. But the reform has critical defects. For the first time, the government would be permitted to appeal sentences. This would violate the double-jeopardy clause of the Fifth Amendment, and would create the opportunity for the government to coerce a defendant who might wish to appeal but forfeits that right in the face of a prosecution threat to seek a harsher sentence.

Parole would be eliminated, and the bill would place a heavy emphasis on imprisonment and would ignore a reform long urged by the American Bar Association—a recommendation that judges consider alternatives to prison for offenders.

Persons who engage in peaceful demonstrations would run serious risks of punishment under various provisions of the law. If as few as 10 persons create a disturbance at a site, for example, of a nuclear-energy plant, all the demonstrators could be charged with engaging in a riot on the basis that they "disregarded the risk" that a disturbance might occur. If a journalist interviewed one of the demonstrators and declined to surrender his notes to police, the reporter could be prosecuted for hindering law enforcement.

Reflecting the repressive nature of the bill, heavy penalties are prescribed throughout.

S. 1722 emerged from the Senate Judiciary Committee with no trouble at all, and its passage by the Senate is regarded as a certainty in the next few weeks. It is a massive legislative effort running to 440 pages, and it is doubtful that more than a few senators are intimately acquainted with its provisions. Two years ago, when its predecessor was considered, Sen. James B. Allen (D-Ala.) charged, "There aren't five senators . . . who have an idea what's going on. . . ." And Sen. James A. McClure (R-Ida.) said the bill had "become a law unto itself, a massive recreation whose full implications are known only by its prosecutorial draftsmen (in the Justice Department)."

Among the few who have studied the proposal is Sen. Alan Cranston of California, who is a politician of cautious instincts. He opposed the legislation when it came up during the Nixon Administration. He opposed the legislation two years ago under the sponsorship of Kennedy, and he opposes "the substance" of the current measure on the grounds that it would undercut civil liberties and, as he said two years ago, "would tip the delicate balance of police power in our nation too much in the direction of the federal government." Federal power would predominate in areas that have traditionally been left to the states.

A companion bill (HR 6233) is working its way through the House subcommittee on criminal justice under Rep. Robert F. Drinan (D-Mass.), the subcommittee chairman. The tentative House version is reported to be significantly better than S. 1722, but the subcommittee draft is not likely to survive the full Judiciary Committee, and it is less likely to remain intact on the House floor. If the Drinan bill reaches conference with S. 1722, the Senate measure likely will prevail. Opponents of the legislation are now concentrating their attention on H.R. 6233 in an effort to prevent it from reaching the House floor.

The body of federal criminal law can be tidied up, and its inequities, like sentencing procedures, can be eliminated, but this can be accomplished incrementally. What is contemplated in S. 1722 is a fundamental reordering of the relationship between the people and the government, with the dominant emphasis placed on the power of government.

The defeat of legislation in its present form to revise the code would create no crisis, nor would it leave the government powerless to meet an emergency. The American people are not enemies of their government, and there is no need to bring them under greater restraint.

The power of government has never been our best assurance of ordered liberty. Our best assurance is a robust democracy to which allegiance is freely given and not compelled. Under the proposed radical revisions of federal criminal law now before Congress, we would be less free and ultimately less secure.●

TRIBUTE TO JOSÉ V. TOLEDO, CHIEF JUDGE, U.S. DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. CORRADA. Mr. Speaker, I rise today with great sadness to express my sense of loss for the death of my good friend José V. Toledo, chief judge, U.S. District Court for the District of Puerto Rico.

Those of us who were his colleagues in Puerto Rico have lost a dear friend and the court has lost a highly competent, hard working, and excellent judge. His wife Clara, and his family have suffered the irreparable loss of a beloved husband and father. Certainly, no words spoken here today can be adequate to express my grief for the death of Judge Toledo.

Judge Toledo was born in Arecibo, Puerto Rico, on August 14, 1931. He studied in the public schools in the city of Arecibo, graduated from Colegio San José High School in Rio Piedras, Puerto Rico, obtained his bachelor's degree in arts from the University of Florida in Gainesville and received his bachelor in law degree from the University of Puerto Rico in 1955.

Pepe, as I and his many friends and colleagues called him, was a district judge of the Commonwealth of Puerto Rico until August 1956, when he joined the Armed Forces of the United States.

On January 11, 1957, he received a commission as first lieutenant in the Judge Advocate General Corps—legal division of the Army—and served for a term of 3 years at Fort Brooke, San Juan, P.R.

On January 11, 1960, Judge Toledo was appointed assistant U.S. attorney for the district of Puerto Rico, position which he occupied for 1 year. On January 1961, he joined the law firm of Rivera Zayas, Rivera Cestero & Rua and on January 1962, was made a partner of said law firm. On May 1963, he formed a law firm together with attorneys Aldo Segurola de Diego and Carlos Romero Barceló, now Governor of Puerto Rico, called Segurola, Romero & Toledo. From 1967 to 1970, he was a partner in the law firm of Toledo & Córdova.

When I was Chairman of the Puerto Rico Civil Rights Commission, Judge Toledo was a member and secretary of the Commission. We worked hard to find solutions to the important issues brought before the Commission. As I recall, the sense of dedication, interest, and fairness placed by him in the discharge of his responsibilities were not only stimulating but a clear indication of his vocation to the bench. The grounds for his future endeavor were laid when he acted as a member of the Commission.

The high point of José V. Toledo's career as a public servant, came when he was appointed to the position of judge of the U.S. District Court for the District of Puerto Rico in 1970.

It was really a privilege to litigate cases before him and it was more than pleasurable reading his opinions and orders. What stands out in my own memories of Judge Toledo was his sense of fairness, compassion, strength, and energy. Judge Toledo was a jurist and judge by heart.

On February 1, 1974, Judge Toledo became chief judge of the court and since 1975 he was a member of the Committee on the Administration of Criminal Law of the Judicial Conference of the United States.

His last months were heroic; illness ravaged his body but he was not at all stopped from working. Judge Toledo used all his energies until the last minute to take care of his workload and the smooth operation of the court.

There will always be a special place of remembrance in the hearts of those who knew Judge Toledo in person, as I did, and by his dedicated services to the Federal Judiciary in Puerto Rico. His loss will be deeply felt not only by his dear family and Clarita his widow, but by the court and by the people of Puerto Rico.●

THE WEAKNESS OF THE CARTER DOCTRINE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. DERWINSKI. Mr. Speaker, the so-called Carter doctrine was eloquently stated, but dubious in its reality and its trustworthiness. I wish to insert an editorial which appeared in the February 6 Chicago Tribune. The editorial comments on the basic weaknesses found in the Carter doctrine. The editorial follows:

[From the Chicago Tribune, Feb. 6, 1980]

THE CARTER DOCTRINE CRUMBLES

Barely a fortnight has passed since the President galvanized the world with a State of the Union message that outlined the basis for a "Carter Doctrine" in Southwest Asia. The message held promise for a new cohesiveness in the country's floundering foreign policy, something missing since the trauma of Viet Nam.

But what began as a carefully reasoned and deliberately broad statement of U.S. interest and intentions has somehow become an incautious and dangerously specific cry of war. The President's advisers, and the President himself, have so confused the meaning of his message that there is nothing left of it to be called a "doctrine."

Consider, for example, the gaffe of Clark Clifford—whose vast experience should have taught him better—when he declared in India that if the Russians move on the Persian Gulf "it means war." Or the anonymous Defense Department officials who blithely leaked a supposedly secret report on the possibility of using tactical nuclear weapons if the Russians enter Iran. Or Zbigniew Brzezinski's promise [made to an unreliable military dictator] to send American forces rushing to meet an attack on Pakistan.

These actions amount to the drawing of lines in Southwest Asia and daring the Russians to cross them. Yet the key feature of the President's State of the Union message was the absence of such hard and fast lines. A global strategist, like a chess player, must retain flexibility by putting his adversary in doubt about lines of attack and strategies of defense. He does not declare in advance when and where and how he will strike.

(It only compounds the problem when the President himself declares that the U.S. is unprepared to defend the gulf area on its own, a statement that draws lines of weakness as definite as lines of strength.)

The "game" in this case is not chess, but war, so there is an inclination to search for rules to follow by refighting past wars. Thus on one side we have those who point to the Viet Nam War as warning against any military involvement anywhere. On the other side, there are those who cite the Munich agreement as a warning against appeasement anywhere. But if history offers rules for the present problem, they are more likely found in the Balkans during the period preceding World War I. There, the various European powers has locked themselves into a series of commitments so dangerous and delicate that a single assassination was enough to plunge the world into war.

Another of history's lessons is that aggressors do not triumph merely by taking territory. They also must keep it. America's past victories came not from drawing Maginot lines and holding them at all costs, but in arousing itself to drive the aggressor back from his conquests. The Russians can understand that—it was an aroused America that saved them from Hitler's aggression.

Yet our leaders now are committing us to holding specific lines under circumstances that may seem clear today, but could turn out later to be ambiguous. Pakistan's Baluchistan province, for example, has been in periodic revolt for years. Although the rebels have had some Soviet support, their mood is more nationalist than Marxist. So at what point will we go to war to save Baluchistan for Gen. Zia ul-Haq? And are we prepared to loose the nuclear genie to save Azerbaijan for Ayatollah Khomeini?

Perhaps we will, and perhaps we won't. But the time for such commitments is not now. Having made threats before the world, will we find ourselves stampeded into carrying them out in circumstances that are both disadvantageous and dangerous?

It is possible that the administration can still salvage its Carter Doctrine. It is unfortunate, however, that after getting such good advice in stating it, the President is now getting such poor advice in carrying it out.●

ROCK AND ROLL JAMBOREE FOR HEART DISEASE 1980

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. HUBBARD. Mr. Speaker, I would like to draw the attention of the House to a very important and worthwhile and unique program conducted by the residents of many of our Nation's nursing homes. I refer to the fourth annual Rock 'n Roll Jamboree sponsored by the American Health Care Association, the Nation's largest federation of nursing homes and allied long term health care facilities.

The Rock 'n Roll Jamboree is a legally registered charitable activity which benefits the American Heart Association's battle against our No. 1 killer, heart disease. As conceived by Mr. James J. Brennan, community relations director of First Health Care Corp. of Lexington, Mass., the Rock 'n Roll Jamboree involves thousands of elderly and convalescent Americans who rock in rocking chairs for specified time periods, and roll in wheelchairs for specified distances, against pledges made in the communities where the nursing homes are located. The money raised helps to support the American Heart Association's research and education efforts.

From its inception in 1977, the Jamboree has raised the incredible amount of over $2 million, each year breaking its own record as the largest single source of American Heart Association contributions. Over $1,200,000 of this was raised in 1979, and the 1980 goal is $1.5 million.

All money raised is turned over to local Heart Association chapters and most remains in the community where it was raised to further programs on heart disease. No money is retained by the nursing homes or their residents.

Besides being an effective fundraiser, the Rock 'n Roll Jamboree is, as its slogan tells us, a "Fun Raiser." It was meant to be, and it has turned out to be, a valuable community activity for many elderly and ill people who might have felt cut off from their communities because of their age or physical conditions. If nothing else, the American Health Care Association Rock 'n Roll Jamboree is proof that our Nation's elderly can play a vital and direct role in community and civic affairs if given the chance. AHCA, a leading humanitarian and professional health care association, is to be commended for providing such an opportunity and for the success it has achieved.

The American Health Care Association encourages its members to organize local Rock 'n Roll Jamborees between the beginning of February and the end of March. Many do so, quite appropriately, on Valentine's Day, February 14. Thus, as we embark on another Rock 'n Roll Jamboree season, I ask the House to join me in asking all Americans to urge their local nursing home members of the American Health Care Association, to participate in jamborees at their area facilities, and to give generously to this effort to eradicate heart disease.

In closing, I would like to offer a note of thanks to the American Health Care Association, whose national secretary, Mrs. Sandra T. Higgins of Senior Citizen Nursing Home in Madisonville, Ky., is a longtime friend and valued constituent, for supporting this effort and for making the lives and futures of our Nation's elderly, convalescent and chronically ill, that much brighter.●

FEDERAL POLICY TO IMPROVE PRODUCTIVITY

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. LUNDINE. Mr. Speaker, today I am introducing legislation to establish a new independent unit within the executive branch with specific authority to develop and coordinate Federal policy to improve productivity.

There is growing recognition both in and outside of government that the current slowdown in national productivity growth poses fundamental problems for our economy. After gains of about 3 percent a year for nearly two decades, productivity growth began to decline in the mid-1960's. The trend grew worse in the 1970's, to the point where productivity virtually ceased to improve in the last few years, and actually declined by about 1 percent in 1979.

A strong productivity growth rate makes possible real gains in earnings and opportunities to increase production and employment without adding to inflationary pressures. Unless we reverse the patterns of the last decade, I question our ability to combat inflation and maintain a stable, prosperous economy.

In 1975, Congress established a National Center for Productivity and the Quality of Working Life as a way of focusing Government policies toward improving productivity. The Center was not a regulatory agency, but had a mandate to develop a plan for raising national productivity growth and to coordinate relevant Federal activities.

The administration decided not to seek a reauthorization of the Center in 1978, claiming that the agency had not been effective and that its functions could be carried out capably by existing departments. To provide some direction to such activity, the administration created an interagency council by Executive order. In 15 months, this council has met four times. With no budget and only minimal staff support, the council is simply not equipped to undertake a concerted, long-range effort to improve the Nation's productivity performance.

While I don't necessarily dispute the reasons for abolishing the National Center, I believe there must be a sustained, committed effort within the Federal Government to deal with the problem. The measure I am proposing today provides for a new Productivity Council, with an annual authorization of $5 million. The bill requires the President to appoint a full time, paid chairperson for the Council, whose members would include the heads of the Office of Management and Budget, the Departments of Labor, Commerce, and Treasury, and nine other agencies whose missions relate to productivity.

The Council is intended to serve as a focal point for Federal actions to improve productivity: It is directed to develop a national productivity improvement plan, to conduct studies and analyses of Government programs and regulations, to disseminate information on productivity improvement activities in the private sector. It is further authorized to hire staff, contract for services, and draw upon the resources of a 15-member advisory board composed of representatives of business, labor, and academia. A similar measure is being introduced in the Senate by Senator BENTSEN.

Many of our competitors—particularly Japan and Germany—have recognized the value of making a coordinated national effort to raise productivity growth. In both of these countries, productivity centers receive substantial support from government and have been exceptionally active in recent years.

Finally, in advocating the establishment of a new Council, I would argue that its work and direction should lead the participating agencies to give greater emphasis to the issue as they carry out their own programs. The potential for improving productivity should figure heavily in the investment decisions made by the Economic Development Administration of the Commerce Department, or in the types of job and training programs funded by the Department of Labor. For ultimately, I am convinced it will take a broad effort, addressing the multiple aspects of the problem to achieve and sustain a rate of productivity growth upon which our economic stability depends.●

TRIBUTE TO DAVID N. SCHUTZ, COMMUNITY LEADER, JOURNALIST AND FRIEND

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. ROYER. Mr. Speaker, on the evening of February 8, 1980, many friends and associates will gather to honor David N. Schutz on the occasion of his retirement.

Dave Schutz was born on September 8, 1917, in Reno, Nev. His family moved to Oakland, Calif. in 1922 and to San Francisco in 1930. Dave graduated from Lowell High School and received his bachelor's degree from San Francisco State University. He then moved to Evanston, Ill. where he received his master's degree in journalism from Northwestern University in 1940. Shortly thereafter, in a combination of both luck and wisdom, he married his college sweetheart, Sibyl Hurning.

To the good fortune of my hometown, Dave and Sibyl decided to make Redwood City, Calif., their home.

Dave joined the Redwood City Trib une on July 10, 1944; 4 months later he was promoted to managing editor. In January 1949 he was promoted to editor—a post he held until the merger of the Redwood City Tribune and Palo Alto Times into the Peninsula Times-Tribune in April 1979. Dave retired last month after over 35 years of service.

During his professional career, Dave Schutz received many honors. In 1968, he became the first editor of a California newspaper to become president of the Associated Press Managing Editors Association. He served as president of the northern California chapter of Sigma Delta Chi, chairman of the Editors Conference of the California Newspaper Publishers Association, and headed a committee of editors that worked to strengthen and preserve the journalism program at Hayward State University. In 1978, Dave served as chairman of the California Freedom of Information Committee. He continues to serve as co-chairman with Superior Court Judge Melvin Cohn of the San Mateo County Bench, Bar and Media Committee.

Aside from his professional duties and honors, Dave Schutz has been a leader in our community. He has served as president of the Redwood City-San Mateo County Chamber of Commerce, the Redwood City Rotary Club, the Fraternal Order of the Eagles and the Suburbans. For 12 years he served as a director of the Golden Gate Chapter and Sequoia Region of the American Red Cross, and on the Board of Directors of the Boy Scouts of America. Dave was a founder and director of the Redwood City Police Youth Club and of the Redwood City Emergency Hunger Fund. He has served in many capacities during his 36 years of membership in the congregation at Temple Beth Jacob.

Over the years that I served my community as a city councilman, mayor, and county supervisor my activities and proposals were often subjected to Dave's sharp editorial pencil. While we did not always agree, certainly no one can challenge his ability to arouse community support or opposition. I am certain that no individual again will have such an influence on public opinion in Redwood City.

The opinions written by Dave Schutz which will probably be best remembered reflect his passionate belief that secrecy in government is fundamentally undemocratic, and that open debate and discussion of public issues are necessary to the health of our society. It would indeed be difficult to find anyone with as deep a faith in the rights of free expression and free publication under the first amendment as Dave Schutz.

To Dave and Sibyl, their family and friends, I offer my thanks for choosing Redwood City as their home. Redwood City is a better place because of them.●

CARTER'S ONE-WAY BIPARTISAN FOREIGN AFFAIRS EFFORT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. DERWINSKI. Mr. Speaker, what the administration calls a bipartisian foreign affairs effort appears to be a one-way street. The Carter administration calls upon the Republicans in the name of national unity, yet they continue to criticize the past Republican administrations. This point is very effectively made in a column by Patrick Buchanan, carried in the February 7 edition of the Chicago Tribune. This column follows for the Members' attention:

Carter Supported and Ford Slandered

Washington.—Without former President Gerald Ford's support, the Panama Canal treaties would have perished in the Senate. In standing, literally, alongside President Jimmy Carter—and calling in upon his own position the artillery fire of the Republican Right—Ford was acting in an established tradition. Ex-Presidents of one party do not undermine their successors on foreign policy.

Dwight Eisenhower did not savage the young John F. Kennedy for the bungled Bay of Pigs. He invited him to his Gettysburg farm and offered moral support. Lyndon Johnson and Dean Rusk never sniped at the Vietnam policies of Richard Nixon and Henry Kissinger. Nixon and Ford have been statesmanlike in criticism of Carter policies they are known to oppose vehemently; or they have remained silent.

When Jimmy Carter was in need of bipartisan support—for the sale of superjets to Saudi Arabia, the lifting of the Turkish arms embargo, the recognition of Peking—Ford provided that support.

Now Carter has shown his gratitude by dragging his foreign policy tutor, Zbigniew Brzezinski, out of the D.C. discos and sending him out to slander and distort the record of the Ford adminstration.

In separate interviews with U.S. News & World Report and the Wall Street Journal, Brzezinski has shifted the blame for the decayed state of national defense upon "eight years of sustained Republican neglect."

This charge, by a scholar of Brzezinski's reputation, fits precisely a behavior pattern academicians define as "intellectual dishonesty." Ford, who has held off criticizing his successor on Iran or Afghanistan, is said to be injured and angry at Carter's agents' "clearly falsifying the record for partisan political purposes." Ford is too beneficient toward these backstabbers.

What is the truth?

As any semiliterate follower of national politics knows, President Carter was elected in 1976 on a promise to cut $7 billion from Ford's defense budget, a feat about which Carter's minions were boasting as late as 1978.

After taking power, the McGovernites in Carter's government took a long look at Ford's six-year rearmament program and lopped $24 billion from the strategic program, $25 billion from the general purpose forces, $10 billion from research and development.

Reflect upon what went down the sewer and you will see why the United States is almost at the mercy of the Soviet Union in the Persian Gulf region where Carter has drawn his line.

With Harold Brown beaming nearby, President Carter announced a reversal of the Ford-Rumsfeld decision to build a fleet of 244 B-1 bombers—a few dozen of which would have provided invaluable assets in Central Asia.

All three cruise missile programs were stretched out. The neutron warhead was canceled by Carter in a craven cave-in to a propaganda campaign about its "immorality" emanating from a Kremlin now employing nerve gas against Afghan tribesmen. The MX missile, designed to compensate for the vulnerability of the Minuteman force, was put off from 1984 until the end of the decade. The Trident submarine force was reduced in number and stretched out in production.

As the Soviets deployed the first great blue water navy in Russian history, President Ford budgeted 157 new vessels for the U.S. fleets. President Carter cut that number in half to 83; and then claimed credit for raising it back to 95.

And where was Brzezinski when Jimmy Carter accepted the applause of the disarmament lobby for an unprecedented veto of a military appropriations bill because it contained a nuclear carrier which Carter wanted less than he wanted more billions for his CETA program?

As late as last year, the White House was resisting as overkill a niggardly 5 per cent increase in defense spending—when the Soviets were outspending the United States by 50 percent.

The proposition that Nixon in the Viet Nam years, and Ford in the post-Viet Nam era, were busy dismantling the Pentagon—while a heroic liberal Democratic Congress was fighting a rearguard action for more funds for defense—is so ludicrous as to constitute a Big Lie.

That President Carter condones by silence the continued propagation of this deceit tells us something about his bankrupt foreign policy, his political desperation, his sense of gratitude, his credibility, his decency.●

TOWN OF CLIFTON BACKS PRESIDENT

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. HARRIS. Mr. Speaker, the Town of Clifton, Va., which is located in the Eighth Congressional District, has sent me a copy of a resolution recently passed by the city council. It is a resolution of support for our hostages in Iran. Hopefully, this example will encourage other towns and cities across the United States to take similar action. As Mayor Mynor F. McIntyre has stated in a cover letter to President Carter: "It is only through a unified nation, that we can expect the unconditional return of our illegally held fellow Americans."

At this time, I would like to share this resolution with my colleagues and commend the town of Clifton for their patriotic initiative:

Resolution

Whereas the citizens of Clifton offer their sympathy and moral support to our 50 hostages in Iran, and to their families across our nation;

Whereas the Clifton Town Council strongly endorses our government's demand for the release of our hostages; and

Whereas the citizens of Clifton have shown their backing by displaying the American flag, or yellow ribbons, or other visible means of encouragement to our hostages, Therefore be it

Resolved that the Clifton Town Council directs its Mayor to inform the President of the United States of our support and concern, sending a copy of his letter to the President and accompanying resolution, to the hostages in Iran, the Embassy of Iran in Washington, and a representative of the families of our hostages.

Signed by the members of the Town Council, on January 8, 1980.

MYNOR, F. MCINTYRE,
Mayor.
KENNETH D. BUCKLEY,
Councilman.
CALVIN D. COX,
Councilman.
RICHARD H. DYGVE,
Councilman.
ROBERT F. LINDHOLM,
Councilman.
WAYNE H. NICKUM,
Councilman.●

THE INTELLIGENCE GAP: U.S. FORECASTS OF SOVIET STRATEGIC STRENGTH

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. ASPIN. Mr. Speaker,

> It is . . . a matter of record that the growth of the Soviet ICBM force was underestimated for a decade after the "missile gap" by the entire intelligence community—including Pentagon "hawks."—Gen. Daniel Graham.
>
> But the history of the past twenty years shows quite the reverse. Few indeed are the instances when the Soviet military threat later turned out to be greater than the estimated "worst case." Usually, the government's experts overestimated the danger.—George B. Kistiakowsky.

The death of SALT II turns the focus of U.S. intelligence away from verification and back to the old business of forecasting. SALT provided some degree of restraint and certainty. We knew how far the Soviets were allowed to go, and our task was to verify their compliance with these restrictions. Without SALT, there are no limits or guidelines. We must rely purely on our skills in strategic forecasting, in guessing about the future, to determine what the Soviets are up to.

The first forecast since the deferral of SALT II has been completed and leaked to the press. the new National Intelligence Estimate—NIE 1138-79—reportedly indicates that without SALT II the Soviets could amass about 14,000 highly accurate ICBM warheads by the late 1980's, whereas an extension of SALT II beyond its 1985 expiration date would allow the Soviets only about 6,000. With SALT II, the presumption would be that the Soviets would have only 6,000 warheads.[1] Our own strategic force planning would be based on this assumption; and our intelligence agencies would be concentrating on verifying Soviet compliance. Now, without SALT II, all we have to go on is this new intelligence estimate of the future, and who knows whether it has validity or not? In any event, if U.S. policymakers believe it is valid, then they will have to think about the expansion of U.S. strategic nuclear forces quite differently. Tens of billions of dollars potentially ride on a decision whether to trust this intelligence estimate.[2]

How good are we at this task of strategic forecasting? As the passages quoted above indicate,[3] this question is highly controversial. Over the years, many analysts, particularly those in arms control circles, have contended that we have consistently overestimated Soviet strategic capabilities. More recently, other analysts, not generally associated with arms control, have argued that we have in fact consistently underestimated Soviet strength.

This controversy can, to some extent, be resolved by examining the record. Taking the major developments in the history of the nuclear arms competition, we can ask if the U.S. intelligence community has been right or wrong in its forecasts; if wrong, in which direction (too high or too low), and why? The key developments have been:

First, the first Soviet explosions of an atomic and a hydrogen bomb—1949-54;

Second, the "bomber gap"—1955-58;

Third, the "missile gap"—1958-61;

Fourth, Soviet deployment of an anti-ballistic-missile (ABM) system—1962 on;

Fifth, Soviet deployment of missiles with multiple independently targetable re-entry vehicles (MIRVs)—1965-74;

Sixth, projection of Soviet intercontinental ballistic missile (ICBM) and submarine-launched ballistic missile (SLBM) deployments—1962-69; and

Seventh, rate of improvements in Soviet ICBM accuracy and yield—1969 on.

From such an analysis, we should get some idea of how well U.S. intelligence will be able to estimate future Soviet defense capabilities in the absence of SALT.

THE A-BOMB AND THE H-BOMB

When the Soviets exploded their first atomic bomb in August 1949, the United States had very little information about Soviet nuclear research. Before the detonation, Gen. Leslie Groves, wartime director of the Manhattan project, predicted that America's atomic monopoly would last 20 years. Scientists involved in the project, on the other hand, thought in 1945 that the Soviets would duplicate our achievement within 5 years.

The scientists' expectation encouraged the Atomic Energy Commission to establish, through the Air Force, a program for airborne collection of radioactive particles in the atmosphere, which would detect the explosion of any atomic device anywhere in the world. The program began operations in 1948 and continues to this day.

As the end of the decade approached and no Soviet A-bomb materialized, for the intelligence community the year of anticipated danger receded and receded. Just before the Soviets actually detonated an atomic device in 1949, they were officially expected to do so in 1952 at the earliest.[4]

The hydrogen bomb, set off by the Soviets in 1953, came as less of a surprise; the United States had predicted the Soviets would achieve that milestone by 1954.

Why did General Groves overestimate, the scientists correctly estimate, and later most analysis overestimate again the time it would take for the Soviets to explode an A-bomb? And why were we so close on the H-bomb prediction?

The problem was not one of optimism about Soviet intentions. Indeed, in the first 5 years after the war, official circles in Washington generally held an alarmist image of a Soviet Union bent on constant, implacable expansionism. The intelligence error on the A-bomb hinged more on habit and personal intuition.

General Groves thought the Soviets would take 20 years to build the bomb because, like President Truman, he simply did not believe that "those Asiatic" Russians,[5] brave and valiant as they might be in standing up to Nazis on the battlefield, had the technological talents to duplicate what his bright boys at Los Alamos took 4 years to accomplish

The scientists' prediction that the Soviets would have a bomb within 4 or 5 years was modeled on their own experience. That is how long it took them to build the bomb; it was a fairly straightforward problem of physics and engineering, of which they thought their Soviet counterparts quite capable.

Intelligence estimators, in the end, overestimated the time it would take because of what the atomic scientist, I. Rabi, called a "peculiar kind of psychology": After making one estimate in 1945 that the Soviets could get a bomb in 4 or 5 years, "every year that went by, you kept on saying '5 years.'"

---

[1] Michael Getler & Robert G. Kaiser, "Intelligence Estimate Said to Show Need for SALT," *Washington Post*, January 31, 1980.

[2] This cuts both ways. Acceptance of the estimate may lead to greater spending in some strategic arms, but it may also lead to rejection of the land-based multiple-shelter basing scheme for the M-X missile on grounds that too many shelters would have to be constructed to "absorb" so many Soviet ICBM warheads.

[3] The quotes are from Gen. Daniel O. Graham, "Intelligence: Realities and Myth," *Wall Street Journal*, March 11, 1977, p. 16; George B. Kistiakowsky, "False Alarm: The Story Behind SALT II," *New York Review of Books*, March 22, 1979. Graham is former Director of the Defense Intelligence Agency. Kistiakowsky is former President's Science Adviser

[4] See Lawrence Freedman, *U.S. Intelligence and the Soviet Strategic Threat* (Boulder, Co: Westview Press, 1977), p. 64; Richard G. Hewlett & Oscar E. Anderson, *History of the AEC, Vol. I: The New World, 1939-1946* (Pennsylvania State Univ. Press, 1962), pp. 358-60; Herbert York, *The Advisors: Oppenheimer, Teller and the Superbomb* (San Francisco: W. H. Freeman & Co., 1976), pp. 34-36.

[5] Cited in York, *op. cit.*, p. 34.

The very close guess on the Soviet's H-bomb detonation in 1953 was purely a matter of chance—a very good guess, and little more. The principle of radiation pressure, the essence of the H-bomb, was not even demonstrated in the United States until 1951. Indeed, some officials believed the Soviets could get an H-bomb before 1953. In an attempt to encourage President Truman to forge ahead with the American H-bomb project in 1950, General Loper of the AEC's Military Liaison Committee wrote him a memorandum arguing that available intelligence (almost nothing) was consistent with a theory that the Soviets already had the hydrogen bomb.[6]

THE BOMBER GAP

In 1955, Air Force intelligence predicted that the Soviets would field a force of 600 to 700 long-range bombers by 1959. The national intelligence estimate (NIE) for that year was slightly more modest, predicting about 500 bombers by mid-1960. As it turned out, by mid-1961, the Soviets had deployed only 190 long-range bombers.[7]

Estimates of bombers grew out of a projection made in 1950—incorporated in a milestone cold war document called NSC-68—that the Soviets would possess a stockpile of 200 atomic bombs by 1954.[8] This projection was based, in part, on the rate at which the United States had been able to build bombs. Given this projection and NSC-68's explicit assumption that the Kremlin was bent on expansion and that the United States was communism's chief enemy, intelligence agencies naturally began thinking about how the Soviet Union would deliver the bombs to U.S. territory.

In 1954, Western attachés in Moscow observed a new Soviet long-range bomber flying overhead at the May Day military parade. From this report, U.S. intelligence made some assumptions about when the Soviets had begun development of this bomber and how quickly they might be able to deploy it in significant numbers. A study concluded that the bomber's design had been completed in 1952 and its first prototype flight made in 1953. On U.S. experience, it was estimated that mass production could not begin before 1956 and a substantial force not deployed before 1960.[9]

The next May Day parade, in 1955, rudely upset these calculations, or at least appeared to do so. Although the aviation section of the parade was canceled, Western observers reported seeing as many as 20 of the long-range bombers in the air during parade rehearsals. Intelligence updated its earliest estimates based on these reports. The design of the plane was now assumed to have been completed 2 years earlier than the original finding, and mass production was now assumed to have begun in 1954. If the Soviets could produce 20 aircraft per month over the next 3 years, then a force of 700 aircraft by 1959 was plausible.[10]

However, in 1956 and 1957, U-2 flights produced hard evidence that Soviet production rates fell far below the pace estimated by U.S. intelligence 2 years earlier. Two factors were involved in this error—first, a spotting error; second, a misunderstanding of Soviet strategic intentions.

First, unbeknownst to the Western attachés, the Soviets were flying the same bombers back and forth at the 1955 parade preparations; the attachés mistakenly counted each overflight as a separate bomber.[11] Second, the United States, thinking that we were the ultimate target of the Soviet Union's nuclear ambitions, naturally assumed that the Soviets would produce intercontinental bombers at the fastest rate possible. However, the Soviets decided that the real threat to them lay around the periphery of the U.S.S.R. landmass, from where they had historically been threatened and where the United States happened to be stationing its own nuclear strike forces. Thus, the Soviets used most of their production capacity to build medium-range bombers rather than a long-range force.[12]

THE MISSILE GAP[13]

The Soviet Union launched its first satellite in October 1957. Although the CIA had foreseen this development years in advance, the actual launching awakened fears that the United States would soon be vulnerable to an ICBM attack. Sputnik: The word alone evoked a nightmare vision, reflecting an impression that the Soviets led the Americans in missile technology. Khrushchev exploited this American fear by publicly making outrageous statements about the capabilities of Soviet missiles which he knew at the time—and we know only in retrospect—to be false.

Air Force intelligence warned in the November 1957 NIE that the Soviets could deploy 500 ICBM's by the middle of 1960 and 1,000 by 1961. The CIA thought a more reasonable estimate was 100 ICBM's by 1960 and 500 by 1961.

The wide difference in the two estimates hinged on conflicting views of when the Soviets would be able to begin mass production of their first ICBM, the SS-6. A halt in the Soviet test program, in April 1958, was interpreted by the Air Force as an indication that the missile was ready for deployment, while the CIA saw it as evidence that the missile was experiencing technical difficulties. Renewed test launches in 1959 proved the CIA correct.

An entirely separate issue, however, was how many missiles the Soviets would produce each year. The Air Force seems to have picked 500, and the CIA 100, because they were round numbers. Since nobody at that time knew the location of Soviet missile production factories, an actual count, or an inference from industrial volume, was impossible.

Nor did anyone know what a Soviet ICBM emplacement would look like. The Air Force anticipated camouflaged sites, while the CIA argued that the deployment sites would resemble the missile test launchers at Tyuratam. Repeated U-2 flights along Soviet railways could not locate any deployed ICBM's, although Air Force intelligence suspected various buildings were camouflaged structures hiding missiles inside. Among these were a Crimean War memorial and a medieval tower.[14]

A U.S. photoreconnaissance satellite took the first clear pictures of a Soviet ICBM site at Plesetsk in August 1960—laid out, as the CIA had predicted, just like the site at Tyuratam. According to the early Air Force projection, the Soviets should have deployed more than 500 ICBM's by this time, but satellite coverage detected no similar sites anywhere else.

The identification of an operational SS-6 site reopened the issue of how quickly the Soviets could produce the missiles. From studies of the Soviet economy and the cost of American ICBM's the CIA assumed that the Soviets could start off producing ICBM's either on an "orderly" schedule of 3 per month on a "crash" program of 15 per month. Assuming that the Soviets had been producing missiles since 1959, when their test program ended the CIA calculated that under the orderly schedule the U.S.S.R. would have 36 operational SS-6's by November 1960, and that they might accelerate production to reach 100 by mid-1961 and 450 by mid-1962. The Air

---

[6] Cited in Freedman, *op. cit.*, p. 64; and private conversation with D. A. Rosenberg.

[7] U.S. Senate Select Committee To Study Governmental Operations with Respect to Intelligence Activities (hereinafter called "Church Committee"), *Final Report, Book IV, Supplementary Detailed Staff Reports on Foreign and Military Intelligence* (Washington, D.C.: GPO, 1976), p. 56; Freedman; *op. cit.*, p. 67; *The Military Balance, 1975-1976* (London: International Institute for Strategic Studies, 1975), p. 73. ,

[8] For the text of NSC-68, see U.S. Department of State, *Foreign Relations of the United States, 1950, Vol. I:-National Security* (Washington D.C.: GPO, 1978), pp. 235-92; for the 200-bomb estimate, see p. 251. For a thorough analysis of NSC-68, see Paul Y. Hammond, "NSC-68: Prologue to Rearmament," in Warner R. Schilling, Paul Y. Hammond & Glenn H. Snyder, *Strategy, Politics and Defense Budgets* (*NY: Columbia Univ. Press, 1962*).

[9] Freedman, *op. cit.*, pp. 65-66.

[10] *Ibid.*

[11] *Ibid.*

[12] Even now, the Soviets emphasize medium-range far more than long-range bombers. They have 156 Bear and Bison long-range bombers, compared with 613 Badger medium-range bombers and 80 Backfires that have limited intercontinental capability but are deployed and exercised mainly for "theater" missions. See *The Military Balance* (London: International Institute for Strategic Studies, 1979), p. 89.

[13] This section is based on material in Edgar M. Bottome, *The Missile Gap: A Study of the Formulation of Military and Political Policy* (Cranbury, N. J.: Farleigh Dickinson Univ. Press, 1971); Freedman, *op. cit.*; Arnold Horelick & Myron Rush, *Strategic Power and Soviet Foreign Policy* (Univ. of Chicago Press, 1966).

[14] Material in this section is based on Freedman, *opt. cit.*, ch. 5; Edward R. Jayne II, *The ABM Debate: Strategic Defense and National Security* (Cambridge, Mass; MIT Center for International Studies, 1969); Ronald Tammen, *MIRV and the Arms Race* (NY: Praeger, 1973).

Force, meanwhile, stuck to its original prediction of 500 missiles per year.

The Army and Navy intelligence organizations, whose client services had weapons programs competing against Air Force missiles, pointed out technical deficiencies in the SS-6 tests, and doubted whether the U.S.S.R. would ever deploy "more than a few" of these missiles. In August 1961, another successful recovery of satellite film proved them right. Indeed, the Soviets had deployed no more than 10 SS-6 missiles, all at Plesetsk. This discovery ended the "missile gap" for good.

The Soviets did have a hefty missile buildup going on—but it was of intermediate range missiles not strategic missiles. The U.S. intelligence error, again, was one of misestimating Soviet priorities. Between 1958 and 1965, the Soviets deployed about 700 medium and intermediate-range ballistic missiles (M/IRBM's) aimed at Western Europe. This figures to about 100 missiles per year—something in between the CIA's predicted "orderly" and "crash" estimates of 36 and 180 missiles per year respectively. That was still far short of the Air Force estimate of 500 per year.

ANTIBALLISTIC MISSILES [14]

Throughout the 1960's, intelligence analysts repeatedly predicted that the Soviets would deploy a nationwide antiballistic missile (ABM) system. In the early 1960's, the intelligence community estimated that the Soviets would deploy some 2,000 exo-atmospheric and 8,000 endo-atmospheric interceptors.[15] In 1963-64, the NIE on strategic defensive forces predicted that before 1975, the Moscow ABM system, just coming under construction, would be expanded to every major city, with 500 to 1,500 interceptors. Furthermore, Pentagon analysts suspected, between 1964 and 1966, that the Tallinn air-defense system would eventually serve as a nationwide ABM, and managed to insert this speculation into some NIE's.

After 1967, construction of the Moscow ABM system seemed to halt with only 64 interceptors fielded. Those Tallinn sites were later proved to be for defense against high-altitude bombers. At this point, analysts at the Defense Intelligence Agency (DIA) and John Foster, then the Director of Defense Research and Engineering, speculated that the Tallinn could quickly be "upgraded" to a dual purpose SAM/ABM system.

Further analysis, however, revealed that many of the Tallinn sites were located in the wrong places for ICBM interception, and that they lacked the nuclear-warhead storage space essential for a workable ABM system.

Why was intelligence so keen on spotting an ABM system that never did emerge?

Part of this misjudgment was founded on an assessment of Soviet strategic doctrine. The Soviets were greatly concerned about strategic defense. They had an extensive air defense network to intercept bombers, and they had something of a civil defense program. Many intelligence analysts logically concluded they would construct a comprehensive ABM system, as well.

The type of ABM they looked for—a combination of exo- and endo-atmospheric interceptors—reflected American concepts of ABM design, which eventually were realized in the Spartan and Sprint missiles. The Spartan was a comparatively slow missile intended to intercept approaching missiles at or near the peak of their trajectories, when they would be moving at their slowest speed. The fast Sprint would be launched to home in on any reentry vehicles the Spartan might miss. Sprint involved an extremely demanding technology, due to its requirements of high speed and extremely close radar tracking.

Perhaps because the endo-atmospheric approach was so demanding, the Soviets chose a different route altogether: an interceptor that would operate at medium altitude (200,000 to 500,000 feet). From this model, the Soviets developed the Galosh and Griffon interceptors, which used many of the same components.

Galosh was, and is, an ABM. Sixty-four of them remain deployed around Moscow. However, the Galosh radars use a mechanical means of tracking ICBM warheads, an extremely difficult technique. By 1967, U.S. intelligence analysts began raising doubts whether the Soviets would ever invest much further in a system so ineffective.

Griffon is the missile deployed in the Tallinn system, now known as the SA-5 surface-to-air missile (SAM). NIE judgments on Griffon's mission wavered from year to year. The Tallinn sites were successors to a system the Soviets began building around Leningrad in the early 1960's and which the 1963 NIE called an "apparent" ABM. ("Apparent" had been formally established as a codeword in NIE's, meaning the analysts had little confidence in their judgment.) In 1964, CIA concluded that Griffon must be an antiaircraft missile, primarily because its performance was so inferior to Galosh.

On the other hand, Soviet public statements were attributing ABM capabilities to Griffon; Khrushchev said it could hit "a fly in outer space." The Air Force, Army and the DIA were convinced that the CIA was grossly underestimating Griffon's capabilities. The 1965 NIE consequently noted that the intended mission of the Tallinn sites was uncertain, a judgment repeated in 1966.

Bureaucratically, Pentagon intelligence analysts had big stakes invested in a Soviet ABM. The Joint Chiefs of Staff, whom DIA represented within the intelligence community, and the Air Force needed the specter of a Soviet ABM as a rationale for developing MIRV's (multiple warheads). The Army needed a conclusion that Soviet ABM's were effective in order to overcome the many doubts about its own ABM program. The analysts could—and did—cite Soviet documents, including classified ones supplied by that premier spy, Penkovskii, to show that the Soviets wanted to build an ABM. They conveniently ignored Soviet documents written after 1965, expressing grave doubts about the feasibility of ABM's. Those documents had not been obtained clandestinely and were thus dismissed as window dressing.

Intelligence analysts were also misled by their assumption that the Soviet military was a rational, farseeing institution. Many thought the Tallinn system must be an ABM—rather than the high-altitude antibomber system it was—because it had no other rational purpose. By that time U.S. bombers were simulating penetrations of Soviet air space at low altitude. If Tallinn were a high-altitude system, the Soviets were building a system for which there was no mission—an idea thoroughly unpalatable to those who viewed Soviet defense programs as utterly undisturbed by bureaucratic impulses or quirks and mistakes.

The CIA eventually adopted the view that as late as 1967 or 1968, the Soviets still intended to deploy Galosh nationwide, but that improvements in American strategic forces—particularly the MIRV system—convinced them they needed to go back to the drawing boards. This highly dubious argument restored the institutional self-esteem of the Air Force and DIA by agreeing with their argument that the Soviets intended the Galosh and Griffon to be nationwide ABM's, while conceding to the CIA its contention that the Soviets were not deploying an effective ABM system

SOVIET MIRV'S

The prospect that the Soviets might place multiple independently targetable warheads (MIRV's) on their ICBM's was first mentioned in the 1965 NIE. The NIE stated it would take 4 or 5 years for the Soviets to develop and begin deploying MIRV's that were sufficiently accurate for the destruction of hardened—that is, blast resistant—targets such as the newly developed Minuteman ICBM silo. At the time, there was no evidence that any Soviet MIRV program had even begun. Thus the earliest date for Soviet MIRV deployment, inferred from the 1965 NIE, was 1969.

In 1966 and 1967, Soviet space shots demonstrated some of the technology necessary for MIRVing. As a result the Air Force insisted that the NIE contain a judgment that the Soviets were in fact developing a MIRV.[16]

In August 1968, the United States observed the first test of the SS-9 triplet, the three-warhead ICBM over which the argument about Soviet MIRV capability would soon center. The SS-9 was a very large missile. It was believed that such a missile would be ideally suited to the task of digging out Minuteman silos. However, even the highest estimates of ultimate SS-9 deployment—the Air Force's projection of 700—envisioned an insufficient number of SS-9's to destroy 1,000 Minuteman missiles. Thus, analysts who thought the Soviets were going after Minuteman reasoned that the Soviets must be planning to place multiple warheads on the SS-9. The triplet tests seemed to confirm this suspicion.

---

[15] Paul H. Nitze, Comment on articles by Albert Wohlstetter, *Foreign Policy*, Fall 1974, p. 82.

[16] See Freedman, *op. cit.*, p. 116.

The issue then became whether the triplet was a MIRV or just an unsophisticated MRV—that is, whether each of the three warheads could be aimed at a separate target, or whether all three must be aimed at the same general area. Each warhead of the triplet was placed on a rail in the nosecone of the SS-9. The rails did not rotate to allow repositioning and retargeting of the warheads. This feature convinced CIA analysts that the SS-9 was simply an MRV. Therefore, the 1968 NIE did not expect a Soviet MIRV until 1978—the end of the period covered by the estimate.

However, analysts outside the intelligence community, most notably in the Pentagon's Directorate of Defense Research and Engineering, noted that the timing of the warhead releases from the SS-9 could cause the warheads to fall in various triangular patterns. They concluded from the pattern of releases during test flights in the Pacific that the Soviets were indeed adapting these "triangles" (or "footprints") to match the configuration of U.S. missile silos. A missile force of 400 to 700 SS-9's, each with three warheads that could be aimed at three silos, might be very effective against Minuteman after all.

The triplet issue thus took on political importance, all the more since the Nixon administration was seeking congressional approval of the Safeguard AMB system designed to protect Minuteman against Soviet attack. If the SS-9 lacked MIRV capability, then Minuteman needed no protection; if the triangular pattern of the triplet coincided with the distance between three U.S. Minuteman silos, however, then the case for Minuteman vulnerability might still be valid. Furthermore, Kissinger wanted the ABM as a bargaining chip in the SALT I negotiations that were just getting underway.

Consequently, Kissinger summoned the CIA estimators and the Pentagon D.D.R. & E. analysts to the White House for a series of special meetings. From these sessions, Kissinger concluded that the triplet was indeed a primitive MIRV, and he instructed the CIA to rewrite the 1969 NIE to include more evidence supporting both sides of the controversy.[17]

In an important sense, the whole argument was artificial. In fact, the Soviets had several programs in parallel: not just an effort to test a primitive MIRV for the SS-9, but also a program to design more sophisticated MIRV's for the next generation of ICBM's. The United States knew nothing about this next generation. Judging by the decision to stop with our own third-generation Minuteman ICBM, intelligence estimators might not have though the Soviets would proceed past the SS-9.

In any event, the 1970 NIE took a wholly different approach to the issue of when the Soviets would be able to deploy a true MIRV. The estimators postulated two possible Soviet approaches—low force/low technology and high force/high technology. The former assumed the Soviets would deploy the triplet, not attaining a true MIRV until 1974. the latter assumed the Soviets would skip the triplet and move directly to a MIRV for the SS-9. It was believed that the Soviets, using the technology tested in the space launches of 1966-67, might be able to begin deploying MIRV's as early as 1971.[18]

As it happened, the first Soviet MIRV was deployed on an entirely new, fourth-generation ICBM in 1975. the Soviets never tried to build a truly MIRVed SS-9. But the intelligence estimates went through various phases. First they overestimated—in 1965 the estimate was 1970, then underestimated—in 1968 the prediction was 1978, then overestimated again—in 1969 the projection was 1971. the varying estimates depended on the different political needs of the changing administrations and on a rather vacuous argument over which U.S. terminology (MIRV or MRV) was a more appropriate description of the SS-9 triplet.

ESTIMATING SOVIET ICBM FORCE SIZE

In a series of articles in Foreign Policy in 1974,[19] the prominent strategic analyst, Albert Wohlstetter, argued that the NIE's between 1962 and 1969 consistently underestimated future Soviet strategic offensive capabilities. Wohlstetter's motive was to eradicate the commonly accepted thesis that military intelligence invariably overestimated Soviet capabilities to justify its own costly defense programs.

Motives aside, Wohlstetter advanced the idea that these underestimates represented a systematic bias inside the CIA and the intelligence community as a whole—a bias against recognizing the grand scope of Soviet ambitions for ICBM procurement. the intelligence agencies did underestimate the number of Soviet ICBM launchers in making projections of future Soviet capabilities; moreover, as the Soviet buildup accelerated, intelligence projections did not improve and in some cases even worsened.

Why did this happen?

One reason is "mirror imaging." After 1965, the CIA expected that the Soviets would place MIRV's on their ICBM's just as the United States had done. This expectation led estimators to project that the Soviets would deploy fewer ICBM's than they ended up deploying. The intelligence community based its estimates on the finding within the U.S. Defense Department that qualititive improvements to ICBM's were far cheaper ways to gain additional capability than quantitive increases in the force itself. In response to Wohlstetter's charge of underestimation, Lt. Gen. Daniel Graham, Director of the DIA, testified in 1975:

> The continuing evidence of qualitative improvement was a prime contributor to our underestimation of ICBM deployment . . . (I)t seemed logical at the time that the Soviets would try to use their advantage in throw-weight by equipping their ICBMs with MIRVs which could . . . overwhelm the then-programmed U.S. ABM . . . and . . . permit multiple targeting . . . (of U.S. ICBM's).[20]

The Soviets, however, decided to build more ICBM's instead. Thus, the CIA did underestimate the number of missile launchers that the Soviets would construct—but it did not so massively underestimate the offensive capabilities of the U.S.S.R.

Second, the CIA knew that resources in the U.S.S.R were scarce and thought they were going elsewhere. The CIA during these years vastly overestimated the number of ABM's the Soviets would produce. This, too, led the analysts to underestimate Soviet ICBM production. In 1962, when small numbers of Soviet ICBM's were predicted, the United States was also anticipating deployment of something like 10,000 ABM interceptors. Defense Secretary Robert S. McNamara suggested in this 1964 posture statement that ICBM programs would tend to constrain "large and very costly new programs such as an effective antiballistic missile defense system."[21] When the intelligence community incorrectly concluded that the Soviets were about to deploy a massive ABM network, they logically reasoned that the Soviets would not build a very large ICBM force. Indeed, the greatest ICBM underestimates, those for 1965 and 1966, coincide with the greatest ABM overestimates.

Third, the general underestimation of Soviet ICBM's included a whopping overestimation of one system in particular, the SS-9. In 1969, DIA projected 420 SS-9's; the Air Force expected as many as 700. In fact, the Soviets never deployed more than 280, and devoted most of their resources to constructing nearly 1,000 smaller SS-11 missiles.[22] Had the Soviets gone ahead with SS-9's, the same resources would have purchased something closer to the number of SS-9's predicted by the intelligence community (except for Air Force intelligence). Thus, in terms of projecting actual offensive capabilities, U.S. intelligence was not so far off the mark as Wohlstetter suggests. Still, the agencies did err in not foreseeing the new Soviet emphasis on larger numbers of much smaller missiles, which greatly enhanced Soviet power to destroy American industrial and population targets.

---

[17] *Ibid.*, pp. 137ff; Hearings, Senate Foreign Relations Committee, *Intelligence and the ABM*, 1969, p. 24; John Newhouse, *Cold Dawn: The Story of SALT* (NY: Holt, Rinehart & Winston, 1973), p. 161.

[18] Melvin Laird. Defense Department. *Fiscal Year 1971 Defense Program and Budget* (February 20. 1970), p. 39.

[19] Albert Wohlstetter, "Is There a Strategic Arms Race?" and "Rivals But No Race," *Foreign Policy*, Summer and Fall 1974. This sparked a debate, involving articles and replies by Paúl Nitze, Joseph Alsop, Morton Halperin, Jeremy Stone, Michael Nacht and Johan Holst, in *Foreign Policy*, Fall 1974 and Summer 1975.

[20] Hearings, Joint Economic Committee, *Allocation of Resources in the Soviet Union and China—1975*, Pt. 1, pp. 97-98.

[21] Robert McNamara, Defense Department, *Posture Statement for FY 1964*, (February 1963), p. 22.

[22] Freedman, *op. cit.*, p. 146.

Fourth, about 50 percent of the intelligence community's underestimations, for each year in the late 1960's, is accounted for by the Soviets' decision not to retire about 200 obsolete SS-7 and SS-8 ICMB's, contrary to expectations of the U.S. intelligence. Thus, when Wohlstetter's chart indicates an underestimate of about 400 ICMB's in 1967, roughly 200 of those were due to an expectation that the Soviets would retire older, more inaccurate missiles.

The lesson to be learned from a closer look at the Wohlstetter study is not, as now popularly perceived, that we have consistently underestimated the offensive capabilities of Soviet missile forces—but rather that, as Wohstetter himself says, we underestimated some aspects of that force, overestimated other aspects, and got some things right. Perhaps these instances of optimism and pessimism balanced out when the Defense Department attempted to base our own force planning on these intelligence projections. For example, McNamara testified that we planned forces in the early 1960's under the assumption that the Soviets would have an enormous ABM capability—a belief that probably more than compensated for the assumption that they would have a relatively small ICBM force.[23]

The intelligence errors on this score appear to be interconnected: low ICBM estimates are directly caused by high ABM estimates. In short, the error is caused not so much by simple counting errors as by a misjudgment of how the Soviets plan to allocate their defense resources.

SOVIET ICBM ACCURACY AND YIELD

Estimating improvements in Soviet ICBM accuracy and explosive yield is today's critically important issue. It is the combination of these two factors that determines the vulnerability of our fixed ICBM silos.[24]

Throughout the 1960's, there was little official concern about Minuteman vulnerability. In 1968, Defense Secretary Clark Clifford wrote a memorandum to President Johnson, one paragraph of which pointed out the possibility that MIRV deployments on the Soviet SS-9 constituted a potential threat to the Minuteman force, and then suggested various solutions to the problem. The Joint Chiefs of Staff convinced Clifford to delete the paragraph.[25]

The Nixon administration took Minuteman vulnerability more seriously. If the Soviets could deploy a force of 700 SS-9's, each with triplet warheads—as U.S. intelligence was projecting at the time, they could hypothetically aim 2 warheads at each of the 1,000 Minuteman silos, thereby insuring the destruction of nearly all of them.

The Office of the Secretary of Defense believed at the time that the Soviets could achieve accuracies of 0.25 nautical miles CEP (meaning half the warheads would strike within 0.25 miles of the target point) with the SS-9 triplet by 1974-75. It calculated that this accuracy, combined with each warhead's estimated 5-megaton yield, would permit the Soviets to knock out 95 percent of the Minuteman force in a first strike.[26]

The CIA disagreed. In September 1969, the Board of National Estimates wrote a paragraph that the Soviets could not, and would not try to, achieve a first-strike capability against Minuteman during the 1970's. This estimate was based on the SS-9 triplet's failure to demonstrate accuracy better than 0.5 nautical miles, not nearly enough—even given the high yields—to destroy missile silos with high probability. CIA weapons analysts did not believe the "triplet" technology could be improved sufficiently to attain the postulated 0.25 nautical-mile CEP.

However, Secretary of Defense Melvin Laird had publicly raised, in open congressional testimony, the SS-9's threat to Minuteman. Therefore, his special assistant, William Baroody, reportedly went to Central Intelligence Director Richard Helms and asked him to delete the contrary paragraph from the 1969 NIE. Helms complied. When asked by Senator FRANK CHURCH's Senate Intelligence Committee about the matter, Baroody testified he could not remember "specifically bring(ing) pressures to bear on the Director of Central Intelligence to delete or change any particular paragraph." However, Abbot Smith, then the Chairman of the CIA's Board of National Estimates does recall the episode as the only case of direct political interference with the NIE's that he could remember in his 20 years with the agency.[27]

In April 1971, TRW, Inc., completed a study sponsored jointly by the CIA and D.D.R. & E. demonstrating that Soviet technology for the SS-9 could not achieve accuracies better than the 0.5 nautical-mile CEP estimated previously by the CIA—an error factor inadequate for an effective first-strike against Minuteman.[28] By this time, however, the deployment of Safeguard ABM to defend Minuteman sites had already been authorized.

In 1973, early Soviet testing on a fourth generation ICBM program (the SS-17, SS-18 and SS-19) reopened the controversy over Minuteman vulnerability. Initial press leaks suggested that the first tests showed accuracies for the new missiles to be little better than the 0.5-nautical-mile CEP of the older systems. Furthermore, since the new missiles carried more warheads than the SS-9 and had similar or lighter throw-weight, the yields of each warhead would be less than the SS-9's. In short, the warheads would not threaten the Minuteman silos.

In response to these reports, a Soviet officer reportedly told U.S. officials at the June 1974 Moscow summit that the United States was underestimating the accuracies of the new missiles. He claimed that 0.27-nautical-mile CEP's had already been achieved. U.S. analysts doubted this assertion.[29]

Since this time, intelligence analysts have detected improved performance in Soviet missile accuracy, which—combined with relatively high yields—theoretically does threaten the Minuteman missiles.[30]

In fact, accuracy cannot be precisely estimated. In June 1979, Walter Pincus reported in the Washington Post[31] that the accuracy of Soviet ICBM's was somewhat better than U.S. intelligence had predicted for that time. However, he also reported that the SS-18 and SS-19 warheads were now judged to have substantially lower yields than once thought; the analysts had reduced their estimate from 1.5 megatons to about 600 kilotons. The new pessimism in accuracy estimates and the new optimism in yield estimates virtually canceled each other out. This indicates the hazards, and also the importance, of making these estimates with precision. Had the CIA reduced the yield estimates without also accounting for improved accuracy, the perceived vulnerability of Minuteman for the mid-1980s would have dropped from 90 to 80 percent, a perception that might have had significant policy implications.

HOW GOOD IS FORECASTING? A SUMMARY NOTE

In sum, U.S. intelligence has had a rather mixed record of forecasting future Soviet strategic capabilities.

Of the eight critical developments we examined the intelligence community overestimated Soviet capabilities on two occasions, underestimated them once, and both over- and underestimated on three. They were almost exactly right once, and split between precision and underestimation once. The one instance of unmitigated underestimation (predicting the number of Soviet ICBM's) was related to overestimates of other variables (especially deployment and numbers of Soviet MIRV's and ABM's). The one time when the prediction was nearly dead right (the date of the first Soviet H-bomb) was a case of fortuitous guesswork, based on no hard data.

---

[23] Robert McNamara, Defense Department, *FY 1967 Posture Statement.*

[24] An index of vulnuerability has been calculated as $Y^{2/3}$ divided by CEP^2, where Y=weapon yield in megatons, and CEP=Circular Error Probable, or the distance from the target within which a warhead will land 50 percent of the time. The gist is that increasing yield or accuracy will boost a warhead's "kill probability" against a target, but that doubling accuracy will have the same effect as boosting yield by eight times. (See Kosta Tsipis, *Offensive Missiles* (Stockholm International Peace Research Institute, 1974)

[25] Newhouse, *op.cit.*, p. 129.

[26] Freedman, *op. cit.*, p. 141.

[27] See Church Committee, *Final Report, Foreign and Military Intelligence, Bk. I*, pp. 77-79; Laurence Stern, "Agency Forced to Alter Own Data," *Washington Post*, April 27, 1976.

[28] Michael Getler, "Russian Missile Faulted," *Washington Post*, June 17, 1971.

[29] Freedman, *op. cit.*, p. 173; Hearings, Senate Foreign Relations Committee, *Briefing on Counterforce Attacks*, September 1974.

[30] According to data released by Paul Nitze, the newest version of the SS-18 (the 10-warhead Mod-4 variant) has a CEP of 0.17 nautical miles, as does the latest SS-19 with six warheads. See Nitze's testimony, Hearings, Senate Foreign Relations Committee, *The SALT II Treaty* (July 1979), p. 459.

[31] Walter Pincus, "U.S. Downgrades Soviet ICBM Yield," *Washington Post*, May 31, 1979.

U.S. INTELLIGENCE: FORECASTS VERSUS REALITY

Event	Date prediction made	Prediction	Actual	Over: + Under: – Right: 0
Date of Soviet A-bomb	1945 (Groves)	1965	1949	–
	1945 (scientists)	1949		0
	1949 (intelligence)	1952		+
Date of Soviet H-bomb	1950	1954	1953	0
Number of Soviet long-range bombers by 1960 ("Bomber gap")	1955 (Air Force)	600–700	190	+
	1955 (NIE) [1]	500		+
Number of Soviet ICBM's by 1961 ("Missile gap")	1957 (Air Force)	1,000	10	+
	1957 (CIA)	500		+
Number of Soviet ABM's	Early 1960's	10,000	64	+
Date of Soviet MIRV deployment	1965	1970	1975	+
	1968	1978		–
	1970	1971 or 1974		+
Number of Soviet ICBM's: [2]				
By 1967	1964	325–525	570	–
	1965	330–395		–
By 1970	1965	410–700	1,299	–
	1966	505–795		–
By 1971	1967	805–1,080	1,513	–
By 1972	1968	1,020–1,251	1,527	–
	1968	1,158–1,276		–
ICBM accuracy and yield:				
For SS–9 accuracy	1969	0.25 CEP [3]	0.5 CEP	+
For new missile accuracy	1973	0.5 CEP	0.25 CEP	–
For SS–18/–19 yield	1978	1.5 Megatons	600 Kilotons	+

[1] National Intelligence estimate.

[2] Source: Albert Wohlstetter, "Legends of the Strategic Arms Race," USSI Report 75–1 (Washington, D.C.: U.S. Strategic Institute, 1975), p. 24. All other numbers taken from body of this paper.

[3] Circular error probable—the number of nautical miles from target within which a warhead will land 50 percent of the time.

The record of estimates on Soviet strategic forces bears out Albert Wohlstetter's conclusion:

> Our officials sometimes overestimate, and sometimes underestimate, and sometimes even get it right.[32]

This mixed record is obviously due in part to the inherent uncertainties involved in gazing into the future. Yet judging from the record, there are some patterns that can be woven from these overestimates and underestimates, some common sources of error, some lessons to be learned.

EXPLAINING ERROR IN STRATEGIC FORECASTING

As reconnaissance technology has improved over the decades, U.S. intelligence has become more proficient at the science of collecting data. It has more "hard" information on what the Soviets have—in missile deployments, production facilities, and so forth—and, therefore, a firmer base from which to make projections.

However, few of the mistakes noted in this look at the past have been due to errors in intelligence gathering; most have been due to mishaps in the far trickier and less certain arts of intelligence analysis. Here is where judgment comes into play—and it seems that, in several instances, misjudgments have warped our vision of the future. Sources of this misjudgment include:

FIRST. PRECONCEIVED NOTIONS

It is human nature that people look at the world with preconceived notions—prejudices, excessive attention paid to some things, not enough attention to others. These notions shape the way we perceive things.

Occasionally, these conceptions limit our vision. President Truman, General Groves and certainly others thought it would take many years for the Soviets to build an A-bomb because they saw the Russians as technological primitives. On the ABM error, U.S. intelligence had a preconceived notion of what might be called "extended rationality." They knew the Soviets emphasized defenses in their military program—so, logically, they would build a nationwide ABM. They saw that the Tallinn site, with its SA-5 missile, was worthless for antibomber defenses; therefore, they figured—assuming Soviet military planners to be flawlessly logical people—that it must be an ABM system.

SECOND. MIRROR-IMAGING

In the absence of obvious facts to the contrary, U.S. intelligence often assumes that the Soviets think about military problems in roughly the same way the United States does. This, too, is a natural, understandable human trait. It, too, can be misleading, however.

U.S. intelligence underestimated the number of Soviet ICBM's, for example, because the analysts assumed that the Soviets would be like the Americans and develop quality instead of quantity in their strategic nuclear forces—placing MIRV's on their missiles instead of building more missiles. It was also assumed that, like the United States, the U.S.S.R. would replace old, obsolete missiles with new ones. Instead, the Soviets built up their missile force in quantity and did not retire older ICBM's until much later.

THIRD. MISJUDGMENT OF SOVIET STRATEGIC PRIORITIES

The "bomber gap" and the "missile gap" were not the total intelligence fiascos they are reputed to be. The Soviets did produce and deploy hundreds of bombers in the late 1950's and hundreds of missiles in the early 1960's. The mistake was in assuming that they would emphasize long-range strategic weapons aimed at the United States. In fact, Soviet strategists decided that areas along the periphery of the U.S.S.R.—most notably in Western Europe—posed the greatest threat to them, and so they concentrated on medium- and intermediate-range weapons instead. This was, after all, the area from which the Russians had been historically most threatened; and until the 1960's, this was where most of the U.S. strategic strike force was located.

In the case of Soviet ICBM forces in the 1960's, U.S. analysts did not underestimate the magnitude of the Soviet defense effort as much as they misjudged Soviet priorities. They thought the Soviets would go for small numbers of heavy missiles, would put more resources into quality than quantity, and would emphasize defensive missiles. Thus, the intelligence community projected a large number of SS-9's, low numbers of ICBM's, early deployment of MIRV's, and thousands of ABM's. Instead, the Soviets developed only a few hundred SS-9's, and about 1,000 smaller SS-11's, took several years longer to field MIRV's, and halted their ABM program after only 64 were deployed.

FOURTH. POLITICAL AND BUREAUCRATIC PRESSURE

Intelligence is not practiced in a political vacuum. Direct political interference in national intelligence estimates is rare; the reported Barody case is the only one on record. However, intelligence estimates are often highly responsive to the political needs of the client and the moment, regardless of the absence of a direct guiding hand. The Air Force's need to justify its MIRV program was one factor in its projection that the Soviets would build 10,000 ABM interceptors. Likewise, the Nixon administration's desire to deploy the Safeguard ABM system was one reason for its initial early estimate of when the Soviets would start MIRVing their ICBM's.

The CIA's underestimation of Soviet ICBM deployment coincided with Defense Secretary Robert McNamara's public testimony that the Soviets would not try to match the U.S. force in number. This was his rationale for resisting pressures to expand U.S. nuclear forces—the level of which, having been arbitrarily set at 1,000 ICBM's, was difficult to justify convincingly as opposed to some equally arbitrary higher—or, for that matter, lower—level. McNamara did not have to call up CIA analysts for them to reflect his logic in their estimates. They read the newspapers as avidly as the rest of Washington.

---

[32] Albert Wohlstetter, "Legends of the Arms Race," p. 14.

FIFTH. SPURIOUS LEARNING

Bureaucracy has been defined as an organization that cannot learn from its own mistakes.[33] The intelligence community's record in strategic forecasting bears this out. When the community reacts to previous errors, the lessons it "learns" are often spurious; the community overcompensates for its errors instead of revising the methods that produced the error. Thus, overestimates are followed by underestimates, and vice versa.

The underestimates of ICBM deployments in the 1960's were, in part, a response to the overestimates of the late 1950's. CIA officials were determined not to repeat the mistakes of the "missile gap." Similarly, the intelligence community shifted back and forth in its estimate of when the Soviets would deploy MIRV's. First they overestimated—in 1965, the expectation was 1970, then underestimated—in 1968, the projection was 1978, then overestimated again—in 1968, the projection was 1971. The actual date was 1975.

SIXTH. FAILURE TO USE SOVIET SOURCES

One charge filed against the CIA is that its estimators ignore clear statements of Soviet intentions and capabilities found often in public Soviet literature.[34] This is a difficult issue to deal with. On some occasions, reliance on Soviet statements would have made for more accurate intelligence. For example, in a public speech in July 1965, Brezhnev said that the United States was underestimating the scope of Soviet ICBM programs. This turned out to be true. Likewise, if the CIA had accepted the Soviet official's statement that the new Soviet ICBM's had demonstrated 0.27 nautical-mile CEP by 1974, the CIA would not have underestimated the rate of improvement in SS-18 and SS-19 accuracy.

Still, some of the Soviet statements are clearly false—for example, Khrushchev's boast that the Soviets had a missile that could hit a fly in outer space. Thus, such statements must be tested against available intelligence evidence. If the two do not match, should one trust the U.S. estimates of the statements or a foreign government not reputed for addiction to the truth?

Nobody has proposed a consistent set of rules for determining which Soviet statements are true and which are false. Some analysts follow the rule that any Soviet statement making the U.S.S.R. appear hostile toward the United States is a "true" representation of Soviet intentions, while any less hostile statement is a planned deception. This rule is obviously unsatisfactory for intelligence analysis.

Perhaps the CIA has been insufficiently unwilling to take on the complexities of working with Soviet documents. However, there is no guarantee that correction of this deficiency will make intelligence analysis any more accurate or unbiased.

CONCLUSION

Looking at the intelligence community from the outside, the public tends to see a machine spewing out facts. Rarely does the public see that the intelligence community is really just people; it is essentially a bureaucracy subject to the same pressures and pitfalls as other bureaucracies.

The problems faced in making accurate forecasts are, of course, grounded first in the fact that the Soviet Union is a closed society and does not grace the world's libraries with volumes of public testimony from its generals about military plans. Given the limits on factual information that an intelligence system can draw out of any closed society, the intelligence community must rely heavily on analytical capability.

This leaves the product of the intelligence community wide open to a host of human foibles—the preconceived notions, misjudgments, spurious "learning" and other human bungles discussed above. In fact, given the limited data base from which the intelligence community must work, it would not be unreasonable to expect far greater errors than have been made in the past.

With increasingly more comprehensive SALT agreements, the intelligence community was finding its tasks made easier. The SALT agreements set concrete numerical ceilings on many categories of measurement of military power. The intelligence community did not have to use a foggy crystal ball in examining every realm of Soviet activity. Instead, the SALT agreements narrowed their task; in those areas covered by SALT, analysts need only check to make certain the Soviets were adhering to their treaty pledges. Resources heretofore devoted to predicting future missile numbers could be devoted to other areas not covered by SALT.

With the death of SALT II, analysts must dust off the foggy crystal ball again. Estimates of future Soviet activity are likely to be wider off the mark than with SALT II simply because the reference points provided by the treaty have been removed. The human element is maximized. And with it, the likelihood of human foibles increases.●

CARTER'S EXPENSIVE ELECTION-YEAR BUDGET

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. ROUSSELOT. Mr. Speaker, President Carter's election year budget is the most expensive to date—literally. Retail price of the five-volume set, entitled "The Budget of the U.S. Government—Fiscal Year 1981," is $28.50—plus tax, when purchased at your neighborhood bookstore.

Another election year first. The green and white volumes—coincidentally the Carter campaign colors—contain a 117-page section entitled "Major Accomplishments." This entire section is devoted exclusively to regaling us with the successes of the Carter administration.

It briefly occurred to me to question the propriety of including such a self-congratulatory section in a public document during an election year. Then I took a closer look at its contents. With chapters entitled "Improving the Efficiency of the Federal Government" and "Solving our Nation's Energy Problem," Jimmy Carter will most likely find the document more embarrassing than the list of campaign promises he published in 1976.●

CONGRESSMAN MATTHEW F. McHUGH PROPOSES EFFECTIVE USE OF EMBARGOED GRAIN IN NEW YORK TIMES OP-ED PIECE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. DRINAN. Mr. Speaker, the admininstration's decision to embargo grain shipments to the Soviet Union has produced an unexpected opportunity to examine a plan authored by the gentleman from New York, MATTHEW F. McHUGH, and cosponsored by 96 Members of the House. The Food Security Act of 1979 would establish a Government-owned reserve of up to 4 million metric tons of wheat to be used to meet emergency food needs of developing nations. This would be an effective and sound method of insuring domestic farm prices, encouraging Third World countries to increase agricultural production, and insuring against future food emergencies.

The New York Times, on February 6, 1980, printed an excellent defense of the Food Security Act of 1979 written by the gentleman from New York, MATTHEW F. McHUGH. I urge all Members to read the article which appeared on the op-ed page. The article follows:

USING EMBARGOED GRAIN

(By MATTHEW F. McHUGH)

WASHINGTON—Now that Congress has reconvened, it must come to grips with a number of issues raised by President Carter's decision to embargo grain shipments to the Soviet Union in retaliation for the invasion of Afghanistan, including what to do with surplus grain purchased by the Government.

---

[33] Michel Crozier, *The Bureaucratic Phenomenon* (Univ. of Chicago Press, 1964).

[34] See Senate Select Committee on Intelligence, *The National Intelligence Estimates A-B Team Episode Concerning Soviet Strategic Capability and Objectives* (February 1978).

American farmers are rightly concerned that this grain could adversely influence the domestic market, exerting significant downward pressure on prices. Although a drop in farm prices could have a modest short-term impact on inflation at home, lower prices could also force many farmers to throw in the towel. Thus, it is important to isolate Government purchases from domestic markets, a policy the Carter Administration has said that it will pursue but that depends solely on administrative descretion.

If grain purchases are isolated from domestic markets, what should be done with the grain? One view that enjoys substantial public support is that the surplus should be disposed of abroad in the developing nations. At first blush, such a course may look attractive. It would allow us to continue putting pressure on the Soviet Union, help maintain crop prices at home, reduce Federal budgetary pressures, and could be justified as another gesture to help starving and malnourished people.

At a time when per-capita food production in Africa has dropped to a level 10 percent below what it was a decade ago, and when one out of every three children on that continent will die before the age of five, an appeal to our conscience may well be in order. Indeed, some of the surplus grain can be disposed of to meet emergency needs in countries such as Cambodia, East Timor, Somalia and Pakistan.

On the other hand, any systematic effort to dispose of surplus grain abroad could have devastating long-term consequences for the developing nations.

Those nations' food deficits will increase dramatically in the next two decades unless they substantially improve their own agricultural productivity. The United Nations Food and Agriculture Organization has projected a net annual grain deficit exceeding 90 million metric tons by 1985 barring such progress, and the International Food Policy Research Institute, a private Washington-based research organization, puts the figure at 120 million metric tons by 1990.

The United States will not be able to make up deficits of these magnitudes, and this is why the major thrust of our development assistance in recent years has focused on improving agricultural productivity in the developing nations themselves. Much of the progress that has resulted from this new direction could be undermined if the United States were now to resume a policy of systematically dumping surplus grain abroad.

Small farmers scattered throughout the third world would be deprived of incentives to improve production, and their governments might be encouraged to subsidize cheap food as a way of dampening public unrest.

One alternative to a policy of dumping would involve creation of a Government-owned food reserve, as recommended in testimony to the Presidential Commission on World Hunger.

This could be accomplished by early passage of the Food Security Act of 1979, legislation that has been co-sponsored by 96 members of the House.

Originally proposed by the late Senator Hubert H. Humphrey, this bill would authorize the Government to purchase and store up to four million metric tons of wheat. The reserve could be used solely to meet emergency food needs in developing countries when sufficient supplies were not available under our Food for Peace Program, and would effectively isolate from domestic markets wheat now being purchased by the Carter Administration.

Establishment of such a reserve would not solve all the problems created by the embargo. It could not, for example, be a means for storing surplus feed grain. It also does not represent a complete answer to world food problems. However, as the United Nations-sponsored World Food Conference in Rome pointed out in 1974, reserves can play a vital role in helping to assure survival under emergency conditions and in promoting some measure of political stability.

The President's decision to embargo grain is an appropriate response to Soviet aggression. Beyond demonstrating American resolve, however, the embargo provides the President and Congress with a fresh opportunity to establish a permanent food reserve. It is an opportunity that should not be missed.●

GIVING THE SMALL SAVER A TAX BREAK

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. COLEMAN. Mr. Speaker, in recent months it has become obvious that the present high rate of inflation has built into our economic system a bias favoring consumption at the expense of personal savings. The current low rates of savings indicate the time has come for a change in American economic policy. Our economic system must be altered to provide incentives, rather than disincentives, for personal savings.

Current figures indicate that a majority of the people with deposits in savings and loan associations have income of less than $25,000. Another important fact is that interest income contributes significantly to the total income of the elderly. Therefore, the provision of tax incentives for savings would benefit those Americans whose incomes are most susceptible to the ravages of inflation—those in the middle and lower income brackets, and those relying upon fixed incomes, especially the elderly. Inflation has reduced the standard of living of these persons, thus, the provision of a tax incentive for savings offers a necessary means of preventing even further decline.

The case for the provision of these incentives does not rest solely upon the direct benefits just mentioned.

I have long held the best way to avoid many of the economic problems currently demanding congressional attention, such as recession, inflation, and unemployment, would be to increase productivity in the private sector and decrease public expenditures through wasteful Federal programs. If productivity is to be encouraged, capital must be available for plant construction, remodeling, and the purchase of new machinery. A sufficient amount of total savings in the economy is necessary for business to finance the acquisition of these assets, and the decline in the savings rate is certainly a factor that has contributed to the current squeeze on capital funding.

Providing tax incentives for saving would increase the flow of money into those thrift institutions which provide funding for the housing industry. Such a flow would lower rates of interest and increase the availability of mortgage money and consequently, make it possible for all Americans to own their own homes, not just the wealthy. Rising employment in construction and related industries would also follow, easing the growth of our Nation's rate of unemployment.

In addition to insuring the availability of the capital necessary to increase productivity, the provision of tax incentives to encourage personal savings would help reduce the pressures brought on through the psychology of inflation. That psychology is predicated on the belief that the best time to purchase products is now, since inflation will make those products more expensive tomorrow than today. This excess spending by consumers is an important factor contributing to the rate of inflation. A decrease in spending because of an increase in savings would greatly ease inflationary pressures.

In conclusion, if we allow the flight from personal savings to advance unchecked, we insure that the instability which has come to characterize our system will continue. If we act now to stem that flight, if we work to encourage, rather than discourage savings, not only will we restore stability to our system, we will lay a firm foundation for future growth as well.●

HOUSE JOINT RESOLUTION 484

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. CARTER. Mr. Speaker, on January 28, 1980, I introduced House Joint Resolution 484, which proposes an amendment to our Constitution to permit voluntary prayer or meditation in public buildings.

This resolution would provide the legal basis for the restoration of voluntary prayer to public schools, an action I have long advocated.

As both a Member of this esteemed body and a former schoolteacher, I have come to believe that the inclusion of a nondenominational prayer in the daily school routine would be a beneficial addition to the education of our children.

This resolution is not offered to sanction a particular faith or denomination, nor is it intended to alienate any individual. I simply believe that the addition of such a brief daily period of prayer or meditation would serve to strengthen the moral fiber of our youth and our Nation.

I hope that you will join with me in supporting this worthy proposal.●

COMMONSENSE FROM JIM COURTER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. MICHEL. Mr. Speaker, there has been much written and said about the Soviet invasion of Afghanistan. But one of the most incisive commentaries I have read about that event was written by our colleague, JIM COURTER of New Jersey. He gets to the heart of the matter when he says: "The likelihood that a country will be friendly depends greatly upon how much it shares common values with us."

That emphasis on commonly shared values is one that has been forgotten or ignored in recent years. You can talk about human rights violations all you want, but if you don't have a commonly accepted standard by which such violations can be measured, your words are in vain. Thus, the Soviet rulers believe it is their Marxist-Leninist right to invade or deal with dissenters as they do. When we argue that this violates human rights standards they refuse to admit it.

JIM COURTER's article appeared 3 weeks ago in the Washington Star, but nothing that has happened in the interval challenges his central point. You cannot say that about many articles these days.

At this point I wish to insert in the RECORD, "Soviet Goals and American Interests," by Representative JIM COURTER, January 22, 1980:

SOVIET GOALS AND AMERICAN INTERESTS

(By Representative JIM COURTER)

Recently President Carter admitted that it took him three years to figure out one element of Soviet foreign policy: its goals. With this knowledge (which he should have learned at the U.S. Naval Academy) he responded to the Soviet invasion of Afghanistan.

Unfortunately, the response reveals that the president's quick education has not been thorough enough. His administration appears to understand neither the complexities of Soviet foreign policy nor the nature of the American interests—and how they can be secured.

American interests in Afghanistan are a matter of morality and national security. The fact is, there exists moral conflict in the world. This is because not everybody is as friendly and accommodating as our president thought.

Some people like power and privilege and are even willing to lie, steal, kill, dispatch armies and deny entire peoples their human rights to get what they want. Some countries have Gulag Archipelagos, lobotomize dissidents in "phychiatric clinics," build Berlin Walls, and deny religious freedom. Other countries do not. Some countries satellize independent nations and subject them to purges, starvation and genocide, while others do not. Boat people flee some countries and not others.

No assertion of moral relativism can excuse these evils—not if you are talking about a common morality shared by the vast majority of mankind.

To a great degree our national interests are determined by moral values. Our primary interest, of course, is our national security. To guarantee it we need unimpeded access to raw materials, energy supplies, sea lanes and, when necessary, foreign military bases. To secure such access we need friendly governments in as many countries as possible.

The likelihood that a country will be friendly depends greatly upon how much it shares common values with us. Those countries which respect human rights and the independence of other nations tend to be friendly. Those whose rulers flagrantly violate human rights and enslave other nations tend to see us as a threat to their legitimacy.

From this perspective, one can see that the moral values of nations tend to coincide with their security interests. It is here, then, that moral conflict becomes to a large degree political and strategic conflict.

When Afghanistan ceases to be independent and becomes a Soviet satellite, not only has another nation lost its human rights, but the Free World has lost another member. Soviet forces move closer to the Persian Gulf and Pakistan where they can continue their longstanding efforts to foment separatism and bring down another basically pro-Western government.

The Soviets are encouraged to believe that aggression is a riskless activity which they can continue to pursue with impunity. And neighboring countries learn that since they have no reliable support from fellow free nations, it is worth their while to appease the U.S.S.R. rather than risk its hostility. The result is "Finlandization," whereby any policy of the neighboring country is effectively subject to Soviet veto.

Such consequences coincide with neither our national interests nor our moral values. If we are to avoid them, we must penalize the Soviets for their aggression.

President Carter's recent moves are not enough. The Soviets, sensing the new mood in the United States, could not have decided to invade without reconciling themselves to some acceptable costs.

The administration has imposed just those costs. The point of American policy, however, should be to impose costs that are unacceptable enough so as to deter such Soviet cost-benefit calculations. Such actions are those that contribute to the failure of their undertaking.

The dispatch of military equipment in meaningful quantities to the Afghan nationalists is the only reasonable action that can prevent a Soviet success. If we refrain, we will only risk more trouble for ourselves, our values and our allies.●

ENERGY: NEMESIS OF THE 1980'S

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1980

● Mr. GILMAN. Mr. Speaker, I rise to draw to the attention of my colleagues the pressing issue of this day and age—the energy crisis.

During the 1970's, some 100-odd years after the creation of the American oil industry, domestic production peaked and then began its rapid decline. Yet the demand for oil continues to rise at an ever-alarming rate. That demand could only be met by importing more and more oil from the Middle East, which was tantamount to correlating dependence and, therefore, correlating vulnerability.

In 1973 and 1974 our country experienced its first energy shock. For the first time, Arab oil producers embargoed the United States and reduced overall output to a critical level. OPEC countries stopped negotiating price with our oil companies and, instead, simply slapped on a price tag of their own and offered it on a take-it-or-leave-it basis. Due to our dependence on oil, we took it at a price roughly eight times higher than 5 years before.

Yet today, as we embark on our journey into the 1980's even after the second oil shock that accompanied the revolution in Iran and the major price hikes by the OPEC cartel on the average of once every few months, the cause and actual implications of the energy crisis have yet to be taken as seriously as they should be here in the United States.

Substantial, sudden increases in oil prices are inflicting serious blows to our economy, exacerbating inflation, straining the international monetary system and reducing national income. These escalating oil prices dip into the pocket of every citizen. And there is no end in sight to such price rises.

Algeria, Venezuela, Nigeria, and Indonesia all announced crude oil price increases this week on top of the other countries which stated during the last meeting of the OPEC cartel in December 1979 that they would not support a ceiling on the price of crude and would demand whatever the market could bear. A case in point is Algeria, which raised its price this week by $3 a barrel to a total of $34 per barrel, while the other countries followed suit with across-the-board price hikes. Iran has also raised its price to above the average of OPEC prices, thereby adding even further financial burden to its European consumers.

Supplies and demand appear to have taken a turn for the better, although undoubtedly only temporarily. Stocks of crude oil stood at 345.3 million barrels on January 25, 1980, which is 1.2 percent higher than on the preceding Friday and 13.7 percent higher than on the comparable Friday a year ago. Distillate stocks stood at 217.6 million barrels last Friday, down 0.8 percent from the stock level the previous Friday but 19.5 percent above the stock level of a year ago. Residual fuel oil stocks stood at 93.5 million barrels last Friday, which is 12.2 percent above the level of residual fuel stocks a year ago.

Imports of crude oil and petroleum products together averaged 8.4 million barrels a day for the 4 weeks ending January 25, 1980, down 4.5 percent from the average a year ago. Refined products imported averaged 2 million barrels a day for the same 4-week period, down 8.3 percent from the average for the comparable period last year. For a complete breakdown of U.S. refinery production on a monthly and yearly basis, I would like to annex to my remarks a chart that outlines the years 1977 to 1980, up until January 25.

U.S. REFINERY PRODUCTION

[Millions of barrels a day]

Monthly

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1977:												
Motor gasoline	6.9	6.8	6.9	7.0	6.9	7.1	7.2	7.2	7.1	6.9	7.1	7.1
Jet fuel	.9	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.9	1.0
Kerosene	.3	.3	.2	.1	.1	.1	.2	.1	.1	.2	.2	.2
Distillate fuel	3.4	3.7	3.2	3.0	3.1	3.2	3.2	3.3	3.3	3.4	3.3	3.3
Residual fuel	1.9	2.0	1.7	1.7	1.7	1.7	1.7	1.6	1.8	1.7	1.7	1.8
1978:												
Motor gasoline	6.9	6.6	6.8	6.7	7.1	7.2	7.3	7.5	7.4	7.2	7.6	7.8
Jet fuel	.9	1.0	1.0	1.0	1.0	1.0	.9	1.0	1.0	.9	1.0	1.0
Kerosene	.2	.2	.2	.1	.1	.1	.1	.1	.1	.2	.2	.2
Distillate fuel	3.1	3.0	3.0	3.0	3.3	3.1	3.1	3.3	3.2	3.3	3.4	3.4
Residual fuel	1.9	1.8	1.8	1.5	1.7	1.6	1.6	1.6	1.6	1.6	1.7	1.8
1979:												
Motor gasoline	7.3	6.9	6.7	6.8	6.8	7.0	7.0	6.9	6.6	6.5	6.7	
Jet fuel	1.0	1.0	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	
Kerosene	.2	.3	.2	.2	.2	.2	.2	.2	.2	.2	.2	
Distillate fuel	3.0	2.9	3.0	2.9	3.1	3.1	3.3	3.3	3.3	3.2	3.2	
Residual fuel	1.9	1.8	1.7	1.6	1.6	1.5	1.6	1.6	1.6	1.6	1.7	

4-week-ending average

1979–80	10/5	10/12	10/19	10/26	11/2	11/9	11/16	11/23	11/30
Motor gasoline	6.7	6.7	6.6	6.5	6.6	6.6	6.6	6.6	6.8
Jet fuel	1.0	1.0	1.0	1.1	1.1	1.0	1.0	1.0	1.0
Kerosene	.3	.2	.2	.2	.3	.2	.3	.2	.2
Distillate fuel	3.3	3.3	3.2	3.2	3.2	3.2	3.1	3.1	3.2
Residual fuel	1.7	1.6	1.6	1.6	1.6	1.6	1.7	1.7	1.8
	12/7	12/14	12/21	12/28	1/4	1/11	1/18	1/25	
Motor gasoline	6.8	6.8	6.9	6.9	7.1	7.2	7.2	7.2	
Jet fuel	1.1	1.1	1.1	1.1	1.2	1.1	1.1	1.1	
Kerosene	.2	.2	.3	.2	.3	.2	.2	.2	
Distillate fuel	3.2	3.2	3.2	3.2	3.2	3.2	3.1	3.0	
Residual fuel	1.8	1.8	1.9	1.9	1.9	2.0	2.0	1.9	

In addition to the problem of price and supply, we are confronted with excessive profiteering that is so strongly evident among our American oil companies, who have demonstrated more of an interest in raising revenues than in having our Nation become less vulnerable to foreign oil dependency. A case in point is the Exxon Corp. which made more profits last year than any other American industrial concern. Several other oil companies also recorded sharp increases in their 1979 earnings, following this pattern. I would also like to annex to the RECORD a chart which illustrates the 1978 and 1979 net earnings for the 10 major oil companies.

QUARTERLY OIL COMPANY PROFITS [1]

[In millions of dollars]

	1978				1979				Percent changes in profits [2]			
	1st	2d	3d	4th	1st	2d	3d	4th	1st	2d	3d	4th
Exxon	695	690	525	850	955	830	1,145	1,365	37	20	118	61
Mobil	241	293	258	315	437	404	595	514	81	38	131	72
Texaco	170	157	197	328	307	365	612	534	81	132	211	63
Standard (Calif.)	243	256	274	316	347	412	576	524	43	61	110	66
Gulf	155	176	211	237	249	291	416	366	61	65	97	54
Standard (Ind.)	274	294	292	217	349	401	434	369	28	36	49	70
Atlantic-Richfield	150	211	221	223	242	260	320	343	61	24	45	54
Shell	193	179	249	192	224	277	293	331	16	55	18	72
Continental	37	154	106	155	162	216	247	191	343	40	133	23
Tenneco	110	118	103	131	125	154	132	164	14	31	28	25
Sun	84	101	109	108	120	159	174	223	43	57	64	107
Phillips	171	149	119	280	177	215	193	306	4	44	62	10
Occidental	32	(68)	19	....	88	113	186	....	174	....	864	
Union	79	87	93	124	114	128	106	152	44	47	14	23
Ashland	16	44	62	....	27	395	53	....	75	798	(15)	
Amerada-Hess	32	35	31	....	116	115	119	....	258	234	290	
Cities Service	55	40	53	30	79	77	86	106	42	93	62	253
Marathon	50	51	50	74	81	85	80	54	61	67	60	(27)
Standard (Ohio)	42	118	126	165	168	201	366	451	303	70	190	173
Getty	76	56	96	102	108	140	174	183	42	150	81	80

[1] Net income figures for the year may be derived by adding the totals for the 4 quarters together. Figures are provided by the companies and may be slightly revised from earlier estimates.

[2] The percent change figures compare quarterly net income for 1979 against quarterly net income for the same quarter in 1978.

A new phenemon trailing not too far behind these problems is the problem of refining and distribution. The expansion of the OPEC cartel into refining as well as production and sale of crude oil has the potential of becoming a double threat to the interests of the United States. OPEC, as well as North African countries, have displayed an interest in building refineries for the express purpose of exporting gasoline and other refined products to this country. Although this would provide our country with the possibility of obtaining refined petroleum products during a possible shortage, it would also give our small refineries in the United States a great deal of competition. To encourage small refiners to stay in their business, the Department of Energy designed an entitlement program in 1977 which essentially set an import quota on foreign refined oil. This explains the dilemma which confronted our Nation wherein Exxon and Shell had to operate their refineries located in the Netherland Antilles at only 60-percent capacity, while here in the United States, the supplies were dwindling because of our lack of an adequate refining capacity and its ultimate production of gas lines stretching across the country. Obviously, there is something wrong with a statute or program that restricts the importing of foreign refined petroleum products during a time of crisis. If there is a shortage of gas and home heating fuel, we should not restrict the level of imported refined products, rather, we should see to it that there are more incentives provided for the increased production of our own refining capacity while at the same time affording a market for foreign products.

In sum, we as a nation must be concerned with securing an adequate supply of oil at a reasonable price, while at the same time developing alternative sources of energy in order to reduce our dependency upon foreign oil and to limit our political vulnerability.

One way of achieving that goal of energy independence is through the windfall profit tax legislation presently pending in Congress. It would not only set aside funds from the high profits of our oil companies, but would distribute that money into the research and development programs so desperately needed to wean us from our dependency on foreign oil. Having passed both Houses, the windfall profit bill is still bogged down in conference committee with major differences still to be ironed out. The conferees have agreed on a final target figure of $227.3 billion but have not determined how to split the tax burden among the different types of oil and among the major and independent oil companies.

A suitable windfall profit tax is urgently needed. I have long advocated a windfall profit tax, having introduced a similar measure several years ago when it was not popular to speak of such matters. I am hopeful that the conferees will be able to expeditiously come to a compromise so that both Houses can go about designing the various research programs awaiting to be funded by such a tax.

Mr. Speaker, I urge my colleagues to give top priority to resolving our Nation's energy problems. A sound national energy policy will enhance our economy and will strengthen our national security.●

SENATE—*Friday, February 8, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, our Father, help us all through this day so to live that we may bring help to others, credit to ourselves and to the name we bear, and joy to those that love us, and to Thee.

Help us to be cheerful when things go wrong; persevering when things are difficult; serene when things are irritating.

Enable us to be helpful to those in difficulties, kind to those in need, sympathetic to those whose hearts are sore and sad.

Grant that nothing may make us lose self-control; nothing may take away our joy; nothing may ruffle our peace; nothing may make us bitter toward any person. So grant that through this day and beyond all with whom we work, and all those whom we meet, may see in us the reflection of the Master. This we pray in Thy holy name. Amen.

—WILLIAM BARCLAY, adapted.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 8, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, for the moment, I reserve my time.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. STEVENS. Mr. President, I inquire of the majority leader, it is my understanding that the Senator from Virginia has a 15-minute order. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Would it be agreeable to the majority leader that we both reserve our time and allow the Senator from Virginia to proceed with his statement, since he is here, and take up our calendar at 9:15 or 9:17?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that be done.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The ACTING PRESIDENT pro tempore. Under the previous order, Senator HARRY F. BYRD, JR., is recognized for 15 minutes.

THE NEW BUDGET: MORE RED INK

Mr. HARRY F. BYRD, JR. Mr. President, President Carter's budget message of last month represents a total lack of discipline and a total surrender to inflation. He advocates a $68 billion increase in spending.

In addition, this budget, with its huge deficit, would violate the law. In 1978, Congress approved—and President Carter himself signed into law—legislation which I sponsored prohibiting a Federal deficit in 1981 or thereafter.

Today, continuing a discussion of aspects of the budget which I have conducted each day—this is now the 10th day—since its issuance on January 28, I want to call the attention of my colleagues to the national debt and the interest on the debt.

Yesterday, I pointed out that the official Government budget—called the unified budget—includes the surpluses in trust funds. The general purpose funds of the Government—called Federal funds—therefore are usually deeper in deficit than indicated by the unified budget. For the current year, for example, the unified deficit will be $40 billion, but the Federal funds deficit will be $58 billion.

It is the Federal funds deficit which largely determines the annual increase in the national debt. For the current fiscal year, the debt will grow by $59 billion, from $834 billion on September 30, 1979, to $893 billion on September 30, 1980.

Over the last 10 years, the Government has consistently run large Federal deficits. A peak was reached in 1976, with a $69 billion deficit, and the average for 1971 through 1980 is $44 billion.

As the debt has risen, so has the interest on the debt. Debt interest is $74 billion in the current year and will rise to $80 billion in 1981.

Interest on the debt is now the largest Federal funds line item in the budget. The only larger Federal expenditure is social security payments, which are financed by a trust fund.

Debt interest in the coming year will equal 24 cents of every individual and corporate income tax dollar paid into the Treasury.

The national debt has doubled since 1972.

The massive debt, moving steadily toward the staggering total of a trillion dollars, must be financed by massive borrowing. In the current year, the Government requires $59 billion in new financing and about $200 billion to roll over old debt. This reverses the availability of this money to the private sector, so Government borrowing makes money scarce and exerts enormous upward pressure on interest rates. Interest rates are now at a historic high.

Government debt, swollen each year by huge new deficits is a massive burden upon the economy. It is a burden which can only grow heavier until the Government puts its financial house in order.

I emphasize that the interest charges in the national debt in the new Carter budget is $80 billion.

To put it in perspective, it is more than one-half as great as our entire national defense expenditures.

I ask unanimous consent to have printed in the RECORD a table showing the national debt, by years, during the 20th century and also a table showing the interest on the debt.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FEBRUARY 1890.

The national debt in the 20th century[1]

(Totals at the end of fiscal years)

[Rounded to the nearest billion dollars]

1900	$1
1901	1
1902	1
1903	1
1904	1
1905	1
1906	1
1907	1
1908	1
1909	1
1910	1
1911	1
1912	1
1913	1
1914	1
1915	1
1916	1
1917	3
1918	12
1919	25
1920	24
1921	24
1922	23
1923	22
1924	21
1925	21
1926	20
1927	19

● This "bullet" symbol identifies statements or inserti ons which are not spoken by the Member on the floor.

1928	18
1929	17
1930	16
1931	17
1932	19
1933	23
1934	27
1935	29
1936	34
1937	36
1938	37
1939	48
1940	51
1941	58
1942	79
1943	143
1944	204
1945	260
1946	271
1947	257
1948	252
1949	253
1950	257
1951	255
1952	259
1953	266
1954	271
1955	274
1956	273
1957	272
1958	280
1959	288
1960	291
1961	293
1962	303
1963	311
1964	317
1965	323
1966	329
1967	341
1968	370
1969	367
1970	383
1971	409
1972	437
1973	468
1974	486
1975	544
1976	632
1977	709
1978	780
1979	834
1980[2]	893
1981[2]	939

[1] Gross Federal Debt.

[2] Estimated Figure.

Source: Office of Management and Budget.

FEBRUARY 1980

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT FOR FISCAL YEARS 1959–1981, INCLUSIVE

[In billions of dollars]

[Prepared by U.S. Senator Harry F. Byrd, Jr., of Virginia]

Year	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest[1]
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.6
1970	143.2	156.3	−13.1	20.0
1971	133.8	163.7	−29.9	21.6
1972	148.8	178.1	−29.3	22.5
1973	161.4	187.0	−25.6	24.8
1974	181.2	199.9	−18.7	30.0
1975	187.5	240.1	−52.6	33.5
1976	201.1	269.9	−68.8	37.7
1977	241.3	295.9	−54.5	42.6
1978	270.5	332.0	−61.5	49.3
1979	316.3	362.4	−46.1	60.3
1980[2]	347.8	405.6	−57.8	73.7
1981[2]	383.2	429.7	−46.5	79.8

[1] Interest on gross Federal debt.

[2] Estimated figures.

Source: Office of Management and Budget.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEWART). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FOR 20 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 9:17 a.m., recessed until 9:37 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEWART).

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Pennsylvania (Mr. HEINZ) has three resolutions which have been cleared on both sides of the aisle. I ask unanimous consent that he be permitted to offer them en bloc, that they be considered en bloc, and that there be a time limit thereon of not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

RESOLUTIONS COMMENDING THE PITTSBURGH STEELERS, CHUCK NOLL, AND ART ROONEY, SR.

Mr. HEINZ. Mr. President, I send three resolutions to the desk and in accordance with the unanimous-consent request I ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will state the first resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 363) commending the Pittsburgh Steelers.

The PRESIDING OFFICER. The clerk will state the second resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 364) commending Chuck Noll.

The PRESIDING OFFICER. The clerk will state the third resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 365) commending Art Rooney, Sr.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the resolutions, en bloc.

Mr. HEINZ. Mr. President, as everyone no doubt knows by now, the Pittsburgh Steelers recently won the Super Bowl and the world championship of football. To commend this achievement, I am introducing these three resolutions in honor of the Steelers, their coach, Chuck Noll, and their owner, Art Rooney, Sr.

No team won the Super Bowl more than twice until the Pittsburgh Steelers captured their third title last year.

This year, in Super Bowl XIV, the Pittsburgh Steelers won their fourth Super Bowl by defeating another fine team, the Los Angeles Rams, by a score of 31 to 19.

Many of us who were privileged to watch that game found it a real thriller. And I am told that more people watched that game than any other previous football game, and indeed more than any other previous show ever seen on television.

The Pittsburgh Steelers are now commonly considered by many sports authorities the "Team of the Decade" for the 1970's. In fact, many people consider them the greatest professional football team of all time. And as a Pittsburgher I, of course, feel the same way.

It is true, Mr. President, that the Pittsburgh Steelers have displayed not only athletic excellence but also a very deep commitment to the well-being of their community and my hometown, Pittsburgh.

Therefore, it seems only appropriate that the Senate congratulate the Pittsburgh Steelers for their fourth Super Bowl victory and for a decade of excellence.

Chuck Noll, the head coach of the Steelers, is the most successful coach in the recent history of professional football.

He has coached the Pittsburgh Steelers to four super bowl victories, an unprecedented feat in earning the world championship twice as many times as any other coach.

Chuck Noll's teams have won over 100 games in the National Football League, and he has transformed what had been a team with a losing record, prior to his arrival, into an unprecedented football power.

Chuck has earned professional success and national admiration through his qualities of leadership, fairness, and charity.

His determination, his victorious leadership, and his unmatched championship tradition, therefore, deserve the highest commendation.

Art Rooney, Sr., is really the dean of football. He is the owner of the Pittsburgh Steelers. He has been prominent in the American athletic community for over 60 years.

He first became the owner of the Steelers in 1933, and I know of practically no one who would disagree with the assertion that he is the most popular and most admired team owner in all of professional sports today.

Art Rooney, Sr., is a remarkable man, and he was unfailingly and unsparingly served his team and his community through years of adversity.

Now he and his Pittsburgh Steelers are enjoying an unprecedented era of triumph, just as their and my home city of Pittsburgh has emerged as a center of progress and prosperity.

Therefore, I think that the Senate should commend through this resolution Art Rooney, Sr., for his devotion to his team and to his city and for his spirit that has persevered through adversity over many years.

Mr. President, I might just add that we Pittsburghers consider ourselves deeply fortunate to have been so successful on the athletic field over the last 12 months. The Pittsburgh Pirates played a magnificent series with the Baltimore Orioles, and now we have had this fine Super Bowl, at which both teams and their fans may take pride.

I think any city may consider itself lucky to have two such championship teams and to be referred to by many as the home of champions.

I would be remiss, though, as a Senator from Pennsylvania, if I did not mention that Philadelphia, the city of brotherly love, is not doing badly either in this department. The Philadelphia Flyers had a wonderful winning streak previously unsurpassed of 35 games. The Philadelphia '76ers, another excellent basketball team, are neck and neck with the Boston Celtics in the NBA.

I think, if I may speak as a Senator from the Commonwealth of Pennsylvania, that we in Pennsylvania take great pride in our teams. We are proud not only of the professional teams that I have mentioned, but also of the tradition of athletic competition that is so important in our high schools, in our colleges, and to all the citizens and children of citizens in the Commonwealth who participate in sports.

It is, I think, meaningful to remember that the old adage, "a sound mind in a sound body" is a true one. If more Americans would take the opportunity to engage in physical fitness activities, I have no doubt that our physical and mental health as a Nation could only be the better for it.

Mr. President, I thank my colleagues for this opportunity to offer these resolutions, and I move the adoption of the resolutions.

The resolutions were agreed to en bloc.

The preambles were agreed to en bloc.

The resolutions (S. Res. 363, S. Res. 364, and S. Res. 365), together with their preambles, are as follows:

S. Res. 363

Whereas the Super Bowl is played each year to determine the world champion football team;

Whereas no team in the history of this event has won the championship more than twice except the Pittsburgh Steelers;

Whereas in Super Bowl XIV, the Pittsburgh Steelers defeated another fine team, the Los Angeles Rams, by a score of 31 to 19 and won their fourth Super Bowl;

Whereas the Pittsburgh Steelers are commonly considered the "Team of the Decade" for the 1970's, and considered by many the greatest professional football team of all time;

Whereas the Pittsburgh Steelers have displayed not only athletic excellence, but also a deep commitment to the well-being of their community: Now therefore, be it

Resolved, That the Senate of the United States joins with the city of Pittsburgh and with Steeler fans everywhere in congratulating the Pittsburgh Steelers for their fourth Super Bowl victory and for a decade of excellence.

S. Res. 364

Whereas Chuck Noll is the most successful Head Coach in the recent history of professional football:

Whereas he has coached the Pittsburgh Steelers to four Super Bowl world championships, twice as many as any other coach;

Whereas Chuck Noll's teams have won over 100 games in the National Football League, and he has transformed what had been a losing team into an unprecedented power;

Whereas Chuck Noll has earned professional success and national admiration through his qualities of leadership, fairness, and charity: Now, therefore be it

Resolved, That the Senate of the United States commends Chuck Noll for his determination, his victorious leadership, and his unmatched championship tradition.

S. Res. 365

Whereas Art Rooney Sr. has been prominent in the American athletic community for over 60 years;

Whereas he has served as owner of the Pittsburgh Steelers professional football team since 1933, and is considered by many the most popular and admired team owner in all professional sports today;

Whereas Art Rooney Sr. unfailingly and unsparingly served his team and his community through years of adversity;

Whereas Art Rooney Sr. and his Pittsburgh Steelers are now enjoying an unprecedented era of triumph, just as their home city of Pittsburgh has emerged as a center of progress and prosperity: Now, therefore, be it

Resolved, That the Senate of the United States commends Art Rooney Sr. for his devotion to his team and his city, and for his spirit that has persevered through adversity and has guided them to victory.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for 1 hour, and that Senators may speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may speak during the period for the transition of routine morning business up to 20 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT— H.R. 3757

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 519, H.R. 3757, the Channel Islands National Park bill, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: 1 hour equally divided on the bill, to be controlled by Mr. BUMPERS and Mr. HATFIELD; 30 minutes on any amendment; 30 minutes on an amendment by Mr. CHURCH dealing with omitted lands along the Snake River; 1 hour on an amendment by Mr. HATFIELD on Yguenna Head; 1 hour equally divided on an amendment by Mr. HATFIELD on Presidential birthplace; 1 hour, equally divided on an amendment by Mr. HATFIELD on the Georgetown waterfront; 1 hour equally divided on an amendment by Mr. HOLLINGS on land for docking facilities for Fort Sumter; 30 minutes on an amendment by Mr. CRANSTON dealing with the whale artifacts collection for the Golden Gate National Recreation Area; 30 minutes on an amendment by Mr. CRANSTON dealing with the enlargement of the Santa Monica Mountains Advisory Committee; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate by the Chair or if the Chair entertains discussion thereon; and that the agreement be in the usual form; providing further that germaneness is to apply to the committee substitute.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. In other words, Mr. President, the amendments must be germane to the committee substitute.

Mr. WALLOP. Mr. President, I have no objection, although I have some wonderment that the Channel Islands, off the coast of California near Santa Barbara, have suddenly brought with them a lot of things from coast to coast.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Each day gives cause for much wonderment about many bills that are called up, especially when it comes to time agreements.

Mr. WALLOP. It does, indeed.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have been told that a Senator is coming to the Chamber to speak. I now understand that he will not be prepared to speak until a little later.

RECESS UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 a.m. today.

There being on objection, the Senate, at 10:41 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GLENN).

NEED FOR PROMPT ACTION ON ANY DECISION FOR AN ACREAGE DIVERSION PROGRAM FOR THE 1980 CROPS OF WHEAT AND FEEDGRAIN

Mr. THURMOND. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GLENN). The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 366) relating to the need for prompt action on any decision for an acreage diversion program for the 1980 crops of wheat and feedgrain.

Mr. THURMOND. Mr. President, I might say that this has been cleared with the chairman of the Agriculture, Nutrition, and Forestry Committee (Mr. TALMADGE), the ranking member (Mr. HELMS), with the majority leader, and with our side of the aisle.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, it has not been cleared with the majority leader. The Senator is just mistaken. The matter has not yet finally been cleared with the majority leader.

Mr. THURMOND. Mr. President, pardon me. I understood there was no objection. I understood the Senator's aide had cleared it.

Mr. ROBERT C. BYRD. Mr. President, I am now told that Senator TALMADGE has cleared it.

Has the Senator asked unanimous consent to proceed to its immediate consideration?

Mr. THURMOND. Yes.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the resolution.

The Senate proceeded to consider the resolution.

Mr. THURMOND. Mr. President, many of our Nation's farmers are today in a state of unnecessary anguish. With the initial fears created by the administration's announcement of the suspension of grain sales to the Soviet Union still fresh in their minds, they must now face even more uncertainty.

The March 1 date for the administration's announcement of a decision as to whether or not there will be an acreage diversion program implemented in 1980 is much too late to be of assistance to farmers throughout the Southeastern United States. Many of these farmers begin planting corn in late February. Orders for seed, fertilizer, pesticides, and other necessary items for planting must be placed several weeks prior to the anticipated planting date to insure adequate time for delivery. How can these farmers be expected to make rational planting and marketing decisions without knowledge of the administration's plans regarding a crop diversion program in 1980?

Mr. President, on several occasions I have expressed my support of the suspension of grain sales to the Soviet Union. However, I have also strongly voiced my views that farmers should not bear a disproportionate share of the burden. It seems to me that forcing them to make critical planting decisions—decisions that have the potential of bankrupting many farmers should they seriously miscalculate—is clearly unfair and unnecessary.

Mr. President, this is a very real and serious problem. In 1978, the value of corn produced for grain purposes in South Carolina exceeded $68 million. The farmers of South Carolina cannot afford to make decisions of such great magnitude in the state of suspense they find themselves in today.

Findings of a survey, completed just prior to the announcement of the suspension of grain sales to the Soviet Union, indicate that South Carolina farmers planned to increase corn acreage by 19 percent in 1980. Today, these farmers have no idea of what they should do.

Several days ago, I sent a letter to Secretary of Agriculture Bergland, which other members of the South Carolina congressional delegation cosigned, urging a prompt announcement of any decisions pertaining to acreage diversion programs in 1980. Today I ask all my colleagues in the Senate to join me in expressing the urgency of announcing such decisions as soon as possible, and I am now introducing an appropriate Senate resolution for this purpose.

The administration has committed itself to insuring that the American farmers not be forced to bear a disproportionate share of the effects of the grain embargo. Yet, Southeastern farmers are today being forced to do just that. This situation is most unfair and cannot be allowed to continue.

Mr. President, I ask unanimous consent that my letter to Secretary Bergland be printed at this point in the RECORD. I also ask unanimous consent that the text of this resolution be printed in the RECORD following these remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., January 31, 1980.

Hon. BOB BERGLAND,
Secretary of Agriculture,
Washington, D.C.

DEAR SECRETARY BERGLAND: The present March 1st deadline for announcing any decisions concerning acreage diversion programs for the 1980 crops of feed grain and wheat is a point of great concern to the South Carolina Congressional Delegation.

Farmers in South Carolina, as well as in the rest of the Souhteast, are currently attempting to formulate planting and marketing strategies for the 1980 crop year. In fact, many of these farmers normally begin the planting of corn in late February. In order for supplies to arrive at the appropriate time, the farmers must place their orders with farm suppliers several weeks in advance of their anticipated planting date.

The farmers of South Carolina and the Southeast have been placed in a very awkward position as a result of the late announcement date for a decision on acreage diversion programs in 1980. We feel that placing these farmers in such a state of uncertainty is completely unfair. They cannot and should not be expected to make rational planting and marketing decisions under the existing conditions.

In view of these facts, we strongly urge you to announce a decision on any acreage diversion programs for the 1980 crops of feed grains and wheat as soon as possible. Furthermore, we urge you to implement any programs necessary to protect producers of other agricultural commodities that may be adversely affected by the Administration's recent decision not to issue export licenses for any agricultural products to the Soviet Union.

With kindest regards.

MENDEL DAVIS,
BUTLER DERRICK,
JOHN W. JENRETTE, Jr.,
STROM THURMOND,
CARROLL A. CAMPBELL, Jr.,
FLOYD SPENCE,
KENNETH L. HOLLAND.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 366) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 366

Whereas American farmers have been adversely affected by the suspension of grain sales to the Soviet Union; and

Whereas the future effects of the suspension on the sale of grain to the Soviet Union are uncertain; and

Whereas farmers in the southeastern part of the United States need to begin ordering supplies, preparing their acreage for planting, and making other necessary plans for the 1980 crops of wheat and feed grains; and

Whereas American farmers cannot make rational planting and marketing decisions with respect to the 1980 crops of wheat and feed grains without adequate information concerning the executive branch's plans for an acreage diversion program for such crops: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should announce promptly his decision on whether there will be an acreage diversion program in effect for the 1980 crops of wheat and feed grains.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 2284—NATIONAL INTELLIGENCE ACT OF 1980

Mr. HUDDLESTON. Mr. President, I am joining with the Senator from Indiana (Mr. BAYH), the chairman of the Intelligence Committee, Senator GOLDWATER, the vice chairman, and Senator MATHIAS, to introduce the National Intelligence Act of 1980.

Senator MATHIAS, as vice chairman of the Subcommittee on Charters and Guidelines, and I, as chairman, are acting at the direction of the full committee. Shortly after President Carter was inaugurated, the full committee met with the President and agreed to work together to write a legislative charter governing the intelligence activities of the United States. We all agreed that a consensus was desirable between the executive and legislative branches in order to write a statute that would have the widest possible support. The National Intelligence Act represents endless hours of work over the past 3 years by members of the Intelligence Committee, the intelligence community, the Justice Department, and the White House. This effort has been thoroughly bipartisan; regulation of intelligence activity is much too vital to our national interest to be lost in partisan wrangling.

With only one major exception which I shall discuss later, the committee and the executive branch have indeed reached a consensus on the conduct of intelligence activities. The positions in this bill are not mine or the Intelligence Committee's; they represent the joint product of the executive branch and the subcommittee. In his state of the Union speech, the President called for "quick passage of a charter to define clearly the legal authority and accountability of our intelligence agencies." The National Intelligence Act is that charter. For the first time in history, a nation has set down in law what it expects from its intelligence agencies.

The National Security Act of 1947, the current "charter" for intelligence activities, is vague and cursory. As Clark Clifford, a primary author of that legislation, told this committee, that act was considered interim legislation that would be replaced once the Executive and Congress better knew what was required. Here, we have given the intelligence community authority to do what needs to be done.

We set forth the mission of the principal agencies in as much detail as needed. The role of the National Security Council in defining intelligence policies is clearly spelled out. As under the President's Executive order, a central figure—here called the Director of National Intelligence—is given the authority to coordinate the foreign intelligence functions of separate entities of the intelligence community including the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency.

Specific authority is given to these agencies to carry out the kinds of intelligence activities which are required in today's world. This includes collection of foreign intelligence through both technical and human sources. It includes engaging in counterintelligence and counterterrorism activities. And finally, it also includes, when important to the security of the United States, the conduct of special activities, or covert action.

Although there are restrictions and limitations on intelligence activities, the act authorizes all intelligence activities which the agencies believe are necessary. Unwarranted restraint on the CIA is removed. For example, the Hughes-Ryan amendment which requires admittedly excessive reporting to Congress on covert operations overseas would be modified to limit prior notice only to the intelligence oversight committees. Similarly, CIA has complained of unnecessary burdens caused by Freedom of Information Act requests. Yet all agree that the FOIA has helped make the CIA accountable to the American people. In the context of comprehensive legislation, the accountability of the CIA is insured by standards and procedures, congressional oversight, and the annual public report of the Director of National Intelligence. Thus, we have been able to modify CIA's responsibilities under the FOIA in the context of a comprehensive charter; CIA would have to furnish information only to Americans asking about themselves or to those requesting finished intelligence reports.

Instead of restrictions, the act stresses a system of oversight and accountability. No more could any intelligence agency conceivably be out of control. By insuring accountability, we hope also to insure that decisions are made by the right people, at the right time. There is not excessive detail here, either. The President, for example, is required to approve only two types of activities which by their nature require the highest-level attention—covert actions and using covert techniques to obtain essential foreign intelligence from an American who is not a spy.

In investigating Americans, the agencies are told what is proper and what is not. Clear instructions to the intelligence agencies are necessary to demonstrate that intelligence activities are fully supported by the Congress and the executive branch. Restraints on activities affecting Americans are necessary and, at the same time, these restraints are designed not to affect the agencies' major task of collecting and analyzing foreign intelligence.

Under the provisions of this bill, there is a presumption that Americans will not be investigated unless they are acting on behalf of a foreign power or committing espionage. Searches and seizures of the possessions of Americans are not permitted without a court order, although I might add that the committee should take a further look at the issue of surreptitious entries. One exception to the general presumption against collecting intelligence on innocent Americans is made in the charter. In extraordinary cases, when an American person possesses information which the President believes to be essential to the national security, the President may approve such collection using "covert techniques," a term which I hope will be construed broadly. I have some doubts about the propriety of such a provision because it permits the Government to collect information by intrusive means on innocent Americans, but the executive branch has consistently maintained that this authority is needed for unforeseen circumstances where there is a grave danger to the national security and there is no other way to secure the needed information.

The foundation of this charter enterprise is congressional oversight. The minimum necessary to insure that secret activities will be conducted in accord with the Constitution is effective oversight. Because intelligence operations are secret, they are not subject to public scrutiny and debate, as is normal foreign policy. Thus, the intelligence committees must play key roles as representatives for the American people in overseeing intelligence. Full access to timely information and prior notice of significant activities are the prerequisite for intelligence legislation. Without it there can be no assurance that careful scrutiny of intelligence activities will be given by the legislative branch.

The bill introduced today acknowledges the committee's rights to be fully and currently informed and to receive access to necessary information. Of course, we understand the grave responsibility we have undertaken to act on behalf of the Congress and to protect intelligence secrets. In the 3 years the Intelligence Committee has been in existence, we have achieved a reputation for keeping intelligence secrets and in fact have been congratulated by President Carter for our record in this area.

The one fundamental disagreement with the executive branch in this entire charter in fact deals with oversight language; it is this disagreement which has prevented introduction of a wholly agreed bill. The bill contains a provision requiring prior notice to the Intelligence Committees of covert activities. We have also provided for a waiver of the usual prior notice procedure in extraordinary circumstances; prior notice would be provided only to the two intelligence committees' chairmen and vice chairmen and also to the Speaker, the Senate majority leader, and the two minority leaders. As of this moment we have not reached an agreement on this issue with the administration, and thus the Intelligence Committee directed us to introduce the bill without executive branch agreement on this particular issue.

The committee believes that at times covert operations are necessary, as does the President. At the same time, investigations of the covert action program carried out by the U.S. Government since 1947 and the experience of the Senate Select Committee on Intelligence to date gives strong support to the view that covert actions pose great risks to the United States if they go wrong, or if they are ill-conceived or ill-advised. Such high risk activities that can seriously affect the interests of the United States, its policies, or its reputation require the involvement of the Congress through its oversight committees. At the same time, this committee believes that it is in the national interest to inform the Congress prior to undertaking covert activities. The consideration and advice of the committees would further the best interests of the United States. It is in the President's interest to have the advice from the two intelligence committees, even though approval is not required. I would like to emphasize that, Mr. President.

We are not seeking and never have sought to give these committees either a veto or a required approval before such actions as might be anticipated and initiated by the executive branch. Congress, through the committees, should share with the President the responsibility to represent the public interest.

The President has sent a letter which I will have printed in the RECORD directly after this statement—acknowledging that the administration and the subcommittee are in substantial agreement with this bill but that there are a few differences. One of these differences centers around a criminal statute designed to punish those who disclose the names of undercover officers. Like many others, nothing makes my blood boil more than seeing a former CIA employee traipsing about the world pointing fingers at people who are risking their lives for their country.

However, in the National Intelligence Act, the statute is aimed at those who have violated their trust, who have received authorized access to this information through their jobs. The administration would prefer to cover anyone who discloses these names; but for reasons relating to constitutional considerations, thus far we have felt that should concentrate our efforts on those who have abused their trust.

I am hopeful that recent world events have given intelligence charters a major impetus. These comprehensive charters would actually help the intelligence agencies by giving them statutory authority for a clearly defined mission. We have been studying what is needed for 3 years. We are ready to get these charters before Congress and move quickly on them. Hearings on the charter are tentatively scheduled to begin February 21. I can understand the desire of the CIA and of the President to remove any unnecessary restrictions from our intelligence activities, but this should be done in the context of comprehensive legislation as far as possible. I know the President agrees with this. If the impetus for charter legislation is expended only on short-term needs, this might undercut the chances for passage of comprehensive charter legislation containing provisions that could very well prove more important to the strength and effectiveness of our intelligence system in the long-run.

Other bills have been introduced which are intended to achieve many if not all of the aims of the National Intelligence Act. The Senate Select Committee on Intelligence is to consider those bills, together with this one, and the full committee's position will become clear in hearings and markup. On behalf of the Intelligence Committee, I can say to you today that legislation will be reported out of the Intelligence Committee this spring which removes any unwarranted restraints on CIA and at the same time promises proper congressional oversight.

Mr. President, I have the following letter from the White House, signed by the President:

DEAR MR. CHAIRMAN: Over the past two years, this Administration and the Senate Select Committee on Intelligence have worked closely and diligently together in an effort to agree on a comprehensive legislative charter for the nation's intelligence community. Our goal has been to provide for a strong, effective intelligence effort and at the same time protect individual rights and liberties.

As our January 30 meeting confirmed, agreement has been reached on most of the important issues. I would like to commend the members of the Committee, and especially Senator Huddleston and his Subcommittee, for their outstanding contribution to this effort. I am especially pleased that we have reached virtually complete agreement on the organization of the intelligence community and on the authorizations and restrictions pertaining to intelligence collection and special activities.

Although a few issues remain to be resolved, I urge that we move ahead on this important legislative endeavor. The substantial agreement we have already achieved should facilitate resolution of remaining differences in a manner that will not bar or deter necessary action in extraordinary and difficult circumstances. In the course of our work together, we have overcome a number of misconceptions and misapprehensions. We have demonstrated that the system of oversight works as a safeguard against abuse. For these reasons, I am confident that we can resolve the remaining issues so as to protect the capacity of our government to act, while ensuring that our crucial intelligence services are operating within the bounds of law and propriety.

In closing, I wish to emphasize my support for a comprehensive intelligence charter, and for the majority of the provisions contained in your submission. Only a comprehensive charter will give the American intelligence community the kind of endorsement it needs and deserves from the American people. I also want to express again my appreciation for the Committee's assistance in this effort. I trust that our disagreements can be resolved as the legislative process continues.

Sincerely,

JIMMY CARTER.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Intelligence Act of 1980".

TITLE I—AUTHORIZATION FOR INTELLIGENCE ACTIVITIES

Part A—FINDINGS; PURPOSES; DEFINITIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress hereby makes the following findings:

(1) Intelligence activities should provide timely, accurate, and relevant information and analysis necessary for the conduct of the foreign relations and the protection of the national security of the United States.

(2) The collection and production of intelligence should be conducted in a manner that avoids waste and unnecessary duplication of effort within the intelligence community.

(3) Supervision and control are necessary to ensure that intelligence activities are in support of the foreign relations of the United States and do not abridge rights protected by the Constitution and laws of the United States.

STATEMENT OF PURPOSES

SEC. 102. It is the purpose of this Act—

(1) to authorize the intelligence activities necessary for the conduct of the foreign relations and the protection of the national security of the United States;

(2) to replace the provisions of the National Security Act of 1947 governing intelligence activities;

(3) to ensure that the intelligence activities of the United States are conducted in a manner consistent with United States defense and foreign policy interests and are properly and effectively directed, regulated, coordinated, and administered;

(4) to ensure that the Government of the United States is provided, in the most efficient manner, with accurate, relevant, and timely information and analysis so that sound and informed decisions may be made regarding the security and vital interests of the United States and so that the United States may be protected against foreign intelligence activities, international terrorist activities, and other forms of hostile action by foreign powers, organizations, or their agents, or by international terrorists, directed against the United States; and

(5) to ensure that the entities of the intelligence community are accountable to the President, the Congress, and the people of the United States and that the intelligence activities of the United States are conducted in a manner consistent with the Constitution and laws of the United States.

DEFINITIONS

SEC. 103. As used in this title—

(1) The term "communications security" means the protection resulting from any measure taken to deny unauthorized persons information derived from the telecommunications of the United States related to the national security, or from any measure taken to ensure the authenticity of such telecommunications.

(2) The term "counterintelligence" means information pertaining to the capabilities, intentions, or activities of any foreign power, organization, or person in the fields of espionage, other clandestine intelligence activity, covert action, assassination, or sabotage.

(3) The term "counterintelligence activity" means—

(A) the collection, retention, processing, analysis, and dissemination of counterintelligence; and

(B) any other activity, except for personnel, document, physical and communications security programs, undertaken to counter or protect against the espionage, other clandestine intelligence activity, covert action, assassination, or sabotage, or similar activities of a foreign government.

(4) The term "counterterrorism intelligence" means information pertaining to the capabilities, intentions, or activities of any foreign power, organization or person related to international terrorist activity.

(5) The term "counterterrorism intelligence activity" means—

(A) the collection, retention, processing, analysis, or dissemination of counterterrorism intelligence; and

(B) any other activity undertaken by an entity of the intelligence community to counter or protect against international terrorist activity.

(6) The term "cover" means any means by which the true identity or relationship with an entity of the intelligence community of any activity, officer, employee, or agent of such entity, or of a related corporation or organization, is disguised or concealed.

(7) The terms "departments and agencies" and "department or agency" mean any department, agency, bureau, independent establishment, or wholly owned corporation of the Government of the United States.

(8) The term "foreign intelligence" means information pertaining to the capabilities, intentions or activities of any foreign state, government, organization, association, or individual, or information on the foreign aspects of narcotics production and trafficking, but does not include counterintelligence, counter terrorism intelligence, or tactical intelligence.

(9) The term "foreign intelligence activity" means the collection, retention, processing, analysis, or dissemination of foreign intelligence.

(10) The term "intelligence" means foreign intelligence, counterintelligence, counterterrorism intelligence, and information relating to or resulting from any intelligence activity.

(11) The term "intelligence activity" means—

(A) any foreign intelligence activity;

(B) any counterintelligence activity;

(C) any counterterrorism intelligence activity;

(D) any special activity.

(12 The terms "intelligence community" and "entity of the intelligence community" mean—

(A) the Office of the Director of National Intelligence;

(B) the Central Intelligence Agency;

(C) the Defense Intelligence Agency;

(D) the National Security Agency;

(E) the offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

(F) the intelligence components of the military services;

(G) the intelligence components of the Federal Bureau of Investigation;

(H) the Bureau of Intelligence and Research of the Department of State;

(I) the foreign intelligence components of the Department of the Treasury;

(J) the foreign intelligence components of the Department of Energy.

(K) the successor to any of the agencies, offices, components, or bureaus named in clauses (A) through (J); and

(L) such other components of the departments and agencies, to the extent determined by the President, as may be engaged in intelligence activities.

(13) The term "international terrorist activity" means any activity which—

(A) involves—

(i) killing, causing serious bodily harm to, or kidnapping one or more individuals;

(ii) violent destruction of property;

(iii) an attempt or credible threat to commit any act described in clause (i) or (ii); and

(B) appears intended to endanger a protectee of the Secret Service or the Department of State, or to further political, social, or economic goals by—

(i) intimidating or coercing a civilian population or any segment thereof;

(ii) influencing the policy of a government or international organization by intimidation or coercion; or

(iii) obtaining widespread publicity for a group or its cause; and

(C) occurs totally outside the United States, or transcends national boundaries in terms of—

(i) the means by which its objective is accomplished;

(ii) the civilian population, government, or international organization it appears intended to coerce or intimidate, or

(iii) the locale in which its perpetrators operate or seek asylum.

(14) The term "national intelligence" means foreign intelligence which is collected, retained, processed, or disseminated by the entities of the intelligence community for use in the formulation and direction of national policy.

(15) The term "national intelligence activity" means (A) any special activity, (B) any foreign intelligence activity the primary purpose of which is to collect or produce national intelligence, and (C) any foreign intelligence activity designated by the President as a national intelligence activity.

(16) The term "national intelligence budget" means the budget prepared by the Director of National Intelligence pursuant to section 308 of this Act and includes all funds for—

(A) the programs of the Central Intelligence Agency and of the Office of the Director of National Intelligence;

(B) the Consolidated Cryptologic Program, the programs of the offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs, and the General Defense Intelligence Program, except such elements of these programs as the Director of National Intelligence and the Secretary of Defense agree should be excluded; and

(C) any other program or programs of any department or agency designated by the President or jointly by the Director of National Intelligence and the head of such department or agency.

(17) The term "proprietary" means a sole proprietorship, partnership, corporation, other commercial entity organized in the United States, or other entity organized abroad that is owned or controlled by an entity of the intelligence community but whose relationship to that entity is not officially acknowledged.

(18) The term "special activity" means an activity conducted abroad which is (A) designed to further official United States programs and policies abroad, and (B) planned and executed so that the role of the United States Government is not apparent or acknowledged publicly. Such term does not include any conterintelligence or counterterrorism intelligence activity or the collection, retention, processing, dissemination and analysis of intelligence or related support functions, nor any diplomatic activity of the United States.

(19) The term "tactical intelligence" means information pertaining to the capabilities, intentions, or activities of any foreign state, government organization, association, or individual required by the armed forces of the United States to maintain their readiness for combat operations and to support the planning and conduct of combat operations by the United States.

(20) The term "United States", when used in a geographical sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(21) The term "United States person" means—

(A) a citizen of the United States;

(B) an alien lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act), except that such alien may be presumed to have lost status as a United States person for purposes of this Act after one year of continuous residence outside the United States until information is obtained which indicates an intent on the part of such alien to return to the United States as a permanent resident alien;

(C) any unincorporated association organized in the United States or a substantial number of whose members are citizens of the United States or aliens lawfully admitted for permanent residence and which is not openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments, except that an unincorporated association outside the United States may be presumed not to be a United States person until information is obtained which indicates the contrary; or

(D) any corporation which is incorporated in the United States and which is not openly acknowledged by a foreign government or governments to be directed and controlled by such government or governments, except that a corporation or corporate subsidiary incorporated abroad or controlled by a foreign power abroad is not a United States person.

Part B—GENERAL INTELLIGENCE AUTHORITIES

AUTHORIZATION FOR INTELLIGENCE ACTIVITIES

SEC. 111. (a) The entities of the intelligence community are authorized to conduct intelligence activities, under the direction and review of the National Security Council, but only in accordance with the provisions of this Act.

(b) Nothing in this title shall be construed to prohibit any department or agency from collecting, retaining, processing, analyzing, or disseminating information if such department or agency is otherwise authorized to do so.

(c) Except as expressly provided, nothing in this Act shall be construed to prohibit or affect any activities of any department or agency that are not intelligence activities.

(d) Except as expressly provided, nothing in this Act is intended to affect or alter existing responsibilities under law, including those established under 22 U.S.C. 2680a.

(e) Nothing in this Act shall be construed to authorize any entity of the intelligence community to conduct any activity for the purpose of depriving any person of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

NATIONAL SECURITY COUNCIL

SEC. 112. (a) The National Security Council shall provide the highest level review of, guidance for, and direction to the conduct of all intelligence activities. The responsibilities of the National Security Council, or such committees of the National Security Council as may be established by the President, shall be to—

(1) establish requirements and priorities for national intelligence;

(2) review the responsiveness of program and budget proposals to intelligence requirements and priorities;

(3) review the quality of national intelligence products and develop appropriate policy guidance;

(4) develop policy, standards, and doctrine for the conduct of counterintelligence and counterterrorism intelligence activities;

(5) advise and assist the President in the formulation of policy with respect to communications security, including the relationship between the communications security and intelligence activities of the United States;

(6) perform its responsibilities under Part C of this title and under Sec. 213 of this Act; and

(b) The President may—

(1) establish such committees of the National Security Council as may be necessary to discharge its responsibilities under this Act;

(2) determine the membership of such committees, consistent with this Act, including designation of a chairman and requirements for attendance of members;

(3) prescribe such other standards, procedures, and specific duties as may be necessary and appropriate for the National Security Council and such committees thereof to discharge their responsibilities under this Act.

PART C—AUTHORIZATION AND PROCEDURES FOR SPECIAL ACTIVITIES AND OTHER SENSITIVE INTELLIGENCE ACTIVITIES

PURPOSE

SEC. 121. The purpose of this Part is to ensure that special activities are undertaken only in support of important national security interests of the United States when overt or less sensitive alternatives would not be likely to achieve the intended objective;

when such activities are consistent with the aims, values, and policies of the United States; and when the anticipated benefits of such activities justify the foreseeable risks and likely consequences.

CONDUCT OF SPECIAL ACTIVITIES

SEC. 122. (a) Special activities may be conducted only by the Central Intelligence Agency. The Department of Defense may also conduct special activities in accordance with section 123(e). Any department or agency may conduct special activities when the President determines that the intended United States objective is more likely to be achieved.

(b) Support for any special activity may be provided by any department or agency if the President determines for activities involving substantial resources, risks, or consequences, or if the National Security Council or a committee thereof determines for other activities, that such support is necessary.

AUTHORIZATION FOR SPECIAL ACTIVITIES

SEC. 123. Special activities shall be authorized only as follows:

(a) Special activities shall be authorized by the President.

(1) Authorization for any special activity that involves substantial resources, risks, or consequences shall require a finding by the President that each such special activity is important to the national security of the United States and consistent with the purposes of this Part.

(2) Authorization for any other special activities may be by category and shall require a finding by the President that such category of special activities is important to the national security of the United States and consistent with the purposes of this Part. The National Security Council or a committee thereof designated by the President for that purpose shall be responsible for the supervision of each such activity and shall ensure that it is consistent with the Presidential finding.

(b) Authorization by the President for special activities shall be preceded by a review by the National Security Council or a committee thereof designated by the President for that purpose. Such review shall include an assessment and a recommendation as to whether the activity or category of activities is consistent with the purposes of this Part.

Such recommendation shall include the views of any member who disagrees with the majority of the Council or committee thereof.

(c) No decision or recommendation to the President relating to a special activity may be made by the National Security Council or a committee thereof unless the following officers, or if unavailable their representatives, were present: The Secretary of Defense, the Secretary of State, the Attorney General, and the Director of National Intelligence.

(d) Any special activity which lasts more than a year or which is substantially changed in form or purpose must be reaffirmed by the President under subsection (a) and reviewed by the National Security Council or a committee thereof under subsection (b).

(e) The President may delegate presidential authorities and responsibilities under this section to the Secretary of Defense with respect to special activities conducted by the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution, 87 Stat. 555, to the extent necessary to carry out the activity that is the subject of the report.

AUTHORIZATION FOR OTHER SENSITIVE INTELLIGENCE ACTIVITIES

SEC. 124. The President shall establish procedures for the approval of sensitive foreign intelligence, counterintelligence, or counterterrorism intelligence activities which may require review or findings by the President, the National Security Council, a committee thereof, the Director of National Intelligence, the head of an entity of the intelligence community, or any other designated official.

CONGRESSIONAL NOTIFICATION

SEC. 125. Each special activity authorized under section 123(a)(1) and each category of special activities authorized under section 123(a)(2) shall be considered significant anticipated intelligence activities for the purposes of the requirement of section 142 of this Act, except that such prior notice may be limited for a period of forty-eight hours to the chairmen and ranking minority members of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate if the President determines it is essential to meet extraordinary circumstances affecting vital interests of the United States. Such committees shall be fully informed under section 142 of this Act upon expiration of the forty-eight hour period.

Part D—LIMITATIONS ON INTELLIGENCE AUTHORITIES

PROHIBITION ON ASSASSINATION

SEC. 131. No person employed by or acting on behalf of the United States Government shall engage or conspire to engage in assassination.

INTEGRITY OF PRIVATE INSTITUTIONS OF THE UNITED STATES

SEC. 132. (a) The President shall establish public guidelines for the intelligence activities of the entities of the intelligence community to protect the integrity and independence of private institutions of the United States in accordance with constitutional principles.

(b) No entity of the intelligence community may use, for the purpose of establishing or maintaining cover for any officer of that entity to engage in foreign intelligence activities or special activities, any affiliation, real or ostensible, with any United States religious organization, United States media organization, United States educational institution, the Peace Corps, or any United States Government program designed to promote education, the arts, humanities, or cultural affairs through international exchanges.

(c) Nothing in this section shall be construed to prohibit voluntary contacts or the voluntary exchange of information between any person and any entity of the intelligence community.

(d) The President may waive any or all of the provisions of this section during any period in which the United States is engaged in war declared by Act of Congress, or during any period covered by a report from the President to the Congress under the War Powers Resolution, 87 Stat. 555, to the extent necessary to carry out the activity that is the subject of the report. The President shall notify the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence in a timely manner of such a waiver and inform those committees of the facts and circumstances requiring such a waiver.

RESTRICTIONS ON COVERT DOMESTIC PUBLICATIONS

SEC. 133. No entity of the intelligence community may pay for or otherwise knowingly cause or support distribution of any book, magazine, article, periodical, film, or video or audio tape, for the purpose of influencing public opinion within the United States, unless the involvement of the United States Government is acknowledged.

RESTRICTIONS ON CONTRACTING

SEC. 134. Entity sponsorship of a contract or arrangement for the provision of goods or services with any United States organization may be concealed from such organization if—

(a) the contract or arrangement is a routine service contract, procurement contract, or transaction carried out under the Economy Act, 38 Stat. 1084; or

(b) the organization is not an educational institution and it is determined, pursuant to procedures approved by the Attorney General, that such concealment is necessary for intelligence activities authorized by this Act.

ACTIVITIES UNDERTAKEN INDIRECTLY

SEC. 135. No entity of the intelligence community and no employee of an entity of the intelligence community may request or otherwise knowingly encourage, directly or indirectly, an individual, organization, or foreign government to engage in any activity on behalf of the United States Government in which such entity of the intelligence community is prohibited by this Act from engaging; *Provided however*, That this restriction shall not prohibit any entity of the intelligence community from requesting a department or agency of the United States Government to engage in an activity that is within the authorized functions of the department or agency to which the request is made.

Part E—OVERSIGHT AND ACCOUNTABILITY

INTELLIGENCE OVERSIGHT BOARD; REPORTING ON VIOLATIONS; DISCIPLINARY PROCEDURES

SEC. 141. (a) The President shall appoint a board to be known as the Intelligence Oversight Board (hereinafter referred to as the "Board") whose members shall be selected from outside the Government.

(b) The Board is authorized to employ staff to assist in carrying out its functions.

(c) As prescribed by the President, the Board shall—

(1) function to provide the President independent oversight of the intelligence community, in order to report to the President on questions of legality and propriety;

(2) be given access to all information relevant to its functions which is in the possession, custody or control of any entity of the intelligence community; and

(3) conduct such inquiries into the activities of any entity of the intelligence community as the Board deems necessary to perform its functions.

(d) Each entity of the intelligence community shall have a general counsel or a person designated to fulfill the responsibilities of a general counsel who shall serve as legal advisor to the head of that entity and shall have the responsibility to—

(1) review activities of that entity to determine whether such activities are in conformity with the Constitution and laws of the United States, Executive orders, Presidential directives and memoranda, and the rules, regulations, and policies of that entity;

(2) review all rules and regulations of that entity, including but not limited to any rule or regulation proposed to implement the provisions of this Act, to ensure that such rules and regulations are in conformity with the Constitution and laws of the United States, Executive orders, and Presidential directives and memoranda;

(3) report to the Board any intelligence matters as specified by the President; and

(4) perform such additional duties as the head of that entity may prescribe, consistent with the provisions of this Act.

(e) Each entity of the intelligence community shall have an inspector general or a person designated to fulfill the responsibilities of an inspector general who shall have the responsibility to—

(1) investigate all activities of that entity to determine in what respects authorized functions may more effectively be performed and to determine the facts and circumstances of any alleged wrongdoing;

(2) advise the head of that entity and, with respect to matters of legality, the general counsel of that entity of findings regarding activities of that entity;

(3) report to the Board any intelligence matters as specified by the President; and

(4) perform such other investigations as the head of that entity deems necessary, consistent with the provisions of this Act.

(f) The Attorney General or a designee shall—

(1) report, in a timely manner, to the Board any intelligence activity that involves a question as to whether there has been a significant violation of law and which has not been previously reported to the Attorney General by the Board;

(2) report to the President in a timely manner any intelligence activities that involve serious questions of law;

(3) report to the President, the Board, and the heads of the appropriate entities of the intelligence community, in a timely manner, decisions made or actions taken in response to reports from such entities concerning intelligence activities; and

(4) keep the Board and general counsels of entities of the intelligence community informed regarding legal opinions of the Department of Justice affecting the operations of the intelligence community.

(g) The head of each entity of the intelligence community shall—

(1) ensure that the inspector general and the general counsel of that entity have access to any information necessary to perform their functions under this Act;

(2) provide to the Attorney General, in accordance with applicable law, any information required by the Attorney General to fulfill the Attorney General's responsibilities under this Act;

(3) report to the Attorney General, pursuant to section 535 of title 28, United States Code, immediately upon discovery, evidence of possible violation of Federal criminal law by any person employed by, assigned to, or acting for, such entity; and

(4) report to the Attorney General evidence of possible violations by any other person of those Federal criminal laws specified in guidelines adopted by the Attorney General.

(h) All officers and employees of each entity of the intelligence community shall cooperate fully with the Board, the inspector general and general counsel of that entity, and the Attorney General in the conduct of their authorized functions, and in the reporting of any possible violation of law to the head of the entity and the inspector general or general counsel of that entity or the Board. The head of each entity of the intelligence community shall ensure such full cooperation. No officer or employee who so reports in good faith or so cooperates shall be subject to adverse personnel action solely on account of such reporting or cooperation.

(i) (1) The head of each entity of the intelligence community shall be empowered to take disciplinary action against any person employed by that entity for any action or omission that violates the provisions of this Act or any guidelines, procedures, or regulations established pursuant to this Act, including any regulation, procedure, or obligation to provide for personnel, document, communications, or physical security or to protect intelligence sources and methods from unauthorized disclosure. Notwithstanding any other provision of law, such action may include—

(A) suspension from employment without pay for a period not to exceed 180 days;

(B) reduction in salary or grade, or both;

(C) dismissal from employment; or

(D) a combination of (A) and (B).

(2) Before such disciplinary action is taken under this subsection against persons employed by or assigned to an entity of the intelligence community, such persons shall have the opportunity to present evidence on their behalf.

(3) Nothing contained in this subsection shall be construed to affect or limit the authority of the head of an entity of the intelligence community to terminate the employment of or take disciplinary action against any person employed by or assigned to that entity under any provision of law other than this subsection.

CONGRESSIONAL OVERSIGHT

SEC. 142. (a) Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the head of each entity of the intelligence community shall—

(1) keep the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, that entity of the intelligence community, including any significant anticipated intelligence activity; but the foregoing provision shall not require approval of such committees as a condition precedent to the initiation of any such anticipated intelligence activity;

(2) furnish any information or material concerning intelligence activities in the possession, custody, or control of the head of the relevant entity of the intelligence community or in the possession, custody, or control of any person paid by such entity whenever requested by the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence; and

(3) report in a timely fashion to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

(b) The head of each entity of the intelligence community shall maintain a complete record of all legal authorities, published regulations, and published instructions pertaining to the intelligence activities of that entity.

(c) The head of each entity of the intelligence community shall establish procedures to ensure that a record is maintained and preserved of each authorization or approval required by law, regulation or procedures under section 212 with respect to any intelligence activity.

(d) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be furnished copies of all record schedules, which the entities of the intelligence community are required by law to furnish to the Archivist of the United States, including any modifications, amendments or supplements, at such time as these schedules, modifications, amendments, or supplements are submitted to the Archivist for approval.

(e) The President may establish such procedures as the President determines may be necessary to carry out the provisions of this section.

CONGRESSIONAL COMMITTEE REPORTS; DISCLOSURE PROVISIONS

SEC. 143. (a) The House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report, at least annually, to their respective Houses on the nature and extent of the intelligence activities of the United States. Each committee shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities which requires or should have the attention of such House or such committee or committees. In making such reports, the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall do so in a manner consistent with the protection of the national security interests of the United States.

(b) No information or material provided to the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence relating to the intelligence activities of any department or agency that has been classified under established security procedures or that was submitted by the Executive Branch with the request that such information or material be kept confidential shall be made public by the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence or any member thereof, except in accordance with the provisions of House Resolution 658 of the Ninety-Fifth Congress in the case of the House Permanent Select Committee on Intelligence and its members, or in accordance with the provisions of Senate Resolution 400 of the Ninety-Fourth Congress in the case of the Senate Select Committee on Intelligence and its members.

(c) (1) The House Permanent Select Committee on Intelligence shall, under such regulations as that committee shall prescribe, make any information described in subsection (a) or (b) available to any other committee or any other Member of the House. Whenever the House Permanent Select Committee on Intelligence makes such information available, that committee shall keep a written record showing which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives such information under this paragraph shall disclose such information except in accordance with the provisions of House Resolution 658 of the Ninety-Fifth Congress.

(2) The Senate Select Committee on Intelligence may, under such regulations as that committee shall prescribe to protect the confidentiality of such information, make any information described in subsection (a) or (b) available to any other committee or any other Member of the Senate. Whenever the Senate Select Committee on Intelligence makes such information available, the committee shall keep a written record showing which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this paragraph, shall disclose such information except in accordance with the provisions of Senate Resolution 400 of the Ninety-Fourth Congress.

(d) No employee of the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence, or of any committee to which information is provided pursuant to subsection (c), or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the House or the Senate, as the case may be, and of such committees as to the security of such information during and after the period of his employment or contractual agreement with such committees; and (2) received an appropropriate security clearance as determined by such committee in consultation with the Director of National Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committees in consultation with the Director of National Intelligence be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committees.

(e) The provisions of subsections (a), (b), and (c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (as far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

REQUIREMENTS RELATING TO APPROPRIATIONS FOR NATIONAL INTELLIGENCE, AND COUNTERINTELLIGENCE, AND COUNTERTERRERISM INTELLIGENCE ACTIVITIES

SEC. 144. No funds may be appropriated for any fiscal year beginning after September 30, 1980, for the purpose of carrying out any national intelligence activity, counterintelligence activity, or counterterrorism intelligence activity by any entity of the intelligence community unless funds for such activity have been previously authorized by legislation enacted during the same fiscal year or during one of the two immediately preceding fiscal years, except that this limitation shall not apply to funds appropriated by any continuing resolution or required by pay raises.

AUDITS AND REVIEWS BY THE COMPTROLLER GENERAL

SEC. 145. (a) All funds appropriated to the Office of the Director, all funds appropriated to entities of the intelligence community, and all intelligence activities conducted by entities of the intelligence community, and information and materials relating thereto, shall be subject to financial and program management audit and review by the Comptroller General of the United States, upon the request of the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence.

(b) Any other committee of the Congress may request financial and program management audits and reviews by the Comptroller General of the United States of any intelligence activity over which such committee has legislative jurisdiction, but only through and with the approval of the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence. The results of any such audit or review shall be submitted to (1) the House Permanent Select Committee on Intelligence, in the case of any audit or review requested by a committee of the House of Representatives, and shall be made available by such select committee, in accordance with and subject to the provisions of section 143 of this Act, to the committee of the House of Representatives which requested such audit or review, and (2) the Senate Select Committee on Intelligence in the case of any audit or review requested by a committee of the Senate, and shall be made available by such select committee, in accordance with and subject to the provisions of section 143 of this Act, to the committee of the Senate which requested such audit or review.

(c) Any audit or review of any intelligence activity authorized in subsection (a) or (b) above shall be conducted in accordance with such security standards as may be prescribed by the Director.

(d) Notwithstanding the foregoing provisions of this subsection, the Director may exempt from any such audit and review any funds expended for a particular intelligence activity, and the activity for which such funds are expended, if the Director (1) determines such exemption to be essential to protect the security of the United States, and (2) notifies the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence of such exemption.

TITLE II—STANDARDS FOR INTELLIGENCE ACTIVITIES

PART A—PURPOSES AND DEFINITIONS

STATEMENT OF PURPOSES

SEC. 201. It is the purpose of this title—

(a) to provide statutory authorization for activities of entities of the intelligence community that concern United States persons and that are necessary for the conduct of the foreign relations or the protection of the national security of the United States;

(b) to establish statutory standards for such activities and effective means to ensure that such activities are conducted in accordance with those standards; and

(c) to delineate responsibilities of government officials for ensuring that such activities are conducted in accordance with the Constitution and laws of the United States.

DEFINITIONS

SEC. 202. (a) The definitions in title I of this Act shall apply to this title. References to law within this title are to the laws of the United States.

(b) As used in this title—

(1) "Collecting agency" means, with respect to information, the department or agency that collects the information.

(2) "Covert technique" means any extraordinary technique and any other category or type of collection activity that is designated by the President for the purpose of protecting privacy and constitutional rights from significant intrusion.

(3) "Directed collection" means obtaining information that concerns a United States person by requesting or directing any person to acquire such information through exploiting or developing a relationship with a United States person without disclosing that the information will be conveyed to an intelligence entity. This term does not include placing of employees under section 214(b).

(4) "Employee" means a person employed by, assigned to, or acting for an entity of the intelligence community.

(5) "Extraordinary techniques" means foreign electronic surveillance and foreign physical search and any other technique directed against a United States person for which a warrant would be required if undertaken for law enforcement purposes in the United States, but does not include electronic surveillance or physical search under the Foreign Intelligence Search and Surveillance Act, 92 Stat. 1783, as amended.

(6) "Foreign electronic surveillance" means the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire, oral, or radio communication of a particular, known United States person who is outside the United States, if the contents are acquired by intentionally targeting that United States person, or the use of an electronic, mechanical, or other surveillance device to monitor the activities of a particular, known United States person who is outside the United States, in circumstances in which a court order would be required under the Foreign Intelligence Search and Surveillance Act, 92 Stat. 1783, as amended, if undertaken within the United States, but does not include electronic surveillance as defined in that Act.

(7) "Foreign physical search" means any search directed against a United States person who is outside the United States or the property of a United States person that is located outside the United States and any opening of mail outside the United States and outside United States postal channels of a known United States person under circumstances in which a court order under the Foreign Intelligence Search and Surveillance Act, 92 Stat. 1783, as amended, would be required in the United States.

(8) "Foreign power" means—

(A) a foreign government or any component thereof, whether or not recognized by the United States;

(B) a faction of a foreign nation or nations not substantially composed of United States persons;

(C) an entity that is known to be directed and controlled by a foreign government or governments;

(D) a group engaged in international terrorist activity or activities in preparation therefor;

(E) a foreign-based political organization, not substantially composed of United States persons.

(9) "Mail cover" means systematic and deliberate inspection and recording of information appearing on the exterior of envelopes in the mails.

(10) "Minimization procedures", with respect to extraordinary techniques, means specific procedures which shall be adopted by the Attorney General in consultation with the head of an entity of the intelligence community and the Director of National Intelligence—

(A) that are reasonably designed in light of the purpose of a particular technique to minimize the acquisition and retention and to prohibit the dissemination of nonpublicly available information concerning unconsenting United States persons, consistent with the need of the United States to obtain, produce and disseminate intelligence; and

(B) under which foreign intelligence that is not publicly available may be disseminated in a manner that identifies a United States person, without such person's consent, only if such person's identity is necessary to understand that foreign intelligence or to assess its importance, provided that information that is evidence of a crime may be disseminated for law enforcement purposes.

(11) "Physical surveillance" means an unconsented, systematic and deliberate observation of a person by any means on a continuing basis, or unconsented acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat, through any means not involving electronic surveillance.

PART B—AUTHORITY AND STANDARDS FOR ACTIVITIES THAT CONCERN UNITED STATES PERSONS

AUTHORITY FOR ACTIVITIES THAT CONCERN UNITED STATES PERSONS

SEC. 211. (a) An entity of the intelligence community may engage in the following activities only in accordance with this title and only to fulfill a lawful function of that entity:

(1) collection, retention, or dissemination of intelligence concerning United States persons;

(2) any other intelligence activities directed against United States persons;

(3) collection, retention, or dissemination of information concerning United States persons who are targets of clandestine intelligence gathering activities of a foreign government;

(4) collection, retention, or dissemination of information concerning United States persons to determine the suitability or credibility of potential sources of intelligence or operational assistance;

(5) collection, retention, or dissemination of information concerning United States persons to provide personnel, document, communications or physical security for intelligence activities.

(b) Information concerning any United States person may be collected, retained and disseminated, and intelligence activities may be directed against any United States person, by an entity of the intelligence community using any technique with the consent of that person.

(c) Publicly available information concerning any United States person may be collected by an entity of the intelligence community when such information is relevant to a lawful function of that entity, and may be retained and disseminated for lawful governmental purposes.

(d) Information concerning any United States person may be retained and disseminated by an entity of the intelligence community if the information does not identify that person.

(e) Information concerning a United States person collected by a means or in a manner prohibited by this Act shall be destroyed as soon as feasible after recognition and may not be disseminated unless the head of the collecting agency or a designee determines that the information—

(1) should be retained for purposes of oversight, accountability or redress;

(2) evidences danger to the physical safety of any person, provided that dissemination is limited to that deemed necessary to protect against such danger and the Attorney General or a designee is notified in a timely manner; or

(3) is required by law to be retained or disseminated for any administrative, civil or criminal proceeding of which the collecting agency has prior notice, provided that dissemination is limited to that necessary for such proceeding.

(f) Nothing in this Act shall affect the use by an entity of the intelligence community of security guards, access controls, requirements for identification credentials, or inspection of material carried by persons entering or leaving its installations as measures to protect the security of its personnel, installations, activities, equipment or classified information.

(g) Nothing in this Act shall be construed to prohibit voluntary provision of information to an entity of the intelligence community by any person not employed by or assigned to that entity.

(h) Nothing in this Part shall prohibit, limit, or otherwise affect activities of any department or agency other than activities described in subsection (a).

PROCEDURES

SEC. 212. (a) Except as authorized by subsections 211(b) through (d) of this title, activities described in subsection 211(a) may not be conducted by an entity of the intelligence community unless permitted by procedures established by the head of that entity and approved by the Attorney General. Those procedures shall—

(1) protect constitutional rights and privacy;

(2) designate officials authorized to initiate or approve particular activities, provide for periodic review of activities at timely intervals by designated officials, and ensure that records are maintained of all approvals required by such procedures and this title for particular activities;

(3) be reasonably designed in light of the purpose of a particular technique to minimize the acquisition and retention and to prohibit the dissemination of information concerning United States persons, consistent with the need of the United States to obtain, produce and disseminate information for lawful governmental purposes;

(4) prohibit dissemination of foreign intelligence in a manner that identifies a United States person unless such person's identity is necessary to understand that intelligence or assess its importance, provided that information that is evidence of a crime may be disseminated for law enforcement purposes;

(5) prescribe reasonable requirements for the scope, intensity and duration of particular types of activities taking into account the nature and quality of information on which the activity is based and the importance of the intended United States objective;

(6) ensure that activities to collect information that are directed against any United States person are conducted with minimal intrusion consistent with the need to acquire information of the nature, reliability and timeliness that is required;

(7) implement the determinations by the President regarding covert techniques under section 202(b)(2); and

(8) govern the conduct of employees under cover engaged in activities within the United States or directed against United States persons abroad.

(b) The head of the entity shall make such procedures and any changes thereto available to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence a reasonable time prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such procedures and the reason for their becoming effective immediately.

COLLECTION OF FOREIGN INTELLIGENCE

SEC. 213. (a) Collection of foreign intelligence by means of covert techniques shall not be directed against United States persons, except in the course of collection of counterintelligence or counterterrorism intelligence, or in extraordinary cases when authorized in accordance with this section.

(b)(1) Except as provided in subsection (c), approval for any collection of foreign intelligence by means of covert techniques directed against a United States person shall be based on a finding by the President that extraordinary circumstances require such collection to acquire foreign intelligence that is essential to the national security of the United States and that cannot reasonably be acquired by other means.

(2) Approval for any such collection shall be preceded by a review by the National Security Council or a committee thereof designated by the President for that purpose. No recommendation to the President relating to any such collection may be made unless the following officers, or if unavailable their representatives, were present: the Secretary of State, the Secretary of Defense, the Attorney General, and the Director of National Intelligence.

(3) Any collection under this subsection which lasts more than a year or which is substantially changed in purpose must be reaffirmed by the President under paragraph (1) and reviewed by the National Security Council or a committee thereof under paragraph (2).

(c)(1) Approval for collection of foreign intelligence involving covert techniques directed against a United States person may be based on a finding by an official designated by the President that the target is a senior official of a foreign power, an unincorporated association substantially composed of United States citizens or permanent resident aliens directed and controlled by a foreign government or governers, or any other entity directed and controlled by a foreign power and that unusual circumstances require such collection to acquire foreign intelligence that is important to the national security of the United States and that cannot reasonably be acquired by other means.

(2) The Attorney General shall be advised of any collection conducted under this subsection, and the National Security Council or the committee thereof designated by the President under subsection (b) shall review periodically any collection conducted under this subsection.

(d) Foreign intelligence may be collected within the United States by clandestine means directed against unconsenting United States persons who are within the United States only by the Federal Bureau of Investigation, with notice to the Attorney General or a designee by components of the military services when directed against persons subject to the Uniform Code of Military Justice, 10 U.S.C. 803, Art. 2, (1) through (10); by the National Security Agency when directed at foreign electromagnetic communications, as defined in section 602(b)(5); or, when collection is authorized under subsection (c) and approved by the Attorney General, by the Central Intelligence Agency through established sources and pretext interviews.

COUNTERINTELLIGENCE AND COUNTERTERRORISM INTELLIGENCE ACTIVITIES

SEC. 214. (a) Counterintelligence and counterterrorism intelligence activities may be directed against United States persons without the consent of the United States person concerned only on the basis of facts or circumstances which reasonably indicate that the person is or may be engaged in clandestine intelligence activities on behalf of a foreign power or international terrorist activity.

(b) Counterintelligence and counterterrorism intelligence may be collected by placing employees in an organization in the United States or substantially composed of United States persons, only if—

(1) a designated senior official of the entity makes a written finding that such participation is necessary to achieve significant intelligence objectives and meets the requirements of the procedures established under section 212; and

(2) independent means are created in the procedures established under section 212 for audit and inspection of such participation.

(c) Counterintelligence and counterterrorism intelligence may be collected through the use against a United States person of mail covers, physical surveillance for purposes other than identification, recruitment of persons to engage in directed collection, or access to the records of a financial institution, as defined in section 1101 of the Right to Financial Privacy Act of 1978, only if an official designated pursuant to the procedures established under section 212 makes a written finding that the use of such technique or techniques is necessary to achieve authorized intelligence objectives and meets the requirements of the procedures established pursuant to section 212.

(d) The Attorney General or a designee shall be notified of findings under subsections (b) and (c) with respect to counterintelligence or counterterrorism intelligence activities which the entity, based on guidelines established by the Attorney General, concludes may involve significant collection of information concerning political or religious activity.

COLLECTION OF INFORMATION CONCERNING TARGETS OF CLANDESTINE INTELLIGENCE GATHERING ACTIVITY OF FOREIGN GOVERNMENTS

SEC. 215. Information concerning United States persons may be collected without the consent of the United States person concerned if an official designated pursuant to the procedures established under section 212 makes a written finding with notice to the Attorney General or a designee that the person is the target of clandestine intelligence gathering activity of a foreign government and such collection is necessary for counterintelligence purposes and meets the requirements of the procedures established pursuant to section 212. Covert techniques and mail covers may not be directed against unconsenting United States persons for collection under this section.

COLLECTION OF INFORMATION CONCERNING POTENTIAL SOURCES OF INTELLIGENCE OR OPERATIONAL ASSISTANCE

SEC. 216. Information concerning persons who are under consideration as potential sources of intelligence or operational assistance may be collected, without the consent of a United States person against whom such collection is directed, only in accordance with procedures established under section 212 which shall limit the scope, intensity and duration of such collection to that necessary to determine in a timely manner the suitability or credibility of the potential source. Such collection shall be limited to interviews, physical surveillance for purposes of identification, checks or Federal, State or local government records, and other techniques approved by the head of the collecting agency or a designee with notice to the Attorney General or a designee, except that covert techniques and mail covers may not be directed against unconsenting United States persons for such collection.

COLLECTION OF INFORMATION FOR SECURITY PURPOSES

SEC. 217. (a) Information may be collected to provide personnel, document, communication, or physical security for intelligence activities, without the consent of a United States person against whom such collection is directed, only in accordance with procedures established under section 212 which shall govern the categories of persons who may be subjects of such collection by particular agencies, and which shall limit the scope, intensity, duration, and targets of such collection to that required—

(1) to determine the suitability or trustworthiness of employees, contractors and contractor employees who will perform work in connection with an agency contract, applicants for contractor status, persons employed by proprietaries, or applicants for employment or for access to classified information or facilities, consultants, or persons detailed or assigned to an entity, when requesting the consent of the person against whom the collection is directed would jeopardize the security of an intelligence activity;

(2) to protect against breaches of security regulations or contractual obligations applicable to persons described in paragraph (1), except that such collection shall be limited to that necessary to refer the matter to the Department of Justice;

(3) to protect against a direct or imminent threat that may be posed by the activities of that person to the physical safety of personnel, installations, property, documents or other materials related to intelligence activities, except that such collection within the United States shall be limited to that necessary to refer the matter to an appropriate law enforcement agency; and

(4) to determine whether proposed intelligence activity sites meet apppropriate physical security requirements.

(b) Covert techniques and mail covers may not be directed against unconsenting United States persons for collection under this section. Information may be collected under this section by clandestine means directed against unconsenting United States persons only if an official designated pursuant to the procedures established under section 212 makes a written finding that the use of such means is necessary for authorized security purposes and meets the requirements of the procedures established pursuant to section 212.

REVIEW OF ACTIVITIES

SEC. 218. Activities directed against particular United States persons that are authorized pursuant to sections 213 through 217 of this part for longer than one year shall be reviewed at least annually by the head of the entity or a designee. Except for collection of information under section 217 concerning employees of an entity, a report of such review shall be submitted to the Attorney General or a designee or, for activities by components of the military services directed against persons subject to the Uniform Code of Military Justice, 10 U.S.C. 803, Art. 2 (1) through (10), to the appropriate Service Secretary or a designee.

PART C—STANDARDS FOR EXTRAORDINARY TECHNIQUES

USE OF EXTRAORDINARY TECHNIQUES OUTSIDE THE UNITED STATES

SEC. 221. (a) Extraordinary techniques may not be directed against a United States person outside the United States for the purposes of collecting intelligence, except pursuant to court order.

(b) Applications for an order from the court established pursuant to the Foreign Intelligence Search and Surveillance Act, 92 Stat. 1783, as amended, are authorized and, notwithstanding any other law, a judge to whom an application is made pursuant to this section may grant an order approving the use of an extraordinary technique directed against a United States person outside the United States to collect intelligence.

(c) An order approving the use of an extraordinary technique pursuant to this section to collect foreign intelligence shall be granted if the court finds that—

(1) the Attorney General has certified in writing that the proposed use of an extraordinary technique against the United States person has been approved in accordance with section 213 of this title to collect foreign intelligence;

(2) the information sought is foreign intelligence;

(3) there is probable cause to believe that the United States person against whom the extraordinary technique is to be directed is in possession of, or, in addition with respect to foreign electronic surveillance, is about to receive, the information sought;

(4) less intrusive means cannot reasonably be expected to acquire intelligence of the nature, reliability and timeliness that is required; and

(5) the proposed minimization procedures meet the definition of minimization procedures under section 202(b)(10) of this title.

(d) An order approving the use of an extraordinary technique pursuant to this section to collect counterintelligence or counterterrorism intelligence shall be granted if the court finds that—

(1) significant counterintelligence or counterterrorism intelligence is likely to be obtained from the proposed use of an extraordinary technique against the United States person;

(2) there is probable cause to believe that the United States person against whom the extraordinary technique is to be directed engages or is about to engage in clandestine intelligence activities on behalf of a foreign power, international terrorist activity, or activities in furtherance thereof;

(3) less intrusive means cannot reasonably be expected to acquire intelligence of the nature, reliability and timeliness that is required; and

(4) the proposed minimization procedures meet the definition of such procedures under section 202(b)(10) of this title.

(e) The order of the court approving such use of an extraordinary technique shall be in writing and shall—

(1) specify the identity, if known, or a description of the United States person against whom the extraordinary technique is to be directed;

(2) specify the nature and location of the property, communications or activity to be the subject of the use of the extraordinary technique and state whether physical entry may be involved;

(3) specify a reasonable period, not to exceed 90 days, during which the use of an extraordinary technique is authorized, provided that no order shall authorize more than one unconsented entry into real property except for entries to install, repair, or remove surveillance devices; and

(4) direct that minimization procedures be followed.

(f) Extensions of an order issued under this section may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an initial order.

(g) The procedural, administrative, and security provisions established under the Foreign Intelligence Search and Surveillance Act, 92 Stat. 1783, as amended, shall be observed by the court considering applications for use of extraordinary techniques under this section. The provisions of that Act with respect to use of information, wartime authority, and congressional oversight shall apply to the use of extraordinary techniques under this section.

(h) The court of review established pursuant to section 103(b) of the Foreign Intelligence Search and Surveillance Act, 92 Stat. 1783, shall have jurisdiction to hear appeals from decisions with respect to applications for use of extraordinary techniques under this section. Decisions of the court of review shall be subject to review by the Supreme Court of the United States as provided in that Act.

(i) Use of extraordinary techniques by military components directed against United States persons outside the United States who are subject to the Uniform Code of Military Justice, 10 U.S.C. 802, Art. 2, (1) through (10), may be authorized pursuant to an order issued in conformance with subsections (c) through (f) of this section by a military judge appointed under the Uniform Code of Military Justice and designated by the Secretary of Defense. The Attorney General shall be informed in a timely manner of all applications and orders under this subsection. The procedural, administrative, and security provisions established under the Foreign Intelligence Search and Surveillance Act, 92 Stat. 1783, as amended, shall be observed by a military judge considering applications for use of extraordinary techniques under this section, except that security measures may be established by the Secretary of Defense.

COOPERATIVE ARRANGEMENTS

SEC. 222. (a) Notwithstanding the provisions of this title, no agency, federal officer or employee may be required in connection with any proceeding under section 221 to disclose to a court information concerning any cooperative or liaison relationship that any agency of the United States Government may have with any foreign government or component thereof, provided that the Director of National Intelligence has determined that such disclosure would jeopardize such relationship.

(b) In any case in which a determination of facts related to a finding of probable cause under section 221(c)(3) or (d)(2) would require disclosure of information protected by this section, the Attorney General may submit a certification of facts to the court based on a determination by the Attorney General that the information reliably supports such certification of facts and is protected from disclosure by this section. The court may require disclosure of any information relating to a finding of probable cause under section 221(c)(3) or (d)(2) which does not disclose information protected by this section. In any case in which the Attorney General has submitted such a certification of facts, the court shall base its finding of probable cause under section 221(c)(3) or (d)(2) on such certification of facts and on any other information relating to the finding which is not protected by this section. The court shall not refuse to make a finding of probable cause under section 221(c)(3) or (d)(2) because information protected by this section has been withheld.

EMERGENCY PROCEDURES

SEC. 223. Activities that require approval under section 213 or a court order under section 221 of this title may be conducted without such approval or court order for a period not longer than 72 hours, provided that—

(a) The head of the entity of the intelligence community, or the senior agency official, or the senior military officer authorized to act in such cases, in the country in which the activity is to be conducted, approves the activity and determines that—

(1) an emergency situation exists such that the activity is required before such approval or court order could be obtained with due diligence; and

(2) the factual basis for such approval or court order exists.

(b) An application for such approval or court order shall be made within 72 hours of the initiation of the activity.

(c) The activity shall be terminated when the information sought is obtained; when the application for such approval or court order is denied; or upon the expiration of the 72-hour period without such approval or issuance of a court order, whichever occurs first; and

(d) Information concerning a United States person obtained through the activity before an application for such approval or court order is granted or denied shall be treated in accordance with minimization procedures and shall be treated in accordance with section 211(e) of this title if the application is denied.

Part D—REMEDIES AND SANCTIONS; OTHER PROVISIONS

CRIMINAL SANCTIONS

SEC. 231. (a) Any employee of the United States who intentionally—

(1) engages in foreign electronic surveillance or foreign physical search under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by foreign electronic surveillance or foreign physical search knowing or having reason to know the information was obtained through foreign electronic surveillance or foreign physical search engaged in by any employee of the United States and not authorized by statute, shall be guilty of an offense under this Act.

(b) It is a defense to a prosecution under subsection (a) that the defendant was an employee of the United States engaged in the course of official duties and the foreign electronic surveillance or foreign physical search was authorized by and conducted pursuant to a court order or search warrant issued by a court of competent jurisdiction. It is also a defense to prosecution that, at the time of the activity, the defendant was a law enforcement officer engaged in the course of official duties and there was no statute or established judicial procedure governing authorizations for the type of surveillance or search involved.

(c) An offense described in subsection (a) is punishable by a fine of not more than $10,000, or imprisonment for not more than five years, or both.

(d) There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY AND JURISDICTION

SEC. 232. (a) Any aggrieved person, other than a foreign power, as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978, or an agent of a foreign power, as defined in section 101(b)(1)(A) of the Foreign Intelligence Surveillance Act of 1978 but regardless of whether the agency occurs within or outside of the United States, who has been subjected to a foreign electronic surveillance or whose property has been the subject of a foreign physical search, or about whom information obtained by foreign electronic surveillance of such person or foreign physical search of such property has been disclosed or used, in violation of section 231 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(1) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(2) punitive damages; and

(3) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

(b) The district courts of the United States shall have original jurisdiction over all civil actions for money damages under this section.

(c) Except as provided in this section, nothing in this title, or in any guidelines or procedures established pursuant to this title, creates a civil cause of action for equitable relief against the United States or a civil cause of action against any officer, agent, or employee or former officer, agent, or employee of the United States Government not otherwise available under the Constitution or laws of the United States.

(d) Except as provided in this section and section 221(g), nothing in this Act or in any guidelines or procedures established pursuant to this Act creates any substantive or procedural right and no court has jurisdiction over a claim in any proceeding, including a motion to quash a subpoena, suppress evidence, or dismiss an indictment based solely on an alleged failure to follow a provision of this Act or of guidelines or procedures established pursuant to this Act.

PROTECTION OF PRIVILEGED COMMUNICATIONS

SEC. 233. No otherwise privileged communications or information shall lose its privileged character as a consequence of this Act.

ADMINISTRATIVE RULEMAKING

SEC. 234. The Director of National Intelligence and the head of each entity of the intelligence community shall, in appropriate consultation with the Attorney General, promulgate regulations necessary to carry out the provisions of this Act. Any promulgation of a standard, rule, regulation or procedure to implement this title shall be exempt from the provisions of section 553 of title 5, United States Code.

TITLE III—THE INTELLIGENCE COMMUNITY

PURPOSES

SEC. 301. It is the purpose of this title—

(a) to provide for the appointment of a Director of National Intelligence, to delineate the responsibilities of such Director, and to confer on such Director the authority necessary to fulfill those responsibilities;

(b) to ensure that the national intelligence activities of the entities of the intelligence community are properly and effectively directed, regulated, coordinated, and administered, and

(c) to ensure that the Director of National Intelligence is accountable to the President, the Congress, and the people of the United States, and that the national intelligence activities of the entities of the intelligence community are conducted in a manner consistent with the Constitution and laws of the United States.

PRESIDENTIAL DESIGNATION OF NATIONAL INTELLIGENCE ACTIVITIES

SEC. 302. The President shall determine from time to time which foreign intelligence activities, if any, in addition to those specifically defined as national intelligence activities by this Act, shall constitute national intelligence activities for the purposes of this title.

DIRECTOR AND DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 303. (a) There is established in the executive branch of the Government an independent establishment to be known as the "Office of the Director of National Intelligence" (hereinafter in this title referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National Intelligence (hereinafter in this part referred to as the "Director"). There shall be a Deputy Director of National Intelligence (hereinafter in this part referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this Act.

(b) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director for more than ten years or as Deputy Director for more than ten years.

(c) At no time shall the two offices of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed forces whether in an active or retired status.

(d)(1) If a commissioned officer of the armed forces is appointed as Director or Deputy Director, then—

(A) in the performance of the duties of Director or Deputy Director, as the case may be, the officer shall be subject to no supervision, control, restriction, or prohibition of the Department of Defense, the military departments, or the armed forces of the United States or any component thereof; and

(B) that officer shall not possess or exercise any supervision, control, powers, or functions (other than those authorized to that officer as Director or Deputy Director) with respect to the Department of Defense, the military departments, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in this section, the appointment to the office of Director or Deputy Director of a commissioned officer of the armed forces, and acceptance of and service in such an office by that officer, shall in no way affect any status, office, rank, or grade that officer may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A commissioned officer shall, while serving in the office of Director or Deputy Director, continue to hold rank and grade not lower than that in which that officer was serving at the time of that officer's appointment as Director or Deputy Director.

(3) The grade of any such commissioned officer shall, during any period such officer occupies the office of Director or Deputy Director, be in addition to the numbers and percentages authorized for the military department of which such officer is a member.

(e) The Director and Deputy Director whether civilian or military shall be compensated while serving as Director or Deputy Director only from funds appropriated to the Office of the Director.

(f) If a commissioned officer of the armed forces is serving as Director or Deputy Director, that officer shall be entitled, while so serving, to the difference, if any, between the regular military compensation (as defined in section 101(25) of title 37, United States Code) to which that officer is entitled and the compensation provided for that office under subchapter II of chapter 53 of title 5, United States Code.

(g) The Deputy Director shall act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director. The Director shall provide by regulation which Assistant Director of National Intelligence shall, whenever there is no Deputy Director, act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director and which Assistant Director of National Intelligence shall act in the place of the Deputy Director during the absence or disability of the Deputy Director or during any temporary vacancy in the office of the Deputy Director, or while the Deputy Director is acting as Director.

DUTIES AND AUTHORITIES OF THE DIRECTOR

SEC. 304. (a) The Director shall serve, under the direction of the National Security Council, as the principal foreign intelligence officer of the United States.

(b) The Director shall be responsible for—

(1) the coordination of national intelligence activities of the entities of the intelligence community;

(2) the coordination of counterintelligence activities of the entities of the intelligence community that are conducted abroad; and

(3) the coordination of counterterrorism intelligence activities conducted abroad by the entities of the intelligence community and the coordination of those activities with similar activities abroad by other departments and agencies.

(c) The Director shall be responsible for evaluating the quality of the national intelligence that is collected, produced and disseminated by entities of the intelligence community and shall, on a continuing basis, review all current and proposed national intelligence activities in order to ensure that those activities are properly, efficiently, and effectively directed, regulated, coordinated and administered.

(d) The Director shall coordinate and direct the collection of national intelligence by the entities of the intelligence community by—

(1) developing such specific collection objectives and targets for the entities of the intelligence community as are necessary to meet the intelligence requirements and priorities established by the National Security Council;

(2) establishing procedures, in coordination with the heads of departments and agencies not within the intelligence community, to increase, insofar as is possible, the national intelligence contribution made by those departments and agencies without adversely affecting the performance of their other authorized duties; and

(3) coordinating all clandestine collection of intelligence outside the United States including all clandestine collection of intelligence outside the United States utilizing human sources.

(e) The Director shall be responsible for the production of national intelligence, including national intelligence estimates and other intelligence community-coordinated analyses, and shall—

(1) ensure that in the production of national intelligence estimates or other intelligence community-coordinated analysis any diverse points of view are presented fully and considered carefully, and that differences of judgment within the intelligence community are expressed clearly for policymakers; and

(2) have authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations.

(f) The Director shall be responsible for the dissemination, under appropriate security procedures, of national intelligence, and shall—

(1) ensure that departments and agencies and appropriate operational commanders of the armed forces of the United States are furnished such national intelligence as is relevant to their respective duties and responsibilities;

(2) establish dissemination procedures to increase the usefulness for departments and agencies (including departments and agencies not within the intelligence community) of information collected, processed, and analyzed through national intelligence activities; and

(3) ensure access of each entity of the intelligence community to national intelligence relevant to that entity's authorized activities which has been collected or produced by any other entity of the intelligence community.

(g) The Director shall ensure the appropriate implementation of special activities and sensitive foreign intelligence, counterintelligence, and counterterrorism intelligence activities outside the United States designated under section 124 of this Act.

(h) The Director shall—

(1) formulate policies with respect to intelligence arrangements with foreign governments, in consultation with the Secretary of State; and

(2) coordinate intelligence relationships between the various entities of the intelligence community and the foreign intelligence or internal security services of foreign governments.

(i) The Director shall promote the development and maintenance of services of common concern by designated foreign intelligence organizations on behalf of the intelligence community.

(j) The Director shall be responsible for the protection from unauthorized disclosure of intelligence sources and methods and shall establish for departments and agencies minimum security standards for the management and handling of information and material relating to intelligence sources and methods.

(k) No provision of law shall be construed to require the Director or any other officer or employee of the United States to disclose the organization, function, name, official title, salary, or affiliation with the Office of the Director of National Intelligence of any person employed by the Office, or the numbers of persons employed by the Office.

(l) The Director may appoint and separate such civilian personnel or contract for such personal services as the Director deems advisable to perform the functions of the Office of the Director, without regard to the provisions of any other law, including, but not limited to, provisions which place limitations on types of persons to be employed, and fix the compensation of such personnel without regard to chapter 51 and subchapter III and IV of chapter 53 of title V, United States Code, relating to classification and General Schedule pay rates, but at such rates not in excess of the maximum rate authorized under other provisions of law.

(m) Notwithstanding any other provision of law, the Director may terminate the employment of any officer or employee of the Office of the Director or, with the concurrence of the head of the department or agency concerned, the security clearance of any contractor of any entity of the intelligence community whenever the Director considers such termination necessary or advisable in the interests of the United States.

(n) Any officer or employee of the Office of the Director including those separated under subsection (l) or whose employment has been terminated under subsection (m) may seek or accept employment in any other department or agency of the Government; if declared eligible for such employment by the Office of Personnel Management; and that Office shall consider such officer or employee for positions in the competitive civil service in the same manner as if transferring between two positions in the competitive service, but only if such officer or employee has served with the Office of the Director or any other entity of the intelligence community for a total of at least one year continuously immediately preceding separation or termination.

(o) In order to carry out the Director's duties under this title, the Director is authorized to conduct program and performance audits and evaluations of the national intelligence activities of the entities of the intelligence community and to obtain from any department or agency such information as the Director deems necessary to perform such duties; and each department and agency shall furnish, upon request and in accordance with applicable law, such information to the Director.

(p) In order to carry out the Director's duties under this title, the Director is authorized to review all research and development activities which support the intelligence activities of the Government and may review all the intelligence activities of the Government.

ASSISTANT DIRECTOR; GENERAL COUNSEL; COMMITTEES AND BOARDS

SEC. 305. (a) The President is authorized to appoint up to five Assistant Directors of National Intelligence to assist the Director in carrying out the responsibilities of the Director under this Act. At no time shall more than two of the positions of Assistant Director of National Intelligence be occupied by commissioned officers of the armed forces, whether in active or retired status. If a commissioned officer of the armed forces serves as an Assistant Director of National Intelligence, the provisions of section 303 (d)–(f) shall apply to such officer.

(b) The Director, with respect to the Office of the Director, the Attorney General with respect to the Attorney General's duties and responsibilities under this Act, and the head of each entity of the intelligence community with respect to that entity, is authorized to establish such committees or boards, composed of officers and employees of the United States, as may be necessary to carry out effectively the provisions of this Act.

(c) The President is authorized to appoint, by and with the advice and consent of the Senate, a General Counsel who shall discharge the responsibilities of general counsel under this Act for the Office of the Director of National Intelligence and for the Central Intelligence Agency.

(d) (1) The Director, with respect to the Office of the Director, the Attorney General with respect to the Attorney General's duties and responsibilities under this Act, and the head of each entity of the intelligence community with respect to that entity, are authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this Act.

(2) The provisions of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. I, 1–15) shall apply with respect to any advisory committee established under authority of this subsection except that the Director, Attorney General, or the head of any entity of the intelligence community, as the case may be, may waive the application of any or all of the provisions of that Act when such official deems such action necessary to the successful performance of the duties of the Director, the Attorney General, or any entity of the intelligence community, as the case may be, or to protect the security of the activities of the intelligence community.

DEPARTMENTAL RESPONSIBILITY FOR REPORTING NATIONAL INTELLIGENCE

SEC. 306. It shall be the responsibility of the heads of departments and agencies to ensure that all national intelligence obtained by such departments and agencies is promptly furnished to the Director or to the entity of the intelligence community designated by the Director to receive such intelligence.

ANNUAL REPORT OF THE DIRECTOR

SEC. 307. The Director shall make available to the public an unclassified annual report on the national intelligence, counterintelligence, and counterterrorism activities conducted by entities of the intelligence community. Nothing in this subsection shall be construed as requiring the public disclosure, in any such report made available to the public, of the names of individuals engaged in such activities for the United States or the divulging of classified information which requires protection from disclosure by law.

NATIONAL INTELLIGENCE PROGRAM AND BUDGET AUTHORITY; INFORMATION

SEC. 308. The Director shall, to the extent consistent with applicable law, have full and exclusive authority for approval of the national intelligence budget submitted to the President. Pursuant to this authority—

(a) The Director shall provide guidance for program and budget development to program managers and heads of component activities and to department and agency heads;

(b) The heads of departments and agencies involved in the national intelligence budget shall ensure timely development and submission to the Director of proposed national programs and budgets, in the format designated by the Director, by the program managers and heads of component activities, and shall also ensure that the Director is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities;

(c) The Director shall review and evaluate the national program and budget submissions and, with the advice of the departments and agencies concerned, develop the national intelligence budget and present it to the President through the Office of Management and Budget;

(d) The Director shall present and justify the national intelligence budget to the Congress;

(e) The Director shall have full and exclusive authority for reprogramming national intelligence budget funds, in accordance with guidelines established by the Office of Management and Budget and after consultation with the head of the department or agency affected. The implementation of the overall budget by the departments and agencies that include entities of the intelligence community shall have no significant predictable adverse effect on the implementation of the national intelligence budget.

FUNDS APPROPRIATED TO THE OFFICE OF THE DIRECTOR

SEC. 309. Whenever the Director determines such action to be necessary in the interest of the national security, the expenditure of funds appropriated to the Office of the Director for authorized activities shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein, but funds expended for such purposes may be expended only for activities authorized by law.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

PART A—PURPOSES

STATEMENT OF PURPOSES

SEC. 401. It is the purpose of this title—

(1) to clarify the statutory authorities, functions, and responsibilities of the Central Intelligence Agency;

(2) to authorize the Central Intelligence Agency to perform intelligence activities that are necessary for the conduct of the foreign relations and the protection of the national security of the United States;

(3) to ensure that the intelligence activities of the Central Intelligence Agency are properly and effectively directed, regulated, coordinated, and administered; and

(4) to ensure that the Central Intelligence Agency is accountable to the President, the Congress, and the people of the United States, and that the activities of the Central Intelligence Agency are conducted in a manner consistent with the Constitution and laws of the United States.

PART B—ESTABLISHMENT OF AGENCY; DIRECTOR; GENERAL COUNSEL; INSPECTOR GENERAL; FUNCTIONS

ESTABLISHMENT OF CENTRAL INTELLIGENCE AGENCY

SEC. 411. There is established in the Executive branch of the government an independent establishment to be known as the Central Intelligence Agency (hereinafter in this title referred to as "the Agency"), which shall perform its functions under the direction of the National Security Council and subject to intelligence plans, objectives, and requirements established by the Director of National Intelligence.

DUTIES OF DIRECTOR AND DEPUTY DIRECTOR

SEC. 412. (a) There shall be at the head of the Agency a Director of the Central Intelligence Agency (hereinafter in this title referred to as the "Director of the Agency") who shall be appointed by the President, with the advice and consent of the Senate. The Director of National Intelligence shall serve as Director of the Agency. The President is authorized to appoint the Deputy Director of National Intelligence or an Assistant Director of National Intelligence as the Director of the Agency or to transfer any of the duties and authorities of the Director of the Agency to such Deputy Director or Assistant Director, provided that such appointment or transfer receives the advice and consent of the Senate. No person may serve as the Director of the Agency for more than 10 years.

(b) There shall be a Deputy Director of the Central Intelligence Agency (hereinafter in this title referred to as the "Deputy Director") who shall be appointed by the President, with the advice and consent of the Senate, and who shall assist in carrying out the functions of the Director of the Agency and who shall exercise all the duties of the Director of the Agency in the absence of the Director of the Agency.

(c) At no time shall the offices of Director of the Agency and Deputy Director be occupied simultaneously by commissioned officers of the Armed Forces, whether in an active or retired status.

(d)(1) If a commissioned officer of the Armed Forces is appointed as Director of the Agency or Deputy Director, then—

(A) in the performance of the duties of Director of the Agency or Deputy Director, as the case may be, the officer shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be applicable if that officer were a civilian in no way connected with the Department of Defense, the military departments, or the Armed Forces of the United States or any component thereof; and

(B) that officer shall not possess or exercise any supervision, control, powers, or functions (other than those authorized to that officer as Director of the Agency or Deputy Director) with respect to the Department of Defense, the military departments, or the Armed Forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in this section, the appointment to the office of Director of the Agency or Deputy Director of a commissioned officer of the Armed Forces, and acceptance of and service in such an office by that officer, shall in no way affect any status, office, rank, or grade that officer may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A commissioned officer shall, while serving in the office of Director of the Agency or Deputy Director, continue to hold rank and grade not lower than that in which that officer was serving at the time of that officer's appointment as Director of the Agency or Deputy Director.

(e) It shall be the duty of the Director of the Agency to—

(1) ensure that the activities of the Agency are conducted in accordance with the provisions of this Act and with the Constitution and laws of the United States;

(2) ensure that the activities of the Agency are properly and efficiently directed, regulated, coordinated, and administered;

(3) perform as Director of the Agency the duties assigned elsewhere in this Act to the head of each entity of the intelligence community;

(4) protect intelligence sources and methods from unauthorized disclosure; and

(5) specify by regulation the order in which senior officials of the Agency may exercise all the duties of the Deputy Director during any temporary absence, disability, or vacancy in that office.

GENERAL COUNSEL AND INSPECTOR GENERAL

SEC. 413. (a) There shall be a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall discharge the responsibilities of general counsel under this Act for the Office of the Director of National Intelligence and for the Agency. In the temporary absence of the General Counsel, the Deputy General Counsel is authorized to exercise all the functions of the General Counsel.

(b) There shall be an Inspector General appointed by the Director of the Agency who shall discharge the responsibilities of inspector general under this Act for the Office of the Director of National Intelligence and for the Agency.

FUNCTIONS

SEC. 414. (a) All activities, duties, and responsibilities of the Agency shall be performed in accordance with this Act.

(b) The Agency shall—

(1) conduct foreign intelligence activities including collection by clandestine means;

(2) conduct counterintelligence and counterterrorism intelligence activities including activities by clandestine means;

(3) conduct special activities;

(4) analyze foreign intelligence collected by any entity of the intelligence community, and process such intelligence as necessary to fulfill its responsibilities under this Act;

(5) produce, publish, and disseminate intelligence to meet the needs of the President, the National Security Council, the Director of National Intelligence, and other officials and departments and agencies, including national intelligence estimates and similar analyses coordinated with other entities of the intelligence community;

(6) develop, conduct, and provide support for technical, reconnaissance, and other programs, including the conduct of signals intelligence activities in accordance with subsection 641(d) of this Act, to collect intelligence outside the United States;

(7) act as the agent of the Director of National Intelligence in the coordination of counterintelligence activities, counterterrorism intelligence activities, and clandestine collection of foreign intelligence, conducted outside the United States by any other entity of the intelligence community;

(8) under the direction of the Director of National Intelligence conduct liaison with and provide assistance to foreign governmental agencies and act as the agent of the Director of National Intelligence in the coordination of such relationships by any other entity of the intelligence community;

(9) conduct as services of common concern for the intelligence community:

(A) monitoring of foreign public radio and television broadcasts and foreign press services, collection of intelligence from cooperating sources in the United States, acquisition and translation of foreign publications, and photographic interpretation; and

(B) such other services of common concern as the Director of National Intelligence may prescribe;

(10) coordinate the overt collection of foreign intelligence by entities of the intelligence community from witting and voluntary sources within the United States;

(11) conduct or contract for research, development, and procurement of systems and devices relating to its authorized functions;

(12) perform inspection, audit, public affairs, legal, legislative, and other administrative functions to support its authorized activities, and provide such support to the Office of the Director of National Intelligence as directed by the Director of National Intelligence; and

(13) perform such additional functions as are otherwise authorized by this Act to be performed by each entity of the intelligence community.

(c) Within the United States the Agency may collect foreign intelligence by clandestine means only in coordination with the Federal Bureau of Investigation, in accordance with standards and procedures agreed upon by the Director of National Intelligence and the Attorney General, and may direct such collection against unconsenting United States persons only as permitted by section 213(d) of this Act.

(d) Within the United States the Agency may conduct counterintelligence and counterterrorism intelligence activities by clandestine means only with the approval of the Director of the Federal Bureau of Investigation or a designee, made or confirmed in writing, and shall keep the Federal Bureau of Investigation fully and currently informed of any such activities, in accordance with section 504(d) of this Act.

PART C—AUTHORITIES OF THE AGENCY; AUTHORIZATION FOR APPROPRIATIONS

GENERAL AUTHORITIES OF THE AGENCY

SEC. 421. (a) In carrying out its functions under this Act, the Agency is authorized to—

(1) exchange funds, and transfer to and receive from other departments and agencies such sums of money as may be approved by the Director of the Office of Management and Budget for the purpose of carrying out authorized functions, and sums so transferred to or from the Agency may be expended without regard to any limitation on appropriations from which transferred;

(2) reimburse or be reimbursed by other departments and agencies in connection with the detail or assignment of personnel to or from the Agency;

(3) rent any premises within or outside the United States as appropriate to carry out any authorized function of the Agency; lease property, supplies, services, equipment, buildings or facilities; acquire, construct, or alter buildings and facilities, or contract for such purposes; repair, operate, and maintain buildings, utilities, facilities, and appurtenances; and exercise exclusive jurisdiction, control, and custody over all facilities and properties owned or utilized by the Agency;

(4) maintain and operate full-scale printing facilities for the production of intelligence and intelligence-related materials and lease or purchase and operate computer and communications equipment as appropriate to carry out authorized functions;

(5) conduct background investigations in accordance with section 217 of this Act to determine the suitability and trustworthiness of employees, contractors and contractor employees who will perform work in connection with an Agency contract, applicants for contractor status, persons employed by Agency proprietaries, or applicants for employment or for access to facilities or classified Agency information, consultants, persons detailed or assigned to the Agency, and persons similarly associated with the Office of the Director of National Intelligence;

(6) acquire, establish, maintain, and operate secure communications systems in support of Agency operations and in support of the Office of the Director of National Intelligence, and, when authorized by the Director of the Agency, in support of any other department or agency;

(7) in addition to the authority provided under 31 U.S.C. 686, provide to any department or agency such services, supplies, or equipment as the Agency may be in a position to render, supply, or obtain by contract, and place orders with departments or agencies that may be in a position to render, supply, or obtain services, supplies, or equipment by contract or otherwise.

(8) protect Agency personnel, installations, equipment and information by lawful security procedures, including, but not limited to, inspections of persons and items entering or leaving facilities and grounds owned or utilized by the Agency;

(9) provide transportation, in accordance with regulations approved by the Director of the Agency, for officers, employees and contractors of the Agency and the Office of the Director of National Intelligence, or their dependents, when other means of transportation are unsafe or inadequate;

(10) settle and pay claims of civilian and military personnel, as prescribed in Agency regulations consistent with the terms and conditions by which claims are settled and paid under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240–243);

(11) pay, in accordance with regulations approved by the Director, expenses of travel in connection with, and expenses incident to membership in, or attendance at meetings of professional, technical, scientific, and other similar organizations and professional associations when such attendance or membership would be of benefit in the conduct of the work of the Agency;

(12) provide or pay expenses of training to support authorized Agency functions, and, as appropriate, provide training for personnel of other departments and agencies;

(13) perform inspection, audit, public affairs, legal, legislative, and other administrative functions; and

(14) perform such additional functions as are otherwise authorized by this Act to be performed by each entity of the intelligence community.

(b) Any department or agency may transfer to or receive from the Agency any sum of money in accordance with subsection (a)(1)–(2) of this section.

(c) Any department or agency is authorized to assign or detail to the Agency any officer or employee of such department or agency to assist the Agency in carrying out any authorized function and the Agency may similarly assign or detail personnel to any other department or agency.

(d) No provision of law shall be construed to require the Director of the Agency or any other officer or employee of the United States to disclose information concerning the organization or functions of the Agency, including the name, official title, salary, or affiliation with the Agency of any person employed by, or otherwise associated with the Agency, or the number of persons employed by the Agency. In addition, the Agency shall also be exempted from the provisions of any law which require the publication or disclosure, or the search or review in connection therewith, of information in files specifically designated to be concerned with: The design, function, deployment, exploitation or utilization of scientific or technical systems for the collection of intelligence; special activities and intelligence operations; investigations conducted to determine the suitability of potential intelligence sources; intelligence and security liaison arrangements or information exchanges with foreign governments or their intelligence or security services; except that requests by United States citizens and permanent resident aliens for information concerning themselves, made pursuant to Sections 552 and 552a of title 5, shall be processed in accordance with those sections.

(e) The Agency is authorized to establish, administer, and maintain methods to conceal and protect the relationship between the Agency and any of its officers, employees, sources, and activities, and for personnel and activities of the Office of the Director of National Intelligence, and for defectors from foreign countries.

(f) The Agency may continue to use and may modify with the approval of the President the seal of office used by the Central Intelligence Agency prior to the effective date of this title and judicial notice shall be taken of such seal.

(g) The Director of the Agency may employ or contract for security officers to police and protect the security of Agency personnel, installations and grounds owned or utilized by the Agency or the Office of the Director of National Intelligence, and such security officers shall have the same powers as sheriffs and constables for the protection of persons and property, to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rule or regulation the Director of the Agency may promulgate for the protection of such installations and grounds. The jurisdiction and police powers of such security officers shall not, however, extend to the service of civil process.

(h) Under such regulations as the Director of the Agency shall prescribe, Agency personnel may carry and use firearms while in the discharge of their official duties: *Provided,* That within the United States, such official duties shall include only the protection of (1) information concerning intelligence sources and methods and classified documents and material; (2) facilities, property, monies and other valuable assets owned or utilized by the Agency or the Office of the Director of National Intelligence; (3) personnel of the Agency or the Office of the Director of National Intelligence as may be designated by the Director of the Agency; and (4) defectors and foreign persons visiting the United States under Agency auspices; *And provided further,* that such duties shall include the transportation and utilization of firearms for authorized training.

(i)(1) The Agency may employ, manage and separate personnel or contract for such personal services as it deems advisable, and the Agency may expend such sums as it deems advisable for the compensation and management of persons employed by or otherwise associated with the Agency;

(2) The Director of the Agency may, in the discretion of the Director of the Agency, terminate the employment of any officer or employee of the Central Intelligence Agency, or the access of any individual, including contractors of the Agency or any employee of any such contractor, to information relating to intelligence activities whenever the Director of the Agency considers such termination necessary or advisable.

(3) Any Agency officer or employee, including any officer or employee who has been separated under paragraph (1), or whose employment has been terminated under paragraph (2), may seek or accept employment in the competitive service of the Government if declared eligible for such employment by the Office of Personnel Management; and that Office shall consider such officer or employee for positions in the competitive civil service in the same manner as if transferring between two positions in the competitive service, but only if such Agency officer or employee has served with the Agency or the Office of the Director of National Intelligence for a total of at least one year continuously immediately preceding separation or termination.

(j) The Director of the Agency is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for artistic or general employee or dependent welfare, educational, recreational or like purpose, whenever the Director of the Agency determines that it would be in the interests of the Agency to do so. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Director of the Agency. Property accepted pursuant to this provision, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. For purposes of federal, income, estate, or gift taxes, gifts or property accepted under this subsection shall be accepted as a gift, devise, or bequest to the United States.

(k) Except as otherwise provided in this Act, the authorities contained in subsections (a) through (e) and (i) of this section may be exercised notwithstanding any other provision of law.

(l) The Agency shall have no police, subpoena, or law enforcement powers, nor perform any internal security or criminal investigation functions, except to the extent expressly authorized by this Act.

PROCUREMENT

SEC. 422. (a) Except as otherwise provided in this Act, the Agency is authorized to procure, use, and dispose of such real and personal property, supplies, services, equipment and facilities without regard to any other provision of law, whenever deemed necessary to carry out authorized functions.

(b) The provisions of chapter 137, relating to the procurement of property and services, and chapter 139, relating to the procurement of research and development services, of title 10, United States Code, as amended, shall apply to the procurement of property and research and development services by the Agency under this title in the same manner and to the same extent such chapters apply to the procurement of property, services, and research and development services by the agencies named in section 2303(a) of chapter 137 of title 10, except that the Director of the Agency may specify by regulation when any or all of the provisions of chapters 137 and 139 of title 10 may be waived for the effective performance of authorized functions.

(c) In accordance with regulations promulgated by the Director of the Agency, the Agency is authorized to enter into contracts and amendments of contracts, and to make advance payments on contracts, without regard to any other provision of law, whenever deemed necessary for the effective performance of authorized functions.

(d) Except as otherwise provided in this Act, the Agency is authorized to dispose of property and use the proceeds therefrom to purchase new property without regard to any other provision of law, in accordance with regulations approved by the Director of the Agency, whenever such action is found necessary for the effective performance of authorized functions in accordance with regulations established by the Director of the Agency.

PROPRIETARIES

SEC. 423. (a) The Agency is authorized to establish and operate proprietaries in support of Agency operations and, with the approval of the Director of National Intelligence, in support of other entities of the intelligence community. In addition, any such proprietaries may be operated on a commercial basis to the extent necessary to provide effective cover.

(b) Appropriated funds and funds generated by an Agency proprietary or otherwise received may be deposited in banks or other financial institutions and expended as necessary to accomplish the same or closely related operational purposes except that funds in excess of amounts necessary for such purposes shall be deposited into miscellaneous receipts of the Treasury.

(c) Proceeds from the liquidation, sale, or other disposition of any Agency proprietary may be expended to establish and operate other proprietaries in furtherance of the same or closely related operational purposes. Any such proceeds not so expended shall be deposited into miscellaneous receipts of the Treasury, except for amounts deemed necessary or required by law to be retained for the purpose of satisfying claims or obligations.

(d) Whenever any Agency proprietary, or operationally related group of proprietaries, whose net value exceeds $150,000 is to be liquidated, sold, or otherwise disposed of, the Agency shall, as much in advance of the liquidation, sale, or other disposition as practicable, report the circumstances of the intended liquidation, sale, or other disposition to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

(e) The authority contained in this section shall, except as otherwise provided in this Act, be available to the Agency notwithstanding any other provision of law.

RELATIONSHIPS WITH OTHER ENTITIES

SEC. 424. In addition to those activities of the Agency that relate to other departments and agencies and that are authorized in other provisions of this Act, the Agency is further authorized—

(1) to request other entities of the intelligence community to undertake authorized intelligence activities;

(2) to receive assistance from federal, state and local law enforcement agencies in the conduct of authorized functions;

(3) to provide and receive technical guidance, training, and equipment, and, under regulations established by the Director of the Agency, the services of expert personnel, to or from any other federal agency or foreign government, and, when not readily available from another federal agency, to or from state or local governments;

(4) to provide and receive technical information or assistance to or from the Passport Office of the Department of State and the Immigration and Naturalization Service of the Department of Justice to assist in carrying out authorized functions; and

(5) when the Internal Revenue Service is performing an audit of an Agency proprietary or any other organization or individual whose relationship with the Agency is concealed or protected, to notify the Internal Revenue Service of such relationship in order that it not be disclosed publicly in connection with the audit.

ADMISSION OF ESSENTIAL ALIENS

SEC. 425. (a) Whenever the Director of the Agency, the Attorney General, and the Commissioner of Immigration and Naturalization determine that the entry of particular aliens into the United States for permanent residence is in the interest of national security or essential to intelligence activities, such aliens and their immediate families shall be given entry into the United States for permanent residence without regard to their inadmissibility under, or their failure to comply with, any immigration law of the United States or any other law or regulation, but in no case may the number of aliens and members of their immediate families who enter the United States under the authority of this section exceed one hundred in any one fiscal year. The Agency is authorized to process, debrief, and provide relocation assistance to such individuals, as necessary and appropriate under regulations established by the Director of the Agency.

(b) When extraordinary circumstances indicate that a foreign person associated with the Agency should enter or leave the United States under other than that person's true identity, the Agency is authorized to notify the Immigration and Naturalization Service of these circumstances and request a waiver of otherwise applicable rules and procedures.

AUTHORIZATION FOR APPROPRIATIONS AND EXPENDITURES

SEC. 426. (a) Notwithstanding any other provision of law, sums available to the Agency by appropriation or otherwise received may be expended to carry out the authorized functions of the Agency. No funds may be appropriated for any fiscal year beginning after September 30, 1980, for the purpose of carrying out any activity of the Agency unless funds for such activity have been previously authorized by legislation enacted during the same fiscal year or during one of the two immediately preceding fiscal years, except that this limitation shall not apply to funds appropriated by any continuing resolution or required by pay raises.

(b) Whenever the Director of the Agency determines such action to be necessary in the interest of the national security, the expenditure of funds appropriated to or otherwise received by the Agency shall be accounted for solely on the certificate of the Director of the Agency and every such certificate shall be deemed a sufficient voucher for the amount certified therein.

(c) There is established and the Director of the Agency is authorized to establish and maintain a fund to be known as the Contingency Reserve Fund (hereinafter in this section referred to as the "Reserve Fund") and to credit to the Reserve Fund monies specifically appropriated to the Central Intelligence Agency for such fund and unused balances of funds previously withdrawn from the Reserve Fund.

(d) The Director of the Agency is authorized to expend monies from the Reserve Fund for the payment of expenses incurred in connection with any authorized intelligence activity if—

(1) the withdrawal of funds from the Reserve Fund has been approved by the Office of Management and Budget;

(2) the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the House Permanent Select Committee on Intelligence, and the Senate Select Committee on Intelligence have been notified of the purpose of such withdrawal at least 72 hours in advance of the withdrawal; except that in extraordinary circumstances the Director of the Agency may authorize the withdrawal of funds from the Reserve Fund without prior notification to the appropriate committees of the Congress if the Director of the Agency notifies such committees within 48 hours after initiation of the withdrawal, describes the activity for which such funds have been or are to be expended, certifies to such committees that prior notification would have resulted in a delay which would have been harmful to the United States, and discloses to such committees the reasons why the delay would have been harmful. The foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the initiation of any such activity;

(3) the monies from the Reserve Fund are used solely for the purpose of meeting needs that were not anticipated at he time the President's budget was submitted to the Congress for the fiscal year in which the withdrawal is authorized, and the activities to be funded require protection from unauthorized disclosure; and

(4) any activity funded from the Reserve Fund that continues after the end of the fiscal year in which it was funded by monies from the Reserve Fund shall be funded thereafter through the regular budgetary process at the earliest practicable date.

(e) Monies from the Reserve Fund may be expended only for the purpose for which the withdrawal was approved under this subsection and any amount approved for expenditure but not actually expended or to be expended for the purpose for which approved shall be returned to the Reserve Fund.

PART D—TRAVEL AND OTHER ALLOWANCES: RELATED EXPENSES; RETIREMENT SYSTEM; AND DEATH GRATUITIES

SEC. 431. (a) As used in this section "employee" means an "employee" as defined in 5 U.S.C. 2105, but does not include, unless otherwise specifically provided in accordance with regulations issued by the Director of the Agency, any person working for the Agency under a contract or any person who, when initially employed, is a resident in or a citizen of the foreign country in which such person is to be assigned to duty.

(b) Under regulations issued by the Director of the Agency the Agency may pay—

(1) travel, transportation, and subsistence expenses as provided for in chapters 57 and 59 of title 5, United States Code;

(2) travel, transportation, medical, subsistence, and other allowances and benefits in a manner and under circumstances comparable to those provided under title IX of the Foreign Service Act of 1946 (22 U.S.C. 1131–1160);

(3) educational travel benefits for dependents in the same manner and under the same circumstances as such benefits are provided under 5 U.S.C. 5924(4) (A) and (B) for dependents of employees of the Department of State; and

(4) (A) a gratuity to the surviving dependents of officers or employees who die as a result of injuries (excluding disease) sustained outside the United States, in an amount equal to one year's salary at the time of death. Such payment shall be made only upon determination of the Director of the Agency or his designee that the death: (1) resulted from hostile or terrorist activity; or, (2) occurred in connection with an intelligence activity having a substantial element of risk. Any payment made under this subsection shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(B) A death gratuity payment under this subsection shall be made as follows:

"(1) First, to the widow or widower.

"(2) Second, to the child, or children in equal shares, if there is no widow or widower.

"(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child. If there is no survivor entitled to payment no payment shall be made.

"(C) As used in this subsection—

"(1) each of the terms 'widow', 'widower', 'child', and 'parent' shall have the same meaning given each such term by section 8101 of title 5, United States Code; and

"(2) the term 'United States' means the several States and the District of Columbia.

"(D) the provisions of this subsection shall apply with respect to deaths occurring on or after July 1, 1979.".

(c) Whenever any provision of law relating to expenses, allowances, benefits or death gratuities of Foreign Service employees or dependents is enacted after the date of enactment of this Act in a form other than as an amendment to one of the provisions referred to in subsection (b) and the Director of the Agency determines that it would be appropriate for the purpose of promoting the effective performance of authorized functions, the Director of the Agency may, by regulation authorize payment, in whole or in part to Agency employees or dependents of such expenses, allowances, benefits and gratuities.

(d) Notwithstanding the provisions of subsections (b) and (c), and under regulations issued by the Director of the Agency, the Agency may pay expenses, allowances, benefits, and gratuities similar to those specifically authorized in those subsections in any case in which the Director of the Agency determines that such expenses, allowances, benefits or gratuities are necessary for the effective performance of authorized functions or that, for reasons of operational necessity or security, the means of paying expenses, allowances, benefits, and gratuities authorized in subsections (b) and (c), should not be utilized, and may pay special expenses, allowances, benefits, and gratuities when necessary to sustain particular Agency activities.

RETIREMENT SYSTEM

SEC. 432. The "Central Intelligence Agency" in section 111(1) of the Central Intelligence Agency Retirement Act, and the "Director of Central Intelligence" in section 112 of that Act, shall be deemed to refer to the "Central Intelligence Agency" and the "Director of the Agency" as established under this title. With the exception of the foregoing sentence, nothing in this Act shall affect the entitlement of Agency employees and former Agency employees to participate in the retirement system established by the Central Intelligence Agency Retirement Act or the retirement system established by chapter 83 of title 5, United States Code.

PART E—TRANSFER OF PERSONNEL, PROPERTY, AND FUNCTIONS; STATUTES REPEALED; EFFECT OF SUBSEQUENT LAW

TRANSFER OF PERSONNEL, PROPERTY, AND FUNCTIONS

SEC. 441. (a) All positions, except those of the Director of Central Intelligence and the Deputy Director of Central Intelligence, established in and personnel employed by the Central Intelligence Agency on the day before the effective date of this title, and all obligations, contracts, properties, and records employed, held, or used by the Agency are transferred to the Agency.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, entitlements, and privileges which have become effective in the exercise of functions transferred under this title and which are in effect on the effective date of this title, shall continue in effect until modified, terminated, superseded, set aside, or repealed by the Director of the Agency or other properly designated Agency official, by any court of competent jurisdiction, or by operation of law.

(c) The provisions of this title shall not affect any proceedings pending before the Central Intelligence Agency as in effect prior to the effective date of this title.

(d) No suit, action, or other proceeding begun prior to the effective date of this title, shall abate by reason of enactment of this title.

(e) With respect to any function transferred by this title and exercised after the effective date of this title, reference in any other Federal law to any department, agency, office, or part thereof shall be deemed to refer to the department, agency, or office in which such function is vested pursuant to this title, and reference in any other Federal law to a provision of law replaced by similar provisions in this title shall be deemed to refer to the provisions in this title.

STATUTES REPEALED; EFFECT OF SUBSEQUENT LAW

SEC. 422. (a) No provision of this Act shall be construed to limit or deny to the Agency any authority which may be exercised by the Agency under any other provision of applicable law existing on the date of the enactment of this Act, or as amended subsequent to the date of the enactment of this Act.

(b) No law enacted after the date of the enactment of this Act shall be held, considered or construed as amending, limiting, superseding or otherwise modifying sections 421(a)(3), 421(d), 421(i), 422, 423, 425, and 426 of this title unless such law does so by specifically and explicitly amending, limiting, or superseding such provision.

(c) Section 102 of the National Security Act of 1947 (50 U.S.C. 403) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) are repealed.

PART F—CRIMINAL PENALTY

SEC. 443. (a) Chapter 33 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

"SEC. 716. MISUSE OF THE NAME, INITIALS, OR SEAL OF THE CENTRAL INTELLIGENCE AGENCY

"Any person who knowingly and without the express written permission of the Director of the Central Intelligence Agency uses the name 'Central Intelligence Agency', the initials 'CIA', the seal of the Central Intelligence Agency, or any colorable imitation of such name, initials, or seal in connection with any solicitation or impersonation for other than authorized purposes or in connection with any commercial enterprise, including any merchandise, advertisement, book, circular, pamphlet, play, motion picture, broadcast, telecast, or other publication or production in a manner intended to convey the impression that such use is approved, endorsed, or authorized by the Central Intelligence Agency shall be fined not more than $10,000 or imprisoned not more than one year, or both."

(b) The table of sections at the beginning of chapter 33 of such title is amended by adding at the end thereof a new item as follows:

"716. Misuse of the name, initials, or seal of the Central Intelligence Agency."

TITLE V—FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF PURPOSE

SEC. 501. It is the purpose of this title—

(1) to authorize the Federal Bureau of Investigation, subject to the supervision and control of the Attorney General, to perform certain intelligence activities necessary for the conduct of the foreign relations and the protection of the national security of the United States;

(2) to delineate responsibilities of the Director of the Federal Bureau of Investigation, and to confer upon the Director the authority necessary to fulfill those responsibilities;

(3) to ensure that the intelligence activities of the Federal Bureau of Investigation are properly and effectively directed, regulated, coordinated, and administered; and

(4) to ensure that in the conduct of its intelligence activities the Federal Bureau of Investigation is accountable to the Attorney General, the President, the Congress, and the people of the United States and that those activities are conducted in a manner consistent with the Constitution and laws of the United States.

SUPERVISION AND CONTROL

SEC. 502. (a) All authorities, duties, and responsibilities of the Federal Bureau of Investigation (hereinafter in this title referred to as the "Bureau") for the conduct of intelligence activities, including law enforcement aspects of intelligence activities, shall be exercised in accordance with this Act.

(b) All intelligence functions of the Bureau shall be performed under the supervision and control of the Attorney General. In exercising such supervision and control, the Attorney General shall be guided by policies and priorities established by the National Security Council and shall be responsive to foreign intelligence collection objectives, requirements, and plans promulgated by the Director of National Intelligence.

(c) The Attorney General and the Director of the Federal Bureau of Investigation (hereinafter in this title referred to as the "Director") shall review at least annually the intelligence activities conducted or coordinated by the Bureau to determine whether those activities have been conducted in accordance with the requirements of this Act and procedures approved by the Attorney General pursuant to this Act.

(d) The Attorney General and the Director shall publicly designate officials who shall discharge the responsibilities of general counsel and inspector general with respect to the activities of the Bureau under this Act.

DUTIES OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 503. (a) It shall be the duty of the Director, under the supervision and control of the Attorney General, to—

(1) serve as the principal officer of the Government for the conduct and coordination of counterintelligence activities and counterterrorism intelligence activities within the United States;

(2) ensure that intelligence activities conducted or coordinated by the Bureau are carried out in conformity with the provisions of this Act and with the Constitution and laws of the United States and that such activities do not abridge any right protected by the Constitution or laws of the United States;

(3) ensure that the intelligence activities of the Bureau are properly and efficiently directed, regulated, coordinated, and administered;

(4) keep the Attorney General fully and currently informed of all intelligence activities conducted or coordinated by the Bureau and provide the Attorney General with any information the Attorney General may request concerning such activities;

(5) advise the Attorney General and the National Security Council regarding the objectives, priorities, direction, conduct, and effectiveness of counterintelligence and counterterrorism intelligence activities within the United States;

(6) assist the Attorney General and the National Security Council in the assessment of the threat to United States interests from intelligence activities within the United States of foreign powers and from international terrorist activities within the United States; and

(7) perform with respect to the Bureau the duties assigned elsewhere in this Act to the head of each entity of the intelligence community.

(b) The Attorney General shall provide by regulation which officials of the Bureau shall perform the duties of the Director under this Act during the absence or disability of the Director or during any temporary vacancy in the Office of the Director.

COUNTERINTELLIGENCE AND COUNTERTERRORISM INTELLIGENCE FUNCTIONS

SEC. 504. (a) The Bureau shall, in accordance with procedures approved by the Attorney General—

(1) collect, produce, analyze, publish, and disseminate counterintelligence and counterterrorism intelligence;

(2) conduct such other counterintelligence and counterterrorism intelligence activities as are necessary for lawful purposes; and

(3) conduct, in coordination with the Director of National Intelligence, liaison for counterintelligence or counterterrorism intelligence purposes with foreign governments.

(b) All Bureau counterintelligence and counterterrorism intelligence activities outside the United States shall be conducted in coordination with the Central Intelligence Agency and with the approval of a properly designated official of such agency. All requests for such approval shall be made or confined in writing. Any such activities that are not related directly to the responsibilities of the Bureau for the conduct of counterintelligence or counterterrorism intelligence activities within the United States shall be conducted only with the approval of the Attorney General or a designee, made or confirmed in writing.

(c)(1) The Bureau shall be responsible for the coordination of all counterintelligence and counterterrorism intelligence activities conducted within the United States by any other entity of the intelligence community.

(2) Such activities shall be conducted by clandestine means only with the approval of the Director or a designee, made or confirmed in writing, and only if the request for such approval—

(A) is made or confirmed in writing by a properly designated senior official of the requesting entity;

(B) describes the activity to be conducted; and

(C) sets forth the reasons why the requesting entity wishes to conduct such activity within the United States.

(3) The Bureau shall provide the Attorney General or a designee in a timely manner with copies of all requests made to the Bureau under this subsection and shall notify the Attorney General or a designee in a timely manner of any action taken by the Bureau with respect thereto.

(4) Any entity of the intelligence community conducting any counterintelligence or counterterrorism intelligence activity within the United States shall keep the Bureau fully and currently informed regarding that activity.

(5) The requirements of paragraphs (2) through (4) of this subsection shall not apply to counterintelligence or counterterrorism intelligence activities of the military services directed against persons subject to the Uniform Code of Military Justice, 10 United States Code 802, Art. 2, (1) through (10), except for activities conducted by clandestine means outside military installations.

FOREIGN INTELLIGENCE FUNCTIONS

SEC. 505. (a) The Bureau may, in accordance with procedures approved by the Attorney General—

(1) collect foreign intelligence within the United States in the course of authorized collection of counterintelligence or counterterrorism intelligence;

(2) conduct activities within the United States in support of the foreign intelligence collection programs of any other entity of the intelligence community; and

(3) produce, analyze, and disseminate foreign intelligence in coordination with the Director of National Intelligence.

(b) Any Bureau collection of foreign intelligence upon the request of another entity of the intelligence community, or any Bureau activity in support of the foreign intelligence collection programs of another entity of the intelligence community, shall be conducted only upon the request, made or confirmed in writing, of an official of an entity of the intelligence community who has been designated by the President to make such requests. The Bureau may not comply with any such request unless such request—

(1) describes the information sought or the support activity requested;

(2) certifies that the information sought or the support activity requested is relevant to the authorized functions and duties of the requesting entity; and

(3) sets forth the reasons why the Bureau is being requested to collect the information or conduct the support activity.

The Bureau shall provide the Attorney General or a designee in a timely manner with copies of all such requests, and shall conduct such support activity only with the approval of the Director.

(c) The Bureau shall be responsible, in accordance with procedures agreed upon by the Attorney General and the Director of National Intelligence, for the coordination of all collection of foreign intelligence by clandestine means within the United States by any other entity of the intelligence community.

(d) Within the United States foreign intelligence may be collected by clandestine means directed against unconsenting United States persons only by the Bureau, with notice to the Attorney General or a designee, except as otherwise permitted by section (d) of this Act.

COOPERATION WITH FOREIGN GOVERNMENTS

SEC. 506. (a) The Bureau may, in accordance with procedures approved by the Attorney General, collect counterintelligence and counterterrorism intelligence within the United States upon the written request of any law enforcement, intelligence, or security agency of a foreign government, and provide assistance to any officer of such agency who is collecting intelligence within the United States. The Bureau may not comply with any such request unless such request specifies the purposes for which the intelligence or assistance is sought and—

(1) the Bureau would be authorized under this Act to collect the intelligence or provide the assistance in the absence of any such request; or

(2) the collection of the intelligence or the provision of assistance pertains to foreign persons and is approved by the Attorney General or a designee after a written finding that, as a matter of comity, such collection or assistance is in the interests of the United States.

(b) The Bureau shall keep the Attorney General or a designee fully and currently informed of all intelligence collection within the United States by officers or agencies of foreign governments in which information or assistance is furnished by the Bureau.

(c) The authority provided in subsection (a) of this section is subject to the procedures, prohibitions, and restrictions contained in title II of this Act.

GENERAL AND SPECIAL AUTHORITIES

SEC. 507. (a) In carrying out its functions under this title, the Bureau is authorized to—

(1) procure or lease such property, supplies, services, equipment, buildings, and facilities, and construct or alter such buildings and facilities, as may be necessary to carry out its authorized intelligence functions;

(2) establish, furnish, and maintain secure cover for Bureau officers, employees, and sources when necessary to carry out its authorized intelligence functions, in accordance with procedures approved by the Attorney General;

(3) establish and operate proprietaries when necessary to support Bureau intelligence activities, in accordance with procedures approved by the Attorney General;

(4) deposit public moneys in banks or other financial institutions when necessary to carry out its authorized intelligence functions;

(5) conduct or contract for research, development, and procurement of technical systems and devices relating to its authorized intelligence functions;

(6) protect from unauthorized disclosure, in accordance with standards established by the Director of National Intelligence under section 114, intelligence sources and methods; and

(7) perform such additional functions as are otherwise authorized by this Act to be performed by each entity of the intelligence community.

(b)(1) Any proprietary established and operated by the Bureau may be operated on a commercial basis to the extent necessary to provide effective cover. Any funds generated by any such proprietary in excess of the amount necessary for its operational requirements shall be deposited by the Director into miscellaneous receipts of the Treasury.

(2) Whenever any Bureau proprietary whose net value exceeds $150,000 is to be liquidated, sold, or otherwise disposed of, the Bureau shall, as much in advance of the liquidation, sale, or other disposition of the proprietary as practicable report the circumstances of the intended liquidation, sale,

or other disposition to the Attorney General and to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence. Any proceeds from any liquidation, sale, or other disposition of any Bureau proprietary, in whatever amount, after all obligations of the proprietary have been met, shall be deposited by the Director into miscellaneous receipts of the Treasury.

(c) The Bureau is authorized, in accordance with procedures approved by the Attorney General, to procure or lease property, goods, or services for its own use in such a manner that the role of the Bureau is not apparent or publicly acknowledged when public knowledge could inhibit or interfere with the secure conduct of an authorized intelligence function of the Bureau.

(d) The authority contained in clauses (1), (2), (3), and (4) of subsection (a) shall, except as otherwise provided in this Act, be available to the Bureau notwithstanding any other provision of law and shall not be modified, limited, suspended, or superseded by any provision of law enacted after the effective date of this title unless such provision expressly cites the specific provision of subsection (a) intended to be so modified, limited, suspended, or superseded.

TITLE VI—NATIONAL SECURITY AGENCY

PART A—PURPOSES AND DEFINITIONS

SEC. 601. It is the purpose of this title—

(1) to authorize, and provide guidance for, those signals intelligence and communications security activities necessary for the conduct of the foreign relations and the protection of the national security of the United States;

(2) to ensure that signals intelligence and communications security activities are properly and effectively directed, regulated, coordinated and administered, and are organized and conducted so as to meet, in the most efficient manner, the signals intelligence and communications security needs of the United States;

(3) to establish by law the National Security Agency, to provide for the appointment of a director of that Agency, to delineate the responsibilities of such director, and to confer upon such director the authorities necessary to fulfill those responsibilities;

(4) to ensure that the National Security Agency is accountable to the President, the Congress, and the people of the United States and that the signals intelligence activities and communications security activities of the United States are conducted in a manner consistent with the Constitution and laws of the United States.

DEFINITIONS

SEC. 602. (a) Except as otherwise provided in this section, the definitions in title I shall apply to this title.

(b) As used in this title—

(1) The term "communications intelligence" means technical and intelligence information derived from foreign electromagnetic communications by other than the intended recipients.

(2) The term "cryptographic system" includes any code, cipher, and any manual, mechanical or electrical device or method used for the purpose of disguising, concealing, or authenticating the contests, significance, or meanings of communications.

(3) The term "cryptology" encompasses both signals intelligence and communications security.

(4) The term "electronics intelligence" means technical and intelligence information derived from foreign electromagnetic radiations emanating from other than communications, nuclear detonations, or radioactive sources.

(5) The term "foreign electromagnetic communication" means a communication that has at least one communicant outside of the United States or that is entirely among foreign powers or between a foreign power and officials of a foreign power (but not including communications intercepted by electronic surveillance directed at premises used exclusively for residential purposes).

(6) The term "foreign instrumentation signals intelligence" means technical and intelligence information derived from the collection and processing of foreign telemetry, beaconry, and associated signals.

(7) The term "signals intelligence" includes, either individually or in combination, communications intelligence, electronics intelligence, foreign instrumentation signals intelligence, and information derived from the collection and processing of non-imagery infrared and coherent light signals, but does not include electronic surveillance activities conducted by the Federal Bureau of Investigation on its own behalf.

(8) The term "unauthorized person" means a person not authorized access to signals intelligence or communications security information by the President or by the head of any department or agency that has been designated expressly by the President to engage in cryptologic activities for the United States.

(9) The term "United States signals intelligence system" means an entity that is comprised of (A) the National Security Agency (including assigned military personnel); (B) those elements of the military departments and the Central Intelligence Agency performing signals intelligence activities; (C) those elements of any other department or agency which may from time to time be authorized by the National Security Council to perform signals intelligence activities during the time when such elements are authorized to perform such activities.

PART B—ESTABLISHMENT OF AGENCY; DIRECTOR; DEPUTY DIRECTOR; GENERAL COUNSEL; INSPECTOR GENERAL; DUTIES

ESTABLISHMENT OF NATIONAL SECURITY AGENCY; FUNCTION

SEC. 611. (a) There is established within the Department of Defense an agency to be known as the National Security Agency (hereinafter in this title referred to as the "Agency").

(b) It shall be the function of the Agency to conduct signals intelligence activities and communications security activities for the United States Government and to serve as the principal agency of the United States signals intelligence system.

(c)(1) The functions of the Agency shall be carried out under the direct supervision and control of the Secretary of Defense and shall be accomplished under the provisions of this Act and in conformity with the Constitution and laws of the United States.

(2) In exercising supervision and control over the Agency, the Secretary of Defense shall comply with intelligence policies, needs, and priorities established by the National Security Council and with intelligence objectives and requirements established by the Director of National Intelligence.

(3) In exercising supervision and control over the Agency, the Secretary of Defense shall comply with communications security policy established by the National Security Council which shall include the Secretary of Commerce for this purpose.

DIRECTOR AND DEPUTY DIRECTOR

SEC. 612. (a) There shall be a Director of the National Security Agency (hereinafter in this title referred to as the "Director"). There shall also be a Deputy Director of the National Security Agency (hereinafter in this title referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this Act.

(b) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and Deputy Director shall each serve at the pleasure of the President. Either the Director or Deputy Director shall be a person with cryptologic experience. No person may serve as Director or Deputy Director for a period of more than six years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. No person who has served as Director or Deputy Director for a period of less than six years and is subsequently appointed or reappointed to that same office may serve in that office under such appointment or reappointment for a term of more than six years. In no event may any person serve in either or both offices for more than a total of 12 years.

(c) At no time shall the two offices of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed forces whether in an active or retired status.

(d)(1) If a commissioned officer of the armed forces is appointed as Director or Deputy Director, then—

(A) in the performance of the duties of Director or Deputy Director, as the case may be, the officer shall be subject to no supervision, control, restriction, or prohibition of the military departments, or the armed forces of the United States or any component thereof; and

(B) that officer shall not possess or exercise any supervision, control, powers, or functions (other than such as that officer possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the Department of Defense, the military departments, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in this section, the appointment to the office of Director or Deputy Director of a commissioned officer of the armed forces, and acceptance of and service in such an office by that officer, shall in no way affect any status, office, rank, or grade that officer may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. A commissioned officer shall, while serving in the office of Director or Deputy Director, continue to hold rank and grade not lower than that in which that officer was serving at the time of that officer's appointment as Director or Deputy Director.

(3) The rank or grade of any such commissioned officer shall, during any period such officer occupies the office of Director or Deputy Director, be in addition to the numbers and percentages authorized for the military department of which such officer is a member.

(e) The Director and Deputy Director, whether civilian or military, shall be compensated while serving as Director or Deputy Director only from funds appropriated to the Department of Defense.

(f) If a commissioned officer of the armed forces is serving as Director or Deputy Director, that officer shall be entitled, while so serving, to the difference, if any, between the regular military compensation (as defined in section 101(25) of title 37, United States Code) to which that officer is entitled and the compensation provided for that office under subchapter II of chapter 53 of title 5, United States Code.

(g) The Deputy Director shall act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director. The Director shall provide by regulation which officials of the Agency shall, whenever there is no Deputy Director, act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director.

(h) In computing the twelve-year limitation prescribed in subsection (b) of this section, any service by a person as Director or Deputy Director of the National Security

Agency as such agency existed on the day before the effective date of this title shall not be included.

DUTIES OF THE DIRECTOR

SEC. 613. (a) It shall be the duty of the Director to—

(1) serve as the principal signals intelligence officer of the Government and the executive head of the National Security Agency;

(2) ensure that the signals intelligence activities of the United States Government are conducted in accordance with the provisions of this Act and with the Constitution and laws of the United States;

(3) direct and manage all cryptologic activities, resources, personnel, and programs of the Agency;

(4) organize, maintain, direct and manage the United States signals intelligence system;

(5) in accordance with intelligence policies, needs, and priorities established by the National Security Council and with intelligence requirements and objectives promulgated by the Director of National Intelligence, supervise, and formulate and promulgate operational plans, policies, and procedures for the conduct and control of, all signals intelligence collection, processing, reporting, and dissemination activities of the United States Government;

(6) ensure that signals intelligence is disseminated promptly and under appropriate security safeguards only to departments and agencies that require such intelligence for their lawful functions and have been authorized by the President to receive such intelligence;

(7) serve, under the Secretary of Defense, as the principal communications security officer of the United States Government and ensure that the communications security activities of the United States Government are conducted in accordance with the provisions of this Act and with the Constitution and laws of the United States;

(8) fulfill the communications security requirements of all departments and agencies based upon policy guidance from the National Security Council operating pursuant to section 142 of this Act;

(9) consolidate, as necessary, the signals intelligence and the communications security functions of the United States Government for the purpose of achieving overall efficiency, economy, and effectiveness;

(10) conduct such research and development in support of signals intelligence and communications security activities as may be necessary to meet the needs of departments and agencies authorized to receive signals intelligence or which require communications security assistance, or delegate responsibility for such research and development to other departments or agencies, and review research and development conducted by any department or agency in support of signals intelligence and communications security, except for such research and development in support of the clandestine activities of the Central Intelligence Agency;

(11) determine the manpower resources and administrative support needed by the Agency to conduct effectively its signals intelligence activities and, in accordance with such terms and conditions as shall be mutually agreed upon by the Director of National Intelligence and the Secretary of Defense, enter into agreements with other departments and agencies for the provisions of such manpower resources and administrative support;

(12) determine the manpower resources and administrative support needed by the Agency to conduct effectively its communications security activities, and, based upon guidance from the Secretary of Defense, enter into agreements with other departments and agencies for the provision of such manpower resources and administrative support;

(13) review all proposed budgets, programs, and resource allocations for the signals intelligence activities of the United States, prepare a proposed consolidated United States signals intelligence program and budget for each fiscal year based upon program and budget guidance from the Secretary of Defense, and with respect to national intelligence activities on program and budget guidance from the Director of National Intelligence, and submit each such proposed budget to the Director of National Intelligence and the Secretary of Defense;

(14) review all proposed programs, budgets, and resource allocations for the communications security activities of the United States Government, prepare a proposed consolidated Department of Defense communications security program and budget for each fiscal year, and submit each such proposed program and budget to the Secretary of Defense.

(15) establish appropriate controls for funds made available to the Agency to carry out its authorized activities;

(16) ensure that cryptologic information is classified in accordance with applicable law and Executive orders;

(17) conduct liaison on cryptologic matters with foreign governments and, when such matters involve the responsibilities of the Director of National Intelligence under sec. 115(h), conduct such liaison in coordination with the Director of National Intelligence;

(18) provide for such communications support and facilities as may be necessary to (A) conduct signals intelligence activities in a timely and secure manner, and (B) ensure the expeditious handling of critical information for the United States Government;

(19) prescribe all cryptographic systems and techniques, other than secret writing systems and covert agent communications systems of the Central Intelligence Agency, to be used in any manner by or on behalf of the United States Government and provide for the centralized production and control of such cryptographic systems and materials to be used by the United States Government;

(20) evaluate, based, as appropriate, upon guidance from the Attorney General, the vulnerability of United States communications to interception and exploitation by unintended recipients and, under the supervision of the Secretary of Defense and in accordance with policy guidance from the National Security Council operating pursuant to section 142 of this Act, institute appropriate measures to ensure the confidentiality of such communications;

(21) ensure that the Agency will receive, in a timely fashion, all signals intelligence collected by any entity of the United States Government;

(22) develop plans to ensure the responsiveness of the United States signals intelligence system to the needs of the Department of Defense, including the delegation of such tasking authority as may be appropriate;

(23) provide the Director of National Intelligence with such information on the activities of the Agency as the Director of National Intelligence requires to fulfill his statutory responsibilities;

(24) provide technical assistance to any other entity of the intelligence community engaged in lawful intelligence activities;

(25) issue such rules, regulations, directives, and procedures as may be necessary to implement this title; and

(26) perform with respect to the Agency the duties assigned elsewhere in this Act to the head of each entity of the Intelligence Community.

(b) It shall also be the duty of the Director to provide signals intelligence support for the conduct of military operations in accordance with tasking, priorities and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of systems for national intelligence collection, these systems will be tasked within existing guidance from the Director of National Intelligence.

(c) It shall also be the duty of the Director to prescribe and enforce for the United States signals intelligence system and for the communications security activities of the United States Government security rules, regulations, procedures, standards, and requirements with respect to personnel security clearances, authorizations for access to facilities and information, physical security of facilities, equipment, and information, and the transmission, processing, and reporting of information, in order to protect signals intelligence and communications security information from unauthorized disclosure. All such rules, regulations, procedures, standards and requirements shall be in accord with applicable law and with policy guidance from the Director of National Intelligence with respect to signals intelligence activities and the Secretary of Defense with respect to communications security activities. Enforcement of all such rules, regulations, procedures, standards, and requirements shall be coordinated with the head of each concerned department or agency.

(d) To assist the Director in the fulfillment of his responsibilities under this section, the heads of all departments and agencies shall furnish the Director, upon request and in accordance with applicable law, such data as the Director may require and the Director shall take appropriate steps to maintain the confidentiality of any information which is so provided.

GENERAL COUNSEL; INSPECTOR GENERAL

SEC. 614. (a) There shall be a General Counsel of the National Security Agency appointed by the President, by and with the advice and consent of the Senate, who shall discharge the responsibilities of general counsel under this Act for the Agency.

(b) There shall be an Inspector General of the National Security Agency, appointed by the Director, who shall discharge the responsibilities of inspector general under this Act for the Agency.

PART C—GENERAL AND SPECIAL AUTHORITIES OF THE AGENCY; AUTHORIZATION FOR APPROPRIATIONS

GENERAL AUTHORITIES OF THE AGENCY

SEC. 621. (a) In carrying out its functions under this Act, the Agency is authorized to—

(1) transfer to and receive from other departments and agencies funds for the sole purpose of carrying out functions authorized by this title, subject to the approval of the Director of the Office of Management and Budget;

(2) exchange funds without regard to the provisions of section 3651 of the Revised Statutes (31 U.S.C. 543);

(3) reimburse other departments and agencies of the Government for personnel assigned or loaned to the Agency and services furnished to the Agency;

(4) rent any premises within or outside the United States necessary to carry out any function of the Agency authorized under this title, and make such alterations, improvements, and repairs to the premises of, or rented by, the Agency as may be necessary without regard to any limitation prescribed by law if the Director makes a written finding that waiver of such limitation otherwise applicable to the renting, alteration, improvement, or repair, as the case may be, is necessary to the successful performance of the Agency's functions or the security of its activities;

(5) lease buildings to the Government without regard to the limitations prescribed in section 322 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending 30 June 1933, and for other pur-

poses," approved 30 June 1932 (40 U.S.C. 278a) or the provisions of section 2675 of title 10, United States Code;

(6) acquire, construct, or alter buildings and facilities (including family and bachelor housing in foreign countries only) without regard to the Public Buildings Act of 1959 (40 U.S.C. 601–615) or section 2682 of title 10, United States Code;

(7) repair, operate, and maintain buildings, utilities, facilities, and appurtenances;

(8) conduct health-service programs as authorized by section 7901 of title 5, United States Code;

(9) in accordance with regulations approved by the Director, transport officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment where such personnel are engaged in work that makes such transportation necessary, and transport in such equipment, to and from school, children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available;

(10) settle and pay claims of civilian and military personnel, as prescribed in Agency regulations consistent with the terms and conditions by which claims are settled and paid under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240–243);

(11) pay, in accordance with regulations approved by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit to the conduct of the work of the Agency;

(12) establish, furnish, and maintain, in coordination with the Director of National Intelligence, secure cover for Agency officers, employees, agents and activities;

(13) direct the transfer or disposal, on a non-reimbursable basis and after coordination with the head of the department or agency involved, and in cases involving the responsibilities of the Director of National Intelligence under Sec. 304(h), the Director of National Intelligence, of such cryptologic and cryptologic-related equipment and supplies among entities of the Intelligence Community and between entities of the Intelligence Community and departments and agencies as may be necessary for performance of the functions authorized by this title, and the loan, transfer, or disposal of such equipment and supplies to foreign countries for cryptologic support, and pay expenses of arrangements with foreign countries for cryptologic support;

(14) perform inspection, audit, public affairs, legal, and legislative services;

(15) protect, in accordance with standards established by the Director of National Intelligence under section 304 of this Act and with any other applicable statute or executive order, materials and information related to intelligence sources and methods;

(16) perform such additional functions as are otherwise authorized by this Act to be performed by each entity of the Intelligence Community;

(17) exercise such other authorities available to the Secretary of Defense as may be delegated by the Secretary of Defense to the Agency; and

(18) maintain and operate a permanent full-scale printing plant for the production of cryptologic and cryptologic-related materials, and lease or purchase and maintain and operate computer and communications equipment to carry out authorized functions.

(b) The authority contained in clause (12) of subsection (a) shall, except as otherwise provided in this Act, be available to the Agency notwithstanding any other provision of law and shall not be modified, limited, suspended, or superseded by any provision of law enacted after the effective date of this title unless such provision expressly cites clause (12) of subsection (a) and specifically indicates how such authority is to be so modified, limited, suspended, or superseded.

(c) Notwithstanding the provisions of section 3678 of the Revised Statutes (31 U.S.C. 628) any department or agency may transfer to or receive from the Agency any sum of money approved by the Director of National Intelligence and the Director of the Office of Management and Budget for use in support of foreign cryptologic liaison and support functions authorized by this title.

(d) The Agency may use as its seal of office the insignia used by the Agency prior to the effective date of this title and judicial notice shall be taken of such seal.

(e) The Director may employ, contract, or arrange with another government agency for the assignment of security officers to police the installations and grounds under the control of or used by the Agency, and to perform courier escort duties and such security officers shall have the same powers as sheriffs and constables for the protection of persons and property, to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rule or regulation the Director may promulgate for the protection of such installations and grounds. The jurisdiction and police powers of such security officers shall not, however, extend to the civil process.

(f) The Director may authorize Agency personnel to carry firearms within the United States for courier protection purposes, for the protection of the Director and Deputy Director, and in exigent circumstances, such officials of the Agency as the Director may designate, and for the protection of any foreign person visiting the United States under Agency auspices.

(g)(1) The Agency may appoint, promote, and separate such personnel or contract for such personnel services as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments to, promotions in, and separations from the civil service, and without regard to the limitations on types of persons to be employed, and fix the compensation of such personnel without regard to the provisions of chapter 1 and subchapter III and IV of chapter 53 of that title, relating to classification and General Schedule pay rates but at rates not in excess of the maximum pay authorized senior executive service by subchapter VIII of Chapter 53 of title 5, United States Code.

(2) Executive schedule positions within the Agency other than the Director, Deputy Director, General Counsel, and Inspector General, and positions in the grades of GS–16, GS–17, and GS–18, other than those transferred to the Agency under this Act shall be as authorized by law.

(3) Any Agency officer or employee who has been separated under paragraph (1) may seek or accept employment in the Government if declared eligible for such employment by the Office of Personnel Management; and that office may place such officer or employee in a position in the competitive civil service in the same manner as an employee who is transferred between two positions in the competitive service, but only if such Agency officer or employee has served with the Agency for at least one year continuously immediately preceding such separation.

PROCUREMENT AUTHORITY

SEC. 622. (a) The Agency is authorized to procure such property, supplies, services, equipment, and facilities as may be necessary to carry out its functions under this title.

(b) The provisions of chapter 137, relating to the procurement of property and services, and chapter 139, relating to the procurement of research and development services, of title 10, United States Code, shall apply to the procurement of property, services, and research and development services by the Agency in the same manner and to the same extent such chapters apply to the procurement of property, services, and research and development services by the agencies named in section 2303(a) of such title, except that the Director is authorized, with the approval of the Secretary of Defense and, in the case of any national intelligence activity, the Director of National Intelligence, to waive the application of any or all of the provisions of chapters 137 and 139 of such title when the Director deems such action necessary to the successful performance of any function of the Agency or to protect the security of activities of the Agency.

(c) The Agency is authorized, notwithstanding any other provision of law, to procure property, goods, or services in the name of the Department of Defense when public knowledge of the Agency's sponsorship of such procurement would inhibit or interfere with the secure conduct of an authorized Agency function. Any participation of the Department of Defense in Agency procurement may also be concealed, in accordance with section 139 of this Act but notwithstanding any other provision of law, when the Director finds such concealment necessary to protect the secure conduct of an authorized Agency function.

EDUCATION AND TRAINING

SEC. 623. The Director is authorized to establish and insure compliance with standards for training necessary to accomplish the cryptologic missions of the Government and to arrange for, fund, or provide training as may be necessary to accomplish the lawful functions of the Agency. The provisions of chapter 41 of title 5, United States Code, shall be applicable in the conduct of such training, except that the Director is authorized to waive the application of any or all such provisions if the Director deems such action necessary because of the unique mission and function of the Agency.

AUTHORIZATIONS FOR APPROPRIATIONS AND EXPENDITURES

SEC. 624. (a) Notwithstanding any other provision of law, funds made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out the lawful functions of the Agency. No funds may be appropriated for any fiscal year beginning after September 30, 1980 for the purpose of carrying out any activity of the Agency unless funds for such activity have been authorized by legislation enacted during the same or one of the two immediately preceding fiscal years, except that this limitation shall not apply to funds appropriated by any continuing resolution or required by pay raises.

(b) (1) The Secretary of Defense may make funds available to the Agency for the purpose of meeting confidential, emergency, or extraordinary expenses of the Agency, but any funds made available to the Agency by the Secretary of Defense for such a purpose may be made available only from funds appropriated to the Secretary of Defense for the specific purpose of meeting confidential, emergency, or extraordinary expenses.

(2) Any funds made available to the Agency by the Secretary of Defense for meeting confidential, emergency, and extraordinary expenses may be used only to meet the expenses specified by the Secretary of Defense. The expenditure of such funds shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein, but such expenditures may be made only for activities authorized by this title or other law.

PART D—TRAVEL AND OTHER EXPENSES; SPECIAL FACILITIES; RETIREMENT SYSTEM

TRAVEL, RELATED EXPENSES, DEATH GRATUITIES FOR CERTAIN AGENCY PERSONNEL

SEC. 631. (a) As used in this section "employee" does not include, unless otherwise specifically indicated, any person working for the Agency under a contract or any person who when initially employed is a resident in or a citizen of a foreign country in which the station at which such person is to be assigned to duty is located.

(b) Under such regulations as the Director, in consultation with the Director of National Intelligence, may approve the Agency may, with respect to employees assigned to duty stations outside the United States, provide allowances and other benefits in the same manner and under the same circumstances such allowances and other benefits are provided employees of the Foreign Service under title IX of the Foreign Service Act of 1946 (22 U.S.C. 1131-1160), and death gratuities in the same manner and under the same circumstances such gratuities are provided employees of the Foreign Service under section 14 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1926 (22 U.S.C. 2679a).

(c) Whenever any provision of law relating to travel and related expenses or death gratuities of employees of the Foreign Service is enacted after the date of enactment of this Act, is not enacted as an amendment to one of the provisions referred to in subsection (b) of this section, and the Director determines that it would be appropriate for the purpose of maintaining conformity between provisions of law relating to travel and related expenses and death gratuities of the Foreign Service and provisions of law and the Central Intelligence Agency and provisions of law relating to travel and related expenses and death gratuities of employees of the Agency, the President may, by executive order, extend in whole or in part to employees of the Agency the allowances and benefits applicable to employees of the Foreign Service by such provision of law, where such allowances and benefits have been extended to employees of the Central Intelligence Agency by the Director of that Agency pursuant to section 431(c) of this Act.

(d) Notwithstanding the provisions of subsections (b) and (c), and under such regulations as the Director, in consultation with the Director of National Intelligence, shall approve, the Agency may pay expenses, benefits, and allowances equivalent to those specifically authorized in subsections (b) and (c) in any case in which the Director determines that, for reasons of operational necessity or security, the means or method of paying expenses, benefits, and allowances authorized in such subsections should not be utilized.

COMMISSARY AND MESS SERVICES AND RECREATION FACILITIES

SEC. 632. (a) The Director is authorized to establish and maintain emergency commissary mess services in such places outside the United States and in Alaska where, in the Director's judgment, such services are necessary to ensure the effective and efficient performance of the duties and responsibilities of the Agency, but only if such services are not otherwise available from other departments and agencies of the Government. An amount equal to the amount expended for any such services shall be returned to the Treasury as miscellaneous receipts.

(b) The Director is authorized to assist in the establishment, maintenance, and operation, by officers and employees of the Agency, of non-Government operated commissary and mess services and recreation facilities at certain posts abroad, including the furnishing of space, utilities, and properties owned or leased by the United States for use by the Agency. Commissary and mess services and recreation facilities established pursuant to this subsection shall be made available, insofar as practicable, to officers and employees of other Government agencies, employees of Government contractors, and their families who are stationed outside the United States or in Alaska. Such services and facilities shall not be established in localities where another department or agency operates similar services or facilities unless the Director determines that such additional services or facilities are necessary.

(c) Notwithstanding any other provision of law, charges at any post outside the United States or in Alaska by a commissary or mess service or recreation facility authorized or assisted under this section shall be at the same rate for all civilian and military personnel of the Government serviced thereby, and all charges for supplies furnished to such a facility by any department or agency shall be at the same rate as that charged by the furnishing department or agency to its civilian or military commissary or mess services or recreation facilities.

RETIREMENT SYSTEM

SEC. 633. Employees of the Agency shall participate in the regular Federal Civil Service Retirement System provided for under subchapter III of chapter 83 of title 5, United States Code, except that title 5 of the United States Code is amended as follows to provide for the participation of certain Agency employees in such system under special conditions:

(a) Section 8834 of title 5, United States Code, is amended by adding at the end thereof the following:

"(1) The National Security Agency will annually reimburse the fund for additional expenditures incurred as a result of retirement of employees under section 8336(1) of this title."

(b) Section 8336 of title 5, United States Code, is amended by adding the following new subsection (h) and renumbering present subsection (h) as subsection (1):

"(h) An employee of the National Security Agency who has completed 15 years of service outside the United States, or in training therefore, in duties determined by the Director, National Security Agency to be either hazardous to life or health or so specialized because of security requirements as to be clearly distinguishable from normal government employment is entitled to an annuity after becoming 50 years of age and completing 20 years of service."

(c) Section 8339 of title 5, U.S.C., is amended to add the following new subsection (g):

"(g) the annuity of an employee retiring under section 8336(h) of this title is to be computed in accordance with section 221 of the Central Intelligence Agency Retirement Act of 1964, as amended."

(d) Section 8347(d) of title 5, United States Code, is amended to read as follows:

"(d) An administrative action or order affecting the rights or interests of an individual or of the United States under this subchapter may be appealed to the Commission under procedures prescribed by the Commission, except that any action affecting an employee who retires under section 8336(1) of this title may be appealed only to the Secretary of Defense, whose decision is final and conclusive and is not subject to review."

PART E—SPECIAL DELEGATION OF AUTHORITY; PRESERVATION OF CERTAIN AUTHORITY AND RESPONSIBILITY

SPECIAL DELEGATION AUTHORITY; MISCELLANEOUS PRESERVATION OF AUTHORITY AND RESPONSIBILITY

SEC. 641. (a) In exercising control over all signals intelligence activities of the United States, the Director shall make special provision for the delegation of operational control of specified signals intelligence activities required to provide signals intelligence direct support to military commanders or the heads of other departments and agencies of the Government. Such special provision shall be made for such period and for such activities as the Director determines to be appropriate.

(b) Nothing in this title shall contravene the responsibilities of any department or agency for the final evaluation of signals intelligence, the synthesis of such intelligence with intelligence from other sources, or the dissemination of finished intelligence to users in accordance with prescribed security procedures.

(c) Nothing in this title shall contravene the authorized functions of any department or agency to organize and conduct individual communications security activities other than the development of cryptographic systems, devices, equipment, and procedures. Each department and agency concerned shall be responsible for implementing all measures required to assure communications security in accordance with security rules, regulations, procedures, standards, and requirements prescribed by the Director under the authority of section 613(b) of this Act.

(d)(1) Nothing in this title shall contravene the authority of the Central Intelligence Agency to conduct, as approved by the Director of National Intelligence after review by the Director, clandestine signals intelligence operations in support of clandestine activities; to conduct, in coordination with the Director, clandestine operations designed to achieve signals intelligence objectives; and to prescribe unique communications security methods and procedures, after review by the Director, in support of clandestine activities.

(2) Nothing in this title shall be construed to require the disclosure of information that reveals the operational details of any clandestine activities conducted by the Central Intelligence Agency, including any intelligence sources and methods involved in such activities.

(e) All elements of the United States signals intelligence system shall conduct signals intelligence activities in response to operational tasks assigned by the Director in accordance with directives issued by the Director. Except as authorized in subsection (a), no organization outside the United States signals intelligence system may engage in signals intelligence activities unless specifically authorized to do so by the National Security Council.

(f) Nothing in this title shall be construed as amending or superseding the provisions of the Act entitled "An Act to provide certain administrative authorities for the National Security Agency, and for other purposes", approved May 29, 1959 (73 Stat. 50 U.S.C. 402 note; section 24(a) of the Act of October 31, 1951, (65 Stat. 719; 18 U.S.C. 798); and of the Act entitled "Personnel Security Procedures in the National Security Agency," approved September 23, 1950 (78 Stat. 168, 50 U.S.C. 831-835).

(g) The provisions of sections 2 and 3 of the Act entitled "An Act to fix the responsibilities of disbursing and certifying officers, and for other purposes", approved December 29, 1941 (55 Stat. 875; 31 U.S.C. 82), shall apply to certification for payments and to payments made by or on behalf of the National Security Agency by certifying officers and employees and by disbursing officers and employees under the jurisdiction of any military department, notwithstanding the provisions of section 4 of such Act (31 U.S.C. 82e).

PART F—TRANSFER OF PERSONNEL, PROPERTY, AND FUNCTIONS

TRANSFER OF PERSONNEL, PROPERTY, AND FUNCTIONS

SEC. 651. (a) All positions established in and personnel employed by the National Security Agency, as in effect on the day before the effective date of this title, and all obligations, contracts, properties, and records employed, held, or used primarily in connection with any function to be performed by the Agency under this title, are transferred to the Director.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges which have become effective in the exercise of functions transferred under this title and which are in effect on the day before the effective date of this title, shall continue in effect until modified, terminated, superseded, set aside, or repealed by the Director, or other appropriate Agency officials, by any court of competent jurisdiction, or by operation of law.

(c) The provisions of this title shall not affect any proceedings pending before the National Security Agency as in effect prior to the effective date of this title.

(d) No suit, action, or other proceeding begun by or against any officer in that officer's official capacity in the National Security Agency, as in effect prior to the effective date of this title, shall abate by reason of enactment of this title.

(e) With respect to any function transferred by this title and exercised after the effective date of this title, reference in any other Federal law to any department, agency, office, or part thereof shall be deemed to refer to the department, agency, or office in which such function is vested pursuant to this title.

TITLE VII—PROTECTION OF IDENTITIES OF CERTAIN UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

CRIMINAL PENALTY

SEC. 701. (a) Whoever, having or having had authorized access to classified information that—

(1) identifies as an officer or employee of an intelligence agency, or as a member of the Armed Forces assigned to duty with an intelligence agency, any individual (A) who in fact is such an officer, employee, or member, (B) whose identity as such an officer, employee, or member is classified information, and (C) who is serving outside the United States or has within the last five years served outside the United States; or

(2) identifies as being or having been an agent of, or informant or source of operational assistance to, an intelligence agency any individual (A) who in fact is or has been such an agent, informant, or source, and (B) whose identity as such an agent, informant, or source is classified information.

intentionally discloses to any individual not authorized to receive classified information any information that identifies an individual described in paragraph (1) or (2) as such an officer, employee, or member or as such an agent, informant, or source, knowing or having reason to know that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's intelligence relationship to the United States, shall be fined not more than $50,000 or imprisoned not more than ten years, or both.

(b) It is a defense to a prosecution under subsection (a) of this section that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

(c) No person other than a person committing an offense under subsection (a) of this section shall be subject to prosecution under such subsection by virtue of section 2 or 4 of title 18, United States Code, or shall be subject to prosecution for conspiracy to commit an offense under such subsection.

(d) It shall not be an offense under subsection (a) of this section to transmit information described in such subsection directly to the House Permanent Select Committee on Intelligence or to the Senate Select Committee on Intelligence.

(e) There is jurisdiction over an offense under subsection (a) of this section committed outside the United States if the individual committing the offense is a citizen of the United States.

(f) Nothing in this section shall be construed as authority to withold information from Congress or from a committee of either House of Congress.

(g) As used in this section—

(1) "Classified information" means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

(2) "Authorized," when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of a United States district court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

(3) "Disclose" means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

(4) "Intelligence agency" means the Central Intelligence Agency or any intelligence component of the Department of Defense.

(5) "Informant" means any individual who furnishes or has furnished information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

(6) "Agent," informant," and "source of operational assistance" do not include individuals who are citizens of the United States residing within the United States.

(7) "Officer" and "employee" have the meanings given such terms by sections 2104 and 2105, respectively, of title 5, United States Code.

(8) "Armed Forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) "United States" when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

PRESIDENTIAL RESPONSIBILITY

SEC. 702. The President shall ensure that each person who has authorized access to the types of classified information described in section 701 (a)(1) and (a)(2) be informed of the provisions of section 701.

TITLE VIII—PHYSICAL SEARCHES WITHIN THE UNITED STATES

AMENDMENTS TO THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

SEC. 801. The Foreign Intelligence Surveillance Act of 1978, 92 Stat. 1783, is amended as follows:

(1) The statement of purpose is amended by inserting "physical searches and" after "authorize".

(2) The title is amended by inserting "SEARCH AND" before "SURVEILLANCE".

(3) The Table of Contents is amended to read as follows:

"TITLE I—PHYSICAL SEARCH AND ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"Sec. 101. Definitions.
"Sec. 102. Authorization for physical search and electronic surveillance for foreign intelligence purposes.
"Sec. 103. Designation of judges.
"Sec. 104. Application for an order.
"Sec. 105. Issuance of an order.
"Sec. 106. Use of information.
"Sec. 107. Report of physical search and electronic surveillance.
"Sec. 108. Congressional oversight.
"Sec. 109. Penalties.
"Sec. 110. Civil liability.
"Sec. 111. Authorization during time of war.

"TITLE II—CONFORMING AMENDMENTS

"Sec. 201. Amendments to chapter 119 of title 18, United States Code.

"TITLE III—EFFECTIVE DATE

"Sec. 301. Effective date."

(4) The title of Title I is amended by inserting "PHYSICAL SEARCH AND" before "ELECTRONIC".

(5) Section 101(h) is amended by striking "with respect to electronic surveillance".

(6) Section 101(h)(1) is amended by inserting "search or" after "particular".

(7) Section 101(h)(4) is amended to read as follows:

"(4) notwithstanding paragraphs (1), (2), and (3), with respect to any physical search or electronic surveillance approved pursuant to section 102(a), procedures that require that, for a physical search, no information that concerns a United States person, and for a surveillance, no contents of any communication to which a United States person is a party, shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person."

(8) Section 101(k) is amended to read as follows:

"(k) 'Aggrieved person' means a person who is the target of physical search or electronic surveillance or any other person whose communications, activities, property, or mail were subject to physical search or electronic surveillance."

(9) Section 101 is amended by adding at the end thereof the following new provision:

"(p) 'Physical search' means any search of property that is located in the United States and any opening of mail in the United States or in United States postal channels, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes."

(10) The title of section 102 is amended to read as follows: "AUTHORIZATION FOR PHYSICAL SEARCH AND ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES".

(11) Section 102(a)(1) is amended to read as follows:

"(a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize physical search or electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

"(A) the physical search is directed solely at property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), or (3), and no property or mail of a known United States person may be seized;

"(B) the electronic surveillance is solely directed at—

"(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

"(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), or (3);

"(C) there is no substantial likelihood that the search will involve the property or mail of a United States person or the surveillance will acquire the contents of any communication to which a United States person is a party; and

"(D) the proposed minimization procedures with respect to such search or surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately."

(12) Section 102(a)(2) is amended by striking "An electronic surveillance" and inserting in lieu thereof "A physical search or electronic surveillance".

(13) Section 102(a)(3)(B) is amended by inserting "search or" before "surveillance".

(14) Section 102(a)(4) is amended by inserting "physical search or" after "With respect to".

(15) Section 102(a)(4)(A) is amended by inserting "physical search or" before "electronic surveillance".

(16) Section 102(a)(4)(B) is amended by inserting "search or" before "surveillance".

(17) Section 102(a) is amended by adding a new subsection as follows:

"(5) The Attorney General may authorize physical entry of property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), or (3), for the purpose of installing, repairing, or removing any electronic, mechanical, or other surveillance device used in conjunction with an electronic surveillance authorized by this subsection."

(18) Section 102(b) is amended to read as follows:

"(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order in conformity with section 105, approving physical search or electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving physical search or electronic surveillance directed solely as described in subsection (a) unless such physical search or surveillance may involve the property or acquisition of communications of any United States person."

(19) Section 103(a) is amended by inserting "physical search or" before all appearances of "electronic surveillance".

(20) Section 104(a) is amended by inserting "physical search or" after "approving" in the first sentence.

(21) Section 104(a)(3) is amended by inserting "or the property or mail subject to the physical search" after "surveillance".

(22) Section 104(a)(4)(A) is amended by inserting "physical search or" before "electronic surveillance".

(23) Section 104(a)(4)(B) is amended to read as follows:

"(B) each of the facilities, places, or items of property or mail at which the physical search or electronic surveillance is directed is the property or mail of, or is being used by, or is about to be used by, a foreign power or an agent of a foreign power;"

(24) Section 104(a)(6) is amended by inserting "or the items of property or mail to be subjected to the search" after "surveillance".

(25) Section 104(a)(7)(B) is amended by inserting "search or" before "surveillance".

(26) Section 104(a)(8) is amended by inserting "search or" before both appearances of "surveillance".

(27) Section 104(a)(9) is amended by inserting "property," after "persons,".

(28) Section 104(a)(10) is amended to read as follows:

"(10) a statement of the period of time which the physical search will encompass or for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of physical search or electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and".

(29) Section 104(b) is amended to read as follows:

"(b) Whenever the target of the physical search or electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities, places or items of property at which the search or surveillance is directed is owned, leased, exclusively used, or openly and exclusively controlled by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall state whether physical entry is required to effect the search or surveillance and shall contain such information about the search or surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures."

(30) Section 105(a) is amended by striking "approving the electronic surveillance" and inserting in lieu thereof "approving the physical search or electronic surveillance".

(31) Section 105(a)(1) is amended by inserting "physical search or" before "electronic surveillance".

(32) Section 105(a)(3)(A) is amended by inserting "physical search or" before "electronic surveillance".

(33) Section 105(a)(3)(B) is amended to read as follows:

"(B) each of the facilities, places, or items of property or mail at which the physical search or electronic surveillance is directed is the property or mail of, is being used by, or is about to be used by, a foreign power or an agent of a foreign power;".

(34) Section 105(b) is amended by inserting "physical search or" after "approving".

(35) Section 105(b)(1)(A) is amended by inserting "physical search or" before "electronic surveillance".

(36) Section 105(b)(1)(B) is amended by striking "at which the" and inserting in lieu thereof "or items of property or mail at which the physical search or".

(37) Section 105(b)(1)(C) is amended to read as follows:

"(C) the type of information sought to be acquired and the type of communications, activities or property to be subjected to the search or surveillance;".

(38) Section 105(b)(1)(D) is amended to read as follows:

"(D) the means by which the physical search or electronic surveillance will be effected and whether physical entry will be used to effect the search or surveillance: *Provided,* That no order shall authorize more than one unconsented physical entry into real property except for entries to install, repair or remove surveillance devices;".

(39) Section 105(b)(1)(E) is amended by inserting "physical search or" before "electronic surveillance".

(40) Section 105(b)(1) is amended by adding at the end thereof the following provision:

"(G) whenever more than one search of property or the opening of more than one item of mail is to be conducted under the order, the authorized scope of the searches or opening of mail; and".

(41) Section 105(b)(2) is amended by inserting "physical search or" before both appearances of "electronic surveillance" and by inserting "search or" before "surveillance or the aid".

(42) Section 105(c) is amended to read as follows:

"(c) Whenever the target of the physical search or electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3) and each of the facilities, places or items of property at which the search or surveillance is directed is owned, leased, exclusively used or openly and exclusively controlled by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought and the communications, activities or property to be subjected to the search or surveillance and for surveillances the type of electronic surveillance involved, including whether physical entry is required for the search or surveillance."

(43) Section 105(b)(1) is amended by inserting "physical search or" before the first appearance of "electronic".

(44) Section 105(d)(3) is amended by inserting "physical search or" before "electronic surveillance".

(45) Section 105(e)(1) is amended to read as follows:

"(1) an emergency situation exists with respect to the use of physical search or electronic surveillance to obtain foreign intelligence information before an order authorizing such search or surveillance can with due diligence be obtained; and".

(46) Section 105(e)(2) is amended by inserting "search or" before all appearances of "surveillance" and by inserting "physical search or" before all appearances of "electronic surveillance".

(47) Section 106(a) is amended by inserting "physical search or" before both appearances of "electronic".

(48) Section 106(c) is amended by inserting ", or physical search or the property or mail of," after "electronic surveillance of".

(49) Section 106(d) is amended by inserting ", or physical search of the property or mail of," after "electronic surveillance of".

(50) Section 106(e) through (g) are amended by inserting "physical search or" before all appearances of "electronic surveillance" and by inserting "search or" before all appearances of "surveillance".

(51) Section 106(h) is amended by inserting "a physical search or an" before "electronic surveillance" and by inserting "search or" before "surveillance".

(52) Section 106(j) is amended by inserting "physical search or" before both appearances of "electronic surveillance" and by inserting "search or" before "surveillance".

(53) Section 107 is amended by inserting "physical search or" before "electronic surveillance".

(54) Section 108(a) is amended by inserting "physical searches and" before "electronic surveillance".

(55) Section 109 is amended by inserting "physical search or" before all appearances of "electronic surveillance".

(56) Section 110 is amended by striking "or about whom information obtained by electronic surveillance of such person" and inserting in lieu thereof "or whose property or mail has been the subject of a physical

search or about whom information obtained by electronic surveillance of such person or physical search of such property or mail".

(57) Section 111 is amended by inserting "physical search or" before "electronic surveillance".

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

Sec. 802. Chapter 119 of title 18, United States Code, is amended as follows:

(1) Section 2511(2)(a)(ii) is amended by inserting "or to engage in physical search" after "electronic surveillance", by inserting "Search and" after "Intelligence", and by inserting "or physical search" before "or the device used".

(2) Section 2511(2)(e) and (f) are amended by inserting "Search and" after all appearances of "Intelligence".

TITLE IX—MISCELLANEOUS AMENDMENTS AND EFFECTIVE DATE

AMENDMENTS TO TITLE 5, UNITED STATES CODE

Sec. 501. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:

"(25) Director of National Intelligence."

(b) Section 5313 of such title is amended by striking out

"(15) Director of Central Intelligence." and inserting in lieu thereof

"(15) Director of the Central Intelligence Agency."

(c)(1) Section 5314 of such title is amended by striking out

"(35) Deputy Director of Central Intelligence." and inserting in lieu thereof

"(35) Deputy Director of National Intelligence."

(2) Section 5314 of such title is further amended by adding at the end thereof the following:

"(70) Deputy Director of the Central Intelligence Agency."

"(71) Director of the National Security Agency."

(d) Section 5315 of such title is amended by adding at the end thereof the following:

"(128) Assistant Directors of National Intelligence (5)."

"(129) Deputy Director of the National Security Agency."

"(130) General Counsel of the Central Intelligence Agency."

"(131) Inspector General of the Central Intelligence Agency."

(e) Section 5316 of such title is amended by adding at the end thereof the following:

"(152) General Counsel of the National Security Agency."

"(153) Inspector General of the National Security Agency."

REPEAL OF SECTION 2422, TITLE 22, UNITED STATES CODE

Sec. 502. Section 2422 of Title 22, United States Code, is repealed.

AMENDMENT TO THE FEDERAL ADVISORY COMMITTEE ACT TO ELIMINATE EXEMPTION FOR THE CENTRAL INTELLIGENCE AGENCY

Sec. 503. Section 4(b) of the Federal Advisory Committee Act (86 Stat. 770) is amended to read as follows:

"(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by the Federal Reserve System.".

EFFECTIVE DATE

Sec. 504. This Act shall become effective on the first day of the third calendar month following the month in which it is enacted.

THE NATIONAL INTELLIGENCE ACT OF 1980—SECTION-BY-SECTION DESCRIPTION

TITLE I—AUTHORIZATION FOR INTELLIGENCE ACTIVITIES

Part A—Findings; purposes; definitions

Sec. 101. Findings. The findings stress the necessity for intelligence activities, the need to avoid waste and unnecessary duplication of effort, and the importance of supervision to ensure support for U.S. foreign relations and to protect constitutional and legal rights.

Sec. 102. Purposes. The principal purposes are to authorize necessary intelligence activities and replace the intelligence provisions of the National Security Act of 1947. The purposes also stress consistence with U.S. defense and foreign policy interests, proper and effective management, the need for high quality intelligence, accountability and conformity with the Constitution and laws of the United States.

Sec. 103. Definitions. The definitions fall into three categories: first, terms describing the intelligence community's authority; second, terms used for national intelligence coordination purposes; and third, terms that clarify particular provisions of the Act.

The terms describing the intelligence community's authority include foreign intelligence, foreign intelligence activity, counterintelligence, counterintelligence activity, counterterrorism intelligence, counterterrorism intelligence activity, international terrorist activity, special activity, intelligence, intelligence activity, and intelligence community. These definitions substantially parallel current definitions in Executive Order 12036. The "special activity" definition clarifies legal ambiguities created by the Hughes-Ryan Amendment of 1974, which treated as covert action CIA operations to counter the clandestine intelligence activity of foreign governments or to counter international terrorist activity. "Special activity" in this Act excludes counterintelligence or counterterrorism intelligence operations.

The terms used for national intelligence coordination purposes include national intelligence, national intelligence activity, national intelligence budget, and tactical intelligence. "National intelligence" means foreign intelligence which is collected, retained, processed, or disseminated by intelligence entities for use in the formulation and direction of national policy. "National intelligence activity" means any foreign intelligence activity the primary purpose of which is to collect or produce national intelligence, any other foreign intelligence activity designated by the President, and any special activity. The "national intelligence budget" means funds for the CIA and the Office of the DNI; for the Consolidated Cryptologic Program, the programs of the offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs, and the General Defense Intelligence Program (except such elements of these programs as the DNI and the Secretary of Defense agree should be excluded); and any other program or programs of any department or agency designated by the President or jointly by the DNI and the head of such department or agency. The definition of "tactical intelligence" serves to exclude from national intelligence the collection of information required by the armed forces of the United States to maintain their readiness for combat operations and to support the planning and conduct of combat operations by the United States. However, tactical intelligence programs may be included in the national intelligence budget.

The terms used to clarify particular provisions of the Act include communications security, cover, departments and agencies, proprietary, United States, and United States person. "Communications security" is defined for National Security Council policymaking and National Security Agency charter purposes. "Cover" and "proprietary" are defined to clarify particular CIA, FBI, and NSA authorities. "Departments and agencies" and "United States" are defined for jurisdictional purposes generally. The definition of "United States person" differs in three respects from the definition adopted in Executive Order 12036 and the Foreign Intelligence Surveillance Act of 1978. First, an alien lawfully admitted for permanent residence may be presumed to have lost United States person status under this Act after one year of continuous residence abroad until information is obtained which indicates intent to return to the United States as a permanent resident alien. Second, an unincorporated association abroad may be presumed not to be a United States person unless information is obtained which indicates that it was organized in the United States or is substantially composed of citizens or resident aliens. Third, a corporation which is incorporated in the United States is not a United States person if it is a corporation or corporate subsidiary incorporated abroad or controlled by a foreign power abroad.

Part B—General intelligence authorities

Sec. 111. Authorization for Intelligence Activities. The entities of the intelligence community are authorized to conduct intelligence activities, under the direction and review of the National Security Council, but only in accordance with the provisions of this Act. Title I does not prohibit any department or agency from collecting, retaining, processing, or disseminating information if such department or agency is otherwise authorized to do so. Nor does Title I prohibit or affect any activities of any department or agency that are not intelligence activities. Except as expressly provided, nothing in this Act affects or alters existing responsibilities under law, including responsibilities to the Ambassador in a particular country under 22 U.S.C. 2680a. Nothing in this Act authorizes any entity of the intelligence community to conduct any activity for the purpose of depriving any person of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

Sec. 112. National Security Council. The NSC is to provide the highest level review of, guidance for, and direction to the conduct of intelligence activities. The responsibilities of the NSC (or such committees of the NSC as may be established by the President) are to establish national intelligence requirements and priorities, to review the responsiveness of program and budget proposals to intelligence requirements and priorities, and to review the quality of national intelligence products and develop appropriate policy guidance. The NSC or its committees is also to develop policy, standards, and doctrine for the conduct of counterintelligence and counterterrorism intelligence activities; and to formulate policy for communications security. Additional NSC responsibilities are assigned under Part O of Title I and sec. 213 of Title II.

The President is authorized to establish such NSC committees as may be needed to discharge these responsibilities; and the President may determine the membership of such committees, designate a chairman, set requirements for attendance of members, and prescribe other standards, procedures, and specific duties for the NSC and its committees to discharge their duties under this Act.

(NSC membership and attendance requirements are prescribed by Part C of Title I and sec. 213 of Title II for specific purposes. This Act does not repeal existing law on basic NSC membership and other NSC responsibilities, under sec. 101 of the National Security Act of 1947.)

Part C—Authorization and procedures for special activities and other sensitive intelligence activities

Sec. 121. Purpose. The purpose of this Part is to ensure that special activities are undertaken only in support of important national security interests when overt or less sensitive alternatives would not be likely to achieve the intended objective; when such activities are consistent with the aims, values, and policies of the United States; and when the anticipated benefits of such activities justify the foreseeable risks and likely consequences.

Sec. 122. Conduct of Special Activities. Special activities may be conducted only by the CIA, by the Defense Department in a period of war or to the extent necessary for hostilities under the War Powers Resolution, or by any agency when the President determines that the intended objective is more likely to be achieved. Any agency may provide support for special activities involving substantial resources, risks, or consequences if the President determines that such support is necessary. Any agency may provide support for other special activities if the NSC or a committee thereof determines that such support is necessary.

Sec. 123. Authorization for Special Activities. Special activities shall be authorized by the President. Authorization for any special activity that involves substantial resources, risks, or consequences shall require a Presidential finding that each such activity is important to the national security and consistent with the purposes of this Part. Authorization for any other special activities may be by category and shall require a Presidential finding that such category of activities is important to the national security and consistent with this Part. The NSC or a committee thereof shall be responsible for the supervision of each activity in the category and shall ensure that it is consistent with the Presidential finding.

Presidential authorization shall be preceded by a review by the NSC or a committee thereof, including an assessment and recommendation as to whether the activity or category of activities is consistent with the purposes of this Part. Such recommendation shall include any dissenting views. No decision or recommendation to the President may be made unless the following officers, or if unavailable their representatives, were present: the Secretaries of State and Defense, the Attorney General, and the DNI. Any special activity which lasts more than a year or substantially changes in form or purpose must be reauthorized by the President and reviewed by the NSC or a committee thereof.

The President may delegate presidential responsibilities under this section to the Secretary of Defense with respect to special activities conducted by the military in time of war or to the extent necessary for hostilities under the War Powers Resolution.

Sec. 124. Other Sensitive Intelligence Activities. The President shall establish procedures for the approval of sensitive foreign intelligence, counterintelligence, or counterterrorism intelligence activities which may require review or findings by the President, the NSC, a committee thereof, the DNI, the head of an intelligence entity, or any other designated official.

Sec. 125. Congressional Notification. Each special activitiy involving substantial resources, risks, or consequences, and each category of other special activities, shall be considered "significant anticipated activities" for the purpose of fully and currently informing the House and Senate Intelligence Committees under sec. 152. When essential to meet extraordinary circumstances affecting vital United States interests, the President may limit prior notice for forty eight hours to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House, and the majority and minority leaders of the Senate.

Part D—Limitation on intelligence authorities

Sec. 131. Assassination. No person employed by or acting on behalf of the United States Government shall engage or conspire to engage in assassination.

Sec. 132. Integrity of Private Institutions of the U.S. The President is to establish public guidelines for intelligence activities designed to protect the integrity and independence of U.S. private institutions. Intelligence entities may not use the following for cover to engage in foreign intelligence activities or special activities: U.S. religious organizations; U.S. media organizations; U.S. educational institutions; the Peace Corps; or U.S. Government cultural exchange programs.

These restrictions do not bar voluntary contacts or voluntary exchange of information between these persons and intelligence entities. The President may waive these restrictions in wartime or to the extent necessary for hostilities under the War Powers Resolution, if the House and Senate Intelligence Committees are notified.

Sec. 133. Covert Domestic Publication. Intelligence entities may not pay for or otherwise knowingly cause or support distribution of any book, magazine, article, periodical, film, or video or audio tape, for the purpose of influencing public opinion within the United States, unless the involvement of the U.S. Government is acknowledged.

Sec. 134. Contracting. Intelligence entity sponsorship of contracts or arrangements for goods or services with U.S. organizations may be concealed for routine service contracts, procurement contracts, or transactions under the Economy Act. Unless the organization is an educational institution, entity sponsorship may also be concealed pursuant to procedures approved by the Attorney General, if concealment is necessary for authorized intelligence activities.

Sec. 135. Indirect Activities. Intelligence entities and their employees may not request or encourage anyone, directly or indirectly, to engage in any activity on behalf of the U.S. Government in which that entity is prohibited by this Act from engaging. This restriction does not bar an intelligence entity from requesting another U.S. Government agency to engage in an activity that is within the authorized functions of that agency.

Part E—Oversight and accountability

Sec. 141. IOB, Reports on Violations, Disciplinary Procedures. An Intelligence Oversight Board is to be appointed by the President. As prescribed by the President, the IOB is to report to the President on questions of legality and propriety, have access to information in the custody of any intelligence entity, and conduct inquiries into the activities of intelligence entities. Each entity is to have a general counsel to review the legality of its activities, rules and regulations; and an inspector general to investigate its activiites to determine whether they may be performed more effectively and to determine the facts and circumstances of any alleged wrongdoing. The general counsel and inspector general are to report to the IOB any intelligence matters as specified by the President.

The Attorney General is to report to the IOB any intelligence activity that involves a question as to whether there has been a significant law violation, and report to the President any intelligence activities that involve serious questions of law. The President, the IOB, and the appropriate entity head are to be informed by the Attorney General of decisions or actions taken in response to reports on intelligence activities. The Attorney General is also to keep the IOB and the entity general counsels informed of Justice Department legal opions affecting intelligence community operations.

Entity heads must ensure that the general counsel and inspector general have access to necessary information; provide information required to fulfill the Attorney General's duties under this Act; report to the Attorney General evidence of possible federal criminal violations by entity employees or agents; and report to the Attorney General evidence of possible violations by other persons of federal criminal laws specified in guidelines adopted by the Attorney General. All entity employees are to cooperate fully with the IOB, the general counsel and inspector general, and the Attorney General; and are to report possible law violations to the entity head and inspector general or general counsel or to the IOB. Entity heads are to ensure such full cooperation. No employee who so reports in good faith or so cooperates may be subject to adverse personnel action solely on that account.

Entity heads are empowered to take disciplinary action against employees who violate this Act or the procedures or regulations established under this Act, including any regulation, procedure, or obligation to provide for personnel, document, communications, or physical security to protect intelligence sources and methods from unauthorized disclosure. Sanctions include suspension without pay for up to 180 days, reduction in salary or grade, and dismissal. Employees have a right to present evidence on their behalf. Existing legal authority of entity heads to terminate employment or take other disciplinary action is not affected.

Sec. 142. *Congressional Oversight*. Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the head of each intelligence entity shall keep the House and Senate Intelligence Committees fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, that entity, including any significant anticipated intelligence activity; but Committee approval is not a condition precedent to the initiation of any such anticipated activity. Similarly, each entity head shall furnish any information or material concerning intelligence activities in the possession, custody, or control of the entity or its employees whenever requested by the House or Senate Intelligence Commitee, and report in a timely fashion to the Intelligence Committees information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

Entity heads shall maintain a complete record of all legal authorities, published regulations, and published instructions pertaining to the intelligence activities of that entity, and shall establish procedures to ensure that a record is maintained of each authorization or approval required by law, regulation or procedures approved by the Attorney General under sec. 204 with respect to any intelligence activity. The Intelligence Committees shall be furnished all record schedules which intelligence entities are required by law to furnish to the Archivist of the United States, including any modifications.

The President may establish such procedures as the President determines may be necessary to carry out the provisions of this section.

Sec. 143. Disclosure Provisions. The House and Senate Intelligence Committees are to report annually to their respective Houses on U.S. intelligence activities and call to the attention of each House, or the appropriate committee, any intelligence matter which should have its attention. Such reports are to be made in a manner consistent with national security interests and are to be made public to the extent possible under H.Res. 658 or S.Res. 400 disclosure provisions. No information provided to the Intelligence Committees that has been classified or that the Executive Branch has requested be kept confidential may be made public, except under H.Res. 658 or S.Res. 400 disclosure provisions. These provisions may be changed by each House in the same manner as any other rule of such House. Intelligence Committee employees must agree in writing and under oath to be bound by H.Res. 658 or S.Res. 400 disclosure restrictions and must receive security clearances as determined by each committee in consultation with the DNI.

Sec. 144. Appropriations Requirements. No funds may be appropriated for national intelligence, counterintelligence, or counterterrorism intelligence activities of intelligence entities unless authorized by prior legislation, except for appropriations by continuing resolution or required for pay raises.

Sec. 145. Comptroller General Audits. The Comptroller General may audit and review intelligence activities upon the request of the House Permanent Select Committee on Intelligence or the Senate Select Committee on Intelligence. Each intelligence Committee must approve requests for such audits by other committees of each House; and the results may be made available to the requesting committee only in accordance with H.Res. 658 of the 95th Congress or S.Res. 400 of the 94th Congress. Audits are to be conducted under security standards prescribed by the DNI, and the DNI may exempt particular activities from audits if the DNI finds such exemption is essential for the nation's security and notifies the Intelligence Committees.

TITLE II—STANDARDS FOR INTELLIGENCE ACTIVITIES

Part A—Purposes and definitions

Sec. 201. Purposes. This title provides statutory authorization for activities of intelligence entities that concern United States persons, establishes standards for such activities and means to ensure that they conform to those standards, and delineates responsibilities of government officials to ensure that such activities are conducted in accordance with the Constitution and laws of the United States. (The Foreign Intelligence Surveillance Act of 1978 already authorizes and regulates electronic surveillance in the United States for intelligence purposes. Title VIII extends that Act to physical searches in the United States.)

Sec. 202. Definitions. The most intrusive techniques are defined by the terms foreign electronic surveillance, foreign physical search, extraordinary technique, and covert technique. "Foreign electronic surveillance" is defined to mean targeting U.S. persons abroad by wiretaps, microphones, and other techniques and monitoring devices that would require a court order in the United States under the Foreign Intelligence Surveillance Act. "Foreign physical search" means searches abroad of U.S. persons and their property, and opening mail abroad of U.S. persons. "Extraordinary technique" includes foreign electronic surveillance, foreign physical search, and any other technique directed against a U.S. person abroad that would require a warrant for law enforcement in the United States. "Covert technique" means any extraordinary technique and any other category or type of collection activity designated by the President for the purpose of protecting privacy and constitutional rights from significant intrusion.

Additional intrusive techniques defined for this title are directed collection, mail cover, and physical surveillance. "Directed collection" means obtaining information concerning a U.S. person by requesting or directing any person to acquire the information by exploiting or developing a relationship with a U.S. person without disclosing that the information will go to an intelligence entity. (Placing employees in domestic groups is excluded to permit separate procedures in sec. 214(b) for that technique.) "Mail cover" means systematic and deliberate inspection and recording of information from the exterior of envelopes in the mails. "Physical surveillance" means unconsented systematic and deliberate observation of a person on a continuing basis, or unconsented acquisition of nonpublic communications by means other than electronic surveillance.

Other defined terms are collecting agency, employee, foreign power, and minimization procedures. "Collecting agency" and "employee" are defined to clarify the application of procedural requirements. "Foreign power" is defined substantially as in the Foreign Intelligence Surveillance Act to include foreign governments, foreign factions not substantially composed of U.S. persons, entities known to be directed and controlled by foreign governments, international terrorist groups, and foreign-based political groups not substantially composed of U.S. persons. "Minimization procedures" for extraordinary techniques abroad is also defined as in the Foreign Intelligence Surveillance Act. The procedures must minimize acquisition and retention and prohibit dissemination of nonpublicly available information about unconsenting U.S. persons, consistent with the need for intelligence. Foreign intelligence identifying a U.S. person may be disseminated only if such identity is necessary to understand that intelligence or assess its importance. Evidence of a crime may be disseminated for law enforcement purposes.

Part B—Authority for activities that concern U.S. persons

Sec. 211. General Authorities. Intelligence entities may engage in the following activities only in accordance with this Part and only to fulfill their lawful functions: (1) collection, retention, or dissemination of intelligence concerning U.S. persons; (2) any other intelligence activities directed against U.S. persons; (3) collection, retention, or dissemination of information concerning U.S. persons who are targets of clandestine intelligence gathering activity of a foreign government; (4) collection, retention, or dissemination of information concerning U.S. persons to determine the suitability or credibility of potential sources of intelligence or operational assistance; and (5) collection, retention, or dissemination of information, concerning U.S. persons to provide personnel, document, communications, or physical security for intelligence activities.

Intelligence entities may conduct activities that affect U.S. persons with their consent, and may collect, retain, and disseminate publicly available information concerning U.S. persons for lawful purposes. Information concerning a U.S. person may be retained and disseminated if the person is not identified. Information concerning U.S. persons collected in violation of this Act must be destroyed, unless the collecting agency head or a designee determines that it (1) should be retained for oversight, accountability, or redress; (2) evidences physical danger to any person and is used only as necessary to protect against that danger with notice to the Attorney General or a designee; or (3) is required by law to be used for legal proceedings of which the agency has prior notice.

This title does not affect the use of security guards, access controls, identification credential requirements, or inspection of materials entering or leaving intelligence entity installations for security purposes. Nor does this title prohibit voluntary provision of information to an intelligence entity by anyone not employed by or assigned to it. Nothing in this Part prohibits, limits, or otherwise affects activities of any agency other than those described in this section.

Sec. 212. Procedures. Procedures established by intelligence entity heads and approved by the Attorney General are required for intelligence activities that concern unconsenting U.S. persons, except where information is publicly available or where a U.S. person's identity is not retained or disseminated. The procedures must protect constitutional rights and privacy. Officials must be designated to initiate or approve particular activities and to review them at timely intervals. Records must be maintained of all approvals. Minimization procedures geared to particular techniques must limit acquisition and retention and prohibit dissemination consistent with the need for information to serve lawful governmental purposes. Foreign intelligence may not be disseminated in a manner that identifies a U.S. person unless the identity is necessary to understand that intelligence or assess its importance, or is evidence of a crime disseminated for law enforcement purposes.

The procedures must also prescribe reasonable requirements for the scope, intensity, and duration of particular types of activities taking into account the nature and quality of information on which the activity is based and the importance of the U.S. objective. Collection is to be conducted with minimal intrusion consistent with the need for information of the nature, reliability, and timeliness required. Certain categories or types of collection activity will be designated "covert techniques" by the President, triggering specific restrictions in sections 213 through 217, and the procedures will implement the President's determinations. Procedures are specifically required to govern the conduct of employees under cover engaged in activities within the United States or directed against U.S. persons abroad. The procedures and any changes are to be submitted in advance to the Intelligence Committees, unless the Attorney General determines immediate action is required and notifies the Committees immediately.

Sec. 213. Collection of Foreign Intelligence. A presumption is established against collection of foreign intelligence by targeting U.S. persons with covert techniques (foreign electronic surveillance, foreign physical search, other techniques that require a warrant for law enforcement, and additional categories or types of collection activity designated by the President to protect privacy and constitutional rights from significant intrusion), unless the person's activities meet counterintelligence or counterterrorism intelligence standards under sec. 214. However, exceptions are made for extraordinary cases.

The first exception is where the President finds that extraordinary circumstances require such collection to obtain foreign intelligence that is essential to the national security and that cannot reasonably be acquired by other means. The NSC or a committee thereof must review such collection before it is approved; and recommendations to the President may not be made unless the Secretaries of State and Defense, the Attorney General, and the DNI, or if unavailable their representatives, are present. Any such collection lasting more than a year or substantially changed in purpose must be reaffirmed by the President and reviewed by the NSC or a committee thereof.

The second exception is where a Presidential designee finds that the target is a senior official of a foreign power, an unincorporated association substantially composed of United States citizens or permanent resident aliens directed and controlled by a foreign government, or any other entity directed and controlled by a foreign power and that unusual circumstances require such collection to obtain foreign intelligence that is important to the national security and cannot reasonably be acquired by other means. The Attorney General must be notified, and an NSC committee must review such collection periodically.

This section also regulates the collection of foreign intelligence within the United States by any clandestine means directed against unconsenting U.S. persons who are in the United States. Such collection may be conducted only (1) by the FBI, with notice to the Attorney General or a designee; (2) by the military services when directed against military personnel; (3) by NSA when directed at foreign electromagnetic communications, as defined in Title VI; and (4) with Attorney General approval by CIA through established sources and pretext interviews when the U.S. person is a senior foreign official or an entity directed and controlled by a foreign power or a foreign government under the second exception. All the procedural requirements of sec. 212 apply to such collection.

Sec. 214. Counterintelligence and Counterterrorism Intelligence Activities. These activities may be directed against unconsenting U.S. persons only on the basis of facts and circumstances which reasonably indicate that the person is or may be engaged in clandestine intelligence activities on behalf of a foreign power or international terrorist activity. Placing employees (including informants under the "employee" definition) in domestic organizations requires a finding by a senior official that such participation is necessary to achieve significant intelligence objectives and meets the requirements of the procedures under sec. 212. Those procedures must establish independent means for audit and inspection of such participation. Use against a U.S. person of mail covers, physical surveillance for purposes other than identification, recruitment of persons to engage in directed collection (such as informants and undercover agents), or access to financial records requires a finding that such techniques are necessary to achieve authorized intelligence objectives and meet the procedural requirements. The Attorney General or a designee is to be notified of these findings with respect to activities which the entity, based on guidelines established by the Attorney General, concludes may involve significant collection of information concerning political or religious activity.

Sec. 215. Targets of Clandestine Intelligence Gathering Activity. Information about unconsenting U.S. persons may be collected if a designated official makes a finding, with notice to the Attorney General or a designee, that the person is the target of clandestine intelligence gathering activity of a foreign government and such collection is necessary for counterintelligence purposes and meets the procedural requirements. Covert techniques and mail covers are prohibited.

Sec. 216. Potential Sources. Information about persons under consideration as potential sources of intelligence or operational assistance may be collected, without the consent of a U.S. person against whom such collection is directed, only in accordance with procedures which limit the scope, intensity, and duration to that necessary to determine in a timely manner the suitability or credibility of the potential source. Such collection is limited to interviews (including pretext interviews), physical surveillance for identification purposes, checks of government records, and other techniques approved by the collecting agency head with notice to the Attorney General or a designee. Covert techniques and mail covers are prohibited.

Sec. 217. Collection for Security Purposes. Information may be collected to provide personnel, document, communications, or physical security for intelligence activities, without the consent of a U.S. person against whom such collection is directed, only in accordance with procedures which govern the categories of persons who may be subjects of collection by particular agencies, and which limit the scope, intensity and duration to that required (1) to determine the suitability or trustworthiness of employees, contractors or applicants for contractor status, employees of contractors or proprietaries, applicants for employment or for access to information or facilities, consultants, or persons detailed or assigned to an entity, when requesting the person's consent would jeopardize the security of an intelligence activity; (2) to protect against breaches of security regulations or contractual obligations applicable to such persons, except that collection to protect against breaches of contractual obligations is limited to that necessary to refer the matter to the Justice Department; (3) to protect against a direct or imminent threat that may be posed by the person's activities to the physical safety of personnel, installations, property, documents or other materials related to intelligence activity, except that such collection in the United States is limited to that necessary to refer the matter to a law enforcement agency; and (4) to determine whether proposed intelligence activity sites meet appropriate physical security requirements.

Covert techniques and mail covers are prohibited. Collection by clandestine means requires a finding by a designated official that such means are necessary for authorized purposes and meet the procedural requirements.

Sec. 218. Review of Activities. Activities directed against particular U.S. persons that are authorized pursuant to sections 213 through 217 for longer than a year must be reviewed at least annually by the entity head or a designee. Except for collection under sec. 217 concerning entity employees, a report of such review must be submitted to the Attorney General or a designee or, for activities of the military services directed at military personnel, to the Service Secretary or a designee.

Part C—Standards for extraordinary techniques

Sec. 221. Extraordinary Techniques Outside the United States. Extraordinary techniques (search or surveillance that would require a court order in the United States) may not be directed against a U.S. person abroad to collect intelligence, except pursuant to a court order similar to that required by the Foreign Intelligence Surveillance Act of 1978. Orders are issued by the seven federal district judges designated under that Act. There are four significant differences between the Foreign Intelligence Surveillance Act and the requirements for search or surveillance of U.S. persons abroad. Two are contained in this section, and the others are in sec. 222 on cooperative arrangements and sec. 223 on emergency procedures. (Title VIII deals separately with physical searches within the United States.)

The first difference is that the standards do not require evidence of criminal law violation. In exceptional cases when the use of covert techniques has been approved under sec. 213 to collect foreign intelligence, an order may be issued if the court finds that the information sought is foreign intelligence and there is probable cause to believe that the U.S. person possesses the information sought. A court order may also be issued if the court finds that significant counterintelligence or counterterrorism intelligence is likely to be obtained and there is probable cause to believe that the U.S. person engages or is about to engage in clandestine intelligence activites on behalf of a foreign power, international terrorist activity, or activities in furtherance thereof. In all cases the court must find that less intrusive means cannot reasonably be expected to acquire intelligence of the nature, reliability, and timeliness that is required, and the court must approve the minimization procedures.

The second difference is that military judges designated by the Secretary of Defense may issue orders under these standards for extraordinary techniques directed against military personnel abroad. The Attorney General must be informed of all such applications and orders.

The requirements to identify the target, to state whether physical entry may be involved, to specify duration (up to 90 days), and to grant extensions are substantially the same as under the Foreign Intelligence Surveillance Act, although the court receives less information about the technique to be used. No order may authorize more than one unconsented entry into real property except for entries to install, repair, or remove surveillance devices. The court is to observe the procedural, administrative, and security provisions established under the Foreign Intelligence Surveillance Act; and that Act's provisions on use of information, wartime authority, and congressional oversight apply to extraordinary techniques under this section. The court of review established by that Act has jurisdiction to hear appeals; and its decisions are subject to review by the Supreme Court.

Sec. 222. Cooperative Arrangements. The third difference from the Foreign Intelligence Surveillance Act is the provision that disclosure to the court of information concerning cooperative or liaison relationships between U.S. Government agencies and foreign governments is not required, if the DNI determines such disclosure would jeopardize that relationship. If a determination of facts relating to a probable cause finding would require disclosure of such information, the Attorney General may substitute a certification of facts based on a determination that such information reliably supports the certification of facts. The court is to base its probable cause finding on the Attorney General's certification and any other available information, and the court may not refuse to make a finding of probable cause solely because protected liaison information is withheld.

Sec. 223. Emergency Procedures. The fourth difference from the Foreign Intelligence Surveillance Act is the three-day emergency provision. Extraordinary techniques that would meet the standard for a court order may be approved in emergency situations by the senior agency official in the country where the technique is to be used. This same procedure applies to the use of other "covert techniques" that would otherwise require Presidential approval under sec. 213. (By contrast, the Foreign Intelligence Surveillance Act limits emergency surveillance in the United States to 24 hours and requires the Attorney General's approval.)

Part D—Remedies and sanctions; other provisions

Sec. 231. Criminal Sanctions. The criminal penalties in the Foreign Intelligence Surveillance Act are applied to employees of the United States who intentionally engage in foreign electronic surveillance or foreign physical search directed against U.S. persons, except as authorized by statute. It is a defense that the surveillance or search was authorized by a court order or search warrant. It is also a defense that the defendant was a law enforcement officer engaged in official duties and there was no statute or established judicial procedure concerning authorizations for the type of surveillance or search involved.

Sec. 232. Civil Liability and Jurisdiction. The civil liability provisions of the Foreign Intelligence Surveillance Act are applied when sec. 231 is violated. Except for this provision, nothing in this title or in any guidelines or procedures established pursuant to this title creates a civil cause of actions for equitable relief against the United States or a civil cause of action against any officer, agent, or employee or former officer, agent or employee of the U.S. Government, not otherwise available under the Constitution or laws of the United States. Except as provided regarding extraordinary techniques, nothing in this Act or in any guidelines or procedures established pursuant to this Act, creates any substantive or procedural rights and no court has jurisdiction over a claim in any proceeding, including a motion to quash a subpoena, suppress evidence, or dismiss an indictment based solely on an alleged failure to follow a provision of this Act or of guidelines or procedures established pursuant to this Act.

Sec. 233. Privileged Communications. No otherwise privileged communication shall lose its privileged character as a consequence of this Act.

Sec. 234. Administrative Rulemaking. The DNI and the head of each intelligence entity shall, in appropriate consultation with the Attorney General, promulgate regulations necessary to carry out the provisions of this Act. Any promulgation of a standard, rule, regulation, or procedure to implement this title shall be exempt from the provisions of 5 U.S.C. 553, the Administrative Procedures Act.

TITLE III—THE INTELLIGENCE COMMUNITY

Sec. 301. Purposes. The purposes are to provide for appointment of a Director of National Intelligence (DNI), and to ensure proper direction of the community. In addition, the DNI is held accountable to the President, Congress and the people.

Sec. 302. Presidential Designation of National Intelligence Activities. The President is to determine from time to time which foreign intelligence activities, if any, in addition to those specifically defined as national intelligence activities, shall constitute national intelligence activities.

Sec. 303. Director and Deputy Director of National Intelligence. The Office of the Director of National Intelligence is established, to be headed by a Director and a Deputy appointed by the President, by and with the advice and consent of the Senate. The maximum terms for the DNI and Deputy DNI, respectively, are ten years. The provisions for appointment of military officers parallel existing law. Provision is made for an acting Director or Deputy Director during their absence or disability or during any temporary vacancy in their offices.

Sec. 304. Duties and Authorities of the DNI. The duties and authorities of the DNI generally reflect the responsibilities presently assigned to the Director of Central Intelligence under Executive Order 12036, other Presidential directives, and the National Security Act of 1947. The CIA charter (Title IV) allows the President the option either to keep the DNI as CIA Director or to split the "two hats" by appointing the Deputy DNI or an Assistant DNI as CIA Director. The FBI Charter (Title V) gives the FBI Director primary responsibility for counterintelligence and counterterrorism intelligence activities conducted within the United States. The NSA charter (Title VI) assigns the principal responsibility for signals intelligence to the NSA Director.

The DNI is to serve, under NSC direction, as the principal foreign intelligence officer of the United States. The DNI is responsible for coordinating national intelligence activities and counterintelligence and counterterrorism intelligence activities abroad, for evaluating the quality of national intelligence, and for reviewing national intelligence activities to ensure that they are properly and effectively carried out. To coordinate national intelligence collection, the DNI is to develop objectives and targets to meet NSC requirements, establish procedures to increase the national intelligence contributions of agencies outside the intelligence community, and coordinate all clandestine collection abroad.

The DNI is also responsible for the production of national intelligence, including estimates and other community-wide analyses. This duty includes ensuring that any diverse points of view are presented fully, considered carefully, and expressed clearly for policymakers. The DNI may levy analytic tasks on departmental intelligence production organizations (such as the Defense Intelligence Agency or the State Department's Bureau of Intelligence and Research), in consultation with those organizations. The DNI's responsibility for the dissemination, under appropriate security procedures, of national intelligence includes duties to ensure that all agencies and military commanders receive national intelligence relevant to their duties, to establish procedures to increase the usefulness to all agencies of information collected, processed, and analyzed through national intelligence activities, and to ensure access of each intelligence entity to national intelligence relevant to that entity's authorized activities.

Other DNI functions include ensuring appropriate implementation of special activities and other sensitive intelligence activities abroad, coordinating intelligence relationships with foreign governments under policies formulated in consultation with the Secretary of State, and promoting the performance of services of common concern by particular agencies for the intelligence community.

The existing responsibility of the Director of Central Intelligence for the protection of intelligence sources and methods from unauthorized disclosure is transferred to the DNI, with additional authority to establish for all agencies minimum security standards for the management and handling of information and material relating to intelligence sources and methods. Administrative and personnel authorities of the Director of Central Intelligence under current law are carried over, with some technical revisions, to the Office of the DNI.

To carry out the DNI's specific duties, the DNI is authorized to audit the national intelligence activities of intelligence entities, to obtain additional information from any agency in accordance with applicable law, to review all research and development that supports intelligence activities, and to review all intelligence activities.

Sec. 305. Assistant DNI's, General Counsel, Committees and Boards. The President may appoint up to five Assistant DNI's, no more than two of whom may be military officers. The President may also appoint a General Counsel for the Office of the DNI and the CIA, by and with the advice and consent of the Senate. The DNI, the Attorney General, and the heads of intelligence entities may establish committees and boards to assist in carrying out their duties under this Act, and may establish advisory committees and waive the Federal Advisory Committee Act.

Sec. 306. Departmental Responsibilities. All agency heads are responsible for ensuring that national intelligence obtained by their agencies is promptly furnished to the DNI or to an intelligence entity designated by the DNI.

Sec. 307. Annual Report of DNI. The DNI is to make an annual public report on the national intelligence, counterintelligence, and counterterrorism intelligence activities of the intelligence community. Such report need not disclose classified information or the names of individuals engaged in such activities.

Sec. 308. National Intelligence Budget. The DNI, consistent with applicable law, has full and exclusive authority to approve the national intelligence budget submitted to the President. The DNI provides program and budget guidance to the agencies, and agency heads must ensure timely submission of their budgets and other necessary information to the DNI. With the advice of the agencies concerned, the DNI develops the budget, presents it to the President in consultation with OMB, and justifies it to Congress. The DNI has comparable reprogramming authority. Implementation of overall budgets by departments that include intelligence entities must have no significant predictable adverse effect on implementation of the national intelligence budget.

Sec. 309. Appropriations Requirements. The DNI may account for lawful expenditures of the Office of the DNI by certificate.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Part A—Purposes

Sec. 401. Purposes. The purposes are to clarify the statutory authorities, functions, and responsibilities of the CIA; to authorize the CIA to perform necessary intelligence activities; to ensure that those activities are properly and effectively managed; and to ensure that the CIA is accountable and that its activities are consistent with the Constitution and laws of the United States.

Part B—Establishment of agency; director; deputy director; general counsel; inspector general; functions

Sec. 411. Establishment of CIA. The CIA is established as an independent establishment in the executive branch, which acts under the direction of the NSC and subject to intelligence plans, objectives, and requirements set by the DNI.

Sec. 412. Director and Deputy Director. The CIA Director is appointed by the President and confirmed by the Senate. The DNI is to serve as CIA Director unless a Deputy or Assistant DNI is appointed and confirmed by the Senate. The Deputy CIA Director is also appointed by the President and confirmed by the Senate. The provisions of the National Security Act of 1947 regarding appointment of military officers are retained. Both offices may not be held simultaneously by active or retired military officers. A military officer appointed to these positions is not subject to military control and may not exercise military functions.

The duties of the CIA Director are to ensure that CIA activities are conducted in accordance with this Act and with the Constitution and laws of the U.S.; to ensure that CIA activities are properly and efficiently directed, regulated, coordinated, and administrated; to perform duties assigned by this Act to the head of each intelligence agency; to protect intelligence sources and methods from unauthorized disclosure; and to specify which CIA officials may act in the absence of the Deputy Director.

Sec. 413. General Counsel and Inspector General. The CIA General Counsel is appointed by the President, confirmed by the Senate and discharges general counsel responsibilities for the office of the DNI. A Deputy General Counsel may act in the General Counsel's absence. An Inspector General is appointed by the CIA Director.

Sec. 414. Functions. All CIA activities, duties, and responsibilities must be performed in accordance with this Act. The CIA has three basic types of functions.

Its intelligence functions are to: (1) conduct foreign intelligence activities including collection by clandestine means, (2) conduct counterintelligence and counterterrorism intelligence activities including activities by clandestine means, (3) conduct special activities, (4) process and analyze foreign intelligence collected by any intelligence agency, (5) produce, publish, and disseminate intelligence to meet the needs of the President, the NSC, the DNI, and other agencies, including national intelligence estimates and similar analyses coordinated with other intelligence agencies, and (6) to develop, conduct, and support technical and other programs, including signals intelligence and reconnaissance, to collect intelligence abroad.

The CIA also performs functions for the intelligence community at large: (1) to act as the DNI's agent in the coordination of counterintelligence, counterterrorism intelligence, and clandestine foreign intelligence activities abroad by other intelligence agencies, (2) under the direction of the DNI to conduct liaison with and provide assistance to foreign governmental agencies and act as the DNI's agent in the coordination of such relationships by other intelligence agencies, and (3) to conduct service of common concern on behalf of the intelligence community as directed by the DNI.

Ancillary CIA functions are: (1) to conduct or contract for research, development, and procurement of systems and devices related to its other functions, (2) to perform inspection, audit, public affairs, legal, legislative, and other administrative functions to support its activities, and provide such support to the DNI's Office as directed by the DNI, and (3) to perform functions otherwise authorized by this Act to be performed by each intelligence agency.

Within the U.S., CIA may collect foreign intelligence by clandestine means only in coordination with the FBI, under standards agreed upon by the Attorney General and the DNI, and may direct such collection against unconsenting U.S. persons only as permitted by sec. 213(d). Within the U.S., CIA may conduct counterintelligence and counterterrorism intelligence activities by clandestine means only with the approval of the FBI Director or a designee, and must keep the FBI fully and currently informed, in accordance with sec. 504(d).

Part C—Authorities of CIA: Authorization for appropriations

Sec. 421. General Authorities. To carry out its functions, the CIA has three types of general authorities: security functions, personnel functions and ancillary functions.

Under the heading of security functions, the CIA is authorized to: conduct background investigations; to maintain its own printing plant; to operate secure communications systems; to protect Agency personnel, installations, and equipment; to maintain cover; to conceal and protect the relationship between the Agency and any of its officers, employees, sources, or activities; to hire security officers; to allow employees to carry firearms when necessary to protect information, persons or property of the CIA; provide transportation when normal means of transportation are unsafe; to carry firearms in the discharge of their official duties in limited circumstances. In addition, no provision of law is to require the Director of the Agency to disclose the name, official title, salary or affiliation of any person employed by or associated with the Agency. The Agency is also largely exempted from any law (e.g., FOIA) which requires disclosure of its operations or technical systems, except insofar as they deal with finished foreign intelligence analysis or with information requested by Americans on themselves.

In dealing with personnel matters, the Agency is authorized to be reimbursed by other agencies in connection with the detailed personnel tour from the Agency; settle pay claims for civilian and military personnel; pay for expenses in connection with membership in national societies; provide or pay expenses of training; have assigned or detailed to the Agency employees of other departments; have a person who has been separated receive a position in Civil Service.

Various housekeeping authorizations are also granted to the CIA including authorization to exchange funds; rent premises; construct buildings; perform inspections, audit, public affairs, legal, legislative, and other administrative functions; receive sums of money, and use a seal. In addition the Agency is permitted to carry out any other duties granted to all entities of the community under title I.

Sec. 422. Procurement. The Agency is authorized to procure property and services, enter into contracts, and dispose of property when necessary to perform its authorized functions, without regard to the provisions of other laws.

Sec. 423. Proprietaries. The Agency is authorized to establish and operate proprietaries in furtherance of its responsibilities. Excess profits and funds generated by the liquidation of a proprietary shall be returned to the miscellaneous receipts of the U.S. Treasury. Major transactions involving Agency proprietaries shall be reported to the Intelligence Committees.

Sec. 424. Relationships with Other Government Agencies. The Agency is authorized to receive assistance from state and federal law enforcement agencies in conducting background investigation on prospective employees. It is authorized to cooperate with and receive technical assistance from the State Department Passport Office, the Immigration and Naturalization Service and other federal, state, or local agencies.

Sec. 425. Admission of Essential Aliens. The Agency is authorized to instruct the Immigration and Naturalization service to grant up to one hundred essential aliens permanent resident alien status in the United States in any one fiscal year. The Agency is to provide necessary processing and relocation assistance to these persons as required.

Sec. 426. Authorizations for Appropriations and Expenditures.

In fulfilling it lawful responsibilities, the Agency may expend the funds authorized and appropriated to it. It may only expend such funds as are authorized by legislation enacted in the same or the two preceding fiscal years. A Contingency Fund is established for any lawful intelligence needs not anticipated at the time the Agency's budget was submitted. The withdrawal of funds from the Contingency Fund is to be approved by the Office of Management and Budget and reported to the Congressional Intelligence Committee, either 72 hours before the transaction or in extraordinary circumstances within 48 hours of the withdrawal.

Part D—Travel and other allowances; retirement system; death gratuities

Sec. 431. Travel, Related Expenses and Death Gratuities for Certain Agency Personnel. In accordance with procedures established by the Director of the Agency in cooperation with the Director of National Intelligence, employees of the Agency stationed overseas are to receive the same benefits, travel allowances and death gratuities as Foreign Service officers receive under existing statutes.

Sec. 432. Retirement System. In general, employees of the Agency fall under the Federal civil service retirement system. However, certain employees of the Agency who either have highly specialized skills or hazardous duties in support of Agency activities overseas shall be eligible for special benefits under the provisions of the 1964 Central Intelligence Agency Retirement Act for Certain Employees.

Part E—Transfer of personnel, property and functions; statutes repealed; effect of subsequent law

Sec. 441. Transfer of Personnel, Property and Functions.

All personnel, contractual obligations, rules, regulations, licenses, pending lawsuits, and functions of the Agency effective the day before enactment of this act shall be transferred to the Agency as described under this legislation.

Sec. 442. Statutes Repealed; Effect of Subsequent Law.

Certain sections of this bill are not to be superseded or amended unless specifically mentioned. In addition, superseded sections of the National Security Act of 1947 and the Central Intelligence Agency of 1949 are hereby repealed.

Part F—Criminal penalty

Sec. 443. Criminal Penalty. Under Title IV, anyone using the initials CIA, the name Central Intelligence Agency, or the seal of the Agency to convey the false impression that a document or production is endorsed or authorized by the Agency shall be fined not more than $10,000 or imprisoned not more than one year or both.

TITLE V—FEDERAL BUREAU OF INVESTIGATION

Sec. 501. Purposes. The purposes are to authorize the FBI, subject to Attorney General supervision and control, to perform certain intelligence activities; to delineate responsibilities and authorities of the FBI Director; and to ensure that FBI intelligence activities are properly and effectively managed, accountable, and consistent with the Constitution and laws of the United States.

Sec. 502. Supervision and Control. All FBI intelligence authorities are to be exercised in accordance with this Act and under the Attorney General's supervision and control. The Attorney General is to be guided by NSC policies and priorities and responsive to foreign intelligence requirements set by the DNI. The Attorney General and the Director are to review FBI intelligence activities annually and publicly designate officials to discharge general counsel and inspector general functions under this Act.

Sec. 503. Duties of the Director. The FBI Director is the principal officer of the Government for the conduct and coordination of counterintelligence and counterterrorism intelligence activities within the United States. He is to ensure conformity with the law and efficient management, to keep the Attorney General informed, and advise the Attorney General and the NSC on counterintelligence and counterterrorism intelligence matters. The Attorney General is to provide by regulation for an Acting Director.

Sec. 504. Counterintelligence and Counterterrorism Intelligence Functions. The FBI is to collect and disseminate counterintelligence and counterterrorism intelligence. Any other counterintelligence or counterterrorism intelligence activities must be necessary for lawful purposes. FBI liaison with foreign governments is to be in coordination with the DNI. FBI activities abroad are to be in coordination with the CIA and, if unrelated to activities within the United States, require Attorney General or a designee's approval.

The FBI coordinates counterintelligence and counterterrorism activities in the United States by other intelligence entities. Except for activities by the military services against military personnel on military installations, another entity may conduct clandestine activities in the United States only with written FBI approval and notice to the Attorney General or a designee.

Sec. 505. Foreign Intelligence functions. The FBI may collect foreign intelligence within the United States in the course of authorized collection of counterintelligence and counterterrorism intelligence. The FBI may also conduct activities in the United States in support of foreign intelligence collection programs of other intelligence entities, and may produce foreign intelligence in coordination with the DNI.

FBI foreign intelligence activities for other entities must be based on a written request by an official designated by the President, with notice to the Attorney General or a designee. The Director must approve each support activity. Clandestine activities directed against U.S. persons require notice to the Attorney General or a designee, as under section 213(d).

Sec. 506. Cooperation with Foreign Governments. The FBI may collect counterintelligence or counterterrorism intelligence on the written request of a foreign government, and assist foreign government officials collecting intelligence in the United States, under two conditions. First, if the FBI would be authorized under this Act to do so in the absence of such a request.

Second, if the Attorney General or a designee determines that, as a matter of comity, it is in the interests of the United States. This authority is subject to all the requirements of Title II. The FBI must keep the Attorney General or a designee informed of all intelligence collection in the United States by foreign government officials that is assisted by the FBI.

Sec. 507. General and Special Authorities. In general the bureau may procure necessary property and facilities, establish and maintain necessary cover, establish and operate proprietaries, deposit public moneys in banks; conduct or contract for research and procurement of technical devices; and protect intelligence sources from unauthorized disclosure in accordance with DNI standards.

Proprietary profits are to be deposited in the Treasury, and the disposition of proprietaries valued more than $150,000 is to be reported to the Attorney General and the Intelligence Committees. FBI procurement of property or services may be conducted in a manner concealed from the public when necessary for security purposes.

TITLE VI—NATIONAL SECURITY AGENCY

Part A—Purposes

Sec. 601. Statement of Purposes. Title VI establishes the National Security Agency (the "Agency") and provides authorization for signals intelligence ("SIGINT"—information gathered through the interception of electromagnetic signals) and communications security ("COMSEC"—protective telecommunications measures denying access to national security information to an unauthorized person). The Agency is to be accountable to the President, the Congress and the people of the United States.

Sec. 602. Definitions. This section defines the terms related to NSA's mission including "communications intelligence", "cryptographic system", "cryptology", "electronic intelligence", "foreign communication", "foreign instrumentation signals intelligence", "signals intelligence", "unauthorized person", and "United States signals intelligence system".

Part B—Establishment of agency's director; deputy director; general counsel, inspector general; duties

Sec. 611. Establishment of NSA; Function. The Agency, an entity within the Department of Defense (DOD), is authorized to conduct SIGINT and COMSEC activities for the U.S. Government and to serve as the principal agency of the U.S. SIGINT system. The Secretary of Defense supervises the functions of the Agency and responds to COMSEC policies and intelligence objectives and requirements established by the Director of National Intelligence (DNI).

Sec. 612. Director and Deputy Director. The Director and Deputy Director of the Agency are appointed by the President with the advice and consent of the Senate. Either the Director or the Deputy Director must have cryptologic (i.e., coding and ciphering) experience, and only one of the two may be a commissioned officer. Such an officer will neither possess DOD authority, nor be under military department supervision; rank and grade held prior to acceptance of appointment will be maintained. Neither the Director nor the Deputy Director may serve for more than six years, unless reappointed by the President with the advice and consent of the Senate. The maximum term for either office is 12 years.

Sec. 613. Duties of the Director. As the principal SIGINT officer of the Government and as the executive head of the Agency, the duties of the Director will include the management, supervision and dissemination of SIGINT requirements and activities. The Director is to prepare the U.S. SIGINT program budget for each fiscal year. To this end, the Director will receive budget guidance from the Secretary of Defense in tactical and departmental intelligence programs, and the DNI will provide budget guidance in the preparation of national intelligence programs.

Sec. 614. General Counsel; Inspector General. The General Counsel, as principal legal advisor to the Director, will review activities, rules and regulations of the Agency; the Inspector General will conduct investigations to promote effectiveness in the legal functions of the Agency.

Part C—General and special activities of the agency; authorization for appropriations

Sec. 621. General Authorities of the Agency. The Agency may rent, lease, and alter buildings to carry out the functions of the Act. A waiver of limitations on the Agency's authority regarding the foregoing is to be in writing. The Agency is further authorized to establish cover for Agency employees and direct the transfer of cryptologic equipment among various entities of the intelligence community.

Sec. 622. Procurement Authority. The Agency may procure property, goods and services with wide discretion in the name of the DOD. However, if procurement is not under the auspices of DOD, it must be pursuant to Sec. 134 ("Restrictions on Contracting").

Sec. 623. Education and Training. In order to accomplish the cryptologic missions of the Government, the Act provides authorization to arrange for, fund, and provide the necessary training needed to accomplish the various functions of the Agency.

Sec. 624. Authorizations for Appropriations and Expenditures. Funds appropriated for the Agency must be authorized by legislation "during the same or one of the two immediate preceding fiscal years." Funds expended under sections 701–708 of title 31 U.S.C. (consolidation of unexpended appropriated funds into a common funds) are not subject to the above limitation. In addition, funds initially appropriated to the Secretary of Defense may be provided to the Agency by the Secretary for the sole purpose of meeting emergency expenses.

Part D—Travel and other expenses; special facilities; retirement system-related expenses; and death gratuities for certain agency personnel

Sec. 631. Travel. In consultation with the DNI, transportation and subsistence expenses may be paid to employees assigned to stations within the United States. Employees assigned to stations in foreign countries will receive the same expenses that are provided to employees of the Foreign Service (per title IX of Foreign Service Act of 1946).

Sec. 632. Commissary and Mess Services and Recreation Facilities. In the absence of commissary and recreation facilities outside the United States, the Director is authorized to establish such services. They will be accessible to employees of government contractors, as well as to employees of other government agencies. However, the Director may not authorize further establishment of facilities where other departments operate such services, unless they are deemed necessary.

Sec. 633. Retirement System. With the exception of Agency employees involved in hazardous duty, Agency employees will participate in the regular Federal civil service retirement system. Those involved in hazardous duty may receive a special annuity.

Part E—Special delegation authority; preservation of certain authority and responsibility

Sec. 641. Special Delegation Authority. The Director will have operational control over activities required for SIGINT direct support to military commanders. The authorities of other agencies for final evaluation and dissemination of SIGINT is preserved, as are certain specified CIA authorities and departmental communications security authorities. An organization operating a SIGINT system abroad must receive NSC authorization for such activities.

Part F—Transfer of personnel, property and functions

Sec. 651. Personnel, obligations, and contracts—employed or in effect the day before the effective date of this title—will be transferred to the Director. The foregoing will apply also to rules, regulations, and any action in effect prior to the above date.

TITLE VII—PROTECTION OF IDENTITIES OF CERTAIN UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

Sec. 701. Criminal Penalty. Criminal penalty. Criminal penalties of a $50,000 fine or not more than ten years imprisonment or both are imposed on persons who have or have had authorized access to classified information that identifies an undercover intelligence agent and violate their obligation to protect its secrecy. This statute goes beyond current law by: (1) punishing disclosure of this category of classified information by present or former government employees to any unauthorized person, not just to foreign agents; (2) eliminating the Espionage Act requirement of proof of an intent by the employee or former employee to harm the national security; and (3) establishing the extraterritorial application of the statute to citizens committing the offense abroad.

It is a defense that the United States has publicly acknowledged or revealed the undercover relationship of the person who is identified. Persons who have not had authorized access to the information cannot be prosecuted as conspirators. It is not an offense to transmit information directly to the Intelligence Committees, and nothing is to be construed as authority to withhold information from the Congress.

Sec. 702. Presidential Responsibility. The President is to ensure that persons having authorized access to such classified information be informed of this criminal penalty.

TITLE VIII—PHYSICAL SEARCHES WITHIN THE UNITED STATES

Sec. 801. Amendments to the Foreign Intelligence Surveillance Act. The Foreign Intelligence Surveillance Act of 1978 is retitled the Foreign Intelligence Search and Surveillance Act. The court order procedures of the Act are extended to "physical search," defined as any search of property located in the United States and any opening of mail in the United States or in U.S. postal channels, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes. The procedures of the Act for surveillance without a court order approved by the Attorney General are extended to physical search directed solely at property or premises under the open and exclusive control of an "official" foreign power, but no property or mail of a known U.S. person may be seized and there must be no substantial likelihood that the search will involve the property or mail of a U.S. person.

The Foreign Intelligence Surveillance Act of 1979 is also amended to permit the Attorney General to authorize physical entry of property or premises under the open and exclusive control of an "official" foreign power for electronic surveillance purposes.

The standards for court orders are basically the same as under the Foreign Intelligence Surveillance Act of 1978. There must be probable cause of criminal activity by any U.S. person whose property or mail is to be searched. No order may authorize more than one unconsented physical entry except for entries to install, repair, or remove surveillance devices. Whenever more than one search of property or the opening of more than one item of mail is to be conducted under an order, the court must specify the authorized scope of the searches or opening of mail. All other provisions of the Act concerning electronic surveillance, including criminal penalties and civil liability, are extended to physical search. Numerous technical amendments are necessary for this purpose.

Sec. 802. Amendments to Chapter 119 of Title 18, United States Code. These are technical conforming amendments to changes made by the Foreign Intelligence Surveillance Act.

TITLE IX—MISCELLANEOUS AMENDMENTS AND EFFECTIVE DATE

Sec. 901. Amendments to Title 5, United States Code. Title 5 is amended to modify the appropriate official designations.

Sec. 902. Repeal of Section 2422, Title 22, United States Code. The Hughes-Ryan Amendment is repealed.

Sec. 903. Amendment to the Federal Advisory Committee Act. The CIA exemption to the Federal Advisory Committee Act is eliminated in view of the authority provided in section 305 of this Act.

Sec. 904. Effective Date. The Act becomes effective on the first day of the third calendar month following the month in which it is enacted.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the statements by Senator Bayh and Senator Mathias be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The statements are as follows:

STATEMENT BY SENATOR BAYH

NATIONAL INTELLIGENCE ACT OF 1980

I join today with Senator Huddleston of Kentucky, who is Chairman of the Senate Select Committee on Intelligence Subcommittee on Charters and Guidelines, and with Senator Charles McC. Mathias of Maryland, who serves as Vice Chairman of the Subcommittee, and my Vice Chairman, Senator Goldwater, in introducing the National Intelligence Act of 1980. This bill represents 3 years of joint effort with the Executive Branch and particularly the intelligence community to arrive at a comprehensive statute to govern the intelligence activities of the United States. Senator Huddleston and Senator Mathias deserve the gratitude of the Senate for the great efforts that they and other Members of the Subcommittee, Senators Biden, Moynihan, Leahy, Garn, and Lugar, have made over the present and past Congress to work out a legislative charter which would provide the authorities necessary to strengthen the best intelligence system in the world, but to do so in a way that protects and enhances the cherished liberties of all of our citizens. This has not been an easy task. Balancing the practical needs of an intelligence service against the guarantees provided by our Constitution and laws in a world of constant danger of shifting intensities has resulted in agreements which required considerable give and take and mature understanding of constitutional requirements and the necessities created by world events.

It would be helpful to set forth some basic premises that underlie this effort to enact a comprehensive legislative charter for intelligence activities.

The first premise is that today's international situation and the military, political, and economic threats that we now face and can foresee, require the permanent existence of a strong and extensive intelligence system.

The second premise is that the difficult task of countering the efforts of potentially hostile nations can, if not carefully directed, adversely affect the liberties of law-abiding citizens. In order to conduct necessary intelligence activities and to protect the rights of citizens, clear authorities must be given to our intelligence agencies and their activities have to be supported by both the Executive and Legislative Branches. Strong oversight is the necessary companion to the authority for a powerful, effective, far-reaching intelligence system.

The third premise is that a reasonable balance can be struck between providing necessary flexibility for our intelligence agencies to conduct intelligence activities in the interests of the country, and do so in a way that protects the rights of American citizens.

The task is all the more difficult because the basic legal framework of the Constitution did not contemplate the permanent existence of a large, primarily secret, national security system. In an important sense we have been grappling with fundamental issues that require the most careful consideration. The National Intelligence Act of 1980 is a large and complex proposal. There are provisions which I do not agree with and I am sure that all of my colleagues in the Senate will find aspects that they would prefer be resolved in some other way. But in my view, this bill represents a reasonable compromise and on balance would provide an effective means for governing the intelligence activities of the United States in a way that gives the United States the capabilities it needs and protects the rights of our citizens. The proposed bill is a good starting point for Committee consideration and a focal point for the hearings. The hearings will, of course, consider at the same time other proposals already introduced that are concerned with intelligence authorities.

For those who favor my concern about strengthening our nation's intelligence capability—an objective to which I have devoted my energies as chairman of the Intelligence Committee—I hope that the present length and detail of this bill are not misleading. The grants of authority to the intelligence community and the agencies require detail, and the agencies themselves have insisted upon their need for specific statutory authority. The overall result of this proposed legislation is to lift restrictions within a basic framework of accountability and oversight. I believe that the legislation will provide an effective statutory basis for intelligence activities which has been lacking for many years.

The Committee expects to begin hearings after returning from its brief recess by calling upon the chief policy officials of the Executive Branch and the principal heads of the intelligence agencies, as well as outside witnesses—experts on various aspects of the governance of intelligence activities.

The Committee has met with the President on five occasions over the past three years and we have been able to exchange our views directly with him in reasoned and fruitful sessions. Vice President Mondale was assigned the task by the President of working with the Committee, and under his direction Secretary Vance, Secretary Brown and Admiral Turner, the NSC, and of course, the intelligence community, in working with the Committee to develop the bill which we have introduced today. Senator Huddleston and Senator Mathias have described the details of the main provisions of the bill. I would only add that the hearing process will obviously assist in strengthening some points. There will certainly be additions and deletions as is usual in the process of Committee consideration and as the Senate works its will.

I would like to comment on one major point of disagreement between the Committee and the Executive Branch. I fully support a modification of the Hughes-Ryan Amendment reducing the access to notification of covert action to the oversight committees in the Senate and in the House. But in so doing, the necessity for the remaining oversight committee to be fully informed, including prior notice of any anticipated significant action, is all the more important. Without full, complete and timely information an oversight committee cannot do its work.

The experience of the Committee over the past four years has convinced us that there are many categories of intelligence activities that the Committee requires information about prior to their implementation in order to decide whether funds should be provided or whether they are consistent with declared policies or in the judgment of the Committee would serve the interests of the nation. The Committee, on occasion, has asked for and received the most detailed kinds of information from the most sensitive kinds of sources. The Committee generally does not ask for detail unless it is necessary, but I want to emphasize that on the basis of my experience as chairman, the Committee must have the right in statute to be able to ask for any information concerned with any intelligence activity of the United States. Of course, the Committee has to exercise discretion and balance about what it asks for to meet its needs, and I think we have done so over the past four years. But we also have to recognize that abuse situations may very well occur in the future as they have in the past and that there will be a requirement to pursue inquiries into some areas of intelligence activities in depth in order to perform our Constitutional duties.

There is some concern that widening the circle of awareness of certain activities poses risks. I recognize that, but our Constitutional government also requires shared responsibility and we cannot assume responsibility without knowledge. Surely the leaders of both houses and the Chairman and Vice Chairman of the oversight committee can be entrusted with any sensitive information. They are no less trustworthy than the President's chief advisors and have, in addition, Constitutional responsibilities. It is for this reason that I urge the Senate to support the Committee's language which would give it the authorities it needs to carry out its oversight duties. The language of the bill is as follows:

CONGRESSIONAL NOTIFICATION

Sec. 125. Each special activity authorized under section 123(a) (1) and each category of special activities authorized under section 123(a) (2) shall be considered significant anticipated intelligence activities for the purposes of the requirement of section 142 of this Act, except that such prior notice may be limited for a period of forty-eight hours to the chairman and ranking minority member of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, The Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate if the President determines it is essential to meet extraordinary circumstances affecting vital interests of the United States. Such committees shall be fully informed under Section 142 of this Act upon expiration of the forty-eight hour period.

CONGRESSIONAL OVERSIGHT

Sec. 142. (a) Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the head of each entity of the intelligence community shall—

(1) keep the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for on be-

half of, that entity of the intelligence community, including any significant anticipated intelligence activity; but the foregoing provision shall not require approval of such committees as a condition precedent to the initiation of any such anticipated intelligence activity;

(2) furnish any information or material concerning intelligence activities in the possession, custody, or control of the head of the relevant entity of the intelligence community or in the possession, custody, or control of any person paid by such entity whenever requested by the House Select Committee on Intelligence; and

(3) report in a timely fashion to the House Permanent Select Committee on Intelligence information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

The charter provisions affecting the rights of Americans have also been matters of deep concern to me. Our nation needs a strong intelligence community to protect against threats from abroad, but safeguards are essential to ensure that these powers are not used to violate the constitutional rights of our own citizens. The charter language has been the subject of long and careful deliberations with each intelligence agency and the Department of Justice.

In 1978 the Foreign Intelligence Surveillance Act became law, and electronic surveillance within the United States for intelligence purposes became subject to a court order requirement. During consideration of that bill, I urged the Administration to give the most serious study to whether the court order procedure could be used to protect the rights of Americans overseas as well as at home.

I am greatly pleased that the decision has been made to adopt this approach. Substantial credit is due to former Attorney General Griffin Bell, who played a key role in that decision last year. Attorney General Bell and his successor, Attorney General Civiletti, have worked for nearly a year under the court order procedures of the Foreign Intelligence Surveillance Act. The Justice Department, the FBI, and the National Security Agency have advised the Intelligence Committee that those procedures have posed no threat to the security of sensitive surveillance activities.

Through the Intelligence Committee's oversight of surveillance under the 1978 Act, we have also found that its provisions have resulted in careful scrutiny of surveillance applications. The existence of the court order procedure has enhanced the Committee's ability to conduct oversight, because of the care taken by the Justice Department and the agencies in preparing their applications to the court. This close attention to detail and full justification for the court makes it easier for the Committee to assess surveillance activities through its subsequent semiannual oversight reviews.

Therefore, the extension of the court order procedure to electronic surveillance and physical search directed at Americans abroad allows the judiciary to play its vital role in protecting Fourth Amendment rights, without jeopardizing security or detracting from congressional oversight.

It has not been possible to reach agreement, however, to apply to Americans abroad the criminal standard of the Foreign Intelligence Surveillance Act. Instead, different standards have been developed to accommodate the need for somewhat wider leeway in counterintelligence cases and in extraordinary circumstances where the President determines personally that Fourth Amendment techniques must be used against an American abroad to obtain essential foreign intelligence.

This departure from a criminal standard, and even from the noncriminal "'foreign agent" limitation under the current Executive Order, lifts a restriction that now exists on the collection of foreign intelligence. Its potential impact on the privacy of Americans who travel abroad must be weighed carefully as this bill is considered in the legislative process.

I fully understand and share the concern that many Americans will have about these issues. But perhaps the best way to bring overseas surveillance and search powers under the rule of law and within the constitutional system of checks and balances is through this Act. We must carefully consider these issues in the weeks to come.

The same is true for the provisions that bring physical search in the United States within the framework of the Foreign Intelligence Surveillance Act of 1978. Current restrictions on physical search under the Executive order procedures are very stringent. Thus, the charter could result in the lifting of certain limitations. However, without the requirement in law to obtain a court order under a criminal standard for searches of Americans in this country, a future administration could abandon the Executive order procedures and assert "inherent power" to search the homes and offices of citizens without effective checks.

Apart from Fourth Amendment search and surveillance techniques, the charter establishes basic standards for investigations of Americans by the FBI and CIA. The detailed investigative procedures are not put into the law. Instead the Attorney General is required to approve such procedures in the light of certain basic principles of accountability, minimization, and review.

These standards and procedures meet the needs of the FBI and CIA for foreign intelligence and counterintelligence information. At the same time they emphasize respect for individual privacy and the need to minimize intrusions and unnecessary collection, storage, or dissemination of information about Americans in intelligence files.

In some respects the standards permit wider investigations of Americans than are allowed under the Executive order. This would be especially true if the President did not designate certain investigative measures as "covert techniques," subject to special limitations. Nevertheless, the choice may be between having a legal framework of accountability and oversight and having no law at all.

In conclusion, Mr. President, it has been a great honor and privilege for me to be the Chairman of the Committee to continue the work begun by Senator Inouye, Senator Huddleston and Senator Mathias, and to work with the Vice Chairman, Senator Goldwater, to reach this stage of the Senate's effort to bring necessary intelligence activities under Constitutional governance.

STATEMENT BY SENATOR MATHIAS

THE NATIONAL INTELLIGENCE ACT OF 1980

I am happy to join my colleague from Kentucky, Senator Huddleston, and the Chairman of the Select Committee on Intelligence, Senator Birch Bayh, and the Vice Chairman of the Committee, Senator Barry Goldwater, in introducing the National Intelligence Act of 1980. The introduction of this bill marks the beginning of the last stage of the legislative effort that began over five years ago.

The experience of the United States since the end of World War II, the requirement to meet the threats from hostile powers, the need for timely and accurate information as well as the strains on our constitutional system caused by these necessities have made it imperative to construct a comprehensive statutory charter for the governance of the intelligence activities of the United States.

The requirement for secret government activities poses unusually difficult challenges to the efficacy of the American constitutional system which in all other respects is dedicated to open democratic processes.

We have all accepted the necessity for maintaining a large, powerful, and permanent intelligence system. The present state of the world and what we can expect in the foreseeable future requires that we do no less. But the experience we have had since the end of World War II, and particularly in the last decade, indicates clearly that the power of this necessary secret intelligence system must be governed and directed through a carefully constructed constitutional process. This constitutional process requires a balancing between the needs of the intelligence agencies to perform their necessary missions effectively, and the requirement to protect and enhance our cherished and constitutionally granted freedoms and liberties.

Much of this legislative charter details the authorities, duties and missions of the intelligence agencies. The crucial sections of the proposed charter concern the procedures by which the power granted to the intelligence agencies can be monitored and governed. The basic premise is that the governance of secret intelligence activities is a responsibility that the Executive must share with the Legislative branch. The two branches must be responsible on behalf of the people of the United States for the quality and effectiveness of the agencies, the success or failure of their activities, and for assuring that their activities are directed in such a way that our liberties are protected and enhanced and not unnecessarily abridged. We must be cautious that the institutions we fashion to protect our national security do not diminish the liberties that we all cherish.

The process by which we have come to the bill that we have before the Senate today has been a joint effort. Two Presidents and their chief advisors have worked with the Select Committee on Intelligence and the intelligence community to fashion this comprehensive authority for intelligence activities. We have worked jointly to frame the Executive Orders that now govern the activities of the intelligence agencies. This proposed bill, with the exception of a few provisions, represents the shared view of this Committee and the Executive of how our intelligence agencies should be governed.

I am sure that the hearing process and the consideration of the bill by the Committee in mark-up sessions will result in modifications of this proposed charter. But I am confident that what we have presented here today is a fair agenda of the issues that must be considered, and at a minimum, provides a conceptual framework for the issues of governance that face the government today and will face the United States in the future. In this difficult time, the requirement for an effective intelligence system that functions within our constitutional system is all the more necessary. The imperative to complete our work this year is clear to us all.

Mr. MOYNIHAN. Mr. President, I rise on the occasion of the introduction by my friends and colleagues, Senators HUDDLESTON and MATHIAS, of the charter for the intelligence community which the Subcommittee on Charters and Guidelines of the select committee, of which I am a member, has prepared over the past 3 years; and which we now hope to bring to some legislative conclusion in the course of this second session of the 96th Congress.

If there are those who wonder how it has come about that this document has emerged with such wide support in our committee, they need only hear in public the counterpart of what we hear in private, which is the persuasive, balanced, moderate, utterly patriotic and selfless analysis and argumentation of the Senator from Kentucky. He is masterful in this, and I wish to acknowledge such masterfulness.

Mr. HUDDLESTON. I thank the Senator from New York for his generous words.

Mr. MOYNIHAN. Mr. President, may I compliment Senators HUDDLESTON and MATHIAS on the great achievement which this bill represents. They have devoted immense amounts of time and effort to the task, and the bill is testimony to their efforts.

Two weeks ago, six colleagues and I joined together to introduce the Intelligence Reform Act of 1980. As I said at that time:

> Our bill speaks to three specific problems which have appeared in the operations of our intelligence community. These are: First, the process whereby Congress is kept informed on the activities of the intelligence agencies; second, the requirement that our intelligence agencies respond to requests from the general public and make available information about the activities of those agencies; and third, the protection of those individuals who undertake intelligence duties on our behalf.

At the same time, however, I noted that—

> What will be discussed here today should be seen as but the first blocks in the reconstruction of our intelligence community, not the final edifice.

What I would like to make clear at this time is that the Intelligence Reform Act of 1980 in no way contradicts or obstructs the bill which has just been introduced. In fact, in most cases, the provisions of the Intelligence Reform Act are the same as the corresponding provisions in the charter, while in others, the differences are easily reconsilable.

Section 2 of the Intelligence Reform Act repeals the current Hughes-Ryan amendment and replaces it with a requirement that the President report all special activities of the intelligence community to the Intelligence Committees of the House of Representatives and the Senate. The same provision is contained in the charter.

Section 3 partially exempts the CIA from the operation of the Freedom of Information Act. The same exemption is included in the charter.

Finally, section 4 provides for criminal penalties for the disclosure of the identities of intelligence agents who are under cover. While all are agreed on the necessity of providing this protection for undercover intelligence agents, any attempt to write effective legislation on the subject poses first amendment difficulties. Consequently, it is not surprising that the Intelligence Reform Act and the charter have different language with respect to this provision; indeed, the various executive branch agencies have taken opposing postions on this matter. The Intelligence Reform Act provision is taken from a bill introduced in the House of Representatives last October by the entire membership of the House Intelligence Committee. This committee has just completed a set of hearings on this question. The results of their deliberations, along with the administration view on this matter, when a common administration position has been achieved, will help guide us in reconciling the differences which currently exist between the corresponding provisions of the charter and the Intelligence Reform Act.

Mr. President, may I make some additional observations about this subject.

One provision in our bill has given rise to considerable misgiving, as I understand, in the Department of Justice, and that is the provision having to do with the proposed penalties for the publication of the names of security agents with the intent of harming our intelligence capabilities—intent being absolutely the clear prerequisite. Even so, it has been suggested this might have a chilling effect upon the publication of information that the journalists, publishers, and editors think important and there ought not to be such an effect.

I have called upon the counsel of my friend, Mr. Floyd Abrams, an attorney of New York of the greatest experience and reputation in these matters. I find that he, too, is concerned; and he expresses a concern perhaps greater than some of the expressions of official concern that appeared in the House of Representatives hearings, where the House select committee held hearings on this matter not long ago.

Mr. Abrams has offered to provide me his counsel in this matter. As an interim statement I would like to record that it is his judgment that the provisions in the full charter are more to be desired, and certainly less not to be desired, than those in the Intelligence Reform Act, as we have termed our more limited measure.

I would like here to record that those sensibilities ought to be ours in this matter, and I certainly want to be guided by them. If in the end it does not prove possible to obtain a full charter in this Congress, and we move to a more limited measure, such as the one that I and my colleagues have introduced, then I think we will want to make some modifications in this last and, in terms of the intelligence community as a whole, least consequential provision.

To a great many Americans, it is clear that the need and propriety of a national intelligence system is not self-evident. It is not that many years since a Secretary of State of the United States declined to establish any cryptographic capability in his department on grounds that gentlemen do not read other gentlemen's mail. There is a clear concern about the infractions associated with Government activities that take place in secret. So the need for this charter has arisen. I think that if it is seen properly by the intelligence community, it will be seen at least as much a defense of their interests as it is a control upon their activities. They need to know what it is that is expected of them, what they may do, and what they may not do.

At the same time, I would hope all my colleagues will recognize that it is possible to develop a charter of this kind ostensibly for the purpose of establishing the role of a government activity, but with a hidden agenda of preventing it, of obstructing it, of so inhibiting it as to, in effect, abolish it.

It is a very fine line the committee has tried to draw.

One would not be wrong, I think, to believe that the demand for this kind of document arose in an atmosphere where, at least for some of those involved, the political agenda was hostile to the executive and to its foreign policies, and, generally, to the notion of a United States that was active and—I was going to say interventionist, but that would have the connotation of active in the minds of the persons whose viewpoint I describe—fully engaged in international affairs, that had not withdrawn its essential commitment to maintaining the free nations in the face of the power of the totalitarian ones. There is no question that as part of the agenda of the initial Senate inquiries there was the assumption that if you could limit our capacities to be an active agent in foreign affairs, you would, to that degree, limit such activity and achieve a clear political purpose.

I would wish to state that it is my clearest understanding from 3 years on the Intelligence Committee that this is not the purpose of this charter at all, although it may be its effect, and that must be looked into.

Mr. President, you will find the charter to be a mournful exercise in bureaucratic draftsmanship, page after page of thou shalt nots—and the only positive and repeated exhortation is that thou shall coordinate.

I would hope that in the end we will have achieved something more precise, less verbose, more compact. It is a discouraging phenomenon, but the longer this Republic persists, the longer its pronouncements become, the more complex its guidance becomes. If you contrast the Constitution of the United States with the charter of the intelligence agencies, I fear it does not redound to the advantage either of our draftsmanship or our political science.

Even so, under our distinguished chairman, we have produced a document, which I very much commend to the Senate, to its prayerful consideration, because issues of the largest consequence are at stake.

We do not consider that we have finished our work, but only that we have reached the point where it ought to be presented for more general consideration even as the committee proceeds to a specific chapter-by-chapter examination.

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from New York and express to him my appreciation for his participation in this process during the period of time he has served on the Intelligence Committee of the Senate. I have listened to his remarks here this morning, and I appreciate the position he has taken.

He has commented on a provision in the bill he introduced earlier and compared it with the provision in the legislation that we have introduced; I will simply say at this time that I am somewhat gratified that his exploration of the matter relating to employees and former employees of the CIA who disclose secret and classified information conforms to that which the committee and subcommittee itself had reached. That is, there are some limitations put upon us by the Constitution that makes it very difficult for us to reach as far as we would like to reach in that area. Consequently, we have to proceed with some caution.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. MOYNIHAN. The Senator has chosen to read the President's letter, and it perhaps would help to define the concern of some members of the committee, although I can speak only for myself, about a certain aspect of that letter and a confusion of intellectual purpose and position.

The letter is written in the code words of the anti-CIA movement of the last 5 years. They are the code words that brought this administration to power. It says, "We are going to safeguard against abuses," that kind of talk. At the same time, under the heading of a few issues remaining to be resolved, the President has declined to give us the one central power required to safeguard against abuses, which is prior notice of these activities.

One of the reasons that I find myself more interested than ever in the kind of congressional oversight that the Senator is talking about is very frankly—I wish to put this on the record—not so much to insure against abuses in a positive sense, to use that code word, but abuses in a negative sense.

I consider it an abuse of responsibilities of the President and the powers of the President that the President says nothing to the Soviet Union about the KGB agents that riddle the Secretariat of the United Nations, which is, as we know, a clear violation of article 100 of the U.N. Charter. They are there. Nothing is done. I consider it a serious lapse.

Could anyone in this Chamber tell me what has become of Mr. Boyce? We act as if the counterintelligence were something that is directed against a fantasy and yet not 5 years ago Soviet agents procured from two employees of TRW, in California, the specifications of one of our most sensitive and important space satellites compromising a surveillance system important for the verification of a SALT treaty.

The man who was convicted and sent to Lompoc Prison has escaped. How he escaped from a maximum security prison no one knows and no one seems very interested in finding him. That is an abuse.

And under this code word of preventing abuses there is dereliction of duty as well as excess of it.

I find myself in the experience of the last 3 years thinking that the latter can be just as important, and I note that when I find this administration not wanting us to know what it is up to I sometimes think that it is, in part, an effort not to let us know what it is not up to.

Mr. HUDDLESTON. A point well taken.

Mr. MOYNIHAN. I just want to leave the Senator with those thoughts.

Mr. President, the Senator, my chairman, first said that the foundation of the charter is congressional oversight. Then he said that the President had sent us a letter outlining the few differences that he had.

But am I not correct in saying among these few differences is the question of prior notification?

Mr. HUDDLESTON. That is correct.

Mr. MOYNIHAN. So, in a sense, we are still at odds about the foundation of the charter.

Mr. HUDDLESTON. To some degree.

Mr. MOYNIHAN. Yes.

Mr. HUDDLESTON. As the Senator knows, we have dealt with several alternatives in our efforts to try to reconcile our views. It is my own judgment that we are not totally and hopelessly at odds. But at this point, we have not reached agreement.

Mr. MOYNIHAN. I would like to make the observation that perhaps the administration could learn something from its behavior in this matter.

It staffed itself, in the first instance, in all the areas of foreign policy, with persons of sometimes unbridled revisionist views with respect to the inequity of the United States, the opprobious nature of its institutions, and the tendency to bring about all manner of misfortune and misdoing.

The person on the White House staff with whom we have been negotiating was a member of the Church committee staff, and few equaled him, if I am not mistaken, in his zeal for putting a chain on the rogue elephant; but let him get into the White House and suddenly he no longer feels it appropriate for the President to inform us.

But wishing to avoid that essential, he asked, "Are we infringing the civil liberties of somebody else?"

In exactly this same way, this administration came to office saying that we have overcome our inordinate fear of communism, we no longer associate ourselves with any dictator who simply claims that he, too, shares our distaste for totalitarianism, and 3 years later what do we find but the colonel of the Brzezinski rifles in the Khyber Pass pointing a submachine gun at Kabul, urging on the militant Pushtuns.

This is not behavior that tends to be consistent.

I hope the President knows—and I wonder whether the chairman will agree with me—that the reason we have been 3 years into this enterprise is that the President—let us leave his aides out of it—will not agree to prior notice to Congress and to two committees of Congress which have been impeccable in preserving these secrets. This involves, parenthetically, some considerable restraint on the Members of Congress. We learn things and therefore are precluded from commenting.

Mr. HUDDLESTON. The experience of the Intelligence Committee in dealing with the executive branch on covert activities has been very good. The problem is that they do not want to put into law what they are in fact doing in practice.

Mr. MOYNIHAN. That is a very important point.

I believe that in our 3 years, with one exception, we have had prior notice, and it has worked fine. To our knowledge, they have not complained.

Mr. HUDDLESTON. Our problem, as the Senator knows, is that while you may have a very excellent working relationship with a particular administration, administrations do change and attitudes within an administration change. While we may feel confident with the process as it is, it seems to me that you have to have it written into law; if you want to establish permanent oversight then, whoever happens to occupy our seats on the Intelligence Committee will have the mechanism to assure that we have proper oversight.

Mr. MOYNIHAN. How does the Senator from Kentucky interpret the present position of the White House? Does the Senator feel that they resist a statutory provision for prior notification because they realize that some day an administration might come along so perfect in its morality that it can be expected to do the right thing without congressional oversight? Is that it? Are they looking forward to the time when someone less imperfect than they may come along?

Mr. HUDDLESTON. I think the main concern is the separation of powers and the rights of the executive not to have to report to congressional committees on all executive matters. They also are concerned about the kinds of circumstances that might occur in which, if you had everything cemented in law, it might be virtually impossible to perform a very highly desirable and necessary act.

They would like to have the flexibility to deal with these kinds of problems. I thank the Senator from New York and I agree that we can give that kind of flexibility, but we have not yet reached agreement on the actual language.

Mr. MOYNIHAN. Will the Senator from Kentucky agree that we are seeing here another example of the adage that "Where you stand depends on where you sit"?

Mr. HUDDLESTON. There is no question about it. Which side of the desk you are on makes a difference, and we have seen evidence of that.

Mr. MOYNIHAN. The capacity of the Senator from Kentucky for quiet negotiation has been remarkable; but it is a fact that we would have had this charter to Congress a year ago if there had been just a little more cooperation from the White House. Now the Senator from Kentucky is forced to bring it forward without the support of the President. The Senator is not able to say that this is an agreed-upon document—and that is not his doing. It is their doing, and I would like to have that recorded.

Mr. HUDDLESTON. We certainly are willing to agree upon our document. So any disagreement on this comes from some other source.

Mr. MOYNIHAN. The Senator from

Kentucky displays a mastery at indirection which I had not heretofore noted. [Laughter.]

I congratulate the Senator and thank him.

The public never says "Thanks" very well, especially to a staff such as ours, which necessarily operates in the greatest privacy. I think our staff director deserves to be acknowledged in this matter, as well as his many associates to whom we are indebted and without whom, I think the Senator will agree, we could not have achieved what we have.

Mr. HUDDLESTON. That is a well-taken comment.

I think we should recognize the work of our staff director, Bill Miller, as well as Keith Raffel, John Elliff, Michael Epstein, Elliot Maxwell, Stan Taylor, Martha Talley, and Patrick Norton.

This has been a tremendous undertaking over a long period of time. It has been an area that has not been explored legislatively to much depth before.

We started, of course, with certain desirable objectives in mind. We started, in some instances, dealing with a lot of theory about what we, as a democratic society and a democratic country, should provide for our people. During this long process, we have had to take those desirable objectives and adapt them to the reality of operating intelligence in a world as it is today and not as we would like it to exist—considering all the desirable objectives we had in mind, considering all the risks, considering the absolute necessity for our policymakers to have the best information possible on a very broad range of difficult problems emanating from anywhere in the world.

So, taking all these things into account, we have had a great deal of difficulty in bringing these desired objectives down to operational reality.

In the legislation we are presenting today, we think we have reached about as good a balance as can be reached, and we commend it to our colleagues in the Senate for their careful consideration. It is a rather long bill, with a number of titles. However, I do not think it is quite as complicated as it may seem at first blush. So I urge that we do not throw up our hands and say, "This is too much; this is too big," without giving it a thorough looking over. I believe we will find that the controversial parts will be fairly few in number.

I believe we can expect that there are those who think that our intelligence operations should be totally unrestrained and unshackled, who will think that this legislation puts too much control over them, because of the machinery and the procedures it sets up for them to follow before entering into certain types of intelligence activities.

There will be others who will take the purists' view—that there never should be any kind of infringement upon the privacy of individuals—who will say that we have gone too far and have allowed these agencies to infringe upon some rights to a greater extent than they should. We have taken into account both views.

From both sides, disappointments will be found in the proposed legislation. But we simply ask them to consider the position of the other side and to determine how best to provide an effective intelligence operation, while still providing the greatest possible protection of the civil liberties of the individual citizens of this country.

We have attempted to do that. I think that, in large measure, we have been successful; and it is my hope that a majority of the Members of this body will agree.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield.

Mr. HELMS. Mr. President, I commend the Senator from New York for his comments. He is exactly right.

About 2 or 3 weeks ago I learned from inside the Federal Bureau of Investigation that the FBI has the names and generally speaking the location of more than 1,500 KGB or other subversive Soviet agents in this country. They know where they are. They know who they are. And yet the FBI says that it has no authority to do anything about it, that it is a political decision, as the FBI puts it, as to whether these agents will be dealt with.

I do not know how other Senators may feel about it, Mr. President, but this Senator feels that every KGB agent in this country should be sent back home forthwith.

I have been particularly interested in the comments by the distinguished Senator from New York.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. HUDDLESTON. This bill would provide all of the counter-espionage authority that the FBI could need to deal with this kind of situation.

It is my judgment they can deal with it now.

Mr. HELMS. Mine, also.

Mr. HUDDLESTON. We have a situation that I think the Senator from New York was alluding to in that maybe the FBI is not dealing with it for some other reason, maybe a diplomatic reason, or maybe having KGB agents identified, located, and observed might serve our interests better. But they may be precluded from action by a policy that has been set by someone.

Mr. HELMS. That is correct.

Mr. HUDDLESTON. But they are not precluded from action by law.

Mr. MOYNIHAN. Not by this charter.

Mr. HELMS. The Senator is absolutely correct. It is inconceivable to this Senator that we will countenance a situation where there are 1,500 subversive agents trotting around this country seeing what they want to see where they want to see it.

That is in addition, I say, to the personnel at the United Nations to which the Senator from New York alluded. But I hope that the attention focused on this by the distinguished Senator from Kentucky and the Senator from New York, equally distinguished, will bring about some resolution of it because it is a serious proposition, in my judgment.

I thank the Senator for yielding.

Mr. HUDDLESTON. I thank the Senator very much.

Mr. MOYNIHAN. Well done.

Mr. GLENN. Mr. President, I have listened, while presiding, with great interest to the statements by the distinguished Senator from Kentucky and the distinguished Senator from New York regarding the plan that is usually referred to as the CIA charter, and I would like to ask a couple of questions of the distinguished Senator from Kentucky as to whether this plan also includes the Defense Intelligence Agency, DIA; does it include the National Security Agency activities, NSA; does it get over into FBI activities that might be domestic in support of CIA; in other words, how broad is this? I do not believe this was adequately covered in the discussion the two Senators had regarding the charter.

Mr. HUDDLESTON. I appreciate very much the Senator from Ohio bringing up this point because the answer is in the affirmative. This deals with the entire intelligence community. It provides specific authority for DIA, the Defense Intelligence Agency, the National Security Agency, the portion of the FBI dealing with intelligence, the CIA, and other departments of Government, too. So it is a comprehensive charter dealing with the whole scope of intelligence operations of the United States.

Mr. GLENN. I think that is good. In other words, we will not require a separate charter for each separate intelligence-gathering organization or dealing with intelligence information within the administration. This charter is designed to cover all of our intelligence activities?

Mr. HUDDLESTON. That is correct.

Mr. GLENN. I think that adequately clarifies it, and I appreciate the remarks of the distinguished Senator from Kentucky.

I would like to add that I want to rise also in congratulating him on the long and, I know, difficult work he has put in with regard to this matter.

Some 2 years ago I started dealing more closely with the intelligence situation and with the Intelligence Committee in looking into some of the means by which we were monitoring and were about to embark on verifying the SALT II treaty had it been approved, and I worked very closely with the staff director of the Intelligence Committee, Mr. Bill Miller, who has done, I think, such an outstanding job in running those activities there for the committee.

I might say that my working with the Intelligence Committee staff on this, and all the background information that was necessary to determine whether we could or could not monitor provisions of SALT II, led me to a far, far greater appreciation of some of the things that we could do and could not do with our intelligence-gathering apparatus in this country.

I think we saw that some of the prior investigations run with regard to CIA were—and no one disputes excesses that, perhaps, occurred in earlier days under some of our intelligence-gathering activities but, perhaps, we have gone too far and, perhaps, the CIA and some of the other intelligence-gathering agencies had been operating too much under a cloud of suspicion that did hamper them.

We are now seeing under the new-world situation that we are in today, and I do think we have crossed a threshold, we have passed a watershed position in foreign policy, probably both in the Soviet Union and here that sets us on a new course that we will follow perhaps for quite some time—and in this new-world situation we now see how much greater our intelligence need is even more than it was in prior days, and what our need is for new equipment, what our need is for new personnel at the same time that we embark on some of this expanded intelligence-gathering capability that we must have. How do we do that? What safeguards do we put on that to protect the rights of individuals and groups within our own country?

There are legitimate concerns about the misuse of equipment and of people, both. So I think it is particularly apropos at this time when our world-crisis situation has occurred that it was very lucky, I guess, that this charter is coming out at the same time so that as we expand these activities, which I hope we do, that we will have rules about their legitimate use, about what personnel of the CIA, NSA, DIA, and any other information-gathering organization, what rules they are going to operate under.

We need information. We must have the finest, the very best, intelligence-gathering apparatus we possibly can have. I do not like to compare it with others in the world, and say that we have to be better than somebody else. I think we are better than any other nation in the world now. But having an expanded intelligence capability of the very best we can have against, measuring it against, ourselves, is what we need because this kind of information very well may turn out to be worth several divisions, it may turn out to be worth several carriers, it may turn out to be worth more in preventing war than almost anything else we can do.

We are talking about expanding our military capability. That comes in use after the fact. That comes in use after we might have been able to prevent a war if we had had good enough intelligence information to make the right moves along the way.

So I want to congratulate the chairman, the distinguished Senator from Kentucky, in what he has done on this. I look forward to working with him on this and I think it comes at a most propitious time. We need to expand our intelligence-gathering apparatus and I look forward to working with him to provide not just something that is better than some other nation in the world but the very best we can have on our own development. I thank the Chair.

Mr. HUDDLESTON. I thank the distinguished Senator from Ohio.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended again for not to exceed another hour under the same conditions.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Virginia.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Pryor). Without objection, it is so ordered.

COOPERATION, COMMITMENT, AND A STRONG DEFENSE

Mr. BAUCUS. Mr. President, a recent editorial in the Christian Science Monitor articulates a very important argument—an argument which I believe deserves the serious attention of each of my colleagues.

The essence of the piece is simple. As Congress debates the wisdom of increasing America's defense budget and expanding our defense commitments, we must ask our allies in Western Europe and Japan to shoulder a larger part of the burden of meeting the Soviet challenge. The United States cannot be expected to pour more and more of its resources into strengthening its defense posture without a comparable commitment from its allies. The respect and cooperation the United States already receives from its allies has always been an important part of America's strength. But, as global tensions increase, this cooperation must be matched with concrete commitments adequate to the task of defending the free world.

Mr. President, I ask unanimous consent that the article from the Christian Science Monitor be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Defense: America's Allies Should Do Their Share

America seems in a belligerant mood these days as cries are heard for a stronger U.S. military posture. The Carter administration has submitted a record $158 billion defense budget for fiscal 1981, and some voices in Congress think even this is too little. The American public, for its part, also appears willing to support a bigger military effort in the face of growing Soviet adventurism.

The mood may be understandable but it raises a fundamental and serious question: how can the United States continue year after year to expand its defense capabilities, as the President wants, without incurring bigger and bigger deficits and fueling inflation? Put another way, what good will a bolstered military posture do if the U.S. economy, the foundation of America's strength, is increasingly weakened? By 1985, the administration estimates, defense outlays are supposed to reach a staggering $225 billion. Is the American public willing to pay for this (as it did not pay in taxes for the cost of the Vietnam war)?

Whether massive increases in military spending are actually needed is a subject open to debate. But, in any case, we share the view of those who believe that the US cannot be expected to go it alone in meeting the Soviet challenge. In short, it is time for the Western and Japanese allies to play a bigger defense role. Western Europe and Japan, after all, are even more dependent on Middle East oil. They have as much if not more interest in resisting Soviet penetration of the Gulf region. Their own economies, moreover, are by and large strong—a strength, it should be added, which the US was instrumental in building up. Is it not reasonable to expect, in these days of a heightened common threat, that the industrial democracies work more closely together? And that America's allies carry a greater share of the burden for defense? Secretary of Defense Harold Brown thinks so and we agree.

The fact is, the US continues to spend a greater proportion of its gross national product on defense than do its NATO allies. The figure is roughly five percent. The average for NATO, according to London's International Institute for Strategic Studies, is 3.5 percent. Canada, for instance, spends 1.8 percent of its GNP on defense; Denmark 2.4 percent; France 3.3 percent; West Germany 3.4 percent; Norway 3.2 percent. Britain makes the best showing at 4.7 percent. The Europeans, moreover, maintain comparatively smaller ground forces than the US.

Japan, for its part, spends even less on defense—under one percent of GNP—even though the Soviet Union is expanding its presence in the North Pacific. Constitutional strictures and public opinion have much to do with the restrained Japanese defense posture, of course. But even if it were not possible to increase military outlays dramatically, Japan could make a worthwhile contribution in other ways—by providing economic aid to Pakistan, say. A nation which has benefitted generously from American largess and which is so strong economically ought to be ready for enhanced responsibilities.

This is not to say that a huge measure of defense cooperation among the Western and Asian allies does not already exist. It does. But much more needs to be done. Thought should be given, for example, to proposals emanating from the Center for Strategic and International Studies for formation of an inter-allied "common market" for basic defense industries. Says the CSIS study: "If America's Atlantic and Pacific allies were equitably and collectively sharing the financial burdens of defending Europe, defending the Pacific, and defending the energy lifelines in between, total allied military expenditures would be 47 percent less than the Warsaw Pact" instead of slightly larger, with the US carrying the main burden. Within the Pentagon, too, are some voices calling for a total pooling of allied defense resources and elimination of often costly competition in weapons manufacture. Needless to say, the US would have to be more open than it has been so far to the purchase of European-made equipment.

In any case, the goal of the US should be to encourage its allies to become more responsible for their defense. It will always stand ready to come to their help in the event of aggression. But surely collective defense means a collective sharing of the cost. It is time the West Europeans and others, who can afford to do so, begin to pull their own weight.

CONTROLLING THE FEDERAL BUDGET

Mr. BAUCUS. Mr. President, the administration's proposed 1981 budget illustrates the imperative need for the spending and tax limitation. The administration proposes to spend $616 billion and to raise $600 billion in taxes. If this budget is approved, over 22 percent of the gross national product (GNP) will be devoted to Federal spending.

Montanans and most Americans are deeply dissatisfied with the Federal Government's cost, size, and lack of responsiveness. I have joined Senator BAYH as a cosponsor of the Spending and Tax Limitation Act (S. 2132), which offers a responsible and effective means of addressing these concerns. This legislation would provide a workable framework for placing Federal taxes and spending under closer public scrutiny and more effective legislative control.

This legislation is necessary because—in spite of all the talk of recent years—Federal spending stubbornly resists control, the tax burden increases, and inflation continues to grind away at living standards.

THE GOAL OF BUDGET RESTRAINT

Before discussing specific proposals to restrain the budget, we should precisely identify our goals.

If we simply want to attain a balanced budget, the most effective means may be a constitutional amendment requiring that Federal outlays do not exceed tax revenues.

If the goal is to reduce inflation, a balanced budget will be only partially effective. Reducing inflation also requires that the absolute level of both spending and taxes be reduced, and that Federal policies be designed to alleviate the effects of extraneous shocks such as OPEC oil price increases.

If our goal is to divert resources from the public to the private sector, the most appropriate method would be through reexamination of specific spending programs. By that method, we could identify activities which might appropriately be resumed by the private sector.

I think that a primary goal of budget restraint should be to limit the size and cost of Government to a level that the American people are willing to support through taxes. And I believe that the Spending and Tax Limitation Act offers the best prospects of achieving this and other economic goals.

THE SPENDING AND TAX LIMITATION ACT

The Spending and Tax Limitation Act would establish a formula to limit both Federal taxes and spending. The legislation would require the President each year to submit a proposed budget in which neither spending nor taxation could exceed 20 percent of the GNP.

Similarly, the Congressional Budget Committees would be required to submit budget resolutions consistent with the 20-percent limitation imposed on the President.

These requirements would sharply limit the percentage of the GNP which could be devoted to public spending. If the act were in effect today, Federal spending in fiscal year 1981 would be limited to $552 billion, rather than the $616 billion proposed by the President.

The Spending and Tax Limitation Act recognizes that under some economic circumstances it may be impossible to meet the act's strict requirements without severe economic disruptions. Therefore, the legislation would give the President and Budget Committees the option to propose alternative budgets if they believe that economic conditions require exceptions to the act's limitations. However, a budget consistent with the 20-percent limitation on taxes and spending would have to be defeated by recorded votes in the House and Senate Chambers before any alternative budget could be considered.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

A number of my colleagues have asserted that a constitutional amendment requiring a balanced budget is the ultimate and only effective means of controlling Federal spending.

As a member of the Senate Judiciary Committee which considers proposed constitutional amendments, I have examined this issue closely. I conclude that a constitutional amendment is only a partial solution to our budget problems. A simple requirement for a balanced budget does not restrict either Federal taxes or spending. Both could continue to increase, as long as they increased at the same level.

As I mentioned a few moments ago, I fear that balancing the budget will not in itself substantially reduce inflation. The inflation rate is affected as much or more by extraneous variables such as OPEC oil price increases and world grain prices than by domestic fiscal policy.

Testimony by noted economists including Milton Friedman suggest that the absolute level of Government spending, rather than the relationship between taxes and outlays, is the primary influence of fiscal policy on inflation. In other words, the best way to reduce inflation through fiscal policy is to cut both taxes and spending.

While a balanced budget requirement may be helpful, at best it would provide only a partial solution to our national economy problems.

SUMMARY

Present administrative and congressional budget processes are not adequate to prevent deficit spending and reasonable curbs on the size of Government. There is simply too much opportunity and incentive for Federal spending and taxation to mushroom.

Consequently, it is imperative that Congress strengthen the budget process. There are questions about the effectiveness of a constitutional amendment to require a balanced budget. The Spending and Tax Limitation Act which I have cosponsored offers a more responsible and effective framework for curbing both Federal spending and taxes. I would urge my colleagues to carefully study and actively support this constructive legislation.

STATE COAL SEVERANCE TAX AND THE WINDFALL PROFIT CONFERENCE: A NOTE OF WARNING

Mr. BAUCUS. Mr. President, this week the Senate-House conferees to the crude oil windfall profit tax bill (H.R. 3919) tentatively agreed to limit the extent of favorable tax treatment that States would receive in administering their own oil and gas severance tax.

I wanted to express today my concern about the possible precedential effect that such limitations may portend for State administered coal severance taxes such as we have in Montana.

During the Senate floor debate on windfall profit tax, I strongly opposed the Danforth amendment that would have permitted the Federal Government to tax the royalties States receive from oil and gas produced on State lands.

Proponents of that amendment argued last December that if they could not convince this body that the Federal Government had a right to tax State royalty holdings, it at least had the right to limit State severance taxes on oil. These proposals are two sides of the same coin. They constitute an unconstitutional intrusion by the Federal Government into legitimate State enterprise, and the Danforth amendment was defeated 65 to 28.

It concerns me that this vote was not a strong enough signal to prevent a second consideration, but I realize a lot has happened since that vote was taken, Mr. President.

Since last December, our sense of threatened disruption of foreign oil imports has begun to dominate our energy policy considerations. Every Senator here is aware of the conspicuous frailty of our present conventional liquid fuels dependency; everyone here senses the panic that would ensue if we suddenly lost a major increment of the crude oil we needed to hold this Nation together.

We all hope there will be time enough to shift our oil dependence to an extent from OPEC suppliers to domestic producers, or that we will be able to diversify our energy base away from inflexible oil dependence.

This transition should be as rational a process as we can make it. We should not tolerate regional fracturing pitting user States against producing States in a panicked scramble to stabilize regional energy supplies if we suddenly lose a major increment of foreign oil imports.

I fear that an unwitting rush to scale up domestic energy production in the interest of meeting unpredictable national energy emergencies may have the effect of suspending certain unalienable States' rights. In this event, 11 Western States stand to suffer the scars of an improperly managed energy transition which may require drastically scaled up energy production.

Mr. President, I think we have the

time to make adequate energy supply contingency plans which respect States' rights to exercise some control over impacts.

This Nation must not be allowed to forget that when coal is mined or oil and gas produced, the surrounding areas are affected.

Drastically scaled up energy production will severely affect State and regional environments. Massive, sudden energy production to meet new national energy contingencies will require an equally massive buildup of required public services, often in counties maintaining traditionally low populations and minimal tax bases. Roads must be constructed, land cleared, production waste streams contained, schools and hospitals erected, sewage disposal systems engineered.

The Federal Government has had a woeful history of mismanaged impact funding to meet the external costs of sudden scaleups of such Federal business as new military installations. States will be forced to deplete scarce State revenues to cope with brandnew energy production and distribution infrastructures.

Coal severance taxes and royalties from State-owned oil and gas properties help to pay these costs, Mr. President.

As the country increasingly looks to Western States to provide oil and gas, low sulfur coal, shale oil and other alternatives to imported oil in an uncertain period of energy transition, we must not limit the ability of producer States to take care of themselves; we must not make these States more vulnerable to energy production impacts than they already are.

As a Montanan, I know my State cannot afford to lose control over its ability to maintain a sufficient coal severance tax.

Less than a decade ago a little more than 1 million tons of coal were mined in Montana. That grew to over 26 million tons in 1976. State energy experts predict that more than 96 million tons of coal will be mined in 1990.

A lot of families are going to move to Montana to mine that coal. A lot of towns and communities in our State are going to mushroom into large towns and small cities.

And, Montana's coal severance tax and the royalties our State receives from State-owned oil and gas properties are going to pay for the public facilities needed to accommodate those new residents.

Montana's coal severance tax is crucial to our State's future. Senators from other States no doubt can point to equally critical programs in their States.

Let me list the programs for which Montana uses these coal severance tax revenues:

Discretionary funds for the counties involved;

Alternative energy research and development;

Local impact and education trust funds;

Road improvements in coal areas;

Aid for public schools;

County land planning; and

Acquisition and management of parks and cultural projects.

The pressures to increase production in Montana and the other energy-producing States are only going to increase in the next few years.

But let us not handcuff these energy-producing States by adopting an amendment that prevents them from providing the essential services needed to complement energy production.

The future of energy producing States has been tied inextricably to forces beyond our control. Oil and gas production, coal mining, and development of other energy resources is going to happen, and must happen if the United States is going to become energy independent.

It is not going to happen in New York or Missouri or Florida. It is going to happen in Montana, Wyoming, Colorado, Utah, Idaho, and other States. And, that is where the boomtowns are going to be created.

Montana uses the royalties received from oil and gas produced on its State-owned lands to pay for public education in the State. Taxing that money will prohibit using funds for schools to educate the children of coal mining families.

POLITICS AND SCHOLARSHIP

Mr. BRADLEY. Mr. President, Stephen Hess, a senior fellow at the Brookings Institution, in a recent article stated that "Only the rare academic * * * can continue as a functioning intellectual after being exposed to public office." He cites an exception. Talking about my friend and colleague, Senator Moynihan, Mr. Hess writes, "Perhaps the junior Senator from New York will yet prove that politics and scholarship can mix."

Mr. President, in this week's New Republic, Senator Moynihan has mixed politics and scholarship in the form of an article entitled "A New American Foreign Policy." It is an absorbing piece which outlines clearly and precisely the direction Senator Moynihan firmly believes our foreign policy must take in the months ahead.

I commend it to my colleagues and ask unanimous consent that Mr. Hess' piece and Senator Moynihan's article be printed in the Record.

There being no obection, the material was ordered to be printed in the Record, as follows:

[From the Sun, Jan. 28, 1980]

Ideas And Politics: Unusual Alliance

(By Stephen Hess)

Washington.—There is a virus that attacks the little gray cells of many professors with enter politics. The evidence is in history, not medicine. Only the rare academic—the Woodrow Wilson or Paul Douglas—can continue as a functioning intellectual after being exposed to public office.

Strange things happen to intellectuals in pursuit of political power. Not at all what one should expect.

Given the nature of intellectual work, it might seem logical to worry that the professor in government will prove to be incapable of taking prompt action because of a disinclination to base decisions on imperfect information or to reduce complexities to terms that can be dealt with in the political process. Commenting on an English historian-politician of the last century, Keith Robbins wrote, "As a historian, he knows there is so much to be said for both sides that as a politician he is paralyzed."

But this hardly has been the problem of McGeorge Bundy, Walt Rostow, Henry Kissinger, James Schlesinger and many of the other academics who have flocked to official Washington in recent years.

Rather, there often can be observed a sort of bend-over-backwards effect in their behavior. The professors seem compelled to prove their political adroitness to themselves and their colleagues; they end up trying to out-politic the politicians. Some of them display a zeal for intrigue that would be worthy of a Tammany stalwart.

Of course, in this regard they may merely be bringing to the public arena the experiences gained from years of university infighting. The late Wallace S. Sayre, a distinguished member of the Columbia University faculty, is credited with remarking, "The politics of academe are so intense because the stakes are so low."

Surely, though, there must be basic incompatibilities between the worlds of scholarship and politics or else there would be more examples of individuals who have successfully melded the two pursuits. The record shows that good scholars can become good politicians, but seldom will they continue to be good scholars.

Yet these comments on intellectuals in politics are inspired by reading two brilliant essays by a present U.S. senator and past Harvard professor, Daniel Patrick Moynihan. "Reflections The SALT Process," in The New Yorker (November 19) traces the history of deterrence as a defense theory, starting with the Hague Conference of 1899, which banned bombing from balloons. The second article—"What Do You Do When The Supreme Court is Wrong?"—appears in the fall issue of The Public Interest and is replete with footnotes, case citations and quotations from The Federalist Papers. It is largely a study of the so-called Establishment Clause of the Constitution ("Congress shall make no law respecting an establishment of religion . . .").

Senators have written articles before. But never like these. The author deliberately does not try to solve the complicated conundrums he poses. His aim is simply to elucidate complex issues. This is scholarship!

Such carefully crafted writing is not produced casually or quickly. (The contribution to The New Yorker is 30,000 words.) And anyone familiar with the Moynihan style will recognize that these treatises were not ghostwritten, the technique used by other politicians to feign intelligence.

Ideas, as Adam Yarmolinsky points out, rarely come from within government. They are generally imported from a variety of institutions that serve this purpose in society. One practical reason why this happens is that thinking is time-consuming, public officials have other things to do. Clearly Mr. Moynihan has made a serious commitment to devote a substantial portion of his time as a senator to ideas.

It's practically unprecedented. This is not what we expect of our legislators. The news of a senator sitting at his typewriter is not headline stuff still. It's a most audacious and interesting experiment in American political conduct. Perhaps the junior senator from New York will yet prove that politics and scholarship can mix.

A New American Foreign Policy

(By Daniel Patrick Moynihan)

Has there been a change in this nation's foreign policy? I believe so, and I hope so, and I write to encourage President Carter in what he appears to have done. But the president's change is surely incomplete as yet, even uncertain. He speaks as if there has been a change. Will he act?

At the very least, this means bringing into his administration people who share the views he now propounds. For a decade and more, there has been a division within the Democratic party with respect to foreign policy. In a perverse way, this division only deepened in the first three years of a Democratic administration that was expected to heal it. It was, and is, an argument about the Vietnam war—not about the wisdom of that enterprise, which few any longer support, but about its aftermath.

Oversimplification is inevitable, but I would sketch the opposing views in these terms. On the one hand there were those who ascribed the disaster to an excess of American power. It was judged that this surfeit of power brought the tendency, or at least the temptation, to misapply it or to abuse it. It was judged that the too-great power of the United States had become a danger not only to others, but mostly to ourselves. This had to be the suppressed premise of a political agenda that, following a failure of arms, was dominated by an often fervid advocacy of reductions in arms, a further shrinking of American military forces and foreign commitments.

A clue to all this lay in the sometimes equally fervid denial that the agenda was pretty well in place. Through the 1970s arms expenditures declined to 4.5 percent of GNP, the lowest proportion since 1948. But this was hardly the general perception. A poll commissioned last winter by the Committee on the Present Danger found that more than half the respondents thought that arms expenditures consumed more than one-quarter of GNP. This was the climate of opinion in which Jimmy Carter as a candidate pledged to reduce defense spending by five billion to seven billion dollars a year.

Another view of the Vietnam aftermath, a minority view among Democratic party activists, was that the American failure in Vietnam would occasion new turmoil and instability in the world: and that, as a result, the foreign policy problems and strategic situation of the United States would become more, not less, difficult. I generally associated myself with this second school of thought. I hoped that the resolution of this argument could lead to a revitalization of American foreign policy.

Quite a sustained and vocal debate has been going on. President Carter's role in it began with his speech at the Notre Dame commencement in May 1977, properly described as his first major pronouncement in foreign affairs. This was the speech in which we were declared "free of that inordinate fear of communism which once led us to embrace any dictator who joined us in that fear." We had mistakenly fought fire with fire, Carter said, "never thinking that fire is better quenched with water." He called on the Soviets to join us in the great adventure of closing the economic gulf that separates North from South, putting East versus West behind us.

The tone, the formulations, the code words of the speech proclaimed the complete ascendency of the first school and rejection of the other. I responded to the President in a commencement address at Baruch College of the City of New York. I asked, as any of our view would have asked, what was the evidence that our relation with our great totalitarian adversary had changed, that the adversary had changed? Where, I asked in particular, was there any evidence that the Soviets actually would cooperate with us in the developing world? I continued:

"The President, in my view, is entirely correct in the fresh emphasis he has given to what we call North-South relations. But I wish to suggest that this must not be allowed to divert us from the reality of the military and ideological competition with the Soviet Union which continues and, if anything, escalates. . . . If we genuinely care about the developing world, then we must look to the behavior of the Soviet Union, for with respect to the non-Communist regions of the world, be they developed or underdeveloped, there is one Soviet policy: the worse the better. I speak from what is no longer a brief experience of international affairs. In nation after nation, at conference after conference, what the Soviets seek is failure, breakdown, bitterness, mistrust. They judge that they thrive on this, and history certainly does not disprove them. Our task is twofold. First, to see this ourselves. It is not necessarily a confidence building exercise, but it is indispensable. Second, to bring the developing nations to see it as well. This is never easy. It is at times excruciatingly painful, and ensures a good deal of near term obloquy. But it is the true measure of commitment."

But events had their way, and they led through Zaire, Ethiopia, Yemen, Cambodia, Afghanistan. In the end, President Carter in effect withdrew the SALT treaty and pronounced: "An assault will be repelled by any means necessary. . . .". In the end our view of events seemed confirmed. But what now?

Now is a moment of maximum peril. For it is entirely possible that those who have until now so deplored the extent of American power will now be tempted to wield a fantasized power which once so obsessed them. American power is enormous; the American will to use it is unshaken. But it is less than it has been, and less than it probably will be in the not too distant future. It will be both the irony and gravest reality of the time now ahead that the counsel of restraint in foreign affairs must come from those who have been depicted in the recent past as somehow the most bellicose.

At the risk of seeming contradiction—and we shall face worse risks than this—let me turn to the opposite of the temptation I have just described. Last month the secretary of defense proposed in Peking that China and the United States join in finding "complementary actions" to counter Russian expansion. The proposal evidently took the Chinese leaders by surprise, and so also, I believe, the American people. Certainly the terms in which the matter was raised surprised the journalists reporting the visit. One wrote that Dr. Brown's banquet toast was "so vehement he almost seemed to have taken his text from a New China News Agency denunciation of Moscow." Can it be that in yet other circles of government the perception of American weakness is so advanced that in response to the Soviet conquest of Afghanistan we turn for help to the people who conquered Tibet? If we so underestimate our power, we are more surely undone than if we overestimate it. For the power of the United States rests upon and derives as much from the ideas we represent as from the raw power we can deploy in support of those ideas. To abandon our standards while we build our defenses is to compound innocence with baseness.

For three generations now our standards, the standards of the democratic West, have been under more or less unremitting assault from totalitarianism. There have been peaks and valleys, slow times and crisis times. The assault has come sometimes from the totalitarian right; but in the first instance, and most often, and now exclusively, it has come from the totalitarian left. It may be we have grown used to this and no longer see it for the changed condition it represents. The high point of the influence of democratic ideals in the world came toward the end of Woodrow Wilson's presidency. Never before and never since has the expectation been so widespread that liberal democracy would become a near universal form of government. For totalitarianism appeared in Russia in a second revolution, following an earlier, democratic one, all in 1917. In one way or another we have been locked in ideological struggle ever since; and we will continue so.

Recurrently there have been those who have hoped to see an end to this struggle, who have questioned whether its origin does not lie in the behavior (admittedly often squalid) of the democracies. And—the most dangerous temptation of all—there have been those who would distinguish among totalitarian regimes, preferring some to others, or positively siding with some against others.

Playing the China card, as it is termed, as if this were all one great game of chance, is the central instance of this temptation in our time. In response to the Soviet invasion of Afghanistan, are we to align ourselves with the nation that invaded Tibet? In the course of our new arrangements with the most populous totalitarian state on earth, will we see India, the most populous democratic state on earth, align itself with the Soviets? What then is left of principle?

We are rushing arms to the dictator of Pakistan, and what has been his response? At the Islamic summit, in an address presumably occasioned by the appearance of Soviet armor in the Khyber Pass, he went out of his way to declare that the population of Kashmir, part of the Indian nation, along with the Palestinians, are "yearning for a restoration of their rights." There is a mindset in that part of the world no less than in ours. It would not seem the least unreasonable for a certain type of Pakistan general to take our weapons and turn them on Israel and India. Nor should we be the least surprised that when they do, they end up thoroughly whipped.

The invasion of Afghanistan has changed the objective strategic facts of that part of the world. The Russians have reached the North Indian plain at the Khyber (and the Central Iranian plateau of Herat). It is entirely conceivable that they will now move to destroy China's ally Pakistan—to play their India card, if you will, thus offsetting the American démarche in Peking. In this situation, we surely have gotten much the worse of the ideological bargain. We also may have gotten much the worse of the military bargain. The Indian military forces are superior in many ways to those of China, not least because India is a far more advanced scientific and technological society. But this is the sort of thing we expect more of if the administration does not recover from the shock of Christmas weekend.

There were two kinds of peace corpsmen in India when I was the United States ambassador there. I used to think of them as the Calvinists and the Jesuits. The question turned, as so many do in that region of the world, on drinking water. The rule of course was never to drink the water. But like most rules that rigid, sooner or later the flesh was weak and the day hot and temptation triumphed.

Thereupon the Calvinists would quite collapse. Having found themselves capable of sin, they judged themselves doomed and commenced to sin with abandon. This almost invariably brought about the doom they considered predestined. The Jesuits, by contrast, sinned occasionally, noted—with satisfaction even—that no man is perfect, but did their best to avoid excessive degradation. This meant that most of them escaped harm, since it is not drinking the water once that brings ruin in Travancore. It is drinking it all the time, so that the odds against you are overwhelming.

I genuinely fear an administration that will turn out looking like the third act of "Rain," with no sense of principle left intact. The essential task of leadership is to expound American policy so that its connection with our principles is made clear, and its application in practical circumstances is made predictable. President Carter still has to do this.

The State of the Union address has been judged most noteworthy for its explicit statement that the United States will use military force to resist a Soviet takeover of the Persian Gulf area and its vast petroluem reserves. This has about it the atmosphere of crisis, the smell of impending conflict at best, war at worst. I do not quarrel with the president's statement, for I regard it as sound and necessary. And yet the proposition should have been self-evident. That the greatest energy source in the world, vital to us and to our democratic allies, should be declared a vital interest of the United States, worth defending by force if necessary, in 1980 says something about the past three years.

Perhaps the "Carter Doctrine" is a response to the new "Ponomarev Doctrine"—enunciated January 10 by Boris Ponomarev (who carried out for Stalin the bloody purges of foreign Communist parties in the 1930s: the staying power of these men is formidable). Ponomarev expanded upon the "Brezhnev Doctrine," once used to justify the Soviet invasion of Czechoslovakia. Whereas a decade ago Brezhnev asserted that the Soviets would use armed force to "protect" communist regimes already in power, Ponomarev's pronouncement is a measure of the growth in Soviet military power since then. The boundaries of "socialism's" concerns have now expanded to include the nations of Asia, Africa, and Latin America. Ponomarev stated:

"Soviet people, of course, are not indifferent to the sociopolitical orientation by the various trends in the developing world. The devotees of scientific socialism have no intention of denying their spiritual closeness to the progressive forces in Asia, Africa, and Latin America Sympathy with fighters for true freedom is natural for Marxist-Leninists and internationalists. Where such forces exist and are struggling, they have the right to depend on our solidarity and support."

Ponomarev's is a large assertion, and the Soviets now devote something like 15 percent of their gross national product to producing the military power to back it up. One can answer a doctrine with an assertion of one's own. But that achieves a merely rhetorical parity. The question of a material parity remains.

For myself, I have no doubt whatever as to the determination of the president, nor of his commitment to the course he has outlined. But it is not for such as me to be convinced. Others must be convinced, others whose judgment as to the seriousness of the American stand will have decisive consequences for world peace. This brings us back to the question of public rhetoric and the response to it.

On March 17, 1978, the president spoke at Wake Forest College in North Carolina, giving an address generally noted for its firmness. He warned that with or without a SALT II agreement, the United States would match Soviet military power, strategic and conventional. The Soviet response is instructive. In May, Yuri Orlov, a prominent Soviet human rights activist, was sentenced to seven years in prison.

In June 1978 President Carter addressed the graduating midshipmen at Annapolis. He warned the Soviets that they must choose between "cooperation and confrontation." Ten days later, the Soviet government accused the United States of stalling on SALT, escalating the arms race, and forming a military alliance with China. An American businessman was arrested. In July Anatoly Scharansky was sentenced to 18 years in prison and an American diplomat was attacked by a Soviet policeman outside the American embassy. In August the administration decided to approve the sale of sophisticated petroleum recovery technology to the Soviets.

Christmas Eve 1978 the Vietnamese army, secured by a treaty with the Soviets and bristling with a generous supply of Soviet weapons, moved into Cambodia. That destitute country, ruined by a genocidal regime of its own, was subject to more misfortunes, including a policy whereby the Soviets and the Vietnamese consistently refused to allow the international community to come to the aid of millions of starving Cambodians. The international community expressed its horror, but did nothing, except to continue business as usual with the Soviet sponsors of that grotesque massacre.

The following Christmas Eve, the Soviet army entered Afghanistan. Earlier, in February, our ambassador, Adolph Dubs, was murdered with Soviet "advisers" on the scene.

A fair conclusion from this litany is that the Soviets have not been overly impressed by American prouncements about what manner of behavior by them we will and will not find "acceptable." Given the response of the United States, there is little difference for them between the destruction of Cambodia and the imprisonment of Scharansky in one year, and the invasion of Afghanistan and the deportation of Sakharov during the next.

Therefore there is nothing new or startling in the news of the last month, nothing to suggest that the invasion of Afghanistan marks some new departure in Soviet behavior. The record suggests that it is only more of the same. Yet if President Carter deems the most recent Soviet outrages as something new and different, it is not evident that the American response is yet different from what it has been for three years.

Soviet expansionism cannot be contained by repeated expressions of American disapproval. Our response must be concrete and tangible. It must somehow strike the Soviets as different in kind and quality from the kind of response that they have seen from us of late. They must be given to understand that our actions will begin to catch up to, then keep pace with, our words.

For example, the only way we can have any reason to suppose the Soviets will not move soon toward the oil fields of the Persian Gulf—a move their economy may make desperately desirable in a handful of years—is to make equally clear that we will stop them. The only way we can make this clear is to deploy the arms capable of doing so.

And not just in the Gulf. The Soviets are now engaged, directly or indirectly, in five distinct colonial wars: in Angola, in Ethiopia, in the Western Sahara, in Cambodia, and now in Afghanistan. There is a sense in which it is *we* who are now in the mountains; *they* down on the plain. They are everywhere being fought by native peoples; there is no reason they shouldn't bleed.

There is a cost the president must endure also if he is to be followed and to be believed in his new resolve. New policies must to some extent mean new people. The leaders of Europe and Asia and certainly those of the Soviet Union will be watching closely now to see whether the president's new pronouncements and actions are accompanied by changes in the administration itself to signal that the new positions arise not in response to the immediate necessity to do something, anything, in the face of overwhelmingly hostile acts, a response that could soon fade as other events come to the fore; or whether, to the contrary, people whose past judgments comport with the administration's new policies will appear in the ranks of the administration, with the clear implication that the new positions are to be sustained.

Forty years ago, it was necessary for the democracies to measure the meaning of the emergence of powerfully armed totalitarian states. Was the challenge to the world order that emerged after World War I partial or total? Could these states' ambitions be accommodated within that existing order, or were they of such a scale as to make any accommodation impossible? The questions were incorrectly answered, and the result was war. Inevitably, we must press the comparison between that time and this, with the hope that our response will be wiser—and more timely.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ZORINSKY (for Mr. CHURCH), from the Committee on Foreign Relations, without amendment, but with a preamble:

S. Con. Res. 72. Concurrent resolution expressing the sense of the Congress that the President should request the United Nations to establish an international presence in the refugee encampments on the border between Thailand and Kampuchea, and for other purposes.

S. Con. Res. 74. Concurrent resolution expressing the gratitude of the American people to the people and Government of Canada and her Embassy and Ambassador to Iran.

S. Res. 343. Resolution to express the gratitude of the Senate for the efforts of Col. Ishmail Kahn and Mr. Bill Hamidullah in protecting the International School of Islamabad.

H. Con. Res. 272. Concurrent resolution expressing the sense of the Congress that Andrei Sakharov should be released from internal exile, urging the President to protest the continued suppression of human rights in the Soviet Union, and for other purposes.

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

S. 1878. A bill to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes (Rept. No. 96–570).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. CHAFEE:

S. 2283. A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of earned income of citizens or residents of the United States earned abroad; to the Committee on Finance.

By Mr. HUDDLESTON (for himself, Mr. Mathias, Mr. Bayh, and Mr. Goldwater):

S. 2284. A bill to authorize the intelligence system of the United States by the establishment of a statutory basis for the national intelligence activities of the United States, and for other purposes; to the Select Committee on Intelligence.

By Mr. SCHMITT:

S. 2285. A bill to amend the Internal Revenue Code of 1954 to make additional interest from savings eligible for exclusion; to the Committee on Finance.

By Mr. SCHWEIKER (for himself and Mr. Randolph):

S. 2286. A bill to amend the Comprehensive Employment and Training Act to provide a career intern program to encourage school districts and Opportunities Industrialization Centers, and other community based organizations of demonstrated effectiveness, to carry out programs to improve the educational employment opportunity for youths; to the Committee on Labor and Human Resources.

By Mr. McCLURE:

S. 2287. A bill to release certain National Forest lands within the State of Idaho from further consideration for wilderness designation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SCHMITT:

S. 2288. A bill to amend the Internal Revenue Code of 1954 to make additional interest from savings eligible for exclusion; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE:

S. 2283. A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of earned income of citizens or residents of the United States earned abroad; to the Committee on Finance.

THE TAXATION OF AMERICANS WORKING ABROAD

• Mr. CHAFEE. Mr. President, today I am introducing the Export Incentive Tax Act of 1980, S. 2283. This bill will simplify the tax treatment of Americans working overseas and put them on a more equitable footing with their foreign competitors.

My proposal is to repeal section 913 of the tax code which contains a complex and confusing series of deductions for expenses incurred while living abroad, and to restructure section 911 with the following provisions:

An off-the-top $50,000 earned income exclusion for Americans working abroad who are bona fide residents of a foreign country;

An increased exclusion of $65,000 for Americans working abroad more than 2 years; and

An exclusion from taxation for housing allowances or housing costs which exceed 20 percent of earned income.

In addition, separate $50,000/$65,000 exclusions are allowed to married individuals who are both working overseas, although, one's excess exclusion cannot be used against income earned by the other. And, as under current law, foreign taxes on excluded income are not creditable or deductible for U.S. income tax purposes.

Mr. President, we are entering our fifth consecutive year of trade deficits and the rapidly declining competitive position of many U.S. industries in the world export market should be of great concern to our Nation.

The overwheming U.S. industrial superiority of the early postwar years is gone. Since 1950, our share of the world's export market has dropped by half, while our share of the world's imports has risen by 27 percent.

Nowhere is this trend illustrated more starkly than in the Middle East, the largest export market on Earth. Since mid-1978, the United States has dropped from first place in the intense competition for new construction contracts to 12th place in this rich and developing region.

A recent industry study shows that U.S. firms claimed only 1.6 percent of the $21.8 billion in new construction contracts let during the 13-month period ending June 1979. This compares with a 10.3-percent U.S. share from May 1975 to April 1978 of the total $86 billion market.

We are losing the battle to bring home those $60 billion a year we are paying out for foreign oil. Why is this happening?

Mr. President, there is not one simple answer to this question. But there is evidence that certain U.S. Government policies are making it difficult for American firms to compete on even ground with their increasingly sophisticated foreign counterparts. One of these policies is clearly in the taxation of American citizens who work overseas.

Not one of our major competitors taxes the earned income of their citizens working abroad. Not only do we tax our expatriates, but we have imposed on them a system of taxation that is so complex it is impossible for any American overseas to fill out his own tax form. Only international tax specialists in a few major U.S. accounting firms are equipped to handle this onerous task.

The fact that a U.S. citizen cannot do his own tax return is bad, but it is not the worst problem caused by the current law. The most troublesome result is that this tax premium imposed by our Government is making it too expensive to keep American employees in foreign countries. In Saudi Arabia, for example, Americans employed by American firms has decreased from about 65 to 35 percent in the last 2 years. These workers, mostly middle-management engineers, were not replaced by Saudis, they were replaced by third country nationals—Canadians, British, French.

But, Mr. President, the problem goes far deeper than the relatively few thousand jobs Americans are losing overseas. It goes to the hundreds of thousands of jobs Americans are losing at home because of billions of dollars of lost orders for U.S.-made materials and equipment. This has resulted for two reasons: One is that we have lost construction contracts overseas because U.S. bids are at least 2 to 3 percent higher than our competitors simply from tax costs on American employees. In this situation there is a direct loss of exports in materials that would have been used on the job. The other reason is that Americans overseas tend to order American-made goods, while Swiss managers, or Germans, or the British, tend to order equipment they, too, are familiar with from their own country. And as I have said, we are seeing fewer Americans in these key positions.

A GAO report suggests that the United States may be losing $7 billion worth of exports a year solely as a result of our tax policies regarding Americans overseas. And what does the Treasury gain? A maximum $300 million in tax revenue paid by Americans working abroad. I think my colleagues would agree that this is not a remotely reasonable tradeoff.

While my bill, S. 2283, does not exempt expatriates from all U.S. taxes, I believe it will go a long way toward putting Americans back on equal footing with their foreign competitors, and that is all we need.

I would urge my colleagues to give this matter a great deal of thought so we might correct this damaging tax policy.

I ask unanimous consent that the text of my bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTIAL EXCLUSION FOR EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES

(a) In General.—Section 911 of the Internal Revenue Code of 1954 (relating to income earned by individuals in certain camps) is amended to read as follows:

"SEC. 911. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

"(a) General Rule.—In the case of an individual who is—

"(1) Bona fide resident of foreign country.—A citizen of the United States and who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(2) Presence in foreign country for 17 months.—A citizen or resident of the United States and who, during any period of 18 consecutive months, is present in a foreign country or countries during at least 510 full days in such period,

There shall be excluded from gross income and exempt from taxation under this subtitle amounts received from sources within a foreign country or countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the period of bona fide residents or during the 18-month period, whichever is appropriate.

"(b) Definition of Earned Income.—For purposes of this section, the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

"(c) SPECIAL RULES.—For the purpose of computing the amount excludible under subsection (a)—

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount computed on a daily basis at an annual rate of—

"(A) $50,000, or

"(B) $65,000, in the case of an individual described in subsection (a)(1), but only with respect to that portion of such taxable year occurring after the individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.

"(2) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—For purposes of applying paragraph (1), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

"(3) TREATMENT OF COMMUNITY INCOME.—In applying paragraph (1) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount excludible, under subsection (a) from the gross income of such husband and wife shall equal the amount which would be excludible if such amounts did not constitute such community income.

"(4) REQUIREMENT AS TO TIME OF RECEIPT.—No amount received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed may be excluded under subsection (a).

"(5) CERTAIN AMOUNTS NOT EXCLUDIBLE.—No amount—

"(A) received as a pension or annuity, or

"(B) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of non-exempt trust), section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or section 403(d) (relating to taxability of beneficiary under certain forfeitable contracts purchased by exempt organizations),

may be excluded under subsection (a).

"(6) TEST OF BONA FIDE RESIDENCE.—A statement by an individual who has earned income from sources within a foreign country to the authorities of that country that he is not a resident of that country, if he is held not subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings shall be conclusive evidence with respect to such earnings that he is not a bona fide resident of that country for purposes of subsection (a).

"(7) FOREIGN TAXES PAID ON EXCLUDED INCOME NOT CREDITABLE OR DEDUCTIBLE.—An individual shall not be allowed as a deduction or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deduction or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deduction allowed by section 217 (relating to moving expenses).

"(d) HOUSING ALLOWANCE.—

"(1) IN GENERAL.—In the case of an individual described in subsection (a), there shall be excluded from gross income, and exempt from taxation under this subtitle, in addition to any amounts excluded and exempt under subsection (a) the greater of—

"(A) the amount by which such individual's housing allowance exceeds 20 percent of his earned income for the taxable year (determined without regard to such allowance), or

"(B) the amount by which such individual's housing costs exceed 20 percent of his earned income for the taxable year (as so determined).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) HOUSING ALLOWANCE.—The term 'housing allowance' means—

"(i) an amount paid to the individual by his employer which is designated by the employer as paid for the purpose of defraying the individual's housing costs during the period during which such individual is outside the United States, or

"(ii) compensation from sources without the United States in the form of the right to use property or facilities,

but does not include any amount paid by the United States or any agency thereof or any amount to the extent that such amount is lavish or exravagant under the circumstances.

"(B) HOUSING EXPENSES.—The term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of an individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. The term—

"(i) includes expenses attributable to the housing (such as utilities and insurance), but

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

"(3) SPECIAL RULE FOR SECOND FOREIGN HOUSEHOLD.—If an individual described in subsection (a) maintains a separate household outside the United States for his spouse and dependents and they do not reside with him because of living conditions which are dangerous, unhealthful, or otherwise adverse, then the words 'if they reside with him' in paragraph (2)(B) shall be disregarded.

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Earned income from sources without the United States.".

(2) Sections 43(c)(1)(B), 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to income earned by employees in certain camps" and inserting in lieu thereof "relating to earned income from sources without the United States".

SEC. 2. REPEAL OF DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) IN GENERAL.—Section 913 of the Internal Revenue Code of 1954 (relating to deduction for certain expenses of living abroad) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the item relating to section 913.

(2) Section 62 of such Code (relating to definition of adjusted gross income) is amended by striking out paragraph (14).

SEC. 3. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1979.

(b) ELECTION OF PRIOR LAW.—

(1) A taxpayer may elect not to have the amendments made by this Act apply with respect to any taxable year beginning after December 31, 1977 and before January 1, 1980.

(2) An election under this subsection shall be filed with the taxpayer's timely-filed return for the first taxable year beginning after December 31, 1978.●

By Mr. HUDDLESTON (for himself, Mr. MATHIAS, Mr. BAYH, and Mr. GOLDWATER):

S. 2284. A bill to authorize the intelligence system of the United States by the establishment of a statutory basis for the national intelligence activities of the United States, and for other purposes; to the Select Committee on Intelligence.

(The remarks of Mr. HUDDLESTON when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. SCHMITT:

S. 2285. A bill to amend the Internal Revenue Code of 1954 to make additional interest from savings eligible for exclusion; to the Committee on Finance.

INCREASED SAVINGS AND INVESTMENT

● Mr. SCHMITT. Mr. President, it has become widely recognized that America must increase its rates of savings and investment if we are to have economic growth in the decade ahead. The formula for improving savings and investment is relatively simple; we must reduce the tax rates which apply to interest and dividend income. The limited interest tax exemption included in the windfall profit bill will partially offset part of the impact of inflation and artificially established low rates of return on savings accounts. But in order to encourage significant increases in savings and investment, it will also be necessary to improve the rates of return for those taxpayers whose interest and dividend income exceed the exemption ceiling.

The bill I am introducing would encourage a higher rate of savings and investment by providing a scheduled increase in the amount of interest and dividend income above the $200 to $400 ceiling the Senate set in the windfall profit bill that would be exempt from taxation. The primary beneficiaries will be retirees dependent on interest and dividend income and those small savers of working age with the will to save and invest.

This legislation would add a 25-percent exclusion from tax of all interest and dividends earned above the exemption ceiling already approved by the Senate. That is, in addition to the exclusion of 100 percent of the first $200 to $400 of interest and dividend income on single/joint tax returns, there would be a 25-percent exclusion of all additional interest and dividends. This would be phased in at 5 percent a year over a period of 5 years beginning in fiscal year 1981. The saving to the taxpayer would be about $1 billion in the first fiscal year and $5 to $7 billion when fully operative.

The 25-percent exclusion of additional interest and dividends has the effect of reducing the tax rates on additional savings income by one-quarter. For example, an individual in the 28-percent tax bracket would see the effective marginal tax rate on savings income fall to 21 percent. The 40-percent bracket would effectively fall, to 30 percent, and the 70-percent bracket to 53 percent. This would result in substantial increases in saving, a switch out of tax shelters, reduced interest rates, and less pressure on the Federal Reserve to create money. It is a progrowth, anti-inflationary step of great effectiveness.

A larger exemption for income derived from interest and dividends is essential if the economy of the 1980's is to be one strong, real growth. Full employement and low inflation can only be achieved if there is sufficient capital to finance the investments required to make new discoveries, develop new technologies, and build new plants. A wholistic view of the economy reveals an interdependency of all its components; components which interact synergistically. It would be shortsighted to assume that one part of this system could be altered without impacting on the system as a whole.

According to estimates made by the Joint Committee on Taxation and the Department of Treasury, Federal revenues will increase by at least $1.5 trillion over the next 10 years as a result of upcoming social security, decontrol, windfall profit and inflation induced tax increases. Other estimates exceed $2 trillion. These will be the greatest tax increases in American history. Those who contend that the economy can absorb these increases without creating dislocations are advocating a dangerous course. It is a course that may lead the United States down the road of slow growth—or no growth—in the decade ahead.

This massive transfer of resources to the Government is a significant matter, particularly during a period when we are already experiencing declining productivity and sluggish growth of the economy. Recent studies have shown a direct correlation between the rate of savings, investment and economic growth. It is therefore no coincidence that the United States, with the lowest rate of savings among major industrialized nations, is also afflicted with stagnating economic growth. The U.S. rate of savings as a percentage of national income in 1976 was only 4.8 percent compared to rates of 6.6 percent in England; 13.1 percent in France; 13.2 percent in Germany; and 25.36 percent in Japan.

The Finance Committee has recognized the seriousness of this situation and has endorsed an amendment to the windfall profit bill to provide an income tax exclusion from the first $200 of combined interest and dividends received during the year—$400 for a couple filing a joint return.

Unfortunately, this proposal will do little to effect the more than $1.5 trillion increase in Federal taxes over the next 10 years; it will reduce Federal taxes by about $27 billion during the decade of the 1980's. This is a significant sum but as a percentage of the $1.5 trillion tax increase it represents a mere 1.8 percent. Clearly this excessively modest proposal a percentage of the $1.5 trillion tax increases already approved by this Congress, not to speak of the windfall profit tax.

Mr. President, I hope my colleagues will join me in supporting legislation to expand the potential benefits of the Bentsen-Dole initiative that was added to the windfall profits bill. Through the efforts of the distinguished Senator from Kansas, Senator Dole, and the distinguished Senator from Texas, Senator Bentsen, the Senate has endorsed the principle that we must create greater incentives for savings and investment. I hope the Senate will now take vigorous action to put this principle into practice in a manner that will produce greater results.

The bill I am introducing will affect every American with a savings account or investments. Over 44 million Americans will benefit from reduced taxes on interest and dividends. Low and moderate income people will benefit in two ways. First, from lower taxes; and second, from the job production, real income growth and overall increase in economic prosperity that will result. Older Americans on fixed incomes, facing high inflation, will benefit through an improved rate of return on their savings.

This is the least we can do for our citizens in the current economic climate.

It is what dozens of our competitors around the world have already done to improve their rates of savings and investment.

It is what we should do today if the decade ahead is to be one of the growth and prosperity necessary to defeat inflation and save our economy from stagnation.

Mr. President, I ask unanimous consent for the text of the bill to be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of subsection (b) of section 116 of the Internal Revenue Code of 1954 (relating to partial exclusions of interest and dividends received by individuals), as amended by this Act, is amended to read as follows:

"(1) Maximum amount.—

"(A) In general.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed the sum of—

"(i) $200 ($400 in the case of a joint return under section 6013), plus

"(ii) 25 percent of the interest received during the taxable year which is not taken into account under subparagraph (A).

"(B) Transitional rule.—For purposes of applying subparagraph (A)(ii) for taxable years beginning before January 1, 1985, the following percentages shall be substituted for '25 percent' in the case of taxable years beginning in the calendar year to which each such percentage applies:

Calendar year:	*Percentage*
1981	5
1982	10
1983	15
1984	20

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1980.●

By Mr. SCHWEIKER (for himself and Mr. Randolph):

S. 2286. A bill to amend the Comprehensive Employment and Training Act to provide a career intern program to encourage school districts and opportunities industrialization centers, and other community based organizations of demonstrated effectiveness, to carry out programs to improve the educational employment opportunity for youths; to the Committee on Labor and Human Resources.

YOUTH CAREER INTERN PROGRAM

● Mr. SCHWEIKER. Mr. President, I am proud to introduce today legislation which would encourage community based organizations and local educational agencies to establish career intern programs in areas of high youth unemployment across the country. Youth unemployment, which has hovered at a nationwide rate of over 16 percent in the last year, is one of the most serious problems we as a nation face today. If we cannot promise our young people quality educations and training for jobs in the future, then we have failed. The legislation I introduce today will begin to meet the needs of these disadvantaged young people. I am pleased to be joined in sponsoring this "Youth Career Intern Program Act" by Senator Jennings Randolph. Senator Randolph has been a strong supporter of legislation to help disadvantaged youth.

The conditions in many of our high schools today are appalling. Learning and training are almost nonexistent as teachers and school administrators struggle to maintain order within the school walls. Many students are completely apathetic and turned off—they have little hope for the future and no confidence in their ability to participate successfully in almost any activity. Many of these young adults drop out of school at the first opportunity. For example, nearly one out of every two students dropped out of New York City's public high schools from 1974 to 1978.

These young people enter a world in which they are ill-prepared to survive. Having no skills, they drift in and out of the welfare system and a series of dead end jobs. Many of these young adults are members of minority groups. They feel totally shut out of the cycle of achievement and opportunity which has been one of the marks of our great Nation. Their idleness which results in the waste of human potential is one of the great tragedies we must acknowledge and face. Their frustration spills over into violence, illegal activity, and abuse of drugs and alcohol.

Mr. President, there are organizations which are turning this situation around in a number of cities, particularly in the areas of highest youth unemployment. The Opportunities Industrialization Centers, founded and operated by the Rev. Leon Sullivan, are the primary example of community-based organizations which identified the problems of youth unemployment many years ago. Rev. Leon Sullivan has provided the vision and leadership for this great work. Slowly but surely, OIC's all over the country have developed working models with solutions to overcoming the lack of training and confidence on the part of unemployed youth, particularly minority youth. OIC presence in some neighborhoods has literally changed the course of development and has kept these areas alive. OIC's train youths, many of them high school dropouts, for real jobs in a real world while at the same time improving the basic academic skills of the individual. Most important is the positive change in attitude, self-confidence and perspective which the OIC graduate develops along with his or her new work skills.

The legislation I introduce today would allow for replication across the country of the career intern program, one of OIC's most successful projects. The great success of CIP has been described in testimony before the Labor and Human Resources Committee in our hearings on education and youth unemployment. Dr. Michael Timpane, acting director of the National Institute of Education said:

> One such program that we believe to be highly promising is the Career Internship Program (CIP) started in Philadelphia by Rev. Leon Sullivan and his colleagues at Opportunities Industrialization Center, Inc. This program is an alternative high school for 16 to 21 year olds who have dropped out of high school or are in serious risks of dropping out before graduation. The program enables students to complete high school, acquire occupational knowledge, plan for a career, and improve basic reading and mathematics skills—in short, to facilitate the transition from high school to work or to further education.
>
> Initial evaluation findings indicate a significant increase in the rates of high school completion, in reading and math scores, and in rates of employment or enrollment in college and technical schools. This program has proved to be so successful in Philadelphia that the Department of Labor has now transferred funds to the National Institute of Education to support the replication of this program in four additional cities in order to ascertain what made the program so successful in Philadelphia and whether or not it can be duplicated elsewhere with similar results.

Dr. Timpane has subsequently discussed with me NIE's view of the four-city replication of CIP and again, the results were seen as being extremely encouraging.

OIC is not the only community-based organization which has had great success in meeting the training and educational needs of dropouts or potential dropouts. It is clear from the findings of NIE that community-based organizations are perhaps the best vehicle for reaching these at-risk students or dropouts. Private, nonprofit organizations like OIC are the best link between the schools and the business community.

Mr. President, in closing I would like to describe the way the career intern program works. The community-based organization, along with the local educational agency, sets up an alternative high school for youths who have dropped out of school or are in serious risk of dropping out. The goal of the program is to provide these students with training in the basic skills needed for their graduation, to help them plan and then train for jobs which they can get after graduation. In the first CIP, 502 young people were served over a 3-year period. These were mainly minority students who were in academic trouble or had already dropped out of school. Most were about 4 years behind other students in reading and mathematics achievement. Compared with a control group, the following results were obtained: After 3 years, 67 percent of the CIP students, but only 13 percent of the controls had graduated or were attending school. About 44 percent of the CIP interns had received high school diplomas and 23 percent were still at their studies, compared to 7 percent of the control group with diplomas with an additional 6 percent still in school.

In a follow-up study of these students 1 year later, 71 percent of the CIP students were employed in college or in technical school compared to 39 percent of the controls. The average cost of training a student in a CIP program for 1 year is now $2,300 as compared to a $2,700 expense for the students in a public school in the same area.

As the Senate Labor and Human Resources Committee considers reauthorization of the Youth Employment portion of CETA, I intend to offer my career intern bill as an amendment to create a new distinct section to encourage this type of program. I urge my colleagues to join with me in supporting programs that work in turning around the terrible tide of youth unemployment and high school dropout rates.●

By Mr. McCLURE:

S. 2287. A bill to release certain national forest lands within the State of Idaho from further consideration for wilderness designation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. McCLURE. Mr. President, today I introduce a bill to provide for statutory release of 3.9 million acres of roadless lands in Idaho's National Forest System. These lands are part of the roadless area review and evaluation (RARE II) conducted by the Forest Service. The purpose of RARE II, as announced by the Forest Service, was to inventory all areas of the national forest that contained 5,000 acres or more of roadless land, evaluate these lands for possible recommendation to Congress as additions to the Nation's wilderness system.

In January 1979 the Secretary of Agriculture sent his recommendation to Congress for disposition of RARE II by selecting some acres for possible wilderness designation; some acres for further wilderness study; and the remainder to be returned to the inventory of Forest Service lands that contribute to the various multiple uses (other than wilderness) that are planned and developed under the Resources Planning Act, as amended by the 1976 Forest Management Act, as well as other statutes governing Forest Service activities.

In addition to providing statutory release from further wilderness consideration, the bill provides for areas recommended by the Secretary for Wilderness, or further wilderness study, to be acted on by Congress by January 1, 1982 for additions to the wilderness system. After that date, remaining areas revert to the normal planning process under existing statutes.

The bill further provides that if there is future interest in additions to, or deletions from the wilderness system, because of changing conditions or other reasons, this can be provided for under section 2 which says the Idaho State Legislature can make a recommendation to the Secretary of Agriculture for such changes. Upon receipt of such request the Secretary has a maximum of 2 years to develop a study and report to Congress on the merits of the suggested changes proposed by the Idaho State Legislature.

Mr. President, about half of Idaho's 20.3 million acres national forest system is presently in wilderness, primitive area, or roadless designation. We desperately need to free up with statutory assurance the 3.9 million acres of roadless areas so the Forest Service can get on with the necessary activities to meet the Resources Planning Act (RPA) goals set by the Congress to meet our many needs. The recent California court opinion (State of California *v.* Bob Bergland, Secretary of Agriculture et al. Civil No. S–79–523) which says the programmatic environmental impact statement (EIS) is inadequate with respect to 47 roadless areas in the RARE II program, gives added urgency to the need for statutory release language.

The roadless area issue has been with us for too long. In 1970 the Forest Service tried to resolve the constant problems associated with appeals and lawsuits associated with proposed development in roadless areas. This was known as RARE I and ended in a California lawsuit brought by the Sierra Club. The court ruled that an EIS must be filed before development could proceed on a roadless area. The Forest Service attempted to expedite a settlement of the roadless question by RARE II with the administration recommendation published in 1979. This bill might be characterized as the Idaho roadless area terminal evaluation (IRATE), which fairly states the feelings of many Idaho citizens concerning this issue.●

By Mr. SCHMITT:

S. 2288. A bill to amend the Internal Revenue Code of 1954 to make additional interest from savings eligible for exclusion; to the Committee on Finance.

REDUCE TAXES ON SAVINGS AND INVESTMENT

● Mr. SCHMITT. Mr. President, the Senate recently approved an amendment to the windfall profits bill that would provide an exemption from Federal income taxes for the first $200 of interest income for individual taxpayers and $400 for joint returns. I strongly supported this effort, but I feel equally as strong that we can do much more to encourage savings and investment. For this reason I am introducing legislation that would expand the $200/$400 exemption to $500 for individuals and $1,000 for joint returns in even stages over a period of 3 years on the following schedule:

[Fiscal years]

Individual:	
1981	$200
1982	300
1983	400
1984	500
Joint:	
1981	400
1982	600
1983	800
1984	1,000

The United States has the lowest rate of saving in the western world, resulting in the lowest rate of productivity growth, investment, and real wage increases among the major industrialized nations. Personal saving is falling because high inflation and high tax rates reduce the real rate of return on savings. As people are pushed into higher tax brackets, they get to keep less of each additional dollar of savings income. Since income from savings is added to earned income, the highest tax rate each taxpayer pays is imposed on his or her savings income. The higher the tax rate individuals face on the additional income from savings, the less likely they are to save. Thus, the present high tax rates discourage new savings, encourage consumption, and force savings away from nationally productive investments and into tax-exempt bonds and tax shelters.

Many of our competitors in the world economy have recognized the need to stimulate savings through exempting interest on time and saving deposits or interest from State savings institutions. Among these 39 countries are Japan, Great Britain, and France. Nearly every major industrialized nation offers greater incentives to savings and investment than does the United States.

The total amount of saving in the United States—personal savings, retained earnings, and depreciation setasides—has already fallen so low that we are barely providing enough investment to keep pace with replacing worn out machinery and equipping a growing labor force. The taxes we raise in the windfall profits bill will wipe out our margin of growth several times over. Investment in excess of depreciation and equipping new entrants in the labor force came within $4 billion of total saving in 1978. Only $4 billion was available for productivity growth and modernization of a $1.8 trillion current stock of plant and equipment. There really is no room for a $12 to $16 billion a year windfall tax on retained earnings; however, if we take steps to encourage total savings we can reduce its adverse impact.

A study prepared by the Department of the Treasury indicates that total U.S. fixed investment as a share of national output between 1960 through 1973 was 17.5 percent. The U.S. figure ranks last among a group of major industrial nations. Our investment rate was 7.2 percentage points below the average commitment of the entire group. Even below that of Great Britain. Greater savings and investment must be made to help boost productivity and reduce inflation.

These figures are a direct result of the numerous discentives which discouraged Americans from savings and investment. Government regulation, for example, has frozen interest rates on savings accounts at 5¼ percent while inflation has surged to an annual rate near 13 percent. Under these conditions the effective return on savings is a negative 7.75 percent, and this is before interest income has been taxed. After Federal income taxes, the rate of return is significantly worse.

It simply does not make economic sense to place money in a savings account in this environment. Instead, Americans increasingly choose to spend now and pay later, knowing that prices will only be higher in the future. This tends to be a self-fulfilling prophecy as high demand bids up the price of goods and businesses run short of investment capital leading to higher production costs from outmoded technology.

According to estimates made by the Joint Committee on Taxation and the Department of Treasury, Federal Revenues will increase by at least $1.5 trillion over the next 10 years as a result of upcoming social security, decontrol, windfall profits and inflation induced tax increases. Other estimates exceed $2 trillion. These will be the greatest tax increases in American history. Those who contend that the economy can absorb these increases without creating dislocations are advocating a dangerous course. It is a course that may lead the United States down the road of slow growth—or no growth—in the decade ahead.

For this reason, we must give greater incentives to the American public to save and invest. The legislation I am offering today would improve the real rate of return received on savings accounts and would reduce, to some extent, the negative effect of the double taxation of dividends. The result will be more fair tax treatment of the American public and a greater inflow of savings and investment into the economy, which will bring faster growth and increased prosperity for all Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of subsection (b) of section 116 of the Internal Revenue Code of 1954 (relating to partial exclusions of interest and dividends received by individuals), as amended by this Act, is amended to read as follows:

"(1) MAXIMUM AMOUNT.—

"(A) IN GENERAL.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed the sum of—

"(i) $500 ($1,000 in the case of a joint return under section 6013), plus

"(ii) 25 percent of the interest received during the taxable year which is not taken into account under subparagraph (A).

"(B) TRANSITIONAL RULE.—For purposes of applying subparagraph (A)(ii) for taxable years beginning before January 1, 1985, the following percentages shall be substituted for '25 percent' in the case of taxable years beginning in the calendar year to which each such percentage applies:

"Calendar year	Percentage
1981	5
1982	10
1983	15
1984	20".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1980.●

ADDITIONAL COSPONSORS

S. 1725

At the request of Mr. NELSON, the Senator from Maryland (Mr. SARBANES), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 1725, a bill to amend the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income and near-poor individuals and families to participate in energy assistance programs.

S. 2153

At the request of Mr. SCHWEIKER, the Senator from California (Mr. HAYAKAWA), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 2153, a bill to amend the Occupational Safety and Health Act of 1970 to concentrate enforcement activities on hazardous workplaces and encourage self-initiative in improving occupational safety and health, and for other purposes.

S. 2253

At the request of Mrs. KASSEBAUM, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 2253, a bill to provide for an extension of directed service on the Rock Island Railroad and to provide transaction assistance to the purchasers of portions of said railroad.

SENATE JOINT RESOLUTION 136

At the request of Mr. SASSER, the Senator from Kentucky (Mr. FORD) the Senator from Indiana (Mr. LUGAR), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of Senate Joint Resolution 136, a joint resolution to designate the month of March, 1980 as Gospel Music Month.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. JEPSEN, the Senator from Michigan (Mr. LEVIN), and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. JEPSEN, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

SENATE RESOLUTION 367—SUBMISSION OF A RESOLUTION CONDEMNING THE USE OF LETHAL CHEMICAL AGENTS AGAINST THE PEOPLE OF INDOCHINA AND AFGHANISTAN

Mr. WEICKER (for himself and Mr. Glenn) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 367

Whereas there is substantial, reliable evidence that lethal chemical agents have been used against the Hmong tribespeople in Laos;

Whereas there are indications that thousands have died in these attacks;

Whereas reports now indicate the use of chemical agents in Kampuchea (Cambodia) and Afghanistan;

Whereas the Convention With Respect to the Laws and Customs of War on Land, signed at The Hague on July 29, 1899, prohibits the use of poison or poisoned arms in warfare;

Whereas the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva on June 17, 1925, prohibits "the use in war of asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices";

Whereas each Party to the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done on April 10, 1972, "affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations"; and

Whereas the delegations of the United States and the Soviet Union to the United Nations Committee on Disarmament are currently negotiating an agreement intended to form the basis for achieving the general, complete, and verifiable prohibition of chemical weapons: Now, therefore, be it

Resolved, That (a) the Senate hereby condemns as violating the spirit of international law and morality the use of lethal chemical agents against the Hmong tribespeople in Laos and the use of such chemical agents in Kampuchea (Cambodia) and Afghanistan.

(b) It is the sense of the Senate that the President should—

(1) take urgent diplomatic action to achieve an immediate cessation of the use of lethal chemical agents against the people of Indochina and Afghanistan;

(2) direct the United States delegation to the United Nations Committee on Disarmament to express strong concern over the use of lethal chemical agents against the people of Indochina and Afghanistan;

(3) direct the United States delegation to the United Nations Committee on Disarmament to intensify its efforts to reach agreement with the delegation of the Soviet Union on a general, complete, and verifiable prohibition of chemical warfare; and

(4) report to the Congress, not later than six months after the date of adoption of this resolution, on steps the United States Government has taken pursuant to this resolution.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. WEICKER. Mr. President, today I am introducing legislation to address the urgent matter of the spreading use of chemical weapons around the world. This resolution condemns the use of lethal chemical agents in Laos, Cambodia, and Afghanistan and urges the President to undertake concerted diplomatic action to focus international attention on these documented cases and proceed vigorously toward international control of these weapons.

Mr. President, this resolution is very similar to House Resolution 512, which was passed by the House of Representatives on December 20, 1979. Congressman Jim Leach of Iowa has shown outstanding leadership and initiative on this matter in the House Foreign Affairs Committee by bringing this matter to the attention of the Nation and the Congress. I propose today that the Senate join in the efforts begun in the House to put our Government on record against these heinous criminal acts against humanity.

During the first World War, mankind had its first encounter with weapons of mass destruction when lethal chemical gas was added to the technology of warfare. Our memories of those horrible gas attacks, which choked, crippled, and killed tens of thousands, have faded somewhat as we have become preoccupied with the threat of a global thermonuclear holocaust. Hopefully, our efforts to prevent nuclear weapons from ever being used again will be successful. But the use of lethal chemical weapons, which can destroy hundreds of people with the speed of a summer rain shower, is very much a reality in the world today.

The horrors of chemical mass destruction have reappeared in the tragic destruction of innocent people in Laos, Cambodia, and Afghanistan over the last 3 years.

In December, the House Subcommittee on Asian and Pacific Affairs held hearings into reports of lethal gas attacks against the Hmong tribespeople, who live in remote hill country of Laos, by the Vietnamese. After receiving the testimony of administration and public witnesses, the subcommittee concluded that substantial, reliable evidence exists that chemical weapons have indeed been used against civilian populations in Indochina. House Resolution 512, on which this resolution is based, was reported by the committee and passed by the House 378 to 1.

Since the passage of the House resolution, the world has been shocked by the massive Soviet invasion of Afghanistan. The world has condemned the invasion as a blatant act of military aggression. The Western World is now in the process of implementing diplomatic, economic, and military responses to the Soviet threat.

In the brief period since the invasion, reports have begun to appear which indicate that Soviet chemical warfare equipment is presently deployed in Afghanistan and that gas attacks against rebel tribesmen have begun. Mr. President, I ask unanimous consent that three articles on this subject be included at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 28, 1980]

The Other Gas Crisis

(By William Safire)

Washington, January 27.—The TMS–65 is a large, new Soviet vehicle that is easy to identify. It is a turbojet aircraft engine on a turntable, mounted on a truck; towed behind the turntable is a large tank of chemicals to be injected into the hot exhaust from the jet engine. You cannot mistake the TMS–65 for any other military device—it's one of a kind.

The purpose of the TMS–65 is to decontaminate trucks and tanks which have been exposed to poison gas. It is a huge washing machine, which sprays its decontaminants at a row of vehicles rolling past.

In a recent film of the fighting in Afghanistan, the TMS–65 made its unmistakable appearance. A question arises: Why do the Soviets need their newest chemical warfare equipment in the hills of Afghanistan?

The answer: Poison gas (military men prefer the euphemism "chemical warfare") is extraordinarily effective against guerrillas. Mountain redoubts and difficult-to-discover ravines can be sprayed and gassed; the killing agent lingers, making it hard for guerrillas to hide or to use caches of weapons.

Not surprisingly, we have begun to hear reports of the use of poison gas against rebel positions near Faizabad and Jalalabad in northeast Afghanistan. This is denied by the Russians. But suspicion, like a gas, lingers: Why is the Soviet invasion force accompanied by the latest equipment in the arsenal of the Red Army chemical troops?

The Soviet chemwar special forces in Afghanistan—a small part of the 80,000-man force commanded by Lieut. Gen. V. K. Pikolov, sprinkled throughout the Red Army to give each combat division a strong poison gas capability—cannot be worried about defending against gas attacks by guerrillas who are armed only with rifles. Their presence cannot be defensive.

That gives portent to the long-ignored reports of "yellow rain" half a world away in Laos.

In February 1978 hundreds of Hmong, or Meo, tribesmen, resisting the Communist Pathet Lao, were killed by a mysterious "yellow rain"—probably mustard gas. These attacks were followed by others using lung-destroying phosgene or paralyzing nerve gas.

These tests of poison gas against defending guerrillas have been clearly documented. Leo Cherne, of the Citizens Commission on Indochinese Refugees, reports on interviews he and his group conducted with survivors in Thailand: "Not one of the refugees interviewed failed to know at firsthand of the yellow and green powders and liquids which had been dropped . . . not in one instance did we learn of the dropping of these chemicals which was not accompanied by the most severe illness during the hours which followed, and, in almost all cases, the consequences involved death. . . ."

Independent intelligence sources confirmed that following these Communist poison-gas attacks a seven-man team from General Pikolov's chemwar forces inspected warehouses containing chemical explosives in the Laotian cities of Pakse and Seno. The Soviets reviewed the success of the operation and checked on the stocks. Not long afterward, reports began coming in about the use of poison gas by the Vietnamese against guerrilla resistance in Cambodia.

In Afghanistan, the Soviet purpose in using Asian anti-Communists as guinea pigs has become clear: poison gas is a counterinsurgency weapon the Soviet Army can and will use, The weapon that was too loathsome to use in World War II is now an active part of the Red Army arsenal, to terrorize, demoralize and kill guerrillas.

What can we do about it?

Softliners will suggest we complain loudly to the U.N. Committee on Disarmament in Geneva, pleading for an investigation that will thereby win the hearts and minds of the nonaligned nations. That will score points with the self-righteous, but the Russians will not be embarrassed into obeying the rules of war.

A more direct deterrent is required. During four years of bilateral chemical warfare disarmament negotiations with the Soviets, the U.S. has been reducing its poison gas deterrent while the Soviet Union has been building up its own. The Russians have stone-walled on the issue of necessary onsite inspection, but our dovish Arms Control and Disarmament Agency—always with an eye to SALT—has continued to push for our unilateral disarmament while shrugging off evidence of a simultaneous Soviet buildup.

The trusting way has failed. Now let us try another way, which usually works better with the Soviets: let us build up our chem-war deterrent. A report by Col. Charles Bay, produced with gingerly disclaimers by the Strategic Studies Institute at the Army War College, offers a blueprint.

Nobody wants to vote for poison gas. But if Mr. Carter's slapdash doctrine foolheartedly commits U.S. ground troops to defend Pakistan's border, those Americans need more than ancient gas masks to face equipment like the TMS–65 and Soviet rockets containing poison gas. The only way to deter Soviet chemical warfare is the way that we prevented the Nazis from using this dread weapon in World War II: by showing the aggressor that its use of poison gas would cause effective retaliation in kind.

[From the Wall Street Journal, Feb. 4, 1980]

YELLOW RAIN

Government officials privately confirm that Soviet forces have used nerve gas known as Soman against Afghan tribesmen. Soviet chemical weapons were also used in 1978 against Meo tribesmen in Laos and in Yemen in 1964. The willingness of the Soviets to employ such loathsome weapons, not as a desperate last step, but as an opening shot, is something that the U.S. and its allies had better start thinking realistically about.

The Soviet Union is a party to the Geneva Protocol of 1925. Unlike SALT and other arms control treaties, the Geneva Protocol is binding in time of war and bans the first use of chemical weapons. Legally the Soviets have loopholes for using chemical weapons in Afghanistan. They signed the Protocol with a reservation that they are bound only in relation to other parties. Afghanistan is not a party to the Protocol and, furthermore, the Soviets do not admit that they are at war against Afghanistan.

Legalisms aside, large scale and expensive Soviet chemical warfare preparations indicate that the Soviet Union may not intend to be bound by the Protocol in conflict against anyone, party to the Protocol or not. Chemical warfare capability is fully integrated in Soviet forces. Soviet divisions are prepared to attack with chemical weapons and to operate in contaminated environments. Under the Protocol the Soviets could only make "second use" of this capability, but no one else has "first use" capability.

The U.S. has renounced the first use of chemical weapons against any nation whether or not a party to the Protocol. There is a small amount of money in the defense budget for chemical warfare research, and the U.S. has some deteriorating stocks of chemical weapons which are largely World War II leftovers that served as insurance against first use by the Germans and Japanese. But U.S. forces at the present time do not have the capability to employ chemical weapons and, indeed, have scant defensive capability against chemical weapons.

Gassing people with deadly substances as if they were so many mosquitos is abhorrent to the moral conscience of the West. Civilized people have a hard time confronting the issue—which may be the reason that Soviet use of inhuman weapons against technologically primitive tribesmen has not produced a barrage of moral protests. It is one of those unmentionables that diverts our human rights concerns to Guatemalans swinging nightsticks against left-wing students.

But we are going to have to steel ourselves for there may be worse to come. Intelligence sources now believe that the Soviets have used biological weapons in Afghanistan. Soviet use of "microbe bombs" would be a clear violation of the 1972 biological treaty that bans not only the use of such weapons but also their development, production and possession. The arms control community is unsure whether the Soviets are complying with this treaty. Under its provisions, evidence of a violation can be brought before the UN Security Council, forcing the world to confront an issue that it doesn't want to confront.

The repeated use of chemical warfare, meanwhile, gives a good indication of the general regard in which the Soviets hold treaties and conventions. It is a powerful reason not to ratify a Strategic Arms Treaty with unverifiable provisions such as range limits on cruise missiles. And also a reason not to proceed with negotiations on a comprehensive nuclear test ban treaty just when the government is wondering whether there was or was not an atomic test off Antarctica last year.

Meanwhile, Meo tribesmen in Laos have seen the effects of "yellow rain," descending on the men, women and children of primitive villages. And whether as a systematic anti-guerrilla weapon or merely to indulge Soviet curiosity, in the vicinity of Feyzabad, in areas west of Kabul and around Jalalabad, canisters of Soman have burst open in the air, spreading vapors that penetrate the skin, paralyze the central nervous system, and cause violent seizures and death.

[From the Washington Star, Jan. 23, 1980]

USE OF GAS BY SOVIETS IN AFGHANISTAN HINTED

U.S. intelligence sources say there are indications the Soviets may have used deadly nerve gas against anti-Marxist rebels in five areas of Afghanistan.

The sources, who declined to be identified, said the evidence is not conclusive enough to permit an open accusation by the United States.

But they said U.S. intelligence specialists give credence to descriptions provided by a number of Afghan refugees, including a defecting army officer.

This development comes less than a week after U.S. intelligence sources reported that the Soviet army had brought chemical decontaminating equipment into Afghanistan.

According to the new reports, the gas apparently was contained in bombs that were dropped from airplanes and burst in the air, spewing the gas.

This vapor caused vomiting, breathing difficulties, bowel eruptions, blindness, paralysis and then death, the sources said. There was no estimate of the number of deaths.

U.S. specialists said the effects, as described by the Afghan refugees, correspond to known results from a Soviet nerve agent called Soman. They believe the same kind of nerve gas was used against Laotian tribesmen resisting Communist forces in Southeast Asia.

One intelligence report suggests the lethal agent was used against Afghan rebel tribesmen as early as last August or September in the Panjshir Valley northeast of Kabul. Russian advisers were serving with the Afghan army at that time, although the full-scale Soviet army movement into Afghanistan did not come until late last month.

Sources said the other four incidents reportedly occurred last week near Faizabad and in Takhar Province, both in northeast Afghanistan where rebel resistance has been stiff; in Bamian Province, west of Kabul; and near Jalalabad, which lies close to Pakistan.

In telling the AP about sightings of Soviet chemical decontamination equipment in Afghanistan, U.S. specialists suggested it might be used to clean up affected areas so they could be occupied by Soviet or Afghan government troops after a gas attack.

Gen. David Jones, chairman of the Joint Chiefs of Staff, told Congress about a year ago that, under Soviet military doctrine, "the basic principle is to achieve surprise by using massive quantities of chemical agents against unprotected troops or against equipment or on terrain to deny its use."

U.S. intelligence sources said the Soviet troops in Afghanistan are equipped with FROG battlefield missiles, which they said can be used to hurl chemical warheads as well as either high-explosive or nuclear weapons.

Meanwhile, Carter administration sources reported yesterday that thousands of Soviet bureaucrats have moved into Afghanistan to run the government, and East German intelligence agents are helping to operate the security system.

Mr. WEICKER. Mr. President, much of the information about the use of chemical weapons in Afghanistan is, of necessity, highly classified. Mr. President, I feel it is of great importance, however, that the world know the full truth about Soviet chemical weapons use in Afghanistan, and I will work for public hearings in the Senate Foreign Relations Committee, where this issue can be fully and openly explored. For this reason, this resolution expands upon the House resolution to include reference to the use of lethal chemical weapons in Afghanistan, as well as Indochina.

Mr. President, what I believe we have most to fear is that the use of chemical weapons will become an "acceptable" form of international behavior. It has been said that chemical weapons could conceivably become the poor nation's nuclear weapon of the eighties and nineties. The technical and financial investments required to produce and deliver lethal chemical agents are well within the means of much of the Third World, should they decide to move in that direction. Without question the proliferation of chemical weapons around the globe would have a devastating effect on world peace and order. It is therefore the grave obligation of the civilized nations of the world to expose and denounce the use of chemical weapons wherever it occurs and bring the full weight of international condemnation to bear against those who perpetrate such crimes against humanity.

Mr. President, this resolution is intended to demonstrate the awareness and the concern of the Senate for documented chemical weapons use in Laos, Cambodia and Afghanistan, to condemn such acts as a violation of international law and morality and to urge the President to place this issue squarely before the community of civilized nations. Specifically it directs the President to:

First. Undertake urgent diplomatic action to seek immediate cessation of chemical weapons use by the Soviets and Vietnamese;

Second. Express strong concern before the United Nations Committee on Disarmament over these incidents;

Third. Accelerate efforts to negotiate with the Soviet Union a general prohibition on the production, stockpiling or use of chemical weapons; and

Fourth. Report to the Congress within 6 months on what actions the administration has taken on this matter.

Mr. President, it is my hope that this matter can be expeditiously handled by this body so that the Congress can be unified in its response to the use of lethal chemical weapons in Indochina and Afghanistan. I am very pleased to have the Senator from Ohio, Mr. GLENN join me as an original cosponsor of this resolution.●

NOTICE OF HEARINGS

APPROPRIATIONS SUBCOMMITTEE ON THE DEPARTMENT OF THE INTERIOR

Mr. ROBERT C. BYRD. Mr. President, as chairman of the Appropriations Subcommittee on the Department of the Interior and Related Agencies, I wish to announce the 1980 hearing schedule on Presidential budget requests for the current fiscal year.

The subcommittee will be examining spending estimates for natural resources and energy programs, Indian and territorial affairs, and cultural activities. These hearings span 4 months in all, and it is important that public notice be given as soon as possible.

I would like to draw attention to the unusually early schedule for some nongovernmental witnesses this year. We have scheduled February 27 and 28 for those witnesses who wish to appear in connection with Indian program funding. This will coincide with similar hearings in the House. The remaining outside witnesses are scheduled for May 15 and 16.

The subcommittee is adopting a new procedure for these outside witnesses this year. As usual, all statements of witnesses will be printed in full in the hearing record. However, because of the compressed legislative schedule and the intensified demands of conflicting committee schedules, staff sessions will be scheduled for outside witnesses in lieu of the normal hearings. Those witnesses who wish to make an oral presentation to the subcommittee will be given time to brief the staff. A complete record will be maintained of the staff sessions, and members of the subcommittee will preside and participate on occasion, but only as time permits.

This procedure has been adopted to insure that all witnesses will have an opportunity to address their views to the subcommittee although direct contact with committee members will not be possible in all instances. This is certainly preferable to the alternative of canceling hearings.

The hearing regularly scheduled for congressional witnesses will be held on May 14 this year, and I urge all Senators with proposals for program funding under the subcommittee's jurisdiction to schedule an appearance at this hearing.

Mr. President, I ask unanimous consent that the subcommittee hearing schedule be printed in the RECORD.

1980 HEARING SCHEDULE—SENATE SUBCOMMITTEE ON THE DEPARTMENT OF INTERIOR AND RELATED AGENCIES, COMMITTEE ON APPROPRIATIONS

[10:00 a.m., unless otherwise notified]

FEBRUARY

Room 1224: Friday 15, Bureau of Mines, Fish and Wildlife Service.

Room 1224: Tuesday 19, Secretary of the Interior.

Room 1224: Wednesday 20, Navajo-Hopi Relocation Commission; Advisory Council on Historic Preservation; Woodrow Wilson International Center for Scholars.

Room 1224: Thursday 21, Pennsylvania Avenue Development Corporation; National Capital Planning Commission; Franklin Delano Roosevelt Memorial Commission.

Room 1224: Wednesday 27, Staff sessions for nonogovermental witnesses on Indian programs.

Room 1224: Thursday 28, Staff sessions for nongovernmental witnesses on Indian programs.

MARCH

Room 1223: Tuesday 4, Indian Health Service.

Room 1223: Wednesday 5, Office of Surface Mining.

Room 1223: Thursday 6, National Endowment for the Humanities.

Room 1114: Tuesday 11, Secretary of Energy.

Room 1223: Wednesday 12, Office of Indian Education; Institute of Museum Services.

Room 1223: Thursday 13, Office of the Secretary; Office of the Solicitor.

Room 1223: Tuesday 18, DOE: Alternative fuels.

Room 1224: Wednesday 19, Bureau of Indian Affairs.

Room 1223: Thursday 20, Bureau of Indian Affairs.

Room 1223: Tuesday 25, DOE: Strategic Petroleum Reserve; Production, Demon., and Distribution.

Room 1223: Wednesday 26, Office of Water Research and Technology.

Room 1223: Thursday 27, Smithsonian Institution.

APRIL

Room 1224: Tuesday 1, Office of Territories.

Room 1224: Wednesday 2, Office of Territories.

Room 1224: Thursday 3, DOE: Fossil.

Room 1223: Tuesday 15, Federal Inspector for Alaska Pipeline; DOE: Energy Information Admin.

Room 1223: Wednesday 16, National Gallery of Art; Commission of Fine Arts.

Room 1223: Thursday 17, Forest Service.

Room 1223: Tuesday 22, DOE: Economic Regulatory Administration.

Room 1223: Wednesday 23, National Endowment for the Arts.

Room 1223: Thursday 24, Bureau of Land Management.

Room 1224: Tuesday 29, Heritage Conservation and Recreation Service.

Room 1224: Wednesday 30, DOE: Conservation.

MAY

Room 1224: Thursday 1, HCRS: Land and Water Conservation Fund.

Room 1224: Wednesday 7, U.S. Geological Survey.

Room 1224: Tuesday 13, National Park Service.

Room 1223: Wednesday 14, Congressional witnesses.

Room 1114: Thursday 15, Staff sessions for nongovernmental witnesses.

Room 1224: Friday 16, Staff sessions for nongovernmental witnesses.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

● Mr. TALMADGE. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry has scheduled a hearing on S. 2249, a bill to increase the minimum level of price support on quota peanuts for the 1980 and 1981 crops. The committee has invited the U.S. Department of Agriculture and representatives of the peanut growers, shellers, and manufacturer groups to testify on this legislation.

The hearing will be held on Thursday, March 6 beginning at 8:30 a.m. in room 324 Russell Building.

Anyone wishing further information should contact William Bates of the Agriculture Committee staff at 224-2035.●

SUBCOMMITTEE ON PARKS, RECREATION, AND RENEWABLE RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks, Recreation, and Renewable Resources.

The hearing is scheduled for March 25, 1980 beginning at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 2233, a bill to permit the Forest Service to acquire lands outside the boundaries of the Los Padres National Forest in California.

For furtner information regarding the hearing, you may wish to contact Thomas Williams or Deborah Merrick at 224-7146.

Those wishing to testify or who wish to submit a written statement for the record should write to the Subcommittee on Parks, Recreation, and Renewable Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources.

The hearing is scheduled for March 27, 1980, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 1784, a bill to improve the electric generation efficiency of joint Federal-civilian pooling practices in Alaska, and for other purposes.

For further information regarding the hearings, you may wish to contact Russell R. Brown, Professional Staff on extension 42366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Committee on Energy and Natural Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I would like to announce a hearing that will be held by the Subcommittee on Energy, Nuclear Proliferation, and Federal Services of the Committee on Governmental Affairs. On Wednesday, February 13, 1980, at 10 a.m., in room 3302 of the Dirksen Senate Office Building, the subcommittee will hold a hearing on S. 742, the Nuclear Waste Management Reorganization Act of 1979.

If you have any questions regarding this hearing, please contact Sandy Spector of the subcommittee staff at 224-2627.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a hearing on Paperwork Elimination and Management on February 13, 1980, at 10 a.m., in the City Council Chambers, Green Bay, Wis.

Witnesses appearing before the committee will be: Mr. Hamilton Pinkalla, American Bio-Synthetics; Mr. Charles Tyng, Grueber, Buestrin, Allan Limited; Mr. Daniel Wanta, Bar-Coat Blacktop, Inc.; Mr. Charles Nothstine, vice-president, Straubel Paper Co.; and Mr. Warren Loveland, Loveland Real Estate.●

ADDITIONAL STATEMENTS

THE FRAUD HOTLINE

● Mr. SASSER. Mr. President, fraud, abuse, and waste in the Government is costing the taxpayer billions of dollars. This was the thrust of testimony presented by the Comptroller General, Elmer Staats, in his testimony before the legislative branch Appropriations Subcommittee on December 4, 1978.

At that hearing, I suggested that a nationwide toll free fraud hotline be installed at the General Accounting Office. With the strong support of the former ranking minority member of our subcommittee, the distinguished senior Senator from Pennsylvania (Mr. SCHWEIKER) and the full cooperation of Comptroller General Staats, the fraud hotline was installed at the General Accounting Office and became operational in January of 1979.

The nationwide toll-free fraud hotline is 800-424-5454. In the Washington D.C. metropolitan area the number is 633-6987.

HOTLINE CASE EXAMPLES

Mr. President, I wish to call to the attention of my colleagues nine hotline case examples. These examples show that the efforts of the Fraud Task Force are beginning to bear fruit in terms of restoring integrity to the operations of Government.

FALSIFICATION OF TIME CARDS

As a result of a call to the hotline, and investigation by the agency involved, administrative action was taken for falsification of time cards.

THEFT OF MATERIAL

The caller alleged theft of material from a Government warehouse by maintenance employees. The allegation was substantiated and administrative action taken.

AFDC AND FOOD STAMPS

The caller alleged that an individual receiving aid to families with dependent children (AFDC) and food stamps was working and receiving alimony. A large bank account was also alleged. Investigation determined the individual had received $3,181 in overpayments and the case is awaiting prosecution.

INELIGIBLE PARTICIPANTS

A complaint alleged that a State agency receiving Federal funds for training was allowing ineligible participants. This allegation was basically substantiated and the Federal agency is currently questioning over $138,000 of the cost incurred.

LONG LUNCHES

An allegation was received that a supervisor at a Federal agency was allowing his employees to take long lunches and not charging leave. The complaint was resolved through the resignation and reassignment of the personnel involved.

NONWORK BY A FEDERAL EMPLOYEE

An allegation was received concerning nonwork by a Federal employee during duty hours. This employee submitted his resignation.

CONTRACT COMPLAINT

A complaint alleged a contract was awarded for street, sidewalk, and gutter repair, but that a poor job was done. As a result of this complaint, the contractor agreed to correct the defects; that is, repaving streets, et cetera, at no cost to the Government.

FALSE CLAIMS

The caller, who is a resident in a section 8 housing development, claims his landlord is trying to assess damage charges improperly to tenants. Caller believes HUD will pay these charges but should not. The caller's allegation was substantiated and action is being taken to preclude the landlord from future participation in the program.

OVERBILLING AND CONTRACT NONPERFORMANCE

A hotline allegation of significant overbilling and contract nonperformance for maintenance services in the Defense Department, has been verified at the site in question and may be taking place nationwide.

CONCLUSION

Mr. President, the examples I have cited are but a few of the many hotline calls that have been followed up so far. Many more are being investigated and some cases have already been referred to the Justice Department for possible prosecution.

The Comptroller General, Mr. Elmer Staats, the head of the Fraud Task Force, George Egan, and the staff of the hotline unit under Bob Meyer are to be commended for their very fine efforts to reinstill a sense of integrity in Federal Government operations.●

FIFTY HOSTAGES—ONE HUNDRED DAYS

● Mr. DOLE. Mr. President, Monday we face a sober anniversary: 50 hostages; 100 days. One hundred days ago the U.S. Embassy in Tehran, sovereign American soil, was invaded by a militant group of terrorists and radical leftists—some of them trained by the Palestinian Liberation Organization—and with the connivance and approval of the Iranian Government. These extremists kidnaped our diplomatic personnel, holding their lives and our national honor hostage, justifying their criminal act in a hypocritical bid for power. Today there are still 50 Americans they are holding, and it has been 100 days since their crisis, and our crisis, began.

For a long time most of us, because of the tense, very critical situation in Tehran, refrained from criticizing the President and his Iranian policy. The beginning of a hostage situation is the most decisive, when prompt action can make or break the deadlock, and spell the difference between safety and danger. We did not criticize the President even though many of us believed—and are every day more certain of it—that his weak and indecisive foreign policy had contributed to the making of our crises in Iran and Afghanistan.

THROWING AWAY OUR BARGAINING POSITION

We hesitated yet again when the President threw away our only viable bargaining tool, military power, from the very start, even though force was the only thing the militants had to fear from us. We could not know if it would be safe to use force, not without the information only a President can have, so we and the entire Nation had to trust the President's judgment. We wondered all the same if it could be wise to withhold even the threat of force as a bargaining weapon, when no other action we could take would harm or influence the Ayatollah Khomeini or the militants holding our people.

It took 4 weeks before President Carter brought one of our aircraft carriers into the Persian Gulf, making sure until then that the United States, once the most powerful Nation in the world, had no military options to inspire fear or respect in the Iranians. It has been over 100 days, nearly four times those 4 weeks, and with no credible threat against them, the kidnapers still hold our 50 Americans hostage.

Does restraint mask indecision, and rhetoric parade for inaction? We are all thankful the hostages still live, and we pray for the terrible injury they have suffered already. But we find our President only beginning to sound tough when the failure of the United States to respond to a crisis saw the whole fragile, South Asian region start to fragment. The Russians, for the first time since World War II, marched with impunity into a sovereign nation and ruthlessly took it over. They installed their own puppet regime in Afghanistan, and are now poised to take advantage of the collapse of either Iran or Pakistan. These nations were strong and safe when Mr. Carter took office, but now their future is very much in doubt.

Now that the crisis is infinitely worse than when it began, 100 days ago, we are forced to reassess our alternatives. In a dramatic turnabout from the first thousand and more days of his administration, Jimmy Carter has suddenly decided we need better military capabilities and higher defense spending.

A LITANY OF WEAKNESS

In global affairs over the last 3 years there is a long list of things we can point to and say, these things were mistakes; they should not have happened: and that list is the sum total of Mr. Carter's foreign and domestic policies. Furthermore, we are not just using hindsight. The Senator from Kansas and many other Republicans, and even some Democrats, cried out at the time that these policies were wrong, and they were heading America down the wrong direction.

It seems to me this disastrous non-policy we have seen during the past 3 years produced the mess we are in now. There was nothing inevitable about it. In fiscal years 1976, 1977, and 1978 in budget authority and in fiscal years 1977 and 1978 in outlays (expenditures) the Ford administration reversed the downward trend in defense spending, despite annual reductions by a Democratic majority in the Congress. But what did President Carter do?

The record shows the President reduced proposed defense budgets for 1979 through 1983 (a 6-year period) by $57 billion, an average cut of $9.5 billion per year. He slashed the strategic program $24 billion. General purpose forces by $25 billion, and our vital long-range research and development program by $10 billion. Carter cut the projected Navy budget through 1983 by almost $26 billion (41 percent of the total).

In the strategic sector, in order to buy SALT II, the Carter administration tragically delayed or canceled vital programs. The MX missile, designed to prevent Russia from achieving a first-strike capability, will be delayed at least 4 years until 1989 at a time when our Minuteman missiles will become increasingly vulnerable to Soviet strategic strength.

In 1977, President Carter canceled the B-1 bomber program which would have brought 244 modern aircraft on line to replace the aging B-52's, now 25 years old and not adequate for the decade of the eighties.

The Trident submarine under Carter was cut back and the initial operational deployment was delayed by 2 years. The neutron bomb, a valuable weapon for securing the NATO flank, was canceled.

In 1976, President Ford and I challenged the Carter-Mondale team during the debates to justify their irresponsible calls for cuts in defense spending programs. Now the Soviet Union is stronger militarily and has perhaps achieved strategic superiority.

The Russians feel free to be more aggressive worldwide, while all our foreign policy signals to the Russians and the rest of the world have been negative. There is a litany of foreign policy failures—from the time Carter first took office and canceled our overflights over Cuba to the present crisis. President Carter consistently retreated from our world responsibilities: In Panama, by giving away the canal: In Taiwan, by canceling our mutual defense treaty: In South Korea and the Philippines, by trying to reduce our troops stationed there. He failed to challenge Russian- and Cuban-proxy aggression in Africa. He sought to establish diplomatic relations with our most persistent enemies, North Vietnam and Cuba. He failed to support the Shah of Iran and may have directly contributed to the fall of his government. And 20 months ago he failed to make any protest when the Communists first seized power in a previously neutral Afghanistan.

The President must take the responsibility for the mess our foreign policy has become. He must assume the blame for our massive military unpreparedness, for he has cut the defense budget by $60 billion. The President, the man in charge, was amply warned, and the responsibility is his. The crisis in Iran is the result of his ineptitude. The perception by the rest of the world that America will no longer take actions to protect its interests, nor that it has the capability should it decide to do so, is the hallmark of the Carter legacy to world affairs.

The Senator from Kansas does not have the answer as to how we can rescue the hostages. There comes a time in a crisis when there has been so much hesitation, so many failures to react, that all the remaining options have seemingly unacceptable risks—a kind of post-panic paralysis sets in and everyone stands and waits, hoping, just hoping for the best. This has been the Jimmy Carter approach. It has been 100, long, endless days for the prisoners in Tehran. We are still hoping with them, and praying for them, and waiting, for that is all that remains. And wondering where the next crisis will be, where the next American hostage will be taken. At least after 100 days there are still only 50 hostages.●

DEBATING DICKEY-LINCOLN ON ITS MERITS

● Mr. MUSKIE. Mr. President, earlier this week, the House of Representatives approved the water resources authorization, H.R. 4788. It is a controversial bill, as each of us knows. One very small portion of this very big bill deals with an important potential source of energy for my energy-poor region: the Dickey-Lincoln School hydroelectric project.

Dickey-Lincoln was authorized in 1965, but opposition from private power interests and coal companies kept the project on the shelf until 1974. That year, the Congress appropriated $800,000 to renew the planning process and begin an environmental impact statement.

Opponents of the project have fought this planning process, and have sought to rescind congressional authorization. It is ironic that so-called environmental organizations have opposed the completion of the environmental impact statement. But that is only one of the many in the debate over Dickey-Lincoln.

It is my hope that this year, Dickey-Lincoln will be debated on its merits. In the weeks ahead, I will be discussed with my colleagues the facts established about Dickey-Lincoln during one of the most complete and thorough pre-construction reviews any Federal project has ever undergone. I will bring to the Senate's attention some of the odd and unusual arguments against Dickey which attempt to shift the debate from fact to falsehood. And I will focus on the ironies of the Dickey-Lincoln debate when it is appropriate.

Here is the first such case:

Preconvention caucuses will be held on Sunday by the Maine Democratic Party. Last week a rumor spread like a prairie fire through the State that President Carter was supporting construction of Dickey-Lincoln in an effort to gain my endorsement. Nothing could be further from the truth.

It has been the fact that President Carter's responsiveness to Maine has not been based on political expediency, but on a willingness to listen and the commitment to act on the merits that I find most refreshing.

It is true President Carter has supported the planning process for Dickey-Lincoln. His budget for the 1981 fiscal year includes $795,000 to complete wildlife mitigation studies. But he has not committed himself to construction funds. And I have not asked him to. Both of us prefer to wait until the environmental studies are complete, so the impact of the project can be fairly measured against the low-cost, non-polluting power Dickey-Lincoln would provide to Maine and New England.

I intend to make a forceful case to the President. I will make my case on the basis of facts. I am confident that the merits of the project will convince the President to support Dickey-Lincoln. I am just as certain that opponents will prefer to avoid the facts in favor of misstatements, political leverage and threats. Finally, I am sure President Carter will want the facts.

President Carter has been sensitive to the needs of people in Maine. He has always been willing to let us make our own case. When we sought Federal aid for the fishing industry, we made our best case. When we sought reversal of a threatened cutback of Loring Air Force Base, we made our best case. And were helped in both instances. Now, when we have an opportunity to develop an indigenous source of energy for our State and our region, when our reliance on foreign oil is causing great personal and economic hardship, I am confident President Carter will want to hear the facts. Whether his conclusion matches mine is a question only time will answer.

Yet the rumor persists that some sort of deal has been struck. The rumor may have been started in an attempt to discredit President Carter with Maine voters. Certainly, the suggestion of a deal is an insult to both the President and to me.

Or, the rumor may have been born in the overheated imagination of opponents who spend night and day in suspicious fear that some scheme is afoot to force Dickey-Lincoln down the throats of the people of Maine. There is no such scheme.

There are only the facts. They cannot be ignored. In my judgment, the facts are powerful testimony to the value of Dickey-Lincoln. Opponents will try to avoid those facts, manipulate them, and construct half-truths, suspicions and irrelevancies to make their case. That course is at their disposal. But I warn them that the Senate will accommodate honest differences of opinion; it will not accept sleight-of-hand.

President Carter has established a fine record of environmental concern. It is a sad commentary on the state of organized environmental groups that this fine record is being attacked in many forums, and his intellectual honesty is being assailed in the Dickey-Lincoln case. I know how he must feel.●

FRENCH/WEST GERMAN SUMMIT DEMONSTRATES NATO SOLIDARITY

● Mr. JAVITS. Mr. President, the 35th semiannual French/West German summit of President Valery Giscard d'Estaing and Chancellor Helmut Schmidt between February 3 and 5 resulted in the issuance of a most important statement by the two national leaders. The joint communique stated that—

> The Soviet military intervention in Afghanistan is unacceptable and creates grave dangers for the stability of the region and for peace.

This assessment of the gravity of the situation coincides closely with the views of the United States and demonstrates that the common threat is clearly perceived by two of our most important NATO partners. I shall include at the conclusion of my remarks an official translation of this communique.

This common perception of the Soviet threat lays the groundwork for joint action in meeting it. We and our NATO partners need now to initiate talks to determine specific actions to respond to the Soviet aggression in Afghanistan. Possibilities for such joint action include the following: A reduction of the financial credits that the West offers to the Soviet Union—a step reported to be taken this morning by Japan—a division of labor, suggested both by Chancellor Schmidt and President Giscard d'Estaing, between the European members of NATO and the United States for shoring up our defenses in Europe and the Persian Gulf, and possible joint naval force deployments on the oil routes in and from the Middle East, which are our common lifeline. These possibilities are in addition to the actions already undertaken by President Carter, such as the grain and technology embargoes and the Olympic and cultural exchange boycotts, which are now being seriously discussed by various points of the decision-making process in several NATO and non-NATO countries.

Mr. President, a common, shared Western response is absolutely essential to the continued protection of Western interests both in the Persian Gulf region and the world. The communique of the French/West German summit demonstrates that the groundwork has been laid. Now is the time to take the next vital steps.

The communique follows:

JOINT FRENCH/FRG DECLARATION ISSUED DURING GISCARD/SCHMIDT BILATERAL CONSULTATIONS

The President of the French Republic and the Chancellor of the Federal Republic of Germany undertook an in-depth examination of the international situation in light of events in Afghanistan. They reached the following conclusions which outline the policy of the two countries in the present circumstance.

(1) They judge the Soviet military intervention in Afghanistan unacceptable and note that it creates grave dangers for the stability of the region and for peace. They judge it indispensable that it (the intervention) be ended without delay, as has been requested by a large majority of the General Assembly of the United Nations. This is the only means to restore a situation conforming to the rights of the people of Afghanistan and the needs of international peace.

(2) They consider that the present crisis could set in train a process which, to a greater and greater degree, and no matter what the intention, could have the most serious consequences for the world. They wish to reaffirm, under these circumstances, the fedelity of their own countries to the Atlantic Alliance and their determination to honor the commitments related thereto.

(3) They take note of the fact, that because of the events in Afghanistan, detente has become more difficult and more uncertain and that as a consequence the withdrawal of foreign troops from Afghanistan is necessary. They declare that detente could not resist a new shock of the same type. In this event France and the Federal Republic of Germany would take, in liaison with their allies, the measures which would be necessary in this circumstance to guarantee their security and defend international stability.

(4) They understand the preoccupation voiced by the countries genuinely attached to nonalignment and they affirm that these countries have their own role to play in advancing peace and world stability. They are also convinced of the necessity to insure that an East-West confrontation not extend to the third world.

(5) France and the Federal Republic of Germany, whose populations have been subjected, on their own soil, to two world wars, have worked for 30 years for the development of a more stable and more peaceful world. Their mutual reconciliation, their common participation in European construction, their parallel action in favor of detente are steps toward this objective. They believe that in the present circumstances European powers have particular responsibilities. They underline their willingness to exercise these to assure, in concert with their allies, that the fundamental balance which determines the security of their countries and that of Europe is preserved.

(6) Their efforts to overcome the crisis would serve no purpose unless the Soviet Union demonstrates its willingness to respond. They have noted the statements in which the Soviet Union has stated the intention to withdraw its forces from Afghanistan. It is necessary that these statements be translated into facts. This is necessary for the success of discussions on which depend security and the future of peace.●

ANNIVERSARY OF POLISH NATIONAL ALLIANCE

● Mr. STEVENSON. Mr. President, on February 15, 1880, a group of men of Polish origin met in Philadelphia to establish the Polish National Alliance. Their aim was to bring together the many existing Polish societies into a unified national organization to promote the welfare of Polish Americans and to preserve and enhance the Polish cultural heritage.

America in the past 100 years has benefited from the work and energy of this outstanding Polish fraternal organization. Members of the alliance have served American causes in war and peace. Their labor helped build the cities and the railroads that span our Nation. Their contribution to the Nation has been invaluable.

The sustained effort of the alliance to integrate Poles and Polish tradition into American life have given us an appreciation of Polish culture that we would not otherwise have had. Fortunately, Polish culture and the Polish lifestyle have not been obliterated in the American "melting pot" and are enjoying a renewed vitality today.

As America moves into the 1980's, it is fitting that we recognize the Polish National Alliance now beginning its second century for its achievements in enriching the lives, not only of Polish Americans, but of all of us.●

OBSERVING THE 32D BIRTHDAY OF ANATOLY SHCHARANSKY

● Mr. DOLE. Mr. President, on January 20, Anatoly Shcharansky turned 32. This is generally the age at which men of his stature realize the full potential of their intellect and head toward growing maturity among family and friends. For Shcharansky, arrested in 1977 and "tried" in 1978, the past 2 years have been a period of darkness, marked by tragedy: The death of his father whom he was not allowed to see one last time; separation from his young wife Avital now living in Israel, and ill health. He has been suffering from severe headaches and problems with his vision, the toll taken by the regimen of labor camp conditions.

For the past 2 years, I have advocated that we restrict scientific exchanges with the Soviet Union, in a major effort to let the U.S.S.R. understand that their treatment of "dissidents," men like Shcharansky and others, could not be tolerated and was a violation of those human rights the Soviet Union had pledged to observe, by becoming a signatory of the Helsinki accords in 1975. Following the "trials" of Orlov and Shcharansky in 1978, I felt then, as I do now, that the United States possessed a measure of leverage we could use in insisting that the provisions of Helsinki be respected by all participants. Professor Sakharov expressed similar feelings in a collection of essays—"Alarm and Hope"—in which he urged political, scientific, and cultural leaders of the West to use all possible leverage, quiet and public, in an attempt to correct human violations in Eastern Europe.

I am gratified, 2 years later, to note the words of Dr. Handler, president of the National Academy of Sciences, as quoted in an article published by Daniel E. Greenberg in the Washington Post on January 29. To parallel Dr. Handler's expression of dismay, I too find it difficult, and always have, to imagine scientific exchanges continuing under the present—or past circumstances.

Our lack of a vigorous response to the Soviets continuing and increasing violations of the Helsinki accords has resulted in an escalation of such violations. Scores of prestigious Soviet writers, musicians, and artists, have come to enrich the cultural fabric of the West, after being exiled from their homeland, or choosing on their own to seek asylum elsewhere. The exile of Professor Sakharov, followed by threats against him and his wife, have signed the climax of Soviet violations of human rights and persecutions against their intellectual elite.

It appears that the Soviets had not anticipated the reaction to their latest act in the free world, and more particularly among the International Scientific Community. An editorial in the Washington Post this morning, February 7, calls the pressure exercised by scientists in Western Europe upon their governments "unaccustomed" and so it is.

Plans are well under way for the scientific forum in Hamburg mandated by Helsinki to "promote the expansion of contacts and exchanges of information between scientific institutions and among scientists." I am aware of the importance that scientific cooperation with the Soviet Union will eventually bear on any arms limitation agreements with the U.S.S.R. It would seem obvious that the Soviet Government is not prepared to sever its ties with the American Scientific Community. Keeping these two factors in mind, I suggest that the names of Shcharansky, Orlov, Petkus, Sakharov, and scores of others who have joined the ranks of dissidents, and pay the heavy price extracted from such brotherhood be brought up in Hamburg. I suggest that their fate not be forgotten or discussed in vague terms. We cannot afford to fail those who look toward us for the glimmer of hope that sustains them along the path of freedom lost.

At this point, I ask that a letter the Senator from Kansas received from the National Conference on Soviet Jewry, be printed in the Record.

The letter follows:

Letter From the National Conference on Soviet Jewry

The National Conference on Soviet Jewry and its thirty nine member organizations, representing four million people, commemorate Soviet Jewish Prisoner of Conscience Anatoly Shcharansky's 32nd birthday, January 20.

Sentenced to thirteen years of incarceration for "crimes" which President Carter publicly said he did not commit, Shcharansky became a target of Soviet officials because of his desire to emigrate to Israel and his role as spokesman for human rights activists.

Shcharansky's birthday was not a happy one for him. Not only is he sitting in the Soviet Gulag, away from his beloved wife Avital in Jerusalem, but his father, Boris passed away not having seen his son for several years.

The National Conference on Soviet Jewry applauds the efforts of all men of goodwill who have been and continue to be active on behalf of Anatoly Shcharansky.●

ADDRESS BY SENATOR KENNEDY BEFORE CONSUMER FEDERATION OF AMERICA

● Mr. McGOVERN. Mr. President, yesterday Senator Kennedy spoke to the Consumer Federation of America shortly after President Carter. The President had declined the federation's invitation to debate Senator Kennedy. Senator Kennedy's speech makes a persuasive and compelling case for free and open debate on the issues of the campaign.

In 1972, we learned the dangers of a President hiding in the Rose Garden. As Senator Kennedy says:

"The example of 1972 should be a lesson for 1980."

The Senator concludes with President Carter's own words in 1976 demanding "a vigorous, principled discussion of the issues." The American people should not have to settle for a debate between Senator Kennedy in person and President Carter on a tape recorder.

Mr. President, I ask that the text of Senator Kennedy's address be printed in the Record.

The speech follows:

Address of Senator Edward M. Kennedy

I want to thank your President, Ellen Haas, for that kind introduction. And I am also glad to be here with your executive director, Kathleen O'Reilly, one of the most effective fighters for social justice I know. And I want to congratulate all of you for the rating the Consumer Federation has received as one of the ten most effective lobbying organizations in Washington. There are many forces in this city standing for special interest and private privilege; you can be proud, and the nation should be grateful, that there is so effective a voice speaking for the public interest.

Well, it appears that once again the President has escaped. By now he is safely back in the sanctuary of the Rose Garden.

President Carter left just in time to avoid a discussion of the issues. If he had stayed, I would have renewed the request of the Consumer Federation to hold a debate here this morning. But since the President fled that opportunity, let me provide a sample of the debate that can be held once he decides to face the people and the issues.

At a press conference in Chicago on May 25, 1978, the President was asked: "When you were campaigning, you said . . . that if you were elected, we could depend on your doing something about inflation. I wonder, sir, if you cannot control it, what the political consequences will be to you?"

That was the question President Carter was asked in 1978; it is a question Americans are still asking. And even though he is not here to give his answer, I've decided, with the help of a tape recorder, to hold a little debate on his inflation policy.

You heard the question.

First, here's President Carter's answers from that Chicago press conference:

". . . My goal has been, as President, to bring down both unemployment and inflation. Last year we experienced about a 6-percent inflation rate—6, 6½ percent. Now our projections for this year are that it might be 6½ or 7 percent. think the 9 percent that you referred to as a temporary aberration brought about primarily by high food costs because of bad weather.

"We are doing everything we can now to cut down the rate of inflation, short of wage and price controls, which I do not even intend to impose, barring a national calamity. And we've gotten good support so far from some of the major business leaders and the labor leaders, as well. General Motors, for instance, AT & T have already publicly announced that they are going to hold down the price of their products and also put tight constraints on executive salaries and other salaries over which they have control."

Now for a comment from Senator Kennedy:

"The fact is that President Carter's anti-inflation policy has been a calamity. When he took office, inflation was less than 5 percent; in 1978, when he predicted 6 percent, it was 9 percent. And today it is 13 percent.

"We all know what this means in human terms—to families who can't buy a home or educate their children, to the elderly who are making cruel choices between heat in their apartments and food on their tables.

"And what has the Administration done about inflation?

"They decontrolled the price of oil and gas—something Jimmy Carter promised he would never do. That broken promise will cost the average family a thousand dollars each year of the 1980's.

"President Carter has relied on voluntary price and wage restraints. And the big corporations have been extremely patriotic in holding down their worker's wages. We already have controls, but only on wages. They have been held to 7 percent, while prices rise twice as fast.

"President Carter now says we won't get inflation down to 3 percent until 1988.

"So I favor price and wage controls. President Carter opposes them, but he proposes nothing except four more years of economic failure. I believe it's time to stop inflation—to stop it now—to stop it in its tracks."

That is only one of the answers I would give to President Carter if he would agree to a real debate.

I could talk here today about all the different consumer causes where you and I are united in common purpose. And I will discuss many of those causes during this speech. But first of all, let me turn to an overriding question. The most important consumer issue before the country in 1980 is the need for a full and fair debate on consumer issues. A silent campaign is a form of consumer fraud. It makes of our democracy a defective product, where voters cannot check the truth behind a candidate's carefully packaged labels.

I believe President Carter and I should debate not only inflation, but all the other issues.

We should debate why unemployment is rising and a recession is underway.

We should debate why the President has made nuclear power a first priority instead of a last resort, as he promised in his 1976 campaign.

We should debate why taxes have not been reformed, why monopolies have not been tamed, and why the consumer protection agency has not been established.

We should debate Iran, Afghanistan, and the Persian Gulf, and whether another generation of the young should be sent to die for the failures of the old in foreign policy.

We should debate why the Administration favors gas rationing by price, rather than a fair system of rationing by supply that guarantees a fair share to all Americans.

In that debate, I would restate my conviction that the people are ready to make hard choices to secure control over their own energy future. I would tell the President, and the nation, that we should be willing to sacrifice a little gasoline, rather than shedding blood to protect OPEC pipelines in the Middle East.

We are told that the President cannot debate, much as he might like to, because of difficulties overseas. But it is precisely at this time, when so much may be at stake, including the possibility of humanity's final war, that the issues must be addressed.

This is still a democracy. The threat of war should not be casually raised. It should not come from the barrel of a gun gleefully pointed across the Afghanistan border by a White House adviser who knows he will be safely back in his office if and when the shooting starts.

Other Presidents, in other times, confronted the issues and campaigned even as war clouds gathered. With the rest of the world already in conflict, with the Lusitania already sunk to the bottom of the sea by German submarines, with the United States itself on the brink of battle, Woodrow Wilson did not evade the campaign of 1916. And in 1940, with Hitler's panzers poised on the English Channel, there was no suspension of the presidential campaign or the public debate.

Two recent Presidents, in an election year, have decided to spend all their time on events abroad. But they did not try to have it both ways. They did not tell Americans to rally around their failures in foreign policy as a reason to re-elect them. In 1952, during the Korean War, and in 1968, in the midst of Vietnam, they gave up the race for re-election.

They did not remain candidates while refusing to campaign. And if President Carter truly feels that he cannot participate in the democratic process mandated by the Constitution, then he should take the course adopted by his predecessors and withdraw his candidacy in 1980.

If a President can contrive his re-election without debating the issues, the real losers are not his opponents, but the people themselves. A Presidential election is their chance to choose a vision and a program; it is their only chance to speak in a single vote about the direction of their destiny; and this, the heart of our democracy. For an incumbent seeking re-election, running for President is a vital part of the duties of the office. We do not pick a President for eight years, but for a four year term. The referendum on our future that we are holding in 1980 is not a secondary sideshow; it is a primary element of our freedom. It is not something for an incumbent to do when he can spare a few moments. For we are not merely determining the policy outlook of the next few months or the political outcome of the next few caucuses and primaries, but the condition of our country for the next decade and perhaps the next generation.

The Presidency does not belong to Jimmy Carter; it belongs to the American people.

And the voters have the right to see the issues clearly, rather than seeing only an image projected from within the White House walls. They have a right to register a mandate; they should not be asked to ratify a mystery, to re-elect a man who offers only four more years of uncertain policy and certain crises.

This President pleads that he cannot give even a minute or an hour to partisan activities. In fact this is sheer hypocrisy—and Jimmy Carter knows that, and so does the national press, and so does everyone in this room. President Carter is running furiously on the sidelines of this campaign. He does not have an hour to debate, but he has hours upon hours to phone voter after voter in Maine and New Hampshire. In a single weekend he makes a hundred calls; his campaign manager brags that he gives President Carter a list of 15 political phone calls every day. And, of course, the fact that the votes will soon be counted in the places he is calling is pure coincidence—and, of course, Mr. Carter's phone calls are non-partisan—and of course he has been calling Iowa as regularly since the caucus as he did before. He could be here today at eleven o'clock to praise and puff his record, but he could not be here at twelve o'clock to debate it and defend it. And, of course, the fact that consumers are a powerful part of the electorate is pure coincidence—and of course, Mr. Carter's speech here was non-partisan.

And, last month, by pure coincidence, a White House with no time for politics printed at public expense a document entitled "President Carter Speaks on the Record." This 28 page pamphlet outlines the Carter positions from A to W, from abortion to wage and price controls. Now if President Carter can attack controls in print, then he can afford the people the opportunity to hear the idea tested in open debate. If he can debate on paper, at substantial cost to the taxpayers, then he can debate in person, within sight of every citizen. The excuses have worn thin; in plain truth, the President is playing politics behind a non-partisan mask. In effect, there are two situation rooms in the White House; in one there may be maps of Afghanistan and Iran; in the other, there are maps of Maine and New Hampshire.

Only one President in recent memory has succeeded in hiding from the campaign. The incumbent in 1972 smugly declined to debate the issues. We were urged then to "Re-elect the President"—just as we are now urged, on campaign posters, to "Support the President." The example of 1972 should be a lesson for 1980. Eight years ago, the President who was re-elected in November because "peace was at hand" in fact had the Christmas bombing up his sleeve.

The issue, then and now, is not the office of the Presidency, but the person in that office. We are not supposed to be passing judgment on the Presidency itself. And surely we are not supposed to be voting for or against Brezhnev or Khomeini, for or against patriotism. To twist the election into so misshapen a form is the last refuge of a man afraid to run on his own record.

President Carter has not only run from debating his record; his political operatives have been running their campaign by misstating mine.

They now have a radio commercial in New England saying that I voted against a tax credit to insulate homes. The ad leaves the impression that I oppose federal help for insulation; in fact, I favor a direct subsidy instead of a tax credit as a fairer and more effective way to assure every citizen, the poor and the middle income as well as the wealthy, the financing to insulate and to conserve energy. The Carter ad concludes that the President is "not afraid to tell you something you might not want to hear." And his advertising agents are not afraid to tell you something that is, in effect, untrue.

The instances of distortion could be multiplied. The public dialogue is hardly advanced by a commercial that implies I currently favor an $885 million cut in the Trident submarine program. That vote was taken seven years ago, under different circumstances, and not so long before Jimmy Carter as a candidate called for a five or seven or ten billion dollar slash in military spending; he used all those numbers at one time or another.

There is a different kind of distortion being practiced in this campaign. This non-partisan President has reshaped the priorities of the federal budget to serve narrow political purposes. Every budget is inevitably a political document; but seldom have we seen federal grants so carefully placed and timed for primary and caucus states. A hundred million dollars has just been announced for a new high speed rail line in Minnesota. Hundreds of millions have been sent to New York City, according to one observer, as a reward for the mayor's support of the President. The Census Bureau has become a reincarnation of the spoils system. In Maine, after three years of delay, the Administration finally consented to keep the Loring Air Force base open. In January, Maine reaped $75 million in federal grants—at least three times the amount in an average month. And of course, that, too, was pure coincidence.

Public financing of campaigns has suddenly taken on a new and richer meaning. And while there are plenty of funds in the federal budget to assist the Carter campaign, other programs of social justice and public benefit have been reduced and postponed. The President calls for depriving two million children of school lunch and breakfast. When the same proposal was made by Gerald Ford in 1976, Jimmy Carter denounced it as "uncaring" toward "hard-working Americans with modest incomes."

President Carter also seeks to eliminate unemployment benefits for 600,000 workers at the very time when the unemployment lines are lengthening. The Congressional Black Caucus has rightly denounced the Carter budget as "an unmitigated disaster for the poor, the unemployed, and minorities."

The budget also calls for, reductions in consumer education, consumer protection, and the hazards program of the Consumer Product Safety Commission. President Carter recently cited as one of his accomplishments that: "Corporate profits have gone up about 50 percent." One of his most glaring failures is that during his Administration important consumer progress has gone down to consistent defeat.

He lobbied hard to pass the Panama Canal Treaty. He lobbied hard to deregulate the price of natural gas. He should have been willing to lobby hard for the consumer protection agency.

The consumer agency was lost in 1977 and then again in 1978. Now the Federal Trade Commission is in jeopardy. The only problem with the F.T.C. is that the commission has done its job. It should not be shackled by a legislative veto. It should not be prevented from investigating the insurance companies, or used car dealers, or the funeral industry, or television advertisers. And President Carter should not only threaten to veto any bill that decimates the Federal Trade Commission; this non-partisan President should also bring his White House staff back from the New England primaries to fight a non-partisan battle in Congress to save the F.T.C.

At every point, this Administration has retreated or been defeated by special interests. How can we possibly expect that in a second term President Carter would take strong and difficult measures which our present situation demands?

The other day, Vice-President Mondale urged the Democrats of Maine to support a President with "backbone".

In fact, if they do support Mr. Carter, what they will get is four more years of a back up, back down, back off, backlog President.

When it comes to challenging the big oil companies, Jimmy Carter is the back off President.

When it comes to national health insurance, Jimmy Carter is the back up President.

When it comes to drawing the line with the Russians in Cuba, Jimmy Carter is the back down President.

When it comes to making government work, Jimmy Carter is the backlog President.

And when it comes to protecting the interests of the 200 million consumers of America, Jimmy Carter truly is the back up, back down, back off, backlog President.

We cannot accept the past as an inescapable prologue. We cannot re-elect a President on the basis that he happened to be standing there when his own foreign policy collapsed. We must insist that the issues be stated and debated for the people to decide.

We must hold Jimmy Carter to the standard he set in 1976. He said then; "The American people are entitled to the fullest and most detailed explanation of the alternatives offered by each side . . . A choice of this magnitude should not be made without the closest scrutiny of the candidates and their proposals for leading our country . . . In the interest, not of party, but of an informed choice for the American voter, I believe the candidates have an obligation to meet in debate before the people of America.

That obligation still stands. So let us say to Jimmy Carter as he himself once said: Mr. President, it is time to leave the Rose Garden for "a vigorous, principled discussion of the issues." ●

FELIX G. ROHATYN: "WHAT WE SHOULD DO"

● Mr. PERCY. Mr. President, the Soviet invasion of Afghanistan has awakened America to the fragility and instability of the Persian Gulf area. With nearly unprecedented determination and speed, Americans have rallied around calls for a boycott of the summer Olympic games in Moscow, have backed the need for a revamping and improvement of our defense budget.

In the past month, Americans have joined together with a common voice rarely heard in this country. We have our ability to work together in the face of a common threat. We have responded nobly.

But our actions in recent weeks are not all that we can, and indeed must do, if we are really to stand up up to this challenge, and avoid similar challenges in the future. Our actions now will mean little if America is not fully prepared to take stock of itself as we enter a new decade. We have to realize that an era has ended: one of cheap energy, unlimited domestic growth, and staggering, wasteful Federal spending. We have to realize that, while solutions to these problems will be extremely difficult to find and employ, we must begin to come up with them now. We have no choice.

Mr. President, a truly insightful article addressing this subject appeared in the Washington Post on January 30. Its author, Felix G. Rohatyn, is the chairman of New York City's Municipal Assistance Corp., and is widely recognized as one of the Nation's most respected investment analysts. His exceptional article, I believe, is one which should be read by all Americans who are concerned with really confronting the issues America faces as it enters the 1980's.

I ask at this time, Mr. President, that Mr. Rohatyn's commentary, "What We Should Do," be printed in the RECORD.

The article follows:

WHAT WE SHOULD DO

(By Felix G. Rohatyn)

The president's State of the Union message was less noteworthy for what it said—i.e., that we will draw the line at Soviet expansionism in the Persian Gulf—than for what it neglected to say. In many ways, what was not covered was more important. For instance:

(1) In 1980, our payments to OPEC for imported crude will be running at the rate of nearly $100 billion per annum. This compares to about $6 billion before the 1973 embargo. Over the next five years, the United States will pay out about $500 billion dollars for a product it burns into the atmosphere every day.

The value of all companies listed on the New York Stock Exchange is approximately $900 billion. The idea that over the next five years we would mortgage to OPEC half the productive capacity of this country, built up over 200 years, to pay for oil is obviously absurd. This situation is as dangerous to our system, and as unacceptable to our security, as would be a Soviet presence in Saudi Arabia.

(2) Domestic inflation and our economic posture are a basic factor in our international security posture. Our economy is the foundation upon which our security is built. This foundation is shaky. The United States cannot finance a rearmament program of the type envisaged by the administration by simply increasing its budget deficit. The United States cannot hope to convince OPEC to hold on to its dollars if we continue to give in to runaway inflation that has two main components: energy consumption and government spending.

The United States is not a credible partner, economically or militarily, unless it takes concrete action to reduce drastically its currency. Coming off the high end of a business cycle with a $40 billion deficit is not reassuring.

(3) There are only two ways to reduce domestic energy consumption both drastically and soon: gasoline rationing or increasing the price of gas with a substantial tax. Ultimately, both may be needed. With the additional financing requirements for defense, a gas tax seems to be the most logical answer.

Of all the presidential candidates, only Rep. John Anderson has had the courage to advocate what many see as only common sense. A 50-cent-per-gallon gas tax would raise approximately $55 billion per annum, could reduce consumption by about 10 percent and is an absolute minimum. A $1-per-gallon tax, phased in over three years, would be more appropriate. In Europe, gasoline taxes amount to $1.50 to $2 per gallon, with a per-gallon price at the pump of $2.50 to $2.70. Europe's per-capita consumption is 40 percent that of the United States', not only because people drive less but because long ago they switched to small, fuel-efficient automobiles.

The proceeds of the gas tax should be used partly to fund increases in defense spending, partly to lower taxes on business in order to increase capital investment and productivity and partly to help lower-income groups by financing mass transit and lowering Social Security taxes.

(4) A significant gas tax would do more to strengthen the dollar and give OPEC long-term confidence in our currency than any other single economic action available to us. It should set the stage for a dialogue with OPEC aimed at changing our payments for oil from freely convertible dollars to long-term bonds guaranteed by the U.S. government. The proceeds of these bonds could be used only to purchase American commodities or manufactured goods over a period of years as the bonds mature.

As an inducement to such an arrangement, we should be willing to commit part or even all of our current gold reserves. At current market prices, the United States has approximately $250 billion worth of gold; sitting on a mountain of gold will do us no good if our economy collapses. We should be willing to commit the only commodity we have that has risen in value as much as oil as part-payment for oil, if OPEC will accept long-term bonds, with limited convertibility, for the balance.

If such an arrangement were negotiated with one or two members of OPEC, such as Saudi Arabia and Kuwait, others might follow later. The producers must understand that we will be driven to much harsher choices if the bankruptcy of our society is the only alternative.

(5) Our commitment to protect the oil resources of the Middle East benefits Europe and Japan at least as much as it benefits us. They should, therefore, pay their fair share. As part of the mutual security arrangements with Egypt, Israel, Saudi Arabia and Jordan, any American troops stationed there should be evenly matched by European forces financed by Europe and Japan.

The U.S. nuclear umbrella must stay over Europe, but the free ride on the ground must stop.

(6) Committing large sums for training young blacks, Puerto Ricans and Chicanos is meaningful only if jobs are available to them once they are trained. This is not the case. We have accepted the notion that we are a service economy instead of a manufacturing economy. This is highly questionable.

We need a balanced economy, both services and manufacturing—with the emphasis, however, on manufacturing. This is the best ways to provide employment opportunities to the minorities and the underprivileged. Such a policy may require certain limitations on free trade, which can be a price worth paying. Free trade, in any case, is something we practice while others only preach it.

(7) The economic forces being generated in the United States will increasingly divide the country between haves and have-nots. The region where most of our oil and gas are produced will now be the recipient of most of our defense contracts. In addition to the severance taxes charged by the oil-producing states to the consuming states, there will be the drain of tax dollars to Georgia, Texas and California for defense. Half this country—the half where the sun shines—will produce oil and guns; the other half—the urban areas of the Northeast and Midwest—will produce unemployment and slums.

The windfall profits tax could not be applied to the oil-producing states themselves because of congressional resistance. At a minimum, a certain proportion of defense contracts as well as subcontracts of the synfuel programs should be mandated to the urban, impacted areas of the Northeast and Midwest. If we are to survive as a Union of states, then there has to be a balance as to burdens and benefits.

(8) This country faces major challenges in the coming decade without a foundation of consistent domestic or foreign policy for a base. Double-digit inflation is not abating, nor is a meaningful reduction of energy consumption taking place. The wage-price guidelines are as irrelevant to wages and prices as the windfall profits tax is irrelevant to production and consumption of energy.

Wage and price controls are not a long-term solution, but a 6-to12-month wage-price freeze should be considered to provide a relatively stable pause during which the administration and Congress can debate and arrive at a sensible, interrelated set of policies for the 1980s.

Policy is a fabric, a tapestry in which all strands are interwoven, linked to each other, clearly describing a basic posture and direction. We have no such tapestry. The State of the Union message concentrated on what might happen but is not likely to—i.e., Soviet expansion into the Middle East oil fields. It ignored that which is inevitable but which we have no answers for—i.e., reducing energy consumption and paying for what we use, reducing inflation and paying for defense, protecting the dollar and giving a future to the young black, keeping this Union viable and united.

Those are some of the inevitables we face, and those are only a few. What is certain is that we are living at the end of an era: the era of Keynesian economics, growth with limited inflation, cheap and plentiful energy, U.S. economic domination of the Western world. If we are to be in control of our destiny as a viable democracy in a state of transition, it cannot be done with business as usual at home.

The American voter is usually far ahead of his leaders. He is entitled every four years to his most precious right: namely, to ask those who propose to lead just what it is they propose to do. The answers, so far, both by Republicans and Democrats, have not been inspiring.●

MARYLAND FORUM ON GENERAL REVENUE SHARING

● Mr. MATHIAS. Mr. President, on January 24, members of the Maryland congressional delegation met with the Honorable Harry Hughes, the Governor of Maryland, and other State and local officials to discuss the effectiveness and the future of the general revenue sharing program. We held this forum because we felt it was important to hear firsthand from local and State officials how they have fared under the program before considering the general revenue sharing reenactment legislation this year.

As a long time advocate of the concept of general rvenue sharing, I found it an enlightening experience which served to reinforce my opinion that the program should be reenacted this year in some form. The need to continue this program came through loud and clear.

Most importantly, Maryland officials established, beyond a shadow of a doubt, that GRS funds are being used for essential services. They are being used for education, public safety, public transportation and roads, corrections and sanitation, according to the Maryland Association of Counties. The spinoff effect, of course, is that GRS funds are providing benefits to all citizens, rich and poor, young and old.

It became evident to me during the course of the meeting that GRS funds have become a significant portion of local and State government revenues. If the program is discontinued, vital services will have to be eliminated or State and local taxes will have to be increased to take up the slack.

One controversial issue raised during the forum, which Congress will be considering, is whether or not to eliminate the State's share of the General Revenue Sharing Fund. There was a clear consensus among the local as well as State officials that Congress should not move in this direction. They pointed out that the State of Maryland has a good track record in using GRS funds to help local governments. As a matter of fact, the State currently funnels 40 percent of its $45.7 million share to the local subdivisions.

Maryland has had a task force on State-local fiscal relationships in operation for a number of years. One of the components of President Carter's GRS proposal is that similar boards be set up nationwide. Such commissions would do what Maryland is doing—examine and recommend changes in the pattern of local-State fiscal arrangements. It is encouraging to see what Maryland officials are doing in this regard, and whether or not this provision is acted upon favorably, we hope other States will follow Maryland's example to improve their GRS programs.

Another highly important issue we will be facing, which was broached during the forum, is the question of whether the new program should be an entitlement program or funded through the appropriations process. A clear consensus favored entitlement because if the appropriations method were adopted, it would preclude making long-term commitments.

The targeting issue was another topic of discussion. There was a consensus reached that any kind of targeting should be separate from the general revenue sharing program.

The discussion of GRS at the meeting provides a useful basis for our consideration of the legislation.

I ask that the Maryland officials testimony be included in the RECORD at this point.

The material follows:

REMARKS OF GOVERNOR HARRY HUGHES

Thank you for inviting me to this Conference. I sincerely hope that after my remarks and responses to any questions that you may have, you will be even further convinced of the need to reauthorize General Revenue Sharing. But before I continue, I just want to take a moment to recognize and thank Senator Mathias for having been an early, strong and consistent advocate for General Revenue Sharing.

Now, to the purpose of this Conference. I have come to this Conference to speak for reauthorization of General Revenue Sharing and to ask the Maryland Congressional Delegation to support that effort.

This bipartisan program has been a key in improving the capacity of state and local governments to meet the needs of our citizens. It is a recognition that the superior revenue gathering ability of the federal government justly should be used in part to address needs at the local level within a context of local discretion. It also recognizes that there are numerous governmental services and facilities that require local management. I cannot stress too strongly the genius of General Revenue Sharing—that of combining federally gathered resources with responsive local management to meet the needs of those who pay the federal, state, and local tax bill.

I think it might be important to remind you at this time that it is not only the federal government that revenue shares with the local governments, but also state government. The 1981 budget that I have just presented to the Maryland General Assembly, proposes to return $1.2 billion or 41% of general fund revenues to the political subdivisions of the state.

I am pleased to see how many now accept and endorse the revenue sharing concept. We know that the cities and counties are for it. We know that the states are for it. You will recall that Governor Alexander of Tennessee and I are cochairing the National Governors' Association effort for the reauthorization of General Revenue Sharing. And now, the President and the Administration, with a few modifications, are urging that revenue sharing be continued.

But acceptance of reauthorization is not universal; otherwise we wouldn't find the need to meet here to urge assistance in this effort. Questions have been raised with regard to the program, and I will discuss some of them now.

To the question—Has the State of Maryland wisely used its Revenue Sharing funds? I would answer—unequivocally, yes. Last year, Maryland used the entire $45.5 million state share for retirement benefits, split equally between the Teachers Retirement System and the Employees Retirement Plan. However, that did not comprise the total funding necessary for the Teachers Retirement System. The State had to contribute an additional $104.2 million to complete the 1980 funding. The State pays the entire employer share of retirement expenses and the entire share of Social Security taxes for the local school systems. Although General Revenue Sharing funds are completely fungible, that is discretionary, the bottom line is that local taxpayers do have to meet local school pension or Social Security costs through increased local taxation which generally would be expected to be raised through property taxes.

For 1981, I have chosen to budget General Revenue Sharing in a different manner. The Federal Fiscal Year for 1980 ends in October and only $11 million is assured for Maryland's 1981 budget year. The remaining expected $34.7 million is part of the reauthorization. I have, however, included the $34.7 million in the Loan Fund of the State. If the program is reauthorized, those monies will be used in lieu of issuing General Obligation bonds. This pay-as-you-go approach will result in interest savings of more than $22 million to the taxpayers over a 15 year period. As you know, the Loan Fund is used to finance such items as schools, hospitals, dormitories, and prisons.

Another question deals with Maryland's so-called surplus. This is the excess of tax receipts beyond budgeted spending.

We should first understand that we did not plan the surplus. I am sure you are aware that Maryland's Constitution provides that total appropriations cannot exceed estimated revenues. The increased revenues have come about because of the accelerating inflation which artificially boosts income and sales tax receipts. What is not reflected fully is the continuing rise in the cost of providing public services. As an example, I recently had to allocate an additional $8.5 million for heating fuel costs for State maintained buildings such as schools and offices. All the experts tell us to get ready for a major recession. I was recently given some information that suggested that the only reason the recession has been delayed is that Americans are depleting savings accounts to maintain their standard of living in the race of rising inflation. This can only exacerbate the impact of the recession when it comes. Indeed, when the recession comes, I do not believe we will be seeing a state surplus and we may have to deal with the possibility of budget deficits.

Basically, then, I see the surplus as a situation which will not continue. The budget I presented to the Legislature marks the smallest percentage growth in State spending in 17 years. In a period when we are experiencing a 13 percent inflation growth, it is a disciplined, yet responsive approach.

You should also be made aware that the budget I presented does not yet address the important question of transportation funding. We are facing severe difficulties in maintaining an adequate transportation program. Costs of repair, of service, and of construction are rising while our state fuel tax, along with the federal tax, provides less revenue as consumption falls. At both levels of government, the shortfall will be compounded as more gasohol is exempted from taxation. Ironically, the rate of inflation for transportation related expenses is greater than for other expenses.

Another way to put the surplus in perspective is to realize that this years surplus equals only one years debt service for the State's general obligation debt. Or, the surplus represents only this years capital requirements.

The case for revenue sharing has never, in my opinion been solely based on fiscal need, revenue sharing is not only an aid program, but also a commitment by the federal government to recognize the principles of federalism and the importance of decentralization. Congress has been able to limit the growth of revenue sharing since 1972 to about 3 percent a year while increasing the growth of administratively expensive categorical grant programs during the same period at about 14 percent annually. In an era of limited resources, decentralization and the attendant administrative cost savings, become even more important.

Of course, I could spend some of this time saying that General Revenue Sharing should be indexed or increased in some fashion to allow for the decreased purchasing power of the dollar, but I will save that for another time.

Thank you for this opportunity to speak with you. I hope Marylanders can count on your support.

Are there any questions?

STATEMENT OF DELEGATE LUCILLE MAURER

On behalf of the Maryland Commission on Intergovernmental Cooperation, I would like to thank Senator Mathias for his longstanding support of the general revenue sharing program and for sponsoring this revenue sharing forum.

I am pleased to have this opportunity to participate today to urge the members of the Maryland congressional delegation to support reauthorization of the general revenue sharing program for both the State and local units of government at the current funding level.

I concur with the advisory commission on intergovernmental relations' view that renewal of revenue sharing will shape the character and form of the Federal aid system in the 1980's. We are at a crossroads. At stake is more than dollars, and that is the nature of federalism, the nature of the system of Federal, State and local partnership. Revenue sharing as it currently exists is the centerpiece of federalism which strengthens the Nation by strengthening State and local governments.

The revenue sharing system has emphasized the decision making at State and local governments and has provided the flexibility for these governments to change how the general revenue sharing funds will be used. All of this is done without a Federal and State bureaucracy to administer the program.

Someone once commented that a program managed without a bureaucracy, not bogged down in red tape, is the program which may be endangered by its very success. We must not let that happen to revenue sharing.

One of the prominent and controversial issues has been the question of the State share of revenue sharing. The States are and should be important and equal partners in the Federal system. You know that Maryland has, in the past, used revenue sharing for helping fund the pensions systems, with more than 40 percent paying for teachers in county school systems—a form of aid to education. The funds are important; they are well used.

Equally important, the Federal Government recognizes the role of the States and does not bypass the States. One of the more disturbing developments over the past decade or more is the increasing frequency and the growing scope of direct Federal/local fiscal relationships. While help for local governments is obviously needed, maintaining a careful balance in the Federal system is a matter of utmost importance. Either eliminating or altering the State role in Federal revenue sharing, therefore, carries significance beyond the dollars themselves by affecting in a very visible way, the Federal/State/local balance.

With respect to the impact of Federal revenue sharing on the counties and municipalities in Maryland, the attached data for fiscal years 1976–1978 demonstrate that:

(1) 21 of 23 counties and the city of Baltimore would have had a deficit in at least one of the three fiscal years without Federal revenue sharing. Either services would have had to be cut, property taxes raised, or State aid increased.

(2) Municipalities follow the pattern of the counties and city of Baltimore with respect to the importance of Federal revenue sharing funds in meeting budget needs.

(3) The purchasing power of the dollars received has been significantly eroded, often despite increases in the Federal dollar amounts.

In summary, Federal revenue sharing helps strengthen Maryland and its subdivisions; encourages decision making at the State and local level; provides needed flexibility to respond to changing conditions; is simple and low in cost to administer. It has been working satisfactorily. It is needed. Let's not tinker with a successful program. Let's keep it, as is.

STATEMENT BY JAMES F. DENT

The Maryland Association of Counties supports the re-enactment of Revenue Sharing at both the local and state levels.

We have found General Revenue Sharing to be the most flexible of Federal revenue assistance to local jurisdictions. It has proved since 1972 to be a source of assured funding allowing local officials to plan ahead. It is administered with minimum red tape and with less of the burdensome regulation found in categorical or targeted grant programs and local officials have the discretion to use the funds to meet high priority local needs. What use is made of these funds is a local determination, for which local taxpayers may hold local officials accountable.

For the reasons I have just cited, our Association and the local governments we represent, favor General Revenue Sharing over the categorical or targeted types of funds which may be considered as replacements for General Revenue Sharing. We have found categorical programs both difficult to address at the local level and over-regulated to the point of being burdensome. Additionally, we are certain that General Revenue Sharing results in less administrative overhead with budgeting and accounting personnel already in place at the local level. No additional staff is required to put the revenue sharing funds to use in meeting local needs which are already identified.

We have provided for your reference, tables depicting the usage of General Revenue Sharing by the Maryland Counties for fiscal years 1974 through 1979. This information has been gathered by surveying each of the Maryland Counties and represents the best available data on the subject.

The tables indicate a general shift in use of these funds from the capital projects to more reliance on them for current operating expenses. They are being used for such indisputedly essential areas as public safety, education, public transportation and roads, corrections, and sanitation. These are not frivolous services that can be curtailed or eliminated. Such necessary services would have to be funded from other revenue sources if revenue sharing were eliminated. These revenue sources available to local governments are limited. Income tax yields in the nineteen Maryland subdivisions currently taxing at 50% cannot possibly increase significantly because 50% is the maximum piggy-back rate permitted under current State law. The only increase would come from increase in the income base itself.

The only other significant source of revenue is the real property tax. Meeting essential needs currently funded by revenue sharing. through raising the property tax, would result in a range of increases of between five cents and eighty cents on the tax rate. These figures are based on 1979 revenue sharing usage and tax rate equivalents. The average Maryland county taxpayer would pay an additional 29 cents on his real property tax rate.

Citizens nationwide and in Maryland have joined together in an effort to hold to a minimum the total amount of taxes paid by the individual citizen.

In four Maryland subdivisions, tax limitations have been instituted. Councilman Richmond Hill is here from Talbot County, where both property tax and income tax limits have been imposed. He will specifically discuss with you the even more severe constraints with which these counties are faced.

There is no doubt that the elimination of revenue sharing would create an increased tax burden on the individual.

We don't want to increase the real property tax rates in Maryland subdivisions. In fact we are trying to find ways to minimize our reliance on the property tax. We cannot increase the income tax burdens on individuals. Most emphatically, the taxpayers have made it clear that they don't want tax increases. The mood is for a return of the taxpayer's money to the local governments for use in visible services.

We have found General Revenue Sharing to be a Federal Program that helps all local governments under a distribution formula that is widely regarded as fair to all. A return to local funding for programs which are currently funded under General Revenue Sharing would trigger a return to the generally acknowledged inequities of the regressive property tax system.

The Maryland Association of Counties also supports re-enactment of Revenue Sharing at the State level.

Elimination of the state share of General Revenue Sharing would create a double whammy for the local subdivisions and the local taxpayer.

Presently, the State of Maryland passes through about 40 percent of its $45.7 million share of revenue sharing funds to the local subdivisions. This money is designated for local education costs and police aid. These two categories presently make up the largest expenditures of the local subdivisions in terms of all local revenues as well as expenditures of direct local General Revenue Sharing funds. If the State share, as passed through to the counties, were to become unavailable this would double the burden shifted to the counties and Baltimore City. Inflation has already sharply reduced the subdivisions' ability to finance services. This factor, along with such unavoidable increases as court mandated improvements in correction, combine to place state and local governments in an increasingly difficult financial situation.

General Revenue Sharing has been regarded by local governments as the best Federal program now is existence. Maryland's 23 counties and Baltimore City have received a total of over $617 million since the inception of revenue sharing. This money has been used with flexibility in meeting the most urgent needs of our citizens. In the words of one county executive, "Revenue Sharing is proof positive that the judgment of other levels of government should not be substituted for the good judgment of local governments in addressing their real needs and priorities."

In conclusion, General Revenue Sharing is a much needed program. We ask that you support its re-enactment in its present form for both the local and state governments.

FISCAL YEAR 1974 GENERAL REVENUE SHARING USAGE

Local unit	Public safety		Environmental protection		Transportation		Health		Recreation		Libraries	
	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating
Allegany	$7,103	$152,158		$141,115	$10,766	$241,647	$24,507	$274,352	$104,178			$3,276
Anne Arundel	87,496	5,918,081			658,864						$1,321	
Baltimore City	200,000	30,941,869	$1,972,545	882,000				717,000		$687,688		410,425
Baltimore		16,385,206						800,000				
Calvert	1,303	261,739		36,771		66,298			3,418	54,586	28,587	58,951
Caroline	3,846	54,361	77,051	55,250	15,000		23,692	30,623		3,760	13,385	32,330
Carroll		56,100		95,000		573,900						
Cecil		50,000	62,543		93,037	43,090				11,500	25,000	70,000
Charles	69,713	269,795		12,865						12,275		2,500
Dorchester	6,178	197,222	49,296		153,825				2,875	90,143		20,610
Frederick					80,054		54,558					
Garrett	1,687	45		6,168	139,441	567,593						33,000
Harford		987,729		301,679								315,000
Howard		1,000,000	100,000	200,000	259,000	775,000						350,000
Kent		71,399		59,488		5,512		196,739		78,850		44,838
Montgomery		6,024,000										
Prince Georges	250,000	12,250,341		7,000		1,285,369	78,000	1,056,174				415,912
Queen Annes		13,883		68,848	306,030			63,067		6,794		53,052
St. Marys	21,947	56,352	17,360	13,410	46,775	27,090	67,000	4,000				21,749
Somerset		22,517				237,142		43,357				26,790
Talbot	2,872	232,700				5,349		146,938				68,769
Washington	4,545			154,850	102,270	500,000						
Wicomico		45,305		328,428		304,225	52,000	43,643	17,000			
Worcester			317,101					92,045				99,771

Local unit	Social services, operating	Financial administration		General government, capital	Education, capital	Social development	Housing and community development	Economic development, capital	Other, capital	Total	
		Capital	Operating							Capital	Operating
Allegany	$350,268								$212,989	$359,543	$1,162,816
Anne Arundel									358,865	1,106,546	5,918,081
Baltimore City		$358,000		$50,000						2,580,545	33,638,982
Baltimore											17,185,206
Calvert		929	$83,309							34,237	561,654
Caroline		2,230	71,049		$19,150					154,804	274,373
Carroll											725,000
Cecil		23,450	126,473		137,701					341,731	301,063
Charles		50,000	66							119,713	297,501
Dorchester		19,921	2,336		31,157			$60,000		323,252	310,311
Frederick				46,027						180,639	
Garrett			23,452	3,938						145,066	630,258
Harford											1,604,408
Howard			91,000							359,000	2,416,000
Kent											456,826
Montgomery											6,024,000
Prince Georges	442,877		257,059	1,612,122						1,940,122	15,714,732
Queen Annes	10,583		309							306,030	216,536
St. Marys		504	52,035	1,026,297	244,158					1,424,041	174,636
Somerset											329,806
Talbot	55,890		101,937							2,872	611,583
Washington				180,300						287,115	654,850
Wicomico	20,427		5,451	4,000						73,000	747,479
Worcester										317,110	191,816

FISCAL YEAR 1975 GENERAL REVENUE SHARING USAGE

Local unit	Public safety		Environmental protection		Transportation		Health		Recreation		Libraries	
	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating
Allegany	$5,041	$187,883		$198,796	$110,132	$225,752		$546,664		$44,066	$81,918	
Anne Arundel	58,307	5,565,218			362,774						165,481	
Baltimore City	492,336	28,900,990	$200,000	4,100,000			$65,000			6,773,755		$602,235
Baltimore		12,500,000										
Calvert	1,669	145,398			636,638	22,995			$15,932	78,160		45,521
Caroline			32,743		43,092		3,819		89,599			
Carroll	1,883	464,742							16,187		50,000	
Cecil		2,438	164,503			401,232				11,600		78,254
Charles	18,700	1,227,596		8,657			147,540		185,123			10,000
Dorchester	18,413	238,019			283,922					78,529		
Frederick	7,535		71,500		685,356		247,819				34,222	
Garrett	20,800	25,850							15,000	36,000		
Harford	42,644	1,499,870		395,468						128,077	50,000	425,000
Howard		1,000,000	100,000	100,000	287,551	100,000						
Kent		40,155		94,125		35,585		122,493				34,905
Montgomery		9,700,000										
Prince Georges		12,619,492		105,454		90,940		371,757				
Queen Annes		62,334		90,683	14,097			17,919		17,599		28,586
St. Marys	26,284	40,711	38,070	54,681			424,130				33,000	
Somerset		30,968				237,138		199,059				30,000
Talbot	26,574										362,162	
Washington						300,000						
Wicomico	5,000	38,421		278,485	131,000	12,000	154,924	174,593		131,145		
Worcester			77,298					230,000				116,789

Local unit	Social services		Financial administration		General government, capital	Education, capital	Social development	Housing and community development	Economic development, capital	Other	Total	
	Capital	Operating	Capital	Operating							Capital	Operating
Allegany	$5,124	$119,000			$63,425				$249,301		$514,941	$1,322,161
Anne Arundel										[c] $1,195,503	1,782,065	5,565,218
Baltimore City				$15,000						[c] 400,000	757,336	40,791,980
Baltimore												12,500,000
Calvert			$2,725	14,228							656,964	360,302
Caroline				62,208		$2,800					172,053	62,208
Carroll					256,000	388,188				[c] 223,000	935,258	464,742
Cecil				149,721		420,809					585,312	643,245
Charles				45							351,363	1,246,298

FISCAL YEAR 1975 GENERAL REVENUE SHARING USAGE—Continued

	Social services operating	Financial administration		General government capital	Education capital	Social development	Housing and community development	Economic development capital	Other capital	Total	
		Capital	Operating							capital	Operating
Dorchester						$93,730				$396,065	$316,548
Frederick	$370,858				$556,740					1,974,030	
Garrett			$2,000	$28,000	8,000	15,000			°$751,961 c2,000	62,800	841,811
Harford				615,456						92,644	3,063,871
Howard					52,600					440,151	1,200,000
Kent											327,263
Montgomery											9,700,000
Prince Georges		$749,936		238,727							14,176,306
Queen Annes				35						14,097	217,156
St. Marys				23,253	172,271	91,000				784,755	118,645
Somerset											497,165
Talbot										388,736	
Washington					716,153					716,153	300,000
Wicomico				21,322	225,000					515,924	655,966
Worcester										77,298	346,789

FISCAL YEAR 1976 GENERAL REVENUE SHARING USAGE

Local unit	Public safety		Environmental protection		Transportation		Health		Recreation		Libraries	
	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating	Capital	Operating
Allegany	$9,412	$230,620		$361,096		$795,185	$7,677	$420,709		$152,690		
Anne Arundel	12,477	6,614,743			$457,586						$320,542	
Baltimore City		22,164,174								4,150,000		$499,973
Baltimore		11,170,000										
Calvert	1,669	145,398			638,638	22,995			$15,932	78,160		45,521
Caroline	45,637		$95,500	43,000					22,413			
Carroll							166,638				79,852	
Cecil			89,293	13,482		336,206						
Charles		1,151,837		598			16,460					
Dorchester				139,000	309,100					91,966		20,880
Frederick	10,258		289,624		496,216		1,332,563		16,774		9,237	
Garrett	1,000	8,862		35,605		569,933						17,999
Harford		395,817		2,386								450,000
Howard		464,011						292,086		100,000		464,011
Kent		36,900		136,451				45,813				
Montgomery		7,010,000										
Prince Georges		13,909,892				91,177		989,145				100,000
Queen Annes		69,667		134,139	16,487			63,813		30,433		28,863
St. Marys	37,767	651,185	98,787	161,144	2,425	99,180	74,442	7,500		87,479		
Somerset[1]		115,593				250,000		19,211				21,222
Talbot		198,873										
Washington	326,125		138,028	340,279	170,964	875,760			10,569			
Wicomico	19,482	304,176		247,862		62,854	150,000	130,439	22,608	206,408		
Worcester			10,987					200,495				

	Social services, operating	Financial administration		General government, capital	Education, capital	Social development, capital	Housing and community development	Economic development, capital	Other	Total	
		Capital	Operating							Capital	Operating
Allegany				$609,450			$128,998	$1,678		$757,215	$1,960,300
Anne Arundel									$425,222	1,215,827	6,614,743
Baltimore City			$15,000						440,801		27,269,948
Baltimore											11,170,000
Calvert		$2,725	14,228							658,964	306,302
Caroline		22,415				$16,358				202,323	43,000
Carroll				200,000		542,000				988,490	
Cecil			28,000	205,735		145,462				440,490	377,688
Charles									282,172	16,460	1,434,607
Dorchester										309,100	251,846
Frederick				839,093			25,857			3,019,622	
Garrett				3,429						4,429	632,399
Harford											847,573
Howard	$187,176										1,507,284
Kent											219,164
Montgomery											7,010,000
Prince Georges	722,076		195,412								16,007,702
Queen Annes			25			79,416				95,903	326,940
St. Marys	9,000	1,035	164,223	157,360						371,816	1,179,711
Somerset[1]											478,026
Talbot											198,873
Washington				212,518					6,845	865,049	1,216,039
Wicomico					$105,706				40,016	192,090	1,097,461
Worcester		19,041								30,028	200,495

[1] Source: General Revenue Sharing Planned Use Report.

FISCAL YEAR 1977 GENERAL REVENUE SHARING USAGE

Local unit	Public safety		Public transportation and roads		Health	Hospitals		Parks and recreation		Libraries	
	Capital	Current	Capital	Current	Current	Capital	Current	Capital	Current	Capital	Current
Allegany			$459,767	$155,114	$460,190	$24,946		$36,477			
Anne Arundel		$5,666,711								$20,043	
Baltimore City		22,841,229			100,000				$3,921,909		$500,000
Baltimore		3,968,781									
Calvert[1]				257,198							
Caroline	$340	134,694			37,706		7,000	2,193	10,577		
Carroll			642,000								
Cecil				33,200							
Charles		1,128,685									

Table continues on next page.

FISCAL YEAR 1977 GENERAL REVENUE SHARING USAGE—Continued

Local unit	Public safety		Public transportation and roads		Health	Hospitals		Parks and recreation		Libraries	
	Capital	Current	Capital	Current	Current	Capital	Current	Capital	Current	Capital	Current
Dorchester			$232,604						$124,174		$31,264
Frederick			923,275					$7,151			
Garrett	$9,800	$25,310	106,900	$622,141							15,700
Harford		356,110									511,000
Howard	100,000	800,000		100,000							
Kent[1]		18,450			$25,287						
Montgomery		8,000,000									
Prince Georges[1]		6,036,978			1,236,690						
Queen Annes[1]		77,843			95,846				13,471		34,206
St. Mary's		481,418	18,625	62,033					19,756		
Somerset[1]		55,170		241,422	41,598						13,166
Talbot		217,238									
Washington	52,082		164,786	323,119				597			
Wicomico						$150,000					
Worcester					312,924						

FISCAL YEAR 1977 GENERAL REVENUE SHARING USAGE

Local unit	Welfare		Financial and general administration		General public buildings		Education, capital	Corrections		Sewerage	
	Capital	Current	Capital	Current	Capital	Current		Capital	Current	Capital	Current
Allegany	$908	$10,000	$14,893	$241,069	$10,693					$434,011	$54,951
Anne Arundel											
Baltimore C ty				15,000							
Baltimore											
Calvert[1]											
Caroline				45,989		$39,108	$10,761		$54,564		
Carroll							123,000				
Cecil				115,053			126,176				
Charles											
Dorchester											
Frederick	785,103				379,687			$13,319			
Garrett			28,297				39,930				
Harford											
Howard				10,000							
Kent[1]		3,883									
Montgomery											
Prince Georges[1]		407,248		346,174							
Queen Annes[1]							20,583				
St. Marys											
Somerset[1]											
Talbot									132,273		
Washington			33,620					4,742			
Wicomico			694	70,295							
Worcester											

Local unit	Other sanitation		Housing and urban renewal, current	Interest on general debt	Utilities	Natural resources, current	Other, current	Total	
	Capital	Current						Capital	Current
Allegany		$334,043	$169,987				$26,169	$981,695	$1,451,523
Anne Arundel								20,043	5,666,711
Baltimore City			50,000				290,863		27,719,001
Baltimore							6,531,219		10,500,000
Calvert[1]									257,198
Caroline		127,327						13,294	456,965
Carroll								765,000	
Cecil	$288,010					$10,350		414,186	158,603
Charles									1,128,685
Dorchester		156,000						232,604	311,438
Frederick	100,002						[2] 7,209	2,215,746	
Garrett		35,919					1,550	184,927	700,620
Harford									867,110
Howard		850,000						100,000	1,760,000
Kent[1]		145,138							192,758
Montgomery									8,000,000
Prince Georges[1]									8,027,090
Queen Annes[1]		19,389						20,583	240,755
St. Marys	52,541							71,166	563,207
Somerset[1]									351,356
Talbot							22,532		372,043
Washington		311,821						255,827	634,940
Wicomico	4,275	258,475						154,969	328,770
Worcester	2,022							2,022	312,924

[1] Based on entitlement period 7, July 1 to Dec. 31, 1976, only. [2] Capital.

FISCAL YEAR 1978 GENERAL REVENUE SHARING USAGE

Local unit	Public safety		Public transportation and roads		Health		Hospitals, current	Parks and recreation		Libraries		Welfare	
	Capital	Current	Capital	Current	Capital	Current		Capital	Current	Capital	Current	Capital	Current
Allegany	$7,584	$314,159	$90,134	$323,718	$13,877	$558,466			$308,229				$115,302
Anne Arundel		3,956,730	64,698							$163,820			
Baltimore City		22,561,975				100,000			4,190,677		$500,000		
Baltimore		4,336,329											
Calvert		185,858											
Caroline		208,323											
Carroll			850,000										
Cecil				253,351									
Charles		1,325,847											

FISCAL YEAR 1978 GENERAL REVENUE SHARING USAGE—Continued

Local unit	Public safety		Public transportation and roads		Health		Hospitals, current	Parks and recreation		Libraries		Welfare	
	Capital	Current	Capital	Current	Capital	Current		Capital	Current	Capital	Current	Capital	Current
Dorchester			$264,627						$133,012		$43,957		$32,868
Frederick			688,230		$51,173			$13,077				$1,605	
Garrett	$1,150	$18,690	478,318										
Harford													
Howard	100,000	771,000		$100,000							300,000		80,000
Kent		31,240				$109,434	$11,498						
Montgomery		8,000,000											
Prince Georges													
Queen Annes		300,000				200,000			67,150				
St. Marys		634,421		185,110					194,950		174,975		68,999
Somerset		55,216		164,635							28,595		
Talbot	21,433	104,596											
Washington	101,326		203,973	544,848				1,707					
Wicomico									246,663				
Worcester						270,749							

Local unit	Financial administration		Education		Correction		Sewerage	Other sanitation		Other		Total	
	Capital	Current	Capital	Current	Capital	Current		Capital	Current	Capital	Current	Capital	Current
Allegany									$314,346		$2,108	$111,595	$1,936,328
Anne Arundel												228,518	3,956,730
Baltimore City		$50,000											27,402,652
Baltimore													4,336,329
Calvert													185,858
Caroline						$62,571							270,894
Carroll												850,000	
Cecil		33,787	$150,000					$509,357			10,350	659,357	297,488
Charles													1,325,847
Dorchester									156,000		25,969	264,627	391,806
Frederick	$660,141		70,797		$346,848			107,479				1,939,350	
Garrett			58,478							$124,929	3,700	662,875	22,390
Harford											1,117,392		1,117,391
Howard		10,000							350,000			100,000	1,611,000
Kent									91,532				243,704
Montgomery													8,000,000
Prince Georges				$13,300,000									13,300,000
Queen Annes				200,000							200,000		967,150
St. Marys		38,260						49,190	183,840			49,190	1,480,555
Somerset				362,198					19,450		1,200		631,294
Talbot						130,125					46,020	21,433	280,741
Washington					2,919				412,472	130,818		440,743	957,320
Wicomico								19,167	306,092	7,505	247,247	26,672	800,002
Worcester								978				978	270,792

FISCAL YEAR 1979 GENERAL REVENUE SHARING USAGE

Local unit	Public safety		Roads or Public Transportation		Health		Parks and receation		Libraries		Welfare	
	Capital	Current	Capital	Current	Capital	Current	Capital	Current	Capital	Current	Capital	Current
Allegany	$19,305	$337,563	$230,014	$245,263		$590,020		$5,885				$127,626
Anne Arundel		9,089,690	26,179						$366,713			
Baltimore City		22,260,269				96,496		4,225,164		$500,000		
Baltimore		3,699,159										
Calvert				858,538								
Caroline		127,902										
Carroll			2,015,000									
Cecil				602,131								
Charles		1,300,527										
Dorchester			269,619				$7,340	142,363				44,192
Frederick			797,991		$77,820				350,503			
Garrett	16,707		465,200							3,000		
Harford		57,121										
Howard	100,000	935,000		415,000				115,000		350,000		90,150
Kent	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Montgomery		9,000,000										
Prince Georges												
Queen Annes		92,335				100,000						
St. Marys		418,433	4,330			421,091				202,136		115,160
Somerset				300,000								
Talbot		145,470										
Washington	159,368		338,311	460,657			6,400					
Wicomico												
Worcester						287,308						

Local unit	Financial and general administration		Education		Corrections		Sewerage	Other sanitation		Interest on general debt	Other		Total	
	Capital	Current	Capital	Current	Capital	Current		Capital	Current		Capital	Current	Capital	Current
Allegany									$336,472				$249,319	$1,642,829
Anne Arundel													392,892	9,089,690
Baltimore City		$50,000												27,131,929
Baltimore												$7,215,932		10,915,091
Calvert														858,538
Caroline		64,005				$72,111			79,925					343,943
Carroll													2,015,000	
Cecil		14,770	$111,000		$125,000							10,000	236,000	626,901
Charles														1,300,527
Dorchester												29,654	276,959	216,209
Frederick	$496,835		196,821		103,978								2,023,948	
Garrett	113,715	5,750	66,500					$4,178					666,300	8,750
Harford										$965,058		995,000		2,017,179
Howard		10,000							435,000				100,000	2,350,150

	Financial and general administration		Education		Corrections		Sewerage	Other sanitation		Interest on general debt	Other		Total	
	Capital	Current	Capital	Current	Capital	Current		Capital	Current		Capital	Current	Capital	Current
Kent	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Montgomery														9,000,000
Prince Georges				$13,200,000										13,200,000
Queen Annes				148,147								90,000		430,482
St. Marys		117,403						60,765	111,692				65,095	1,385,915
Somerset				412,198					11,550					723,748
Talbot						193,297								338,767
Washington	137,532	109,394	28,800		49,935				339,532				720,346	909,583
Wicomico										343,794	$500,000	904,206	500,000	1,248,000
Worcester														287,308

Source: Maryland Association of Counties, January 1980.

TALBOT COUNTY, MD.,
Easton, Md.

REVENUE OUTLOOK F/Y 80

As a result of a referendum vote in the fall of 1978, Talbot County's elected County Council is restrained from levying a tax rate higher than the "Constant Yield Tax Rate" as determined by the Department of Assessments and Taxation of the State of Maryland.

Thus, what has been historically one of the main sources of revenue for the operation of local government in Talbot County, has had restrictions placed upon it, as a result of the direct initiative of the voters of the County.

Based upon very preliminary figures, Talbot County's tax rate will be at the most $1.46 per one hundred dollars of assessed valuation for F/Y 81. Based upon that rate, the County's growth in revenue from real estate taxes will be less than $125,000.

Since the revenue from real estate taxes represents over 43% of the total income in the current year's budget, the tax restraints place a burden on the balance of the County's revenue sources.

This situation is compounded by the fact the F/Y 81 revenue estimates will only contain about 25% of a full years Revenue Sharing funds, since the program is presently authorized through September 30, 1980 only. This item presently represents reduced funding of $204,000.

Further reduction in revenues for F/Y 81 is evidenced by the fact that the County's reserve from prior years, has been reduced by over $200,000 due to unusually heavy maintenance costs for County roads during F/Y 79 as a result of the two previously harsh winters.

The high rate of inflation plus high interest costs will have an adverse effect on the construction and real estate interests, among others. This in turn will affect the County's revenue from the Recordation taxes.

In summary, the County will face during the coming Budget cycle an increase of $125,000 from the portion of the revenue budget which represents 43% of total revenues, and a known decrease, on July 1, 1980, in excess of $400,000 from the balance of the County's revenue sources, if levied at existing rates.

Given the above facts, it will suffice to say, that while, the extension of the Revenue Sharing Program will not solve Talbot County's revenue problems prior to July 1, 1980, it must certainly be given credit for long term value thereafter, hopefully for a term of several years.

STATEMENT BY GEORGE A. PIENDAK

Senators and Members of the House of Representatives:

I am George A. Piendak, Chief of the Bureau of the Budget and Management Research, in the Baltimore City Department of Finance.

I come before you today to request your assistance and support for the second reenactment of the Federal General Revenue Sharing Program. I am aware that many of you support the continuation of the Federal General Revenue Sharing program.

I am aware also that during formulation of the Fiscal 1980 Federal Budget Resolution the Congress debated the level of funding and the method of distribution for the current entitlement. The citizens of Baltimore thank you for your assistance in retaining the program. The program has the unqualified support of all local elected officials.

Insofar as Baltimore City is concerned, the reenactment of Federal General Revenue Sharing is crucial. Like other older urban centers in this country, Baltimore must operate under economic and fiscal constraints which severely restrict the ability to provide for our citizens' needs. We survive and succeed because we have been able to draw an abundance of strength from within our community. We rely increasingly upon material assistance from the State of Maryland and the Federal Government to meet the operating costs of government. Despite considerable Federal and State assistance, Baltimore City must levy by far the highest local tax rates of any subdivision in the State.

I will not present to you—at this time—the litany of woes which both the citizens and government of Baltimore City face each succeeding year. I do want you to understand that our City remains solvent because of the continuing cooperation and considerable efforts of all of us in this room. I sincerely hope this cooperation continues.

Revenue Sharing is a significant portion of Baltimore's fiscal resources. Actual receipts from this federal revenue source when stated as an equivalent of our approximate $6.00 property tax rate have been as follows:

Fiscal year	Actual revenue sharing receipts	1 cent property tax rate yield	City property tax rate	Revenue sharing as— Cents on tax rate	Revenue sharing as— Percent of tax rate levied
1973	$29,751,526	$301,130	$5.86/$100	98.8¢	16.9
1974	[1] 33,556,287	301,947	5.83	$1.111	19.1
1975	26,850,491	299,977	6.09	89.5¢	14.7
1976	26,270,863	303,216	6.02	86.6¢	14.4
1977	27,669,708	335,920	5.88	82.4¢	14.0
1978	27,470,201	224,026	5.99	82.2¢	13.7
1979	26,790,674	220,583	5.97	81.0¢	13.6
1980 budgeted	[2] 25,433,000	343,402	5.95	74.1¢	12.5

[1] The fiscal 1974 receipt includes 5 quarterly payments.

[2] Recent information received from the Office of Revenue Sharing indicates that actual receipts for fiscal 1980 may be ($124,000) below the amount budgeted.

The initial Fiscal 1973 distribution of Revenue Sharing did not coincide with the City's budget year in the above table. As a consequence the fiscal 1973 and fiscal 1974 property tax rate equivalents are somewhat distorted. However, the pattern for the following six years (fiscal 1975–1980) is well established. These figures demonstrate the position in which Baltimore finds itself during the Congressional debate over reenactment.

Revenue Sharing is, after eight years, a cornerstone supporting much of what otherwise would be a prohibitive property tax rate—it permits Baltimore City to levy a property tax rate less competitively disadvantageous than it would otherwise be in comparison with the rates in surrounding Maryland Counties. Because of Federal General Revenue Sharing our property tax rate is significantly less onerous to our taxpayers. Just as important, Baltimore City must support reenactment of the present program even though the annual receipts are now declining at an increasing rate! I will address this phenomenon shortly.

The City of Baltimore has used its General Revenue Sharing funds (which will total approximately $226.8 million after this the eighth fiscal year of the program) to provide basic services to its citizens. A distribution of the largest expenditures by department from fiscal 1973 to the current fiscal 1980 shows:

(In percent)

Fire	75.9
Recreation and parks	13.1
Public works	4.9
Police	2.1
Library	1.5
Jail	1.0
	98.5
All other	1.5
Total	100.0

The decline in revenue sharing has compelled us to concentrate our expenditures from this source so that in the current year the City has appropriated:

(In percent)

Fire	75.5
Recreation and parks	17.9
Public works	3.5
Library	1.9
	98.8
All other	1.2
Total	100.0

The above pattern of expenditure was chosen in response to (1) the program restrictions written into the 1972 law, (2) the City's need to give more support to its basic services and (3) maintain a fairly concentrated expenditure of funds to simplify our accounting and reporting to the federal government for those expenditures.

Another point I wish to emphasize is that the City has not earned any interest on its Revenue Sharing receipts since fiscal 1975. This is the result of two unrelated occurrences. First, the City in fiscal 1974 converted its accounting procedure for this fund from a "cash" to an "accrual" basis. This was done, in part, on the recommendation of the National Council on Governmental Accounting. Quite simply, the accrual basis means that quarterly we spend against the Revenue Sharing fund in advance of receiving those funds; therefore, the City advances the Revenue Sharing fund general City revenue which is subsequently reimbursed by the federal government. Second, the decline in the City's receipts under each of the two Revenue Sharing Laws has not permitted us to build up reserves with which to earn any interest.

Members of the Maryland Delegation, the City of Baltimore spends its Revenue Sharing funds as fast as it receives them and it spends those funds on basic City services. We cannot allow this program to lapse. It is much too important a program.

I feel that it is also important to understand why Baltimore receives less Revenue Sharing with each entitlement. Since initial enactment in 1972, the Revenue Sharing Law has contained a provision which stipulates that within each State no subdivision can receive a per capita entitlement greater than 145 percent of the statewide per capita allocation. This is the 145 percent limitation. The City of Baltimore has always been constrained by this "cap" which makes Revenue Sharing for us a per capita grant. Between 1970 and 1977 the Census Bureau estimates that the City's population has declined by 11.2 percent. Thus our grant decreases each year.

Though the City of Baltimore does not agree with the population as estimated by the Census Bureau, and we have protested the estimates each year, the fact remains we are saddled with this—a major revenue source—which is declining while our expenditures continue to increase. Just since the 1976 reenactment of Revenue Sharing the loss in Revenue Sharing as the result of the 145 percent limitation has been approximately $24,461,000. This amount is nearly equal to the allocation for one entitlement period. By Entitlement Period this loss has been:

EP11	($7,047,339)
EP10	(7,013,644)
EP9	(7,420,462)
EP8	(2,979,487)

I wish to make two additional points with respect to the renewal of this program.

We hope that the Revenue Sharing program will be expeditiously renewed. To properly include General Revenue Sharing funds in our fiscal 1981 budget, we must be reasonably certain that such funds will be forthcoming. If renewal of the Revenue Sharing program is delayed beyond June 10, 1980, we will in all probability have to delete all Revenue Sharing funds, except the final quarterly payment due under existing law, from our fiscal 1981 budget. Such a deletion can require either a reduction in appropriations for basic services of more than $19 million, or an increase in our already high property tax rate of 56c to a rate of $6.51 for fiscal 1981.

I cannot emphasize too strongly that even though the City's Revenue Sharing entitlements have fallen, Baltimore City still needs the program. We depend on its continuation. The City therefore asks that you support reenactment of the Revenue Sharing program as the program has been proposed by the President.

It is my understanding that President Carter's budget provides for:

The renewal of Federal General Revenue Sharing for a period of five years.

The continued inclusion of States as one-third partners in the program.

The requirement that states create a broadly based commission to examine and to recommend changes in the pattern of state local fiscal arrangements.

The abolition of the 145 percent cap, replacing it with a 175 percent lid.

A continued level of funding for the total program of approximately $6.9 billion.

Baltimore City supports Revenue Sharing reenactment as proposed by the President. I ask respectfully that members of the Maryland Delegation also support renewal of Federal General Revenue Sharing as it has been proposed.

Thank you very much.

TESTIMONY BY THE HONORABLE AUDREY SCOTT

Mr. Chairman and Members of the Maryland Congressional Delegation, I am Audrey Scott, Mayor of Bowie and president of the Maryland Municipal League. I am testifying on behalf of the Maryland Municipal League and its 135 member municipalities. I would like to thank you for this opportunity to present our position on the reenactment of the State and Local Fiscal Assistance Act of 1972, due to expire this year.

The Maryland Municipal League and its member municipalities strongly support revenue sharing reenactment. In fact, the league, along with other public interest groups, has been urging early reenactment for some time. This is critical in order to assist recipients in finalizing their budgets for the 1981 fiscal year. Without early reenactment, recipients will be unable to include any revenue sharing estimates in their fiscal year 1981 budgets for January through June, 1981. The discontinuity of revenue sharing funds resulting from the failure of early reenactment will serve to compound the fiscal impact problem for municipalities.

General revenue sharing was enacted in 1972 as a method of providing financially hard-pressed State and local governments with a relatively unrestricted source of new revenue. As the keystone to the new federalism, revenue sharing was designed to slow the centralization of power in Washington by putting money back into the hands of the Governments closest to the people. This philosophy is just as valid today as it was then. In Maryland, the governments closest to the people are the incorporated cities and towns throughout the State. Revenue sharing has strengthened many municipal governments by providing funds for services which otherwise could not have been performed. The $51 million which Maryland municipalities will have received from the program has helped cities of all sizes maintain vital services and has assisted in bridging the revenue gap which threatens many local governments. Municipalities are particularly vulnerable to revenue shortages since they have fewer sources of revenue than any other level of government.

In order to evaluate what the discontinuance of revenue sharing would mean to municipalities in the State, the Maryland Municipal League recently conducted a survey of municipal officials. A copy of the survey is attached for the record. All of the respondents indicated that the termination of revenue sharing would mean either an increase in local taxes or a cutback in municipal services. In order to maintain current services without revenue sharing property tax increases of up to 10¢ would be needed in 40 percent of the municipalities, 11–20¢ in 27 percent of the municipalities, 21–30¢ in 18 percent of the municipalities, 31–40¢ in 11 percent and up to 51¢ in 2 percent of the municipalities. There was only 1 city that reported that it would not have to increase taxes. If municipalities maintained their current tax rates while revenue sharing was ended, most municipalities would need to reduce or eliminate a combination of services, especially public works, captal improvements and public safety. A number of cities also would be forced to cut more specialized services such as recreation, community library facilities, and health and environmental protection.

Many municipalities in Maryland will find that property tax increases are not an option and that reductions in service will be the only answer to a loss of revenue sharing funds. Fifty-three cities and towns in Maryland have tax rate limitations included in their charters. Of those municipalities at least 23 have property tax rates at the legal limit or as little as 10¢ below the limit. This is significant since 40 percent of the municipalities surveyed would need to raise their taxes at least this amount if revenue sharing is not reenacted. Seven cities are 11–20¢ under their legal limit and seven more fall in the 21–30¢ range. Again, this is significant since the survey showed that 27 percent would need to raise taxes 11–20¢ and 18 percent would need to raise them 21–30¢. This information indicates that many municipalities are close to reaching their legal limits of taxation and that the loss of revenue sharing would require them to amend their charters. Given the current sentiment among property taxpayers nationwide to limit taxes, this may be a difficult to impose task in many cases. The consequences will be a reduction in basic services not the frills of government.

Some groups have criticized municipal expenditures of revenue sharing by saying that not enough of the money has been used for social programs or to benefit the poor and the aged. This observation overlooks the fact that municipalities are providers of what are generally basic services—services which are necessary for an individual (young or old, rich or poor) to function in a civilized environment. The Maryland Municipal League's survey identified the following services as those for which revenue sharing is most often used: the improvement of police and fire protection; the repair of streets; the purchase of solid waste equipment; and the improvement of drinking water quality. No urban dweller is benefitted if they lack access to uncontaminated water, are unable to travel due to streets being in disrepair, or are afraid to go out at night because of crime. These services are not exotic and are often taken for granted. Nonetheless, they are services which municipalities perform and they are services which are necessary whether you live in a big city or a small town. It thus needs to be recognized that municipal services are social services.

In your consideration of revenue sharing reenactment, it will be helpful to you to know an additional characteristic of revenue sharing expenditure in Maryland. Maryland municipalities use revenue sharing for general fund expenditures rather than capital expenditures. The league's survey showed that 23 municipalities used 100% of revenue sharing for general fund purposes when only

18 used 100% for capital expenditures. Consistently 11 cities used more than 50% of their revenue sharing for the general fund whereas 6 used it for capital projects. This reliance on revenue sharing for general fund purposes will yield a more immediate effect on Maryland municipalities if revenue sharing funds are cut or altered than if this money were spent more on long term capital projects.

It is clear that if Congress fails to reenact revenue sharing, many cities and towns will be faced with the grim prospect of either increasing property taxes if possible or cutting back on services which are vital to their community. As was presented to you in a resolution adopted by the Maryland municipal league membership on June 26, 1979, we continue to urge that Congress move now to approve a reenactment bill which will not be substantially changed from the existing legislation and one that will adhere to the original concept of sharing generally unrestricted funds with State and local governments so that governments which are closest to the people are able to respond to local needs. The league is opposed to any attempt to target funds toward certain jurisdictions since such a shift in the formula may result in major shifts in fund allocations. This would thus break the continuity in the revenue forecasting efforts of municipalities. As is supported by a majority of the municipalities surveyed, the league feels that any counter cyclical aid to distressed local governments should be funded as a program separate from revenue sharing.

Mr. Chairman, in closing, I wish to reemphasize the critical need for reenactment this spring, certainly no later than May 1. Over the past seven years, revenue sharing has become an integral part of local government budgets—providing the underpinning for the provision and maintenance of essential municipal services we urge the Maryland congressional delegation to lend strong support in obtaining the early reenactment and continuation of general revenue sharing.

GENERAL REVENUE SHARING SURVEY OF MARYLAND MUNICIPALITIES, NOVEMBER 1979

SUMMARY

1. How many cents would your property tax rate need to be increased to equal the amount of funds you currently receive through Revenue Sharing?

	No. of cities	Percent of cities
0	1	2
1–10 cents	25	40
11–20 cents	17	27
21–30 cents	11	18
31–40 cents	7	11
41–51 cents	1	2

2. What percent of your Revenue Sharing is currently used for General fund expenditures and for Capital expenditures?

General fund expenditures:

No. of cities:	*Percentage*
23	100
5	75–99
6	51–74

Capital fund expenditures:

No. of cities:	*Percentage*
18	100
3	75–99
3	51–74

NOTE.—Municipalities used revenue sharing on a 50–50 basis.

3. Did you fund a construction project with Revenue Sharing which was subject to the Davis-Bacon wage requirements?

Yes: 11 cities.

No: 49 cities.

4. Should state governments continue to receive part of the Revenue Sharing funds?

Yes: 36 cities or 59 percent.

No: 25 cities or 41 percent.

5. If the state share of Revenue Sharing is continued should it:

	No. of cities	Percentage
a. Be at the current level (⅓ of the total Revenue Sharing funds)	9	16
b. Be reduced	13	23
c. Be required that the state share part of it with local governments	35	61

6. If the state share is reduced or eliminated, which of the following choices would be the best use for the freed-up funds:

	No. of cities	Percentage
a. Give it directly to local governments	49	79
b. Shift it to other federal programs assisting local governments	2	3
c. Reduce the federal deficit	7	11
d. Reduce federal taxes	4	7

7. Anti-recessionary fiscal assistance (countercyclical aid to distressed local governments) should:

	No. of cities	Percentage
a. Be built into the Revenue Sharing program	18	31
b. Be a program separate from Revenue Sharing	33	57
c. Be established instead of Revenue Sharing	—	—
d. Not be reestablished	7	12

8. If Revenue Sharing is discontinued the effect on your municipality will be:

	No. of cities	Percentage
a. A significant problem	36	58
b. Troublesome, but manageable	24	39
c. Insignificant	2	3

9. If Revenue Sharing is discontinued the most likely response of your municipality would be:

	No. of cities	Percentage
a. Increase taxes	11	18
b. Increase user fees	3	5
c. Cut services	4	6
d. Combination of a, b or c	42	68
e. Other (borrow money—save money)	2	2

10. Currently, some municipalities' shares of Revenue Sharing are reduced by certain per capita limitations. Should these maximum per capita allocations be raised?

Yes: 32 cities or 64 percent.

No: 18 cities or 36 percent.

Auxiliary information:

Tax rate limitations in Maryland municipalities

Amount under tax rate limit:	*No. of cities*
0–10 cents	23
11–20 cents	7
21–30 cents	7
31–40 cents	2
41–51 cents	1
Over 51 cents	3

RESOLUTION

Whereas, the Federal Government recognized early the limited sources of revenue under which the subdivisions of the Country operated for their fiscal management, and

Whereas, in contemplation of such limitations and in recognition of the vast sources of revenue enjoyed by the Federal Government, there was adopted a program of sharing these revenues, and

Whereas, the various subdivisions have utilized these funds to implement their own revenues and thereby preventing any serious rise in taxation on a local basis, and

Whereas, the municipalities, being the area of government closest to the citizens of this Country, were able to provide services and projects which were more compatible to the population than would be foreseeable by an administration of funds at a distant level, and

Whereas, the City of Cambridge has specifically utilized these funds in projects which are beneficial to the populace as a whole, some of these projects being:

Franklin Street storm drain; 1973 capital improvements; Capital improvements of Glenburn Avenue; Police vehicles; Office computer; Bailey Road storm drain; Washington Street capital improvements; Breatholizer; Administrative improvements and renovations; Belvedere Avenue sewer; Bailey Road sewer; Roselyn Avenue improvements; Somerset Avenue drainage; Police Headquarters, in part; and Public Works office.

Now, therefore, be it resolved by the commissioners of Cambridge that the Federal Revenue Sharing Program be continued as an implementation to the limited sources of revenue of municipalities in order that beneficial municipal programs may be continued and the administration of funds on a local level not be curtailed.

And be it further resolved that copies of this Resolution be forwarded to the Senators and Congressional Delegation from the State of Maryland.●

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate remain in morning business for not to exceed another 2 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF H.R. 3757 ON MONDAY, FEBRUARY 18, 1980

Mr. ROBERT C. BYRD. Mr. President, we have had an opportunity to meet with the distinguished Senator from Arkansas (Mr. BUMPERS) who will be managing the bill, H.R. 3757, to amend the National Parks and Recreation Act of 1978. We have cleared the request with him. I understand it is cleared on the minority side.

Mr. President, I ask unanimous consent that on Monday, February 18, after the two leaders have been recognized under the standing order, and any orders for the recognition of Senators, and following the reading of Washington's Farewell Address, the Senate proceed to the consideration of H.R. 3757.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 3757 (Order No. 519), An Act to amend the National Parks and Recreation Act of 1978, to establish the Channel Islands National Park, and for other purposes, debate on any amendment shall be limited to 30 minutes (except a Church amendment on omitted lands along the Snake River, on which there shall be 30 minutes; a Hatfield amendment on Yguenna Head, on which there shall be 1 hour; a Hatfield amendment on Presidential birth place, on which there shall be 1 hour; a Hatfield amendment on the Georgetown waterfront, on which there shall be 1 hour; a Hollings amendment on land for docking facility for Ft. Sumter, on which there shall be 1 hour; a Cranston amendment on whaling artifacts collection for Golden Gate National Recreation Area, on which there shall be 30 minutes; and a Cranston amendment to enlarge the Santa Monica Mountains Advisory Committee, on which there shall be 30 minutes), to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the committee substitute shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Arkansas (Mr. BUMPERS) and the Senator from Oregon (Mr. HATFIELD): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER FOR READING OF WASHINGTON'S FAREWELL ADDRESS ON MONDAY, FEBRUARY 18, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of Washington's Farewell Address this year occur on February 18, instead of February 22, as provided in the order of the Senate of January 24, 1901.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be business transacted on that day, as there has been customarily throughout recent years in the Senate, certainly, and rollcall votes are expected to occur.

APPOINTMENT OF SENATOR STEWART TO READ WASHINGTON'S FAREWELL ADDRESS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified February 8, 1980, appoints the Senator from Alabama (Mr. STEWART) to read Washington's Farewell Address on Monday, February 18, 1980.

INTELLIGENCE CHARTER BILL

Mr. ROBERT C. BYRD. Mr. President, I would like to say a few words about the very good work that has been done by several Senators on the Senate Select Committee on Intelligence in writing and introducing the intelligence charter bill.

Senators BAYH and HUDDLESTON, chairmen of the committee and the subcommittee on charters, respectively, and Senators GOLDWATER and MATHIAS, vice-chairmen of the committee and subcommittee, respectively, have labored for over 3 years to make possible the introduction of this bill. There have been literally hundreds of meetings within the committee, and between the committee and the administration. These Senators have painstakingly reviewed all of the sensitive issues that are important in the management of our intelligence agencies.

The subject matter of this legislation is critically important. Our intelligence agencies are our ears and eyes to the world. In this information age, our national security is greatly dependent on a working knowledge of the world about us. The proper management of our intelligence agencies is important in this task.

These Senators have introduced legislation that seeks to strike the critical balance between authority and accountability in the operation of our intelligence agencies. These Senators have sought to give these agencies the flexibility they need to do their job. And these Senators have sought to be sure that essential safeguards are observed as these agencies carry out their delicate tasks.

Senators MOYNIHAN, NUNN, JACKSON, CHAFEE, WALLOP, and DANFORTH have introduced other legislation on intelligence agency management. This bill, S. 2216, represents another bipartisan contribution to this very important matter.

The Members of the Senate will be watching the hearings on these bills with great interest. The comprehensive character bill gives the Senate the opportunity to review the strength and direction of our intelligence effort. This will be important, for this Senate will be setting much of the security policy for this Nation for the 1980's.

Our special appreciation goes to Senators BAYH, HUDDLESTON, GOLDWATER, and MATHIAS and all of the Senators for the contribution they have made.

TAX CREDIT FOR WOOD STOVES

Mr. DURKIN. Mr. President, 2 years ago, Congress passed and the President signed into law legislation authorizing the Secretary of the Treasury to make wood stoves eligible for residential energy tax credits. However, despite my repeated requests, the administration has not exercised that authority. Today, I am asking the President to act promptly and direct the Secretary of the Treasury to grant residential tax credits for wood stoves, in conformity with the promise he made to the people of New Hampshire when he last campaigned in New Hampshire in April of 1979.

Last night, the House-Senate conference committee on the Windfall Profit Tax Act rejected the Senate amendment, which I have long fought for to provide a mandatory tax credit for wood stoves and wood furnaces. This mandatory tax credit was necessary because to date the administration has refused to use its discretionary authority under current law to provide a tax credit for wood stoves. However, the House of Representatives has consistently opposed tax credits for wood stoves, notwithstanding the efforts of Representative D'AMOURS, Representative JEFFORDS, and others. The House conferees have remained adamant in their opposition. It is now apparent that this long overdue tax credit will once again be excluded.

Simply stated, this makes very little sense. The Federal Government should be doing everything possible to encourage the use of wood stoves and wood heating equipment which will reduce our country's expensive and dangerous dependence on imported oil. Nothing makes more sense than instituting tax credits as incentives to use domestic, renewable resources such as wood.

The Senate has already passed a significant number of initiatives which I have cosponsored promoting the proper use of wood energy. Increased use of wood for energy will not only help break our costly and dangerous dependence on foreign oil; it will also promote new jobs and industry as well as improved forest productivity throughout the country.

New Hampshire and northern New England are especially blessed with an abundance of forests, and, with careful management, this renewable resource can make a substantial contribution to our energy needs. Last year, in my State, nearly 60 million gallons of home heating oil were saved by using wood for fuel. As the price of home heating oil begins to exceed a dollar a gallon, this constitutes tremendous savings for New Hampshire homeowners.

It is estimated that today over half the homes in New Hampshire are using wood as a source of energy. A wood stove tax credit would provide a strong incentive for many more families to convert to wood energy.

The potential for wood energy in New Hampshire, New England, and the rest of the Nation is vast. With little or no forest management, the theoretical maximum energy available from wood is about 10 quads per year or approximately 5 million barrels of oil per day. Initial estimates by forestry management experts set 19 quads per year as a theoretical goal if we begin intensive forest management practices such as reforestation, species selection, stand improvement, commercial thinning, and improvement in harvesting methods. This higher estimate also allows for ample growth in the conventional forest products industry and it is consistent with environmentally sound land-water use.

Last April, the President visited New Hampshire and promised the people in Portsmouth that "there will be tax credit given in the future for those who use wood-burning stoves." The exclusion of wood stoves from this credit is inconsistent with the intent of the Congress and the administration's own policy. The country as a whole and consumers individually can no longer wait for future economic and energy relief. We need relief now.

I have asked the President today to fulfill his promise to the people of New Hampshire and New England and use the existing authority under law to grant the wood stove tax credit.

For too long, Federal energy policy has unfairly discriminated against the people of New Hampshire and New England. The high cost of energy is a primary cause of our runaway inflation in New England. Our energy-fueled inflation is hitting us hardest in the necessities of life. We are never going to get inflation under control until we get our energy costs under control. That means decreasing our dependence on foreign oil and increasing our use of wood, solar power, wind power, and restoring the hundreds, if not thousands, of hydroelectric sites to generate power all across New England.

It is now clear that Congress will pass some sort of windfall profit tax to recoup some of the $1 trillion in bloated profits the major oil companies will reap unfairly because of the President's action—and solely his action, at the stroke of his pen—in decontrolling the price of domestic crude oil.

In light of the probable exclusion of wood stove tax credits by the House-Senate conferees, it is high time for the President to take immediate action and to fulfill the promise he solemnly gave to the people of New Hampshire, New England, and the Northern Tier States in April of 1979, in a speech in New Hampshire.

I would like to go on record today, speaking on behalf of the citizens I represent in New Hampshire, as well as the citizens of New England and the Northern Tier States, as strongly urging the President to live up to his promise and to use his discretionary authority immediately and grant the residential tax credits for wood stoves.

I urge the people of New Hampshire, I urge the people of Maine, I urge the people of Vermont, as well as the people of all the Northern Tier States, to start bombarding the White House with postcards asking the President to live up to the promise he made in April of 1979, in a speech at Portsmouth, and to grant a wood stove tax credit immediately.

DRAFT REGISTRATION: INCLUDE WOMEN?

Mr. WARNER. Mr. President, the President, in his state of the Union message of January 23, advised Congress:

> I am convinced that our volunteer forces are adequate for our current defense needs. I hope that it will not become necessary to reimpose the draft. However, we must be prepared for that possibility. For this reason, I have determined that the Selective Service system must now be revitalized. I will send legislation and budget proposals to the Congress next month so that we can begin registration and then meet future mobilization needs rapidly if they arise.

Subsequently, in testimony before the Senate Armed Services Committee last week, Defense Secretary Brown elaborated on the need for registration and provided three reasons:

> 1. To send a signal of our nation's resolute determination to make timely preparations to resist illegal Soviet expansionism.
>
> 2. To induce greater enlistments. Experience shows that registration often provides an inducement for individuals to volunteer, thereby lessening the necessity for the return of a draft system of induction.
>
> 3. To shorten the time for any future rapid mobilization.

As a member of the Armed Services Committee, I have strongly supported all efforts to strengthen our Armed Forces. As a member of the Subcommittee on Manpower and Personnel, I fully understand the current precarious posture of military manpower, largely generated by shortfalls in recruiting and the failure to retain in sufficient numbers skilled career enlisted and middle grade officers. Therefore, I support the President's efforts for registration, which will provide a measure of assistance toward improving recruiting. However, I will support registration only if it is restricted to men.

There now exist statutes providing the President with authority to register men. President Carter need only issue an Executive order rescinding President Ford's order of suspension. This step, coupled with a funding request to Congress—either in the form of a reprograming action or a supplemental request—could initiate a registration program promptly. Legislative requirements modifying classification could follow. This would seem to be the most expeditious course of action, and it would meet the urgency expressed by Secretary Brown.

As I am speaking now, the President is about to announce his proposal with respect to registration and, while I do not possess the details, press reports indicate he will request that women be included.

Any legislative request at this time from President Carter seeking to include women in a program of registration poses a threat, in my judgment, of indefinite delay in getting underway with any plan of registration, with or without women.

A determination by the Commander-in-Chief of America's military that women and men should be treated equally for the purposes of registration is a landmark Presidential decision with far-reaching implications. Congress rightfully has an obligation to proceed with utmost caution.

The President's message to Congress of January 23 clearly implied that the purpose for reviving registration now is to prepare for any draft that may become necessary. Consequently, it would be a senseless waste of taxpayers' money and an invasion of privacy of millions of women to require their registration unless it is President Carter's further intention that women are to be treated equally with men in any future draft.

The urgency to strengthen our present military posture in the face of growing threats seems to me a consideration overriding any desirable or equitable advantage derived from a Presidential request for a new declaration of a congressional policy that men and women henceforth will be treated equally for purposes of registration and possible induction.

The least problem facing the military today is the recruitment of women. In fact, it often is no problem, for women have historically volunteered—in peace and in war—in numbers more than sufficient to meet military requirements. I, like every American, take great pride in their distinguished contributions, past and present, to our national defense while serving in the uniforms of all services.

The issue, therefore, of including or excluding women from a registration program should not be directed to their ability or desire to serve their Nation in uniform. Rather, the issue is: What are the present requirements of the military services—both in numbers and in range of military occupational specialties—for women now, in the immediate future, and under any future mobilization plan?

The senior managers of the military departments this week provided a wide range of opinions on this issue.

The Secretary of the Air Force and the Secretary of the Navy expressed personal opinions that, for the present and foreseeable future, there is no clear military need for including women in a registration program. The Secretary of the Army and the Deputy Secretary of Defense expressed opposite views. In fact, the Deputy Secretary of Defense stated that the Department of Defense has "no position" on the issue of registration of women.

Clearly, there is no immediate need for greater numbers of women, and there is considerable doubt as to whether any future mobilization plan would require such additional numbers that would justify a registration plan.

A second basis for opposition is predicated on the uncertainty of the legal consequences flowing from a landmark congressional policy determination of equality between sexes in the military for purposes of registration.

Since the beginning of our Nation, the Federal court system, relying upon the constitutional authorities found in article II, section 2, designating the President as Commander-in-Chief, and article I, section 8, giving Congress the power to make rules for the Government and regulation of the land and naval forces, has accorded the President and subordinate military commanders, together with the Congress, great deference in making judgments and exercising discretion with respect to the military establishment. It is the exercise of this discretion, for example, which has for 200 years kept women in great numbers out of combat. There have been, of course, isolated instances in our history of women performing with great distinction in situations of combat involving personal risk and loss of life.

There is a high risk that a new congressional policy of equality in registration would provide the Federal courts with a basis on which to set aside a long line of cases giving military commanders—civilian and uniformed alike—the discretion to freely organize their services in the most efficient way to discharge missions of national defense, in particular establishing quotas of men and women matching military requirements, classifying certain occupational specialties open only to men, and excluding women from engaging in combat. There are examples of sex discrimination which in the civilian sector are being struck down by the courts and properly so.

However, with regard to the Armed Forces, the Supreme Court, in *Parker* v. *Levy*, 417 U.S. 733 (1974), observed that, while members of the military service are entitled to the protections of the Constitution, "the different character of the military community and the military mission requires a different application of those protections."

Congress must proceed with extraordinary care not to set a precedent which would provide a basis for subsequent court decisions to reverse this line of cases.

Beyond question, the loss of this authority to exercise such discretion would result in an inefficient, costly and less combat-effective military establishment.

With such a precedent, subsequent court decisions on military practices would be hard to predict. For example, a court would have extreme difficulty, in my judgment, in upholding a male-only draft law in the face of a prior congressional determination that a registration law covering both men and women was necessary in the interests of national defense.

How far such decisions would go is unpredictable. The risk is considerable.

At issue is whether the desire of the President to include women in registration is of such overriding importance from the viewpoint of national defense as to justify now a new congressional policy of equality for registration. I think not.

In view of the growing military threats facing America today, I seriously question the advisability and timing of seeking authority from Congress for a registration law treating sexes equally. I am very doubtful that Congress will accept such a proposal.

Congress must focus with great deliberation on the legal consequences flowing from a new declaration of equality for purposes of registration and how these consequences would affect long-standing court opinions preserving the wide discretionary authority exercised by military commanders.

QUORUM CALL

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m today.

There being no objection, the Senate, at 1:05 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 2 p.m., recessed until 2:30 p.m; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

TIME AGREEMENT ON S. 1725

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 462, S. 1725, the energy conservation program for low-income individuals, is made the pending business before the Senate, there be an agreement thereon as follows with respect to time:

Two hours, equally divided, on the bill, the time to be controlled by Mr. NELSON and Mr. JAVITS; 1 hour on any amendment; 30 minutes on any amendment in the second degree; 2 hours, equally divided, on an amendment by Mr. JAVITS on fuel assistance; 2 hours on an amendment by Mr. JAVITS on summer youth; 20 minutes on any debatable motion, appeal, or point of order, if such is submitted by the Chair of the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1725 (Order No. 462), a bill to amend the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income and near-poor individuals and families to participate in energy assistance programs, debate on any amendment in the first degree shall be limited to 1 hour (except two amendments by the Senator from New York (Mr. JAVITS), on fuel assistance and summer youth, respectively, on each of which there shall be 2 hours), to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event that the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

FEDERAL TRADE COMMISSION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 2313, the Federal Trade Commission authorization bill, be printed in the RECORD as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the bill (H.R. 2313) is as follows:

H.R. 2313

That this Act may be cited as the "Federal Trade Commission Act of 1979".

RECONSIDERATION OF ORDERS

SEC. 2 Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended by inserting immediately before the period at the end thereof the following; ": *And provided further*, That the Commission shall reopen any order issued by it under this section, to consider whether such order, including but not limited to affirmative relief provisions, should be altered, modified, or set aside, in whole or in part, if the said person, partnership, or corporation files a request with the Commission stating with particularity the changed conditions of law or fact that require such order to be altered, modified, or set aside. Such request shall be considered by the Commission within 120 days from the date of the filing of such request.".

DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION

SEC. 3. (a) Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended to read as follows:

"(f) To make public from time to time such portions of the information obtained by it hereunder as is in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted to public information and use: *Provided, however*, That the Commission shall not make public trade secrets, or confidential commercial or financial information, except that the Commission may disclose such information to the Department of Justice or a State law enforcement agency upon such agency's prior certification that such information will be maintained in confidence and will only be used for official law enforcement purposes.".

(b) Section 6 of the Federal Trade Commission Act is further amended by adding at the end thereof the following:

"(j) On or before October 31, 1981, the Federal Trade Commission shall reduce the number of small businesses required to participate in the Quarterly Financial Report Program to 75 percent of the small businesses participating in the program as of the date of enactment of this Act, in each of the following categories: manufacturing, mining, retail and wholesale operations. The Commission, in consultation with small businesses required to respond or potentially required to respond shall establish a significantly simplified filing form which is used in such program.".

CONFIDENTIALITY OF LINE-OF-BUSINESS REPORTS

SEC. 4. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by adding at the end of subsection (f), as amended by section 3 of this Act, thereof the following new subsection:

"No employee of the Commission or any Commissioner may publish or disclose information to the public, or any Government agency, whereby the line-of-business data furnished by a particular establishment or individual can be identified. No one other than designated sworn officers and employees of the Commission may examine the line-of-business reports from individual firms, and information provided in the line-of-business program shall be used only for statistical purposes. Information for carrying out specific law enforcement responsibilities of the Commission shall be obtained under existing practices and procedures or as changed by law.".

INVESTIGATIONS OF INSURANCE

SEC. 5. (a) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by adding at the end thereof the following new subsection:

"(i) Except as provided in subsections (c) and (d) of this section, nothing in this section shall apply to the business of insurance.".

(b) The amendment made by this section shall not preclude the Federal Trade Commission from participating with the Department of Health, Education, and Welfare in, a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of health insurance policies sold to Medicare-eligible persons.

ENFORCEMENT AUTHORITY

SEC. 6. The first paragraph of section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended to read as follows:

"Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce any documentary evidence, if in his power to do so, in obedience to an order of a United States district court directing compliance with the subpena or lawful requirement of the Commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.".

ADVERTISING RULEMAKING

SEC. 7. (a) Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) is amended to read as follows:

"(B) rules which define with specificity—

"(i) false or deceptive commercial advertising in or affecting commerce within the meaning of section 5(a)(1) of this Act, or

"(ii) other unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1) of this Act).

Rules under this subparagraph may include requirements prescribed for the purpose of preventing such acts or practices. The Commission's rulemaking authority under this section with respect to commercial advertising shall include authority to proscribe a product claim for which the advertiser did not possess adequate substantiating information relied upon as a reasonable basis for the claim, at the time the claim was made.".

(b) Section 18(b)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(b)(1)) is amended by inserting immediately after "particularity" the following: "the text of the rule, including alternatives, which the Commission proposes to prescribe, and".

"(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of enactment of this Act, except that any rulemaking currently in progress (1) which is not in compliance with subsection (b) of this section and (2) in which all hearings have not been completed shall be discontinued. Any rulemaking initiated under section 18 of the Federal Trade Commission Act after the date of enactment of this Act shall be conducted in accordance with the provisions of this section."

(d) Section 19 of the Federal Trade Commission Act (15 U.S.C. 57b) is amended to read as follows:

"SEC. 19. (a)(1) If any person, partnership, or corporation violates any rule under this Act respecting unfair or deceptive acts or practices under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising under section 18 of this Act (other than an interpretive rule, or a rule violation of which the Commission has provided is not an unfair or deceptive act or practice in violation of section 5(a)), then the Commission may commence a civil action against such person, partnership, or corporation for relief under subsection (b) in a United States district court or in any court of competent jurisdiction of a State.

"(2) If any person, partnership, or corporation engages in any unfair or deceptive act or practice under sections 5 and 18 of this Act (within the meaning of section 5(a)(1)) or false or deceptive act or practice with respect to commercial advertising under section 18 of this Act with respect to which the Commission has issued a final cease and desist order which is applicable to such person, partnership, or corporation, then the Commission may commence a civil action against such person, partnership, or corporation in a United States district court or in any court of competent jurisdiction of State. If the Commission satisfies the court that the act or practice to which the cease and desist order relates is one which a reasonable man would have known under the circumstances was dishonest or fraudulent, the court may grant relief under subsection (b).

"(b) The court in an action under subsection (a) shall have jurisdiction to grant such relief as the court finds necessary to redress injury to consumers or other persons, partnerships, and corporations resulting from the rule violation, the unfair or deceptive act or practice, or false or deceptive act or practice, as the case may be. Such relief my include, but shall not be limited to, recission or reformation of contracts, the refund of money or return of property, the payment of damages, and public notification respecting the rule violation, the unfair or deceptive act or practice, or false or deceptive act or practice, as the case may be; except that nothing in this subsection is intended to authorize the imposition of any exemplary or punitive damages.

"(c)(1) If (A) a cease and desist order issued under section 5(b) has become final under section 5(g) with respect to any person's, partnership's, or corporation's rule violation, unfair or deceptive act or practice, or false or deceptive act or practice, and (B) an action under this section is brought with respect to such person's, partnership's, or corporation's rule violation or act or practice, then the findings of the Commission as to the material facts in the proceeding under section 5(b) with respect to such person's, partnership's, or corporation's rule violation or act or practice, shall be conclusive unless (i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive, or (ii) the order became final by reason of section 5(g)(1), in which case such finding shall be conclusive if supported by evidence.

"(2) The court shall cause notice of an action under this section to be given in a manner which is reasonably calculated, under all of the circumstances, to apprise the persons, partnerships, and corporations allegedly injured by the defendant's rule violation or act or practice of the pendency of such action. Such notice may, in the discretion of the court, be given by publication.

"(d) No action may be brought by the Commission under this section more than 3 years after the rule violation to which an action under subsection (a)(1) relates, or the unfair or deceptive act or practice or false or deceptive act or practice to which an action under subsection (a)(2) relates; except that if a cease and desist order with respect to any person's, partnership's, or corporation's rule violation or unfair or deceptive act or practice or false or deceptive act or practice has become final and such order was issued in a proceeding under section 5(b) which was commenced not later than 3 years after the rule violation or act or practice occurred, a civil action may be commenced under this section against such person, partnership, or corporation at any time before the expiration of 1 year after such order becomes final.

"(e) Remedies provided in this section are in addition to, and not in lieu of, any other remedy or right of action provided by State or Federal law. Nothing in this section shall be construed to affect any authority of the Commission under any other provision of law.".

STANDARDS AND CERTIFICATION RULEMAKING

SEC. 8. Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) is amended by inserting immediately before the period at the end thereof the following: ": *Provided*, That the Commission shall not develop or promulgate any trade rule or regulation with regard to the regulation of the development and utilization of 'the standards and certification activities under this section or any other law.".

PREVALENCE OF UNLAWFUL ACTS AND PRACTICES

SEC. 9. Section 18(a) of the Federal Trade Commission Act (15 U.S.C. 57a(a)) is amended by inserting at the end thereof the following new paragraph:

"(3)(A) The Commission shall issue a notice of proposed rulemaking only where it has reason to believe that the unfair or deceptive acts or practices or false or deceptive commercial advertising acts or practices which are the subject of the proposed rulemaking are prevalent.

"(B) A determination of prevalence shall be made by the Commission only if:

"(i) it has issued cease and desist orders regarding such unfair or deceptive acts or practices or false or deceptive commercial advertising acts or practices, or

"(ii) any other information available to the Commission indicates a pattern of unfair or deceptive acts or practices or false or deceptive commercial advertising acts or practices.

"(C) This paragraph applies only to rules for which initial notices are published after the date of enactment of this paragraph.".

ADVANCE NOTICE OF PROPOSED FEDERAL TRADE COMMISSION RULES

SEC. 10. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by adding at the end thereof the following: "Prior to the publication of notice of proposed rulemaking pursuant to paragraph (1) of this subsection, the Commission shall publish an advance notice of proposed rulemaking in the Federal Register. The notice shall contain a brief description of the area of inquiry under consideration, the objectives which the Commission is interested in achieving and possible regulatory approaches under consideration, and shall invite the response of interested parties with respect thereto, including any suggestions or alternative methods for achieving the stated objectives. The Commission shall submit such advance notice of proposed rulemaking to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. In addition, the Commission may use such mechanisms as it finds useful to obtain suggestions regarding the content of the area of inquiry prior to the publication of general notice of proposed rulemaking under such paragraph. The Commission shall, 30 days prior to the publication of a notice of proposed rulemaking pursuant to paragraph (1) of this subsection, submit such notice to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives.".

PRESIDING OFFICER

SEC. 11. Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended by adding at the end thereof the following:

"(5) The officer who presides over the rulemaking proceedings shall be responsible to a chief presiding officer who shall not be responsible to any other staff member. The same officer who presides over the rulemaking proceeding shall make a recommended decision based upon findings and conclusions as to all relevant and material evidence except where such officer becomes unavailable to the Commission. Except as required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.".

PUBLIC PARTICIPATION

SEC. 12. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is amended by redesignating paragraph (3) as paragraph (4), and by inserting immediately after paragraph (2) the following new paragraph:

"(3) The amount of compensation which may be paid to any person under this subsection in connection with the participation by such person in any particular rulemaking proceeding under this section may not exceed $50,000. The aggregate amount of compensation paid under this subsection in any fiscal year to any person for all rulemaking proceedings in which such person participates during such fiscal year may not exceed $50,000.".

(b) Section 18(h)(4), as redesignated in subsection (a) of this section, is amended by striking "$1,000,000" and inserting in lieu thereof "$750,000".

(c) Section 18(h)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended—

(1) by striking out "25" and inserting in lieu thereof "50";

(2) by inserting "(A)" immediately after "(2)"; and

(3) by adding at the end thereof the following:

"(B) Twenty-five percent of all funds appropriated in each fiscal year for purposes of providing compensation under this subsection shall be set aside and reserved exclusively for compensation to persons who (i) would be regulated by the proposed rule, or (ii) represent persons who would be so regulated and who meet the requirements of subparagraph (A).

"(C) Any portion set aside under subparagraph (B) not expended for purposes of compensation to such persons shall be returned to the United States Treasury and may not be expended for any other purpose.".

(d) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended by adding at the end thereof the following:

"(5) The Commission shall establish a small business outreach program responsible for carrying out the purposes of this subsection. The program shall solicit public comment from small businesses, whose views would not otherwise be adequately represented, in order to insure a fair determination of the rulemaking proceeding. This program shall attempt to attract more small business applicants for public participation funding through the dissemination to small businesses of information which explains the procedures and requirements to apply for such funding.".

EX PARTE MEETINGS

SEC. 13. Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is further amended by adding at the end thereof the following:

"(i)(1) Within 60 days after the date of enactment of this subsection, the Commission shall promulgate a proposed rule, and within 180 days after the date of enactment of this subsection shall promulgate a final rule, which shall authorize the Commission or any Commissioner to meet with any outside party concerning any rulemaking proceeding. This regulation shall provide that notice of any such meeting be included in the weekly calendar of the Commission and that a verbatim record or summary of a communication or any such meeting be kept, made available to the public, and included in the rulemaking record.

"(2) As used in the subsection, the term 'outside party' means any person who is not a Commissioner, not an employee, not under contract to do work for the Commission, or not a consultant to the Commission.

"(j) Within 60 days after the date of enactment of this subsection, the Commission shall publish a proposed rule, and within 180 days after the date of enactment of this subsection, shall promulgate a final rule, which, except to the extent required for the disposition of ex parte matters as authorized by law, shall prohibit employees or agents of the Commission with investigative or other responsibility for the rulemaking proceeding within the operating bureau, from communicating or causing to be communicated to any member of the Commission or to the personal staff of any Commissioner any fact relevant to the merits of that proceeding that is not on the rulemaking record of that proceeding, unless the communication is made available to the public, and included in the rulemaking record.".

CIVIL INVESTIGATIVE DEMAND

SEC. 14. The Federal Trade Commission Act, as amended, is further amended by redesignating sections 20 and 21 as sections 28 and 29, respectively, and by adding immediately after section 19 thereof the following new section:

"SEC. 20. (a) For the purposes of this section—

"(1) The term 'Commission investigation' means any inquiry conducted by a Commission investigator for the purpose of ascertaining whether any person is or has been engaged in any unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act.

"(2) The term 'violation' means any act or omission constituting an unfair or deceptive act or practice in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act.

"(3) The term 'Commission investigator' means any attorney or investigator employed by the Commission who is charged with the duty of enforcing or carrying into effect any provisions relating to unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act.

"(4) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law.

"(5) The term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

"(6) The term 'custodian' means the custodian or any deputy custodian designated under section 21(a)(1) of this Act.

"(b) For the purpose of investigations performed pursuant to this section with respect to unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act, all actions of the Commission taken under sections 6 and 9 of this Act shall be conducted pursuant to subsection (c) of this section.

"(c)(1) Whenever the Commission has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to unfair or deceptive acts or practices in or affecting commerce under sections 5 and 18 of this Act or false or deceptive acts or practices with respect to commercial advertising in or affecting commerce under section 18 of this Act, the Commission may, prior to the institution of any proceedings under this Act, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to file written reports or answers to questions, to give oral testimony concerning documentary material or other information, or to furnish any combination of such material, answers, or testimony.

"(2) Each such demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable thereto.

"(3) Each such demand for production of documentary material shall—

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available.

"(4) Each such demand for written reports or answers to questions shall—

"(A) propound with definiteness and certainty the reports or questions to be answered;

"(B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and

"(C) identify the custodian to whom such answers shall be submitted.

"(5) Each such demand for the giving of oral testimony shall—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify a Commission investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

"(6) Any such demand may be served by any Commission investigator at any place within the territorial jurisdiction of any court of the United States. Any such demand or any enforcement petition filed under this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that such court would have if such person were personally within the jurisdiction of such court.

"(7) Service of any such demand or any petition filed under this section may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(8) Service of any such demand or of any petition filed under this section may be made upon any natural person by—

"(A) delivering a duly executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(9) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(10) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(11) Each reporting requirement or question in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(12)(A) The Commission investigator before whom oral testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(B) The Commission investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

"(C) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the investigator conducting the examination and such person.

"(D)(i) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the Commission may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question.

"(ii) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

"(E) When the testimony is fully transcribed, the investigator shall afford the witness (who may be accompanied by counsel) a reasonable opportunity to examine the transcript; and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within 30 days of his being afforded a reasonable opportunity to examine it, the Commission investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

"(F) The Commission investigator shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the Commission investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

"(G) Upon payment of reasonable charges therefor, the Commission investigator shall furnish a copy of the transcript to the witness only, except that the Commission may for good cause limit such witness to inspection of the official transcript of his testimony.

"(H) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

"(d) Materials received as a result of a civil investigative demand made pursuant to this section shall be subject to the procedures of section 21 of this Act.

"(e) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to such demand cannot be accomplished and such person refuses to surrender such material, the Commission, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section. All process of any court to which application may be made as provided herein may be served in any judicial district.

"(f) Within 20 days after the service of any civil investigative demand upon any person under subsection (c) of this section, or at any time before the return date specified in such demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Commission investigator named in the demand, such person may file with the Commission a petition for an order by the Commission modifying or setting aside such demand. The time permitted for compliance with such demand in whole or in part as deemed proper and ordered by the Commission shall not run during the pendency of such petition in the Commission, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

"(g) At any time during which any custodian is in custody or control of any documentary material or reports or answers to questions or transcripts of oral testimony given by any person in compliance with any civil investigative demand made under the provisions of this section, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section or section 21 of this Act.

"(h) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the povisions of this Act. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

"(i) Notwithstanding any other provision of the law, the Commission shall have no authority to issue a subpena or make a demand for information, under authority of this Act or any other Act, unless such subpena or demand for information is signed by a Commissioner acting pursuant to a Commission resolution. The Commission shall not delegate the power conferred by this section to sign subpenas or demands for information to any other person or persons.

"(j) This section shall not apply to any proceeding under section 5(b) of this Act.

"(k) This section shall not apply to or affect the jurisdiction, duties, or powers of any agency of the Federal Government, other than the Federal Trade Commission, notwithstanding that such jurisdiction, duties, or powers are derived in whole or in part, by reference to this Act.".

CONFIDENTIALITY

SEC. 15. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by adding immediately after section 20, as added by section 14 of this Act, the following new section:

SEC. 21. (a) With respect to any document or transcript of oral testimony received by process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, the following procedures shall apply:

"(1) The Commission shall designate a duly authorized agent to serve as custodian of documentary material, or written reports or answers to questions, and transcripts of oral testimony, and such additional duly authorized agents as the Commission shall determine from time to time to be necessary to serve as deputies to the custodian. Any person, upon whom any demand for the production of documentary material has been duly served, shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct pursuant to section 20(h) of this Act) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

"(2)(A) The custodian to whom any documentary material, written reports or answers to questions, and transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of material, pursuant to the requirements of this section.

"(B) The custodian may prepare copies of the documentary material, or written reports or answers to questions, and transcripts of oral testimony as may be required for official use by any duly authorized official or employee of the Commission under regulations which shall be promulgated by the Commission. Notwithstanding subparagraph (C) of this paragraph, this material and transcripts may be used by any such official or employee in connection with the taking of oral testimony under this section.

"(C) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material or reports or answers to questions and transcripts of oral testimony shall be available for examination by an individual other than a duly authorized official or employee of the Commission without the consent of the person who produced the material or transcripts. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee of Congress, except that the Commission shall immediately notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider.

"(D) While in the possession of the custodian and under such reasonable terms and conditions as the Commission shall prescribe, (i) documentary material or written reports shall be available for examination by the person who produced the material, or by any duly authorized representative of that person, and (ii) answers to questions in writing and transcripts of oral testimony shall be available for examination by the person who produced the testimony, or his counsel.

"(3) Whenever the Commission has instituted a proceeding against a corporation or other person, the custodian may deliver to any official or employee of the Commission documentary material, written reports or answers to questions, and transcripts of oral testimony for official use in connection with that proceeding. Upon the completion of the proceeding, the official or employee shall return to the custodian any such material so delivered which has not been received into the record of the proceeding.

"(4) If any documentary material, or written reports or answers to questions, and transcripts of oral testimony has been produced in the course of any investigation by any person pursuant to compulsory process and—

"(A) any proceeding arising out of the investigation has been completed; or

"(B) no proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all such material and other information assembled in the course of the investigation;

the custodian shall, upon written request of the person who produced the material, return to the person any such material which has not been received into the record of any such proceeding (other than copies thereof, made by the Commission pursuant to paragraph (2)(B) of this subsection).

"(5) The custodian of any documentary material, written reports or answers to questions, and transcripts of oral testimony may deliver to the Department of Justice, in response to a written request, copies of such material for use in connection with an investigation or proceeding under the Department's jurisdiction. Such documentary material, written reports or answers to questions, and transcripts of oral testimony may only be used by the Department in such manner and subject to such conditions as apply to the Commission under this Act. In addition, the custodian may make such materials available to any State law enforcement agency upon such agency's prior certification that such information will be maintained in confidence and will only be used for official law enforcement purposes.

"(6) In the event of the death, disability, or separation from service in the Commission of the custodian of any documentary material, written reports or answers to questions, and transcripts of oral testimony produced under any demand issued under this section, or the official relief of the custodian from responsibility for the custody and control of such material, the Commission shall promptly (A) designate another duly authorized agent to serve as custodian of such material, and (B) transmit in writing to the person who produced the material or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material all duties and responsibilities imposed by this section upon his predecessor in office with regard to that material, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.

"(b) All information reported to or otherwise obtained by the Commission which is not subject to the requirements of subsection (a) of this section shall be considered confidential when so marked by the person supplying the information and shall not be disclosed except in accordance with the following procedures:

"(1) If the Commission determines that a document marked confidential by the person supplying it may be disclosed because it is not a trade secret or confidential commercial or financial information within the meaning of section 6(f) of this Act, it shall notify in writing that person that it intends to disclose the document at a date not less than 10 days from the date of receipt of notification.

"(2) Any person receiving such notification may, if he believes disclosure of the document would cause disclosure of a trade secret or confidential commercial or financial information, before the date set for release of the document, bring an action in the district court for the district within which the documents are located or in the United States District Court for the District of Columbia to restrain disclosure of the document. Any person receiving such notification may file with the appropriate district court or court of appeals, as appropriate, an application for a stay of disclosure. The documents shall not be disclosed until the court has ruled on the application for a stay.

"(c) Nothing in subsection (b) of this section shall prohibit—

"(1) the disclosure of information to either body of Congress or to any authorized committee or subcommittee of Congress, except that the Commission shall immediately notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider;

"(2) the disclosure of the results of investigations or studies prepared by the Commission, except that no information shall be identified nor shall information be disclosed in such a manner as to disclose a trade secret or confidential commercial or financial information of any person supplying the confidential information;

"(3) the disclosure of relevant and material information in Commission adjudicative proceedings or in judicial proceedings to which the Commission is a party. Such disclosures shall be governed by the Commission's rules for adjudicative proceedings or by court rules or orders, respectively: Provided, however, That the Commission's rules shall not be amended in a manner inconsistent with the purposes of this section; or

"(4) the disclosure to a Federal agency of disaggregated information obtained in accordance with the Federal Reports Act (44 U.S.C. 3512): *Provided, however,* That the recipient agency shall use such disaggregated information for economic, statistical, or policymaking purposes only, and shall not disclose such information in an individually identifiable form.

"(d) Nothing in this section shall supersede a statutory provision that expressly prohibits or limits particular disclosures by the Commission, or that authorizes disclosures to another Federal agency.

"(e) For the purposes of subsections (c)(4) and (d), the term 'Federal agency' is as defined in section 551(1) of title 5, United States Code.".

"(f) Any documentary material, written reports or answers to questions, and transcripts of oral testimony provided pursuant to any demand issued under this Act, or otherwise provided, by any person, partnership, or corporation, shall be exempt from disclosure under section 552 of title 5, United States Code.

"(g) For purposes of this section, the term 'material' means documentary material, written reports or answers to questions, and transcripts of oral testimony.".

DEFINITIONS

SEC. 16. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 21 as added by section 15 of this Act, the following new section:

"SEC. 22. For purposes of sections 23, 24, and 25 of this Act:

"(1) The term 'rule' means any rule prescribed by the Commission under section 6 or section 18 of this Act (15 U.S.C. 46, 57a), except that such term does not include interpretive rules, rules involving Commission management or personnel, general statements of policy, or rules relating to Commission organization, procedure, or practice. Such term does not include any amendment to a rule unless the Commission—

"(A) estimates that such amendment will have an annual effect on the economy of $100,000,000 or more;

"(B) estimates that such amendment will cause a substantial change in the cost or price of goods or services which are used extensively by particular industries, which are supplied extensively in particular geographic regions, or which are acquired in significant quantities by the Federal Government, or by State or local governments; or

"(C) otherwise determines that such amendment will have a significant impact upon persons subject to regulations under such amendment and upon consumers.

"(2) The term 'rulemaking' means any Commission process for formulating or amending a rule.".

REGULATORY AGENDA

SEC. 17. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 22, as added by section 16 of this Act, the following new section:

"SEC. 23. (1) The Commission shall publish at least semiannually a regulatory agenda. Each regulatory agenda shall contain a list of rules which the Commission intends to propose or promulgate during the 12-month period following the publication of the agenda. On the first Monday in October of each year, the Commission shall publish in the Federal Register a schedule showing the dates during the current fiscal year on which the semiannual regulatory agenda of the Commission will be published.

"(2) For each rule listed in a regulatory agenda, the Commission shall—

"(A) describe the rule;

"(B) state the objectives of and the legal basis for the rule; and

"(C) specify any dates established or anticipated by the Commission for taking action, including dates for advance notice of proposed rulemaking, notices of proposed rulemaking, and final action by the Commission.

"(3) Each regulatory agenda shall state the name, address, and telephone number of the Commission official responsible for responding to any inquiry relating to each rule listed.

"(4) The Commission is authorized to propose or promulgate a rule which was not listed on a regulatory agenda only if the Commission publishes with the rule an explanation of the reasons the rule was omitted from an agenda.".

REGULATORY ANALYSIS

SEC. 18. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 23, as added by section 17 of this Act, the following new section:

"SEC. 24. (a) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

"(1) a concise statement of the need for, and the objectives of, the proposed rule;

"(2) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable laws; and

"(3) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and adverse economic and other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.

"(b) In any case in which the Commission promulgates a final rule, the Commission shall issue a final regulatory analysis relating to the rule. Each final regulatory analysis shall contain—

"(1) a concise statement of the need for, and the objectives of, the rule;

"(2) a description of any alternatives to the rule which were considered by the Commission;

"(3) an analysis of the projected benefits and the adverse economic and other effects of the rule;

"(4) an explanation of the reasons for the determination of the Commission that the rule will attain its objectives in a manner consistent with applicable law and the reason the particular alternative was chosen; and

"(5) a summary of any significant issues raised by the comments submitted during the public comment period in the response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

"(c)(1) In order to avoid duplication or waste, the Commission is authorized to—

"(A) consider a series of closely related rules as one rule for the purposes of this section; and

"(B) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis issued under this section in the statement of basis and purpose to accompany any rule promulgated under section 18(a)(1)(B) of this Act (15 U.S.C. 57a(a)(1)(B)), and incorporate by reference in any preliminary or final regulatory analysis information contained in a notice of proposed rulemaking or a statement of basis and purpose.

"(2) The Commission shall include, in each notice of proposed rulemaking and in each publication of a final rule, a statement of the manner in which the public may obtain copies of the preliminary and final regulatory analyses. The Commission may charge a reasonable fee for the copying and mailing of regulatory analyses. The regulatory analyses shall be furnished without charge or at a reduced charge if the Commission determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

"(d) The Commission is authorized to delay the completion of any of the requirements established in this section by publishing in the Federal Register, not later than the date of publication of the final rule involved, a finding that the rule is being promulgated in response to an emergency which makes timely compliance with the provisions of this section impracticable. Such publications shall include a statement of the reasons for such findings.

"(e) The requirements of this section shall not be construed to alter in any manner the substantive standards applicable to any action by the Commission, or the procedural standards otherwise applicable to such action.".

JUDICIAL REVIEW

SEC. 19. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 24, as added by section 18 of this Act, the following new section:

"SEC. 25. Any regulatory analysis by the Commission under this Act, including any compliance, procedure or determination involved therein, shall not be subject to separate judicial review in an independent action or in a proceeding to review the rule. Such regulatory analysis shall be available to the reviewing court as a part of the whole record in connection with the court's review of the rule to determine whether the rule shall be set aside on any ground specified in subparagraph (A), (B), or (C) of section 706 (2) of title 5, United States Code (taking due account of the rule of prejudicial error).".

CONGRESSIONAL OVERSIGHT OF COMMISSION RULES

SEC. 20. (a) Section 23 of the Federal Trade Commission Act (as added by section 17 of this Act) is amended by adding at the end thereof the following new subsection:

"(b) The Commission shall transmit a copy of any regulatory agenda published under this section to the chairman of the Committee on Commerce, Science, and Transportation of the Senate and the chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives.".

(b) The Federal Trade Commission Act is amended by inserting after section 25, as added by section 19 of this Act, the following new section:

"SEC. 26. (a) The Commission shall transmit a copy of any proposed or final rule to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on the day on which such proposed or final rule is forwarded to the Federal Register for publication.

"(b)(1) Notwithstanding any other provision of law, no rule promulgated by the Commission may become effective until the expiration of a period of 20 days of continuous session of Congress after the date on which the rule is published in the Federal Register. Notwithstanding any other provision of law, if, between the date on which such rule is published in the Federal Register and the expiration of such 20-day period, the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Interstate and Foreign Commerce of the House of Representatives—

"(A) has held a meeting of the committee at which a majority of the members of the committee were present to review the rule and at which the committee ordered reported a joint resolution disapproving the rule; or

"(B) has been discharged from further consideration of such a joint resolution,

the rule addressed by the joint resolution may only become effective in accordance with paragraph (2).

"(2) Any rule subject to this paragraph may not become effective until the earlier of—

"(A) 60 calendar days of continuous session of Congress after the date on which the committee ordered reported or was discharged from further consideration of a joint resolution disapproving such rule;

"(B) any time after either House of Congress has rejected a joint resolution disapproving such rule; or

"(C) any time after Congress adjourns sine die at the end of the second regular session of a Congress, if at least 30 days of continuous session of Congress have expired since the date on which the rule was published in the Federal Register.

"(3) No rule may become effective under this section unless such rule otherwise complies with the applicable provisions of section 18 of this Act or section 553 of title 5, United States Code, as the case may be.

"(c) The provisions of subsections (a) and (b) may be waived with respect to a particular rule if—

"(1) the Commission determines that the rule is being promulgated in response to an emergency or in response to other exceptional circumstances requiring immediate action in the public interest; and

"(2) the Commission submits a written notice of its determination under clause (1) to the chairman and ranking minority member of the Committee on Commerce, Science, and Transportation of the Senate and the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(d) Compliance by the Commission with the provisions of this section, including any determination by the Commission under this section, shall not be subject to judicial review of any kind.

"(e) Congressional inaction on or rejection of any joint resolution concerning a rule shall not be deemed an expression of approval of the rule involved.

"(f) If a rule of the Commission is disapproved in accordance with this section, the Commission, in amending or modifying such rule due to such disapproval, is required to comply with the provisions of this section, section 18 of this Act, section 553 of title 5, United States Code, or other similar requirement of law only with respect to such amendments or modifications.

"(g)(1) For purposes of this section, continuity of session is broken only by an adjournment of Congress sine die at the end of the second regular session of a Congress.

"(2) For purposes of subsections (b)(1) and (b)(2)(C), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of days of continuous session of Congress and for purposes of subsection (b)(2)(A), the days on which either House is not in session because of an adjournment of more than 15 days to a day certain are excluded in such computation.".

(c) Section 18(a)(1) of the Federal Trade Commission Act is amended by inserting a comma and "subject to the provisions of section 26" after "prescribe".

AWARD OF ATTORNEY FEES AND OTHER EXPENSES

SEC. 21. The Federal Trade Commission Act, as amended, is further amended by adding immediately after section 26, as added by section 20 of this Act, the following new section:

"SEC. 27. (a) Whenever the Commission conducts an adjudication, fees and other expenses incurred in connection with the proceeding by a prevailing party other than the Commission shall be awarded to such party, unless the Commission finds that the position of the Commission as a party to the proceedings was substantially justified or that special circumstances would make an award unjust. The Commission may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A decision of the Commission under this section shall be made a part of the record and shall include written findings and conclusions and the reasons or basis therefor.

"(b)(1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States, and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee; and

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the adjudication was initiated or at the time that the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the adjudication was initiated or at the time that the civil action was filed.

"(c)(1) The Commission shall by rule establish procedures for submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adjudication of the Commission, an award of fees and other expenses may only be made pursuant to subsection (f) of this section.

"(2) A party dissatisfied with a determination by the Commission with respect to the award of fees and other expenses may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the adjudication of the Commission. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants a petition, it may modify the determination of the Commission only if it finds that the failure to make an award, or a calculation of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the Commission from any sums appropriated to the Commission, except that no sums shall be appropriated to the Commission specifically for the purpose of paying fees or expenses awarded under this section.

"(e) The Commission shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.

"(f)(1) A court shall award fees and other expenses to any party other than the Commission which prevails in any civil action brought by or against the Commission in any court which has jurisdiction of that action, unless the court finds that the position of the Commission was substantially justified or that special circumstances may make an award unjust. The court, in its discretion, may reduce an amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within 30 days of final judgment in the action, submit to the court an application which provides evidence of such Party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

"(2) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication, the court shall include in such award the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the Commission was substantially justified, or that special circumstances make an award unjust.

"(g) For purposes of this section, fees and other expenses may be awarded against the Commission without regard to section 2412 of title 28, United States Code, or any other provision of law.

"(h) Nothing in this section modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the Commission, who prevails in any civil action brought by or against the Commission.

"(i) The provisions of this section shall apply to any adjudication or civil action which is pending on the date of enactment of this section, or which is commenced on or after the date of enactment of this section.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 22. Section 27 of the Federal Trade Commission Act, as redesignated by section 14 of this Act, is amended—

(1) by striking "and" after "1976;"; and

(2) by striking "1977. For fiscal years ending after 1977, there may be appropriated to carry out such functions, powers, and duties, only such sums as the Congress may hereafter authorize by law.", and inserting in lieu thereof "1977; not to exceed $70,000,000 for the fiscal year ending September 30, 1980; and not to exceed $75,000,000 for the fiscal year ending September 30, 1981.".

OVERSIGHT

SEC. 23. The Consumer Subcommittee of the Senate Committee on Commerce, Science, and Transportation shall hold an oversight hearing of the Federal Trade Commission at least once during the first 6 calendar months, and at least once during the last 6 calendar months, of each year for the period of the authorization provided in section 22 of this Act.

USED CAR WARRANTY AUTHORITY

SEC. 24. Section 109(b) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2309(b)) is amended by inserting immediately before the period at the end thereof the following: ", but any such rule may not require a mandatory warranty or inspection in connection with the sale of a used motor vehicle".

PROHIBIT ENFORCEMENT ACTION AGAINST PARTY WHO RELIED IN GOOD FAITH ON ADVISE OF A RULEMAKING AUTHORITY

SEC. 25. Title 15, United States Code, is amended by adding at the appropriate place, the following new section:

"PROHIBIT ENFORCEMENT ACTION AGAINST PARTY WHO RELIED IN GOOD FAITH ON ADVISE OF A RULEMAKING AUTHORITY

"SEC.   With regard to any civil action, adjudicative proceeding, or other judicial or administrative proceeding involving an alleged violation of law under which an agency or department other than the Commission has been given rulemaking authority, the Commission shall take no action, either directly or through the Attorney General on behalf of the Commission, against any such party, if the conduct or practice at issue was undertaken in good faith in conformity with any rule, regulation, interpretation or approval issued by the rulemaking agency or department, notwithstanding that after such conduct or practice occurred such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason. Whenever an agency or department having rulemaking authority over a statute enforced by the Commission, receives a request from a party, subject to Commission jurisdiction, for an official interpretation, ruling, or approval, concerning a conduct or practice of the party, the agency shall respond to such request as soon as practicable.

EFFECTIVE DATE

SEC. 26. Except as may otherwise be provided in this Act, the provisions of this Act shall take effect on the date of enactment of this Act.

CORRECTIONS IN THE ENROLLMENT OF SENATE JOINT RESOLUTION 108

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate concurrent resolution offered by Mr. MELCHER and ask that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) providing for certain corrections to be made in the enrollment of Senate Joint Resolution 108 to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.

Mr. ROBERT C. BYRD. Mr. President, these amendments make technical changes in the original bill passed by the Senate.

The concurrent resolution (S. Con. Res. 75) was considered and agreed to as follows:

S. CON. RES. 75

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of Senate Joint Resolution 108 to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups, shall make the following correction:

Strike out the following matter contained in the first section of the joint resolution:

"Caddo, ICC226.
"Goshute, ICC326–B and J.
"Nisqually, ICC197.
"Potawatomi, Prairie Band, ICC 15–K, 29–J, 217, 15–M, 29–K and 146.".

and insert in lieu thereof the following:

"Caddo—ICC226, Sept. 17, 1979.
"Goshute—ICC326–Band J, Oct. 19, 1979.
"Nisqually—ICC197, Oct. 31, 1979.
"Potawatomi, Prairie band—ICC 15–K, 29–J, 217, 15–M, 29–K, and 146, Sept. 7, 1979.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL 3:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3:30 p.m. today.

There being no objection, the Senate, at 2:33 p.m., recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. TSONGAS).

ORDER FOR RECESS TO AND PRO FORMA SESSION ON MONDAY, FEBRUARY 11, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock noon on Monday, February 11, and that that session be a pro forma session only, with no rollcalls and no business to be transacted but that the majority leader on that date, after consultation with the distinguished minority leader or his designee, may be authorized to make any announcement that would indicate the necessity of a session other than a pro forma session on Thursday if the necessity should arise. I do not anticipate such.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM MONDAY UNTIL THURSDAY, FEBRUARY 14, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its pro forma session on Monday, February 11, it stand in recess until the hour of 12 o'clock noon on Thursday, February 14; provided further that the Thursday, February 14 session be pro forma, with no roll calls, no business to be transacted; provided further, however, that if the need should arise, the majority leader, after consultation with the minority leader or his designee, be authorized to proceed with business in that Thursday session after giving 24 hours notice to Members of the Senate to act on any matter of an emergency nature, which I do not at the moment foresee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM THURSDAY, FEBRUARY 14, 1980, UNTIL MONDAY, FEBRUARY 18, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its pro forma session on Thursday, February 14, barring an emergency, in which event the order which I am about to enter could be changed, the Senate stand in recess until the hour of 12 o'clock noon on Monday, February 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING COMMITTEES TO FILE BILLS AND REPORTS ON THURSDAY, FEBRUARY 14, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to file bills and reports, including conference reports, on Thursday, February 14, from 9 a.m. through 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING SIGNING OF ENROLLED BILLS AND RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recesses of the Senate from the close of business today and the renewal of business on Monday, February 18, the Vice President of the United States, the President of the Senate pro tempore, and the acting President pro tempore may be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING THE MAJORITY LEADER TO ACT AS THE ACTING PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader may be authorized to act as the acting President pro tempore during that period for the purpose of such signings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION DURING THE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recesses of the Senate over until Monday, February 18, the Secretary of the Senate be authorized to receive messages, and that they may be appropriately referred, from the House of Representatives and/or the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has an order been entered for the reading of the Washington Farewell Address following the prayer on Monday, February 18?

The PRESIDING OFFICER. At this point it would be after the leaders.

Mr. ROBERT C. BYRD. Very well. I thank the Chair.

ORDER FOR WASHINGTON'S FAREWELL ADDRESS TO BE READ AFTER THE PRAYER AND PRIOR TO THE RECOGNITION OF THE LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that order be reversed, that following the prayer, the reading of Washington's Farewell Address occur and then the recognition of the two leaders or their designees under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the period for the transaction of routine morning business be extended for another 20 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL TRADE COMMISSION ACT OF 1979

Mr. FORD. Mr. President, yesterday I made a statement during the course of the debate on S. 1991, the FTC bill, which was inadvertently edited from the RECORD on page 2361. The following is the complete text of my remarks concerning the children's advertising rulemaking, including the portion which was inadvertently omitted from the RECORD:

Mr. FORD. Mr. President, I cannot let the opportunity pass without making an observation or two, as I am surrounded by my distinguished legal counsel, that a statement was just made that the committee was 100 percent wrong.

Then I hear the statement about low standards of judicial protection. I did not know there was any high protection or middle ground protection or low ground protection. I thought everyone was entitled to 100 percent of the best protection that they could get.

If that is what is imposed upon advertising, a low standard of judicial protection, then this provision that the committee has put in this legislation needs to remain because we cannot allow the FTC to make industrywide rules and then go to court and only receive a low standard.

We have heard a lot about sugar.

How much is too much sugar? How in the world can we say that a certain cereal is going to give our children too much sugar?

There has been disagreement for 2 years at the FTC as to whether cereal sticks to the teeth or not. I wonder how much that cost the taxpayers.

I watched TV the other day—I never watch TV during working hours, I never have an opportunity to do so—but since the distinguished chairman of the Federal Trade Commission was on an hour's program, I thought I should listen. The parents in the audience of that program overwhelmingly said, "We would like to take care of our children. We would like to make some parental decisions without Big Brother getting into our business." The applause was spontaneous.

There are 41,000 regulations on a hamburger—41,000, and what some want to do is to give the regulators more authority, make it broad and let them do anything they can get away with. You must cut this off at the front end of the pipe. You cannot let them go through all the procedures, must we take up all the time, years, volumes, and money and then get a case that is taken to court and is thrown out?

Why do not we change the standard—make it false or deceptive, and let us have a hearing, let the Congress do the best job it can to figure out what unfairness is and then structure the FTC accordingly? That is what we ought to do.

Why do we not say we have been wrong for once? Why do we not change the standard—make it false or deceptive, and let us have a hearing, let the Congress do the best job it can to figure out what unfairness is, and then structure the FTC accordingly? That is what we ought to do.

I am beyond the stage of children. I have grandchildren now. I love them to death. They are healthy, they are growing. I am going to start taking them fishing before long. When they get to be a little older, they will go hunting with me.

I would hate to get up in the morning and say, "No, you cannot eat that." I do not want to get in a duck blind with my grandson and say "You cannot have a little candy bar and coffee from a Thermos to stay warm because it has sugar in it, because the FTC says 'No, it is wrong.' "

What did we do to saccharin? We heard all of these things that were wrong with it, but we voted to keep it in. That is what we did, we voted to keep it in.

Let me read you from a paper:

> The FTC can help its case by doing internal soul-searching. Some careful legislation strings also are needed to halt the regrettable erosion of credibility and trust in the FTC. On its part, business must resist the understandable impulse to be automatically hostile toward an agency whose recent excesses have overshadowed its valuable contributions.

That is a paper down in Kentucky. Does the Senator (Mr. PACKWOOD) want to read the rest of it? It might enlighten him. It does not have any legalistic terms in it, but it sure does make a lot of sense.

Does the Senator wish to make a statement?

IRS CHECKLIST FOR THE ELDERLY

Mr. FORD. Mr. President, each year I look forward to the chance to share with the elderly taxpayers in my home State of Kentucky a very valuable service—a checklist of itemized deductions available to taxpayers, provided by the Senate Special Committee on Aging and the Internal Revenue Service.

I might add that, while the checklist is designed with a specific age group in mind, its benefits certainly extend throughout the broad spectrum of taxpayers of every age.

Every citizen who scans this checklist will no doubt find something he or she might otherwise have omitted from the tax preparation process.

For those who have already completed their tax returns, it may mean the chance to file an amended return that will bring them a refund.

Another valuable service provided for the elderly, handicapped, and low-inome taxpayer is IRS assistance in preparing returns, and there is no charge. A toll-free IRS number is given in the telephone directory for those desiring such assistance.

Mr. President, I commend the Senate Special Committee on Aging for working with the IRS to prepare this useful checklist, and I thank them for the opportunity to make this service available to the people of my State.

(Mr. FORD assumed the chair.)

ALASKA LANDS BILL

Mr. TSONGAS. Mr. President, let me first of all thank the Senator from Kentucky for taking my place in the chair.

Mr. President, last night, while the rest of you went to the congressional kickoff dinner, Senators GRAVEL, STEVENS, DURKIN, the majority leader, and myself had an hour's colloquy on a time agreement involving the Alaska lands bill. I refer in the RECORD of yesterday to a six-page—2455 to 2461—description of that colloquy.

Part of the agreement was that the Alaska lands bill would not come up until July 4. In the discussion with the majority leader, it was indicated that the Alaska lands bill would be the first order of business up after the Republican Convention, unless there was some measure of an emergency nature, which would, of necessity, have to come up prior to that.

There was a great deal of discussion about good faith, and so forth. It was my hope or anticipation that we had arrived at a time agreement that would facilitate the bill coming out and being voted upon and everyone having their time at bat.

I was distressed to learn today, however, of the comments that were made in the Alaskan press by the Senators from Alaska, which gave the impression that the reason for a late date is not because of a tight schedule, but it raises the potential of a filibuster and the obvious political advantage of that if the Alaska lands bill gets put off until the fall.

I was also distressed by a conversation that took place yesterday, where it was predicted that the issue would not be brought up until after the Democratic Convention which is in August.

Given what happened to this bill 2 years ago, I think that it is proper that those people that I represent, in the sense of the Alaska coalition and the conservationists community, have every right to be concerned that what we have arrived at is not an agreement to have this issue resolved one way or another, but it has been a tactical move that I have acquiesced in that will allow for a filibuster come the fall.

I do not think that is the case. I trust my colleagues do not have that particular tactic in mind. It is my hope that the statements that were made to the press in Alaska yesterday are perhaps the kinds of things that we all, as politicians, engage in, and perhaps there was somewhat of a misunderstanding.

I ask unanimous consent that the RECORD remain open until 4:30 so I may include in the RECORD at this point those statements, so at least the RECORD is clear and it is not just my interpretation of what I have heard so the actual statements may appear in the RECORD.

This is a very controversial issue and very strong feelings on both sides. We are only going to get it done if everyone operates in good faith. I have every reason to believe that that will be the case, and I just want to make the point that statements like those yesterday do not help the cause.

The PRESIDING OFFICER. Is it the Senator's desire to have unanimous consent that the RECORD stay open until 4:30?

Mr. TSONGAS. Yes, it is.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, it is my hope that those statements, which are being telecopied down from Alaska, will be ready in the next 10 or 15 minutes. But in order that the record would reflect the actual statements and not what I have heard thirdhand, I think it would be preferable.

The material follows:

STATEMENT BY SENATOR TSONGAS

The discussion which occurred last evening regarding a time agreement for the Alaska National Interest Lands Act, on and off the floor, and the colloquies entered into the RECORD, will clearly illustrate that the Senator from New Hampshire and I were as responsive as we know how to be, to the concerns, not only of the leadership, but also to the concerns of the two Senators from Alaska. I am basically pleased with the procedural agreements we worked out. I can live with those.

However, it is certainly unusual in the extreme, to my knowledge, for the Senate to enter into a time agreement on February 7th of a year, for a matter which has been pending on the calendar since November 14, to not come to a vote in this body until July 21st—at the very least a full six months later. Even then, the time agreement does not specify a date certain for debate and votes, but rather a time certain before which those votes will not occur.

It concerns me—I may say it deeply concerns me—to read in the Anchorage Daily News of this morning, which has just reached me, that both of our colleagues from Alaska are apparently gloating over their success—their unlooked for success—in holding off Senate debate and votes until late July. The junior Senator from Alaska is quoted as saying:

"Never in my wildest dreams did I think we could hold out until late summer or fall."

The senior Senator from Alaska is quoted as saying:

"I thought the longest we could delay was May."

Indeed, the junior Senator even points out with pride that he is not foreclosed from filibustering the conference report on the bill—if a conference report ever emerges. He states that he is optimistic that he can delay actual Senate floor action on the bill until well into September. Sen. Gravel says:

"If everything goes to hell in a handbasket, we could probably stop a bill coming out of conference at the end of the session, but we would not be able to stop it now."

Mr. President, I must say that I do not feel that the good faith and comity which I expressed orally on this floor yesterday, and which I believe I displayed in seeking to quickly come to this time agreement under unusual circumstances last evening, has been matched by my friends, the two Senators from Alaska. These quotes, given for home consumption in Alaska, portray the time agreement—the agreement I entered into—as some kind of unlooked for great parliamentary maneuver pulled off by Alaska's Senators at the expense of free, open and timely debate in the Senate.

This concerns me greatly. I think these remarks quoted from the Anchorage Daily News suggest that I and those with whom I am cooperating in the matter have been taken advantage of. I did not feel that last night, but these remarks deeply concern me.

As I indicated earlier, I want to say that I do not feel good about what has transpired here. I am concerned, and my feeling is that I may not have received the same measure of consideration and response as I have tried to give to my colleagues from Alaska.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TSONGAS). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will shortly recess over until Monday at noon for a pro forma session. There will be no business transacted and no rollcall votes. Barring an unforeseen happening, the Senate will go quickly from the pro forma session into recess and over until Thursday, February 14, at which time there will be another pro forma session with no business and no rollcall votes, and then the Senate will recess over until Monday, February 18.

Under the order that has been entered, in the event the necessity should arise for a session other than pro forma, the majority leader, after consultation with the minority leader or the acting minority leader, would be authorized to act accordingly and the sessions would be other than pro forma. That would be in the case of some urgent or emergency situation need, in which event it would be my duty, and the minority leader's duty to inform our colleagues on the basis of a 24-hour notice.

On the 18th, after the opening prayer, the Senator from Alabama (Mr. STEWART) will read Washington's Farewell Address. Following that, the majority and the minority leaders will be recognized under the standing order. The Senate will then proceed to the consideration of H.R. 3757, the Channel Islands National Park, on which a time agreement has been entered. Rollcall votes can be anticipated on that bill.

Mr. President, for the record, may I say that had the administration been in a position to send up its legislation dealing with aid for Pakistan, and had the Committee on Foreign Relations been able to process such request in time for the Senate to act thereon during next week, that would have been one item which would have made it necessary for the Senate to be in session next week. But the administration is not in a position to submit its request yet.

The same thing can be stated with respect to any other urgent legislation that might have been necessary in the light of the international situation, but there is no such legislation within reach.

I may also say that I had hoped that the conferences on the energy bills might have been able to wind up their work so that the energy conference reports could have been taken up next week. But that goal has not been achieved, a hoped-for goal, as I mentioned.

The Senate conferees continue to meet and have made efforts to resolve the differences between the two houses. While they have made progress, they have not finally reached agreement on the bills. Some of that work will continue to go forward during the coming week.

It had been anticipated back last fall that the SALT treaty would be brought up this year early in the session. Because of the events in Iran, and particularly with respect to Afghanistan, that planned debate did not come to realization.

There are other bills on the Calendar that the leadership would like to have brought up but for various reasons cannot bring them up next week. There are a good many items on the Calendar, some of which will not come up at all and others of which we would like to have brought up but which, for a number of reasons, cannot be brought up next week.

The leadership has been successful in working out time agreements on certain measures, one of which is the Channel Islands bill, H.R. 3757, and that will be the business before the Senate on Monday, February 18.

A good many amendments will be called up on that bill. There will be rollcall votes on that Monday, and it would appear that the bill will be before the Senate again on Tuesday.

Mr. President, I hope we can look forward to additional time agreements on other matters on the calendar and as they come on the calendar. I also hope that the committees will expedite their work on authorization bills so that we can get good momentum going and complete action on authorization bills as early as possible.

I would also hope that the other body would process the appropriations bills beginning in May, if possible, so that the Senate can proceed promptly to take up the appropriations bills once they arrive in this body and can act on them.

RECESS UNTIL MONDAY, FEBRUARY 11, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 o'clock noon on Monday, February 11.

The motion was agreed to; and at 3:56 p.m. the Senate recessed until Monday, February 11, 1980, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 8, 1980:

DEPARTMENT OF STATE

Marvin Weissman, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia.

DEPARTMENT OF JUSTICE

Henry S. Dogin, of New York, to be Director of the Office of Justice Assistance, Research, and Statistics (new position).

Homer F. Broome, Jr., of California, to be Administrator of the Law Enforcement Assistance Administration (new position).

HOUSE OF REPRESENTATIVES—*Monday, February 11, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Eternal God, through whom we see what we should be and what we can become, send Your spirit to encourage us in our daily tasks. Be with all who labor here to serve this Nation and its people, and assure us, that whatever our responsibility, we can be faithful in our duties and conscious of our obligations. Remind us of the dignity of work and teach us to use our talents and abilities in ways that are honorable and just and are of benefit to those we serve. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FRENZEL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 210, nays 7, answered "present" 2, not voting 214, as follows:

[Roll No. 42]

YEAS—210

Abdnor
Akaka
Andrews, N.C.
Annunzio
Applegate
Ashley
Atkinson
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bingham
Bolling
Bonior
Bowen
Breaux
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, Phillip
Carney
Carter
Chappell
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Devine
Dickinson
Dornan
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Ertel
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Fountain
Frenzel
Frost
Fuqua
Giaimo
Gilman
Ginn
Glickman
Gore
Gradison
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hightower
Hinson
Hammerschmidt
Hamilton
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Holt
Hopkins
Howard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jeffries
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kelly
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Levitas
Livingston
Loeffler
Long, La.
Lott
Lundine
Lungren
McClory
McCormack
McHugh
McKay
Madigan
Marks
Martin
Michel
Miller, Ohio
Mineta
Moakley
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Peyser
Porter
Preyer
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rose
Rosenthal
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Smith, Iowa
Smith, Nebr.
Snowe
Stack
Stark
Steed
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Thompson
Traxler
Treen
Trible
Vander Jagt
Walgren
Weaver
Weiss
Whittaker
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wylie
Yates
Yatron
Zablocki

NAYS—7

Derwinski
Forsythe
Harkin
Jacobs
Lloyd
Mitchell, Md.
Quayle

ANSWERED "PRESENT"—2

Mazzoli
Ottinger

NOT VOTING—214

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Anthony
Archer
Ashbrook
Aspin
AuCoin
Bailey
Beard, R.I.
Bedell
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Burton, John
Butler
Byron
Campbell
Carr
Cavanaugh
Chisholm
Cleveland
Collins, Ill.
Conable
Conyers
Corman
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Duncan, Oreg.
Early
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Fary
Fazio
Ferraro
Fish
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gaydos
Gephardt
Gibbons
Gingrich
Goldwater
Gonzalez
Goodling
Gramm
Gray
Guarini
Hall, Tex.
Harsha
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Hubbard
Hutto
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Leach, La.
Lederer
Lehman
Leland
Lent
Lewis
Long, Md.
Lowry
Lujan
Luken
McCloskey
McDade
McDonald
McEwen
McKinney
Maguire
Markey
Marlenee
Marriott
Mathis
Matsui

Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Neal
Nolan
Oakar
Patten
Paul
Petri
Pickle
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Rhodes
Ritter
Roberts
Rodino
Roe
Rostenkowski
Roth
Rudd
Runnels
Scheuer
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stokes
Symms
Taylor
Thomas
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walker
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wright
Wyatt
Wydler
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

☐ 1210

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on February 8, 1980, the President approved and signed a bill of the House of the following title:

H.R. 4320. An act to consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 276. Concurrent resolution providing for an adjournment of the House from February 13 to February 19, 1980.

The message also announced that the Senate had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3756. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

The message also announced that the Senate had passed bills and joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 1386. An act to amend and extend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes;

S. 1429. An act to extend the Museum Services Act for 2 years, and for other purposes;

S. 1648. An act to provide for the improve-

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ment of the Nation's airport and airway system, and for other purposes;

S.J. Res. 130. Joint resolution to authorize and request the President to proclaim May 1, 1980, as "National Save the Children Day"; and

S. Con. Res. 75. Concurrent resolution providing for certain corrections to be made in the enrollment of Senate Joint Resolution 108 to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.

☐ 1220

CAMPAIGN CONTRIBUTIONS UTILIZATION REFORM ACT OF 1980 INTRODUCED

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I am today introducing the Campaign Contributions Utilization Reform Act of 1980.

Members of this Congress may recall that in the final days of the 1st session of the 96th Congress, we enacted H.R. 5010, which was called the "Federal Election Campaign Act Amendments of 1979." The bill was signed into law by President Carter on January 8, 1980.

The legislation I am introducing today would eliminate a provision in the Federal Election Campaign Act of 1971, as amended by H.R. 5010 (Public Law 96-187) that permits the incumbent Members of the House of Representatives, with only one exception, to convert stockpiled campaign funds into personal use upon retirement of the Member from office. Under current law, such Members may make this conversion upon retirement by simply paying income taxes on the converted amounts.

The legislation I am introducing would retain current law which permits Members to transfer stockpiled funds to charities or to national, State, or local committees of any political party. In addition, this legislation is not intended to prohibit reimbursement of candidates for their individual election expenditures.

In addition, this proposed legislation would eliminate the use of unofficial office accounts by Members of the U.S. Senate, a practice already prohibited for the Members of the House of Representatives. The legislation would not permit Members of the Senate to convert stockpiled campaign funds, or any other contributed funds, for official duties.

Such practices and special privileges of incumbency cannot be tolerated, and certainly should be expeditiously ended in a time when public respect for Congressmen and Senators appears headed for a new low. The legislation I am introducing today would eliminate those practices and the special privileges of incumbents.

HEW PEOPLE FORBIDDEN TO SPEAK TO MEMBERS OF CONGRESS

(Mr. TAUKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUKE. Mr. Speaker, first of all I would like to commend my colleague from Nebraska (Mr. BEREUTER) for the excellent piece of legislation he is introducing this morning. At a time when he is attempting to bring a new sense of ethics to Government, I think it is interesting to review recent activities of Secretary Harris of HEW.

Over the last several months I have from time to time taken this podium in order to speak about Secretary Harris' tactics in harassing the employees over at HEW and preventing them from speaking with Members of Congress. As a result of those speeches, I have from time to time heard from Secretary Harris through letters in which she has assured me that no such procedure is underway at HEW, and there is no effort to try to stifle the voices of those who work there.

Now, I find in Saturday's Washington Post that Secretary Harris has decided that no member of HEW's staff can speak with a Member of Congress unless a member of the HEW liaison office is present. I do not think that the HEW employees need "babysitters" with them when they speak to Members of Congress.

As the White House adopts the attitudes and trappings of the "imperial Presidency" of the past, the members of the President's Cabinet have apparently taken note and decided to follow suit.

REPUBLICAN SOLUTIONS TO THREE PARAMOUNT ISSUES

(Mr. VANDER JAGT asked and was given permission to address the House for 1 minute.)

Mr. VANDER JAGT. Mr. Speaker, I invite my colleagues on both sides of the aisle to join with me this afternoon in a special order addressing the three issues that are of paramount concern to the American people: First, the decline of U.S. prestige abroad; second, inflation; and third, energy.

The Republican national organizations have joined in a $5 million national television media campaign addressing these problems and proposed Republican solutions to them.

Somewhat understandably, Mr. Speaker, you did not grant me the permission to bring a Betamax onto the floor so that all the Members would have an opportunity to see them clearly for themselves. However, copies of the scripts will be at the table. Because they are hard hitting and they are tough and accurate, we would like to invite anyone to ask any questions that they might have about the accuracy of the commercials, because we know we can back them up. I would also like to invite my colleagues to be here, because these commercials do lay the responsibilities for these problems at the doorstep of the Democratic majority, which has controlled this Congress for a quarter of a century.

ABC AIRS "AMERICA HELD HOSTAGE 100 DAYS" TONIGHT

(Mr. DORNAN asked and was given permission to address the House for 1 minute.)

Mr. DORNAN. Mr. Speaker, 100 days ago our diplomatic representatives at the U.S. Embassy in Tehran were brutally taken hostage by terrorists calling themselves students. There is hardly a psychiatrist or psychologist who comes on television who does not tell us that our diplomats will certainly suffer some type of psychological damage due to this prolonged confinement.

On one of America's great television networks tonight, at 11:30 eastern and Pacific time and 10:30 central and mountain time, there will flash across the screens of ABC-affiliated stations the title of a superb news program, "America Held Hostage—100 Days." Faithfully for 3 months and 1 week ABC has kept a loyal vigil to help us remember our 53 suffering Foreign Service people in Iran.

I believe ABC, the American Broadcasting Corp., is to be highly commended for what they have done over these last trying 100 days in keeping alive before America and the world this unprecedented and ghastly issue of our abused hostages. I think that since most of us find fault with the networks occasionally, and our moments of praise for them are rare that this Congress should take careful note of ABC's patriotic dedication in their intensive and steadfast coverage of our hostage crisis. "America Held Hostage" is an accomplishment of professional television broadcasting that I shall never forget. Frank Reynolds, Ted Koppel, Peter Jennings, and their courageous field reporters and crews and production men and women up and down the line are as worthy of a gold commendation medal as is our outstanding friend from Canada, Ambassador Kenneth Taylor, whom we will properly honor today.

Well done, ABC, well done.

THE RETIREMENT OF MICKEY SENKO

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, Washington has many institutions and landmarks, and Capitol Hill has had its many legends. Mickey Senko has recorded most of them in recent years with his ever-present camera and has become somewhat of a legend himself.

Mickey has been one of those familiar faces that helps to keep our feeling of community and continuity in the midst of so many things here on the Hill that are constantly changing. Whether it was a gathering with a President or just a group of friends or staff members celebrating major or minor events, you could usually count on Mickey being there to preserve the occasion on film. Over the many years he has been one of our foremost "Photographers in Residence," his candid shots have helped us keep in touch with the "happenings" and the "nonhappenings" that make up our daily lives here on the Hill. How many thousands of visitors from around the country there must be who will forever treasure that photograph of them with their group or their Congressman with the Capitol looming in the background—taken by the man who was often expected to be in two places at once. But somehow he would manage to be there, and congressional scrapbooks and constituent souvenir packages would continue to grow.

When Mickey Senko leaves his job here on the Hill, we will surely miss our association with him, but we will be constantly reminded of the fine work he did since most of our years here in Congress have been recorded and preserved through the hundreds and thousands of photos he has taken.

We wish you well, Mickey, and hope your years of retirement are filled with as many pleasures as you have brought us over the past couple of decades.

EVALUATION OF REORGANIZATION PLAN NO. 4 OF 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and the Committee on Education and Labor:

To the Congress of the United States:

In accordance with Section 107 of Reorganization Plan No. 4 of 1978, I am transmitting an evaluation of the extent to which this Reorganization Plan has alleviated the problems associated with the present administrative structure under the Employee Retirement Income Security Act of 1974 (ERISA). The evaluation also includes recommendations for a long-term administrative structure under ERISA.

The study concludes that the Reorganization Plan has significantly alleviated the problems in ERISA administration to which it was addressed: the processing of applications for exemptions from prohibited transaction provisions and the issuing of regulations. In addition, there have been substantial further reductions in the paperwork burden associated with the Act, and the Department of Labor and the Department of the Treasury have begun cooperative agreements to improve the coordination of their field enforcement activities. Continued improvement is expected.

I am pleased with the success of the Reorganization Plan in simplifying and improving the unnecessarily complex administrative requirements of ERISA. I believe that the establishment of an Interagency Employee Benefit Council, as recommended by the evaluation, will address the problems of the long-term administration of the program. My staff is carefully considering the steps necessary to establish the Council, as a part of my Administration's continuing commitment to making government more effective and less instrusive in the lives of our people.

JIMMY CARTER.

THE WHITE HOUSE, *February 11, 1980.*

COMMUNICATIONS FROM THE SERGEANT AT ARMS AND THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communications from the Sergeant at Arms and the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 7, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On September 24, 1979, I was served with a subpena duces tecum by a representative of the U.S. Department of Justice; said subpena was issued by the United States District Court for the District of Columbia.

The subpena commands me or my authorized representative to appear before a Grand Jury of said Court, which is deliberating in secrecy pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure, and requests the production of certain House Records. Attached to the subpena is a finding by the Court that the records are material and relevant to the Grand Jury investigation, pursuant to House Resolution 10, Ninety-Sixth Congress, which authorizes any officer of the House to produce copies of House records pursuant to a subpena of a court upon a finding of materiality and relevancy. The subpena is available in my office for inspection by any Member.

Sincerely,

KENNETH R. HARDING,
Sergeant at Arms,
House of Representatives.

☐ 1230

WASHINGTON, D.C.,
February 11, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: This is to inform you that a subpena duces tecum has been served upon the Clerk calling for the production of certain records in his possession and control and relating to the official functions of his office and of the House of Representatives.

Because the subpena involves a grand jury proceeding, subject to the mandates of Rule 6(e), Federal Rules of Criminal Procedure and in the interests of protecting the rights of the persons under investigation, a copy of the subpena will be maintained in the Office of the Clerk in the event that Members desire to inspect it.

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecorded" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, February 12, 1980.

CONSCIENTIOUS OBJECTION TO JOINING A LABOR ORGANIZATION

Mr. THOMPSON. I move to suspend the rules and pass the bill (H.R. 4774) to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so, as amended.

The Clerk read as follows:

H.R. 4774

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 19 of the National Labor Relations Act be replaced by a new section 19 as follows:

"SEC. 19. Any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required in a contract between such employees' employer and a labor organization in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in such contract or if the contract fails to designate such funds, then to any such fund chosen by the employee. If such employee who holds conscientious objections pursuant to this section requests the labor organization to use the grievance-arbitration procedure on the employee's behalf, the labor organization is authorized to charge the employer for the reasonable cost of using such procedure.".

The SPEAKER. Is the amendment in the bill?

Mr. THOMPSON. With an amendment, Mr. Speaker.

The SPEAKER. The amendment is in the bill.

Mr. THOMPSON. Yes, Mr. Speaker.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. THOMPSON) will be recognized for 20 minutes, and the gentleman from Mississippi (Mr. HINSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, once again we are considering religious conscientious objector bill H.R. 4774. In 1977, the House passed a prior version of H.R. 4774, H.R. 3384, by a 400 to 7 margin, but the bill failed to pass in the Senate because it was attached to broader and more controversial labor law reform legislation.

H.R. 4774 reflects an accommodation between basic rights created by the National Labor Relations Act and certain religious beliefs which prohibit union membership. The bill extends an exception that was made for employees in the health care industry to all employees covered under the National Labor Relations Act.

The National Labor Relations Act is based on the concept of majority rule. The union selected for the purpose of collective bargaining by a majority of the employees in the appropriate unit is the exclusive bargaining agent for all employees in that bargaining unit. By the same token an obligation of fair representation accompanies the right of exclusive representation, and the union selected by the majority must represent all employees in the bargaining unit fairly and without discrimination—whether or not the employee is a union member or whether or not the employee pays union dues.

Section 8(a)(3) of the act permits, but does not require, the employer and the union to agree that all employees must pay fair and reasonable union dues as a condition of continued employment.

This statutory framework, though generally fair, has created a conflict between the dues paying union member on the one hand, and employees who object to the payment of dues, because of religious beliefs. H.R. 4774 seeks to accommodate these various concerns and to make compatible their simultaneous pursuit.

H.R. 4774 extends and expands section 19 of the National Labor Relations Act, now limited to the health care industry. Its provisions would apply to any person who can produce adequate verification of membership in a bona fide religion that has historically held conscientious objections to joining or financially supporting a labor organization. It would permit such a person to refrain from joining or financially supporting the labor organization on the condition that instead, that person would be required to pay to a nonreligious charitable fund a sum equivalent to the normal dues and initiation fees. Proof of such payments could be required on a monthly basis as a condition of continued exemption. In addition the bill permits a union to recover expenses when such exempted employees avail themselves of services provided by the union.

The religious organizations that this legislation would affect, such as the Seventh-Day Adventists and others, have continually expressed their strong support for H.R. 4774. By accommodating the religious beliefs of these persons, the bill would make the National Labor Relations Act consistent with section 701 (j) of the Equal Employment Opportunity Act which requires an employer to "reasonably accommodate * * * an employee's religious observance or practice without undue hardship" title VII, section 701(j), 43 U.S.C. 2000e(j). The option of allowing a qualifying individual the right to pay the equivalent of dues to a nonreligious charity clearly constitutes a "reasonable accommodation" to the individual's religious beliefs.

H.R. 4774, as previously stated, enjoys widespread support, with virtually no opposition. The labor movement has recognized that this bill represents a fair and just accommodation, and those who represent the potentially affected religious groups are strongly supportive. In addition, it should be noted that H.R. 4774 was reported out of the Education and Labor Committee by unanimous vote. It is clear that H.R. 4774 deserves the overwhelming support of this body and I urge its passage.

Mr. HINSON. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. HINSON. Mr. Speaker, I rise in support of this bill (H.R. 4774) and express my appreciation to my colleague, the chairman of the Labor-Management Relations Subcommittee, who has been instrumental in bringing this legislation to the floor today.

It is also appropriate, Mr. Speaker, to acknowledge the contributions to this bill by the gentleman from California, Mr. Clausen. Mr. Clausen was an early cosponsor of this bill and has pursued this issue diligently for quite a few years. He deserves a great deal of the credit for helping bring this bill along in spite of the fact that he is not a member of the committee.

H.R. 4774 amends the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so. In doing so, this legislation reflects an accommodation among constitutional principles; the basic rights protected in title VII of the Equal Employment Opportunity Act, the rights created by the National Labor Relations Act; and the beliefs of certain religions which prohibit membership in or financial support of a labor organization.

There are certain employees whose religious beliefs do not allow them in good conscience to join or financially support labor organizations even if such a belief results in the loss of jobs. This amendment simply means these employees will no longer have to choose between their job and their religion.

It should be made clear that most of the religions holding conscientious objections to joining or financially supporting labor organizations do not object to unions or unionization as such, but they do object to any source of potential conflict and to membership in any organization other than their own church. This bill, while requiring contributions to nonreligious, nonunion charities, does not conflict with the basic beliefs of these small religious groups.

Section 8(a)(3) of the National Labor Relations Act contains a provision for union security—it allows but does not require, an employer and a union representing a majority of employees in an appropriate unit to agree that all employees must pay dues and fees uniformly required as a condition of continued employment. Arising out of the union's exclusive right to represent the employees is the union's obligation of "fair representation," which requires the union to represent all employees, whether union members or not, in a fair and equal manner.

Consequently, employees who do not join the union or do not pay their share of dues and fees receive the benefits of union representation while not sharing in its costs. The act allows the union which has negotiated a union shop clause or an agency shop clause to request the discharge of employees who do not pay their dues and fees. These provisions of the NLRA create a conflict with members of religious sects which object to union membership or payment of union dues and fees.

H.R. 4774 will resolve that conflict without infringing on the conscience of employees or without substantially infringing on the rights of unions, for the bill requires the employees to pay an equivalent amount equal to dues and fees to a nonreligious, nonunion charity and does not substantially detract from the unions financial coffers since so few employees are involved.

This legislation is necessary to reconcile the first amendment of the Constitution with the provisions of the NLRA. Specifically, amendment 1 of the Constitution reads:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

But the NLRA contains the provision for union security. Probably, in enactment of the 1947 union security provision of the NLRA, the Congress was unaware of the conscience beliefs of the few relatively small religious sects opposed to joining or supporting labor organizations. It was only after members of those groups began to object on religious grounds to supporting organizations other than their churches that the conflict between constitutional principles and the provisions of the NLRA came to the fore.

However, no case involving the conflict of the religious issue was determined by the Supreme Court prior to enactment of title VII of the Equal Employment Opportunity Act in 1964. Since the Equal Employment Opportunity Commission established the guideline of "reasonable accommodation" which became law in 1972, the religious issue has focused on title VII rather than the first amendment to the Constitution. This legislation, H.R. 4774, is needed to clarify the confusion raised by the conflict between interpretation of the Constitution, title VII and provisions of the NLRA and reconcile our legislative directions to our original constitutional intentions.

H.R. 4774 does not establish a religion. It does not favor one religion over another. It does not interfere with the right to enter into union security contracts. It simply allows the "free exercise" of religion and rationalizes the constitutional guarantee of freedom of religion and our Federal labor law. By supporting this legislation we will be endorsing an accommodation to religious conscience not yet found in our court and NLRB decisions.

I join those in the past who have worked hard to see this type of legislation enacted. I urge my colleagues' support of H.R. 4774.

□ 1240

Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I thank my colleague for yielding.

First, I wish to congratulate the gentleman from Mississippi for his excellent statement with which I would like to associate myself, and thank him for the fact that in his first term in the Congress he is proving a very effective Member of the Congress and a valuable member of the Committee on Education and Labor.

Second, I would like to join the gentleman in saying we deal here with the constitutional rights of American citizens. Each one of us at the beginning of each term in the Congress takes an oath to uphold and defend the Constitution of the United States. The very heart of the Constitution is the constitutional right of the American people. Here without doing violation I think to anyone, the committee has acted to defend the constitutional right and the first amendment rights of every American and I commend the committee for this action. I especially want to join the gentleman from Mississippi in thanking the gentleman from California (Mr. CLAUSEN) for his long-term leadership toward the achievement of this purpose.

Mr. HINSON. I thank the gentleman.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I am pleased and proud to be a cosponsor of H.R. 4774, the conscience clause amendment and to rise in support of this much needed bill. I would like to especially commend the committee Chairman FRANK THOMPSON and Mr. ERLENBORN, who shepherded this measure through the committee and brought it before us in a timely manner. We have worked very closely with these gentlemen and the committee to advance it to this point in the legislative process. They are truly the champions of religious freedom in America.

I would also like to recognize those Members who have lent their support as cosponsors: Mr. ASHBROOK, Mr. ERLENBORN, Mr. DUNCAN, Mr. QUILLEN, Mr. STUMP, Mr. WEAVER, Mr. BEREUTER, Mr. LUNGREN, and Mr. SHUMWAY. I am confident that with the guidance of floor managers Mr. THOMPSON and Mr. HINSON, with the help of Mr. JEFFORDS, we will provide a clear and comprehensive picture of the legislative history of this bill in such a way as to demonstrate the intent of Congress on this matter, as I will try to do in my remarks at this time.

The purpose of H.R. 4774 is to protect those who have religious objections to belonging to or financially supporting a labor organization, and thereby reconcile the National Labor Relations Act, section 701(j) of the Equal Employment Opportunity Act as construed in many Federal and State court decisions.

Two years ago, a bill almost identical to H.R. 4774 was approved by this body by a vote of 400 to 7. When it reached the Senate it was incorporated into the labor reform bill which did not survive a filibuster.

In the intervening time, people have continued to lose their jobs in the United States—not because they were unsatisfactory employees, not because there was a lack of jobs or work for them, not because they were unskilled, not because they were undependable, but because they could not bring themselves to violate their consciences and a church teaching relative to joining and or supporting a labor organization.

Also, during this time, a great deal of time and money has been spent litigating the issue, time and money that could have been spent much more profitably by all parties involved.

H.R. 4774 has been called the "conscience clause" and the "religious freedom amendment." It is not a new or novel approach to the Labor Management Relations Act, but rather a modification that would broaden section 19, a conscience clause for employees of health care institutions. H.R. 4774 would grant the same protection to all employees who come under the act. In addition, it would safeguard a union against the possibility of incurring extra expenses of grievance-arbitration requested by a person who does not pay dues to the union.

In a letter to the chairman of the subcommittee, the AFL–CIO has analyzed H.R. 4774 as being compatable with their objectives and policies.

A parallel can be drawn between the provisions of H.R. 4774 and the conscientious objectors in World War II which placed them at odds with the system until the system recognized that their objections were based on legitimate religious and conscientious convictions. With these accommodations provided, many of these conscientious objectors subsequently served our Nation with distinction, some being decorated for bravery. Many served as medics directly with combat units. Desmond Doss, a conscientious objector, was awarded the Congressional Medal of Honor.

We are again faced with recognizing the legitimacy of differences resulting from religious pluralism in America. We do not have an established church. Religious pluralism and diversity is our Nation's strength. Our Constitution guarantees a free exercise of religion, yet areas remain where this freedom is denied. H.R. 4774 would remove the Government from the dubious role of placing a penalty on the person whose religious convictions cause an individual to believe and act differently from a majority of fellow employees who have voted a certain course of action that would cause the religious objector to have to choose between his conscience and economic survival.

It is also important to note that the Supreme Court of the United States, in the Amish school case (*Wisconsin* v. *Yoder*, 406 U.S. 205 (1972)) recognized that laws neutral on their face may, in their application, offend the constitutional requirement of governmental neutrality if free exercise of religion is unduly burdened.

That is exactly the situation that is before us today. Our labor laws, though neutral on their face, in one aspect cast a heavy burden—the loss of income, sometimes even of homes—on the free exercise of religion of a small group of our citizens, those who for religious reasons cannot join or financially support a labor organization. They have petitioned us to relieve that burden by allowing them a form of alternative service, if you will, the payment of an amount equivalent to union dues and fees to a neutral charity.

As the Supreme Court noted in the Amish case, legislative exemptions can be used to lighten such burdens on the free exercise of religion. We have made such exemptions many times before. Since Civil War days we have provided in our conscription laws alternative forms of service for those who cannot kill. We have exempted certain religious groups—primarily conservative Mennonite groups—from social security taxes.

We should note also that this bill helps fulfill the policy of the AFL–CIO, which 15 years ago recognized this problem and by executive council action established its international policy that labor organizations should make accommodations for those religious dissenters who cannot join or financially support a labor organization.

H.R. 4774 will help preserve in the labor market dedicated, highly skilled, talented people who wish to contribute to the growth of the Nation in general while providing the necessities of life for their own families. They can serve in the work force with distinction just as the conscientious objector did during a time of war. Our country needs them, and I urge my colleagues to support this legislation.

Mr. Speaker, at this time I would like to recite a more detailed review of the legislative and court history of this matter for the record.

Looking back to the cases cited in the CONGRESSIONAL RECORD on November 1, 1977, pages 36275 to 36276, when the Congress considered this issue before, let me briefly review the cases cited by my colleague, Mr. ERLENBORN. Darrell Nottleson case: pending before Federal District Court of the Eastern District of Wisconsin, decided in his favor. The $1,600 in unemployment compensation that he had been given had been challenged by the employer. This month the Wisconsin Supreme Court ruled in his favor, granting the unemployment compensation.

Bernadine Bald case: Alaska Supreme Court found in her favor.

Doris McDaniel case: Sixth circuit overturned the motion granted by the lower court to dismiss her case and remanded it for trial.

Duane Terrell Burns case: The Ninth Circuit Court of Appeals also overturned his unfavorable decision in the district court. Cert was also denied by the U.S. Supreme Court.

Clarita Mechaud case: The Supreme Court of the State of Maine found in her favor.

Robert A. Wondzell case: The Supreme Court of the State of Alaska overturned an unfavorable lower court ruling against him. The appeal by the union to the U.S. Supreme Court was denied last month.

Howard Cooper et al. case: The case was settled in favor of the three employees after the U.S. Supreme Court remanded it to the Federal district court for a determination of reasonable accommodation.

In *Emporium Capwell Co.* v. *Western Addition Community Organization,* 420 U.S. 50, 66 (1975), the Supreme Court declared that the National Labor Relations Act must be construed "in light of the broad national policy of which it is a part." The Court stated that national labor policy embodies the principles of nondiscrimination as a matter of highest priority.

Section 703(a) of tile VII of the Civil Rights Act of 1964 makes it an unlawful practice for an employer to discharge an individual or otherwise to discriminate against any individual in respect of his terms, conditions, or privileges of employment because of religion. It also prohibits an employer from otherwise adversely affecting his status as an employee because of such individual's religion. Section 703(c) makes it an unlawful employment practice for a labor organization to discriminate against any individual because of his religion. It further specifically prohibits a union from causing or attempting to cause an employer to discriminate against an individual in violation of this section.

Section 701(j) of title VII states:

> The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's, religious observance or practice without undue hardship on the conduct of the employer's business.

Section 701(j) of the act has been held to be applicable to a labor organization as well as to the employer. *Cooper* v. *General Dynamics,* 533 F. 2d 163 (5th Cir. 1976) cert. denied sub nom.; *IAM* v. *Hopkins,* 433 U.S. 908 (1977); *Yott* v. *North American Rockwell Corp.,* 501 F. 2d 398 (9th Cir. 1974); and 602 F. 2d 904 (9th Cir. 1979); *McDaniel* v. *Essex International Inc.,* 571 F. 2d 338 (6th Cir. 1978); *Burns* v. *Southern Pacific Transportation Co.,* 589 F. 2d 403 (9th Cir. 1978), cert. denied, 439 U.S. 1072 (1979); and *Anderson* v. *General Dynamics,* 589 F. 2d 397 (9th Cir. 1978), cert. denied, 442 U.S. — (1979).

The courts in a number of cases have considered the question of whether an employee with religious convictions proscribing the payment of union dues can seek the protection of title VII.

In *Yott* v. *North American Rockwell Corp.,* 501 F. 2d 398 (9th Cir. 1974), the ninth circuit ruled that title VII applied to cases of this kind and held that there must be an attempt at reasonable accommodation before an employee holding religious beliefs against the payment of union dues could be fired for nonpayment of dues.

The Fifth Circuit Court of Appeals rejected the argument that title VII provided no protection to those who objected to the payment of dues to a union for religious reasons. In *Cooper* v. *General Dynamics,* 533 F. 2d 163 (5th Cir. 1976), cert. denied sub nom. *International Association of Machinists and Aerospace Workers* v. *Hopkins,* 433 U.S. 908 (1977).

In *Nottelson* v. *A .O. Smith Corp.,* 397 F. Supp. 928 (D.C. Wis., 1975), the district court held that the plaintiff's title VII rights cannot be eliminated by the agreement between the union and his employer. The court in Nottelson made specific reference to the Supreme Court decision of *Alexander* v. *Gardner-Denver Co.,* 415 U.S. 36 (1974). In that case the Supreme Court unanimously ruled that title VII rights of an employee could not be foreclosed by binding arbitration. To reach this conclusion, Justice Powell stated that by its very nature, title VII "stands on plainly different ground; it concerns not majoritarian process, but an individual's right to equal employment opportunities." According to the high court, "Title VII's strictures are absolute and represent a congressional command that each employee be free from discriminatory practices."

The sixth circuit decision in *McDaniel* v. *Essex International, Inc.,* 571 F. 2d 338 (6th Cir. 1978), considered the question of whether the lower court was correct in holding that no accommodation was required beyond that affected by Congress in defining the requirements of union security agreements as set forth in the National Labor Relations Act. The court of appeals ruled that section 701 (j) of title VII requires that a reasonable accommodation be made or a showing that to do so would work an undue hardship.

The sixth circuit in considering the accommodation duty indicated its awareness of the national policy of promoting labor peace, but stated that since July 1, 1965, there has been no national policy of higher priority than the elimination of discrimination in employment practices. The court stated that the union security provisions of Taft-Hartley do not relieve an employer or a union of the duty of attempting to make reasonable accommodation to the individual needs of religious employees.

In *Anderson* v. *General Dynamics,* 589 F. 2d 397 (9th Cir. 1978), the Ninth Circuit stated that it, as well as other courts, had recognized that there is both tension and conflict between the legitimate interest of the union in preserving the benefits of union security agreements which are valid under the National Labor Relations Act and the accommodation requirements of title VII. The court, however, went on to state that the balance has been struck, however, in favor of the elimination of discrimination in employment practices in requiring accommodation of religious practices absent proof by the union, the employer, or both, that reasonable accommodation cannot be made without undue hardship to the union or to the employer.

The court of appeals in the Anderson decision held that the union security provisions of the Taft-Hartley Act "do not relieve the employer or a union of the duty of attempting to make reasonable accommodation to the individual religious needs of employee."

Every court of appeals which has considered the issue has ruled that title VII is applicable to the union security provision contained in the collective bargaining agreement when that provision is in conflict with religious beliefs.

It is evident that the courts from their decisions have adopted the concept that the charity substitution provision, similar to the one placed in this bill, satisfies the requirement of title VII of the Civil Rights Act that employers, as well as labor unions, have an obligation to make a reasonable accommodation to religious observances and practices of employees and that this does not in the cases considered by the courts constitute an undue hardship.

This bill is supported by the American Federation of Labor and Congress of Industrial Organization. The charity substitution arrangement for accommodation has also been the subject of numerous accommodation agreements entered into between labor organizations and religious objectors.

The legislative history of the proposed amendment to the National Labor Relations Act indicates that the bills and title VII were meant to be complementary. The purpose of the previous bills and the purpose of this bill is to resolve any conflict and to express congressional intent as to the reasonableness of a charity substitution accommodation which all of the Federal courts of appeals ruling on the issue have found to be an accommodation acceptable under title VII.

□ 1250

Mr. THOMPSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. STUMP).

Mr. STUMP. Mr. Speaker, I thank the gentleman for yielding. I would like to commend the gentleman from New Jersey for his leadership in bringing this bill, H.R. 4774, to the floor.

No land in the history of this world has been more understanding and more sympathetic to religious plurality and freedom of conscience than the United States. When the Old World was torn with religious strife, with state churches operating as monopolies, men, women, and children were denied the freedom to believe and practice their conscientious convictions without economic deprivation, and in some instances even denied the opportunity to live.

In His providence, God opened virgin territory at about the time of that terrible ordeal and religious minorities fled to find freedom for the future. Even though there were some of the same rigid demands made in the colonies as in Europe, the Revolution brought with it not only civil freedom, but religious and economic freedom as well.

Social forces combining with economic developments have created economic sanctions against religious minorities that need immediate resolution. Prevailing employment practice could ultimately force people into predominant patterns of religious observance. This we must not allow to happen.

For decades, Seventh-day Adventists, among others, have found themselves not only being discharged over religious discrimination, but they are finding available opportunities in the marketplace being limited more and more.

As a member of that church, I can say we have suffered silently and with dignity, but with respect and affection for those who are our neighbors. Collective bargaining forces us to make our own self-interests above that of our neighbor. We cannot conscientiously support collective bargaining without transgressing the law of God which demands that we love our neighbor as ourself, including our employer, for every man is our neighbor. Congress is being petitioned for a quick resolution in the area of the agency shop with regard to membership and financial support.

In recognition of labor's understanding of this problem, and their recent support of legislation which would solve religious discrimination in that area, we voluntarily chose to initiate a substantive change in H.R. 4774, and only one, when compared to last year's similiar bill, H.R. 3384. We suggested, even though labor was satisfied with last year's language, that those benefiting from such an exemption be required to pay the arbitration costs in grievance situations in which they have sought assistance from the labor union. As a concrete example of our appreciation for labor's support, we feel we could conscientiously lift the financial burden of labor and help them avoid out-of-the-pocket expense.

Last year a similar measure passed almost unanimously, only to be attached to a controversial Senate bill which died. This situation is of such importance that it is my hope it will be permitted to stand on its own merits to be signed into law bringing much needed relief to a segment of the population that is loyal, industrious, and dedicated. They are not only concerned about God's law, but are keenly interested in being law abiding citizens of our Nation, taking recognition of the needs and burdens carried by other elements of society.

Mr. THOMPSON. Mr. Speaker, before yielding briefly to my colleague, the gentleman from Oregon, I would like to express my appreciation to our colleague, the gentleman from California (Mr. CLAUSEN) and to the many others who have interested themselves in this legislation over a period of time.

The legislation itself might appear relatively unimportant, but the magnitude of the principle involved goes far beyond the particular act to which this directly relates.

Our former colleague, the gentlewoman from California, the then Mrs. Pettis, was deeply interested.

My colleagues, the gentleman from Ohio (Mr. ASHBROOK) and the gentleman from Illinois (Mr. ERLENBORN) and many others have cosponsored and encouraged this legislation and, indeed, the representatives of the church groups involved have been very conscientiously and constructively working toward this end for a long, long time.

It is my hope that with no other controversial labor legislation to be moved to the other body, that they will isolate this and adopt it as I feel they should have done in 1977.

Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Speaker, I thank my friend for yielding. I want to congratulate the gentleman from New Jersey, the gentleman from California (Mr. CLAUSEN), the gentleman from Illinois (Mr. ERLENBORN) and many others who have worked for so long to bring this legislation to the floor.

I would ask the gentleman, if I could have his attention for a second, if the gentleman considers this legislation to be in any way antilabor legislation?

Mr. THOMPSON. In no way at all is this antilabor legislation. The conscientious objectors can work in a union shop, and if their religious beliefs preclude it, they will not be required to join the union or to pay their dues to the union. It is anything but an antilabor measure.

Mr. DUNCAN of Oregon. Mr. Speaker, if the gentleman would answer another question, is it not true that if such conscientious objectors ask the union to perform any arbitration services, for example, that they would pay for those services in addition to the dues?

Mr. THOMPSON. That is true.

Mr. DUNCAN of Oregon. I thank the gentleman for responding to those questions. To me, this is a reasonable compromise between the constitutional right to freedom of religion and the statutory right, which has been written into our laws, of union security. I thank the gentleman for bringing it to the floor.

Today we continue debate, on the so-called conscience amendment to the National Labor Relations Act. The work was begun nearly 20 years ago by Senator Wayne Morse and Congresswoman Edith Green, continued by Congressmen THOMPSON, ERLENBORN, CLAUSEN, and many more. In the 1974 amendments to the NLRA, employees of nonprofit hospitals whose religious beliefs forbade union membership were exempted from being required to join or financially support a labor organization as a condition of employment. This bill simply extends that exemption to all employees. Those whose religious belief preclude them from membership in or financial support of organizations other than their church can work in a union shop, provided they pay an amount equal to dues to a mutually agreeable charitable organization and pay the reasonable cost of grievance-arbitration procedure.

A similar bill was voted out of this chamber, November 1, 1977, by a margin of 400 to 7. It was not enacted into law, however, having been entangled in the massive Senate labor law reform bill and never reported out of committee.

The conscience amendment reconciles two disparate sections of the law: The National Labor Relations Act and the Equal Employment Opportunity Act's reasonable accommodation section, 43 USCA 2000e(j). Equally important, it protects both labor's statutory right to union security and majority rule in the workplace, on the one hand, and the individual's constitutional right to freedom of religion.

Because some in labor organizations will object to this amendment, it is important to carefully delineate why this is not, in any sense, an antilabor vote. Religious beliefs prohibiting membership in any organization other than church antedate the labor movement of the late 19th century; the conscience amendment is in no way a reaction to organized labor. It is, instead, a reconciliation of two important rights that Americans hold dear; the right to belong to a labor union and have majority rule in the workplace and the right to adhere to one's religious beliefs without prejudicing one's job.

H.R. 4774 has built-in protection against abuses. Anyone claiming this status must show membership in a bona fide religion which has historically prohibited membership in any other organization. There will be no "free riders." Anyone claiming this status will pay to a charity or such as a union member pays in dues. When a conscientious objector uses the union grievance-arbitration mechanism, the union is authorized to charge the reasonable costs incurred.

Labor itself has been using just such a compromise for many years. In 1965, the late George Meany said that—

> Unions should accommodate themselves to genuine individual religious scruples.

Since that time several labor organizations have allowed individual employees to make equivalent contributions in lieu of union dues on an ad hoc basis. With this amendment we follow the unions' own solution to a problem that once appeared insoluble. We make a reasonable accommodation without resorting to the courts to settle this problem.

I urge my colleagues to vote in favor of H.R. 4774, the conscience amendment to the National Labor Relations Act.

• Mr. ERLENBORN. Mr. Speaker, a principle that is central to our constitutional system, our principles under title VII of the Civil Rights Act and our religious traditions, is being considered today on the bill H.R. 4774, the "Religious Freedom" amendment to the National Labor Relations Act (NLRA).

As in the past, I want to express my sincere appreciation to the chairman of the Subcommittee on Labor-Management Relations for his efforts in bringing this legislation to the floor and for his cooperation and continuing support in resolving the conflict between our Nation's basic labor law and matters of conscience of individuals belonging to certain religions and sects who hold religious beliefs against joining or financially supporting labor organizations or similar organizations.

H.R. 4774 amends section 19 of the NLRA by providing that all employees—not just employees of health care institutions—who are members of and adhere to teachings of a bona fide religion which has historically held conscientious objection to joining or financing supporting unions will not be required to do so, but may be required to contribute the equivalent in dues and fees to a nonreligious, nonunion charity. Further, the bill requires that if a conscientious objector wishes to use the union in grievance-arbitration procedure, which may be unlikely, the individual will have to pay the reasonable costs of the union's procedure.

This bill is necessary to resolve any ambiguity between constitutional rights, title VII rights and union security provisions in our labor laws. In 1947, Congress passed the National Labor Relations Act, which contained in section 8 (a)(3) a provision for union security. That section of the NLRA allows a labor organization and an employer to enter into a collective bargaining agreement requiring as a condition of continued employment, membership in a labor organization after 30 days of employment, although membership has been since defined as the payment of dues and fees uniformly required.

As a result of that action, a small and relatively unknown minority lost certain rights in the exercises of their religious practices. That small minority, it has been discovered, holds religious beliefs against joining or financially supporting labor organizations. The largest such religion is the Seventh-Day Adventist Church which has about 500,000 members. There are several other such religions and they all support the legislation before the House today.

The drive to enact the type of legislation to protect these minority groups began in 1965 when then-Congresswoman Edith Green offered an amendment to a bill to repeal 14(b). Although her efforts then were ruled nongermane, she and Floyd Hicks of Washington continued to press for this legislation throughout their careers. That drive, or crusade, has been continued by others including myself, Chairman Thompson, Mr. Don Clausen, Mrs. Shirley Pettis, Mr. Robert Duncan, Mrs. Stump, and Mr. Ashbrook.

When Congress amended the NLRA in 1974 to extend collective bargaining rights to employees of nonprofit hospitals, I offered an amendment to permit employees of those hospitals to refuse to pay union dues and fees, provided they may have been required to contribute to a nonreligious charity if the contract had so provided. That amendment became law as a new section 19 of the NLRA.

Subsequent to the passage of the health care amendments and section 19, the subcommittee held hearings on my bill, H.R. 1528, to extend the provision of section 19 to all employees. With those hearings as a beginning and following additional hearings in the 95th Congress, another bill to expand section 19 to all employees was passed by the House on November 1, 1977 by a vote of 400 to 207. That bill, H.R. 3384, was incorporated into the Senate's version of "labor law reform" which was the subject of a successful Senate filibuster and so did not become law.

This Congress, the Subcommittee on Labor-Management Relations again held hearings on the "religious freedom" amendment. Again, no objections were voiced and on September 2, 1979, our Education and Labor Committee unanimously reported H.R. 4774. This bill replaces section 19 of the NLRA with new language applying the "religious freedom" amendment to any employee instead of just employees in the health care industry. Hopefully, this legislation will be allowed to stand alone and, once the House passes it, the other body will promptly consider and pass this House version without amendment and without holding it hostage to other labor legislation.

Religious liberty has always been, and should continue to be, a matter of the highest priority. Many Federal laws have provided special treatment because of personal religious belief. This Congress can continue to demonstrate the Government's concern for the preservation of full religious liberty to even the smallest groups which strictly adhere to matters of conscience by passing this legislation.

In the last Congress (see Congressional Record, November 1, 1977, pages 36275 to 36276) I set forth my views on the constitutional aspects of this legislation. I strongly adhere to those views and believe that the first amendment is entitled to prominence over national labor law. I also listed a number of cases where individuals were involved in litigation over the conflict between their jobs and religious beliefs. I am happy to report that those cases have, for the most part, been resolved in favor of the free exercise of religion. In continuing to avoid a constitutional confrontation, the courts have relied on title VII of the Equal Employment Opportunity Act to extend to those individuals the rights guaranteed in our Constitution. Whether those rights are protected and enforced by various legal theories makes little difference, as along as those rights are protected. This bill before us, H.R. 4774, will clarify the areas of tension and, hopefully, reduce the financial burden on those conscientious objectors who must go to court to enforce their rights.

H.R. 4774 does not "establish" a religion, nor does it favor one religion over another. H.R. 4774 does not interfere with an employer or a union's right to enter into union security agreements. Those parties are still free to contract. They will no longer be free, however, to contract away an individual's constitutional right to the free exercise of religious practice or belief. H.R. 4774 is, simply, a bill to rationalize the conflict between the Constitutional guarantee of freedom of religion and freedom to practice religion and our Federal labor laws.

Despite the continuing court cases, accommodation to an individual's religious conviction will eventually be made, whether under title VII or under constitutional principles. Accommodation can be more rapidly achieved through congressional action than through costly and protracted court litigation. This bill accepts the principles of religious liberty as guaranteed by our Constitution and implemented by the Equal Employment Opportunity Act.

I urge my colleagues to support this bill.●

● Mr. ASHBROOK. Mr. Speaker, the chairman of our Subcommittee on Labor-Management Relations (Mr. Thompson) is to be applauded for bringing this bill (H.R. 4774) to the floor. For some time, he has committed himself to seeing this legislation passed and, consistent with that commitment, we see H.R. 4774 on the floor today. As well, in the last Congress, a similar bill (H.R. 3384) was brought to the floor, and passed, 400 to 7, under the leadership of our subcommittee chairman. Along with Mr. Thompson are others who have worked hard to see this bill enacted, including Mr. Erlenborn, Mr. Don Clausen, Mr. Robert Duncan, and former Members of Congress Mrs. Shirley Pettis, Mr. Floyd Hicks and Mrs. Edith Green, who originally proposed such an amendment to the NLRA. I join them in their efforts and have cosponsored the legislation before us today. I fully support the bill and urge my colleagues to support as well.

In 1974, the Congress adopted an amendment to the "Health Care Institution" bill, Public Law 93-360, which provided that if any employee of a health care institution belonged to a religion or sect which historically held conscientious objection to joining or financially supporting a labor organization, the employee would not be required to do so. Instead, where there was negotiated a union security clause requiring membership or financial support, the employer of a health care institution could contribute the equivalent of dues and fees to a nonreligious charity set out in the collective bargaining agreement, or if none were set out, could contribute to a nonreligious charity of his choice.

This bill expands those protections of religious freedom to all employees, not just employees of health care institutions, but all employees. As I have previously noted, it is a bill supported by both Republicans and Democrats.

It is a bill that comports with the policy of the AFL-CIO, set out in 1965, when the AFL-CIO Executive Council officially declared: "That unions should accommodate themselves to genuine individual scruples."

It has been argued that such a bill is unnecessary since the courts and the National Labor Relations Board have held that actual membership in a labor organization be compelled under the union security provisions of the act. In the *Union Starch and Refining Co.* v. *NLRB*, 186 F. 2d 1008 (1951) case, the Board and courts held that the union security provision required financial support and not a formal membership requirement. However, the problem with even that approach is that some religions or sects oppose financial support as well as membership. Accordingly, this bill makes clear that employees will not have to either join a labor organization or financially support unions if the religion or sect to which they belong prohibit such.

As well, the legislation before the House today solves the problem of the alleged "free rider"—those who receive the benefit of union assistance, but do not contribute to its support. Instead of requiring dues and fees be paid the union, the bill requires the equivalent of dues and fees be contributed to a nonreligious, nonunion charity. Therefore, an objecting employee does not get off without some contribution, but allows an employee to pay a fair share in a manner compatible with conscience. The union is also protected in its duty of "fair representation" for if an employee elects to use the union grievance-arbitration procedure, the employee must pay his "fair share" for the union's services.

H.R. 4774, therefore, resolves a long-standing conflict for employees who are members of various religions or sects which historically hold conscientious objections to joining or financially supporting unions. The conflict of making such employees choose between their religion or their jobs was incompatible with our constitutional rights and rights under the Equal Employment Opportunity Act. H.R. 4774 deserves the support of all.●

● Mr. BROWN of California. Mr. Speaker, I rise today to urge unanimous support for the Labor Act Exemption for Religious Objectors, H.R. 4774.

This bill stands in recognition of one of the most fundamental rights under our Constitution, the right of religious freedom. It would provide that persons with religious objection to supporting labor organizations may refrain from joining or contributing to a labor organization and instead, pay union dues and fees to a nonreligious charitable fund.

As the proposal for the "conscience clause" has been before the Congress for many years, I am surprised that we have not acted before to enact this law. In the last Congress, the House passed H.R. 3384 by a vote of 400 to 7 to provide this protection to religious objectors, but the bill was ultimately bogged down in the Senate in the filibuster of the Labor Reform bill.

Mr. Speaker, I urge support of H.R. 4774 for two reasons. Many of the constituents in my district are of the Seventh Day Adventist Church, a faith that believes that affiliation with a union conflicts with their religious principles. I speak on their behalf in saying that it is fundamentally unfair that a person be forced to choose between dictates of conscience and choice of employment.

I also speak on my own behalf as a person who believes that dictates of conscience cannot and must not be compromised. Having been raised in a religious family, I was taught the meaning and significance of matters of conscience. This has been a guide throughout my life and career.

This a society of diverse character, culture, and tradition. The framework of our society has been to accommodate this diversity as expressed in our bill of rights. Let it be known that the first and most fundamental provision in the bill of rights is protection of religious freedom. Consistent with this principle, we must pass this legislation.

Let me say that the law already provides a conscience clause for employees of health care institutions. Many unions already make provisions for conscientious objectors. Also, the AFL–CIO supports this protection for all forms of employment. I urge the Congress to give its overwhelming support to H.R. 4774.●

● Mr. ECKHARDT. Mr. Speaker, I must regretfully oppose the passage of H.R. 4774, which would amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so. After mature consideration I have determined that this measure is not only unnecessary but will in fact restrict, rather than expand, existing protections for religious liberty regarding union security agreements.

The bill's ostensible purpose is to reconcile two presumably conflicting statutory provisions in order to protect the first amendment right of free exercise of religion for those with religious objection to joining or paying dues to a union. Section 8(a)(3) of the National Labor Relations Act allows employers and unions representing a majority of employees to make as a condition of employment a requirement that all employees in a bargaining unit pay union dues whether they belong to the union or not. This union shop privilege allowed in the National Labor Relations Act is said to be in apparent conflict with title VII, the equal employment opportunity section of the Civil Rights Act of 1964 which proscribes as an unlawful employment practice discrimination by an employer or labor union on the basis of religion.

Section 701(j) of the Equal Employment Opportunity Act of 1972 specifically definess "religion" as including all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As Mr. CLAUSEN so ably pointed out, in every court of appeals which has considered the issue of the application of title VII to employees with religious objections to paying dues to a union, all have placed the burden on employers and unions to show that such religious objections cannot be accommodated in some other fashion and have concluded that the clear intent of Congress is that, all things being equal, the mandate for elimination of religious discrimination in employment practices has a much higher national priority than the union security privilege.

I believe that congressional intent is clear—employers and unions must reasonably accommodate religious beliefs without undue hardship on business, and this duty has priority over the statutory allowance of union security agreements. If redundancy were the only objection to H.R. 4774, I probably would not have opposed it in order simply to restate congressional policy. Yet H.R. 4774 is more than just unnecessary; it will in fact restrict the rights already granted by the "reasonable accommodation" provision of title VII.

As the fifth circuit in *Cooper* v. *General Dynamics*, 533 F2d 163, 168 (1976), cert. denied sub nom., makes plain, if an employee's conduct is religiously motivated, his employer must tolerate it unless doing so would cause undue hardship, and all forms and aspects of religion, however eccentric, are protected.

The definition of "religion" itself in the "reasonable accommodation" section of the Equal Opportunity Act, 42 U.S.C. 2000e(j), is stated generally to include:

> All aspects of religious observance and practice, as well as belief.

Thus, we must look elsewhere for a delimitation of the scope of the term "religion." The clearest delimitation in the context of the statute was stated by the seventh circuit in *Redmond* v. *GAF Corp.*, 574 F2d 897, 901 (1978):

> We believe that the clearest test to be applied to the determination of what is "religious" under Sec. 2000e(j) can be derived from the Supreme Court decisions in *Welsh* v. *United States* 398 U.S. 333 (1970), and *United States* v. *Seeger* 380 U.S. 163 (1969), i.e., (1) is the "belief" for which protection is sought "religious" in person's own scheme of things, and (2) is it "sincerely held."

Seeger and Welsh both involved conscientious objection to the military draft on religious grounds. The court in both cases broadly interpreted the exemption for "religious training and belief" defined in the statute as:

> An individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation but [not including] esssentially political, sociological, or philosophical views or a merely personal moral code.

In Seeger, Mr. Justice Clark stated the test as:

> A sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption comes within the statutory definition. 380 U.S. at 176.

Welsh did not himself characterize his objections as being "religious" yet the Court found that his views were such that he came within the religious exemption:

> If an individual deeply and sincerely holds beliefs that are truly ethical or moral in source and content but that nevertheless impose upon him a duty of conscience to refrain from participating in any way at any time, he is entitled to a religious exemption because his beliefs function as a religion in his life. [398 U.S. 340.]

H.R. 4774 attempts to greatly restrict the broad, nontraditonal definition of religion already recognized by the courts. This bill would require that a conscientious objector be both:

> A member of and adher[ent] to established and traditional tenents or teachings of a bona fide religion, body, or sect which has historically—

Objected to joining or financially supporting labor organizations. This very restrictive definition allows an exemption only for about seven denominations which have established doctrine against supporting unions. New religions, which could not "historically" hold such objections, are apparently left out as are loosely organized sects and even a profound belief by a single person. Most "established and traditional" religions began with the vision of a single individual—Abraham, Jesus, Mohammed, Buddha, Martin Luther, John Calvin, Joseph Smith, Mary Baker Eddy and countless others have begun as heretics against "established and traditional" religions with "historical" doctrines, yet their adherents came to number in the millions. By codifying this restrictive exemption from union security agreements instead of leaving the definition vague, I believe that we may well accomplish the opposite of what we have set out to do.

Defining the religious exemption so strictly so as to include some religions and exclude others may also result in a violation of the establishment of religion clause of the first amendment. The U.S. Supreme Court in *Lemon* v. *Kurtzman*, 403 U.S. 603, 612–13 (1971), developed three tests to determine conflict with the establishment clause:

> First, the statute must have a secular legislative purpose; second its principal or primary effect must be one that neither advances nor inhibits religion; finally, that statute must not foster an excessive entanglement with religion [403 U.S. 612, 613.]

As is pointed out in a perceptive article in 51 Notre Dame Lawyer 481, February 1976:

> Is Title VII's Reasonable Accommodation Requirement a Law "Respecting an Establishment of Religion"?

There is probably no problem with the "excessive entanglement" criterion here, and the courts have rarely used the secular legislative purpose test to strike down conflicting statutes except in extreme cases—*Epperson* v. *Arkansas*, 393 U.S. 97 (1968)—struck a ban on teaching evolution; *Abington School District* v. *Schempp*, 374 U.S. 203 (1963)—struck down required prayer in school.

By having as its primary effect the advancement of certain religions beyond merely clearing up any restriction on the free exercise of religion, H.R. 4774 may go too far, especially if we are to be so exclusive regarding which religions may qualify for special treatment. Such a statute can hardly be said to have a neutral effect. We are not lifting a government sanction restricting free exercise of religion here—we have already stated congressional policy that employers and unions may have union security agreements but must reasonably accommodate conflicts with the religious views of employees. To go beyond that exception for religion generally and make an extra special exception for around seven denominations—with no room in the scope of the exception for new religions or a change in established doctrine—is not only unnecessary but also quite possibly unconstitutional.

Finally, why must we restrict the "reasonable accommodation" in these circumstances to the paying of a sum equal to the union dues and initiation fees to one of three designated charities? Why not simply leave the means of accommodation to the ingenuity of the parties involved and let the courts determine the reasonableness of the accommodation if any conflict arises. Such matters are best left to be handled flexibly on a case-by-case basis.

Again, while the basic purpose behind H.R. 4774 is most worthy and its sponsors and supporters have only the highest motivation for bringing it forward, I believe that we already have the means at hand in existing law to solve the problem of accommodating those whose religious views prevent them from joining or contributing to a labor union as required under a union security agreement. H.R. 4774 is, in fact, a step backward, and I must reluctantly oppose it on behalf of those whom we would seek to protect by its passage.●

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 4774, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed until Tuesday.

GOLD MEDAL FOR CANADIAN AMBASSADOR

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6374) to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ambassador Kenneth Taylor.

The Clerk read as follows:

H.R. 6374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Ambassador Kenneth Taylor, a gold medal of appropriate design in recognition of his valiant efforts to secure the safe return of six American Embassy officials in Tehran. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $20,000 to carry out the provisions of this subsection.

(b) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The SPEAKER. Is a second demanded?

Mr. HANSEN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

Mr. FRENZEL. Mr. Speaker, I object, and on that I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. ANNUNZIO and Mr. FRENZEL.

The House divided, and the tellers reported that there were—yeas 45, nays 0.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 2, not voting 201, as follows:

[Roll No. 43]

YEAS—230

Abdnor
Akaka
Andrews, N.C.
Annunzio
Ashley
Atkinson
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bingham
Bolling
Bonior
Bowen
Breaux
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Carney
Carter
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Forsythe
Fountain
Frenzel
Frost
Fuqua
Giaimo
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hightower
Hinson
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jeffries
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kelly
Kindness
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lundine
Lungren
McClory
McCormack
McDade
McKay
Madigan
Marks
Martin
Mazzoli
Michel
Miller, Ohio
Mineta
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Perkins
Peyser
Porter
Preyer
Pursell
Quayle
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rose
Rosenthal
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Smith, Iowa
Smith, Nebr.
Snowe
Stack
Stangeland
Steed
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Thompson
Traxler
Treen
Trible
Vander Jagt
Vento
Walgren
Weaver
Weiss
Whitehurst
Whittaker
Winn
Wirth
Wolff
Wolpe
Wylie
Yates
Yatron
Zablocki

NAYS—2

Mitchell, Md.
Stark

NOT VOTING—201

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Aspin
AuCoin
Bailey
Bedell
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burton, John
Butler
Campbell
Carr
Cavanaugh
Chappell
Chisholm
Cleveland
Collins, Ill.
Conable
Conyers
Corman
Cotter
Coughlin
Crane, Daniel

Daschle
Davis, S.C.
de la Garza
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Early
Edwards, Okla.
English
Erlenborn
Evans, Del.
Fary
Fazio
Ferraro
Fish
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Garcia
Gaydos
Gephardt
Gibbons
Goldwater
Goodling
Gray
Guarini
Hall, Ohio
Hall, Tex.
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Hutto
Jacobs
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Long, Md.
Lowry
Lujan
Luken
McCloskey
McDonald
McEwen
McHugh
McKinney
Maguire
Markey
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Minish
Mitchell, N.Y.
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Nolan
Oakar
Patten
Paul
Pepper
Petri
Pickle
Price
Pritchard
Quillen
Rahall
Rhodes
Ritter
Roberts
Rodino
Roe
Rostenkowski
Roth
Rudd
Runnels
Scheuer
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stanton
Stenholm
Stewart
Stokes
Symms
Taylor
Thomas
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walker
Wampler
Watkins
Waxman
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wyatt
Wydler
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

☐ 1310

Mr. SWIFT changed his vote from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. HANSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6374 authorizes the presentation of a gold medal to Ambassador Kenneth Taylor of Canada in recognition of his valiant efforts to secure the safe return of six American Embassy officials in Tehran.

This medal is much more significant than just an award from the Congress and the President to a Canadian Ambassador. This medal represents the gratitude and thanks of every American, not only to Ambassador Taylor but to his staff, the Government of Canada, and, indeed, every Canadian.

Today is the 100th day that 50 Americans have been held hostage in Iran. Were it not for Ambassador Taylor, there might be six more Americans held hostage. For over 11 weeks Ambassador Taylor and other members of the Canadian delegation in Tehran hid the six Americans who had escaped capture when militant Iranians seized the American Embassy. This was done at great personal risk to the Canadians. Even so, the Canadians never hesitated in performing this brave act. In fact, when the Americans first contacted the Canadians and asked for help the reply was: "Why didn't you call sooner, come right over."

Never once did the Canadians waiver from their friendship to the Americans. Ambassador Taylor knew the press was aware of the secret sanctuary provided the Americans. He remained calm, while knowing that disclosure could jeopardize himself and his staff. He continued to work on a plan that could successfully get the Americans out of Iran. Ambassador Taylor did not panic even when he received a mysterious phone call from an unidentified caller, who said he knew the Canadians had given sanctuary to the Americans.

With consummate timing the Ambassador planned the daring escape of the Americans. Boldly, he decided that the best way would be to brazenly fly the Americans out of the country. First, he began sending some of his own staff on unnecessary flights to establish a travel pattern and to study the security procedures at the airport. Then he told the local staff that the Embassy would be temporarily closed.

Finally he used the excitement and confusion of Iran's presidential election as a cover for the getaway. Posing as visiting Canadian friends of the Ambassador, the Americans were taken to the airport where they boarded a regularly scheduled flight and made their getaway.

Only when the Americans were safe did Ambassador Taylor and the last three members of his staff leave Iran. Had the escape been detected before the Ambassador had left, I hate to think what would have happened to the four Canadians.

The brave and heroic action taken by Ambassador Taylor stands as one of the greatest adventure stories of the century. The presentation of this gold medal can only be a token of the deep gratitude and sincere appreciation of the American people for the courageous, unselfish, and friendly deed of Ambassador Kenneth Taylor.

The Consumer Affairs Subcommittee made one amendment to the bill. The amendment authorizes the Mint to strike bronze duplicates of the gold medal and to sell them.

Mr. Speaker, this bill comes to the House directly from the Consumer Affairs Subcommittee without having gone first to the full Banking Committee. I realize that this is a very unusual procedure and I do not mean for it to become a routine practice. I have spoken with Chairman REUSS and Mr. STANTON, the ranking minority member of the Banking Committee. Both have approved of this unusual action. All of us feel that it is important for us to promptly show our thanks to Ambassador Taylor.

Mr. Speaker, I urge the immediate passage of H.R. 6374.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. AKAKA), the chief sponsor of the legislation.

Mr. AKAKA. Mr. Speaker, I stand before you on this, the 100th day, that 50 Americans have been held hostage in the U.S. Embassy in Iran. But thanks to the unfaltering courage of Canadian Ambassador Kenneth Taylor, six American Embassy officials are back with their families. I ask your support today for a bill I introduced which would award a Congressional Gold Medal to this courageous diplomat. Please allow me to summarize the Canadian Ambassador's valiant efforts to secure the safe return of our six diplomats.

When the militant Islamic students stormed and captured the U.S. Embassy in Tehran on November 4, six Americans managed to leave the compound by fleeing through the consular office which is set apart from the main chancellery. For the next couple of days, the American escapees lived with friends throughout Tehran.

On November 8, Ambassador Taylor received his first call from one of the Americans. The caller explained that he and four fellow diplomats had taken refuge on November 6 in an uninhabited house; however, it was becoming increasingly more difficult to remain out of sight and they were wondering if the Canadian Embassy would provide them with a safe haven and sanctuary in which to hide from the militant Iranian students. Ambassador Taylor recommended to his superiors in Ottawa that the Americans be given shelter in the Canadian Embassy. The external affairs Department immediately concurred with Ambassador Taylor's recommendation.

Ambassador Taylor received a second call from the American escapees 2 days later, November 10. They were fearful that their present position would be discovered. A rendezvous was arranged for that afternoon.

For the next 79 days, the Americans would be the Ambassador's house guests. They lived in his residence and the home of another Canadian official. At one point, two of the Americans had to be moved when the Iranian landlord decided to sell the house and wanted to show it to prospective buyers.

As the situation in Tehran remained uncertain, Ambassador Taylor proposed to his Government several contingency plans for the departure of the American diplomats. This discussion occurred on November 22. It was also on this day that Henry Lee Schatz, an Agricultural Attaché, joined the others at the Canadian Embassy.

The first unsettling moment came on December 10 when Ambassador Taylor was informed that a newspaper disclosure of the Canadian sanctuary might be written by Montreal's La Presse Washington correspondent. Fortunately, the story was voluntarily suppressed by the reporter. However, the threat that at any time this sensitive secret could surface publicly encouraged Ambassador Taylor to review his contingency plans with a bit more expediency.

On January 4, the Canadian Cabinet approved a rare secret directive to issue Canadian passports to the six Americans under the names of fictitious Canadian businessmen or technicians who would have valid reason to travel to Tehran. The passports were ready by mid-January.

The decision to dramatically smuggle the six American diplomats out of Iran 2 weeks ago was prompted by a mysterious telephone call to the Ambassador's residence on January 19. The unidentified caller asked to speak to "Mr. or Mrs. Stafford," two of the escapees. He said he knew the Americans had been provided sanctuary in the Canadian Embassy. By this time, it had also become apparent that several news publications had learned of the secret hideaway.

When to make the getaway was the most ticklish question. Ambassador Taylor approached the problem cautiously. On the pretext of keeping in touch with the three U.S. diplomats being held under house arrest at the Iranian Foreign Ministry, Ambassador Taylor ingratiated himself with local officials as a friendly and neutral diplomat. In reality, he used these visits to study Iranian exit visas and passport procedures.

Final plans to spirit the Americans out of Iran were made only after Ambassador Taylor, along with officials in Ottawa and Washington, concluded that the daring escape would have no negative impact on those Americans still held hostage in the U.S. Embassy in Tehran. Ambassador Taylor decided to use the confusion generated by Iran's recent Presidential election as a cover for the getaway. He reasoned that the six American diplomats should fly out of Iran, because it was the normal way to leave the country. Ambassador Taylor then began sending some of his own staff on unnecessary flights both to establish a travel pattern and to study the clearance procedures at the airport. The Canadian Ambassador also instructed the locally engaged staff at the Embassy that the office would be temporarily closed.

Since the six American diplomats had posed as Canadian friends visiting Ambassador Taylor, it was only natural that they be driven to the airport in Embassy cars. Wearing clothes and carrying overflowing luggage provided by their Canadian hosts, the six Americans boarded a regularly scheduled flight to Frankfurt, West Germany, on January 28. Six American citizens enjoyed their freedom once more.

It must be noted that Ambassador Taylor and three members of his staff were the last Canadian Embassy officials to leave Iran. By the time of their departure from Tehran, the Americans were safe. It can be assumed that had this plan of escape been discovered, Ambassador Taylor, as the official representative of the Canadian Government and its Foreign Service in Iran, would have jeopardized his own safety and well-being.

The U.S. Congress has recognized both the Canadian Government and its Prime Minister; how can we ignore the great bravery of the Canadian Ambassador? This man, Kenneth Taylor, personally executed the dramatic return of six American diplomats. By his careful preparations, he assured the safety of six of our citizens. We, as Americans, will never be able to sufficiently express our gratitude to this courageous Canadian diplomat—let us at least award him this Congressional Gold Medal as a symbol of our overwhelming gratitude.

Mr. ANNUNZIO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. JONES).

□ 1320

Mr. JONES of Tennessee. Mr. Speaker, I rise today in support of H.R. 6374. Based upon the reports I have read and heard of the actions of Canada's Ambassador to Iran, Kenneth Taylor, I think that the approval of this bill will serve as a small token of the appreciation this country feels for our northern neighbors.

Ambassador Taylor's actions during the period of November 10, 1979 through January 28, 1980, are certainly demonstrations of bravery, courage, and concern for his fellowman in the face of a dangerous situation. Since our country has no official decoration for service to America by a foreign official, the striking of a special medal for Ambassador Taylor is certainly appropriate as a sign of our undying gratitude for his assistance to the six Americans who were able to escape our Embassy in Iran when it was taken over November 4.

Two of those Americans were Tennesseans. Though their home is not in my congressional district, I know that their return home marked a day of joy and celebration among not only their family, but among all Tennesseans. Tennesseans are traditionally proud of our nickname of "Volunteers." Without a doubt, we have reason to be especially thankful for the volunteer spirit with which Ambassador Taylor provided refuge and hospitality to these Americans.

Ambassador Taylor's actions were courageous, and they were heartwarming. I hope that all of my colleagues will offer their support to H.R. 6374, so that Congress, as an American governing institution, will be able to express to Mr. Taylor our sincerest appreciation for his aid and assistance in safeguarding our fellow Americans.

Thank you very much.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us now a bill which would authorize the President to present a specially struck gold medal to Canadian Ambassador Kenneth Taylor on behalf of the Congress and the American people, recognizing his compassionate and courageous effort in aiding six American diplomats in Iran. The Secretary of the Treasury would also be authorized to have bronzed duplicates struck for sale to the general public.

Mr. Speaker, I feel that the proposed gold medal would best symbolize the spontaneous and sincere gratitude of the people of the United States for the unselfish and valiant action of Canada in coming to the aid of individuals caught in a dangerous and explosive situation in Tehran. It is in particular due to Ambassador Taylor's personal work that the six diplomats are today back home with their families.

Those six Americans escaped from the compound on November 4 when militant Islamic students stormed and captured our embassy in Tehran, then remained with the Canadians for 3 months, entirely dependent on Ambassador Taylor and his associates and their government for their well-being. It is a tribute to the Canadian Diplomatic Corps, as well as to those journalists who knew of the situation, that the secret was so well kept.

Mr. Speaker, I have been there. I know what danger our Canadian friends were operating under. There is no way we can adequately describe their courage in this situation.

The return of our six diplomats was a great boost to the spirits of the families of the remaining hostages, and to our entire Nation. And it seems that the event has signaled some turning point in the overall picture, perhaps reminding the Iranian Government that it will be impossible to prevent their isolation from the civilized world if radicals are permitted to continue holding diplomats as prisoners.

For many long years, this country has enjoyed cordial and close relations with Canada. This latest feat will add another enduring strand to that bond of friendship. We should not forget that, in honoring Ambassador Taylor with this gold medal, we are also conveying our sincerest appreciation also to his staff, to his diplomatic colleagues who took part, to their government, and to all Canadians.

Mr. Speaker, I urge the passage of this bill.

Mr. Speaker, at this time I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, in rebuttal to the cynical notion that there are no heroes anymore, it is an honor to offer my strong support and urge prompt passage of H.R. 6374, authorizing a special congressional gold medal for Ambassador Kenneth Taylor of Canada. Special commendation is due the chief sponsor, the gentleman from Hawaii, and the subcommittee chairman, Mr. ANNUNZIO, for their prompt action in this regard.

It is especially ironic that we are considering this measure on the 100th day of captivity of 50 Americans in the U.S. Embassy in Tehran.

All of us have followed press accounts about the situation in Iran with increasing frustration; angered at our inability to secure the hostages' freedom. We are yet in hopes that the new Iranian Government will grasp that its own nation's best interests, not to say the minimum standards of civilized international conduct will be met by the speedy release of our hostages.

Ambassador Kenneth Taylor, by his personal intervention, delivered six Americans to freedom and provided the first good news we have had since the Embassy takeover on November 4.

Friendship is a precious commodity, and when combined with daring courage is worthy of international acclaim. By their personal bravery, Ambassador Taylor, his Embassy staff, and Canadian External Affairs Secretary Flora McDonald, have created bonds of admiration and respect to forge an ever closer alliance with the United States.

The special congressional gold medal for Ambassador Taylor is a fitting expression of our gratitude. Let all the world know that Canada and the United States share common interests and common goals—and that we will work together in renewed partnership in furthering the cause of peace and freedom throughout the world.

Thank you, Ambassador Taylor, for bringing six Americans home to their families and loved ones, at great personal risk to yourselves and your Embassy staff. Your bravery and courage has lifted our spirits and brightened our hearts in these dark days.

Our neighbor to the north has shown true friendship in our time of need. Thank you, Ambassador Taylor. Thank you, Prime Minister Joe Clark, thank you, Canada.

● Mr. O'NEILL. Mr. Speaker, I strongly support this legislation providing a gold medal for the Canadian Ambassador, Kenneth Taylor, for his efforts in securing the safe return of six U.S. Embassy officials in Tehran.

Most of us in public life do not get the opportunity to perform an act of heroic magnitude as the one which confronted Ambassador Taylor. He met this challenge in a brave and courageous manner when he arranged to have six officials of the United States moved out of his Embassy and returned to our safe shores.

His act symbolizes the long-standing friendly relationship between the United States and Canada. Our mutual boundary is the longest we have with any Nation and it stands without guards or other barriers. Ambassador Taylor's brave move enhances the love and affection that exists between citizens of the United States and Canada, and the people of the United States will be forever grateful for his decision.

We all stand in awe of his strategic plans to move our officials to safety. It was a thing of beauty and his kindness will be honored and remembered as a part of American history.●

● Mr. RITTER. Mr. Speaker, we have before us today a bill which would authorize the President to present a specially struck gold medal to Canadian Ambassador Kenneth Taylor on behalf of the Congress and the American people. The bill was amended in subcommittee to allow the Secretary of the Treasury to have bronze duplicates struck for sale to the general public.

I feel that the gold medal that has been proposed would symbolize best the spontaneous and heartfelt gratitude that all Americans feel today because of Canada's valiant and unselfish assistance in securing the safe return of six American Embassy officials from Tehran. These six diplomats have been happily reunited with their families and I applaud wholeheartedly Ambassador Taylor's compassionate and courageous efforts in coming to their aid in the midst of such a turbulent situation.

Mr. Speaker, we have always enjoyed the closest of relations with Canada and this latest feat will add yet another enduring strand in that bond of friendship. Because of that Canadian friendship, the spirits of the families of the hostages and of our whole Nation have been boosted.

In honoring Ambassador Taylor today with this legislation to award him a gold medal, we as a Nation likewise extend our sincerest appreciation to the staff of the Canadian Embassy, to Ambassador Taylor's diplomatic colleagues who assisted him, and to all Canadians.

Mr Speaker, I urge the passage of this bill.●

● Mr. BIAGGI. Mr Speaker, I am delighted to rise in support of this legislation which will present a special congressional gold medal to the Canadian Ambassador Kenneth Taylor. Such a gesture as extraordinary as it is clearly matches the extraordinary actions undertaken by the Ambassador on behalf of freeing six Americans from the hostile and dangerous nation of Iran.

Yesterday this Nation solemnly observed the 100th day that 50 of our American countrymen have been held by student militants at our Embassy in Iran. There have been few in the way of bright spots during this period of national ordeal. One obvious exception was the actions of Ambassador Taylor in securing the safe release of six Americans who managed to escape from the Embassy siege and were able to hide out in Iran until their departure. The Ambassador's story is a genuine profile in courage—he undertook the responsibility for this mission with full understanding of the personal risks he could encounter and those which could affect his fellow Canadian diplomats. Notwithstanding these concerns, he executed the mission with precision and the net result was freedom for six Americans who had little reason to think such an eventuality could ever happen.

The response in this Nation to the Canadian Ambassador's feat was spontaneous. The very next day—signs all around the country appeared saying "Thanks Canada." Radio and television stations ran similar messages. This Congress passed a historic resolution praising the Canadian Government. Today we add another accolade to the chorus with the adoption of this legislation.

This is a day of thanks and tribute to a great man who accomplished a great deed for America. One can only hope that an even happier day will be forthcoming when we welcome our hostages home safe and sound. That day cannot come soon enough.●

Mr. HANSEN. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 6374.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

Mrs. BYRON. Mr. Speaker, the CONGRESSIONAL RECORD for February 7, 1980, lists me as "not voting" on rollcall No. 37, the vote on passage of H.R. 2551, the Agricultural Land Protection Act. Apparently a malfunction of the electronic voting system has occurred, since I was in the House Chamber at the time and voted "aye" on rollcall No. 37. I am a cosponsor of this legislation and distinctly recall placing my voting card in the electronic voting station and the machine registering its acceptance of my vote. A check of the computer records, however, reveals no information on my vote. Incidentally, rollcall No. 37 began at 12:46 p.m. and was immediately preceded by rollcall No. 36, which occurred between 12:25 and 12:43 and for which I was correctly listed as voting "nay."

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

NEGOTIATED PRICING

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 5913, to amend section 502(a) of the Merchant Marine Act, 1936.

The Clerk read as follows:

H.R. 5913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 502(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152 (a)), is amended by striking the words ", at any time prior to June 30, 1979,".

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. DORNAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to commend and urge the passage of a bill (H.R. 5913) to amend section 502(a) of the Merchant Marine Act, 1936. This legislation would grant the Secretary of Commerce a permanent authority to accept negotiated bids for ships to be constructed with the aid of construction differential subsidy.

Prior to 1970, the Merchant Marine Act of 1936 required that all vessels built with the aid of construction differential subsidy be the result of competitive bidding. This practice led to higher cost ships and greater tendency for ship owners to build in yards where they could get customized models. Therefore, the 1970 Shipping Act provided for negotiated bidding where the shipyards could develop their own ship designs to meet shipowner requirements with the most cost effective proposals. Under negotiated bidding, both the shipyard and the shipowner prepare designs. The process of melding these two designs into a final product has been found to lead to a better understanding of ship operation and ship construction requirements and fewer misunderstandings between the owner and builder. This in turn minimizes cost by changes during the construction cycle and subsequent legal claims.

Negotiated bidding maintains competition since the shipowner has the plans of several shipyards to choose from, but it does limit the situations where a shipyard is forced by circumstance to design an expensive one of a kind of ship that is subsequently never built.

The bill would continue negotiated bidding on a permanent basis. As with the previous provision, the negotiating authority may be utilized subject to the following conditions: First, the proposed ship purchaser and the shipyard must submit backup cost details and evidence that the price is fair and reasonable; second, the Secretary of Commerce finds that the price is fair and reasonable; and third, the shipyard agrees that the Comptroller General of the United States shall, until 3 years after payment, have the right to examine any pertinent books, documents, or records of the shipyard or its subcontractors related to the negotiation or performance of the contract.

Negotiated pricing is the procedure generally adopted throughout the world in awarding contracts for the construction of ships. Negotiated pricing facilitates efforts by shipbuilders to produce and sell standard ships. It discourages the building of custom made ships, with its cost inefficiencies, which is promoted by competitive bidding.

The history of negotiated pricing since its enactment in 1970 has demonstrated the benefits provided by this provision of law for shipbuilding in the United States. Of the 83 vessels awarded CDS since 1970, 81 were the result of negotiated bidding.

I urge favorable consideration of this bill.

☐ 1330

The SPEAKER pro tempore (Mrs. BYRON). The Chair recognizes the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the purpose of H.R. 5913 is to make permanent the authority of the Secretary of Commerce to accept negotiated contracts for subsidized vessel construction.

Prior to 1970, the only method by which construction differential subsidy work could be performed was as a result of competitive bidding. Since a shipyard is basically in the construction, not the design, business it could not be expected to develop a design at its own expense if it could not be assured of being awarded the related construction contract.

Recognizing this problem, Congress created an alternative method in 1970 by which CDS could be awarded. This alternative was in the form of an amendment to section 502(a) of the 1936 Merchant Marine Act, which authorized the Secretary of Commerce, at any time prior to June 30, 1973, to accept, for purposes of computing CDS, a price for construction of a ship that had been negotiated between a shipbuilder and a proposed ship purchaser. Congress has continued to extend the Secretary's authority since it first expired in 1973. H.R. 5913 would make the authority permanent.

Mr. CLAUSEN. Madam Speaker, will the gentleman yield?

Mr. DORNAN. I yield to my colleague from California (Mr. CLAUSEN).

Mr. CLAUSEN. Madam Speaker, I join with my colleague from California in support of this legislation. More importantly, I would like to commend this chairman of the full committee, the gentleman from New York (Mr. MURPHY) for again addressing in a timely fashion the kind of legislation that is needed in the entire merchant marine field. We thank the gentleman.

Mr. DORNAN. I thank the gentleman for his contribution and yield back the balance of my time.

Mr. MURPHY of New York. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 5913.

The question was taken.

Mr. FRENZEL. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

WAR RISK INSURANCE EXTENSION

Mr. MURPHY of New York. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1452) to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, a similar bill to H.R. 5784, as amended.

The Clerk read as follows:

S. 1452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. 1294), is amended by striking "September 30, 1979" and inserting in lieu thereof "September 30, 1984".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. DORNAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to commend and urge passage of the bill, S. 1452, unanimously passed by the Merchant Marine and Fisheries Committee with an amendment to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance for a period of 5 years.

At a time of growing tensions in the world, it becomes imperative that we provide war risk insurance to our merchant fleet so that in the event of an outbreak of hostilities there will not be an interruption in the flow of U.S. waterborne commerce and essential transportation services for the Department of Defense.

Title XII authorizes the Secretary of Commerce, with the approval of the President, to provide war risk insurance covering ships, cargoes, the lives, and personal effects of the crew and other liabilities resulting from ownership and operation of the vessels when commercial insurance cannot be obtained on reasonable terms and conditions.

Merchant shipping which supports the military and economic logistics of war would be a primary target at the outbreak of hostilities. Even if a conflict between the great powers were brief and localized, steamship companies which specialize in serving the geographic area involved would suffer enormous losses.

The war risk insurance program creates a mutual pool, administered by the Government which, for a modest fee, issues binders to United States and selected foreign-flag operators to provide war risk insurance effective immediately upon the termination of commercial insurance, or when commercial underwriters sharply increase war risk hull insurance rates because conditions existing at certain ports are considered by underwriters to be hazardous to the safety of the vessels. Without the title XII war risk insurance program vessel owners most likely would refuse to trade in dangerous areas because commercial war risk insurance rates would be either too high or nonexistent.

Title XII of the act was first enacted with the outbreak of the Korean war in 1950. Like the proposed action, it was temporary legislation that expired 5 years later. Since then, it has been extended several times, for 5-year periods. The last extension was for 3 years and terminated on September 30, 1979.

Government war risk insurance binders become effective for a period of 30 days immediately upon the termination of commercial war risk insurance through the operation of the automatic termination clauses of the commercial policies which provide that insurance automatically terminates upon the hostile detonations of a nuclear weapon of war anywhere in the world whether or not insured vessels are involved, or upon outbreak of hostilities between any of the five great powers including the United States, the United Kingdom, France, the Soviet Union, and the People's Republic of China. Premiums for the war risk insurance coverage would be charged on a mutual basis for the 30-day binder period.

At the end of the 30-day period, a full insurance program would provide war risk coverage for hull, cargo, seamen's protection, indemnity and shipbuilders' risk for both the prelaunching and postlaunching periods.

Title XII provides insurance not only to American vessels, but also to foreign-flag vessels owned by citizens of the United States or engaged in transportation in the waterborne commerce of the United States, or in such other services as may be deemed by the Secretary of Commerce to be in the interest of the national defense or the national economy of the United States.

I urge favorable consideration of this bill.

Mr. DORNAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, for Members on this side of the aisle who may be watching from their offices on television and looking for H.R. 5784, they should take note that the chairman of our committee has asked for consent to consider S. 1452, which has already passed the other body and which accomplishes the same thing.

The purpose of consenting to S. 1452 is to extend for an additional 5 years the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance. This title expired on September 30, 1979.

Title XII of the Merchant Marine Act, 1936, authorizes the Secretary of Commerce, with the approval of the President, to provide war risk and certain marine and liability insurance for protection of vessels, cargoes, and crew life and personal effects when commercial insurance cannot be obtained on reasonable terms and conditions. The purpose of title XII is to maintain the flow of U.S. waterborne commerce, including the maintenance of essential transportation services for the Department of Defense.

War risk insurance was provided by the Government in both World Wars I and II, and proved effective in protecting the civilian and military commerce of the United States, with total premium receipts in excess of losses paid. Title XII of the Merchant Marine Act, 1936, was enacted at the outbreak of the Korean war in 1950. It was temporary legislation that would expire in 5 years. Congress has continued to extend the life of the title since then. S. 1452 extends the provisions relating to war risk insurance for an additional 5 years.

□ 1340

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY of New York. Madam Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the Senate bill, S. 1452.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5784) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

UNIFORM STATUTE OF LIMITATIONS FOR MARINE TORTS

Mr. MURPHY of New York. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3748) to provide for a uniform national 3-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes.

The Clerk read as follows:

H.R. 3748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, unless otherwise specified by law, a suit for recovery of damages for personal injury or death, or both, arising out of a maritime tort, shall not be maintained unless commenced within three years from the date the cause of action accrued.

SEC. 2. Section 3 of the Act of March 30, 1920 (41 Stat. 537; 46 U.S.C. 763) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from California (Mr. DORNAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York.

Mr. MURPHY of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to endorse H.R. 3748, a bill to establish a uniform statute of limitations for lawsuits seeking damages for death or injury arising out of a maritime tort.

Almost 200 years ago, when our Constitution was being drafted, it was recognized that the Federal Government should have primary jurisdiction over matters related to admiralty and maritime matters.

Long before governments sought to assure safe working conditions for industrial workers, the need to maintain the flow of world commerce gave rise to the development of a system of remedies for injuries suffered by those employed in maritime pursuits. As commerce became more complex, as society assumed increased responsibility for work related injuries, and as the tort law in the United States developed, we have experienced a duplication of remedies available to persons injured in maritime pursuits.

Over time, as various causes of action evolved to protect the rights of injured parties, there developed different procedural rules such as the statute of limitations.

Presently, the statute of limitations for actions brought under the Death on the High Seas Act is 2 years, the statute of limitations for actions under the Jones Act is 3 years, while the statute for actions alleging "unseaworthiness" is governed by the indefinite common law doctrine of laches.

This uncertainty regarding the availability of remedies and potential liability does not contribute to a free flow of commerce or to investment in the U.S. merchant marine.

The bill now under consideration would establish a uniform statute of limitation for actions seeking compensation for injury or death resulting from a maritime tort. The 2-year statute of limitations placed on actions against the Federal Government would remain unchanged by this statute.

In addition to providing a uniform standard, this bill will reduce congestion in the Federal courts by eliminating the present vague standard of unseaworthiness.

The act is also aimed at eliminating the forum shopping and the presentation of stale claims which can result when claimants seek to bring their suit in the jurisdiction having most advantageous procedural rules.

The committee in considering this bill felt that 3 years was sufficient time in which to discover the extent of injuries suffered and to commence legal proceedings. Any shorter period would unreasonably limit the rights of those injured without any commensurate benefit to the opposing party. We must assure that injured persons have a fair opportunity to commence legal action and that the opposing party has a fair opportunity to defend. This bill will insure an equitable balancing of the rights of all parties.

The Congress should take action to eliminate the inherent unfairness that exists when three claimants may be subject to three different sets of rules merely because they have utilized different legal tools. By this legislation Congress will be establishing a clear, definite standard for the Federal courts to apply.

Mr. DORNAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the purpose of H.R. 3748 is to establish a uniform statute of limitations for maritime torts. Currently, the statute of limitations for a cause of action brought under the Death on the High Seas Act is 2 years and the statute of limitations for a cause of action brought under the Jones Act is 3 years. Causes of action brought under the general admiralty concept of "unseaworthiness" are not governed by any specific statute of limitations but instead are governed by the doctrine of laches which permits each court to determine for itself, whether a particular suit has been filed timely.

Consequently, the courts have reached widely divergent interpretations as to what constitutes an appropriate time limit for bringing an "unseaworthiness" claim. This lack of consistency often allows litigants bringing suit to pick the court with the most favorable interpretation of timeliness.

H.R. 3748 would eliminate this inconsistency by establishing a 3-year statute of limitations that would apply to both claims brought under the "unseaworthiness" doctrine and to claims brought under the Death on the High Seas Act.

Madam Speaker, I have no further requests for time, and yield back the balance of my time.

Mr. MURPHY of New York. Madam Speaker, I have no further requests for time, and yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 3748.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GEOTHERMAL STEAM ACT AMENDMENTS

Mr. SANTINI. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6080) to amend the Geothermal Steam Act of 1970 to accelerate the priority development of geothermal energy in the United States, as amended.

The Clerk read as follows:

H.R. 6080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Geothermal Resources Act Amendments of 1979".

SEC. 2. Whenever an amendment or repeal contained in this Act is expressed in terms of amendment to, or repeal of, a section or provision of "the Act", such reference shall be considered a reference to an amendment to, or repeal of, a section or other provision of the Geothermal Resources Act of 1970 (30 U.S.C. 1001 and following; Public Law 91-581).

SEC. 3. (a) Section 2(c) of the Act is amended by striking out "steam and associated geothermal" and by inserting after "brines" in the first place it appears the following: "geopressured water, magma, and hot rock formations".

(b) Section 2(d) of the Act is amended by striking out "steam" both places it appears and inserting in lieu thereof "resources".

(c) Section 5(d) of the Act is amended by striking out "steam and byproduct" and inserting in lieu thereof "resources".

(d) Section 6(a) of the Act is amended by striking out "steam is" both places it appears and inserting in lieu thereof "resources are".

(e) Section 6(b) of the Act is amended by striking out "steam is" and inserting in lieu thereof "geothermal resources are".

(f) Section 6(c) of the Act is amended by striking out "steam is" the first place it appears and inserting in lieu thereof "resources are", and by striking out "steam is" the second place it appears and inserting in lieu thereof "geothermal resources are".

(g) Sections 6(d) and 6(e) of the Act are amended by striking out "steam" each place it appears and inserting in lieu thereof "resources".

(h) Section 6(f) of the Act is amended by striking out "steam and associated geothermal".

(i) Section 8 of the Act is amended—

(1) by striking out "steam is" both places it appears and inserting in lieu thereof "resources are"; and

(2) by striking out "ten" both places it appears and inserting in lieu thereof "twenty".

(j) Section 9 of the Act is amended by striking out "steam" and inserting in lieu thereof "resources".

(k) Section 19 of the Act is amended by striking out "steam" and inserting in lieu thereof "resources".

(l) Section 23 of the Act is amended by striking out "steam and associated geothermal" both places it appears.

SEC. 4. (a) Section 2(e) of the Act is amended to read as follows:

"(e) 'known geothermal resources area' means lands designated by the Secretary as a known geothermal resource area prior to October 1, 1979, or lands for which there is substantial physical evidence, including the geology of such lands or a discovery on such lands which would indicate to the Secretary that the prospects for extraction of geothermal resources for the primary purpose of generating electricity in commercial qauntities are good enough to warrant substantial expenditures for that purpose.".

(b) The first paragraph of section 4 of the Act is amended by inserting the following after "area" in the second sentence thereof: "or if the lands are within a known geothermal resources area and have been offered once for competitive bidding at a sale where no bids for such lands were received".

(c) If any lands in a known geothermal resources area have not been the subject of a competitive bidding procedure before the date of enactment of the Geothermal Resources Act Amendments of 1979, the Secretary shall conduct a competitive bidding procedure for all such lands within such area within one year after the date of enactment of the Geothermal Resources Act Amendments of 1979 (or shall report to Congress as to why and as to what areas a competitive bidding procedure has not been conducted). If, upon completion of such competitive bidding procedure, qualified bids were not received, the Secretary shall immediately withdraw the designation of such lands, for which bids were not received, as a known geothermal resources area, and shall immediately make available such lands, for which bids were not received, for lease to the first qualified person making application, and such person shall be entitled to a lease without competitive bidding.

SEC. 5. The Act is amended by inserting the following new section immediately after section 4:

"SEC. 4A. (a) Any qualified person first making application for a geothermal lease of lands under this Act which are not designated by the Secretary as a known geothermal resources area on the date of such application shall be entitled to a lease of such lands without competitive bidding notwithstanding the first sentence of section 4 unless such lands are so designated within one year after the date of such application.

"(b) Notwithstanding the first sentence of section 4, any qualified person first making application for a geothermal lease of lands under this Act which are not designated by the Secretary as a known geothermal resources area on the date of such application but which are so designated within one year after the date of such application shall be entitled to a noncompetitive lease of such lands under this subsection at a rate determined on the basis of competitive bidding. No person otherwise entitled to a lease of such lands under which such competitive bidding (hereinafter in this section referred to as the competitive bidding applicant) shall be entitled to a lease covering such lands if the noncompetitive applicant referred to in this subsection agrees to enter into a lease of such lands within such reasonable period following the competitive bidding as the Secretary deems appropriate and at a rate which is equal on a per acre basis, to the rate at which such lands would have been leased to the competitive bidding applicant.

"(c) Subsections (a) and (b) shall take effect with respect to all applications filed with the Secretary on or after the date of the enactment of this section. In the case of applications for geothermal leases under this Act of any lands which were not designated by the Secretary as a known geothermal resources area before such date of actment, if such applications were filed with the Secretary before such date of enactment but were not approved or rejected by the Secretary before such date, the qualified person first making application for such a lease shall be entitled to a lease of such lands without competitive bidding notwithstanding the first sentence of section 4 unless such lands are designated within one year after the date of the enactment of this Act. If such lands are so designated within such one-year period, such applicant shall be entitled to a noncompetitive lease of such lands under this subsection at a rate determined on the basis of competitive bidding. No competitive bidding applicant shall be entitled to a lease covering such lands if the noncompetitive applicant referred to in this subsection agrees to enter into a lease of such lands within such reasonable period following the competitive bidding as the Secretary deems appropriate and at a rate which is proportionate, on a per acre basis, to the rate at which such lands would have been leased to the competitive bidding applicant.".

SEC. 6. The Act is amended by inserting after section 10 the following new section:

"SEC. 10A. (a) Notwithstanding any provision of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the Secretary, immediately upon the enactment of the Geothermal Resources Act Amendments of 1979, shall promulgate regulations that will ensure prompt reoffering of all relinquished, abandoned, and expired geothermal leaseholds.

"(b) Upon a determination by the Secretary that a geothermal leasehold or any part thereof is abandoned, relinquished, or expired, such lands as are described in the lease, or the part thereof subject to such a determination, shall become lands subject to geothermal leasing as described in section 3.

"(c) The provisions of this section are in addition to and not in lieu of the provisions of sections 10 and 24."

SEC. 7. (a) Section 3 of the Act is amended—

(1) by striking out "steam and associated geothermal"; and

(2) by striking out "and (3)" and inserting in lieu thereof the following: "(3) in any lands withdrawn or acquired in aid of the functions of any department or agency of the Federal Government, including the Department of Defense, and (4)".

(b) Section 4(e) of the Act is amended by striking out "steam" and inserting in lieu thereof "resources".

SEC. 8. Section 18 of the Act is amended by adding at the end thereof the following new paragraph:

"Notwithstanding any provision of this Act, all diligent development requirements, including but not limited to drilling, shall cease upon a demonstration by the lessee comprising a unit that the geothermal resources of the unit are produced and utilized in commercial quantities as defined in section 6(d)."

SEC. 9. Section 6(d) of the Act is amended by inserting after "delivery to or utilization by" the following: ", or in the case of utilization facilities to be owned by the lessee, proof of commitment to construct".

SEC. 10. (a) Section 7 of the Act is amended by striking out "twenty thousand four hundred and eighty" and inserting in lieu thereof "fifty-one thousand two hundred".

(b) Such section 7 is further amended by striking out the second paragraph and by adding at the end thereof the following: "Any lease which contains a well shown to be capable of being commercially productive as determined by the United States Geological Survey shall be exempted from the acreage limitation contained in the preceding sentence.".

SEC. 11. Section 15(b) of the Act is amended by adding at the end thereof the following: "The Secretary shall consult with the head of any other Federal agency or department for whose purposes lands have been withdrawn or acquired to determine appropriate terms or conditions prior to issuing leases for such lands. The head of the Federal agency or department which administers any land which is subject to a geothermal lease or which is available for geothermal leasing, shall, in making land use decisions regarding such land or adjacent lands, take account of their potential for geothermal resources development.".

SEC. 12. Section 23 of the Act is amended by adding after subsection (b) the following:

"(c) Where the Secretary finds it in the public interest, the Secretary is authorized to issue permits for the use of geothermal resources in lands administered by him for any noncommercial application without requiring a lease or compensation therefor. No such free use permit may be issued for the purpose of generating electricity in any amount. No such free use permit may be issued on lands administered by the Secretary of Agriculture without his concurrence.

"(d) The head of each Federal agency may develop for the use or benefit of such agency any geothermal energy resource within lands under this jurisdiction. The head of such agency shall determine in writing with the concurrence of the Department of the Interior and the Department of Energy that such utilization is in the public interest, and will not deter commercial development which might otherwise be conducted for such resource if it were offered for leasing under this Act.".

SEC. 13. The Act is further amended by adding the following new section at the end thereof:

"SEC. 28. The Secretary shall establish the following leasing and operating goals which shall be adopted promptly following enactment of the Geothermal Resources Act Amendments of 1979:

"(1) Lease application information shall indicate clearly and concisely all requirements for information and action by the applicant necessary for timely processing of the application, the responsible officials with their respective responsibilities and contact information, the specific steps in the process, the time limits for such steps, and any options or appeals available to the applicant, among any other relevant information. To the maximum extent feasible, all requirements for information and action by the applicant, such as the geothermal resources exploration bond form and such bonding, shall be uniform among the several departments.

"(2) Any lease application shall be reviewed and an initial report prepared within sixty days of filing, indicating the results of the initial review, what disposition is proposed, and the projected time to complete action on the application.

"(3) All action on a lease application shall be completed within one year of the filing of the application.

"(4) An operating permit to conduct exploration activities, including the drilling of exploratory wells shall be decided within one hundred and eighty days after filing such application. Any other application shall be decided within one year of application.".

SEC. 14. (a) The Secretary shall, in the preparation of any environmental assessment or environmental impact statement required by the National Environmental Policy Act for any action under this Act, in order to expedite leasing, utilize any relevant information contained in an applicable and available land management plan developed pursuant to the Federal Land Management and Policy Act or in an applicable and available forest management plan pursuant to the National Forest Management Act.

(b) The Secretary of Energy, in consultation with the Secretaries of Agriculture and Interior, pursuant to the authority of this section and consistent with the responsibilities of the Secretary pursuant to the Department of Energy Organization Act, shall establish annual goals for the five future fiscal years for geothermal leasing pursuant to the Geothermal Steam Act of 1970 consistent with the national need to explore, develop, and utilize, to the maximum extent feasible, national geothermal resources. The goals shall be revised annually to cover the ensuing five years. The Secretaries of Agriculture and Interior will use the full authorities and resources available to the respective departments to achieve the annual goals established pursuant to this subsection. Each set of goals for a five-year period shall be published in the Federal Register.

SEC. 15. Section 15(b) of the Act is amended by striking out "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission".

SEC. 16. Section 15(c) of the Act is amended by adding at the end thereof the following: "With respect to lands referred to in subsection (c)(1), the Secretary shall identify within one hundred and twenty days after enactment of the Geothermal Steam Act Amendments of 1979, and publish in the Federal Register, a list of significant thermal features located on such lands, and shall update such list periodically as necessary. The Secretary may not issue geothermal leases on Federal lands in proximity to such identified features except to the extent that he determines, based on the best geological, hydrological, and other relevant information obtainable, that activities pursuant to a geothermal lease on such Federal lands will have no potential for causing adverse effects on such thermal features. No department or agency of the United States shall assist by loan, grant, license, or otherwise in the exploration for or development of geothermal resources in proximity to the identified features listed pursuant to this paragraph unless the Secretary determines, in accordance with the provisions of the preceding sentence, that such assistance will have no potential for causing adverse effects on such thermal features.".

SEC. 17. The Secretary shall prescribe such rules and regulations, or amendments to existing rules and regulations, as may be necessary to reflect the amendments made by this Act within one hundred and eighty days after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITTAKER. Madam Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Nevada (Mr. SANTINI) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. WHITTAKER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 6080, to amend the Geothermal Steam Act of 1970, will accelerate priority development of geothermal energy in the United States of America.

☐ 1350

No one in this body need be reminded of the urgency of energy-related issues. Now is the time to take action. Many parts of our country have abundant, clean, relatively inexhaustible sources of the supply of geothermal energy.

By 1990 the United States of America could be producing this Nation's geothermal resources to the equivalent of one-half million barrels a day. By the year 2000 that figure could be quadrupled, and geothermal energy could be displacing 2 million barrels a day.

We have had testimony before our Subcommittee on Mines and Mining from both the Department of Energy and from the private sector supporting these estimates. Since the President has set a maximum goal of 8 million barrels a day as our alltime maximum oil imports, we are talking about a potential that roughly equates to 25 percent of the present nationwide import rate by the year 2000 from this exciting new energy resource. Yet geothermal has not remained a high-priority item in past administrations, or in examining our public lands. The Subcommittee on Mines and Mining has held numerous hearings, touched base with a wide variety of interest groups, compiled and adjusted the results of 1,200 questionnaires, and incorporated these results into a workable compromise that reflects a balanced conclusion from all interest groups. We have not had expressed opposition from any group. We have had enthusiastic endorsement from the geothermal community anxious to move this resource out of the ground and into our homes. Considering the noncontroversial nature of this bill and the important beneficial impact it can have on our energy problems, I urge my colleagues in the House to adopt this measure.

Mr. WHITTAKER. Madam Speaker, I yield myself such time as I may consume. Madam Speaker, on behalf of the minority, I rise in full and complete support of the adoption of H.R. 6080, the geothermal Resources Act Amendments of 1979.

During 1979, the Mines and Mining Subcommittee on which I am proud to serve conducted numerous hearings on this vital issue of geothermal energy. As a result of the interest and dedication of the chairman of the subcommittee, and in large part due to the full and active participation of the minority, the subcommittee developed an extensive and complete record regarding geothermal energy.

On June 7, 1979, the subcommittee conducted an oversight hearing regarding geothermal resources development. Of concern at that hearing was H.R. 740 and H.R. 2577, legislation increasing the statewide geothermal acreage limitation. Subcommittee markup and reporting of H.R. 740 took place on June 30, 1979, with the Interior and Insular Affairs Committee reporting the bill to the House of Representatives on July 2, 1979. On September 10, 1979, the House passed H.R. 740.

The subcommittee conducted additional oversight and legislative hearings regarding geothermal resources development in general, and H.R. 4471 and H.R. 5187 in particular on September 6, 1979, and November 15, 1979. On December 6, 1979, the subcommittee completed markup on H.R. 5187 by the adoption of a revised compromise bill as an amendment in the nature of a substitute and reported the bill to the full committee. On December 12, 1979, the committee considered H.R. 6080, the subcommittee reported bill as reintroduced, adopted one amendment by voice vote and reported the bill to the full House by voice vote.

The compromise which the House now has before it is the result of weeks of efforts on the part of the subcommittee to draw together the two omnibus bills introduced last year. The subcommittee has worked closely with the administration, with industry and with environmental representatives to achieve this compromise. It is a compromise but a workable one, which will remove many of the institutional barriers now inhibiting the development of this resource.

If anything became clear during the hearings by the Mines and Mining Subcommittee, it was the need to place renewed emphasis upon geothermal energy, to give an additional impetus to the development of this, one of our Nation's most unique and underutilized natural resources. It was very clear from the testimony that we received that rapid development of geothermal energy had been handicapped by government regulation, delay, and disinterest. It is time that we remove the burdensome regulations, dispense with the delays and impress upon the administration the intent of this Congress that geothermal energy be developed wherever and and whenever possible. Geothermal energy is not going to answer "the energy problem." But it will answer part of the problem and right now we must begin to answer that problem if only in part.

I urge the support of my colleagues for the adoption of H.R. 6080.

Mr. WHITTAKER. Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. CLAUSEN) the ranking minority member on the full Committee on Interior and Insular Affairs.

Mr. CLAUSEN. Madam Speaker, as my colleagues know, I have long been a proponent, an advocate, and supporter of the development and utilization of America's vast and as yet relatively untapped geothermal energy resource.

The geysers, one of the first geothermal resource areas to be developed, lie within my congressional district.

I have long believed that for numerous regions of this country geothermal energy can and will provide a significant alternative to foreign oil. The time has long since passed when we can draw upon foreign sources for our energy needs. It is a luxury, a dependence we as a nation and as an economy can no longer afford. It is time that we made the hard choice, that we made the tough decisions and developed the energy that America has within it.

For America is not an energy poor country. Despite all that we have heard over the past 7 to 10 years, America is not energy bankrupt. While we have pleaded such bankruptcy in the past, we have been sitting on energy assets which are the envy of the world: coal, tar sands, heavy crude oil shale, to name but a few. All we need do is make the decision that we will no longer be dependent on others for the resources which permit our Nation to breathe, our economy to live.

One of the energy resources—as of today yet under-utilized, that could free us, at least in part from that dependence, is the subject of legislation before us today—geothermal. Most experts believe that within the next 20 years—by the year 2000—there is the geological opportunity to supply 20,000 megawatts of generating capacity. That is equal to 700,000 barrels of oil a day or 8.5 percent of today's crude oil production in the United States.

I am pleased with the compromise that now appears before the House. It is in large part the result of the dedication and effort of the chairman of the Mines and Mining Subcommittee. The compromise, between the two Omnibus Geothermal Resource Acts is a workable compromise, a compromise which achieves the basic goal of removing the institutional barriers from the development of geothermal energy.

I am pleased as well with the manner in which the chairman of both the subcommittee (Mr. SANTINI) and the full Interior Committee (Mr. UDALL) approached another issue relevant to this legislation. I had raised during subcommittee consideration of this legislation an issue of importance to me and to many of my constituents: the matter of the relationship between owners of surface estates in the West by virtue of the Stock-Raising Homestead Act of 1916 and the lessees of the Federal Government with rights to exploration and development of the mineral estate owned by the Federal Government. The Stock-Raising Homestead Act of 1916 conveyed to certain individuals patent to Federal lands for the purpose of agricultural and stockraising purposes. The conveyance, however, took place while the mineral estate was retained by the U.S. Government.

In 1970, the Congress passed and the President signed into law, the Geothermal Steam Act permitting the U.S. Government to lease geothermal steam resources to private individuals for the purposes of exploring for and developing that resource. At the time of the passage of the act, it was unknown whether geothermal steam resources could be classified as water or as a mineral. Last year the U.S. Supreme Court, in denying certiorari, upheld a ruling which declared that geothermal steam resources were indeed a mineral and thus were subject to leasing by the U.S. Government on lands in which the U.S. Government owned the mineral estate.

These factors raised the possibility of a conflict between the owner of the surface estate under the Stock-Raising Homestead Act and the lessee of the mineral-geothermal estate. While the lessee has the right to entry upon the land and the use of so much of the land as is necessary for the development of the resource, nevertheless, the surface owner has a statutory right of compensation for damages to his property. While the intent of the Stock-Raising Homestead Act with regard to compensation appears clear, it may well be that that provision has been too narrowly interpreted or is, in fact, inadequate as written.

The committee, when presented with these issues sought to ascertain the exact nature and scope of this potential conflict. As a result of my request, the committee has requested the General Accounting Office to conduct a study on this issue.

It is my hope that the results of this study will give us a better understanding of the nature of this conflict and will thus enable us to resolve it.

In addition to the GAO study, the Subcommittee on Mines and Mining will also be traveling to California this week to hear firsthand the concerns of the landowners affected by geothermal development in the geysers area. We will be conducting a public hearing to give people in the area an opportunity to state forthrightly the extent of the impact on their property of geothermal development and operations and to fully discuss the issues they believe need to be addressed by the subcommittee and the Congress in light of the changing circumstances since enactment of the 1916 Stock-Raising Homestead Act and the 1970 Geothermal Steam Act.

Both the GAO report and the subcommittee field hearing will assist us in gathering the facts needed to address this problem.

I appreciate the responsiveness of our subcommittee chairman (Mr. SANTINI), the Chairman of the full committee (Mr. UDALL), and our ranking member on the subcommittee (Mr. YOUNG) to this issue and would again like to commend them for their outstanding effort in developing this legislation.

Mr. SANTINI. Madam Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding. Initially I want to commend the gentleman for championing a cause that I think is indisputably in the Nation's, and certainly in the gentleman's State and congressional district's interest. At the present time geothermal energy provides over 40 percent of the electrical energy consumed in San Francisco County. In addition, the Department of Energy testified before our Subcommittee on Mines and Mining that geothermal energy represents the most probable and plausible alternative energy source for all of southern California, so we are looking at a very important and significant energy source. The gentleman is to be commended for his forthright and consistent support of our legislative efforts.

As the gentleman knows, we will be joining him in his district this weekend where we are going to continue to examine on an ongoing basis the geothermal energy issues facing both this Nation and certainly the Western United States.

Mr. CLAUSEN. I thank the gentleman from Nevada (Mr. SANTINI) as well as the gentleman from Kansas (Mr. WHITTAKER) for bringing this legislation to the House floor today and for the additional comments that have been made with regard to the initiative we have taken in my congressional district. I look forward to welcoming the committee and the staff to my congressional district this week.

I urge my colleagues to move with haste in the passage of H.R. 6080.

● Mr. SYMMS. Madam Speaker, I rise in support of H.R. 6080, the Geothermal Resources Act Amendments of 1979. It is my firm belief that this legislation takes a very positive and very necessary step toward the expeditious development of America's geothermal energy.

I take some pride in advocating an increasing use of this Nation's geothermal potential since my own State of Idaho and more particularly the city of Boise has been using geothermal steam for heat since 1890. Only recently Boise has undertaken a truly significant expansion of that program.

Clearly we have only begun in our effort to use geothermal energy. Most experts believe that there is the geological opportunity in this country to produce enough geothermal energy to supply 20,000 megawatts of generating capacity in the next two decades. That is equivalent to about 700,000 barrels of oil per day, or 8.5 percent of today's crude oil production in the United States. One optimistic forecast projected an eventual contribution of geothermal energy of 15 percent of total electric power requirements.

Unfortunately this country has not moved as quickly to develop these resources as we should have. Industry has been frustrated by seemingly endless delay generated by the Federal Government's approach to geothermal energy. It is not just my conclusion that the Federal Government has delayed the implementation of the Geothermal Steam Act of 1970, but it is the conclusion of the Geothermal Streamlining Task Force of the Interagency Geothermal Coordinating Council. Allow me to quote from their report:

> While the delay, often years, is occurring, an additional 1.3 million barrels of fuel oil or alternate fuel is being utilized each year for each 110 megawatt plant not constructed.

As a result of this delay, and as a result of the rather unconvincing testimony the Mines and Mining Subcommittee received early last year regarding the desire of this administration to implement the intent of Congress to get geothermal steam energy underway, I was joined by my colleague from Idaho (Mr. HANSEN) in introducing H.R. 4471, the Omnibus Geothermal Energy Development Act of 1979. It was our objective in that legislation to implement the recommendations of the Streamlining Task Force and to put an end to the administrative delays that have thus far frustrated the geothermal industry. As well, we sought to remedy some of the problems which have resulted from the various definitions contained in the 1970 act.

Through the 1st session of the 96th Congress, the Mines and Mining Subcommittee conducted numerous hearings regarding H.R. 4471 and H.R. 5187, cosponsored by the gentleman from Nevada and the gentleman from Arizona (Mr. UDALL). As a result of the efforts of the chairman of the Mines and Mining Subcommittee and due to a mutual desire to report out of committee and pass through the House a meaningful Omnibus Geothermal Resources Act, an agreement was made and differences were resolved between the two bills.

I am very pleased and gratified with the results. The legislation which comes before the House today comes as close to the intent of my original bill as any compromise could come. It will clearly expedite current leasing procedures. It will limit the application of the concept of KGRA to the situations where the concept applies. As H.R· 740, it will raise the acreage limits so as to be more in keeping with the realities of the geothermal resource.

Perhaps the most important aspect of this legislation is that it sends to the administration a very strong signal regarding the attitude of Congress toward the development of America's geothermal resource potential. It states with clarity that the Congress wants expedited development of this energy source. Let us now hope that the administration gets the message.●

● Mr. PHILLIP BURTON. Madam Speaker, I rise in support of H.R. 6080, as reported by the Committee on Interior and Insular Affairs. I wish to express my appreciation to the Chair of the Subcommittee on Mines and Mining and to his staff for their able and constructive work in this matter.

H.R. 6080 is intended to expedite the leasing of Federal lands for geothermal energy exploration and development. My concern has been that any such program be carried out in a manner which is not detrimental to our national park system. The legislation in its current form should meet our need to protect the thermal features within our national park system while an expanded leasing system proceeds.

The committee adopted an amendment to protect significant thermal features within units of the national park system. We are concerned about the possible adverse effects on such features from the exploration for and development of geothermal resources in proximity to units of the national park system. Although the Geothermal Steam Act of 1970 expressly prohibits leasing within units of the national park system, the committee is concerned that this prohibition may not be sufficient protection for the significant thermal features within parks where the underground source of such features can be tapped from leases issued on Federal lands outside park boundaries. The result could be the deterioration or loss of thermal resources within the park itself.

In several park system units, thermal features constitute an integral part of the natural ecosystem of such units. The committee recognizes that the first national park in the world, Yellowstone, is an example where not only geysers but thermal pools and heated waters generally contribute to human enjoyment of the park and the ability of wildlife to sustain themselves in a natural, unaltered ecosystem. At Yellowstone, the heat source for the thermal features within the park may be the same as that which is of commercial interest outside the park boundary. As has been demonstrated elsewhere in the United States and in other countries, development of geothermal resources in geyser basins oftentimes causes significant adverse impacts on the geysers and other surface thermal features. We intend that no such result occur with respect to the significant thermal features in the national parks, monuments, and other units of the park system.

Accordingly, the committee adopted language (similar to that adopted in subcommittee), in the form of an amendment to the 1970 act, which prohibits the Secretary from issuing leases for the exploration for or development of geothermal resources in proximity to identified significant thermal features located within a park, except in certain specific circumstances. The prohibition applies except to the extent that the Secretary determines that activities conducted under a geothermal lease will have no potential for adversely affecting the significant thermal features of a park unit. In making his determination, the Secretary is required to use the best scientific information that he can obtain.

The committee expects the Secretary to use the scientific expertise of the Geological Survey and others to conduct whatever monitoring and testing programs as may be necessary, so that before issuing a geothermal lease in proximity to such significant thermal features inside a park, the Secretary must determine that, based on the best information obtainable, no harm will come to the park's geothermal resources as manifested by the surface thermal features. The Secretary should also take steps to make sure that the drilling and other activities which may be required in such monitoring and testing programs are conducted in such a manner that they will not cause adverse effects on significant thermal features in the park.

In the case of the highly complex and unique system of thermal features at Yellowstone, the Secretary must certainly err on the side of caution to be absolutely certain that no chances are taken in even a monitoring or testing program which could have a detrimental effect on the magnificent displays of thermal features.

Additionally, the committee amendment directs the Secretary to identify the significant thermal features within the national park system and maintain a continually up-to-date listing of such resources. As new areas with thermal features are added to the park system, the Secretray is required to add such information to the list.

The amendment also provides that other Federal agencies would not assist in any way in the exploration for or development of geothermal resources in areas which would be inconsistent with the restriction on the leasing authority of the Secretary under the Geothermal Steam Act of 1970 as amended by the provisions of H.R. 6080.

For example, unless the Secretary determines that geothermal exploration and development on Federal and non-Federal lands outside but in proximity to significant thermal features within a park, have no potential for causing adverse effects on such features, all Federal agencies would be precluded from assisting in such exploration and development by loans, grants, license, or otherwise.

I am hopeful that the geothermal leasing program can proceed in most instances without fear of adverse impacts on thermal features of units of the national park system. The Secretary is to identify significant thermal features in the national park system for protection. It is the intent of the committee that such features can be construed as being geothermal resources which manifest themselves through a surface expression and which are natural features or the result of processes which the park unit was intended to protect, or which support biological communities important to the park unit. Minor isolated surface geothermal features or subsurface geothermal resources with no surface expression, by contrast, should not be incorporporated in the listing. The Secretary is, therefore, given reasonable discretion to refrain from listing such minor manifestations of geothermal activity. The committee expects that the Secretary, in compiling the list, would be guided by the purposes for which the national parks are established and his trust responsibility to carry out such purposes and to protect park resources as provided by law.

The effect of the committee amendment should, therefore, be to afford the maximum degree of protection to the important surface thermal features within our national park system, while not imposing a blanket prohibition on all geothermal leasing of lands near units of the national park system.

While there are other consequences of geothermal development which we have not addressed here, such as effects on air and water quality, I believe that H.R. 6080 in it amended form is a balanced legislative effort that merits our support. I urge my colleagues to join me in voting for the passage of the bill as reported by committee.●

Mr. SANTINI. Madam Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. SANTINI) that the House suspend the rules and pass the bill H.R. 6080, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SANTINI. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. BOLAND. Madam Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence may be permitted to sit tomorrow, February 12, while the House is proceeding under the 5-minute rule. This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

☐ 1400

REPUBLICAN SOLUTIONS TO AMERICA'S PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. VANDER JAGT) is recognized for 60 minutes.

Mr. VANDER JAGT. Thank you, Madam Speaker.

I take this special order to focus the attention of my colleagues on the three issues that are of the most overriding and pressing concern to the American people at the present time.

The first issue is the decline of U.S. prestige and standing abroad.

The second isuse is that the pay check just will not reach as far as it needs to reach because of the ravages of inflation.

The third issue is that the people are longing for solutions rather than excuses in coping with our energy problems.

The National Republican Congressional Committee, of which I am chairman, and the National Republican Committee have prepared a nationwide television advertising campaign which addresses these three issues and presents Republican solutions to these problems which the people feel so acutely.

Madam Speaker, I have taken this special order and requested of the Speaker permission to bring a Betamax onto the floor so that our colleagues would be able to see exactly what these commercials are saying. The Speaker did not see fit to grant that request but scripts of the commercials are at the desk so that the Members will have an opportunity to read the contents of these commercials.

The reason I do this and the reason I want all of my colleagues to have an opportunity to see and read these scripts is that while commercials are very tough, while they are very hard hitting, they also are very, very accurate. We welcome and invite any of our colleagues to ask any questions about the contents of these commercials because we know that each and every statement can be backed up and substantiated in each and every case.

As a matter of fact, the research on which these commercials are based go back for 5 years, 5 long years. It is erroneous to conclude, as some have concluded, that these commercials spring out of the Conservative Party victory in England which elected Margaret Thatcher the Prime Minister of England. Of course, the British example was a great inspiration to us. It demonstrated that such a vast educational program could work, and it gave us some lessons that we were able to learn from.

Essentially, the greatest factor in giving the final shape to this educational program was the national public opinion poll that came out last year and which has been so widely reported in the press. This poll identified those three issues: The decline of U.S. prestige, inflation, and energy. It also pointed out that the twin issue of inflation and energy reach an intensity and a frustration and a concern on the part of our people that have not been approached since the depths of the Vietnam divisions within this country.

The poll also revealed to us our target audience. Of course, we hope and we think that the educational program will reach all spectrums of the American public, but the target audience are those voters 40 years of age and under. Forty-nine percent of the electorate, or 75 million are 40 years of age and under, and two-thirds have never voted. They do not participate in the election process. We also learned that they are not staying home because of Vietnam or Watergate, they are staying home because they do not think it makes any difference who they send down to Washington or which party, the Republican or the Democrat Party, controls the Congress.

Now, on both sides of the aisle we know that it makes a very, very big difference. We might debate about which party can do better for America but one thing we cannot debate about, and that is indisputable, is that it makes very big difference to the spending, taxing, deficit and preparedness levels of this Nation, whether the Democrats or the Republicans control the Congress. This educational program is designed to show just exactly that, that it does indeed make a very, very big difference in the lives of those young people who are staying home, and in the economic life of our country.

We happen to think that the time is ripe for this kind of educational program because that Market Opinion Research poll also showed us the astounding fact that for the first time in recent political history a majority of American people know that it is a Democratic Congress and it has been for a long time. That might not seem like a very astounding discovery to those of you who live and breathe politics, but as recently as 1978 not only did a majority of people not know that it was a Democratic Congress, they did not believe you when you told them that it was and had been for a long time.

In one of our little focus groups where we showed them a commercial making that statement there was a little old lady in her seventies, and she joined in all the anger at that commercial for making that statement that it had been a Democratic Congress for a long time. Then all of a sudden she said, "Hey, wait a minute. Now that I come to think about it, I think it is possible that the last time the Republicans controlled Congress was under Eisenhower, and if that is true it would put it back in the 1950's somewhere."

The whole group descended on the little old lady, in anger, for having allowed herself to have the political wool pulled over her eyes in that fashion. That is why it has been possible for many Democratic incumbent congressmen to successfully run for reelection, running against their own records, running against the record of the Democratic Congress of which they were a part.

You know, as I travel around the country campaigning for Republican challengers, one of the things that never ceases to amaze me is when I go in the district of some of my Democratic incumbent congressmen friends and would hear them campaigning against the spending, taxing, regulatory controls, and preparedness levels that they themselves had created and in most instances had voted for.

The best kept secret in America was the fact that it was a Democratic Congress and that is why so many were so successful in being reelected, running against their own record.

That is no longer true. Now that poll tells us that a majority of Americans do know that it is a Democratic Congress and, more significantly, a majority of Americans blame the Democrats in Congress for these problems which they feel so acutely and about which they so desperately want a change of direction.

So the thrust of these commercials and the educational program is really a very, very simple message and that is that even more important than which man sits in the White House is which party controls the Congress in setting the economic rudder of this Nation. For no President has ever spent anything that Congress did not appropriate and no President has even collected a tax that Congress did not levy. No President ever hired a bureaucrat or promulgated a rule or regulation not authorized by the Congress.

For 25 long years now this Congress has been controlled by the Democratic Party. If people want a change, if they want a new direction there is but one way on the face of this Earth to get that change and that is in the 1980 elections to change the Congress from Democratic to Republican control. That is why the theme of this educational program is: Vote Republican. For a change.

Mr. GINGRICH. Madam Speaker, would the gentleman yield?

Mr. VANDER JAGT. I would be happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Madam Speaker, I thank my colleague for yielding.

We do have available here the actual script of the commercials that are being run by the Congressional Campaign Committee. As the gentleman indicated, they are very hard hitting. I wanted to share one in particular. I wanted to point out my disappointment with the response or lack of it on the part of a majority party.

One of the commercials shows a hand counting out bills and it says—the announcer in the commercial says:

> Want to see the last of the big time spenders? Meet the Democratic-controlled Congress. They are spending your money at the rate of a million dollars a minute. A million dollars a minute every minute of every hour of every day. The Democrats are spending more money in one second than the average family takes home in a year. For 25 years these free-spending Democrats have been in control of Congress and what do we have to show for it? Runaway inflation, the decline of the dollar, a killing national debt and a total tax burden that is so heavy that the Federal Government lone takes in as much money as all the working people in America earn in nearly 3 months out of the year just to fill the bottomless appetite of the big time government spenders.

The essence of that message hits me in particular today, and I very much appreciate the gentleman offering to host this special order and sending out a "Dear Colleague" letter inviting his colleagues on the other side of the aisle to come. I would have thought, surely, when you run a commercial saying we are spending a million dollars a minute every minute of every day, the gentleman from Connecticut (Mr. GIAIMO) as head of the Budget Committee would want to come and indicate how he felt about that kind of allegation.

When you talk about high taxes, I felt certain that the gentleman from Oregon (Mr. ULLMAN), the chairman of the Committee on Ways and Means, the committee that raises taxes, would have wanted to come to explain his version of what has happened to the tax codes.

□ 1410

When you talk about the Democrats spending more money, you talk about their control of Congress, certainly I thought that the majority leader, the gentleman from Texas, would have wanted to come and explain his side.

I feel a little as Senator KENNEDY has been talking about in Maine, that it is a little hard to have a campaign when the one side that is responsible hides and ducks and weaves and bobs and does not want to stand up and talk about those issues.

Just as I look out, I wonder where my good friends, these gentlemen who have run this country for a quarter of a century, where they are when they have an opportunity to stand up for their record and explain why, if there is anything wrong with these ads, they would object to the historical record as the gentleman in the well has so ably presented.

Mr. VANDER JAGT. Madam Speaker, I thank the gentleman from Georgia.

I might suggest to the gentleman that perhaps one of the reasons that we do not have Democratic Congressmen here to defend the last 25 years of their record is that that record is indefensible. As I had indicated in my opening remarks, we invited, we welcome any Democrat to question the accuracy of these statements in these commercials. Maybe one reason they are not being questioned is that they are completely accurate.

Mr. GINGRICH. Well, if the gentleman will yield further for just a moment, I just want to comment that there are strong defenses, that clearly in some ways the record has been a good one and while it is true they built a huge bureaucracy and it is true we have a massive national debt and it is true we have 13-percent inflation, nonetheless there are ways in which they could at least attempt to explain how they have misused their public trust.

I simply want to register my concern that they are not here to speak for themselves and to express their positions.

Mr. VANDER JAGT. I would say to the gentleman that I, too, would have enjoyed very, very much the attempt to explain the 13-percent inflation rate and the deficits and the taxes which in the proposed budget for next year jump another $76 billion. I would have enjoyed hearing the attempt to explain that very, very much.

Madam Speaker, I yield to the gentleman from New Jersey (Mr. COURTER).

Mr. COURTER. Madam Speaker, I thank the gentleman for yielding.

What I would like to do is point out a couple things and if I may take some of the gentleman's time to read what I think is one of the particularly hard-hitting and best of the commercials that the Republican Party has put together.

First of all, of course, we all know that we as Republicans are celebrating the birthday of Abraham Lincoln. I would like to think of Abraham Lincoln as perhaps the last of the founders of this great country of ours. I say the last of the Founding Fathers perhaps different than a lot of people, because Abraham Lincoln took a country that was tragically flawed in its beginning, that is, we had slavery before Abraham Lincoln and he corrected that. I think the Republicans have an obligation today to turn the country around, to bring it back to two-party rule, to rid the country of a quarter of a decade in the strangle hold of one party. That particular obligation probably is as significant as the obligation and responsibility of Abraham Lincoln over a hundred years ago in plucking out the flaw that was ours at that particular time.

I would like to use a little additional of the gentleman's time to read what I think is a dramatic statement of this and other things, that is truly the Republican Party.

The ad that I think many people will see on TV has a very significant, a deep and excellent voice that says as follows:

> America the Beautiful.
>
> A land of promise.
>
> A land of hope.
>
> A land of seemingly unlimited resources.
>
> We had the energy, out of the ground; we took energy out of the ground, and out of the people, and we could do anything with that energy when they were combined.
>
> No nation could manufacture so much.
>
> No nation could match our inventiveness, our courage.
>
> We were able to move overnight from peace to the greatest military force in history, and when we restored the peace, we made a new and better country, a country where every family could own a home, where workers had the time and the money to enjoy pleasures once reserved for only the very right throughout the world.
>
> We turned our ambitions to the sky, in a moment all mankind will never forget.
>
> It is a history worth celebrating and we celebrated it in a spontaneous outpouring of joy and optimism; optimism, perhaps our greatest natural resource.
>
> Then suddenly the celebration was over,

Says the ad:

> Something was wrong, something had been wrong and had been for years. Only now can we see it clearly.
>
> We see it in the faces of thousands of workers laid off.
>
> America can no longer compete as it once did because of the laws that restrict our productivity.
>
> Your income, America's income has shrunk because of inflation and over-taxation caused by unnecessary government spending.
>
> Buying a home is becoming almost a nightmare, no longer a dream.

Says the ad:

> The failure to create a workable energy program has even robbed us of much of our independence. Our dependence on foreign oil has eroded our prestige in the world, but things do not have to be that way.

I would like to emphasize that for all Americans. It seems to me that during the past number of years we knew that there was something wrong with this country and we really could not put our finger on it. I think that the Republican message today is not the only problem with America, but one of the problems with America has been the fact that one party has controlled this Congress for a quarter of a century, 25 uninterrupted years, and many Americans do not know that. If we Republicans are going to do one thing in the next 1 year, one thing in the next 6 months, it is to make sure that all Americans appreciate that fact.

If I may go on with regard to the ad:

> To change them you have to understand that what went wrong, went wrong here.

What the ad is referring to is here in the body of the U.S. Congress, a combination of the House and the Senate.

> For 25 years, both Houses of Congress have been controlled by one political party. That party, obviously, is the Democrat Party.
>
> They made the laws, they set the budgets, they spent the money and they built the bureaucracy that put us where we are today; but tomorrow can be different.

I think that is the main thrust of the Republican advertisement. That is your message. Tomorrow does not have to be the way it was last year and the year before. For the past 10 years the average American worker has not received a real wage increase, and that can change and that is the message here.

Then the ad goes on:

> America is still strong.
>
> We have the resources to restore prosperity. A Republican Congress, Republican leadership can do it.
>
> Democrats want more government.
>
> Republicans want less.
>
> Democrats constantly raise taxes.
>
> Republicans want to cut taxes.

And I might add, cut taxes for all Americans.

> We believe this is the way to end inflation, restore our hope and all optimism.
>
> Things can be better, a lot better. Vote Republican, for a change.

I think that commercial was an excellent one. I hope when Americans hear it, when they see it, they read it and they contemplate and they think about it.

There is one other thing, if the gentleman will continue to yield, and that is that very often Republicans, for example, have been congratulated by other Republicans for going to union halls and some Republicans have congratulated other Republicans by saying, "Isn't that wonderful? You are neutralizing the unions, and if you go there and you talk to them and you use their vernacular, you meet with their leaders, they won't hurt you in an election. They won't be with you, but they won't hurt you."

Our message is just the reverse. When we go to union halls, we are going to win them over. They are going to be on our side. They are going to vote Republican because they are going to know that the average employee in America has not received a real wage increase in years. That is not because of our party. That is because of the Democratic Party.

There is not in my mind a member of the labor union in American that after he examines the issue would be able to honestly say, "I belong in the Democratic Party," a party that is devaluating their paychecks by 13 and 14 percent a year, at the same time that that party is saying, "You should be satisfied with a 7-percent wage increase." That is not doing a favor to the union. That is not helping the American worker. That is helping, in fact, Government at the expense of union people, at the expense of employees; so the Republican Party is not going to be satisfied with a coalition of a few people. The Republican Party of the future is only going to be satisfied when all Americans agree that we will all do much better with increased growth, more jobs for everybody, and a higher real standard of living for all Americans.

I thank the gentleman for yielding.

Mr. VANDER JAGT. Madam Speaker, I thank the gentleman for his very excellent statement and I thank him in particular for two things:

No. 1, for reading that commercial so well. When I hear the gentleman reading the commercial it makes me wonder why we did not choose the gentleman from New Jersey instead of the man that the gentleman described as reading it on the air with the rich and deep voice; but I would particularly like to thank the gentleman for making the very fine point that things do not have to be this way, that they can be different.

In the poll that I referred to just a little while ago, there was a rejection on the part of the American people of the President's statement when he came down from his many days on the summit and gave his speech on malaise. He said in essence that we had to hunker down and tighten our belts and get along as best we can as we adapted to limitations and no growth.

□ 1420

The American people, by an overwhelming majority, believe that these problems can be solved and that things can be better in America. And, of course, if we are going to solve them and if we are going to make things different, we need a new and different leadership, a changed leadership.

So, Madam Speaker, I thank the gentleman very much for his contribution on both of those grounds.

Mr. BURGENER. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from California.

Mr. BURGENER. Madam Speaker, I thank my colleague for yielding, and I thank him for his leadership in bringing this message to the public in this election year of 1980. It is a message of deep importance.

Madam Speaker, I say to my colleagues that I would like to join in this special order and discuss several issues. I would like to talk about the shrinking dollar, about big spending, and about our President.

I would point out that I have been rather easy on our President for 3 years. There have been two reasons for that. No. 1, I felt that, as a "new man on the block" in a position of massive responsibility, the President ought to be given a chance to perform, and I realized, second, that there was no mechanism available to terminate his tenure in office. Now, however, this is the year of decision. His contract is up for renewal, and all Americans ought to be concerned about whether or not that contract ought to be renewed and, along with it, the contract of a majority of this House, which has not governed but controlled us so heavily for some 40 to 50 years.

Let me read to the Members a little item from last Thursday's Washington Post that appeared on the editorial pages. This is what it says:

> "In 1976," candidate Carter said: "The Republicans have become 6-percenters on inflation. They ask us to accept that rate, to think of 6 percent as normal, to be glad it isn't worse." Actually, Carter, a 13-percenter, was wrong: the Republican rate in 1976 was just 4.8 percent. But on one point he was more right than he knew: we certainly shouldn't think of 6 percent as normal.

That is the end of that quotation from the newspaper.

"But," the President, the administration, and many Members of the majority say, "that is because of OPEC." They are laying it all off on OPEC.

But their own Bureau of Labor Statistics belies that, and this is from that Bureau. I quote from its most recent release on the cost of living. It points out that, indeed, the cost of living rose more dramatically than ever since 1946, and last year it was 13.3 percent. And on page 2 they break it down and tell us what caused it. This points out that when we take out energy, as important as this is and as ineffective as this Congress and the administration have been, with no leadership, and no program even so without the energy factor as a cause for inflation the inflation rose 11.1 percent last year.

So it is not energy. Therefore, I think that particular excuse falls by the boards.

We can further add to it the fact that Japan, West Germany, Belgium, and many of our other trading partners in the free world import all of their energy—they import all of it; they produce none because they have no petroleum in their countries—and yet they have an inflation rate which is a third of ours. So that cannot be the reason.

I would conclude on that point that, no matter how we define it, 4.8 percent inflation must be better than 13.3 percent.

My constituents are not interested in deflators, gross national product, or bracket creep, whatever that is—besides, it is not creeping; it is on the dead run. What my constituents are interested in is paying their bills, buying the groceries, making their car payments and their home mortgages, educating their kids, and staying out of trouble and being good citizens. And I think the majority of our people are good citizens, but they can no longer afford the luxury of not paying attention to what their elected Members of Congress are doing.

Madam Speaker, let us qoute again from this editorial and see what candidate Carter said about interest rates. He said—and I quote—"In 1976, Carter charged Republicans with 'the highest interest rates since the Civil War,' and was especially angry about" interest rates and home mortgage rates being 9 percent.

Think of that. Continuing with the editorial: "Last month, the average new-home rate was 11.65 percent."

In my area it was 14 percent. The editorial states that the prime interest rate has more than doubled under the Carter administration and this majority in Congress.

So they get a new Secretary of the Treasury, a very able man, who is indulging in high interest rates for a very good reason, but this Congress cannot turn to the Treasury and ask it to solve our fiscal problems with monetary policy. That will not get the job done. Fiscal failure must be laid at the doorstep of the Democrat-controlled Congress.

So let me say that the reason we have high inflation—and the public is aware of it, and I think these ads are going to help make them more aware of it—is that the Congress is fast spending this Nation into bankruptcy.

If World War III is going to be cold or warm or hot—heaven forbid—it cannot be fought with credit cards, and this "house of cards," known as our economy under this administration, is about to tumble. So in response to our problems, they present us with a budget for fiscal 1981.

Madam Speaker, I say to the Members, "This is the new budget, folks, and let me tell you what it has in it." This is not a political opinion, it is a fact. This new budget has higher taxes—$74 billion of them. It has higher taxes and more spending. The public does not want that. The people have said so clearly. The budget also has more unemployment and lower productivity.

That is their answer to our problems. They think we can borrow and spend our way out of trouble. It has never happened before, and it is not about to happen now.

Madam Speaker, I say, "Vote Republican for a change."

Mr. VANDER JAGT. Madam Speaker, I thank the gentleman from California (Mr. BURGENER) for a very excellent statement.

When the gentleman was speaking and reminiscing back to candidate Carter's talking about 6 percent being absolutely unacceptable as an inflation rate and saying that the Republicans were "6-percenters," I was gratified that the gentleman did point out that even at that time candidate Carter was a little bit inaccurate in the facts. Inflation was not 6 percent. When President Ford left office, the inflation rate was 4.8 percent and going down. Today it is at 13 percent and going up.

With that reminiscing by the gentleman, I thought back to the so-called misery index that candidate Carter was talking about. That was a combination of the inflation rate of 4.8 percent and also an unemployment rate of 7½ percent, and somehow that came up to about 11 points. Candidate Carter was ranting and raving and was aghast that we could as a country stand an 11-percent misery index.

Right now, when we add the 13-percent inflation rate to the unemployment rate, President Carter's misery index is about 20. That ought to be very, very embarrassing to him in light of what he said, and indeed it was. When he was asked by a reporter about his misery index, he, amazingly enough, had forgotten what the misery index was and indicated that really he had never talked about it as a candidate.

Mr. TAUKE. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Iowa.

Mr. TAUKE. Madam Speaker, I thank the gentleman very much for yielding.

Madam Speaker, I commend the gentleman from Michigan (Mr. VANDER JAGT) for the effort that he is making today to acquaint the American public with some of the major issues which will be facing the country during the next election and probably during the next decade.

I was most impressed with one of the commercials that has been prepared at the direction of the gentleman. I suppose that was because I identified with that commercial. It is the one that is appearing on television now. A 5-year-old boy is pictured in the commercial. The commercial says that when this young man was 5 years old, the Democrats got control of Congress and of our economy. We see in the commercial the boy grows older, and finally it reaches the point where the boy is now 30 years old. It is pointed out that the Democrats have been spending more money all this time, and they continue to spend and tax, spend and tax, and, as a result, it is very difficult for this young man and his family now to make ends meet.

I was a little younger than that man in the commercial when the Democrats took control of Congress, and I find that as I think about it, I have lived fully all of my life under Democratic Congresses and Democratic control of Government. Most people in this country do not realize that, however. They really do not understand that it has been a quarter of a century, 25 years, that the Democratic Party has had control of Congress. As the gentleman so ably pointed out, not one bill passes, not one interest is promulgated without the authority of Congress, and not $1 is spent without the approval of Congress. The direction, the tone, and the thrust of our Government today is being determined by the Democrats who have controlled Congress for 25 years.

When I ran for Congress and as a matter of fact when I served in the Iowa Legislature, I think that I was reacting as many political leaders have acted across the country over the last several years when I said, "I am proud to be independent."

You can look at my voting record, and occasionally I do not go along with the Republican Party line; I join my friends from the other side of the aisle. I tried to present that image to the voters as I campaigned for Congress and as I had earlier campaigned as a member of the Iowa Legislature.

I always pointed out that I was a good Republican, that I held strong philosophical beliefs that are akin to those of the Republican Party. But I also indicated that maybe somehow you were a little bit tainted if you identified too closely with the party. That was because I was falling into the trap that I think so many Americans have fallen into of not identifying clearly with the party. I suspect the reason that they do that is because they do not understand the major philosophical differences between the two parties.

Well, you do not have to be in this body very long before you begin to recognize that there are major philosophical differences between the parties.

I do not think either party has a corner on good intentions. Certainly neither party has a corner on the desire to see our country grow and prosper. But the fundamental problem with the leadership of the Democratic Party is that they do not believe that our country has the ability to become a better nation.

As I look at the philosophy that underlines the policies which they offer us, it is quite clear that the philosophy they are offering is one that is based on the belief that our Nation has already reached the pinnacle of its economic success. They believe that the economic pie cannot grow any bigger. They tell us that because of the inherent limits of our free enterprise system, because of limitations imposed because of our energy problems, because of other problems in the world, we as a nation have gotten just about as far as we can along the road to success.

So, therefore, they have adopted the idea that the role of the Federal Government should be to take those limited resources that we now have available to us and apportion them fairly among the population.

Now, if you accept the idea that this country has come as far as it can go, it makes a great deal of sense to outline that role for the Federal Government. But when you do outline that role for the Federal Government, you have a self-fulfilling prophecy because you make it impossible for our economy to grow, you make it impossible for our free enterprise system to work, you take away the opportunity from people to improve themselves.

We on our side of the aisle, on the other hand, recognize that we as a nation have not yet begun to achieve the American dream; that we have the natural resources, we have the right political system, we have the right economic system, if we just give it a chance to work.

We say instead of the Federal Government being a dominant player in the economy that if the Federal Government would be the referee it is supposed to be, to insure adequate competition to protect the consumer, if it would be that referee and not try to be a major player in the economic system, then we would have continued growth in our industries in this country, we would have people seeking new ideas and new innovations because they would want opportunity to grow and improve themselves; and we as a party, as a result, have a much different view of America, a much different view that is much brighter.

I suspect that our policies make it possible for us to achieve that dream, and that is the remarkable difference between the policies of the Republican Party and those of the Democratic Party. We still have a dream. They do not. We have policies which will allow us to achieve that dream and to achieve better goals. The Democrats do not even believe that it is possible to do so.

I think we must get that message across to the American people—not only that the Democratic Party has controlled Congress for 25 years and has brought us to the point where we are now, but also that they do not have any hope for the future. It is not because they are bad guys, it is just because they are a little misguided. I think that is the important thing for us as Republicans to say to the people of America, that our party is the party of hope, that our party is the party that still dreams; that the Democratic Party, the party that is in control now, has tried its policies, they have not worked so well, they do not have a lot of new ideas, and they have abandoned their hopes and their dreams. That is the major failure of the majority party in Congress.

Mr. VANDER JAGT. Madam Speaker, I thank the gentleman from Iowa (Mr. TAUKE) for a very eloquent statement indeed. I think that the gentleman is right, The party that can offer the American people the dream again and the hope again is the party that will prevail in November.

While the gentleman was talking, I wondered again why, as we present these commercials, that none of our Democratic colleagues are here to challenge the accuracy of these statements, because they really make some statements. I thought back to the reading by the gentleman from New Jersey of the statement in the commercial that the Democrats stand for higher taxes, Republicans for lower taxes; Democrats want more spending, Republicans want less spending; and Democrats are willing to accept the double-digit inflation.

No one was here to challenge that statement, and maybe one of the reasons that no one was here to challenge that statement is because the gentleman from California held up the budget for 1981, and there it is, more taxes, $74 billion more, and a tremendous acceleration in spending.

So perhaps one of the reasons that there is no one to challenge the accuracy is indeed that the statement is accurate.

As the gentleman was talking about the dream, I think really about the despair of that budget that the Democratic Party has submitted to this Congress for fiscal year 1981. I think of the despair it is offering to those young people. It accepts double-digit inflation and it projects more unemployment.

The gentleman I think would agree with me that what the Democratic Party in the Congress is saying is, "Well, inflation is bad, so we deliberately have to bring about a little recession and put people out of work." Their answer is the old answer of the 1930's: "Let's spend our way out of a recession that our budgetary policies deliberately bring about."

The Republican answer is, of course, "Let us, with tax reductions, stimulate the economy so that we avoid the recession in the first place."

I think these commercials not only will point out how huge are the problems that 25 years of the wrong fiscal policies have created, but the educational program will show that we Republicans do have an answer to those problems. We have not yet stopped to dream for ourselves or for the American people.

Mr. DEVINE. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Ohio.

Mr. DEVINE. I thank the gentleman for yielding, and I wish to compliment him for taking this special order in order that we may demonstrate just what this is all about.

Madam Speaker, Republican advertisements are appearing on television across the Nation. They make a number of important points about the 25 years of misrule our Nation has experienced from the Democrat-dominated Congress.

Here are key points:

First. For 25 years the Democrat-controlled Congress has increased Government spending.

Second. As a result of these increases in spending, Federal taxes have continued to increase.

Third. The national debt has grown substantially.

Fourth. Inflation has increased substantially since 1955 when the Democrats took control of Congress.

Fifth. For a quarter of a century—the last 25 years—the Democrats have spent more than the Nation could afford.

These statements can be easily verified. The Statistical Abstract of the United States and the Census Bureau's Historical Statistics of the United States are our principal sources.

Let us review that evidence:

First. For 25 years the Democrat-controlled Congress has increased Government spending. In fiscal year 1955 our Government spent $68.5 billion; in fiscal year 1980, it is expected to be $548 billion. That is an increase of nearly 700 percent in Federal spending.

Second. The Democrats have increased taxes substantially over the last quarter century. The evidence shows: The Federal Government took in $66 billion in revenues in fiscal year 1955; but in 1980 it is expected to collect $518 billion. That is an overall increase of 690 percent. It is clear, Madam Speaker, that the Democrats are not only big-spenders, but they are also big-taxers as well.

Third. The national debt has grown substantially over the past 25 years under Democrat economic misrule. The evidence shows the following: For 24 of the last 25 years the Federal debt has increased. The overall change in Federal debt is an increase of 223 percent.

Fourth. Inflation has worsened with the Democrats in charge. The evidence shows some interesting points: First, in 1954, the last year Republicans controlled Congress, consumer prices actually declined. They have increased in each of the last 25 years, rising over 13 percent in 1979.

It is clear, Madam Speaker, that the Democrats do not know how to control the fires of inflation. Instead, they pour gasoline on it—and prices rise to double-digit levels.

Fifth. The Democrats have spent more than the Nation can afford. This point is self-evident. Rising budget deficits, double-digit inflation, and rising taxes are abundant evidence of economic mismanagement.

Madam Speaker, it is clear that the Democrats are unable to manage our economy soundly and protect the value of the dollar. The only solution for America is to change Congress—to vote Republican for a change.

□ 1440

Mr. VANDER JAGT. I thank the gentleman from Ohio very much. As the gentleman from Ohio is sharing with us those really overwhelming statistics, when one stops to think of what has gone wrong in 25 years, I could not help thinking that it is getting worse each year instead of better. The damage is accelerating almost like a snowball going downhill.

You know, in terms of the increase in taxes, when President Carter took office in his first year, he collected from individual Federal income-tax payers $131 billion.

This year, he will collect $268 billion, more than double the tax take from the hides of the individual income-tax payers just between his first year and his last year.

I thank the gentleman for his valuable contribution to the special order.

Mr. BROYHILL. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

I want to commend the gentleman for taking this time to lay before the public, lay before the American people, the details of the Republican campaign that will be telling the American people the details and the effects of the Democratic record of this past 25 years.

I recall earlier in his special order, the gentleman said that there had been in the past some doubt among the American people as to who controls the Congress. The gentleman also indicated that there is growing awareness now as to who is actually in the majority here in the House of Representatives and the other body.

I know one thing that there is no doubt about. The people who I represent, and I am sure that the gentleman from Michigan also can agree with this, they know that something is wrong.

Every time that they see their Congressman on the street or at meetings or in one's official office hours, they are expressing that concern that there is something wrong, and that the Congress is not taking care of their basic needs.

They see the problems of inflation, of high interest rates and the specter of unemployment.

There is the increasing awareness that these problems are the result of following these unwise policies, economic policies, under the leadership of the Democratic Congresses in the past 25 years.

As a result of following these policies, we see, as the gentleman from Iowa pointed out a few moments ago, where the American dream of upward mobility is now becoming a nightmare. It is the nightmare, the possibility, that your paycheck may not be able to cover your expenses next week, or the nightmare of not being able to afford to purchase a new home, or even the nightmare of your job being in jeopardy, or perhaps your child who is just now finishing school will not be able to find the employment that he might want or be trained for.

Madam Speaker, I commend the gentleman again for his leadership in this area. I compliment him for the fact that he is laying the details before the American people, because we need for them to know that the Republican policies and a Republican majority in the Congress, utilizing these policies could change things. That is why it is important that the American people know why it would be to their benefit to vote Republican, for a change.

Mr. VANDER JAGT. I thank the gentleman very much for his statement.

The gentleman is absolutely correct that the American people do know that something is wrong.

They do not like what Congress has been doing to them. They just have not known who it is that is doing it to them until fairly recently.

Now according to the poll which I have discussed, the majority of Americans at long last blame the Democrats in the Congress for the problems that they feel so acutely, and it is just possible that 1980 might be the year they vote Republican. For a change.

Mr. ROUSSELOT. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Madam Speaker, the purpose of this special order today is to deliver some truths to the American people. Many of our people do not realize that the Democratic Party has been the majority in Congress for the last 25 years. For a quarter of a century the Democrats have had the power to deal with taxes, inflation, defense, energy, and spending.

And they have dealt with these issues. Today we have crushing taxes, skyrocketing inflation, a weakened defense, less energy, and huge deficits. This series of disasters is squarely the responsibility of the Democratic majority. It is a responsibility the Democratic majority seeks to disown.

As a matter of fact, many Democratic Members when at home use rhetoric to make people believe they are for lower taxes, less Government, less Government regulation, a balanced budget, a sound energy policy, and a Federal policy of economic growth; yet when these same Democratic Members are here in Washington, D.C., they vote and work for policy that go in the opposite direction. That is double rhetoric.

And that is the reason the Republican Party has launched a national media program designed to deliver the truth to the American people, and to lay the responsibility for crushing the working Americans' dreams at the doorstep of the Democratic majority in Congress.

True to form, the Democratic leadership wants to hush-up our effort. And they refused our request today to show the Republican TV commercials—with their eye-opening messages—on the floor of the House.

But our message will be heard.

We will tell the voters that the Democrats in Congress are spending their taxes at the rate of a million dollars a minute; that the Democratic majority will raise those taxes by a shocking $77 billion this year alone, and still not have enough money to balance their bloated budget.

Let me review the advertisement that Republicans are now showing to TV audiences:

The ad submitted for verification makes three assertions. They are:

First. That the Democrat-controlled Congress is spending money "at a rate of a million dollars a minute."

Second. That the Democrat-controlled Congress is spending more money "in 1 second than the average family takes home in a year."

Third. That the tax burden created is so heavy that for "nearly 3 months out of the year the Government takes every penny earned by all the working people of America."

Verification for the first and second assertions was done by calculating the "rate" of spending, first in terms of minutes per year, then in terms of seconds per year based upon the amount allocated for expenditures for fiscal year 1979, fiscal year 1980, and estimates for fiscal year 1981.

Once spending rates were established, the rate per second was compared to the amount that "the average family takes home in a year."

For purposes of verification, the definition of "average family" was obtained from two sources: Bureau of the Census (Current Population Report, Series P-20, No. 345-1979) and the Joint Committee on Taxation of the U.S. Congress.

According to the Bureau of the Census, "The term 'family' refers to a group of two or more persons related by blood, marriage, or adoption and residing together in a household." Additionally, the Bureau places the size of the "average" family at 3.31 persons.

Working from Bureau of the Census data, the Joint Committee on Taxation created an "average family" model of four persons. From this model the committee staff was able to make statements regarding incomes and tax burdens. These statements are:

INCOME AND FEDERAL TAX BURDEN FOR A FAMILY OF 4

Year	Income	Federal income tax	Social security tax	Total Federal tax	Effective Federal tax rate (percent)
1979	$18,918	$1,838	$1,160	$2,998	15.8
1980[1]	20,678	2,123	1,268	3,391	16.4
1981[1]	22,456	2,431	1,493	3,924	17.5

[1] Projected.

Source: Joint Committee on Taxation.

Verification for the third assertion was done by simply determining how long the working people of America would have to work to "pay off" their tax debt to the Federal Government. This was done by calculating total taxes (personal and business) as a part of the gross national product (GNP). This yields a percentage which represents how much of all the income earned during a specific year is turned over to the Federal Government. This percentage also represents that portion of a year which is spent working to pay the Federal tax bill.

Statistical data was obtained from the Statistical Abstract of the United States, 1979, the Senate Budget Committee, the Joint Committee on Taxation, the Bureau of the Census, and the Bureau of Labor Statistics. Statistics for 1980 are based on the results of the second congressional budget resolution for fiscal year 1980.

The actual computations of both "rate" and "percent" were carried out based on information provided by Theodore R. Anderson and Morris Zelditch in their book, "A Basic Course in Statistics." The formulas used were as follows:

$$\text{For rate of spending: Rate} = \frac{\text{amount}}{\text{time}}$$

$$\text{For percent: Percent} = \frac{N_1}{N_2}(100)$$

The results are as follows:

Assertion 1: That the Democrat Congress is spending money "at a rate of a million dollars a minute."

Minutes in a year = 365 days × 24 hours × 60 minutes.

Minutes in a year = 525,600.

Dollars per minute = amount/time

Spending:

FY 1979 = $487.5 billion or $487,500 million.

FY 1980 = $547.6 billion or $547,600 million.

Dollars/minute FY 1979 = $927,500.00/minute.

Dollars/minute FY 1980 = $1,041,800.00/minute.

Assertion 2: That the Democrat controlled Congress is "spending more money in one second than the average family takes home in a year."

Seconds in a year = 365 days × 24 hours × 60 minutes × 60 seconds.

Seconds in a year = 31,536,000.

Dollars per second = amount/time

Spending:

FY 1979 = $487.5 billion or $487,500 million.

FY 1980 = $547.6 billion or $547,600 million.

Dollars/second FY 1979 = $15,450.00/second.

Dollars/second FY 1980 = $17,364.28/second.

Average earnings after taxes (take home pay) for a family of four:

1979 = $15,920.

1980 = $17,287.

Assertion 3: That the tax burden created is so heavy that for "nearly three months out of the year, the government takes every penny earned by all the working people of America."

GNP 1979 (estimate) = $2,396.5 billion.

Receipts FY 1980 = $517.8 billion (includes both personal and business taxes).

Receipts as a percent of GNP = 21.6%.

If GNP equals total earnings for a one year period, and if 21.6% of one year's earnings go to the federal government in tax dollars, then 21.6% of one year (365 days) yields the number of days Americans must work to pay that tax bill.

21.6% of 365 days = 78.84 days or nearly three months.

CONCLUSIONS

(1) Assertion 1 is verifiable: the federal government spends $1.04 million per minute.

(2) Assertion 2 is verifiable: working with data for FY 1980, it shows that while the average family of four will take home $17,287 during the year, the federal government will spend $17,364.28 every second of that year.

(3) Assertion 3 is verifiable: the workers of America have to work 78.84 days out of the year to pay the nation's federal tax bill.

We are going to tell the people that the Republican party has positive solutions to our economic problems. We support a budget of hope, a budget which would cut taxes and reduce the deficit, a budget which would leave the working man with more dollars in his pocket and create jobs through economic prosperity.

The Democratic leadership has consistently squelched Republican efforts to balance the budget. I, myself, have presented balance budget alternatives to the Congress no less than nine times in recent years.

Always the Democratic leaders oppose them. They prefer to continue spending at a rate of a $1 million a minute, without regard to the declining living standard of the average American family.

But things can change. Tomorrow can be different. America is still strong. A Republican Congress with Republican leadership can change government for the better.

We will slash wasteful spending, cut taxes, curb inflation, and restore hope and optimism to the American people.

Our message to the public is that things can be better with a Republican controlled Congress. A lot better.

☐ 1450

Mr. VANDER JAGT. I thank the gentleman very much. The gentleman I think is very perceptive when he talks about the right rhetoric, the right rhetoric at home combined with the wrong votes here in the Congress. As I alluded to earlier, I am utterly fascinated as I travel around the country to find incumbent Democratic Congressmen using the right rhetoric.

Mr. ROUSSELOT. If the gentleman will yield, the Republican rhetoric, they use our rhetoric.

Mr. VANDER JAGT. They use the Republican rhetoric at home, but then vote the Democratic line.

The gentleman used the phrase double-rhetoric, and it is really double-rhetoric. The gentleman will recall that we recently worked on a bill coming out of the Committee on Ways and Means. The last bill of the last Congress in 1978 was the so-called tax cut, and it was proclaimed loud and clear by the Democrats in Congress as a tax cut. As a matter of fact, 80 percent of the American people paid more taxes in 1979 than they did in 1978. That is not a tax cut; that is a tax increase. That is how Federal individual income taxes have doubled between Carter's first year and his last year.

Mr. ROUSSELOT. The gentleman makes an excellent point. One of the reasons that turned out to be more taxes was because of inflation, which the Democratic Party talks a lot about in this Congress but does absolutely nothing to reduce. I thank my colleague for taking the special order.

Mr. DUNCAN of Oregon. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I would be absolutely delighted to yield to a Democratic friend, at long last.

Mr. DUNCAN of Oregon. I thank the gentleman. I was just going to suggest if it is costing us $1 million a minute, as the gentleman from California has said——

Mr. ROUSSELOT. I can assure the gentleman that it does cost $1 million a minute.

Mr. DUNCAN of Oregon. If it costs as much as is suggested, would the gentleman not like to give some consideration to revising and extending his remarks for the balance of the special order so that the gentleman's actions would match the rhetoric?

Mr. VANDER JAGT. We very much would want to give consideration to that, except we think we can save the American people billions and billions and billions of dollars by just focusing a little attention on the spending record of the Democratic side of the House.

Mr. DUNCAN of Oregon. If the gentleman will yield further, those billions of dollars are made up of lots of fairly small amounts, and $1 million a minute to this Democrat is an awful lot of money. It only costs $393 a page for the CONGRESSIONAL RECORD that you fellows are filling up, and so I would just suggest that there you would be saving about $999,600, you know.

Mr. VANDER JAGT. I would say to the gentleman that if we spare a penny, we might lose a dollar, in that what we are concerned about, for example, is the $76 billion increase in taxes that will take place next year unless we utilize this opportunity to educate the American people on how they can bring about a change.

Mr. DUNCAN of Oregon. Will the gentleman yield further?

Mr. VANDER JAGT. I am happy to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I do not know that I ought to prolong this because I am not one of those whose rhetoric is dissimilar from his votes, as the gentleman suggests. But there are undoubtedly reasons as to why I am the only one that has been drafted to sit in here. It is not that there are no answers to these statements the gentleman has made. The only thing is that the gentleman and his party have been making them for 25 years now and nobody is listening except those of us who have to be drafted and those of us who are making the statements. My colleagues did not want to destroy this illusion that the gentleman has created for 25 years, and that is the reason why they are not here. We do not have to answer these charges. The American people have been answering them for 25 years every 2 years when they go to the polls and vote Democratic.

Mr. VANDER JAGT. I would suggest to the gentleman that unless the charges are answered between now and November, the gentleman and his party might be in for a rude awakening. For a long time now the people have been very unhappy with what Congress has been doing to them. They, unfortunately, have not known that it was a Democratic Congress. They did not know how to go about changing it.

The best kept secret in America until just the last few months was that it was a Democratic-controlled Congress. If I had been a Democrat, I would have wanted to keep it a secret, too.

Mr. JEFFORDS. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Madam Speaker, First, I want to commend the gentleman in the well for taking this time to give the American people a little bit more coffee to help awaken them to the reality of what has been happening to them over the years. I specifically wish to comment on a couple of clever coverups of the Democrats.

I had intended to speak at length about one of the more insidious ones. However, the gentleman from California, the Republican that preceded me, eloquently discussed the tax increase that occurs each year in greater sums due to the inflation which is galloping along at an increasing rate. It should be understood that it is the Republicans, under the leadership of Congressman GRADISON and others that have been attempting to change the tax system to prevent this automatic tax increase by indexing tax rates.

The other clever coverup involves the exact figure of unemployment. Members will note that the minority, by my amendment to the Humphrey-Hawkins bill, attempted to insist that the administration accurately report the unemployment situation. This amendment passed the House but disappeared quickly in conference. The Democrats, by increasing the number of public service jobs over the first years of the administration, were able to deceive the American public into believing the unemployment rate was coming down at a much more rapid rate than actually occurred. This happens when people, employed in Government make-work jobs because they are unemployed, do not show up unemployed in the statistics. Unfortunately, the democratically appointed National Board of Unemployment Statistics has refused to change this misrepresentation of our actual economic situation.

It should be noted that the administration's new domestic programs will substantially increase the authority for more public service employment jobs. With the present statistical reporting system they will again attempt to deceive the American public.

It should be pointed out that it was the efforts led by the minority, supported by a sufficient number of enlightened members of the majority that was able to substantially change the CETA legislation last year to move away from these nonproductive make-work jobs and move toward training people and finding them jobs in the private sector.

I will just end by reminding the Members that the last time this country had essentially no unemployment and also no inflation, was when we had a Republican President and a Republican Congress. I think the American public is going to return to that kind of leadership.

Mr. VANDER JAGT. The gentleman is commended for his very fine contribution, succinct and to the point.

Mr. LUNGREN. Madam Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Madam Speaker, I, too, would like to compliment the gentleman in the well for what he has done here today. Some of us perhaps wondered why we would have to have a large-scale TV ad program to explain our position, because we think the facts are very, very clear. But I think that question was answered within the last 10 days when we received the budget from the Carter administration. This was the budget that was called lean and tight, a more than $600 billion budget with an admitted deficit of about $16 billion, which will bring us to a national total deficit or debt of about $932 billion. And they called this a lean and tight budget.

Those are the same people that would call that lean and tight that, it seems to me, might cast Jackie Gleason in the role of "The Thin Man." They might even be the same people who would mistake Sophia Loren for Audrey Hepburn. I mean some things are just not as they are presented.

The point is the American people have not had an opportunity to see what is actually happening here.

I ask my colleagues to look at the budget that we are now being told by the Democratic leadership and the President is such a great thing because it has reduced the deficit. We will see that to the extent we have reduced the deficit we have done it by raising taxes. Well, that is not anything new for the Democratic majority. They raise the taxes to 100 percent and make sure nobody works in this country.

The point is the Democratic leadership has allowed it to happen through inflation, so it is a quiet, nonvoted tax increase. They resist our effort even to bring a question of a tax indexing to the floor so that those Members who sit here and tell us that for 25 years the Democrats have been in control, so obviously the people want them, will have the opportunity to vote on whether the people want to be taxed again and again and again.

All we are attempting to do is present a simple proposition. That is, if something looks, talks, and acts like a duck, maybe it is a duck. We are trying to present a Congress controlled by one side for 25 years, that gives us some more taxes, more inflation, more Government spending, and says "Just wait a little bit longer, just wait a little bit, and things will get better." We Republicans are now trying to give an alternative to the past performance.

When I go home in my district I startle people by saying that I, as a freshman Republican, and in the position of the last person in committee, on many committee assignments, have a better chance to be in the White House than I do to be sitting in Madam Speaker's position right now presiding over this august body. They are startled by that. Then I point out to them that Jerry Ford was President of the United States, but not once, not once in 25 years in this House was he given the opportunity to even chair one committee meeting or one subcommittee meeting. And if he were, as an ex-President of the United States, to be elected to this House again, he still would not be able to preside over one subcommittee meeting, no matter how small that subcommittee meeting would be. By such examples people can begin to see what we are saying, that we are controlled entirely by the majority party. They ask why we do not have tax legislation here that would give us some benefit, why we do not have a tax indexing, why we do not have Kemp-Roth, and why we do not have adjustments in the tax rates.

☐ 1500

The simple answer is, the majority will not let us have even those votes on the floor of the House. So, I commend the gentleman for what he is doing here. I think what we are trying to do in our program is to say, "Give us the responsibility; give us the chance, and we will take the blame or we will take the credit if we have the opportunity to make the decisions."

Mr. VANDER JAGT. I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

REPUBLICAN SOLUTIONS TO AMERICA'S PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGRICH) is recognized for 60 minutes.

Mr. GINGRICH. I thank the Madam Speaker for recognizing me, and I apologize to the gentleman who has to sit through this long effort in discussing the role of his party in the bankruptcy of the United States and the increased inflation rate and the higher taxes, but I am sure he will find it most educational.

Madam Speaker, I want to pursue the fundamental theme that for a quarter century the American people have sought relief from their problems from the wrong institution by focusing on the White House. It seems rather clear, in the Constitution and the reality of Government, that in fact the real decisions are made about taxes, about laws, about budgets, in the Congress—in the House and in the Senate. This is obscured for a variety of reasons. One of them is a tendency on the part of the majority party leadership to avoid responsibility.

You know, we are running an ad that focuses on the notion that the Democrats are out of gas, and it has a limousine labeled "Democratic Congress" running down the road. The passenger keeps trying to convince the driver that the gas tank is about empty. The driver keeps saying, "Don't worry about it." Eventually the car runs out of gas and it closes by saying, "The Democrats are out of gas."

It tries to focus on the notion that the energy problem is controllable, that it is a part of the Government, that it is not inevitable, that it is not necessary, that it is not unavoidable. When you talk to people, you find that there is a general belief that Congress has fumbled with the energy problem. In fact, back in 1975 even the distinguished majority leader, the gentleman from Texas, said—and I quote:

> Too often the Congress has been simply unwilling to make the hard decisions and take the difficult steps to achieve energy sufficiently for the United States.

His point in general is correct, but I would suggest that it is not a vague, impersonal institution called the Congress; that in fact what we are talking about is a specific leadership, a specific party, and those who run the institution have to bear the responsibility for its record. They cannot step to one side and say, "Let me control the schedule; let me control the calendar; let me control the committees; let me decide what bills will come to the floor, and then let me blame you because something does not work."

Rather, they must accept some burden there. This is an important day in that we are focusing on broad questions. This Congress, unlike the British Parliament, has a weakness in that we really do not have a chance for policy debate. We really do not have a question hour as in the Canadian and British systems. We really do not have a central focus time where we stop day-to-day legislating and debate policy.

I would suggest that the gentleman from Michigan's special order and my special order might be a precedent. I would be delighted, and I think the gentleman from Michigan might be delighted, to cochair a series of special orders with the minority leader and the majority leader, with the chairman of the Budget Committee and the ranking minority member of the Budget Committee, have both parties have special orders for a series of televised dialogs; have each side explain what its role in Congress is, what its vision is for the future. It is conceivable that through that kind of special order we could begin to focus on Congress for policy and the kind of problems we have.

Mr. ROUSSELOT. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. ROUSSELOT. Madam Speaker, I appreciate my colleague expressing that idea. As one, perhaps, whose time has come. We all know that Senator KENNEDY is trying to get the President out of the White House to debate the issues as the two of them see it, and maybe the time has come for the Democratic leadership here in this House to be willing to debate much more openly the very issues which my colleague from Georgia, an active Member of this House, has brought up.

I think that is an excellent idea and maybe we can get our colleague from Oregon, who has just spoken, as long as he has been consigned to sit here, to take that message back to the Democratic leadership and they will be willing to have chairmen of those committees come and debate those issues such as the gentleman has suggested.

Mr. DUNCAN of Oregon. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. The word is "condemned," not "consigned."

Mr. ROUSSELOT. I am sorry. Either way, it is for the benefit of the American people that these issues be debated, and I think my colleague from Georgia has made an excellent suggestion.

Mr. GINGRICH. I thank the gentleman.

Mr. LOTT. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Mississippi.

Mr. LOTT. Madam Speaker, I would like to take just a moment to commend the gentleman for the remark he is making and for the suggestion he has made, and also the gentleman who preceded him in the well, the gentleman from Michigan, because I think it has given us an opportunity to say some very important things that need to be brought to the attention of the American people about where the problems are in this Government.

I had for 4 years the occasion to serve as a Democratic staff member, and today is a special day for me because it is his birthday—he is 90 years old today. I think one of the reasons I now sit on the Republican side of the aisle is the arrogance of power that I saw in the leadership on the Democratic side, and what they tried to do to my predecessor, who tried to be a dedicated American. What thanks did he get? They tried to strip him of his seniority, which they have done with other Members of their own party when they did not toe the line.

It goes way beyond the committee themselves, to the staffs. We talk about the bureaucracy being the big spender, yet we see in the House of Representatives, in the Congress, that we have perpetuated probably the worst bureaucracy in the Government. We have seen committee staffs go from 7 to 18 to 28 to 51 in less than 10 years, with budgets now running into the millions of dollars.

The point we have got to get across to the people is, I think, they are beginning to realize even in my State, which is a State which has been married to a label for a hundred years, that Presidents come and Presidents go, and certainly the one we have now is subject to a lot of criticism, but what are the large majority of the problems due to? To me, it is the Democratic-controlled Congress. We are the ones that dream up and authorize some of these ridiculous programs. How many, program after program, that did not exist in 1972, before I came to this body, that now cost hundreds of millions of dollars?

We have got to put the attention where the attention belongs, on the Congress.

People across America say, "Congress is bad, but my guy is all right."

I suggest that they check the voting records of their own Members and see how they are voting on the issues and what leaders have set up the schedule and agenda that this Congress will even consider. It is just that simple.

If the American people are unhappy with our foreign policy, with inflation, with wasteful spending, with higher taxes, with bureaucracy, and all the things that go along with it, it is time for a change. The only way to make that change is to change the Congress and its leadership.

I thank the gentleman.

Mr. GINGRICH. I thank the gentleman.

Mr. BETHUNE. Madam Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Madam Speaker, I thank the gentleman for yielding. This last summer, when the President came down from Camp David after what I referred to as the "Camp David seances," he commented about the lack of confidence in this country. The lack of confidence, I think, was the statement that pertained not to the people and what they felt about themselves, but it was a good diagnosis of what is wrong in the country; that is, that the people have lost confidence not in themselves, but in their leaders and in their Government.

It is my observation that this lost confidence can be found. We have lost confidence in this country before. After the Civil War and after the Great Depression, confidence was never at a lower level, but after World War II and after we put a man on the moon, American confidence was never higher. Further, lost confidence can be found.

The people have, I think, lost confidence in their Congress. They want to change Congress, but I maintain that they do not know how.

People are tired of tax and spend, tax and spend. They are tired of runaway inflation and big government, but the fact is that they have forgotten what the remedy is in this system. I was 19 years old when the Republicans last controlled this Congress—25 long years ago.

□ 1510

I am now 44 years of age. It is obvious, then, that it has been a long time since I personally have seen what changing the power in Congress can do for the institution. It occurs to me that there are many Americans out there much younger than myself who do not remember it at all.

So I maintain that changing Congress is a forgotten remedy, and we need to teach that lesson. I think that is part of our responsibility as Members of this Congress. I think it is well that we do take this time. Whatever it does cost, it is an insignificant amount compared to the importance of the educational lesson. I know, too, that if you leave one party in power for a long time, you are going to have corruption, institutional corruption.

This is not to say that Republicans are any better than Democrats or would be any better than Democrats; it is simply to say the old axiom that has been known to politics all through the ages that if you leave one party or one faction in control for an indeterminate period of time, as that power grows, that faction or that party becomes unresponsive to the people. It simply does not listen because it does not have to listen.

So I think that what we are learning is, and what the people have forgotten is, that change is healthy. Competition is good in politics. After all, if competition is good in school and if competition is good in sports and in business, then it is awfully good for politics, too. That is the important point.

The British know this. Other forms of government around the country and around the world know that change is good. It is a tonic for the system. A new broom sweeps clean.

One of the first things I learned when I came to Congress—and this is my first time—was that the first vote that one casts in the House of Representatives is one's choice for Speaker of the House. After that event, the Speaker then designates and controls virtually the appointment of all of the committee chairmen, and the committee chairmen in turn control much of the hiring that is done of committee staffers, and we have seen an explosion of staffers in the last 10 or 20 years. A mind set begins to develop on those committees, a mind set that is difficult to break, so long as you do not break the power oligarchy that controls the Congress.

So I think there is an important point to be learned, and we have forgotten the remedy. There is absolutely nothing wrong with our institutions of Government. Our forefathers knew exactly what they were doing, but they also anticipated that people in this country would from time to time change the power from one side of the aisle to the other so that the new program could sweep clean and so that the committee chairmen would be thrown out from time to time. The relationships that settle in after 25 years with the lobbyists who prey on this Hill would be broken, and a healthy thing would occur from that competition.

So it is that we have forgotten the remedy. The people of America do not want more of the same; they want a change in Congress. To do that they are simply going to have to elect more Republicans than Democrats. The people in my district in Arkansas, as always, are about 2 years ahead of the Nation in that they elected me in 1978 to come here as a part of this process. What needs to happen now across the country is that the people in other districts need to send Republicans here, so that on the first day in Congress, when we cast that first vote here on the floor, we will elect a Republican speaker and he in turn will influence the appointment of new committee chairmen who will then break the mind set that has gripped this place for a quarter of a century.

Yes, the answer to the remedy that has been forgotten is to vote "Republican for a Change."

Mr. GINGRICH. I want to commend the gentleman from Arkansas (Mr. BETHUNE) for his comments, as he was reminding us of Lord Acton's famous phrase that power tends to corrupt; absolute power corrupts absolutely.

I could not help but think if you are going to have your 28th birthday in 1980, you were born in the year the Speaker came to Congress, or if you are going to have your 26th birthday, your entire lifetime has been spent under a Democrat Congress.

I think that brings home to the millions of young voters that which the gentleman from Michigan talked about earlier. It brings home to them that their entire time has been spent under the sway of one party; that from the time they were in Cub Scouts or from the time they were in the Brownies, the Girl Scouts or Boy Scouts, when they were in junior high or in high school, when they were in vo-tech school or college, when they got their got their first job— for this entire cycle one party has run this institution.

It is little wonder in that sense that that party has grown stale, that its ideas have decayed, that its focus has become more and more on staying in power at any cost, and that the consequence has been 13 percent inflation and ever increasing taxes, and in this year a $76 billion proposed increase in tax revenue in the new budget.

I now yield to my colleague and friend, the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. I thank the gentleman for yielding.

I want to speak to the point that 25 years of a Democratically controlled House does not leave a record we can be proud of. During that time, this Nation has operated on a balanced budget only four times. The national debt has climbed to nearly $890 billion, with interest payments that amount to over $50 billion a year. It is a sad state of affairs and something will have to be done to turn things around.

The tendency of the majority in Congress over the last quarter century to "spend now and pay later" is the main contributing factor to our Nation's current economic crisis. We currently have an annual rate of inflation at about 13 percent—a rate that is unprecedented in peacetime, except in the war transition year of 1946.

Of course all of this has led to what has been popularly termed "the taxpayers' revolt" that we have seen developing throughout the country—most visibly in California's Proposition 13. The state of our economy is causing wage-earners to be constantly pushed into higher tax brackets by inflation. Our 13.4 percent inflation rate has caused a 21.4 percent increase in individual Federal income taxes.

And, to complicate the scene, the matter at this point is not only a domestic problem, but has reached the point of an international crisis. As one of my colleagues said on the House floor, "When we consider what's happened to the dollar in the money markets around the world, when we see that the American dollar does not have the same respect that it had just a few years ago, we realize that our reputation as a Nation has diminished as a result of our profligate economic policies."

Clearly the way to start bringing our Nation's economy under control will be to contain the rampant spending habits of the majority in Congress. Federal spending, as a percent of the gross national product, has increased from 17.5 percent in 1955 to 23 percent in 1980, an example of unsound fiscal management in anyone's book.

The issue at hand is not only discipline, but, more importantly, the ability of Americans to control the destiny of their country. If we do not establish a fiscal framework for Congress to operate within, we may have that framework imposed on us by outside forces—a fate I do not believe any of us would like to see.

The first critical step to take toward real self-discipline is to adopt a constitutional amendment mandating a balanced Federal budget. Some 30 States have already called for a Constitutional Convention to consider such an amendment. That is clearly a vote of no-confidence in Congress, and a decision by the American people to take matters into their own hands, having seen public officials fail to act to solve the problem.

As economist Eugene McAllister said:

> Although a balanced budget does not guarantee an inflation-free society, the elimination of deficit spending would remove a major incentive for inflationary monetary policies.

He concluded by saying:

> Perhaps the most compelling argument in favor of the balanced budget is the alternative: to continue our present policy.

☐ 1520

Mr. GINGRICH. I thank the gentleman for his comments.

I would like to say that today's two special orders I think mark a historic turning point. We have seen many references in the Nation's press to the fact that we now have more inflation than at any time since 1946. We see problems that involve questions of congressional probity on a scale that the minority leader of the Senate on Sunday said resembled the Tea Pot Dome scandal. We see a country extremely angry about taxes, concerned about foreign policy.

I think it is very significant at the beginning of a very hard hitting political year in which the minority party is absolutely determined to talk about the issues, to lay out the facts, to hold back no punches but to punch fairly and cleanly and in a well researched and well documented way, that there is no clamor on the other side, there is no great support for a defense of the Democratic record. There is no great effort to join in open debate to allow the country to judge through open dialog which side in fact should really run Congress.

There is instead the closed arrogance of power, the sense of shrugging shoulders and saying, "Well, this is 13 percent inflation but that is all right, we always win, we will win again. The country owes us the control of Congress."

I think it is a sad commentary on the institutional decay of this Congress under this leadership. The majority leader, the Speaker, the committee chairmen did not feel obliged to defend their record, that they felt no moral obligation to speak to the American people, to stand up in open debate, not in press conferences, not dodging from office to office but in open debate on the floor and say, "Yes, this is our record, we may disagree a little about the fact; it is true, for example, that we say that prices rose 700 percent and taxes rose 700 percent when the exact figure is 697 percent."

They might have wanted to quibble over that 3 percent difference.

It is true that some Americans do not work exactly 3 months. They might work 2 months and 29 days. There are minor points they might question or they might want to cast a different light. They could have argued, for example, that we need a $76 billion tax increase. They could have said the American people owe $1,300 additional to the American Government since it has been so good to them. They could have said our bureaucracy has been so well crafted that we feel perfectly free to go back home and tell people they ought to pay an additional $1,300 from their budget to the Federal budget. But we see none of those defense, none of those explanations.

I think it is an interesting historical turning point that for the first time in my lifetime it is the Republican Party which has the idea, the initiative, the issues, the research and it is the former majority party which is in decay and is hiding and is failing to defend its position.

I thank you, Madam Speaker.

● Mrs. HOLT, Madam Speaker, the Republican Congressional Committee and the Republican National Committee are performing a great public service with a media program that is telling the people why our economy is staggering and why our prestige in the world is sinking.

This is the 25th year of Democratic Party control of Congress. It has been 25 years of lavish promises and extravagant spending, and there can be no mystery about why we are enduring high inflation, soaring taxation, and a staggering economy.

The Republican media campaign is telling the story, and I believe it is hitting receptive ears. The American people understand what's happening to their paychecks, and it's time for them to be told clearly about who is doing it to them.

Democratic Party control of Congress has also brought us to a time when there is doubt about our national security, our ability to defend ourselves and our vital interests in this world. We have watched the conduct of foreign affairs proceed in spasms and lurches without any coherent policy. We hear our allies wondering whether we have lost our senses.

The Democratic majority of Congress has acquiesed in the deplorable record of the Carter administration, which was best described by Joseph Sobran's article in the Washington Post today:

> By the end of his first year in office, he was already in trouble; by the end of his second year, the country was in trouble; at the end of his third year, the entire world is in trouble. By projection, his fourth year should end with the stars shooting madly from their spheres.

The record shows where the Republican Members of Congress have stood on the critical issues. The record shows our commitment to less spending, lower taxes, strong national defense, and sanity and consistency in foreign affairs.

We have a good record to take to the people, and the Republican national media campaign is getting the message across.

We are outnumbered by a 2 to 1 margin in this Congress, but we are not discouraged by our minority status. In every district this year, we will be telling the people why we need a new congressional majority, and I am confident they are already listening attentively.

We will be telling the truth. The Republican national media program is telling the truth, and the American people are ready to hear it.●

HEARING SCHEDULE OF THE SUBCOMMITTEE ON COMPENSATION, PENSION, INSURANCE, AND MEMORIAL AFFAIRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Madam Speaker, I would like to announce for the benefit of the Members and the public, the schedule of hearings of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs, which I chair, of the Veterans' Affairs Committee.

An oversight hearing is scheduled to begin at 8:30 a.m. on March 18, 1980, in the committee hearing room, 334 Cannon House Office Building, to review the veterans pension program, administered by the Veterans' Administration, which will include the comprehensive study of persons receiving veterans pensions living outside of the United States, which was mandated by Public Law 95–588, the Veterans and Survivors Pension Improvement Act of 1978, scheduled to be submitted to the committee by February 1, 1980, and another study requested by the conferees on the legislation resulting in Public Law 95–588 regarding coordination between the Veterans' Administration and the Social Security Administration on providing veterans benefits.

An oversight and legislative hearing is scheduled to begin at 8:30 a.m. on March 24, 1980, in the committee hearing room, 334 Cannon House Office Building, to review the operation of American memorials and overseas cemeteries administered by the American Battle Monuments Commission administered by the Department of Defense. Legislative proposals to be considered are H.R. 6355, which proposes to provide for a minimum number of employees for the American Battle Monuments Commission, and H.R. 6356, which proposes to provide that certain funds deposited with the American Battle Monuments Commission for flowers to be placed on the graves of veterans interred in American overseas cemeteries be invested in the Department of the Treasury.

An oversight and legislative hearing is scheduled to begin at 8:30 a.m., 334 Cannon House Office Building, to review the adequacy of the compensation and DIC programs for veterans and their survivors. Legislation to be considered are proposals to provide a cost-of-living increase in veterans' disability compensation and survivors benefits and H.R. 6352, which proposes to extend eligibility for automobile adaptive equipment to certain other seriously disabled veterans.

An oversight hearing is scheduled to begin at 8:30 a.m. on May 7, 1980, in the committee room, 334 Cannon House Office Building, to review the workloads of the Department of Veterans' Benefits and the Board of Veterans' Appeals of the Veterans' Administration.

An oversight and legislative hearing is scheduled to being at 8:30 a.m. on May 12, 1980, in the committee hearing room, 334 Cannon House Office Building, to review the national cemetery program administered by the Veterans' Administration. Legislation to be considered is H.R. 6146 which proposes to authorize the Administrator of Veterans' Affairs to provide headstones and markers for certain close relatives of veterans if such relatives are buried in State veterans' cemeteries.

An oversight hearing is scheduled to begin at 8:30 a.m. on May 20, 1980, in the committee hearing room, 334 Cannon House Office Building, to review the administration of the servicemen's group life insurance and veterans' group life insurance programs administered by the Veterans' Administration, and a review of the findings and recommendations of a study of the Comptroller General on these programs requested by the committee for submission to the committee by April 15, 1980.

An oversight and legislative hearing is scheduled to begin at 8:30 a.m. on June 9, 1980, in the committee hearing room, 334 Cannon House Office Building, to review the national service life insurance program administered by the Veterans' Administration. Legislation to be considered are H.R. 6353, which proposes to permit the exchange of 5-year level premium term policies of national service life insurance to special endowment at age 96 plans and H.R. 6351, which proposes to permit certain veterans with service-connected disabilities to increase their national service life insurance (NSLI) coverage.

Madam Speaker, I had scheduled oversight hearings on February 27 to receive a report of the Administrator of Veterans Affairs. The report is required by section 305 of Public Law 95–497. That law placed responsibility on the Administrator to conduct a study of former prisoners of war. I have, today, learned that the report will not be forthcoming on the date required by law, February 1. I will reschedule these hearings at an early date.

Witnesses desiring to testify at these hearings or to submit a statement for the record, should submit their request to Mrs. Barbara Daniel, clerk of the committee, room 335, Cannon House Office Building, Washington, D.C. 20515. Telephone 202/225–3527.●

AMERICAN SOKOL ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Madam Speaker, the 115th anniversary of the founding of the first American Sokol unit is celebrated on February 15, for it was on that date in 1865 that a group of Czech immigrants in St. Louis, Mo., initiated this fine organization in the United States. The first Slovak Sokol Society—Sokol U.S.A.—was started in 1892 in my own city of Chicago and these organizations, along with the Catholic Sokols, all have the goal of physical fitness for their members in the belief that to maintain a free nation, its people must be physically and morally strong.

In addition to physical fitness, Americans of Czech and Slovak descent who are Sokol members emphasize spiritual, moral, and cultural enlightenment. Educational activities are conducted through lectures and films at the organizations' workshops and competitions, and the values of hard work, determination, and physical stamina are taught as essential to personal achievement in everyday life. In addition to athletic meets and gymnastic clinics, the Sokol organizations maintain camps for youngsters, libraries and statistics on gymnasts, and provide scholarships to members on the basis of their attainment.

One of the great strengths of the Sokol organizations is the continuing concern, inspiration, and support for members beyond childhood and youth. Sokol members range from preschool age to retirement age, making it possible for the older members to pass on the benefits of their wisdom and experience to the young people in a personal way. Social functions such as golf, bowling, and volleyball tournaments, as well as dances, parties, picnics, winter carnivals, and other events of interest are held throughout the year by and for all members.

Madam Speaker, it is an honor for me to join with Sokol members in the 11th Congressional District of Illinois, which I am honored to represent, in the city of Chicago, and across the country as they commemorate the founding of their organizations, and I send them my warmest best wishes for continued success in maintaining their standards of excellence.●

A TRIBUTE TO HON. DANIEL J. FLOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

● Mr. HANLEY. Madam Speaker, the retirement of the Honorable Dan Flood ends an era and will leave the House a much more humdrum, less entertaining place.

Lawyer, boxer, freedom fighter, actor, legislator, chairman, and defender of the little people, there are too few words to sum up the accomplishments of an individual who served in public life for over 50 years.

He first came to Congress in 1944 and has served continuously since 1948. In that period of time he has performed a variety of services for the 11th Congressional District that has earned him the title of "The King of Wilkes-Barre." "Hard Coal Dan," as he was also known, represented a depressed coal area of the State of Pennsylvania, but over the years his efforts have helped bring numerous industries and jobs into the area.

In addition, his efforts to create and extend meaningful black lung legislation have provided aid and medical treatment to millions of afflicted Americans, and his efforts in this area surely must be considered one of the major pieces of health legislation to ever come out of the U.S. Congress.

For these tasks, his constituents know and love him, and to the rest of America he was known not only for his flashy dress and oratorical abilities, but for his staunch efforts to keep this country strong militarily, and to retain and protect the vital Panama Canal. However, it is for his service during Hurricane Agnes that he will always be remembered. "It's Flood against flood," he was wont to say, and before he was through it was clear who was the winner. The Wyoming and Susquehanna River Valleys were devastated by Agnes, but within hours of the storm he had begun the successful work which was to preserve communities and economies that had literally vanished within the maelstrom of the Susquehanna.

One could go on for a considerable length of time describing Dan's accomplishments, and he certainly deserves the accolades and pageantry so due a wizard of the limelight. Certainly, we must recall his extensive service as a member and then chairman of the House Appropriations Subcommittee on Labor, Health, Education, and Welfare. It was Dan Flood presiding when his subcommittee brought in the first Federal budget in modern times with a social service component larger than the defense share of the Federal dollar. But more than anything else that I remember about Dan was the help he gave me in obtaining for my district a Federal demonstration program to test the feasibility of providing subsidized lunches for the senior citizens of Syracuse. Millions throughout the country have now been helped through this program, one of the Government's most successful, and I cannot help but think but for Dan Flood this marvelous opportunity might have slipped through our fingers. For these and all those other unmentioned efforts in behalf of America, I congratulate you and wish you all the best through the days ahead.●

ORMAN S. FINK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROUSSELOT) is recognized for 5 minutes.

Mr. ROUSSELOT. Madam Speaker, I have taken this time to speak with warm regard for our associate Orman Fink, minority adviser to the House Banking Committee, who is in the hospital. Those of us who have worked with Orm want him to know that we wish him a speedy recovery. Orm is a valuable and respected counselor to the committee. For more than 30 years he has contributed his unique insight into the workings of financial markets to the consideration of hundreds of pieces of banking legislation.

Orm unfailingly provides reliable advice not only to the Members on the minority side, by whom he is employed, but also whenever he is asked by the majority members he is there to participate fully in the analysis, development and formation of legislation. Members of Congress of both parties feel free to consult him about the intricacies of Government finance, and Orm has frequently taken the initiative to point out hidden implications of legislation whenever his "sixth sense" has told him that a Member needed to know.

More than doing his job for the Congressmen, Orm is agreeably available to those in the private sector who draw upon his professional understanding of the legislative process and knowledge of the business of banking and money management. Orm has a great love for Congress as an institution, and he serves Congress with a dedication which inspires all who work with him to follow his example—well do I remember in my freshman years when Orm would pass along a word to guide me in the right direction. Without reserve, I speak on behalf of us all to express this deep feeling of admiration. We think of Orm with affection and want him to know our prayers are with him.

GENERAL LEAVE

Mr. ROUSSELOT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of this special order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. Madam Speaker, I ask unanimous consent that, today, following other special orders heretofore entered into, the gentleman from Wisconsin (Mr. ZABLOCKI) may be permitted to address the House for 5 minutes and to revise and extend his remarks and to include therein extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COUNTRY REPORTS ON HUMAN RIGHTS, THE PRC, AND TAIWAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes.

● Mr. ZABLOCKI. Madam Speaker, the State Department prepares and submits to Congress each year "Country Reports on Human Rights" in accordance with section 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended.

A 1979 amendment expanded coverage of these reports from those countries receiving U.S. assistance to all U.N. member states. In addition, the State Department in this year's report also provided information on Taiwan, Rhodesia, and North Korea.

The "Country Reports on Human Rights" have been published and distributed. However, certain inadvertent errors have come to my attention. In the Record of February 7, 1980, I inserted the full text of the "Country Report on Laos." Today, I ask Mr. Speaker, to make note of another correction. At the end of the "Country Report on the People's Republic of China" on page 446 is a table on bilateral and multilateral assistance to the Republic of China. The State Department advises that this table should appear at the end of the "Country Report on Taiwan" following page 536, and carry the title "Assistance to Taiwan."●

SALUTE TO SABRINA MAE SHATTLES

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PERKINS. Madam Speaker, I want to share with you and my colleagues a speech, "My Role in America's Future," given by Sabrina Mae Shattles of the Seventh District of Kentucky when she participated in the Voice of Democracy Contest sponsored for high school students annually by the Veterans of Foreign Wars of the United States and its ladies auxiliary. Sabrina is the winning contestant for the Commonwealth of Kentucky and will represent the Commonwealth of Kentucky in the final judging here in Washington, D.C. A senior at the Paul G. Blazer High School in Ashland, Ky., Sabrina has received many awards and honors: Secretary of National Honor Society, Most Outstanding Girl Student, Most Likely to Succeed, Who's Who Among American High School Students, representative to Kentucky Girls State, devotional chairman of prayer group, secretary of prayer group; coeditor of school year book, and the DAR Good Citizen award. I salute Sabrina Mae Shattles.

Voice of Democracy

(By Sabrina Mae Shattles)

In this dark world full of greed and hate there is a lighthouse which stands and lights the way to freedom. This lighthouse is America, land of the free and home of the brave. If you look closely at the lighthouse, you will see this light is not one light, but the light of many candles upheld in respect and in pride. Respect in God, on whom our country was founded, respect for the people who have sacrificed to make America what she is today and pride in this great and glorious nation. My role in America's future is to hold my candle high and keep it burning brightly. We all must do our part to keep the light of freedom shining, for if even one of us allows our candle to go out—the precious light is dimmed. How can I keep my candle burning? By striving to reach my highest potential in life is one way. It has been said, "What we are is God's gift to us, what we become is our gift to God."

America is a land of plenty, of hope, of dreams. God has given us the ability to change those dreams into realities. It is our responsibility as a country to strive to reach those dreams. Another way I can keep my candle burning is by upholding the laws that our forefathers established. The Constitution of the United States was created to offer every man the promise of life. Thomas Wolfe said, "to every man his chance—to every man, regardless of his birth, his shining, golden opportunity—to every man, the right to live, to work, to be himself, and to become whatever his manhood and his vision can combine to make him—this, seeker, is the promise of America."

The foundation of our country is justice and freedom for all; we must continue to believe and act upon those truths. Without those truths there is no Life. Addison once said, "What is life: It is not to stalk about, and draw fresh air, or gaze upon the sun; It is to be free." Here in America, one can find life, for one can find freedom. A third way I can hold up my light is in service to my fellow man. Not only serving those in America but also those in less fortunate countries. Caroline Norton stated, "They serve God well, who serve his creatures." The United States of America, founded on faith in God, has a responsibility to let her light shine by serving others.

A lighthouse is not worth much if its light does not reach others and keep them from destruction. My country 'tis of thee, sweet land of liberty—America, the lighthouse, emitting a light that burns in the hearts of her citizens. A light of freedom, justice and equality for all men. What is my role in America's future: To help keep this precious light burning—this light which is the country I (dearly) love.

PERSONAL EXPLANATION

(Mr. GUDGER asked and was given permission to extend his remarks at this point in the Record.)

Mr. GUDGER. Madam Speaker, due to previous longstanding commitments, I was unable to be present when the House considered the Agricultural Land Protection Act (H.R. 2551) and H.R. 2609, increasing the appropriations ceiling of the Colorado Basin Salinity Control Act. Had I been present, I would have voted "no" on enactment of H.R. 2551, "yea" on the motion to recommit H.R. 2551, "no" on the amendment to H.R. 2609, and "yea" on final passage of H.R. 2609.

CATERPILLAR KNOWS HOW TO GET THINGS DONE

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MICHEL. Madam Speaker, many American businessmen have been weeping and gnashing their teeth because they think Japanese businesses are invincible. We have heard and read so much about the supposed inevitability of Japanese business expansion, we forget there are American companies that have been innovative enough to prosper in the face of growing Japanese business success.

In a recent article in the Wall Street Journal, the Caterpillar Tractor Co. of Peoria, Ill.—and, I might say, of the world at large—was singled out for praise for its successful business practices.

At this point I wish to include in the Record, "Manager's Journal: Competing Against Japan" by Thomas M. Hout, from the Wall Street Journal, February 4, 1980:

Competing Against Japan

(By Thomas M. Hout)

Frightened and puzzled by the spectacular rise of Japanese industry, American businessmen have succumbed to a mythology about their competition from across the Pacific. They seem to think that their Japanese rivals enjoy some unique advantages that Americans cannot match.

The Japanese are certainly fearsome competitors. They dominate world markets in industries from steel to consumer electronics, and now they have semiconductors in their sights.

But the Japanese don't always win protracted competitive battles with U.S. companies. Caterpillar in construction equipment, Hewlett Packard and Tektronics in test and instrumentation, and Dow in commodity chemicals, not to mention IBM in computers, have so far been able to meet vigorous Japanese challenges and retain global leadership. It's self-defeating to believe that the Japanese are invincible.

In the past, Japanese enterprises were able to benefit from some special advantages unavailable to Americans. Their labor costs were astonishingly low, considering the education and the productivity of the workforce. Their home markets were often protected from import competition. Most importantly, the Japanese home market was growing several times faster than the American home market, giving Japanese companies greater opportunities to reduce real costs through quantum changes in technology and scale.

But times have changed. Official import barriers are falling. The difference in home market growth rates is narrowing. And Japanese wage rates have risen rapidly. In fact, too many American enterprises have failed to perceive that Japanese companies no longer compete on the basis of a labor wage advantage.

A portion of the U.S. television industry, for example, has yet to recognize that the Japanese fundamentally changed the economics of that business in the early 1970s. As wage rates were rising and the cost of repair was becoming prohibitive, some Japanese producers redesigned the chassis and developed highly automated and reliable assembly techniques. Japanese television producers now have lower labor costs, lower component costs, lower warranty costs and lower marginal costs on higher volume, but it's due to their superior design and aggressive capital investments rather than lower wage levels. There's nothing specially Japanese about this approach to competition. Caterpillar has done the same in construction equipment.

Some American companies misinterpret the nature of competition in the Japanese home market. It's true that until recently, Japanese manufacturers have generally been shielded from imports. And in industries such as telecommunications equipment where government is a large buyer, there's sometimes been a domestic war chest to finance unfairly priced exports.

But collusion among producers to keep domestic prices high has never been widespread, and internal price competition between Japanese companies has typically been as rough as in the U.S. In fact, in several industries Japanese firms have to depend on exports to keep income statements healthy. Japanese auto producers have for years earned higher profits on U.S. sales than on domestic volume.

Despite close ties between enterprises, banks and government ministries, it's no longer proper to characterize Japanese firms as highly leveraged and thinly profitable. Today, most leading Japanese manufacturers resemble their U.S. counterparts in capitalization and real return on assets. General Motors and Toyota both have negligible debt. The number twos—Ford and Nissan—have some. The number threes—Chrysler and Toyo Kogyo—have a lot.

Some American firms are now making long-term investments that may well put them in a stronger position relative to the Japanese. In particular, a number of multinationals are beginning to coordinate their world-wide operations on a global scale. Traditionally the foreign production and sales operations of American multinationals have been fairly independent, with considerable regional decentralization. Few American multinationals—IBM and Caterpillar are notable exceptions—really tried to exploit the economies of scale made possible by their global scope.

The Japanese, by contrast, have been able to benefit from global economics. Partly because of the undervalued yen and financial constraints, partly because of an ethnocentric management style, Japanese firms have until recently made few major manufacturing investments overseas. They simply exported and coordinated global operations by keeping everything at home except the telex machines.

Now American producers are beginning to organize their research and development, product design, component manufacture and assembly and financing on a systematic, worldwide basis. This requires considerable investment and increases some risks, but as General Motors is showing, it can lower costs.

For years, GM's domestic and European car operations were mainly independent; U.S. cars were designed and made at home. And since GM's U.S. volume in four-cylinder subcompact cars was only about one quarter of Toyota's domestic production, GM's costs were higher at any Toyota wage rate. Now GM is internationalizing, and its combined European and American four-cylinder subcompact volume is close to Toyota's. With common design and component supply, GM should be in a much better position to compete in small cars.

So Americans should resist thinking about Japan in terms of old cliches. Most of the traditional advantages of Japanese companies are either weakening or are open to U.S. producers. The Japanese are demanding competitors. But U.S. firms can and do meet their challenge.

ARE WE TALKING SO FAST WE CAN'T HEAR WHAT THE FACTS ARE SAYING?

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Madam Speaker, if there is one issue on which there is universal agreement in American politics, it is that we need to conserve energy. Liberals, conservatives, Democrats, Republicans—all speak the rhetoric of conservation. Some even insist that what we need is a good stiff tax on gasoline so that even more will be conserved. After all, we are told, Americans are energy gluttons, our use of energy is increasing and something has to be done.

There is only one thing wrong with that argument, writes Richard Corrigan in a recent issue of National Journal: It is not based on facts. The facts are these:

Consumption of gasoline is running as much as 10 percent below last year's pace;

The "national energy/GNP ratio" has plunged to the lowest level of the postwar era.

In short, it would seem that the American people are already conserving energy. If this is true, should we not admit it and see what this phenomenon means for the future of our energy needs instead of spouting exhortations about the allegedly greedy American consumer? Maybe we should direct some of the rhetorical energy to getting some oil out of the ground—now.

At this point I wish to insert in the RECORD, "Conservation Rhetoric," from the National Journal, February 2, 1980:

CONSERVATION RHETORIC

Two drunks stumbled past a church early one Sunday morning as the church bells chimed.

"Ain't them bells pretty?" one asked.

"Huh?" his buddy answered.

"I said don't them bells sound nice?"

"What say?"

"I said. Don't you like them bells?"

"Can't hear you. Them damn bells are making too much noise."

So far, the talk about energy policy by the presidential candidates is about as enlightening as this exchange between the two drunks.

The candidates are speaking out about the necessity of conserving energy—even as, all around them, people are doing just that.

President Carter first threatens to slap quotas, then fees, on oil imports if the flow is not reduced. Sen. Edward M. Kennedy, D-Mass., says the time is at hand to impose gasoline rationing. Rep. John B. Anderson, R-Ill., is praised for political courage for advocating a 50-cents-a-gallon tax on gasoline.

Meanwhile, consumption of gasoline is running as much as 10 percent below the year-ago pace. Storage tanks are brimming with crude oil because of slack demand. And the Energy Department calculates that the national energy/GNP ratio—the total amount of energy consumption measured against the gross national product—has plunged to the lowest level of the postwar era. In the third quarter of 1979, this index fell to 50.44 British thermal units per dollar of GNP.

What such numbers show is that the nation is getting by with less energy, including oil, than anyone would have guessed likely. Conservation is being practiced on a wide scale, because both sluggish economic conditions and rising prices have checked demand.

Exhortations by the candidates against wasting energy really seem gratuitous under these circumstances. And the imposition of import fees, rationing coupons or higher taxes, all designed to push demand for oil even lower, might well cause more trouble than it would cure.

If imports were rising out of control, such steps might be warranted. But in fact, oil imports have been edging down over the past two years and the indications are that this trend will continue.

When the candidates talk about the perilous dependence of the United States and its allies on the oil fields around the Persian Gulf, it is also worth keeping in mind that oil production from other sources is picking up quite nicely. Among the members of the Organization of Petroleum Exporting Countries (OPEC), those outside the Persian Gulf whose output has spurted upward over the past year include Nigeria and Venezuela.

Non-OPEC nations meanwhile are registering impressive gains. Output from those countries has risen from about 14 million barrels a day in 1976 to about 18 million barrels today, with Britain, Mexico, Canada and Norway making the largest new contributions. Non-OPEC and non-communist nations, including the United States, currently are producing about 60 percent as much oil as the OPEC members.

Oil and Gas Journal predicts that U.S. demand for oil will average 18 million barrels a day this year, a drop of 2.7 percent from the 1979 level. The drop in demand will result in a cut in oil imports because domestic production will hold even, the magazine says.

Predicting a further drop this year is gasoline demand, the magazine estimates that gasoline consumption will be more than half a million barrels a day below the 1978 level, a decline of 7.5 percent over a two-year span.

Imports will average 7.7 million barrels a day, the magazine says, meeting Carter's ceiling of 8.2 million barrels with room to spare.

This does not suggest that the Persian Gulf is not of vital strategic interest to the United States and other oil-importing nations that need oil from that corner of the world. But it is noteworthy that efforts to increase production outside of that region are achieving steady progress.

On the other hand, when candidates speak of the notion that the United States should seek some sort of energy alliance with Mexico and Canada, it would be a mistake to expect those neighbors to offer energy at bargain prices. Mexico and Canada already are charging higher prices than OPEC members on their sales of oil to U.S. customers.

Even the U.S. government, for that matter, has been auctioning oil lately in the $40-a-barrel range, well above the OPEC figure. These sales involve oil from government-held fields that goes to the highest bidder.

Thus when the Carter Administration complains about the latest price hikes by the OPEC nations, it is getting a share of the gravy, as is everyone else with oil to peddle.

There is a certain inconsistency in U.S. energy policy on display here, which is also evident in the President's latest economic report. The report speaks of the need to provide government subsidies for the development of synthetic fuels because of the risks facing private investors.

The deepest threat, the report explains, is that companies might invest in high-cost synthetic fuel plants, only to lose their shirts because OPEC cuts the price of oil. This is a concern that has troubled energy policy makers for the past half-dozen years as they have tried to decide whether OPEC's prices are really too high or need to stay high to assure more competition, and it is a question that the candidates ought to be considering.

When the presidential candidates express their views on nuclear power, it also seems that, all around them, a moratorium is already in effect of what they might say about it.

Orders for new reactors have dwindled to virtually zero, and plants that have been scheduled to come on line are constantly being canceled or deferred. In this field too, it seems that conditions are changing faster than the energy policies that Presidents, or would-be Presidents, can enunciate.

DR. MARTIN ANDERSON'S CALL FOR A STRONG RESERVE FORCE

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Madam Speaker, in a time of crisis we get more than our share of cries of alarm and emotional responses. But rarely do we get clear thinking, forcefully expressed and based on factual data.

This is why a recent article by Dr. Martin Anderson, writing in the Washington Post, is so important. Anderson, a senior fellow at the Hoover Institution at Stanford University, was a member of the Defense Manpower Commission which created the All-Volunteer Force concept. He is an acknowledged expert on military manpower and offers solutions to the problems he addresses. Wherever you may stand on the issue of the draft, registration and the Volunteer Army Martin Anderson's article is well worth reading.

At this point I wish to insert in the Record, "Build Up the Reserves, Not Registration Lists" by Martin Anderson, the Washington Post, February 3, 1980:

Build Up the Reserves, Not Registration Lists

(By Martin Anderson)

President Carter's call to "begin registration" for the military draft was obviously a part of his effort to send the Soviets a message about our concern for their naked aggression in Afghanistan. But in this case he is sending Moscow the wrong message.

Carter is right in his belated recognition of the potential military threat that the Soviet Union poses to world peace and to our own security. But taking down the names and addresses of the young people of America under the threat of five years in jail or a $10,000 fine is a weak and possibly dangerous response.

What the Soviets would understand is a clear, effective move to strengthen the combat capability of the armed forces of the United States. Registration does not do this. Rather, if enacted, it could easily lull us into a truly dangerous state of complacency.

If there ever was a sudden threat to our national security, any form of a military draft would be virtually worthless. Even with the names and addresses of young men and young men neatly typed on computer printouts, it would take at least three to four months to contact them, induct them and hastily train them—if the training facilities were ready. Without advance registration, it would take a few weeks longer. The end result—with or without registration—would be hundreds of thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the armed forces many months too late.

As the Defense Manpower Commission noted in its report to the president and the Congress on April 19, 1976: "The changing nature of war and its technology will not allow for any lengthy period of time for national mobilization for a major conflict. Thus, the national security relies on the ability to mobilize our reserve forces from a peacetime 'citizen soldiers' status to a combat-ready status in a relatively short time."

What is vital to our national security is a large, well-trained reserve force, one that is really ready, one that can be called into service in a matter of days in case of an emergency.

Registration for the draft would not do this, but it will do something else. The conventional wisdom that seems to be held by many in the upper ranks of government, the academic world and the media is that our all-volunteer force has problems, especially in the reserves, and that the military draft will solve them. Half of that wisdom is true. We have severe problems, particularly in the reserves. We should have 1 million men and women in the active reserves; we have about 800,000. There should be 700,000 members of the Individual Ready Reserve; we have about 200,000. But the draft, or its advance proxy, registration, will not solve these deficiencies in a timely or sensible fashion.

As Richard Danzig, the principal deputy assistant secretary of defense for manpower, reserve affairs and logistics, stated a few weeks ago, "although, if constantly updated, peacetime registration would give us a ready list of people that we could call instantly in an emergency, I think our capacity to call them would exceed our ability to begin training . . . we would not be able to accept draftees within the first weeks of an emergency mobilization."

The danger is that so many people sincerely believe that our military manpower problems can be solved by the draft. If registration is enacted, they will view this as leading directly to the reinstitution of the draft, sigh contentedly and turn their efforts and talents to solving other problems. The passage of a draft registration law will only give a false sense of security to our people and to many of our political leaders. It will be used as a reason by some, and as an excuse by others, for not taking the hard steps that will strengthen our reserve forces to the point where they can effectively back up our active forces.

It will also give a false signal to the Soviets. The political-military leadership of the Soviet Union understands and respects military power. They are fully capable of distinguishing between the military capability of computer lists as potential additions of young, inexperienced draftees and that of a significantly strengthened reserve force. They will view registration more as a stamping of our feet than as a shouldering of arms. And they will act accordingly.

What we should do is:

Immediately bring our active forces up to full combat capability. While our active forces are very close to their targeted manpower levels, the quality of their weapons and other equipment—including tanks, planes and ships—often falls far short of the military needs of the 1980s.

Announce that from now on the reserves are serious business, not a paid routine gambol. Anyone staying in the reserves or the National Guard should fully realize that in the event of a military threat to this country they will be called first to supplement our active forces. And that they will be called regardless of whether they are married, have children or know a congressman.

Arm the reserves and National Guard with modern weaponry and other equipment that is fully comparable to what the active forces will have.

Take steps to encourage more people to join the reserves and, for those already serving, to reenlist. These steps should include improved recruiting efforts, competitive levels of pay, reenlistment bonuses and improved management of our current reserve forces. For example, current planning in the Department of Defense assumes that only 70 percent of the Individual Ready Reserves would show up if we mobilize. This percentage could be increased significantly if assignments were made in advance and addresses were kept current. Some of these relatively simple measures are now beginning to be taken, but there is still vast room for improvement.

Institute an effective program of lateral entry into the armed forces so that more mature men and women, from their late 20s through their 40s, and, in special cases, up to 65, can enlist for a period of time—both in the active forces and the reserve forces. This could provide the armed forces with a potential pool of talented people that could be utilized in many positions, and could reduce their almost total reliance on people coming up through the ranks. Further, it is the one effective way to ensure that the upper ranks of the military do not become isolated from the rest of our society.

And, finally, the president of the United States should address the nation and explain clearly and comprehensively exactly why he feels that the Soviet invasion of Afghanistan is such a threat to world peace and the United States. The history of this country's response to a call to arms shows that Americans have always turned out in overwhelming numbers when they felt their country was threatened and they believed that our cause was just. There is no evidence to suggest that this would not also be the case today. If the only way we can induce our citizens to participate in the defense of this country is to threaten them with five years in jail or a stiff fine, then our leadership has failed to convince them of the seriousness of the situation and the validity of the course of action proposed to deal with it.

Enactment of the draft registration law would diminish our national security by increasing the chances that our reserve forces will be left in limbo, at a time when we need to strengthen them the most. It would in time lead to a new military draft, one that would almost certainly include women. And it would call into question the commitment this nation made almost a decade ago when we decided to raise an armed force in a manner consistent with the principles of freedom on which this country was founded.

If we really wish to respond to the Soviet move in Afghanistan, let us do it directly by arming and training a combat-ready active and reserve force that is second to none. Let's forget about making lists.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Cavanaugh (at the request of Mr. Wright), for February 11 and 12, on account of official business.

Mrs. Spellman (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Snyder (at the request of Mr. Michel), for Monday, February 11, 1980, on account of illness in the family.

Mr. Young of Alaska (at the request of Mr. Michel), for February 11 through February 13, on account of official business.

Mr. Charles H. Wilson of California (at the request of Mr. Wright), for February 11 through 13, on account of official business.

Mr. White (at the request of Mr. Wright), for February 11 through 13, on account of a necessary absence.

Mr. Jones of North Carolina (at the request of Mr. Wright), for February 11 through 13, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Santini) to revise and extend their remarks and include extraneous material:)

Mr. Montgomery, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Hanley, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Deckard) and to include extraneous matter:)

Mr. McDade.

Mr. Moorhead of California in two instances.

Mr. Symms in two instances.

Mr. Carter.

Mr. Tauke.

Mr. Vander Jagt.

Mr. Lott.

Mr. McClory.

Mr. Dornan.

Mr. Hopkins.

(The following Members (at the request of Mr. Santini) and to include extraneous matter:)

Mr. Moorhead of Pennsylvania.

Mr. Mazzoli in three instances.

Mr. Synar.

Mr. Gudger.

Mr. Moffett.

Mr. Waxman in two instances.

Mr. Long of Maryland.

Mr. Montgomery.

Mr. Hamilton.

Mr. Skelton.

Mr. Anderson of California in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Ms. Holtzman in 10 instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Stark.

Mr. Harris.

Mr. Bingham in two instances.

Mr. Benjamin.

Mr. Studds.

Mr. Stokes.

Mr. Edgar in three instances.

Mr. Hanley.

Mr. Edwards of California.

Mr. Mineta.

(The following Members (at the request of Mr. Gudger) and to include extraneous matter:)

Mr. Peyser.

Mr. Richmond.

Mr. Brademas.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1386. An act to amend and extend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes; to the Committee on Education and Labor;

S. 1429. An act to extend the Museum Services Act for 2 years, and for other purposes; to the Committee on Education and Labor;

S. 1648. An act to provide for the improvement of the Nation's airport and airway system, and for other purposes; to the Committee on Public Works and Transportation; and

S.J. Res. 130. Joint resolution to authorize and request the President to proclaim May 1, 1980, as "National Save the Children Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. GUDGER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 27 minutes p.m.), the House adjourned until tomorrow, Tuesday, February 12, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3437. A letter from the Secretary of Agriculture, transmitting the 1979 annual report on the Nation's agricultural research, extension, and teaching activities, pursuant to section 1410 of Public Law 95-113; to the Committee on Agriculture.

3438. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of February 1, 1980, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 96-264); to the Committee on Appropriations and ordered to be printed.

3439. A letter from the Deputy Secretary of Defense, transmitting the annual report of the Reserve Forces Policy Board for fiscal year 1979, pursuant to 10 U.S.C. 133(c); to the Committee on Armed Forces.

3440. A letter from the Deputy Secretary of Defense, transmitting a report on officers and employees of Federal contract research centers whose compensation paid out of Federal funds during calendar year 1979 exceeded that for level II of the Executive Schedule, pursuant to 10 U.S.C. 2359 (93 Stat. 818); to the Committee on Armed Services.

3441. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting a report covering fiscal year 1979 on design and construction supervision, inspection, and overhead fees charged by the construction agents for military construction projects of the military departments and the Defense agencies, pursuant to section 604 of Public Law 95-125; to the Committee on Armed Services.

3442. A letter from the Mayor of the District of Columbia, transmitting the annual report of the Office of Emergency Preparedness of the District of Columbia for fiscal year 1979, pursuant to section 6 of Public Law 81-686; to the Committee on the District of Columbia.

3443. A letter from the President of the United States, transmitting notice of his intention to issue an Executive order extending for an additional year the waiver of the application of restrictions governing the retransfer or reprocessing of nuclear fuel exported from the United States to the European Atomic Energy Community (Euratom), pursuant to section 126a. (2) of the Atomic Energy Act of 1954, as amended (92 Stat. 133); to the Committee on Foreign Affairs.

3444. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Denmark for permission to transfer certain U.S.-origin defense articles to the Government of Turkey, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3445. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on orientation and language training for members of families of U.S. personnel assigned abroad, pursuant to section 405(b) of Public Law 95-426; to the Committee on Foreign Affairs.

3446. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the Department of State Authorization Act, Fiscal Years 1980 and 1981 to provide additional authorization for fiscal year 1980, and for other purposes; to the Committee on Foreign Affairs.

3447. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to provide additonal authorization for fiscal year 1981, to authorize appropriations for fiscal year 1982, and for other purposes; to the Committee on Foreign Affairs.

3448. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Malaysia (Transmittal No. 80-43), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3449. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3450. A letter from the Deputy Assistant Secretary of Defense (Comptroller-Administration), transmitting a report on the Department's disposal of foreign excess property during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3451. A letter from the Secretary, Interstate Commerce Commission, transmitting notice the Commission will be unable to render a final decision in Docket No. 37063 (Sub-No. 5), Increased rates on coal, L. & N. Railroad, May 1979, within the 7-month time limit, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

3452. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission will be unable to render a final decision in Docket No. 37246, Increased Rates on Coal, Midwestern Railroads, August 1979, and six related subproceedings within the 7-month time limit, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

3453. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a report on the positions in grades GS-16, GS-17, and GS-E18, in his Office during calendar year 1979, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

3454. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Chester Creek Basin, Pa., in response to resolution of the Committees on Public Works of the U.S. Senate and the U.S. House of Representatives, adopted on December 2, 1971 and November 2, 1971, respectively; to the Committee on Public Works and Transportation.

3455. A letter from the Administrator, General Services Administration, transmitting the 1978 annual status report showing the location, space, costs, and status of each public building, the construction, alteration, or acquisition of which is to be under authority of the Public Buildings Act of 1959, and which was uncompleted as of the date of the last report, pursuant to section 11(a) of Public Law 86-249; to the Committee on Public Works and Transportation.

3456. A letter from the Secretary of Health, Education and Welfare, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to authorize disclosure to guarantee agencies of address information of students who have defaulted on guaranteed student loans; to the Committee on Ways and Means.

3457. A letter from the Chairman, U.S. Railway Association, transmitting the association's proposed authorization for fiscal year 1981 administrative expenses, pursuant to section 202(g)(2) of Public Law 93-236;

jointly, to the Committees on Appropriations and Interstate and Foreign Commerce.

3458. A letter from the Director of Central Intelligence, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1981 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and disability system, and for other purposes; jointly, to the Committees on Armed Services, the Judiciary, and the Permanent Select Committee on Intelligence.

3459. A letter from the Comptroller General of the United States, transmitting a report on the status of the AV-8B aircraft program and the need for a decision by the Secretary of Defense on whether the program should continue (PSAD-80-23, Feb. 8, 1980); jointly, to the Committees on Government Operations and Armed Services.

3460. A letter from the Comptroller General of the United States, transmitting a report on the need for the Department of Defense to emphasize ground support equipment standardization and suggestions for reducing unnecessary equipment proliferation (LCD-80-30, Feb. 7, 1980); jointly, to the Committees on Government Operations and Armed Services.

3461. A letter from the Comptroller General of the United States, transmitting a report on the status, potential, and alternative Federal strategies for development of magnetohydrodynamics for generating electricity from coal (EMD-80-14, Feb. 11, 1980); jointly, to the Committees on Government Operations and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. Report on Allocation of Budget Totals for Fiscal Year 1980 (Rept. No. 96-751). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ATKINSON (for himself and Mr. Bailey):

H.R. 6472. A bill to amend the Clean Air Act to prohibit the Environmental Protection Agency from requiring motor vehicle inspection and maintenance until such time as each new motor vehicle is required to be separately tested for compliance with emission standards before its sale by the manufacturer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BEREUTER:

H.R. 6473. A bill to eliminate a privilege that permits incumbent House Members to convert stockpiled campaign funds to personal use upon their retirement and to eliminate a privilege that permits Senators to use campaign and other contributed funds to supplement their official office accounts; to the Committee on House Administration.

By Mr. PHILIP M. CRANE:

H.R. 6474. A bill to amend title XI of the Social Security Act to repeal the provision for the establishment of professional standards review organizations to review services covered under the medicare and medicaid programs; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. FINDLEY:

H.R. 6475. A bill to improve the cotton research and promotion program; to the Committee on Agriculture.

By Mr. GIAIMO:

H.R. 6476. A bill to rescind certain budget authority contained in the message of the President of January 28, 1980 (H. Doc. 96-259) transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 6477. A bill to rescind certain budget authority contained in the message of the President of January 28, 1980 (H. Doc. 96-259) transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. McKAY:

H.R. 6478. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended; to the Committee on Interior and Insular Affairs.

By Mr. McKAY (for himself, Mr. Wright, Mr. Rhodes, Mr. Charles H. Wilson of California, Mr. Roberts, Mr. Archer, Mr. Hance, Mr. Young of Alaska, Mr. Rudd, Mr. Coelho, Mr. Pashayan, Mr. Rousselot, Mr. Burgener, Mr. Kogovsek, Mr. Johnson of Colorado, Mr. Duncan of Oregon, Mr. Hansen, Mr. Dannemeyer, Mr. Marriott, Mr. Runnels, Mr. Wyatt, Mr. Royer, Mr. Evans of Georgia, Mr. Gramm, Mr. Lott, Mr. Montgomery, Mr. Fish, Mr. Butler, Mr. Carter, Mr. Goldwater, Mr. Bevill, Mr. Charles Wilson of Texas, Mr. McCormack, and Mr. Kramer):

H.R. 6479. A bill to amend title 28 of the United States Code to provide for special venue provisions in cases relating to the environment; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 6480. A bill to repeal section 1203 of the Education Amendments of 1978; to the Committee on Education and Labor.

By Mr. ULLMAN (for himself and Mr. Udall):

H.R. 6481. A bill to revise requirements under the Federal reclamation laws, relating to acreage limitations, equivalency, and residency, to provide for approval of repayments contracts and written representations, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BONIOR of Michigan (for himself, Mr. Oberstar, Mr. Fowler, Mr. Coelho, Mr. Ottinger, Mr. Forsythe, Mr. Beilenson, Mr. Bereuter, Mr. Evans of Georgia, Mr. Mineta, Mr. Nedzi, Mr. Stack, Mr. Derwinski, Mr. Quayle, Mrs. Fenwick, Mr. Hughes, Mr. Wolpe, Mr. Seiberling, Mr. Kildee, Mr. Lungren, Mr. Luken, Mr. Dan Daniel, Mr. Blanchard, Mr. Brodhead, Mr. LaFalce, Mr. Natcher, Mr. Edgar, Mr. Charles Wilson of Texas, and Mr. Duncan of Oregon):

H. Con. Res. 277. Concurrent resolution expressing the sense of the Congress that there should be established in Greece a permanent site for the summer Olympic games; to the Committee on Foreign Affairs.

By Mr. ROSE:

H. Res. 574. Resolution providing funds for the expenses of the Committee on House Administration to provide for the maintenance and improvement of ongoing computer services for the House of Representatives, for the investigation of additional computer services for the House of Representatives, and to provide computer support to the committees of the House of Representatives; to the Committee on House Administration.

By Mr. THOMPSON:

H. Res. 575. Resolution dismissing the election contest against Anthony Claude Leach, Jr.; to the Committee on House Administration.

H. Res. 576. Resolution dismissing the election contest against Thomas Daschle; to the Committee on House Administration.

MEMORIALS

Under clause of rule XXII, memorials were presented and referred as follows:

340. By the SPEAKER: Memorial of the Legislature of the State of West Virginia, relative to supporting the call for a U.S. boycott of the 1980 summer Olympics in Moscow; to the Committee on Foreign Affairs.

341. Also, memorial of the Legislature of the State of West Virginia, requesting that Congress propose an amendment to the Constitution of the United States which will protect the life of all human beings, including unborn children; to the Committee on the Judiciary.

342. Also, memorial of the Legislature of the State of South Carolina, relative to requirements that persons receiving disability social security benefits wait 2 years for medical assistance; to the Committee on Ways and Means.

343. Also, memorial of the Legislature of the State of South Carolina, relative to urging the adoption of the proposed emergency Farm Bureau policy for 1980, relating to actions which could be taken as a result of the Soviet Union's invasion of Afghanistan; jointly, to the Committee on Agriculture and Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GONZALEZ presented a bill (H.R. 6482) for the relief of James A. Ferguson, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 956: Mr. Fithian.

H.R. 1785: Mr. Atkinson, Mr. Boner of Tennessee, Mr. John L. Burton, Mr. Deckard, Mr. Erdahl, Mr. Ertel, Mr. Harris, Mr. Harsha, Mrs. Heckler, Mr. Hefner, Mr. Hinson, Mr. Howard, Mr. Hughes, Mr. LaFalce, Mr. Leland, Mr. Lloyd, Mr. McHugh, Mr. Markey, Mr. Petri, Mr. Ritter, Mr. Wolff, and Mr. Zablocki.

H.R. 1836: Mr. Fithian.

H.R. 2220: Mr. Dougherty.

H.R. 2542: Mr. Fowler.

H.R. 3611: Mr. Neal.

H.R. 5099: Mr. Mineta, Mr. Stump, Ms. Ferraro, Mr. Evans of Delaware, Mr. Hinson, Mr. Bonker, Mr. Hanley, Mr. Solarz, Mr. Moakley, Mr. Nolan, Mr. Gephardt, Mr. Young of Missouri, Mr. Buchanan, Mr. McCloskey, Mr. Stark, Mr. Shelby, Mr. Dixon, Mr. Beilenson, Mr. Madigan, Mr. Corrada, Mr. Swift, Mr. Donnelly, Mr. Clay, Mr. Atkinson, and Mr. Yatron.

H.R. 5143: Mr. Fascell, Mr. Bennett, Mr. Fuqua, Mr. Pepper, Mr. Young of Florida, Mr. Bafalis, Mr. Kelly, Mr. Hutto, Mr. Nelson, Mr. Gibbons, Mr. Chappell, Mr. Ireland, and Mr. Mica.

H.R. 5351: Mr. Hefner, Mr. Royer, Mr. Whittaker, Mr. Badham, and Mr. Ertel.

H.R. 5477: Mr. Stack, Mr. Weiss, and Mr. Bingham.

H.R. 5704: Mr. Blanchard, Mr. Chappell, Mr. Robert W. Daniel, Jr., Mr. Edgar, Mr. Edwards of Oklahoma, Mr. Gingrich, Mr.

Harris, Mr. Heftel, Mr. McCormack, Mr. Patten, and Mr. Wolpe.

H.R. 5785: Mr. Kildee.

H.R. 5796: Mr. Winn, Mr. Gray, Mr. Fascell, Mr. Downey, Mr. Hughes, Mrs. Boggs, Mrs. Spellman, Mr. Carney, Mr. Stack, Mr. Goodling, Mr. Evans of the Virgin Islands, and Mr. Howard.

H.R. 5995. Mr. Barnes and Mr. Young of Alaska.

H.R. 6077: Mr. Cavanaugh.

H.R. 6154: Mr. Heftel.

H.R. 6249: Mr. Dodd.

H.R. 6316: Mr. Badham, Mr. Collins of Texas, Mr. Robert W. Daniel, Jr., and Mr. Rudd.

H.R. 6374: Mr. Ullman, Mr. Carter, Mr. Heftel, Mr. Rhodes, Mr. McCloskey, Mr. Marks, Mr. Coelho, Mr. Grisham, Mr. Mollohan, Mr. Pepper, Mr. Scheuer, Mr. Lungren, Mr. Dan Daniel, Mr. Brodhead, Mr. Burgener, Mr. Aspin, Mr. Donnelly, Mr. Derrick, Mr. Duncan of Oregon, Mr. Buchanan, Mr. Evans of Georgia, Mr. Erdahl, Mr. Blanchard, Mrs. Ferraro, Mr. Johnson of California, Mr. Flippo, Mr. Hyde, Mr. LaFalce, Mr. Howard, Mr. Hutto, Mr. Jeffries, Mr. Lagomarsino, Mr. Lederer, Mr. McClory, Mr. Maguire, Mr. Marriott, Mr. Lujan, Mr. Matsui, Mr. Luken, Mr. Leland, Mr. McDonald, Mr. Mattox, Mr. Nelson, Mr. Quayle, Mr. Murphy of Pennsylvania, Mr. St Germain, Mr. Slack, Mr. Stewart, Mr. Fuqua, Mr. Fish, Mr. Dixon, Mr. Garcia, Mr. Yatron, Mr. Gibbons, Mr. Symms, Mr. Gephardt, Mr. Walker, Mr. Whitehurst, Mrs. Byron, Mr. Kelly, Mr. Stump, Mr. Bowen, Mr. Rahall, Mrs. Chisholm, Mr. Mathis, Mr. Hance, Mr. Bevill, Mr. Frost, Mrs. Spellman, Mr. Mitchell of New York, Mr. McCormack, Mr. Williams of Ohio, Mr. Brinkley, Mr. Lloyd, Mr. Stockman, Mr. Corrada, Mr. Gore, Mr. Zeferetti, Mr. Kemp, Mr. Walgren, Mr. Dodd, Mr. Goldwater, Mr. Seiberling, Mr. Kramer, Mr. Edwards of Oklahoma, Mr. Annunzio, Mr. Markey, Mr. Mitchell of Maryland, Mrs. Snowe, Mr. Montgomery, and Mr. Foley.

H.J. Res. 372: Mr. Horton, Mr. D'Amours, Mr. Hanley, Mr. Edwards of California, Mr. Mottl, Mr. Fauntroy, Mr. Traxler, Mr. Mavroules, Mr. Fary, Mr. Ottinger, Mr. Jeffords, Mr. Derrick, Mr. Cavanaugh, Mr. Ratchford, Mr. LaFalce, Mr. Nedzi, and Mr. Stockman.

H.J. Res. 469: Mr. Nichols, Mr. Clausen, Mr. Thomas, Mr. Beilenson, Mr. Wirth, Mrs. Snowe, Mr. Bauman, Mrs. Holt, Mr. Vento, Mr. Lujan, Mr. Schulze, Mr. Moorhead of Pennsylvania, and Mr. Evans of Georgia.

H.J. Res. 477: Mr. Albosta, Mr. Anderson of California, Mr. Applegate, Mr. AuCoin, Mr. Bailey, Mr. Barnard, Mr. Beard of Rhode Island, Mr. Bingham, Mr. Blanchard, Mr. Brown of Ohio, Mr. John L. Burton, Mr. Phillip Burton, Mr. Carney, Mr. Dicks, Mr. Edwards of California, Mr. Edwards of Oklahoma, Mr. Harkin, Mr. Ichord, Mr. Lujan, Mr. Maguire, Mr. Quayle, Mr. Ratchford, Mr. Watkins, Mr. Charles Wilson of Texas, Mr. Wolff, and Mr. Young of Missouri.

H. Con. Res. 257: Mr. Buchanan and Mr. Won Pat.

H. Con. Res. 275: Mr. Archer, Mr. Clausen, Mr. Winn, Mr. Deckard, Mr. Jones of Oklahoma, Mr. Stenholm, Mr. Livingston, Mr. Lagomarsino, Mr. Duncan of Tennessee, Mr. Forsythe, Mr. Grisham, Mr. Frost, and Mr. McDonald.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4119

By Mr. JONES of Tennessee:

—Page 18, strike out lines 5 through 11, and insert in lieu thereof the following:

"(c) In the administration of this title, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, of cooperating in carrying out this title, (2) contract with private insurance companies and reimburse such companies for the administrative and program expenses incurred by them, under terms and provisions consistent with those generally prevailing in the industry and respecting rates of compensation, and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew said insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated for said sales and renewals recognizing his function to provide continuing services while the insurance is in effect. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Federal Crop Insurance Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission.".

Page 19, on line 8, strike out "(A)" and beginning on line 10, immediately after "species" strike out all through the end of line 2, page 20, and insert a semicolon in lieu thereof.

Page 21, immediately after the end of the sentence on line 13, insert the following:

"The producer may elect to have deleted from the Corporation's policy of insurance the coverage against losses caused by both hail and fire and to obtain coverage therefor from a private insurer. Upon notice of such election in writing to the Corporation and submission of evidence of such substitute coverage on the commodities insured by the Corporation in an amount not less than that provided by the Corporation's policy, the producer's premium as calculated by the Corporation shall be reduced by 25 per centum, but not to exceed the premium for the substitute coverage."

Page 21, on line 16, immediately after "coverage" insert "on the Corporation's policy of insurance".

Page 22, on line 17, immediately after "such companies," insert "and reinsurers of such companies, or" and on line 21, immediately after "the Corporation" insert, "including a test program made available, to the maximum extent possible, not later than the 1982 crop year".

Page 22, at the end of line 21, insert the following:

"In order to provide equity among producers purchasing crop insurance, whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay a portion of each producer's premium for such insurance so reinsured. Each such payment shall cover the same per centum of the premium, and be subject to the same restrictions regarding payments of premiums for crop insurance on commodities, as provided in subsection (b) of this section for Federal partial payments of Federal crop insurance premiums. The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by appropriated funds on the Corporation's policies of insurance. Insurers of policies on which reinsurance is provided shall make use of licensed private insurance agents and brokers on the same basis as provided for policies of the Corporation under section 507(c)(3).

—Page 27: Beginning on line 14 strike out all through Page 28 line 13 and insert in lieu thereof the following:

"(c) Notwithstanding any other provision of law, the low yield and the prevented planting disaster payment provisions for rice, upland cotton, feed grains, and wheat contained in sections 101(h)(4), 103(f)(5), 105A(b)(2), and 107A(b)(2), respectively, of the Agricultural Act of 1949, which are presently effective only for the 1978 and 1979 crops, shall be effective as well with respect to the 1980 and 1981 crops of such commodities. Notwithstanding any other provision of law, producers on a farm shall not be eligible to receive low yield or prevented planting disaster payments on any such commodity for the 1981 crop year if the producers elect to cover their acreage of such commodity with crop insurance, part of the premiums for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b) or 508(e) of the Federal Crop Insurance Act."

SENATE—*Monday, February 11, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 11, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECESS TO THURSDAY, FEBRUARY 14, 1980

The ACTING PRESIDENT pro tempore. Pursuant to the previous order, the Senate will now stand in recess until Thursday, February 14, 1980, at 12 o'clock noon.

Thereupon, at 12:01 p.m., the Senate recessed, under the order of Friday, February 8, 1980, until Thursday, February 14, 1980, at 12 o'clock meridian.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

EXTENSIONS OF REMARKS

"POWER OF THE PURSE" IMPLICATIONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. MAZZOLI. Mr. Speaker, the Congress is keenly protective of the appropriations powers it possesses under article I, section 9, clause 7 of the Constitution: "* * * no money shall be drawn from the Treasury, but in consequences of appropriations made by law * * *"

This "power of the purse" is now being threatened in the courts of this land.

The Supreme Court will soon review constitutionality of the Hyde amendment, which restricts the use of medicaid funds for abortions. This question occurs in the Quern against Zbaraz case.

The Hyde amendment has been attached for the past several years to the Labor-HEW appropriations bill. It has always been offered as a floor amendment, pursuant to House rule XXI which allows amendments to appropriations bills where the intent is to reduce expenditures.

The Hyde amendment, thus, represents an expressed intention of Congress not to appropriate funds for abortions under medicaid except in sharply limited circumstances.

After the enactment of a Hyde amendment, the Treasury has no authority to allow money to be expended for medicaid abortions, except as permitted by the language of the amendment.

In Quern against Zbaraz, plaintiffs have requested that the court order the Department of Health, Education, and Welfare to pay for all medically necessary abortions regardless of the expressed congressional enactment to the contrary.

Any judicial order to expend funds for a purpose expressly barred by the Congress goes to the very heart of the separation of governmental powers under the Constitution.

Whether we agree or disagree on the appropriateness of restricting medicaid funding of abortions, Mr. Speaker, I believe we can agree that it is imperative for the Congress to take every step to protect its "power of the purse."

The following, which appeared in the January 26, 1980, National Journal, gives further insight into potential problems stemming from the Quern against Zbaraz case.

TYING CONGRESS HANDS

At the very time when Congress is looking for new ways to improve its monitoring of government programs, a major federal court opinion suggests that its options may sometimes be narrower than it thinks.

The ruling holds unconstitutional the controversial Hyde amendment, which severely restricts medicaid reimbursements for abortions. More important, the decision, if allowed to stand, could put Congress in a legal straitjacket when it tries to tinker with programs, such as medicaid, that grant broad rights to large groups of people.

The restraint on Congress is the Constitution, which places a high value on assuring all citizens the equal protection of the laws.

Pending a possible review by the Supreme Court, the Jan. 15 opinion by Judge John F. Dooling Jr. of the U.S. District Court for the Eastern District of New York may make it nearly impossible for Congress to deny federal medicaid grants to the states to pay for abortions. Congress only alternatives—both longshots—appear to be to repeal the entire medicaid program or propose a constitutional amendment barring abortion.

Dooling's action is an important reminder that the constitutional framers gave Congress—and the President—only limited power to enact laws controlling the lives of American citizens. Both sides in Congress would do well to consider the opinion's implications for government's ability to restrict the coverage of existing or proposed programs.

Abortion has been one of the most intractable issues facing Congress in recent years. Both the House and Senate are closely divided over whether medicaid funds should be permitted for abortions; neither side has shown much inclination to consider the philosophical views of the other. The result has been a seemingly endless series of emotional and moralistic debates that change few votes and do little to achieve a compromise. What has made the battle even more cantankerous is that the proposals usually have been attached to appropriations bills, often seriously delaying the routine financing of agency operations.

Though many Members surely have made some political mileage on the issue, Judge Dooling said their efforts basically have been a waste of time. He said the latest version of the amendment sponsored by Rep. Henry J. Hyde, R-Ill.—which bars federal reimbursement for abortions unless the life of the mother is endangered or the pregnancy was the result of rape or incest—violates the Supreme Court's 1973 judgment that government's concern for the health of the pregnant woman requires the states to permit women to receive abortions in certain circumstances.

"The medicaid-eligible woman who is pregnant has a statutory entitlement to medical assistance." Dooling wrote, "and, if her pregnancy becomes a problem pregnancy, her entitlement extends to receiving the medical treatment appropriate to her medical problem, the treatment which is recommended by her attending physician's judgment."

His 329-page opinion extensively reviewed data on abortions and concluded that the Hyde amendment, by making it difficult for a poor woman to pay for an abortion, increases the physical dangers to the mother by delaying her recourse to an abortion during the earliest weeks of pregnancy, when the risk is smallest. As a result, he said, the amendment impermissibly restricts the medicaid program, which is designed to assure eligible persons adequate basic health services, including hospitalization and doctors' visits. Abortion is such a basic health service, Dooling found, and is denial to medicaid recipients would undermine the entire program.

Critics contend that Dooling's reasoning lacks logic, and that he is barring Congress from enacting a law limiting the application of an earlier law. "I don't think the courts have the authority to tell Congress how it can spend money," said Gerald E. Bodell, a New York City attorney who represents Hyde. "Congress pays what it wants to pay for." He said that Dooling's decision is the clearest court challenge in many years to Congress' spending power.

In applauding Dooling's constitutional arguments, abortion supporters emphasized his contention that Congress cannot discriminate against a class of citizens, in this case poor, pregnant, teenage women.

Because the opinion holds a federal law to be unconstitutional, the Supreme Court can review it directly. Dooling delayed his decision's effective date until Feb. 15, and both sides hope that the Court will hear arguments before the end of its term this June. The case could be consolidated with a federal court decision in Illinois that overturned a state statute similar to the Hyde amendment on equal protection grounds.

Predicting what the Supreme Court will do is a risky business. While the Court traditionally tries to avoid direct clashes with either Congress or the President, it probably will have to confront the Hyde amendment, because of both the great public interest in the case and its own abortion ruling in 1973.

Dooling's decision comes at a time of growing political strength for the anti-abortion forces. Sen. Bob Packwood, R-Ore., a leading advocate of federal support for abortions, said that if the highly active "anti-choice movement" defeats a few key incumbents this year, "then not only will we see a constitutional amendment pass Congress in 1981 prohibiting all abortions, we will also surely see a decade of decline for women's rights in all areas."

The prospective judicial and political battles pose the prospect that Senate and House Members will no longer be able to keep the abortion debate within the politically more comfortable confines of the medicaid program and the relatively powerless pregnant teenagers who are affected by it. Rather than engaging in legislation affecting specific classes, they may be directly confronted with the kind of broad social questions that Congress usually is reluctant to consider.

That would not only be a break with congressional tradition but also a threat to medicaid and other broad federal programs that offer aid to the needy without inquiring into the details of their need.●

DEMOCRATIC CLUB HONORS FRANK DUVENECK

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today to salute one of the finest people I know, Mr. Frank Duveneck. Frank is being honored at a testimonial luncheon by the Democratic Club of Santa Clara County on February 15, 1980, for his outstanding contributions to the Democratic Party and to the creation of a better life for all people.

I have known Frank since I was a young boy. During the World War II evacuation of Americans of Japanese ancestry from the west coast, Frank and his wife, Josephine, helped to ease the hardship and pain caused by the internment of my family and friends. The Duvenecks cared for our homes and possessions while we were interned. They protested the actions of our Government. They were true believers in the statement in the Declaration of Independence that says, "We hold these truths to be self-evident, that all men are created equal." They were advocates for human and civil rights at a time when others were too preoccupied to care.

In addition, Frank has opened his home to the youth of our community. On his ranch, he has provided a place for city-raised youth to come and learn about our environment, raising animals, and the natural beauty not apparent in the city. Frank has also created a hostel on his ranch which is open year round to any group or individual.

Frank has always been there when we needed him. His warmth and caring have touched many people, and all who know him agree that he is a source of inspiration. His presence in our community has made it a better place to live, both now and for future generations.

Mr. Speaker, I ask you and all my colleagues in the House of Representatives to join me in thanking Frank Duveneck. May we continue to be inspired by his humanity toward people.●

DEFENSE: AMERICA'S ALLIES SHOULD DO THEIR SHARE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. STARK. Mr. Speaker, February 6, the editors of the Christian Science Monitor addressed themselves to an issue that ought to be at the heart of this Nation's debate about military expenditures: "Why don't our allies do more?"

Are our allies spending too little? Are we spending too much? I would answer "yes" to both questions.

The CSM editorial mentions a center for strategic and international studies proposal that is very intriguing, one calling for an interallied common market for basic military industries. If it will save all of us money, let us look at it closely.

At any rate, I strongly endorse the last two sentences of the editorial:

> But surely collective defense means a collective sharing of the cost. It is time the west Europeans and others, who can afford to do so, begin to pull their own weight.

The editorial follows:

DEFENSE: AMERICA'S ALLIES SHOULD DO THEIR SHARE

America seems in a belligerent mood these days as cries are heard for a stronger US military posture. The Carter administration has submitted a record $158 billion defense budget for fiscal 1981, and some voices in Congress think even this is too little. The American public, for its part, also appears willing to support a bigger military effort in the face of growing Soviet adventurism.

The mood may be understandable but it raises a fundamental and serious question: how can the United States continue year after year to expand its defense capabilities, as the President wants, without incurring bigger and bigger deficits and fueling inflation? Put another way, what good will a bolstered military posture do if the US economy, the foundation of America's strength, is increasingly weakened? By 1985, the administration estimates, defense outlays are supposed to reach a staggering $225 billion. Is the American public willing to pay for this (as it did not pay in taxes for the cost of the Vietnam war)?

Whether massive increases in military spending are actually needed is a subject open to debate. But, in any case, we share the view of those who believe that the US cannot be expected to go it alone in meeting the Soviet challenge. In short, it is time for the Western and Japanese allies to play a bigger defense role. Western Europe and Japan, after all, are even more dependent on Middle East oil. They have as much if not more interest in resisting Soviet penetration of the Gulf region. Their own economies, moreover, are by and large strong—a strength, it should be added, which the US was instrumental in building up. Is it not reasonable to expect, in these days of a heightened common threat, that the industrial democracies work more closely together? And that America's allies carry a greater share of the burden for defense? Secretary of Defense Harold Brown thinks so and we agree.

The fact is, the US continues to spend a greater proportion of its gross national product on defense than do its NATO allies. The figure is roughly five percent. The average for NATO, according to London's International Institute for Strategic Studies, is 3.5 percent. Canada, for instance, spends 1.8 percent of its GNP on defense; Denmark 2.4 percent; France 3.3 percent; West Germany 3.4 percent; Norway 3.2 percent. Britain makes the best showing at 4.7 percent. The Europeans, moreover, maintain comparatively smaller ground forces than the US.

Japan, for its part, spends even less on defense—under one percent of GNP—even though the Soviet Union is expanding its presence in the North Pacific. Constitutional strictures and public opinion have much to do with the restrained Japanese defense posture, of course. But even if it were not possible to increase military outlays dramatically, Japan could make a worthwhile contribution in other ways—by providing economic aid to Pakistan, say. A nation which has benefitted generously from American largess and which is so strong economically ought to be ready for enhanced responsibilities.

This is not to say that a huge measure of defense cooperation among the Western and Asian allies does not already exist. It does. But much more needs to be done. Thought should be given, for example, to proposals emanating from the Center for Strategic and International Studies for formation of an inter-allied "common market" for basic defense industries. Says the CSIS study: "If America's Atlantic and Pacific allies were equitably and collectively sharing the financial burdens of defending Europe, defending the Pacific, and defending the energy lifelines in between, total allied military expenditures would be 47 percent less than the Warsaw Pact" instead of slightly larger, with the US carrying the main burden. Within the Pentagon, too, are some voices calling for a total pooling of allied defense resources and elimination of often costly competition in weapons manufacture. Needless to say, the US would have to be more open than it has been so far to the purchase of European-made equipment.

In any case, the goal of the US should be to encourage its allies to become more responsible for their defense. It will always stand ready to come to their help in the event of aggression. But surely collective defense means a collective sharing of the cost. It is time the West Europeans and others, who can afford to do so, begin to pull their own weight.●

PAUL KURISKY

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. LONG of Maryland. Mr. Speaker, on Saturday, February 9 it was my honor to present a congressional commendation to Mr. Paul Kurisky, a member of Boy Scout Troop 359, who achieved the rank of Eagle Scout at only 14 years of age.

Paul, son of Jo Ann and George Kurisky, resides in Phoenix, Md., and attends Calvert Hall High School on an academic scholarship. He is interested in swimming, tennis, and cross-country running at Calvert Hall.

Paul has advanced through various leadership positions in Scouting, including assistant patrol leader, patrol leader, Scribe, and assistant senior patrol leader.

Awards were also given to other troop members:

Chris Benish—First Class and First Aid Merit Badge.

Nick Gounaris—First Class Scout.

David Roll—Second Class Scout.

Steve Wisel—First Class Scout.

As a former Boy Scout, I ask my colleagues to join me in congratulating these young men for their achievements.●

ANALYSIS OF THE FEDERAL REVENUE SHARING AND FISCAL ASSISTANCE BUDGETS

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. EDGAR. Mr. Speaker, the Northeast-Midwest Congressional Coalition has compiled the following analysis of the Federal revenue sharing and fiscal assistance budgets for fiscal year 1981:

BUDGET BRIEF: GENERAL REVENUE SHARING

HIGHLIGHTS

The president's fiscal 1981 budget for general revenue sharing embodies policies of fiscal restraint by continuing the program at $6.9 billion, the fiscal 1980 funding level. According to the Advisory Commission on Intergovernmental Relations, this represents a 40 percent decrease in the purchasing power of revenue sharing dollars since the beginning of the program in 1972.

The president's budget would renew revenue sharing for state and local governments. Earlier, the president said he was inclined to trim the general revenue sharing program by one-third, eliminating funds that went directly to state governments.

Interstate differences in state operating surpluses indicate that elimination of the state share of general revenue sharing would have resulted in severe budgetary disruptions for state governments in the Northeast-Midwest region. At least 77 percent of the surplus is in the South and West, with most concentrated on a few states: Alaska, California, and Texas. Only 23 percent is in the Northeast-Midwest region.

BUDGET SUMMARY

[Dollars in millions]

General revenue sharing	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Budget authority	$6,855	$6,855	$6,855	....	—7.9
Outlays	6,848	6,863	6,857	....	—7.9

Background

The President's fiscal 1981 budget for general revenue sharing embodies policies of fiscal restraint by continuing the program at $6.9 billion, the fiscal 1980 funding level. According to the Advisory Commission on Intergovernmental Relations, this represents a 40 percent decrease in the purchasing power of revenue sharing dollars since the beginning of the program in 1972.

The president's budget would renew revenue sharing for state and local governments. The president's previously stated position was to eliminate the $2.3 billion going directly to state governments. He has consistently supported the $4.9 billion that goes to cities, towns, counties, and other local governments.

Under the president's revenue sharing reauthorization proposal, continued state payments would be contingent upon the establishment of commissions on intergovernmental relations in the states. Many existing disparities in the fiscal conditions of both state and local governments are determined by decisions at the state level. State constitutions and statutes, for example, allocate taxing powers and spending responsibilities between state and local governments. The commissions would assess these intergovernmental systems and recommend ways in which states could improve and strengthen the fiscal capacity of their localities. States would be expected to act on these recommendations.

The president's proposal would not change the allocation formula to state governments, but it would slightly modify the allocation formula to local governments, increasing payments to fiscally strained communities. In addition, the program would be reauthorized for five years rather than four, as in the past.

Regional implications

The need for continued general revenue sharing to state and local governments in the Northeast-Midwest region cannot be overstated. In fact, in September 1979, fearful that regional rivalries might jeopardize renewal of the program, the Chairman of the Northeast-Midwest Congressional Coalition joined the Coalition of Northeastern Governors and the Southern Growth Policies Board in sending a letter to Treasury Secretary G. William Miller, calling for reauthorization of the general revenue sharing program with no major changes in the basic formula.

Any proposal by the president to reduce the $6.9 billion general revenue sharing program would have had serious economic implications for many state and local governments in the Northeast-Midwest region.

State and local governments in the Northeast-Midwest region receive $3.3 billion annually under the general revenue sharing program. And the Northeast-Midwest region's per capital revenue sharing allocation is slightly greater than allocations in other parts of the country. The Northeast-Midwest region's per capita allocation is $32.32, while the national average is $31.27.

The distribution of funds under the general revenue sharing program tends to redress imbalances in the interstate distribution of total federal outlays.[1] The Northeast-Midwest region receives 15 percent more under the general revenue sharing program than it would if an equivalent amount were allocated according to the distribution of total federal outlays.

Interstate differences in state operating surpluses also indicate that elimination of the state share of revenue sharing may have resulted in severe budgetary disruptions for state governments in the Northeast-Midwest region. Proposals to eliminate payments to state governments have been predicated on forecasts of the fiscal condition of state governments, which indicate that state governments are in a strong fiscal position compared to the federal government. Projections by the National Governors' Association, for example, show an aggregate operating surplus of $4.3 billion for state governments.

This process of fiscal recovery, however, has not been uniform. At least 77 percent of the surplus is found in the South and West, with most concentrated in a few states: Alaska, California, and Texas. Only 23 percent is in the Northeast-Midwest region.

Furthermore, projections by both Data Resources, Inc. and Chase Econometrics, Inc. expect the aggregate operating account on state governments to show a deficit in 1980.

State implications

The following chart shows total and per capita payments for state and local general revenue sharing in fiscal 1980:

GENERAL REVENUE SHARING ALLOCATIONS TO STATE AND LOCAL GOVERNMENTS IN FISCAL YEAR 1980

	Thousands of dollars	Per capita
U.S. total	6,820,548	$31.27
Northeast-Midwest region	3,294,695	32.32
New England:		
Connecticut	85,552	27.61
Maine	38,661	35.44
Massachusetts	214,612	37.17
New Hampshire	23,489	26.97
Rhode Island	29,484	31.53
Vermont	20,943	43.00
Total	412,741	33.67
Mid-Atlantic:		
Delaware	20,690	35.49
Maryland	132,441	31.97
New Jersey	226,032	30.85
New York	745,005	41.98
Pennsylvania	331,154	28.18
Total	1,455,322	35.02
Midwest:		
Illinois	338,558	30.11
Indiana	134,438	25.02
Iowa	87,367	30.17
Michigan	294,446	32.04
Minnesota	136,137	33.97
Ohio	275,665	25.65
Wisconsin	160,021	34.20
Total	3,294,695	32.32

BUDGET BRIEF: COUNTERCYCLICAL AND TARGETED FISCAL ASSISTANCE

HIGHLIGHTS

The president's fiscal 1981 budget recommends a fourfold increase in outlays for countercyclical and targeted fiscal assistance, from $250 million in fiscal 1980 to $1 billion in fiscal 1981. This level of funding should accommodate both the administration's and the Senate's countercyclical proposals, under the president's economic assumptions.

If unemployment figures projected by Chase Econometrics, Inc. are used, however, the administration's proposal would require $2.15 billion and the Senate bill $1.9 billion. In addition, spending in fiscal 1981 for the legislation reported by the House Committee on Government Operations would range from a low of $1.1 billion to a high of $2.1 billion, based on projections by major private forecasters.

Nevertheless, the president's fiscal 1981 budget for countercyclical fiscal assistance should benefit the region because Northeastern and Midwestern states are predicted to "bear the brunt" of the recession.

BUDGET SUMMARY

[Dollars in millions]

	1979	1980	1981	Percent change, 1980–81	
				Actual	Adjusted for inflation
Budget authority		$375	$1,000	166.7	145.5
Outlays		250	1,000	300.0	268.3

Background

Responding to the projected downturn in the economy and accompanying decreases in income and increases in unemployment, the President's fiscal 1981 budget recommends a fourfold increase for countercyclical and targeted fiscal assistance outlays, from $250 million in fiscal 1980 to $1 billion in fiscal 1981.

Countercyclical programs provide grants to State and local governments to help them overcome the effects of recession and avoid layoffs, service cutbacks, and tax increases. At least three different proposals now are before the Congress.

---

[1] Since outlays include all federal spending, these figures do not represent the distribution of federal grants-in-aid. If the funds "saved" through elimination of either the local or the state share of the program were invested in one or more categorical aid programs, the region's share would depend entirely on the allocation formula adopted. While it is possible that these funds could be reinvested in categorical aid programs, this is unlikely in the current political environment.

The administration has introduced a program which would be triggered when the nation's unemployment rate exceeds 6.5 percent; assistance then would be provided to State and local governments with unemployment above 5 percent. The Senate has passed a bill which differs from the administration proposal by limiting assistance to State and local governments with unemployment greater than 6 percent. In late January, the House will vote on a countercyclical bill reported by the House Committee on Government Operations. This program would be triggered by two consecutive quarters in which the real gross national product and real wages and salaries declined.

The President's fiscal 1981 budget for countercyclical fiscal assistance should accommodate both the administration's and the Senate's proposals, under the President's economic assumptions. If unemployment projections by Chase Econometrics are used, however, the administration's countercyclical proposal would require $2.15 billion and the Senate's $1.9 billion.

No projected spending level for the House committee bill, under the President's economic assumptions, is available. Based on projections by major private forecasters, spending in fiscal 1981 for this program will range from a low of $1.1 billion to a high of $2.1 billion.

Regional implications

Even though the President's fiscal 1981 budget for countercyclical fiscal assistance may not provide enough funds to fully meet the needs to those communities which suffer most in a recession, it will, on balance, benefit State and local governments in the Northeast-Midwest region.

Aimed at providing a cushion against the expected effects of a recession, countercyclical aid means the difference between fiscal security and crisis for many State and local governments in the Northeast and Midwest.

As Treasury Secretary G. William Miller recently told the Joint Economic Committee, "the New England, Middle Atlantic, and East North Central regions are expected to bear the brunt" of the recession. Many communities expected to be hardest hit by the current economic downturn have not yet recovered from the 1974-75 recession. These governments continue to face the difficult task of providing needed social services from the diminished tax base of a stagnant or declining economy.

Chase Econometrics also has predicted that Northeastern and Midwestern states will suffer more than the rest of the country in a recession. Chase expects unemployment in the Northeast-Midwest region to average 0.7 percent higher than the national average.

In response to this economic downturn, the House Committee on Government Operations reported the Antirecession and Targeted Fiscal Assistance Act (H.R. 5980), which amends the general revenue sharing act by adding two titles.

The first title authorizes a program of antirecession fiscal assistance to state and local governments that have had two quarterly declines in real wages and salaries. Because there are no projections for real wages and salaries by state, projections of real personal income may be used to examine how this title might affect the region.

Although Chase Econometrics, Inc. predicts that real income will continue to grow slowly for the entire nation, the Northeast-Midwest region will experience actual declines in real income during 1980. See Page 2 of this report's "Economic Outlook" section for subregional figures.

The second title provides $150 million for a program of targeted fiscal assistance to hard-pressed local governments that have not fully participated in the nation's general recovery from the 1974-1975 recession. Local governments in the Northeast-Midwest region will receive 59 percent of these funds.

The need for this legislation is strong. A program of fiscal assistance which automatically responds to changes in economic conditions at the national, state, and local levels would be on the books before the onset of the recession. This feature will allow state and local governments to plan for economic stabilization before an economic downturn and help them avoid layoffs, service curtailments, and tax increases. House action on this legislation is expected in late January.

State implications

The following table gives a state-by-state breakdown of targeted fiscal assistance funds in fiscal 1980:

TARGETED FISCAL ASSISTANCE ALLOCATIONS BY STATE, FISCAL YEAR 1980

	In dollars
U.S. total	148,499,969
Northeast-Midwest region	87,966,283
New England:	
Connecticut	1,469,763
Maine	795,081
Massachusetts	6,245,553
New Hampshire	0
Rhode Island	945,959
Vermont	183,004
Total	9,639,360
Mid-Atlantic:	
Delaware	988,579
Maryland	3,118,386
New Jersey	10,157,840
New York	34,089,958
Pennsylvania	8,406,622
Total	56,760,975
Midwest:	
Illinois	5,414,527
Indiana	1,496,354
Iowa	50,117
Michigan	9,219,891
Minnesota	209,837
Ohio	4,335,166
Wisconsin	839,956
Total	21,565,948

BUDGET BRIEF: COMMUNITY DEVELOPMENT

HIGHLIGHTS

The president is requesting $3.95 billion in budget authority for the Community Development Block Grant (CDBG) program, a net increase of $50 million over fiscal 1980 levels. In addition, the president's budget recommends maintaining the level of funding for the Urban Development Action Grant (UDAG) program at its current budget authority of $675 million.

It is important to the Northeast-Midwest region that the dual-formula approach to funding for the CDBG and UDAG programs be retained during congressional deliberations over reauthorization of these programs during 1980.

BUDGET SUMMARY

[Dollars in billions]

	1979	1980	1981	Percent change 1980–81	
				Actual	Adjusted for inflation
Community development:					
Budget authority	$3.8	$3.9	$3.95	1.3	−6.7
Outlays	3.2	3.5	3.8	8.6	
Urban development action grants:					
Budget authority	0.4	.675	.675		−7.9
Outlays	.07	0.18	.365	102.8	86.7

Background

The president's fiscal 1981 budget calls for $3.95 billion in budget authority for the Community Development Block Grant (CDBG) program, an increase of $150 million over the fiscal 1980 level. Unlike previous years, however, the administration did not request additional budget authority for the financial settlement of projects initiated under earlier categorical programs, making the net dollar increase in funding for the CDBG program only $50 million. The fiscal 1981 budget request, therefore, represents a real decrease of 6.7 percent in overall program funding.

In addition, the president's budget maintains funding for the Urban Development Action Grant (UDAG) program at its fiscal 1980 level of $675 million.

Both the CDBG and UDAG programs are integral components of the federal government's attempt to alleviate physical and economic distress by stimulating private investment and community revitalization in areas with population outmigration or stagnating or declining tax bases. The UDAG program may be the federal government's most innovative economic development tool. In fiscal 1981, for example, the $675 million authorized under the program is expected to leverage $4.2 billion in private investment, a six-to-one ratio of private to public spending.

Under the Housing and Community Development Act of 1974, categorical programs such as Model Cities and Urban Renewal were consolidated into the CDBG program. Communities with populations of more than 50,000 then were entitled to a yearly formula grant based upon objective need factors. This original formula tended to target funds to communities experiencing rapid growth at the expense of those suffering economic decline. During congressional reauthorization of the program in 1977, a second formula was added to take into account problems of age and decline. This dual-formula approach permits flexibility in targeting funds to these two distinct types of community development needs.

The CDBG and UDAG programs are part of the Housing and Community Development Act, as amended in 1977, and are due to expire at the end of this year.

Regional implications

The CDBG program underwent major change and expansion in 1977 with the addition of the second formula option, creating the present dual approach. The Northeast-Midwest region fought hard for the second option, which favors older communities with aging housing stock and lower rates of population growth, and benefited greatly from its passage. Preserving or improving this formula will be difficult in the face of expected Southern and Southwestern pressures.

Because of the UDAG program's success in promoting economic development with a relatively small amount of federal spending and the extreme need for such activities in the region, the reauthorization of this program must be considered to be of major importance.

State implications

The following chart shows the extent to which Northeastern and Midwestern states will benefit from the CDBG program's dual formula in 1980:

ESTIMATED PERCENT CHANGE IN COMMUNITY DEVELOPMENT ACTION GRANT (CDBG) FUNDS RESULTING FROM THE DUAL FORMULA, 1980

	Large cities (Metropolitan)	Small cities	
		Metropolitan	Nonmetropolitan
New England:			
Connecticut	49.2	15.6	23.2
Maine	108.9	42.5	27.4
Massachusetts	97.3	40.8	36.5
New Hampshire	68.6	4.9	41.5
Rhode Island	103.6	22.5	
Vermont			34.1
Mid-Atlantic:			
Delaware	124.1	71.4	
Maryland	50.3		2.0
New Jersey	57.2	24.6	5.8
New York	197.9	26.0	-37.1
Pennsylvania	108.4	41.2	27.3
Midwest:			
Illinois	69.3	4.9	28.7
Indiana	26.1	4.1	18.5
Iowa	41.5	66.4	43.6
Michigan	51.6	5.9	13.0
Minnesota	135.3		13.4
Ohio	80.4	8.2	20.6
Wisconsin	54.0	7.0	25.1●

CALVIN SHORE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. SKELTON. Mr. Speaker, a constituent of mine, Calvin Shore of Holden, Mo., would have us believe that he was merely repaying an old debt last month when he pulled a 21-month-old child from an abandoned well and thereby saved his life. Ironically, Calvin was just about the same age when he was saved from drowning in a well by his father. However, Mr. Speaker, I think that this incident is far more significant than the repayment of a debt, especially in these seemingly very selfish times.

Mr. Shore is a repairman for the United Telephone Co. and was working outside a customer's home when he heard screams for help. Looking around, he saw a little boy running across the pasture in frantic search for assistance for his younger brother who had fallen down a well. Shore ran toward the child, hopping two fences along the way, and arrived at the well. Peering down through the pump hole, he could just barely see the back of the head of the small child, his face submerged in the water. Disregarding his own safety, Shore found an opening into the well and dived in. He picked up the youngster, put him over his shoulder and lifted him out of the frigid water. Mr. Shore does not believe that the boy was breathing at the time that he picked him up, however, when he struck him on the back between the shoulder blades, the youngster immediately started coughing and crying. By that time, the boy's mother had reached the well and was there to hold the child when Mr. Shore handed him up to her.

I am happy to be able to report that because of Mr. Shore's quick thinking and responsible action the child has made a perfect recovery. Mr. Speaker, I would like to take this opportunity to commend Mr. Shore for his bravery, and his obvious concern for his fellow man. Mr. Shore put aside all selfish concerns and risked his own life to save that of another, of a very small child. Surely, we can all learn from Mr. Shore's example.●

IDA NUDEL—NOT FORGOTTEN BY BETH EL HEBREW CONGREGATION

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. HARRIS. Mr. Speaker, the Beth El Hebrew Congregation, which is located in my congressional district, has written a very touching letter to Ida Nudel, a Soviet Jew and one of Anatoly Shcharansky's closest friends. In June of 1978, in Moscow, Ida Nudel was sentenced to 4 years of internal exile on charges of "malicious hooliganism." Her arrest and trial grew out of her protests of Soviet refusals to let her emigrate.

I know that some of my colleagues met Ida Nudel during trips to the Soviet Union and they have been moved by her courage. To many in the Soviet Union she is known as the "Guardian Angel of Soviet Prisoners of Conscience."

The following message to Ida Nudel was signed by the entire Beth El Hebrew Congregation. If she is able to receive the letter, she will know that she has many friends who are thinking about her in northern Virginia:

DEAR IDA: This message comes to you from the entire congregation of Temple Beth El in Alexandria, Virginia, U.S.A., with our love and our prayers for your good health and spirits and to let you know that we are thinking of you. We would also like to send to you, as our way of sharing our Judaism, greetings for all our special holidays for you to hold in your heart and to think of whenever you need to.

On Rosh Hashana, we shall pray that you and others everywhere who are persecuted for their religious beliefs, be inscribed in the Book of Life to continue to be a beacon for all of us. On Yom Kippur, we shall look into our own hearts and see reflected there your vision of a world free of suffering and injustice. We know that your struggle is our struggle as well. Your sacrifices are not in vain. We hear your call and we sound the shofar on behalf of freedom.

On Chanukah we shall light the candles hoping to shed the light of liberty through the dark skies, knowing full well that though you may not be able to kindle the Chanukah lights, you are the flame whose bright spark is seen round the world; whose glow is not forgotten.

On Purim we shall celebrate our people's victory over tyranny long ago as we dream of the day when your release will be yet another victory over tyranny for all humankind.

On Passover we shall remember our people's exodus from bondage. We shall taste the bitter herb and drink the salt tears in the knowledge that as long as one Jew remains in bondage, we are all enslaved.

On Shevouoth we shall recall the covenant made at Sinai that links the Jewish people for all time; thus we renew our commitment to you and with you to end forever injustice and oppression, for we are children of the covenant together.

So until the time of rejoicing in freedom, of celebrating in the promised land is reached, we shall give you our holidays of the heart to celebrate and we shall hope that they may lift your spirits and renew you in times of despair. For we too, believe, as you have said, that someday your heart will be full of triumph. We here are working toward that end, and we pray with you that the day be soon.

BETH EL HEBREW CONGREGATION.●

YEAR OF THE COAST: 1980

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. STUDDS. Mr. Speaker, with the designation of 1980 as "The Year of the Coast," the condition of our shorelines is quickly becoming a focal point of national concern. Perhaps today's greatest threat to our coasts is extensive overdevelopment. Recently, in his excellent series for the Boston Globe, Jack Thomas examined the problems of overdevelopment, and found that they exist in nearly all the coastal regions of our country.

In the weeks and months ahead, we on the Oceanography Subcommittee intend to examine this problem in great detail, and to explore various solutions to it. By relieving our coastal resources of the growing pressures caused by overdevelopment, we can take the first step toward seeing that they are managed in an effective and rationale manner—something that has not always been the case.

A copy of the article follows:

[From the Boston Globe]

THE CROWDED COAST—THREATENING NATURE'S BALANCE

(By Jack Thomas)

Walt Yerkes pointed to a map on the wall of his realty office on Dauphin Island off the coast of Alabama a few weeks ago, and bristled at the suggestion by environmentalists that the island was too crowded, that life on such barrier islands was dangerous because of their vulnerability to hurricanes.

"At times there are 3300 people living here and there's no reason why the island can't support double that. Worried about hurricanes? Do I look worried?"

Now, a month later, after Hurricane Frederic slammed across the Gulf of Mexico last week with 130-mile-an-hour winds, most of Dauphin Island is ruined. The drawbridge that connected it to the mainland is destroyed, shopping malls have been leveled, roads are covered with several feet of sand, and most of the island's homes, some worth a quarter of a million dollars, have been blown away or damaged beyond repair.

Excessive development on the chain of barrier islands along the Atlantic and Gulf coasts from Massachusetts to Texas is only one of the problems plaguing the nation's 88,633-mile coastline.

By design, accident and ignorance, Americans have done more damage to the coastline in the last 30 years than nature in all her fury through violent storms and winds and waves over hundreds of millions of years.

As Dr. Rod Emmer, a coastal consultant from Baton Rouge, La., put it, "Americans never seem to know the value of a resource until they lose 90 percent of it."

At the advent of the Space Age, there is growing concern that mankind has not yet learned to live harmoniously with the sea.

A majority of Americans now live within 50 miles of the coast, and by 1990, 75 percent will be crowded into the narrow strip along the Atlantic, Pacific and Gulf coasts.

The result has been tremendous pressure on the delicate, fragile, complex string of estuaries, lagoons, beaches, bays, bayous, harbors, islands and marshes that are habitats for hundreds of thousands of varieties of birds, fish, shellfish, reptiles and mammals.

The coastline, like the sea itself, was thought to be immune to man's destructiveness and insensitivity, to have unlimited capacity to renew itself.

As recently as 1961, in "The Sea Around Us," Rachel Carson described the certain comfort Americans had in the belief that the sea, at least, was inviolate, and, as she put it, beyond man's ability to change and despoil.

That was naive, of course, and today, scientists recognize the fragility of the coastal zone and its awesome capacity to support life forms that have evolved over billions of years.

Shellfish, birds, plants, fish and microscopic life forms interact constantly in delicate, mutual interdependence, with waves, tides and the geological variations of the continental shelf all combining with weather and changing seasons to create America's richest, most mysterious and least understood natural resource.

As pressure to build along the coast intensifies, though, Americans are learning that the same stretch of sea and shore cannot at the same time accommodate their desires for more beaches, more marinas, more condos, more homes, more cottages, more restaurants, more access to the water, more harbor dredging, more recreational parks, more oil wells, more mining for minerals, more parking spaces, more liquid natural gas facilities, more fishing and more sites for more nuclear plants, all the while preserving the pristine beauty for the next generation.

Americans face several critical coastal problems related to deterioration—erosion of beaches, destructive dredging, loss of wetlands, decaying harbors and government ineptitude in protecting the quality of life along the coast.

EROSION

In their eagerness to be near the water, Americans have built too many homes and businesses on unstable ground too close to the water, and, as a result, one quarter of the nation's shoreline is undergoing significant erosion, according to the Army Corps of Engineers.

For 50 years, mostly under the direction of the Corps of Engineers, Americans have dredged rivers and harbors and built sea walls, upriver dams and yacht harbors to the extent that today the dynamic natural movements of sand have been unraveled and, as a result, many beaches are shrinking.

In Monmouth, N.J., where much of the earliest coastal development took place, seawalls, jetties and other structures have proven virtually useless, and the town beach disappears at high tide.

At Miami Beach, erosion has eaten away as much as 300 feet of sandy shore along a nine-mile stretch, and the Army Corps is now engaged in a $65 million effort to restore the beach.

In Encinitas, Calif., the taxpayers spent $120,000 to build an elaborate stairway from the highway down the rocks to the beach.

"By normal standards, it looked like a reasonable construction," said Gerry Kuhn, geologist with the Scripps Institution of Oceanography in La Jolla, Calif.

The stairway was designed in 1974, constructed in 1977, and because of erosion, it collapsed like matchsticks in 1979.

The stairs remain in a jumble behind a chain link fence because the town cannot afford the $140,000 to repair the stairs, nor the $70,000 to remove them.

Controlling erosion, says the Corps of Engineers, would cost $2 billion initially and $73 million a year in maintenance.

DESTRUCTIVE DREDGING

Coastal rivers, bays and harbors have been dredged to accommodate marine traffic, frequently without regard to the effects on estuarine waters, and in many cases marine life has been damaged or destroyed.

For example, Georgia and Alabama are now arguing with Florida about the dredging of the Apalachicola River, largest in Florida and one of the largest in the nation.

Because of the delicate mix of salt and fresh water, St. George's Bay at the mouth of the Apalachicola produces 90 percent of the state's harvest of oyster and blue crab.

Having already lost a fertilizer company in Columbia, Ga., because of the shallow Apalachicola River, Georgia is now appealing along with Alabama for more dredging by the Army Corps of Engineers.

Florida argues that past dredging has reduced the population of sturgeon and eel, and that additional dredging now is certain to affect the oyster crop.

"People down here in Apalachicola are fighting it," said Hank Reidelberger, a reporter with the Apalachicola Times. "They may not know much about reading and writing, but they know that if you tamper with that river, you're tampering with their livelihood. Sixty percent of the people in this county are involved one way or the other with fishing, crabs, oysters or shrimp."

Most of the blame for destructive dredging is laid on the Army Corps of Engineers.

Dr. Robert Livingston, marine scientist at Florida State University, says the Army Corps has billions of dollars to spend dredging and building canals.

"But it has not done one decent study of the effects of its massive alterations to rivers. They don't care about effects. I'm a scientist. I'm by no means a wild-eyed environmentalist, but the corps in my opinion has a one-track mind.

"It wants to make a barge canal out of the Apalachicola River. This is not the Mississippi River. It's a small, vulnerable river and bay system, one of the most important in the nation. One bad spill would send these people into poverty, and they're fighting for this river as though they were fighting for their lives."

WETLANDS LOSS

Historically, wetlands were considered wasted space.

For almost 200 years, the federal government encouraged projects whereby wetlands were drained, filled, built upon and, therefore, destroyed.

Only in recent years, after half the nation's wetlands were eliminated, did scientists establish that wetlands in themselves were remarkably productive, invaluable resources.

Half the fish caught in the Pacific and two-thirds of those from the Gulf of Mexico and Atlantic depend on wetlands and adjacent estuaries for spawning and nutrition.

Of the nation's 10 most valuable commercial fish and shellfish, seven depend on estuaries: shrimp, salmon, oysters, menhaden, crabs, flounder and clams.

From Connecticut's marshy Niantic River the annual harvest of scallops is 15,000 bushels, amounting to 3000 pounds per acre per year, which is greater than the yield of beef from excellent grazing ground.

And yet the loss of wetlands continues. Around the nation last year, another 300,000 acres were sacrificed, in most cases, for housing developments near the water.

The loss of wetlands has taken a drastic toll on the flourishing estuaries of Louisiana. Just as Egypt was a gift of the Nile River, so too the state of Louisiana is a gift of the Mississippi River.

The interaction is complex, but three-quarters of the nation drains through the Mississippi River and for several thousand years the sediment carried south by the river enlarged the delta in Louisiana.

After 50 years of levee construction though, the Mississippi River is now virtually walled in. The transport of sediment has been reduced, and the balance between river and marine processes interrupted.

As a result, the growth of the delta has been reversed. More land is being lost to erosion than is being formed by sedimentation.

Last year Louisiana lost 16.5 square miles of wetlands. In the last 30 years, the loss is estimated at 495 square miles.

In a report called "Our Nation's Wetlands" published last summer by the Federal Council on Environmental Quality, the government acknowledged the damage to wetlands.

"We have polluted our waters and desecrated our landscape," said the study. "We have destroyed nonreplaceable natural resources and damaged others irreversibly.

"In our pursuit of food, of homes, of sport, of feathers for our caps, we have brought a long list of animals to the brink of extinction . . . Our sense of pride in the technology that enables us to make the desert bloom, and bring forth yearround crops, to run roads over mountaintops, to alter a watercourse or to build vast international airports on swamplands has been shaken/ . . ."

DECAYING HARBORS

Many eastern harbors such as those in Portland, Fall River, Philadelphia and Atlanta are in deplorable condition, their waters polluted, their piers rotting, their public accommodations shoddy and their commercial facilities hopelessly outdated.

In Boston, for example, because of bureaucratic one-upmanship, containership facilities have not been expanded for five years and as a result vessels lie at anchor in Boston Harbor, losing money while they wait for open berth.

Legislation in 1970 called for the islands of Boston Harbor to be acquired and placed under the control of a single agency to take care of and improve the islands.

Seven years later, three islands are still owned by the city of Boston, three by a regional agency, one by a private group and the remainder by a state agency.

FEDERAL INEPTITUDE

Government programs to manage the nation's coast have been plagued by bureaucratic ineptitude, competition among agencies, overlapping responsibilities, conflicting goals and a lack of imagination, ambition and funding.

Aware of the deterioration of the coast, Congress passed the Coastal Management Act in 1972, under which states were given money to design plans for the long-term management of their coasts.

However, an evaluation of a dozen state programs last summer by the National Resources Defense Council (NRDC) found a number of deficiencies.

"It's just not working," said Sara Chasis of New York, an attorney with the NRDC. "The coastline is in worse shape now than it was when Congress passed the coastal act in 1972."

Frustrated by what they perceive to be the failure of the federal government to halt deterioration of the coast, a number of environmental groups in Washington banded together to form a national Coast Alliance. With President Jimmy Carter's endorsement, they have designated 1980 as the Year of the Coast.

"The Year of the Coast will be a huge effort to focus public attention on the value of the coast and the dangers of further degradation of its vitality," said William Painter, director of the Coast Alliance.

The major criticism of the federal law is that, unlike the Clean Air Act which has been moderately effective, the coastal act is permissive. "This is nothing more than permissive legislation," said Chasis. "How can you call that a national policy?"

Nationally, 38 states, including those on the Great Lakes, are eligible for coastal funds, and by the end of the year, officials expect programs will have been adopted in 20 states covering about 75 percent of the coastline.

But states such as Virginia, Illinois and Minnesota have decided not to participate, and last summer Georgia withdrew because of frustration and harassment from the federal bureaucracy, thereby sacrificing $1.2 million in funds.

Seven years after the coastal act was passed, and after the expenditure of millions of dollars and the completion of countless studies, not much has changed along the coast.

In Boston, for example John Ames of Boston Harbor Associates sat in his office, looked across Boston Harbor, and pondered the question: Could he point to an improvement in Boston Harbor as a result of the coastal act? "No," he said. "Nothing's really changed."

He had, however, overlooked one Boston Harbor project funded under the Coastal Management Act, a $14,000 study now under way to figure out what should be done with a 23-acre sand bar of illegal fill in Dorchester Bay, the remnants of former judge Jerome Troy's plan to build a marina 12 years ago.

But if response to the Coast Alliance is any indication, Americans do care about the coast and during 1980 and the Year of the Coast, the Coast Alliance is hoping that private citizens might spark a major public initiative to halt deterioration of the shoreline.

A museum in Florida plans a slide and lecture series on coastal problems. The Mendocino Environmental Center plans a radio series on coastal problems in northern California. The Sierra Club will conduct a series of workshops on wetlands and a woman in Elizabeth, N.J., will put together a public exhibit to dramatize waterfront deterioration in central New Jersey.

"Who knows?" says Painter. "We may succeed where the government has failed."●

TRIBUTE TO DAN FLOOD

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1980

● Mr. McDADE. Mr. Speaker, on Thursday evening, January 31, an elder statesman, bent in back but not in spirit, slowly walked out of his office in the Cannon House Office Building never to return. That man was Dan Flood and he leaves behind over three decades of service to not only the citizens of the 11th Congressional District of Pennsylvania, but also to the old, the young, the sick, the poor, and indeed the entire population of our Nation.

When Franklin Roosevelt was beginning his fourth term as President, Dan Flood entered this Chamber for the first time. He leaves the House as silently as he walked in. His accomplishments however, remain behind and they speak loudly.

Without his guidance both as a member and then as the chairman of the Labor-HEW Appropriations Subcommittee many of the current health programs from which we benefit would never exist and those who cannot afford today's extraordinary health care costs would suffer and perhaps die in silence. Knowing firsthand the killing effect of occupational disease he was a key mover behind the passage of the Coal Mine Health and Safety Act which created the black lung program.

Although his career as a Member of the House was spent largely on those programs which effect the Nation, he is best known for his untiring service to his constituents; service which I have witnessed for the past 18 years.

In June 1972, tropical storm Agnes converted the Susquehanna River into a force of destruction never before seen in northeastern Pennsylvania. After the waters subsided one flood was replaced by a Flood of equal force. The later Flood however was responsible for rebuilding the property and people of the 11th District.

I worked with our former colleague during those nighmarish months after Agnes and can attest to his untiring devotion to the people of northeastern Pennsylvania. Few who watched him take command of the disaster relief operation will ever forget his presence.

I could list his accomplishments in areas such as national defense and economic development for his district, however, Dan Flood's legislative reputation needs no further enumeration. I thank Dan Flood for the kindness and affection he has so willingly given to us and those people he represented for the past 31 years.

I wish he and his beautiful wife Catherine, health and happiness for the years to come.●

OBSERVATIONS ON NICARAGUA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. HAMILTON. Mr. Speaker, between the 16th and 18th of November, I and four other colleagues, Robert Lagomarsino, Matthew McHugh, David Obey, and Gus Yatron, under the able chairmanship of Dante Fascell, visited the capital city of Managua in Nicaragua, our deeply troubled Central American neighbor whose recent history of natural disaster and civil strife is well known to you.

THE CONGRESSIONAL MISSION

The purposes of our mission were essentially two. To begin, we were to assess firsthand the trying economic, social, and political conditions in which the Nicaraguan people find themselves. Second, we were to reach an informed judgment as to what posture and action would best serve the interests of the United States in Nicaragua. I know that I speak for all members of the mission when I congratulate Chairman Fascell for an exercise of leadership that helped us to accomplish our purposes.

Our schedule of discussions in Nicaragua can only be described as comprehensive. We were able to meet and talk frankly with many Nicaraguan political leaders and a broad spectrum of Nicaraguan citizens. In the course of 2 days we saw members of the collegial executive of the Government of National Reconstruction, the Minister of Education, the Minister of the Interior, the Minister of the Exterior, the new Government's team of economic planners, representatives of several political parties, members of the Sandinista National Liberation Front, the Archbishop of Managua, the owners and editorial staff of the independent newspaper La Presna, the editorial staff of the Government-owned media, and numerous businessmen from the private sector.

In addition to making these contacts, colleagues visited AID projects, attended a mass celebrated by the archbishop, and benefited from a reception hosted by our Ambassador, Lawrence Pezzullo. The latter was attended by an impressive cross section of the public and private leadership of the country. There was, of course, ample opportunity for continuous exchange with both the Ambassador himself and members of the Embassy staff. A final press conference was held just prior to our departure. A schedule of such range and depth cannot but contribute to the success of a congressional mission.

My personal impression is that we Members of Congress were treated with respect and candor by all the Nicaraguans whom we met. Questions asked by us were answered fully with few exceptions, and information not solicited by us was volunteered freely.

Areas of disagreement or difference in emphasis were not glossed over, and areas of agreement, or similarity in emphasis, were placed in proper perspective.

The Nicaraguans in government, church, and private sector made their hopes and misgivings very clear to us, as we did ours to them. There was a notable and pleasing absence of rancor and verbal sparring. I think it's no exaggeration to say that each group came away with a better understanding of the other's point of view.

As you know, President Carter has recently submitted to Congress a supplemental request for assistance to Central America and the Caribbean. New authorizations totaling $80 million in economic support funding, $75 million of which are intended for Nicaragua, form a major part of the President's overall plan. Of the $75 million, $70 million would comprise a loan on concessional terms to provide foreign exchange resources needed by Nicaragua for the maintenance of supplies of imports vital to reconstruction and development. Sixty percent of the imports, agricultural, industrial, medical, and transportation items, would be for the private sector. The remaining $5 million would comprise grants to finance technical assistance to agriculture, activities of private and voluntary agencies, technical assistance in municipal development, a technical assistance fund for American experts, assistance for business education, and scholarships for poor children.

My experience in Nicaragua has convinced me that additional assistance of the kind requested by the President, assistance designed to help the Nicaraguan people and to stimulate the Nicaraguan private sector, would well serve the interests of the United States.

I hope to lay out a detailed case to demonstrate that, all things considered, support for the President's plan would be preferable to opposition to it.

SOCIAL AND ECONOMIC PROBLEMS

Mr. Speaker, Nicaragua has suffered during the decade of the 1970's as few other nations in the hemisphere. In December of 1972 a devastating earthquake shattered the capital city of Managua, claiming 5,000 lives in inflicting physical damage to the economy estimated at $800 million. Reconstruction was nowhere near complete when the country was ravaged by a civil war far more destructive than blind nature. At least 35,000 people died as result of hostilities which ended this summer, and physical damage to the economy has been placed at $580 million. These figures are doubly grim when one considers Nicaragua's size and general economic condition: it is a nation about the size of Arkansas, with 2.5 million people whose per capita annual income fell to $650 this year.

It is difficult to comprehend the full social and economic costs of the Nicaraguan civil war, but suffice it to say that those costs will be paid by virtually every Nicaraguan in every walk of life. The social costs are perhaps the more severe. Beyond the staggering toll in war-related deaths, 100,000 people were wounded and 40,000 children were orphaned. Just last month the Nicaraguan Embassy reported that 10 percent of the populace was homeless and 40 percent was malnourished. The economic costs are high as well. With one business in four destroyed and agriculture in a depression due to outright damage and lost plantings, the gross domestic product of Nicaragua dropped 25 percent during the belligerency. About $515 million in capital fled the the country in the same period. Upon assuming office in July, the Government of National Reconstruction faced accumulated debts of $1.5 billion, debt service of $660 million this year alone, and a public treasury stripped of all but $3.5 million in assets. Given social and economic dislocation of this magnitude, that Nicaragua has not yet sunken into chaos is nothing short of miraculous. The miracle, of course, stems from the strength and tenacity of the Nicaraguan people.

If the recitation of these figures in briefings did not impress upon us Members of Congress the seriousness of the situation in Nicaragua, what we saw of the country and heard from the people was more than enough to impress. Blasted buildings and piles of wreckage, some from the earthquake and some from the fighting, dotted the landscape in Managua. The walls of homes in the neighborhoods bore scars of intense gunfire. Power outages were frequent. An amputee with crutches was a commonplace sight.

Our very first meeting with Nicaraguans only served to define the seriousness of the situation more sharply. Junta member Alfonso Robelo, in answer to a question of mine concerning the problems and priorities of the Government of National Reconstruction, cited a combined 55-percent rate of employment and underemployment, shortages and maldistribution of food, and shortages of medicine as the principal problems. The creation of jobs, the planting of crops, and the management of a uniform health care delivery system were the top priorities of the government. I myself found it significant that the exigencies of national reconstruction dominated so many of our conversations with Nicaraguans, whether in offices of government or outside. The social and economic underpinnings of the nation are undergoing extreme strains, and relief from those strains is very much the order of the day.

In the past the United States has responded to Nicaragua's troubles with dispatch and generosity. We provided Nicaragua with some 11,400 tons of emergency food in the 4 months after the earthquake. Assistance directly related to reconstruction totaled $65.3 million in loans and nearly $4 million in grants through 1977. Our response to the depredations of civil war in Nicaragua has been equally speedy and ample. As of November 12, we had sent some 36,300 tons of emergency food valued at $13.3 million and had provided loans and grants of $13.9 million to government and private organizations. Another $29.4 million makes up the current loan pipeline. President Carter's supplemental request of $75 million for Nicaragua, which I have already described in brief, would round out the package and begin to make a difference in the ongoing effort to reconstruct a stricken nation.

The Nicaraguan people know of our assistance and are grateful for it. The day we arrived in Nicaragua, November 16, the independent newspaper, La Presna, carried a story entitled "U.S. Had Helped More Than During The Earthquake." The story gave the proper figures on our assistance and described how the assistance was being used. The day we departed from Nicaragua, November 18, I toured AID projects in the neighborhoods of Managua and saw a sign near one of them which read in part:

> This Site [Is] Financed With Funds Of The United States Government And the Government Of Nicaragua For The Benefit Of The Nicaraguan People.

The Nicaraguans are a forthcoming people, and my honest impression, is that they will continue to give credit where credit is due.

There are solid reasons to support the additional assistance that President Carter has requested for Nicaragua. Humanitarian concern, a quality which Americans have always manifested, is one, and another is the opportunity to begin a relationship with a new government by helping it solve its gravest problems. Also, we should bear in mind that the results of our actions will not be like dust in the wind. The Nicaraguan people will know and remember who helped them and who did not.

THE GOVERNMENT OF NATIONAL RECONSTRUCTION

Mr. Speaker, one of the most agreeable aspects of the congressional mission to Nicaragua was the access of Members of Congress to the leadership of the Government of National Reconstruction. The access enabled us not only to contact persons and groups who could speak authoritatively on Nicaraguan affairs, but also to examine relationships among centers of power and influence in the new government. I believe that we left Nicaragua with a good sense of the problems and possibilities of Nicaragua's leaders.

In the aftermath of the civil war, Nicaragua has developed a highly collegial form for its Government of National Reconstruction. There are three important entities to be reckoned with. The first, one for which there is no analog in our system of government, is the Directorate of the Sandinista National Liberation Front. Generally acknowledged to be the main focus of power in the country in virtue of its control of the armed forces and its understandable popular appeal, the

Directorate consists of nine men from three distinct guerrilla factions who seem to conceive of their role as one of guaranteeing or safeguarding the Nicaraguan revolution. The left-leaning character of the Directorate is unmistakable, though in discussions with us no doctrinaire attitudes were apparent. In any case, their remarks were directed to issues of development and nationalism rather than political philosophy.

The second important entity is the legal executive or Junta, a five-person committee whose members were appointed by the Directorate. The Junta rules by decree at present, and presumably its decrees are arrived at through internal consensus and external consultation. If occupational background is an indicator, the membership of the Junta represents a fair cross section of Nicaraguan political opinion. The Junta is supported by 18 ministries whose heads, together with other public officials, comprise the third important entity, the Cabinet. Ministries range from more familiar ones such as Defense or Interior to less familiar ones such as Agrarian Reform or Culture and Sports, and my impression was that individual ministers vary in the mix of policymaking and administrative duties that falls to them. Professionals and technocrats predominate in the Cabinet, which also contains two priests.

Collegial government is rare because it tends toward instability. The difficulty of consensus building has been known since Roman times, as has the strong temptation for some leaders to combine to exclude others from power. My guess is that the government of national reconstruction feels the instability inherent in its own structure, but during our visit it presented a remarkably unified face. The three guerrilla factions of the Directorate were invisible. If there were any outstanding disagreements between the Directorate and the other bodies, there were nowhere in evidence. Junta members whose politics might have prompted them to clash seemed to be speaking the same language. Academics, businessmen, and priests in the Cabinet displayed a deep consistency of opinion. Was this unanimity an illusion conjured up for the benefit of Members of Congress? I think not. Collegial government appears to be working for the present because political differences have been temporarily set aside in an effort to meet pressing social and economic needs.

Collegial government has obvious drawbacks, but it also has a certain logic in the context of present-day Nicaragua. The Nicaraguan revolution was brought about by many diverse groups in the society, and each has claim to a say in how the revolution develops. Collegial government can satisfy those claims because of its natural inclusiveness. Also, the Nicaraguan people know all too well the effect of concentrating too much power in too few hands. Collegial government can allay their fear of authoritarianism. Finally, Nicaragua needs all the resources it can muster if it is to rebuild. Collegial government can attract the human resources that make reconstruction possible. Although no one can know the future with certainty, I believe that the following observation is sound: The forces that led to the development and initial success of collegial government in Nicaragua are forces that push Nicaragua toward an open and pluralistic political figure. Other forces are abroad in the society, to be sure, but there is no reason to think that they are irresistible and cannot be counterbalanced.

Opinions as to the general political outlook of the government of national reconstruction gave us further reason for optimism about the political future of Nicaragua. Although it clearly took second place to the overwhelming commitment to heal the nation's social and economic wounds, there was a common political theme in the government's statements. Junta member Sergio Ramirez, for example, described the Nicaraguan revolution as a movement toward democracy. He then spoke of the parallel tasks of economic and democratic reconstruction, saying that the government would not await the achievement of economic goals before establishing democracy. Directorate member Jamie Wheelock sounded a similar but more tentative chord in his introductory remarks. He explained that the Sandinista movement had dealt with other sectors of society because it wanted Nicaragua to be the pluralistic and democratic, though Nicaragua's democracy might not mimic that of other nations. In the same meeting, Directorate member Victor Tirado responded to a direct question about Nicaragua's political future by saying that the nation would have a plural-party system. He suggested that it might be more advanced than our two-party system.

The structure, success, and statements of the government of national reconstruction are not grounds for untrammeled optimism concerning Nicaragua's political future. They are nothing more or less than hopeful signs. Many obstacles stand between Nicaragua and the kind of open society that all good men strive to achieve. If we become impatient with Nicaragua's political progress in the months ahead, perhaps our impatience will be eased by the realization that for us, too, the idea of genuine democracy in Nicaragua is new.

TIES TO CUBA

Mr. Speaker, on August 12, less than a month after the cessation of hostilities, Directorate member and Minister of the Interior Tomas Borge held a press conference at which he discussed international support for the Nicaraguan revolution. Part of that day's text is important for what it reveals about the relationship between Nicaragua and Cuba. Mr. Borge said:

> Our Central American brothers have helped us, and those who have helped most have been our Cuban brothers. They have given us enormous support in the social sector, all without much fuss. Our Cuban brothers are never ostentatious about their support. They are generous, and they do not flaunt their generosity.

Scores of statements like this one, coming as they do from diverse spokesmen in the Government of National Reconstruction, were cause for deep and justifiable concern among members of the congressional mission to Nicaragua. Time and again in meeting after meeting we asked our Nicaraguan hosts to clarify and amplify such remarks. We carefully questioned our hosts about each aspect of Cuban involvement in the Nicaraguan revolution: moral and material support during the insurgency, ideological affinity, influence in the media, and participation in the literacy program and the health care delivery system were all treated fully and frankly. Moreover, we scrupulously gaged the reactions of our hosts each time the matter of Cuban involvement was broached. Given the facts we collected and the impressions we formed during the mission, my feeling is that Members of Congress can reach satisfactory conclusions about the meaning of the Cuban presence in Nicaragua. That presence is undeniably strong, but there are factors we must attend to if we are to place it in proper perspective.

The Sandinista movement has never attempted to conceal its relationship with Cuba. Along with Costa Rica, Venezuela, Panama, and other nations, Cuba gave the movement first moral encouragement and later material aid and counsel as the civil war entered its final stages. There is, of course, far more than this to Nicaraguan-Cuban ties. Some Sandinista leaders trained in Cuba, so they and others in the movement may feel drawn to the ideology that Cuba has always been quite willing to purvey. Such connections must make us wary, and their potential consequences must be neither underestimated nor ignored. It is at our own peril that we take the Cuban presence in Nicaragua lightly.

Just the same, Cuban involvement in the Nicaraguan revolution does not imply that Cuban-style authoritarianism lies in Nicaragua's future. In the provision of moral encouragement and material aid and counsel to Nicaragua, Cuba was not alone before and it is not alone now. Nigaragua is actively seeking all kinds of help in every quarter where that help might be available, and it is getting a positive response from a broad group of countries and organizations. As concerns the training of Sandinista leaders, Ambassador Lawrence Pezzullo has trenchantly observed that one cannot go to Boston for lessons in the overthrow of tyrants. Although one can go to Havana for such lessons, the gratitude engendered by the opportunity should not be confused with a slavish commitment to political programs developed in another time and context. Mr. Pezzullo has made an equally telling point about ideological affinity: some of the fascination that Cuba holds for the Sandinistas may arise from respect for Cuba's independence of the American colossus, not necessarily from sympathy with Cuba's repressive form of government.

Members of the government of national reconstruction replied openly and vigorously to our general inquiry into the Cuban presence in Nicaragua. Junta member Sergio Ramirez argued that Nicaragua had no intention of becoming a new Cuba, and he added that there was some irritation in the nation at such a suggestion. Noting the segments of public opinion in the United States which already saw Nicaragua in the Soviet orbit, he stated that no one in Nicaragua had given the Soviet Union any thought. Of the admitted Marxists in the Government, he offered the view that they represented one tendency among many and were Nicaraguans first in any case. He said:

> This revolution is based on the reality and history of Nicaragua, because we cannot base it on any other reality or history.

Mr. Ramirez' remarks appeared the very next day on the front page of the independent newspaper La Prensa. Directorate members Bayardo Arce and Jaime Wheelock echoed these sentiments in our later conversation with them. Mr. Arce stated flatly that the Nicaraguan revolution would not be patterned after any other model. Mr. Wheelock seconded him, saying that Nicaragua saw no model for itself in the east, west, south, or north.

What should be the position of the United States in the face of Cuban involvement in the Nicaraguan revolution? We can determine that such involvement is too much for us to cope with, or else we can boldly take up the challenge it presents to us. The first course of action fortifies the Cubans without their lifting a finger, while the second serves them notice of our intention to overmatch them in the pursuit of our interests and the interests of the Nicaraguan people. I interpret the Cuban presence as setting a dilemma: The choice is one between withdrawal and competition. I choose competition, and for that reason, among others, I am in favor of the President's plan of supplemental assistance to Nicaragua.

ANTI-AMERICAN RHETORIC

Mr. Speaker, on September 6, directorate and junta member Daniel Ortega spoke to delegates to the sixth summit conference of nonalined nations at the Palace of Conventions in Havana, Cuba. Because he was representing the government of national reconstruction before an international body that Nicaragua had just joined, it was with considerable disappointment that Americans received his strident anti-American rhetoric.

For the most part, Mr. Ortega's speech was a hyperbolic, bombastic condemnation of "Yankee intervention" in Nicaragua. Events dating back more than 120 years were described in great detail to illustrate the alleged bankruptcy of American foreign policy. Occurrences in the early part of this century were offered as evidence of contemporary American attitudes. The one-sided history lecture was interlarded with swipes at the U.S. presence in many parts of the world. The return to Cuba of the military base at Guantanamo, solidarity with imprisoned "representatives" of the Puerto Rican people, and withdrawal of American forces from South Korea were just a few of the things Mr. Ortega called for.

Moreover, he characterized Israel as an "instrument used by imperialism" in Nicaragua, excoriated the United States for proposing an "invasion" of Nicaragua in June of 1979, and accused "reactionary circles" here of plotting to deny Nicaragua much needed aid. To aggravate matters further, Mr. Ortega made many of the same statements 3 weeks later in a September 28 address to the General Assembly of the United Nations in New York City.

Members of the congressional mission to Nicaragua were aware of the tone and content of these and other instances of anti-American rhetoric emanating from spokesmen in high positions in the new government. As in other circumstances where frankness was required, we did not hesitate to confront our Nicaraguan hosts with our concerns. In the context of suggestion that continued verbal antagonism could be counterproductive for both parties, Congressman MATTHEW McHUGH pressed especially hard for an explanation in various meetings. Junta member Sergio Ramirez responded by emphasizing Nicaragua's aspiration for stable and normal relations with the United States.

He added that Nicaraguans were trying to leave the past behind, but that it was a difficult task. Directorate member Jaime Wheelock, also in answer to Mr. McHUGH, stressed Nicaragua's pleasure at our desire for friendship. He asserted that there was no prejudice against the United States, but that Nicaraguans still thought of the past. On other occasions, Nicaraguan leaders parried the request for an explanation by advising us to judge them by their actions rather than their words. They did not say why their words were not also important.

I have found the anti-American rhetoric of the new government very disturbing. It has not been explained to my satisfaction. Moreover, if it is taken seriously then it must be seen as inconsistent with the claim that Nicaragua desires cordial relations with the United States. Condemnations, after all, are not cordial, expecially when the the condemned party has manifested its hope for cordial relations in a very tangible way. These observations notwithstanding, there are factors in Nicaraguan-American relations that should not be overlooked as we try to understand the anti-American rhetoric. Each of these factors is deserving of at least brief consideration.

First, some Nicaraguan leaders are angry with the United States. They regard us as the sponsor of an oppressive regime which they threw off only at great cost in lives and property. It should be pointed out, however, that Nicaraguan anger has been held well within civilized bounds. Americans in Nicaragua were not harassed during the belligerency, nor has any provocative action been taken against Americans since that time. By joining with other Latin American nations in seeking the release of the American hostages in Iran, Nicaragua has displayed every intention of abiding by the rules and principles that govern affairs in the international community.

Second, anti-American rhetoric is not the only problem to be addressed. Many public officials in the United States have fired a barrage of criticism at the new government in Managua. The Nicaraguans read words of praise for former President Somoza; they believe that what they regard as the excesses of the former government are glossed over by some Americans; they see their motives questioned; they think that many of their economic, social, and political initiatives are cast in the worst possible light. I submit that inflammatory rhetoric is something that should not be indulged in on either side. It is certainly true that both sides have not done enough to dampen it.

Finally, members of the congressional mission heard little if any anti-American rhetoric from Nicaraguan leaders. In all situations, the courtesy of our hosts was flawless, their adherence to amenities exact, and their emphasis on friendship consistent. I did not regard such conduct as deceitful, but rather came away with the impression that many of our hosts were simply not inclined to give vent to anti-American feelings.

An argument for active American participation in Nicaragua suggests itself immediately: economic assistance, largely to the private sector, might strengthen moderate voices in Nicaragua to the detriment of those who seek to mobilize the country through anti-American rhetoric. If we participate, we may help to shape new attitudes and build new relationships. If we do not, moderate forces will suffer and anti-American forces will gain ground

THE REVOLUTION AND NEIGHBORING LANDS

Mr. Speaker, news reports with Central American datelines have given us little comfort in recent months. The Nicaraguan revolution, notable for its ferocity if not its duration, dominated the wires and airwaves through early summer. Late summer and fall brought further stories of social instability and economic hardship as the Nicaraguan people struggled to pick up the pieces of a shattered nation. The news from Nicaragua alone overshadowed, but did not completely obscure, ominous reports from El Salvador, Guatemala, and Honduras, Nicaragua's northern neighbors on the Central American isthmus.

It is no exaggeration to say that Central America's northern tier of nations is simmering with unrest. Social fragmentation, economic distress, underdevelopment, and slow political change are just a few of the factors that could bring unrest in the region to a boil.

The situation in tiny but populous El Salvador has been especially critical. Unchecked violence on both the left and right caused the Salvadoran military to move against the government of President Carlos Humberto Romero in mid-October, replacing it with a five-member junta of civilians and soldiers.

The Salvadoran coup d'etat has been greeted with enthusiasm by some, but others have not been so sanguine about its chances for success. No one can discount the view that the coup, like political assassinations in Guatemala or shooting incidents on the borders of Honduras, may simply be another turn in a rising spiral of regional turmoil.

Members of the congressional mission to Nicaragua were well aware of the generally volatile conditions in Central America today. We were determined to convince our Nicaraguan hosts that their attitudes toward regional tension would do must to shape American attitudes toward their revolution.

Of special concern to us were unsubstantiated reports that Nicaragua might be exporting its revolution with the aid of Cubans who were in the country training guerrillas. Directorate member Tomas Borge, who heads the national police in his capacity as interior minister and serves as a deputy commander of the Sandinista armed forces, denied as absolutely false the allegation about the presence of Cubans to train guerrillas, and he added that at no time had the new government considered revolutionany involvement in any other nation. He offered the oath that Nicaragua would never take part in other revolutions.

Mr. Borge told us of Sandinista soldiers who had been detained on his orders because of their intention to forment revolution abroad. He noted as well that foreign nationals who fought on the side of the Sandinistas had already been asked to leave the country. Mr. Borge's opinion of Nicaragua's military requirements expressed a clear preference for a small, highly trained force armed with defensive weapons, for offensive ones.

Another of our hosts, directorate member Bayardo Arce, denied that Nicaragua was interfering in the affairs of other nations, and he suggested that we take into account the sources of such rumors. It was his idea that the rumors were launched by Nicaragua's enemies to lower Nicaragua's standing with its neighbors.

Nicaragua's attitudes toward tension in the national life of its neighbors are of paramount importance to the United States. Its commitment to and practice of the principle of noninterference would lay the groundwork for close ties between our two countries.

However, any attempt by Nicaragua to serve as a platform for agents of violent change in the region would constitute a challenge to the interests of the United States. We must have more than verbal assurance that noninterference will be the policy of Nicaraguan leaders. We must see the policy of noninterference at work in the thinking and action of the new government.

The history of Nicaragua tells the new government that it has a vested interest in seeing that the principle of noninterference is followed. Indeed, if the new government is as sensitive to the past as it appears to be, its desire to promote a climate of noninterference may very well be greater than that of any other government in the hemisphere.

I believe Nicaraguan leaders know that they can best insure the inviolability of Nicaragua by accepting the inviolability of other nations. The questions they asked us about American intentions toward them are reason enough to think so.

Another factor looms just as large in these considerations. All Nicaraguan physical and mental energies are currently being channeled into a reconstruction effort so massive that it almost seems too much for that high-spirited people. Social reconstruction is to begin with a nationwide literacy campaign and the establishment of a uniform health care delivery system. Economic reconstruction will require new programs of repair and recapitalization in agriculture, mining, manufacturing, retailing, and other commercial sectors.

Political reconstruction awaits a census, the formation of political parties, and various rounds of elections. There are, in addition, serious problems with common crime in the city and guerrilla activity in the countryside. To anyone who has seen the battered face of Nicaragua, the argument that the nation might now embark on foreign military adventures is less than persuasive.

There is good reason to believe that prudence and necessity are combining to influence Nicaragua's actions with respect to its neighbors. On November 22, just 4 days after the departure of the congressional mission from Nicaragua, the new governments of Nicaragua and El Salvador met in Managua and issued a joint communique defining their relationship. The text touched on numerous subjects of mutual concern, but most prominent in it was the depth of commitment to noninterference.

The governments expressed their "rejection of foreign interference which encroaches on our sovereignty and the interests of our peoples," recognized "that the principle of nonintervention in the affairs of other states is essential," and proclaimed "that neither Salvadoran nor Nicaraguan territory will ever serve as a base for an attack on the other." Words of this kind, spoken in public, are not a recipe for plots or conspiracies of one country against another.

It would be naive to suppose that the Nicaraguan revolution in no way will exacerbate tensions in other parts of Central America. The example of the revolution itself will be a casual force of appreciable proportions, heightening both the fears of those in power and the hopes of those who oppose the status quo. The force of example, however, is altogether distinct from the force of arms. We will object to the latter in no uncertain terms, but the former we must accept.

HUMAN RIGHTS

Mr. Speaker, most of us agree that the state of human rights in a nation is one of the most important signs of the quality of life in that nation. There is also widespread agreement that human rights say much about what a government is, what it will become, and what it sees as central to its relations with other governments. For at least two reasons, then, one moral and one practical, Members of Congress are properly interested in the state of human rights in Nicaragua. They want to know whether the exercise of human rights there is openly encouraged, merely tolerated, or actively suppressed. They hope to discover whether tyranny in Nicaragua will be replaced by genuine freedom in all areas of public and private life, or by another tyranny, one different only because its ideology and rhetoric are populist in nature. The congressional mission to Nicaragua spent a considerable amount of its time in an attempt to find satisfactory answers to the questions about human rights it knew would be asked.

Whether our interest is the general trend or the particular incident, the notable achievement or the obvious setback, we cannot fail to have been impressed with one simple fact about the Nicaraguan revolution: Its leaders believe that a public commitment to human rights is an indispensable part of the process which they see themselves guiding. The emphasis on human rights can be perceived in the very first acts of the Government of National Reconstruction. The basic statute of the Republic of Nicaragua, announced while the junta was in Costa Rican exile and intended to serve as the forerunner of a new constitution and system of laws, gave human rights a prominent place. For example, a truly democratic government was to guarantee the right of all Nicaraguans to political participation and universal suffrage. All political organizations would be permitted to operate, except that none could advocate the return of the dictatorship. The United Nations Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man were endorsed, and freedom of expression, reporting, dissemination of thought, religious practice, and trade unionism, including the right to strike, were to be specially guaranteed. Furthermore, repressive laws and institutions, those threatening the dignity and integrity of individuals and resulting in assassinations, disappearances, and torture, would be repealed or abolished.

Other similar acts followed hard upon the announcement of the basic statute. While still in exile, the junta contacted the Organization of American States (OAS) with a pledge to respect international covenants on human rights and an invitation to the Inter-American Commission on Human Rights to visit Nicaragua. The junta asserted to the OAS that functionaries of the Somoza regime who were not wanted for crimes would be guaranteed safe passage out of the country. Approximately 5 weeks later, on August 21, a government newly arrived in its capital city issued a bill of rights poviding for most of the liberties common to Western democracies and promising some social benefits not usually regarded as rights. Among the former were a prohibition against the death penalty and a guarantee of the right of an accused to a speedy trial with defense counsel. Among the latter were items, such as the right to protection against hunger, which showed the new government's strong desire to better the economic circumstances of the Nicaraguan people.

Everyone knows that promise and practice often diverge when the issue is human rights. What Nicaraguan leaders promise is important, but what they practice will decide the issue for us. My impression is that the human rights situation in Nicaragua is mixed but generally positive. For example, national elections will probably not be held for sometime, but political parties are active now and they intend to establish themselves in the electorate. An independent newspaper, La Prensa, publishes open criticism of the revolution and circulates more widely than does the government-owned print medium. The broadcast media are dominated by the new government and their presentations are slanted, but not quite as slanted as one might have supposed. We learned from our conversation with the archbishop that freedom of religion has not been compromised in any way. There have been rumors of troubles in the labor unions.

One of the most important factors in assessing the state of human rights in Nicaragua must be the treatment afforded by the new government to its former enemies, and here the record is about as good as one could expect. For example, the right of safe passage for functionaries of the Somoza regime was recently affirmed when 24 persons left their refuge in the Spanish Embassy and departed for Madrid. What is more important, some 7,000 partisans of the Somoza regime, having been detained in prison for the past months, are now being tried by special three-member tribunals operating in the country. Reports are that the prisoners are represented by defense attorneys, have the right to appeal convictions, and plead to charges of violating specific Nicaraguan laws. No sentence may exceed 30 years' imprisonment in severity, and the proceedings are open to the press.

On the negative side, it should be noted that the detention of the prisoners has been hard since conditions in prison are poor. Some abuses of prisoners have been reported, and there has been some torture and killing. The new government admits that such acts have occurred, disavows them, and has taken steps to punish perpetrators. It makes the plausible claim that it does not yet have the power to control all aspects of detention in all regions of the nation.

We members of the congressional mission to Nicaragua quizzed our hosts intently on human rights. More than information about unfortunate incidents that might have occurred in this city or that, we wanted to take the measure of our hosts' thinking. Junta member Sergio Ramirez called to our attention the fact that Nicaragua already had a free press and free political parties. He said that theirs would be a society in which "all seeds" would be allowed to grow. Mr. Ramirez spent some time on the subject of the prisoners. He characterized the then upcoming trials as a "Nuremburg without gallows." Crimes committed during the war would be punished, but not by death. Directorate member and Minister of the Interior Tomas Borge spoke at some length on human rights, especially the fate of the prisoners. He acknowledged the harsh conditions of their detention, noted that independent observers had been permitted to see them, explained that some prisoners had been abused, and vowed that such abuse would soon be a thing of the past. Mr. Borge expressed the opinion that the tribunals would release most of the prisoners because of the incompleteness of the evidence against them. In one of the most forceful statements we heard during the mission, he swore that capital punishment would never again exist in Nicaragua.

The question of human rights in Nicaragua is highly relevant to our supplying Nicaragua with the additional aid that President Carter has recommended. As we consider the question, however, we should beware of two pitfalls, one on each extreme. First, it is condescending and impudent to suppose that human rights need not be fully respected in Nicaragua because the nation is not developed. Such is the attitude of the armchair observer, not the man who faces incarceration without charge, brutal torture, or summary execution. The vigorous pursuit of social and economic goals is absolutely essential in Nicaragua, but it is not now and will never be incompatible with care for the human rights of Nicaraguans. Second, it is unrealistic and unfair to hold Nicaragua accountable to a standard of respect for human rights that few, if any, nations could meet. Such, too, is the attitude of the arm-chair observer, not the leader who faces the staggering social and economic problems of present-day Managua. A quick reaction to violations and an earnest desire to improve are what we should insist on.

EDUCATION AND THE LITERACY CAMPAIGN

Mr. Speaker, members of the congressional mission to Nicaragua were able to witness close up many of the trials and tribulations of the people of that war-torn nation. Hunger, sickness, and homelessness are the companions of many. Families grieve for relatives lost in the fighting, and children have been left without parents. With the destruction of the economy, unemployment has become widespread and the provision of basic necessities has been made more difficult. Antedating these problems, however, is an invisible problem that has festered for years in both city and countryside: Nicaragua has one of the highest rates of illiteracy in Latin America. If illiteracy is a form of silent violence visited on a population by either a government's neglect or its simple incapacity to educate its citizens, then Nicaragua has indeed been a violent place for some time.

Our second meeting in Managua—with Minister of Education Carlos Tunnermann, the former rector of the National Autonomous University of Nicaragua—allowed us to delve into the problem of illiteracy among Nicaraguans. When asked for his assessment of the current situation, Mr. Tunnermann replied that the extent of illiteracy was greater than had been acknowledged by the Somoza regime. Up to 55 percent of all city dwellers and 80 percent of all rural people might be illiterate. The official estimate of 650,000 illiterates made by the regime, he stated, was low by at least a quarter million, perhaps more. If such an assessment is correct, approximately 900,000 Nicaraguans can neither read nor write. The figures clearly justify the emphasis on education in the new government

Members of the congressional mission were very concerned about two recent developments in Nicaraguan education. The first was the presence of 1,200 Cuban teachers in the nation's school system. In response to a question about the duties of these teachers, Mr. Tunnermann cited Nicaragua's deficit of 3,400 educators and then explained that steps had been taken to insure that the Cubans would not engage in political indoctrination of their pupils. They would be working within the confines of a temporary curriculum prepared for them by the new government. Before receiving their assignments, they would be required to attend seminars in the curriculum conducted by Nicaraguans.

Mr. Tunnermann also remarked that most of the Cubans would be posted to rural regions where there had been severe shortages of teachers in the past. There they would be limited to the instruction of reading, writing, and arithmetic, while Nicaraguans handled classes in civics, history, and social science. Mr. Tunnermann added that teachers from other countries were being welcomed, though all foreigners were to work in the school system not more than 2 or 3 years until emergency needs were met.

Our second concern was not founded on anything as concrete as the presence of 1,200 Cubans, but it was, for some at least, potentially more serious. Like counterparts of theirs in other developing nations, the leaders of the Sandinista movement have conceived and planned a literacy campaign as an integral part of their postrevolutionary program. Called the "National Crusade For Literacy" and administered by a Jesuit priest, Father Fernando Cardenal, the 4-month effort is to begin in March of this year. Its ambitious goal is nothing less than the eradication of illiteracy in Nicaragua. The basic skills it will supply are to supplement whatever instruction may already be available in the existing school system. Of course, the literacy campaign holds great promise for many poor Nicaraguans. It may be the vehicle to lift them out of their lamentable backwardness. On the other hand, the campaign could be used against them. It might become the mechanism through which the poor would be browbeaten into acceptance of less than the full freedom to which their struggle has entitled them.

How can the philosophical underpinnings of the literacy campaign be understood? Perhaps the best way to understand them is to examine the groups and individuals who direct, support, and participate in the effort. To begin, the direction is broadly based. Aside from several government functionaries, the board of directors includes representatives of the Nicaraguan Episcopal Conference, the National Autonomous University of Nicaragua, the Central American University, the National Association of Nicaraguan Educators, the Nicaraguan Federation of Catholic Educators, the Union of Journalists of Nicaragua, and the Nicaraguan Institute of Development, among other. Support for the effort is just as broadly based. Government and private sources in Nicaragua itself are prominent, but contributions have also come from the Government of the Netherlands, the Organization of American States, foundations and individuals in Germany, and religious organizations and individuals in Honduras, Mexico, Panama, Switzerland, and Venezuela. As regards participation in the effort, once again the base is broad. The archbishop of Managua, for example, has stated that the 220 priests, 500 religious, and many lay workers in his jurisdiction will be devoted to the campaign. These people will complement thousands of private volunteers who will undoubtedly lend a hand.

Our Nicaraguan hosts made it clear to us that they view the reconstruction of their country in a very comprehensive way. There are economic, social, political, and moral aspects to be considered. President Carter, of course, is asking Congress for additional funds to help speed the process of rebuilding. Because the school system and the literacy campaign are bound to play key roles in virtually all aspects of reconstruction, it is important that neither one be abused to the detriment of the people. There are good reasons to believe that we will not be disappointed by events in Nicaraguan education in the time ahead.

THE PRIVATE SECTOR

Mr. Speaker, the private sector of Nicaragua has kept a high profile during the past months of civil strife in that Central American nation. Its role has been one of active involvement in the revolutionary process. Businessmen were among those who denounced the Somoza regime in the strongest of terms. Countrywide strikes called for and coordinated by the private sector brought the regime to the brink of dissolution on more than one occasion. Under the aegis of the Broad Opposition Front, a coalition formed in September of 1978 as a locus of anti-Somoza sentiment, key businessmen worked hand in hand with clergymen and other civic leaders in an attempt to negotiate the transition to a new government. Both reprisals and general combat caused some of the private sector to sustain catastrophic losses during the war. Such a record would entitle any group to lay claim to a central place in postrevolutionary Nicaragua.

We members of the congressional mission to Nicaragua put the problems of the private sector high on our list of priorities. We returned from the mission convinced that the problems fall into two main categories. First and more immediate is the war-related destruction of the economic environment. Offices, plants, and equipment accounting for more than 25 percent of the industrial base have been ruined. Complete repair of the damage could cost between $400 million and $600 million, at least by rough estimates. Countless commercial opportunities have been lost, with the vital agricultural sector hit especially hard. Cotton and coffee exports, which together bring in more than half of all foreign exchange, have declined sharply, and production of beans, corn, and poultry, all in demand for domestic consumption, is off from one-quarter to three-quarters. Worse still may be what the future holds, for it is not entirely apparent to anyone where the capital to reconstruct and reactivate the economy will be raised.

The second category of problem, while less palpable, is every bit as serious as the war-related destruction just described. Business confidence is low because the private sector is uncertain of the Government's intentions toward it. Mr. Alfonso Robelo, an entrepreneur who is also a member of the ruling junta, has himself characterized the prevailing attitude of businessmen as one of tremendous caution. Expropriation of the holdings of Mr. Somoza and his associates has fueled misgivings, as have the Government's takeover of natural resources and its strict control of banks and insurance companies. Businessmen wonder whether they may become victims of abuse in the policy of expropriation, or whether their industries may eventually be treated as, for example, mining has been treated. Aggravating matters further is the common notion that some elements of the Sandinista movement favor immediate and total State management of the economy.

The physical needs of the private sector are well known. An executive with a large American company in Nicaragua said that he was staggered by the "magnitude of the investment and aid" the private sector would require. The Association of the American Chambers of Commerce in Latin America, noting the necessity of American imports for the smooth functioning of the Nicaraguan economy, testified that "there is an urgent need for more rapid disbursements now to restore and support credits for the private sector." It added that insufficient credits for imports "would cripple the Nicaraguan agricultural and industrial sector most of all" since the Nicaraguan public sector was not so dependent on imports.

A more sobering assessment has come from the Government itself. Mr. Robelo has stated that a lack of help might compel the Government to change its policy toward the private sector, imposing restrictions on it so that the nation could survive on domestic resources alone. Perhaps the elementary nature of the private sector's needs says the most. Agriculture must have fertilizer, seed, chemicals, tractors, pumps, motors, hand tools, and spare parts. Industry must have oilseeds, tallow, plastic bags, tinplate, artificial and synthetic fibers, plastics, trucks, trailers, construction materials, various kinds of machinery and equipment, and spare parts.

The psychological needs of a business community whose confidence is low are less easily defined. It is evident that deeds are more important than words to such a community, but words should never be discounted. Junta member Sergio Ramirez reminded us that the Government had never said that it would nationalize business. Rather than taking advantage of the private sector's troubles, he asserted, the Government was seeking funds for recapitalization. He remarked that the Government approved of President Carter's supplemental request, 60 percent of which would be destined for the private sector. Mr. Bayardo Arce expressed similar thoughts at our meeting with the directorate of the Sandinista movement. He explained that he and his colleagues were in touch with business leaders to see how best to bolster the private sector with extensions of credit and controls on foreign exchange. When asked for a concrete example of the Government's aiding business, he cited attempts to hold down wage increases that the private sector could not afford to pay.

Yet another significant statement of moderate intent was made shortly after the congressional mission left Nicaragua. In an address to an international conference of the Chamber of Commerce of the Americas, Mr. Daniel Ortega avowed that the revolution was not opposed to private enterprise, provided that the latter did not shirk its responsibility to help rebuild the nation. Mr. Ortega, a member of both the ruling junta and the Sandinista directorate, is known for his fiery, leftist rhetoric.

Nearly everyone in Nicaragua, whether in government or out, seems to believe that the private sector has a major role to play in reconstructing a shattered country. The society can neither duplicate its skills nor do without the results of its activities. The private sector itself insists upon securing its rightful place in the postrevolutionary era. The businessmen with whom we spoke were clear on that point, and they asked us for a tangible, forceful sign of our support. We were told time and again that the President's supplemental request was just such a sign.

In my opinion, the existence of a strong and vibrant business community signifies political pluralism and individual freedom in Nicaragua. By passing the President's bill we help the private sector flourish. If we defeat the bill, however, we abandon an important, pro-democratic group to an uncertain fate.

THE CHURCH

Mr. Speaker, approximately 19 of every 20 Nicaraguans profess the Roman Catholic faith, so it is hardly surprising that the church is a prominent institution in Nicaraguan life. Quite surprising, however, at least in light of historical precedents, is the role the church has played in the Nicaraguan revolution. In the person of the archbishop of Managua, Msgr. Miguel Obando y Bravo, the hierarchy of the church disassociated itself from the government of Anastacio Somoza early on. The disassociation was so complete that there are reports of Mr. Somoza's having conspired against the archbishop to blunt his outspoken criticism. Yet, Monsignor Obando was clearly a key figure in the opposition to the Somoza regime. He roundly condemned its injustices and did not hesitate to speak out against its excesses during the war, especially the aerial bombardment of the cities. In June of last year he and his six bishops openly proclaimed the right of the Nicaraguan people to engage in revolutionary insurrection. These actions and others, when added to the archbishop's well-known concern for the welfare of the poor, have earned him a special place in postrevolutionary Nicaragua.

We members of the congressional mission were keenly interested in the archbishop and his work, and we addressed many questions to him in the course of our meeting. Asked about alleged government pressure on the church, he replied that the church had criticized the former regime and had already made several of its concerns known to the new leaders. He added that a few priests had been temporarily detained in areas where government control was weak, but that the bishops themselves had felt no pressure. If attendance at mass were low in a certain parish, he suggested that the problem might be the personality of the priest, not harassment by public officials. In response to a question about the propects for democracy in Nicaragua, Monsignor Obando set out his understanding of what democracy should be. Pluralism, freedom of expression, the existence of political parties, and education for a responsible rather than a tame citizenry were the principal items he mentioned.

In his answers and extemporaneous remarks the archbishop left little doubt that he envisioned the church as an active force in postrevolutionary Nicaragua. He spoke for some time on the matter of education, with particular reference to the govenment-sponsored literacy campaign. The literacy campaign would be good, he thought, if it did not concentrate solely on simple skills and sociopolitical development but rather sought to contribute to the growth of the whole man in dignity and freedom. The human resources of the church—priests, sisters, and lay workers—would be devoted to the effort to insure that integral development was the goal. Monsignor Obando told of a specific plan to have sisters and lay workers accompany the literacy brigades into the countryside, and he described in detail the educational programs of Catholic Radio, a helpful service that unfortunately did not reach remote parts of the nation because of the advanced age of the broadcasting equipment.

The archbiship also dwelt at length on the matter of the prisoners who were soldiers in the National Guard. He said that the church would be sensitive both to their human needs and to the duty of the government to treat them humanely and try them fairly. Foremost in his mind was a concern that the prisoners not be condemned to "civil death," a future of unemployment and ostracism. The seriousness with which he regarded the issue was brought home to some of us later in the day. Members who attended a mass celebrated by Monsignor Obando heard a sermon on the obligation of Christians to forgive and rehabilitate the prisoners.

An important event took place the day we met the archbishop. In union with his fellow bishops Monsignor Obando issued a major pastoral letter, "Christian Commitment for a New Nicaragua," in which the church defined its own position in the postrevolutionary era and expressed its views on the problems and promise of the revolution. This remarkable document was afforded immediate and complete front-page coverage in the print media, and it was later aired indepth on the government-controlled television system. Given what the bishops said, such interest was more than warranted. It is my impression that the pronouncement of the bishops will stand as a significant affirmation of man's right to dignity, freedom, and the benefits of a just society.

Although the pastoral letter was primarily an ecclesiastical document on the opportunities and obligations of the church to evangelize and advance Christian values, the bishops did not steer clear of controversial political issues. They began by underscoring their support for the basic motivation of the revolution. Noting the joy of the people in their liberation from oppression, they called for new laws to institutionalize liberty. Freedom of expression was described as an invaluable instrument for the correction and perfection of the revolution since, in their view, nothing in the revolution implied that the people should bow down before a new idol.

The bishops hastened to detail their own responsibilities in the political sphere. They would listen to the people, hear the people's concerns, and report those concerns to authorities. For their part, the people themselves would take an active hand in the management of their own affairs. Through participation in direct popular democracy all Nicaraguans would help form the nation's future. The bishops were firm in their condemnation of a false socialism that would permit dictatorship, the suppression of religious sentiments, or the denial of human rights. For them, socialism would be acceptable only if it carried with it a dedication to human welfare and provisions for political participation by all Nicaraguans. They also stressed their desire that the revolution be authentically Nicaraguan. Models adapted from other nations, they thought, would not fit unique Nicaraguan circumstances.

It is evident that the church has occupied and will continue to occupy a critical place in the Nicaraguan revolution. Acknowledgement of this fact has come from many sources, including high spokesmen in the Government of National Reconstruction. What action should we take to buttress the church in its effort to insure, as the archbishop put it, the growth of the whole man in Nicaragua? When asked that very question, Monsignor Obando's reply was simple and straightforward. The people must have the basic necessities—food, medicine, and shelter—but they also require the great influence of the United States to help them achieve political pluralism and secure respect for human dignity. To deny the President's request for supplemental assistance to Nicaragua would greatly weaken those forces in the country—among them, the Roman Catholic Church—which support political pluralism and human dignity.●

STATEMENT OF RESPECT AND SUPPORT FOR THE LITHUANIAN PEOPLE IN THEIR STRUGGLE FOR INDEPENDENCE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. MOFFETT. Mr. Speaker, 62 years after their Declaration of Independence was signed, the brave Lithuanian people continue their struggle against Russian armed presence in their homeland. On August 23, 1979, 45 people from Lithuania, Latvia, and Estonia petitioned the free world for consideration of their plight in the United Nations. The petitioners commemorated as a day of shame for the 40th anniversary of the signing of the Molotov-Ribbentrop Pact which relegated Lithuania to the Russian sphere of influence for a payment of $7.5 million to the German Reich. The signatories renew their request for freedom, independence, rights of self-determination, and the removal of all external military personnel from the Baltic States.

The principles of national autonomy and freedom from persecution have long been recognized in international law. In Lithuania, the Helsinki Monitoring Commission continues to report human rights violations prohibited under the Helsinki agreements despite the imprisonment last year of two of their seven members, Balas Gajauskas and Viktoras Petkus. Andrei Sakharov made public his support of the August 23 petition, as did the Moscow Helsinki Monitoring Commission. Yet since then, two of the Lithuanians who signed the petition, Antamas Terlekas and Vypautas Skuordys, have been imprisoned for their political beliefs.

The Lithuanian people have an admirable record of resistance of oppression and cultural assimilation. The courageous individuals who risk their lives and liberty of these essential freedoms deserve our respect and support.●

MORE DOLLARS EQUALS BETTER DEFENSE?

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. MAZZOLI. Mr. Speaker, I voted against H.R. 5980, the countercyclical aid bill.

It was not an easy vote. Many of my political allies and cohorts in the House voted the other way.

They prevailed. But, I still believe the measure will not be cost effective in disbursing taxpayer funds.

It transfers too much money, to too few places for purposes that are not clearly defined in the legislation.

This may well describe the fiscal year 1981 defense requests in their present form.

We need a strong national defense apparatus and a vigorous intelligence network to defend America's vital national interests around the world.

But as the following article reprinted from the Wall Street Journal of February 1, 1980, suggests, the allocation of our defense dollars may not be the most cost-effective way to defend our vital national interests.

The article notes that the Western Alliance (NATO) today outspends the Warsaw Pact on defense.

Also, the article suggests that the deployment and design of our forces would indicate the United States is more prepared to fight brushfire wars in Asia and Africa than a conventional war against the Soviets.

Further, the article notes that our allies simply are not contributing their fair share to the alliance. The United States today provides more than half the outlays for NATO.

I would ask my colleagues to consider the following when reading this article: First, until America has a well thought out defense policy; second, until the United States can deploy tested weapons systems; and third, until our allies are willing to contribute their "fair share" to global defense needs.

America's defense and foreign policy goals will be hard to attain.

[From the Wall Street Journal, Feb. 1, 1980]

RAISING QUESTIONS ABOUT U.S. DEFENSE SPENDING

(By Barry R. Posen and Stephen W. Van Evera)

Even before recent events in Iran and Afghanistan, polls showed a dramatic upsurge in public support for more defense spending. The latest opinion survey, released last week, showed a larger plurality favoring more military spending than any national poll since 1950.

This popular view became official policy in December, as President Carter announced a decision to increase defense spending by 4.85 percent per year in real terms over the next five years. His budget confirmed the decision and already there is talk of higher spending over and above the budget figure. One former top national security official, John Lehman, recently recommended a 10 percent annual defense budget increase, after inflation adjustments. This newspaper suggested 20 percent.

Three basic considerations have been widely overlooked in this national rush to judgment on the defense question. First, few people seem to realize that the NATO states still spend more money on defense than do the Warsaw Pact countries, according to most estimates. The following figures are published by the respected London-based International Institute for Strategic Studies, and agree with data from the CIA:

1978 DEFENSE SPENDING

	Millions
United States	$105,135
Other NATO states	74,747
Total NATO	179,882
Soviet Union	148,000
Other Warsaw Pact	12,406
Total Warsaw Pact	160,406

The Soviets outspend the United States, but taken as a whole the Western alliance outspends the Eastern bloc. Furthermore, about one-quarter of the Soviet defense effort is directed against China, rather than NATO, so these figures understate an actual NATO advantage of roughly three to two.

We should not conclude that the U.S. and NATO are without defense problems. Instead, we should ask if more defense spending is the answer.

The U.S./NATO objective is defensive. Defense is usually easier than conquest, if the defender chooses the right defense doctrine. If this is in fact the case, our military now has more than enough resources, as long as these resources are used wisely. If we are weak even though we outspend the Pact states, we should look for errors in our doctrine, force structure and choice of weapons before we spend even more.

Second, the United States still carries an unfair share of the NATO military spending burden.

The U.S. now spends 5.0 percent of her GNP on defense, compared with an average 3.5 percent for our 13 NATO allies. West Germany, for instance, spends only 3.4 percent of her GNP on defense; France spends only 3.3 percent; Italy spends only 2.4 percent; Canada spends only 1.8 percent; and Japan, not in NATO but still an ally, spends only 0.9 percent. Only Britain (4.7 percent) spends nearly what she should.

This inequity arose in the wake of World War II, when we agreed to carry the main burden of European defense while the European economies recovered from the war. Today, however, the West European standard of living approaches our own, and the total West European industrial capacity equals ours. Yet we still subsidize Western Europe's defense.

Why should we now increase this subsidy? Our European and Japanese allies depend on Persian Gulf oil far more than we, yet everyone now assumes that the defense of the Gulf is an exclusive American obligation.

Third, the current debate on defense spending is premised on a false image of the main direction of both the Soviet and American military effort.

Recent press accounts picture a looming Soviet military capacity to intervene in the developing world, and an atrophied American intervention capability. Administration statements indicate that most of the proposed new defense spending will be allocated to forces best structured for Third-World intervention, to counter this alleged Soviet threat.

In fact, the Soviets direct very little of their military effort toward Third-World contingencies, and their current intervention capability is far inferior to our own, which remains quite robust.

The Soviet naval infantry (marine corps) numbers only 12,000 men, compared with 184,000 U.S. Marines. The Soviet amphibious fleet has only one-third the American carrying capacity. The Soviet airlift force can lift only half what U.S. aircraft can move, in millions of ton-miles per day. The U.S. Navy has 14 aircraft carriers operating or under construction, against only five much smaller and less capable Soviet carriers. The Soviets lead the U.S. only in airborne and airmobile troops, 56,000 to 39,000.

Overall, the U.S. now spends 25 percent to 35 percent of its military budget on forces appropriate for third-world intervention—more than we spend on our entire strategic nuclear force—while the Soviets devote less than 10 percent of their defense effort to the same mission. They direct their military effort almost entirely against their chief great-power rivals—the U.S., the other NATO states and China.

We should imitate this Soviet example. Soviet military power is the principle danger we face, and we should buy forces which confront it more directly. Intervention forces fail to do this, so our current investment in intervention capability is arguably too large, rather than too small.

In short, no defense budget increase is justified today, least of all the increase in intervention forces recommended by the President. * * *●

MRS. JUNE SUNDMACHER

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. MOORHEAD of California. Mr. Speaker, the Burbank municipal court will be losing a devoted and capable public servant on March 30, 1980.

What makes the retirement of Mrs. June Sundmacher special is that she began work for the Burbank police court as a clerk typist in 1943.

Since that time, she has shown exemplary dedication to duty, a willingness to work, a capacity for growth, and a friendly affability which has endeared her to her coworkers, made her successful and as close to being indespensable as any of us ever gets.

She has held every position in the court except that of judge, and with her experience and expertise, she probably would have done a first-rate job in that esteemed position. Mrs. Sundmacher has also been active in the community and the courts legal associations.

I want to take this opportunity to recognize the contributions Mrs. June Sundmacher has made to her profession, to her city, to her State, and to society as a whole during more than 36 years of dedicated service.●

REBUILDING THE CIA

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. SYMMS. Mr. Speaker, the following article from the January 31 Wall Street Journal discusses the need to provide the CIA with more flexibility by repealing the burdensome Hughes-Ryan amendment; a measure which passed in 1974 during the period when our intelligence were being closely scrutinized for alleged abuses. The article points out that if the CIA is to do the job for which it was originally chartered, the Congress is going to have to limit the reporting requirements of the Agency to two House and Senate committees as opposed to the present eight in order to prevent security leaks. Increasing the CIA's budget is also discussed so that the Agency would be able to improve its intelligence-gathering capabilities.

I have introduced the Intelligence Reform Act of 1980, H.R. 6314, in the House which Senator MOYNIHAN is sponsoring on the Senate side. This bill would accomplish the needed changes which are discussed in the Wall Street Journal article and would provide the American President with much better intelligence information than he is now receiving due to current restraints on the agencies. With more forewarning, perhaps we could have avoided some of the crises in Iran and Afghanistan, or at least have prepared a better response.

I urge my colleagues to read the following article and to pledge their support for this legislation:

[From the Wall Street Journal, Jan. 31, 1980]

REBUILDING THE CIA

With Congress back in town, all of a sudden everyone on Capitol Hill is asking where was the Central Intelligence Agency as events unfolded in Iran and Afghanistan. If U.S. intelligence operations had been more effective, the nation's affairs in that region most likely would not be in such terrible shape. These questions are giving rise to calls for rebuilding the CIA.

If Congress is serious about revitalizing the agency, there are certain questions it must ask itself first. Has it had enough of the witch-hunt syndrome of the 1970s, when some Congressmen prided themselves on "exposing" alleged CIA abuses? Does it now accept, after detailed investigation, that most of these charges were much ado over not very much? That while CIA funds went to the opposition of Chilean President Allende, for example, there is nothing to suggest CIA involvement in the coup that overthrew him. Is Congress ready to recognize that its own attacks on the agency seriously impaired the nation's ability to maintain an effective influence abroad?

Does Congress believe that the U.S. needs the capacity to conduct covert operations overseas? That is, should the U.S. actively try to prevent an unfriendly power, most particularly the Soviet Union, from destabilizing and then taking control of a country or region vital to our national security? Does the Congress recognize that successful covert operations may ward off a possible situation that might give way to direct military conflict, most notably in the Persian Gulf region?

If the Congress cannot agree to halt the witch-hunts, to maintain strict security about CIA activities, to accept covert operations abroad, then there is no point in discussing the reconstruction of the CIA. If Congress does not trust the President with the power to conduct such operations, under the type of congressional oversight that existed before the CIA was gutted, it may as well vote to abolish the agency altogether. On the other hand, if Congress is ready to rebuild the CIA, then it should get on with the job immediately. A number of "fixes" are easily available.

The most essential of these is repeal of the Hughes-Ryan amendment, passed with minimal debate in 1974 during the heyday of the CIA "exposures." Unwilling to face squarely the prospect of outlawing covert operations abroad, CIA opponents moved to make them administratively impossible, by requiring that they be reported to no fewer than 61 Senators and 134 Representatives on eight committees, plus their associated staff. Obviously, nothing covert is possible under such restrictions.

The risks of a breach of security are so numerous that, according to CIA director Stansfield Turner, on at least one occasion an allied intelligence service "withdrew a proposal for joint action." Former director William Colby said that "every" new project subjected to the Hughes-Ryan procedure in 1975 was leaked. Senator Moynihan has now introduced legislation to repeal the amendment; we only hope that this essential item of business will not be delayed by the inevitable debate on the First Amendment issues raised by other items in the Moynihan package.

Similarly, we would hope that revitalization of the CIA does not have to await a "charter" spelling out what is and is not proper in every conceivable contingency. The Senate Intelligence Committee has been working on such a charter, and would be wiser to scrap the whole project. The Association of Former Intelligence Officers branded the draft proposal, another artifact of the "exposure" heyday, as "long on restrictions, short on flexibility to adjust to changing situations and lacking incentives for greater excellence in intelligence." President Carter in 1978 issued an Executive Order to govern the agency; even those rules may be too harsh, but at least an Executive Order can be corrected overnight whereas modifying a legislated charter could take months or even years.

The CIA also needs an increased budget to facilitate the improvement of its information-gathering and analysis operations and its clandestine activities. Though President Carter has promised a "significant" budget increase next year, the CIA's funds are now at a "rock-bottom" $5 billion, according to informed estimates, and the boost in spending needs to be hefty.

Even if Congress and the President agree to rebuild the agency, we are not, however, optimistic that substantial improvements can be made anytime soon. The nation's intelligence network will likely take years to rebuild and, in the meantime, the U.S. will be exposed to unforeseen turns of events in vital areas around the globe. It is more than unfortunate that these improvements will have to be made from hindsight rather than foresight.●

A 30TH BIRTHDAY TRIBUTE FOR MR. MAGOO

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. WAXMAN. Mr. Speaker, either time is flying or we are getting older or both, by George, but this year marks the 30th birthday of Mr. Magoo, the nearsighted, irascible, and lovable animated character of film and television. Good grief.

The Museum of Modern Art in New York and the American Film Institute at the Kennedy Center will present retrospectives of Mr. Magoo's career. From a bit part in an early cartoon called "Ragtime Bear" to his classic portrayal of Ebeneezer Scrooge in "A Christmas Carol," Mr. Magoo has brought entertainment to millions in the United States and throughout the world. He has also appeared on behalf of the American Cancer Society, the National Safety Council, the American Heart Association, U.S. Treasury bonds, and the Navy. Great balls of fire.

Mr. Magoo has been an outstanding performer in the entertainment industry. To his creators and producers, as well as to the old Magoo himself—whose first name, by the way, is Quincy, I am sure my colleagues join in expressing congratulations on his 30th year in show business.●

ANNUAL NINTH DISTRICT OF MICHIGAN CONGRESSIONAL QUESTIONNAIRE RESULTS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. VANDER JAGT. Mr. Speaker, late last fall I sent to each of the residents of Michigan's Ninth Congressional District our annual congressional questionnaire, soliciting their views on a few of the important issues which our Nation and the Congress faces.

Several thousand of my west Michigan constituents responded to this questionnaire, many of whom took the time to include additional comments on issues which were of particular interest to them. I was very impressed with the response from ninth district residents to the questionnaire, and I want to express my gratitude to all who participated.

I always appreciate learning the views of west Michigan residents, and having the responses of so many constituents to the questions in this survey is particularly helpful to me as the Congress considers these and related issues.

Although I regret that problems with the independent data processing company which tabulated the returned questionnaires delayed the release of the results, I am pleased to share with my colleagues the response of Michigan's Ninth District to my annual congressional questionnaire:

CONGRESSMAN GUY VANDER JAGT'S ANNUAL NINTH DISTRICT QUESTIONNAIRE

DO YOU FAVOR

1. A Constitutional Amendment to prohibit the Federal Government from spending more than it receives in revenues? Yes, 83.1 percent; no, 13.9 percent; and no response, 3.0 percent.

2. Allowing either House of the Congress to veto any rule or regulation of a Federal agency which it feels is inconsistent with the original intent of the law? Yes, 81.7 percent; no, 12.7 percent; and no response, 5.7 percent.

3. Extension of the Revenue Sharing Program which provides Federal funds directly to state and local governments? Yes, 53.2 percent; no, 38.7 percent; and no response, 8.1 percent.

4. The Administration's proposal for an expanded Federal Health Insurance program to meet catastrophic medical expenditures and provide other services at a cost of about $18 billion in the first year? Yes, 24.2 percent; no, 68.7 percent; and no response, 7.1 percent.

5. Bringing the Nation's welfare system more under Federal control with national minimum welfare benefits? Yes, 37.1 percent; no, 56.0 percent; and no response, 6.9 percent.

6. The Hyde Amendment restrictions on the use of Federal funds for abortions under the Medicaid program? Yes, 58.9 percent; no, 33.2 percent; and no response, 7.9 percent.

7. The proposed Strategic Arms Limitation Treaty (SALT II)? Yes, 28.7 percent; no, 58.4 percent; and no response, 12.8 percent.

8. The reestablishment of the selective service draft system to meet the personnel needs of the Armed Forces? Yes, 58.2 percent, no, 35.0 percent; and no response, 6.8 percent.

9. Spending a larger portion of the Federal budget on national defense needs? Yes, 55.4 percent; no, 37.1 percent; and no response, 7.5 percent.

10. The creation of a multi-billion dollar Government corporation to finance energy projects? Yes, 22.9 percent; no, 68.3 percent; and no response, 8.8 percent.

11. The Administration's energy program? Yes, 19.0 percent; no, 62.3 percent; and no response, 18.7 percent.

12. The continued development of nuclear generated power to meet our energy needs? Yes, 65.0 percent; no, 28.5 percent; and no response, 6.5 percent.

13. Do you feel that the U.S. now faces a genuine energy shortage? Yes, 55.1 percent; no, 38.0 percent; and no response, 7.0 percent.

14. What do you consider is our Nation's most serious problem? Inflation, 46.8 percent; taxes, 22.6 percent; national defense, 16.2 percent; energy, 22.4 percent; unemployment, 13.4 percent; government leadership, 31.7 percent; other, 19.6 percent.

(Total percentages of question No. 14 exceed 100 percent because many respondents selected more than one problem.)●

THE 62D ANNIVERSARY OF THE REPUBLIC OF LITHUANIA

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. BENJAMIN. Mr. Speaker, I rise today to congratulate the Lithuanian people on the 62d anniversary of the independent Republic of Lithuania.

The history of Lithuania is a noble development of strong ideals of freedom and undying faith to its rich and unique culture. Lithuania is a land of beautiful and fertile resources and the people of this country take great pride in their language, art, and religious devotion.

The Lithuanian people have known adversity in their long heritage, but have responded to the challenge of independence with unrelenting defiance. They refuted attempts by the czarist government in the early part of the 20th century to eradicate their language and culture. Their proud struggle against foreign influence resulted in the establishment of the Republic of Lithuania on February 16, 1918. Centuries of oppression were overcome and the Lithuanian people were united in a bond of freedom.

Despite the constant specter of foreign aggression, the Lithuanians drafted a constitution and initiated domestic reforms that represented their commitment to the future.

Then, in 1940, the footsteps of 300,000 Soviet soldiers echoed in the streets of this proud Republic and on August 3, the U.S.S.R. claimed Lithuania as a constituent republic. Political bondage enveloped the nation.

The oppressive turmoil of Nazi occupation and the subsequent reentry of the Soviets brought great suffering to this land, a breach of peaceful independence that the Lithuanians have suffered to this day.

The Soviet martyrdom has made its presence known through bloody and oppressive policies. Hundreds of thousands have been deported and families torn asunder. Religious and political leaders have been assassinated or arrested. People have been tortured and property confiscated. The newspaper presses have been stilled and tongues silenced.

A weak will would have succumbed, but the Lithuanian people have endured and their spirited struggle continues. The people of Lithuania remain strong, but we cannot delude ourselves into believing there is peace in a land where Soviet power stifles choice and opinion through murder and intimidation.

The United States has never legitimatized the Soviet rule of Lithuania. The Lithuanian diplomatic missions that have been in our country since before 1940 continue to enjoy full recognition as representatives of a free and independent Lithuania.

We must continue to make our voices heard, as in our overwhelming support for House Concurrent Resolution 200, which expresses the sense of this Congress that self-determination and freedom will once again be brought to Lithuania and all the Baltic States.

The termination of the violation of human rights in Lithuania must remain a legislative priority and I call upon the President to continue to defend civil freedoms and in particular, defend the rights of the Lithuanian people.

Our actions today as leaders in a free world will do much toward nourishing the spirit of the Lithuanian people, whose children attend schools where science is taught in a manner that contradicts the existence of God and church leaders are sentenced to hard labor for defending their faith.

We must be more than aware of the plight of the people of Lithuania, we must also be conscious of the tangible sources we have at our hands to solicit firm attention from the Soviet Union that their policies in Lithuania and throughout the world will not go unnoticed.

Our actions today will pay tribute not only to the courageous Lithuanians under Soviet rule, but to their American relatives and friends whose contributions to northwest Indiana and the entire country have been a large part of the determined growth of American freedom and compassion.

May all the Lithuanian people be honored today. May they continue to grow in the strength and spirit and be granted the knowledge that their efforts will someday result in a Lithuanian national identity, free from the weight of dictatorial shackles, free to cherish their struggle for lasting peace.●

A FRIEND TAKEN FROM US

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. GUDGER. Mr. Speaker, a little over 2 years ago, a friend came to Washington to assist my efforts here, joining my staff as a special assistant. He came to help me and stayed on to seek a post with the Department of Justice, to aid the efforts in locating and prosecuting Nazi war criminals illegally in the United States.

This friend was James Martin Gray, an eastern North Carolina native who later moved to my beloved mountain country in the western part of the State. And, suddenly, he is gone, struck down by a heart attack last Wednesday.

Jim had his critics, both here and back in North Carolina. We all do. But he had a special talent, a special energy, a special sense of humor which he often cloaked with brashness and pushiness. This profane pose too often was accepted for more than an image. Those of us who loved him knew better. One, a young lawyer, has best described the real friend we both lost in the following words:

Dream chaser.

The elfin old man is dead.

A diamond among stones; he masked his gentle brilliance with profane and scornful crudeness but not too well, for the twinkle rarely left his eye.

Shallow people wearied him, the arrogantly powerful challenged him, the honest humbled him but the benevolent and strong made him happy.

Dream chaser.

His huge spirit has ascended to commune with the great souls he has known, but I know it will come back, like a thought, and touch those he revealed himself to. We will hear his gravelly voice when we are talking to somebody we do not like . . . and we will tell them the truth.

Jim Gray is dead.●

VOICE OF DEMOCRACY CONTEST

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. SYMMS. Mr. Speaker, I wish to insert a speech into the Congressional Record which was written by a Caldwell High School student by the name of Marta Averill Marcus as part of the "Voice of Democracy" contest sponsored by the Veterans of Foreign Wars of the United States. I wish to congratulate Marta for delivering the winning speech from the State of Idaho and wish her luck in the upcoming competition here in Washington with the other State winners.

I think Marta does an excellent job in discussing the theme "My Role in America's Future," and she raises some interesting points for all of us to consider. I want to commend the Veterans of Foreign Wars for sponsoring this contest and for encouraging our young adults to consider what their role should be in the shaping of this country's future, and I am pleased that Idaho will be so well represented in this competition.

Miss Marcus' speech reads as follows:

Essay by Marta Averill Marcus

What is my role in America's future? Although this is a question I had not seriously considered before, I believe I now know the answer. It is to prepare for the future today by acquiring the knowledge and capabilities which will ensure that I do have a role in America's future. Charles Kettering has said "We should all be interested in the future, because that is where we are going to spend the rest of our lives." Tomorrow is the future, but will soon become the past.

I wonder if Lincoln and Jefferson ever stopped to think when they were young, that they would be creating the future of our country? Perhaps it took more than the great men and women of the past generations to create this future. It took all the people. Every person today also has a role to play in creating our future. I may never be listed in history books in years to come, but I am nevertheless a part of the history of this country.

The actions taken by guiding forces of the past are responsible for our present, likewise, the actions we take now are going to effect the future generations.

I may not be as active in politics or government as were some of the great leaders of the past, but I can still play an active role in our future by being aware of what is happening in my country, and helping to make decisions, when I may, by voting. I need to obey the laws that are good, and strive to change those that need change. I need to be continually aware that the actions of today effect tomorrow.

I know that my rights as a citizen are privileges, and they must be protected, and not abused.

I must guard against the erosion of freedom for all our citizens, as this loss would gravely effect the future of America, which was founded on freedom.

I need to recognize that there are problems ahead, but if the country will take a positive attitude, and face them with intelligence and energy, they can be resolved. I do not intend to be a negative thinker who sees the future of America as uncertain and bleak. If I can influence others to look ahead with confidence, I believe it will have a positive effect on the future.

It is important that we believe in the future, believe in great things to come. If we dwell in only the present, or in the past, nothing will ever be accomplished. If the men and women of the past never thought ahead to the future, no planning would have been done, no dreams would have been achieved, no inventions imagined, no churches built, no governments formed, or continents discovered. The future is what we make it.

My role in America's future is to believe. The dictionary defines "belief" as having a firm conviction of something, to accept as true.

It has been said that "The future belongs to those who prepare for it."

I would say that the future of America belongs not only to those who prepare for it, but those who believe in it.●

NETHERLANDS PARLIAMENT URGES REPEAL OF IMMIGRATION LAWS DIRECTED AGAINST HOMOSEXUALS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. WAXMAN. Mr. Speaker, two Members of the Netherlands Parliament presented to me on February 5 a petition, signed by 133 of the legislature's 150 Members, urging the United States not to discriminate against foreign visitors on the basis of their sexual orientation. I applaud this overwhelming expression of concern by our colleagues at The Hague, and wish to bring their petition to the attention of the House.

The Immigration and Naturalization Service has recently decided to continue to enforce its antiquated policy of prohibiting suspected homosexuals from entering the country—despite the judgment of the Surgeon General that this restrictive policy should be ended. It is today generally accepted medical practice that homosexuality is not an illness or psychological disorder, and that the law should reflect this consensus. But under our immigration statutes, INS continues to deport and refuse to issue visas to suspected homosexuals. To end this discriminatory policy, I have joined with Representatives BEILENSON and DIXON in introducing H.R. 6303 to repeal this law.

In their letter to Congress, our friends from the Netherlands contend that these legal impediments conflict with our obligations under the Helsinki accords to guarantee the free movement of people. Their letter states:

> We won't hide our feelings that to us a country which claims to value so dearly a respect for human rights all over the world, by acting in this way, is acting contradictory to that same necessary respect for human rights.

Their voice reinforces my longstanding concern that the issue of discrimination against homosexuals is a matter of basic human and civil rights, and must be judged accordingly.

The full letter from the Netherlands Parliament follows:

LETTER FROM THE DUTCH PARLIAMENT TO THE AMERICAN CONGRESS

THE HAGUE,
Binnenhof, 1a, January 1980.

To the Chairman of the House of Representatives of the United States of America.

Hon. THOMAS O'NEILL, Jr.,
Capitol Hill,
Washington, D.C., U.S.A.

DEAR MR. CHAIRMAN: We, the undersigned, all of us members of the Netherlands Parliament want to address ourselves with the following:

Information has reached us that your country's State Department has ordered visas should not be issued to non-Americans, who consider themselves to be homosexual. This would be a consequence of the law of 1917, whereas changes in the law by the American Congress in 1952 en 1962 did not alter this situation.

We beg to inform you that we find this deeply disturbing. We had thought up till now that such regulations could not arise in our times. Moreover we find it an unacceptable concept that Dutch and other non-American citizens would have to go through a humiliating procedure to determine their sexual orientation, even if such a thing were possible.

We won't hide our feelings that to us a country which claims to value so dearly a respect for human rights all over the world, by acting in this way, is acting contradictory to that same necessary respect for human rights.

We consider the right of each individual to experience his or her sexuality in his or her own way, as a matter which belongs to a person's private domain, and as such an undeniable right of every person. It follows from that, that the United States ought not to let the question of a foreign visitor's eligibility for a visa, depend among other things, on his or her sexual orientation. Apart from that, in our opinion, the Immigration Law also clashes with the free traffic of persons. This is an international principle, which gained fresh momentum from the Helsinki Agreement.

We are of the opinion that as champions of this agreement the United States ought to follow this principle also in this matter.

That is why we address un urgent appeal to the House of Representatives to bring about an end to this form of discrimination, for example by asking your country's Government to repeal the measures recently issued.

In your capacity as the law-making authority of the United States we urge you most earnestly to enact legislation, which ensures a ban on this kind of grave discrimination.

While a few members of the Netherlands Parliament will visit the United States in the first week of February, we would appreciate your assistance in arranging a meeting on the matter with the appropriate Committee of the House of Representatives.

Sincerely yours,

H.J. van den Bergh, K. van den Anker, B. Bakker, M. Bakker, R. Beckers-de Bruijn, R. Ter Beek, L.M. de Beer, J.D. Blaauw, J.P. de Boer, F. Bolkestein, R. de Boois, F. Borgman, L.J. Brinkhorst, V.A.M. van der Burg, F. Buurmeijer, F. Castricum, G.C. van Dam, M.P.A. van Dam.

D.J.D. Dees, J.C.Th. van der Doef, D. Duinker, M.B. Engwirda, M. Epema-Brugman, A.A.M.E. van Erp, A.J. Evenhuis, S. Faber, A. Geurtsen, N.J. Ginjaar-Maas, A. de Graaf, I.S.L. Gualthérie van Weezel, H. de Hamer, H. Hartmeijer, A. van der Hek, M.L.H.A. Hermans, B.J.M. Hermsen, J. van Houwelingen.

E.H.T.M. Nijpels, W. Jabaay, H.H. Jacobse, J.L.A. Jansen, Th.H Joekes, A. Kappeyne van de Coppello, G.W. Keja, J. van Kemenade, H. Keuning, G. Klein, H. Knol, K. Kolthoff, H. Kombrink, M.J. Konings, R.W. de Korte, A. Kosto, W. de Kwaadsteniet, J.J. Lambers-Hacquebard.

S. Langedijk-de Jong, Th.M. Lauxtermann, R.F.M. Lubbers, W. Meijer, C. Mertens, F. Moor, I. Muller-van Ast, R.E.F.M. Nijhof, E. Nypels, D.A.Th. van Ooijen, S. Patijn, A. Ploeg, S. Poppe, F. Portheine, J. Pronk, L. Rempt-Halmmans de Jongh, J.G. Rietkerk, P.A. Roels.

H. Roethof, N. Salomons, G. Schaapman, J.F. Scherpenhuyzen, J.N. Scholten, A.G. van der Spek, B. Spieker, B. Stemerdink, M. van der Stoel, P.R. Stoffelen, J.C. Terlouw, E. van Thijn, R. Toussaint, M. Tripels, J.M. den Uyl, M. Andela-Baur, M. Beinema, R. Braams.

H.v.d. Broek, J. Buikema, P.A.M. Cornelissen, H. Eversdijk, T. Frinking, J. van Iersel, V.N. Korte-van Hemel, A.G. Lansink, M. van Rooijen, P.J. van der Sanden, S. Weijers, H. Wisselink, W.J. Deetman, B. Hennekam, H. Aarts, G. van Muiden, B. de Vries.

J.M. van de Ven, E.G. Verkerk-Terpstra, J.D. de Voogd, A.J. Voortman, A.J. de Vries, J.H. Vrijland-Krijnen, H.P.H. Waalkens, H.J.G. Waltmans, E.K. Wessel-Tuinstra, J.F. Wolff, M.A.M. Wöltgens, J.M. Worrell, M. Wüthrich-Van der Vlist, K. Zijlstra, H.A. de Boer, S.J.M. Dijkman, C.H. Evenhuis-van Essen, G. Gerritse, I. Haas-Berger, P.R.H.M. van der Linden, J.J. Voogd, P. Dankert, J. Mommersteeg, G.M.P. Cornelissen W.G. Bremen.●

PRESIDENTIAL INTENTION REGARDING THE WATER PROJECTS BILL

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. EDGAR. Mr. Speaker, on February 7, the President gave a speech before the Consumer Federation of America in which he addressed a number of complex issues and conflicts facing Americans. Of particular interest to me were his remarks on the water projects bill which the House recently passed. President Carter discussed the water projects plan that he has submitted to Congress and stated that:

> The House bill is part of no rational plan. Some $2.5 billion, more than half the total amount authorized by this bill, would be almost pure waste.

The President concluded:

> I do not intent to allow that bill to become law.

The entire speech follows:

REMARKS OF THE PRESIDENT TO THE ANNUAL CONFERENCE OF THE CONSUMER FEDERATION OF AMERICA

THE PRESIDENT: Someone told me earlier that you were going to have roses, so I feel at home. (Laughter.) Distinguished consumer leaders of our greater country, once again, I am pleased to meet with you. This federation has a proud history—as a voice for consumers and also as an incubator of great ideas. As a matter of fact, the concept for a co-op bank originated right here with you, and now as you know, the co-op bank is about ready to open for business. That is just the most recent of many examples of what you have achieved in practical terms. From the very beginning, you have fought for the common good of the American people. And within our system of government, that is also the responsibility of the President, who alone has as his constituency all the people of our country and also, who alone must assess the complex issues and the conflicts that exist in the resolution of differences, both on the national scene and in the international world.

I take that responsibility very seriously, and especially now. Mutual trust among Americans based on fairness and equity is never more needed than in a time of crisis when national solidarity is so important. As you know, we are faced now with extremely difficult and complex problems both here and around the world. Our domestic and our foreign concerns are more closely interrelated now, perhaps than ever before in history. And the hard truth is that there are no easy or simple answers to any of these problems, or any of these questions, but as you well know, there are answers.

The Soviet military aggression in Afghanistan is a serious threat to peace, and has drawn the condemnation of the entire world. We must be sure that the Soviet Union understands the depth of universal concern and universal outrage.

In my State of the Union speech, I described the consequences of a threat to our own vital interests in the Persian Gulf region. As long as Soviet invading forces are in Afghanistan, we will continue our own forceful actions. Normal commerce has been interrupted, there will be no high-technology equipment sold to the Soviet Union, I will not issue permits to Soviet fisherman in U.S. waters, and neither the American people, nor I, will support the sending of our athletes to the Olympic games in Moscow as long as the invading forces stay in Afghanistan.

Americans want peace. And when we act calmly, firmly, and with strength, and when we describe clearly the advantages of peace and the absence of aggression, then we reduce the risk of war.

The holding of our hostages has shocked and outraged every American, and now we are doing everything through private diplomacy, through every avenue, to protect America's interest, to uphold the principles of our nation and to secure the safety and the release of our people with the opportunity of bringing them home where they are loved and where they are not forgotten.

In Iran, in Asia and elsewhere throughout the world, the United States is meeting its international challenges with restraint and with resolve, and Americans have exhibited a remarkable degree of national unity and common purpose.

As President, I need your help, and I need your understanding, and I need your support. We must defend our interests at home as well as abroad. Above all, that means cutting out our excessive dependence on foreign oil, which makes our nation so vulnerable now and in the future. There are only two things that we can do. One is to conserve energy, and the other one is to produce more American energy. These two are also closely interrelated, one with another.

We must face facts. We have no choice but to make a painful adjustment to rapidly increasing worldwide energy prices.We cannot afford to mislead ourselves. Subsidizing oil prices to keep them artificially low can only harm both the efforts that I just described, conservation, because people are inclined to use too much oil when the price is held below what it ought to be and it obstructs the production of American energy if artificially cheap oil is available in preference to solar energy or other competitive energies which give us opportunities for the future.

After three years of some of the toughest legislative battles ever seen on Capitol Hill, we are on the verge of enacting a comprehensive energy policy for our country that will improve the way we conserve energy and preserve and improve the way that we produce energy.

Congressional leaders have acted responsibly under very difficult circumstances in getting this program through the House and through the Senate. But the conference committees, particularly those on the Energy Security Corporation and Energy Mobilization Board, are another story. We expected them to act last year. Now it is February, and the conferees are still bogged down in bickering and delay. Apparently they do not share the sense of urgency that is felt by the American people on this crucial question of an energy policy. Our national security, the quality of our lives, national unity, common understanding, fairness and equity depend upon the rapid completion of this energy policy without further delay in the Congress. And then we will have an energy program that will help us to cut down waste, produce American coal, crude oil, natural gas, synthetics, will help us to shift to solar and other replenishable forms of energy and will also help us at the same time to protect the quality of our environment.

We must never forget that conservation is the cheapest and the cleanest source of energy. When we insulate a home, when we ride in an efficient vehicle, when we share a ride with a fellow worker, we not only spend less for fuel, we also breathe cleaner air, and we do something concrete for the future of our country. It does require some sacrifice, but it is actually a better way to live.

Throughout the world these days, there are and must be in the future, sacrifices. But in our country, you and I, must see that sacrifices are shared again with equity, and with fairness. That is why we have fought to get more than $10 billion set aside in the next five years to help low-income consumers pay the inevitably increasing prices of energy, then to weatherize their homes and now have a chance to benefit from the improved ways of addressing the energy problem. That is why I will be fighting for the passage of a standby gasoline rationing plan to be imposed in our country if we should have a severe energy shortage. And that is why I fought so hard for a strong windfall profits tax, so that oil companies can share their portion of these burdens. Yesterday, the windfall profits tax conference committee made good progress, after a long delay and I am convinced that very soon now the Congress will act favorably upon this major proposal.

You also know that the skyrocketing prices of energy, everywhere on earth, is the biggest cause of inflation. And inflation continues to be the number one threat to consumers.

As President, I must tell the truth about inflation. The inflation we face now took 15 years to build up. It is a worldwide problem. In the nations, some of whom are our close allies, the inflation rate is now above 100 percent, per year. The battle to reduce inflation will be long and hard and there will be no easy victories.

Inflation cannot be vanquished without effort and sacrifice. It cannot be abolished by decree or by law or by creating a gigantic new federal bureaucracy. There are no simple solutions, no magic wands that we can wave and expect inflation to go away.

In the short term, our most urgent task is to prevent the OPEC price increases from being embedded permanently in the wage-price structure of our nation's economy. We also share a deep moral obligation and commitment to see that the burdens of inflation do not fall disproportionately on the poor and the weak and the inarticulate. Beyond that, we must face the fundamental causes of inflation. This means more savings, more investments, more basic research, more competition, more technological innovation to give us a more productive America. It also means budget restraint, always with a sensitivity to human needs. It means that we cannot do everything we would like to do. It means hard choices, and those of us who are leaders must be ready and able and have the courage to make those hard choices.

If we are to control inflation, we simply cannot afford a wanton waste of the taxpayers' money. The water projects bill which just passed the House is shot through with textbook examples of that wanton waste of American taxpayers' money.

I'd like to quote for you from what a great American once said:

"The days of 'pork-barrel' legislation are over. Every dollar of our expenditures for port facilities, for inland waterways, for flood control, for the reclamation of swamp and arid lands, for highways, for public buildings, shall be expended only by trained men in accordance with a continuing plan."

The author of that statement was Franklin Delano Roosevelt. It was made in 1920, when he made an acceptance of the nomination as a Democratic candidate for Vice President. I am sure he was bitterly disappointed when he got to the White House and began to deal with the American Congress, because here we are 60 years later, and the pork-barrel express is still rolling along. Unless we derail it, it will roll right over our budget and it will flatten our anti-inflation efforts.

I have been fighting this battle with the help of many of you for three years. I have vetoed a similar bill already. I believe in a sound water projects program, and I have submitted such a program to Congress. It would spend precious tax dollars, in FDR's words, "in accordance with a continuing plan", but the House bill is part of no rational plan. Some $2.5 billion, more than half the total amount authorized by this bill, would be almost pure waste—projects that are still being studied, projects that have never been studied, projects that have been thoroughly studied and found to be unsound. In addition, this bill would commit us to new federal spending programs that would amount to tens of billions of dollars in the years ahead. Waste creates inflation.

The water resources bill as passed by the House, is a bad bill. It's a wasteful bill. It's an inflationary bill. And with your help and support, I do not intend to allow that bill to become law. (Applause.)

You and I share the responsibility also of making the government work, competently and compassionately, for consumers, for workers, for competitive free enterprise system, for the environment, even in a time of economic and political adversity, which we face right now. Part of our success has been a direct result of the people that we have been able to bring into government.

You in the consumer movement have lent me some of your best advocates to serve American consumers in the top positions in goverment. I am particularly proud of people like Joan Claybrook, Susan King, and Mike Pertschuk, and Father Geno Baroni, and Sam Brown, Graciela Olivarez, and of course, your own former executive secretary, Carol Foreman. (Applause.)

There are many others, but I want to say a special word about one of them, Esther Peterson, my Special Assistant. (Applause.) She is my special assistant for consumer affairs. I love her. I guess we all do. But she is more than lovable. She is also very effective. She has more courage and understanding and experience in fighting for consumers than anyone I know, and I am very proud to be her friend and her co-worker. Sometimes I don't know who gives the orders, but I know I always carry out what she decides. (Applause.)

As she points out to me, a key to making government work is direct citizen participation. (Applause.) I recently signed a consumers' protection executive order, drafted by Esther Peterson, to ensure that consumer voices will be heard in a loud and clear form in every major agency of the federal government. Government agencies will seek new ways to involve citizens in their decision. My regulatory reform bill will extend public participation funding throughout the entire federal government. (Applause.) Together, sometimes over tremendous difficulty, we are opening the doors and it is up to you to enter and to bring other Americans through those doors.

I promised to reform government regulation everywhere I could. My goals for regulatory reform are very clear. Where regulation is unnecessary, where it stifles competition, regulation should be eliminated.

Often traditional regulation of industries such as airlines and trucking just protects cartels, little OPECs, that keep prices high by keeping competition out. Airline deregulation revolutionized air transportation and produced $2.5 billion in savings for consumers. Trucking deregulation will save billions of dollars more. This is a goal that was pursued by a hero of yours and mine, Senator Phil Hart. (Applause.) And our commitment to these kinds of goals and ideals are a tribute to him and to his ideals. And I would like to pay particular tribute, again, to another senator, Senator Ted Kennedy, who will be speaking later on today to you, a good consumer advocate, for his work as a partner with me, in the evolution and now the passage of the trucking deregulation legislation. (Applause.)

Where regulation is necessary, we should make sure it works efficiently. When OSHA eliminates 1,000 nitpicking regulations which turns the public against the agency, and turns its attention to serious health problems in the workplace, every American is a gainer.

These are common sense goals, and we will achieve them. But I will vigorously oppose these special interests which now seek under the guise of regulatory reform, to turn aside protection for the consumer, to turn aside protection in the workplace, to turn aside protection for the environment. Those forces are massive. We will reform regulation, but we will not wreck legislation which protects the kind of regulation that will care for all of us and those for whom we care. (Applause.)

I salute you for the measure that you have taken to help America be a more decent place, and to give our people a more decent society. Every child saved by burn safety rules, every person alive today because automobiles and highways are safer, every person who drinks pure water and who breathes clean air, every worker who is saved from a painful death because of a job-derived disease, every such human being owes you a debt of gratitude. We must work together to protect these gains.

As you know, there are an extraordinary array of special interests who have now put the antitrust and consumer protection efforts of the Federal Trade Commission at the top of their hit list.

Obviously, no agency should be immune from scrutiny and assessment and correction and clarification. But a fine-tuning operation must not be turned into a wrecking crew.

The Federal Trade Commission Act is one of the oldest and most fundamental safeguards we have for the integrity of the American marketplace. It has been there since an early consumer advocate in the White House, Woodrow Wilson, signed this Act into law in 1914. It is so basic to the fabric of trust and fairness in the American free economy that we tend to take it for granted. We can no longer do that. We have to fight for it. And together we will fight for it and we will protect the Federal Trade Commission. (Applause.)

Just look briefly at some of the accusations against the FTC. It is not wrong to tell a bereaved and a vulnerable consumer how much a funeral will cost. It is not bad to allow professionals—doctors, lawyers and others—to give information to their clients who are consumers. It does no harm to restore competition to overprotected industries and to save consumers hundreds of millions of dollars per year. Yet, provisions exactly like these are now being considered by Congress which would stop activities, like these, dead in their tracks.

One especially harmful idea would allow legislative veto of FTC regulations. This is unconstitutional, this is bad government. It would create a whole new form of red tape. It would turn regulatory enforcement into an endless process of capricious negotiation with special interests. (Applause.) I am glad that yesterday, with your help, the Senate rejected a one House veto amendment. And I hope that the Congress, in its wisdom, will reject all such congressional veto amendments in the future.

The Federal Trade Commission is one of the greatest weapons the American public has to guarantee truth and integrity and competition in the marketplace. I will not let it be picked to pieces. (Applause.) And I want to make it clear to Mike and to you and to the Congress by pledging to you now that if the Congress sends me a bill that cripples the ability of the Federal Trade Commission to protect the consumers of America then I, as President, will veto that bill. (Applause.) It would be a serious mistake for us to underestimate the seriousness of this issue. Not just because of what the FTC does—it is not only important in its own right, greatly important, but it is also symbolic of what can happen in the future. If we should lose this battle—and I am resolved that we will not—then we would have a much more difficult task of winning similar battles to protect consumers in the Congress in the future.

I will continue to do everything in my power to defend consumers against those selfish special interests. But I cannot do it alone, no President could. President Harry Truman expressed the problem well when he said: "You know, they have lobbies down there—the power trust, and they have the real estate lobby and they have the oil lobbies and they have lobbies for this and that and the other thing. And the only lobby that the people have is the man who sits in the White House. He represents 150 million Americans who cannot afford a lobby."

Of course, now I have you as allies, but the President still represents the people who cannot afford a lobby. President Truman could never have predicted the changes that now make it so hard for a President alone, or even with the consumer federation, to balance the scales. Ours is a time when a lobbyist pushing one button on a computer can immediately send 10,000 letters on any subject to the Congressmen on the Hill. But consumers have some things that special interests do not have. We have the power of numbers. And we have right and justice on our side. (Applause.)

But I have to remind you that this power must be effectively marshalled and effectively used. Citizen groups cannot afford the luxury of special or single issue orientation. Citizen groups cannot afford the luxury of divisions among ourselves. Citizen groups cannot afford to attack one another, simply because we differ on the nuances of protection of consumers. We must join forces when any one of the goals that we support is threatened. We need the help of each other. And now especially I need your help on a good consumer agenda—a strong windfall profits tax, a national health plan, hospital cost containment, the enhancement of personal privacy, trucking deregulation, helping small savers get a better return on their money, protecting the FTC, and sound class action legislation; many other items, the agenda is broad, the issues are sharply drawn, the threat is great, unity is mandatory.

Congress will not respond to consumers if it does not hear from consumers. And that is quite often the difference between victory or defeat. While we sit complacently by or concentrating on one issue on the agenda, the lobbists are working day and night with a highly focused, highly competent effort to change one vote and then another and then another, in some obscure paragraph in legislation that might cause catastrophe in the life of many Americans. We must spread the message together, for when special interests fight against consumers, it is an assault on the pocketbooks and the health and the safety of the American people. That is the message that needs to be promulgated.

I am speaking out as President. You need to spread the message yourselves in your neighborhoods, in your churches, in your union halls, in your co-ops, in the news media, and on Capitol Hill.

If together we can let the truth be known, then together we will prevail.

Thank you very much. (Applause.)●

MR. QUINCY MAGOO

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. MOORHEAD of California. Mr. Speaker, one of the unique aspects of the 22d Congressional District is that it contains a large segment of the fabled "Hollywood" entertainment industry.

Needless to say, many joys come out of this wonderfully imaginative world as it creates one witty and whimsical character after another.

As the Congressman for this district, I, no doubt, represent some of the most intriguing, colorful, and distinctive constituents in the world. In this role, I am often called upon by them to provide a constituent service. Responding to this call, as always, it is with great, great pleasure, and just a pinch of cheek, that I call to the attention of one and all a most momentous occasion.

I am speaking of the 30th birthday of a loveable curmudgeon, Mr. Quincy Magoo, a myopic munchkin of wide renown.

It is clear to all of us who have clearer vision than Mr. Magoo, that he hasn't changed a line or a laugh in three decades. And we can say this to his face with unimpeachable integrity because he was penned into life in 1950 both old and undersighted.

In the short lifetime of this old man, he has always handled his physical deficiencies with bumbling delight, confused wisdom, constant good cheer, and an abundance of chortles and chuckles.

Mr. Magoo has had a very successful career, due in large measure to the skillful guidance of UPA Productions of America. He has starred in 39 cartoon movies, many shorts, and numerous TV specials. In the commercial and entertainment world, he has shed more light on more things than most people.

He has been nominated for six Academy Awards, has won two Oscars—a grand achievement even for a character as versatile and talented as the venerable Mr. Magoo.

As part of his 30th birthday celebration, some of the movies of Mr. Magoo will be screened at the Museum of Modern Art in New York City and at Kennedy Center in Washington, D.C., within the next few weeks. Included will be the movie cartoon, "Uncle Sam Magoo, a Man who Loves His Country."

In these times of uncertainty, it is reassuring that Mr. Magoo's message is persuasive and contagious and being shared by more and more Americans each day.

So, By George, here's happy birthday to the oldest 30-year-old in the movies, an involved constituent and a resident of everywhere.●

AMERICAN CIVIL LIBERTIES UNION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. EDWARDS of California. Mr. Speaker, while undercover operations of the FBI have been useful in apprehending criminals, care must be taken by the Justice Department and the FBI to insure that proper procedures are followed so that the legal rights of individuals are protected as well the Government's criminal cases.

John H. F. Shattuck, director of the American Civil Liberties Union's Washington, D.C. office, has written to both the Attorney General and to our colleague CHARLES E. BENNETT, chairman of the House Ethics Committee, explaining the ACLU's concerns on this subject. The two letters follow:

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., February 6, 1980.

Hon. BENJAMIN R. CIVILETTI,
U.S. Attorney General, Department of Justice, Washington, D.C.

DEAR GENERAL CIVILETTI: We applaud your prompt decision to conduct an internal investigation to determine whether departmental employees, including agents of the Federal Bureau of Investigation as well as Justice Department lawyers, deliberately disclosed information concerning the undercover investigation of congressmen and other public officials. But we are distressed at the reported comment of a senior Justice Department lawyer that such investigations are fruitless and will have "a chilling effect on the First Amendment."

The First Amendment is not at issue. No one has suggested that journalists should be prohibited from printing or broadcasting such information once they have obtained it. Any such prohibition would of course violate the First Amendment. What is at issue is the disclosure by law enforcement officials of prejudicial allegations, in advance of any indictment and even in advance of consideration by a grand jury.

Grand jury proceedings are kept secret by law until sufficient evidence has been accumulated to justify an indictment in order to protect innocent people who would be stigmatized if it became known that they were being investigated. Disclosure of grand jury proceedings is of course a federal crime. In this instance, precisely the sort of information it is illegal to disclose prior to indictment during a grand jury investigation has been extensively disclosed by law enforcement officials before such information has even been presented, let alone judged, by a grand jury.

In more than a dozen years of experience, we can recall no more outrageous example of misconduct through the use of prejudicial publicity by law enforcement officials at this stage of a criminal investigation. That such misconduct has been directed against elected public officials at the beginning of an electoral year compounds the difficulty. Regardless of any judgment eventually made—many months and perhaps years later—by the judicial system, that may in whole or in part exonerate any of the accused, a political adjudication has already been made and the punishment has begun.

Those who may be innocent may never be able to erase the stigma. Justice by press release and summary political punishment are methods we should have learned by now to avoid. Government misconduct by law enforcement officials is not an appropriate response to government misconduct by elected officials.

We hope, therefore, despite the reported comment by one of your senior staff, that this investigation will be taken very seriously, and that you will consider whether changes in the applicable Federal regulations may be required to assure that such disclosures are not made in the future. We approve your decisions not to interview or request the notes of reporters and not to use lie detector tests on departmental members who may have been involved. But we hope you will make every legitimate effort to identify those departmental members who may have been involved and to apply what sanctions are available and appropriate.

Finally, we hope you will reconsider the wisdom of permitting the kind of investigative techniques apparently used in this instance. We are concerned principally about two elements of the techniques used:

1. Authorization. We believe that the use of undercover agents should be governed by Fourth Amendment standards. That means that an appropriate evidentiary threshold should have been reached before such an extensive, longstanding, and intrusive undercover operation was authorized. The news stories do not indicate what evidence of criminal activity against targeted public officials existed prior to the undercover operation, whether such evidence, if it existed, was sufficient to justify the undercover operations, or whether similar evidence existed with respect to other officials who were not targeted.

Furthermore, the judgment of whether prior evidence of criminal activity was sufficient to authorize the undercover operation should be made impartially, and certainly should not be made by those responsible for carrying out the operation. That would be akin to allowing a police officer to issue his own search warrant.

The capacity for political mischief when such extensive and intrusive undercover operations are directed at elected officials is immense. We therefore are very concerned about the degree of discretion that exists with respect to the power to authorize such operations. We would appreciate it if you would inform us about the evidentiary standards and procedures used by the Department of Justice to assure impartial authorization when such undercover operations are initiated.

We would also like to know whether those standards and procedures were followed in this instance.

2. Entrapment. The doctrine of entrapment is entirely judicially created. It was first discussed by the U.S. Supreme Court in *Casey* v. *United States*, 276, U.S. 413 (1978), by Justice Brandeis, dissenting, who declared that government "may not provoke or create a crime and then punish the criminal, its creature." 276 U.S. at 423. Later cases, notably *Sorrells* v. *United States*, 287, U.S. 435 (1932), attempted to define the doctrine and introduced the notion of "predisposition". According to that notion, expressed first in an opinion by Chief Justice Hughes in *Sorrells*, it is improper for the government to create a crime that otherwise would not have taken place in order to entrap "otherwise innocent persons." There is no entrapment, said Chief Justice Hughes, regardless of the extent of the government's actions in creating the crime, if the defendent had a "predisposition" to commit the crime.

But it is beyond scientific capacity and certainly beyond jurisprudential traditions to distinguish the criminal from the noncriminal by measuring predisposition or propensity to commit crimes. In our view it is therefore improper to give determinative significance to a vaguely defined "predisposition", which is antecedent to and separate from the criminal act itself. Three Justices—Justices Roberts, Brandeis, and Stone—concurring in *Sorrells*, adopted this view and opposed the "predisposition" rationale adopted by Chief Justice Hughes. They believed, "whatever may be the demerits of the defendant, or his previous infractions of law, these will not justify the investigation and creation [by the government] of a new crime, as a means to reach him and punish him for his past misdemeanors . . ." 287 U.S. at 456-9.

The ACLU believes this latter view, which focuses on the objective standards of the government's conduct rather than on the subjective standard of the defendant's "predisposition", is wiser and more consistent with the protection of individual rights and the limitation of overbroad discretion by law enforcement officials. Indeed, until *United States* v. *Russell*, 411 U.S. 423 (1973), this view was accepted by the majority of lower federal courts. According to this view, which the ACLU still vigorously urges, entrapment ought to be a doctrine that aims to prohibit reprehensible government conduct regardless of the "predisposition", whatever that is, of the individual entrapped. As Justice Harlan wrote in the majority opinion in *Lopez* v. *United States*, 373 U.S. 427 (1963), "the conduct with which the defense of entrapment is concerned is the manufacturing the crime by law enforcement officials and their agents." 373 U.S. at 434 (emphasis in original.)

This is the test the ACLU urged on the U.S. Supreme Court in *Russell*. Regrettably, that view was rejected, and the "predisposition" test now governs.

Even though the entrapment test we urge is not now required by the Supreme Court, we hope you will give serious consideration to adopting that test voluntarily as a standard to govern FBI activities in the future. The spectacle of elaborate "sting" operations in which law enforcement officials create and participate in crime that otherwise would not occur in order to snare individuals against whom there is insufficient or no evidence of other criminal activity is not consistent with the protection of individual rights. The discretion such operations allow is immense, and the potential for selective prosecution and political mischief is enormous.

We urge you to adopt Justice Harlan's view in *Lopez* as the basis for creating standards to govern undercover operations in the future.

We would be pleased to discuss these issues with you further.

Sincerely,

IRA GLASSER,
Executive Director.

AMERICAN CIVIL LIBERTIES UNION,
New York, N.Y., February 6, 1980.

Hon. CHARLES E. BENNETT,
Chairman, Ethics Committee,
U.S. Congress, Washington, D.C.

DEAR CONGRESSMAN BENNETT: We understand you have decided to initiate a "full and expeditious" investigation of allegations that some members of Congress may have committed various crimes or may have violated various Congressional rules of conduct. News reports indicate that you are meeting to develop procedures for your planned investigation that would protect both the federal government's cases against accused members of Congress as well as the legal rights of those who may be brought to trial.

In the past, legislative procedures, in our view, have often fallen short of the standards we believe are required to assure fairness. In 1973, for example, the Watergate Committee adopted rules that denied witnesses the right to legal counsel, the right to cross-examine other witnesses, the right to confront accusers, and the right to compel the presentation of other witnesses and evidence. At that time, the ACLU objected to the denial of those important rights, and we urge you now not to repeat that denial.

We also urge you to adopt rules that assure adequate notice, which includes, as precisely as possible, a statement of specific matters about which the witness will be questioned. Notice should be accompanied by a copy of the rules that will govern the hearings.

Finally the concurrence of any congressional investigation with a pending criminal investigation produces particularly difficult problems. Targets of criminal investigations who may wish to invoke their Fifth Amendment right against self-incrimination may not, in our view, be compelled to testify at a congressional hearing. Legislative investigations should not be used to whipsaw public officials who may at the same time face either investigation by a grand jury or a criminal trial. If publicity resulting from your investigation precludes or substantially diminishes the possibility of a fair criminal trial by prejudicing potential jurors, then pending criminal prosecutions may have to be terminated, or convictions that are obtained may have to be set aside.

Therefore, we urge that any legislative investigations be postponed until after completion of related criminal proceedings.

If you nevertheless decide to conduct an investigation prior to completion of the criminal proceedings, you should consider the limited use of executive session. Where testimony to be given to Congress relates to criminal charges in a pending or imminent prosecution, the targets of such prosecutions should be afforded the opportunity to request that any adverse testimony be given only in executive session, and such requests should be granted at least in order to decide whether closing such testimony to the public is necessary in order to protect defendants' rights. Furthermore, any witness who has invoked the Fifth Amendment in executive session should not be recalled for a public hearing to be asked the same questions publicly.

If adverse testimony by others, given originally in executive session, is subsequently deemed appropriate to be repeated in public session, any persons about whom such adverse testimony is given should be afforded the right to testify or offer sworn statements in rebuttal, to subject the witness to cross-examination, and to compel the attendance of witnesses and the production of documents that may be necessary to rebut or qualify such testimony.

Past experience proves that the political climate created by the kinds of allegations now being made is not conducive to fairness, or to the protection of individual rights. Extraordinary care should be taken to assure that in fulfilling your obligation to the public, fair procedures are adopted. We believe the procedures suggested herein should be adopted and we urge you to do so.

My colleagues and I are available for further discussion, should you find that useful.

Sincerely,

IRA GLASSER.●

HOUSE INVESTIGATION OF ABSCAM INAPPROPRIATE AT THIS TIME

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. MAZZOLI. Mr. Speaker, with the utmost of respect to those who hold a different view, I think it would be a serious mistake for committees of this House to conduct investigations now of the methods employed by the FBI in conducting its Abscam operation.

Such investigations—with all the attendant publicity and fanfare—could unintentionally, but surely, impede the Department of Justice in its ability to present fully and fairly its cases against those of our colleagues who stand accused of wrongdoing.

Furthermore, Mr. Speaker, these hearings could convey to the public the erroneous impression that Congress is "circling the wagons" to protect its errant Members.

None of us condones the illegal behavior of any colleague. But, if the Congress takes the FBI and the Justice Department to task before their cases have been developed in a courtroom setting, I have no doubt Congress will be seen as intentionally obstructing Justice.

If the FBI has erred in Abscam, there will be sufficient time and opportunity later—after the cases against our colleagues have been made or lost—to conduct our inquiries.

Later is when the House and Senate should act, not now.●

THE BOY SCOUTS OF AMERICA ANNUAL REPORT

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. LOTT. Mr. Speaker, at a time when our Nation is faced with some extremely difficult choices affecting our future, it is gratifying indeed to know that there exists a strong organization which aims to mold our young men into outstanding leaders for the years to come. Of course, I speak of an organization which had a strong influence on many of our lives—the Boy Scouts of America. As an individual who is keenly interested in the activities of the Boy Scouts and its various programs, I would like to commend this group for its contributions to our society in 1979 and to bring to your attention the Boy Scouts of America's 1979 Report to the Nation, as presented to the House of Representatives:

REPORT TO THE NATION

The program of the Boy Scouts of America for citizenship training, character building, and physical and mental fitness last year reached more than 3 million boys and young adults. Youth members from 8 to 18 were active in 130,000 Cub Scout packs, Boy Scout troops and Explorer posts. Over a million volunteers gave leadership to the tens of thousands of affiliates of national organizations and community groups that use Scouting to further their altruistic aims.

Cub Scouting, centered on the home and neighborhood, offered valuable experiences for 1,742,000 boys 8, 9, and 10 years old who were active in 52,000 packs. The Cub Scouts Promise and Law of the Pack provided meaningful ideals while the advancement plan instilled early habits of self-motivation and success. Other helpful ventures included the annual Cub Scout Physical Fitness Championships, and the learn-to-swim and bicycle-safety programs.

Boy Scout activities, directed toward the out-of-doors, helped 1,062,000 boys from 11 through 17 in 54,000 troops gain important lessons in self-reliance, the ability to work with others, and personal fitness. The outdoor skills of hiking, camping, cooking, conservation, and swimming were augmented with activities related to citizenship, first aid, family and community living, communications, and physical fitness. Experiences in 118 merit badge subjects gave Boy Scouts opportunities to learn about hobbies, careers, and advanced Scoutcraft. Last year Scouts earned more than 2 million merit badges.

Exploring, the young-adult division of the Boy Scouts of America, served 412,000 young men and women, 14 through 20, in nearly 22,000 Explorer posts. During 1979, the Explorer program's six experience areas—career programs, citizenship projects, fitness and sports events, social activities, service projects, and outdoor experiences—were all aimed at strengthening the next generation of American citizens.

In addition to a wide variety of pack, troop, and post activities, Scouting members last year were treated to many opportunities for broader experiences in their councils, nationally, and internationally. For example, 275,000 Cub Scouts attended summer day camp conducted by 396 councils; 428,000 Boy Scouts enjoyed a week or more at long term camps; 15,000 Scouts and Explorers were drawn to one of the six national high-adventure bases for rugged outdoor activities.

The Order of the Arrow, a brotherhood of honor campers, grew to 151,000 members last year. In August, 4,400 "Arrowmen" took part in the 5-day national Order of the Arrow Conference at Colorado State University.

Some 2,100 Explorers and leaders attended the 1979 National Explorer Presidents' Congress, April 1-5, in Washington, D.C. Approximately 1,000 law enforcement Explorers, Advisors, and staff took part in the first National Law Enforcement Explorer Conference, July 24-28, at Michigan State University. Topical seminars ranged from white collar crime to international terrorism. Nearly 500 Explorers and leaders attended the first National Aviation Explorer Fly-in at the United States Air Force Academy May 31-June 3. Activities included a flying competition, orientation flights, NORAD tours, and seminars on UFO's, flight safety, and aerospace medicine.

Additional national events conducted in 1979 to enrich and add interest to Exploring were the National Invitational White River Canoe Race, Little Rock, Ark.; National Sea Exploring Sailing Championships, Cleveland, Ohio, sanctioned by the United States Yacht Racing Union; National Exploring

Air Rifle Championships, United States Military Academy, sponsored by the Crosman Arms Company; National Invitational Surfing Conference, Honolulu, Hawaii, National Explorer Winter Games, Duluth, Minn.; and the Reader's Digest-Boy Scouts of America National Public Speaker Contest.

Outstanding Explorers were recognized through a variety of awards programs, including a James S. Kemper Foundation Scholarship, the U.S. Secret Service Law Enforcement Assistance Award, six National Exploration Awards, Young American Awards, and six J. Edgar Hoover Foundation Scholarships, Daniel S. Voll, 18-year-old Explorer from Rockford, Ill., won a $10,000 scholarship over 350,000 of his peers in Century III competition of the National Association of Secondary School Principals.

One thousand BSA Scouts and leaders participated in DALAJAMB in Sweden from July 15-21. This event was one of several international encampments which replaced the 15th World Jamboree scheduled for Iran which was cancelled because of unstable conditions in that country. Also as a result of this cancellation, several countries sent their jamboree contingents to the United States. More than 700 British, 120 South African, and 80 Japanese Scouts hiked the trails of the Philmount Scout Ranch in New Mexico and canoed the rivers of the high-adventure bases in Maine.

More than 500 Boy Scouts and leaders represented the Boy Scouts of America in official contingents to jamborees and activities in Switzerland, Australia, and Canada. Countless others took part in patrol and troop exchanges with brother Scouts across the border in Canada and Mexico. The International Camp Staff Program reached a new high in participation. More than 160 overseas leaders from 27 countries served this past summer on camp staffs in 114 councils throughout the United States. Each counselor was privileged to take part in a 10-day sightseeing tour. The Direct Service Council ended the year with 94 Scouting units serving 2,661 youth members in 45 countries.

The President's Environmental Youth Awards program, involving young people in energy conservation and educational projects, was launched in early summer. The first Cub Scout, Boy Scout, and Explorer to complete the respective requirements received certificates from President Carter in Washington, D.C., last November. The National Conservation Committee named Eddie Albert as national chairman for the 1981-82 national conservation emphasis.

Last summer the Boy Scouts of America moved its national office from North Brunswick, N.J., to a more centrally located site in Irving, Tex, near the Dallas/Fort Worth Airport. The new office is a functional four-story building with 150,000 sq. ft. for 550 national employees. During this period, the Professional Training Center transferred its operation from the Schiff Scout Reservation in Mendham, N.J. to facilities in Arlington, Tex. These moves were affected without discontinuing any major plans or programs.

As our nation moves into an uncertain period, the Boy Scouts of America will continue its efforts to produce young citizens ready and willing to face the hard realities of a new decade.

DOWNING B. JENKS,
President.
J. L. TARR,
Chief Scout Executive.●

PERSONAL EXPLANATION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. HOPKINS, Mr. Speaker, I was unable to be present for all of the voting which took place on January 31 because I hosted a field hearing for the Tobacco Subcommittee in my hometown of Lexington, Ky. Five of my colleagues were able to join me for the hearing, including Mr. WALTER JONES, the subcommittee chairman, Mr. WAMPLER, Mr. WHITLEY, Mr. GUDGER and Mr. HAGEDORN.

If I had been present, I would have voted for the Snowe amendment, for the Walker amendment, for the Kindness motion to recommit, and against final passage of H.R. 5980.●

REVENUE SHARING

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. EDGAR. Mr. Speaker, last June, the Council for Northeast Economic Action sponsored a seminar on revenue sharing. Based largely on that seminar, James M. Howell, senior vice president and chief economist, and George D. Brown, professor of law at Boston College Law School, wrote the following article. I urge my colleagues to read this timely article:

THE REVENUE SHARING GAUNTLET: FISCAL FEDERALISM AT THE CROSSROADS

(By James M. Howell and George D. Brown*)

Two years ago, a major study of American intergovernmental relations concluded that, "With the 1976 reenactment of general revenue sharing, its future as a permanent feature of American federalism seems assured."[1] Few would offer such a rosy assessment of revenue sharing's future today. This major federal program—due to expire in September 1980—currently distributes $6.85 billion to 39,000 units of state and local government. Despite its guaranteed base of support, the signs are increasingly clear that revenue sharing's gauntlet will be more difficult than ever, and that at the end of the debate fiscal federalism in the United States may be dramatically altered. This article examines the background and principal themes of the emerging debate.

At the outset, it is worth noting that the 1979-1980 revenue sharing debate will almost certainly not have the intense ideological flavor of 1972 and 1976. Revenue sharing was the flagship of Richard Nixon's "new federalism," the cornerstone of his attempt to undo the Great Society programs by wresting power in domestic policy away from the Washington bureaucracy and returning it to the state and local governments. Revenue sharing was opposed, vigorously and, at times, effectively by congressional liberals. They strongly favored the categorical grant programs which dominated the federal grant-in-aid system until the 1970s, and which, particularly since the New Deal, had served to enhance the power of the central government vis-à-vis the states.

This time the lines are blurred at best. The rhetoric of the New Federalism is gone. The current President is a Democrat whose enthusiasm for revenue sharing is limited. Some liberals may now actually support the program, because of the fact that it provides some aid to the needy central cities and because of the strong civil rights "strings" which were added in 1976. On the other hand, many conservatives who might in previous years have favored the program on ideological grounds (especially Republicans) may now be willing to discard it in favor of the higher goal of a balanced budget.

The entire budgetary issue is becoming increasingly complex. The national economy is now in a recession. Nevertheless, Congress may have to act on revenue sharing before the length and depth of the economic fall-off are in sharper focus. The effects of a negative prognosis on revenue sharing are difficult to gauge. On the one hand, if state and local governments are viewed as particularly vulnerable to economic downturn, there may be greater justification for broad federal aid. On the other hand, if a federal tax cut is seen as a necessary stimulative measure, the pressure to reduce or eliminate revenue sharing may become intense because there is "no revenue to share."

Indeed, one of revenue sharing's greatest obstacles may well turn out to be the fat that it is forced to run the gauntlet precisely at a time when Washington is preoccupied by what some have referred to as "the new realities," a concept of scarce federal dollars and the desirability of a balanced budget. Senator Bill Bradley (D-NJ), chairman of the Senate subcommittee with jurisdiction over revenue sharing, has described the context in which grant programs are reexamined as "an era of limited resources where the margin for error is smaller." Obviously, a program which distributes almost $7 billion to 39,000 units of state and local government—some of which appear to have little "need" for the funds—is going to come under exceedingly strict scrutiny.

Another problem which revenue sharing will encounter in the Congress is the increasing awareness of "trade-offs." In the past, grant programs up for reauthorization were considered ostensibly on their own merits: Was a particular program achieving to a reasonable degree the congressional objectives? Now, however, there are attempts to contrast the benefits to be derived from one program to the potential benefits which the same sum of federal dollars might achieve in another area.

The senior intergovernmental specialist on Capitol Hill, Dr. Delphis Goldberg of the House Subcommittee on Intergovernmental Relations, attributes much of this phenomenon to the new budget process. In his words, "The Budget Control and Impoundment Act has introduced a new discipline in the Congress. Some would think it not terribly disciplined at this point, but it is a different way of doing business." Certainly, looking at the totality of federal grant programs forces Congress to ask whether general purpose fiscal assistance to states and localities ought to rank as high as say, national health insurance, welfare reform, repair of the interstate highway system, and the extensive needs of local water and sewage systems. Apart from the general climate, however, Congressmen are likely to ask two analytically distinct sets of questions about revenue sharing itself: first, is there a need for the program; second, how well is the existing program operating? At the moment, the first set of questions has been dominant in the early phases of the renewal debate. The need issue came to the forefront during deliberation over the first budget resolution, in the form of an attempt to reduce or eliminate the states' share (one third of all revenue sharing funds) in the current program. It is true, of course, that some congressmen may have been reacting to resolutions passed by state legislatures calling for a balanced federal budget. The issue of state "need" is, however, legitimate. Several states have accumulated substantial surpluses. Others have cut taxes.

---

* James M. Howell is senior vice president and chief economist, the First National Bank of Boston. George D. Brown is professor of law, Boston College Law School. The authors were coordinators of a seminar on "The Future of Revenue Sharing," held in Washington, D.C. on June 4. This article draws on the presentations made at the meeting and all quotations are taken from them unless otherwise noted. The full proceedings are to be published by the Academy for Contemporary Problems, 1501 Neil Avenue, Columbus, Ohio 44115.

[1] Dam, *The American Fiscal Constitution*, 44 U. Chi. L. REV. 271, 314 (1977).

While the conventional wisdom has maintained that the federal government has "literally cornered" the market on income taxes, observers today point out that more than 40 states have personal income taxes. If, then, the states have access to the same elastic revenue base as the federal government, the traditional "fiscal federalism" arguments on behalf of state participation in general revenue sharing are seriously undercut.

Still, there are substantial arguments in favor of continued state participation. The surpluses are concentrated in only a few states, and may be temporary. Moreover, eliminating the states from general revenue sharing would almost certainly have a ripple effect on the amount of state aid going to local governments. If the real victims of such a change were, in fact, the local governments, then Congress may wish to think twice before it takes such a drastic step.

What about the question of local need? Obviously, the fiscal condition of 39,000 jurisdictions is a subject about which it is difficult to speak in general terms. In the case of large urban jurisdictions, recent research has suggested that they may not be under the degree of fiscal stress which prevailing opinion has assumed existed. Nonetheless, even if this is so, the relatively good fiscal condition of these cities must be due, in part, to the effects of the federal grant-in-aid system. Eliminating revenue sharing would have serious effects on the operating budgets of large cities, since these jurisdictions, particularly those which show some signs of fiscal stress, tend to use the funds in a highly substitutive manner. In conclusion, while the degree of need is exceedingly hard to measure, it does seem to be the case that local governments in the United States are not out of the woods financially, that the states probably cannot do the entire job of providing intergovernmental aid to localities, and that revenue sharing plays an important part in maintaining local fiscal viability.

The second set of questions will focus on the manner in which revenue sharing is currently working. In this context, it is helpful to reflect on the 1975-1976 renewal debate. The initial act had been the subject of an intensive monitoring effort, conducted largely by public interest groups, much of it with substantial foundation funding. The result of this effort was a concerted attempt to make major changes in four separate areas of the program: civil rights, citizen participation, the distribution formula and governmental "modernization." The first two efforts succeeded; the latter two did not. Just how extensive the 1976 changes were has been the subject of some scholarly debate. We adhere to the view that they amounted to much more than a "mid-course correction" in the operation of revenue sharing. At least on paper, Congress made three important changes: the civil rights and citizen complaint provisions, the citizen participation provisions, and the audit requirement.

In the forthcoming renewal debate, civil rights is likely to be the most closely examined of these three areas. The compliance activities of the Office of Revenue Sharing (ORS) reach deeply into the heart of local government's activities, affecting both public employment practices and the provision of services to constituents. The current administration at the ORS appears to take a substantially more aggressive stance in these areas than its predecessor. For example, the civil rights division now has 45 employees as opposed to four or five employees three years ago. Even so, the tight deadlines which the statute imposes on agency action lead to strong pressure to settle cases. Still, one former critic, William Taylor, director of the Center for National Policy Review, feels that the current compliance agreements are far more specific than the "pious pledges" which ORS was willing to accept prior to 1976.

The expiration of revenue sharing presents the civil rights community with a real dilemma. On the one hand, the program, perhaps more than any other, obviously has the potential to alter discriminatory practices of state and local governments. On the other hand, advocates of minority interests are acutely aware of the trade-off problem alluded to above; if forced to choose between revenue sharing and categorical social services programs which benefit their constituencies, they would almost certainly choose the latter.

As for citizen participation, the early returns appear to be that the two hearings mandated by the 1976 amendments are not having a great deal of impact. In the words of Herman Schwartz, general counsel of the Office of Revenue Sharing, "We have gotten very discouraging reports back about hearings that were scheduled at which three newspaper people, a candidate for some local office, and a dog showed up, and not much else." Research by Richard Cole of George Washington University suggests that the jurisdictions which are inclined to take public hearings seriously were already conducting such hearings and reacting to the opinions voiced prior to the 1976 amendments. Although Professor Cole stresses the tentative nature of his findings, they tend strongly to suggest that the 1976 amendments have not had a substantial impact on citizen participation. This phenomenon does not necessarily prove that the revenue sharing program itself is somehow "at fault," but may, instead, shed some light on the efficacy of federally mandated public hearings as a means of ensuring genuine citizen participation.

The real "sleeper" in the 1976 amendments appears to be a requirement of a periodic audit for all jurisdictions receiving more than $25,000 annually. This affects approximately 11,000 governments. According to Herman Schwartz, the bookkeeping practices of some of these jurisdictions were "primitive." The extent to which the audit requirement will, in fact, change local fiscal practices is not yet clear, but if the 1976 amendments have had a beneficial effect, it may turn out to be an unexpected argument in favor of the proponents. (An additional bonus effect of the audit requirement may be the production of more accurate and uniform data on municipal fiscal performance. Such data would be extremely helpful, for example, to researchers attempting to define and monitor municipal fiscal stress.)

Beyond examining the performance of the current program, pressures inevitably will rise to make additional changes in revenue sharing if it is renewed at all. Given the intense interest among federal policy makers in "targeting" grant funds, a major issue is whether the distribution formula can, or should, be altered. The political difficulties of tinkering with a formula which doles out funds to 39,000 recipients are obvious. As John Duncan, minority staff director of the House Subcommittee on Intergovernmental Relations, puts it, "The revenue sharing program is a contentious system. Some win and someone else must lose unless new funds are pumped into the program."

Mr. Duncan's observation sums up the problem very well. It is unlikely that the program will be enlarged. Of course, taking away the one-third share of the states would permit some experimentation with the formula, but it seems more probable that that money would simply be used to reduce the federal budget deficit, rather than to alter revenue sharing. At this point, the most likely scenario is that if the program is renewed the formula will remain as is, and efforts at better targeting will be concentrated on programs such as the administration's attempt to revive antirecessionary fiscal assistance (ARFA). (Although considered dead at the end of 1978, this concept has recently shown surprising vitality in the U.S. Senate.)

Another frequently discussed change is the use of revenue sharing as a means of "leveraging state governments" to engage in "modernization" or "equitable" treatment of local governments. However, apart from possible constitutional limitations, there are considerable practical obstacles in the way of such efforts. first of all, it is hard to reach agreement on what changes ought to be made, given the extreme diversity among the 50 states. Second, any such "strings" would present serious compliance difficulties. Finally, there is the question of whether revenue sharing funds are a sufficiently large carrot to support such a radical federal stick.

A major unanswered question is whether a significant element in the debate will be the old issue of how recipients are "using the money." Political scientists still differ sharply on how to answer this question, or even whether it is the right way of phrasing the inquiry into the fiscal effects of general revenue sharing.

Most Congressmen may well feel that this is not the major issue. A general purpose fiscal assistance is exactly that: money which localities can use exactly as they would use their own source revenues. Thus, it is not surprising that a hard-pressed central city may use revenue sharing in a largely substitutive manner, to maintain basic services, while a well-off suburban community uses it to finance desirable capital improvements.

The real issue is whether the federal government should be in the business of general purpose fiscal assistance at all. Powerful arguments can be made that funds raised by the national government should be limited in their expenditure to priorities identified by the national government and met by programs which it either administers directly or which it supervises closely, such as categorical and, perhaps, block grants. With this view, there is no room for revenue sharing. Furthermore, dependence on federal grants may not be in the best interest of State and local governments either. Richard Musgrave warns that "creating a welfare mentality among jurisdictions may be no less of a problem than doing so among people."[2]

On the other side are the traditional fiscal federalism arguments which stress the superior revenue raising capability of the national government and the heavy service responsibilities of the subnational levels. Particularly insofar as local governments are concerned, these arguments still maintain a substantial thrust.

---

[2] Musgrave, Richard, *Revenue Sharing With the States, Hearing Before the Subcommittee on the City, House Committee on Banking Finance and Urban Affairs*, 96th Congress, 1st Session, 1979.

Moreover, federal policy makers should not overlook the interventionist potential which the 1976 amendments held out for the federal government. If in fact revenue sharing is a powerful engine for change in the employment and service discrimination areas, it will achieve what no other federal program has been able to do or seems likely to do. The same potential for influence exists in other areas such as fiscal practices.

If the interventionist rationale is accepted, the real question for the national government is not whether to reenact general revenue sharing but where to stop in exploiting its potential. In 1976, several members of the House Committee on Government Operations warned against using revenue sharing as a means to convert "our States into provinces and our local governments into administrative precincts."[3] Any such attempt by Congress would probably wreak greater havoc with the system of fiscal federalism which has grown up over the past 40 years than would the total elimination of general revenue sharing. It is to be hoped that neither of these alternatives will be the ultimate result.●

WELL DONE, ABC, WELL DONE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. DORNAN. Mr. Speaker, James Fennimore Cooper, one of America's literary geniuses, once remarked:

> The press is equally capable of being made the instrument of elevating man to the highest point of which his faculties admit, or of depressing him to the lowest.

I do not think any member of the press, here in the House galleries, would be insulted if I said the fourth estate rarely raises the moral and intellectual faculties of men to their highest point. Neither would the most ardent critics of the press, no matter how deep their antipathy, charge that the media regularly lowers human intelligence or virtue.

In the past few months, however, one major national network, ABC, has elevated itself above and beyond the call of commercialism and that fickle course of television ratings in a service to the public that has made television history. I am referring, of course, to ABC's continuing daily late-night coverage of the crisis in Iran and the fate of our 50 fellow Americans held hostage in our own besieged embassy.

I do not know the thoughts or the circumstances that inspired ABC's leadership to take on the regular broadcast: "America Held Hostage, Day —." on November 4, 1979, it was obviously a sensational story. But certainly few of us would have guessed, at the time when the Iranians first seized our Embassy in Teheran, that over 4 months later our fellow Americans would still be at the mercy of a mob.

I, for one, feared that the tragedy of our hostages would recede from national consciousness, pushed off the front pages on the Nation's newspapers, and off the main airways of our television and radio networks by the rush of street crime and political scandals. I felt, at the time, that my fear was perfectly justified: After all, over 1,300 American military personnel, listed as missing in action, are now light-years from public consciousness, in spite of reports of live sitings and a North Vietnamese warehouse full of 400 boxes of bones of dead Americans. A disgrace.

To the ladies and gentlemen of ABC, I can only say congratulations on a job well done. You have elevated your profession to celestial heights, and you are an inspiration for all of us to elevate our own mental and moral faculties, in the words of author Cooper, to the highest point. Congress, these days, can use the inspiration.●

PRIVATE FINANCIAL CONTRIBUTIONS TO U.S. OLYMPICS COMMITTEE STILL NEEDED

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. RICHMOND. Mr. Speaker, in response to the Soviet invasion of Afghanistan, an overwhelming majority of the American people and of this Congress have expressed wholehearted support for the efforts of President Carter and the U.S. Olympic Committee (USOC) to have the summer Olympics moved from Moscow or postponed. Should these efforts fail, it is inevitable that the U.S. team will not participate in the summer games.

The emphasis on the possible boycott by the U.S. Olympic team or of cancellation of the summer games has, apparently, led to confusion on the part of the American public and resulted in a virtual discontinuance of essential private finanical contributions to USOC.

It is important to note that of the current USOC budget of $43 million, only $3.5 million is earmarked for expenses in conjunction with the 1980 summer games in Moscow. Some $30 million has already been incurred for preparation and training of athletes, as well as for the many other ongoing USOC programs and responsibilities. Thus USOC faces the threat of significant financial problems if private contributions are allowed to dry up.

Recently, David P. Mier, project director of the New York State Olympic Committee, contacted me to describe the financial plight of USOC, as well as the many critical activities that may have to be curtailed unless private contributions begin to flow again. I am sure my colleagues will be interested in reviewing this information and that they will join me in urging all Americans to renew their pledges of support and financial assistance for our athletes—regardless of what ultimately happens to the 1980 summer Olympics.

The letter and other material follows:

NEW YORK STATE
OLYMPIC COMMITTEE,
January 31, 1980.

Hon. FREDICK RICHMOND,
U.S. House of Representatives, 1707 Longworth Building, Washington, D.C.

DEAR MR. RICHMOND: The New York State Olympic Committee is charged with the responsibility for fund raising in this state on behalf of our American athletes training and/or competing in international events.

In this capacity, we have prepared the enclosed position paper with the full knowledge and support of the United States Olympic Committee. I ask you to review it carefully.

We want it clearly understood by all that the NYSOC fully supports the decisions reached by President Carter and the USOC.

There are, however, vital points of information that need to be brought before the American people. For example, of the current $43 million USOC budget, only about $3.5 million is earmarked for expenses in conjunction with the 1980 Summer Games in Moscow.

At this moment, contributions have virtually ceased and we face traumatic financial damage to the whole program.

After you have reviewed the enclosed document, I ask you to make a public statement of support on this matter and, if possible, move for a resolution demonstrating appreciation of the plight currently facing our athletes.

Mr. Richmond, any measures you can take to encourage vocal and financial support will help, if only in part, to counteract the rapidly decaying morale of our American athletes caught in this dilemma.

If you have any questions or need further information, please call.

Sincerely,

DAVID P. MIER,
Project Director.

STATEMENT OF FINANCIAL CONCERNS

It is vitally important to point out to the American people that an American boycott of the 1980 Summer Olympic Games in Moscow is designed to be a punitive measure towards the Soviet Union if they fail to remove their forces from Afghanistan.

We should not let this action become a punitive measure against our own athletes, who will be asked to pay the price by not going to Moscow.

Unfortunately, public attitude seems, at the moment, to assume it is inevitable that the American team will not be participating in the Summer Games. Thus, in the public's mind there is no further need to continue private financial support of the United States Olympic athletes or the United States Olympic Committee.

Nothing could be further from the truth.

The United States Olympic Committee has already incurred upwards of $30,000,000 in expenses for preparation and training of our Olympic teams and other responsibilities. At the same time, contributions have slowed appreciably because of the uncertainty of the situation. This leaves the United States Committee with the distinct possibility that it could be faced with serious financial consequences. Contingency plans are already being drawn up to curtail all activity at training centers because of the lack of money. The USOC just cannot survive a totally unjustified and aggravated shortfall in revenues.

It is most urgent that the overall responsibilities of the USOC be brought to light:

---

[3] *H.R. Report No. 94-1165, Part 1,* 94th Congress, 2nd Session 106, 107, 1976 (additional views of Rep. Levitas).

1. Preparation of our teams for the Pan American Games.
2. Organization and operation of the National Sports Festival.
3. Financial subsidies for the numerous athletic federations in the United States fielding teams for various international competitions.
4. Establishment, operation and maintenance of permanent training facilities.
5. The administration of a sports medicine research program.
6. Assembly of the teams to compete in the Winter and Summer Games.

Of the current $43 million USOC Budget, only about $3.5 million is earmarked for expenses in conjunction with the 1980 Summer Games.

United States Olympic Committee activities are and most definitely should continue to be funded by private sector contributions.

We are all hopeful that our Government's posture toward the Soviet Union will prove to be successful. It is obvious, that if we are successful we must be prepared to send a strong team to Moscow.

If training and preparation ceases in the near future for lack of money, we automatically handicap our athletes severely in both the short and long term.

In the event the world situation forces a United States refusal to send a team to the Summer Games in Moscow, International athletic competition—if only on a limited "free-world" basis—will surely go on.

We are asking for a tremendous sacrifice of our athletes in these troubled times—both emotionally and financially.

Traditionally, great pride is taken in the fact that America doesn't send our athletes to the Olympics, Americans do.

We suggest that if these same athletes are asked to forgo the culmination of years of effort, expense and dedication, the American public demonstrate their admiration and appreciation for their personal sacrifice by contributing financially in a greater measure.

An American boycott does not mean there will be no further international athletic competition. Let not our own request for sacrifice become a permanent penalty on our own American athletes.●

PREVENTIVE DENTISTRY IN KENTUCKY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. CARTER. Mr. Speaker, tooth decay affects nearly every person in the United States, and dental treatment is a tremendous financial burden to the public and to State and Federal governments. In fiscal 1976, it has been estimated that the Nation's dental health bill was nearly $9 billion and that the Federal Government, through medicaid and other programs, spent about $500 million on dental services. Yet a great deal of this dental disease can be prevented and significant savings achieved through effective dental prevention programs. In particular, the use of fluoridation has been found to be a cost-effective method of preventing and reducing dental caries. According to a GAO report issued in April 1979, the Public Health Service estimated that for every $1 spent on fluoridation, $36 for tooth decay treatment could be saved. Moreover, it has also been determined that fluoridated water can prevent up to 65 percent of all children's tooth decay with benefits continuing into adult life.

Today I would like to commend two organizations in my own State of Kentucky for putting this proven preventive technique, as well as other preventive dental health measures, into action on a statewide basis. As a result, the Kentucky Dental Association and Dental Branch of the State Department for Human Resources, recently received the American Dental Association's top Community Preventive Dentistry Award for 1979. I am proud of the Commonwealth's leadership on this initiative, and I hope these efforts will provide a practical and effective model for other States to follow in this important public health area. I am including the announcement of this award which appeared in the State agency's newsletter for the RECORD:

[From the Kentucky Dental Branch Update, January 1980]

KDA AND DHR'S DENTAL BRANCH WIN TOP ADA AWARD

Congratulations to the Kentucky Dental Association and the Dental Branch, Department for Human Resources (DHR), for winning the top American Dental Association Community Preventive Dentistry Award for 1979!

On Oct. 21, a check for $2,000 was presented to Wayne Sprouse, DMD, MPH, Branch director, during the ADA annual convention in Dallas.

The award, funded by the Johnson & Johnson Co., recognizes those who have created and implemented significant community preventive dental projects. In presenting the award, the ADA commended DHR and the KDA for their "excellent program to provide preventive dental services, fluoridation and dental health education for the people of Kentucky."

The Dental Branch and the KDA were nominated by Frederick M. Parkins, Dean, University of Louisville School of Dentistry, and Raynor Mullins, Chairman, Department of Community Dentistry, University of Kentucky.

The award entry was entitled "A Preventive Dental Environment for the Commonwealth of Kentucky" and described the state's five preventive programs: community and rural school fluoridation, school fluoride mouthrinse, dental sealants and preschool fluoride supplements. Each program has a dental health education component.

According to Dr. Sprouse, the partnership of the private and public dental sectors in Kentucky is unique in the nation and is a key factor in the success of the state's preventive programs.

"The strong support of the KDA has been invaluable in helping the Branch obtain state funding for public dental health programs," Dr. Sprouse said. "I am happy that our joint efforts have now received this national recognition."

The Dental Branch will use its $1,000 share of the award money to provide more fluoride supplement supplies for pre-school children, from birth to six years of age, who do not have fluoridated drinking water at home.●

AN HONEST VIEW OF THE WORLD IN CLEVELAND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. STOKES. Mr. Speaker, it often has been said that young people view the world with a raw excitement, awe, and honesty. Few of us ever get a chance to recapture the beauty and flawless view of the world through a young person's eyes.

The publication, "Around the World in Cleveland," provides us with that opportunity. Cleverly using the alphabet, the book meshes together verses and illustrations by seven young artists in Cleveland about the world in Cleveland. As you may know, Cleveland is blessed with having its own melting pot of folk traditions, cultural monuments, and different nationalities. The book provides a tiny sampling of the hidden riches of the people and their cultures in Cleveland minus the prejudices that many people formulate in later years.

The book gives an accurate view of the achievements, the struggles, the characteristics, the happy times, and the low periods of the various culture groups in Cleveland. Ms. Mary Dale, founder of the Peoples and Cultures organization in Cleveland, should be commended for coordinating the preparation of this book. Additionally, W. Hal Workman and Katherine Szomoru should be cited for their assistance to the young artists.

Finally, the young artists, who represent many of the different cultures in Cleveland should be noted. They are: Vicki Fiala, Kevin Hempstead, James Hooper, Dan Postotnik, Christopher Slabicki, Cecil B. Stultz, Linda Vekas, and Harry Bell.

Therefore, at this time, I would like to share several of the verses from the book with my colleagues for a most memorable view of the world in Cleveland:

AROUND THE WORLD IN CLEVELAND

A is for Cleveland's American Indian Center, located on the Near West Side of the city, where many Native Americans live.

Did you know that more than four thousand Native Americans live in the Cleveland area? Or that they belong to more than sixty tribes? Sioux and Navajo, Cherokee, Choctaw and Chippewa, in 1957 they began to come to Cleveland from reservations in the West, some tribes returning after more than one hundred and fifty years.

But jobs in Cleveland were scarce and the strange new ways of the city difficult.

It is to fight these problems that the American Indian Center exists.

The Native American Indian was the first of all of us to inhabit the shores of the Cuyahoga. The Ottawa, Delaware, Seneca and Chippewa Indians were only a few of the many tribes who lived in northern Ohio.

After the white man came, warfare and broken treaties drove the Native Americans away. A survey taken in Cleveland in 1900 indicated a population of two American Indians.

In 1957 the federal government named Cleveland and seven other U.S. cities "Relocation Centers". This program was responsible for relocating thousands of Native Americans from their reservations to the cities.

C is for the Cultural Gardens, just north of University Circle. Clevelanders from nineteen countries or cultures have dedicated gardens here.

Delicately-traced wrought iron gates, stern-faced statues and tree-shaded terraces, all pay tribute to national heroes or ideals.

G is for Gospel Songs . . . songs that ring to the rafters of many of the churches of Cleveland. They say that gospel music took over where yesterday's Negro spirituals left off. Gospel is still about the struggles and sorrows of black people, but there's a stronger beat to it now. The piano, guitar or tambourine—even the flute—are used to accompany the choir. The singers may clap and sway as the Spirit moves them, and "Gospel" gives you a feeling of being free. Who wouldn't feel better at the sound of "Precious Lord, Take My Hand", or "O Happy Day"?

Cleveland was one of the first cities in America to have a gospel chorus. A chorus was organized here in 1933 by gospel singer Sallie Martin and the famous writer of gospel music, Thomas A. Dorsey.

O is for Onion Top Domes and Other Surprises in Cleveland.

Sometimes when you're in Cleveland you think you're in another part of the world—in Russia or Hungary or Poland—in Italy or China or maybe in the United States, way out in the country.

A Russian cathedral with thirteen domes perches over the valley where the steel mills roar. Another Russian church nestles in a neighborhood near St. Clair Avenue. Surrounded by pine trees, it looks as if a magic carpet might have picked it up from deep in a Russian forest, and dropped it gently down in Cleveland.

There are balconies in Cleveland. Underneath them real Hungarian gypsies sang not so long ago. There's a pagoda, and grape arbors, and a "Slavic Village". And a gracious old house which backs onto a giant neighborhood vegetable garden. Any summer day you'll see neighbors from eight to eighty carrying home bags of corn and tomatoes and green beans.

Right in the middle of the city.

St. Theodosius' thirteen onion domes symbolize Jesus and His twelve apostles, just as they do in Russia. The second Russian church is St. Sergius.

In the Fleet Avenue-Broadway area neighbors are getting together to refurbish their houses and shops to make the buildings look like fondly remembered buildings in Poland.

Eliza Bryant Center is a residence for the elderly; the garden behind it has long been part of a special Board of Education program.

Z is for the Zither and other musical instruments played by the many peoples of Cleveland.

Wouldn't it be wonderful if we could all play something together some day in one giant orchestra?●

A GOOD DECISION OF THE HOUSE OF REPRESENTATIVES

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. SYNAR. Mr. Speaker, I would like to take a moment to commend the House of Representatives for making a very good decision last week. By voting down the Agricultural Lands Protection Act we demonstrated our ability to draw the line between problems needing Federal attention and problems best dealt with on the local level, and more importantly, we stood behind our commitment to reduce unnecessary Federal spending.

Clearly, this country faces a potential problem resulting from the steady conversion of agricultural lands to other uses. But equally clear, this problem is best handled on the local level. Local people do not need the incentive of Federal dollars to face questions over the future use of their lands; these questions are faced daily as local governments consider zoning rulings, development issues, tax questions, and other matters. Moreover, decisions are being made daily by the people involved.

This bill wrongly assumes that local governments need more Federal assistance and guidance. I disagree. Through numerous Federal agencies, primarily the USDA, this Government provides valuable assistance to local communities faced with important land use decisions, including an ongoing study of agricultural land protection. The Federal Government needs to assist localities—but not do the same work or pay for work which will be done anyway.

Most importantly, the House of Representatives' rejection of this bill demonstrates a clear commitment to reduced Federal spending. On our list of priorities, inflation must rank at the top and must be at the forefront of every single decision involving new Federal spending. During consideration of this bill, we were able to weigh the merits of this new program against its inflationary impact, and we rightly decided it was not worth it.

Again, I believe we made a good decision last week. It is important to remember that the problem of land conversion did not go away when we voted down this legislation, but it is important to remember also that our great traditions of respect for the land and local people solving local problems did not go away either. I am confident the challenges of this problem will be met on the local level.●

ZIGMONT GEORGE GASKA

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. BRADEMAS. Mr. Speaker, I rise to pay tribute to Zigmont George Gaska, who recently resigned as conductor of the Elkhart, Ind., Symphony Orchestra, which he founded and directed for 30 years.

Mr. Gaska has long been an institution in northern Indiana, for, in addition to his work with the Elkhart Symphony, he founded the Little Symphony Orchestra of Mishawaka and the South Bend-Mishawaka Junior Symphony Orchestra.

Nor were Mr. Gaska's musical efforts limited to those of symphonic scale, Mr. Speaker. His Gaska string quartet is still going strong after 50 years; he has taught music at Saint Mary's College, the University of Notre Dame, and Concordia College; and he has been a frequent host of radio and television must appreciation programs throughout northern Indiana.

His love of music, and his eagerness to share that love with those around him, have made him a major force in our area. Although he has given up his conductor's baton, all of us who enjoy music expect to hear even more from George Gaska in the years ahead.

Mr. Speaker, I insert at this point in the RECORD an article by Josephine M. Curtis, herself a leader in encouraging music in Indiana, which appeared in the South Bend Tribune of December 16, 1979, entitled "This Area's Living Arthur Fiedler Merits Special Thanks."

THIS AREA'S LIVING ARTHUR FIEDLER MERITS SPECIAL THANKS

(By Josephine M. Curtis)

Gray skies—blowing snow—deserted streets—a perfect setting for nostalgia! I am reminiscing about South Bend's musical history. In this area, we have had a few musical giants—people who have left their footprints in the sands of music. How fitting that we should give thanks to and for these people while they are still with us. I cannot help but wonder what Arthur Fiedler would have felt if he could have heard and read all the good things which were said about him after he left this plane of existence; I wonder if he knew that his concerts with "The Boston Pops" would be played over and over on television programs now.

Did you know that this area has a living Arthur Fiedler—a conductor who dared to start "pop concerts"; who dared to make symphony concerts informal, warm, dramatic affairs where reluctant husbands who had often come to sleep through a mournful, lengthy symphonic evening began to stay awake and enjoy the informal atmosphere of a "pops" concert? A man who dared to allow students of instruments to play in the regular symphonic orchestras. A man who dared to perform operas in concert form. A man who dared to start concerts in the parks where many people feared the damp air might ruin the instruments. A conductor who dared to visit schools with an orchestra ensemble which allowed pupils to handle and ask questions about instruments played—informal, warm contact with the music they loved.

These encounters were called "Music, Mine and Mirth." Then he dared to experiment with the placement of saxophones in each string section of the orchestra. What about an art show in connection with a symphony concert? He did this.

Have you guessed yet who this man is? Yes, it is George Zigmont Gaska who recently resigned as conductor of the Elkhart Symphony Orchestra which he founded and directed for 30 years. He also formed the Little Symphony Orchestra of Mishawaka and the South Bend-Mishawaka Junior Symphony Orchestra which toured and gave regular concerts for 11 years.

George Zigmont Gaska began to study the violin at the age of eight. His teachers were

Richard Czerwonky, Frederick Ingersoll, Richard Seidel, Naum Blinder and Pierre Monteux. He taught music at Saint Mary's College, the University of Notre Dame and Concordia College and managed to have time for private students in his home.

He was concert master with the South Bend Symphony for 12 years and for the Fort Wayne Symphony for five years. His first performance as a concert violinist was with our local orchestra in the Tschaikowsky Violin Concerto. He produced Beethoven's "Missa Solemnis" in 1970 while teaching at Goshen College. His record of achievement has also included two world premiere performances. One was "Park Avenue Kids," and American folk opera by Don Gillis, noted American composer and former radio program director for Arturo Toscanini and the NBC Orchestra. The other premiere was "Ouanga," a Haitian opera written by Clarence Cameron White, staged by James Lewis Casaday and performed by the H. T. Burleigh Music Association with the ambassador from Haiti present. Gaska was also the first to perform Beethoven's 9th Symphony in this area, giving two performances in Elkhart and at Bethel College.

In spite of this musicians' life, he has found time for community imput. He gave a TV show over WSJV entitled "Relax and Listen" which included classical music with a different approach. Then there was "Gold and Silver" over WTRC radio which included "Music You Enjoy." He formed the Gaska String Quartette 50 years ago; the first to give concerts in this area. Later, the Moreau Quartette was started which performed for five years in the newly-built Moreau Hall at Saint Mary's.

In 1945 he and Rocco Germano met with Joseph Fischoff and the Chamber Music Society was born and remained active until 1979. The Gaska Quartette is still very active to date. He remains the only original member, still playing first violin.

Gaska was never too busy to help a student. He took one pupil to play for Fritz Kreisler. This pupil, Jon David Toth, is now a concert artist. He has never been too busy to play for senior citizens group meetings or to give free concerts around the pool at the University of Notre Dame Library; or to play for Century Center Luncheon Hour or to brighten up nursing homes with music.

Honors? Yes, he has received them. Batons, plaques, key to the City of Elkhart, the George Award from the Mishawaka Enterprise, Notre Dame Awards and many others which he displays in his studio.

With a delightful sense of humor and originality this artist has made a violin out of a cigar box, and he can play it.

Thank you, George Zigmont Gaska, for all you have done for the musical climate in this region and for the students who have been fortunate enough to have studied with you.●

A TRIBUTE TO ADAM SKRZENTA

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 11, 1980

● Mr. McCLORY. Mr. Speaker, the vitality of our America system of government consists of strong political parties. Party organizations themselves are only as strong and effective as those who participate in political party campaign activities. One of the most exemplary members of the Republican grassroots organization in my 13th Congressional District of Illinois is my long-time friend, Adam Skrzenta of Fox Lake, Grant Township, Ill. Adam Skrzenta has been part of the Republican political organization in our State for 52 years. Indeed, Adam's political activity antedates his residence in Grant Township.

Mr. Speaker, whether Republicans or Democrats, we know that the ardor, perception, and loyalty of those who participate in activities in our system are qualities which make for effective and influential service. Adam Skrzenta possesses those qualities. In addition, he possesses an amiable personality which endears him as a friend to those with whom he works in Grant Township, as well as to those of us who serve in public office, as a result of his industry and his confidence in us.

Recently, Adam Skrzenta and his wife Tillie celebrated their golden wedding anniversary—and I was privileged to participate in that ceremony with them. Now, at the Annual Grant Township Lincoln Day Dinner, which I have the privilege of keynoting, a special tribute will be paid to Adam Skrzenta upon his retirement as Republican precinct committeeman and in recognition of his 52 years of political party service.

Mr. Speaker, I draw this event to the attention of my colleagues in this House—particularly my Republican colleagues—who are striving with me for successful elections in 1980. I congratulate Adam Skrzenta and extend to Adam and his wife Tillie my good wishes for health and happiness for many years to come.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, February 12, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 13

10:00 a.m.
Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To resume hearings on S. 742, to establish Federal programs with respect to the safe disposing of radioactive wastes.
3302 Dirksen Building

FEBRUARY 15

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the U.S. Fish and Wildlife Service.
1224 Dirksen Building

1:30 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Bureau of Mines.
1224 Dirksen Building

FEBRUARY 18

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To review those programs administered by the Department of Education.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Communications Commission.
S-146, Capitol

5:00 p.m.
Labor and Human Resources
To hold hearings on the nominations of Elizabeth S. Carpenter, of Texas, to be an Assistant Secretary of Education (Public Affairs); Carl W. Fischer, of Maryland, to be an Assistant Secretary of Education (Budget and Planning); and John B. Gabusi, of Arizona, to be an Assistant Secretary of Education (Management).
4232 Dirksen Building

FEBRUARY 19

8:00 a.m.
Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume markup of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.
4200 Dirksen Building

8:30 a.m.
Energy and Natural Resources
To resume closed hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade.
S-407, Capitol

9:30 a.m.
Judiciary
Business meeting, to consider pending nominations and legislative business.
2228 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for pro-

grams administered by the Office of the Secretary of the Interior.

1224 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for Elementary and Secondary Education and Impact Aid programs.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Arms Control and Disarmament Agency, Commission on Civil Rights, Equal Employment Opportunity Commission, and the Legal Services Corporation.

S-146, Capitol

Banking, Housing, and Urban Affairs

To hold hearings on proposed legislation to renew the Home Mortgage Disclosure Act.

5302 Dirksen Building

Governmental Affairs

To resume consideration of S. 262, to require that all Federal agencies conduct a regulatory analysis before issuing regulations and to require the use of less time-consuming procedures to decide cases.

3302 Dirksen Building

Rules and Administration

To hold hearings on resolutions requesting additional funds for Senate committees.

301 Russell Building

Select on Intelligence

To hold a closed business meeting.

S-407, Capitol

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Emergency School Aid, and Libraries and Learning Resources.

S-128, Capitol

Technology Assessment Board

Business meeting on pending Board business.

EF-100, Capitol

FEBRUARY 20

9:00 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on S.J. Res. 139, S. 2246, and 2253, bills to provide additional financial assistance to provide for the continuation of rail service by the Chicago, Rock Island, and Pacific Railroads.

457 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.

235 Russell Building

Judiciary

Improvements in Judicial Machinery Subcommittee

To hold hearings on S. 739 and 1472, bills to require that certain cases with the Federal Government are brought in the court of the district where the impact or injury occurred.

5110 Dirksen Building

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Navajo and Hopi Indian Relocation Commission, Advisory Council on Historic Preservation, and the Woodrow Wilson International Center for Scholars.

1224 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Vocational Education, Student Assistance, programs, and Student Loan Insurance Fund.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Commission on Security and Cooperation in Europe, International Communications Agency, and the Japan-U.S. Friendship Commission.

S-146, Capitol

Energy and Natural Resources

Business meeting, to consider proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar businesss.

3110 Dirksen Building

Governmental Affairs

To hold hearings on S. 2164 and 2165, bills to protect the confidentiality of certain export information required by the Bureau of the Census for statistical purposes.

3302 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 1652, proposed Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act.

4232 Dirksen Building

Rules and Administration

To continue hearings on resolutions requesting additional funds for Senate committees.

301 Russell Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Special Institutions.

S-128, Capitol

FEBRUARY 21

8:30 a.m.

Energy and Natural Resources

To resume closed hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade.

S-407, Capitol

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold oversight hearings on the activities of the Commodity Futures Trading Commission.

324 Russell Building

9:15 a.m.

Veterans' Affairs

To hold hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society and finding employment opportunities.

318 Russell Building

9:30 a.m.

*Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.

5110 Dirksen Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Agency for International Development, Congressional Research Service, and the Senate Legal Counsel (Sec. 115, Public Law 95-481).

1114 Dirksen Building

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Pennsylvania Avenue Development Corporation, National Capital Planning Commission, and the Franklin Delano Roosevelt Memorial Commission.

1224 Dirksen Building

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for Higher and Continuing Education, Educational Activities Overseas, Higher Education Facilities Loan and Insurance, and College Housing Loans.

S-128, Capitol

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Small Business Administration.

S-146, Capitol

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To resume hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.

5302 Dirksen Building

Commerce, Science, and Transportation

To hold hearings on S. 2245, proposed Motor Carrier Reform Act.

235 Russell Building

Governmental Affairs

To continue hearings on S. 2164 and 2165, bills to protect the confidentiality of certain export information required by the Bureau of the Census for statistical purposes.

3302 Dirksen Building

2:00 p.m.

Appropriations

Labor-HEW Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for special projects of the Department of Education.

S-128, Capitol

Select on Intelligence

To hold a closed business meeting.

S-407, Captiol

FEBRUARY 22

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on a proposed amendment to establish standards for developing a cost ratio trigger for burden of proof in rate cases, to S. 1946, to provide railroads with more pricing rate flexibility and contract provisions.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Export-Import Bank of the United States.
5302 Dirksen Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold oversight hearings to review wilderness and rangeland management programs of the Bureau of Land Management.
3110 Dirksen Building

*Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To resume hearings of S. 1938, proposed Federal Radiation Protection Management Act.
3302 Dirksen Building

Joint Economic
To hold hearings on the Consumer Price Index figures for January.
5110 Dirksen Building

2:00 p.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on the application which Sea-Land Service has formally filed with the Maritime Administration to trade in eight SL-7 class containerships for allowances of credit for new ship construction.
235 Russell Building

FEBRUARY 25

9:30 a.m.
Special on Aging
Business meeting, to discuss the committee's work plan for the 2d session of the 96th Congress.
154 Russell Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 2199, 2258, and 2264, bills to alleviate the economic effect of the Soviet grain embargo on American farmers.
324 Russell Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on the conduct of monetary policy.
5302 Dirksen Building

Energy and Natural Resources
To hold hearings on S. 1280, proposed Energy Management Partnership Act.
3110 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To resume hearings on S. 1652, proposed Nutrition Labeling and Information Amendments of 1979 to the Federal Food, Drug, and Cosmetic Act.
4332 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Human Development Services.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the administration of foreign affairs within the Department of State.
S-146, Capitol

FEBRUARY 26

9:00 a.m.
*Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.
3302 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2245, proposed Motor Carrier Reform Act.
235 Russell Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Department of the Treasury, and the Export-Import Bank of the United States.
1114 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Health Care Financing Administration.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for international organizations and conferences within the Department of State.
S-146, Capitol

Banking, Housing, and Urban Affairs
To continue oversight hearings on the conduct of monetary policy.
5302 Dirksen Building

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1981 congressional budget.
6202 Dirksen Building

Energy and Natural Resources
To continue hearings on S. 1280, proposed Energy Management Partnership Act.
3110 Dirksen Building

Labor and Human Resources
To consider those matters and programs which fall within the committee's jurisdiction with a view to submitting its views and budgetary recommendations to the Committee on the Budget by March 15.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2066, to convey certain land in Colorado to the Ute Mountain Ute Indian Tribe.
5110 Dirksen Building

11:00 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1981 from Disabled American Veterans.
318 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for International Commissions of the Department of State, and the Office of the U.S. Trade Representative.
S-128, Capitol

Budget
To continue closed hearings in preparation for reporting the first concurrent resolution on the fiscal year 1981 congressional budget.
6202 Dirksen Building

FEBRUARY 27

9:30 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2245, proposed Motor Carrier Reform Act.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.
6226 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Social Security Administration.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the International Trade Commission, and the Federal Trade Commission.
S-146, Capitol

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings to examine the scope of rental housing.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 1934, proposed Municipal Solid Waste to Energy Act.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.
3302 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
Business meeting, to consider S. 1839, authorizing funds through fiscal year 1985 for programs under the Higher Education Act.
4232 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of Inspector General, Office of Civil Rights, Policy Research, and Departmental Management.
S-128, Capitol

FEBRUARY 28

9:00 a.m.
*Veterans' Affairs
To hold hearings on S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration.
412 Russell Building

9:30 a.m.
Governmental Affairs
*Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on proposed legislation to increase the authority of the President and Congress in postal operations and to provide a sound financial base for the future of the Postal Service.
3302 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Community Services Administration, and the Railroad Retirement Board.
S-128, Capitol

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Board for International Broadcasting, and the Securities and Exchange Commission.
S-146, Capitol

Banking, Housing, and Urban Affairs
Insurance Subcommittee
To hold hearings on proposed authorizations for fiscal year 1981 for the crime and riot-reinsurance program of the Federal Emergency Management Administration.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To continue hearings on S. 1934, proposed Municipal Solid Waste to Energy Act.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
Business meeting, to continue consideration of S. 1839, authorizing funds through fiscal year 1985 for programs under the Higher Education Act.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2223, to allow members of Indian tribes to transfer restricted Indian lands to heirs who are not members of the reservation where the land is located.
457 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the National Commission on Libraries and Information Services, Corporation for Public Broadcasting, Occupational Safety and Health Review Commission, Mine Safety Review Commission, and the Soldiers' and Airmen's Home.
S-128, Capitol

FEBRUARY 29

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 2238, authorizing additional funds for fiscal year 1980, and S. 2240, authorizing funds for fiscal year 1981, both for research and development programs of the National Aeronautics and Space Administration.
235 Russell Building

Labor and Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for the Legal Services Corporation.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for domestic programs of ACTION, National Labor Relations Board, Federal Mediation and Conciliation Service, and the National Mediation Board.
S-128, Capitol

Banking, Housing, and Urban Affairs
Insurance Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for the crime and riot-reinsurance program of the Federal Emergency Management Administration.
5302 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 2156, proposed Northeast Corridor Completion Act.
457 Russell Building

MARCH 3

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Education for All Handicapped Children Act (P.L. 94-142).
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on proposed legislation to renew the Home Mortgage Disclosure Act.
5302 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To review those programs administered by the Department of Labor.
S-128, Capitol

MARCH 4

8:00 a.m.
Veterans' Affairs
To resume hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society and finding employment and education opportunities.
412 Russell Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs administered by the Department of State.
1318 Dirksen Building

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Indian Health Service.
1223 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for Public Service Jobs, Special Youth Programs, the Job Corps, and Jobs for the Elderly.
1223 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed legislation authorizing funds through fiscal year 1985 for the Urban Mass Transportation program.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, to resume consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.
3110 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1981 from Veterans of Foreign Wars.
318 Russell Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for General Manpower Training programs, Private Sector Initiatives, State Employment Security Agencies.
1114 Dirksen Building

MARCH 5

9:00 a.m.
Labor and Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on S. 1129, 2021, and 2218, bills to provide career employment opportunities for disadvantaged youth; and S. 1312, proposed Work and Training Opportunities Act.
4232 Dirksen Building

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of Surface Mining Reclamation and Enforcement.
1223 Dirksen Building

Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Labor-Management Services Administration, Pension Benefit Guaranty Corporation, Occupational Safety and Health Administration, and the Mine Safety and Health Administration.
1114 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds through fiscal year 1985 for the urban mass transportation program.
5302 Dirksen Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 2248, authorizing funds for fiscal year 1981 for the U.S. Travel Service.
235 Russell Building

Energy and Natural Resources
Business meeting, to continue consideration of proposed authorizations for fiscal year 1981 for the Department of

Energy, and other pending calendar business.
3110 Dirksen Building

2:00 p.m.
Appropriations
Labor-HEW Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Employment Standards Administration, Bureau of Labor Statistics, and President's Committee on Employment of Handicapped.
1114 Dirksen Building

MARCH 6

9:00 a.m.
Labor and Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 1312, proposed Work and Training Opportunities Act.
4232 Dirksen Building

9:30 a.m.
Veterans' Affairs
Business meeting, to consider those items in the President's budget for fiscal year 1981 which fall within its legislative jurisdiction and to consider recommendations which it will make thereon to the Budget Committee by March 15.
412 Russell Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain international security assistance programs of the Department of State.
1114 Dirksen Building

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the National Endowment for the Humanities.
1223 Dirksen Building

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds through fiscal year 1985 for the urban mass transportation program.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, to continue consideration of proposed authorizations for fiscal year 1981 for the Department of Energy, and other pending calendar business.
3110 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River, San Diego, Calif., to be held in trust for, and operated and maintained by certain boards of Mission Indians.
5110 Dirksen Building

MARCH 10

9:30 a.m.
Labor and Human Resources
*Health and Scientific Research Subcommittee
To hold hearings on S. 2144, proposed Health Professions Educational Assistance and Nurse Training Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To resume hearings on S. 1928, proposed Fair, Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfer Act.
5302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for general administration and legal activities of the Department of Justice.
S-146, Capitol

MARCH 11

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs administered by the Secretary of Energy.
1114 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Bureau of Investigation, Department of Justice
S-146, Capitol

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 1928, proposed Fair, Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 1699, proposed Energy Impact Assistance Act.
3302 Dirksen Building

Labor and Human Resources
Business meeting, to markup S. 1076, to improve the regulation of multiemployer pension insurance plans, and to provide sufficient funds to pay benefits.
4232 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Immigration and Naturalization Service, Department of Justice.
S-146, Capital

MARCH 12

9:00 a.m.
Labor and Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To resume hearings on S. 1129, 2021, and 2218, bills to provide career employment opportunities for disadvantaged youth.
5110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for the National Bureau of Standards.
235 Russell Building

Labor and Human Resources
*Health and Scientific Research Subcommittee
To resume hearings on S. 2144, proposed Health Professions Educational Assistance and Nurse Training Act.
4232 Dirksen Building

10:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the, Office of Indian Education, and the Institute of Museum Services.
1223 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

Banking, Housing, and Urban Affairs
Business meeting, to consider those matters and programs which fall within the committee's jurisdiction with a view to submitting its views and budgetary recommendations to the Committee on the Budget by March 15.
5302 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 1699, proposed Energy Impact Assistance Act.
3302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Federal Prison System, and Office of Justice Assistance, Research and Statistics, Department of Justice.
S-146, Capitol

MARCH 13

9:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold hearings on proposed legislation to establish Commissions on National Youth Service and Volunteerism.
4232 Dirksen Building

Labor and Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue hearings on S. 1129, 2021, and 2218, bills to provide career employment opportunities for disadvantaged youth.
6226 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the International Development Cooperation Agency, and certain programs of the Agency for International Development.
1114 Dirksen Building

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of the Secretary, and the Office of the Solicitor.
1223 Dirksen Building

MARCH 14

9:00 a.m.

*Veterans' Affairs

To hold hearings on the recruitment and retention of qualified health-care professionals to staff the Veterans' Administration's health-care facilities.

412 Russell Building

10:00 a.m.

*Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume hearings on S. 864, 1499, 1663, 1744, bills to facilitate the formation of U.S. export trading companies to expand export participation by smaller U.S. companies.

5302 Dirksen Building

MARCH 17

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To hold hearings on S. 2097, proposed Joint Export Marketing Assistance Act, and on the substance of S. 2040, proposed Small Business Export Expansion Act and S. 2104, proposed Small Business Export Development Act.

5302 Dirksen Building

MARCH 18

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development.

1114 Dirksen Building

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for alternative fuels program of the Department of Energy.

1223 Dirksen Building

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To continue hearings on S. 2097, proposed Joint Export Marketing Assistance Act, and on the substance of S. 2040, proposed Small Business Export Expansion Act and S. 2104, proposed Small Business Export Development Act.

5302 Dirksen Building

MARCH 19

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for programs under the National Climate Program Act.

235 Russell Building

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Bureau of Indian Affairs.

1224 Dirksen Building

MARCH 20

9:00 a.m.

Veterans' Affairs

Business meeting, to consider S. 1188, to revise the vocational rehabilitation programs administered by the Veterans' Administration.

412 Russell Building

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development, and for the Peace Corps.

1114 Dirksen Building

Appropriations

Interior and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1981 for the Bureau of Indian Affairs.

1223 Dirksen Building

MARCH 21

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1981 for programs under the National Climate Program Act.

235 Russell Building

MARCH 24

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume hearings on the U.S. embargo of grain and technology exports to the Soviet Union.

5302 Dirksen Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Bureau of Census, general administration, and economic and statistical analysis, Department of Commerce.

S-146, Capitol

MARCH 25

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Agency for International Development; the international narcotics control program of the Department of State; and for the Inter-American Foundation.

1318 Dirksen Building

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Department of Energy.

1223 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Economic Development Administration, and Regional Planning Commission, Department of Commerce.

S-146, Capitol

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.

5302 Dirksen Building

MARCH 26

9:00 a.m.

Labor and Human Resources

Child and Human Development Subcommittee

Business meeting, to mark up S. 1843 and H.R. 2977, proposed Domestic Violence Prevention and Services Act; and proposed legislation to establish Commissions on National Youth Service and Volunteerism.

4232 Dirksen Building

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Office of Water Research and Technology.

1223 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Industry and Trade Administration, Minority Business Development Agency, and the U.S. Travel Service, Department of Commerce.

S-146, Capitol

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To continue hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.

5302 Dirksen Building

2:00 p.m.

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To held hearings on proposed budget estimates for fiscal year 1981 for the National Oceanic and Atmospheric Administration, Department of Commerce.

S-146, Capitol

MARCH 27

9:30 a.m.

Veterans' Affairs

To hold hearings to receive legislative recommendations for fiscal year 1981 from AMVETS, Paralyzed Veterans, Blinded Veterans, W.W.I. Veterans, and Military Order of the Purple Heart.

1202 Dirksen Building

10:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Smithsonian Institution.

1223 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the Patent and Trademark Office, National Telecommunications and Information Administration, and science and technical research, Department of Commerce.

S-146, Capitol

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To resume hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.

5302 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budgét estimates for fiscal year 1981 for the Maritime Administration, Department of Commerce.
S-146, Capitol

MARCH 28

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 1928, proposed Fair Financial Information Practices Act, and S. 1929, proposed Privacy of Electronic Fund Transfers Act.
5302 Dirksen Building

MARCH 31

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for the Department of Commerce.
S-146, Capitol

APRIL 1

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1981 for foreign assistance programs.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1981 for the Department of Commerce.
S-146, Capitol
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs and the Urban Development Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

APRIL 2

9:30 a.m.
Veterans' Affairs
To resume hearings on the Federal Government's efforts to assist Vietnam-era veterans in readjusting to society, and the use of excepted appointments for disabled veterans.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue hearings on proposed legislation authorizing funds for fiscal year 1981 for housing, community development programs, and the Urban Development Action Grant of the Department of Housing and Urban Development.
5302 Dirksen Building

APRIL 15

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on proposed authorizations for fiscal year 1981 for the international affairs programs of the Department of the Treasury; and on proposed legislation to increase the U.S. quota in the International Monetary Fund.
5302 Dirksen Building

APRIL 16

9:30 a.m.
Veterans' Affairs
Business meeting, to consider proposed legislation on the recruitment and retention of qualified health-care professionals to staff the Veterans' Administration health-care facilities, S. 759, to provide for the right of the United States to recover their costs of hospital nursing home of outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts, and S. 1523 and H.R. 4015, proposed Veterans Senior Citizen Health Care Act.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for the international affairs programs of the Department of the Treasury; and on proposed legislation to increase the U.S. quota in the International Monetary Fund.
5302 Dirksen Building

APRIL 17

9:30 a.m.
*Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the development of children who benefit from adoption by facilitating their placement in adoptive homes.
4232 Dirksen Building

MAY 1

10:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold hearings on issues Congress might consider which would affect youth in the coming decades.
4232 Dirksen Building

MAY 22

9:30 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings to examine issues affecting infant mortality, and preventable birth defects.
4232 Dirksen Building

MAY 29

9:30 a.m.
Veterans' Affairs
To hold hearings on proposed legislation to establish a cost-of-living increase for service-connected disability compensation.
412 Russell Building

JUNE 11

9:30 a.m.
*Veterans' Affairs
To hold oversight hearings on the activities of the Inspector General of the Veterans' Administration.
412 Russell Building

CANCELLATIONS

FEBRUARY 13

10:00 a.m.
Energy and Natural Resources
To resume hearings to review those items in the President's budget for fiscal year 1981 which fall within its legislative jurisdiction and consider recommendations which it will make thereon to the Budget Committee, to hear officials from the Department of the Interior.
3110 Dirksen Building

FEBRUARY 14

10:00 a.m.
Labor and Human Resources
To hold hearings on the nominations of Elizabeth S. Carpenter, of Texas, to be an Assistant Secretary of Education (Public Affairs); Carl W. Fischer, of Maryland, to be an Assistant Secretary of Education (Budget and Planning); and John B. Gabusi, of Arizona, to be an Assistant Secretary of Education (Management).
4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, February 12, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Know this, my beloved brethren. Let every man be quick to hear, slow to speak, slow to anger, for the anger of man does not work the righteousness of God.—James 1: 19, 20.

We pray, O God, that we may do Your good work among those we serve. May not pride or position or undue thought of ourselves interfere with the application of our faith to the neediest among us. Enable us to hear the voices that cry for help and to minister to those who suffer and are alone. Let us not be overcome by all the clamor for time and attention in our lives that we miss Your invitation to serve with righteousness and dignity. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

JIMMY IN THE BUDGET LAND: A FISCAL FANTASY

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, we are now 4 months into the fiscal year and the fiscal year 1980 budget is still undergoing revision. In the name of fiscal austerity, President Carter proposed his 1980 budget in January of 1979. This original proposal called for outlays of $532 billion and a deficit of $29 billion. Last November the Congress passed the supposedly binding second budget resolution, which allowed spending to increase to $548 billion and the deficit to expand to $30 billion. And the story continues.

Apparently the definition of binding has changed with this administration. It appears that the Congress will be presented with a third budget resolution—(hopefully before we begin consideration of the first budget resolution for 1981—that will call for outlays to climb to $564 billion and for the deficit to balloon to $40 billion. That is a total budget increase of $32 billion in spending and $11 billion in the deficit over the President's original budget figures.

So much for fiscal austerity. What we have here is fiscal fantasy.

DEPARTMENT OF JUSTICE IS COPPING A PLEA OF ITS OWN

(Mr. ERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERTEL. Mr. Speaker, in the wake of the ABSCAM scandal, the Department of Justice is copping a plea of its own. After leaking comprehensive details of its congressional bribery inquiry, the Department now refuses to expedite its own investigation or to share its information with the Ethics Committees of Congress.

This is colossal arrogance. It does a disservice to the American people. It further defames Congress. And it delays justice for the guilty and the innocent alike.

The Department of Justice must proceed more rapidly with the investigation and it should turn over all relevant information to the House and Senate Ethics Committees without delay.

To say, as the Justice Department does, that it will take 90 to 120 days to present its cases to grand juries is both preposterous and unconscionable. Justice terminated its investigation, with appropriate notice to the media, on February 2. Nothing that remains to be done requires 3 to 4 months.

Still more reprehensible than the Department's prosecutorial foot dragging is its unwillingness to release vital information to Congress. This matter strikes at the very heart of our democracy. Allegations against individual Members taint the collective activity of Congress. Unless we in the Congress determine immediately whether some of our colleagues have violated their public trust, then nothing we do warrants public confidence.

This scandal has outraged our people, not because several citizens have been accused of wrong doing, but because Members of Congress are said to be involved. As such, there must be an immediate determination of whether those accused should continue to serve in high office. Nothing else will restore the integrity of this precious institution.

DOES THE PRESIDENT REALLY UNDERSTAND COMMUNISM?

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, a few weeks ago after the invasion of Afghanistan the President of the United States revealed to the world that for the first time he understood the true nature of communism and the threat it presents to the world.

Now, Mr. Carter is only 55 years old and communism has been around for more than 63 years. I believe he might have noticed it before this.

In response to the invasion of Afghanistan by the Soviets, the President called for a boycott of the Moscow Olympics, the cutoff of our American farmers' grain sales, draft registration and a military buildup; so obviously it is well that we now put the question to the President, is détente dead? Apparently not. The President last night in our briefing called for a ratification of SALT II, a treaty that would permanently place us behind the Soviets.

This morning's paper reveals the President's counsel, Mr. Cutler, is backing down on the Moscow Olympic boycott and my analysis of the President's 1981 defense budget shows very little increase in real spending despite all the propaganda to the contrary.

Does the President mean what he says about the threat of communism? I think the President should read carefully line by line the essay on communism by Alexander Solzhenitsyn in this week's Time magazine. Maybe then the President will finally understand communism and its intentions.

□ 1210

LINCOLN'S WORDS AND DEEDS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, no one has been quoted so often as Abraham Lincoln.

There is good reason for that. Lincoln knew language is a major tool of leadership. Used properly, words can inspire, redirect energies, cajole, support, and comfort.

When we look at Lincoln's great words they fit perfectly into the actions he took.

The man who spoke the words of the Gettysburg Address did not simply mouth those words—he believed them and he practiced them.

His memorable words about the evil of slavery were backed up by his action to end slavery.

The man who uttered those memorable words about saving the Union gave the last full measure of devotion to translating those words into deeds.

Lincoln's words and his actions were in harmony, not in discord.

But when a President's words tell us one thing and his acts tell us another, the result is confusion at best and national tragedy at worst.

It is my hope that today, Lincoln's Birthday, reminds President Carter of the necessary connection between words and deeds.

LINCOLN'S BIRTHDAY

(Mr. DEVINE asked and was given permission to address the House for 1

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, our first Republican President, whose birthday we celebrate today, made an important observation in his Second Message to Congress.

President Abraham Lincoln said:

> The dogmas of the quiet past are inadequate to the stormy present. . . . We must think anew and act anew.

Mr. Speaker, it is clear that the dogmas of the Democrat Party, which has controlled Congress for the past 25 years, are out of date. The Democrats have brought our Nation a quarter century of economic mismanagement.

In that period Federal spending has increased 700 percent, taxes have climbed 690 percent, and inflation has risen 300 percent.

But, things do not have to be as bad as they are today. We can change Congress. We need a Republican Congress for a change.

VOTE REPUBLICAN, FOR A CHANGE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, in 1976, Candidate Carter promised the American people that he would reduce the rate of inflation to 4 percent. He promised the American people that his economic policies would induce stable interest rates. He promised the American people that he would never increase taxes for the working people. He promised the American people that he would have a balanced budget by the end of his first term.

Well, Mr. Speaker, it is now the end of not only his first term, but also his last term, and what do we find? We find a country racked by an inflation rate of over 13 percent. We find interest rates that have soared as high as 15¾ percent. We find a proposed budget for fiscal year 1981 that will raise the proportion of Federal revenue to GNP to 21.7 percent, the highest, most confiscatory peace-time burden in the history of the Republic. And we find that the President's budget projects a deficit of $15.8 billion for fiscal year 1981, a figure that many economic forecasters consider unrealistically low.

Mr. Speaker, the American people have the right to know that this high-spending, high-deficit, high-tax Government the result of this Democrat administration's policies enacted with the support of this democratically controlled Congress. Mr. Speaker, I urge my fellow citizens in 1980: "Vote Republican, for a change."

GOVERNOR BROWN'S "SUCCESSFUL FORMULA"

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, the "crazy season" is upon us.

In an article today by Mr. David Broder in the Washington Post, he says—and I quote—

> California Gov. Edmund G. (Jerry) Brown, Jr., who finished a surprisingly strong third in Maine, will be in New Hampshire Thursday night to try to repeat his successful formula here.

As I recall, Governor Brown finished third in a three-man race, and his surprisingly "successful formula" netted him less than the 15 percent which, under the Maine Democratic caucus rules, is required to receive any delegates. So it is entirely appropriate that the "success formula" of the Governor of my State, Governor "less is more" Brown, nets him zero delegates.

If this is February it must be New Hampshire.

TALKING CHEAP—ACTING EXPENSIVE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the people in charge of Congress have been talking cheap and acting expensive.

For instance, just a week ago, in the Washington Post the Democratic majority leader boasted that during the last 4 years the Democrats in Congress have cut income taxes twice.

Yet during that time—the amount collected from income taxes has more than doubled—from $131 to $268 billion.

Working American families know taxes are not going down—they are going up. Every time the people in charge of Congress talk about cutting taxes, American families should reach for their wallets.

At the same time the Democrat leadership is creating another burst of inflation. Some people in charge of Congress actually claim that they are limiting spending. Yet they decided to spend $1,060,800, think of that, $1,060,800 just in this very minute that I speak.

And they will spend that much every minute this year. Imagine how we could help working American families if the majority in Congress stopped spending money for just 1 hour—60 minutes.

If Republicans were in charge of Congress, we could cut inflation and create jobs for people. We would cut spending that helps bureaucrats, and hurts working families. We would pass a tax cut which would mean lower taxes—not higher taxes. For a change in policies, we need a change in leadership.

IS IT TIME FOR A CHANGE?

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, everyone has been talking about the need for a change in the Congress after 25 years of Democratic majority.

We not only cannot afford 25 more years of a Democratic Congress. We cannot afford 4 more years of the Carter administration.

Without the leavening effect of a responsible Executive willing to veto irresponsible congressional spending, our economy is in a shambles. Indeed, this debilitating Democratic duo brought us to the brink of economic disaster.

This is their legacy in the past 2 years alone:

In January 1977, when President Carter took office, the inflation rate was 4.8 percent. Today it is 13 percent.

In January 1977, the prime interest rate was 6.8 percent. Today it is 15.5 percent.

In January 1977, regular gasoline cost 60 cents a gallon. Today it is about $1.17.

In January 1977, gold cost $125 an ounce. Since then, it has topped $840 an ounce.

And in January 1977, when Mr. Carter took office, the average per capita income of the American people ranked fourth in the world. Today it ranks seventh. Mr. Spencer, here is the Democratic legacy: the Democratic dollar.

Is there any question that it is time for a change? We need another team running the White House and the Congress.

BUREAUCRACY GROWS, DESPITE PRESIDENT'S PROMISES

(Mrs. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SNOWE. Mr. Speaker, in 1976, President Carter made Government reorganization a major campaign theme. Billing himself as a Washington outsider, he promised to rid the bureaucracy of waste and inefficiency. He said he would duplicate his reorganization effort in Georgia. He said we would cut the number of Federal agencies from 1,900 to 200. What he said, and what he has actually done are two different things.

The Federal civilian work force has actually increased by 40,000 since he took office.

He has not decreased the number of Federal agencies significantly. In fact, he has created two of the biggest bureaucratic nightmares ever imposed on an overregulated public—the Department of Energy, and the Department of Education.

He has hidden much of the growth in bureaucracy by "contracting out" the work. It has been estimated that as much as $10 billion is wasted each year by agencies farming out work they should do themselves.

Unfortunately, President Carter's reorganization plan needs reorganizing. He has not kept the promises he made; he has just put another crimp in the Gordian knot known as the Federal bureaucracy.

A TIME FOR OUR FRIENDS TO STAND UP AND BE COUNTED

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, when the idea of America's boycotting the Olympic games as a means of expressing our horror at the Soviet invasion of Afghanistan was proposed, my first, tentative reaction was negative. The games always seemed to me to represent—if not practically, at least as an objective—the ideal of human and national relationships. But the brutal trampling of human lives and human freedoms by the Soviets in Afghanistan convinced me we cannot appear in any sense to condone this barbarianism. We cannot play games with the Soviets in Moscow while the Russians are killing Afghans in Kabul. And so, with a certain reluctance, I supported the resolution to boycott the Moscow games and to call upon our allies to support us in this approach.

We are committed not to go to Moscow in July. Now it is time for our friends to be heard. We have done much over the years to aid not only those we perceived as our allies, but those we hoped would become our friends. We have acted, to be sure, in our own perceived national interests. But, to a greater extent than any other nation in history, we have also acted in a spirit of good will, generosity, and caring. We have asked little in return. We have called publicly for support on very few occasions. But this is one of those occasions. Those who wish to be counted on our side, those who wish to be perceived as caring about personal freedom and self-determination, must act with us.

For my part, and I hope on the part of every Member of this House, the time has come to make it clear to other nations that those who stand with us against tyranny and aggression deserve our continued good will and support—while those who stand aside while the subjugation of freedom continues must be counted among those who forfeit any hope of continued American monetary aid. America has funneled billions into the economies of other nations in an unparalleled act of selfless diplomacy. Is it asking too much now of these nations to follow our lead in penalizing Moscow on the Olympics? I think not.

☐ 1220

FOREIGN POLICY CONTRADICTION

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, in many respects, the administration's foreign policy resembles an oscillating fan. It generates a lot of breeze as it continues to swing back and forth, but it is incapable of maintaining temperatures at a constant, acceptable level.

In its latest foreign policy contradiction, the administration directed the Justice Department to intervene in litigation involving the International Olympic Committee and an athlete from the Republic of China (Taiwan). The litigation centers on a decision by the International Olympic Committee which prohibits the Olympic delegation from Taiwan from using the flag, anthem, and uniforms of the Republic of China.

Justice Department intervention in the resulting court case really amounts to implementation of another misdirected foreign policy move by the administration. It is a political decision to placate the People's Republic of China. The administration has no business involving itself in a dispute between the IOC and the Republic of China.

Furthermore, this latest foreign policy stance seems to weaken our position to postpone, cancel or boycott the 1980 summer Olympic games because of the Soviet invasion of Afghanistan—a position which I support because it is sound and logical.

Puerto Rico participates as a separate team. That should have set a precedent concerning the case of the two Chinas.

A Justice Department spokesman has been quoted as saying it would be "embarrassing" to the United States for the court to disrupt the IOC rules. The only thing embarrassing about this case is the intervention of the Carter administration.

"HAPPY BIRTHDAY," BESS TRUMAN

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, we all are familiar with the expression, "Behind every great man, there is a great woman." This was certainly true of our 33d President, Harry S. Truman. We do not hear a great deal about Elizabeth Virginia Truman as she has never cared much for publicity, however, she is truly a lovely, lovely lady.

Tomorrow, Mrs. Truman will be celebrating her 95th birthday, and I would just like to afford my colleagues the opportunity to join me in extending my very best wishes to the "lady from Independence" on this very special occasion.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ERTEL). Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed on February 11 in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4774, H.R. 6374, and H.R. 5913.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

CONSCIENTIOUS OBJECTION TO JOINING A LABOR ORGANIZATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4774, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 4774, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 349, nays 15, not voting 69, as follows:

[Roll No. 44]

YEAS—349

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Campbell
Carney
Carr
Carter
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.

Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Vander Jagt
Walgren
Watkins
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—15

Burton, John
Burton, Phillip
Diggs
Dingell
Eckhardt
Florio
Ford, Mich.
Leland
Sabo
Seiberling
Shannon
Vento
Volkmer
Weiss
Young, Mo.

NOT VOTING—69

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Aspin
Blanchard
Brooks
Byron
Cavanaugh
Chappell
Coelho
Conyers
Corman
Davis, S.C.
Dornan
Edwards, Okla.
Erlenborn
Fazio
Findley
Garcia
Giaimo
Gibbons
Hansen
Hefner
Horton
Johnson, Colo.
Jones, N.C.
Kostmayer
Leach, La.
Lederer
Lent
Long, La.
Lujan
McCloskey
McEwen
Marlenee
Marriott
Mitchell, N.Y.
Moffett
Murphy, Ill.
Myers, Pa.
Nolan
Petri
Pickle
Pritchard
Rhodes
Ritter
Roberts
Rudd
Simon
Spellman
Spence
Stanton
Symms
Treen
Udall
Ullman
Van Deerlin
Vanik
Walker
Wampler
Waxman
White
Wilson, C. H.
Wright
Wyatt
Young, Alaska
Zeferetti

□ 1230

The Clerk announced the following pairs:

Mr. Lederer with Mr. Rudd.

Mrs. Spellman with Mr. Anderson of Illinois.

Mr. Zeferetti with Mr. Ashbrook.

Mr. Fazio with Mr. Edwards of Oklahoma.

Mr. Brooks with Mr. Horton.

Mr. Chappell with Mr. Hefner.

Mr. Alexander with Mr. Leach of Louisiana.

Mr. Corman with Mr. Lent.

Mr. Giaimo with Mr. Marlenee.

Mr. Pickle with Mr. McEwen.

Mr. Myers of Pennsylvania with Mr. Walker.

Mr. Long of Louisiana with Mr. Symms.

Mr. Jones of North Carolina with Mr. Stanton.

Mr. Roberts with Mr. Johnson of Colorado.

Mr. Udall with Mr. Wampler.

Mr. Charles H. Wilson of California with Mr. Erlenborn.

Mr. Wright with Mr. Dornan.

Mr. Ullman with Mr. Andrews of North Dakota.

Mr. Van Deerlin with Mr. Hansen.

Mr. Anderson of California with Mr. Lujan.

Mrs. Byron with Mr. Marriott.

Mr. Cavanaugh with Mr. McCloskey.

Mr. Davis of South Carolina with Mr. Petri.

Mr. Garcia with Mr. Pritchard.

Mr. Moffett with Mr. Spence.

Mr. Murphy of Illinois with Mr. Treen.

Mr. Nolan with Mr. Wyatt.

Mr. Vanik with Mr. Young of Alaska.

Mr. Waxman with Mr. Ritter.

Mr. White with Mr. Blanchard.

Mr. Aspin with Mr. Findley.

Mr. Coelho with Mr. Gibbons.

Mr. Conyers with Mr. Simon.

Mr. Kostmayer with Mr. Mitchell of New York.

Mr. VENTO and Mr. VOLKMER changed their votes from "yea" to "nay."

Mr. MARKEY and Mr. OTTINGER changed their votes from "nay" to "yea."

Mr. MINISH changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was annonuced as above recorded.

A motion to reconsider was laid on the table.

□ 1240

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause (3) (b) (3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

GOLD MEDAL FOR CANADIAN AMBASSADOR

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6374.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the bill, H.R. 6374, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 1, not voting 70, as follows:

[Roll No. 45]

YEAS—362

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Porter
Preyer
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—1

Fenwick

NOT VOTING—70

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Aspin
Blanchard
Brooks
Byron
Cavanaugh
Chappell
Coelho
Conyers
Corman
Davis, S.C.
Dornan
Edwards, Okla.
Erlenborn
Fazio
Findley
Garcia
Giaimo
Gibbons
Hansen
Hefner
Horton
Johnson, Colo.
Jones, N.C.
Kostmayer
Latta
Leach, La.
Lederer
Lent
Long, La.
Lujan
McCloskey
McEwen
Marlenee
Marriott
Mitchell, N.Y.
Moffett
Murphy, Ill.
Myers, Pa.
Nolan
Petri
Pickle
Price
Pritchard
Rhodes
Ritter
Roberts
Rudd
Simon
Spellman
Spence
Stanton
Symms
Treen
Udall
Ullman
Van Deerlin
Vanik
Walker
Waxman
White
Wilson, C. H.
Wright
Wyatt
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Lederer with Mr. Anderson of Illinois.
Mr. Zeferetti with Mr. Horton.
Mrs. Spellman with Mr. Ritter.
Mr. Roberts with Mr. Ashbrook.
Mr. Brooks with Mr. Latta.
Mr. Chappell with Mr. Stanton.
Mr. Corman with Mr. Johnson of Colorado.
Mr. Davis of South Carolina with Mr. Andrews of North Dakota.
Mr. Fazio with Mr. Leach of Louisiana.
Mr. Garcia with Mr. Lujan.
Mr. Giaimo with Mr. Dornan.
Mr. Long of Louisiana with Mr. Edwards of Oklahoma.
Mr. Moffett with Mr. Hansen.
Mr. Myers of Pennsylvania with Mr. Rudd.
Mr. Pickle with Mr. Spence.
Mr. Wright with Mr. Symms.
Mr. Charles H. Wilson of California with Mr. Marlenee.
Mr. Simon with Mr. Marriott.
Mr. Udall with Mr. Young of Alaska.
Mr. Ullman with Mr. Treen.
Mr. Conyers with Mr. Erlenborn.
Mr. Cavanaugh with Mr. Findley.
Mr. Van Deerlin with Mr. Lent.
Mr. Vanik with Mr. McCloskey.
Mr. Nolan with Mr. Pritchard.
Mr. Price with Mr. Blanchard.
Mr. Walker with Mr. Coelho.
Mr. Aspin with Mr. Hefner.
Mr. Anderson of California with Mr. McEwen.
Mr. Alexander with Mr. Mitchell of New York.
Mrs. Byron with Mr. Murphy of Illinois.
Mr. Gibbons with Mr. Waxman.
Mr. Jones of North Carolina with Mr. White.
Mr. Kostmayer with Mr. Petri.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1250

NEGOTIATED PRICING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5913.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 5913, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 324, nays 36, answered "present" 1, not voting 72, as follows:

[Roll No. 46]

YEAS—324

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
LaFalce
Lagomarsino
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Shelby
Shumway
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Taylor
Thomas
Thompson
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—36

Archer
Bennett
Brown, Ohio
Carter
Cheney
Collins, Tex.
Conable
Crane, Philip
Deckard
Devine
Evans, Ind.
Fenwick
Gore
Gramm
Grassley
Hall, Tex.
Hance
Hillis
Jacobs
Kramer
Leach, Iowa
Leath, Tex.
Martin
Michel
Miller, Ohio
Paul
Porter
Regula
Sharp
Shuster
Stenholm
Stockman
Stump
Tauke
Wydler
Wylie

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—72

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Aspin
Blanchard
Boggs
Brooks
Byron
Cavanaugh
Chappell
Coelho
Conyers
Corman
Davis, S.C.
Dornan
Edwards, Calif.
Edwards, Okla.
Erlenborn
Fazio
Findley
Garcia
Giaimo
Gibbons
Grisham
Hansen
Hefner
Horton
Johnson, Colo.
Jones, N.C.
Kostmayer
Latta
Leach, La.
Lederer
Lent
Long, La.
Lujan
McCloskey
McEwen
Marlenee
Marriott
Mitchell, N.Y.
Moffett
Murphy, Ill.
Myers, Pa.
Nolan
Petri
Pickle
Pritchard
Rhodes
Ritter
Roberts
Roth
Rudd
Simon
Spence
Stanton
Symms
Treen
Udall
Ullman
Van Deerlin
Vanik
Walker
Waxman
White
Wilson, C. H.
Wright
Wyatt
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Lederer with Mr. Anderson of Illinois.
Mr. Pickle with Mr. Grisham.
Mr. Van Deerlin with Mr. Pritchard.
Mr. Chappell with Mr. Ritter.
Mr. Conyers with Mr. Petri.
Mr. Blanchard with Mr. McEwen.
Mr. Davis of South Carolina with Mr. Edwards of Oklahoma.
Mr. Coelho with Mr. Dornan.
Mr. Fazio with Mrs. Byron.
Mr. Giaimo with Mr. Brooks.
Mr. Jones of North Carolina with Mr. Aspin.
Mr. Kostmayer with Mr. Hansen.
Mr. Udall with Mr. Gibbons.
Mr. Long of Louisiana with Mr. Ashbrook.
Mr. Murphy of Illinois with Mr. Andrews of North Dakota.
Mr. Ullman with Mr. Horton.
Mr. Waxman with Mr. Latta.
Mr. Vanik with Mr. Leach of Louisiana.
Mr. Myers of Pennsylvania with Mr. Lent.
Mr. Nolan with Mr. McCloskey.
Mr. Zeferetti with Mr. Marriott.
Mr. Wright with Mr. Marlenee.
Mr. Charles H. Wilson of California with Mr. Lujan.
Mr. Cavanaugh with Mr. Walker.
Mrs. Boggs with Mr. Stanton.
Mr. Corman with Mr. Rudd.
Mr. Edwards of California with Mr. Roth.
Mr. Garcia with Mr. Symms.
Mr. Hefner with Mr. Treen.
Mr. Moffett with Mr. Erlenborn.
Mr. Wyatt with Mr. Mitchell of New York.

Mr. Simon with Mr. Johnson of Colorado.
Mr. Roberts with Mr. Spence.
Mr. Anderson of California with Mr. White.
Mr. Alexander with Mr. Young of Alaska.

Mr. BROWN of Ohio changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NOISE CONTROL ACT AUTHORIZATIONS, FISCAL YEARS 1980 AND 1981

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 460

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3995) to authorize appropriations for the Noise Control Act of 1972 for the fiscal years 1980 and 1981, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1300

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MOAKLEY) for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes to the gentleman from Tennessee (Mr. QUILLEN). Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 560 is the rule providing for the consideration of the bill H.R. 3995, the Noise Control Act authorization. It is a simple open rule, allowing any and all germane amendments. It also specifies the time for general debate, which will be 1 hour, divided equally between the two committees that considered the bill: Interstate and Foreign Commerce and Public Works. The control of general debate time for each committee is also equally divided between its chairman and ranking minority member. The rule provides for one motion to recommit and, Mr. Speaker, there are no waivers of points of order.

The Noise Control Act authorization, H.R. 3995, is not a complicated bill, Mr. Speaker, but it is important to insure continuity in the noise control programs administered by the Environmental Protection Agency. We are all well aware of the serious adverse effects that noise in our environment—from trucks, trains, air compressors, jackhammers, lawnmowers, and the like—can have on people and on communities. EPA has already done considerable work toward setting standards to control excessive noise, and this bill will enable them to continue that function.

In addition, Mr. Speaker, I believe that the committees that considered this bill are to be commended for the evident oversight that has been a part of their consideration of this bill. Among other things, for instance, the legislation calls upon EPA to provide the Congress with a 5-year plan for precisely how the Agency hopes to regulate noise, and what specific objectives they want to achieve in each instance. Such a program will help to insure, Mr. Speaker, that EPA does a very careful analysis of its regulatory agenda.

Excessive noise affects all of us, Mr. Speaker, which makes this bill particularly important to all of us. I support it strongly and urge the adoption of this rule so that we may proceed to consider H.R. 3995.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the gentleman from Massachusetts (Mr. MOAKLEY) has described the provisions of the resolution, and I know of no objection to the rule itself. We all know that this is an authorization for noise control. We all know that EPA over the years has become more bureaucratic and more demanding with rules and regulations, and we should be ever alert. Mr. Speaker, I think it is time to debate the measure. I have no requests for time, but I reserve the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time. I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3995) to authorize appropriations for the Noise Control Act of 1972 for the fiscal years 1980 and 1981.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3995, with Mr. FISHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 15 minutes; the gentleman from Illinois (Mr. MADIGAN) will be recognized for 15 minutes; the gentleman from California (Mr. JOHNSON) will be recognized for 15 minutes; and the gentleman from Ohio (Mr. HARSHA) will be recognized for 15 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3995 authorizes $15 million for each of fiscal years 1980 and 1981 to carry out the functions of the Noise Control Act of 1972. This act authorizes the Environmental Protection Agency to coordinate Federal noise research activities and to establish Federal noise emission standards for certain products and to disseminate information to the public about the noise emission characteristics of such products.

In 1978, the Congress passed the Quiet Communities Act amendments. These amendments refocused the program toward community assistance and local enforcement of noise control standards. The committee recognizes the need to provide flexibility in controlling local noise sources.

For the most part this legislative initiative which provides for local involvement, is being successfully implemented in order to further strengthen this effort and to achieve more adequate congressional oversight, the committee has directed the EPA program office to prepare and submit a 5-year plan to Congress.

The bill provides that the plan be submitted no later than March 1, 1980, and requires a detailed accounting of the objectives and relative priorities of each program activity to be carried out under this act. It now appears that this plan will be submitted on time.

The bill also authorizes the Secretary of the Department of Transportation to prepare and submit to Congress a study regarding various aspects of implementing the EPA recommended railroad noise abatement regulations. This study is to be submitted no later than 6 months after these regulations are promulgated.

The Noise Control Act of 1972 recognizes that unreasonably high levels of noise present a serious public health danger and have a detrimental effect on communities.

The committee intends to carefully monitor the activities of the noise office and believes that continuation of this program will aid in diminishing noise that adversely impacts over cities and towns.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join with the gentleman from New Jersey in supporting H.R. 3995 which I believe provides adequate resources to carry out the noise control program.

During the Rules Committee deliberation of this bill, the gentlewoman from New York, who represents the Bedford-Stuyvesant area, raised questions that bother many of us in Congress. The gentlewoman pointed out that unemployment in her district was 37 percent and she expressed concern that many construction projects and new business ventures were being discouraged, delayed or prevented by unreasonable or unrealistic Government regulation. I share that concern, and I believe that in this bill we have taken steps that will help us prevent unreasonable and unnecessary regulation.

For example, I was and am very concerned about the economic impact that railroad noise emission standards would have on the railroad industry EPA and the rail industry have both expressed reservations about this program. As it stands today, EPA estimates that it will cost the railroad industry $1 billion to comply with proposed noise standards.

Because of our concerns, we have provided for a study and delay of the railroad regulations in order to fully evaluate the economic impact on railroad operations.

In addition, this bill provides for EPA to submit a 5-year plan to Congress outlining the objectives, activities and priorities for the noise control program. This will enable the Congress to use its oversight authority to make sure that EPA considers the costs and benefits of this program.

I believe that State and local participation in this program is essential. EPA has made good use of State and local programs. This legislation will help continue the strengthening of local capability to control noise.

Mr. Chairman, this is an authorization of $15 million for 1980 and 1981. This is the same authorization level the Congress authorized for 1979.

I urge my colleagues to support this bill.

□ 1310

Mr. JOHNSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill which we are considering, H.R. 3995, was referred to the Committee on Public Works and Transportation because our committee has jurisdiction over civil aviation, including aviation noise as regulated under the Noise Control Act.

The Public Works Committee reported the bill with amendments reducing the authorization and imposing a legislative veto on EPA's regulations under the noise Control Act. We made these amendments because we had serious questions about whether EPA was doing an adequate job in the area of aviation noise control. Our committee also had serious questions about whether EPA should continue to have all of the aviation noise responsibilities assigned it under the Noise Control Act.

Since our committee filed its report, there have been several developments which have led to a reassessment of our position. The recently enacted aviation noise bill, H.R. 2440, gives EPA new responsibilities for aviation noise. Also Congress has also enacted appropriations legislation giving EPA funding which exceeds the authorization level in our bill.

In view of these changed circumstances, the Public Works Committee will not oppose the bill originally reported by the Commerce Committee, and at the appropriate time, we will ask unanimous consent to withdraw our amendments. Of course, this action has no effect on the jurisdiction of our committee over the Noise Control Act authorization. If the problems raised at our hearing continue in the future, we will not hesitate to exercise our jurisdiction.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. JOHNSON of California. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the chairman for yielding.

The gentleman from Maryland had occasion to read the report of the Committee on Public Works and Transportation on this so-called noise control bill. Although I question whether or not this is not an area where we could completely abolish a Federal program, I do think that the amendments that your committee overwhelmingly adopted dealing with a 1-year authorization with the lower funding level and permitting Congress to have legislative veto of the regulations issued in this area were excellent amendments. Why would the gentleman want to withdraw them now?

Mr. JOHNSON of California. As the gentleman knows the Committee on Appropriations appropriated more money than was provided for in the bill that we reported.

Mr. BAUMAN. Twelve point nine million.

Mr. JOHNSON of California. Yes.

They have made additional funds available. There was really no need for our amendment as we see it. In H.R. 2440 which passed the House, our committee jurisdiction was thoroughly protected. Therefore we have no opposition to the bill that the Committee on Interstate and Foreign Commerce reported dealing with noise that comes under their jurisdiction. The money has already been appropriated.

Mr. BAUMAN. Is there a legislative veto in place now in any legislation that is passed the House and Senate, allow as to review the regulations of EPA on noise control?

Mr. JOHNSON of California. Yes; we always have that power.

Mr. BAUMAN. I mean a formal system as provided in the bill before us now, the so-called Levitas amendment that has been offered so many times.

Mr. JOHNSON of California. It was in the bill we reported, H.R. 3995.

Mr. BAUMAN. But this bill has not become law and the gentleman's request would remove the legislative veto.

Mr. JOHNSON of California. Not as yet.

Mr. HARSHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Public Works and Transportation reported authorization legislation for the Noise Control Act substantially different than that reported by the Commerce Committee. Our committee had serious questions about EPA's noise control program as it relates to aviation noise. There appears to be a low priority given to aircraft noise abatement at EPA since only 2 percent of their noise staff spends time on aircraft noise. Further research on the subject was far below the efforts of FAA and NASA.

This dearth of noise abatement activity also holds true in the grant program for noise abatement planning. Finally we were unpersuaded that EPA had made any meaningful effort to coordinate its activities with other Federal departments and agencies.

As a result of our hearings on the legislation, we concluded that EPA's aviation noise abatement activities represented unnecessary duplication of the efforts of the FAA.

The public works bill accordingly reduced the authorization for fiscal year 1980 and eliminated the fiscal year 1981 authorization pending further committee oversights to thoroughly review EPA's noise control program.

Recently the House and Senate approved the conference report on the Aviation Safety and Noise Abatement Act which treated the subject of aircraft noise. In the noise planning area the committee gives EPA additional responsibilities with regard to noise abatement planning. We expect to closely monitor EPA to determine if they are effectively carrying our their duties under that new act and the Noise Control Act as well.

Due to passage of the Aviation Safety and Noise Abatement Act I understand the chairman of the Public Works and Transportation Committee intends to ask unanimous consent to withdraw the committee amendments to the Noise Control Act authorization. The minority concurs with this intent.

I would like to add that the withdrawal of these amendments does not represent a relinquishment of Public Works' jurisdiction over the Noise Control Act.

In view of EPA's activity or rather lack of activity I question whether a 2-year authorization is warranted at this time.

Mr. Chairman, at this time I yield 3 minutes to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, I reluctantly rise in opposition to this legislation which specifically provides $15 million to the EPA to carry out the Noise Control Act. This bill was sequentially referred to the Committee on Public Works and Transportation. We made substantial changes which I now understand are no longer supported by the other side. We only authorized the expenditure for 1 year, we had a 1-year authorization. We reduced the amount to $11 million and third, we put in a provision for a one-House veto. These amendments were passed quite substantially in our committee. The first amendment with regard to the amount of money and the 1-year authorization passed by a vote of 21 to 8. The Levitas amendment was passed by a voice vote without any evident opposition at all.

During hearings on this authorization legislation, we learned that EPA's role in abating aircraft noise is questionable. Only about two people on EPA's noise staff work full time on aviation noise abatement versus the equivalent of 100 people at the FAA.

EPA has also played a limited role in its consultative capacity with the FAA. EPA's most recent aircraft noise abatement proposal was submitted to FAA 2 years ago.

We found a similar situation concerning the effectiveness of EPA in coordinating Federal research in aviation noise. NASA and the FAA devote considerable research time to noise compared to the EPA.

EPA has been given authority to make grants for noise abatement planning. Although budget authority has been made available, no grants were made in fiscal year 1979 and only $65,000 is budgeted for fiscal year 1980. FAA, on the other hand, has made numerous grants totaling about $4 million.

What these points brought out in the hearings tell us, given the level of noise abatement activity at the FAA, is that there is an unnecessary duplication of effort at the EPA. The minimal activities of the EPA in abating aircraft noise only further compounds the extent of Government waste.

I would further point out that the appropriation for fiscal year 1980 was about $2 million less than what the legislation before us would authorize. I do not think this is fiscally responsible.

● Mr. STAGGERS. Mr. Chairman, I rise in support of H.R. 3995, which authorizes appropriations of $15 million for each of the fiscal years 1980 and 1981 to the Environmental Protection Agency to carry out the Noise Control Act of 1972 as amended by the Quiet Communities Act of 1978.

The Noise Control Act was enacted in recognition of the growing danger to the public health of inadequately controlled noise. Intolerably high noise levels produce both auditory and nonauditory adverse effects on human health.

The Quiet Communities Act of 1978 provided clear guidance to EPA that effective noise control is primarily a local matter requiring local attention and local solutions. The Federal role should not be concentrated on Federal regulation of noise sources although this is necessary in some instances, but should focus principally on assisting States and communities in their noise abatement efforts through provision of research, technical assistance and discretionary grants. The reauthorization of the noise control program in this bill reaffirms that intent. Evidence of the effectiveness of this community-based approach has already appeared. Under the ECHO (each community helps others) program communities can get technical assistance from other communities with successful programs, with EPA paying travel expenses of experts.

The Committee on Interstate and Foreign Commerce is concerned about the direction of EPA's noise emission standard setting for commercial products. EPA should focus its efforts on major noise sources posing the greatest threat to the public health and welfare and not proceed to regulate a host of noisy products that may be used for a limited duration with minimal impact. Accordingly, the reported bill contains a provision requiring EPA to submit a 5-year plan to the Congress by March 1, 1980, specifying noise control priorities by major category together with timetables and schedules for specific actions proposed to be undertaken by EPA.

The reported bill also contains a provision placing a 4-year moratorium on certain railroad noise control regulations and requiring a study of railroad noise control technology and costs. This provision responds to committee concerns regarding the cost impact of proposed railroad noise control regulations issued by EPA. The provision also clarifies the course EPA is to follow in promulgating such regulations following a decision by the U.S. Court of Appeals for the District of Columbia that EPA had misinterpreted its statutory authority with respect to regulation of interstate rail facilities.

I urge the adoption of the bill.●

☐ 1320

Mr. HARSHA. Mr. Chairman, I reserve the balance of my time.

Mr. JOHNSON of California. Mr. Chairman, I reserve the balance of my time.

Mr. FLORIO. Mr. Chairman, I yield back the balance of my time.

Mr. HARSHA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 3995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 19 of the Noise Control Act of 1972 is amended by inserting the following before the period at the end thereof: "; $15,000,000 for the fiscal year ending September 30, 1980; and $15,000,000 for the fiscal year ending September 30, 1981".

SEC. 2. (a) The Administrator of the Environmental Protection Agency shall develop and submit to the Congress not later than March 1, 1980, a five-year plan for carrying out his authorities under the Noise Control Act of 1972.

(b) (1) The plan required to be submitted under subsection (a) (hereinafter in this section referred to as "the five-year plan") shall set forth in detail the objectives of each program and other activity proposed to be carried out by the Administrator under the Noise Control Act of 1972 during the five-year period beginning on the date of submission of the plan.

(2) The five-year plan shall specify the relative priorities among the various programs and other categories of activities proposed to be undertaken by the Administrator pursuant to his authority under the Noise Control Act of 1972, together with a detailed statement of the annual levels of funding which the Administrator proposes to allocate to each such program or other category.

(3) The five-year plan shall contain a schedule or timetable of specific actions proposed to be undertaken by the Administrator during the five-year period in order to attain the objectives referred to in paragraph (1). Such schedule or timetable shall include deadlines for the interim goals necessary to attain such objectives.

(c) (1) The five-year plan shall contain a separate portion setting forth—

(A) the Administrator's research objectives respecting the health aspects of noise for such five-year period,

(B) the relative priorities among the various categories of research activities proposed to be undertaken by the Administrator for purposes of the noise control programs (together with a detailed statement of the annual levels of funding which the Administrator proposes to allocate to each such category), and

(C) a schedule or timetable of research activity proposed to be undertaken by the Administrator during such five-year period in order to attain such research objectives.

The schedule or timetable required under subparagraph (C) shall include deadlines for the interim goals necessary to attain the research objectives.

(2) The portion of the five-year plan referred to in paragraph (1) of this subsection shall contain an analysis of the relationship between the research elements of the plan referred to in such paragraph and the other elements of the plan described in subsection (a).

(d) A revision of the five-year plan shall be prepared by the Administrator and submitted to the Congress not later than January 31, 1981, and each two years thereafter. Each such revision shall set forth the information described in subsections (a) and (b) for the five-year period following the date of submission of the revision.

(e) Nothing in this section shall be construed to affect any authority of the Administrator to carry out any activity under the Noise Control Act of 1972 or under any other authority of law.

SEC. 3. (a) The Secretary of Transportation is hereby authorized and directed to conduct a study and report to Congress, not later than six months after the date of final promulgation of the regulations referred to in subsection (b), on the availability, effectiveness, and economic impact of noise abatement technology and measures, and noise abatement standards identified by the Environmental Protection Agency as being necessary to attenuate noise emitted by equipment and facilities of surface carriers engaged in interstate commerce by railroad. Such study and report shall include—

(1) the availability, cost, and effectiveness of such measures and of acquiring, installing, and maintaining such technology;

(2) the effect on railroad operations of meeting the prescribed noise abatement standards; and

(3) the financial impact on the railroad industry generally and individual railroads specifically of acquiring, installing, and maintaining such technology, implementing such measures, and meeting such standards.

(b) No rules or regulations which have been proposed or promulgated by the Environmental Protection Agency pursuant to section 17 of the Noise Control Act of 1972 subsequent to January 1, 1979, shall become effective before the date forty-eight months after the date of final promulgation thereof.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. JOHNSON of California. Mr. Chairman, I ask unanimous consent to withdraw the amendments recommended by the Committee on Public Works and Transportation.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. JOHNSON)?

Mr. SNYDER. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I am concerned about the procedure. If this is what the chairman wants to do, I feel like my colleague, the gentleman from Ohio, that it ill behooves us on the minority not to oppose the majority of the Committee on Public Works and both the majority and minority of the Committee on Interstate and Foreign Commerce.

I would like to ask the chairman, has the gentleman lost confidence in his committee?

Mr. JOHNSON of California. No, I have not lost confidence in the committee. This procedure was agreed to previously in a letter sent to the Rules Committee and we talked this over again this morning and everyone agreed then. It was supposed to have the unanimous support of the committee.

The gentleman from Georgia (Mr. LEVITAS), whose amendment is in the bill agreed. I understood there was no objection to this procedure.

Mr. SNYDER. Is the chairman suggesting that the entire committee was polled?

Mr. JOHNSON of California. No, I am not.

Mr. SNYDER. Is it customary for the chairman to do this after the full committee has acted, without the full committee acting to instruct the chairman or to authorize this kind of action?

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. Surely.

Mr. JOHNSON of California. I repeat—a letter was sent to the Committee on Rules laying this out. Everyone in the committee, including the gentleman's staff knew this.

Mr. SNYDER. I am aware of the letter.

Mr. JOHNSON of California. I presumed that every Member had it. I respect the gentleman's knowledge and his right to object. In this particular request, we asked for unanimous consent to do this. I thought it was thoroughly agreed and the gentleman from Ohio (Mr. HARSHA) the ranking minority member on the committee, I understood was in agreement on this.

Mr. SNYDER. I just want to say that it seems to me to be rather unusual procedure for the committee to adopt one amendment 21 to 8 and another by a voice vote with no apparent opposition and then without the committee further acting to even ask unanimous consent to withdraw these amendments and to capitulate on the committee's amendments.

Mr. Chairman, I will yield to the gentleman from Ohio before I withdraw my reservation.

Mr. HARSHA. Mr. Chairman, I thank the gentleman for yielding to me.

First, let me say in view of the activity or the action of the Appropriations Committee already appropriating almost $13 million for the next fiscal year, I do not see how we could very well insist on our amendment of $11 million; but in addition to that, I would like to point out to my dear colleague, the gentleman from Kentucky, that the gentleman and I discussed this proposition on the floor here while we were debating another bill as the gentleman will recall.

The chairman did discuss it with me. His staff discussed it with the minority staff. I had no problems with it, in view of the fact that as I stated during the debate that I would have found the minority of the Committee on Public Works and Transportation bucking the minority and the majority of the Interstate and Foreign Commerce Committee, as well as a majority of the full Committee on Public Works and Transportation.

The political realities of the situation of this House being what they are, I did not think it was advisable to try the impossible in this particular instance.

Now, maybe I was somewhat neglectful in my responsibilities by not polling each minority member of the full committee on this, but I did not. There are some Members that were not aware of this, but I did discuss it with the gentleman who is the ranking minority member of the Subcommittee on Aviation. He understood what we were trying to do.

It is my understanding that under the rules the only way you can withdraw this amendment, having been reported out by the committee, is to do it by unanimous consent.

Mr. SNYDER. Mr. Chairman, let me say for the record, the gentleman is eminently correct. The folly of attempting to oppose the proposed action under the circumstances is evident. The gentleman did, of course, discuss it with me. If the gentleman recalls, I indicated that I did not like it, but I was not going to try to be a one-man blockade in the way of it; but I do feel that it is an unusual procedure. I do not agree with it, but on the other hand I will not oppose it.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. Mr. Chairman, further reserving the right to object, I yield to the gentleman from California.

Mr. JOHNSON of California. Mr. Chairman, I might say the letter in question was written to the Rules Committee chairman on February 5 spelling this out. In polling the committee, as the gentleman referred to the early colloquy, I never try to poll the minority on the committee. I presumed that the ranking minority member had cleared this, because his staff had participated in drafting the letter that went to the Rules Committee.

Mr. SNYDER. Mr. Chairman, let me just observe this. I do not want to leave any false impression, because that letter was delivered to my office and I am here to admit that. When shown to me by the staff, I said, "OK. Here it is. I don't agree with it, but what can I do about it?"

And they said, "Probably nothing."

And I said, "I think you're right."

I just think it is bad procedure.

Mr. Chairman, I withdraw my reservation of objection.

Mr. HARSHA. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I shall not object, but let me say that the chairman did personally call this to my attention. The majority staff talked to the minority staff. The minority staff talked to me.

The chairman of the full committee has no responsibility whatsoever, in my judgment, to poll the minority. That is my responsibility.

Now, I did not completely poll the minority. The only person on the minority side I talked with other than staff was the gentleman from Kentucky. Maybe I was remiss in some of my responsibilities by not polling each individual member of the minority; but the chairman of the Committee on Public Works has no obligation to do that. That is my function and he is not at fault for not doing that. He cooperated with us very well on this matter. He called it to my attention, and as I pointed out earlier, we just thought that under the circumstances the best thing to do was to agree to the gentleman's unanimous-consent request.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. JOHNSON)?

Mr. BAUMAN. Mr. Chairman, I reserve the right to object.

PARLIAMENTARY INQUIRY

Mr. Chairman, first I would propose a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, am I correct that if this is objected to, the Committee on Public Works amendments to the bill remain part of the bill and would have to be changed by amendment from the floor if anyone so desired?

The CHAIRMAN. The Public Works Committee amendments in that event would have to be presented and voted on. They are not yet part of the bill.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, I understand fully as a result of the discussion that has just gone on the situation in which the two committees, the Committee on Public Works and the Committee on Interstate and Foreign Commerce find themselves; but the House is not a party to that agreement. The reason we bring legislation before the House in the Committee of the Whole is to work the will of the full body. The gentleman's committee by a majority vote has overwhelmingly approved these amendments.

☐ 1330

Mr. Chairman, the gentleman from Maryland, who does read legislation, noticed that these amendments contained significant improvements, including a 1-year authorization and the right of the Congress to review the regulations promulgated by EPA. That second provision is one we have adopted overwhelmingly and repeatedly on rollcall votes. I would hope that we would pass the bill in the form in which it was reported.

Therefore, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

COMMITTEE AMENDMENTS

The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 5, after the word, "of:", strike the remainder of the sentence through line 7, and insert: ", and $11,000,000 for the fiscal year ending September 30, 1980".

AMENDMENT OFFERED BY MR. BAUMAN AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

Mr. BAUMAN. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The clerk read as follows:

Amendment offered by Mr. BAUMAN as a substitute for the committee amendment: On page 2, after line 5, strike out all after the word "of" and insert "and $12,953,000 for the fiscal year ending September 30, 1980.".

Mr. BAUMAN. Mr. Chairman, this amendment simply conforms the bill to the amount of money which the Committee on Appropriations already provided for this program, $12.9 million, and it limits it to the current fiscal year so that the appropriate authorizing committees can consider the matter and act on it for the fiscal year 1981. This is consistent with the action taken by the Committee on Public Works and Transportation, except that it does increase the amount to meet the appropriation figure.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, if I may, I would like to ask the gentleman a question.

Did the gentleman indicate that this is for fiscal year 1981, or for fiscal year 1980?

Mr. BAUMAN. Mr. Chairman, I simply conformed the amendment to the language that is on pages 7 and 8, and I would increase the amount for the fiscal year ending September 30, 1980.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, just by way of background concerning the difficulty which arose between the two committees as a result of the jurisdictional question, the Committee on Interstate and Foreign Commerce has jurisdiction over the Noise Control Act of 1972. One of the generators of noise is aviation. The Committee on Public Works and Transportation has jurisdiction over aviation. One of the aspects of noise control is airport noise.

As a result of that jurisdictional dispute, there was some difficulty in resolving what the appropriate scope of authority is. The confusion that has arisen now comes over the authorization for the Noise Control Act of 1972.

The proposal that has been offered is for 2 years, and it is a modest amount. In fact, there is no increase from the 1979 authorization, and the gentleman's amendment would in fact provide no authorization for the upcoming fiscal year. Therefore, it serves really no purpose.

I am pleased that the Committee on Public Works and Transportation has seen fit to withdraw the amendments that it offered, and I would ask for the support of this body rejecting the proposal so that we can go forward with adequate planning in EPA.

The gentleman's concern and the concern of others is that EPA has not fully thought through its priorities in the past. Our committee was aware of that criticism and accordingly provided a 2-year authorization, as well as directions to EPA to come up with a proposal for a 5-year plan ordering its priorities so that we can exercise appropriate oversight over EPA.

As was indicated in my preliminary comments, we are starting to exercise that oversight in a number of specific areas, including regulations in regard to airport noise. Those things are being done, and in effect what the gentleman's amendment will do will be to preclude our committee from effecting that appropriate oversight.

So, Mr. Chairman, I would ask for the defeat of this amendment so we can go forward with our appropriate responsibilities.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I do not understand the gentleman's statement that my amendment would preclude effective oversight. The gentleman can call a hearing any time he wants and bring in the EPA witnesses and exercise oversight. All I do by my amendment is to limit the authority to the 1 year for which funds have already been appropriated.

Mr. FLORIO. Mr. Chairman, what we are doing is providing adequate funds for a 2-year program. Directing our attention to the other portions of the bill, we are asking EPA to provide certain planning statements to be brought back to the Congress and to provide reports on their priorities. This 1-year authorization will in fact preclude and inhibit EPA from going forward with the other responsibilities with which we are charging them.

If in fact we are directing the listing of priorities by EPA, we have to provide them with the resources to do that so that we can monitor and oversee what it is they are reporting back to us.

Mr. JOHNSON of California. Mr. Chairman, I move to strike the last word, and I rise in opposition to the substitute amendment.

Mr. Chairman, our Committee on Public Works and Transportation has looked at this matter since the passage of H.R. 2440. We decided to reconsider our action and as I stated earlier, there was an agreement within the Committee on Public Works and Transportation that we draft a letter to the Committee on Rules stating our new position.

That letter was sent to the Committee on Rules on February 5. There was no opposition to this position at the Committee on Rules or when the rule was considered here earlier.

We are well into fiscal year 1980 at the present time, and in order to give the necessary planning time to the EPA people, I do believe that we should stay with the authorization for fiscal years 1980 and 1981. The $12.9 million has been made available for 1980, and as I stated, fiscal year 1980 is almost halfway through. This would leave us a very short time to accomplish the objective to take care of 1980 and 1981.

Personally, speaking for myself as chairman of the Committee on Public Works and Transportation, I am in opposition to the amendment. I would ask for a "no" vote on the substitute amendment offered by the gentleman from Maryland (Mr. BAUMAN). Under leave to extend my remarks I include for the RECORD the letter of February 5 previously referred to from myself to the chairman of the Rules Committee:

FEBRUARY 5, 1980.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Rules Committee will meet today to consider H.R. 3995, a bill to authorize appropriations for the Environmental Protection Agency (EPA) to carry out its responsibilities under the Noise Control Act for fiscal years 1980 and 1981.

The Committee on Public Works and Transportation has legislative jurisdiction over the subject of civil aviation in general and aircraft noise in particular. Consistent with this jurisdiction, H.R. 3995, a bill to authorize appropriations for EPA to carry out its responsibilities under the Noise Control Act (which includes aviation noise) for fiscal years 1980 and 1981, was sequentially referred to the Committee on Public Works and Transportation after that legislation had been favorably reported by the Committee on Interstate and Foreign Commerce.

As reported by the Committee on Interstate and Foreign Commerce, H.R. 3995 authorizes appropriations in the amount of $15 million for FY 80 and 81 for the EPA to carry out its Noise Control Act authority, requires EPA to submit a five-year plan for carrying out this authority, and also requires the Secretary of Transportation to prepare a study on the impact of implementing railroad noise abatement regulations. Because of serious questions about the viability of EPA's noise control program as it relates to aviation, the Committee on Public Works and Transportation reduced the agency's authorization for this program to $11 million and limited it to FY 80 only. In addition, it also provided for a legislative veto of EPA's regulations promulgated under the Noise Control Act.

Despite these legitimate concerns, I believe that recent events require a reassessment of the Committee's position. As you know, the House recently passed the conference report for H.R. 3942, the Aviation Safety and Noise Abatement Act. In this legislation, EPA was given additional responsibilities with respect to aviation noise. Additionally, Congress has recently enacted legislation appropriating funds for EPA's noise control program for fiscal 1980, PL 96-103, and the appropriation level exceeds the authorization level in the Public Works and Transportation Committee bill. In these circumstances, I believe that the Public Works Committee would no longer oppose authorization of a two-year program at a level of $15 million a year.

For these reasons, the Public Works Committee does not plan to testify at today's Rules Committee deliberations. In addition, when this bill comes up for a vote on the House floor, I intend to ask unanimous consent that the Committee amendments be withdrawn.

Naturally, this action in no way affects the jurisdiction of the Committee on Public Works and Transportation over the EPA's authority under the Noise Control Act. Hearings held by our Committee caused our members to question whether some of the EPA's transportation noise activities represent an unnecessary duplication of responsibilities of other agencies; whether some of EPA's transportation noise control responsibilities could be more effectively carried out by other agencies; and whether EPA has participated vigorously in FAA's regulatory assignments. If these problems persist in the future, the Committee will not hesitate to exercise its jurisdiction in this area.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN) as a substitute for the committee amendment.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. FLORIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment offered as a substitute for the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 13; noes 26.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-eight Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 47]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Annunzio
Anthony
Applegate
Archer
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McHugh
McKay
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Sabo
Santini
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

☐ 1350

The CHAIRMAN. Three hundred and forty-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 205, not voting 78, as follows:

[Roll No. 48]

AYES—150

Abdnor
Applegate
Archer
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bouquard
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Butler
Byron
Campbell
Cheney
Clinger
Coleman
Collins, Tex.
Conable
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Evans, Del.
Evans, Ind.
Fenwick
Flippo
Forsythe
Fountain
Fuqua
Gaydos
Gingrich
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hightower
Hillis
Hinson
Holt
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, Okla.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Livingston
Loeffler
Long, Md.
Lott
Luken
Lungren
McClory
McDonald
Martin
Mathis
Michel
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Murtha
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Pashayan
Paul
Preyer
Pursell
Quayle
Quillen
Railsback
Regula
Robinson
Roth
Rousselot
Runnels
Santini
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Thomas
Trible
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Winn
Wylie
Yatron
Young, Fla.

NOES—205

Addabbo
Akaka
Albosta
Ambro
Annunzio
Anthony
Ashley
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Brown, Calif.
Burgener
Burlison
Burton, John
Burton, Phillip
Carney
Carr
Carter
Chisholm
Clausen
Clay
Cleveland
Coelho
Collins, Ill.
Conte
Conyers
Cotter
D'Amours
Danielson
Daschle
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Hall, Ohio
Hamilton

Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kogovsek
LaFalce
Lee
Lehman
Leland
Levitas
Lewis
Lloyd
Lowry
Lundine
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Natcher
Nedzi
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Porter
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Schroeder
Seiberling
Shannon
Shuster
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Vander Jagt
Vento
Volkmer
Walgren
Weaver
Weiss
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wydler
Yates
Young, Mo.
Zablocki

NOT VOTING—78

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Aspin
Blanchard
Brooks
Cavanaugh
Chappell
Corcoran
Corman
Davis, S.C.
Diggs
Dornan
Edwards, Calif.
Edwards, Okla.
Erlenborn
Fazio
Findley
Fish
Frenzel
Garcia
Giaimo
Gibbons
Goldwater
Hanley
Hansen
Hefner
Horton
Johnson, Colo.
Jones, N.C.
Kostmayer
Latta
Leach, La.
Lederer
Lent
Long, La.
Lujan
McCloskey
McEwen
Madigan
Marlenee
Marriott
Mineta
Mitchell, N.Y.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nolan
Petri
Pickle
Pritchard
Rhodes
Ritter
Roberts
Rudd
Russo
Satterfield
Scheuer
Simon
Skelton
Spence
Symms
Treen
Udall
Ullman
Van Deerlin
Vanik
Walker
Waxman
White
Wilson, C. H.
Wright
Wyatt
Young, Alaska
Zeferetti

☐ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Ashbrook for, with Mr. Mineta against.

Mr. Lujan for, with Mr. Fazio against.

Mr. Rudd for, with Mr. Zeferetti against.

Mr. Latta for, with Mr. Murphy of New York against.

Mr. Hansen for, with Mr. Lent against.

Mr. DUNCAN of Tennessee and Mr. DAVIS of Michigan changed their votes from "no" to "aye."

So the committee amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendment of the Committee on Public Works and Transportation.

The Clerk read as follows:

Committee amendment:

SEC. 4. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule by the Environmental Protection Agency under authority of the Noise Control Act of 1972, the Administrator of the Environmental Protection Agency shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule shall not become effective, if—

(A) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule promulgated by the Environmental Protection Agency dealing with the matter of   , which rule was transmitted to Congress on   .", the blank spaces therein being appropriately filled; or

(B) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval, shall not be deemed an expression of approval of such rule.

(e) For purposes of this section, the term "rule" includes, but is not limited to, any rule, promulgation, principle, standard, or procedure, or any part thereof.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

In light of the fact we have better attendance than we had earlier on, I think it is important to note that this amendment was an amendment that was initially offered by the Committee on Public Works and Transportation and the chairman of that committee has asked to have the amendemnt withdrawn by unanimous consent. There was objection, and we are now in the unusual situation of having an amendment that was put forth by a committee and that committee no longer is seeking to have that amendment considered by the House; yet, the amendment is before us anyway.

In effect, what the amendment does is provide for a legislative veto of all regulations issued by EPA in its capacity as the administering agency dealing with the Noise Control Act of 1972. This amendment is not needed because our committee has done everything possible to attempt to exercise the appropriate control over EPA with regard to the Noise Control Act and, in fact, as is contained in the bill, we have charged EPA with the responsibility of reporting to the Congress its 5-year plan for priorities as to where its resources will go and where its efforts will be directed.

☐ 1410

That plan is to be reported back within the next few weeks. We have charged DOT and EPA with reporting to us on the cost effectiveness of proposed regulations dealing with railroad noise.

In essence, Mr. Chairman, all I am suggesting to you is that our committee has done everything possible and continues to do everything possible to make EPA accountable to this Congress. Therefore we are avoiding the constitutional questions that are associated with a legislative veto, and at the same time we are getting the beneficial result of having full accountability. We have a well-thought-out proposal that does provide the maximum accountability on the part of EPA to this Congress, and accordingly regard this amendment as of no consequence and would ask for its defeat.

Mr. LEVITAS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the committee amendment which we are about to vote on was an amendment which I offered in the full Committee on Public Works and Transportation to give the Congress the right to review and, if necessary, to veto regulations issued by the Environmental Protection Agency under its authority provided by this legislation. If the amendment had failed to have been adopted in the committee, it would have been my purpose to have offered it as a separate amendment on the floor so that the Members of this body would have the opportunity to express themselves on the question of whether the regulations and rules which become law, in effect, should be written ultimately by unelected bureaucrats or by the elected Congress accountable to the public.

Now, if the committee amendment is not accepted at this point, then it will not be in order for this amendment to be offered again because it will be identical in form to that which has been adopted on numerous occasions by this body. Consequently, I would urge that the Members of this Commitee of the Whole House on the State of the Union approve, vote for the committee amendment so that the consistent position of this body, the body that represents the people of the United States throughout the country, will remain accountable to them for those laws—called regulations—which determine their lives and livelihood.

It is just a simple question of who is going to make the laws in this Nation, the unelected bureaucrats or the elected Congress accountable to the people.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman for yielding. I know the gentleman from Georgia is almost the father of the legislative veto because of his interest in this area in recent years. Is this not a similar or almost identical provision to that we have adopted by overwhelming rollcall votes on many, many occasions, and to many, many programs already in existence?

Mr. LEVITAS. This is identical to the same provision this body has adopted on numerous occasions. I suggest to the Members that it would be mischievous for this House not to again overwhelmingly endorse this position, because we are soon going to be in conference with the other body on a very important amendment identical to this on the Federal Trade Commission Act. If we do not stand firm now, I assure you, they will use this as a means to try to strip this veto provision off in the Federal Trade Commission bill. Therefore, I urge and I plead with the Members of the House to stand fast, to stand up for the rights of the people; that we, as elected officials, and not unelected bureaucrats, have the final say-so in the laws that affect this great Nation.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to take the floor on this particular amendment because I agree with the gentleman from Georgia, the author of the amendment. I have supported him in committee and a number of times on the floor on it, but I think it is necessary for me to clarify my position on this procedure at this time.

This legislation was sequentially referred to the Committee on Public Works and Transportation. There was great concern in our committee about jurisdiction and overlapping jurisdiction between the two committees, and whether or not that committee, the Committee on Public Works and Transportation, would lose some of its jurisdiction in the area of noise pollution control, particularly as that subject applies to the airways and transportation.

Having passed the aviation noise abatement conference report last week in the House, that having gotten out of the way, and our committee having been assured that there was no attempt by the Committee on Interstate and Foreign Commerce to infringe upon the jurisdiction of the Committee on Public Works and Transportation, the chairman of the Committee on Public Works and Transportation and I felt it was proper now to withdraw any amendments we had made to this particular bill. What we are trying to do here is to withdraw our amendments and let the Interstate and Foreign Commerce Committee proceed with their bill as reported out of committee.

The real issue here started as a jurisdictional dispute. It develops that now there is none. That is the reason why we are now seeking to drop our amendments, and I wanted the House to understand the situation before working its will.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, just to reinforce the point, there is not any question about the fact that the Public Works and Transportation Committee and Commerce Committee jurisdictions squabble just involved aviation. However, the Noise Control Act of 1972 has jurisdiction over other generators of noise such as railroads, and the Committee on Public Works and Transportation makes no claim with respect to those other areas.

Mr. HARSHA. The gentleman is correct that the Public Works Committee makes no claim as to jurisdiction over railroad noise.

Mr. FLORIO. I thank the gentleman.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

Mr. Chairman, the distinguished gentleman from Georgia (Mr. LEVITAS), who is the father of all of the provisions having to do with what is called the legislative veto, has said that to vote against this amendment would in some way affect the bill concerning the Federal Trade Commission now before a conference committee.

The issue involved here is quite a different issue than that concerning the Federal Trade Commission. The authority given to the agency with respect to noise abatement is a narrowly specified authority, an authority which is being watched and controlled by the committee which is dealing with that particular subject matter. On the other hand, the Federal Trade Commission authority is an extremely general authority.

Now, I think as Members here know, I have generally opposed the legislative veto, but if there is an argument for the legislative veto, it would be with respect to an authority that is as broad as the Federal Trade Commission's authority. That authority arises under section 5 of the Federal Trade Commission Act, and permits rulemaking in any areas which will promote preventing unfair and deceptive practices. It is practically as wide as the jurisdictional mandate of Congress in that area.

The authority here granted is a narrow authority which is defined and limited to only the question of abatement of noise under circumstances delineated in the statute.

□ 1420

Now, it may be said ad nauseum that faceless bureaucrats make law. In some instances they may, if we are so careless in our legislation in Congress as to grant a wide and unlimited delegation of authority, but that has not been done in the act here before us. It would be inappropriate, even if one believes that the Federal Trade Commission should be stemmed in its broad authority, to apply the same rule to this bill. Certainly the members of the subcommittee who deal with this subject matter are not unelected bureaucrats; they are persons concerned with whether or not the definition narrowly drawn for a specific matter is being carried out. That is the function of oversight in this Congress. We will not correct Congress indifference to its oversight function—and I think Congress is subject to some criticism on this score—if we simply attach a yo-yo string to broadly delegated authority so we can pretend that we are able to pull it back. We are not very likely to pull it back in the first place, but the way to guard our prerogative is precisely the manner in which the distinguished subcommittee chairman is operating in exercising the closest of surveillance, scrutiny, and oversight of the subject matter under his subcommittee's jurisdiction. I urge a "no" vote on the committee amendment.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Mr. Chairman, I desire to propound a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. LEVITAS. Mr. Chairman, in the event that the committee amendment is not agreed to, would it then be in order for the gentleman from Georgia or any other Member to offer the same amendment at some other point in these proceedings?

The CHAIRMAN. The identical amendment could not again be offered.

Mr. LEVITAS. The only opportunity we would then have to vote, if this legislative veto amendment is in the bill, is at this point?

The CHAIRMAN. On the Public Works Committee amendment, that is correct.

Mr. LEVITAS. I thank the Chairman.

The CHAIRMAN. The question is on the committee amendment.

The question was taken; and on a division (demanded by Mr. LEVITAS) there were—ayes 52, noes 44.

RECORDED VOTE

Mr. FLORIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 253, noes 103, not voting 77, as follows:

[Roll No. 49]

AYES—253

Abdnor
Addabbo
Akaka
Albosta
Andrews, N.C.
Anthony
Applegate
Archer
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler

Byron
Campbell
Carney
Carr
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Derwinski
Devine
Dickinson
Dicks
Dodd
Donnelly
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fisher
Fithian
Flippo
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Luken
Lungren
McClory
McDade
McDonald
McKay
McKinney
Marks
Martin
Mathis
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Paul
Pepper
Porter
Preyer
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rinaldo
Robinson
Roe
Rose
Roth
Rousselot
Royer
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki

NOES—103

Ambro
Annunzio
Ashley
Baldus
Barnes
Bedell
Beilenson
Biaggi
Bingham
Bolling
Bonior
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Chisholm
Clay
Coelho
Collins, Ill.
Conyers
Danielson
Deckard
Dellums
Derrick
Dingell
Dixon
Downey
Drinan
Early
Eckhardt
Edgar
Fary
Fascell
Ferraro
Florio
Foley
Ford, Mich.
Ford, Tenn.
Gonzalez
Gray
Green
Hawkins
Heckler
Holland
Holtzman
Jeffords
Kastenmeier
LaFalce
Lehman
Leland
Lloyd
Lowry
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mavroules
Mikulski
Miller, Calif.
Minish
Mitchell, Md.
Moakley
Moffett
Nowak
Obey
Ottinger
Patten
Pease
Perkins
Peyser
Price
Rangel
Reuss
Richmond
Rodino
Rosenthal
Rostenkowski
Roybal
Sabo
Seiberling
Shannon
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Thompson
Vento
Walgren
Weaver
Weiss
Williams, Mont.
Wirth
Yates

NOT VOTING—77

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Aspin
Blanchard
Brooks
Cavanaugh
Chappell
Corcoran
Corman
Davis, S.C.
Diggs
Dornan
Edwards, Calif.
Edwards, Okla.
Erdahl
Erlenborn
Fazio
Findley
Fish
Garcia
Giaimo
Gibbons
Goodling
Hansen
Hefner
Horton
Johnson, Colo.
Jones, N.C.
Kelly
Kostmayer
Latta
Leach, La.
Lederer
Lent
Long, La.
Lujan
McCloskey
McEwen
Madigan
Marlenee
Marriott
Mineta
Mitchell, N.Y.
Murphy, Ill.
Myers, Pa.
Nolan
Petri
Pickle
Pritchard
Rhodes
Ritter
Roberts
Rudd
Runnels
Russo
Satterfield
Simon
Skelton
Spence
Symms
Treen
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walker
Waxman
White
Wilson, C. H.
Wright
Wyatt
Young, Alaska
Zeferetti

□ 1440

Mrs. HECKLER changed her vote from "aye" to "no."

So the committee amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any additional amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FISHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3995) to authorize appropriations for the Noise Control Act of 1972 for the fiscal years 1980 and 1981, pursuant to House Resolution 560, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 288, nays, 70, not voting 75, as follows:

[Roll No. 50]

YEAS—288

Addabbo
Albosta
Andrews, N.C.
Annunzio
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
LaFalce
Lagomarsino
Leach, Iowa
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Lloyd
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Porter
Preyer
Price
Pursell
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—70

Abdnor
Akaka
Ambro
Anthony
Applegate
Archer
Badham
Barnard
Bauman
Bethune
Campbell
Cheney
Collins, Tex.
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Evans, Ind.
Fenwick
Forsythe
Fountain
Gingrich
Gramm
Hall, Tex.
Hammerschmidt
Hance
Hinson
Holt
Ichord
Jacobs
Jeffries
Jenrette
Jones, Okla.
Kindness
Kramer
Leath, Tex.
Loeffler
Lott
Lungren
McDonald
Martin
Michel
Montgomery
Murphy, Pa.
Neal
O'Brien
Pashayan
Paul
Quillen
Rahall
Rose
Rousselot

Runnels
Shumway
Shuster
Slack
Smith, Nebr.
Snyder
Solomon
Stangeland
Stenholm
Stockman
Stump
Taylor
Thomas
Watkins

NOT VOTING—75

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Aspin
Blanchard
Brooks
Cavanaugh
Chappell
Corcoran
Corman
Davis, S.C.
Diggs
Dornan
Edwards, Calif.
Edwards, Okla.
Erlenborn
Fazio
Findley
Fish
Garcia
Giaimo
Gibbons
Goodling
Hansen
Hefner
Horton
Johnson, Colo.
Jones, N.C.
Kelly
Kostmayer
Latta
Leach, La.
Lederer
Lent
Long, La.
Lujan
McCloskey
McEwen
Madigan
Marlenee
Marriott
Mineta
Mitchell, N.Y.
Murphy, Ill.
Myers, Pa.
Nolan
Petri
Pickle
Pritchard
Quayle
Rhodes
Ritter
Roberts
Rudd
Russo
Satterfield
Simon
Skelton
Spence
Symms
Treen
Udall
Ullman
Van Deerlin
Vanik
Walker
Waxman
White
Wilson, C. H.
Wright
Wyatt
Young, Alaska
Zeferetti

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that following this rollcall, the House will take up only the rule on the Federal Crop Insurance Act, so that the House consider the bill tomorrow and go to completion of the bill or 3 o'clock; upon conclusion of the debate and the vote on the rule, the business of the day will have been completed.

□ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Cavanaugh against.

Mr. Mineta for, with Mr. Chappell against.

Until further notice:

Mr. Fazio with Mr. Pritchard.

Mr. Corman with Mr. Quayle.

Mr. Jones of North Carolina with Mr. Horton.

Mr. Van Deerlin with Mr. Anderson of Illinois.

Mr. Zeferetti with Mr. Andrews of North Dakota.

Mr. Myers of Pennsylvania with Mr. Latta.

Mr. Giaimo with Mr. Madigan.

Mr. Edwards of California with Mr. Marlenee.

Mr. Diggs with Mr. Treen.

Mr. Brooks with Mr. Mitchell of New York.

Mr. Anderson of California with Mr. Petri.

Mr. Long of Louisiana with Mr. Fish.

Mr. Nolan with Mr. Edwards of Oklahoma.

Mr. Pickle with Mr. Dornan.

Mr. Roberts with Mr. Ashbrook.

Mr. Wright with Mr. Kelly.

Mr. Charles H. Wilson of California with Mr. Leach of Louisiana.

Mr. Russo with Mr. Lent.

Mr. Simon with Mr. Ritter.

Mr. Skelton with Mr. Rudd.

Mr. White with Mr. Spence.

Mr. Waxman with Mr. Young of Alaska.

Mr. Davis of South Carolina with Mr. Goodling.

Mr. Blanchard with Mr. Findley.

Mr. Garcia with Mr. Erlenborn.

Mr. Udall with Mr. Corcoran.

Mr. Ullman with Mr. Johnson of Colorado.

Mr. Hefner with Mr. Lujan.

Mr. Gibbons with Mr. McCloskey.

Mr. Vanik with Mr. Symms.

Mr. Alexander with Mr. Marriott.

Mr. Aspin with Mr. McEwen.

Mr. Kostmayer with Mr. Hansen.

Mr. Murphy of Illinois with Mr. Walker.

Mr. Satterfield with Mr. Wyatt.

Mr. LOEFFLER, Mr. DANNEMEYER, and Mrs. SMITH of Nebraska changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1500

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. ANNUNZIO). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1144) to authorize appropriations for the Quiet Communities Act for the fiscal years 1980 and 1981, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Noise Control Act of 1972 be amended to read, "This Act may be cited as the 'Quiet Communities Act' ".

SEC. 2. All references in other laws to the Noise Control Act of 1972 be deemed to be references to the Quiet Communities Act.

SEC. 3. That section 19 of the Quiet Communities Act is amended by inserting the following before the period at the end thereof: "; $15,000,000 for the fiscal year ending September 30, 1980; and $15,000,000 for the fiscal year ending September 30, 1981".

SEC. 4. (a) The Administrator of the Environmental protection Agency shall develop and submit to the Congress not later than March 1, 1980, a five-year plan for carrying out the authorities under the Quiet Communities Act.

(b) (1) The plan required to be submitted under subsection (a) (hereinafter in this section referred to as "the five-year plan") shall set forth in detail the objectives of each program and other activity proposed to be carried out by the Administrator under the Quiet Communities Act during the five-year period beginning October 1, 1980.

(2) The five-year plan shall specify the relative priorities among the various programs and other categories of activities proposed to be undertaken by the Administrator pursuant to his authority under the Quiet Communities Act, together with a detailed statement of the annual levels of funding which the Administrator proposes to allocate to each such program or other category.

(3) The five-year plan shall contain a schedule or timetable of specific actions proposed to be undertaken by the Administrator during the five-year period in order to attain the objectives referred to in paragraph (1). Such schedule or timetable shall include deadlines for the interim goals necessary to attain such objectives.

(4) The five-year plan shall be developed in consultation with State and local governments and shall identify (A) specific actions and programs which may be undertaken by such governments to control noise under the Quiet Communities Act or possible modification thereof and (B) levels of funding necessary to implement such actions or programs.

(c) (1) The five-year plan shall contain a separate portion setting forth—

(A) the Administrator's research objectives respecting the health aspects of noise for such five-year period,

(B) the relative priorities among the various categories of research activities proposed to be undertaken by the Administrator or other Federal agencies for purposes of the noise control programs (together with a detailed statement of the annual levels of funding which the Administrator proposes to allocate to each such category), and

(C) a schedule or timetable of research activity proposed to be undertaken by the Administrator or other Federal agencies during such five-year period in order to attain such research objectives.

The schedule or timetable required under subparagraph (C) shall include deadlines for the interim goals necessary to attain the research objectives.

(2) The portion of the five-year plan referred to in paragraph (1) of this subsection shall contain an analysis of the relationship between the research elements of the plan referred to in such paragraph and the other elements of the plan described in subsection (a).

(d) The five-year plan shall also contain a separate portion on aircraft and airport noise conducted and reported in accordance with section 7(a) of the Quiet Communities Act.

(e) A revision of the five-year plan shall be prepared by the Administrator and submitted to the Congress not later than January 31 of 1981 and each two years thereafter. Each such revision shall set forth the information described in subsections (a) and (b) for the five-year period following the date of submission of the revision.

(f) Nothing in this section shall be construed to affect any authority of the Administrator to carry out any activity under the Quiet Communities Act or under any other authority of law.

SEC. 5. Section 17 of the Quiet Communities Act is amended by inserting a new subsection (e) at the end thereof, as follows:

"(e) At any time after the promulgation of regulations under this section, a State or political subdivision thereof may petition the Administrator to revise such standard on the grounds that a more stringent standard is necessary to protect the public health and welfare. The Administrator shall publish a notice of receipt of such petition in the Federal Register and shall within ninety days of receipt of such petition, respond by (1) publication of proposed revised regulations, or (2) publication in the Federal Register of a decision not to publish such revised regulations, together with a detailed explanation for such decisions.".

MOTION OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLORIO moves to strike out all after the enacting clause of the Senate bill, S. 1144, and to insert in lieu thereof the provisions of the bill, H.R. 3995, as passed by the House, as follows:

That section 19 of the Noise Control Act of 1972 is amended by inserting the following before the period at the end thereof: ", $15,000,000 for the fiscal year ending September 30, 1980; and $15,000,000 for the fiscal year ending September 30, 1981".

SEC. 2. (a) The Administrator of the Environmental Protection Agency shall develop and submit to the Congress not later than March 1, 1980, a five-year plan for carrying out his authorities under the Noise Control Act of 1972.

(b) (1) The plan required to be submitted under subsection (a) (hereinafter in this section referred to as "the five-year plan") shall set forth in detail the objectives of each program and other activity proposed to be carried out by the Administrator under the Noise Control Act of 1972 during the five-year period beginning on the date of submission of the plan.

(2) The five-year plan shall specify the relative priorities among the various programs and other categories of activities proposed to be undertaken by the Administrator pursuant to his authority under the Noise Control Act of 1972, together with a detailed statement of the annual levels of funding which the Administrator proposes to allocate to each such program or other category.

(3) The five-year plan shall contain a schedule or timetable of specific actions proposed to be undertaken by the Administrator during the five-year period in order to attain the objectives referred to in paragraph (1). Such schedule or timetable shall include deadlines for the interim goals necessary to attain such objectives.

(c) (1) The five-year plan shall contain a separate portion setting forth—

(A) the Administrator's research objectives respecting the health aspects of noise for such five-year period,

(B) the relative priorities among the various categories of research activities proposed to be undertaken by the Administrator for purposes of the noise control programs (together with a detailed statement of the annual levels of funding which the Administrator proposes to allocate to each such category), and

(C) a schedule or timetable of research activity proposed to be undertaken by the Administrator during such five-year period in order to attain such research objectives.

The schedule or timetable required under subparagraph (C) shall include deadlines for the interim goals necessary to attain the research objectives.

(2) The portion of the five-year plan referred to in paragraph (1) of this subsection shall contain an analysis of the relationship between the research elements of the plan referred to in such paragraph and the other elements of the plan described in subsection (a).

(d) A revision of the five-year plan shall be prepared by the Administrator and submitted to the Congress not later than January 31, 1981, and each two years thereafter. Each such revision shall set forth the information described in subsections (a) and (b) for the five-year period following the date of submission of the revision.

(e) Nothing in this section shall be construed to affect any authority of the Administrator to carry out any activity under the Noise Control Act of 1972 or under any other authority of law.

SEC. 3. (a) The Secretary of Transportation is hereby authorized and directed to conduct a study and report to Congress, not later than six months after the date of final promulgation of the regulations referred to in subsection (b), on the availability, effectiveness, and economic impact of noise abatement technology and measures, and noise abatement standards identified by the Environmental Protection Agency as being necessary to attenuate noise emitted by equipment and facilities of surface carriers engaged in interstate commerce by railroad. Such study and report shall include—

(1) the availability, cost, and effectiveness of such measures and of acquiring, installing, and maintaining such technology;

(2) the effect on railroad operations of meeting the prescribed noise abatement standards; and

(3) the financial impact on the railroad industry generally and individual railroads specifically of acquiring, installing, and maintaining such technology, implementing such measures, and meeting such standards.

(b) No rules or regulations which have been proposed or promulgated by the Environmental Protection Agency pursuant to section 17 of the Noise Control Act of 1972 subsequent to January 1, 1979, shall become effective before the date forty-eight months after the date of final promulgation thereof.

SEC. 4. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule by the Environmental Protection Agency under authority of the Noise Control Act of 1972, the Administrator of the Environmental Protection Agency shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule shall not become effective, if—

(A) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule promulgated by the Environmental Protection Agency dealing with the matter of   , which rule was transmitted to Congress on   .", the blank spaces therein being appropriately filled; or

(B) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval, shall not be deemed an expression of approval of such rule.

(e) For purposes of this section, the term "rule" includes, but is not limited to, any rule, regulation, principle, standard, or procedure, or any part thereof.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriations for the Noise Control Act of 1972 for the fiscal years 1980 and 1981."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3995) was laid on the table.

TRIBUTE TO IRVING LEIBOWITZ

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that I be permitted to include my remarks in the Extensions of Remarks of the RECORD and to include therein extraneous material notwithstanding the fact that it exceeds two pages and is estimated by the Public Printer to cost $884.25.

It should be noted that in loving memory of Irving Leibowitz the Ohio-Washington News Service and the Lorain Journal have contributed $195 to the U.S. Treasury to cover the printing of the additional one-half page.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4119, FEDERAL CROP INSURANCE ACT OF 1979

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 562 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 562

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4119) to improve and expand the Federal crop insurance program, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Louisiana (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 562 provides for the consideration of H.R. 4119, Federal Crop Insurance Act. The rule grants an hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Agriculture. It is an open rule, allowing consideration of any germane amendment under the 5-minute rule.

The resolution also makes the committee amendment in the nature of a substitute in order as original text for amendment purposes.

House Resolution 562 waives two sections of the congressional budget act against consideration of the original bill. These are section 401(a)—prohibiting contract or borrowing authority not made subject in the bill in advance to appropriations action, and section 402 (a)—requiring authorizations to be reported by May 15 preceding the beginning of the fiscal year to which they pertain.

These waivers are necessary because, as introduced, section 10 of the bill allowed the Federal Crop Insurance Corporation to borrow from the U.S. Treasury in case of insufficiency, without stipulating that such borrowing authority was contingent upon future appropriations. Although this violates section 401 of the budget act, the violation is purely technical, since the Agriculture Committee later adopted a substitute containing such a stipulation.

A waiver of section 402(a) is needed because, while H.R. 4119 authorizes funds for fiscal year 1980, it was not reported by May 15, 1979. However, in view of the fact that the cost for fiscal year 1980 will be small, and that these expenditures are consistent with the levels contained in the second budget resolution for 1980, the Rules Committee granted a waiver in this case.

Finally, the resolution waives clause 5, rule XXI—prohibiting appropriations in a legislative bill—against consideration of the substitute. The waiver is needed because several sections of the bill including section 3(a), section 4, and section 7, may result in an unauthorized appropriation.

Mr. Speaker, there are currently two Federal programs indemnifying farmers against crop loss or damage, each of which has certain limitations. Federal all-risk crop insurance is available in about half of the Nation's counties for, usually, one or two crops per county. A very high premium is required for participation in this program. In addition, over the last 5 years the Federal Government has operated set-aside farm programs for various crops, one benefit of which is prevented-planting disaster payments for participating farmers. Each of these programs is circumscribed in terms of both crop coverage and geographic availability.

H.R. 4119 is intended to provide comprehensive all-risk insurance to every American farmer. The legislation provides for a 150-percent increase on the capital stock of the Federal Crop Insurance Corporation, for cooperation with private insurers, and for a 2-year phaseout of the disaster payments program.

Mr. Speaker, I support this legislation and urge my colleagues to begin its prompt consideration by adopting House Resolution 562.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule providing for the consideration of H.R. 4119, the Federal Crop Insurance Act of 1979. Section 401(a) of the Budget Act, which requires that new borrowing authority be effective for any fiscal year only to such extent as is provided in advance appropriation acts, is waived. Additionally section 402(a) of the Budget Act, the May 15 deadline, also is waived. The rule makes in order the consideration of the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for purposes of amendment. Clause 5, rule XXI is waived against consideration of the substitute, since it contains a reappropriation of existing appropriated funds. Finally, there is a motion to recommit with or without instructions.

This bill is the culmination of efforts by the committee during the past 3 years to correct weaknesses and inequities in the current disaster assistance programs. The bill provides for expansion and improvement of the crop insurance program to make it available on all commodities in all counties. It assures that the program is affordable by requiring the Federal Crop Insurance Corporation to pay a portion of the premium cost. It includes reinsurance provisions which enable the private insurance industry to offer a comprehensive all-risk insurance policy to the farmer. It extends the disaster payment program for the 1980 crop and provides for its phaseout in 1981 as crop insurance is made generally available to producers.

The estimated authorization level for fiscal year 1980 is $53 million. However, CBO estimates that the broader crop insurance program authorized in the bill will likely result in savings in the disaster loan programs of the Small Business Administration and Farmers Home Administration.

Now, Mr. Speaker, I realize that this bill is not perfect. It is my understanding that there are a number of very worthwhile amendments that will be offered. We are fortunate in that this open rule will allow our consideration of these germane amendments and I urge my colleagues to do just that.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding, and I certainly concur in the importance of this legislation, particularly to constituents in my own district, but would not the gentleman say that if this debate were held today, once the rule is adopted, it might take an hour, which I believe is the time allotted in this rule?

Mr. LOTT. An hour of general debate, and from what I understood, probably a good deal of time will be taken on the amendments that might be offered.

Mr. BAUMAN. Let us say 2 or 3 hours?

Mr. LOTT. I think that is very reasonable. The objections I have heard, of which there are several, would certainly have to be debated at length.

Mr. BAUMAN. And that would mean that the House might have to stay here until 6 o'clock, would it not?

Mr. LOTT. I suppose that is possible.

Mr. BAUMAN. That would be a terrible thing, to keep the House here until 6 o'clock to conclude our business today. It would be much better to force all of the Members to come in at 10 a.m. tomorrow and then debate the bill and string out the amendments, and then perhaps if we do not finish at the guaranteed hour of 3 o'clock, we would recess for 5 or 6 days and not finish it until next week. Would not that be the more sensible way?

Mr. LOTT. I think that could be handled in the usual manner, where the gentleman from Maryland and the Speaker will work that out.

Mr. BAUMAN. I think I will yield on that.

Mr. LOTT. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 9, answered "present" 2, not voting 80, as follows:

[Roll No. 51]

YEAS—342

Abdnor
Addabbo
Akaka
Albosta
Ambro
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle

Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leath, Tex.
Lee
Lehman
Leland
Levitas
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Luken
Lundine
McClory
McCormack
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Porter
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Runnels
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

NAYS—9

Archer
Bauman
Crane, Philip
English
Lewis
Lungren
McDonald
Rousselot
Wydler

ANSWERED "PRESENT"—2

Hagedorn
Quillen

NOT VOTING—80

Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Aspin
Blanchard
Bonior
Brooks
Cavanaugh
Chappell
Corcoran
Corman
Davis, S.C.
Diggs
Dornan
Edwards, Okla.
Erlenborn
Fazio
Findley
Fish
Garcia
Giaimo
Gibbons
Goodling
Hansen
Hefner
Horton
Johnson, Colo.
Jones, N.C.
Kelly
Kostmayer
Latta
Leach, Iowa
Leach, La.
Lederer
Lent
Long, La.
Lujan
McCloskey
McEwen
Madigan
Marlenee
Marriott
Mineta
Mitchell, N.Y.
Moffett
Murphy, Ill.
Myers, Pa.
Nolan
Petri
Pickle
Pritchard
Quayle
Rhodes
Ritter
Roberts
Rose
Rudd
Russo
Santini
Satterfield
Simon
Skelton
Spence
Steed
Symms
Treen
Udall
Ullman
Van Deerlin
Vanik
Walker
Waxman
White
Wilson, C. H.
Wright
Wyatt
Young, Alaska
Zeferetti

☐ 1520

The Clerk announced the following pairs:

Mr. Lederer with Mr. Anderson of Illinois.

Mr. Alexander with Mr. Leach of Louisiana.

Mr. Brooks with Mr. Spence.

Mr. Chappell with Mr. Young of Alaska.

Mr. Corman with Mr. Rudd.

Mr. Jones of North Carolina with Mr. Latta.

Mr. Long of Louisiana with Mr. Erlenborn.

Mr. Mineta with Mr. Lujan.

Mr. Russo with Mr. Marlenee.

Mr. Santini with Mr. Corcoran.

Mr. Skelton with Mr. Symms.

Mr. Steed with Mr. Madigan.

Mr. Murphy of Pennsylvania with Mr. Goodling.

Mr. Nolan with Mr. Horton.

Mr. Pickle with Mr. Walker.

Mr. Roberts with Mr. Marriott.

Mr. Giaimo with Mr. Pritchard.

Mr. Fazio with Mr. McEwen.

Mr. Davis of South Carolina with Mr. Treen.

Mr. Waxman with Mr. Andrews of North Dakota.

Mr. Vanik with Mr. Ashbrook.

Mr. Moffett with Mr. Lent.

Mr. Diggs with Mr. McCloskey.

Mr. Ullman with Mr. Dornan.

Mr. Charles H. Wilson of California with Mr. Edwards of Oklahoma.

Mr. Anderson of California with Mr. Mitchell of New York.

Mr. Kostmayer with Mr. Hansen.

Mr. Murphy of Illinois with Mr. Fish.

Mr. Simon with Mr. Petri.

Mr. Aspin with Mr. Quayle.

Mr. Hefner with Mr. Ritter.

Mr. Leach of Iowa with Mr. Johnson of Colorado.

Mr. White with Mr. Udall.

Mr. Wright with Mr. Wyatt.

Mr. Van Deerlin with Mr. Satterfield.

Mr. Blanchard with Mr. Barnard.

Mr. Cavanaugh with Mr. Garcia.

Mr. Zeferetti with Mr. Rose.

Mr. Gibbons with Mr. Findley.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRESIDENTIAL RECOMMENDATIONS FOR SELECTIVE SERVICE REFORM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-265)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services and ordered to be printed:

To the Congress of the United States:

Pursuant to Section 811 of P.L. 96-107, I am hereby transmitting Presidential Recommendations for Selective Service Reform and proposed legislation.

JIMMY CARTER.

THE WHITE HOUSE, *February 12, 1980.*

COMPREHENSIVE RADIOACTIVE WASTE MANAGEMENT PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-266)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services, the Committee on Interior and Insular Affairs, the Committee on Interstate and Foreign Commerce, and the Committee on Science and Technology and ordered to be printed:

To the Congress of the United States:

Today I am establishing this Nation's first comprehensive radioactive waste management program. My paramount objective in managing nuclear wastes is to protect the health and safety of all Americans, both now and in the future. I share this responsibility with elected officials at all levels of our government. Our citizens have a deep concern that the beneficial uses of nuclear technology, including the generation of electricity, not be allowed to imperil public health or safety now or in the future.

For more than 30 years, radioactive wastes have been generated by programs for national defense, by the commercial nuclear power program, and by a variety of medical, industrial and research activities. Yet past governmental efforts to manage radioactive wastes have not been technically adequate. Moreover, they have failed to involve successfully the States, local governments, and the public in policy or program decisions. My actions today lay the foundation for both a technically superior program and a full cooperative Federal-State partnership to ensure public confidence in a waste management program.

My program is consistent with the broad consensus that has evolved from the efforts of the Interagency Review Group on Radiocative Waste Management (IRG) which I established. The IRG findings and analysis were comprehensive, thorough and widely reviewed by public, industry and citizen groups, State and local governments, and members of the Congress. Evaluations of the scientific and technical analyses were obtained through a broad and rigorous peer review by the scientific community. The final recommendations benefited from and reflect this input.

My objective is to establish a comprehensive program for the management of *all* types of radioactive wastes. My policies and programs establish mechanisms to ensure that elected officials and the public fully participate in waste decisions, and direct Federal departments and agencies to implement a waste management strategy which is safe, technically sound, conservative, and open to continuous public review. This approach will help ensure that we will reach our objective—the safe storage and disposal of all forms of nuclear waste.

Our primary objective is to isolate existing and future radioactive waste from military and civilian activities from the biosphere and pose no significant threat to public health and safety. The responsibility for resolving military and civilian waste management problems shall not be deferred to future generations. The technical program must meet all relevant radiological protection criteria as well as all other applicable regulatory requirements. This effort must proceed regardless of future developments within the nuclear industry—its future size, and resolution of specific fuel cycle and reactor design issues. The specific steps outlined below are each aimed at accomplishing this overall objective.

First, my Administration is committed to providing an effective role for State and local governments in the development and implementation of our nuclear waste management program. I am therefore taking the following actions:

—By Executive Order, I am establishing a State Planning Council which will strengthen our intergovernmental relationships and help fulfill our joint responsibility to protect public health and safety in radioactive waste matters. I have asked Governor Riley of South Carolina to serve as Chairman of the Council. The Council will have a total of 19 members: 15 who are Governors or other elected officials, and 4 from the Executive departments and agencies. It will advise the Executive Branch and work with the Congress to address radioactive waste management issues, such as planning and siting, construction, and operation of facilities. I will submit legislation during this session to make the Council permanent.

—In the past, States have not played an adequate part in the waste management planning process—for example, in the evaluation and location of potential waste disposal sites. The States need better access to information and expanded opportunity to guide waste management planning. Our relationship with the States will be based on the principle of consultation and concurrence in the siting of high level waste repositories. Under the framework of consultation and concurrence, a host State will have a continuing role in Federal decisionmaking on the siting, design and construction of a high level waste repository. State consultation and concurrence, however, will lead to an acceptable solution to our waste disposal problem only if all the States participate as partners in the program I am putting forth. The safe disposal of radioactive waste, defense and commercial, is a national, not just a Federal, responsibility.

—I am directing the Secretary of Energy to provide financial and technical assistance to States and other jurisdictions to facilitate the full participation of State and local government in review and licensing proceedings.

Second, for disposal of high level radioactive waste, I am adopting an interim planning strategy focused on the use of mined geologic repositories capable of accepting both waste from reprocessing and unreprocessed commercial spent fuel. An interim strategy is needed since final decisions on many steps which need to be taken should be preceded by a full environmental review under the National Environmental Policy Act. In its search for suitable sites for high level waste repositories, the Department of Energy has mounted an expanded and diversified program of geologic investigations that recognizes the importance of the interaction among geologic setting, repository host rock, waste form and other engineered barriers on a site-specific basis. Immediate attention will focus on research and development, and on locating and characterizing a number of potential repository sites in a variety of different geologic environments with diverse rock types. When four to five sites have been evaluated and found potentially suitable, one or more will be selected for further development as a licensed full-scale repository.

It is important to stress the following two points: First, because the suitability of a geologic disposal site can be verified only through detailed and time-consuming site specific evaluations, actual sites and their geologic environments *must* be carefully examined. Second, the development of a repository will proceed in a careful step-by-step manner. Experience and information gained at each phase will be reviewed and evaluated to determine if there is sufficient knowledge to proceed with the next stage of development. We should be ready to select the site for the first full-scale repository by about 1985 and have it operational by the mid-1990's. For reasons of economy, the first and subsequent repositories should accept both defense and commercial wastes.

Consistent with my decision to expand and diversify the Department of Energy's program of geologic investigation before selecting a specific site for repository development, I have decided that the Waste Isolation Pilot Plant project should be cancelled. This project is currently authorized for the unlicensed disposal of transuranic waste from our National defense program, and for research and development using high level defense waste. This project is inconsistent with my policy that all repositories for highly radioactive waste be licensed, and that they accept both defense and commercial wastes.

The site near Carlsbad, New Mexico, which was being considered for this project, will continue to be evaluated along with other sites in other parts of the country. If qualified, it will be reserved as one of several candidate sites for possible use as a licensed repository for defense and commercial high level wastes. My fiscal year 1981 budget contains funds in the commercial nuclear waste program for protection and continued investigation of the Carlsbad site. Finally, it is important that we take the time to compare the New Mexico site with other sites now under evaluation for the first waste repository.

Over the next five years, the Department of Energy will carry out an aggressive program of scientific and technical investigations to support waste solidification, packaging and repository design and construction including several experimental, retrievable emplacements in test facilities. This supporting research and development program will call upon the knowledge and experience of the Nation's very best people in science, engineering and other fields of learning and will include participation of universities, industry, and the government departments, agencies, and national laboratories.

Third, during the interim period before a disposal facility is available, waste must and will continue to be cared for safely. Management of defense waste is a Federal responsibility; the Department of Energy will ensure close and meticulous control over defense waste facilities which are vital to our national security. I am committed to maintaining safe interim storage of these wastes as long as necessary and to making adequate funding available for that purpose. We will also proceed with research and development at the various defense sites that will lead the processing, packaging, and ultimate transfer to a permanent repository of the high level and transuranic wastes from defense programs.

In contrast, storage of commercial spent fuel is primarily a responsibility of the utilities. I want to stress that interim spent fuel storage capacity is *not* an alternative to permanent disposal. However, adequate storage is necessary until repositories are available. I urge the utility industry to continue to take all actions necessary to store spent fuel in a manner that will protect the public and ensure efficient and safe operation of power reactors. However, a limited amount of government storage capacity would provide flexibility to our national waste disposal program and an alternative for those utilities which are unable to expand their storage capabilities.

I reiterate the need for early enactment of my proposed spent nuclear fuel legislation. This proposal would authorize the Department of Energy to: (1) design, acquire or construct, and operate one or more away-from-reactor storage facilities, and (2) accept for storage, until permanent disposal facilities are available, domestic spent fuel, and a limited amount of foreign spent fuel in cases when such action would further our nonproliferation policy objectives. All costs of storage, including the cost of locating, constructing and operating permanent geologic repositories, will be recovered through fees paid by utilities and other users of the services and will ultimately be borne by those who benefit from the activities generating the wastes.

Fourth, I have directed the Department of Energy to work jointly with states, other government agencies, industry and other organizations, and the public, in developing national plans to establish regional disposal sites for commercial low level waste. We must work together to resolve the serious near-term problem of low level waste disposal. While this task is not inherently difficult from the standpoint of safety, it requires better planning and coordination. I endorse the actions being taken by the Nation's governors to tackle this problem and direct the Secretary of Energy to work with them in support of their effort.

Fifth, the Federal programs for regulating radioactive waste storage, transportation and disposal are a crucial component of our efforts to ensure the health and safety of Americans. Although the existing authorities and structures are basically sound, improvements must be made in several areas. The current authority of the Nuclear Regulatory Commission to license the disposal of high level waste and low level waste in commercial facilities should be extended to include spent fuel storage, and disposal of transuranic waste and non-defense low level waste in any new government facilities. I am directing the Environmental Protection Agency to consult with the Nuclear Regulatory Commission to resolve issues of overlapping jurisdiction and phasing of regulatory actions. They should also seek ways to speed up the promulgation of their safety regulations. I am also directing the Department of Transportation and the Environmental Protection Agency to improve both the efficiency of their regulatory activities and their relationships with other Federal agencies and state and local governments.

Sixth, it is essential that all aspects of the waste management program be conducted with the fullest possible disclosure to and participation by the public and the technical community. I am directing the departments and agencies to develop and improve mechanisms to ensure such participation and public involvement consistent with the need to protect national security information. The waste management program will be carried out in full compliance with the National Environmental Policy Act.

Seventh, because nuclear waste management is a problem shared by many other countries and decisions on waste management alternatives have nuclear proliferation implications, I will continue to encourage and support bilateral and multilateral efforts which advance both our technical capabilities and our understanding of spent fuel and waste management options, which are consistent with our non-proliferation policy.

In its role as lead agency for the management and disposal of radioactive wastes and with cooperation of the other relevant Federal agencies, the Department of Energy is preparing a detailed National Plan for Nuclear Waste Management to implement these policy guidelines and the other recommendations of the IRG. This Plan will provide a clear road map for all parties and will give the public an opportunity to review the entirety of our program. It will include specific program goals and milestones for all aspects of nuclear waste management. A draft of the comprehensive National Plan will be distributed by the Secretary of Energy later this year for public and Congressional review. The State Planning Council will be directly involved in the development of this plan.

The Nuclear Regulatory Commission now has underway an important proceeding to provide the Nation with its judgment on whether or not it has confidence that radioactive wastes produced by nuclear power reactors can and will be disposed of safely. I urge that the Nuclear Regulatory Commission do so in a thorough and timely manner and that it provide a full opportunity for public, technical and government agency participation.

Over the past two years as I have reviewed various aspects of the radioactive waste problem, the complexities and difficulties of the issues have become evident—both from a technical and, more importantly, from an institutional and political perspective. However, based on the technical conclusions reached by the IRG, I am persuaded that the capability now exists to characterize and evaluate a number of geologic environments for use as repositories built with conventional mining technology. We have already made substantial progress and changes in our programs. With this comprehensive policy and its implementation through the FY 1981 budget and other actions, we will complete the task of reorienting our efforts in the right direction. Many citizens know and all must understand that this problem will be with us for many years. We must proceed steadily and with determination to resolve the remaining technical issues while ensuring full public participation and maintaining the full cooperation of all levels of government. We will act surely and without delay, but we will not compromise our technical or scientific standards out of haste. I look forward to working with the Congress and the states to implement this policy and build public confidence in the ability of the government to do what is required in this area to protect the health and safety of our citizens.

JIMMY CARTER.

THE WHITE HOUSE, *February 12, 1980.*

FAMILY BUSINESS, RANCH, AND FARM PROTECTION ACT OF 1980

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, on February 7 I introduced a bill to amend the Federal estate tax laws. This bill will greatly enhance the ability of families to pass on small businesses, ranches, and farms from one generation to the next.

My bill, a companion bill to one which was introduced in the other body, allows one-half of the value of a family owned business, ranch, and farm, up to a maximum of $500,000 to be exempt from the estate tax.

Current law allows the equivalent of $175,000 exemption from Federal estate taxes. This measure, the Family Business, Ranch and Farm Protection Act of 1980, would increase this exemption by $325,000 for heirs of a family owned business.

The additional exemption would be claimed by an heir upon inheriting the family business, ranch or farm. Since the intent of the legislation is to enable families to pass on their businesses, ranches and farms to their children, the bill provides a formula for prorating the payment of the estate tax exempted by this legislation if the heir sells the business within 10 years of inheriting it.

Simply stated, the formula provides that if the heir does not work in the business for at least 5 years, he must pay the estate tax on the total amount of his business which was exempted from estate taxes under this provision. If the heir sells after working in the business 5 years, he would be required to pay half of the tax. Thereafter, the tax liability will be reduced each year by 10 percent of the amount for which he would have otherwise been originally liable if he sold the business without working in the business for 5 years.

Small business is the backbone of our Nation's economy. Family owned businesses, ranches, and farms are the heart and soul of our small independent free enterprise system. But the sad fact is we recognize the vital role small businesses play in our economy. We fully support the preservation of small family owned businesses, ranches, and farms. Yet, we tolerate the perpetuation of laws that are making small business an endangered species in our economy.

Double-digit inflation has pushed family businesses, ranches, and farms that were too small to pay estate taxes into extremely high tax brackets. The result has been that heirs of these enterprises have been forced out of business in order to pay stiff Federal estate taxes.

We know the contribution that small independent businesses make to our national economy. These independent businesses provide 52 percent of all employment in the United States. They make up 48 percent of the GNP. They represent 97 percent of all American businesses. The contribution small and independent business makes to our economic well-being is even more startling when we consider where most of our Nation's job creation takes place. From 1969 to 1976, 99 percent of the total increase in employment occurred in firms other than those in the Fortune 1000. A recent MIT study found that 77 percent of the employment growth in the economy from 1969 to 1976 came from firms with fewer than 50 employees.

In a landmark study of innovation some 12 years ago, a blue-ribbon panel from Government, academia and business backgrounds found that over half of all U.S. inventions were accounted for by small business and individual inventors. The significance of this major contribution to technology and innovation is even more compelling when we view the results of a recent National Science Foundation study. According to the study, small businesses are 24 times more innovative per dollar invested than larger companies.

This measure would provide tax relief

to more than 90 percent of our Nation's family-owned businesses, allowing them to continue their many contributions to the American economy creating more jobs, advancing technology and innovation, and increasing our productivity.

Family owned businesses, ranches, and farms are an integral and vital component of our economy and society. As a source of entrepreneurial spirit and for their many contributions in the fields of technology, innovation and social advancement, family owned small businesses, ranches, and farms must be preserved and protected. The family business, ranch, or farm is a source of pride which gives the family a personal sense of freedom and accomplishment. The perpetuation of the family business, ranch, or farm in America is of significant importance to the survival of free enterprise that has built the foundation of our country and economy. I think most of us share this view. Now let us pass laws that make the preservation of small family buinesses, ranches, and farms the policy of the United States.

YOUR HAMBURGER: 41,000 REGULATIONS

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAVIS of Michigan. Mr. Speaker, the strength of our society and economy is steadily being sapped by a pernicious parasite. Businesses are losing their mobility and ability to make economic decisions. Our individual citizens consistently are being oppressed by a relatively invisible giant which slowly but surely assumes greater control over their daily lives.

This beast moves in silent ways, but always its interference is felt after it has taken its treacherous steps. This monster, of course, is the very Government which Congress has over the many years created without regard for the cumulative effects of its behavior. With its many facets, hundreds of regulatory actions, and thousands of rules and regulations, Government now is a part of everyone's life.

An article which appeared in this week's issue of U.S. News & World Report demonstrates but one example of the pervasiveness of Government in our society. The article includes a diagram of one of America's prominent international trademarks: the hamburger. Unfortunately, this hamburger is beset with 41,000 Federal and State regulations by the time it reaches our plates.

I ask for unanimous consent to revise and extend my remarks and to include this article with my comments.

I hope that this and similar articles bring to our attention the effect of the regulations and restrictions on our society that are being promulgated daily from the Government over which we in Congress have ultimate responsibility.

YOUR HAMBURGER: 41,000 REGULATIONS

The hamburger, staple of the quick, inexpensive meal, is the subject of 41,000 federal and state regulations, many of those stemming from 200 laws and 111,000 precedent-setting court cases.

These rules, cited in a three-volume study by Colorado State University, touch on everything involved in meat production—grazing practices of cattle, conditions in slaughterhouses and methods used to process meat for sale to supermarkets, restaurants and fast-food outlets. Together, they add an estimated 8 to 11 cents per pound to the cost of hamburger.

The chart on this page gives just a sampling of the rules and regulations governing the burger you buy at the corner sandwich stand.

Bun—Enriched bun must contain at least 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin and at least 8 but not more than 12.5 milligrams of iron.

Pesticides—No more than 5 parts of the pesticide DDT per million parts of fat in the meat.

Fat—No more than 30 percent fat content.

Lettuce—Must be fresh, not soft, overgrown, burst or "ribby."

Ketchup—To be considered Grade A fancy, it must flow no more than 9 centimeters in 30 seconds at 69 degrees Fahrenheit.

Mayonnaise—May be seasoned or flavored as long as the substances do not color it to look like egg yolk.

Inspections—As many as six inspections under Federal Meat Inspection Act can occur as meat is checked before and after slaughter and at boning, grinding, fabrication and packaging stages.

Cheese—Must contain at least 50 percent milk fat and, if made with milk that is not pasteurized, must be cured for 60 or more days at a temperature of at least 35 degrees Fahrenheit.

Tomato—Must be mature but not overripe or soft.

Pickle—Slices must be between ⅛ and ⅜ inches thick.

Growth promoters—Use of growth-stimulating drugs must end two weeks before slaughter.

Content—It must be fresh or frozen chopped beef and not contain added water, binders or extenders.

STATEMENT ON THE BUDGET: DEFENSE

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, a couple of days ago I discussed the nondefense items in the President's budget. Today I would like to discuss the defense items in the budget, so I am going to make a detailed statement dealing with the President's items that are not in the budget from a defense standpoint. I think that I speak for many Members in this House who have been advocating a strong national defense for a long time when I say that it is "catchup" that we must play from now on, and we must do it very rapidly.

Mr. Speaker, in his state of the Union address, the President informed us of his newly found commitment to a stronger national defense, having witnessed his cutbacks in our military programs over the past 3 years, we must examine this newly found commitment in some detail before agreeing that he is doing what must now be done to ward off further Communist takeovers in the world. Let me begin by pointing out some of the items I do not find in the 1981 defense budget.

I do not find an increase in Army and Marine Corps manpower levels which are needed if we are to develop a rapid deployment force capable of fighting in places other than Europe. As a matter of fact, there is no request for an increase in the size of our active duty military forces beyond the present ceiling of 2,050,000.

I do not find an increase in the airlift and sealift capabilities over the short term; for the long term, we see increased funding for only two ships which can carry prepositioned military supplies providing there is no ongoing conflict which would threaten these unarmed ships, and there are limited research funds for a new cargo plane;

I do not see an increase in the procurement of naval ships and aircraft which would seem to be required if we were actually to prepare for hostilities in remote areas.

As we analyze the President's defense budget for fiscal year 1981, it appears that we are dealing with a budget prepared before the Soviet invasion of Afghanistan in which emphasis was placed mainly on increasing the readiness of, and supplies for, our force posture in Europe. After the Soviet invasion of Afghanistan, the rhetoric transmitting the budget has been changed to make it sound tougher but the defense program has remained about what it would have been without the rhetoric.

For example, prior to the invasion of Afghanistan, the administration had planned upon establishing—on a rather long-term basis—a rapid deployment force. The long-term nature of the commitment is demonstrated by the facts that there are no additional manpower levels requested in the fiscal year 1981 budget; also, there are requests for buying only two support ships and for beginning the research on a new cargo aircraft. There was no request for additional hardware to be made part of the rapid deployment force.

In his state of the Union address, however, the President committed this country to a defense of the oil lanes which originate in the Persian Gulf. Yet the administration has been unable to outline for us the comprehensive picture of this rapid deployment force in terms of numbers of personnel, planes, ships, and kinds of equipment which will be needed. Nor can it say when the force will be ready for deployment. It has even been unable to state whether the personnel and weaponry represent new defense capabilities or whether they will simply be diverted from current capabilities. Nor has there been any mention of the total cost of the rapid deployment force.

I think world events demand more than a rhetorical about-face. Only 5 months ago the President opposed a Senate proposal to require a 5-percent real growth in defense spending in fiscal year 1981. The President opposed the spending increase because he said that it was not needed at that time. Now President Carter says that we need 5.6 percent real growth in defense spending in 1981. However, the reason given for the sudden increase has been apparent for 15 years—the adventurism and excessive military buildup of the Soviet Union. Had the President been listening to the congressional debate on his proposal to cancel the B-1 program, he might have found out sooner what the Soviet Union has been doing. The Soviet Union's aims and military buildup comes as no surprise to many of us who have been calling this danger to the attention of the people, the administration, and to the Congress for years.

Now, let us review our defense posture since 1977.

In 1977: President Carter—

Ceased production of Minuteman III missiles.

Permitted serious disruption of our intelligence agencies—with congressional encouragement and approval—by continuous reorganizations, the firing of 820 operatives, and did nothing while the dedicated individuals employed in this critical area were being brought into general disrepute by certain segments of our society. Even now, in February 1980, when it is clear that the CIA is unable to perform effective covert operations because it must clear such actions with eight congressional committees and 200 Members of Congress, President Carter failed to say in his state of the Union address that we are in dire need of a really effective CIA and that he wanted this shortcoming corrected. He merely stated that he wanted a new charter.

Decided against producing the B-1 bomber on the grounds that the cruise missile could serve as a cost-effective alternative, despite the fact that these systems—namely the bomber which serves as the launch platform and the cruise missile which serves as the weapon system—are complementary rather than competitive systems.

Delayed development and deployment of the MX missile system.

In 1978, President Carter—

Decided against producing the enhanced radiation—neutron warhead—system designed for the protection of Europe; and

Vetoed a nuclear aircraft carrier.

In 1979, President Carter—

Delayed the cruise missile program;

Postponed the Trident submarine program;

Postponed the Trident II missile system; and

Postponed the SSN-688 attack submarine program.

With the submission of his fiscal year 1981 defense budget, President Carter now proposes to cut back on the procurement of naval combat aircraft. In 1976, President Ford proposed that by 1981 the United States should buy 114 naval combat aircraft. In January 1979, President Carter proposed to buy 96 planes in 1981. Now in January 1980, President Carter proposes to buy only 72 naval combat aircraft in 1981. Also, in January 1979 President Carter said that the United States should buy 60 F-15's for the Air Force in fiscal year 1981. In January 1981, he now tells us that we should cut back our procurement to 30 F-15's.

The President's budget would cut back on the procurement of ships. In 1976, President Ford proposed a 5-year shipbuilding program of 157 ships. Carter now proposes to complete his program for that equivalent timeframe with the procurement of only 79 ships. In fact, funding for shipbuilding declines from $6.6 billion in fiscal year 1980 to $6.1 billion in fiscal year 1981. After inflation, that cutback would result in a decline of more than 15 percent in funding for shipbuilding. These facts simply do not support the administration's rhetoric regarding a newly found commitment to this country's defense needs.

In addition, there are other serious deficiencies in the President's latest defense proposals. For example, he proposes to buy fewer naval aircraft than are normally lost due to training accidents each year. Thus, besides cutting back his procurement plan from 96 to 72 combat aircraft, we will be unable to replace all of the 120 naval aircraft that we normally lose each year.

More specifically, the administration's request for combat aircraft in fiscal year 1981 shows important decreases from fiscal year 1980. For example, the procurement of A-10's will decrease from 144 in fiscal year 1980 to 60 in fiscal year 1981. The procurement of F-15's will decrease from 60 in 1980 to 30 in 1981. The procurement of F-14's will decrease from 30 in 1980 to 24 in 1981; the A-6E will decrease from 6 to 0; the EA-6B will decrease from 6 to 3.

In fact, we have already lost 3 EA-6B aircraft due to accidents in the last 3 months. Overall, the total aircraft inventory of the Navy will have decreased by 110 planes from 5,555 aircraft at the end of fiscal year 1980 to 5,445 aircraft at the end of fiscal year 1981.

While the President claims that the All-Volunteer Force is working, he neglects to mention our shortcomings. To be more specific:

In 1979 all military services failed to fulfill recruitment goals for the first time since the end of the draft. The shortfalls were:

Army: 16,000 short of the 158,700 goal;

Navy: 5,200 short of the 84,830 goal;

Marines: 1,200 short of the 41,800 goal;

Air Force: 1,400 short of the 68,000 goal;

Selective Reserves: 100,000 short; and

Individual Ready Reserves: we are 500,000 short of our requirement.

Just how questionable our mobilization capabilities have become over the past few years was shown by the failure of a major test of those capabilities last year. That test was called "Nifty Nugget." In this connection, the President stated in the state of the Union address that he would seek draft registration. But his budget request, which was established well before his state of the Union address, provided for only a small increase in funding for the Selective Service System which would have been increased from $10 million in fiscal year 1980 to $11 million in fiscal year 1981.

Yet that increase would have clearly been inadequate to move the Selective Service System from a dormant to an active status. While the President has subsequently told us how much additional funding is needed, he has yet to show how the decision to register young people for the Selective Service System will help cure the many deficiencies in our military arsenal as well as the shortfall found in the Active and Reserve Forces.

The President has been quick to point to his commitment to protect our oil sources in the Persian Gulf. However, he has neglected to point out that the addition of two aircraft carriers in the Indian Ocean necessarily meant one less carrier in the Mediterranean Sea—leaving only one there for the first time in 25 years—and resulted in our having none in the Western Pacific—for the first time since the Korean war.

Yet in both the Mediterranean Sea and the Western Pacific, Soviet capabilities have increased dramatically in recent years. Nations in these areas look closely at how thinly stretched we are militarily when they evaluate how much they can rely on America's help in a military crisis.

Finally, as we contemplate the adequacy of the Carter defense program for fiscal year 1981, we must note that the President failed to mention in any of his latest budget documents that the Pentagon will require additional funding for the purchase of fuel oil if it is to keep our military forces operating in the Middle East. To be more specific, it requires an additional $3.5 billion in fiscal year 1980 and $4.5 billion in fiscal year 1981 because it must now plan on buying oil at $42 per barrel rather than the $24 per barrel that it had estimated only a few months ago. This fuel adjustment will of course raise the Federal deficit by a combined total of $8 billion over those 2 fiscal years—yet the subject was not even mentioned in the President's budget request.

On June 16, 1976, candidate Carter said:

> Without endangering the defense of our nation or our commitments to our allies, we can reduce present defense expenditures by about $5 to $7 billion annually.

In fact, the President has done far worse than that as he cut $57 billion—in constant 1980 dollars—from the defense program proposed by President Ford for the years 1979 to 1983. President Carter has cut $24 billion from strategic programs; $25 billion from general purpose programs; and $10 billion from research and development. It is unfortunate for the country that, having cut back our military capabilities from what President Ford proposed in 1976, President Carter now proposes a set of deficient remedies. It is not helpful for the President to point the finger at his predecessors and try to maintain that defense spending under them declined in real terms. Rather, he should take note of the facts that, during the period 1970–76:

The Vietnam war was winding down and this resulted in a decreased need to support that war;

The major investment in strategic programs had been made in the 1960's with the Minuteman missile, the Polaris submarine and the B-52. It would not be until 1976 that a replacement decision would be needed on these systems—and would involve the B-1, MX missile, and Trident submarine.

Presidents Nixon and Ford requested approximately $55 billion for defense spending—in 1980 dollars—that the Congress rejected.

In conclusion, Mr. Speaker, let me say there is no time to waste. Let us admit our shortcomings and go forward to correct them before it is too late.

A TRIBUTE TO CONGRESSMAN RICHARD NOLAN OF MINNESOTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Vento) is recognized for 60 minutes.

Mr. VENTO. Mr. Speaker, I stand here today with mixed emotions about Congressman Rick Nolan's announcement that he will not seek reelection to Congress next year. I am sorry that his unique talents and extensive experience will be missing from the next Congress. But at the same time, I find inspiration in the fact that Rick will be undertaking new challenges and renewing the warm spirit that has characterized all his years of public service.

It has been a privilege to serve with Rick Nolan in the Minnesota legislature and in the U.S. Congress over these past 10 years. He has been a loyal friend, a trusted counselor, and a good public servant. The people of central Minnesota and the Nation have been very well served.

Rick is best known—and justifiably so—as the champion of the small family farmer. He has used his chairmanship of the Agriculture Committee's Subcommittee on Family Farms, Rural Development and Special Studies to carefully craft Federal policies and provide a strong, resonant voice for rural America.

But Rick Nolan has also maintained an open mind and his deep personal concerns have extended to all people, whether Minnesotans, citizens of a foreign country, urban workers or rural farmers. Congressman Nolan has been a national leader for the causes of the disabled in our society. His focus on international initiatives led to the creation of the President's Commission on World Hunger. During a trade visit to Cuba, he successfully intervened with Castro on behalf of a young Cuban citizen who wished to join his family in Minnesota. His actions and his leadership have continuously demonstrated his commitment to such humanitarian ideals and goals.

Rick is well liked in Congress and at home in Minnesota. He is always enthusiastic, full of energy and ideas. Nolan's friendly manner and sincere charm should not belie his tenacity and sense of commitment. His purpose as a Member of Congress is to help people. Through the years, he has channeled his talents, intellectual prowess, and down-home wisdom to score victories on the side of the poor and the powerless in society.

To Rick Nolan, public service always had a special meaning—it meant caring a great deal.

Rick's actions have demonstrated that his concerns with issues last beyond the immediate crisis. He has always displayed a continuity of commitment, of caring, of needing to achieve a goal, and resolve an issue.

The key to understanding Rick Nolan is to understand his background. He represents the tradition of Minnesota and the DFL Party. It is the legacy of Hubert Humphrey and "Fritz" Mondale, of Eugene McCarthy and Wendell Anderson, of Carl Rolvaag and Orville Freeman, and most important, of the people.

Rick Nolan has brought to public service high ideals and expectations. His vision of how things ought to be is a vision we all share—a vision of human rights for rural and urban workers, of social justice and education in even the poorest countries in the world, of a better life for all world citizens.

His optimism is gleaned from the great Hubert Humphrey school and it has been a wellspring of ideas, actions, and positive leadership. The emphasis has always been to properly focus the power of the Federal Government, and while the job is not finished, we can recognize the contributions of one Member of Congress from Minnesota's Sixth District. Mary and I want to congratulate and wish you well.

Mr. Speaker, I am proud to call Rick Nolan my friend and I thank him for the help he has previously provided me and all the people of our State and Nation.

Mr. ROSENTHAL. Mr. Speaker, I too want to pay my respects and high regard to our distinguished colleague from Minnesota (Mr. Nolan). I have known him well during the time that he has served in this body, and he has served with great distinction. He is a hardworking, diligent, incredibly committed public servant. His leaving this body will be a great loss to this institution and to the Nation, and I am sure to the people of Minnesota.

I was the chairman of a group that visited Southeast Asia last August, and it was a group of Members of this body who were concerned about the boat people and the conditions of persons in countries in that area of the world. Mr. Nolan was a member of that committee. He proved during that service his deep concern for human beings around the world, his total, dedicated commitment to the high principles our society has adhered to for 200 or more years. He was thoroughly enjoyable intellectually. It was an exciting experience to have him a member of that mission. He will be very sorely missed in this body, Mr. Speaker, not only professionally but personally.

Mr. VENTO. I thank the gentleman.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Speaker, I felt a tremendous loss when my dear and good friend, Rick Nolan, announced he would retire from Congress. Rick came in the year I did, we sat next to each other on the Agriculture Committee for these 5 years. I am witness not only to his courage and compassion on national issues, but to his deep and abiding friendship for those of us who served with him. For me, at least, no one can replace him.

This country and this State, he served well and boldly. His decency was constantly reflected in his political acts and goals. The Congress and the country will miss him. His colleagues will miss him and I will sorely miss him.

Mr. VENTO. I thank the gentleman from Oregon.

Mr. Speaker, I yield to our colleague from Minnesota (Mr. Stangeland).

Mr. STANGELAND. Mr. Speaker, I thank my colleague from Minnesota for yielding. I was serving in the Minnesota House of Representatives when our colleague, Rick Nolan, first came to that body. I served with him 4 years. He preceded me here, and I have had the privilege of serving with him 3 years here, and 4 years when he leaves this body.

I have to say this: In my time with Mr. Nolan in the Minnesota House and my time in the Congress, while I have disagreed with him quite vehemently in philosophy and politics, I have to say that Rick Nolan has always commanded my respect. He has been a man of unquestioned integrity and honesty.

He also has been a hard worker for the things he believes in.

I know that while his friends are going to miss him here, I am sure that his young family is going to be overjoyed at the prospect of having him with them. I wish him well in whatever endeavor he might undertake.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I too wish to join my colleagues in honoring the gentleman from Minnesota, Rick Nolan, for his years of distinguished service in this Chamber.

I have come to know Rick best through our joint service during the past 2 years on the Presidential Commission on World Hunger. He has proven himself an energetic champion of those impoverished around the world and in this country whose future well being demands our special consideration. Rick has not been afraid to challenge the conventional wisdom and speak out unequivocally on those issues which he believes must be addressed.

His diligent efforts and involvement in a number of areas has greatly benefited this Chamber and raised its level of debate. It is my privilege to have this opportunity to acknowledge Rick's accomplishments and contributions and to wish him success and happiness in all of his future endeavors.

Mrs. CHISHOLM. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentlewoman from New York.

Mrs. CHISHOLM. Mr. Speaker, I thank the gentleman for yielding. I would like to pay tribute to Rick Nolan and recognize that it is very, very difficult for those of us who have been able to establish a kind of admiration and friendship for someone who is as committed as Rick has been, and in any case going through all kinds of sacrifices and struggles from time to time in this House, to be surrounded by Rick, who had a fantastic sense of humor. I know that although he has only been here a short time, I desire to wish him a great deal of luck and success in whatever endeavors he is going to undertake in the future.

Rick Nolan certainly has a zest for life, and I think he learned all too quickly, perhaps, that sometimes our ideals have to give way to realism in the political arena, and sometimes pragmatic politics have to give way to a certain kind of expediency, but beneath it all he has always had a sense of humor and a smile.

☐ 1540

I know he is one of the few Members in the Chamber I have had a very deep friendship with, and I shall certainly miss him and miss him very, very much.

Mr. VENTO. I thank the gentlewoman from New York (Mrs. Chisholm) for her comments.

Mr. Speaker, I now yield to the gentleman from New York (Mr. Downey).

Mr. DOWNEY. I thank the gentleman for yielding.

Mr. Speaker, there is always a temptation when we do this to eulogize a Member of Congress who is retiring as though he has died. I am going to resist that temptation because the clear fact of the matter is that Rick Nolan will go on living and contributing to our society in many other very important ways. He has a certain zest for life and affection for people that is truly unique, and when he starts his model farm in Minnesota, it will be, I am sure, an inspiration to farmers throughout this country and to all of us that someone can leave these hallowed Halls and make a far greater contribution than one has made here.

I want to say that it has also been important for us to learn a lesson in his leaving that is important for all of us. Rick Nolan is not only an intelligent and dedicated civil servant, a servant of the people, but he is a frustrated Member of the Congress.

I think that if he were here, he would impart that to the Members. He is concerned about the direction, the militaristic direction, that this country is taking, as am I and as are others. He is concerned about the havoc that congressional life wreaks on personal life and on one's family, and those concerns in no small measure have contributed to his leaving. We should take cognizance of losing someone so great for a multitude of reasons, but we should also concern ourselves with some of the less attractive and more problematic reasons why he is leaving us. He will be missed, but he will contribute greatly in his next life, whatever that is.

Mr. VENTO. I thank the gentleman for his comments.

Mr. Speaker, I now yield to the gentleman from Minnesota (Mr. Sabo).

Mr. SABO. I thank the gentleman for yielding.

Mr. Speaker, I would like to take this opportunity to express my sincere appreciation and respect for the dedicated efforts of my colleague from Minnesota, Richard Nolan, who is retiring from Congress this year.

During his tenure in Congress, Rick established himself as an individual unafraid to voice the concerns of our Nation's minorities, to question the standard beliefs, and challenge the status quo. Rick and I served in the Minnesota State House together as well as here in the Congress, and I have seen him remain true to his convictions throughout his career in public service. In my 20 years in public office, I have witnessed few other public officials serve with more courage and perseverance.

His determination to provide people everywhere with decent food, adequate housing, equal education, necessary health care, and meaningful job opportunities gives us hope and strength.

His commitment to liberal concepts and programs has paved the way for further progress and development within the framework of our common ideals.

However, Rick's greatest contributions to Congress, Minnesota's Sixth District, and the Nation has been his continuing battle to keep the small family farms and small businesses alive and prosperous in a nation where "small" has never been considered fashionable.

Although many press and political friends and foes alike have labeled Rick a maverick, often these same individuals have later joined the liberal battles he championed.

Rick's philosophy may be best captured in the lines of a playwright he often quotes:

> When life itself seems lunatic,
> Who knows where madness lies?
> Perhaps to be too practical is madness.
> To surrender dreams—this may be madness.
> To seek treasure where there is only trash.
> Too much sanity may be madness.
> And maddest of all, to see life as it is and
> not as it should be.

Rick, we thank you for everything you have done, every accomplishment you have achieved to improve and enrich the daily lives of the citizens of Minnesota and the Nation. Although it is disquieting to consider the future without your good counsel and support, it is comforting to know that your achievements and spirit of involvement will remain as a positive direction for us to maintain.

Mr. VENTO. I thank the gentleman.

Mr. Speaker, I now yield to the gentleman from Connecticut (Mr. Dodd).

Mr. DODD. Mr. Speaker, I would, first of all, like to echo the remarks that were made by others here about Rick. Certainly we are going to lose a valued colleague in this institution, but for this Member, particularly more important than his contribution to the legislative process, which has been great, more important than his contribution to the constituency that he has served in the Sixth Congressional District of Minnesota, as great as that has been for this particular Member, there is the prospect of not being with one of the finest individuals I have ever known in my life and one of the closest friends I have ever made in my life. We have shared an awful lot of hours together, not just alone here in the Congress but the times when the session has closed down and we get to know people, as we both are away from family in a city like this. The loss, the personal loss of not being with him in the coming year, is something that I will experience dearly. I wish him the very best of success in his future endeavors, and I know that he will continue to make a contribution to this country in whatever he desires to do, be it in a private or a public capacity.

Mr. VENTO. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from Virginia (Mr. Harris).

Mr. HARRIS. I thank the gentleman for yielding, for the privilege, really of the honor, just to say a couple of words about a very fine Congressman, Rick Nolan. I remember well coming back to meet with the class of the 94th Congress in the annex over there and hearing many of my colleagues speak. We all shared the common denominator of being freshmen Congressmen. We were all not of the same age group, as the press would have liked to have portrayed us. Rick brought a very fresh and a very real view to our meetings and to our investigation of the policies that we were about to pursue.

I have to hand it to Rick. He was the one person who after speaking made one just feel there was no reason to say anything, and that is quite a step for many of us to take. Rick was able to put it into focus in real terms and in plain terms that made our meetings shorter instead of longer. I happen to think that the class of the 94th Congress brought a very special element to this U.S. House of Representatives. I happen to think that they still as a body are an exceptional group of men and women who have a very special viewpoint as to what representative government is all about. I happen to think that that group, with the absence of Rick Nolan, is not as great nor as good as it could be. We will miss him. We will hope that we can depend upon his advice and his insights in the future, but we will, nevertheless, miss him. I would submit that the House of Representatives will miss him and the country will miss him because he brings a very special element to representative government.

Mr. VENTO. I thank the gentleman from Virginia for his kind remarks.

Mr. Speaker, I yield to our colleague, the gentleman from Minnesota (Mr. Erdahl).

Mr. ERDAHL. I thank the gentleman for yielding.

First, I want to salute our colleague from Minnesota (Mr. Vento) for bringing this special order to us saluting one of our distinguished colleagues who now prepares to leave the Congress at an age when many of us have thought about running for it. I first met Rick Nolan in 1967–68 when I served as an intern in this body for our former Member, Gerald Ford. I remember hearing at that time about a reception that was going on here at the Capitol for a young, beardless youth from Minnesota who was preparing to go back and run for the State legislature. I was a member of that body at that time, and I got to know and serve with Rick Nolan in the 1969 session of the legislature and later when I became secretary of state in Minnesota we continued in service in State government together.

I think when one knows Rick, we see in this intense young man an easygoing manner that sometimes masks the intensity of his concern for other people, of his concerns for justice and for equality.

The Members have already heard about the family farm. As identified nationwide, he is a champion for the small person, for the small family farmer. We wish Rick well as he leaves this body to pursue other pursuits, to intensify the relationship with his family. We wish him well. It has been a privilege for me to serve with Rick Nolan, and I think as we look back on these months together now as a Member of Congress, and the period before in State government, we found out that although we might come from different political philosophies and different political parties, that Rick Nolan has, first of all, been a gentleman and a very decent human being. There is not much greater identity that we can identify our colleagues with than that type of identification.

Mr. VENTO. I thank the gentleman for his comments.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. I thank the gentleman for yielding, and I appreciate his taking this special order.

It certainly was a shock and a loss to me personally and to many Members of this House that Rick should have made the decision not to come back for an additional term. He has been an extraordinary public servant in the great tradition of the Minnesota Democratic Farmer-Labor Party in the tradition of the Humphreys and the Mondales, and he is certainly one of the most conscientious and courageous Members of this House.

□ 1550

He also knew the frustrations of the House. His departure will prompt us, I think, to examine some of the ways that we individually and the House collectively can be more effective and more faithful to the great traditions of our Nation than frankly we sometimes are.

Rick has always been skeptical of conventional wisdom and resistant to the powerful special interests that so often hold sway and he stood for the ordinary people of our land, whether they are on the farms, in the rural areas or in the cities and suburbs of our country. He has a combination of qualities which I think is perhaps unique but something for which we should all strive: the ability, with his keen intelligence, to define what are the real issues; a persistence and a willingness to organize in order to accomplish goals that are connected to those keenly perceived principles and ideas for our country and our future, and finally the integrity not to be deflected by anybody in trying to pursue those goals.

I am proud to have served with Rick and I hope that he will be a lifelong friend. I join in giving tribute to him today for all that he has meant to all of us.

Mr. VENTO. I thank the gentleman for his comments.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to our distinguished colleague from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. Mr. Speaker, it is truly with a profound sense of loss and sorrow that I join with my colleagues in this special order today.

Rick Nolan stands for all the beautiful qualities in the finest of the American political progressive tradition and his presence and his voice are going to be sorely missed.

Rick's commitment to social, racial, and economic justice is undiluted. It was undiluted as he arrived in the Chambers of the House and has remained unchanged throughout his most distinguished career. His passion to redress the economic injustice visited upon the poor of this land of ours and the dispossessed in other lands was remarkable. His commitment to the strengthening of the agricultural sector of our economy was unsurpassed, as was his understanding that if our country were to make real our ideals that a partnership between rural America and the urban and suburban centers of our land was imperative.

Therefore, on many issues that we from the cities found Rick Nolan voting with us on on matters of great concern to us and our people, as one might expect, he had enormous influence on those of us who did not understand the meaning, import, and sweep of some of the proposed programs for rural America, and he had great impact on our judgment because we trusted him so much.

Rick's concern in terms of the racial minorities was remarkable. His own constituency has few of those that we find so many of in the urban centers, and yet his determination to erase the scourge of racial and religious discrimination in our land ranked with the foremost of the freedom fighters who have served in this House.

What can one say about such an individual who demonstrated such an unswerving commitment to the decent values of society and who worked so strenuously to see that those values were reinforced by legislative action?

Rick, I can speak on behalf of my wife and myself and all of our mutual friends. We shall miss you sorely and we hope that your absence from the elective political arena is a temporary one.

Mr. VENTO. I thank the gentleman for his comments.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Speaker, I thank the gentleman from Minnesota for calling this special order for the purpose of honoring our colleague, Rick Nolan. I have never participated in one of these before, although there have been certainly substantial numbers of retirements from the House in the 6 years that I have been here, but I dare say for a lot of those people I would be delighted to hold the door. In this case, I wish I could stand and bar the door so that Rick would not leave, so that he would stay here to continue his passionate and intense fight for justice in this country, be it economic or any other type, but I am also delighted that he has made a decision to leave because I think it is very clear, just from what has been said here in this short time, he has left his mark on this institution. The things he has spoken about, the things he has tried to legislate have left their mark, and now he will go on to leave his mark, whether it is on a model farm, a family farm, or whatever endeavor, and those people he will meet along the line will hopefully be as enriched as we all have been by coming in contact with him in these short 6 years.

I say that as one who has shared vacations with him, who has shared a great deal of time outside of these Chambers. I cannot think of anybody I have enjoyed knowing more than Rick Nolan, but I am delighted that he has sought other horizons, has sought other tasks to complete, and not to sit here, only to have the fire go out in the oven and think about the things that maybe could be done. Instead, he has sought to go out to do new tasks.

I am delighted that he has done that and I wish him well. I say that as one who maybe perhaps shared the most intense experience of my life with Rick in our trip to Thailand and to the refugee camps where I watched this individual interact with children, with these poor refugees, and try to somehow make them understand that somebody was interested in them, that somebody cared and that somebody was hoping to prevent their demise from our world community. He went far beyond those who were concerned, of the land people and the boat people. He was concerned about raft people, he did interviews with these people and showed great heart and great understanding for the plight of these individuals and I dare say we could use more and I hope that the new Congress brings us more Rick Nolans who can leave a mark as broad and as bright as he has left on the Congress of the United States.

Mr. VENTO. I thank the gentleman for his observations.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from South Dakota (Mr. Daschle).

Mr. DASCHLE. I want to commend the gentleman from Minnesota for sponsoring the colloquy we are having this afternoon.

As a Member of the Congress from South Dakota, I have been an avid onlooker, I guess, at the history of Minnesota and I cannot think of a State in the whole country that has had a finer heritage and a finer record of producing public leaders and a better congressional delegation all in all than Minnesota.

I think Rick Nolan exemplifies the kind of record, the kind of heritage, the kind of delegation, really, that Minnesota has produced and continues to produce for our States and for our country.

He has been a strong voice in agriculture and I do not think there has been a fine, more articulate, more dynamic spokesman for the young and for the poor farmers that we have in Minnesota and South Dakota than RICK NOLAN.

As chairman of the Family Farm Task Force and as chairman of the Family Farm Subcommittee of the House Committee on Agriculture, in both capacities RICK NOLAN has spoken out very forcefully and with an articulate capability that is incomparable when it comes to agricultural issues in this country today.

I think the mark of a public leader is not only his record but the kind of tradition that he brings on by bringing people into politics, by bringing people into public life and I can assure RICK NOLAN that there are those of us who, when he leaves the floor of the House, will follow on in the same kind of fights, the same kinds of battles that he has started here in the Congress today.

I frankly believe, like so many of the other Members who have indicated today, he is not going to be gone from public service. I think RICK NOLAN is going to be with us for many years, fighting those same battles in other forums, in Minnesota, in Washington and around the country and I look forward to working with RICK NOLAN for many years to come.

☐ 1600

Mr. VENTO. Mr. Speaker, I thank the gentleman from South Dakota.

I yield to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Speaker, I just want to say, RICK NOLAN is a good guy. He is a friend and I wish him well.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his succinct remarks.

I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I am pleased to join my colleague, the gentleman from Minnesota (Mr. VENTO) in honoring the great public service of our friend and colleague, RICK NOLAN of Minnesota, the Sixth District, who has announced he will not seek reelection next fall.

I was serving in the Minnesota Legislature along with the other gentlemen from Minnesota, Mr. SABO, Mr. STANGELAND, and Mr. ERDAHL, when RICK NOLAN was elected to the Minnesota Legislature to represent the county of Morrison and maybe some of Crow Wing. I remember that his service in the Minnesota House was characterized by the same intensity and the same passion that we have observed in this House of Representatives in Washington.

I had the distinct humiliation to work in three straight campaigns for his opponent, only to be overrun by his own fine campaigns.

In this body RICK has served on a number of committees, but all of us here recognize that his primary interest has been agriculture, because that is the interest of Minnesota's Sixth District. He has done his very best to represent those interests as faithfully and as vigorously as he could. In our Minnesota group he has been a cooperative member, anxious to help in any matter that is of general interest to the State.

Now, RICK seldom voted as I did. Most often he did not take advantage of my good advice, but then I did not accept his good advice, either; so I suppose we are even in this respect.

He leaves us to pursue other good purposes, probably thereby proving his sanity.

I have always thought that a person who knows when his or her time has come in this House is a cut above the rest of us. RICK has the good sense to make a choice when maybe some of the others of us simply follow the path of least resistance and continue to file for office. He has exhibited the same kind of serious thought as he gives to legislative work, and then decided to do something different. I really like people who are able to make this kind of a choice.

Now, I do not worry about the loss of a person like RICK when he leaves. Yes; we will miss his brightening of our lives. We will miss his enrichment of this body, which thrives on diversity. But on the other hand, we know he will be doing that which he wants to do, and we will be secure in the knowledge that he will be doing it well and making a great contribution in whatever field is the one of his choice.

So today I do not want to grieve over his passing. I want to celebrate it with him and honor his choice, and to tell him, yes, we will miss him, but in addition, we will be proud of what he does when he leaves here, just as we were proud of what he did when he served here.

Ruth joins me in giving our best wishes to RICK and his family. We wish them the greatest possible success in future years.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his kind and thoughtful statement.

I would be happy to yield to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Speaker, I thank my friend and colleague, the gentleman from Minnesota (Mr. VENTO) for giving me the opportunity to speak on my friend, RICK NOLAN.

I look upon RICK NOLAN as a young, handsome, personable, trustworthy man and as a person with burning commitments to friendship, service to his constituents, to principles related to social, economic, and racial problems, to the hungry of our country and the world and to the betterment of this Nation.

When I first came to Congress in 1977, RICK NOLAN was one of the first people to "take me under his wing" and try to teach an unskilled freshman Member some of the ropes. I benefited greatly from his teaching, and continue to call on him for advice. Since that time, our friendship has grown, and I shall miss him a great deal.

I think that a good indication of the type of man that RICK NOLAN is can be drawn from an experience that we had while in Hawaii in 1978. RICK and I had gone over to conduct a series of three hearings on Hawaii's agricultural situation. During the course of these hearings, we had the opportunity to travel around my State and meet with many farmers personally. On one occasion, we met with a small farmer from Kona who told us that the best thing that Congress could do was to get rid of the fruit fly. We had been back to Washington only several days when the House Agriculture Committee was considering budget targets for fiscal year 1979. RICK, in his position as chairman of the Subcommittee on Family Farms, Rural Development and Special Studies, made certain that allocations were made for a study of the fruit fly problem in Hawaii.

My friends, this small example indicates a central point of the man's character. He heard the problems of the Nation's farmers and always did all in his power to help them out. This commitment to people has been demonstrated many times, and his voice will be missed.

My best wishes and that of my wife, Millie, go to his wife Marjorie and his family, for their gain is this Congress' loss.

Mr. VENTO. Mr. Speaker, I thank the gentleman from Hawaii for his thoughtful remarks.

Mr. Speaker, I yield to the gentleman from Vermont, to a fellow colleague with Congressman NOLAN on the Committee on Agriculture.

Mr. JEFFORDS. Mr. Speaker, I realize that I am doing something that I do not really want to do, and that is I am eating into the reception time that RICK has over at the Agriculture Committee, so I am going to be a little bit more brief than I might otherwise, because I know he has a large number of friends that I am sure are going to be over there to also say goodbye; but I could not miss this opportunity to share a little bit of my experiences with RICK. We arrived here at the same time in 1974 during those tumultous years when the traditions in Congress were under attack. I know he was outspoken in his desire to help bring this body into order and to try to devise a better system of working things. I think he raised his voice successfully in those areas.

I have also done some touring around the country with him in areas of trying to enlighten young people into the great hope that they should have in our democratic process and to excite high school young people and college young people into becoming involved in the system and to run in politics.

We have also had some great victories together. I am not going to recount those, because I think more poignant are the defeats that we have suffered together. I think that points up more of some of the great attributes that RICK had, rather than the victories which we have had a chance to join in than some of those successes; but to me what RICK has shown to all of us is that we must look forward and we must be aware of what is happening to this country and that we should be concerned about the disappearance of the small family farm, which is the essence of rural America and that if we do not do some things perhaps to some people radical and different, that that part of America which we are also proud of and which has been the real essence of the character of this country is going to disappear.

□ 1610

We have had defeat last year on the bill on which the gentleman and I had worked together for 3 years. Unfortunately, it lost on principles and for reasons which were irrelevant to the bill. This was an attempt to try and preserve the agricultural backbone of this Nation, and he was not afraid to go out and charge forward on those kinds of issues.

I am afraid we are going to miss Rick because of that. There are not too many who have that kind of courage, who are willing to go out and take on problems that are not a crisis today but will be a crisis tomorrow. That kind of leadership shown by Rick Nolan is, unfortunately leaving us, but it will go with him when he goes back to Minnesota.

I know Rick well enough to know that he is going to be out there fighting the battles that are important to his State and important to his family.

I am going to miss you, Rick, and I know that all who have had the benefit of sharing your character and your vision will miss you.

Mr. VENTO. Mr. Speaker, I thank the gentleman from Vermont (Mr. Jeffords).

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to our colleague, the gentleman from the Eighth Congressional District of Minnesota (Mr. Oberstar).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

> He gave the people of his best;
> His worst he kept, his best he gave.

Those eloquent words of Alfred, Lord Tennyson describe Rick Nolan's congressional career.

The dedication and compassion of a Rick Nolan is evident in the words expressed here this afternoon. The decision of such a dedicated, compassionate, sensitive person to leave the House is so obviously a sad one for all of us who have known and worked with him. That decision not to seek reelection is for me an especially great personal loss because I sense in myself some of the same reasons that have impelled him to that decision.

We came to Congress together in 1975. I had hoped that our service in this body would continue as a partnership for many years in the future, as it has been throughout these years.

The people of Minnesota, especially the people in the Sixth District whom Rick represents, have been fortunate to be represented by a person of such compassion and sensitivity and, above all, vision. He has had the vision to encourage, to reach out and touch, and to work for what is right, not only for the people of that district but for the people of country as well.

Minnesota's most beloved political leader, the late Senator Hubert Humphrey, who was a constituent of Rick Nolan's, once said, there are two kinds of public servants: The mechanics and the artists. Senator Humphrey was speaking about the late John F. Kennedy, a man whom Hubert considered to be an artist.

I think the same description could be made of Rick Nolan. He brought to public service the broad tableau of the artist, the broad vision of serving the individual citizen—the little guy, the person in the street. That was the way he served the people, and that was the way he campaigned.

It was my privilege to observe that in the district he served, not just in campaigning but also in matters of serving the people of the Sixth District, the "little" people who most need the protection of their Government.

In these three terms Rick Nolan has established an evident and solid record of legislative achievement. He has made his mark of a fierce commitment to principle and of dedicated service to his constituents in the Sixth District. It is a record that has earned Rick the respect of not only the people of the Sixth District but of the Members of this body, who are very harsh critics and harsh judges of their peers.

Mr. Speaker, that record of service, without question, would have assured Rick of his reelection to Congress for a fourth term this fall, yet he has chosen not to run.

My wife Jo and I wish Rick and Margie and their four children, who are about the same age as our own four, much happiness as they plan their return to private life: Togetherness as a family, time to recapture the closeness that is somewhat diminished by the demands of public service.

I know that Rick will bring to farming the same creativity, the same determination, and the same fierce pursuit of what is right that he brought to his work in the Congress.

His decision to leave this House and to leave public service is characteristic of Rick's independence of spirit. It would also be characteristic—and I know that no Member of this body would be surprised at this—if Rick would return to public life at some future time. I hope so. We really cannot afford to lose a person who will fight as he did for a government that responds to the needs of all citizens and not just to those of well-financed special interests.

Mr. Speaker, we cannot afford to lose the contributions of a Rick Nolan, who is willing to take an unpopular position and to stand up for what he believes is right and just. We shall miss him greatly.

Mr. VENTO. Mr. Speaker, I thank the gentleman from Minnesota (Mr. Oberstar) for his comments.

Mr. HUBBARD. Mr. Speaker, it was my pleasure to be with Congressman Richard Nolan when he and I and many others were sworn in as freshmen Members of Congress in January 1975. It has been my privilege and pleasure to serve with him in the U.S. Congress since that time, January 1975, through this year.

I join the other Members who regret very much his decision not to seek reelection to a fourth term and other terms in the future in this House of Representatives. But I wish for him and his lovely wife, Marjorie, and their four children, Michael, Leah, John, and Katherine, the very best of everything in the future. The House of Representatives is a better place for having had Richard M. Nolan of Minnesota a Member of Congress for three terms.

● Mr. O'NEILL. Mr. Speaker, I rise to join my colleagues in honoring Richard Nolan upon his retirement. In the three terms he has served in Congress, Rick proved himself to be a fine young Member, distinguished himself through loyal service to his constituents and his Nation.

When Rick's class first came here, it was one of the largest the House had ever seen, and the size alone indicated it would take a long time for any of its Members to make a mark. That was not so in Rick's case. We quickly recognized him as one of the brightest new Members.

Rick's service on the Agriculture Committee and the Small Business Committee was often praised by his colleagues on those committees, and he had the opportunity to ably represent the agricultural community on many issues of vital importance to the well being of their and the country's future.

We will miss Rick Nolan in the House and wish him well as he returns to his home and family in Minnesota.●

● Mr. JONES of Tennessee. Mr. Speaker, for the past three terms it has been my pleasure to serve with the dynamic young Member from Minnesota, Mr. Nolan.

As a member of the Committee on Agriculture, he has represented his constituency with conviction and courage. He has never sacrificed his beliefs to political expendiency. Instead, he has aggressively pursued what he perceived to be in the best interest of the country. At times, I have found myself at odds with him over particulars, and, believe me, he is a formidable adversary. I like it much better when we are on the same side of an issue as we usually are.

This body will miss Rick Nolan's sharp perception, his good-natured sense of humor, his knowledge of the legislative process, and his dogged determination. We wish him well as he returns to his Minnesota farm at the end of this term, but I am inclined to believe that we have not heard the last of Richard Nolan.●

● Mr. CAVANAUGH. Mr. Speaker, I was saddened when I learned that Rick Nolan had decided to leave the Congress. I suppose this statement seems odd since I, too, have made the decision to retire from public service. However, I was comfortable with my decision since I knew that people like Rick Nolan would remain in the Congress and that he would continue to exhibit his depth of conscience and concern for the condition of mankind which has been an inspiration to me and to all those who have known Rick. I have admired him greatly for the goals and ideals he possesses.

He has been the champion of the family farmer, the small business people, and rural communities. His effort in these endeavors have been unique and there is no one who has fought harder against the takeover of family farms by big corporations to protect and continue this important part of the American heritage.

His deep concern and efforts on behalf

of the hungry in this world have served as a benchmark. No Member of this body has put forth more effort to see that the bountiful resources of the farms of this great Nation were shared with the hungry.

Rick was described to me by a former member of his staff who now works for me as the "best human being" she has ever known. I believe this is a good description of him. His hopes and desires for this great country never faltered under the pressure put forth by narrow special interest groups. He never shyed away from what he truly believed because it was politically popular to do so.

Rick has provided the people of the Sixth District of Minnesota with one sort of representation the citizens were so eager for in the wake of Watergate. He brought to the Congress honesty, commitment, conviction, and dedication.

A finer Congressman, humanitarian, and man never walked these Halls of Congress. Those who will be charged with carrying on the work of the Congress should not forget what Rick has fought for. He is right, he is just and he will be missed.●

● Mr. JACOBS. Mr. Speaker, no more decent nor able person than Richard Nolan has ever served in the Congress. This institution will be diminished by his retirement.●

● Mr. LLOYD. Mr. Speaker, Rick Nolan and I came to Congress together. We were the Watergate babies, the reformers, the 94th caucus, and we were fired up. A lot of fires were dampened in the intervening years, but not Rick Nolan's. His energy never flagged, his goals never dimmed and the compassion he felt for the underdog never weakened.

Now those of us who are left behind will not find out if Rick Nolan's hopes spring eternal, but I do know one thing: No matter where Rick goes, he takes with him the best credentials a man can have—the affection of his coworkers and a reputation for integrity.●

● Mr. LEVITAS. Mr. Speaker, I rise to add to the comments already received on the decision of our colleague, Rick Nolan, not to seek another term in Congress, and to return home to Minnesota.

Rick brought to this House not only idealism and a belief that the system could be made to work the way it should, but also an effectiveness in attaining his ideals. In addition, he brought kindness, integrity, a sense of humor, and a concern for the people of his district, the people of Minnesota, and the people of this Nation. He came to try to make Congress and America and the world a better place, and he did.

We will be diminished by his departure, but his achievements and his spirit and the friendships he has made will remain for the betterment of us all.●

● Mr. FITHIAN. Mr. Speaker, I am glad to pay tribute to the qualities our colleague Rick Nolan has brought to the House of Representatives. I am sorry, indeed, that this tribute should be prompted by his decision not to run for reelection from Minnesota's Sixth Congressional District.

Rick and I came to the Congress in the same year and have served on the same committee—the House Agriculture Committee. We have faced the same issues together—both in general consideration on the House floor and more particularly in the subtle and complex give-and-take of committee consideration. I feel I have had an outstanding chance to appreciate the quality of Rick Nolan's work and to value the character of the man, both as a colleague and as a friend.

Rick Nolan has made his mark on the House and on the policy we have produced. His influence has been constructive, caring, responsible. In particular, I have valued his efforts and his extraordinary concern for the quality of life in rural America. I believe we will miss his voice in this area—one which has more importance for American society generally than we sometimes realize. I hope that we will find another voice like Rick Nolan's to speak for the contributions of rural America and its needs. I hope the Sixth District of Minnesota will find another Congressman prepared to show the dedication Rick has shown. I hope the House will find another Member who brings the resources and commitment to Congress that Rick Nolan has brought us.

But it seems to me that my hopes are most likely to be realized if we can convince Rick Nolan to change his mind and retain his seat—and simultaneously retain for us the benefits of his service.●

● Mr. DRINAN. Mr. Speaker, everyone in the House of Representatives will miss our colleague, Richard Nolan, who has announced that he will not seek reelection.

I have admired Dick Nolan for many, many reasons. He was an intrepid Member, along with myself, of a group of Members of Congress appointed by the Speaker to tour the refugee camps of Southeast Asia.

Dick Nolan has distinguished himself for his leadership in the areas of agriculture, human rights, and other very important issues confronting the Congress and the country.

I have the hope that this talented young man will be able to return to the Congress where his labors have been admired and his achievements will be lasting.●

● Mr. BROWN of California. Mr. Speaker, I was saddened to learn about the plans of my friend and colleague, Richard Nolan, to retire at the end of this term. During his service in the House, Rick Nolan has consistently championed the cause of the forgotten and underrepresented people, both those in this country and around the world. His steadfast dedication to the cause of eliminating hunger and malnutrition, exemplified by his service on the President's Commission on World Hunger, shines as the work of a man with deep belief in his work.

I have had the pleasure of serving with Rick on the Agriculture Committee and have seen there his tireless efforts on behalf of America's family farmer. While others offered only rhetorical help, Rick, as chairman of the Subcommittee on Family Farms, Rural Development, and Special Studies, sought solutions to the structural and economic conditions that are robbing rural America of its vitality. While others saw only an inconvenience to their commuting from the farmer's strikes, Rick saw a serious expression of frustration from America's farmers and sought their advice. With Rick's retirement not only are we losing a valuable colleague, America's farmers are losing one of their strongest advocates in Congress.

But if I know Rick, the loss will be to us in Congress and not to the American farmer or the people whose causes he champions. I do not know what avenue of expression his concern will lead him to but I know that we will continue to hear from and about Rick Nolan. So while I feel the loss of a friend and colleague, I am confident that we will not be losing his sage counsel.●

● Mr. VOLKMER. Mr. Speaker, it was with surprise and disappointment that I learned our distinguished colleague from Minnesota, Richard Nolan, has decided to leave this body at the end of this term.

His three terms as a Member of this body have been productive. As a member of the House Agriculture, and Small Business Committees, Rick has become leader in people issues.

I served with Dick for 2 years on the Agriculture Committee. His knowledge of farm issues gave me a great insight into the various issues we considered. Although we disagreed on many of the issues we have common ground when it comes to populist or people issues. His leadership on these issues will be missed.

The 22 counties of the Sixth District, the State of Minnesota, and this body will be the losers when Dick leaves us at the end of the session. I join my colleagues in wishing him and his family the best of luck in his return to farming and all other future endeavors.●

● Mr. JEFFORDS. Mr. Speaker, I join with my colleagues in honoring a fellow Member of this body, Representative Richard Nolan.

Rick Nolan has announced his retirement from the House at the end of this session. His decision to leave office at the end of only three terms is disappointing to those of us who have worked closely with him, for he brought to this body a very human quality—an understanding of the needs of rural America and especially the needs of the family farmer.

I had the fortune, Mr. Speaker, to serve with Rick Nolan on the House Committee on Agriculture. As chairman of the Subcommittee on Family Farms, Rural Development, and Special Studies, Rick led the effort to save the family farm. It was because of this concern and leadership that the administration moved forward in trying to better understand the structure of American agriculture. He was an early advocate of the need for a national policy on rural America. His concern for the loss of this Nation's most basic natural resources—prime farmland—helped to bring the issue before the American public. He is a leader, Mr. Speaker, and he forced us to think beyond the limits of today and into the future.

Mr. Speaker, I join my colleagues in thanking Rick for his courage in bringing new ideas to this body. My best wishes go with him and his family.●

● Mr. RICHMOND. Mr. Speaker, this time has been set aside today to honor our colleague, RICK NOLAN, for his dedication, his hard work, his many achievements in Congress on behalf of his constituents and all Americans and, most of all, for his never-failing warmth and friendship.

RICK and Margie Nolan and their four outstanding children and I have been friends since RICK and I arrived in Congress together in 1975. I consider RICK one of my very closest friends, both personal and political, and I know how difficult it has been for him to decide not to seek reelection.

I know RICK NOLAN well enough to know that he will humbly deny the accolades we heap upon him today. However, for the record—and without fear of contradiction from any of his colleagues—I can say that RICK NOLAN has proven himself a great liberal, an innovative and courageous legislator who really cares about people.

RICK NOLAN's caring about people extends to both the rural constituency he so ably represents and to the urban constituency to which he is open and sensitive. RICK has been my closest associate on the Agriculture Committee. He has been instrumental in building the informal urban/rural coalition that has functioned so well in enhancing communication and understanding between farmers and consumers, as well as assisting in the continuing efforts to stabilize farm income and food prices.

I will miss RICK NOLAN when he returns to Minnesota to, in his words, "get reacquainted with" his family. We will all miss his help and his imaginative approach to resolving the critical problems confronting Congress and our Nation. We all wish RICK NOLAN the very best in all his future endeavors and commend him for a job well done.●

● Mr. REUSS. Mr. Speaker, in 6 years in the House of Representatives, RICHARD NOLAN took on portfolios as important and difficult as any in Congress, and discharged his duty with his unique mixture of distinction and grace.

Upon his retirement, his House colleagues will lose a legislator who combined assiduous representation of his district with advocacy of the broad national interest without slighting either.

The farming community will lose a champion fighter for the family farm, and a maverick in the search for further research and development in the world of agriculture.

And his friends in Congress, of whom I am proud to count myself one, will lose a man of intellect, wit, and charm.

Congress will lose a strong and powerful figure, yet it has grown from the ideas RICHARD NOLAN espoused, the public service he rendered, and the rectitude from which he never strayed.●

● Mr. STARK. Mr. Speaker, I rise today to salute our retiring colleague from Minnesota's Sixth District, RICK NOLAN. RICK NOLAN is a friend and a true son of Minnesota's democratic tradition, and it is with special sadness that I received news of his retirement.

Since his election to this House in 1974, RICK NOLAN has been the family farmer's champion. He has been a friend of the working American, the poor, the average consumer, the elderly, and the children of this Nation. He has been consistent and outspoken in his support for those people who are the foundation of this country and its Democratic Party.

RICK NOLAN's legislative work will be missed by the people of Minnesota, the people of this Nation, and by the House of Representatives. His presence will be sorely missed by all of his colleagues who have known and worked with him during his tenure in Congress.

And, Mr. Speaker, this Member will miss RICK NOLAN. He has been a close friend. In a life where the pressure is constant to be in public, to answer every demand, to be always politic, polite, and pleasant—RICK always had time to be supportive and sympathetic to our personal side. He was concerned for his colleagues, a generous, humorous, and gentle friend. He will leave a void in the House and in my life here.●

● Mr. GORE. Mr. Speaker, I am proud to participate today in this special order to say a few words in tribute to my friend and distinguished colleague, RICHARD NOLAN. Much to the disappointment of all of us, Congressman NOLAN has decided to leave the Congress at the end of this year and return to Minnesota and his family. Because he is one of the most respected and active Members of this body, I think that it is only fitting that we take time to honor him this afternoon.

The presence of a man with such a dedication and commitment to the public interest as RICHARD NOLAN possesses, is, indeed, a favorable reflection on the sometimes tarnished image of the Congress. Throughout the past 6 years, he has continued to be at the forefront of those issues which most significantly affected the average American—whether he be a farmer, factory worker, or businessman. The citizens of Minnesota, as well as those across the entire country, have benefited from his efforts. In this man, the people truly found a committed and tireless champion.

With his decision not to seek reelection, Congressman NOLAN does not abandon his commitment to a deeply felt philosophy, nor to the public he has served. But he moves to address these issues in a new sphere. With him he takes a perspective, largely developed from the experiences he has enjoyed, and sometimes endured, in this body. And I am confident that these experiences will show themselves to have made that commitment even stronger.

For certain, this House will not quickly forget RICHARD NOLAN and the contributions he has made. I know that I am not alone when I say that he will be sorely missed.●

● Mr. SEBELIUS. Mr. Speaker, I have known RICK NOLAN since he came to Congress back in 1975. As long as I have known him, he has always fought to keep the small farmer in business. We were not always on the same side of the issue, but I know he has the best interests of the farmer in his thoughts.

Working with RICK is always stimulating. His enthusiasm is contagious. For me, working with RICK NOLAN has been an honor and a pleasure.●

● Mr. BRODHEAD. Mr. Speaker, like many of my colleagues, I was sorry to learn that RICK NOLAN would not be seeking reelection in 1980. We were both Members of the huge class of 1974, and I feel very fortunate to have worked with RICK for the reforms that have been instituted since that time.

RICK NOLAN has served his country and his constituents with distinction and integrity. He has also been a valuable personal friend and ally, and an asset to the Congress. Just as his presence has been highly prized, his absence will be deeply felt.

I know that RICK will be successful in his future endeavors. He will continue to demonstrate the type of principle and commitment that have characterized his work in Congress. I join with RICK's many friends to wish him prosperity and good fortune, and to congratulate him on his years of service.●

● Mr. BINGHAM. Mr. Speaker, every once in a while the House of Representatives is blessed with the presence of a rare person, someone who is not weighted down with rigid notions of tradition or protocol, but has the wit and the courage to follow his own convictions and tastes. Such a person is the gentleman from Minnesota (Mr. NOLAN).

What puzzles me about his leaving us is that he never seemed to feel the constraints of this job that we have, but apparently he did. We are sorry to lose him and his delightful wife Marge.

A year ago I had the pleasure of leading a delegation to Jamaica, Cuba, the Dominican Republic, and Guantanamo with RICK and Marge, and they contributed in many ways to the value and the success of our trip.

All of us, I am sure, wish RICK and Marge the best of everything in the future. We were, indeed, fortunate to have this "blithe spirit" with us for a while.●

● Mr. HANCE. Mr. Speaker, I am pleased that we have taken some time today to honor my good friend and colleague, RICHARD NOLAN of Minnesota. Congressman NOLAN has a distinguished record of public service and it saddens me to see such a talented Congressman stepping down after serving 6 years in this body.

RICK NOLAN has provided Minnesota's Sixth Congressional District with service that should make his constituents proud. His district is the start of the great wheat fields which cover southwestern Minnesota, the Dakotas, and Montana. RICK and I work closely on the House Agriculture Committee and he has consistently impressed me with his hard work and devotion to the agriculture interests of America—especially the smaller, family farms. Congressman NOLAN, as chairman of the Subcommittee on Family Farms, will be greatly missed.

I am proud to have had the opportunity to know RICK, and to have served with him. He is a statesman, a good friend, and a great American.●

● Mr. GIAIMO. Mr. Speaker, Congressman RICHARD NOLAN, who has served his

Minnesota constituents and the Nation with dedication since he came to the House of Representatives in 1975, has announced that he will not seek reelection in November. He will be greatly missed by all of us.

Congressman Nolan is a product of the Democratic-Farmer-Labor Party of Minnesota, which has produced some of America's most outstanding leaders, including the late Senator Hubert H. Humphrey and Vice President Walter Mondale. Like them, he has had a passionate concern for the welfare of the common man in our country, on the farm or in the cities. This concern has been translated into legislative action during his career in public life, which included service in the Minnesota State Legislature before his election to the House.

Rick Nolan, like others in the Minnesota Democratic-Farmer-Labor tradition, was something of a boy wonder. He was elected to the Minnesota Legislature at the age of 24. He was only 30 when first elected to the House. In this body, he has served ably on the Committees on Agriculture and Small Business, two committees which provided him with an appropriate forum for his championing of the small family farmer in our Nation and the development and revitalization of rural America.

His colleagues probably will best remember him for his efforts on behalf of those who make their livings in rural areas. But Rick Nolan has never been parochial in his legislative activities. He has also worked with great dedication on behalf of urban Americans and the improvement of our cities.

Congressman Nolan also has made outstanding contributions in the battle against world hunger. It was his House resolution which led to the formation of the President's Council on Hunger and Malnutrition, on which Mr. Nolan now serves. He has been a delegate representing the United States to a number of international conferences with world hunger as their chief focus, including the World Food Conference in Mexico City in 1978 and the Emergency U.N. Conference on Refugees in Geneva last summer.

At the young age of 36, Mr. Nolan is retiring from the House to operate a 40-acre farm in Minnesota, where he will grow specialty crops and use new technologies in food production. In so doing, he may develop agricultural techniques which will be as important in the war against hunger as his public service has been.

I will personally miss Congressman Nolan as a man and as a colleague, and I wish him well in his future endeavors.●

● Mr. STOKES. Mr. Speaker, I rise to congratulate the gentleman in the well, Mr. Vento, for taking out this special order and affording all of us the opportunity to pay respect to our colleague, Rick Nolan. Mr. Speaker, the gentleman from Minnesota (Mr. Nolan) has served admirably in this body and I, for one, shall miss him upon his retirement. Mr. Speaker, many men come and go in this Congress. Each in his own way leaves his mark or imprint upon this body. Rick Nolan leaves an indelible imprint upon the U.S. Congress. He is a dedicated, untiring, able, and competent legislator who adheres to high principles. Rick Nolan really cares. Those of us who classify ourselves as liberals in this body will really miss him, because, on all of the liberal issues he could be counted upon to stand tall, never wavering. Mr. Speaker, I do not know what other pursuit Rick Nolan will undertake in life, but, my own life has been enriched through his friendship, and he carries with him my sincerest prayer for continued success in his new endeavors.●

● Mr. PEYSER. Mr. Speaker, I was truly disappointed to learn that Rick Nolan has decided not to seek reelection this year.

I have known Rick not only as a friend but as an outstanding and contributing legislator.

He will be truly missed in the next Congress.●

● Mr. UDALL. Mr. Speaker, it was with regret that I learned that Rick Nolan has decided not to seek another term in the Congress. I will miss him.

Rick has been a candid, frank, and outspoken Member, and I am sorry that a man of his forthrightness is moving on. We could use a few more like him.

Rick Nolan has served his district and his State well. I wish him the best of what he wants for the future.●

● Mr. DERRICK. Mr. Speaker, I would like to take this opportunity to join my colleagues in wishing farewell to a fellow Member of the House of Representatives from the State of Minnesota, Richard Nolan.

The farmers of this Nation have had a strong and effective ally in the House in the person of Richard Nolan, exemplified by his work on the House Agricultural Committee. As a fellow Member of the 94th Congress, I would like to wish Rick the best of luck, while at the same time noting my regret upon learning of his departure from the House.

I do appreciate Rick's desire to spend more time with his family, in addition to turning his attention to the running of his farm in his home State of Minnesota. As a friend and colleague in the House, I would like to offer Richard Nolan my best wishes and good luck in the future.●

● Mr. HAGEDORN. Mr. Speaker, it is most fitting that we salute Richard Nolan today for the dedicated efforts he has made for the past 5 years as the Representative of Minnesota's Sixth Congressional District.

Since Rick Nolan and I share similar backgrounds, I have been able to follow his political career from a front row seat. We are the same age, were both born in small communities in Minnesota, and were raised and educated in our home State. We both served in the Minnesota Legislature before being elected to Congress in 1974 as Representatives of largely rural districts and we are both members of the House Agriculture Committee.

While we do not share the same political affiliation or the same philosophy toward government, we both share a belief in the goodness of our Nation and the people we represent. Over the years I have come to admire and respect Rick Nolan for his outspoken style, active participation in the legislative process and his willingness, no matter what the personal risk, to take controversial stands on issues he feels are significant for rural America and the national interest.

His announced departure from Congress will leave a void in the House of Representatives. Our legislative body will lose a colorful lawmaker and an individual of integrity and firm principles. I am sure that Rick Nolan's retirement is not a withdrawal from public service and I know that he will continue his active interest in agriculture and national and State issues.●

● Mr. MAZZOLI. Mr. Speaker, I am sure that Congressman Richard Nolan's decision to leave us was not an easy decision to reach. However, I am equally sure that this decision is based on what is best for him and his family.

Congressman Nolan contributed much during his short time with us in the Congress. He will be sorely missed.

I join with all of his friends and family in wishing him much success, health, and happiness in his future.●

● Mr. RUSSO. Mr. Speaker, I want to pay tribute to Representative Rick Nolan today because I know the good job he has done here in Congress. But first I want to figure out how a Minnesota fellow talking family-owned farms, and a Chicago guy talking 18th ward and suburban growth came to be such good friends?

I suppose it is the nature of the Congress that such incongruous friendships blossom. But I can not help but feel—admitting to a possible bias—that in addition the 94th Congress freshmen class included some very special people, people like Rick Nolan whose capacity for friendship was exceeded only by their capacity for hard work and dedication.

I count myself as fortunate to have entered the Congress with such a group. I must count it an especially painful loss to say goodbye to any of them, and to Rick Nolan in particular, one of my closest friends. He may be a misguided missile on the basketball court but he is always right on target as a friend.

Rick announcing he will not seek reelection is a personal loss to many of us who work with him. But most assuredly it is the Nation's loss as well. A man experienced at both the State and Federal level, Rick worked in committees and on the floor with skill. In his years here he has remained conscientious and sensitive to the needs of the country as well as his home district. In a strong, articulate voice, Rick spoke for those too often unable to speak forcefully for themselves—the underprivileged, the elderly, the poor.

I commend him for his work here. He will be greatly missed.●

● Mr. ADDABBO. Mr. Speaker, at the end of this session, the House will lose one of its finest Members and gentlemen, Richard Nolan of Minnesota.

It seems every year about this time we are saddened upon being notified that some of our friends of this body have decided not to seek relection. This year is no different, with a score of colleagues deciding to end their careers in the

House. When Richard Nolan announced he will not return it saddened me because it meant that I, and the rest of us here will be losing a friend and coworker. One of the most enjoyable facets of working in this Chamber is that you very quickly develop a bond of friendship known nowhere else. Such it is with Rick Nolan, a man whom I have known only for a short while, yet one whom I have grown to admire and respect.

Having served on the Small Business Committee for a number of years I have seen many colleagues try to wrestle with the plethora of problems that it faces. It takes a special individual to be able to master the intricacies and demands of the small businessman of this Nation, and Richard Nolan has taken the time and effort to do so. As a member of the Agriculture Committee, I have been told he has carved out a niche for himself as one who is sensitive to the needs of the American farmer. If ever a degree of compassion and level headed thinking was needed for a committee, it certainly has been required on one that deals with a small group of people such as the farmer, maligned by those who have never taken the time to grasp or understand their problems.

I am proud to have had the privilege to serve in the House of Representatives with Richard Nolan. I know I am expressing the feelings of the rest of my colleagues in saluting him for a job well done in the short time he has been with us, and I wish him and his family all possible future success and happiness.●

● Mr. BALDUS. Mr. Speaker, each and everyone of us was shocked and surprised by Richard Nolan's announcement last week that he would not seek reelection to another term in office. We all know that it is a difficult decision for each Member to make, and each time a Member makes the announcement it is also reassuring to know that there is life after a Member leaves Congress. We admire you, Rick, for your dedication to your family and your longstanding and high regard to principles.

As a member of both the Small Business and Agriculture Committees, we have shared many hours together. Rick has established himself as a champion of the small family farm and small business, based in large part in the midwestern progressive philosophy. He continually sought to shape farm policy that recognized the importance of the small farmer in the larger agricultural picture. He displayed a corresponding interest for the small businessperson.

The people of the Sixth District of Minnesota have been well represented by Rick's active participation in all aspects of legislation. I am confident that Rick will find a way to continue to serve the public.

So while we pause to reflect on Rick's record and accomplishments, I want to extend my personal wishes to him and hope that the future is filled with health, happinss, and success.●

● Mr. GRASSLEY. Mr. Speaker, it was with sadness and regret that I learned of the decision of my good friend and colleague, the gentleman from Minnesota, Rick Nolan, not to seek reelection to the House this year. As ranking minority member of the subcommittee he chairs in the House Agriculture Committee, I have shared with him both the frustrations and the successes of the legislative process.

While we do not always agree on the specifics of programs or policies, we have the same basic interests in a healthy U.S. agriculture, a strong family farm system, and viable rural America. In his service as chairman of the Family Farms, Rural Development and Special Studies Subcommittee, the gentleman has exercised the kind of leadership that inspires confidence and trust, and encourages Members to try to work out their differences on legislation. And on those occasions when there is fundamental disagreement that cannot be resolved, the gentleman is conscientious in his efforts to provide a forum in which such disagreement can be fully and openly expressed. To me this is the heart and soul of the legislative process. It is the only way our democratic system of government can work effectively.

I believe the highest tribute any legislator can receive is that he sincerely and arduously works to maintain a legislative system that operates in this way. The gentleman from Minnesota, my colleague and chairman is such a man.

My remarks today are brief, but my regard for Rick Nolan is deep. He is a man of principle, steadfast in his convictions and true to his standards of fairness, equity and justice. We have worked together on many issues. On some we have not seen eye to eye, and have agreed to disagree. I am proud to know him and to serve with him in the House and on our committee and subcommittee. I know his contributions will not end with his service in this body.●

● Mr. BRADEMAS. Mr. Speaker, I am pleased to join my colleagues in this tribute to our distinguished friend, Rick Nolan.

Rick's decision, at the age of 36, and after just 6 years in the House, not to seek reelection at the end of this term, saddens me. All who know Rick have come to value his friendship and admire his integrity and dedication, and we shall miss him in the House.

In particular, Rick Nolan has demonstrated outstanding leadership on the Committee on Agriculture and has made a major contribution through his efforts to muster international cooperation to seek solutions to the problem of world hunger.

In addition to spending more time with his family after he leaves the House, Rick plans to continue to pursue solutions to world food shortages through model and experimental farming back home in Minnesota.

Mr. Speaker, I have little doubt that when he returns to Minnesota, Rick Nolan will demonstrate there the same dedicated leadership in the public interest that he has shown during his service in the House, and I wish him well.

House of Representatives,
Washington, D.C., February 8, 1980.

Dear Colleagues: Our distinguished and dear colleague, Richard Nolan, has announced that he will not seek re-election to another term in Congress. His decision to leave office after this term is very disappointing to all of us who have worked closely with him and who share his philosophy and goals.

I have asked the Speaker to designate a Special Order at the end of the business day on Tuesday, February 12, to honor Congressman Nolan for his work, his help and his friendship.

I hope you will join me in paying tribute to Rick. If you cannot make a statement on the Floor February 12, you can submit a signed statement to me in 230 Cannon or to either the Democratic or Republican Cloakroom.

Please contact Shirley Geer at X6631 if you have any questions.

Warm regards.

Sincerely,

Bruce F. Vento,
Member of Congress.●

Mr. NOLAN. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Minnesota.

Mr. NOLAN. Mr. Speaker, I wish to thank the gentleman from Minnesota (Mr. Vento) for calling this special order and thank my colleagues for having come here this afternoon to say, "all these very kind words."

While one should never engage in public service for recognition and appreciation, I must confess that it is nice and comforting to know that one's colleagues recognize, appreciate and respect your efforts. I thank you very much for these expressions of your feelings.

I must confess to all of you that it is with mixed emotions that I arrived at my decision not to seek reelection to the House. It has been a great honor and a great privilege to serve in this body. It is perhaps the greatest honor and the greatest privilege I will ever enjoy in my life. I feel greatly enriched by the experiences that I have had here in this House and the experiences that I have had with Members on both the Democratic and the Republican sides of the aisle. I hope that in the process I have been able to contribute something not only to this Chamber but to the well-being of this country and this world.

I do want to say to all of you that I came to this Chamber as an optimist. While I have at times, as we all have, been disheartened by our sometimes seeming inability to come to grips with and solve the problems we have in our Nation and our economy, and in our ability to get a handle on the arms race, particularly the nuclear arms race, I still find that I leave this Chamber as an optimist. I am still an optimist because of the people I have come to know while serving here. The Members who serve in this Chamber are among the most intelligent, the most dedicated, the most devoted, and the most caring people I have ever come to know in my life.

The nonelected people who I have come to know in my term of public service have likewise been among the most creative, inventive, determined and thoughtful people who are so more so devoted than I ever dreamed. Because of the people inside this chamber and others who hold public office and the people in private life who do not hold public office I remain greatly optimistic about the future. But it is also important for us to remind ourselves that there are many ways that people can contribute to the well being of their community, their State and their Nation, and that elective office is only one of the ways that the people find to make important and significant contributions.

I am sure the Members are well aware of the significant and important contributions that people make in their private lives and in their personal lives as well.

With a great deal of mixed emotions I have made the decision that the time has come for me to devote more time to my private life and personal interests. But I want to assure all my friends and colleagues that in no way do I intend to turn my back on politics. Once having recognized the powerful force and impact that Government can have, whether positive or negative, on our lives, I think it would be impossible for anyone to turn their back on politics and community life. So I intend to continue to be actively involved in the politics of my community, my State, our Nation and in our world, and hopefully shed some enlightenment and bring some comfort along the way and continue to try to contribute to the best of my ability to making the world a better place to live in.

Thank you all very much.

☐ 1620

Mr. VENTO. I want to thank the gentleman for his contribution.

I think the statements and the warm response to this special order is much appreciated. I want to thank all who participated in this special order.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 10 legislative days in which to revise and extend their remarks on the subject of my special order in tribute to the Honorable RICHARD NOLAN.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

CENTENNIAL OF THE POLISH NATIONAL ALLIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 30 minutes.

• Mr. ZABLOCKI. Mr. Speaker, I requested this time to share with you and our colleagues the centennial of the PNA. One hundred years ago, on February 10, 1880, the first notices appeared in the English and German language newspapers in Philadelphia and in the Polish weekly Ogniwo of New York, announcing a meeting of Polish immigrants to be held at the offices of Andrzejkowicz-Dunn paint factory, 347 Third Street in Philadelphia.

The notices explained that the meeting was being arranged for the purpose of appraising the feasibility of starting a nationwide organization of Polish immigrants for their betterment and protection.

The notices were signed by Juliusz Andrzejkowicz, Julian Szajnert, Julian Lipinski, and Jan N. Popielinski.

Within a matter of months, sufficient interest was shown by the membership of existing Polish societies to warrant the convening of a convention in Chicago, Ill., in September 1880, at which the "Polish National Alliance of the United States of North America" was founded. At that time its membership numbered fewer than 300 persons. Today, it has a membership of 300,000 and is the largest ethnic fraternal organization in the United States.

Mr. Speaker, as a longtime member of the Milwaukee Society, lodge 2159 of the Polish National Alliance, I am proud of the contributions of the Polish National Alliance and its members to the pluralistic society which helps make our Nation strong and free. From its very inception, the PNA, as it is familiarly known, accepted the responsibility of facilitating the entry of Polish immigrants and their American-born children into the mainstream of American life. At the same time, through fraternal bonds, it enriched the lives of its members and indeed the community as a whole by preserving and fostering respect for the enduring values of Polish culture, language, history, and tradition.

Mr. Speaker, the history of the Polish National Alliance is noteworthy, not only for the ideals the organization has espoused from the beginning but more especially for its actual accomplishments and the lasting value of its institutions, which helped make them possible. Foremost among these are its organizational elements which throughout its history gave special emphasis to education, information, and youth programs.

The Polish National Alliance established an educational department in 1895 to provide scholarships and interest-free loans to deserving young people. This strong interest in and recognition of the vital role of education was followed by the founding in 1912 of Alliance College, which today is a 4-year, fully accredited liberal arts coeducational institution appealing to students from throughout the country.

Mr. Speaker, since 1881 the PNA has published its official organ, the bimonthly Zgoda, with a circulation of 97,000, which makes it the largest Polish publication outside Poland. To serve native-born generations of Americans of Polish descent more effectively, Zgoda now includes a predominantly English language section. Since 1908 the PNA has also published the Polish Daily Zgoda, which enjoys extensive circulation among Americans of Polish origin, particularly in the Midwest.

During the years when the influx of Polish immigrants was heaviest, the PNA conducted citizenship classes, urging the foreign born to become citizens of the United States at the earliest opportunity and to involve themselves in the civic and political affairs of their respective communities.

In 1944, the PNA became a leading force in the formation of the Polish American Congress, a representative organization of 12 million Americans of Polish origin, to demand justice for Poland as the keystone of European stability and to fight Communist encroachment here and abroad. Today, the president of the Polish National Alliance, Aloysius A. Mazewski, who in 1971 served as a U.S. Delegate to the 25th Assembly of the United Nations, also serves as the president of the Polish American Congress.

Mr. Speaker, on February 17, 1980, His Eminence John Cardinal Krol will celebrate the Centennial Mass commemorating the founding of the Polish National Alliance at St. Ladislaus Church in Philadelphia.

This solemn religious observance will culminate 3 days of activities marking the beginnings of the organization in Philadelphia 100 years ago.

On this occasion, I am pleased to join with my colleagues and other officials in paying tribute to this outstanding organization and its leadership, which throughout its history has served the economic, cultural, political, and other needs of generations of American of Polish descent with honor and distinction.•

• Mr. BOLAND. Mr. Speaker, I join with my colleagues in congratulating the members of the Polish National Alliance of the United States of North America on the 100th birthday of that distinguished organization. Since 1880, the alliance has been a significant part of the lives of a great number of men, women, and children of Polish, Lithuanian, or Slovak descent. The educational and fraternal programs fostered by the alliance have been a meaningful way of insuring that the Polish heritage and traditions are preserved and promoted. I know that the life insurance program sponsored and operated by the alliance has been a source of comfort to the families of many Polish Americans for the last century.

The growth of the alliance is evidence enough of the quality of the service that it renders. From approximately 121,000 members in 1921, the alliance has grown to a present membership of 306,000. These members are served by 1,271 local groups scattered throughout the United States. It is obvious from these figures that the work of the alliance is meeting with a favorable response.

Mr. Speaker, I believe the alliance fulfills an increasingly important need in our society. Community service and providing for the needs of one's neighbors are values that sometimes do not receive proper emphasis in contemporary life. They are, however, values which have always characterized Polish Americans. It is not surprising, therefore, that organizations like the Polish National Alliance have been so successful. I hope that the next 100 years of the alliance's history is as distinguished as its first century.•

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TIME TO RIGHT A BATF ABUSE: THE CASE OF DAVE MOORHEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

● Mr. CLEVELAND. Mr. Speaker, today I am introducing legislation to remedy a wrong which the U.S. Government committed in 1975.

In one of the more distasteful episodes that I have come across, the Bureau of Alcohol, Tobacco, and Firearms conducted a raid on a disabled veteran in my district. Using tactics which one would normally expect to be used only in the case of someone dangerous who is expected to resist arrest, a group of out-of-State agents visited the shop of David Moorhead and hauled him off on the grounds that he was in the possession of a machinegun.

It is striking that the agents conducting the arrest came from out of State while the in-State BATF agents were on vacation; apparently they expected that the in-State agents would not go along with this particular arrest.

The fact is that following indictment there was a jury trial on this arrest, and the U.S. district court judge for New Hampshire did something he had never before done in his career as State or Federal judge, and directed a verdict against the Government at the conclusion of the Government's case. Following his dismissal he made the following comments in court:

> And I want to say to you, Mr. Moorhead, that on behalf of the government, I apologize. I don't think this case should have been brought. At most, we have here a technical violation. And now this man has lost his license as a result of the indictment. And, Mr. McLaughlin, I am informing you that I want you to try immediately to get his license back.
>
> I am upset by the case. This is the first time that it has happened. And I think that, on behalf of the law enforcement officials in this case, they should have used some common sense and a little compassion and taken all the facts into consideration.

Well, Mr. Speaker, the fact is that Dave Moorhead not only lost his license, but as a result of this disgraceful raid he lost his business as well.

Just recently the new Director of the Bureau of Alcohol, Tobacco, and Firearms went so far as to state, in testimony before a committee of the U.S. Senate, that he thought this was the kind of case that should result in a Federal Government apology.

The private bill that I have introduced would make a one-time lump-sump payment to Dave Moorhead in an amount sufficient to allow him to go back into the business just as he was in before this raid. On grounds of simple decency and justice, this is the least the Government can do. Furthermore, it is very important that we recognize a mistake when it has been made, and remedy it.●

TRIBLE CALLS FOR REACTIVATION OF BATTLESHIPS AND CARRIER "ORISKANY"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 15 minutes.

Mr. TRIBLE. Mr. Speaker, events in Southwest Asia have dramatically underscored the need for America to possess a naval capability second to none. Only our naval forces permit us to project power and presence in the Persian Gulf area and in the periphery of Asia and Africa. Recognizing our increased naval requirements, President Carter has stated that America must attain and maintain a 550-ship Navy.

Unfortunately, the President's rhetoric is not backed up by his 1981 shipbuilding request or his 5-year shipbuilding plan. President Carter has asked for less money for naval shipbuilding in fiscal year 1981 than the Congress authorized in fiscal year 1980 ($6.1 billion as opposed to $6.6 billion), recommends the construction of fewer fighting ships than the Congress authorized last year (8 combatants as opposed to 11), and continues to emphasize smaller and less capable combatants and support ships.

In order to attain and maintain a 550-ship Navy, we must build 18 to 24 ships per year and must spend approximately $8 billion per year in constant fiscal year 1981 dollars over the next 5 years. This would represent a $2 billion increase over President Carter's request for 1981. Vice Adm. M. S. Holcomb, Director of Navy Program Planning, testified last week before the Seapower Subcommittee that the United States would have to spend $10 to $15 billion more than the Carter administration has recommended for the 5-year period fiscal year 1981–85 in order to achieve a 550-ship fleet.

Next week I will recommend to my colleagues an alternative shipbuilding program for 1981 which will permit us to meet our international commitments and attain the 550-ship goal which President Carter has endorsed. Today, however, I want to make two recommendations that can significantly strengthen our Navy in the short term.

First, we should immediately reactivate our four *Iowa*-class battleships (*New Jersey, Iowa, Missouri,* and *Wisconsin*) on an urgent basis. I would recommend that these ships be overhauled in series beginning with the *New Jersey* in fiscal year 1981.

The reactivation of these formidable fighting ships would immediately signal to the world our intention to meet the increased Soviet threat. These 58,000-ton ships would create an imposing presence in the world. Even to the most untrained eye, battleships look like they mean business. Their 16-inch guns can propel 2,500-pound projectiles about 25 miles and can provide important firepower in many contingencies.

The capability of these battleships could be dramatically increased by installing vertically launched Tomahawk-class missiles, close-in weapons systems, updating their existing radars, and operating helicopters and/or VSTOL aircraft off their stern. It would cost approximately $500 million to overhaul and update each ship, and we could reasonably expect a service life of more than two decades.

Next, I would recommend that we immediately reactivate the carrier *Oriskany*. This ship is in the best condition of our five *Essex*-class carriers. For $186 to $200 million this ship could be overhauled and would have a service life of at least 15 years.

I would recommend that this vessel be used as an attack carrier in contingency operations, such as the Persian Gulf, and in concert with our big-deck carriers. This ship could act as a weapons mover to add firepower wherever necessary. The *Oriskany* could accommodate approximately 50 airplanes, including F–8 fighters, A–4 bombers, and AV–8 aircraft.

The immediate activation of our battleship fleet and the carrier *Oriskany* would—in the short term—significantly improve the quality and flexibility of our naval forces and would signal to the world our continued commitment to naval supremacy.

STATEMENT BY HON. JACK KEMP ON 1980 SUMMER OLYMPIC GAMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 20 minutes.

● Mr. COURTER. Mr. Speaker, I would like to call special attention to the unique role played by my distinguished colleague, Mr. KEMP, in the congressional moves to boycott the Moscow Olympics. Mr. KEMP was the first Member of this body to warn the Nation, already 3 years ago, of the grave implications of potential American participation in these games. He was the first to draw the parallel between these Olympics and the Nazi Olympics of 1936. Even before the Soviet invasion of Afghanistan, he discerned evidence damning enough to disqualify the U.S.S.R. from the privilege of hosting these games. The following testimony by Mr. KEMP brilliantly summarizes his case, and I would encourage all those who are concerned with human rights and the Olympic ideal to pay it their close attention.

STATEMENT OF HON. JACK KEMP

> Mr. Chairman, the government of the Soviet Union forfeited its rights to host the 1980 Summer Olympic Games years ago, long before it commenced its unprovoked and brutal invasion of Afghanistan.
>
> Before the Soviet Union exiled Nobel laureate Andrei Sakharov and before casting its veto vote in the United Nations' Security Council against the imposition of sanctions against Iran, the United States, and the governments of the Free and Third Worlds had justifiable cause to either move the site of the Summer Games or boycott the participation of their athletes in Moscow, the capital and center of the most repressive regime since the era of Adolph Hitler.
>
> As a former member of the President's Commission on Olympic Sports, as a member of the Advisory Committee of the U.S. Olympic Ski Team and as an American citizen, I was totally opposed to having the Games in Moscow in the first place. Such

participation, I believe, legitimatizes the consistent Soviet policy of repression of human rights, in direct violation of the Helsinki Accords, to which the Soviet Union is a signatory.

On April 21, 1977, I expressed my deep concern that the Soviets appeared to be planning the 1980 Summer Olympics on the 1936 Berlin model. In a speech in the House of Representatives, I said that if the 1980 Games were turned into a Communist propaganda spectacle, it would probably mean the end of the Olympic Games. To this concern, I added the presageful warnings of nationally syndicated columnist Jeffrey Hart and Los Angeles sports writer Jim Murray.

Then, Mr. Hart wrote, U.S. networks already had shown signs of being willing to allow the Soviet government to dictate the content of Olympic telecasts to the U.S. During ABC's coverage of the 1976 Summer Olympic Games in Montreal, Mr. Hart pointed out, American TV watchers were subjected to canned footage showing life in the Soviet Union, East Germany and Rumania with "smiling athletes, wonderful facilities, happy Siberian villagers and grinning school children."

"Not a shadow fell from the Gulag, the Lubianka, the 'insane asylums,' or the colossal (Soviet) military buildup," Mr. Hart warned us.

"While ABC was treating us to these propaganda clips, several Communist athletes took the opportunity afforded by the Games to defect to the West," he pointed out.

Even then, Jeffrey Hart warned us not to expect NBC, "with its $80 million investment involved, to give us any embarrassing shots of shabby-looking Russians lined up to buy a turnip or a bag of cement" or to expect interviews "with dissidents, Jews who want to get out or Baptists who want to practice their religion."

Now, Mr. Chairman, we find the Soviets preparing to remove from Moscow all political and religious dissidents and teenage youths until the Summer Games are completed.

Jim Murray wrote that "without U.S. television and know-how, the Soviet Olympics would be an embarrassing flop, internationally."

"You would never believe an American television network would become a partner of the Soviet Union," Mr. Murray observed.

Seven days after I expressed my initial concern, I met with an NBC executive who assured me that the network would have total control of Olympics program content. But he did admit that NBC was fully aware that the Soviets would probably clear dissidents from Moscow, Leningrad, Tallinn, Kiev and Minsk, those cities where parts of games are to be held.

Neither then nor now do I fault NBC for this circumstance. But I still believe the International Olympic Committee made a mistake by choosing the repressive, Soviet state as host country for the Summer Games.

On Aug. 2, 1977, after meeting with Mr. Joachim Maitre, a former member of the Communist East German Nordic ski team, I warned the Congress of pressure by the Soviet Union and Third World nations to exclude Israeli athletes from various international sports federations representing organized Olympic events.

To be eligible for participation in the Olympics, Israel or any other nation must belong to five or more federations. At the time, Mr. Maitre informed me, attempts were being made to exclude Israel from some of the federations on ridiculous technicalities.

At that time, Israel already had been excluded from the European soccer federation on the grounds that it is not a European nation although Turkey, which is as near Asian as Israel, remained in the federation.

At their 1976 Congress in Kuala Lumpur, Malaysia, members of the Asian Games Federation voted not to invite Israel on the phony grounds of security. It was claimed that Israel's participation in international sports constituted a security risk for all, and an Indian delegate supposedly calculated the cost of protecting the Israeli athletes and found them "exorbitant."

In November 1976 the world chess championships were scheduled for Haifa, Israel. The Soviets cranked up a campaign to the effect that the Israelis could not guarantee the security of the participants. When the international chess federation, FIDE, rejected the claim, the Soviet Union, Hungary, and Yugoslavia walked out. These were the 1, 2, and 3 chess nations in the world. They competed instead in the chess "International Olympics" held in Libya.

This happened in basketball too. In November 1976, the international basketball federation's European Cup Commission was informed that the teams of Spartak Brno of Czechoslovakia and the Red Army Moscow would not travel to Israel to play Maccabi Tel Aviv in the European Basketball Champions Cup. According to the rules, this merited instant disqualification. However, the rules were bent. The games were moved to Brussels, where the Israelis beat the Soviet Team 91–79 and went on to win the cup.

In the same month of August, 1977, Israel was excluded from the World University Games in Sophia, Bulgaria. Earlier in 1977, at Birmingham, England, another incident in this pattern took place. Red China's fifth ranked table tennis player, Wang Chun, failed to turn up for his first round match against unknown Shlomo Mendelson of Israel. The reason given was Red China's non-recognition of Israel.

In September, 1977, I and House colleagues sent a letter to Mr. Robert Kane, President of the United States Olympic Committee, expressing our concern about the attempts to keep Israel out of the Olympic Games through exclusion of teams in the sports federations.

In his reply to me, Mr. Kane repeated past assurances, from Lord Killanin, Soviet Chairman Leonid Brezhnev and the Moscow Organizing Committee, that Moscow's door will be open in 1980.

Perhaps, because of this pressure, Israel remains eligible to compete in the Summer Games.

In the summer of 1978, we got the news that members of the Soviet secret police had accompanied Soviet athletes to the 1976 Olympics in Montreal. The KGB accompanied their charges on shopping trips, sightseeing tours and dinner engagements outside the Olympic Village. When Soviet athletes met socially with competitors from other nations, the KGB mingled at the affairs.

As a result of this Soviet surveillance, only the 17 year old diver, Sergei Nemtsanov defected.

At those same Games, we witnessed the Soviet version of "fair play" when Boris Onischenko, a Soviet fencing master, used an electronic device to cheat in his epee match. When he triggered a button in his sword's grip, it scored a hit for him.

In August, 1978, the trials of Anatoly Shcharansky and Alexander Ginsburg began. In the same month when Soviet Ambassador Anatoly Dobrynin was asked in a Washington news conference if Radio Free Europe or Radio Liberty would be allowed to cover the Summer Games in Moscow, the ambassador replied: "This isn't under discussion yet."

Mr. Chairman, Radio Free Europe and Radio Liberty are still awaiting Soviet accreditation and Shcharansky is in the Chistopol prison.

This is not surprising in view of a 1978 story in the Daily World, the official organ of the Communist Party in the U.S., to the effect that "The Soviet Olympic Committee has asked the International Olympic Committee to bar hostile reporters of newspapers, radio and television stations that are established to destroy the spirit of peace and friendship between the people and the principles of the Olympic movement."

In the summer of 1978, Mr. Chairman, the late President of the AFL–CIO and dedicated American, George Meany, declined an invitation to serve again as the U.S. Olympics Committee's honorary chairman.

In his letter to E. H. Mosler, Jr., chairman of the USOC, Mr. Meany wrote that even as he was preparing to respond to the invitation, he had received news that Alexander Ginsburg and Anatoly Shcharansky had been sentenced to barbaric prison terms for the alleged crime of seeking the Soviet government's compliance with the human rights provisions of the Helsinki Agreement.

"My conscience," Mr. Meany wrote, "will not allow me to help raise money to send American athletes to Moscow at a time when the KGB is trying to 'cleanse' that city of dissidents prior to the Olympic Games. I will not be morally complicit in Mr. Brezhnev's attempt to destroy the lives of courageous individuals who seek to advance the cause of human rights."

In the wake of the imprisonment of Messrs. Ginsburg and Shcharansky, then Senator Wendell Anderson who had been an Olympics hockey team member in 1956 and I cosponsored a concurrent resolution calling upon the Congress to express its view that the 1980 Olympic Games should be moved from Moscow to another site outside the Soviet Union.

Then as now, we warned that the Soviet Union intended to use the Games for its own nationalistic purposes and that there were numerous signs that Olympic Games in Moscow would be a mirror image of the 1936 games in Hitler's Germany.

In August, 1979, 40 of my colleagues in the House and I introduced a concurrent resolution calling upon the Congress to assure full and equal participation in the 1980 Summer Games by all athletes, spectators and journalists.

We asked the Senate and House to concur that the Soviets should allow equal participation regardless of former citizenship, nationality, and religious or political affiliation, ethnic background or relationship to any Soviet citizen. And our resolution stated that the Soviets should not detain any of its citizens to prevent them from communicating with participants in the Games and that the Soviet government should not threaten, harass or punish any of its citizens for communicating with participants.

In part, our resolution was in response to the Soviet failure to invite Israel to participate in the 1979 Spartakiade, a Soviet invitational meet which determined the composition of the Soviet Olympic team.

The failure was glaringly obvious in view of the Soviet invitation of participants from more than 100 other nations, including the United States. Also in our minds was the Soviet denial of a visa to Alex Giladi, a senior Israeli television official. The denial was contradictory to Soviet assurances given Yitzhok Caspi, secretary of the Israeli Olympic team and Yitzhok Ofek, president of the Israeli Olympic Committee, that Israel would be accorded equal participation in the Olympics. And finally, my colleagues and I had been shocked by Soviet passage of a new repressive edict, subjecting all former Soviet citizens, regardless of current citizenship, to Soviet law.

Mr. Chairman, that law is pointed like a gun at Soviet emigres as they wonder whether to chance going to the Summer Games as participants, spectators or in any other capacity.

In addition to this development the Soviets then announced Americans would have to endure exorbitant deposits on tickets, more than a year in advance, along with compulsory tours in order to attend one out of five Olympic events.

In retrospect, my colleagues and I would have done well to include a provision in our resolution to forbid the Soviet Union from invading the sovereign territory of another nation.

Finally, Mr. Chairman, the International Olympic Committee early in December, 1979, caved in to Red China's demand that the Republic of China should change the name of its Olympic Team, adopt a new flag and change its national anthem as conditions for participation in both the Winter and Summer Games. How the IOC can consider that decision proper and not purely political is something I cannot comprehend.

In my personal opinion, the IOC, by its Taiwan decision, has added its own brand of politicization to that so blatantly and consistently exercised by the Soviets.

On January 12, this year, on the NBC Prime Time Saturday Show hosted by Tom Snyder, Red Smith, the New York Times Pulitzer Prize winner and sports columnist asked Don Miller, the executive director of the USOC, the following question:

"Don, would you subscribe to Avery's (Brundage) statement of 1936, that except for the ancient Greeks, no nation has caught the Olympic spirit so well as Germany?"

Mr. Miller replied, according to my transcript of the show: "I would agree with the statement that at that time, in their attempt to build a super race and a number of individuals that they had participating in amateur sports, (the Germans) were what the Greeks had pointed their interest towards."

Mr. Chairman, with respect for Mr. Miller's contributions to the Olympics, I have to say I find his statement incredible.

The USOC was wrong to participate in the 1936 Berlin Games and it would be wrong for the USOC to allow U.S. Olympic teams to participate in the Moscow Summer Games because the Soviets are clearly attempting to glorify a regime that is as dangerous to freedom as Hitler's Germany.

As I said earlier in my statement, we must move the Olympics from Moscow.

And I want to praise Red Smith for his unequivocal statement, also made on the same show.

Then, he said: "I feel that we should pull out now to deliver the message to the Soviets that even if their aggression in Afghanistan ended, they have committed an offense against international law which we will not quickly forget."

In today's Washington Post columnist Jack Anderson says "The IOC under Lord Killanin has been up to its biceps in politics."

Mr. Anderson says that in 1977, Lord Killanin "coached the Red Chinese sports commissars in plotting strategy to drive Taiwan out of the Olympics by imposing humiliating conditions on Taiwanese athletes."

Mr. Anderson says a transcript of the session reveals "Killanin is a strong advocate of the communists replacing the Nationalist Chinese in the 1980 Olympics."

Mr. Chairman, the Soviets themselves openly admit they are using the Olympics for their own ideological goals.

A small 50 cent handbook on Communist party ideology sketches the history of the Olympic movement which it says was influenced by the alignment of "political and class forces."

This same "Handbook of Party Activists" points to an "incessant struggle" over the years between progressive and reactionary forces."

The booklet further says: "The decision to give the honor of holding the Olympic Games in the capital of the world's first socialist state was convincing testimony to the general recognition of the historic importance and correctness of the foreign policy course of our country of the enormous services of the Soviet Union in the struggle for peace."

How much evidence, I am compelled to ask, must we have of true Soviet intentions?

I want to emphasize that I have great sympathy for the American athletes who have worked so hard and sacrificed so much in preparation for their participation in the 1980 Summer Games.

As one who participated in both amateur sports and played professional football for 13 years, I think I have some understanding of the rigors of such training and commitment.

But I do not believe, that given all the facts of Soviet manipulation and politicization of the Olympic Games, our young men and women athletes would choose to put any personal gains above the ideals of human rights, their Country and the true spirit of the Olympics as conceived by the ancient Greeks.

Now as even before the Soviet invasion of Afghanistan, the casting of the Soviet veto of sanctions against Iran and the banishing of Sakharov, the holding of the Summer Games in Moscow would be the moral equivalent of holding the Olympics in Berlin in 1936.

Parallels between the 1936 and 1980 Summer Olympic Games are frighteningly similar. Then, as now, the games were fashioned into a showcase in which to glorify a totalitarian regime. Then, as with the Soviets, the Nazi regime had begun its practice of official religious discrimination and engaged in military aggression, genocide, and blatant disregard of the condemnation expressed by the world community of its domestic and foreign policies.

In 1936, a boycott was seriously discussed, since it was felt that the games were being used for political purposes. Groups such as "The American Good-Will Athletic Union to Preserve the Olympic Ideal, Inc." were formed with the approval of the U.S. Supreme Court, to seek the removal of the games from the manipulation of Hitler.

Sadly, those who took a stand in behalf of human rights did not prevail, as in the case of Ernest Jahncke, an American sportsman and former assistant secretary of the Navy, who was dropped from the International Olympic Committee after a nine year tenure.

The reason for his removal: He dared to suggest we could not be sure that American athletes would not be discriminated against for their racial background or religious beliefs.

Incredibly, the decision not to boycott the 1936 games was made within two months after the Nazis published the anti-Jewish Nuremberg Laws.

And in 1936, Hitler invaded the demilitarized Rhineland in disregard of the treaty signed by Germany.

The United States Government, its people and the USOC need to stand up for what they believe, not give in to inevitability. That attitude led to the slaughter of six million Jews. We have many times vowed "never again."

Removing the Olympic games from Moscow, along with all the related glory and celebration of the totalitarian and repressive Soviet state, would be a giant step in keeping that commitment.●

AGRICULTURE EMERGENCY ACT OF 1980

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 10 minutes.

Mr. DASCHLE. Mr. Speaker, the farmers and ranchers in South Dakota are struggling. They are struggling against a current of agricultural policy that is insensitive to the needs and problems of the Nation's farmers and ranchers.

It is my fear, Mr. Speaker, that unless the Department of Agriculture begins to reflect in their farm policy what they surely know internally, South Dakota will match in 1980 the 1.2 percent of the farmers that left South Dakota farms in 1979.

We all recognize the divergent interests in the Congress, with representation from the inner cities to rural America. We recognize that often times we cannot always respond as expeditiously as possibly in emergency situations. Furthermore, we recognize that fault, and attempt to correct it by giving the administration broad authorities to use in times of national emergency.

In all fairness to the Carter administration, the Department of Agriculture has attempted to utilize this discretionary authority through the measures they announced after the embargo. No matter how any of us in this body feel about the measures taken by the administration, the fact remains that the administration has done more than either Presidents Ford or Nixon during embargoes announced during their administrations.

However, I am not satisfied with the administration's efforts thus far and neither are the farmers and ranchers throughout the Nation. The Department has the authority to raise the loan rates to their preembargo levels with the purpose of stabilizing farm prices devastated by the embargo announcement. They chose not to do so.

The Department has the authority to establish a regional basis of determining market prices for the release and call levels of the farmer-owned reserve program. They have not done so.

The Department has the authority to immediately announce a paid diversion program to help control the production estimated at 300 million metric tons for the 1980 crop year, a production level that is sure to depress the market prices further when added to the carryover stocks of 87 million metric tons. Secretary Bergland has said no to a wheat diversion bill, and still has not made a decision on a feed grain voluntary diversion program.

I am convinced that the long-range effect of this embargo has yet to be realized by the Department. As we look into the 1980's, the Congress must look past the short term solutions offered by the administration and recognize the cold facts of life surrounding the future of the family farmers as we know them today.

Today's family farmers and ranchers are confronted with an unprecedented cost of production squeeze, with 1979–80 fertilizer increases up by 35 percent, fuel prices up by 83 percent, and interest costs up by more than 42 percent. Unless our governmental policies begin to take this factor into account when establishing farm programs, we will continue to see that 115,000 family farmers leaving the agricultural sector on an annual basis.

Mr. Speaker, I am today introducing legislation which I believe will turn this tide of frustration that farmers and ranchers are having with their Government and its farm policy, a frustration which believes that what has been offered by the administration in response to the embargo announcement has been "too little, too late."

The legislation I am introducing today, the Emergency Agriculture Act of 1980, is intended to restore that feeling of confidence that farmers have in their government by addressing the problems of inadequate loan rates, mandating a paid voluntary wheat and feed grain diversion program, and restricting the ability of Commodity Credit Corporation grain to be released in a market-depressing situation.

The Agriculture Emergency Act of 1980 contains the following basic provisions:

INCREASE IN LOAN RATES TO THE PREEMBARGO PRICE LEVELS

Mr. Speaker, the legislation I am today introducing would direct the Department of Agriculture to immediately raise the loan rates for 1979 to 1981 wheat to $3.90 a bushel, corn to $2.50 a bushel, cotton to 60 cents a pound, and soybeans to $6.25 a bushel.

If one wanted to truly reflect the cost-of-production squeeze confronting the Nation's farmers and ranchers, this bill should contain figures much higher. The $3.90 for wheat is only 60 percent of parity, and $2.50 for corn is approximately 55 percent of parity. However, administration opposition to higher levels underscores the importance of these levels as a compromise.

RESTRICTIONS ON THE RELEASE OF COMMODITY CREDIT CORPORATION GRAIN

The Commodity Credit Corporation (CCC) decision to take this grain off the market is certainly a step in the right direction. However, there is a fear among producers that this grain will be released on the marketplace with the effect of driving grain prices down.

The legislation I am introducing today would put restrictions on the release of CCC grain with the intention of creating a market-depressing effect on grain prices, by prohibiting its release from CCC stocks at less than 10 percent above the repayment of the loans or 20 percent above the current level of price supports at whichever level is higher.

LOAN LEVELS DURING FUTURE EMBARGO DECLARATIONS

The Food and Agriculture Act of 1977 directed the President to establish loan levels of commodities embargoed during periods of shortages at 90 percent of parity. It was this technicality that allowed the administration to increase the loan levels by 10 cents on corn and 15 cents on wheat.

This legislation would seek to close that loophole, which allowed the administration to implement inadequate loan levels and mandate a 90 percent of parity loan level at anytime an embargo is announced for a particular crop.

VOLUNTARY PAID DIVERSION PROGRAM

This legislation incorporates the provisions of H.R. 6428, legislation I introduced earlier this month directing the Department of Agriculture to utilize the authority it already holds and announce a voluntary paid diversion program for both wheat and corn. This legislation calls for a 10- and 15-percent voluntary diversion of wheat and corn at $1.50 a bushel times the yield on the diverted acres.

It is simply ludicrous that with carryover stocks and estimated production levels of grain for 1980 that the Office of Management and Budget has the upper hand over USDA, the Department responsible for protecting the farmers' interests in agricultural policy.

FOREIGN ASSISTANCE PROGRAMS

This legislation recognizes the need for additional foreign assistance food programs and increases the limits for the existing food for peace programs.

Mr. Speaker, this list of provisions contained in the Agriculture Emergency Act of 1980 is only a tip of the iceberg for what needs to be done. I intend to introduce and push for passage of additional legislation aimed at insuring that the burden is shared by more than the 4 percent of the American public who just happen to be farmers. A regional basis to determine call and release prices and better Farmers Home Administration emergency loan program aimed at assisting farmers caught in this high-cost-of-production and low-farm-prices squeeze are a must, and I intend to push for their passage in the House.

I also intend to push for early consideration of H.R. 6376 legislation I have introduced forcing the Department to implement a sunflower loan program at 10 cents a pound.

The 1980's will be a turning point for many of our Nation's farmers and ranchers. We have heard administration officials indicate that the family farmer and rancher will be a thing of the past. We can stop that exodus from the farm. But it will take a Congress that is willing to stand up to the administration's opposition to adequate farm programs. I invite every Member of this body to join with me in cosponsoring this legislation to insure that the President's promise that all Americans will share equally the burden of his decision is kept.

□ 1630

CENTENNIAL ANNIVERSARY OF THE POLISH NATIONAL ALLIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinoiis (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the members of the Polish National Alliance and to their distinguished president, Aloysius A. Mazewski, on the occasion of the 100th anniversary of their organization's founding.

The Polish National Alliance, the headquarters of which is located in Chicago in the 11th Congressional District I am honored to represent, is the largest fraternal order of Americans of Polish heritage, and ranks as the largest ethnic fraternal group in the country. This dynamic, outstanding organization was founded in Philadelphia on February 15, 1980, by industrialist Julius Andrzejkowicz and 10 associates to unify the Nation's self-help, societal, and cultural groups of Polish immigrants, and since that time, its members have compiled a splendid record of success and achievement through their genius, energy, and hard work.

Founded to assist Polish immigrants to America in adjusting to a new and more successful life in their adopted country, the Polish National Alliance began to publish the bimonthly Zgoda in 1881, its official organ which now has a circulation of some 97,000 making it the largest Polish publication outside of Poland itself. The alliance's second publication, the Polish Daily Zgoda (Dziennik Swaizkowy), was founded in 1908 and continues to publish in Chicago.

America is a nation of immigrants and the members of the Polish National Alliance, throughout its 100-year history of resourceful vitality and creativity, have enriched our cultural mosaic in America immeasurably by keeping the descendants of the Polish immigrants and all Americans aware of the precious heritage of Polish culture, history, and tradition, and how this heritage has enhanced American life and ideals of freedom.

In spite of the adversity which characterizes much of Polish history, the indomitable spirit of the Polish people has been and continues to be a beacon light of inspiration to those who treasure the ideal that all persons should have the right to make and pursue their own destiny without interference with tyrants.

By 1912. the PNA had grown and prospered to the point where it was able to establish Alliance College in Cambridge Springs, Pa., and President William Howard Taft was in attendance at that dedication. In the years that followed, more than $20 million was expended by the Alliance in subsidies to the school, and in scholarships to its students. During the crisis year of 1917, the PNA made training facilities available at the college for officers training school, as well as recruiting officers for the Polish Army in America. Additionally, the PNA received citations from the U.S. Government for meritorious services and contributions in both World War I and II.

The history of the Polish National Alliance can be divided into four phases, and an outline of those periods in the organization's history follows, taken from the PNA publication entitled, "In the Mainstreams of American Life":

> In general outline, the PNA history is divided into four phases—
>
> (1) from the day of its founding in 1880 in Philadelphia to the dedication of Alliance College in 1912 in Cambridge Springs, Pa.
>
> Between these two dates, the year of 1910 is of special significance. It was the year of the Convocation of the First World Congress of Poles in Washington and the year of unveiling of the Kosciuszko and Pulaski monuments in our capital city. In both undertakings the PNA had been the initiating and leading force.
>
> (2) During the second phase, prior and during World War One, the PNA intensified its activities on behalf of a free and independent Poland inspired and spearheaded by the great Polish artist and statesman, Ignace Jan Paderewski.
>
> In a parallel development the PNA began to place increasingly growing emphasis on the

integration of Polish immigrants and their children into the American system of education, political activities, business enterprises, etc.

(3) The third phase spans the inter-war years, i.e. between World Wars One and Two.

It has been marked by widespread educational and civic activities helping the Polish immigrants to get accultured and channel their energies into the mainstreams of American life.

During this phase, even the collective name of Polish Americans as "Polish Emigration" or "Wychodztwo Polskie", evolved into the current term, American Polonia—"Polonia Amerykanska".

One of the hallmarks of the third phase, was the initiation, growth and development of nation-wide youth activities known as "Harcerstwo". It was patterned on the traditions of the Polish Boy Scouts in Poland (Scout in Polish means Harcerz—Scouting-Harcerstwo).

"Harcerstwo" was separate and distinct from the Boy Scouts of America, although following similar pattern of activities.

During the interwar period, the PNA Harcerstwo numbered 50,000 teenage boys and girls organized in druzyny or squads under the supervision of especially schooled and qualified youth leaders.

Harcerstwo had a wide program of social, cultural and sports activities, numerous marching bands, drum and bugle corps, various sports units and educational classes, offering instructions in Polish history, tradition and culture.

With the outbreak of World War Two, the PNA administration, for more or less valid reasons, let Harcerstwo phase out its activities, to the regret of the present PNA membership and leadership.

(4) The development of the Fourth Phase was heralded by PNA President Aloysius A. Mazewski, who, in a major address delivered to the Buffalo Business and Professional Men of Polish origin declared on November 29, 1967, that—

"Polonia is entering an era of renascence as a part of America's pluralist society, steeped in great achievements of Polish culture, and heir to noble legacy of tolerance and democracy that were the hallmark in the history of our ancestral home.

"Polonia of today projects itself into a future bright with promise."

This fourth, current phase, coupled with the activities of the Polish American Congress represents a reorientation of Polonia in the pursuit of its basic purposes.

Increasingly concerned attention is being paid to the problems and challenges that organized Polonia, and particularly its fraternal organizations are facing in the changing life styles of the 1970s.

The prestige of Polonia and its concomitant, the status of Americans of Polish origin in the pluralist society in all sectors of our national life, have been placed at the top of the priority list by leaders and active members of the Polish National Alliance.

Mr. Speaker, the history of the Polish National Alliance has truly become a tradition of excellence, and many eminent Americans were members and leaders in the PNA. A partial listing follows:

Civil War General Wlodzimierz (Vladimir) Krzyzanowski (1824–1887), who distinguished himself in the battles of II Bull Run, Cross Keys, Chancellorsville and Gettysburg;

Millionaire philanthropist Erazm Jerzmanowski (1844–1909), inventor of gas burning processes, founder and director of Equitable Gas Company in New York and its affiliates in Chicago, Baltimore, Albany, Troy and Indianapolis; he left his multi-million-dollar fortune to the Jagiellonian University in Krakow, Poland.

Dr. Henryk Corwin Kalussowski (1806–1894), medical scientist and scholar who served as the Director of the Treasury Department's Archives and in 1867, translated from English into Russian and from Russian into English documents of the purchases of Alaska by the United States from Russia. Dr. Kalussowski donated to the PNA his extensive library and collection of documents.

Frank Gryglaszewski (1852–1918), the third PNA Censor who served in the Taft administration as inspector of all federal buildings.

John F. Smulski (1867–1928), prominent attorney and banker, alderman of Chicago and State Treasurer of Illinois.

Stanislaw Kociemski (1827–1904), industrialist, owner of a frame factory in Chicago.

Anthony Schreiber (1864–1939), graduate of Berlin University (degree in chemistry), founder and president of Schreiber Brewing Co.

Michael Francis Blenski (1862–1932) was elected in 1892 in Milwaukee to Wisconsin State Legislature. President Cleveland appointed him in 1893 Executive Secretary of the U.S. Weather Bureau. While serving in Washington, Blenski completed law studies at George Washington University. He returned to Milwaukee and in 1909 was elected City Judge and served in that office until 1932.

Zbigniew Edward Brodowski (1852–1901), elected Editor of Zgoda in 1884 and PNA President for the term of 1895–97 was appointed U.S. Consul to Salingen, Germany in 1896.

The Alliance's current president, Aloysius Mazewski, has himself served as a U.S. delegate to the 25th General Assembly of the United Nations, and in 1974, President Ford appointed him to serve with a select group of civilian observers at NATO headquarters in Europe and at the administrative offices of the European Common Market.

Mr. Speaker, the members of the Polish National Alliance have long formed a strong and courageous bulwark in opposition to Soviet Communist colonialism and repression, and they had a historic part in Poland's freedom as an independent state between the world wars. As President Mazewski points out, "the PNA has been and continues to be the moving force in the Polish American Congress—a representative organization of American Polonia—which continues the struggle for restoration of full freedom and independence of Poland, within the framework of the U.S. enlightened self-interest, security, and world leadership."

We find ourselves in continuing confrontation with the communists for the minds of the people of the world, and the spiritual struggle between freedom and communism can never cease. The people of the United States and their allies must never weaken in their determination or will to resist, because this contest will eventually decide the fate of the world. If we lose this struggle for the minds of men and women everywhere, our weaponry will not prevail.

I extend my congratulations to the membership of the Polish National Alliance on completion of 100 years of significant contributions to the strength and greatness of the United States of America, and I send them my warmest best wishes for many more years of service and success in dedication to the ideals of freedom and human dignity.●

SUBCOMMITTEE ON CRIME TO HOLD HEARING ON OPERATIONS OF THE PRETRIAL SERVICES AGENCIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, on Wednesday, February 13, 1980, at 9:30 a.m. in room 2226, Rayburn House Office Building, the Subcommittee on Crime of the Committee on the Judiciary will hold an oversight hearing on the operations of pretrial services agencies.

The witnesses at the hearing will include the Honorable Gerald B. Tjoflat, Fifth U.S. Circuit Court of Appeals of Jacksonville, Fla.; Guy Willets, chief, pretrial services branch, Administrative Office of the U.S. Courts; Robert M. Latta, chief pretrial services officer, Los Angeles, Calif.; Roger C. Carroll, chief pretrial services officer, Dallas, Tex.; Louis D. Frazier, chief pretrial services officer, Kansas City, Mo.; and Morris P. Street, chief pretrial services officer, Baltimore, Md.

Those wishing further information or wishing to submit a statement for the record of the hearing can contact the staff of the Subcommittee on Crime at 207E, Cannon House Office Building, Washington, D.C. 20515—(202) 225-1695.●

LEGISLATION TO ENCOURAGE SCHOOLS TO PROVIDE NUTRITIONALLY SUPERIOR LUNCHES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RICHMOND) is recognized for 5 minutes.

● Mr. RICHMOND. Mr. Speaker, today I am introducing legislation that would encourage schools to provide nutritionally superior lunches as part of the national school lunch program.

Too often schoolchildren know little about the relationship between good eating habits and healthful living. The poor eating habits acquired in youth usually last for a lifetime, bringing in their wake preventable sicknesses and ill health. Even if, as they mature, children learn about nutrition and health, they may have already been adversely affected during their formative years.

Two decades ago, the Federal Government decided to try to do something about this growing and needless tragedy by establishing a national school lunch program. Those schools which participated in this Federal program had only to guarantee that the subsidized lunch was at least nutritionally adequate. Over the years, the national school lunch program has been a great success story. It has done much to improve both the physical and mental well-being of the Nation's schoolchildren. It has provided nutritionally adequate lunches for millions of our youth.

However, certain educators and nutritionists have pointed out two major areas in which the program could and should be greatly improved.

The first involves so-called competitive foods; that is, those snacks sold in competition with the federally subsidized and nutritious lunch. For example, despite certain Federal laws and regulations which have been in effect at varying times, school cafeterias have been permitted to sell a wide variety of foods which are of questionable nutritional value but which often appeal to children more than the Federal lunches. Also, schools have continued to permit vending machines filled with candies, sodas, ice creams, and gums.

Second, although "nutritionally adequate," the Federal lunches are not required to be nutritionally superior. Nor are they designed to comport with recent findings with respect to the effects of a high-salt, high-sugar, and high-fat diet. Although these findings may not be proven to an absolute scientific certainty, there is strong evidence that too much salt, sugar, and fat can have deleterious effects on health. There is also some evidence that certain food additives not only may be carcinogenic but also may cause hyperactivity in some children.

I am heartened by the fact that several school districts around the country have recently decided to upgrade their school lunch programs in such a way as to provide their children, not with nutritionally adequate lunches, but with nutritionally superior lunches. For example, the Fulton County, Ga., School District, under the leadership of Mrs. Sarah Sloan, has gone to a low-salt, sugar and fat program; they use only organically grown vegetables and fruits; they tolerate no chemical additivies in foods; they do not permit the sale of candies and soda on school grounds. And what is more, the children apparently love it.

The bill which I am introducing would amend the National School Lunch Act so that schools and school districts will be given a choice between the current nutritionally adequate program and a new nutritionally superior program. They can continue under the current program or, if they wish, they may try the new program.

To qualify for the new program, schools would have to include low fat as well as whole milk. All breads would have to be whole grain. Desserts would consist of fresh fruit only. Meals would have to be low salt, low sugar, and low fat. "Competitive foods" would be strictly limited—especially soda and candy. Courses in nutrition would be encouraged, and each school could have a nutrition council, including representatives of the athletic department and the student body, as well as the school health adviser.

Schools and school districts would be encouraged to choose the superior program by increasing the Federal subsidy by 10 cents per day per nutritionally superior meal.

I am hopeful that over a period of years, more and more children will have access to the new program. Through good nutrition, they will be able to build stronger bodies and stronger minds. They will learn to drink milk instead of soda. They will learn to enjoy fruit as a dessert instead of candy. In brief, they will develop early the good eating habits which should stand them in good stead for all of their lives.

The very worthy idea for an alternative and superior school lunch program has been vigorously promoted by the National Nutritional Foods Association and, in particular, by their president, Mr. Dave Ajay. As consideration of the legislation progresses, we are very hopeful of receiving the strongest support of many other national groups concerned with the health and nutritional well-being of America's youth.●

SMALL BUSINESS PAPERWORK REDUCTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Hall) is recognized for 5 minutes.

● Mr. HALL of Ohio. Mr. Speaker, I rise today to urge my colleagues to join me and cosponsor a measure I have introduced, H.R. 6460, the Small Business Paperwork Reduction Act.

H.R. 6460 is the culmination of many long hours of conversation with businessmen in the Dayton, Ohio, area as well as a survey that I conducted throughout my congressional district to ascertain problems of major import to small businessmen and women in particular. Almost to a number, the greatest concern most of these businesses faced was that of the completion of mounds of Federal reports they are required to file each year. Many of these reports unfortunately, contain materials duplicative in nature.

In an effort to cut costs to both small businesses across the country and to the Federal Government, H.R. 6460 would:

Provide that all present paperwork review and coordination activities would be done by one office within the Office of Management and Budget. This would consolidate all present reviewing offices into one coordinated office. Paperwork requests from all agencies, departments, and independent commissions would be reviewed, coordinated, and approved by this single office.

Provide an information locator system which would be designed and implemented to manage all Federal Government information requests. For the first time, any Federal office would have the ability to check to see if information has previously been collected before an information request is made on a business.

Provide that through the above office and through the use of the above locator system, universal forms would be designed, whenever possible, for information collection. Wherever possible, one form will be used to collect information for many different offices and departments.

Therefore, Mr. Speaker, I urge the Members of the House of Representatives to join me in sponsoring H.R. 6460.

I am enclosing a copy of the bill for reprint in the Congressional Record at this time.

H.R. 6460

A bill to establish within the Office of Management and Budget the Administration Information Management Office, to consolidate certain paperwork reduction functions of the Government, to reduce the Federal paperwork burden on small business enterprises and others, and to amend the Small Business Act to establish a means for assessing the effectiveness of Federal paperwork reduction efforts with respect to small business enterprises

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Paperwork Reduction Act".

Sec. 2. (a) The Congress hereby finds that unnecessary paperwork, generated in compliance with duplicative or overlapping Federal reporting requirements—

(1) causes inefficiencies in and lessens the effectiveness of Federal Government programs;

(2) results in increased costs and burdens to business enterprises, especially small business enterprises, and other persons required to comply with such requirements; and

(3) contributes to decreases in productivity and increases in inflation.

(b) The Congress hereby declares that the purpose of this Act is to eliminate the unnecessary paperwork referred to in subsection (a) by developing Federal information collection procedures which—

(1) integrate new methods and technologies with existing information collection and dissemination practices of the Federal Government; and

(2) consolidate and coordinate Federal intra-agency and interagency paperwork reduction efforts.

Sec. 3. (a) The first undesignated paragraph of section 3502 of title 44, United States Code, defining Federal agency, is amended—

(1) by inserting after "independent establishment" the following: "(including an independent Federal regulatory agency)"; and

(2) by striking out ", independent Federal regulatory agencies, nor" and inserting in lieu thereof the following: "or".

(b) The last undesignated paragraph of section 3502 of title 44, United States Code, is amended—

(1) by striking out "interest." and inserting in lieu thereof the following: "interest;"; and

(2) by adding at the end thereof the following: " 'burden' means the costs incurred in time, effort, and financial resources by a person in order for such person to meet information requests and requirements of the Federal Government;

" 'Federal information locator system' means a comprehensive system of cataloging Federal agency reports and reporting requirements, organized according to the type of information requested, which permits the Federal Government to identify available or anticipated Federal Government information reporting requirements; and

" 'one-form universal reporting system' means the combination of related Federal Government information requests into a single form to eliminate duplicative information requests.".

Sec. 4. Chapter 35 of title 44, United States Code, is amended by striking out section 3503 and inserting in lieu thereof the following:

"3503. Establishment of the Administrative Information Management Office; Administrator

"(a) There is established in the Office of Management and Budget an office to be known as the Administrative Information Management Office.

"(b) (1) There shall be at the head of the Administrative Information Management Office an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The Administrator shall receive basic pay at the rate payable for Level III of the Executive Schedule under section 5314 of title 5.

3503a. Authority and functions of Administrator

(a) The Administrator shall establish policies and coordinate procedures governing the planning, budgeting, management, and control of information collection activities of Federal agencies and for measuring the burdens imposed by such activities on business enterprises, especially small business enterprises, and other persons required to comply with Federal information reporting requirments. Each Federal agency shall have responsibility for minimizing, in accordance with such rules, regulations, and policies, as the Administrator may prescribe, the burden imposed upon such business enterprises and other persons by the information reporting requirments of such agency.

"(b) (1) The Administrator shall prepare and transmit to the Congress as soon as practicable after the end of each fiscal year, a report describing the compliance burdens imposed in that year by Federal agencies under information reporting requirements of such agencies. Such report shall present the burdens of such requirements on business enterprises and other persons required to comply with such reporting requirements, as well as the costs incurred by the Government in collecting such information. Such costs to the Government shall be analyzed on an agency-by-agency basis and upon such other bases as the Administrator may consider appropriate.

"(2) As part of the report required under paragraph (1), the Administrator shall include a review of those Federal statutes, policies, rules, regulations, procedures, and practices which are relevant to this chapter, accompanied by proposals for such repeal, amendment, or other modification of any of such statutes, policies, rules, regulations, procedures, or practices as the Administrator determines to be necessary in order to achieve optimal paperwork efficiencies.

"(c) (1) The Administrator shall review, at least once every three years, by means of selective inspections and such reports as the Administrator may require. the information management, information collection, and paperwork reduction activities of each Federal agency to ascertain the adequacy of such activities. Following such review, the Administrator shall set target goals for each such agency in order to further reduce the burdens imposed on business enterprises, especially small business enterprises, and other persons required to comply with information reporting requirements of such agency.

"(2) In conducting the review required under paragraph (1), the Administrator shall pay particular attention to whether—

"(A) a Federal agency official has been designated to coordinate those activities of such agency which are subject to review under such paragraph; and

"(B) such agency has systematically inventoried, periodically reviewed, and otherwise managed the information resources of such agency so as to eliminate unnecessary duplication of information collection efforts.

"(3) In setting goals for further reductions pursuant to paragraph (1), the Administrator shall take into consideration the financial and other costs that such reductions would cause with respect to Federal agencies. The Administrator shall not set any goal which such Administrator determines would unreasonably increase such costs.

"(d) The Administrator shall, upon the request of any Federal agency, provide such agency with technical assistance and guidance in order to develop more efficient Federal information collection, storage, and use policies and procedures.

"(e) The Administrator shall conduct a research program to develop improved information and paperwork cost accounting and paperwork reduction techniques.

"(f) The Administrator shall make every effort to develop and implement as soon as practicable, but in no event later than two years after the date of the enactment of this Act—

"(1) a Federal information locator system, and

"(2) a one-form universal reporting system.

"(g) Except as otherwise provided by law, no duties, functions, or responsibilities, other than those expressly assigned by this chapter, shall be assigned, delegated, or transferred to the Administrator.".

Sec. 5. Chapter 35 of title 44, United States Code, is amended—

(1) by striking out "Director" and "Director of the Bureau of the Budget" each place where that word or those words appear and by inserting in lieu thereof the following: "Administrator"; and

(2) by striking out section 3512.

Sec. 6. The analysis of sections for chapter 35 of title 44, United States Code, is amended—

(1) by striking out the item relating to section 3503 and inserting in lieu thereof the following:

"3503. Establishment of the Administrative Information Management Office; Administrator.

"3503a. Authority and functions of Administrator."; and

(2) by striking out the item relating to section 3512.

Sec. 7. Except as the Administrator may by regulation prescribe, nothing in this Act shall be considered—

(1) to affect any order, determination, rule, or regulation issued or made under chapter 35 of title 44, United States Code, before this Act takes effect,

(2) to require the discontinuance or modification of any plan or form, the use of which is permissible under section 3509 or section 3512 of title 44, United States Code—

(A) immediately before this Act takes effect, or

(B) after the completion of any proceeding referred to in paragraph (3), or

(3) to affect any proceeding conducted under any provision of chapter 35 of title 44, United States Code, if such proceeding is pending when this Act takes effect.

Sec. 8. The Comptroller General shall transfer to the Administrative Information Management Office such records as the Comptroller General considers necessary and proper in order for such Office to perform the functions delegated to such Office as a result of the enactment of this Act insofar as such functions relate to information gathering by independent Federal regulatory agencies.

Sec. 9. Section 10 of the Small Business Act (15 U.S.C. 639) is amended by adding at the end thereof the following new subsection:

"(h) The Administration shall, not later than September 30th of each fiscal year which begins after the effective date of the Small Business Paperwork Reduction Act, make a report to the Administrative Information Management Office of the Office of Management and Budget. Such report shall include—

"(1) an assessment of the effectiveness with which paperwork reduction efforts by the Administrative Information Management Office in fact reduced the Federal paperwork burden among small-business concerns in such year; and

"(2) such recommendations as the Administration considers necessary in order to increase the effectiveness of such efforts with respect to such concerns.".

Sec. 10. This Act shall take effect 180 days after the date of the enactment of this Act, except that the Administrator may be nominated and appointed at any time after the date of the enactment of this Act.●

PEARL WEISS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Weiss) is recognized for 5 minutes.

● Mr. WEISS. Mr. Speaker, at the funeral services for my mother held in Oakland on December 14, 1979, a statement of love and remembrance was read as her eulogy. Written in the desolate night hours after her death, by her daughter Claire, the statement captures the great strength and love which she projected and which characterized Pearl Weiss for her entire life. In order to share her memory with friends, family, colleagues, and associates the statement is printed here in its entirety.

Pearl Weiss

My mother came to this country in 1938 from Hungary with her son, 10 year old Tibby and 5 year old Claire to become the second wife of Samuel Weiss and mother to his three daughters, Kay, Helen and Florence and his three sons, Max (deceased), Dan and Fred. She never ran short of love for any of them and they loved her very much to the day she died.

She has 18 grandchildren and 6 great grandchildren, 2 nieces, one nephew and one sister. Much of her family was killed in the Holocaust. Her son-in-law, Jay Goldstein, worshipped the ground she walked on for 25 years.

She had tremendous strength, ambition and fortitude. Widowed at the age of 46 years, she saw her youngest son through Law School and her youngest daughter through Teachers' College. She was always ready to help any of her family at any time and had the ability to instill confidence in those around her.

Her family, religion, and education were first to her always. My friends, even when I was a child, would come to visit my mother as much as to visit me. I know many of my friends would pretend my mother was their mother.

My mother was a woman of great strength, gentility, and devotion. No work was beneath her. She was a devoted helpmate to her husband.

She suffered terribly the last eight years. She became blind in 1975 after losing her sight five times, each time thinking it was permanent. She had degenerative arthritis which caused her to be in excruciating pain all day and all night.

She lived with her youngest daughter and was an inspiration to the three grandchildren in that house. She constantly told them stories of why education was one of the most important things in life.

During the last 8 years of suffering she wouldn't give up and during football season this Hungarian lady could be heard asking her grandsons what the football scores were because in her blindness she found common interests to share with those around her from football to politics to current events.

Everyone who ever knew her loved her. She had a special quality of dignity and strength which was not common.

It was very difficult for her for the last eight years, but we all were allowed by God to enjoy her presence. Now it is our turn to go through a difficult time of missing her so very much while she has the joy of peace free from pain and suffering.—Claire Weiss Goldstein.●

THE 10TH ANNIVERSARY OF THE SOUTH BEND LEAGUE OF WOMEN VOTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, on February 14, 1980, the League of Women Voters of the United States will be celebrating its 60th anniversary. This past weekend, I had the honor of taking part in "League of Women Voters Week" ceremonies in my congressional district recognizing the League's 60 years of achievement and marking as well the 10th anniversary of the South Bend, Ind., area League of Women Voters, of which Ms. Dorn Chipman of South Bend is interested.

At this time, I would like to insert in the Record two proclamations honoring the League of Women Voters, one issued by Mayor Roger Parent of South Bend and Mayor Robert Kovach of Mishawaka.

Proclamation

Whereas, the League of Women Voters of the United States is celebrating its Sixtieth Anniversary on February 14, 1980; and

Whereas, the League of Women Voters of the South Bend Area will be celebrating its Tenth Anniversary during 1980; and

Whereas the League of Women Voters of the United States for the past sixty years has devoted all of its energies to the informed participation of the electorate in the democratic process through its non-partisan advocacy of study and action upon issues including equal rights for women and other minorities, welfare, human resources, environmental quality and state and local government; and

Whereas, the local League of Women Voters has served the citizens of this area through voter registration, candidates meetings, the publication of a guide to representative government and a candidates questionnaire before each primary and general election;

Now, Therefore, I, Roger O. Parent, Mayor of the City of South Bend, do hereby proclaim the week of February 11–17 as League of Women Voters Week and call on the citizens of our community to join in tribute to this national organization which has 110,000 members in all fifty states and Puerto Rico working for the continuance of an informed electorate and the furtherance of government by the people.

Proclamation

Whereas, the League of Women Voters of the United States is celebrating its sixtieth anniversary on February 14, 1980, and

Whereas, the League of Women Voters of the United States for the past sixty years has devoted all of its energies to the informed participation of the electorate in the democratic process through its nonpartisan advocacy of study and action upon issues including equal rights for women and other minorities, welfare, human resources, environmental quality and state and local government, and

Whereas, the local League of Women Voters has served the citizens of this area through voter registration, candidates meetings, the publication of a guide to representative government and a candidates questionnaire before each primary and general election.

Now, therefore, I, Robert Kovach, Mayor of the City of Mishawaka, do hereby proclaim the week of February 11-17 as League of Women Voters Week and call on the citizens of our community to join in tribute to this national organization which has 110,000 members in all fifty states and Puerto Rico working for the continuance of an informed electorate and the furtherance of government by the people.●

ARCHIVES DECENTRALIZATION OF RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Preyer) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, a number of questions have been raised recently concerning the announced plan to move certain records currently held by the National Archives and Records Service in Washington to regional records centers across the country.

The proposal was discussed last November 8 at a hearing held by the Subcommittee on Government Information and Individual Rights, which I chair. The subcommittee has legislative and oversight responsibility for the National Archives, and has been examining the management of the Archives for more than a year. The subcommittee was told by the Acting Archivist in November that the planned transfer of records to the regions involved small amounts of materials; that the National Archives Advisory Council and independent scholars supported the transfer; and that the plan, which the Administrator of General Services had ordered be accelerated, was originally developed by Archives officials in the late sixties.

A number of respected historians and archivists have questioned the announced move, however, and are concerned that this would involve a mass dispersal of materials currently available in Washington. Since many researchers have to use the manuscript collections and materials at the Library of Congress, the trip to Washington becomes inevitable in much scholarly research. The concern is that additional trips to other parts of the country may be necessitated by movement of documents, breaking up current subject matter holdings.

The crux is the criteria used to segregate the materials, what user interest there is in the records, and whether movement will facilitate or hinder research. Splitting up Works Progress Administration records, for example, based on the part of the country a WPA project took place, might make an overall history of WPA politics and administration difficult, but be of some interest to local or regional historians.

A decentralization of historical holdings would be a dramatic shift in Archives policy. It is a change which would require considerable consultation with Congress and the affected scholarly communities and an adequate cost-benefit study.

To clarify the scope of the proposal and to reassure interested parties, I asked the Administrator of General Services to place a temporary hold on any further movement of documents pending further study of the issue. Happily, he has agreed to this freeze.

My letter to the Administrator and his reply follow. Also included below is a statement issued by the Administrator on January 24, 1980, outlining his general views of the Archives and this issue. I hope that my colleagues who have received inquiries concerning the movement of archival holdings will find useful the following materials:

Subcommittee of the Committee
on Government Operations,
Washington, D.C., January 21, 1980.

Hon. Rowland G. Freeman III,
Administrator, General Services Administration, Washington, D.C.

Dear Mr. Administrator: I am writing to request that you place a "hold" on the further transfer of archival documents from the Washintgon, D.C. metropolitan area to National Archives and Records Service (NARS) regional facilities until such time as the impact of such transfers has been fully considered by this subcommittee.

At the subcommittee's November 8 hearing you announced that the holdings of the eleven regional NARS centers would be significantly increased by transferring to these centers, records of interest to the particular regions. You emphasized that none of the records constituting the core of the National Archives' holdings would be involved in this action. The program was described by both you and the Acting Archivist as involving a simple acceleration of plans NARS had developed in the late 1960's, Dr. O'Neill stated that the proposed dispersal of records had been discussed with members of the National Archives Advisory Council and with independent scholars, most of whom were supportive of the plan.

Recently, however, considerable confusion appears to have developed concerning the scope and impact of the program to transfer materials to regional centers. Concern has been expressed by a number of mid-level employees of the National Archives and members of the academic community about both the possible short-term dislocation resulting from the plan and its long-term effect on the Archives.

I agree that we should seek ways to increase the availability to citizens throughout the country of our rich documentary history. But I am unclear as to the dimension of the transfer of documents contemplated and the criteria to be used in selecting these documents.

Given these concerns, I believe a more careful examination of the decentralization proposal is warranted. A slight delay should enable you to dispel any unwarranted fears and provide an opportunity to clarify researcher use and interest in the records slated to be moved. This review of a possible increase in the archival holdings of the regions may further be in order with the plan to join into a single regional commissioner's position, NARS and ADTS (automated data and telecommunications systems) responsibilities.

Cordially,

Richardson Preyer,
Chairman.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 22, 1980.
Congressman RICHARDSON PREYER,
House of Representatives,
Washington, D.C.

DEAR MR. PREYER: Thank you for your letter of 21 January 1980. I regret that what appeared to be a rather simple request for dispersal of some records in Washington, D.C., to the regions has both been misinterpreted, badly managed and has created confusion.

It is quite apparent we failed to discuss with the users of these records anticipated moves. In my concurrence with the material that was to be moved, I made the erroneous assumption the proper staff work had been completed. I have requested the Acting Archivist of the United States to hold further transfer until such time as we have selected an Archivist and have had the opportunity to review the plan with him/her as well as discussing potential candidates for transfer to the regions with the user communities.

I will keep you informed of our progress in this matter.

Sincerely,

R. G. FREEMAN III,
Administrator.

JANUARY 24, 1980.

ADMINISTRATOR OF GENERAL SERVICES

(By Rowland G. Freeman III)

Scholars, historians, genealogists and other researchers need not be fearful that the destruction of the National Archives is near, as some have reported and others have proclaimed.

There is no proposal under consideration at the General Services Administration, nor has there been nor is it anticipated that there will be, for a "decentralization of the National Archives" that would disperse the core holdings of the institution in a destructive way.

A program of transferring selected regionally oriented records to archival centers around the country—begun more than 10 years ago—will continue in a sensible, orderly manner that has already proven so successful. No changes will be made that would have a detrimental impact on this program. In addition to making the documents of our rich heritage available to more people, it hopefully will relieve to some degree the critical problem we have of archival storage space in the national capital area.

A storm of controversy and concern has developed around this program in recent weeks, mainly because my interest in the program has been poorly communicated, perhaps deliberately. Part of that controversy was a meeting during the past few days of some 200 midlevel managers and employees of GSA's National Archives and Records Service (NARS), a group calling themselves the National Archives Concerned Professionals. The organization approved a resolution to be transmitted to the President of the United States. It called for a delay in the regionalization program, and that a commission be formed to study the feasibility of re-establishing an independent National Archives.

The proponents of this resolution may be surprised to learn that I have no basic disagreement with them. I had already directed a temporary halt to the transfer of records to regional centers until I perceive my views on the matter are properly understood and until we can confer at some length with the user community to ensure agreement as to how the records may be kept. When I asked several months ago for a plan to make parts of this rich heritage available in regional centers, I was delighted that such a program to regionalize archival holdings had been underway since 1969 under what I consider to be sensible guidelines. The 11 archives branches now hold original records, principally of regional research interest—such as field activities of Federal agencies—as well as microfilm copies of some of the most important or frequently used holdings in the National Archives. Well used by researchers, these branch holdings have been augmented from time to time by similar records of regional interest and are now fixtures in the federal archival system.

This program will continue. But users may be assured that there will be no fragmentation of the records that constitute the core of the National Archives. Recommendations of records to be transferred to regional centers would come from the Archivist of the United States after consultation with the user community.

Further means to be used to preserve and increase accessibility to the documents that trace our nation's history surely include duplication of records in microfilm or microfiche. Plans are being explored to develop a National Archives and Manuscript Information System in cooperation with other major archival and Library institutions. Such a computerized indexing system would be valuable to researchers, and the public as well, in determining the full extent of the holdings of these institutions and facilities access through inter-library loans.

I have set no goals or deadlines for this program in the way of dates, or volumes of records, nor have I personally decided that any particular records are to be dispersed. I reiterate that these decisions will be made by archivists. Any examples I have used were based on recommendations made by archivists.

The shortage of space in the Washington area is of concern to me and the expense of further construction is a problem in a time of budget constraints and taxpayer concern.

As to the question of separating the National Archives from GSA: I have no preconceived view of the disposition of this issue. This question has not been seriously considered since 1967, and it may be appropriate to do so now.

A final matter of utmost importance is the selection of a person of considerable stature for the position of Archivist of the United States (vacated in August by the retirement of Dr. James B. Rhoads). My position all along has been that we will select a person experienced as an archivist, historian or scholar. I have added another criteria, that the person be a capable manager, competent to administer the $80 million budget of NARS, its 4,200 employees here and in the 11 regional centers and six presidential libraries. There is no incompatibility in these requirements. Recent studies by the General Accounting Office and GSA's Inspector General indicate disarray in the management of NARS, a problem I am committed to solve.●

A LIST OF MEMBERS COSPONSORING H.R. 6380

(Mr. BOLLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BOLLING. Mr. Speaker, I introduced H.R. 6380, to establish a Commission on More Effective Government, on January 31, 1980. At the urging of some of my colleagues I invited other Members of the House to join with me in cosponsoring this proposal. I am pleased today to list the following 61 Members as cosponsors of H.R. 6380, representing a broad cross-section of the House:

LIST OF COSPONSORS

Adam Benjamin, Jim Blanchard, David Bonior, Clarence Brown, Bill Burlison, Tim Lee Carter, Silvio Conte, Baltasar Corrada, Dan Daniel, E (Kika) de la Garza, Butler Derrick, Thomas Downey, Robert Drinan, Robert Edgar, Don Edwards.

Billy Lee Evans, Paul Findley, James Florio, Martin Frost, Dick Gephardt, Frank Guarini, James Hanley, William Harsha, Frank Horton, William Hughes, Andrew Jacobs, Jr., James Jeffords, Harold T. (Bizz) Johnson, Jim Johnson, Gillis Long.

Manuel Lujan, Gunn McKay, Robert Michel, Norman Mineta, Robert Mollohan, William Moorhead, Austin Murphy of Pennsylvania, Morgan Murphy of Illinois, Lucien Nedzi, Carl Perkins, Thomas Petri, James Quillen, Henry Reuss, John Rhodes, Fred Richmond.

Martin Sabo, Paul Simon, Ike Skelton, Neal Smith, Arlan Stangeland, William Stanton, Tom Steed, Mike Synar, Bruce Vento, Harold Volkmer, Charles H. Wilson of California, William Whitehurst, Robert Whittaker, Antonio Won Pat, John Wydler, Clement Zablocki.

SCHOOL LUNCH PROGRAMS

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, last October, the Department of Agriculture published in the Federal Register a set of proposed regulations implementing an assessment, improvement, and monitoring system (AIMS). The Department developed this system in response to program audits conducted by the Office of Inspector General that unveiled certain weaknesses in the fiscal accountability and meal quality of the school lunch program.

Although the objective of the AIMS system is to improve program integrity, State and local administrators are quick to identify major flows in the system, for example: First, the Federal sanctions are overly punitive; second, the system duplicates existing regulations; third, the implementation costs will exceed the projected $4 million forcing States to absorb the additional expense; fourth, the required paperwork will be excessive and will seriously dilute the States' technical assistance and outreach efforts; and fifth, the system is inflexible and will break down any existing Federal-State-local administrative cooperation.

These serious objections prompted the Subcommittee on Elementary, Secondary, and Vocational Education to conduct an oversight hearing on the AIMS proposal on December 12. Testimony from the hearing clearly indicated that the AIMS proposal needs careful examination before any final regulations can be considered.

On December 13, a letter signed by all of the members of the subcommittee—Republicans and Democrats alike—was sent to Secretary Bergland urging that the Department extend the public comment period from January 2 to February 2. Congressman GOODLING, the ranking minority member of the subcommittee, and I then sent a letter to the State and large city school lunch directors encouraging them to send into the Department their comments on AIMS so that they are considered in the final evaluation.

It is my understanding that the Department has now received over 400 comments on the AIMS proposal. I would hope that the administration would carefully weigh the concerns and recommendations of all the commentors before any policy decisions are made with respect to the AIMS proposal.

I would like to insert into the Record a few of the many comments that I have received on AIMS. I believe that the following letters accurately reflect the widespread concerns of the State and local administrators who have expressed their serious reservations to the AIMS proposal:

Department of Public Instruction,
Raleigh, N.C., January 25, 1980.
Hon. Carl Perkins,
Rayburn House Office Building,
Washington, D.C.

Dear Mr. Perkins: I wish to express to you and to the Education and Labor Committee the opposition of the State Agency in North Carolina to the proposed Assessment, Improvement and Monitoring System for the National School Lunch and School Breakfast Programs.

While the performance standards in these proposed regulations are reasonable, they can be and, in fact, are being implemented under current regulations.

North Carolina has an effective management system in place to identify all areas of non-compliance with regulations, not just these six performance standards, and insure that corrective action has been taken with a staff of fifty (50) people. AIMS would require an additional seven (7) staff members at a cost of $200,000. North Carolina would receive less than one-half this amount ($85,866) to administer the AIM system.

This system clearly establishes an adversary relationship between the State Agency and both the Department and the local School Food Authorities.

The State Agency will no longer request the assistance of the Regional Office or the Department in correcting problem areas. We have seen that this results in data being gathered to justify the need for a burdensome nationwide management system which could not be justified by a statistically valid sample nationwide. Data gathered from audits and reviews conducted by OA or the Regional Office in North Carolina in the past five years will show an unrealistically high percentage of problems because the State Agency requested that these groups review programs where problems were known to exist. They were most helpful in assisting the State Agency to insure that corrective action was taken.

For the same reasons, local School Authorities will no longer request the assistance of the State Agency in their efforts to identify problems and take corrective action.

Most School Food Authorities operate on a very limited budget. If overclaims must be assessed every time a problem is identified, allowing no opportunity for corrective action, they will be unable to operate on a sound financial basis. This will make the risk of operating these two programs too great for many school administrators negating all outreach efforts by the State Agency.

There are no tolerance levels in any of the performance standards to allow for the fact that the regulations are proposed at a time when the Department is implementing a new meal pattern and the State Agency has implemented a new financial management system. To require perfection in a program this complex in a period of change is totally unrealistic.

Costs involved in implementation of this program begin with $200,000 required for additional staff, but could extend to an additional 4½–5 cents per plate for a 30 day period in interest due to possible delay of submission of claims by School Food Authorities to the State Agency while claims are certified by an independent auditor or due to the delay caused by changing from a letter of Credit to the Treasury Check method of providing funds to States.

We are totally opposed to the implementation of these regulations in concept feeling that they will result in deterioration of program quality and a reduction in program participation.

A more realistic approach would be for the Department to establish standards which the State Agencies must meet in the implementation of a management system developed by the State Agency. When the State Agency fails to meet these standards the Department would impose a system such as AIMS upon that State Agency, not the entire nation.

If these regulations must be implemented, there are several basic problem areas which should be addressed. These have been addressed in our comments to the Department. A copy of these comments are enclosed for your information.

Sincerely,
Ralph W. Eaton,
Director, School Food Service Division.

Archdiocese of New Orleans,
New Orleans, La., January 7, 1980.
Hon. Carl D. Perkins,
Rayburn House Office Building,
Washington, D.C.

Dear Mr. Perkins: We are concerned, about the proposed regulations of the AIMS program.

We feel that these proposed regulations demonstrate a lack of understanding of the lunch program and the competencies of the lower level personnel who have been the backbone of the program for the last 33 years. Over the years supervisors and managers prided themselves on the quality and attractiveness of the meals served because this was their primary concern. Now, however, AIMS intends to relegate this concern to sixth or last place in performance standards.

We feel that AIMS proposes to hold the school food service authority for errors made by principals in the administration of free and reduced price lunches when school food service has absolutely no authority over these people.

We feel that because of the inefficiencies of a few large systems all systems are considered suspect, therefore, all must be penalized. Why not concentrate on the systems that have shown signs of weakness. Most large systems try to operate efficiently.

AIMS leaves no room for human error—this is the height of injustice to the systems that are striving for and take personal pride in carrying out the sometimes impossible regulations mandated by USDA.

The December issue of the ASFSA Journal on accountability does a great job of summing up our situation—School Lunch started with a staff of good cooks who became good production managers after 10 years or so of adding more and more forms and regulations (not new ones to replace old ones but new added to old regulations).

Auditors are faulting these sincere and loyal people because as time went on and reimbursements were increased they did not magically turn into accountants and lawyers. Administrators feel a loyalty to those people and cannot get rid of them after they have tried so diligently to keep up with USDA impositions. Many went back to school to get their GED and attended 1 to 3 week training classes annually in Louisiana. Many of our managers were grandfathered into that position with only 4th grade education.

We also feel that determining if meals contain required quantities of food by any method other than production records is unfair.

Different systems have different methods of reporting children absent, e.g. in the Archdiocese of New Orleans the rule is:

1. If a child arrives at school after the first bell he or she is considered tardy.

2. If a child arrives after ten but before twelve he or she is considered ½ day absent.

3. If a child arrives after 12 he or she is considered a full day absent.

These rules might be fine for the principal but not for the cafeteria manager because the daily attendance is given to the manager in the morning. The late child receives his or her lunch regardless of arrival time, therefore, the ADA and the ADP cannot possibly be in agreement. As far as the auditors are concerned the manager and the system are penalized. This is just another example of the unfairness of the program.

Sincerely,
John G. Schloegel,
Director.

Office of Public Instruction,
Helena, Mont., January 11, 1980.
Mr. Carl D. Perkins,
Rayburn House Office Building,
Washington, D.C.

Dear Mr. Perkins: This letter is in regard to the proposed USDA regulations to implement the Assessment Improvement and Monitoring System (AIMS).

I am unalterably opposed to the concept that improvement in school feeding programs will derive from a system of economic sanctions. On the contrary I feel that imposition of the AIMS concept of sanctions will create an adversary relationship between Local Educational Agencies, State Agencies, Regional Offices and the Washington D.C. office of USDA. Such an adversary relationship will tend to create an atmosphere of self protection, rather than cooperativeness, which will be counter productive in bringing about improvement.

The establishing of a rigid review system removes options from the State Agency that are necessary to effectively administer and supervise these programs. Neither the Washington D.C. office nor the Regional Offices know a state as well as the State Agency. The options available to the State Agency in administering programs must not be further eroded by federal intervention.

I feel strongly the basic rationale for AIMS is based on incomplete and inaccurate audit findings. In our onsite reviews of free and reduced price applications we find one percent or less of the applications have been misassigned. In regard to whether applications contain generally truthful information we recognize a very small percentage may not contain all income information. Schools should not and cannot, however, be placed in the position of being a policing agency in regard to applications. Unless there is overt and blatant falsification the program must work on the basic principle of faith. In Montana we feel it works quite well on that principle.

Other factors to consider insofar as Montana and many other states is the potential travel requirements. It is entirely feasible personnel from this office would be required to make two or three trips of 450 miles or more, one way, to the same location during the same year. I do not view this to be cost or energy effective.

In summary we acknowledge we have problems many of which emanate from a seemingly endless stream of proposed, interim, final, revised, adinfinite regulations. We feel our programs are delivering a vital service to children in the way that Congress intended, efficiently, effectively and at a low cost. We do not feel AIMS will enhance this in any way.

If you have any questions, please let me know.

Sincerely,

H. Brisbin Skiles,
Manager,
Division of School Food Services.

Sacramento City Unified
School District,
Sacramento, Calif., January 4, 1980.
Hon. Carl D. Perkins,
Rayburn House Office Building,
Washington, D.C.

Dear Congressman Perkins: I am against the USDA proposed, "Assessment, Improvement and Management" (AIMS) pertaining to the School Lunch Program for the following reasons:

1. It changes the individual State's role in the lunch program to that of an adversary rather than a helpmate in solving local district's problems in their food programs.

2. Rather than the State's working with their regional USDA offices, an adversative position will be created and maintained by both agencies.

3. Being a major city director, I will be open to more frequent reviews and audits in accordance with AIMS. This is patently unfair, unrealistic and biased. I constantly receive telephone calls from smaller districts asking for assistance and guidance in their feeding problems. Smaller districts look to us for help, as we are supposed to be sophisticated in our operations. Why should we as large districts be singled out for unwarranted reviews?

4. The audit sampling percentages are wholly unfair, ambiguous and unrealistic. I have fifty-eight elementary schools, twelve junior high and five high schools in my district. If two elementary schools sampled had three unsigned lunch applications, statistically AIMS would penalize all elementary schools based on their sampling techniques. This is unmitigated nonsense.

5. We now have twenty-four of our elementary schools in the National Breakfast Program. Each year we add three or four new programs by indoctrinating the local school administrators and using a little friendly persuasion. The soft sell outreach program that my food service people utilize to improve and enlarge our programs will be lost because of AIMS. The threatened loss of income and punitive action by AIMS will turn many would-be program participants the other way. There is bound to be a loss in participation when veiled threats are a daily hazard to our operations.

We have always had a marvelous working relationship with our State Office of Child Nutrition Services and our San Francisco USDA Regional Food and Nutrition Services Office. It would be a shame to see this amicable avenue of assistance terminated by AIMS.

In closing, I would like to state that I am in favor of strict accountability and a monitoring system such as is in existence now. We try our utmost to comply with all USDA and State regulations and go out of our way to assist smaller districts meet compliances in their feeding programs. I do feel that the punitive philosophy as promulgated by AIMS is a tremendous step backward in our national feeding programs and will lead to many districts withdrawing from the National School Lunch Program.

Thank you for your many, many years of help and guidance in our nation's program to feed hungry children.

Sincerely,

Lawrence J. Dopp,
Director, Food Services.●

RETIREMENT OF JAMES F. SHUMATE, JR., COUNSEL, HOUSE ARMED SERVICES

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record.)

● Mr. PRICE. Mr. Speaker, I want to bring to the attention of the Members of the House that Mr. James F. Shumate retired at the end of January after serving 11 years as a member of the staff of the Committee on Armed Services.

Jim Shumate for many years handled all military construction legislation single-handedly. During recent years, he has handled aircraft and missile procurement programs. He performed all of his many duties with enthusiasm and with a high degree of competence.

Many of us knew Jim Shumate before he came to the committee staff, in his capacity as the Deputy Director of Legislative Liaison for the Secretary of Defense for 7 years.

As a young man, Jim served as a pilot in the Army Air Corps during World War II. I am told that the term "hazardous duty" was invented by those who flew overloaded C–47's over the "hump" from India to China in adverse weather conditions. That was one of Jim's assignments.

Jim Shumate was also at one time a successful politician; from 1956 to 1960 Jim served as the elected district attorney for the 10th Judicial District of Mississippi—his home State.

The Committee on Armed Services sincerely appreciates Jim Shumate's many years of dedicated service to the committee, to its members, and to other Members of the House. We regret his decision to leave the staff. While we will miss his wise counsel and keen wit, we sincerely hope that he will enjoy life in retirement. I know that his many friends among the Members and staffs of the House will want to join me in wishing Jim well in his future endeavors.

MAYOR COLEMAN YOUNG'S STATE OF THE CITY ADDRESS

(Mr. CONYERS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. CONYERS. Mr. Speaker, the past two decades have been harsh ones for the big cities. They lost substantial numbers of citizens, industries, and jobs—first to the suburbs and later to other regions like the Sun belt. Their restrictive property tax base lagged far behind the costs of maintaining aging physical plants and expanding public services. Cities have been victimized more by inflation and unemployment than other units of government and the result, unsurprisingly, has been fiscal crisis.

Against this backdrop, the city and citizens of Detroit have struggled dramatically to reverse these national trends. The determination of Detroiters to create a renaissance has been matched by the leadership of Detroit's mayor, Coleman Young, who has won national recognition as one of our most effective, imaginative, and influential urban leaders.

Mayor Young's state of the city message, delivered on January 29, is, therefore, of more than local interest. It is a balanced message, highlighting Detroit's achievements without disguising or minimizing its problems. It illuminates the difficulties common to all urban centers. Mayor Young's accomplishments in housing redevelopment, commercial revitalization, assistance to minority business enterprise, and his energy initiatives are worth examining. Yet he has few illusions about the adverse impact on cities of continuing national economic trends.

I recommend to my colleagues Mayor Young's message, which should remind us that the Nation's domestic agenda is still unfinished:

State of the City Message Presented by Mayor Coleman A. Young, January 29, 1980

It is particularly appropriate that my first State of the City message of the new decade should be delivered here before the Women's Economic Club.

One of the important characteristics of the years ahead, in my opinion, will be the great progress toward equal opportunity which women and other disadvantaged groups will make in our society.

Like any other goal, this one will only be achieved through mutual struggle, and I look forward to working with you to achieve equity and equality.

For years, you and all Detroiters have dreamed great dreams and laid great plans. But I cannot recall any one year when we saw as many of our plans and dreams fulfilled as we did in 1979.

The people of Detroit, our City Council and this Administration wrote history here last year. We proved—first with the vitality of our spirit and the unity of our people, and then with bricks and steel—that Detroit truly is America's first renaissance city.

To be sure, we experienced our share of difficulties, but as I look back over the past twelve months, I am firmly convinced that 1979 was a good year for Detroit.

Our new Joe Louis Arena is a perfect example of what I mean. Since the early sixties, Detroiters have dreamed about having a new arena downtown on the riverfront.

But for nearly twenty years, all we did was dream because we were told it couldn't be done—that nobody would use it, that it would be a financial albatross around the necks of our grandchildren for decades to come.

Well, as all the world knows, on December 12, 1979 we opened the doors to the largest indoor arena in the United States.

The people who said we couldn't build it were wrong. We finished it right on schedule. The critics who say it is unsafe are just as wrong.

And the people who said nobody would use it were wrong, too. In the six short weeks that have passed since it opened, 250,000 people have already bought tickets and attended events in the arena.

It was also twenty years ago that the planners started dreaming about a Civic Center plaza downtown on the riverfront. Well, we finished that, too, last year, and opened it in time to host eighteen ethnic festivals which brought more than 6.5 million people downtown to share Detroit's rich and varied heritage.

We finished something else last year that people have been dreaming about for 76 years. Since 1903, we've been trying to build a rapid transit system in Detroit. And 1979 will go down in the history books as the year when we reached agreement with our suburban neighbors to join transportation systems, and form one coordinated network.

This agreement guarantees that Detroiters will have not only high quality bus transportation, but also that Detroit and its suburbs will have a modern, rapid transit system stretching out Woodward, from downtown to Ten Mile Road.

I congratulate the SEMTA Board of Directors for their wisdom and foresight in reaching this accord, and also for their recognition that the system should eventually be expanded further into the suburbs—to the north, the east, and the west.

What mass transit will mean to the entire metropolitan area is almost too grand to envision. For example, it will mean $1.5 billion worth of new construction jobs for Detroit's economy during the next ten years. It will attract another $1.5 billion in private investment to finance residential, commercial and industrial development along its path. And it will create 27,000 new and permanent jobs for our economy.

Detroiters have also been told for years that we could never sustain our affirmative action program in the Police Department. But once again, 1979 will go down—both in the history books and in the law books—as the year when we won two landmark affirmative action decisions.

The U.S. District Court handed down an opinion sustaining our right to pursue a 50/50 affirmative action plan for promoting to the rank of Lieutenant in the Police Department. And a Sixth Circuit U.S. Appeals Court panel upheld the city's affirmative action program for promoting police officers to the rank of Sergeant.

For the last two years, the courts have restrained us from making any promotions to Sergeant or Lieutenant. But I am proud to say that on February First we will graduate a class of thirty Lieutenants and 104 Sergeants—and it will be a 50/50 class: black and white. And it will be male and female, too.

These two historic victories convince me, more than ever, of the basic equity and justice of our efforts to change the promotional system in the Fire department. I do not believe, and I know that most Detroiters agree with me, that merely attaining a certain level of seniority should be the sole basis for promotions. I do not believe that this system is right, and I do not believe that it is lawful.

Therefore, I serve notice now that in 1980 I will work closely with the City Council to pursue, as aggressively as necessary, the establishment of a fair and meaningful promotion system in the Fire department.

We will also continue our program to assist small and minority business in Detroit. In 1979 we obtained several important federal grants which gave real impetus to our efforts. One was a UDAG grant of $93,000 to help establish a new minority-owned auto dealership.

Another was a $1.8 million grant from EDA which has generated a $4.5 million investment of private capital to build the Trappers' Alley commercial complex in Greektown.

And Detroit was selected as one of the few cities in the country to receive a $400,000 Labor Demand Area grant to help small and minority businesses tap into lucrative federal procurement contracts.

I am also able to report that since this administration took office, the city has awarded contracts totaling $73.9 million to the minority business community. This represents an average, over the past six years, of $12.3 million a year.

Compared with the $400,000 worth of contracts that were issued in 1973, the year before I took office, this represents a 3,000 percent increase.

I also plan later this year to recommend to the City Council the adoption of a new Model Procurement Code for the City of Detroit. One of its key thrusts will be to formalize a set-aside program for minority contractors.

Detroiters have a right to take real pride in all of our accomplishments during the past year, but to my mind nothing outranks the importance of what we achieved in our neighborhoods.

In 1979, we built more new housing and rehabilitated more existing housing than we have in any other single year in the past two decades.

We built nearly 1,500 units of new housing last year, we rehabilitated nearly 700 more, and we repaired 4,000 homes owned by senior citizens and low-income families.

Our Urban Homestead program is designed to be the most successful in the country. We have already received more than 6,000 applications from Detroiters all over the city who want to buy HUD homes and rebuild them up to code.

In 1979, we again channeled more than seventy percent of all of our federal and local capital construction funds into our neighborhoods to improve our housing stock, remove blight and upgrade our neighborhood commercial strips.

In the past year, we literally changed the faces of some of Detroit's most important neighborhoods.

In Jefferson-Chalmers, for example, 180 new housing units are under construction and we have firm financial commitments to build 200 new senior citizen units and a shopping center there in 1980.

In Elmwood, Ill., as you know, we are building an entirely new, 500-acre community. When we are totally finished, more than 10,000 people will live there in 2,500 new homes and apartments.

But a new Elmwood for Detroit is not just an idle dream. We have already completed more than 800 of those housing units, and our new $5 million Elmwood Community Center will open this Spring.

In 1979 we broke ground on 200 new units at Gratiot and Van Dyke on the site of the former Sears store.

In Forest Park we completed 500 new housing units in 1979, and during 1980 we will start construction of the road system and infra-structure so that within two years we can add an additional 1,500 housing units and a new shopping center.

In Medical Center we broke ground on 200 new units last year and on new Warren/Brush Shopping Center, as well.

North of there, GM's commitment to rebuild the New Center area is already taking tangible shape. By the end of 1980, they will have completed rehabing 125 stately single homes and 175 apartment units.

They will also break ground on 250 new apartment units for senior citizens and low or moderate income families. And, by the end of the year, the new shopping center and community center will be nearly finished.

Looking west along Grand Boulevard from Woodward, we see a broad, uninterrupted panorama of rebirth, all the way west to Linwood. Starting with the New Center project, it includes the Virginia Park-Ford Hospital joint venture and the Virginia Park neighborhood, with its new community center already under construction.

We completed 89 new housing units in Virginia Park in 1979, and we are due to start construction on 350 more on March 1.

Before 1980 ends, we will also have broken ground on a new fire station and a new shopping center. And, because of the success which the new, one-family homes enjoyed in Elmwood III, we will also build 100 freestanding, detached, single-family houses in Virginia Park. This will be the largest number of such homes offered for sale in one neighborhood in 25 years.

In 1979, I rededicated a totally renovated Johnson Recreation Center and, using local bond money, we are renovating the Evans and Butzel Adams Centers, as well.

Last year, we also received a $1.8 million federal grant to renovate five other centers, including Brewster, Clark, Kronk, Patton, and Brewer.

1979 was also the year when we completed construction on two new police stations: the Fourteenth Precinct at Grand River and Schaefer, and the Fifteenth Precinct at Gratiot and Gunston. We also received a $10 million HUD grant to renovate and modernize Herman Gardens.

To further support our neighborhood efforts, we also concentrated heavily on revitalizing our neighborhood shopping areas and commercial strips.

Our investment of public works grant funds in the Grand River/Greenfield shopping area was so successful that we generated more than $1 million of matching private investment. At Grand River/Oakman our investment of a $660,000 HUD grant generated private sector investments of more than $3.5 million.

We also combined block grant funds with capital from two local banks to create a revolving, low-interest loan fund which enabled business persons in the Vernor/Springwells area to complete the renovation of their commercial strip.

That program was so successful that we will expand it in 1980 to additional areas, including Gratiot/Seven Mile, Warren/Connor, Livernois/Seven Mile, River/Oakman, and Grand River/Greenfield and Eastern Market.

Despite what we are told to the contrary, the fact is that thousands of Detroiters are now living in new or re-born housing that simply did not exist a year ago. But the myth still persists that we have abandoned our neighborhoods and neglected our communities.

It is a dangerous myth because once you get used to this kind of pessimism, you are left with little room for optimism. And pessimism about the value of our homes and neighborhoods is devastating to the best interests of Detroit homeowners and taxpayers.

The truth is that in 1978 property values turned around, and the value of homes in Detroit increased by more than seven percent. In 1979 that trend has continued and overall residential property values have risen by an additional 5.3 percent.

That, of course, is an average. Some of our neighborhoods have increased in value by thirty percent or more.

We are truly America's first renaissance city—both downtown and in our neighborhoods—and we can prove it.

I am announcing today that during the year ahead, we will hold neighborhood leadership seminars which will bring together city officials and the leadership of our block clubs and other community organizations so that we can see for ourselves how far our city has come.

We will do more in these seminars than just look at maps and drawings and listen to lectures. These will be mobile seminars, and we will visit neighborhoods all over Detroit. We will look at the good, and we will look at the bad. We will look at the old, and we will look at the new.

We will also talk to each other, and listen to each other, so that we can move forward together.

When we are done, our neighborhood leadership will be able to report, firsthand, back to their constituents on what the state of our city truly is.

But before we leave the subject of our neighborhoods, let me talk for a few moments about our newest neighborhood: Downtown Detroit.

We live in the largest city in the country without a substantial downtown residential community. And I firmly believe that all of our efforts to establish a downtown regional shopping center, and to revitalize the commercial base of our downtown area, will be in vain unless, at the same time, we build a whole new residential neighborhood in our central business district.

Once again, 1979 was a year of solid achievement in this regard. We are already rehabing 427 apartment units in former office buildings on Washington Boulevard. We have also obtained a firm financial commitment for a new 350-unit high-rise apartment on Washington Boulevard and we plan to break ground there this Spring. We can also count on another 610 rehabilitated units in the same area, including 400 apartments in the old Hilton Hotel and 210 units for seniors and low or moderate income families in adapted office buildings.

When the new Riverfront West Apartments are completed, they will contain 2,500 new units. But before 1980 is over, we have been assured that construction will have begun on the first 950.

All in all, we can be sure of 5,000 new housing units in downtown Detroit by 1983, and by the end of this decade, I firmly believe that we will have doubled that number to 10,000.

Our plans for the new Cadillac Shopping Center are also proceeding on target. As you know, when it is completed this regional complex will include several new department stores, both large and small, plus a myriad of specialty shops.

Our plans are also on schedule to construct a new $100 million hotel on the riverfront next to the Joe Louis Arena and to build the $110 million Millender Center, which will contain another new hotel, office space, apartments and parking facilities.

We also plan to break ground in 1980 on our $110 million downtown people mover and to complete work on the $16 million Joe Louis Arena parking garage.

We have already outgrown the four original office towers in Renaissance Center. Ten thousand people now work there every day—more people than live in many cities and towns across the country. So, in 1979, we broke ground on Phase II—the $80 million twin office towers just east of Renaissance Center.

We enjoyed other successes, too, in 1979. For example, we continued our program of successful crime fighting, and reduced our murder rate to its lowest level in a decade. In addition, Part I offenses showed no increase during the first nine months of 1979, compared with a national increase in the FBI's Crime Index of nine percent during the same period.

1979 will also go down as the year when we won the bid to host both the 1980 Republican Convention and the NHL All-Star Hockey game, along with signing up Superbowl 16 for 1982.

The Art Institute's reputation spread world-wide with superlative exhibits like the John Singer Sargent Show and the Nigerian Treasures. And I believe that we will reach our goal of becoming one of the three preeminent art institutes in the country before we celebrate our centennial in 1985.

The Detroit Symphony Orchestra caught the enthusiasm and confidence of its conductor in 1979 and translated them into best-selling records, critically-acclaimed performances, and a European tour that had Berlin applauding our renditions of Beethoven. Maestro Dorati promised us a world class orchestra, and he has delivered on that promise.

And this coming Summer, when we open the all-new Belle Isle Zoo—with its elevated walkway through the trees—Detroiters will have an animal-viewing experience unmatched anywhere in the country.

Jazz in Detroit is also finding new showcases and we will be in the national spotlight over Labor Day when Detroit hosts the internationally acclaimed Montreaux Jazz Festival.

In the face of all these successes, I believe that music and the arts have become both a tourist attraction and an industry in the full business sense of the word, and as such they have also become one of the keys to the economic renaissance of this city.

We also worked hard in 1979 to retain our industrial job base in Detroit. Our close working relationship with President Carter and Congressional leaders was highly publicized, and was of significant assistance in bringing home the $1.5 billion aid package for the Chrysler Corporation.

In addition, we are now workng closely with Chrysler to strengthen their $110 million investment in the Jefferson Avenue plant by building them a modern $28.5 million paint facility. This will insure that the Jefferson plant will produce the new "K" car, thereby guaranteeing employment for 5,400 Detroiters who would otherwise be unemployed.

We have also created a revolving loan fund, with the help of a $1 million EDA grant, to assist 22 small industries in the Riverside industrial area to renovate and expand their plants. This program will enable us to retain 1,100 jobs and create 500 new ones.

We are also working with the State of Michigan to establish a 150-acre industrial park in southwest Detroit, and to set aside an additional thirty acres to provide new housing for the families who live in that community.

And, in spite of persistent criticism, we have continued the prudent use of a variety of tax abatement techniques to help retain jobs for Detroiters.

One strategy we have used repeatedly to strengthen Detroit's industrial job base has been the Public Act 198 tax abatement program. To date, 125 companes have benefited from this program, and Detroit has benefited, in return, from the $360 million of private capital which they have invested in our city.

These investments have created nearly 3,000 new jobs and have enabled us to retain more than 46,000 jobs which we would otherwise have lost.

I am certain that we will continue to be criticized for using these devices. And I am certain that we will continue to be accused of helping the rich get richer. But we are living in a jungle out there and when it comes to stealing our jobs, it's not just the sun-belt states we have to watch out for.

It's our good neighbors, like Ohio and Illinois and Ontario. And it's Pennsylvania and Tennessee and Missouri, too.

It may not be what we would prefer, but those are our jobs, and until somebody shows me a better way to survive, I'm going to keep right on recommending the judicious use of tax abatements and any other tools we have available.

All in all, 1979 was a vintage year for Detroit, but we had some bitter moments as well.

We ended the year with 9,500 Detroiters on layoff from Chrysler, and began 1980 by learning that our Uniroyal Plant was closing.

Only one month went by in 1979 when unemployment in Detroit dropped even slightly below nine percent, and we ended the year with an estimated rate of close to eleven percent, almost twice the national rate.

Declining revenues and spiraling inflation forced us to lay off 359 city employees last January as the first step in an effort to reduce a deficit that was growing daily.

Our second step was to impose an absolute hiring freeze on every single city department except in the very most critical areas. But none of this was enough, and we ended our fiscal year last June with a deficit of almost $20 million.

Under Detroit's Charter, that was the first item that had to be financed in this year's budget. To do that, and to cover the cost of raises awarded to police and fire personnel by an arbitration panel, we were forced last Fall to lay off an additional 907 city workers, including 400 police officers.

In my opinion, it is one of the terrible ironies of the police and fire arbitration awards that the money to pay for them can only be found by laying off many of the very men and women who were to receive them.

Last year's lay offs, combined with our hiring freeze, have now reduced the number of general city employees to the lowest level as far back as we can find accurate figures in the city's files, and that takes us back to the Great Depression of the 1930's.

We also slashed the city's motor vehicle fleet by twenty percent and imposed a variety of other cost reduction and efficiency measures. But in spite of all of our attempts to hold down expenses there is a good chance that we will close our books on June 30, 1980 with a $60 million deficit.

How did city government get into this situation at a time when everything seems to be going so well? How can we be so cash poor when we are surrounded by hundreds of millions of dollars of new construction?

We could have ended last fiscal year with a surplus. And we could reduce this year's projected deficit to a manageable level had it not been for the $50 million of inequitable and, in my opinion, illegal pay raises which the 312 arbitration panel awarded to our police officers and firefighters.

A year ago, I promised in my State of the City message that we would go all the way to the Michigan Supreme Court if necessary to overturn that panel's decision, and we have done just that.

The case is currently pending before the one woman and the six men who sit on the highest court in this state. And the question before them is whether an arbitration panel which is accountable to no one can force the taxpayers of this city to give massive pay raises to men and women who are already the highest paid in this State and in this nation.

I do not know what the Supreme Court will decide. But I do know that even if we win, we will still have to deal with an additional $40–$60 million revenue shortfall during our next fiscal year which begins this July First.

This means that within the next eighteen months, city government faces a possible revenue gap of between $120–$140 million. That would exceed the budget crisis we experienced in 1975 and 1976, and would be the most serious financial situation Detroit has encountered since the Great Depression.

And even if the Supreme Court overturns the arbitration awards, we could still be short by $40–$60 million.

There are some potential sources for closing this gap, however. For example, if the State's Census Hold Harmless bill passes, Detroit could receive as much as $13 million during the next eighteen months.

The Governor has proposed a new State aid package which could provide as much as $30 million over current levels for Detroit over the same period. And the President's proposed Counter-Cyclical bill could bring us an additional $20 million.

But these items are only speculations, and we have learned from our own past bitter experience that speculations do not always materialize.

I hope the national economy turns around this Fall as so many economists are now predicting. Generally, though, our income tax revenues lag six to twelve months behind any national economic upswings. There may be light at the end of the tunnel for us before 1980 ends, but it may also be well into 1981 before any new national prosperity begins to affect our budget.

All of this, combined with the uncertainty which still surrounds the police and fire arbitration awards, make it very difficult for us to establish a firm position as we enter our 1980 contract talks with city employees.

I believe that many of them understand the financial problems we face. Our civilian unions certainly recognized this three years ago during our last contract talks, and I congratulate them once again because they understood that their best self-interests were linked directly to the city's.

We are looking at a wide variety of possibilities for the 1980 negotiations, ranging all the way from wage freezes to the possibility of offering modest increases.

We are closely examining the recent Chrysler contract, because it contains a principle which I believe we may be forced to adopt. Auto workers employed by Chrysler will receive less under their new contract than will their brothers and sisters who work for Ford or General Motors.

The UAW has recognized the fact that Chrysler cannot afford to pay higher wages, and it could well be that our city unions and associations will have to reach a similar conclusion.

If worst comes to worst, there is also the possibility that we will be forced to ask city workers to give up some of the benefits they already enjoy. In New York City, for example, municipal workers just two years ago sat down at the table to discuss what they would give back to help New York meet its fiscal crisis.

It is not possible today to say what the final outcome of our 1980 labor negotiations will be. I certainly hope, and will make every effort to guarantee, that City of Detroit employees will remain in the front ranks of employees across the nation. One thing is certain, however. We cannot sign a contract that will call for spending money which we cannot see.

We are convinced that during the 1977 negotiations the city's lack of ability to pay large wage increases was clearly stated. Certainly it was on that basis that our contracts with the civilian unions were settled.

But to be certain that there is no room for dispute as to the city's true financial condition, I will call on the City Council to approve a contract for an outside, independent auditing firm to examine our accounts and make a public report.

I am also prepared to open the city's books for scrutiny by a broadly representative group of Detroiters whom I will appoint, as I did the Pelham-Fraser Commission in 1975.

I did not run for the office of Mayor in the expectation of facing one fiscal crisis after another. I had hoped to devote full time building a city where life could have real meaning. But it is apparent to me now that we must do both at the same time.

We must all face the fact that 1979 marked more than the end of a decade. It also marked the end of an epoch in America's history, and the City of Detroit must begin to adjust.

America is rich—the richest nation in the history of the world. But we are quickly learning that even our vast wealth has its limitations, and never have we seen them more sharply drawn than we did last year.

President Carter has challenged every American to make 1980 a year of energy conservation, and in Detroit we will do just that.

Last year, I established an energy conservation and management program in city government. We have already conducted energy audits on thirty of our largest buildings and reduced our energy consumption by fifteen percent.

We are also preparing guidelines for the use of city-owned vehicles and for the purchase of energy efficient products.

The city's heating code has been changed to provide for the installation of conservation devices in existing heating systems and to require conservation in new construction.

Our Neighborhood Services Department has already provided winterization services to 5,000 homes owned by senior citizens and low income families at no cost to them. Over the next eighteen month period, we will extend these services to an additional 6,500 eligible homes.

We are also developing a resource recovery facility to extract energy from solid waste and to enable us to put to work much of the waste steam now generated by Detroit Edison power plants.

But this is only a modest beginning, and much more needs to be done. Therefore, I intend to appoint a city-wide energy advisory committee. Its mandate will be to help establish a comprehensive energy policy for Detroit and to help set goals for us to meet in the decade ahead.

It will consist of representatives from all segments of our city—business, labor, industry, the universities and the community, as well. It will bring together lay persons and technical experts, and it will enable us to anticipate the forthcoming federal requirement that such committees be established to qualify for future energy conservation grants.

We must conserve our resources, and we will. But conservation without growth will damn Detroit to a decade of decline.

We know we must maintain our current job base, but the great challenge of the eighties will be to find dramatic new ways to strengthen it.

1979 was a banner year for the completion of physical construction projects, and with the commitments and proposals we have in hand right now, 1980, '81 and '82 promise to exceed anything we saw last year.

In my opinion we can look forward to a decade of massive construction activity in Detroit, and that is crucial because it will give us a solid foundation from which to expand our economic base.

For decades now, we have been the home of the auto industry, but the demand for consumer durables in the United States will not continue to grow in the period ahead as it has during the past thirty or forty years. In addition, business cycles in the U.S. are now linked to global business cycles and the consumer durables industry is especially susceptible to their swings.

Because world politics and international trade have become major influences on the American economy, we must become an internationally competitive city—one which can attract foreign trade and take full advantage of the world's emerging markets.

To maximize our competitive edge, we have already begun to expand and modernize the port of Detroit and to establish a free trade zone in our city. I believe that we must also support efforts to create a common market in North America, and build Detroit into an international banking center.

We must also find ways to help our auto companies in their efforts to manufacture more of the components they need here at home, rather than buying them abroad. This will increase their ability to market more competitive cars, and improve America's balance of payments.

We are fortunate that President Carter is fully committed to channeling more and more federal procurement contracts to cities like Detroit, and I believe that we must position ourselves now to take full advantage of his urban initiatives and to increase the flow of high technology, research, communications and manufacturing contracts to Detroit. Plastics and electronics are also industries of the future, and ones which Detroit is uniquely capable of entering.

To ensure Detroit's economic pre-eminence, we will place top priority in the year ahead on charting the course for our industrial and commercial development during the last twenty years of this century.

We will focus all of our best minds and all of our resources on preparing to meet the challenges and exploit the opportunities that lie ahead.

We were able to survive the pain and the bitterness of the seventies because we are a tough town. And I believe that we enter the decade of the eighties stronger and wiser because of what we have learned and endured.

Working together with unity of purpose in the decade ahead, I believe that we will not only guarantee Detroit's survival, but that we will ensure our prosperity, as well.

And I have every confidence that ten years from now when we enter the decade of the nineties, we will do so from a foundation of economic strength unmatched in our history.

Thank you.●

□ 1530

GENERAL LEAVE

Mr. DECKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order yesterday by the gentleman from Michigan (Mr. VANDER JAGT).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. LATTA (at the request of Mr. MICHEL), after 12:30 for today and the balance of the week, on account of official Budget Committee business.

Mr. MCEWEN (at the request of Mr. MICHEL) for Monday, February 11 through Monday, February 25, 1980, on account of attending the winter Olympics.

Mr. CHAPPELL (at the request of Mr. BENNETT), for today, on account of official business in District.

Mr. CORMAN (at the request of Mr. WRIGHT), for today and tomorrow, on account of official business.

Mr. GIAIMO (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. Mineta (at the request of Mr. Wright), for today and tomorrow, on account of official business.

Mr. Russo (at the request of Mr. Wright), for today and tomorrow, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gonzalez, for 15 minutes, Wednesday, February 13, 1980.

Mr. Zablocki, for 30 minutes, today.

(The following Members (at the request of Mr. Deckard) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 10 minutes, today.
Mr. Cleveland, for 5 minutes, today.
Mr. Trible, for 15 minutes, today.
Mr. Courter, for 20 minutes, today.

(The following Members (at the request of Mr. Daschle) to revise and extend their remarks and include extraneous material:)

Mr. Daschle, for 10 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Conyers, for 5 minutes, today.
Mr. Richmond, for 5 minutes, today.
Mr. Hall of Ohio, for 5 minutes, today.
Mr. Weiss, for 5 minutes, today.
Mr. Brademas, for 5 minutes, today.
Mr. Preyer, for 5 minutes, today.
Mr. Weaver, for 5 minutes, today.
Mr. Danielson, for 60 minutes, on April 24.
Mr. Ottinger, for 5 minutes, today.
Mr. Dingell, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Johnson of California, and to include a letter from the Committee on Public Works to the chairman of the Committee on Rules dated February 5, 1980, prior to the vote on the first Bauman amendment to H.R. 3995 in the Committee of the Whole today.

Mr. Conyers and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,375.50.

(The following Members (at the request of Mr. Deckard) and to include extraneous matter:)

Mr. Michel.
Mr. Findley.
Mr. Davis of Michigan.
Mr. McKinney.
Mr. Hinson.
Mr. Derwinski in two instances.
Mr. Tauke.
Mr. Solomon.
Mr. Ritter.
Mr. Bereuter.
Mr. Jeffords in two instances.
Mr. Mitchell of New York.
Mr. Gilman in two instances.
Mr. Taylor.
Mr. McClory.
Mr. Young of Florida.

The following Members (at the request of Mr. Daschle) and to include extraneous matter:)

Ms. Oakar.
Mr. Mica in two instances.
Mr. Guarini.
Mr. Luken in two instances.
Mr. Stark.
Mr. Clay.
Mr. Nowak in five instances.
Mr. Gudger in two instances.
Mr. Skelton.
Mr. Rosenthal.
Mr. Moorhead of Pennsylvania.
Mr. Pepper.
Mr. Swift.
Mr. Drinan.
Mr. Studds.
Mr. McDonald.
Mr. Ertel in two instances.
Mr. Jones of Oklahoma.
Mr. Weiss.
Mr. Jacobs.
Mr. Peyser in three instances.
Mr. D'Amours.
Mr. John L. Burton.
Mr. Vento.
Mr. Gephardt.
Mr. Patterson in two instances.
Mr. Brodhead in two instances.
Mr. Fary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1452. An act to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.

ADJOURNMENT

Mr. DASCHLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, February 13, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3462. A letter from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1980 and amendments to the requests for appropriations for fiscal year 1981 (H. Doc. No. 96–267); to the Committee on Appropriations and ordered to be printed.

3463. A letter from the Secretary of State, transmitting a report reviewing various aspects of the U.S. role in maintaining the security of the Republic of Korea, pursuant to section 668 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

3464. A letter from the Comptroller, Department of State, transmitting the quarterly report on programing and obligation of international narcotics control funds as of December 31, 1979, pursuant to section 481 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

3465. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on progress in establishing within the Agency a minority resource center, and on activities of the Office of Small and Disadvantaged Business Utilization, pursuant to section 133(c)(6) of the International Development and Food Assistance Act of 1977, as amended (93 Stat. 366); to the Committee on Foreign Affairs.

3466. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the Agency's disposal of foreign excess property during fiscal year 1979, pursuant to section 404(d) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

3467. A letter from the Secretary of the Interior, transmitting notice of his withdrawal of certain lands in Alaska, pursuant to section 204(c) of Public Law 94–579; to the Committee on Interior and Insular Affairs.

3468. A letter from the General Counsel, Department of Energy, transmitting notice of meetings relating to the international energy program to be held on February 12 and 13 in Dusseldorf, Germany, and on March 4, 5, and 6, in Paris, France; to the Committee on Interstate and Foreign Commerce.

3469. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

3470. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's annual 5-year plan for research, development, and demonstration, pursuant to section 5 of Public Law 94–475; to the Committee on Science and Technology.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 6483. A bill to amend the Renegotiation Act of 1951 and give the President power to control excessive profits on defense contracts during time of war, under conditions set forth herein, and for other purposes; jointly, to the Committees on Armed Services and Banking, Finance and Urban Affairs.

By Mr. BRINKLEY:

H.R. 6484. A bill to provide that the repeal of the earnings limitation under title II of the Social Security Act for individuals age 70 and over, which is presently scheduled to take effect in 1982, shall instead become effective immediately; to the Committee on Ways and Means.

By Mr. DASCHLE:

H.R. 6485. A bill entitled: "Agriculture Emergency Act of 1980"; to the Committee on Agriculture.

By Mr. DASCHLE (by request):

H.R. 6486. A bill to authorize the President to call a White House Conference on Veterans; to the Committee on Veterans' Affairs.

By Mr. FITHIAN (by request):

H.R. 6487. A bill to establish Board of Agricultural Producers, to provide for annual referenda of agricultural producers with respect to set-aside programs, and for other purposes; to the Committee on Agriculture.

By Mr. GEPHARDT:

H.R. 6488. A bill to amend the Internal Revenue Code of 1954 to provide for the designation of income tax payments to the U.S. Olympic Development Fund; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. GRADISON (for himself, Mr. Gephardt, Mr. Duncan of Tennessee, Mr. Heftel, Mr. Jacobs, Mr. Schulze, Mr. Shannon, and Mr. Vander Jagt):

H.R. 6489. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for certain contributions to product liability loss reserve accounts; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. Perkins, Mr. Rodino, Mr. Gudger, Mr. Railsback, and Mr. Lagomarsino):

H.R. 6490. A bill to amend title 28 of the United States Code to reduce the filing fees for any civil action commenced in the Federal district court; to the Committee on the Judiciary.

By Mr. MATHIS:

H.R. 6491. A bill making a supplemental appropriation to the Environmental Protection Agency for reimbursement of the city of Bainbridge, Ga., pursuant to section 206 (a) of the Federal Water Pollution Control Act; to the Committee on Appropriations.

By Mr. MOTTL:

H.R. 6492. A bill to impose quotas on the importation of automobiles and trucks for a 5-year period; to the Committee on Ways and Means.

By Mr. NEDZI (for himself and Mr. Whitehurst) (by request):

H.R. 6493. A bill to authorize certain construction at military installations for fiscal year 1981, and for other purposes; to the Committee on Armed Services.

By Mr. PATTERSON:

H.R. 6494. A bill to amend the Internal Revenue Code of 1954 to exempt low-income housing and certain other rental housing from the requirement to amortize construction period interest and taxes, to reduce from 10 to 3 years the amortization period for other residential rental housing, to allow straight line depreciation over 10 years for certain new residential rental housing, and for other purposes; to the Committee on Ways and Means.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 6495. A bill to authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, and for other purposes; to the Committee on Armed Services.

By Mr. RICHMOND:

H.R. 6496. A bill to provide nutritionally superior school lunches; to the Committee on Education and Labor.

By Mr. STAGGERS:

H.R. 6497. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STANGELAND (for himself, Mr. Duncan of Tennessee, Mr. Beilenson, Mr. Grassley, and Mr. Charles Wilson of Texas):

H.R. 6498. A bill to exclude from gross income, for purposes of Federal income tax, interest paid to sellers of agricultural land purchased with loans made by such sellers to certain farmers and ranchers and insured under the Consolidated Farms and Rural Development Act; to the Committee on Ways and Means.

By Mr. WILLIAMS of Montana:

H.R. 6499. A bill to amend the Gun Control Act of 1968 and the Omnibus Crime Control and Safe Streets Act of 1968 to improve the administration of Federal firearm laws, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

By Mr. YATRON:

H.R. 6500. A bill to amend the Federal Mine Safety and Health Act of 1977 to provide that such act shall not apply to persons engaged in the processing or disposal of waste materials recovered from certain dredging operations; to the Committee on Education and Labor.

By Mr. SKELTON:

H. Con. Res. 278. Concurrent resolution expressing the sense of the Congress that the President and the Congress should establish programs and enact legislation that will assure that not later than January 1, 1990, the total quantity of gasoline sold in commerce in the United States by any refiner for use as motor fuel shall contain, on the average, not less than 10 percent alcohol fuel by volume; to the Committee on Interstate and Foreign Commerce.

By Mr. MICHEL:

H. Res. 577. Resolution amending the Rules of the House of Representatives to establish a special calendar to which all reported bills involving violations of the Congressional Budget Act must be referred for a specified period prior to their consideration by the House, and to impose additional reporting requirements on committees to expedite referrals to such calendar and facilitate its use; to the Committee on Rules.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED WITH TIME LIMITATION

Under clause 5 of rule X, the following action was taken by the Speaker:

Referral of H.R. 4660, a bill to amend the Small Business Act and an act to amend the Small Business Act (Public Law 94–305, 90 Stat. 669) to provide regulatory flexibility for small businesses and small organizations to minimize unnecessary burdens in complying with Federal rules and reporting requirements, to the Committee on the Judiciary extended for an additional period ending not later than May 15, 1980.

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLEVELAND:

H.R. 6501. A bill for the relief of David Allen Moorhead; to the Committee on the Judiciary.

By Mr. PATTEN:

H.R. 6502. A bill for the relief for Luz Della DeLaune; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1539: Mr. Ratchford and Mr. Findley.

H.R. 1985: Mr. Philip M. Crane.

H.R. 2285: Mr. Ritter.

H.R. 2852: Mr. Vander Jagt and Mr. Broyhill.

H.R. 3535: Mrs. Smith of Nebraska, Mr. McCormack, and Mr. Quayle.

H.R. 4045: Mr. Bedell, Mr. Lloyd, and Mr. Shumway.

H.R. 4178: Mr. Rinaldo.

H.R. 4646: Mr. Dodd.

H.R. 4782: Mr. Oberstar.

H.R. 4842: Mr. Waxman.

H.R. 5022: Mrs. Spellman and Mr. D'Amours.

H.R. 5409: Mr. Bonior of Michigan, Mr. Wampler, Mr. Broyhill, Mr. Rangel, Mr. Martin, Mr. Dougherty, Mr. Courter, Mr. Vento, Mr. Goodling, Mr. Barnard, Mr. Kemp, Mr. Donnelly, Mr. Jacobs, Mr. Shannon, Mr. Gudger, Mr. Bauman, Mr. Roybal, Mr. Russo, Mr. Madigan, Mr. Marriott, Mr. McCormack, Mr. Coughlin, Mr. Marks, Mr. Addabbo, Mr. Archer, Mrs. Boggs, Mr. Lee, Mr. Whitehurst, Mr. Horton, Mr. Lehman, Mr. Walker, Mr. Brown of California, Mr. Satterfield, Mr. McHugh, Mr. Charles Wilson of Texas, Mr. Lungren, Mrs. Fenwick, Mr. Andrews of North Carolina, Mr. Kindness, Mr. Akaka, Mr. Moorhead of Pennsylvania, Mr. Badham, Mr. Zeferetti, Mr. Cleveland, Mr. Paul, Mr. Jones of Oklahoma, Mr. Evans of Delaware, Mr. Railsback, Mr. Waxman, Mr. Miller of Ohio, Mr. Bereuter, Mrs. Spellman, Mr. Wolpe, Mr. Emery, Mr. Benjamin, Mr. Mollohan, Mr. Lundine, and Mr. Bafalis.

H.R. 5449: Mr. Garcia, Mr. Corman, Mr. Lehman, Mr. Waxman, Mr. Hawkins, and Mr. Livingston.

H.R. 5836: Mr. Maguire, Mr. Drinan, Mr. Erdahl, Mr. Peyser, Mr. Panetta, Mr. Dixon, Mr. Edwards of California, Mr. Corrada, Mr. Marks, Mr. Weaver, Mr. Walgren, Mr. Hughes, Mr. Simon, Mr. Ottinger, Mr. Wirth, Mr. Fazio, Mr. Roe, Mr. Pepper, Mr. Frost, Mr. Weiss, Mr. Tauke, Mr. Dougherty, Mr. Vento, Mr. Bedell, Mr. Miller of California, Mr. Stewart, Mr. Murphy of Illinois, Mr. Dellums, Mr. Blanchard, Mr. Eckhardt, Mr. Scheuer, Mr. Moffett, Mr. Markey, Mr. Grisham, Mr. Studds, Mr. Leland, Mr. Stratton, Ms. Mikulski, Mr. Dicks, Mr. Downey, Mr. Stark, and Mr. Coleman.

H.R. 5862: Mr. Shuster, Mr. Winn, Mr. Derrick, Mr. Anthony, Mr. Gingrich, Mr. Robinson, and Mr. Goodling.

H.R. 6056: Mr. Gilman.

H.R. 6086: Mr. Harris, Mr. Brown of Ohio, Mr. Lowry, Mr. Lloyd, Mr. LaFalce, Mr. Hughes, Mr. Mazzoli, Mr. McClory, Mr. Kindness, Mr. Barnes, and Mr. Fish.

H.R. 6089: Mr. Donnelly and Mr. McKinney.

H.R. 6148: Mr. Abdnor, Mr. Addabbo, Mr. Andrews of North Dakota, Mr. Anthony, Mr. AuCoin, Mr. Bauman, Mr. Bedell, Mr. Buchanan, Mr. Butler, Mrs. Chisholm, Mr. Clinger, Mr. Coelho, Mr. Coleman, Mr. Dellums, Mr. Downey, Mr. Edgar, Mr. Erdahl, Mr. Evans of the Virgin Islands, Mr. Fazio, Mr. Fithian, Mr. Forsythe, Mr. Gibbons, Mr. Gramm, Mr. Grisham, Mr. Guarini, Mr. Gudger, Mr. Hammerschmidt, Mr. Hughes, Mr. Kemp, Mr. LaFalce, Mr. Leach of Louisiana, Mr. Lederer, Mr. Lee, Mr. Long of Maryland, Mr. Lott, Mr. Lundine, Mr. Lungren, Mr. McCloskey, Mr. McDade, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moffett, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Panetta, Mr. Patten, Mr. Pickle, Mr. Preyer, Mr. Pritchard, Mr. Ratchford, Mr. Roe, Mr. Rodino, Mr. Scheuer, Mrs. Schroeder, Mrs. Smith of Nebraska, Mr. Stockman, Mr. Vento, Mr. Walgren, Mr. Weaver, Mr. Whitehurst, Mr. Wolff, Mr. Wolpe, and Mr. Gray.

H.R. 6152: Mr. Stanton and Mr. Mottl.

H.R. 6177: Mr. Chappell, Mr. Bowen, Mr. Evans of Delaware, Mr. Jones of Tennessee, Mr. Bafalis, Mr. Stanton, Mr. Williams of Ohio, and Mr. Fazio.

H.R. 6380: Mr. Benjamin, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Brown of Ohio, Mr. Burlison, Mr. Carter, Mr. Conte, Mr. Corrada, Mr. Dan Daniel, Mr. de la Garza, Mr. Derrick, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Evans of Georgia, Mr. Findley, Mr. Florio, Mr. Frost, Mr. Gephardt, Mr. Guarini, Mr. Hanley, Mr. Harsha, Mr. Horton, Mr. Hughes, Mr. Jacobs, Mr. Jeffords, Mr. Johnson of California, Mr. Johnson of Colorado, Mr. Long of Louisiana, Mr. Lujan, Mr. McKay, Mr. Michel, Mr. Mineta, Mr. Mollohan, Mr. Moorhead of Pennsylvania, Mr. Murphy of Pennsylvania, Mr. Murphy of Illinois, Mr. Nedzi, Mr. Perkins, Mr. Petri, Mr. Quillen, Mr. Reuss, Mr. Rhodes, Mr. Richmond, Mr.

Sabo, Mr. Simon, Mr. Skelton, Mr. Smith of Iowa, Mr. Stangeland, Mr. Stanton, Mr. Steed, Mr. Synar, Mr. Vento, Mr. Volkmer, Mr. Charles H. Wilson of California, Mr. Whitehurst, Mr. Whittaker, Mr. Won Pat, Mr. Wydler, and Mr. Zablocki.

H.R. 6428: Mr. Glickman, Mr. Abdnor, and Mr. Smith of Iowa.

H.J. Res. 220: Mr. Bethune, Mr. Dannemeyer, Mr. Thomas, Mr. Grisham, Mr. Miller of California, Mr. Pashayan, Mr. Royer, Mr. Chappell, Mr. Gingrich, Mr. Porter, Mr. Myers of Indiana, Mr. Deckard, Mr. Jeffries, Mr. Sebelius, Mr. Livingston, Mr. Dingell, Mr. Stangeland, Mr. Hagedorn, Mr. Gephardt, Mr. Howard, Mr. Courter, Mr. Patten, Mr. Wydler, Mr. Murphy of New York, Mr. Ottinger, Mr. Gilman, Mr. Downey, Mr. Broyhill, Mr. Seiberling, Mr. Kelly, Mr. Ashbrook, Mr. Maguire, Mr. Duncan of Tennessee, Mr. Skelton, Mr. Tauke, Mr. Hall of Ohio, Mr. Fary, Mr. Ichord, Mr. Symms, Mr. Goldwater, Mr. Fascell, Mr. Lott, Mr. Albosta, Mr. Ginn, Mr. Conte, Mr. Glickman, Mr. Rinaldo, Mr. Roe, Mr. Rose, Mr. Cotter, Mr. Breaux, Mr. LaFalce, Mr. Hinson, Mr. Dougherty, Mr. Johnson of Colorado, Mr. Ottinger, Mr. Stack, Mr. Ritter, Mr. Quillen, Mrs. Bouquard, Mr. Wirth, Mr. Price, Mr. Robinson, Mr. Clay, Mr. Bonior of Michigan, Mr. Rhodes, Mr. Alexander, Mr. Williams of Ohio, Mr. Miller of Ohio, Mr. Synar, Mr. Bailey, Mr. Corrada, Mr. Gore, Mr. Quillen, Mr. Gramm, Mr. Hightower, Mr. Kazen, Mr. Marriott, Mr. Wampler, Mr. McCormack, Mr. Rahall, Mr. Kastenmeier, and Mr. Roth.

H.J. Res. 311: Mr. Myers of Pennsylvania, Mr. Conte, Mr. Boland, Mr. Corcoran, Mr. Davis of Michigan, Mr. Nedzi, Mr. Price, Mr. Sebelius, Mr. Evans of Indiana, Mr. Guyer, Mr. Giaimo, Mr. St Germain, Mr. Moffett, Mr. Daniel B. Crane, and Mr. Simon.

H.J. Res. 321: Mr. Frenzel and Mr. Flippo.

H.J. Res. 480: Mr. Richmond and Mr. Murphy of Pennsylvania.

H. Con. Res. 166: Mr. Mottl and Mr. Symms.

H. Con. Res. 259: Mr. Abdnor, Mr. Moffett, Mr. Barnes, and Mr. Stokes.

H. Res. 48: Mr. Abdnor, Mr. Alexander, Mr. Andrews of North Dakota, Mr. Ashbrook, Mr. Badham, Mr. Bafalis, Mr. Barnard, Mr. Bauman, Mr. Beard of Tennessee, Mr. Bevill, Mr. Biaggi, Mrs. Bouquard, Mr. Bowen, Mr. Breaux, Mr. Brinkley, Mr. Broomfield, Mr. Buchanan, Mr. Burgener, Mr. Butler, Mr. Campbell, Mr. Carney, Mr. Carter, Mr. Chappell, Mr. Clausen, Mr. Collins of Texas, Mr. Conable, Mr. Corcoran, Mr. Courter, Mr. Daniel B. Crane, Mr. Philip M. Crane, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Davis of South Carolina, Mr. de la Garza, Mr. Derrick, Mr. Derwinski, Mr. Devine, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. English, Mr. Evans of Georgia, Mr. Evans of Delaware, Mr. Flippo, Mr. Fountain, Mr. Fuqua, Mr. Gilman, Mr. Gingrich, Mr. Ginn, Mr. Goldwater, Mr. Goodling, Mr. Grassley, Mr. Gudger, Mr. Guyer, Mr. Hagedorn, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Hance, Mr. Hansen, Mr. Hefner, Mr. Hightower, Mr. Hillis, Mr. Holland, Mr. Hollenbeck, Mrs. Holt, Mr. Hopkins, Mr. Huckaby, Mr. Hyde, Mr. Ireland, Mr. Jeffries, Mr. Jenkins, Mr. Jenrette, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Kazen, Mr. Kelly, Mr. Kemp, Mr. Kindness, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Iowa, Mr. Leath of Texas, Mr. Lent, Mr. Livingston, Mr. Lott, Mr. Lujan, Mr. Marriott, Mr. Martin, Mr. Mathis, Mr. McEwen, Mr. Miller of Ohio, Mr. Mitchell of New York, Mr. Montgomery, Mr. Moore, Mr. Moorhead of California, Mr. Mottl, Mr. Murtha, Mr. Myers of 'Indiana, Mr. Nichols, Ms. Oakar, Mr. O'Brien, Mr. Pursell, Mr. Quillen, Mr. Regula, Mr. Rinaldo, Mr. Robinson, Mr. Rousselot, Mr. Rudd, Mr. Runnels, Mr. Satterfield, Mr. Sawyer, Mr. Schulze, Mr. Sebelius, Mr. Sensenbrenner, Mr. Shumway, Mr. Shuster, Mrs. Smith of Nebraska, Mr. Snyder, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Stanton, Mr. Stratton, Mr. Stump, Mr. Symms, Mr. Taylor, Mr. Treen, Mr. Trible, Mr. Vander Jagt, Mr. Walker, Mr. Wampler, Mr. Watkins, Mr. White, Mr. Whitehurst, Mr. Bob Wilson, Mr. Winn, Mr. Wyatt, Mr. Wydler, Mr. Yatron, Mr. Young of Florida, Mr. Young of Alaska, and Mr. Zeferetti.

H. Res. 550: Mr. Whittaker, Mr. Ginn, Mr. Fithian, Mr. Vento, Mr. Mica, Mr. Gray, Mr. Bolling, and Mr. Lowry.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4119

By Mr. STENHOLM:

—Strike out all after the enacting clause and insert, in lieu thereof, the following:

Section 1. Section 1101 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by adding at the end thereof a new subsection (c) as follows:

"(c) Notwithstanding any other provision of law, the low yield and the prevented planting disaster payment provisions for rice, upland cotton, feed grains, and wheat contained in sections 101(h)(4), 103(f)(5), 105 A(b)(2), and 107A(b)(2), respectively, as added effective for the 1978 through 1981 crops, which are presently effective only for the 1978 and 1979 crops, shall be effective with respect to the 1980 and 1981 crops of such commodities."

EXTENSIONS OF REMARKS

IRVING LEIBOWITZ

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. JACOBS. Mr. Speaker, once there lived a real live Lou Grant. I have never regretted so much as now the prohibition against pictures in the CONGRESSIONAL RECORD. One look at the hard-boiled softhearted Irving Leibowitz (1922-79) would convince almost anyone that when Leibo died last April, the world of journalistic words well said was severely impoverished.

Irving Leibowitz was managing editor of the Indianapolis Times during the fifties and sixties and then edited the Lorain (Ohio) Journal for 13 years until cancer robbed us of him.

Not unworthy of the example set by William Allen White, Irving Leibowitz and his work deserve to be remembered in our Nation's CONGRESSIONAL RECORD.

I insert the following articles at this point:

[From the Lorain (Ohio) Journal, April 30, 1979]

JOURNAL MOURNS THE DEATH OF EDITOR IRVING LEIBOWITZ

The phones rang and the presses rolled at The Journal today, but our energy and enthusiasm to tell the news came to a crashing stop.

Irving Leibowitz, who pushed and prodded and nagged and loved us as editor of The Journal for the past thirteen years, died of cancer late Saturday night. He was 56.

In a profession conditioned by endless stories of tragedy, his death cuts through the protective walls and shocks his colleagues who knew him as an example of journalism's finest spirit—aggressive but compassionate, in tireless pursuit of fairness, excellence and truth.

"Leibo" was devoted to the newspaper business, and those who shared it with him have lost their most tenacious advocate and dearest friend.

"The most precious part of Irv Leibowitz's legacy is in The Journal newsroom and in other newspapers throughout the country," said James Lonergan, general manager of The Journal. "He leaves people so imbued with his philosophy . . . so influenced by his fairness and talent that they are a reflection of him. They are now or will become outstanding journalists. What an outstanding, living legacy!"

"Irving Leibowitz's untimely death was a tragedy to all of us who knew and loved him," said Harry Horvitz, the publisher of The Journal. "He was a rare and privileged person who, in his short life, had a positive impact on his family, associates, profession and community. His legacy will be the integrity and dedication to excellence which he not only lived by but inspired others to adopt."

Leibowitz died at University Hospital in Cleveland, where he had been undergoing treatment for bone cancer discovered only recently. His death ends a career spanning 34 years of outstanding achievement as reporter, editor, columnist, author, public speaker, school lecturer and community leader.

Private services will be Tuesday morning at the Walter Frey Funeral Home, Lorain, and the burial will follow in the Salem Cemetery, Lorain. Public services will be at 3 p.m. Tuesday at the Agudath B'nai Israel Temple, Lorain.

Leibowitz was named editor of The Journal in 1966, following 18 years with The Indianapolis Times. At the Times, he rose through the ranks from reporter and rewrite desk, to statehouse correspondent, political editor, city editor, assistant managing editor and managing editor.

Prior to that he was state editor of the Mansfield News Journal, a sister newspaper to The Journal in the Horvitz group. He began his career with two Virginia newspapers, the Portsmouth Star and Suffolk News-Herald.

Leibowitz, who was born August 5, 1922 in New York City and grew up there, became an enthusiastic part of the life of every city in which he worked. His career in Indianapolis, home of his wife, Plum, led to his book "My Indiana," a warm and sentimental tribute to his adopted state.

"I came from the sidewalks of New York City," he wrote in the book's introduction. "Where do I come off writing a book about Indiana? I have chutzpah. It is almost impossible to translate chutzpah from Yiddish to English. It means more than gall, more than brass. For example, if a boy murdered his mother and father and then threw himself on the mercy of the court because he was an orphan, it could be said he had chutzpah."

When he left Indiana, where he took an irreverent delight in tumbling sacred cows in his daily column, Gov. Roger D. Branigin jokingly proclaimed Leibowitz "Sagamore of the Wabash." At a farewell party in the executive mansion, Branigin cited "his humanity in living, his loyalty in friendship, his wisdom in the council," the latter referring to his insightful—and sometimes stinging commentary on political events.

When he took over at The Journal, Leibowitz said: "I believe a good newspaper has a heart and a soul. It fights for the underdog and the downtrodden. It tells the truth. It takes a stand fearlessly against injustice. And it gives both sides in every dispute.

He never veered from that principle.

As The Journal's editor, he was not merely committed to covering the news better than anyone else. In his daily memos to the staff, he continually stressed that if a newspaper is to fulfill its responsibility to its readers, it must do more than inform and entertain them—it must uplift them and improve their lives as well. . . .

While he was deeply involved in the community, Leibowitz turned down the many requests he had to serve on political, bank or hospital boards that might cause a conflict with his primary function as a newspaperman. "I do not participate when I may be required to hold things back," he said in response to one such request a few years ago.

His dedication to the newspaper business was second only to his love for his family. After a recent stay in the hospital, he quietly told a co-worker: "I did a lot of thinking about what's important in life. My wife—that she's happy—that's the most important thing."

To his associates and in his weekly "Editor's Notebook," he spoke often and with tender pride of his wife Plum and their three children—Dennis, 36, a stock analyst on Wall Street; Alan, 33, a jazz expert and writer in Cambridge, Mass., and Marilyn, 25, a teacher at Bay Village High School.

Also surviving are a sister, Mrs. Kay Verschleiser of Brooklyn, N.Y. and one grandchild.

His column—carried in The Sunday Journal he started eleven years ago—was a weekly gift of his insight, full of his wit and charm. In this grim moment, some of his many reflections on the meaning of life and success bear repeating:

"Whatever comes up in life, you have only to ask yourself this question: Is it worthy of me?"

"Anyone in any walk of life, rich or poor, who has the desire, can be a worthy guy and set an elegant example. The word is 'class.'"

"The secret of the best years of our lives is to plan for tomorrow, but live for today. Treasure every moment, every book, every encounter, every friendship, every lesson, every meal, every scrap of living, every second, even at work. It is possible even to savor the sadness of life."

And in a column marking his tenth anniversary as The Journal's editor, he wrote: "We were unafraid to crusade for the people and against the powers. We won some and lost some. But we were always in there swinging."

[From the Lorain (Ohio) Journal, April 30, 1979]

IRVING LEIBOWITZ: DELIGHTFUL BLEND OF TWO INFLUENCES

Leibo first noticed how it affected his tennis game; he just didn't have the stamina he used to have and despite trying the usual corrective remedies—getting more sleep, giving up his cigars—he simply couldn't get it back.

"It's called old age, Leibo," a friend chided him. Both chuckled, but as the condition persisted, the banter began to disguise an uneasiness in each person.

That was last summer. Between then and Saturday night, Journal Editor Irving Leibowitz quietly fought a frustrating battle to, first, learn what was ailing him and, second, keep working when he was having trouble just climbing two flights of stairs without stopping to rest. Finally, the cause of his weakness was diagnosed a few weeks ago and now cancer has won the battle.

Books could be written—maybe they will be—about Irving Leibowitz the newspaperman and Leibo the irrepressible lover of humanity. They were the same person and they melded so beautifully it was something to behold.

He was the gutsy reporter whose first love was getting a story—getting *both sides* of a story, that is. He was the hard-driving, deadline-beating, cigar-chomping editor who wasn't the least bit afraid of exposing corruption or individual failure—but who absolutely deplored the cheap shot.

He was the realist who was drenched in idealism; to a world full of pain—and gory news pictures to match—Irving Leibowitz introduced a front-page make-up that on most

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

days features an unremarkable color picture of local human beings at work or play. It was a concession to his non-journalistic side to allot such valuable news space to palpably unnewsworthy subjects. But the pictures are uplifting "good news" and Leibo knew readers wanted—and needed—some of that each day, regardless of what else was happening in the world.

Being fair to people in a news story and to the public was an obsession. He expressed it in daily memo after daily memo and in staff meetings. "Is it worthy of us?" he would ask. "Ask yourself, 'Is it worthy of us?'"

His enemies—those criteria by which we can judge the worth of a person—were prejudice, insensitivity to human fraility, and immorality in its broadest sense. He was worthy of their enmity.

When Leibo accepted The Journal editorship, it wasn't for lack of other offers. After the demise of the Indianapolis newspaper where he had ascended from reporter to managing editor, he had offers to fill top positions in newspapers in Detroit, in his native New York City and out in New Mexico and to become a bureau chief in Washington, D.C. to name a few.

Instead he came to Lorain because he wanted to be the editor of a newspaper. He knew what he wanted and the allure of the bigger newspapers couldn't sway him.

"With one fragile life, and relatively little time on the planet earth, it is nuts not to put some sunshine into your life," he said in one of his *Editor's Notebooks* last year. "It simply means that you shouldn't lock yourself into something you detest for money, power, prestige or glory."

Even though he turned his back on the big cities, the accolades and prizes and opportunities to influence on a national level didn't escape him. The talents of Irving Leibowitz still were recognized—ranging from local and state awards for his column to pulitzer prize nominations for the paper he molded so lovingly. To what extent he would have garnered more "money, power, prestige or glory" on a big-city newspaper can only be guessed. . . .

One Saturday, as the seriousness of his still-undefined illness began to sink in and he prepared to enter the hospital for some tests, Leibo leaned back against the wall in a chair in a Journal office, propped his feet on a desktop and confided in an associate. His life was in order, he said. If something should happen to him, he felt confident that his wife, Plum, would be provided for. Generally, he said, he felt good about things.

"I'm ready for whatever happens," he concluded quietly.

The world will continue to revolve, of course, news will continue to be made and The Journal will continue to publish it. But this newspaper—as well as some individuals and civic organizations—has a new standard of excellence. Simply stated, it is. . . *"Is it worthy of Leibo?"*

[From the Lorain (Ohio) Journal, Apr. 30, 1979]

NATIONS'S LEADERS PRAISE "LEIBO" AS HONEST, CARING

(By Richard G. Thomas)

WASHINGTON.—The death Saturday night of Journal Editor Irving Leibowitz spread grief among the many Washington residents who had come to know his special qualities as a newspaperman and as a human being.

Big political names in the capital, as well as working reporters, were genuinely stunned and broken up by the quick-spreading news that "Leibo" had been taken in the prime of a journalistic career that spanned well beyond Ohio borders.

"I'm in a state of shock," said Rep. Andy Jacobs, Jr. (D-Indiana) when he first heard that the longtime family friend he looked upon "as a parental figure" had become seriously ill. Jacobs wanted time to himself before saying anything for publication.

A reporter calling around Washington found that reaction was typical. People needed private time to come to grips with the reality that a person so vital and seemingly indestructible—"a tough customer," said former 13th District Rep. Charles A. Mosher—had died.

When the praise came, it came profusely.

"He was a truly unique human being," said Sen. John H. Glenn (D-Ohio). "You never had the slightest doubt where you stood with Irv. His affection for the common people and his dedication to Lorain are famous throughout political and journalistic circles. He was a true journalistic populist."

"Leibo was a warm, generous, human man, a passionately honest and dedicated newsman—one of the nation's very best editors," said John J. Gilligan, former Ohio governor and director of the U.S. Agency for International Development (AID).

"There aren't enough Irv Leibowitzes," said Richard Celeste, Peace Corps director and former Ohio Lieutenant Governor. "His voice was always clear on the matters that he cared about. He never let those of us in the public arena forget that he cared deeply."

Glenn, Mosher, Gilligan, and Celeste are among the scores of officials over the years who have seen their performance candidly evaluated, both pro and con, in Leibowitz's well-read Sunday column, "Editor's Notebook."

Even when he wrote unflatteringly, he was able to do so in a way that kept the respect and affection of the public official. As Mosher noted: "Leibo was one of my most discerning critics, but also a most valued, stimulating advisor. I had a tremendous respect for a man who was, above all, a real pro, a brilliant, tough, innovative editor."

Rep. Don J. Pease (D-Oberlin) praised Leibowitz as "someone who held and expressed strong opinions, someone who was refreshing. In an era when many people come across as very boring, you could never accuse Leibo of that, he was so stimulating."

Pease, a newspaperman for most of his professional life, said he saw in Leibowitz and editor "who took a good newspaper in The Journal and make it into an outstanding paper, one that is reognized widely as one of the best in the nation for its size."

Pease added: "Many newspapers pay lip service to community service, but in Leibo's case there was a deep personal commitment to make Lorain a better town. The secret of his success as an editor was his personal involvement. As long as I knew him, he eschewed the public relations role of editor so that he could devote fulltime every day to the job in the newsroom."

Lorain native William E. Wickens, Jr., a former aide to Sen. Robert A. Taft and now in private law practice in Washington, said Leibowitz "brought the 60's and 70's alive in Lorain County and made us proud to have been a part of Lorain. If he had chosen to make his career in one of our larger cities, he would have been nationally recognized as one of America's greatest editors."

Although a congressman, Andy Jacobs knew Leibowitz as a family friend. He said that as a columnist and managing editor of The Indianapolis Times Leibowitz "had a towering stature as far as reputation is concerned. He had a magnificent column. He was a true Lou Grant, hardheaded and softhearted."

David Rothman, a Washington freelance writer, was a Journal reporter in the early 1970's. Leibowitz's relationship to him was not unlike Lou Grant's is to his reporters in prime time television. Rothman praised Leibowitz as "a skilled teacher" even when his voice was raised. "And I'll always remember the kindness he showed his staffers," added Rothman.

Only 15 days ago, in one of his last Sunday columns, Leibowitz wrote movingly of former Scripps-Howard Washington reporter Ruth Finney, who had just died at 81. He ended his tribute to the woman who had first befriended him at the 1952 GOP convention by writing: "Ruth Finney was a class lady."

Ruth Finney's husband, Washington columnist Robert S. Allen, saw that column at about the time he learned of Lebowitz's illness. He wrote a note to the bedridden editor, saying: "And you, long and much esteemed friend and colleague, are one 'class guy.'

"Of the many tributes to Ruth yours is outstandingly the most distinctive, the most understanding, the most vividly descriptive, and the most tender and heartwarming. No one visualized and portrayed Ruth as truly and beautifully as you in your movingly brilliant account."

Yesterday, while others were making eloquent tributes to Leibowitz, Allen had a few more things to say about The Journal editor. "There was no phony side of Leibo," said Allen. "The man had a heart as big as himself. There are damn few like him now."

[From the Lorain (Ohio) Journal, Apr. 1, 1979]

HERE'S WHAT MAKES DENNIS KUCINICH A WINNER

(By Irving Leibowitz)

"As long as you keep people at each other's throats on issues which are very emotional, they are not going to form the alliances which they need to form to solve their problems."—Dennis Kucinich, quoted in the Los Angeles Times.

The young mayor of Cleveland, Dennis Kucinich, is a hero to a number of men and women. They like his attacks on big business.

As one Cleveland man said recently: "I enjoy that brash young man always telling off the bankers, utilities and big business."

Mayor Kucinich perhaps gave himself away in his comment to The Los Angeles Times, quoted above. He meant the business community was trying to keep people at each other's throats.

In truth, that is at the heart of his own strategy—keeping people at each other's throats on issues which are very emotional.

I don't think I can tell you what makes Dennis run, other than to report what everyone already knows: He is a politically ambitious guy. But I think I can tell you what makes him win.

Kucinich, at 31, is a master manipulator of the media—newspapers, radio and TV. Some seasoned newsmen (and editors) who think they are pretty sharp have ended up as his victims.

Like Spiro Agnew before him, Dennis Kucinich knows that the one sure way for a public figure to get exposures is to attack the media—preferably by name. Today the newsmen are so defensive and intent on demonstrating their fairness, they go overboard in giving the other side. It amounts to self-flagellation (whipping yourself). Newsmen in Cleveland are trapped by their desire to give Kucinich more than a square deal.

It was Kucinich's outlandish and unfair charges against the Cleveland Plain Dealer and the Cleveland Press and some radio and TV stations that put them on the defensive. So much so that they slanted stories and headlines Kucinich's way on the Muny Light issue—just to prove they weren't in the hip pocket of the bankers and big business.

It's an old tactic. But it worked. Kucinich has cultivated his ability to manipulate the media to an amazing degree. For example, during the Muny Light election campaign, Kucinich's people produced a nasty, violent and inflammatory TV ad that lawyers thought was libelous. The suspicion is that Kucinich never expected the commercial to be broadcast.

But he got $500,000 in free publicity by blasting the TV stations for censorship. The TV stations and newspapers, in their zeal to be fair and square, reported Kucinich's attacks on them without fighting back or even putting it in perspective.

Attack, attack, attack. Boom, boom, boom. That's Kucinich's style, no matter who gets hurt, especially the truth.

The people love it. They eat it up on TV or in their newspapers.

Like the men and women in the shadows around him, Kucinich preaches class warfare. He appeals to their prejudices, not their intelligence. It is effective.

Fighting businessmen makes Kucinich popular with the masses. It is almost as if these working people don't realize their jobs depend on businesses staying in Cleveland. It is no secret that some businesses are moving out.

Kucinich is effective and successful in attacking big business because (1) Cleveland businessmen are not anxious to get into a political brawl with a politician, especially one who will say anything and (2) Kucinich likes posturing himself for the little guy—and it pays off.

Whether he realizes it or not, Kucinich is using the very same technique that made the late Sen. Joseph McCarthy so notorious in his crusade against the so-called communist menace in America.

Every day, Sen. McCarthy had a different charge, and different figures, about Reds in the State Department, in the Army, in the government. "I have a list of 98 Communists and homosexuals in the State Department," he would say. The next night, in a different town, he'd have a different figure, possibly 125. He never gave out any names. The State Department was afraid of him. The Army was afraid of him. Hell, even President Eisenhower was afraid of him.

Newspapers, radio and TV carried the charges, without proof, as if they had come down from Mount Sinai. Sen. McCarthy got away with false and ridiculous charges because no one asked to see proof.

And no one is asking Kucinich for proof. The newspapers, radio and TV quote him saying the most outrageous and inflammatory remarks without verifying whether the statements are true. Nothing is put into perspective. The newspapers, who think they are on to his tricks, nevertheless forcefully headline on the front page his charges and comments about crooks. The TV stations lead off their news programs with these same sensational (though unproven) charges and, as a sop, try for an offsetting comment from Council President George Forbes. But Forbes is no match for Kucinich in demogoguery.

That's why Kucinich is so successful. He has rolled up the philosophy of Huey Long, Spiro Agnew and Joe McCarthy into his own formidable formula.

You've heard of sore losers and good winners. Kucinich is different. He is a sore winner. He'd rather have an issue to keep him in the limelight than accomplish an important task. He wants targets, not progress. He'd rather confront than cooperate. He knows how to fight. He doesn't know how to get along.

The idea is to advance Kucinich, not Cleveland. It works.

Kucinich is a politician on the make. And, as for us folks, we're fair game for a hustler who knows how to play the game—but not how to get anything done.●

THE ETERNAL AMERICAN SPIRIT

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. GUDGER. Mr. Speaker, America has seen a rebirth of patriotism over the past 100 days. I feel that no one group has contributed more to this than the Veterans of Foreign Wars (VFW).

As I am sure you are aware, the VFW sponsors the annual "Voice of Democracy Scholarship Program" for young adults. I am extremely delighted to report that one of my young constituents, Kathleen Talley Kitts of Hendersonville, has been selected as the winner from the State of North Carolina.

I wish to extend my congratulations to Kathleen for her outstanding achievement. Her essay has a great message for the people of North Carolina and our Nation. I feel that these thoughts merit our consideration and have, therefore, included them as follows:

> My grandfather recently declared that America does not have the patriotic spark it had in his youth. After reflecting upon this statement, I came to the conclusion that he was right. In my lifetime, Americans have been torn apart on issues such as the Vietnam War, assassination of our leaders, desegregation, inflation, and the energy crisis. There is little that Americans have agreed upon. Whatever happened to the positive thoughts about our country? Even our forms of entertainment such as television, movies, and books dwell on the negative aspects of America. The public thrives on tales of crime, poverty, sex, and violence.
>
> I believe that the basic problem in our country is that the family, the most important institution of society, is losing its unity in this fast-moving age of pressures. The family is where one develops a sense of values and integrity. The most important contribution I can make to America is to raise my children with a high standard of morals. A child learns qualities of honesty, loyalty, faith, love, self-esteem, and pride in workmanship through the family. Strong families make up a strong society. My role as a mother is the best way I can help America.
>
> Apathy amount our citizens is not the problem. I believe that they do care as to what will happen in the future. However, there is a sense of hopelessness that hangs over America. People complain and worry about the many problems that face this country, but they can find no hope. I sometimes find myself thinking that anything I could possibly do would be insignificant in solving the mass of confusion. Unfortunately, many people feel that way. A change must occur within each individual. I firmly believe that one person can influence the thinking of many people through various relationships. An inspiring leader can profoundly influence the actions of thousands of people; but even the common man can affect the views of his friends. Accordingly, my friendships will also be an area where I can set a good example as a citizen.
>
> A major event can change the viewpoints of society, such as the Iranian crisis. This tragic situation has, of course, shocked Americans, and seems to have brought them closer together. However, it will take more than that to significantly alter the attitudes of the American people.
>
> In my profession I will also attempt to fulfill my highest potential. People who always work to the best of their ability are respected throughout the community because of their inner integrity and willingness to help the well-being of society. One receives a personal satisfaction as well as honor and esteem by people. It greatly helps communities to have hardworking, honest citizens, because they set an example that can be followed by future generations. People strive to copy those who are genuinely sincere and upright in character. Simply through daily interaction, one person can touch the lives of many individuals. Therefore, if I strive to carry out my profession in the best possible manner, in my small way I would benefit the community.
>
> As the eternal flame over President Kennedy's grave represents his undying patriotic fervor for his country, it could also symbolize the eternal American spirit. I also love this country, and I will share the responsibility with the rest of the nation to keep this flame alive.●

IMPACT OF THE PRESIDENT'S BUDGET ON OUR CITIES

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. FARY. Mr. Speaker, in these times of double-digit inflation, and the need to respond to Soviet aggression abroad, putting together a budget for fiscal year 1981 had to be an extremely difficult task. In the effort to restrain, some needs cannot be fully met and some programs cannot be fully funded.

Despite these realities, I am pleased that the President has maintained a commitment to our Nation's cities. This commitment can be found in the proposals by the administration: $1 billion for countercyclical aid; $6.9 billion for general revenue sharing; a youth education and employment initiative; a substantial increase in the summer jobs program for youth; an increase to 300,000 units of assisted housing under the Department of Housing and Urban Development; renewal of the community development block grant and urban development action grant programs; and expanded funding for the Commerce Department's Economic Development Administration.

Of course, there are some aspects of the President's budget which are disappointments for our Nation's cities and could cause severe hardships for our constituents. For instance, the administration continues to oppose the standby public works program. There is insignificant spending for local government energy conservation efforts, and there is a lack of help for the shortage of unsubsidized rental housing. These are some of the issues that should be addressed during the congressional budget process.

The U.S. Conference of Mayors who represent the government of our Nation's cities have recently done a review of the President's budget in light of urban needs and national priorities. I would like to submit the overview of that study. It summarizes the impact the President's fiscal year 1981 budget will have on our cities by making a critical examination of its *strengths* and deficiencies.

The material follows:

OVERVIEW

The fiscal year 1981 budget, described by Administration officials as "austere and restrained," continues the trend of declining growth in federal spending. While total federal outlays are $3.8 billion above current services levels, the amount of spending needed to keep pace with inflation, the increase is due almost entirely to the escalation in military spending.

Compared to fiscal year 1980 spending, the fiscal year 1981 budget proposes an increase of $52 billion. However, this increase is fully accounted for by defense spending ($18 billion) and increases in uncontrollable spending—Social Security, Medicaid, Medicare, interest on the public debt, etc. ($34 billion).

Other domestic spending will be held to the same dollar level as in fiscal year 1980, with few increments to compensate for inflation. What this means is that increased spending in some areas, as for the new youth initiative, is offset by corresponding reductions in other areas. Given the 13 percent inflation rate, domestic programs and service levels in the fiscal year 1981 budget would be cut significantly in real terms.

Federal grants-in-aid to local and state governments (excluding payments to individuals) also remain at roughly the same dollar levels, rising from $54.7 billion to $58.5 billion. In fiscal year 1979, these grants totaled $54.1 billion, so the growth in this area has been less than impressive. Moreover, due to inflation, these grants to state and local governments will lose over $10 billion in purchasing power during fiscal year 1980 and fiscal year 1981.

While local governments fall behind in the race against inflation, the Defense Department will realize an increase of 14 percent in budget authority and 12 percent in outlays, on top of a substantial increase in fiscal year 1980.

In contrast to the fiscal year 1980 budget, however, there is much that is positive about the fiscal year 1981 budget. We are especially pleased that the Administration has included funds for revenue sharing and countercyclical assistance in the fiscal year 1981 budget, and announced a major new youth initiative.

General revenue sharing would be continued at the current $6.9 billion level, including the one-third state share. However, this program has been held at the same dollar level since 1976, resulting in a significant loss (over 50 percent) in the value of these funds after inflation.

The fiscal year 1981 budget includes $1 billion in funds for a countercyclical fiscal assistance program, which would be triggered in a recession.

Altogether, there is $1.2 billion in additional fiscal year 1981 budget authority for youth employment and education programs. We are not certain as to what amount of this will be spent in fiscal year 1981, but we are heartened by the President's attention to the employment needs of young people.

The budget includes a sizeable increase for subsidized housing programs, which are scheduled to increase from $26.7 billion to $31.9 billion, sufficient to finance an estimated 300,000 units of assisted housing in fiscal year 1981.

The President will seek renewal of the $3.8 billion Community Development Block Grant program, with a small $150 million increment in funding.

The President proposes renewal of the Urban Development Action Grant program at its current $675 million level.

We are pleased that the Administration is planning to spend more than $1 billion in new funds in both fiscal year 1980 and fiscal year 1981 from the windfall tax for public transportation programs. However, we are extremely concerned that the budget does not include a supplemental request for fiscal year 1980 or a budget request for fiscal year 1981.

The Summer Youth Jobs program will be increased substantially, to an estimated level of nearly one million jobs.

We are pleased with the President's $566.8 million fiscal year 1980 supplemental budget request to fund the Economic Development Administration's expanded programs, and the high $1.17 billion level requested for this program in fiscal year 1981.

The U.S. Conference of Mayors is supportive of the President's efforts to fight inflation. However, we believe the balance between fighting inflation and fighting unemployment should be redefined. While unemployment would rise under the Administration's program of budget restraint, inflation would be affected only marginally. Many economists hold that inflation is effectively countered through targeted efforts to reduce price increases in food, energy, health and housing costs rather than through cuts in spending. In this regard, we are pleased that the Administration is continuing its efforts on behalf of hospital cost containment.

We are also pleased with the President's efforts to target federal funds more efficiently. If proposals to target education, health and public transportation funds are approved, and if programs of countercyclical and targeted fiscal assistance are adopted, proposed real reductions in federal grants-in-aid will be partially offset for many cities. The U.S. Conference of Mayors has long believed that the targeting of federal funds is a more efficient use of scarce budget resources and is of potentially significant benefit to central cities.

As a result of the tight budget and restrictive economic policies being pursued by the Administration, the Administration projects that the unemployment rate will rise to 7.5 percent by the end of 1980 and will remain at high levels throughout 1981. Unemployment of this magnitude will impose substantial economic and social burdens on many cities around the country which have still not recovered from the last recession. However, there are no additional stimulus proposals outlined in the budget to deal with this rising unemployment.

Moreover, the rise in unemployment represents a significant retreat from the principles of the Full Employment and Balanced Growth Act (Humphrey-Hawkins) which was supported by the Carter Administration and U.S. Conference of Mayors, and set the goal of four percent unemployment to be attained by the federal government in 1981.

Fortunately, the President in his Budget Message promises to monitor economic conditions carefully and to propose tax cuts and targeted spending measures, if they prove necessary.

Despite the Administration's tight budget and the rise in unemployment, the Administration predicts little moderation of inflation. The current 13.3 percent inflation rate is expected to decline to 10.4 percent in 1980, still in the double-digit range. This continuing high inflation threatens to impose significant burdens on local governments. Yet, despite persistently high inflation, federal grants-in-aid to local and state governments will continue to decline as a proportion of the budget. The fiscal year 1980 and fiscal year 1981 budgets, by failing to keep federal grants-in-aid even with inflation, will result in lower service levels for many urban programs and jeopardize the ability of many cities to meet the needs of their citizens.

In the fiscal year 1981 budget, the Office of Management and Budget proposes some new program consolidations—for youth employment and training programs, and health programs. Yet, while the budget details federal efforts to simplify and streamline federal grants, those local programs which are most flexible and allow local governments the greatest discretion—including general revenue sharing, Community Development Block Grants, the Urban Development Action Grant program and Economic Development Administration assistance—are declining as a proportion of total federal grants.

Other administrative "improvement" threaten to impose financial burdens on local government (as they have already, in some cases), including the speedup of all types of payments made to the federal government. State and local deposits of social security taxes have already been accelerated. At the same time, the flow of federal funds to local governments shows no signs of being hastened.

The President's fiscal year 1981 budget proposed direct controls over nearly all federal credit programs. In most cases, this would be accomplished through limits to be written into appropriations bills on federal loans and loan guarantees. While we support the President's efforts to list these credit programs in the budget and analyze their impact, we are concerned that the new controls not be so tight as to restrict in future years important housing programs and other credit activities central to urban development efforts.

We are disappointed that many important urban programs will receive no funds or inadequate funds in the fiscal year 1981 budget.

The budget continues the Administration's steadfast opposition to a standby public works program to be triggered in the event of recession. U.S. Conference of Mayors policy calls for a labor-intensive public works program.

The budget proposes an insignificant expenditure for local energy conservation efforts. The proposed Energy Management Partnership Act, which is state-oriented, would include only $50 million in order for local governments to effectively implement energy conservation programs within the their cities.

On the receipts side, the Administration proposes to eliminate the tax exemption for mortgage revenue bonds for single-family housing—a significant loss for local governments which have been using these bonds.

We are concerned that the Administration has failed to include a fiscal year 1980 supplemental and fiscal year 1981 budget request for public transportation from the windfall tax, thereby jeopardizing timely action on the President's transportation energy initiative.

The Administration has made no proposals to help cities cope with the severe shortage in unsubsidized rental housing.

The budget proposes no funding for the Livable Cities Program, which was part of the urban policy.

The U.S. Conference of Mayors recognizes the seriousness of the nation's inflation problem. We bore a heavy burden last year because of inflation. At the same time city budgets were escalating because of inflation, we were asked to absorb heavy cuts in federal programs. While the fiscal year 1981 budget represents an improvement over fiscal year 1980, we are concerned that we not be asked to assume more than our equal share of the federal government's economic policies and problems.

In this regard, the U.S. Conference of Mayors is troubled by the projected increase in the unemployment rate to 7.5 percent, a rate expected to persist for over a year. This will translate into one and a half million more unemployed persons in urban areas. The Administration does not include in its budget any major new stimulus initiatives to combat this projected rise in unemployment, with the exception of standby countercyclical assistance. We are hopeful that the Administration will move quickly to formulate a stimulus package which can be enacted should the economic situation worsen. We pledge our best efforts to work with the Administration to design appropriate programs to generate increased investment and productivity, which would provide needed jobs and services.●

REGINALD FLORES—A HEART OF GOLD

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. BRODHEAD. Mr. Speaker, an inspirational story appeared in the Detroit Free Press of February 6, 1980. It concerns Reginald Flores, one of my constituents and a pioneer in programs to aid retarded youngsters. His story is heartwarming and I offer it to my colleagues as an example of the great accomplishments possible for the parents of retarded children:

REGINALD FLORES—A HEART OF GOLD

(By Rick Ratliff)

Reginald Flores has a mentally retarded daughter. Knowing that, you might assume you understand why he has spent more than 28 years volunteering to help the retarded.

You may think you fathom what drove this 68-year-old Redford Township man to help organize a special school for the retarded, lobby for state laws to help the retarded and work in a social club and in a suburban home for them.

You would be only partly right.

Flores is, in some ways, a plain man, whose formal education stopped in midhigh school. His hands have earned his income. His words filtered through a thick, Maltese accent, are simple ones. His emotions run strong, especially when he speaks of his daughter, Rose Mary Flores, as "my Rosie," a 35-year-old woman who cannot read or write.

"God gave me a retarded child," he says. "I love her. I fight for her . . . Retarded people need help. They never did harm to anybody."

Yet Flores' work reflects a sense of compassion that transcends familiar concerns. He was helping disadvantaged people years before his daughter was born.

For the range, depth and length of his commitment to volunteer work, Flores received a "Heart of Gold" award Tuesday from the United Foundation at its 13th annual awards luncheon in Cobo Hall. Flores was one of 12 persons honored before an audience of 2,000.

"It makes you realize you've been recognized for the work you did for others," Flores said before the ceremony. "Somebody knows I'm here besides my kids."

His volunteerism began in 1934, when Flores, Maltese by birth, worked in a tool and die shop and lived in Detroit across the street from a paralyzed boy in a wheelchair. He helped drive the boy to school.

"I started to feel good," he said. The reward was a warm sense of assistance—something he couldn't get in his work.

In 1941, Flores was an army machinist in France with Gen. George Patton's tank squads. Fellow soldiers called Flores "Frenchie" because he could speak French and Italian. He would ask soldiers for spare K-rations to give to French orphans who lived with a nun.

"I was no angel," he said. "I was not pure. But when I gave those things, it made me feel like I was accomplishing something, like I was something other than a machinist in the army."

In 1945 Flores returned to Detroit, where he soon found work with General Motors—again as a machinist. That was also the year his daughter, Rose Mary Flores, was born. As a child, she had a skin disease that made her skin scaly.

"Nobody played with her because of her skin disorder," Flores said. "Therefore, she lacked a connection with people. And besides, she was slow to begin with." (Flores also has a son, John Flores.)

After Rose Mary entered first grade, her teacher confirmed what Flores had suspected all along: She was mentally retarded.

Reginald Flores said he was expected to either keep the child at home or send her to an institution; either option was distasteful, he said. At home, she would learn little. In an institution, Flores and his wife would never see the child.

Where, he wondered, was the third alternative—a program that would allow him to keep the girl at home at night but send her to a special school by day? At that time, no state law made education for the retarded mandatory.

To provide that third option, Reginald Flores began doing something he would spend the rest of his life doing—fighting for his daughter.

In 1950, he joined a group of parents of 24 retarded children to form a school for those students, aged seven to 24, in a former schoolhouse in Redford Township.

That was the beginning of what is now the Northwest Communities Association for Retarded Citizens, a Torch Drive organization serving more than 500 retarded persons with professional special education classes in seven schools.

Through his involvement in state legislative lobbying efforts over the years, Flores also has helped bring changes to improve life for the retarded, winning them rights to education, employment and independent living.

He has also won their affection. Children in the programs he is involved in sometimes hug him and call him "Grandpa," Flores said. But the retarded often face new problems as they grow to adulthood.

"After age 26, we have no place to send them," he says. State laws requiring education of the retarded don't apply to those older than 25.

That's why Flores became active in the Just Fun Club, a social group for the retarded, which brings them together for activities such as dancing, bowling and exercising.

Flores has also fought hard against the bigotry he has faced in efforts to place retarded persons in suburban homes.

"You got two groups. Mentally retarded and mentally disturbed." People confuse the docile former group with the unpredictable latter.

"The retarded are not rambunctious," he said.

In 1972, several years before the company requirement, Flores retired from General Motors.

"I retired because of my Rosie," he said. "She couldn't live at home all alone."

"My wife died 16 years ago," he said. "Leukemia." He shrugged. "It was her time."

Flores and his daughter lived together until three years ago when he had to have a hernia operation. His daughter went temporarily to the Plymouth Community Opportunity Center, a residential home for 16 retarded adults which Flores helped create.

When Flores came home, he said, his daughter told him, "Dad they need me at the center. I should go back."

Flores couldn't have been more pleased at her decision. She was learning to become independent.

"Isn't that a blessing?" he asked. "I've always told her, 'Someday you're going to be here and Daddy's not. Daddy is here for some time, but not all the time.'"●

IWO JIMA COMMEMORATION DAY

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, yesterday I cosponsored a joint resolution designating February 19, 1980, as "Iwo Jima Commemoration Day."

I was on the destroyer *Taussig*—DD 746—at the time of the shore bombardment preparatory to and during the landing on Iwo Jima by Marine combat troops and Army support troops. At that time we were constantly being informed about the terrible casualties that our brave men on shore were suffering on Iwo Jima.

As a Navy man who participated in that battle, I salute them.●

CHAIRMAN BOLLING ADDRESSES OVERSIGHT ROLE OF CONGRESS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. PEPPER. Mr. Speaker, the chairman of the Committee on Rules, on which I have the privilege to serve, the Honorable RICHARD BOLLING of Missouri, was recently interviewed by Ann Reilly, associate editor of Dun's Review. In the course of that interview, Chairman BOLLING discussed in the context of the oversight role of Congress two issues of vital importance which are under consideration by subcommittees of our committee: The legislative veto and sunset legislation. I would like to submit to the RECORD this thoughtful interchange with one of the ablest most knowledgeable men in Congress, the Honorable RICHARD BOLLING, which appeared in the February, 1980, issue of Dun's Review, for the benefit of our colleagues.

REINING IN THE REGULATORS

(NOTE.—Over the past year, business has been buoyed by a whole series of Congressional efforts to rein in the federal regulatory agencies, which industry and many legislators believe have been usurping power far beyond the intent of Congress. The Federal Trade Commission, the Occupational Safety and Health Administration and the Environmental Protection Agency have been particular targets of Congressional wrath.

(Is the rising Congressional belief that the regulators have gone too far a passing phenomenon? Is it practical for Congress to sit in judgment over the actions of the regulators? What does this all imply for the constitutional separation of powers between the executive and legislative branches?

(To put the issue in perspective, Associate Editor Ann Reilly talked with Missouri's Democratic Congressman Richard Bolling, chairman of the powerful Rules Committee, Author of two books on the House of Representatives, Power in the House and House Out of Order, the 63-year-old Bolling is widely regarded as one of the most thoughtful men in Congress. During his 31 years in the House, Bolling has been known as a down-the-line liberal on most domestic issues but is generally a hawk on foreign policy and national security questions. Here are his far-ranging views on the practicality of increased Congressional oversight of the regulatory agencies.)

Do you think that the Congressional drive over the past year or two to take power back from the agencies is a temporary phenomenon?

I don't think that Congress is trying to pull back authority as much as it's attempting to convince the voters that it's accepting its responsibilities. In the process, Congress may experiment with pulling some authority back from the agencies. But I don't think it's going to work.

Why not?

Because I don't think Congress is equipped to be an administrator. Anyway, by taking power back from the agencies, Congress will become confused as to what its role should be. Of course, this doesn't mean that the legislative branch should not be engaged in the oversight of laws it has already written. But oversight is a far cry from actually pulling back power from the agencies and getting involved in administrative decisions.

In Congress' current attempts to rein in the agencies, there have been many proposals for a legislative veto, by either House, of the actions of the regulators. Most of the recent fire has been directed against the Federal Trade Commission, but it could certainly spread to other agencies. How do you view the entire concept of a legislative veto?

It doesn't make sense to me. To my mind, it is a way to overburden an already overburdened Congress. Besides, it's probably unconstitutional. We're studying the question in one of our subcommittees and hope to come up with some answers.

Why do you think the legislative veto is unconstitutional?

Because it confuses the separation of powers between the executive and legislative branches. I think it's fundamentally wrong in approach because it makes Congress an administrator, which is a function that it is not set up to perform.

That may be true. But the idea of a legislative veto is certainly popular, since there are about 200 versions of it kicking around Capitol Hill.

That still doesn't make it a good idea.

But isn't there still a problem of regulatory agencies going wild and exercising power that Congress never intended them to have?

Of course there's a problem. But the solution is for Congress to do a better job legislating. Statutes should be drawn more precisely, so there will be less question about what our intent was. Therefore, there will be less room for the bureaucrats to expand their authority. To me, that makes far more sense than a legislative veto.

Some people have said that if Congress is forced to be more specific, it will be that much more difficult to get anything passed. The vaguer the language in a bill, the easier it is to get a majority behind it.

I don't think that's necessarily valid. Sure, it's easier to pass legislation that isn't too specific, but if we're going to complain about the results, we ought to be willing to face up to the need to be more precise. Anyway, if we passed fewer bills and did a better job on each one, that would be good.

One approach that is getting a good deal of publicity lately is the amendment by Senator Dale Bumpers of Arkansas that would force the regulatory agencies, when challenged by a company, to prove in court that the action they are bringing is in keeping with the intent of Congress when it passed the law. Right now, the company must convince the court that the agency is acting beyond the intent of Congress.

I would hate to see the thing turned around to that extent. It is tough enough for government agencies to accomplish their missions, and such a law would make it extremely difficult. We are already an overly litigious society and the Bumpers approach would make us even more so.

An interesting aspect of this is that for years the big corporations have used their legal staffs to delay actions against them. Only recently have their opponents—the environmentalists and the consumer groups—begun to play the same game of delaying things that they don't like. Now, we've got so much litigation that it's not clear that anything will ever be finally settled.

What kind of oversight do you believe Congress should be doing?

We ought to be monitoring current programs to see how effective they are, both as to cost and in terms of achieving their objectives. But this is hard work and doesn't have very much political sex appeal. Congressmen much prefer to do oversight hearings when they involve some kind of a scandal.

Anyway, Congressmen know they get a good deal of publicity when they pass a law to solve a problem, but they get little credit back home when they are examining how the program is actually operating. That's pretty dull stuff. So unless there's an issue that will draw widespread public attention, it's the natural instinct of politicians not to get involved in it.

Suppose a dedicated Congressman does decide to perform an oversight function. Do you think he has the tools to do the job?

Certainly. Both the committees and individual Congressmen have more staff today than ever before. So I really don't see why an effective job can't be done.

If individual Congressmen do not take the initiative in doing the oversight job, is there anything that Congress can do institutionally to get the job done?

That's what we're trying to do with the Sunset Review bill, introduced by my colleague Gillis Long of Louisiana, of which I am a cosponsor.

How would it work?

The Long approach is a compromise version of all the sunset bills that have been kicking around here for the last few years. Most of the sunset measures are too drastic because they call for automatic termination of each program unless it is specifically renewed by Congress.

Why do you feel that such an approach is too drastic?

Because there are simply too many laws and too many programs and Congress doesn't have the time to handle that kind of a workload.

How would the Long approach work?

It would require each legislative committee to come up with a list of oversight activities for the coming year. All the committee requests would then be combined into an oversight resolution that would be enacted by the full House, much the way it now votes on the budget resolution. The oversight resolution could be amended on the House floor to give individual members a voice in the direction in which oversight is heading. After the amendments, the oversight resolution would be binding in the same manner as the budget resolution.

You said earlier that there isn't much political sex appeal in the oversight process. So why would individual members be interested in participating in it if the Long bill became law?

If we create a procedural superstructure, similar to the budget process, we make oversight more visible to the public. This gives members a greater incentive to take an active role in it. At the very least, a vote on the floor gives them something to show the folks back home. At any rate, the Long bill would at least create an oversight procedure. Then we can build on it with some other ideas.

Such as . . .?

We could have spending authorization bills that last more than one year, which would give us more time to really assess how a program is working. Besides, we could do a better oversight job, because we wouldn't have to look at every program each year. I could see a ten-year oversight schedule, strongly influenced by the Congressional leadership. That way, either the Speaker of the House or the Steering and Policy Committee of the majority party could tell a legislative committee that it has not been meeting its responsibility and doing an adequate oversight job on the bills it has passed.

These are just thoughts and there are an infinite number of variations that could be enacted, including a two-year cycle for all legislation in which the first year would involve oversight and the second a renewal of the program.

How about the problem of overlapping committee jurisdictions? Does this make the oversight role of Congress even more difficult?

I'm all for rationalizing the jurisdictions of the committees, and, as you probably know, I headed a select committee on the problem in 1973–74. But, not surprisingly, nobody wants to give up power, no matter how much sense it might make. So the House adopted some of our recommendations, but a good many of the more controversial ones went by the boards.

Does that mean that committee reorganization is dead?

Not necessarily. There's another select committee, chaired by Jerry Patterson of California, that's currently working on the problem again. To a considerable extent, they're concentrating on the question of consolidating jurisdiction over the energy problem into fewer committees.

Besides consolidating the committee functions, is there anything else you'd like to see that would make Congress operate more effectively?

There is a whole series of things that need to be done so that we make better use of our time. We probably need special days to legislate on the floor, special days for committee meetings and days when a member could concentrate on the problems of his constituents.

Where do you see the relationship between Congress, the Executive Branch and the regulatory agencies going? Will any of them gain power or lose it?

That's what I don't know. All I know is we've got to clean up this mess of who does what. Either we have greater simplification and more defined jurisdictions or our whole system of representative government is in jeopardy. Unless the people of this country are better content with government at all levels, they aren't going to put up with it.

What about the relationship between the Federal government and the states?

We are going to have to take a look at government at all levels and see if we can't figure out a more sensible division than the one that has evolved over 200 years. If you stand at the top of the Empire State Building, you can probably see 300 or 400 jurisdictions of government. Now, we have got to sit down very soon and look at all these levels of government and decide who does what. Things were confused enough when Congress decided a few years ago to pass revenue sharing. That only made the whole jurisdictional problem even worse.

Why do you oppose revenue sharing?

Because the whole process of representative government breaks down when one level of government raises money and then gives it to another to do what it wants with it. If the individual citizen doesn't like what's being done with the money, he finds it difficult to complain to the two levels of government that are involved.

If redefining clearly the responsibilities of all levels of government is a desirable goal—and I think that it is—revenue sharing was precisely the wrong way to go. Governmental responsibilities have become too mixed up, so we have to sit down again and redefine our Federal system.●

AMENDMENT BY MR. DAVIS OF MICHIGAN TO H.R. 4788

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. DAVIS of Michigan. Mr. Speaker, last week when we were considering the legislation, H.R. 4788, the Water Resources Development Act, I offered an amendment to the bill which was subsequently adopted. Because of time constraints, I did not at that time explain the rationale behind the amendment and I wish to take this opportunity now to explain it.

The amendment affected a provision of the bill in section 124 which deals with the extended shipping season program on the Great Lakes. Its effect was to insure that two islands in the St. Mary's River were included in a study of island transportation needs to be conducted by the Army Corps of Engineers. The two islands were intended to be included but were not specified due to an oversight during the drafting of this section which my office took part in. These islands are specifically included in the Senate version of the bill.

While the amendment may appear to be minor, the problems which it address are major to the people of the St. Mary's area. My amendment insures that there be no confusion over this matter during any conference committee consideration of this matter and that these problems not be overlooked.●

WHY NOT RENT-A-CARRIER?

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. FINDLEY. Mr. Speaker, the Carter administration has finally acknowledged that our Pacific defense system is inadequate to deal effectively with the more recent expansion of Soviet naval power in this region—something I myself contended long ago. As part of a concerted action among U.S. allies in response to Soviet aggression, Secretary of Defense Brown, on his recent tour of Asia, strongly urged Japan to reassess and increase its defense spending, that is to say, expand its antisubmarine forces and air defense systems. This is not a novel idea; there have long been critics here in the United States who argued that Japan enjoyed a free ride on defense matters because it carries a disproportionately low part of the defense burden. Just last fall, several members of the Senate Foreign Relations Committee recommended, in a special report, that if Japan were gradually to assume a greater responsibility for areas near its home islands, this would free U.S. forces to shift more of their attention to the sealanes critical not only to the dispatch of U.S. forces, but to the very survival of Japan.

Unfortunately, it is unlikely that this recommendation by the United States will be well received in Japan. The Japanese Peace Constitution is now so widely accepted by the public as setting the legitimate and appropriate framework for conducting national affairs, that it would be frightfully difficult for the Japanese Government to rally support for a greatly increased defense capability. In a 1978 poll taken by the Asahi Shinbun newspaper, 57 percent of the respondents supported maintaining defense forces at their present level, while only 19 percent thought they should be strengthened. Thus, the Japanese Defense Agency stresses the seriousness of the Soviet threat and the declining power of the United States, but in reality remains committed to a policy that emphasizes qualitative improvements of logistics, communications, and existing weapons.

Yet, the fact remains that Japan, more so than many of our other allies, has such a high degree of technological expertise and economic strength that its persistent refusal to augment to a greater degree its self-defense forces continues to frustrate the United States. At a time when the United States is trying to solidify the Western alliance, we certainly do not need this additional note of discord interjected into our bilateral relations with this important Pacific ally.

Former Undersecretary of State George W. Ball, in a recent Washington Post editorial, offered an ingenious solution to this problem. He proposed that Japan could construct two large aircraft carriers, which would then be turned over to the United States on a lend-lease basis of the kind used during World War II. Both carriers would remain under U.S. control and command and could be returned to Japan if, and only if, the Japanese agreed to take over the common defense of the region. Thus, should the Peace Constitution remain unrevised, this would, of course, mean that the carriers would remain under U.S. command indefinitely. In this way the Japanese would be contributing more of their incredible financial and shipbuilding strength, without violating their constitutional prohibitions against offensive rearmament and dispatch of troops. Moreover, as Mr. Ball points out, the Japanese would then be assured that one carrier would be constantly on station for the defense of Japan, Korea, and the surrounding area.

This extremely innovative approach to the problem is of particular interest to me because it could be incorporated so well into my proposed sealane security system, House Concurrent Resolution 234. Under my resolution, the nations of Australia, Canada, Indonesia, Japan, Malaysia, New Zealand, the Philippines, Singapore, South Korea, Thailand, and the United States would contribute naval and other resources to this multinational system, closely coordinated by the United States, "for the purpose of providing lifesaving assistance on the high seas and insuring safe, free, and secure passage for all nations through the sealanes adjacent to East and Southeast Asia." Mr. Ball has advanced a very persuasive argument which suggests that it is indeed feasible for all of our Pacific allies to participate in some capacity in this multinational sealane security system. I would like to include the text of Mr. Ball's editorial for the benefit of my colleagues. The text follows:

[From the Washington Post]

RENT-A-CARRIER

(By George W. Ball)

Alarmed by the Soviet move into Afghanistan, we are now frantically rushing to fill the power vacuum in the Persian Gulf area that we failed to fill when the British withdrew in 1971. At that time we recklessly turned over the defense of the area to the shah with the understanding that we would stay out. That decision was made in the name of the "Nixon Doctrine," which events have now shown to be a dangerous fatuity; for, if we have learned anything from the drama of the year just past, it is that we cannot secure the protection of a strategic region by entrusting its defense to a local ruler whom we then overload with sophisticated weapons. We do not strengthen that ruler's military clout by indulging his passion for elegant hardware; we are more likely to inflate his imperial pretensions and hasten the demise of his regime.

Thus the clear lesson of our searing experience in Iran is that we ourselves must provide the defense of those strategic outposts that are unquestionably vital to our interests. To do that, we must build up our combat and logistic resources.

Our present stringency is dramatically illustrated in the Western Pacific. The Seventh Fleet's two carriers have been redeployed to the Indian Ocean, so for the first time in many years there has been no carrier patrolling the waters around Japan and Korea—even at a time when the current political uncertainty in Seoul might inspire the North Korean leader, Kim Il Sung, to another invasion.

We are caught in an awkward strategic conjunction. If the Soviets continue their aggressive adventures, we must have a capability for quick response that requires some pre-positioning of force in critical areas. Since small countries are now wary of granting forward bases, the emphasis is on floating air fields in the form of carriers. But while the Soviet Union has for the past decade been expanding its naval reach, the United States has dangerously curtailed the number of ships and personnel at its command.

Since we now know that we cannot depend on local powers for effective regional defense, we should try to share more of the burden with our industrialized allies—and particularly with Japan, where the disparity in relative defense efforts is becoming increasingly exasperating as Japanese industries steadily enlarge their share of the American market. Someone should tell Japan that its present happy situation cannot continue—that, increasingly, public awareness of our mounting defense burden will inflame the already formidable agitation for protection against Japanese products.

Today the United States spends 6 percent of its gross national product on defense; Japan spends only 1.1 percent. Sensitive to the tender memories of other Asian nations, our government never encouraged Japan to build a large defense establishment. But even without expanding its own armed forces, Japan could contribute more to the common defense.

Let us suppose that the Japanese construct two large carriers. They now have excess merchantship building capacity, which presumably could be expanded and adapted for the construction of carriers, and they would benefit by obtaining our carrier technology. Japan would, on completing the carriers, turn them over to the United States under a lend-lease agreement of the kind used effectively during World War II, when we and our allies pooled our efforts to resist a common enemy: Britain contributed its soldiers and sailors to fight the Nazis; the United States provided the supplies and equipment used in the common struggle. One victory was achieved, the lend-lease equipment still extant was either returned to America or acquired by Britain through financial settlement.

Though the exact terms of an arrangement with Japan would have to be negotiated, its broad lines are easy to envisage. By providing two carriers, Japan could be assured that one would be constantly on station for the defense of Japan, Korea and the neighboring Pacific area; only with Japanese approval would it be deployed elsewhere—perhaps to the Indian Ocean to guard the tanker lanes that are Japan's lifeline.

Though both carriers would remain under United States command and control, they would be returned to Japan whenever the Japanese declared the intention to assume full responsibility for the common defense of the area or both parties agreed that the carriers were no longer needed.

I mention carriers only to show how the lend-lease concept could be utilized to narrow the disparity in the defense burden between Japan and the United States. The total cost of two carriers—roughly $4 billion—would, when spread over three years, increase the defense share of Japan's GNP by merely 0.3 percent. Though that, of course, would only modestly reduce the disparity with America, there could obviously be other applications—including, for example, support ships for the carriers—once the principle of pooling resources was established.

Meanwhile, we should use the present moment of shared anxiety to inject that principle into our relations with Japan—and we should do it promptly. If the Japanese continue to enjoy their current unfair advantage, Americans will grow increasingly resentful as our own defense burden increases and our economy slows down. That will not be good for either country.

It is time for the Japanese government to awake and respond; it has had a free ride too long.●

ENERGY AWARENESS DAY

HON. JON HINSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● **Mr. HINSON.** Mr. Speaker, I want to commend the National Jaycees and Mr. Frank Holifield, manager of WQBC radio in Vicksburg, Miss., and president of the Mississippi Jaycees, for their national, State and local drive to make our Nation more energy conscious and energy conservative through "energy awareness day" on Sunday, February 10, 1980. In this time of increased energy uncertainty, we, as a nation, need to realize the importance of conserving our energy in order to achieve energy independence from foreign energy sources.

The Jaycees developed a national program to increase the awareness of Americans that each of us has the ability to make a contribution to conservation through methods that are within our budget without changing our life styles. Each of us has the opportunity to take action by simple, effective steps in a personal energy conservation program.

The Jaycees remind us about conservation methods that are practical and easy, and that may save literally hundreds of dollars a year without a great deal of sacrifice or hardship:

For instance, riding to work in a carpool can save from $70 to $110 a year.

Lower thermostats to 65° at night and when no one is at home, this can save at least $100 or more per year.

Regular tuneups increase the efficiency of a car and can produce savings of $25 to $50.

Reduce local trips or learn to make one trip to do the work of two or three—by combining shopping trips and visiting; a little planning can mean another $10 to $15 for the savings account.

Proper wheel alinement and tire pressure can save money by reducing tire friction; how much? About $25 or so.

Riding a bike for some of those short trips could mean a savings of $175 to $200 a year.

Don't let the motor idle unnecessarily; turn it off. The old-fashioned idea of letting a car warm up before driving only wastes gas, time, and money.

While a personal conservation effort may seem small, those who save money through increased energy awareness are the ones who will help pave the way to win the energy crisis. I join with other members of the Mississippi congressional delegation in thanking the National Jaycees for speaking up for a powerful America.●

LEAKS IN THE FBI-STING CASE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● **Mr. WEISS.** Mr. Speaker, last week I called for a congressional investigation into the Department of Justice leaks in the FBI-sting case. As I said then, political corruption deserves the most vigorous prosecution. Constitutional rights deserve equally vigorous protection.

The New York Times of February 7, 1980, carries two columns, one by Burke Marshall, Yale law professor and former U.S. Attorney General for civil rights from 1961-65, and the second by New York Times Columnist Anthony Lewis. Both articles highlight the urgent need for an immediate investigation of the Department of Justice, and I would thus like to bring them to the attention of my colleagues.

Two Scandals, Not One

(By Burke Marshall)

New Haven.—It should be clear to everyone that the so-called Abscam—for Arab scam—investigation into the alleged susceptibility to bribery of some prominent public officials involves not one but two shocking scandals.

One concerns officials' honor; the other, containing elements of great institutional dangers that must be checked, concerns the conduct of the Federal law-enforcement establishment. For the causes of justice, fair play and respect for the process of law have not been served—indeed, have been greatly damaged—by the Federal Bureau of Investigation's use of the press in the last few days.

The process of Federal criminal justice is controlled by standards of constitutional law and professional responsibility. I had supposed—I had thought that any lawyer charged with any power over the public reputation of any person protected by United States law would suppose—that charges of violations of the Federal criminal code would be made through the controlled process of law. That means that accusations of criminal wrongdoing would be made by a grand jury, that they would be made public only after the accused parties had been formally charged and notified, and that any characterizations of the charges by prosecutors would be limited to summaries of the formal documents.

I am shocked that these elementary rules of fairness have been so flagrantly violated in the Abscam investigations. No one, except one low-ranking civil servant, has been charged. No evidence has been presented in any court of law. Yet numerous public officials, some with years of public service and with records of enormous public value, have suffered permanent damage to their reputations.

No one who values due process should be unconcerned with these events. I am equally shocked by the indifference of the press, the radio and television networks to their use by the F.B.I. for the enlargement of its own reputation. There is no other explanation for the deliberate, pervasive and uncontrollable spread of selective information about what now dominates the news as a national scandal than that the F.B.I. has used its access to the press to make its case public.

If that charge is unfair to the Bureau, it can only be because the premature leak of these widespread accounts of alleged crimes by officials—in some cases, even before they were known to the persons accused—comes from attorneys charged with the responsibility of prosecution, a violation of every standard of professional conduct.

There is a smell of very dirty business emanating from the whole investigation anyway. But that is not the point. If our representatives in Congress, our state or local officials, our civil servants, willingly accept bribes for even ambiguous favors, they should be prosecuted with vigor, and impartiality, but it is grossly unfair—it is outrageously unlawful, unprofessional and unconscionable—for the prosecutions to be commenced by leaks to the press, for which no legal response in the form of libel suits is even constitutionally possible. I wish, although I do not really expect, that the news media would worry about their role in this enterprise.

Attorney General Benjamin R. Civiletti's office has now—belatedly—announced that he has ordered an investigation of the leaks. The limitations placed on the investigation, including that of granting in advance a protected sanctuary to the jounalists to whom the leaks were made, are troublesome. It is especially disturbing that the announcement is not accompanied by an expression of concern by the F.B.I. Director, William H. Webster, whose agents would seem to be by far the most likely targets of a true effort to locate responsibility for the leaks. Long experience suggests that attempts from the outside to get any kind of information from the F.B.I. on this kind of matter are apt to be unavailing.

Accordingly, the public, and especially the legal profession, should watch with great care and attention the Justice Department's efforts to find out who is responsible and to punish them.

DANGERS OF THE STING

(By Anthony Lewis)

BOSTON, Feb. 6.—It is one of the most sensational corruption stories we have ever had—and one of the most dangerous. That much is already clear about the great F.B.I. sting operation. It puts at risk not just the reputation of Congress, or of the eight members listed as suspects, but public confidence in the fairness and effectiveness of our system of criminal justice.

How were the targets of the investigation chosen, and what methods were used to test their honesty? Who leaked details of the investigation, and why? If individuals named in the press are indicted, can they get a fair trial? Will the Department of Justice, which depends in so many ways on relationships with Congress, carry this matter through with the necessary detachment and determination?

Such questions are in the air now, and there will be more. It is an exceptional challenge for Federal law enforcement, and I think it will require at least one exceptional measure on the part of Attorney General Civiletti. That is the appointment of a respected outside figure as supervising counsel.

The reasons begin with the explosion of newspaper and television reports on the sting operation last weekend. The American Civil Liberties Union condemned "justice by press release," and many other observers were concerned about the massive publicity before any charges were brought. The Attorney General, saying he was distressed, ordered an investigation of who in the F.B.I. or Justice Department had leaked.

The concern about the impact of press stories on the future jury can be overdone. Even after the publicity over Watergate, a Federal court in Washington was able to find jurors who knew little or nothing about the affair. The Court of Appeals, affirming the convictions in the cover-up case, observed wryly that matters of fascination to lawyers "may be less fascinating to the public generally."

Far more serious is the effect on individuals—politicians or ordinary citizens—of publicly listing them as suspects. That brings to mind Joe McCarthy saying, "I have in my hand a list . . ." People may be ruined although they are never prosecuted—although there is no serious evidence against them.

If F.B.I. or Justice Department officials orchestrated leaks into the chorus of weekend stories, that was outrageous conduct. But it is not so clear that that happened. The investigation had been going on for nearly two years, and some reporters had learned about it months ago. It may be that the pressures grew with time, that the story looked to be breaking and that investigators and news organizations both then hurried to do their jobs.

The press was not unaware of the ethical problems. Some editors worried about the fairness of publishing the names. But so many people knew by then that the story could not be withheld.

The more interesting question is why some insiders decided to talk to reporters. Motives no doubt varied. But one almost certainly was a lack of confidence that in the end the Justice Department would confront large-scale corruption in Congress and press criminal cases.

There is a certain cynicism in Washington about wrongdoing on Capitol Hill. Congressmen have such personal power. Members of the judiciary committees can and do telephone Justice Department officials; others control budgets. So people have their doubts that Congressional corruption will really be attacked. And despite the scandals of recent years, the House and Senate, through their ethics committees, hardly do an effective job of policing themselves.

Members of Congress—the large majority of honorable ones—are aware of public cynicism about their institution and want action against corruption. But some of them also resent the way the Justice Department has handled this affair.

It is not just the leaks that trouble some Senators and Representatives. They get the impression from the stories that the Justice Department picked targets at random from among their colleagues, and then tempted them into wrongdoing. It may well turn out that there were stronger reasons for the original suspicions. But feelings are certainly raw in Congress now.

In short, all kinds of political and legal sensitivities are engaged in this affair. That is why I think the whole investigation, in all its diverse aspects, should be managed by an outside lawyer who would have the unquestioned respect of Congressional leaders, of investigators and prosecutors, of the public.

This is not the occasion for a special prosecutor in the usual sense—where the impartiality or honor of the Executive is in doubt. That device should be used rarely. But the office of the Watergate Special Prosecutor did illustrate how, in a prickly situation, eminent counsel could command confidence in both his toughness and his fairness. Attorney General Civiletti should keep this investigation within his department, but with an outside figure as supervising counsel.●

A NEW METHOD FOR OLYMPIC FUNDING

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. GEPHARDT. Mr. Speaker, I am introducing today the U.S. Olympic development fund checkoff of 1980, which will provide a new method of funding our Olympic team.

Simply stated, this bill will provide a checkoff on the Federal income tax forms similar to the one that currently exists for funding the Presidential election campaign fund. The $1 checkoff will provide funding to the U.S. Olympic Committee to then be distributed to programs to aid our athletes. This would not jeopardize the amateur standing of the athletes.

The United States is one of the few countries belonging to the International Olympic Committee that does not subsidize any part of the amateur athletic programs. In light of the passage of House Concurrent Resolution 249 in January which supports a boycott of the summer Olympic games in Moscow, we must show our athletes that their long years of struggle are not in vain, but in fact the whole country supports them.

Although there are many other deserving charities in the United States, I believe that the case of the Olympic team is different. They are ambassadors of goodwill and represent the best athletes that the United States has to offer. As this is a completely optional checkoff, the support for the team will not be of the U.S. Government, which is behind them wholeheartedly, but of the American people.

Additionally, if the United States follows through with a boycott of the Moscow games, I fear that the fundraising efforts which normally peak during this period will be curtailed.

Based on the figures supplied by the Internal Revenue Service with regards to the Presidential election fund checkoff, the Olympic committee can expect to receive $28 million per year if 30 percent of those filing income taxes see fit to use the checkoff. These extra funds may be used to develop permanent training centers so that we may begin to develop our athletes at an earlier age.●

AYATOLLAH NADER: WRONG AGAIN?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. MICHEL. Mr. Speaker, recently Ralph Nader launched an attack against the scholastic aptitude test (SAT). Jessica Tuchman Mathews of the editorial page staff of the Washington Post—a newspaper not noted for attacks on Nader—examined Ayatollah Nader's attack on SAT and found that he has failed the test of credibility and cannot gain admission to the company of reasonable men and women on this issue.

There can be little doubt that SAT tests are controversial. But the analysis of Nader's attack on SAT shows that if a convincing case is to be made against SAT it will have to be made with more attention to facts and less ideological zeal disguised as public interest advocacy.

At this point I wish to insert in the RECORD, "A Measure of SAT's" by Jessica Tuchman Mathews. the Washington Post, February 7, 1980:

A MEASURE OF SAT'S

The simmering controversy over standardized testing—most especially the Scholastic Aptitude Test taken by nearly 1.5 million college aspirants every year—came to a boil a few weeks ago with the publication of a long-awaited study by Ralph Nader and Allan Nairn. The controversy could affect not only the future of SAT tests, but that of all standardized testing, beginning in elementary school.

Do the SAT tests—one for verbal and one for mathematical aptitude—in fact help college admissions boards make intelligent decisions about which students are best suited to their college? Or do they merely measure a collection of more of less irrelevant skills and social factors, perpetuate class biases and prevent large numbers of capable students from getting a higher education, all as Nader claims?

First it must be said that much of the controversy over SAT stems from confusion over the meaning of what it is measuring—aptitude. The SAT fact sheet now states clearly that it is "a test of developed ability, not of innate intelligence." But in the past this has not been made clear, and too many students have been allowed to believe that the aptitude that is being measured is a natural and immutable, rather than acquired, talent.

The Nader/Nairn report calls SAT "a three-hour gamble which can determine a life's pathway," implying that the results are largely up to Lady Luck. The Educational Testing Service, which creates and scores the tests, claims. on the other hand, that the tests are a valid tool for predicting how well a student will perform in college, as measured by the freshman-year grade-point average. Nader calls this claim "false and unsubstantiated." Who is right,

The answer is that SAT scores do help predict college performance. The extent to which they do is documented by the very evidence presented in the Nader-Nairn report, but concealed in the text. What the text says is that "inclusion of SAT scores in the prediction process improves the prediction of college grades by an average of only 5 percent or less." The truth—of which the report's authors are well aware—is that SAT scores raise the accuracy of prediction by five percentage points, but improve the accuracy of prediction by 20 percent. Specifically, high school grades alone provide an accuracy of prediction of 25 percent; grades and scores together raise the accuracy to 30 percent—a 20 percent improvement. This type of use of complicated statistics is rampant throughout the report.

Having attempted to minimize the valid contribution SAT scores can make to admissions decisions, the Nader-Narin study exaggerates the role they do play. It argues that because of SAT scores alone, promising students, especially minority students, are frequently barred from getting a higher education. A great deal is also made of the use of minimum cutoff scores, of how "a single point can be the difference between acceptance and rejection." However, a 1979 nationwide survey of 1,600 colleges and universities reveals that fewer than 2 percent of colleges and universities consider the SAT score to be "the most important factor" in an admissions decision. Only 4 percent of open-door colleges use a minimum cutoff score at all and, when they do, the cutoffs are set extremely low and often waived for older students, veterans, minorities and others deserving of special consideration.

Potentially, the most unsettling claim of the Nader-Nairn report is, "Although test scores do not correlate well with future performance, they are systematically related to the family income of the test-taker." This claim also misrepresents the evidence presented in the study that actually shows that test scores correlate with both future performance (freshman grades) and family income and to about the same degree. A table showing the relationship between students' average scores and their parents' mean income in 1973-74 is prominently featured in the report. On first glance it is frightening, for it seems to show that all one would have to do to determine an individual student's potential for college work would be to discover his parents' income.

However, if the careful reader makes his way to page 203, he will find discreetly buried in the text, that the connection is far from what the table implies, and that the statistical correlation between score and income is just about the same as the correlation between score and college grade-point average (.4 as compared with .37). Nevertheless, the report concludes that if the tests are valid, "then merit in the United States is distributed according to parental income." (No one, of course, has ever claimed that SAT scores measure "merit.")

What is the point of these attacks on standardized tests? Abandoning them could only force colleges to place heavier reliance on measures that are more subject to social and racial bias, such as the use of "feeder schools" that the admissions boards knows well (generally private schools or public schools in wealthy communities), the personal interview or the old boy/old girl alumni network. Nader's personal bias is evident: he would like to see more reliance on "extracurricular acitivies and community organizing."

The real target seems to be not so much the tests themselves as the system of which they are a minor part: "Social class is viewed as a sad fact of life, but not as an issue," says Nairn. "The controversy over testing makes class an issue." Where has he been? Did he miss the War on Poverty altogether? Somehow, it has come as a surprise to Nader and Nairn that being poor means being disadvantaged in more ways than having a low income.

The aptitude that can be measured after 12 or 13 years of schooling is not the native intelligence a student inherits in his genes. It is the product of 17 years of continual interaction between those capacities and the student's environment—including everything from prenatal nutrition, to conditions in the home, to the quality of the school he attends. If the SATs are sending bad news, it is as much about the system that determines that total environment as it is about the individual student. The news is bad—it does not show the progress that was hoped for. But that is all the more reason to keep hearing it.●

UNIT II OF THREE MILE ISLAND

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. ERTEL. Mr. Speaker, as we are all aware, yet another mishap occurred at unit II of the Three Mile Island nuclear powerplant yesterday. It appears that a pump leaked in the makeup system for nearly 2 hours spilling about 1,000 gallons of radioactive water in the auxiliary building. While this water was contained in the building, it appears that some radioactive gas, probably Krypton-85, was released into the atmosphere.

While reports indicate that this release of gas does not represent any health hazard, that the water is sealed in the auxiliary building, and that the leaking valve has been bypassed, the continuing problems at the plant persist.

I am thankful that there were no immediate injuries resulting from this incident; however, we must not forget the psychological impact of the accident at Three Mile Island last March, and the subsequent problems, nor the fact that serious questions remain concerning the possible long-term health hazards of exposure to low levels of radioactive materials.

The damage to the reactor, the cleanup problems, and the continuing incidents—not to mention the psychological impact—are all clear signs that unit II continues to have serious problems and we should seriously consider closing it forever.●

VAT—NOT THE SOLUTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. McDONALD. Mr. Speaker, much is being said these days about a new found solution to the complicated and oppressive income tax, the value added tax. It would appear upon examination, however, that the enthusiasm is inappropriate.

It is claimed that the value-added tax proposal will shift the emphasis in tax collection and make a burdensome situation more equitable. This ignores the overall fact that too much tax is simply too much tax, no matter where the tax is assessed, be it income or production. The end result remains the same—repression. It is my hope my colleagues will not fall for yet another complicated shell game and will get down to the only solution which exists, balancing our Federal budget at a much reduced total figure.

The following is an article from the International Herald Tribune of September 22-23, 1979, explaining the woes Europe has felt under the VAT. I commend it to the attention of my colleagues:

A POX ON VAT

(By Alex O. Madsen)

We have learned that the chairmen of the House and Senate taxwriting committees have proposed that Congress enact a value added tax for the United States (IHT, Sept. 13).

Few people in the United States know how the VAT works but have been told that it is widely used in Europe. That is correct and most Europeans would like to get rid of it. The administration costs are astronomical as the VAT has to be compiled, collected and verified like any other tax. That takes additional personnel and equipment all of which cost money. More money!

The VAT is added to the already high prices of products, services and repairs and what-nots. Take the price of a small meal in Scandinavia for instance. The bill is $10. To that is added a 17 percent VAT tax (depending on the country) and a 15 percent service charge. That brings the cost of the meal up to $13.20 if my calculations are correct.

You bring your automobile in for repairs in Belgium and they slap a 25 percent VAT on to your bill. One quarter of the cost. How about the small shopkeeper or businessman? He or she spends an hour or more each day trying to figure out how much he or she pays the government and how much goes into their own pockets. If he or she is bad with figures, a tax expert is called in and that too costs money. (I have heard of people saying to hell with this noise and selling out).

The value added tax is an illusion originating in France or so I have been told. How are things in France these days?

I have been living in Europe for 20 years and have been paying VAT since this birdbrained tax was introduced. As I see it, it has not cured any economic illness anywhere. On the contrary, it helps increasing the cost of products and services to the consumer who in turn will ask for a higher salary to pay for this tax. What happens then we all know; prices will go up and people will ask for yet another salary increase. Talk about inflation!

As for the added tax shifting the burden of the federal tax system away from income and placing it on consumption, try telling this to our friends over here and they will laugh themselves silly.●

HANDGUN CRIME CONTROL

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. STUDDS. Mr. Speaker, the United States has the weakest national handgun control law in the world. Not surprisingly, we also have the highest rate of handgun crime and violence. In 1978 alone, there were nearly 10,000 handgun murders and over 250,000 other shootings, assaults, robberies, and rapes. One in every four of our fellow Americans can expect to be victimized in his or her lifetime.

Figures such as these help to illustrate the urgent need to control those cheap, easily concealed, nonsporting weapons most frequently used in the commission of violent crimes—the so-called Saturday night specials. I am pleased to be a cosponsor of a measure drafted specifically to ban the traffic in these guns, insure swift and sure punishment for those who misuse handguns, and encourage States to pass "license-to-carry" laws.

It is this last provision of the bill to which I would like to direct my colleagues' attention today. My own State of Massachusetts has enacted such a law, one requiring persons carrying handguns outside their home or place of business to have a license to do so. Carrying a handgun without a license is punished by a mandatory jail sentence.

The article which follows, taken from the Christian Science Monitor of December 4, 1979, discusses the impact which the license-to-carry—or Bartley-Fox—law has had in the State thus far.

As you read this article, I might also call your attention to data compiled by Handgun Control, Inc. of media-reported handgun murders across the Nation. Of the 7,706 such murders nationwide in 1979, only 44 were committed in Massachusetts. States of similar population suffered 135 to 281 handgun murders last year.

I urge my colleagues to join in acting promptly and responsibly to outlaw these weapons of violent crime.

THE STATE GUN LAW KENNEDY URGES ALL TO COPY

(By Donald C. McKay, Jr.)

Senator Kennedy has proposed federal legislation encouraging all other states to adopt gun laws modeled on the one in his home state of Massachusetts. What is this law and how effective has it been?

Known as the Bartley-Fox law, the Massachusetts statute mandates a one-year prison term for anyone convicted of carrying a gun without a license outside his home or place of business. Because the private possession of guns is not restricted, the law enjoys the support of the gun lobby and sportsmen's organizations. The gun lobby has successfully thwarted legislation to restrict or prohibit such possession at both the state and federal level, despite polls showing overwhelming public support for strong gun-control measures. In Massachusetts itself a ban on the sale or private possession of handguns was defeated by a 3-1 margin in a 1976 referendum.

Nonetheless, since the Bartley-Fox law took effect in April, 1975, gun-related crimes have declined substantially more in Massachusetts than in the nation as a whole. For example, between 1974 and 1976, gun homicides in Boston dropped 43 percent compared to 11.1 percent for other cities of similar size, according to a federally funded Northeastern University study. Armed (gun) robberies in Boston declined by 35.5 percent as against no decline at all in similar-sized cities in the North Central States.

Massachusetts gun-related armed robberies declined 35.1 percent whereas, nationally, gun-related armed robberies declined 11.7 percent; in the other five New England states they actually increased 6.2 percent. The overall Massachusetts rate for gun assaults declined 19 percent from 1974 to 1976, as against a 2 percent decline for the nation as a whole.

It was such statistics that led Senator Kennedy to include in his Handgun Control Bill of 1979 a provision encouraging all states to adopt laws similar to Bartley-Fox.

Retired Judge J. John Fox, who co-authored the law with former Speaker David Bartley of the Massachusetts House of Representatives, contends that the secret of the law's success in preventing gun-related crimes can be laid to three factors:

Widespread knowledge of the law,

Speedy trials required by the law,

The certainty of punishment under the law's mandatory sentence if one is caught carrying a gun illegally.

"Fidelity to the law is not a matter of alternative choices," Judge Fox argues, adding that without the mandatory sentence there would be no certainty of punishment.

Opponents of mandatory sentences contend that judges should be allowed some discretion in imposing a sentence and that judges and juries may be reluctant to convict under Bartley-Fox when they know that the defendant will have to serve a year in prison.

One district attorney claimed to know of at least 10 people arrested for the illegal possession of handguns who had not been found guilty, because obvious criminal intent was lacking. Middlesex district attorney John Droney commented that if a person does not have a criminal record and has any sort of excuse for carrying a gun, he probably will be exempted by the courts. He added that he knew of some criminals who do not carry guns because of the law and concluded: "I think everyone who has gone to jail has gone because there was no question they had a gun and knew the law."

Some 200 million guns, including 60 million to 80 million handguns, are currently in circulation in this country, according to FBI figures. This works out to just under a gun for every one of America's roughly 220,000,000 people. With crime again on the upswing, effective laws to deter the use of guns are more badly needed than ever.

Nearly half the 20,000 murders in America in 1978 were committed with pistols. Until the powerful opposition of the gun lobby to strong federal gun-control measures is overridden, state laws like Bartley-Fox may be the best weapons available against gun-related crime.●

CONGRESSIONAL SUPPORT FOR "REFUSENIKS"

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. PATTERSON. Mr. Speaker, many of my constituents and I are vitally concerned about Soviet immigration policy, particularly as it affects Soviet Jews. The persecution these people are subjected to is a constant news topic in the world press.

The United Synagogue Youth from Temple Beth Emet in Anaheim, Calif., have written to me about the constant human rights violations in the Soviet Union. I would like to share their remarks with you and my colleagues.

We are a Jewish Youth Group, U.S.Y. (United Synagogue Youth) from Temple Beth Emet, in Anaheim, and we are very concerned about our fellow Jews in the Soviet Union.

We recognize the rights of all people to worship and practice their religion.

We would like to make you aware of the problems in the Soviet Union: Many Russian Jews apply for exit visas to either America, Israel, or other countries where they can be free to practice their religion without fear of persecution. But most of these Jews are refused permission from the government to leave. Often, the government gives unjustified reasons.

Just as President Carter has committed himself to Human Rights, we would like a similiar policy on the part of the Congress.

We ask your support for our brothers and sisters in Russia, who become "refuseniks" when not allowed to emmigrate freely.

Mr. Speaker, I hope every Member of Congress keeps the human rights violations of the Soviets in mind when voting on legislation that affects the Soviet Union.●

REGISTER ALL THOSE AGED 18 TO 26

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. PEYSER. Mr. Speaker, although I supported the President when he called for the resumption of registration for draft age Americans, I cannot support the manner in which the President has proposed to implement this registration.

Specifically, I object to the provision that only 19- and 20-year-old men and women would be required to register. I find this categorization unfair and discriminatory, and I have notified the President of my opposition. Moreover, I intend to pursue every legislative avenue available to me to see that all those within the customary and traditional draft ages, those 18 to 26, are subject to the draft on equal grounds. When legislation seeking reinstatement of registration is proposed, I shall object unless the pool of draft eligibles is enlarged as I have stated.

Accordingly, I was pleased to read in the New York Times of February 10 an editorial raising questions about the President's plan. Surely, Mr. Speaker, if we are to require registration of our young, it ought to be on the basis of reasonable equality as we have done in the past.

I submit the following New York Times editorial at this point:

WHO SHOULD REGISTER, AND WHAT

At the moment, we see only one powerful reason to ask young Americans to register for an eventual military draft: to demonstrate that the public, and especially the generation that grew up with Vietnam, is once more ready to contemplate conscription for military action abroad.

If that is President Carter's purpose, the idea deserves support. If the public is to be broadly involved in foreign policy and any eventual draft is to be advertised as fair, it was essential to insist, as he has, on the registration of women as well as men.

But if a show of public awakening is wanted, Mr. Carter should not be trimming by confining the registration to 20-, 19- and, eventually, 18-year-olds. Nor should he be willing, as some say he is, to start with men and let the issue of women linger in debate. Too many legislators want a tough foreign policy without inconvenience to voters. Too many, also, want to exploit public anxiety about events abroad without addressing the disgraceful inequities that plagued the military draft for 20 years.

The Pentagon's manpower problems, though real, do not alone justify a registration program. The Army is losing too many valuable soldiers in mid-career, but the proposed registration system will not correct that. The Reserves are dangerously understaffed, but registration will not stimulate new enlistments. The Selective Service System is in mothballs, but there are other, maybe even better ways to draw up lists of draft-age youngsters. A sudden big war would catch the country unprepared to call up hundreds of thousands of civilians, but registration would hasten such mobilization by only a few days; the real obstacle is the time the Army would need to train them.

The fact is that for the time being, Uncle Sam does not need YOU! Even in an emergency, he would't know what to do with more than one in a hundred of the youths between 18 and 26. But the country should want registration postcards—and from virtually every family—to signify support for the *idea* of service and sacrifice in defense of national interests. Severely limiting the age bracket enfeebles the gesture. Omitting women would further diminish it, and leave it vulnerable to constitutional challenge.

Even the broadest registration would mark only the start of preparation for a fair draft. The reconciliation of young Americans with the idea of national service will not be complete until their elders, too, devote themselves to patriotic purposes. And it will require evidence that all young people would be required to serve the country in some way, without the massive evasions officially sanctioned in the 50's and 60's.

The pool of youth has long been too large for the needs of the armed forces. Four million men and women turn 18 every year now; the services employ only two million of all ages, including 150,000 women. Any draft of just a handful to fill gaps in the ranks would soon prove corrupting; it would revive inequity and cynicism, again spurring many of the young to deny any obligation to serve.

President Carter is right to fear that Americans are perceived abroad as flabby, unwilling to bear the burden of their policies. The registration of draftable youth can help to challenge that impression. But it will only define the deeper problems: who should serve, and when and how? Those difficult questions should not be evaded by eliminating most young Americans from the very first talk of duty.●

CAPITAL COST RECOVERY ACT GAINS NEW ENDORSEMENT

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. JONES of Oklahoma. Mr. Speaker, since Congressman BARBER CONABLE and I introduced H.R. 4646 last summer, numerous organizations representing small business and major corporations, rural and agricultural interests, and virtually every segment of American industry have written expressing their support for this important legislation.

I am pleased today to advise the 276 cosponsors of H.R. 4646 and my other colleagues in the House that another major trade organization, the American Meat Institute, has added its own endorsement to those of other groups supporting passage of the Capital Cost Recovery Act.

The American Meat Institute, representing 300 members of the meat packing industry doing business in each of our 50 States, recognize the importance our legislation will have in improving capital formation and increasing our Nation's sagging rate of business productivity.

Mr. Speaker, I would like to include at this point in my remarks the letter of endorsement of H.R. 4646 that I have received from the American Meat Institute:

AMERICAN MEAT INSTITUTE,
January 30, 1980.

Hon. JAMES R. JONES,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN JONES: I am pleased to inform you that the American Meat Institute's Board of Directors recently endorsed enactment of H.R. 4646, the Capital Cost Recovery Act of 1979. As the national trade association for the meat packing industry, we represent approximately 300 members doing business in all fifty states. We commend the leadership you've provided in developing and sponsoring this landmark legislation.

The meat industry has traditionally operated on an extremely narrow profit margin (less than 1¢ on the sales dollar). Increasingly, it is becoming a more capital intensive industry. Without further incentives to modernize through acquisition of more efficient and productive machinery, it will be increasingly difficult for packers and processors to operate profitably.

Accordingly, we are delighted with your sponsorship of H.R. 4646 and believe it would be most beneficial to our industry. Not only would its enactment encourage replacement of outdated facilities and equipment but it would greatly simplify administration of the depreciation tax laws for an industry already overburdened with government paperwork. We pledge our support fo

your efforts to enact this legislation and will work with you and your colleagues in whatever way you think would be most helpful.

Sincerely,

C. MANLY MOLPUS,
President.●

ACTION NEEDED TO PROTECT FARM INCOMES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. SKELTON. Mr. Speaker, on Friday, January 4, President Carter announced certain political and economic action to be taken by the United States in response to Soviet aggression in Afghanistan. As we all know, part of that response was to limit U.S. exports of grain to the Soviet Union to 8 million metric tons as provided in the joint agreement between the two countries. The effect was to reduce U.S. grain sales to the Soviet Union by 17 million metric tons in 1980.

Following the January 4 announcement, the administration announced a series of actions designed to insure that farmers would not bear the full burden of the suspension of grain sales to the Soviet Union. Although these measures were not enough to prevent a decline in grain prices when the markets reopened on January 9, they did help mitigate some of the effects of the suspension. As a result, prices have recovered more quickly than some expected and have generally returned to January 4 levels.

While we are all pleased with the short-term recovery of the grain markets, Mr. Speaker, we must not forget that further action is necessary to insure that farmers will be fully protected from any adverse consequences of the grain embargo. We must be concerned about the effect of the embargo in the longer term, particularly after the 1980 harvest and in coming years. Farmers are already facing tight credit, and record high interest rates and costs of production in 1980. Congress, therefore, must take action to strengthen the farm economy in coming months and to make sure the embargo does not alter the fundamental, market-oriented character of American agriculture.

Mr. Speaker, we must take further action in some key areas in order to minimize the effects of the grain embargo on America's farmers. The following are some of these areas and some of the measures which should be considered:

First. Exports.—Agricultural exports have been the strongest sector of our foreign trade in recent years, and it must be kept strong despite the grain embargo. Since we cannot rely on the Soviet Union in the future, we must move aggressively to develop new markets to replace this lost demand. One area where we can make vast improvement is export credit.

For too long, the Commodity Credit Corporation (CCC) has failed to realize its promise as an export financing mechanism because of administrative practices which impose an annual line of credit for all countries without regard to market condition, export demand or other economic factors. This rigidity has caused us to lose sales and miss new market opportunities for our farm products. For this reason, I introduced H.R. 6370, a bill which would place the CCC export financing mechanism on a revolving fund basis. It would allow financing needs to be accommodated on flexible, case-by-case basis, and would, in a period of just over 2 years, be totally self-financing.

In addition to improving our credit mechanisms, we need to achieve maximum effectiveness from the Agricultural Trade Act of 1978 (Public Law 95-501). One method to do this is to establish more of the overseas trade offices authorized by that act. I encouraged Secretary Bergland to take such action at a recent Agriculture Committee hearing.

Farm exports are vital to our farmers, and to the whole economy. Improving financing mechanisms for farm exports and establishing more overseas trade offices can develop new markets to compensate for the loss of the Soviet Union, and can strengthen our domestic economy by providing new jobs and by reducing inflation and our trade deficit.

Second. Embargo protection.—The Food and Agriculture Act of 1977 contained a provision designed to give farmers income protection in the event of an embargo by establishing the loan rate at 90 percent of parity in such event. However, this provision was weakened during the bill's progress through Congress and is not effective in protecting farmer's incomes. It is only applicable if the embargo is called for reasons of short supply. For this reason, I introduced H.R. 6467, a bill which would extend the protection afforded by this provision to all types of embargoes. In addition, H.R. 6467 changes the formula for setting the loan rate to the highest national weighted average market price received by farmers for the particular commodity in any of the 3 months immediately preceding the month in which the suspension is initiated. This is a market-oriented formula which is a fair and reasonable means of assuring farmers that they will have income protection in the event of future embargoes.

Third. Gasohol.—Alcohol fuels made from domestically produced, renewable resources offer a near-term alternative to lessen our dangerous dependency on imported oil, and can provide an additional market for surplus grain and agricultural wastes. Legislation providing financial assistance to stimulate the production of alcohol fuels is pending in Congress and has my complete support. To facilitate the passage of this legislation, Congress needs to establish a single subcommittee with complete jurisdiction over alcohol fuels. Moreover, I have introduced a resolution expressing the sense of Congress that all gasoline sold in the United States by January 1, 1990, shall contain not less than 10 percent alcohol fuel by volume. The adoption of this resolution would be a positive expression of American determination and resolve to remedy its energy problems and would serve notice to those who are dragging their feet on alcohol fuels, particularly the major oil companies, that Congress is committed to this important alternative fuel.

Fourth. Increase onfarm storage facilities.—As a result of the Soviet grain embargo, the carryover of wheat and feed grains is now projected to be at record levels. With even an average crop this year a tremendous stress will be placed on our storage system. Therefore, there is an urgent need to expand onfarm storage. Legislation which I am cosponsoring to reduce the interest rate on ASCS storage facility loans from the current 10.5 percent to 8 percent and increasing the individual loan limit from $50,000 to $100,000 will assist in accomplishing this purpose. This bill also extends the FmHA economic emergency loan program for 2 years, and increases its authorization level.

Fifth. Government purchased grain in reserve.—The purchase of some of the grain originally bound for the Soviet Union was a measure taken by the administration to help offset the embargo. However, unless this grain is placed in a reserve where it cannot be sold until needed, it will still hang over the market and tend to depress prices. H.R. 6279, which I am cosponsoring, provides that grain purchased to partially offset the effects of the embargo cannot be sold until the price reaches 150 percent of the loan level.

Sixth. Set-aside.—Without a voluntary set-aside program for 1980, our Nation's grain producers will almost certainly be faced with an oversupply situation after the next harvest, at the same time that production costs are skyrocketing. USDA must make a timely announcement of an appropriate set-aside, and it must be made attractive enough to be effective.

Seventh. Increase feed grain loan rate.—I have cosigned a letter, together with 15 of my colleagues, urging the Secretary of Agriculture to use his existing authority to raise the loan rate for corn to $2.35 per bushel, with a comparable increase for other feed grains. This move would strengthen farm prices, increase farm incomes, and reduce the likelihood taxpayers will be asked to make deficiency payments because of low market prices.

Mr. Speaker, these actions will not completely solve the problems which the embargo has caused our agricultural economy. However, I believe they are all fair and reasonable proposals, and I commend them to my colleagues in the House for their support.●

AARON WEISS HONORED FOR SERVICE TO HIS COMMUNITY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. ROSENTHAL. Mr. Speaker, on February 14, the Citizens Committee for New York City will honor Mr. Aaron Weiss, one of my constitutents, for outstanding service to the community.

Mr. Weiss is one of the founders of the Greater Flushing Tenants Council and is currently the president of that organization. Over the years, he has devoted countless hours of his personal time organizing new tenants associations and advocating the rights of tenants at all levels of government. In addition, Mr. Weiss works closely with Community Board 7, the Flushing neighborhood stabilization program and the Downtown Flushing Development Corp., in their efforts toward making our community a better place to live and work.

Mr. Weiss, through his compassion and understanding, has served as an excellent example for other citizens to follow. I wish to take this opportunity to extend my congratulations to Mr. Weiss, upon his selection by the citizens committee and to express my appreciation for the many years of fine service he has provided to Flushing residents.●

HEROISM OF GEN. THADDEUS KOSCIUSZKO

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. ANNUNZIO. Mr. Speaker, February 12 is the 234th anniversary of the birth of Thaddeus Kosciuszko, the great Revolutionary War hero who fought for freedom on both sides of the Atlantic.

Tadeusz Andrzej Bonawentura Kosciuszko was one of the most outstanding of the Polish patriots who contributed to the American struggle for independence, for he gave the revolutionary cause a much-needed scientific knowledge of military engineering and an unwavering enthusiasm for the ideals of freedom.

Under the terms of the First Partition in 1772, Poland was divided up among its greedy neighbor-states, with the connivance and cooperation of certain Polish nobles, and at the expense of most of the Polish people. The same spirit prevailed in England, where the government was bent upon a policy of bleeding dry its American colonies, in the interest of British nobility, at the expense of the American people.

Against the tyranny of the Polish partition, a large number of Polish aristocrats and gentry openly resisted, and for doing so were driven from their homeland. Siding with the patriots, Kosciuszko became an exile in search of justice far from home.

Abandoning his commission in the royal Polish forces, he left his homeland temporarily to serve under Washington in the American response to British oppression. As a military engineer of some consequence, he was welcomed with open arms by the Continental Army. He was first employed in designing the defenses on the Delaware River, the success of which gained for him a colonel's commission and appointment to the staff of General Gates at Ticonderoga. He was the major adviser in the fortification of Mount Defiance at Ticonderoga, and the failure to follow his advice in defense of the post was responsible for its capture by the British.

The American defeat of Burgoyne at Saratoga, which was largely responsible for the entrance of France into the war on the American side, was in part the result of Kosciuszko's cousel, and the construction of American fortifications at West Point was in accordance with his design. Transfered to North Carolina, Kosciuszko served as chief of engineers and transportation officer under General Greene, who praised him for his part in the rout of British forces in the area.

The fortification of the Heights of West Point was Kosciuszko's most important undertaking in America. To maintain West Point meant to command the Hudson, and in the words of General Washington:

> The Hudson River was indispensably essential to preserve the communication between the Eastern, Middle, and Southern States.

In the midst of difficulties similar to those of Valley Forge, Kosciuszko labored for over 2 years, and within that time made West Point inpregnable. General Armstrong wrote:

> Kosciuszko's merit lies in this, that he gave the fortifications such strength they frightened the enemy from all temptation of even trying to take Highlands.

Hailed as a hero by Americans in general, and honored on every side for his contributions to American Independence, Kosciuszko returned to Poland in 1784, and was soon involved in the courageous struggle for Polish independence. He was among the bravest and the ablest of his kind, earning the respect and admiration of Americans as well as his countrymen.

Kosciuszko spent 6 years in the American Army. His long, faithful, and meritorious service was recognized in 1783 when the Congress made him a bridadier general.

It is an honor for me to join with the American Polonia in this commemoration and I extend my greetings to the Polish-American residents of the 11th Congressional District of Illinois which I am privileged to represent, the city of Chicago and the Nation as they pay tribute to General Kosciuszko and his dedication to the cause of liberty.●

SOCIAL SECURITY DISCRIMINATES AGAINST TERMINALLY ILL VICTIMS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. SWIFT. Mr. Speaker, a constituent of mine passed away last week. What Howard Dalton died from—lung cancer—is not so unusual. But how he spent his final months is something very special. It says something about the human spirit, about a man with a fierce sense of right and wrong, and about a government and how it treats those who are dying.

A year ago, Howard Dalton contacted my Everett office. He was outraged. Dalton had been forced to quit work after he had entered painful therapy to battle the terminal cancer. He applied for social security disability benefits but was told he would have to wait 5 months.

Dalton was fortunate enough to be able to survive financially without the benefits, but he encountered many who were not so lucky. They were people forced to quit work and go through extensive treatments, some requiring exotic diet supplements costing $90 a week.

The waiting period was wrong, Dalton said. He asked for help from my office and our two Senators. In March, he came to Washington, D.C. to testify before a committee considering reforms in social security disability benefits. Dalton asked for elimination of the 5-month waiting period. The chairman told him he understood his concern but said it would be difficult to include the change at this time.

Dalton would not accept that as the final chapter, and we prepared a bill eliminating the waiting period. In the Senate, BIRCH BAYH of Indiana, whose own wife died from cancer, had introduced the bill.

Meanwhile, the House passed the disability legislation without the Dalton amendment. Dalton testified again as the disability bill moved to the Senate.

Finally, earlier this month, the original disability bill came to the Senate Floor. Senators MAGNUSON and JACKSON of our State swung into action with Senator BAYH and successfully overturned a procedural rule blocking the Dalton amendment. After a lengthy and emotional debate, the Dalton amendment was accepted.

Dalton was clearly bouyed, and hoped to return to Washington, D.C., once more to watch the bill signed into law.

But that was not to be. Dalton died barely a week after the Senate vote—

the bill, as I write this, still awaiting action by conferees.

Yet final approval seems far from certain. The bill's opponents insist that it costs too much, although the figures they rely on are inflated. They say we need to cut spending, and we do. And they say we must balance the budget, and we must. But I think they are saying something else. They are saying:

"We're going to help balance the budget by using the disability money of dying people that they have already paid into the program."

And as Howard Dalton said so clearly, that is wrong.●

EDWARD A. GEERS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. LUKEN. Mr. Speaker, Cincinnati mourns the passing of a very distinguished citizen, Ed Geers. Ed was a good friend of mine and a good friend of the entire community. The following editorial from the Cincinnati Enquirer says it all with reference to the debt Cincinnati owes to Ed Geers and the loss we have suffered:

FORMER MEMBER OF SCHOOL BOARD WIDELY RESPECTED

The death last week of Edward A. Geers was a distinct loss to the Queen City—even though ill health had curtailed his participation in some of the civic enterprises in which he invested his time and talents.

Prime among these of course, was his service as a member of the Cincinnati Board of Education, to which he was elected in 1975. Mr. Geers laid claim to no distinction as an educator or an educational theorist. His strong suit, instead, was common sense, plus active involvement in the life of the community in which he grew up—an involvement that made him aware of what a significant part of Cincinnati expected from its schools.

Mr. Geers shared that insight with clarity and courage, and he earned for himself the admiration of everyone acquainted with his service.

Cincinnati has too few citizens of his caliber.●

THE 100TH BIRTHDAY OF POLISH NATIONAL ALLIANCE

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. NOWAK. Mr. Speaker, the Polish National Alliance (PNA) of the United States, the largest ethnic fraternal organization in the land, will be celebrating its 100th anniversary on February 15, 1980.

Begun in Philadelphia under the leadership of industrialist Julius Andrzejkowicz, the alliance proposed to unify the many self-help, societal, and cultural organizations of Polish immigrants in various parts of the country.

The basic purposes of the Polish National Alliance, as set forth at its first constitutional convention in Chicago in September 1880, declared that its top priority objectives were:

> To provide protection for Polish immigration;
>
> To provide political enlightenment to the Polish immigrants as citizens of the United States * * *.

Among the landmark achievements of the PNA were:

Formation of an educational department in 1819 to help the youth of Polish origin with scholarships and interest-free loans, to promote and perpetuate the awareness of ethnic values and heritage;

Donating to the Nation the Thaddeus Kosciuszko Monument in Washington, D.C., in 1910;

Founding in 1912 of the Alliance College in Cambridge Springs, Pa.;

Leading the movement in 1929 for congressional enactment of October 11 of each year as Pulaski Day in the United States, by special Presidential proclamation;

Acting as a leading force in the formation of the Polish American Congress, a representative organization of 12 million Americans of Polish origin, to demand justice for Poland as the keystone of European stability and to fight Communist encroachment here and abroad.

Currently, in business and membership terms, the PNA is licensed in 36 States to transact insurance business and conduct fraternal activities; has financial assets in excess of $160 million; and numbers 10th in inforce insurance among the more than 200 fraternal organizations in the United States and 8th in total assets.

Mr. Speaker, I would urge my colleagues to join me in commending PNA today on its centennial observance and for its many achievements and its service to the United States and Polonia.●

OBSTETRIC DRUGS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. BINGHAM. Mr. Speaker, last week I introduced an obstetric care bill which would insure that women would be able to make more informed decisions about the use of obstetric drugs during pregnancy and delivery in order to help prevent injury to their fetuses. Two of the provisions of the bill would require the dissemination of information on the effects and risks of drugs and devices on the health of women who are pregnant or in labor and on prospective and developing children, and provide for a study on the delayed long-term effect on child development of obstetrical drugs and procedures administered to or used by women who are pregnant or in labor. As I said in my statement when I introduced this bill, the fact of the matter is that health professionals have all too little information on the hazards or potential hazards of the use of obstetric drugs and procedures.

The kinds of problems which this bill seeks to address are clearly illustrated by an article which appeared on February 11, 1980, in the Washington Post entitled "Drug for 'Morning Sickness' is Suspected in Birth Defects." It is a story about the controversy surrounding bendectin, a drug widely taken for "morning sickness." The parents of a 4-year-old child and the child himself have sued the manufacturer of the drug because the mother took bendectin early in her pregnancy, and the child was born with multiple deformities. As the article points out, "One charge is the Merrell—the manufacturer—did no premarketing animal or clinical test of safety for the unborn, even though women in the sensitive first trimester of pregnancy were the sole sales target."

I hope my colleagues will take time to read this article, which follows:

[From the Washington Post, Feb. 11, 1980]

DRUG FOR MORNING SICKNESS IS SUSPECTED IN BIRTH DEFECTS

(By Morton Mintz)

ORLANDO, FLA.—Since 1956, an estimated 30 million pregnant women have taken—or have had at hand—a drug mixture for "morning sickness" named Bendectin.

Some gave birth to malformed children. But so did some who didn't take Bendectin to relieve the nausea or vomiting of early pregnancy.

Now, a jury in U.S. District Court is considering whether Bendectin—sold abroad as Debendox—can injure the human embryo.

The question is sharply dividing a parade of internationally renowned expert witnesses, including some who are personal friends and admirers of each other's professional skills.

But even scientists who exonerate Bendectin say a woman usually can get through early pregnancy—the period of simultaneous great peril to the fetus and of nausea—without the drug. Drugs of any kind "certainly" shouldn't be prescribed during pregnancy unless essential, says Dr. Godfrey P. Oakley, Jr., chief of the birth defects branch of the federal Center for Disease Control (CDC) in Atlanta.

Alternatives to Bendectin—listed in the Journal of the American Medical Association in December—include eating dry crackers and, particularly in the early morning, drinking only liquids that are either very hot or very cold.

Whatever the outcome of the trial, the evidence may put a cloud over the manufacturer, Merrell-National Laboratories of Cincinnati, because of several charges of improper practices made and documented by scientists.

One charge is that Merrell did no premarketing animal or clincial test of safety for the unborn, even though women in the sensitive first trimester of pregnancy were the sole sales target. "It is true that no studies were done," Merrell's former medical research director, Raymond C. Pogge, said. Pogge, who invented Bendectin, made a deposition in Casa Grande, Ariz.

The scientists also accuse the company of withholding troubling animal test data from the Food and Drug Administration and of concealing reports on human birth deformities from inquiring physicians.

The trial record also documents that the FDA has never required Merrell to disclose to physicians that adequate safety testing wasn't done. Only recently did the FDA-approved prescribing instructions tell physicians, for the first time, that Bendectin should be used in the first trimester "only when clearly needed."

The FDA approved Bendectin only for the nausea "and" vomiting of pregnancy. Nausea doesn't imperil an embroyo, while vomiting may, the jury was told by Dr. Roger F. Palmer of the University of Miami. Yet Merrell documents show that the company promoted Bendectin heavily just for nausea—a much bigger market than combined nausea and vomiting.

In 1978, U.S. doctors wrote 3.4 million new and refill Bendectin prescriptions—nearly one for each pregnancy. The retail value was about $14.4 million. How many pills were taken is uncertain. In some countries, including Canada, Bendectin is sold over the counter.

In the trial, two of the opposed experts were heroes of the 1960s calamity of thalidomide, the sedative-tranquilizer that caused about 8,000 children in 50 countries to be born without arms, legs, or any limbs at all, and often with other severe congenital malformations.

One is Dr. William G. McBride, an obstetrician-gynecologist and specialist in teratology—the study of birth defects—in Sydney, Australia. In 1961, he established that thalidomide is an extremely potent teratogen capable of causing deformities in perhaps one of five children whose mothers took it in the first 50 days of pregnancy.

Bendectin is a "very low grade" teratogen, meaning that it causes birth deformities rarely, McBride testified last Wednesday. Most of the deformities, he said, are so-called limb reductions in which part of an arm or leg is missing.

Because victims of Bendectin-caused limb deformities, if any, would be very few in number, large-scale, precise testing would be needed to isolate them from the perhaps 3 percent of all children who are born with significant malformations that have no apparent cause.

McBride appeared for David Mekdeci, 4. He was born with a shortened right forearm. Two fingers are missing from his right hand. The thumb is webbed to the forefinger. He has trouble using the whole arm, because the major pectoral muscle is missing. In addition, his breastbone (sternum) is depressed.

David's mother had taken Bendectin in the sensitive period when embryonic limbs develop—approximately 24 to 40 days after conception, McBride calculated. In his opinion, he testified, the limb reduction was caused by the drug.

David and his parents, Michael and Elizabeth Mekdeci, are seeking $10 million in damages from Merrell, a division of Richardson-Merrell Inc., of Wilton, Conn.

Later in the trial, which began Jan. 24 and will continue for a few weeks, Merrell will call its top expert witness, Dr. Widukind Lenz, of Hamburg, West Germany, a pediatrician, geneticist, and friend of McBride.

Lenz, too, has thalidomide credentials. Learning that an epidemic of birth deformities was occurring for the first time, he did the medical detective work that made the connection to the drug. Then he led the fight to halt its sale in West Germany, where it was invented and most widely used. It was never sold here, although the American licensee, Richardson-Merrell, distributed 2.5 million "experimental" pills.

Just what Lenz will say isn't known. In the defense opening statement, however, Lawrence E. Walsh, a director of Richardson-Merrell and a former federal judge and U.S. deputy attorney general, hinted that Lenz will support Merrell's contention that David has Poland's Syndrome, an affliction first described in 1841. It has no known cause.

Walsh also said that David's limb reduction could have been caused by constriction of an artery. Terming Bendectin "safe," he pointed out that Mrs. Mekdeci had taken other drugs in pregnancy. Walsh said the medicines "had an effect on the fetus," but McBride disagreed.

Individual experts aside, Bendectin has had on its side the sister federal agencies, the CDC and the FDA. But the validity of their support has been hit by heavy fire from the plaintiffs' lawyers, mainly Arthur N. Cohen and George A. Kokus, both of Miami, and Allen T. Eaton of Washington.

The CDC, as part of a broad birth-defects survey in Atlanta, gathered some data on Bendectin, among other drugs. A special computer run on Bendectin yielded data that seemed to clear it, although no effort had been made to find out if mothers of children with limb reductions who had taken Bendectin had done so in the critical period for limb development.

The Journal of the American Medical Association (JAMA), learning of the Bendectin data in a phone call to Dr. Jose Cordero of the CDC's birth-defects branch, published the results last Dec. 7. there was "no indication that use of (Bendectin) leads to limb abnormalities," JAMA concluded.

The article was intended partly to overcome fears generated by the National Enquirer, which is seen by millions. On Oct. 9, it carried a Bendectin story under this heading: "Experts Reveal . . . Common Drug Causing Deformed Babies." One of the fears was that large numbers of women would seek needless abortions.

But plaintiffs' lawyers obtained a Dec. 20 letter in which Cordero, upset by the JAMA article, told the American Academy of Pediatrics that the Bendectin data were "very preliminary and should not be considered definite result." At this time, he wrote, "a statement that our study exonerates Bendectin as a cause of birth defects is not a completely accurate statement."

The FDA's associate director for new drug evaluation, Dr. Marion J. Finkel, prepared a statement on Bendectin in 1977 and affirmed it last week. "There is no evidence of any risk due to Bendectin," the statement says.

Her sweeping exoneration was based in part on monitoring of birth defect reports. Only 190, including 88 limb reductions, were known to the FDA. The numbers are so small, in view of the enormous use of Bendectin, as to be virtually meaningless. The company—and many scientists—believe, in addition, that limb deformities are the most likely ones to be reported.

But the plaintiffs' lawyers say that the FDA and the company know of only a fraction of the true number of deformities, partly because both have virtually excluded the possibility of a cause-effect link, partly because of vast underreporting of adverse drug reactions generally, and partly because Merrell had misled physicians who did report defects in children of Bendectin mothers. They also said that the National Enquirer article, which mentioned Dr. Palmer, brought him 30 additional reports of limb deformities in children of mothers who say they took the drug.

Perhaps most importantly, the lawyers say, an FDA computer printout on drug-associated birth defects shows a proportion of limb reductions for Bendectin greatly exceeding that for any other drug. The FDA sells the printout for $50, but Merrell didn't buy one, the lawyers say.

The FDA's Frinkel also relied on the medical literature, the CDC and studies of animals and of groups of women who had taken Bendectin.

Take the Merrell studies—triggered by the thalidomide disaster—in rats and in rabbits, which are closer to man.

The rat tests gave no indication that Bendectin is a teratogen. As for the rabbits, they, for lack of accommodations, were left outside in the cold, and all but two died. The litters of the survivors were free of drug-related deformities.

Did a test in two rabbits "have any value in establishing whether . . . Bendectin was teratogenic?" Merrell science executive Dorsey E. Holtkamp was asked last June "No," he admitted. But a Merrell vice president, Robert H. Woodward, cited the happy result to the "entire Merrell sales force" in a Jan. 10, 1963, status report on teratologic testing.

Dr. Holtkamp, aware that a new try had to be made, assigned the task to Dr. Robert E. D. Staples, a teratologist. The results raised a strong enough possibility that Bendectin caused birth deformities—in rabbits—that Staples recommended further tests with higher doses.

Merrell should have told the FDA about Staples' data, according to plaintiffs' scientific experts who analyzed his report and the workbooks on which it was based. And retired FDA pharmacologist Frances Da Costa, who cleared Bendectin in 1968, testified that had she known of the report she would have urged Bendectin's removal from the market or addition of a strong warning to the official label.

The University of Miami's Palmer testified that the Staples report obligated Merrell to alert physicians and the public and to seek to curb Bendectin usage.

Wayne State University's Dr. Alan K. Done testified that the report and other evidence persuaded him that Bendectin is a teratogen in humans. Agreeing, Dr. Beverly Paigen of Roswell Park Memorial Institute calculated that "the drug is a suspected teratogen" that, taken in the first 40 to 50 days of pregnancy, could cause "approximately five malformations per thousand women."

In marked contrast to all of this was Merrell's actual conduct. Staples' boss, Holtkamp, in an internal memo, minimized—inaccurately, Palmer says—the study findings. Holtkamp, who unlike Staples, isn't a teratologist, said in a sworn deposition that he doesn't believe to this day that thalidomide caused birth defects.

No report was made to the FDA, no alert was given to doctors or the public. And vice president Woodward, who had told Merrell salesmen of the test in two rabbits, did not tell them of Staples' test in 82 rabbits.

Three or possibly five years later—it isn't clear which—Holtkamp and others in the company sent to the FDA what plaintiffs' lawyer Kokus described to the jury as a "cleaned up" version of the Staples study. Its conclusion was the Bendectin doesn't cause birth defects in rabbits.

That was a misrepresentation of the Staples data, Drs. Palmer and Done told the jury.

As to the clinical studies relied upon by the FDA and the company, the plaintiffs' witnesses found serious flaws in all of them. One common criticism was that they included disproportionate numbers of women who has taken Bendectin after the sensitive period for limb development had passed. Another criticism was poor records.

But the company will bring out contrary views when it puts on the witness stand some of the eminent scientists who did the studies, including Finland's O. P. Heinonen and Britain's Richard Smithells.●

GUATEMALA'S NEXT ON STATE DEPARTMENT "HIT LIST"

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

• **Mr. BAUMAN.** Mr. Speaker, how many times must we see a Latin American ally sold down the river before we realize the damage being done by our own State Department? How many times must we look into the incredulous eyes of the Cubans and Nicaraguans now refugees in our country and try to explain to them why our Government deliberately destroys an ally? When will we understand that this administration is condemning helpless human beings to virtual salvery under the guise of "moderation?"

Let there be no doubt about it: Our Foggy Bottom boys are at it again. Guatemala is next on their "hit list" and they have already put out the word that this populous, prosperous, friendly country is an unhealthy place for investments, and that it is "inevitable" that there will be a dramatic change in government, as in Nicaragua. Now the State Department is sitting on various aid requests from Guatemala, and if the pattern holds true we will soon see armed revolt in the country, a cutoff of U.S. aid to the existing government, encouragement to the rebels, and the triumph of a leftist revolution.

Here is an article from the February 16, 1980 Human Events detailing the latest State Department activity on Guatemala. I urge all my colleagues to read it. You may need it to help prepare excuses to give the upcoming crop of Guatemalan refugees, if Congress is unwilling to stop this latest betrayal of an ally.

STATE DEPARTMENT ACTS TO DESTABILIZE GUATEMALA

Just wnen you're beginning to think the Carter Administration is toughening its stand against the Left in foreign affairs, it commits some fresh outrage. The latest affront: a major effort to undermine the current pro-Western government in Guatemala, even though the Administration acknowledges that a Sandinista-type government may emerge in its place.

At the Executive, Diplomat Seminar held at the State Department on January 15 and 16, businessmen from around the country were briefed in off-the-record conversations by U.S. officials. According to one well-respected participant, who circulated a memo to the firm he works for, John Bushnell, the deputy assistant secretary of state for Inter-American Affairs, virtually kissed off the Guatemalan government.

According to the memo, circulating widely around Capitol Hill last week, Bushnell informed the businessmen that the U.S. had decided to "cool" its relations with the government.

Bushnell contended that the Carter Administration feels that a change in the Guatemalan government, similar to the changes that have taken place in both Nicaragua and El Salvador, is inevitable in the 1980s, regardless of what the U.S. might try to do. Any U.S. effort to maintain the status quo could, at best, only "buy time" (reportedly Bushnell's precise words.) Moreover, support could make the final outcome even worse for the United States.

The memo continued: "Accordingly, the U.S. has already begun to 'cool' its relationship with the Guatemalan government and has established contact with moderate opposition leaders."

This "same approach," the memo goes on, "was taken by the U.S. in Nicaragua. In the State Department view, the result has been a much more moderate regime than would have been the case had the U.S. tried to bolster Somoza. Despite the fervent courtship by both Cuba and Russia, the Nicaragua junta has followed a deliberately independent course. On the U.S. vote for Soviet condemnation [for the invasion of Afghanistan], for example, Nicaragua chose to abstain even though the Cubans offered every economic and political incentive to give a pro-Soviet vote."

(Bushnell, apparently, didn't feel it necessary to tell the businessmen that the Nicaraguan abstention—it refused to condemn the Soviets, as did the overwhelming majority of U.N. members—may have been due less to ideological preferences than the fact that the Senate was considering a $75-million aid program to that country.)

The memo also explained: "Bushnell said the junta has learned very quickly to become 'pragmatic' and that even the one member who was trained in Cuba has opposed the acceptance of direct financial aid from Cuba. The junta has accepted 1,500 Cuban teachers and 'technicians' but has so far refused to accept financial aid.

"Bushnell said that if the U.S. takes the same stance of non-intervention in Guatemala that it did in Nicaragua, trade relations should not suffer in the end even if a more centrist or more leftist regime emerges."

Though Bushnell refused to respond to several of our calls intending to get his version of what was said, his office finally referred us for a reply to the Guatemalan desk at the State Department, where we were told the memo contained "wrong information" and that the words had been "twisted" out of context.

But there was no tape, and no one took notes. The woman who helps arrange these businessmen briefings, Mrs. Marie Bland, with the Bureau of Public Affairs, informed us on February 5 that we could get from her the next day the list of all those who attended the Bushnell sessions (since we wanted to get the reaction of many of the businessmen who were there, not just the memo-writer).

But Mrs. Bland told us on the 6th—just prior to our going to her office to pick up the names—that a Barbara Ennis, who, ironically, used to handle Freedom of Information items for the department in 1979 (and still has her finger in that pie)—had intruded to block our request.

Ms. Ennis, according to Mrs. Bland, said that we would first have to get permission to obtain the names from Frank Machak, who is in charge of coordinating the Freedom of Information Act at State. And Machak informed us that we would have to make a written, formal request for the list, with no assurance it would be forthcoming. In short, we were thwarted at every turn by State in finding out who attended the Bushnell briefing.

Thus department "denials" hardly strike us as credible. Indeed, U.S. sources extremely knowledgeable about the Guatemalan government inform us that Viron P. Vaky, the former assistant secretary of state for Inter-American Affairs, virtually told the Guatemalan government last year that the U.S. was withdrawing its backing.

What particularly distresses many about the Bushnell briefing is that, as one U.S. Latin American expert informed us, he was "pulling the plug on the current government." Nothing, he added, could have been more deadly for the Guatemalans, for what Bushnell was doing, in effect, was scaring away American investment, deliberately turning off American capital—a vital part of the growing Guatemalan economy. Moreover, he added, the Bushnell briefing came more than two weeks before the Guatemalan assault on the Spanish Embassy, and thus that explosive incident cannot be used as the excuse for our "get tough" policy.

With the U.S. acting to cut off investment by sending out dampening signals to the business community, it is remarked, the State Department's assertion that the current Guatemalan government can't last becomes nothing less than a self-fulfilling prophecy.

While Bushnell's remarks are being denied, less than three weeks following his controversial briefing, the department's George F. Jones, director, Office of Regional Political Programs, Bureau of Inter-American Affairs, sent a letter to Scott Faulkner, a top aide to Rep. John Ashbrook (R.-Ohio) revealing that his department has been sitting on 16 requests for "military" items made by the Guatemalan government, many of them made early last year.

Most of the requests are for spare parts to keep their aircraft in working order, but there are other, less "onerous" desires of the government as well. On September 24 of last year, for instance, the Guatemalans asked for permission just to participate in an aircraft engine improvement program to prevent crashes and grounding, but that hasn't been acted on either.

On October 2, the Guatemalan ambassador to Panama, also a lieutenant colonel in the Guatemalan Air Force, asked for permission to take the U.S. Air War College correspondence course, which is routinely made available to officers of friendly countries. But the department, as Jones informed Faulkner, is still "considering" these requests.

Department officials will not admit there is a campaign against Guatemala, but they do acknowledge that military sales to Guatemala are drastically down. The Fiscal Year 1981 budget, moreover, excludes funds for IMET, the International Military Education and Training Program used to provide professional level officer training and some helicopter pilot training.

In persuading the State Department to approve IMET funds for Guatemala last year—which the Congress turned down (providing the department an excuse why it isn't approving IMET funds for Fiscal 1981)—the Pentagon told the department: "The U.S. security assistance program for Guatemala, the most populous and economically important Central American nation, is an important element in our bilateral relations. The Guatemalan military, the dominant political force in the country, has traditionally looked to the United States for equipment, training and doctrine. Our security assistance program helps foster cooperation with that country."

But the State Department, in its efforts to "cool" our relationship with Guatemala, is withdrawing support for IMET this year.

Why is Guatemala taking a beating? A State Department official intimately familiar with policy tells HUMAN EVENTS that "human rights" is a major factor in determining whether to approve military sales, and that Guatemala suffers from "a human rights problem."

Ironically, we were told this at almost the precise moment the department had released its human rights report for 1979 on all United Nations members. Guatemala, for all its supposed faults, seems to rate high with the department's scorekeepers. For instance, the report on Guatemala says that "Guatemalan politics have been dominated by the military within a constitutional framework providing for regular elections and civilian control below the top level. Opposition parties contest elections, hold rallies, have access to the media and hold seats in the national and municipal assemblies.

Newspapers and the electronic media "frequently criticize government officials and policies without censorship or retaliation," and "There are no political prisoners." Courts are "independent of executive or military control," and the "economy is healthy in macro-economic terms. . . ."

What the Administration is doing to Guatemala, we fear, is precisely what happened in Nicaragua, where, despite Administration efforts to put a pleasant face on the situation, the Sandinistas are vigorously pursuing a Marxist course. When we withdrew support form Somoza, he collapsed, and the virulently left-wing Sandinista movement, which was hatched in Havana back in 1962, took over.

Guatemala is faced with a leftist guerrilla movement as well. As we reported last (July 14 issue, page 1), the Cubans have been actively trying to get the three major guerrilla groups in Guatemala to cooperate closely to bring down the government. And now, through the State Department's destabilization efforts, they might well accomplish their aim.

If so, the key nations in Central America—Nicaragua, Guatemala and Panama—will be in the hands of the pro-Cuban Left. Things have come quite far from 1954 when John Foster Dulles furnished aid to anti-Communist Guatemalans who successfully staged a coup against that nation's leftist leader, Jacobo Arbenz.●

GOLD MEDAL FOR CANADIAN AMBASSADOR

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. EVANS of Delaware. Mr. Speaker, I strongly support H.R. 6374, legislation to authorize the presentation of a gold medal to Ambassador Kenneth Taylor of Canada in recognition of his valiant efforts on behalf of six American Embassy officials in Tehran. Hearings on this measure were held in the Consumer Affairs Subcommittee of the full Banking Committee last Friday, and as the ranking minority member of the subcommittee, I can tell this House that it has received unanimous support from our members.

The presentation of a gold medal to Canadian Ambassador Taylor represents more than just an honoring of one individual. This medal is a symbol of the gratitude of the American people to the Canadian people for their support during this trying period in our Nation's history. Over the past 101 days since our hostages were taken by Iranian hoodlums, I have repeatedly expressed my concern that our allies in the world are not doing enough to help us secure the release of 50 of our citizens. Canada, however, has shown just what true friendship and loyalty really mean. If there is any good that has come out of this tragic situation involving the hostages, it is that the United States is finding out just who are our real friends. Canada obviously has shown itself to be a true friend of ours with their courageous action.

By hiding the six Americans and then spiriting them away under the noses of the Iranians, Ambassador Taylor placed himself and his own Embassy personnel in dire peril, which is the true test of friendship. The American people owe a great debt of thanks to Ambassador Taylor, other Embassy personnel, the Government of Canada and the Canadian people for this act. This medal is a small but significant representation of that debt which hopefully will not be forgotten by any of us.●

HANDGUN BODY COUNT TOTAL FOR 1979: 7,706 DEAD

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. DRINAN. Mr. Speaker, during the month of December 1979, 611 Americans were killed by handguns, bringing the total for last year to 7,706. This handgun body count is a list of media-reported handgun deaths from cities and towns across the Nation compiled by Handgun Control, Inc.

The FBI's yearly report, Crime in the United States, showed that total handgun homicides in 1978 numbered 9,170 which represents 49 percent of the country's 18,714 murders. These figures indicate a 1-percent increase over 1977 levels. Handgun use in crimes is clearly widespread, demanding that effective legislation to remedy the situation be passed into law.

Senator EDWARD KENNEDY and Congressman PETER RODINO have introduced the Handgun Crime Control Act of 1979 to confront this dangerous national problem. Throughout the past year I have inserted the roll of handgun dead to illustrate the proportions of the dangers we face. I urge my colleagues to support this new legislative effort, and contribute to putting an end to the misuse of handguns.

The handgun body count compiled by Handgun Control, Inc. follows:

ROLL OF HANDGUN DEAD

ALABAMA

Diane Bagman, Talladega; Wally Dalrymple, Albertville; Thomas Fritz, Prichard; Willie Harris, Prichard; Kenneth Henderson, Dora; James Lemley, Calera; Jacob Long III, Huntsville; Barry Martin, Center Point; Terry McBride, Tuscaloosa; Julius McCanty, Talladega; Joe Morris, Sr., Prichard; Randy Parks, Saraland; Earnest Robinson, Calera; Jim Rodgers, Mobile; Gerald Taylor, Birmingham; Lowell Thomas, Bessemer; and Charles Walker, Saraland.

ALASKA

Charles Rubey, Anchorage.

ARIZONA

Anthony Delahanty, Vamori; Randall Falk, Prescott; Alecia Taylor, Phoenix; Alex Thomas, Phoenix; and Alejandro Torresillo, Phoenix.

ARKANSAS

Bobby Barrow, Marvell; C. J. House, Center Point; Loretta Russell, Devalls Bluff; Wanda Turnbow, Jonesboro; Gary Wilson, Cabot; and Cecil Worring, Stuttgart.

CALIFORNIA

Joseph Allen, Loma Linda; Ala Alroomi, Monterey; Jesus Alvarez, Los Angeles; Elke Anderson, San Gabriel Valley; Sheri Averhart, Orinda; Vernon Avery, Los Angeles; Glendell Banks, Los Angeles; Ernest Blair, San Jose; Shirley Bowman, Ojai; Irene Bracci, Bel-Air; Thurman Brooms, Bel-Air; Lawrence Campbell, Baldwin Park; Charles Caraway, Inglewood; Donald Chavez, Redlands; George Corbett, Oakland; Armendo Crespo, Inglewood; Carlos Delgado, San Bernardino; Kenneth Frederick, Los Angeles; Cesar Garcia, Pacoima; and Sandra Bjevre, San Jose.

Michael Goerney, San Francisco; Albert Gonzales, Riverside; Pedro Gonzalez, Glendale; Joh Hall, North Hollywood; Ella Hamilton, San Pedro; Oren Hankins, Jr., Orinda; Michael Hatchedourian, Beverly Hills; Robert Henkens, Compton; John Hierro, Pacoima; Richard Holley, Pomona; Maurice Ibarra, Santa Ana; Rudy Jimenez, Visalia; Roosevelt Jordan, East Palo Alto; Paul Joses, Nevada City; Fred Karsch, Los Angeles; Gregory Kyker, Cathedral City; Michael Lane, Whittier; Barbara Lasanko, Orinda; Shelby Lewis, Lake Elsinore; and Roosevelt Lewis, Los Angeles.

Alfred Lopez, El Centro; William Lub, Magalia; Debra Manning, Goleta; William Massa, Pacifica; Richard Mazzoni, Ontario; Gregory McAndrew, Sacramento; Julius McLemore, Long Beach; David Medina, El Monte; Patrick Milligan, Sacramento; Lewis Mitchell, Inglewood; Ignacio Mojarro, Fresno; Marcial Macal, San Francisco; Robert Murray, Pomona; Robert Offerman, Goleta Valley; Oscar Penn, Inglewood; Lucien Peters, Auburn; Herman Pierce, Seal Beach; Mary Ann Pierce, Seal Beach; Arlene Pozmanski, Thousand Oaks; and Hayward Richardson, Los Angeles.

Pablo Roman, La Belvedera; Dennis Rougley, Rubidoux; Juan Salgado, Redwood City; Miguel Sanchez, Carson; Curtis Seaton, Olivehurst; Richard Shepard, Oroville; Gilbert Sherrill, Chico; Margarite Smith, San Francisco; Lanny Stevenson, Fresno; Lonnie Stevenson, Oakland; James Swilling, Auburn; Russell Thompson, El Monte; Harry Turner, Compton; Danny Valdez, Paramount; Jesus Valdez, Parlier; Dennis Washington, Lennox; Katherine Zaruba, San Gabriel Valley; Alice Whatley, Tracy; Unidentified male, Hawthorne; Unidentified female, Inglewood; Unidentified male, San Francisco; Unidentified male, 18, Los Angeles; Unidentified male, 20, Los Angeles; Unidentified female, 26, Los Angeles; and Gloria Acronico, Los Gatos.

COLORADO

Eliot Albeke, Littleton; Richard Alver, Greeley; Edward Benavidez, Milliken; Paula Boes, Denver; Helmer Brown, Denver; Michael Cunningham, Denver; Alcario Herrera, Denver; Robert Jackson, Jr., Littleton; Ernest Lopez, Englewood; Clarence Lovejoy, Englewood; Michael Mulhern, Estes Park; Scott Pettys, Boulder; Edward Steinbach, Littleton; Dennis Wagner, Orchard; Walter Wolford, Monte Vista; Unidentified Male, Denver; Unidentified Female, Jefferson Co.; and Unidentified Male, Jefferson Co.

CONNECTICUT

James Lennon, Darien; Basil Rochester, Hartford; Delas Smith, New Haven; and Unidentified Male, Hartford.

DELAWARE

Susan Layton, Seaford.

DISTRICT OF COLUMBIA

Gerald Adler; Daniel Holmes; Jerry Hood; and Boo Park.

FLORIDA

James Branham, Daytona Beach; Marlene Combs, Jacksonville; Ben Fetch, Deerfield Beach; Bonnhome Grisson, Satellite Beach; Robert Grisson, Satellite Beach; Rudolbo Lopez, Miami; Joe Milstead, Pensacola; Teddy Sarchet, Tampa; Claude Smith, Miami; Walter Thomas, Jr., West Palm Beach; Cheryl Williams, Miami; Johnny Williams, Fort Lauderdale; George Wright, Orlando; Unidentified Male, Customer, Zellwood; Unidentified Male, Bartender, Zellwood; Unidentified Male, Tampa; and Unidentified Male, Miami.

GEORGIA

Bennie Amick, Savannah; June Bell, Savannah; John Brooks, Danielsville; Irvin Cook, Atlanta; Ralph Cooper, Ochlochnee; Lillie Gassett, Lyons; King Grimmett, Atlanta; Jessie Hagler, Dublin; Willie Johnson, Brunswick; K. C. Joiner, Atlanta; William Lane, Atlanta; Mercedes Masters, Lithonia; Raymond Middlebrook, Atlanta; Joel Parker, Dekalb County; Louise Parker, Dekalb County; Sylvester Ricks, Blakely; Jimmy Salter, Norman Park; and Unidentified Female, Atlanta.

HAWAII

William, Kema, Honolulu; Pua Rogers, Honolulu: and Dai Yuen, Honolulu.

IDAHO

James Haymes, Coeur D'Alene; Waleed Mahmoud, Burley; and Yousef Manassera, Burley.

ILLINOIS

Nezhal Arifoski, Chicago; Anita Caradine, St. Louis; Elivone Desir, Chicago; Reyes Fernandez, Aurora; Frank Gesnik, Chicago; Wayne Harris, State Park Place; Jesse Hollen, State Park Place; Samuel King, East St. Louis; Joseph Lukey, Glenwood; Minoka Lukey, Glenwood; Dwaine Miller, Chicago; Rueben Mitchell, Chicago; Michael Moore, Cahokia; Alfredo Perez, Aurora; Betty Quinn, Chicago; Visente Ramirez, Calumet City; Harland Randle, Chicago; Lynn Shannon, Chicago; Lee Strong, Chicago; Howard Tracy, Cahokia; Yvette Twillie, Chicago; and Jimmy Williams, Chicago.

INDIANA

Robert Atkins, Michigan City; John Birdsell, South Bend; Tommy Branham, Indianapolis; Dennis Hurt, Kokomo; Karen Johnson, Indianapolis; John McEntaffer, Wolcottville; Sandra Meredity, Rockport; John Owens, Kingsford Heights; Sylvester Pathe, Jr., La Porte; William Rodgers, Evansville; Doris Scott, Indianapolis; James Stuteville, Rockport; and Robert Winrott, Mishawaka.

IOWA

Stephen Fullam, Davenport; Floyd Hansen, Sioux City; James Herschberger, Lynnville; Robert Herschberger, Lynnville; Daniel Kriegel, Grinnell; Dawn Kriegel, Marengo; and Ralph Zaug, Davenport.

KANSAS

James Curnutt, Overbrook; Wesley Parker, Wichita; Warren Smith, Topeka; and Sam Zollicker, Lawrence.

KENTUCKY

Henry Chambers, Jr., Pembroke; Claude Cooper, Lexington; Charles Hedrick, Lexington; Ford Jackson, Caldwell City; Christine Kent, Bowling Green; Geneva Redden, Caldwell City; James Tregoning, Shrewsburg; Finley Trusty, Lexington; and Tyrone Turner, Lexington.

LOUISIANA

Diana Baehr, New Orleans; Terilyn Blutcher, Baton Rouge; Vonda Bradford, Shreveport; William Brown, Tangipahao Parish; Alfred Carter, New Orleans; Louis Coleman, New Orleans; Camille Couviellier, Jr., New Iberia; Clarence Crawford, Slidell; Vincent Crawford, New Orleans; Roy Dominick, New Orleans; Wiseley Ford, Shreveport; Joseph Gary, New Orleans; Lonnie Grant, Shreveport; Jessie Hall, Jr., Baton Rouge; Willie Hamilton, Bunkie; Michael Hardaway, Delhi; Richard Henee, New Orleans; James Howlett, Jr., New Orleans; Edward Hurlic, Shreveport; and Earline Kidner, Gretna.

Wilson Kilburn, New Orleans; Edmond Leblanc, Westwego; Clarence Lee, Jr., New Orleans; Harry Lucas, New Orleans; Keith McAlister, Livingston; Robert Phillips, Baton Rouge; H. R. Prince, Homer; Rose Mary Randolph, New Orleans; Gary Rivera, Westwego; Wilton Roy, Carencro; Lela Scott, Wisner; Walter Scott, Wisner; Vernon Sellers, Shreveport; Raymond Singleton, Cut Off; Willie Taylor, Denham Springs; Lurinze Terrell, Shreveport; Dale Thompson, Jonesville; Wendell Tillett, New Orleans; John Turner, Scotlandville; Roberta Tynes, Amite; Jerry Watland, Hammond; and Thomas Williams, Westwego.

MARYLAND

Elsie Brown, Suitland; Rodney Byrd, Baltimore; Lawrence Cherry, Baltimore; Denise Dorsey, Baltimore; Charles Ellis, Baltimore; Laura Garland, Baltimore; Edwin Glass, Baltimore; Larry Johnson, Woodlawn; James Mann, Baltimore; Avalon Trevor, Baltimore; Din Wang, Bethesda; Unidentified Male, Baltimore.

MASSACHUSETTS

Phillip Bowden, Dorchester; Earl Brittle, Boston; William Peachey, Boston; Richard Roberts, Milford; Thomas Stoner, Salisbury.

MICHIGAN

Dante Cardella, Detroit; William Lloyd, Detriot; Donald Meadows, Detroit; Richard Wilson, Detroit; Billy Springman, Kalamazoo.

MINNESOTA

Steven Anderson, St. Paul; Alvin Columbus, St. Paul; Paul Javin, Rochester; Deloris Ricke, Faribault; Virgil Ricke, Faribault; James Stapek, Minneapolis; Edward Vizenor, Minneapolis; Frank Wilkey, Rochester; and Kathleen Wilkey, Rochester.

MISSISSIPPI

James Stogner, Tylertown.

MISSOURI

John Baker, Alton; Leroy Bolton, St. Louis; Harold Boyles, Jr., St. Louis; Samuel Branson, Jefferson City; Jackie Briscoe, Kansas City; Charles Carson, Kansas City; Douglas Downs, St. Louis; Charles Dyson, St. Louis; Judith Elsea, St. Louis; William Graham, St. Louis; Daniel Hall, Lonedell; Johnnie Harris, St. Louis; Booker Holmes, Jr., St. Louis; Larry Hurd, Springfield; Louis Hutcherson, St. Louis; Gregory Kribs, St. Louis; Andrew Morgan, St. Louis; Brian Nuckols, Kansas City; William Perkins, Kansas City; Lance Reese, St. Louis; Derrick Richardson, Berkeley; Don Rutledge, Jefferson City; George Severson, St. Clair; Bennie Simmons, St. Louis; Emery Spruell, Hillsboro; Charles Stiers, Fulton; Bonnie Thiel, St. Charles; Andre Townsend, St. Louis; and Betty Ward, St. Louis.

MONTANA

Jeannine Dell, Billings.

NEBRASKA

John Howard, Alda.

NEVADA

Danny Bahr, Las Vegas; Kathleen Davis, Las Vegas; Steven Dilsworth, Elke County; Dori Groves, Las Vegas; John Lewis Harris, Las Vegas; Norman Haynes, Reno; William Monday, Las Vegas; Darrell Shumpert, Elko; and Michael Whitten, Reno.

NEW JERSEY

Harry Blume, Newark; Therwood Bryant, Newark; Vincent Falcone, Margate; Jose Irizarry, Trenton; Matilda Irizarry, Trenton; Brian Ison, Newark; Wilbert Jones, Asbury Park; Anthony Lordi, Newark; Alfreda Medina, Newark; Humiliana Palacios, Linden; Anthony Pecca, Lindenwold; Nancy Sherman, Hackensack; Raymond Stoepker, Passaic; Warren Stuckey, Newark; Debra Turner, Newark; Lance Vanderveen, Neptune Township; and Anthony Waring, Jersey City.

NEW MEXICO

Fidel Archuleta, Albuquerque; Larry Blevins, Bloomfield; Gary Brymen, Grants; Katie Fowler, Farmington; Andrew Goodridge, Albuquerque; Abel Gonzales, Carlsbad; Glen Merson, Hobbs; David Morgan, Farmington; and James Stuckey, Albuquerque.

NEW YORK

Paul Colette, Brooklyn; William Comas, New York City; Willie Floyd, Brooklyn; Robert Fuller, New York City; Robert Halstead, Brooklyn; Sam Hollingsworth, Hunt Point; James Johnson, New York; Carol Lombardi, East Setauket; Donald Lombardi, East Setauket; Solomon Mendoza, New York City; Carol Mersing, New York City; Freddie Monserrate, Bronx; Claude Mullings, New Rochelle; Jeffrey Parker, Queens; Eartha Ray, New York City; Larry Ray, New York City; Pedro Reyes, Bronx; Jon Salvia, Queens; John Samuels, Brooklyn; Ian Shaw, New Rochelle; Gino Todaro, Brooklyn; Michael Walker, Brooklyn; David Williams, Syracuse; unidentified male, Bronx; unidentified male, East Harlem; unidentified male, Manhattan; and unidentified male, Manhattan.

NORTH CAROLINA

John Cashion, Avery County; Winnie Cameron, Timberland; Robert Coffey, Caldwell County; John Coley, Ramseur; Robert Lanier, Candor; Harry McAlister, Winston-Salem; Calvin Moore, Durham; William Moreland, Charlotte; Emmitt Morris, Havelock; Richard Phillips, Gastonia; Harold Richardson, Lexington; Arnie Roberts, Stoneville; David Staubaugh, Charlotte; Eugene Thornton, Durham; James Ussery, Candor; Charles Whitted, Warsaw; and unidentified male, Goldsboro.

NORTH DAKOTA

Paul Sheeler, Dickinson.

OHIO

Norman Banks, Cleveland; Mark Gillman, Cincinnati; William Hadley, Columbus; Howard Hossler, Cleveland; Michael Jacob, Mentor; Clayton Johnson, Columbus; Vernon Little, Columbus; S. L. McCall, Cleveland; Josephine McCune, Randolph Township; Lavelle Middleton, Toledo; Nancy Mitchell, Springfield; Andre Oxner, Springfield; Wendy Petway, Cleveland; Robert Smith Jr., Westerville; John Stretcher, Springfield; Willie White, Cleveland; Michael Whittenburg, Madison Twp.

OKLAHOMA

Junie Anderson, Sapulpa; Curtis Armstrong, Oklahoma City; Jimmy Averitt, Lawton; Douglas Clark, Lexington; Willie Dempsey, Tulsa; Shannon Eastwood, Boswell; Edith Fowler, Tulsa; Veda Fronabarger, Okmulgee; Jimmy Fry, Lawton; Robert Hatfield, Enid; Joseph Hawkins, Tulsa; Esther Holt, Henryetta; Theresa McDaniels, Tulsa; Bobby Miller, Altus; Charles Miller, Sr., Idabel; Marcie Montgomery, Tulsa; Glen Noah, Battiest; Marvin Peck, Oklahoma City; Janice Prober, Norman; Jackie Sams, Tulsa; Cleo Smith, Henryetta; Annetta Turner, Colbert; William Wilbanks, Oklahoma City; and Calvin Vickers, Oklahoma City.

OREGON

John Akers, Clatsop County; James Clayburn, Grants Pass; unidentified male, Portland; and Richard Lobek, Eugene.

PENNSYLVANIA

Mac Clark, Philadelphia; Herschel Crosswell, Philadelphia; Michael Fells, Harrisburg, Dwang Harrison, Camden; Joseph Hoyman, Chester; Ronald Hayman, Monroeville; Peter Levato, Westmoreland County; Franklin Rineer, Jr., Lancaster; William Ross, Philadelphia; Mark Sasser, Phoenixville; Roy Simmons, Philadelphia; unidentified male, Philadelphia; and Derrick Rhodes, Beltzhoover.

RHODE ISLAND

Gina Dilorenzo, Johnston.

SOUTH CAROLINA

John Adams, Anderson; Joe Feaster, Greenville; Mary Hall, Batesburg; Jack Hollis, Beaufort; Mabel Hollis, Beaufort; David Irick, Columbia; Elizabeth King, N. Charleston; Jane Tuescher, North Charleston.

SOUTH DAKOTA

Mark Frank, Huron and Maurice Johnston, Sisseton.

TENNESSEE

Gary Anderson, Knoxville; Calvin Bohanon, Memphis; Jessie Bratton, Denver; Bessie Brown, Burns; Carol Cardwell, Sevierville; Louise Cook, Knoxville; Lester Cross, Memphis; Victor Drake, Memphis; Laura Dunlap, Knoxville; Sadie Hurd, Nashville; Joe Kelley, Memphis; Janet Lane, Jonesboro; Donald Manning, Jr., Memphis; Annie McCray, Memphis; Andrew Moates, Chattanooga; Alvin Novem, Denver; Gerald Overby, Sevierville; Roger Schmidt, Memphis; Martha Shell, Knoxville; Shirley Sledge, Memphis; Paul Steifer, Marion; Frank Thames, Lonsdale; Milton Thompson, Union City; James Utley, Nashville; Neal Weary, Jr., Memphis; Edna Williams, Memphis; Jerry Williams, Memphis; and Willie Young, Memphis.

TEXAS

James Allsup, Houston; William Allsup, Houston; Virginia Allen, Houston; Neil Anderson, Commerce; Carl Baker, Austin; Robert Battle, Blossom; Howell Benthall, McAllen King Bradford, Dallas; Earl Brown, Corsicana; Rawland Brown, El Paso; Randall Burdette, Houston; Francisco Bustos, San Antonio; Elizabeth Butler, Texarkana; Tommy Byrd, Houston; David Calamaco, San Antonio; Wenceslao Carillo, Lubbock; Carl Clanton, Big Spring; William Clay, Fort Worth; Emilio Cuevas, Dallas; and Francisco Doimeadios, Houston.

Virginia Doimeadios, Houston; Frank Dove, Fort Worth; Carl Durwin Ensey, Nassau Bay; Cirilo Garay, Fort Worth; Valentine Garza, Dallas; Rogelio Gomez, El Paso; Willie Hafford, Fort Worth; Donaver Hanna, Arlington; Thomas Herring, Mesquite; Patricia Hollenbeck, Plano; Terry Johnson, Denton; Aaron Jones, Dallas; Napoleon Jones, Grand Prairie; Ben Kennedy, Jr., Killeen Archie Ladell, Paris; Sirildo Lerma, Crystal City; Marcelino Mendoza, San Antonio; Dolly Mckinney, Lavaca County; Edna Nelson, McKinney; and Robert Olson, Seabrook.

Wilburn Owens, Clarksville; Lucio Quevedo, San Antonio; Elbert Reed, Houston; James Reger, Mercedes; Ranessa Rodden, Talco; Juan Rodriguez, San Antonio; Benjamin Salazar, San Antonio; Cerillo Sanchez, San Antonio; Arthur Sander, Jr., Texarkana; Odie Sapp, Cameron; John Scott, Beaumont; Tommie Scott, Marlin; James Self, San Antonio; Alfredo Sendejo, San Antonio; Bobby Shafer, Kennedale, Horace Stewart, Bryan, Wynne Stewart, Crowley, William Turner, Mineola, Henry Villagran, San Antonio; Jeff Wayne, Dallas; James Wellman, Kemah; Marnell Wells, Nederland; Thomas Wells, Nederland; Billy White, Lasalle; Charlie Williams, Fort Worth; unidentified male, Houston, unidentified male, Houston; and unidentified female, Dallas.

VIRGINIA

Jerry Graham, Fairfax County and George Thomas, Richmond.

WASHINGTON

Steven Allen, Tacoma; Harold Carangan, Seattle; Robert Casses, Tacoma; Larry Duerksen, Seattle; Vernon Enos, Moses Lake; Wayne Murray, Walla Walla; Abdul Rasheed, Seattle; Earl Rasmussen, Pendleton; Donald Williams, Tacoma; and Unidentified male, Illahee.

WISCONSIN

Patti Bernal, Portage; John Braun, Schofield; Curtis Froemming, West Allis; Charles Harmon, Jr., Milwaukee; John Janke, Milwaukee; Charles Jewett, Janesville; Lucretia Tate, Milwaukee; and Glenda Turner, Milwaukee.

WYOMING

Nicholas Auckland, Morton; David Hitchcock, Laramie; and Clyde Kimberley, Green River.●

RENTAL CONSTRUCTION INCENTIVE TAX ACT OF 1980

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. PATTERSON. Mr. Speaker, today I have introduced the Rental Construction Incentive Tax Act of 1980 (RCITA 1980) in an effort to revive our Nation's rental housing construction standstill.

According to the Department of Housing and Urban Development, the country is critically undersupplied with decent, safe, and sanitary rental housing at affordable prices. Unfortunately, this shortage most severely affects those Americans who are least able to find or afford any housing alternative other than renting. Elderly persons on limited incomes and families of modest means with young children have been the major victims.

A recent report to the Congress by the Comptroller General of the U. S. General Accounting Office, entitled: "Rental Housing: A National Problem That Needs Immediate Attention" (November 8, 1979), cautions that:

> (t)he rental housing problem is so severe that it requires the immediate attention of an action by the Congress and the administration.

The report identifies, "low levels of moderately priced new private construction" as a primary factors responsible for this crisis. Condominium conversions and abandonments also contribute to the large shortfall of rental units.

Despite a rental assistance need of over 10 million households, the Department of Housing and Urban Development estimates that only 250,000 households, less than 2.5 percent of the total need, would be assisted in 1979. Our national vacancy rate is projected to dip dangerously below the 5 percent level and in many areas around the country vacancy factor have dropped down near zero already.

The effects of this slump have generated serious problems for the housing and urban environment. These range from overcrowding and structural decay to involuntary dislocation and rent gouging. The press and media abound with horror stories of families forced to live in cars, camping out on local park grounds, and, in some cases, even giving up their children. One wonders whether our national housing goal has all but faded from view.

RCITA 1980 takes aim at the cause of this crisis. It invites the private sector to come to the rescue. RCITA provides tempting rewards in the way of tax savings to those investors who funnel their capital toward residential rental construction. But these incentives will be appropriately restricted to periods and areas of low-vacancy rates.

More specifically, RCITA will permanently extend the current deductibility of construction period interest, fees and real estate taxes allowed by section 189 of the Internal Revenue Code of 1954 for Government-assisted low-income housing and reduce the required amortization period from 10 years to 3 years for units developed in a standard metropolitan statistical area (SMSA) or county where rental vacancy factors have fallen below 5 percent, provided that no less than 30 percent of the units in any such project are reserved for households of low and moderate income and no less than 30 percent of the units are also held open to families with children.

The second major feature of the act would amend section 167 of the code to sharply reduce the allowable capital cost recovery period to 10 years for all new rental housing placed into service within a year after any year in which the area rental vacancy rate was found to be under 5 percent. In addition, it would broaden the category of lower income rental units eligible for the preferential recapture of depreciation treatment now permitted under section 1250.

RCITA 1980 responsibly balances the need for new rental housing with the revenue interests of the Treasury Department. Deductions are carefully limited to those who have invested in places and periods of critical need.

This is a unique and innovative approach in our tax laws. But it is one which respects the true condition and regional variations in the housing market. And moreover, it is a trigger on rental supply which is activated, suspended, and reactivated automatically by the presence or absence of public need.

I would therefore urge that RCITA 1980 be seriously included as a key element in any congressional plan to rescue thousands of Americans from this crisis in rental housing.●

THE TESTING CONTROVERSY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. GOODLING. Mr. Speaker, I would like to share some additional information with my colleagues on the so-called truth-in-testing issue which has been receiving considerable attention recently. Three major developments have occurred within the past few weeks which reinforce the wise decision this past October to postpone further consideration of Federal testing legislation which was made by the Subcommittee on Elementary, Secondary, and Vocational Education, chaired by the distinguished gentleman from Kentucky (Mr. PERKINS).

The first major development was a preliminary injunction against New York State's so-called truth-in-testing law—the model for the proposed Federal testing bill. Federal District Court Judge Neal McCurn ruled that the law would cause the Association of American Medical Colleges "irreparable harm" and should not be enforced until legal challenges to it were aired in court. The medical association has charged that there is a limit to the number of high quality questions that can be asked and that the testing law violated its rights protected under Federal copyright laws. The New York law would have required the disclosure of information about how the standardized tests are formulated and of the actual test questions and correct answers. The injunction applies to the medical college admissions test and apparently the law still stands with respect to all other admissions tests including the scholastic aptitude test administered each year to 1.4 million college-bound individuals.

In another more positive development, the five major publishers of standardized tests for admission to college and professional schools have announced a plan of self-regulation which would include publishing at least one actual test annually in addition to the sample tests that are routinely mailed out. This action is certainly to be commended and is, I feel, an important step toward meeting the concerns expressed by recent calls for truth-in-testing legislation in several States.

Finally, a few weeks ago, the long-anticipated report on standardized testing by Ralph Nader and Allan Narin became available. The major focus of the Nader-Narin study was alleged abuses of the Educational Testing Service, the creator of the scholastic aptitude test. The political nature and obvious bias of that study was lucidly analyzed by Jessica Tuchman Mathews in an essay which appeared in the Washington Post on February 7, 1980. I recommend this article to my colleagues. The article follows:

[From the Washington Post, Feb. 7, 1980]

A MEASURE OF SAT'S

(By Jessica Tuchman Mathews)

The simmering controversy over standardized testing—most especially the Scholastic Aptitude Test taken by nearly 1.5 million college aspirants every year—came to a boil a few weeks ago with the publication of a long-awaited study by Ralph Nader and Allan Nairn. The controversy could affect not only the future of SAT tests, but that of all standardized testing, beginning in elementary school.

Do the SAT tests—one for verbal and one for mathematical aptitude—in fact help college admissions boards make intelligent decisions about which students are best suited to their college? Or do they merely measure a collection of more or less irrelevant skills and social factors, perpetuate class biases and prevent large numbers of capable students from getting a higher education, all as Nader claims?

First it must be said that much of the controversy over SAT stems from confusion over the meaning of what it is measuring—aptitude. The SAT fact sheet now states clearly that it is "a test of developed ability, not of innate intelligence." But in the past this has not been made clear, and too many students have been allowed to believe that the aptitude that is being measured is a natural and immutable, rather than acquired, talent.

The Nader/Nairn report calls SAT "a three-hour gamble which can determine a life's pathway," implying that the results are largely up to Lady Luck. The Educational Testing Service, which creates and scores the tests, claims, on the other hand, that the tests are a valid tool for predicting how well a student will perform in college, as measured by the freshman-year grade-point average. Nader calls this claim "false and unsubstantiated." Who is right?

The answer is that SAT scores do help predict college performance. The extent to which they do is documented by the very evidence presented in the Nader-Nairn report, but concealed in the text. What the text says is that "inclusion of SAT scores in the prediction process improves the prediction of college grades by an average of only 5 percent or less." The truth—of which the report's authors are well aware—is that SAT scores *raise* the accuracy of prediction by five percentage points, but *improve* the accuracy of prediction by 20 percent. Specifically, high school grades alone provide an accuracy of prediction of 25 percent; grades and scores together raise the accuracy to 30 percent—a 20 percent improvement. This type of use of complicated statistics is rampant throughout the report.

Having attempted to minimize the valid contribution SAT scores can make to admissions decisions, the Nader-Nairn study exaggerates the role they do play. It argues that because of SAT scores alone, promising students, especially minority students, are frequently barred from getting a higher education. A great deal is also made of the use of minimum cutoff scores, of how "a single point can be the difference between acceptance and rejection." However, a 1979 nationwide survey of 1,600 colleges and universities reveals that fewer than 2 percent of colleges and universities consider the SAT score to be "the most important factor" in an admissions decision. Only 4 percent of open-door colleges use a minimum cutoff score at all and, when they do, the cutoffs are set extremely low and often waived for older students, veterans, minorities and others deserving of special consideration.

Potentially, the most unsettling claim of the Nader-Nairn report is, "Although test scores do not correlate well with future performance, they are systematically related to the family income of the test-taker." This claim also misrepresents the evidence presented in the study that actually shows that test scores correlate with both future performance (freshman grades) and family income and to about the same degree. A table showing the relationship between students' average scores and their parents' mean income in 1973-74 is prominently featured in the report. On first glance it is frightening, for it seems to show that all one would have to do to determine an individual student's potential for college work would be to discover his parents' income.

However, if the careful reader makes his way to page 203, he will find, discreetly buried in the text, that the connection is far from what the table implies, and that the statistical correlation between score and income is just about the same as the correlation between score and college grade-point average (.4 as compared with .37). Nevertheless, the report concludes that if the tests are valid, "then merit in the United States is distributed according to parental income." (No one, of course, has ever claimed that SAT scores measure "merit.")

What is the point of these attacks on standardized tests? Abandoning them could only force colleges to place heavier reliance on measures that are more subject to social and racial bias, such as the use of "feeder schools" that the admissions board knows well (generally private schools or public schools in wealthy communities), the personal interview or the old boy/old girl alumni network. Nader's personal bias is evident: he would like to see more reliance on "extracurricular activities and community organizing."

The real target seems to be not so much the tests themselves as the system of which they are a minor part: "Social class is viewed as a sad fact of life, but not as an issue," says Nairn. "The controversy over testing makes class an issue." Where has he been? Did he miss the War on Poverty altogether? Somehow, it has come as a surprise to Nader and Nairn that being poor means being disadvantaged in more ways than having a low income.

The aptitude that can be measured after 12 or 13 years of schooling is *not* the native intelligence a student inherits in his genes. It is the product of 17 years of continual interaction, between those capacities and the student's environment—including everything from prenatal nutrition, to conditions in the home, to the quality of the school he attends. If the SATs are sending bad news, it is as much about the system that determines that total environment as it is about the individual student. The news *is* bad—it does not show the progress that was hoped for. But that is all the more reason to keep hearing it.●

MARYLAND'S PATRIOTIC GORE STILL SURVIVES

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. BAUMAN. Mr. Speaker, in recent days a small controversy has occurred in the General Assembly of

Maryland which has now, thankfully, been put to rest. It all began when my good friend, State Senator Howard Dennis of Montgomery County, proposed a bill to change the words of our venerable State song which has served the Free State so well for so long. Fortunately, a committee of the Maryland legislature has rejected this tampering with history and the song will go on.

The noted columnist George Will has recently commented in print on this weighty matter and I would like to share his thoughts with the House. Mr. Will is familiar with many Maryland traditions, including such Eastern Shore delicacies as oysters, crabs, clams and Maryland beaten biscuits—the latter he has said reminds him of the Maryland Republican Party—small and intense.

With all respect to our great Republican President, Abraham Lincoln, whose birthday we celebrate today, I include Mr. Will's column at this point in the Record.

Patriotic Gore

(By George F. Will)

Washington.—Eternal vigilance is the price of preserving just about everything, and a vigilant committee of the Maryland legislature has nipped in the bud a particularly wicked "reform." It has killed the bill that would have stripped "Maryland! My Maryland!" of its status as the state's song.

According to one legislator, if the bill had gone before the whole legislature, there would have been a "bloodbath." Good. Let there be no lukewarmness when traditions are in jeopardy.

The song is based on a poem written by an excitable secessionist after the riot that occurred when Union troops passed through Baltimore in April, 1861.

Twelve rioters and four soldiers were killed. The poem, a hymn to the Confederate cause, begins briskly:

The despot's heel is on thy shore,
Maryland!
His torch is at thy temple door,
Maryland!
Avenge the patriotic gore
That flecked the streets of Baltimore

As a loyal son of the Great State (Illinois), I must admit that the song carries free speech too far: The "despot" referred to is Mr. Lincoln. The patriotic gore was, truth be told, seditious gore: If the rioters had not been bent on secession, Baltimore's streets would not have been flecked with it.

The poem canters along through nine stanzas, each bristling with stuff like:

For life and death, for woe and weal.
Thy peerless chivalry reveal,
And gird thy beauteous limbs with steel,
Maryland! My Maryland!

The poem rises toward truculence (*Thy beaming sword shall never rust*), dips briefly into bathos (*Dear Mother! burst the tyrant's chain, Maryland! Virginia should not call in vain, Maryland!*), then hits an operatic high note:

But lo! There surges forth a shriek
From hill to hill, from creek to creek
Potomac calls to Chesapeake,
Maryland! My Maryland!

After some thoughts about the "crucifixion" of the Maryland soul, the poem roars to a worthy conclusion:

She is not dead, nor deaf, nor dumb
Huzzah! she spurns the northern scum!
She breathes! she burns! she'll come! she'll come!
Maryland! My Maryland!

My goodness. Some of my best friends are Northern scum. Come to think about it, I am Northern scum. The poem and the song are, of course, nonsense. But splendid nonsense.

Leaving aside tasty crabs and tangy politics, Maryland is perhaps most famous for inspiring splendid nonsense, such as John Greenleaf Whittier's poem about Barbara Frietchie of Frederick. According to Whittier, when Stonewall Jackson's troops fired at her Union flag, Ms. Frietchie, age 90, spoke:

Shoot, if you must, this old gray head,
But spare your country's flag, she said.
A shade of sadness, a blush of shame
Over the face of the leader came.
The nobler nature within him stirred
To life at that woman's deed and word.
Who touches a hair of yon gray head
Dies like a dog! March on! he said.

Darn right he did. Oh, some spoilsports say Whittier embroidered the truth, but a bit of such embroidery hurts neither Stonewall nor Ms. Frietchie, nor thee nor me. Indeed, it is good for us when we encounter it a century later.

It preserves, like a butterfly in amber, the colorfulness of our shared past. It is an echo of honest passion in an age singularly short of such. Furthermore, we should find it fun and improving to reflect that we are descended from people for whom the exuberant language of "Barbara Frietchie" and "Maryland, My Maryland!" was as natural as the flattened language of news broadcasts and bureaucracies is to us.

Maryland's song has lost its power to inflame, but it remains instructive. And attempts to sanitize what the past has passed on to us are disloyalties disguised as fastidiousness, disloyalties to our parent, the past.●

HEALTH AND SAFETY LEGISLATION

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. TAYLOR. Mr. Speaker, recently our colleague, the Honorable Joseph M. Gaydos, chairman of the House Education and Labor Subcommittee on Health and Safety, was the featured speaker at a luncheon which was part of the National Limestone Institute's 35th annual convention.

A few months ago, Chairman Gaydos demonstrated his interest in the problems of limestone producers when he and members of his subcommittee journeyed as my guests, to southwest Missouri to view first hand the efforts our producers are expending to insure the safety of their employees as they continue to produce the aggregate so important to the Nation's roads and highway program, as well as to the millions of farmers who spread the limestone upon their fields.

At this time I would like to include the chairman's remarks as well as his introduction by John F. Schmidt, who presided as chairman of the National Limestone Institute's safety committee.

The speech follows:

"Health and Safety Legislation"

INTRODUCTION BY JOHN F. SCHMIDT

Ladies and gentlemen, it is an honor to have as our Luncheon Speaker today a man who has served Pennsylvania's 20th District in the U.S. House of Representatives since 1968. He is a native of Braddock, Pennsylvania, and our speaker graduated from Duquesne University and went on to obtain his law degree from the University of Notre Dame. He previously served the citizens of Pennsylvania as a State Senator and as Deputy Attorney General, as well as being a former General Counsel to the United Mine Workers of America. He presently chairs the Congressional Steel Caucus and is the distinguished Chairman of the Education and Labor Subcommittee on Health and Safety, which has exclusive jurisdiction over the Mine Safety and Health Act and its administration. As Chairman of this Subcommittee, he instituted Oversight Hearings on MSHA this past year at which NLI was the lead-off public witness on June 18th.

Last September, our speaker, along with other Members of his Subcommittee, participated in NLI's field trip to Missouri and observed the operation of both surface and underground quarries. Today, he will address us on health and safety. It is my sincere pleasure to welcome and to introduce to you Congressman Joe Gaydos of Pennsylvania.

CHAIRMAN JOE GAYDOS

Thank you. When you get that kind of a welcome, somebody wants something. I don't know if I can deliver it. John, you give such a very nice introduction, and I'm very happy to be here with all the Directors, your representatives, Officers of the National Limestone Institute, and your good President, Bob Koch. And, of course, I've got my good friend over here, Assistant Secretary Bob Lagather, and all of the ladies that are here today.

I'm going to try to make my remarks off-the-cuff. I do have a prepared speech here. I may refer to it in a little while, but I asked President Koch how long he wanted me to speak. He said, "You make your own mind up." So, let me—if I can—hopefully give you some insight into what is going on here in Washington to make your Convention a little more interesting and try to be as practical as I can. Before I forget, I do want to say something about the Institute. I want you to know I was just giving a so-called pep talk here recently to another group, and in this pep talk was an in-depth explanation of how things work in Washington and of the necessity of an Institute or an association gathering such as this and why it is absolutely essential that you participate. I'm not talking about politics or whether you are Republican or Democrat—I don't care if you're a big or little operation. But, it is absolutely essential today, in the society we live in, that you participate. And an association is the only way that you can effectively participate down here in Washington, D.C.

Participation today is of a high caliber. Your people have to be well-informed; they have to have on their staff experts that accumulate the evidence. They're dealing in a highly technical field. I didn't make the rules—I'm just telling you about the situation in Washington—particularly in the last 20 years—how it has developed. Under the Constitution of this country, you have a right to petition your government, but the best way you can exercise that Constitutional right is through an organization as you have here. Again, I didn't make the rules. Someone asked me at one time, "If our democracy is working, if you have people down there in Congress that supposedly respond to the people's wishes, why do we need to have an organization like this? Why do we have to contribute and raise funds and send lobbyists down there—that highly expensive place, Washington, D.C.? Why aren't you, as an elected Congressman, why can't you and why aren't you capable of dispensing what we say is just under the Constitution—of doing what's right? Why do we have to go down there and give you technical information and background material and send all these lobbyists down there?" It's because of what has happened here in Washington, because things have become so complex and we are in so many different areas all at one time. Things are so complicated. There is such a great need for information upon information, regardless of the computers that we have now engaged to help us. We have to have individual groups analyzing their problem, doing the indepth research and presenting it to us and our staffs. And we have excellent staffs to help us in order to, hopefully, dispense what we call justice through the vehicle of reasonable legislation.

And that is the background creating the situation I believe that you're facing during these two or three days of Convention. I just wanted to make that little observation for your benefit. I've lived in both areas—here and the home atmosphere up in Harrisburg—and I can tell you it's true, it's getting more complicated. And what I'm telling you is becoming more and more pertinent. That's how it is. Those groups and those people who can't acclimate to that requirement are not going to be heard, not going to be the recipient of what can be good legislation here in Washington. And, ultimately, because of their own inaction, they are going to have to suffer the consequences, and the consequences can be bad legislation, oppressive legislation, things you can't live with. Which brings me to my talk.

Some may say that the Federal Mine Safety and Health Act is bad. I don't think it is. We don't want it to be that way, and that's why I have tried to develop—and I think I've been partially successful—a close working relationship with Bob Lagather. He has the responsibility thrust upon him by the Secretary of Labor to administer this Act. I think he's fortunate in one respect that, in administering this Act, he has a lot of well-trained people from the old MESA. People who have been around—I'm not saying they're all perfect, but they are people that are knowledgeable and have an understanding of your Industry. You have some of those people that you can work with—inspectors, administrative people and what have you. There is nothing that is more devastating to interpretation and the enforcement of an act, than when you get what we call a "greenie" in there who doesn't know anything about the situation, and then have him thrust into a position of responsibility in the enforcement area or the administrative area or what have you. Yet those things happen.

But with Bob Lagather, with his background with the Labor Department, and with the people he has now with him, I feel confident—and I think you should share that confidence—that we have in MSHA a good organization, a group of people that at least basically and fundamentally know the history of your Institute and what you stand for and the practical workings out in the field.

Now, at this time I do want to take time publicly to thank, and to thank most sincerely, your representatives who were so good to us on the September field trip to Springfield and Joplin, Missouri—we had Chris Hankin and Randy Rawson. I want to publicly thank these individuals for their cooperation in providing a lot of information to our Subcommittee, in assisting us in getting that trip together, and then ultimately going with us to Missouri. And there was the hospitality that was so graciously given to our Committee—and the patience in taking time to explain things to people that had never been in a limestone mine before. I remember John Griesemer was there, Elliott Potter and Bud McDonald. They went out of their way on behalf of the group as a whole, and in their individual activities, they really showed us what a limestone mining operation is. And they were very careful to make sure we saw everything. The one- or two-man operation—very impressive. I want you to know that, as a government representative, I did appreciate, with all of my colleagues who went on the trip, the attention that was given to us.

As a Floor leader during the House debate when we passed this Act, it was my sincere intention to pass an act which we felt at the time was necessary, and an act which we felt was fair. Now, you and I may differ; experts may differ; practically you may differ. But, I want you to know that in my humble opinion, and I think the general consensus of opinion in the Committee and in circles that I believe are knowledgeable, that this Act can't be disbanded nor should it be torn apart or lessened or made non-operative as far as certain segments of our industrial activity in this country. It can't, and I'll tell you why. The Subcommittee I chair had jurisdiction over FECA, the Federal Employees' Compensation Act, and the Longshoremen's and Harbor Workers' Compensation Act, and a year and a half ago we held Oversight Hearings on them. We considered all its ramifications, and we considered and took testimony relating to a potential or a possible national workman's compensation act. And you know all the experts, all the witnesses were in unison, all concluding that we must improve the safety and the health of the workplace. This includes the new carcinogens that come out on the market every year or so, along with the other thousands that they have listed—the health aspect, along with the safety. If we don't solve safety and health through OSHA and MSHA, we're going to be in very serious trouble because workman's compensation rates are accelerating at an unprecedented rate. And all your insurance companies—not one, but all of them—have indicated that increased safety and health is where the solution is. Nobody but nobody, since those Hearings and up until now, nobody has come up with any other kind of suggestion to solve that problem.

One thing is certain—you are not going to do away with workman's comp. You can't; it's impossible. You'd have a revolution in this country. So, with that type of coverage that's there—you can argue it back and forth, whether it's sufficient, whether it's overly generous, argue any way you want, but the concept is there—you're going to have to face that problem. And it's getting bigger and bigger every year.

I want you to know that I have had excellent cooperation as the Subcommittee Chairman with your representatives. They have been extremely helpful. They have never under any circumstances hesitated by design or otherwise to make available anything that I asked for directly or indirectly. Because of that close cooperation, I think we have put together, after a fashion, a good working team. I can't speak for every Member on that Subcommittee—each comes from a different part of the country or different state and possibly has different thinking on this subject. However, I am in a position to influence schedules; I am in a position to make determinations on whether we have Hearings; I am in a position because of my past service to my fellow Committee Members to let them know how I feel and, to date, I can say this most humbly, yet very proudly, they have responded to me. I have never had any trouble internally. With the close relationship that we've developed with your officers and your representatives, and also with Bob Lagather and his staff and how close they've been and how they've manifested their desire to make this Act work, those are the things that are important to me. I can tell you uninhibitedly and without any qualification that I think that team working together is going to make MSHA a model agency. And if we're going to have to change MSHA, I'm not going to to have any hesitations. I deal with labor and unions every day, and I'm considered one of their greatest supporters. But I know and they know and everybody knows that, if we don't solve the problem which I roughly outlined, talking about workman's comp, health and safety generally, we're not going to have any kind of an institute and you're not going to have a business. We won't have an Industry unless MSHA is working fairly and properly. I think we're going to accomplish that—I know we're going to accomplish it because of the close cooperation we have today.

I believe that the 1977 Act, in all honesty, is a fair Act as we wrote it. But I know that, with theory and practice, gaps and inconsistencies develop. And based upon that observation on our part, I think we do have, and I have to admit it, specifically there appears to be some problematic areas in the implementation of the Act. There are a number of bills that want to go in there indiscriminately and start making some exemptions or exceptions as far as the jurisdiction of MSHA. I think we've been out and out open; I've held Hearings and I am going to continue to hold Hearings. In fact, we've had 14 full days of Hearings on OSHA this last year, and we'll continue them this year. We've had 14 full days on MSHA, and we're going to go and delve right back into the results of all those Hearings and continue again. We've had the Administration in formally and informally; I've been very close with Mr. Lagather, and we're going to continue asking for information hopefully to make our Act work, to work for the benefit of miners and operators. Again, I have to go back and tell you it's because of the danger lurking in the background, almost astronomical costs resulting from your workman's comp, even possibly a new national workman's comp act and changes along those lines.

Now, during the Hearings, I want to just mention very hurriedly that we did hear from some of your representatives here, who did an excellent job. Incidentally, very professional—and I emphasize that very professional. In fact, in all the time I've been here I've never heard more professional testimony—complete testimony—than the people who have represented this Institute. In comparison, some other groups made contentions during those Hearings that a driver of a soft drink delivery truck would have to be provided 24 hours of miner training by the mine operator. That's just not true. I can understand where that concept could materialize, under what circumstances—but it's not true. But, maybe the people here know better, maybe the individuals involved under the misconception know better and our administration knows and your leaders know, but generally throughout the country it's that kind of contention that, once it gets feet, it travels—like lightning—all over the country, and people will state it as fact time and time again.

My colleagues on the Floor of the House will cite it thinking it to be fact. Incidentally, while I'm talking about my colleagues, and again, you have to understand the unique operation here in Washington, D.C. We have the Subcommittee dealing with this specific area, and with problems which were researched by your expert personnel. This Subcommittee knows this subject matter. But remember, when we fan out to the other 429—as there are 6 Members on the Subcommittee—that they aren't as familiar with it. Nine times out of ten, they're tied down and bogged down with so much work in their particular field that, when they hear a contention like this, they accept it as gospel and truth. And they'll take that fact and say it's true and it's bad and be against the Act. So, it's very difficult to be a liaison between a Subcommittee dealing with complicated legislation and the rest of Congress, as you must make information available in capsule form—short, concise—for all the other Members so that they understand despite they're being off on their own tangent, as I mentioned. It's a very difficult concept. So, when we do try to influence our colleagues, we have to be able to be very concise, and that we also have to be very accurate, and that's where your Institute has helped us in many places many times.

We can't even afford to make an accidental mistake—for want of a better descriptive term—because, if we make a mistake, none of those colleagues affected by it will ever believe us again. The same is true when your people make available to the Subcommittee statistics and information and conclusions—they have to and ought to and should be and they better be accurate. Because if they aren't, then your people's credibility falls along the wayside, and nobody listens to them when they come back again on a like subject matter or enlargement thereof, or an altogether different area. So, in checking with that accusation about training for a soft drink delivery man, when Bob Lagather made his testimony, I brought it to his attention as one of the complaints, and he answered it. And he explained that the training for those type of people would merely be a check-list of hazards that he may be exposed to—which could vary with the operation. Some people say such hazards are infinitesimally small and insignificant; however, some facts delay that type of conclusion because some such personnel have suffered substantial injury, and it looks like that at least an acknowledgement that there are some hazards that need to be brought to the attention of the truck driver coming onto the premises is necessary.

Some individuals that appeared before our Committee indicated a misconception that they thought the 1977 Act applied mine safety law to sand and gravel and stone mining operations for the first time, and that prior thereto, that they were subject to the OSHA Act or no act. That's not true. Of course, we've had the Metal and Nonmetallic Act in existence since 1966. The operations have always been under the jurisdiction of some type of a federal administration. And I say again that the old MESA had its good points, I think that we can learn a lot from it; we are learning a lot from MESA and from its operation as it applied to the new Act. I think we'll be in pretty good shape.

During the Subcommittee Hearings, representatives of the mining operators testified regarding certain aspects of the Act and its administration. In other words, they put Bob Lagather right on the frying pan. They said, and I think they were most sincere, that we have to take a second look at how this is working. And Bob Lagather had these items brought to his attention, some he acquiesced in and admitted outright saying, "Yes, that's a mistake. Yes, it's not working; we have to do something about it. We have a study going and we're trying to change it." Others where the accusations were made very hurriedly, he said, "That's not the fact; that's not the truth. Here is where the truth lies." Bob Lagather is about as practical a guy as I've met, and he sits down and he talks with the people, to us and to those who complain. For instance, a lot of the operators said that we need a review of the current procedures for citing violations and establishing penalties, to be more fair about it.

When you get something, don't hide that inspector's statement. If your inspector has a complaint, let us take a look at it. Why should it be secret? Now, you get an inspector in there, he writes up a complaint—why should that complaint not be subjected to the perusal or examination of anybody that wants to take a look at it. No one is going to forge it, erase it or scratch it. Why shouldn't the contents be made available to read as soon as possible to management or their representatives? Doesn't good fairness and common sense dictate that that's how you should approach enforcement, remembering all the time that money taken from a business doesn't go into enlarging that business? A business has to have that money to enlarge their business to make more jobs. Like I tell my union friends, "You don't have a union if you don't have a business first. What are you going to do—unionize yourself? You see, I think its those basic fundamental things that Bod Lagather understands, and I know we're going to have real good cooperation.

I remember, when I was walking around with John Griesemer and the fellows, he showed me an area off to the side. He said, "There on this particular piece of machinery out in the field is a guard. See that guard over there? There is some question as to the sufficiency of the guard on that piece of machinery. But you can't get to it." Now, if you can't get to it and if the guard is there and even though the guard doesn't meet the specifications, I think common sense dictates subjectively that this is a reasonable exception from the general rule which says you have to have sufficient guarding on the machine. I think Bob Lagather, in addressing that particular isolated example, is going to use common sense and will work out some kind of an approach. The law is pretty bad if somebody has to be fined and pay a fine for not having a guard in an area because the guard doesn't adhere to the minimum requirements under an interpretation of a standard when nobody can get to it! I think we could reasonably conclude that there is some approach to that kind of problem that wouldn't be a waste of money.

Witnesses raised other areas of concern. The point was raised that reinterpretation should be made of demonstrated good faith so as to reward the operator for his willingness to come into compliance. Another thing was on-site consultation, which has been addressed by Bob Lagather. There is no great problem with it from the Subcommittee's perspective for I think again we encourage such changes. Some changes have already been put into effect, and I think other changes will be easy to come by. And the operators also requested that more consideration be given to the operators' overall general safety record, and I'm sure that's being addressed.

I want to publicly again acknowledge Bob Lagather's cooperation with me. And, again, that human element that he has so much of, and that is humility and availability. You don't have to be on guard when you're talking, there's no worry that you might commit yourself or say something that's improper. That's the kind of guy Lagather is, and I think more and more you're going to find that's the man he is. He's going to be one of the men that will make this work.

Mr. Lagather has stated on numerous occasions officially in the record and unofficially that he has undertaken a comprehensive review of the assessments system, and a study is about to be released. And he has said to me personally in many instances that he does have deep concern about some of the points, the negligence points and the good faith points and how it works, and something is going to be worked out.

I think I've talked too long already. I want to conclude by giving you an invitation, and particularly through your association, to let our Committee know of your problems. We have here the top officials of the Industry, people that have gone out of their way to discharge their obligations to a company whether in an ownership capacity or in a very highly technical or managerial capacity. You know, you don't shun responsibility. But, I'm giving an invitation to you, from the Subcommittee which I have a right to represent, and I know I speak on behalf of, to write to the Subcommittee. We may not be able to answer you and say that what you say is 100% right or that your complaint is proven to be justified. But, I want to hear from you. And when you're in personally, stop in and see us. It goes beyond saying about your staff and Officers, they have been close with us. And I know they'll continue to be close. We have an open-door policy.

I want you to know that, as long as I am there in that Subcommittee Chairmanship, that the Subcommittee is going to function for the good of all people involved. I'm talking about management, I'm talking about labor and I'm talking about the administration of any act that we have jurisdiction over.

You might not agree with my philosophy and what I conclude after looking at the facts presented to the Committee, or with what I support or what I don't support. But I want you to know that, if we disagree, my position is taken in good conscience, based upon facts. We make sure we try to avail ourselves of all existing facts, at least applying reason and common sense to the facts we have accumulated through the Subcommittee so that our conclusion is a reasonable one. I want you to know that, even though we may differ. The Committee is there for the good of this country and for the good of you individually and for the good of your Institute, which has done so much. And, of course, for the good of close cooperation to make the Act work in its administration.

So, thank you so much. We're going to probably take a couple more field trips. I've been talking to Paul Dwyer, and we are going to see more mines, more aspects of the various operations. We're probably enlarging our breadth of visits—I'd like to visit the Sunshine Mine. If you have any suggestions where we should go, please write to the Committee. We'll take your suggestions under advisement. If it's not too expensive to go there and we can work the schedules out, we'll go. And if you have any particular, specific trouble spots, again I want to emphasize as concisely as I can for you to let us know about them. If you see something that's not working or you're not getting a fair shake, let us know—preferably through your staff because they have access to us much more readily than you. If you don't want to go through your staff, I'm sure they would acquiesce and suggest to you that you're not hurting them if you want to go direct. But, I strongly suggest that through an organization there is strength, and that's where you should go.

Thank you for listening to me, and I think I've expressed my staff's wishes and that of all the other Members on that Committee, and that is that we look forward to continuing to work with this group and other groups providing accurate and valuable input.

Thank you very much.●

MISGUIDED FOREIGN POLICY

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. SOLOMON. Mr. Speaker, Liang Ren-Guey, the young Taiwanese athlete who earned the right to represent his country in the winter Olympics and who has been denied that right by the International Olympic Committee (IOC) now that he has reached Lake Placid recently initiated a lawsuit in the hopes the courts would assure his accreditation. Liang has been denied by the IOC, along with 16 other Taiwanese athletes, because he refused to abandon his nation's name, flag, and national anthem—a requirement the committee felt surprisingly within its rights to establish.

This is the first time the IOC has bent to pressures from the People's Republic of China which dropped out of the IOC in 1958 and has been seeking readmission since 1975. And the incredible underlying aspect of this policy reversal is the role the United States played in the decision. Discarding our longtime alliance with free China and the nonpolitical Olympian concept of fair play, the State Department took an active part in this decision, despite the fact that IOC matters clearly do not fall within the purview of the U.S. State Department or U.S. foreign policy.

Regrettably, although New York State Supreme Court Justice Norman Harvey ruled Liang should be admitted the appelate court reversed this decision after reviewing a brief submitted by the State Department strongly opposing the admission of the Taiwanese athlete.

The political expedience of the Carter administration's actions are obvious, if not farsighted. Therefore, I call to the attention of my colleagues and interested individuals the following letter which I have this day sent to Secretary of State Cyrus Vance outlining my grave concerns stemming from State Department actions:

DEAR MR. SECRETARY: Sending a State Department Statement of Intent to the New York Appelate Court demanding the ouster of Free China's athletes from the Winter Olympics was tantamount to announcing to friend and foe alike that the United States has become a self-serving and untrustworthy ally unwilling to accept the responsibilities of friendship.

It is ironic that, at a time when America is awakening to the need for a strong defense and foreign policy, this act will appear a symbolic indication the U.S. is vulnerable to pressure and capable of being manipulated. America, an impotent giant due to severe defense limitations resulting from your debilitating foreign policy chooses to flex its muscles on friendly Taiwan—a long time ally which poses no threat—instead of the Soviet aggressor which threatens to spread communism over the entire Middle East.

Reshaping U.S.-China policy is an acknowledged goal of the Carter Administration. Nevertheless, I question the need to further politicize the Olympics by denying 17 young Taiwanese who have been training diligently the opportunity to compete. The United States has played a critical role in the International Olympic Committee decision, first with the letter to Julian Roosevelt clearly outlining that Taiwan's participation would create an "embarrassment" to the United States and now with this brief to New York courts.

It is sobering that America, a nation that has always prided itself as the champion of freedom and equality would play such a key role in the denial of rights to a friendly nation developing in democratic principles and free-enterprise. The American people should consider this a cowardly act and an affront to the cause of freedom throughout the world.

I would like to call to your attention the long-range implications of your actions and demand that you accept the responsibilities of an impartial host and as leader of the free world.

Sincerely,

GERALD SOLOMON,
Member of Congress.●

TRIBUTE TO GEORGE F. ANEY

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. MITCHELL of New York. Mr. Speaker, I am privileged to be able to bring the attention of my colleagues to an outstanding member of my constituency, Mr. George F. Aney. On February 23, Mr. Aney will be awarded the 13th Annual Good Citizenship Award of the Michael S. Pliseck Post 4915 of the Veterans of Foreign Wars in Herkimer, N.Y. I can think of no individual who is more deserving of that honor. Aristotle said that it is not always the same thing to be a good citizen and a good man. George Aney is both.

Mr. Aney is an active and respected member of the bar. His record of dedicated service to his community is both long and varied. His active participation in numerous humanitarian organizations has been more than a mere taking part. His role, more often than not, has been that of leader. He has generously given of his time and energies to such organizations as the American Heart Society, the American Cancer Society, the American Red Cross, the Boy Scouts of America, the Humane Society, and many others.

It has been said that patriotism is more than a short and spontaneous outburst of emotion, but the persistent dedication of a lifetime. George Aney's persistence in the pursuit of a better way of life for all his fellow citizens is an exemplary indication that he is a good citizen in the highest sense of the term.●

MY ROLE IN AMERICA'S FUTURE

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. JEFFORDS. Mr. Speaker, this year more than 250,000 secondary school students participated in the voice of democracy contest sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary. Jill Laurie Peck, daughter of Mr. and Mrs. Robert Peck of Lyndonville, Vt., was the winner from the State of Vermont. Although the final judging for the five national scholarships has not yet taken place, I wanted to share with you the excellent speech Jill submitted which is entitled "My Role in America's Future." I hope you will enjoy this dissertation as much as I have.

The speech follows:

SPEECH OF JILL LAURIE PECK

My role in America is to be an active and caring citizen. It is most important in our society to participate fully in all aspects of community life. We cannot expect opportunities to come to us, we have to make them. As Anne Sarcka, the Director of the Governor's Commission of the Status of Women said, "She who waits for Prince Charming, will probably end up cleaning up after his horse." This pertains to everyone, not just women. If one dreams all the time and does nothing to fulfill these dreams they will never come true. Not all of us can be the President or the Governor of a state but we can all do our part in the government. One important way is by attending all elections and town meetings. It is important that we express our views on a subject because others might feel the same way but are not confident enough to voice them.

Before we vote for a candidate, we should research him completely and make sure we know his views on each subject. When we make our decison, it should be based on leadership and experience rather than popularity

On the local level, we should participate fully in as many activities as possible without spreading ourselves too thin. This includes church, school, and group affairs.

As a student, it is most important for me to participate in my school activities. School prepares you for the life you will lead after you graduate. As a member of various activities, I have learned that when you start something you have to finish it. Too many people, during their lifetime, do not have sufficient responsibility to complete what they have started.

Another way I can help my country is by constantly learning something new. It is only the person who is always striving who succeeds. The person who thinks he knows everything has much to learn.

Education plays a most important role in America. My desire to be a teacher will fill this role. I plan to make my career in Elementary and Special Education. This way, I will be able to help and teach the future generation of American citizens.

It is also important for me to conserve and protect the resources of America. By conserving energy and not wasting resources, I am providing for future generations.

My most important role in America is to be a caring and responsible person who respects other people, their possessions, and is loyal to this wonderful country we live in.●

PREY FOR PROPHETS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. McKINNEY. Mr. Speaker, today, I am submitting for the RECORD a statement sent to me by a member of the Fourth Congressional District of Connecticut. The text is an account of one family's efforts to contact a daughter who left home to join a so-called cult or new religious movement. I hope that my colleagues will read this statement in order to better understand the feelings of anguish which families experience in such a situation. Further, if any of my colleagues wish to join me in submitting future accounts of this type, I urge them to contact me.

As a Member of Congress, I feel I must respond to the concerns of those I represent. That is why I am submitting this statement today. I should make it clear, however, that I do not believe the Government should interfere directly with the religious activities of new religions. While a cult group may be different from an organized religion, the dividing line is thin. Thus, it is a short step from Government control of cults to Government control of organized religion. Either action would not only destroy the separation of church and State, but would represent a major infringement on other first amendment freedoms. I hope my colleagues agree.

Statement

Our daughter, Melinda Evans, a third year nursing student and former X-ray technician, was enticed into a bizarre, nomadic, destructive commune at the University of Connecticut, Storrs, Ct, May 11, 1978. She was recruited by a married couple who had hitchhiked into town and set up a tent behind a store three days earlier. The day she left she closed her bank account ($500) and the three of them drove off in her car. It was exam week; she took no exams. Three weeks later a letter came saying God had shown her that she was to forsake everything to follow Christ in order to attain eternal life.

Because we listed Mindy as a missing person we know she tried to enter Canada 6/9/78; she was stopped in Arizona for hitchhiking 1/11/79 (her father and a brother flew there, but could not find her); and on 4/13/79 she was stopped again for hitchhiking—in Wyoming—and was held until we could get there. Both parents, a working sister, a brother at the U. of Conn., and a brother in grad school in Texas flew west where we found a totally changed person. Head hanging down, long hair in front of her face, she recoiled when we moved toward her, spoke almost not at all, and then in a whisper. As her sister said later, "She was the walking dead—a zombie." For six weeks her family, several cousins, former cult members, friends and professional deprogrammers struggled to get Melinda's mind working again. She gradually responded to living again in a home, shared household responsibilities, seemed to enjoy listening to family conversation, but we were never able to penetrate the commune's indoctrination that a woman should be shame-faced, is not worthy of discussing God's word, should not speak or think independently, and should not share family love. We had found her, but she was "lost" mentally and emotionally. May 27, near midnight, she slipped out of our son's home in Texas. We searched all night, but found no trace.

Melinda, a loving gentle person, has always been hyper-conscientious in everything she undertook: ranked first in high school class of 600; in college had been active in Campus Crusade for Christ; and consistently studied God's word in the Bible. She had always been close to her family and freely discussed her plans with us, until May 11, 1978. She is now a "non-person" whose welfare is in the hands of a fanatic leader, former U.S. Marine Jim Roberts—Brother Evangelist. Lengthy conversations with five former followers of Bro. Evangelist reveal practices violating human rights, endangering physical and mental health:

1. Their food is gathered from garbage bins behind stores and restaurants. (Very little meat, fish, or other proteins, thus thinking capability impaired.)

2. All medical aid rejected: eye glasses destroyed; broken bones not set; pain and infection indicate one's sinfulness; women give birth in tents at assorted campgrounds in unsanitary conditions.

3. Women and children may speak only with permission, in hushed voices. They are beaten for disobeying. Infants physically abused for crying, for wetting bedroll.

4. Women "married" or assigned to relationship with male at discretion of leader.

5. Humor is sinful; suffering and deprivation enhance one's status with God.

6. Fear of the devil is constantly taught and the belief that the devil controls one's family and everyone outside the group is firmly instilled.

Our uncertainty as to where Melinda is, our concern for her health and safety, our distress over her loss of rights as an individual, and our desire to set her free effectuate constant anguish. It is important to understand that victims of destructive communes have been intensively programmed into cult doctrine and accompanying fears and guilt. This is not a phase or passing fad. These destructive groups recruit for keeps. Jim Roberts' prey become imprisoned by his misuse of the Bible to exert total mind control over them. Turned against family, former friends, education and careers, they become unthinking, non-productive robots, unable to escape without the help and support of those who want them Free.

Recently published on this group—including heartbreaking accounts of child abuse.

Escape: Rachel Martin as told to Bonnie Palmer Young; Accent Bks., Denver 1979 Chicago Tribune—four part series of articles by Michael Sneed, June 10, 11, 12, 13, 1979.

This statement comes from: Hope and Warren Evans, 101 Indian Hill Road, Stamford, CT 06902.●

ARTHUR A. SCHREIBER, COMMUTER COMPUTER 1974-80

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. ANDERSON of California. Mr. Speaker, due to the increasing scarcity of energy, and the continuing rise in fuel prices, the challenges we face today in trying to maintain America's mobility are tremendous. They would, however, be even more difficult had it not been for the foresight and leadership of individuals who years ago urged an early response to this developing situation.

Today, I am pleased to pay tribute to one such person, Arthur Schreiber, a pioneer in promoting the regional use of carpooling as an alternative form of transportation. In a 1973 editorial broadcast, he first proposed the concept of regional ridesharing for the southern California area. Just 2 months later this concept was put to use in forming Commuter Computer, a new ridesharing organization serving a multicounty southern California region.

Art Schreiber's commitment to the idea of ridesharing continued. Since the inception of Commuter Computer his involvement has been direct and has grown. He was the first secretary for the organization's board of directors, and served in this position until his appointment as president in August 1977.

At the end of this month, Mr. Schreiber will leave Commuter Computer to return to broadcasting. He will become general manager of radio station KSTP in Minneapolis-St. Paul.

Many will miss the absence of this man. His never-ending enthusiasm for the carpooling concept was instrumental in carrying Commuter Computer through the hard times when the ridesharing idea had little widespread support. Over the years, however, the success of his work has gained nationwide attention and is in part responsible for the Federal interest that is now being exhibited in the promotion of ridesharing.

No doubt, even greater achievements are in store for the future of Art Schreiber. He has already proven himself as a talented individual in the broadcasting field. He served in radio and television news for 25 years, including 8 years as general manager for radio station KFWB, an all-news Los Angeles station, and as assistant general manager of the Philadelphia Westinghouse Broadcasting Co. news station.

As he now moves on to further his career in broadcasting, I send my congratulations to Arthur Schreiber for the fine job he has done in transportation. His leadership in this difficult area generated progress that will only grow in importance in the coming years.

My wife, Lee, joins me in wishing Art a future of even greater success. We also extend to his daughter, Amy, and his son, Mark, our best wishes for a bright and happy future.●

FLORIDA STATE WINNER OF VOICE OF DEMOCRACY CONTEST IS MISS LORETTA JEANNE REGISTER

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. YOUNG of Florida. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conducts a "Voice of Democracy" speech contest among secondary school students across the country. This year more than 250,000 students entered the contest, competing for five national scholarships.

It is with pride and pleasure that I announce to Members of the House of Representatives that the statewide winner for Florida is Miss Loretta Jeanne Register of St. Petersburg. Miss Register, a senior at St. Petersburg Catholic High School, has an impressive list of awards and honors to her credit. She has been the State alternate in the 1979 Century III Leaders Competition, was elected State comptroller at the 1979 Florida Girl's State, was the Florida winner and representative at the International Leadership Seminar conducted by Columbia University, and was State finalist for the 1978 Optimist International oratorical contest.

In addition, Miss Register won Optimist Youth Appreciation Awards in 1978 and 1979, won three awards at the Florida French Congress, and was named 1978 "Youth Volunteer of the Year" at the Bay Pines Veterans' Administrations Medical Center. In connection with this last award, Miss Register worked 800 hours at the Medical Center's library, medical research department, pharmacy and clinical laboratory. She plans a career in medicine.

This year's "Voice of Democracy" topic was "My Role in America's Future." Miss Register's winning speech follows:

SPEECH BY LORETTA JEANNE REGISTER

When I was initially presented with the topic, "My role in America's future," my first thoughts went to my old history book on the shelf. As I glanced through the credits of Presidents, Senators, and Generals, it was obvious that these men and women had had extremely impressive roles to be so well remembered. However, these names were not the only ones I saw. I encountered some names which were quite unfamiliar, yet the book did not distinguish between the significance of their contributions and those of the Presidents, Senators, and Generals. On the contrary, the attributes of both historical dignitaries and little-known figures were printed side by side, equal. I paused for a moment as I realized what this topic is really all about. Although my name will probably never be immortalized in any textbook, My role in America's future may nevertheless be as important as any President's or ambassador's Why? Because the key word is contribution, and as long as my contribution to my country is genuine, total, and patriotic, it is in no way subordinate to anyone else's.

Today, in my youth, I have only briefly experienced the opportunities found in America, yet those experiences known to me are very precious. I may speak, congregate, and worship as I please. I am given a path of recourse when my constitutional rights are compromised. Yet societies everywhere recognize that great responsibility always accompanies great freedom; therefore, my rights are only my own until they deprive you of yours. Part of my contribution then, is to voluntarily limit my own rights in a positive way so as to broaden the choices and freedoms of my countrymen.

Yet can my contribution restrict itself to being only passive? No, for if taken alone, such unobtrusive silence would not be a total gift to this great nation. Giving is more of an active process, and so must I give generously. First, I must give my support. Support is leading and following at the same time; experiencing defeat, and yet not allowing defeat to entirely conquer. Moreover, support is the faithful survival of enthusiasm through every disappointment and triumph.

Second, I must give my leadership. Leadership is guiding my colleagues and myself to our desired goals; speaking and thinking always in terms of "we" and "us"; accepting the challenge to bear criticism with humility even when standing alone in my opinions. Leadership demands nothing less than the best.

Finally, and most essentially, I must give my respect, perhaps the most difficult but meaningful contribution of all. Respect is acknowledging the existence of persons, countries, and a deity greater than my own self. I respect America because she and I have complementary natures, so that as long as I accord her support, active and passive leadership, and patriotic pride in my role as a United States citizen, she will in turn bestow on all her constitutents and on the future generations reciprocal support, leadership, and the qualities deserving of my patriotism.

I closed the history text and returned it to its place on the bookshelf, and I considered what I had just learned. It is this: My role in America's future may or may not be remembered two hundred years from now, but my contribution, if genuine, total, and patriotic, shall be no less significant, no less noteworthy than the contributions of my fellow Americans of even the greatest fame of the past, of the present, and even of the future.●

DR. REGINALD J. STAMBAUGH—AN OUTSTANDING MAN

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. MICA. Mr. Speaker, it is with great personal pleasure that I take this opportunity to bring to the attention of the U.S. Congress the outstanding accomplishments of Dr. Reginald J. Stambaugh, of West Palm Beach, Fla. His impressive credentials and record of achievement truly serves as an inspiration and professional benchmark for all persons in the field of ophthalmology. Therefore, at this time, I want to share with the House Dr. Stambaugh's honors and credits.

Dr. Stambaugh presently serves as president of the Foundation for Medical Care (PSRO), chairman of the board of trustees of Palm Beach County Medical Society, board member of the American Association of Ophthalmology, and secretary and board member of the Florida Medical Political Action Committee.

His committee assignments include membership on the national legislation of Florida Medical Association, the medical advisory of the Cripple Children's Society of Palm Beach, and the recertification advisory to the American Board of Ophthalmology.

And, Dr. Stambaugh is president-elect of the Florida Society of Ophthalmology, listed in Who's Who in the South and Southwest and serves on the editorial board of Ophthalmology Times.

He is also associated with the National Board of Medical Examiners and the American Board of Ophthalmology.

Additionally, Dr. Stambaugh serves as a board member of the Health Planning Council, Inc., the Forum Club of the Palm Beaches, and the Palm Beach County Athletic Hall of Fame.

Previously, he was on the Medical Advisory Board of the Florida Society of Prevention of Blindness (1972-79); past president of the Palm Beach County Medical Society (1977); on the board of governors of the Sailfish Club of Florida (1976-78) and founding chairman of the "Eye and Ear Alert" screening program of the Junior League of the Palm Beaches (1968-73).

Other accomplishments include: membership in the Four Arts Society of Palm Beach, the American Academy of Ophthalmology, the American Medical Association, the American Association of Ophthalmology, the Southern Medical Association, Florida Medical Association, Florida Society of Ophthalmology, and the Palm Beach County Medical Society.

And, not to be excluded is Dr. Stambaugh's association with the Palm Beach Branch of the American Cancer Society (1965-68), the first place American Medical Association's Physician Speakers Television Award in 1978, or the special recognition award he received from the University of Miami's School of Medicine and Alumni for "Exceptional Accomplishment."●

A PLAN TO OFFSET THE ADVERSE EFFECTS FOR THE CARTER GRAIN EMBARGO

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. BEREUTER. Mr. Speaker, the Nation's farmers have always been willing to make sacrifices to support our national security interests. However, they expect to be treated fairly and deserve to know that other segments of society are sharing the burden of any sacrifices that must be made in the national interest.

There is no doubt that President Carter's decision to embargo grain places an undue burden on the farmer. Unfortunately, the President has not taken adequate steps to protect the farmer from the effects of the embargo. Shortly after the President announced his intention to impose the embargo, I announced a five-point plan that the administration could implement to achieve the goal of assuring that the American people as a whole share equitably in the sacrifices now being asked of the farmer. Components of the plan include:

First, increase wheat and feed grain loan rates to market price levels in effect before the embargo and rumors of an impending embargo were felt.

Second, adopt a minimum 20 percent set-aside nationwide for 1980 for both feed grains and wheat. The winter wheat set-aside payments must recognize and compensate for the fact that farmers already have made the investment in planting their winter wheat crops.

Third, reduce interest rates in the Commodity Credit Corporation (CCC) grain storage and handling facilities construction program to relieve farmers asked to store more grain.

Fourth, provide temporary emergency credit for producers faced with loan payments due in the near future. Without emergency credit, these producers would be forced to sell their grain at severely depressed prices. What I propose could be accomplished through the Farmers Home Administration loan guarantee program or through a special short-term CCC loan program for those farmers who did not participate in the 1979 farm program.

Fifth, increase funding for the Foreign Agricultural Service foreign market development program. If legislative action is necessary to increase funding, then Congress should move quickly.

Perhaps the most pressing problem is that faced by farmers who have bank loans and land payments due in the near future and will be forced to sell at cut-rate prices or seek loan extensions.

In addition to these immediate problems, we must recognize that our basic agricultural policy has been reversed by the embargo. Our agricultural policy traditionally has been to produce all the grain we could and to increase our grain export sales as fast as we could to finance our mounting imports of oil.

The Carter grain embargo may raise additional questions in the minds of our foreign customers about our reliability as suppliers of grain. In the past, we have indicated that we would not use food as a weapon. Now that we have, we must reconsider our overall food strategy.

The embargo also affects our overall transportation policy by disrupting the steady movement of grain and creating uncertainty in the industry which may retard future investment in transportation facilities and equipment.

Unfortunately, the administration has remained consistent in maintaining a cheap grain policy.

We now have a tremendous supply of grain in storage. Unless this grain is used during the coming months, a considerable increase in grain storage facilities will be needed before the next harvest.

It is time to take further actions to protect our Nation's farmers. The five-point plan I have described offers a positive program, and I urge the administration to move quickly to implement it.●

LITHUANIAN INDEPENDENCE DAY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Ms. OAKAR. Mr. Speaker, February 16 is a day that is commemorated by millions of Lithuanians everywhere as the 62d anniversary of the proclamation of Lithuanian independence. On that day, in 1918, a 20 member national council proclaimed a free and independent state of Lithuania. This step marked the continuation of a long tradition of sovereignty that can be traced back to the 11th century A.D. Twenty-one short years later, this small nation made the mistake of allowing Soviet troops to establish a garrison in their country in a desperate attempt to counter the Nazi presence in Poland. What then happened is an all too familiar story. The garrisoning of Soviet troops in Lithuania marked the beginning of Russian domination of this Baltic nation. In 1940 the country was forceably incorporated into the Soviet Union as the 14th republic. The United States to this day has refused to recognize this brutal conquest. Lithuania is properly recognized as one of the captive nations.

The spirit of Lithuanian independence and a hope for the eventual liberation of their homeland is shared by thousands of Lithuanian-Americans. There are more than 14,000 of these hard-working people in my own city of Cleveland. Through organizations like the Lithuanian American Council, of which we have a very active chapter in Cleveland, these citizens are not only preserving their heritage, but also contributing to the betterment of American society.

In light of the Soviet Union's brutal invasion of Afghanistan, all of us should become more aware of the plight of Lithuania and all of the other captive nations. The realities of Soviet domination have always been starkly clear, but we have been too quick to forget them. I hope that all Americans will join with the Lithuanian people in celebrating their independence day and in working toward that day when they can again be a sovereign and free nation.●

A TIMELY EDITORIAL

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. MICA. Mr. Speaker, I would like to bring to the attention of the House, the following editorial from the January 26 issue of the Palm Beach Post, a daily newspaper in my district. This article well exemplifies the intense mood of this Nation now and it appears to follow the same vein that I expressed on the House floor last week. As I said then, and continue to believe today, this issue will be debated universally and the principles of freedom will be weighed carefully. I hope the House membership will take the time to read this editorial.

A DRAFT, OR ELSE

President Carter's call for a resumption of draft registration has spawned a barrage of criticisms ranging from the selfish to the misguided to the thoughtful. It would be nice to live in a world where registration was not necessary, but this is not that world.

Perhaps the easiest complaint to answer is that expressed by some students interviewed on television. The gist was, "Why me? Why should I have to lose a couple of years out of my life?"

That's an understandable reaction in the "Me Generation." It is akin to that of the athlete who doesn't want to miss the Moscow Olympics or the grain farmer—apparently in a minority, judging from the Iowa caucus results—who opposes an embargo.

In each case the answer is the same: The maintenance of liberty often requires sacrifices. There are today thousands in our midst who became permanently disabled fighting to stop Nazi Germany and Imperial Japan. They lost far more than money, or a chance to participate in a game or two, or freedom from a registration that may go no further.

Much of the unfairness of past draft systems would be eliminated if, instead of merely reinstituting military conscription, this nation went to a system of universal public service—military and civilian, for both men and women. While we are planning such a system, however, we must nonetheless be setting up the mechanism to meet short-term military threats.

Perhaps more disturbing because the source should know better, is the attitude expressed in a statement by Ira Glasser, executive director of the American Civil Liberties Union. He said the president has adopted "a drastic plan which will sharply curtail the liberties of millions of young Americans."

So would Soviet conquests of the Middle East oil fields. And, at the moment, we would have no effective response to a thrust in that direction short of all-out nuclear war. We have tried to maintain a sufficient military force without conscription, and have failed.

The most cogent objection is that voiced by the Florida International University student who said, "The world situation is such that it might not be a bad idea to reinstate the draft, but the Vietnam experience makes me a bit leery."

Who can blame him? If the mechanism to mobilize a lot of manpower is available, what is to stop a future president from repeating the sins of the past, utilizing deception and outright lies to wage an unconstitutional war in an unfavorable milieu to no discernible advantage.

The answer may seem simplistic, but it is central to the concept of representative government: We must exercise our franchise so as to keep the persons who would start such wars out of office, and keep the pressure on those who are in office not to adopt such policies.●

THE PROBLEMS OF MSHA

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. TAUKE. Mr. Speaker, I recently received a letter from Mr. Michael Wright of Alpha Industries. He is responding to statements that have been made earlier concerning the problems of surface mines in Iowa. Earlier this month I included a copy of an article on this same matter. I believe that my colleagues will find that Mr. Wright's letter clearly explains the problems that small surface mines are facing. I ask unanimous consent that this letter be inserted in the CONGRESSIONAL RECORD immediately following my remarks:

ALPHA INDUSTRIES,
Marion, Iowa.

Hon. TOM TAUKE,
Washington, D.C.

Re December 12, 1979 Congressional Record "MSHA Response to concerns over its inspection activities."

DEAR CONGRESSMAN TAUKE: Once again I feel compelled to respond to what appears to be a misunderstanding between what is transpiring between MSHA and Industry in Iowa, and what the Honorable Joseph M. Gaydos of Pennsylvania and Mr. Lagather, Assistant Secretary of Labor for Mine Safety and Health, believe the situation to be. I truly appreciate both Mr. Gaydos and Mr. Lagather's attention to the problem but I do not believe the basic questions or basic problem areas were addressed.

* * * these gentlemen into the conjecture that Alpha was being singled out and harassed. The fact that over sixty-five (65) employees received 43 inspections in seven months probably invited this supposition. Alpha is not being singled out; rather, the whole Limestone Industry in Iowa is being harassed by MSHA inspections and inspectors. I have enclosed an article which appeared in the Cedar Rapids Gazette Sunday, December 16, 1979. Please note from the article that another Safety Director, with another firm in Iowa, has experienced six (6) inspections of one (1) crushing plant since July of 1979. This company which is comparable in size to Alpha, has had thirty-nine inspections since February of 1979. "Another area quarry operator said one of his company's portable crushing plants, involving 10 employees, has been checked 10 times this year. There have been no accidents at the plant, and inspectors found just two minor violations."

Let's come back to a basic question—Why does Iowa have over twenty Duly Authorized Representatives (MSHA Inspectors) which require two field offices? (Cedar Rapids and Fort Dodge.)[1]

Because of the geological formation of Iowa's landscape, two-thirds of the state is blessed with a stone quarry at intervals less than every ten miles. Each of these 1100 mine sites are assigned a Federal Mine Identification number. MSHA's method for determining the number of inspectors in Iowa is apparently based on the number of identification numbers in Iowa. I must emphasize that many of these 1100 quarries are not worked every year and an even higher percentage of the quarries are worked less than one month during the year.

People get hurt and people have accidents and I believe it was the intent of Congress through The Federal Mine Safety and Health Act to protect people. It would seem logical to attempt to correlate the number of inspectors in an area to the number of people being protected.

The following illustration compares the total number of man hours worked in Iowa with the total number of man hours worked in six other states toward metal and non-metal mining and milling.

For illustration purposes:

Total man hours worked in various states during January through September 1979. Metal and non-metal:[2]

Iowa	5,580,551
Arizona	24,993,276
Missouri	12,319,892
Texas	21,749,949
New Mexico	19,044,494
Minnesota	22,444,095
Pennsylvania	13,014,502

Number of Inspectors in Iowa=20+

Number of inspectors the following states should have if they are to receive equal treatment under the law (based on Iowa's 20 inspectors):

Arizona (4.4786) Factor[3]×20=89.5 inspectors.

Missouri (2.2076) Factor×20=44.1 inspectors.

Texas (3.8975) Factor×20=77.9 inspectors.

New Mexico (3.4127) Factor×20=68.2 inspectors.

Minnesota (4.0218) Factor×20=80.4 inspectors.

Pennsylvania (2.3321) Factor×20=46.6 inspectors.

These man hours reflect only metal and non-metal hours worked (Coal man hours are *not* included.)

To carry a point one step further—In Mr. Gaydos' home state of Pennsylvania, 70,600,000 man hours were worked in the same period (as illustrated on the previous example) toward the mining and milling of coal.

The number of coal inspectors Pennsylvania should have to receive equal treatment under the law would be 253 inspectors.

Pennsylvania (12.6511) Factor×20=253 inspectors.

Note: These 253 coal inspectors are in addition to the 46.6 metal and non-metal inspectors.

I realize I have spent much of your time trying to convey the message that the mining industry in Iowa is over inspected. We just don't seem to be getting the needed relief. We keep asking the same questions and the same answer always surfaces. "MSHA is carrying out its congressional mandate."

In a statement by The Honorable Charles E. Grassley, Representative from the State of Iowa, before the Subcommittee on Health and Safety, House Committee on Education and Labor, March 20, 1979, Mr. Grassley stated, "Iowa has a *large* number of *small* mines with a small number of workers, but it has been assigned a disproportionately high number of inspectors." At the conclusion of his statement, Congressman Grassley reemphasized his concern over the large number of inspectors in Iowa. At that time, Mr. Gaydos referred the comment to Mr. Paul Dwyer, Counsel for the Sub-committee. I would be very interested in MSHA's response to this question.

It is my hope that the communication barrier can be opened and the concept of a "mine" in Iowa can be distinguished from a "mine" in Pennsylvania.

Sincerely,

MICHAEL J. WRIGHT,
Safety Director.●

---

[1] In addition to these inspectors, some Iowa Quarries are inspected out of Omaha, Nebr. field office.

[2] *Mine Injury and Worktime Quarterly* January to September of 1979 Printed by U.S. Dept. of Labor, Mine Safety and Health Administration, Directorate of Technical Support, Division of Mining information systems.

[3] Factor determined by dividing the number of man hours in the given state by the number of man hours worked in Iowa.

FATHER FRANCIS ENGLISH—JERSEY CITY PRIEST IS REMEMBERED

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. GUARINI. Mr. Speaker, I wish to bring to the attention of my colleagues today a groundbreaking ceremony taking place at 11 a.m. tomorrow morning in Paterson, N.J.

While the community is out of my district, the man whose memory is being honored was born in Jersey City. I feel duty-bound and proud to ask all to join in this tribute to the late Rev. Francis Aidan English, a member of the Passionist Order.

The housing development being named Francis English Village will contain 142 units of housing for families in downtown Paterson at the intersection of Jackson, Slater, Green and Main Streets. Its physical design will be one nine-story structure and a series of low-rise buildings.

The area has been designated by the U.S. Department of Housing and Urban Development (HUD) for an Urban Development Action Grant (UDAG) funding as part of Paterson's revitalization program. HUD is providing rent subsidies for eligible families.

Msgr. Joseph Brestel, Vicar General, a member of the board of trustees of Jackson-Slater, Inc. will deliver the invocation.

At the ceremonies speakers will be Paterson Mayor Lawrence F. Kramer, Passaic County Senator Frank X. Graves (D/35 N. J.), James A. Sinclair, deputy commissioner for New Jersey Department of Community Affairs, New Jersey Senate Speaker Joseph P. Merlino, and Bishop Frank J. Rodimer of the Diocese of Paterson, according to Rev. Norman J. O'Connor, C.S.P. master of ceremonies.

The development is named in memory of Father Francis English who was born March 31, 1895 in Jersey City, N.J. He was the son of Michael English and Mary Dunn, who were members of St. Patrick's R.C. Church.

After attending public schools in Jersey City he began studies for the Passionist Order, graduated from its prep school at St. Joseph's Monastery in Baltimore. He studied philosophy at St. Ann's Monastery, Scranton, Pa., and theology at St. Gabriel's Monastery, Boston, Mass., and St. Michael's Monastery, Union City, N.J. He received the B.S. degree from St. Ann's Monastery in 1925, and a master of arts degree from Columbia University in 1946.

He was ordained a priest for the Passionist Congregation at Newark by the late Archbishop Thomas J. Walsh on May 25, 1929. In the Passionist Community he served on the Mission Band, 1929-31; assistant pastor, St. Michael's, Union City, N.J., 1931-34; pastor of St. Mary's, Dunkirk, N.Y., 1934-41. In 1941 he was accepted for service in the Diocese of Paterson and was formally assigned to the diocese in 1944. In the Paterson Diocese he served as assistant pastor, Holy Trinity, Passaic, 1941-44; assistant pastor, St. Nicholas, Passaic, 1944-46; assistant pastor, Sacred Heart, Dover, 1946-47; chaplain, St. Joseph's Hospital, Paterson, 1947-51; pastor, St. Boniface, Paterson, 1951-70; pastor Emeritus, St. Boniface, Paterson, 1970-74; administrator, St. Boniface, Paterson, 1973-74.

He also served as director of extracurricular activities for Pope Pius XII Diocesan High School, Passaic, 1941-46, and as a member of the Diocesan Commission for Sacred Music.

Father English was deeply interested in a wide range of cultural activities. He was the founder and producer of the Passion Play, "His Mother's Promise" which was presented in Passaic and Paterson. He was also the chaplain to the American team for the 1948 and 1960 Olympics.

Father English was murdered on October 29, 1974 at St. Boniface Rectory. He was buried on November 2, 1974 at Holy Sepulchre Cemetery, Paterson.

The plans call for the Father English Multipurpose Community Center to deliver social service programs to the anticipated 500 residents of this development.

This center has been in operation since 1974 bringing social, recreational, educational, nutritional, health, cultural enrichment and community responsibility programs to the area residents.

More than 300,000 use the facilities each year according to Mrs. Gail Manning, director. Some of the programs involved are a day care center for children of working parents, called El Mundo Del Nino, supervised by Miss Carol Konzelman, which operates from the renovated St. Boniface Church.

Part of this social service quardrangle includes a school structure which now houses an after-school program for 250 children, which is for ages 6 through 13, under the direction of Herman Irving.

The Father English Community Center also prepares more than 1,200 hot meals per day for the elderly, including over 300 for meals on wheels participants. Robert Vesota directs the purchasing for this facility, where the kitchen is supervised by Carl Sermond.

Mrs. Angela Naelon handles the administrative functions of this facility assisted by Mrs. Maria Rosado and William Hinkes, Jr.

Food stamps are distributed at the Father English Community Center to more than 10,000 individuals each year under the direction of Sister Gertrude Cerbie, S.C.

Part of the operation includes Youth Haven, a runaway youth house which handles 300 youngsters each year in a program directed by Miss Wendy Smith.

A Right to Read Street Academy has been conducted for the past 3 years bringing basic school education to hundreds of newcomers as directed by Sister Veoletta of the Filipini Order.

I am so pleased to report this information as it is an excellent example of city, State, and Federal governments working with a nonprofit agency.

The Father English Community Center also operates programs at its summer camp in West Milford for inner-city residents including 250 children daily and up to 200 older Americans in a Sunday Funday program, bringing recreation and nutritional needs to the groups.

For the past 3 years the Father English Community Center has also sponsored summer food programs and more than 1 million portions of food have been prepared at this facility and delivered to parks and playgrounds for low-income children to enjoy. They have worked closely with unemployed youth and through a Paterson City YCCP CETA program have just completed the installation of a new gymnasium floor for the community to use.

This information is being provided to pay tribute to the Diocese of Paterson under the leadership of Bishop Frank J. Rodimer.

A special vote of thanks has been earned by Father Norman J. O'Connor, C.S.P., who directs SHARE, its social service umbrella agency.

Father O'Connor is chairman of the Governor's Commission on Youth and Families and has been designated by Governor Byrne as coordinator of the New Jersey Contribution to the White House Conference on Families to be held in the near future. His social thrust is monumental.

I am indeed proud that Paterson is remembering this outstanding product of the Catholic church. It has been said that "To live in the hearts of those you love is not to die." So be it with this remembrance program.

The Francis English Village indeed will provide needed mortar for future generations to enjoy. His spirit will live forever. He has earned immortality through his religious leadership, his dreams, his community work, and his service as an American chaplain in the Olympics. Edgar Lee Masters said:

> Immortality is not a gift,
> Immortality is an achievement;
> And only those who strive mightily
> Shall possess it.

Well done Francis Aidan English. You have made Jersey City proud of you.●

A QUESTION OF CHOICE—AND THE PASSIVE RESTRAINT STANDARD

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. JOHN L. BURTON. Mr. Speaker, it is common presumption that the less the Government regulates the marketplace, the more choice the consumer will have through the free market system of supply and demand. Being realistic, however, we understand that this is not always the case. In fact, there are times when the Government's insuring a supply becomes the only way to meet the consumer demand.

I would like to share with you an excellent explanation of this phenomenon as it impacts the vital matter of automobile safety and the supply of seatbelts, lap and seatbelts, automatic shoulder harnesses, and airbags. The following letter to the editor was written by Ben Kelley, senior vice president of the Insurance Institute for Highway Safety, a nonprofit educational and research organization, and appeared in the Washington Star on Monday, February 4, 1980. Mr. Kelley is well-respected throughout Government and industry for his experience and expertise in automobile safety matters.

In his letter, Mr. Kelley explains how the Stockman amendment to the National Highway Traffic Safety Administration reauthorization bill, under the guise of allowing a consumer to buy a manual lap-shoulder belt, would prevent his having a choice of automatic belts or airbags. Instead, either the manufacturer or the dealer—whom the amendment defines as a purchaser—would be making that choice.

The letter follows:

[From the Washington Star, Feb. 4, 1980]

The Big Air Bag Debate

James J. Kilpatrick, in his column of Jan. 19, "A question of compulsion." has seriously misunderstood the intent of the so-called "Stockman amendment"—a legislative proposal on whose outcome may hang the lives of many, many Americans.

The amendment, introduced by Michigan's Rep. David Stockman and recently passed by the House, would affect the National Highway Safety Administration's so-called "passive restraint" standard. The standard as now written requires the phasing in, starting with 1982 model new cars, of automatic protection to reduce the likelihood of motorists being killed or seriously injured in frontal crashes—crashes that now account for the majority of occupant deaths in highway collisions.

The NHTSA standard leaves it completely up to the car companies to choose the means for providing the protection, so long as its is automatic (existing lap-shoulder belts aren't automatic, and less than 20 percent of Americans wear them). As of now, air bags and automatic safety belts are the ways that the companies have chosen to meet the 1982 model year requirement.

Mr. Kilpatrick doesn't like the rule because it is "compulsion." He likes the Stockman amendment, however, because he thinks it would guarantee "freedom of choice in safety devices. . . . In brief, the Stockman amendment would let the buyer have his option—seat belts, lap and seat belts, automatic shoulder harness or the air bag, you pay your money and you take your choice."

Mr. Kilpatrick is wrong. That's not what the Stockman amendment would do, and saying so won't make it so.

The amendment would simply require that when the passive restraint standard takes effect in the 1982 model year, a car "purchaser" who does want an automatic restraint system must be allowed to buy a manual lap-shoulder belt instead. Otherwise, the purchaser gets whatever automatic system the manufacturer decides to put in the car. The purchaser has no say over whether it's to be air bags or automatic belts.

And there's another twist, unmentioned by Mr. Kilpatrick: The Stockman amendment defines "purchaser" to include new-car dealers. Since dealers have never been keen on promoting crash protection improvements such as air bags, and since the majority of new cars sold are originally "purchased" not by consumers but by dealers for their lots, the likelihood is that, for most cars, most dealers will choose the manual belt system—the kind virtually nobody uses.

Thus it would be dealers rather than car buyers who decide how much or how little crash protection Americans are to have in their new cars.

Building on his erroneous belief that the Stockman amendment would allow new-car buyers to choose air bags, Mr. Kilpatrick adds: "Proponents of the air bag cited a survey showing an overwhelming consenus on the part of the public that even if the passive restraints cost $360 vs. the $100 cost of seat belts, they would gladly pay the extra money. . . . If there is indeed, such an overwhelming demand for these devices, a free market will supply that demand—and make a profit on the deal."

Wrong again, on two counts:

(1) The survey was done not by "proponents of air bags" but by General Motors Corp., which opposes the NHTSA standard. Over the past decade, numerous GM studies have found marketplace demand for air bags. But GM withheld the studies from the public until late last year, when it was forced to disclose them in response to a Congressional query.

(2) The marketplace demand for air bags thus is well documented, and has been for years. Yet is a free market supplying that demand? The bottom-line answer is this: not one car manufacturer is offering air bags, whether as an option or standard equipment, on any new cars being sold today. Nor, apparently, do they plan to do so until the NHTSA standard takes effect, consumer "demand" or not.

It is understandable that Mr. Kilpatrick would wish that the market had responded to the need and demand of Americans for air bags, which after all have been technologically available for more than a decade. But the fact is that the car companies intend to sell nobody that kind of protection without government compulsion, whether Mr. Kilpatrick likes it or not.

Neither the marketplace nor the Stockman amendment can offer Americans the chance to choose life over death in thousands of car crashes a year. But the NHTSA passive restraint standard will guarantee that chance—if it is left alone.●

ABRAHAM LINCOLN'S BIRTHDAY AND SLAVERY TODAY

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● **Mr. PEYSER.** Mr. Speaker, today is the 171st anniversary of Abraham Lincoln's birth. As we all know, President Lincoln was known as the "Great Emancipator," for as our 16th Chief Executive, it was his order that freed America's slaves.

Therefore, on the anniversary of his birth, I think it is very appropriate to pause for a moment and reflect on those who today are not free—who still, directly, or indirectly, live under the yoke of slavery.

For example, in the Soviet Union, numerous minority groups are persecuted and discriminated against. I count in this category Jews who wish to practice their faith and other religious groups who are also prohibited from engaging in activities pursuant to their beliefs. Also in the Soviet Union, there are the oppressed citizens in the captive nations of Estonia, Lithuania, and Latvia, and of other Soviet states such as Ukrania, all of whose feelings of nationalism have been deemed verboten by the Soviet authorities.

The Afghans also are feeling the burden of Soviet oppression as they are now gallantly fighting to preserve their freedom and their national identity.

Throughout the world, other groups, often minorities for reason of race or religion, are faced with discrimination as an official policy of the nation in which they live.

And in a different sense—but perhaps to even a greater degree—our American hostages in Tehran are slaves to a political system that is disregarding international law and disrupting the international community.

Mr. Speaker, for all of these, and other, men and women who are now denied the fundamentals of freedom, I suggest that on Abraham Lincoln's birthday we pause for a moment of reflection and thought.●

UNIVERSITY FACULTY MEMBERS CONCERNED ABOUT HUMAN RIGHTS IN TAIWAN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● **Mr. STARK.** Mr. Speaker, following a human rights rally in Taiwan on December 10 where violence erupted between police, law enforcement officials, and the rallyists, large numbers of political opponents of the authoritarian Taiwan Government were arrested. This incident was not widely reported by the Western press and for 10 days there was virtual silence on the matter. Even now, the American Institute in Taiwan has not made an official statement. Two different sources claim that the riot was instigated by the government and this is the viewpoint of the Taiwanese oppositionists.

Approximately 130 people are being detained—there are both higher and lower estimates—including well-known human rights activists. Investigations being conducted by military authorities will determine whether the prisoners face court-martial charges of sedition or will be tried by a civil court on criminal charges. Sedition carries a penalty ranging from 7 years imprisonment to death. Those who face these harsh charges include Shih Ming-teh, manager of the "Formosa Magazine" the organization that initiated the rally, Wei Ting, Chiao Chei Chu, Chi Wan-sheng, Chang Fu-chung, and Hsu Chiu-chei.

Many of the people arrested have been held incommunicado. We must urge the political leadership of Taiwan—the Kuomingtang—KMT—to provide fair and open trials for those charged. There must be access to the defendants to assure both their humane treatment and for them to receive the legal advice they require. The KMT must respect the rights of these citizens of Taiwan and our Government must help insure this outcome.

Many people in this country and elsewhere are deeply concerned about these events. Printed below is a copy of a telegram sent to President Chiang Ching-kuo of Taiwan by members of the law faculties of Stanford University and the University of California and colleagues, interested in East Asian law and U.S.-Asian legal relations, from other schools. They share my concern about the fate of those now confined.

JANUARY 31, 1980.

HIS EXCELLENCY,
PRESIDENT CHIANG CHING-KUO,
Taipei, Taiwan, Republic of China.

DEAR MR. PRESIDENT: The undersigned are faculty members at the University of California and Stanford Schools of Law, and colleagues from other schools particularly interested in East Asian law and US-Asian legal relations. We write to express our concern over certain aspects of the recent mass arrest of political opposition leaders in Taiwan. According to reliable United States reports, over one hundred persons have been arrested and held incommunicado since December 13, 1979. Among those detained are noted civil rights lawyers like Yao Chia-wen and Lin Yi-hsiung, known here through their participation in the University of California's summer legal aid workshops, as well as other graduates of American law schools.

We are, as you will appreciate, especially concerned lest this event signal the repression of legitimate human rights activity in Taiwan. We are strengthened in this concern by the fact that the preservation and enhancement of the human rights of all the people of Taiwan, including their right to legitimate political activity, have been reaffirmed as United States policy by section 2(c) of the Taiwan Relations Act (Public Law 96-8).

Under these circumstances, we urge that at the least the Government initiate as early a trial as possible. Otherwise lengthy detention, particularly under the harsh conditions already reported including the serious harassment of some detainees' families, may itself become repressive of the exercise of their civil and political rights not only by these but by other persons. Nor, in our view, should the nominal continuation of martial law over thirty years in a country as stable as Taiwan become an excuse for depriving those accused of their right to trial before the regular civil courts.

We earnestly hope that any eventual trial of these political opposition leaders, if it is thought justified at all, will not be in a form that would tarnish your country's reputation as to its treatment of the civil and political human rights of all of its citizens.

Very truly yours,

Anthony G. Amsterdam, Barbara A. Babcock, Paul Brest, Richard M. Buxbaum, Fu-mei C. Chen, Jesse Choper, Jerome A. Cohen (Harvard), John E. Coons, James Crawford, David Daube, R. Randle Edwards (Columbia), Melvin A. Eisenberg, David E. Feller, Marc Franklin.

Lawrence Friedman, Stuart K. Gardiner, Eleanor Glass, Paul Goldstein, William Gould, Thomas Grey, Gerald Gunther, George Hauck, James W. Hills, Paul R. Hoebet, J. M. Jocobstein, Phillip E. Johnson, Thomas Jorde, John Kaplan.

Sanford H. Kadish (Dean, UC Berkeley Law School), Herma H. Kay, Mark Delman, William T. Deogh, James E. Krier, Stephen G. Kuttner, Victor H. Li, Charles Marston, John K. McNulty, Miguel Mendez, John Henry Merryman, Charles J. Meyers (Dean, Stanford Law School), Robert H. Mnoonkin, Vaclav Mostecky.

Kenneth Phillips, Henry Ramsey, Jr., Thomas Reynolds, Deborah Rhode, David Rosenhan, Leonard Ross, Kenneth Scott, Byron D. Sher, Marjorie E. Shultz, Michael E. Smith, Richard Steward, Lawrence A. Sullivan, Justin Sweet, Jan Vetter, Gerald S. Witherspoon.●

H.R. 4119, THE FEDERAL CROP INSURANCE BILL

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. GRASSLEY. Mr. Speaker, H.R 4119, the Federal crop insurance legislation, has been one of the most controversial bills that we have handled in the Agriculture Committee in this Congress. The administration forwarded to the Congress another version of a crop insurance bill called the Farm Production Protection Act in early 1979, which it had forwarded in 1978 and which got nowhere in the Congress. Congressman Madigan had introduced his bill, H.R. 5011, in the 95th Congress, and that bill was cosponsored and supported by a number of people from the House Committee on Agriculture.

In this Congress, there were a number of bills introduced covering crop insurance. The administration's proposal for farm production and protection was not one of them. In my opinion, it was sufficiently discredited so that no one was willing to support that measure, particularly no one in the Agriculture Committee. It virtually federalized all crop insurance in this country and froze out the private sector's involvement. Much praise was heaped upon the Canadian program—which was basically a socialized program by administration officials.

What has come out of committee in this bill, H.R. 4119, which when it came up for consideration in the full committee was amended in some respects by myself and others. However, on the first tally of votes, the bill would have been defeated by a 22-to-19 vote, except that two Members at the last minute switched their votes, and the bill was reported by a 21-to-20 margin. Subsequently, Mr. Huckaby of Louisiana was granted unanimous-consent permission to cast his vote, because of the fact that he was out of town, and thus the bill was reported with a margin of 22 to 20.

This near defeat of the bill in the House Agriculture Committee apparently brought home to the administration that the crop insurance bill—if not substantially amended by the time it got to the floor—would be defeated. In the full committee, I offered an amendment that would have provided the farmer-producer with an option to purchase his own hail and fire coverage from whomever he pleased—the Federal Crop Insurance Corporation or private industry agent and insurer. The farmer-producer would have received roughly the same subsidy if he bought his insurance from a private agent and insurer as the individual who purchased his all-risk coverage—including hail and fire coverage—from the Federal Crop Insurance Corporation.

The administration fought that amendment of mine desperately in the full committee and indicated that it was totally unacceptable to them. Accordingly, the amendment was defeated by a substantial margin.

Now we find that the Jones amendment, which apparently will be offered to H.R. 4119 when it comes up on the floor, includes a much more liberal provision than even that which I proposed, and this amendment presumably will cost the Government and the taxpayer more to implement—and yet the administration has endorsed it.

Now you must ask yourself what caused this tremendous change in the attitude of the administration. Is it election year politics? Is the administration willing to concede the point this year and then if they win at the polls in the fall come back and change this program substantially? I think these are questions Members must ask themselves.

I also point out that I had an amendment in the full committee that provided for reinsurance through the private sector under the program that would be administered by the FCIC under this bill. Only by providing in my amendment that the administration need only to do it to the maximum extent possible was I able to get my amendment considered and adopted by the full committee, and even that was opposed by the administration.

I think it is passing strange when the administration, which has fought the kind of bill that gives private sector participation on the crop insurance programs, is suddenly willing to have a sudden deathbed conversion to the concepts of private enterprise when they have fought them for the past 3 years. Is it because they are truly converted now to the idea that the private sector must have a major voice in what kind of crop insurance is offered by the Government or have they given up in this particular instance because they see this as a battle which they are willing to concede as long as they win the war ultimately—a totally federalized program.

I understand many insurance companies will support the bill if the Jones amendment is adopted. Well, apparently some of the insurance companies have been satisfied, but not the American Farm Bureau which still opposes this bill and not some insurance companies in Iowa. I fear that this bill may result in a costly undertaking that will place the farmer in a position where he is viewed as being a big subsidy recipient and may place the insurance companies in a position where they are viewed as a burden on the taxpayer. That is not in the interest of either of these groups.

Certainly these are questions which I trust the farmers, insurance agents, and insurance companies have asked themselves and will be asking themselves as we consider the bill on the floor. These are questions which I believe the Members should be asking and have answered to their satisfaction.●

MAJORITY LEADER WRIGHT ON THE RECORD OF CONGRESS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. BRADEMAS: Mr. Speaker, the distinguished majority leader of the

House, Mr. Wright of Texas, recently contributed an article to the op-ed page of the Washington Post on the subject of Congress record since January 6, 1977.

The majority leader eloquently details the record of Congress during the last 3 years, and quite effectively rebuts those who, for their own political reasons, find Congress a convenient whipping boy.

Mr. Speaker, Mr. Wright's article is well worth reading for anyone interested in facts, I repeat facts, as a basis for making judgments. I include the article at this point in the Record in order that all Members may have the benefit of Mr. Wright's analysis.

What Mess?

(By Jim Wright)

The Post has asked me to say a few words in defense of the Democratic Congress. As majority leader and sometimes spokesman for that heterogeneous and delightfully diverse collection of the people's representatives, I leap joyously to the task.

The Congress is not perfect. It is not an assortment of Olympian seers or as yet an assembly of saints. If it were, it would not be representative, and that is its function as well as its description. Congress is not easy to lead or to speak for. Like the nation from which it springs, it is pluralistic and diverse, a distillate of the strengths and weaknesses, the virtues and faults of the electorate it serves.

Because it so seldom speaks with a single voice, the U.S. Congress makes a convenient target for the whole gamut of critics, comics and cynics who want someone or something to blame, who find scapegoats easier than solutions. Even members of Congress know they can always get a good press by roundly attacking this amorphous institution of which each of us is a part.

And so I swim against the tide when I report to you that this Congress, under the leadership of House Speaker Tip O'Neill and Senate Majority Leader Robert Byrd, has performed diligently, honorably for the most part, responsively to the public will and quite generally in the public interest.

Since January 1977, the Democratic Congress working both singly and with President Jimmy Carter has—

Lifted the country out of a serious recession, cut the unemployment rate appreciably and set in motion an unprecedented expansion of the private economic sector, with the result that nine million more Americans are gainfully employed today.

Supported a responsible international policy, including the strengthening of NATO and real increases in our military strength.

Voted two income-tax reductions, benefiting both business and individual taxpayers, in the aggregate amount of some $28 billion.

Reduced the annual budget deficit from a whopping $66 billion in 1976, President Ford's last year, to $29 billion in our last budget resolution and a projected $15 billion, which President Carter foresees for fiscal 1981.

Made a genuine, if belated, beginning on the long, hard road to energy independence.

It is easy to find deficiencies. Congress has not admittedly eradicated all of the nation's problems. Critics who seek to fasten upon Congress opprobrium for all current ills are suggesting that we should double the nation's military expenditures, reduce everyone's taxes dramatically and bring the budget into absolute balance at the same time.

Those who share the responsibility of leadership do not have the luxury of promising glibly or teasing the public with unrealistic expectations. To do so would be a severe injustice.

It is an injustice, for example, to blame high prices on that old whipping boy, "big spending," and to suggest that inflation would magically end if Congress simply balanced the budget. As pointed out, Congress has been steadily lowering the annual deficit, not raising it. In one sense, a nation is like a family. How much it can afford to borrow is directly related to how much it makes. In this perspective, our position has improved.

The deficit for 1976 was 6 percent of our gross national product. This year's deficit is only about 1 percent of current GNP.

Since Russia's invasion of Afghanistan, some of the very same people who've been excoriating Congress for big spending are now damning the legislative branch for having spent too little on defense. They'd have us believe that military expenditures have dwindled dangerously.

Well, the fact is that we spent $90 billion on defense in 1976, $130 billion this year. We'll budget about $158 billion for next year. Were it not for this increase—which we consider prudent—the budget would in fact, be balanced.

America does have problems. The most serious are the energy shortage and persistent inflation.

The two are inseparably intertwined; they are, in fact, the same problem. The price of oil imports—up 80 percent in just the past year—is the principal cause of inflation. To think we can halt inflation without reducing oil imports would be to engage in the most dangerous form of self-deception.

The dollar drain for foreign oil has skyrocketed from $8 billion in 1974 to $60 billion last year. Were it not for our economy's dependence on ever more costly foreign oil, most economists agree, the inflation rate for 1979 would have been just about the same as for 1978.

To reverse the inflation rate, we have to reduce our dependence on imported oil substantially. That problem has been decades in developing. It won't be cured overnight. We promise no panacea.

But we have made some heartening progress. The nation used 8 percent less petroleum in November and December 1979 than it did in the last two months of 1978. Approximately 12 percent of America's families have fully insulated their homes. Our new cars are getting better mileage—21 miles to the gallon for the average 1980 model compared with 13 in 1974. Industry is using 16 percent less energy per unit of production than in 1974.

We still have a long way to go, but Congress and the nation are moving in the right direction.

Before this year is out, Congress will have approved 1) a dramatic synthetic fuels initiative; 2) a fast-track Energy Mobilization Board to cut red tape, 3) a comprehensive package of conservation incentives, 4) a solar energy bank, 5) a gasohol program, 6) new stimuli to exploration and recovery of more American oil, 7) utility plant conversions from scarce oil to abundant coal and 8) an Energy Security Fund of some $227 billion, from excess profits taxes, to help make America energy-independent by 1990.

Some criticism of Congress may well be justified, but not for want of effort. We make no claim to perfection. We just hope it can be said of us, in the words of Harry Truman's favorite tombstone:

"Here lies Jack Williams: He done his damndest."●

SBA SOLAR LOAN PROGRAM

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. LUKEN. Mr. Speaker, today I am introducing legislation to provide a needed increase in the authorization funding of the SBA solar loan program—a program that needs additional funding especially during the oil shortage era.

The SBA solar loan program was established by the 95th Congress (Public Law 95-315) to provide direct and guaranteed loans to small businesses in the solar field. These loans can be used in financing plant startups or expansion; purchasing of materials or machinery; and designing or marketing specified solar energy measures.

For small business to be competitive in this emerging field, the small businessman needs formation and operating capital. However, this capital is virtually unavailable from private sources which are not willing to take financial risks in an untested area. The regulations for the conventional SBA loan programs were too stringent for these solar small businesses.

To address these needs, Congress established a separate SBA loan program for solar companies. Qualifications for the loan are less rigid compared to those of the regular SBA loan program; the financial risks involved in, the solar field are taken into account. Although these higher than normal risks exist, Congress felt that these types of loans should be made to enable solar small business to become economically viable and competitive against solar companies that are subsidized by parent corporations.

Initial authorization for this program was $30 million in direct loans and $45 million in guaranteed loans. However, in fiscal year 1979 only $5 million in direct loans and $1 million in guaranteed loans were appropriated. This small amount was used very quickly. SBA had to transfer funds from other loan programs to meet solar obligated loans.

In fiscal year 1980, $15 million in direct loans and $30 million guaranteed loans were appropriated. Again, this is not enough funding to meet the current demand and will be especially deficient to meet the needs created by the solar tax break provisions of the Crude Oil Windfall Profit Tax Act.

The legislation I am introducing will increase authorization levels of the SBA solar loan program to the following: $50 million in direct loans and $100 million in guaranteed loans.

Clearly, the demand for the loans exists. To insure small business involvement, and thus competition with big business in the solar field, increased funding must be authorized and appropriated for this program. I urge my colleagues to join me in supporting this legislation.

The legislation follows:

H.R. —

A bill to amend the Small Business Act to increase the solar energy and conservation loan program authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20(e)(10) of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking out "$30,000,000" and inserting in lieu thereof "$50,000,000"; and

(2) by striking out "$45,000,000" and inserting in lieu thereof "$100,000,000".●

THE GAME OF BLACK PRESIDENTIAL APPOINTMENTS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 12, 1980

● Mr. CLAY. Mr. Speaker, President Carter brags that he has appointed 12 black Ambassadors. Those unknowledgeable about black appointments in the past might be impressed with such an illustrious list. But, those who have been familiar with the Washington scene understand the public relations gimmick involved in such an announcement. More than 15 years ago, President Lyndon Johnson appointed seven blacks as Ambassadors when such appointments were almost unheard. It was Johnson who broke the ice and set the precedent. He named as Ambassadors Elliot Skinner, Mercer Cook, Patricia Harris, Clinton Knox, James Naprit, Hugh Smythe, and Franklin Williams. Even Richard Nixon named six blacks as Ambassadors. His appointees included such outstanding blacks as Jerome Holland, Samuel Westerfield, Clinton Knox, Clyde Ferguson, Terence Todman, and William T. Coleman.

Mr. Speaker, every 4 years during the Presidential elections there is excessive debate about the what the incumbent President has or has not done for blacks and other minorities. Charges and countercharges are leveled by supporters and challengers of the incumbert. I do not know how President Carter fares in terms of appointing Chicanos, Puerto Ricans, and Indians because my area of expertise for the last 20 years has been in measuring the impact of Government attitudes and policies on the black constituency. But I can state that I am very skeptical, even disappointed by the Carter administration's efforts to project the President's appointment of black citizens as major breakthroughs for members of our race.

Recently, the White House issued a slick PR booklet entitled "Factsheet 108" from the office of Louis Martin. If there were not something inherently unequal in the appointment process, why the need to single out black appointees? As expected, this pamphlet boasts of progress blacks have made under the Carter administration. It even brags that blacks have advanced more under this President than under any other in history. Now what does that really mean. Ford, Nixon, and Johnson said precisely the same. In all probability, the only one approaching the truth in this matter was Lyndon Baines Johnson. There were real breakthroughs for minorities during his administration. Blacks were placed in positions of power and influence for the first time during his administration. Blacks did make important decisions affecting the Nation for the first time.

The Johnson appointments during the mid-1960's did constitute a major step forward in terms of the advancement of blacks in the political process. Since that time however, progress for blacks in subsequent administrations has become a charade. It has been a game of musical chairs, all show and no substance. Nixon replaced blacks named by Johnson with his own faithful. Ford named his black acquaintances to replace Nixon's and President Carter replaced the Nixon and Ford black appointees.

Mr. Speaker, in our community it goes without saying that black people should not be impressed or obligated because Jimmy Carter appointed one black to the Cabinet. So did LBJ 15 years ago, and the one black Cabinet appointee of Carter replaced the one, William T. Coleman, appointed by Ford.

Black people like other minorities are entitled to serve in the Government and made decisions whether they support the victorious Presidential candidate or not. But in this instance, blacks gave over 90 percent of their votes to the incumbent. So if there is any meaning to the axiom, "to the victor goes the spoils" then we as a group should expect more than we would from a Richard Nixon, who received only 20 percent of our vote. The record speaks for itself.

The following list of major appointments of blacks in this administration is taken from Carter's "Fact Sheet 108." For the purpose of enlightenment, I have listed the black appointees of President Nixon in the opposite column.

President Carter's appointees	President Nixon's appointees
1. Clifford Alexander, Secretary of the Army	1. James E. Johnson, Assistant Secretary of the Army
2. Mary Berry, Assistant Secretary of HEW	2. James Farmer, Assistant Secretary of HEW
3. Ernest Green, Assistant Secretary of Labor	3. Arthur Fletcher, Assistant Secretary of Labor
4. Benjamin Malcolm, U.S. Parole Commission	4. Curtis Crawford, U.S. Parole Commission
5. Alexis Herman, Director, Women's Bureau, Labor Department	5. Elizabeth Koontz, Director, Women's Bureau, Labor Department
6. Eleanor H. Norton, Chairperson, EEOC	6. William H. Brown III, Chairperson, EEOC
7. Benjamin Hooks, member FCC	7. Tyrone Brown, member FCC
8. J. Clay Smith, member EEOC	8. Colston Lewis, member EEOC
9. Louis Martin, Special Assistant to the President	9. Robert Brown, Special Assistant to the President
10. Daniel Henson, Director, Minority Business Enterprise, Commerce Department	10. Abraham Venerable, Director, Minority Business Enterprise, Commerce Department
11. Barbara Watson, Assistant Secretary, Consular Affairs, State Department	11. Barbara Watson, Assistant Secretary, Consular Affairs, State Department
12. Leroy Clark, General Counsel, EEOC	12. Stanley Herbert, General Counsel, EEOC
13. Percy Pierre, Assistant Secretary of the Army, Defense Department	13. Frank Render, Deputy Assistant Secretary, Civil Rights, Defense Department
14. Joan Wallace, Assistant Secretary, Administration, Department of Agriculture	14. William Seaborn, Assistant to the Secretary, Department of Agriculture
15. William Clement, Associate Administrator, SBA	15. Art McZier, Assistant Administrator, SBA
16. Goler Butcher, Assistant Administrator, Bureau, for Africa, AID	16. Samuel Adams, Assistant Administrator, Bureau for Africa, AID
17. Weldon Rougeau, Director, Contract Compliance, Labor Department	17. John Wilks, Deputy Assistant Secretary, Contract Compliance, Labor Department
18. Joseph James, Under Secretary of the Interior	18. John Blake, Director of Manpower, Labor Department
19. William Kykes, Deputy Director, Peace Corps, (ACTION)	19. Joseph Kennedy, Director, East Asia Pacific, AID
20. Thomas Williamson, Deputy Inspector, Department of Energy	20. Stanley Thomas, Deputy Assistant Secretary, HEW
21. George Lythcott, Administrator, Health Services, HEW	21. Leroy Swift, Special Assistant to Director, Health Professions, HEW
22. Richard Lowe, Inspector General, HEW	22. John Costa, Commissioner, Assistance Payments, HEW
23. Calvin Raullerson, Assistant Administrator, AID	23. William Reed, Deputy Director, Ethiopia, AID

Mr. Speaker, this is just a partial list of those appointees which could be matched person for person by the Nixon administration. And, if we would take time to enumerate the Ford and Johnson black appointees, Carter's efforts would be even more dwarfed.

Black people are not elated because President Carter appointed a black to his Cabinet, so did Johnson and Ford. However, the black community is appreciative of the number of black judges appointed by President Carter. His appointment of 25 blacks to the Federal district courts is worthy of praise. Even though the Congress authorized 152 new Federal court positions under the Carter administration, it is doubtful if any other President would have made such significant appointments.

But, those boast of other significant minority appointments can now be measured. Since 1978 there has existed a measuring rod for assessing what a President has done in terms of sharing powerful positions with blacks and other minorities. That is now possible because Congress enacted the 1978 Ethics in Government Act. That piece of legislation lists the 112 most sensitive jobs in the executive branch of Government and provides for establishing a special prosecutor to investigate any serious accusations of wrongdoing. If Mr. Carter were subjected to the litmus test based on those 112 positions, he would fail miserably. According to information received from the Library of Congress, only 4 of the 112 jobs are held by blacks. That is less than 4 percent of the total. In view of the fact that 94 percent of the black voters supported his campaign for election, does he pass or fail the test?

Mr. Speaker, some things are better left unsaid. For the President to enrich the status of several dozen individual blacks while initiating policies and programs which ignore the general welfare of 25 million blacks is nothing to boast about.●